

Recording Requested By:
Public Works Department
City of Fresno
No Fee-Gov't. Code Sections
6103 and 27383

When Recorded, Mail To:
City Clerk
City of Fresno
2600 Fresno Street
Fresno, CA 93721-3623

SPACE ABOVE THIS LINE FOR RECORDER'S USE



RESOLUTION NO. 2009-189

RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA ORDERING
THE VACATION OF BLYTHE AVENUE BETWEEN HERNDON AND SPAATZ AVENUES
AND A PORTION OF SPAATZ AVENUE EAST OF BLYTHE AVENUE

WHEREAS, pursuant to Resolution of Intention No. 1076-D, on file in the Office of the City Clerk of the City of Fresno (the City Clerk), a public hearing was held on August 27, 2009, at a regular meeting of the Council of the City of Fresno, California (the City), at which evidence was heard for and against the vacation of the hereinafter described public street easements, situated within the City; and

WHEREAS, M. S. Walker, Inc., is requesting the vacation of Blythe Avenue between Herndon and Spaatz Avenues and a portion of Spaatz Avenue east of Blythe Avenue, as shown on Exhibit "A", which is attached and incorporated in this resolution; and

WHEREAS, the purpose of the proposed vacation is to satisfy conditions imposed on Parcel Map No. 2007-33; and

WHEREAS, Environmental Assessment No. EA-07-22 shows with certainty that the project is categorically exempt and there is no possibility that the proposed vacation may have a significant adverse effect on the environment, and the proposed vacation is therefore exempt

Adopted 8/27/09
Approved 9/7/09
Effective 9/7/09

2009-189



from the California Environmental Quality Act (CEQA) pursuant to Subsection 15301(c)/Class 1 of the CEQA guidelines; and

WHEREAS, the Traffic Division, other City Departments and utility agencies have reviewed this proposal and determined that the rights-of-way proposed for vacation are unnecessary for present or prospective public street purposes, subject to the reservation of a public utility easement over the entire area to be vacated and a public pedestrian/bike easement shown on Exhibit B" which is attached and incorporated in this Resolution and subject to the conditions for approval detailed in Exhibit "C" which is attached and incorporated in this Resolution; and

WHEREAS, this action is being taken pursuant to the provisions of the Public Streets, Highways, and Service Easements Vacation Law (California Streets and Highways Code Sections 8300-8363).

NOW, THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY AS FOLLOWS:

1. The Council finds from all the evidence submitted that Blythe Avenue between Herndon and Spaatz Avenues and a portion of Spaatz Avenue east of Blythe Avenue are unnecessary for present and prospective public street purposes. The public street easements to be vacated are shown on Exhibit "A", which is attached and incorporated in this Resolution.
2. The public interest and convenience require, and it is hereby ordered, that, as contemplated by Resolution of Intention No. 1076-D adopted by the Council on July 23, 2009, the public street easements shown on Exhibit "A" be and are hereby vacated and abandoned.



3. The City reserves the entire area to be vacated as a permanent easement, to be used anytime, to construct, maintain, operate, replace, remove and renew sanitary sewers, water mains, storm drains, and appurtenant structures in, upon, and over the public street easement proposed to be vacated and, pursuant to any existing franchises or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment, and fixtures for the operation of gas pipelines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia and water, and for incidental purposes, including access to protect such works from all hazards in, upon, and over the public street easement to be vacated.

4. All proceedings for the vacation of such right-of-ways are intended to be and shall be taken subject to the conditions listed on Exhibit "C" which is attached and incorporated in this Resolution. All work required by such conditions shall be completed in compliance with City Standard Specifications and will require engineered construction plans prepared by a registered civil engineer and approved by the Public Works Department.

5. The City reserves a portion of the area to be vacated as a permanent easement for public pedestrian and bikeway purposes. The area to be reserved pursuant to this paragraph is depicted in Exhibit "B", which is attached and incorporated in this Resolution.

6. The City Clerk shall certify to the passage of this Resolution and shall file a certified copy, attested by the City Clerk under the seal of the City, in the Office of the City Clerk.

7. The City Clerk shall file a certified copy of the Resolution for recordation in the Office of the Recorder of Fresno County. The vacation shall become effective on the date this Resolution is recorded.



CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the 27th day of August, 2009.

AYES: Borgeas, Brand, Dages, Westerlund, Xiong, Sterling
NOES: None
ABSTAIN: None
ABSENT: Perea

Mayor Approval: N/A, 2009
Mayor Approval/No Return: September 7, 2009
Mayor Veto: N/A, 2009
Council Override Vote: N/A, 2009

REBECCA E. KLISCH
City Clerk

BY: Rebecca Klisch, Deputy

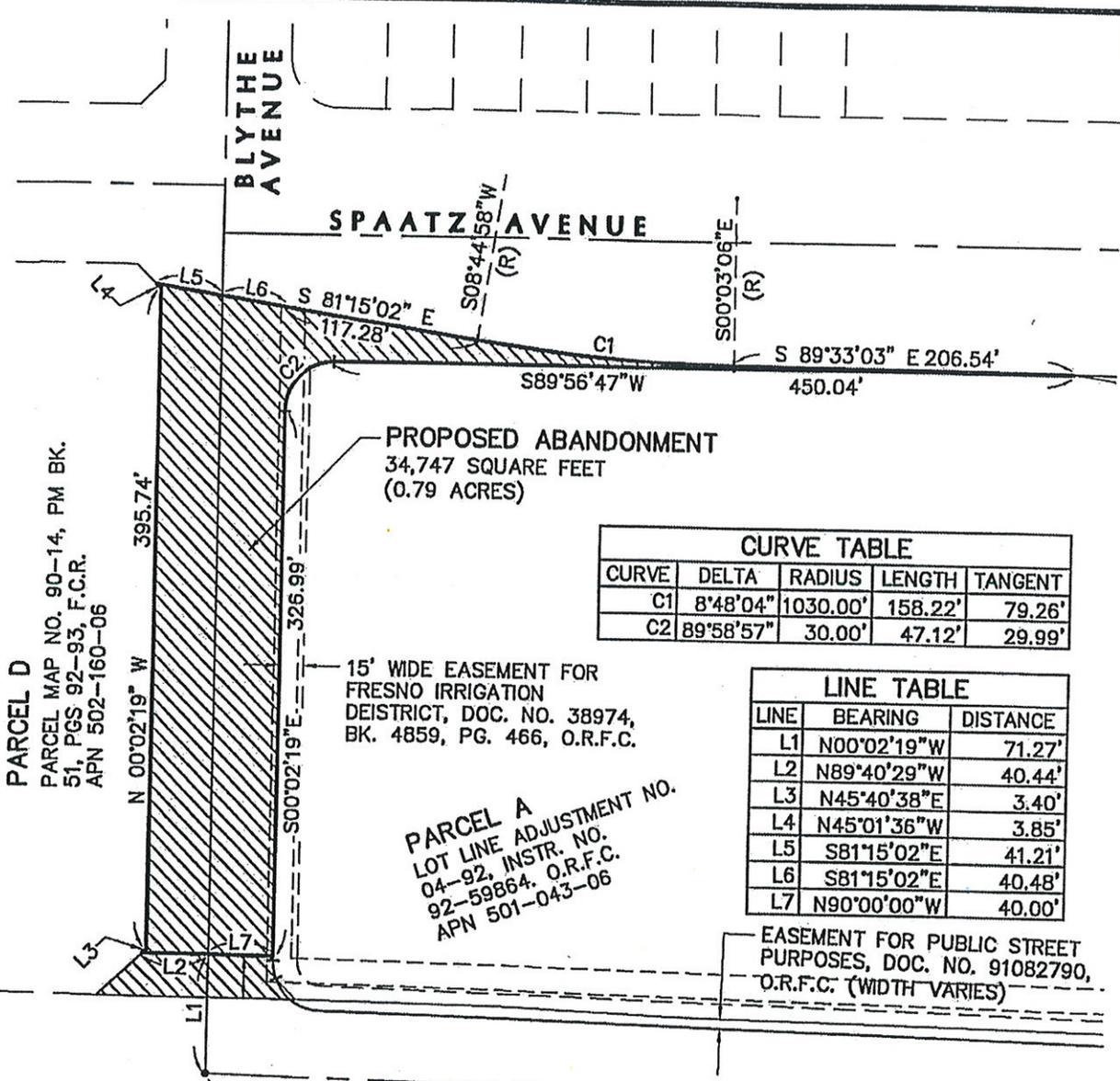
APPROVED AS TO FORM:

JAMES C. SANCHEZ
CITY ATTORNEY

By: [Signature]
Deputy BRADLEY

Reso Ord Vac of Blythe Ave btw Herndon-Spaatz Ave

PW File No. 11009



PARCEL D
 PARCEL MAP NO. 90-14, PM BK.
 51, PGS 92-93, F.C.R.
 APN 502-160-06

PROPOSED ABANDONMENT
 34,747 SQUARE FEET
 (0.79 ACRES)

15' WIDE EASEMENT FOR
 FRESNO IRRIGATION
 DISTRICT, DOC. NO. 38974,
 BK. 4859, PG. 466, O.R.F.C.

PARCEL A
 LOT LINE ADJUSTMENT NO.
 04-92, INSTR. NO.
 92-59864, O.R.F.C.
 APN 501-043-06

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	TANGENT
C1	8°48'04"	1030.00'	158.22'	79.26'
C2	89°58'57"	30.00'	47.12'	29.99'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N00°02'19"W	71.27'
L2	N89°40'29"W	40.44'
L3	N45°40'38"E	3.40'
L4	N45°01'36"W	3.85'
L5	S81°15'02"E	41.21'
L6	S81°15'02"E	40.48'
L7	N90°00'00"W	40.00'

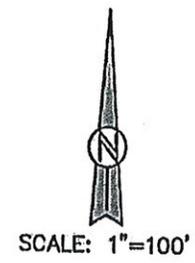
EASEMENT FOR PUBLIC STREET
 PURPOSES, DOC. NO. 91082790,
 O.R.F.C. (WIDTH VARIES)

- LEGEND**
- SECTION LINE/CENTERLINE
 - LOT LINES
 - MONUMENT FOUND
 - ▨ EASEMENT BOUNDARY
 - No. NUMBER
 - PM. PARCEL MAP
 - BK. BOOK
 - PG. PAGE
 - F.C.R. FRESNO COUNTY RECORDS
 - O.R.F.C. OFFICIAL RECORDS FRESNO COUNTY
 - S.F. SQUARE FEET
 - SW. SOUTHWEST
 - DOC. DOCUMENT

SW CORNER OF SECTION
 35, T.12S., R.19E., M.D.M.

HERNDON AVENUE

EXHIBIT 'A'

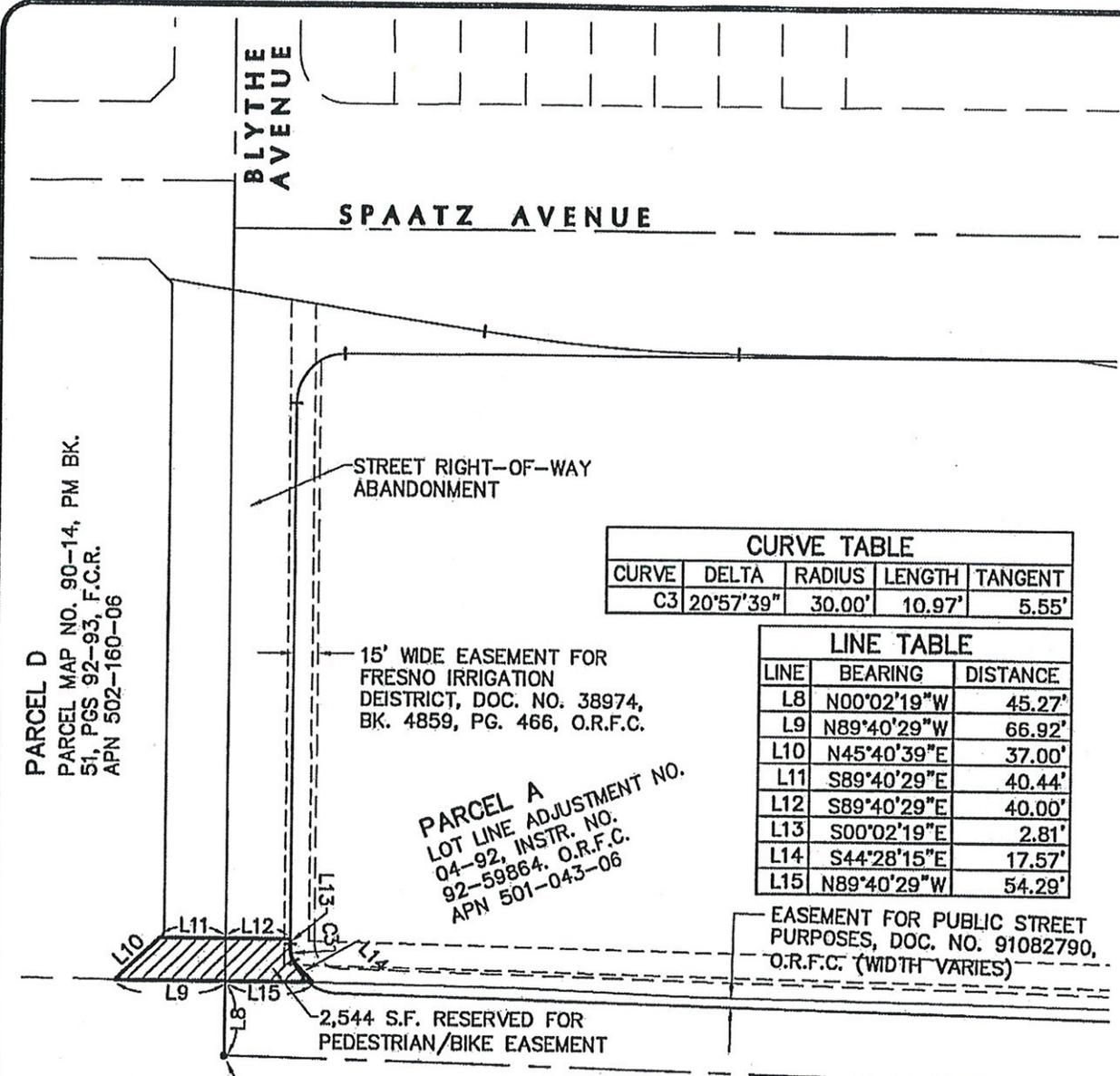


DESIGNED BY:	HL
DRAWN BY:	JB
CHECKED BY:	JB
SITE PLAN:	2/23/09
SCALE:	1"=100'
SHEETS:	1

M. S. WALKER
Architectural & Engineering Services, Inc.

Architecture, Civil Engineering, Land Planning, & Surveying
 3551 PEGASUS DR. TEL: (661) 399-3800
 BAKERSFIELD, CA 93308 FAX: (661) 399-5800

PROJECT:	PORTIONS OF PARCEL A OF LOT LINE ADJUSTMENT NO. 92-59864 AND PARCEL D OF PARCEL MAP NO. 90-14 CITY OF FRESNO, CALIFORNIA
PROPOSED STREET RIGHT OF WAY VACATION	



CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	TANGENT
C3	20°57'39"	30.00'	10.97'	5.55'

LINE TABLE		
LINE	BEARING	DISTANCE
L8	N00°02'19"W	45.27'
L9	N89°40'29"W	66.92'
L10	N45°40'39"E	37.00'
L11	S89°40'29"E	40.44'
L12	S89°40'29"E	40.00'
L13	S00°02'19"E	2.81'
L14	S44°28'15"E	17.57'
L15	N89°40'29"W	54.29'

PARCEL D
 PARCEL MAP NO. 90-14, PM BK.
 51, PGS 92-93, F.C.R.
 APN 502-160-06

STREET RIGHT-OF-WAY
 ABANDONMENT

15' WIDE EASEMENT FOR
 FRESNO IRRIGATION
 DEISTRIC, DOC. NO. 38974,
 BK. 4859, PG. 466, O.R.F.C.

PARCEL A
 LOT LINE ADJUSTMENT NO.
 04-92, INSTR. NO.
 92-59864, O.R.F.C.
 APN 501-043-06

EASEMENT FOR PUBLIC STREET
 PURPOSES, DOC. NO. 91082790,
 O.R.F.C. (WIDTH VARIES)

2,544 S.F. RESERVED FOR
 PEDESTRIAN/BIKE EASEMENT

SW CORNER OF SECTION 35, T.12S., R.19E., M.D.M. **HERNDON AVENUE**

LEGEND

- SECTION LINE/CENTERLINE
- LOT LINES
- MONUMENT FOUND
- ▨ EASEMENT BOUNDARY
- No. PARCEL MAP
- PM. BOOK
- BK. PAGE
- PG. FRESNO COUNTY RECORDS
- F.C.R. OFFICIAL RECORDS FRESNO COUNTY
- O.R.F.C. SQUARE FEET
- S.F. SOUTHWEST
- SW. DOCUMENT
- DOC.

EXHIBIT 'B'



SCALE: 1"=100'

DESIGNED BY:	HL
DRAWN BY:	JB
CHECKED BY:	JB
SITE PLAN:	2/23/09
SCALE:	1"=100'
SHEETS:	1

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 TEL: (661) 399-3800
 FAX: (661) 399-5800

PROJECT:
 PORTIONS OF PARCEL A OF LOT LINE
 ADJUSTMENT NO. 92-59864 AND PARCEL D
 OF PARCEL MAP NO. 90-14
 CITY OF FRESNO, CALIFORNIA

**PROPOSED PEDESTRIAN/BIKE
 RESERVATION**



EXHIBIT "C" CONDITIONS FOR APPROVAL

1. The City of Fresno and PG&E require the entire area proposed to be vacated be reserved as an easement for public utilities. Any relocation of those facilities shall be at the expense of the Applicant.
2. The City of Fresno has street lights that must be removed and returned to the City's Corporation Yard. Any street light electrical service that may be located within the area proposed to be vacated must be relocated into a portion of the public street right-of-way of either Herndon or Spaatz that is to remain in place.
3. The City of Fresno requires the applicant to construct concrete curb, gutter and sidewalk, along with transitional asphaltic concrete pavement as necessary, to block public access from Herndon Avenue to the area proposed to be vacated. Applicant shall also remove the existing left turn pocket in Herndon and construct new median island curbing, landscaping and irrigation as necessary. All work required by such conditions shall be completed in compliance with City Standard Specifications and will require engineered construction plans prepared by a registered civil engineer and approved by the Public Works Department.
4. The existing drainage patterns must be maintained. F.M.F.C.D. requires that a twenty-foot wide easement must be retained and is to be centered on a non-Master Plan pipe extension to Herndon Avenue. There should be no encroachments into the easement including, but not limited to, foundations, roof overhangs, swimming pools or trees.
5. The Fresno Irrigation District (FID) has facilities that will be affected by this proposed vacation. A copy of their response has been attached for your information and consideration. FID requires that the applicant grant to FID an additional easement sufficient to create a total thirty foot (30') wide easement centered on their Radin-Kamp No. 130 pipeline that runs parallel to Blythe Avenue. Public Works must receive written notification from FID that the District's requirements have been satisfied.
6. DPU requires the fire hydrant currently located on the west side of Blythe be relocated to the north side of Herndon Avenue, south of the current location, at the Applicant's expense.
7. In the portion of Spaatz Avenue that is proposed to be vacated the concurrent use of vehicles and aircraft is currently allowed by the City of Fresno's Municipal Code Section 14-1901 and aircraft parking is currently allowed by Municipal Code Section 14-1905, subject to the provisions in Sections 14-1901 through 14-1905. Before the vacation resolution can be recorded, and thus completed, the following text amendments to the City of Fresno's Municipal Code must be made:
 - A. Amend said Municipal Code Section 14-1901 to add, at least, the area proposed to be vacated to the list of areas excepted from the areas where the concurrent use of vehicles and aircraft are allowed.
 - B. Amend said Municipal Code Section 14-1905 to except, at least, the area proposed to be vacated from the areas where aircraft parking is allowed.

August 27, 2009

NO RETURN

Council Adoption: 8/27/09

Mayor Approval:

Mayor Veto:

Override Request:

TO: MAYOR ASHLEY SWEARENGIN

FROM: REBECCA E. KLISCH, CMC
City Clerk

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 8/27/09, Council adopted the attached Resolution No. 2009-189 entitled **Ordering vacation of Blythe bet Herndon/Spatz, and portion of Spatz east of Blythe**, Item No. **9:30 a.m. 1**, by the following vote:

Ayes	:	Borgeas, Brand, Dages, Westerlund, Xiong, Sterling
Noes	:	None
Absent	:	Perea
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before September 7, 2009. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED:

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

Ashley Swearingin, Mayor

Date: _____

COUNCIL OVERRIDE ACTION:

Ayes	:
Noes	:
Absent	:
Abstain	:

Date: _____