

(R-2010-96)
F-10341

331
B
9/01/09

RESOLUTION NUMBER R- 305221

DATE OF FINAL PASSAGE SEP 01 2009

SUMMARY EASEMENT ABANDONMENT NO. 661828 –
PECKHAM EASEMENT ABANDONMENT PROJECT.

WHEREAS, California Streets and Highways Code section 8330 et seq. San Diego Municipal Code section 125.1001 et seq. provide a procedure for the summary vacation of public easements by City Council resolution; and

WHEREAS, it is proposed that for the unnamed and unused public service easement along the easterly side of the property located at 5055 N. Harbor Drive be vacated; and

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

WHEREAS, the easement does not contain public utility facilities; 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, the matter was set for public hearing on SEP 01 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, by the Council of the City of San Diego, that with respect to all of that certain unnamed 4-foot wide public service easement per Map No. 2946, filed in the Office of the County Recorder of San Diego County, January 8, 1953, the Council finds that:

(a) 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. The area to be vacated has never been utilized for public use and has no connectivity to any existing or proposed easements or utility system in the vicinity due to its interior location. In addition, the proposed unnamed and unused easement is land-locked and could not be used for any vehicular or pedestrian activity. Therefore, there is no present or prospective 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.

(b) The public will benefit from the action through improved utilization of the land made available by the abandonment. The proposed request for easement abandonment of 4 feet of an unnamed and unused easement is to allow full utilization of the property, and would help implement policies related to the Coastal Height Limit Overlay Zone [CPIOZ], including the provision of outdoor patios. The city would benefit by relinquishing the maintenance and liability associated with the easement and the property owner would benefit from the closure by regaining the vacated easement for which they own the underlying fee title. The abandonment would allow full utilization of the property, and the public will benefit from the abandonment through improved utilization of the land made available by the abandonment.

(c) The abandonment is consistent with any applicable land use plan. The proposed request for easement abandonment of four feet of an unnamed and unused easement is to allow full utilization of the property, and would help implement policies related to CPIOZ,

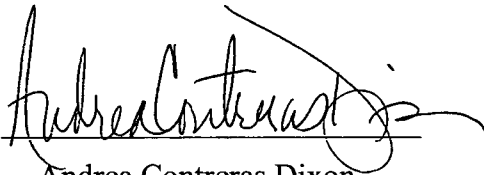
including the provision of outdoor patios. The proposed easement to be vacated is not identified in the Peninsula Community Plan as a public view corridor or a segment of the transportation element, and therefore would not adversely affect the Peninsula Community Plan.

(d) 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. The unnamed and unused easement proposed to be abandoned is not now and never has been a part of the public facilities that service the property or the surrounding neighborhood. Therefore, the purpose for which the easement was originally acquired will not be detrimentally affected by this abandonment or the purpose for which the easement was acquired no longer exists.

BE IT FURTHER RESOLVED, that all of that certain unnamed 4-foot wide easement per Map No. 2946 located within 5055 N Harbor Drive, and in connection with Coastal Development Permit No. 668274 and the previously approved Coastal Development Permit No. 546192/Site Development Permit No. 546193, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 21035-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the Office of the County Recorder.

APPROVED: JAN I. GOLDSMITH, City Attorney

By: 
Andrea Contreras Dixon
Deputy City Attorney

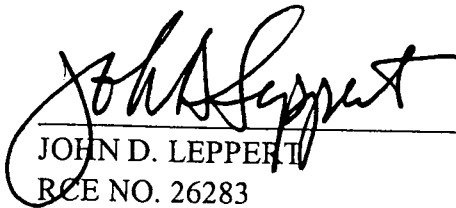
ACD:cw
08/12/09
Or.Dept:DSD
JO: 43-2510
Drawing No. 21035-B
R-2010-96
MMS: #10136

EXHIBIT "A"
LEGAL DESCRIPTION
UNNAMED EASEMENT ABANDONMENT

PTS NO. 183423
J.O. NO. 432510
DWG. NO. 21035-B

LEGAL DESCRIPTION

ALL OF THAT CERTAIN UNNAMED FOUR (4) FOOT WIDE EASEMENT PER MAP NO. 2946, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JANUARY 8, 1953.



JOHN D. LEPPERT
RCE NO. 26283
EXP. 3/31/2010

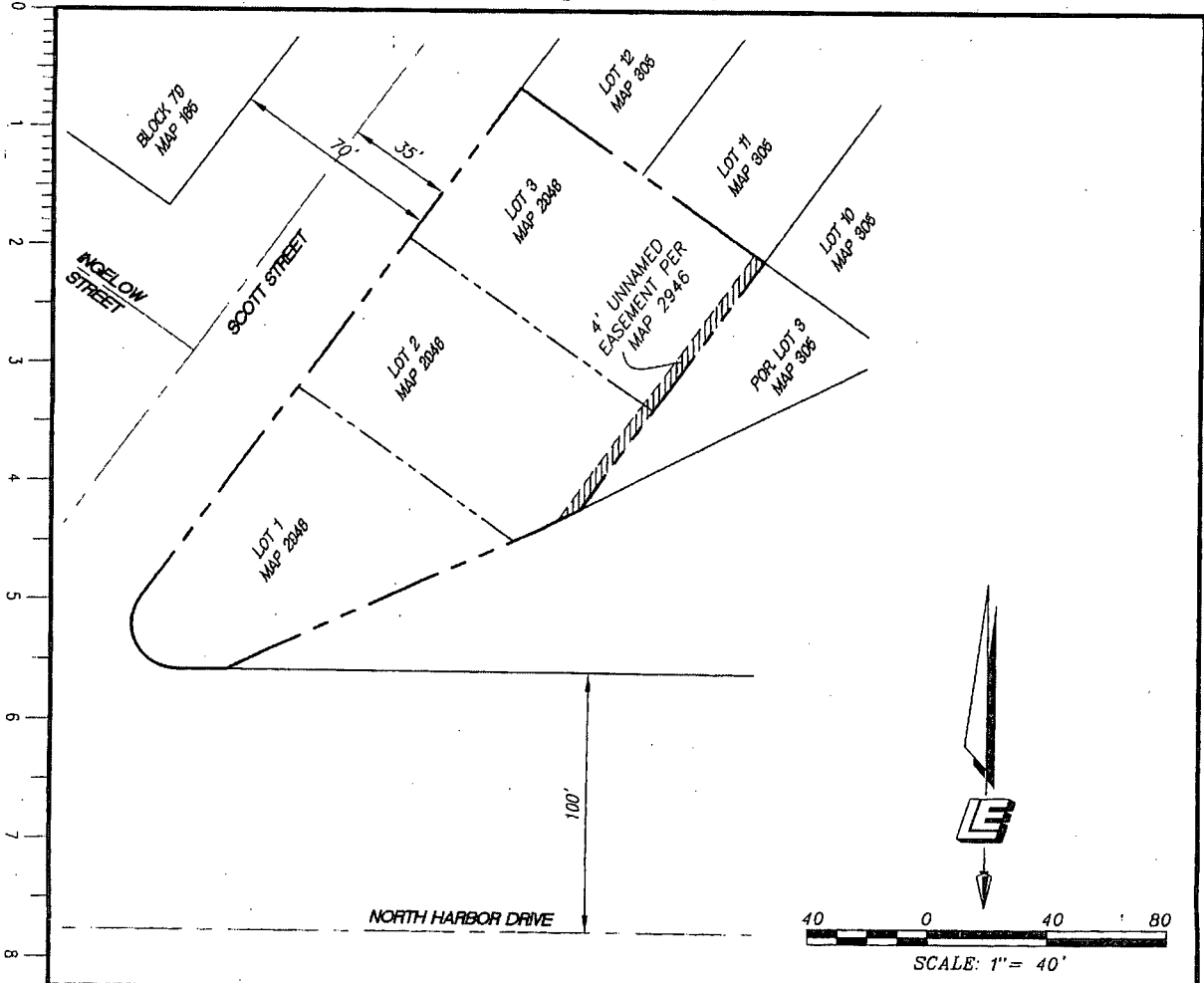
7/20/09

DATE



R-305221

EXHIBIT "B"



LEGEND

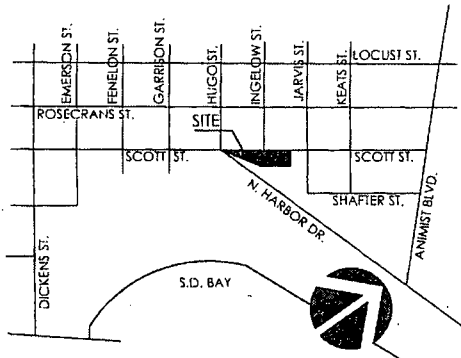
PROPERTY BOUNDARY
 EXISTING EASEMENT PER MAP 2946
 AREA = 428.95 SF (0.0098 AC) ABANDONED

ASSESSOR'S PARCEL NUMBER

530-754-07-00

REFERENCES

MAP NO. 2946



PREPARED BY:
 LEPPERT ENGINEERING CORPORATION
 5190 GOVERNOR DRIVE, SUITE 205
 SAN DIEGO, CA 92122

John D. Leppert
 JOHN D. LEPPERT, REG. 26283 EXP. 3/31/2010

7/29/09
 DATE

UNNAMED EASEMENT ABANDONMENT IN LOTS 2 & 3 OF MAP NO. 2946

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA SHEET 1 OF 1 SHEET	P.T.S. NO. 183423 J.O. NO. 432510
ORIGINAL	JLV	<i>JT</i>	8/5/09		<i>Gregory P. Hopkins</i> 8-5-09 FOR CITY ENGINEER DATE	1844-6261 NAD 83 COORDINATES
						204-1701 LAMBERT COORDINATES
						21035 -B
STATUS						

R-305221