TO: Mayor and City Council
FROM: Pamela Sloan, Parks and Recreation Director

SUBJECT: PUBLIC HEARING: ANNEXATION OF CALAVERAS ESTATES UNIT NO. 3 TO CALAVERAS ESTATES UNIT 2, ZONE D-4, OF THE STOCKTON CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 96-2

RECOMMENDATION

It is recommended that at the conclusion of the public hearing, assuming that the annexation ballots voted in favor of annexation and the levy of an annual maintenance assessment exceeded those voted against the annexation and levy of an annual maintenance assessment, a resolution be adopted overruling all protests, annexing territory to Zone D-4, approving the Engineer's Report, and confirm the maximum annual assessment for costs of operation and maintenance of improvements in Zone D-4, Calaveras Estates Unit 2, of the Stockton Consolidated Landscape Maintenance Assessment District No. 96-2 in the amount of $806.42 per dueF (dwelling unit equivalent Factor), subject to an annual escalator.

Summary
This hearing concludes proceedings to annex the Calaveras Estates Unit No. 3 development into Zone D-4. At the conclusion of the hearing, the City Clerk will tabulate the ballots and announce the results. If the ballots voted in favor of annexation and the levy of a maintenance assessment exceed those voted against, a resolution is available overruling all protests, ordering annexation of Calaveras Estates Unit No. 3 to Zone D-4 and approving a maximum annual maintenance assessment of $806.42 per single family residence.

DISCUSSION

Background
On March 21, 2006, the City Council adopted the following resolutions regarding annexation of territory to Zone D-4 of the Stockton Consolidated Landscape Maintenance District No. 96-2:

1. Resolution 06-0149, a Resolution of Preliminary Determination to Annex Territory to a Maintenance Assessment District, to Levy an Annual Assessment for Costs Incurred and Preliminary Approval of Engineer's Report.

2. Resolution 06-0150, a Resolution of Intention to Annex Territory to a Maintenance Assessment District, to Levy and Collect an Annual Assessment for Maintenance and Operation of Improvements and for Costs and Expenses and

AGENDA ITEM 9.02
PUBLIC HEARING: ANNEXATION OF CALAVERAS ESTATES UNIT NO. 3 TO CALAVERAS ESTATES UNIT 2, ZONE D-4, OF THE STOCKTON CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 96-2, Page 2

Setting Time and Place of Public Hearing (December 6, 2005) and Setting Forth Mailed Property Owner Ballot Procedure and Notice.

Notice of the Public Hearing and Ballot Procedure was mailed to the affected property owners in compliance with Proposition 218 requirements. The Certificate of Mailing the Notice of Public Hearing and Assessment Ballot Procedure and Property Owner Assessment Ballot is on file with the City Clerk.

Calaveras Estates Unit 2 Zone D-4 (Zone D-4) of the District was formed and an assessment approved on January 21, 2003, Resolution No. 03-0029. On August 16, 2005, by Resolution No. 05-0368, annexation of the Dama Estates subdivision to Zone D-4 was approved. The boundary of Zone D-4 is shown on Exhibit A. Zone D-4 was formed to provide a mechanism to fund maintenance of masonry walls, landscaping and graffiti abatement.

Formation of new zones of the District and annexation of additional territory to existing zones is conducted pursuant to the Landscaping and Lighting Act of 1972 (Streets and Highways Code, Section 22500, et seq.) (the "Act"). The Act provides for forming maintenance assessment districts to provide for maintenance of various public improvements including but not limited to back-up walls, landscaping between the walls and curb, graffiti abatement, public open spaces, park maintenance, and street lighting.

Present Situation
Calaveras Estates Unit No. 3 is located on the westerly side of Alvarado Avenue generally between Essex Street and the Calaveras River (Exhibit A.) The developer is Kemp Land Company. The approved tentative map, TM36-04, allows for 77 single family residential lots. The final subdivision map has not yet been recorded. The tentative map requires the development to annex to the District to provide for the subdivision's proportionate share of costs to maintain any park(s) serving the subdivision or within the service area of the subdivision. The development is also required to provide a public access from Alvarado Avenue to the Calaveras River. The tentative map also requires that a maintenance entity, acceptable to the Community Development Director, Parks and Recreation Director and Public Works Director, be established to provide funding to maintain any common area landscaping, improvements that can include public access ways, and walls.

This proceeding is to annex Calaveras Estates Unit No. 3 to Zone D-4 in order to provide a mechanism for funding maintenance of parks, the Calaveras River access and street lighting. The annexation is recommended since the type and amount of improvements installed and required to be maintained with Calaveras Estates Unit No. 3
are roughly proportional to the existing improvements being maintained in Calaveras Estates Unit 2 and Damo Estates through Zone D-4.

If the annexation to Zone D-4 is approved, the maximum annual assessment will be $806.42. The maximum annual assessment for maintenance includes a yearly increase, which is not to exceed the larger of three percent (3.00%), or the yearly increase of the CPI if required by increased costs of maintenance. The actual assessment will be set with the 2006-2007 annual Consolidated District budget proceeding that is anticipated to be conducted in June 2006. It is anticipated the 2006-2007 actual assessment will be approximately $350.00.

Ballots have been mailed to the existing property owners to comply with proposition 218 requirements. The ballots will be tabulated and results announced at the conclusion of this Public Hearing. Provided the ballots cast in favor of the annexation, calculated in terms of dollars of assessment, exceed those cast against, at the conclusion of the Public Hearing a resolution overruling all protests, annexing territory Zone D-4, approving the budget, approving the Engineer's Report, and approving a maximum assessment is then available for the City Council's consideration.

The developers engaged the services of North Star Engineering Group, Inc., to prepare the Engineer's Report and Timothy J. Hachman as Maintenance District Formation Attorney.

FINANCIAL SUMMARY

The developers are funding the construction of the landscape improvements that will be maintained by Zone D-4 and paying the engineer and legal counsel for their services.

Respectfully submitted,

PAMELA SLOAN, DIRECTOR
PARKS AND RECREATION

Approved by the City Manager

J. GORDON PALMER, JR.
CITY MANAGER
EXHIBIT A

CALAVERAS ESTATES UNIT NO. 3
ANNEXATION TO ZONE D-4, STOCKTON CONSOLIDATED
LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 96-2
Resolution No. __________

STOCKTON CITY COUNCIL

RESOLUTION ADOPTING ENGINEER'S REPORT, CONFIRMING THE ASSESSMENTS, OVERRULING PROTESTS AND DECLARING ASSESSMENT BALLOT RESULTS AND ANNEXING TERRITORY TO AN ASSESSMENT MAINTENANCE DISTRICT

CALAVERAS ESTATES UNIT NO. 3 ANNEXATION TO CALAVERAS ESTATES UNIT NO. 2 ZONE D-4
STOCKTON CONSOLIDATED LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 96-2
(Landscaping and Lighting Act of 1972)

WHEREAS, on March 21, 2006, this Council adopted Resolution of intention to Annex Territory to a Maintenance Assessment District and to Levy and Collect Assessments and a Resolution of Preliminary Determination and in them directed the Engineer to make and file a Report in writing in accordance with and pursuant to the Landscaping and Lighting Act of 1972 (the Act) in and for the City’s Calaveras Estates Unit No. 2 Zone D-4 Consolidated Landscape Maintenance Assessment District No. 96-2; and

WHEREAS, the Report was made and filed and the Report was considered by this Council and found to be sufficient in every particular, whereupon it was determined that the Report be and it was preliminarily approved for all subsequent proceedings under and pursuant to the Resolution of intention; and

WHEREAS, the City Council provided for the giving of Notice of the Public Hearing, setting May 9, 2006 at the hour of 5:30 p.m., in the meeting place of this Council, Council Chambers, City Hall, 425 North El Dorado Street, Stockton, California, as the time and place for a Public Hearing to take testimony and for hearing protests in relation to the proposed assessment, the annexation of territory, the maintenance of the improvements thereof, the property owner assessment ballot procedure required by Article XIII D of the California Constitution and final action upon the Engineer’s Report; and

WHEREAS, the Owners of all of the territory proposed to be annexed have filed herein their Waiver and Consent; and

WHEREAS, the City Clerk has filed with the City Council a Certificate setting forth the time and manner of the compliance with the requirements of law for mailing Notice and/or personal service of the time and place for said Public Hearing and the Notice of the property owner assessment ballot procedure required by Article XIIIID of
the California Constitution (together with the property owner assessment ballots) and
the Council hereby finds that the Notice of the time and place for said Public Hearing
thereon and Notice of the property owner assessment ballot procedure required by
Article XIIID of the California Constitution (together with the property owner assessment
ballots) has been done in the time, form and manner required by law; and

WHEREAS, on May 9, 2006, at the time and place as previously notified, the City
Council held the Public Hearing and duly heard all interested parties desiring to be
heard; and

WHEREAS, in accordance with Resolution No. 06-0149 and Article XIIID of the
California Constitution, property owner assessment ballots were provided to all of the
property owners in said assessment district, and at the close of the Public Hearing, the
Clerk, the impartial person designated by the Council, tabulated the assessment ballots
submitted and not withdrawn and found that the assessment ballots submitted, and not
withdrawn, in opposition to the proposed assessment did not exceed assessment
ballots submitted and not withdrawn in it favor, weighing those assessment ballots by
the amount of the proposed assessment to be imposed upon the identified parcels for
which each assessment ballot was submitted and the Council so found; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS
FOLLOWS:

Section 1. The foregoing recitals are true and correct and the City Council so
finds and determines.

Section 2. All of the owners of the property subject to the assessment for the
cost of the annual operation, repair, replacement and maintenance of the improvements
have signed and filed with the City Clerk of the City written Consent and Waiver for the
annexation of territory to the assessment maintenance district and to the assessment as
set forth in the Engineer’s Report pursuant to appropriate provisions of law, which
Consent and Waiver are hereby accepted.

Section 3. The City Council finds that any and all protests against the
proposed assessment, maintenance of the improvements, or against the annexation or
the extent thereof to be assessed for the costs and expenses as a whole or as to any
part thereof, or against the engineer’s estimate of costs and expenses, in whole or as to
any part, or against the diagram and descriptions in whole or in part (specifically all
written protests not withdrawn in writing before the conclusion of the protest hearing)
are made by the owners of less that one-half of the area of the land to be assessed.
The City Council hereby overrules each of these protests, written and oral.

Section 4. The City has caused the distribution of assessment ballots, a
summary of the procedures applicable to the completion, return and tabulation of
assessment ballots, and a statement that the existence of a majority protest will result in
the assessment not being imposed. The City hereby finds and declares that the ballot
measure has been submitted to the voters of land within the district and after the tabulation of the assessment ballots submitted and not withdrawn, that no majority protest against the assessment existed because the assessment ballots submitted in opposition to the assessment did not exceed the ballots submitted in favor of the assessment. In tabulating the ballots, they were weighted according to the proportional financial obligation of the affected properties.

Section 5. The City Council hereby approves the Engineer’s Report and each component part of it, including each Exhibit incorporated by reference in the Report. Reference is made to the Report for a full and detailed description of the improvements to be maintained, the boundaries of the territory to be annexed and the Assessments.

Section 6. The City Council hereby confirms the Assessment Roll, and the Diagram as now on file with it, and declares the Engineer’s Report and said Diagram, Assessment and Assessment Roll as contained therein are hereby adopted and confirmed.

Section 7. Based on the oral and documentary evidence, including the Engineer’s Report, offered and received at the public hearing, this Council expressly finds and determines that:

(a) each of the several subdivisions of land in the territory to be annexed will be specially benefited by the maintenance of the improvements at least in the amount, if not more than the amount, of the assessment apportioned against the subdivisions of land, respectively; and

(b) there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the finding and determination as to special benefits.

Section 8. The City Council determines and orders that the territory described in the Engineer’s Report be and hereby is annexed to Calaveras Estates Unit No. 2 Zone D-4, Stockton Consolidated Landscape Maintenance Assessment District No.96-2.

Section 9. This Council hereby orders that the improvements described in the Resolution of Intention be maintained, the formula and method of assessment to be used to pay the annual costs and expenses of the maintenance be confirmed, that the maximum annual assessment is established in the amount of $806.42 per dueF is hereby ordered and confirmed.

Section 10. The City Council finds, determines and orders that the maximum annual assessment set forth in Section 9 of this resolution shall be annually increased in an amount equal to the greater of: 1) three percent (3%), or (2) the percentage increase of the Local Consumer Price Index (CPI). Consumer Price Index applied is for the San
Francisco-Oakland-San Jose County Area for all Urban Consumers as developed by
the U. S. Bureau of Labor Statistics for a similar period of time.

Section 11. The City Council finds, determines and orders that for the 2006-
2007 Fiscal Year the actual levy on each dueF will be determined at the City of
Stockton's 2006-2007 Annual Stockton Consolidated Landscape Maintenance
Assessment District 96-2 budget proceedings.

Section 12. The City Council hereby directs the City Clerk to comply with
Section 22641 of the Streets and Highways Code. The County Auditor/Controller is
requested to comply with the provisions of Section 22645 of the Streets and Highways
Code in the collection of installments of these assessments on the assessment roll for
taxes.

PASSED, APPROVED and ADOPTED ____________________

EDWARD J. CHAVEZ, Mayor
of the City of Stockton

ATTEST:

KATHERINE GONG MEISSNER
City Clerk of the City of Stockton

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