

CITY OF OAKLAND
AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
2008 OCT 30 PM 3:36

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: November 12, 2008

RE: **A Report And A Resolution**

- **Vacating A Remnant Portion Of Public Right-Of-Way Adjacent To 3207 Mandela Parkway, And**
- **Authorizing The Disposal Of The Vacated Right-Of-Way As Surplus Property**

SUMMARY

The proposed resolution will

- Vacate (abandon) the use as right-of-way of an unneeded twelve (12) feet wide strip of City-owned property located at the intersection of 32nd Street and Mandela Parkway, and will
- Authorize the sale of the 2,900 square feet strip of land.

The City acquired fee title to this remnant portion of right-of-way through a quit-claim from Caltrans in 1961. The owners of the adjoining property at 3207 Mandela Parkway, Joseph Santini and Mortimer Properties LLC, recently submitted an application (PPE08059) to the City Engineer for processing this vacation in anticipation of them purchasing the property from the City. The California Streets and Highways Code requires that a property's designation as right-of-way be extinguished before the land can be used for other public or private purposes.

FISCAL IMPACT

Staff costs for processing the proposed vacation are covered by fees set by the Master Fee Schedule. The fees have been paid by the applicant and were deposited in the special revenue Development Service Fund (2415), Engineering Services organization (88432), Encroachment Permits account (42314), Engineering and Architectural Plan Approval (PS30).

PROJECT DESCRIPTION

The curved portion of the Mandela Parkway right-of-way (formerly Beach Street) which will be vacated is adjacent to a parcel owned by Joseph Santini and Mortimer Properties LLC (APN 007-0551-003-02). In December 2001, the City Council vacated to the prior property owners two (2) of four (4) remnant portions of right-of-way adjoining the eastern side of this property which had not been part of the construction of Mandela Parkway (ordinance no. 12384 C.M.S). At that time, the prior owners had presumed that the third and fourth remnant properties were owned by Caltrans and could be purchased through a pending auction of surplus state-owned property.

Item: _____
Public Works Committee
November 12, 2008

Caltrans subsequently determined during the auction process from archived records that the fourth remnant property had been previously relinquished to the City in 1961. Consequently, the prior owners of 3207 Mandela Parkway could only purchase the third remnant portion of right-of-way (formerly Nimitz freeway right-of-way) from Caltrans.

The current property owners are now planning to merge the remnant properties with their primary parcel and have filed an application with the City Engineer for the vacation of the fourth remnant portion in anticipation of them purchasing it from the City and including it the merger (refer to Attachment A).

KEY ISSUES AND IMPACTS

Vacation Of Public Right-Of-Way

Staff has determined that the City Council may make the following findings for summarily vacating the public right-of-way, as required by the statutes and ordinance indicated below:

- Streets and Highways Code
 - ✓ the vacation conforms with the City's adopted General Plan; and
 - ✓ the vacation will not impact future access for non-motorized transportation; and
 - ✓ easements will be retained for public utility lines and emergency vehicle access; and
 - ✓ the vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety; and
 - ✓ the right-of-way has not been usable by vehicle traffic for five (5) preceding years, and no public money has been spent for maintenance of the right-of-way.

- Public Resources Code

Vacation of public right-of-way is categorically exempted from the requirements of the California Environmental Quality Act (CEQA).

- Public Utilities

An existing City sewer main crosses the full length of the strip of land, and the City will have the option with the sale of the land either to retain a ten (10) feet wide maintenance easement or to require a purchaser to relocate the main in the Mandela Parkway right-of-way.

Sale Of City-Owned Property

Staff is requesting that the Council approve the disposal of the vacated right-of-way as surplus property. The purchaser will be charged for cost of appraising the vacated right-of-way.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed vacation of a portion of the Mandela Parkway right-of-way will not negatively impact the tax base for the City or the cost of street maintenance.

Environmental: An acquiring property owner will be required to remediate any hazardous material which may be discovered and to hold the City harmless from future litigation.

Social Equity: The proposed disposal will support future development and assist the economic growth and revitalization of the City, which will encourage the infusion and recurrence of diverse multi-cultural activities, businesses, and events.

DISABILITY AND SENIOR CITIZEN ACCESS

Construction permits for future public and private improvements will conform with State and City requirements for handicapped accessibility.

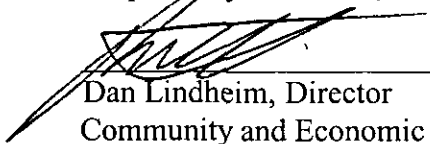
RECOMMENDATIONS

Staff recommends that the Committee accept this report and forward it to the City Council for adoption of the proposed resolution approving the right-of-way vacation.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council accept this report and adopt the proposed resolution summarily vacating a portion of the public right-of-way adjacent 3207 Mandela Parkway and authorizing the disposal of the vacated land.

Respectfully submitted,



Dan Lindheim, Director
Community and Economic Development Agency

Prepared by:
Raymond M. Derania
Interim City Engineer
Building Services Division

APPROVED AND FORWARDED TO THE
THE PUBLIC WORKS COMMITTEE:



Office of the City Administrator

Attachment A: Alameda County Assessor map no. 007

Item: _____
Public Works Committee
November 12, 2008

Introduced by

DRAFT

FILED
OFFICE OF THE CITY CLERK
OAKLAND
Approved For Form and Legality
2008 OCT 30 PM 3:37

Councilmember

City Attorney

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

A RESOLUTION SUMMARILY VACATING A REMNANT PORTION OF THE PUBLIC RIGHT-OF-WAY ADJACENT TO 3207 MANDELA PARKWAY (FORMERLY BEACH STREET) AND AUTHORIZING ITS DISPOSAL AS SURPLUS PROPERTY

WHEREAS, the City of Oakland is the owner of the fee simple interest of a curved portion of public right-of-way formerly owned by Caltrans, which is located at the intersection of Mandela Parkway (formerly known as Beach Street) and 32nd Street and which adjoins along its westerly limit a privately owned lot identified by the Alameda County Assessor with parcel number 007-0599-003-02 and by the City of Oakland as 3207 Mandela Parkway, and which is more particularly described and delineated in *Exhibit A* attached hereto; and

WHEREAS, said portion of public right-of-way is approximately twelve (12) feet in width and two-hundred seventy-five (275) feet in length and three thousand three-hundred (3300) square feet in surface area (orthogonal planer projection) and is currently unpaved and not used as a roadway for vehicle or pedestrian purposes; and

WHEREAS, said portion of public right-of-way is also bounded on its northerly, westerly, and easterly limits by privately owned lots which are identified by the Alameda County Assessor as parcel numbers 007-0599-003-02, 007-0599-006-00, and 007-0599-009-00, as delineated in *Exhibit B* attached hereto; and

WHEREAS, said portion of public right-of-way was relinquished by Caltrans to the City of Oakland, recorded November 2, 1961, series no. AS136869, reel 444, beginning with image no. 880, by the Alameda County Recorder, and entered on Right-Of-Way Map No. 22030; and

WHEREAS, the current owner of said parcel at 3207 Mandela Parkway, Joseph O. Santini and Mortimer Properties LLC, a California limited liability company, has filed an application (PPE 08059) with the City Engineer of the City of Oakland, as required by the California Streets and Highways Code, and paid fees for administrative processing, as required by the City of Oakland Master Fee Schedule, requesting that the City vacate said portion of public right-of-way; and

WHEREAS, the Council of the City of Oakland previously vacated a former adjoining portion of public right-of-way, identified hereinabove as parcel number 007-0551-009-00, through ordinance no. 12384 C.M.S. on December 11, 2001; and

WHEREAS, Caltrans previously sold a former adjoining portion of public right-of-way, identified hereinabove as parcel number 007-0599-006-00, in 2002; and

WHEREAS, the City Engineer has determined that said portion of public right-of-way is insufficient with respect to location and adjacencies to accommodate a future expansion of the roadway for Mandela Parkway or 32nd Street; and

WHEREAS, the City Engineer has further determined that said portion of public right-of-way has been unmaintained by the City of Oakland as public right-of-way since it was relinquished to the City in 1961; and

WHEREAS, the City Engineer has further determined that said vacation will not diminish the current and future use and usable land area of the improved roadways of Mandela Parkway and 32nd Street; and

WHEREAS, pursuant to California Streets and Highways Code section 1805, the existing widths of Mandela Parkway and 32nd Street rights-of-way exceed the required width of forty (40) feet; and

WHEREAS, pursuant to California Streets and Highways Code section 8333, the legislative body of a local agency may summarily vacate public right-of-way when the right-of-way has not been used for the purpose for which it was dedicated for five (5) consecutive years immediately preceding the proposed vacation and there are no public utility facilities within the portion of right-of-way proposed for vacation; and

WHEREAS, pursuant to California Streets and Highways Code Section 892, a vacation of public right-of-way may not limit public use of or impede public access for non-motorized transportation; and

WHEREAS, the City Engineer has determined that no subsurface, surface, or above surface publicly maintained utilities are located within said portion of public right-of-way; and

WHEREAS, pursuant to said sections of the California Streets and Highways Code, the City Engineer has further determined the following:

- the proposed vacation will not limit public use or impede public access for non-motorized transportation; and
- the proposed vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety; and
- the proposed vacation may require a dedication of a public service easement for existing and future publicly maintained utilities; and that
- the proposed vacation does not require a dedication of a public service easement for access by emergency vehicles and personnel; and
- the portion of public right-of-way proposed for vacation has been impassable for vehicular and pedestrian traffic for not less than five (5) of the preceding years, and no public money has been expended for maintenance during this period of time; and, therefore,
- said portion of public right-of-way may be vacated summarily by Resolution of the Council of the City of Oakland, at the option of its elected members; and

WHEREAS, pursuant to California Government Code Section 65402, the Secretary of the Planning Commission of the City of Oakland has determined the proposed vacation conforms with the adopted General Plan of the City of Oakland; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied, and that in accordance with CEQA Guidelines Section 15301 (existing facilities) this project is categorically exempted; now, therefore, be it

RESOLVED: That the action of the Council of the City of Oakland approving the summary vacation of said portion of the public right-of-way complies with the California Environmental Quality Act; and be it

FURTHER RESOLVED: That the summary vacation of said portion of the public right-of-way, as described and delineated in the attached *Exhibit A*, is hereby ordered; and be it

FURTHER RESOLVED: That the City of Oakland hereby retains ownership of the fee simple interest of said vacated portion of public right-of-way; and be it

FURTHER RESOLVED: That said vacated portion of public right-of-way may be disposed as surplus City-owned property at some future date at the discretion of the Manager of Real Estate of the City of Oakland; and

FURTHER RESOLVED: That the City of Oakland hereby retains a right in the event said disposal of as surplus property is completed to preserve a subsurface, surface, and overhead public service easement across the full width and along the full length, or portion thereof, of said vacated portion of public right-of-way for the installation, repair, replacement, and removal of and access to publicly maintained utilities; and be it

FURTHER RESOLVED: That, pursuant to California Streets and Highways Code Section 8336, said vacation shall not be complete unless and until this Resolution has been filed with and recorded by the Alameda County Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2008

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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


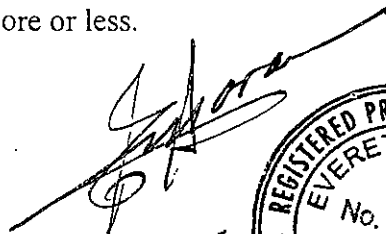
EXHIBIT 'A'

A parcel of land situated in the City of Oakland, County of Alameda, State of California and described as follows:

A portion of "Relinquishment to City of Oakland" as recorded in Book 444 of Official Records on Page 880 and being a portion of former Beach Street and a portion of Lot 12, Block A, "Map No. 2 of Watts Tract" as recorded in Book 6 of Maps on Page 13, Alameda County Records, and more particularly described as follows:

Beginning at a point on the south line of said Block A South 76°47'32" West a distance of 59.23 feet from the southeast corner of said Block A; thence around a 50.00 foot radius curve to the left, with a radius point bearing North 13°12'28" West from the beginning of this curve, through a central angle of 75°18'21" and an arc length of 65.72 feet; thence North 01°29'11" East a distance of 42.87 feet to the east line of said Block A; thence, along the east line of said Block A, North 13°12'28" West a distance of 166.37 feet; thence around a 55.00 foot radius curve to the left with a radius point bearing North 17°22'27" West from the beginning of this curve, through a central angle of 12°44'30" and an arc length of 12.23 feet; thence South 13°12'28" East a distance of 160.29 feet; thence South 01°29'11" West a distance of 53.96 feet; thence around a 59.50 foot radius curve to the right, tangent to the previous course, through a central angle of 42°28'54" and an arc length of 44.12 feet to a point on the south line of said Block A; thence, along the south line of said Block A, South 76°47'32" West a distance of 32.25 feet to the Point of Beginning.

Containing 2,893 square feet, more or less.



REGISTERED PROFESSIONAL ENGINEER
EVERETT S. MORAN
No. 18650
Exp. 06/30/09
CIVIL
STATE OF CALIFORNIA

EXHIBIT 'A'

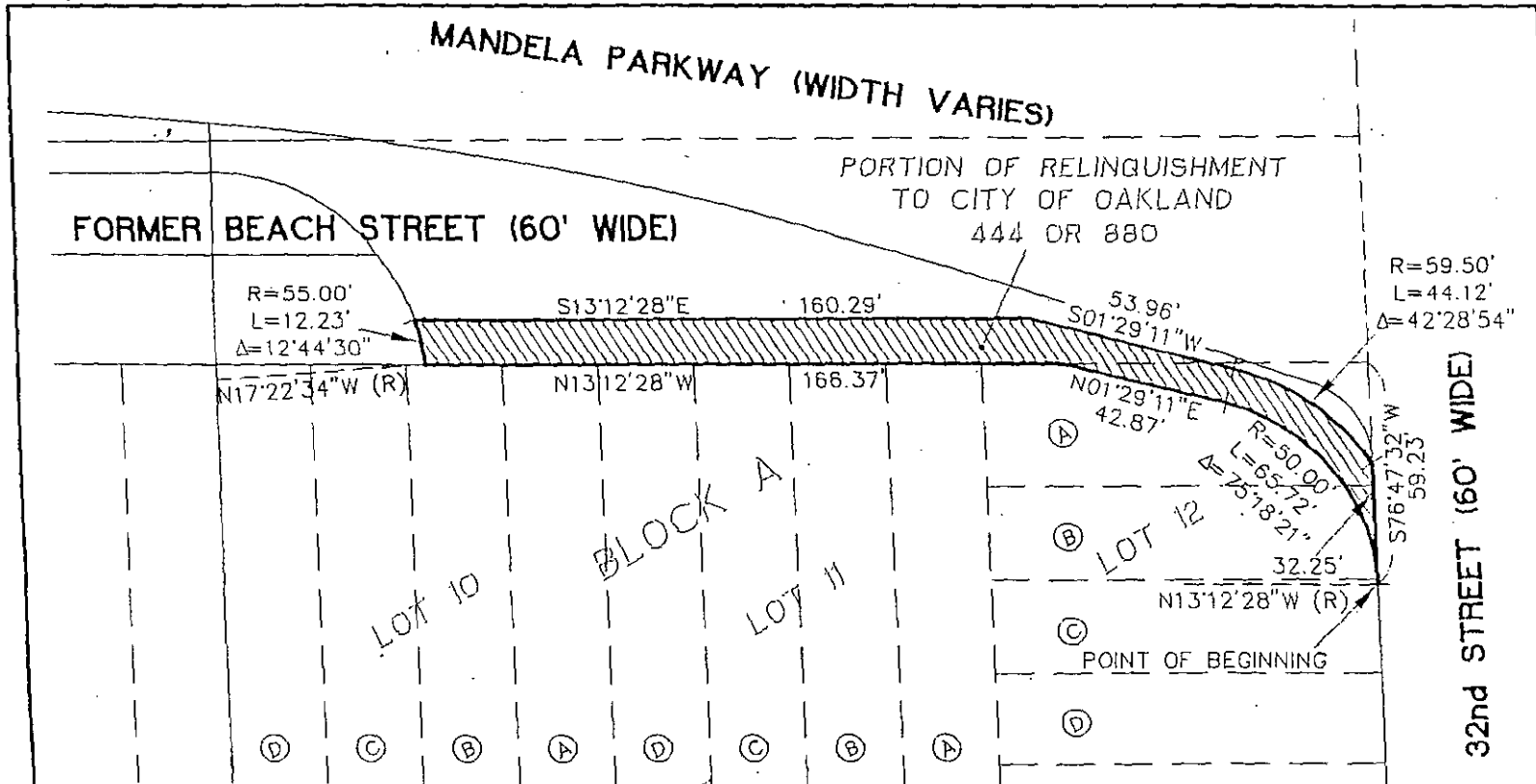


EXHIBIT 'B'

A PORTION OF RELINQUISHMENT TO CITY OF OAKLAND (444 OR 880) BEING A PORTION OF FORMER BEACH STREET AND A PORTION OF LOT 12, BLOCK A, "MAP NO. 2 OF WATTS TRACT" (6 M 13) CITY OF OAKLAND, COUNTY OF ALAMEDA, CALIFORNIA APRIL, 2008 SCALE: 1" = 40'

MORAN ENGINEERING, INC.

CIVIL ENGINEERS \ LAND SURVEYORS
 1930 SHATTUCK AVENUE, SUITE A
 BERKELEY, CALIFORNIA 94704
 (510) 848-1930

