



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: General Services/Public Works
Department No.: 063/054
For Agenda Of: November 17, 2015
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Matthew P. Pontes, General Services 560-1011
Directors: Scott McGolpin, Public Works 568-3010
Contact Info: Greg Chanis, Assistant Director of General Services 568-3096
Chris Sneddon, Assistant Director of Public Works 568-3005
SUBJECT: Proposed Vacation of North-South Segment of Miramar Avenue Right-of-Way, Santa Barbara; First Supervisorial District (Real Property File # 3558)

County Counsel Concurrence

As to form: Yes

Other Concurrence: NA

As to form:

Auditor-Controller Concurrence

As to form: NA

Recommended Actions: That the Board of Supervisors:

- A) Adopt the attached Resolution and Notice of Intent to Vacate a County Road declaring the County's intent to vacate the North-South segment of Miramar Avenue associated with the Miramar Hotel and Bungalow Project, and setting the date of December 8, 2015, on the Board's Administrative Agenda for final Board action to approve the vacation of such portion of Miramar Avenue;
- B) Authorize the Director of Public Works, or designee, to accept on behalf of the Board of Supervisors the dedication of public access easements for roadway purposes abutting the Miramar Hotel and Bungalow Project site, as set forth under New Condition of Approval No. 88, Special Condition DVP-1, found on Page 2-56 of the Conditions of Approval found in "Attachment 2 – Updated Conditions" to the April 14, 2015, Board of Supervisors Agenda Letter (Clerk of the Board File # 15-00258);
- C) Authorize the Director of General Services, or designee, to accept on behalf of the Board of Supervisors the dedication of public access easements for pedestrian walkways through the Miramar Hotel and Bungalow Project site, as set forth under New Condition of Approval No. 88, Special Condition DVP-1, found on Page 2-56 of the Conditions of Approval found in "Attachment 2 – Updated Conditions" to the April 14, 2015, Board of Supervisors Agenda Letter (Clerk of the Board File # 15-00258); and

- D) Find that pursuant to the California Environmental Quality Act (CEQA) 14 CCR Section 15162, no new effects will occur and no new mitigation measures would be required as a result of the recommended actions because there are no substantial changes proposed, no substantial changes in circumstances, and no new information of substantial importance regarding environmental effects of the project or of the sufficiency or feasibility of mitigation measures, and therefore the recommended actions are within the scope of the Miramar Hotel and Bungalow Project covered by the March 24, 2015 Addendum together with the previously certified Environmental Impact Report [08EIR-00000-00003], the previously adopted Mitigated Negative Declaration [00-ND-003] and the previous Addenda dated December 9, 2008 and March 11, 2011, pursuant to the Board's approval of the Miramar Hotel and Bungalow Project and CEQA findings on April 14, 2015 (Clerk of the Board File # 15-00258).

Summary Text:

The vacation by the County of the subject North-South portion of Miramar Avenue (the "Portion") has been an integral part of the Miramar Hotel and Bungalow Project (the "Project") since its inception. The recommended actions are in conformity with the Project approved by the Board of Supervisors and fulfill the intentions of the Board of Supervisors to vacate the Portion as contemplated in the Board's approval of the Project and the CEQA Findings on April 14, 2015.

Background:

The application to vacate the Portion was submitted to the County's Real Property Division on May 2, 2007. The vacation of the Portion has been considered in the Project Description at every step of the permitting process. As such, the vacation of the Portion and its impacts has been carefully considered by both the Montecito Planning Commission and the Board of Supervisors.

The Portion is located between Assessor Parcel Numbers 009-333-010 and 009-371-004 (herein the "Property"), and is shown on Exhibit "A" of the Resolution and Notice of Intent to Vacate a County Road (herein the "Notice"). The subject right-of-way is held in easement by the County. No parcels will be landlocked if the vacation is consummated. The Portion is sometimes used for on-street parking which will be mitigated and replaced as part of the new Project design.

The proposed right-of-way vacation will dispose of County road right-of-way by removing the County's easement interest in the Portion. The Portion is approximately 19,962 square feet in size.

Upon approval of the subject Resolution and Notice of Intent to Vacate a County Road, the Board's intention to consummate the proposed vacation of the Portion will be advertised for at least two (2) successive weeks prior to final Board action to consider the adoption of the Order to Vacate the Portion pursuant to Streets and Highways Code Section 8322(a) and Government Code Section 6066. Notice of such final Board action shall also be posted in the vicinity of the Portion for at least two (2) successive weeks in three locations along the Portion pursuant to Government Code Section 8323. The Board shall consider the final Order to Vacate at its meeting of December 8, 2015, which, if approved, shall be recorded and permanently remove the County's interest in the public right-of-way easement over the Portion. The unburdened land will then be integrated into the Project.

All public utility providers were informed of the proposed vacation and asked if they maintain facilities in the Portion. The Montecito Water District has in-place and in-use public utility facilities located within the Portion, an easement for which shall be reserved and excepted from the vacation in the event the County vacates the Portion in accordance with Section 8340(c) of the California Streets and Highways Code.

No County departments objected to the proposed vacation. The Project as a whole, including the vacation of the Portion, was found to be in conformity with the County's Comprehensive Plan in accordance with Government Code Section 65402(a), and with the Montecito Community Plan and the Coastal Land Use Plan, as noted in the CEQA findings discussed below.

Pursuant to the California Environmental Quality Act (CEQA) 14 CCR Section 15162, no new effects will occur and no new mitigation measures would be required as a result of the recommended actions because there are no substantial changes proposed, no substantial changes in circumstances, and no new information of substantial importance regarding environmental effects of the project or of the sufficiency or feasibility of mitigation measures. Therefore the recommended actions are within the scope of the Miramar Hotel and Bungalow Project covered by the March 24, 2015 Addendum together with the previously certified Environmental Impact Report [08EIR-00000-00003], the previously adopted Mitigated Negative Declaration [00-ND-003] and the previous Addenda dated December 9, 2008 and March 11, 2011, pursuant to the Board's approval of the Miramar Hotel and Bungalow Project and CEQA Findings on April 14, 2015 (Clerk of the Board File # 15-00258).

New Condition of Approval No. 88, Special Condition DVP-1, found on Page 2-56 of the Conditions of Approval, which is found in "Attachment 2 – Updated Conditions" to the April 14, 2015, Board of Supervisors Agenda Letter requires that, "Prior to approval of the first follow-on Zoning Clearance for the Project, the abandonment of the North-South segment of Miramar Avenue and dedication of public access easements through the site (as shown on sheet A1.02b of the approved plans) shall be approved by the Board of Supervisors."

As such, the Real Property Division of the General Services Department ***shall not finalize*** the vacation of the Portion by recording the final Order to Vacate until the developer has dedicated, and (1) the Director of Public Works, or designee, has accepted, public access easements for roadway purposes abutting the Project, and (2) the Director of General Services, or designee, has accepted public access easements for pedestrian walkways through the Project. The Real Property Division shall record the public access easements for both roadway and pedestrian walkway purposes concurrently with the final Order to Vacate the Portion.

The developer/property owner ("Owner") of the Project has executed the attached Letter of Agreement to the Board of Supervisors agreeing to the terms of the conveyance of such public access easements to the County in the form of the Easement Deed for Roadway and Easement Deed for Pedestrian Walkways which are attached to the Letter of Agreement.

The Owner shall construct the improvements for both roadway and pedestrian walkway purposes at the Owner's sole cost and expense.

After installation of the roadway improvements, the Public Works Department shall take over responsibility for maintenance of the roadway improvements, including curb, gutter, and public parking improvements along the public streets, as such improvements will be integrated into the existing public roadway improvements currently maintained by the Public Works Department.

Although street lights are public infrastructure, the maintenance is typically performed by the local power company, in this case Southern California Edison (SCE). However, if the Owner elects to install street lighting which is *non-standard* and which SCE will not agree to maintain, the Owner shall be required to enter into a maintenance agreement with SCE for maintenance at Owner's expense.

After installation of the pedestrian walkway improvements through the Project, the Owner shall be responsible for maintenance of such pedestrian walkway improvements at Owner's sole cost and expense in perpetuity. However, in the event the Owner does not maintain such pedestrian walkway improvements, the County reserves the right to maintain the pedestrian walkway improvements *still at Owner's cost*. County shall have the right to bill the Owner for such maintenance costs and require the Owner to post a bond for such costs.

A link to the Board of Supervisor's April 14, 2015, final approval of the Project, including the Board's CEQA findings in "Attachment 1 – Updated Findings," and the final Conditions of Approval found in "Attachment-2 – Updated Conditions," can be found at the following link:

<https://santabarbara.legistar.com/LegislationDetail.aspx?ID=2242749&GUID=F4B4C052-F59D-49B3-9A31-545710EA2252>

Fiscal and Facilities Impacts:

Budgeted: N/A

Narrative:

The applicant paid for the County staff time needed to facilitate this transaction. There are no facilities impacts associated with the proposed actions. Other than paying for staff time, there is no compensation received by the County in exchange for the easement vacated.

Special Instructions:

Clerk of the Board, please distribute as follows:

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|----|----------------------------------|---------------------------------------|
| 1. | Original Resolution of Intent | Clerk of the Board |
| 2. | Copy of the Resolution of Intent | General Services, Attn: Harrison Heyl |
| 3. | Minute Order | General Services, Attn: Harrison Heyl |

The General Services Department's Real Property Division shall publish Notice of Resolution of County's Intent to Vacate a County Road in the *Santa Barbara News-Press* for at least two (2) successive weeks prior to the time fixed for hearing of the Order to Vacate on December 8, 2015. The Real Property Division shall also post notices conspicuously of such hearing along the Portion in accordance with Section 8323 of the Streets and Highways Code.

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Attachments:

1. Resolution of Notice of Intent to Vacate
2. Letter of Agreement

Authored by:

Harrison Heyl, Real Property Agent, General Services – Real Property Division, 568-3024