

STAFF REPORT

PLANNING COMMISSION MEETING

MEETING DATE: March 2, 2020
SUBJECT: Promenade at Creekside Proposed Summary Vacation of Right-of-Way for a Portion of the Intersection of Grand Avenue and Creekside Drive
CASE NUMBER: PA20-0002
APN: 219-270-69-00

Recommendation

ADOPT or APPROVE the following, in the order set forth below:

1. ADOPT Categorical Exemption EX20-053 per CEQA Section 15305, Class 5 (Minor Alterations in Land Use Limitations); and
2. APPROVE Resolution PC 20-4850 (Planning Activity 20-0002) for the summary vacation of right-of-way for a portion of the southwesterly quadrant of the intersection of Grand Avenue with Creekside Drive.

Background

The Promenade at Creekside development constructed at the southwesterly quadrant of the intersection of Grand Avenue with Creekside Drive is a mixed-use development within the San Marcos Creek Specific Plan Area (Attachment 'A', Vicinity Map), which was approved per Site Development Plan (SDP) 10-346 in 2011. Subsequent City approvals include P14-0051 in 2015 for Substantial Conformance (SC) 14-002, Tentative Parcel Map (TPM) 14-001, and recorded Parcel Map (PM) 21212 for subdividing the subject property into two (2) parcels for phasing purposes.

The Promenade at Creekside constructed 14,116 square feet of commercial space and 109 affordable apartment units on 5.16 acres. Construction is complete, and the developer is currently processing as-built plans with the Land Development Division to finalize the project.

Discussion

The attached Resolution PC 20-4850 recommends that City Council approve the summary vacation and abandonment of a portion of the southwesterly quadrant of the Grand Avenue/Creekside Drive intersection. The 197 square feet area proposed to be vacated was dedicated to the City of San Marcos by Document 0490398 recorded on May 27, 2004.

The improvements constructed at the southwesterly quadrant of the Grand Avenue/Creekside Drive intersection include enhanced pavement and decorative walkway treatments constructed within the

public right-of-way (Attachment 'B'). The right-of-way that is subject to these improvements should be vacated by the City since these improvements are for the benefit of the development and are to be maintained by the property owner. All improvements for public use such as the sidewalk, pedestrian ramps, streetlights, and traffic signals are constructed outside of the portion of property proposed to be vacated.

The portion of right-of-way proposed to be vacated is in excess and is not needed for public street purposes. With approval of the summary vacation, the right-of-way that will remain is consistent with the General Plan and with the public improvements at the Grand Avenue/Creekside Drive intersection as currently constructed. Vacation of the excess right-of-way will allow property owner maintenance of the enhanced and decorative pavement areas intended to serve the development.

California Streets and Highways Code (CSHC) Section 8330(a) states that the legislative body of a local agency may summarily vacate a street or highway that has been superseded by relocation. Further, CSHC Section 8334(a) provides that the legislative body of a local agency may summarily vacate an excess right-of-way or highway not required for street or highway purposes. Staff has determined that the rights-of-way proposed to be vacated have been superseded by the ultimate alignment of the public improvements at the Grand Avenue/Creekside Drive intersection; will not terminate an existing public service easement; and will not cut off all access to any person's property.

In accordance with Streets and Highways Code Section 8313 and Government Code Section 65402, the local planning agency is required to consider the proposed vacation action and to report on the conformity with the adopted General Plan. After reviewing the limits of the proposed right-of-way vacations, the road infrastructure as existing, and the General Plan, staff concluded that a public road is not needed along the portion of right-of-way to be vacated.

Environmental Review

In accordance with the California Environmental Quality Act (CEQA), the proposed summary vacation is deemed Categorical Exempt (EX20-053) pursuant to Section 15305 Class 5 (Minor Alterations in Land Use Limitations), in that this is a minor realignment of right-of-way.

Attachment(s):

Adopting Resolution:


1. Resolution PC 20-4850 (Planning Activity 20-0002) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A SUMMARY VACATION OF RIGHT-OF-WAY FOR A PORTION OF THE SOUTHWESTERLY QUADRANT OF THE INTERSECTION OF GRAND AVENUE WITH CREEKSIDE DRIVE INCLUDING EXHIBIT A: STREET VACATION LEGAL DESCRIPTION AND EXHIBIT B: PLAT OF SUMMARY STREET VACATION

- A. Vicinity Map
- B. View of improvements at the Southwesterly Quadrant of Grand Avenue at Creekside Drive
- C. Existing improvements at the Southwesterly Quadrant of Grand Avenue at Creekside Drive

Prepared by:


Stephanie Kellar, Principal Civil Engineer

Reviewed by:


Matt Little, City Engineer

Reviewed by:


Dahvia Lynch, Development Service Director

Submitted/Approved by:


Joseph Farace, Planning Division Manager

RESOLUTION PC 20-4850

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS RECOMMENDING TO THE CITY COUNCIL APPROVAL OF A SUMMARY VACATION OF RIGHT-OF-WAY FOR A PORTION OF THE SOUTHWESTERLY QUADRANT OF THE INTERSECTION OF GRAND AVENUE WITH CREEKSIDE DRIVE

PA20-0002

Promenade at Creekside Housing Partners II LP
Promenade at Creekside

WHEREAS, on February 18, 2020, Opportune Southern California Ventures, LLC, has requested, in association with previously approved Tentative Parcel Map (TPM 14-001) and recorded Parcel Map (PM 21212), that the City vacate and abandon a portion of the right-of-way at the southwesterly quadrant of the intersection of Grand Avenue with Creekside Drive within the 5.16-acre mixed-use project site (Promenade at Creekside), located at 6 Creekside Drive within the San Marcos Creek Specific Plan Area, more particularly described as:

City of San Marcos Parcel Map No. 21212 for Condominium Purposes, in the City of San Marcos, County of San Diego, State of California, recorded in the office of the County Recorder of San Diego County on January 15, 2015, said Parcel Map 21212 being a subdivision of Parcel 1, according to Parcel Map thereof number 20939, filed in the office of the County Recorder of San Diego County, December 23, 2011.

Assessor's Parcel Number: 219-270-69-00

WHEREAS, the portion of right-of-way for the intersection of Grand Avenue at Creekside Drive within PM 21212 was dedicated on Document 2004-0490398 recorded on May 27, 2004; and

WHEREAS, said portion of right-of-way for the intersection of Grand Avenue at Creekside Drive within PM 21212 was superseded by the subsequent construction of ultimate improvements for the intersection as shown on record improvement plan IP-4852; and

WHEREAS, Streets and Highways Code section 8330(a) expressly permits the legislative body of a local agency to summarily vacate a street or highway that has been superseded by relocation, and City staff has determined that the portion of right-of-way to be vacated has been superseded by the realignment of Creekside Drive; will not terminate an existing public service easement; and will not cut off all access to any person's property; and

WHEREAS, vacation of the portions of the public street right-of-way as proposed would allow for private property owner maintenance of enhanced and decorative pavement constructed for the benefit of the private development; and

WHEREAS, at a regularly-scheduled and duly noticed meeting held on March 2, 2020, the Planning Commission did consider the proposed summary vacation of street right-of-way; and

WHEREAS, the Planning Commission did review and consider a Categorical Exemption (EX20-053) pursuant to the California Environmental Quality Act (CEQA) Section 15305, Class 5 (Minor Alterations in Land Use Limitations) with respect to such proposed summary vacation;

NOW, THEREFORE, the Planning Commission does hereby resolve as follows:

- A. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Resolution.
- B. The Planning Commission hereby recommends to the City Council approval of the summary vacation of this public street right-of-way, as described and shown on the attached Exhibits A and B, incorporated by reference and made a part of this Resolution as though fully set forth herein.
- C. The Planning Commission's decision is based on the following findings and determinations:
 - 1. The proposed right-of-way vacation is consistent with the City's General Plan.
 - 2. The proposed right-of-way vacation complies with the objectives of the adopted City-wide Land Use Policy Plan.
 - 3. The affected right-of-way is hereby determined to be excess and not required for street or highway purposes, and there are no public service easements within the affected area.
 - 4. The proposed right-of-way vacation will not be detrimental to the public health, safety, and welfare.
 - 5. All requirements of CEQA have been met, in that the proposed project is Categorically Exempt from environmental review pursuant to CEQA Section 15305, Class 5 (Minor Alterations in Land Use Limitations) in that this is a minor realignment of right-of-way.
- D. The proposed right-of-way vacation is Categorically Exempt (EX20-053) from environmental review pursuant to Section 15305, Class 5 (Minor Alterations in Land Use Limitations).

- E. To the extent permitted by law, the applicant/developer shall defend and hold the City of San Marcos, its agents and employees harmless from liability from: (i) any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permits arising from the project as defined in the conditions of approval, or issuance of grading or building permits; (ii) any damages, liability and/or claim of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the applicant/developer or its contractors, subcontractors, agents, employees or other persons acting on applicant/developer's behalf which relate to the project; and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. The applicant/developer further agrees that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of City by counsel selected by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project, but shall survive in perpetuity.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of San Marcos, California, at a regular meeting thereof, held on this 2nd day of March, 2020 by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Kevin Norris, Chairman

ATTEST:

Gina Henderson, Senior Office Specialist

Exhibit(s):

Exhibit A – Street Vacation Legal Description (Portion of the Grand Avenue/Creekside Drive Intersection)

Exhibit B – Plat of Summary Street Vacation (Portion of the Grand Avenue/Creekside Drive Intersection)

EXHIBIT "A"
STREET VACATION
LEGAL DESCRIPTION

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APN 219-270-69-00

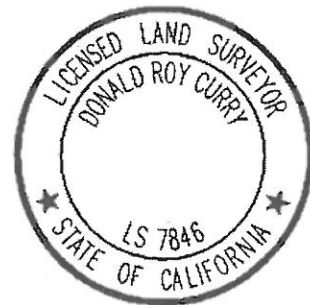
THE LAND DESCRIBED HEREIN IS LOCATED IN THE CITY OF SAN MARCOS, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, BEING A PORTION OF LOT 3 BLOCK 68 OF RANCHO LOS VALLECITOS DE SAN MARCOS, ACCORDING TO MAP THEREOF NO. 806, THAT WAS DEDICATED AS PUBLIC STREET PER DOCUMENT RECORDED MAY 27, 2004, AS DOCUMENT NO. 2004-0490398, OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE ANGLE POINT AT THE NORTHEAST CORNER OF PARCEL 2 OF THE CITY OF SAN MARCOS PARCEL MAP NO. 14-001, ACCORDING TO PARCEL MAP THEREOF NO. 21212, FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER JANUARY 15, 2015, THAT IS ON CREEKSIDE DRIVE AT THE EASTERN END OF THAT COURSE NOTED AS NORTH 73°00'53" EAST 256.40 FEET PER SAID PARCEL MAP, SAID POINT BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 24.61 FEET, A RADIAL LINE FROM SAID POINT BEARS SOUTH 19°19'52" EAST, THENCE ALONG SAID CURVE 26.72 FEET THROUGH A CENTRAL ANGLE OF 62°12'41" TO A POINT OF NON-TANGENCY AT THE BOUNDARY OF SAID PARCEL 2, A RADIAL LINE TO SAID POINT BEARS NORTH 42°52'49" EAST; THENCE ALONG THE BOUNDARY OF SAID PARCEL 2 THE FOLLOWING COURSES: SOUTH 73°03'41" WEST 22.30 FEET AND NORTH 16°56'04" WEST 12.21 FEET TO THE POINT OF BEGINNING.

CONTAINS 197 SQUARE FEET OR 0.0045 ACRES OF LAND, MORE OR LESS.

AS SHOWN ON EXHIBIT "B", ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF.

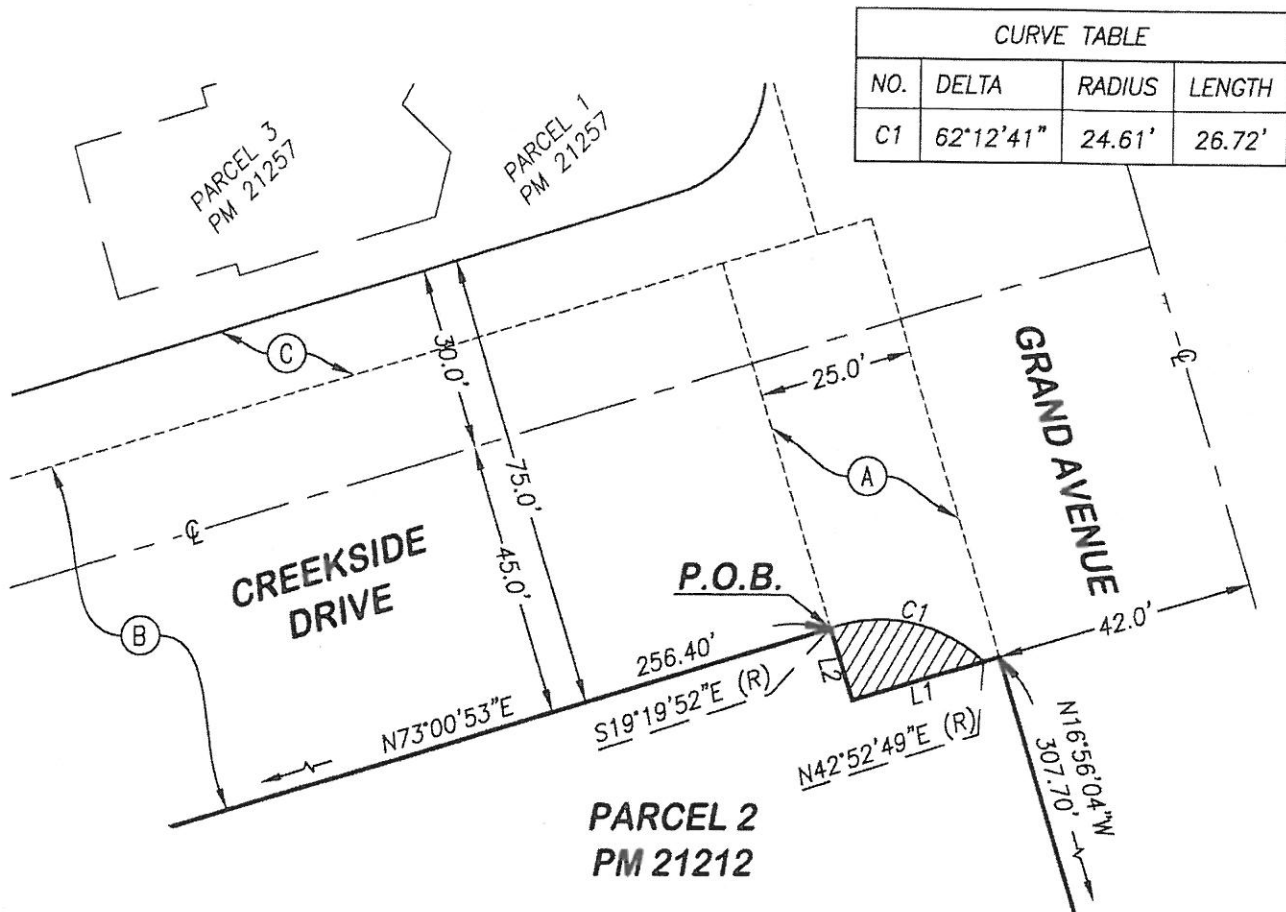
DATED THIS 24th DAY OF October, 2018.




Donald Roy Curry
DONALD ROY CURRY, L.S. 7846
EXP. 12/31/18

EXHIBIT "B"

PAGE 1 OF 1



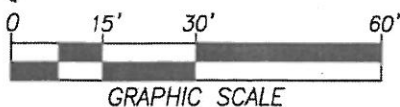
LEGEND

 PORTION OF STREET EASEMENT VACATED - 197 SQ. FT.

P.O.B. POINT OF BEGINNING

- (A) PUBLIC STREET DEDICATED PER DOC. REC. MAY 27, 2004, DOC. NO. 2004-0490398, O.R.
- (B) PUBLIC STREET DEDICATED PER PM 20939
- (C) PUBLIC STREET DEDICATED PER PM 21257

SCALE: 1" = 30'



GRAPHIC SCALE

LINE TABLE		
NO.	BEARING	DISTANCE
L1	S73°03'41"W	22.30'
L2	N16°56'04"W	12.21'



10-24-18

REVISED BY:	DATE
DRAWN BY: FUSCOE ENGINEERING INC	DATE 10-23-18
CHECKED BY: DC	DATE 10-24-18
APPROVED BY:	DATE

CITY OF SAN MARCOS

PARTIAL VACATION OF PUBLIC STREET EASEMENT
PARCEL 2 PM 21212
 APN 219-270-69

SCALE 1" = 30'
REF
TRACING NO



SAN MARCOS
DISCOVER LIFE'S POSSIBILITIES

ATTACHMENT A

Vicinity Map

www.san-marcos.net

Attachment 'A'

Vicinity Map: Creekside Drive at Grand Avenue





SAN MARCOS
DISCOVER LIFE'S POSSIBILITIES

ATTACHMENT B

View of Improvements at the Southwesterly Quadrant
of Grand Avenue at Creekside Drive

www.san-marcos.net

Attachment 'B'
Creekside Promenade Improvements



Intersection of Grand Avenue with Creekside Drive
Looking Southwest



SAN MARCOS
DISCOVER LIFE'S POSSIBILITIES

ATTACHMENT C
Existing improvements at the Southwesterly Quadrant
of Grand Avenue at Creekside Drive

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Attachment 'C'

Improvements at Southwesterly Quadrant of the Intersection of Grand Avenue and
Creekside Drive

