

2007 JUN 14 11:03:03
Councilmember

F. Faiz
City Attorney

OAKLAND CITY COUNCIL

Resolution No. 80689 C.M.S.

RESOLUTION RECEIVING SUPPORTING EVIDENCE AND PUBLIC COMMENTS AND ADOPTING FINDINGS ON A PROPOSED VACATION OF PAXTON AVENUE BETWEEN ITS INTERSECTION WITH COOLIDGE AVENUE AND ITS TERMINUS IN PERALTA HACIENDA HISTORICAL PARK

WHEREAS, the Council of the City of Oakland has previously determined that an expansion of the green space in Peralta Hacienda Historical Park into the public right-of-way of the adjoining section of Paxton Avenue between its intersection with Coolidge Avenue and its easterly terminus in Peralta Hacienda Historical Park is desirable and beneficial for the citizens of the City of Oakland; and

WHEREAS, the Council of the City of Oakland has appropriated funding from the Capital Improvement Fund (project C196710) and has awarded a construction contract to replace the roadway facilities within said section of Paxton Avenue with green space facilities for the public park; and

WHEREAS, pursuant to Ordinance 10734 C.M.S., the City of Oakland has previously vacated companion sections of Paxton Avenue and 34th Avenue in 1986 to expand the acreage of Peralta Hacienda Historical Park for the purpose of expanding the green space and public activities of said park; and

WHEREAS, pursuant to California Streets and Highways Code Sections 8312 and 8315, the Council of the City of Oakland is vested with the statutory authority to vacate public right-of-way that is not a state highway; and

WHEREAS, the section of Paxton Avenue proposed for vacation, attached hereto as *Exhibit A*, is a local public street; and

WHEREAS, pursuant to California Streets and Highways Code Section 8355, a local agency may offer the public right-of-way proposed for vacation for public sale; and

WHEREAS, said option of public sale is inconsistent with the Master Plan for Peralta Hacienda Historical Park, as adopted in by the Council of the City of Oakland in 1977 and amended in 2002; and

WHEREAS, the City Engineer of the City of Oakland, in his official capacity, has determined that the vacation of the public right-of-way is categorically exempted from the California Quality Act Guidelines; and

WHEREAS, the public right-of-way of said section of Paxton Avenue is wholly adjoined along its boundaries by the coterminous boundaries of said park; and

WHEREAS, said park is owned in fee simple title by the City of Oakland, a municipal corporation; and

WHEREAS, pursuant to fee title ownership of the surrounding parkland, the underlying fee simple interest of said section of Paxton Avenue is owned by the City of Oakland; and

WHEREAS, in accordance with California Streets and Highways Code Sections 8317, 8322, and 8323, facsimiles of the newspaper publication, attached hereto as *Exhibit C*, and public posting and an affidavit, attached hereto as *Exhibit B*, confirming that the City Engineer has completed the statutory requirements for notifying the public of the intention of the City of Oakland to vacate said section of Paxton Avenue and of the public hearing to receive supporting evidence and public comments for the proposed vacation; and

WHEREAS, in accordance with California Streets and Highways Code Section 8313 and Government Code Section 65402, the City Engineer has further determined that there is no map or diagram nor any expressed policies or provisions preventing the vacation of these portions of public rights-of-way and that the location, purpose, and extent of the vacation therefore conforms with the adopted General Plan of the City of Oakland; and

WHEREAS, the City Engineer has further determined that the Master Plan for Peralta Hacienda Historical Park has provided for the implementation in phase IIIA of the vacation of Paxton Avenue in order to create the historical Fruit Alley portion of the upper-park landscaping improvements identified in said amendment to the Master Plan; and

WHEREAS, the City of Oakland maintains an undergrounded sanitary sewer main with the section of Paxton Avenue proposed for vacation; and

WHEREAS, in accordance with California Streets and Highways Code Section 8348, the City Engineer has notified serving public utilities of the desire of the City of Oakland that Paxton Avenue be vacated, and although having received no responses requesting or waiving a reservation of a public service easement, has further determined that the establishment of a public service easement in the vacated public right-of-way for future publicly maintained utilities is a prudent action for public convenience; and

WHEREAS, pursuant to California Streets and Highways Code Section 892, the City Engineer has further determined that vacation of the public rights-of-way will not limit public use of or impede public access for non-motorized transportation; and

WHEREAS, pursuant to California Streets and Highways Code Section 8320, a map delineating or text describing metes and bounds may be used to establish the extent and location of the public right-of-way to be vacated; now, therefore, be it

RESOLVED: That that the City of Oakland, a municipal corporation, owns the underlying fee interest in Paxton Avenue; and be it

FURTHER RESOLVED: That a map and a textural description, attached hereto as *Exhibit A*, does fully describe and delineate the public right-of-way proposed for vacation; and be it

FURTHER RESOLVED: That the proposed vacation of Paxton Avenue conforms with the General Plan adopted by the City of Oakland; and be it

FURTHER RESOLVED: That in accordance with Section 15301 of the California Environmental Quality Act Guidelines, the proposed vacation of Paxton Avenue is categorically exempted from the requirements of the California Environmental Quality Act (CEQA); and be it

FURTHER RESOLVED: That a public service easement within the public right-of-way proposed for vacation shall be established for the benefit of public utility agencies to install, maintain, operate, replace, remove or renew future undergrounded serving facilities, including but not limited to potable and reclaimed water, electricity, natural gas, and telecommunications, would be ; and be it

FURTHER RESOLVED: That the proposed vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety; and be it

FURTHER RESOLVED: That the proposed vacation the public right-of-way does not limit public use of or impede public access for non-motorized transportation; and be it

FURTHER RESOLVED: That the statutory requirements for conspicuous site posting of the proposed vacation and newspaper publication of the pending public hearing of the proposed vacation have been completed, as evidenced by *Exhibits B and C*; and be it

FURTHER RESOLVED: That a hearing to receive supporting evidence and public comments for a proposed ordinance that would vacate Paxton Avenue for the purposed of increasing green space and public activities in adjoining Peralta Hacienda Historic Park will occur in the Chamber of the City Council, Third Floor of City Hall, at One Frank Ogawa Plaza, in Oakland, California, on July 03, 2007, at 7:01 p.m. local time.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 3 2007, 2007

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID,
PRESIDENT DE LA FUENTE - 8

NOES - 0

ABSENT - 0

ABSTENTION 0

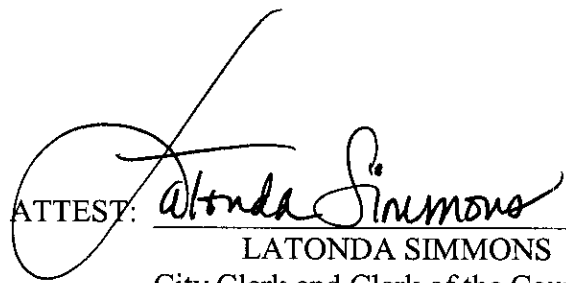
ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

EXHIBIT A

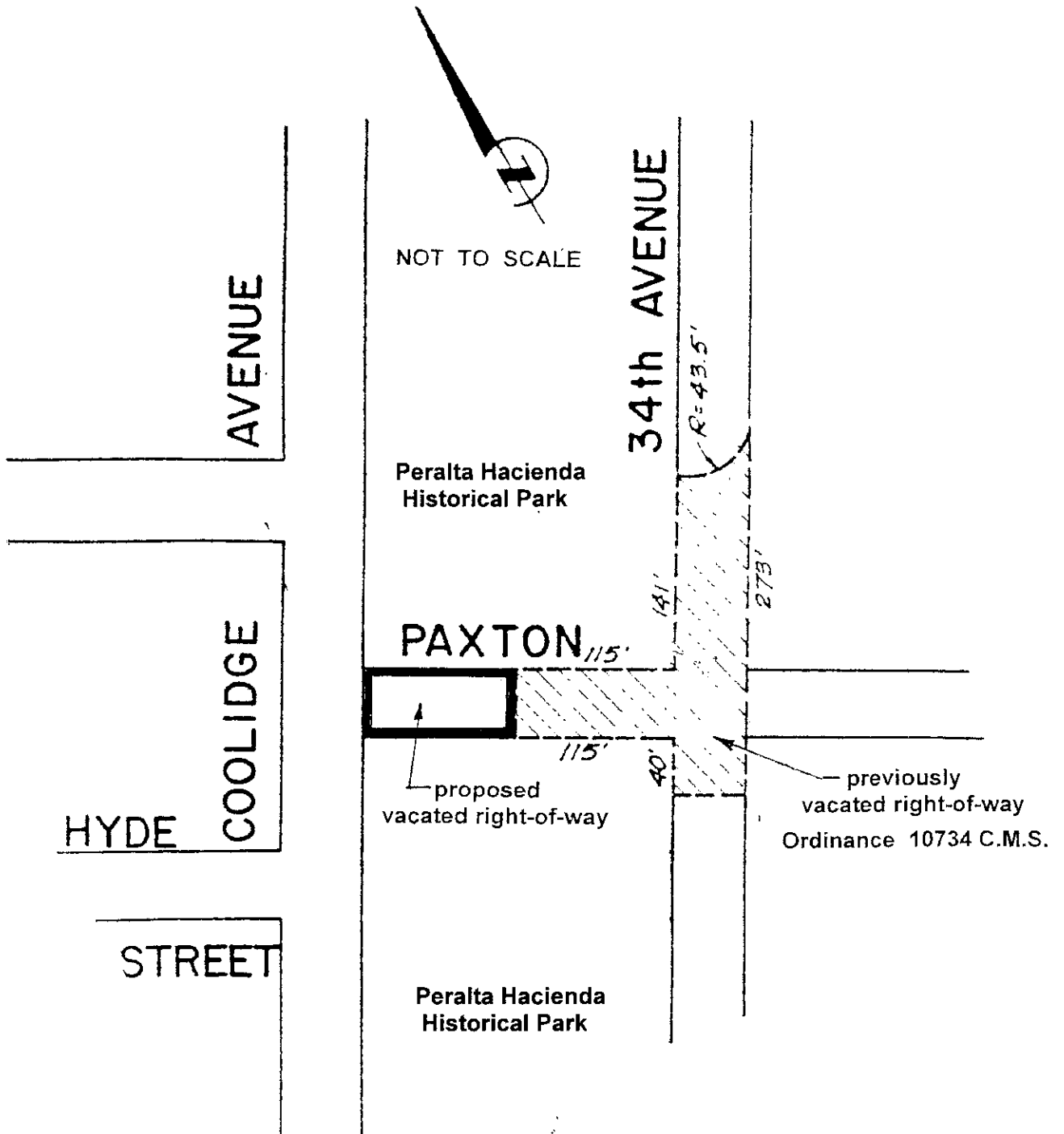


EXHIBIT B

Affidavit Certifying Public Notifications Of A Public Hearing On The Proposed Vacation Of Paxton Avenue

Pursuant to California Streets and Highways Code Section 8320, I hereby certify that the following public notification did occur before the date and time and at the locations indicated below:

Site Posting

The attached placard was affixed not less than two weeks before July 03, 2007, to City street light poles in the public right-of-way on Paxton Avenue at intervals not exceeding 300 feet and have remained in place since then advising the public of a hearing on July 03, 2007, at 7:01 p.m., in the Chambers of the Council of the City of Oakland, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza to receive evidence and public testimony on the proposed vacation of a section of the public right-of-way delineated on the placard.

Newspaper Publication

The attached notice was published in twice in the Oakland *Tribune* not less than two weeks before July 03, 2007, advising the public of a hearing on July 03, 2007, at 7:01 p.m., in the Chambers of the Council of the City of Oakland, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza to receive evidence and public testimony on the proposed vacation of a section of the public rights-of-way and further advising the public that a map delineating the section of the right-of-way proposed for vacation is available at the Building Services counter on the second floor of the Dalziel Administration building, 250 Frank H. Ogawa Plaza, Oakland, CA 94612.

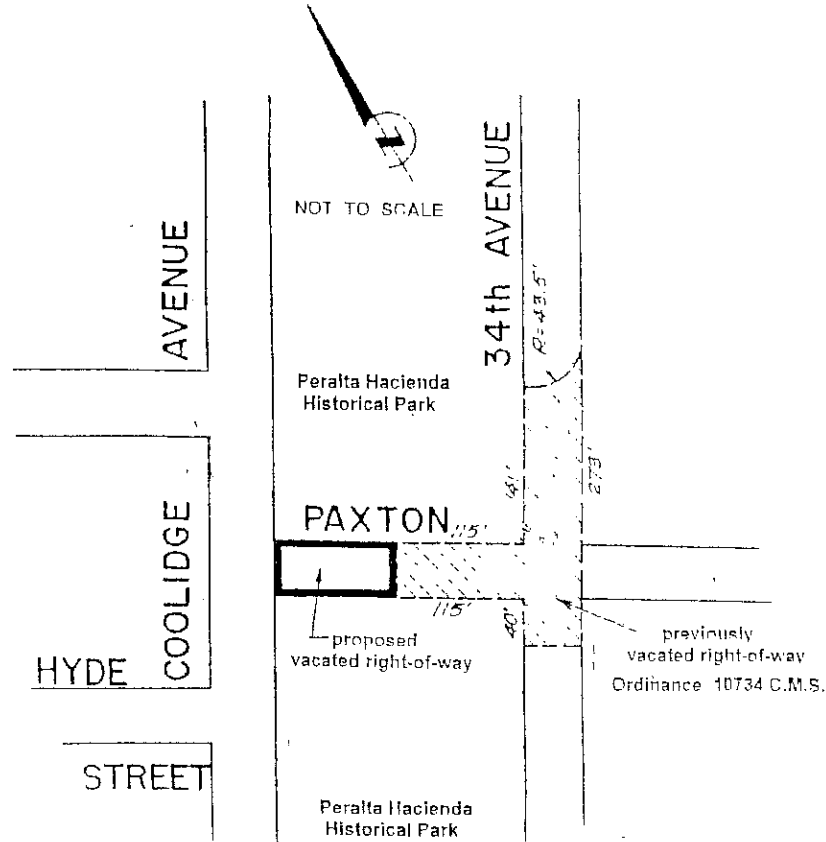
by RM Derania

RAYMOND M. DERANIA

Interim City Engineer

Community and Economic Development Agency

PUBLIC NOTICE



Pursuant to California Streets and Highways Code Section 8320 et seq., notice is given to the public that the Council of the City of Oakland intends to vacate the public right-of-way for Paxton Avenue between its intersection with Coolidge Avenue and its terminus at Peralta Hacienda Historical Park for the purpose of expanding public use of green space.

Notice is also given to the public that the Council of the City of Oakland will hold a hearing to receive evidence supporting and public comments for the proposed conditional vacation in the Chamber of the City Council, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on July 03, 2007, beginning at 7:01 p.m. local time.

It is a misdemeanor to deface or to remove this posting. Violators are subject to a fine of \$1,000 and a jail sentence of 6 months.

EXHIBIT C

Public Notifications Of A Public Hearing On A Proposed Vacation Of Paxton Avenue

PUBLIC NOTICE

Public Hearing For Vacation Of A Public Street

Pursuant to California Streets and Highways Code section 8320 et seq., the Council of the City of Oakland will hold a public hearing in the Chamber of the City Council, Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on July 03, 2007, at 7:01 p.m. local time to receive evidence supporting and public comments for a proposed ordinance vacating the public right-of-way for Paxton Avenue between its intersection with Coolidge Avenue and its terminus in Peralta Hacienda Historical Park for the purpose of expanding green space for public recreational activities. A map fully delineating the proposed vacation is available at the City of Oakland, Building Services Division, Dalziel Administration Building, Second Floor, 250 Frank H. Ogawa Plaza, Oakland, CA 94612.