

RESOLUTION NUMBER R- 304680

DATE OF FINAL PASSAGE FEB 24 2009

A RESOLUTION APPROVING THE VACATION OF GREELY AVENUE BETWEEN 31ST STREET AND 32ND STREET, VACATION OF SEWER, DRAINAGE AND GENERAL UTILITY EASEMENTS, AND ASSOCIATED PARCEL MAP.

WHEREAS, San Diego Municipal Code Section 125.0910 provides that a public right-of-way may be summarily vacated by City Council resolution where the public right-of-way to be vacated is excess and is not required for street or highway purposes; and

WHEREAS, a portion of Greely Avenue, between 31st Street and 32nd Street, 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does not contain active public utility facilities that would be affected by the abandonment, or the easement has been superceded by relocation and there are no other public facilities located within the easement; and

WHEREAS, the sewer, drainage, and general utility easements, identified on Vacation L.C. 194-1725, NAD 83C 1834-6291, on file in the office of the City Clerk as Document No. RR- 304680, do 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 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, this activity is adequately addressed under Final Edison/Hamilton/Parks Area Elementary School Environmental Impact Report SCH No. 2000101040, dated October 2002, certified by the Board of Education on April 13, 2004, and there is no change in circumstance, additional information, or project changes to warrant additional environmental review; 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, a public hearing was required by law implicating due process rights of individuals affected by the decision, and 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, by the Council of the City of San Diego [Council], that the Council finds that on that certain map surveyed by Mary Acosta, licensed Land Surveyor, titled "Parcel Map W.O. No. 422796" [MAP], being a lot consolidation of Lots 1 to 18 inclusive, and 25 to 48 inclusive, in block 338, and a portion of lots 1 and 2, and lots 3 to 24 inclusive, in block 339, all of Choates addition, according to map thereof No. 156; and the unnumbered lots lying northerly of the alley in Block 44 of Whitney's addition, according to the map thereof No. 168; together with portions of the unnamed alley in said Block 44, Greely Avenue, 31st Street, 32nd Street, and Martin Avenue as dedicated to public use; together with the unnamed alley in Block 338 of

Map 156 as closed and vacated to public use; all in the City of San Diego, County of San Diego, State of California; and

BE IT FURTHER RESOLVED, that those portions of Greely Avenue dedicated per Map No. 156; the sewer easement granted per document recorded Nov. 16, 1912 in Book 587, Page 59 of deeds; the sewer easement granted per document recorded Nov. 16, 1912 in Book 587, Page 60 of deeds; the drainage easement granted per document recorded June 20, 1929, in Book 1654, Page 44 O.R.; the sewer easement granted per document recorded July 10, 1945, in Book 1904, Page 283 O.R.; the sewer easement granted per document recorded March 20, 1947, in Book 2371, Page 72 O.R.; a portion of the sewer and drainage easement granted per document recorded December 10, 1962 as File No. 62-210344 O.R.; a portion of the public utilities easement reserved by street vacation per document recorded April 19, 1963 as file No. 63-067587 O.R.; and the sewer easement granted per document recorded March 20, 1947 as instrument 30669 O. R.; 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. 422796 is approved.

BE IT FURTHER RESOLVED, that the Council finds, with respect to abandonment of the easements:

1. that there is no present or prospective public use for the easements, either for the facility or purpose for which they were originally acquired or for any other public use of a like nature;
2. that the public will benefit from the action through improved utilization of the land made available by the abandonment;
3. that the abandonment is consistent with all applicable land use plans;

4. that the public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the abandonment or the purpose for which the easements were acquired no longer exist.

BE IT FURTHER RESOLVED, that the Council finds, with respect to the vacation of the public right-of-way:

1. that there is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired, or for any other public use of a like nature that can be anticipated;
2. that the public will benefit from the action through improved use of the land made available by the vacation;
3. that the vacation does not adversely affect any applicable land use plan; and
4. that the purpose for which the public right-of-way were originally acquired will not be detrimentally affected by this vacation.

BE IT FURTHER RESOLVED, that the improvements required of this project shall be assured, by permit and bond, including but not limited to: improving all street frontages with curb, gutter, and sidewalk; upgrading the onsite public storm drainage system; closing all previous street openings; and closing all non-utilized driveways with curb, gutter, and sidewalk as more particularly shown on City of San Diego Improvement Plans 33104-D (JO 42-2796).

BE IT FURTHER RESOLVED, that the improvements required of this project shall be completed to the satisfaction of the City Engineer.

BE IT FURTHER RESOLVED, that the City Clerk shall cause a certified copy of this resolution, and Document No. RR- 304680, attested by her under seal, to be recorded in the office of the County Recorder.

BE IT FURTHER RESOLVED, that the prior environmental documents adequately cover this activity as part of the previously approved project, and therefore, the activity is not a separate project for purpose of California Environmental Quality Act [CEQA] review, per CEQA Guidelines Sections 15060(c)(3) and 15378(c).

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon Thomas
Shannon Thomas
Deputy City Attorney

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