

RESOLUTION NUMBER R- 304681

DATE OF FINAL PASSAGE FEB 24 2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A VACATION OF PORTIONS OF 48TH STREET, AND FRANKLIN AVENUE FOR GENERAL UTILITY FOR PUBLIC STREET PURPOSES AND APPROVAL OF A PARCEL MAP FOR LINCOLN HIGH 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, the portions of 48th Street, Franklin Avenue and unnamed alleys, and a sewer and water easement 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does not contain active public utility facilities that would be affected by the abandonment, or the easement has been superceded by relocation and there are no other public facilities located within the easement; and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 Exhibit, L.C. 196-1741, on file in the office of the City Clerk as Document No. RR- 304681 does not contain active public utilities that would be affected by the 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, 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 D.K. Nasland, licensed Land Surveyor, titled "Parcel Map W.O. No. 422444" [MAP], being a consolidation of the northeasterly quarter and that portion of Lot 52 of Hortons Purchase, according to Map 283; Lots 1 through 48 inclusive of Blocks "K," "N," "J," and lots 25 through 48 inclusive of Block "M" and Lots 5 through 17 and 25 through 48 inclusive of Block I of Altavista Suburb, according to Map No. 1029; Lots 1 through 11 of Ocean View Heights, according to Map No. 1341, all in the City of San Diego, County of San Diego, State of California; those portions of Escuela Street, Ocean View Boulevard, 48th Street, 49th Street and the unnamed alleys of Blocks "I," and "N" as vacated and closed to public use; together with those portions of Imperial Avenue, Willie James Jones, Franklin Avenue, 47th Street, 48th Street, Gloria Street, and Ocean View Boulevard and those portions of the unnamed alley's of Blocks "J," "K," and "M" as dedicated to public use; and

BE IT FURTHER RESOLVED, those portions of Franklin Avenue, 48th Street unnamed alleys in Blocks "K," and "J," as dedicated to public use per Map No. 1029, recorded February 7, 1907 of official records and the sewer easements granted to the City of San Diego, recorded May 12, 1948 in Book 2794, Page 127, recorded January 16, 1952 in Book 4345, Page 504, recorded March 25, 1952 in Book 4414, Page 156, the sewer and water easements granted to the City of San Diego, recorded November 12, 1980 as instrument No. 80-380204, 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 the Council of the City of San Diego finds that:

1. Prior to the recordation of the Street and Easement Vacation or any Final Map the Subdivider/Applicant agrees to cut, plug and abandon all unused water services adjacent to the project site.

2. Prior to the recordation of the Street and Easement Vacation or any Final Map the Subdivider/Applicant agrees to relocate, reconnect and upgrade any existing water service still in service adjacent to the project site, in a manner and location satisfactory to the Water Department Director and City Engineer.

3. Prior to the recordation of the Street and Easement Vacation or any Final Map the Subdivider/Applicant shall design and construct public 12-inch diameter water mains within the following public rights-of-ways, in a manner which will receive operational acceptance from the Water Department Director; in Franklin Avenue, South Willie James Jones (Ozark Street) to 49th Street.

4. The Subdivider/Applicant agrees to connect all new 12-inch water mains using 12-inch straight-in connections, 12-inch crosses and 12-inch tees accordingly.

5. Prior to the recordation of the Street and Easement Vacation or any Final Map the Subdivider/Applicant shall disconnect (kill) at the main and abandon the existing 8-inch water mains within the following public rights-of-ways, in a manner which will receive operational acceptance from the Water Department Director; in a Utility Easement located between, Imperial Avenue and Franklin Avenue, west of South Willie James Jones (Ozark Street).

6. Prior to the recordation of the Street and Easement Vacation or any Final Map the Subdivider/Applicant shall disconnect (kill) at the main and abandon the existing 6-inch water mains within the following public rights-of-way, in a manner which will receive operational acceptance from the Water Department Director; in Franklin Avenue, from a Utility Easement located between, Imperial Avenue and Franklin Avenue, west of South Willie James Jones (Ozark Street) to 48th Street.

7. Prior to the recordation of the Street and Easement Vacation or any Final Map the Subdivider/Applicant shall disconnect (kill) at the main and abandon the existing 6-inch water mains within the following public rights-of-way, in a manner which will receive operational acceptance from the Water Department Director; in 48th Street, from Franklin Avenue to Ocean View Boulevard.

8. The applicant shall design and construct a drainage system, in accordance with City standards, to collect and convey runoff resulting from the proposed development.

9. The applicant shall construct a cul-de-sac, at the end of the westerly portion of Franklin Avenue, with pavement, curb, gutter and a five-foot wide sidewalk within a 10-foot curb to property line distance. The cul-de-sac shall have a 50 foot curb radius with a 60 foot right of way radius.

10. The applicant shall construct curb, gutter and a five-foot sidewalk at the westerly end of the easterly portion of Franklin Avenue and across the alley at the westerly end of Ocean View Boulevard.

11. The applicant shall construct pedestrian ramps and pavement at the intersection of Franklin Avenue and Gloria Street.

12. Storm drain systems not located in a public street shall be private.

13. Work with in the public right-of-way will require a Public Right-of-way Permit.

14. The applicant shall dedicate additional street right-of-way for the widening of Willie James Jones Avenue, maintaining a 10-foot curb-to-property-line distance.

15. All driveways and curb openings shall comply with City Standard Drawings G-14A, G-16 and SDG-100.

16. All the public improvements on the fronting streets and intersections as shown on the drawing number 33025-D shall be constructed and completed by the applicant satisfactory to the City Engineer.

17. That the City Clerk shall cause a certified copy of this resolution, with Document No. RR- 304681, attested by her under seal, to be recorded in the office of the County Recorder.

BE IT FURTHER RESOLVED, that the proposed street vacations were analyzed in the Final Environmental Impact Report for the Proposed Demolition, Reconstruction, and Expansion of Lincoln High School, dated August, 2002, and certified by the Board of Education on September 10, 2002. 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 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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