



## Town Council Agenda Report

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Date: July 14, 2020 Item No. 4

To: Honorable Mayor and Town Council

Subject: REQUEST TO VACATE A PORTION OF OUTER HIGHWAY 18 SOUTH ADJACENT TO LOTS 18 AND 19 OF TRACT MAP NO. 4492

From: Douglas Robertson, Town Manager

Submitted by: Brad Miller, Town Engineer  
Engineering Department

Budgeted Item:  Yes  No  N/A

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### RECOMMENDED ACTION

- A. Find that a 16-foot wide portion of the street easement of Outer Highway 18 South, located adjacent to Lots 18 and 19 as shown on Tract Map 4492, has been superseded by relocation, and is in excess of right-of-way not required for street purposes; and the proposed vacation is exempt from CEQA;
- B. Adopt Resolution No. 2020-37 “A Resolution of the Town Council of the Town of Apple Valley, California, vacating a portion of street easement at Lots 18 and 19 of Tract Map 4492, pursuant to the Streets and Highway Code Section 8333-8334.5”;
- C. Instruct the Town Clerk to cause the Resolution vacating a portion of the street 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.

### BACKGROUND

Staff received a request from Nico Plaza, L.L.C. to vacate a portion of Outer Highway 18 South, at the southwest corner of Outer Highway 18 South and Kasota Road. The street right-of-way vacation is located adjacent to the north frontage of lots 18 and 19 of Tract 4492 as shown on the Exhibit “B” attached to the Resolution.

On October 17, 2018 the Planning Commission reviewed Development Permit No. 2018-004 and Special Use Permit No. 2018-001 involving the demolition of existing buildings and paved parking to allow for the construction of a new 4,574 square-foot, two (2) suite commercial building, drive-thru lane, landscaping and parking.

Because the project's location is at the corner of Outer Highway 18 South and Kasota Road, and will generate significant traffic, engineering staff recommended as a condition of approval that the outer highway be eliminated between Tuscola Road and Kasota Road and that the Town fund a new access road south of the project. On November 13, 2018 the Town Council approved the CIP project to construct a new access road between Kasota Road and Tuscola Road approximately 400' south of Outer Highway 18 south and approved a budget amendment in an amount of \$250,000 from Measure I funds.

The approved site plan included the proposal to vacate the southerly 16' of the 45' wide Outer Highway 18 South right-of-way. The remaining portion of the right-of-way is retained by the Town for any potential future widening of the State Route 18 to accomodate an exclusive right-turn lane for southbound Kasota Road traffic.

A portion of the street easement may be summarily vacated under the provisions of Section 8333(c) of the Streets and Highway Code because the following conditions apply to this request:

“(c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

Because Outer Highway 18 South has been removed as a result of the project and a new connector street has been constructed south of the intersection of Outer Highway 18 south and Kasota Road, there is no current or prospective use of this 16-foot wide section of street easement. 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.

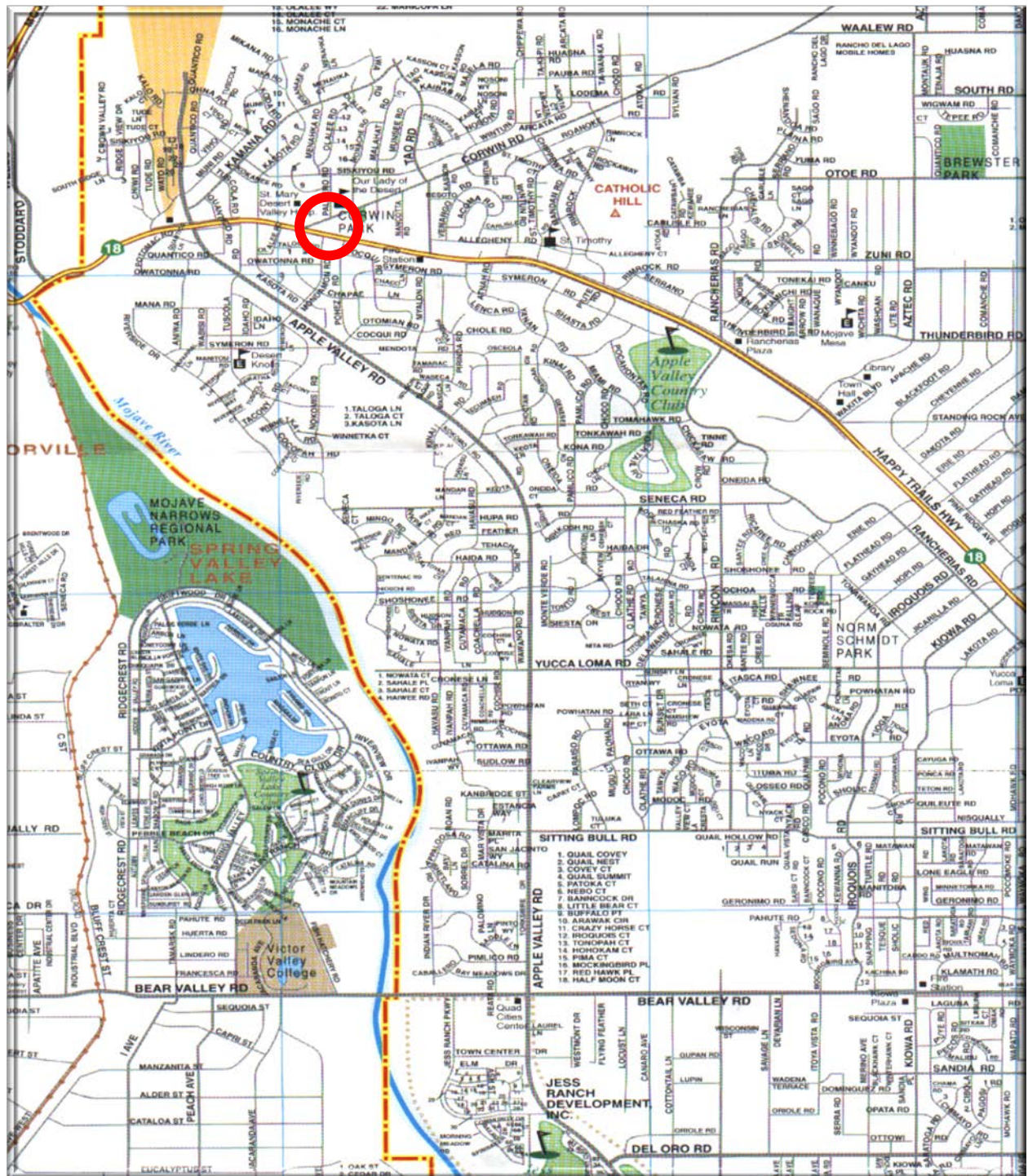
### **FISCAL IMPACT**

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

### **ATTACHMENTS**

- A. Location Map
- B. Resolution No. 2020-37 vacating a portion of the street easement.

LOCATION MAP



**RESOLUTION NO. 2020-37**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, VACATING A PORTION OF THE STREET EASEMENT AT LOTS 18 AND 19 OF TRACT MAP 4492, PURSUANT TO THE STREETS AND HIGHWAY CODE SECTION 8333-8334.5**

**THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1:** the Town Council of the Town of Apple Valley, California, intends to vacate a 16-foot wide portion of a street easement lying adjacent to the north boundary of Lots 18 and 19 of Tract Map No. 4492, as recorded in Book 55 of Maps, pages 71 through 75, Official Records, in the Town of Apple Valley, San Bernardino County, State of California; and

**Section 2:** the Town Council of the Town of Apple Valley now finds that it is now in the public interest that a portion of said easement be vacated, and the easement for Outer Highway 18 South has been superseded by relocation, it hereby meets the requirements of section 8333(c), of the Streets and Highways Code;

**Section 3:** 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 street purposes is hereby vacated:

For legal description see the Exhibits "A" and "B" both attached hereto and by this reference made a part hereof.

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 Parcels: 473-112-10 and 473-112-11

**Section 4:** The Town Clerk shall record this Resolution of vacation pursuant to Streets and Highways Code section 8336.

**Section 5:** That from and after the date this Resolution is recorded, said portion of the highway easement shall no longer constitute an easement for drainage purposes over that portion hereinabove described.

**Section 6:** 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 14<sup>th</sup> day of July 2020.

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MAYOR, Scott Nassif

ATTEST:

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TOWN CLERK, La Vonda M-Pearson



**EXHIBIT "A"**  
**(ROAD VACATION)**

ALL THAT PORTION OF STATE HIGHWAY ROUTE 18 ADJACENT TO LOTS 18 AND 19 OF TRACT 4492 AS RECORDED IN MAP BOOK 55, PAGES 71 THROUGH 75 IN THE TOWN OF APPLE VALLEY, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE NORTHWEST CORNER OF SAID LOT 19 SAID POINT LYING ON THE SOUTHERLY LINE OF STATE HIGHWAY ROUTE 18 (100' HALF WIDTH) AND BEING A CURVE CONCAVE TO THE SOUTH WITH A RADIUS OF 2,400.00 FEET, SAID POINT HAVING A RADIAL BEARING OF NORTH 01°35'03" WEST, THENCE EASTERLY ALONG SAID RIGHT OF WAY CURVE, BEING THE NORTH LINE OF LOTS 19 AND 18 OF SAID TRACT 4492, A DISTANCE OF 176.23 FEET THROUGH A CENTRAL ANGLE OF 04°12'26" TO A POINT ON A CURVE CONCAVE TO THE SOUTHWEST AND HAVING A RADIUS OF 25.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE A DISTANCE OF 17.52 FEET THROUGH A CENTRAL ANGLE OF 40°09'45" TO A POINT ON A LINE 33 FEET EAST OF AND PARALLEL WITH THE CENTERLINE OF KASOTA ROAD AS SHOWN ON SAID TRACT 4492; THENCE NORTH 00°03'30" WEST ALONG SAID PARALLEL LINE A DISTANCE OF 21.87 FEET TO A POINT ON A CURVE CONCAVE TO THE SOUTH AND HAVING A RADIUS OF 2,416.00 FEET, SAID CURVE BEING 16.00 FEET NORTH OF AND CONCENTRIC WITH THE NORTH LINE OF SAID LOTS 18 AND 19, SAID POINT HAVING A RADIAL BEARING OF NORTH 02°58'52" EAST, THENCE WESTERLY ALONG SAID CURVE A DISTANCE OF 192.50 FEET THROUGH A CENTRAL ANGLE OF 04°33'55"; THENCE SOUTH 01°35'03" EAST A DISTANCE OF 16.00 FEET TO THE **POINT OF BEGINNING**.

CONTAINS: 3,106 SQ. FT.

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART OF.



# VACATION EXHIBIT "B"



SCALE: 1"=40'

