



COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

GREG COX
First District

DIANNE JACOB
Second District

KRISTIN GASPAR
Third District

NATHAN FLETCHER
Fourth District

JIM DESMOND
Fifth District

DATE: October 16, 2019

03

TO: Board of Supervisors

SUBJECT

GENERAL SERVICES - ADOPT A RESOLUTION OF THE BOARD OF SUPERVISORS TO SUMMARILY VACATE PORTIONS OF OTAY MESA ROAD AND ENRICO FERMI DRIVE, ALL OF MICHAEL FARADAY DRIVE AND ROLL COMMERCE DRIVE, AND ALL OF AN EASEMENT FOR HIGHWAY EMBANKMENT SLOPES FOR OTAY MESA ROAD, IN THE EAST OTAY MESA AREA (VACATION NO. 2018-0290) (DISTRICT: 1)

OVERVIEW

The Department of General Services, Real Estate Services Division is processing a request to summarily vacate the offers of dedication (ODs) made on Map No. 16097 for portions of Otay Mesa Road and Enrico Fermi Drive, and all of Roll Commerce Drive and Michael Faraday Drive, and to vacate all of an easement for embankment slopes along the south side of Otay Mesa Road. The ODs and the easement for embankment slopes are all located in the unincorporated East Otay Mesa area of the County and are within the Otay Community Plan Area. A summary vacation of public service easements and roads, or in this case, offers to dedicate roads, may be requested by the public if the road or public service easement is found to be excess right of way not required for road or public service purposes. In many cases the road and public service easement vacation can be a public benefit through improved use of the land made available by the vacation.

Today's request is to approve and adopt a resolution to summarily vacate these ODs made on Map No. 16097 and to vacate the public service easement for embankment slopes in its entirety. The roads within the ODs have not been constructed. They are not part of a General Plan Mobility Element (ME) roadway, and the right-of-way has not been used for the installation of any facilities by a utility with franchise rights to use public streets. No property owner will be land-locked as a result of the proposed vacations. Therefore, these ODs and public service easement may be found to be excess and summarily vacated in accordance with California Streets and Highways Code sections 8334 and 8333 respectively.

RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the environmental impact report (EIR) dated July 27, 1994 on file with the Department of Planning and Development Services as Environmental Review Log

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Number 93-19-6 was completed in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines and that the Director has reviewed and considered the information contained therein and the Addendum thereto dated January 18, 2019 on file with the Department of Planning and Development Services as Environmental Review Number PDS2018-ER-93-19-006ZZH before approving the project; and

Find that there are no changes in the project or in the circumstances under which the project is undertaken that involve significant new environmental impacts that were not considered in the previously certified EIR dated July 27, 1994, that there is no substantial increase in the severity of previously identified significant effects, and that no new information of substantial importance has become available since the EIR was certified as explained in the Environmental Review Update Checklist dated January 18, 2019.

2. Approve and adopt the attached Resolution entitled: **RESOLUTION OF THE BOARD OF SUPERVISORS TO SUMMARILY VACATE PORTIONS OF OTAY MESA ROAD AND ENRICO FERMI DRIVE, ALL OF MICHAEL FARADAY DRIVE AND ROLL COMMERCE DRIVE, AND ALL OF AN EASEMENT FOR EMBANKMENT SLOPES FOR OTAY MESA ROAD, IN THE EAST OTAY MESA AREA (VACATION NO. 2018-0290).**
3. Direct the Clerk of the Board to record the Resolution pursuant to California Streets and Highways Code section 8336.

FISCAL IMPACT

Funds for this request are included in the Fiscal Year 2019-20 Operational Plan in the Department of General Services. If approved, this request will result in estimated costs and revenue of \$3,500 to process the proposed vacation. The funding source is a deposit from the applicant. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

The owner of Map No. 16097 recorded by the County Recorder on March 9, 2016 as File No. 2016-700089 (Map) has requested a summary vacation of the offers of dedication (ODs) made and accepted on the Map, subject to improvement, and an easement for highway embankment slopes for Otay Mesa Road that encumbers a portion of the Map.

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The portions of Otay Mesa Road and Enrico Fermi Drive offered in the Map can be considered excess right-of-way because they have been rededicated to their ultimate width by an Easement for County Highway document recorded by the County Recorder on September 6, 2019 as Document No. 2019-0386166. Therefore, only the offered portions of Otay Mesa Road and Enrico Fermi Drive that extend beyond the rededicated limits that provide connectivity to Roll Commerce Drive and Enrico Fermi Drive are being summarily vacated by this action. Although Otay Mesa Road and Enrico Fermi Drive are both County-maintained roads and part of the General Plan Mobility Element (ME) roadway, these excess portions of both roads being summarily vacated are not part of the ME or the maintenance area.

The Roll Commerce Drive and Michael Faraday Drive offers in the Map can be considered excess right-of-way because County of San Diego Tract Map No. 5394-1, according to the Map, has been approved to be consolidated to one lot by the Certificate of Compliance (CofC) recorded by the County Recorder on September 13, 2019 as Document No. 2019-0399884. This consolidation eliminates the necessity of Roll Commerce Drive and Michael Faraday Drive and will be perfected when the Amended Map of County of San Diego Tract No. 5394-1 (Amended Map) is recorded. Roll Commerce Drive and Michael Faraday Drive ODs are not ME roadways and they have not been accepted by the County because the roads were never built. As a result, they are not County maintained, and there are no existing in-use public facilities that rely on the franchise utility rights associated with an accepted public road right of way, and no property owner would be land-locked as a result of the proposed vacation due to the consolidation of the Map. For this reason, the excess road right-of-way may be summarily vacated pursuant to California Streets and Highways Code section 8334.

The easement for highway embankment slopes, condemned by the County of San Diego in the Final Order of Condemnation, recorded February 26, 1990 by Document No. 1990-0101650, is considered excess because the rededicated Otay Mesa Road and Enrico Fermi Drive also include the slope embankment rights necessary for future expansion and construction of those roads. For this reason, the excess public service easement may be summarily vacated pursuant to California Streets and Highways Code section 8333.

The property subject to these summary vacations is located at the southwest corner of the intersection of Otay Mesa Road and Enrico Fermi Drive and is in the unincorporated East Otay Mesa area of the County and are within the Otay Community Plan Area (Attachment A). All of the requested vacation areas lie entirely within the applicant's property. The summary vacations encompass an area of approximately 6.084 acres (Attachment B).

This request is to take the necessary actions to summarily vacate the ODs pursuant to Public Streets, Highways and Service Easements Vacation Law, California Streets and Highways Code Section 8300, et seq. (Act) that establish procedures where a legislative body may initiate proceedings to summarily vacate a public street, highway or public service easement that is not required for street or highway purposes. The summary vacation of the ODs and public services

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can be completed by Board approval and adoption of the attached RESOLUTION OF THE BOARD OF SUPERVISORS TO SUMMARILY VACATE PORTIONS OF OTAY MESA ROAD AND ENRICO FERMI DRIVE, ALL OF MICHAEL FARADAY DRIVE AND ROLL COMMERCE DRIVE, AND ALL OF AN EASEMENT FOR HIGHWAY EMBANKMENT SLOPES FOR OTAY MESA ROAD, IN THE EAST OTAY MESA AREA (VACATION NO. 2018-0290), attached as Attachment C.

Under the Act, the following findings must be made by the Board to approve the proposed summary vacation:

1. The ODs are considered excess right-of-way of a street or highway not required for street or highway purposes because County of San Diego Tract No. 5394-1, Map No. 16097 has been approved for consolidation into one lot by the CofC, thereby eliminating the need for Roll Commerce Drive and Michael Faraday Drive. The portions of Otay Mesa Road and Enrico Fermi Drive to be summarily vacated can also be considered excess right-of-way because they only provide for connectivity to Roll Commerce Drive and Michael Faraday Drive. Therefore, only the portions of Otay Mesa Road and Enrico Fermi Drive that extend beyond the rededicated limits are being summarily vacated by this action. Although Otay Mesa Road and Enrico Fermi Drive are County-maintained roads and part of the ME roadway, the portions being vacated are not part of that maintenance area. Roll Commerce Drive and Michael Faraday Drives are also not County-maintained and are not a part of the ME roadway. The easement for highway embankment slopes is excess because the rededication of Otay Mesa Road and Enrico Fermi Drive also includes the slope embankment rights necessary for future expansion of those roads. Therefore, the Board may find that the portion of ODs and easement for highway embankment slopes may be summarily vacated pursuant to California Streets and Highways Code sections 8334 and 8333, respectively.
2. Pursuant to California Streets and Highways Code section 8334.5, the Board is required to ensure that the vacation will not affect in-place public utility facilities. There are no in-place public utility facilities in use that would be affected by the proposed vacation.
3. Pursuant to California Streets and Highways Code sections 892 and 8314, consideration of the ODs area for non-motorized transportation use must be reviewed before the vacation can be approved. The County's Department of Parks and Recreation has determined that the OD areas to be summarily vacated are not needed for trail purposes because there are no community adopted trails or pathways planned for this area in the Community Trails Master Plan.
4. Pursuant to California Streets and Highways Code section 8313 and California Government Code section 65402, the Board shall consider the General Plan prior to vacating a right-of-way. Staff from the County's Department of Planning & Development Services has reviewed the proposed summary vacation and determined that it is in

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conformance with the San Diego County General Plan because it does not conflict with the General Plan's Mobility Element.

The proposed summary vacation is in the public interest because it will remove encumbrances on private lands no longer needed by the public. The existing surrounding road system will continue to provide adequate access for all properties located near the proposed vacations, the rededicated Otay Mesa Road easement provides adequate slope rights for Otay Mesa Road roadway, and the summary vacation would not preclude future development.

ENVIRONMENTAL STATEMENT

The proposed summary vacations were reviewed as part of the addendum to the East Otay Mesa Business Park Specific Plan EIR Log Number 93-19-6, filed under PDS2018-ER-93-19-006ZZH on January 18, 2019. There are no changes to the project or in the circumstances under which the project is undertaken that involve significant new environmental impacts that were not considered in the previously certified EIR dated July 27, 1994, there is no substantial increase in the severity of the previously identified significant effects, and no new information of substantial importance has become available since the EIR was certified, as explained in the Environmental Review Update Checklist dated January 18, 2019.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

The proposed action supports the Sustainable Environments/Thriving Strategic Initiative in the County of San Diego's 2019-2024 Strategic Plan by promoting opportunities for residents to engage in finding solutions to current and future challenges. The proposed action will summarily vacate a public service easement and ODs that are excess to the County's needs.

Respectfully submitted,



SARAH E. AGHASSI
Deputy Chief Administrative Officer

ATTACHMENT(S)

Attachment A - Vicinity Map

Attachment B - Vacation Exhibit

Attachment C - RESOLUTION OF THE BOARD OF SUPERVISORS TO SUMMARILY VACATE PORTIONS OF OTAY MESA ROAD. AND ENRICO FERMI DRIVE, ALL OF MICHAEL FARADAY DRIVE AND ROLL COMMERCE DRIVE, AND ALL OF AN EASEMENT FOR HIGHWAY EMBANKMENT SLOPES FOR OTAY MESA ROAD, IN THE EAST OTAY MESA AREA (VACATION NO. 2018-0290) (DISTRICT: 1), including Exhibits "A" and "B".

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: ☐ Yes ☒ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED

☐ Yes ☒ No

PREVIOUS RELEVANT BOARD ACTIONS:

N/A

BOARD POLICIES APPLICABLE:

I-30, Minor Street Acquisitions, Vacations or Abandonments

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

Pursuant to California Government Code section 65402, the County's Department of Planning & Development Services finds that the proposed street vacation is consistent with the County of San Diego General Plan.

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):

N/A

ORIGINATING DEPARTMENT: Department of General Services

OTHER CONCURRENCE(S): Department of Public Works
Planning & Development Services
Department of Parks and Recreation

CONTACT PERSON(S):

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