

RESOLUTION NUMBER R- 304678

DATE OF FINAL PASSAGE FEB 24 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A VACATION OF A PORTION OF 51ST STREET, 52ND STREET, POLK AVENUE FOR GENERAL UTILITY AND PUBLIC STREET PURPOSES AND APPROVAL OF A PARCEL MAP FOR JACKSON/MARSHALL ELEMENTARY SCHOOL.

WHEREAS, California Streets and Highways Code section 8330 et seq. and San Diego Municipal Code section 125.0910 et seq. provides a procedure for the summary vacation of public easements by City Council resolution where the easements are no longer required; and

WHEREAS, within portions of 51st Street, 52nd Street, Polk Avenue and unnamed alleys an easement for public street purposes and an easement for public utilities and incidental purposes are no longer required; 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, does not contain active public utility facilities that would be affected by the abandonment, or the easement has been superceded by relocation and there are no other public facilities located within the easement; and

WHEREAS, the public street easement identified on Vacation L.C. 212-1743, on file in the office of the City Clerk as Document No. RR- 304678, does not contain active public utilities that would be affected by the relocation; and

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, 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 FEB 24 2009, 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 are no present or prospective uses for the public rights-of-way, public service 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;
- (b) the public will benefit from the vacation through improved utilization of land;
- (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 right-of-way were originally acquired will not be detrimentally affected by this vacation.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, that the Council finds that certain map surveyed by James L. Meyer, licensed Land Surveyor, titled "Parcel Map W.O. No. 422102" [MAP], being a lot consolidation of Lots 9 through 37, of Block 26, Lots 12 through 15 and 20 through 35 of Block 25 of Fairmount Addition to City Heights, Map No. 1035, Lot 1 of Map 9862, and Lots 1 through 9, Block D of Oak Park, Map No. 1732, all in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of said County, together with those portions of Altadena Avenue, 51st Street, 52nd Street, Polk Avenue, and Otilie Place and unnamed alleys as dedicated to public use; and

BE IT FURTHER RESOLVED, the utility easement granted to the City of San Diego, located within Block D, Map No. 1732, the portion of 51st Street dedicated per document recorded June 23, 1954, in Book 5278, Page 439 of Deeds, the portion of 51st Street dedicated as Molino Avenue per Map 1035, that portion of Polk Avenue dedicated as Anna Street per Map 1732, and that portion of 52nd Street, dedicated per document number 11695, recorded October 24, 1929, in Book 1688, Page 371, that portion of the unnamed alley of Block 26, Map No. 1035, that portion of unnamed alley of Block 25, Map No. 1035 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, that Parcel Map W.O. No. 422102 is approved.

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

1. Prior to the recordation of the public right-of-way vacation of 51st Street or any final map, the Applicant shall cut, plug and abandon the existing public water facilities within the 51st Street right-of-way outside of the vacation boundary, in a manner satisfactory to the Water Department Director and the City Engineer.

2. Prior to the recordation of the public right-of-way vacation or any final map, the Applicant shall assure, by permit and bond, the design and construction of new public 12-inch water facilities within the following rights-of-way: Altadena Avenue, from Orange Avenue to Polk Avenue; Polk Avenue, from Altadena Avenue to 51st Street; 51st Street, from Polk Avenue to Otilie Place; and Otilie Place, from 51st Street to 52nd Street, in a manner satisfactory to the Water Department Director and the City Engineer.

3. Prior to the recordation of the public right-of-way vacation or any final map, the Applicant shall assure, by permit and bond, the installation of fire hydrants at locations approved by and in a manner satisfactory to the Fire Marshal, the Water Department Director and the City Engineer.

4. Prior to the recordation of the public right-of-way vacation or any final map, the Applicant shall reconnect all existing water services adjacent to new 12-inch facilities and remove all existing unused water services adjacent to the project site, in a manner satisfactory to the Water Department Director and the City Engineer.

5. The Applicant agrees to design and construct all required public water facilities in accordance with established criteria, in the most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto.

6. The Applicant shall install a new concrete standard alley for the segment of existing alley (off-site) running in a north-south direction between 51st Street and 52nd Street from the proposed public alley "T" intersection north to Orange Avenue. All work shall be completed and accepted by the City Engineer, prior to occupancy.

7. All public improvements shall be installed in accordance with the improvement plans 33310-D (J.O. 423300). All work shall be completed and accepted by the City Engineer.

8. That the City Clerk shall cause a certified copy of this resolution, and Document No. RR- 304678 , attested by her under seal, to be recorded in the office of the County Recorder.

9. That this activity is covered under Final 52nd Street Area School Environmental Impact Report SCH No. 199101128, dated May, 2003, certified by the Board of Education on June 13, 2003. The activity is adequately addressed in the environmental documents and there is no change in circumstance, additional information, or project changes to warrant additional environmental review. Because the prior environmental documents adequately covered this activity as part of the previously approved project, the activity is not a separate project for purposes of the California Environmental Quality Act [CEQA] review per CEQA Guidelines Section 15060(c)(3) and 15378(c).

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon Thomas
Shannon Thomas
Deputy City Attorney

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02/18/09 COR.COPY2
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