

RESOLUTION NUMBER R- 304243

DATE OF FINAL PASSAGE OCT 14 2008

A RESOLUTION AUTHORIZING SLOPE EASEMENT
VACATION IN A PORTION OF LOT 19 OF MAP NO. 159.

WHEREAS, California Streets and Highways Code Section 8330 et seq. (and specifically Sections 8333 and 8335), and San Diego Municipal Code section 125.1010(c) provide a procedure for the summary abandonment or vacation of public service easements by City Council resolution where the easement has been superseded by relocation and there are no other public facilities located within the easement; and

WHEREAS, the affected property owner, Bayview Baptist Church, has requested the abandonment of an unnecessary public service slope easement in a portion of Lot 19 of Map No. 159 as depicted on Engineering Drawing No. 20744-B, to unencumber its property. Said public service slope easement [slope easement] is located in the Encanto Neighborhood, Southeastern Community Plan area, on the west side of 61st Street south of Imperial Avenue; and

WHEREAS, the slope easement to be abandoned is no longer necessary because Bayview Baptist Church has agreed, in writing, to do the following to preserve the integrity of the hillside:

Prior to recordation of the slope easement vacation Resolution and prior to the issuance of any building or construction permits, an as-graded geotechnical report addressing Drawing No. 34427-D shall be submitted by Bayview Baptist Church and approved by the Geology Section of City of the San Diego's Development Services Department. The as-graded report must verify, to the satisfaction of the City, that the slopes adjacent to 61st Street have been stabilized through buttressing and clearly state that the slopes within the subject property adjacent to

61st Street have a factor of safety of 1.5 or greater with respect to gross and surficial slope stability; and

WHEREAS, there are no other public facilities located within the easement to be abandoned, and there is no present or prospective public use of the existing easement in its present location; 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, 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 to make legal findings based on the evidence presented; and

WHEREAS, this matter was set for public hearing on OCT 14 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, that the Council of the City of San Diego finds that:

- (a) the slope easement to be abandoned herein does not contain public utility facilities or does not contain active public utility facilities that would be affected by the abandonment;
- (b) The slope easement has been superseded by relocation and there are no other public facilities located within the easement;
- (c) There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated;

- (d) The public will benefit from the action through improved utilization of the land made available by the abandonment;
- (e) The abandonment is consistent with any applicable land use plan; and,
- (f) The public facility or purpose for which the slope easement was originally acquired will not be detrimentally affected by the abandonment or the purpose for which the slope easement was acquired no longer exists.

BE IT FURTHER RESOLVED, the Council of the City of San Diego finds:

1. That the slope easement located within Lot 19 of Map No. 159, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20744-B, marked as Exhibit "B," and on file in the office of the City Clerk as Document Nos.

RR- 304243⁻¹, and RR- 304243⁻², which are by this reference incorporated herein and made a part hereof, is ordered summarily abandoned.

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 only after the following has occurred:

Prior to recordation of the slope easement vacation Resolution and prior to the issuance of any building or construction permits, an as-graded geotechnical report addressing Drawing No. 34427-D shall be submitted by Bayview Baptist Church and approved by the Geology Section of the City of San Diego's Development Services Department. The as-graded report must verify, to the satisfaction of the City, that the slopes adjacent to 61st Street have been stabilized through buttressing and clearly state that the slopes within the subject property adjacent to

61st Street have a factor of safety of 1.5 or greater with respect to gross and surficial slope stability.

From and after the date of recordation of this Resolution, the abandoned slope easement shall no longer constitute a public service easement. Upon such recordation, the abandonment is complete.

BE IT FURTHER RESOLVED, that the Council of the City of San Diego finds that the abandonment of the slope easement is exempt from the California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines Section 15301.

BE IT FURTHER RESOLVED, that the Council of the City of San Diego finds that the issuance of any construction or building permits necessary to authorize the construction of slope buttressing as explained herein falls within the scope of the Mitigated Negative Declaration [MND], finalized on or about November 17, 2006, prepared for the Bayview Baptist Church, Project No. 73554, which was certified and adopted by the City of San Diego's Planning Commission on December 14, 2006, by Resolution No. 4190-PC. It is, therefore, not a separate project under the California Environmental Quality Act [CEQA] Guideline sections 15060(c)(3).

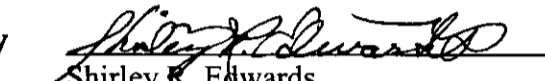
BE IT FURTHER RESOLVED, that the Council of the City of San Diego finds that the information contained in the Bayview Baptist Church MND, Project No. 73554, including any comments received during the public review process, has been previously reviewed and

(R-2009-147)

considered and it is determined that this subsequent discretionary approval of this slope easement abandonment does not involve change in circumstances, project changes, or new information of substantial importance which would warrant any additional environmental review.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Shirley K. Edwards
Chief Deputy City Attorney

SRE:pev
09/29/08
Or.Dept:DSD
R-2009-147
MMS #6406

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LEGAL DESCRIPTION

EXHIBIT "A"

SLOPE EASEMENT VACATION

A portion of Lot 19 of Cave and Mc Hatton's Subdivision of Lot 14 and a part of Lot 16 of Rancho Ex-Mission Partition in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 159, filed in the Office of the County Recorder of said San Diego County, March 30, 1887, more particularly described as follows:

That certain Slope Easement granted to the City of San Diego per document recorded July 29, 1976 as File/Page No. 76-241386 of Official Records in the Office of the County Recorder of said San Diego County, lying within a portion of said Lot 19, vacated.

Said parcel contains 10,242 sq. ft., or 0.235 acre, more or less.

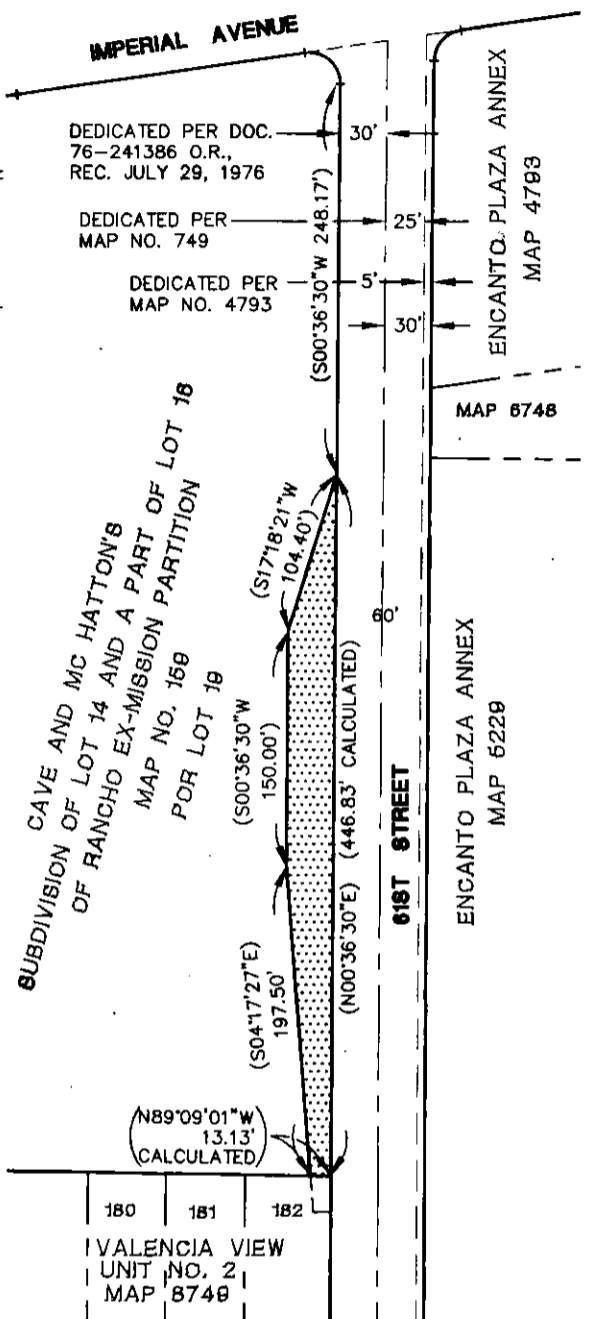
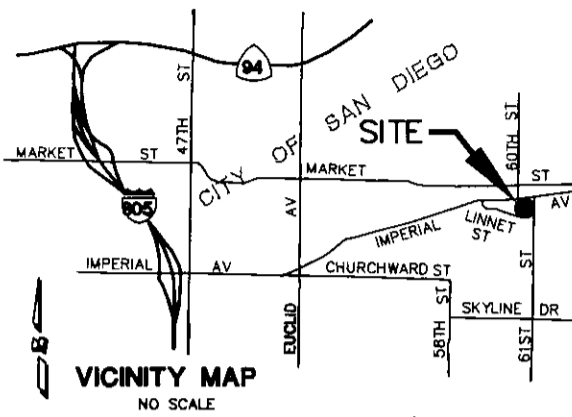
This legal description was prepared by me, or under my direction, in accordance with the Land Surveyor's Act this September 17, 2007.

Mary M. Acosta
Mary M. Acosta, P.L.S. 6664
My registration expires: 06/30/2008



PTS No. 134800
W.O. No. 428087
Drawing No. 20744-B
A.P.N. 549-120-05

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ASSESSORS PARCEL NO.

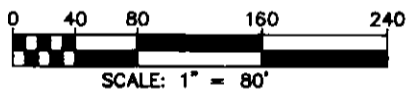
549-120-05

LEGEND

INDICATES PORTION OF SLOPE EASEMENT GRANTED TO CITY OF SAN DIEGO PER DOC. REC. JULY 29, 1976 AS F/P 76-241386 O.R., VACATED

AREA = 10,242 SQ. FT. OR 0.235 ACRE

() = INDICATES RECORD DATA PER SLOPE EASEMENT GRANTED TO CITY OF SAN DIEGO PER DOC. REC. JULY 29, 1976 AS F/P 76-241386 O.R.



SUBDIVISION OF LOT 14 AND A PART OF LOT 18 OF RANCHO EX-MISSION PARTITION MAP NO. 168B FOR LOT 18

180 181 182
VALENCIA VIEW
UNIT NO. 2
MAP 8748

LAND SURVEYOR OF WORK: Mary M. Acosta DATE: 2/18/08
 MARY M. ACOSTA, P.L.S. 6664
 LIC. EXP. DATE JUNE 30, 2008
PSOMAS
 4455 Murphy Canyon Road, Suite 200
 San Diego, CA 92123
 (858)576-9200 Fax (858)565-1738

SLOPE EASEMENT VACATION

IN A PORTION OF LOT 19 OF MAP NO. 159

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	P.T.S. NO.
ORIGINAL	MY				SHEET 1 OF 1 SHEET	134800
						J.O. NO. 428087
	R.B.	R.B.	4-1-08		<i>[Signature]</i> DATE: <u>1/27/08</u>	1836-6307
						CSS 83
						196-1747
						LAMBERT COORDINATES
						20744-

EXHIBIT B
R. 304243