

RESOLUTION NUMBER R- 303073
DATE OF FINAL PASSAGE OCT 18 2007

WHEREAS, San Diego Municipal Code section 125.0910 provides that a public right of way may be summarily vacated provided that the public right of way is excess and is not required for street or highway purposes; and

WHEREAS, the portion of an unnamed alley between Evans Street and Sampson Street, and between Irving Avenue and Julian Avenue is excess right of way and is not required for street purposes; and

WHEREAS, San Diego Municipal Code Section 125.1010 provides that a public service easement or other easement may be summarily abandoned if it does not contain public utility facilities or does not contain active public utility facilities that would be affected by the abandonment and the easement has been superceded by relocation and there are no other public facilities located within the easement.

WHEREAS, the 35-foot by 80-foot sewer easement and the 25-foot by 100-foot sewer easement, identified on Alley Vacation Exhibit, L.C. 194-1725, CCS 83 1834-6285, do not contain active public utilities that would be affected by the relocation and the easements have been superceded by relocation.

WHEREAS, Subdivision Map Act Section 66445(j) provides a procedure for the abandonment of public easements, such that the filing of a parcel map shall constitute as an abandonment of all public streets and easements not shown on the map; and

WHEREAS, the affected property owner has requested the vacation of the public street easement to unencumber this property; and

WHEREAS, the City finds that:

- (a) there are no present or prospective uses for the public rights-of-way, public services easements, and other easements either for a public facility or the purposes for which they were originally acquired, or for any other public use of a like nature that can be anticipated; and
- (b) the public will benefit from the vacation through the improved utilization of land; and
- (c) the vacation does not adversely affect any applicable land use plan and is consistent with the General Plan and approved Community Plan; and
- (d) the public street system and the other public purposes for which the public service easements and the right-of-way were originally acquired will not be detrimentally affected by this vacation; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the Council finds that certain map surveyed by Thomas A. Jones, licensed Land Surveyor, titled "Parcel Map W.O. No. 422852" [MAP], being a lot consolidation of Lots 1 to 48 inclusive in Block 224 of San Diego Land and Town Company's addition according to map thereof No. 379 filed in the office of the County Recorder of San Diego County October 30, 1886, and together the northwesterly portion of the unnamed alley in said block 224 as dedicated to public use.

BE IT FURTHER RESOLVED, that those portions of Irving Avenue, Julian Avenue, Evans Street and Sampson Street and portions of the unnamed alley in block 224 as dedicated to public use per Map No. 379 recorded October 30, 1886, of official records; the sewer easement granted to the City of San Diego per Book 2241, Page 224, recorded September 20, 1946, of official records; the sewer easement granted to the City of San Diego per Book 228, Page 30, recorded October 24, 1946, of official records are not shown within this map because they have been vacated pursuant to Section 66445(j) of the Subdivision Map Act.

BE IT FURTHER RESOLVED, prior to recordation of the Parcel Map, the applicant shall install curb, gutter and sidewalk along Sampson Street at the area of vacation, satisfactory to the City Engineer.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Marianne Greene
Deputy City Attorney

MG:ca:js
08/10/07
Or. Dept.:DSD
R-2008-128

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 09 2007.

ELIZABETH S. MALAND
City Clerk

By *Sara Richardson*
Deputy City Clerk

Approved: 10.18.07
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor