



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
January 13, 2016
Agenda Item:

STAFF REPORT

To: Members of the Planning Commission
From: Community Development Department
Subject: Review of Proposed Real Property Acquisition and Real Property Disposition for Consistency with the Tiburon General Plan; Portion of Unimproved Las Lomas Lane Adjacent to Assessor Parcels 059-121-08, 059-122-56 and 57; Vicinity of Centro West Street at Las Lomas Lane

BACKGROUND

The Town of Tiburon is currently considering the acquisition of a “real property” interest in the form of a public pedestrian access easement over part of the unimproved portion of Las Lomas Lane located immediately below Centro West Street. At the same time, the Town is also considering disposition of a public service easement/recreational trail that would be relocated and superseded by the grant of public pedestrian easement once the latter is recorded.

This item is the Planning Commission’s “general plan consistency” review of the proposed acquisition and disposition of these real property interests. Such reviews are authorized by Government Code Section 65402(a), attached as **Exhibit 1**. The purpose of such reviews is to ensure that a proposed acquisition and/or disposition are consistent with the local General Plan in terms of “location, purpose and extent”.

ANALYSIS

The local public has used this route for pedestrian use for decades, but the Town had no formal dedication document indicating that the public had a right to use the area, since the ownership was officially with the heirs of Hugh A. Boyle (a Benjamin Lyford descendant) dating from a 1921 deed. In 2005, the Town Council adopted a resolution “accepting” the path as a public recreational trail in the absence of any owner offer of dedication. However, the proposed easement is a superior document that would perfect the public’s rights over this pathway. At the same time, the legal description has been rewritten to better match the actual path of travel used by the public. The prior alignment is proposed for abandonment (vacation) by the Town, with eventual quitclaim to the owners following recordation of the public pedestrian easement.

There has been a significant change in circumstance of the ownership of this undeveloped portion of Las Lomas Lane since 2005. In March 2015, adjoining property owners Bill and Susan Lukens, with the Town’s encouragement, obtained title to the undeveloped (upper) part of Las Lomas Lane through a quiet title action filed in Marin superior court.

Mr. and Mrs. Lukens agreed to offer the Town free of charge a formal public pedestrian easement to ensure the public's continued access through the site, using the existing well-travelled route, and they have paid for all related surveying costs. Mr. and Mrs. Lukens have also placed the parcel under a conservation easement held by the Belvedere-Tiburon Landmarks Society to ensure its undeveloped status in perpetuity. Staff would like to thank Mr. and Mrs. Lukens for their public spirit and generosity in this matter.

General Plan Consistency Factors (Location, Purpose, Extent)

Acquisition

The proposed easement would follow a well-established route that connects Centro West Street to Mar West Street, from which other public rights of way and easements connect to Downtown. The purpose of the easement is to perfect public pedestrian access rights over an area historically used by the local residents living in the Old Tiburon and Hill Haven neighborhoods, but which at present lacks any easement or other offer of permanent public rights from the property owner. The extent of the acquisition is an easement of varying width (but generally at least six feet wide) for a length of approximately 300 feet, for a total easement area of roughly 2,000 square feet. The easement follows the existing path with space to either side and is adequate for its intended public pedestrian access purposes.

Relevant General Plan policies goals and policies are as follows:

- DT-D To improve and enhance pedestrian and vehicular connectivity throughout Downtown.
- C-E Bike-Pedestrian Improvements. To improve the circulation system for pedestrians and bicyclists, including safety enhancements.
- C-J Non-Auto Travel. To provide facilities and incentives to encourage non-auto travel throughout the Planning Area.
- C-22 The pedestrian paths and bicycle trails in Tiburon should connect with other paths and trails where practical.
- C-24 Pedestrian routes, particularly for school children, shall be established for all neighborhoods.

Staff concludes that the proposed acquisition would be consistent with the General Plan and would further public interests set forth in the General Plan.

Disposition

The legal description associated with the current recreational trail alignment (as described in Resolution No. 51-2005) does not match the route travelled by users, especially near the top as it approaches Centro West Street. This circumstance would be corrected in the proposed public pedestrian easement legal description. Once the easement is recorded, the Town would vacate

the recreational trail and quitclaim any possible rights over it resulting from Resolution No. 51-2005 to the underlying property owners. The Commission would need to find that the abandonment of the recreational trail would be consistent with the Tiburon General Plan. Staff believes this finding to be self-evident, since the relocated public pedestrian easement would be a superior route that precisely matches the route currently used by the public, and the former route would no longer be necessary.

RECOMMENDATION

Staff recommends the Planning Commission:

1. Take any public comment on this item.
2. Approve a motion finding the proposed acquisition consistent with the Tiburon General Plan and recommending Town Council acceptance of the grant of easement.
3. Approve a motion finding the proposed disposition consistent with the Tiburon General Plan and recommending Town Council vacation and conveyance.

EXHIBITS

1. Government Code Section 65402.
2. Drawing depicting proposed public pedestrian easement area.
3. Drawing depicting the recreational trail area proposed for vacation and quitclaim.

Prepared by: Scott Anderson, Director of Community Development



recommendations and shall prepare a coordinated program of proposed public works for the ensuing fiscal year. Such coordinated program shall be submitted to the county or city planning agency for review and report to said official agency as to conformity with the adopted general plan or part thereof.

(Amended by Stats. 1970, Ch. 1590.)

65402. Restrictions on acquisition and disposal of real property

(a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

(b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or

part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.

(c) A local agency shall not acquire real property for any of the purposes specified in paragraph (a) nor dispose of any real property, nor construct or authorize a public building or structure, in any county or city, if such county or city has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. If the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency.

Local agency as used in this paragraph (c) means an agency of the state for the local performance of governmental or proprietary functions within limited boundaries. Local agency does not include the state, or county, or a city.

(Amended by Stats. 1974, Ch. 700.)

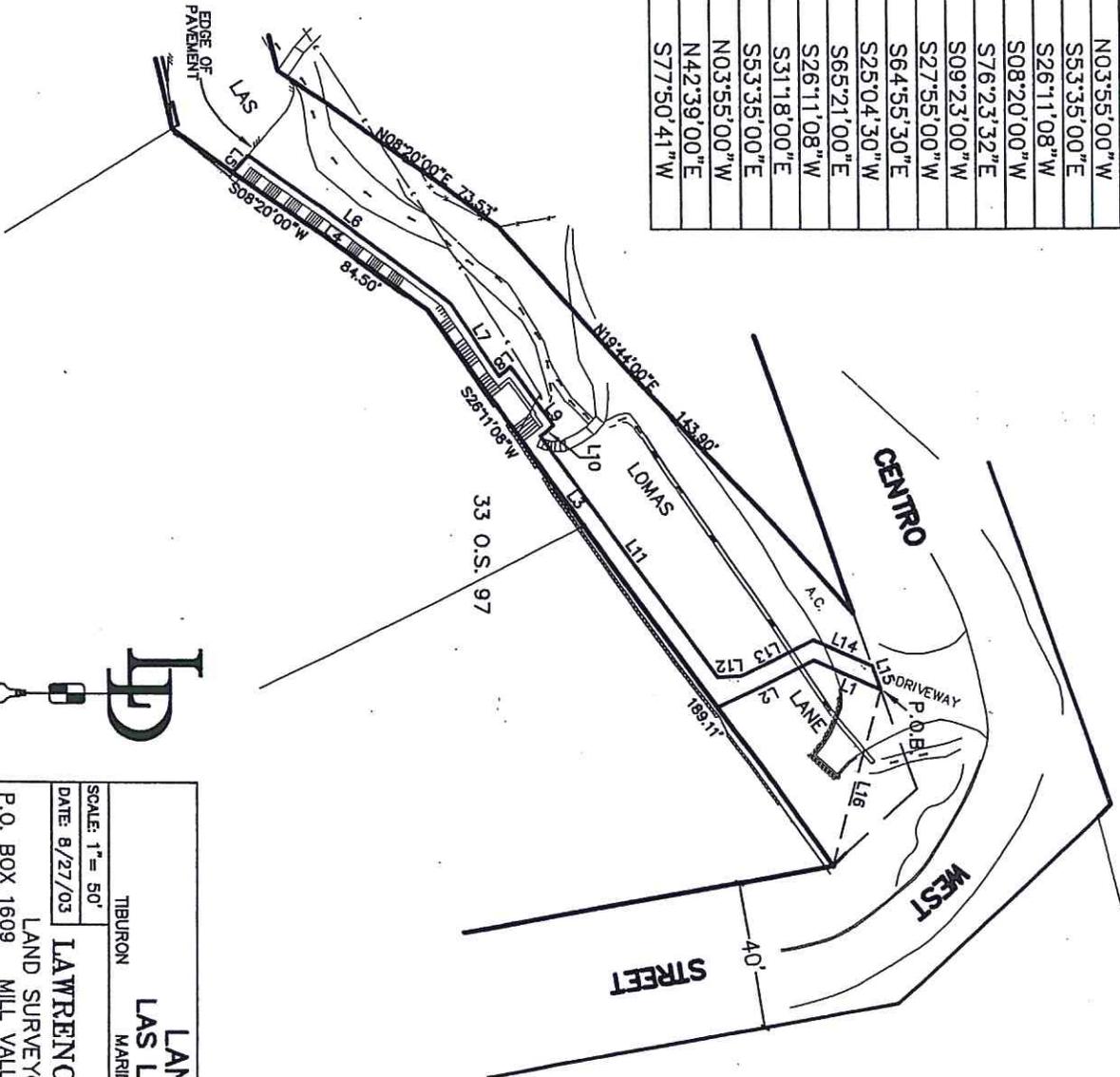
65403. Optional school/special district CIPs: content and procedure requirements

(a) Each special district, each unified, elementary, and high school district, and each agency created by a joint powers agreement pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 that constructs or maintains public facilities essential to the growth and maintenance of an urban population may prepare a five-year capital improvement program. This section shall not preclude, limit, or govern any other method of capital improvement planning and shall not apply to any district or agency unless it specifically determines to implement this section. As used in this section, "public facilities" means any of the following:

- (1) Public buildings, including schools and related facilities.
- (2) Facilities for the storage, treatment, and distribution of nonagricultural water.
- (3) Facilities for the collection, treatment, reclamation, and disposal of sewage.
- (4) Facilities for the collection and disposal of storm waters and for flood control purposes.
- (5) Facilities for the generation of electricity and the distribution of gas and electricity.
- (6) Transportation and transit facilities, including, but not limited to, streets, roads, harbors, ports, airports, and related facilities.

Proposed for Vacation/Quitclaim

LINE TABLE		
LINE	LENGTH	BEARING
L1	20.30	N03°55'00"W
L2	29.66	S53°35'00"E
L3	135.15	S26°11'08"W
L4	63.99	S08°20'00"W
L5	6.39	S76°23'32"E
L6	67.68	S09°23'00"W
L7	23.87	S27°55'00"W
L8	4.06	S64°55'30"E
L9	20.15	S25°04'30"W
L10	4.91	S65°21'00"E
L11	82.01	S26°11'08"W
L12	6.24	S31°18'00"E
L13	22.45	S53°35'00"E
L14	17.88	N03°55'00"W
L15	6.89	N42°39'00"E
L16	50.19	S77°50'41"W



LANE PLAT
LAS LOMAS LANE
 TIBURON MARIN COUNTY CALIFORNIA
LAWRENCE P. DOYLE
 LAND SURVEYOR/CIVIL ENGINEER
 P.O. BOX 1609 MILL VALLEY CA 94942 (415-388-9585)
 SCALE: 1" = 50'
 DATE: 8/27/03
 DRAWN BY:
 SHEET 1 OF 1
 DRAWING NO.
 968