

RESOLUTION NUMBER R- 311877

DATE OF FINAL PASSAGE JUL 10 2018

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING TENTATIVE MAP NO. 1818213, APPROVING THE VACATION OF PUBLIC RIGHT-OF-WAY, AND WAIVING THE REQUIREMENT TO UNDERGROUND UTILITIES FOR THE ATLAS STREET PROJECT – PROJECT NO. 518391.

WHEREAS, Blue Centurion Homes, Subdivider, and Leppert Engineering Corporation, Engineer, submitted an application to the City of San Diego for a tentative map (Tentative Map No. 1818213) for the subdivision of an existing 2.8-acre site into nine parcel lots and a public right-of-way vacation, and to waive the requirement to underground existing offsite overhead utilities, known as Atlas Street – Project No. 518391. The project site is located at 3455 Atlas Street in the RS-1-7, FAA Part 77 Noticing Area (Montgomery Field), Residential Tandem Parking, and Clairemont Height Limit Overlay Zones of the Clairemont Mesa Community Plan. The property is legally described as Lot 10 of Grace Manor, in the City of San Diego, County of San Diego, State of California, according to Map No. 3655, filed in the Office of the County Recorder of San Diego County on May 28, 1957; and

WHEREAS, the Tentative Map proposes the subdivision of the 2.8-acre site into nine (9) lots, with Lot 1 reserved for the existing church and child care use and Lots 2-9 for an eight-unit residential dwelling unit development, and the vacation of the remaining 21-foot wide portion of that public right-of-way to the east of the project site identified as “Reservation for Future Street” on Map No. 3655 (Public Right-of-Way Vacation); and

WHEREAS, on January 10, 2018, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the

project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15332 (In-fill Development); and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; and

WHEREAS, the project complies with the requirements of a preliminary soils and/or geological reconnaissance report pursuant to Subdivision Map Act sections 66490 and 66491(b)-(f) and San Diego Municipal Code section 144.0220; and

WHEREAS, the request to waive the undergrounding of existing overhead utilities is pursuant to San Diego Municipal Code section 144.0242(c)(1)(B), that the conversion involves a short span of overhead facility (less than a full block in length) and would not represent a logical extension to an underground facility; and

WHEREAS, on April 19, 2018, the Planning Commission of the City of San Diego considered Tentative Map No. 1818213 and Public Right-of-Way Vacation, and pursuant to Resolution No. 4936-PC, the Planning Commission voted to recommend City Council approve the map; 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 and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, on July 10, 2018, the City Council of the City of San Diego considered Tentative Map No. 1818213, and Public Right-of-Way Vacation, including the waiver of the requirement to underground existing offsite overhead utilities, and pursuant to San Diego

Municipal Code section(s) 125.0440, 144.0240, 125.0430, 125.0940, and Subdivision Map Act section 66428, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, and the City Council having fully considered the matter and being fully advised concerning the same; NOW THEREFORE,

BE IT RESOLVED by the City Council of the City of San Diego, that it adopts the following findings with respect to Tentative Map No. 1818213:

**1. The proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan.** The 2.8-acre project site is located at 3455 Atlas Street in the RS-1-7 Zone of the Clairemont Mesa Community Planning (Community Plan) area. The site is designated Low Density Residential (5-10 du/ac) in the Community Plan. The project proposes the creation of nine lots, one containing an existing church facility to remain (Lot 1) and eight residential lots on the vacant southern portion of the site (Lots 2-9). The church will redesign the existing parking area to accommodate the creation of the residential lots, which are not currently proposed for construction.

The proposed residential development conforms to the land use and density recommended by the Community Plan. Properties to the northwest, west, and south are also zoned RS-1-7 and designated Low Density Residential. Properties to the northeast are zoned RM-2-5 and designated Medium Density Residential (15-30 du/ac). To the west is a property zoned RM-1-1, which is also designated Medium Density Residential.

A goal of the Community Plan is the provision to provide a range of housing opportunities for all income levels, and a high quality living environment in Clairemont's residential neighborhoods. The residential development and future construction is subject to the RS-1-7 Zone regulations and would be compatible with the adjacent character of the single- and multi-family development. The Project would implement the goals of the Community Plan by providing a quality residential development that is compatible with the density and pattern of adjacent land uses. Therefore, the he proposed subdivision and its design or improvement are consistent with the policies, goals, and objectives of the applicable land use plan.

**2. The proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code, including any allowable deviations pursuant to the land development code.** The Community Plan designates the site as residential with a density of 5-10 dwelling units per acre for a maximum of one dwelling unit on the Lots 2,3,4, and 5; 0.14-acre each, and Lots 6, 7, 8, and 9; 0.11-acre each. The subdivided lots will meet the lot depth, width, and area requirements of the RS-1-7 Zone regulations. However, due to the configuration of the Project sites' residential development, four of the eight lots must be created without street frontage in order to meet the density of the RS-1-7 Zone and Community Plan. The Project will deviate from SDMC Section 144.0211(a) for the creation of

residential development on Lots No. 6 through 9 without lot frontage to Atlas Street, a dedicated street. The Project will provide access to Lots No. 6 through 9 from Atlas Street with the creation of two private access driveways. Therefore, the proposed subdivision complies with the applicable zoning and development regulations of the Land Development Code, including the allowable deviations pursuant to the land development code and Planned Development Permit No. 1818203.

**3. The site is physically suitable for the type and density of development.** The site is already occupied by the church as an existing condition. The previously conforming church is governed by two existing entitlements; City Council Resolution No. 9271, which allows the church itself, and Conditional Use Permit (CUP) C-20413, which allows an onsite daycare. The Project proposes the creation of nine lots, one containing the church to remain (Lot 1) and eight residential lots on the vacant southern portion of the site (Lots 2-9). The church will redesign the existing parking area to accommodate the creation of the residential lots, which are not currently proposed for construction.

The Community Plan designates the site as residential with a density of 5-10 dwelling units per acre for a maximum of one dwelling unit on the Lots 2, 3, 4, and 5; 0.14-acre each, and Lots 6, 7, 8, and 9; 0.11-acre each. The project site is a previously graded, flat lot. The site has frontage along Atlas Street. The site is located in a developed, urban neighborhood and is surrounded on all sides by existing residential development and that the site is served by existing utilities. Therefore, the site is physically suitable for the type and density of the development.

**4. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.** The Tentative Map was reviewed for conformance with the applicable zoning and development regulations of the Land Development Code. The review included requiring compliance with storm water runoff requirements during and after construction. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332, In-Fill Development. The project is located within an urbanized and built environment where there are no watercourses on or adjacent to the site. Therefore, the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidable injure fish or wildlife on their habitat.

**5. The design of the subdivision or the type of improvement will not be detrimental to the public health, safety, and welfare.** The Tentative Map was reviewed and determined to be in compliance with the Municipal Code and Subdivision Map Act. The Tentative Map and Permit for the Project includes various conditions and referenced exhibits of approval relevant to achieving project compliance with the applicable regulations of the SDMC in effect for this project. Such conditions within the Map and Permit have been determined as necessary to avoid adverse impacts upon the health, safety and general welfare of persons residing or working in the surrounding area. The Project shall comply with the development conditions in effect for the subject property as described in Tentative Map No. 1818203, and other regulations and guidelines pertaining to the subject property per the SDMC. Prior to issuance of any construction permit for the proposed development, the plans shall be reviewed for compliance with all Building, Electrical, Mechanical, Plumbing and Fire Code requirements, and the Subdivider shall be required to obtain grading and public improvement permits. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to

Section 15332, In-Fill Development, of the State CEQA Guidelines. Therefore, the proposed subdivision or the type of improvement would not be detrimental to the public health, safety and welfare.

**6. The design of the subdivision or the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.** The proposed subdivision does not contain or propose any new easements for the development. Atlas Street fronts the property to the west and Stalmer Steet to the north, where public access will be maintained. Therefore, the design of the subdivision and proposed improvements would not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

**7. The design of the proposed subdivision provides, to the extent feasible, for future passive or natural heating and cooling opportunities.** The proposed subdivision of a 2.8-acre parcel into nine lots, one containing the existing church facility to remain (Lot 1) and eight residential lots on the vacant southern portion of the site (Lots 2-9), will not impede or inhibit any future passive or natural heating and cooling opportunities. The design of the subdivision has taken into account the best use of the land to minimize grading and provides, to the extent feasible, for future passive or natural heating and cooling opportunities in that the design of the proposed subdivision does not diminish the opportunities for future passive or natural heating and cooling as no physical improvements are proposed for the new lots. With the independent design of the proposed subdivision each residential structure will have the opportunity through building materials, site orientation, architectural treatments, placement and selection of plant materials to provide to the extent feasible, for future passive or natural heating and cooling opportunities.

**8. The decision maker has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.** The 2.8-acre project site is located at 3455 Atlas Street in the RS-1-7 Zone of the Community Plan area. The site is designated Low Density Residential (5-10 du/ac) in the Community Plan. The project proposes the creation of nine lots, one containing an existing church facility to remain (Lot 1) and eight residential lots on the vacant southern portion of the site (Lots 2-9). The church will redesign the existing parking area to accommodate the creation of the residential lots, which are not currently proposed for construction.

The creation of eight new parcel lots for residential dwelling units, where there existed none, would assist the housing needs of the Clairemont area community. The residential subdivision will not place a significant impact on public resources such as police, fire, parks and library resources. Existing public utility services to the subdivision shall continue to be provided and serve the residential development. The proposed subdivision will be required to implement drainage and storm water improvements due to the implementation of current codes, and the fees and taxes from the subdivision will be used for future infrastructure. Therefore, the City Council has considered the effects of the proposed subdivision on the housing needs of the region and that those needs are balanced against the needs for public services and the available fiscal and environmental resources.

The above findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the City Council adopts the following findings with respect to the Public Right-of-Way Vacation, located within the project boundaries as shown in Tentative Map No. 1818213, and that the following findings are supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference:

**9. 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. (San Diego Municipal Code § 125.0941(a)).** The 2.8-acre project site is located at 3455 Atlas Street in the RS-1-7 Zone of the Community Plan area. The project proposes the creation of nine lots, one containing an existing church facility to remain (Lot 1) and eight residential lots on the vacant southern portion of the site (Lots 2-9), and the public right-of-way vacation of the existing parcel lot's undeveloped street reservation.

The undeveloped street reservation, a 21 feet by 547 feet public right-of-way, is located along the Project's eastern property line. This street reservation and a parallel street reservation on the abutting property was intended to support the future subdivision development, east of the Project site. However, on April 30, 1979, City Council approved the vacation of the adjoining street reservation (Resolution No. R-223382) with the relocation of the street as part of the abutting property's Mesa Gardens subdivision.

The Project's undeveloped street reservation does not provide any vehicle access to the existing site or abutting developed properties and does not provide any logical future connection within the Clairemont community. The existing separate public utilities easements within the vacated rights-of-way shall remain and continue to serve the surrounding community. Therefore, there is no present or prospective 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.

**10. The public will benefit from the action through improved use of the land made available by the vacation. (San Diego Municipal Code § 125.0941(b)).** The 2.8-acre project site is located at 3455 Atlas Street in the RS-1-7 Zone of the Community Plan area. The project proposes the creation of nine lots, one containing an existing church facility to remain (Lot 1) and eight residential lots on the vacant southern portion of the site (Lots 2-9), and the public right-of-way vacation of the existing parcel lot's undeveloped street reservation. The property owner would benefit in that the vacation would revert the reserved portion of the right-of-way back to private ownership and allow for the residential development for additional housing available to the public. Additionally, allowing the vacation of this portion of right-of-way would reduce the City liability. Therefore, the proposed right-of-way vacation would benefit the public by providing housing in the community and eliminate public liability.

**11. The vacation does not adversely affect any applicable land use plan. (San Diego Municipal Code § 125.0941(c)).** No portion of the proposed street vacation or adjacent properties have been designated as open space, pedestrian pathway, park, or a public view corridor in the Community Plan. Therefore, the proposed right-of-way vacation does not adversely impact the recommendations found in the Community Plan or General Plan.

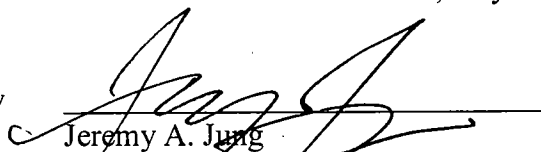
**12. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation. (San Diego Municipal Code § 125.0941(d)).** The Project's undeveloped street reservation, a 21 feet by 547 feet public right-of-way, is located along the Project's eastern property line. This street reservation and a parallel street reservation on the abutting property was intended to support the future subdivision development, east of the Project site. However, on April 30, 1979, City Council approved the vacation of the adjoining street reservation (Resolution No. R-223382) with the relocation of the street as part of the abutting property's Mesa Gardens subdivision.

The Project's undeveloped street reservation does not provide any vehicle access to the existing site or abutting developed properties and does not provide any logical future connection within the Clairemont community. The existing separate public utilities easements within the vacated rights-of-way shall remain and continue to serve the surrounding community. The purpose and intent for which the public rights-of-way was originally dedicated is no longer in effect, the streets have not been improved, and there are no future plans for the site. Therefore, the public right-of-way was originally acquired will not be detrimentally affected by the proposed vacation.

BE IT FURTHER RESOLVED, that based on the Findings hereinbefore adopted by the City Council, Tentative Map No. 1818213, the Public Right-of-Way Vacation, and the waiver of the requirement to underground existing offsite overhead utilities pursuant to SDMC section 144.0242(c)(1)(B) are approved, and hereby granted to Blue Centurion Homes subject to the attached conditions which are made a part of this resolution by this reference.

APPROVED: MARA W. ELLIOTT, City Attorney

By

  
Jeremy A. Jung  
Deputy City Attorney

JAJ:nja

06/21/18

Or. Dept: DSD

Doc. No.: 1779777

Attachment: Tentative Map Conditions

CITY COUNCIL

CONDITIONS FOR TENTATIVE MAP NO. 1818213  
ATLAS STREET PROJECT NO. 518391

ADOPTED BY RESOLUTION NO. R-311877 ON JUL 10 2018

**GENERAL**

1. This Tentative Map will expire July 10, 2021.
2. Compliance with all of the following conditions shall be completed and/or assured, to the satisfaction of the City Engineer, prior to the recordation of the Final Map, unless otherwise noted.
3. Prior to the recordation of the Final Map, taxes must be paid on this property pursuant to Subdivision Map Act section 66492. To satisfy this condition, a tax certificate stating that there are no unpaid lien conditions against the subdivision must be recorded in the Office of the San Diego County Recorder.
4. The Final Map shall conform to the provisions of Planned Development Permit No. 1818203 and Conditional Use Permit No. 1818204.
5. The Subdivider shall defend, indemnify, and hold the City (including its agents, officers, and employees [together, "Indemnified Parties"]) harmless from any claim, action, or proceeding, against the City and/or any Indemnified Parties to attack, set aside, void, or annul City's approval of this project, which action is brought within the time period provided for in Government Code section 66499.37. City shall promptly notify Subdivider of any claim, action, or proceeding and shall cooperate fully in the defense. If City fails to promptly notify Subdivider of any claim, action, or proceeding, or if City fails to cooperate fully in the defense, Subdivider shall not thereafter be responsible to defend, indemnify, or hold City and/or any Indemnified Parties harmless. City may participate in the defense of any claim, action, or proceeding if City both bears its own attorney's fees and costs, City defends the action in good faith, and Subdivider is not required to pay or perform any settlement unless such settlement is approved by the Subdivider.

**ENGINEERING**

6. The Subdivider shall satisfy and assure the following conditions of the Tentative Map prior to recording the Final Map.
7. The Subdivider shall install new street light adjacent to the site on Atlas Street, per current City of San Diego Street Design Manual and Council Policy 200-18, satisfactory to the City Engineer.



8. The project proposes to export no material from the project site. Any excavated material that is exported, shall be exported to a legal disposal site in accordance with the Standard Specifications for Public Works Construction (the "Green Book"), 2015 edition and Regional Supplement Amendments adopted by Regional Standards Committee.
9. The drainage system proposed for this development, consists of eight residential lots, is private and subject to approval by the City Engineer.
10. The Subdivider shall ensure that all proposed onsite utilities serving the subdivision shall be undergrounded with the appropriate permits. The Subdivider shall provide written confirmation from applicable utilities that the conversion has taken place, or provide other means to assure the undergrounding, satisfactory to the City Engineer.
11. The Subdivider shall record a Declaration of Covenants and Reservation of private drainage easement and the Shared Access Easement for the proposed lots currently held by the same owner. The Declaration of Covenants and Reservation of Easements shall state: "Since the Shared Access Easement and private drainage easement are private and not a public issue, the City of San Diego is not responsible for any dispute that might arise in the future between the private parties".
12. The Subdivider shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s), on each water service (domestic, fire and irrigation), in a manner satisfactory to the Public Utilities Director and the City Engineer. BFPDs shall be located above ground on private property, in line with the service and immediately adjacent to the right-of-way.
13. The Subdivider shall provide a letter, agreeing to prepare CC&Rs for the operation and maintenance of all private water and sewer facilities that serve or traverse more than a single lot.
14. Development of this project shall comply with all storm water construction requirements of the State Construction General Permit, Order No. 2009-0009DWQ, or subsequent order, and the Municipal Storm Water Permit, Order No. R9-2013-0001, or subsequent order. In accordance with Order No. 2009-0009DWQ, or subsequent order, a Risk Level Determination shall be calculated for the site. In order to comply with Order No. 2009-0009DWQ, or subsequent order, the Project shall consist of all eight residential lots when the Project is analyzed, and shall not be analyzed on a lot by lot basis.
15. A Storm Water Pollution Prevention Plan (SWPPP) shall be implemented concurrently with the commencement of grading activities. The Subdivider shall submit a copy of the Notice of Intent (NOI) with a valid Waste Discharge ID number (WDID#) to the City of San Diego as a proof of enrollment under the Construction General Permit. When ownership of the entire site or portions of the site changes prior to filing of the Notice of Termination (NOT), a revised NOI shall be submitted electronically to the State Water Resources Board in accordance with the provisions as set forth in Section II.C of Order No. 2009-0009-DWQ and a copy shall be submitted to the City.

## **MAPPING**

16. The Irrevocable Offer to Dedicate street reservation to be vacated pursuant to SMA Section No. 66434(g).
17. All subdivision maps in the City of San Diego are required to be tied to the California Coordinate System of 1983 (CCS83), Zone 6 pursuant to section 8801 through 8819 of the California Public Resources Code.
18. "Basis of Bearings" means the source of uniform orientation of all measured bearings shown on the map. Unless otherwise approved, this source shall be the California Coordinate System, Zone 6, North American Datum of 1983 [NAD 83].
19. "California Coordinate System" means the coordinate system as defined in Section 8801 through 8819 of the California Public Resources Code. The specified zone for San Diego County is "Zone 6," and the official datum is the "North American Datum of 1983."
20. The Final Map shall:
  - a. Use the California Coordinate System for its "Basis of Bearing" and express all measured and calculated bearing values in terms of said system. The angle of grid divergence from a true median (theta or mapping angle) and the north point of said map shall appear on each sheet thereof. Establishment of said Basis of Bearings may be by use of existing Horizontal Control stations or astronomic observations.
  - b. Show two measured ties from the boundary of the map to existing Horizontal Control stations having California Coordinate values of First Order accuracy. These tie lines to the existing control shall be shown in relation to the California Coordinate System (i.e., grid bearings and grid distances). All other distances shown on the map are to be shown as ground distances. A combined factor for conversion of grid-to-ground distances shall be shown on the map.

## **INFORMATION:**

- The approval of this Tentative Map by the City Council of the City of San Diego does not authorize the Subdivider to violate any Federal, State, or City laws, ordinances, regulations, or policies including but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 USC § 1531 et seq.).
- If the Subdivider makes any request for new water and sewer facilities (including services, fire hydrants, and laterals), the Subdivider shall design and construct such facilities in accordance with established criteria in the most current editions of the City of San Diego water and sewer design guides and City regulations, standards and practices pertaining thereto. Off-site improvements may be required to provide adequate and acceptable levels of service and will be determined at final engineering.

- Subsequent applications related to this Tentative Map will be subject to fees and charges based on the rate and calculation method in effect at the time of payment.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of the Tentative Map, may protest the imposition within ninety days of the approval of this Tentative Map by filing a written protest with the San Diego City Clerk pursuant to Government Code sections 66020 and/or 66021.
- Where in the course of development of private property, public facilities are damaged or removed, the Subdivider shall at no cost to the City, obtain the required permits for work in the public right-of-way, and repair or replace the public facility to the satisfaction of the City Engineer (San Diego Municipal Code § 142.0607).

Passed by the Council of The City of San Diego on JUL 10 2018, 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 10 2018.

**(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 *Hy Ready*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 311877