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REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL

SORRENTO VALLEY ROAD STREET VACATION

### **INTRODUCTION**

On January 25, 2005, the City Council continued agenda item number 333, Street Vacation of Sorrento Valley Road, and directed staff to respond to two questions: (1) whether the Metropolitan Transportation Development Board [MTDB] or the San Diego Association of Governments [SANDAG] is interested in an excess portion of the right-of-way easement for a park-and-ride; and (2) whether a park-and-ride facility would be a legal use of the right-of-way easement. The City Manager will respond separately to the first question. This report addresses the second question.

### **DISCUSSION**

Through a subdivision map recorded July 31, 1974, the Torrey Knolls Land Company granted the City an easement for Sorrento Valley Road. The precise language of the grant is: "We hereby dedicate to public use Sorrento Valley Road." Sorrento Valley Road is currently situated on the easement and is used as a public street. Part of the easement, however, along the southern portion of Lot 13, is currently unpaved. In this area, the easement widens creating an unpaved area measuring approximately 300 feet by 60 feet.<sup>1</sup> The adjacent property owner has requested that the City vacate the unpaved portion of the easement. Prior to the vacation, discussion by the public, and later at the hearing by City Council, focused on the possible future use of the easement as a park-and-ride.

A park-and-ride lot is a permissible use on the public right-of-way easement if it does not materially increase the burden of the use and is consistent with its grant. *Wall v. Rudolph*, 198 Cal. App. 2d 684, 693 (1961). This burden is based on all perceived burden within the scope of the grant, not just the current burden. For example, if the dedication for public right-of-way was at such a time when its use was only that of a "country road," and fifty years later a four way thoroughfare was built, the new road would still be within the indicated burden granted by the

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<sup>1</sup> A diagram of the easement area is located on page 3 of the Torrey Knolls Park map #7991, which is attached to vacation resolution.

easement. “In other words, the dedicator is presumed to have intended the property to be used in such way by the public as will be most convenient and comfortable, and according to not only the proprieties and usages known at the time of dedication, but also to those justified by lapse of time and change of conditions.” *Wattson v. Eldridge*, 207 Cal. 314, 320 (1929).

When easement language is general in nature it favors the grantee. Cal. Civ. Code. § 1069. Grants for “public use” and “road” purposes like that for Sorrento Valley Road, are generally interpreted broadly in favor of the municipality receiving the grant. *Wall* at 692-93. Easements created for “road purposes” are broad in scope and create a general right-of-way which allows the easement to be used for all reasonable purposes. *Wall* at 692 quoting *Laux v. Freed*, 53 Cal. 2d 512 (1960). As changes in travel conditions arise, a city has the right to adapt and appropriate the public right-of-way from time to time to such uses as in its judgment will be the most conducive to the public good. *Mancino v. Santa Clara County Flood Control and Water District*, 272 Cal. App. 2d 678 (1969).

In *Norris v. State of California ex rel. Department of Public Works*, 261 Cal. App. 2d 41 (1968), a landowner dedicated a portion of her land to the state as an easement for state highway right-of-way. The completed state highway was at such a width that it left a large portion of the granted easement not covered by the improved road. The state decided to place a public rest stop along the highway within its remaining easement. The land owner sued the state claiming inconsistent use of the right-of-way. The court upheld the state’s usage. *Id.* At 49. “‘When land is taken or dedicated for use as a highway, the taking or dedication should be presumed to be not merely for such purposes and uses as were known and customary, at that time, but also for all public purposes, present or prospective . . . and not actually detrimental to the abutting property.’” *Norris*, 261 Cal. App. 2d at 47 quoting 3 Tiffany, Real Property (3<sup>rd</sup> ed.). Also, “‘Where a changed or improved use of the dominant tenement is within the normal and reasonable development of the dominant estate, the resulting changed or increased use of the right-of-way is by and large regarded as reasonable.’” *Norris*, 261 Cal. App. 2d at 49 quoting *Wall*, 198 Cal. App. 2d 684. The court concluded, “A vista point is certainly not an added burden upon the abutting property. *Properly used* a roadside rest is not either.” *Norris*, 261 Cal. App. 2d at 49. (emphasis in original)

As in *Norris*, the development of a park-and-ride on the Sorrento Valley Road easement is a reasonable development for a public use. *Norris* at 47-49. A park-and-ride lot is designed to encourage either car pooling or alternate modes of transportation. The intended public benefit is to reduce traffic congestion on the surface highway and streets. Therefore a park-and-ride lot designed for those limited purposes would not be an inconsistent use of the right-of-way.

**CONCLUSION**

The grant conveying the Sorrento Valley Road easement to the City is a general grant for public use. As such, it is broad enough to support the related public use of a park-and-ride lot.

Respectfully submitted,

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