

RESOLUTION NUMBER R- 308464

DATE OF FINAL PASSAGE SEP 30 2013

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO VACATING A PUBLIC RIGHT-OF-WAY LOCATED AT 2144 THROUGH 2186 PINAR PLACE AND 13610 PINE NEEDLES DRIVE BETWEEN PINE NEEDLES DRIVE AND NOB AVENUE, SAN DIEGO, CALIFORNIA (PUBLIC RIGHT-OF-WAY VACATION NO. 1044514) WITH RESERVATION OF EASEMENT – PROJECT NO. 294358

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

WHEREAS, pursuant to San Diego Municipal Code Chapter 12, Article 5, Division 10, on November 8, 2012, San Jay Nigam submitted an application requesting the vacation of approximately 0.447 acres, more or less, public right-of-way located at 2144 through 2186 Pinar Place and 13610 Pine Needles Drive between Pine Needles Drive and Nob Avenue, San Diego, California, described as being Public Right-of-Way Vacation No. 1044514; and

WHEREAS, the public right-of-way contains public utility facilities that would not be affected by the vacation; and

WHEREAS, the public right-of-way is excess public right-of-way and is not required for street or highway purposes; and

WHEREAS, in connection with Public Right-of-Way Vacation No. 1044514, the City desires to reserve and except a public easement; 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 project is exempt from CEQA pursuant to State CEQA Guidelines Section 15305; Minor Alterations in Land Use Limitations, the project is not pending an appeal of the environmental determination, the environmental exemption determination for this project was made on December 14, 2012, and the opportunity to appeal that determination ended January 9, 2013; and

WHEREAS, on June 20, 2013, the Planning Commission of the City of San Diego considered Public Right-of-way Vacation No. 1044514, and pursuant to Resolution No. 4922-PC voted 7:0:0 recommending the City Council approve the Public Right-of-Way Vacation No. 1044514; and

WHEREAS, the matter was set for public hearing on SEP 30 2013, testimony having been heard, evidence having been submitted, and the 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 Public Right-of-Way Vacation No. 1044514, the Council finds that:

1. There is no present or prospective public 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 land is no longer needed as public right-of-way and is not needed to provide public circulation or services. The public right-of-way was originally acquired for circulation, access and public services in the year 1887, yet the street was never constructed for the purposes the right-of-way was dedicated. The neighborhood and community have several existing improved public rights-of-way that provide the public circulation necessary to the community and Pinar Place is not needed for providing public circulation. Public water and sewer services are provided throughout the community and Pinar Place is not needed for providing water or sewer services. Electricity, telephone, cable and other services are provided through other easements and rights-of-way in the community. Pinar Place is not needed for these other services.

As such, the existing public right-of-way is no longer necessary and has no prospective use. Further the unusual triangular shape of the right-of-way prohibits improvement of the right-of-way for the public purposes the right-of-way was originally dedicated to serve. There is no present or prospective public 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.

2. The public will benefit from the action through improved use of the land made available by the vacation. Presently the public right-of-way limits the use of this land to only circulation purposes and public utility, those being the purpose for which the public right-of-way was originally acquired. The properties adjacent to the right-of-way will benefit from the vacation of the existing right-of-way as the properties will become larger and will control, maintain and be responsible for, and liable, for this area of land. The City of San Diego and the County of San Diego will benefit from the increase of property value by increasing the area of privately owned land subject to property tax and the incremental increase to the tax base. With an increase of tax revenue the general public will benefit from the vacation of the existing right-of-way by the increase of available public funds. The public will benefit by the reduction of liability to the City of San Diego from land it controls yet gains no benefit or use. The adopted Torrey Pines Community Plan designates the site for residential development. In that the use of the land for public right-of-way purposes has never materialized it is in the public interest to vacate the right-of-way and transfer responsibility of it to the adjacent property owners. Further the public will benefit by the vacation of the public right-of-way by the increase in property value. Therefore, the public will benefit from the vacation of the public right-of-way through improved use of the land made available by the vacation.

3. The vacation does not adversely affect any applicable land use plan. The adopted Torrey Pines Community Plan identifies this public right-of-way for residential development. The vacation of the public right-of-way will facilitate the fullest and highest use of the property as designated by the community plan. For these reasons the proposed vacation of the public right-of-way is consistent with the policies and goals of the adopted Torrey Pines Community Plan and will not adversely affect the Torrey Pines Community Plan.

4. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation. The public right-of-way was originally acquired for circulation, access and public services in the year 1887, yet the street was never constructed for the purposes which the right-of-way was dedicated. The neighborhood and community have several existing improved public rights-of-way that provide circulation necessary to the public within and through the community and Pinar Place is not needed to provide public circulation. Public water and sewer services are provided throughout the community and Pinar Place is not needed to provide water or sewer services. Electricity, telephone, cable and other services are provided through other easements and rights-of-way in the community. An easement for public utilities will be reserved over the easterly ten feet adjacent to Pine Needles Drive. There is no other use of a like nature for this specific right-of-way which can be reasonably anticipated and the purpose for which the right-of-way was originally acquired will no longer exist.

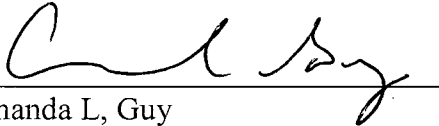
BE IT FURTHER RESOLVED, that Public Right-of-Way Vacation No. 1044514, located at 2144 through 2186 Pinar Place and 13610 Pine Needles Drive between Pine Needles Drive and Nob Avenue, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 37279-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Public Right-of-Way Vacation No. 1044514 a permanent easement for public utility purposes.

BE IT FURTHER RESOLVED, that the easement reserved herein is in, under, over, upon, along and across a portion of Pinar Place, vacated by this Document, and as shown on Drawing No. 37279-B, marked as Exhibit "B."

BE IT FURTHER RESOLVED, 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:hm
08/14/2013
Or.Dept: DSD
Doc. No. 615617

Exhibit "A"

Legal Description
Pinar Place Street Vacation

All of Pinar Place, dedicated as 1st (First) Street of Del Mar Heights, in the City of San Diego, in the County of San Diego, State of California, according to Map No. 157, filed in the office of the County Recorder of said San Diego County on July 8, 1887, and being more particularly described as follows:

Beginning at the Southeast corner of Parcel 2 of Parcel Map No. 1278, filed in the office of the County Recorder of said San Diego County on February 5, 1973, said corner being a point on the Westerly Right-of-Way line of Pine Needles Drive (Ocean View Avenue) as dedicated per Map No. 157 and a point on a 900.00 foot radius curve concave Easterly, with a radial line to said point bearing South 79°55'57" West; thence Southerly along said curve through a central angle of 06°57'52" an arc distance of 109.40 to the terminus of said curve and a point on the Southerly boundary line of said Map No. 157, with a radial line to said terminus bearing South 72°58'05" West; thence leaving said Westerly Right-of-Way line, along said Southerly boundary line, South 89°16'15" West 367.23 feet to a point on the Southerly property line of Block 35 of said Map No. 157; thence leaving said Southerly boundary line, along said Southerly property line of Block 35, North 72°00'15" East 359.16 feet to the point of beginning.

The hereinabove described area contains 0.447 acres more or less.

Attached hereto is a Drawing No. 37279-B labeled Exhibit "B" and by this reference made a part hereof.



MARK A. BRENCICK, L.S. 7226

LANDMARK CONSULTING


09-2/word/STREET VACATION.doc



I.O.:24003217
PTS: 294358
DWG: 37279-B

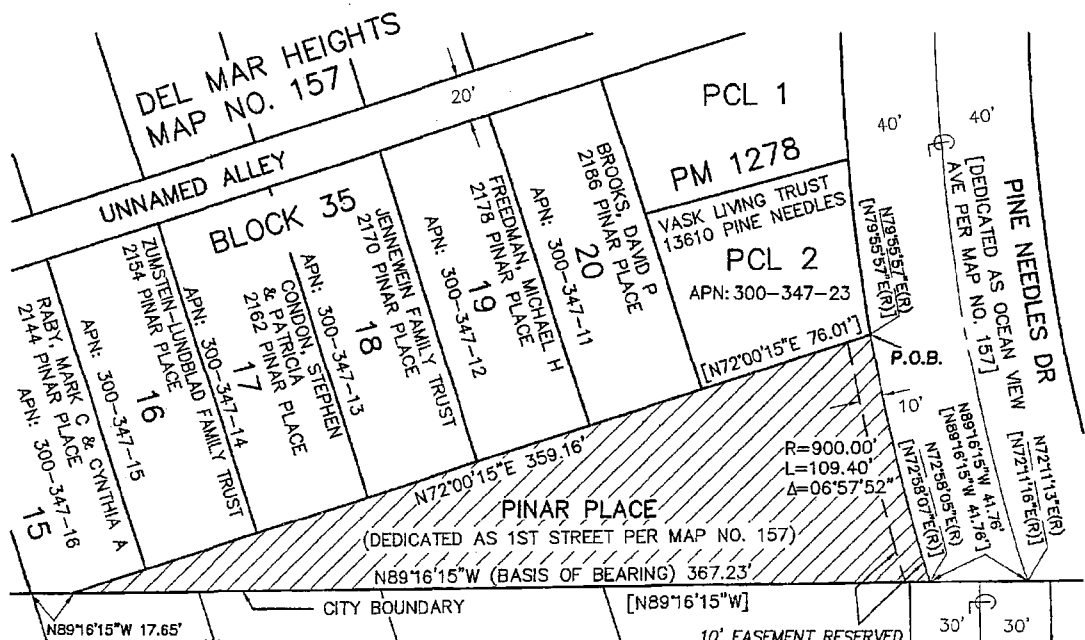
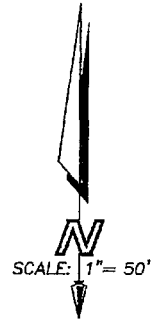
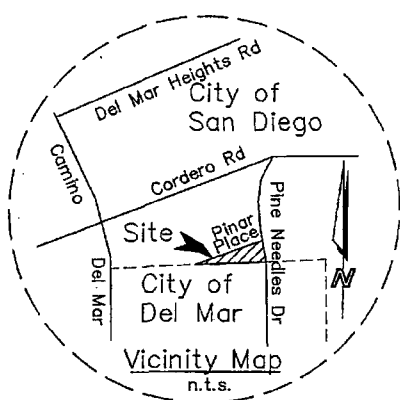
Exhibit 148

LEGEND

- P.O.B. INDICATES POINT OF BEGINNING
-  INDICATES STREET VACATION (0.447 ACRE)
- (R) INDICATES RADIAL BEARING
- [] INDICATES RECORD DATA FROM PM NO. 1278

REFERENCE DWGS.

- PARCEL MAP NO. 1278
- MAP NO. 157
- MAP NO. 2424



BASIS OF BEARINGS
 THE BASIS OF BEARINGS FOR THIS MAP IS THE CITY BOUNDARY LINE AS SHOWN ON PARCEL MAP NO. 1278, I.E. N 89°16'15" E

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 SAN DIEGO, CA 92121
 (858) 587-8070

Mark A. Brencick DATE: 4/18/13
 MARK A. BRENCICK L.S. 7226

STREET VACATION
 PINAR PLACE (DEDICATED AS 1ST STREET PER MAP NO. 157 WEST OF PINE NEEDLES DRIVE)

| DESCRIPTION | BY | APPROVED | DATE | FILMED | CITY OF SAN DIEGO, CALIFORNIA | I.O. |
|-------------|----|----------|---------|--------|---|---------------------|
| | | | | | SHEET 1 OF 1 SHEET | 24003217 |
| | | CED | 4/21/13 | | <i>Gregory P. Hopkins</i> 4-22-13 FOR CITY ENGINEER DATE | P.T.S. 294358 |
| | | | | | | 1922-6249 |
| | | | | | | CCS 83 COORDINATES |
| | | | | | | 282-1689 |
| | | | | | | LAMBERT COORDINATES |
| | | | | | | 37279-B |

STATUS

Passed by the Council of The City of San Diego on SEP 30 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 type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Myrtle Cole | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mark Kersey | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" 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 SEP 30 2013

(Please note: When a resolution is approved by the Council President as interim Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA, COUNCIL PRESIDENT
as interim Mayor of The City of San Diego, California.

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

(Seal)

By Mary Zumbay, Deputy

Office of the City Clerk, San Diego, California

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