



DATE: January 4, 2012
TO: Honorable Mayor and City Councilmembers
FROM: Development Services Department
SUBJECT: **RESOLUTION SUMMARILY VACATING A SLOPE EASEMENT AND A SLOPE AND DRAINAGE EASEMENT LOCATED IN AND ADJOINING TO 4318 MISSION AVENUE**

SYNOPSIS

Staff recommends that the City Council adopt a resolution summarily vacating a slope easement and a slope and drainage easement located in and adjoining to 4318 Mission Avenue, and authorize the City Clerk to file a certified copy of the resolution with the San Diego County Recorder.

BACKGROUND

The City has received a request from Sea Breeze Old Grove, LLC, a California limited liability company, owner of the property located at 4318 Mission Avenue, proposing the vacation of a slope easement and a slope and drainage easement. The slope easement was created by Final Order of Condemnation recorded June 25, 1998, as document No. 1998-0392187, and the slope and drainage easement was created by Final Order of Condemnation recorded October 23, 1998, as document No. 1998-0687271.

The slope easement and the slope and drainage easement are located in and adjoining to 4318 Mission Avenue, in the City of Oceanside, County of San Diego, State of California.

The Final Order of Condemnation recorded June 25, 1998, as document No. 1998-0392187 and the Final Order of Condemnation recorded October 23, 1998, as document No. 1998-0687271, were used to take land to create Highway 76. The orders were also used to take land to widen the right-of-way along Mission Avenue that intersects with Highway 76, impacting 4318 Mission Avenue, and created the slope and slope and drainage easement abutting the newly acquired right-of-way along Mission Avenue. Mission Avenue is now built to its ultimate width and alignment and the slope and slope and drainage easement are no longer required. The areas within the easements are privately owned, landscaped, and maintained. There are no public facilities located within these easements. The easements have been determined to be excess by the City of Oceanside.

ANALYSIS

California Streets and Highways Code, section §8333 (c) provides the City Council with the authority to summarily vacate public service easements provided they have been determined to be excess by the easement holder, and there are no other public facilities located within the easement.

FISCAL IMPACT

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

INSURANCE REQUIREMENTS

Does not apply.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The resolution of vacation has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution summarily vacating a slope easement and a slope and drainage easement located in and adjoining to 4318 Mission Avenue, and authorize the City Clerk to file a certified copy of the resolution with the San Diego County Recorder.

PREPARED BY:



Gary Smith
Associate Engineer

SUBMITTED BY:



Peter A. Weiss
City Manager

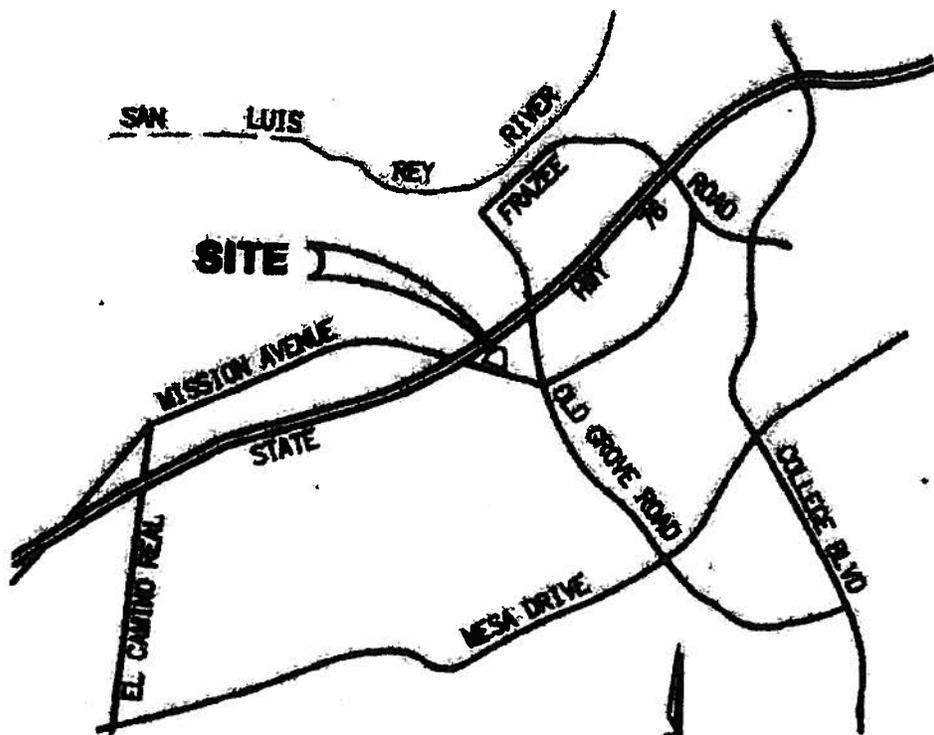
REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
George Buell, Development Services Director
Scott O. Smith, City Engineer
Cari Dale, Water Utilities Director 





Attachment: Resolution



VICINITY MAP
NO SCALE

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RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OCEANSIDE CALIFORNIA SUMMARILY VACATING A
SLOPE EASEMENT AND A SLOPE AND DRAINAGE
EASEMENT LOCATED IN AND ADJOINING TO 4318
MISSION AVENUE**

WHEREAS, the California Streets and Highways Code, section §8330 et seq., authorizes the City Council of the City of Oceanside to summarily vacate a public service easement;

WHEREAS, the slope easement and the slope and drainage easement to be vacated are located in and adjoining to 4318 Mission Avenue and are more particularly described in Exhibit "A" and shown on Exhibit "B", both attached hereto and made a part hereof by reference;

WHEREAS, California Streets and Highways Code, section §8333 (c), provides the City Council with the authority to summarily vacate public service easements provided they have been determined to be excess by the easement holder, and there are no other public facilities located within the easement;

WHEREAS, Mission Avenue is now built to its ultimate width and alignment and the slope and slope and drainage easement are no longer required. The areas within the easements are now privately owned, landscaped, and maintained and the easements have been determined to be excess;

WHEREAS, there are no public facilities located within these easements; and

WHEREAS, after consideration of all evidence submitted, the City Council finds and determines that the slope easement and the slope and drainage easement described in said Exhibit "A" and shown on Exhibit "B" have been determined to be excess,

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

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1 Section 1. The slope easement and the slope and drainage easement described
2 in said Exhibit "A" and shown on Exhibit "B" shall be and hereby are summarily
3 vacated.

4 Section 2. The City Clerk shall cause a certified copy of this resolution to be
5 recorded in the Office of the County Recorder of the County of San Diego in accordance
6 with the provisions of Section §8336 of the Streets and Highways Code. Upon such
7 recordation, the vacation is complete.

8 PASSED AND ADOPTED by the City Council of the City of Oceanside,
9 California this _____ day of _____, 2012, by
10 the following vote:

11
12 AYES:

13 NAYS:

14 ABSENT:

15 ABSTAIN:

16
17 MAYOR OF THE CITY OF OCEANSIDE

18 ATTEST:

APPROVED AS TO FORM:

19
20 _____
21 City Clerk

Bartlett Sumrell
22 _____, ASST.
23 City Attorney

24
25 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OCEANSIDE
26 CALIFORNIA SUMMARILY VACATING A SLOPE EASEMENT AND A SLOPE AND
27 DRAINAGE EASEMENT LOCATED IN AND ADJOINING TO 4318 MISSION AVENUE
28

EASVII-0002

EXHIBIT "A"
LEGAL DESCRIPTION

SLOPE AND DRAINAGE EASEMENT VACATION

All that certain Slope Easement over that portion of the Southwest Quarter of Section 9, Township 11 South, Range 4 West, San Bernardino Meridian, in the City of Oceanside, County of San Diego, State of California, conveyed to the City of Oceanside and described as Parcel 4 (28087-4) in Final Order of Condemnation recorded June 25, 1998 as document No. 1998-0392187 of Official Records, vacated, together with all that certain Slope and Drainage Easement over that portion of the Southwest Quarter of Section 9, Township 11 South, Range 4 West, San Bernardino Meridian, in the City of Oceanside, County of San Diego, State of California, conveyed to the City of Oceanside and described as Parcel 4 (28087-4) in Final Order of Condemnation recorded October 23, 1998 as document No. 1998-0687271 of Official Records, vacated.



Joseph G. Cresto
PLS 8050

11/17/11
Date



END OF LEGAL DESCRIPTION

EXHIBIT "B"

0 50 100 200



SCALE: 1"=100'



SCALE: 1"=100'

PARCEL "B"
C.O.C. PLA-14-00

R O S 2 9 7 6

APN 158-101-43

SW 1 / 4 SEC 9

T 1 1 S, R 4 W, S B M

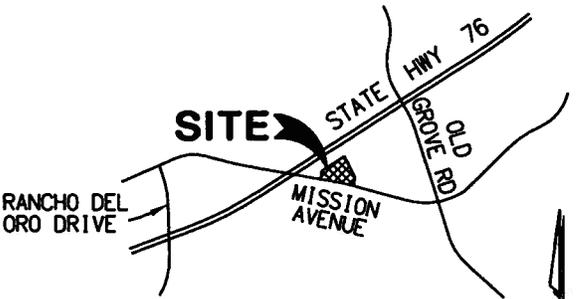
LOT 1
MAP NO. 15623

APN 158-101-42

STATE HIGHWAY SR-76
OLD GROVE MARKET WAY
(PRIVATE DRIVEWAY)

MISSION AVENUE

AVENUE



VICINITY MAP

NOT TO SCALE

LEGEND



INDICATES SLOPE EASEMENT TO THE CITY OF OCEANSIDE PER FINAL ORDER OF CONDEMNATION RECORDED JUNE 25, 1998 AS DOCUMENT NO. 1998-0392187, O.R., TOGETHER WITH SLOPE AND DRAINAGE EASEMENT TO THE CITY OF OCEANSIDE PER FINAL ORDER OF CONDEMNATION RECORDED OCTOBER 23, 1998 AS DOCUMENT NO. 1998-0687271, O.R., VACATED.



INDICATES RIGHTS OF DIRECT VEHICULAR INGRESS AND EGRESS RELINQUISHED TO THE CITY OF OCEANSIDE PER P.M. NO. 19200.



INDICATES EASEMENT TO SAN DIEGO GAS AND ELECTRIC COMPANY RECORDED NOVEMBER 1, 2001 AS DOCUMENT NO. 2001-0798929, O.R.



INDICATES PORTION OF MISSION AVENUE DEDICATED PER P.M. NO. 19200.



INDICATES PORTION OF MISSION AVENUE DEDICATED PER FINAL ORDER OF CONDEMNATION RECORDED JUNE 25, 1998 AS DOCUMENT NO. 1998-0392187 AND RECORDED OCTOBER 23, 1998 AS DOCUMENT NO. 1998-0687271, O.R.



JOSEPH G. CRESTO
P.L.S. 8050

DATE

OWNER: SEA BREEZE OLD GROVE, LLC
SITE ADDRESS: 4318 MISSION AVENUE, OCEANSIDE, CA.
ENGINEER: STEVENS CRESTO ENGINEERING, INC.
9665 CHESAPEAKE DRIVE, SUITE 320
SAN DIEGO, CA 92123-1352

CITY OF OCEANSIDE
ENGINEERING DIVISION
EASEMENT
VACATION PLAT

APN# 158-101-42, 43

FILE # EASVII-0002

DATE: 11-17-11

SHEET 1 OF 1