

(R-2010-187) 333
J-3004 (39) 10/13/09

RESOLUTION NUMBER R- 305327

DATE OF FINAL PASSAGE OCT 13 2009

RESOLUTION OF SUMMARY VACATION OF 9,000 SQUARE FEET OF REDWOOD STREET PUBLIC RIGHT-OF-WAY WITH RESERVATION OF A GENERAL UTILITY AND ACCESS EASEMENT.

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and San Diego Municipal Code section 125.0901 *et seq.* provide a procedure for the summary vacation of public rights-of-way by City Council resolution; and

WHEREAS, the vacation of a public right-of-way may be initiated by resolution of the City Council or by petition or request of any person; and

WHEREAS, an application was submitted for the vacation of 9,000 square feet of the Redwood Street public right-of-way between Boundary Street and Nile Street to unencumber and supplement usable area of privately owned land; and

WHEREAS, a public right-of-way may be summarily vacated if it does not contain public utility facilities, does not contain active public utility facilities, or contains public utility facilities that would not be affected by the vacation, and if one of the following applies: (1) the portion of the public right-of-way is excess public right-of-way and is not required for street purposes; (2) the public right-of-way lies within one ownership and does not touch the property of another owner; (3) the public right-of-way has been impassable for vehicular travel for 5 years and public funds have not been expended for maintenance during that period; (4) the public right-of-way is intercepted by a state freeway and an agreement has been entered into pursuant to the California Streets and Highways Code; or (5) the public right-of-way has been superseded by

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relocation, provided the vacation would not cut off all access to an individual property that, before relocation, adjoined the public right-of-way; and

WHEREAS, this 9,000 square foot portion of the Redwood Street public right-of-way is excess public right-of-way, is not required for street purposes, has been impassable for vehicular travel for 5 years, and no public funds have been expended for maintenance of the public right-of-way during that period; and

WHEREAS, the public right-of-way to be vacated contains public utility facilities that will not be affected by the vacation because a general utility and access easement will be reserved from the vacation to provide for the continued use and maintenance of the public facility in accordance with Municipal Code section 125.0910(c); 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 is required by law implicating due process rights of individuals affected by the decision, and the Council is 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 October 13, 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, that with respect to that portion of the Redwood Street Public Right-of-Way Vacation No. 60865, the Council finds that:

(a) There is no present or prospective use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated.

The portion of the Redwood Street public right-of-way proposed to be vacated was dedicated as Norfolk Street on the original subdivision map in 1916. The purpose of the right-of-way was to join Nile Street to the east with an unnamed alley and Boundary Street to the west. However, this connection was never realized due to the steep topography lying between these two streets. A natural canyon currently separates Nile Street and Boundary Street and the necessary public improvements to the right-of-way to bridge the two streets would be infeasible. Therefore, there is no present or prospective use of the public right-of-way for the purpose it was acquired or of a like nature that can be anticipated.

(b) The public will benefit from the action through improved use of the land made available by the vacation.

The public does not currently utilize this portion of the Redwood Street public right-of-way, and it is unsuitable for vehicular and pedestrian access. Vacating the right-of-way would remove any potential City liability associated with ownership of the easement and return it to the adjacent private property owners, which would benefit the public.

(c) The vacation does not adversely affect any applicable land use plan.

The portion of the Redwood Street public right-of-way proposed to be vacated is within the North Park Community Planning area. The community plan does not identify this portion of the Redwood Street public right-of-way as a through street, and it is not required for vehicular circulation or access to any private or public property. Additionally, the community plan does

not identify the public right-of-way as a view corridor, and the right-of-way does not provide any recognized pedestrian access to or from any trail system in the adjacent canyon. Therefore, the proposed vacation would not adversely affect any applicable land use plan.

(d) The public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

The portion of the right-of-way proposed to be vacated was created as part of a standard grid system on a 1916 subdivision map and intended to create connectivity to Nile Street to the east and Boundary Street to the west as well as an unnamed alley between the streets. The grid pattern of the subdivision map did not take into consideration the topography of the neighborhood, and the Redwood Street right-of-way was bisected by the steep slopes of a natural canyon. The section of right-of-way through the canyon was never utilized or improved, and circulation through the neighborhood would not be affected by the proposed vacation. Therefore, the public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

BE IT FURTHER RESOLVED, that the portion of Redwood Street, as more particularly described in the legal description (Exhibit A) and shown on Drawing No. 20893-B (Exhibit B), is ordered vacated.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from the foregoing vacation the easterly 50 square feet of said street vacation as a permanent general utility and access easement as more particularly described in Exhibit A.

BE IT FURTHER RESOLVED, that the general utility and access easement reserved herein is located in, under, over, upon, along, and across that portion of Redwood Street vacated

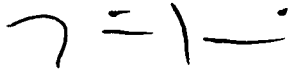
by this Resolution and as more particularly described in the legal description (Exhibit A) and shown on Drawing No. 20893-B (Exhibit B).

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the office of the County Recorder.

BE IT FURTHER RESOLVED, that from and after the date this resolution is recorded, the portion of the subject public right of way easement is vacated and no longer constitutes a street easement.

APPROVED: JAN I. GOLDSMITH, City Attorney

By



Nina Fain
Deputy City Attorney

NF:js
09/17/2009
Or.Dept:DSD
R-187
MMS #10464

EXHIBIT A

REDWOOD STREET VACATION
WITH A GENERAL UTILITY AND ACCESS EASEMENT RESERVATION

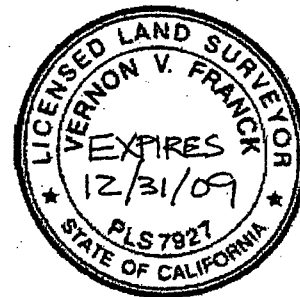
All that certain real property situated in the City of San Diego, County of San Diego, State of California, described as follows:

That portion of Redwood Street (dedicated as Norfolk Street) per Montclair, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1684, filed in the office of the County Recorder of San Diego County, March 20, 1916, lying westerly of westerly right-of-way line of Nile Street and lying easterly of the easterly right-of-way line of the unnamed Alley adjoining Block D and Block E of said Map 1684, and adjoining Lot 25 of said Map 1684 and also adjoining that certain 10 foot street vacation per said Map 1684 adjoining Lot 48, Block 5 of City Heights, in the City of San Diego, County of San Diego, State of California, according to Amended Map thereof No. 1007, filed in the office of the County Recorder of San Diego County, October 3, 1906.

Reserving therefrom the easterly 50 feet of said street vacation for a general utility and access easement.

Attached hereto is Drawing No. 20893-B (Exhibit B) and by reference is made a part hereof

Area: 9,000 Square Feet / 0.2066 Acres, more or less.



VVF

Vernon V Franck, PLS 7927

6/18/09

Date

PTS No. 13070
J.O. No. 120102
Drawing No. 20893-B

R-305327

