

RESOLUTION NUMBER R- 304679

DATE OF FINAL PASSAGE FEB 24 2009

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
DIEGO APPROVING A VACATION OF A PORTION OF
KELSFORD PLACE FOR GENERAL UTILITY AND STREET
PURPOSES AND APPROVAL OF A PARCEL MAP FOR
SOLANA BEACH ELEMENTARY SCHOOL.

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 Kelsford Place 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, does not contain active public utility facilities that would be affected by the abandonment, or the easement has been superseded by relocation and there are no other public facilities located within the easement.

WHEREAS, the general utility and access easement, and the sewer and drainage easement, granted to the City of San Diego per Map No. 13318 recorded April 11, 1996, identified on Alley Vacation L.C. 286-1699 NAD 83 1926-6259, on file in the office of the City Clerk as Document No. RR- 304679, do not contain active public utilities that would be affected by the relocation and the easements have been superseded by relocation; and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 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 right-of-way, public services easements, and other easements either for a public facility or the purpose 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 and is consistent with the General Plan and approved Community Plan; and

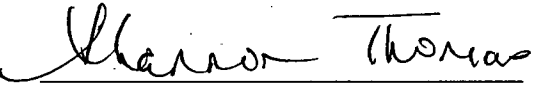
- (d) the public street system and the other public purposes for which the public service easements and the right-of-way were originally acquired will not be detrimentally affected by this vacation; and

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

1. That certain map surveyed by Thomas A. Jones, licensed Land Surveyor, titled "Parcel Map W.O. No. 420775 "[MAP], being a lot consolidation of portions of Lot 8; Lot "A;" Lots 1 through 4; and 9 through 11, of the Carmel Valley Neighborhood 9, Unit No. 4, in the City of San Diego, County of San Diego, State of California, according to Map No. 13318 filed April 11, 1996, on file in the Office of the County Recorder of San Diego County, and together with those portions the portion of Pell Place and Kelsford Place as dedicated to public use; and
2. That the portion of Kelsford Place dedicated to public use and the general utility and access easement and the sewer and drainage easement granted to the City of San Diego per Map 13318 recorded April 11, 1996 are not shown within this map because they have been vacated pursuant to Section 66445(j) of the Subdivision Map Act.
3. That Parcel Map W.O. No. 420775 is approved.
4. That the City Clerk shall cause a certified copy of this resolution, with Document No. RR- 304679, attested by her under seal, to be forwarded to the Office of the County Recorder.
5. That prior to recordation of the Parcel Map, the applicant shall install curb, gutter, sidewalk and Pedestrian Ramp at the area of vacation, satisfactory to the City Engineer.

6. That this action is exempt from the California Environmental Quality Act
[CEQA] pursuant to State CEQA Guidelines Section 15060(b)(2).

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Shannon Thomas
Deputy City Attorney

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10/16/08
02/13/09 COR.COPY
Or.Dept:DSD
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