

Max Breen, Designer
Step 214

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA

IN THE MATTER OF	)	RESOLUTION APPROVING
	)	THE FORMATION OF MAINTENANCE
MAINTENANCE DISTRICT NO. 6	)	DISTRICT NO. 6 AND THE
	)	LEVYING OF ASSESSMENTS
<u>FORMATION</u>	)	ON REAL PROPERTY

WHEREAS, a developer/landowner request was submitted as a condition of approval for Tract Map No. 5172, requesting the levying of assessments on real property and the formation of a Maintenance District in the County of Fresno for the maintenance of West Dovewood Lane benefiting lots to be created by said map; and

WHEREAS, the road to be maintained, West Dovewood Lane, will serve six (6) lots to be created by Tract Map No. 5172, said territory as is more particularly described herein; and

WHEREAS, the road to be maintained is a private road dedicated for public use and is not owned or maintained by the County of Fresno; and

WHEREAS, the Board of Supervisors of the County of Fresno did on July 13, 2004, receive for filing with the Clerk to this Board a written Engineer's Report, prepared by a registered professional engineer certified by the State of California, which pursuant to Article XIIID, Section 4, of the California Constitution, supports assessments on property within the proposed Maintenance District served by the road to be maintained and receiving benefit from the road maintenance service to be provided; and

WHEREAS, the Engineer's Report contains all of the following pursuant to Article XIIID, Section 4 of the California Constitution:

A. Identifies and describes all lots which have a special benefit conferred on them and on which the assessment will be imposed.

1 B. Determines the proportionate special benefit derived by each identified lot in
2 relationship to the entirety of the cost of the maintenance services to be provided and
3 benefiting lots within Tract Map No. 5172.

4 C. Determines that no assessment is imposed on any lot which exceeds the
5 reasonable cost of the proportional special benefit conferred on that lot.

6 D. Determines that the only benefits assessed are special and that general
7 benefits have been separated from special benefits conferred on each lot.

8 E. Determines that no lot owned by any agency, the State of California or the
9 United States, but not identified and described above, receives any special benefit from
10 the proposed assessment.

11 WHEREAS, after considering the Engineer's Report and pursuant to Streets and
12 Highways Code Sections 5820 through 5856, the County of Fresno Board of Supervisors
13 did adopt on July 13, 2004, a Resolution of Intention to consider levying an assessment
14 on real property within proposed Maintenance District No. 6 in the unincorporated area of
15 the County whose boundaries of proposed Maintenance District No. 6 are shown in
16 Exhibit "A" and described in Exhibit "B" attached hereto and incorporated herein by
17 reference; and

18 WHEREAS, the maintenance service to be provided by Maintenance District No. 6
19 is road maintenance benefiting six of the nine lots within Tract Map No. 5172 and a yearly
20 assessment will be levied upon all property within the area of Maintenance District No. 6
21 to pay for the road maintenance of West Dovewood Lane; and

22 WHEREAS, the Board of Supervisors did conduct a public protest hearing at 2
23 p.m. (or as soon thereafter as circumstances permitted) on September 14, 2004, in the
24 meeting chambers of the County of Fresno Board of Supervisors, Hall of Records, 2281
25 Tulare Street, Third Floor, Fresno, California 93721, respecting the proposed

1 maintenance assessment benefiting said lots within Tract Map No. 5172 and the
2 proposed formation of Maintenance District No. 6; and

3 WHEREAS, the Clerk to the Board did give notice of the public protest hearing as
4 follows:

5 A. Pursuant to Streets and Highways Code Section 5838, the Clerk published
6 a notice of the meeting and hearing in a newspaper of general publication, published in
7 the County. Publication was completed at least 10 days prior to the date of the public
8 protest hearing, and the notice contained the text of the Resolution of Intention, stated the
9 time and place for the hearing and stated that at the hearing the testimony of all
10 interested property owners for or against the establishment of the district, the extent of
11 the district or the furnishing of specified maintenance services will be heard.

12 B. Pursuant to Subsections (c), (d) and (e) of Article XIID, Section 4 of the
13 California Constitution, the Clerk did cause a copy of the notice of the filing of the
14 Engineer's Report with said Clerk, and of the time, date and place of the public hearing
15 thereon to be mailed to each record owner of property whose property would be subject
16 to the assessment. This notice was mailed at least 45 days before the public protest
17 hearing held on September 14, 2004, by name to those persons whose name and
18 address appear on the last equalized assessment roll or as otherwise known to the Clerk.
19 The notice did include the estimated amount of the assessment per lot, a general
20 description of the purpose or improvements that the assessment will fund, the address to
21 which property owners could mail a protest against the assessment, the phone number
22 and address of an individual, office or organization that interested persons could contact
23 to receive additional information about the assessment. Each notice did include, in a
24 conspicuous place thereon, a summary of the procedures applicable to the completion,
25 return and tabulation of the ballots required, including a disclosure statement that the

1 existence of a majority protest would result in Maintenance District No. 6 being
2 abandoned and the assessment not being imposed. Each such notice did contain a
3 ballot whereby each such record owner could indicate his or her name, a reasonable
4 identification of the lot and support or opposition to the proposed assessment.

5 WHEREAS, the Board of Supervisors did follow two separate majority protest
6 procedures as required by current law to determine whether a "majority protest" existed at
7 the close of the public hearing of protests, summarized as follows:

8 A. The Property Owner Assessment Ballot Procedure - As required by Section
9 4 of Article XIID of the California Constitution, a Property Owner Assessment Ballot was
10 enclosed with the notice, along with a self-addressed return envelope by which the
11 assessment ballot could be returned to the Clerk to the Board of Supervisors. This
12 assessment ballot could be used by the owner or owners of any lot to express either
13 support for or opposition to the proposed assessment. The assessment ballot form
14 instructions described the alternative methods for submitting the assessment ballot either
15 by mail, which could be done using an enclosed envelope, or by personal delivery, either
16 prior to or at the time of the public protest hearing on September 14, 2004.

17 Immediately following the close of the public protest hearing, the returned
18 assessment ballots were tabulated, both in support of and in opposition to the
19 assessment, with assessment ballots being weighted in accordance with the amount of
20 the proposed assessment, and the results were announced.

21 B. The Written Protest Procedure - In addition to the Property Owner
22 Assessment Ballot procedure required by Section 4 of Article XIID of the California
23 Constitution, Streets and Highways Code Section 5826 provides that any owner of
24 property within proposed Maintenance District No. 6 may file a written protest against the
25 proposed assessment and formation with the Clerk to the Board of Supervisors at or

1 before the time set for the public protest hearing. Each protest must contain a description
2 of the property in which the signer is interested, sufficient to identify the property, and
3 must specify the grounds of protest.

4 WHEREAS, at said public protest hearing conducted by the Board of Supervisors
5 on September 14, 2004, written protests were filed by landowners owning less than fifty
6 percent (50%) of the land area being considered for inclusion in Maintenance District No.
7 6 and more than fifty percent (50%) of the assessment ballots returned to the Clerk by
8 property owners within the area proposed for Maintenance District No. 6 were in favor of
9 the proposed maintenance assessment; and

10 WHEREAS, based on the percent of protests received under the written protest
11 procedures of Streets and Highways Code Section 5826 and the assessment ballot
12 procedures of Article XIID, Section 4, of the California Constitution, a "majority protest"
13 does not exist concerning the formation of Maintenance District No. 6 and the levying of
14 an assessment on real property for road maintenance services within Maintenance
15 District No. 6.

16 NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the
17 County of Fresno that each of the foregoing recitals is true and correct.

18 BE IT FURTHER RESOLVED by the Board of Supervisors of the County of Fresno
19 that the territory shown in Exhibit "A" and described in Exhibit "B" attached hereto and
20 incorporated herein by reference, be designated as Maintenance District No. 6.

21 BE IT FURTHER RESOLVED that the Board of Supervisors under the authority of
22 the statutes authorizing the levying of an assessment found in Article XIID, Section 4 of
23 the California Constitution, approves levying assessments for road maintenance of West
24 Dovewood Lane benefiting lots within Tract Map No. 5172 upon real property within the
25 territory included in Maintenance District No. 6, that territory shown in Exhibit "A" and

described in Exhibit "B" attached hereto and incorporated herein by reference, for the fiscal year 2005-06 and each year thereafter at a rate of assessment not to exceed the following:

A. The base rate of assessment per parcel is proposed to be \$235.00 per year for the first four years. The base rate of assessment per parcel will reduce to \$205.00 per year starting in the fifth year. However, the base rate assessment may be adjusted each year for inflation at a rate not to exceed 3% each year for the first sixteen years of the assessment. After the sixteenth year, the yearly assessment will remain at the same level as the sixteenth year assessment unless the property owners approve an increased level of assessment. The parcels within the proposed district will pay 100% of the costs associated with the maintenance of West Dovewood Lane. The maximum property assessments chargeable each year to the entire district and the maximum yearly assessment per parcel are as follows:

Budget Year	Base Assessment	Inflation (1.03)	Annual Assessment	Total Assessment
1.	\$235.00	1.000	\$235.00	\$ 1,410.00
2.	235.00	1.030	242.05	1,452.30
3.	235.00	1.060	249.10	1,494.60
4.	205.00	1.090	223.45	1,340.70
5.	205.00	1.120	229.60	1,377.60
6.	205.00	1.150	235.75	1,414.50
7.	205.00	1.180	241.90	1,451.40
8.	205.00	1.210	248.05	1,488.30
9.	205.00	1.240	254.20	1,525.20
10.	205.00	1.270	260.35	1,562.10

1	Budget	Base	Inflation	Annual	Total
2	<u>Year</u>	<u>Assessment</u>	<u>(1.03)</u>	<u>Assessment</u>	<u>Assessment</u>
3	11.	205.00	1.300	266.50	1,599.00
4	12.	205.00	1.330	272.65	1,635.90
5	13.	205.00	1.360	278.80	1,672.80
6	14.	205.00	1.390	284.95	1,709.70
7	15.	205.00	1.420	291.10	1,746.60
8	16.	205.00	1.450	297.25	1,783.50
9	17. & After			297.25	1,783.50

10 The inflation factor increase each year may only be imposed for the actual inflation
11 amount for any budget year; however, the total increase for inflation cannot exceed 3% in
12 any year.

13 B. The lien date shall be that prescribed by law and the assessment shall be
14 collected yearly with the property tax billing for the property receiving the assessment.

15 C. The foregoing rate of assessment is based on each lot being assessed
16 receiving equal access from West Dovewood Lane and equal benefit from the road
17 maintenance service to be provided within Maintenance District No. 6 and benefiting lots
18 within Tract Map No. 5172 and, therefore, each lot receiving equal special benefit for the
19 road maintenance service within Maintenance District No. 6. The assessment is
20 proportional to the special benefit derived by each identified lot in relationship to the
21 entirety of the cost of the property related maintenance service being provided. No
22 assessment exceeds the reasonable cost of the proportional special benefit conferred on
23 the lot.

24 BE IT FURTHER RESOLVED that County staff shall assist the property owners in
25 establishing an advisory council for the area included within Maintenance District No. 6.

1 BE IT FURTHER RESOLVED that when a Maintenance District exists and levies
2 charges or fees for private road maintenance, no association or similar organization shall
3 levy or impose assessments or fees against property owners for road maintenance, and
4 the Maintenance District shall be the sole agency providing for road maintenance within
5 that district.

6 THE FOREGOING was passed and adopted by the following vote of the Board of
7 Supervisors of the County of Fresno this 14th day of September, 2004, to-wit:

8 AYES: Supervisors Larson, Case, Arambula, Waterston, Anderson

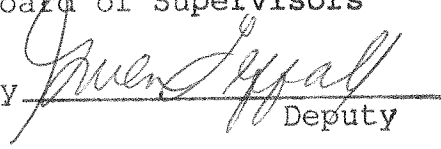
9 NOES: None

10 ABSENT: None

11
12 
13 CHAIR, Board of Supervisors

14 ATTEST:

15 BERNICE E. SEIDEL, Clerk
16 Board of Supervisors

17 By  Deputy
18

19
20
21
22 Agenda #11

23 Resolution #04-513

24 DB:gm

25 D:\dan\worddata\maint6-Resd48

A PORTION OF SECTION 7, T. 13 S., R. 20 E., M.D.B. & M. APN 415-350-15

NORTH 1/4 CORNER OF
SECTION 7, T. 13 S.,
R. 20 E., M.D.B. & M.

WEST BULLARD AVENUE

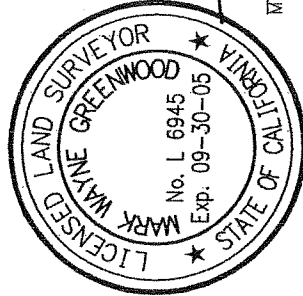
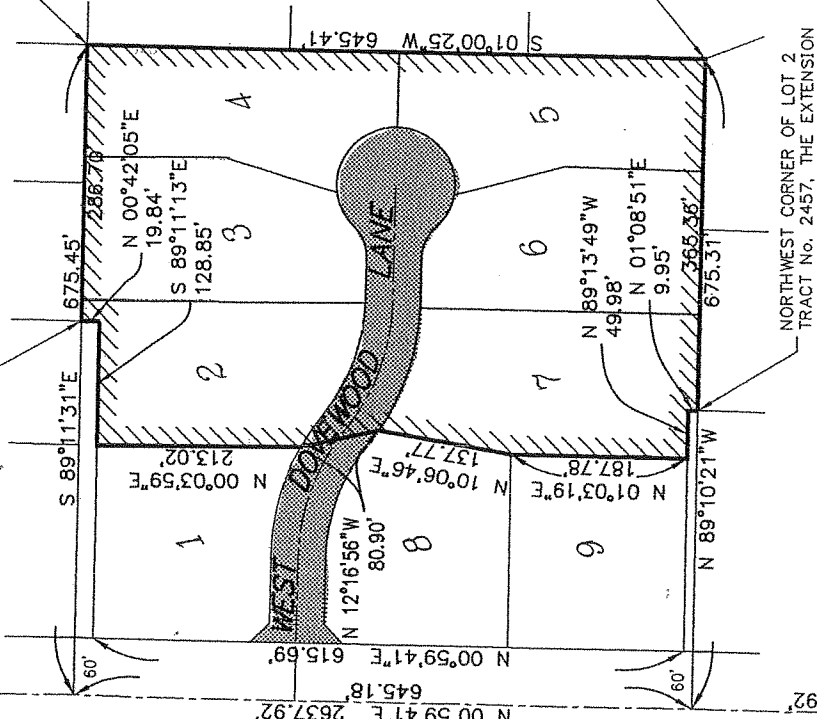
SOUTHEAST CORNER OF
LOT 8, TRACT No. 1947
NORTH VAN NESS ESTATES

POINT OF BEGINNING
NORTHWEST CORNER OF LOT 8
TRACT No. 2457, THE EXTENSION

NORTH VAN NESS BOULEVARD

CENTER 1/4 CORNER OF
SECTION 7, T. 13 S.,
R. 20 E., M.D.B. & M.

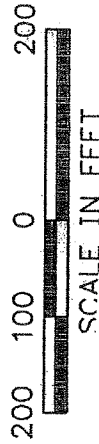
WEST BARSTOW AVENUE



MARK W. GREENWOOD LS 6945



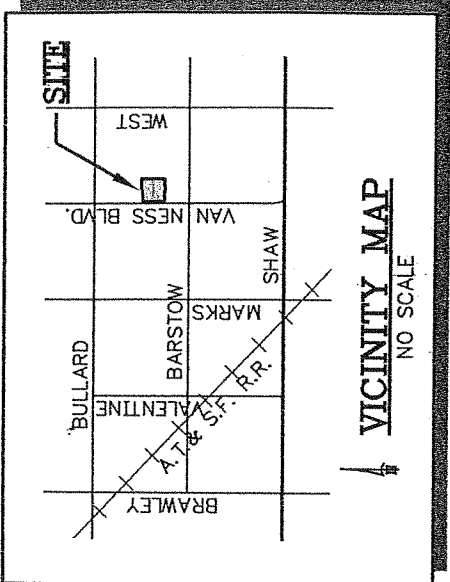
SCALE: 1" = 200'



LEGEND

INDICATES MAINTENANCE DISTRICT
No. 6 BOUNDARY
MAINTAINED ROADWAY

EXHIBIT A



REV. 07/01/04 P.W.
REV. 06/14/04 SF
PLOT VIEW: EXHIBIT MD6
AUTOCAD ID: 02250NAP.DWG

DEPARTMENT OF PUBLIC WORKS AND PLANNING

MAINTENANCE DISTRICT No. 6

Sheet No. 1

of 1 Sheets

DESIGNED _____ DATE _____ DRAWN 06/01/04 CHECKED _____ SCALE _____ DATE _____ DRAWING No. _____

EXHIBIT "B"
MAINTENANCE DISTRICT No. 6
TRACT No. 5172
June 14, 2004
BOUNDARY DESCRIPTION
Containing 6.02 Acres

That portion of the Northeast quarter of Section 7, Township 13 South, Range 20 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, being more particularly described as follows:

BEGINNING at the Northwest corner of Lot 8 of Tract No. 2457, The Extension, according to the map thereof recorded in Volume 28 of Plats at Page 6, Fresno County Records; thence,

- (1) South 01° 00' 25" West, along the West line of Lots 8, 7 and 4 of said Tract No. 2457, a distance of 645.41 feet to the Northeast corner of Lot 3 of said Tract No. 2457; thence,
- (2) North 89° 10' 21" West, along the North line of Lots 3 and 2 of said Tract No. 2457, a distance of 365.36 feet to the Northwest corner of Lot 2 of said Tract No. 2457; thence,
- (3) North 01° 08' 51" East, a distance of 9.95 feet; thence,
- (4) North 89° 13' 49" West, a distance of 49.98 feet; thence,
- (5) North 01° 03' 19" East, a distance of 187.78 feet; thence,
- (6) North 10° 06' 46" East, a distance of 137.77 feet; thence,
- (7) North 12° 16' 56" West, a distance of 80.90 feet; thence,
- (8) North 00° 03' 59" East, a distance of 213.02 feet; thence,
- (9) South 89° 11' 13" East, a distance of 128.85 feet to a point on the southerly prolongation of the East line of Lot 8 of Tract No. 1947, according to the map thereof recorded in Volume 21 of Plats at Page 48, Fresno County Records; thence,
- (10) North 00° 42' 05" East, along the southerly prolongation of the East line of Lot 8 of said Tract No. 1947, a distance of 19.84 feet to the Southeast corner of Lot 8 of said Tract No. 1947; thence,
- (11) South 89° 11' 31" East, along the South line of Lots 9 and 10 of said Tract No. 1947, a distance of 286.70 feet to the POINT OF BEGINNING.

A.P.N. 415-350-15

