



| STAFF REPORT  |  |
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| <b>SUBJECT:</b> Consideration of Summary Vacation of an Irrevocable Dedication of a Roadway and Public Utility Easement by Mitchell and Patricia Markowitz. | <b>MEETING DATE:</b> 12/07/2023<br>6:00 p.m.                       |
| <b>SUBMITTED BY:</b> Michael Taylor, Associate Planner  |  |
| <b>REPORT PURPOSE:</b> <input checked="" type="checkbox"/> Action Item <input type="checkbox"/> Discussion <input type="checkbox"/> Information Only        |  |
| <b>LOCATION:</b> Jones Avenue   | <b>PROPERTY OWNER(S):</b> Mitchell Markowitz<br>Patricia Markowitz |
| <b>ZONING:</b> Low Density Residential "LDR"  | <b>GENERAL PLAN:</b> Medium Density Res. "MDR"                     |

**WHAT IS BEING ASKED OF THE CITY COUNCIL**

The City Council is being asked to consider a summary vacation of the irrevocable dedication of a roadway and public utility easement as being a part of an existing subdivision known as Parcel Map in the County of Lake, State of California, of a Merger and Re-subdivision of a Portion Of the North West 1/4 of the South West 1/4 of Section 27, Township 13 North., Range 7 West, Mount Diablo Base and Meridian Being within the City Of Clearlake.

**BACKGROUND**

Parcel Map Recorded

The parcel map was recorded on June 6, 1986. The City Council at that time accepted the irrevocable dedication of the roadway and public utility easement but rejected the conveyance of deed or title of the roadway until the roadway was constructed to City standards. Prior to the recordation of parcel map the subdivider/property owner was not required to construct any improvements.

Current Parcel Map Lot Accessor Numbers and Addresses

- 040-340-72 (5395 Jones Avenue)
- 040-340-73 (5396 Jones Avenue)
- 040-340-74 (5405 Jones Avenue)
- 040-340-75 (5415 Jones Avenue)

Although no improvements were required, however, there are minimum infrastructure improvements required, per City Standards, before any building permit could be approved, including:

- Minimum required access road improvements
- Minimum required roadway improvements for Jones Avenue extension
- Cul-de-sac improvement
- Street name
- Provide City Engineer with onsite and offsite improvement plans.
- Utilities to be placed underground to each parcel.
- Identify fire hydrant type and size.

Notice of Merger Application Submitted

The Markowitz’s purchased all the properties impacted by the parcel map in 1995. They have interest in disposing of the separate parcels. They applied for a Notice of Merger of Contiguous Parcels and Consent to Waiver (Lot Merger, LM 2022-06). The merger proposes combining the lots of the existing Parcel Map subdivision with two other contiguous parcels. Upon completion of the application process and notice of merger recording the roadway and public utility easement will no longer serve the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.

Infrastructure Status

- Parcel Map  
Access to the subdivision by the roadway and public utility easement that begins at a 40-foot-wide roadway and public utility easement (40-foot Jones Avenue) roadway easement. Mapping available for utilities including Highlands Water Company or City mapping indicate existing infrastructure improvements for water or sewer within the easement.
- Jones Avenue
  - Water: 2” galvanized pipe and blow-off valve beginning at Lakeview Drive and generally ending at the Parcel 3 of the Parcel Map (source: Highlands Water Company Water Map).
  - Sewer: Gravity main and manholes. Beginning at Lakeview Drive and transitioning through Parcel Map access point and serving most northerly lot.
  - Road surface: Unimproved

BUILDING PERMITS

No improvements per Parcel Map conditions and requirements therefore no building permits have been issued.

**NOTED STATUTES**

GOVERNMENT CODE – GOV

TITLE 1. GENERAL [100-7931.000]

DIVISION 7. MISCELLANEOUS [6000 – 7599.113]

CHAPTER 12.7. Dedication of Real Property for Public Purposes [7050-7050]

7050. With the consent of the city, county, or city and county, as the case may be, an irrevocable offer of dedication of real property for any public purpose, including, but not limited to, streets,

highways, paths, alleys, including access rights and abutter's rights, drainage, open space, public utility or other public easements, parks, or other public places, may be made pursuant to this section. Such offer of dedication shall be executed, acknowledged, and recorded in the same manner as a conveyance of real property. Such offer of dedication, when recorded in the office of the county recorder, shall be irrevocable and may be accepted at any time by the city council of the city within which such real property is located at the time of acceptance or, if located in unincorporated territory, by the board of supervisors of the county within which such real property is located.

Such offer of dedication may be terminated and the right to accept such offer abandoned in the same manner as is prescribed for the summary vacation of streets or highways by Part 3 (commencing with Section 8300) of Division 9 of the Streets and Highways Code. Such termination and abandonment may be by the city council of the city within which such real property is located or, if located in unincorporated territory, by the board of supervisors of the county within which such real property is located.

The procedure prescribed by this section shall be alternative to any other procedure authorized by law.

STREETS AND HIGHWAYS CODE - SHC

DIVISION 9. CHANGE OF GRADE AND VACATION [8000 - 8363]

PART 3. PUBLIC STREETS, HIGHWAYS, AND SERVICE EASEMENTS VACATION LAW [8300 - 8363]

CHAPTER 4. Summary Vacation [8330 - 8336]

ARTICLE 1. Authority [8330 - 8334.5]

8333. The legislative body of a local agency, or any public officer or employee authorized by the legislative body as provided in subdivision (a) of Section 8335, 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, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

8334. 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.

8334.5. 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.

## **LEGAL NOTICE & PUBLIC COMMENT**

Public notice noticed was provided in advance via mail (USPS) to the surrounding parcels owners directly affected by the vacation of the irrevocable dedication of a roadway and public utility easement as required pursuant to the Clearlake Municipal Code.

- All mailing addresses are drawn from the electronic database supplied by the Lake County Assessor Office.

## **MOTION/OPTIONS**

1. Move to approve Resolution CC 2023-49, the summary vacation of the irrevocable dedication of a roadway and public utility easement of an existing subdivision known as Parcel Map in the County of Lake, State of California, of a Merger and Re-subdivision of a Portion of the North West 1/4 of the South West 1/4 of Section 27, Township 13 North., Range 7 West, Mount Diablo Base and Meridian.
2. Move to deny Resolution CC 2023-49, and direct staff to prepare appropriate findings.
3. Move to continue the item and provide alternate direction to staff.

## **ATTACHMENTS**

1. Parcel Map - June 6, 1986
2. Resolution CC 2023-49 - Summary Vacation