



San Francisco Public Works
 General – Director's Office
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 San Francisco, CA 94103
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Public Works Order No: 206691

Determination to recommend the conditional vacation of portions of Higuera Avenue, Vidal Drive, Arballo Drive, and Garces Drive (the "Street Vacation Area"), and certain San Francisco Public Utilities Commission public service easements (the "Easement Vacation Area"), all existing within the Parkmerced Development Project area, an approximately 152 acre site located in the Lake Merced District in the southwest corner of San Francisco and generally bounded by Vidal Drive, Font Boulevard, Pinto Avenue, and Serrano Drive to the north, 19th Avenue and Junipero Serra Boulevard to the east, Brotherhood Way to the south, and Lake Merced Boulevard to the west.

WHEREAS, The City and County of San Francisco has fee title ownership of property underlying most public right-of-ways, which includes streets and sidewalks; and

WHEREAS, The Department of Public Works has determined that said public service easements are exclusive to the San Francisco Public Utilities Commission ("SFPUC"); and

WHEREAS, The area to be vacated consists of the following:

1. Portions of Higuera Avenue, Vidal Drive, Arballo Drive, and Garces Drive that are identified as Street Vacation Parcels 1, 2, 3, 4, 5, and 6 on Public Works SUR Map Nos. 2022-003, 2022-004, 2022-005, 2022-006, 2022-007, and 2022-008, all dated June 14, 2022 (the "Street Vacation Area"), and
2. Certain SFPUC public service easements identified as SFPUC Easement Vacation Parcels 5, 6, 7, 8, 9, 10, and 11 on Public Works SUR Map Nos. 2022-009, 2022-010, 2022-011, 2022-012, 2022-013, 2022-014, and 2022-015, all dated June 14, 2022 (the "Easement Vacation Area"); and

WHEREAS, On February 10, 2011, at a duly noticed public hearing, the Planning Commission certified the Final Environmental Impact Report ("Final EIR") for the Parkmerced Mixed-Use Development Project (the "Project"), by Motion No. 18269, finding that the Final EIR reflects the independent judgment and analysis of the City and County of San Francisco, is adequate, accurate and objective, contains no significant revisions to the Draft EIR, and the content of the report and the procedures through which the Final EIR was prepared, publicized and reviewed comply with the provisions of the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq., "CEQA"), the CEQA Guidelines (California Code of Regulations Title 14 Sections 15000 et seq.), and Chapter 31 of the San Francisco Administrative Code ("Chapter 31"); and

WHEREAS, At the same hearing during which the Planning Commission certified the Final EIR, the Planning Commission by Motion No. 18270 adopted findings, as required by CEQA, regarding the alternatives, mitigation measures, and significant environmental effects analyzed in the Final EIR, a statement of overriding considerations for approval of the Project, and a proposed mitigation monitoring and reporting program (collectively, "CEQA Findings"); and

WHEREAS, On May 24, 2011, at a duly noticed public hearing, the Board of Supervisors reviewed and considered the Final EIR on appeal. By Motion No. M11-83, the Board of Supervisors upheld the Planning Commission's certification of the Final EIR and found the Final EIR to be complete, adequate and objective and reflecting the independent judgment of the City and in compliance with CEQA and the CEQA Guidelines; and

WHEREAS, On June 7, 2011, at a duly noticed public hearing, the Board of Supervisors considered the Project's approvals, which included amendments to the City's General Plan (approved by Ordinance 92-11), Zoning Map (approved by Ordinance No. 91-11), and Planning Code (approved by Ordinance No. 90-11), as well as approval of a Development Agreement, also approved on June 7, 2011 by Ordinance No. 89-11 (the "Development Agreement") (collectively, the "Project Approvals"). The SFPUC Commission on June 14, 2011 adopted a consent to the Development Agreement (SFPUC Commission Resolution No. 11-0091); and

WHEREAS, In a letter dated March 2, 2022, the Planning Department determined that the proposed vacations contemplated herein are consistent with the General Plan and with the Eight Priority Policies of City Planning Code Section 101.1, comply with applicable provisions of the Planning Code, and are consistent with the Project as defined in the Development Agreement and the Project Approvals; and

WHEREAS, Section 6.1.1 of the Development Agreement requires that the City vacate portions of streets at the locations generally shown in Exhibit J of the Development Agreement, and to convey such real property by quitclaim deed as and when needed in connection with the development of an approved Development Phase for the Project. The Planning Director approved Development Phase 1 of the Project on June 3, 2015. Development Phase 1 is comprised of four Subphases (1A, 1B, 1C, and 1D). On August 27, 2019, the Planning Director issued a letter approving certain requested amendments and revisions to the Phase 1 application ; and

WHEREAS, The vacation of the Street Vacation Area and Easement Vacation Area is necessary to implement Subphase 1C of the Project, to fulfill the objectives and requirements of the Development Agreement, and to fulfill the objectives of the Parkmerced Special Use District (Planning Code Section 249.64). The proposed vacations and other actions described herein implement the Project contemplated by the Project Approvals, including the construction of buildings and streets consistent with the Parkmerced Design Standards and Guidelines, the Parkmerced Transportation Plan, and the Parkmerced Infrastructure Report, all of which are incorporated by reference into the Development Agreement; and

WHEREAS, On May 24, 2022, by SFPUC Resolution No. 22-0097, the San Francisco Public Utilities Commission determined that upon meeting the conditions specified in this Order, any easements located in the Easement Vacation Area are surplus and unnecessary for the City's public utility purposes, and that the value of any replacement infrastructure and of surrendering liability for any existing facilities is a benefit to the SFPUC and serves as consideration for this vacation action, and authorized the General Manager of the SFPUC or the Director of Property to quitclaim these real property interests; and

WHEREAS, Pursuant to the California Streets and Highway Code Sections 8300 et seq. and Public Works Code Section 787(a), Public Works, Bureau of Street Use and Mapping (the "Department") has initiated the process to vacate the Street Vacation Area and Easement Vacation Area; and

WHEREAS, The Department sent notice of the proposed street vacation, draft SUR drawings, a copy of the petition letter, and a Public Works referral letter to the Department of Technology, San Francisco Municipal Transportation Agency, AT&T CenturyLink, Comcast, ExteNet, Point to Point communications, Verizon/MCI, XO-Communications, Sprint, Bay Area Rapid Transit District, San Francisco Fire Department, San Francisco Water Department, Pacific Gas and Electric ("PG&E"), Bureau of Engineering, Department of Parking and Traffic, Utility Engineering Bureau, San Francisco Planning Department, and the San Francisco Public Utilities Commission ("SFPUC"), and notice of the proposed easement vacation, draft SUR drawings, a copy of the petition letter, and a Public Works referral letter to the SFPUC. No public or private utility company or agency objected to the proposed street vacation or easement vacation; consequently, Public Works finds the Street Vacation Area and Easement Vacation Area are unnecessary for the City's present or prospective public street purposes; and

WHEREAS, The applicant, collectively Parkmerced Owner, LLC and PM Phase 1C Owner LLC, is the owner of all of the private property adjacent to the Street Vacation Area and Easement Vacation Area; and

WHEREAS, The vacations are being carried out pursuant to the California Streets and Highways Code section 8300 *et seq*, and section 787 of the San Francisco Public Works Code; and

WHEREAS, The vacations of the Street Vacation Area and Easement Vacation Area do not deprive any private landowner of access to the built public street grid; and

WHEREAS, The public interest, convenience, and necessity require that the City reserve or acquire by separate agreement:

1. From the vacation of the Street Vacation Area, reserve a public right of way easement to continue public street and utility use, which easement shall automatically extinguish when the Director has issued notice of completion on replacement access and any public utilities serving the affected area, or earlier on recordation of a quitclaim deed (or other notice of termination) at the Director's discretion based on consultation with the affected City departments and utility providers., and
2. From the vacation of the Easement Vacation Area, obtain non-exclusive easements for the benefit of the SFPUC for any SFPUC utilities that are located under, in, upon, or over any portion of the Easement Vacation Area in which the SFPUC's in-place and functioning utilities are located, to the extent necessary to maintain, operate, repair, and remove existing sewer or water pipes and other convenient structures, equipment and fixtures for the operation of such utilities; provided, however, that such non-exclusive easements reserved would be automatically extinguished when alternative replacement facilities are completed to the satisfaction of the City Engineer and the Board of Supervisors accepts the facilities or earlier by quitclaim deed if the SFPUC General Manager determines that there are no functioning utilities within the relevant Easement Vacation Area; and

WHEREAS, The public interest, convenience, and necessity require that no other easements or other rights should be reserved by City for any public or private utilities or facilities that may be in place in

the Street Vacation Area or Easement Vacation Area and that any rights based upon any such public or private utilities or facilities are unnecessary and should be extinguished; and

WHEREAS, no portion of the Street Vacation Area should be vacated until these conditions are satisfied:

1. The City shall reserve a public right of way easement as described above, and
2. Project Sponsor shall provide an irrevocable offer of dedication to the City in form substantially similar to that provided in Exhibit L of the Development Agreement for all lands needed for construction of proposed improvements shown on the Street Improvement Permit for Subphase 1C of the Project. Subdivider shall make such irrevocable offers of dedication prior to City approval of the Final Subdivision Maps or issuance of a Street Improvement Permit for Subphase 1C of the Project, whichever is earlier. The offer of dedication shall be subject to the reservation of an easement in favor of Project Sponsor for all domestic water utilities and recycled water systems, within the dedicated area, which easement, as to the domestic water utilities, shall be extinguished upon completion of all Development Phases of the Project and formal acceptance of the domestic water utilities by the City, and, as to the recycled water systems, shall be extinguished upon completion of Development Phase 1 and formal acceptance of the recycled water systems by the City, all pursuant to the Development Agreement. The sum total of the square footage of the land proposed for dedication to the City shall be equal to or exceed the square footage of the Street Vacation Area, and
3. Project Sponsor shall provide Public Works with an acceptable Public Improvement Agreement ("PIA") pursuant to Section 1351 of the San Francisco Subdivision Code and the Subdivision Map Act for all improvements within the Final Map or required for development of the area shown in the Final Map prior to approval of a Final Map or issuance of a Street Improvement Permit for Subphase 1C of the Project, whichever is earlier. Such PIA shall address security provisions and provide interim easements or licenses via separate offer, such that the City can complete the improvements if Subdivider fails to do so, and
4. Where a future Development Phase of the Project (Development Phase 2 and onward) anticipates a future dedication of right of way adjacent to a street shown on a tentative map as being partially improved, PW shall require Project Sponsor, prior to submittal of a Final Map mylar for such future phase (Development Phase 2 and onward), but after acceptance and recordation of the quitclaim deeds for the Street Vacation Area contemplated by this ordinance, to record a Notice of Restrictions on those strips of land anticipated in such future phase to be dedicated for the ultimate street construction as agreed upon in the Development Agreement, subject to the review and approval of the City Attorney; and

WHEREAS, no portion of the Easement Vacation Area should be vacated until these conditions are satisfied:

1. The City shall obtain non-exclusive easements for the benefit of the SFPUC as described above, and
2. Project Sponsor shall provide Public Works with an acceptable PIA pursuant to Section 1351 of the San Francisco Subdivision Code and the Subdivision Map Act for all improvements within

the Final Map or required for development of the area shown in the Final Map prior to approval of a Final Map or issuance of a Street Improvement Permit for Subphase 1C of the Project. Such PIA shall address security provisions and provide interim easements or licenses via separate offer, such that the City can complete the improvements if the Subdivider fails to do so; and

WHEREAS, In accordance with Streets and Highways Code Section 892 and 8314, upon satisfaction of the conditions specified herein, the Street Vacation Area and Easement Vacation Area will no longer be necessary or useful as a nonmotorized transportation facility or any other present or prospective future public street, sidewalk, and public service easement purposes, because the Development Agreement requires the dedication and construction of an extensive street, bicycle path, pedestrian path, park, and trail system that is more extensive than the areas being vacated hereby and that is designed to integrate with existing built streets in the adjacent neighborhoods.

NOW THEREFORE BE IT ORDERED THAT,

The Director approves all of the following documents either attached hereto or referenced herein:

1. Ordinance to vacate the Street Vacation Area as shown on Department of Public Works drawings SUR 2022-003, SUR 2022-004, SUR 2022-005, SUR 2022-006, SUR 2022-007, and SUR 2022-008, and the Easement Vacation Area as shown on Department of Public Works drawings SUR 2022-009, SUR 2022-010, SUR 2022-011, SUR 2022-012, SUR 2022-013, SUR 2022-014, and SUR 2022-015.
2. Street Vacation Area SUR Map Nos. 2022-003, 2022-004, 2022-005, 2022-006, 2022-007, and 2022-008, dated June 14, 2022.
3. Easement Vacation Area SUR Map Nos. 2022-009, 2022-010, 2022-011, 2022-012, 2022-013, 2022-014, and 2022-015, dated June 14, 2022.

The Director recommends that the Board of Supervisors move forward with the legislation to vacate said Street Vacation Area and Easement Vacation Area, subject to the reservations described above, and to authorize the quitclaims, as described above.

The Director further recommends the Board of Supervisors authorize the Mayor, Clerk of the Board, Director of Property, SFPUC General Manager, County Surveyor, and Director of Public Works to take any and all actions which they or the City Attorney may deem necessary or advisable to effectuate the purpose and intent of said vacations.

RECOMMENDED:

APPROVED:

<div>X</div> <div>DocuSigned by: <i>William E Blackwell Jr</i></div> <div>Blackwell, William E Acting City and County Surveyor</div>	<div>X</div> <div>DocuSigned by: <i>Carla Short</i></div> <div>Short, Carla Interim Director of Public Works</div>
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