

AGENDA ITEM NO.

COUNCIL MEETING
APPROVED BY
DEPARTMENT DIRECTOR

CITY MANAGER

January 9, 2007

FROM: JON R. RUIZ, Interim Director
Public Works Department

BY: SCOTT L. MOZIER, PE, Assistant Director
Public Works Department

SUBJECT: ADOPT A RESOLUTION APPROVING THE SUMMARY VACATION OF A PORTION OF A PUBLIC UTILITY EASEMENT LOCATED IN PARCEL MAP NO. 2002-13 ON THE EAST SIDE OF CEDAR AVENUE BETWEEN DAKOTA AVENUE AND HAMPTON WAY IN COUNCIL DISTRICT NO. 4

KEY RESULT AREA

Customer Satisfaction

RECOMMENDATIONS

Staff recommends that the Council approve this vacation.

EXECUTIVE SUMMARY

The Zone Sports Center, LLC is requesting the vacation of a portion of a public utility easement located in Parcel Map No. 2002-13 on the east side of Cedar Avenue between Dakota Avenue and Hampton Way, as shown on Exhibit "A" of the attached Resolution. The purpose of the vacation is to accommodate the development of The Zone Sports Center.

KEY OBJECTIVE BALANCE

The proposed vacation balances the three key objectives of Customer and Employee Satisfaction, and Financial Management. Customer service is achieved by removing the encumbrance of the easement from the affected property to allow for the development of The Zone Sports Center.

BACKGROUND

The Zone Sports Center, LLC is requesting the vacation of a portion of a public utility easement located in Parcel Map No. 2002-13, on the east side of Cedar Avenue between Dakota Avenue and Hampton Way, as shown on Exhibit "A" of the attached Resolution. The easement was dedicated by the recording of Parcel Map No. 2002-13 on September 30, 2002, in Book 62 of Parcel Maps at Pages 14 through 15, Fresno County Records. The easement was created to accommodate the construction of a water main loop through the development. The City later determined that it did not need a public water main in the easement and required that the water main be built as a private metered water service. As proposed by Lot Line Adjustment

No.-2006-32, The Zone Sports Center development is reconfiguring their original site plan. This reconfiguration resulted in a new building to be built over the public utility easement. The purpose of the vacation is to remove the easement to allow for the construction and occupation of the new building.

When the vacation was applied for, it was discovered that there were several errors in the dimensioning of the public utility easement as shown on Parcel Map No. 2002-13. This caused the recording of a Certificate of Correction to correct the errors before this vacation and Lot Line Adjustment No. 2006-32 could proceed. The dimensions as shown on Exhibit "A" of the attached Resolution reflect the Certificate of Correction data, not the data found on Parcel Map No. 2002-13.

The vacation proposal has been reviewed by the Public Works Department, Planning and Development Department, as well as affected public utility agencies. Staff from the reviewing agencies have determined that the portion of a public utility easement located in Parcel Map No. 2002-13, on the east side of Cedar Avenue between Dakota Avenue and Hampton Way, as shown on Exhibit "A" of the attached Resolution is no longer necessary and recommended approval of the vacation proposal with no conditions.

The provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, authorize the Council to summarily vacate a public service easement when the date of dedication is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date. Under these provisions, only one Council action is necessary and a published notice, posting and public hearing are not required.

Environmental Assessment No. EA-06-39 shows with certainty that the project is categorically exempt and there is no possibility that the proposed summary vacation may have a significant adverse effect on the environment, and the proposed summary vacation is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(c)/Class 1 of the CEQA guidelines.

The City Attorney's Office has reviewed and approved the attached Resolution as to form.

FISCAL IMPACT OF RECOMMENDATION

There will be no impact to the City's General Fund.

JRR/SLM/AJ/eam
Adopt Reso Approv Sum Vac Cedar Ave 01-09-07

Attachments: 1. Resolution

P.W. File No. 11170

Recording Requested By:
Public Works Department
City of Fresno
No Fee-Gov't. Code Sections
6103 and 27383

When Recorded, Mail To:
City Clerk
City of Fresno
2600 Fresno Street
Fresno, CA. 93721-3623

SPACE ABOVE THIS LINE FOR RECORDER'S USE

RESOLUTION NO. _____

ADOPT A RESOLUTION APPROVING THE SUMMARY VACATION OF A PORTION OF A PUBLIC UTILITY EASEMENT LOCATED IN PARCEL MAP NO. 2002-13 EAST OF CEDAR AVENUE BETWEEN DAKOTA AVENUE AND HAMPTON WAY IN COUNCIL DISTRICT NO. 4

WHEREAS, the Council has elected to proceed under the provisions of the Public Streets, Highways, and Service Easements Vacation Law (Division 9, Part 3 of the California Streets and Highways Code), and specifically Chapter 4 (commencing with Section 8330) thereof, to summarily vacate a portion of a public utility easement located in Parcel Map No. 2002-13 on the east side of Cedar Avenue between Dakota Avenue and Hampton Way, located exclusively within the City of Fresno; and

WHEREAS, the public utility easement proposed to be vacated is shown on Exhibit "A", which is attached and incorporated in this Resolution; and

WHEREAS, the area to be vacated was dedicated by the recording of Parcel Map No. 2002-13 on September 30, 2002; and

WHEREAS, the portion of the public utility easement proposed to be vacated was never used for the purpose it was intended for; and

WHEREAS, the provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, authorize the Council to summarily vacate a public service easement when the date of dedication is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used

continuously since that date. Under these provisions, only one Council action is necessary and a published notice, posting and public hearing are not required; and

WHEREAS, Environmental Assessment No. EA-06-39 shows with certainty that the vacation is categorically exempt and there is no possibility that the proposed summary vacation may have a significant adverse effect on the environment, and the proposed summary vacation is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(c)/Class 1 of the CEQA guidelines; and

WHEREAS, the Council desires to summarily vacate a portion of a public utility easement located in Parcel Map No. 2002-13 on the east side of Cedar Avenue between Dakota Avenue and Hampton Way.

NOW, THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY AS FOLLOWS:

1. A portion of a public utility easement located in Parcel Map No. 2002-13 on the east side of Cedar Avenue between Dakota Avenue and Hampton Way as shown on Exhibit "A" is hereby vacated.
2. The City Clerk of the City of Fresno shall certify to the passage of this Resolution and shall cause a certified copy, attested by the Clerk under the seal of the City of Fresno, to be recorded in the Office of the County Recorder of the County of Fresno, State of California.
3. This vacation shall become effective on the date this resolution is recorded.
4. From and after the date this resolution is recorded, the public utility easement shall no longer constitute a public utility easement.

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the ____ day of _____, 2007.

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor Approval: _____, 2007
Mayor Approval/No Return: _____, 2007
Mayor Veto: _____, 2007
Council Override Vote: _____, 2007

REBECCA E. KLISCH
City Clerk

BY: _____, Deputy

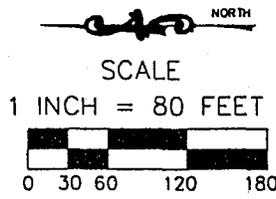
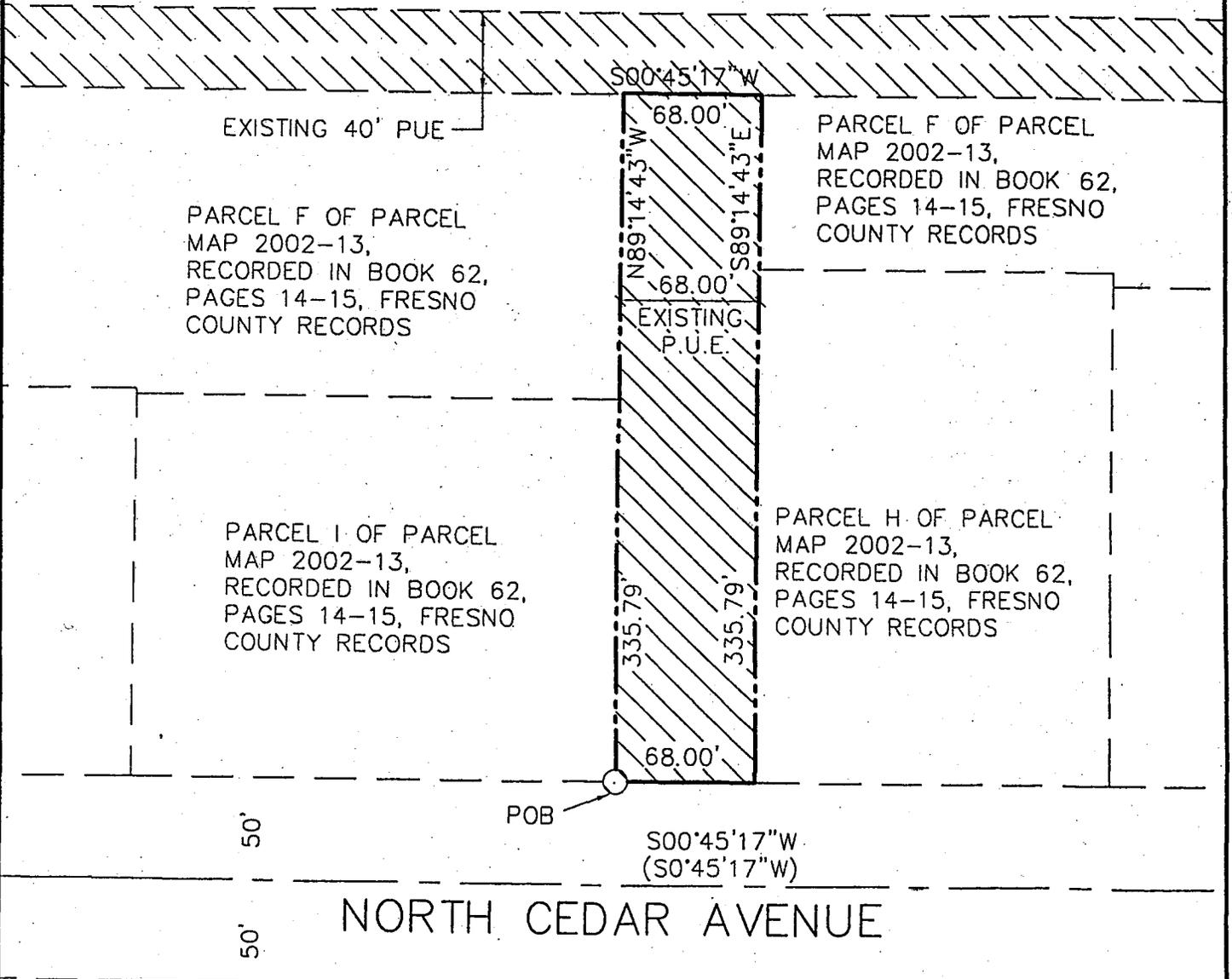
APPROVED AS TO FORM:

JAMES C. SANCHEZ
CITY ATTORNEY

By: R
 Deputy

Adopt Reso Sum Vac PM 2002-13 1-9-07
PW File No. 11170

EXHIBIT "A"



LEGEND

- EXISTING PROPERTY LINE
- POINT OF BEGINNING, THE SOUTHWEST CORNER OF PARCEL "I" OF PARCEL MAP 2002-13, RECORDED IN BOOK 62, PAGES 14-15, FRESNO COUNTY RECORDS.
- FOUND - 3/4" X 30" IP WITH PLUG "LS7507 CASE", DN. 0.5'
- EXISTING PUE TO BE VACATED

REF. & REV. C-97-270	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. _____ FUND NO. _____ ORG. NO. _____
PW FILE NO. PLAT NO. 2006- 15-C-		A PORTION OF PARCEL "F" OF PARCEL MAP 2002-13, RECORDED IN BOOK 62, PAGES 14-15, FRESNO COUNTY RECORDS
		SHEET NO 1 OF 1 SHEETS