

APPROVED
BY THE CITY COUNCIL

MAY 18 1999

OFFICE OF THE
CITY CLERK



3.4

DEPARTMENT OF
PUBLIC WORKS

TECHNICAL SERVICES DIVISION

CITY OF SACRAMENTO
CALIFORNIA

DEVELOPMENT SERVICES
1231 I STREET
ROOM 300
SACRAMENTO, CA
95814

April 27, 1999

PH 916-264-7474
FAX 916-264-7480

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: HEARING ON ABANDONMENT OF EXCESS RIGHT-OF-WAY ON D STREET AT 41ST STREET WITHIN COUNCIL DISTRICT 3; ABANDONMENT PROCEEDING NO. AP99-02

LOCATION AND COUNCIL DISTRICT:

D Street at 41st Street in Council District 3.

RECOMMENDATION:

This report recommends that the hearing be closed and that the attached resolution adopting Findings of Fact and approving the abandonment for the excess right-of-way at the location listed be adopted.

CONTACT PERSON: Ronald Perry, Engineering Technician III, 264-8298
Theresa Arnold, Associate Engineer, 264-5514

FOR COUNCIL MEETING OF: May 18, 1999

SUMMARY:

The City received a request from John and Norma Thomason to abandon and receive title to excess right-of-way in order to allow for clear title of ownership at 4017 D Street and 332 41st Street.

COMMITTEE/COMMISSION ACTION:

None required.

BACKGROUND INFORMATION:

Morton & Pitalo, on behalf of the property owners, has requested the abandonment of excess right-of-way on D Street at 41st Street. The abandonment will create a legal parcel and allow for transfer of ownership.

City departments and the utility companies have reviewed this request for abandonment and have no objections. Letters regarding this abandonment are on file with the Department of Public Works, Development Services. See Attachment A for the time schedule for this abandonment.

Staff has reviewed the request to abandon and finds it in conformance with City Guidelines for Street Closures (City Resolution No. 95-667) and the State of California, Streets and Highways Code (Section 8300 et. seq.). Approval of the request to abandon is recommended subject to conditions.

The Neighborhoods, Planning and Development Services Department has found the proposed abandonment in conformance with the General Plan and the Community Plan (Section 65402 review). The proposed abandonment conforms with the City's General Plan and is consistent with the General Plan policy "to enhance and maintain the quality of the life of its citizens."

A Resolution of Intention (ROI) was adopted by the City Council on April 27, 1999, which established this date as the hearing for the proposed abandonments. Letters to the property owners and residents adjacent to the abandonment were mailed on April 29, 1999. Notice of the abandonment was posted along the subject right-of-way on April 30, 1999, and the Resolution of Intention was published in the Daily Recorder on April 30, 1999, and May 7, 1999. The Engineer's report relating additional facts of the abandonment is on file with the City Clerk's office.

Following abandonment, ownership of the right-of-way will remain with the City. Following the abandonment, the City will transfer title to the property to the adjacent property owners at 4017 D Street and 332 41st Street.

Approval of the request to abandon is recommended.

FINANCIAL CONSIDERATIONS:

The applicant provided all the documentation required for the abandonment, and paid a fee to fund staff time required to process this application. There is no expense to the City.

ENVIRONMENTAL CONSIDERATIONS:

The Neighborhoods, Planning and Development Services Department has reviewed this project and has determined that this activity is exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 15305 (c) of the CEQA Guidelines. The project involves the alteration of an existing public right-of-way with no expansion of the existing use and no substantial change to existing traffic flow or physical features on the City.

POLICY CONSIDERATIONS

Abandonment of this excess right-of-way will be consistent with Council priorities of public safety and neighborhood revitalization and enhancement.

- Section 8300 et. seq. of the Streets and Highways Code allows for abandonment of streets, alleys, and easements that are no longer needed for public use. These abandonments are classified as regular abandonments.
- The local governing body is the approving authority and may reserve such rights as may be needed (e.g., retaining the utility easement when approving a street abandonment).
- City policy, as stated in Resolution No. 96-176 (approved by the City Council on May 7, 1996), provides for abandonment of streets and alleys so long as there is a benefit to the community, it does not inhibit access to other properties and would be supported by the majority of the property owners.
- The proposed abandonment is consistent with these policies.

City Council
Hearing of Abandonment No. AP99-02
April 28, 1999

ESBD CONSIDERATIONS:

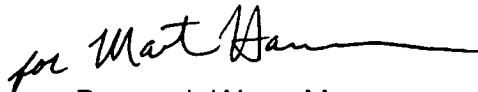
City Council adoption of the attached resolution is not affected by City policy related to the ESBD Program.

Respectfully submitted,



Marty Hanneman, Manager
Traffic Engineering and Development Services

Approved:



Duane J. Wray, Manager
Technical Services Division

RECOMMENDATION APPROVED:



ROBERT P. THOMAS
City Manager

Approved:



Michael Kashiwagi
Director of Public Works

RP:jd
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EXHIBIT A

**SCHEDULE FOR REGULAR ABANDONMENT PROCEEDING
TO ABANDON EXCESS RIGHT-OF-WAY ON D STREET AT
41ST STREET WITHIN COUNCIL DISTRICT 3 (AP99-02)**

Letter to City Clerk/schedule item on City Council Agenda	April 1, 1999
Resolution of Intention heard by City Council	April 27, 1999
Letters sent to property owners	April 29, 1999
Posting on Alleys/Streets	April 30, 1999
Copy of Resolution Published in Daily Recorder	April 30, 1999 & May 7, 1999
Public Hearing at City Council/Final Approval	May 18, 1999

APPROVED
BY THE CITY COUNCIL

MAY 18 1999

OFFICE OF THE
CITY CLERK

RESOLUTION NO. 99-238

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

**RESOLUTION ADOPTING FINDINGS OF FACT AND
APPROVING ABANDONMENT OF EXCESS RIGHT-OF-WAY
ON D STREET AT 41ST STREET**

ABANDONMENT PROCEEDING NO. AP99-02

- A. WHEREAS, the City received a petition to abandon from owners of property within the City of Sacramento requesting the City Council to consider abandonment of the subject property;
- B. WHEREAS, on October 30, 1926, the City acquired a grant deed (recorded in the Office of the County Recorder of Sacramento County, December 17, 1926, in Book 108 Page 18) on the subject property for purposes of a public street. D Street was subsequently constructed on a portion of the subject property. The adjacent property owners are requesting the abandonment of the portion of the right-of-way that was never used for the construction of D Street.
- C. WHEREAS, a notice that the City Council would consider the proposed abandonment at a Public Hearing was given in compliance with California Streets and Highways Code, Section 8300, et. seq.
- D. WHEREAS, the Neighborhoods, Planning and Development Services Department reviewed the proposed abandonment pursuant to Government Code Section 65402 and concluded that said abandonment would be consistent with the City General Plan and the applicable Community Plan.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

- 1. Excess right-of-way in front of 4011 D Street and 332 41st Street at D Street in the City of Sacramento, specifically described below, is hereby ordered abandoned subject to the conditions and reservations specified in this resolution:

All that certain real property situated in the City of Sacramento, County of Sacramento, State of California, described as follows:

FOR CITY CLERK USE ONLY

RESOLUTION NO: _____

DATE ADOPTED: _____

All that portion of Lot 8, as shown on the Official Plat of Burlingame Terrace of Brooke Realty Company's Subdivision No. 108, Recorded in the office of the County Recorder of Sacramento County, February 15, 1907, in Book 8 of Maps, Map No. 4, more particularly described as follows:

Beginning at the corner common to Lot 7 and Lot 8 of said subdivision on the West line of Ashby Place (now 41st Street): Thence southerly along the West line of 41st Street South 23°25'00" West 1.00 feet; thence along a curve to the right with a radius of 5.00 feet, through an angle of 85°02'23", an arc distance of 7.42 feet, being subtended by a chord which bears South 65°56'11" West 6.76 feet; thence along the North line of "D" Street, North 71°32'37" West 121.06 feet; thence North 23°25'00" West 16.45 feet to a point on the line common to Lot 7 and Lot 8 of said subdivision; thence South 66°35'00" East 125.18 feet to the point of beginning.

2. Exempting therefrom a 5.00 foot Public Utilities Easement lying parallel to and Northerly of the North line of "D" Street.

Total area of abandonment = .031 Acres.

3. The City Council finds that the above-described public right-of-way is not necessary for present or prospective public use in that:
 - a. It is not necessary for through traffic circulation;
 - b. The City Engineer has reviewed said abandonment and found that it will not interfere with the traffic flow in the area or affect the aesthetics of the neighborhood;
 - c. The parcels adjacent to the abandoned right-of-way described above have other access and said abandonment will not create any land-locked parcels; and
 - d. The right-of-way to be abandoned is not necessary or useful as a non-motorized transportation facility as defined in Section 156 of the Streets and Highways Code.
4. The City Council hereby finds that said abandonment has been submitted to and reported on by the Neighborhoods, Planning and Development Services Department as to conformity with the City General Plan. The Council, pursuant to Streets and Highways Code Section 8300 et. seq., has considered this abandonment in connection with the General and Community Plans and finds the abandonment consistent with them in that: The abandonment of the excess right-of-way identified in paragraph 1 above does satisfy the City Council's "Review Guideline for Street and Alley Closure," adopted May 7, 1996, by Resolution No. 96-176.

FOR CITY CLERK USE ONLY

RESOLUTION NO: _____

DATE ADOPTED: _____

5. This abandonment shall not be recorded until all fees for the preparation and transfer of the deeds have been paid. Upon payment, the City Clerk shall record a certified copy of this resolution and the deeds transferring title with the Sacramento County Recorder.
6. All conditions specified in paragraph 5 of this resolution must be completed within two years of the date of this resolution. If all the conditions are not completed within the two years specified, this resolution approving the abandonment shall become void, unless the City Council grants a time extension.

MAYOR

ATTEST:

CITY CLERK

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FOR CITY CLERK USE ONLY

RESOLUTION NO: _____

DATE ADOPTED: _____

5. This abandonment shall not be recorded until all fees for the preparation and transfer of the deeds have been paid. Upon payment, the City Clerk shall record a certified copy of this resolution and the deeds transferring title with the Sacramento County Recorder.
6. All conditions specified in paragraph 4 of this resolution must be completed within two years of the date of this resolution. If all the conditions are not completed within the two years specified, this resolution approving the abandonment shall become void, unless the City Council grants a time extension.

MAYOR

ATTEST:

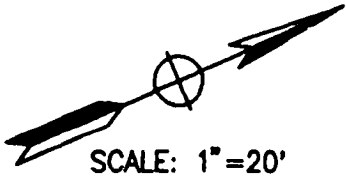
CITY CLERK

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FOR CITY CLERK USE ONLY

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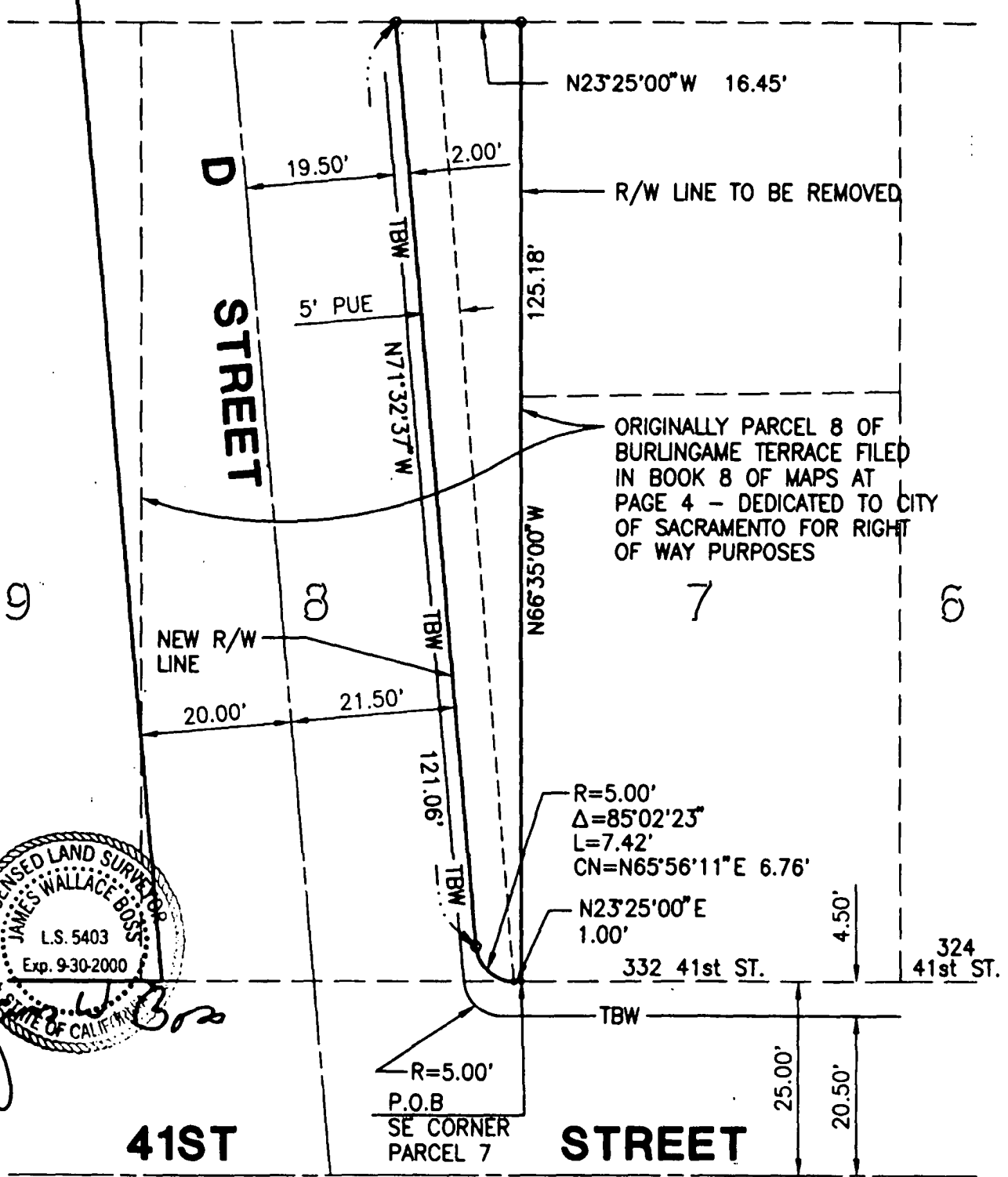
DATE ADOPTED: _____



SCALE: 1"=20'

EXHIBIT A

A PORTION OF LOT 8 - RM 8 PG 4



ORIGINALLY PARCEL 8 OF BURLINGAME TERRACE FILED IN BOOK 8 OF MAPS AT PAGE 4 - DEDICATED TO CITY OF SACRAMENTO FOR RIGHT OF WAY PURPOSES



X:\PROJ\JIMBOSS\NORMA1.DWG 04-13-99 09:08 am

JAMES BOSS
1788 TRIBUTE RD.
PHONE: 916/927-2400

PARCEL A
RIGHT OF WAY ABANDONMENT

SHEET: **1**
OF **1**

SACRAMENTO, CA CITY OF SACRAMENTO, CA