

CITY OF OAKLAND

OFFICE OF THE CITY CLERK
OAKLAND

Agenda Report

2005 DEC -1 PM 6:45

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: December 13, 2005

RE: **AN ORDINANCE CONDITIONALLY VACATING FERRO STREET TO THE PORT OF OAKLAND BETWEEN ITS INTERSECTION WITH MIDDLE HARBOR ROAD AND ITS WESTERN TERMINUS**

SUMMARY

An ordinance has been prepared conditionally vacating Ferro Street to the Port of Oakland between its intersection with Middle harbor Road and its western terminus at the Inner Harbor. The proposed vacation of public right-of-way is a necessary adjunct for the planned expansion of marine cargo business at the terminal berths 60 through 63. The vacation of Ferro Street will maintain safe traffic flow and pedestrian access along Middle Harbor Road (refer to the attached Exhibit A). The underlying fee interest of the vacated public right-of-way will revert to the Port.

The Port has terminated the leases of businesses that were formerly served by Ferro Street and has demolished the buildings that formerly fronted on Ferro Street. Sanitary sewer and potable water utilities are no longer needed by tenants and will be removed by the Port at its expense. The Port has requested that a Pacific Gas and Electric easement be retained for the buried electrical power cabling serving the Port's Davis substation. The Port has agreed to assume the maintenance of the City's existing storm water pipe, which will eliminate the need for an additional public utility easement.

The process for vacating public right-of-way is prescribed by the California Streets and Highways Code (section 8300 et seq.). Staff has completed the public announcement requirements: site posting, newspaper publication, and utility company notifications. The first of two required public hearings is expected to be conducted on December 20, 2005, during which the Council will approve a Resolution adopting findings supporting the vacation of Ferro Street and setting the second public hearing for January 17, 2006. The purpose of this second hearing is to receive public testimony for the proposed vacation and complete the first reading of the proposed vacation ordinance.

FISCAL IMPACT

Staff costs for processing the proposed street vacation will be covered by fees set by the Master Fee Schedule and paid by the Port and will be deposited in the General Purpose Fund (1010), Engineering Services organization (88432), Encroachment Permits account (42314), Engineering and Architectural Approval (PS30). The underlying fee interest in the vacated right-of-way will revert to the Port.

KEY ISSUES AND IMPACTS

Project Infrastructure Requirements

The expansion of the terminal operations will require major improvements to the contiguous real property landward of berths 60 through 63. The Port has terminated the leases of businesses abutting

Ferro Street unrelated to the American President Lines marine cargo operations and has prepared the site for construction by demolishing the previously occupied buildings. Ferro Street no longer serves any businesses in the Middle Harbor area. The Port is requesting that Ferro Street be vacated to facilitate the expansion of marine cargo business and to enhancement the efficiency of its marine cargo operations.

Several existing subsurface utility lines are located within the proposed vacated rights-of-way:

- sanitary sewer and potable water

The Public Works Agency and the East Bay Municipal Utility District (EBMUD) have determined that sanitary sewer and potable water utility lines are no longer needed. The Port has agreed to remove these utilities at its expense.

- storm water and electricity

The Public Works Agency and the Port have determined that the storm water and electrical utility lines are still needed. The Port has requested that a public easement be retained for Pacific Gas and Electric's power cables that supply the Port's substation. The Port has also agreed to assume the maintenance responsibility for the City's forty-eight inch diameter storm water line, thus eliminating the need for an additional public easement.

Transfer of Right-Of-Way Ownership

Staff's review of historical records indicates that Ferro Street does not pre-date the original subdivision of the Middle Harbor Area . Consequently, the Port is presumed to own the underlying fee interest in the right-of-way. Upon vacation of the right-of-way, title to Ferro Street will revert to the Port without cost.

Conditional Approval of the Vacation

Staff is recommending that the proposed vacation of public right-of-way be conditioned by the following requirements for the Port:

- the vacation would be voided should the Port fail to remove the abandoned sanitary sewer and potable water utility lines within one year; and that
- the vacation would be voided should the Port fail to seal the connections to the abandoned utility lines to the satisfaction of the City and EBMUD within year; and that
- the vacation would be voided should the Port fail to maintain, repair, or replace the storm water utility line at any time in the future.

SUSTAINABLE OPPORTUNITIES

Economic

The Port's terminal expansion project will provide opportunities for professional services and construction related jobs for the Oakland community. The Port is required to follow City policies for bidding and awarding contracts to Small and Local Business Enterprise firms.

Environmental

Construction permits for real property improvements and new buildings require that the permittees comply with City ordinances and regional Best Management Practices for reducing nuisance noise, fugitive dust, construction debris disposal, and storm drainage pollutant runoff.

Social Equity

The Port's terminal expansion project will assist the economic revitalization of the downtown redevelopment zone and will encourage the infusion and recurrence of diverse multi-cultural activities, businesses, and events.

DISABILITY AND SENIOR CITIZEN ACCESS

Construction permits for new buildings 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 their scheduled meeting on January 17, 2006, to adopt the proposed ordinance conditionally vacating Ferro Street between to the Port of Oakland.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council accept this report and adopt the proposed ordinance conditionally vacating Ferro Street to the Port of Oakland between its intersection with Middle Harbor Road and its western terminus at the Inner Harbor and establishing a public service easement for Pacific Gas and Electric buried electrical power cables serving the Port's Davis substation.

Respectfully submitted,

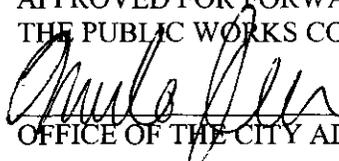


CLAUDIA CAPPIO
Development Director
Community and Economic Development Agency

Prepared by:

Raymond M. Derania
Interim City Engineer
Building Services Division

APPROVED FOR FORWARDING TO
THE PUBLIC WORKS COMMITTEE



OFFICE OF THE CITY ADMINISTRATOR

Introduced by

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved for Form and Legality

2005 DEC -1 PM 6:45

Farimah Faiz
City Attorney

Councilmember

OAKLAND CITY COUNCIL

Ordinance No. _____ C.M.S.

ORDINANCE CONDITIONALLY VACATING FERRO STREET TO THE PORT OF OAKLAND FROM ITS INTERSECTION WITH MIDDLE HARBOR ROAD TO ITS WESTERN TERMINUS

Whereas, pursuant to the California Streets and Highways Code, a hearing was held in the Chamber of the City Council, on the Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on January 17, 2006, at 7:01 p.m. local time to receive supporting evidence and public comments for a proposed ordinance conditionally vacating Ferro Street to the Port of Oakland; and

Whereas, pursuant to the California Streets and Highways Code, Government Code, and Public Resources Code, the Council of the City of Oakland (City) has previously made the following findings by Resolution:

- the proposed vacation conforms with the Port's adopted General Plan, and
- the location and extent of the proposed vacation was properly noticed to the public, and
- the Port owns the underlying fee interest in the public rights-or-way proposed to be vacated, and
- the proposed vacation is categorically exempted from the California Environmental Quality Act, and
- the proposed vacation requires dedication of a public service easement for existing electrical power cables owned and maintained by the Pacific Gas and Electric Company, and
- the proposed vacation does 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 hearing to receive supporting evidence and public comments for the vacation was properly noticed to the public; and
- the City Council may adopt terms of performance by the Port that condition the vacation; and

Whereas, the Board of Port Commissioners, in its official capacity, has determined that an expansion of the EMS marine terminal cargo operations for berths 60, 61, 62, and 63 along with the incorporation of contiguous landward real property in the Oakland Middle Harbor Area along the Oakland Inner Harbor is essential to maintain and enhance the efficiency and productivity of marine cargo operations; and

Whereas, the Board of Port Commissioners, in its official capacity, has determined that the vacation of Ferro Street is necessary to facilitate the improvements to the contiguous real property and therefore essential for the expansion and continued efficiency of the EMS terminal operations; and

Whereas, the Board of Port Commissioners has terminated business leases and demolished buildings previously abutting or accessed from Ferro Street; and

Whereas, in accordance with section 713 of the Charter of the city of Oakland, the Board of Port Commissioners, in its official capacity, has requested the vacation of Ferro Street from its intersection with Middle Harbor Road to its western terminus; and

Whereas, the Port of Oakland has agreed that it shall assume at its sole expense the maintenance, repair, and replacement of existing public storm water piping buried in Ferro Street; and

Whereas, the Port of Oakland has further agreed at its sole expense that it shall remove and terminate existing public potable water piping and sanitary sewer piping buried in Ferro Street to the satisfaction of the City Engineer of the City of Oakland and the East Bay Municipal Utility District; and

Whereas, a map delineating and text describing the metes and bounds of the extent and location of the proposed vacation of Ferro Street is attached hereto as Exhibit A; now, therefore,

The City Council of the City of Oakland does ordain as follows:

1. The conditional vacation of Ferro Street, as delineated in the attached Exhibit A, is hereby ordered.
2. This order of vacation shall except and exempt a ten foot wide public service easement for the benefit of the Pacific Gas and Electric Company to access, maintain, operate, replace, remove, or renew its buried electrical power cables that connect its station C with the Port's Davis Substation.
3. This order of vacation shall expire by limitation and become void should the Port of Oakland fail to complete the removal of public potable water piping and sanitary sewer piping buried in Ferro Street within one year following adoption of this ordinance.
4. This order of vacation shall also expire by limitation and become void should the Port of Oakland fail to complete the terminations of public infrastructure connections to the removed public potable water piping and sanitary sewer piping, to the satisfaction of the City Engineer of the City of Oakland and to the East Bay Municipal Utility District, within one year following adoption of this ordinance.
5. This order of vacation shall also expire by limitation and become void should the Port of Oakland fail at any time to maintain, repair, or replace the public storm water piping buried in Ferro Street to the satisfaction of the City Engineer, or his or her successor in title.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2006

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

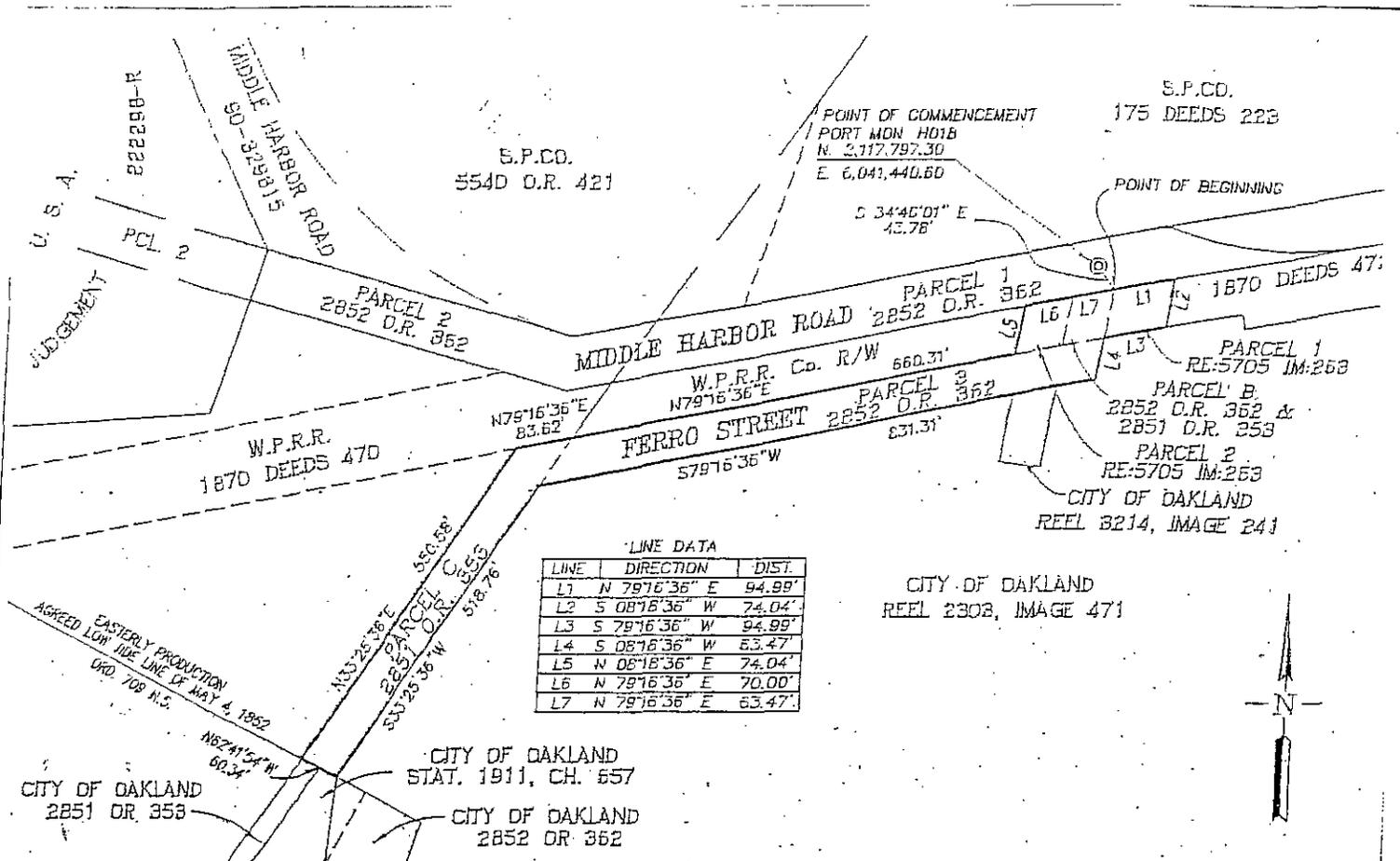
ABSTENTION -

ATTEST: _____

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

Exhibit A

Location And Limits Of The Proposed Vacation Of Ferro Street



NOTE:
 BEARINGS AND DISTANCES ARE BASED UPON THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE III. ALL DISTANCES ARE GRID. MULTIPLY HEREON SHOWN DISTANCES BY 1.0000708 TO OBTAIN GROUND DISTANCES.

PORT OF OAKLAND
 LAND SURVEYS AND MAPPING
 530 Water Street
 Oakland, California

PLAT TO ACCOMPANY LEGAL DESCRIPTION
STREET VACATION
FERRO STREET

DRAWN BY: JRM	Field Bk
CHECKED BY: JRM	Wrt. Ord: 019713
SCALE: 1" = 200'	Date File:
DATE: 10/25/86	Revision: 3
SHEET 1 OF 1	Rev. date: 8/3/89
DRAWING FILE: FERROVAC.DWG	
FILE LOC.: \\TRANSBAY\019713\JRM\	