

City of Calistoga

Staff Report

TO: Honorable Mayor and City Council

FROM: Michael Kirn, Public Works Director/City Engineer

VIA: Derek Rayner, Deputy Public Works Director

DATE: April 4, 2017

SUBJECT: Consideration of a Resolution Authorizing City Council's Notice of Intent to Vacate approximately 555 square feet of Berry Street right-of-way (ROW), a surplus section of Berry Street that fronts the property located at 1341 Berry Street (APN 011-171-010) (SV 2017-1)

APPROVAL FOR FORWARDING:



Michael Kirn, Acting City Manager

1 **ISSUE:** Consideration of a Resolution Authorizing City Council's Notice of Intent to
 2 Vacate approximately 555 square feet of Berry Street right-of-way (ROW), a surplus
 3 section of Berry Street that fronts the property located at 1341 Berry Street (APN 011-
 4 171-010).

5 **RECOMMENDATION:** Adopt a resolution declaring the Council's intent to consider the
 6 vacation and set the matter for a public hearing on May 2, 2017.

7 **BACKGROUND:** The City of Calistoga is preparing to replace the Berry Street Bridge,
 8 and as part of the property acquisition phase, requires a temporary construction
 9 easement (TCE) on the Meyer property located at 1341 Berry Street to replace the
 10 bridge. As part of the bridge project, Berry Street will be realigned about 14-feet east to
 11 align better with the intersection of Berry/Washington/Third Street (see attached figure).
 12 This alignment change will improve traffic safety, with better line of sight visibility for the
 13 public, at this intersection.

14 As part of the negotiation discussions the City has had with the Meyer's to obtain their
 15 permission for the temporary construction easement, it was discussed that the unused
 16 ROW (about 555 s.f., (see shaded area on 1341 Berry Property in attached Exhibit) be
 17 vacated by Calistoga, or quitclaimed to the Meyers. This vacated ROW will also include

18 a non-exclusive utility easement for future access by Calistoga or other utility agencies,
19 in its entirety.

20 Legal plats and descriptions of the proposed right-of-way to be vacated and quitclaimed
21 have been prepared and are included as part of the draft settlement agreement the City
22 been discussing with the Meyers to acquire the TCE on their property so the City can
23 build the Berry Street Bridge Project. The agreement includes authorization from the
24 Meyers to allow the City and its contractors the use of the vacated property during
25 bridge construction activities.

26 Staff is recommending adoption of a resolution declaring the City's Notice of Intent
27 (NOI) by the Council to vacate this excess ROW and setting the Public Hearing date of
28 May 2, 2017. Upon Council adoption of the NOI, staff will post a Notice of Public
29 Hearing adjacent to the ROW to be vacated pursuant to Section 16.16.220 of the
30 Municipal Code. The Planning Commission will consider the proposed vacation at its
31 April 12, 2017 meeting.

32 **ENVIRONMENTAL REVIEW:** The proposed rights-of-way vacations are exempt from
33 the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the
34 CEQA Guidelines, the "general rule" exemption, because it can be seen with certainty
35 that there is no possibility that the actions in question may have a significant effect on
36 the environment.

37 **FISCAL IMPACT:** The proposed vacation will is part of the settlement agreement with
38 the Meyer's and will allow the construction of the Berry Street Bridge. Through this
39 settlement agreement the City will avoid litigation with the Meyer's and the associated
40 costs of going to court. Any costs associated with the acquisition of the TCE will be part
41 of the bridge replacement project.

ATTACHMENTS

1. Draft resolution
2. Right-of-way vacation exhibits

RESOLUTION 2017-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA DECLARING ITS NOTICE OF INTENT TO VACATE APPROXIMATELY 555 SQUARE FEET OF BERRY STREET RIGHT OF WAY A SURPLUS SECTION OF BERRY STREET THAT FRONTS THE PROPERTY LOCATED AT 1341 BERRY STREET (APN 011-171-010)...(SV 2017-1)

1 **WHEREAS**, as part of the Berry Street Bridge Construction project, Berry Street
2 will be realigned about 14-feet east to align better with the intersection of
3 Berry/Washington/Third street; and

4 **WHEREAS**, as part of the negotiations with the Meyer residence at 1341 Berry
5 Street (APN 011-171-010), the unused right-of-way (ROW) (about 555 sq. ft.) would be
6 vacated by Calistoga and quitclaimed to the Meyers; and

7 **WHEREAS**, the vacated ROW will also reserve a non-exclusive utility easement
8 for future access by Calistoga or other public utilities, in its entirety; and

9 **WHEREAS**, the City of Calistoga desires to vacate this right-of-way in order to
10 facilitate the construction of the Berry Street Bridge; and

11 **WHEREAS**, the Meyers will allow the City (and its contractors) the use of the
12 vacated property during bridge construction activities; and

13 **WHEREAS**, this action is not subject to the California Environmental Quality Act
14 (CEQA) under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with
15 certainty that there is no possibility that the proposed vacations may have a significant
16 effect on the environment; and

17 **WHEREAS**, after a meeting on April 4, 2017 whereby the City Council
18 considered approval of a Notice of Intent to vacate a portion of Berry Street rights-of-
19 way, the City Council found that:

- 20 1. A portion of surplus right-of-way will be created by the realignment of
21 Berry Street at the intersection of Washington Street as part of the Berry
22 Street Bridge Construction Project.
- 23 2. As part of the Temporary Construction Easement negotiations with the
24 Meyer residence at 1341 Berry Street, the unused ROW (555 sq. ft.)
25 would be vacated by Calistoga and quitclaimed to the Meyers.
- 26 3. This vacated ROW will also include a non-exclusive utility easement for
27 future access by Calistoga or other public utilities, in its entirety.
- 28 4. The agreement includes authorization from the Meyers to allow the City
29 (and its contractors) the use of the vacated property during bridge
30 construction activities.

31 **NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of
32 Calistoga hereby finds and determines that a portion of Berry Street as described in

33 Exhibits A and B attached to this resolution are unnecessary for future street purposes
34 and declares its intent to consider its vacation.

35 **NOW THEREFORE BE IT FURTHER RESOLVED** that a public hearing will be
36 held at the regularly-scheduled Planning Commission meeting on April 12th, and a
37 public hearing will be held at the regularly-scheduled City Council meeting on May 2,
38 2017 for hearing all persons interested in or objecting to the proposed vacations.

PASSED AND ADOPTED by the City Council of the City of Calistoga at a
regular meeting held this **4th day of April 2017** by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

CHRIS CANNING, Mayor

ATTEST:

KATHY FLAMSON, City Clerk

EXHIBIT A

LEGAL DESCRIPTION

A portion of Lot 1, Block "E" Calistoga Proper, so-called, according to the Map entitled, "Map of Calistoga, showing its extensions, surrounding and the Hot Sulphur Springs, Napa County, Cal.", filed March 1, 1871 in the Office of the County Recorder of said Napa County and described as follows:

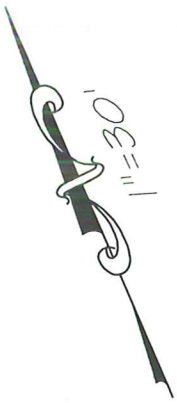
Beginning at the intersection of the Southwestern line of Washington Street with the Northwestern line of Berry Street; thence along the prolongation of said Southwestern line South $47^{\circ} 39' 53''$ East 15.66 feet; thence South $16^{\circ} 00' 00''$ West 14.27 feet; thence South $39^{\circ} 30' 00''$ West 20.00 feet; thence North $81^{\circ} 00' 00''$ West 12.11 feet to said northwestern line of Berry Street; thence along said northwestern line of Berry Street North $24^{\circ} 15' 51''$ East 41.46 feet, more or less, to the **Point of Beginning**.

END DESCRIPTION

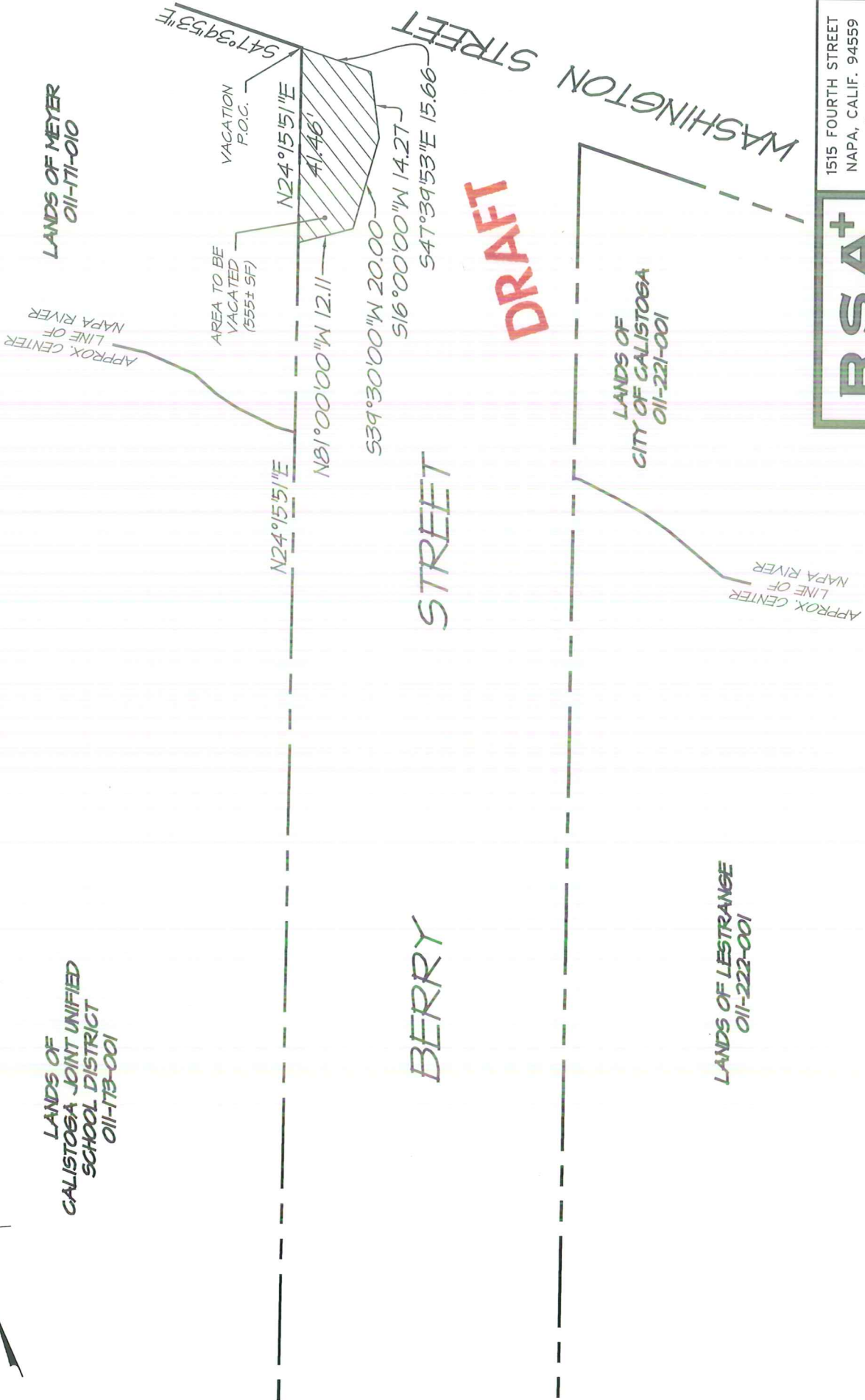
DRAFT

EXHIBIT B

NAPA COUNTY



LANDS OF
CALISTOGA JOINT UNIFIED
SCHOOL DISTRICT
011-173-001



DRAFT

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THIS EXHIBIT IS FOR GRAPHIC PURPOSES ONLY.
ANY ERRORS OR OMISSIONS ON THIS EXHIBIT
SHALL NOT AFFECT THE DEED DESCRIPTION