

PLANNING COMMISSION  
RESOLUTION NO 2018-10

A RESOLUTION APPROVING THE VESTING TENTATIVE PARCEL MAP OF PROPERTY LOCATED ON THE SOUTHSIDE OF THE INTERSECTION OF EAST GLENN AVENUE AND RELIANCE STREET (BUEHNER)

WHEREAS, Larry K Buehner has filed an application for a vesting tentative parcel map to divide a 20-acre property located on the south side of the intersection of East Glenn Avenue and Reliance Street; and

WHEREAS, said vesting tentative parcel map was received in the office of the Secretary of the Planning Commission on May 21, 2018, and was accepted for filing and deemed complete on June 18, 2018, 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 and 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 September 10, 2018, 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 project is exempt under Section 15315 of the CEQA Guidelines, which exempts the division of property in urbanized areas zoned for residential, commercial or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcel to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent; and

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

1. The Vesting Tentative Parcel Map to create 2 parcels is consistent with the General Plan of the City of Modesto and the Subdivision Map Act of the State of California.
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 complies with all applicable requirements of the Subdivision Map Act and Title 4 of the Modesto Municipal Code regarding the subdivision of land.
5. The proposed vesting tentative parcel map is exempt from CEQA, pursuant to Section 15315 of the CEQA Guidelines, which exempts the division of property in urbanized areas zoned for residential, commercial or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcel to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Parcel Map of property located at 1982 Crows Landing Road accepted for filing in the office of the Secretary of the Planning Commission May 21, 2018, 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, Developer shall execute an agreement with the City to participate in the "shared costs" of the acquisition of the property located at the southeast corner of Crows Landing Road and Glenn Avenue (APN: 086-012-026). This agreement shall provide that the developer is responsible to pay 39.20% of these "shared costs". "Shared Costs" are defined as those costs incurred through a purchase or condemnation acquisition that are above and beyond the following:
  - a. Fair market value of the property to be purchased or condemned;
  - b. The cost of removing the existing building (if not included in fair market value);
  - c. The value of required right-of-way dedication (if not included in fair market value);
  - d. Cost of installing street improvements, including curb, gutter and sidewalk, to ultimate width;
  - e. Costs to relocate the traffic signal, if applicable.

The agreement shall provide that developer is responsible to pay 39.20% of "Shared Costs", and shall be in a form that is reasonably acceptable to developer and approved by the City Attorney. Developer satisfies its full obligation towards widening the aforementioned intersection by executing said agreement and paying its share of "shared costs."

2. Prior to recordation of a parcel map, a 20-foot wide portion of E. Glenn shall be dedicated to City standards along the northern lot line of Parcel 2
3. That the street dedication be provided in accordance with the stamped approved plan; and all improvements shall be constructed in accordance with City of Modesto Standard Specifications as required by the City Engineer or designee.
4. 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.
5. A certificate giving notice of improvement requirements with development of the parcels shall be placed on the Parcel Map.
6. The development will be required to connect to an existing 12-inch water main available for connection in E. Glenn Avenue.
7. The development will be required to connect to an existing 24-inch sewer main in E. Glenn Avenue that is available for connection. However, the applicant shall construct a sewer fly line per City standards to provide direct connection to the site. Since the existing sewer main in E. Glenn Avenue is a 30-inch trunk line, a direct connection to the trunk main is not permitted.
8. The storm drain runoff generated from the new development shall be managed on-site according to current City standards.
9. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit improvement plans conforming to design requirements of the most current edition of the City of Modesto Guidance Manual for Development, Stormwater Quality Control Measures and the City of Modesto Municipal Code.
10. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to integrate Low Impact Development (LID) principles into the project design. The plan shall retain, treat, and infiltrate the first 0.5" of stormwater runoff on site, and incorporate pervious landscape features into the project design wherever possible.
11. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, bioretention, vegetative strip, or other approved proprietary device) to remove pollutants from the first 0.5" of stormwater run-off from site.
12. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall submit a plan for trash enclosures to be sufficiently elevated to prevent stormwater run-on from parking lot and floor of enclosures shall be graded to drain into adjacent landscape areas.

13. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering, Stormwater for recording
14. Prior to the issuance of a Grading, Demolition, or Building Permit, Developer shall prepare and submit a Water Pollution Control Plan (WPCP) or Local SWPPP to Land Development Engineering, Stormwater for review. The WPCP or Local SWPPP shall include a description of all erosion, sediment, and pollution control BMPs to be used at the construction or demolition site to prevent sediment and other sources of pollution from entering the City storm drain system as well as a site plan showing their placement.

If the Construction or Demolition Activity will result in land disturbance of one acre or greater, project will require the following:

15. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall obtain coverage for project under the State Water Resources Control Board (SWRCB) General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002, as amended by 2010-0014-DWQ and 2012-0006-DWQ..
16. If Construction General Permit coverage is required, prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall provide Waste Discharge Identification (WDID) number for project, and one paper copy of project Stormwater Pollution Prevention Plan (SWPPP) instead of WPCP or Local SWPPP to Land Development Engineering, Stormwater.
17. 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), standards and specifications. 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.
18. Prior to or concurrent with Parcel Map recordation, the developer shall provide for access and public utility easements as required by the City Engineer.
19. Prior to issuance of a building permit, the applicant shall record an access agreement for on-site traffic circulation to access Parcel 1 from Parcel 2 as shown on the site plan, to the satisfaction of the Director of Community and Economic Development and in a form provided and approved by the City Attorney.

20. Prior to issuance of a building permit, the applicant shall provide for access and enter into and file an access agreement that allows access for fire apparatus and public safety vehicles.
21. Prior to map recordation, the developer shall execute a Reciprocal Access, Parking and Maintenance Agreement, which shall provide for reciprocal vehicular and pedestrian access and vehicular parking for both parcels, to the satisfaction of the Community and Economic Development Director or designee and in a form provided by Land Development Engineering Division and approved by the City Attorney.
22. 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 the City Engineer or designee.
23. Existing underground and overhead electric facilities and existing irrigation pipelines shall be removed, protected, or relocated as required by the Turlock Irrigation District and the City Engineer or designee.
24. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, shall be dedicated along the street frontage as required by the City Engineer or designee.
25. All parcels shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
26. 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.
27. Prior to issuance of a building permit, developer must pay school impact mitigation fees and receive a "Certificate of Compliance for Developer Fees" from the Ceres Unified School District.
28. At the time of development, Developer will be required to adhere to all City of Modesto Standards that relate to landscaping and irrigation.
29. 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, reservation 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 the Government Code Section 66020(a) can be filed, begins on September 10, 2018, and that if a protest is not filed within this ninety (90) day period complying with all 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 September 10, 2018, by Commissioner Pollard, who moved its adoption, which motion was seconded by Commissioner Lucas, and carried by the following vote:

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

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

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