

RESOLUTION PC 24-5129

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS
RECOMMENDING TO CITY COUNCIL THE SUMMARY VACATION AND
ABANDONMENT OF THE SLOPE EASEMENT ALONG WEST MISSION ROAD
GRANTED BY DOCUMENT 2004-0229021 ON MARCH 19, 2004, WITHIN THE
BOUNDARY OF SITE DEVELOPMENT PLAN SDP22-0007 FOR CAPALINA MIXED USE
PROJECT

VAC 24-0004
Capalina SMA, LLC

Brief Legal Description: Refer to Exhibits A and B

WHEREAS, staff considered a request for the vacation and abandonment of the Slope Easement along West Mission Road within the boundary of Site Development Plan SDP22-0007 Capalina Mixed Use project; the Slope Easement to be vacated more particularly described and depicted in Exhibits A and B; and

WHEREAS, the slope easement was granted by Document 2004-0229021 recorded March 19, 2004 in the Office of the County Recorder of San Diego County; and

WHEREAS, Streets and Highways Code Section 8333(c) expressly permits the legislative body of a local agency to summarily vacate a public service easement if the easement has been determined to be excess by the easement holder, and there are no other public facilities within the easement; and

WHEREAS, the portion of public service easement to be vacated and abandoned is excess; and

WHEREAS, the proposed vacation of the subject public service easement would have no effect on existing improvements or easements; and

WHEREAS, vacation and abandonment of the public service easement as proposed would remove the encumbrances from the title, thereby allowing the affected property owner to improve the affected portions of the property; 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, at a regularly-scheduled and duly noticed meeting held on November 18, 2024, the Planning Commission did consider the proposed summary vacation of public service easement; and

WHEREAS, the Planning Commission did review and consider an Environmental Impact Report (FEIR23-003) (SCH No. 2023050006) for said request pursuant to the California Environmental Quality Act (CEQA).

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 service easement as described and depicted 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 public service easement vacation is consistent with the City's General Plan.
 2. The proposed public service easement vacation complies with the objectives of the adopted City-wide Land Use Policy Plan.
 3. The affected public service easement is hereby determined to be excess.
 4. There are no public facilities within the public service easement.
 5. The proposed public service easement vacation would have no effect on existing improvements or easements.
 6. The proposed public service easement vacation will not be detrimental to public health, safety, and welfare.
 7. All requirements of California Environmental Quality Act (CEQA) have been met in that the proposed public service easement vacation will not have a significant effect on the environment, as reviewed and analyzed in the Environmental Impact Report (FEIR23-003) (SCH No. 2023050006). The proposed vacation and abandonment is deemed Categorical Exempt pursuant to Section 15305 Class 5 in that this is a minor realignment of right-of-way.
- D. 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 18th day of November, 2024 by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Fatima Rios, Chairperson

ATTEST:

Gina Jackson, Senior Office Specialist

Exhibit(s):

Exhibit A –Legal Description of Slope Easement Summary Vacation

Exhibit B – Plat of Slope Easement Summary Vacation