



CITY COUNCIL AGENDA REPORT

MEETING DATE: JULY 16, 2013

ITEM NUMBER:

SUBJECT: NOTICE OF INTENT FOR THE VACATION OF A PORTION OF FULLERTON AVENUE AT 1826 FULLERTON AVENUE

DATE: JULY 3, 2013

FROM: PUBLIC SERVICES DEPARTMENT/ENGINEERING DIVISION

PRESENTATION BY: ERNESTO MUNOZ, PUBLIC SERVICES DIRECTOR

**FOR FURTHER INFORMATION CONTACT: FARIBA FAZELI, INTERIM CITY ENGINEER,
(714) 754-5335**

RECOMMENDATION

1. Set a public hearing on August 20, 2013 for the vacation of a portion of Fullerton Avenue Right-Of-Way (ROW).
2. Adopt Resolution of intent to vacate a portion of Fullerton Avenue Right-Of-Way (ROW) (Attachment 1).

BACKGROUND

The Engineering Division is processing a request from Mr. Dustin Campbell (Homeowner), for the vacation of a portion of Fullerton Avenue. This portion of Fullerton Avenue is adjacent to Mr. Campbell's property at 1826 Fullerton Avenue (Attachment 2). The proposed vacation of right-of-way is in conjunction with Mr. Campbell's improvement to the property

Per the current City's Master Plan of Highways, Fullerton Avenue is designated as a two-lane collector street. The remainder of Fullerton Avenue has been constructed to fulfill the Master Plan of Highways' capacity requirement within an existing 45 to 50-foot full-width right-of-way. Currently the right-of-way width at this location is 60 feet. This results in 8.7 feet of excess right-of-way along the property located at 1826 Fullerton Avenue (east side of the street) and 0.3 feet along the property located at 140 Magnolia Street (west side of Fullerton Avenue). The proposed vacation complies with the current standard for local streets and is consistent with the existing improvements.

On June 24, 2013, a report was presented to the Planning Commission outlining the proposed vacation as required by Government Code Section 65402. Subsequently, the Planning Commission adopted Resolution No. PC-13-20 (Attachment 3) finding that the proposed vacation of a portion of Fullerton Avenue excess right-of-way is consistent with the City's General Plan.

ANALYSIS

The proposed segment of Fullerton Avenue to be vacated was originally dedicated in 1927 and is in excess of its ultimate alignment. In addition, this segment of street does not serve any ingress and egress purposes to other private properties. Currently, there are no utilities located within this portion of right-of-way and therefore, a reservation for a utility easement is not required. The vacation of this portion of excess right-of-way is in conformance with the objectives of the Circulation Element General Plan and conforms to the California Streets and Highways Code, Chapter 4, Section 8334(a) which allows a local agency to summarily vacate

an excess right-of-way of a street or highway not required for street or highway purposes. Therefore, it is recommended that the proposed vacation continue to be processed and forwarded to the City Council for approval.

After the proposed vacation is approved and recorded, the subject vacated property will revert back to the adjacent property at 1826 Fullerton Avenue (the underlying fee owner, Mr Campbell).

ALTERNATIVES CONSIDERED

The City could retain the excess right-of-way and continue to be responsible for the maintenance and safety of the street.

FISCAL REVIEW

Once the area is vacated it becomes taxable square footage, resulting in additional property taxes to the adjacent property owner to which the land will revert. This will result in additional revenue to the City.

LEGAL REVIEW

The City Attorney's Office has approved the attached Resolution of Intent as to form.

CONCLUSION

Staff reviewed a request for the City to abandon an excess portion of Fullerton Avenue, and recommends that the City Council set a public hearing for August 20, 2013, and adopt the attached Resolution of Intent to vacate a portion of Fullerton Avenue at 1826 Fullerton Avenue.

ERNESTO MUNOZ
Public Services Director

FARIBA FAZELI
Interim City Engineer

ATTACHMENTS: 1 – [Resolution of Intent to vacate a portion of Fullerton Avenue](#)
2– [Site Plan](#)
3 – [Planning Commission Resolution No. PC-13-20](#)

DISTRIBUTION: Chief Executive Officer
Assistant CEO
City Attorney
City Clerk

ATTACHMENT 1

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DECLARING ITS INTENTION TO ORDER THE VACATION OF A PORTION OF FULLERTON AVENUE AT 1826 FULLERTON AVENUE.

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council of the City of Costa Mesa does hereby declare its intention to vacate a portion of its interest in Fullerton Avenue at 1826 Fullerton Avenue, being more particularly described in Exhibit A and B attached hereto. The original 1927 dedication is in excess of the final alignment of Fullerton Avenue which was established in 1960. The purpose of this vacation is based on a review of the current and future needs of the City and to vacate the excess land to the underlying fee owner. The vacation will benefit the neighborhood with the new improvements.

SECTION 2. On Tuesday, the 20th day of August, 2013, at 7:00 p.m., in the Council Chambers of City Hall, 77 Fair Drive, Costa Mesa, California, is hereby fixed as the time and place for hearing all persons interested in or objecting to the proposed vacation.

SECTION 3. These proceedings shall be conducted pursuant to the provisions of Section 8300 et seq. of the Streets and Highways Code of the State of California, and any other applicable laws.

SECTION 4. The Chief Executive Officer of the City of Costa Mesa is hereby directed to cause notices of the said proposed vacation to be conspicuously posted along said strip of land for at least two (2) weeks before the date of said hearing. Said notices shall be posted not more than three hundred (300) feet apart, but in no event shall fewer than three (3) notices be posted.

SECTION 5. This Resolution shall be published twice in a newspaper of general circulation, printed and published in the City of Costa Mesa, Orange County, California.

PASSED AND ADOPTED this 16th day of July, 2013.

Jim Righeimer
Mayor

ATTEST:
BRENDA GREEN,
City Clerk

APPROVED AS TO FORM:
THOMAS DUARTE,
City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 13-XX and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 16th day of July, 2013, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

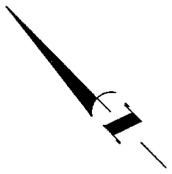
NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 17th day of July, 2013.

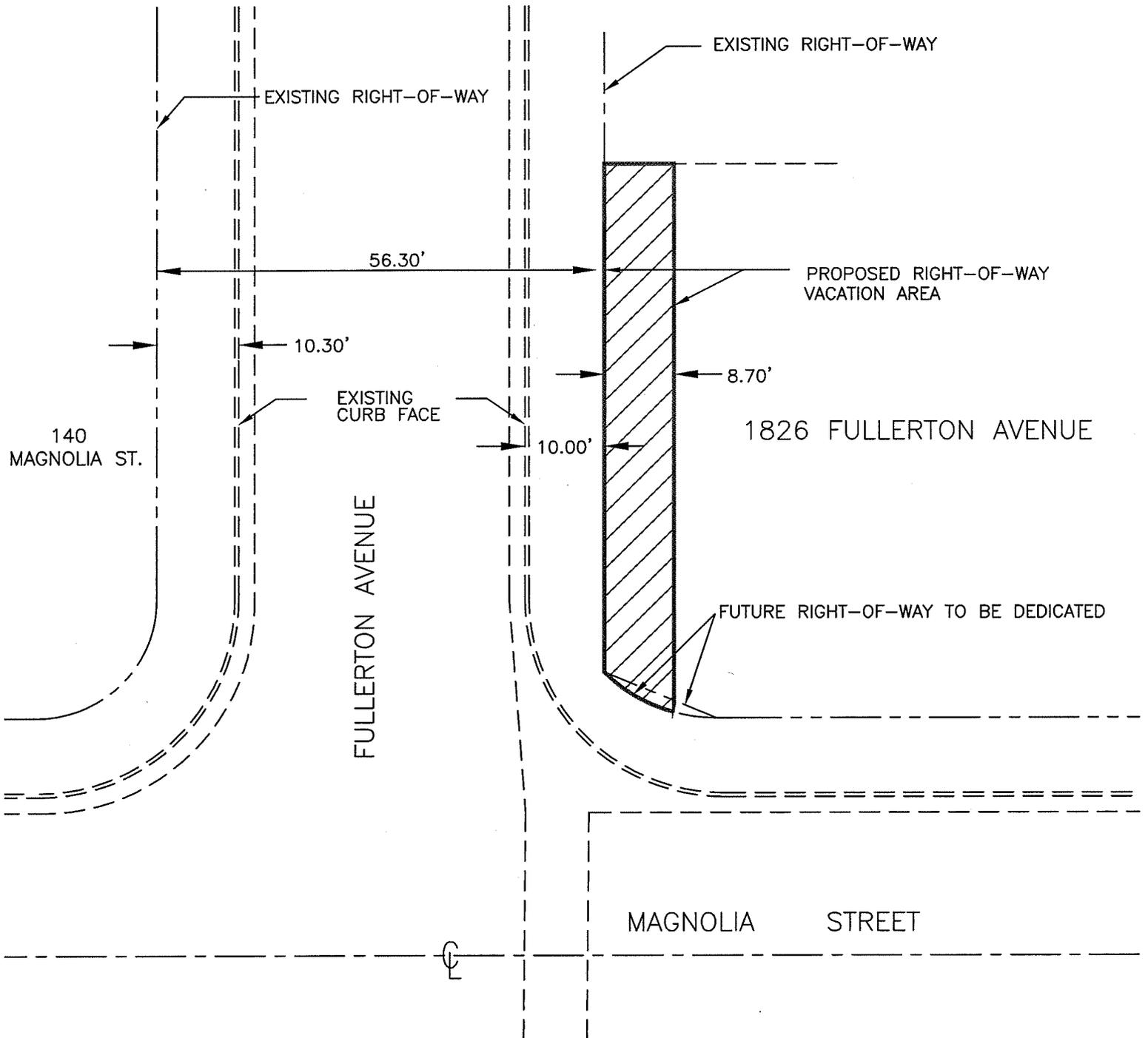
BRENDA GREEN,
CITY CLERK

(SEAL)



N.T.S.

ATTACHMENT #2



RESOLUTION NO. PC-13-20

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA FINDING THAT THE CITY OF COSTA MESA'S VACATION OF A PORTION OF RIGHT-OF-WAY ON FULLERTON AVENUE TO THE ADJACENT PROPERTY OWNER OF 1826 FULLERTON AVENUE IS IN CONFORMANCE WITH THE CITY OF COSTA MESA 2000 GENERAL PLAN, THE CALIFORNIA STREETS AND HIGHWAYS CODE, CHAPTER 4, SECTIONS 8330 ET SEQ. (PUBLIC STREETS, HIGHWAYS, AND SERVICE EASEMENT LAW, SUMMARY VACATION) AND WILL SERVE THE PUBLIC INTEREST AND IS A PUBLIC BENEFIT.

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the City of Costa Mesa 2000 General Plan was adopted on January 22, 2002;

WHEREAS, the California Government Code 65402, requires the City of Costa Mesa shall not acquire, use, or dispose of any real property until the use of the property has been found in conformance with the City's General Plan;

WHEREAS, The California Streets and Highways Code, Chapter 4, Section 8334(a) allows a local agency to summarily vacate an excess right-of-way of a street or highway not required for street or highway purposes. The proposed right-of-way vacation has been reviewed by the Engineering and Transportation Services Divisions, and based on the existing land use and freeway configuration, it is no longer required for public street and highway purposes.

WHEREAS, the portion of the street being vacated has been found by the Engineering and Transportation Services Divisions not to be useful as a non-motorized transportation facility, and as such, the vacation serves the public interest and is a public benefit since the vacated street area is unnecessary for present or future public use.

WHEREAS, the subject right-of-way adjacent to 1864 Fullerton Avenue is shown in Exhibit A (City Engineer's memo dated June 4, 2013);

WHEREAS, the Costa Mesa Planning Commission has reviewed the proposed abandonment.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby find the proposed vacation of excess right-of-way in conformance with the City of Costa Mesa 2000 General Plan and the California Streets and Highways Code. Furthermore, the Planning Commission finds the street vacation serves the public interest and is a public benefit.

PASSED AND ADOPTED this 24th day of June 2013.

A handwritten signature in black ink, appearing to read "Jim Fitzpatrick", is written over a horizontal line. The signature is stylized and somewhat cursive.

JIM FITZPATRICK, Chair
Costa Mesa Planning Commission

EXHIBIT "A"

FINDINGS

- A. The proposed street vacation is consistent with the General Plan and the Land Use and Circulation Elements contained therein.
- B. The proposed street vacation is consistent with the provisions of Section 8300 et seq. of the California Streets and Highways Code.
- C. The portion of the Fullerton Avenue being vacated has been found by the Engineering and Transportation Services Divisions not to be useful as a non-motorized transportation facility. As such, the vacation serves the public interest and is a public benefit since the vacated street area is unnecessary for present or future public use.