

STAFF REPORT*CITY OF OCEANSIDE*

DATE: October 14, 2009

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **ADOPTION OF A RESOLUTION ORDERING THE VACATION OF A PORTION OF FIRE MOUNTAIN DRIVE (FORMERLY KNOWN AS OREGON STREET) RIGHT-OF-WAY AND RESERVING A PUBLIC UTILITY EASEMENT**

SYNOPSIS

Staff recommends that the City Council conduct a public hearing on the matter of adopting a resolution ordering the vacation of portions of the Fire Mountain Drive right-of-way. Fire Mountain Drive is formerly known as Oregon Street. The vacation area contains 0.28 acres and is located between El Camino and Laurel Drive, adjacent to 1999 El Camino Real (Eternal Hills Memorial Park). The City Council will reserve and except from the vacation an easement for public utilities and direct the City Clerk to file a certified copy of the Resolution with the San Diego County Recorder.

BACKGROUND

The present Fire Mountain Drive was designed and built on an alignment that was different from the original dedicated right-of-way for Oregon Street. The realignment created a portion of land that was not used for roadway purposes.

In a public hearing held on December 3, 2007, the Planning Commission approved the expansion of Eternal Hills Memorial Park and adopted Resolution No. 2007-P65. On February 20, 2008, the City Council held a public hearing considering the appeal of Conditions of Approval Numbers 90 and 92 of said Resolution No. 2007-P65 and adopted Resolution No. 08-R0075-1 approving the Eternal Hills Memorial Park project. The proposed vacation is consistent with the approved Eternal Hills Memorial Park Development and expansion of the cemetery. The vacation area is more particularly described in Exhibit A and shown on Exhibit B attached herein.

The area to be vacated is considered excess right-of-way and is not needed for present or prospective public pedestrian or vehicular access; however, existing San Diego Gas and Electric Company (SDG&E) and Cox Communications, Inc., facilities within the area will require the reservation of a public utility easement to support the facilities. The vacation request has been reviewed and is supported by the appropriate departments.

The vacation area is more particularly located between Portofino Drive and Bailey Drive. This portion of the Fire Mountain Drive was originally dedicated for roadway easement purposes as Oregon Street per Map No. 1807 and Deed Book 1553, Page 26.

On August 19, 2009, an item was presented to the City Council regarding the adoption of Resolution No. 09-R0545-1. The resolution stated the intent to vacate approximately 0.28 acres of the Fire Mountain Drive right-of-way pursuant to the provisions of the California Streets and Highways Code Section 8300 et Seq.

On August 28, 2009, five copies of the notice of the street vacation, including copies of Resolution No. 09-R545-1, were posted along Fire Mountain Drive. Affidavit of posting was filed with the Office of the City Clerk.

The Office of the City Clerk published the notice of hearing, which is a copy of Resolution No. 09-R545-1, for two successive weeks in The North County Times, on September 21 and 28, 2009.

ANALYSIS

The State of California Public Streets, Highways and Service Easements Vacation Law provides the City Council with the authority to vacate a public street right-of-way based on the determination that there is not a present or prospective public need for the rights being vacated. This land is not owned by the City in fee title and as such it will return to the underlying owner since it is not required for roadway purposes. When in-place public utility facilities are in use, a public entity shall reserve and except from the vacation any easement and right necessary to construct, maintain, operate, replace, remove, or renew the public utility facilities.

The typical process for vacating street right-of-way that requires reservation of an easement is as follows:

1. Upon a petition or request of an interested person to vacate a right-of-way, the request is reviewed by appropriate departments and all public utility companies to determine the required conditions for vacation and the ownership of the underlying property;
2. Once the vacation request is approved and all conditions are determined, a consent hearing date is set for the City Council to declare the City's intention to adopt a resolution to vacate and set a date and time for a public hearing;
3. Once the consent hearing is held and resolution is adopted and signed, the Office of the City Clerk publishes the notice of hearing at least for two successive weeks in The North County Times, at least two weeks prior to the public hearing;

4. At least two weeks prior to the day set for public hearing, the City Engineering Division posts the notice of the street vacation, including copy of the "Resolution of Intention to Vacate" along the street to be vacated. There should be at least three notices posted not more than 300 feet apart;
5. Upon posting the notices on site, the Engineering Division files an affidavit of posting with the Office of the City Clerk;
6. At the public hearing City Council considers the evidence offered by all interested persons. If the City Council determines, from all evidence submitted, that the street is unnecessary for present or prospective public use, the City Council may adopt a resolution ordering the vacation. The resolution of vacation may include certain conditions and reservation of easements and may provide that the vacation occurs only after all conditions are satisfied;
7. If there are conditions attached to the resolution, the City Engineer, upon satisfaction of all the conditions, provides a written notification to the City Clerk attesting to the satisfaction of all conditions and requests the recordation of the vacation resolution;
8. The City Clerk, upon receiving a written notice from the City Engineer, causes a certified copy of the resolution ordering the vacation to be recorded in the Office of the County Recorder of the San Diego County

FISCAL IMPACT

There is no fiscal impact. The applicant has paid the required fees for the processing of this action.

COMMISSION OR COMMITTEE REPORT

Does not apply.

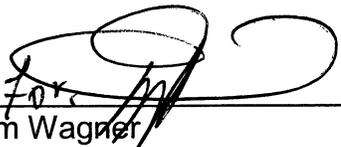
CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

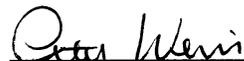
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PREPARED BY:



Maryam Wagner
Senior Engineering Assistant

SUBMITTED BY:



Peter A. Weiss
City Manager

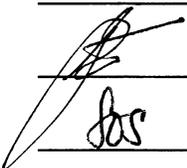
REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

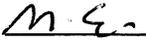
George Buell, Development Services Director

Scott O. Smith, City Engineer

Marty Eslambolchi, City Development Engineer







Attachment
Resolution

1 RESOLUTION NO.

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE ORDERING THE VACATION OF A PUBLIC
4 STREET RIGHT-OF-WAY AND RESERVING A PUBLIC
5 UTILITY EASEMENT

(FIRE MOUNTAIN DRIVE FORMERLY OREGON STREET)

6 WHEREAS, the City Council of the City of Oceanside did, on August 19, 2009,
7 by Resolution No. 09-R545-1 declare its intention to vacate a portion of Fire
8 Mountain Drive, formerly known as Oregon Street, located between El Camino Real
9 and Laurel Road adjacent to 1999 El Camino Real (Eternal Hills Memorial Park) in
10 accordance with the procedures contained in Chapter 3 of the Public Streets,
11 Highways and Service Easements Vacation Law (California Streets and Highways
12 Code Section 8320 et seq.);

13 WHEREAS, the public street right-of-way to be vacated is described in Exhibit
14 "A" and shown on Exhibit "B", both attached hereto and made a part hereof by
15 reference;

16 WHEREAS, the proposed vacation has been considered in relation to the General
17 Plan of the City of Oceanside;

18 WHEREAS, the vacation procedure prescribed in Section 65402 of the
19 Government Code is not applicable since the public street proposed to be vacated does
20 not conflict with the Circulation Element of the General Plan of the City of Oceanside;

21 WHEREAS, notice of the intended vacation was duly published in *The North*
22 *County Times* and posted in accordance with subdivision (b) of Section 8320 of the
23 California Streets and Highways Code;

24 WHEREAS, on October 14, 2009, the City Council duly held a public hearing on
25 the proposed vacation and considered all evidence submitted by all persons interested in
26 said vacation;

27 //

28 //

1 WHEREAS, after consideration of all evidence submitted, the City Council finds
2 the hereinbelow described public street right-of-way unnecessary for present or
3 prospective public use; and

4 NOW, THEREFORE, the City Council of the City of Oceanside DOES RESOLVE and
5 order as follows:

6 Section 1. The public street right-of-way described in said Exhibit "A" and as
7 shown on said Exhibit "B" shall be and is hereby vacated

8 Section 2. That pursuant to Section 8340 of the Streets and Highways Code
9 there is hereby reserved and excepted from this vacation a public utility easement and
10 right to construct, maintain, operate, replace, remove, and renew public utilities and
11 appurtenant structures in, upon, over, across and through the portion of the street hereby
12 vacated.

13 Section 3. Upon the satisfaction of the conditions set forth hereinabove as
14 attested by the Office of the City Engineer, the City Clerk shall cause a certified copy of
15 this resolution to be recorded in the Office of the County Recorder of San Diego County
16 in accordance with Section 8325 of the Streets and Highways Code. Upon such
17 recordation, vacation is complete.

18 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,
19 this _____ day of _____, 2009, by the following vote:

20 AYES:

21 NAYS:

22 ABSENT:

23 ABSTAIN:

24
25
26 ATTEST:

27
28 _____
CITY CLERK

MAYOR OF THE CITY OF OCEANSIDE

APPROVED AS TO FORM:


CITY ATTORNEY

EXHIBIT "A"
ROWV-01-2009

LEGAL DESCRIPTION

THOSE PORTIONS OF LOTS 19 AND 46, NORTH CARLSBAD, ACCORDING TO MAP THEREOF NO. 1807 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 24, 1924 AND OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29 AND OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 11 SOUTH, RANGE 4 WEST, SAN BERNARDINO MERIDIAN, ACCORDING TO UNITED STATES GOVERNMENT SURVEY APPROVED DECEMBER 27, 1870, ALL IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF LOT 19 OF SAID MAP 1807; THENCE, ALONG THE EASTERLY LINE OF LOT 19, S01°13'07"W, 1056.59' TO THE CENTERLINE OF A ROAD KNOWN AS OREGON STREET PER SAN DIEGO COUNTY ROAD SURVEY 438; THENCE RETURNING ALONG SAID EASTERLY LINE OF LOT 19, N 1° 45' 40" E (N 1°13'07" E PER SAID MAP 1807 AND RS 438), 28.23' TO THE TRUE POINT OF BEGINNING ON THE NORTHERLY LINE OF THE RIGHT OF WAY GRANTED TO THE COUNTY OF SAN DIEGO PER BOOK 1553, PAGE 26, RECORDED ON AUGUST 24, 1943 IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SAID TRUE POINT OF BEGINNING BEING A POINT ON THE NORTH RIGHT OF WAY LINE OF SAID OREGON STREET PER SAID RS 438 AND ON A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 125.00'; THENCE, EASTERLY ALONG THE ARC OF SAID RIGHT OF WAY LINE AND SAID CURVE THROUGH A CENTRAL ANGLE OF 30°15'09", AN ARC LENGTH OF 66.02' TO A TANGENT LINE; THENCE, ALONG SAID LINE S82°29'29"E, A DISTANCE OF 69.12' TO THE BEGINNING OF A TANGENT CURVE, SAID CURVE BEING CONCAVE TO THE NORTH, HAVING A RADIUS OF 175.00'; THENCE, EASTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 22°50'37", AN ARC LENGTH OF 69.77' TO A POINT ON A CURVE ON THE NORTHERLY LINE OF FIRE MOUNTAIN DRIVE, PER AN EASEMENT FOR A PUBLIC HIGHWAY TO THE CITY OF OCEANSIDE PER DOCUMENT NO. 33007, RECORDED 2/27/1968, SAID CURVE BEING CONCAVE TO THE NORTH HAVING A RADIUS OF 467.00'; THENCE, WESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 6°36'36", AN ARC LENGTH OF 53.88' TO THE BEGINNING OF A TANGENT LINE; THENCE; CONTINUING ALONG THE NORTHERLY LINE OF FIRE MOUNTAIN DRIVE S67°01'05"W, A DISTANCE OF 66.56'; THENCE; LEAVING SAID NORTHERLY LINE N82°29'29"W, A DISTANCE OF 34.95' ALONG THE SOUTHERLY LINE OF SAID RIGHT OF WAY GRANTED TO THE COUNTY OF SAN DIEGO PER BOOK 1553, PAGE 26, TO THE BEGINNING OF A TANGENT CURVE, SAID CURVE BEING CONCAVE TO THE SOUTH HAVING A RADIUS OF 75.00'; THENCE, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 49° 30' 11", AN ARC LENGTH OF 64.80' TO A POINT ON THE EASTERLY LINE OF SAID LOT 19; THENCE, LEAVING SAID SOUTHERLY RIGHT OF WAY LINE, N01°45'40"E (N 1°13'07" E PER SAID MAP 1807 AND RS 438), ALONG SAID EASTERLY LINE, A DISTANCE OF 3.48' TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF OREGON STREET PER SAID MAP 1807; THENCE, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, S 35°02'42"W, A DISTANCE OF 32.47' TO THE NORTHERLY LINE OF SAID PUBLIC HIGHWAY EASEMENT

PER DOC. NO. 33007, RECORDED ON FEBRUARY 27, 1968, SAID POINT BEING THE BEGINNING OF A 467.00' RADIUS CURVE, CONCAVE TO THE NORTH; THENCE, WESTERLY ALONG SAID NORTHERLY RIGHT OF WAY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 8°50'17", A DISTANCE OF 72.04; THENCE, LEAVING SAID NORTHERLY RIGHT OF WAY LINE AT THE BEGINNING OF A 160.26' RADIUS CURVE CONCAVE TO THE NORTHWEST, ON THE NORTHERLY RIGHT TO WAY LINE OF OREGON STREET PER SAID MAP 1807; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 12°19'52", AN ARC LENGTH OF 34.49' TO THE BEGINNING OF A TANGENT LINE, THENCE; N35°02'42"E A DISTANCE OF 122.23' TO A POINT ON THE EASTERLY LINE OF LOT 19; THENCE, LEAVING SAID NORTHERLY RIGHT OF WAY, ALONG SAID EASTERLY LINE OF LOT 19, S01°40'32"W (S 1°13'07" W PER SAID MAP 1807 AND RS 438), A DISTANCE OF 34.95' TO THE TRUE POINT OF BEGINNING.

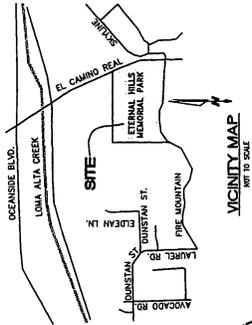
CONTAINING 0.28 ACRES MORE OR LESS.

EXCEPTING AND RESERVING A PUBLIC UTILITY EASEMENT AND RIGHT AT ANY TIME, OR FROM TIME TO TIME, TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE, REMOVE, AND RENEW PUBLIC UTILITIES AND APPURTENANT STRUCTURES IN, UPON, OVER, ACROSS AND THROUGH THE STREET PROPOSED TO BE VACATED. THE SAID EASEMENT IS DESCRIBED ON SAID EXHIBIT "A" AND SHOWN ON SAID EXHIBIT "B".

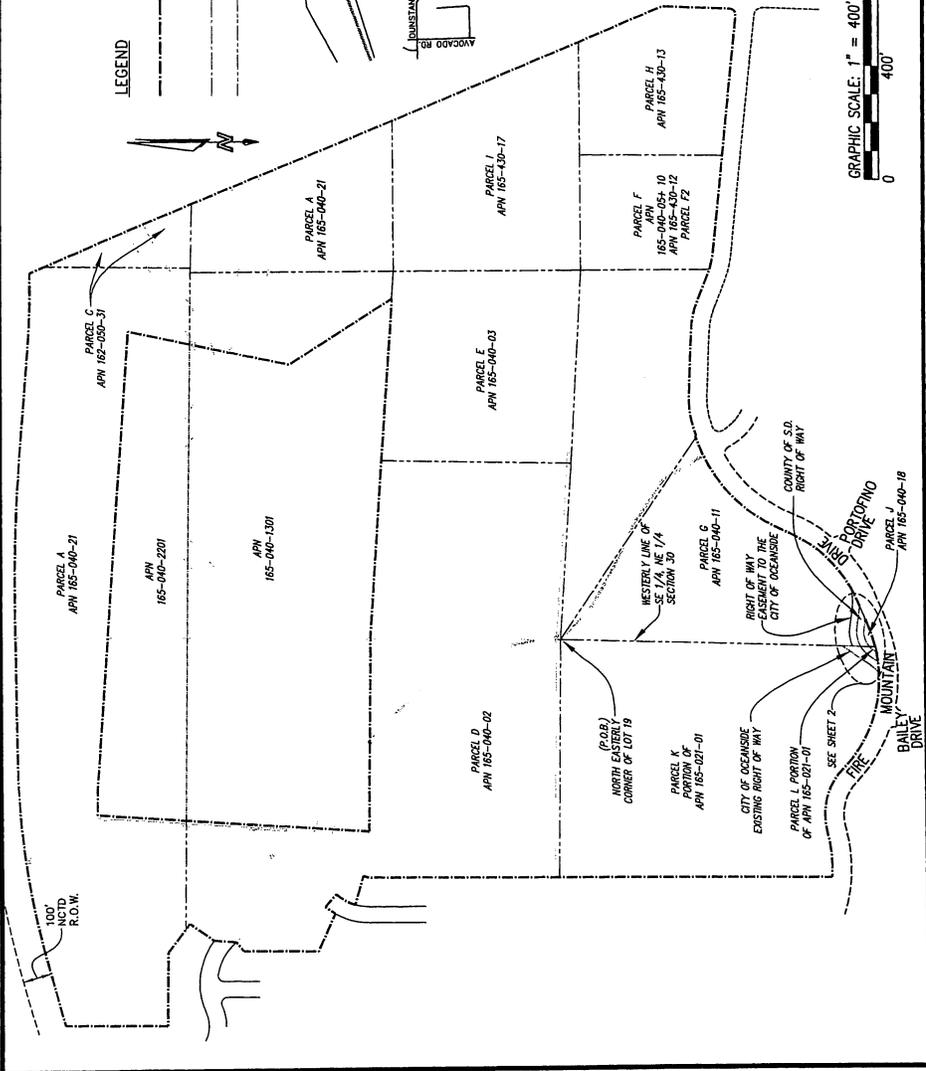


EXHIBIT 'B' PLAT MAP EASEMENT VACATION

- LEGEND**
- PROPERTY BOUNDARY LINE
 - INTERIOR EASEMENT LINE
 - - - - - § OF ROW EASEMENT
 - INTERIOR LOT LINE



TAIT
Consulting, Inc.
702 Civic Center Drive
Oceanside, CA 92054
Phone: 760-433-1166

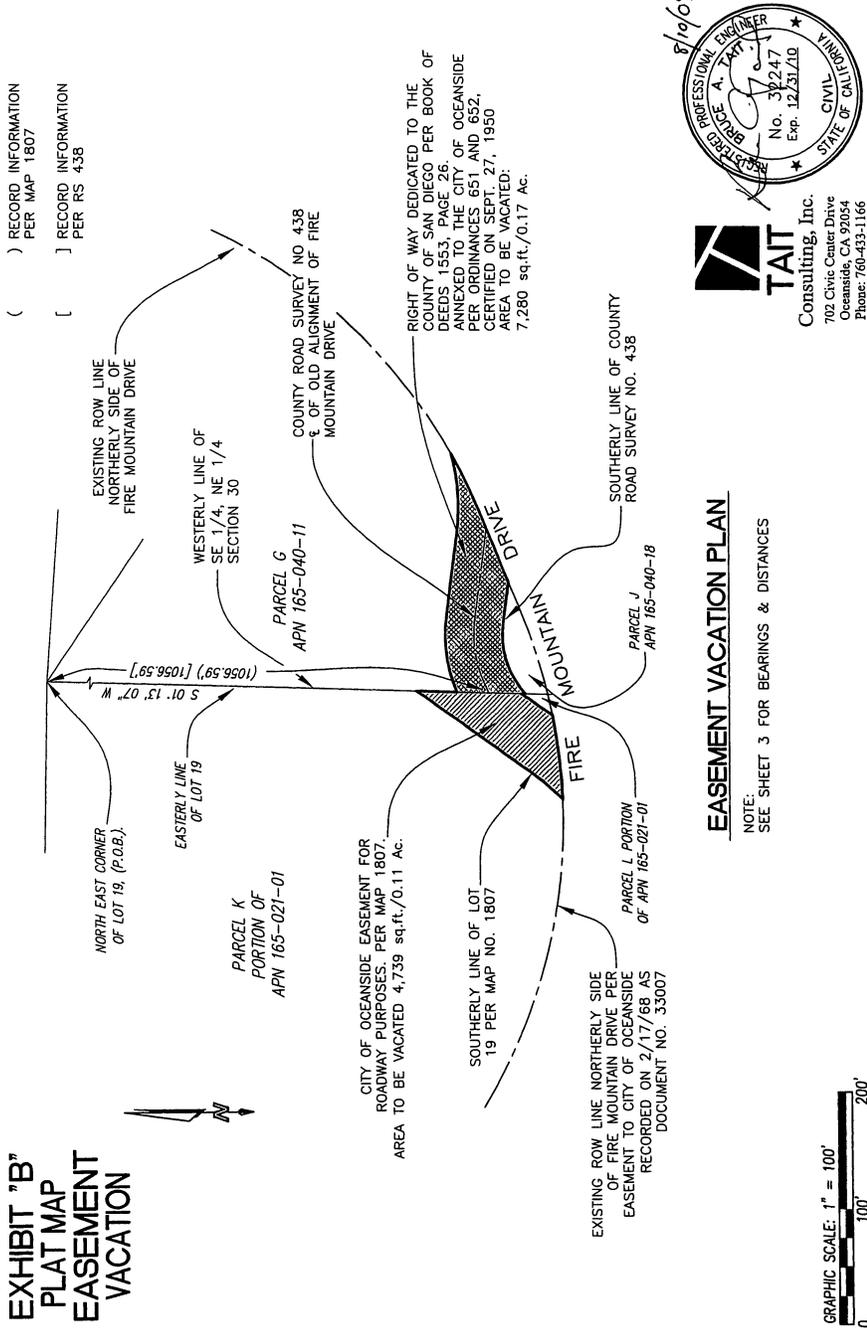


OWNER: SCI CALIFORNIA FUNERAL SERVICES, INC.	ENGINEERING DIVISION
SITE ADDRESS: 1999 S El Camino Real	EASEMENT VACATION
ENGINEER: BRUCE A. TAIT, PE	DATE: 8/2009 SHEET 1 OF 3
APN# 165-021-01 & 165-040-11	
ROWY-01-2009, C-13-99 REV, D-24-06	

EXHIBIT "B" PLAT MAP EASEMENT VACATION

() RECORD INFORMATION
PER MAP 1807

[] RECORD INFORMATION
PER RS 438



CITY OF OCEANSIDE
ENGINEERING DIVISION

EASEMENT VACATION

DATE: 8/2009 SHEET 2 OF 3

OWNER: SCI CALIFORNIA FUNERAL SERVICES, INC.

SITE ADDRESS: 1999 S El Camino Real

ENGINEER: BRUCE A. TAIT, PE

APN# 165-021-01 & 165-040-11,

ROW-01-2009, C-13-99 REV, D-24-06



TAIT
Consulting, Inc.
702 Civic Center Drive
Oceanside, CA 92054
Phone: 760-433-1166

EASEMENT VACATION PLAN
NOTE:
SEE SHEET 3 FOR BEARINGS & DISTANCES

GRAPHIC SCALE: 1" = 100'
0 100' 200'

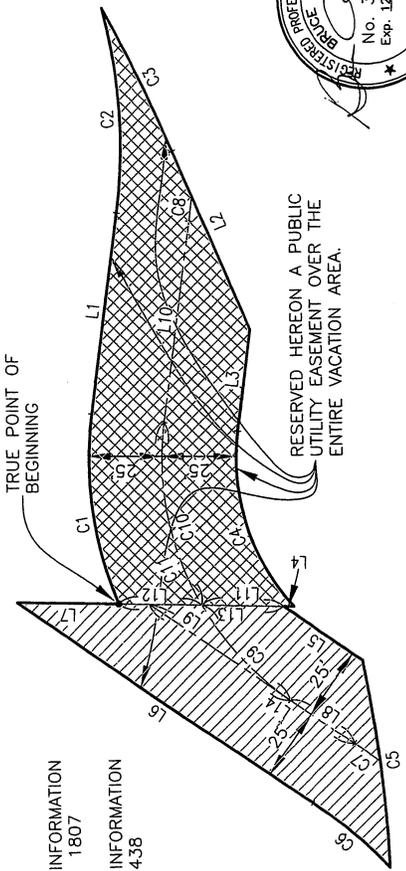
EXHIBIT "B"
PLAT MAP
EASEMENT
VACATION

CITY OF OCEANSIDE
 ENGINEERING DIVISION
 EASEMENT VACATION
 DATE: 8/2009 SHEET 3 OF 3

OWNER: SCI CALIFORNIA FUNERAL SERVICES, INC.
 SITE ADDRESS: 1999 S El Camino Real
 ENGINEER: BRUCE A. TAIT, PE
 APN# 165-021-01 & 165-040-11
 ROWV-01-2009, C-13-99 REV, D-24-06



Consulting, Inc.
 702 Civic Center Drive
 Oceanside, CA 92054
 Phone: 760-433-1166



- () RECORD INFORMATION PER MAP 1807
- [] RECORD INFORMATION PER RS 438

EASEMENT VACATION DETAIL

SCALE: 1"=40'
 TOTAL AREA
 12,022sf / 0.28 Ac.

CURVE	CURVE TABLE			CURVE TABLE (RECORD)		
	LENGTH	RADIUS	DELTA	LENGTH	RADIUS	DELTA
C1	66.02	125.00	30°15'49"			
C2	69.77	175.00	22°50'37"			
C3	53.88	467.00	6°36'36"			
C4	64.80	75.00	49°30'11"			
C5	72.04	467.00	8°50'17"			
C6	34.49	160.26	12°19'52"			
C7	10.76	185.26	3°19'45"			
C8	8.61	200.00	2°27'55"			
C9	44.46	100.00	25°28'17"			
C10	64.56	100.00	36°59'30"	[64.36]	[100.00]	[35°52'33"]
C11	109.02	100.00	62°27'47"	[108.79]	[100.00]	[62°20"]

LINE	LINE TABLE		LINE TABLE (RECORD)	
	LENGTH	BEARING	LENGTH	BEARING
L1	69.12	S82°29'29"E		
L2	66.56	S67°01'05"W		
L3	34.95	N82°29'29"W		
L4	3.48	N01°45'40"E		(N01°13'07"E)
L5	32.47	S35°02'42"W		
L6	122.23	N35°02'42"E		
L7	34.95	S01°40'32"W		(N01°13'07"E)
L8	26.43	N35°02'42"E		
L9	57.81	N35°02'42"E		
L10	69.12	S82°29'29"E	[68.33]	[N83°07'00"E]
L11	27.84	N01°45'40"E		(N01°13'07"E)
L12	28.23	N01°45'40"E		(N01°13'07"E)
L13	56.08	N01°45'40"E		(N01°13'07"E)
L14	84.24	N35°02'42"E	(83.27)	(N34°33"E)