

(R-93-1788)

RESOLUTION NUMBER R- 281996

ADOPTED ON MAY 18 1993

RESOLUTION AMENDING COUNCIL POLICY NO. 600-15
REGARDING STREET VACATION AND EASEMENT
ABANDONMENTS.

WHEREAS, May 18, 1993, has been declared "Regulatory Relief Day," and

WHEREAS, one purpose of Regulatory Relief Day is to streamline and consolidate where appropriate, the City's land use and environmental regulatory procedures; and

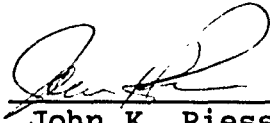
WHEREAS, the Engineering and Development Department has reviewed Council Policy No. 600-15 entitled, "Street Vacations and Easement Abandonments," and has suggested several amendments to the policy; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that Council Policy No. 600-15 entitled, "Street Vacations and Easement Abandonments," be and it is hereby amended as set forth in the Council Policy filed in the office of the City Clerk as Document No. RR- 281996.

BE IT FURTHER RESOLVED, that the City Clerk is hereby instructed to add the aforesaid to the Council Policy Manual.

APPROVED: JOHN W. WITT, City Attorney

By



John K. Riess
Deputy City Attorney

JKR:pev
04/28/93
Or.Dept:E&D
R-93-1788
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CITY OF SAN DIEGO, CALIFORNIA COUNCIL POLICY		FILED <u>MAY 18 1993</u> OFFICE OF THE CITY CLERK SAN DIEGO, CALIFORNIA
SUBJECT STREET VACATIONS AND EASEMENT ABANDONMENTS	POLICY NUMBER 600-15	EFFECTIVE DATE
<p><u>BACKGROUND</u></p> <p>The City receives numerous requests to vacate or abandon various types of right-of-way, and the Council has the authority to vacate or abandon a public right-of-way after finding that it is no longer needed for public use. Such actions must, however, conform to the various legal and procedural requirements set forth in the California Streets and Highways Code, the Government Code and the San Diego Municipal Code. While retention of unusable rights-of-way should be avoided, all proposed vacations or abandonments must be carefully investigated since reacquisition, if the land is needed at a later date, can be difficult and expensive.</p> <p><u>PURPOSE</u></p> <p>It is the purpose of this policy to outline criteria to be used in evaluating the need for existing rights-of-way and public service easements.</p> <p><u>POLICY</u></p> <ol style="list-style-type: none"> 1. It is the policy of the Council to vacate or abandon, in whole or in part, a public right-of-way when there is no present or prospective use for the right-of-way, and such action will serve the public interest. No action will be taken, however, until the following findings can be made: <ol style="list-style-type: none"> a. That there is no present or prospective use for the easement or right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated. b. That the public will benefit from the action through improved utilization of land made possible by the street vacation. c. That the vacation or abandonment is not inconsistent with the General Plan, an approved Community Plan, or the Local Coastal Program. d. That the facility for which the right-of-way was originally acquired will not be detrimentally affected by the street vacation. <p>As a general rule, the Council will not vacate a street adjacent to undeveloped property since a determination of whether the street will ultimately be needed for public use can best be made only when the nature and density of development of the adjacent parcels are known.</p> 2. Staff investigation of street vacation proposals and subsequent considerations of the matter by the Council and the Planning Commission will give particular attention to a determination of whether the right-of-way can be utilized for any other public purpose such as walkways, bicycle paths, access to public open-space areas, transit facilities, utility lines, etc. 3. Upon receipt of a request for a street vacation or easement abandonment, City staff shall review the application in relation to this policy and any other applicable requirements. 		
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4. In some circumstances, the Council may be convinced that the right-of-way in question will never be required for public street purposes but is uncertain whether or not the street area may be needed for utilities at some time in the future. In such cases, the Council may vacate the street and reserve public utility easements, as necessary, over the entire right-of-way, or any portion thereof, as applicable under State law.
5. Where it is determined that a vacation or public service easement is associated with other discretionary actions, such as a tentative map, coastal development permit, or other land development action, the consideration by Council, as well as any recommendation hearing, shall be reviewed and acted upon concurrently in accordance with Municipal Code section 111.0203.
6. Where the street vacation is being processed in accordance with the Subdivision Map Act, the Council will approve a resolution authorizing the street vacation(s) in accordance with appropriate procedures. The Final Map shall specify the resolution which authorizes the street(s) to be vacated under this procedure, and the vacation(s) will become effective upon recordation of the Final Map(s).
7. The City Manager shall make available for distribution appropriate informational material regarding street and easement vacation procedures and fees.

HISTORY

Adopted by Resolution R-209773 01/29/74
 Amended by Resolution R-257331 10/12/82
 Amended by Resolution R-264842 01/13/86
 Amended by Resolution R-270397 02/22/88
 Amended by Resolution R-275710 05/14/90
 Amended by Resolution R-277572 03/25/91
 Amended by Resolution R-

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The City receives numerous requests to vacate or abandon various types of right-of-way, and the Council has the authority to ~~elose~~ vacate or abandon a public right-of-way after finding that it is no longer needed for public use. Such actions, must, however, conform to the various legal and procedural requirements set forth in the California Streets and Highways Code, the Government Code and the San Diego Municipal Code. While retention of unusable rights-of-way should be avoided, all proposed vacations or abandonments must be carefully investigated since reacquisition, if the land is needed at a later date, can be difficult and expensive.

PURPOSE

It is the purpose of this policy to outline criteria to be used in evaluating the need for existing rights-of-way ~~and to establish procedures to be followed in any process to vacate or abandon a right-of-way and consider a possible alternative; i.e., Council approval of an Easement Permit (see Council Policy No. 700-18)~~ and public service easements.

POLICY

1. It is the policy of the council to vacate or abandon, in whole or in part, a public right-of-way when there is no present or prospective use for the right-of-way, and such action will serve the public interest. No action will be taken, however, until the following findings are made:
 - a. That there is no prospective use for the easement or ~~street-dedication~~ right-of-way, either for the facility for which ~~the right-of-way~~ it was originally acquired or for any other public use of a like nature that can be anticipated.
 - b. That the public will benefit from the action through improved utilization of land made possible by the street vacation.
 - c. That the vacation or abandonment is not inconsistent with the General Plan, ~~or~~ an approved Community Plan, or the Local Coastal Program.
 - d. That the ~~public~~ facility for which the right-of-way was originally acquired will not be detrimentally affected by the street vacation.

As a general rule, the Council will not vacate a street adjacent to undeveloped property since a determination of whether the street will ultimately be needed for public ~~street purposes~~ use can best be made only when the nature and density of development of the adjacent parcels ~~adjacent to the street~~ are known.

2. Staff investigation of street vacation proposals and subsequent considerations of the matter by the Council and the Planning Commission or the ~~Subdivision Board~~ will give particular attention to a determination of whether the right-of-way can be utilized for any other public ~~street~~ purpose such as walkways, bicycle paths, access to public open-space areas, transit facilities, utility lines, etc.

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~~3. Street vacations will be considered by the Council only after a recommendation has been submitted on the proposal by the Planning Commission or the Subdivision Board in the following cases:~~

~~a. The complete closing of any full-width section of any improved or unimproved street or alley;~~

~~b. The closing of any portion of an arterial, collector, or local street shown on the General Plan, an adopted Community Plan, or the Local Coastal Program;~~

~~c. Any other street vacation when the applicant files an appeal from an administrative decision or negative response from a recognized Community Planning Committee or Board not to proceed with presentation of the proposal to the City Council.~~

~~Where such street vacations are directly related to subdivision maps, the consideration prior to Council action shall be at the same time and by the same body considering the Tentative Map.~~

~~4. Street vacation and easement abandonment proceedings may be initiated in any one of three ways: (1) by written petition submitted to the City; (2) by submission of a tentative subdivision map requiring the vacation; or (3) or a City department upon approval by the City Manager. Costs incurred in processing the vacation shall be paid by the applicant in accordance with the schedule authorized in the Municipal Code.~~

5.3. Upon receipt of a request for a street vacation or easement abandonment, City staff shall review the application in relation to this policy and any other applicable requirements, and staff shall develop a recommendation regarding the proposal which shall include input from the Council-designated Community Planning Committee or Board where the right-of-way is located. If a staff review results in a negative recommendation and is thus denied, the applicant is to be notified in writing. The applicant may, by written communication to the City, indicate his/her desire to appeal the decision; whereupon, processing of the application will be resumed. Any unfavorable recommendation from the Subdivision Board or Planning Commission shall constitute a denial, and no vacation proposal shall be presented to Council unless the applicant files a request to resume processing the application.

~~6. The applicant for a street vacation or easement abandonment shall complete an Environmental Assessment of the impacts of the street vacation or abandonment for review by the Planning Department. Prior to scheduling the consideration of a proposed vacation before a Community Planning Committee or Board, the Subdivision Board, the Planning Commission, or the City Council, an environmental document shall be finalized (Negative Declaration or Environmental Impact Reports), or an Exemption obtained from the Planning Department. The applicant shall pay City costs associated with preparation and processing of the appropriate environmental document in accordance with the schedule established under the provisions of the Municipal Code.~~

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~~7. Within the Coastal Zone, the applicant for a street vacation shall complete a Coastal Development Permit application for review by the Planning Department. The proposed street vacation shall be considered concurrently with the Coastal Development Permit. The Planning Director and the City Engineer shall coordinate such action so that they may be presented to the Planning Commission for a recommendation. The applicant shall pay City costs associated with the processing of the Coastal Development Permit in accordance with the scheduled established under the provisions of the Municipal Code.~~

8.4. In some circumstances, the Council may be convinced that the right-of-way in question will never be required for public street purposes but is uncertain whether or not the street area may be needed for utilities at some time in the future. In such cases, the Council may vacate the street and reserve public utility easements, as necessary, over the entire right-of-way, or any portion thereof, as applicable under State law.

9.5. Where it is determined that a vacation or public service easement is associated with other discretionary actions, such as a tentative map, coastal development permit, or other land development action, the consideration by Council, as well as any recommendation hearing, shall be reviewed and acted upon concurrently in accordance with Municipal Code section 111.0203. ~~to be considered by the Planning Commission or City Council, the Planning Director and City Engineer shall request, and the applicant shall provide, a description of that proposed use of the property, including landscaping, fencing, and structural improvements.~~

~~10. In all street vacation actions, a posted and mailed notice shall be accomplished prior to the hearings. The mailed notice will be sent to all property owners within 300 feet of the section of street to be vacated. Such mailing and posting will be in addition to the published notice required by law.~~

~~11. Under specified circumstances, a summary street vacation is authorized by State law; wherein, the vacation may be approved by resolution on the Adoption Agenda of the Council. This procedure may be used for a street vacation or easement abandonment if any of the following conditions are found to exist:~~

~~a. The street, or portion of street, is excess right-of-way and is not required for street purposes.~~

~~b. The street lies within and terminates in property under one common ownership and does not continue through or touch another property.~~

~~c. The offer of right-of-way is secured as a Reservation for Future Street.~~

~~d. Within the last five years, the street has been impassable to vehicular traffic, and no public money has been expended for maintenance.~~

~~e. The street is intercepted by a State Highway, and an agreement has been entered into to exclude it from the State Freeway System.~~

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~~f. The easement has not been used for the purpose acquired for the last five years or, if the easement is less than five years old but more than one, has never been used.~~

~~12.6. Where the street vacations is being processed in accordance with the Subdivision Map Act, have been initiated by the submission of a Tentative Map, the street vacation procedures shall follow those established in the Subdivision Map Act or the Streets and Highway Code. Under this procedure, the Subdivision Board shall not act on the Tentative Map but shall forward it with recommendations directly to the City Council for concurrent actions on both the Tentative Map and street vacation. After a public hearing and upon approval of the Tentative Map, the Council will approve a resolution authorizing the street vacation(s) in accordance with appropriate procedures. The Final Map shall specify the resolution which authorizes the street(s) to be vacated under this procedure, and the vacation(s) will become effective upon recordation of the Final Map(s).~~

~~13.7. The City Manager shall make available for distribution appropriate informational material regarding street and easement vacation procedures and fees.~~

HISTORY

Adopted by Resolution No. R-209773 01/29/74
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SAN DIEGO, CALIF.

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Passed and adopted by the Council of The City of San Diego on MAY 18 1993
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

SUSAN GOLDING
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By *Linda Ferguson*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number R-281996 Adopted MAY 18 1993

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