

RESOLUTION NUMBER R- 314433
DATE OF FINAL PASSAGE NOV 01 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO ADOPTING FINDINGS FOR AND APPROVING
THE PUBLIC RIGHT-OF-WAY VACATION OF A PORTION
OF CASS STREET - CASS STREET PUBLIC RIGHT-OF-WAY
VACATION PROJECT NO. 659043.

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, Ronald L. Holloway filed an application to vacate a portion of Cass Street and to reserve access, sewer, and drainage easements, being described as Public Right-of-Way Vacation No. 2409551; and

WHEREAS, Right-of-Way Vacation No. 2409551 is located on property owned by Michael Burke and Kristine Quiroquiro Burke, Benjamin Liem and Jeanne Liem Joint Living Trust, and Soeterman-Sisman Family Trust; and

WHEREAS, in connection with Right-of-Way Vacation No. 2409551, the City desires to reserve and except a public easement(s); and

WHEREAS, the Office of the City Attorney has drafted this resolution on the information provided by City staff including information provided by Ronald L. Holloway and affected third parties verified by City staff, with the understanding that this information is complete, true, and accurate; 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 November 1, 2022, 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. 2409551, 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 Cass Street Public Right-of-Way Vacation project proposes to vacate 8,600 square feet of Cass Street located at 990 Van Nuys Street. The proposed public right-of-way vacation would revert the vacated 8,600 square foot area to the abutting parcels. 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 portion of Cass 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 the portion of Cass Street is not needed for providing public circulation. The area of vacation will reserve easements for sewer and drainage, and potential access to the properties to the north. Therefore, there is no present or

prospective use for the public right-of-way, either for the facility for which 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 Cass Street Public Right-of-Way Vacation project proposes to vacate 8,600 square feet of Cass Street located at 990 Van Nuys Street. The proposed public right-of-way vacation would revert the vacated 8,600 square foot area to the abutting two parcels. 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. As a public right-of-way, the City controls and is liable for the area that cannot be used as a street for public purposes. Properties adjacent to the right-of-way will benefit from the vacation because they will control, maintain and be responsible for the area of the vacation. The City and County will benefit from the increase in property tax, which in turn, benefits the general public with the increase in funds. Public water and sewer services are provided through the community and Cass Street is not needed to provide water, however the area of vacation will reserve easements for access, sewer and drainage. The public also benefits by the reduction of liability to the City of San Diego from land it controls yet gains no benefit or use from because it is unimproved and no longer needed. 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. The General Plan designates the project site as Public Right-of-Way and the surrounding properties as Residential. The La Jolla Community Plan designates the project site as Public Right-of-Way

and the surrounding properties as Very Low Density Residential (0-5 dwelling units/acre (du/ac)). The Pacific Beach Community Plan designates the project site as Public Right-of-Way and the surrounding properties as Low Density (5-9 du/ac).

The Mobility Element the General Plan promotes sidewalks that are accessible to pedestrians of all abilities and strives toward achieving a complete, functional, and interconnected pedestrian network (ME-A.3 and ME- A.6). The proposed Right-of-Way Vacation would implement these policies by strengthening pedestrian connectivity since the permittee will be required to construct a sidewalk to city standards along Van Nuys Street and Cass Street where there is not a sidewalk currently.

The La Jolla Community Plan and Pacific Beach Community Plan do not identify this portion of Cass Street as a classified street, nor for an existing or future bikeway or transit routes. The project site consists of a hillside and is currently unimproved except for a public sewer line in the center of Cass Street. The proposed Right-of-Way Vacation would not affect vehicle, pedestrian, or biking access to surrounding properties given the sites existing topography and because existing roadways, alleys, and established access easements provide access. As proposed, the Right-of-Way Vacation would not adversely impact goals and policies related to mobility within the La Jolla Community Plan and Pacific Beach Community Plan. Therefore, that 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 Cass Street Public Right-of-Way Vacation project proposes to vacate 8,600 square feet of Cass Street located at 990 Van Nuys Street. The proposed public right-of-way vacation would revert the vacated 8,600 square foot area to the abutting two parcels. Cass Street was originally established by Map No. 930, filed in the Office of the County Recorder of San Diego

County on November 7, 1904. The La Jolla and Pacific Beach Community Plans do not identify any additional improvements to this portion of Cass Street. The public will benefit from the additional revenue from property taxes and the reduction of liability to the City. 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. 2409551, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 41882-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:

1. Prior to the recordation of the public right-of-way vacation, the Owner/Applicant shall reserve a sewer easement as shown on the street vacation exhibit, in a manner satisfactory to the City Engineer.
2. Prior to the recordation of the public right-of-way vacation, the Owner/Applicant shall grant to the City a 2.5-foot wide Irrevocable Offer of Dedication for the adjacent alley, satisfactory to the City Engineer. The property owner shall also enter into an agreement with the City waiving the right to oppose special assessment proceedings initiated for alley improvements.
3. Prior to the recordation of the public right-of-way vacation, the Owner/Applicant shall reserve a drainage easement above the existing public drainage and sewer system within vacated street, satisfactory to the City Engineer.
4. Prior to the recordation of the public right-of-way vacation, the Owner/Applicant shall assure, by permit and bond, the construction of a new 12-foot wide City Standard Driveway, adjacent to the side on Van Nuys Street, satisfactory to the City Engineer.
5. Prior to the recordation of the public right-of-way vacation, the Owner/Applicant shall assure, by permit and bond, the closure of the existing driveway and replacement with City Standard Curb, Gutter and Sidewalk, adjacent to the site on 990 Van Nuys Street, satisfactory to the City Engineer.
6. Prior to the recordation of the public right-of-way vacation, the Owner/Applicant shall obtain an Encroachment Maintenance Removal Agreement for the private improvements within the 2.5-foot Irrevocable Offer of Dedication.

7. Prior to the recordation of the public right-of-way vacation, the Owner/Applicant shall assure, by permit and bond, the removal of the existing improvements and the construction of standard curb, gutter and sidewalk, adjacent to the project site on Van Nuys Street as shown on Exhibit "A", satisfactory to the City Engineer.
8. Prior to the recordation of the public right-of-way vacation, the Owner/Applicant shall assure, by permit and bond, the reconstruction of the existing curb ramp, with current City Standard curb ramp SDG-130 and SDG-132 with truncated domes, adjacent to the site on Van Nuys Street and Cass Street, satisfactory to the City Engineer.
9. Prior to the recordation of the public right-of-way vacation, the Owner/Applicant shall reserve a 24-foot access easement to benefit the five parcels to the north of the project site, as shown on the street vacation exhibit, in a manner satisfactory to the City Engineer. When and if this access is constructed by the future applicant(s) for the development of the five parcels to the north, it shall be a minimum, unobstructed width of 20 feet plus 4-foot sidewalk. The access road shall not exceed the 12% (Asphalt) and 15% (Concrete) grade per FPB Policy A-14-1.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Right-of-Way Vacation No. 2409551 the permanent easement for public utility purposes, as more particularly described hereinafter:

1. Adequate access, drainage and sewer easements above the existing public drainage and sewer system within the vacated street pursuant to the City of San Diego's Street Design Manual, and Sewer Design Guide, satisfactory to the City Engineer.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along, and across that portion of Cass Street, vacated by this Document and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 41882-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: MARA W. ELLIOTT, City Attorney

By /s/ Shannon C. Eckmeyer
Shannon C. Eckmeyer
Deputy City Attorney

SCE:sc
10/03/2022
Or.Dept: DSD
Doc. No. 3101715

Exhibit A- Legal Description
Exhibit B- ROW Drawings

EXHIBIT "A"
LEGAL DESCRIPTION
PUBLIC STREET VACATION

THAT PORTION OF CASS STREET BETWEEN LOT 78 OF BLOCK 3 AND LOT 40 OF BLOCK 9 OF FIRST ADDITION TO PACIFIC BEACH VISTA TRACT, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 930, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY NOVEMBER 7, 1904; VACATED, EXCEPTING THE NORTHERLY 2.50 FEET.
CONTAINS 8,600 SQUARE FEET, MORE OR LESS.

RESERVING THEREFROM A SEWER AND DRAINAGE EASEMENT MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 30.00 FOOT WIDE STRIP OF LAND CENTERED ON CASS STREET BETWEEN LOT 78 OF BLOCK 3 AND LOT 40 OF BLOCK 9 OF FIRST ADDITION TO PACIFIC BEACH VISTA TRACT, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 930, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY NOVEMBER 7, 1904, EXCEPTING THE NORTHERLY 2.50 FEET.
CONTAINS 3,225 SQUARE FEET, MORE OR LESS.

RESERVING THEREFROM AN ACCESS EASEMENT MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A 24.00 FOOT WIDE STRIP OF LAND CENTERED ON CASS STREET BETWEEN LOT 78 OF BLOCK 3 AND LOT 40 OF BLOCK 9 OF FIRST ADDITION TO PACIFIC BEACH VISTA TRACT, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 930, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY NOVEMBER 7, 1904, EXCEPTING THE NORTHERLY 2.50 FEET.
CONTAINS 2,850 SQUARE FEET, MORE OR LESS.

ATTACHED HERETO IS DRAWING NO. 41882-B LABELED EXHIBIT "B" BY THIS REFERENCE MADE A PART HEREOF.

THIS REAL PROPERTY DESCRIPTION HAS BEEN PREPARED BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE PROFESSIONAL LAND SURVEYORS' ACT.

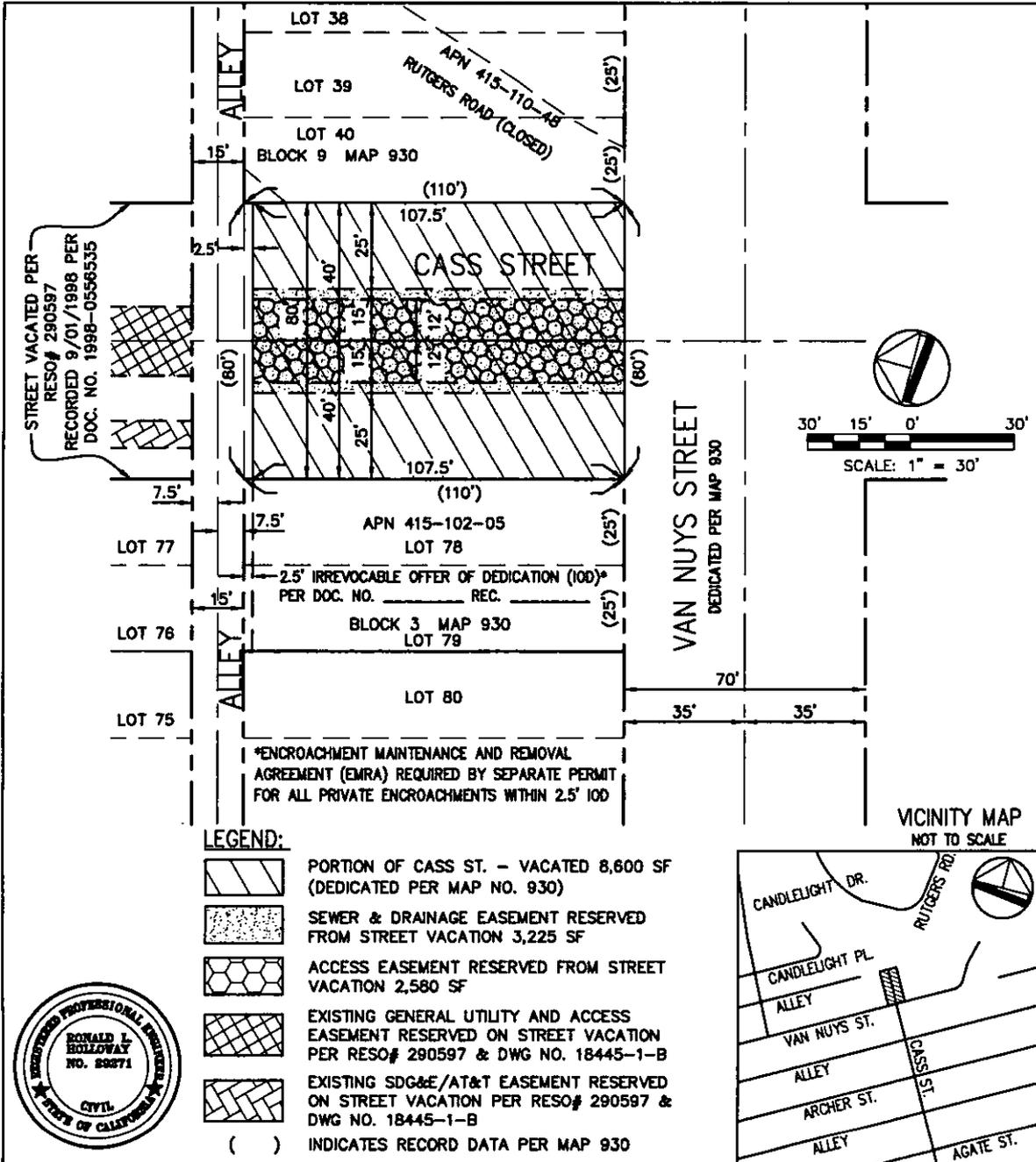
Ron Holloway
RONALD L. HOLLOWAY RCE 29271

5-3-22
DATE

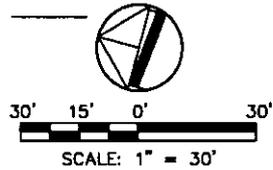
PTS 659043
CITY DRAWING NO. 41882-B



EXHIBIT "B"



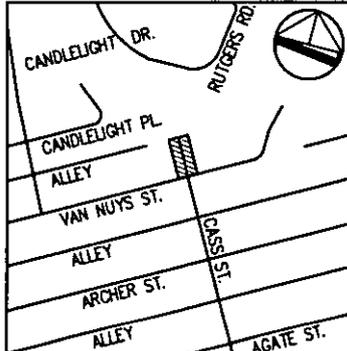
STREET VACATED PER
RESO# 290597
RECORDED 9/01/1998 PER
DOC. NO. 1988-0556535



*ENCROACHMENT MAINTENANCE AND REMOVAL
AGREEMENT (EMRA) REQUIRED BY SEPARATE PERMIT
FOR ALL PRIVATE ENCROACHMENTS WITHIN 2.5' 100'

LEGEND:

- PORTION OF CASS ST. - VACATED 8,600 SF (DEDICATED PER MAP NO. 930)
- SEWER & DRAINAGE EASEMENT RESERVED FROM STREET VACATION 3,225 SF
- ACCESS EASEMENT RESERVED FROM STREET VACATION 2,580 SF
- EXISTING GENERAL UTILITY AND ACCESS EASEMENT RESERVED ON STREET VACATION PER RESO# 290597 & DWG NO. 18445-1-B
- EXISTING SDG&E/AT&T EASEMENT RESERVED ON STREET VACATION PER RESO# 290597 & DWG NO. 18445-1-B
- () INDICATES RECORD DATA PER MAP 930



bha, inc.
land planning, civil engineering, surveying
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CARLSBAD, CA. 92008-4387
(760) 931-8700
RONALD L. HOLLOWAY RCE 29271 EXP. 3-31-23

Ron Holloway

RESO. NO. _____
ADOPTED: _____
DOC. NO. _____
RECORDED: _____

PUBLIC STREET VACATION, SEWER & DRAINAGE EASEMENT RESERVATION
AND ACCESS EASEMENT RESERVATION
PORTION OF CASS STREET BETWEEN LOT 78, BLOCK 3, & LOT 40, BLOCK 9 OF
FIRST ADDITION TO PACIFIC BEACH VISTA TRACT, MAP NO. 930

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA SHEET 1 OF 1 SHEET	P.T.S. NO. 659043
					FOR CITY LAND SURVEYOR	1876-6249 NAD83C COORDINATE
					DIVISION HEAD	236-1689 LAMBERTY COORDINATE
					SECTION HEAD	41882-B
STATUS						

Passed by the Council of The City of San Diego on NOV 01 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage NOV 01 2022.

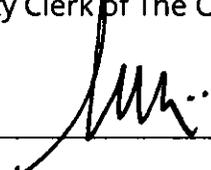
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
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- 314433