

342-D 3-21-23

(R-2023-444)

RESOLUTION NUMBER R- 314692

DATE OF FINAL PASSAGE MAR 21 2023

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO VACATING A PORTION OF HAINES STREET
OF RIGHT-OF-WAY VACATION NO. 2595478, PROJECT
NO. 669397.

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, Leppert Engineering, Applicant, filed an application to vacate 7.5 feet of
Haines Street, generally located within Lots Twenty-Four, Block Twelve, Second, Fortuna Park
Addition, according to Map thereof No. 895, in the City of San Diego, County of San Diego, the
State of California, filed in the Office of the County Recorder of San Diego County on April 30,
1903, being described as Public Right-of-Way Vacation No. 2595478 (Project); 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 the evidence at the hearing and to
make legal findings based on the evidence presented; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the
information provided by City staff, with the understanding that this information is complete, true,
and accurate; and

WHEREAS, the matter was set for public hearing on March 21, 2023, 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 Haines Street Public Right of Way Vacation No. 2595478, the Council finds that:

- (a) 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.**

The unimproved 0.108-acre portion of the Haines Street public right-of-way located along the east side of the block north of the intersection of Haines Street and Roosevelt Avenue only serves as vehicular or pedestrian access for individual private residences in the area and does not benefit the general public. The proposed public-right-of-way vacation would revert the vacated 4,709 square-foot area to the abutting parcels. The existing mapped lots would each obtain 187.5 square feet of land for private ownership. Haines Street is an improved north/south street that was previously improved as a residential street.

There is no present plan for the public use of this partial public right-of-way (ROW). The existing ROW is wider than the currently required City standard and does not serve to provide a benefit to the public. A standard curb to property line distance for a residential area would typically be 10 feet whereas this block provides 17.5 feet with the additional 7.5 feet located behind the existing sidewalk serving only to provide pedestrian and vehicular access to the individual private residences fronting on Haines Street. A similar 7.5 feet partial public right of way vacation was approved for the block immediately to the south on February 2, 1965, as City Council Resolution 182724. Therefore, it is requested that a similar 7.5 feet portion of the right-of-way be vacated as 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 0.108-acre portion of Haines Street public right of way proposed for vacation is limited to circulation and public utility. The City controls and is liable for an area that cannot be used for public purposes. The area proposed for a partial right-of-way vacation is located between the back of the existing public sidewalk and the private property and functions in many respects as an extension of the private property owner's front yard. The adjacent properties will benefit from the street vacation because they will control, maintain and be responsible for this area. The public will also benefit by the reduction of liability to the City of San Diego from land it controls yet gains no benefit or use from. 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 portion of the Haines Street public right-of-way proposed to be vacated is not part of the Community Plan's classified streets network. Since the right-of-way is greater than what is required for the current street use, and the block to the south has already been partially vacated, any increased public street use is impractical. The proposed street vacation would not affect the following types of facilities identified as part of the Community Plan's mobility network: Pedestrian Routes, Existing or Planned Bicycle Network, and Planned Transit Facilities. Unimproved local streets may be vacated if there is no potential need or feasibility for public access infrastructure. The prior partial right-of-way vacation completed on the block to the south increases the difficulty and cost to further increase the improved width of this segment of Haines Street for public access. Partially vacating the right-of-way will enable the land to be used for other applicable uses such as housing. Therefore, the vacation does not adversely affect any applicable land use plan.

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


The Haines Street public right of way was originally acquired in 1903 as part of a street network through map dedications. Since the right-of-way is greater than what is required for the current street use, and the block to the south has already been partially vacated, any increased public street use is impractical. The existing additional right-of-way does not benefit the public mobility in any way, and the partial vacation of the right-of-way will not affect the street, sidewalk or other mobility factors. Therefore, the public facility for which the right-of-way was originally acquired will not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that the Public Right of Way Vacation herein are in, under, over, upon, along and across Lots Twenty-Four, Block Twelve, Second, Fortuna Park Addition, according to Map thereof No. 895, in the City of San Diego, County of San Diego, the State of California, filed in the Office of the County Recorder of San Diego County on April 30, 1903, vacated by this Document and as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 42619-B, marked as Exhibit "B," which said drawing is attached hereto and made a part hereof, is ordered vacated.

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 San Diego County Recorder.

APPROVED: MARA W. ELLIOTT, City Attorney

By


Shannon C. Eckmeyer
Deputy City Attorney

SCE:sc
02/28/2023
Or.Dept: DSD
Doc. No. 3234252

EXHIBIT "A"
LEGAL DESCRIPTION
PUBLIC RIGHT OF WAY VACATION

That portion of Haines Street dedicated per Second Fortuna Park Addition in the City of San Diego, County of San Diego, State of California, According to Map Thereof No. 895 Filed in the Office of the County Recorder Of San Diego County April 30, 1903, more particularly described as follows:

The Easterly 7.50 feet of Said Haines Street lying Westerly of Block 12, as shown on said Second Fortuna Park Addition Map No. 895 and that Closed portion of Roosevelt Avenue as vacated per Resolution No. 191223 on August 8th, 1967.

Containing 4,709.04 square feet, more or less.

Attached hereto is a drawing number 42619-B and by this reference made a part hereof.

John D. Leppert, RCE 26283

Date

PTS: 669397
Drawing No. 42619-B



Passed by the Council of The City of San Diego on MAR 21 2023, 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"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 MAR 21 2023.

(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)

DIANA J.S. FUENTES
City Clerk of The City of San Diego, California.

By *Justell Medina*, Deputy

Office of the City Clerk, San Diego, California

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