

STAFF REPORT

PLANNING COMMISSION MEETING

MEETING DATE:	April 19, 2021
SUBJECT:	UVSM, Proposed Summary Vacation of Right-of-Way for "Street Opening 3", a Portion of Former Discovery Street Adjacent to Assessor's Parcel Numbers 221-100-03 and 220-190-52
CASE NUMBER:	PA21-0002
APN's:	Public ROW Adjacent to APN's 221-100-03 and 220-190-52

Recommendation

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

1. ADOPT Categorical Exemption EX21-005 per CEQA Section 15305, Class 5 (Minor Alterations in Land Use Limitations);
2. APPROVE Resolution PC 21-4924 (Planning Activity 21-0002) for the summary vacation and abandonment of right-of-way for Street Opening 3, a Portion of Former Discovery Street.

Background

The property known as "Street Opening 3" is a portion of former Discovery Street, located west of S. Twin Oaks Valley Road, east of Craven Road, south of the SR-78 freeway, and north of the future alignment of Discovery Street. A legal description and plat of Street Opening 3 is included in Attachments A and B.

The attached Resolution would order the vacation of Street Opening 3 and reversion to the underlying fee owner, UVSM.

The attached Resolution PC 21-4924 (Planning Activity 21-0002) recommends that City Council approve the summary vacation and abandonment of right-of-way for Street Opening 3, a Portion of Former Discovery Street.

Discussion

Street Opening 3 is included in the Purchase Assignment and Repurchase Agreement between the City and UVSM (Successor to UPSM) dated March 28, 2007 and amended March 27, 2012, December 9, 2014, December 10, 2019, and October 13, 2020. The Agreement provides for UVSM to purchase the associated parcels. Accordingly, UVSM purchased Street Opening 3 from the City, acquiring title on March 24, 2021.



City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

The right-of-way for Street Opening 3 was established in 1895 on Map 806 for Rancho Los Vallecitos de San Marcos. The right-of-way is inconsistent with the current General Plan and with the ultimate realignment of Discovery Street, and it has been determined by staff to be excess right-of-way. The adjacent portion of former Discovery Street was vacated on December 5, 1900 per Book 23, Page 175 of Official Records.

As shown in Attachment B, this portion of right-of-way 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 realignment for Discovery Street. Vacation of the excess right-of-way will allow development of the site by UVSM.

California Streets and Highways Code (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 have determined that the rights-of-way proposed to be vacated are in excess and will not terminate an existing public service easement.

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. Staff reviewed the limits of the proposed right-of-way vacation, the road and utility infrastructure existing and proposed, and the General Plan. Staff concluded that a public road is not needed along the portion of former Discovery Street to be vacated.

Following Planning Commission action, the proposed vacation and abandonment of the excess right-of-way can be considered by City Council. If City Council orders the street vacation, the vacated right-of-way will revert to the underlying owner, UVSM.

Environmental Review

In accordance with the California Environmental Quality Act (CEQA), the proposed summary vacation is deemed Categorically Exempt (EX21-005) 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):

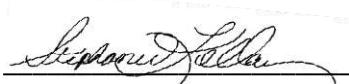
Adopting Resolution:

1. Resolution PC 21-4924 (Planning Activity 21-0002) - 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 "STREET OPENING 3", A PORTION OF FORMER DISCOVERY STREET ADJACENT TO ASSESSOR'S PARCEL NUMBERS 221-100-03 AND 220-190-52, INCLUDING EXHIBIT A: STREET VACATION LEGAL DESCRIPTION AND EXHIBIT B: PLAT OF STREET VACATION



City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069

Prepared by:


Stephanie Kellar, Principal Civil Engineer

Reviewed by:


Dahvia Lynch, Development Service Director

Digitally signed by Dahvia Lynch
DN: cn=Dahvia Lynch, o=City of San Marcos, ou=Development
Services, email=dlynch@sanmarcos.net, c=US
Date: 2021.04.05 16:06:42 -07'00'

Reviewed by:


Digitally signed by Isaac
Etchamendy
Date: 2021.04.05 15:16:59
-07'00'

Isaac Etchamendy, City Engineer

Submitted/Approved by:


Digitally signed by Joseph Farace
DN: cn=Joseph Farace, o=City of San Marcos, ou=Planning
Division, email=jfarace@sanmarcos.net, c=US
Date: 2021.04.05 16:01:02 -07'00'

Joseph Farace, Planning Division Manager

RESOLUTION PC 21-4924

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS
RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE A SUMMARY
VACATION OF RIGHT-OF-WAY FOR “STREET OPENING 3”, A PORTION OF FORMER
DISCOVERY STREET ADJACENT TO ASSESSOR’S PARCEL NUMBERS 221-100-03
AND 220-190-52

PA21-0002
UVSM

WHEREAS, on March 25, 2021, the City received a request from UVSM for the vacation and abandonment of street right-of-way for a portion of former Discovery Street known as “Street Opening 3”, located west of S. Twin Oaks Valley Road, east of Craven Road, south of the SR-78 freeway, and north of the future alignment of Discovery Street, and more particularly described in Exhibits A and B; and

WHEREAS, the right-of-way for the affected portion of former Discovery Street was established in 1895 on Map 806 for Rancho Los Vallecitos de San Marcos; and

WHEREAS, California Streets and Highways Code (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, and staff have determined that the right-of-way proposed to be vacated is in excess and will not terminate an existing public service easement; and

WHEREAS, 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; and

WHEREAS, vacation of the portions of the public street right-of-way as proposed would remove the encumbrances from the title, thereby allowing the affected property owner to improve said portions of the property; and

WHEREAS, on at a regularly-scheduled and duly noticed meeting held on April 19, 2021, 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 (EX21-005) 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 that the City Council approve 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 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 (EX21-005) 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 19th day of April, 2021 by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Eric Flodine, Chairman

ATTEST:

Gina Henderson, Senior Office Specialist

Exhibit(s):

Exhibit A – Street Vacation Legal Description

Exhibit B – Plat of Street Vacation

EXHIBIT "A"
LEGAL DESCRIPTION

That portion of the 66.00 foot wide Discovery Street Right-of-Way lying between Blocks 62 and 63 of Rancho Los Vallecitos De San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map No. 806, filed in the Office of the County Recorder of San Diego County December 21, 1895 of Official Records, more particularly described as follows:

BEGINNING at the Southwest corner of Lot 2 in said Block 62, also being a point on the Northerly 33.00 foot half-width sideline of said Discovery Street.

Thence North $73^{\circ}02'01''$ East, along the Southerly line of said Lot 2 and said Northerly sideline, 144.44 feet, to the Southerly Right-of-Way line of State of California State Route 78, said Right-of-Way line being a Westerly prolongation of the Southerly line of Parcel 6 as described by grant deed recorded May 22, 1986 as Document No. 86-204211, of Official Records, and as shown on California Department of Transportation Right-of-Way Map No. LO-27564;

Thence South $73^{\circ}10'20''$ East, along said Southerly Right-of-Way line, 118.66 feet, to the Northerly line of Lot 21 in said Block 63, also being a point on the Southerly 33.00 foot half-width sideline of said Discovery Street;

Thence leaving said Right-of-Way line South $73^{\circ}02'01''$ West, along said Northerly line and said Southerly sideline, 242.86 feet, to the Northwest corner of said Lot 21;

Thence North $17^{\circ}08'11''$ West, along a prolongation of the Westerly line of said Lot 21, 66.00 feet, to the **POINT OF BEGINNING**.

Contains 12,781 Square Feet or 0.29 Acres, more or less.

END OF LEGAL DESCRIPTION

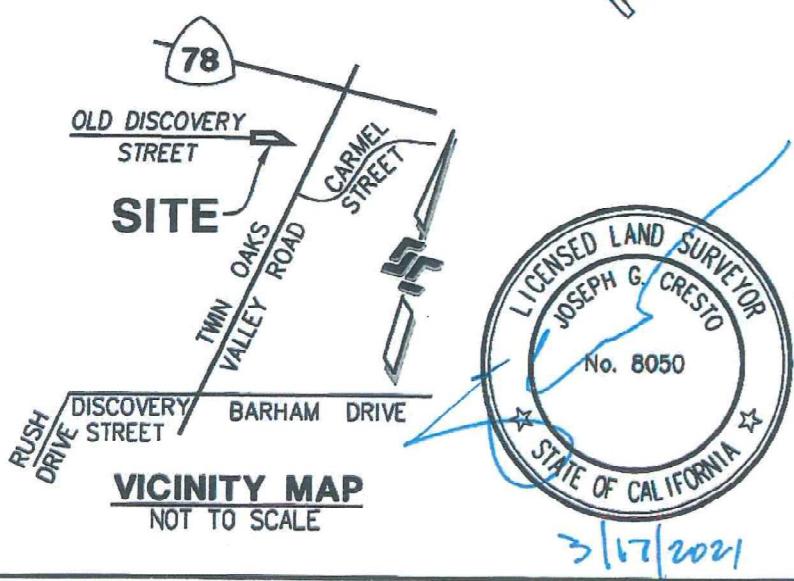
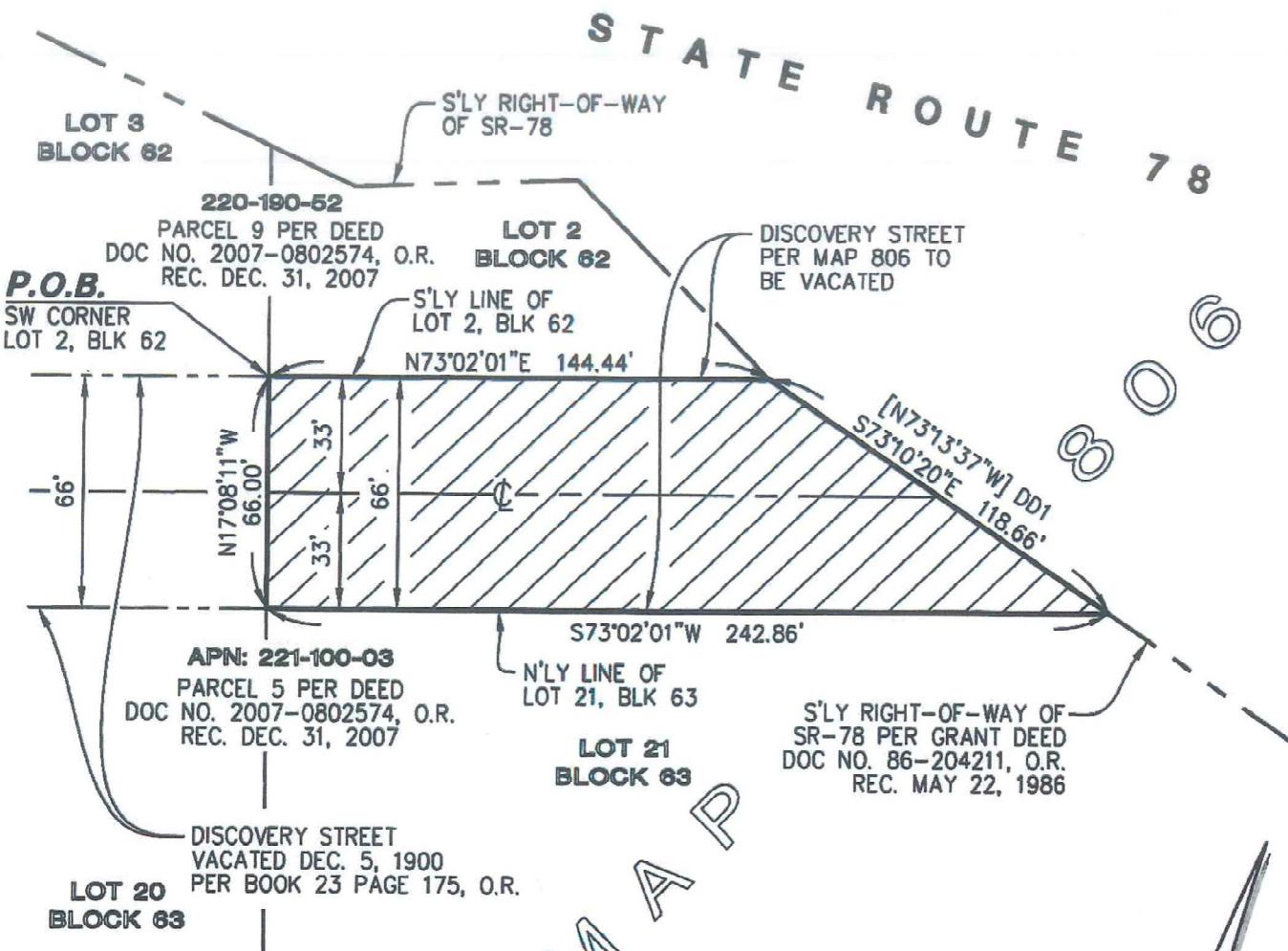

Joseph G. Cresto
PLS 8050


Date



EXHIBIT "B"

SHEET 1 OF 1



P.O.B. POINT OF BEGINNING

DD1 INDICATES RECORD DATA PER DEED
DOC NO. 84-272382
REC. JULY 19, 1984



**CITY OF SAN MARCOS
PROPERTY ACQUISITION
PORTION OF THAT EXISTING 66' WIDE STREET
LYING BETWEEN BLOCKS 62 AND 63, MAP 806**

SCE NO. 18003.03 DATE: 2021 03 17 SCALE: 1" = 50' DWG: 18003 DISC ST ACQ DRAWN BY: KPW CHECKED BY: JGC

PC AGENDA ITEM #2 17,828