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12/16/14

(R-2015-274)

RESOLUTION NUMBER R- 309443

DATE OF FINAL PASSAGE DEC 16 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING PUBLIC RIGHT-OF-WAY VACATION NO. 1195717 (PROJECT NO. 339219).

WHEREAS, California Streets and Highways Code section 8320 *et seq.* and San Diego Municipal Code section 125.0901 *et seq.* provide a procedure for the vacation of public rights-of-way by City Council resolution; and

WHEREAS, Brown Field Technology Park, LLC, applicant/owner, proposes to vacate two segments of unimproved Public Rights-of-Way on Parcel Lots 8 and 11 of the Brown Field Technology Park, Public Right-of-Way Vacation No. 1195717, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 37783-B marked as Exhibit "B"; and

WHEREAS, the 1981 Otay Mesa Community Plan (Community Plan) designated Continental Street as a two-lane collector street connecting Otay Mesa Road to Airway Road; and

WHEREAS, subsequent to the adoption of the Community Plan, Caltrans constructed SR-905, intercepting Continental Street; and

WHEREAS, Continental Street is not a designated access location in the SR-905 Freeway agreement between the City and Caltrans; and

WHEREAS, Continental Street is currently an undeveloped public right-of-way intersected by SR-905; and

WHEREAS, the City adopted the Otay Mesa Community Plan Update (Update) on March 11, 2014, removing Continental Street from the Circulation Map of the Plan's Transportation Element; and

WHEREAS, abutting property owners to the proposed street vacation will continue to obtain public street access on remaining portions of Continental Street, Camino Maquiladora, or Colchester Court for current needs and any future development; and

WHEREAS, abutting property owners will regain full use of their underlying fee-owned properties with approval of the street vacation; and

WHEREAS, the proposed street vacation will relieve the City of ongoing and future maintenance costs and would transfer future liability to the fee-interest property owners; and

WHEREAS, on March 19, 2014, the Otay Mesa Planning Group voted 11-0-1 to recommend approval of the proposed street vacation with no additional conditions; and

WHEREAS, on July 18, 2014, the City, as Lead Agency, through Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) under CEQA Guidelines section 15305 (Minor Alterations in Land Use Limitation); and there was no appeal of the Environmental Determination filed within the time provided by San Diego Municipal Code section 112.0520; 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, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on December 9, 2014, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that with respect to Public Right-of-Way Vacation No. 1195717, that portion of Continental Street north of Colchester Court and that portion of Continental Street south of Camino Maquiladora, as more particularly described in Exhibit "A" and shown on Drawing No. 37783-B marked as Exhibit "B," which exhibits are attached hereto and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, the City Council finds that:

(a) There is no present or prospective use for the public right-of-way, either for the facility for which originally acquired, or for any other public use of a like nature that can be anticipated.

The previous Community Plan, adopted in 1981, designated Continental Street as a two lane collector street connecting Otay Mesa Road to Airway Road. Subsequent to the adoption of the Community Plan, Caltrans constructed SR-905, intercepting Continental Street. With the adoption of the Update on March 11, 2014, the City removed Continental Street from the Circulation Map of the Transportation Element. The adjacent developments will continue to obtain public street access on remaining portions of Continental Street, Camino Maquiladora, or Colchester Court. The adjoining property owners have reviewed the street vacation and have confirmed that the street vacation is consistent with their existing or proposed development projects. Therefore, based on the freeway construction, the adopted Otay Mesa Community Plan Update, and the development plans of adjoining property owners, there is no present or

prospective use for the public right of way, either for the facility for which originally acquired, or for any other public use of a like nature that can be anticipated.

(b) The public will benefit from the action through improved use of the land made available by the vacation.

The land made available by the right-of-way vacation will improve development of the adjoining parcels consistent with the Community Plan Update. Land formerly set aside for public street right-of-way can now be utilized for industrial, business park and multi-family uses as identified in the Community Plan. Dead end streets that are not utilized tend to become locations where trash is dumped and result in maintenance issues for City's Street Division or private landowners. Eliminating the dead end portions of Continental Street will eliminate the potential that this currently unimproved street will be utilized as a trash dump site resulting in less maintenance issues for the City's Street Division. The City will be relieved of future liability and maintenance costs for this unimproved public right-of-way. The owner/applicant will be required as a condition of the street vacation to construct curb, gutter and contiguous sidewalk improvements at the north and south end of Continental Street. Therefore, the public will benefit from the action through improved use of the land made available by the vacation.

(c) The vacation does not adversely affect any applicable land use plan.

With the adoption of the Otay Mesa Community Plan Update on March 11, 2014, Continental Street was removed from the Circulation Map of the Transportation Element of the 1981 Otay Mesa Community Plan. Continental Street is not a designated access location in the SR-905 Freeway agreement between the City of San Diego and Caltrans. The street vacation will facilitate more efficient use of the property consistent with the currently adopted land use plans. Therefore, the vacation does not adversely affect any applicable land use plan.

(d) The public facility for which the right-of-way was originally acquired will not be detrimentally affected by the vacation.

The project proposes a public street right-of-way vacation for portions of Continental Street north and south of the SR-905 Freeway. The previous Otay Mesa Community Plan, adopted in 1981, designated Continental Street as a two lane collector street connecting Otay Mesa Road to Airway Road. Subsequent to the adoption of the Otay Mesa Community Plan, Caltrans constructed SR-905, intercepting Continental Street. With the adoption of the Otay Mesa Community Plan Update on March 11, 2014, Continental Street was removed from the Circulation Map of the Transportation Element. The public right-of-way does not contain constructed improvements and is no longer necessary after the construction of the SR-905 Freeway. Abutting property owners will continue to have public street access on remaining portions of Continental Street, Camino Maquiladora, or Colchester Court for any future development. The owner/applicant will be required as a condition of this street vacation to record a mutual access agreement between parcels 646-101-45 and 646-101-78. 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 Continental Street, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 37783-B, marked as Exhibit "B," which said drawing is attached hereto and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that said street vacation is conditioned upon the following:

1. The Owner/Applicant shall construct curb, gutter and contiguous sidewalk at the south end of Continental Street in line with Camino Maquiladora and construct a 30 feet wide temporary driveway to the west, satisfactory to the City Engineer;
2. The Owner/Applicant shall construct curb, gutter and contiguous sidewalk at the north end of Continental Street in line with the north curb line of Colchester Court and construct a 30 feet wide temporary driveway to the west, satisfactory to the City Engineer; and
3. The Owner/Applicant shall record a mutual access agreement between parcels 646-101-45 and 646-101-78.

These improvements and agreements shall be completed and accepted by the City Engineer prior to the recordation of any street vacation. In the event this condition is not completed within three years following the adoption of this Resolution, then this Resolution shall become void and be of no further force or effect.

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this Resolution with attached exhibits, attested by the City Clerk under seal, in the office of the County Recorder.

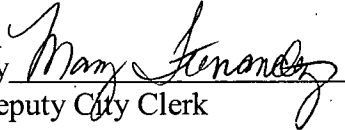
APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Jenny K. Goodman
Deputy City Attorney

JKG:mfc
11/18/2014
Or.Dept: Dev. Services Dept.
Drawing No.: 37783-B

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of **DEC 16 2014**

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Passed by the Council of The City of San Diego on DEC 16 2014, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 16 2014

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

(Seal)

By *Mary L. ...*, Deputy

Office of the City Clerk, San Diego, California

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