

PLANNING COMMISSION
RESOLUTION NO. 2009-17

A RESOLUTION APPROVING THE VESTING TENTATIVE PARCEL MAP OF PROPERTY LOCATED AT THE SOUTHWEST CORNER OF DALE ROAD AND KIERNAN AVENUE (RONALD J. MALIK)

WHEREAS, Ronald J. Malik has filed an application for a Vesting Tentative Parcel Map to divide 12.4 acres located at the southwest corner of Dale Road and Kiernan Avenue into nine parcels; and

WHEREAS, said Vesting Tentative Parcel Map was received in the office of the Secretary of the Planning Commission on January 15, 2009, and was accepted for filing and deemed complete on February 3, 2009, 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 City Departments; and

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

WHEREAS, a public hearing was held by the Planning Commission on April 20, 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 2009-10 which concluded that the project is within the scope of the Kaiser Modesto Medical Center Cornerstone Business Park District EIR (SCH No. 2003072085) and that pursuant to Section 21166 of the Public Resources Code, no new environmental review is 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 Kiernan Business Park Specific Plan, 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. There are no substantial changes proposed in the project which result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, therefore, no major revisions to the Kaiser Medical Center and Cornerstone Business Park EIR are required.

4. No substantial changes have occurred with respect to the circumstances under which the project is undertaken which will result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects and, there-fore, no major revisions to the Kaiser Medical Center and Cornerstone Business Park EIR, are required.
5. There is no new information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence when the Kaiser Medical Center and Cornerstone Business Park EIR, was adopted which shows any of the following:
 - a. one or more significant effects which is not discussed in the Kaiser Medical Center & Cornerstone Business Park EIR; or,
 - b. significant effects which were previously examined will be substantially more severe than previously shown; or,
 - c. previously infeasible mitigation measures or alternatives that are now feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or,
 - d. mitigation measures or alternatives which are considerably different from those analyzed in the Kaiser Medical Center and Cornerstone Business Park EIR, would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Parcel Map of property located at the southwest corner of Dale Road and Kiernan Avenue accepted for filing in the office of the Secretary of the Planning Commission on February 3, 2009, hereinafter referenced as "Bridges Phase II" be and it is hereby approved as submitted and as shown in red on the face of the map and subject to the following conditions:

1. Prior to recordation of a Parcel Map, the developer shall submit for review and approval by the City Engineer or designee all plans and supporting calculations to provide for both on-site and off-site stormwater treatment from Dale Road and Health Care Way to accomplish the following requirements. Storm drain improvements shall be constructed in accordance with the approved plans, and shall be maintained by the developer as follows:
 - a. The storm drain improvements installed by Kaiser Foundation Hospitals on the north side of Health Care Way, fronting on Bridges Phase I and Bridges Phase II, are considered temporary (Modesto City Council Resolution No. 2004-425). Per the General Plan, all new development is required to install a positive storm drain system. As an alternative to a positive storm drain system, this development will be allowed to drain all on-site stormwater to the two retention basins provided by the previously approved Bridges Business Park VTPM ("Bridges Phase I" (Planning Commission Resolution 2006-03, January 23, 2006). The retention basin

systems and all accessory equipment shall be designed to accommodate the volume of on-site drainage for both Bridges Phase I VTPM and Bridges Phase II VTPM according to the criteria for Percolation (infiltration) basins, and the following criteria:

- i. The volume of 100-year 6-day storm shall be contained completely on site. The Bridges Phase I VTPM basins taking the on-site storm drainage shall be sized to hold at a minimum a 100-year 24-Hour Storm, and the remaining volume may be stored above ground in the parking area of Bridges Phase I VTPM and/or Bridges Phase II VTPM, maintaining a 1-foot elevation separation below all onsite building finished floor pads. The 100-year 24-hour Storm shall percolate completely within 48 hours.
 - ii. Three retention basins and accessory equipment to be located in the Bridges Phase II VTPM shall contain the off-site stormwater treatment from Dale Road and Health Care Way. The three basins and accessory equipment shall be designed to meet the following criteria:
 - (1) The volume of a 10-year Storm in the basins plus the Hydrologic Grade Level (HGL) through the pipes flowing at a 10-year peak flow rate shall not be higher than the flow-line of the curb.
 - (2) The water surface elevation of a 100-year 6-day Storm in the basins shall not be higher than the lowest curb flow-line flowing to the basins.
 - (3) The basins shall be large enough to hold a 100-year 6-day frequency Storm. The 100-year 24-hour Storm shall percolate within 48 hours.
 - (4) Grass swales located on the floor of the basins shall be designed to treat the first ½-inch of stormwater runoff from the 2-year, 6-hour Storm (the Water Quality Volume).
 - iii. The percolation calculations to be submitted with the improvement plans shall follow the following criteria:
 - (1) Only the lower half of the Bridges Phase I VTPM basin sidewall area (from the basin floor to halfway up to the 100-year 24-hour surface level) shall be used in the percolation calculations, and the basin floor areas, one-half of the trench sidewalls, and the whole bottom of the trench may be used in the percolation calculations.
2. Improvement plans shall be prepared by a registered civil engineer and submitted for approval by the City Engineer or designee. All improvements shall be constructed in one phase in accordance with the approved plans.
 3. Developer shall provide separate water service connections for landscaping, domestic and fire, with a master water meter for landscaping

and a master water meter for domestic water service, as shown on the Vesting Tentative Parcel Map (Infrastructure Plan). If all of the requirements for new private wells are met, the landscape irrigation will be provided by a private irrigation well.

4. Developer shall provide emergency vehicle access between the development and properties to the west in accordance with Fire Department Standards. Dead-end emergency access roads exceeding 150 feet will require an approved apparatus turnaround.
5. Prior to recordation of a final map, the developer shall show all fire hydrants on the improvement plans as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.
6. A blanket easement shall be required for all parcels tied into the same drainage system prior to the acceptance of the improvement plans by the City Engineer or recordation of the Parcel Map, whichever occurs first.
7. Public utility easements shall be dedicated as required by the City Engineer and the utility companies prior to or concurrently with Parcel Map recordation. Utility easements necessary to provide on-site private utility service to each parcel shall be dedicated as required by the City Engineer.
8. Fifteen-foot-wide landscape easements, which shall include ten-foot-wide public utility easements, shall be dedicated along the Dale Road and Heath Care Way frontages.
9. A fifteen-foot-wide public utility easement adjacent to the existing 12kv overhead electrical lines on Kiernan Road/CA-219 shall be dedicated as required by the utility companies and the City Engineer or designee.
10. Existing underground and overhead electric facilities and existing irrigation pipelines shall be removed, protected, or relocated as required by the Modesto Irrigation District and the City Engineer or designee. Additional provisions acceptable to the Modesto Irrigation District shall be made to ensure access to irrigation water for the property west of the Bridges Phase I VTPM. Irrigation easements shall be provided for any remaining irrigation facilities. Nothing in Conditions No. 9 or No. 10 requires the project to underground the existing 12kv overhead electrical power lines currently located in the CalTrans right-of-way for CA-219.
11. Prior to Parcel Map recordation, the developer shall enter into a written agreement with the City of Modesto to assume all maintenance and liability, either directly or indirectly, associated with the permanent storage and treatment of stormwater from the adjacent frontages along Health Care Way and Dale Road. The agreement shall also include a provision that in the event the retention system fails, or is deemed unacceptable by any regulatory entity having jurisdiction over stormwater, the developer shall at its sole expense install a positive storm drain system in accordance with City Standards. Failure of this system is defined as failure to meet the design criteria in the Standard Specifications at any time. The agreement

shall further require that the applicant provide, and maintain at all times, a cash or cash equivalent financial security to secure applicant's maintenance obligations. The security shall be in an amount required by the Public Works Director and in a form approved by the City Attorney.

12. Prior to Parcel Map recordation, the developer shall enter into an agreement with adjacent property owner(s) for crossing their property line(s) and utilizing the basins of Bridges Phase I for drainage.
13. Prior to Parcel Map recordation, the developer shall submit for review and approval by the Director of the Community and Economic Development Department or designee a Master Development Plan for Bridges Phase I and Bridges Phase II.
14. This site being located in the Kiernan Business Park Specific Plan Area, the development shall pay their proportional share of the costs associated with the sewer system improvements to serve this development, in the amount of Three Thousand Five Hundred Fifty-Nine Dollars (\$3,559.00), as identified as Alternative 'A' in the August 6, 2004 Kaiser Hospital Special (Wastewater Capacity) Study.
15. Prior to the issuance of a Grading or Building Permit, Developer shall provide plans for all trash enclosure(s) to meet the following City Standards found in the Guidance Manual for New Development, Stormwater Quality Control Measures, Pages 3-13 & 3-14:
 - a. Enclosures must be sufficiently elevated to prevent stormwater run-on from parking lot.
 - b. Enclosures must be graded to drain to adjacent landscape areas.
16. Prior to the issuance of a Grading or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment to remove pollutants from the first ½" of both on-site and off-site stormwater runoff per the City of Modesto Guidance Manual for New Development Stormwater Quality Control Measures, Section 4.
17. Prior to the issuance of a Grading or Building Permit, Developer shall submit a plan for all infiltration basins receiving either on-site or off-site stormwater runoff to meet the following City Standards in the Guidance Manual for New Development, Stormwater Quality Control Measures, Pages 4-89 – 4-94:
 - a. The City recommends that the basins or grass swale areas providing treatment of stormwater be sized to accommodate only the first ½" of runoff (the Water Quality Volume). All other flows should be diverted around the treatment basins or grass swale areas.
 - b. All areas of infiltration basins that will be inundated with stormwater are to be fully grassed. No bare dirt, landscape plantings, rocks, bark, etc. are allowed on the floor or side walls of any basin providing stormwater treatment.

- c. Each infiltration basin will include a modified catch basin to effectively remove silt prior to the inlet for the basin.
 - d. An energy dissipater, such as rip-rap, must be placed at the inlet to each of the infiltration basins.
 - e. Side slopes are to be designed no greater than 4:1.
 - f. Access for heavy duty vehicles will be provided at the modified catch basin and all French Drain clean-out manholes as required for maintenance.
18. Prior to the issuance of a Grading or Building Permit, the developer shall provide calculations for each grass swale to match the length of the grass swales shown on the improvement plans per the City of Modesto Guidance Manual for New Development Stormwater Quality Control Measures, Pages 4-18 to 4-23. Energy dissipation areas should not be included in swale length for purposes of treatment.
 19. Prior to the issuance of a Grading or Building Permit, the developer shall provide calculations to show that the flow rate at the inlet to each grass swale does not exceed 1.5 feet per second, per the City of Modesto Guidance Manual for New Development Stormwater Quality Control Measures, Page 4-18.
 20. Prior to the issuance of a Grading or Building Permit, the developer shall provide a pretreatment plan to remove fine sediments from the entire volume of stormwater runoff at the inlet to each subsurface infiltration area (French Drain).
 21. Prior to the issuance of a Grading or Building Permit, the property owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering for recording per the City of Modesto Guidance Manual for New Development, Stormwater Quality Control Measures, Appendix C. Agreement shall include all infiltration basins, grass swales and proprietary stormwater treatment devices, for both on-site and off-site stormwater runoff.
 22. Prior to the issuance of a building permit, improvement plans for landscaping and irrigation shall be submitted to the Parks and Recreation Director or designee for review and approval, in a form satisfactory to said Director or designee. The landscaping and irrigation facilities shall be installed prior to occupancy of any building.
 23. Prior to recordation of a Parcel Map the developer shall provide along the Dale Road frontage an irrevocable offer of dedication for the right-of-way required for eventual build-out of Dale Road to a six-lane principal arterial street, per the General Plan and City of Modesto Standard Detail No. 363.
 24. Prior to recordation of a Parcel Map, the developer shall submit for approval by the Director of the Community and Economic Development Department or designee and the City Attorney the articles of incorporation and bylaws, as well as all covenants, conditions, and restrictions, relative

to the establishment and maintenance of a Property Owners Association for both Bridges Phase I VTPM and Bridges Phase II VTPM. The Association and all covenants, conditions, and restrictions shall guarantee continued maintenance and repair of all common areas in the development and improvements thereon, including but not limited to the following: utilities, storm drainage, water and sanitary sewer, electrical and telecommunication lines, vehicular and pedestrian ingress and egress, landscaped areas and all vehicle parking areas. The Articles of Incorporation shall be filed with the Secretary of State prior to recordation of a Parcel Map, and all covenants, conditions, and restrictions shall be recorded prior to or concurrently with the Parcel Map.

25. The developer shall execute a Reciprocal Access and Parking Agreement, which shall provide for vehicular and pedestrian access and vehicular parking for all the parcels within the project site, and shall provide a vehicular access way for traffic circulation for the benefit of the property to the west (Bridges Phase I). Said Agreement shall be in a form to be approved by the City Attorney and shall be recorded prior to or concurrently with recordation of the Parcel Map.
26. Wastewater facilities shall be sized and located to accommodate the peak flow rates according to the procedures and methodologies of the Sanitary Sewer System Design Standards (Section 5) of the City's Standard Specifications.
27. Facilities identified or proposed for the project with proprietary, sand/oil or Fats/Oils/Grease generating waste streams should be plumbed separate prior to a final single connection into the City's wastewater system to accommodate pretreatment requirements. Purpose is to provide suitable capture and monitoring of potential wastewater impact discharges.
28. Prior to recordation of a Parcel Map the project is required to annex to the City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West). Annexation shall include but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien. Upon successful annexation, the project will be subject to the following maximum Special Tax rates:
 - a. One-Time Facilities Special Tax = \$164,421.92 (FY 08-09)
 - b. Annual Maintenance Special Tax = \$29,450.72 (FY 08-09)
29. 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.
30. 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 Kaiser Modesto Medical Center Cornerstone Business Park Environmental Impact Report that should be applied to the project:

31. Prior to issuance of a building permit for the proposed project, the developer shall supply documentation, in a form acceptable to the Community and Economic Development Director or designee, that the project sponsor has contributed to the California Farmland Conservancy Fund for the purposes of funding authorized farmland conservation projects in Stanislaus County under the California Farmland Conservancy Program, pursuant to Public Resources Code Section 10230, or to a bona fide alternative program for funding farmland preservation projects in Stanislaus County. The amount of such contribution shall allow the conservation of one acre of farmland in Stanislaus County for each acre of farmland covered by the building permit sought under the proposed project.
32. The amount of such contribution shall, at minimum, reflect the then-current value of an agricultural easement on comparable prime agricultural land of equal size to the acreage of the parcel for which a permit is sought, and a 10% increment for program administration under the Farmland Conservancy Program, or an equivalent program for funding farmland preservation projects in Stanislaus County.
33. The valuation of such easement shall be determined by the City in consultation with the California Department of Conservation. Where current information on such valuation is not available, the City may require that applicants for building permits furnish an appraisal of the valuation of an agricultural easement on comparable agricultural land in the project vicinity to inform the City's determination as to valuation.
34. Prior to issuance of a building permit the developer shall incorporate the following measures in accordance with the provisions contained in the Kaiser Modesto Medical Center/Cornerstone Business Park EIR:
 - a. The project developers shall submit a compliance plan consistent with Regulation VIII of the San Joaquin Valley Air Pollution Control District to the City of Modesto prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII applicable at the time of construction will be implemented.
 - b. Prior to the issuance of construction contracts, the project developers shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what if any advances in emissions reduction are available for use. It is anticipated that in

the near future both NO_x, PM_{2.5}, and PM₁₀ control equipment will be available. The San Joaquin Valley Air Pollution Control District should be consulted during this process.

- c. The project developers shall install sandbags or other control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).
- d. The project developers shall install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site, to prevent track-out of soil to public roadways.
- e. The project developers shall install windbreaks at windward sides of construction areas, if necessary to prevent wind-blown dust.
- f. The project developers shall suspend excavation and grading activity when winds exceed 20 miles per hour.
- g. The project developers shall limit the area subject to excavation, grading, and other construction activity at any one time.
- h. The project developers shall ensure that the accumulation of mud or dirt is expeditiously removed from adjacent public streets at least once every 24 hours when construction activities are occurring (the use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions).
- i. The project developers shall use alternative-fuel construction equipment, where feasible.
- j. The project developers shall minimize idling time (e.g., to a 10-minute maximum).
- k. The project developers shall limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use to the minimum practical.
- l. The project developers shall replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set), where feasible.
- m. The project developers shall take steps to curtail construction activity during periods of high ambient pollutant concentrations; this may include reducing construction activity during the peak hour of vehicular traffic on adjacent roadways or ceasing construction activity during days declared as "Spare the Air" days by the San Joaquin Valley Air Pollution Control District.
- n. Outside construction activities shall be restricted to the hours between 7:00 a.m. and 9:00 p.m., Monday through Friday, and between 9:00 a.m. and 9:00 p.m., Saturday and Sunday and State or Federal holidays; minor construction equipment servicing and maintenance shall be excepted from this restriction, as shall inside construction, provided said construction does not result in any outside construction.

- b. All chemicals and other materials that could contribute pollutants to runoff shall be properly stored and protected from contact with rainfall.
- c. Any outdoor chemical spills shall be promptly mitigated in accordance with the site's Spill Prevention Plan.
- d. Any pesticides and/or fertilizers applied to landscaping shall be done so in compliance with a site specific Integrated Pest Management Plan (IPM). The project proponents shall develop and implement IPM's for all landscaped areas. The IPM shall be prepared by a qualified professional approved by Modesto. The IPM shall address and recommend methods of pest prevention and plant management that use pesticides as a last resort in pest control. Types and rates of fertilizer and pesticide application shall be specified. Special attention in the IPM shall be directed toward avoiding persistent pesticides that could leach to the shallow groundwater table. Pesticides shall be used only in response to a persistent pest problem. Preventative chemical use shall not be employed. Institutional and biological approaches to pest control shall be more fully integrated into the IPM with an emphasis toward reducing pesticide application.

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 Parcel map.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on April 20, 2009, by Patricia Gillum, who moved its adoption, which motion was seconded by John Sanders, and carried by the following vote:

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

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

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