



DATE: March 11, 2024

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Andrew Trippel, Planning Manager
Dylan Brady, Assistant City Attorney

SUBJECT: Introduction of an Ordinance (First Reading) of the City Council of the City of Petaluma Approving the Acquisition of a Portion of a Parcel Located at 400 Hopper Street (APN 007-163-008) and Disposition of a Portion of a Parcel Located at 6 Copeland Street (APN 007-700-002) Between the McNear Channel and Hopper Street and Granting Authority to the City Manager to Provide Emergency Vehicle Access for the Approved Oyster Cove Development (City Record No. PLPJ-2022-0005) Over a Portion of the Land Located at 400 Hopper Street (APN 007-163-008) Following Acquisition by the City

RECOMMENDATION

It is recommended that the City Council introduce an Ordinance of the City Council of the City of Petaluma approving the acquisition of a \pm 0.21-acre portion of APN 007-163-008 located between the McNear Channel and Hopper Street and disposition of a 0.10-acre portion of 007-163-008 located between McNear Channel and the existing Vulcan-Shamrock facility and authorizing the City Manager to act to provide emergency vehicle access (EVA) to the approved Oyster Cove development over the acquired portion of APN 007-163-008.

BACKGROUND

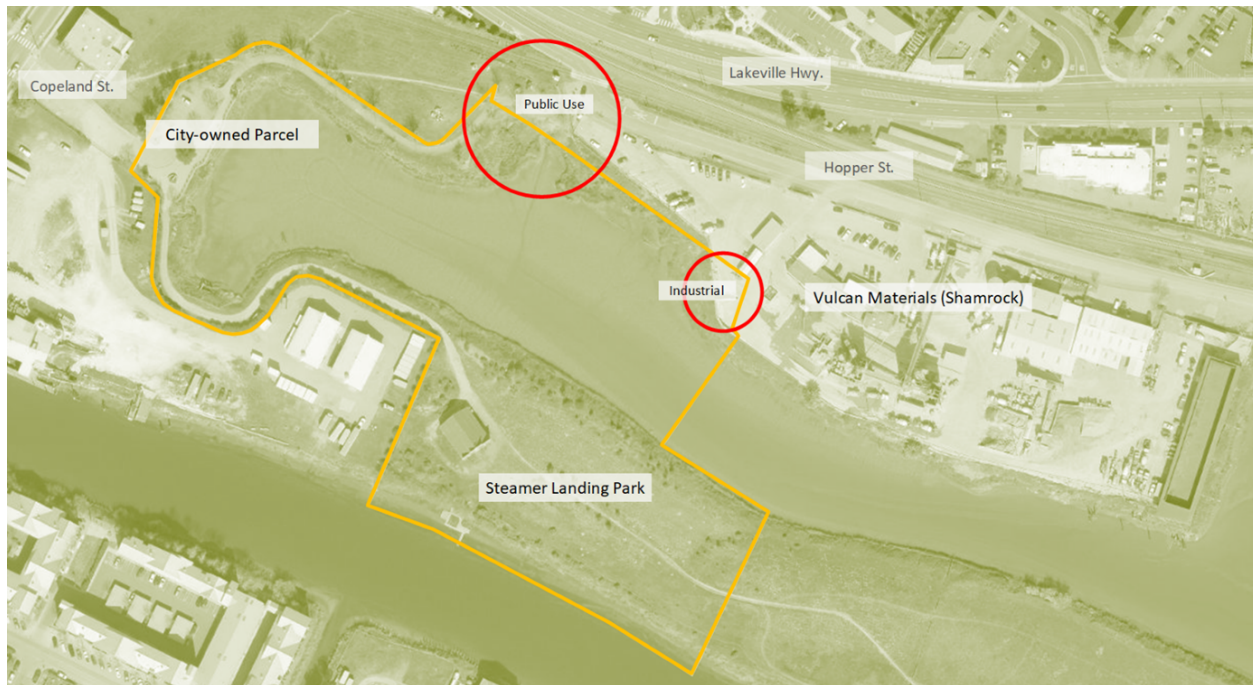
Historically, public and industrial uses on small portions of land in an area located between Hopper St. and the McNear Channel waterway east of East D St. have not aligned with property ownership. In the mid-2000s (circa 2005), the City of Petaluma and then Petaluma-based Shamrock Materials began work to align property ownership with the public space goals and operational needs of their respective organizations in this area (see **Figure 1: Project location and context**). Although much of the due diligence and negotiation was completed, including the preparation of lot line adjustment documentation, final approval and recordation of the land exchange was not finalized, and the existing condition remains.

In 2017, Vulcan Materials acquired Shamrock Materials and continues to operate the decades-old concrete batching plant. During Phase 1 entitlement review of the Oyster Cove Mixed Use Neighborhood project, which the City Council approved on September 18, 2023 (see Oyster

Cove Project Summary below), alignment of property ownership and use was identified as a priority goal because it would result in locating the existing River Trail on City-owned property and ensure connectivity to Hopper Street. Additionally, a City requirement for secondary Emergency Vehicle Access to the Oyster Cove project site would be facilitated by City ownership of land located between Hopper Street and the Oyster Cove development.

Vulcan Materials, Inc.'s participation in this project's development and its support for the proposed land exchange is important to note. The land exchange acreage differential of 0.10 acres favors the City with no compensation requested. Vulcan is the nation's largest producer of construction materials, primarily gravel, crushed stone, and sand, and employs approximately 12,000 people at over 400 facilities. While it recently acquired the decades-old, regionally and locally important Shamrock Materials facility and associated operations at 400 Hopper St., Vulcan Materials is fully committed to partnering with the City to ensure economic and community successes in innovative ways such as the proposed land exchange.

Figure 1: Project location and context



Source: City GIS, May 17, 2023

Oyster Cove Project Summary

The Oyster Cove Mixed Use Neighborhood Project is the adaptive re-use of an existing industrial site into a predominantly residential mixed-use development consisting of 132 residential condominium units arranged in 21, 3-4 story buildings oriented to East D St., the Petaluma River, and McNear Canal. On September 18, 2023¹, the City Council reviewed and approved the following entitlements for the Oyster Cove project:

- Resolution adopting the Final Initial Study/Mitigated Negative Declaration and

¹ A link to the September 18, 2023, City Council meeting and the Oyster Cove Entitlements hearing can be found here: <https://cityofpetaluma.primegov.com/Portal/Meeting?meetingTemplateId=5318>

Mitigation Monitoring and Reporting Program (CEQA);

- General Plan Amendment to change the GP land use designation for 100 East D Street from River Dependent Industrial to Mixed Use;
- Ordinance amending the SmartCode for a portion of the project from River Dependent Industrial use to Urban Center to implement the General Plan Amendment; and
- Tentative Map for Subdivision and Condominium Purposes to subdivide the site into 22 lots with 132 airspace condominiums and approximately 9,000 sf of commercial space.

Regulatory Context

The proposed land exchange is regulated by Section 46 of Article VII of the Petaluma City Charter and by Government Code Section 65402. Section 46 provides, in pertinent part, that no City action providing for the sale or lease of real property having a value of \$3,000 or more may be taken except by ordinance or pursuant to a general law of the State. Government Code Section 65402 regulates the disposition of City-owned real property as part of administering locally adopted general plans. Specifically, subsection 65402(a) states that if a general plan has been adopted, the local jurisdiction shall not dispose of or acquire real property until the Planning Commission has determined conformity with the city's general plan. When a determination has been made, the City Council considers it as part of a decision to dispose of or acquire real property.

On May 23, 2023², the Petaluma Planning Commission, pursuant to Government Code Section 65402, found that the acquisition and disposal of the properties necessary for the land exchange conformed with the Petaluma General Plan. The decision of the Planning Commission and supporting documentation are provided in Attachment 3: Planning Commission General Plan Conformity Determination, May 23, 2023.

The September 18, 2023, City Council Oyster Cove Phase 1 entitlement staff report included a discussion on the need for an EVA, stating, "The preferred emergency access is from Hopper Street, which would be provided by way of a land exchange between the City of Petaluma and Vulcan Lands Inc." and that "A review of the land exchange would occur at a subsequent City Council hearing." This item is that hearing. If the request for authorization is granted by City Council, the City Manager would be empowered to work with City staff and property owners to (1) effect the land exchange and (2) ensure that Emergency Vehicle Access across newly acquired City land is made permanent in a manner that complies with the City Fire Marshal's requirement that a secondary point of access from a public right of way is established for the Oyster Cove development.

Project Description

The request before the City Council includes (1) authorizing the acquisition of a ± 0.21-acre portion of APN 007-163-008 located between the McNear Channel and Hopper Street and disposition of a 0.10-acre portion of 007-163-008 located between McNear Channel and the existing Vulcan-Shamrock facility and (2) authorizing the City Manager to act to provide emergency vehicle access (EVA) to the approved Oyster Cove development over the acquired portion of APN 007-163-008. This section provides a detailed description of the request and

² A link to the May 23, 2023, Planning Commission meeting and the land exchange General Plan Conformance finding can be found here: <https://cityofpetaluma.primegov.com/Portal/Meeting?meetingTemplateId=16022>

associated considerations. As both actions are related to encumbering, acquiring, or disposing of real property having a value of \$3,000 or more, these actions are being completed through the proposed ordinance, Attachment 1, in compliance with Section 46 of the City Charter.

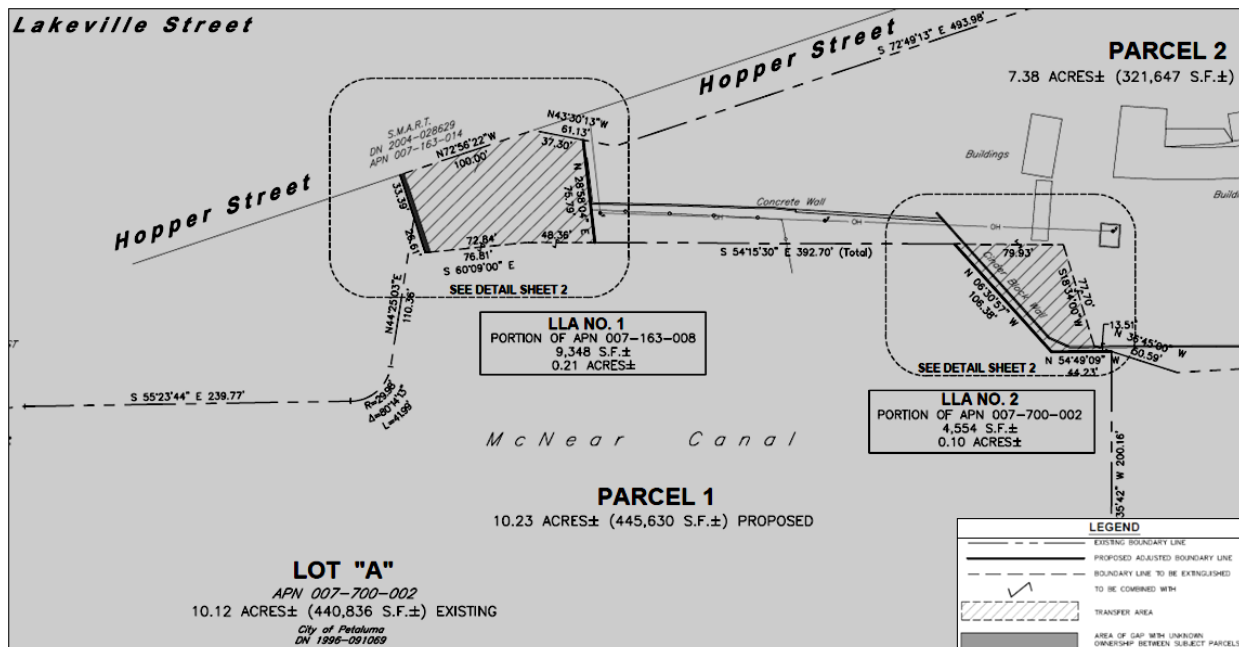
Land Exchange

As proposed, the City of Petaluma would acquire an approximately 9,348 square foot (0.21 acre) portion of APN 007-163-008 (Vulcan property) from Vulcan Land Inc. in exchange for the disposition of a 4,554 square foot (0.10 acre) portion of APN 007-700-002 (City property) to Vulcan Lands Inc. The land exchange would be effected through the recordation of transfer deeds and a Lot Line Adjustment (LLA) action. The LLA action would be accomplished by submittal of a City-required LLA application, which is subject to review and approval by the City Engineer. When approved and recorded, it would reconfigure parcel lines to reflect the land exchange (see **Figure 2: Lot Line Adjustments of transfer areas** below and **Attachment 2: Exhibit A - Land Exchange Property Descriptions and Lot Line Adjustments**).

Use of Vulcan-owned Property by City

At present, the ± 0.21-acre Vulcan property to be acquired by the City is traversed by a Class 1 (Minimal/Undeveloped) public trail providing non-vehicular access from Hopper Street to the Steamer Landing Park vista and public parking area at the terminus of Copeland Street. The trail extends along the McNear Peninsula to the David Yearsley Heritage Center (the restored barn) and future Petaluma River Park property (see **Figure 3: Existing River Trail and context**). While informal access across the Vulcan property has been utilized by the public for over a decade, there is no public access easement, and the City does not currently own the property.

Figure 2: Lot Line Adjustments of transfer areas



Source: Staff report Attachment 2: Exhibit A - Land Exchange Property Descriptions and Lot Line Adjustments, April 12, 2023

Use of City-owned Property by Vulcan

The ± 0.10-acre City property to be disposed of by the City of Petaluma and acquired by Vulcan Lands Inc. is currently utilized by Vulcan Materials as part of its river-dependent industrial use as a concrete batch plant immediately adjacent to the City property. Vulcan Materials' operational activities have utilized this portion of City property as circulation areas for decades, and there is no visible demarcation between the privately owned and publicly owned properties (see **Figure 4: Vulcan Materials operation area and context**).

Figure 3: Existing River Trail and context



Source: City GIS, February 29, 2024

Figure 4: Vulcan operation area and context



Source: City GIS, February 29, 2024

Sonoma County Agricultural and Preservation Open Space District Conservation Easement

That portion of City land proposed to be conveyed to Vulcan Materials (see Figure 4 above) is subject to a conservation easement in favor of the Sonoma County Agricultural Preservation and Open Space District (OSD). Implementation of the proposed land exchange would require modification of the conservation easement boundary, and this modification is subject to review and approval by the Sonoma County Board of Supervisors following a recommendation by OSD's Fiscal Oversight Commission. OSD's support for the boundary modification is anticipated as the property to be acquired by the City in the exchange is slightly larger than the property that the City is disposing of; therefore, the land area subject to the conservation easement will increase, and this is a key finding for approval of an easement boundary amendment. The effective date of the proposed ordinance explicitly states that the proposed ordinance is contingent upon OSD's approval of the boundary amendment to the existing conservation easement.

Oyster Cove Project Required Emergency Vehicle Access

City Council Resolution No. 2023-153 N.C.S., which approved a Tentative Map for Subdivision and Condominium Purposes for the Oyster Cove project (Phase 1 entitlement review), requires two (2) separate and approved fire apparatus access roads, pursuant to PMC Chapter 17.20, Section D 106.1. While Emergency Vehicle Access easements are not acceptable for required second means of access, the Resolution's Condition 68 allows that if a public roadway cannot be installed, an alternate equivalent means of protection may be considered (CFC Section 104. 10). During Phase 1 review, the Fire Marshal considered a proposal to improve that portion of the

River Trail extending from Hopper St. to the Oyster Cove development to Fire Department standards for emergency vehicle use as a second means of access. Further implementation of this project requirement would be facilitated by a Council decision to authorize the land exchange and the City Manager to act to provide emergency vehicle access (EVA) to the approved Oyster Cove development.

DISCUSSION

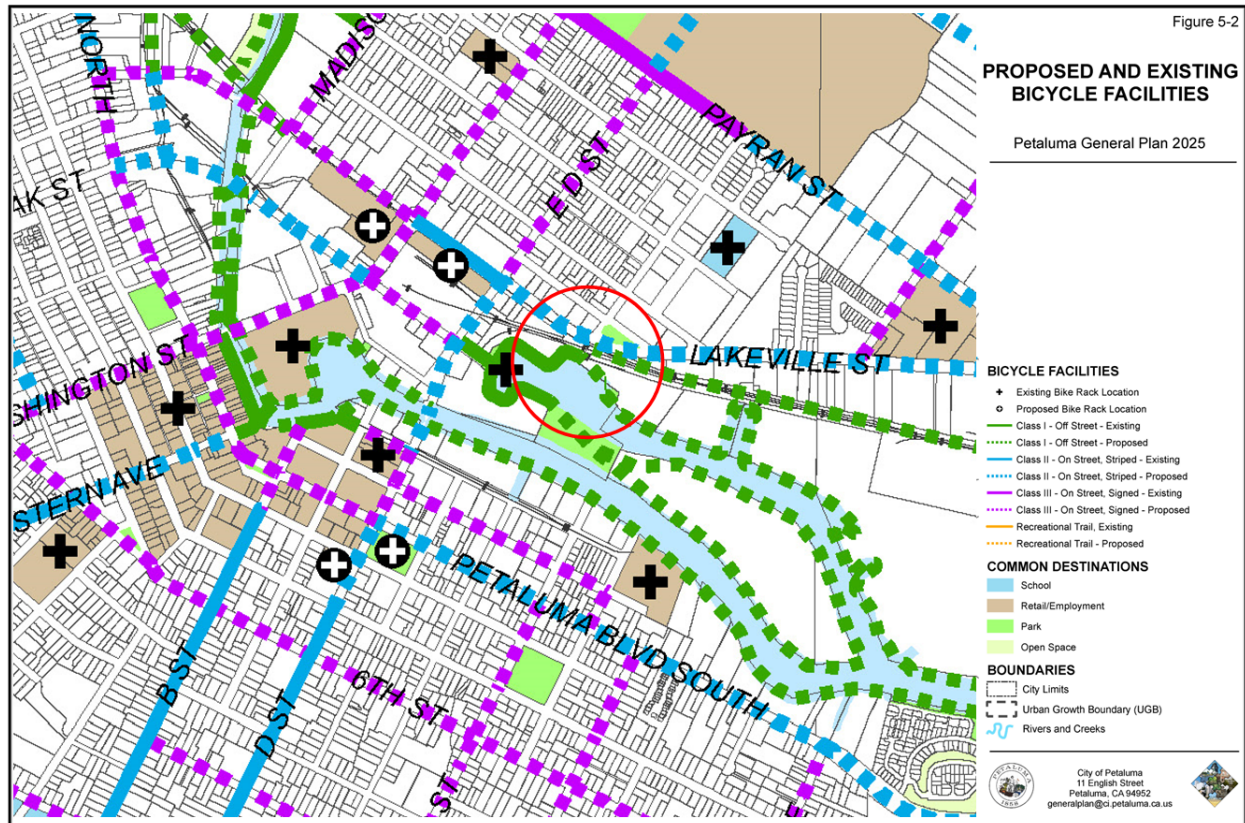
The *Regulatory Context* subsection of the staff report's Background section introduced that the request for land exchange authorization is regulated by Section 46 of Article VII of the Petaluma City Charter and by Government Code Section 65402, which in part requires that the Planning Commission has determined that the action would be in conformity with the City's General Plan. When a determination has been made, the City Council considers it as part of a decision to dispose of or acquire real property. As such, decisions by the Council to authorize the land exchange and authorize the City Manager to act to provide emergency vehicle access (EVA) to the approved Oyster Cove development are not otherwise subject to findings of fact. Nevertheless, it is beneficial to share the staff's analysis of how the proposed actions will benefit the community.

The proposed land exchange is consistent with major objectives for the Central Petaluma Specific Plan sub-area in that it would support an ongoing connection to the Petaluma River by providing public access along the River while maintaining traditional industrial waterfront activities and it would provide alternative transportation opportunities by maintaining public access to the multiuse river trail. Specifically, the land exchange supports General Plan Policy 2-P-12, which calls for support for the establishment of pedestrian access to the river.

General Plan Figure 5-2 illustrates existing and proposed bicycle and pedestrian facilities throughout the City. The property to be acquired by the City of Petaluma is identified as an existing Class 1 path, and the property to be acquired by Vulcan Lands Inc. is identified as an area for a proposed Class 1 path. The land acquisition by the City will provide ongoing public access on the existing path where currently there is no recorded public access. No change to the land use designation or policies affecting the future development of the property to be acquired by Vulcan Land Inc. is requested or anticipated. Therefore, the proposed land exchange demonstrates conformity with the General Plan mobility exhibit and General Plan Policy 5-P-15, which calls for the implementation of the bikeway system as outlined in the City's Bicycle and Pedestrian Plan and for expansion and improvement to the bikeway system where and when opportunities arise.

In that the proposed land exchange facilitates City ownership of and enhances public access to the existing Class 1 trail, the project also supports the viability and public access to recreational opportunities that exist on the McNear Peninsula, including both Steamer Landing and the River Park, which are both identified in the General Plan 2025 as community parks. Additionally, the land exchange would support associated General Plan Policy 6-P-2-A, which calls for providing public access and recreational opportunities along the length of the Petaluma River and its tributaries to every extent possible.

Figure 2: 2025 General Plan Bicycle Infrastructure



Source: 2025 Petaluma General Plan

The Planning Commission and the City Council unanimously supported the Oyster Cove project. found the project consistent with General Plan 2025. City acquisition of the partial portion of APN 007-163-008 would also allow the City to grant emergency access for the Oyster Cove project to facilitate the success and implementation of the project, which was found to be in conformance with the following General Plan goals and policies:

- **Goal 1-G-1:** Land Use that seeks to maintain a balanced land use program that meets the long-term residential, employment, retail, institutional, education, recreation, and open space needs of the community.
- **Policy 1-P-1:** Promote a range of land uses at densities and intensities to serve the community needs.
- **Policy 1-P-2:** Promote infill development at equal or higher density and intensity than surrounding uses in order to use land efficiently.
- **Policy 1-P-6:** Encourage mixed use development, which includes opportunities for increased transit access.

Additionally, the Oyster Cove project is consistent with the City's recently approved 2023-2031 Housing Element in that it conforms with the 132 residential units, including 15% of the units affordable to low- and moderate-income households as identified in the Housing Element.

PUBLIC OUTREACH

This agenda item appeared on the City’s tentative agenda document on February 26, 2024, which was a publicly-noticed meeting. The proposed land exchange was also discussed during the September 18, 2023, City Council meeting as part of the Oyster Cove entitlement hearing.

COUNCIL GOAL ALIGNMENT

The proposed action supports the following City Council Goals and Objectives:

- Item 103: Prioritize and incentivize sustainable infill development by providing a reasonable and justified land transaction to enable the Oyster Cove infill development and supports continued public access along the Petaluma River.
- Item 119 - Establish bicycle and walking paths and other river access amenities along the Petaluma River as identified in the River Access and Enhancement Plan.
- Item 120 – Robust focus on riverfront and river-oriented development
- Item 140 - Expand the use of Transit Oriented Development (TOD) principles in new development, including greater massing allowances to facilitate thoughtful infill development proximate to TODs.

CLIMATE ACTION/SUSTAINABILITY EFFORTS

The proposed project is consistent with the Climate Emergency Framework adopted by the City Council on January 11, 2021, which directs the City to eliminate transportation emissions by reducing vehicle miles traveled (VMT) through infill development and increased density and encouragement of and support for non-combustion vehicles, in that the project proposes infill development on a site located proximate to transit and other multi-modal options and will expand bicycle and pedestrian facilities in the immediate project vicinity and install electric vehicle charging in proposed residences to encourage the use of non-combustion vehicles. The project is required to comply with the City’s All-Electric Ordinance. Additionally, the project incorporates several strategies to protect against the impacts of sea level rise, consistent with the Framework.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (“CEQA”), City staff determined that the Project is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Staff found that there is no possible significant effect directly related to the land exchange as proposed, as there is no proposed change in existing conditions with the exception of ownership; therefore, no further action is required under CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR Section 15061(b)(3)), and independently, the Project is categorically exempt (class 5) pursuant to Section 15305 of the State CEQA Guidelines (Minor Alterations in Land Use). None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2, apply to this project.

FINANCIAL IMPACTS

No money will be exchanged as part of this action. As presented in the Discussion section, Vulcan Materials, Inc.'s support of the proposed land exchange includes an in-kind contribution of ± 0.21 acres to the City with no requirement for compensation. If authorized, City staff will continue to work with the Oyster Cove development project to respond to conditions of approval through the provision of emergency vehicle access. The development project is a cost recovery project; therefore, a portion of City staff time will be invoiced to the development project, and the development project will be responsible for all required improvements to River Trail.

ALTERNATIVES

If the proposal is not adopted, Vulcan will continue to use City property, and the City will continue to use Vulcan property. Enforcement will likely need to occur to ensure neither party is trespassing upon the other's property. Additionally, the Oyster Cove development would need to acquire an emergency vehicle access easement with Vulcan over their property or find another option to satisfy the emergency vehicle access requirement necessary for their development.

ATTACHMENTS

1. Proposed Ordinance (First Reading) Approving the Acquisition and Disposition of portions of lands located at 400 Hopper Street and 6 Copeland Street and Granting Authority to the City Manager to Provide Emergency Vehicle Access for the Approved Oyster Cove Development
2. Exhibit A & B: Land Exchange Property Descriptions and Lot Line Adjustments
3. Planning Commission General Plan Conformity Determination, May 23, 2023