



Item No. 11 Town of Atherton

CITY COUNCIL STAFF REPORT – PUBLIC HEARING

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: ROBERT OVADIA, PUBLIC WORKS DIRECTOR

DATE: JUNE 15, 2022

SUBJECT: DECLARATION OF EXEMPTION OF GOVERNMENT CODE SECTION 4902 REVIEW BY THE PLANNING COMMISSION FOR STREET-RELATED REAL PROPERTY ACQUISITIONS THAT ARE MINOR IN NATURE; AND VACATION OF A PORTION OF MADRONE ROAD

RECOMMENDATION

Staff Recommends that the City Council (1) adopt the attached resolution declaring that provisions of California Government Code section 65402 shall not apply to minor street related acquisitions, dispositions, abandonments and alignments; and (2) conduct a Public Hearing and adopt the attached resolution vacating the street use of a portion of Madrone Road and retaining existing utility easement rights.

BACKGROUND

Madrone Road was accepted as a street by San Mateo County in 1907 with the approval of the Ringwood Park subdivision. The street easement extends to the rear the property at 21 Catalpa Drive (see attached map). The development of the Map No. 1 Lindenwood subdivision in 1937, precluded the extension of Madrone Road. The street easement is currently fenced off approximately 165 feet from the end of the easement (see attached image).

The property owner at 71 De Bell Drive requested abandonment of the street easement in 1989 in response to an encroachment permit notice related to fencing off a portion of the street easement fronting 1 Madrone Road.

The vacation of the easement was not processed at that time. The area has since been fenced off and has not been used for street purposes. In November 2021, Mr. Timmerman, the owner of 71 De Bell Drive again approached the Town requesting the vacation of the unused portion of the street easement.

ANALYSIS

1. Government Code Section 65402.

The State of California Government Code Section 65402 requires a Planning Commission review of street vacations and abandonments for conformity with the Town's General Plan. The City Council may, by resolution, determine that the provision does not apply to the following types of minor street-related real property acquisitions, dispositions, vacations and/or abandonments: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes, provided it is of a minor nature; (2) acquisitions, dispositions, or abandonments of a minor nature for street widening; or (3) alignment projects of a minor nature.

Because General Plan conformity review by the Planning Commission may impede the efficient preparation and implementation of street-related acquisitions, dispositions, vacations and /or abandonments that are of a minor nature, not requiring submission to and reporting by the Planning Commission for transactions of a minor nature will improve the efficiency of such transactions.

2. Vacation of a Portion of Madrone Road.

Following receipt of the request, staff reviewed the site and existing subdivision mapping regarding the existing easement and use. Though there is a utility pole and utilities in the area, given the termination of the street easement in the rear of 21 Catalpa Drive, there is no benefit to the Town to maintain street use of the rear portion of the existing easement (approximately 165 feet). The vacation of the street easement area would return to the underlying area to the property owners at 71 De Bell Drive and 1 Madrone Road, along with all maintenance responsibility.

The potential vacation of the street was brought to the Transportation Committee at their January 11, 2022, meeting for consideration and recommendation. The Transportation Committee found that there is no transportation related need for the rear portion of the street easement, which has been fenced off.

The State of California Streets and Highways Code Section 8320, et seq. authorizes the Town to vacate a street if the City Council finds that such street or portion of the street is unnecessary for present or prospective public use. The City Council must hold a Public Hearing regarding the proposed vacation and adopt a Resolution to vacate the street or portion of the street.

The notice requirements for the Public Hearing are as follows:

- Notice of the Public Hearing shall be published in the newspaper for at least two successive weeks prior to the Public Hearing, as required by the California Street and Highways Code, Section 8322.

- Notices of the Public Hearing shall be posted on the street proposed to be vacated at least two weeks before the date set for the hearing, in conformity with and in the manner provided by California Streets and Highways Code, Section 8323.

If, at the conclusion of the Public Hearing, the City Council finds the street right-of-way and utility and access easement proposed to be vacated is unnecessary for present or prospective public street use, the City Council may adopt a resolution vacating the street right-of-way and utility and access easement.

In addition to the posting, and advertisement of the Notice of Public Hearing, staff mailed the Notice of Public Hearing to property owners within 500 feet of the street easement vacation area and contacted the Menlo Park Fire Protection District (MPFPD) regarding the requested vacation. Though MPFPD initially suggested that a turn-a-round (cul-de-sac) be installed, after further review and in consideration of the limited easement width (45 feet) and the existing vehicular turn-a-round, MPFPD has no objection to the street easement vacation.

The vacation of the street easement has been determined to be exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations.

The owner at 71 De Bell Drive has requested that any fees associated with the street easement vacation be waived due as his original request was submitted in November 1989.

POLICY ISSUES

The policy discussion should focus on the need/desire to maintain the street easement for public use. Vacation of the street easement would return property rights to the underlying property owners as 71 De Bell Drive and 1 Madrone Road, along with all maintenance responsibility.

FISCAL IMPACT

The cost of processing and recording the vacation is estimated at less than \$10,000 and can be absorbed in the Public Works Operating Budget. The Town would be alleviated of any potential maintenance responsibility of the area.

GOAL ALIGNMENT

This Report and its contents are in alignment with the following Council Policy Goals:

- Goal A – Maintain Fiscal Responsibility
- Goal B – Preserve Small Town Character and Quality of Life

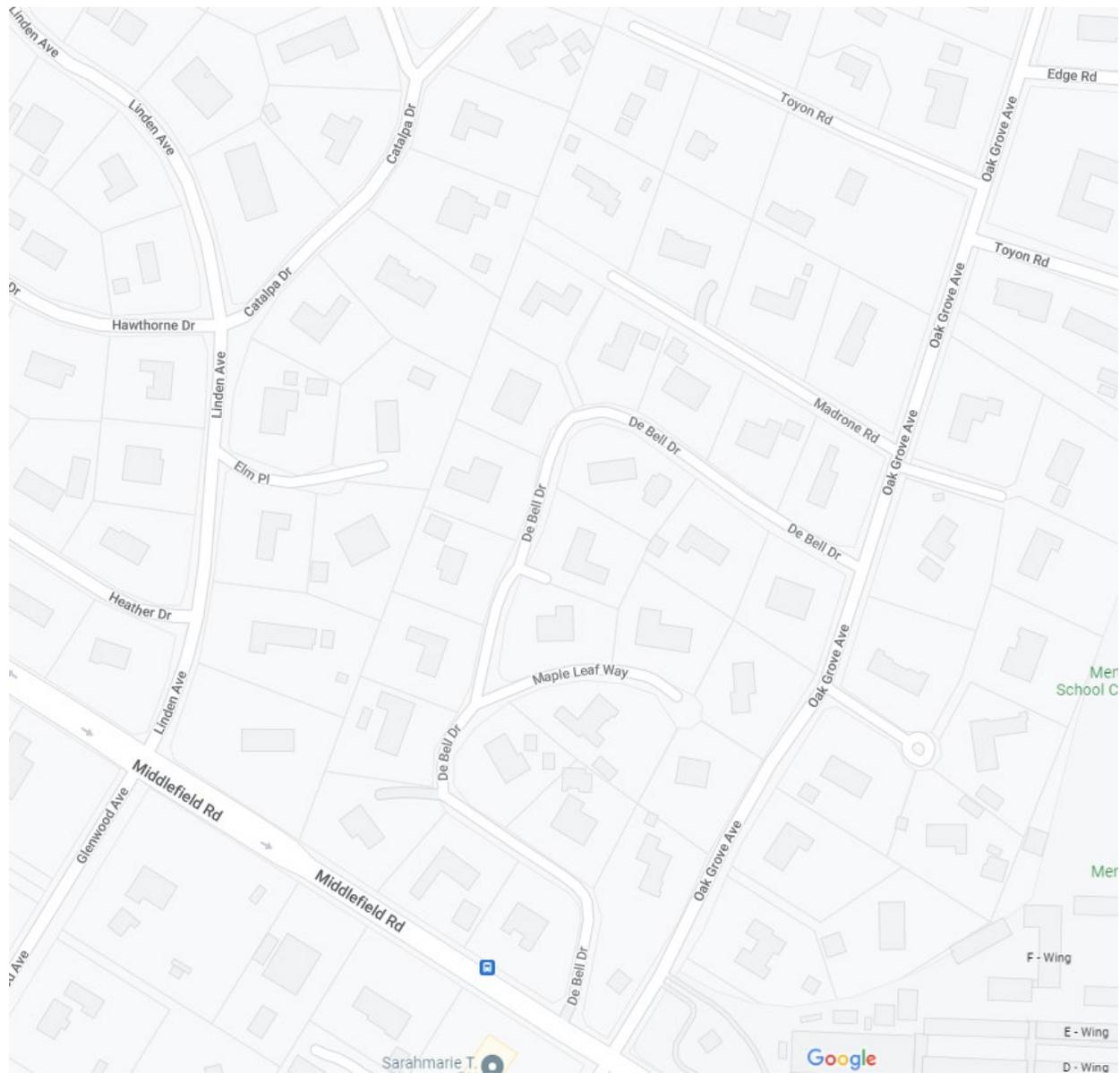
PUBLIC NOTICE

The notice of public hearing was posted along Madrone Road, mailed to all property owners within 500 feet of the street easement vacation area and advertised in the local newspaper. Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the item is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials. In addition, a public notice was published in The Almanac May 27, 2022, June 3, 2022, and June 10, 2022.

ATTACHMENT

1. Map of Madrone Road
2. Image of the terminus of the Madrone Road roadway
3. Request Letter Dated October 21, 1989
4. Resolution Declaring that the Provisions of Government Code Section 6502 shall not apply to minor street related transactions
5. Resolution to Vacate a portion of Madrone Road

Attachment 1 Map of Madrone Road



Attachment 2
Images of Madrone Road Terminus



Attachment 3
1989 Request Letter

Ray Timmerman
71 DeBell Drive
Atherton, California 94025

Mr. Richard L. Moore
Town of Atherton
91 Ashfield Road
Atherton CA 94027

Oct 21, 1989

Dear Mr. Moore:

This letter acknowledges your letter of 10/2/89 about the Gaulke application for an Encroachment Permit.

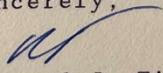
I have no objection to the Permit so long as the Permit does not extend beyond the mid-line of the City's easement. I believe the mid-line is 22.5 feet from the Gaulke Madrone Street property line.

As discussed with Atherton officials before, I am still interested in the Town fully abandoning this easement which has not been used as a street for over 40 years. It is my understanding that legally the title to this property rests 1/2 with the Gaulke property and 1/2 with my property and that the Town only has a street easement interest.

I would urge the Town to abandon this easement as it is ridiculous to have an easement on property that has not been used as a street for so many years and that has not been maintained by the Town.

Please keep me advised of any decisions or progress on this matter.

Sincerely,


Raymond J. Timmerman

RESOLUTION 22-___

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
DECLARING THAT PROVISIONS OF CALIFORNIA GOVERNMENT CODE
SECTION 65402 SHALL NOT APPLY TO MINOR STREET RELATED
ACQUISITIONS, DISPOSITIONS, ABANDONMENTS AND ALIGNMENTS**

WHEREAS, Government Code Section 65402 provides that no real property shall be acquired by dedication or otherwise for street, square, park, or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, until the location, purposes and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the Planning Commission as to the conformity with the General Plan;

WHEREAS, Government Code Section 65402(a) allows the City Council to exempt, by resolution, the following types of minor street-related real property acquisitions, dispositions, vacations and/or abandonments from the Planning Commission conformity determination requirement: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes, provided it is of a minor nature; (2) acquisitions, dispositions, or abandonments of a minor nature for street widening; or (3) alignment projects of a minor nature; and,

WHEREAS, the City Council finds and determines that General Plan conformity review by the Planning Commission may impede the efficient preparation and implementation of street-related acquisitions, dispositions, vacations and/or abandonments that are of a minor nature.

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

SECTION 1. Submission to and reporting by the Planning Commission regarding conformity with the Town of Atherton General Plan is not required for the following street-related real property acquisitions, dispositions, vacations and/or abandonments:

1. The disposition of the remainder of a larger parcel which was acquired and used in part for street purposes, provided it is of a minor nature;
2. Acquisitions, dispositions, vacations or abandonments of a minor nature for street widening; or
3. Alignment projects of a minor nature.

SECTION 2. The City Manager or his or her designee shall determine whether the street-related real property acquisition, disposition, vacation and/or abandonment is "of a minor nature" pursuant to this Resolution.

SECTION 3. The City Council hereby finds that the adoption of this Resolution is exempt from the California Environmental Quality Act ("CEQA") pursuant to 14 California Code of Regulations Section 15061(b)(3) because it can be seen with certainty that there is no

ATTACHMENT 4

possibility that the activity in question may have a significant effect on the environment.

SECTION 4. This Resolution shall take effect immediately upon its adoption.

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a Regular meeting thereof held on this 15th day of June, 2022, by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

BY:

ATTEST:

APPROVED AS TO FORM:

RESOLUTION 22- __

**A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ATHERTON
VACATING A PORTION OF MADRONE ROAD AND RESERVING
AN EASEMENT FOR EXISTING PUBLIC UTILITIES**

WHEREAS, the Town has a right-of-way over Madrone Road in the Ringwood Park subdivision. The Town desires to vacate 164.39' feet of the westerly portion of Madrone Road, which is adjacent to properties located at 71 De Bell Drive and 1 Madrone Road, and which road dead ends at the end of the two properties; and

WHEREAS, the Town does not require the westerly 164.39' feet of Madrone Road for roadway facilities, and the right-of-way presents a maintenance obligation and liability to the Town; and

WHEREAS, the Town desires to reserve a public utility easement over the Madrone Road abandonment area for existing utilities; and

WHEREAS, by Resolution 22- __, the City Council declared that submission to and reporting by the Planning Commission regarding conformity with the Town of Atherton General Plan is not required under Government Code Section 65402, for the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes, provided it is of a minor nature.

WHEREAS, pursuant to Resolution 22- __, the City Manager has determined that the abandonment of the described portion of Madrone Road is of a minor nature.

WHEREAS, a hearing on the proposed vacation was held at its Regular Meeting on June 15, 2021, at ___ p.m., via _____; and

WHEREAS, notice of the date, hour and place of hearing of the proposed vacation was published for at least two successive weeks prior to the hearing; and

WHEREAS, at least two weeks before the day set for the hearing at least three notices of vacation were conspicuously posted along the line of each proposed vacation area, not more than 300 feet apart; and

WHEREAS, the hearing described above has been conducted, and this City Council having heard and considered all oral, documentary and other evidence presented, hereby finds, determines and orders as follows:

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

SECTION 1: Pursuant to the provisions of Chapter 3 of the Public Street, Highway and Service Easements Law (commencing at Section 8320 of the Street and Highways Code) the City Council of the Town of Atherton hereby:

ATTACHMENT 5

1. Vacates the westerly 164.39' feet of the Madrone Road right-of-way, in the area legally described and depicted as follows:

See **Exhibits “A” and “B”** attached hereto and incorporated herein.

2. Retains a utility easement over the Madrone Road vacated area.

SECTION 2. The City Council hereby directs that the Town Clerk shall cause this resolution to be recorded in the office of the San Mateo County Recorder.

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the Town of Atherton at a Regular meeting thereof held on this 15th day of June, 2022, by the following vote:

Exhibit A

(Legal Description of Madrone Road Right-of-Way to be Vacated)

Exhibit B

(Plat of Madrone Road Right-of-Way to be Vacated)

**LEGAL DESCRIPTION
MADRONE ROAD PARTIAL STREET
EASEMENT VACATION**

PARCEL 1:

All that real property, situate in the unincorporated territory of San Mateo County, State of California, as shown on that certain map entitled "Map of Ringwood Park" filed for record on October 30, 1907, in Book 5 of Maps, at Page 38, San Mateo County Records.

Being a portion of Madrone Road Street Easement, Forty-Five (45) feet wide as shown on said map in said County. Being more particularly described as follows:

BEGINNING at the southeast corner of Lot 9 as shown on that certain map entitled "Maple Manor", filed for record on March 8, 1945, in Book 24 of Maps at Page 39, of said County Records, the following Four (4) courses and distances:

1. North 59°38'40" West, 164.39 feet, to the southeasterly line of the Six (6) inch Reservation as shown on said map entitled "Map of Ringwood Park".
2. Along said southeasterly Reservation line, North 19°55'50" East, 22.88 feet to the existing centerline of Madrone Road.
3. Leaving said southeasterly Reservation line, along said centerline of Madrone Road South 59°38'40" East, 164.38 feet.
4. Leaving said centerline on the prolongation of the northeasterly line of said Lot 9, South 19°54'20" West, 22.88 feet to the **Point of Beginning**.

containing 3,698.7± square feet of land.

BASIS OF BEARINGS

The bearing of North 59°38'40" West of the southwesterly Right of Way line of Madrone Road as shown on that certain map entitled "Maple Manor" filed for record on March 8, 1945, in Book 24 of Maps, at Page 39, San Mateo County Records was taken as the Basis of Bearings for this survey.

PARCEL 2:

All that real property, situate in the unincorporated territory of San Mateo County, State of California, as shown on that certain map entitled "Map of Ringwood Park" filed for record on October 30, 1907, in Book 5 of Maps, at Page 38, San Mateo County Records. Being more particularly described as follows:

Being a portion of Madrone Road Street Easement, Forty-Five (45) feet wide as shown on said map in said County. Being more particularly described as follows:

COMMENCING at the southeast corner of said Lot 5, as shown on said map entitled "Map of Ringwood Park", Thence along the southeasterly line of said Lot 5, North 59°38'40" West, 52.38 feet, to the **Point of Beginning**. Thence the following Five (5) courses and distances:

1. Leaving said southeasterly line, South 19°54'20" West, 22.88 feet, to the existing centerline of Madrone Road.
2. Along said centerline of Madrone Road, North 59°38'40" West 164.38 feet, to the southeasterly line of the Six (6) inch Reservation, as shown on said "MAP OF RINGWOOD PARK".
3. Leaving said centerline, along said southeasterly line of said Six (6) inch Reservation, North 19°55'50" East, 22.88 feet, to the southwest corner of said Lot 5.
4. Leaving said southeasterly Reservation line, along the southeasterly line of said Lot 5, South 59°38'40" East, 164.37 feet to the **Point of Beginning**.

containing 3,698.5± square feet of land.

BASIS OF BEARINGS

The bearing of North 59°38'40" West of the southwesterly Right of Way line of Madrone Road as shown on that certain map entitled "Maple Manor" filed for record on March 8, 1945, in Book 24 of Maps, at Page 39, San Mateo County Records was taken as the Basis of Bearings for this survey.



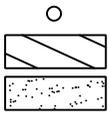


TRAVIS BOHAN

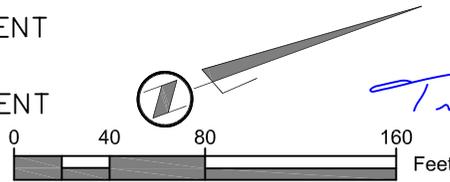
P.L.S. 8965

DATED: 5/24/2022

LEGEND



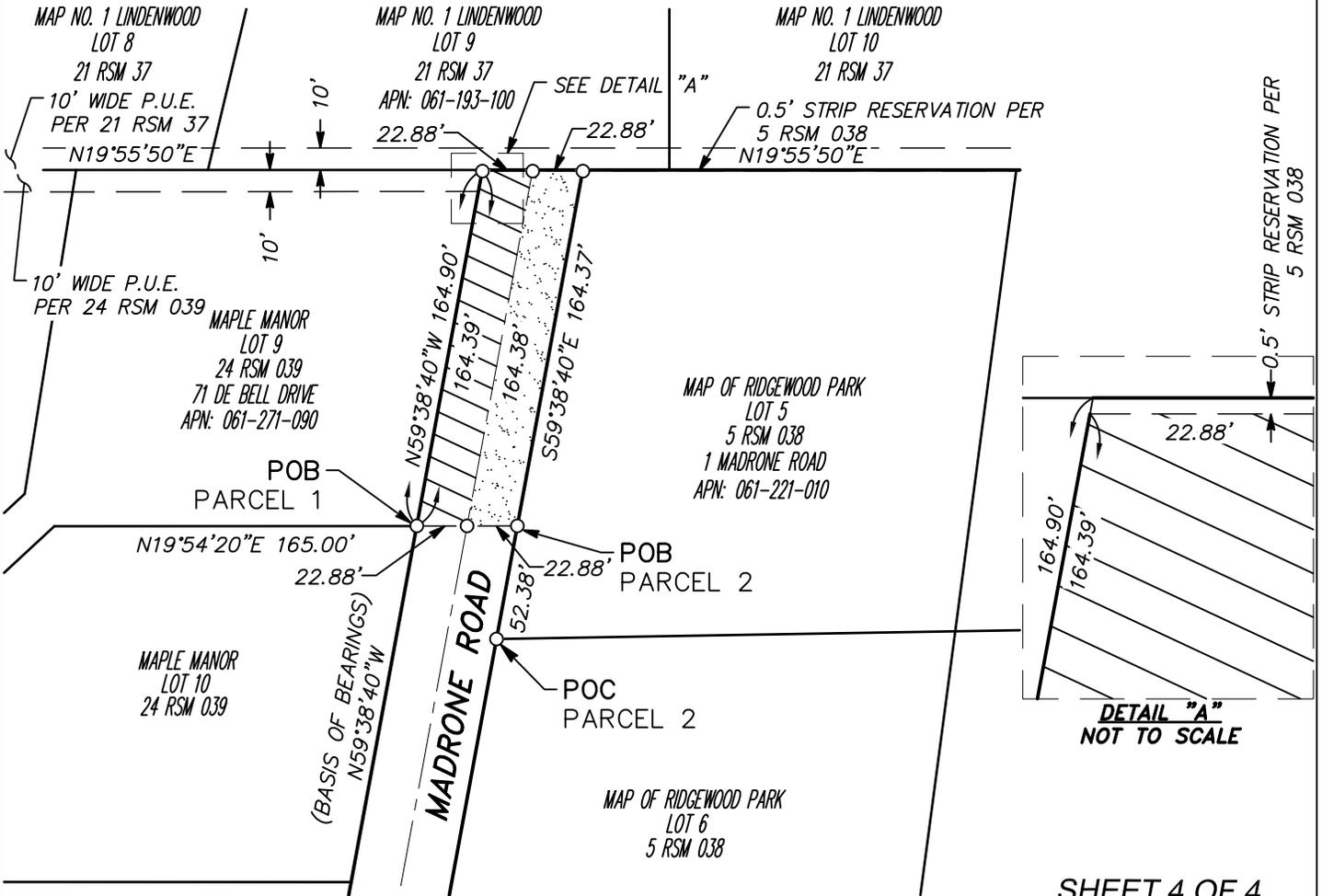
- DIMENSION POINT
- ▨ PARCEL 1: 3,698.7± SQ FT PROPOSED STREET VACATION TO APN 061-227-090
- ▩ PARCEL 2: 3,698.5± SQ FT PROPOSED STREET VACATION TO APN 061-221-010
- 7,397.2± TOTAL PROPOSED STREET VACATION AREA
- — — PUBLIC UTILITY EASEMENT
- — — RIGHT OF WAY
- — — PROPERTY LINE
- — — STREET CENTERLINE
- P.U.E. PUBLIC UTILITY EASEMENT
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT



SCALE 1" = 80'



Travis Bohan



SHEET 4 OF 4



MARK THOMAS

Scale: 1" = 80'
Date May. 2022
Drawn By JD
Checked By NSA

Exhibit B
Partial Street Vacation
APN's: 061-271-090 & 061-221-010
71 De Bell Drive and 1 Madrone Road
In the Town of Atherton
San Mateo County, California

