



## Legislation Text

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**File #:** 16-321, **Version:** 1

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**SUBJECT:** Water and Sewer Service Request 15-01 for 2400 Brookdale Drive

### REPORT IN BRIEF

Consider a request to provide City water and sewer services to a vacant parcel located outside the City Limits (2400 Brookdale Drive) to allow the construction of a single-family dwelling.

### RECOMMENDATION

**City Council** - Adopt a Motion

- A. Approving **Resolution 2016-43**, a Resolution of the City Council of the City of Merced, California, approving Water and Sewer Service Request #15-01 for an Out of Boundary Water and Sewer Service Agreement to provide water and sewer services to an approximately 2.0-acre vacant property at 2400 Brookdale Drive; and,
- B. Authorizing the application to LAFCO for an Out-of-Boundary Service Request; and,
- C. Approving the Agreement Affecting Real Property and Covenant to Annex (Water and Sewer Agreement), subject to LAFCO approval of the Out-of-Boundary Service; and,
- D. Authorizing the City Manager to execute all necessary documents.

### ALTERNATIVES

- 1. Approve, as recommended by staff; or,
- 2. Approve, subject to modifications as conditioned by Council; or,
- 3. Deny, based on specific findings; or,
- 4. Refer back to staff for reconsideration of specific items as requested by Council; or,
- 5. Continue to a future meeting (date and time to be specified in the motion).

### AUTHORITY

City Council Resolution #78-3

### DISCUSSION

The property owner has requested connection to the City's water and sewer services to allow the construction of a single-family residence on the vacant parcel located at 2400 Brookdale Drive (Attachment 1). The site is contiguous to the existing City Limits and both water and sewer services exist in the road in front of the site.

The owner originally approached the County with her request to construct a house, but was referred to the City due to the close proximity to the City boundary and the availability of water and sewer services adjacent to the property. Typically, the City would require annexation prior to allowing connection to City services. However, in this case, it isn't feasible to require one parcel of this small size to annex given the cost and time involved for annexation. In addition, at the time of the applicant's initial inquiry, the City could not process annexation applications since there was no revenue sharing agreement in place with the County. It is expected, however, that this site could be included in any future annexations in the nearby area based on the signed agreement to annex.

Because there are no structures on the site at this time, this request is not considered an emergency request, and thus, City Council approval is required to be able to move forward with the connection process. The applicant would like to construct one single-family home on the site (Attachment 2).

#### City Policy

Extension of water and sewer services outside the Corporate Limits has typically been governed by Merced City Council Resolution No. 78-3, adopted January 3, 1978 (Attachment 3). Generally, the Resolution states:

- Water and sewer services shall not be extended outside the City Limits to accommodate new development unless the area in question is annexed to the City;
- No City water and sewer services shall be extended beyond the urban limit line; and,
- Only emergency situations or exceptional uses such as well or septic tank failure jeopardizing public health or safety shall be considered for City services. These requests are reviewed on an individual basis.

Typically, when a property owner outside the City Limits makes a request for City water and/or sewer services, the property owner must agree to annexation, when the Council determines the time for annexation to be appropriate. However, often a request for City services occurs at a time when there would be no immediate benefit to the City for annexation of the property. Therefore, all County property owners with this type of connection request must enter into an "Agreement Affecting Real Property and Covenant to Annex (Water and Sewer Connection Agreement)" to agree to future annexation. By requiring this agreement, the City is in a better position to ensure annexation takes place in the future, at a more appropriate and beneficial point of time.

As previously mentioned, in this case, annexing one small property would be very costly and time-consuming. In addition, it is anticipated that the area currently served by the Black Rascal Water Company, which is adjacent to the site to the west, will be pursuing annexation in the near future. Therefore, this site would be included in that annexation and the owner would be required to pay their proportional share of the annexation costs as required by the agreement. Because the City has both water and sewer services available to the site, staff determined entering into an agreement as proposed would be the most efficient way to proceed. Otherwise, the owner would have to construct a well and septic tank to serve the site. Given the likelihood of future annexation in the near future, staff determined it would be better to allow the connections and eliminate any risks that could be posed to the City's infrastructure by private wells and septic tanks.

#### General Plan Policy

The Urban Expansion chapter of the *Merced Vision 2030 General Plan* provides policies related to

growth and urban expansion. The following policy and implementing action addresses expanding utilities outside the City Limits:

### Policy

**UE-1.2** Foster Compact and Efficient Development Patterns to Maintain a Compact Urban form.

### Implementing Action:

**1.2.c** Continue to limit the expansion of City Utilities to only those areas within the established urban boundary.

Proposals for urban development with the City's SUDP/SOI shall be considered only after annexation has taken place. To be eligible for annexation, a property must be contiguous to the City Limits and be located within the SUDP/SOI. City utilities should not be extended outside of the City Limits except in cases where public health and safety are threatened or a significant public interest is served. If it is necessary for technical/economic reasons to allow utilities to cross unincorporated territory (i.e., water/sewer main extensions), actual access to such utility services will be restricted to those inside the City Limits until such time as annexation occurs. Annexation agreements would be utilized in these cases to address relevant issues and service costs.

### LAFCO

In compliance with LAFCO requirements, any services provided by the City to properties located outside of the City Limits are required to obtain LAFCO approval. Staff requests Council approve the Resolution at Attachment 4, authorize the application to LAFCO, and approve the Agreement at Attachment 5, subject to approval of the Out-of-Boundary Service Request being approved by LAFCO.

### History and Past Actions

Past City Councils and City Managers have approved the connections of properties outside the City Limits. Since 1978, there have been a total of 54 out-of-boundary water service requests and 39 out-of-boundary sewer service requests approved. Many of these have been considered emergency situations, but some were not. The fact that this is a vacant lot is somewhat unique. However, the applicant had previously applied for annexation in 2015. Because the City did not have a revenue sharing agreement in place with the County, the City was not able to process the annexation request. However, the County has encouraged the owner to seek connection to the City's services due to the close proximity of the site to the City's water and sewer services and to provide more reliable services for the future development on the site.

## **IMPACT ON CITY RESOURCES**

Costs to the City's Water and Sewer Departments are expected to be temporarily incurred. However, the owner would be paying the required facility fees for both the sewer and water connections and all work done by the City would also be reimbursed. The owner would be responsible for installing the required man-hole at their own cost. Therefore, the overall impact would be limited since costs would be recovered from the applicant.

## **ATTACHMENTS**

1. Location map
2. Site Plan
3. City Policy 78-3
4. Draft City Council Resolution
5. Draft Agreement Affecting Real Property