



## Legislation Text

---

**File #:** 20-531, **Version:** 1

---

*Report Prepared by: Kim Espinosa, Planning Manager, Development Services Department*

**SUBJECT:** Update on North Merced Annexation Feasibility Study-Annexation Policies and Procedures, Current Annexations, and Performance Standards for Interim Sewer Capacity

### REPORT IN BRIEF

As a follow-up to the August 17, 2020, City Council meeting on the North Merced Annexation Feasibility Study, staff will provide further information on proposed Annexation policies and procedures, current annexation applications being processed, and proposed performance standards for allocating interim sewer capacity. Staff is seeking Council direction for all three areas.

### RECOMMENDATION

Accept information and provide direction to staff.

### ALTERNATIVES

1. Accept for information only and ask for additional information before providing direction to staff; or,
2. Continue to a future City Council meeting.

### AUTHORITY

The Cortese-Knox-Hertzberg Local Reorganization Act of 2000 establishes procedures for city annexations and other local government changes of organization.

### CITY COUNCIL PRIORITIES

In the FY 2020-21 City Council Goals and Priorities, "Future Annexations/Growth of City/Sewer Master Plan" is listed under Goal Area 5, Future Planning.

### DISCUSSION

Background/August 17, 2020, City Council Meeting

In March 2019, the City hired EMC Planning Group to prepare the North Merced Annexation Feasibility Study. The Study's purpose is to provide recommendations to the City, landowners, and other stakeholders on future annexations within an approximately 7,600-acre study area in North Merced (Attachment 1). The Study would also provide direction regarding when the City would consider proposals for growth in North Merced and create a framework for considering such requests based on their merits, location, and Council priorities. Community input was sought through a series of public workshops, a survey, and a Joint City Council/Planning Commission Study Session in January 2020.

On August 17, 2020, EMC Planning Group and City staff presented an update to the City Council of

the work that had been completed since January 2020. The City Council was then asked to provide direction to facilitate the completion of the Study in the following areas (the general direction given is also summarized):

- Wastewater Use Assumptions (Additional flow monitoring to be done)
- Growth Scenarios/Priorities for Development (Along the Bellevue Corridor on the west end with a focus on the east end, as well as Virginia Smith Trust lands south of UC Merced to support UC Merced growth)
- Interim Sewer Capacity Allocation/Performance Standards (Further information to be provided by staff)
- Future Annexation Applications and Procedures (Further information to be provided by staff)
- Out of Boundary Service Requests (Annexation is Preferred)
- Additional Community Outreach (Future Council meetings, etc.)

At the meeting, City staff indicated that they would come back to the City Council with more details about the Annexation Applications and Procedures and the Interim Sewer Allocation/Performance Standards. This report addresses those topics in addition to a few others. It is anticipated that the final draft North Merced Annexation Feasibility Study will be presented to the City Council in December 2020.

#### Existing Annexation Applications and Preliminary Applications

Before addressing the proposed Annexation and Sewer Allocation Procedures below, it is helpful to have some background on how annexations are currently processed. In order for properties to be eligible for annexation, they must be within the City's Sphere of Influence and directly adjacent to the current City limits. Generally the City will receive an application for annexation from a property owner or developer and City staff will begin processing the application. Input is usually sought from the Merced County Local Agency Formation Commission (LAFCO) staff on potential boundaries and other properties that may need to be added to the annexation area in order to avoid creating "County islands" surrounded by City land. City Council input has not previously been sought at this stage, unless the preparation of an environmental document requires City Council approval of a consultant contract. Depending on the level of environmental review, it can sometimes take 8 to 18 months before the annexation is presented to the Planning Commission and City Council at public hearings to determine whether the City should submit an application to LAFCO for annexation.

City staff is currently processing four such Annexation Applications, all at various stages of the process. The map on the first page of Attachment 2 illustrates the location of these annexation areas and conceptual site plans of each annexation follow on pages 2 through 5 of Attachment 2. The table below summarizes the four applications and their current status.

File No. & Annexation Name	Location and Size	Proposed Land Uses	Property Owner and Original Application Date	Application Status
----------------------------	-------------------	--------------------	--	--------------------

Annexation/Pre-zoning #16-01 ("University Village")	Northeast corner of Yosemite Ave & Gardner Rd (70 acres)	540 Residential Units; 66,000 SF Retail; 40 ac of Single-Family Residential and Urban Transition	Cliff Caton 7/14/2016	Draft EIR expected to be published in Oct/Nov 2020
Annexation/Pre-zoning #18-01 ("Rogina")	East of G St, North of Old Lake Rd (147 acres)	Low Density Residential, Neighborhood Commercial, and Open Space	Robert and Kim Rogina 7/20/2018	Application Details Incomplete; On hold for North Merced Study (May be Withdrawn)
Annexation/Pre-zoning #19-01 ("Wastewater Treatment Plant Annexation #4")	North & East of City WWTP on Gove Rd (390 acres)	Agriculture and Government Use	City of Merced 12/2/2019	Staff working on Environmental Review Document
Annexation/Pre-zoning #20-01 ("Bellevue & M")	North of Bellevue Rd, at M St (37 acres)	Single-Family, Multi-Family, Office, & Open Space	Greg Hostetler 8/10/2020	Preliminary Staff Review

Staff is seeking City Council direction on general guidance to proceed with current applications prior to establishing the proposed formal pre-application process. The "University Village" Annexation is the furthest along and would require that the City Council allocate interim sewer capacity in order for it to be approved. Limited staff time has been spent thus far on the "Rogina" and "Bellevue and M" Annexations, but both would also require interim sewer capacity in order to be approved. The "Wastewater Treatment Plant #4" Annexation would be strictly for continued agricultural use and environmental mitigation. This action would not require sewer capacity.

The City also receives inquiries and preliminary applications regarding possible future annexations from time to time. A map of the most recent such inquiries in the North Merced area only is included at Attachment 3. City staff provides feedback on the annexation process and issues involving the specific proposed project, and often seeks input from LAFCO staff. However, the City Council is not involved in this preliminary stage (nor is the Planning Commission).

#### Update on AB 3312 (UC Merced Annexation)

After several amendments and unanimous votes for approval in both the Assembly and Senate, AB 3312 was signed by the Governor on September 9, 2020. In general, AB 3312 allows the City to annex the main UC Merced Campus through a "road strip" annexation and places certain restrictions on future annexations along the "road strip." City Staff has prepared a map, in consultation with LAFCO staff, of properties eligible for subsequent annexation under the terms of AB 3312, which are included as Attachment 4 along with the final adopted language of the bill. The adoption of AB 3312

provides the City Council additional options for considering development directly adjacent to the UC Merced Campus. If the City were to annex UC Merced, properties directly adjacent to it could also request to annex to the City. Other properties along the road strip would not have this option. These annexation options were not available at the time the City began the North Merced Annexation Feasibility Study in 2019 and thus, will affect the final direction provided in the Study. Staff is seeking direction on how best to include AB 3312 in the study as it relates to the Bellevue Corridor plan and the Virginia Smith Trust proposed project, previously identified as priority areas for consideration.

### Future General Plan Policy Amendments

The *Merced Vision 2030 General Plan* includes many goals, policies, and implementing actions regarding annexations. A summary of those current policies are included at Attachment 5. Of particular note is Implementing Action UE-1.3.g which calls for evaluating future annexation requests against six conditions. These conditions include whether the area is contiguous to the current City limits and within the City's Sphere of Influence; whether the proposed land use designations are consistent with the General Plan; can the area be adequately served with City services and facilities; will the annexation involve the annexation of important farmland or conflict with existing adjacent ag uses; and would the annexation would help achieve one of three goals-1) annexation of the UC Merced Campus; 2) the generation of significant amounts of job-generating uses; or 3) the provision of key infrastructure facilities or desirable amenities.

There are also General Plan policies that discourage out of boundary service requests except under highly unusual circumstances and other policies that would likely need to be amended in order to allow development adjacent to the UC Merced campus. Out of Boundary Service Agreements would be needed to enable development on properties adjacent to UC Merced if UC Merced is not annexed. Per the recently approved AB3312, if UC is annexed, properties directly adjacent to it could then request annexation and would not require an Out of Boundary Agreement to develop. Additional policies regarding the allocation of interim sewer capacity, annexation policies and procedures, and AB 3312 would also likely need to be developed.

### Annexation Applications and Procedures

As was discussed previously, City staff would like to develop a procedure for seeking early City Council input on future annexation requests. The City of Escondido in San Diego County has such a policy that works as follows:

- 1) A Pre-Application for Annexation is submitted with project details.
- 2) LAFCO Staff input is sought over the proposed boundaries and other properties that might need to be added.
- 3) Planning staff schedules the request to initiate the annexation for consideration by the City Council at a public meeting.
- 4) City staff evaluates the project against the criteria ("Quality of Life Standards") established by the City Council in their General Plan.
- 5) City Council considers the request, including the evaluation above, and votes to initiate or not initiate the annexation.
- 6) A survey of property owners within 500 feet of the annexation area is conducted to determine if other property owners want to be added to the annexation.
- 7) The formal annexation process proceeds with environmental determination, plan for providing

services, etc.

In order to develop a process that would be helpful to both the City and to potential annexation applicants in North Merced, City staff and EMC have identified the following steps for establishing an “Annexation Pre-Application Process” for the North Merced Annexation Study Area. The approach incorporates an “Interim Sewer Collection Allocation” process (see following section) as well:

- 1) Develop an Annexation Pre-Application packet (along with an application fee for processing) with specific requirements for what a property owner or developer would need to submit in order for the City Council to review their project. This would include items such as the size and location of the project, proposed land uses, proposed design and public improvement standards, proposed community benefits (i.e. affordable housing, job generations, etc.), etc.
- 2) Establish procedures for processing such pre-applications, including whether they will be processed on a continuous basis as they are submitted or whether they will only be considered on an annual or quarterly basis or some other time frame.
- 3) Establish City Council priorities for annexation and “merit” criteria such as community benefits provided under which the pre-applications will be evaluated (may be modeled on Implementing Action UE-1.3.g above, but other items could be added).
- 4) Develop procedures for conducting the City Council “merit hearings” for the pre-applications. Questions to be determined include: will the Planning Commission be involved, will these be public hearings, will surrounding property owners be notified, will the City Council agree to a preliminary sewer allocation for the project (subject to a subsequent formal agreement) at the hearing, etc.?
- 5) Establish City Council Priorities for Interim Sewer Allocations (by land use, region, community benefit, infill vs. new development, or other criteria?)
- 6) Establish Benchmarks/Performance Standards for an Interim Sewer Allocation Program and Agreement. This would likely be done through an Agreement which covers the conditions under which the interim sewer allocation will be made. These would include agreement to participate in the financing district for the Wastewater Collection System Master Plan; performance benchmarks with time frames that must be met for the allocation to remain valid or be subject to revocation [i.e. completing the Agreement, submitting a formal application for annexation or an out of boundary service agreement with fees; obtaining City entitlements (including CEQA clearance), final LAFCO approval for annexation, and the commencement of final construction]; fees to be paid; and other items as determined appropriate.

Such a program could also be modified to address annexations in other areas of the City, but likely would not include a sewer allocation process.

#### Interim Sewer Capacity Allocation/Performance Standards

As reviewed by the City Council in August, the City’s Wastewater Collection System in the North Merced area has limited capacity until such time as the improvements called for in the 2017 Wastewater Collection System Master Plan are constructed. The assumed time frame for constructing such improvements is 5 to 10 years. (The Draft Environmental Impact Report for the Master Plan has just been released for its 45-day public review from September 15 to October 29, 2020.) This interim capacity was calculated by determining remaining capacity in the system after the needs of existing users, entitled projects, and the necessary capacity for UC Merced’s build-out are accounted for. The interim capacity is enough to serve approximately 3,350 equivalent dwelling

units (EDU). However, this could be reduced by approximately 750 EDU's if current projects in North Merced (the Hub 2.0 already approved and the "University Village" annexation discussed above, which is pending) are approved. The proposed "Rogina" and "Bellevue & M" Annexations would reduce that even further, if approved. This is the capacity available to be allocated to future annexations and other new projects within the North Merced area. It is important to note that this limited capacity would likely only allow for the development of a "first phase" of a few projects or one or two large projects.

The amount of interim collection capacity could increase before the master plan improvements are constructed. This may be possible if additional flow monitoring to be conducted shows the wastewater volume produced per capita as assumed in the Master Plan can be reduced. The interim capacity could also decline if the Planning Commission and/or City Council approve projects outside the North Merced Study Area that would also need some of the capacity to develop.

City staff investigated approaches for allocating sewer capacity-such an approach would be needed for allocating the limited interim collection capacity. City staff found a number of examples of sewer allocation ordinances for communities on the East Coast (Maryland, Pennsylvania, Vermont, and North Carolina), but none in California. In reviewing those programs, a wide variety of approaches were used. Some communities allocated sewer capacity on a first come, first served basis (applications were taken on an annual or quarterly basis for some), by lottery (very rare), or more commonly communities used a system where the City Council or County Board reviewed applications for specific projects and then allocated capacity based on different criteria. Some communities allocated sewer capacity on an annual basis by land use (i.e. X percent to residential projects and X percent to commercial/industrial projects), by region (i.e. X percent in one area of the community, X percent in another area, etc.), by existing/infill vs. new development (i.e. X percent to existing and X percent to new), or by community benefit (i.e. X percent for economic development projects, X percent for public projects, X percent for affordable housing projects, etc.).

Some communities set limits on the amount that could be allocated to any one project (generally 40 or 50 percent); some set minimum standards for development such as minimum house size or requiring certain amenities; some allowed transfers or the sale of allocations to other projects, but most did not or it was only at the Council's discretion; some had established waiting lists; and, some required "holding fees" or upfront payment of connection fees (generally 10 percent of the total). Every community set a time frame when the allocation needed to be used (generally 3 years), and some had interim benchmarks that needed to be met, such as getting subdivision maps within a certain time frame, etc. Most allowed extensions of these time frames for large, phased projects or for hardship at the Council's discretion.

In order to develop an interim sewer collection capacity allocation program that is suitable for supporting growth per the priorities of the City Council in the North Merced Study Area until such time as the Master Plan improvements relieve that constraint, the City Council should provide direction on several items addressed in the "City Council Policy Direction" section below. Consultation with the City Attorney's office, Finance Department, Public Works Department, and others would also be needed in order to develop such an ordinance/program.

### City Council Policy Direction

After reviewing the above information, EMC and City staff are asking for policy direction from the City

Council in the following areas:

- Four Current Annexation Applications
- Components of an “Annexation Pre-Application Review”
- City Council Priorities for Annexations and “Merit” Criteria
- Components of an “Interim Sewer Collection Capacity Allocation Program”
- City Council Priorities for Interim Sewer Allocations (by land use, region, community benefit, etc.)
- Council Interest in Reserving Sewer Capacity for Projects within the Bellevue Corridor (East and West Ends) to Support UC Merced Growth

## **IMPACT ON CITY RESOURCES**

There is no impact on City resources with this request.

## **ATTACHMENTS**

1. North Merced Annexation Feasibility Study Area
2. Map of Existing Annexation Applications and Site Plans for Each Annexation
3. Map of Recent Preliminary Annexation Applications or Inquiries
4. Map of Properties Eligible for Annexation under AB 3312 & Final Adopted Bill
5. Current General Plan Policies Regarding Annexation
6. Presentation