

RESOLUTION NUMBER R- 316011

DATE OF FINAL PASSAGE JAN 28 2025

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO VACATING APPROXIMATELY 0.109 ACRES OF
THE UNFORMED LEGAL ROAD, ROGERS STREET, FOR
THE 690 ROSECRANS STREET PROJECT, PROJECT NO.
PRJ-1065372.

RECITALS

The Council of the City of San Diego (Council) adopts this Resolution based on the following:

- A. 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.
- B. Kathleen Shanahan, as Trustee of The Kathleen Shanahan Living Trust, dated August 15, 2012, filed an application to vacate approximately 0.109 acres of the unformed legal road, Rogers Street, located at 690 Rosecrans Street, also known as Assessor's Parcel Number 532-341-01, being described as Public Right-of-Way Vacation No. PMT-3173078.
- C. The matter was set for public hearing on January 28, 2025, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same.
- D. The Office of the City Attorney prepared 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 that this information is complete and accurate.
- E. Under San Diego Charter section 280(a)(2), this Resolution is not subject to veto by the Mayor because this matter requires the 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.

ACTION ITEMS

Be it resolved by the Council of the City of San Diego:

1. With respect to Right-of-Way Vacation No. PMT-3173078, 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 690 Rosecrans Street public right-of-way (ROW) vacation project proposes to vacate approximately 0.109-acres of the unformed legal road Rogers Street. The site in the Residential Single Unit (RS-1-7) Zone, Airport Land Use Compatibility Overlay Zone (NAS North Island, San Diego International Airport), Airport Influence Area (Review Area 2), Coastal Height Limitation Overlay Zone, Coastal Overlay (Non-Appealable) Zone, Complete Communities Mobility Choices (Mobility Zone 4), and FAA Part 77 Noticing Area. The project site is bordered on the north by Armada Terrace, the San Diego Bay to the east, San Elijo Street to the west, and Qualtrough Street to the south. The project site currently contains an existing single dwelling unit with a detached garage on a previously manufactured slope.

The proposed public right-of-way vacation would revert the vacated 0.109-acres to the abutting parcel. The land is no longer needed as a 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 unformed legal street was never constructed for the purposes the right-of-way was dedicated. The proposed vacated area can no longer connect to the public road, Rogers Street, as portions to the west of the original dedication have been vacated

per Resolution No. 171940, dated July 26, 1962, thus leaving the current easement bounded by private property to the west and the public road, Rosecrans Street to the east. Furthermore, the unformed legal street, located on the north side of the property and intended to run east to west from the improved section of Rogers Street to Rosecrans Street, sits on land with a 34% grade. The 2017 San Diego Street Design Manual mandates that Residential Local Streets have a grade of no more than 15% (section 1.3.3, table 1-3), thus making the unformed legal street unsuitable for the current standards. The vacation will not result in new development and the underlying land use within the right-of-way will retain its current zoning and land use designations in compliance with the Peninsula Community Plan and Local Coastal Program Land Use Plan (Community Plan). The right-of-way is not constructed as a road and does not provide thru-connection within the block.

The neighborhood and community have several existing improved public rights-of-way that provide the public circulation necessary, and the unformed legal street is not needed for providing public circulation. Easements will be reserved for the public sewer as a condition of this vacation. 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 proposed public right-of-way vacation would revert the vacated 0.109-acre area to the abutting parcel. 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 unformed legal street was never constructed for the purposes

the right-of-way was dedicated. 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. The area of vacation will reserve easements for the public sewer facilities as a condition of permit approval, ensuring the public interests are maintained. The public 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. Since the use of the land as public right-of-way has never materialized, it is in the public interest to vacate the right-of-way and transfer responsibility of it to the adjacent property owner. 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 proposed Public Right-of-Way Vacation No. PMT-173078 is located in the Residential Single Unit (RS-1-7) zone within the Peninsula Community Plan (Community Plan). The Community Plan notes the geographic constraints of the site in regard to the unformed legal street which states, “the topographic ridgeline which extends along the center of the community from north to south... limits east-west traffic movements (pg. 54).” As stated, the 34% grade on the north side of the property, representing the unformed legal street, exceeds the 2017 San Diego Street Design Manual mandates that Residential Local Streets have a grade of no more than 15% (section 1.3.3, table 1-3), thus making the unformed legal street unsuitable for the current standards.

The Community Plan does not include the unformed legal street as part of the proposed 1995 vehicular circulation system (Figure 13). The Community Plan does not list the unformed legal street as an existing or proposed transit route (Figure 15, Figure 16), within the bikeway system (Figure 17), or part of the pedestrian pathway system (Figure 18).

The General Plan Land Use and Community Planning Element dedicates the site as residential and considers the site as having a low likelihood of supporting areas where future growth could occur and be supported by convenient and affordable opportunities to walk/roll, bike and ride transit to conduct daily activities, including work, school, shopping, and play (Village Climate Goal Propensity Map (Figure LU-1)). In addition, the Mobility Element of the Land Use Plan shows the area as having a low likelihood of planned higher frequency transit service (Figure ME-1B), and no proposed bicycle facilities (Figure ME-2).

Neither the Community Plan nor General Plan show the unformed legal street as existing or being part of a proposed circulation system. The unformed legal street does not meet the standards of the Street Manual due to the grade. 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 unformed legal street was originally dedicated per Ordinance 755 on May 22, 1900, filed in the Office of the County Recorder of San Diego. The Community Plan does not identify any additional improvements to this portion of the unformed legal street. Easements will be reserved for the public sewer as a condition of this vacation. Therefore, the public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation. The proposed public right-of-way vacation would revert the vacated 0.109-acre area to the abutting parcel. 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 unformed legal street was never constructed for the purposes the right-of-way was dedicated. The vacation will not result in new development and

the underlying land use within the right-of-way will retain its current zoning and land use designations in compliance with the Community Plan. The right-of-way is not constructed as a street and does not provide thru-connection within the block due to the grade and the existing vacations to the west.

2. Easement Vacation No. PMT-3173078, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 100501-1-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:

The Owner/Permittee shall grant sewer easement for the remaining portion of the existing public sewer main as shown on the approved Exhibit "A" (Site Development Plan), in a manner satisfactory to the Director of Public Utilities and the City Engineer.

An easement for Pacific Bell Telephone Company dba AT&T California as it may from time to time require to construct, place, operate, inspect, maintain, repair, replace and remove such underground 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. The above-described easement shall be located on a strip of land 10 feet in width in said property, lying 5 feet on each side of the alignment of facilities installed hereunder.

Reserving an easement and right of way for SDG&E 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. Grantee 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 Grantee deems necessary. Said right shall not relieve Grantor of the duty as owner to trim or remove trees and brush to prevent danger or hazard to property or persons. Upon receipt of written request from Grantor, this easement will be quitclaimed by Grantee, provided that the facilities have been removed.

3. 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: HEATHER FERBERT, City Attorney

By


Noah J. Brazier
Deputy City Attorney

NJB:cc
December 19, 2024
January 22, 2025 COR. COPY
Or.Dept: Development Services
Doc. No. 3910295_3

ATTACHMENTS:

Exhibit A - Legal Description

Exhibit B - Drawing No. 100501-1-B

I certify that the Council of the City of San Diego adopted this Resolution at a meeting held on
JAN 28 2025.

DIANA J.S. FUENTES
City Clerk

By Connie Patterson
Deputy City Clerk

EXHIBIT A

Legal Description

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

ALL THAT PORTION OF ROGERS STREET, LYING NORTHERLY OF THE UNNUMBERED BLOCK OF LA PLAYA, DEDICATED PER ORDINANCE NO. 755 APPROVED MAY 22, 1900 AND SHOWN AS UNNAMED STREET ON MAP THEREOF MADE BY C. H. POOLE, IN 1856, A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 14, 1921 AND IS KNOWN AS MISCELLANEOUS MAP NO. 35, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE NORTHERLY HALF OF SAID ROGERS STREET BEING THAT PORTION LYING WESTERLY OF THE SOUTHERLY PROLONGATION OF THE WEST LINE OF THAT PORTION OF ROSECRANS STREET DEDICATED PER DOCUMENT RECORDED JULY 21, 1938, DOCUMENT NO. 13969, BOOK 815, PAGE 24, O.R. THE SOUTHERLY HALF OF SAID ROGERS STREET BEING THAT PORTION LYING WESTERLY OF THE NORTHERLY PROLONGATION OF THE WEST LINE OF ROSECRANS STREET DEDICATED PER ORDINANCE 5052, APRIL 11, 1913 AND GRANTED TO THE CITY OF SAN DIEGO PER DEED RECORDED APRIL 18, 1913, BOOK 607, PAGE 115 OF DEEDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, STATE OF CALIFORNIA. NORTHERLY AND SOUTHERLY PORTIONS TO TERMINATE AT THE EASTERLY LINE OF ROGERS STREET VACATED PER RESOLUTION 179140 JULY 26, 1962 (CITY DRAWING 8567-B-B).

RESERVING THEREFROM AN EASEMENT TO THE CITY OF SAN DIEGO FOR SEWER PURPOSES 15 FEET IN WIDTH, LYING 7.50 FEET EACH SIDE OF, AND PARALLEL WITH THE CENTERLINE OF SAID ROGERS STREET.

AREA OF VACATION 0.109 ACRES, MORE OR LESS.

ATTACHED HERETO IS A DRAWING NO. 100501-B AND BY THIS REFERENCE MADE A PART HEREOF.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.



JOHN D. LEPPERT, RCE 26283
PRJ NO: 1065372
PMT NO: 3173078
DRAWING NO: 100501-B

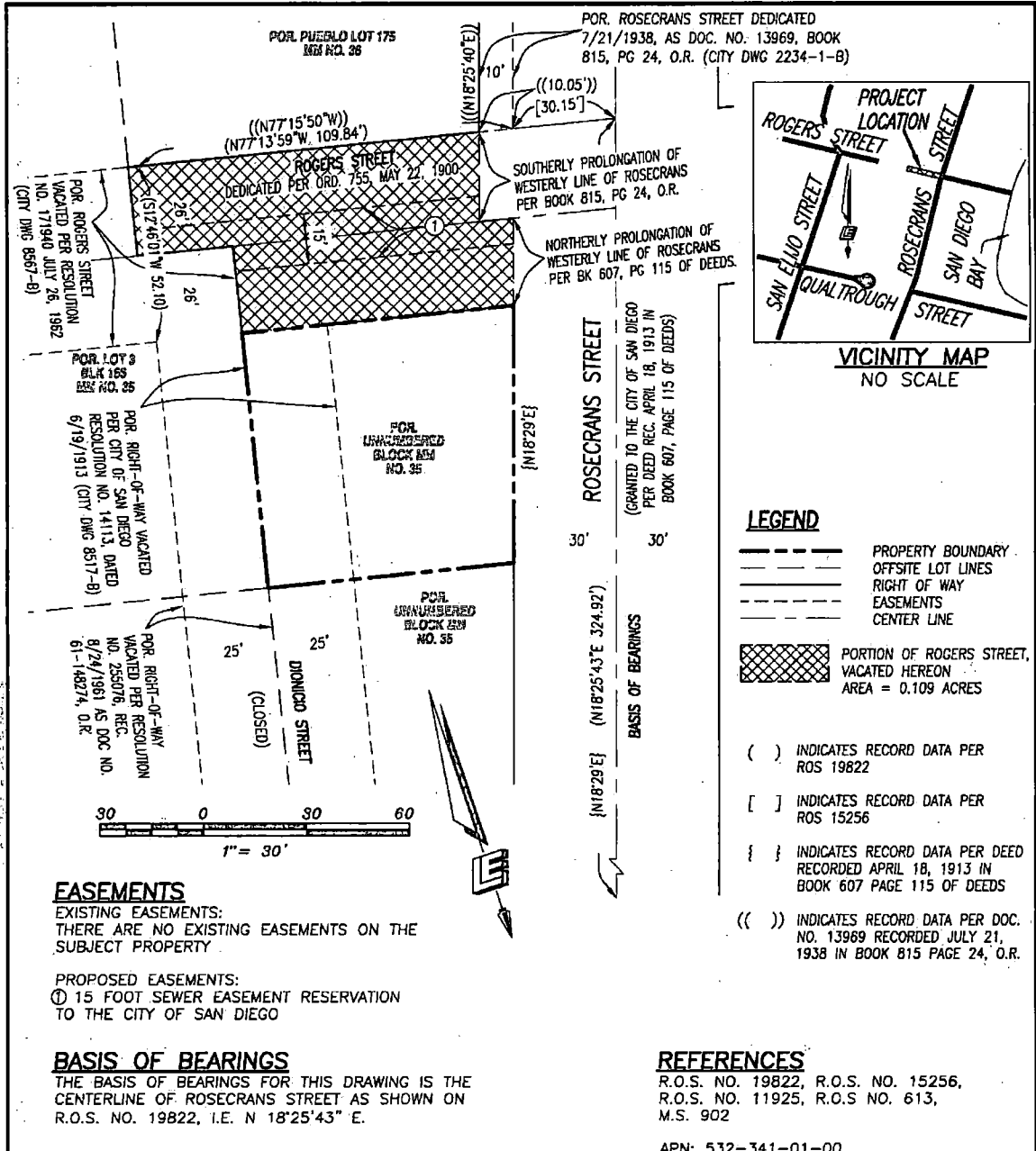
8/12/2024

DATE



EXHIBIT B

Drawing No. 100501-1-B



Leppert Engineering
5190 Governor Drive, Suite 205
San Diego, Ca. 92122-2848
Phone: (858) 597-2001

John D. Leppert
8/8/2024
JOHN D. LEPPERT RCE 26283 DATE

REGISTERED PROFESSIONAL ENGINEER
JOHN D. LEPPERT
No. 26283
CIVIL
STATE OF CALIFORNIA

RESOLUTION No. _____

ADOPTED _____

DOCUMENT No. _____

RECORDED _____

PUBLIC RIGHT-OF-WAY VACATION
PORTION OF UNNUMBERED BLOCK OF MISCELLANEOUS MAP NO. 35

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA SHEET 1 OF 1 SHEETS	PRJ. NO. 1065372 PMT. NO. 317307B
ORIGINAL	LEC					
					<i>WLR</i> 9/3/2024 FOR CITY LAND SURVEYOR DATE	1840-6255 CCS 83 COORDINATES
						200-1695 NAD 27 COORDINATES
STATUS					100501-1-B	B01

Passed by the Council of The City of San Diego on JAN 28 2025, 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 28 2025.

(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 Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 316011