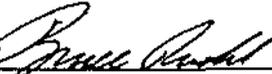


AGENDA ITEM NO.	1C
COUNCIL MEETING	2/27/14
APPROVED BY	
	
DEPARTMENT DIRECTOR	
CITY MANAGER	
	

February 27, 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 ten foot wide public utility easement (PUE) along the north side East Clubhouse Drive, east of North Alicante Drive, in Tract No. 5973 (Council District 6)

RECOMMENDATION

Staff recommends that the City Council adopt the attached resolution ordering the summary vacation of the ten foot wide public utility easement (PUE) along the north side East Clubhouse Drive, east of North Alicante Drive, in Tract No. 5973.

EXECUTIVE SUMMARY

Gary Giannetta Engineering on behalf of Gary McDonald Homes is requesting the vacation of the existing ten foot wide public utility easement (PUE) along the north side East Clubhouse Drive, east of North Alicante Drive, as shown on Exhibit "A" of the attached resolution. The purpose of the vacation is to eliminate the unnecessary PUE that is encumbering the affected lots in Tract No. 5973. The City's Department of Public Utilities and other utility agencies reviewed the proposal and determined that the public utility easement proposed for vacation is unnecessary for present or prospective public utility purposes and have unconditionally approved the proposed vacation.

BACKGROUND

Gary Giannetta Engineering on behalf of Gary McDonald Homes is requesting the vacation of the existing ten foot wide public utility easement (PUE) along the north side East Clubhouse Drive, east of North Alicante Drive, in Tract No. 5973, as shown on Exhibit "A" of the attached resolution. The ten foot wide public utility easement was dedicated by the map of Tract No. 5973 recorded February 28, 2012, in Volume 82 of Plats at Pages 30 and 31, Fresno County Records. After the map was recorded, the developer discovered the PUE was unnecessary and therefore should not have been dedicated. There are currently no utilities located in the PUE, nor are any planned. The purpose of the vacation is to eliminate the unnecessary PUE that is encumbering the affected lots in Tract No. 5973.

The City's Department of Public Utilities and other utility agencies reviewed the proposal and determined that the public utility easement 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(b), 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 continuously used since that date, 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

Staff has performed a preliminary environmental assessment of this project and, pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), has determined with certainty that there is no possibility that this project may have a significant effect on the environment, Environmental Assessment (EA) No. EA-14-002. This is because the proposed activity has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Therefore, this project is not subject to CEQA.

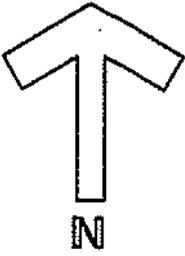
FISCAL IMPACT

This project is located in Council District 6. There will be no City funds involved in the vacation. The developer has paid all processing fees to cover staff cost in accordance with the Master Fee Schedule.

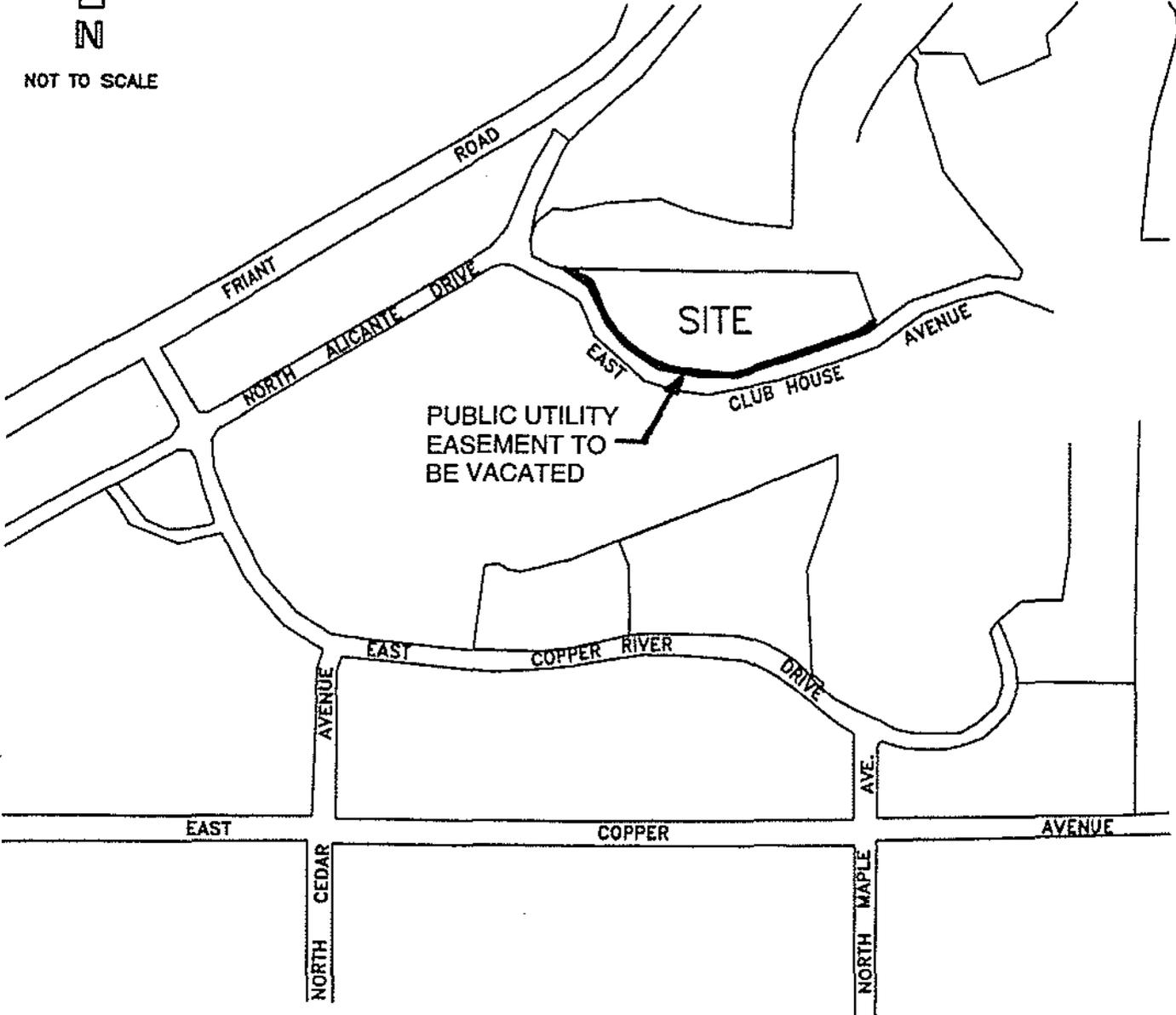
Attachments: 1. Vicinity Map
 2. Resolution

ATTACHMENT 1

VICINITY MAP



NOT TO SCALE



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RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF
FRESNO, CALIFORNIA, TO ORDER THE SUMMARY
VACATION OF THE TEN FOOT WIDE PUBLIC UTILITY
EASEMENT (PUE) ALONG THE NORTH SIDE EAST
CLUBHOUSE DRIVE EAST OF NORTH ALICANTE DRIVE
IN TRACT NO. 5973

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 ten foot wide public utility easement (PUE) along the north side East Clubhouse Drive, east of North Alicante Drive, in Tract No. 5973, as shown on Exhibit "A" which is attached and incorporated in this Resolution; and

WHEREAS, the ten foot wide PUE was dedicated by the map of Tract No. 5973 recorded February 28, 2012, in Volume 82 of Plats at Pages 30 and 31, Fresno County Records; and

WHEREAS, after the map was recorded, the developer discovered the PUE was unnecessary and therefore should not have been dedicated; and

WHEREAS, the purpose of the vacation is to eliminate the unnecessary PUE that is encumbering the affected lots in Tract No. 5973; and

WHEREAS, the City's Department of Public Utilities and other utility agencies reviewed the proposal and determined that the PUE proposed for vacation is

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval: MRD

Resolution No. _____

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(b), 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 continuously used since that date, 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, staff has performed a preliminary environmental assessment of this project and, pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), has determined with certainty that there is no possibility that this project may have a significant effect on the environment, Environmental Assessment (EA) No. EA-14-002. This is because the proposed activity has no potential to result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. Therefore, this project is not subject to CEQA; and

WHEREAS, the Council desires to summarily vacate the ten foot wide public utility easement along the north side East Clubhouse Drive, east of North Alicante Drive, in Tract No. 5973, as shown on Exhibit "A".

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

1. The ten foot wide public utility easement along the north side East

Clubhouse Drive, east of North Alicante Drive, in Tract No. 5973, 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 ten foot wide public utility easement along the north side East Clubhouse Drive, east of North Alicante Drive, in Tract No. 5973, 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

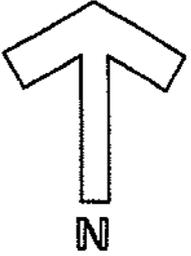
APPROVED AS TO FORM:

DOUGLAS T. SLOAN
CITY ATTORNEY

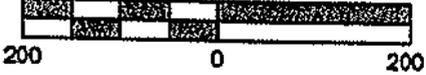
BY: _____
Mary Raterman-Doidge, Deputy

EXHIBIT "A"

SHEET 1 OF 3

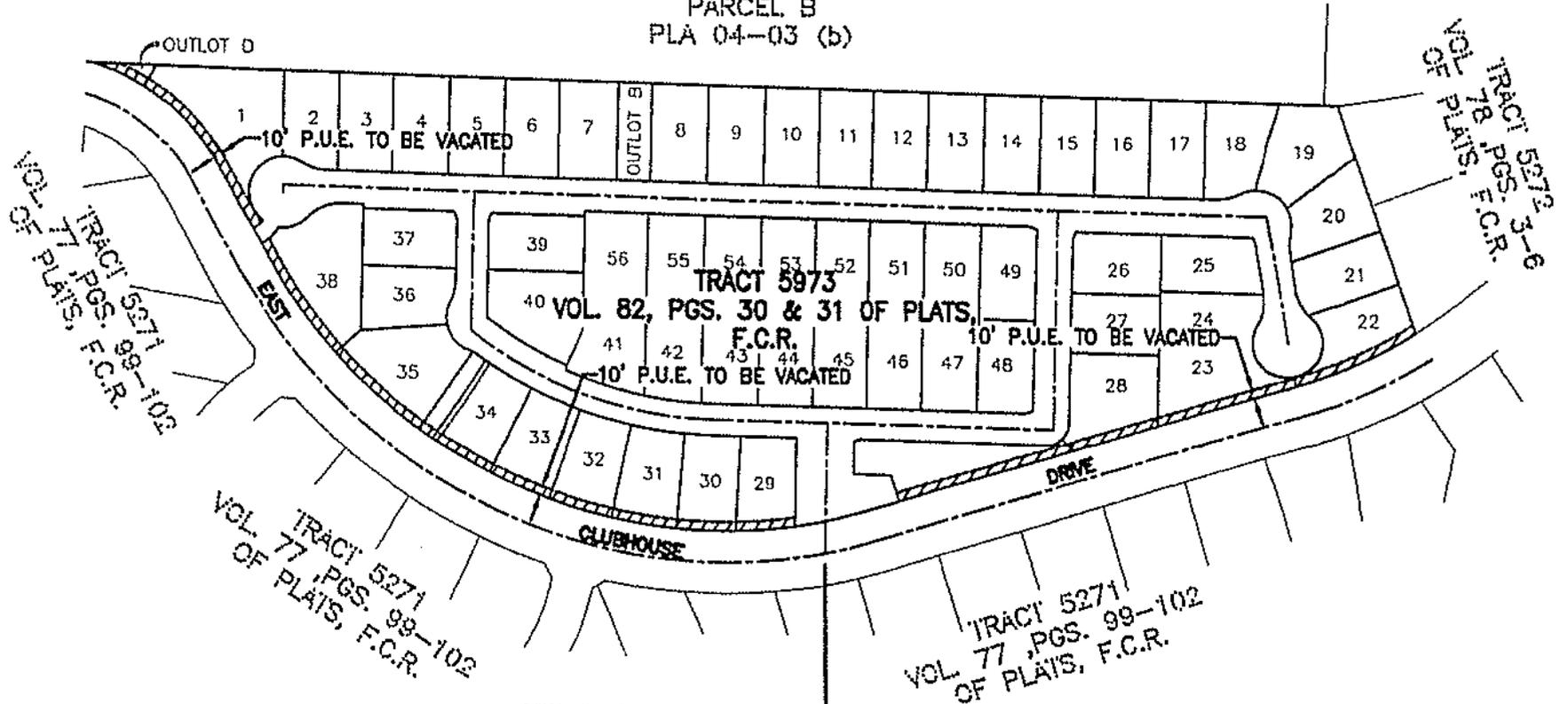


SCALE: 1" = 200'



INDICATES AREA TO BE VACATED

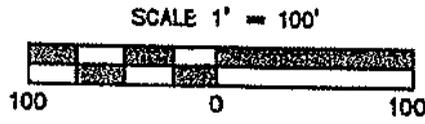
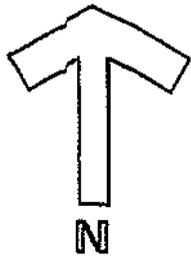
PARCEL B
PLA 04-03 (b)



SEE PAGE 2 OF 3

SEE PAGE 3 OF 3

PREPARED BY:
GARY GIANNETTA
1119 "S" STREET
FRESNO, CA. 93721
(559) 264-3580

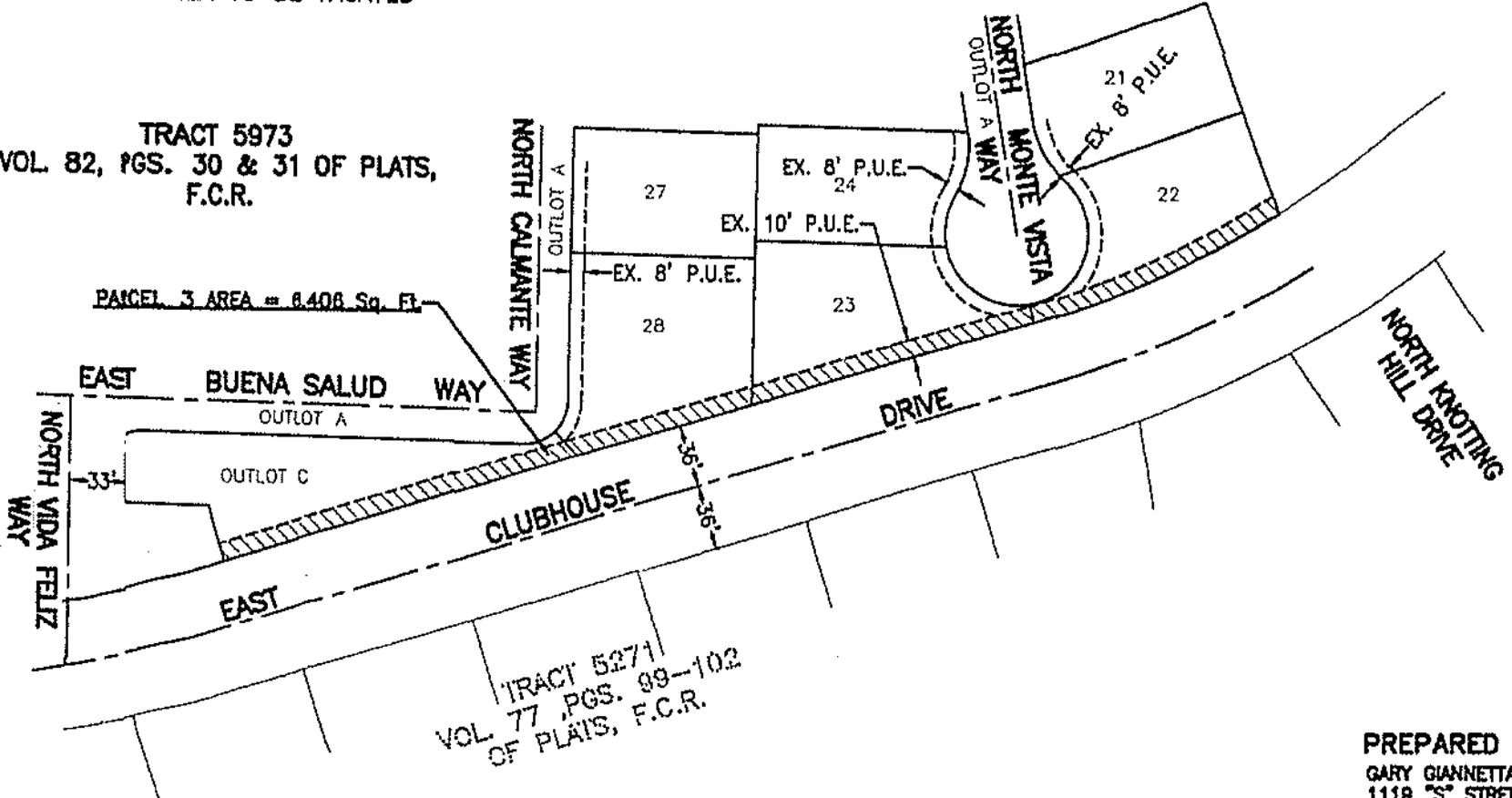


 INDICATES AREA TO BE VACATED

TRACT 5973
VOL. 82, PGS. 30 & 31 OF PLATS,
F.C.R.

PARCEL 3 AREA = 6,408 Sq. Ft.

SEE PAGE 2 OF 3



TRACT 5271
VOL. 77, PGS. 99-102
OF PLATS, F.C.R.

PREPARED BY:
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FRESNO, CA. 93721
(559) 264-3580

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