



AGENDA ITEM NO.

1 D

COUNCIL MEETING

2/13/14

APPROVED BY

DEPARTMENT DIRECTOR

CITY MANAGER

February 13, 2014

**FROM:** SCOTT L. MOZIER, PE, Director  
Public Works Department

**BY:** SCOTT TYLER, PE, City Traffic Engineer/Division Manager  
Public Works Department, Traffic and Engineering Services Division

ALAN JAMES, Supervising Engineering Technician  
Public Works Department, Traffic and Engineering Services Division

**SUBJECT:** Adopt a resolution ordering the summary vacation of the sixteen foot wide public utility easement (PUE) in Lots 4 through 10 of Rose Court, located west of North Blackstone Avenue and north of East Floradora Avenue (Council District 1)

## RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution ordering the summary vacation of the sixteen foot wide public utility easement (PUE) in Lots 4 through 10 of Rose Court, located west of North Blackstone Avenue and north of East Floradora Avenue.

## EXECUTIVE SUMMARY

Lars Andersen and Associates on behalf of Boos Development is requesting the vacation of the sixteen foot wide public utility easement (PUE) located west of North Blackstone Avenue and north of East Floradora Avenue, as shown on Exhibit "A" of the attached resolution. The purpose of the vacation is to remove the unused PUE from the parcel to accommodate the development of an O'Reilly's Auto Parts store as proposed by Site Plan Review Application No. S-13-014. The City's Department of Public Utilities and other utility agencies reviewed the proposal and determined that the easement proposed for vacation is unnecessary for present or prospective public utility purposes and have unconditionally approved the proposed vacation.

## BACKGROUND

Lars Andersen and Associates on behalf of Boos Development is requesting the vacation of the sixteen foot wide public utility easement (PUE) in Lots 4 through 10 of Rose Court, located west of North Blackstone Avenue and north of East Floradora Avenue, as shown on Exhibit "A" of the attached resolution. The existing sixteen foot wide easement is shown as a "16' Right-of-Way for Public Utilities" on the map of Rose Court recorded August 13, 1923, in Volume 10 of Plats at Page 20, Fresno County Records. There are no utilities located in the PUE proposed to be vacated and there has been a restaurant building (now vacant) within the PUE for decades. There is no evidence that any utilities were ever constructed in this portion of the PUE. The purpose of the vacation is to remove the unused PUE from the parcel to accommodate the

## REPORT TO THE CITY COUNCIL

Summary vacation of a PUE at Blackstone & Floradora

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development of an O'Reilly's Auto Parts store as proposed by Site Plan Review Application No. S-13-014.

The City's Department of Public Utilities and other utility agencies reviewed the proposal and determined that the right-of-way proposed for vacation is unnecessary for present or prospective public utility purposes and have unconditionally approved the proposed vacation.

The provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, and more specifically Section 8333(a), authorize the Council to summarily vacate a public service easement that has not been used for the purpose for which it was dedicated for five consecutive years immediately preceding the proposed vacation and there are no existing in-place public utilities facilities in use that would be affected by the vacation. Under these provisions, only one Council action is necessary and a published notice, posting and public hearing are not required.

The vacation, if approved by the Council, will become effective when the vacating resolution is recorded in the office of the Fresno County Recorder.

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

### **ENVIRONMENTAL FINDINGS**

This vacation is included in the project description for a project that was previously environmentally assessed pursuant to the California Environmental Quality Act (CEQA). Environmental Assessment (EA) No. S-13-014, a Categorical Exemption per staff determination pursuant to Section 15303/Class 3 and Section 15332/Cass 32 of CEQA Guidelines, was adopted by the Director of the Development and Resource Management Department on June 11, 2013.

### **FISCAL IMPACT**

This project is located in Council District 1. There will be no City funds involved in the development project. The developer has paid all processing fees to cover staff cost in accordance with the Master Fee Schedule.

Attachments:     1. Vicinity Map  
                  2. Resolution

P.W. File No. 11711

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, TO ORDER THE SUMMARY VACATION OF THE SIXTEEN FOOT WIDE PUBLIC UTILITY EASEMENT IN LOTS 4 THROUGH 10 OF ROSE COURT, LOCATED WEST OF NORTH BLACKSTONE AVENUE AND NORTH OF EAST FLORADORA AVENUE

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 sixteen foot wide public utility easement (PUE) in Lots 4 through 10 of Rose Court, according to the map thereof recorded August 13, 1923, in Volume 10 of Plats at Page 20, Fresno County Records, as shown on Exhibit "A" which is attached and incorporated in this Resolution; and

WHEREAS, the purpose of the vacation is to remove the unused PUE from the parcel to accommodate the development of an O'Reilly's Auto Parts store as proposed by Site Plan Review Application No. S-13-014; and

WHEREAS, the City's Department of Public Utilities and other utility agencies reviewed the proposal and determined that the right-of-way proposed for vacation is unnecessary for present or prospective public utility purposes and have unconditionally approved the proposed vacation; and

WHEREAS, the provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, and more specifically Section 8333(a), authorize

1 of 4

Date Adopted:  
Date Approved:  
Effective Date:

City Attorney Approval: MRD

Resolution No. \_\_\_\_\_

the Council to summarily vacate a public service easement that has not been used for the purpose for which it was dedicated for five consecutive years immediately preceding the proposed vacation, and there are no existing in-place public utilities facilities in use that would be affected by the vacation. Under these provisions, only one Council action is necessary and a published notice, posting and public hearing are not required; and

WHEREAS, this vacation is included in the project description for a project that was previously environmentally assessed pursuant to the California Environmental Quality Act (CEQA). Environmental Assessment (EA) No. S-13-014, a Categorical Exemption per staff determination pursuant to Section 15303/Class 3 and Section 15332/Cass 32 of CEQA Guidelines, was adopted by the Director of the Development and Resource Management Department on June 11, 2013; and

WHEREAS, the Council desires to summarily vacate the sixteen foot wide public utility easement (PUE) in Lots 4 through 10 of Rose Court, according to the map thereof recorded August 13, 1923, in Volume 10 of Plats at Page 20, Fresno County Records, as shown on Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. The sixteen foot wide public utility easement (PUE) in Lots 4 through 10 of Rose Court, according to the map thereof recorded August 13, 1923, in Volume 10 of Plats at Page 20, Fresno County Records, 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 sixteen foot wide public utility easement (PUE) in Lots 4 through 10 of Rose Court, according to the map thereof recorded August 13, 1923, in Volume 10 of Plats at Page 20, Fresno County Records, as shown on Exhibit "A" shall no longer constitute a public utility easement.

\* \* \* \* \*

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2014.

AYES :  
NOES :  
ABSENT :  
ABSTAIN :

Mayor Approval: \_\_\_\_\_, 2014  
Mayor Approval/No Return: \_\_\_\_\_, 2014  
Mayor Veto: \_\_\_\_\_, 2014  
Council Override Vote: \_\_\_\_\_, 2014

YVONNE SPENCE, CMC  
City Clerk

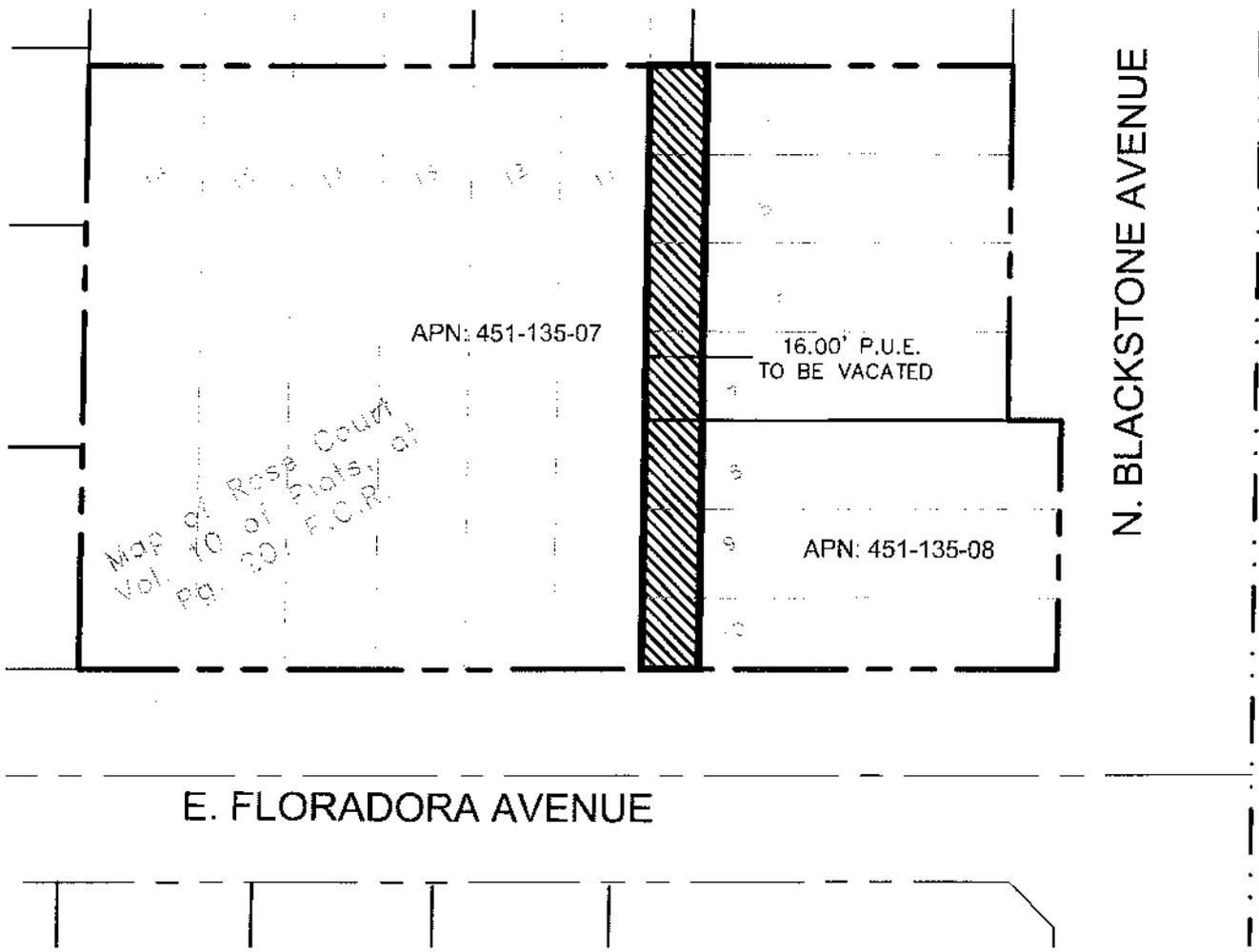
BY: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

DOUGLAS T. SLOAN  
CITY ATTORNEY

BY: \_\_\_\_\_  
Mary Raterman-Doidge, Deputy

# Exhibit A



Map of Rose Court  
Vol. 10 of Plats of  
Pg. 20 F.C.R.

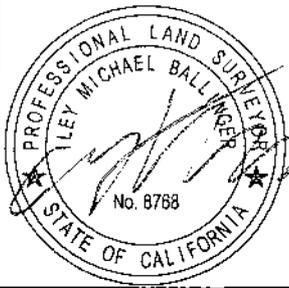
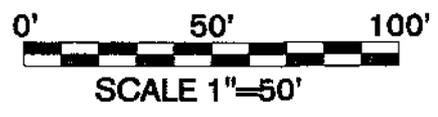
E. FLORADORA AVENUE

N. BLACKSTONE AVENUE

**LEGAL DESCRIPTION OF PUBLIC UTILITY EASEMENT TO BE VACATED:**

A PORTION OF THAT 16 FOOT RIGHT-OF-WAY FOR PUBLIC UTILITIES AS DEDICATED BY THE MAP OF ROSE COURT RECORDED IN VOLUME 10 OF PLATS OF PAGE 20, FRESNO COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 16 FEET OF LOTS 4 THROUGH 10, INCLUSIVE, OF SAID ROSE COURT.



**LARS ANDERSEN & ASSOCIATES, INC**  
**CIVIL ENGINEERS - LAND SURVEYORS - PLANNERS**  
 4694 WEST JACQUELYN AVENUE, FRESNO CALIFORNIA 93722  
 WWW.LARSANDERSEN.COM 559-276-2790 FAX 559-276-0850

JOB NO: 12074.00  
 DR. BY: ILEY  
 CH. BY: ILEY  
 DATE: 01/09/14  
 SCALE: 1"=50'

SHEET NO. **1**  
 OF **1** SHEET

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