

RESOLUTION NUMBER R- 304880

DATE OF FINAL PASSAGE MAY 05 2009

A RESOLUTION VACATING A STREET EASEMENT
LOCATED WITHIN THE KURTZ STREET AND WITHERBY
STREET RIGHT-OF-WAY.

WHEREAS, California Streets and Highways Code section 8330 et seq. and San Diego Municipal Code section 125.0910 et seq. provide a procedure for the summary vacation of public street easements by City Council resolution where the easements are no longer required; and

WHEREAS, the affected property owner has requested the vacation of the public right-of-way to unencumber their property and facilitate development of the site as conditioned in approved Conditional Use Permit No. 6194; 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 to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on MAY 05 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 Veteran's Village of San Diego project will

streamline traffic flow by reconfiguring the Kurtz Street intersections at Witherby Street and Coutts Street to allow direct eastbound left-turns from Witherby Street to the Pacific Highway on-ramp, and southbound left-turns from the Pacific Highway off-ramp to Witherby Street, and so the property is not needed for public street, bikeway or open space purposes;

- (b) the public will benefit from the vacation through improved utilization of land and the improved circulation resulting from improvements to the Kurtz Street intersections at Witherby Street and Coutts Street; and;
- (c) the vacation does not adversely affect the General Plan or an approved Community Plan in that the General Plan does not address right-of-way vacations and the Midway/Pacific Highway Community Plan does not identify this site as a required circulation element; and
- (d) the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation in that this area has well established traffic patterns and sufficient circulation options.

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


1. The street easement located within the Kurtz Street and Witherby Street right-of-way in connection with Conditional Use Permit No. 6194, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20934-B, marked as Exhibit "B," and on file in the office of the City Clerk as Document Nos. RR- 304380-1, and RR- 304380-2, which are by this reference incorporated herein and made a part hereof, is ordered vacated reserving therefrom and excepting the right, from vacation and abandonment,

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 transmission and distribution of electrical or electronic energy and natural gas, and for incidental purposes including access to protect the property from all hazards in, upon, over, and across the above-described portions of streets to be vacated and abandoned.

2. That public improvements to reconfigure the intersections of Witherby Street and Courts Street adjacent to the vacated Kurtz Street (per Conditional Use Permit No. 6194, dated September 2, 2003) shall be installed to the satisfaction of the City Engineer.

3. 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.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 

Nina M. Fain
Deputy City Attorney

NMF:pev
03/20/09
Or.Dept:DSD
R-2009-982

EXHIBIT "A"

LEGAL DESCRIPTION

**PUBLIC RIGHT OF WAY VACATION-KURTZ STREET AND PORTION OF
WITHERBY STREET**

THOSE PORTIONS OF KURTZ STREET AND WITHERBY STREET DEDICATED PER MAP OF MIDDLETOWN BY J.E. JACKSON TOGETHER WITH PORTIONS OF KURTZ STREET DEDICATED PER BOOK 1297, PAGE 433 OF DEEDS AND DEDICATED PER BOOK 5966, PAGE 208, ALSO SHOWN AS PARCEL "A" ON PARCEL MAP 19415, ALL OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERLY CORNER OF PARCEL 1 OF PARCEL MAP NO. 19415 IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE RECORDER OF SAN DIEGO COUNTY JANUARY 28, 2004 AS FILE NO. 2004-0066116 OF OFFICIAL RECORDS; THENCE ALONG THE NORTHWESTERLY AND SOUTHWESTERLY SIDELINES OF SAID PARCEL 1 SOUTH 36°37'59" WEST, 39.51'; THENCE SOUTH 60°45'29" EAST, 389.96'; THENCE LEAVING SAID SIDELINE OF PARCEL 1 SOUTH 29°20'45" WEST, 75.00' TO THE EASTERLY CORNER OF PARCEL 2 OF SAID PARCEL MAP NO. 19415; THENCE ALONG THE NORTHEASTERLY AND NORTHWESTERLY SIDELINES OF SAID PARCEL 2 NORTH 60°45'29" WEST, 185.83'; THENCE NORTH 79°56'22" WEST, 194.24' TO THE BEGINNING OF A TANGENT 100.00' RADIUS CURVE CONCAVE SOUTHERLY; THENCE WESTERLY AND SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25°50'09" A DISTANCE OF 45.09'; THENCE SOUTH 52°28'58" WEST, 13.62' TO A POINT ON THE NORTHEASTERLY SIDELINE OF PARCEL 3 OF SAID PARCEL MAP NO. 19415; THENCE ALONG THE SIDELINE OF SAID PARCEL 3 NORTH 53°22'01" WEST, 18.00' TO THE NORTHERLY CORNER OF SAID PARCEL 3, SAID POINT ALSO BEING 22.00' MEASURED AT RIGHT ANGLES FROM THE CENTERLINE OF WITHERBY STREET; THENCE ALONG A LINE THAT IS PARALLEL WITH AND 22.00' FROM THE CENTERLINE OF WITHERBY STREET NORTH 36°37'59" EAST, 215.29' TO A POINT ON A 2914.93' RADIUS CURVE CONCAVE NORTHEASTERLY, A RADIAL LINE FROM SAID POINT BEARS NORTH 34°19'25" EAST, SAID POINT ALSO BEING ON THE SIDELINE OF THE A.T. & S.F. RAILROAD RIGHT-OF-WAY DEDICATED PER CONDEMNATION RECORDED MAY 15, 1882 IN BOOK 42 PAGE 303 OF DEEDS; THENCE ALONG THE SIDELINE OF SAID A.T. & S.F. RAILROAD RIGHT-OF-WAY SOUTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 00°21'15" A DISTANCE OF 18.02' TO THE POINT OF BEGINNING.

DOCUMENT NO.

rl-304880-1


FILED

MAY 05 2009

OFFICE OF THE CITY CLERK
SAN DIEGO, CALIFORNIA

GENERAL UTILITY AND ACCESS EASEMENT RESERVED FROM STREET VACATION

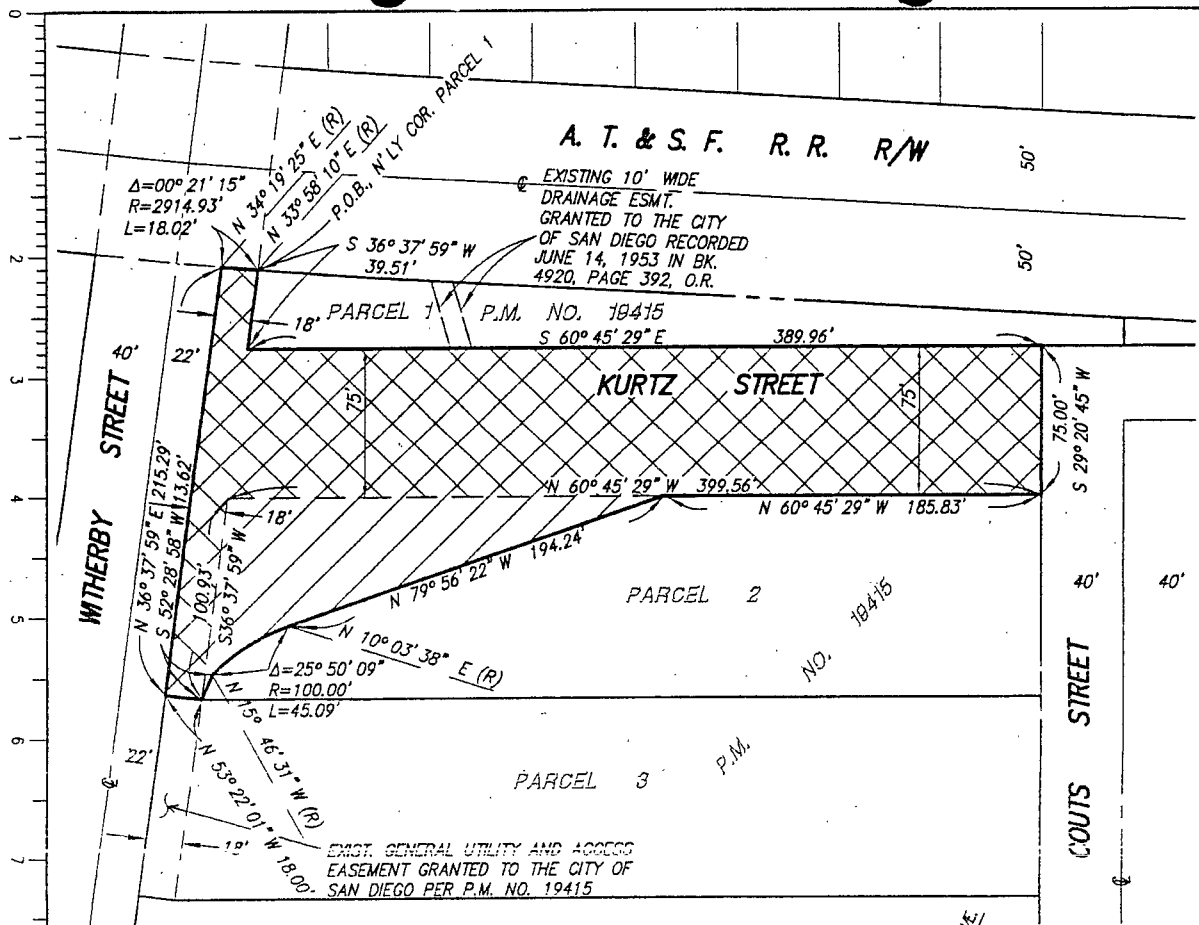
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 10.14.08

STUART PEACE R.C.E. 27232 DATE
REGISTRATION EXPIRES 3/31/09

STUART ENGINEERING
7525 METROPOLITAN DRIVE. SUITE 308
SAN DIEGO, CA., 92108
PH. (619) 296-1010

PTS NO. 163536
JOB NO. 431490
DWG NO. 20934-B

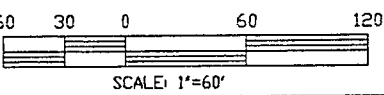


LEGEND

- PORTIONS OF KURTZ STREET AND WITHERBY STREET DEDICATED PER MAP OF MIDDLETOWN BY J.E. JACKSON; PORTIONS OF KURTZ STREET DEDICATED PER BK. 1297, PG. 433 OF DEEDS AND DEDICATED PER BK. 5966, PG. 208, ALSO SHOWN AS PARCEL "A" ON PARCEL MAP 19415, ALL OF OFFICIAL RECORDS; VACATED CONTAINS 0.964 ACRES
- GENERAL UTILITY AND ACCESS EASEMENT RESERVED CONTAINS 0.769 ACRES

REFERENCE DRAWINGS

PARCEL MAP NO. 19415
STATE RIGHT OF WAY MAP LO-9574



BASIS OF BEARINGS

SOUTH LINE OF PARCEL 1
P.M. NO. 19415
I.E. N 60° 45' 29" W



VICINITY MAP

NO SCALE

S.E. JOB NO. 153-01-01

SE

CIVIL ENGINEERING/SURVEYING/PLANNING
STUART ENGINEERING
7525 METROPOLITAN DR., STE. 308
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(619) 296-1010
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Stuart Peace 10-14-08

STUART PEACE R.C.E. 27232 DATE
REGISTRATION EXPIRES: 3-31-09

STREET VACATION

KURTZ STREET—BETWEEN COUTTS STREET AND WITHERBY STREET
PORTION OF WITHERBY STREET—SOUTH OF A.T.& S.F. RAILROAD RIGHT OF WAY

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS NO.
ORIGINAL	SE				SHEET 1 OF 1 SHEET	163536
					FOR CITY ENGINEER	DATE
						1850-6269
						CCS83
						210-1709
						LAMBERT COORDINATES
						20934-B

DOCUMENT NO. 304380-2

FILED
 MAY 05 2009
 OFFICE OF THE CITY CLERK
 SAN DIEGO, CALIFORNIA