

RESOLUTION NUMBER R- 308292

DATE OF FINAL PASSAGE JUN 18 2013

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO SUMMARILY VACATING A SEWER EASEMENT LOCATED AT 2780 GARNET AVENUE, SAN DIEGO, CALIFORNIA (VACATION NO. 1073291 – PROJECT NO. 306369).

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and San Diego Municipal Code section 125.1001 *et seq.* provide a procedure for the summary vacation of public easements by City Council resolution; and

WHEREAS, MRB Distribution, LLC, owner of the underlying property, filed an application to vacate a sewer easement located at 2780 Garnet Avenue, described as Easement Vacation No. 1073291, as more particularly described in the legal description marked as Exhibit “A,” and shown on Drawing No. 37357-B, marked as Exhibit “B”; and

WHEREAS, it is proposed that one sewer easement, which was recorded and dedicated to the City of San Diego under Resolution R-102601 on May 11, 1951, be vacated; and

WHEREAS, the City has determined the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately proceeding the proposed abandonment; and

WHEREAS, the easement does not contain active public utility facilities that would be affected by the vacation; and

WHEREAS, under Charter section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the 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 June 18, 2013, 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 Easement Vacation No. 1073291, the Council finds that:

1. There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated.

The project proposes to vacate a sewer easement located at 2780 Garnet Avenue within the CC-4-2 zone within the Pacific Beach Community Plan Area. The sewer easement exists on two vacant lots formerly occupied by a service station. Originally, the sewer easement served this service station; however, the station went out of business over five years ago and the easement has not been used since then. All structures associated with the service station have been removed, and it is likely the sewer facility within the sewer easement has deteriorated and is non-operational. The easement occupies 0.01 acres of the 0.36-acre site. Future development for the site will have sewer access by connecting into an existing sewer facility along Balboa Avenue or Mission Bay Drive. The City has determined that the sewer line which necessitated the easement is no longer in place and there is no present or prospective use for the easement either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated.

2. The public will benefit from the action through improved utilization of the land made available by the vacation.

The project proposes to vacate a sewer easement located at 2780 Garnet Avenue within the CC-4-2 zone within the Pacific Beach Community Plan Area. Prospective future development at the project site is limited by the existence of the sewer easement in that the owner of the property may not develop or place new buildings over the area of the existing easement. The private improvements that would be allowed in the encumbered area after this vacation could result in increased revenue to the City through property taxes paid on the improvements. The public will benefit from the vacation of the easement through improved utilization of the land made available by the vacation.

3. The vacation is consistent with any applicable land use plan.

The project proposes to vacate a sewer easement located at 2780 Garnet Avenue within the CC-4-2 zone within the Pacific Beach Community Plan Area. The proposed vacation of the sewer easement would not adversely affect the applicable land use plan, the Pacific Beach Community Plan. The site is designated for commercial use and is currently vacant. The proposed easement vacation is in an area where the public easement is no longer necessary and the site has the potential to be developed with a commercial use. Therefore, the vacation is consistent with the applicable land use plan.

4. The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists.

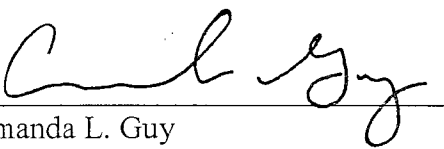
The project proposes to vacate a non-operational sewer easement located at 2780 Garnet Avenue within the CC-4-2 zone within the Pacific Beach Community Plan Area. The easement

occupies 0.01-acres of the 0.36 acre site. Any future development at the site will have sewer access by connecting into an existing sewer facility along Balboa Avenue or Mission Bay Drive. The easement was approved on May 11, 1951, under San Diego Resolution R-102601. The easement is no longer being used for utility purposes, and there are no present or prospective uses for the easement, either for future commercial uses for which it was originally acquired or for any other public use of like nature that can be anticipated. Therefore, the public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists.

BE IT FURTHER RESOLVED, that the Easement Vacation No. 1073291, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 37357-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated and no longer constitutes a public service easement.

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.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Amanda L. Guy
Deputy City Attorney

ALG:jdf:hm
5/28/2013
Or.Dept:DSD
Doc. No. 571014

EXHIBIT "A"

LEGAL DESCRIPTION
SEWER EASEMENT VACATION

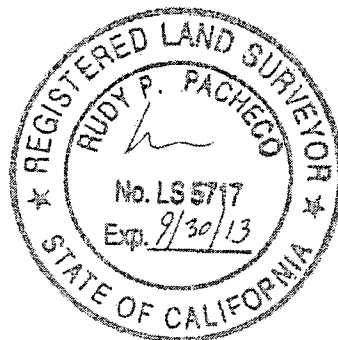
THAT PORTION OF PUEBLO LOT 1788 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO ON NOVEMBER 14, 1921, BEING ALSO A PORTION OF LOTS 1 AND 2 OF LANE SQUARE, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 5517, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY ON JANUARY 21, 1965.

SAID PORTION OF PUEBLO LOT 1788 AS CONVEYED TO ALBERT LANE IN DEED BOOK 1283 PAGE 325, AS FILED IN THE OFFICE OF THE RECORDER OF SAID SAN DIEGO COUNTY, LYING WESTERLY AND NORTHERLY OF THE INTERSECTION OF PACIFIC HIGHWAY AND BALBOA AVENUE AS PACIFIC HIGHWAY AND BALBOA AVENUE WERE LOCATED AND ESTABLISHED AS OF THE DATE OF A CERTAIN INSTRUMENT IN BOOK 4132 PAGES 76-78 OFFICIAL RECORDS, BEING JUNE 12, 1951, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WESTERLY 4.0 FEET OF THE EASTERLY 104.0 FEET OF THE SOUTHERLY 125.0 FEET.

ATTACHED HERETO IS A DRAWING LABELED 37357-B AND BY THIS REFERENCE MADE A PART HEREOF.

[Handwritten Signature]
03/04/2013



PTS #306369
I.O #24003448
DWG #37357-B

BASIS OF BEARING:

THE BASIS OF BEARINGS FOR THIS MAP IS THE NORTHERLY RIGHT OF WAY LINE OF GARNET AVE.
PER MAP NO. 5517, I.E. N74°52'30"E.

LEGAL DESCRIPTION

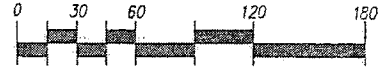
LOTS 1 AND 2 OF LANE SQUARE, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 5517 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON JANUARY 21, 1965.

ASSESSORS PARCEL NO.

417-250-22

REFERENCE DWG. NO.

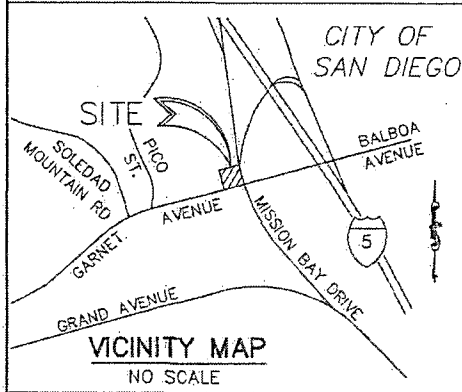
MAP 5517



GRAPHICAL SCALE

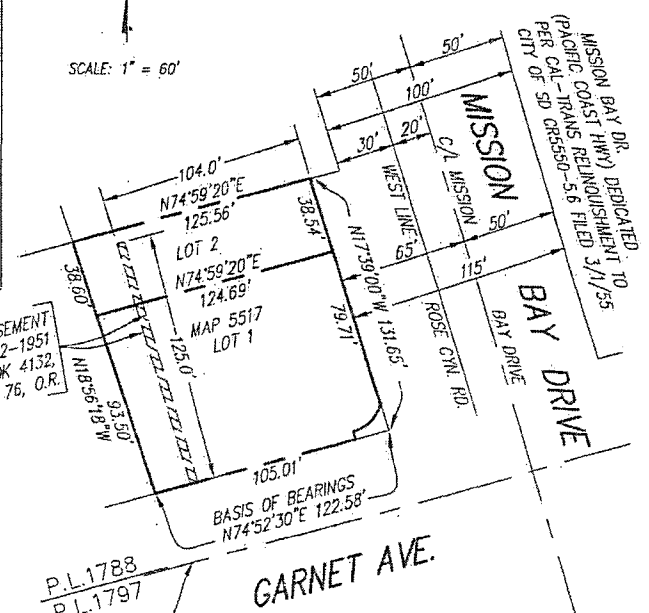
LEGEND:

- PROPERTY LINE
- INDICATES EXISTING SEWER EASEMENT VACATED



SCALE: 1" = 60'

4' WIDE SEWER EASEMENT
RECORDED 6-12-1951
PER BOOK 4132
PAGE 76, O.R.



ACCULINE SURVEY, INC.
1919 GRAND AVE. SUITE 1G,
SAN DIEGO, CA 92109.
(858) 483-6665 FAX(858) 483-6056

[Signature] 03/26/2013

RUDY P. PACHECO, L.S. 5717
MY LICENSE EXPIRES 9/30/2013

SEWER EASEMENT VACATION

WITHIN LOTS 1 AND 2 OF MAP NO. 5517

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA	PTS NO. 306369
ORIGINAL	PPE	JT	3/26/13		SHEET 1 OF 1 SHEET	I.O. NO. 24003448
					<i>[Signature]</i> 5-13-13	1874-6263
					FOR CITY ENGINEER DATE	CCS 83 COORDINATES
						234-1702
						CCS 27 COORDINATES
						37357-B

Passed by the Council of The City of San Diego on JUN 18 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

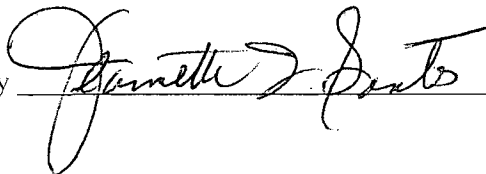
Date of final passage JUN 18 2013

AUTHENTICATED BY:

BOB FILNER
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

(Seal)

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 308292