

MISSING ORIGINAL LEGISLATION

Resolution / Ordinance Number: 81881

City Council Meeting Date March 31, 2009

Agenda Item No. 10.7

Recorded Vote 8 Ayes

Draft received for packet

Council amended legislation at the meeting

Responsible Contact Information

Department CEDA

Contact Person/Ext. Ray Derania x4780

Notes (if any)

FILED
OFFICE OF THE CITY CLERK
Alameda
Introduced By
2009 MAR 11 PM 1:48
Councilmember

DRAFT

Approved For Form And Legality

City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.

PWC 110.7
3/24/09

A Resolution Authorizing A Revocable And Conditional Permit
Replacement Building For Fire Station No. 18 At 1700 50th
Encroach Into The Public Right-Of-Way

WHEREAS, the City of Oakland is the owner of a corner property which is comprised of three (3) contiguous lots described as follows:

- vacated right-of-way as shown in City of Oakland Resolution No. 81255 C.M.S. attached hereto as Exhibit A;
- a portion of Lot 1 as shown on "Map of Melrose Heights, Brooklyn" attached hereto as Exhibit B;
- a grant deed from Dierdre Veals to the City of Oakland attached hereto as Exhibit C; and

WHEREAS, two (2) of said lots are further identified by the Alameda County Assessor as APN 035-2386-018-00 and 035-2386-019-00, and by the City of Oakland as 1700 and 1718 50th Avenue, respectively; and

WHEREAS, the Design and Engineering Construction division of the Community and Economic Development Agency has made an application to the City Engineer of the City of Oakland for a conditional permit (ENMJ 09062) to allow a replacement building for Fire Station No. 18 which is located on said property to encroach into the public right-of-way along 50th Avenue; and

WHEREAS, the limits of the encroachment are described in Exhibit D attached hereto and delineated in Exhibit E attached hereto; and

WHEREAS, the replacement building is being funded by the City of Oakland through Capital Improvement Project No. C328310 (Fund 7780) and constructed with permit no. B0803841; and

WHEREAS, the new building will replace the existing fire station and provide increased floor space which is necessary for larger fire apparatus and fire fighter staffing; and

WHEREAS, the expanded footprint of the replacement building would occupy the entire width of the property from the westerly property line adjoining 50th Avenue to the easterly common property line adjoining the parcel located at 5012 Bancroft Avenue (APN 035-2386-017-00); and

WHEREAS, a design change has been proposed for relocating the replacement building approximately three (3) feet northerly from its planned location to provide necessary minimum clearance between the foundation for the new fire station and an existing foundation supporting a building located on the southerly adjoining parcel; and

WHEREAS, said relocation will place the building in the right-of-way along 50th Avenue; and

WHEREAS, the encroachment and its location beyond the property boundaries and within the public right-of-way will not interfere with the use of the public right-of-way or public utilities; and

WHEREAS, pursuant to Oakland Municipal Code Section 12.08.030, the City Council has previously approved similar encroachments elsewhere in the City for existing buildings which encroach into the public right-of-way; 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 Guideline Section 15305 (Minor Alterations in Land Use Limitations) this project is categorically exempt from the provisions of the California Environmental Quality Act; now, therefore, be it

RESOLVED: That the encroachment, as conditioned herein and described in Exhibit D, does comply with the California Environmental Quality Act; and be it

FURTHER RESOLVED: That the encroachment, as conditioned herein and described in Exhibit D, is hereby granted for a revocable permit to allow a replacement building for Fire Station No. 18 to encroach to the public right-of-way along Bancroft Avenue; and be it

FURTHER RESOLVED: That the encroachment is hereby conditioned by the following special requirements:

1. this permit shall be revocable at the sole discretion of the Council of the City of Oakland, expressed by resolution of said Council; and
2. the Council of the City of Oakland hereby declares that said use of the encroachment area is temporary and does not constitute an abandonment on the part of the City of Oakland of any of its rights for street purposes and otherwise; and

FURTHER RESOLVED: That the City Clerk is hereby directed to file a certified copy of this resolution for recordation by the Alameda County Clerk-Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2009

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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

EXHIBIT A

Vacated Right-Of-Way

Introduced by

Councilmember

OFFICE

2007 MAY 17 11:42:27

Approved for Form and Legality

City Attorney

OAKLAND CITY COUNCIL

Resolution No. _____

81255

C.M.S.

A RESOLUTION SUMMARILY VACATING A PORTION OF BANCROFT AVENUE FOR THE EXPANSION OF FIRE STATION No. 18 LOCATED AT 1700 50th AVENUE

WHEREAS, the City of Oakland is the owner of the fee simple interest of a trapezoidal shaped lot located on the northeast corner of the intersection of Bancroft Avenue (formerly known as Bond Street) and 50th Avenue (formerly known as Bay Avenue), which is identified by the Alameda County Assessor with parcel number 035-2386-018-00 and by the City of Oakland as 1700 50th Avenue, and is more particularly described in Grant Deed from Henry Root, a single man, for valuable consideration, executed August 30, 1923, and attached hereto as *Exhibit A*; and

WHEREAS, said parcel is currently occupied by City of Oakland Fire Station No. 18; and

WHEREAS, the Council of the City of Oakland has allocated funding from the Capital Improvement Program (C328310) for the remodeling and expansion of said fire station; and

WHEREAS, the existing land area of said parcel (approximately 13,000 square feet – orthogonal planer projection) is insufficient to accommodate said expansion of said fire station; and

WHEREAS, the City Engineer of the City of Oakland has determined that a portion of the Bancroft Avenue right-of-way (approximately 2,400 square feet - orthogonal planer projection) which adjoins said parcel, as identified in *Exhibit D* attached hereto, has been unimproved and impassible to public traffic and unmaintained by the City of Oakland as public right-of-way since it was deeded to the City in 1921; and

WHEREAS, the City Engineer has further determined that said portion of the Bancroft Avenue right-of-way will provide supplemental land area which is sufficient to accommodate said expansion of said fire station; and

WHEREAS, said portion of the Bancroft Avenue right-of-way was granted by Henry Root to the City of Oakland for valuable consideration through a Deed, recorded January 7, 1922, reel OR 146, image no. 10, by the Alameda County Recorder, attached hereto as *Exhibit B*; and

WHEREAS, said grant by Henry Root was accepted by the Council of the City of Oakland on December 27, 1921, through Resolution No. 23215 N.S., attached hereto as *Exhibit C*; and

EXHIBIT A

Vacated Right-Of-Way

WHEREAS, said grant by Henry Root contains a power of termination, as said phrase is defined in California Civil Code section 885.010, should said property at time be used for any purpose other than a public street; and

WHEREAS, pursuant to California Civil Code sections 885.030, 885.040, and 885.060 provide that said power of termination

- expired thirty (30) years after said grant by Henry Root was recorded by the Alameda County Recorder, and
- has become obsolete because said restriction has no actual or substantial benefit to the holder, and
- is unenforceable and equivalent for all purposes to a termination of the power due to said expiration.

WHEREAS, the City Engineer has determined that said proposed vacation will not diminish the current and future use and usable land area of the improved roadways of Bancroft Avenue and 50th Avenue; and

WHEREAS, said proposed vacation will continue the exclusive use by the City of Oakland for Fire Station No. 18 of the unimproved portion of public right-of-way, which has been enclosed by metal fencing for more than twenty (20) years; and

WHEREAS, an application (PPE 08057) for said proposed vacation has been filed with the City Engineer, as required by the California Streets and Highways Code, and all fees for administrative processing, as required by the City of Oakland Master Fee Schedule, shall be paid from said Capital Improvement Program funding; and

WHEREAS, pursuant to California Streets and Highways Code section 1805, the proposed remaining widths of Bancroft Avenue and 50th Avenue rights-of-way adjacent to said proposed vacated public right-of-way will exceed the minimum required width of forty (40) feet; and

WHEREAS, pursuant to the California Streets and Highways Code, sections 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 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 the portion of Peralta Street proposed for vacation or the portion of Mandela Parkway proposed for acquisition; and

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

EXHIBIT A

Vacated Right-Of-Way

- 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 does not 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 unimproved right-of-way proposed for vacation has been impassable for vehicular and pedestrian traffic for more 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 the Bancroft Avenue 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 summary vacation of a portion of the Peralta Street right-of-way, as described and identified delineated in the attached *Exhibits C and D*, is hereby ordered; 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; and be it

IN COUNCIL, OAKLAND, CALIFORNIA, MAY 6 2008 , 2008

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
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 C

Metes and Bounds Assessor's Parcel No. 035-2386-019-00

**as shown in a Grant Deed from Dierdre Veals to the City of Oakland
recorded October 24, 2007, series no. 2007373755, by the Alameda County Clerk-Recorder**

All that certain real property situated in the City of Oakland, County of Alameda, State of California, described as follows:

Beginning at a point on the southeastern line of 50th Avenue, formerly Bay Avenue, distance thereon 139.30 feet northeasterly from the point of intersection thereof with the northeastern line of Bancroft Avenue, formerly Bond Street, as said avenue and street, are shown on the map hereinafter referred to, said point of beginning also being the northwestern corner of Lot 1, hereinafter referred to; and running thence South $89^{\circ} 55'$ East along the northern boundary line of said Lot 1 and Lot 2, hereinafter referred to, 68.73 feet to the northeastern corner of said Lot 2; thence South $0^{\circ} 5'$ West along the eastern boundary line of said Lot 2, 25 feet; thence North $89^{\circ} 55'$ West to the said line of 50th Avenue, formerly Bay Avenue; and thence northeasterly along said line of 50th Avenue, formerly Bay Avenue 28.85 feet fore or less to the point of beginning.

Being a portion of Lots 1 and 2, Block 17, "Map of Melrose Heights, Brooklyn", file December 23, 1907, in Liber 23 of Maps at page 58, Alameda County Records.

EXHIBIT D

Limits of Encroachment

LEGAL DESCRIPTION FOR ENCROACHMENT PERMIT

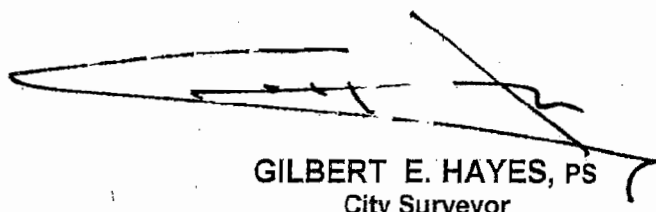
An Easement for Encroachment into the Public Right of Way, subject to the terms and conditions of any permit issued by the proper agency to authorize such an encroachment, and described as follows:

A STRIP OF LAND 3.5 feet in width, parallel to, contiguous with, and lying westerly of the following described line:

Beginning at the intersection of the extension of the Easterly line of 50th Avenue with the Northerly line of Bancroft Avenue, as said streets currently exist in the City of Oakland, County of Alameda, State of California;

Thence Northeasterly along said Easterly line of 50th Avenue a distance of 65 feet to the end of said line.

Prepared this 6th day of February, 2009



GILBERT E. HAYES, PS
City Surveyor

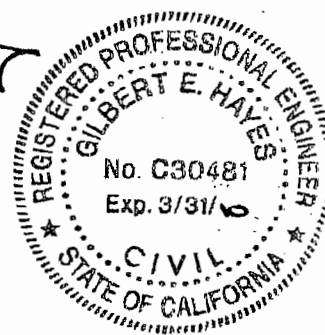


EXHIBIT E

Limits of Encroachment

