

PLANNING COMMISSION
RESOLUTION NO. 2019-14

A RESOLUTION RECOMMENDING TO THE CITY COUNCIL ADOPTION OF A RESOLUTION APPROVING THE FILING OF AN APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION FOR THE REORGANIZATION OF APPROXIMATELY 35.19 ACRES LOCATED WEST OF MCHENRY AVENUE AND SOUTH OF PELANDALE AVENUE, INCLUDING RIGHT OF WAY ON PELANDALE AVENUE, FOR ANNEXATION TO THE CITY OF MODESTO AND SIMULTANEOUS DETACHMENT FROM THE SALIDA FIRE PROTECTION DISTRICT (TESORO HOMES AND CALANDEV, LLC--UNINHABITED)

WHEREAS, Tesoro Homes and Calandev, LLC ("Applicants"), are the owners of approximately 24 acres of real property, located west of McHenry Avenue and south of Pelandale Avenue and the remaining approximately 11.2 acres of real property are owned by public agencies ("Property"); and

WHEREAS, the City has received a request from the Applicants to initiate reorganization of the Property and adjacent right-of-way on Pelandale Avenue, a total of approximately 35.19 acres, for annexation to the City of Modesto and simultaneous detachment from the Salida Fire Protection District under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq.; and

WHEREAS, the Resolution of Application is proposed pursuant to the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq.; and

WHEREAS, the Property to be annexed is within Stanislaus County, is contiguous to the existing City limits, and is within the Sphere of Influence of the City of Modesto as adopted by the Stanislaus Local Agency Formation Commission (LAFCO); and

WHEREAS, the Property proposed to be annexed is uninhabited as defined by Government Code Section 56079.5 (fewer than 12 registered voters), and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B", attached hereto and by this reference incorporated herein; and

WHEREAS, the Property is not subject to a Williamson Act contract; and

WHEREAS, the Property is covered by the North McHenry Corridor Agreement that address tax sharing entered into between the County of Stanislaus and City of Modesto which was approved on December 8, 1998; and

WHEREAS, the Property received a Measure M advisory vote approval in November 1999; and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in Exhibit "C", attached hereto and by this reference incorporated herein; and

WHEREAS, a public hearing was held by the Planning Commission on April 15, 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 2019-08, which concluded that the project is within the scope of the General Plan Master EIR (SCH No. 2014042081) 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 requested reorganization will result in an orderly and logical addition of land to the City.
2. The Property is located within Stanislaus County, within the City's adopted Sphere of Influence, is contiguous to the existing City limits, and can be most efficiently served with City services.
3. The Property proposed to be annexed to the City of Modesto is uninhabited as defined by Government Code Section 56079.5 (fewer than twelve registered voters) and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B", attached hereto and by this reference incorporated herein.
4. The Property is covered by the North McHenry Corridor Agreement for the sharing of property tax, sales tax, business, and mill tax, and utility tax for the Property which was entered into between the County of Stanislaus and City of Modesto and which was approved December 8, 1998.
5. An Initial Study was prepared by the City of Modesto that analyzed whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR as being within the scope of the report.
6. 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.
7. No new or additional mitigation measures or alternatives are required.
8. The subsequent project is within the scope of the project covered by the Master EIR.
9. 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.

10. No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified, and no new information, which was not known and could not have been known at the time that the Master EIR was certified as complete, has become available.

BE IT FURTHER RESOLVED by the Planning Commission of the City of Modesto that it recommends to the City Council approval of a Resolution of Application of reorganization to LAFCO to annex the Property to the City of Modesto and simultaneously detach the Property from the Salida Fire Protection District, subject to the following conditions:

1. 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 by the Planning Commission that it also recommends to the City Council that, pursuant to Government Code Section 56653, the City Council submit the plan for providing services as set forth in Exhibit "C", attached hereto and by this reference incorporated herein.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on April 15, 2019, by Commissioner Smith, who moved its adoption, which motion was seconded by Commissioner Birring and carried by the following vote:

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

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

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

Attachments: Exhibit "A" Legal Description
Exhibit "B" Annexation Proposal Map
Exhibit "C" Plan for Services

EXHIBIT "A"

Legal Description: Wells Avenue Residential Annexation

All that portion of the Southwest ¼ of the Southeast ¼ of Section 5, Township 3 South, Range 9 East, and a portion of the Northwest ¼ of the Southeast ¼ of Section 5, Township 3 South, Range 9 East, Mount Diablo Meridian, being more particularly described as follows:

BEGINNING at the southwest corner of Lot "A" as shown on that map filed in Volume 52 of Parcel Maps at Page 18, Stanislaus County Records, thence commencing the following ten courses:

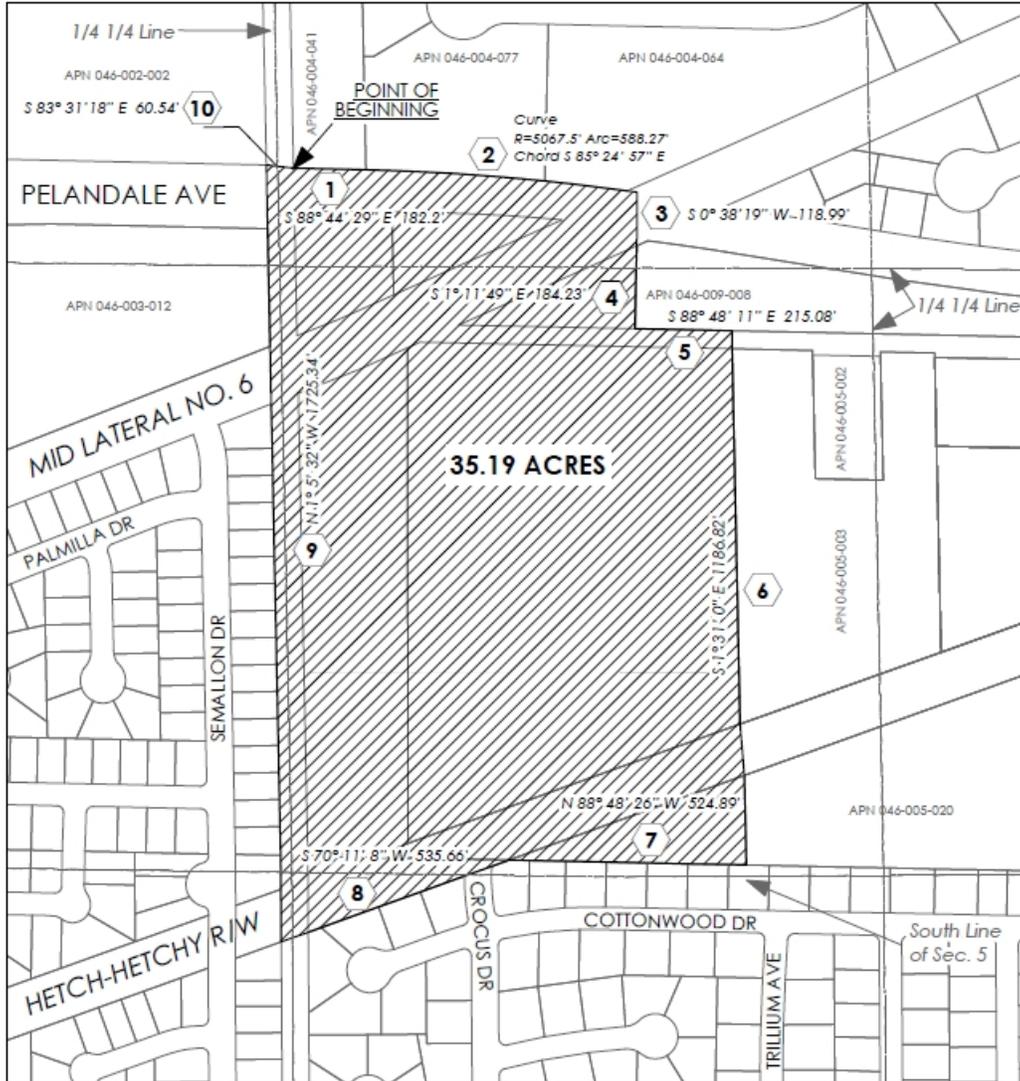
1. **South 88° 44' 29" East**, a distance of 182.2 feet, thence;
2. A Tangent Curve with a radius of 5067.5 feet, arc length of 588.27 feet, and chord bearing **South 85° 24' 57" East**, said curve being along the northerly Right-of-Way line of Pelandale Avenue and the southern lot line of the Remainder parcel as shown on that map filed in Volume 49 of Parcel Maps at Page 88, Stanislaus County Records, thence;
3. **South 0° 38' 19" West**, a distance of 118.99 feet to a point at the north corner of Lot "A" as shown on that map filed in Volume 33 of Maps at Page 17, Stanislaus County Records, thence;
4. **South 1° 11' 49" East**, a distance of 184.23 feet to a point at the southeast corner of aforementioned Lot "A" thence;
5. **South 88° 48' 11" East**, a distance of 215.08 feet, thence;
6. **South 1° 31' 0" East** a distance of 1186.82 feet, thence;
7. **North 88° 48' 26" West**, a distance of 524.89 feet, thence;
8. **South 70° 11' 8" West**, a distance of 535.66 feet, thence;
9. **North 1° 5' 32" West**, a distance of 1725.34 feet, thence;
10. **South 83° 31'18" East**, a distance of 60.54 feet to the Point of Beginning.

Containing 35.19 Acres, more or less.

APNs 046-004-011, 046-004-021, 046-009-001, 046-005-008, 046-005-018, 046-005-019, 055-036-016

EXHIBIT "B"

Wells Avenue Residential Annexation



ANX-18-001

PLAT TO ACCOMPANY LEGAL DESCRIPTION EXHIBIT "B"

Being a portion of the Southwest 1/4 of the Southeast 1/4
and a portion of the Northwest 1/4 of the Southeast 1/4
of Section 5, Township 3 South, Range 9 East,
Mount Diablo Meridian



Community and Economic Development
Planning Division
April 5, 2019

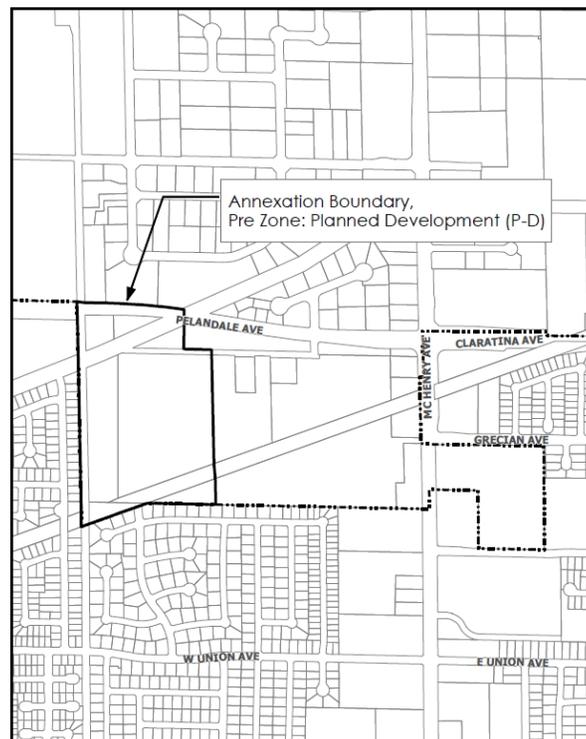
EXHIBIT "C"

WELLS AVENUE RESIDENTIAL ANNEXATION TO THE CITY OF MODESTO PLAN FOR SERVICES

Background:

The Wells Avenue Residential Annexation area consists of seven parcels located west of McHenry Avenue and south of Pelandale Avenue. Four of the parcels are publicly owned, with the remaining three parcels to be developed, totaling approximately 24 acres. Including adjacent street right-of-way, the annexation area is 35.2 acres total. The proposed annexation area was rezoned as Planned Development (P-P-D).

The purpose of the annexation is to allow residential development on the privately owned parcels. Although the project proponent is not ready to develop the site at this time, the eventual proposal is expected to consist of a gated, single family detached subdivision with a drainage basin and open space.



Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Wells Avenue Residential Annexation to the City of Modesto:

A. Project Area and Service Agreements

1. Traffic and Circulation: The annexation area is bounded by City of Modesto jurisdiction to the west and south. No roadway dedication or improvements are required as a part of the annexation. Transit services are provided by the Modesto Area Express (MAX), which has three routes in the vicinity of the property along McHenry Avenue, Tully Road, and Standiford Avenue.
2. Waste Water Collection: There is an existing 10-inch sewer main in Pelandale Avenue that terminates just north of MID Lateral #6 on the west side of Modesto's Pelandale Storm Basin. This main is not connected to the downstream waste water collection system, and is dry. Modesto has a project to extend the North Trunk in Bangs Avenue from Carver Road to Tully Road, including an extension of the 10-inch main in Tully Road and connection to the North Trunk extension, which is anticipated to be completed by the end of 2019. These pipelines would serve the annexation area and have adequate capacity to do so. The project proponent will be required to extend the 10-inch main under MID Lateral #6 and connect to the existing 6-inch main in Detroit Lane, to serve both future residential development and adjacent commercial and industrial areas.
3. Water Delivery: Modesto has existing 10-inch water mains in Detroit Lane and Crocus Drive. The project proponent will be required to extend a 10-inch main from Crocus Drive to Detroit Lane, including a crossing of the Hetch Hetchy right of way. The City of Modesto has adequate water supply to serve the annexation area.
4. Storm Water Drainage: Future residential development will be required to address its storm water drainage on site. Drainage from public roadways is being captured in existing storm drainage basins.
5. Solid Waste Disposal: The annexation area is not developed and has no need for waste disposal at this time. Following development, Gilton Waste Management will collect and dispose of solid waste from the site.
6. Fire Protection: The annexation area will detach from Salida Fire Protection District and be served by the Modesto Fire Department following annexation. Two fire stations are located near the site. Station No. 7, located at 1800 Mable Avenue, is approximately 2.2 miles east of the site. Station No. 11, located at 4225 Carver Road, is approximately 1.25 miles west of the site. No adverse impacts on staffing or response times are expected to occur with this annexation.
7. Police Protection: Following annexation, the area will be served by Modesto Police Department. The police department has expressed no concerns about staffing or response times for this area.

B. Level and Range of Services

The City of Modesto is a full service provider of municipal services. The City will provide full services to the area upon annexation.

C. When Can Services Be Provided?

The services described above will be provided or available upon development. The project proponent will be required to construct some infrastructure prior to development in order to connect with the waste water collection and water delivery systems.

D. Improvements Required as a Condition of Annexation

No improvements are required as a condition of annexation.

E. How Will Services be Financed?

Capital facilities fees will be levied at the time building permits are issued. Additional funding for services will be financed through utility and service fees, property tax revenues, and the general fund.