



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: Public Works
Department No.: 054
For Agenda Of: July 1, 2008
Placement: Administrative
Estimated Tme:
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Scott McGolpin, Director
Director(s) Public Works Department 568-3010
Contact Info: Mike Emmons, County Surveyor 568-3020
Dacé Morgan; Deputy Director Public Works 568-3064
SUBJECT: Acceptance of Easement for Handicap Access, 155 East Clark Avenue, Orcutt
Fourth Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

As to form: N/A

Recommended Actions: Authorize the Chair of the Board to:

- (a) Approve the attached "Notice of Exemption" pursuant to California Environmental Quality Act (CEQA) guidelines regarding the acceptance of an easement for the operation and maintenance of a sidewalk and handicap ramp on a portion of 155 East Clark Avenue in Orcutt; and
- (b) Accept a permanent Easement Deed from Mr. and Mrs. Dias, owners of 155 East Clark Avenue (APN 105-073-008) by authorizing the Clerk of the Board to sign the Certificate of Acceptance attached to the Permanent Easement deed regarding the above referenced sidewalk and handicap ramp.

Summary Text:

Mr. and Mrs. Dias as the owners of 155 East Clark Avenue have received approval to construct a commercial building on that property. The new construction includes a pedestrian sidewalk along a portion of East Clark in front of the building and a handicap ramp to street level. Mr. and Mrs. Dias have offered to dedicate that sidewalk & ramp to the County by way of an Easement Deed. If accepted by the Board of Supervisors and recorded, the easement will memorialize the transfer of rights to the public, and will grant the County the right to maintain the sidewalk and ramp.

Background:

Mr. and Mrs. Dias submitted plans to construct the "Old Town Country Corner," a mixed use building on the corner of Clark Avenue and First Avenue in Orcutt. Those permits should be fully approved in the near future. If your Board accepts the easement, Real Property will hold the original until the final permits have been issued, then deliver the easement for recordation. Mr. and Mrs. Dias are paying for the County staff time required to facilitate the acceptance of the easement to the County. Transportation has approved the acceptance of the easement.

On April 23, 2008, the Planning Commission found the acceptance of the Easement to be in compliance with the County's Comprehensive Plan in accordance with Government Code Section 65402.

Performance Measure: NA

Fiscal and Facilities Impacts: Budgeted: Yes

Fiscal Analysis:

Narrative: Mr. and Mrs. Dias have agreed to transfer the easement to the County free of charge and pay for the County staff time needed to draft all the required documents and facilitate the acceptance and recordation of the easement.

Staffing Impacts:

Legal Positions:

FTEs:

Special Instructions:

- | | |
|---------------------------------------|--|
| 1. Original Notice of Exemption | Clerk of Board Files |
| 2. Copy of the Notice of Exemption | Surveyor's Division, Attn: Jeff Havlik |
| 3. Original Certificate of Acceptance | Surveyor's Division, Attn: Jeff Havlik |
| 4. Copy of Certificate of Acceptance | Clerk of the Board Files |
| 5. Minute Order | Surveyor's Division, Attn: Jeff Havlik |

NOTE: Clerk- Please hold the original acceptance in a secure location for pick up by Real Property staff. Real Property staff will deliver the Easement Deed to the County Recorder's Office for recordation. After recordation, Real Property will return the original recorded Easement to the Clerk of the Board. A copy will be delivered to the Grantors, and copies will be retained by Public Works: Transportation, and Real Property Divisions.

Attachments:

- (a) Notice of Exemption
- (b) Easement Deed

Authored by:

Jeff Havlik, Public Works Department, Surveyor's Division, Real Property Section, 568-3073

cc:

Bret Stewart, Public Works
John McGray, Public Works Maintenance

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

**FROM: Department of Public Works/Engineering Division
(Lead Department/Division)**

Based on a preliminary review of the project the following activity is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970 (Pub. Res. Code Section 21000 et seq.), as defined in the State CEQA Guidelines and County Revised CEQA Guidelines.

APN(s) 105-073-008 Project No. N/A

LOCATION. Adjacent to Parcel 105-073-008

PROJECT TITLE Acceptance of Easement Deed by Santa Barbara County Board of Supervisors

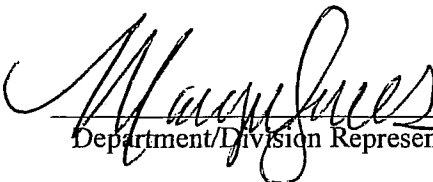
PROJECT DESCRIPTION. A portion of an approved commercial project on the Dias parcel requires a curb cutting for handicapped access onto the Dias property from the County owned road right-of-way. The accepted and recorded Easement shall make the curb cut part of the public road right-of-way and grant the County the required area to maintain the handicap access route onto the Dias property.

EXEMPT STATUS:(Check One)

- Ministerial
- Statutory
- Categorical Exemption
- Emergency Project
- No Possibility of Significant Effect [Sec. 15061 (b,3)].

Cite specific CEQA Guideline Section 15301 (c) Existing Facilities – "...consists of the operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:...(c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety), except where the activity will involve removal of a scenic resource including a stand of trees, a rock outcropping, or an historic building.

Reasons to support exemption findings: The project is repair of existing County maintained road and therefore is contemplated by the CEQA exemption under section 15301. Further, there are no unusual circumstances which would create a possibility that there would be a significant effect. Because this is a public road project outside of the Coastal Zone it has been determined to be exempt from the Land Use Development Permit requirements by ordinance, under Section 35.10.040 G (b) of the Land Use Development Code. The project is for handicap access and is intended to establish ADA compliance from the highway facility as it was constructed.


Department/Division Representative

April 15, 2008
Date

NOTE: A copy must be posted at least 6 days prior to consideration of the activity by the decision-makers to comply with County CEQA guidelines and a copy must be filed with the County Clerk of the Board after project approval to begin a 35 day statute of limitations on legal challenges.

DATE FILE OF COUNTY CLERK

Recording requested by
and to be returned to:
Santa Barbara County Surveyor
Real Property
Will Call

**COUNTY OF SANTA BARBARA
OFFICIAL BUSINESS**

Document entitled to free recordation
Pursuant to Government Code Section 6103

This Deed is not Valid Until Recorded
SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT DEED
(Permanent Easement)

Eric Dias and Lisa A. Dias; owners of all that real property in the unincorporated area of the County of Santa Barbara, State of California, known as Assessor's Parcel No. 105-073-008 in Orcutt, referred to as GRANTOR herein,

FOR A VALUABLE CONSIDERATION, DOES HEREBY GRANT TO

the COUNTY OF SANTA BARBARA, a political subdivision of the State of California, its successors and assigns, as GRANTEE herein, a permanent easement and right of way for the present and future construction, reconstruction, operation, repair, and maintenance of sidewalk and related public improvements for public purposes in such number and size, and with such accessory parts and structures, and with all surface and subsurface appurtenances incidental thereto, as the GRANTEE, or its successors in interest, may from time to time deem necessary to install within the easement, together with the necessary rights of ingress and egress to the easement for the above-referenced purposes, in, on, over, along, under and through that certain land situated in the County of Santa Barbara, State of California, more particularly described on Exhibit "A" and shown on Exhibit "B" attached hereto and incorporated herein by this reference.

GRANTORS and their successors in interest retain the right to use the Easement area except that within the Easement area, no permanent surface improvements, trees, vines, fences or permanent encroachments of any kind can be erected or other use made which would interfere with the use, construction, operation, repair or maintenance of the present or future surface and subsurface rights granted herein. GRANTEE shall have the right to clear or keep clear from the permanent Easement area all buildings, structures and facilities of a permanent nature which interfere with the use of the Easement area at the expense of whoever is responsible for the installation of same. GRANTEE shall have the right but not the obligation to maintain, trim and cut those trees, shrubs, roots, and vegetation, if any, within and above the surface of the Easement area, provided however that GRANTEE shall make the least injury and damage to the surface of the ground and vegetation as is reasonably practical and restore the surface of the ground and vegetation to as near the same condition as it was prior to the above referenced work as is practicable.

GRANTORS shall defend, indemnify, save, and hold harmless GRANTEE, its agents, employees, officers, successors, and assigns from any and all claims, liabilities, demands, costs (including reasonable attorney fees), and causes of action of all kinds with regard to the condition of the easement property which is the subject of this deed, especially contamination by harmful, hazardous and/or toxic materials, if any.

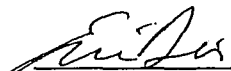
In the event the indemnity hereunder exceeds that permitted by applicable law, such indemnity shall be construed as the maximum permitted by law. This indemnity shall not apply to any contamination which may occur on the easement property as a result of the operations of GRANTEE subsequent to the effective date of this easement.

GRANTORS represent and warrant they are the owners of the Property described herein and that no additional signatures are required to carry out the duties contemplated herein.

This instrument contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force and effect.

This Easement Deed shall be binding on and shall inure to the benefit of the respective heirs, successors and assigns of the parties hereto.

"GRANTORS"



Eric Dias

DATE: May 28, 2008



Lisa V. Dias

DATE: 5/28/08

GRANTOR'S ACKNOWLEDGMENT

State of California
County of SANTA BARBARA

On MAY 28, 2008 before me, KATHY L. KIRKLAND, a
(Name of Notary)

Notary Public, personally appeared ERIC DIAS AND USA A. DIAS, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and Official seal.

Signature: Kathy L. Kirkland (Seal)



+++++

GRANTOR'S ACKNOWLEDGMENT

State of California
County of _____

On _____, 2008 before me, _____, a
(Name of Notary)

Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity (ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and Official seal.

Signature: _____ (Seal)

CERTIFICATE OF ACCEPTANCE
(Portion of APN 105-073-008)

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA: SS. § 27281

THIS IS TO CERTIFY that the interest in real property conveyed by the EASEMENT DEED (PERMANENT EASEMENT) dated May 28, 2008 from ERIC DIAS and LISA V. DIAS to the COUNTY OF SANTA BARBARA, a political subdivision of the State of California, is hereby accepted by Order of the Santa Barbara County Board of Supervisors and the County of Santa Barbara as GRANTEE consents to recordation thereof by its duly authorized officer.

APPROVED AS TO FORM:
DANIEL J. WALLACE
INTERIM COUNTY COUNSEL

By: _____



WITNESS my hand and official seal

This _____ day of _____, 2008.

MICHAEL F. BROWN, Clerk of the Board

By _____
Deputy

EXHIBIT A

Easement Description

Being a portion of Lot 1 of Block 2 of the "Map of Twitchell's Division", in the Town of Orcutt, filed in Book 3 of Maps and Surveys, Page 65, in the office of the County Recorder, County of Santa Barbara, State of California, more particularly described as follows:

Beginning at the Southeast corner of said Lot 1, said lot is shown on a Record of Survey filed in Book 173 of Records of Survey, Page 51, in the office of said County Recorder; thence,

First N89°28'30"W, along the southerly line of said Lot 1, 5.64 feet to a point; thence,

Second N45°23'53"E, departing said southerly line, 7.96 feet to a point on the easterly line of said Lot 1, said point bears N00°16'17"E, 5.64 feet from said Southeast corner of said Lot 1; thence,

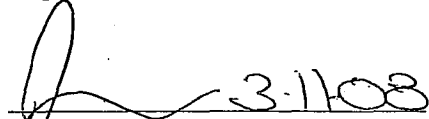
Third S00°16'17"W, along said easterly line, 5.64 feet to the Point of Beginning.

Containing 16 square feet more or less.

End of Description

A visual depiction of the above described easement is shown on a sketch entitled Exhibit B attached hereto and by reference incorporated herein.

This description was prepared by me or under my direction in conformance with the requirements of the Professional Land Surveyor Act this 11th day of March, 2008.


Jon McKellar
PLS 7578

License Expiration Date: 31 December 2009



Lot 1
3 MS 65

S89°34'00"E 70.01'

APN 105-073-008

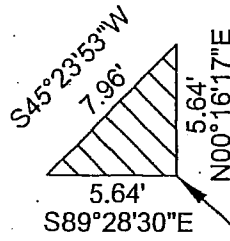
Portion 173 RS 51

30'

S00°16'30"W 99.31'

N00°16'17"E 99.41'

First Street



Area offered for dedication

4.00'

S89°28'30"E 70.02'

55'

Clark Avenue



NORTH

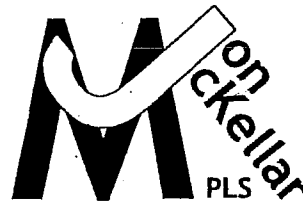
GRAPHIC SCALE



(IN FEET)

1 inch = 30 ft.

EXHIBIT B



A Professional Land Surveying & Consulting Company

910 East Stowell Road, Suite 107

Santa Maria, CA 93454

805-680-1895 bus.

805-928-9713 fax

jon@jonmckellar.com

<http://www.jonmckellar.com>

