

PLANNING COMMISSION
RESOLUTION NO. 2015-23

A RESOLUTION FINDING THE VACATION OF AN 11,343 SQUARE FOOT SEGMENT OF DE HARRO STREET IN BLOCK 3 OF THE FOX TRACT (014-M-006) WEST OF KERR AVENUE IS CONSISTENT WITH THE CITY OF MODESTO GENERAL PLAN, AND RECOMMENDING APPROVAL OF THE VACATION TO THE CITY COUNCIL (MODESTO GOSPEL MISSION)

WHEREAS, a verified application by Modesto Gospel Mission requesting the full vacation of an 11,343 sq. ft. segment of De Harro Street in Block 3 of the Fox Tract as shown in Volume 14 of Maps on Page 6, Stanislaus County Records, and shown by reference in Exhibit A, below, was received by the City of Modesto on July 21, 2015; and

WHEREAS, a title report was submitted with the vacation request which vests fee title of street right-of-way to the Modesto Gospel Mission; and

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

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

WHEREAS, Section 65402 of the Government Code requires that the Planning Commission report to the City Council as to whether the disposal of real property conforms with the City of Modesto General Plan; and

WHEREAS, a public hearing was held by the Planning Commission on October 5, 2015 in the 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 2015-16, 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 street to be vacated is not necessary to serve present or future traffic needs in the area.
2. The street vacation will provide for additional property to support the services provided by the Modesto Gospel Mission.
3. The street vacation is in conformance with the General Plan because it is not designated by the General Plan as a collector or arterial street.
4. An Initial Study, Environmental Assessment No. EA/C&ED 2015-16, 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.

5. 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.
6. No new or additional mitigation measures or alternatives are required.
7. The subsequent project is within the scope of the project covered by the Master EIR.
8. 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.
9. 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 that it recommends to the City Council the vacation of the 11,343 square foot segment of the alley in Block 3 of the Fox Tract, as shown in Exhibit A below, subject to the following condition:

1. Prior to recordation of the vacation, the City shall reserve a public utility easement across the full 50-foot width of the street at minimum, as required by 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-15-001), and any 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 October 5, 2015, by Chris Tyler, who moved its adoption, which motion was seconded by Rosa Escutia-Braaton and carried by the following vote:

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

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary

Attachment: "Exhibit A"
"Exhibit B"

EXHIBIT "A"
LEGAL DESCRIPTION
ABANDONMENT

All that real property situate in the Northwest Quarter of Section 34 Township 3 South, Range 9 East, Mount Diablo Base and Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

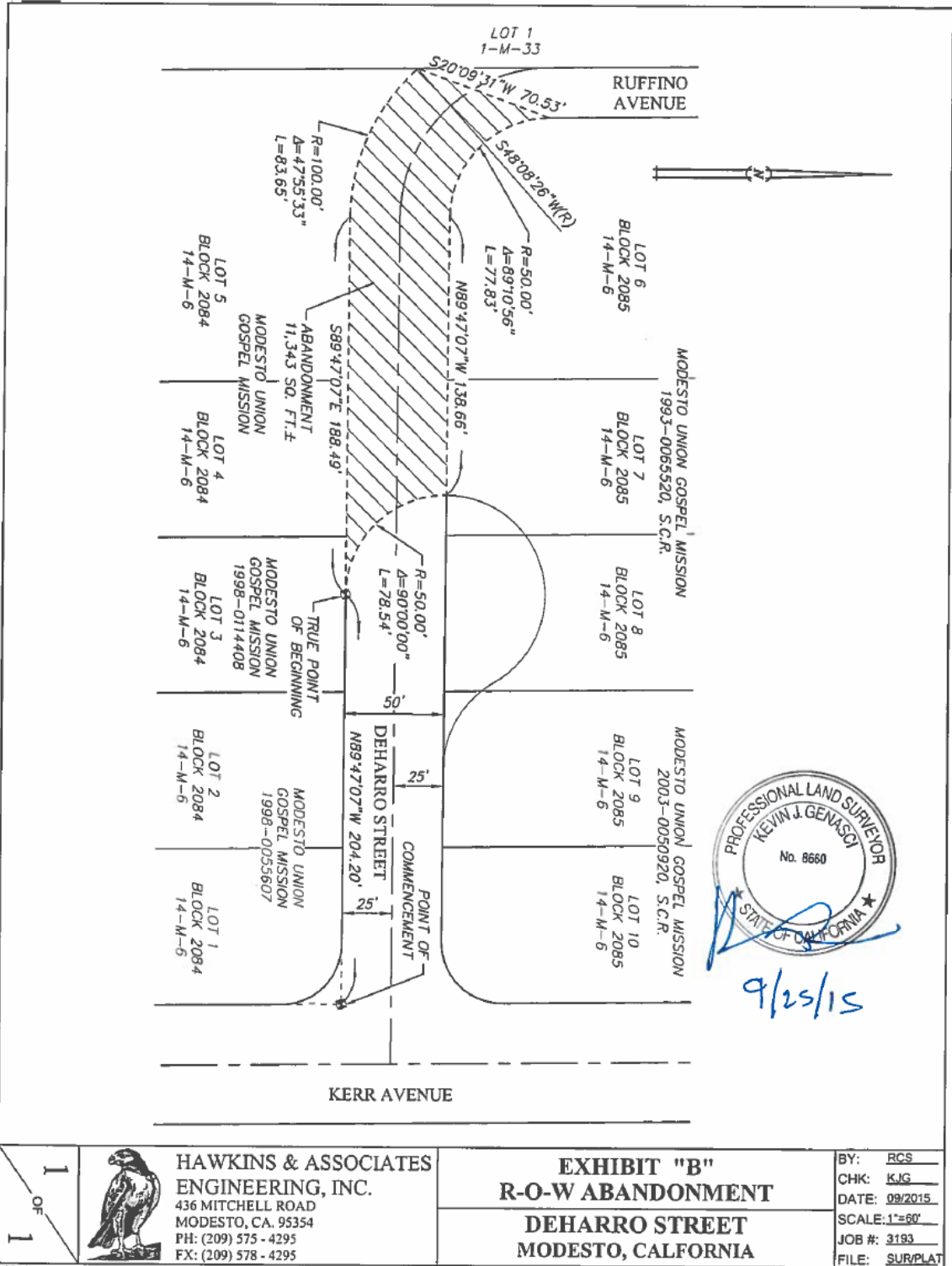
COMENCING at the intersection of the south right-of-way line of DeHarro Street with the west right-of-way line of Kerr Avenue as shown on the map filed in Volume 14 of Maps, at Page 6, Stanislaus County Records, thence North 89°47'07" West along said south right-of-way line, a distance of 204.20 feet to the **TRUE POINT OF BEGINNING** of this description; said point also being the point of tangency with a curve concave to the northeast east having a radius of 50.00 feet; thence along said curve through a central angle of 90°00'00", a distance of 78.54 feet to the point of intersection with the north right-of-way line of said DeHarro Street; thence North 89°47'07" West along said north right-of-way line, a distance of 138.66 feet to the point of tangency with a curve concave to the northeast having a radius of 50.00 feet, thence along said curve and right-of-way line through a central angle of 89°10'56", a distance of 77.83 feet; thence leaving said right-of-way line South 20°09'31" West, a distance of 70.53 feet to the intersection with the west line of Lot 5 of Block 2084 and the south right-of-way line of DeHarro street as shown on above said map, last said point being the beginning of a curve concave to the northeast having a radius of 100.00 feet, and to which point a radial line bears South 48°08'26" West; thence along last said curve and south right-of-way line through a central angle of 47°55'33", a distance of 83.65 feet; thence continuing along said south right-of-way line South 89°07'47" East, a distance of 188.49 feet to the **POINT OF BEGINNING**.

CONTAINING 11,343 square feet, more or less.

This description was prepared by me or under my direction in conformance with the Professional Land Surveyors Act.

Kevin J. Genasci, P.L.S. 8660
September 25, 2015

“Exhibit B”



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OF
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**HAWKINS & ASSOCIATES
ENGINEERING, INC.**
436 MITCHELL ROAD
MODESTO, CA. 95354
PH: (209) 575 - 4295
FX: (209) 578 - 4295

EXHIBIT "B"
R-O-W ABANDONMENT
DEHARRO STREET
MODESTO, CALIFORNIA

BY: RCS
CHK: KJG
DATE: 09/20/15
SCALE: 1"=60'
JOB #: 3193
FILE: SURPLAT

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