



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO.	1K
COUNCIL MEETING	1/30/14
APPROVED BY	
DEPARTMENT DIRECTOR	
CITY MANAGER	

January 30, 2014

FROM: SCOTT L. MOZIER, PE, Director
Public Works Department

BY: SCOTT TYLER, PE, City Traffic Engineer/Division Manager
Public Works Department, Traffic and Engineering Services Division

ALAN JAMES, Supervising Engineering Technician
Public Works Department, Traffic and Engineering Services Division

SUBJECT: Adopt a resolution approving the summary vacation of a portion of Allen Avenue and Shepard Street located at the southeast corner of West Herndon Avenue and North Riverside Drive

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution approving the summary vacation of a portion of Allen Avenue and Shepard Street located at the southeast corner of West Herndon Avenue and North Riverside Drive.

EXECUTIVE SUMMARY

On April 5, 2012 the Council adopted Resolution No. 2012-61 approving the summary vacation of a portion of Allen Avenue and Shepard Street at the southeast corner of West Herndon Avenue and North Riverside Drive (formerly North Bryan Avenue). A design change for the intersection is resulting in approximately 935 square feet more of excess right-of-way as shown on Exhibit "B" of the attached resolution. The purpose for the vacation is to eliminate the additional excess public street right-of-way so that it can be incorporated into the development of a fast food restaurant. In 2012 Traffic and Engineering Services Division, other City departments and utility agencies reviewed the original proposal, which was for more area than what was vacated and is now proposed to be vacated, and approved the vacation with no conditions after determining that there are no public utility facilities within the area proposed for vacation and that the area proposed for vacation is unnecessary for present or prospective public street purposes.

BACKGROUND

On April 5, 2012 the Council adopted Resolution No. 2012-61 approving the summary vacation of a portion of Allen Avenue and Shepard Street at the southeast corner of West Herndon Avenue and North Riverside Drive (formerly North Bryan Avenue). After Resolution No. 2012-61 was recorded on April 16, 2012 as Document No. 2012-0052298, Official Records of Fresno County, there was a design change for the intersection that required the proposed improvements for North Riverside Drive to be moved approximately 2 feet westerly from what was originally planned resulting in approximately 935 square feet more of excess right-of-way. Herndon, LLC is requesting the vacation of this additional excess right-of-way as shown on

REPORT TO THE CITY COUNCIL

Summary vacation of a portion of Allen Avenue & Shepard Street

January 30, 2014

Page 2

Exhibit "B" of the attached resolution. Allen Avenue and Shepard Street were dedicated for public street purposes by the map of J.C. Forkner Fig Gardens Subdivision No. 10 recorded July 14, 1924 in Volume 10 of Plats at Page 38, Fresno County Records. There is no evidence that improvements were ever constructed within the portion of Allen Avenue and Shepard Street proposed to be vacated. The purpose for the vacation is to eliminate the additional excess public street right-of-way no longer required so that it can be incorporated into the development of a fast food restaurant proposed for the southeast corner of West Herndon Avenue and North Riverside Drive.

In 2012 the Traffic and Engineering Services Division, other City departments and utility agencies reviewed the original proposal, which was for more area than what was vacated and is now proposed to be vacated, and approved the vacation with no conditions after determining that there are no public utility facilities within the area proposed for vacation and that the area proposed for vacation is unnecessary for present or prospective public street purposes.

The provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, authorize the Council to summarily vacate a public street easement that is considered excess right-of-way not required for street or highway purposes and has no public utility facilities within the area to be vacated. Under these provisions, only one Council action is necessary and a published notice, posting and public hearing are not required.

The vacation, if approved by the Council, will become effective when the vacating resolution is recorded in the office of the Fresno County Recorder.

The City Attorney's Office has reviewed and approved the attached resolution as to form.

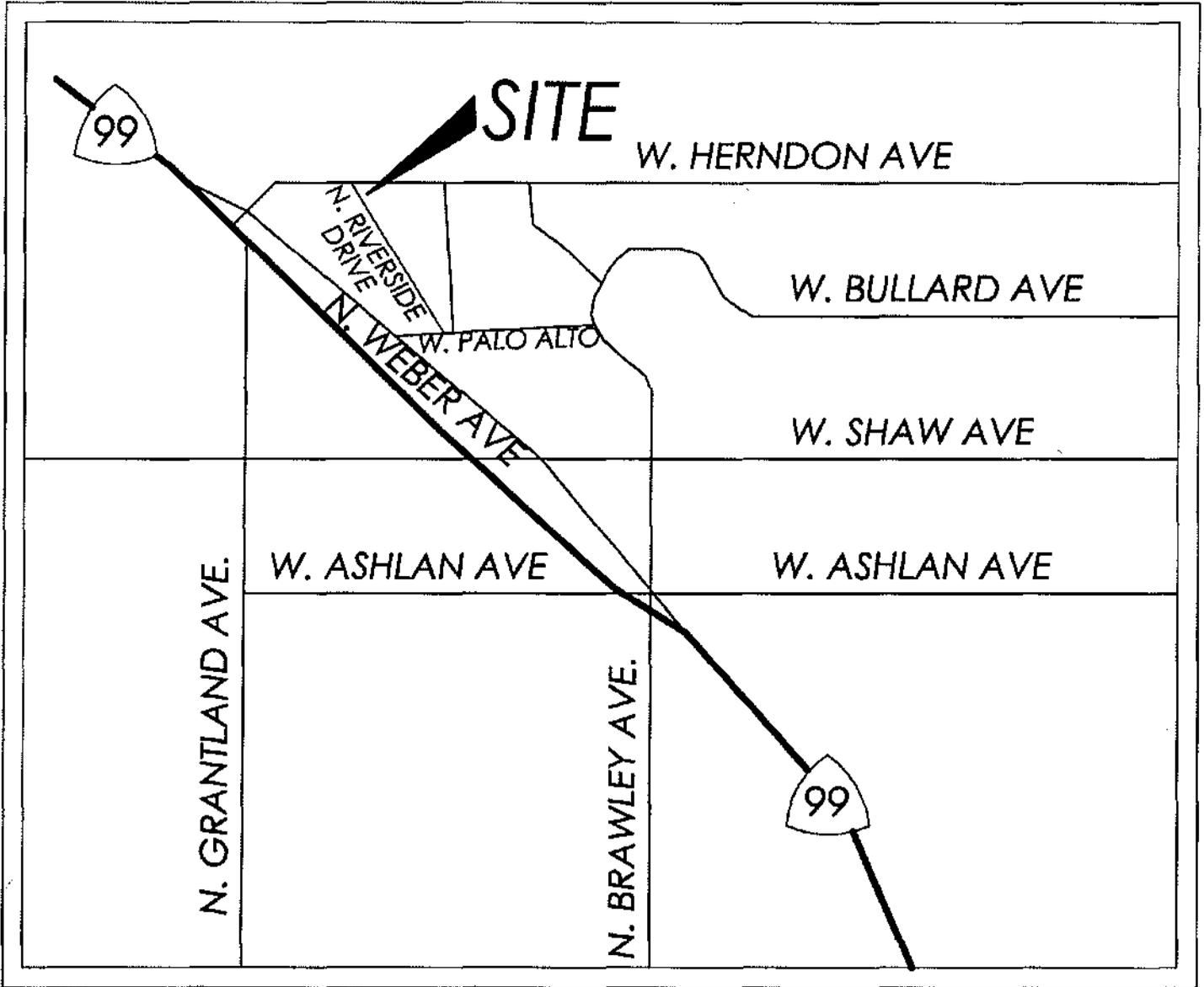
ENVIRONMENTAL FINDINGS

This vacation is included in the project description for a project that was previously environmentally assessed pursuant to the California Environmental Quality Act (CEQA). Environmental Assessment (EA) No. A-09-10/R-09-20, a Mitigated Negative Declaration (MND), was prepared for Plan Amendment No. A-09-10 and Rezone No. R-09-20. On July 28, 2011 the City Council adopted said EA No. A-09-10/R-09-20. The Notice of Determination for EA No. A-09-10/R-09-20 was filed on July 29, 2011 and an Addendum to EA No. A-09-10/R-09-20 that addressed minor technical changes or additions was prepared on February 10, 2012. On April 5, 2012 the Council affirmed the adoption of the Mitigated Negative Declaration (MND) prepared for Plan Amendment No. A-09-10 and Rezone No. R-09-20, with its attached Addendum to EA No. A-09-10/R-09-20.

FISCAL IMPACT

This project is located in Council District 2. There will be no City funds involved in the development project. The developer has paid all processing fees to cover staff cost in accordance with the Master Fee Schedule.

Attachments: 1. Vicinity Map
 2. Resolution



VICINITY MAP
NOT TO SCALE

This page intentionally left blank.

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
FRESNO, CALIFORNIA, APPROVING THE SUMMARY
VACATION OF A PORTION OF ALLEN AVENUE AND
SHEPARD STREET LOCATED AT THE SOUTHEAST
CORNER OF WEST HERNDON AVENUE AND NORTH
RIVERSIDE DRIVE

WHEREAS, the Council has elected to proceed under the provisions of the Public Streets, Highways, and Service Easements Vacation Law (Division 9, Part 3 of the California Streets and Highways Code), and specifically Chapter 4 (commencing with Section 8330) thereof, to summarily vacate a portion of Allen Avenue and Shepard Street located at the southeast corner of West Herndon Avenue and North Riverside Drive; and

WHEREAS, the portion of the public street easement proposed to be vacated is described in Exhibit "A" and shown on Exhibit "B", which are attached and incorporated in this Resolution; and

WHEREAS, Allen Avenue and Shepard Street were dedicated for public street purposes by the map of J.C. Forkner Fig Gardens Subdivision No. 10 recorded July 14, 1924, in Volume 10 of Plats at Page 38, Fresno County Records; and

WHEREAS, on April 5, 2012, the Council adopted Resolution No. 2012-61 approving the summary vacation of a portion of Allen Avenue and Shepard Street at the southeast corner of West Herndon Avenue and North Riverside Drive (formerly North Bryan Avenue); and

WHEREAS, after Resolution No. 2012-61 was recorded on April 16, 2012, as

1 of 5

Date Adopted:
Date Approved:
Effective Date:

Resolution No. _____

City Attorney Approval: 

Document No. 2012-0052298, Official Records of Fresno County, there was a design change for the intersection that required the proposed improvements for North Riverside Drive to be moved approximately 2 feet westerly from what was originally planned resulting in approximately 935 square feet more of excess right-of-way; and

WHEREAS, Herndon, LLC, an “interested person” pursuant to California Streets and Highways Code Section 8320(a)(2), is requesting the vacation of this additional excess right-of-way; and

WHEREAS, the purpose for the vacation is to eliminate the additional excess public street right-of-way no longer required so that it can be incorporated into the development of a fast food restaurant proposed for the southeast corner of West Herndon Avenue and North Riverside Drive; and

WHEREAS, in 2012 the Traffic and Engineering Services Division, other City departments and utility agencies reviewed the original proposal, which was for more area than what was vacated and is now proposed to be vacated, and approved the vacation with no conditions after determining that there are no public utility facilities within the area proposed for vacation and that the area proposed for vacation is unnecessary for present or prospective public street purposes; and

WHEREAS, the provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, authorize the Council to summarily vacate a public street easement that is considered excess right-of-way not required for street or highway purposes and has no public utility facilities within the area to be vacated. Under these provisions, only one Council action is necessary and a published notice, posting and public hearing are not required; and

WHEREAS, this vacation is included in the project description for a project that was previously environmentally assessed pursuant to the California Environmental Quality Act (CEQA). Environmental Assessment (EA) No. A-09-10/R-09-20, a Mitigated Negative Declaration (MND), was prepared for Plan Amendment No. A-09-10 and Rezone No. R-09-20. On July 28, 2011, the City Council adopted said EA No. A-09-10/R-09-20. The Notice of Determination for EA No. A-09-10/R-09-20 was filed on July 29, 2011, and an Addendum to EA No. A-09-10/R-09-20 that addressed minor technical changes or additions was prepared on February 10, 2012; and

WHEREAS, on April 5, 2012, the Council affirmed the adoption of the Mitigated Negative Declaration (MND) prepared for Plan Amendment No. A-09-10 and Rezone No. R-09-20, with its attached Addendum to EA No. A-09-10/R-09-20; and

WHEREAS, the Council desires to summarily vacate a portion of Allen Avenue and Shepard Street located at the southeast corner of West Herndon Avenue and North Riverside Drive as described in Exhibit "A" and shown on Exhibit "B".

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

1. The portion of public street easement of Allen Avenue and Shepard Street located at the southeast corner of West Herndon Avenue and North Riverside Drive as described in Exhibit "A" and shown on Exhibit "B" is hereby vacated.

2. The City Clerk of the City of Fresno shall certify to the passage of this Resolution and shall cause a certified copy, attested by the Clerk under the seal of the City of Fresno, to be recorded in the Office of the County Recorder of the County of Fresno, State of California.

4. This vacation shall become effective on the date this resolution is recorded.

5. From and after the date this resolution is recorded, the portion of Allen Avenue and Shepard Street located at the southeast corner of West Herndon Avenue and North Riverside Drive as described in Exhibit "A" and shown on Exhibit "B" shall no longer constitute a public street easement.

* * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the

_____ day of _____, 2014.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2014
Mayor Approval/No Return: _____, 2014
Mayor Veto: _____, 2014
Council Override Vote: _____, 2014

YVONNE SPENCE, CMC
City Clerk

BY: _____
Deputy

APPROVED AS TO FORM:

DOUGLAS T. SLOAN
CITY ATTORNEY

BY: _____
Raj Singh Badhesha, Deputy

EXHIBIT "A"

Page 1 of 3

APN 504-091-145
STREET VACATION

THAT PORTION OF ALLEN AVENUE AND SHEPARD STREET AS SHOWN ON THE MAP OF J.C. FORKNER FIG GARDENS SUBDIVISION NO. 10, ACCORDING TO MAP THEREOF RECORDED IN VOLUME 10 OF PLATS AT PAGE 38, FRESNO COUNTY RECORDS AND SITUATED IN THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 13 SOUTH, RANGE 19 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL UNITED STATES GOVERNMENT TOWNSHIP PLAT THEREOF IN THE CITY OF FRESNO, COUNTY OF FRESNO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 33, TOWNSHIP 12 SOUTH, RANGE 19 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL UNITED STATES GOVERNMENT TOWNSHIP PLAT THEREOF, SAID SOUTHWEST CORNER BEING ON THE NORTH LINE OF SAID NORTHWEST QUARTER OF SECTION 4;

THENCE SOUTH 89°55'44" EAST, ALONG SAID NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 4, A DISTANCE OF 126.50 FEET TO THE NORTHERLY PROLONGATION OF THE WEST LINE OF LOT 1 OF SAID J.C. FORKNER FIG GARDENS SUBDIVISION NO. 10;

THENCE SOUTH 00°20'16" WEST, ALONG SAID NORTHERLY PROLONGATION, A DISTANCE OF 40.00 FEET TO THE NORTHWEST CORNER OF LOT 1 OF SAID J.C. FORKNER FIG GARDENS SUBDIVISION NO. 10;

THENCE CONTINUING SOUTH 00°20'16" WEST, ALONG THE WEST LINE OF SAID LOT 1, A DISTANCE OF 59.50 FEET TO THE POINT OF INTERSECTION WITH A LINE THAT IS PARALLEL WITH AND 100.00 FEET SOUTH OF THAT REFERENCE LINE IN HERNDON AVENUE AS SHOWN AND DESCRIBED IN THAT DEED OF EASEMENT RECORDED JUNE 10, 2004 AS DOCUMENT NO. 2004-0128098, AND THAT DEED OF EASEMENT RECORDED JUNE 25, 2004 AS DOCUMENT NO. 2004-0140155, BOTH OF OFFICIAL RECORDS OF FRESNO COUNTY, SAID POINT BEING ALSO THE NORTHEAST CORNER OF THOSE PORTIONS OF ALLEN AVENUE AND SHEPARD STREET PREVIOUSLY VACATED PER RESOLUTION 2012-61 RECORDED APRIL 16, 2012 AS DOCUMENT NO. 2012-0052298, OFFICIAL RECORDS OF FRESNO COUNTY;

EXHIBIT "A"

Page 2 of 3

APN 504-091-14S
STREET VACATION

THENCE SOUTH $89^{\circ}50'31''$ WEST, ALONG SAID PARALLEL LINE AND NORTHERLY LINE OF SAID RESOLUTION 2012-61, A DISTANCE OF 25.14 FEET;

THENCE LEAVING SAID PARALLEL LINE SOUTH $42^{\circ}30'52''$ WEST, ALONG THE NORTHWESTERLY LINE OF THE PREVIOUSLY VACATED AREA PER SAID RESOLUTION 2012-61, A DISTANCE OF 30.15 FEET TO A POINT ON A LINE THAT IS PARALLEL WITH AND 66.00 FEET EASTERLY, AS MEASURED AT RIGHT ANGLES, OF THAT "CENTERLINE OF FUTURE STREET RIGHT OF WAY" (BRYAN AVENUE NOW KNOWN AS NORTH RIVERSIDE DRIVE) AS SHOWN ON THAT RECORD OF SURVEY RECORDED IN BOOK 54 OF RECORD OF SURVEYS AT PAGES 25 THROUGH 29, INCLUSIVE, FRESNO COUNTY RECORDS, SAID POINT ALSO BEING THE MOST WESTERLY CORNER OF SAID PREVIOUSLY VACATED AREA AND THE TRUE POINT OF BEGINNING;

THENCE ALONG THE WESTERLY LINE OF SAID PREVIOUSLY VACATED AREA THE FOLLOWING FOUR (4) COURSES:

1. SOUTH $04^{\circ}48'48''$ EAST, ALONG LAST SAID PARALLEL LINE, A DISTANCE OF 143.74 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 584.00 FEET;
2. THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID CURVE, CONCENTRIC WITH AND 66.00 FEET NORTHEASTERLY OF SAID "CENTERLINE OF FUTURE STREET RIGHT-OF-WAY", THROUGH A CENTRAL ANGLE OF $14^{\circ}15'13''$, AN ARC DISTANCE OF 145.28 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE SOUTHWESTERLY AND HAVING A RADIUS OF 153.74 FEET;
3. THENCE SOUTHEASTERLY, ALONG THE ARC OF SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF $09^{\circ}19'40''$, AN ARC DISTANCE OF 25.03 FEET TO THE BEGINNING OF A REVERSE CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS 153.74 FEET;
4. THENCE SOUTHEASTERLY, ALONG THE ARC OF LAST SAID REVERSE CURVE, THROUGH A CENTRAL ANGLE OF $11^{\circ}07'29''$, AN ARC DISTANCE OF 29.85 FEET TO THE NORTH LINE OF LOT 2 OF SAID J.C. FORKNER FIG GARDENS SUBDIVISION NO. 10;

EXHIBIT "A"

Page 3 of 3

APN 504-091-14S
STREET VACATION

THENCE NORTH 89°55'44" WEST, ALONG SAID NORTH LINE OF LOT 2 AND NON-TANGENT TO LAST SAID CURVE, A DISTANCE OF 2.49 FEET TO THE POINT OF BEGINNING OF A NON-TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 633.00 FEET, A RADIAL TO SAID POINT BEARS SOUTH 67°26'57" WEST;

THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 01°03'47", AN ARC DISTANCE OF 11.74 FEET TO THE BEGINNING OF A COMPOUND CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 90.00 FEET, A RADIAL TO SAID POINT BEARS SOUTH 68°30'44" WEST;

THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°02'06", AN ARC DISTANCE OF 9.48 FEET;

THENCE NORTH 15°27'11" WEST, TANGENT TO LAST SAID CURVE, A DISTANCE OF 57.14 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 630.00 FEET;

THENCE NORTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°38'22", AN ARC DISTANCE OF 116.99 FEET TO A POINT ON A LINE THAT IS PARALLEL WITH AND 64.00 FEET EASTERLY, AS MEASURED AT RIGHT ANGLES, OF SAID "CENTERLINE OF FUTURE STREET RIGHT-OF-WAY";

THENCE NORTH 04°48'48" WEST, ALONG LAST SAID PARALLEL LINE, A DISTANCE OF 146.54 FEET TO THE SOUTHWESTERLY PROLONGATION OF SAID NORTHWESTERLY LINE OF SAID PREVIOUSLY VACATED AREA;

THENCE NORTH 42°30'52" EAST, ALONG SAID SOUTHWESTERLY PROLONGATION, A DISTANCE OF 2.72 FEET TO SAID MOST WESTERLY CORNER OF SAID PREVIOUSLY VACATED AREA, AND THE TRUE POINT OF BEGINNING.

CONTAINING 935 SQUARE FEET OR 0.021 ACRE, MORE OR LESS.


MICHAEL JAMES KNAPTON
P.L.S. 8012

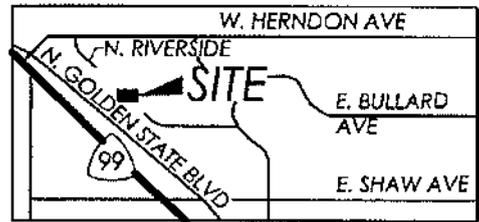
12/3/13
DATE



REV: 12/03/2013

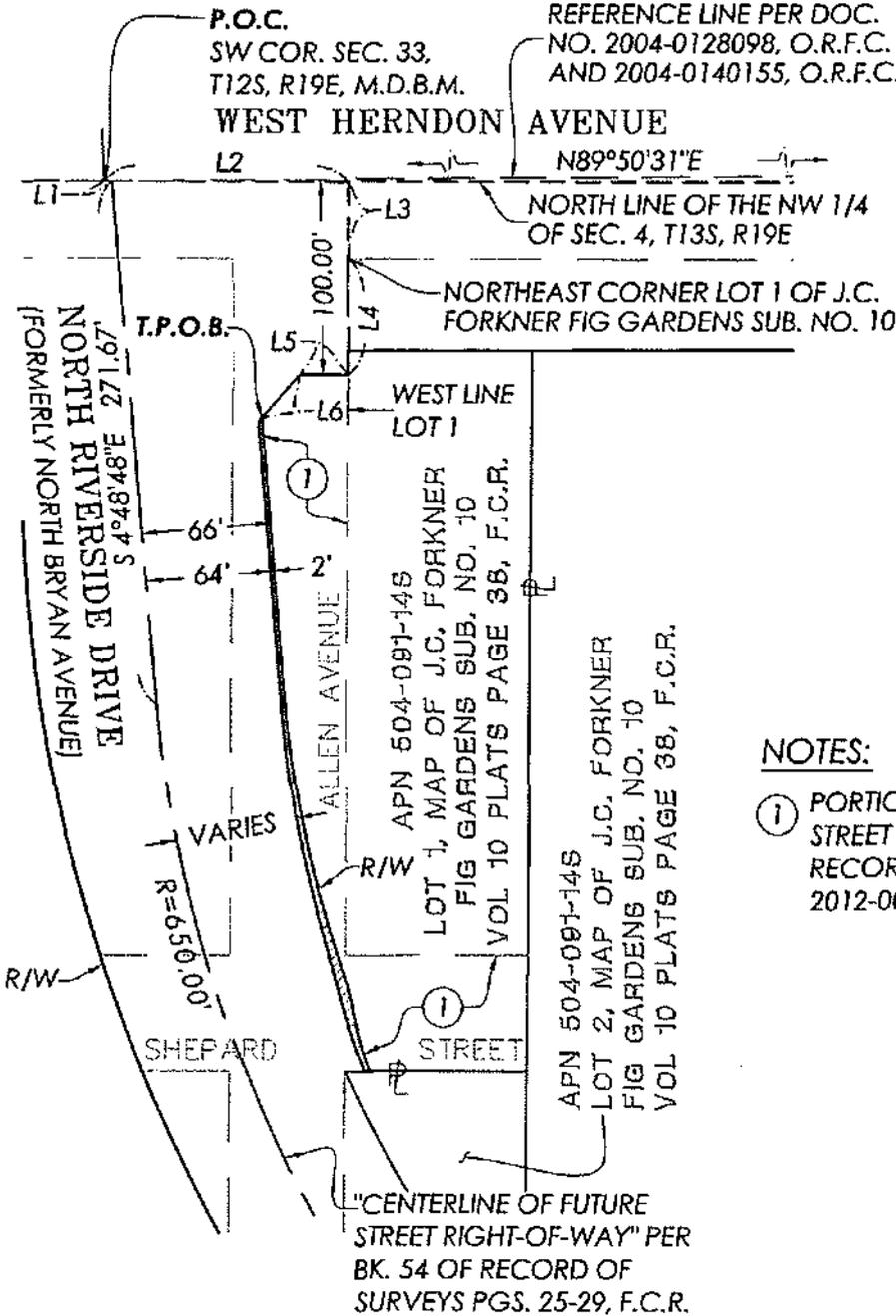
PWF 11452

EXHIBIT "B"



VICINITY MAP
NOT TO SCALE

LINE DATA TABLE		
-	LENGTH	BEARING
L1	3.90'	S89° 55' 44"E
L2	126.50'	S89° 55' 44"E
L3	40.00'	S0° 20' 16"W
L4	59.50'	S0° 20' 16"W
L5	25.14'	S89° 50' 31"W
L6	30.15'	S42° 30' 52"W

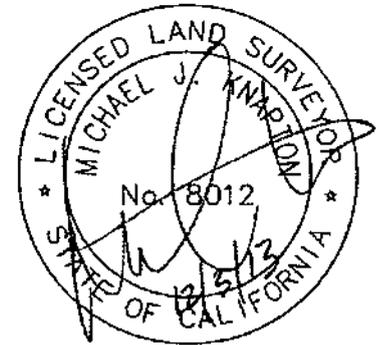
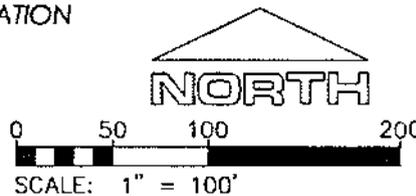


NOTES:

- ① PORTION OF ALLEN AVENUE AND SHEPARD STREET VACATED PER RESOLUTION 2012-61 RECORDED 4/16/2012 AS DOC. NO. 2012-0052298, O.R.F.C.

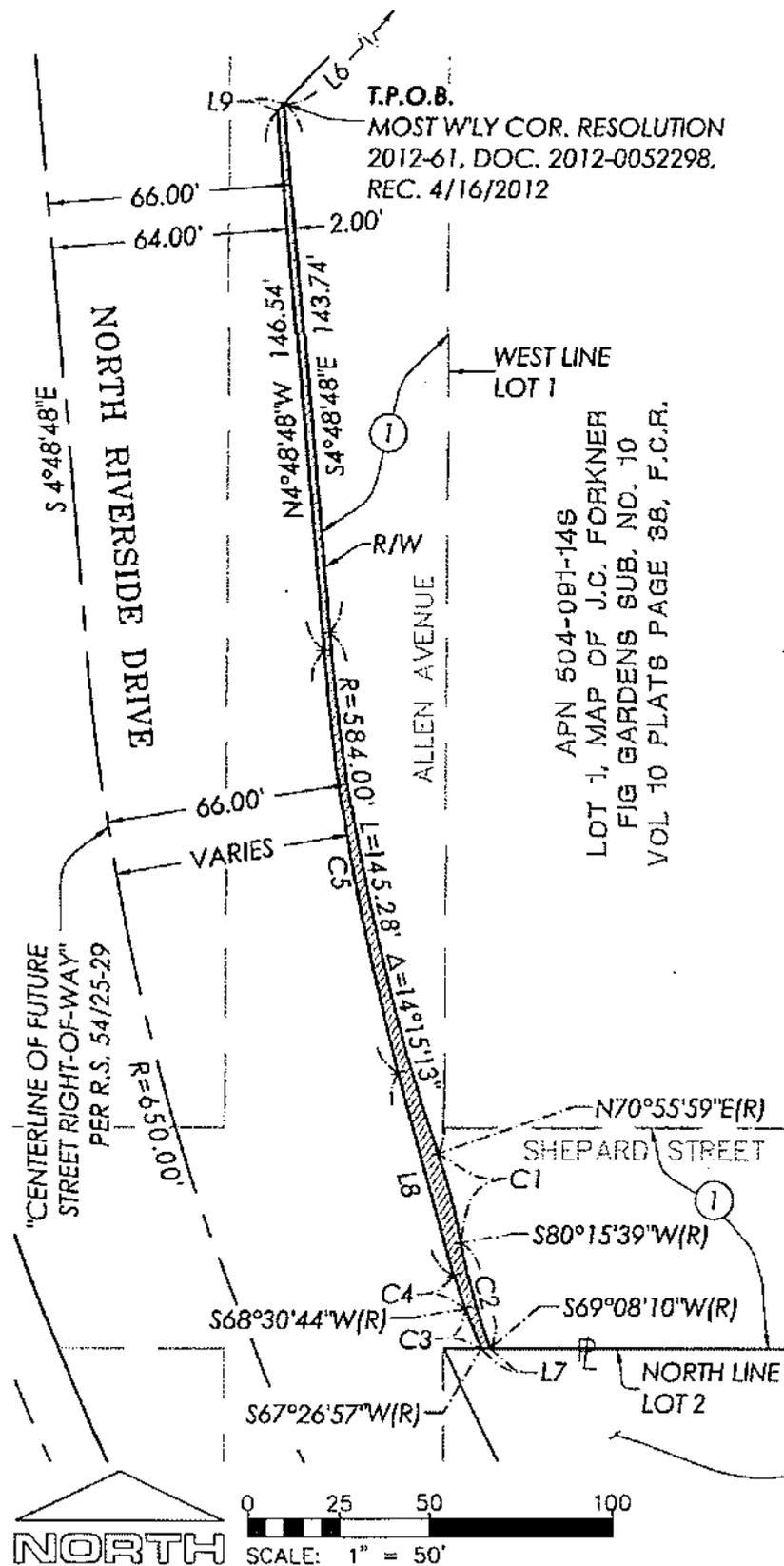
LEGEND:

- INDICATES STREET EASEMENT DEDICATION 935 SQ. FT. / 0.021 ACRE
- P.O.C. POINT OF COMMENCEMENT
- T.P.O.B. TRUE POINT OF BEGINNING
- R/W RIGHT OF WAY
- PROPERTY LINE



REF. & REV. PM 2008-13	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. _____ CO# _____
		FUND NO. _____ RES TYPE _____
PWF 11452 PLAT 1342	PUBLIC STREET TO BE VACATED	ORG. NO. _____
		DR. BY E.R.L. _____ SHEET NO. 1
		CH. BY M.J.K. _____ OF 2 SHEETS
		DATE 12/3/2013
		SCALE 1" = 100'

EXHIBIT "B"



LINE DATA TABLE

-	LENGTH	BEARING
L6	30.15'	S42° 30' 52"W
L7	2.49'	N89° 55' 44"W
L8	57.14'	N15° 27' 11"W
L9	2.72'	N42° 30' 52"E

CURVE DATA TABLE

-	RADIUS	LENGTH	DELTA
C1	153.74'	25.03'	Δ=9°19'40"
C2	153.74'	29.85'	Δ=11°07'29"
C3	633.00'	11.74'	Δ=1°03'47"
C4	90.00'	9.48'	Δ=6°02'06"
C5	630.00'	116.99'	Δ=10°38'22"



APN 504-091-145
 LOT 2, MAP OF J.C. FORKNER
 FIG GARDENS SUB. NO. 10
 VOL 10 PLATS PAGE 38, F.C.R.

REF. & REV.
PM 2008-13

CITY OF FRESNO
DEPARTMENT OF PUBLIC WORKS

PROJ. ID _____ CO# _____
FUND NO. _____ RES TYPE _____
ORG. NO. _____

PWF 11452
PLAT 1342

PUBLIC STREET TO BE VACATED

DR. BY E.R.L.
CH. BY M.J.K.
DATE 12/3/2013
SCALE 1" = 50'

SHEET NO. 2
OF 2 SHEETS