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RESOLUTION NUMBER R- 303542

DATE OF FINAL PASSAGE APR 01 2008

WHEREAS, California Streets and Highways Code section 8300 et seq. provides a procedure for the summary vacation of easements by City Council resolution where the easement is no longer required; and

WHEREAS, under San Diego Municipal Code section 125.0910(b), a public right-of-way may be summarily vacated if it does not contain public utility facilities, does not contain active public utility facilities, or contains public utility facilities that would not be affected by the vacation and if the public right-of-way, or portion of the public right-of-way, is excess public right-of-way and is not required for street or highway purposes; and

WHEREAS, under San Diego Municipal Code section 125.0940, a summary vacation of a public right-of-way pursuant to Section 125.0910(b) does not require a Resolution of Intention as specified in Section 125.0940(b) or a recommendation by the Planning Commission; and

WHEREAS, in 1958 the City of San Diego acquired a 6,415 square foot parcel of land which is part of the now abandoned Fay Avenue Expansion Project in La Jolla; and

WHEREAS, as part of the acceptance of the property, the northwest corner of the parcel was inadvertently dedicated for street purposes for Fay Avenue; and

WHEREAS, in May of 2007, the City Council approved Resolution R-302642 which identified this parcel as excess to the City's needs and approved it's sale; and

WHEREAS, the City of San Diego desires to summarily vacate the public right-of-way easement along that portion of the Southerly Half of Lot 1 in Block "D" of STARKEY'S

PROSPECT PARK in the La Jolla Community Plan, in the City of San Diego, to unencumber this property to allow for the sale of this excess parcel;

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter required the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the Council was required by law to consider evidence at the hearing and make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

(a) There is no present or prospective 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; and

(b) The public will benefit from the action through improved use of land made available by the vacation; and

(c) The vacation does not adversely affect any applicable land use plan, and is consistent with the General Plan and approved Community Plan; and

(d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by this vacation.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego that the public right-of-way easement located within that portion of the Southerly Half of Lot 1 in Block "D" of STARKEY'S PROSPECT PARK, as more particularly described in the legal description marked as Exhibit "A," and shown as marked as Exhibit "B," and on file in the office of the City Clerk

as Document Nos. RR- 303542-1 , and RR- 303542-2 , which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED that the Department of Real Estate Assets shall cause a certified copy of this resolution, with attached exhibits, attested by the clerk under seal, to be recorded in the office of the County Recorder.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Rachel C. Lipsky
Rachel C. Lipsky
Deputy City Attorney

RL:mm
March 17, 2008
Or.Dept:DSD
R-2008-776
MMS #5999

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 01 2008.

ELIZABETH S. MALAND
City Clerk

By Mary Zumaya
Deputy City Clerk

EXHIBIT "A"

That portion of the Southerly Half of Lot 1 in Block "D" of STARKEY'S PROSPECT PARK, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1729, filed in the office of the County Recorder of San Diego County, May 6, 1922, lying Northerly of the following described line:

Beginning at the most Southerly corner of said Lot 1; thence North $14^{\circ}52'$ West along the southwesterly line of said lot 40.00 feet to the TRUE POINT OF BEGINNING of the herein described line; thence North $24^{\circ}54'29''$ East 93.78 feet to a point on the northeasterly line of said Lot 1, distant thereon North $14^{\circ}52'$ West 112.00 feet from the most Easterly corner of said Lot 1.

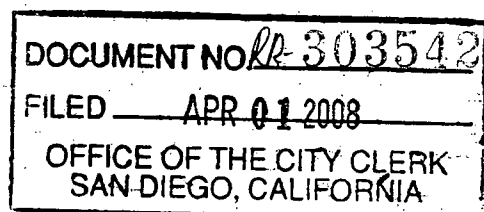


EXHIBIT "B"



SUBJECT

NAUTILUS ST

BOVAIR VILLAGE



20080310 RR-303542

FILED APR 01 2008
OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

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