

PLANNING COMMISSION
RESOLUTION NO. 2015-16

A RESOLUTION FINDING THE ABANDONMENT OF AN 87.5-FOOT SEGMENT OF THE ALLEY IN BLOCK 3 OF THE DEL ESTE SUBDIVISION (8-M-12) EAST OF SOUTH SANTA ROSA AVENUE TO BE IN CONFORMANCE TO THE CITY OF MODESTO GENERAL PLAN, AND RECOMMENDING APPROVAL OF THE ABANDONMENT TO THE CITY COUNCIL (E&J GALLO WINERY)

WHEREAS, a verified application by E & J Gallo Winery requesting the full abandonment of an 87.5-foot segment of the alley in Block 3 of the Del Este Subdivision as shown in Volume 8 of Maps on Page 12, Stanislaus County Records, and shown by reference in Exhibit A, below, was received by the City of Modesto on November 5, 2014; and

WHEREAS, a title report was submitted with the abandonment request which vests fee title of street right-of-way to the E&J Gallo Winery which is the proponent of the abandonment; and

WHEREAS, the proposed abandonment has been referred to affected City departments and local utility companies, and no objection to the abandonment has been received; and

WHEREAS, Section 8313 of the Streets and Highways Code states that the Planning Commission shall review the abandonment and report on its conformance with the General Plan; and

WHEREAS, a public hearing was held by the Planning Commission on May 4, 2015 in the Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, at the May 4, 2015 hearing, the Planning Commission continued the public hearing to June 1, 2015;

WHEREAS, the Planning Commission certifies it has received and reviewed the Initial Study, Environmental Assessment No. EA/C&ED 2015-05, which determined that, on the basis of the whole record before it, that there is no substantial evidence that the project will have a significant effect on the environment, and that a Negative Declaration be adopted.

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

1. The alley to be abandoned is not necessary to serve present or future traffic needs in the area.
2. The alley vacation will provide for the development of a new parking area for the E&J Gallo Winery.
3. The alley vacation is in conformance with the General Plan.

4. An Initial Study, Environmental Assessment No. EA/C&ED 2015-05, was prepared by the City of Modesto that analyzed the proposed project and determined that, on the basis of the whole record before it there is no substantial evidence that the project will have a significant effect on the environment, and that a Negative Declaration be adopted.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council the abandonment of the 87.5-foot segment of the alley in Block 3 of the Del Este Subdivision, as shown in Exhibit A below, subject to the following condition:

1. Prior to recordation of the abandonment, the City shall reserve a public utility easement across the full 20-foot width of the alley at minimum, as required by the utility companies and the City Engineer or designee.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning an alley abandonment (File No. ABD-14-002), and related files. The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on June 1, 2015, by Dennis Smith, who moved its adoption, which motion was seconded by Carmen Morad and carried by the following vote:

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

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

Patrick Kelly, Secretary

EXHIBIT A

**LEGAL DESCRIPTION
FOR RIGHT-OF-WAY VACATION**

All that portion of that certain 20-foot wide alley in Block 3 of the Map of Del Este Subdivision, filed in Book 8 of Maps, at Page 12, Stanislaus County Records and dedicated to the public thereon, lying north of the existing city limits as shown on the Santa Rosa Addition, City of Modesto Ordinance 69-636, filed July 25, 1969 as Instrument 25295, and south of the westerly extension of the north line of the south half of Lot 2 in Block 3 of said Map of Del Este Subdivision, also being the south 87.50 feet, more or less, of said alley lying within the City of Modesto corporate limits.

Containing 1750 square feet, more or less.

