



TOWN OF APPLE VALLEY

TOWN COUNCIL STAFF REPORT

To: Honorable Mayor and Town Council **Date:** May 26, 2015

From: Brad Miller, Town Engineer **Item No:** 11
Engineering Department

Subject: REQUEST TO VACATE AN ALLEY EASEMENT ON TRACT MAP 4643

T.M. Approval: _____ **Budgeted Item:** Yes No N/A

RECOMMENDED ACTION:

That the Town Council

1. Find that alley easement as shown on Tract Map 4643, has not been used for the purpose for which it was dedicated for five (5) consecutive years immediately preceding the proposed vacation;
2. Adopt Resolution No. 2015-14, A Resolution of the Town Council of the Town of Apple Valley, California, vacating an alley easement on Tract Map 4643, pursuant to the Streets and Highways Code Section 8333 (a);
3. Direct the Town Clerk to cause the Resolution vacating the alley easement to be recorded in the office of the County Recorder of the County of San Bernardino, pursuant to Section 8336 of the Streets and Highways Code.

SUMMARY:

Staff received a request from Mr. Brian Nicklason, to vacate a service or alley easement along his northerly and easterly boundary of his property. The easement has never been used for public purposes since the easement was dedicated on the Tract map in 1955.

BACKGROUND:

The subject easement is located on Tract Map 4643, generally at the northeast corner of Bear Valley Road and Toltec Road. The easement was created on the Tract Map 4643 to provide service or alley access to Parcels 13 and 14. The Planning Commission

reviewed the request for the vacation and determined that the request is consistent with the goals and policies of the Town's General Plan. The legal description and the area of the proposed vacation is included in the resolution and shown on Exhibit "A" accompanying the resolution. The easement may be summarily vacated if it meets the criteria under the provisions of Section 8333 (a) of the Streets and Highways Code:

"(a) The easement has not been used for the purpose for which it was dedicated or acquired for five (5) consecutive years immediately preceding the proposed vacation."

As a result, no posting, advertising, or public hearing is necessary. Once the Council adopts the resolution vacating the easement, the Town Clerk will record the resolution of vacation. After the resolution is recorded, the vacation is complete.

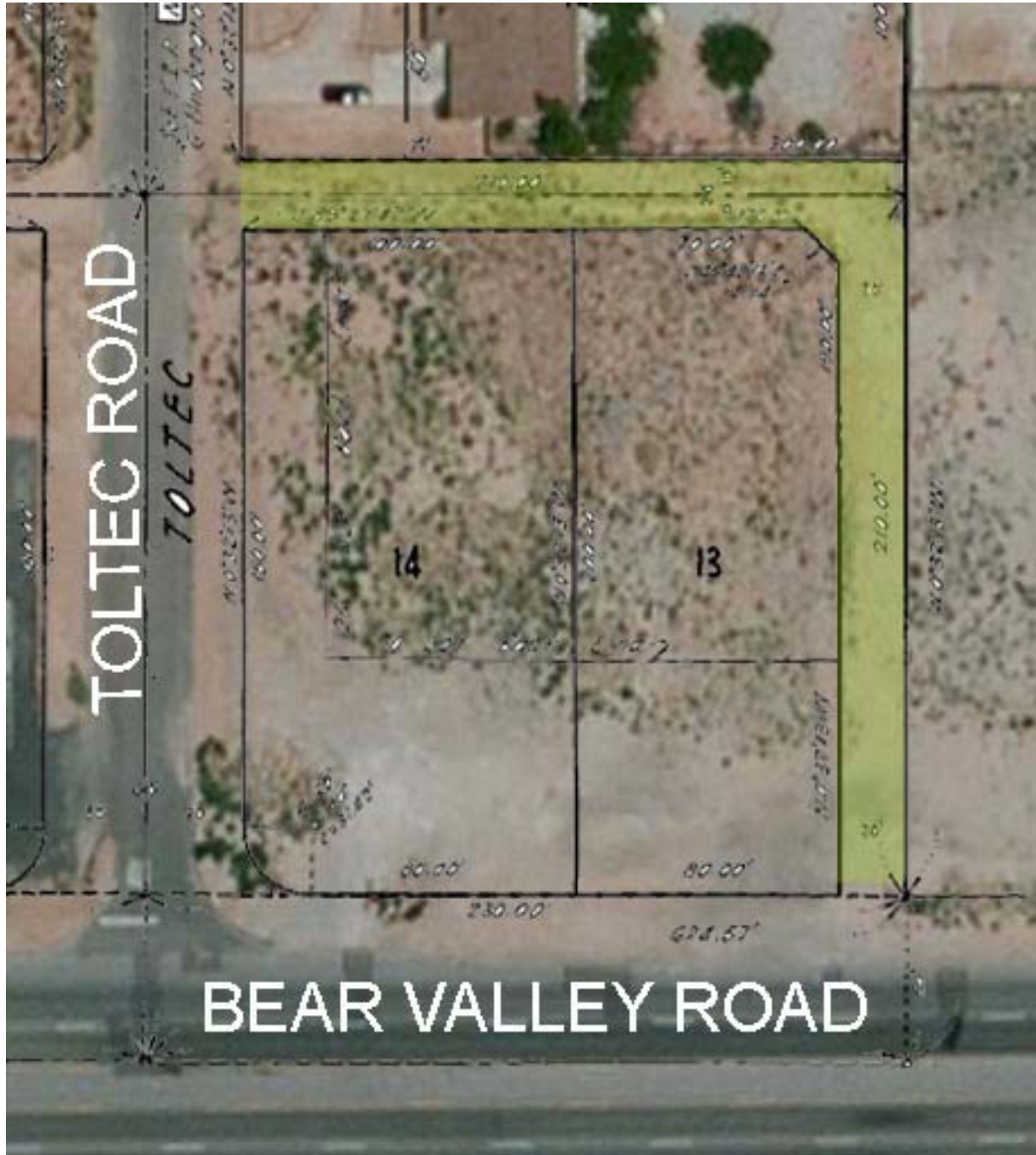
FISCAL IMPACT:

The applicant has paid the required fees for processing this vacation. There is no financial impact to the Town.

ATTACHMENTS:

1. Location Map
2. Resolution No. 2015-14

LOCATION MAP



RESOLUTION NO. 2015-14

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, VACATING A STREET EASEMENT AT PARCELS 1 THROUGH 3, OF TRACT MAP 4643, PURSUANT TO THE STREETS AND HIGHWAYS CODE SECTION 8333 (a)

WHEREAS, the Town Council of the Town of Apple Valley, California, intends to vacate an alley easement lying on the southerly portion of Lot 12, and the northerly portions of Lot 13 and 14 and easterly portion of Lot 13 of Tract Map 4643, recorded in Book 59 of Maps, Pages 93 and 94, Official Records, San Bernardino County, State of California; and

WHEREAS, the Town Council of the Town of Apple Valley now finds that it is now in the public interest that said road easement be vacated, and the easement has not been used for the purpose for which it was dedicated for five (5) consecutive years immediately preceding the proposed vacation, it hereby meets the requirements of section 8333(a) of the Streets and Highways Code.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES RESOLVE AND ORDER AS FOLLOWS:

Section 1: That pursuant to the Public Streets, Highways and Service Easements Vacation Law, Division 9, Part 3 Chapter 4, (Summary Vacation), California Streets and Highways Code beginning at section 8300, relating to the vacation of public streets, highways, and service easements, the following described easement for alley purposes is hereby vacated:

Parcel 1;
The South 10.00 feet of Lot 12,

Parcel 2;
The North 10.00 feet of Lot 14,

Parcel 3;
The North 10.00 feet of Lot 13,

Parcel 4;
The East 20.00 feet of Lot 13,

Parcel 5;

A triangular shaped parcel of land bounded as follows:

On the north by the south line of Parcel No. 3;

On the east by the west line of Parcel No. 4; and

On the southwest by a line having a bearing of S 45° 32' 13" E and a length of 14.14 feet as shown on Tract Map 4643, recorded in Book 59 of Maps, pages 93 and 94, Official Records, San Bernardino County, State of California.

Reserving and excepting from said abandonment the easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures, in upon, over and across any highway or part thereof proposed to be abandoned and pursuant to any existing franchise or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew, and enlarge lines of pipe, conduits, cables, wires, poles and other convenient structures, equipment and fixtures for the operation of gas pipe lines, telephone lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, water, and for incidental purposes, including access to protect the purposes, including access to protect the property from all hazards in, upon and over the thoroughfare or part thereof proposed to be abandoned.

Affects Assessor's Parcel: 3087-351-52

Section 2: The Town Clerk shall record this Resolution of Vacation pursuant to Streets and Highways Code section 8336.

Section 3: That from and after the date this Resolution is recorded, said road easement shall no longer constitute an easement for alley purposes on Lots 12, 13 and 14 of Tract Map 4643 hereinabove described.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, the Town shall be deemed to have adopted this resolution without such section.

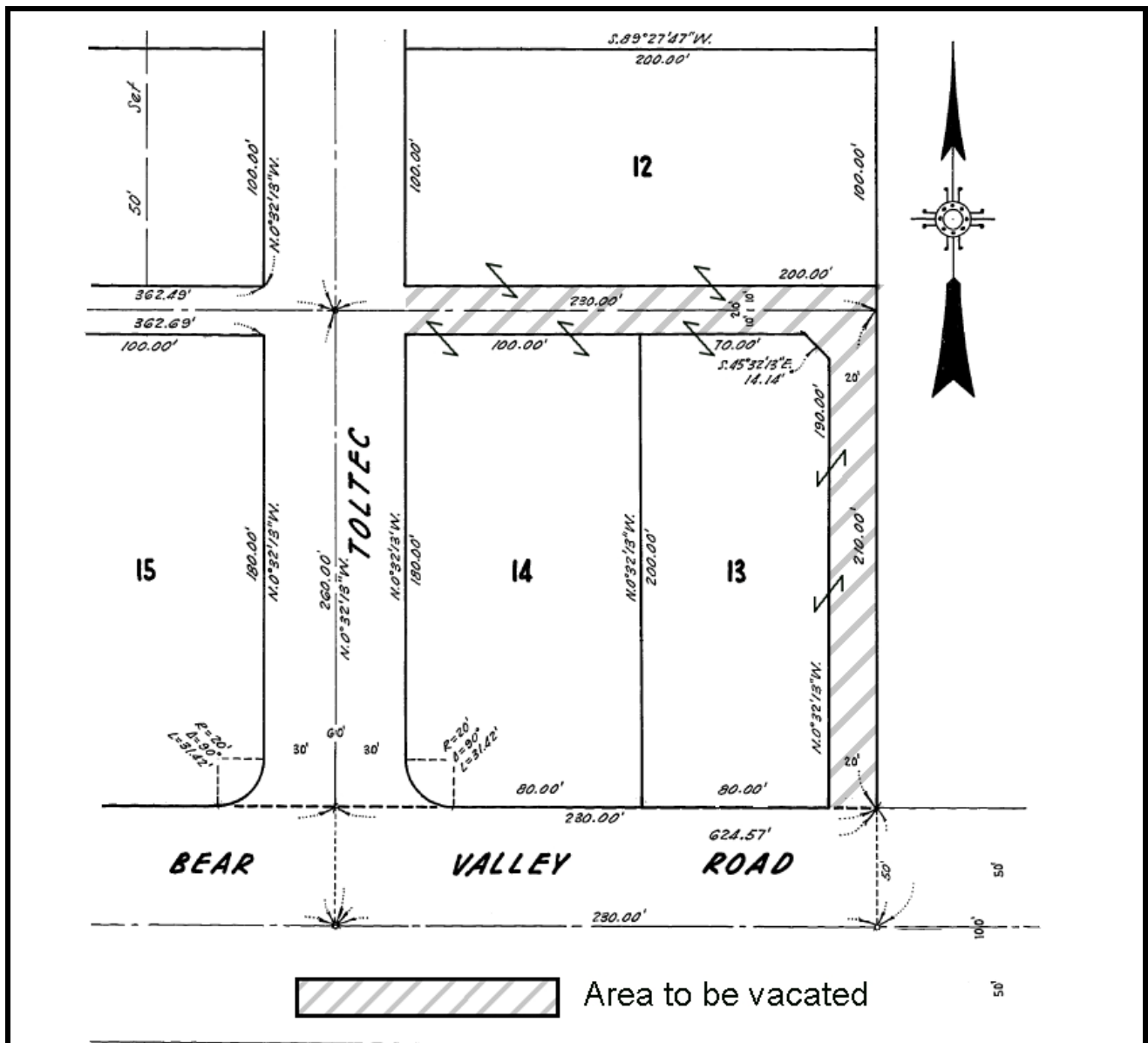
APPROVED and **ADOPTED** by the Town Council of the Town of Apple Valley
this 26th day of May 2015.

Larry Cusack, Mayor

ATTEST:

La Vonda M-Pearson, Town Clerk

EXHIBIT "A"



Vacation of an alley easement lying on the easterly portion of Lots 13 and the northerly portions of Lot 13 and 14 and the southerly portion of Lot 12 of Tract Map 4643, recorded in Book 59 of Maps, pages 93 and 94, Official Records, San Bernardino County, State of California.

Prepared By:
 Town of Apple Valley
 Engineering Department