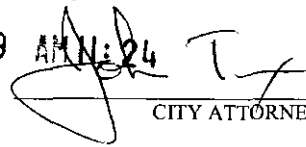


FILED
OFFICE OF THE CITY CLERK
OAKLAND APPROVED AS TO FORM AND LEGALITY

03 JAN -9 AM 11:24


CITY ATTORNEY

ORDINANCE NO. 12464 C.M.S.

AN ORDINANCE SUMMARILY VACATING KIRKHAM STREET BETWEEN 7TH STREET AND 8TH STREET, EXCLUDING THE PORTION PREVIOUSLY VACATED BY ORDINANCE 7545 C.M.S., AND SUMMARILY VACATING PUBLIC UTILITY AND SANITARY SEWER EASEMENTS LOCATED IN THE PORTION OF KIRKHAM STREET VACATED BY ORDINANCE 7545 C.M.S.

WHEREAS, the California Department of Transportation (Caltrans) acquired a portion of the right of way of Kirkham Street between Seventh Street and Eighth Street for the purpose of constructing the Cypress structure of the Nimitz Freeway; and

WHEREAS, the Oakland City Council did not officially vacate this portion of the Kirkham Street right of way at the time it was acquired by Caltrans; and

WHEREAS, since Caltrans transferred the freeway property to another party, the underlying City right of way of Kirkham Street still remains, other than that portion vacated by Ordinance 7545 C.M.S.; and

WHEREAS, said right of way is as shown on exhibit "A" and described as follows:

A strip of land as public right of way which is particularly described as follows:

KIRKHAM STREET (60 FEET WIDE) LYING BETWEEN 7TH STREET AND 8TH STREET EXCEPTING THEREFROM THE AREA VACATED BY ORDINANCE NO. 7545 C.M.S. RECORDED ON DECEMBER 13, 1966 IN DEED SERIES NO. AY138796, ALSO RESERVING THEREFROM THE PUBLIC UTILITY EASEMENT BY ORDINANCE 8224 C.M.S. RECORDED OCTOBER 20, 1970, RECORDED IN REEL 2715M IMAGE 87.

WHEREAS, no public street exists within this right of way and said right of way has been impassable for vehicular travel and no public money has been expended for maintenance of a street within this right of way from 1997-2002 (the five years immediately preceding the proposed vacation); and

WHEREAS, said vacation of right of way has been determined by the Planning and Zoning division of the City of Oakland to be in conformity with the City's adopted General Plan; and

WHEREAS, the right of way is no longer needed for the purposes for which it was acquired, and the vacation thereof will be in the public interest; and

WHEREAS, the right of way of the portion of Kirkham Street between the Cypress structure of the Nimitz Freeway and Eighth Street was vacated by the Oakland City Council on December 8, 1966, through Ordinance 7545 C.M.S. as unnecessary for present and prospective street purposes; and

WHEREAS, as part of Ordinance 7545 C.M.S. easements were retained within the vacated street right of way of Kirkham Street for the purpose of constructing and maintaining public utilities including sanitary sewers, storm drains and gas lines; and

WHEREAS, said easements are as shown in exhibit "A" and described as follows:

A sixty-foot (60) wide strip of land as a public utility easement which is particularly described as follows:

ALL THAT PORTION OF KIRKHAM STREET (60 FEET WIDE) BETWEEN THE NIMITZ FREEWAY AND 8TH STREET AS DESCRIBED IN ORDINANCE NO. 7545 C.M.S. RECORDED ON DECEMBER 13, 1966, IN DEED SERIES NO. AY138796, BEING IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, EXCEPTING THEREFROM THE PUBLIC UTILITY EASEMENT BY ORDINANCE 8224 C.M.S. RECORDED OCTOBER 20, 1970, RECORDED IN REEL 2715, IMAGE 87.

A five-foot (5) wide strip of land as a sanitary sewer easement which is particularly described as follows:

THE SANITARY SEWER EASEMENT RESERVED IN ORDINANCE NO. 7545 C.M.S. RECORDED ON DECEMBER 13, 1966 IN DEED SERIES NO. AY138796, DESCRIBED AS FOLLOWS:

A PORTION OF KIRKHAM STREET BETWEEN THE NIMITZ FREEWAY AND 8TH STREET, DESCRIBED AS FOLLOWS: A STRIP OF LAND FIVE (5) FEET IN WIDTH, EXTENDING FROM THE NORTHEASTERN RIGHT OF WAY LINE OF THE NIMITZ FREEWAY NORTHERLY TO THE SOUTHERN LINE, EXTENDED, OF 8TH STREET, THE CENTER LINE OF SAID STRIP OF LAND BEING A LINE DRAWN PARALLEL WITH THE EASTERN LINE OF SAID PORTION OF KIRKHAM STREET AND DISTANT WESTERLY 30 FEET THEREFROM, MEASURED AT RIGHT ANGLES.

WHEREAS, the sanitary sewer easement to be summarily vacated has been superseded by a new easement which has been dedicated to the City of Oakland for the purpose of constructing, maintaining and operating a sanitary sewer main. Said new easement is located approximately fifty five (55) feet east of and parallel to the subject easement; and

WHEREAS, a permit to construct a replacement sanitary sewer in that new easement has been approved by the City of Oakland; and

WHEREAS, BRIDGE Housing Corporation has posted the required performance, labor and material bonds to ensure completion of the replacement sanitary sewer main and payment of labor and material suppliers in compliance with City codes and specifications; and

WHEREAS, with the recordation of the new sanitary sewer easement stated above, the existing sanitary sewer easement is no longer needed for the purpose for which it was acquired, and the vacation thereof will be in the public interest; and

WHEREAS, Pacific Gas and Electric Company stated in their letter to the City of Oakland dated September 10, 2002 that no gas lines exist in the public utility easement; and

WHEREAS, the public utility easement has not been used for the purposes for which it was dedicated from 1997-2002 (the five years immediately preceding the proposed vacation); and

WHEREAS, the public utility easement is no longer needed for the purposes for which it was acquired, and the vacation thereof will be in the public interest; and

WHEREAS, no other public facilities are located in the right of way and easements proposed for vacation; and

WHEREAS, said vacations comply with Chapter 4 (Summary Vacation), Part 3 of Division 9, Sections 8331 (a) and (b) and 8333 (a) and (c) of the Streets and Highways Codes; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), of 1970, 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, as amended, have been satisfied, in that the a Mitigated Negative Declaration for the project proposed atop the existing right of way/easements which considered the proposed vacations was adopted by the Oakland Planning Commission on June 26, 2002 under the California Environmental Quality Act; now, therefore,

COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. This ordinance complies with the requirements of California Environmental Quality Act.

Section 2. This Council hereby summarily orders the vacation of the hereinabove described right of way without the reservation of easements.

Section 3. This Council hereby summarily orders the vacation of the hereinabove described easements reserving therefrom the public utility easement located on the south side of 8th Street reserved by Ordinance 8224, recorded on October 20, 1970 in reel 2715 image 87.

Section 4. The City Clerk and Clerk of this Council is hereby directed to have a certified copy of this ordinance recorded in the Office of the Recorder of Alameda County, California, immediately upon its final passage. From and after the date the ordinance is recorded, the right of way and easements vacated by this ordinance no longer constitute right of way and /or public easements.

Introduction Date: **JAN 21 2003**

FEB 04 2003

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20____

PASSED BY THE FOLLOWING VOTE:

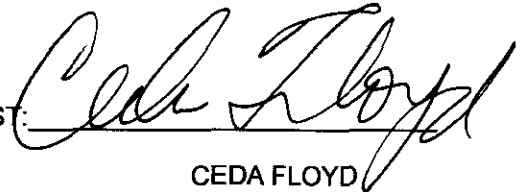
AYES- BROOKS, BRUNNER, CHANG, NADEL, REID, QUAN, WAN and ~~PRESIDENT DE LA FUENTE~~ - 7

NOES- 0

~~ABSENT~~
EXCUSED - DE LA FUENTE - 1

ABSTENTION- 0

ATTEST:



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

