

PLANNING COMMISSION  
RESOLUTION NO. 2022-29

A RESOLUTION APPROVING THE FINAL DEVELOPMENT PLAN FOR ARCADIA PROPERTY (TIVOLI), IN THE TIVOLI SPECIFIC PLAN, FOR 141 SINGLE-FAMILY RESIDENTIAL LOTS AND SEVEN LANDSCAPE LOTS ON PROPERTY LOCATED NORTH OF THE CITY OF MODESTO WATER WELL AND STORAGE SITE AND SOUTHEAST OF FUTURE ARIA WAY (ARCADIA DEVELOPMENT COMPANY)

WHEREAS, the City Council adopted the Tivoli Specific Plan, a 454-acre area of land adjoining the northeast portion of the City of Modesto, by Ordinance No. 3479-C.S. on February 26, 2008; and

WHEREAS, the Tivoli Specific Plan is comprised of nine Area Plans subject to review and approval by the Planning Commission, each Area Plan is denoted to ensure that the circulation, infrastructure, land use, density, project design and other specific plan provisions are provided for each Area Plan as required by Section 9.4.1 of the Tivoli Specific Plan; and

WHEREAS, Section 9.4.1.2 of the Specific Plan requires the Commission's review and approval of a Final Development Plan for new residential development within the Specific Plan involving small-lot single-family residential uses with a tentative map, which may be approved by the Commission after or concurrently with the approval of an Area Plan; and

WHEREAS, an application for the Arcadia Property (Tivoli) Final Development Plan for 141 single-family residential lots including 68 small-lot single-family residential lots, and seven landscape lots within Area Plan No. 7, generally located north of the City of Modesto water well and storage site and southeast of future Aria Way, was filed by the Arcadia Development Company on April 5, 2022 in accordance with Section 9.4.1.2 of the Tivoli Specific Plan; and

WHEREAS, said application was made concurrently with an application for the adoption of Area Plan No. 7 of the Specific Plan (Project AREA-22-001, and a Vesting Tentative Subdivision Map (Project TSM-22-001) to divide 29.3 acres into 141 single-family residential lots including 68 small-lot single-family residential lots, and seven landscape lots within Area Plan No. 7, generally located north of the City of Modesto water well and storage site and southeast of future Aria Way; and

WHEREAS, a public hearing was held by the Planning Commission on October 3, 2022, in Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission has considered an Initial Study, Environmental Assessment No. EA/C&ED 2022-20, which analyzed the potential environmental effects of the proposed project and determined that, on the basis of the whole record before it, there is no substantial evidence that the amendment will have a significant effect on the environment, and that a Negative Declaration be adopted.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines as follows:

1. The Arcadia Property (Tivoli) Final Development Plan is consistent with Tivoli Area Plan No. 7 and the Tivoli Specific Plan (as amended) because the Final Development Plan will ensure compliance with the development standards and guidelines of the Specific Plan.
2. An Initial Study/Negative Declaration was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Tivoli Specific Plan Final EIR and whether the subsequent project was described in the Final EIR as being within the scope of the report.
3. As per Sections 15162, 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this project is within the scope of the projects covered by the Tivoli Specific Plan Final EIR and no new environmental document or findings are required by CEQA.
4. The project will have no new effects which were not examined in the Tivoli Specific Plan Final EIR and no new mitigation measures would be required.
5. There are no substantial changes proposed in the project, which will require major revisions of the Tivoli Specific Plan Final EIR.
6. There are no substantial changes occurring with respect to the circumstances under which the project is being undertaken which will require major revisions in the Tivoli Specific Plan Final EIR.
7. No new information, which was not known and could not have been known at the time the Tivoli Specific Plan Final EIR was certified as complete, has become available.
8. There are no specific features that are unique to the proposed project that require project-specific mitigation measures. Accordingly, the certified mitigation measures identified in the Final EIR will be sufficient for this project.
9. All feasible mitigation measures set forth in the Final EIR which are appropriate to the project shall be incorporated in the project.
10. The Initial Study/Negative Declaration, Environmental Assessment No. EA/C&ED 2022-20 provides the substantial evidence to support findings 3-9, noted above.

BE IT FURTHER RESOLVED by the Planning Commission as follows:

That a Final Development Plan for the proposed Arcadia Property (Tivoli), described in Exhibit "A," attached hereto and incorporated herein by reference, be approved subject to the following conditions:

1. The Arcadia Property (Tivoli) Final Development Plan shall not be in full effect unless and until the City Council approves the proposed amendment to the Tivoli Specific Plan land use diagram (Project No. SPA-22-001) and the Planning Commission approves Area Plan No. 7 (AREA-22-001) as required by Section 9.4.1 of the Tivoli Specific Plan.
2. All development shall be consistent with the approved Final Development Plan titled "Final Development Plan, Arcadia Property (Tivoli)" submitted on April 5, 2022 as approved by the Planning Commission on October 3, 2022.
3. Except as amended herein, or by reference, all development including street and infrastructure improvements, and mitigation measures from the Tivoli Final EIR, shall be in accordance with the Tivoli Specific Plan and Area Plan No. 7 (AREA-22-001), and the Vesting Tentative Subdivision Map of Arcadia Property (Tivoli) (TSM-22-001), as set forth in Planning Commission Resolutions No. 2022-xx and 2022-xx, adopted on October 3, 2022.
4. Siting of residences shall be in accordance to the Development Standards for Low Density Residential uses as specified in Chapter 4 of the Specific Plan.
5. Upon development of the residential lots, developer shall provide specific site plans and elevations consistent with the Design Guidelines and Standards of the Tivoli Specific Plan, to the satisfaction of the Director of Community and Economic Development or designee, prior to the issuance of a building permit.
6. Prior to Certificate of Occupancy of any structure, fences and walls shall be installed in accordance to the design standards of the Tivoli Specific Plan, Section 5.7, Community Wide Walls and Fencing Guidelines and Standards.
7. Improvement plans for required improvements shall be prepared by a Registered Civil Engineer and submitted for approval by the Public Works Director or designee. All improvements shall be constructed in accordance with the approved plans.
8. The project shall be subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.
9. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the utility companies and the City Engineer or designee. Easements for

utilities, irrigation and electrical lines to remain shall be reserved as required.

10. All landscaping, fences and walls shall be maintained and the premises shall be kept free of weeds, trash and other debris.
11. At the time of issuance of a building permit, the developer shall pay development impact fees at the established rate. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.
12. Prior to start of vertical building construction, all-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions at all times during construction as required by Director of Community and Economic Development.
13. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on October 3, 2022, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

BE IT FURTHER RESOLVED by the Planning Commission that the Secretary of the Planning Commission is hereby directed to file with the Stanislaus County Clerk a Notice of Determination in regard to the environmental impact of the proposed project.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on October 3, 2022 by Commissioner Shanks, who moved its adoption, which motion was seconded by Commissioner Morad and carried by the following vote:

Ayes: Birring, Pollard, Morad, Shanks, Vohra,  
Noes: None  
Absent: Silva, Vazquez  
Recused: None

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF MODESTO.

Original, signed copy on file in CEDD

Paul Liu, Acting Secretary

**EXHIBIT A**  
ARCADIA PROPERTY (TIVOLI)  
FINAL DEVELOPMENT PLAN