

PLANNING COMMISSION
RESOLUTION NO. 2019-10

A RESOLUTION APPROVING THE VESTING TENTATIVE SUBDIVISION
MAP OF ALMOND GROVE (SEWICKLEY PARTNERS LLC)

WHEREAS, by Resolution 95-584 on December 12, 1995 the City Council adopted the Fairview Specific Plan, a planned community located generally south of Hatch Road and east of Carpenter Road; and

WHEREAS, Sewickley Partners LLC has filed an application for a Vesting Tentative Subdivision Map, Almond Grove, to divide 51.4 acres within Subarea A of the Specific Plan, property located west of Yuma Avenue between Ironside Drive and Turlock Irrigation District Lateral No. 1, into 246 single-family residential lots and three open space lots; and

WHEREAS, said Vesting Tentative Map was received in the office of the Secretary of the Planning Commission on March 14, 2018, and was accepted for filing and deemed complete on April 10, 2018, in accordance with the provisions of Section 4-4.401 of the Modesto Municipal Code; and

WHEREAS, copies of said vesting tentative map have been sent to the Modesto Elementary School and Modesto High School Districts, Turlock 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, the area can be served by elementary schools in the Modesto City School District and by Fire Station No. 10 at 148 Imperial Avenue, 2.5 miles distant; and

WHEREAS, the site would not be subject to the requirements of an Urban Level of Flood Protection as defined by Section 65007(n) of the Government Code as the lowest pad elevations of the project site are 71.1 feet, less than three feet below the identified 200-year floodplain elevation of 72.21 feet at the site; and

WHEREAS, a public hearing was held by the Planning Commission on March 18, 2019, 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 2018-24, 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 is required.

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

1. The proposed vesting tentative subdivision 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 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.
3. The project would not be subject to the requirements of an Urban Level of Flood Protection as defined by Section 65007(n) of the Government Code and required by Section 66474.5 of the Government Code as the elevations of the lowest pads in the project are less than three feet below the identified 200-year floodplain elevation of the site.
4. The subsequent project will have no additional significant effect on the environment, as defined in subdivision (d) of Section 21158 of the Public Resources Code, that was not identified in the Master EIR.
5. No new or additional mitigation measures or alternatives are required.
6. The subsequent project is within the scope of the project covered by the Master EIR.
7. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the subsequent project or otherwise made conditions of approval of the subsequent project.

BE IT FURTHER RESOLVED by the Planning Commission that the Vesting Tentative Map of Almond Grove, accepted for filing in the office of the Secretary of the Planning Commission on March 14, 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 the Final Map, new street names for Drives "A" through "C", "D Avenue", Drives "E", "F", "H" and "I", and Courts "A", "B", "F" and "G" shall be proposed and approved by both the City and the County.
2. Prior to recordation of a Final Map, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and submitted for approval by the City Engineer. The improvement plans shall include but not be limited to the following:
 - a. Provision of a pedestrian access from "F Court" to "D Avenue".
 - b. Water line sizing and connection points to the City's existing storage and well facilities. Upsizing of existing mains such as the 8-inch pipe in Ironside Drive may be required.
 - c. Sewer line sizing and connection points to existing City facilities. Sewer lift station capacity will be further reviewed with the submittal of improvement plans and may require expansion if necessary to

serve the project. Sewer lines will also be further reviewed with improvement plans to account for buildout of the Specific Plan area.

- d. Storm drain line sizing and lift station capacity of adequate size to serve the project.
 - e. Fire hydrants capable of providing the required fireflow for this project shall be installed and in operable condition prior to any combustible materials being brought onto the construction site. These fire hydrants shall be placed at 300 foot intervals along all public streets.
3. Any public improvements that are missing damaged or not to current City standards shall be designed 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.
 4. Prior to recordation of a Final Map, the developer shall take all actions to secure and establish a new City Mello-Roos Community Facilities District (CFD) in addition to the existing CFD 2003-1, for the ongoing maintenance of the open space lots, parkway landscaping and storm drainage infrastructure of the subdivision, and provisions needed to construct the following infrastructure, including but not limited to the future off-site street improvements for Carpenter Road, Whitmore Avenue and Hatch Road at the boundaries of the Fairview Village Specific Plan including needed right of way acquisition and future traffic signals on Hatch (at Montecito and Rancho Encantado), Carpenter (two locations to be determined), and Whitmore (location to be determined), a future canal crossing from "D Avenue" southward over TID Lateral No. 1, and a second future canal crossing in the Specific Plan area over TID Lateral No. 1.
 5. An all-weather fire apparatus access road capable of supporting the imposed load of a 60,000 pound vehicle shall be provided within 150 feet of any combustible materials prior to the start of construction.
 6. A masonry wall along the Turlock Irrigation District Lateral No. 1 Canal shall be at minimum six feet in height from grade, constructed with a cap treatment, and be constructed to completion prior to occupancy of any structure.
 7. Proposed development designs shall comply with building codes adopted by the City of Modesto at time of building permit application.
 8. Prior to or concurrent with map recordation, all public utility easements shall be dedicated as required by the utility companies and the City Engineer.
 9. Prior to or concurrent with map recordation, ten-foot-wide public utility easements and planting easements located within the ten-foot-wide public

utility easements shall be dedicated along all street frontages as required by the City Engineer or designee.

10. 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.
11. 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 run-off on site, and incorporate pervious landscape features into the project design wherever possible.
12. 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.
13. If any post-construction LID and/or treatment control measures will be located on private property and/or privately maintained, then the Property Owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering, Stormwater for recording before the issuance of a Grading, Demolition, or Building Permit.
14. 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.
15. The Construction General Permit requires the Property Owner to develop a Stormwater Pollution Prevention Plan (SWPPP) for the project. The 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. Prior to issuance of a Grading, Demolition, or Building Permit, provide one paper copy of SWPPP to Land Development Engineering, Stormwater.
16. Future home buyers and prospective residents of Fairview Village shall be provided disclosure that they are subject to noise, dust, odor and other impacts from adjacent agricultural operations. Such notice shall be placed on the Final Map at recordation.

17. All existing underground and aboveground utilities, irrigation, and electrical lines shall be protected, relocated, or removed as required by the utility companies and the City Engineer or designee. Easements for utilities, irrigation and electrical lines to remain shall be reserved as required.
18. Prior to issuance of the first building permit, Applicant shall provide Landscape and Irrigation plans for subdivision lots for review and approval by the City's Park Planning and Development Division. L&I plans shall meet current State of California water use requirements, Modesto Municipal Code requirements and City of Modesto standards at time of submittal..
19. Prior to issuance of the first building permit, Applicant shall provide Landscape and Irrigation plans for all public right-of-way for review and approval by the City's Park Planning and Development Division. L&I plans shall meet current streetscape standards, current State of California water use requirements, Modesto Municipal Code requirements and City of Modesto standards at time of submittal.
20. Prior to Certificate of Occupancy for any structure, cable television service shall be stubbed into all units.
21. At the time of issuance of a building permit, the developer shall pay development impact fees at the established rate. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.
22. Conditions of Approval for the project shall be included with building plans and shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.
23. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
24. 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 to be applied to the project:

25. AQ-42: 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.

26. AQ-43: All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.
27. AQ-44: 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.
28. AQ-46: 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.
29. AQ-47: 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.)
30. AQ-48: Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.
31. AQ-49: Within urban areas, track out shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.
32. AQ-50: Any site with 150 or more vehicle trips per day shall prevent carryout and track out.
33. The following measures should be implemented at construction sites when required to mitigate significant PM10 impacts(note, these measures are to be implemented in addition to Regulation VIII requirements):
34. AQ-51: Limit traffic speeds on unpaved roads to 15 mph; and
35. AQ-52: Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent (1%).
36. AQ-53: Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.
37. AQ-54: Install wind breaks at windward side(s) of construction areas.
38. AQ-55: Suspend excavation and grading activity when winds exceed 20 mph. Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent (20%) opacity limitation.
39. AQ-56: Limit the area subject to excavation, grading and other construction activity at any one time.
40. N-1: The City has also established a noise ordinance to control noise within the City. 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.”

41. N-2: Additionally, the noise ordinance prohibits the loud and raucous operation or use of any of the following before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and state or federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.):

A hammer, or any other device or implement used to pound or strike an object.

1. An impact wrench, or other tool or equipment powered by compressed air.
2. A hand-powered saw.
3. 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.
4. Any electrically powered (whether by alternating current electricity or by 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.
5. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), 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), piledriving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.
6. 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.

In addition, the City has adopted the following policies as part of its UAGP.

42. N-3: The City of Modesto shall require construction activities to comply with the City’s noise ordinance (Title 4, Chapter 9), and noise-reducing construction practices to be implemented as conditions of approval for development projects where substantial construction-related noise impacts would be likely to occur (e.g., where construction would include extended

periods of pile driving, where construction would occur over an unusually long period, or where noise-sensitive uses like homes and schools would be in the immediate vicinity, etc.). The city should consider potential mitigation measures, including, but not limited to, the following:

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. Equipment that is quieter than standard equipment should be utilized. Haul routes that affect the fewest number of people should be selected. (UAGP VIIG.3[a])

44. Prior to excavation and construction, the prime construction contractor and any subcontractors shall be cautioned on the legal and/or regulatory implications of knowingly destroying cultural resources or removing artifacts, human remains, bottles, or other cultural materials from the project area.
45. The project sponsor shall identify a qualified archeologist prior to any demolition, excavation, or construction. The City will approve the project sponsor's selection of a qualified archeologist. The archeologist would have the authority to temporarily halt excavation and construction activities in the immediate vicinity (ten-meter radius) of a find if significant or potentially significant cultural resources are exposed and/or adversely affected by construction operations.
46. Reasonable time shall be allowed for the qualified archeologist to notify the proper authorities for a more detailed inspection and examination of the exposed cultural resources. During this time, excavation and construction would not be allowed in the immediate vicinity of the find; however, those activities could continue in other areas of the project site.
47. If any find is determined to be significant by the qualified archeologist, representatives from the construction contractor and the City, the qualified archeologist, and a representative of the Native American community (if the discovery is an aboriginal burial) would meet to determine the appropriate course of action.
48. All cultural materials recovered as part of a monitoring program would be subject to scientific analysis, professional curation, and a report prepared according to current professional standards.
49. SD-9 and FWQ-13: Construction activities shall comply with the requirements of the City's Storm Water Management Plan under its municipal NPDES stormwater permit, and the State Water Resources Control Board's General Permit for Discharges of Storm Water Associated with Construction Activity. (UAGP Policy V-E.3[h])
50. HM-25: New developments shall be required to implement an appropriate selection of permanent pollution control measures in accordance with the City's implementation policies for the municipal NPDES stormwater permit. Permanent erosion control measures such as seeding and planting vegetation

for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants. (UAGP Policy V-E.4[f])

- 51. HM-26: Applicants for building permits shall determine that a site containing or formerly containing residences or farm buildings/structures has been fully investigated for the presence of hazardous materials or wastes prior to issuance of the permit. Investigation shall consist of, at minimum, a Phase I environmental site assessment and a Phase II site assessment, if found necessary as a result of the Phase I assessment. The findings of the site assessment shall be reported to the City and the County's Department of Environmental Resources. The appropriate remediation shall occur prior to final occupancy of the approved development. (UAGP Policy VM.2[f])

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 March 18, 2019, 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.

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 subdivision.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on March 18, 2019, by Commissioner Smith, who moved its adoption, which motion was seconded by Commissioner Lucas, and carried by the following vote:

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

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

Original, signed copy on file in CEDD
Steve Mitchell, Secretary