



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Vacating the Public Utility Easement at 333 South Lower Sacramento Road

MEETING DATE: July 3, 2002

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution vacating the public utility easement at 333 South Lower Sacramento Road (Raley's Shopping Center).

BACKGROUND INFORMATION: The property owners, Kristmont West, have requested the City abandon the east-west 10-foot public utility easement as shown on attached Exhibit A. This easement was dedicated on the Parcel Map recorded on December 5, 1979, and has never been used.

Under Section 8333 of the Streets and Highways Code (copy attached), a local agency may summarily vacate an easement if "the easement has been superceded by relocation and there are not other public facilities located within the easement."

Therefore, the Public Works Department recommends that the request to abandon this easement be granted without Planning Commission referral or the normal posting, publishing, and public hearing.

Pacific Bell, Pacific Gas & Electric, AT&T Broadband, the City of Lodi Electric Utility Department, and Street and Water/Wastewater divisions have approved the abandonment of the 10-foot public utility easement abandonment without comment.

FUNDING: Not applicable.

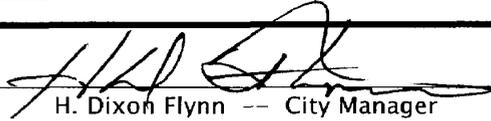

Richard C. Prima, Jr.
Public Works Director

Prepared by Jeannie Matsumoto, Senior Engineering Technician
RCP/JHM/lm
Attachments

cc: Randy Hays, City Attorney
Rad Bartlam, Community Development Director
Street Superintendent
Water/Wastewater Superintendent
Kristmont West

RWS

APPROVED: _____


H. Dixon Flynn -- City Manager

Law Revision Commission Comments

1980 Addition

Section 8331 continues a provision formerly found in Section 954 that related to abandonment of unnecessary county highways and broadens the provision to include city streets. A county highway that is described in Sec-

tion 8331 may be designated a stock trail instead of being vacated. See Section 954. [15 Cal.L.Rev.Comm. Reports 1137 (1980)]

Historical and Statutory Notes

1980 Legislation.

Former § 8331 was repealed by Stats.1980, c. 1050, p. 3366, § 28. See, now, § 8341.

Derivation: Gov.C. former § 50443, added by Stats. 1949, c. 81, p. 266, § 1.
Stats.1943, c. 774, p. 2556, §§ 45, 46.

Library References

Legal Jurisprudences

Cal Jur 3d Highw & St § 93.

§ 8332. Agreement with department

The legislative body of a local agency may summarily vacate a street or highway pursuant to an agreement entered into with the department pursuant to Section 100.2 to close the street or highway at or near the point of its intersection with a state freeway.

(Added by Stats.1980, c. 1050, p. 3366, § 29.)

Law Revision Commission Comments

1980 Addition

Section 8332 supersedes subdivision (4) of former Section 100.23 (city streets and county highways) and makes clear that the action of the local agency is to be taken pursuant to this part. Nothing in this section precludes

closure of a street or highway without vacation pursuant to Sections 100.2, 941.2, and 1801. See Section 8311 and Comment thereto. [15 Cal.L.Rev.Comm. Reports 1137 (1980)]

Historical and Statutory Notes

1980 Legislation.

Former § 8332, added by Stats.1978, c. 526, p. 1685, § 2, which authorized summary vacation and abandon-

ment of an easement reserved from the vacation of a street by adoption of an ordinance or resolution, was repealed by Stats.1980, c. 1050, p. 3362, § 28.

§ 8333. Public service easement; vacation

The legislative body of a local agency may summarily vacate a public service easement in any of the following cases:

(a) The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.

(b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date.

(c) The easement has been superseded by relocation and there are no other public facilities located within the easement.

(Added by Stats.1980, c. 1050, p. 3366, § 29. Amended by Stats.1983, c. 52, § 2.)

Additions or changes indicated by underline; deletions by asterisks * * *

Law Revision Commission Comments

1980 Addition

Section 8333 continues the substance of the first paragraph of former Government Code Section 50443 (public service easements). [15 Cal.L.Rev.Comm. Reports 1137 (1980)]

Historical and Statutory Notes

Derivation: Gov.C. former § 50443, added by Stats. 1949, c. 81, p. 266, § 1.
Stats.1943, c. 774, p. 2556, §§ 45, 46.

§ 8334. Excess right-of-way; dead end in property of single owner

The legislative body of a local agency may summarily vacate any of the following:

(a) An excess right-of-way of a street or highway not required for street or highway purposes.

(b) A portion of a street or highway that lies within property under one ownership and that does not continue through such ownership or end touching property of another.

(Added by Stats.1980, c. 1050, p. 3366, § 29.)

Law Revision Commission Comments

1980 Addition

Section 8334 continues the substance of subdivisions (b) and (c) of former Section 960.1 (county highways) and broadens them to include city streets, making clarifying changes. [15 Cal.L.Rev.Comm. Reports 1137 (1980)]

Historical and Statutory Notes

Derivation: Gov.C. former § 50443, added by Stats. 1949, c. 81, p. 266, § 1.
Stats.1943, c. 774, p. 2556, §§ 45, 46.

§ 8334.5. Public utility facilities; effect

Notwithstanding any other provision of this article, a street, highway, or public service easement may not be summarily vacated if there are in-place public utility facilities that are in use and would be affected by the vacation.

(Added by Stats.1980, c. 1050, p. 3367, § 29.)

Legislative Committee Comment—Assembly

1980 Addition

Section 8334.5 is new. If public utility facilities are in place, a public street, highway, or service easement may only be vacated pursuant to the standard procedures prescribed in Chapter 3 (commencing with Section 8320). Vacation of a public street, highway, or service easement does not affect any private easement or other right acquired by a public utility for its facilities. See Section 8352. [15 Cal.L.Rev.Comm. Reports 1137 (1980)]

Article 2

PROCEDURE

Section

8335. Resolution; adoption; contents.

8336. Recordation of resolution; effect.

Article 2 was added by Stats.1980, c. 1050, p. 3367, § 29.

§ 8335. Resolution; adoption; contents

(a) The legislative body may vacate a street, highway, or public service easement pursuant to the authority provided in this chapter by adopting a resolution of vacation.

When Recorded, Please Return to:
Lodi City Clerk
P.O. Box 3006
Lodi, CA 95241-1910

RESOLUTION NO. 2002-146

A RESOLUTION OF THE LODI CITY COUNCIL
VACATING A 10-FOOT PUBLIC UTILITY EASEMENT
LOCATED AT 333 SOUTH LOWER SACRAMENTO ROAD
(RALEY'S SHOPPING CENTER)

=====

WHEREAS, on December 5, 1979, a 10-foot public utility easement was dedicated at 333 South Lower Sacramento Road, Lodi, California and is more particularly described as follows and delineated on the attached map marked Exhibit A:

10-Foot Public Utility Easement located at the Raley's Shopping Center, 333 S. Lower Sacramento Road. Filed for record on December 5, 1979 in Parcel Map Book 8, Page 121, San Joaquin County Records.

WHEREAS, the property owners, Kristmont West, Inc., have requested that the City of Lodi abandon the east-west 10-foot public utility easement; and

WHEREAS, said easement has never been utilized, and there are no other public facilities located within the easement; and

WHEREAS, the Streets and Highways Code of the State of California, Sections 8330 and 8333, provide that the legislative body of a local agency may summarily vacate a public service easement if the easement has been superceded by relocation and there are no other public facilities located within the easement; and

WHEREAS, pursuant to the requirements of Government Code §27288.1, the names of the owners of the title or interest in 333 South Lower Sacramento Road as it appeared at the time and in the document creating the interest, right, or encumbrance is as follows:

OWNERS: Kristmont West, Inc.

WHEREAS, in accordance with Streets and Highways Code Section 8300 et seq., it is the desire of the City Council of the City of Lodi to vacate such easement.

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

That the 10-foot public utility easement located at 333 South Lower Sacramento Road be vacated; and

That from and after the date this resolution is recorded, such easement will no longer constitute a public service easement.

Dated: July 3, 2002

=====

I hereby certify that Resolution No. 2002-146 was passed and adopted by the City Council of the City of Lodi in an adjourned regular meeting held July 3, 2002 by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Land, and Mayor Pennino

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – Howard and Nakanishi

ABSTAIN: COUNCIL MEMBERS – None

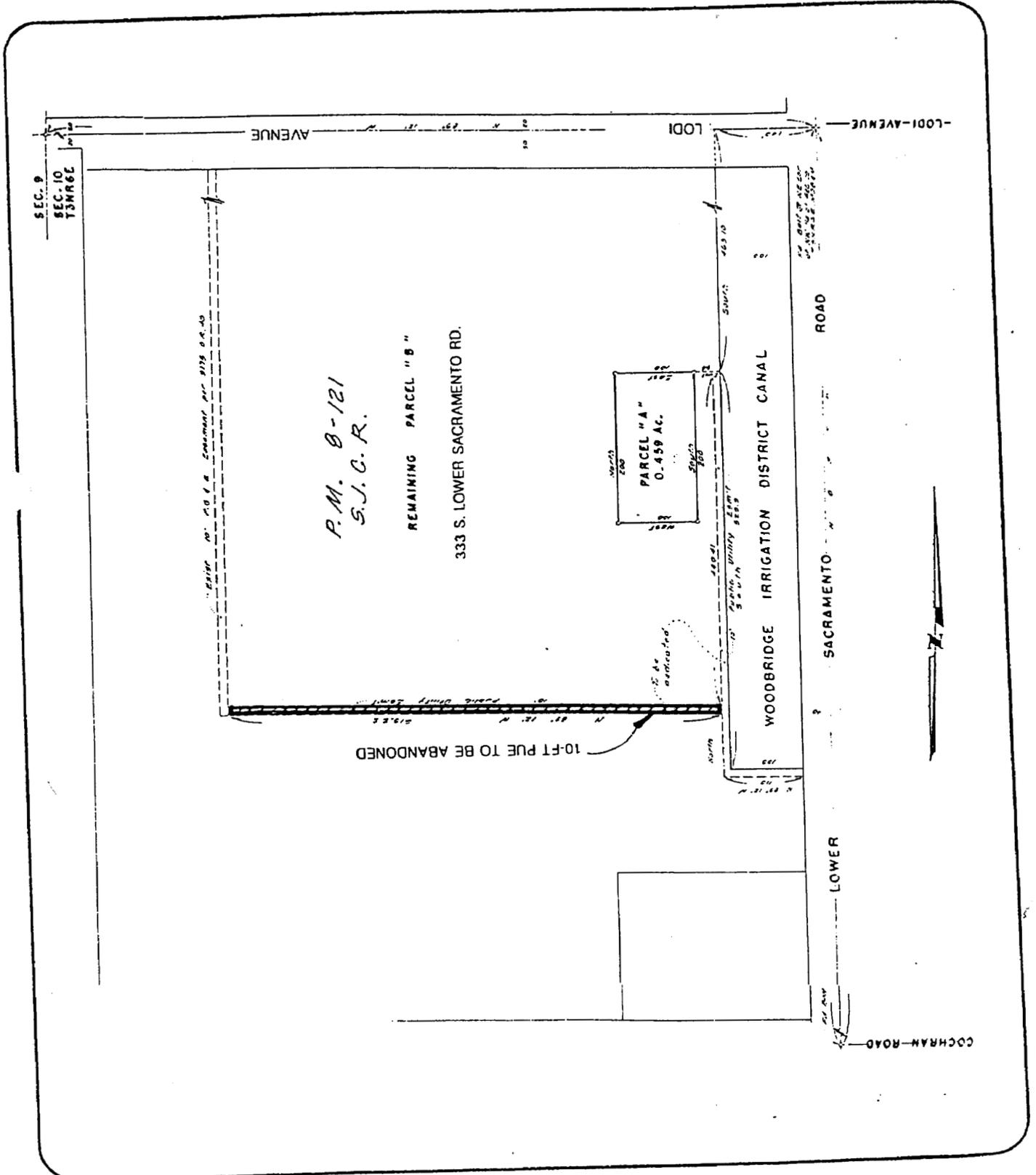


SUSAN J. BLACKSTON
City Clerk



CITY OF LODI
PUBLIC WORKS DEPARTMENT

EXHIBIT A





DECLARATION OF MAILING

RESOLUTION VACATING A 10-FOOT PUBLIC UTILITY EASEMENT LOCATED AT 333 SOUTH LOWER SACRAMENTO ROAD (RALEY'S SHOPPING CENTER)

On July 5, 2002 in the City of Lodi, San Joaquin County, California, I deposited in the United States mail, envelopes with first-class postage prepaid thereon, containing a resolution vacating a 10-foot public utility easement located at 333 South Lower Sacramento Road (Raley's Shopping Center), marked Exhibit "A"; said envelopes were addressed as is more particularly shown on Exhibit "B" attached hereto.

There is a regular daily communication by mail between the City of Lodi, California, and the places to which said envelopes were addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 5, 2002, at Lodi, California.

ORDERED BY:

SUSAN BLACKSTON
CITY CLERK, CITY OF LODI

ORDERED BY:

JACQUELINE L. TAYLOR
DEPUTY CITY CLERK


JENNIFER M. PERRIN
DEPUTY CITY CLERK

CITY COUNCIL

PHILLIP A. PENNINO, Mayor

SUSAN HITCHCOCK

Mayor Pro Tempore

EMILY HOWARD

KEITH LAND

ALAN S. NAKANISHI

CITY OF LODI

CITY HALL, 221 WEST PINE STREET

P.O. BOX 3006

LODI, CALIFORNIA 95241-1910

(209) 333-6702

FAX (209) 333-6807

cityclrk@lodi.gov

H. DIXON FLYNN

City Manager

SUSAN BLACKSTON

City Clerk

RANDALL A. HAYS

City Attorney

EXHIBIT A

July 5, 2002

TO: Interested Parties

**VACATION: TO VACATE A 10-FOOT PUBLIC UTILITY EASEMENT LOCATED
AT 333 S. LOWER SACRAMENTO ROAD (RALEY'S SHOPPING
CENTER)**

This is to inform you that the City Council at its regular meeting on July 3, 2002, considered the above matter and declared the area vacated and abandoned.

Enclosed for your information is a certified copy of the resolution along with a map of the abandoned area.

Should you have questions regarding the abandonment, please contact Public Works Director Richard Prima at (209) 333-6706.



Susan J. Blackston
City Clerk

SJB/jmp

Enclosure

cc: Public Works Director

EXHIBIT A

When Recorded, Please Return to:
Lodi City Clerk
P.O. Box 3006
Lodi, CA 95241-1910

RESOLUTION NO. 2002-146

A RESOLUTION OF THE LODI CITY COUNCIL
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WHEREAS, pursuant to the requirements of Government Code §27288.1, the names of the owners of the title or interest in 333 South Lower Sacramento Road as it appeared at the time and in the document creating the interest, right, or encumbrance is as follows:

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That from and after the date this resolution is recorded, such easement will no longer constitute a public service easement.

Dated: July 3, 2002

=====

I hereby certify that Resolution No. 2002-146 was passed and adopted by the City Council of the City of Lodi in an adjourned regular meeting held July 3, 2002 by the following vote:

- AYES: COUNCIL MEMBERS – Hitchcock, Land, and Mayor Pennino
- NOES: COUNCIL MEMBERS – None
- ABSENT: COUNCIL MEMBERS – Howard and Nakanishi
- ABSTAIN: COUNCIL MEMBERS – None

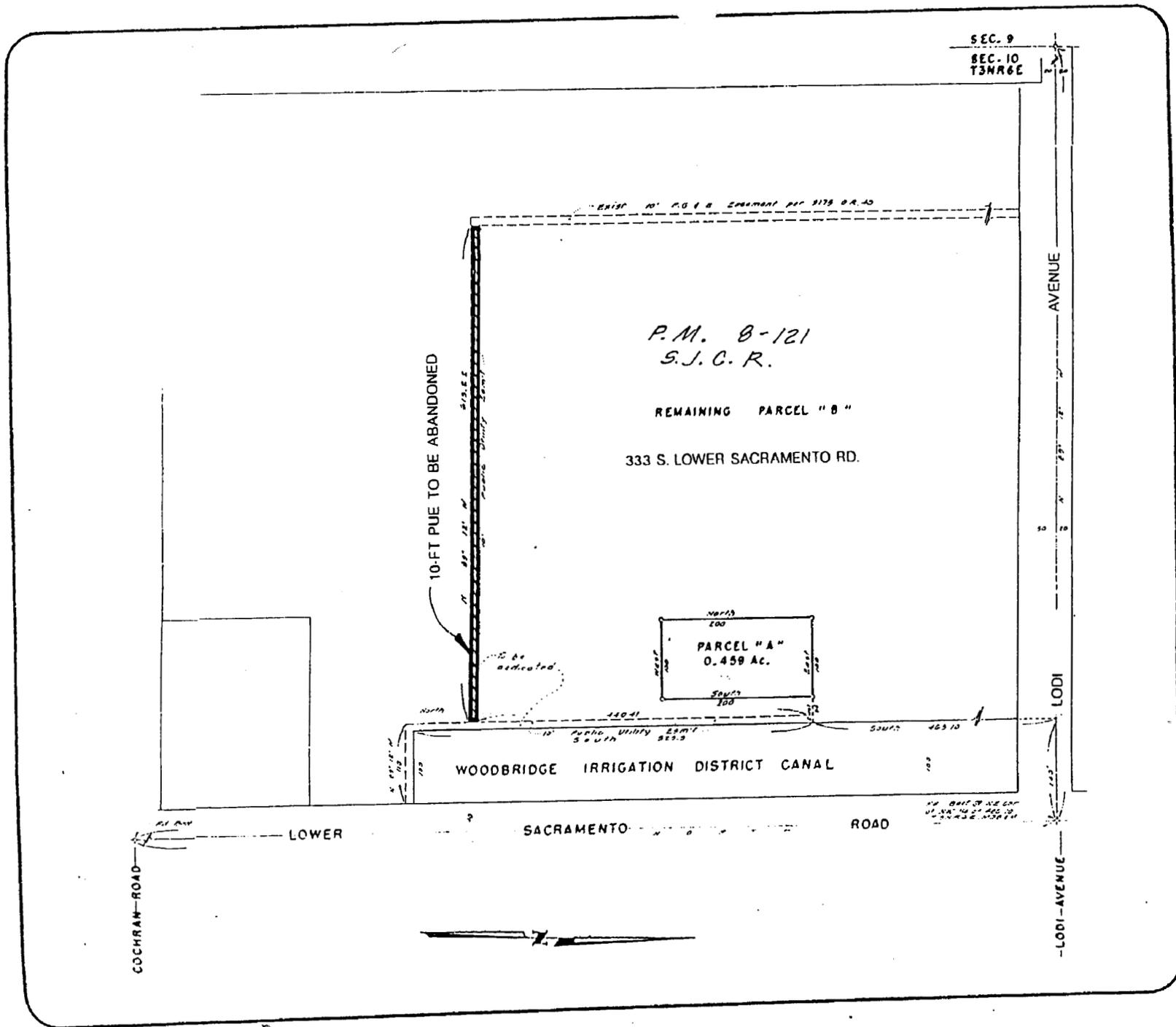


SUSAN J. BLACKSTON
City Clerk



CITY OF LODI
PUBLIC WORKS DEPARTMENT

EXHIBIT A



VACATION / ABANDONMENT
MAILING LIST

EXHIBIT B

RESOLUTION OF INTENTION (Setting Public Hearing)

Certified copy w/cover letter to:

PG&E
12 W. Pine Street
Lodi, CA 95240

AT&T
6343 Tam O'Shanter Drive
Stockton, CA 95210

Pacific Bell
44 W. Yokuts Avenue
Stockton, CA 95207

Central Valley Waste Services
P.O. Box 241001
Lodi, CA 95241-9501

Chief Deputy County Surveyor
Attn: Joe Bussalacci
1810 E. Hazelton Avenue
Stockton, CA 95205

Certified copies to:

Jeannie Matsumoto, Public Works

Wes Fujitani, Public Works

Community Development Department

Police Department

Fire Department

RESOLUTION OF VACATION (After Public Hearing)

Certified copy w/cover letter:

PG&E

AT&T

Pacific Bell

Central Valley Waste Services

Chief Deputy County Surveyor

Jeannie Matsumoto, Public Works

Wes Fujitani, Public Works

Community Development Department

Police Department

Fire Department

CITY COUNCIL

PHILLIP A. PENNINO, Mayor
SUSAN HITCHCOCK
Mayor Pro Tempore
EMILY HOWARD
KEITH LAND
ALAN S. NAKANISHI

CITY OF LODI
PUBLIC WORKS DEPARTMENT

CITY HALL, 221 WEST PINE STREET
P.O. BOX 3006
LODI, CALIFORNIA 95241-1910
(209) 333-6706
FAX (209) 333-6710
EMAIL pwdept@lodi.gov
<http://www.lodi.gov>

H. DIXON FLYNN
City Manager
SUSAN J. BLACKSTON
City Clerk
RANDALL A. HAYS
City Attorney
RICHARD C. PRIMA, JR.
Public Works Director

June 27, 2002

Kristmont West
P. O. Box 6
Fair Oaks, CA 95628

SUBJECT: Adopt Resolution Vacating the Public Utility Easement at 333 South Lower Sacramento Road

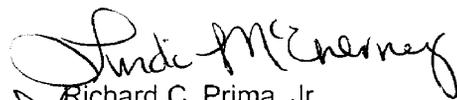
Enclosed is a copy of background information on an item on the City Council agenda of Wednesday, July 3, 2002. The meeting will be held at 8 p.m. in the City Council Chamber, Carnegie Forum, 305 West Pine Street.

This item is on the consent calendar and is usually not discussed unless a Council Member requests discussion. The public is given an opportunity to address items on the consent calendar at the appropriate time.

If you wish to write to the City Council, please address your letter to City Council, City of Lodi, P. O. Box 3006, Lodi, California, 95241-1910. Be sure to allow time for the mail. Or, you may hand-deliver the letter to City Hall, 221 West Pine Street.

If you wish to address the Council at the Council Meeting, be sure to fill out a speaker's card (available at the Carnegie Forum immediately prior to the start of the meeting) and give it to the City Clerk. If you have any questions about communicating with the Council, please contact Susan Blackston, City Clerk, at (209) 333-6702.

If you have any questions about the item itself, please call Jeannie Matsumoto, Senior Engineering Technician, at (209) 333-6800, ext. 2661.


Richard C. Prima, Jr.
Public Works Director

RCP/lm

Enclosure 

cc: City Clerk

NCPUE333SLWRSACTORD