

TOWN OF SAN ANSELMO
STAFF REPORT
January 21, 2014

For the meeting of January 28, 2014

TO: Town Council

FROM: Gerhard Epke, Project Manager, Department of Public Works
Sean Condry, P.E., Public Works Director

SUBJECT: Resolution to Abandon a Portion of a Public Right-of-Way within Brookside School in San Anselmo

RECOMMENDATION:

Staff recommends that the Council consider adopting the attached resolution abandoning a portion of the right-of-way within Ross Valley School District's Brookside School.

LEGAL FRAMEWORK:

State law provides the exclusive method by which a street or public right-of-way¹, can be abandoned.² The Public Streets, Highways, and Service Easements Vacation Law spells out the requisite procedures. (Sts. & Hy. Code §§ 8300-8363.)

To initiate this process, the Town Council adopts a Resolution of Intent to Abandon a street, which sets a date for a public hearing on the abandonment. (Str. & Hy. Code § 8320.) Information contained in the Resolution of Intent to Abandon, including the hearing time and date, is posted along the street to be vacated and published in the newspaper for at least two weeks prior to the hearing. (Sts. & Hy. Code §§ 8322, 8323.) Before the hearing, the Planning Department must make a finding that the proposed abandonment conforms to the Town's General Plan. (Gov. Code § 65402.)

At the hearing, the Town Council takes evidence presented by interested persons. (Sts. & Hy. Code § 8324.) If the Council finds that the street proposed to be vacated is unnecessary for

¹ Under state law, "Street" and "highway" include all or part of, or any right in, a state highway or other public highway, road, street, avenue, alley, lane, driveway, place, court, trail, or other public right-of-way or easement, or purported public street or highway, and rights connected therewith, including, but not limited to, restrictions of access or abutters' rights, sloping easements, or other incidents to a street or highway. (Str. & H. Code § 8308.)

² *Zack's, Inc. v. City of Sausalito* (2008) 165 Cal. App. 4th 1163, 1186, see also, *County of San Diego v. California Water & Tel. Co.*, (1947) 30 Cal. 2d 817, 823.

present or prospective public use, it may adopt a resolution vacating the street. (*Id.*) The abandonment must be in the public interest.³

The Council can provide that the vacation will occur only after conditions are met and/or it may reserve from the vacation a right to maintain and operate existing or future utility facilities. (Sts. & Hy. Code §§ 8324, 8340.) If the Council approves the proposed abandonment, it will adopt a resolution of vacation that is recorded with the County. (Sts. & Hy. Code § 8324(b).) If the Town vacates a right-of-way in which it owns only an easement, rather than title to the underlying property, title to the property previously subjected to the easement reverts to the owner of the underlying fee. (Cal. Sts. & Hy Code § 8351.)

BACKGROUND:

On paper, a public right-of-way runs from Berkeley Avenue to Butterfield Road, bisecting the Brookside campus. (Attachments 1 & 2) This 10-foot wide strip of land dates back to 1912 when the area, Short Ranch I, was subdivided. At that time this right-of-way was offered for dedication to public use and rejected by the Town and the County. Brookside School was built in the late 1940's and in the 1950's the Ross Valley School District acquired the parcels along the Alameda, effectively encompassing the central part of the right-of-way. (Attachment 3) In 1955 a portion of the right-of-way, between the school and Berkeley Avenue, was abandoned by the Town and is used as an access route to the school. The remainder of the right-of-way is integrated into either the school grounds or the impassable fence lines and creek frontage downstream of Fire Station 20.

The Ross Valley School District has requested that San Anselmo abandon the section of right-of-way that runs through the Brookside School so that their parcels are contiguous and that they might proceed with plans to construct additional classrooms adjacent to or on that location. (Attachment 4)

On November 26, 2013 the Town Council approved a resolution declaring its intent to abandon this portion of the right-of-way and setting a public hearing date for January 28, 2014. In accordance with State law, Town staff posted the Resolution of Intent along the Lane Segment on January 9, 2014. (Cal. Sts. & Hy. Code § 8323). In addition, notice of the hearing on the proposed vacation was published in the Marin Independent Journal on January 14th, 19th, and 26th, 2014 as required by State law. (Cal. Sts. & Hy. Code § 8322). The Affidavit of Posting Resolution and proof of publication in the Marin Independent Journal are attached as Attachment 5.

The Town contacted local utility companies via mail to determine whether they have facilities on the Lane Segment. Town staff has not heard from any of the utilities. A 30 inch concrete storm drain, flowing towards Sleepy Hollow Creek, is located within this right-of-way. In 1955 a drainage easement agreement was made between the Town and the School District. This pipe is, and would remain, the responsibility of the School District to maintain.

³ *People ex rel. Webb v. San Rafael* (1928) 95 Cal. App. 733, 738-739 (finding that a city can abandon a street in the interest of the safety, convenience and good of the general public, even if a private property owner may benefit from the abandonment).

As required prior to a hearing on a right-of-way abandonment, the Town's Planning Department has found that the proposed abandonment is consistent with the Town's General Plan (Attachment 6).

The proposed abandonment is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 Class 32: In-Fill Development Projects. The project is characterized as in-fill development because it: 1) is consistent with the Town's general plan and municipal code; 2) is within the town limits and is less than five acres; 3) has no value as habitat for endangered, rare or threatened species; 4) would not result in significant effects related to traffic, noise, air quality, or water quality and; 5) can be served by all required utilities and public services. A Notice of Exemption was prepared for the proposed abandonment (Attachment 7).

Finally, San Anselmo Public Works Department received a Safe Routes to School grant for improving Brookside School's frontage along the Alameda and has been looking for a way to accommodate road width, parking, loading, and pedestrian needs in the area. If San Anselmo abandons this unused right-of-way, the School District has indicated that it would support widening of the Town right-of-way along the District's Alameda frontage, allowing the Town to better accommodate the Safe Routes to Schools project.

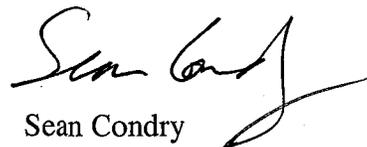
DISCUSSION AND FISCAL IMPACT:

At this time staff does not see that the Right-of-Way serves any current or possible future public purpose. The abandonment, however, would be in the public interest because the School District could proceed with its campus improvements. At this point there are no known fiscal impacts to the Town.

Respectfully submitted,



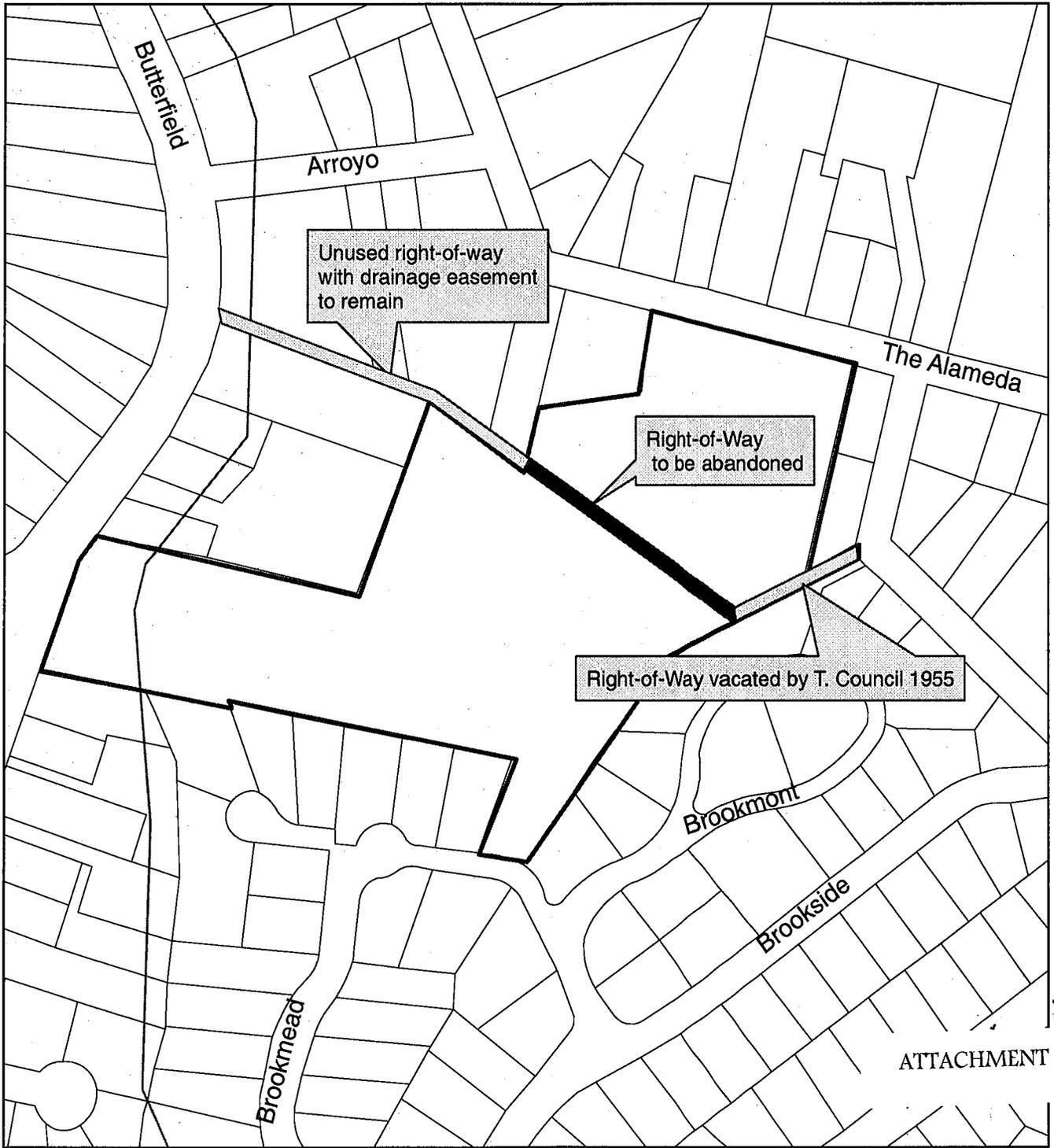
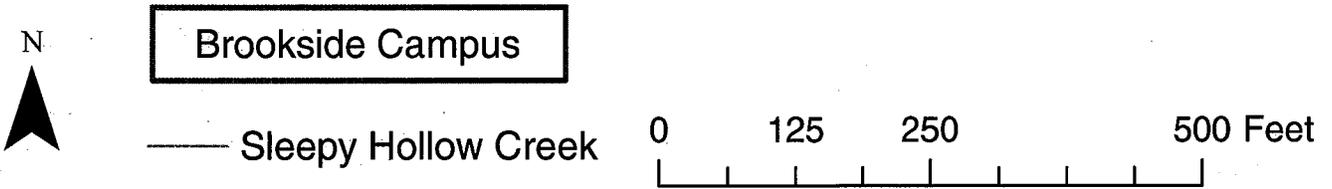
Gerhard Epke
Public Works Project Manager



Sean Condry
Public Works Director

- Attachment 1 - Site Plan
- Attachment 2 - Site Photo
- Attachment 3 - Legal Description
- Attachment 4 - Letter from Ross Valley School District
- Attachment 5 - Affidavit of Posting and Proof of Publication
- Attachment 6 - Planning Agency Report on General Plan Consistency
- Attachment 7 - CEQA Notice of Exemption
- Attachment 8 - Resolution

Site Plan of Right of Way to be Abandoned
As of January 2014
Gerhard Epke





Site Photo

West-facing view across Brookside School in vicinity of
right-of-way considered for abandonment



Site Photo

**East-facing view across Brookside School in vicinity of
right-of-way considered for abandonment**

Exhibit "A"
Legal Description
Drainage Easement Abandonment

Lying within the Town of San Anselmo, County of Marin, State of California and being a portion of a ten foot wide alley way or easement between Berkeley Avenue and Butterfield Road, as shown on the map entitled Short Ranch Subdivision One, filed in Book 4 of Maps, Page 19, Marin County Records, said portion is more particularly described as follows:

Beginning at the most westerly corner of the portion of said alley way or easement as described and vacated by the Town of San Anselmo recorded in Book 930, Page 289, Official Records of Marin County, said westerly corner also be the most southerly angle point in said alley way or easement as shown on said Short Ranch Subdivision One; thence along the southerly line of said alley way or easement, North 66°33'14" West 291.24 feet to the intersection of the southwesterly projection of the common line of Lots 94 and 95 as shown on said map entitled Short Subdivision Number One; thence leaving said southerly line, along said southwesterly projection of said common line, North 02°02'29" East 10.74 feet to the northerly line of said alley way or easement; thence along said northerly line, South 66°33'14" East 289.74 feet to an angle point in said northerly line, said angle point also being the northwesterly corner of said alley way or easement vacation recorded in Book 930, Page 289; thence along the westerly line of said alley way or easement vacation, South 05°02'14" East 11.38 feet to the Point of Beginning.

Containing 2,906 Square Feet more or less.

Prepared by Cinquini & Passarino, Inc.


Michael R. Jones P.L.S. 8090



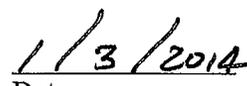
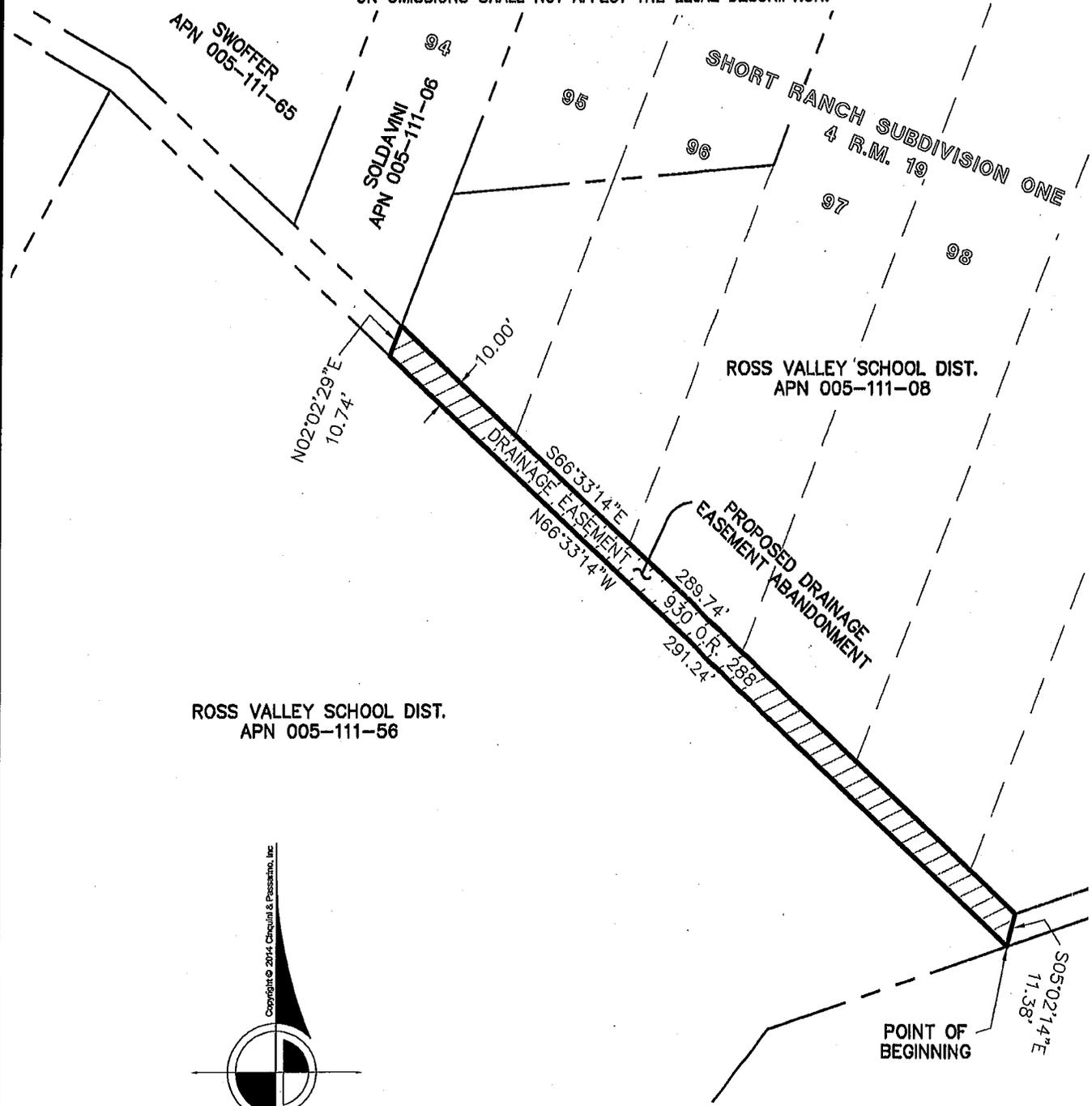

Date

EXHIBIT 'B'

THIS DIAGRAM IS FOR GRAPHIC PURPOSES ONLY. ANY ERRORS OR OMISSIONS SHALL NOT AFFECT THE LEGAL DESCRIPTION.

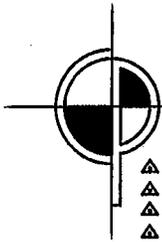
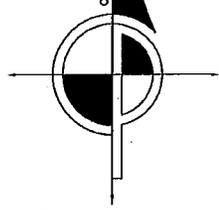


ROSS VALLEY SCHOOL DIST.
APN 005-111-56

ROSS VALLEY SCHOOL DIST.
APN 005-111-08

SHORT RANCH SUBDIVISION ONE
4 R.M. 19

Copyright © 2014 Cinquini & Passarino, Inc.



CINQUINI & PASSARINO, INC.
LAND SURVEYING

- ▲ BOUNDARY
- ▲ TOPOGRAPHIC
- ▲ CONSTRUCTION
- ▲ SUBDIVISIONS

1360 No. Dutton Ave.
Santa Rosa, Ca. 95401
Phone: (707) 542-6268
Fax: (707) 542-2106

WWW.CINQUINIPASSARINO.COM

JOB NAME:	ROSS VALLEY SCHOOLS LOWER BROOKSIDE	DRAWN BY: MRJ	CHECKED BY: JMD
DESCRIPTION:	DRAINAGE EASEMENT ABANDONEMENT	SCALE: 1" = 50'	DATE: JAN. 4, 2014
		JOB #: 6326-11	SHEET: 1 OF 1



ROSS VALLEY SCHOOL DISTRICT
110 Shaw Drive San Anselmo California 94960 Tel 415.456-7018 Fax: 415.456-4889 www.rossvalleyschools.org
Superintendent: Eileen Rohan Board of Trustees: Annelise Bauer - Chris Carlucci - Anne Capron - Hadley Dettmer - Heidi Kritscher Weller

September 23, 2013

VIA FIRST CLASS MAIL

Sean Condry, P.E., Public Works Director
Town of San Anselmo
525 San Anselmo Avenue
San Anselmo, CA 94960

RE: Abandonment of Right-of-Way at Brookside School

Dear Mr. Condry,

Please consider this a request for the Town of San Anselmo to abandon the Right-of-Way that runs through the Brookside School property. Although this 10 foot wide strip may, at one time, have been an alley, there is no likelihood that it can serve this purpose. Presently, the District has easement rights for drainage purposes, and there is a storm drain located within this Right-of-Way that, based on conversations with you and your staff, appears not to be owned by the Town of San Anselmo.

Abandonment of this strip of land will make the four parcels owned by the District contiguous, and allow the District to proceed with its plans for additional classrooms on the site. For your reference, this strip is located between Marin County Assessor's Parcel No. 5-111-08 and 5-111-56/06/65.

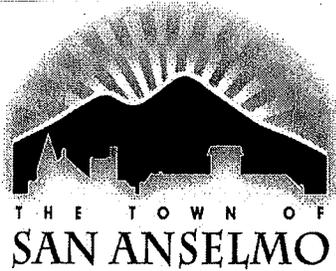
Thank you for your assistance in this matter.

Sincerely,

George Baranoff, Bond Program Manager
Ross Valley School District
gbaranoff@rossvalleyschools.org
415-456-4952

Tom McInerney
Mayor

Kay Coleman
Vice Mayor



Ford Greene
Councilmember

Jeff Kroot
Councilmember

Lori Lopin
Councilmember

525 San Anselmo Avenue, San Anselmo, CA 94960-2682
www.townofsananselmo.org
(415) 258-4600 | Fax: (415) 459-2477

AFFIDAVIT OF POSTING RESOLUTION

The undersigned, being competent to be a witness to the matters set forth, hereby certifies that on the 9th day of January, 2014, at 11:00 am ~~he~~she securely and conspicuously posted at least three copies of the attached Resolution of Intent No. 4053 of the town of San Anselmo in at least three places in the area of the portions (s) of the right-of-way proposed to be vacated, not more than 300 feet apart.

Dated at San Anselmo, California, this 9th day of Jan. 2014

By Joshua J. L.
DPW Project Mgr.
Title

Filed with the Town Clerk:

Date: 1/9/2014

Josue Kessel
Town Clerk
for Barbara Chambers

**TOWN OF SAN ANSELMO
TOWN COUNCIL
NOTICE OF PUBLIC HEARING**

DESCRIPTION OF PROJECT: San Anselmo Town Council will consider the abandonment of a 10-foot wide drainage easement and right-of-way located within Brookside School. When this area was first subdivided, this right-of-way was dedicated to public use and rejected by the Town. The Ross Valley School District subsequently acquired the adjacent parcel. Abandonment of this parcel to the School District would make the campus contiguous.

LOCATION OF PROJECT: The piece of land to be considered for abandonment is 10 feet wide by 290 feet long and located entirely within the Brookside School campus. It cuts laterally across the campus behind the existing baseball backstop across the basketball courts. See the attached map and legal description, Exhibit A.

The Town Council will hold a public hearing beginning at 7 p.m. on **Tuesday, January 28, 2014**, to consider the proposed abandonment. All interested persons are invited to attend the public hearing, which will be held in the Town Hall Council Chamber, 525 San Anselmo Avenue, San Anselmo.

The vacation proceeding is being conducted under California's Streets and Highways Code Sections 6310 et. seq. On September 11, 2012 San Anselmo Town Council voted to adopt a resolution declaring its intent to abandon the portion of Town property.

The staff report and supporting documentation are available to download from the Town's website at: <http://www.townofsananelmo.org> or copies are available at Town Hall, Monday through Thursday between 8:30am and 12:00pm.

Written comments should be submitted to the Public Works Department by January 23, 2014 so that they can be placed in the Town Council packets. After that date, the comments will be distributed to the Council at the meeting. These comments can be emailed to ajacoby@townofsananelmo.org or mailed to Town of San Anselmo, 525 San Anselmo Avenue, San Anselmo, CA 94962.

All interested persons are invited to attend the public hearing.

Posted on or before: January 14, 2014

RESOLUTION NO. 4053

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
DECLARING ITS INTENT TO ABANDON A PORTION OF A RIGHT-OF-WAY
THROUGH BROOKSIDE SCHOOL**

WHEREAS, the portion of the public right-of-way through Brookside School campus in the Town of San Anselmo and described in detail below ("Subject Right-of-Way") was offered for dedication but never accepted by the Town;

WHEREAS, the Town Council of the Town of San Anselmo finds that the portion of the Subject Right-of-Way is not presently needed for any public use and no public use will be required in the future;

WHEREAS, the Town desires to abandon the portion of the Subject Right-of-Way pursuant to Streets and Highways Code section 6325, et seq.;

NOW, THEREFORE, BE IT RESOLVED that

1. Pursuant to the provisions of Section 6300 et seq. of the California Streets and Highways Code, the Town Council declares its intention to abandon and vacate the following portion of the Subject Right-of-Way described as: See Exhibit A.
2. Reference is made to the attached site map, which delineates the area to be vacated.
3. The Town will reserve easements for existing utilities satisfactory to the owners thereof.
4. A public hearing for all persons interested in the proposed vacation will take place at the Town Council meeting on January 28, 2014, at 7:00 p.m. in the Town Council Chamber located at 525 San Anselmo Avenue, San Anselmo.
5. Notice of the hearing on the proposed vacation will be published in the manner prescribed by law (Cal. Sta. & Hy. Code § 6322), and
6. Notice of the proposed vacation stating the time and place set for the public hearing, will be posted in the manner prescribed by law (Cal. Sta. & Hy. Code § 6323).

The foregoing Resolution was adopted at the regular meeting of the San Anselmo Town Council held on November 26, 2013, by the following vote:

AYES: Coleman, Dalrymple, Greene, Kirov, McCherny
 NAYS: None
 ABSENT: None

Attest:

Joanne Kessel
 Town Clerk, Joanne Kessel
 for Barbara Chambers

Kay Coleman
 Mayor
 Kay Coleman

Exhibit "A"

Legal Description
 Drainage Easement Abandonment

Lying within the Town of San Anselmo, County of Marin, State of California and being a portion of a ten foot wide alley way or easement between Berkeley Avenue and Birchfield Road, as shown on the map entitled Street Subdivision One, 81d of Book 4 of Maps, Page 18, Marin County Records, said portion is more particularly described as follows:

Beginning at the most westerly corner of the portion of said alley way or easement as described and vacated by the Town of San Anselmo recorded in Book 930, Page 289, Official Records of Marin County, said westerly corner also be the most westerly angle point in said alley way or easement as shown on said Short Branch Subdivision One; thence along the southerly line of said alley way or easement, North 68°32'14" West 291.24 feet to the intersection of the southerly projection of this common line of Lots 64 and 56 as shown on said map entitled Short Subdivision Number One; thence leaving said southerly line, along said southerly projection of said common line, South 02°02'28" East 10.24 feet to the northerly line of said alley way or easement; thence along said northerly line, South 69°33'14" East 520.74 feet to an angle point in said northerly line, said angle point also being the northerly corner of said alley way or easement vacation recorded in Book 930, Page 289; thence along the westerly line of said alley way or easement vacation, South 05°02'14" East 11.38 feet to the Point of Beginning.

Containing 2,908 Square Feet more or less.

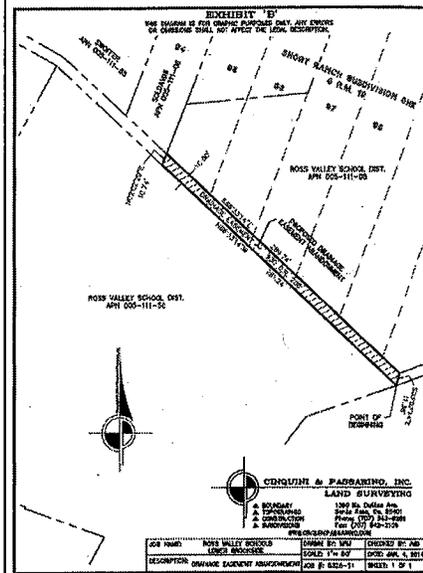
Prepared by Cognate & Passarino, Inc.

Michael R. Jones
 Michael R. Jones P.L.S. 5590



1/22/2014
 Date

1263 North Dutton Avenue, Suite 150, Santa Rosa, CA 95401
 Tel: (707) 542-8250 Fax: (707) 542-2108
 www.cognatepassarino.com
 CA No. 6328-11



PROOF O.K. BY: _____ O.K. WITH CORRECTIONS BY: _____

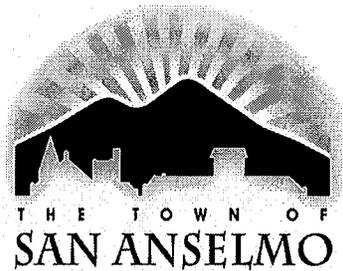
PLEASE READ CAREFULLY • SUBMIT CORRECTIONS ONLINE

IJ-0005071542-01.INDD (92.8%)

ADVERTISER: TOWN OF SAN ANSELMO PROOF CREATED AT: 1/10/2014 2:37 AM
 SALES PERSON: Donna Lazarus NEXT RUN DATE: 01/14/14
 SIZE: 4 X 15 PROOF DUE: 01/13/14 15:00:00
 PUBLICATION: IJ-Marin IJ

Tom McInerney
Mayor

John Wright
Vice Mayor



Doug Kelly
Councilmember

Ford Greene
Councilmember

Kay Coleman
Councilmember

525 San Anselmo Avenue, San Anselmo, CA 94960-2682
www.townofsananselmo.org
(415) 258-4600 | Fax (415) 459-2477

TO: Town Council

FROM: Phil Boyle, Senior Planner

SUBJECT: Planning Department Finding on General Plan Consistency of Resolution
Abandoning a Portion of a Public Right-of-Way within Brookside School

DATE: January 22, 2014

The 10-foot by 290-foot section of right-of-way considered for abandonment, located within Brookside School between APN 005-111-08 and 005-111-56, has a General Plan Land Use designation of Single Family (1 to 6 units per acre). Abandonment of the right-of-way and its continued use as a school campus would be consistent with the General Plan.

Resolution Abandoning a Portion of a Public Right-of-Way
Within Brookside School San Anselmo

NOTICE OF EXEMPTION

To: County Clerk of Marin County
County of Marin
Marin Civic Center
San Rafael, CA 94903

From: Town of San Anselmo
525 San Anselmo Avenue
San Anselmo, California 94960

Project Title: Resolution Abandoning a Portion of a Public Right-of-Way Within Brookside School in San Anselmo

Project Location: Within Brookside School Campus in San Anselmo, at 116 Butterfield Road, located between APN 005-111-08 and 005-111-56

Description of Nature, Purpose, and Beneficiaries of Project:

The Ross Valley School District has requested that the Town abandon a portion of the right of way, which bisects the campus, so that the School District's parcels are contiguous and that they may proceed with infrastructure improvements.

Name of Public Agency Approving Project: Town of San Anselmo

Name of Person or Agency Carrying Out Project: Sean Condry, Director of Public Works, San Anselmo Public Works Department

Exempt Status:

The adoption of this project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15332 Class 32: In-Fill Development Projects. The project is characterized as in-fill development because it: 1) is consistent with the Town's general plan and municipal code ;2) is within the Town limits and is less than five acres; 3) has no value as habitat for endangered, rare or threatened species; 4) would not result in significant effects related to traffic, noise air quality, or water quality and; 5) can be served by all required utilities and public services.

Lead Agency Contact Person:

Sean Condry, Director of Public Works, San Anselmo Public Works Department,
Scondry@townofsananselmo.org or 415-258-4676

Signature:  Date: 1/22/14

RESOLUTION NO. ____

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
VACATING A PORTION OF A RIGHT-OF-WAY WITHIN THE BROOKSIDESCHOOL
CAMPUS, 116 BUTTERFIELD ROAD**

WHEREAS, the portion of the public right-of-way within Brookside School in the Town of San Anselmo is described in detail in Exhibit A (“Subject Right-of-Way”);

WHEREAS, the Town Council of the Town of San Anselmo finds that the Subject Right-of-Way is not presently needed for any public use and no public use will be required in the future;

WHEREAS, on November 26, 2013 the Town Council adopted Resolution No. 4053 (“Resolution of Intention”) declaring its intention to vacate the Subject Right-of-Way;

WHEREAS, the Resolution of Intention gave notice that on Tuesday January 28, 2014 at 7:00 p.m. in the Town Council Chambers located at 525 San Anselmo Avenue in San Anselmo, the Council would hear any and all persons interested in the vacation of the Subject Right-of-Way;

WHEREAS, the Resolution of Intention giving notice of the date, time and place of the public hearing was posted in the manner prescribed by law;

WHEREAS, notice of the proposed vacation was published in the manner prescribed by law; and

WHEREAS, on January 28, 2014, at 7:00 p.m. in the Town Council Chambers, the Town Council heard any and all persons interested in the proposed vacation of the Subject Right-of-Way and received and considered all evidence submitted;

WHEREAS, at the January 28, 2014, public hearing the Town Council had before it a report from the Planning Department for the Town of San Anselmo finding that the proposed vacation is consistent with the Town’s General Plan; and

WHEREAS, a drainage easement exists over the Subject Right-of-Way containing stormwater infrastructure that will continue to be maintained by the Ross Valley School District.

NOW, THEREFORE, BE IT RESOLVED that:

SECTION 1. The Town Council hereby makes the following findings based on the staff report and all other evidence submitted:

1. The Subject Right-of-Way described in Exhibit A of this Resolution is not necessary for present or prospective public use.

2. Reference is made to the attached site map at Exhibit B, which delineates the area to be vacated.
3. The proposed vacation is consistent with the Town's General Plan.

SECTION 2. In accordance with Streets and Highways Code section 8340, the public convenience and necessity require the reservation and exception of easements for the construction, installation, use and maintenance of public utilities.

SECTION 3. In accordance with Streets and Highways Code section 8324 the Town Council hereby vacates and abandons all the Town's right, title and interest in that certain property described in Exhibit A, attached hereto and made a part hereof.

SECTION 4. The Town Manager is hereby authorized to arrange for recording of this Resolution, including Exhibits A and B hereto, at the Marin County Recorder's Office.

SECTION 5. The Subject Right-of-Way will no longer constitute a public right-of-way after the date of recordation of the documents identified in Section 3 of this Resolution.

The foregoing Resolution was adopted at the regular meeting of the San Anselmo Town Council held on January 28, 2014, by the following vote:

AYES:
NOES:
ABSENT:

Tom McInerney, Mayor

Attest:

Town Clerk