

RESOLUTION NUMBER R- 301785
DATE OF FINAL PASSAGE JUL 31 2006

WHEREAS, applicant seeks to vacate a portion of the undeveloped Third Avenue right-of-way located between Redwood Street and Quince Street to unencumber his property and aid in the development of such property; and

WHEREAS, California Streets and Highways Code section 8333(a) and San Diego Municipal Code section 125.0910(b)(3) provide that Council may summarily vacate a public right-of way where the right-of-way contains public utility facilities that would not be affected by the vacation, the right-of-way has been impassable for vehicular travel for a period of five years, and public funds have not been expended for maintenance of the public right-of-way during the five year period; and

WHEREAS, the public right-of-way contains facilities that will not be affected by the vacation, it has been impassable for vehicular travel for a period of five years, and public funds have not been expended for the maintenance of the right-of-way during the five year period, and

WHEREAS, on January 26, 2006, the Planning Commission of the City of San Diego considered Public Right-of-Way Vacation No. 143422, and pursuant to Resolution No. 3941-1-PC recommended City Council approval of the Public Right-of-Way Vacation, 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; and

WHEREAS, the matter was set for public hearing on JUL 31 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 Right-of-Way Vacation No. 143422:

A. PUBLIC RIGHT-OF-WAY VACATION – SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 125.0941:

1. There is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated. The portion of the public right-of-way proposed to be vacated has never been utilized as a street and would not provide a logical connection to any other street or property due to the extreme topography of the site and location of open space lands. The portion of the right-of-way that would remain would allow the necessary access to the parking areas of the adjacent properties. Therefore, it is not anticipated that the portion of the right-of-way proposed to be vacated would provide a public use of similar nature.

2. The public will benefit from the action through improvised use of the land made available by vacation. The property owner would benefit from the vacation by the reversion of the dedicated easements back to private ownership. Additionally, allowing the vacation of this portion of right-of-way, which is not needed or planned for improvement, would reduce City liability.

3. The vacation does not adversely affect any applicable land use plan. The project site is developed with five multi-family units, which is consistent with the zoning and Community Plan land use designation for the site. The area of proposed vacation which is located adjacent to the project site is currently developed with the parking area for this project. The proposed vacation would not alter this layout and the multi-family use would remain, consistent with the zoning and land use plan. The area of vacation located south of the project site is City-owned open space. The area proposed for vacation adjacent to this area would be added to the City-owned open space.

4. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation. The portion of the public right-of-way proposed to be vacated has never been utilized as a street and would not provide a logical connection to any other street or property due to the extreme topography of the site and location of open space lands. The portion of the right-of-way that would remain would allow the

necessary access to the parking areas of the adjacent properties. Therefore, it is not anticipated that the portion of the right-of-way proposed to be vacated would provide a public use of similar nature.

BE IT FURTHER RESOLVED, as follows:

1. That a portion of the undeveloped Third Avenue right-of-way, located between Redwood Street and Quince Street, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20347-B, marked as Exhibit "B," and on file in the office of the City Clerk as Document Nos. RR-301785-1, and RR-301785-2, which are by this reference incorporated herein and made a part hereof, is ordered vacated, reserving therefrom an easement for general utility and emergency access together with ingress and egress for that purpose

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 Mesich
Deputy City Attorney

SMT·PM:pev·cfq
06/30/06
Or.Dept·DSD
R-2006-1144
MMS #3447
EASEMENT AABANDONMENT&STREET VACATIONS - Summary Vacation 11-01-04


 301785

EXHIBIT "A"

LEGAL DESCRIPTION
STREET VACATION - PORTION THIRD AVENUE,
WITH GENERAL UTILITY ACCESS EASEMENT AND SLOPE EASEMENT RESERVED

THAT PORTION OF THIRD AVENUE BETWEEN REDWOOD STREET AND QUINCE STREET AS DEDICATED FOR PUBLIC USE PER HORTON'S ADDITION, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY L.L. LOCKING ON FILE IN THE OFFICE OF THE RECORDER OF SAID SAN DIEGO COUNTY.

PARCEL "A" - STREET VACATION

THE EASTERLY THIRTY-FIVE FEET (35') OF THIRD AVENUE BETWEEN THE CENTERLINE PROLONGATION OF REDWOOD STREET AND THE NORTHELY RIGHT OF WAY LINE OF QUINCE STREET, ADJACENT TO LOTS "A" THROUGH "F", BLOCK 353 OF HORTON'S ADDITION AND WESTERLY OF A PORTION OF REDWOOD STREET CLOSED AND VACATED PER RESOLUTION NO. 189406 ADOPTED 1-24-67 (DWG. NO. 11138-B).

AREA OF STREET VACATION: 0.273 ACRE, MORE OR LESS

PARCEL "B" - RESERVATION

THE SOUTHERLY TWO HUNDRED FEET (200') OF THE EASTERLY THIRTY-FIVE (35') OF THIRD AVENUE BETWEEN REDWOOD STREET AND QUINCE STREET, ADJACENT TO LOTS "A" THROUGH "F", BLOCK 353 OF HORTON'S ADDITION.

AREA OF GENERAL UTILITY AND ACCESS EASEMENT AND SLOPE EASEMENT RESERVATION: 0.161 ACRE, MORE OR LESS

Karl F. Cebbe 1-18-06
KARL F. CEBBE,
REGISTRATION EXPIRES 6-30-2006



W.O. NO. 422645
P T.S. 33105
DWG. NO. 20347-B

DOCUMENT NO. RR 301785 -1
FILED JUL 31 2006
OFFICE OF THE CITY CLERK
SAN DIEGO CALIFORNIA

R 301785