

PLANNING COMMISSION
RESOLUTION NO. 2022-24

A RESOLUTION APPROVING THE VESTING TENTATIVE PARCEL MAP OF PROPERTY LOCATED AT THE NORTHWEST CORNER OF TULLY ROAD AND PELANDALE AVENUE (FITZPATRICK LAND DEVELOPMENT, LLC)

WHEREAS, Fitzpatrick Land Development LLC has filed an application for a Vesting Tentative Parcel Map to divide 32.65 acres located at the northwest corner of Tully Road and Pelandale Avenue into four parcels plus one remainder; and

WHEREAS, said Vesting Tentative Parcel Map was received in the office of the Secretary of the Planning Commission on August 9, 2022, and was accepted for filing and deemed complete on August 12, 2022, in accordance with the provisions of Section 4-4.502 of the Modesto Municipal Code; and

WHEREAS, copies of said Vesting Tentative Parcel Map have been sent to the Stanislaus Elementary School and Modesto High School Districts, Modesto Irrigation District, the local utility companies, and the City Engineering and Transportation Department; and

WHEREAS, City services, including sewer and water facilities, are available; and

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

WHEREAS, this parcel map is exempt from CEQA, pursuant to Section 15315 of the CEQA Guidelines, which exempts parcel maps of four or fewer parcels which are consistent with the General Plan.

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

1. The proposed vesting tentative parcel map is consistent with the General Plan of the City of Modesto and Woodglen specific plan.
2. The proposed vesting tentative parcel map will not be materially detrimental to the public welfare or injurious to other property or improvements in the vicinity or zone in which the property is located and will not nullify the intent and purpose of the General Plan or regulations within the City of Modesto Municipal Code.
3. The discharge of waste as a result of the proposed vesting tentative parcel map into the existing sewer system will not result in a violation of existing requirements by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code of the State of California.
4. The proposed vesting tentative parcel map is exempt from CEQA, pursuant to Section 15315 of the CEQA Guidelines, which exempts parcel maps of four or fewer parcels which are consistent with the General Plan.

5. The proposed vesting tentative parcel map complies with all applicable requirements of the Subdivision Map Act and of Title 4 of the Modesto Municipal Code regarding the subdivision of land.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Parcel Map of property located at the northwest corner of Tully Road and Pelandale Avenue, accepted for filing in the office of the Secretary of the Planning Commission on October 3, 2022, be and it is hereby approved as submitted and subject to the following conditions:

1. At the time of development, any public improvements that are missing damaged or not to current City standards shall be designed and constructed per City standards in accordance with City Code (Article 7-1.701). Such improvements may include, but not be limited to curb & gutter, drive approach, sidewalk, ADA access ramps, fire hydrants and street lights. All public improvement plans shall be designed by a Registered Engineer, reviewed and approved by the City Engineer prior to issuance of an Encroachment permit. A certificate giving notice of this requirement shall be placed on the Parcel Map.
2. At the time of development, all existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the City Engineer or designee. Easements for utilities, irrigation, and electrical lines to remain shall be reserved as required.
3. Conditions of approval for the underlying Woodglen Tentative Subdivision Map, approved earlier by Planning Commission Resolution No. 2019-20 on June 3, 2019 shall remain in full force and effect.
4. Prior to and after development, the lot shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
5. 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.

The foregoing resolution was introduced at the 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:	

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

Original, signed copy on file in CEDD

Paul Liu, Acting Secretary