

**RESOLUTION NUMBER 4824**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, TO SUMMARILY VACATE A PORTION OF 5<sup>TH</sup> STREET, BETWEEN C STREET AND THE A.T.S.F. RAILROAD RIGHT-OF-WAY, TO FACILITATE ACCESS TO THE FUTURE DOWNTOWN PERRIS METROLINK STATION WITHIN THE DOWNTOWN SPECIFIC PLAN AREA, SUBJECT TO THE FINDINGS NOTED HEREIN.**

**WHEREAS**, on September 17, 2013 the applicant submitted and initiated a Summary Vacation (*Street Vacation 13-09-0009*) to summarily vacate a portion of 5<sup>th</sup> Street, between C Street and the A.T. S.F. railroad right-of-way, to facilitate access to the future Downtown Perris *Metrolink Station* herein referred to as Exhibits “A” and “B” (see attached Exhibits “A – Legal Description” and “B – Road Vacation”); and

**WHEREAS**, the City Council has determined that the portion of 5<sup>th</sup> Street to be vacated is unimproved. In addition, there are no plans to ever improve this portion of 5<sup>th</sup> Street as a right-of-way as it has already been envisioned to be designated for Public Facilities in the Downtown Specific Plan for train station development purposes; and

**WHEREAS**, the City Council has determined, in accordance with California Streets and Highways Code Section 8340 (c), that while there is an in-place *Southern California Gas Company* (SCG) public utility facility that is in use, the public convenience and necessity require protecting the public interest in passenger rail operations and safety, and thus the City is not required to reserve an easement in favor of SCG. Further, SCG’s rights will be adequately protected pursuant to an existing license agreement with *Riverside County Transportation Commission* (RCTC); and

**WHEREAS**, the City Council has determined that the Summary Vacation is in accordance with California Streets and Highway Code Section 8330 in that the following findings of fact can be made: 1) The property is excess right-of-way and is not required for street purposes; 2) access to adjoining properties will not be affected; and 3) this portion of the 5<sup>th</sup> Street has been impassable as a public road and no public funds have been expended on its maintenance for the last five years; and

**WHEREAS**, the City Council has determined that the Summary Vacation would be exempt from CEQA under Section 15061 (b) (3) in that it can be seen with certainty that there is no possibility that the vacation can have an impact on the environment for the reasons noted above; and

**WHEREAS**, Section 66451 of the California Government Code (*Subdivision Map Act*) vests in the legislative bodies of local agencies the regulation and control of the design of Summary Street Vacation; and

**WHEREAS**, Title 18 of the City of Perris Municipal Code (*Subdivisions*) implements the state Subdivision Map Act and authorizes the Council to take action on a Summary Street Vacation; and

**WHEREAS**, Chapter 19.54 of the City of Perris Municipal Code (*Zoning Code, Authority and Review Procedures*) authorizes the City to approve, conditionally approve, or deny requests for Summary Vacation; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Perris, as follows:

**Section 1.** The above recitals are all true and correct and are incorporated herein by reference as if set forth in full.

**Section 2.** The City Council finds and determines that the City has complied with the California Environmental Quality Act and that City Council determinations reflect the independent judgment of the City Council.

**Section 3.** Based upon the information contained within the City Council submittal and the accompanying attachments, with respect to the Summary Vacation, the City Council hereby finds the following:

1. The Summary Vacation will not affect health, safety, and welfare.
2. The proposed Summary Vacation is in compliance with the Subdivision Map Act.
3. The proposed Summary Vacation is exempt from CEQA under Section 15061 (b) (3).
4. The Summary Vacation is in compliance with the applicable zoning ordinances.
5. The proposed Summary Vacation is consistent with the existing land uses, and zoning designations in the area.
6. The proposed Summary Vacation has been found to be consistent with city standards, ordinances, and policies.
7. The proposed Summary Vacation is consistent with the Downtown Specific Plan.
8. The Summary Vacation plan is safe, functional, and environmentally sensitive to surrounding properties.
9. The Summary Vacation is in accordance with California Streets and Highway Code Section 8330 in that the following finding of facts can be made a) the property is excess right-of-way and is not required for street purposes; b) access to adjoining properties will not be affected; and c) this

portion of 5<sup>th</sup> Street has been impassable as a public road and no public funds have been expended on its maintenance for the last five years.

10. This Summary Vacation is in compliance with California Streets and Highways Code Section 8340 (c), as the City need not reserve a public utility easement for in-use public utilities because the City Council has made findings that the public convenience and necessity require protecting passenger rail operations and safety, and the existing in-use public facilities will be otherwise protected pursuant to an existing license agreement.

**Section 4.** The City Council hereby directs that a Notice of Exemption be filed with the County Clerk pursuant to Section 15062 of CEQA.

**Section 5.** All actions heretofore taken by the officers of the City with respect to such street vacations are hereby approved, confirmed and ratified, and the Mayor and City staff are hereby authorized and directed to take any and all actions which they or the City Attorney may deem necessary or advisable in order to effectuate the purpose and intent of this Resolution (including, without limitation, confirmation of satisfaction of any of the conditions to the effectiveness of the street vacation).

**Section 6.** The City Council declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Resolution shall remain in full force and effect.

**Section 7.** The Mayor shall sign this Resolution and the City Clerk shall certify to the adoption of this Resolution.

**ADOPTED, SIGNED and APPROVED** this 24<sup>th</sup> day of February 2015.

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Mayor, Daryl R. Busch

ATTEST:

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City Clerk, Nancy Salazar

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE ) §  
CITY OF PERRIS )

I, **Nancy Salazar**, duly elected CITY CLERK OF THE CITY OF PERRIS, CALIFORNIA, DO HEREBY CERTIFY that the foregoing Resolution Number 4824 was duly adopted by the City Council of the City of Perris at a regular meeting thereof held on the 24<sup>th</sup> day of February 2015, by the following vote:

AYES: ROGERS, BURKE, RABB, RODRIGUEZ, BUSCH  
NOES: NONE  
ABSTAIN: NONE  
ABSENT: NONE

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Nancy Salazar, City Clerk

Attachments: Planning Division Conditions of Approval dated February 24, 2015