

1/8/07

RESOLUTION NUMBER R- 302251  
DATE OF FINAL PASSAGE JAN - 8 2007

WHEREAS, San Diego Community College District desires to develop a portion of Mesa College Drive west of Armstrong Street, which is described on Exhibit "B," and shown on Drawing No. 20322 [Portion of Right-of-Way]; and

WHEREAS, the City desires to sell the underlying title to the Portion of Right-of-Way to the San Diego Community College District, and the Community College District desires to purchase such Portion of Right-of-Way; and

WHEREAS, prior to any sale of such Portion of Right-of-Way, the City must vacate the Portion of Right-of-Way; and

WHEREAS, pursuant to California Streets and Highways Code section 8334, the legislative body of a local agency may summarily vacate any of the following an excess right-of-way of a street or highway not required for street or highway purposes or a portion of a street; and

WHEREAS, San Diego Municipal Code section 125.0910(b)(1), provides that the City Council may summarily vacate public right-of-way if it does not contain public utility facilities or contains public utility facilities that would not be affected by the vacation, and if the public right-of-way, or portion of the public right-of-way, is excess public right-of-way and is not required for street or highway purposes; and

WHEREAS, San Diego Municipal Code section 125.0910(c) provides that public utility facilities within the public right-of-way shall be deemed unaffected by the vacation if they are to

be relocated with no impact on service or if an appropriate easement is reserved from the vacation to provide for the continued use and maintenance of the public utility facility; and

WHEREAS, the portion of Mesa College Drive west of Armstrong Street as described on Exhibit "B," and shown on Drawing No. 20322 is excess right-of-way; and

WHEREAS, though there are public utilities within the right-of-way, they shall not be affected by the vacation; and

WHEREAS, the portion of a 21-inch storm drain to be abandoned will be relocated and a drainage easement reserved as identified on Exhibit "B," Drawing No. 20322; and

WHEREAS, the other public utility facilities, those of San Diego Gas & Electric and Pacific Bell, shall be relocated. Additionally, the San Diego Community College District shall grant San Diego Gas & Electric and Pacific Bell Telephone Company a private easement for the facilities within that portion of Mesa College Drive to be vacated as shown on Exhibit "B" [Private Easement]; and

WHEREAS, this vacation is contingent upon the Council's approval of said land sale to the San Diego Community College District and the execution of the private easement to San Diego Gas & Electric and Pacific Bell Telephone referred to above [Execution of Private Easement]; and.

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implication due process rights to individuals affected by the decision and were the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, that the resolution shall not become effective unless and until the Private Easement between the San Diego Community College District and San Diego Gas & Electric and Pacific Bell Telephone has been executed and the sale of the Portion of the Right-of-Way has been approved by City Council.

BE IT RESOLVED, by the Council of the City of San Diego, that the Council finds that certain portion of Mesa College Drive (formerly Artillery Drive), dedicated per deed recorded 12/19/1961 as F/P 218882, Series 2, BK. 1961 O.R. 12-19-61 is ordered vacated, reserving therefrom an easement for drainage and appurtenances.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Public Right-of-Way Vacation No. 180372:

**1. There is no present or prospective public use for the public 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.** The proposed right-of-way vacation will allow for the reasonable development of the project while maintaining or improving the level of access to the campus and improving parking in the surrounding communities of Clairemont Mesa and Linda Vista. The right-of-way vacation plan is described in detail on the project maps on file with the City. In addition, to the extent any temporary private easements within the project area exist, they will also be relocated and quitclaimed prior to construction of the project.

In addition, the area proposed for vacation (Mesa College Drive, west of Armstrong Street) only provides access to Mesa College, and a minimal number of public on-street parking spaces. The Clairemont Mesa and Linda Vista Community Plans were amended in 1999 to eliminate the extension of Mesa College Drive between Genesee Avenue and its western terminus. The Council Resolution deleting the extension also requested further studies for a dedicated entrance to Mesa College with the objective of better circulation and directed City staff to work with Mesa College and the community in that regard. The proposed new entry way will provide the dedicated entrance and better circulation. Therefore, there is no present or prospective use for the existing public right-of-way, either for the facility for which it was originally acquired for or any other public use or a like nature that can be anticipated that requires it to remain.

**2. The public will benefit from the action through improved use of the land made available by the vacation.** The action of vacating the right-of-way will benefit the public because it makes possible the proposed project, which provides several significant public benefits to the City of San Diego and its residents. The land made available by the right-of-way vacation will be improved to provide additional parking capacity needed by the campus thus

relieving pressure on the surrounding community, will provide a dedicated entrance to the Mesa College Campus and will provide for better circulation.

Therefore, the public will benefit greatly from the use of the vacated right-of-way area that makes the project possible.

**3. The vacation does not adversely affect any applicable land use plan.** The proposed vacation of Mesa College Drive right-of-way will allow the construction of a parking structure and a new east entry in accordance with the adopted Mesa College Facilities Master Plan.

The existing Mesa College campus and a major portion of the proposed campus expansion are located within the Clairemont Mesa Community Plan, which was adopted in 1989 and amended in January 1999. A portion of the campus expansion is also located within the Linda Vista Community Plan, which was adopted in 1998 and amended in January 1999.

The Clairemont Mesa Community Plan Map (Figure 40, page 133) designates the site as "School." The Plan also recommends that the Mesa College Master Plan incorporate the following:

As student enrollment increases, the Mesa College Master Plan should consider the development of parking structures in order to alleviate future on-street parking problems in adjacent neighborhoods. (page 109)

The San Diego Community College District concurred, and on June 9, 2005, the Board of Trustees approved a Mesa College Facilities Master Plan that included the development of a parking structure as part of Phase I. The proposed actions by the City of San Diego will allow the development of a parking structure as recommended by the adopted Clairemont Mesa Community Plan. Proposed actions will also allow the development of a proposed new east entry from Mesa College Drive as recommended by the adopted Facilities Master Plan.

Both the proposed new east entry and parking structure are located partially within the existing street right-of-way for Mesa College and on land which was originally intended to accommodate the future extension of Mesa College Drive from its western terminus to Genesee Avenue. On January 19, 1999, by Resolution No. R-291206 the City Council approved the deletion of the extension of Mesa College Drive as a project from the Linda Vista Community Plan and amended the Clairemont Mesa Community Plan and City of San Diego Progress Guide and General Plan to reflect the deletion of the extension of Mesa College Drive. The Council also requested further studies for a dedicated entrance to Mesa College with the objective for better circulation and directed City staff to work with Mesa College and the community in that regard.

The Progress Guide and General Plan Map, as revised in April, 1992, designates the existing Mesa College as "Colleges and Universities." As stated above, Mesa College Drive was deleted from the Progress Guide and General Plan in 1999.

The Linda Vista Community Plan does not provide any specific recommendations regarding the use of the right-of-way that had been intended for the extension of Mesa College

Drive from its current terminus to Genesee Avenue. Therefore, the proposal does not adversely affect the goals, objectives, and recommendations in the Linda Vista Community Plan.

Additionally, the proposed project has been designed to be consistent with the City's Progress Guide and General Plan.

**4. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.** The proposed public right-of-way vacation will allow for the reasonable development of the project. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation because the roadway extension was deleted from the Clairemont Mesa and Linda Vista Community Plans and the City's Progress Guide and General Plan, which is the purpose for which the right-of-way was originally acquired. Providing reasonable public access to the campus in the Clairemont Mesa Community Planning Area will continue under the proposed right-of-way vacation plan for the same reasons discussed in the finding above.

In lieu of a public right-of-way west of Armstrong Street, a private street will provide access to Mesa College. Therefore, the public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that this activity is covered under Mesa College East Entry and Parking Garage Mitigated Negative Declaration State Clearing House No. 2005121106, dated March 3, 2006, certified by the San Diego Community College District and revised on June 28, 2006 and September 1, 2006. The activity is adequately addressed in the Mitigated Negative Declaration and there is no change in circumstance, additional information, or project changes to warrant additional environmental review.

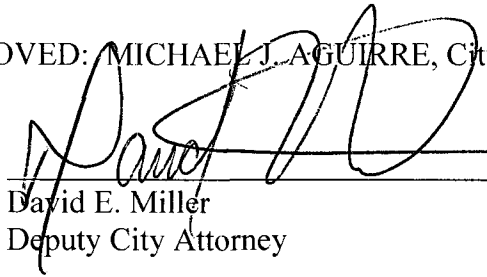
BE IT FURTHER RESOLVED, that this document shall not be recorded unless and until the City Council approves the sale of the Portion of Right-of-Way and the Private Easement has been executed.

BE IT FURTHER RESOLVED, that following receipt of a certified copy, attested to under seal by the authorized representative of the San Diego Community College District, of the Executed Private Easement, the Development Project Manager at Development Services shall deliver such copy to the City Clerk, who shall, upon receipt of such document, cause a certified

Copy of the resolution, with attached exhibits, including the Executed Private Easement, to be recorded with the office of the County Recorder.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
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David E. Miller  
Deputy City Attorney

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