

PLANNING COMMISSION  
RESOLUTION NO. 2009-03

A RESOLUTION APPROVING THE VESTING TENTATIVE PARCEL MAP OF PROPERTY LOCATED ON THE NORTH SIDE OF PELANDALE AVENUE, EAST OF CHAPMAN ROAD (JOHN JOHANNSON)

WHEREAS, John Johansson has filed an application for a Vesting Tentative Parcel Map to divide 19.7 acres located on the north side of Pelandale Avenue, east of Chapman Road into five parcels and a remainder; and

WHEREAS, said Vesting Tentative Parcel Map was received in the office of the Secretary of the Planning Commission on June 6, 2008, and was accepted for filing and deemed complete on June 23, 2008, 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 Modesto 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 January 5, 2009, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission certifies it has received and reviewed the Initial Study, Environmental Assessment No EA/C&ED 2008-37, which concluded that the project is within the scope of the General Plan Master EIR (SCH No 2007072023) and that pursuant to Section 21157.1 of the Public Resources Code, no new environmental review was required.

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

1. The proposed parcel map, together with the provisions for its design and improvements, is consistent with the General Plan of the City of Modesto and the Subdivision Map Act of the State of California.
2. The discharge of waste as a result of the proposed 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.
3. The type of project is described in Chapter II of the Master Urban Area General Plan Master EIR (MEIR).
4. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made Conditions of Approval of the project.

5. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.
6. Based on the Initial Study, the City of Modesto finds and determines:
  - a. The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 beyond that which was identified in the MEIR.
  - b. No new or additional mitigation measures or alternatives are required.
7. The Initial Study, Environmental Assessment No EA/C&ED 2008-37, provides the substantial evidence to support findings 3-6, noted above.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Parcel Map of property located on the north side of Pelandale Avenue, east of Chapman Road accepted for filing in the office of the Secretary of the Planning Commission on June 23, 2008, be and it is hereby approved as submitted as shown in red on the face of the map and subject to the following conditions:

#### LAND DEVELOPMENT ENGINEERING

1. Prior to map recordation, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and submitted for approval by the City Engineer or designee. All improvements shall be constructed in accordance with the approved plans.
2. Prior to map recordation, improvement plans shall include the removal of the irrigation pipe that runs north to south of the eastern side of the portion of the property being developed. The remaining pipeline must be plugged and an air vent installed at the end of the pipeline. All work must meet MID standards.
3. Prior to map recordation, public utility easements shall be dedicated as required by utility companies.
4. All existing electric facilities, overhead and irrigation lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities shall be granted as required. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules.

#### PLANNING

5. Prior to map recordation, the developer shall execute a Reciprocal Access and Parking Agreement, which shall provide for reciprocal vehicular and pedestrian access and vehicular parking for all five parcels and the remainder parcel. Said agreement shall be in a form to be approved by the City Attorney.

6. Prior to map recordation, the developer shall, in a manner approved by the City Attorney, provide a vehicular access way for on-site traffic circulation for the benefit of the property to the east, substantially as shown in red on the plot plan.

GENERAL CONDITIONS

7. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this parcel map shall be based on the rates in effect at time of issuance of the building permit.
8. 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.

In addition, the following recommended Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that should be applied to the project:

9. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
10. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.
11. Within urban areas, track-out shall be immediately removed when it extends 50 feet or more from the site and at the end of each workday.
12. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.
13. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions. Use of blower devices is expressly forbidden.
14. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

15. Following the addition of materials to, or the removal of materials from, the surface of any outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
16. The City's noise ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine." Construction equipment and vehicles should be equipped with properly operating mufflers according to manufacturers recommendation. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
17. The noise ordinance prohibits also the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (or before 9:00 a.m. or after 9:00 p.m. on Saturdays and Sundays and State or federal holidays):
  - a. A hammer or any other device or implement used to pound or strike an object.
  - b. An impact wrench or any other tool or equipment powered by compressed air.
  - c. A hand-powered saw.
  - d. Any tool or piece of equipment powered by an internal combustion engine such as, but not limited to, chain saw, backpack blower, and lawn mower.
  - e. Any electrically powered (whether by alternating current or direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic, metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.
  - f. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, backhoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
  - g. Any construction, demolition, excavation, erection, alteration, or repair activity. In the case of urgent necessity and in the interest of public health and safety, the Chief Building Official may issue a permit for exemption from these. Such period shall not exceed three (3) working days in length while the emergency continues but may be renewed for successive periods of three (3) days or less while the emergency continues. The Chief Building Official

may limit such permit as to time of use and/or permitted action, depending upon the nature of the emergency and the type of action requested.

- h. Construction equipment and vehicles should be equipped with properly operating mufflers according to the manufacturers' recommendations. Air compressors and pneumatic equipment should be equipped with mufflers, and impact tools should be equipped with shrouds or shields.
18. If archeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria presented in Appendix K of the MEIR.
19. The developer shall implement pre- and post-construction best management practices (BMPs) to minimize pollutants entering the storm system.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on January 5, 2009, by Tom Berglund, who moved its adoption, which motion was seconded by Patricia Gillum, and carried by the following vote:

Ayes: Berglund, Bernal, Brandvold, Gillum, Sanders, and Tyler  
Noes: None  
Absent: None

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

Original, signed copy on file in CEDD  
Patrick Kelly, Secretary