

RESOLUTION NUMBER R- 311302

DATE OF FINAL PASSAGE SEP 11 2017

ITEM # 601E

9/11/17

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO VACATING A WATER EASEMENT AT 5998
ALCALA PARK, EASEMENT VACATION NO. 1807207
PROJECT NO. 417090.

WHEREAS, San Diego Municipal Code section 125.1010(a) et seq. provides a procedure for the vacation of public easements; and

WHEREAS, the University of San Diego filed an application to vacate an existing water easement located at 5998 Alcala Park, being described as Easement Vacation No. 1807207 and

WHEREAS, it is proposed that Easement Vacation No. 1807207 be approved; and

WHEREAS, on June 1, 2017, the Planning Commission of the City of San Diego considered Easement Vacation No. 1807207 and, pursuant to Resolution No. 4864-PC, voted to recommend approval; and

WHEREAS, the matter was set for public hearing on September 11, 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;

WHEREAS, under San Diego 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 and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council, that with respect to Easement Vacation No. 1807207, the City Council finds that:

(a) 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.

The existing easement to be vacated was acquired in June 1950 for water pipe line and incidental purposes. Under the terms of the USD Master Plan Update and Technical Appendix, specific development projects will be implemented in the future which relate to the site area in which the above easement is located. With the build-out of the project according to the USD Master Plan Update and Technical Appendix, the easement will be vacated and relocated to areas outside of building footprints, and, pursuant to conditions imposed on this vacation that any new replacement easement(s) will be secured as necessary. When this replacement occurs, the existing easement must occur before this Resolution may become effective, will have no prospective use. There is no other use of a like nature for this specific easement that can be reasonably anticipated.

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

The approximately 180-acre project site is presently limited by the existence of the easement in that the property may not develop or place new buildings over the area of the existing easement, and without vacation of the existing easement, the area of land available for the new developments anticipated by the USD Master Plan Update is constrained. With the construction of new replacement facilities in the future in conjunction with the new projects outlined in the USD Master Plan Update, the land area associated with Easement Vacation No. 1807207 will have no public use. The public will benefit from the action through improved utilization of the land made available by the vacations with development of the site as outlined in

the USD Master Plan Update and Technical Appendix, and Conditional Use Permit No. 1605027 and Site Development Permit No. 1831047.

(c) The vacation is consistent with any applicable land use plan.

The adopted Linda Vista Community Plan (LVCP) designates the premises for Institutional use, with the exception of approximately 7.6 acres of Multi-Habitat Planning Area (MHPA). Easement Vacation No. 1807207 will facilitate the build out of the USD campus consistent with the land use designation, and will not adversely affect the Linda Vista Community Plan or the goals and policies contained therein.

(d) 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 existing easement to be vacated was acquired for the purposes of placing and maintaining a public water system to serve the needs of the campus and neighborhood. With the removal of the old water service facility and construction of new replacement facilities, as outlined in the USD Master Plan Update and Technical Appendix, and Conditional Use Permit No. 1605027 and Site Development Permit No. 1831047, the present easement will no longer be necessary, and the purpose for which the easement was acquired will no longer exist. The public facility for which the easement was originally acquired will not be detrimentally affected by Easement Vacation No. 1807203.

BE IT FURTHER RESOLVED, that Easement Vacation No. 1807207 as shown on Drawing 39733-B marked as Exhibit "B" in the USD Master Plan Update Technical Appendix, is by this reference incorporated herein and made a part hereof, are ordered vacated.

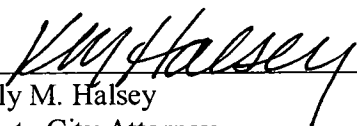
BE IT FURTHER RESOLVED, that Easement Vacation No. 1807207 as shown on Drawing 39733-B marked as Exhibit "B" in the USD Master Plan Update Technical Appendix,

and attached as Exhibit A to this Resolution is by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that this Resolution shall not become effective until all of the following conditions have been met: the Owner/Permittee shall grant a new easement or easements for any relocated water or storm drain facilities, per approved USD Master Plan Update and Technical Appendix and Conditional Use Permit No. 1605027 and Site Development Permit No. 1831047, satisfactory to the City Engineer, free and clear of all encumbrances and prior easements, and that the Owner/Permittee shall secure "subordination agreements" for any minor distribution facilities and "joint-use agreements" for any major transmission facilities. In the event these conditions are not completed within twenty years following the adoption of this resolution, this resolution shall become void and be of no further force or effect.

BE IT FURTHER RESOLVED, that, upon satisfaction of the conditions described herein, as determined by the City Engineer, the Development Services Department shall record a copy of this resolution and attached exhibits in the Office of the County Recorder, releasing to the property owner all rights, title, and interest in said easement.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Keely M. Halsey
Deputy City Attorney

KMH:als
08/28/2017
Or.Dept:DSD
Doc. No.: 1567735

Attachment: Exhibit A

Passed by the Council of The City of San Diego on SEP 11 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 SEP 11 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.

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

(Seal)

By *Sty Prady*, Deputy

Office of the City Clerk, San Diego, California
Resolution Number R- 311302