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DATE: April 7, 2009
TO: Mayor and City Council
FROM: Director of Public Works
SUBJECT: Summary Vacation of a Portion of Orchard Park Place

RECOMMENDATION

That Council adopts the attached resolution pertaining to the summary vacation of a portion of Orchard Park Place.

BACKGROUND

Orchard Park Place was established and accepted by Council approval of Tract 6990 on September 15, 1998. The portion of street right-of-way to be vacated on Orchard Park Place is located on the westerly side behind the curb. This portion, approximately 1,535 square feet, is no longer needed for public street right-of-way purposes (see Exhibit B). There are no sanitary sewer mains within the proposed vacation, but an easement will need to be reserved for an existing water line. Once vacated, this area of Orchard Park Place will revert to the developer of the tract.

DISCUSSION

Lennar Homes, the current developer responsible for Tract 6990 (acquired from the previous development company), has requested that the City vacate the portion of the street right-of-way behind the curb to the west. Originally, landscape was planned for this area and establishment of a homeowners' association (HOA) to maintain it. That has never occurred, and the City has never accepted the tract as complete. It is unknown why a HOA was not established, although it is a small development of only 17 homes. At this point, after all the homes have been sold, it is impossible to establish an HOA. In order to resolve the existing situation and allow for final acceptance of the Tract, staff has worked out a solution with the developer and the abutting property owner, Schafer Road Holdings LLC, at 565 Schafer Road. Upon Council's approval, vacation would occur and the land would revert to Lennar Homes. Lennar Homes would transfer the portion of property to the owner of the development at 565 Schafer Road to the west. Once Lennar Homes improves the property to the satisfaction of City staff, Schafer Road Holding LLC, has agreed to take responsibility for maintaining the landscaping.

The development at 565 Schafer Road does have an access driveway from Orchard Park Place, and the owners are concerned about the condition of the landscaping abutting the road, which is one of the reasons they are willing to accept maintenance responsibility. This exchange process will allow final acceptance of the tract and will satisfy the original intent of having an HOA responsible for maintaining this small landscaping area.

General Plan -

The City's economic development policies and strategies, as stated under the Land and Infrastructure section of the General Plan reads: "Create a sound local economy that attracts investment, increases the tax base, creates employment opportunities for residents, and generates public revenue." The vacation of this portion of street will return this small area of land to the abutting development for its use in landscaping, thus, eliminating the potential need for maintenance by the City and returning it to the tax rolls. Therefore, this proposal conforms to the General Plan.

Under the California Environmental Quality Act Guidelines (CEQA), Section 15305, Class 5, Minor Alterations of Land Use Limitations and City Guidelines, the vacation of excess right-of-way is exempt from the Application of CEQA.

FISCAL AND ECONOMIC IMPACT

There may be additional property tax revenue generated once the land is transferred to the adjacent property owner, although the area is very small.

PUBLIC CONTACT

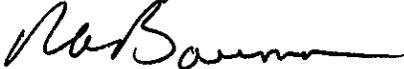
This action qualifies as a summary vacation as defined under the California Streets and Highways Code Section 8334 (a). A summary vacation is appropriate, because this portion of Orchard Park Place was never utilized as intended. No public hearing is required, as this summary vacation is on the agenda as a consent item.

Prepared by:



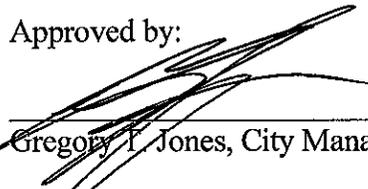
Morad Fakhrai, Deputy Director of Public Works

Recommended by:



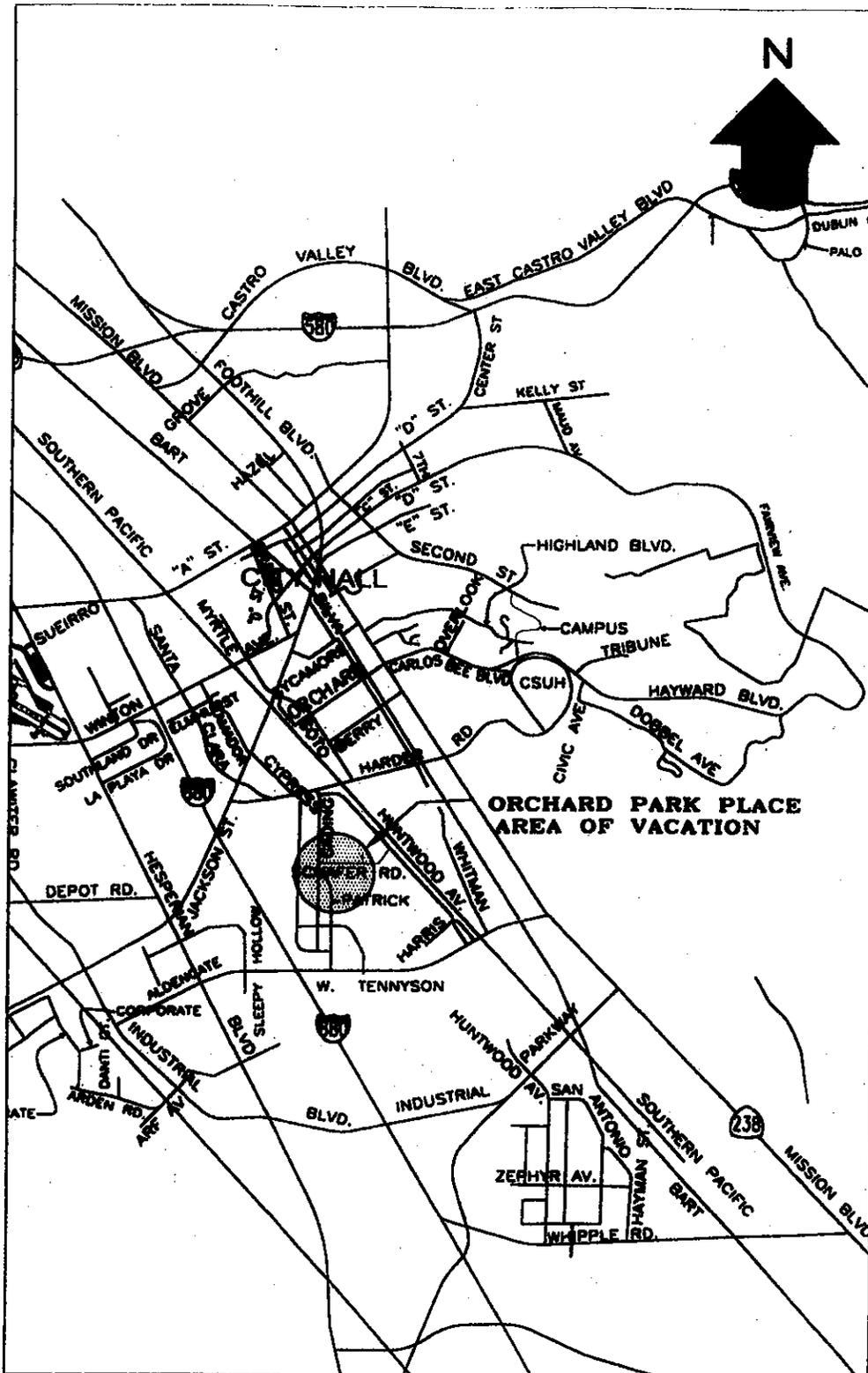
Robert A. Bauman, Director of Public Works

Approved by:

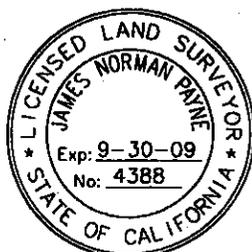
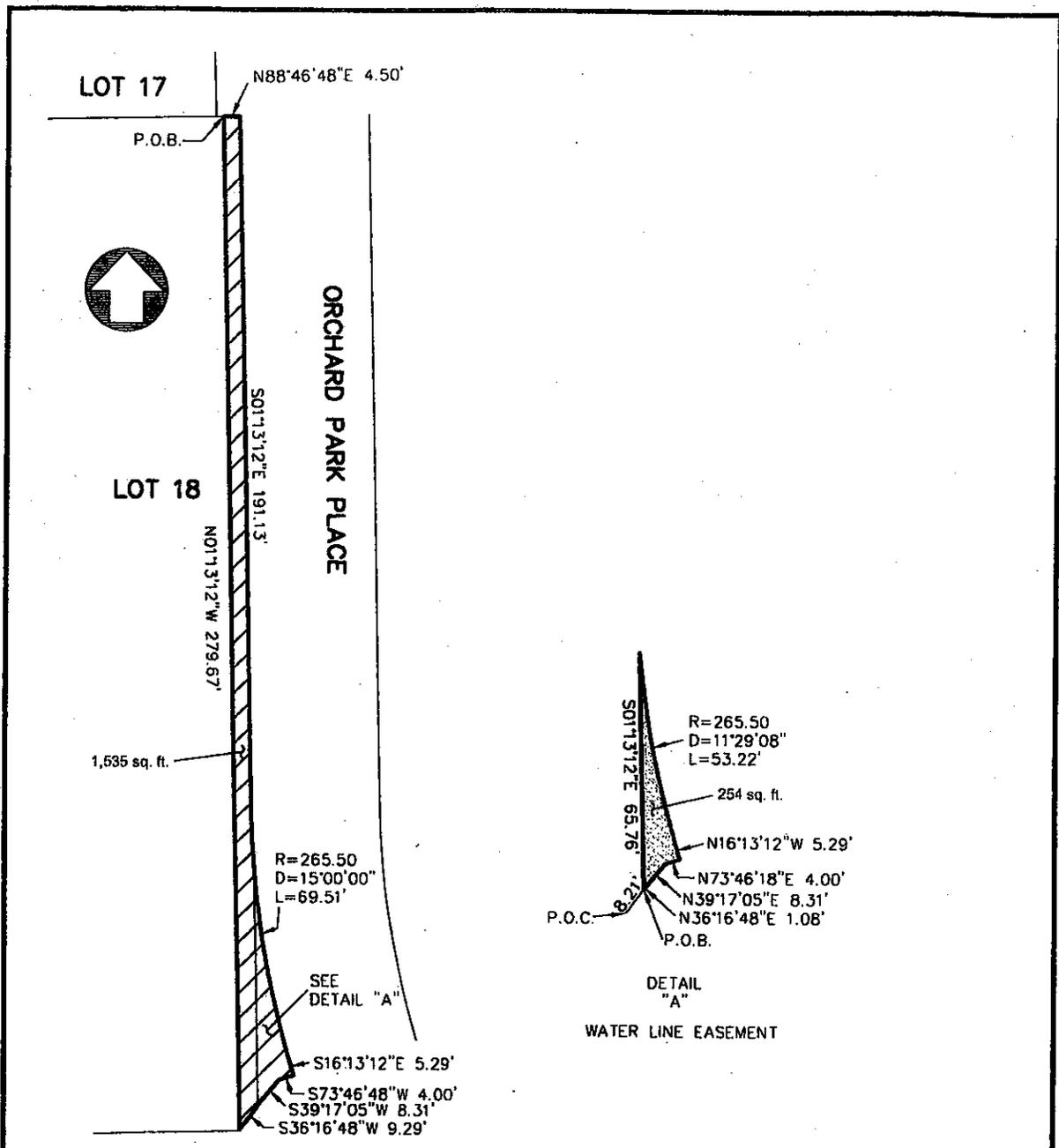


Gregory T. Jones, City Manager

Attachments: Exhibit A: Vicinity Map
Exhibit B: Orchard Park Place Vacation Map
Draft Resolution



VICINITY MAP
 VACATION OF PORTION OF
 ORCHARD PARK PLACE



NORMAN PAYNE
L.S. 4388
LICENSE EXPIRES 9/30/09

CITY OF HAYWARD ENGINEERING DIVISION		VACATION PORTION ORCHARD PARK PLACE	DWG. NO. 09006
DRAWN BY: BDS	DATE 3/20/09		FILED
CHECKED BY: JNP	SCALE: 1" = 40'	SHT. 1 OF 1	
APPD. BY	APPROVED		
REV	DATE	BY	CITY ENGINEER DIR. PUBLIC WORKS

Exhibit B

DRAFT

HAYWARD CITY COUNCIL

RESOLUTION NO. 09

Introduced by Council Member _____

mae
3/26/09

RESOLUTION SUMMARILY VACATING A PORTION OF ORCHARD PARK PLACE

WHEREAS, Lennar Homes, the current developer of Tract 6990, has requested that the City vacate a portion of the street right-of-way on Orchard Park Place; and

WHEREAS, the portion of the street right-of-way to be vacated is approximately 1,535 square feet located on the westerly side of Orchard Park Place behind the curb and is no longer needed for public street right-of-way purposes; and

WHEREAS, the landscaping improvements planned for this area were never installed and the City has never accepted the tract as complete; and

WHEREAS, upon Council's approval of the vacation, the land would revert to Lennar Homes, which, in turn, will install landscaping improvements to the satisfaction of the City's landscape architect and transfer the property to the owner of the adjacent development, Schafer Park Holdings LLC; and

WHEREAS, Schafer Park Holdings LLC has agreed to take responsibility for maintaining the landscaping improvements; and

WHEREAS, there are no sanitary sewer mains within the proposed vacation; however, an easement will need to be reserved for an existing water line; and

WHEREAS, vacation of excess right-of-way is categorically exempt under the California Environmental Quality Act Guidelines (CEQA), Section 15305, Class 5, Minor Alterations of Land Use Limitations, and qualifies as a summary vacation as defined under the California Streets and Highways Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that, pursuant to California Streets and Highways Code section 8334(a), it is hereby ordered that the portion of the street right-of-way of Orchard Park Place as more described in Exhibit "A" attached hereto and made a part hereof, is hereby vacated and the City Clerk is authorized and directed to cause a certified copy of this resolution to be recorded in the office of the County Recorder of Alameda.

BE IT FURTHER RESOLVED that the City reserves an easement for the existing water line within the right-of-way to be vacated.

