

RESOLUTION NUMBER R- 304660

DATE OF FINAL PASSAGE FEB 17 2009

RESOLUTION APPROVING PUBLIC RIGHT-OF-WAY  
VACATION NO. 478535 OF A PORTION OF BLACK  
MOUNTAIN ROAD AND ORANGE GROVE AVENUE FOR  
THE TORREY BROOKE II PROJECT.

WHEREAS, California Streets and Highways Code section 8330 et seq. and San Diego Municipal Code section 125.0901 et seq. provides a procedure for the summary vacation of public right-of-way by City Council resolution where the easements are 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); and

WHEREAS, the affected property owner has requested the summary vacation of the public right-of-way, to unencumber this property; and

WHEREAS, the Project site has never been improved, no utilities will be affected by the public right-of-way vacation, the public right-of-way to be vacated is excess public right-of-way and is not required for street or highway purposes, and the public right-of-way has been

impassable for vehicular travel for a period of five years and public funds have not been expended for maintenance of the public right-of-way during that period; 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 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; and

WHEREAS, the matter was set for public hearing on FEB 17 2009, 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) **There is no present or prospective use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated.** The Project proposes to create three parcels from a 2.132-acre site and allow the development of two single-family structures. The easements were intended to be used for the construction of Black Mountain Road, which has been used by the public for many years. The proposed Project is considered an infill project and the majority of the public infrastructure in the neighborhood has already been constructed. Staff has determined that the easements are no longer needed, and, with the exception of the private roadway and public improvements for this Project, no future roads or additional infrastructure is anticipated to be constructed within the boundaries of the Project.
- (b) **The public will benefit from the vacation through improved utilization of land.** The Project proposes to create three parcels from a 2.132-acre site and allow the development of two single-family structures. Staff has determined the Project has been designed to avoid impacts to environmentally sensitive lands and will provide an open space lot. The open space lot will be protected from any

future development, will allow for outdoor recreation and educational, scenic, and visual enjoyment, and will facilitate the preservation of environmentally sensitive lands, thus providing a continued open space opportunities for the benefit of the community. In addition, the Project would provide for market rate housing for the public.

- (c) **The vacation does not adversely affect and is consistent with the General Plan and approved Community Plan.** The Project proposes to create three parcels from a 2.132-acre site and allow the development of two single-family structures. This property is designated in the Torrey Highland Subarea Plan IV for residential development from three to five dwelling units per net acre and open space. The proposed use of this site for residential uses would be consistent with the Torrey Highland Subarea Plan IV. Black Mountain Road has been in use by the public for several years and the easement is no longer required. Staff has determined the vacation would be consistent with the Torrey Highland Subarea Plan IV.
- (d) **The public facility system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.** The easements were intended to be used for the construction of Black Mountain Road, which has been used by the public for many years and is no longer required. The proposed Project is considered an infill Project and the majority of the public infrastructure in the neighborhood has already been constructed.

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

1. That portion of Black Mountain Road dedicated per O.S. 57 and that portion of Orange Grove Avenue dedicated in Olive Grove Tract, according to the Map filed July 18, 1904, in Book 24 page 297, as more particularly described in Exhibit "A," and shown on Drawing No. B-4264, marked as Exhibit "B," and on file in the Office of the City Clerk as Document Nos. RR- 304660-1, and RR- 304660-2, is unnecessary for present or prospective public street purposes.


2. That portion of Black Mountain Road dedicated per O.S. 57, and that portion of Orange Grove Avenue dedicated in Olive Grove Tract, according to Map filed July 18, 1904, in Book 24 page 297, as more particularly as shown on Drawing No. B-4264, on file in the office of

the City Clerk as Document No. RR- 304660-2, which said Drawing is attached hereto and made a part hereof, is ordered vacated.

3. 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.

APPROVED: JAN I. GOLDSMITH, City Attorney

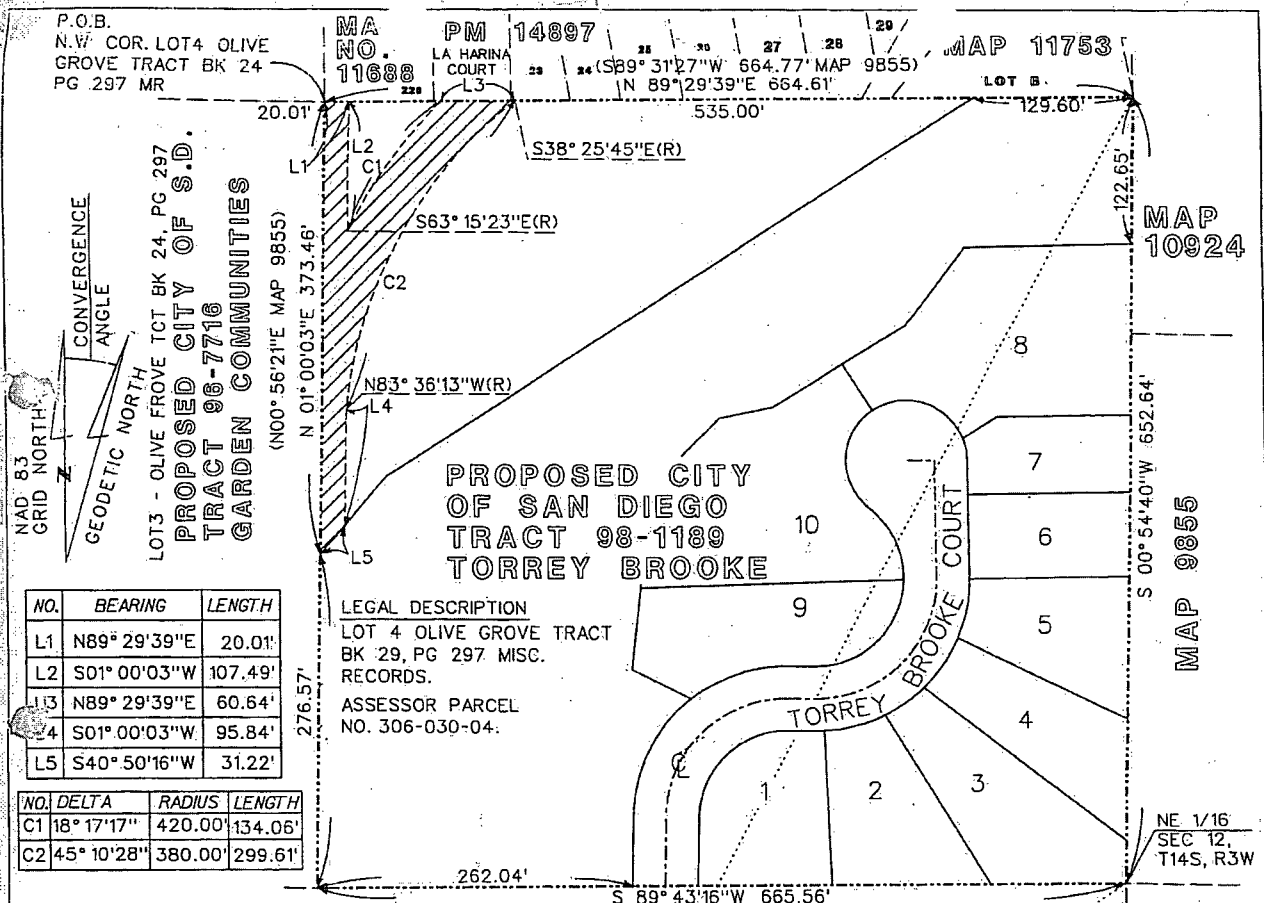
By

  
\_\_\_\_\_  
Nina M. Fain  
Deputy City Attorney

NMF:as:mm:pev  
02/06/09  
Or.Dept:DSD  
R-2009-622  
MMS#5954

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EXHIBIT A



NO.	BEARING	LENGTH
L1	N89° 29' 39" E	20.01'
L2	S01° 00' 03" W	107.49'
L3	N89° 29' 39" E	60.64'
L4	S01° 00' 03" W	95.84'
L5	S40° 50' 16" W	31.22'

NO.	DELTA	RADIUS	LENGTH
C1	18° 17' 17"	420.00'	134.06'
C2	45° 10' 28"	380.00'	299.61'

LEGAL DESCRIPTION  
 LOT 4 OLIVE GROVE TRACT  
 BK 29, PG 297 MISC.  
 RECORDS.  
 ASSESSOR PARCEL  
 NO. 306-030-04.

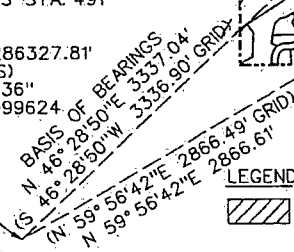
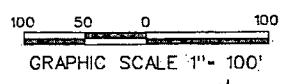


BASIS OF BEARINGS ROS 8368

THE BASIS OF BEARINGS FOR THIS MAP IS CALIFORNIA COORDINATE SYSTEM NAD '83, ZONE 6, BASED UPON THE GRID. BEARING BETWEEN STATION 467 AND STATION 491, AS DESCRIBED IN RECORD OF SURVEY MAP NO. 14492, i.e. N 46° 28' 05" E.

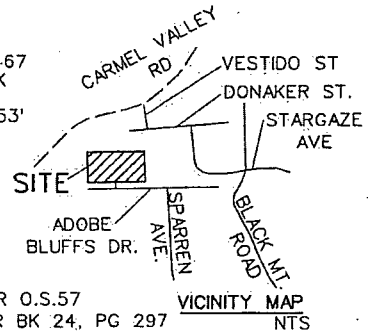
CO. OF SAN DIEGO GPS STA. 491  
 FD 7/4" IP  
 SD CITY ENG  
 N 1,934,130.68', E 6,286,327.81'  
 (CCS 83 COORDINATES)  
 CONV. ANGLE -00° 29' 36"  
 COMBINED SCALE 0.9999624

CO. OF SAN DIEGO GPS STA. 467  
 FD BRASS DISK IN CONC WALK  
 RCE 26112  
 N 1,936,428.47', E 6,288,747.53'  
 (CCS 83 COORDINATES)  
 CONV. ANGLE -00° 29' 21"  
 COMBINED SCALE 0.9999571  
 S 00° 54' 40" W 652.64'  
 (S 00° 54' 40" W 652.61' GRID)



LEGEND

- BLACK MOUNTAIN RD DEDICATED PER O.S.57
- ORANGE GROVE AVE DEDICATED PER BK 24, PG 297
- VACATED AREA 0.351 AC



**CIVCOM & ASSOCIATES**  
 9449 Balboa Avenue, Suite 301  
 San Diego, California  
 (858) 505-8800 Fax: (858) 505-8866

**STREET VACATION OS57 AND ORANGE GROVE AVENUE**  
 IN LOT 4, OLIVE GROVE TRACT, BOOK 24, PAGE 297,  
 MISCELLANEOUS RECORDS

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	T.M. 98-1189
ORIGINAL	CIVCOM				SHEET 1 OF 1 SHEET	W.O. NO. 400135
						SA 00-541
						1934-6285
						CCS 83 COORDINATES
						294-1725
						LAMBERT COORDINATES
						19350 - B

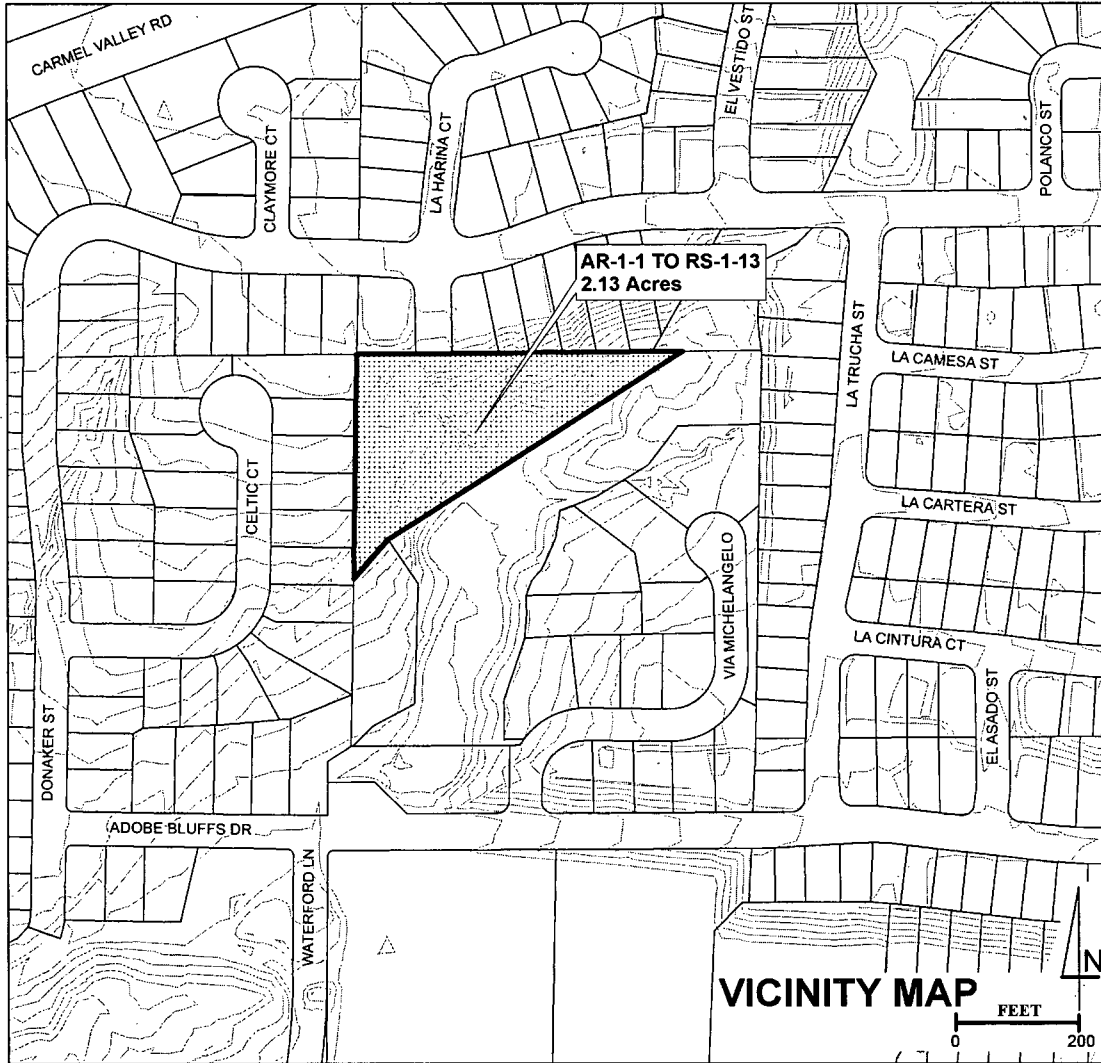
DOCUMENT NO. **304660-1**  
 FILED **FEB 17 2009**  
 OFFICE OF THE CITY CLERK  
 SAN DIEGO, CALIFORNIA

R 304660

EXHIBIT B



CITY OF SAN DIEGO • DEVELOPMENT SERVICES  
**PROPOSED REZONING**



Remainder Parcel of Torrey Brooke, Tract No. 98-1189, Map No. 14383		CASE NO. PTS 2118
ORDINANCE NO. _____	REQUEST RS-1-13	DEVELOPMENT SERVICES MANAGER
EFF. DATE ORD. _____	PLANNING COMM. RECOMMENDATION	
ZONING SUBJ. TO _____	CITY COUNCIL ACTION	<b>B- 4264</b>
BEFORE DATE _____		APN: 306-031-18
EFF. DATE ZONING _____		(294-1725) 05-16-08 ldj
MAP NAME AND NO. _____		

Map Document: [L:\GIS\PGISB and C\Sheets\B4264\_torreybrooke.mxd] 5/16/2008 - 8:18:05 AM

DOCUMENT NO. <sup>RR-</sup>304660-2  
 FILED FEB 17 2009  
 OFFICE OF THE CITY CLERK  
 SAN DIEGO, CALIFORNIA

R- 304660