

**COUNTY OF SAN MATEO  
PLANNING AND BUILDING DEPARTMENT**

**DATE:** May 25, 2016

**TO:** Planning Commission

**FROM:** Planning Staff

**SUBJECT:** Consideration of a Petition to Vacate an Unused Public Right-of-Way submitted by the San Mateo County Real Property Division (Real Property) to determine if the proposed vacation of a 16.5-foot-wide alley extending northeast of Elmer Street, parallel to and 90 feet northwest of Harbor Boulevard, in the unincorporated area of Belmont, conforms to the County General Plan.

County File Number: PLN 2016-00131

**PROPOSAL**

The County Real Property Division requests, pursuant to Government Code Section 65402, a determination of whether vacation of a 16.5-foot-wide alley extending northeast of Elmer Street, parallel to and 90 feet northwest of Harbor Boulevard, in the unincorporated area of Belmont, conforms to the County General Plan. The paved alley is improved with a storm drain and PG&E facilities. The alley is not used for public vehicular circulation, does not connect to other public rights-of-way as it terminates within private property, and is not maintained by the County, including the storm drain.

**RECOMMENDATION**

That the Planning Commission find, by making the findings listed in Attachment A, that the proposed vacation conforms to the applicable policies of the County General Plan.

**BACKGROUND**

Report Prepared By: Joe LaClair

Appellant: N/A

Applicant: San Mateo County Real Property Division

Owner: Fee title to the alley was originally held by California Pacific Title and Trust Company, the original owner who recorded the subdivision dedicating the platted right-of-way to the County. Now, the fee owners are likely to be the six adjacent owners, per Streets and Highways Code Sections 8350 et seq.

Location: Adjacent to APN(s): 046-030-320, 046-030-310, 046-030-030, 046-030-570, 046-030-580 and 046-030-590, and lies northeasterly of the north line of Elmer Street, in unincorporated Belmont.

APN(s): 046-030-590 (Adjacent parcel to alley)

Size: 7,376 square feet

Existing Zoning: M-1

General Plan Designation: General Industrial

Sphere-of-Influence: Belmont

Existing Land Use: Paved and improved with a subterranean storm drain and four PG&E poles with overhead wires.

Water Supply: Mid-Peninsula Water District

Sewage Disposal: Harbor Industrial Sewer District

Flood Zone: Zone X, FEMA Panel 06081C0169E

Environmental Evaluation: General Plan Conformity analysis is not a project, per California Environmental Quality Act (CEQA) Guidelines Section 15378.

Setting: The area of the subject property is characterized by light industrial development (lumber sales, biotech, indoor recreation) with no tree cover.

## **DISCUSSION**

### **A. KEY ISSUES**

1. The San Mateo County Real Property Division, in response to a petition from ten freeholders, submitted pursuant to Streets and Highways Code Section 8321(a), has requested an analysis as required by Government Code Section 65402, of whether vacation of the County's public right-of-way conforms to the County General Plan.

The right-of-way is generally not used by the public, but is used occasionally for vehicular access at the rear of the industrial properties fronting on Harbor Boulevard. The alleyway was intended to be used in conjunction with an adjoining railway easement (a spur line), which was either never developed or has since been abandoned and paved over. The rail right-of-way is not owned by a railroad. The right-of-way is unnecessary for any future public use of the property, or for providing access to other properties nearby. The County did not install use or maintain the storm drain line located within the right-of-way. The petitioners have agreed, at the request of the Department

of Public Works, to accept responsibility for the ongoing maintenance of the storm drain. Also, the petitioners have agreed to record an easement for PG&E over the property for its current and future power conveyance facilities.

General Plan Policy 12.23, Vacation of County Streets and Easements, states:

“In reviewing requests for sale, vacation, or abandonment of County streets, rights-of-way, or easements, consider the following:  
a. whether access is available to existing parcels and developed areas adjacent to the subject area, or possible future development based on adopted area plans; b. whether the area to be vacated is not required for public transit use based on adopted plans; and c. whether the area to be vacated is not suitable for non-motorized use.”

The proposed vacation conforms to all of these considerations. The area is fully developed; adjacent public rights-of-way, including Harbor Boulevard, Elmer Street, and O’Neill Avenue, provide access to all adjacent parcels; and the existing easement was never needed to provide such access. Similarly, the easement is not required for public transit, because adjacent rights-of-way provide sufficient access, and the easement is not suitable for transit use. The easement is also entirely unsuitable for non-motorized use, because the easement is currently used as a utility easement, is discontinuous between public rights of way, and does not and cannot confer any present or future rights of public access or passage of any kind across the public right-of-way, via motorized, non-motorized, or any other means of conveyance.

The proposed easement vacation area will likely be divided among the adjoining property owners. The existing General Plan land use designation for the right-of-way area, as well as the existing zoning, would persist, and all development would continue be regulated by these designations. In addition to conformity with General Plan Policy 12.23, the proposed vacation does not contradict any other applicable policies of the County’s General Plan.

The requirement that the disposition of a public property, such as a public right-of-way, be examined for its conformity with the adopted General Plan is articulated in California Government Code Section 65402(a). Generally speaking, that Section requires the planning agency (in this case, the Planning Commission) to “report as to conformity with said adopted general plan or part thereof” prior to the disposition of the property. Here, the analysis supports the recommendation of staff that the abandonment of the public’s interest in the use and enjoyment of the right-of-way, which is the entire scope of the project, is in conformity with the General Plan. The

rights of private individuals to use the property flow from sources other than its designation as a public right-of-way. These rights would survive any action taken to abandon solely the public's rights flowing from the Board of Supervisors' acceptance of the public dedication. In other words, private rights of access could only be extinguished by a separate type of process, and should not be affected by the action proposed by the County here. A different result might flow from a finding that the abandonment of the right-of-way would result in a parcel being completely inaccessible, but that is not a consequence of the proposed action here.

B. ALTERNATIVES

The Planning Commission could find that the proposed vacation does not conform to the policies of the County General Plan.

C. ENVIRONMENTAL REVIEW

Analysis of conformity of the vacation of the easement is not a project under the California Environmental Quality Act, and requires no review.

D. REVIEWING AGENCIES

Real Property Division  
County Counsel  
Public Works

ATTACHMENTS

- A. Recommended Findings
- B. Map of Parcel and Easement

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County of San Mateo  
Planning and Building Department

**RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL**

Permit or Project File Number: PLN 2016-00131

Hearing Date: May 25, 2016

Prepared By: Joe LaClair

For Adoption By: Planning Commission

**RECOMMENDED FINDINGS**

Find and determine that the proposed vacation of the Unused Public Right-of-Way (Alley), a 16.5-foot-wide alley extending northeast of Elmer Street, parallel to and 90 feet northwest of Harbor Boulevard, in the unincorporated area of Belmont, conforms to the County General Plan as shown on the attached map, conforms to General Plan Policy 12.23, and is consistent with all other policies of the County General Plan.

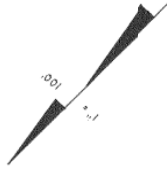
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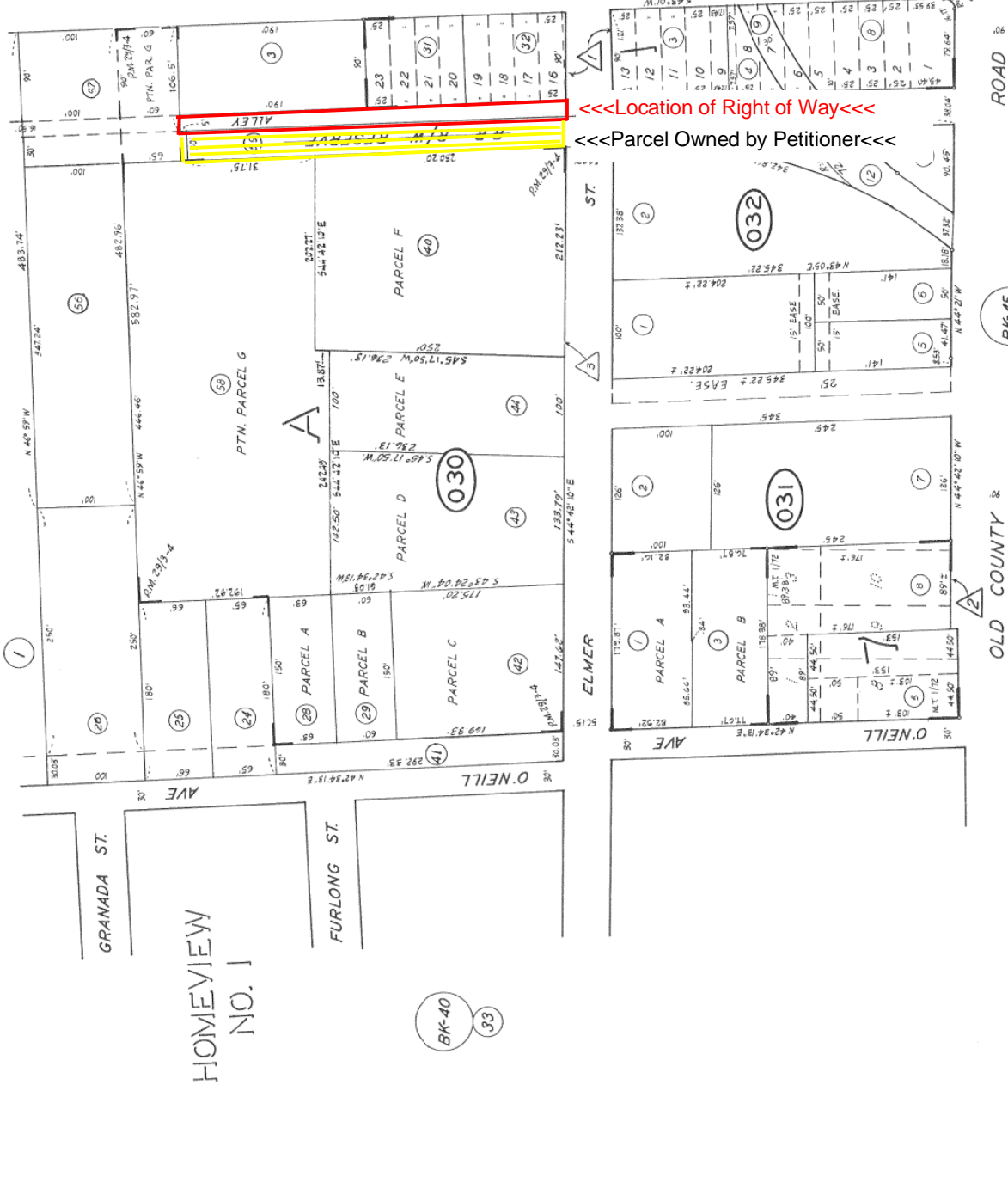
# **ATTACHMENT B**

46-3



TAX CODE AREA

B.L.V.D.



<<<Location of Right of Way<<<

<<<Parcel Owned by Petitioner<<<

- △ PARCEL MAP VOL 44/41
- △ PARCEL MAP VOL 29/3-4
- △ PORT SAN FRANCISCO PTN OF RSM 16/27
- △ MOLITOR TRACT PTN. OF RSM 1/72

BAY VIEW HEIGHTS NO.3

BK-45

OLD COUNTY

ASSESSOR'S MAP COUNTY OF SAN MATEO CALIF.