



STAFF REPORT

CITY COUNCIL OF THE CITY OF SAUSALITO

AGENDA TITLE

Declaring the City's Intention to Vacate the Public Sewer Easement on Private Property at 100 Prospect Avenue, APN 065-191-48 and Setting the Date for and Time of the Public Hearing

RECOMMENDED MOTION

Move to Adopt a Resolution of the City Council of the City of Sausalito Declaring the City's Intention to Vacate the Public Sewer Easement on Private Property at 100 Prospect Avenue, APN 065-191-48 and Setting the Date for and Time of the Public Hearing

SUMMARY:

When subdivided in 1964, the final Record Map of Mead Terrace (copy attached) contained an offer of dedication of a portion of Lot 6 of said subdivision for public sewer easement. The City of Sausalito accepted the offer with passage of a resolution adopting the final Map of Mead Terrace on December 15, 1964 as indicated on the attached Record Map. Lot 6 is that parcel described as Marin County Assessor's Parcel No. 065-191-48 as indicated on the attached Assessor's Map Book page. The subject easement consists of a continuous alignment ten feet in width and approximately 80 feet in length on the northerly property boundary perpendicular to Prospect Avenue (see attached). The general location is described on the attached image from Marin Map.

The City did not construct public facilities in the subject easement at the time it was accepted, the General Plan does not identify the subject easement as a part of a planned expansion of the public sewer system, Staff does not intend to construct public facilities in the subject easement now, and Staff would recommend against the construction of or acceptance of facilities constructed by others as public facilities owing to the poor access to the facilities resulting from historic development and the lack of need for a connection to other public facilities across the subject easement (see excerpt from existing sewer service map, attached). On this basis, Staff has concluded that the subject easement is unnecessary for the present or prospective public use.

The owner of the subject parcel has requested that the subject easement be vacated. On this basis, and taking into account the background information summarized above, Staff recommends that the process for vacation of an easement specified in the California Streets and Highways Code, Section 8320 *et seq.* (copy attached) be completed and that a Public

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Hearing to consider the matter be scheduled and noticed for Council's February 23, 2010 meeting.

ISSUES

None identified. A Resolution of Intent does not rise to the level of a project under CEQA. The passage of and recordation of a Resolution of Vacation for the subject sewer easement would be expected to be Categoricaly Exempt from CEQA as provided for under Section 15305, Class 5, Minor Alterations in Land Use Limitations inasmuch as no any changes in land use or density would result from vacation of the subject sewer easement.

FISCAL IMPACT

None. The applicant has deposited fees considered adequate for the Staff time necessary to complete the recommended sewer easement vacation proceedings, and the subject easement is of no value for the present or prospective public use.

STAFF RECOMMENDATION

Adopt a Resolution of the City Council of the City of Sausalito Declaring the City's Intention to Vacate the Public Sewer Easement on Private Property at 100 Prospect Avenue, APN 065-191-48 and Setting the Date for and Time of the Public Hearing

ATTACHMENTS

- A Resolution of the City Council of the City of Sausalito Declaring the City's Intention to Vacate the Public Sewer Easement on Private Property at 100 Prospect Avenue, APN 065-191-48 and Setting the Date for and Time of the Public Hearing
- Marin Map location image
- Record Map 013-011
- California Streets and Highways Code Section 8320 *et seq.*
- Marin County Assessor's Parcel Map page excerpt
- City of Sausalito Public Sewer Facilities Map excerpt

PREPARED BY:



Jonathon Goldman
Director of Public Works

REVIEWED BY:



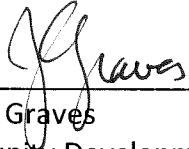
Todd Teachout
City Engineer

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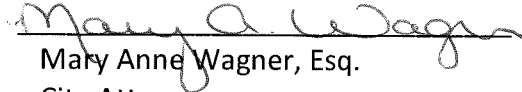
Page: 2

REVIEWED BY:



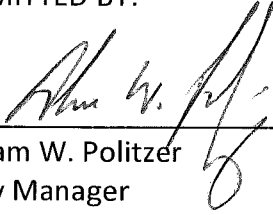
Jeremy Graves
Community Development Director

REVIEWED BY:



Mary Anne Wagner, Esq.
City Attorney

SUBMITTED BY:



Adam W. Politzer
City Manager

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RESOLUTION No. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
DECLARING THE CITY'S INTENTION TO VACATE THE PUBLIC SEWER
EASEMENT ON PRIVATE PROPERTY AT 100 PROSPECT AVENUE, APN 065-191-48
AND SETTING THE DATE FOR AND TIME OF THE PUBLIC HEARING**

WHEREAS, when recorded in 1964, the final Record Map of Mead Terrace contained an offer of dedication of a portion of Lot 6 of said subdivision for public sewer easement; and

WHEREAS, the City of Sausalito accepted the offer with passage of a resolution adopting the final Map of Mead Terrace on December 15, 1964 as indicated on the Record Map; and

WHEREAS, Lot 6 is that parcel described as Marin County Assessor's Parcel No. 065-191-48 and the subject easement consists of a continuous alignment ten feet in width and approximately 80 feet in length on the northerly property boundary perpendicular to Prospect Avenue; and

WHEREAS, the City did not construct public facilities in the subject easement at the time it was accepted, the General Plan does not identify the subject easement as a part of a planned expansion of the public sewer system, Staff does not intend to construct public facilities in the subject easement now, and Staff would recommend against the construction of or acceptance of facilities constructed by others as public facilities owing to the poor access to the facilities resulting from historic development and the lack of need for a connection to other public facilities across the subject easement; and

WHEREAS, on this basis, the City has concluded that the subject easement is unnecessary for the present or prospective public use; and

WHEREAS, the owner of the subject parcel has requested that the subject easement be vacated; and

WHEREAS, the process for vacation of an easement is specified in the California Streets and Highways Code, Section 8320 *et seq.*; and

WHEREAS, said process requires that a Public Hearing to consider the matter be scheduled and noticed.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Sausalito:

1. That the City Council of the City of Sausalito does hereby declare its intention to vacate the Public Sewer Easement located and described herein which has heretofore been dedicated by Subdivision Map; and
2. That these vacation proceedings and conducted pursuant to California Streets and Highways Code, Section 8320 *et seq.*; and
3. That reference is hereby made to the map on file in the Office of the City Clerk for further particulars as to the proposed vacation and description of the area to be vacated, attached as Exhibit "A" hereto; and

4. That Tuesday, February 23, 2010, at the hour of 7:30 PM, in the City Council Chambers at 420 Litho Street are hereby fixed as the time and place for hearing all persons interested in or objecting to the proposed vacation; and
5. That a minimum of two weeks prior to the date set for the hearing, copies of this Resolution of Intention shall be posted conspicuously and not more than 300 feet apart, along the lines of the subject easement or parts thereof proposed to be vacated; and
6. That a copy of this Resolution of Intention shall be published in the *Sausalito Marinscope* or another newspaper of general circulation once each week during the two successive weeks prior to the hearing pursuant to the California Streets and Highways Code, Section 8322(c)(1)

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the 2nd day of February, 2010 by the following vote:

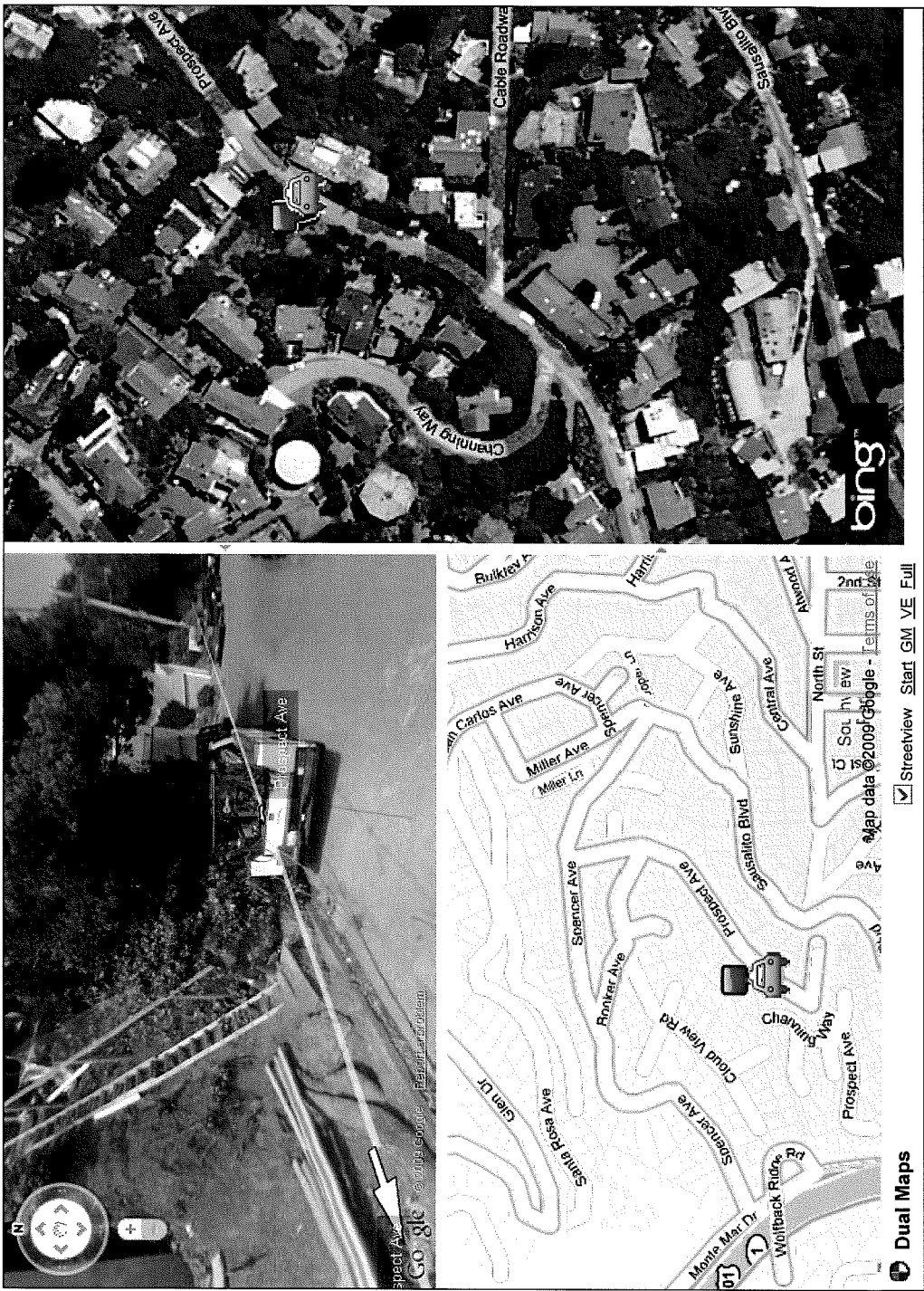
AYES: Councilmembers:
NOES: Councilmembers:
ABSTAIN: Councilmembers:
ABSENT: Councilmembers:

MAYOR OF THE CITY OF SAUSALITO

ATTEST:

CITY CLERK

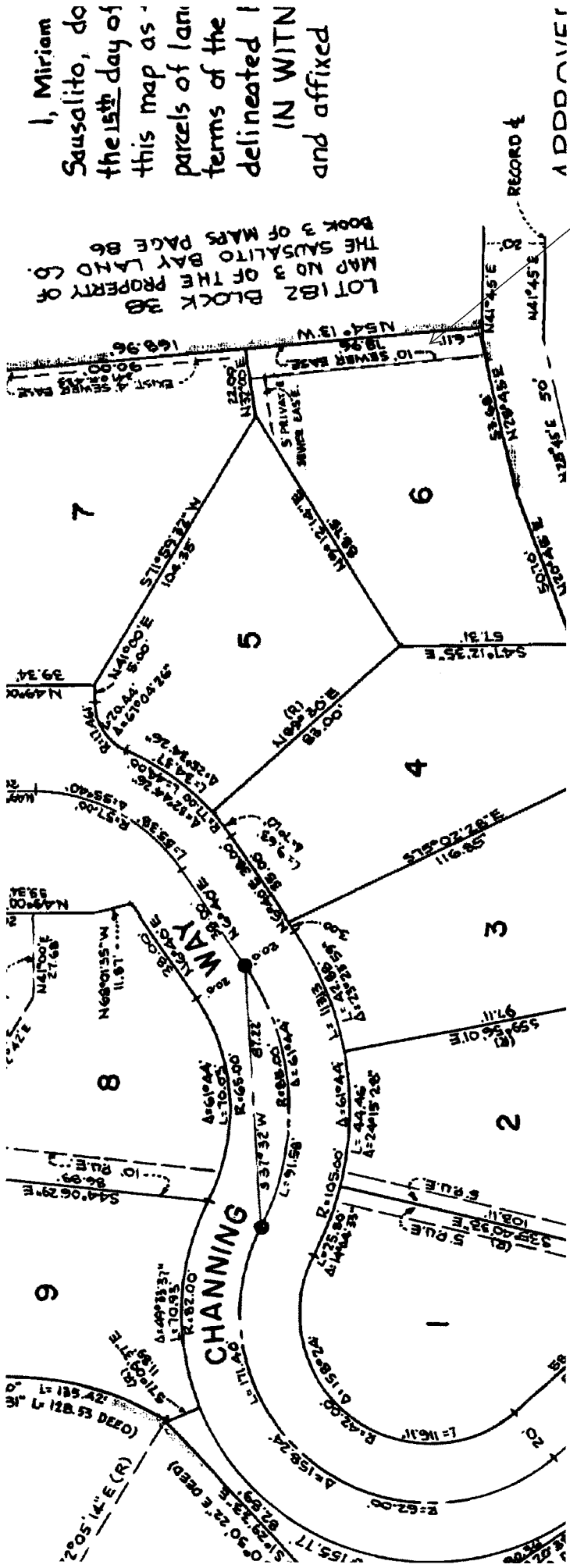
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I, Miriam
 Sausalito, do
 the 15th day of
 this map as
 parcels of land
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 IN WITN
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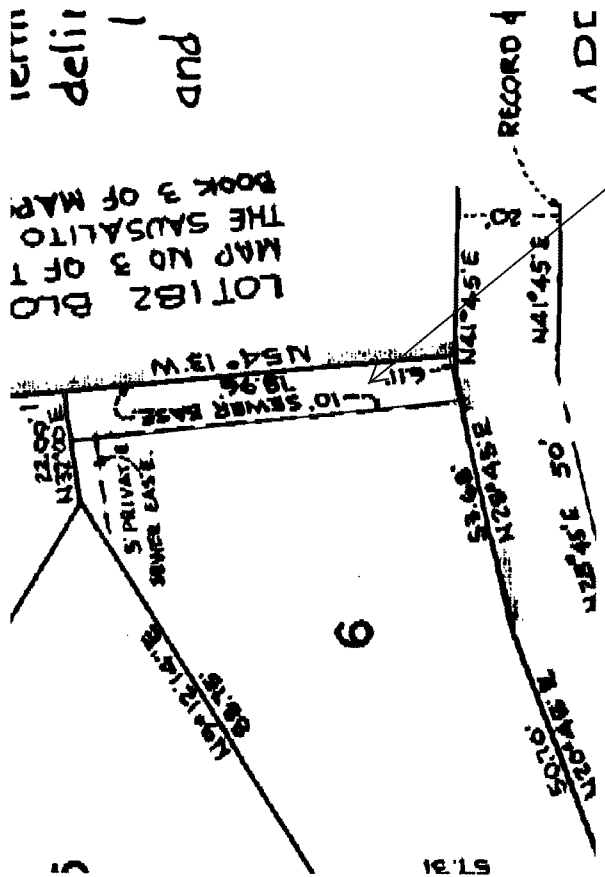
LOT 1 B2 BLOCK 38
 MAP NO 3 OF THE PROPERTY OF
 THE SAUSALITO BAY LAND CO.
 BOOK 3 OF MAPS PAGE 86



Subject Sewer
 Easement

Exhibit "A"

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LOT 182 B/D
MAP NO 3 OF 1
THE SAUSALITO
BOOK 3 OF MAP

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KNOW ALL MEN BY THESE PRESENTS:

That the undersigned are the only persons having any record title interest in the lands subdivided and shown upon this map, including all interests already dedicated and do hereby consent to the partitioning of said lands into lots for public use as public streets, Channing Way, as shown herein. We do also offer for dedication all public utility (P.U.E.) sewer (S.E.) except private and existing sewer easements as shown herein. There is hereby irrevocably offered for dedication to public use a public scenic easement, as set forth in Sections 6950 through 6954 of the Government Code of the State of California, over the land designated herein as Parcel A, scenic easement, the terms of such scenic easement shall be as set forth in the written consent of the City of Sausalito shall be first obtained before any such scenic easement is dedicated to the public use of the State.

That this subdivision is in full compliance with the laws of the State of California and all laws necessary to the dedication of such lands hereby dedicated. Signed *Stanley J. Foster* J. Foster, Partner American Securities Company, a corporation, its trustee

By *Stanley J. Foster* By *Stanley J. Foster* STATE OF CALIFORNIA } s.s. COUNTY OF MARIN } On this 12th day of November, 1964, before me, the undersigned, a Notary Public in and for the County of Marin, personally appeared *Stanley J. Foster*, known to me to be the partner of the partnership that executed the within and foregoing instrument and he acknowledged to me that the partnership executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written. My commission expires *Sept. 2, 1967* Making Public in and for the County of Marin, State of California

STATE OF CALIFORNIA } s.s. COUNTY OF MARIN } On this 12th day of November, 1964, before me, the undersigned, a Notary Public in and for said County, personally appeared *Stanley J. Foster*, known to me to be the partner of the partnership that executed the within and foregoing instrument, and also known to me to be the persons who executed it on behalf of the corporation therein named, and they acknowledged to me that such corporation executed the same. IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written. My commission expires *Sept. 2, 1967* Making Public in and for said County and State.



I, Stanley J. Foster, Clerk of Marin Redemption Officer, do hereby certify that there are no liens for unpaid taxes, State, County, Municipal or others, shown upon this map or any part thereof. Dated this 12th day of November, 1964.

Signed *Stanley J. Foster* Redemption Officer, Marin County, California

I, Geo. H. Gross, Clerk of the Board of Supervisors of Marin County, California, do hereby certify that a bond in the amount fixed by said Board and by its terms is made to insure to the benefit of the County of Marin and is conditioned for the payment of all taxes or special assessments against the property shown on this map, but not yet payable, has been filed with and approved by said Board. Dated this 12th day of November, 1964. Signed *Geo. H. Gross* Clerk of the Board of Supervisors, Marin County, California

I, Arthur T. Roth, certify that I am a Registered Civil Engineer under the laws of the State of California, that the surveying and checking of this map was done under my direction between the months of August and December 1964, that the survey is complete as shown, that the monuments are of the character and will occupy the positions shown, and that the survey of this property can be retraced from said monuments. Dated this 22nd day of November, 1964.

Signed *Arthur T. Roth* Arthur T. Roth, Registered Civil Engineer, Certificate No. 15639

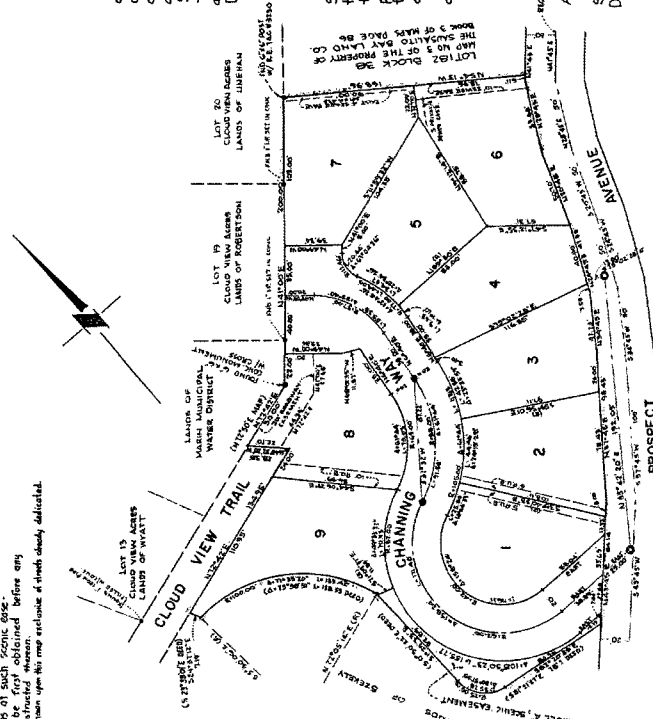
I, B.J. Whitlow, City Engineer of the City of Sausalito, State of California, certify that I have examined this map that the subdivision shown herein is substantially the same as it appeared on the Tentative Map and all approved allocations thereon, that all provisions of the Act of the State of California known as the Subdivision Map Act and any local ordinances applicable at the time of approval of the Tentative Map have been complied with and I am satisfied that this map is technically correct. Dated this 12th day of December, 1964. Signed *B.J. Whitlow* City Engineer - Sausalito, California

I, Milton B. Ansell, Clerk of the City Council of the City of Sausalito, do hereby certify that the City Council duly passed on this map as the official Map of Mead Terrace and accepts all terms of land offered for dedication in conformity with the terms of the offer of dedication, as said parcels are shown and delineated hereon. IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal of this office. Signed *Milton B. Ansell* Clerk of the City Council, City of Sausalito, California

APPROVED: City Planning Commission of the City of Sausalito, State of California. Dated this 22nd day of December, 1964. Signed *John J. ...* Chairman

The lands being subdivided are Lots 189, 184 & 185, Block 30 and a portion of Lot 186 & 187, Block 37, as said lots and blocks are shown on that certain map entitled "Map No. 3 of the Property of the Sausalito Bay Land Company" filed April 24, 1896 in Book 3 of Maps of page 66, Marin County Records.

MAP OF MEAD TERRACE SAUSALITO, MARIN COUNTY CALIFORNIA OGLESBY, JACOBS & WICKHAM CIVIL ENGINEERS DECEMBER 1964 SCALE 1"=50'



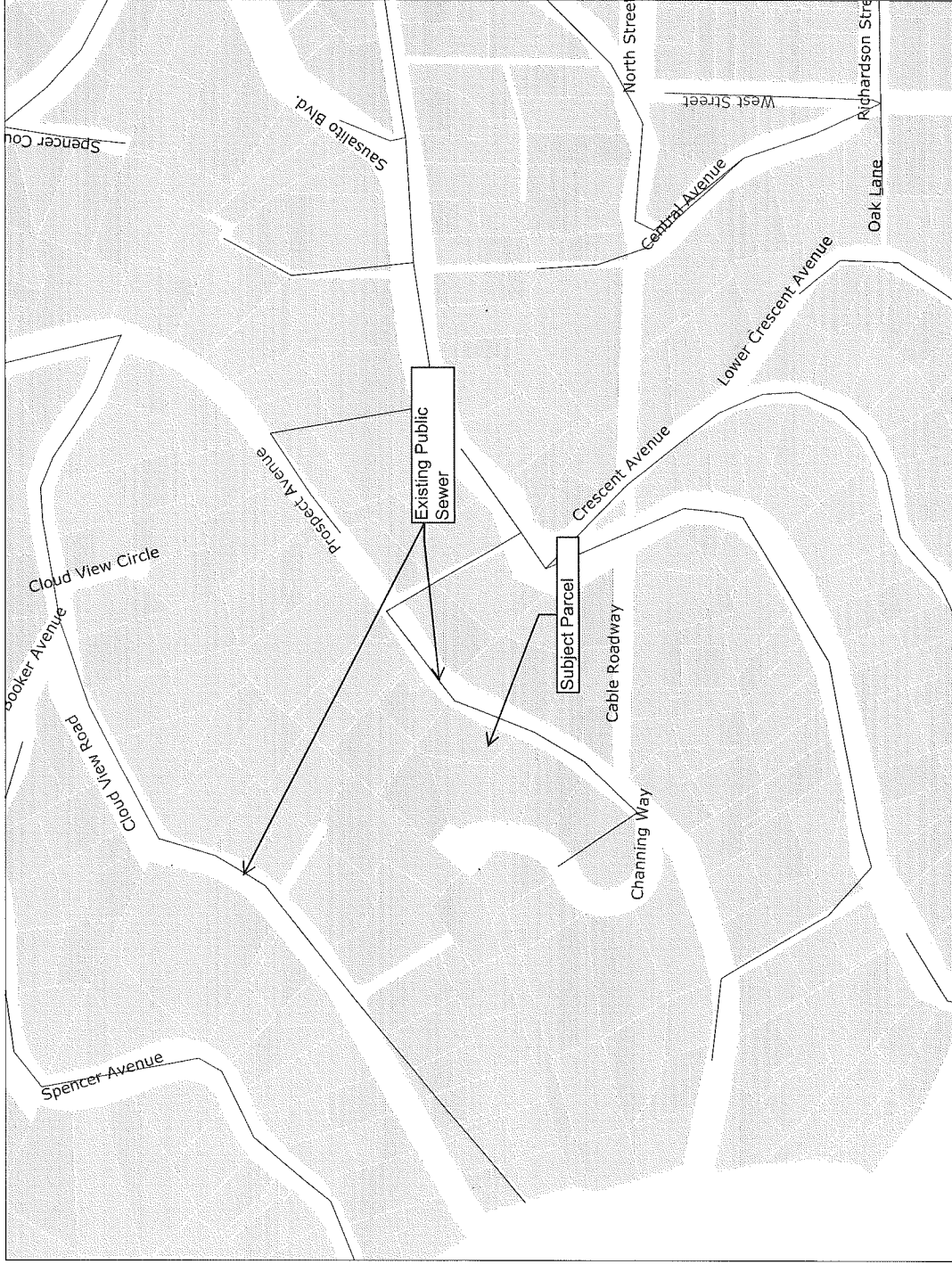
12953 12953

LEGEND: means Std. C.S. 20 cont. in face easement monument w/iron and copper disc stamped RCE 19639 in face monument PUE means Public Utility Easement (R) means Radial Line

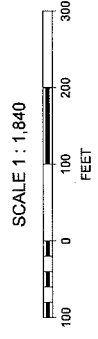
Serial No. 12953 Recorded at the request of MARIN TITLE CO. on April 14, 1965 at 2:04 minutes past 2 o'clock P.M. in Vol. 3 of Maps Records, Marin County, Calif. 12953

Base of Meridian is N 75° 15' E line of Lot 184 & 185 Block 30 and a portion of Lot 186 & 187 Block 37 of Map No. 3 of Maps of page 66, Marin County Records. Relation to Astronomic North equals of 14 5/8' left. @ scale equals 175.00' Zone III California Coordinate System.

Sausalito



— Sewers
— Streets
▭ Parcels



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STREETS AND HIGHWAYS CODE

SECTION 8320-8325

8320. (a) The legislative body of a local agency may initiate a proceeding under this chapter in either of the following ways: (1) On its own initiative, where the clerk of the legislative body shall administratively set a hearing by fixing the date, hour, and place of the hearing and cause the publishing and posting of the notices required by this chapter. (2) Upon a petition or request of an interested person, at the discretion of the legislative body, except as provided in subdivision (e) of Section 8321, where the clerk of the legislative body shall administratively set a hearing by fixing the date, hour, and place of the hearing and cause the publishing and posting of the notices required by this chapter. (b) The notices required by this chapter shall contain both of the following:

(1) A description of the street, highway, or public service easement proposed to be vacated and a reference to a map or plan, that shows the portion or area to be vacated and includes a statement that the vacation proceeding is conducted under this chapter. In the case of a street or highway, the description shall include its general location, its lawful or official name or the name by which it is commonly known, and the extent to which it is to be vacated. In the case of a public service easement, the description shall identify it with common certainty. The map or plan showing the location of the street, highway, or public easement proposed to be vacated is sufficient compliance with this paragraph. (2) The date, hour, and place for hearing all persons interested in the proposed vacation. The date shall not be less than 15 days after the initiation of proceedings.

8321. (a) Ten or more freeholders may petition the board of supervisors to vacate a street or highway under this chapter. At least two of the petitioners shall be residents of the road district in which some part of the street or highway proposed to be vacated is situated and shall be taxable therein for street or highway purposes.

(b) Five or more freeholders may petition the board of supervisors to vacate a public service easement under this chapter. At least one of the petitioners shall be a resident of the township in which the public service easement proposed to be vacated is situated.

(c) The residence address of each petitioner shall be set forth in the petition.

(d) The board of supervisors may require the payment of a fee for filing a petition to defray the expenses of investigations, mailings, publications, and postings under this chapter. (e) Upon the filing of a petition and the making of the deposit, if any, required under this section, the board of supervisors, by order, shall fix the date, hour, and place of the hearing on the petition. At least two weeks before the day set for the hearing, the clerk of the board shall mail a notice of the date, hour, and place of the hearing to each of the petitioners at the address set forth in the petition.

(f) Nothing in this section shall affect the right of a legislative body to initiate a proceeding under this chapter upon its own initiative, or upon petition or request of an interested person, or prevent the board of supervisors from vacating a street, highway, or public service easement without charging costs if the board determines it is in the public interest to do so.

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8322. (a) Except as provided in subdivisions (b) and (c), notice of the hearing on the proposed vacation shall be published for at least two successive weeks prior to the hearing in a daily, semiweekly, or weekly newspaper published and circulated in the local agency conducting the proceeding and which is selected by the legislative body for that purpose or by the clerk or other officer responsible for the publication where the legislative body has not selected any newspaper for that purpose.

(b) If the proceeding is conducted by a city and there is no daily, semiweekly, or weekly newspaper published and circulated in the city, the notice shall be published in some newspaper published in the county in which the city is located.

(c) Notice need not be published under this section where there is no daily, semiweekly, or weekly newspaper published and circulating in the county in which the local agency conducting the proceeding is located.

8323. At least two weeks before the day set for the hearing, the legislative body shall post conspicuously notices of vacation along the line of the street, highway, or public service easement proposed to be vacated. The notices shall be posted not more than 300 feet apart, but at least three notices shall be posted. If the line of the street, highway, or public service easement proposed to be vacated exceeds one mile in length, the legislative body may, in lieu of posting not more than 300 feet apart, post notices at each intersection of another street or highway with the street, highway, or public service easement to be vacated and at one point approximately midway between each intersection, but at least three notices shall be posted.

8324. (a) At the hearing, the legislative body shall hear the evidence offered by persons interested.

(b) If the legislative body finds, from all the evidence submitted, that the street, highway, or public service easement described in the notice of hearing or petition is unnecessary for present or prospective public use, the legislative body may adopt a resolution vacating the street, highway, or public service easement. The resolution of vacation may provide that the vacation occurs only after conditions required by the legislative body have been satisfied and may instruct the clerk that the resolution of vacation not be recorded until the conditions have been satisfied.

8325. (a) The clerk shall cause a certified copy of the resolution of vacation, attested by the clerk under seal, to be recorded without acknowledgment, certificate of acknowledgment, or further proof in the office of the recorder of the county in which the property is located. No fee shall be charged for recordation.

(b) Upon such recordation, the vacation is complete.

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