

City of Calistoga

Staff Report

TO: Honorable Mayor and City Council

FROM: Michael Kirn, Director of Public Works/City Engineer

DATE: April 18, 2017

SUBJECT: Consideration of Resolution Rescinding Resolution No. 2017-027 and Adopting a Resolution Affirming the City's Intent to Vacate a Portion of the Berry Street Right of Way fronting 1341 Berry Street (APN 011-171-010) (SV 2017-1) and Setting May 16, 2017 as the Public Hearing Date.

APPROVAL FOR FORWARDING:



Dylan Feik, City Manager

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2 **ISSUE:** Consideration of a Resolution rescinding Resolution No. 2017-072 and adopting
3 a resolution affirming the City's intent to vacate a portion of the Berry Street Right of Way
4 (ROW) fronting 1341 Berry Street (APN 011-171-010) (SV 2017-1) and setting May 16,
5 2017 as the Public Hearing Date.

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7 **RECOMMENDATION:** Rescind Resolution No. 2017-027 and adopt a Resolution
8 affirming the City's intent to vacate a portion of the Berry Street ROW fronting 1341
9 Berry Street (APN 011-171-010) (SV 2017-1) and Setting May 16, 2017 as the Public
10 Hearing date.

11
12 **BACKGROUND/DISCUSSION:** On April 4, 2017 the City Council adopted Resolution
13 No. 2017-027 providing notice of the City's intent to vacate approximately 555 square
14 feet of Berry Street ROW that front's property located at 1341 Berry Street (APN 011-
15 171-010). The proposed vacation would quit claim the 555 square feet of excess ROW
16 as part of a negotiated settlement agreement for acquisition a temporary construction
17 easement needed for the replacement of the Berry Street Bridge.

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19 Due to a lack of Council majority that will be able to take action at the Public Hearing
20 scheduled for May 2, 2017, it is necessary to reschedule the Public Hearing to May 16,
21 2017.

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23 The recommended Resolution does the following:

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- 25 • Rescinds Resolution No. 2017-027
- 26 • Affirms the City Council's intent to vacate a portion of the Berry Street ROW that
- 27 fronts 1341 Berry Street (APN 011-171-010) (SV 2017-1)
- 28 • Reschedules the Public Hearing to May 16, 2017 to receive testimony regarding
- 29 the proposed vacation
- 30 • Directs staff to post the area to be vacated giving the time, date and place of the
- 31 Public Hearing
- 32

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

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

44
45 **ATTACHMENT**

46 1. Resolution

RESOLUTION 2017-XXX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA,
COUNTY OF NAPA, STATE OF CALIFORNIA, RESCINDING
RESOLUTION 2017-027 AND ADOPTING A RESOLUTION AFFIRMING THE CITY
COUNCIL'S INTENT TO VACATE APPROXIMATELY 555 SQUARE FEET OF
BERRY STREET RIGHT OF WAY FRONTING 1341 BERRY STREET (APN 011-171-
010) AND SETTING THE PUBLIC HEARING DATE OF MAY 16, 2017**

WHEREAS, On April 4, 2017 the City Council adopted Resolution No. 2017-027 providing notice of the City's intent to vacate approximately 555 square feet of Berry Street Right-of-Way (ROW) that fronts property located at 1341 Berry Street (APN 011-171-010) (SV 2017-01); and

WHEREAS, after a meeting on April 4, 2017 whereby the City Council considered approval of a Notice of Intent to vacate a portion of Berry Street ROW, the City Council found that:

1. Surplus ROW will be created by the realignment of Berry Street at the intersection of Washington Street as part of the Berry Street Bridge Construction Project.
2. As part of the Temporary Construction Easement negotiations with the Meyers (residence located at 1341 Berry Street) a portion of the unused ROW (555 sq. ft.) would be vacated by the City of Calistoga and quitclaimed to the Meyers.
3. The vacated ROW, in its entirety, would include a non-exclusive utility easement for future access by the City of Calistoga or other public utilities.
4. The negotiated settlement agreement includes authorization from the Meyers to allow the City (and its contractors) the use of the vacated ROW during bridge construction activities.

WHEREAS, Resolution 2017-027 set the Public Hearing date of May 2, 2017 to receive testimony regarding the proposed ROW vacation; and

WHEREAS, Due to a lack of Council majority that will be able to take action at the Public Hearing scheduled for May 2, 2017, it is necessary to reschedule the Public Hearing to May 16, 2017; and

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

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Calistoga hereby finds and determines that a portion of Berry Street ROW as described in Exhibits A and B attached to this Resolution are unnecessary for future street

45 purposes and declares its intent to consider its vacation, subject to the reservation of a
46 non-exclusive public utility easement.

47 **NOW THEREFORE BE IT FURTHER RESOLVED** that the City Council rescinds
48 Resolution 2017-027 and adopts this Resolution affirming the City's intent to vacate a
49 portion of the Berry Street ROW and that a Public Hearing will be held at the regularly
50 scheduled City Council meeting on May 16, 2017 for hearing all persons interested in or
51 objecting to the proposed ROW vacation.

PASSED AND ADOPTED by the City Council of the City of Calistoga at a regular meeting held this **18nd 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

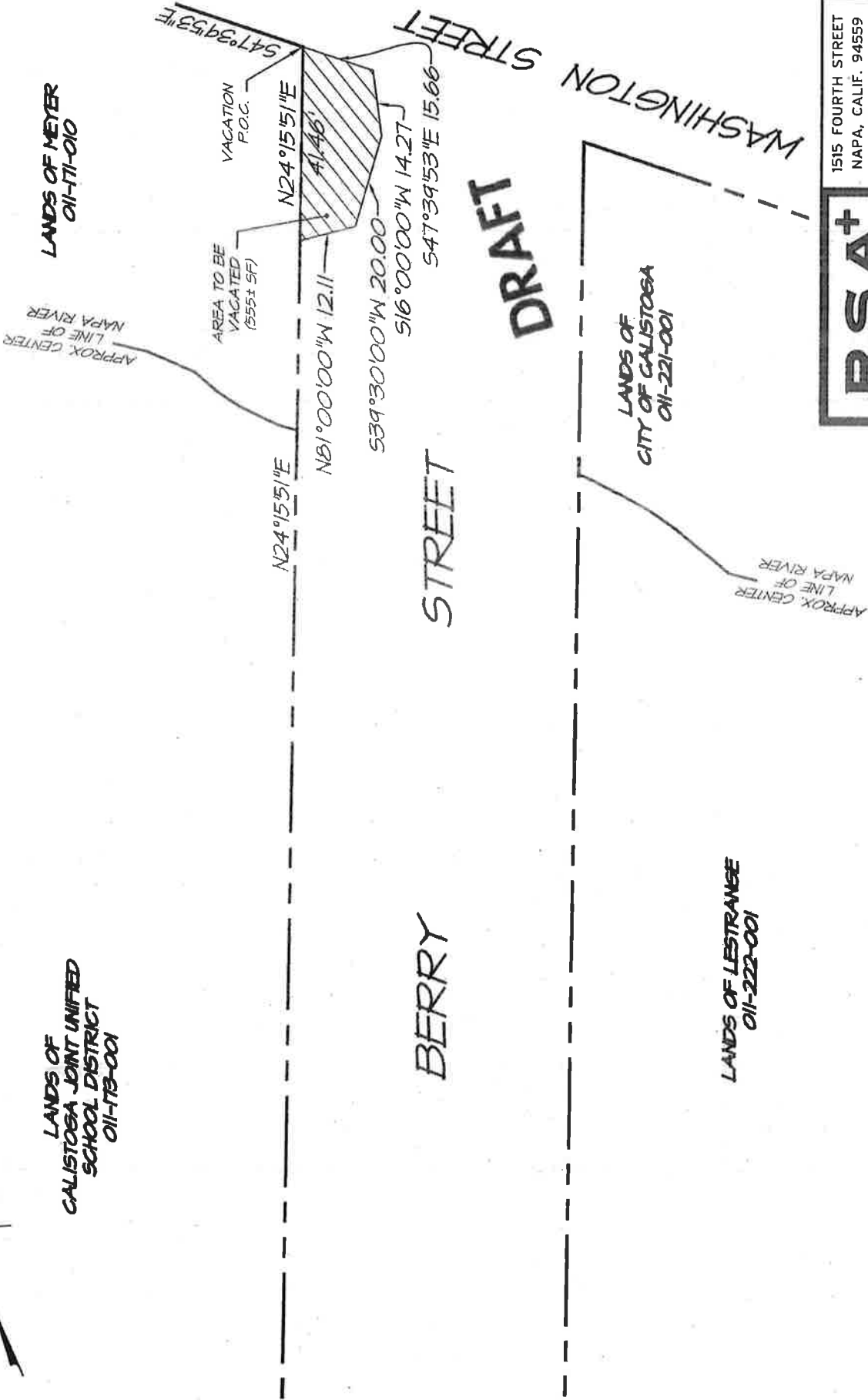
DRAFT

EXHIBIT B

NAPA COUNTY



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



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