



TO: Mayor and Councilmembers

FROM: Steve Wagner, Community Services Director

CONTACT: Rosemarie Gaglione, Capital Program Manager

SUBJECT: A Resolution of the City Council Excluding Certain Real Property Acquisitions and Dispositions from Conformance with the General Plan Requirements of Government Code Section 65402

RECOMMENDATION:

Adopt resolution No. 08-__ entitled "A Resolution of the City Council of the City Excluding Certain Real Property Acquisitions and Dispositions form Conformance with the General Plan Requirements Under Government Code Section 65402."

BACKGROUND:

Section 65402 of the Government Code protects counties and municipalities against a larger government entity developing a property in a way that violates the local General Plan. An example would be the State of California putting a ten story government office building in a residential neighborhood. Section 65402 requires that a determination be made that the proposed project is in conformance with the local General Plan before land is acquired.

As with most protective measures, this requirement can create a needless expense for the City of Goleta each time a road or bridge project is built, or even when an improvement is made that requires additional right of way. Recognizing this, the Code itself contains the following provision:

"If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature."

DISCUSSION:

All of the transportation projects in the City's Capital Improvement Program (CIP) are in conformance with the General Plan. The transportation CIP and the traffic model that were used to help in creating it are included in the Transportation Element of the General Plan. It must, therefore, be in conformance with the document of which it is a part. If a new project were proposed that is not currently listed in the General Plan, the Community Services Department would need to show conformance with the General Plan for the City Council to allocate the funding to move forward. It is therefore an unnecessary exercise for staff and consultants to perform an additional determination study for each piece of right of way required for each transportation project being built.

The cost of doing each determination runs anywhere from \$4,500 to \$5,000 and is redundant.

Passage of this Resolution would only eliminate the requirement to perform the 65402 determination and would have no effect on any other procedures and/or policies that the City has in place for the purchase or disposition of any real property.

GOLETA STRATEGIC PLAN:

This action furthers the goal in the Strategic Plan entitled "SUSTAIN SOUND FISCAL/BUDGET PLANNING" by eliminating an unnecessary, recurring expense.

FISCAL IMPACTS:

This resolution will assist staff in constructing Public Works Projects more efficiently in both time and money. It is common for a roadway project to impact three or more parcels, even if for a small sliver of land for which the owner is fairly compensated. If each parcel required an additional \$4,500 to \$5,000 to do each 65402 determination, the savings would average \$13,500 to \$15,000 per project.

LEGAL IMPACTS

The Resolution was authored by Brian Piernik. The Planning Department is in support of this Resolution.

Submitted By:

Approved By:

Steve Wagner
Community Services Director

Dan Singer
City Manager

ATTACHMENTS:

1. Resolution No. 08-__ entitled "A Resolution of the City Council of the City Excluding Certain Real Property Acquisitions and Dispositions from Conformance with the General Plan Requirements Under Government Code Section 65402."

RESOLUTION NO. 08-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLETA EXCLUDING CERTAIN REAL PROPERTY ACQUISITIONS AND DISPOSITIONS FROM CONFORMANCE WITH THE GENERAL PLAN REQUIREMENTS UNDER GOVERNMENT CODE SECTION 65402

WHEREAS, the City of Goleta has the ability to acquire and dispose of real property in conformance with its general plan; and

WHEREAS, Government Code § 65402(a) requires that if a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, until the location, purposes and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to the conformity with said adopted general plan or part thereof; and

WHEREAS, Government Code § 65402(a) allows a legislative body to exempt the following types of real property acquisitions or dispositions from conformance with the general plan requirements if: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) the acquisitions, dispositions, or abandonments for street widening; or (3) the alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GOLETA HEREBY DETERMINES, RESOLVES AND ORDERS AS FOLLOWS:

Section 1.

The City Council finds that pursuant to Government Code § 65402(a) the following types of real property acquisitions or dispositions shall not be required to conform to general plan requirements : (1) disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

Section 2.

The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2008.

By _____
MICHAEL T. BENNETT
MAYOR

ATTEST:

Deborah Constantino
City Clerk

APPROVED AS TO FORM

Brian A. Pierik
Burke, Williams & Sorensen, LLP
Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss
CITY OF GOLETA)

I, Deborah Constantino, City Clerk of the City of Goleta, do hereby certify that the foregoing Resolution was adopted by the City Council at a regular meeting held the ____ day of _____, 2008, by the following vote:

AYES: ____ CITY COUNCIL:
NOES: ____ CITY COUNCIL:
ABSENT: ____ CITY COUNCIL:
ABSTAIN: ____ CITY COUNCIL:

By _____
Deborah Constantino, City Clerk

