

PLANNING COMMISSION
RESOLUTION NO. 2016-10

A RESOLUTION APPROVING THE VESTING TENTATIVE SUBDIVISION MAP OF PROPERTY LOCATED ON THE EAST SIDE OF DALE ROAD AT HEALTHCARE WAY TO DIVIDE 7.17 ACRES INTO TWO LOTS (VALLEY VENTURES, LLC)

WHEREAS, Valley Ventures, LLC has filed an application for a Vesting Tentative Subdivision Map to divide 7.17 acres located on the east side of Dale Road at Healthcare Way into two lots; and

WHEREAS, said Vesting Tentative Subdivision Map was received in the office of the Secretary of the Planning Commission on February 11, 2016, and was accepted for filing and deemed complete on March 12, 2016, in accordance with the provisions of Section 4-4.502 of the Modesto Municipal Code; and

WHEREAS, copies of said Vesting Tentative Subdivision Map have been sent to the local school district, 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 April 4, 2016, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission has considered the addendum to the Kiernan Business Park Specific Plan Amendment #4 Program EIR, Environmental Assessment No. EA/C&ED 2015-13, which concludes that no major revisions to the previously-certified Kiernan Business Park Specific Plan Amendment #4 Program EIR (SCH No. 2007062071) are needed as a result of the project, and that, pursuant to Section 15162 and 15164 of the CEQA Guidelines, 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 vesting tentative parcel map is consistent with the General Plan and the Kiernan Business Park Specific Plan, because the proposed configuration and street alignment are consistent with the adopted Specific Plan.
2. The proposed vesting tentative subdivision map complies with all of the requirements of the Subdivision Map Act and of Title 4 of the Modesto Municipal Code regarding the subdivision of land.
3. The discharge of waste as a result of the proposed vesting tentative subdivision 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. 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 Kiernan Business Park Specific Plan Amendment #4 EIR are required.
5. No substantial changes have occurred with respect to the circumstances under which the proposed project are undertaken which will 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 Kiernan Business Park Specific Plan Amendment #4 EIR are required.
6. There is no new information of substantial importance which was not known and could not have been known with the exercise of reasonable diligence when the Kiernan Business Park Specific Plan Amendment #4 EIR was adopted which shows any of the following:
 - a. one or more significant effects which is not discussed in the Kiernan Business Park Specific Plan Amendment #4 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 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 Kiernan Business Park Specific Plan Amendment #4 EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.
7. The Written Checklist, Environmental Assessment No. EA/C&ED No. 2015-13, provides the substantial evidence to support findings 4-6, above, and the City hereby determines that no further environmental documentation is required for the proposed project.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Subdivision Map of property located on the east side of Dale Road at Healthcare Way accepted for filing in the office of the Secretary of the Planning Commission on April 4, 2016, 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. Street improvements on Healthcare Way as shown on the subdivision map, and in accordance with the Facilities Master Plan and as approved by the City Engineer on improvement plans prepared, stamped and signed by a California licensed civil engineer, shall be constructed prior to the first certificate of occupancy for any parcel created by the subdivision map. A certificate giving notice of this requirement shall be placed on the Final Subdivision Map.

2. 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. The property owner and developer shall, at their sole expense, defend, with counsel selected by the City, 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.

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 April 4, 2016, 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 regular meeting of the Planning Commission held on April 4, 2016, by Commissioner Morad, who moved its adoption, which motion was seconded by Commissioner Carter, and carried by the following vote:

Ayes:	Carter, Morad, Smith, Vohra
Noes:	None
Absent:	Escutia-Braaton, Lucas
Recused:	None

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

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