

Introduced by

2015 JAN 22 PM 12:02

Approved as to Form and Legality


Office of the City Attorney

Councilmember

OAKLAND CITY COUNCIL

Resolution No. 85391 C.M.S.

A RESOLUTION OF FINDINGS SUPPORTING THE VACATION TO THE CITY OF OAKLAND OF A PORTION OF THE PUBLIC RIGHT-OF-WAY OF THOMAS BERKLEY WAY (FORMERLY KNOWN AS 20TH STREET) FROM ITS INTERSECTION AT HARRISON STREET TO ITS INTERSECTION WITH LAKESIDE DRIVE

WHEREAS, the City of Oakland, a California municipal corporation, is the owner of the public right of way known as Thomas Berkley Way between its intersection with Harrison Street and its intersection with Lakeside Drive; and

WHEREAS, pursuant to California Streets & Highways Code section 8320, the City has filed an application (PPE1400052) to the City Engineer of the City of Oakland to initiate a proceeding to vacate the public right-of-way of said segment of Thomas Berkley Way, as shown in the schematic attached hereto as *Exhibit A*, and as delineated in the metes and bounds attached hereto as *Exhibit B*, to facilitate construction of the Lakeside Green Streets Project; and

WHEREAS, the intersection of Thomas Berkley Way, Harrison Street, and Lakeside Drive will be reconfigured, and said vacation will terminate the public right-of-way of Thomas Berkley Way at the easterly end of Harrison Street to the westerly edge of Lakeside Drive and the portion of right-of-way adjacent to Snow Park. The Harrison Street and Lakeside Drive rights-of-way shall remain as shown in the attached *Exhibit A*; and

WHEREAS, both the City Planning Commission and the City Council have considered the partial vacation for conformity with the City's General Plan, and have determined that the location, purpose, and extent of the proposed vacation conform with the General Plan; and

WHEREAS, the City of Oakland, which is the owner of real property abutting said portion of Thomas Berkley Way proposed for vacation (commonly known as 274 19th Street), has voluntarily agreed to exercise its presumed right and accept without cost its proportional segment of the portion of Thomas Berkley Way proposed for vacation; and

WHEREAS, pursuant to California Streets & Highways Code section 8348, the City Engineer has informed public utilities serving the property abutting Thomas Berkley Way of the City's intention to vacate said portion of Thomas Berkley Way; and

WHEREAS, pursuant to California Streets & Highways Code section 160, California Vehicle Code sections 110 and 530, and Oakland Municipal Code section 16.16.090, the reconfigured roadways and intersections of the public right-of-way and roadway for Harrison Street, Thomas Berkley Way, and Lakeside Drive Lane comply with said statutory requirements; and

WHEREAS, said land area proposed for vacation will be removed from the inventory of public streets maintained by the City of Oakland; and

WHEREAS, the City Engineer has determined that adequate street and sidewalk access for the public to the abutting property addressed as 274 19th Street is provided from 19th Street and Harrison Street; and

WHEREAS, the City Engineer has further determined that the proposed vacation will not diminish existing or future access to the abutting property addressed as 274 19th Street; and

WHEREAS, pursuant to California Streets & Highways Code sections 8317, 8322, and 8323, facsimiles of the public posting and newspaper publication, attached hereto as *Exhibit C1* and *Exhibit C2*, and an affidavit, attached hereto as *Exhibit C3*, confirm the completion of the statutory requirements for notifying the public of the City's intention to vacate a portion of Thomas Berkley Way and of the location, date, and time of public hearing to receive supporting evidence and public comments for the proposed vacation; and

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

- the owner, the City of Oakland, of the property abutting the portion Thomas Berkley Way to be vacated, owns the underlying fee simple interest in the public right-of-way; and
- pursuant to California Streets & Highways Code Section 892, 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 shall reserve a public service easement for existing and future utility facilities; and
- reconstruction of the reconfigured intersection including Thomas Berkley Way will be completed by the City of Oakland using Measure DD and Federal funding; and
- said portion of Thomas Berkley Way may be vacated by adoption of a companion Ordinance by the Council of the City of Oakland, at the option of its elected members; and

- said vacation will benefit the public and the citizens of Oakland with new, safer access routes to Lake Merritt and will increase the current size of Snow Park; and

WHEREAS, after a duly noticed public meeting on January 13, 2015, the Public Works Committee voted to recommend the proposal to the City Council; and

WHEREAS, the City conducted a duly noticed public hearing on February 3, 2015 to receive evidence offered by interested members of the public and to adopt findings to vacate a portion of the improved public right-of-way of Thomas Berkley Way between its intersection at Harrison Street and its intersection with Lakeside Drive to the abutting property owner, the City of Oakland; and

WHEREAS, pursuant to California Streets & Highways Code section 8324, the City Council may apply conditions for the vacation of public right-of-way and may instruct the City Clerk not to record a vacation until said conditions have been satisfied; and

WHEREAS, the proposed partial vacation of Thomas Berkley Way relies on the previously certified Final Environmental Impact Report for the Measure DD Implementation Project (Resolution No. 81180 C.M.S., adopted April 1, 2008) ("EIR"); and

WHEREAS, the EIR provides analysis of the environmental impacts of the proposed partial vacation of Thomas Berkley Way and supports all levels of approval necessary to implement the partial vacation; and

WHEREAS, the proposed partial vacation of Thomas Berkley Way would not result in any significant effect that has not already been analyzed in the EIR, and there will be no significant environmental effects caused by the partial vacation that have not already been analyzed in the EIR; and

WHEREAS, the City Council hereby finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code section 21166 and CEQA Guidelines sections 15162 and 15163 are present, in that (1) there are no substantial changes proposed to the project or the circumstances under which the project is undertaken that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the Measure DD EIR; and (2) there is no new information of substantial importance, as defined in CEQA Guidelines section 15162(a)(3); and

WHEREAS, as a separate and independent basis, the project is also exempt from CEQA review pursuant to CEQA Guidelines Section 15183, projects consistent with a community plan, general plan or zoning; now, therefore, be it

RESOLVED: That the vacation to the City of Oakland of a portion of Thomas Berkley Way between its intersection at Harrison Street and Lakeshore Drive complies with CEQA; and be it

FURTHER RESOLVED: That the map attached hereto as *Exhibit B* does fully delineate the metes and bounds of the section of public right-of-way proposed for vacation; and be it

FURTHER RESOLVED: That the Council of the City of Oakland will condition the vacation of said portion of Thomas Berkley Way to the City of Oakland by terms set forth in the companion Ordinance of vacation; and be it

FURTHER RESOLVED: That based on all the evidence submitted, the Council of the City of Oakland hereby adopts the City Engineer's findings set forth above as its own, supporting the vacation of the public right-of-way of Thomas Berkley Way from its intersection at Harrison Street to its intersection with Lakeside Drive.

IN COUNCIL, OAKLAND, CALIFORNIA, FEB 03 2015

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND
PRESIDENT GIBSON MCELHANEY - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

ATTEST:

for



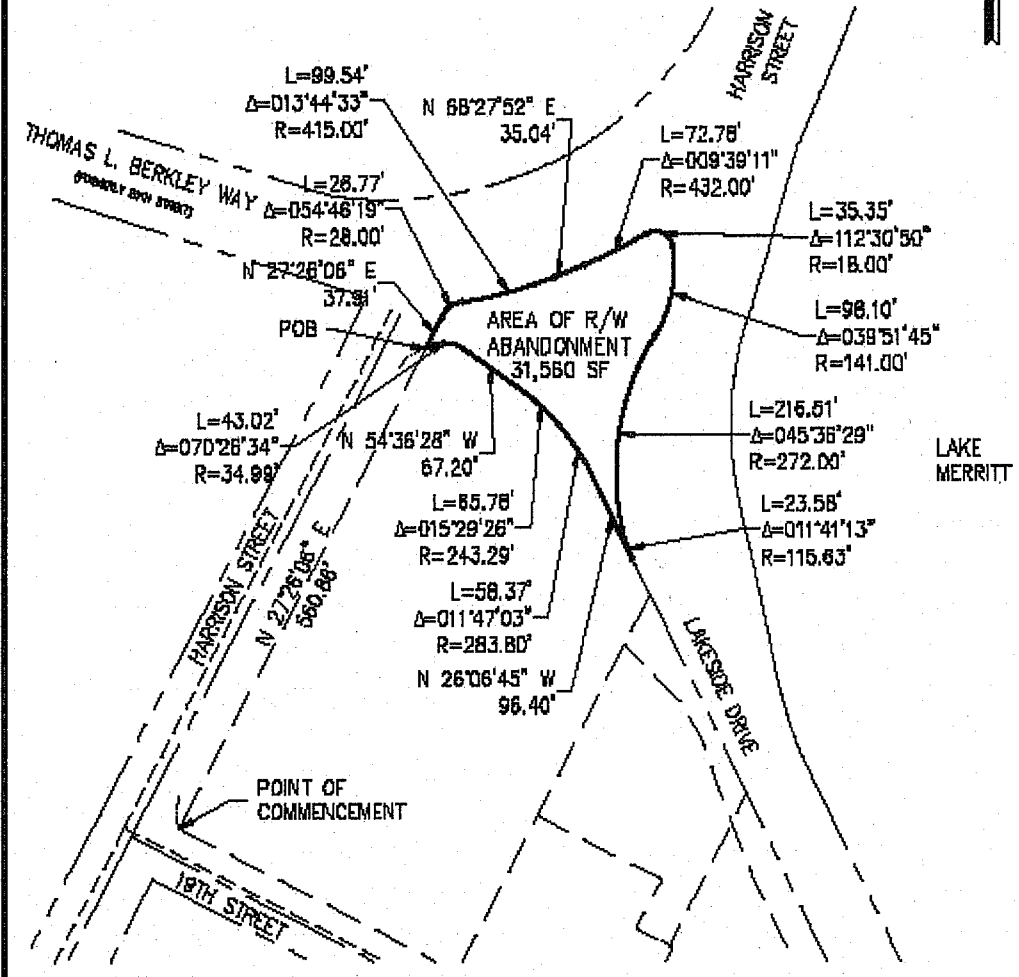
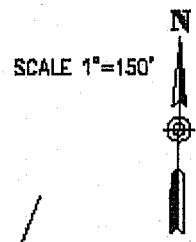
LATONDA SIMMONS

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

EXHIBIT A

Schematic of the Thomas Berkley Way Vacation

EXHIBIT "A"
 MAP TO ACCOMPANY
 LEGAL DESCRIPTION
 ABANDONMENT POR. OF
 THOMAS L. BERKLEY WAY



BASIS OF BEARINGS:
 CALIFORNIA ZONE 3, STATE PLANE COORDINATE SYSTEM,
 NAD83, EPOCH DATE 2014.25. ALL DISTANCES SHOWN HEREON
 ARE GROUND VALUES.

ABANDONMENT OF A PORTION OF THOMAS L. BERKLEY WAY, ALAMEDA COUNTY RECORDS, CA

CITY OF OAKLAND COUNTY OF ALAMEDA	CITY OF OAKLAND BUREAU OF ENGINEERING AND CONSTRUCTION	12-5-2014 PAGE 1 OF 1
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EXHIBIT B

Metes and Bounds of Thomas Berkley Way Vacation

All that certain real property situate within the "Map of Oakland and Vicinity, showing Plan of Streets as Established and Proposed Compiled from Official Surveys and Records of the County, as per W.F. Boardman City and County Surveyor", filed in Book 17 at Page 14, in the Office of the County Recorder of Alameda County, California on April 23rd, 1883, more particularly described as follows:

Commencing at the intersection of the northerly line of 19th Street with the easterly line of Harrison Street;

Thence along the easterly line of Harrison Street N 27°26'06" E, 560.86 feet, more or less to the southerly line of Lakeside Drive and the POINT OF BEGINNING;

Thence northerly along a projection of said easterly line of Harrison Street, N 27°26'06" E, 37.91 feet;

Thence departing said projection along a curve to the right, having a radius of 28.00 feet, through a central angle of 54°46'19" and an arc length of 26.77 feet;

Thence along a reverse curve to the left, having a radius of 415.00 feet, through a central angle of 13°44'33" and an arc length of 99.54;

Thence N 68°27'52" E, 35.04 feet;

Thence along a curve to the left, having a radius of 432.00 feet, through a central angle of 9°39'11" and an arc length of 72.78 feet;

Thence along a reverse curve to the right, having a radius of 18.00 feet, through a central angle of 112°30'50" and an arc length of 35.35 feet;

Thence along a compound curve to the right, having a radius of 141.00 feet, through a central angle of 39°51'45" and an arc length 98.10 feet;

Thence along a reverse curve to the left, having a radius of 272.00 feet, through a central angle of 45°36'29" and an arc length of 216.51 feet;

Thence along a compound curve to the left, having a radius of 115.63 feet, though a central angle of 11°41'13" and an arc length of 23.58 feet to a point of cusp with the southerly line of 20th Street;

Thence the following five (5) courses along the southerly line of 20th Street:

- 1) N 26°06'45" W, 96.40 feet;
- 2) Thence along a curve to the left, having a radius of 283.80 feet, through a central angle of 11°47'03" and an arc length of 58.37 feet;
- 3) Thence along a compound curve to the left, having a radius of 243.29 feet, through a central angle of 15°29'26" and an arc length of 65.78 feet;
- 4) Thence N 54°36'28" W, 67.20 feet;
- 5) Thence along a curve to the left, having a radius of 34.99 feet, through a central angle of 70°26'34" and an arc length of 43.02 feet to the Point of Beginning.

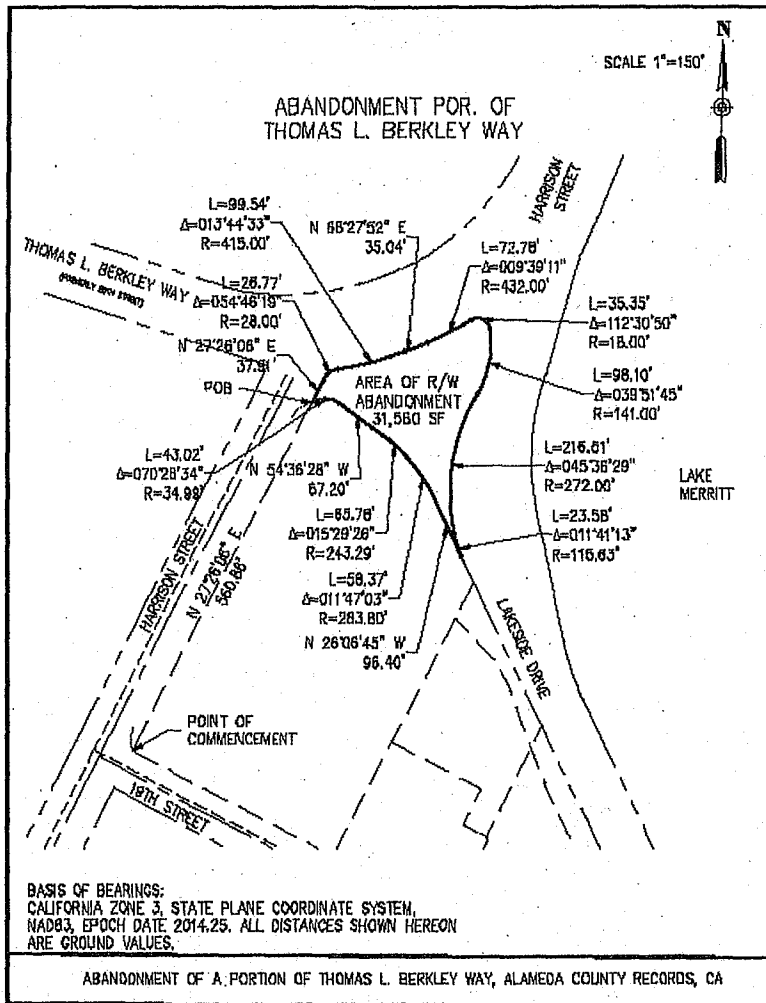
Containing an area of 31,560 Square Feet of land, more or less.

Basis of Bearings: California Zone 3, State Plane Coordinate System, NAD83 (NA2011) Epoch Date 2014.25, based off of Leica Smartnet North America, using RTCM-Ref 3224. All distances shown hereon are ground values.

EXHIBIT C1

Placard Noticing

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 a portion of Thomas Berkley Way between its intersection at Harrison Street and its intersection at Lakeside Drive without cost to the City of Oakland.

Notice is also given to the public that the Council of the City of Oakland will hold a hearing to receive evidence and public comments for the proposed 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 February 3, 2015, beginning at 6:30 p.m.

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 C2

Newspaper Noticing

PUBLIC NOTICE

Notice Of A Public Hearing For Abandoning (Vacating) A Public Street

Pursuant to California Streets and Highways Code section 8320 et seq., the Council of the City of Oakland will hold a meeting in the Chamber of the City Council, Third Floor of City Hall, at One Frank H. Ogawa Plaza, in Oakland, California, on February 3, 2014, beginning at 6:30 p.m., to receive supporting evidence and public testimony for an ordinance which will abandon (vacate) a portion of the public right-of-way of Thomas Berkley Way between its intersection at Harrison Street and Lakeside Drive. A detailed map is available at the Office of the City Engineer, 250 Frank Ogawa Plaza, 2nd Floor, Oakland, CA 94612.

**published in the Oakland *Tribune*
on January 20, 2015, and January 27, 2015**

EXHIBIT C3

Affidavit Proof of Publication

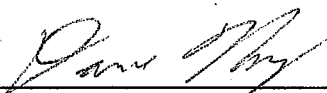
Pursuant to California Streets & Highways Code section 8317, and in accordance with Streets & Highways Code sections 8320(b), 8322, and 8323, I hereby certify that the following public notifications did occur on the dates and times and at the locations and for the durations indicated below:

Site Posting

At least three copies of the attached placard were affixed before January 20, 2015, to City street light poles in the public sidewalk at intervals not exceeding three hundred (300) feet along Thomas Berkley Way, Harrison Street, and Lakeside Drive, and have remained in place since then to provide notice of a public hearing on February 3, 2015, at 6:30 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 supporting evidence and public testimony for the proposed vacation of a portion of the public right-of-way of Thomas Berkley Way between its intersection at Harrison Street and its intersection with Lakeside Drive to the abutting property owner, City of Oakland.

Newspaper Publication

The attached notice was published in the *Oakland Tribune* twice on consecutive weeks on January 20, 2015, and January 27, 2015, to provide notice of a public hearing on February 3, 2015, at 6:30 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 supporting evidence and public testimony for the proposed vacation of a portion of the public right-of-way of Thomas Berkley Way between its intersections at Harrison Street and its intersection at Lakeside Drive to the abutting property owner, the City of Oakland and advising the public that a map delineating the limits of the portion of the public right-of-way proposed for vacation is available at the Office of the City Engineer, Dalziel Administration Building, 2nd Floor, 250 Frank H. Ogawa Plaza, Oakland, CA 94612.

by 

DAVE MOG
Bureau of Building