

RESOLUTION NUMBER R- 301706

DATE OF FINAL PASSAGE JUL 25 2006

WHEREAS, California Streets and Highways Code section 8333(a) and San Diego Municipal Code section 125.1040 provide that Council may summarily vacate a public use easement where the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and

WHEREAS, sewer, water, drainage and public utilities easements in Lot 14 and that portion of Lot 15 in Block C of Villa Lots 165 to 184 inclusive, Normal Heights, according to Map No. 1157 has not been used for their stated purpose for the past five years; and

WHEREAS, the affected property owner has requested the vacation of sewer, water, drainage and public utilities easements in Lot 14 and that portion of Lot 15 in Block C of Villa Lots 165 to 184 inclusive, Normal Heights, according to Map No. 1157 to unencumber this property; 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 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;

WHEREAS, on January 26, 2006, the Planning Commission of the City of San Diego considered Map Waiver No. 218127, and pursuant to Resolution No. 3940-PC voted to recommend City Council denial of the easement vacation; and

WHEREAS, the matter was set for public hearing on JUL 25 2006, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Public Rights-of-Way Vacation Permit No. 218127:

A. **PUBLIC SERVICE EASEMENT VACATION APPROVAL FINDINGS – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 125.1040:**

1. **There is no present or prospective use for said easements either for which they were originally acquired, or for any other public use of a like nature that can be anticipated.** The easements proposed to be vacated do not currently contain public facilities nor are any public facilities planned for which the easements. All facilities required to serve the property are located within the existing Alexia Place right-of-way.

2. **The public will benefit from the vacations through improved utilization of land made available by the abandonment.** The property owner would benefit from the vacation by the reversion of the dedicated easements back to private ownership. Additionally, allowing the vacation of these unused easements, which is not needed or planned for improvement, would reduce City liability.

3. **The abandonment is consistent with any applicable land use plans.** The zoning designation and Uptown Community Land Use Plan allow for residential development on the subject site. The site is currently developed with four residential units that conform with the requirements that were in effect at the time of construction. Allowing the reversion of these unused and unneeded easements back to private ownership would not alter the existing residential land uses on this site.

4. **The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the abandonment or the purpose for which the easement was acquired no longer exists.** The easements proposed to be vacated do not currently contain public facilities nor are any public facilities planned for which the easements. All facilities required to serve the property are located within the existing Alexia Place right-of-way.

BE IT FURTHER RESOLVED, as follows:

1. That the sewer, water, drainage and public utility easements easement located in Lot 14 and that portion of Lot 15 in Block C of Villa Lots 165 to 184 inclusive, Normal Heights,

according to Map No. 1157, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20445-B, marked as Exhibit "B," and on file in the office of the City Clerk as Document Nos. RR-301706-1, and RR-301706-2, which are by this reference incorporated herein and made a part hereof, is ordered vacated.

2. That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the office of the County Recorder.

BE IT FURTHER RESOLVED, that this activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; thus, the activity is not subject to CEQA pursuant to Section 15060(c)(2) of the State CEQA Guidelines.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Peter A. Mesich
Peter A. Mesich
Deputy City Attorney

SMT:pev:PM:cfq
07/06/06
07/20/06 **COR.COPY**
Or.Dept:DSD
R-2006-1148
MMS #3449
EASEMENT AABANDONMENT&STREET VACATIONS - Summary Vacation 11-01-04

EXHIBIT 'A'
LEGAL DESCRIPTION
FOR
SEWER, WATER & DRAINAGE EASEMENTS VACATION

BEING PORTIONS OF LOT 14 AND THAT PORTION OF LOT 15 IN BLOCK "C" OF SUBDIVISION OF VILLA LOTS 165 TO 184 INCLUSIVE, NORMAL HEIGHTS, ACCORDING TO MAP THEREOF NO. 1157, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, DECEMBER 10, 1908, LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE POINT OF INTERSECTION OF THE ARC OF A 139.52 FOOT RADIUS CURVE IN THE WESTERLY BOUNDARY OF SAID LOT 15 WITH A LINE DRAWN PARALLEL WITH AND 69 FEET SOUTHERLY, AT RIGHT ANGLES, FROM THE NORTHERLY LINE OF SAID LOT 15; THENCE ALONG SAID BOUNDARY NORTHERLY ALONG SAID CURVE 60 FEET THROUGH AND ANGLE OF 24°38'20" TO THE TRUE POINT OF BEGINNING; THENCE EASTERLY ALONG A DIRECT LINE TO THE MOST EASTERLY CORNER OF SAID LOT 15, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL "A"

ALL OF THAT CERTAIN EASEMENT GRANTED TO THE CITY OF SAN DIEGO FOR PUBLIC SEWER AND INCIDENTAL PURPOSES RECORDED MARCH 4, 1936 IN BOOK 472, PAGE 430 OF OFFICIAL RECORDS.

PARCEL "B"

ALL OF THAT CERTAIN EASEMENT GRANTED TO THE CITY OF SAN DIEGO FOR PUBLIC SEWER AND INCIDENTAL PURPOSES RECORDED DECEMBER 3, 1936 IN BOOK 590, PAGE 386 OF OFFICIAL RECORDS.

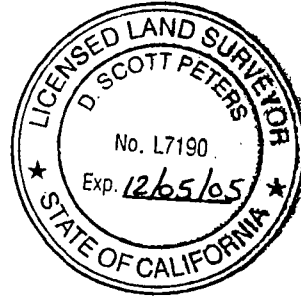
PARCEL "C"

THAT PORTION OF THAT CERTAIN EASEMENT GRANTED TO THE CITY OF SAN DIEGO FOR PUBLIC SEWER AND INCIDENTAL PURPOSES RECORDED MARCH 4, 1936 IN BOOK 474, PAGE 347 OF OFFICIAL RECORDS, LYING WITHIN THE LANDS DESCRIBED ABOVE.

RR-
DOCUMENT NO. 301706-1
FILED JUL 25 2006
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

PARCEL "D"

THAT PORTION OF THAT CERTAIN EASEMENT GRANTED TO THE CITY OF SAN DIEGO FOR SEWER, WATER, DRAINAGE AND PUBLIC UTILITIES AND INCIDENTAL PURPOSES RECORDED SEPTEMBER 25, 1957 IN BOOK 6762, PAGE 543 OF OFFICIAL RECORDS, LYING WITHIN THE LANDS DESCRIBED ABOVE.





DONALD SCOTT PETERS

12/05/05
DATE

LS 7190
EXPIRATION DATE 12/31/05

PTS NO. 70573
J.O. NO. 424437
DWG NO. 20445-B

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



ASSESSOR'S PARCEL NO.

440-430-04

REFERENCE DRAWINGS

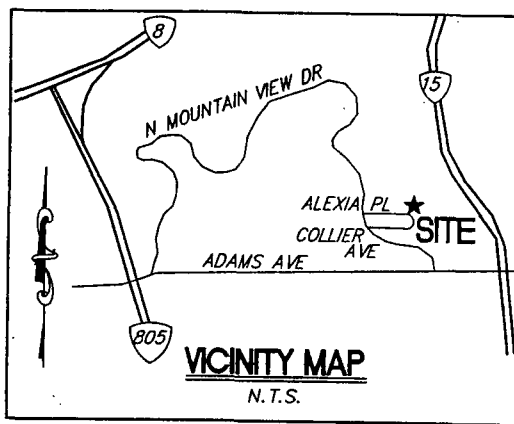
12924-D, MAP 1157, ROS 4503

LEGEND

- A**  INDICATES EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC SEWER AND INCIDENTAL PURPOSES RECORDED MARCH 4, 1936 IN BOOK 472, PAGE 430 OF OFFICIAL RECORDS.
PARCEL A: AREA = 2,128 SQ. FT. (0.049 ACRE) VACATED
- A B**  INDICATES EASEMENTS TO THE CITY OF SAN DIEGO FOR PUBLIC SEWER AND INCIDENTAL PURPOSES RECORDED MARCH 4, 1936 IN BOOK 472, PAGE 430 AND DECEMBER 3, 1936 IN BOOK 590, PAGE 386 OF OFFICIAL RECORDS.
PARCEL B: AREA = 516 SQ. FT. (0.012 ACRE) VACATED
- C**  INDICATES EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC SEWER AND INCIDENTAL PURPOSES RECORDED MARCH 4, 1936 IN BOOK 474, PAGE 347 OF OFFICIAL RECORDS.
PARCEL C: AREA = 47 SQ. FT. (0.001 ACRE) VACATED
- D**  INDICATES EASEMENT TO THE CITY OF SAN DIEGO FOR SEWER, WATER, DRAINAGE AND PUBLIC UTILITIES AND INCIDENTAL PURPOSES RECORDED SEPTEMBER 25, 1957 IN BOOK 6762, PAGE 544 OF OFFICIAL RECORDS.
PARCEL D: AREA = 3,376 SQ. FT. (0.078 ACRE) VACATED
- E**  INDICATES EASEMENT TO THE CITY OF SAN DIEGO FOR PUBLIC SEWER OR SEWERS, AND INCIDENTAL PURPOSES RECORDED AUGUST 19, 1969 AS INSTRUMENT NO. 151676 OF OFFICIAL RECORDS. EASEMENT NOT VACATED.
PARCEL E: AREA = 3,376 SQ. FT. (0.078 ACRE) NOT VACATED

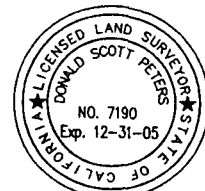
P.O.B. INDICATES POINT OF BEGINNING

T.P.O.B. INDICATES TRUE POINT OF BEGINNING



RR-301706-2
DOCUMENT NO. 301706-2

FILED JUL 25 2006
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA



Donald Scott Peters 12/05/05
DONALD SCOTT PETERS L.S. 7190 DATE
MY REGISTRATION EXPIRES 12/31/05

Sterling Sand Services, Inc.
2607 First Avenue San Diego, CA 92103
phone: 619-546-6165 fax: 619-546-6164

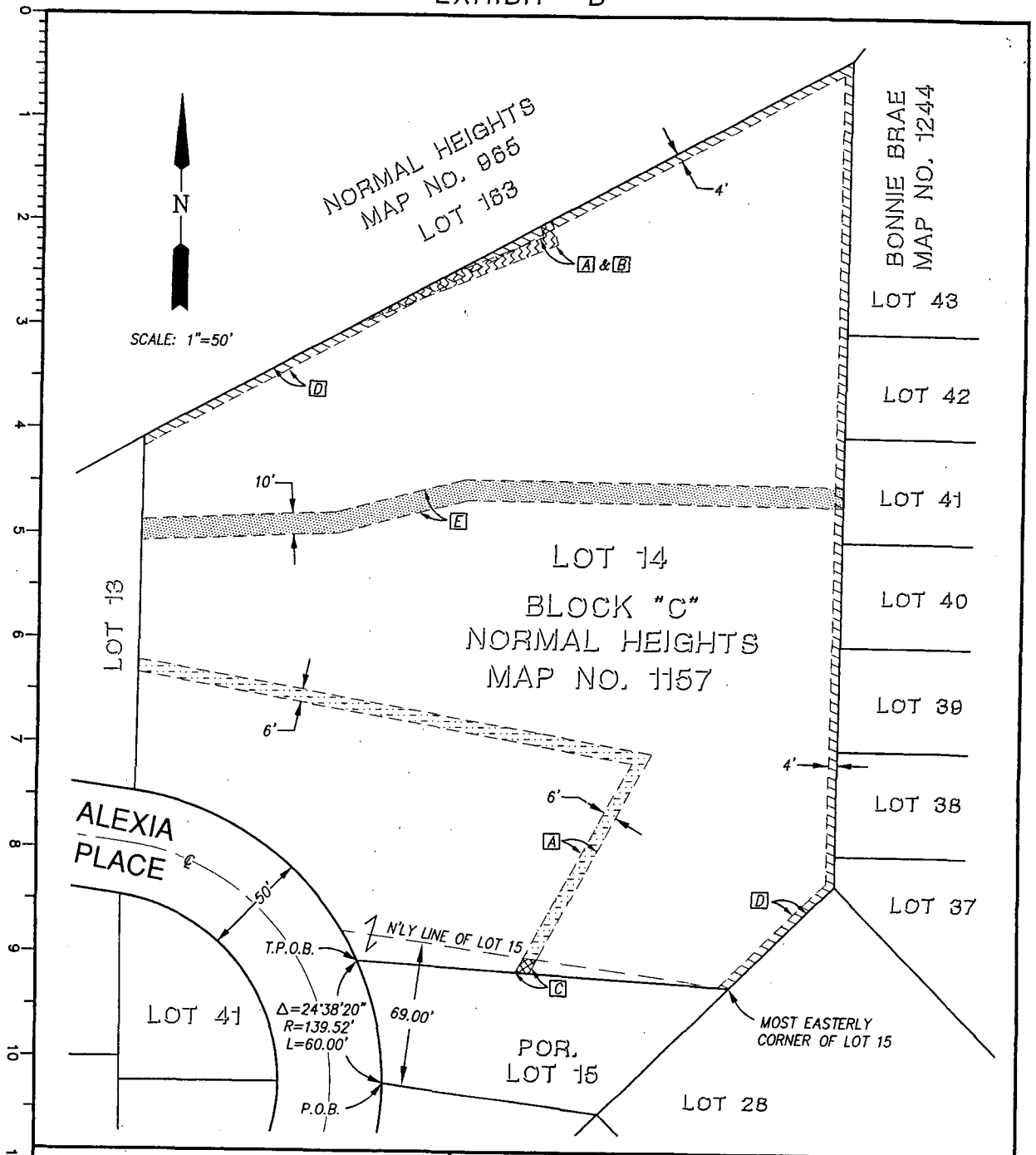
SEWER, WATER, DRAINAGE AND PUBLIC UTILITIES EASEMENTS VACATION

IN LOTS 14 AND 15
OF MAP NO. 1157

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	
ORIGINAL	SLS				SHEET 1 OF 2 SHEETS	
	AEA		1-9-06		<i>Scott Peters</i> FOR CITY ENGINEER	1/10/06 DATE
						PTS # 70573
						J.O. NO. 424437
						CCS 1859-6296
						219-1735
						LAMBERT COORDINATES
						20445-1-B

R-301706

EXHIBIT "B"



Sterling
Land
Services, Inc.

2607 First Avenue San Diego, CA 92103
phone: 619-546-6165 fax: 619-546-6164

SEWER, WATER, DRAINAGE AND PUBLIC UTILITIES EASEMENTS VACATION

IN LOTS 14 AND 15 OF MAP NO. 1157

DESCRIPTION	BY	APPROVED	DATE	FILMED
ORIGINAL	SLS			
	AEA		1906	

CITY OF SAN DIEGO, CALIFORNIA

SHEET 2 OF 2 SHEETS

Lu Heman 1/10/06
FOR CITY ENGINEER DATE

PTS # 70573
J.O. NO. 424437
CCS 1859-6296
219-1735
LAMBERT COORDINATES
20445-2-B

R-301706

Passed by the Council of The City of San Diego on JUL 25 2006, by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Scott Peters	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Toni Atkins	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Anthony Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Brian Maienschein	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Donna Frye	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Madaffer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ben Hueso	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 25 2006.

AUTHENTICATED BY:

(Seal)

JERRY SANDERS

Mayor of The City of San Diego, California.

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By *Mary-Cecilia*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number

R-301706