

209  
11/17/08

RESOLUTION NUMBER R-304364

DATE OF FINAL PASSAGE NOVEMBER 17, 2008

PLUM STREET RIGHT-OF-WAY VACATION – PROJECT  
NO. 6360.

WHEREAS, California Streets and Highways Code section 8330 et seq. provides a procedure for the summary vacation of streets by City Council resolution where the portion of street to be vacated consists of a portion of street or highway that lies within property under one ownership and that does not continue through such ownership or end touching property of another; and

WHEREAS, the abutting property owner has requested the vacation of a half-width portion of Plum Street adjacent to 1202 Plum Street, Lot 1, Block 21, Subdivision Map 305; and

WHEREAS, this action is exempt from the California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines Section 15301; 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 the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on November 17, 2008, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, that the Council of the City of San Diego finds that:

- (a) There is no present or prospective use for the public right-of-way to be vacated, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated. Plum Street at the project location is a partially improved paper street 70 feet in width and 200 feet long running in an approximate north-south direction, of which the southerly 100 feet fronts the project site. An existing 24-foot wide road along the eastern edge of the right-of-way terminates in a non-standard cul-de-sac, providing access to two existing residential properties: 1203 Plum Street and the subject property located at 1202 Plum Street. The portion of Plum Street to remain would provide a 35 foot wide and 100 foot deep right-of-way, with a 24-foot pavement width which would continue to provide reasonable access to 1202 and 1203 Plum Street. Portions of Plum Street at Byron Street to the south have previously been vacated through Resolution No. 39937 (1926) and Resolution No. 185546 (1965). Therefore there is no existing right-of-way connecting Plum Street to Byron Street and no existing or planned through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify this segment of Plum Street as a pedestrian path, or as a key component of access and circulation in the community. Plum Street currently dead ends along the frontage of the subject site and is not a through street. The unimproved portion of Plum Street proposed to be vacated is a remnant piece of right-of-way that has no connectivity to any other street. As stated above, portions of Plum Street at Byron Street to the south have previously been vacated through Resolution No. 39937 (1926) and Resolution No. 185546 (1965). As such, there is no existing right-of-way connecting Plum

Street to Byron Street and no existing or planned through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify this segment of Plum Street as a pedestrian path, or as a key component of access and circulation in the community. Additionally, the Plan does not identify Plum Street as a protected view corridor. Since the adjoining sections of Byron Street to the southwest and the section of Plum Street that connected Byron Street was vacated, the remaining 35 foot wide easements with an improved width of 24 feet does not comply with current street design standards for a street right-of-way. The remnant portion of the right-of-way proposed to be vacated is comprised of a small retaining wall, a planter and irrigated sloping lawn. This section could not be readily improved for vehicular travel and is not safe for pedestrian access; and

- (b) The public will benefit from the vacation through improved utilization of land because the City of San Diego would be released from any liability and maintenance associated with the substandard right-of-way. The historical occupancy would be confirmed avoiding future conflicts and the vacated land would be included in the property tax rate base for 1202 Plum Street; and
- (c) The vacation does not adversely affect the General Plan or an approved Community Plan because the portion of right-of-way proposed to be vacated is not identified in the Peninsula Community Plan as a public view corridor or a segment of the transportation element; and
- (d) The public street system for which the right-of-way was originally acquired will not be detrimentally affected by this partial vacation because the proposed

vacation would not remove any existing improved street parking and would not remove any on-street parking. The proposed partial vacation would not affect the circulation pattern of the existing street system because the current 24-foot wide improved street and a dead end cul-de-sac would remain.

BE IT FURTHER RESOLVED, that the Council of the City of San Diego finds that:

1. The half-width portion of Plum Street adjacent to 1202 Plum Street, legally described as Lot 1, Block 21, Subdivision Map No. 305, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20031-B, marked as Exhibit "B," and on file in the office of the City Clerk as Document Nos. RR-304364-1, and RR-304364-2, which are by this reference incorporated herein and made a part hereof, is ordered vacated.

2. The City of San Diego hereby reserves and excepts the right, easement, and privilege of placing, constructing, repairing, replacing, maintaining, using and operating public utilities of any kind or nature, including, but not limited to general utilities and all necessary and proper fixtures and equipment for use in connection therewith, through, over, under, upon, along, and across the hereinafter described easement, together with the right of ingress thereto and egress therefrom, together with the right to maintain the said easement free and clear of any excavation or fills, the erection or construction of any building or other structures, the planting of any tree or trees thereon, or the drilling or digging of any well or wells thereon, together with the right to otherwise protect from all hazards the operation and use of any right hereby reserved.

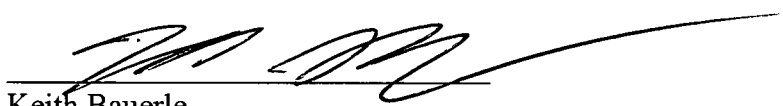
3. That the Owner/Permittee shall within sixty days of the approval of the vacation either remove the encroachment(s) that extend beyond center line of Plum Street, or apply for and diligently process a Site Development Permit [SDP] to retain the encroachment(s). In the event

that the SDP is not approved by the City, then Owner/Permittee shall remove the encroachment(s) within forty-five days of such denial.

4. City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
\_\_\_\_\_  
Keith Bauerle  
Deputy City Attorney

KB:pev  
11/03/08  
11/17/08 REV.  
Or.Dept:DSD  
R-2008-578  
MMS #6987

# EXHIBIT "A"

## STREET VACATION – PLUM STREET

THE SOUTHWESTERLY ONE-HALF OF PLUM STREET (FORMERLY KNOWN AS PINE STREET), ADJOINING LOT 6 IN BLOCK 20 OF ROSEVILLE, ACCORDING TO THE MAP THEREOF NO. 165, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY BEING BOUNDED ON THE SOUTHWEST BY THE NORTHEASTERLY LINE OF A PORTION OF PLUM STREET AS VACATED ON NOVEMBER 23, 1965 BY RESOLUTION NO. 185546 OF THE COUNCIL OF THE CITY OF SAN DIEGO RECORDED NOVEMBER 30, 1965 AS FILE NO. 215982 OF OFFICIAL RECORDS, AND BOUNDED ON THE NORTHEASTERLY BY A LINE FIXED PERPENDICULAR FROM THE CENTERLINE OF SAID PLUM STREET AND TERMINATING AT THE NORTHEASTERLY CORNER OF SAID LOT 6.

RESERVING THEREFROM A SIX-FOOT WIDE GENERAL UTILITY ACCESS EASEMENT OVER ALL THAT PORTION OF SAID SOUTHWESTERLY ONE HALF OF PLUM STREET, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEASTERLY CORNER OF SAID LOT 6; THENCE LEAVING SAID CORNER AND CONTINUING ALONG THE NORTHEASTERLY LINE OF THE HEREINABOVE DESCRIBED PARCEL "A," SOUTH 54°14'03" EAST A DISTANCE OF 5.73 FEET TO THE TRUE POINT OF BEGINNING;

THENCE LEAVING SAID LINE, SOUTH 36°47'42" WEST A DISTANCE OF 8.98 FEET; THENCE SOUTH 55°20'20" EAST A DISTANCE OF 29.44 FEET TO AN INTERSECTION WITH THE NORTHEASTERLY LINE OF SAID SOUTHWESTERLY ONE-HALF OF PLUM STREET.

THE SIDELINES OF SAID EASEMENT SHALL BE LENGTHENED OR SHORTENED SO AS TO TERMINATE IN THE NORTHEASTERLY LINE AND THE SOUTHEASTERLY LINE OF PARCEL "A" AS DESCRIBED ABOVE.



A handwritten signature in cursive script that reads "Michael J. Pallamaro".

051039 VACATION DESCRIPTION EXHIBIT A\_&\_B.DOC

102708

DOCUMENT NO.	R-304364
FILED	NOV 17 2008
OFFICE OF THE CITY CLERK SAN DIEGO, CALIFORNIA	

R-304364

# EXHIBIT B



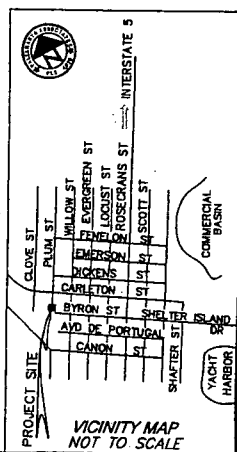
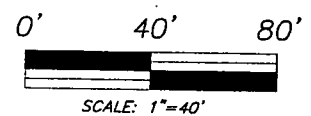
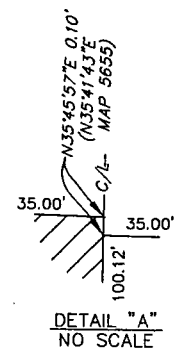
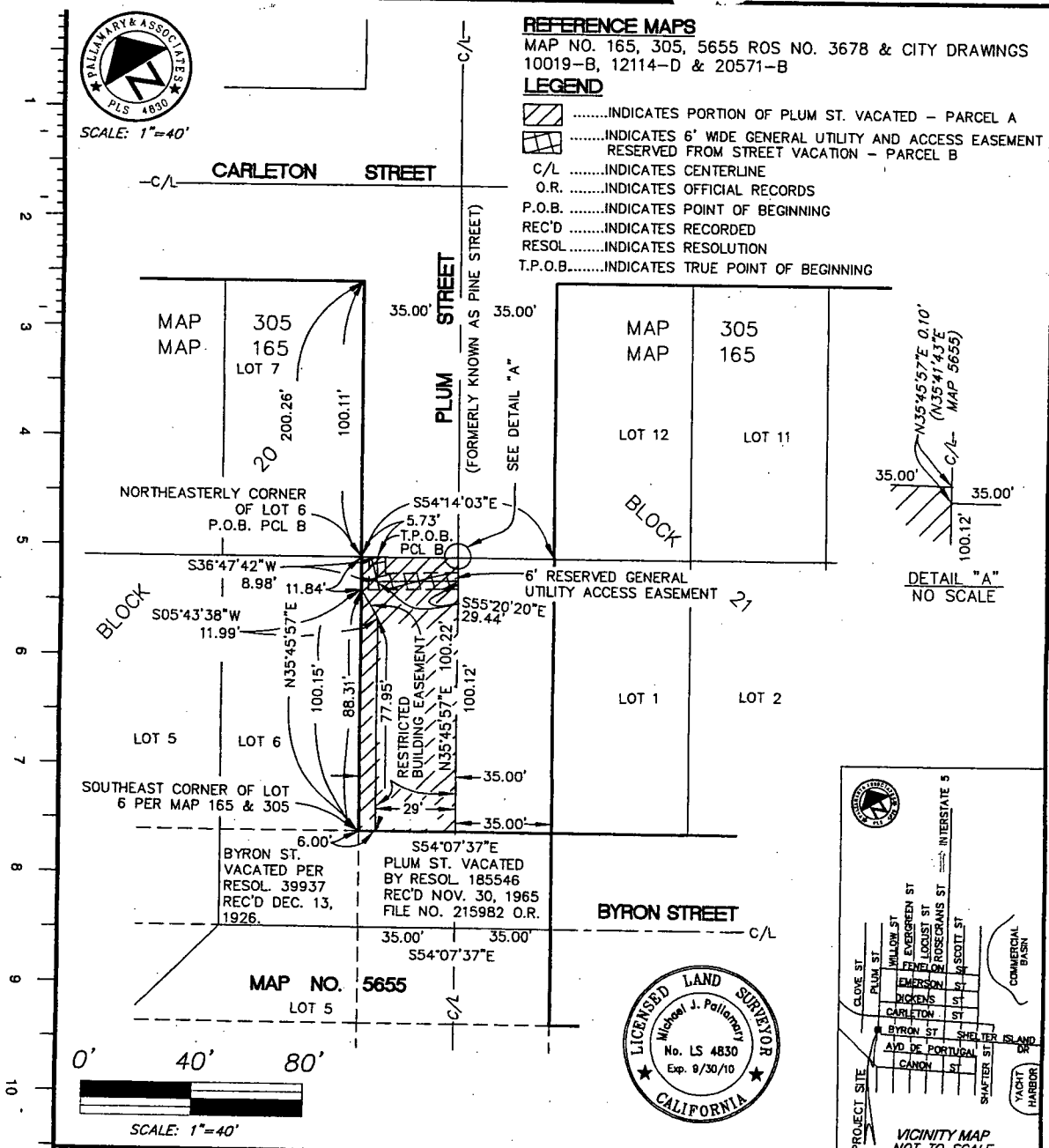
SCALE: 1"=40'

### REFERENCE MAPS

MAP NO. 165, 305, 5655 ROS NO. 3678 & CITY DRAWINGS 10019-B, 12114-D & 20571-B

### LEGEND

- .....INDICATES PORTION OF PLUM ST. VACATED - PARCEL A
- .....INDICATES 6' WIDE GENERAL UTILITY AND ACCESS EASEMENT RESERVED FROM STREET VACATION - PARCEL B
- C/L .....INDICATES CENTERLINE
- O.R. ....INDICATES OFFICIAL RECORDS
- P.O.B. ....INDICATES POINT OF BEGINNING
- REC'D .....INDICATES RECORDED
- RESOL .....INDICATES RESOLUTION
- T.P.O.B. ....INDICATES TRUE POINT OF BEGINNING



PALLAMARY AND ASSOCIATES  
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 05-1039, 051039E12.DWG, 04-08-09  
 MICHAEL J. PALLAMARY, LS 4830

**STREET VACATION - PLUM STREET**  
 WITH A BUILDING RESTRICTED EASEMENT AND 6' GENERAL UTILITY EASEMENT RESERVED FROM STREET VACATION. ALSO RESERVING A BUILDING RESTRICTIVE EASEMENT WHICH SHALL PROHIBIT THE ERECTION OF ANY STRUCTURES.

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	
ORIGINAL					W.O. 120102	
					PTS. 6360 SA 03-512	
					1844-6255	
					CCS 83	
					204-1697	
					LAMBERT COORDINATES	
					20031-B	
STATUS						

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