ITEM NO. 13

STAFF REPORT

CITY OF OCEANSIDE

DATE: May 2, 2007

TO: Honorable Mayor, City Council Members

FROM: Public Works Department

SUBJECT: **ADOPTION OF A RESOLUTION ORDERING THE VACATION OF A PORTION OF SPORTFISHER DRIVE LOCATED EAST OF MYERS STREET, RESERVING A PUBLIC EMERGENCY ACCESS EASEMENT**

SYNOPSIS

Staff recommends that the City Council conduct a public hearing on the matter of adopting a resolution ordering the vacation of a portion of the Sportfisher Drive right-of-way located east of Myers Street and adjacent to 502 Myers Street, reserving and excepting from the vacation an easement for Public Emergency Access and direct the City Clerk to file a certified copy of the Resolution with the County Recorder after conditions are met.

BACKGROUND

On April 4, 2007, The City Council adopted Resolution No. 07-R0156-1 stating its intent to vacate a portion of Sportfisher Drive pursuant to the provisions of Chapter 3 of the Public Streets, Highways and Service Easement Vacation Law.

The portion of Sportfisher Drive to be vacated is located east of Myers Street and adjacent to 502 Myers Street. The area to be vacated contains 3585 square feet and was delineated on Oceanside Townsite, Map No. 344, filed on July 1, 1885. The intended area to be vacated is described in Exhibit "A" and shown on Exhibit "B" both attached hereto and made a part hereof by reference.

The proposed vacation of Sportfisher Drive is in conjunction with the Crystal Sands Project, located on Lots 5 and 6 of Map No. 344. The Community Development Commission approved the Crystal Sands project, containing 4 residential units, on October 4, 2006, by Resolution No. 06-R0605-3. The vacation of the Sportfisher Drive right-of-way is a condition of the approval.

The portion of Sportfisher Drive to be vacated abuts the Sea Village Condominiums located at 400 North Myers Street. Sea Village residents use the subject portion of Sportfisher Drive right-of-way to access their property via a pedestrian gate. Several meetings were conducted with the Sea Village Association Board. The Board was in

agreement with the vacation with the understanding that a pedestrian access easement, walkway and gate will be provided for their use.

There is also a vehicular access gate on the northeasterly terminus of Sportfisher Drive for secondary fire and emergency access to the Sea Village Condominiums, with primary access provided from Myers and Surfrider Streets. Oceanside Fire Department has determined that the access from Sportfisher Drive is not needed, however, emergency pedestrian access should be retained.

The proposed vacation shall be conditioned upon the developer/owner granting a private pedestrian access easement over and across a portion of the area to be vacated to the Sea Village Homeowner's Association.

An easement for fire and emergency access will be reserved from the vacation of the Sportfisher Drive right-of-way. Both access easements will coexist in the same alignment. The owner shall be responsible for maintaining the walkway, gate and the easement area. The existing vehicular access will be eliminated. The area to be vacated would be considered excess right-of-way and is not needed for present or future street purposes. All City Departments support the vacation with the proposed conditions.

ANALYSIS

The State of California Public Streets, Highways and Service Easements Vacation Law, Chapter 3, Section 8300, et seq., of the California Streets and Highways Code (the "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 the City Council may vacate the public's interest in the right-of-way with stipulations that certain conditions are met prior to the recordation of the resolution ordering the vacation with the County Recorder.

The vacation of the Sportfisher Drive right-of-way will be conditioned upon the completion of Crystal Sands Project per requirements of Resolution No. 06-R0605-3 and construction and maintenance of a walkway and gate within the Emergency Access easement to be reserved and that a Private Ingress and Egress easement be granted to the Sea Village Homeowners Association to the satisfaction of the Public Works Director.

In order to adopt the resolution ordering the vacation, the City Council must conduct a public hearing to give all interested persons an opportunity to be heard regarding the proposed vacation.

FISCAL IMPACT

There is no fiscal impact. The applicant has paid the required fees for the processing of this action. In addition, the property owner will assume all costs associated with construction and maintenance of proposed facilities.

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

Staff recommends that the City Council conduct a public hearing on the matter of adopting a resolution ordering the vacation of a portion of the Sportfisher Drive right-of-way located east of Myers Street and adjacent to 502 Myers Street, reserving and excepting from the vacation an easement for Public Emergency Access and direct the City Clerk to file a certified copy of the Resolution with the County Recorder after conditions are met.

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

Jeff Bowman, Interim Fire Chief

FOR JEFF BOWMAN

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ORDERING THE VACATION OF A PUBLIC STREET RIGHT-OF-WAY

(SPORTFISHER DRIVE)

WHEREAS, the City Council of the City of Oceanside did, on April 4, 2007 by Resolution No. 07-R0156-1 declare its intention to vacate a portion of Sportfisher Drive located east of Myers Street, adjacent to 502 Myers 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.);

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

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

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

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

WHEREAS, on May 2, 2007 the City Council duly held a public hearing on the proposed vacation and considered all evidence submitted by all persons interested in said vacation;

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

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

Section 1. The public street right-of-way described in said Exhibit "A" and as shown

on said Exhibit "B" shall be and is hereby vacated upon the satisfaction of the following conditions: 1) that the owner of the property, currently 502 Myers Street, LLC, complete the development of the proposed Crystal Sands, a four unit residential condominium project, as conditioned by the Community Development Commission and, 2) that a pedestrian walkway and access gate to be constructed at property owner's expense in the area to be vacated in accordance with the approved plans for the project and to the satisfaction of the Public Works Director, and maintained by property owner in perpetuity, 3) that a private Ingress and Egress easement be granted to the Sea Village Homeowners Association, 4) that an Emergency Access easement to be reserved.

Section 2. Upon the satisfaction of the conditions set forth hereinabove as attested by the Office of the City Engineer, the City Clerk shall cause a certified copy of this resolution to be recorded in the Office of the County Recorder of San Diego County in accordance with Section 8325 of the Streets and Highways Code. Upon such recordation, the vacation is complete.

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

ATTEST:

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY

_____
City Clerk

_____
City Attorney

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE ORDERING THE VACATION OF A PUBLIC STREET RIGHT-OF-WAY
(SPORTFISHER DRIVE)

EXHIBIT "A"

LEGAL DESCRIPTION

THAT PORTION OF SPORTFISHER DRIVE (FORMERLY KNOWN AS FIFTH STREET) AS SHOWN ON OCEANSIDE TOWNSITE, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 344 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON JULY 1, 1885 DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST EASTERLY CORNER OF LOT 6, BLOCK 13 OF SAID MAP NO. 344; THENCE SOUTH 35°13'44" EAST 40.00 FEET ALONG THE SOUTHEASTERLY PROLONGATION OF THE NORTHEASTERLY LINE OF SAID BLOCK 13 TO A LINE WHICH IS PARALLEL WITH AND DISTANT 40.00 FEET SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF SAID LOT 6, THENCE SOUTH 54°45'16" WEST 89.63 FEET ALONG SAID PARALLEL LINE TO THE NORTHEASTERLY LINE OF MYERS STREET, 60 FEET WIDE; THENCE NORTH 35°12'46" WEST 40.00 FEET ALONG SAID NORTHEASTERLY LINE OF MYERS STREET TO SAID SOUTHEASTERLY LINE OF LOT 6; THENCE NORTH 54°45'16" EAST 89.62 FEET TO THE POINT OF BEGINNING.

RESERVING THEREFROM, AN EASEMENT FOR PUBLIC EMERGENGY ACCESS PURPOSES OVER THE NORTHWESTERLY 10.00 FEET OF THE SOUTHEASTERLY 13.00 FEET THEREOF.

Prepared by: Philip D. Buccola
PHILIP D. BUCCOLA
R.C.E. 27732; EXPIRES 3-31-08

Date: 3·13·07

REGISTERED PROFESSIONAL ENGINEER
PHILIP D. BUCCOLA
No. 27732
Exp. 3-31-08
CIVIL
STATE OF CALIFORNIA

BUCCOLA
ENGINEERING, INC.
3142 Vista Way, Suite 301 760/721-2000
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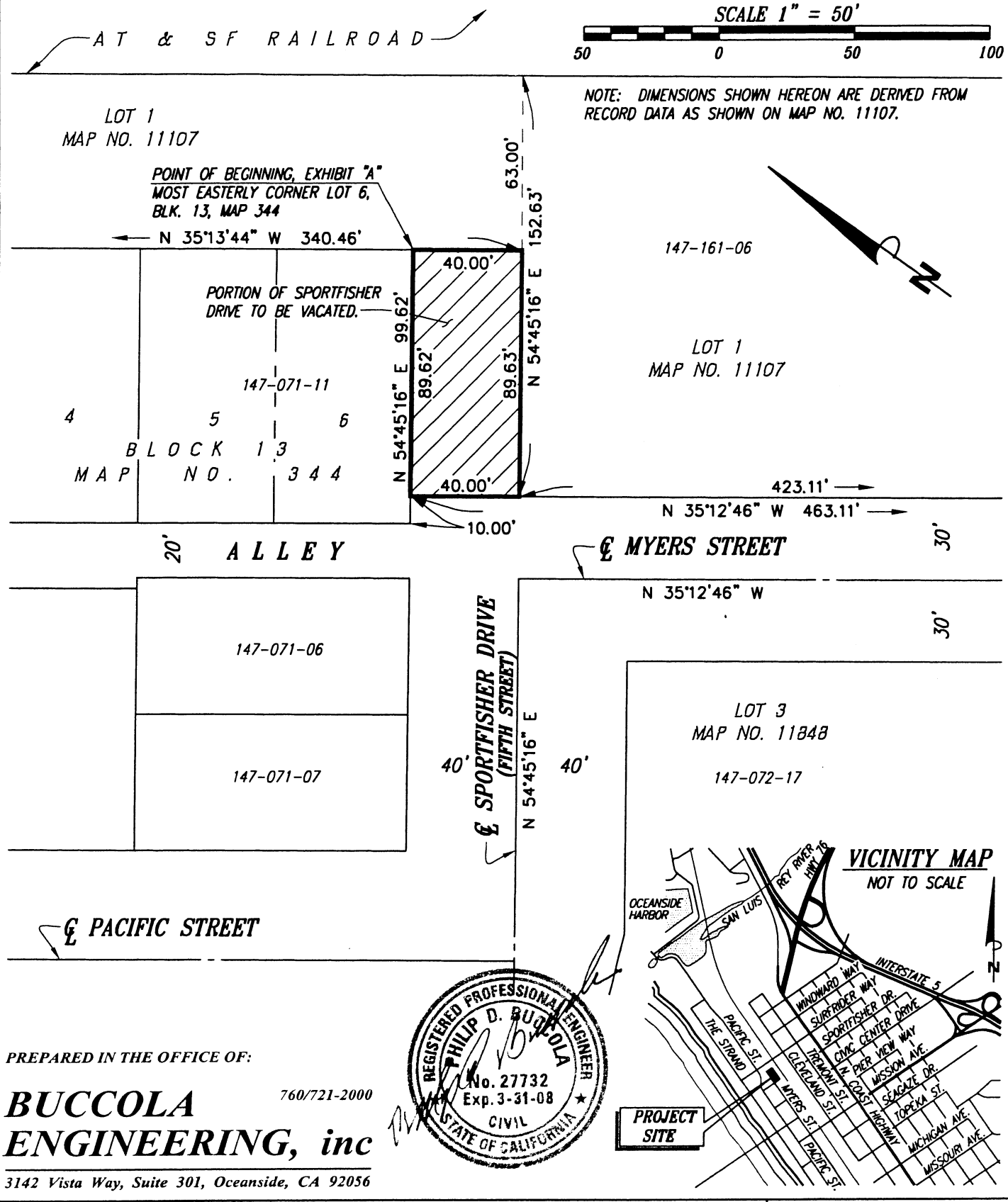

PREPARED IN THE OFFICE OF:

BUCCOLA ENGINEERING, inc

760/721-2000

3142 Vista Way, Suite 301, Oceanside, CA 92056

Revision	By	Approved	Date

CITY OF OCEANSIDE
VACATION PLAT

VACATION OF SPORTFISHER DRIVE
ADJOINING BLOCK 13, MAP NO. 344

EXHIBIT "B"

SHEET 1 OF 2 SHEETS

AREA = 3,585 S.F.

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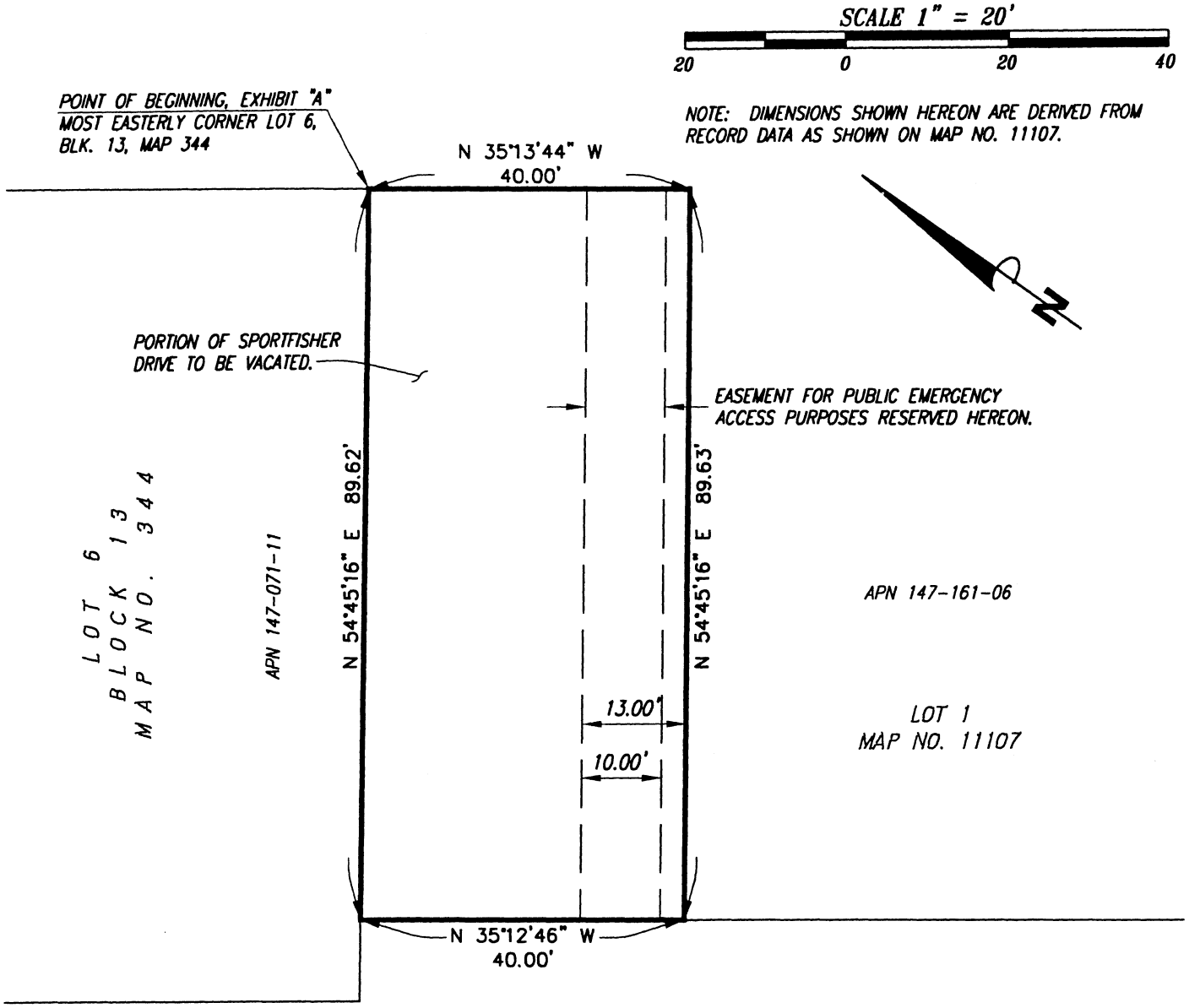

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Revision	By	Approved	Date

CITY OF OCEANSIDE
VACATION PLAT

VACATION OF SPORTFISHER DRIVE
ADJOINING BLOCK 13, MAP NO. 344

EXHIBIT "B"

SHEET 2 OF 2 SHEETS

AREA = 3,585 S.F.

F:\192 Sumek\02 502 Myers\dwg\Exhibits\1922VacationExh.dwg 3/13/2007 7:20:39 AM PST