



# County of Santa Cruz<sup>0155</sup>

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## PLANNING DEPARTMENT

701 OCEAN STREET - 4<sup>TH</sup> FLOOR, SANTA CRUZ, CA 95060  
(831) 454-3182 FAX: (831) 454-2131 TDD: (831) 454-2123

ALVIN D. JAMES, DIRECTOR

### BOARD OF SUPERVISORS AGENDA: February 5, 2002

January 22, 2002

Board of Supervisors  
County of Santa Cruz  
701 Ocean Street  
Santa Cruz, CA 95060

RE: SUMMARY VACATION OF THE COUNTY'S INTEREST/ RIGHT TO A  
PORTION OF A RIGHT OF WAY REFERRED TO AS VALENCIA AVENUE;  
APTOS PLANNING AREA.

Application No.: 01-0485  
APN: 041-181-39  
Applicant: James Patterson  
Owner: Harold Nichols

#### Members of the Board:

This is an application by James Patterson requesting the County of Santa Cruz to summarily vacate any interest/ right of the County to a portion of the right of way referred to as a portion of Valencia Ave. (See Attachment 1, Exhibit A and B). Only a portion of this road has historically been used for access and staff could find no evidence that the portion proposed to be vacated has been used for access at all.

The purpose of this request is to increase the size of the useable building area within the parcel. This vacation of any and all interest/ rights by the County is the first step in the expansion of the building area. The applicant would still be required to eliminate all private interest to the right of way via the filing of quit claim deeds.

The vacation of this right of way requires Board action because the roads and streets were dedicated for the public use as part of the Final Map for Subdivision No. 3 of the Aptos Beach Country Club Properties ( 23 MB 3 ) recorded August 10, 1925. Staff has found no

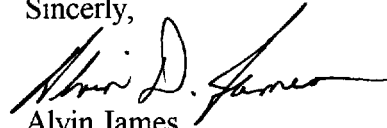
indication that this offer of dedication to the County was ever accepted nor is the right of way/ road shown on the publically maintained street maps or the County General Plan circulation maps.

Division 9, Part 3, Chapter 4 of the California Streets and Highways Code provides the legislative body of a local agency the authority to summarily vacate a street or any interest in a right of way by resolution under several circumstances. The summary vacation process is appropriate in this situation to clearly eliminate any interest the County may have in this unused portion of the right of way, and this does meet the following conditions as required in Chapter 4 (Summary Vacation) of the Streets and Highways Code:

1. The vacation of interest will not cut off access to any persons property.
2. The vacation of interest will not terminate a public service easement.
3. The right of way is not needed for a street by the county

It is therefore RECOMMENDED that your Board adopt the attached Resolution Authorizing the Summary Vacation of any interest in the Right of Way as described in Attachment 1, Exhibit A and direct that a Certified Copy of the Resolution be recorded with the County of Santa Cruz Recorder.

Sincerly,



Alvin James  
Planning Disrector

RECOMMENDED:




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**SUSAN MAURIELLO**  
County Adminiastartive Officer

attachments:

1. Resolution with Exhibits Authorizing the Summary Vacation.
2. Location Map.
3. Excerpts from The Street and Highways Code.

My Documents/pattersonroadaband.wpd

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BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CRUZ,  
STATE OF CALIFORNIA

0157

RESOLUTION NUMBER : \_\_\_\_\_

On the motion by Supervisor  
duly seconded by Supervisor  
the following Resolution was adopted:

RESOLUTION AUTHORIZING THE SUMMARY VACATION OF ALL PUBLIC  
INTEREST IN A PORTION OF A RIGHT OF WAY KNOWN AS VALENCIA AVENUE

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WHEREAS, a request has been made for vacation of a right of way in the County of Santa Cruz; and

WHEREAS, the Board of Supervisors as authorized by the State of California Streets and Highways Code, Division 9, Part 3, Chapter 4, entitled "Summary Vacation" may vacate any and all interest in a road or right of way; and

WHEREAS, the Board of Supervisors finds that:

1. Pursuant to Division 9, Part 3, Chapter 4, Article 1, Subsection 8334.5 of the State of California Streets and Highways Code, no in-place public utility facilities exist within the proposed portion of Valencia Ave. to be vacated as noted on Exhibit "A" and Exhibit "B" ;and

2. Pursuant to Division 9, Part 3, Chapter 4, Article 1, Subsection 8334 subparagraph (a) of the State of California Streets and Highways Code, Valencia Avenue as noted on Exhibit "A" and Exhibit "B" is an excess right of way of a street which is not required for street or highway purposes; and

Now, THEREFORE BE IT RESOLVED AND ORDERED, the right of way described herein and noted on Exhibit "A" and Exhibit "B" will cease to be a public right of way and shall revert to solely a private right of way from the date of recordation of this resolution.

BE IT FURTHER RESOLVED AND ORDERED that the County of Santa Cruz reserves from the vacation any and all utility easements pursuant to Chapter 5, Article 1, Section 8340 of the Streets and Highways Code.

0158

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz,  
State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2002, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_

Chairperson of the Board

ATTEST: \_\_\_\_\_

Clerk of the Board

APPROVED AS TO FORM:

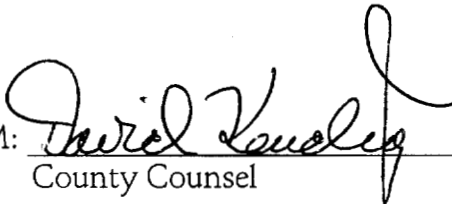
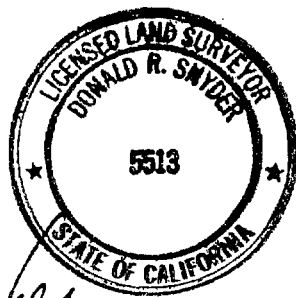
  
\_\_\_\_\_  
County Counsel

EXHIBIT A

0159



File No. 22301.1  
Drawn By DP  
Checked By \_\_\_\_\_  
September 27, 2001  
APN 041-181-39

*Donald R. Snyder*  
DONALD R. SNYDER LS 5513 RENEWAL DATE 9/30/04

DESCRIPTION OF A PORTION OF VALENCIA AVENUE TO BE ABANDONED

SITUATE IN THE IN THE RANCHO APTOS, SANTA CRUZ COUNTY, STATE OF CALIFORNIA AND

**BEING** a part of Valencia Avenue as said avenue is shown and delineated Sheet No. 1 of that certain map entitled "**Map of Subdivision No. 3, Aptos Beach Country Club Properties**" filed for record on the 10th day of August 1925 in Book 23 of Maps at Page 3, Santa Cruz County Records and more particularly bounded and described as follows to wit;

**BEGINNING** at the eastern corner of Lot 6, Block 33 on the northwestern line of Valencia Avenue all as shown on the aforesaid map;

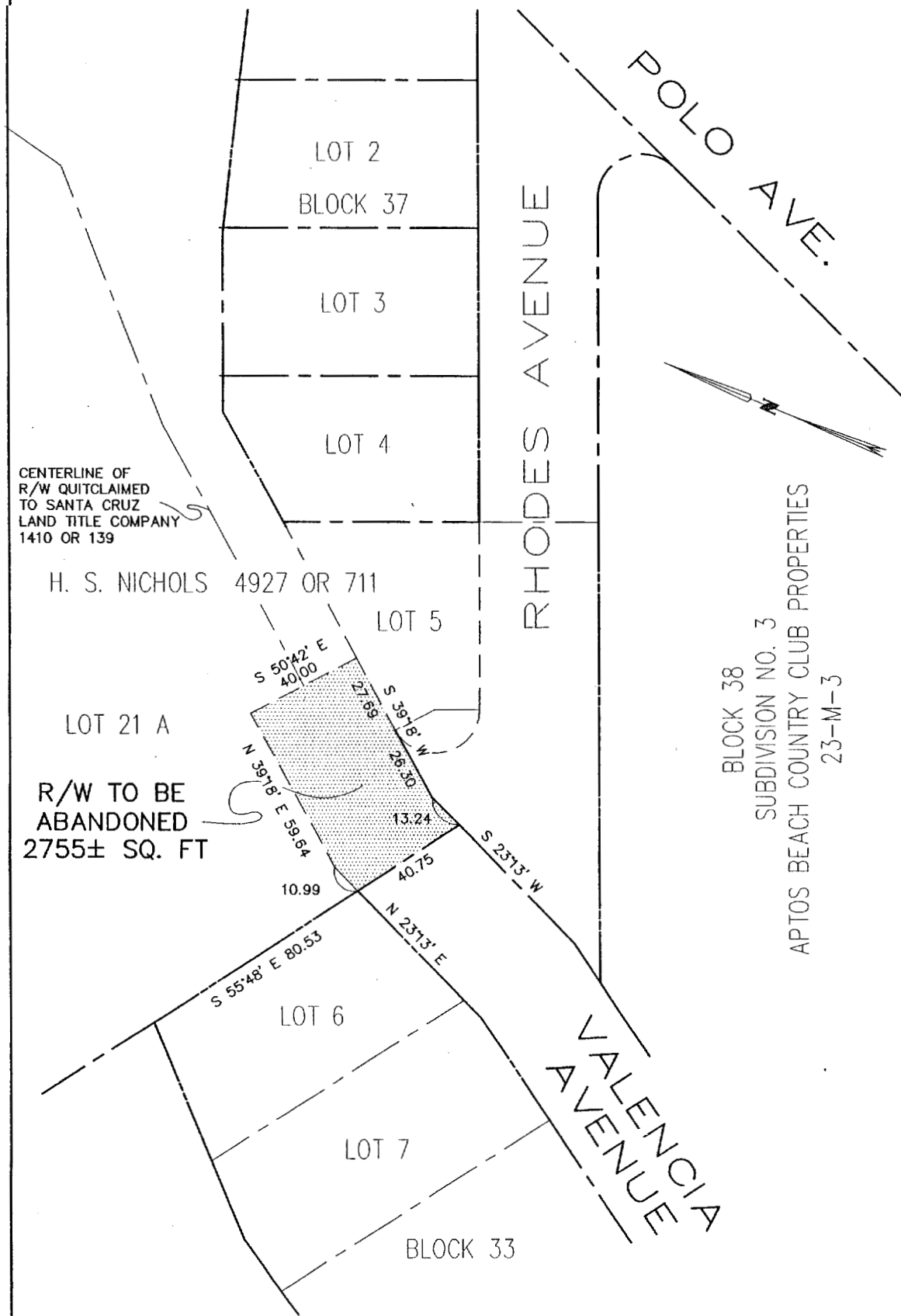
**THENCE FROM SAID POINT OF BEGINNING** along said northwestern line North 23°13' East 10.99 feet to an angle therein; thence North 39°18' East 59.64 feet to the northern terminus of said avenue; thence across the northern line of said avenue South 50°42' East 40.00 feet to southeastern line of said avenue and Lot 5 in Block 37 as shown on the above referenced map; thence along said last mentioned line and the northwestern boundary of said Lot 5 South 39°18' West (at 27.69 feet leave the boundary of Lot 5 at a point of curvature in the boundary of said lot) 53.99 feet to an angle in the southeastern line of said avenue; thence South 23°13' West 13.24 feet to an intersection with the southeasterly prolongation of the northeastern boundary of the aforementioned Lot 6 in Block 33; thence along said prolongation North 55°48' West 40.75 feet to the place of beginning, and

**CONTAINING** 2,755 square feet of land a little more or less.

COMPILED IN SEPTEMBER 2001 BY BOWMAN & WILLIAMS, CONSULTING CIVIL ENGINEERS,  
FILE NO. 22301.1

EXHIBIT B  
 SKETCH TO ACCOMPANY LEGAL DESCRIPTION  
 FOR ABANDONMENT OF A PORTION OF VALENCIA AVENUE

0160



CENTERLINE OF  
 R/W QUITCLAIMED  
 TO SANTA CRUZ  
 LAND TITLE COMPANY  
 1410 OR 139

H. S. NICHOLS 4927 OR 711

LOT 21 A  
 R/W TO BE  
 ABANDONED  
 2755± SQ. FT

BLOCK 38  
 SUBDIVISION NO. 3  
 APTOS BEACH COUNTRY CLUB PROPERTIES  
 23-M-3

<b>BOWMAN &amp; WILLIAMS</b> CONSULTING CIVIL ENGINEERS 1011 CEDAR STREET SANTA CRUZ CA 426-3560	SCALE 1" = 40'	JOB NO. 22301
	DATE SEPT. 26, 2001	DWG NAME 22301.DWG
	DRAWN PLOTTER	FILE NO. 22301

FOR TAX PURPOSES ONLY

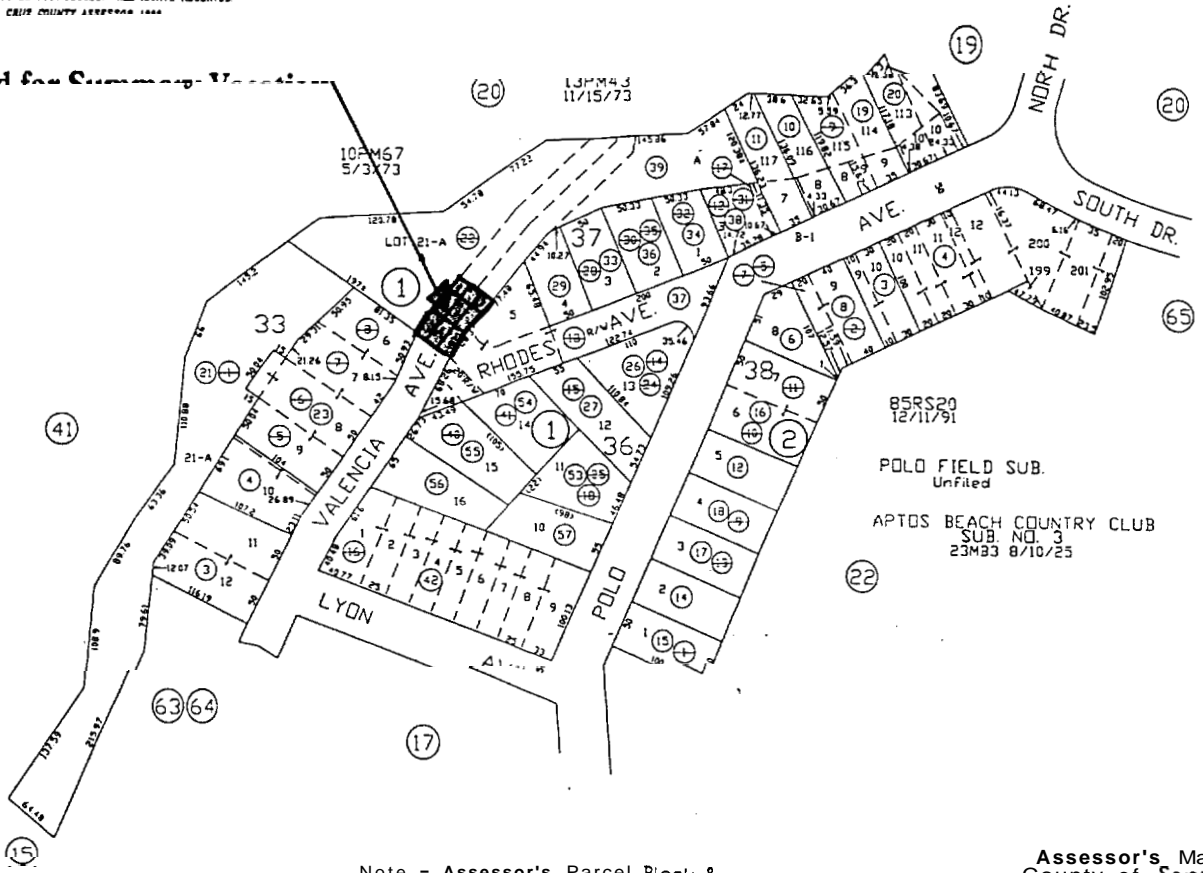
THE ASSESSOR MAKES NO GUARANTEE AS TO MAP ACCURACY NOR ASSUMES ANY LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED. ALL RIGHTS RESERVED. © COPYRIGHT SANTA CRUZ COUNTY ASSessor 1999

POR. APTOS RANCHO  
N.W. 1/4 SEC. 17, T.11S., R.1E., M.D.B. & M.

Tax Area Code  
69-273

41

Area proposed for Summer Vacation



Note - Assessor's Parcel Block & Lot Numbers Shown in Circles.

Assessor's Map No. 41-1  
County of Santa Cruz, C  
January, 1999

## STREETS AND HIGHWAYS CODE

### SECTION 8330-8334.5

ATTACHMENT 3

0162

8330. (a) The legislative body of a local agency may summarily vacate a street or highway that has been superseded by relocation.

(b) A street or highway shall not be summarily vacated pursuant to this section if vacation would do either of the following:

(1) Cut off all access to a person's property which, prior to relocation, adjoined the street or highway.

(2) Terminate a public service easement, unless the easement satisfies the requirements of Section 8333.

8330.5. (a) Subject to subdivisions (b) and (c), the commission may retain, relinquish to a local agency pursuant to Section 73, or summarily vacate a state highway that has been superseded by relocation.

(b) The commission shall not vacate a state highway unless the commission has first given a notice of relinquishment pursuant to Section 73 and the legislative body of the local agency has protested within the prescribed 90-day period that the highway is not needed for public use and should be vacated by the commission.

(c) If vacation of a state highway would cut off all access to the property of any person which, prior to relocation, adjoined the highway, the commission shall either retain the highway or relinquish it pursuant to Section 73.

8331. The legislative body of a local agency may summarily vacate a street or highway if both of the following conditions exist:

(a) For a period of five consecutive years, the street or highway has been impassable for vehicular travel.

(b) No public money was expended for maintenance on the street or highway during such period.

8332. 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 interception with a state freeway.

8333. 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.

**ATTACHMENT** 2

0163

**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.

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## STREETS AND HIGHWAYS CODE SECTION 8335-8336

ATTACHMENT 3

0164

8335. (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.

(b) The resolution of vacation shall state all of the following:

(1) That the vacation is made under this chapter.

(2) The name or other designation of the street, highway, or public service easement and a precise description of the portion vacated. The description of the portion vacated may be by a precise map which is recorded or to which reference is made in the resolution and which is permanently maintained by the public entity.

(3) The facts under which the summary vacation is made. If the vacation is made pursuant to Section 8332, the statement shall include the date of the agreement. The resolution is prima facie evidence of the facts stated.

(4) That from and after the date the resolution is recorded, the street, highway, or public service easement vacated no longer constitutes a street, highway, or public service easement.

8336. (a) The clerk shall cause a certified copy of the resolution of vacation, attested by the clerk under seal, to be recorded without acknowledgment, certificate of acknowledgment, or further proof in the office of the recorder of the county in which the property is located. No fee shall be charged for recordation.

(b) Upon such recordation, the vacation is complete.

# STREETS AND HIGHWAYS CODE

## SECTION 8340-8341

ATTACHMENT 3

0165

8340. In a proceeding to vacate a street or highway:

(a) A public entity may reserve and except from the vacation the easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures in, upon, over, and across a street or highway proposed to be vacated and, pursuant to any existing franchise 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 these works from all hazards in, upon, and over the street or highway proposed to be vacated.

(b) A local agency may reserve and except from vacation an easement for a future street or highway, unless the local agency finds that the street or highway is unnecessary for prospective public use.

(c) If there are in-place public utility facilities that are in use, a public entity shall, unless the legislative body determines the public convenience and necessity otherwise require, reserve, and except from the vacation any easement and right necessary to maintain, operate, replace, remove, **or** renew the public utility facilities.

(d) A public entity may reserve and except from the vacation, or may grant to another state or local public agency, an easement and right, at any time or from time to time, to construct, maintain, operate, replace, remove, and renew vehicular or nonvehicular trails for use by the public in, upon, over, and across a street or highway proposed to be vacated.

8341. (a) In a proceeding to vacate a street or highway, if the legislative body determines that the public convenience and necessity require the reservation and exception of easements and rights-of-way for works enumerated in Section 8340, such reservations and exceptions shall be recited in the resolution of vacation, in addition to any other matter required to be recited therein. The recital may describe the reservations and exceptions by reference to a precise map which is recorded or to which reference is made in the resolution and which is permanently maintained by the public entity.

(b) Subsequent proceedings of the public entity in relation to the vacation, including a deed or conveyance of title to or an interest in the property, are subject to, and governed by, the reservations and exceptions recited in the resolution of vacation and the deed or conveyance shall contain a recital to that effect.

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**27**

# STREETS AND HIGHWAYS CODE

## SECTION 8345-8349

ATTACHMENT 3

0166

8345. As used in this article, "public body" means a city or special district as defined in Section 54775 of the Government Code.

8346. (a) A public body or public utility may request a local agency for notice of proceedings to vacate a street or highway.

(b) Every local agency shall maintain an index of requests for notice of vacation proceedings received pursuant to this section. The index shall be made available to the public upon request.

8347. If a public body or public utility has requested notice of the vacation proceeding under Section 8346, the local agency shall give written notice of the vacation proceeding to the public body or public utility within 10 days after:

(a) The adoption of a resolution of intention or the filing of a petition to vacate.

(b) The adoption of the resolution of vacation in cases not covered by subdivision (a).

8348. (a) Within 30 days after receipt of the notice of the vacation proceeding, the public body may:

(1) Determine that public convenience and necessity require a public easement to maintain, operate, replace, remove, or renew its existing works installed in the street or highway that is the subject of the vacation proceeding.

(2) File for record in the office of the recorder in the county in which the vacated street or highway is located, a verified notice of its public easement so determined over the street or highway, or part thereof, that is particularly described in the notice.

(b) Failure to record the notice of public easement within 30 days after receipt of the notice of the vacation proceeding extinguishes the right of the public body to a public easement.

(c) If the local agency fails to give the required notice of the vacation proceeding, the public body may determine and record notice of its public easement at any time within 180 days after recordation of the resolution of vacation. The failure of the public body to record its notice within the 180-day period extinguishes the right of the public body to a public easement over the vacated street or highway.

8349. Nothing in this article shall be construed to:

(a) Affect any reservation or the right to reserve easements pursuant to this chapter or any other provision of this code.

(b) Make the rights of the public in or to a street or highway subordinate to a public easement determined pursuant to this article.