

RESOLUTION NUMBER R- 304392

DATE OF FINAL PASSAGE NOV 18 2008

WHEREAS, California Streets and Highways Code section 8300 et seq. and San Diego Municipal Code section 125.1010(c) provide for the summary abandonment or vacation of public service easements by resolution of the Council of the City of San Diego [City Council] where the easement does not contain public utility facilities and the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed abandonment; and

WHEREAS, the affected property owner has requested the abandonment of an unnecessary public service sewer easement in Parcels 2 and 3 of Parcel Map 4380, on file with the City Clerk as Document No. RR-304392 O.R. as depicted on Drawing No. 20665-B to unencumber this property. Said public service sewer easement [Easement] is located in the Rancho Bernardo Community Plan Area, north of Rancho Bernardo Road at the northerly terminus of Bernardo Oaks Drive; and

WHEREAS, the Easement does not contain public utility facilities; and

WHEREAS, the Easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed abandonment; and

WHEREAS, there is no present or prospective public use of the existing 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; and

WHEREAS, the public will benefit from the action through improved utilization of the land made available by the abandonment; and

WHEREAS, the abandonment is consistent with all applicable land use plans; and

WHEREAS, 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; and

WHEREAS, this action is exempt from the California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines section 15301 (Existing Facilities); and

WHEREAS, the Easement was acquired at no cost to the City; 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 City 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 NOV 18 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 [City Council], that the City Council finds that with respect to the Easement to be summarily abandoned:

- (1) The Easement does not contain public utility facilities; and
- (2) The Easement has not been used for the purpose for which it was acquired for five consecutive years immediately preceding the proposed abandonment; and

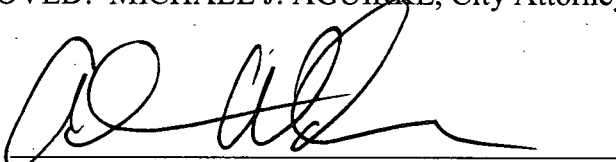
- (3) There is no present or prospective public use for the Easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated; and
- (4) The public will benefit from the action through improved utilization of the land made available by the abandonment; and
- (5) The abandonment is consistent with all applicable land use plans; and
- (6) 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.

BE IT FURTHER RESOLVED, that the City Council finds:

1. That the Easement located within Parcels 2 and 3 of Parcel Map 4380, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20665-B, marked as Exhibit "B," and on file in the office of the City Clerk as Document Nos. RR 304392⁻², and RR 304392⁻³, 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. From and after the date of recordation of this Resolution, the abandoned public service easement shall no longer constitute a public service easement. Upon such recordation, the summary abandonment is complete.

BE IT FURTHER RESOLVED, that the City Council finds that this action is exempt from the California Environmental Quality Act [CEQA] pursuant to State CEQA Guidelines section 15301 (Existing Facilities).

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By: 
Adam Wander
Deputy City Attorney

AW:mm
10/06/08
Or.Dept:DSD
R-2009-304
MMS#5976

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

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

EXHIBIT "A"

LEGAL DESCRIPTION
SEWER EASEMENT VACATION

THOSE PORTIONS OF PARCEL 2 AND 3, OF PARCEL MAP NO. 4380 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON JANUARY 9, 1976, AS FILE NO. 76-007728 OF OFFICIAL RECORDS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT EXISTING 10 FOOT WIDE SEWER EASEMENT, GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED OCTOBER 31, 1963, AS FILE/PAGE NO 196106 OF OFFICIAL RECORDS, LYING WITHIN SAID PARCELS 2 AND 3, VACATED.

CONTAINS 0.144 ACRE, MORE OR LESS



MARK J. ROWSON, R.C.E. 30836
My Registration Expires 03-31-2008

Oct. 4, 2007
DATE

J.O. 427472
P.T.S 123998
DWG 20665-B



R. 304392

BK

PARCEL 3
P.M. NO. 4380

EXISTING SDG&E EASEMENT GRANTED PER DEED
RECORDED 08/30/49 AS F/P 79133, BOOK
3304 PAGE 42, O.R.

PARCEL 2
P.M. NO. 4380


PARCEL 3 OF
P.M. NO. 4380

EXISTING SEWER & WATER EASEMENT
GRANTED TO THE CITY OF SAN DIEGO PER
DEED RECORDED 05-07-63 AS F/P
79085 SERIES 4, BOOK 1963 O.R. (SEE
DWG. NO. 10980-2-D)

SCALE: 1" = 80'

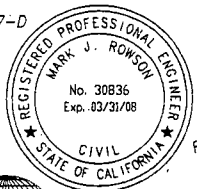
RANCHO SAN BERNARDO
R.O.S. NO. 6081

LEGEND

 INDICATES 10' WIDE SEWER EASEMENT GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED OCTOBER 31, 1963 FILE/PAGE NO. 196106, SERIES 4 BOOK 1963, O.R., - VACATED (0.144 ACRE)

APN
273-631-01, 273-631-04

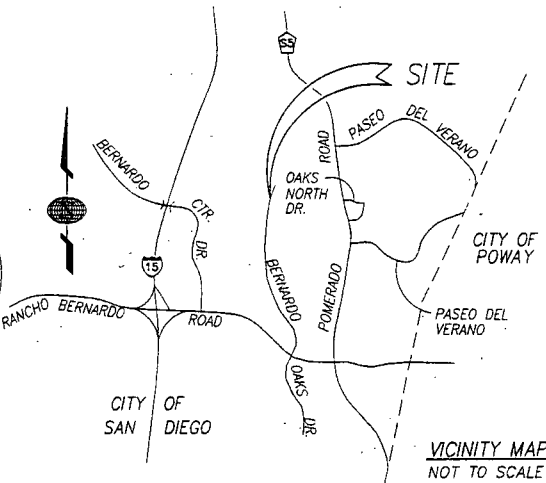
REFERENCE DRAWING
9048-B, MAP 5205, P.M. 509, P.M. 4380, 33907-D



Latitude 33
Planning and Engineering


4933 Paramount Dr. 2nd Flr.
San Diego, Ca. 92123
858-751-0633 Fax 858-751-0634

H:\700\746-20\EXHIBITS\sewer vacation\SWR-ESMT-VAC.dwg 10/2/2007 9:10:35 AM PDT

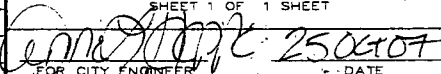


VICINITY MAP
NOT TO SCALE

BK


MARK J. ROWSON R.C.E. 30836 DATE 10/4/07
REGISTRATION EXPIRES 3-31-2008

SEWER EASEMENT VACATION
IN PARCEL 2 AND 3 OF PM 4380

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA SHEET 1 OF 1 SHEET	PTS NO. 123998
ORIGINAL	LAT33					J.O. NO. 427472
	R.B.	R.B.	10-23-07		 250407 FOR CITY ENGINEER - DATE	1854-6309 CCS '83 COORDINATES
						314-1749 LAMBERT COORDINATES
						20665-B

R-304392