

RESOLUTION NUMBER R- 308663

DATE OF FINAL PASSAGE DEC 16 2013

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO VACATING A PORTION OF MORRELL STREET (RIGHT-OF-WAY VACATION NO. 1103410) WITH RESERVATION OF EASEMENT LOCATED AT 4214 AND 4216 MORRELL STREET AND 1976 OLIVER AVENUE BETWEEN OLIVER AVENUE AND AN UNNAMED ALLEY - PROJECT NO. 315688.

WHEREAS, California Streets and Highways Code section 8320 *et seq.* and San Diego Municipal Code section 125.0901 *et seq.* provide a procedure for the vacation of public rights-of-way by City Council resolution; and

WHEREAS, the Marquez Family Trust, representing themselves and three other property owners all of whom will be affected by the vacation of Morrell Street and who have given their permission to process the application and assigned Marquez Family Trust to sign said permit on their behalf, as representative of the Owners/Permittees filed an application to vacate a 10-foot section of excess public right-of-way between the curb and the front property line on the west side of Morrell Street located north of Oliver Avenue and the south of an unnamed alley described as Right-of-Way Vacation No. 1103410; and

WHEREAS, Right-of-Way Vacation No. 1103410 is located on property owned by Marquez Family Trust, Kisch Krista A Trust and Angel Light Revocable Trust; and

WHEREAS, in connection with Right-of-Way Vacation No. 1103410, the City desires to reserve and except a general utility and access easement as shown on Drawing No. 37483-B; 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 DEC 16 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 Right-of-Way Vacation No. 1103410, the Council finds that:

(a) 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 portion of Morrell Street to be vacated is excess public right-of-way between the curb and front property lines adjacent to properties developed with three residences (4214 and 4216 Morrell Street and 1976 Oliver Avenue). The curb-to-property line distance is 20 feet where 10 feet is the current standard. The area to be vacated and the existing curb, gutter and sidewalk would remain unchanged. The public right-of-way was originally acquired for circulation, access and public services in the year 1904, yet the street was never constructed for the purposes the right-of-way was dedicated. As such, the existing public right-of-way will no longer be necessary and will have no prospective use. 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.

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

The portion of Morrell Street to be vacated is excess public right-of-way between the curb and front property lines adjacent to properties developed with three residences. The block would retain a 10-foot curb-to-property line distance and, a general utility and access easement will be reserved over the area being vacated to ensure all City, utility and public access rights are preserved. The public will benefit from the action through improved utilization of the land in that the owners of the properties may expand or redevelop with increased floor area where currently, all three of the lots are substandard in size which creates site constraints. Additionally, the land will revert to private ownership, potentially reducing City liability as well as creating the potential of an increase in revenue to the City through property taxes paid on improvements. 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. The public will benefit by the vacation of the public right-of-way.

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

The adopted Pacific Beach 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. The three adjoining properties (4214 and 4216 Morrell Street and 1976 Oliver Avenue) affected by this Vacation are substandard in size based on current standards, a unique circumstance for this segment of Pacific Beach; therefore, any future expansions or redevelopment of these properties should not create a development that is out of character with respect to bulk and scale, based on lot size and dimension. The properties measure as follows: 50 feet X 60 feet (3,000 square feet), 40 foot X 60 (2,400 square feet), and 35 feet X 60 feet (2,100 square feet), where the RM-1-1 zone requires 50 feet of frontage, 100 feet of depth and 5000 square feet in area for newly created lots.

For these reasons the proposed vacation of the public right-of-way is consistent with the policies and goals of the adopted within the Pacific Beach Community Plan and will not adversely affect the Pacific Beach Community Plan.

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

The portion of Morrell Street to be vacated is excess public right-of-way between the curb and front property lines adjacent to properties developed with three residences (4214 and 4216 Morrell Street and 1976 Oliver Avenue). The public right-of-way was originally acquired for circulation, access and public services in the year 1904 yet the street was never constructed for the purposes which the right-of-way was dedicated. The excess right-of-way is not required for any future street widening and serves no public purpose. An easement for public utilities and access will be reserved. 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 the Right-of-way Vacation No. 1103410, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 37483-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated subject to the following condition which is made a part of this resolution:

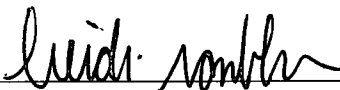
Within 60 days of the final passage of this resolution, the Owner of the property located at 4216 Morrell Street shall enter into an Encroachment Maintenance Removal Agreement for that portion of the existing stairs located within the public right-of-way along Morrell Street to the satisfaction of the City.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Right-of-Way Vacation No.1103410 the permanent easement for public utility and access purposes as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 37483-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along, and across that portion of Morrell Street, vacated by this Document and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 37483-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  _____
Heidi K. Vonblum
Deputy City Attorney

HKV:nja

11/22/13

Or.Dept:DSD

Doc. No.: 657754

Attachments: Exhibit A, Partial Street Vacation with General Utility and Access Easement
Reserved
Exhibit B, Map

Exhibit A

EXHIBIT "A"

PARTIAL STREET VACATION WITH
GENERAL UTILITY AND ACCESS EASEMENT RESERVED

THAT PORTION OF MORREL STREET ADJOINING LOT 21, IN BLOCK 282, ACCORDING TO MAP THEREOF NO. 922, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, BOUNDED ON THE NORTH BY AN UNNAMED 20 FOOT ALLEY AND ON THE SOUTH BY OLIVER AVE, SAID PORTION BEING 10 FEET IN WIDTH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 21, BEING THE INTERSECTION OF THE WESTERLY RIGHT OF WAY OF MORREL STREET WITH THE NORTH RIGHT OF WAY OF OLIVER AVENUE, THENCE NORTHERLY ALONG SAID RIGHT OF WAY LINE OF MORREL STREET AND LOT 21, A DISTANCE OF 125.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 21, ALSO BEING A POINT ON THE SOUTHERLY RIGHT WAY LINE OF SAID UNNAMED 20 FOOT ALLEY; THENCE LEAVING SAID COMMON LINE WITH LOT 21 AND MORREL STREET, EASTERLY AND PERPENDICULAR TO SAID RIGHT OF WAY OF MORREL STREET, A DISTANCE OF 10.00 FEET, THENCE; SOUTHERLY AND PARALLEL WITH SAID LOT 21 AND RIGHT OF WAY LINE OF MORREL STREET A DISTANCE OF 125.00 FEET, THENCE; WESTERLY, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

RESERVING THEREFROM, A GENERAL EASEMENT FOR PUBLIC UTILITIES AND ACCESS FOR SAID UTILITIES.

SAID LAND CONTAINS 1,250.0 SQUARE FEET , MORE OR LESS.

ATTACHED HERETO IS A DRAWING NO. 37483-B LABELED EXHIBIT "B" AND BY THIS REFERENCE MADE A PART HEREOF

I.O. #24003613
PTS #315688
DWG #37483-B

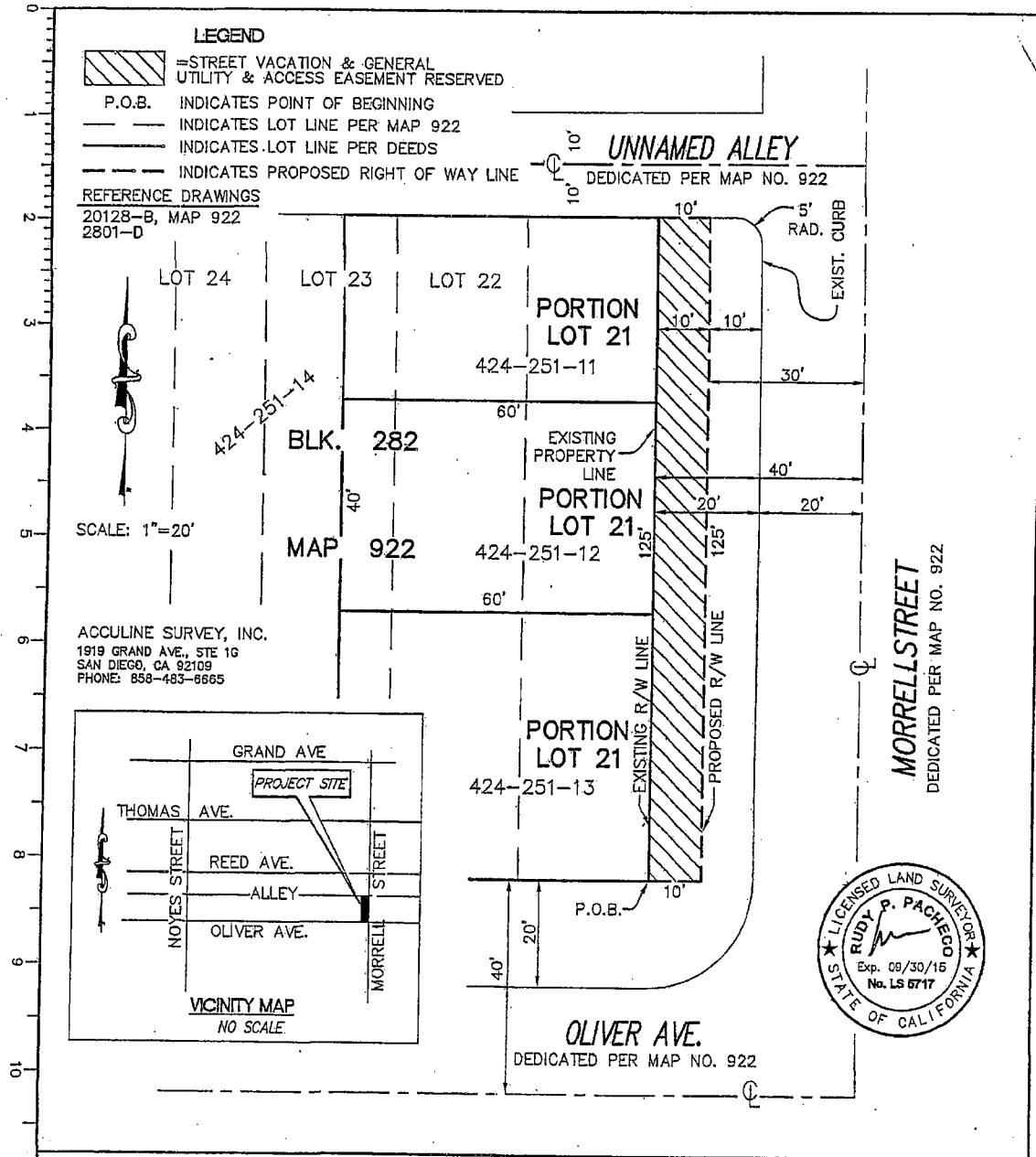


1554.leg

9/26/2013

Exhibit B

EXHIBIT B



[Signature] 9/26/2013
RUDY P. PACHECO P.L.S. 5717 DATE
EXP. 09-30-15

PUBLIC STREET VACATION
OF A PORTION OF MORRELL STREET
ADJOINING LOT 21 IN BLOCK 282, MAP 922

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	P.T.S NO. 315688
ORIGINAL	ACCULINE				SHEET 1 OF 1 SHEET	10. NO. 24003613
	MB	✓	10/1/13		<i>[Signature]</i> 9.30.2013 FOR CITY ENGINEER DATE	1870-6257 NAD 83 COORDINATES
						230-1697 LAURENT COORDINATES
					STATUS	37483-B

1554.DWG 09-26-13

Passed by the Council of The City of San Diego on DEC 16 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherrri 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 DEC 16 2013.

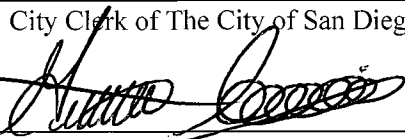
(Please note: When a resolution is approved by the Council President as interim Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

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

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 308663