

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA

IN THE MATTER OF THE VACATION OF)
WILSON AVENUE PUBLIC ROAD RIGHT-OF-WAY) RESOLUTION
VACATION APPLICATION NO. V17-05)

WHEREAS, the Board of Supervisors (this "Board") on April 9, 2019 adopted its Resolution of Intention to vacate the public road right-of-way of Wilson Avenue from 161.74 feet south of Lansing Avenue southerly approximately 64.31 feet to the end of the maintained road, Vacation Application No. V17-05; and

WHEREAS, this Board finds that the Resolution of Intention to vacate said public right-of-way was duly published and posted pursuant to Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code.

WHEREAS, Pacific Gas and Electric Company is presently operating and maintaining utility facilities, including gas mains and services and electric lines and services, within the area proposed to be vacated, and Pacific Gas and Electric Company has requested that the Board of Supervisors reserve a permanent easement therefrom;

WHEREAS, the City of Fresno is presently operating and maintaining facilities, including water mains and services and sewer mains and services, within the area proposed to be vacated, and the City of Fresno has requested that the Board of Supervisors reserve a permanent easement therefrom;

WHEREAS, Streets and Highways Code section 8340, subdivision (a), provides, "[a] public entity may reserve and except from the vacation 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 a street or highway proposed to be vacated 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 pipelines, telegraphic and telephone lines,

1 railroad lines, and for the transportation or distribution of electric energy, petroleum and its products,
2 ammonia, and water, and for incidental purposes, including access to protect these works from all
3 hazards in, upon, and over the street or highway proposed to be vacated";

4 WHEREAS, Streets and Highways Code section 8340, subdivision (c), provides" "[i]f there are
5 in-place public utility facilities that are in use, a public entity shall, unless the legislative body
6 determines the public convenience and necessity otherwise require, reserve, and except from the
7 vacation any easement and right necessary to maintain, operate, replace, remove, or renew the public
8 utility facilities."

9 NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors that this Board finds, after
10 considering all evidence submitted, and providing the public with an opportunity to testify, and orders as
11 follows:

12 (1) That Wilson Avenue from 161.74 feet south of Lansing Avenue southerly approximately 64.31
13 feet to the end of the maintained road is unnecessary for present or prospective public use, as the area
14 to be vacated is not a through right-of-way, and the property surrounding the area to be vacated is
15 owned by one property owner.

16 (2) That the proposed vacation is consistent with the General Plan adopted by the County of
17 Fresno.

18 (3) Pursuant to Streets and Highways Code section 892, that said portion of the public road right-of-
19 way is not useful as a non-motorized transportation facility.

20 (4) That Wilson Avenue from 161.74 feet south of Lansing Avenue southerly approximately 64.31
21 feet to the end of the maintained road as described in Exhibit A is hereby vacated, subject to order
22 below.

23 (5) Public convenience and necessity require reservations and exceptions of easement rights-of-
24 way for the City of Fresno's water main, sewer, water meter, water services, facilities and property, as
25 well as Pacific Gas and Electric Company's gas and electric utility facilities. As a result, and upon
26 request of the City of Fresno and Pacific Gas and Electric Company, there is hereby reserved and
27 excepted from the vacation of Wilson Ave. the following easements and rights of way as described
28 herein:

1 (a). For the benefit of City of Fresno, an easement for the City of Fresno's water main and
2 services, sewer main and servers, water meter, facilities and property. Said Easements shall be
3 clear and unobstructed by buildings or other structures. No fencing or wall shall either enclose
4 or be located above the water and sewer main. The planting plan, for any proposed landscape
5 within the easement, shall be approved by the Department of Public Utilities. No Trees shall be
6 located within 8-feet of the water and sewer main. All water and sewer mains within an
7 easement shall be clearly marked with signage above indicating the exact location and type of
8 facility below. In the event City damages any street, sidewalk, landscaping or other
9 improvements in exercising reasonable care, use and enjoyment of the Easement, City shall not
10 be obligated to restore any street, sidewalk, landscaping or other improvements so damaged.
11 City shall have the right, without notice and at the property owner's expense, to remove from the
12 Easement any building, fence, tree, or other encroachment not approved by City's Director of
13 Public Utilities. The Easement shall be maintained by the property owner free of any surface
14 obstructions, except for those that may be approved by City's Director of Public Utilities, so that
15 City may have vehicular access to and through the Easement at all times. The foregoing
16 easement is permanent and allows the City of Fresno, to construct, maintain, operate, replace,
17 remove, renew, and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient
18 structures, equipment, and fixtures for the operation of its water main, sewer, water meter, water
19 services, facilities and property, and for incidental purposes, including access to protect these
20 works from all hazards in, upon, and over the street or highway proposed to be vacated. A map
21 depicting some of the proposed easement is attached hereto as Exhibit B.

22 (b). For the benefit of Pacific Gas and Electric Company, a permanent easement and the right
23 at any time and from time to time to construct, reconstruct, maintain, operate, replace, remove,
24 repair, renew and enlarge lines of pipes, conduits, cables, wires, poles, electrical conductors,
25 and other equipment, fixtures and appurtenances for the operation of electric, gas, and
26 communication facilities, including access, and also the rights to trim and cut down trees and
27 brush that may be a hazard to the facilities; said area shall be kept open and free of buildings,
28 structures and wells of any kind. The foregoing easement includes, but is not limited to, gas

1 mains and services and electric lines and services.

2 (6) As provided in Streets and Highways Code section 8325, subdivision (a), "The clerk shall cause
3 a certified copy of the resolution of vacation, attested by the clerk under seal, to be recorded without
4 acknowledgment, certificate of acknowledgment, or further proof in the office of the recorder of the
5 county in which the property is located. No fee shall be charged for recordation.

6 (7) That the Department of Public Works and Planning, within 30 days after this resolution is adopted,
7 will file with the Clerk, to be maintained for all time along with this resolution, a map of the area and
8 easement described in (5)(b).

9 THE FOREGOING, was passed and adopted by the following vote of the Board of Supervisors
10 of the County of Fresno this 7th day of May 2019, to wit:

12 AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero

13 NOES: None

14 ABSENT: None

15 ABSTAINED: None



18
19
20 Nathan Magsig, Chairman of the Board of
21 Supervisors of the County of Fresno

22 ATTEST:

23 Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California.

25 By Cheri Lynch
26 Deputy

Exhibit "A"

LEGAL DESCRIPTION

All of that 60-feet wide public road right-of-way of Wilson Avenue, beginning 161.74 feet south of the south right-of-way line of Lansing Avenue, continuing southerly approximately 64.31 feet to the south limit of the public road right-of-way as shown on the Map of the Forkner Giffen Fig Gardens Subdivision No.2. Located in Section 21, Township 13 South, Range 20 East, Mount Diablo Base and Meridian.

Containing 0.09 acres, more or less.

RESERVING THEREFROM:

Pursuant to the provisions of Section 8340 of the Streets and Highways Code and for the benefit of Pacific Gas and Electric Company, the permanent easement and the right at any time and from time to time to construct, reconstruct, maintain, operate, replace, remove, repair, renew and enlarge lines of pipes, conduits, cables, wires, poles, electrical conductors, and other equipment, fixtures and appurtenances for the operation of electric, gas, and communication facilities, including access, and also the rights to trim and cut down trees and brush that may be a hazard to the facilities; said area shall be kept open and free of buildings, structures and wells of any kind.

For the benefit of City of Fresno, an easement for the water main and sewer. Said Easements shall be clear and unobstructed by buildings or other structures. No fencing or wall shall either enclose or be located above the water and sewer main. The planting plan, for any proposed landscape within the easement, shall be approved by the Department of Public Utilities. No Trees shall be located within 8-feet of the water and sewer main. All water and sewer mains within an easement shall be clearly marked with signage above indicating the exact location and type of facility below. In the event City damages any street, sidewalk, landscaping or other improvements in exercising reasonable care, use and enjoyment of the Easement, City shall not be obligated to restore any street, sidewalk, landscaping or other improvements so damaged. City shall have the right, without notice and at the property owner's expense, to remove from the Easement any building, fence, tree, or other encroachment not approved by City's Director of Public Utilities. The Easement shall be maintained by the property owner free of any surface obstructions, except for those that may be approved by City's Director of Public Utilities, so that City may have vehicular access to and through the Easement at all times.

Exhibit B

Wilson Avenue (Vacation Application V17-05)

