

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

**CITY OF OAKLAND**

*Agenda Report*

2005 DEC -1 PM 6:43

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

RE: **RESOLUTION ACCEPTING AN OFFER OF DEDICATION OF PUBLIC RIGHT-OF-WAY FOR A RELOCATED SIDEWALK AT THE ENTRANCE TO A NEW PARKING GARAGE AT 4700 LINCOLN AVENUE**

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**SUMMARY**

A resolution has been prepared accepting an irrevocable offer of dedication of public right-of-way from the Hellenic Community of Oakland, Greek Orthodox Cathedral of the Ascension Church, for a relocated pedestrian sidewalk that will be moved back from the existing curb line along Lincoln Avenue. The Church is currently constructing a new 200 vehicle parking garage and new chapel at 4700 Lincoln Avenue (assessors parcel number 029-1009-011-02). To facilitate safe vehicle ingress and egress from the parking garage, the new driveway has been designed with a turn-in lane from Lincoln Avenue. This configuration will necessitate relocating the sidewalk onto the Church's property (approximately 6 feet). The Church is dedicating the property between the removed sidewalk and the parking garage entrance (approximately 600 square feet) to the City so that the relocated sidewalk will remain within the public right-of-way. As is typical with public right-of-way dedications, the Church will retain ownership of the underlying fee title interest and remain responsible for the maintenance, repair, and replacement of the relocated sidewalk.

**FISCAL IMPACT**

Staff costs for processing the proposed dedication of public right-of-way will be covered by fees set by the Master Fee Schedule and paid by the applicant and will be deposited in the General Purpose Fund (1010), Engineering Services organization (88432), Encroachment Permits account (42314), Engineering and Architectural Approval (PS30).

**BACKGROUND**

In general, the City can obtain privately owned real property by dedication, where the underlying fee title interest does not transfer to the City, or by purchase, foreclosure, gift, exchange, or eminent domain, where the fee title interest transfers to the City. Following are some of the legislation means that enable the City to obtain private property:

- **Oakland Municipal Code**  
OMC Sections 16.12.080 and 16.20.050 provide that the City Engineer and City Council can accept real property by dedication and that the City Council can acquire real property by purchase as a condition of land subdivision.
- **Oakland City Charter**  
Charter Section 219.6 requires that the City Council acquire real property and improvements by ordinance when the purchase price exceeds five thousand dollars (\$5,000).

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December 13, 2005

- **Oakland City Ordinance**

Ordinance 9960 C.M.S. provides that the City Council can acquire real property with distressed improvements (substandard improvements) through eminent domain.

Ordinance 11836 C.M.S. provides that the Manager of Real Estate Services can accept public easements by dedication and acquire real property by purchase when the price does not exceed five thousand dollars (\$5,000).

- **California Government Code**

Section 7050 allows a City to accept privately owned real property by dedication for any public purpose, including use as public right-of-way for streets and sidewalks.

### **KEY ISSUES AND IMPACTS**

The Greek Orthodox Church is constructing a new multiple-level parking garage adjacent to its cathedral on Lincoln Avenue. Due to the sloping grade and curvature of Lincoln Avenue, a turn-in lane at the driveway entrance into the parking garage will be provided to facilitate safe vehicle ingress and egress. As shown in Exhibit A of the attached resolution, this configuration will necessitate rerouting the existing public sidewalk along Lincoln Avenue to behind the turn-in lane and onto the Church's property (approximately 16 feet). The Church has offered to dedicate the new turn-in lane and relocated sidewalk (approximately 400 square feet) to the City so that the property will remain within the public right-of-way. The Church will retain ownership of the underlying fee title interest and remain responsible for the maintenance, repair, and replacement of the relocated sidewalk.

### **SUSTAINABLE OPPORTUNITIES**

#### **Economic**

The garage project will add 200 off-street covered parking spaces for expanded spiritual and community activities.

#### **Environmental**

Construction permits for real property improvements and new buildings require permittees to 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 parking garage project will expand the capacity of the Greek Orthodox Church to provide spiritual services for its traditional community and public services for civic gatherings.

### **DISABILITY AND SENIOR CITIZEN ACCESS**

Construction permits for new buildings and public infrastructure will conform with State and City requirements for accessibility.

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**RECOMMENDATIONS**

Staff recommends that the Committee accept this report and forward it to the City Council for acceptance of the right-of-way dedication.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council accept this report and adopt the proposed resolution conditionally accepting the offer of dedication of public right-of-way from the Hellenic Community of Oakland for a relocated sidewalk at the entrance to its new parking garage at 4700 Lincoln Avenue.

Respectfully submitted,



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**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



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OFFICE OF THE CITY ADMINISTRATOR

Introduced by

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

Approved for Form and Legality

2005 DEC -1 PM 6:44

F. Faiz

\_\_\_\_\_  
Councilmember

\_\_\_\_\_  
City Attorney

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

### RESOLUTION CONDITIONALLY ACCEPTING AN OFFER OF DEDICATION OF PUBLIC RIGHT-OF-WAY FOR A RELOCATED SIDEWALK AT THE ENTRANCE TO A NEW PARKING GARAGE AT 4700 LINCOLN AVENUE

**Whereas**, the Hellenic Community of Oakland, Greek Orthodox Cathedral of the Ascension Church, is constructing a new multiple story parking garage at 4700 Lincoln Avenue, Assessors Parcel Number 029-1009-011-02, with permit number B0303767 and also constructing companion infrastructure improvements in the adjoining public right-of-way with permit number PX0400022; and

**Whereas**, the existing alignment of Lincoln Avenue and the proposed configuration of the new driveway entrance into the parking garage, which will provide a vehicle turn-in lane for pedestrian and traffic safety, necessitate that the existing public sidewalk be relocated onto the abutting privately owned property and adjacent to the garage structure; and

**Whereas**, the Greek Orthodox Church, as owner in fee title of the abutting real property, and the City of Oakland are mutually desirous that the relocated pedestrian sidewalk adjoining the entrance into the new parking garage remain within the public right-of-way; and

**Whereas**, the Greek Orthodox Church is amenable to and desirous of dedicating to the City of Oakland for use as public right-of-way that portion of its real property that will contain the relocated pedestrian sidewalk; and

**Whereas**, the Greek Orthodox Church is further amenable to and desirous of irrevocably offering its real property to the City of Oakland and retaining the underlying fee title interest; and

**Whereas**, pursuant to California Streets and Highways Code sections 5600 and 5610, the Greek Orthodox Church acknowledges its responsibility for maintaining, repairing, and replacing all public sidewalk, curb, and gutter that abuts its real property; and

**Whereas**, pursuant to article II, section 219.6 of the Charter of the City of Oakland, the acquisition of real property may be by an action other than adoption of an ordinance whenever the purchase price is not more than five thousand dollars (\$5,000.00); and

**Whereas**, pursuant to Ordinance 11836 C.M.S., acquisition of real property shall not be by an action of the Manager of Real Estate Services whenever the use is not associated with a public service easement or the underlying fee title interest is not purchased by the City; and

**Whereas**, pursuant to California Government Section 7050, a City may accept an offer of dedication of real property for any public purpose, including use as public right-of-way for streets and pedestrian sidewalks; now, therefore, be it

**Resolved**, that the irrevocable offer of dedication of public right-of-way, as delineated in Exhibits A and B attached hereto, by the Greek Orthodox Church to the City of Oakland is hereby accepted conditionally; and be it

**Further Resolved**, that the Greek Orthodox Church shall retain for itself and preserve for its heirs, successors, assigns, and representatives possession of the underlying fee title interest of the dedicated public right-of-way; and be it

**Further Resolved**, that this acceptance of public right-of-way by the City is conditioned upon final acceptance by the Building Official of the permit for construction of the parking garage and final acceptance by the City Engineer of the permit for construction of the relocated sidewalk and companion right-of-way infrastructure improvements; and be it

**Further Resolved**, that pursuant to California Government Code section 7050, this acceptance of public right-of-way is further conditioned upon recordation by the Greek Orthodox Church with the Alameda County Recorder of its irrevocable offer of dedication of public right-of-way; and be it

**Further Resolved**, that pursuant to California Government Code sections 5600 and 5610, the Greek Orthodox Church and its heirs, successors, assigns and representatives shall remain responsible for the maintenance, repair, and replacement of the sidewalk, curb, and gutter abutting its real property.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2005

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

ABSENT -

ABSTENTION -

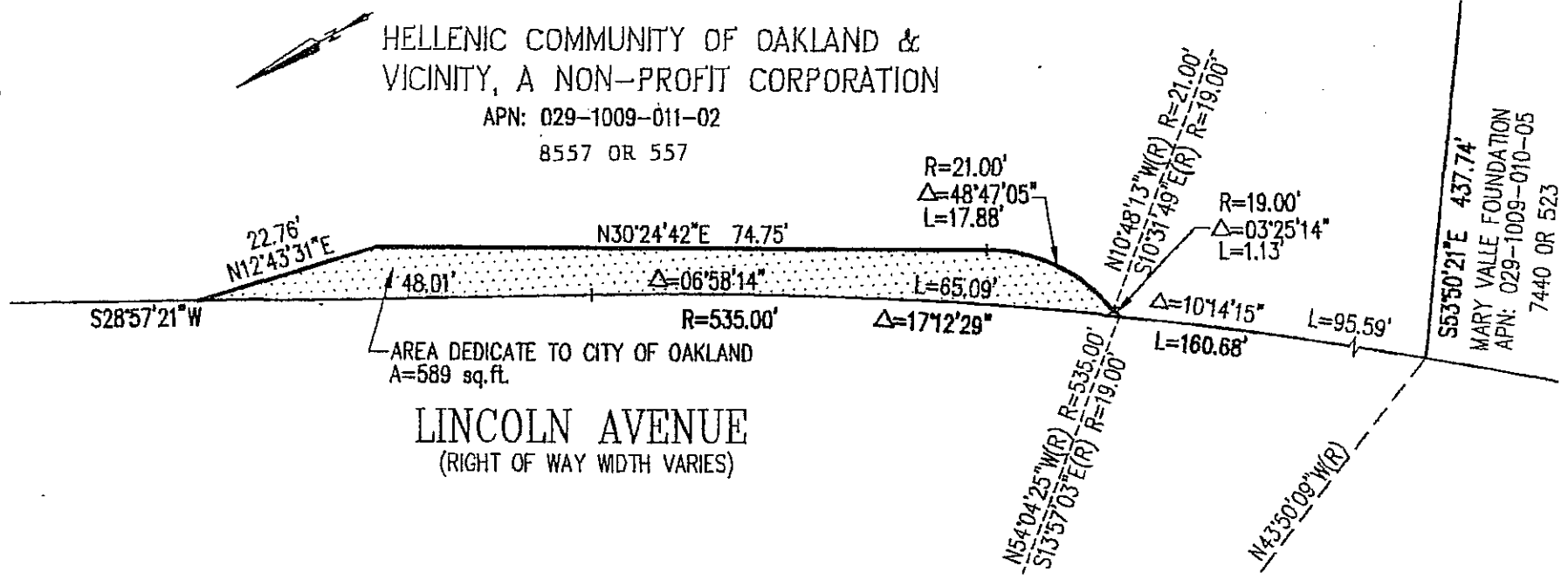
ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
Interim City Clerk and Clerk of the  
Council of the City of Oakland, California

Exhibit A

Location And Limits Of The Proposed Dedication Of Public Right-Of-Way

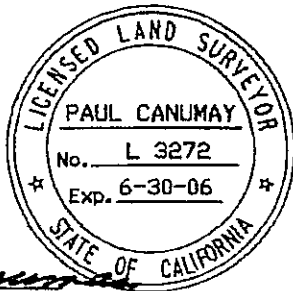
HELLENIC COMMUNITY OF OAKLAND & VICINITY, A NON-PROFIT CORPORATION

APN: 029-1009-011-02  
8557 OR 557



LINCOLN AVENUE  
(RIGHT OF WAY WIDTH VARIES)

PLAT TO ACCOMPANY LEGAL DESCRIPTION  
RIGHT OF WAY DEDICATION  
CHAPEL, PARKING AND SITE  
Greek Orthodox Cathedral of the Ascension  
4700 Lincoln Avenue, Oakland, Ca. 94602  
CITY OF OAKLAND, ALAMEDA, CALIFORNIA  
APRIL 25, 2004 SCALE: 1"=20'



*Paul Canumay*  
 PAUL CANUMAY  
 LS 3272, EXP. 06/30/2006

Prepared By  
**Luk and Associates**  
 Civil Engineers—Land Planners—Land Surveyors  
 738 Alfred Nobel Drive  
 Hercules, California 94547  
 Tel.(510)724-3388 Fax.(510)724-3383

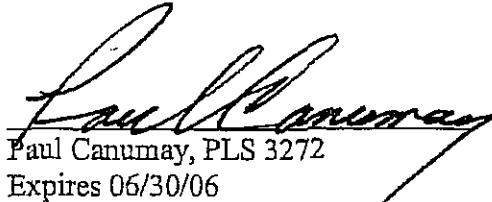
## Exhibit B

### Legal Description of the Proposed Dedication Of Public Right-Of-Way

A parcel of land located within the property described in the Deed recorded on December 31, 1957 in Book 8557 of Official Records, Page 557, in the Office of the Alameda County Recorder, State of California, more particularly described as follows:

**Commencing** at northern most corner of the parcel of land described in the Deed recorded in October of 1954 in Book 7440 of Official Records, Page 523, in the Office of the Alameda County Recorder, State of California; thence, along the easterly line of Lincoln Avenue, along a 535.00 foot radius curve to the left, with the radius point bearing North 43°50'09" West from the beginning of this curve, through a central angle of 10°14'15" and an arc length of 95.59 feet to the **Point of beginning**; thence, along the easterly line of Lincoln Avenue, along a 535.00 foot radius compound curve to the left, through a central angle of 06°58'14" and an arc length of 65.09 feet; thence, along the easterly line of Lincoln Avenue, North 28°57'21" East a distance of 48.01 feet; thence, leaving the easterly line of Lincoln Avenue, South 12°43'31" West a distance of 22.76 feet; thence South 30°24'42" West a distance of 74.75 feet; thence along a 21.00 foot radius curve to the right, tangent to the previous course, through a central angle of 48°47'05" and an arc length of 17.88 feet; thence along a 19.00 foot radius curve to the left, with the radius point bearing South 10°31'49" East from the beginning of this curve, through a central angle of 03°25'14" and an arc length of 1.13 feet to the **Point of Beginning**.

Prepared by Luk and Associates

  
Paul Canumay, PLS 3272  
Expires 06/30/06

Date: 4-25-05



This real property description has been prepared by me or under my direction in conformance with the Professional Land Surveyors Act.