

## RESOLUTION 2023-09

### CITY OF PETALUMA PLANNING COMMISSION

#### MAKING A GENERAL PLAN CONFORMITY DETERMINATION CONSISTENT WITH CALIFORNIA GOVERNMENT CODE SECTION 65402(a) FOR THE PURPOSE OF A LAND SWAP

#### BETWEEN THE CITY OF PETALUMA AND VULCAN LANDS INC.

#### ASSOCIATED WITH ASSESSOR PARCEL NUMBERS 007-163-008 AND 007-700-002

#### LOCATED BETWEEN THE MCNEAR CHANNEL AND HOPPER STREET,

#### AND RECOMMENDING THAT THE CITY COUNCIL APPROVE THE PROPOSED LAND SWAP

**WHEREAS**, the City of Petaluma and Vulcan Lands Inc. as owners of real property identified as Assessor Parcel Numbers 007-700-002 and 007-163-008, respectively, and located between the McNear Channel waterway and Hopper Street have requested approval of a land swap where the City of Petaluma would acquire an approximately 9,348 square foot (0.21 acres) portion of APN 007-163-008 from Vulcan Lands Inc. and Vulcan Lands Inc. would acquire an approximately 4,554 square foot (0.10 acres) portion of APN 007-700-002 from the City of Petaluma as shown in Exhibit A attached hereto; and

**WHEREAS**, Government Code section 65402(a) regulates government disposition and acquisition of real property, mandating that prior to disposing or acquiring real property, a jurisdiction's Planning Commission shall report on the conformity of that action with the jurisdiction's General Plan; and

**WHEREAS**, the property currently owned by Vulcan Land Inc. and to be acquired by the City of Petaluma is traversed by a Class 1 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, and the trail extends along the McNear Peninsula to the David Yearsley Heritage Center (the restored barn) and Petaluma River Park property; and

**WHEREAS**, the property currently owned by the City of Petaluma and to be 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; and

**WHEREAS**, the proposed land swap does not propose any change to the existing use of either property, and it does not propose a change to the General Plan land use designation; and

**WHEREAS**, the land exchange would support the implementation of the Petaluma General Plan 2025 in that it would allow for and legally formalize public access on the existing Class 1 path across APN 007-163-008 between Hopper Street and Steamer Landing Park at the terminus of McNear Peninsula; and

**WHEREAS**, the Class 1 multi-use path across APN 007-163-008 is consistent with General Plan Figure 5-2, shown as a proposed trail in the City's River Access and Enhancement Plan, and identified as an existing off-street path in the 2013 Petaluma SMART Station Area Master Plan; and

**WHEREAS**, the land swap is consistent with major objectives for the Central Petaluma Specific Plan planning sub-area as identified in the General Plan 2025 in that it supports ongoing connection to the Petaluma River through maintaining public access along the River while maintaining traditional industrial waterfront activities; and

**WHEREAS**, the land swap is in conformance with General Plan Policy 2-P-12, which calls for the establishment of pedestrian access to the Petaluma River; and

**WHEREAS**, the land swap is in conformance with General Plan Policy 5-P-15, which calls for the implementation of the bikeway system as outlined in the Bicycle and Pedestrian Plan (General Plan Exhibit 5-2) and expands and improves the bikeway system as the opportunity arose; and

**WHEREAS**, the land swap facilitates long-term City ownership and associated public access on the existing Class 1 path and supports the viability and public access to recreational opportunities that exist on the McNear Peninsula, including Steamer Landing and the Petaluma River Park, which are both identified in the General Plan 2025 as community parks; and

**WHEREAS**, the land swap supports associated General Plan Policy 6-P-2-A, which calls for the provision of public access and recreational opportunities along the length of the Petaluma River and its tributaries, to every extent possible; and

**WHEREAS**, the land swap supports the implementation of the Oyster Cove Mixed Use Project at 100 East D Street in that it provides the opportunity for the emergency vehicle access needed for the project based on existing fire code requirements for the scope of the project; and

**WHEREAS**, the Planning Commission recently approved a series of resolutions recommending City Council approval of the Oyster Cove project and found it consistent with the General Plan 2025 and including the recently adopted 2023-2031 Housing Element; and

**WHEREAS**, the Planning Commission of the City of Petaluma held a duly noticed public meeting at which time all interested parties were given full opportunity to be heard and to be present; and

**WHEREAS**, the City of Petaluma Planning Commission has reviewed the proposed land swap and has determined that the associated disposition and acquisition of real property conform to the General Plan 2025.

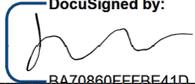
**NOW, THEREFORE, BE IT RESOLVED**, that the Planning Commission of the City of Petaluma hereby finds, based on substantial evidence in the record, that:

1. The foregoing recitals are true and accurate and are incorporated into this Resolution as findings.
2. That the proposed land swap, including the disposition and acquisition of real property as shown in Exhibit A attached hereto, is in general conformance with the City's General Plan 2025 because:
  - The land exchange would support the implementation of the Petaluma General Plan 2025 in that it would allow for and legally formalize the public access on the existing Class 1 path across APN 007-163-008 between Hopper Street and the Steamer Landing Park vista and public parking area at the terminus of McNear Peninsula.
  - The Class 1 path connection across APN 007-163-008 is consistent with General Plan Exhibit 5-2, shown as a proposed trail in the City's River Access and Enhancement Plan, and identified as an existing off-street path in the 2013 Petaluma SMART Station Area Master Plan.
  - The land swap is consistent with major objectives for the Central Petaluma Specific Plan planning sub-area as identified in the General Plan 2025 in that it supports ongoing connection to the Petaluma River through maintaining public access along the River while maintaining traditional industrial waterfront activities.
  - The land swap is in conformance with General Plan Policy 2-P-12, which calls for establishing pedestrian access to the Petaluma River.

- The land swap is in conformance with General Plan Policy 5-P-15, which calls for the implementation of the bikeway system as outlined in the Bicycle and Pedestrian Plan (General Plan Exhibit 5-2) and expands and improves the bikeway system as the opportunity arose.
  - The land swap facilitates long-term City ownership and associated public access on the existing Class 1 path and supports the viability and public access to recreational opportunities that exist on the McNear Peninsula, including Steamer Landing and the River Park, which are both identified in the General Plan 2025 as community parks.
  - The land swap supports the 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.
  - The Planning Commission recently approved a series of resolutions recommending City Council approval of the Oyster Cove project and found it consistent with the General Plan 2025, including the recently adopted 2023-2031 Housing Element.
  - The land swap supports the success of the Oyster Cover Mixed Use Project at 100 East D Street in that it provides an opportunity for the emergency vehicle access needed based on existing fire code requirements for the scope of the project.
3. The land swap does not include proposed changes to the existing use of either property nor any proposed change to the existing land use designation of either of the properties.
  4. The land swap is exempt from the California Environmental Quality Act under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment and that there is no possible significant effect directly related to the land swap as proposed as there is no change in existing conditions with the exception of ownership.
  5. That no further action is required under CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines, 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.

ADOPTED this 23<sup>rd</sup> day of May 2023, by the following vote:

Commission Member	Aye	No	Absent	Recuse
Councilmember Cader Thompson	X			
Chair Bauer	X			
Vice Chair Hooper				X
McErlane	X			
Potter			X	
Racusen	X			
Whisman	X			

DocuSigned by:  
  
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Heidi Bauer, Chair

ATTEST:

APPROVED AS TO FORM:

DocuSigned by:  
*Andrew Trippel, Planning Manager*  
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Andrew Trippel, Planning Manager

DocuSigned by:  
*Dylan Brady, Assistant City Attorney*  
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Dylan Brady, Assistant City Attorney

**Exhibit 1**

**Land Swap Map**







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DATE: May 23, 2023

TO: Planning Commission

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

SUBJECT: Resolution making a General Plan Conformity Determination consistent with California Government Code Section 65402(a) for the purposes of a land swap between the City of Petaluma and Vulcan Lands Inc. associated with Assessor Parcel Numbers 007-163-008 and 007-700-002 located between the McNear Channel and Hopper Street and recommending that the City Council approve the proposed land swap

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### **RECOMMENDATION**

It is recommended that the Planning Commission approve a resolution making a General Plan conformity determination consistent with the requirements cited in the California Government Code Section 65402(a) for purposes of a land swap between the City of Petaluma and Vulcan Lands Inc. associated with Assessor Parcel Numbers 007-163-008 and 007-700-002 located between the McNear Channel and Hopper Street and recommending that the City Council approve the land swap (Attachment A). More specifically, a General Plan Conformity Determination demonstrates that the City of Petaluma's disposition and acquisition of property is consistent with the Petaluma General Plan 2025.

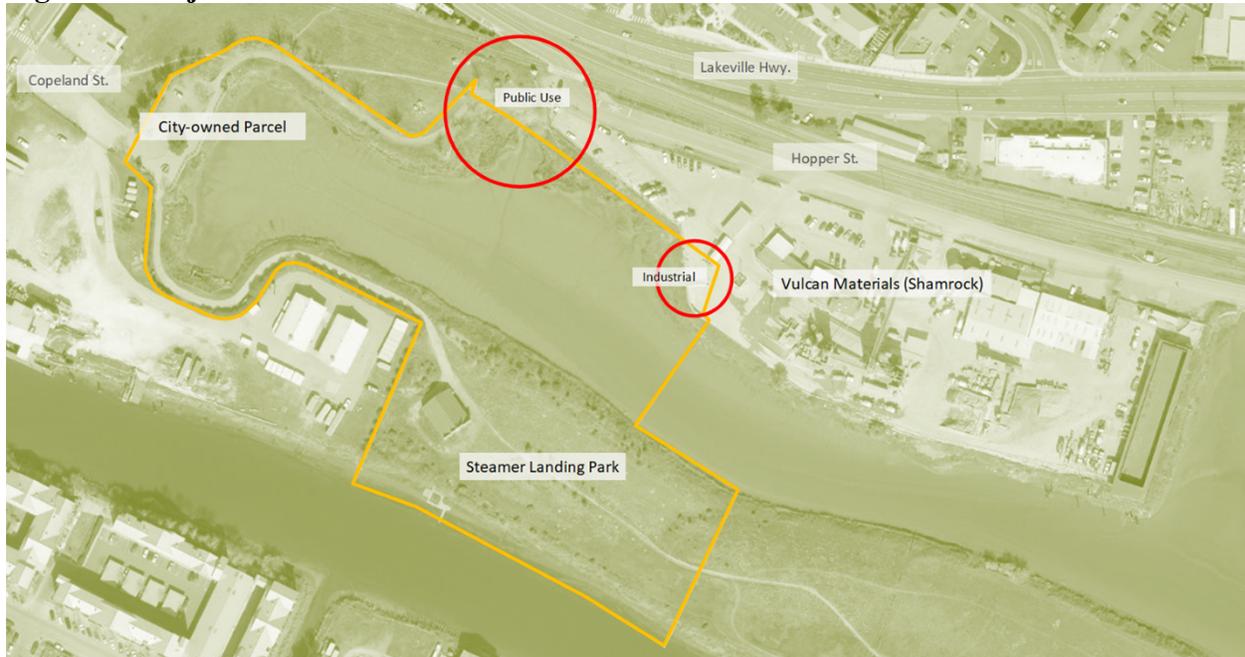
### **BACKGROUND**

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 Petaluma-based Shamrock Materials began work to align land ownership with public space goals and operational needs of their respective organizations in an area located between Hopper St. and the McNear Channel east of East D Street (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, the final approval and recordation of the land swap 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 established by Shamrock Materials. During entitlement review of the proposed Oyster Cove Mixed Use Neighborhood project, for which Planning Commission approved resolutions recommending the City Council adopt or approve Phase 1 required entitlements at a public hearing held on May 9, 2023, alignment of

property ownership and use was identified as a priority goal, in part to support establishing an Emergency Vehicle Access easement required for the Oyster Cove project.

Government Code Section 65402 regulates the administration of 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 general plan. When a determination has been made, the City Council considers it part of a decision to dispose of or acquire real property.

**Figure 1: Project location and context**



*(Source: City GIS, May 17, 2023)*

## **DISCUSSION**

### **Project Description**

The proposed land swap involves both disposal and acquisition of real property by the City of Petaluma, hence the required determination of conformity with the 2025 Petaluma General Plan, as required by Government Code Section. 65402(a). 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 Vulcan property to be acquired by the City is traversed by a Class 1 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. 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 own the property.

Similarly, the 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. Shamrock Materials/Vulcan Materials operational activities have included this ± 0.21-acre portion of City property for decades, and there is no visible demarcation between the privately owned property and the publicly owned property.

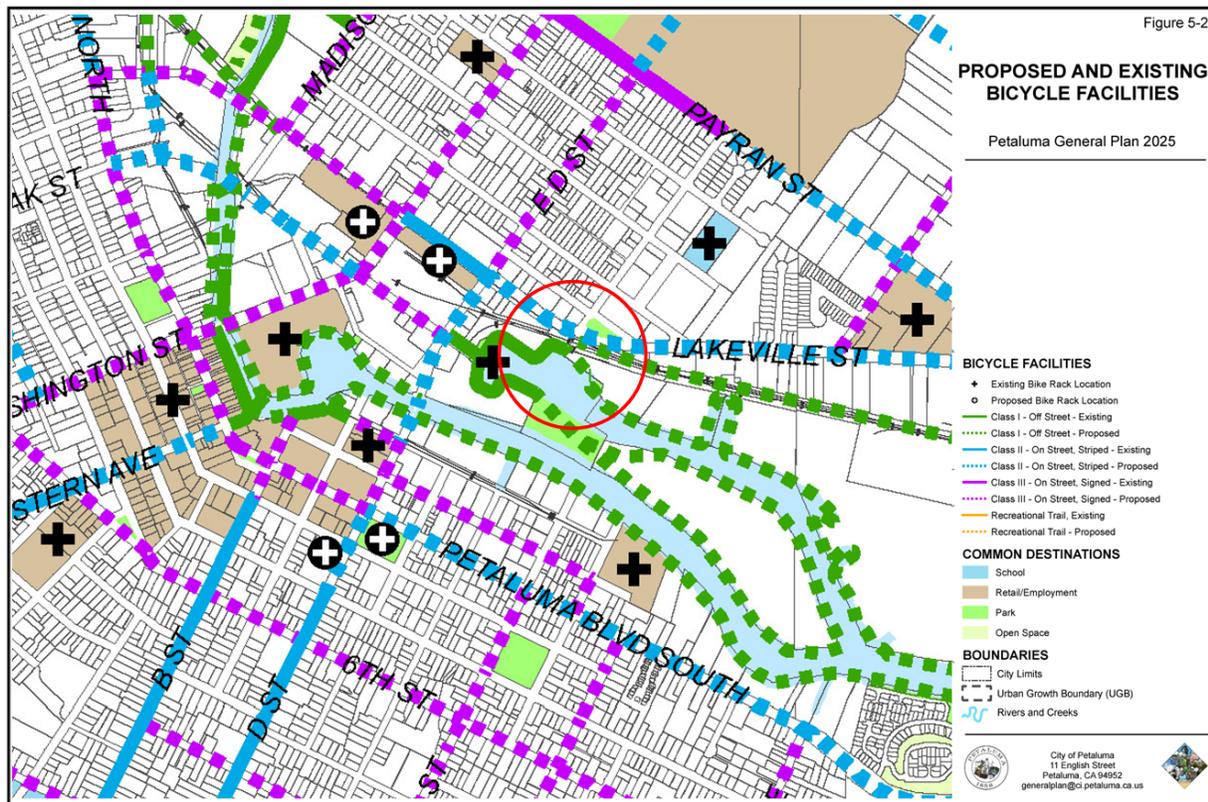
While the lot line adjustment and land swap were previously anticipated, a formal General Plan consistency determination by the Planning Commission and subsequent City Council review of the land swap was not reviewed.

The proposed land swap does not propose any change to the existing use of either property, and it does not propose a change to the General Plan land use designation.

**General Plan Conformity**

The proposed land exchange would support the implementation of the Petaluma General Plan 2025 in that it would allow for the City to legalize and formalize public access on the existing Class 1 trail across Vulcan property between Hopper Street and the Steamer Landing Park vista and public parking area at the terminus of McNear Peninsula. This connection, identified as an existing bike and pedestrian facility in General Plan Figure 5-2, is also shown as a proposed trail in the City’s River Access and Enhancement Plan and identified as an existing off-street path in the 2013 Petaluma SMART Station Area Master Plan.

**Figure 2: 2025 General Plan bicycle infrastructure**



(Source: 2025 Petaluma General Plan)

The proposed land swap 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 swap 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 swap 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 Bicycle and Pedestrian Plan (Exhibit 5-2), and for expansion and improvement to the bikeway system where and when opportunities arise.

In that the proposed land swap 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 swap would support associated General Plan Policy 6-P-2-A, which calls for the provision of public access and recreational opportunities along the length of the Petaluma River and its tributaries, to every extent possible.

The Planning Commission considered a series of recommendations for the Oyster Cove Mixed Use Project at 500 Hopper Street and found the project consistent with General Plan 2025. Based on the number of residential units as part of the Oyster Cove project, a second point of Emergency Vehicle Access is required and has been proposed to be incorporated into the public path connecting the eastern boundary of the Oyster Cove property boundary to Hopper Street. 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 by the Planning Commission 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's 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. Consistent with Government Code Section 64052(a), prior to the City Council's consideration of the proposed land swap and because it involves the disposition and acquisition of real property

by the City of Petaluma, the Planning Commission must first find that the proposed project conforms with the City’s General Plan. The discussion of both the scope of the project and the conformance with the General Plan 2025 is included in the draft resolution (Attachment A) for the Commission’s deliberation.

**Public Outreach**

This item was noticed in compliance with the California Brown Act in that it was published on the Planning Commission’s agenda. Additionally, the proposed land swap and associated General Plan conformity determination was mentioned as part of the Oyster Cove item for future Planning Commission consideration.

**CASE STUDIES**

No case studies are associated with this staff report.

**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 swap 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.

**CITYWIDE GOALS & PRIORITIES**

The proposed action supports City Council Goals and Objectives Workplan 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.

**FURTHER RECOMMENDATION**

No further recommendations are provided for this request.

**ATTACHMENTS**

Attachment A: Planning Commission Resolution

Attachment A, Exhibit 1: Property Exhibit