



OFFICE OF THE CITY ATTORNEY

TO: Honorable Mayor and Members of the City Council

FROM: Michele Beal Bagneris, City Attorney *MBB*

DATE: August 14, 2006

RE: 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.

RECOMMENDATION:

Pursuant to the direction of the City Council at its meeting of July 24, 2006, the attached Amendment to Resolution Number 8550 and the referenced Easement for Ingress and Egress to Vacated Property ("proposed Easement") are presented to City Council for consideration. If the City Council approves the use of the proposed Easement to satisfy its intent in vacating the property, then it should adopt the attached Amendment to Resolution 8550.

BACKGROUND:

On December 19, 2005, the City Council approved Resolution Number 8550, 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. A copy of that Resolution is attached hereto as Exhibit "1."

On July 24, 2006, the City Council was asked to clarify its intention with respect to a specific condition in the Resolution relating to the use of the vacated property by adjoining property owners and, specifically whether the City Council intended that a covenant, in the form of a Declaration of Covenants, Conditions and Restrictions, be approved by each and every neighbor as a precondition to vacation. Applicants have indicated their position that an easement document could be recorded, providing essentially the same benefits as a covenant, but not requiring acceptance by each and every neighbor prior to recording.

After review of the record by the City Council and deliberation, the City Council directed that an easement be prepared in lieu of the covenant that would provide previously discussed use rights for specified properties. The City Council also directed that the notice be provided to the neighbors which was provided in a document mailed to affected property owners on August 3, 2006 as reflected in Exhibit "2."

Attached to the Resolution as Exhibit "E" is the proposed Deed of Easement for Ingress and Egress to Vacated Property proposed by the applicants. The City Attorney's Office has reviewed the proposed Easement and finds that it has substantially the same legal effect as the earlier proposed Declaration of Covenants, Conditions and Restrictions. The element it is lacking is the pre-approval by the specified property owners. The pre-approval represents a negotiated approach to the method and effect of the street vacation and is a public policy matter, not a legal requirement of the street vacation. The City Council may either approve the amendment to the Resolution or may decline to approve it.

**RESOLUTION NO.
(AMENDMENT OF RESOLUTION NO. 8550)**

AMENDMENT OF RESOLUTION No. 8550 TO CHANGE A CONDITION OF VACATION OF A PORTION OF MADIA STREET FROM A COVENANT TO AN EASEMENT FOR INGRESS AND EGRESS TO VACATED PROPERTY FOR ADJOINING OWNERS.

Section 1. Resolution No. 8550 is amended by amending Section 1(e) to read as follows:

“1(e) applicant shall grant a Deed of Easement for Ingress and Egress to Vacated Property to each and every property owner with frontage on Madia Street to the east of Linda Vista Avenue with, essentially, all of the key operational provisions set forth in Exhibit ‘D’, attached hereto and incorporated hereat by this reference, in essentially the form attached hereto as Exhibit ‘E’.”

Section 2. All other terms and conditions of Resolution No. 8550 are unchanged and remain the same.

Adopted at the _____ meeting of the City Council on the ____ day of _____, 2006, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JANE L. RODRIGUEZ, CMC
City Clerk

Approved as to form:


Michele Beal Bagneris
City Attorney

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

John B. and M. Shannon Quinn
c/o Quinn Emanuel Urquhart Oliver &
Hedges, LLP
865 S. Figueroa Street
10th Floor
Los Angeles, CA 90017-2543

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF EASEMENT FOR INGRESS AND EGRESS TO VACATED PROPERTY

This **DEED OF EASEMENT FOR INGRESS AND EGRESS TO VACATED PROPERTY** (the "Deed") is granted as of July __, 2006 by John and Shannon Quinn (jointly, "Grantor"), as owners of the servient tenement, to Robert and Susan Bishop ("Grantee"), as owners of the dominant tenement, with reference to the following facts and on the following terms and conditions:

RECITALS

A. Grantor is the fee simple owner of that certain area of land located in the City of Pasadena, County of Los Angeles, State of California, as legally described in Exhibit A attached hereto and incorporated herein by reference (the "Vacated Property"). The Vacated Property is a private, gated garden at the cul-de-sac on the eastern end of Madia Street.

B. Grantee is the fee simple owner of that certain real property located at 1199 Madia Street in the City of Pasadena, County of Los Angeles, State of California, as legally described in Exhibit B attached hereto and incorporated herein by reference (the "Grantee Property").

GRANT OF EASMENT FOR INGRESS AND EGRESS TO VACATED PROPERTY

For valuable consideration, receipt of which is hereby acknowledged, and subject to the terms, conditions and rules set forth below, Grantor does hereby grant to Grantee a non-exclusive easement for pedestrian ingress and egress into the Vacated Property and use of the Vacated Property for scenic viewing (the "Easement"), which Easement shall be appurtenant to the Grantee Property, as follows:

1. **Landscaping.** The Vacated Property will be landscaped by Grantor at Grantor's expense and in accordance with Grantor's discretion, except that Grantor shall landscape the Vacated Property (including the placement of any plants or objects) in such a way as to preserve

and enhance the view of the mountains and Arroyo Seco from the remaining portion of Madia Street.

2. **Locked Gate.** The Vacated Property will be gated and locked. Grantor shall provide Grantee a key to the gate, provided that Grantee shall first enter into a Financial Responsibility and Indemnity Undertaking and Arbitration Agreement in the following form:

Financial Responsibility and Indemnity Undertaking and Arbitration Agreement

Grantee shall be financially responsible for any damage caused by Grantee or Grantee's guest to the Vacated Property or any fixtures or appurtenances. Grantee hereby agrees to and shall indemnify, defend and hold harmless Grantor and Grantor's agents, employees, successors or assigns from and against any and all claims, losses, costs, liabilities, actions, causes of action, damages, injuries and expenses (including, without limitation, reasonable attorneys' fees and other expenses) of every kind, nature or description whatsoever incurred or sustained by Grantee or Grantee's guests, which arise out of, relate to, or result from Grantee's or Grantee's guests' use of the Vacated Property.

Grantor and Grantee agree that in the event there is a dispute between them regarding (a) Grantor's declaration that Grantee is in material breach of the Vacated Property Rules, (b) a proposed change to the Vacated Property Rules, or (c) whether Grantor has interfered with Grantee's right of access or whether or to what extent Grantee has incurred damages as a result of any such interference, any such dispute shall be resolved by non-binding arbitration before the American Arbitration Association. Grantor and Grantee reserve the right to challenge the outcome of any such arbitration in a court of competent jurisdiction in the County of Los Angeles.

Grantee shall not duplicate the key, nor shall Grantee provide the key to any person who is not a member of Grantee's household. Grantee may request a replacement key from Grantor if the key is lost. Upon the termination of Grantee's ownership of the Grantee Property, Grantee shall return the key to Grantor or Grantor's successors or assigns, as applicable. This provision shall then apply to Grantee's successors and assigns who shall be provided a key to the Vacated Property upon entering into a Financial Responsibility and Indemnity Undertaking and Arbitration Agreement in the form set forth herein.

3. **No Interference With Grantor's Use and Enjoyment.** Grantee shall not interfere with Grantor's use or enjoyment of the Vacated Property. Grantee shall adhere to the following rules (the "Vacated Property Rules"), and it is understood that Grantee's use of the Vacated Property in accordance with the terms of said rules shall not constitute an interference with Grantor's use and enjoyment:

Vacated Property Rules

- **Access Hours.** The Vacated Property shall be available to Grantee for Grantee's use in accordance with the Easement between sunrise and sunset Monday through Saturday and when there are fireworks at the Rose Bowl. Outside of those hours and days, Grantee shall not have any access to the Vacated Property nor any right to use the Vacated Property.
- **Group Size and Number of Guests.** Except when there are fireworks at the Rose Bowl, no more than ten (10) persons in the aggregate (including all Grantees having access to the Vacated Property) shall be permitted to enter the Vacated Property at any time. Grantee may bring guests with Grantee on the Vacated Property, but only so long as Grantee or a member of Grantee's family is present at all times.
- **Grantor's Usage for Events.** In the event that Grantor has a party, gathering or other event on the Vacated Property, and that Grantee is given one week's prior written notice thereof, Grantee shall not have access to the Vacated Property during such event. In no event shall Grantee's access be prohibited when there are fireworks at the Rose Bowl. Grantor's usage of the Vacated Property for events to the exclusion of Grantee shall not occur more than once a month.
- **No Food, Drink or Smoking.** Grantee is prohibited from possessing or consuming alcoholic beverages, illegal drugs, tobacco and food within the Vacated Property.
- **No Pets.** Grantee is prohibited from bringing any dogs or other pets into the Vacated Property, except for service dogs for the disabled.
- **No Firearms, Hunting or Abusive Language or Conduct.** Grantor and Grantee are prohibited within the Vacated Property from (a) possessing any firearm or other weapon of any type, whether concealed or unconcealed, (b) hunting, (c) using loud or abusive language and (d) engaging in unruly, disturbing or abusive conduct.
- **Trash.** Trash receptacles are not provided for Grantee within the Vacated Property. Every time Grantee uses the Vacated Property, Grantee shall leave nothing behind and, upon departing, shall remove from the Vacated Property all trash and objects brought into the Vacated Property. No littering is allowed.
- **No Amplified Sound.** Grantee is not permitted to produce any amplified sound within the Vacated Property.

- **No Unsupervised Children.** Grantee may not have children under the age of fourteen (14) in the Vacated Property without adult supervision present in the Vacated Property with the children at all times.
- **No Solicitation or Sign-Posting.** Grantee shall not solicit, sell or advertise any good or service within the Vacated Property and shall not post any sign in the Vacated Property.
- **Rules Subject to Change.** Grantor and Grantee and their respective successors and assigns may, upon their mutual agreement, make reasonable changes to the Vacated Property Rules from time to time as necessary to maintain Grantor's right to use and enjoy the Vacated Property and/or to maintain Grantee's right to access the Vacated Property in accordance with the Easement. In the event the parties do not mutually agree on a rule change, the dispute shall be resolved by arbitration before the American Arbitration Association.

4. **Termination for Material Breach of Rules.** In the event of a material breach by Grantee of any of the Vacated Property Rules, Grantee's right of access to the Vacated Property shall be subject to suspension by Grantor. The procedure for declaring a material breach and suspending Grantee's right of access shall be as follows:

- **Written Warning.** Upon the occurrence of a first violation by Grantee of any of the Vacated Property Rules, Grantor shall issue a written warning to Grantee. Such first violation is automatically cured in the event that no subsequent violations occur within six (6) months of the date of the written warning.
- **Second Violation Within Six (6) Months.** A material breach shall not occur unless and until Grantee commits a second violation of the same Vacated Property Rule that was the subject of the written warning within six (6) months of the date of the written warning. Upon the occurrence of a second violation within a six (6) month period, Grantor may declare Grantee to be in material breach and suspend Grantee's right of access to the Vacated Property for a period of three (3) years from the date of said declaration of material breach.
- **Arbitration.** In the event Grantee disputes Grantor's declaration that Grantee is in material breach, the dispute shall be resolved by arbitration before the American Arbitration Association.
- **Covenant Continues to Run With the Land.** Notwithstanding Grantor's declaration of a material breach and suspension of Grantee's right of access to the Vacated Property, the Easement shall continue to run with the land for the benefit of future owners of the Grantee Property.

5. **No Interference With Grantee's Right of Access.** Except as provided in paragraph 4, above, Grantor shall not interfere with Grantee's rights of access to the Vacated Property and to enjoy the view of the mountains and Arroyo Seco, as provided by the Easement. In the event that Grantor does interfere with Grantee's right of access, such right of access shall be restored immediately and Grantee shall recover any damages incurred as a result of such interference. In the event the parties dispute whether Grantor has interfered with Grantee's right of access or whether or to what extent Grantee has incurred damages as a result of any such interference, the dispute shall be resolved by arbitration before the American Arbitration Association.

6. **Waivers.** No waiver by Grantor or Grantee of any of the terms, conditions or covenants of this Deed shall be deemed or taken as a waiver at any time thereafter nor of any other term, condition or covenant, nor of the strict performance thereof and adherence thereto by the other party. Any waiver by either party must be in writing.

7. **Easement Runs With the Land.** The Easement granted by this Deed is intended to be and shall be an easement appurtenant running with the land pursuant to California Civil Code section 1104. Any conveyance, transfer, sale, assignment or lease, made by Grantor of the Vacated Property or any portion thereof or interest therein, or by Grantee of the Grantee Property or any portion thereof or interest therein, will, and is hereby deemed to, incorporate by reference the provisions of this Deed and the Easement and all conditions, rules and restrictions set forth herein. The Easement, conditions, rules and restrictions set forth in this Deed:

- a) burden and run with both (i) the Vacated Property and any portion thereof or interest therein, and (ii) the Grantee Property and any portion thereof or interest therein;
- b) bind (i) all parties having or acquiring any right, title or interest in the Vacated Property or any portion thereof or interest therein, and (ii) all parties having or acquiring any right, title or interest in the Grantee Property or any portion thereof or interest therein;
- c) shall be expressly and exclusively for the benefit of (i) Grantor and Grantor's successors and assigns, and (ii) Grantee and Grantee's successors and assigns; and
- d) shall inure to the benefit of the successors and assigns of both (i) Grantor, and (ii) Grantee, and all such successors and assigns are expressly bound by this Deed for the benefit of the other party

8. **Non-Exclusive.** The Easement is not exclusive.

9. **No Public Declaration.** The Easement is not a public easement, but is a private easement for the use and benefit of Grantee and its successors and assigns only. The Easement is not intended to create, and shall not be construed as creating, any dedication to or benefits for the general public.

10. **Governing Law.** This Deed shall be construed in accordance with the laws of the State of California.

11. **Non-Binding Arbitration.** Grantor and Grantee reserve the right to challenge the outcome of any arbitration before the American Arbitration Association which occurs pursuant to the provisions of this Deed in a court of competent jurisdiction in the County of Los Angeles.

12. **Entire Agreement.** This Deed contains the entire agreement and understanding between the parties regarding the Easement and supersedes any prior oral or written agreement between the parties regarding the Easement. There are no representations, agreements, arrangements or understandings, oral or written, between the parties relating to the Easement other than those set forth in this Deed.

13. **No Third Party Beneficiaries.** Notwithstanding anything to the contrary in this Deed, no person other than Grantor, Grantee and their respective successors and assigns shall be beneficiaries of any term or provision of this Deed, except that the Financial Responsibility and Indemnity Undertaking and Arbitration Agreement required by paragraph 2, above, shall be for the benefit of Grantor and Grantor's agents and employees.

14. **Interpretation.** If any provision of this Deed is, or is adjudged to be, unenforceable or invalid, the remainder shall continue in full force and effect. This Deed shall be construed in accordance with its fair meaning and not strictly for or against any party. The headings contained in this Deed are for the purpose of reference only, and are not an aid in the construction or interpretation of any provision hereof.

[SIGNATURE PAGE FOLLOWS]

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, Streator, Tyler, Mayor Bogaard

NOES: None

ABSENT: Vice Mayor Madison

ABSTAIN: None



JANE L. RODRIGUEZ, CMC
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.

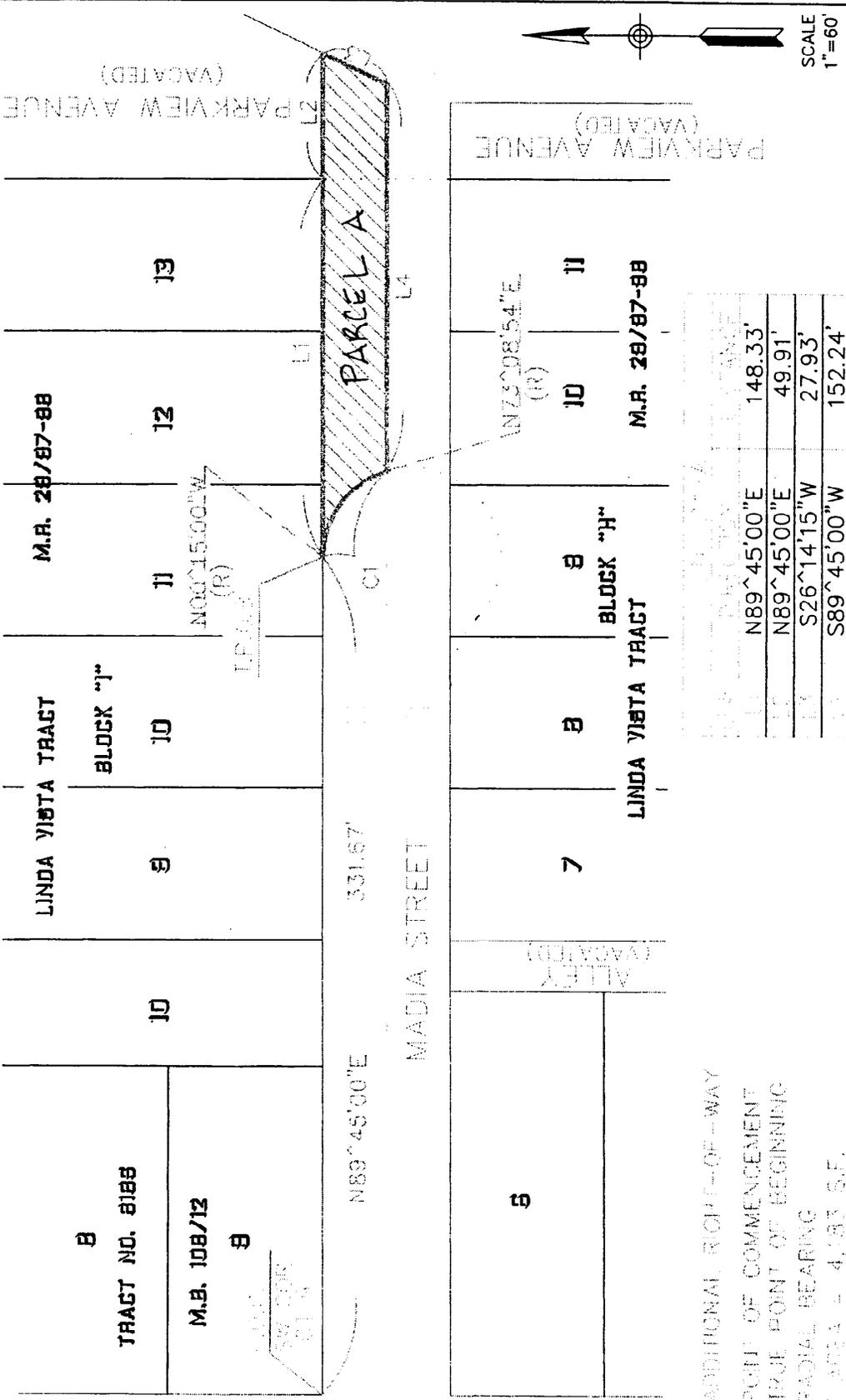
The above described parcel contains 3,605 square feet (0.083 acres), more or less.

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: _____

73°23'54" 35.00' 44.84'



SCALE
1"=60'

ADDITIONAL RIGHT-OF-WAY			
POINT OF COMMENCEMENT	N89°45'00"E	148.33'	
TRUE POINT OF BEGINNING	N89°45'00"E	49.91'	
RADIAL BEARING	S26°14'15"W	27.93'	
EASEMENT AREA = 4,183 S.F.	S89°45'00"W	152.24'	

ADDITIONAL RIGHT-OF-WAY
 POINT OF COMMENCEMENT
 TRUE POINT OF BEGINNING
 RADIAL BEARING
 EASEMENT AREA = 4,183 S.F.

SHEET NO:	1 OF 1
JOB NO:	SQUN0001
DRAWN BY:	RXSI
DATE:	08/10/05
SCALE:	1"=60'

ADDITIONAL RIGHT-OF-WAY
 MADIA STREET
 CITY OF PASADENA
 COUNTY OF LOS ANGELES
 STATE OF CALIFORNIA

EXHIBIT
 "B"

DAVID EVANS AND ASSOCIATES INC
 200 N. W. 11th Ave., Suite 300
 Fort Lauderdale, FL 33304
 Phone: 305.457.5250



LINDA VISTA AVENUE

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
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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
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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.

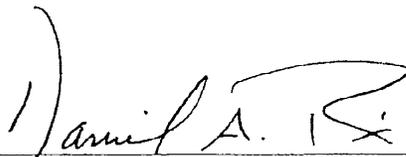
Upon submission of improvement plans, specifications, reports, and supporting documents to the Department of Public Works for review and checking, the applicant shall be required to place a deposit with the

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.



OFFICE OF THE CITY MANAGER

TO: City Council DATE: December 19, 2005
FROM: Cynthia Kurtz, City Manager
SUBJECT: PROPOSED VACATION OF A PORTION OF MADIA STREET

RECOMMENDATION

It is recommended that the City Council adopt the revised Resolution ordering the vacation of a portion of Madia Street from 380 feet east of Linda Vista Avenue to the east end of Madia Street.

Attached is a revised Resolution ordering the vacation of a portion of Madia Street. The revised Resolution reflects the City Council findings of December 5, 2005, that the following public benefit will be gained as a result of the vacation and fulfillment of the associated conditions:

- 1) Creation of a cul-de-sac to provide safe and adequate turnarounds for service and public safety vehicles; and
- 2) Creation of a continuous sidewalk to replace the dead-end sidewalks; and
- 3) Construction of a fire hydrant; and
- 4) Relief of maintenance responsibilities and associated liability for the vacated area.

In addition we have attached Exhibit "D" which contains the key provisions of the covenant between the Quinns and the residents of Madia Street.

CYNTHIA J. KURTZ
City Manager

Attachment

Madia



OFFICE OF THE CITY ATTORNEY

August 3, 2006

To the individuals on the attached list:

Pursuant to the direction of the City Council of the City of Pasadena given at its meeting of July 24, 2006, notice is hereby given that the City Council will consider the following matter at its meeting of August 14, 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 July 24, 2006. The July 24, 2006 staff report, "Request for Clarification of City Council Action on December 19, 2005 Concerning the Vacation of a Portion of Madia Street From Approximately 380 feet east of Linda Vista Avenue to the East End of Madia Street" can be viewed on-line at the following web address: http://www.cityofpasadena.net/councilagendas/2006%20agendas/Jul_24_06/7A2.pdf In addition, the meeting of July 24, 2006 can be viewed on-line through the following web address: http://pasadena.granicus.com/ViewPublisher.php?view_id=12

The follow up staff report will be available on-line as of Friday August 11, 2006.

Respectfully,

A handwritten signature in black ink, appearing to read "Nicholas George Rodriguez".

Nicholas George Rodriguez
Sr. Assistant City Attorney

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

EXHIBIT 2