

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
BOARD ACTION SUMMARY

DEPT: Public Works

BOARD AGENDA #: \*C-1

AGENDA DATE: August 30, 2016

**SUBJECT:**

Approval to Summarily Vacate a Portion of Wells Avenue, Located South of Pelandale Avenue, West of McHenry Avenue, Lying North of the City of Modesto

**BOARD ACTION AS FOLLOWS:**

No. 2016-461

On motion of Supervisor Withrow, Seconded by Supervisor O'Brien  
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini, and Chairman Monteith

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1)  Approved as recommended

2)  Denied

3)  Approved as amended

4)  Other:

MOTION:

ATTEST: Elizabeth A. King  
ELIZABETH A. KING, Clerk of the Board of Supervisors

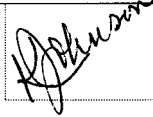
File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
AGENDA ITEM**

DEPT: Public Works

Urgent

Routine



BOARD AGENDA #: \*C-1

AGENDA DATE: August 30, 2016

CEO CONCURRENCE: \_\_\_\_\_

4/5 Vote Required: Yes  No

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**SUBJECT:**

Approval to Summarily Vacate a Portion of Wells Avenue, Located South of Pelandale Avenue, West of McHenry Avenue, Lying North of the City of Modesto

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**STAFF RECOMMENDATIONS:**

Pursuant to Street and Highway Codes Sections 8334 (a & b), 8335, and 8340:

1. Find based on the reasons stated in this report, the portion of Wells Avenue as described herein, is not required for street and highway purposes.
2. Find all public utility easements will be retained for the benefit of in-place public utility facilities.
3. Adopt the attached resolution vacating that portion of Wells Avenue, lying south of Pelandale Avenue, west of McHenry Avenue, and lying north of the City of Modesto as described in Exhibits "A" and "B".
4. Direct the Department of Public Works to record the resolution with the County Clerk-Recorder.

**DISCUSSION:**

The abandonment is being pursued as part of a re-zoning application filed with the Stanislaus County Planning Department. The property is currently zoned agriculture. The re-zoning will allow for the filing of a Planned Development document. This will allow the orderly development of the property for commercial use. The proposed use is a car dealership.

Wells Avenue was originally dedicated to Stanislaus County in 1937 as a public road. A portion of Wells Avenue was dedicated to the City of Modesto to facilitate the improvement of Pelandale Avenue. The City of Modesto constructed the Pelandale Avenue Widening Project adjacent to Wells Avenue, making this a portion of unused public right-of-way. The City of Modesto has removed their interest in Wells Avenue and Quit Claimed any right, title, or interest to the applicant, Burchell Nursery.

The road right-of-way is partially improved with asphalt pavement and there are in-place utilities from Modesto Irrigation District electrical, City of Modesto water, AT&T and Comcast

Approval to Summarily Vacate a Portion of Wells Avenue, Located South of Pelandale Avenue, West of McHenry Avenue, Lying North of the City of Modesto

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communications. A Public Utility Easement (PUE) shall be retained over the entire abandonment area for the benefit of all utilities.

The vacation of this portion of Wells Avenue is exempt from review under the California Environmental Quality Act pursuant to Title 14 California Code of Regulations section 15305 as a minor alteration in land use limitations.

**POLICY ISSUE:**

California Street and Highways Code Sections 8330-8334.6 gives the legislative body of a local agency the authority to summarily vacate a street or highway. This action is being pursued under Section 8334 (a) and (b).

**FISCAL IMPACT:**

All costs of staff time are reimbursed through fees paid by the applicant. The abandonment terminates the County's interest in this right-of-way.

**BOARD OF SUPERVISORS' PRIORITY:**

The recommended actions are consistent with the Board's priority of A Well Planned Infrastructure System by removing any excess right-of-way that is not needed for road way purposes, therefore removing any liability.

**STAFFING IMPACT:**

Existing Public Works staff will record Public Utility Easement deeds on behalf of the County.

**CONTACT PERSON:**

Matt Machado, Public Works Director

Telephone: (209) 525-4153

**ATTACHMENT(S):**

1. Resolution
2. Exhibit A – Legal Description for Right of Way Vacation
3. Exhibit B – Abandonment Location Exhibit

ATTACHMENT 1  
RESOLUTION

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
STATE OF CALIFORNIA

Date: August 30, 2016

2016-461

On motion of Supervisor Withrow Seconded by Supervisor O'Brien  
and approved by the following vote,  
Ayes: Supervisors: O'Brien, Chiesa, Withrow, DeMartini and Chairman Monteith  
Noes: Supervisors: None  
Excused or Absent: Supervisors: None  
Abstaining: Supervisor: None

THE FOLLOWING RESOLUTION WAS ADOPTED: Item # \*C-1

**APPROVAL TO SUMMARILY VACATE A PORTION OF WELLS AVENUE, SOUTH OF  
PELANDALE AVENUE AND WEST OF MCHENRY AVENUE, NORTH OF THE CITY OF  
MODESTO**

WHEREAS, the California Street and Highways Code Sections 8330-8334.6 provides the legislative body of a local agency the authority to summarily vacate a street or highway; and,

WHEREAS, the portion of Wells Avenue described in Exhibits "A" and "B" is not required for street and highway purposes; and,

WHEREAS, the portion of Wells Avenue described lies within property under one ownership that does not continue through such ownership or end touching property of another; and,

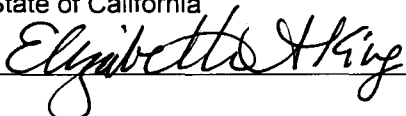
WHEREAS, all Public Utility Easements will be retained for the benefit of in-place public utility facilities.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of the County of Stanislaus, State of California hereby finds and determines as follows:

1. The portion of roadway described in Exhibit "A" and "B" is not required for street and highway purposes; and,
2. The summary vacation of the portion of roadway described herein is exempt from review under the California Environmental Quality Act pursuant to Title 14 California Code of Regulations section 15305 as a minor alteration in land use limitations; and,
3. The Department of Public Works is directed to record a certified copy of this Resolution, including the attached Exhibits "A" and "B" with the Stanislaus County Clerk-Recorder.

NOW, THEREFORE, BE IT FURTHER RESOLVED that from and after the date this resolution is recorded by Stanislaus County, the vacated portion of Wells Avenue, lying south of Pelandale Avenue and west of Mchenry Avenue, described in Exhibits "A" and "B", no longer constitutes part of a street or highway.

ATTEST: ELIZABETH A. KING, Clerk  
Stanislaus County Board of Supervisors,  
State of California



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File No.

ATTACHMENT 2

EXHIBIT A – LEGAL DESCRIPTION FOR RIGHT OF WAY VACATION

November 23, 2015

***ABANDONMENT OF A PORTION OF  
WELLS AVENUE  
BETWEEN MCHENRY AVENUE AND THE SOUTHERLY PROJECTION  
OF THE EAST RIGHT OF WAY LINE OF DETROIT LANE***

***PREPARED FOR BURCHELL NURSURY, INC.***

**DESCRIPTION**

All that certain real property in a portion of the Southeast quarter of Section 4, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

**COMMENCING** at the intersection of the center line of McHenry Avenue with the center line of Wells Avenue, as described in quitclaim deed recorded June 22, 1988, as instrument number 041381; thence North 88° 48' 10" West 55.00 feet along said center line of Wells Avenue to the **POINT OF BEGINNING**; thence South 1° 13' 55" East 20.02 feet to the South right of way line of said Wells Avenue; thence North 88° 48' 10" West 220.00 feet along said South right of way line, to an angle to the left; thence South 1° 13' 55" East 10.00 feet to an angle to the right; thence continuing along said South right of way line North 88° 48' 10" West 539.74 feet, more or less, to the Southerly projection of the East right of way line of Detroit Lane; thence North 1° 13' 55" East 50.00 feet, more or less, to the North right of way line of said Wells Avenue; thence South 88° 48' 10" East 759.74 feet, more or less, along said North right of way line of Wells Avenue, to an angle to the right; thence South 1° 13' 55" East 20.02 feet to said center line of Wells Avenue, and the point of beginning.

**CONTAINING:** 35,787 square feet (0.822 acre), more or less.

See attached Exhibit

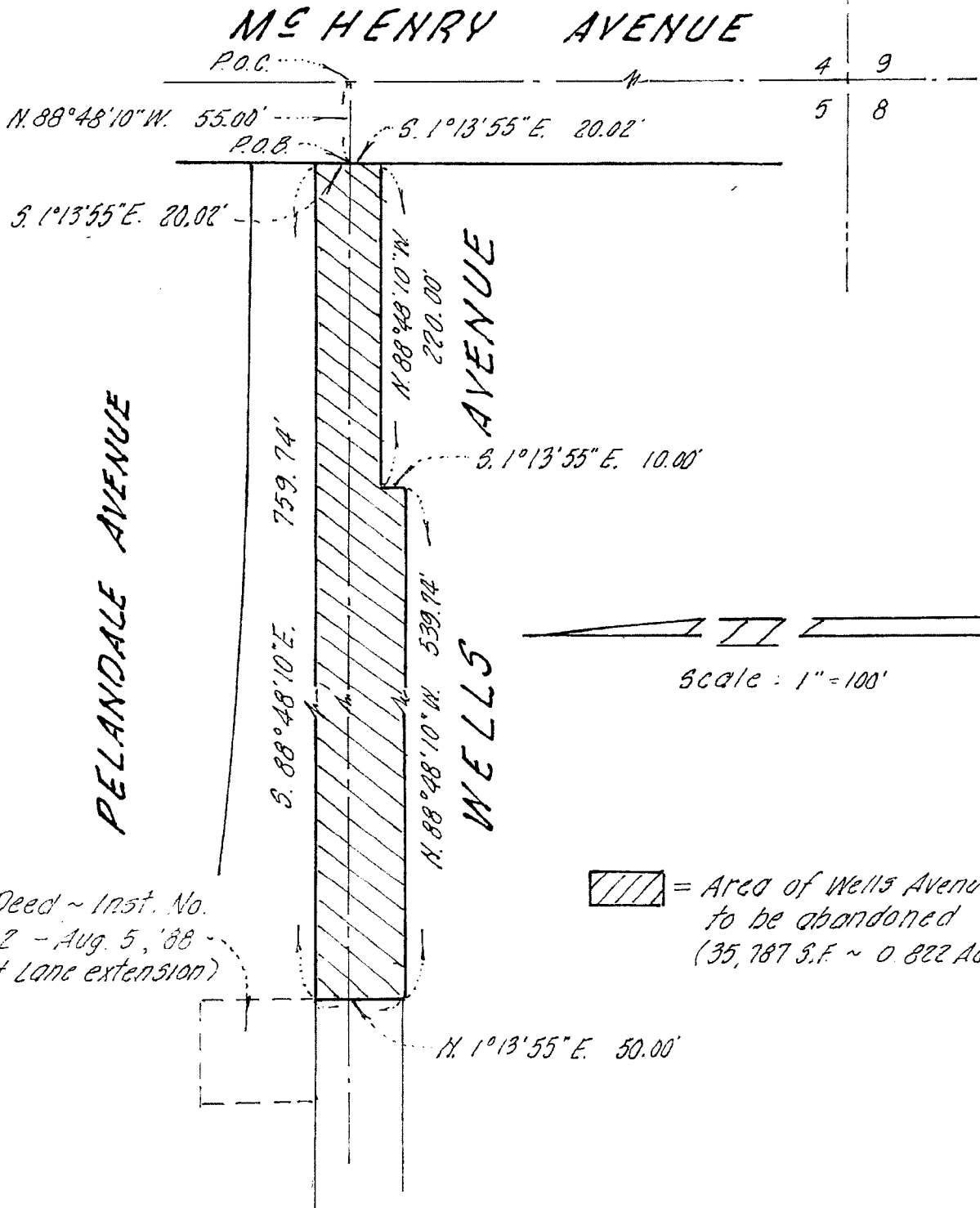




ATTACHMENT 3

EXHIBIT B – ABANDONMENT LOCATION EXHIBIT

**ABANDONMENT OF A PORTION OF  
WELLS AVENUE  
BETWEEN MCHENRY AVENUE AND THE SOUTHERLY PROJECTION  
OF THE EAST RIGHT OF WAY LINE OF DETROIT LANE**



Road Deed ~ Inst. No.  
052442 - Aug. 5, '88  
(Detroit Lane extension)

= Area of Wells Avenue  
to be abandoned  
(35,787 S.F. ~ 0.822 Ac.)