

RESOLUTION NUMBER R- 308932

DATE OF FINAL PASSAGE MAY 12 2014

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO VACATING A PORTION OF PLUM STREET (RIGHT-OF-WAY VACATION NO. 1121734 WITH RESERVATION OF EASEMENT) - PROJECT NO. 321105.

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, Michael J. McDonnell, Ginger Leilani Gallahue, and the City of San Diego filed an application to vacate a portion of Plum Street located between Avenida De Portugal and Canon Street, described on Map No. 165, being described as Right-of-Way Vacation No. 1121734; and

WHEREAS, Right-of-Way Vacation No. 1121734, a portion of Plum Street between Avenida De Portugal and Canon Street is located on property owned by Michael J. McDonnell, Ginger Leilani Gallahue, and the City of San Diego; and

WHEREAS, in connection with Right-of-Way Vacation No. 1121734, the City desires to reserve and except a public drainage easement(s) described in Exhibit B, Drawing No. 37492-B hereto; 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 May 12, 2014, 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. 1121734, the Council finds that:

(a) There is no present or prospective public use for the public right-of-way, either for the facility 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 an unimproved portion of Plum Street located between Avenida De Portugal and Canon Street, within the Peninsula Community Plan designated Residential and Park/Open Space within the RS-1-7 zone. The portion of Plum Street to be vacated encompasses approximately 0.08-acres. The southern half of the vacated area would revert to the adjacent private property owner to the south, and the northern half would revert to the City of San Diego.

The Plum Street right-of-way was established as part of the original subdivision in 1869 formally known as Pine Street. The subject portion of Plum Street is unimproved and there is no present or prospective use for the right-of-way or any other public uses of a like nature that can be anticipated. The improved and paved portion of Plum Street ends one block to the north near Byron Street. Unimproved portions of Plum Street between Byron Street and the subject project were vacated by the City Council in 1962, 1965, and 2008. The portion of the Plum Street proposed to be vacated does not provide access to any of the abutting properties and due to previous right-of-way vacations approved by the City Council; it is unlikely that the street would be improved in the future. Therefore, there is no present or prospective public use for the public

right-of-way, either for the facility 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 Project proposes to vacate an unimproved portion of Plum Street located between Avenida De Portugal and Canon Street, within the Peninsula Community Plan designated Residential and Park/Open Space within the RS-1-7 zone. The portion of Plum Street to be vacated encompasses approximately 0.08-acres. The southern half of the vacated area would revert to the adjacent private property owner to the south, and the northern half would revert to the City of San Diego.

The adjacent parcel to the north is owned by the City of San Diego and designated as Park and Open Space within the Peninsula Community Plan. A feasibility study was conducted by Park and Recreation Department to determine if the City-owned 1.09-acre site, had the potential to serve the community as a mini-park. The study concluded that the site's location, size, and accessibility requirement meets the Park and Recreation Department's standards for a mini-park. The Park and Recreation Department has requested transfer of the property to their administration for the purpose of providing a future population based park for the Peninsula community. However, funding has not been identified for park development. The proposed vacation may facilitate the potential use of the vacated area for park purposes.

The remaining 0.04-acres would revert to the property owner on the south side of Plum Street for private use. The City would benefit by relinquishing the maintenance and liability associated with the right-of-way as well as creating the potential of an increase in revenue to the

City through property taxes paid on future improvements. Therefore, the public will benefit from the action through improved use of the land made available by the vacation.

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

The Project proposes to vacate an unimproved portion of Plum Street located between Avenida De Portugal and Canon Street, within the Peninsula Community Plan designated Residential within the RS-1-7 zone. The portion of Plum Street to be vacated encompasses approximately 0.08-acres. The southern half of the vacated area would revert to the adjacent private property owner to the south, with a Peninsula Community Plan designation of Residential, and the northern half would revert to the City of San Diego, with a Peninsula Community Plan designation of Park and Open Space

The Peninsula Community Plan Transportation and Shoreline Element does not identify the proposed vacation portion of Plum Street as an existing right-of-way. Additionally, the Transportation and Shoreline Access element of the Peninsula Community Plan recommends that curb-cuts or street vacation requests, which reduce available on-street parking, not be allowed unless comparable replacement parking is provided in the immediate vicinity. The proposed street vacation would not reduce available on-street parking. Half of the vacation would revert to the property owner on the south side of Plum Street for private residential uses and half of vacated portion on the north side of Plum Street would revert to the City of San Diego and used for a future park. The proposed vacation would not adversely affect the Peninsula Community Plan in that the vacation could facilitate the expansion or redevelopment of the residential site and facilitate the construction of a future park in the community of which both uses are consistent with community plan's land use designation.

Therefore, the right-of-way vacation of Plum Street between Avenida De Portugal and Canon Street would not impact any future use of adjacent properties and will not adversely affect any applicable land use plan.

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

The Project proposes to vacate an unimproved portion of Plum Street located between Avenida De Portugal and Canon Street, within the Peninsula Community Plan designated Residential and Park/Open Space within the RS-1-7 zone. The portion of Plum Street to be vacated encompasses approximately 0.08-acres. The southern half of the vacated area would revert to the adjacent private property owner to the south, and the northern half would revert to the City of San Diego.

The unimproved Plum Street was originally acquired to connect into Canon Street from Byron Street. The portion of Plum Street proposed to be vacated does not provide access to any of the abutting properties and due to previous right-of-way vacations approved by the City Council; it is unlikely that the street would be improved in the future. Therefore, the public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

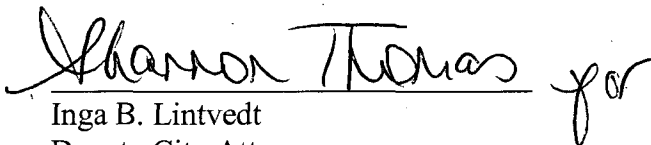
BE IT FURTHER RESOLVED, that Right-of-Way Vacation No. 1121734, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 37492-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated subject to the following condition(s) which are made a part of this resolution:

No permanent structure shall be constructed within the reserved drainage easement. Any proposed encroachment into this easement shall be approved to the satisfaction of the City Engineer.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along, and across that portion of Plum Street, vacated by this Document and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 37492-B, marked as 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.

APPROVED: JAN I. GOLDSMITH, City Attorney

By  for
Inga B. Lintvedt
Deputy City Attorney

IBL:mm:als
04/23/2014
05/12/2014 Cor.Copy
Or.Dept: DSD
Document No: 770185_2

Exhibit "A"

Legal Description
Plum Street Vacation

A portion of Plum Street, dedicated as Pine Street of Roseville, in the City of San Diego, in the County of San Diego, State of California, according to Map No. 165, filed in the office of the County Recorder of said San Diego County on August 14, 1914 and being more particularly described as follows:

Beginning at the most Northerly corner of Block Three (3) of Roseville, as said Block is shown on said Map No. 165; thence Southwesterly along the Northwesterly boundary line of said Block Three, South $35^{\circ}44'16''$ West 48.86 feet (55.00 feet per Map No. 165) to the most Westerly corner of said Block Three; thence Northwesterly along the extension of the Southwesterly line of said Block Three, said line also being the Northeasterly line of Pueblo Lot 188, of the Pueblo Lands of San Diego County, California, according to Map thereof made by James Pascoe in the year of 1870, filed as Miscellaneous Map No. 36, in the office of the County Recorder of said San Diego County on November 14, 1921, North $54^{\circ}32'00''$ West 70.00 feet to the most Southerly corner of Block Two (2) of said Roseville, as said Block is shown on said Map No. 165; thence Northeasterly, along on the Southeasterly boundary line of said Block Two, North $35^{\circ}44'16''$ East 49.25 feet to the most Easterly corner of said Block Two; thence along the extension of the Southerly right-of-way line of Avenida De Portugal, South $54^{\circ}12'51''$ East 70.00 feet to the point of beginning.

The hereinabove described area contains 0.079 acres more or less.

Reserving therefrom a 20.00 foot wide strip drainage easement, the centerline of which lies 20.00 feet Northwesterly and parallel with the southeasterly line of the herein above described street vacation area. The sidelines of said drainage easement reservation to be shortened or lengthened to said Southerly right-of-way line of Avenida De Portugal and to said Northeasterly line of Pueblo Lot 188.

Attached hereto is a Drawing No. 37492-B labeled Exhibit "B" and by this reference made a part hereof.


MARK A. BRENCICK, L.S. 7226

LANDMARK CONSULTING

09-12/word/STREET VACATION.doc



I.O.: 24003715
PTS: 321105
DWG: 37492-B

Passed by the Council of The City of San Diego on MAY 12 2014, 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"/>
Ed Harris	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 12 2014

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

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

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

(Seal)

By *Mary Zumaiga*, Deputy

Office of the City Clerk, San Diego, California

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