

STAFF REPORT



ITEM NO. 20 CITY OF OCEANSIDE

DATE: June 6, 2007

TO: Honorable Mayor and Council Members

FROM: Public Works Department

SUBJECT: **ADOPTION OF A RESOLUTION ORDERING THE VACATION OF A PORTION OF WITHERBY STREET RIGHT-OF-WAY LOCATED BETWEEN SOUTH PACIFIC STREET AND TAIT STREET**

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 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 utility, and authorize the City Clerk to file a certified copy of the Resolution with the County Recorder.

BACKGROUND

On May 16, 2007, the City Council adopted the Resolution No. 07-R0271-1, stating its intent to vacate a portion of the Witherby Street right-of-way pursuant to the provisions of Chapter 3 of the Public Streets, Highways and Service Easement Vacation Law.

The portion of the Witherby Street right-of-way to be vacated is located between South Pacific Street and Tait Street adjacent to 1334 South Pacific Street, was dedicated on the Final Map No. 340, filed on August 28, 1885, and contains approximately 1,281 square feet. The proposed vacation 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 the Pacific Tides condominium project by the Resolution No. 2007-P17. The vacation of the Witherby Street right-of-way is a condition of the approval.

There are no City-owned facilities within the portion of the Witherby Street right-of-way to be vacated. The area to be vacated would be considered excess right-of-way and is not needed for present or prospective public, pedestrian or vehicular access; however, there are existing San Diego Gas and Electric Company (SDG&E) facilities within the area to be vacated which will require the reservation of a public utility easement to support the facilities. All the City departments support the vacation.

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. If there are in-place public utility facilities that 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.

Pursuant to requirements of Resolution No. 2007-P-17, the vacation of Witherby Street right-of-way is conditioned upon the completion of the Pacific Tides Development to the satisfaction of the Public Works Director and reservation of a public utility easement over and across a portion of the area to be vacated.

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.

COMMISSION OR COMMITTEE REPORT

Does not apply.

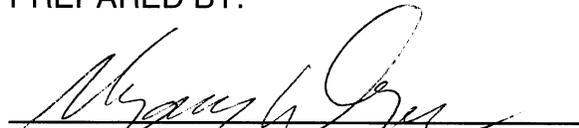
CITY ATTORNEY'S ANALYSIS

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

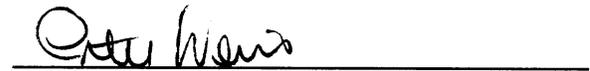
RECOMMENDATION

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 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 utility, and authorize the City Clerk to file a certified copy of the Resolution with the County Recorder.

PREPARED BY:


Maryam Wagner
Senior Engineering Assistant

SUBMITTED BY:

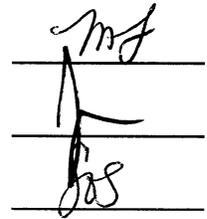

Peter A. Weiss
Interim City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Joseph Arranaga, Acting Deputy Public Works Director

Scott O. Smith, City Engineer



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESOLUTION NO.
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OCEANSIDE ORDERING THE VACATION OF A PUBLIC
STREET RIGHT-OF-WAY AND RESERVING A PUBLIC UTILITY
EASEMENT
(WITHERBY STREET)

WHEREAS, the City Council of the City of Oceanside did, on May 16, 2007 by Resolution No. ----- declared its intention to vacate a portion of Witherby Street located between South Pacific Street and Tait Street adjacent to 1334 South Pacific 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 June 6, 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:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 conditions that the owner of the adjacent property, currently 20 Morgan Investments, LLC, complete the development of the proposed Pacific Tides, namely a 3-unit residential condominium project, per Resolution No. 2007-P17.

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

Section 3. 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, 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 (WITHERBY STREET)

**EXHIBIT A
STREET VACATION
WITHERBY STREET**

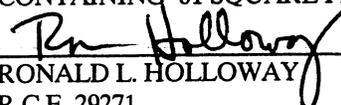
THAT PORTION OF WITHERBY STREET ACCORDING TO MAP THEREOF NO. 340, FILED AUGUST 28, 1885, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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.

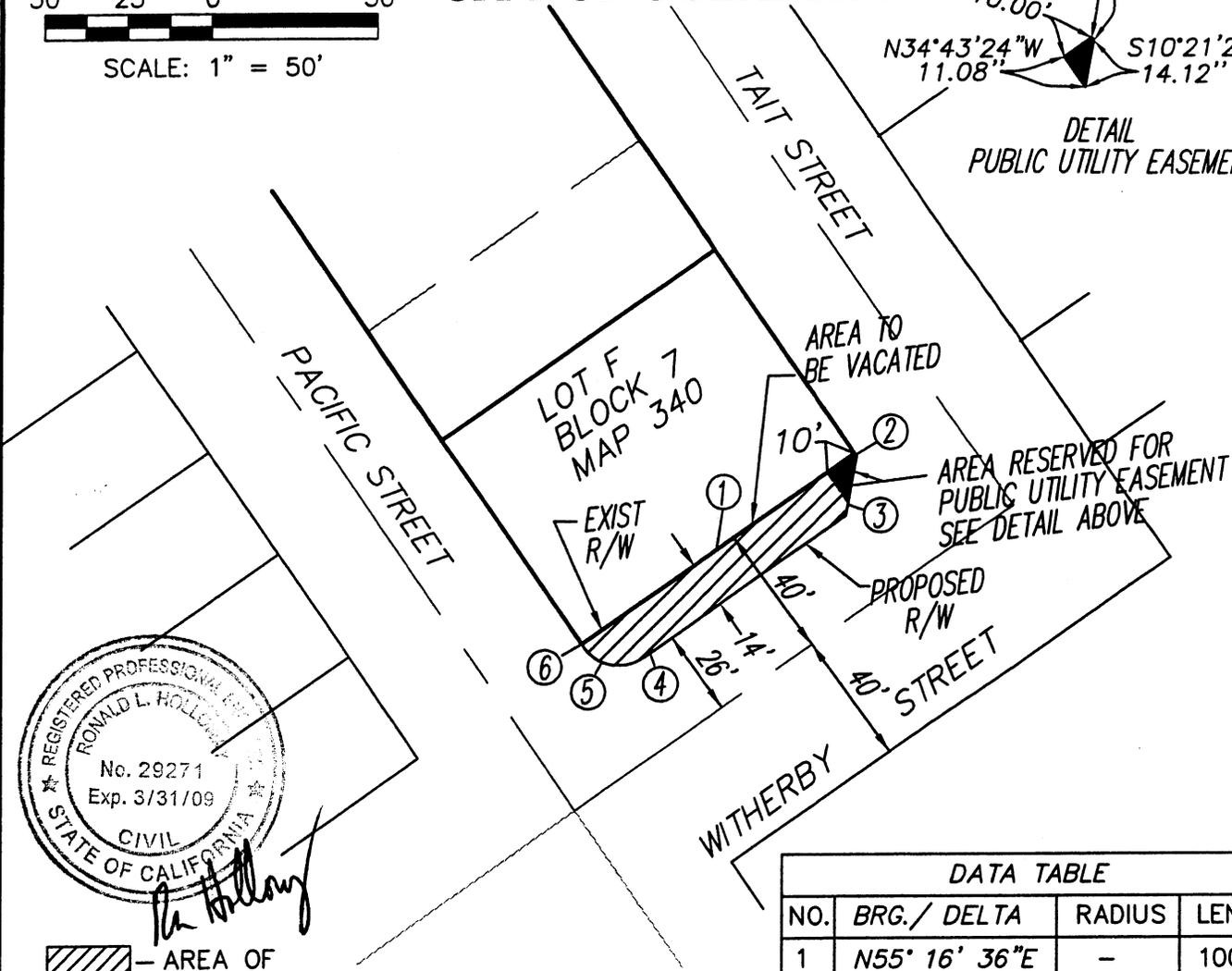
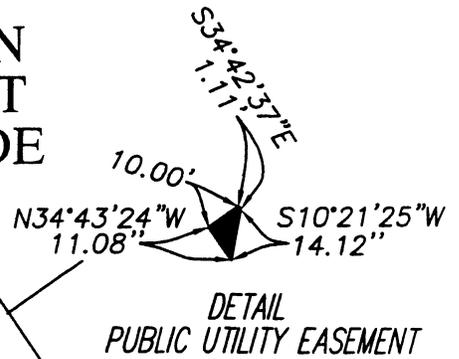
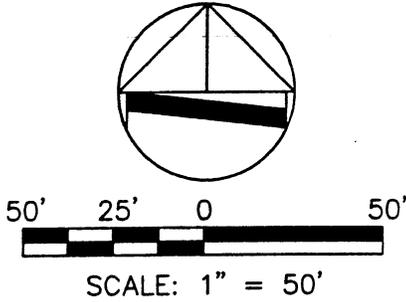

RONALD L. HOLLOWAY
R.C.E. 29271

STREET VACATION-REV05-08-07



EXHIBIT "B"

STREET VACATION WITHERBY STREET CITY OF OCEANSIDE

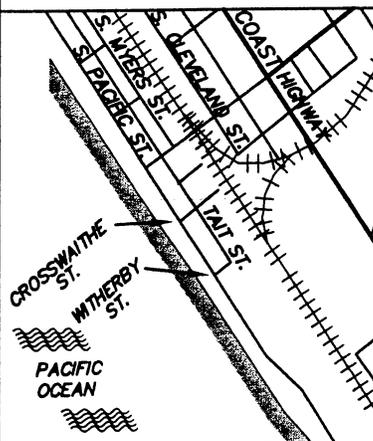


REGISTERED PROFESSIONAL ENGINEER
RONALD L. HOLLAND
No. 29271
Exp. 3/31/09
CIVIL
STATE OF CALIFORNIA

R. Holland

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'



bha, Inc.
land planning, civil engineering, surveying

5115 AVENIDA ENCINAS
SUITE "L"
CARLSBAD, CA. 92008-4387
(760) 931-8700

PROPOSED STREET VACATION FROM THE CITY OF OCEANSIDE TO 20 MORGAN INVESTMENTS, LLC