

COUNTY OF SAN MATEO
ENVIRONMENTAL SERVICES AGENCY
PLANNING AND BUILDING DIVISION

DATE: January 23, 2002

TO: Planning Commission

FROM: Planning Staff

SUBJECT: EXECUTIVE SUMMARY: Consideration of a request to determine if vacation of a road right-of-way conforms with the San Mateo County General Plan.

PROPOSAL

A petition has been filed with the County requesting vacation of an approximately 1,291 sq. ft. portion of the C Street right-of-way in unincorporated Colma. This action, if approved by the Board of Supervisors, would terminate the public's right to use this portion of C Street. The item involves determining whether the vacation conforms with the County General Plan.

RECOMMENDATION

Find that the proposed vacation conforms with the County General Plan.

BACKGROUND

The proposed vacation conforms with the General Plan, primarily since it does not affect an adjacent parcel's access to the traveled roadway and the site is not needed for public transit nor designated as a recreational trail or bikeway. Generally, the Board of Supervisors policy on right-of-way vacations, issued February 8, 2000, prohibits the placement of structures within the boundaries of a vacated right-of-way. For the subject right-of-way, however, maintenance of the private access corridor in this location is not necessary or appropriate, as this portion of C Street and the adjacent parcels are all under the same ownership and surrounding parcels have other permanent means of access.

The proposed vacation also complies with the Colma BART Station Area Plan. SamTrans intends to use the vacated right-of-way and adjacent parcels for the use designated in the Area Plan, housing above ground floor commercial space.

AB:fc - AHBL2963_WFU.DOC

COUNTY OF SAN MATEO
ENVIRONMENTAL SERVICES AGENCY
PLANNING AND BUILDING DIVISION

DATE: January 23, 2002

TO: Planning Commission

FROM: Planning Staff

SUBJECT: Consideration of a request to determine if vacation of a road right-of-way conforms with the San Mateo County General Plan pursuant to Government Code Section 65402.

File Number: PLN 2001-00813

PROPOSAL

A petition has been filed with the County requesting vacation of an approximately 1,291 sq. ft. portion of the C Street right-of-way in unincorporated Colma. These actions, if approved by the Board of Supervisors, would terminate the public's right to use this portion of C Street. The item involves determining whether the vacation conforms with the County General Plan.

The applicant is petitioning for the vacation of the subject right-of-way in order to increase the size of the adjacent parcels. SamTrans intends to use the vacated right-of-way and adjacent parcels as the site of the Colma BART Apartments, a mixed-use building with approximately 144 housing units and 3,000 sq. ft. of ground floor commercial space.

RECOMMENDATION

Find that the proposed vacation conforms with the County General Plan.

BACKGROUND

Report Prepared By: Allison H. Borden, Project Planner, Telephone 650/363-4061

Applicant: Real Property Division/County Manager's Office

Owner: SamTrans

Location: Between Nevin Way and Albert M. Teglia Boulevard, west side of El Camino Real

APN: Between parcels 008-122-030, 008-122-070, and 008-122-110

Size: Approximately 1,291 sq. ft.

Existing Zoning: Planned Colma (PC) District

General Plan Designation: High Density Residential (HDR)

Sphere-of-Influence: Daly City

Existing Land Use: Undeveloped, with a grove of eucalyptus trees and other vegetation

Environmental Evaluation: Exempt, Class 12 – Surplus Government Property; prior environmental review completed under BART Station Area Specific Plan EIR (Master EIR), September 1994.

Setting: The rectangular shaped portion of the C Street right-of-way is between three existing parcels in unincorporated Colma, which are bounded by the Colma BART Station/parking lot to the west, El Camino Real to the east, Nevin Way to the north and Albert M. Teglia Way to the south. C Street is a 60-foot wide right-of-way that was offered and accepted by the Board of Supervisors as a public road, as part of the 1870 recordation of the City Extension Homestead Association Subdivision Map. The proposed area is fairly level, with a gentle slope away from El Camino Real. It is covered with grasses and other vegetation, and contains a grove of mature eucalyptus trees. Teglia Boulevard and the Colma BART parking lot are retained at a higher elevation.

DISCUSSION

A. KEY ISSUES

1. General Plan Conformity

California Government Code Section 65402 states that the County may not dispose of any property until it is determined that the disposal conforms with the General Plan. The proposed vacation complies with the General Plan and with the Colma BART Station Area Plan, which is part of the General Plan.

The General Plan's Transportation Chapter (Policy 12.17) allows vacation approval of a County street or right-of-way when:

- a. Access is available to existing parcels, adjacent developed areas, or future development;
- b. The area to be vacated is not required for public transit; and
- c. The area to be vacated is not designated as a recreational trail or bikeway in an adopted General Plan, area plan, or bikeways plan.

The proposed vacation complies with each of these conditions. Vehicular and utility access to adjacent parcels would not be disrupted by the vacation. Also, the site is not needed for public transit nor is it designated as a recreational trail or bikeway in the General Plan.

2. Existing Policy

On February 8, 2000, the Board of Supervisors issued a policy specifying how a vacated right-of-way may be used for development purposes. In general, this policy prohibits the placement of structures (other than a driveway, walkway, or similar private access way) within the boundaries of a vacated right-of-way, but allows underlying property owners to use a specified portion of the vacated right-of-way for setback purposes. More particularly, should private access rights exist in the right-of-way after vacation, the policy establishes that a corridor be left open for access, corresponding with the standard "travel way" width for a street at that location, as determined by the Department of Public Works. This easement corridor would, to the degree feasible, be located at the middle of the vacated street. Any remaining portion of the former right-of-way may be used for setback purposes (see Attachment D, Policy on Vacation of Streets).

For the subject right-of-way, the policy requiring retention of a private access corridor at the center of the right-of-way is not necessary or appropriate, as this portion of C Street and the adjacent parcels are all under the same ownership. Parcels surrounding the development site have other permanent means of access. Furthermore, structures are shown in this portion of C Street in "Exhibit 8: Illustrative Plan" in the Colma BART Station Area Plan.

B. REVIEWING AGENCIES

Project referrals were sent to the San Mateo County Department of Public Works, San Mateo County Parks and Recreation Division, Cal Water District, North County Sanitary District, Colma Fire Protection District, Broadmoor Police Department, Daly City Planning Department, and City of Colma Planning Department.

ATTACHMENTS

- A. Recommended Findings and Conditions of Approval
- B. Location Map/Site Map
- C. Exhibit 8, taken from the *Colma BART Station Area Plan*
- D. Policy on Vacation of Streets

AB:fc - AHBL2964_WFU.DOC

County of San Mateo
Environmental Services Agency
Planning and Building Division

RECOMMENDED FINDINGS AND CONDITIONS OF APPROVAL

Permit or Project File Number: PLN 2001-00813

Hearing Date: January 23, 2002

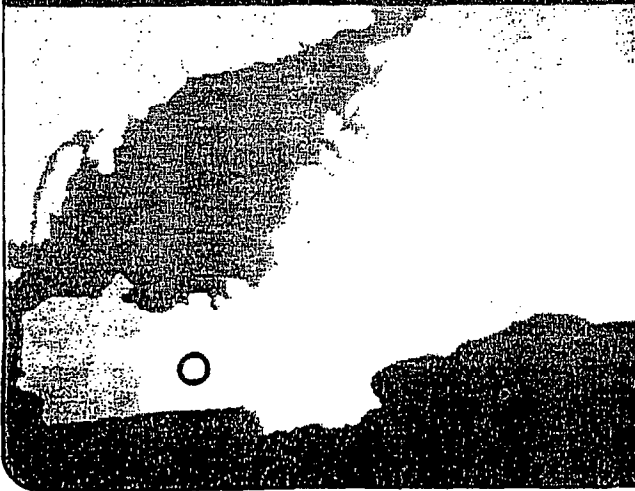
Prepared By: Allison H. Borden, Project Planner

For Adoption By: Planning Commission

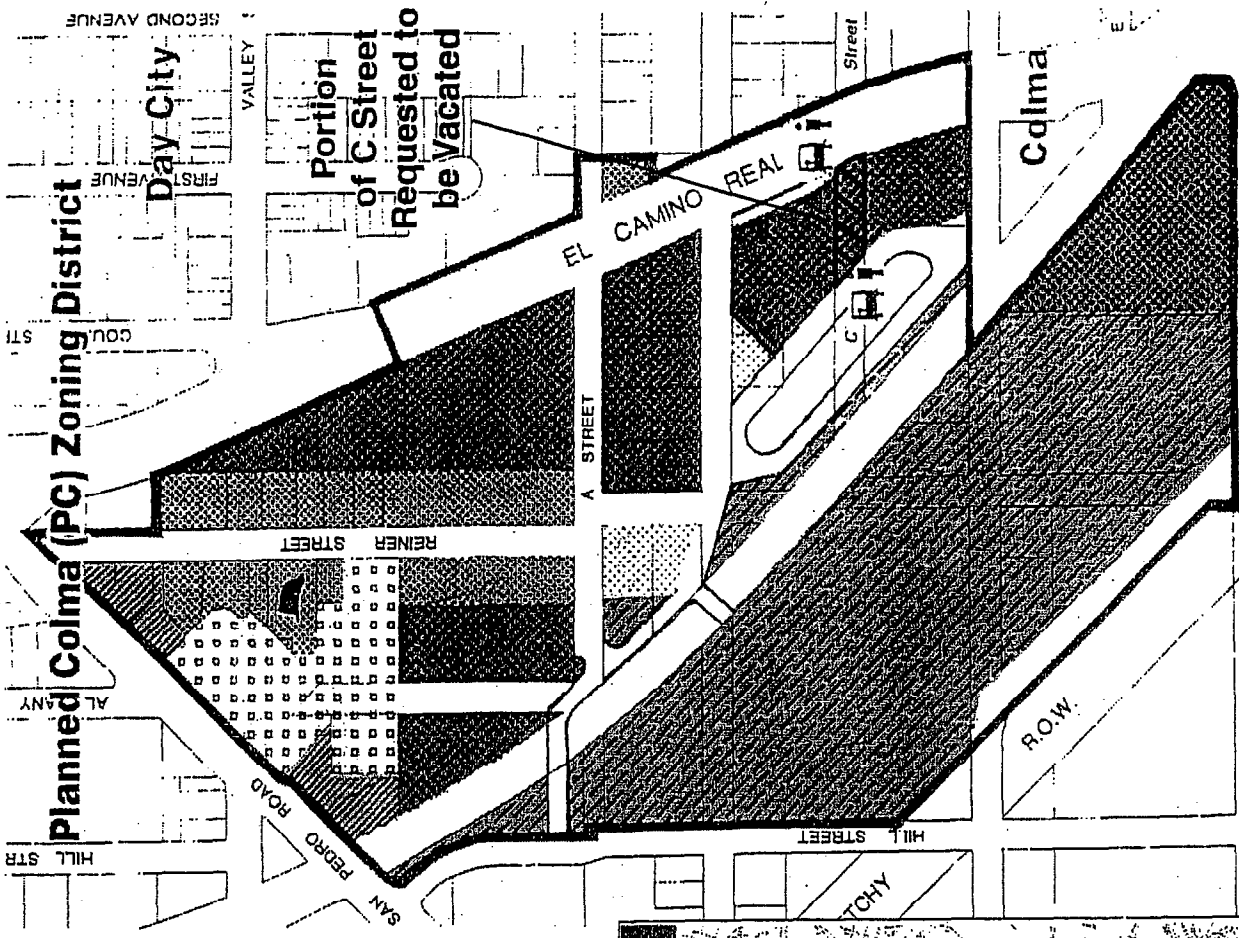
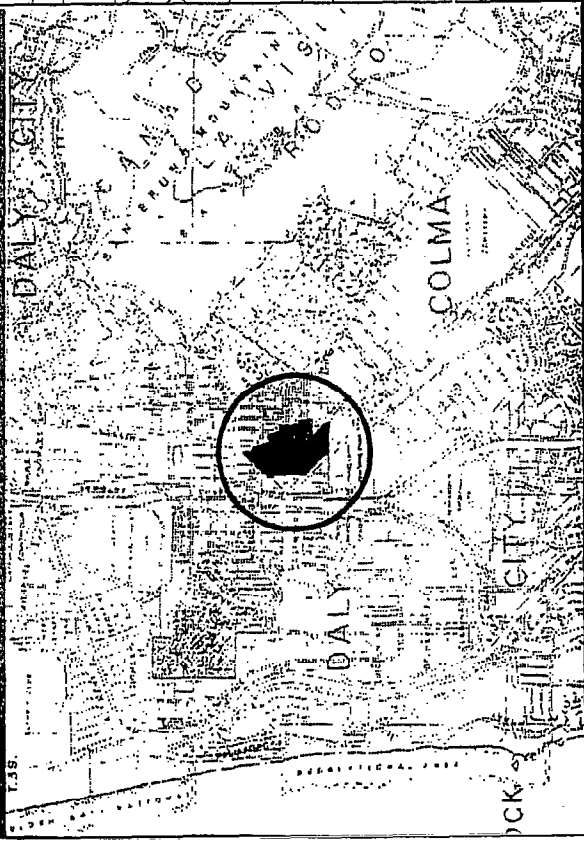
RECOMMENDED FINDING

Find that the proposed vacation of an approximately 1,291 sq. ft. portion of the C Street right-of-way in unincorporated Colma conforms with the County General Plan.

AB:fc - AHBL2964_WFU.DOC



General Location



- Area Designations**
- High Density Residential/Design Review
 - Medium High Density Residential/Design Review
 - Low Density Residential/Future Public Recreation/Festive Path
 - Neighborhood Commercial (Residential Above)/Design Review
 - Transportation Facilities
 - Institutional
 - Kiss-n-Ride
 - Fire Station (existing)
 - Ground Floor Retail

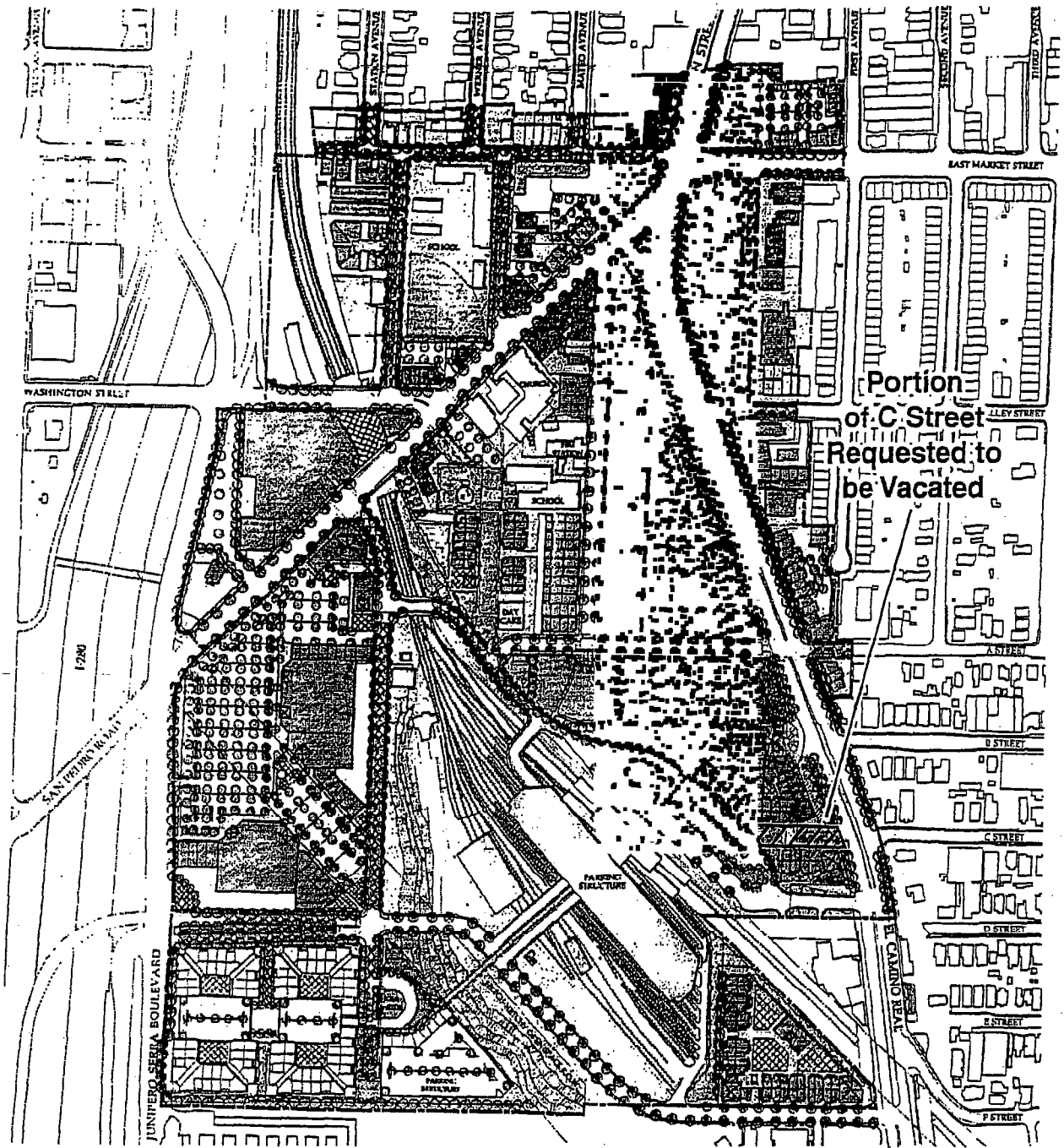
San Mateo County Planning Commission Meeting

Applicant: SamTrans

File Numbers: PLN2001-00813

Attachment: B





Portion
of C Street
Requested to
be Vacated

DAVID E. MILLER
AND
CALTHORPE ASSOCIATES
BART

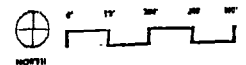
BAY AREA ECONOMICS
FEIN & PEERS ASSOCIATES, INC.
ZUCKERMAN ENGINEERING
DONALD BALLANTYNE
ILLINGWORTH & EDDIN INC.
HENN ETZEL & MELLON

ILLUSTRATIVE PLAN

BART STATION AREA SPECIFIC PLAN
DALY CITY AND SAN MATEO COUNTY, CALIFORNIA

FOR
SAN MATEO COUNTY • DALY CITY • SAM TRANS

- PUNJON APARTMENTS
- COURT YARD APARTMENTS
- HIGH RISES
- SINGLE FAMILY
- NEIGHBORHOOD COMMERCIAL
- COMMERCIAL OFFICE APARTMENT
- NEIGHBORHOOD COMMERCIAL (RESIDENTIAL ABOVE)
- MIXED USE OFFICE
- PUBLIC USE ASSEMBLY
- PARK & RECREATION SPACE
- PAVEMENT



San Mateo County Planning Commission Meeting

Applicant: SamTrans

Attachment: C

File Numbers: PLN2001-00813



ADOPTED: February 8, 2000

COUNTY OF SAN MATEO

BOARD OF SUPERVISORS

POLICY ON VACATION OF STREETS

It shall be the policy of the San Mateo County Board of Supervisors that a request for any vacation of a street or road be processed, reviewed and considered in accordance with the following procedures and attached exhibits:

1. Legal Foundation

County Counsel has issued a series of legal opinions regarding street vacations. These collectively describe the legal parameters for considering vacation requests, and are attached as Exhibit A. A summary of Exhibit A appears below:

- a. At the time of subdivision, the subdivider may be required to dedicate to the County public access rights for future street development and use.
- b. The owner of a subdivided lot typically holds fee title to the center of the abutting street, but has no right to possess or occupy that area.
- c. The owner of a subdivided lot may possess private easement rights to use all of the streets in the subdivision, including undeveloped streets, for access.
- d. The County may only use a dedicated street for street purposes or a purpose consistent with that of a street. The County cannot use the land for a public purpose that is different from the original intent of dedication.
- e. County use of a street for non-street purposes could also conflict with the fee title rights held by the abutting owner, and the private easement rights held by all lot owners in the subdivision.
- f. The Board of Supervisors may vacate a dedicated street upon finding that it is unnecessary for street purposes, and that such vacation is in the public interest.
- g. Prior to the Board of Supervisors acting on street vacation request, the Planning Commission shall determine whether the vacation conforms with the County General Plan.
- h. Vacation of a street does not eliminate or otherwise affect any property rights other persons may have in the area to be vacated.

2. Role of the Real Property Division

The Real Property Division is the primary agency charged with coordinating review and processing of street vacation requests. The Division's operating procedures are included as Exhibit B. A summary of Exhibit B appears below:

a. Authority

The Public Streets, Highways and Service Easements Vacation Law (California Streets and Highways Code Section 8300 et seq.) allows property owners to file a petition requesting the Board of Supervisors to vacate a street or public utility easement. It also allows for the Board to initiate vacation of a street or easement without the filing of a petition. Adopted County resolutions: (1) designate the Assistant County Manager as the agent of the Board of Supervisors with whom petitions are filed, and (2) establish a petition filing fee based on staff processing costs.

b. Pre-application Procedures

After becoming informed that an individual intends to file a vacation request, the Real Property Division determines whether the County holds an interest in that street or easement, and whether the County's interest includes ownership of fee title to the land.

If an interest is held by the County, the Real Property Division requests that the Public Works Department determine whether the street or easement is needed for current or future public use. The Real Property Division also requests that the Planning Division determine whether the proposed vacation conforms with the General Plan and other local plans.

c. Petition Review Process

When a petition for vacation is filed, and fees paid, the Real Property Division processes the petition in accordance with the Vacation Law.

The Real Property Division transmits the proposal to the Board of Supervisors for consideration only after the following tasks are completed:

- (1) Notice of the filed petition has been sent to all affected parties, including (a) affected County departments and local agencies, including the C/CAG Bikeways Committee, (b) property owners within 300 feet of the area to be vacated, (c) homeowner's associations within the local area, (d) community councils within the local area, and (e) public utility providers.
- (2) The Planning Commission, upon referral by the Planning Division, has made a determination whether or not the vacation conforms to the County General Plan and adopted local plans.

- (3) The Assistant County Manager has prepared and submitted a written report to the Board of Supervisors regarding the proposed vacation, including: (a) all correspondence and input received from the notified affected parties, (b) the Planning Commission's determination regarding General Plan conformity, and (c) analysis and recommendation as to whether the vacation should be approved.

d. Determination Whether a Street is Necessary and Whether Vacation is in the Public Interest

In determining whether it is in the public interest to vacate the street or utility easement, the Real Property Division, based on input from the Public Works Department and Planning Division as appropriate, considers the following:

- (1) Whether the street or easement has been used for access by the public,
- (2) Whether the street or easement is needed for future public street, pathway or utility purposes,
- (3) Whether the street is needed or useful for non-motorized transportation purposes (i.e., pedestrian/bicycle/equestrian paths), and whether it is practical and economical to construct a trail or path.
- (4) Where existing structures have been built in the right-of-way with building permits, the detriment to the affected landowner if the vacation is not granted.

3. Role of the Planning Division

The Planning Division's role in the street vacation process is to analyze the request and make a recommendation to the Planning Commission as whether it conforms with the County General Plan, including applicable area and community plans. The Planning Division tasks are as follows:

a. Pre-application Review Process

Before a petitioner submits a street vacation application, the Real Property Division requests that the Planning Division conduct a "pre-application" review. This preliminary assessment of general plan conformity is intended to alert the petitioner to planning issues that may arise should the application proceed.

b. Application Review Process

Upon filing a petition for street vacation, the Real Property Division again refers the request to the Planning Division for formal determination whether the proposed vacation conforms with the County General Plan.

The request is processed as a General Plan Conformity (GPC) project. The key elements of GPC project review are (1) assessing whether the street vacation conforms

with adopted County plans, (2) determining the development implications of the street vacation, and (3) assessing whether future development would conform with adopted plans.

(1) Assessing Street Vacation for General Plan Conformance

The principal planning policy relevant to street vacation is General Plan-Transportation Chapter Policy 12.17 Vacation of County Streets and Easements, which is attached as Exhibit C. The policy establishes the following criteria for evaluating a street vacation request, and includes determining whether:

- (a) Access is available to existing parcels, adjacent developed areas, or future development;
- (b) The area to be vacated is not required for public transit; and
- (c) The area to be vacated is not suitable for non-motorized use, e.g., recreational trail or bikeway.

To determine whether access would be available after vacation (a., above), the Planning Division conducts a site visit, reviews County right-of-way maps, and consults with the Public Works Department.

To determine whether the site is required for public transit (b., above), the Planning Division reviews local transit agency route maps and plans, and consults with transit agency staff. Depending on site location, this includes discussions with SanTrans, Joint Powers Board (CalTrain), and BART staff.

To determine whether the site is suitable as a trail or bikeway (c, above), the Planning Division would:

1. Review General Plan trail planning policies and maps, and depending on location, review trail planning policies and maps of the Local Coastal Program, Skyline Area Plan, Montara, Moss Beach, and El Granada Community Plan, North Fair Oaks Community Plan, Emerald Lake Hills Community Plan, and Colma Specific Plan, and other plans which may be adopted.
2. Review the trail planning policies and maps of County Trails Plan and C/CAG Bikeways Plan, and, depending on location, consult with the Parks and Recreation Division, State Parks, Coastal Conservancy, and Mid-Peninsula Regional Open Space District regarding trail suitability.
3. Conduct a site visit to evaluate trail suitability based on topography and other land features.

Should a portion of the area proposed for vacation be considered as suitable for an existing or planned trail or bikeway, the Planning Division would likely recommend that the area not be included in the vacation request.

Should the entire area proposed for vacation be considered as suitable for an existing or planned trail or bikeway, the Planning Division would likely recommend that the proposal be found not to conform with the General Plan.

(2) Determining Future Development Implications

As indicated, the owner of a subdivided lot usually holds title to the center of the abutting street, but has no right to possess or occupy that area. Zoning development standards are measured from the right-of-way boundary, which is typically referred to as the property line. An owner of a subdivided lot may also possess a private right to use the subdivision streets for access.

The Planning Director has issued a policy specifying the extent to which a vacated street may be used for development purposes. This policy appears as Exhibit D, and is summarized below:

The placement of structures (other than a driveway, walkway, or similar private accessway) within the boundaries of a vacated street is prohibited.

However, a specified portion of a vacated street may be used for compliance with zoning setback standards only, i.e., may not be used for compliance with zoning development standards other than setbacks. This area is determined as follows:

- (a) Where private access rights exist, the Planning Division delineates an easement corridor within the vacated street that must remain open for private access by owners within the subdivision.
- (b) The width of the easement corridor within the vacated street would correspond with the standard "travel way" width for a street at that location, as determined by the Public Works Department. The easement corridor would, to the degree feasible, be located at the middle of the vacated street.
- (c) Any remaining portion of the vacated street located outside the easement corridor may be used for compliance with setback standards only.

This procedure is solely to determine the area that may be used for compliance with zoning setback standards, and in no way eliminates or otherwise affects existing private access rights.

(3) Assessing Future Development for General Plan Conformity

The Planning Division comprehensively reviews all General Plan policies and other adopted plan policies to determine whether future development resulting from the street vacation would conform with these documents.

Should potential development resulting from a proposed vacation not conform with the General Plan, the Planning Division would likely recommend that the vacation: (1) be conditioned with mitigation measures to attain conformity, or (2) be deemed not to conform.

(4) Transmittal to the Planning Commission

The Planning Division transmits a street vacation proposal to the Planning Commission for determination of General Plan conformity after the following tasks are completed:

- (a) A project description has been sent to all affected County departments, public agencies, including neighboring cities, public utility providers, community councils, and homeowners' associations within the affected area for review, comment and recommendation. At least 30 days would be provided for response.
- (b) A written report has been prepared which includes: (1) an analysis of the proposal for general plan conformity, (2) a description of all comments, including suggested conditions, made by the referral agencies or organizations, and (3) the Planning Division's recommendation. The staff recommendation may include conditions that are necessary to attain General Plan conformity, as well as conditions suggested by the referral agencies and organizations.
- (c) Written notice of the scheduled Planning Commission meeting has been mailed to: (1) all referral agencies and organizations, and (2) all property owners within 300 feet of the street proposed for vacation.

(5) Planning Commission Action

The Planning Commission holds a public hearing to allow additional public comment and testimony. The hearing would culminate with a decision whether the proposed vacation conforms to the General Plan.

4. Board of Supervisors' Action

Following the Assistant County Manager's transmittal of the street vacation request to the Board of Supervisors, the Board would hold a public hearing to allow for public comment and testimony.

The Board of Supervisors may approve a vacation request if it concludes that: (1) the area being vacated is unnecessary for street purposes, and (2) the vacation is in the public interest.

If the Public Works Department indicates that the street is not needed for street purposes, the Board of Supervisors typically would vacate the entire street.

If the Department of Public Works indicates that a portion of the street is needed for street purposes, the Board of Supervisors typically would vacate that portion not required for future street purposes.

Where a public utility provider indicates a need to retain a portion of the street for present or future public utility facilities, the Board of Supervisors would typically reserve that portion of the street for public utility use.

If the County holds title to any vacated area, the Board would typically authorize sale of the property after the vacation is approved. All sales would be in accordance with the laws governing disposal of surplus real property as set forth in the California Government Code and Streets and Highways Code.

The Board is under no legal obligation to vacate a right-of-way.

The Board of Supervisors may determine that extenuating circumstances apply to an individual case, and may modify any discretionary provisions of this policy.

It is the intent of the Board of Supervisors to consider proposed street vacation requests in a deliberate, thoughtful and unhurried manner.

GB:cdn - GDBJ1463_WCT.DOC

COUNTY OF SAN MATEO
PLANNING AND BUILDING DIVISION

interoffice
M E M O R A N D U M

Date: March 29, 1999

To: Planning and Building Staff

From: Paul M. Koenig, Director of Environmental Management

Subject: Policy on Use of Abandoned Rights-of-Way

ISSUE

How development is regulated when right-of-way abandonment has occurred?

BACKGROUND

1. Zoning Regulations Section 6102 defines the front yard as being measured from the "front lot line to the nearest wall of any main building."
2. Zoning Regulations Section 6406 states that the front yard shall be measured from the "nearest point of the front wall of the building to the street line."
3. State case law establishes that a "lot" does not include any portion of a public street. (Earl v. Detour).
4. A 1993 County Counsel memorandum advises that setbacks be measured from the limits of the right-of-way rather than the developed travel way.
5. Another County Counsel opinion informs that when the County accepts dedicated access rights at the time of a subdivision, and subsequently vacates those rights through an abandonment action, the property owners within the subdivision may have certain private access rights over the roads in the subdivision.

POLICY

When the County vacates its public access rights and abandons the associated right-of-way, the following shall apply:

1. Unless otherwise provided by law, no structure or portion of a structure may be located, constructed or placed within the boundaries of the abandoned right-of-way.
2.
 - a. In the case of an undeveloped right-of-way, the Planning Director shall request the Director of Public Works to determine the appropriate travel way width as if a road was to be constructed in the right-of-way. That width, whose mid-point would be located at the center of the abandoned right-of-way, shall remain open in the event that the property owners in the subdivision have private access rights.
 - b. The portion of the abandoned right-of-way located between the area to remain open for private access in a. above, and the outer limit of that right-of-way may be used to comply with zoning setback requirements for any structure proposed on the underlying parcel.
3.
 - a. In the case of a developed right-of-way, the existing pavement width shall remain open in the event that the property owners in the subdivision have private access rights.
 - b. The portion of that right-of-way located between the edge of the pavement in a. above, and the outer limit of that right-of-way may be used to comply with zoning setback requirements for any structure proposed on the underlying parcel.

County Counsel has reviewed, and concurs with this policy.

PMK:GB:fc - GDBJ0348.6FO



NORTH SAN MATEO COUNTY SANITATION DISTRICT

a subsidiary of the City of Daly City

OPERATION OFFICES

153 Lake Merced Blvd., Daly City, California 94015

(650) 991-8200

(650) 991-8220 (Fax)



December 18, 2001

Carolyn Hamilton
Real Property Services Division
County Of San Mateo
455 County Center, 5th Floor
Redwood City, CA., 94063-1663

Subject: Vacation of "C" Street, Colma
APNs 008-122-030; 070 (Vac. No. 085G)

The DWWR does not have any water system infrastructure in place within this area.

The DWWR does have a 6-inch VCP sewer line, that is currently in use, to the east of the property. This line is in the Cal-Trans right of way on El Camino Real and should not be affected by the vacation of this area.

There may be sewer laterals from the existing properties and are the responsibility of those properties that connect to the sewer main at El Camino Real. These laterals must be abandoned per Daly City Specification Section 02720 - 13, 3.16, Abandonment of Sanitary Pipes and Manholes.

If you have any questions, please call me at (650) 991-8203.

Sincerely yours,

Cynthia J. Royer
Manager of Technical Services

01OD057

Enclosure



CALIFORNIA WATER SERVICE COMPANY

341 NORTH DELAWARE STREET

SAN MATEO, CA 94401-1727 • (650) 343-1808 • F (650) 342-6865

MID-PENINSULA DISTRICT

December 21, 2001

Carolyn Hamilton
County Government Center
455 County Center, 5th Floor
Redwood City CA 94063-1663

Re: Abandonment of Right-of-Way
Section of "C" Street, Colma Between El Camino and Bart R/W

Dear Ms. Hamilton,

In response to your letter of December 11, 2001, be advised we have no facilities within or intended use of the portion of right-of-way proposed for abandonment as designated by the highlighted area on the attached photocopy of a portion of your drawing dated December 11, 2001. Therefore, we have no objection to the proposed abandonment.

Very truly yours,

A handwritten signature in cursive script that reads "Mike Utz".

Mike Utz
Acting Superintendent of Distribution



CITY OF DALY CITY

333-90TH STREET

DALY CITY, CA 94015-1895

PHONE: (650) 991-8000

December 28, 2001

Carolyn Hamilton
Real Property Services Division
County Government Center
455 County Center, 5th Floor
Redwood City, CA 94063

SUBJECT: Vacation of C Street West of El Camino Real in Colma Area

Dear Mrs. Hamilton:

The City of Daly City and its subsidiary North San Mateo County Sanitation District neither maintains nor plan to have any public utility within the subject street right-of-way. We have no need to reserve a public utility easement within the affected street right-of-way.

We appreciate this opportunity to review the proposed street vacation. Please call me at 650-991-8064 for any questions in this regard.

Sincerely,

Mo Sharma
Mo Sharma
City Engineer

Cc: Patrick Sweetland, Director of WWR
Roy Cordero, Ass't to PW Director

MS:ga