

	Approved	Denied
Date Action Taken:	4/13/09	
Other:		
Verified by:	<i>Hornits</i>	

WASILLA CITY COUNCIL ACTION MEMORANDUM

AM No. 09-14

TITLE: PARTIAL VACATION OF HURLEY CIRCLE RIGHT-OF-WAY.

Agenda of: April 13, 2009
 Originator: Public Works Director

Date: March 24, 2009

Route to:	Department	Signature/Date
	Police Chief Youth Court, Dispatch, Code Compliance	
	Culture and Recreation Services Director Library, Museum, Sports Complex	
X	Public Works & Recreation Facility Maintenance Director	<i>[Signature]</i> 3/24/09
X	Finance, Risk Management & MIS Director Purchasing	<i>[Signature]</i> 4/1/09
X	Deputy Administrator Planning, Economic Development, Human Resources	<i>[Signature]</i>
X	City Clerk	<i>[Signature]</i>

REVIEWED BY MAYOR VERNE E. RUPRIGHT:

[Signature]

FISCAL IMPACT: yes or no Funds Available yes no

Account name/number:

Attachments: Vacation Application (10 pp)

SUMMARY STATEMENT: A portion of Hurley Circle is proposed to be vacated to support a planned building addition to the Fred Meyer Store. The Fred Meyer property will gain some of the vacated area and Katie Hurley's property will gain the remainder of the vacated area. This right-of-way is only used as a driveway access to Ms. Hurley's home, no road exists. Ms. Hurley is in support of the vacation and the Public Works Department is in support of the vacation.

ACTION: Authorize vacation of a portion of Hurley Circle in accordance with Matanuska-Susitna Borough Platting Board Action Case #2009-008.



MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department Platting Division

350 East Dahlia Avenue • Palmer AK 99645
Phone (907) 745-9874 • Fax (907) 746-7407

March 10, 2009

NOTIFICATION OF PLATTING BOARD ACTION

RE: OLSON ADD 2008

West Valley Properties, LLC
Robert C. Carle
1120 E Huffman Ste 24 #202
Anchorage, AK 99511-0938

Fred Meyer Stores, Inc.
Robert Currey
PO Box 42121
Portland, OR 97242

Katherine Hurley
PO Box 870157
Wasilla, AK 99687

CASE: 2009-007


Action taken by the Platting Board on March 5, 2009 is as follows:

THE VARIANCE FROM MSB 27.20.045(A)(2), VACATION REQUEST AND PRELIMINARY PLAT FOR OLSON ADD 2008 WERE APPROVED CONTINGENT UPON THE FOLLOWING CONDITIONS/REASONS (see attached).

ALL DECISIONS AS TO APPROVAL OR DISAPPROVAL BY THE PLATTING BOARD OR OFFICER SHALL BE FINAL UNLESS APPEALED TO THE BOARD OF ADJUSTMENT AND APPEALS, MSB 15.39. A PETITION WHICH IS TABLED BY THE BOARD SHALL BE DEEMED DENIED UNLESS THE APPLICANT BRINGS THE MATTER BACK BEFORE THE BOARD WITH ALL CONDITIONS MET WITHIN THE TIME ALLOWED BY THE BOARD OR BY LAW.

If this is in reference to a plat application, recordation at the appropriate District Recorder's Office of the plat is required before any transfer of title can occur. Should you have any questions or require a copy of the minutes of the meeting, please feel free to contact this office.

Kindest regards,


Mr. Terry Nicodemus
Platting Board Chair

cc:

MSB/DPW

City of Wasilla
290 E Herning
Wasilla, AK 99654

R & M Consultants, Inc
Dave Hale, P.L.S.
9101 Vanguard Drive
Anchorage, AK 99507

CONDITIONS OF APPROVAL:

The Platting Board approved the variance from MSB 27.20.045(A)(2), residential road construction within Hurley Circle, based on the petitioner's response to criteria A, B & C and based on the City of Wasilla staff's non-objection.

- (A) The granting of the variance will not be detrimental to the public health, safety, welfare or injurious to adjacent property owners because:

Response: Only the owner of Lot 6 uses, or will use, Hurley Circle cul-de-sac for access. No other properties are involved.

- (B) The conditions upon which the variance application is based do not apply generally to properties other than the property for which the variance is sought because:

Response: Generally, a cul-de-sac would provide access for several properties & be designed to enhance drainage. A buffer was built between Lot 6 and Tract A-1A to provide privacy for the home on Lot 6 from Fred Meyer on tract A-1A. Constructing the cul-de-sac to Mat-Su standards would impact the privacy of Lot 6, and is not needed for access.

- (C) Due to unusual physical surroundings, shape and topography condition of the property for which the variance is sought and because of surrounding development or conditions, the strict application to the property of the requirements of MSB 27.20 will result in undue substantial hardship to the owner of the property because:

Response: The cul-d-sac will not be used by anyone except the owner of Lot 6. The privacy buffers would be impacted. Traffic into Lot 6 may increase with a constructed road & cul-de-sac.

FINDINGS for VARIANCE

1. City of Wasilla staff supports to the variance, they do not want road construction within the right-of-way.
2. There were no objections to the vacation request from borough departments, federal or state agencies, utilities or the public. There was no response to the request for comments from FSA #130, MSB EMS, Cultural Resources, ADOT & PF, AK DNR, and Enstar.
3. Physical access already exists for all tracts and lots in this subdivision and is not changing with this plat.
4. Variance criteria are addressed by the petitioner in response to Criteria A-C.

CONDITIONS OF APPROVAL:

The Platting Board approved the vacation of a portion of Hurley Circle contingent upon the following conditions:

1. Graphically depict the vacated area on the final plat.
2. Obtain approval of the vacation by City of Wasilla City Council within 30 days of written Notice of Action by the Platting Board. Failure of the city to respond within 30 days shall be considered to be consent to the vacation.

3. Dedicate a replacement 100' diameter cul-de-sac at the end of S. Hurley Circle as shown on the preliminary plat.

FINDINGS for VACATION

1. The vacation of a portion of the existing 60' wide road is pursuant to AS 29.20.120 and MSB 27.15.110 Vacations.
2. The vacation is consistent with MSB 27.15.10(B)(1)(a) and (b) as equal or better access is being provided and the surrounding area is fully developed and all planned and needed rights-of-way and utilities are constructed.
3. The vacation will allow for a future expansion project of the Fred Meyer building
4. The new 100' diameter cul-de-sac will be dedicated at the end of Hurley Circle.
5. Hurley Circle provides legal and physical access to Lot 6A. The physical access to Lot 6A is not changing with this vacation, legal access will be from the new cul-de-sac.
6. City of Wasilla staff has no objection to the vacation.
7. There were no objections to the vacation request from borough departments, federal or state agencies, utilities or the public. There was no response to the request for comments from FSA #130, MSB EMS, Cultural Resources, ADOT & PF, AK DNR, and Enstar.
8. The petitioner's representative was in agreement with the recommendations.

CONDITIONS OF APPROVAL:

The Platting Board approved the preliminary plat for Olson Addition 2008 contingent upon:

1. Pay MSB and City of Wasilla taxes and special assessments in full for year of recording.
2. Submit an updated *Certificate to Plat* executed within 14 days of recordation.
3. Pay mailing and advertising fee.
4. Submit recording fees, payable to SOA / DNR, prior to recording.
5. Remove indications on the plat for vacating or dedicating private access easements.
6. Any new private easements will be recorded separately and referenced on the final plat.
7. Provide plat note that states subsurface sewage disposal systems are subject to a 100' setback from waterbodies.
8. Submit final plat in full compliance with Title 27.
9. Graphically depict all easements of record on final plat.

FINDINGS for PRELIMINARY PLAT

1. The preliminary plat of Olson Addition 2008 is consistent with AS 29.40.070 Platting Regulations and MSB 27.20 Subdivision Standards.
2. The property lies within the Wasilla City limits, is zoned for commercial use.
3. The city has issued a Land Use Permit for Subdivision, #A08-121, dated 11/19/08 and the staff offered no objection to the plat.
4. The re-subdivision does not affect the existing access onto the Parks Highway or the Palmer-Wasilla Highway.
5. There are no dedications or vacations of private easements on this plat.
6. A Registered Engineer stated Lot 6A is suitable for a Wastewater Disposal System. Lot 6A presently contains a private well and septic system.
7. The preliminary plat approval will allow for a future expansion project of the Fred Meyer building.
8. There is an existing utility easement on Tract A7 which is not shown on the plat.
9. There were no objections to the proposed re-subdivision from any MSB departments, utilities or the public.
10. The variance to road construction was approved.
11. The vacation of a portion of Hurley Circle was approved
12. The petitioner's representative is in agreement with the recommendations.
13. Confirmation of flood plain monumentation.



MATANUSKA-SUSITNA BOROUGH

Planning and Land Use Department
Platting Division

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Phone (907) 745-9874 • Fax (907) 746-7407

March 18, 2009

CITY OF WASILLA
290 E HERNING
WASILLA, AK. 99654

03 2- 1 R21-699CEDL

03-19-09A10:58 RCVD

RE: Olson Add 2008
Vacation of Right-Of-Way
CASE: 2009-008

Please respond if you have any objections within 30 days of The Platting Board Notification of Action (March 10, 2009).

REASON FOR REQUEST: The request is to vacate a portion of Hurley Circle and adjust the centerline of a private access easement, which will allow for a planned building addition. The vacated portions of Hurley Circle will attach to Tract A-1A and Lot 6. The tracts are served by City of Wasilla water and sewer, Lot 6 is served by well and septic.

SUMMARY STATEMENT: On March 5, 2009 (written decision March 10, 2009) the platting board approved the vacation under MSB 27.15.110 Vacations and MSB 27.15.10(B)(1)(a) and (b).

RECOMMENDATION: Staff recommends the City approve the vacation as the platting board's decision to vacate is consistent with **MSB 27.15**.

Regards;

Paul Hulbert, Platting officer

ATTACHMENT(S): Minutes 3-5-09 (3 pages)
Vicinity Map (1 page)
Notification of Action (4 pages)

contained within an easement.

- Staff spoke to Keith at MEA and he indicated that many of the power lines in Big Lake were put in fifty years ago. He also stated at that time easements were not recorded. The certificate to plat did not show a recorded utility easement for this parcel. Keith at MEA said they would not require an easement for this platting action.
- MSB Community Development commented a new plat name is needed as this is not the original U.S. Survey.
- MTA and GCI Cable had no objections.
- Alaska Department of Fish & Game commented that Big Lake is known to be an important habitat for chum, coho, pink and sockeye salmon (AS.16.05.871). ADF&G has no objection to the Preliminary Plat as proposed with regard to public access.
- Big Lake Community Council has no objections to this request.

Mr. Nicodemus (Chair)

- Opened the public hearing and asked any members of the public wishing to speak to come forward, seeing no members of the public wishing to speak, closed the public hearing and asked the petitioner and/or representative to come forward.

Mr. Wayne Whaley (Petitioner's Representative)

- No problems with the conditions
- Petitioner bought the property thinking it was already combined due to verbiage on the deed.
- Explained the history and basis for submission.

DISCUSSION:

- Will the cabin be moved to the next shelf? It has not been established.
- Was this property in the burn? Some parts may have been, the lake frontage was not.
- Is there well or septic present? At this time there is only a privy.
- Exhibit C is a soils report from the engineer stating the viability for well and septic.
- What was the purpose of submitting all these adjacent well logs? They are required by code.

MOTION

- Ms. Larson moved to approve preliminary plat for Government Lot 55 without any additional recommendations. Mr. MacKenzie seconded the motion.

VOTE

- Motion passed with all in favor. There were 8 findings. Added #9: Petitioner's Representative agrees with the conditions.

CD 8:49:30 AM

B. OLSON ADDITION 2008

Ms. Croswhite (Secretary)

- Stated that 44 public hearing notices were mailed out on February 11, 2009, to this date there have been no return, no objections, no non-objection and no concerns.

Ms. Fowler (Platting Technician)

- Gave an overview of the case.
- The subject parcel is located at the corner of the Parks Highway and Palmer-Wasilla Highway in the Fred Meyer shopping center. The proposal is to adjust lot lines and vacate a portion of S. Hurley Circle in order to allow for a future expansion project of the Fred Meyer building. The vacated area will attach to Lot 6A and Tract A-1A as indicated on the preliminary plat and a new cul-de-sac will be dedicated at the terminus of the right-of-way.
- The expansion project will impact the 24' private access easement and require moving the access easement to the southeast.
- The new location of the access lane will also impact Tract A7, requiring a reconfiguration of that lot.
- The property lies within the Wasilla City limits, is zoned for commercial use and the two tracts are served by city water and sewer.
- Lot 6 is used as a residential lot and is served with well and septic
- Access to the Parks Highway and onto the Palmer-Wasilla Highway is not changing.
- The City of Wasilla has reviewed the proposed re-subdivision and issued a Land Use Permit for Subdivision #A08-121, dated 11/19/08. The City of Wasilla responded with no objection to the vacation, variance or preliminary plat.
- Staff notes City of Wasilla manages the rights-of-way within this subdivision and it would be up to them to require driveway and utility permits.
- DPW requested the surveyor show the approximate location of City's Septic Tank Effluent Pumping units and existing off-site utilities adjacent to proposed subdivision.
- MEA noted that there is a utility easement on Tract A7-1 that is not shown on the plat, so staff is recommending a condition of approval to show all easements of record on the final plat.
- The surveyor stated there were no well logs located within 600 feet of the subdivision's boundaries. The required flood hazard note is on the preliminary plat and the flood hazard boundary is shown along the shoreline of Wasilla Lake
- There were no objections to the proposed vacation, variance or preliminary plat from any MSB departments, utilities or the public.

Mr. Nicodemus (Chair)

- Opened the public hearing and asked any members of the public wishing to speak to come forward, seeing no members of the public wishing to speak, closed the public hearing and asked the petitioner and/or representative to come forward.

Mr. David Hale (Petitioner's Representative)

- Is in agreement with the recommendations.

MOTION:

- Mr. MacKenzie moved to approve the variance for MSB 27.20.045(A)(2), residential road construction within Hurley Circle, based on the petitioner's response to criteria A, B & C. Ms. Larson seconded the motion.

VOTE:

- The Motion passed with all in favor. There were 4 findings.

MOTION:

- Mr. MacKenzie moved to approve the vacation of a portion of Hurley Circle. Ms. Larson seconded the motion.

VOTE:

- The Motion passed with all in favor. There were 7 findings. Added #8: The petitioner's representative was in agreement with the recommendations.

MOTION:

- Ms. Larson moved to approve the preliminary plat for Olson Addition 2008. Mr. MacKenzie seconded the motion.

VOTE:

- The Motion passed with all in favor. There were 11 findings. Added #12 The petitioner's representative is in agreement with the recommendation. #10& 11 are amended to change the wording to show they have been approved. #13 Confirmation of flood plain monumentation.

Break 9:10:53AM

CD 9:25:46 AM

C. **JOHN-E RSB LOT 1**

Ms. Croswhite (Secretary)

- Stated that 63 public hearing notices were mailed out on February 11, 2009, to this date there has been five returns, no objections, no non-objections and no concerns.

Ms. Otto Larsen (Platting Technician)

- Petitioner requests a continuance to April 2, 2009 to resolve questions about overlapping easements to comply with code.

Mr. Nicodemus (Chair)

- Opened the public hearing and asked any members of the public wishing to speak to come forward, seeing no members of the public wishing to speak, continued the public hearing and asked the petitioner and/or representative to come forward.

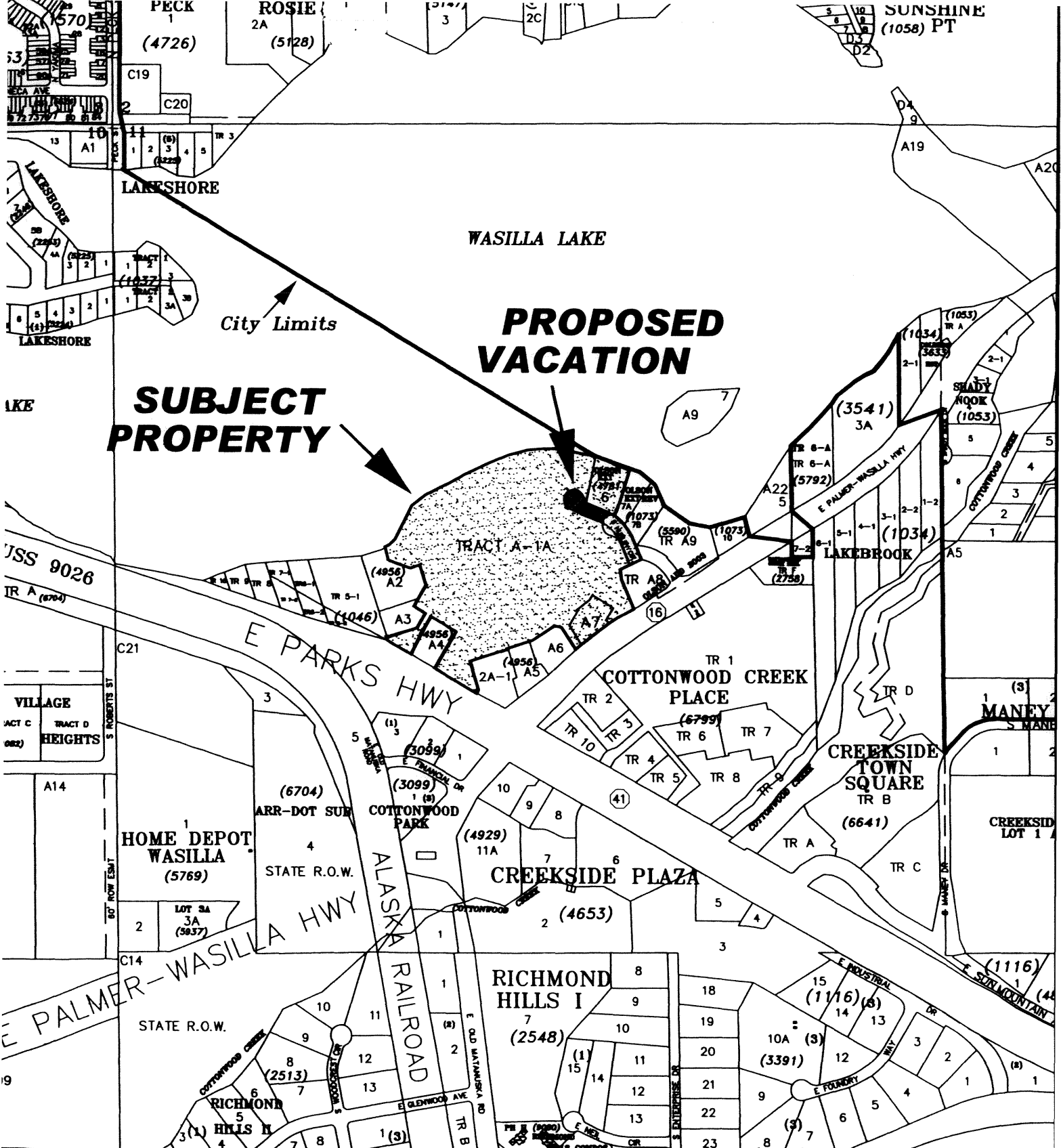
MOTION:

- Ms. Larson moved to continue the preliminary plat for John-E RSB Lot 1. Mr. MacKenzie seconded.

VOTE:

- The Motion passed with all in favor.

CD 09:31:13 AM



VICINITY MAP

FOR PROPOSED OLSON ADDN 2008
w/ VARIANCE & VACATION

LOCATED WITHIN SECTION 11, T17N, R1W
SEWARD MERIDIAN, ALASKA

N44°42'19"W

111.30'

A.R.R.

Lake Lucille

THIS PLAT

17

16

Knik-Goose Bay Road

VICINITY
Scale

SECTION 11 T
SOURCE: USGS M

HAZARD

LAKE AREA

APPROXIMATE LIMITS OF
100 YEAR PLAIN

L11 L12 L13

PROPOSED VACATION
ATTACHES TO
PROPOSED TR A-1B

OLSON SUBDIVISION
EXTENSION
(PLAT 60-23)

PROPOSED LOT 6A
(44,914 SQ.FT. ±)

OLSON SUBDIVISION
EXTENSION
(PLAT 62-9)

PROPOSED VACATION
ATTACHES TO
PROPOSED LOT 6A

20' UTILITY
EASEMENT

PROPOSED CUL-DE-SAC
& ROW DEDICATION

PORTION OF EXISTING CL 24'
WIDE PRIVATE ACCESS
EASEMENT TO BE VACATED
THIS PLAT

PROPOSED CL
24' PRIVATE

M-1 M-2 M-3
TRACT A8

BK. 1060, PG.

HACIENDA

BFE
MSL
ELEV.
326'

TRACT A9

IRING TO

