

**TOWN OF FAIRFAX  
STAFF REPORT**  
**Department of Planning and Building Services**

**TO:** Fairfax Town Council

**FROM:** Michael Rock, Town Manager   
Jim Moore, Director of Planning and Building Services

**DATE:** July 7, 2010

**SUBJECT:** Adoption of a Resolution of the Town Council of the Town of Fairfax Accepting the Offer of Dedication of Vanni Way Roadway Easement relating to 161 Ridgeway Avenue

**RECOMMENDATION**

Staff recommends that the Town Council accept the Offer of Dedication of Vanni Way (roadway crossing the 161 Ridgeway Avenue site).

**DISCUSSION**

In mid 2007, a Councilmember undertook a project to name the then unnamed street that crosses the project site Vanni Lane. During an investigation of the matter, the legality of the site was questioned. The issue of whether or not the road was a public road was also raised. It was determined that the parcel was legally created and that there was no public easement for the roadway across the site.

On May 2, 2007, the Town Council voted to name the then unnamed roadway that crosses the project site Vanni Lane after the owner agreed to grant a public easement for the roadway. In return the owner of the site requested a certificate of compliance for the site indicating that the site was legally created and could be built upon (see Exhibit B).

By granting the Certificate of Compliance the intent of the Town Council to allow development of the site in return for the granting of the public easement is clear.

The Planning Commission approved development of the site with a single-family residence on March 18, 2010 subject to certain conditions including that the owner offer a dedicated roadway easement to the Town. The proposed easement document is attached as Exhibit A.

**ATTACHMENTS**

- Exhibit A – Easement document
- Exhibit B – Conditional Certificate of Compliance
- Exhibit C - Proposed Resolution Accepting the Offer of Dedication



950 NORTHGATE DRIVE, SUITE 107  
SAN RAFAEL, CALIFORNIA 94903  
WEB [www.sorensenlaw.com](http://www.sorensenlaw.com)

LAW OFFICES OF  
**NEIL SORENSEN**

TELEPHONE 415 499-8600  
FACSIMILE 415 499-0140  
EMAIL [neil@sorensenlaw.com](mailto:neil@sorensenlaw.com)

June 18, 2010

**RECEIVED**

JUN 18 2010

TOWN OF FAIRFAX

Michael Rock  
Fairfax Town Manager  
142 Bolinas Road  
Fairfax, CA 94930

**Re: 161 Ridgeway Avenue, Fairfax – Offer of Dedication**

Dear Michael:

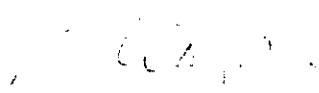
Enclosed is an executed copy of the Offer of Dedication of Roadway Easement relating to 161 Ridgeway, Fairfax (Pierce).

I understand the Town Council will consider acceptance of the offer at its July meeting. Please let me know the date and time of the meeting.

Mr. Pierce has submitted a building permit application to the Town for a new house at 161 Ridgeway. The Town is not authorized to record the Offer of Dedication until the building permit is approved and ready to issue.

Please call me if you have any questions.

Sincerely,

  
NEIL SORENSEN

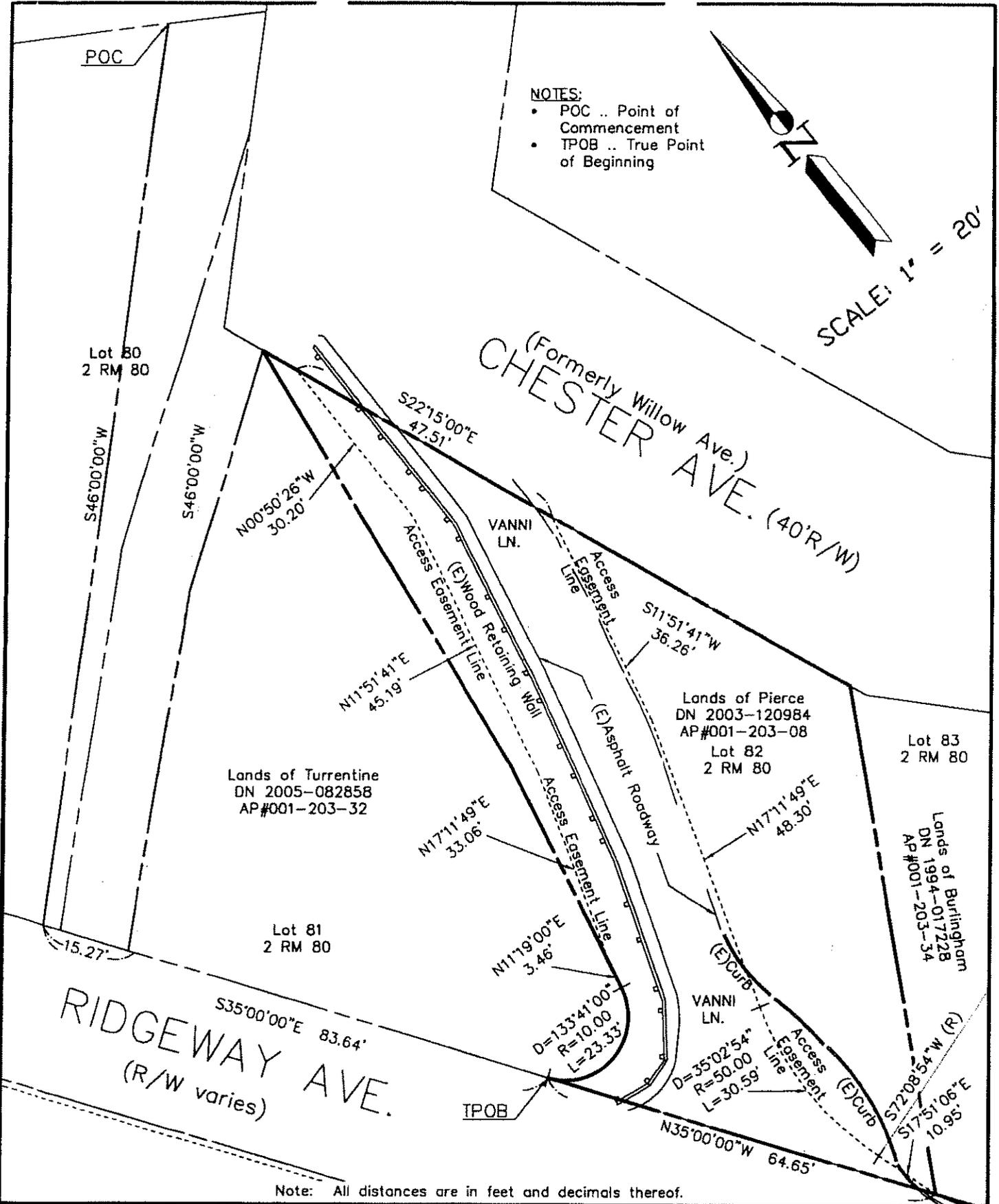
NS/mjs  
Enclosure

cc: Jim Karpiak, Town Attorney  
Charles Pierce  
Fred Divine

**EXHIBIT #**

**A**





Note: All distances are in feet and decimals thereof.

SHEET	1	OF	1
SCALE:	1" = 20'	DESIGN:	PR
DATE:	Apr 2010	DRAWN:	PR
FILE:	2008-077	CHECKED:	J.L.H
2008-077\DWG\08-077-BASE.ROWEXHIBIT			

**J.L. ENGINEERING**  
**CIVIL ENGINEERS-LAND SURVEYORS**  
 1539 4th ST., SAN RAFAEL, CA 94901 (415) 457-6647

**Exhibit B**  
 Town of Fairfax, Right of Way Easement  
 Lands of Pierce - 161 Ridgeway Ave.  
 APN 001-203-08, Fairfax, Marin County, CA

CA  
4



2007-0027512

RECORDING REQUESTED BY:

Recorded : REC FEE : 0.00  
Official Records :  
County of :  
Marin :  
JUAN C. TAYLOR :  
Assessor-Recorder :  
2007-05-02 : Page 1 of 4

Town of Fairfax  
Planning and Building Services Department  
142 Bolinas Road  
Fairfax, California 94930

Space above this line for Recorder's Use Only

**CONDITIONAL CERTIFICATE OF COMPLIANCE**  
(Section 66499.35 of the California Government Code)

I, Ann Welsh, duly appointed Director of Planning of the Town of Fairfax, hereby certify the following:

(1) That an application has been filed by Charles C. Pierce, Inc. ("Pierce") to determine whether the division of the real property described more particularly on Exhibit "A" hereto (the "Parcel") complies with State of California Government Code §§66410 to 66499.58, the Subdivision Map Act, and local ordinances enacted thereto. Pierce is the owner of the Parcel.

(2) That the Parcel was created November 17, 1952, when the then-owner of a larger piece of land including the Parcel (the "Original Land") divided the Original Land by conveying certain land adjacent to the Parcel (the "Adjacent Parcel") to another party while retaining ownership of the Parcel, thereby resulting in two parcels, the Parcel (APN 001-203-08) and the Adjacent Parcel (APN 001-203-32). The legal description of the Parcel for which this Conditional Certificate of Compliance is being issued and recorded: is attached hereto as "Exhibit A" and incorporated herein by reference, (APN 001-203-08).

(3) At the time of the Parcel's creation, Fairfax did not have a local ordinance in effect regulating the division of land into fewer than five parcels.

EXHIBIT #     B

(4) That the division of property as hereinbefore described complies with Government Code section 66412.6, which provides that any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if the parcel resulted from a division of land in which fewer than five parcels were created and if at the time of the creation of the parcel, there was no local ordinance in effect which regulated divisions of land creating fewer than five parcels.

(5) There are currently no easements of record for the paved roadway that exists on the Parcel. As part of any development of the Parcel, the Owner has voluntarily agreed to offer to the Town a roadway easement encompassing the entire existing paved roadway. Prior to the issuance of a building permit for any development on the Parcel, the Owner shall offer to dedicate an easement for road purposes to the Town of Fairfax over the paved roadway that currently exists on the Parcel. The dedication of said easement shall not render the Parcel illegal or unbuildable.

(6) That this certificate relates only to issues of compliance or noncompliance with the Subdivision Map Act and local ordinance enacted pursuant thereto. The Parcel described herein may be sold, leased, or financed without further compliance with the Subdivision Map Act or any local ordinance enacted pursuant thereto. Development of the Parcel may require issuance of entitlements, permits or other grants of approval in accordance with the Town Code.

(7) That this certificate shall become effective on May 2, 2007, and the statements set forth herein are true and correct as of that date, and this certificate shall bind Owner or its successors-in-interest as owners of the Parcel, as the case may be.

(8) This certificate replaces the Conditional Certificate of Compliance recorded June 19, 1996, as Document No. 96-032947 ("Prior Certificate"). The Prior Certificate is null and void.

TOWN OF FAIRFAX

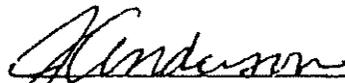


Ann Welsh  
Director of Planning

State of California  
County of Marin

On May 2, 2007 before me, Judith Anderson, Town Clerk of the Town of Fairfax, California, Fairfax, California, personally appeared Ann Welsh, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Judith Anderson, Town Clerk,  
Town of Fairfax

Date: 5-2-07

**RESOLUTION NO.**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX  
ACCEPTING THE OFFER OF DEDICATION OF VANNI WAY ROADWAY EASEMENT  
RELATING TO 161 RIDGEWAY AVENUE**

**WHEREAS**, on May 2, 2007 the Town Council of the Town of Fairfax approved an unnamed street that crossed 161 Ridgeway Avenue as "Vanni Lane;" and

**WHEREAS**, during the staff research of the title for the property at 161 Ridgeway, it was found that there was no legal determination that the parcel had been deemed legal; and

**WHEREAS**, upon further research, staff and the Town Attorney determined that under State law, the 161 Ridgeway parcel had been legally created and that the public had rights to use the street due to its long time use by traffic and the fact that it had been paved at Town expense; and

**WHEREAS**, staff reached an agreement with the owner of 161 Ridgeway under which the owner agreed to formally and expressly dedicate a public easement for the roadway prior to any development of the site and under which the Town agreed to issue a certificate of compliance indicating that the site had been legally created and could be built upon, subject to compliance with applicable code requirements; and

**WHEREAS**, to formally complete the agreement between the property owner and the Town of Fairfax and the dedication of "Vanni Lane," and because the property owner has executed the "Offer of Dedication of Roadway Easement" it is necessary to the for the Town of Fairfax to accept the roadway easement;

**NOW, THEREFORE, BE IT HEREBY RESOLVED** that the Town Council of the Town of Fairfax, does hereby accept said Roadway Easement between Ridgeway Avenue and Chester Avenue through 161 Ridgeway Avenue, and authorizes the Mayor to execute a certificate of acceptance, and authorizes said Roadway Easement to be recorded at any time following the adoption of this Resolution.

The foregoing Resolution was adopted at a regular meeting of the Town Council of the Town of Fairfax held in said Town on the 7th day of July, 2010 by the following vote:

AYES:  
NOES:  
ABSENT:

---

Lew Tremaine, Mayor of Fairfax

Attest:

---

Judy Anderson, Town Clerk