



# City of Rialto

## Legislation Details (With Text)

**File #:** CC-19-364    **Version:** 1    **Name:**  
**Type:** Resolution    **Status:** Agenda Ready  
**File created:** 3/21/2019    **In control:** City Council  
**On agenda:** 4/23/2019    **Final action:**  
**Title:** Request City Council Adopt Resolution No. 7498 Approving the Summary Vacation of Existing Excess Right-of-Way Along north Fitzgerald Avenue, north of Leiske Drive within the Employment (EMP) zone of the Renaissance Specific Plan.  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Attachment 1 - PPD No. 2018-0007, 2. Attachment 2 - Vicinity Map, 3. Attachment 3 - Annexation Area No. 92, 4. Attachment 4 - RSP Mobility Plan Element, 5. Attachment 5 - List of Utility Co. Responses, 6. Resolution Summary Street Vacation of North Fitzgerald Avenue 04-04-19.pdf, 7. Exhibit A for Resolution (Legal & Plat)

Date	Ver.	Action By	Action	Result
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For City Council Meeting of [April 23, 2019]

TO: Honorable Mayor and City Council

APPROVAL: Sean Grayson, Interim City Administrator

FROM: Robert G. Eisenbeisz, P.E., Public Works Director/City Engineer

Request City Council Adopt **Resolution No. 7498** Approving the Summary Vacation of Existing Excess Right-of-Way Along north Fitzgerald Avenue, north of Leiske Drive within the Employment (EMP) zone of the Renaissance Specific Plan.

### **BACKGROUND:**

On April 10, 2018, Lord Constructors, Inc., a California Corporation ("Developer") was conditioned to complete various on-site and off-site improvements for the development of a 21,450 square foot industrial warehouse building and associated paving, lighting, fencing, and landscaping on 1.07 acres of land, identified by APN: 0264-361-03, located on the north side of Leiske Drive approximately 400 feet west of Ayala Drive within the Employment (EMP) zone of the Renaissance Specific Plan. A copy of such conditions of approval under Precise Plan of Design No. 2018-0007 is included as **Attachment 1**. As part of the development, the developer has requested that the City vacate excess right-of-way along Fitzgerald Avenue, north of Leiske Drive. The Vicinity map of the proposed right-of-way vacation is included as **Attachment 2**.

On November 7, 1966, the City annexed the Right-of-Way for north Fitzgerald Avenue into the City as part of Annexation Area No. 92. Portions of Annexation Area 92 is now within the Renaissance Specific Plan area. A copy of Annexation Area 92, annexed under City Council Resolution No. 1258, is included as **Attachment 3**. The Renaissance Specific Plan designates Fitzgerald Avenue as an industrial collector street. The portion of North Fitzgerald Avenue proposed for vacation is vacant and

unimproved. The Mobility Plan Element of the Renaissance Specific Plan (RSP) does not classify north Fitzgerald Avenue north of Leiske Drive as an operable street. A copy of the RSP Mobility Plan Element is included as **Attachment 4**. Accordingly, staff recommends vacating North Fitzgerald Avenue.

### **ANALYSIS/DISCUSSION:**

Streets and Highways Code Sections 8300 *et. seq.* govern the vacation of public streets, highways, and service easements. Streets and Highways Code Section 8312 allows for vacation of excess street right-of-way by the local legislative body. Pursuant to Chapter 4 [Summary Vacation] of the Streets and Highways Code (Section 8330 *et seq.*), the City may summarily vacate a street if:

- The street has been superseded by relocation,
- The street is excess right-of-way not required for street or highway purposes,
- The street lies within property under one ownership and does not continue through such ownership or end touching property of another, or
- The street has been impassable for vehicular travel within the last five consecutive years and no public money was expended for maintenance.

However, summary street vacation is not permitted if the vacation will terminate a public service easement or there are in-place utility facilities that are in use and would be affected by the vacation.

In this case, the portion of Fitzgerald Avenue proposed to be vacated is excess right-of-way not required for street or highway purposes, the street lies within private property under one ownership and does not continue through such ownership, and the street has been impassable for vehicular travel within the last five (5) consecutive years and no public money was expended for maintenance. Additionally, the subject portion of Fitzgerald Avenue does not contain public utilities or public service easements. The City of Rialto Public Works staff contacted utility companies and the following list of utility companies confirmed there are no existing facilities within the subject portion of north Fitzgerald Avenue.

- 1.) AT&T California
- 2.) Fontana Water Co. (San Gabriel Valley Water Co.)
- 3.) Southern California Edison (SCE)
- 4.) Southern California Gas Company
- 5.) Sprint
- 6.) West Valley Water District

The confirmation responses are included as **Attachment 5**. Accordingly, the Summary Street Vacation process is appropriate.

### **ENVIRONMENTAL IMPACT:**

The right-of-way vacation action is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15060(c)(2), because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and 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 herein. However, the actual development of a 21,450 square foot industrial warehouse building and associated paving, lighting, fencing, and landscaping on 1.07 acres of land (APN: 064-361-03) located on the north side of Leiske Drive approximate 400 feet west of Ayala Drive within the Employment (EMP) zone of the Renaissance Specific Plan where the

proposed vacation is located was determined a Categorical Exemption under CEQA guidelines in accordance with Section 15332: In-Fill Development Projects.

**GENERAL PLAN CONSISTENCY:**

This action is consistent with Guiding Principle 3A in the General Plan:

*Our City government will lead by example, and will operate in an open, transparent, and responsive manner that meets the needs of the citizens and is a good place to do business.*

The Streets and Highways Code does not require the City to make a finding that a summary street vacation is in conformance with the General Plan; however, the vacation of this portion of Fitzgerald Avenue conforms to the Renaissance Specific Plan and the General Plan.

**LEGAL REVIEW:**

The City Attorney has reviewed and approved the staff report and resolution.

**FINANCIAL IMPACT:**

The City will not incur any costs by vacating with the proposed Right-of-Way.

**Licensing**

The Developer paid all business license fees as part of the development PPD at the time of permit issuance. A Business license application is not required for this action as a vendor is not applicable for Summary Vacation of Right of Way.

**RECOMMENDATION:**

Staff recommends that the City Council Adopt a Resolution Approving the Summary Vacation of existing excess Right-of-Way along north Fitzgerald Avenue located north of Lieske Drive within the Employment (EMP) zone of the Renaissance Specific Plan.