



STAFF REPORT

CITY COUNCIL OF THE CITY OF SAUSALITO

AGENDA TITLE

Vacating the Public Sewer Easement on Private Property at 100 Prospect Avenue,
APN 065-191-48

RECOMMENDED MOTION

Open Public Hearing

Hear Public Comment

Close Public Hearing

Adopt a Resolution of the City Council of the City of Sausalito Vacating the Public Sewer Easement on Private Property at 100 Prospect Avenue, APN 065-191-48

SUMMARY:

When subdivided 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. The City of Sausalito accepted the offer with passage of a resolution adopting the final Map of Mead Terrace on December 15, 1964. 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.

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.

On this basis, Staff concluded that the subject easement is unnecessary for the present or prospective public use. The owner of the subject parcel requested that the subject easement be vacated.

In response to comments raised during the Council's first consideration of a declaration of intent on this matter, Staff has confirmed that vacation of the subject easement will have no

Item: 5A

Meeting Date: April 6, 2010

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effect on the Net Parcel Size of the property as defined in the Zoning Ordinance, and that the benefit to the property owner of the vacation of the easement is equal to the benefit that would be conveyed by the granting of an encroachment agreement. Staff also reiterated the position that vacation of an unnecessary easement was preferable to the ongoing burden of maintaining compliance with an encroachment agreement.

On this basis Staff recommended that the process for vacation of an easement specified in the California Streets and Highways Code, Section 8320 *et seq.* be completed and that a Public Hearing to consider the matter be scheduled and noticed. During its regular meeting of February 2, 2010, Council adopted Resolution No. 5115 declaring its intent to vacate the easement and scheduled a public hearing for April 6, 2010 at 7:00 PM.

Since that time, Staff has: (A) conspicuously, along the lines of the subject easement or parts thereof proposed to be vacated and not more than 300 feet apart, posted copies of the Resolution of Intention and Notice of Public Hearing a minimum of two weeks prior to the date set for the hearing; and (B) published, in the *Sausalito Marinscope*, once each week during the two successive weeks prior to this hearing a copy of the Resolution of Intention and Notice of Public Hearing pursuant to the California Streets and Highways Code, Section 8322(c)(1).

ISSUES

None identified. The passage of and recordation of a Resolution of Vacation for the subject sewer easement is Categorically 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

Open the Public Hearing

Hear from public

Close the Public Hearing

Adopt a Resolution of the City Council of the City of Sausalito Vacating the Public Sewer Easement on Private Property at 100 Prospect Avenue, APN 065-191-48

ATTACHMENTS

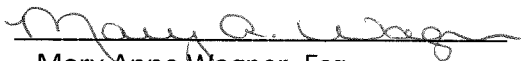
- A Resolution of the City Council of the City of Sausalito Vacating the Public Sewer Easement on Private Property at 100 Prospect Avenue, APN 065-191-48

PREPARED BY:



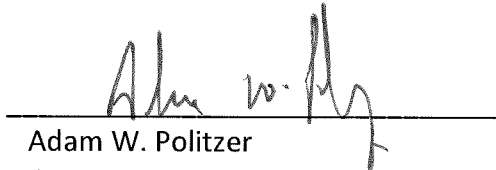
Jonathon Goldman
Director of Public Works

REVIEWED BY:



Mary Anne Wagner, Esq.
City Attorney

SUBMITTED BY:



Adam W. Politzer
City Manager

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAUSALITO
VACATING THE PUBLIC SEWER EASEMENT ON PRIVATE PROPERTY AT 100
PROSPECT AVENUE, APN 065-191-48**

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, it has been determined that this vacation will have no effect on the Net Parcel Size of the property as defined in the Sausalito Zoning Ordinance; and

WHEREAS, it has also been determined that the benefit to the parcel owner is the same that would be conveyed by an encroachment agreement; 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; and

WHEREAS, with Resolution No. 5115 of February 2, 2010 the City Council of the City of Sausalito declared its intention to vacate, pursuant to California Streets and Highways Code, Section 8320 *et seq.*, the Public Sewer Easement located and described herein; and

WHEREAS, 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

WHEREAS, Tuesday, April 6, 2010, at the hour of 7:00 PM, in the City Council Chambers at 420 Litho Street was fixed with said Resolution No. 5115 as the time and place for hearing all persons interested in or objecting to the proposed vacation; and

WHEREAS, in conformance with said Resolution No. 5115 and California Streets and Highways Code, Section 8320 *et seq.*, Staff has: (A) conspicuously, along the lines of the subject easement or parts thereof proposed to be vacated and not more than 300 feet apart, posted copies of the Resolution of Intention and Notice of Public Hearing a minimum of two weeks prior to the date set for the hearing; and (B) published, in the *Sausalito Marinscope*, once each week during the two successive weeks prior to this hearing a copy of the Resolution of Intention and Notice of Public Hearing pursuant to the California Streets and Highways Code, Section 8322(c)(1).

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 find that the Public Sewer Easement located and described herein which has heretofore been dedicated by Subdivision Map is unnecessary for present or prospective public use; and
2. That these vacation proceedings have been 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 vacation and description of the area to be vacated, attached as Exhibit "A" hereto; and
4. That all persons interested in or objecting to the vacation were heard at the time and place for hearing Tuesday, April 6, 2010, at the hour of 7:00 PM, in the City Council Chambers at 420 Litho Street; and
5. That the City Council of the City of Sausalito does hereby vacate the Public Sewer Easement located and described herein which has heretofore been dedicated by Subdivision Map; and
6. That the City 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 Marin County; and
7. That upon such recordation as provided hereinabove, the vacation shall be complete.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Sausalito on the 6th day of April, 2010 by the following vote:

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

MAYOR OF THE CITY OF SAUSALITO

ATTEST:

CITY CLERK

