City of FRESNO **REPORT TO THE CITY COUNCIL**

AGENDA ITEM NO.
COUNCIL MEETING
APPROVED BY
DEPARTMENT DIRECTOR
CITY MANAGER

May 8, 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 (LOCATED IN COUNCIL DISTRICT 4)

KEY RESULT AREA

Customer Satisfaction

RECOMMENDATION

Staff recommends that the Council approve this vacation.

EXECUTIVE SUMMARY

The Zone Sports Center, LLC is requesting the vacation of the remaining 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. A portion of the public utility easement was previously summarily vacated by City of Fresno Resolution No. 2007-07 that was recorded on January 11, 2007 as Document No. 2007-0006257, Official Records of Fresno County. The purpose of the vacation is to remove an unnecessary public utility easement so as not to interfere with 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.

A portion of the public utility easement was previously summarily vacated by City of Fresno Resolution No. 2007-07 that was recorded on January 11, 2007 as Document No. 2007-0006257, Official Records of Fresno County. The reason for vacating the first portion was that The Zone Sports Center development was reconfiguring their original site plan. The reconfiguration, as proposed by Lot Line Adjustment No. 2006-32, resulted in a new building to be built over the public utility easement. The purpose of the first vacation was to remove the easement to allow for the construction and occupation of the new building. The developer of The Zone Sports Center has since requested that the remaining portion be vacated because they realized that none of the remaining public utility easement is needed for present or future use and that the remaining portion may interfere with future reconfigurations of their site plan.

When the first 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 the first 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 Public Works, Development Departments and public utility agencies have reviewed the vacation proposal and 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-07-02 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

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

JRR/SLM/AJ/DHC/eam
Adopt Reso Apprv Sum Vac Cedar btwn Dakota-Hampton 5-8-07

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

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 the remaining 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, a portion of the public utility easement was previously summarily vacated by City of Fresno Resolution No. 2007-07 that was recorded on January 11, 2007 as Document No. 2007-0006257, Official Records of Fresno County.

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-07-02 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

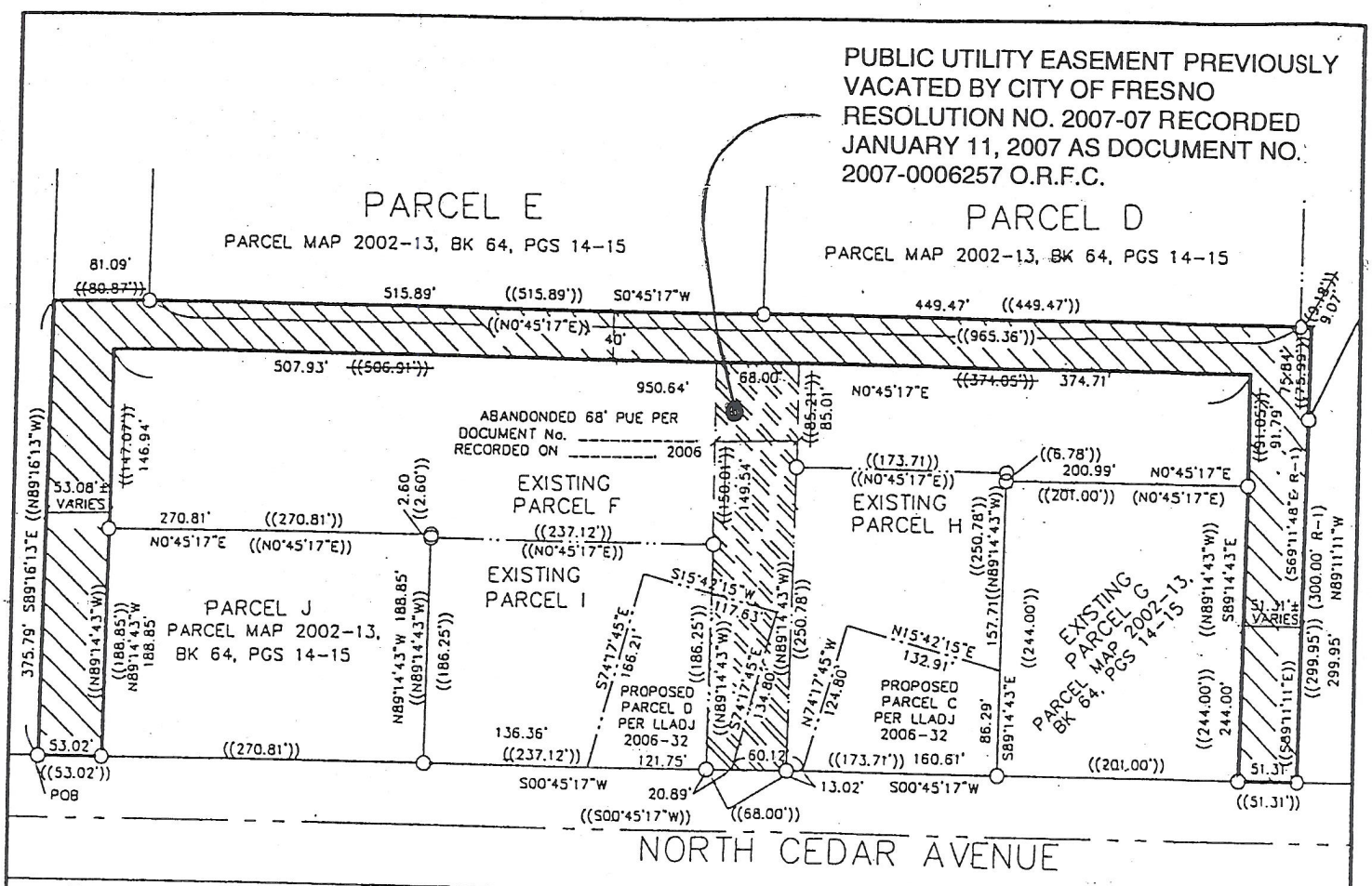
APPROVED AS TO FORM:

JAMES C. SANCHEZ
CITY ATTORNEY

By: _____
Deputy
KATHERINE BRADLEY

Adopt Reso Apprv Sum Vac Cedar btwn Dakota-Hampton 5-8-07

PW File No. 11170



BASIS OF BEARINGS

REGISTERED PROFESSIONAL ENGINEER
DALE H. WANN
No. 23273
Exp. 12/31/07
11-30-06
CIVIL
STATE OF CALIFORNIA

NORTH

SCALE
1 INCH = 150 FEET

0 30 60 120 180

LEGEND

— — —	EXISTING PROPERTY LINE
~~((179.10))~~	CORRECTED MEASUREMENTS PER CERTIFICATE OF CORRECTION
((179.10))	RECORD DATA PER PARCEL MAP 2002-13, RECORDED IN BOOK 62 OF PARCEL MAPS, PGS 14-15, F.C.R.
(R-1)	RECORD DATA PER PARCEL MAP 83-33, RECORDED IN BOOK 41 OF PARCEL MAPS, PAGES 39 AND 40, FRESNO COUNTY RECORDS
POB	POINT OF BEGINNING, THE NORTHWEST CORNER OF PARCEL "F" OF PARCEL MAP 2002-13, RECORDED IN BOOK 62, PAGES 14-15, FRECNO COUNTY RECORDS
⊙	FOUND - 3/4" X 30" IP WITH PLUG "LS7507 CASE", ~~ON~~ 0.5'
▨	EXISTING PUE TO BE ABANDONDED

EXHIBIT "A"

REF. & REV. C-97-270 PW FILE NO. 11170 PLAT NO. 1960	CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS	PROJ. ID. _____ FUND NO. _____ ORG. NO. _____	
	A PORTION OF PARCEL "F" OF PARCEL MAP 2002-13, RECORDED IN BOOK 62, PAGES 14-15, FRECNO COUNTY RECORDS	DR. BY. JMM CH. BY DATE 11-30-06 SCALE 1" = 150	SHEET NO 1 OF 1 SHEETS