



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of July 9, 2019

TO: Mayor and Members of the City Council

SUBMITTED BY: Holly Smyth, AICP, Planning Director
Mike Roberts, Public Works Director

SUBJECT: Vacation of Public Right of Way within the Southeasterly Portion of
Linus Pauling Drive

RECOMMENDED ACTION: Open the continued public hearing and continue to September 10, 2019 for the vacation of public right of way within the southeasterly portion of Linus Pauling Drive.

FISCAL IMPACT OF RECOMMENDATION:

There are no fiscal impacts associated with this item as the cost of any modification to relocate or cap utilities or to create the appropriate cul-de-sac meeting City standards is required by others.

DISCUSSION:

At the May 14, 2019 City Council meeting a staff report was presented and an initial public hearing was held to discuss the vacation of the southeasterly portion of Linus Pauling Drive abutting four properties: owned by City of Hercules, Ledcor for Blocks Q&R, Bio-Rad and Pacific Biolabs. That public hearing was continued to July 9, 2019 to allow further time for the parties to discuss the potential uses within the vacated right of way areas. The issues amongst the adjacent property owners have not been fully resolved and the staff asks for a continuance to Council's September 10, 2019 meeting.

ATTACHMENTS:

Attachment 1 – Full Staff Report and Attachments from the May 14, 2019 City Council



STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of May 14, 2019

TO: Mayor and Members of the City Council

SUBMITTED BY: Holly Smyth, AICP, Planning Director
Mike Roberts, City Engineer

SUBJECT: Vacation of Public Right of Way within the Southeasterly Portion of
Linus Pauling Drive

RECOMMENDED ACTION:

Conduct a Public Hearing and Adopt a Resolution approving the Vacation of Public Right of Way within the Southeasterly Portion of Linus Pauling Drive subject to conditions stated therein.

FISCAL IMPACT OF RECOMMENDATION:

There are no direct fiscal impacts associated with this item as all costs related to processing the vacation are being paid for by the developer. Any indirect costs related to the vacation such as removal of the street, abandoning or relocating utilities, or constructing the cul-de-sac to City standards is required to be funded and completed by others.

DISCUSSION:

Linus Pauling Drive dead ends in a relatively isolated cul-de-sac within the Business Park and has been an attractive nuisance for a number of years, which has been an ongoing concern for the businesses and has created an additional burden for the City's Police Department. As a first step to address this issue, in February 2018 the City Council removed the potential connecting street from the City's Circulation Element of the General Plan since it was not feasible to construct. On April 23, 2019, the City Council adopted Resolution 19-020 (see Attachment 2) declaring its intent to vacate southerly portions of Linus Pauling Drive abutting Bayfront Block R and set a public hearing for May 14, 2019 which will allow this section of Linus Pauling Drive to be removed thus achieving a City policy objective. The proposed vacation area contains approximately .45 acres of land within the southeasterly right -of-way of Linus Pauling Drive. An aerial exhibit illustrating the proposed vacation is attached to the resolution.

The Vacation Resolution (Attachment 1) approving the vacation of public right-of-way within the southeasterly portions of Linus Pauling Drive includes conditions that the utilities be addressed and the necessary right of way for the new cul-de-sac be dedicated to the City prior to the Vacation

being filed with the County Recorder and becoming effective. Detailed technical plats and legal descriptions of the proposed vacation areas are presented on Exhibits A.1, A.2, B.1 and B.2 attached to the Vacation resolution.

Abandonment proceedings are in accordance with the procedures and requirements set forth in Section 8300 *et. seq.* of the California Streets and Highways Code (S&H Code). As more specifically stated in the attached resolution, various types of notices of the said proposed vacation were mailed to utility companies, to property owners within a 300' radius, posted in the field, and published twice in the local newspaper in the manner prescribed by law.

Pursuant to Government Code Section 65402, the resolution to vacate public rights-of-way being considered by the City Council require that the Planning Commission find that the vacation is in conformance with the General Plan. At its meeting of May 6, 2019, the Planning Commission adopted Planning Commission Resolution 19-04 finding that the proposed vacation is in conformity with the General Plan. Additionally, a CEQA analysis was done through the adoption of the February 2018 Updated Circulation Element of the General Plan which shows Linus Pauling Drive no longer connecting in the future as a City street.

There are several known utilities currently located in the existing right-of-way area. In its April 25, 2019 notice to the utility companies, the City stated it was our intent to relocate the existing known utilities into new utility easements where needed. S&H Code Section 8340 states that "If there are in-place utility facilities that are in use, a public entity shall, unless the legislative body determines the public convenience and necessity otherwise require, reserve, and except from the vacation any easement and right necessary to maintain, operate, replace, remove or renew the public utility facilities." Therefore, a condition has been included in 3.a of the draft resolution to provide for the continuance of various utilities through retention, relocation, or abandonment (which would only be done with the consent of the specific utility). As of the date of this staff report, we have received a comment letter from EBMUD (Attachment 4) but not from any other utilities with facilities within the area proposed to be vacated.

The City Council should open the public hearing to consider written and spoken testimony and evidence from any interested parties regarding the proposed vacation of a portion of the southeasterly right-of-ways of Linus Pauling Drive. Based on testimony and evidence received, the City Council may: 1) adopt the resolution vacating a portion of public right-of-ways, 2) continue the public hearing to another date, or 3) discontinue vacation proceedings.

ATTACHMENTS:

Attachment 1 – Resolution Approving the Vacation of public right-of-way within the southeasterly portions of Linus Pauling Drive

Exhibits A.1, A.2, B.1, & B.2: Plats and Legal Descriptions for abandonment area

Attachment 2 – City Council Resolution of Intent and Staff report of April 23, 2019

Attachment 3 - Planning Commission Resolution 19-04 and staff report of May 6, 2019

Attachment 4- Letter from EBMUD

Recording Requested by:

**City Clerk
City of Hercules
111 Civic Drive
Hercules, CA 94547**

RESOLUTION NO. 19-____

**APPROVING THE VACATION OF PUBLIC RIGHT-OF-WAY WITHIN
THE SOUTHERLY PORTIONS OF LINUS PAULING DRIVE
ABUTTING BAYFRONT BLOCK R**

WHEREAS, Linus Pauling Drive was dedicated for public use with the recordation Subdivision 6212 on August 20, 1984, in Book 281 of Maps at page 30, Contra Costa County Records and then constructed as part of subdivision 6212 improvements with the development of the North Shore Business Park with the potential to extend the street; and

WHEREAS, the remote location of the current dead end of Linus Pauling Drive has been a public nuisance for a number of years; and

WHEREAS, while updating the Circulation Element of the General Plan in February 2018 it was determined that the City would not need to connect Linus Pauling as a vehicular street through to John Muir Parkway as originally intended; and

WHEREAS, several utility lines are located within the proposed vacation area including at a minimum sanitary sewer, storm drain, water, and PG&E which are anticipated to be abandoned, relocated or kept in place and are contemplated to be completed as part of a future development; and

WHEREAS, said vacation of public right -of -way is generally shown on the attached Vacation Exhibits A & B, dated April 14, 2019, for Parcels C & D defined on the attached legal description and plats; and

WHEREAS, the City may consider unneeded public right-of-way for vacation pursuant to the California Streets and Highways Code Section 8300 *et. seq.* ("S&H Code"); and

WHEREAS, on April 23, 2019, the City Council adopted Resolution 19-020 declaring a Notice of Intent to vacate unnecessary public right-of-way within the southerly portion of Linus Pauling Drive and set a Public Hearing for May 14, 2019 in accordance with said sections of the Streets and Highway; and

WHEREAS, in accordance with S&H Code Section 8347 and 8321, the City provided written notice as well as email to the public utility entities commonly known to provide service in the City and its surrounding area of the proposed vacation of public right -of-way and the petitioner on April 25, 2019; and

WHEREAS, courtesy notices were also mailed to property owners within 300' of the proposed abandonment area on April 25, 2019; and

WHEREAS, in accordance with S&H Code Section 8323 notices were also posted in the field every 300' on the premises of the areas proposed to be vacated on April 27, 2019; and

WHEREAS, in accordance with S&H Code Section 8322 the notice of intent was published twice as required by law in a newspaper of general circulation on May 2 and May 7, 2019 with an abandonment area map.

WHEREAS, in accordance with S&H Code Section 8313 and pursuant to Government Code Section 65402, the Planning Commission passed Resolution 19-04 finding the proposed vacation of portions of right-of-way along the southeasterly portion of Linus Pauling Drive is in conformance with the City's General Plan; and

WHEREAS, a CEQA analysis was done through the adoption of the February 2018 of the Updated Circulation Element of the General Plan which removed Linus Pauling Drive from connecting to John Muir Parkway as part of the public street system; and

WHEREAS, on May 14, 2019, the City Council conducted a Public Hearing and considered written and spoken testimony and evidence from interested parties regarding the proposed vacation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hercules as follows:

1. The foregoing facts and circumstances are true and correct and incorporated herein by reference; and
2. The Council finds that based on all the evidence submitted that the southerly portion of Linus Pauling Drive vacation Area is "unnecessary for present or prospective public use" as a public street and determines that "the vacation area is not useful as a nonmotorized transportation facility" (per Sections 8324 and 892 respectively of the Streets and Highways Code); and
3. The Linus Pauling Drive Vacation Areas defined herein as Parcels C and D are vacated, effective upon the occurrence of the following conditions:
 - a) The existing utilities located within the vacation area shall be abandoned, relocated or retained in an appropriate new easement established that is necessary to maintain, operate, replace, remove, or renew the public utility facilities as determined by the City Engineer with any new easements being accepted by the City Engineer and City Clerk without going back to the City Council.
 - b) A new cul-de-sac bulb shall be dedicated to the City for roadway purposes to accommodate adequate vehicular turnarounds

4. Upon the occurrence of the foregoing conditions, the City Clerk is directed to record a certified copy of this Resolution in the office of the County Recorder.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the _____ day of _____, 2019 by the following vote of the Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

Dan Romero, Mayor

ATTEST:

David Biggs
City Manager/Deputy City Clerk

Abandonment Exhibits:

Exhibit A.1 & A.2 –Exhibits for Parcel C Plat and Legal Description
Exhibit B.1 & B.2 : Exhibits for Parcel D Plat and Legal Description

Exhibit A.1

Abandonment of a Portion of Linus Pauling Drive

Hercules, California

Parcel C

PLAT

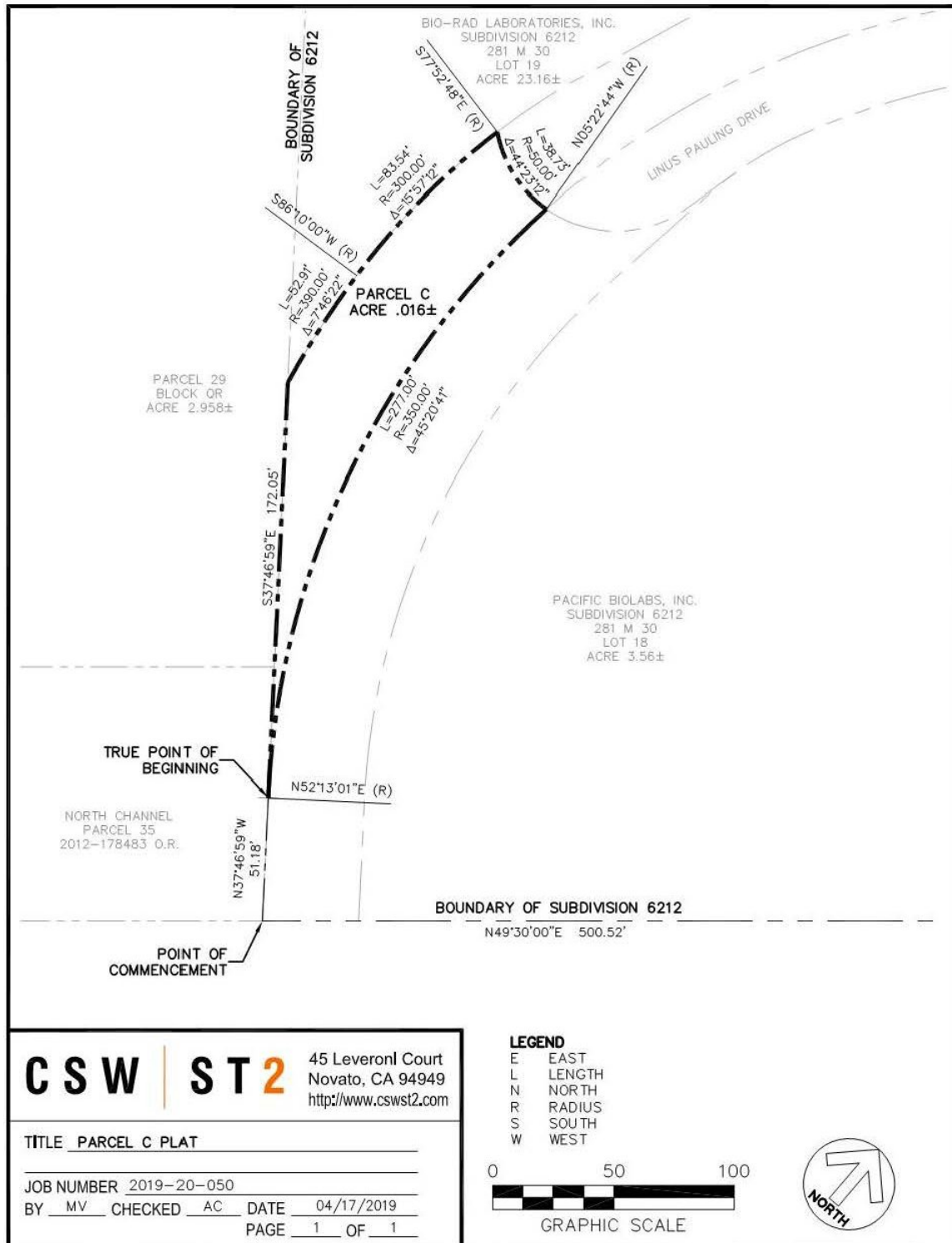


Exhibit A.2

Abandonment of a Portion of Linus Pauling Drive

Hercules, California

Parcel C

LEGAL DESCRIPTION

The City of Hercules hereby abandons a portion of Linus Pauling Drive as shown on that certain map of Subdivision 6812 , Recorded August 20, 1984 in book 231 of Maps at Page 30, Contra Costa County Records; Said portion of Linus Pauling Drive is more particularly described as follows.

Commencing at the Southerly terminus of the course described as "North 49°30'00" East 500.52 feet" on the Boundary of said Subdivision 6812; thence along said Boundary North 37°46'59" West 51.18 feet to the True Point of Beginning; thence leaving said boundary along the centerline of said Linus Pauling drive along the arc of a curve tangent to said Boundary and the preceding course, concave to the Northeast, whose center bears North 52°13'01" East, having a radius 350 feet, through a central angle of 45°20'41", an arc distance of 277 feet; thence leaving said centerline along the arc of a curve concave to the Northwest, whose center bears North 05°22'44" West, having a radius 50 feet, through a central angle of 44°23'12", an arc distance of 38.73 feet, to a point on the westerly right-of-way of said Linus Pauling Drive; thence along said right-of-way along the arc of a curve to the left, concave to the Southeast, whose center bears South 77°52'48" East, having a radius of 300 feet, through a central angle of 15°57'12", an arc distance of 83.54 feet; to a point of compound curve; thence along said compound curve, whose center bears South 86°10'00' West, having a radius of 390.00 feet, through a central angle of 07°46'22", an arc distance of 52.91 feet to a point on said Boundary; thence along said Boundary South 37°46'59" East 172.05 feet to the Point of Beginning.

Said Parcel contains 0.16 Acres more or less.

Exhibit B.1

Abandonment of a Portion of Linus Pauling Drive

Hercules, California

Parcel D

PLAT

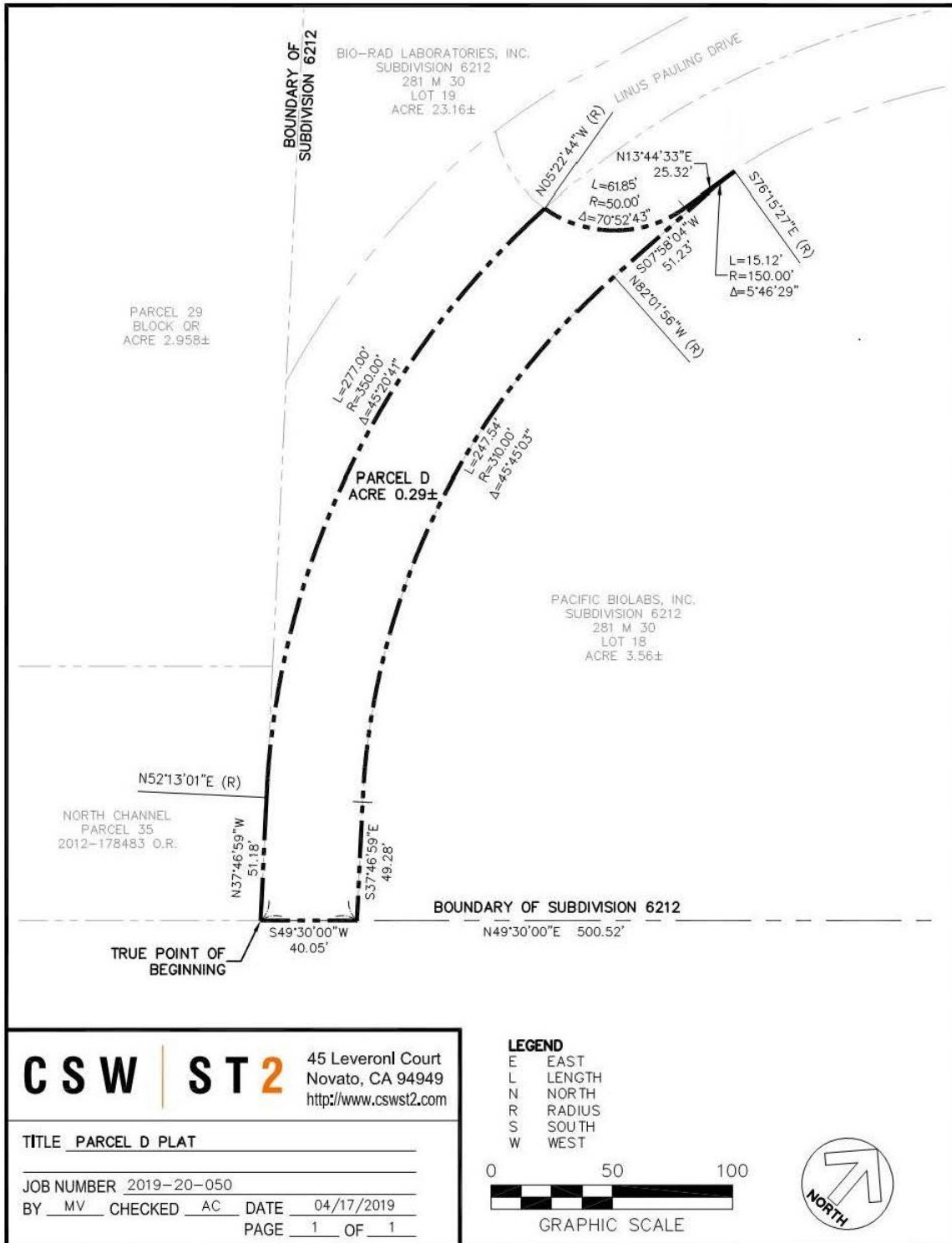


Exhibit B.2

Abandonment of a Portion of Linus Pauling Drive

Hercules, California

Parcel D

LEGAL DESCRIPTION

The City of Hercules hereby abandons a portion of Linus Pauling Drive as shown on that certain map of Subdivision 6812, Recorded August 20, 1984 in book 231 of Maps at Page 30, Contra Costa County Records; Said portion of Linus Pauling Drive is more particularly described as follows.

Beginning at the Southerly terminus of the course described as "North 49°30'00" East 500.52 feet" on the Boundary of said Subdivision 6812; thence along said boundary North 37°46'59" West 51.18 feet to the True Point of Beginning; thence leaving said Boundary along the centerline of said Linus Pauling drive along the arc of a curve tangent to the preceding course, concave to the northeast, whose center bears North 52°13'01" East, having a radius 350 feet, through a central angle of 45°20'41", and arc distance of 277 feet; thence leaving said centerline along the arc of a curve concave to the northwest, whose center bears North 05°22'44" West, having a radius of 50 feet, through a central angle of 70°52'43", and arc distance of 61.85 feet; thence North 13°44'33" East 25.32 feet to a point of tangency on the easterly right-of-way of said Linus Pauling Drive; thence along said right-of-way in a general southerly direction along the arc of a curve, concave to the Southeast, whose center bears South 76°15'27" East, having a radius of 150 feet, through a central angle of 05°46'29", an arc distance of 15.12 feet; thence South 07°58'04" West 51.23 feet to beginning of a tangent curve to the left; thence along the arc of said tangent curve having a radius of 310 feet, through a central angle of 45°45'03", an arc distance of 247.54 feet; thence South 37°46'59" East 49.28 feet to a point on said Boundary; thence along said Boundary South 40°30'00" West 40.05 feet to the Point of Beginning.

Said Parcel contains 0.29 Acres more or less.

RESOLUTION NO. 19-020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HERCULES DECLARING A NOTICE OF INTENT TO VACATE EXCESS PUBLIC RIGHT-OF- WAY WITHIN THE SOUTHERLY PORTIONS OF LINUS PAULING DRIVE ABUTTING BAYFRONT – BLOCK R AND SETTING A PUBLIC HEARING FOR MAY 14, 2019

WHEREAS, in 2000 the City adopted the “Waterfront District Master Plan” (WDMP). In 2008 the “Waterfront Now Initiative” was presented to the City Council, and the Council adopted the language of the ballot initiative with an additional “Section 4” being added to the original WDMP (often called the Bayfront Waterfront Plan, or the Initiative Plan or in this approval the HWDMP) without Alteration via Initiative Ordinance 440 on July 22, 2008; and

WHEREAS, further amendments to the Initiative, General Plan Amendment, Updates to Exhibits, and refinements to the HWDMP document were adopted through Council Ordinance 464 on January 10, 2012 to conform the HWDMP to the EIR documents; and

WHEREAS, on March 13, 2012 the City Council approved a Vesting Tentative Map, a Vesting Development Agreement, and an [Implementing Development Agreement](#) (IDA) (which was recorded June 15, 2012) covering the entire Bayfront-Waterfront Area rights and obligations between the owner and the City as development of the area progresses; and

WHEREAS, Exhibit L of the Implementing Development Agreement contains 91 conditions of approval related to the entire Bayfront project area with Condition #11 related to modifications to Linus Pauling Drive which states if the potential extension of the street was not feasible to connect to Street A in the Bayfront Project that the owner or successors would be responsible for constructing an emergency vehicle access between Linus Pauling and Bayfront as shown on the Vesting Tentative Map with any utility relocations and roadway improvements associated with the approved feasible option being the responsibility of the owner; and

WHEREAS, Condition #6 of the Planning Commission Resolution 18-05 approving Design Review Permit for Blocks Q&R states that “**Linus Pauling Abandonment**. Applicant shall use best efforts as reasonably determined by the City to procure and provide appropriate maps and legal descriptions in coordination with the City and pay all costs to process and secure abandonment of Linus Pauling Drive where the alignment is not needed after reconfiguration, to be implemented before issuance of certificates of occupancy.”

WHEREAS, the attached vacation Exhibit A shows the areas within the existing Linus Pauling Drive right-of-way that is anticipated to be needed for abandonment to meet the above mentioned approvals adjacent to Block R and consistent with the IDA; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hercules that it:

1. Declares its intent to Vacate excess public right-of-way within the southerly portions of Linus Pauling Drive as shown on the attached Vacation Exhibit A, generally described as follows:
 - a. Approximately .016 acres along the northerly half of Linus Pauling Drive adjacent to Assessor Parcel No. (APN) 404-181-012 owned by Bio-Rad Laboratories Inc - Noted as Parcel C on Exhibit A
 - b. Approximately .029 acres along the south-easterly side of Linus Pauling Drive adjacent to Assessor Parcels Nos. (APN) 404-183-005-2 owned by Hercules Real Est LTD Partnership (aka Pacific Biolabs, Inc business) -Noted as Parcel D on Exhibit A
2. Requires notices to be sent via certified mail return receipt requested to the various utilities within the area as well as to the adjacent property owners regarding the proposed "Vacation".
3. Directs the Planning Commission to determine if the Vacation is in conformity with the City's General Plan in accordance with the California Government Code Section 65402(a).
4. Sets Tuesday May 14, 2019 at 7:00pm in the City Council Chambers located at 111 Civic Drive, Hercules as the time and place for hearing all persons interested in the proposed vacation. These proceedings shall be conducted pursuant to the provisions of Section 8300 *et. seq.* of the Streets and Highways Code of the State of California.
5. Directs the Planning Director to cause notices of the proposed vacations to be conspicuously posted along the perimeter of each area for at least two (2) weeks prior to the date of said hearing. Such notices shall be posted not more than three hundred (300) feet apart, but in no event shall fewer than three (3) notices be posted per area.
6. This Resolution shall be published for two (2) consecutive weeks prior to the hearing in a newspaper of general circulation, printed and published in the City of Hercules, Contra Costa County, California.

The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Hercules held on the 23rd of April, 2019 by the following vote of the Council:

AYES:
NOES:
ABSTAIN:
ABSENT:

Dan Romero, Mayor

ATTEST:

Lori Martin, Administrative Services Director &
City Clerk

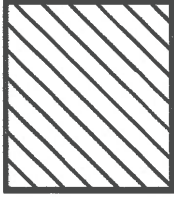
Exhibit A: Linus Pauling Drive Partial Abandonment

CSW | ST 2



LINUS PAULING DRIVE PARTIAL ABANDONMENT

LEGEND:



PROPOSED
ABANDONMENT
AREA





STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of April 23, 2019

TO: The Mayor and Members of the City Council

SUBMITTED BY: Holly Smyth, AICP Planning Director

SUBJECT: Notice of Intent to Vacate Excess public right-of-way within the southerly portions of Linus Pauling Drive per Government Code 8300 et seq and 65402 and CEQA 15312, 15060 (b)(3)

RECOMMENDED ACTION:

Adopt a Resolution of the City Council of the City of Hercules declaring a Notice of Intent to Vacate Excess right-of-way within the southerly portions of Linus Pauling Drive abutting the Bayfront Block R and setting a public hearing for May 14, 2019.

FISCAL IMPACT OF RECOMMENDATION:

There is no fiscal impact as the developer Ledcor will be funding the processing of the vacation, mapping, and per their Development Agreement is responsible for any modifications to pull the street back.

DISCUSSION:

The area of right-of-way considered for vacation is located just short of the dead end of Linus Pauling Drive adjacent to Block R of the Bayfront project north of John Muir Parkway (shown on Exhibit A to the Resolution). The Implementing Development Agreement for the Hercules Bayfront Project by and between the City of Hercules and Hercules Bayfront, LLC Exhibit L of contains 91 conditions of approval related to the entire Bayfront project area. Condition #11 relates to modifications to Linus Pauling Drive and states if the potential extension of the street to connect as a public street to the Bayfront project area were not feasible on adjacent property (currently owned by Bio-Rad in the North Shore Business Park) that the owner or successors would be responsible for constructing an emergency vehicle access (EVA) between Linus Pauling and the Bayfront project as shown on their approved Vesting Tentative Map with any utility relocations and roadway improvements associated with the approved feasible option being the responsibility of the owner. This work would also involve the abandonment of the non-connecting portion of Linus

Pauling Drive. Additionally, when the Design Review Permit for Blocks Q&R were approved by the Planning Commission and then further modified by the City Council, condition #6 required carrying out the various work components around the partial Linus Pauling Abandonment to be complete before certificates of occupancy would be issued on Blocks Q-R of the project with the developer paying all related costs. Now that Blocks Q-R are under construction it is now appropriate to carry out the partial abandonment process.

The proposed abandonment area contains approximately .306 acres between both halves of the street, generally described as follows:

- a. Approximately .016 acres along the northerly half of Linus Pauling Drive adjacent to Assessor Parcel No. (APN) 404-181-012 owned by Bio-Rad Laboratories Inc. – Noted as Parcel C on Exhibit A
- b. Approximately .029 acres along the south-easterly side of Linus Pauling Drive adjacent to Assessor Parcels Nos. (APN) 404-183-005-2 owned by Hercules Real Est LTD Partnership (aka Pacific Biolabs, Inc business) -Noted as Parcel D on Exhibit A

Based on the City's updated Circulation Element of the General Plan and other project approvals, Exhibit A to the Resolution shows the existing excess right-of-way that should not be needed over an aerial of the area. Some existing utilities are located in portions the proposed vacation area, which are in the process of completing approvals with the utility companies to be relocated adjacent to Blocks Q-R being constructed by Ledcor. Therefore, the proposed vacation would be conditioned to provide adequate assurance and easements for any relocation of utilities.

The procedure for vacating excess right-of way is established in California Streets & Highways Code Section 8300 *et. seq.* It requires the City Council to set a public hearing approximately 15 days in advance, publish a Notice of Intent twice in a newspaper of general circulation, and post the area that is proposed to be vacated. A draft Resolution with a location map showing the areas proposed to be vacated is contained in Attachment 1. The draft Resolution, if adopted, would set the public hearing for May 14, 2019. If on May 14th, the Council finds from all evidence submitted that the rights-of-way described in the notice of hearing is unnecessary for present or prospective public use, the Council may take action to adopt a resolution vacating the excess right-of-way.

Per Government Code Section 65402, prior to the public hearing by City Council, the Planning Commission must find that the proposed right-of-way vacation is in conformance with the General Plan. It is anticipated that the Commission will consider a Resolution of conformity at its May 6, 2019 meeting, prior to City Council action on vacation of excess right-of-way.

ATTACHMENTS:

Attachment 1 – Resolution with Exhibit

RESOLUTION NO. 19- 04

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HERCULES FINDING THAT THE VACATION OF PORTIONS OF RIGHT-OF-WAY ALONG THE SOUTHEASTERLY PORTION OF LINUS PAULING DRIVE IS IN CONFORMANCE WITH THE GENERAL PLAN

WHEREAS, California Streets and Highways Code Section 8300 *et. seq.* allows a City's legislative body to vacate all or part of a street, highway, or public service easement within the city; and

WHEREAS, California Government Code Section 65402 requires that no street shall be vacated or abandoned until the location, purpose and extent of such street vacation or abandonment have been submitted to and reported upon by the Planning Commission as to conformity with the City's adopted General Plan the City; and

WHEREAS, based on the proposed plans for improvements to the adjacent streets, certain sections of existing right-of-way are deemed unnecessary and are proposed to be vacated to be consistent with the Bayfront project approvals for Blocks Q & R and Implementing Development Agreement (IDA) and the current Circulation Element of the General Plan adopted February 2018; and

WHEREAS, the areas proposed to be vacated generally are described on Exhibit A as:

- 1) approximately .016 acres along the northerly half of Linus Pauling Drive - Noted as Parcel C on the exhibit - adjacent to Assessor Parcel No. (APN) 404-181-012 owned by Bio-Rad Laboratories Inc, and
- 2) Approximately .029 acres along the south-easterly side of Linus Pauling Drive - Noted as Parcel D on the exhibit - adjacent to Assessor Parcels Nos. (APN) 404-183-005-2 owned by Hercules Real Est LTD Partnership (aka Pacific Biolabs, Inc business).

WHEREAS, the proposed right-of-way vacation has been reviewed by the City's Planning Director, City Engineer /Public Works Director, and Contract land surveyor for the project who have determined the areas to be unnecessary right-of-ways and recommend that the portions of right-of-ways described and shown in the attached Exhibit A are no longer required for public street and highway purposes; and

WHEREAS, traffic sensitivity studies supporting the February 2018 Circulation Element of the General Plan determined that Linus Pauling Drive does not need to be connected as a City roadway to John Muir Parkway, see General Plan, Figure 3-1 Roadway Network diagram; and

WHEREAS, the Planning Commission has reviewed the proposed vacation of portions of right-of-way in conjunction with proposed Bayfront Blocks Q-R project and the staff report of May 6, 2019 regarding the current General Plan designation of Linus Pauling Drive.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission hereby finds that the proposed vacation of unnecessary right-of-way is in conformance with General Plan of the City of Hercules.

PASSED AND ADOPTED by the Planning Commission the City of Hercules on this 6th day of May 2019, by the following vote:

AYES: Susan Tolley, Ken Morrison, Nicole Sacramento, Hector Rubio, Irenia Galieva


NOES: None

ABSTAIN: None

ABSENT: None

Hector Rubio, Vice-Chairperson

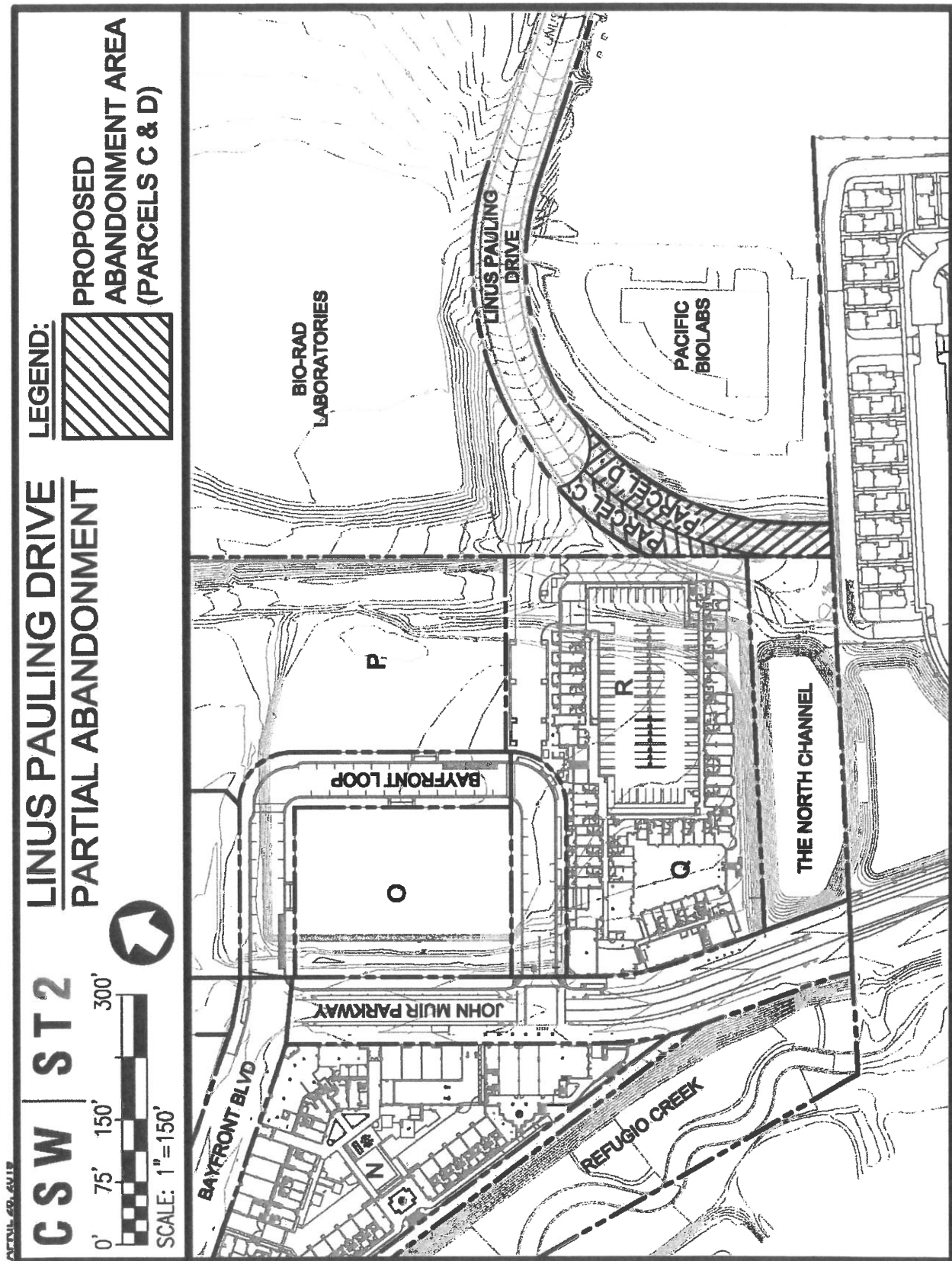
ATTEST:



Holly Smyth, Planning Director &
Secretary of the Planning Commission

Exhibit A: Vacation Exhibit

Exhibit A -Right-of-Way Vacation diagram





STAFF REPORT TO THE PLANNING COMMISSION

DATE: Regular Meeting of May 6, 2019
TO: Planning Commission
SUBMITTED BY: Holly Smyth, AICP, Planning Director
SUBJECT: Adopt Resolution 19-04 finding the proposed right-of-way vacation / abandonment of the southeasterly portion of Linus Pauling Drive is in conformance with the General Plan

RECOMMENDED ACTION:

Consider approving the attached draft Planning Commission Resolution 19-04 determining the vacation / abandonment of the southerly section of Linus Pauling Drive conforms to the Hercules General Plan.

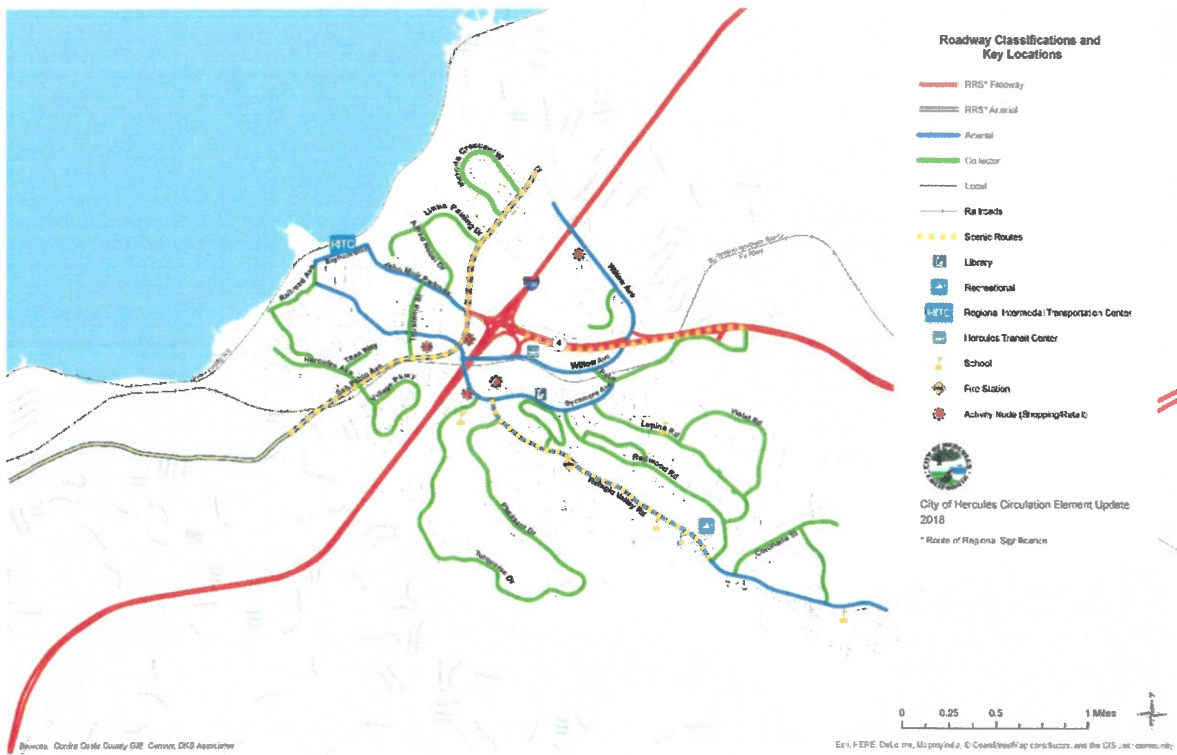
DISCUSSION/ BACKGROUND:

The proposed vacation area is located at the southeasterly portion of Linus Pauling Drive. The area consists of 0.016 acres along the northerly half of Linus Pauling and approximately 0.29 acres along the south-easterly side of Linus Pauling (labeled Parcels C and D respectively on the Partial Abandonment aerial drawing below).

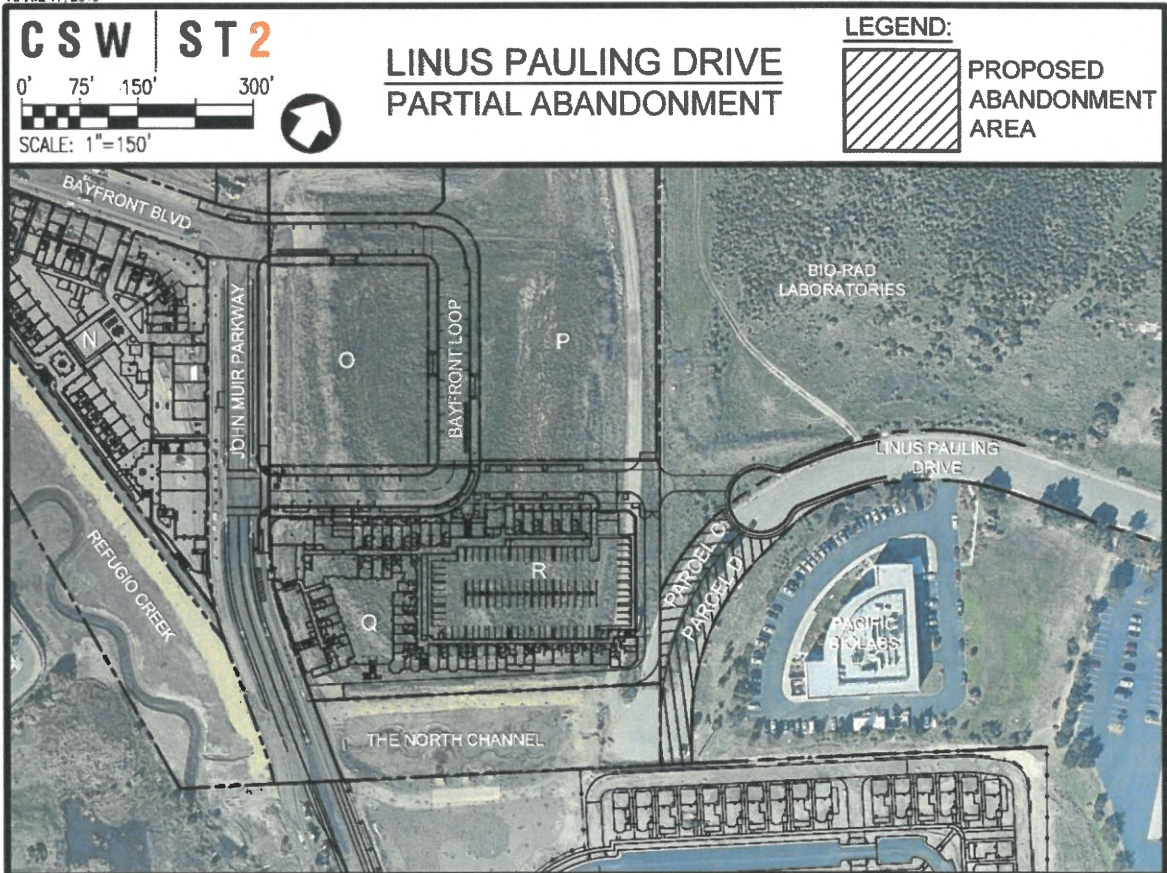
The old 1998 version of the Circulation Element of the General Plan had previously showed Linus Pauling connecting to John Muir Parkway in a 2010 buildout scenario. The Hercules Bayfront Waterfront District Master Plan (HWDMP) of 2008 (spurred on by the Initiative) and further amended 2012 Plan shows Linus Pauling potentially connecting to Street A within the Bayfront Project and then to John Muir Parkway. In 2012 an Implementing Development Agreement (IDA) between the City of Hercules and Hercules Bayfront, LLC was adopted and recorded with overall project conditions of approval contained in Exhibit L. These conditions allowed for a feasibility analysis to be conducted regarding connection of the roadway with some alternate emergency vehicle access options within the HWDMP areas.

While updating the Circulation Element of the City's General Plan, the feasibility and necessity of connecting Linus Pauling Drive was evaluated. Traffic models were conducted for traffic sensitivities within and connecting out of the North Shore Business Park area at full City build out. The studies determined that Linus Pauling Drive did not need to be connected as a City roadway for adequate circulation purposes to John Muir Parkway. The Adopted February 2018 update of the Circulation Element no longer shows Linus Pauling Drive connecting to John Muir Parkway as a city roadway per the below Figure 3-1 Roadway Network diagram from the document. The HWDMP has not yet been amended to reflect the removal of the connection point but the approval of the development project for Bayfront Blocks Q&R approved an option no longer Linus Pauling Drive as a street with a newly created emergency vehicle access being provided with their project.

Draft Resolution 19-04 has been prepared which finds that the proposed partial vacation is in conformity with the General Plan based on the above analysis with a line-drawn exhibit.



APRIL 17, 2019





May 9, 2019

City of Hercules
Planning Director
Attn: Holly Smyth
111 Civic Dr
Hercules, CA 94547
hsmyth@ci.hercules.ca.us
510-799-8251

Re: RE: Vacation of Southerly Portions of Linus Pauling Dr, Hercules, CA.

Dear Ms. Smyth,

This letter is in response to the notice dated April 25, 2019 in regards to the above referenced street vacation located at the southerly portion of Linus Pauling Drive in Hercules. EBMUD maintains water pipelines in the area of the proposed vacation.

EBMUD requests that an easement is reserved over the portions of the street to be vacated, pursuant to and in accordance with Section 8340 and 8341 of the Streets and Highway Code. Please see attached East Bay Municipal Utility District easement language.

Please provide written notice to myself, of any Resolution or Ordinance of Intention to Vacate within 10 days after adoption, in accordance with Section 8347 of the Streets and Highway Code.

If you should you have any questions, please contact me at (510) 287-1246 or by email at robert.korn@ebmud.com.

Regards,

A handwritten signature in black ink, appearing to read 'Rob Korn', with a long horizontal line extending from the end.

Rob Korn
Real Estate Representative

cc: Dustin LaVallee
Jeni McGregor
Jose Rios
Tracy Barrow

Attachments

Property Owner ("Grantor") hereby Grants to East Bay Municipal Utility District ("Grantee") and to its successors and assigns a perpetual easement and right-of-way for the purpose of laying down, constructing, reconstructing, removing, replacing, repairing, maintaining, operating and using, as the Grantee may see fit, any facilities necessary for the transmission of utilities, including all necessary braces, connections, fastenings and other appliances and fixtures, in, under, along and across that certain real property described in **Exhibit "A"** and shown on **Exhibit "B"**, attached hereto and made a part hereof.

TOGETHER with the right of ingress to and egress from said right-of-way and the right at all times to enter in, over and upon said right-of-way and every part thereof and also to use said right-of-way for all purposes connected with the laying down, constructing, reconstructing, replacing, removing, repairing, maintaining, operating and using said utilities.

The Grantor and the Grantor's heirs, successors, or assigns shall not place or permit to be placed on said right-of-way any building or structure, including but not limited to houses, garages, outbuildings, swimming pools, tennis courts, retaining walls, decks, and patios nor allow to be done anything which may interfere with the full enjoyment by the Grantee of the rights herein granted.

The above paragraph notwithstanding Grantor reserves the right to landscape the easement area in a manner consistent with the Grantee's use; however, such use by Grantor shall not include the planting of trees nor a change in the existing surface elevation (grade) of the easement area by more than one (1) foot without first having prior written consent of the Grantee.

The Grantee agrees that said utilities shall be constructed and maintained at a depth of at least eighteen (18) inches below the present surface of the ground.

The Grantee agrees upon the completion of any of its works hereunder to restore as near as possible the surface of the ground to the condition in which it was prior to the commencement of said work.