

STAFF REPORT



ITEM NO. 20
CITY OF OCEANSIDE

DATE: August 19, 2009

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **ADOPTION OF A RESOLUTION DECLARING THE CITY'S INTENTION TO VACATE A PORTION OF FIRE MOUNTAIN DRIVE, FORMERLY KNOWN AS OREGON STREET, LOCATED BETWEEN EL CAMINO REAL AND LAUREL ROAD, AND SETTING A PUBLIC HEARING**

SYNOPSIS

Staff recommends that the City Council adopt a resolution declaring the City's intention to vacate portions of Fire Mountain Drive right-of-way located between El Camino Real and Laurel Road adjacent to 1999 El Camino Real, Eternal Hills Memorial Park reserving and excepting from the vacation the easement for public utilities and setting a public hearing on the proposed vacation for October 14, 2009, 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; SCI California Funeral Services, INC. located in Oceanside, to vacate portions of the old Fire Mountain Drive, *formerly known as Oregon Street*, adjacent to 1999 El Camino Real, Eternal Hills Memorial Park, which were dedicated for roadway easement purposes per Map No. 1807 and Deed Book 1553, Page 26, and contains approximately 0.28 acres.

The proposed vacation of Fire Mountain Drive, a 50-foot-wide right-of-way, is in conjunction with the Eternal Hills Memorial Park Development and expansion of the cemetery. On December 3, 2007, the Planning Commission approved Eternal Hills Memorial Park project by Resolution No. 2007-P65.

Present Fire Mountain Road was built on a different alignment than that was dedicated originally, resulting in a portion of land that was not used for roadway purposes. The area to be vacated has same ownership, and does not touch any other property. There is no City owned facilities within the portions of the right-of-way to be vacated, but there are existing facilities owned by San Diego Gas and Electric Company (SDG&E) and Cox Communication, Inc.

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, the existing San Diego Gas and Electric Company (SDG&E) and Cox Communication, Inc., facilities within the area 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. 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 and Cox Communication, Inc. 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

Staff recommends that the City Council adopt a resolution declaring the City's intention to vacate portions of Fire Mountain Drive right-of-way located between El Camino Real and Laurel Road adjacent to 1999 El Camino Real, Eternal Hills Memorial Park reserving and excepting from the vacation the easement for public utilities and setting a public hearing on the proposed vacation for October 14, 2009, at 6:00 p.m. in the City Council Chambers. The public hearing will consider ordering the vacation and reserving a public utility easement.

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







ATTACHMENTS:

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 DECLARING ITS INTENTION TO VACATE A PORTION OF A PUBLIC STREET RIGHT-OF-WAY EASEMENT, RESERVING A PUBLIC UTILITY EASEMENT AND SETTING A PUBLIC HEARING THEREON
(FIRE MOUNTAIN DRIVE FORMERLY OREGON STREET)

WHEREAS, the City Council of the City of Oceanside does declare its intention to vacate a portion of Fire Mountain Drive formerly known as Oregon Street, right-of-way located between El Camino Real and Laurel Road (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, October 14, 2009, 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.

////////

////////

1 //

2 Section 3. That pursuant to Section 8340 of the Streets and Highways Code there will
3 be reserved and excepted from the vacation an easement and right at any time, or from time
4 to time, to construct, maintain, operate, replace, remove, and renew public utilities
5 and appurtenant structures in, upon, over, across and through the street proposed to be
6 vacated. The said easement is described on said Exhibit "A" and shown on said Exhibit "B".

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

9 Section 5. The City Clerk is directed to publish this resolution of intention in *The*
10 *North County Times* at least 15 days before the public hearing in accordance with Section
11 8322 of the Streets and Highways Code.

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

14 AYES:

15 NAYS:

16 ABSENT:

17 ABSTAIN:

18 _____
19 Mayor of the City of Oceanside

20 APPROVED AS TO FORM:
21 OFFICE OF THE CITY ATTORNEY

22  _____
23 City Attorney

24 ATTEST:

25 _____
26 City Clerk
27
28

EXHIBIT "A"
ROWV-01-2009

LEGAL DESCRIPTION

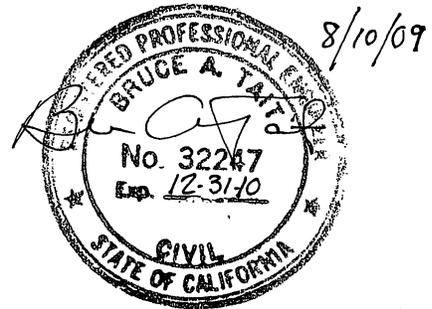
THOSE PORTIONS OF LOTS 19 AND 46, NORTH CARLSBAD, ACCORDING TO MAP THEREOF NO. 1807 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, OCTOBER 24, 1924 AND OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 29 AND OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 11 SOUTH, RANGE 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".



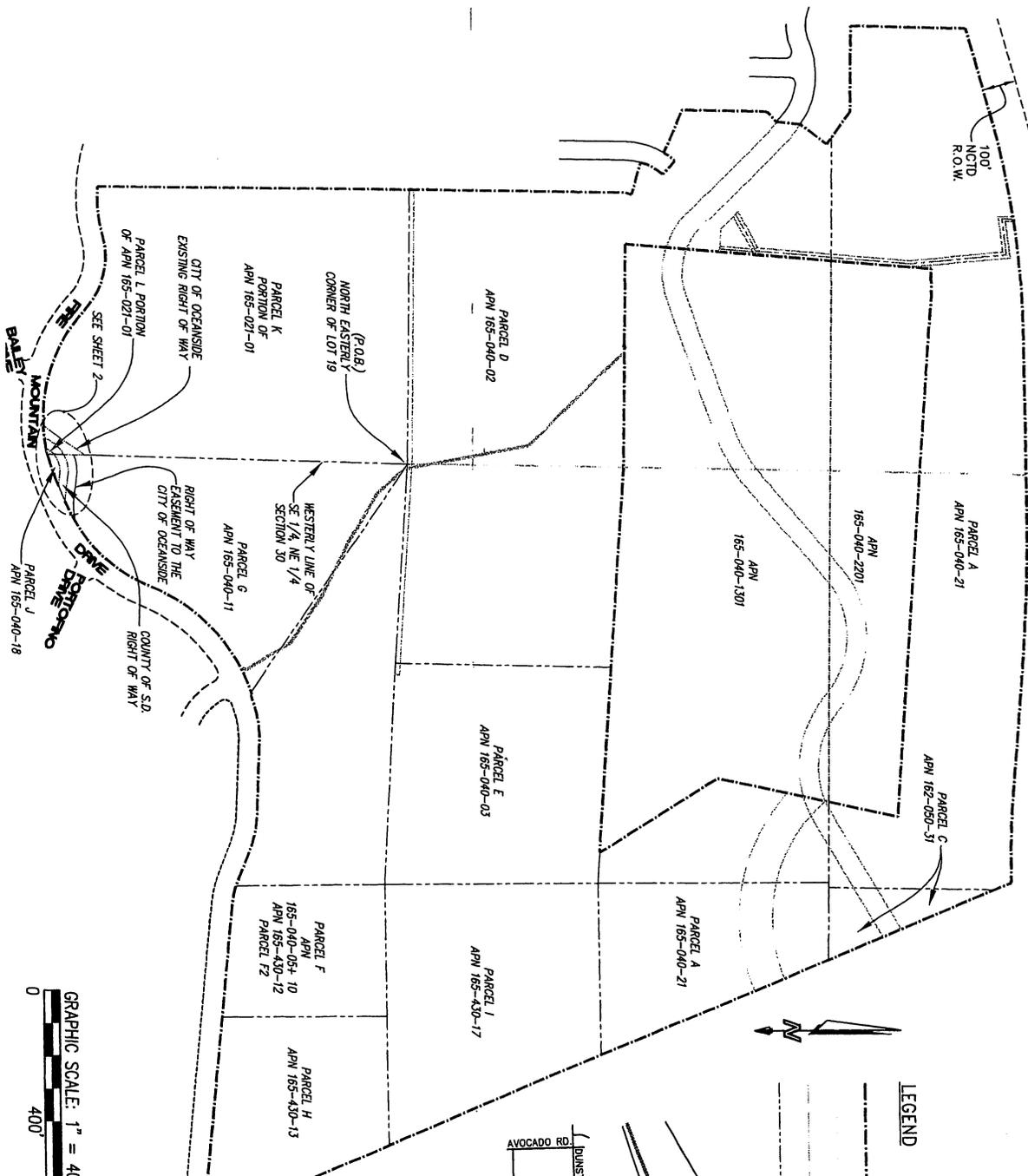
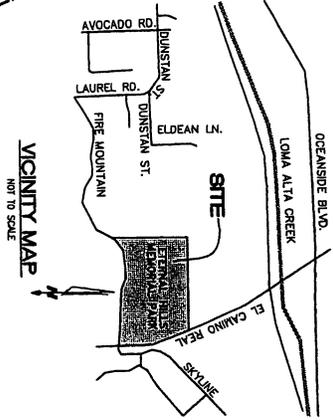


EXHIBIT "B"
PLAT MAP
EASEMENT
VACATION

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



grip/09

REGISTERED PROFESSIONAL ENGINEER
 BRUCE A. TAIT
 No. 32247
 Exp. 12/31/10
 STATE OF CALIFORNIA

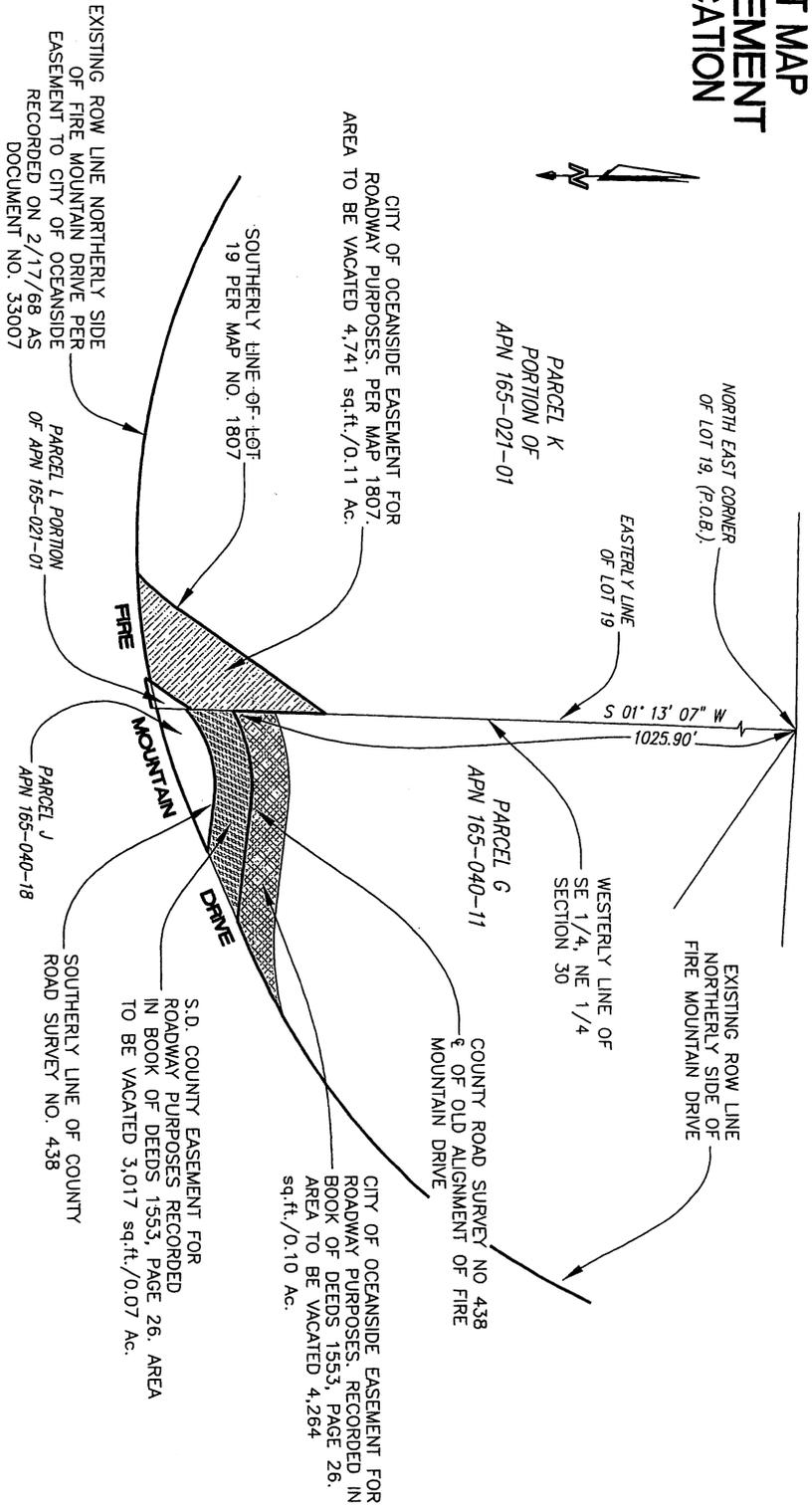
TAIT

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

OWNER: SCI CALIFORNIA FUNERAL SERVICES, INC.	CITY OF OCEANSIDE ENGINEERING DIVISION
SITE ADDRESS: 1999 S El Camino Real	
ENGINEER: BRUCE A. TAIT, PE	
APN# 165-021-01 & 165-040-11	
EASEMENT VACATION	
DATE: 1/2009 SHEET 1 OF 3	

ROWV-01-2009

EXHIBIT "B" PLAT MAP EASEMENT VACATION



EASEMENT VACATION PLAN

NOTE:
SEE SHEET 3 FOR BEARINGS & DISTANCES




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



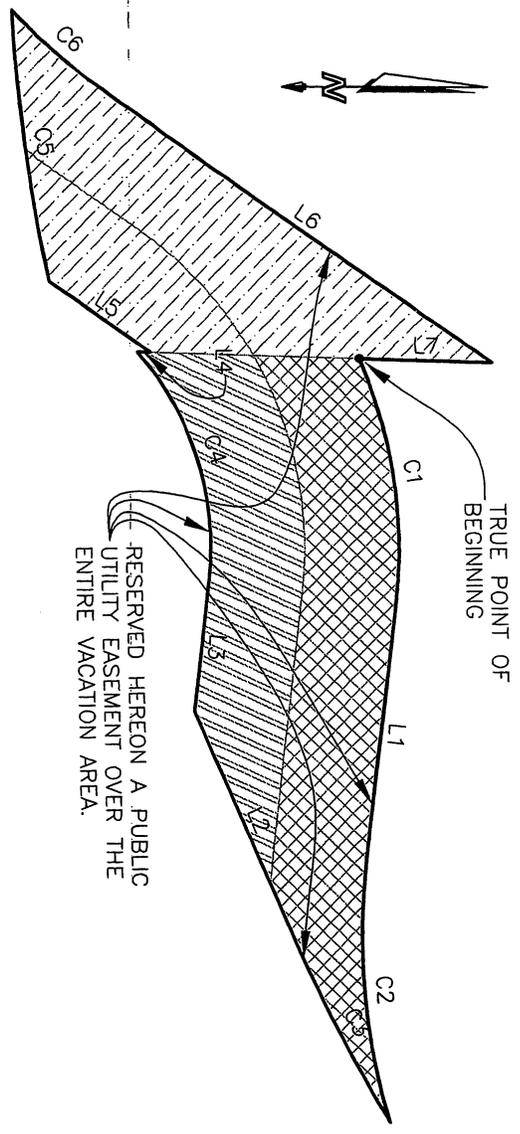
OWNER: SCI CALIFORNIA FUNERAL SERVICES, INC.	CITY OF OCEANSIDE ENGINEERING DIVISION
SITE ADDRESS: 1999 S El Camino Real	
ENGINEER: BRUCE A. TAIT, PE	
APN# 165-021-01 & 165-040-11,	EASEMENT VACATION
ROWV-01-2009	DATE: 1/2009 SHEET 2 OF 3

EXHIBIT "A"
PLAT MAP
EASEMENT
VACATION

CITY OF OCEANSIDE
 ENGINEERING DIVISION

EASEMENT VACATION

DATE: 1/2009 SHEET 3 OF 3



EASEMENT VACATION DETAIL
 NOT TO SCALE

LINE	LENGTH	BEARING
L1	138.24'	S82°29'29"E
L2	133.13'	S67°01'05"W
L3	69.90'	N82°29'29"W
L4	6.90'	N01°45'40"E
L5	64.75'	S35°02'42"W
L6	244.45'	N35°02'42"E
L7	69.95'	S01°13'07"W

CURVE	LENGTH	RADIUS	DELTA
C1	132.16'	250.00'	30°17'24"
C2	139.54'	350.00'	22°50'37"
C3	107.76'	934.00'	6°36'37"
C4	129.74'	150.00'	49°33'30"
C5	144.07'	934.00'	8°50'17"
C6	68.98'	320.52'	12°19'52"



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

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