

BOARD of SUPERVISORS



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MEMORANDUM

TO: Harlan Kelly, General Manager, Public Utilities Commission

FROM: Andrea Ausberry, Assistant Clerk
Land Use and Transportation Committee

DATE: April 26, 2016

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following proposed legislation, introduced by Mayor Lee on April 19, 2016.

File No. 160382

Ordinance vacating a portion of Jessie Street and a portion of Elim Alley northwest of Mission and First Streets in connection with the Oceanwide Center Project at 50 First Street; approving and authorizing the sale and quitclaim of City's interest in the approximately 5,000 square foot vacation area; authorizing the City's Director of Property to execute an agreement for the sale of real estate for the vacated area by and between the City and Oceanwide Center, LLC; approving a vehicular and pedestrian easement and an overland water flow easement over a portion of Assessor's Parcel Block No. 3708, Lot No. 012, where Jessie Street will be rerouted; approving an emergency vehicle access easement and a large truck access easement; accepting the Public Works Order concerning the street vacations; affirming the Planning Department's determination under the California Environmental Quality Act; adopting findings that the street vacation and all other actions contemplated in this Ordinance are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and authorizing actions in furtherance of this Ordinance.

The proposed ordinance is being transmitted, for public hearing and recommendation. The ordinance is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

c: Juliet Ellis, Public Utilities Commission
Donna Hood, Public Utilities Commission

1 [Street Vacation and Sale of Property at Jessie Street and Elim Alley - Oceanwide Center,
2 LLC - Oceanwide Center]

3 **Ordinance vacating a portion of Jessie Street and a portion of Elim Alley northwest of**
4 **Mission and First Streets in connection with the Oceanwide Center Project at 50 First**
5 **Street; approving and authorizing the sale and quitclaim of City's interest in the**
6 **approximately 5,000 square foot vacation area; authorizing the City's Director of**
7 **Property to execute an agreement for the sale of real estate for the vacated area by and**
8 **between the City and Oceanwide Center, LLC; approving a vehicular and pedestrian**
9 **easement and an overland water flow easement over a portion of Assessor's Parcel**
10 **Block No. 3708, Lot No. 012, where Jessie Street will be rerouted; approving an**
11 **emergency vehicle access easement and a large truck access easement; accepting the**
12 **Public Works Order concerning the street vacations; affirming the Planning**
13 **Department's determination under the California Environmental Quality Act; adopting**
14 **findings that the street vacation and all other actions contemplated in this Ordinance**
15 **are consistent with the General Plan, and the eight priority policies of Planning Code,**
16 **Section 101.1; and authorizing actions in furtherance of this Ordinance.**

17 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
18 **Additions to Codes** are in *single-underline italics Times New Roman font*.
19 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
20 **Board amendment additions** are in double-underlined Arial font.
21 **Board amendment deletions** are in ~~strikethrough Arial font~~.
22 **Asterisks (* * * *)** indicate the omission of unchanged Code
23 subsections or parts of tables.

24 Be it ordained by the People of the City and County of San Francisco:

25 Section 1. Findings.

1 (a) On _____, 2016, the Board of Supervisors adopted Resolution No. _____ (the
2 “Resolution of Intention”), a copy of which is on file with the Clerk of the Board of Supervisors
3 in File No. _____, declaring the intention of the Board to vacate portions of Jessie
4 Street and Elim Alley located adjacent to a new mixed-use project on eight lots located at or
5 near the northwest corner of First and Mission Streets (the “Vacation Area”), defined further in
6 subsection (c).

7 (b) The location and extent of the Vacation Area is shown in Public Works SUR Map
8 No. 2016-002, dated April 18, 2016. A copy of this map is on file with the Clerk of the Board
9 of Supervisors in File No. _____ and is incorporated herein by reference.

10 (c) The City is the owner of the real property constituting the Vacation Area, known as
11 Jessie Street northwest of Mission and First Streets that is generally bounded by Assessor’s
12 Block No. 3708, Lot 055 to the north, and a portion of Assessor’s Block No. 3708, Lot 006 to
13 the south and Elim Alley northwest of Mission and First Streets and generally bounded by
14 Assessor’s Block No. 3708, Lot 006 to the north, and Assessor’s Block No. 3708, Lots 007
15 and 011 to the south.

16 (d) The Clerk of the Board of Supervisors published the Resolution of Intent in the
17 manner required by law and the Director of Public Works posted the Resolution of Intent in the
18 manner required by law.

19 (e) When such matter was considered as scheduled by the Board of Supervisors at its
20 regular meeting in the City Hall, San Francisco, on _____, 2016, the Board received
21 correspondence and testimony from all persons interested in the vacation of the Vacation
22 Area.

23 (f) The proposed vacation of the Vacation Area is necessary to implement construction
24 of the Oceanwide Center (the “Project”), a mixed-use development with two towers featuring
25 over 250 dwelling units, a hotel, and over 1 million square feet of office space rising above

1 integrated basement levels, full renovation and rehabilitation of one historic building and the
2 partial renovation and rehabilitation of another historic building, and creation of a multi-story
3 high “urban room” on the ground level facing First Street that will serve as public open space
4 and provide pedestrian, emergency vehicle, and service vehicle access onto First Street.

5 (g) The Project proposes to incorporate portions of Elim Alley and Jessie Street into
6 the Project site. In order to construct the mixed-use building with two towers, portions of Elim
7 Alley and Jessie Street connecting to First Street need to be vacated. These vacations are
8 necessary in order to construct the tower fronting First Street at the scale of development
9 contemplated by the Transit Center District Plan. Jessie Street currently bisects the site of the
10 proposed tower, making any project design that maintains Jessie Street in its current
11 configuration infeasible and undesirable. The Project will modify Jessie Street along the
12 Project site by rerouting it 90 degrees as it enters the site, so that it terminates on Mission
13 Street instead of First Street. Incorporating Elim Alley into the Project significantly expands the
14 size of the ground-level “urban room” and increases the public’s access to and enjoyment of
15 this privately-owned public open space.

16 (h) Jessie Street is oriented east-west between Ecker Place and First Street with a
17 right-of-way width of 27.5 feet. The eastern portion of Jessie Street would be vacated, and a
18 20-foot wide portion of the vacated area on Jessie Street, herein referred to as the
19 “Emergency Vehicle Access Easement Area,” would be subject to the creation of an
20 emergency vehicle access easement, a public vehicle access easement for large trucks, and
21 the acceptance of the offer from Oceanwide Center, LLC (“Buyer”) to provide a declaration of
22 covenants and restrictions for public pedestrian access (“Public Access Declaration”) therein.
23 In place of the vacated area, Jessie Street will turn 90 degrees toward Mission Street along an
24 approximately 20-foot wide right-of-way on and through the Project site (the “City Easement
25 Area”). The City Easement Area will provide a public vehicle and pedestrian access

1 easement from Jessie Street to Mission Street. It also will accommodate overland or surface
2 flow from the City's facilities on, over, or below Jessie Street in excess of the 5-year storm
3 capacity, subject to an overland flow easement. Copies of these easements and the Public
4 Access Declaration are on file with the Clerk of the Board of Supervisors in File No.
5 _____ and are incorporated herein by reference.

6 (i) Elim Alley extends 250 feet east-west between Ecker Place and First Street, having
7 a right-of-way width of 12 feet for a distance of approximately 142 feet moving east from
8 Ecker Place, then a width of 6.5 feet for the remaining approximately 108 feet before its
9 terminus at First Street. Elim Alley is an "unaccepted" street that the Board of Supervisors
10 has not accepted for City maintenance and liability purposes. The eastern portion of Elim
11 Alley will need to be vacated in order to construct the Project's urban room and the tower
12 fronting First Street. A portion of Elim Alley proposed for vacation also will be subject to the
13 Public Access Declaration for public pedestrian access.

14 (j) The Project obtained environmental clearance through the Transit Center District
15 Plan Final Environmental Impact Report ("FEIR") prepared in accordance with the California
16 Environmental Quality Act ("CEQA") (Public Resources Code sections 21000 et seq.) certified
17 by the Planning Commission in its Motion No. 18628, and affirmed by the Board of
18 Supervisors in Motion No. M12-78, and project-specific clearance through a Community Plan
19 Exemption, including mitigation measures (the "CPE"), prepared in accordance with CEQA
20 and issued by the Planning Department in Planning Case No. 2006.1523E. Copies of
21 Planning Commission Motion No. 18628 and Board Motion No. M12-78 are on file with the
22 Clerk of the Board of Supervisors in File No. 120697 and are incorporated herein by
23 reference. A copy of the CPE is on file with the Clerk of the Board in File No. _____
24 and is incorporated herein by reference. The Board of Supervisors affirms this CEQA
25 determination and the environmental findings related thereto.

1 (k) The Board further finds that no substantial changes are proposed to the Project or
2 the circumstances under which the Project is undertaken that will cause new significant
3 environmental effects or any increase in the severity of previously identified significant effects.
4 The Board further finds there is no new information of substantial importance showing that the
5 Project would have any significant effects not discussed in the FEIR or the CPE, that
6 significant effects would be substantially more severe, or that new or different mitigation
7 measures or alternatives would substantially reduce one or more significant effects of the
8 Project.

9 (l) On _____, 2016, the Planning Commission conducted a duly noticed
10 public hearing on the Project, including the proposed vacation and sale of the Vacation Area.
11 The Planning Commission, in Motion No. _____, found that the street vacations
12 related to the Project and the sale of the Vacation Area are, on balance, consistent with the
13 City's General Plan and the eight priority policies of Planning Code Section 101.1. As part of
14 these findings, the Planning Commission required the Buyer to provide a Public Access
15 Declaration over a segment of Jessie Street and Elim Alley proposed for vacation and
16 recommended that the Board accept this offer. A copy of the Planning Commission Motion is
17 on file with the Clerk of the Board of Supervisors in File No. _____ and is
18 incorporated herein by reference. The Board adopts the Planning Commission findings as its
19 own.

20 (m) On _____, 2016, the Public Utilities Commission ("PUC") conducted
21 a duly noticed public hearing on the proposed street vacations and the overland flow
22 easement in the City Easement Area. The PUC, in Resolution No. _____,
23 determined that the street vacation, temporary utility easements during the Project's
24 construction phase, an overland flow easement, and other actions related to the Project were
25

1 acceptable and recommended approval to the Board of Supervisors. A copy of the PUC
2 Resolution is on file with the Clerk of the Board of Supervisors in File No. _____.

3 (n) In Public Works Order No. _____, dated _____, 2016, the Director of
4 Public Works (the "PW Director") determined: (1) the Vacation Area is unnecessary for the
5 City's present or prospective public street, sidewalk, and service easement purposes as all
6 existing physical public or private utilities located in the Vacation Area will be relocated to the
7 satisfaction of the City as part of the construction of the Project; and (2) with the exception of
8 those public easements noted in Subsection (o) below, the public interest, convenience, and
9 necessity do not require any easements or other rights be reserved for any public or private
10 utility facilities that are in place in the Vacation Area and that any rights based upon any such
11 public or private utility facilities shall be extinguished automatically upon the effectiveness of
12 the vacation; (3) in accordance with California Streets and Highways Code Section 892, the
13 Vacation Area is unnecessary for a non-motorized transportation facility because alternative
14 facilities for the benefit of the public shall be provided in the rerouted segment of Jessie Street
15 and (4) it is a policy matter for the Board of Supervisors to quitclaim the City's interest in the
16 Vacation Area to the Buyer. A copy of the DPW Order is on file with the Clerk of the Board of
17 Supervisors in File No. _____ and is incorporated herein by reference.

18 (o) In addition, the PW Director determined that the public interest, convenience, and
19 necessity require that the City, as a condition of the vacation of the Vacation Area, obtain a
20 non-exclusive easement for emergency vehicle access and an easement for public vehicle
21 access for large trucks for the benefit of the public over a segment of Jessie Street proposed
22 for vacation, a public vehicle and pedestrian access easement over the rerouted segment of
23 Jessie Street to provide for a connection to Mission Street, and an overland flow easement for
24 this same area. Further, the PW Director finds that it is necessary to reserve temporary
25 easements for street purposes in the Vacation Area for the continued use of the public streets

1 until City facilities have been relocated or alternate facilities have been constructed and the
2 City Engineer, after consultation with all affected City departments, issues a notice of
3 completion that the facilities have been constructed according to City permits and the facilities
4 are ready for their intended use. The Board adopts the findings of the DPW Director as its
5 own.

6 (p) The street vacation actions are conducted under the general vacation procedures
7 of the Public Streets, Highways, and Service Easements Vacation Law (California Streets and
8 Highways Code, sections 8300 et seq.) and San Francisco Public Works Code section 787(a).

9 (q) Buyer and City have negotiated an agreement for the sale of real estate
10 (“Agreement”) for the Vacation Area, a copy of which is on file with the Clerk of the Board of
11 Supervisors in File No. _____ and incorporated herein by reference. The Agreement
12 provides for the transfer and quitclaim of the City’s interest in the Vacation Area to Buyer,
13 subject to the satisfaction of express conditions precedent, as more particularly described in
14 the Agreement. The Agreement, as recommended by the City’s Director of Property
15 (“Property Director”), sets forth the terms of the real estate transaction should the conditions,
16 including the adoption and enactment of the ordinance approving the street vacation, be
17 satisfied. The Property Director determined that the proposed purchase price in the
18 Agreement is reasonable and represents fair market value for the Vacation Area to be
19 acquired by Buyer.

20
21 Section 2. Vacation and Conditions.

22 (a) With the exception of the reservation and creation of easement and/or other rights
23 in Section 3 below, the Board of Supervisors hereby vacates the Vacation Area, as shown on
24 SUR Map No. 2016-002, upon satisfaction of the conditions described in this ordinance and
25

1 pursuant to California Streets and Highways Code sections 8300 et seq. and San Francisco
2 Public Works Code section 787(a).

3 (b) The Board of Supervisors hereby finds that the Vacation Area is unnecessary for
4 present or prospective public use, subject to the conditions described in this ordinance.

5 (c) The Board of Supervisors hereby finds that the public interest and convenience
6 require that the vacation be done as declared in this ordinance.

7 (d) The street vacation shall be effective as to all of the Vacation Area upon
8 simultaneous recording of the City's quitclaim deed in substantially the same form as the draft
9 quitclaim deed on file with the Clerk of the Board of Supervisors in File No. _____,
10 and in connection with the closing of the transaction contemplated in the Agreement.

11
12 Section 3. Conditions to the Street Vacation; Reservations and Easements. The
13 vacation of the Vacation Area is subject to the reservation and/or creation of the following
14 easements or other rights:

15 (a) A permanent, non-exclusive emergency vehicle access easement, providing
16 emergency vehicle access in, upon, over, and across a 20-foot wide portion of the Vacation
17 Area located on Jessie Street, also known herein as the Emergency Vehicle Access
18 Easement Area.

19 (b) A permanent, non-exclusive public vehicle access for large trucks, providing
20 access in, upon, over, and across the Emergency Vehicle Access Easement Area to allow
21 large trucks to exit to 1st Street from the portion of Jessie Street that will remain a public
22 street.

23 (c) A Public Access Declaration providing public pedestrian access, for the benefit of
24 the public, in, upon, over and across the Emergency Vehicle Access Easement Area, and for
25 a portion of Elim Alley that will be vacated.

1 (d) A public access easement providing vehicular and pedestrian access, for the
2 benefit of the public, in, upon, over, and across an approximately 20-foot wide and
3 approximately 3,600 square foot portion of Assessor's Block 3708, Lot 012, from the rerouted
4 Jessie Street to Mission Street, also known herein as the City Easement Area.

5 (e) A overland flow easement for the City Easement Area.

6 (f) Reservation of temporary easements for street and utility purposes in the Vacation
7 Area for the continued use of the public streets until City facilities have been relocated or
8 alternate facilities have been constructed and the City Engineer, after consultation with all
9 affected City departments, issues a notice of completion that the facilities have been
10 constructed according to City permits and the facilities are ready for their intended use. In
11 addition, prior to the quitclaim of the City's interest in the Vacation Area, the Buyer shall
12 provide an irrevocable offer for all new public improvements and expressly assume in writing
13 the ownership of and responsibility for the abandoned City water and sewer facilities
14 remaining in the Vacation Area.

15 (g) Notwithstanding Subsections (a)-(f), no other easements or other rights are
16 reserved or created for any public utility facilities that are in place in the Vacation Area and
17 any rights based upon any such public utility facilities shall be extinguished upon the
18 effectiveness of the vacation hereunder.

19 (h) Copies of the easements and Declaration identified in Subsections (a)-(f), are on
20 file with the Clerk of the Board of Supervisors in File No. _____ and are
21 incorporated herein by reference. The Board hereby approves and adopts such easements
22 and Declaration in substantially the form on file with the Clerk subject to the terms and
23 conditions specified in the Agreement with Buyer.

24
25 Section 4. Real Property Transaction.

1 (a) The Board of Supervisors hereby approves the execution, delivery, and
2 performance of the Agreement, and authorizes the Property Director to execute the
3 Agreement, in substantially the form of Agreement referenced herein, on behalf of the City,
4 and any such other documents that are necessary or advisable to complete the transaction
5 contemplated by the Agreement and effectuate the purpose and intent of this ordinance.

6 (b) The Board of Supervisors hereby authorizes the Property Director to enter into any
7 amendments or modifications to the Agreement (including, without limitation, the attached
8 Declaration and exhibits) and the public easements identified in Section 3 that the Property
9 Director, in consultation with the City Attorney, the PW Director, the San Francisco Municipal
10 Transportation Agency's Director of Transportation (the "Director of Transportation"), and the
11 PUC General Manager, deems to be in the best interest of the City, and which do not
12 otherwise materially increase the obligations or liabilities of the City, are necessary or
13 advisable to effectuate the purposes of the Agreement, and are in compliance with all
14 applicable laws, including the City's Charter.

15 (c) The Property Director also is authorized to issue a quit claim deed of the City's
16 interest in the Vacation Area to the Buyer in substantially the same form as on file with the
17 Clerk of the Board of Supervisors in connection with closing the transaction contemplated in
18 the Agreement, and to take any and all steps (including, but not limited to, the execution and
19 delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing
20 documents and other instruments or documents) as the Property Director deems necessary or
21 appropriate to consummate the conveyance of the Vacation Area pursuant to the Agreement,
22 or to otherwise effectuate the purpose and intent of this ordinance.

23
24 Section 5. Delegation to Public Works of Acceptance of Future Public Improvements.
25

1 (a) Findings. The Board of Supervisors determines that it would be efficient to delegate
2 to the Director of PW the authority, upon completion of the future public improvements related
3 to the public easements and the satisfaction of other conditions, to adopt any related official
4 PW maps, dedicate the improvements to public use, and accept the improvements for City
5 maintenance and liability purposes, subject to the maintenance responsibility of fronting
6 property owners pursuant to the Public Works Code, including, but not limited to, Public
7 Works Code Section 706 and any encroachment permit(s) associated with the Project.

8 (b) Approval of the Delegation to the PW Director of Certain Authority in Regard to
9 Required Public Improvements. The Board of Supervisors hereby delegates to the PW
10 Director the authority, upon completion of the future public improvements associated with the
11 Project and certification from the City Engineer that the improvements are ready for their
12 intended use, to adopt any related official PW maps, dedicate the improvements to public use,
13 and accept an irrevocable offer for the improvements, subject to the maintenance
14 responsibility of the Buyer or his or her successor(s) pursuant to the Public Works Code and
15 any associated encroachment permit(s).

16
17 Section 6. The Board of Supervisors hereby directs the Clerk of the Board of
18 Supervisors to transmit to the PW Director a certified copy of this ordinance, and the Board
19 hereby directs the PW Director to record this ordinance together with any other documents
20 necessary to effectuate this ordinance and proceed in the manner required by law.

21
22 Section 7. The Mayor, Clerk of the Board, Property Director, PW Director, Director of
23 Transportation, and General Manager of the PUC are hereby authorized and directed to take
24 any and all actions which they or the City Attorney may deem necessary or advisable in order
25 to effectuate the purpose and intent of this ordinance (including, without limitation, the filing of

1 the ordinance in the Official Records of the City and County of San Francisco; confirmation of
2 satisfaction of the conditions to the effectiveness of the vacation of the Vacation Area
3 hereunder; and execution and delivery of any evidence of the same, which shall be conclusive
4 as to the satisfaction of the conditions upon signature by any such City official or his or her
5 designee).

6
7 Section 8. Effective Date. This ordinance shall become effective 30 days after
8 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
9 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
10 of Supervisors overrides the Mayor's veto of the ordinance.

11
12
13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By:


16 John D. Malamut
17 Deputy City Attorney

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