

RESOLUTION NUMBER R- 315657DATE OF FINAL PASSAGE JUL 01 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO TO VACATE A PORTION OF OLNEY STREET, PUBLIC RIGHT-OF-WAY VACATION NO. PMT-2581617, WITH RESERVATIONS OF PUBLIC UTILITY EASEMENTS FOR THE 2182 OLIVER AVENUE - PROJECT NO. PRJ-0696078.

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and San Diego Municipal Code section 125.0901 *et seq.* provide a procedure for the formal vacation of public rights-of-way by City Council resolution; and

WHEREAS, Ed Siefken, Applicant; and Nathan Siefken and Miriam Siefken, Husband and Wife as Joint Tenants, Owners, filed an application to vacate an approximately 1,000-square-foot area of Public Right-of-Way (ROW) along Olney Street (eight-foot wide by 125-foot long section on the west side of Olney Street adjacent to 2182 Oliver Street), legally described as: Lot 21 and 22, Block 280 of Pacific Beach, according to Map thereof No. 922, filed in the office of the County Recorder of San Diego County, September 24, 1904, being described as Public Right-of-Way Vacation No. PMT- 2581617 and in conjunction with Coastal Development Permit No. PMT-2581618; and

WHEREAS, Public Right-of-Way Vacation No. PMT- 2581617 is located on property owned by Nathan Siefken and Miriam Siefken, Husband and Wife as Joint Tenants, Owners; and

WHEREAS, this public right-of-way, or this portion of the public right-of-way, is excess public right-of-way and is not required for street or highway purposes; and

WHEREAS, in connection with Public Right-of-Way Vacation No. PMT-2581617, the City desires to reserve and except public easements; and

WHEREAS, there are no existing public utility facilities that are in use that would be affected by the vacation; and

WHEREAS, the matter was set for public hearing on July 1, 2024, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, the Office of the City Attorney has drafted this Resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding 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; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that for Public Right-of-Way Vacation No. PMT-2581617, the Council finds that:

1. 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 project proposes to vacate an eight-foot wide by 125-foot long, approximately 1,000 square-foot area, along Olney Street, between Oliver Avenue and an Unnamed Alley, adjacent to the project site located at 2182 Oliver Street. The vacation area will be acquired as part of the development of a dwelling unit at the rear yard of 2182 Oliver Avenue. The area was originally required for a potential street widening of Olney Street which is no longer required because the street is in a long-established neighborhood, is classified as a two-lane collector street in the Pacific Beach Community Plan and there are no future plans to widen Olney Street. The vacation will maintain consistency with the existing curb alignment with the west portion of the Olney Street right-of-way.

The City will reserve a public utility easement on the southwest portion of Olney Street between Oliver Avenue and an Unnamed Alley for existing third-party utilities in that area including Pacific Bell Telephone Company (American Telephone and Telegraph [AT&T] California), Cox Communications California, LLC, and San Diego Gas and Electric Company (SDG&E). All public water and sewer utilities that affect the proposed vacation will be abandoned and/or relocated prior to the recordation of the vacation. Except for the public utility easement, 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. Therefore, there is no present or prospective public use for this portion of public right-of-way, or for any other public use of a like nature that can be anticipated.

2. The public will benefit from the action through improved use of the land made available by the vacation.

After recordation of the public right-of-way vacation, all rights of ownership shall revert to the abutting parcel's underlying fee owner. The City will benefit from vacating the public right-of-way as the property will be returned to the tax rolls and the City will be relieved of potential liability.

Olney Street currently provides a sixty-one-foot right-of-way. Olney Street is classified as a two-lane collector street in the Pacific Beach Community Plan with a minimum parkway width of fourteen feet. The project is conditioned to improve eight feet of the right-of-way on the west side of Olney Street between Oliver Avenue and an Unnamed Alley, adjacent to the project site, to construct a non-contiguous five-foot wide sidewalk as well as provide street trees.

The right-of-way improvements would align with the goals and policies in the Community Plan and Local Coastal Program Land Use Plan, General Plan, and the Street Design Manual and would benefit the public through improved use of the land and improvements made available by the vacation.

3. The vacation does not adversely affect any applicable land use plan.

The project site is located within the Pacific Beach Community Plan (Community Plan) area. The land which is subject of the proposed right-of-way vacation has a land use designation of Low-Medium Density Residential, with a density designation for nine to fourteen (9-14) dwelling units per acre (DU/AC), page 53 of the Community Plan. The project proposes to vacate an eight-foot by 125-foot section of existing right-of-way, an approximate 1,000-square-foot area, along Olney Street between Oliver Avenue and an Unnamed Alley, adjacent to 2182 Oliver Street. The vacation area will be acquired as part of the development of a single-dwelling unit at the rear yard of 2182 Oliver Avenue. The project proposes two dwelling units on the 0.17-acre project site, therefore the proposed density is approximately 11.8 dwelling units per acre, which conforms to the allowed density for the project site consistent with the low-medium density (9-14 dwelling units per acre) residential designation of the Community Plan (Figure 13, Page 54). The site is in the RM-1-1 Zone (Multi-Dwelling Unit) which permits a maximum density of one dwelling unit for each 3,000 square feet of lot area. The project proposes one additional dwelling unit on a 7,405 square-foot site for a total of two dwelling units; therefore, it

complies with the density of the underlying zone. These designations and zones will not change as a result of the right-of-way vacation.

The Community plan identifies Olney Street as a "Two-Lane Collector Street" (Page 29, Figure 7) and identifies a circulation goal of creating safe, pleasant, and useful pedestrian and bicycle pathways to connect the residential neighborhoods of Pacific Beach (Community Plan, Page 33) and to promote the development of a variety of housing types and styles in Pacific Beach to provide a greater opportunity for housing that is both affordable and accessible to everyone and to enhance residential neighborhoods by establishing and maintaining street tree patterns and promoting general maintenance and improvement of residential properties. With the public right-of-way vacation, the vacated portions will create a more cohesive space that will enhance the connectivity by providing a new non-contiguous sidewalk and planting street trees on the west side of Olney Street. Therefore, the vacation does not adversely affect any applicable land use plan.

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

The vacation area on Olney Street will include City Standard curb ramps in order to provide safety to the area and the project will be conditioned to improve the right-of-way on the adjacent property located at 2182 Oliver Avenue which will allow for enhancement of this area, to include construction of a non-contiguous sidewalk and the planting of street trees. The project would accommodate the construction of a new single dwelling unit in the rear yard of the existing lot. The vacation of the unimproved portion of Olney Street would not impact access or circulation, and the use of the land for public right-of-way purposes is not required as it does not provide vehicular or pedestrian access, and vacating this portion of the public right-of-way reduces the City's liability. It is in the public interest to vacate the public right-of-way. 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 Public Right-of-Way Vacation No. PMT-2581617 as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 42547-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is hereby ordered vacated subject to the following conditions which are made a part of this Resolution:

1. Prior to the recordation of the vacation, the Owners shall enter into an agreement to indemnify, protect, and hold harmless the City, its officials, and employees

from any and all claims, demands, causes or action, liability or loss because of, or arising out of surface drainage entering into the property from the right-of-way.

2. Prior to the recordation of the vacation, the Owners shall assure, by permit and bond the completion of the abandonment or privatization of all public water and sewer facilities, in a manner satisfactory to the Director of Public Utilities and the City Engineer.
3. Prior to the recordation of the vacation, the Owners shall obtain an Encroachment Maintenance Removal Agreement for the private water main encroaching into the Public Right-of-Way.
4. Prior to the recordation of the vacation, the Owners shall construct the required public improvements as shown on the approved Exhibit "A" for the associated Coastal Development Permit, PMT-2581618.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Public Right-of-Way Vacation No. PMT-2581617 the permanent easement for public utility purposes, as more particularly described hereinafter:

An easement for Pacific Bell Telephone Company, doing business as (dba) American Telephone and Telegraph (AT&T) California, its successors and assigns, as it may require from time to time, to construct, place, operate, inspect, maintain, repair, replace and remove such underground and aerial communication facilities (including ingress thereto and egress therefrom) consisting of wires, cables, conduits, pipes, manholes, handholes, service boxes, aboveground markers, risers, service pedestals, underground and aboveground switches, fuses, terminals, terminal equipment cabinets, transformers with associated concrete pads, associated electrical conductors, necessary fixtures and appurtenances. Poles, anchors, guys, wires, cables, crossarms,

terminals, terminal equipment cabinets, service boxes, associated electrical conductor, and necessary fixtures and appurtenances; and

An easement for Cox Communications California, LLC, A Delaware Limited Liability Company, its successors and assigns, as it may require from time to time, to construct, place, operate, repair, maintain, replace, and remove aerial and/or underground telecommunications equipment consisting of one or more lines of cables, wires, conduits, pedestals, guy anchors attached to the ground, and all necessary fixtures and appurtenances in, over, under, and upon the hereinafter described Easement, together with the right to ingress thereto and egress therefrom and across certain real property, in the City of San Diego, County of San Diego, State of California; and

An easement for San Diego Gas and Electric Company (SDG&E), its successors and assigns, as it may require from time to time, to erect, construct, change the size of, improve, reconstruct, relocate, repair, remove, maintain and use facilities consisting of overhead and underground electric facilities, communication facilities and all appurtenances including necessary anchorage for the transmission and distribution of electricity and for pipelines and appurtenances, together with the right of ingress thereto and egress therefrom over said easement and over other practical routes. No building or other structure shall be permitted within the easement excepting other utility facilities that meet SDG&E's separation requirements.

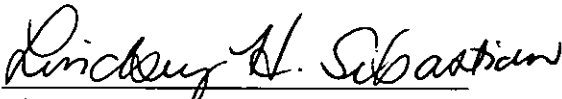
SDG&E's prior written consent shall be required before planting any trees or increasing/decreasing the ground elevation within the easement. SDG&E shall have the right but not the duty, to trim or remove trees and brush along or adjacent to this easement and remove roots from within this easement whenever SDG&E deems it necessary. Said right shall not

relieve Owners of the duty to trim or remove trees and brush to prevent danger or hazard to property or persons.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along, and across that portions of Oliver Avenue, Olney Steet, and an Unnamed Alley, vacated by this Resolution and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 42547-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 
Lindsey H. Sebastian
Deputy City Attorney

LHS:nja
06/12/2024
Or. Dept: DSD
Doc. No. 3679550

Attachments: Exhibit A – Legal Description
Exhibit B – Drawing No. 42547-B

EXHIBIT "A"
LEGAL DESCRIPTION
PUBLIC RIGHT-OF-WAY VACATION

THAT PORTION OF OLNEY STREET ADJOINING LOT 21, IN BLOCK 280 OF PACIFIC BEACH, ACCORDING TO MAP THEREOF NO. 922, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, SAID PORTION BEING BOUNDED ON THE NORTH BY AN UNNAMED 20 FOOT ALLEY AND ON THE SOUTH BY OLIVER AVE, SAID PORTION BEING 8 FEET IN WIDTH, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 21, BEING THE INTERSECTION OF THE WESTERLY RIGHT OF WAY OF OLNEY STREET WITH THE NORTH RIGHT OF WAY OF OLIVER AVENUE, THENCE NORTHERLY ALONG SAID RIGHT OF WAY LINE OF OLNEY STREET AND LOT 21, A DISTANCE OF 125.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 21, ALSO BEING A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF SAID UNNAMED 20 FOOT ALLEY; THENCE LEAVING SAID COMMON LINE WITH LOT 21 AND OLNEY STREET, EASTERLY AND PERPENDICULAR TO SAID RIGHT OF WAY OF OLNEY STREET, A DISTANCE OF 8.00 FEET, THENCE; SOUTHERLY AND PARALLEL WITH SAID LOT 21 AND RIGHT OF WAY LINE OF OLNEY STREET A DISTANCE OF 125.00 FEET, THENCE; WESTERLY, A DISTANCE OF 8.00 FEET TO THE POINT OF BEGINNING.

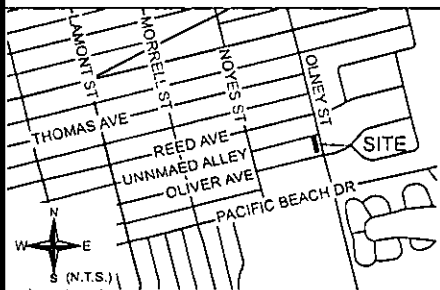
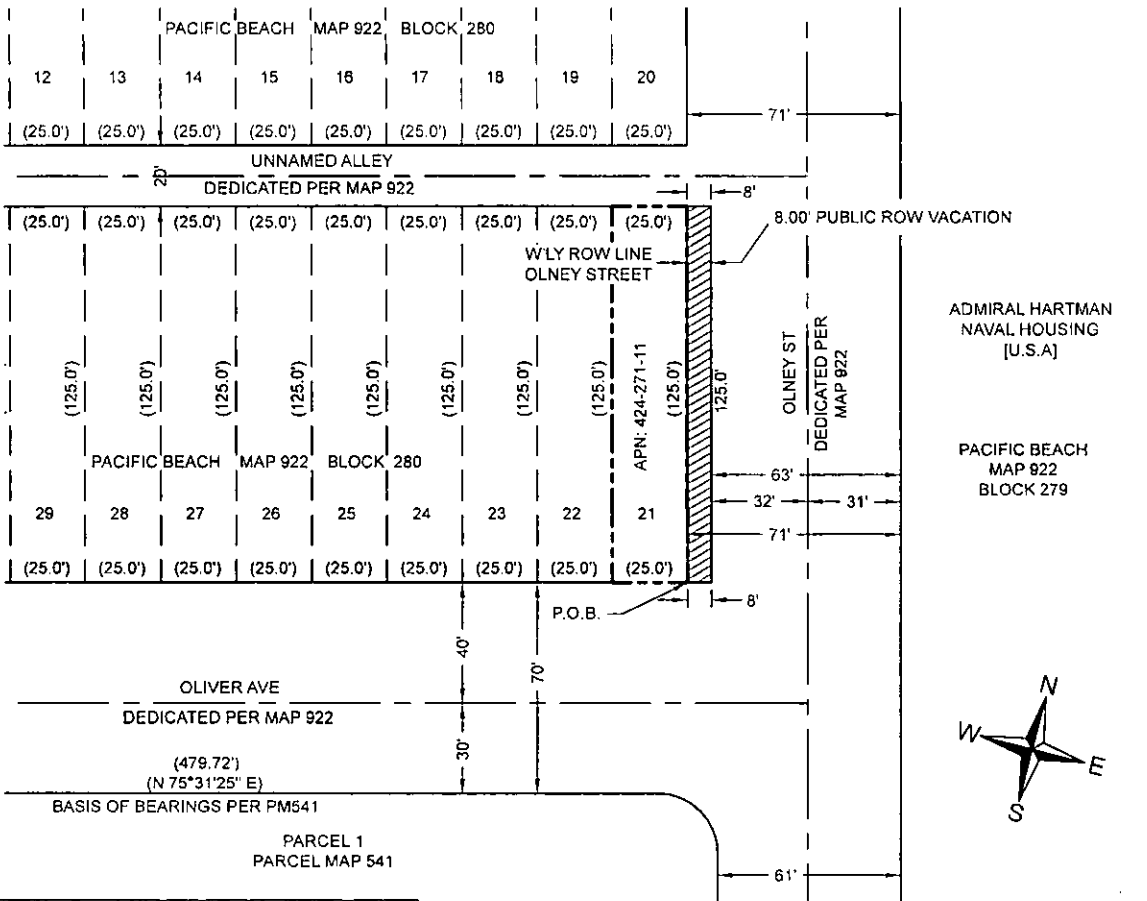
SAID LAND CONTAINS 1,000 SQUARE FEET (0.023 ACRES), MORE OR LESS.

ATTACHED HERETO IS DRAWING NO. 42547-8 LABELED EXHIBIT 11811 AND BY THIS REFERENCE MADE A PART HEREOF.

PRJ NO. 0696078

DRAWING NO. 42547-B

EXHIBIT "B"

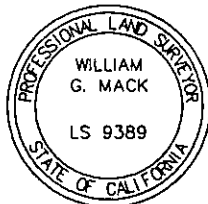


LEGEND

- PROPERTY LINE
- RIGHT-OF-WAY LINE
- CENTER LINE
- LOT LINE PER MAP NO. 922
- () RECORD DATA PER MAP NO. 922
- INDICATES PUBLIC RIGHT-OF-WAY VACATION AREA; 1,000 SF (0.023 ACRES) MORE OR LESS
- P.O.B. POINT OF BEGINNING

WILLIAM G. MACK PLS 9389

PASCO LARET SUITER & ASSOCIATES
 San Diego | Solana Beach | Orange County
 Phone 658.239.8212 | www.pascoengineering.com



DOCUMENT NO.: _____

RECORDED: _____

PUBLIC RIGHT-OF-WAY VACATION
 A PORTION OF OLNEY STREET ADJACENT TO LOT 21 IN BOCK 280 OF PACIFIC BEACH, ACCORDING TO MAP THEREOF NO. 922

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO SHEET 1 OF 1	I.O.# <u>N/A</u> P.T.S.# <u>696078</u>
ORIGINAL						<u>1870-6259</u> CCS 83 COORD
					FOR CITY SURVEYOR _____ DATE _____	<u>230-1699</u> LAMBERT COORD
						<u>42547 - B</u>
STATUS						

Passed by the Council of The City of San Diego on JUL 01 2024, 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"/>
Henry L. Foster III	<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 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 JUL 01 2024.

(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 Kristell Medina, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 315657