



Staff Report

RESOLUTION APPROVING A PERMANENT ENCROACHMENT AGREEMENT TO MID-PENINSULA WATER DISTRICT FOR A UTILITY POLE WITHIN THE PUBLIC RIGHT-OF-WAY AT THE END OF UPPER LOCK AVENUE AND MARBURGER AVENUE

Honorable Mayor and Council Members:

Summary

The Mid-Peninsula Water District requests approval of a Permanent Encroachment Agreement with the City to allow a new wooden utility pole within the public right-of-way of Upper Lock Avenue and Marburger Avenue. A resolution approving the encroachment agreement with conditions is provided for Council's consideration.

Background

Mid-Peninsula Water District is in the process of updating their meter reading capabilities and they are transitioning to a wireless reading system. In order to serve a portion of the City, Mid-Peninsula Water District is requesting to install a wooden utility pole with antenna within the public right-of-way at the end of Upper Lock Avenue and Marburger Avenue.

Discussion

Ordinance Number 994 as codified in Section 22-6 of the Municipal Code regulates encroachments into the public right-of-way. This ordinance gives the City Council the sole authority to issue permits for major or unusual encroachments that include aboveground structures such as retaining walls, fences, poles, and awnings. This class of encroachment is commonly known as "permanent encroachment," even though the City retains the right to revoke the permit and require removal if the structure is not being used or if it interferes with planned public improvements. Section 22-6(b) requires the Director of Public Works to review all major encroachment applications. If the Director finds the application is in compliance with the Municipal Code, the Director will recommend approval with conditions necessary to protect the health and safety of the public and the City.

Staff has reviewed the encroachment application for the installation of a new utility pole and found it to be in compliance with the Municipal Code. The City Council may choose to approve or to conditionally approve the application only if it finds that there is some public benefit for the encroachment. The public right-of-way along Upper Lock Avenue is approximately 50-foot wide. The new 45-foot tall wooden utility pole will be located at the end of the paper street

portion of Upper Lock Avenue where it intersects with Marburger Avenue. Staff believes that the installation of this new utility pole for wireless water meter reading purposes will provide the required public benefit by assisting Mid-Peninsula Water District monitor their water system with “real-time” data. This data will assist them in monitoring their water storage tanks and water flow, which will be useful to alert them of possible water leaks within the distribution system.

The following conditions will be included in the construction permit:

1. The utility trench through the asphalt area at the end of Upper Lock Avenue and Marburger Avenue shall be directional bored to minimize disturbance of exiting pavement condition.
2. The trench along the edge of roadway shall be restored with similar materials as the existing surface.

In accordance with the Municipal Code 22-6(d), notice was sent to all affected properties within 300 feet of the project location that the City Council would be considering the item on January 10, 2012. Mid-Peninsula Water District has paid the encroachment permit fee to cover staff time to process the Permanent Encroachment Agreement.

General Plan/Vision Statement

The approval of the encroachment agreement for installing the utility pole is consistent with the General Plan, Public Facilities & Services Goal (*Paragraph Section 2041*), “to provide public services at a level adequate to ensure public safety, health and welfare at the lowest possible cost; to establish and maintain all essential public services and facilities in a manner that ensures continued operation in time of emergency.”

Fiscal Impact

There is no fiscal impact to the City. All costs and responsibility belong to Mid-Peninsula Water District.

Public Contact

Public contact includes posting of City Council agenda and mailing notices to the properties within a 300-foot radius.

Recommendation

Staff recommends the City Council adopt the attached resolution, with conditions, approving a Permanent Encroachment Agreement for installation of a new utility pole within the public right-of-way at the end of Upper Lock Avenue.

Alternatives

1. Reject the application.
2. Refer back to staff for more information.

Attachments

- A. Resolution
- B. Exhibit A – Aerial of Location
- C. Exhibit B – Proposed Pole Location Plat
- D. Exhibit C – Pictures of Site

Respectfully submitted,

Gilbert Yau, PE
Senior Civil Engineer

Afshin Oskoui, PE
Director of Public Works

Greg D. Scoles
City Manager

Staff Contact:
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RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELMONT APPROVING A PERMANENT ENCROACHMENT AGREEMENT TO MID-PENINSULA WATER DISTRICT FOR A UTILITY POLE WITHIN THE PUBLIC RIGHT-OF-WAY AT THE END OF UPPER LOCK AVENUE AND MARBURGER AVENUE

WHEREAS, the City of Belmont is authorized by Municipal Code Sec. 22-6 to issue encroachment permits for construction of structures in the public right-of-way; and,

WHEREAS, Mid-Peninsula Water District has applied for a Permanent Encroachment Agreement to install a new wooden utility pole for wireless water meter reading purposes within the public right-of-way at Upper Lock Avenue and Marburger Avenue; and,

WHEREAS, the Belmont City Council has made the following findings required by Municipal Code Sec. 22-6(e) for approval of a permanent encroachment agreement:

1. The encroachment will not unduly restrict the public right-of-way or public water course for other typical uses; and,
2. The City will be duly protected from liability for injury to persons and property; and,
3. The required bonds will guarantee the faithful performance of all conditions and requirements specified in the encroachment agreement; and,

WHEREAS, approval of this permanent encroachment agreement is subject to the following conditions:

1. Mid-Peninsula Water District shall be responsible and bear all costs necessary to repair or replace the proposed wooden utility pole for periodic maintenance or in the event of an emergency as determined by the Director of Public Works; and,
2. Mid-Peninsula Water District shall be responsible for any restoration required as a consequence of work authorized by the City of Belmont within the public right-of-way; and,
3. The applicant agrees to begin and complete said improvements as conditioned in the permit to the City's satisfaction within 180 calendar days from and after the passage date of this Council Resolution approving this agreement; and,

WHEREAS, the following conditions will be included in the construction permit:

1. The utility trench through the asphalt area at the end of Upper Lock Avenue and Marburger Avenue shall be directional bored to minimize disturbance of exiting pavement condition.
2. The trench along the edge of roadway shall be restored with similar materials as the existing surface.

WHEREAS, the structures built in connection with this agreement shall be constructed in accordance with City standards and with the benefit of a Construction Inspection Permit to provide for inspection of said construction, issuance of which is hereby conditionally approved, subject to the payment of inspection fees and posting of required surety to the Department of Public Works.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Belmont:

1. Finds the Permanent Encroachment Agreement application in compliance with the Municipal code; and,
2. Approves the Permanent Encroachment Agreement with Mid-Peninsula Water District, its heirs, successors, executors, administrators and assigns, jointly and severally, and with successors in interest for the installation of a wooden utility pole within the public right-of-way along the end of Upper Lock Avenue as described above and as shown on the attached exhibit and its continuing maintenance by Mid-Peninsula Water District; and,
3. Authorizes the City Manager to execute the Permanent Encroachment Agreement on behalf of the City of Belmont; and,
4. Authorizes the City Clerk to file said Agreement with the County Recorder.

* * * * *

I hereby certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Belmont at a regular meeting thereof held on January 10, 2012 by the following vote:

AYES, COUNCILMEMBERS: _____

NOES, COUNCILMEMBERS: _____

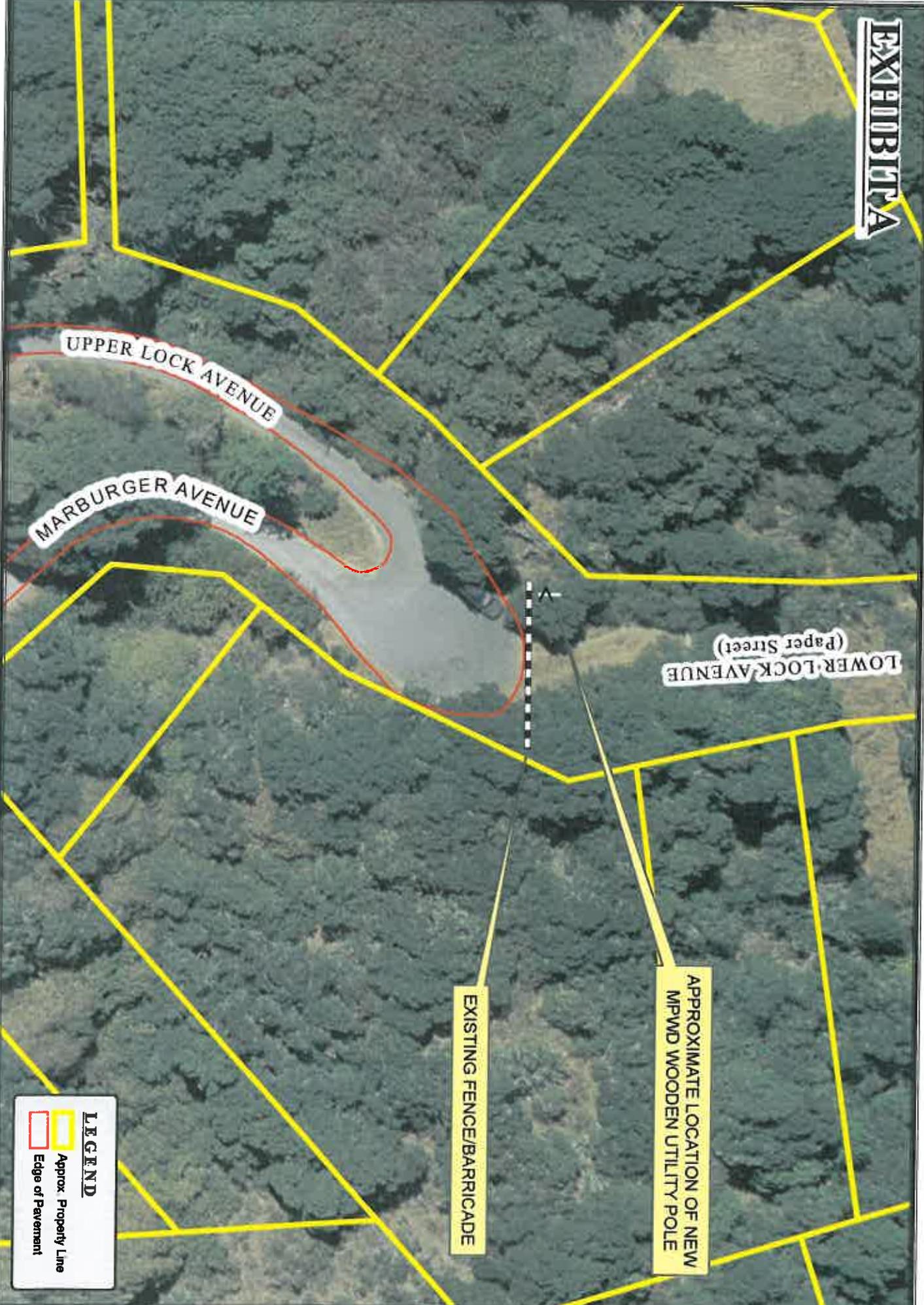
ABSTAIN, COUNCILMEMBERS: _____

ABSENT, COUNCILMEMBERS: _____

CLERK of the City of Belmont

APPROVED:

MAYOR of the City of Belmont



APPROXIMATE LOCATION OF NEW
MPWD WOODEN UTILITY POLE

EXISTING FENCE/BARRICADE

LEGEND

-  Approx. Property Line
-  Edge of Pavement

+
1 INCH = 40 FEET
JANUARY 2012

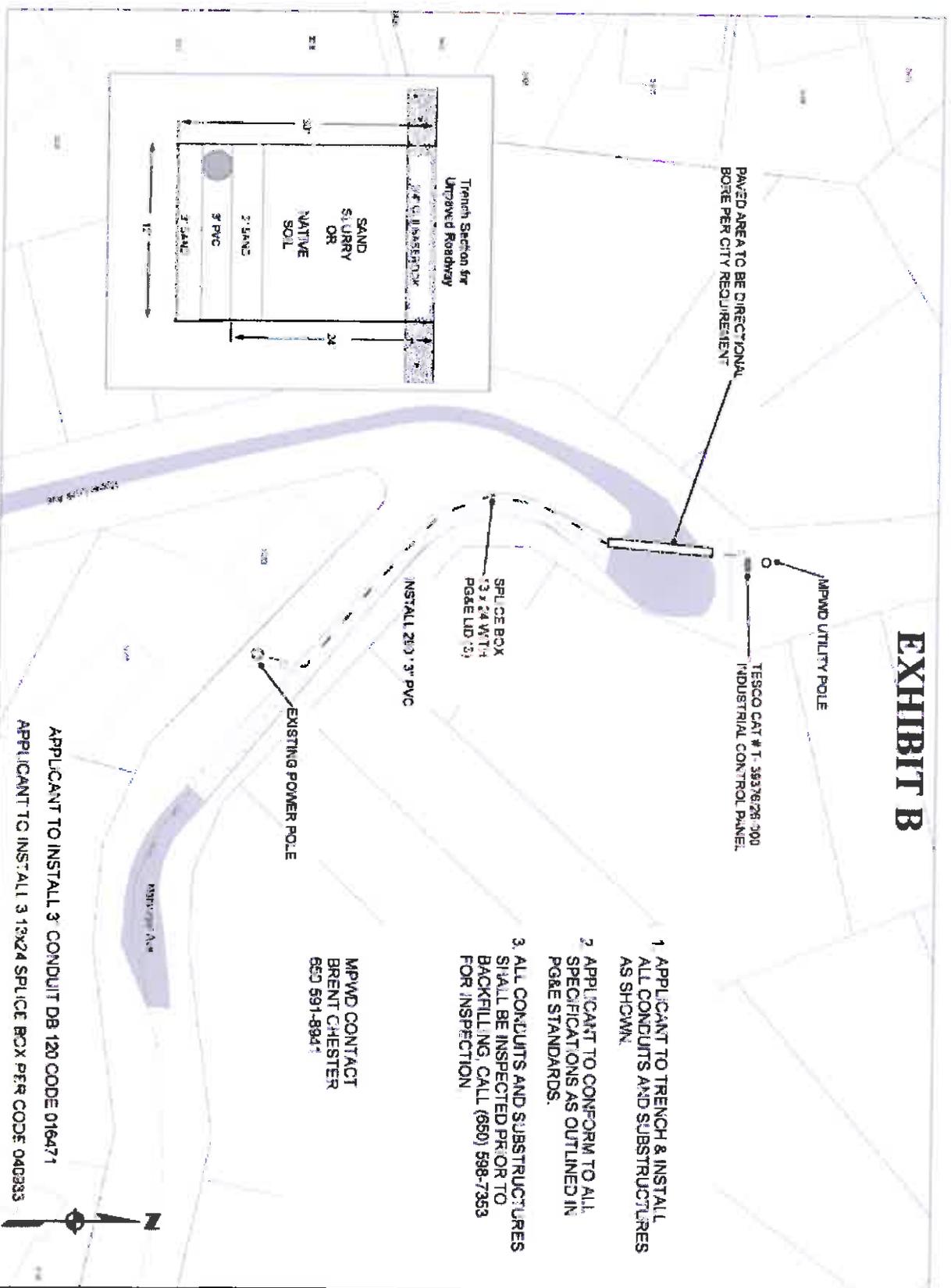


**VICINITY OF
LOWER LOCK AVE**



NOTE: THIS IS NEITHER A PLAT NOR A SURVEY. IT IS FURNISHED MERELY AS A CONVENIENCE TO AID YOU IN LOCATING THE LAND INDICATED HEREBY WITH REFERENCE TO STREETS AND OTHER LAND. NO LIABILITY IS ASSUMED BY REASON OF ANY RELIANCE HEREBY.

EXHIBIT B



1. APPLICANT TO TRENCH & INSTALL ALL CONDUITS AND SUBSTRUCTURES AS SHOWN.
2. APPLICANT TO CONFORM TO ALL SPECIFICATIONS AS OUTLINED IN PG&E STANDARDS.
3. ALL CONDUITS AND SUBSTRUCTURES SHALL BE INSPECTED PRIOR TO BACKFILLING. CALL (650) 598-7353 FOR INSPECTION.

SUBSTRUCTURE DRAWING

MID-PENINSULA WATER DISTRICT
 100A ELECTRICAL SERVICE
 UPPER LOCK AVE AT MARBURGER
 BELMONT, CA



MID-PENINSULA WATER DISTRICT

DATE: 12/20/2011
 REV: 12/21/2011

SCALE:
 1 inch = 50 feet

EXHIBIT C

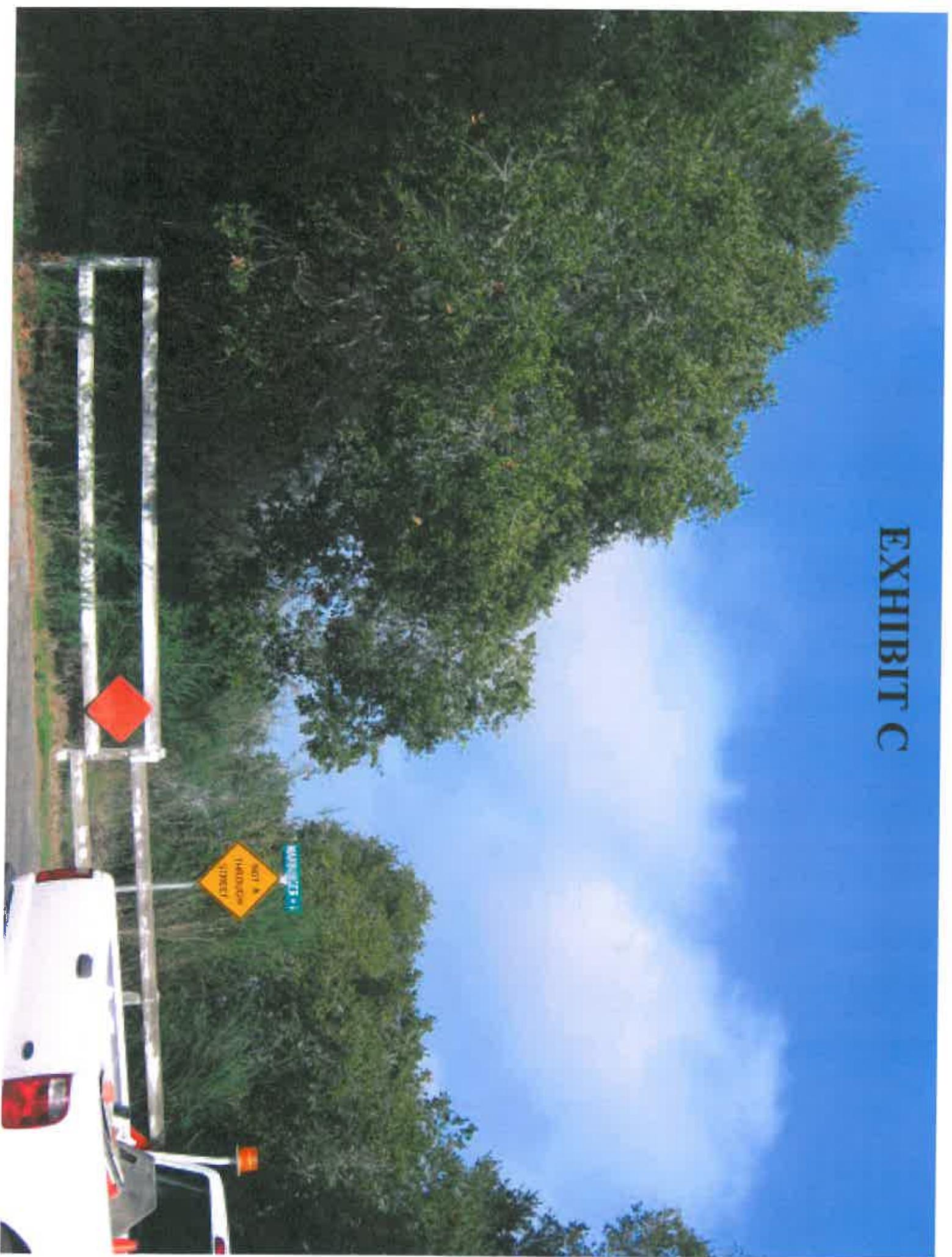


EXHIBIT C

