

RESOLUTION NUMBER R- 311270

DATE OF FINAL PASSAGE JUL 25 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO VACATING PORTIONS OF RUTGERS ROAD AS
RIGHT-OF-WAY VACATION NO. 1740499 - PROJECT NO.
496760

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 City of San Diego Real Estate Assets Department filed an application to vacate approximately 0.129-acres of a portion of Rutgers Road, north of Van Nuys Street, east of Cass Street, being described as Right-of-Way Vacation No. 1740499; and

WHEREAS, Right-of-Way Vacation No. 1740499 is located on property owned by the City of San Diego; 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 July 25, 2017, 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.1740499, the Council makes the following findings pursuant to San Diego

Municipal Code section 125.0941:

(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 Rutgers Road public right-of-way was granted to the City of San Diego for street purposes per Document No. 99212 on July 3, 1957. The dedication was granted in anticipation of Cass Street being extended north to Rutgers Road. However, development south of Moonlight Lane and Rutgers Road eliminated future use of the street alignment.

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, 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 Rutgers Road is not needed for providing public circulation. Public water and sewer services are provided throughout the community and Rutgers Road 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. Rutgers Road is not needed for these other services.

Therefore, there is no present or prospective public use for the street, 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.

(b) 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 by the vacation of the existing right-of-way as the adjacent property owner, or another person, will be able to purchase the land for development consistent with the surrounding neighborhood. The City of San Diego and the County of San Diego will benefit by 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 by 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 La Jolla Community Plan and Pacific Beach Community Plan designate the right-of-way 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 another person. Further, should the land be developed for residential purposes, 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 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 land which is the subject of the public right-of-way vacation is located in the RS-1-7 zone within the adopted La Jolla Community and Pacific Beach Community Plans. Both community plans designate the land use for this area as residential. The vacation will allow future development of single-dwelling units in compliance with the Pacific Beach and the La Jolla Community Plans. Therefore, the vacation does not adversely affect any applicable land use plan.

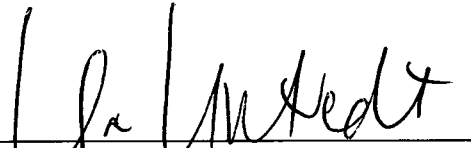
(d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.

The public right-of-way was granted to the City of San Diego for street purposes per Document No. 99212 on July 3, 1957. The public right-of-way is adjacent to an unimproved alley to the north and an unimproved section of Cass Street to the west. The public right-of-way has remained unimproved since its acquisition and does not contain any underground franchise facilities, public water or sewer improvements. In that the purpose for which the land was acquired for public right-of-way purposes has never materialized and no improvements for public purposes installed within the right-of-way, there are no public facilities within the right-of-way to be negatively affected by the vacation. Therefore, the 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. 1740499, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 39056-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

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: MARA W. ELLIOTT, City Attorney

By 
Inga B. Lintvedt
Deputy City Attorney

IBL:mcm
07/06/2017
Or.Dept: DSD
Doc. No.: 1530237

ATTACHMENT(S): Exhibit A, Legal Description
Exhibit B, Drawing No. 39056-B

EXHIBIT A

EXHIBIT "A"
Rutgers Road: Street Vacation

Parcel 'A' (Street Vacation in Fee)

All that portion of Rutgers Road, lying within Lots 37 through 40 inclusive of Block 9 of Pacific Beach Vista Tract First Addition, in the City of San Diego, County of San Diego, State of California, according to the Map thereof No. 930, filed in the Office of the County Recorder of said San Diego County on November 07, 1904, granted to the said City of San Diego for street purposes according to Document No. 99212 recorded in said Office of the County Recorder on July 03, 1957 in Book 6647, Page 373 of Official Records (See City of San Diego Drawing No. 6225-B).

Exhibit "B" (City of San Diego Drawing No. 39056-B), attached and by this reference is made a part hereto.

 2-06-2017


Richard T. McCormick LS 7450 Date
Senior Land Surveyor, Field Engineering
My Registration Expires 12-31-2018


File: RutgersRdVac_legal.docx
I.O. 21004082-Feb 2017





EXHIBIT B

LEGEND

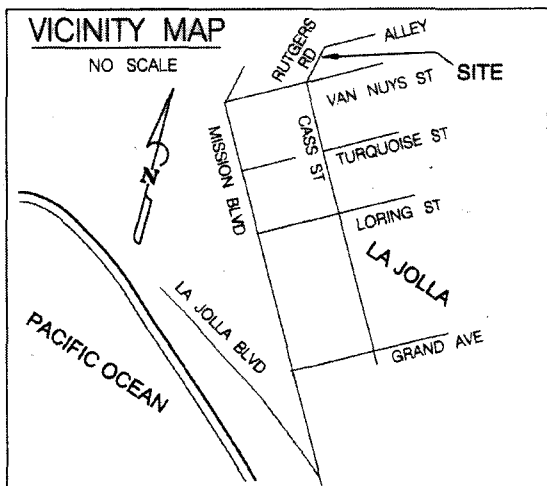
 Parcel 'A'
Indicates Portion of Rutgers Road Vacated (FEE)
5623.78 Sq. Ft. 0.1291 Acres

 1 Indicates Rutgers Road as granted to the City of San Diego on 07/03/1957 per Document No. 99212 Book 6647 Page 373 O.R. (City Drawing No. 6225-B)

 2 Indicates Slope Easement to the City of San Diego on 07/03/1957 per Document No. 99212 Book 6647 Page 373 O.R. (City Drawing No. 6225-B)

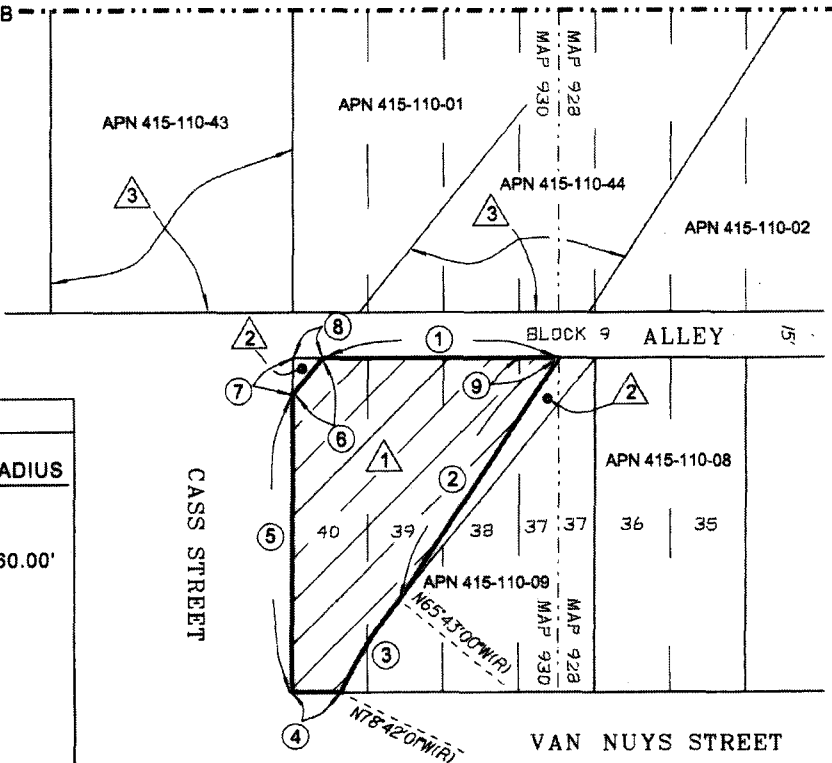
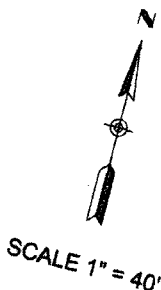
 3 Indicates Cass Street and Rutgers Road vacated on 08/04/1998 per Document No. 1998-0556535 O.R. (City Drawing No. 18445-1-B)

NOTE: All Bearings and Distances are record per Document No. 99212 recorded 07/03/1957 in Book 6617 Page 373 O.R. (City Drawing No. 6225-B)



REFERENCES

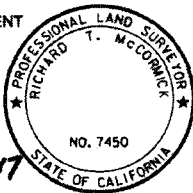
MAPS 930 & 928
CITY DWGS. 6225-B, 18445-B, 39057-B



DATA TABLE			
(X)	BEARING / DELTA	LENGTH	RADIUS
1	S 75°06'00" W	78.11'	160.00'
2	N 18°35'17" E	95.39'	
3	12°59'01"	36.26'	
4	S 75°06'00" W	16.22'	160.00'
5	S 14°43'00" E	97.78'	
6	S 24°17'00" W	15.76'	
7	S 14°43'00" E	12.22'	
8	S 75°06'00" W	9.92'	
9	S 75°06'00" W	13.03'	

PREPARED BY:

THE CITY OF SAN DIEGO ENGINEERING DEPARTMENT
FIELD DIVISION - SURVEY SECTION, UNDER THE
DIRECTION OF RICHARD T. MCCORMICK, LS 7450,
SENIOR LAND SURVEYOR



Richard T. McCormick 2-06-2017
RICHARD T. MCCORMICK P.L.S. 7450 DATE

RESOLUTION No. _____
ADOPTED: _____
DOC. No. _____
RECORDED: _____

**RUTGERS ROAD - STREET VACATION
IN A PORTION OF LOTS 37 THROUGH 40, BLOCK 9 OF MAP 930
AND A PORTION OF LOT 37, BLOCK 9 OF MAP 928**

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS
ORIGINAL	TAM	FL	2/16		SHEET 1 OF 1 SHEET	496760
REVISED	RTMc	JMDO	9/16			21004082
REVISED	RTMc		2/17		<i>Richard T. McCormick</i> 2-06-2017 FOR CITY LAND SURVEYOR DATE	1874-6250 NAD83 COORDINATES
						234-1689 NAD27 COORDINATES
STATUS						39056-B

Passed by the Council of The City of San Diego on JUL 25 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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"/>
Chris Cate	<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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 25 2017

(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.

(Seal)

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

By Aty Brady, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- <u>311270</u>