

RESOLUTION NUMBER R- 303792

DATE OF FINAL PASSAGE MAY 27 2008

WHEREAS, California Streets and Highways Code section 8300 et seq., including sections 8330, 8340 and 8350, and San Diego Municipal Code section 125.0910, in conjunction with the findings of Section 125.0941, provide a procedure for the summary vacation of a public right-of-way by City Council resolution; and

WHEREAS, the Applicant Ted and Virginia Newman Living Trust [Applicant] are the owners of Lots 9, 10, 11, 12, 13, 14 and 15 of the Schulz's Addition to San Ysidro, located adjacent to Bolton Hall Road, as found on Map No. 1758, and the owners of a portion of Boundary Tract, as shown on Map No. 1690, as more particularly shown on the Parcel Map identified as PTS No. 115857, marked as Exhibit "A," [collectively, the Subject Property]; and

WHEREAS, the Applicant, as the affected property owner, has requested vacation of two public rights-of-way [collectively, the Public Rights-of-Way to be Vacated or Public Right-of-Way Vacations] comprising a 130-foot long portion of Bolton Hall Road containing approximately 5,200 square feet and an unimproved alley which is connected or adjacent to Bolton Hall Road and which is approximately 80 feet long and contains approximately 1,200 square feet. Bolton Hall Road is west of Border Village Drive and the alley is adjacent to Lots 11, 12, 13, and 15 of the Schulz Addition San Ysidro, as shown on Map No. 1758, and as more particularly shown on the Parcel Map identified as PTS No. 115857, marked as Exhibit "A," and on file in the office of the City Clerk as Document No. RR-303792 and

WHEREAS, these portions of the public rights-of-way are excess public rights-of-way and are not required for street or highway purposes; and

WHEREAS, the Applicant has also requested a lot consolidation and lot line adjustment to consolidate ten parcels adjacent to Bolton Hall Road into three parcels, including consolidation of portions of Lots 9, 10, 11, 12, 13, and 14 of Schulz's Addition to San Ysidro, as shown on Map No. 1758, and a portion of Boundary Tract, as shown on Map No. 1690, as more particularly shown on the Parcel Map identified as PTS No. 115857, marked as Exhibit "A," and on file in the office of the City Clerk as Document No. RR- 303792 and

WHEREAS, although the Public Rights-of-Way to be Vacated do contain public utility facilities and public utility easements, said facilities, uses or public works are not affected by these Public Right-of-Way Vacations because of certain reservation of rights expressed herein; and

WHEREAS, in connection with these Public Right-of-Way Vacations, the City desires and shall by this Resolution reserve to itself certain public utility easements and rights located or to be located in, under, over, upon, along and across the Public Rights-of Way to be Vacated, as more full described herein below; and

WHEREAS, the City of San Diego hereby reserves and excepts, from these vacations described herein, the right, easement, and privilege of placing, constructing, repairing, replacing, maintaining, using, and operating public utilities of any kind or nature, and appurtenant structures thereto, including, but not limited to, general utilities and all necessary and proper fixtures and equipment for use in connection therewith, in, through, over, under, upon, along, and across the Public Rights-of-Way to be Vacated, together with the right of ingress thereto and egress there from, together with the right to maintain the public utility easements free and clear of any excavation or fills, the erection or construction of any building or other structures, the planting of any tree or trees thereon, or the drilling or digging of any well or wells thereon,

together with the right to otherwise protect from all hazards the operation and use of any right hereby reserved. If the owner of the underlying fee obtains approval for an encroachment permit from the City Engineer pursuant to the San Diego Municipal Code, then the owners of the underlying fee may utilize the Subject Property for structures, the planting or growing of trees or the installation of privately owned pipelines; and

WHEREAS, the City of San Diego hereby reserves and excepts, from these vacations described herein, the easements and rights of any public utility pursuant to any existing franchise or renewals thereof, at any time, or from time to time, to construct, maintain, operate, replace, remove, renew, and enlarge overhead or underground lines of pipe, conduits, cables, wires, poles, and other structures, equipment, and fixtures for the transportation and distribution of electrical or electronic energy and natural gas, and the transportation and distribution of communication signals and for incidental purposes including access to protect these public works from all hazards in, upon, over, and across the Public Rights-of-Way to be Vacated; and

WHEREAS, granting of these Public Right-of-Way Vacations does not free the Subject Property from any other easements for vehicular or nonvehicular trail use that the City had previously transferred or granted to the state or other public agency nor does it affect any existing private easements or other rights of a person (including, but not limited to, a public utility, the state, a public corporation, or a political subdivision, other than the City) in, to, or over the Subject Property, regardless of the manner in which the private easement or other right was acquired; 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 MAY 27 2008, 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 Nos. 550438 :

1. There is no present or prospective public use for these public rights-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 in that this portion of the street is not needed for road purposes.
2. The public will benefit from the action through improved use of the land made available by these vacations.
3. These vacations do not adversely affect any applicable land use plan and are consistent with the General Plan and approved Community Plan.
4. The public street system and the other public purposes for which these public rights-of-way were originally acquired will not be detrimentally affected by these vacations.
5. Public convenience and necessity require the City to make certain reservations and exceptions from these vacations as fully described herein in order to maintain, operate, replace, remove, renew or construct public utilities.

BE IT FURTHER RESOLVED, as follows:

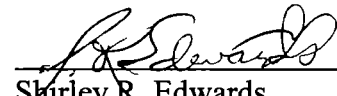
1. That these Public Rights-of-Way to be Vacated, more particularly described in the legal description marked as Exhibit "A," and on file in the office of the City Clerk as Document Nos. RR-303792 are ordered vacated as conditioned herein.

2. That these vacations ordered by this Resolution shall not become effective unless and until the Parcel Map has been approved by City Council action and recorded in the office of the County Recorder by the City Clerk.

2. That the City Clerk shall cause a certified copy of this Resolution, with attached exhibits, attested by her under seal, to be recorded in the office of the County Recorder upon the approval of the Parcel Pam by City Council.

BE IT FURTHER RESOLVED, that this activity is exempt from the California Environmental Quality Act [CEQA] pursuant to Section 15378 of the State CEQA Guidelines.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 

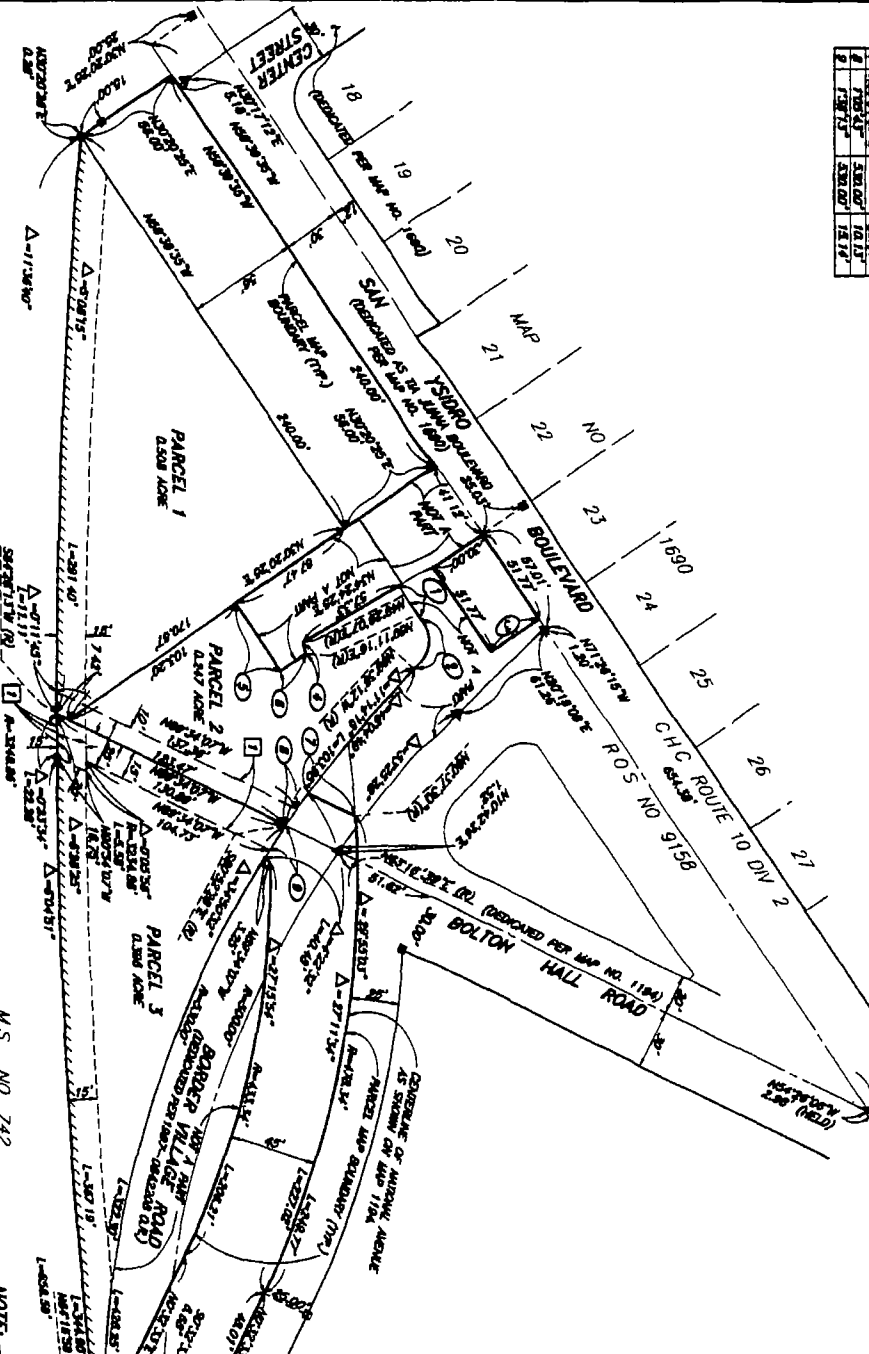
Shirley R. Edwards
Chief Deputy City Attorney

SRE:pev
05/12/08
Or.Dept:DSD
R-2008-1050
MMS #6186

PARCEL MAP NO.

SHEET 4 OF 4 SHEETS

NO.	DESCRIPTION	LENGTH
1	ADJACENT	18.67'
2	ADJACENT	22.62'
3	ADJACENT	30.00'
4	ADJACENT	48.34'
5	ADJACENT	41.18'
6	ADJACENT	15.77'
7	ADJACENT	38.81'
8	ADJACENT	10.13'
9	ADJACENT	14.14'



NOTE:
LEAD AND DEG. WERE L.S. DATA SHOWN TO BE SET AT THE CORNER TO THE ADJACENT PROPERTY. THE SETTING WAS NOT SET. SURVEYOR'S KNOWLEDGE ONLY AT HIS CORNER.

NOTE:
LEAD AND DEG. TO BE SET ON AN OBJECT OF 7' DIA. IN THE SUBMARK. THE SETTING WAS NOT SET. SURVEYOR'S KNOWLEDGE ONLY AT HIS CORNER.

NOTE:
LEAD AND DEG. TO BE SET ON AN OBJECT OF 7' DIA. IN THE SUBMARK. THE SETTING WAS NOT SET. SURVEYOR'S KNOWLEDGE ONLY AT HIS CORNER.

NOTE:
LEAD AND DEG. TO BE SET ON AN OBJECT OF 7' DIA. IN THE SUBMARK. THE SETTING WAS NOT SET. SURVEYOR'S KNOWLEDGE ONLY AT HIS CORNER.

NOTE:
LEAD AND DEG. TO BE SET ON AN OBJECT OF 7' DIA. IN THE SUBMARK. THE SETTING WAS NOT SET. SURVEYOR'S KNOWLEDGE ONLY AT HIS CORNER.

LEGEND
 PARCEL MAP BOUNDARY
 ACCESS RIGHTS NOT ACQUIRED PER DOCUMENT RECORDED JUNE 11, 1971 AS INSTRUMENT NO. 123107 O.R.
 DOCUMENT RECORDED AUGUST 4, 1941 BOOK 7944 PAGE 115 O.R. DOCUMENT RECORDED APRIL 7, 1972 AS INSTRUMENT NO. 82516 O.R. AND DOCUMENT RECORDED APRIL 17, 1972 AS INSTRUMENT NO. 1022-94167 O.R.
 FOUND LEAD AND CITY ENGINEER WHO PER R.O.S. 19851 (UNLESS NOTED OTHERWISE)
 FOUND STATIONED STREET LAMINATION WITH 3" BRASS NAIL STAMPED CITY ENGINEER 1985 PER R.O.S. 19851 (UNLESS NOTED OTHERWISE)
 FOUND 1" DIA. IRON NAIL WITH MARKS FOR NO. 742 FOUND PER NW. AND SW. DEED CITY ENGINEER SWNER PER R.O.S. 19851 (UNLESS NOTED OTHERWISE)
 SET 3" x 24" IRON PIPE WITH DEEP WARMED U.S. 6022" SET 1/4" x 18" IRON PIPE WITH DEEP WARMED U.S. 6022"

NOTES
 [] INDICATES GENERAL UTILITY EASEMENT GRANTED HEREON

COMMUNICATION NOTES
 1 ALL LOT CORNERS EXCEPT AS DESCRIBED BELOW WILL BE UNMARKED BY A 1/4" x 18" IRON PIPE WITH DEEP WARMED U.S. 6022"
 2 LOT CORNERS ALONG THE STRAIGHTS OF DEEDS RECORDED 1987-88-89 WILL BE UNMARKED BY A 1/4" x 18" IRON PIPE WITH DEEP WARMED U.S. 6022"
 3 ALL POINTS OF CURVE OF THE STRAIGHTS OF DEEDS RECORDED 1987-88-89 WILL BE UNMARKED BY A 1/4" x 18" IRON PIPE WITH DEEP WARMED U.S. 6022"
 4 ALL POINTS OF CURVE OF THE STRAIGHTS OF DEEDS RECORDED 1987-88-89 WILL BE UNMARKED BY A 1/4" x 18" IRON PIPE WITH DEEP WARMED U.S. 6022"
 5 ALL POINTS OF CURVE OF THE STRAIGHTS OF DEEDS RECORDED 1987-88-89 WILL BE UNMARKED BY A 1/4" x 18" IRON PIPE WITH DEEP WARMED U.S. 6022"

GRAPHIC SCALE
 0 40 80 120 160 200
 1" = 40'

BB&O
 BROWN, BROWN & O'NEILL
 SURVEYORS

LEG. 140-1785 C.C.S. 83 1780-63151 T.M. NONE P.T.S. NO. 115857 J.O. 427083

R 303792