

PLANNING COMMISSION  
RESOLUTION NO. 2021-23

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 FAIRVIEW VILLAGE #2 REORGANIZATION OF APPROXIMATELY 177.75 ACRES LOCATED EAST OF CARPENTER ROAD AND NORTH OF WHITMORE AVENUE FOR ANNEXATION TO THE CITY OF MODESTO AND SIMULTANEOUS DETACHMENT FROM THE WESTPORT AND BURBANK-PARADISE FIRE PROTECTION DISTRICTS (STL COMPANY LLC--UNINHABITED)

WHEREAS, Bava Family Farms, is the owner of approximately 58.69 acres of real property, located east of Carpenter Road and north of Whitmore Avenue, about 88.98 acres is owned by other Bava-owned businesses and the remaining approximately 30.08 acres of real property is owned by public agencies and individuals ("Property"); and

WHEREAS, STL Company LLC ("Applicant") has approval from Bava Family Farms to apply for entitlements on its property; and

WHEREAS, the City has received a request from the Applicant to initiate reorganization of the Property, a total of approximately 177.75 acres, for annexation to the City of Modesto and simultaneous detachment from the Westport and Burbank-Paradise Fire Protection Districts 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 Master Tax Sharing Agreement that addresses tax sharing entered into between the County of Stanislaus and City of Modesto which was approved on April 5, 1983, and updated in 1996; and

WHEREAS, the Property received a Measure M advisory vote in November 1997;  
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 December 20, 2021, 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 2021-31, 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 Master Tax Sharing Agreement for the sharing of property tax for the Property which was entered into between the County of Stanislaus and City of Modesto and which was approved April 5, 1983, and updated in 1996.
5. The proposed annexation to the City of Modesto is consistent with the Urban Area General Plan, because the annexation area is included in the City's Sphere of Influence and is consistent with the uses in the General Plan.
6. The annexation 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 General Plan Master EIR (SCH No. 2014042081).
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. The Initial Study, Environmental Assessment No. EA/C&ED 2021-31, provides the substantial evidence to support findings 5-9, noted above.

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 Westport and Burbank-Paradise Fire Protection Districts, 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 December 20, 2021, by Commissioner Vohra, who moved its adoption, which motion was seconded by Commissioner Morad, and carried by the following vote:

Ayes:	Birring, Morad, Pollard, Silva, Smith, Vohra, Shanks
Noes:	None
Absent:	None
Recused:	None

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

Original, signed copy on file C&EDD

Steve Mitchell, Secretary

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

**EXHIBIT "A"**

Legal Description: Fairview Village #2 Reorganization

All that certain real property situate in the County of Stanislaus, State of California, being a portion of the West 1/2 of Section 7, and a portion of the North 1/2 of Section 18, Township 4 South, Range 9 East, and a portion of the northeast 1/4 of Section 13 and a portion of the East 1/2 of Section 12, Township 4 South, Range 8 East M.D. B & M, described as follows:

**BEGINNING** at a point South 00°17'30" East, 324.00 feet, from the northwest section corner of Section 7, Township 4 South, Range 9 East, said point being on the west line of said Section 7 and also being the most southerly corner of the McBride Addition recorded September 18, 1963 as Instrument Number 35382, Official Records Stanislaus County, thus commencing the following 40 courses:

1. South 62°07'35" East, 494.15 feet, along the centerline of the Tuolumne River;
2. South 52°35'59" East, 412.73 feet, along the centerline of the Tuolumne River;
3. South 63°51'06" East, 386.23 feet, along the centerline of the Tuolumne River;
4. South 73°51'56" East, 331.10 feet, along the centerline of the Tuolumne River, to the northwest corner of Modesto City Council Resolution No. 96-207;
5. South 00°05'30" West, 266.00 feet more or less to a point on the easterly line of Parcel 'A' as shown on the map recorded in Book 42 of Parcel Maps, Page 2, Stanislaus County Records, said point being on the southerly right-of-way line of a 90-foot-wide Hatch Road;
6. South 00°32'31" West, 1092.16 feet, along the east line of said Parcel 'A' and the westerly line of said Resolution No. 96-207;
7. North 89°51'19" West, 326.43 feet, leaving the east line of said Parcel 'A', continuing along the westerly line of said Resolution No. 96-207;
8. South 00°15'01" East, 918.00 feet;
9. South 89°51'19" East, 975.00 feet to a point on the east line of Parcel 'C' of said Parcel Map, said east line being the westerly line of said Resolution No. 96-207;
10. South 00°15'01" East, 1132.00 feet, along the east line of said Parcel 'C' and the westerly line of said Resolution No. 96-207;

11. **South 00°17'15" East**, 877.58 feet, along the east line of said Parcel 'C' and the southerly continuation thereof, to the southwest corner of said Resolution No. 96-207, being a point on the north line of Parcel 'A' as shown on the map recorded in Book 31 of Parcel Maps, Page 78, Stanislaus County Records;

12. **North 89°52'30" West**, 690.25 feet, along north line of Parcel 'A' of said Book 31 of Parcel Maps, Page 78, to the west line of said Parcel 'A';

13. **North 00°29'00" East**, 35.00 feet, along said wester line, to a point on a line lying 20.00 feet southerly of and parallel with the centerline of Whitmore Avenue as shown on said Book 31 of Parcel Maps, Page 78;

14. **North 89°52'30" West**, 63.95 feet, along said parallel line, to the east line of Parcel 1 as shown on the map recorded in Book 26 of Parcel Maps, Page 12, Stanislaus County Records;

15. **South 00°05'34" West**, 30.00 feet, along said east line, to a point on the north line of said Parcel 1;

16. **North 89°52'30" West**, 148.00 feet, along said north line, to the west line of said Parcel 1;

17. **North 00°05'34" East**, 30.00 feet, along said west line, to a point on a line lying 20.00 feet southerly of and parallel with the centerline of said Whitmore Avenue;

18. **North 89°52'30" West**, 486.95 feet, along said parallel line, to the most easterly point of the land described in the document recorded May 8, 2018 as instrument number 2018-0031482 official records of Stanislaus County;

Thence along the southerly line of said land the following three (3) courses:

19. **South 84°15'39" West**, 391.51 feet;

20. **North 89°52'30" West**, 230.52 feet;

21. **South 42°21'10" West**, 38.65 feet to a point on a line lying 20.00 feet easterly of and parallel with centerline of Carpenter Road;

22. **South 89°43'27" West**, 80.00 feet, leaving said southerly line, to a point on the westerly line of the land described in the document recorded April 5, 2018 as instrument number 2018-0023460 official records of Stanislaus County;

23. **North 39°48'24" West**, 38.17 feet, along the southwesterly line of said land, to a point on the south line of said land, said south line lying 60.00 feet southerly of and parallel with the centerline line of said Whitmore Avenue;

24. **North 02°25'04" West**, 80.08 feet, leaving the southerly line of said land across said Whitmore Avenue, to a point on the southerly line of the 50.00 foot wide TID Canal described in Book 311, Page 103 official records of Stanislaus County;
25. **North 67°37'29" East**, 51.10 feet, along the southerly line of said 50.00 foot wide canal, to a point on a line lying 40.00 feet west of and parallel with the centerline of said Carpenter Road;
26. **North 00°17'30" West**, 53.96 feet, along said parallel line, to the northerly line of said 50.00 foot wide canal.
27. **South 67°37'29" West**, 21.58 feet, along said north line, to a point on a line lying 60.00 feet west of and parallel with the centerline line of said Carpenter Road, said line also being the westerly line of the dedicated right-of-way as described in the road deed recorded June 8, 2018 as instrument number 2018-0039639 official records of Stanislaus County;
28. **North 00°17'30" West**, 330.97 feet, along said parallel line;
29. **North 03°34'04" East**, 297.13 feet, leaving said parallel line and continuing along the westerly line of said land, to point on a line lying 40.00 feet west of and parallel with the centerline of said Carpenter Road, said line being the westerly line of said Carpenter Road; Thence along said westerly line the following twelve (12) courses:
  30. **North 00°17'30" West**, 1,934.89 feet;
  31. **North 00°17'46" West**, 329.67 feet;
  32. **South 89°42'14" West**, 5.00 feet;
  33. **North 00°17'46" West**, 59.62 feet;
  34. **North 89°42'14" East**, 5.00 feet;
  35. **North 00°17'46" West**, 587.11 feet;
  36. **South 89°42'14" West**, 5.00 feet;
  37. **North 00°17'46" West**, 200.36 feet;
  38. Northerly along a tangent curve having a radius of 5,955.00 feet, concave westerly, through a central angle of 01°54'33", an arc distance of 198.43 feet;
  39. **North 02°11'54" West**, 397.37 feet;
  40. Northerly along a tangent curve having a radius of 6,045.00 feet, concave easterly, through central angle of 01°54'33", an arc distance of 201.43 feet;
  41. **North 0°17'21" West**, 282.11 feet;

42. North 52°32'31" West, 31.58 feet;

43. North 00°17'21" West 114.42 feet more or less, to a point on the centerline of the Tuolumne River, said point also being on the southerly line of the said McBride Addition described above;

44. South 54°06'44" East 111.55 feet, along the centerline of said River, to the **POINT OF BEGINNING**;

Containing 177.75 Acres more or less.

APNs:

056.026.001	056.026.012	056.026.033	056.028.010	056.028.014
056.026.006	056.026.031	056.026.034	056.028.012	
056.026.007	056.026.032	056.027.009	056.028.013	



## EXHIBIT "C"

### PLAN FOR SERVICES FAIRVIEW VILLAGE #2 REORGANIZATION TO THE CITY OF MODESTO

#### Background

The Fairview Village #2 Reorganization area consists of 13 parcels located east of Carpenter Road, north of Whitmore Avenue, and south of the Tuolumne River. Three of the parcels are owned by the City of Modesto and six of the parcels will eventually be developed. The remaining four parcels will eventually be part of Tuolumne River Regional Park. Including adjacent roadways rights of way, the annexation is 177.75 acres total. The proposed annexation area is rezoned P-SP and P-R-1.

The purpose of the annexation is to allow residential and commercial development on the parcels rezoned P-SP and to create a logical annexation boundary for the parcels rezoned P-R-1. A Vesting Tentative Map application for residential has been filed and is being processed for 38.5 acres of the proposed annexation area.

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the Fairview Village #2 Reorganization to the City of Modesto:

#### A. Project Area and Service Agreements

1. Traffic and Circulation: The annexation area is bounded by the City of Modesto to the north and east. Roadway dedication and improvements will be required along a portion of Carpenter Road as a condition of the Vesting Tentative Subdivision Map, but not as a condition of the annexation. There is currently no transit service to this area, but Modesto Area Express (MAX) is the most likely provider to extend service, as there are four routes within a mile of the site.
2. Waste Water Collection: There is an existing 10-inch line in St. Salazar Circle terminating adjacent to the proposed subdivision that will be extended to serve the area. Other lines will be extended as needed. The City's Wastewater Treatment facilities have adequate capacity to serve this area when development is complete.
3. Water Delivery: There are several water mains in Hatch Road, Carpenter Road, and Whitmore Avenue. New development will take water from one of these, which will be extended by the project proponent to the development area. The City of Modesto has adequate water supply to serve the annexation area.

4. Storm Water Drainage: Future residential development will be required to transport storm water to the central drainage basin.
5. Solid Waste Disposal: The annexation area is minimally developed and no need for urban 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 is primarily served by the Industrial Fire Protection District. However, Westport Fire Protection District's boundary is the centerline of Whitmore Avenue and Burbank-Paradise Fire Protection District's boundary is the centerline of Carpenter Road. These roadway segments will be detached from the fire protection districts. ~~and attached to the Industrial Fire Protection District.~~ Industrial's station is about 2 miles east of the site at 148 Imperial Avenue. Modesto Fire Department's nearest station is at 420 Chicago Avenue, also about 2 miles northeast 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 wastewater, water delivery, and stormwater collection 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. Funding for some services will be financed through utility and service fees, property tax revenues, and the general fund. Additionally, a new Community Facilities District will be established to address funding of some services.