

STAFF REPORT



ITEM NO. 13

CITY OF OCEANSIDE

DATE: May 16, 2007

TO: Honorable Mayor and City Council Members

FROM: Public Works Department

SUBJECT: **ADOPTION OF A RESOLUTION DECLARING THE CITY'S INTENTION TO VACATE A PORTION OF WITHERBY STREET LOCATED BETWEEN SOUTH PACIFIC STREET AND TAIT STREET, AND SETTING A PUBLIC HEARING**

SYNOPSIS

Staff recommends that the City Council adopt a resolution declaring the City's intention to vacate a portion of Witherby Street right-of-way located between South Pacific Street and Tait Street adjacent to 1334 South Pacific Street, reserving and excepting from the vacation an easement for public utilities, and setting a public hearing on the proposed vacation for June 6, 2007, at 6:00 p.m. in the City Council Chambers. The public hearing will consider ordering the vacation and reserving a public utility easement.

BACKGROUND

The City has received a request from the owner, 20 Morgan Investments, LLC, located in Irvine, California, to vacate a portion of the Witherby Street adjacent to 1334 South Pacific Street, which was dedicated on Final Map No. 340, filed on August 28, 1885, and contains approximately 1,281 square feet.

The proposed vacation of Witherby Street, an 80-foot-wide right-of-way, is in conjunction with the Pacific Tides Development, a 3-unit residential condominium project located at 1334 South Pacific Street. On April 9, 2007, the Planning Commission approved Pacific Tides condominium project by Resolution No. 2007-P17. The vacation of the Witherby Street right-of-way is a condition of the approval. The area to be vacated is under one ownership and does not touch any other property. There are no public facilities in the area to be vacated. It is not used for vehicular or pedestrian access and would be considered excess right-of-way that is not needed for street purposes.

There are existing San Diego Gas and Electric Company (SDG&E) facilities within the portion of the Witherby Street to be vacated. A reservation of an easement will be required to support the publicly owned facilities with the vacation of the Witherby street right-of-way.

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. The vacation law also provides that City Council may reserve an easement from the vacation if there are in-place public utility facilities that are in use. The area to be vacated is not used for vehicular or pedestrian access. A reservation of public utility easement is necessary to maintain, operate, replace, remove or renew the existing San Diego Gas and Electric Company facilities and shall be reserved from the vacation area.

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 resolution of intent to vacate has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

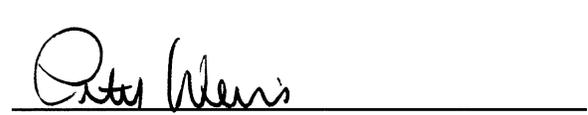
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PREPARED BY:



Maryam Wagner
Senior Engineering Assistant

SUBMITTED BY:



Peter A. Weiss
Interim City Manager

REVIEWED BY:

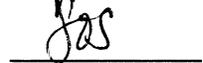
Michelle Skaggs Lawrence, Deputy City Manager

Joseph Arranaga, Acting Deputy Public Works Director

Scott O. Smith, Acting City Engineer







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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE DECLARING ITS INTENTION TO VACATE A PORTION OF A PUBLIC STREET RIGHT-OF-WAY, RESERVING A PUBLIC UTILITY EASEMENT AND SETTING A PUBLIC HEARING THEREON (WITHERBY STREET)

WHEREAS, the City Council of the City of Oceanside does declare its intention to vacate a portion of Witherby Street right-of-way located between South Pacific Street and Tait Street (hereinafter "THE STREET") in accordance with the procedures contained in Chapter 3 of the Public Streets, Highways and Service Easements Vacation Law (California Streets and Highways Code Section 8320 et.seq.); and

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

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

Section 1. That this City Council does intend to vacate, pursuant to its authority under Chapter 3, Section 8320 et.seq. of the Public Streets, Highways and Service Easements Vacation Law, California Streets and Highways Code, "THE STREET" as described in said Exhibit "A" and as shown on said Exhibit "B", as filed in the Office of the City Clerk located at 300 North Coast Highway, Oceanside, California.

Section 2. That a public hearing regarding said vacation is set for Wednesday, June 6, 2007, at 6:00 p.m., or as soon as possible thereafter, in the Council Chambers of the City of Oceanside located at 300 North Coast Highway, Oceanside, California. At this hearing, all interested persons may introduce evidence and testimony pertaining to the proposed vacation. At the conclusion of the hearing, the City Council shall determine, from all evidence submitted, whether or not the portion of the public street right-of-way is necessary for present or prospective public use.

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Section 3. That pursuant to Section 8340 of the Streets and Highways Code there will be reserved and excepted from the vacation an 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".

Section 4. The City Engineer is directed to cause the notice of this vacation to be posted in accordance with Section 8323 of the Streets and Highways Code.

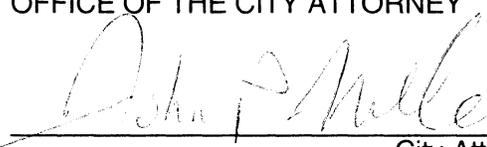
Section 5. The City Clerk is directed to publish this resolution of intention in *The North County Times* at least 15 days before the public hearing.

PASSED AND ADOPTED by the City Council of the City of Oceanside, California this _____ day of _____, 2007, by the following vote:

- AYES:
- NAYS:
- ABSENT:
- ABSTAIN:

Mayor of the City of Oceanside

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



City Attorney

ATTEST:

City Clerk

**EXHIBIT A
STREET VACATION
WITHERBY STREET**

THAT PORTION OF **WITHERBY STREET** ACCORDING TO MAP THEREOF NO. 340, FILED AUGUST 28, 1885, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 7, BLOCK F OF SAID MAP NO. 340; THENCE ALONG THE SOUTHEASTERLY LINE OF SAID LOT 7 AND ALSO BEING THE NORTHWESTERLY RIGHT OF WAY LINE OF SAID **WITHERBY STREET** NORTH 55°16'36" EAST, 100.06 FEET TO THE MOST EASTERLY CORNER OF LOT 7; THENCE SOUTH 34°42'37" EAST, 1.11 FEET; THENCE SOUTH 10°21'25" WEST, 18.26 FEET; THENCE SOUTH 55°16'36" WEST, 74.13 FEET TO THE BEGINNING OF A TANGENT 13.00 FOOT RADIUS CURVE; THENCE WESTERLY AND NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90 °01'20" , AN ARC DISTANCE OF 20.43 FEET; THENCE NORTH 34°42'04" WEST, 0.99 FEET TO THE TRUE POINT OF BEGINNING. CONTAINING 1281 SQUARE FEET MORE OR LESS.

EXCEPTING THEREFROM AN EASEMENT FOR PUBLIC UTILITY PURPOSES DESCRIBED AS FOLLOWS:

THAT PORTION OF **WITHERBY STREET** ACCORDING TO MAP THEREOF NO. 340, FILED AUGUST 28, 1885, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF LOT 7, BLOCK F OF SAID MAP NO. 340; THENCE ALONG THE NORTHEASTERLY LINE OF SAID LOT 7, SOUTH 34°42'37" EAST, 1.11 FEET; THENCE SOUTH 10°21'25" WEST, 14.12 FEET; THENCE NORTH 34°43'24" WEST, 11.08 TO THE SOUTHEASTERLY LINE IN SAID LOT 7; THENCE ALONG SAID SOUTHEASTERLY LINE OF SAID LOT 7, NORTH 55°16'36" EAST, 10.00 FEET TO THE **POINT OF BEGINNING**. CONTAINING 61 SQUARE FEET MORE OR LESS.


RONALD L. HOLLOWAY
R.C.E. 29271

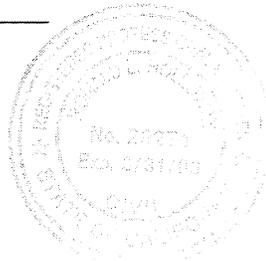
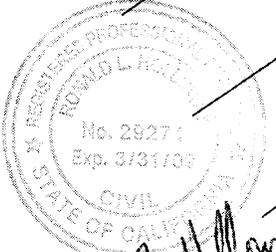
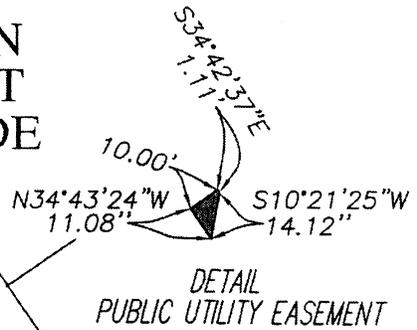
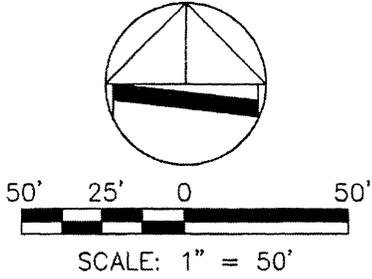


EXHIBIT "B"

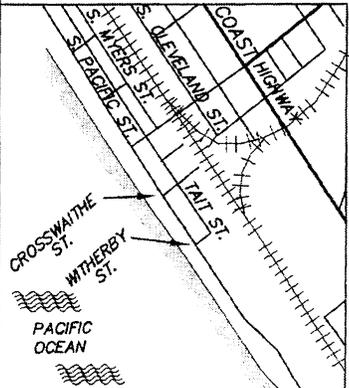
STREET VACATION WITHERBY STREET CITY OF OCEANSIDE



R. Hill

AREA OF VACATION = 1281 SF

DATA TABLE			
NO.	BRG./ DELTA	RADIUS	LENGTH
1	N55° 16' 36"E	-	100.06'
2	S34° 42' 37"E	-	1.11'
3	S10° 21' 25"W	-	18.26'
4	S55° 16' 36"W	-	74.13'
5	90° 01' 20"	13.00'	20.43'
6	N34° 42' 04"W	-	0.99'



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 CARLSBAD, CA. 92008-4387
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PROPOSED STREET VACATION FROM THE CITY OF OCEANSIDE TO 20 MORGAN INVESTMENTS, LLC