

MEMO

TO: Chris Holden, John Quinn, Madia Street neighbors (through Mr. Bishop)  
FROM: Paul Little  
CC: Dan Rix, Martin Pastucha  
RE: Resolution of issues surrounding Madia Street Vacation  
DATE: September 5, 2006

First, thank you all for coming out on a Saturday and taking time to work for a reasonable resolution of this issue. I appreciate everyone's willingness to talk through the issues and come to a consensus resolution.

Here is my understanding of the "terms and conditions" agreed upon at last Saturday morning's meeting of the Madia Street neighbors. (Understanding full well that every neighboring property wasn't represented, but that many were, and those present seemed to have constituted the leadership in the discussions previously.)

Please let me know by return e mail if I've missed anything or misstated any of the agreed-upon points and I will amend the memo prior to presenting the information to the City Council.

Per agreement with the Quinn Family, Madia Street neighbors will also include the property directly across from the entrance to Madia Street on Linda Vista *currently belonging to the Millers*.

Here are the agreement points:

- 1.) Madia Street neighbors will have access to the "Quinn Gardens" seven days per week from sunrise to sunset. On special Rose Bowl event days, neighbors' use will extend to a reasonable time after the end of said event so that neighbors can enjoy the event. (4th of July fireworks, for example.)
- 2.) In exchange for seven day access, the Quinns will install a low fence or hedge, conforming with City front yard regulations, with a locking gate. The gate lock will be "keypad" activated and the Madia Street neighbors will have the keycode.
- 3.) The Quinn Family prefers that there be no alcohol or food consumption on the part of the neighbors using the Quinn Garden, but recognized that neighbors may want to eat or enjoy an alcoholic beverage from time to time. The Quinns are amendable to being "neighborly" and ask that the neighbors call in advance, behave reasonably and leave the garden as they find it after use, but the alcohol and food prohibition will remain as stated in the adopted resolution.
- 4.) In the event of use disputes, there will be mutual arbitration as set forth previously. It is also understood that the Quinns and the affected neighbors will discuss the problem first and try to work out a reasonable solution among themselves.
- 5.) An entire property will not be penalized should there be a violation of the use rules for Quinn Gardens. Simply put, if there is a violation of use rules, the

- individual or individuals responsible will be banned from use, as set forth previously, not everyone residing at the address with the offending parties.
- 6.) *Neither the Quinns nor the neighbors can impose use rule changes without mutual agreement. If agreement on use changes cannot be reached, the changes will be arbitrated.*
  - 7.) If it is not already so deemed, the property will be treated by the City of Pasadena as if it is a front yard property, for permitting, fencing and land use purposes.
  - 8.) The cul-de-sac turn-around will be constructed 12 feet east of the present configuration. The turn-around will be centered on the street, or a few feet south as the City Engineer may agree. The City Council will approve removal of the existing non-native tree to allow for the revised cul-de-sac and turn-around configuration. The Quinns will pay for the tree removal, but any city fees pertaining to removal of the tree will be waived.
  - 9.) Quinns will record an easement against the vacated property giving access to the vacated property to the Madia Street neighbors on the terms and condition of the proposed terms of easement previously before the City Council and as amended here.

While not subject to the agreement, I came away Saturday morning with the expectation that everyone party to the agreement was a neighbor, and that each would treat any others in a courteous, neighborly manner.

Finally, given the current schedule of the City Council, I would anticipate this getting back on the agenda in early October.

**RESOLUTION NO. 8550**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASADENA ORDERING THE VACATION OF A PORTION OF MADIA STREET FROM APPROXIMATELY 380 FEET EAST OF LINDA VISTA AVENUE TO THE EAST END OF MADIA STREET**

WHEREAS, Resolution No. 8516 was adopted by the City Council of the City of Pasadena on October 3, 2005, declaring the intention of the City of Pasadena to vacate a portion of Madia Street from approximately 380 feet east of Linda Vista Avenue to the east end of Madia Street and which said portion of said street shall be referred to in this resolution as Madia Street; and

WHEREAS, Madia Street, from approximately 380 feet east of Linda Vista Avenue to the east end of Madia Street, is approximately 150 feet in length and 50 feet in width; and

WHEREAS, Exhibit "B" on file in the office of the Director of the Department of Public Works identifies in detail the subject street to be vacated; and

WHEREAS, the City Council has approved the finding that there is substantial evidence that the vacation of the subject portion of Madia Street, as described herein and in Resolution No. 8516, will have no significant effect on the environment based on the determination of the City Council that the subject portion of Madia Street is declared to be Categorically Exempt (Class 4) pursuant to the guidelines of the California Quality Act, CEQA Section 15304, and no further environmental review is required and that the vacation proceeding for said street is and will be conducted pursuant to the California Streets and Highways Code Section 83290, et seq.; and

WHEREAS, the City Council finds that the vacation of the subject portion of Madia Street, as described herein and in Resolution No. 8516, is consistent with the

General Plan Mobility Element and is unnecessary for present or prospective public use;

WHEREAS, the applicant for said vacation is willing to fulfill certain conditions required by the City and has offered to fulfill certain other conditions requested by adjoining property owners, all at the sole cost and expense of applicant; and

WHEREAS, the City Council finds that there will be the following public benefits as a result of the vacation and fulfillment of the associated conditions, all at no cost to the City: (a) the creation of a cul-de-sac that will provide an adequate and safe turnaround, which does not currently exist, for emergency vehicles, refuse collection vehicles, delivery vehicles and other vehicles; (b) the creation of a continuous sidewalk, which does not currently exist, to replace the dead end sidewalk; (c) a fire hydrant, that does not currently exist, for use in a hillside area, and (d) the public shall be relieved from further maintenance responsibility and associated liability for the vacated area.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Pasadena:

1. Said Madia Street, as described in Exhibit "A" and shown on Exhibit "B", attached hereto and incorporated hereat by this reference, is hereby ordered vacated and abandoned, subject to fulfillment of the conditions adopted with the resolution set forth in Exhibit "C", attached hereto and incorporated herein by reference and of the following additional conditions: (a) the square footage being added to the lots at 1164 Madia Street and 1165 Madia Street shall not be included in the total lot size for the purpose of calculating future buildable area; (b) a fire hydrant that meets the specified fire flow shall be installed in the proposed cul-de-sac; (c) all landscaping in the vacated

area shall meet the required fuel modification plan set forth in the California Urban Wildlife Code, 2000 edition; (d) an easement for utilities and access thereto shall be reserved to the City as to any utilities which remain within the vacated area; (e) applicant shall enter into separate and binding covenants running with the land with each and every property owner with frontage on Madia Street to the east of Linda Vista Avenue with, essentially, all of the key provisions set forth in Exhibit "D", attached hereto and incorporated hereat by this reference, in a form approved by the City Attorney, and (f) applicant shall record a covenant satisfactory to the City Attorney providing that no buildings shall be constructed in the vacated area (structures such as a balcony, fountains, and benches are allowed subject to City laws); and

2. It is further ordered that the City Clerk shall cause a certified copy of this resolution to be recorded in the Office of the County Recorder of Los Angeles only after the attached conditions have been satisfied by the applicant, through completion of a Condition Satisfaction Contract.

Adopted at the regular meeting of the City Council on the 19th day of

December, 2005, by the following vote:

AYES: Councilmembers Gordo, Haderlein, Holden, Little, Streater, Tyler, Mayor Bogaard

NOES: None

ABSENT: Vice Mayor Madison

ABSTAIN: None

  
JANE L. RODRIGUEZ, OMC  
City Clerk

Approved as to form:

  
Michele Beal Bagneris  
City Attorney

**EXHIBIT "A"**  
**MADIA STREET AND PARKVIEW AVENUE**  
**STREET VACATION**

**PARCEL A**

That portion of Madia Street (50.00 feet wide) adjoining Lots 11, 12 and 13 of Block "I" of Linda Vista Tract in the City of Pasadena, County of Los Angeles, State of California as per map recorded in Book 29, Pages 97 and 98 of Record Maps in the office of the County Recorder of said County, together with those portions of Parkview Avenue as shown on said Linda Vista Tract described as a whole as follows:

**COMMENCING** at the southwest corner of Lot 9 of Tract Map No. 8185 as per map recorded in Book 108, Page 12 of Maps in the office of the County Recorder of said County, being a point in the north line of Madia Street (50.00 feet wide) as shown on said Tract Map No. 8185;

Thence along the north line of Madia Street, North 89°45'00" East 331.67 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing along said north line, North 89°45'00" East 148.33 feet to the southwest corner of that portion of Parkview Avenue vacated by Ordinance 2333 of said City on February 17, 1925;

Thence along the southerly line of said portion of Parkview Avenue described in said Ordinance, and the easterly prolongation of the north line of said Madia Street, North 89°45'00" East 49.91 feet to the southeast corner of said Ordinance;

Thence along the southwesterly prolongation of the southeasterly line of said portion of Parkview Avenue described in said Ordinance, South 26°14'15" West 27.93 feet to a point on the centerline of said Madia Street;

Thence along said centerline, South 89°45'00" West 152.24 feet to the beginning of a non tangent curve concave southwesterly having a radius of 35.00 feet, a radial line to said point bears North 73°08'54" East;

Thence northeasterly 44.84 feet along said curve through a central angle of 73°23'54" to the **TRUE POINT OF BEGINNING**;

All as shown on Exhibit "B" attached herewith and made a part hereof.

The above described parcel contains 4,183 square feet (0.096 acres), more or less.

This real property description has been prepared by me,  
or under my direction, in conformance with the Professional  
Land Surveyors Act.

\_\_\_\_\_  
**Bernard J. McNally, P.L.S. 7629**  
Expires 12/31/06

\_\_\_\_\_  
Date:

**MADIA STREET AND PARKVIEW AVENUE  
STREET VACATION**

**PARCEL B**

That portion of Madia Street (50.00 feet wide) adjoining Lots 10 and 11 of Block "H" of Linda Vista Tract in the City of Pasadena, County of Los Angeles, State of California as per map recorded in Book 29, Pages 97 and 98 of Record Maps in the office of the County Recorder of said County, together with those portions of Parkview Avenue as shown on said Linda Vista Tract described as a whole as follows:

**COMMENCING** at the southwest corner of Lot 9 of Tract Map No. 8185 as per map recorded in Book 108, Page 12 of Maps in the office of the County Recorder of said County, being a point in the north line of Madia Street (50.00 feet wide) as shown on said Tract Map No. 8185;

Thence along the north line of Madia Street, North 89°45'00" East 365.22 feet;

Thence leaving the north line, South 00°15'00" East to a point on the centerline of said Madia Street, said point being also the **TRUE POINT OF BEGINNING**;

Thence along said centerline, North 89°45'00" East 144.81 to northerly prolongation of the westerly line of that portion of Parkview Avenue vacated per document recorded August 27, 1985 as Instrument No. 85-992561;

Thence along said northerly prolongation, South 00°15'00" East 25.00 feet to the northeast corner of said portion of Parkview Avenue described in said Instrument No. 85-992561;

Thence along the northerly line of said portion of Parkview Avenue described in said Instrument No. 85-992561 and the south line of said Madia Street, South 89°45'00" West 30.00 feet to the northwest corner of said Instrument No. 85-992561;

Thence continuing along the south line of said Madia Street, South 89°45'00" West 116.73 feet to the beginning of a non-tangent curve concave westerly having a radius of 35.00 feet, a radial line to said point bears South 64°52'23" East;

Thence northerly 59.11 feet along said curve through a central angle of 41°58'53" to the **TRUE POINT OF BEGINNING**;

All as shown on Exhibit "B" attached herewith and made a part hereof.

The above described parcel contains 3,605 square feet (0.083 acres), more or less.



This real property description has been prepared by me,  
or under my direction, in conformance with the Professional  
Land Surveyors Act.

---

**Bernard J. McNally, P.L.S. 7629**  
Expires 12/31/06

Date: \_\_\_\_\_





## EXHIBIT "C"

### MEMORANDUM - CITY OF PASADENA Department of PUBLIC WORKS

**DATE:** September 8, 2005

**TO:** Richard Bruckner, Director  
Department of Planning and Permitting

**FROM:** Daniel A. Rix, City Engineer  
Department of Public Works

**RE:** **Vacation of a Portion of Madia Street from Approximately 380 Feet East of Linda Vista Avenue to the East End of Madia Street**

#### RECOMMENDATION:

In accordance with the authority conferred upon the Planning Commission by Section 2.105.110(B)(4)(a) of the Pasadena Municipal Code, the Department of Public Works recommends that the Planning Commission recommend that the City Council:

1. Take the appropriate action and make the appropriate findings to vacate the subject portion of Madia Street from approximately 380 feet east of Linda Vista Avenue to the east end of Madia Street, in accordance with the requirements and recommendations contained in this report and subject to the conditions herein;
2. Find that the subject portion of Madia Street proposed for vacation is consistent with the General Plan Mobility Element and is unnecessary for present or prospective public use for traffic purposes;
3. Declare that the City's interest in the proposed vacated portion of Madia Street is an easement only with a market value of less than \$1,000. Therefore, the City's interest in the proposed vacation is not subject to the provisions of Chapter 4.02 of the Pasadena Municipal Code as indicated in Section 4.02.040(A) of this chapter;
4. Adopt a resolution vacating the subject portion of Madia Street in accordance with the requirements and recommendations contained in this report and subject to the conditions described herein;

Richard Bruckner, Director  
Department of Planning and Development  
September 8, 2005  
Page 2

**BACKGROUND:**

The property owner of 1165 Madia Street purchased the property across the street located at 1164 Madia Street. Now owning the properties on both sides of the street, the property owner has requested the vacation of a portion of Madia Street from approximately 380 feet east of Linda Vista Avenue to the east end of Madia Street. The proposed portion of Madia Street is directly adjacent to 1164 and 1165 Madia Street and is approximately 150 feet in length and 50 feet wide.

The existing roadway width of Madia Street is 30 feet and dead ends at the east end. With the vacation of this portion of Madia Street, the property owners will be required to provide easements to the City for the construction of a standard cul-de-sac including a ten-foot wide parkway around the cul-de-sac. The cul-de-sac will improve safety for residents and their guests by providing a safe area to turn around and return to Linda Vista Avenue. In addition, it will improve turn around movements for emergency vehicles and trash collection vehicles. Finally, maintenance costs will be reduced in that the city will no longer need to maintain a dead end street that only serves two properties, but will be able to maintain a cul-de-sac that will benefit all those that live on Madia Street.

The only properties with access from the proposed portion of Madia Street are 1164 and 1165 Madia Street. The property owner plans to improve the area with a garden like setting between their two properties. No construction of the proposed portion of Madia Street is planned. The proposed vacation would eliminate on-street parking that is directly adjacent to the applicant's properties and is not anticipated to impact any parking adjacent to other properties on the street.

The City's interest in the subject portion of Madia Street is in easement, only, for public purposes. The vacation will convey all rights to the abutting property owners except for public utility easements required as described below and private ingress/egress easements. As a result, no structures will be allowed on the subject portion that is reserved for easements.

The subject portion of the Madia Street to be vacated is legally described in Exhibit "A" and is shown on Exhibit "B", both attached hereto. These are currently in draft form and will be finalized once the final configuration of the cul-de-sac has been determined.

Richard Bruckner, Director  
Department of Planning and Development  
September 8, 2005  
Page 3

**OTHER CITY DEPARTMENTS, PUBLIC AGENCIES, AND OTHERS:**

The street vacation has been reviewed by other City departments, County Agencies, various utilities, and the California Department of Transportation (Caltrans). The following have no specific comments or objections to the proposed street vacation:

SBC  
Southern California Edison  
California American Water Company  
County Sanitation Districts of Los Angeles County  
Metropolitan Water District  
Altrio/Champion  
Charter Communications  
Verizon  
City of Pasadena Departments and Divisions:  
    Police Department  
    Fire Department

The following have comments and requirements:

1. **City of Pasadena:**

Prior to the recordation of the vacation, if approved by the City Council, the applicants are required to provide proof of interest in fee to the proposed vacation area. In addition, if the proposed vacation is approved by the City Council, the applicants will not be allowed to commence any work within the proposed vacation area until such proof is provided, unless otherwise approved by the City of Pasadena.

2. **Water and Power Department - Water Division:**

The Water Division has a four-inch water main located 15 feet north of the south property line of Madia Street, including a blow-off valve which is located within the proposed vacation of Madia Street. A ten-foot wide easement will be required for complete access over the main and blow-off valve. If the applicant chooses to abandon the existing water service in the proposed vacation area, they will be required to reconfigure their laterals and install a new blow-off valve in the new cul-de-sac in a manner acceptable to the Department of Water and Power.

3. **Water and Power Department - Power Division:**

The Power Division has an existing main line located 20 feet south of the north property line of Madia Street, including a power vault which is located within the proposed vacation of Madia Street. A public utility easement shall be required for complete access to the main and power vault. If the applicant chooses to abandon the existing power service and power vault in the proposed vacation area, the applicant will be required to reconfigure their laterals and install a new power vault in the new cul-de-sac in a manner acceptable to the Department of Water and Power.

4. **Gas Company**

The Gas Company has an existing 4-inch main line located 16 feet south of the north property line of Madia Street within the proposed vacation area. A public utility easement shall be required for complete access to their facility. If the applicant chooses to abandon the existing gas service in the proposed vacation area, they will be required to reconfigure their laterals and the mainline in a manner acceptable to the Gas Company.

5. **Department of Public Works:**

- A. **Street:** The installation of new PCC curb, gutter, sidewalk and standard cul-de-sac shall be constructed at the new east end of Madia Street, unless otherwise approved by the City Engineer. In addition, only standard driveway approaches may be installed along the new cul-de-sac, unless otherwise approved by the City Engineer.
- B. **Storm Drain:** There are no storm drain facilities located within the proposed vacation of Madia Street.
- C. **Drainage:** The applicant will not be allowed to discharge water from the vacated portion of the street to the remaining portion of Madia Street.
- D. **Sewer:** There is an existing 8-inch sewer main line and a terminal manhole in the proposed vacation of Madia Street. A public utility easement is required if the sewer line and manhole remain in the place. If the applicants choose to abandon the existing sewer in the proposed vacation area, they

will be required to reconfigure their laterals and install a new terminal manhole in the new cul-de-sac.

E. Street Lights:

- (1) There are four existing street lights within the proposed vacation area of Madia Street. The applicant shall relocate a maximum of two (2) street light and remove/salvage the remaining street lights. The relocation of the street light consists of new foundation construction, conduit, street light conductors, pull boxes and miscellaneous appurtenant work in a manner that complies with the requirements of the Department of Public Works. The removal and salvage of the street lights consists of removal and delivery of the salvaged street lights to the City yards.
- (2) The existing lighting system on Madia Street is a series system. Modification to the existing system is required to maintain existing lighting operation by means of a new conduit crossing Madia Street. The applicant is responsible for the modification work which includes new conduit, conductors, pull boxes and miscellaneous appurtenant work in a manner that complies with the requirements of the Department of Public Works. The crossing location is to be determined by the Department of Public Works.

- F. Plans, Design, Review, and Construction Costs: The applicant is responsible for design, preparation of plans, specifications, and any supporting documents and reports. The applicant is also responsible for construction of all required public improvements that arise as a result of all conditions noted in this report. Plans, supporting documents, reports, and specifications for the above improvements shall be prepared by an engineer registered with the State of California and shall be approved by the Department of Public Works. Plans must be submitted in AutoCAD format with the City standard borders.

Upon submission of improvement plans, specifications, reports, and supporting documents to the Department of Public Works for review and checking, the applicant shall be required to place a deposit with the



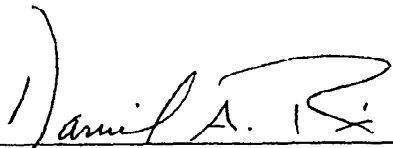
Richard Bruckner, Director  
Department of Planning and Development  
September 8, 2005  
Page 6

Department to cover these costs. Prior to construction of the improvements, the applicant shall be required to place a deposit with the Department to cover construction inspection.

- G. Condition Satisfaction Contract between the City and the Applicant: A condition satisfaction contract ("contract") between the City and the applicant will be reviewed, approved and executed by both parties. The contract shall outline the applicant's obligations to provide security for performance of the conditions listed in this report. The request for approval of the City entering into a contract with the applicant will be included with the recommendations to the City Council to vacate the subject portion of Madia Street.

Recordation of the vacation resolution will occur only after the conditions of the contract and all conditions in this report have been met to the satisfaction of the Department of Public Works.

- H. The applicant shall be responsible for all costs associated with these conditions. Unless otherwise noted in this memo, all costs will be determined when submissions are received and will be based upon the estimated cost to the Department for the work and on the General Fee Schedule that is in affect at the time these conditions are met.

  
\_\_\_\_\_  
DANIEL A. RIX, City Engineer  
Department of Public Works

DAR:BH  
Attachments

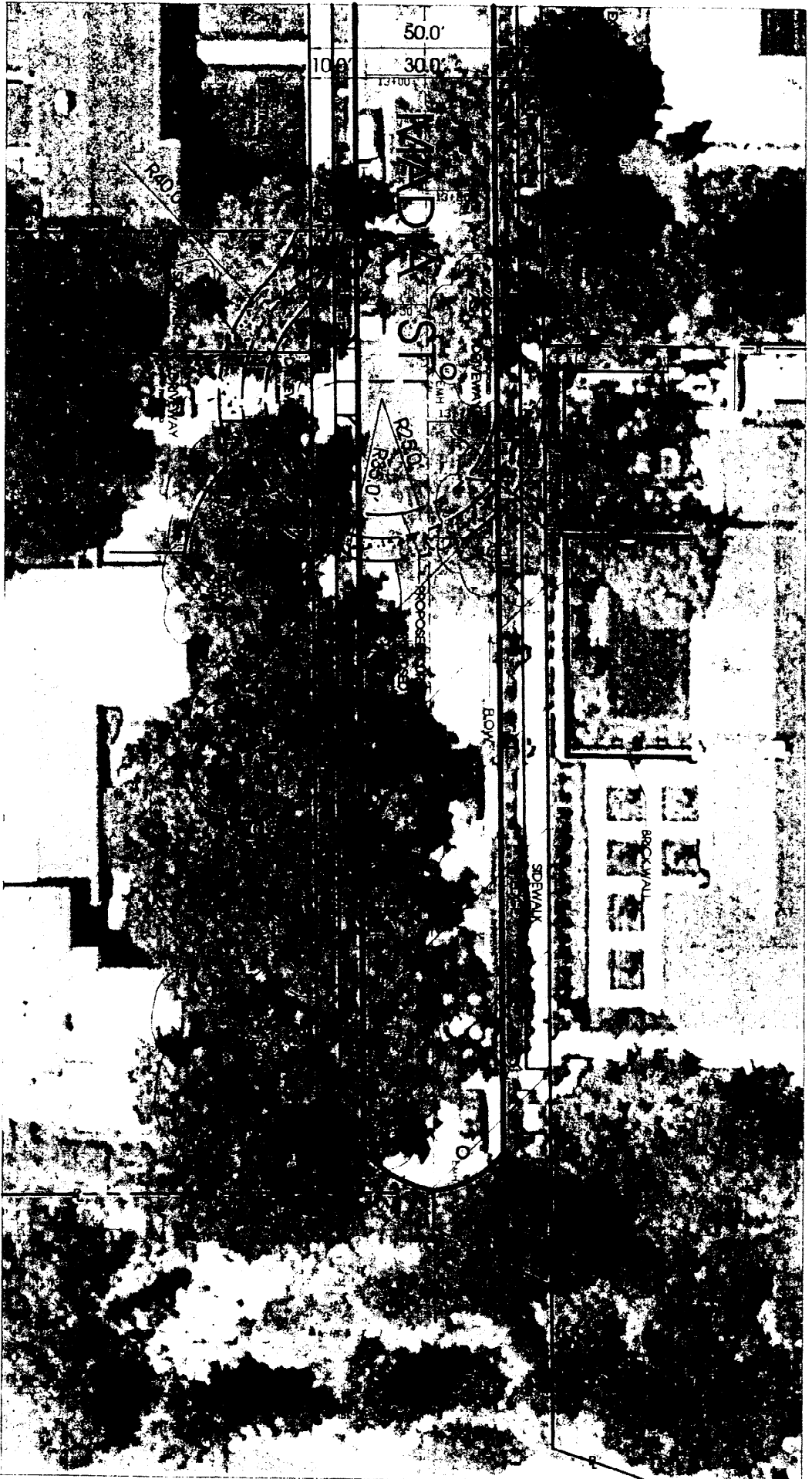
## **EXHIBIT "D"**

### **QUINN GARDEN COVENANT**

#### **KEY PROVISIONS**

1. Record a covenant that runs with the land which grants to each Madia Street property owner access to and use of the vacated street space (the "Space"); the Space will be gated and locked, with each Madia Street property owner given a key.
2. The covenant shall provide indemnity by covenantee of covenantor against claims arising from covenantee's use of the Space.
3. The covenant shall specify reasonable usage rules, including, without limitation: rules regarding days and hours of usage; group size and number of guests; limitations on use of tobacco, alcohol and food consumption; no firearms, pets, littering, amplified sound or unsupervised children; and other reasonable rules to be included in a written agreement with each property owner.
4. The covenant shall specify that landscaping shall be done in such a way as to preserve and enhance the view of the mountains and the Arroyo Seco from the remaining portion of Madia Street.





ORIGINAL PROPOSAL TO CITY COUNCIL  
 ON 12/05/2005



DESIGNED BY  
 JOHN SAVANNAH  
 CHECKED BY  
 CHL WELLS

PROPOSED 25' CURB RADIUS CUL-DE-SAC  
 CITY OF PASADENA - DEPARTMENT OF PUBLIC WORKS  
 MADIA STREET CUL-DE-SAC  
 FROM LINDA VISTA AVENUE TO EAST END

CA02:1069 DWG 07/15/05



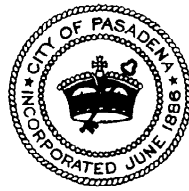
PROPOSAL TO CITY COUNCIL 10/23/06



PROPOSED 25' CURB RADIUS CUL-DE-SAC ALT. 8/29/06

CITY OF PASADENA - DEPARTMENT OF PUBLIC WORKS

DESIGNED BY CHIN SAMARIN	DATE 10/23/06
CHECKED BY CUL WEISS	DATE 10/23/06
MADIA STREET CUL-DE-SAC FROM LINDA VISTA AVENUE TO EAST END	
CAD: J. GALIEN 35, 5000R DWG 00 30/06	



OFFICE OF THE CITY ATTORNEY

October 16, 2006

To the individuals on the attached list:

This letter confirms that the City Council will consider the following matter at its meeting of October 23, 2006: "Proposed Vacation of a Portion of Madia Street, Amendment of Resolution Number 8550 to Change a Condition of Vacation from a Covenant to an Easement for Ingress and Egress to Vacated Property for Adjoining Owners." There will be an opportunity for public comment prior to any decision being made by the City Council.

This is the continuation of a deliberation that took place on August 14, 2006. It represents a proposed resolution of issues memorialized in the attached memorandum of September 5, 2006 from Councilmember Paul Little.

The follow up staff report will be available on-line on the City of Pasadena website as of Friday October 20, 2006.

Respectfully,

Nicholas George Rodriguez  
Assistant City Attorney

xc: Michele Beal Bagneris, Esq.  
Cynthia Kurtz, City Manager  
Jane L. Rodriguez, CMC  
Ann H. Higginbotham, Esq.

51402

John B. Quinn  
1165 Madia Street  
Pasadena, CA 91103

October 17, 2006

City of Pasadena  
Mayor Bogaard  
City Council  
City Manager Kurtz  
City Attorney Bagneris

Dear Mayor Bogaard, City Council Members, City Attorney and City Manager:

We have received copies of letters from certain of our neighbors (and at least one person who owns no property on Madia and does not even reside in Pasadena) questioning whether an agreement was reached at the mediation overseen by Councilmen Chris Holden and Paul Little. This surprises us because it was our understanding that an agreement clearly was reached and that we were moving forward pursuant to that agreement. (That some of the neighbors who had objected to the vacation previously are not doing so now would seem to corroborate our understanding that the mediation had resolved our differences).

Unfortunately, this is consistent with a pattern of conduct we have seen for the last year. Time and again we have accepted modifications to the project or the easement terms requested by our neighbors with the understanding that by accommodating their requests we had reached an agreement -- only then to be met with still more requests for changes.

For example, at the hearing on December 19, 2005, Councilman Haderlein asked Ann Higginbotham, who represented all the objecting neighbors at the time, what it was they wanted in order to support the project. Ms. Higginbotham responded that the neighbors wanted a covenant running with the land giving them and subsequent owners access to the vacated property in perpetuity. As a result, the Council passed a resolution approving the vacation --

including a specific cul-de-sac layout and specific rules regarding access -- conditioned on the parties' entering into such a covenant.

Thereafter, however, the neighbors would not sign a covenant. They made additional requests for changes regarding the terms of access, including changes to matters which had been specifically addressed and resolved by the City Council's resolution. Numerous compromises were made, but, in the end, the neighbors declined to sign anything. We were at an impasse.

Consequently, in May of this year, we requested permission of the City Council to modify the resolution to permit us simply to record easements running with the land in favor of each of the neighbors' properties that would give them (and their successors) the same access to the vacated property that they would have received pursuant to the covenant envisioned by the original resolution. As we explained then, it was our understanding that the City Council did not intend to give the neighbors a veto power enabling them to block the project simply by refusing to sign the covenant which they had asked for. At the hearing on our request to modify the resolution on July 24, 2006, it appeared that at least some City Council members shared our understanding that the Council had not intended to give the neighbors such a veto power. No vote was taken on our request, however, because Councilmembers Holden and Little volunteered to conduct a mediation.

That mediation took place on Saturday, August 19, 2006. Once again, we agreed to additional changes to the project to accommodate the objecting neighbors, including, again, changes to matters that had already been approved in the resolution. We agreed, for example, that the neighbors would have access to the property sunup to sundown every single day. We agreed to the neighbors' request that the property be locked with a keypad rather than a key. We agreed to the neighbors' request regarding arbitration, the procedures for rule changes and other matters. We even agreed to move the cul-de-sac twelve feet further east, onto property which we had hoped to be part of the garden, if the City would approve removal of an Ash tree, even though this would bring the cul-de-sac much closer to our home than we had hoped. We did all this in the interest of finally reaching closure on an agreement. We believed that we had accomplished that.

It is therefore a surprise and a disappointment that certain of the neighbors are now claiming there is no agreement and making still more demands for changes to matters that were agreed upon. We do want to note that our immediately-next-door neighbors, the Slatterys, on the south side (who are most affected by the project) fully support the project and have written a letter so stating. We are also gratified that two of the other neighbors who had objected in the past are apparently not objecting now (at least they have not written letters voicing objections and at least one of them—the Bishops—have told us that they are satisfied).

For those neighbors who claim there is no agreement, the principle objection now seems to be that the driveways for our two properties will open onto the cul-de-sac and not onto the street itself. First, we do not see how it affects any of the neighbors whether the driveways open onto the cul-de-sac or the street. Second, we never agreed to change the plans so that the driveways would open onto the street. Third, this cannot be done without moving the cul-de-sac



much further east into the intended garden property where it would jeopardize the root systems of Oak trees.

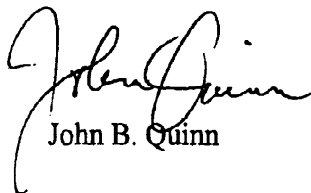
We have spent over \$100,000 on this project, have been discussing it with our neighbors for over a year-and-a-half and have bent over backwards to accommodate their requests. We are, moreover, offering them a project that is unquestionably an extremely good deal for all of them. Where presently there is no view at the end of the street, we will create a beautiful view and a garden to which they will have access every day in perpetuity. As the council previously determined in granting the vacation, there are also public benefits, including the creation of a proper turn around (where presently there is no turn around at all) and the installation of a fire hydrant.

Finally, two things have been lost sight of: First, the City already approved the vacation and the plan for the cul-de-sac on December 19, 2005. The only things that resolution left to work out were certain of the terms of access. None of the present objections relate to the terms of access. We have now agreed to a change to the previously-approved cul-de-sac design (giving up more of our property) in order to make peace.

Second, we own this property. The property is located at the end of a dead end where we own the homes on both sides of the street and, as owners of those homes, we own the property to the centerline of the street from both sides. To eliminate any question about our ownership of the property, we even obtained, at the request of the City, a judgment of quiet title to the property. The City's interest in this property was never an ownership interest, but was only an easement for vehicular traffic. There is no traffic and there is no need for the easement.

In view of all this, we would respectfully ask the City to allow us to move forward with the projects now by recording easements in favor of the neighbors.

Very truly yours,



John B. Quinn

JBQ:wpc  
18092/1975298.1