

(B) 333
(R-2007-731) 2/20/07

RESOLUTION NUMBER R- 302377

DATE OF FINAL PASSAGE FEB 20 2007

WHEREAS, California Streets and Highways Code section 8330 et seq. and San Diego Municipal Code section 125.0140 provide a procedure for the summary vacation of a public use easement by City Council resolution 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, the sewer easement in Lot 29 and the northern half of Lot 28 in Block Two of Alhambra Park Addition, according to Map No. 1488 has not been used for its stated purpose for the past five years; and

WHEREAS, the affected property owner has requested the vacation of the sewer easement in Lot 29 and the northern half of Lot 28 in Block Two of Alhambra Park Addition, according to Map No. 1488, 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; and

WHEREAS, on December 14, 2006, the Planning Commission of the City of San Diego considered Tentative Map No. 403494 and Easement Vacation No. 380216, and pursuant to Resolution No. 4193-PC voted to recommend City Council approval of Tentative Map No. 403494 and Easement Vacation No. 380216; and

WHEREAS, the matter was set for public hearing on FEB 20 2007, 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 No. 380216:

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 sewer facilities nor are any other public facilities planned for the easement. All sewer facilities required to serve the property are located within the existing alley right-of-way at the rear of the property.

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 easement back to private ownership. Additionally, allowing the vacation of this unused easement, 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 Mid-City Communities Land Use Plan allow for residential development on the subject site. The site is currently developed with two residential units that conform with the requirements that were in effect at the time of construction. Allowing the reversion of this 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 easement proposed to be vacated does not currently contain sewer or public facilities nor are any public facilities planned for the easement. All sewer facilities required to serve the property are located within the existing alley right-of-way at the rear of the property.

BE IT FURTHER RESOLVED, as follows:

1. That the sewer easement located in Lot 29 and the northern half of Lot 28 in Block Two of Alhambra Park Addition, according to Map No. 1488, as more particularly described in the legal description marked as Exhibit "A," and on file in the office of the City Clerk as


Document No. RR-302377, which is 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 the California Environmental Quality Act [CEQA] pursuant to Section 15060(c)(2) of the State CEQA Guidelines.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Shirley R. Edwards
Chief Deputy City Attorney

SRE:pev

01/26/07

Or-Dept:DSD

R-2007-731

MM# #4293

EASEMENT AABANDONMENT&STREET VACATIONS - Summary Vacation 11-01-04

Exhibit A

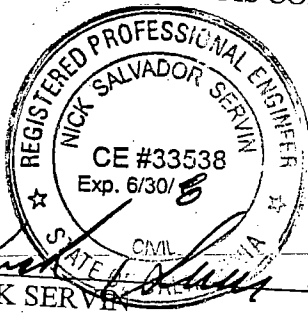
Legal Description

Easement to be Vacated, legal description:

THE WEST 20.00 FEET OF LOT 29 AND THE NORTH HALF OF LOT 28 IN BLOCK TWO OF ALHAMBRA PARK ADDITION, IN THE CITY OF SAN DIEGO, COUNTY SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF NO. 1488, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 4, 1912. SAID AREA DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH WEST CORNER OF SAID LOT 29, ALSO BEING THE POINT OF BEGINNING; THENCE SOUTH 89°00'59" EAST 20.00 FEET, TO A POINT ALONG THE NORTHERLY LINE OF SAID LOT 29;
THENCE SOUTH 00°54'21" EAST TO A POINT;
THENCE NORTH 89°00'59" WEST TO THE WESTERLY LINE OF LOT 28 ALSO BEING THE SOUTH WEST CORNER OF SAID DESCRIPTION ABOVE;
THENCE NORTH 00°54'21" EAST TO THE POINT OF BEGINNING.

ABOVE DESCRIBED AREA IS COMPRISED OF 750.00 SQUARE FEET (0.02 ACRE).



BY:

Nick Servin
NICK SERVIN
PE 33538
EXPIRES 6/30/2008

DATE: October 16, 2006

DOCUMENT NO. 302377
FILED FEB 20 2007
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA