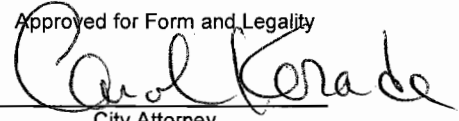


Introduced by

Councilmember

Approved for Form and Legality



City Attorney

OAKLAND CITY COUNCIL

Resolution No. 81673 C.M.S.

A RESOLUTION SUMMARILY VACATING A REMNANT PORTION OF THE PUBLIC RIGHT-OF-WAY ADJACENT TO 3207 MANDELA PARKWAY (FORMERLY BEACH STREET) AND AUTHORIZING ITS DISPOSAL AS SURPLUS PROPERTY

WHEREAS, the City of Oakland is the owner of the fee simple interest of a curved portion of public right-of-way formerly owned by Caltrans, which is located at the intersection of Mandela Parkway (formerly known as Beach Street) and 32nd Street and which adjoins along its westerly limit a privately owned lot identified by the Alameda County Assessor with parcel number 007-0599-003-02 and by the City of Oakland as 3207 Mandela Parkway, and which is more particularly described and delineated in *Exhibit A* attached hereto; and

WHEREAS, said portion of public right-of-way is approximately twelve (12) feet in width and two-hundred seventy-five (275) feet in length and three thousand three-hundred (3300) square feet in surface area (orthogonal planer projection) and is currently unpaved and not used as a roadway for vehicle or pedestrian purposes; and

WHEREAS, said portion of public right-of-way is also bounded on its northerly, westerly, and easterly limits by privately owned lots which are identified by the Alameda County Assessor as parcel numbers 007-0599-003-02, 007-0599-006-00, and 007-0599-009-00, as delineated in *Exhibit B* attached hereto; and

WHEREAS, said portion of public right-of-way was relinquished by Caltrans to the City of Oakland, recorded November 2, 1961, series no. AS136869, reel 444, beginning with image no. 880, by the Alameda County Recorder, and entered on Right-Of-Way Map No. 22030; and

WHEREAS, the current owner of said parcel at 3207 Mandela Parkway, Joseph O. Santini and Mortimer Properties LLC, a California limited liability company, has filed an application (PPE 08059) with the City Engineer of the City of Oakland, as required by the California Streets and Highways Code, and paid fees for administrative processing, as required by the City of Oakland Master Fee Schedule, requesting that the City vacate said portion of public right-of-way; and

WHEREAS, the Council of the City of Oakland previously vacated a former adjoining portion of public right-of-way, identified hereinabove as parcel number 007-0551-009-00, through ordinance no. 12384 C.M.S. on December 11, 2001; and

WHEREAS, Caltrans previously sold a former adjoining portion of public right-of-way, identified hereinabove as parcel number 007-0599-006-00, in 2002; and

WHEREAS, the City Engineer has determined that said portion of public right-of-way is insufficient with respect to location and adjacencies to accommodate a future expansion of the roadway for Mandela Parkway or 32nd Street; and

WHEREAS, the City Engineer has further determined that said portion of public right-of-way has been unmaintained by the City of Oakland as public right-of-way since it was relinquished to the City in 1961; and

WHEREAS, the City Engineer has further determined that said vacation will not diminish the current and future use and usable land area of the improved roadways of Mandela Parkway and 32nd Street; and

WHEREAS, pursuant to California Streets and Highways Code section 1805, the existing widths of Mandela Parkway and 32nd Street rights-of-way exceed the required width of forty (40) feet; and

WHEREAS, pursuant to California Streets and Highways Code section 8333, the legislative body of a local agency may summarily vacate public right-of-way when the right-of-way has not been used for the purpose for which it was dedicated for five (5) consecutive years immediately preceding the proposed vacation and there are no public utility facilities within the portion of right-of-way proposed for vacation; and

WHEREAS, pursuant to California Streets and Highways Code Section 892, a vacation of public right-of-way may not limit public use of or impede public access for non-motorized transportation; and

WHEREAS, the City Engineer has determined that no subsurface, surface, or above surface publicly maintained utilities are located within said portion of public right-of-way; and

WHEREAS, pursuant to said sections of the California Streets and Highways Code, the City Engineer has further determined the following:

- the proposed vacation will not limit public use or impede public access for non-motorized transportation; and
- the proposed vacation will not increase traffic and pedestrian inconvenience nor decrease traffic and pedestrian safety; and
- the proposed vacation may require a dedication of a public service easement for existing and future publicly maintained utilities; and that
- the proposed vacation does not require a dedication of a public service easement for access by emergency vehicles and personnel; and
- the portion of public right-of-way proposed for vacation has been impassable for vehicular and pedestrian traffic for not less than five (5) of the preceding years, and no public money has been expended for maintenance during this period of time; and, therefore,
- said portion of public right-of-way may be vacated summarily by Resolution of the Council of the City of Oakland, at the option of its elected members; and

WHEREAS, pursuant to California Government Code Section 65402, the Secretary of the Planning Commission of the City of Oakland has determined the proposed vacation conforms with the adopted General Plan of the City of Oakland; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA), the Guidelines as prescribed by the Secretary of Resources, and the provisions of the Statement of Objectives, Criteria and Procedures for Implementation of the California Environmental Quality Act: City of Oakland, have been satisfied, and that in accordance with CEQA Guidelines Section 15301 (existing facilities) this project is categorically exempted; now, therefore, be it

RESOLVED: That the action of the Council of the City of Oakland approving the summary vacation of said portion of the public right-of-way complies with the California Environmental Quality Act; and be it

FURTHER RESOLVED: That the summary vacation of said portion of the public right-of-way, as described and delineated in the attached *Exhibit A*, is hereby ordered; and be it

FURTHER RESOLVED: That the City of Oakland hereby retains ownership of the fee simple interest of said vacated portion of public right-of-way; and be it

FURTHER RESOLVED: That said vacated portion of public right-of-way may be disposed as surplus City-owned property at some future date at the discretion of the Manager of Real Estate of the City of Oakland; and

FURTHER RESOLVED: That the City of Oakland hereby retains a right in the event said disposal of as surplus property is completed to preserve a subsurface, surface, and overhead public service easement across the full width and along the full length, or portion thereof, of said vacated portion of public right-of-way for the installation, repair, replacement, and removal of and access to publicly maintained utilities; and be it

FURTHER RESOLVED: That, pursuant to California Streets and Highways Code Section 8336, said vacation shall not be complete unless and until this Resolution has been filed with and recorded by the Alameda County Recorder.

IN COUNCIL, OAKLAND, CALIFORNIA, NOV 18 2008, 2008

PASSED BY THE FOLLOWING VOTE:

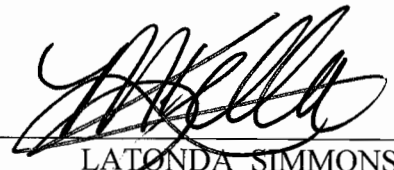
AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, ~~ROSS~~, AND
PRESIDENT DE LA FUENTE - 7

NOES - 0

ABSENT - Reid - 1

ABSTENTION - 0

ATTEST:


LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California