

RESOLUTION NO. 2017 - _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY, CALIFORNIA, ORDERING THE CONDITIONAL VACATION OF A PORTION OF AN 80 FOOT WIDE UTILITY EASEMENT RESERVED FROM THE VACATION OF SUNAIR ROAD, BETWEEN MELROSE DRIVE AND PALO VERDE DRIVE, PURSUANT TO VACATION NO. 97-1, AS DESCRIBED IN RESOLUTION NO. 97-65, RECORDED ON MAY 17, 2002, AS INSTRUMENT NO. 2002-262992, IN OFFICIAL RECORDS OF RIVERSIDE COUNTY. (VACATION NO. 2016-01)

WHEREAS, in 1997, the owners of the CCBC Resort Hotel, located at 68-300 Gay Resort Drive, (formerly Sunair Road) in Cathedral City, applied to the City for the vacation of all of Sunair Road, 80 feet wide, along the north frontage of the hotel, between Melrose Drive and Palo Verde Drive; and

WHEREAS, on July 9, 1997, after a duly noticed public hearing, the City Council adopted Resolution No. 97-19 which conditionally vacated the above described portion of Sunair Road; and

WHEREAS, on November 12, 1997, the City Council considered the modification of the said conditions, and did adopt Resolution No. 97-65, which superseded the previous Resolution 97-19; and

WHEREAS, on May 17, 2002, after the conditions precedent to the recordation of Resolution No. 97-65 were met, said Resolution 97-65 was recorded as Instrument No. 2002-262992, in Official Records of Riverside County, which had the effect of vacating all of Sunair Road, between Melrose Drive and Palo Verde Drive, subject to the reservation of an 80 foot wide utility easement over all of Sunair Road, for the maintenance, operation, replacement, removal or renewal of any public utility facilities then existing in Sunair Road or that may be installed in the future; and

WHEREAS, a legal description of the said utility easement as reserved in said Resolution 97-65 is described in Exhibit "A", which is attached to and made a part hereof; and

WHEREAS, the present owners of the CCBC Resort Hotel have requested the vacation of a portion of the above described 80 foot wide utility easement as described in Exhibit "A" to allow for the construction of a restaurant within a portion of the former Sunair Road right of way, pursuant to the owner's application for Conditional Use Permit No. 16-039; and

WHEREAS, the portion of the said utility easement requested to be vacated is described in the attached Exhibit "B" and shown in the sketch attached hereto as Exhibit

“C”; and

WHEREAS, pursuant to the provisions of Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code of the State of California (said part being the Public Streets, Highways, and Service Easements Vacation Law), and subject to Section 892 of the Streets and Highways Code, this Council, on November 30, 2016, adopted Resolution No. 2016-43, declaring its intention to vacate a portion of the utility easement reserved from the vacation of Sunair Road, and to conduct a public hearing thereon on Wednesday, January 11, 2017; and

WHEREAS, this Council, on January 11, 2017, after publishing and posting of due notice thereof, did conduct a public hearing into this matter, and after closing of the public hearing, did find and determine that all other legal requirements of said Public Streets, Highways, and Service Easements Vacation Law had been complied with, and that all applicable requirements of the California Environmental Quality Act (CEQA) had been complied with; and

WHEREAS, it was found that certain public utility facilities, namely a gas line owned and operated by the Southern California Gas Company, does exist in the portion of the reserved public utility easement proposed to be vacated as described in Exhibit “B” and shown in Exhibit “C”; which gas line the applicant is prepared to relocate at the applicant’s expense.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. FINDINGS: The City Council finds and determines that:

- a. The portion of the reserved public utility easement proposed to be vacated as described in Exhibit “B” and shown on Exhibit “C” is, upon relocation of the existing gas line as described above, unnecessary for any present or prospective public use.
- b. Pursuant to Section 892 of the State Streets and Highways Code, the portion of the reserved public utility easement proposed to be vacated as described in Exhibit “B” and shown on Exhibit “C”, by its very nature is not, and will not in the future be useful as a non-motorized transportation facility as defined in Section 887 of the said Streets and Highways Code.
- c. The vacation of the portion of the reserved public utility easement proposed to be vacated as described in Exhibit “B” and shown on Exhibit “C” is exempt from the requirement for an environmental finding pursuant to the General Rule in the California Environmental Quality Act (CEQA) Guidelines, Sec. 15061(b)(3), because it can be seen with certainty that the proposed vacation has no possibility of a significant effect on the

environment based upon the evidence presented in the Staff Report.

d. The vacation of the portion of the reserved public utility easement as described in Exhibit “B” and shown on Exhibit “C” is consistent with the General Plan because the vacation concerns only a public utility easement, which easements are not shown or mapped in the Circulation Element of the City’s adopted General Plan.

e. Letters were sent to all utility companies active in the general area, asking for their comments or objections to the proposed vacation of the portion of the reserved public utility easement as described in Exhibit “B” and shown on Exhibit “C” and asking that they notify the City if any of their utility facilities would be affected, and only the Southern California Gas Company responded with notification that it had an active utility facility within the portion of the easement to be vacated.

f. Public Notices for the public hearing on this vacation proceeding were duly published in the Desert Sun newspaper for two successive weeks, on December 21, 2016, and on December 28, 2016, and Notices of Public Hearing and copies of the Resolution of Intention for the proposed vacation were duly posted on December 21, 2016, along the portion of the reserved public utility easement proposed to be vacated, all in accordance with the Streets and Highways Code, and all other proceedings and procedures were similarly performed and done pursuant to the provisions of Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code of the State of California, said Part 3 being the “Public Streets, Highways, and Service Easements Vacation Law”.

SECTION 2. CONDITIONS: The City Council finds and determines that there is an active gas line located within the portion of the reserved utility easement proposed to be vacated and that the public safety, convenience and orderly development of the area requires that the City Clerk shall NOT consent to nor order the recordation of this Resolution or any other written instrument evidencing the completion of this vacation process until such time as the City Engineer and/or the City Manager have certified in writing to the City Clerk that one or more of the following conditions have been met:

a. that the Southern California Gas Company has notified the City that financial arrangements have been made between the applicant and the Southern California Gas Company to guarantee the relocation or removal of the existing gas line from the portion of the reserved utility easement to be vacated, as described in the attached Exhibit “B” and shown on Exhibit “C”; or

b. that the existing gas line has physically been relocated to the satisfaction of the Southern California Gas Company, and it has so notified the City that the relocated line is in service.

SECTION 3: EFFECT OF RECORDATION: Upon the recordation of this

Resolution, the portion of the reserved public utility easement as described in the attached Exhibit "B" and as shown in Exhibit "C", are vacated and abandoned, and shall no longer constitute a public utility easement, and are formally vacated as specified in Sections 8335(b)(4) and 8336 (b) of the State Streets and Highways Code.

APPROVED AND ADOPTED at a regular meeting of the City Council for the City of Cathedral City held this ____ day of January, 2017, by the following vote:

Ayes:

Noes:

Absent:

Abstain:

Stanley E. Henry, Mayor

ATTEST:

Gary F. Howell
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

City Attorney

John Corella
City Engineer

APPROVED:

Charles P. McClendon
City Manager

Resolution Attachments:

Exhibit A: Legal Description of utility easement reserved from the vacation of Sunair Road

Exhibit B: Legal description of portion of reserved utility easement to be vacated

Exhibit C: Sketch of portion of reserved utility easement to be vacated

