

RESOLUTION NUMBER R-305653

DATE OF FINAL PASSAGE MARCH 2, 2010

A RESOLUTION SUMMARILY VACATING PORTIONS OF A SEWER EASMENT LOCATED AT 5505 HARDY AVENUE, APPROVAL NO. 604350, PROJECT NO. 166781.

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 Sewer Easement, Approval No. 604350 be vacated; and

WHEREAS, the easement has been superseded by relocation and there are no other public facilities located within the easement; and

WHEREAS, the easement does not contain active public utility facilities that would be affected by the abandonment; 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 March 2, 2010, 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 Sewer Easement located at 5505 Hardy Avenue, the Council finds that:

(a) 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.

The project proposes to vacate a portion of an approximately 960-square-foot City of San Diego sewer easement. The easement runs through the middle of the project site bisecting the property from east to west as depicted on Drawing No. 21039-B. All existing utilities within the easements would be relocated into the surrounding public rights-of-way through project implementation, and this easement would no longer be required. Therefore with the relocation of existing facilities, there would be 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 abandonment through improved utilization of the land made available by the abandonment.

The project proposes to vacate a portion of an approximately 960-square-foot City of San Diego sewer easement. All existing utilities within the easements would be relocated into the surrounding public rights-of-way through project implementation, and this easement will no longer be required. The public will benefit from the abandonment by gaining new public facilities paid for by the private developer that would be more accessible from the public right-of-way. The public would also benefit from unencumbering the property of the existing easement without which, development of a new community asset would not be possible.

(c) The abandonment is consistent with any applicable land use plan.

The project proposes to vacate a portion of an approximately 960-square-foot City of San Diego sewer easement. The College Area community plan does not specifically address public utility easements on private property however, the abandonment and relocation of the utilities would facilitate the construction of the 50-unit, mixed use development project thereby implementing the primary goal of the Community Plan of preserving single-family neighborhoods by providing students alternative multi-family housing opportunities in close proximity to the San Diego State University. The resulting project would also realize the Plan's goal of reducing traffic congestion by implementing development with a mixed use commercial/residential component within walking distance of the campus. Therefore, the abandonment would be consistent with the applicable land use plan.

(d) The public facility or 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.

The project proposes to vacate a portion of an approximately 960-square-foot City of San Diego sewer easement. The easement runs through the middle of the project site bisecting the property from east to west as depicted on Drawing No. 21039-B. All existing utilities within the easements would be relocated into the surrounding public rights-of-way through project implementation, and the current easement would no longer be required. 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 the Sewer easement located within 5505 Hardy Avenue in connection with Planned Development Permit [PDP] No. 700701, Site Development Permit [SDP] No. 598260, Variance No. 700706, and Neighborhood Development Permit [NDP]

No. 700705, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 21039-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  
02/12/10  
04/06/10 REV.  
Or.Dept:DSD  
JO: 43-1699  
Drawing No. 21039-B  
R-2010-573  
MMS: #11566

EXHIBIT "A"

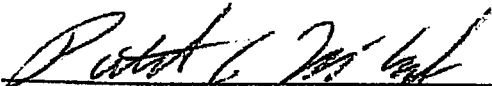
UNNAMED EASEMENT VACATION  
LEGAL DESCRIPTION

All of those portions of the unnamed easement granted to the City of San Diego per Map No. 2527 in Lots 1, 2, 24 and 25, Block 18 of College Park Unit No. 3 according to Map thereof No. 2527 filed in the Office of the County Recorder of San Diego County, November 17, 1948.

EXCEPTING THEREFROM:

That portion of said easement lying within the Easterly 19.00 feet of Lot 2.

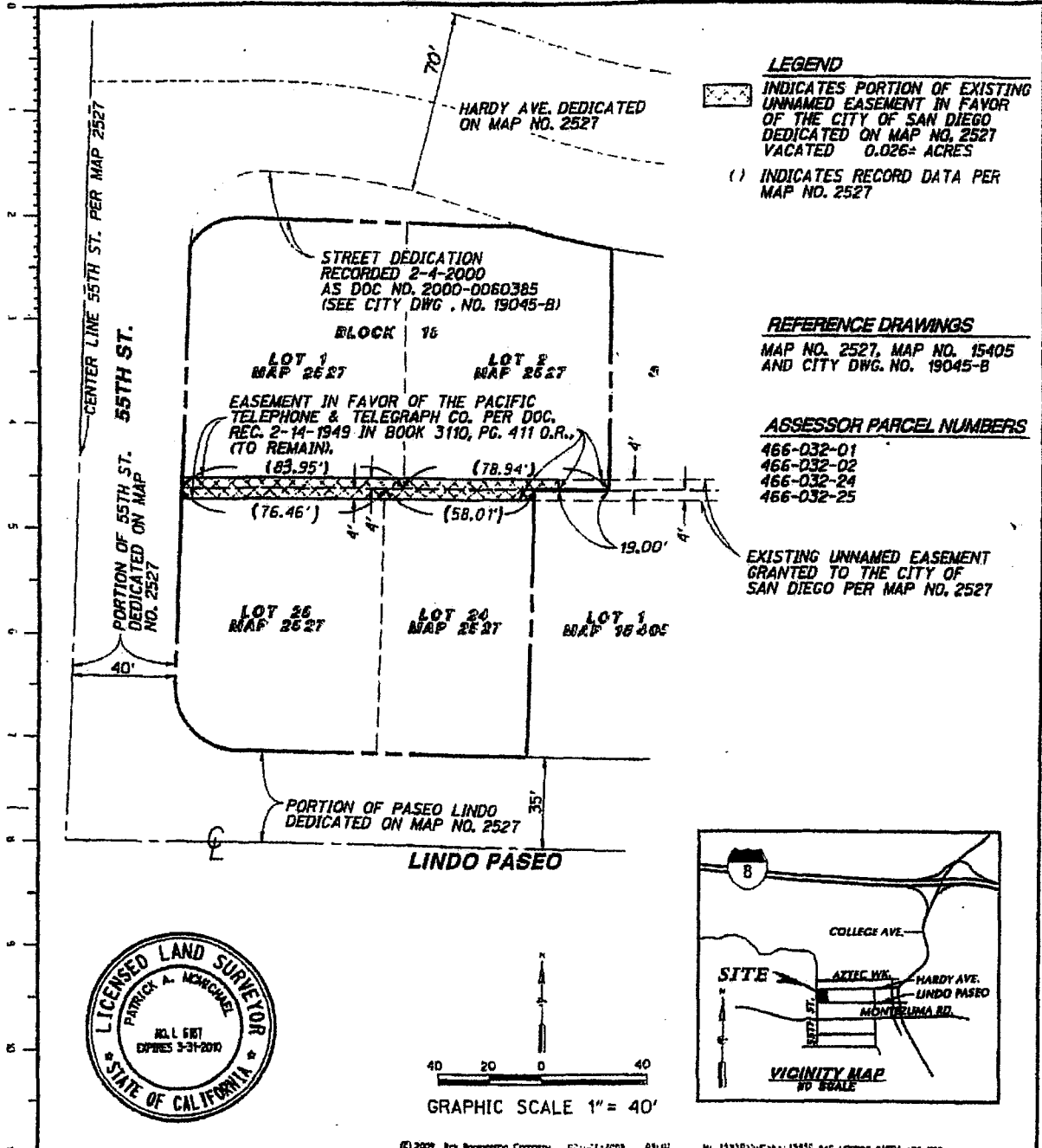
Containing 0.026 acre, more or less

 10-1-2009  
Patrick A. McMichael, L.S. 6187                      Date



J.O. No.: 431699  
P.T.S. No.: 166781  
Dwg. No.: 21039-B

R 305653



**NICOR** ENGINEERING COMPANY  
 3620 FRIARS ROAD J-1595D  
 SAN DIEGO, CA 92110  
 619.291.0707  
 (FAX) 619.291.4165

*Patrick A. MonMichael*  
 PATRICK A. MONMICHAEL, LS 6187 DATE 10-2-09

EASEMENT VACATION					CITY OF SAN DIEGO, CALIFORNIA		J.O. NO.
IN PORTIONS OF LOTS 1, 2, 24 & 25 OF BLOCK 16 OF MAP NO. 2527					SHEET 1 OF 1 SHEET		PTS NO.
DESCRIPTION	BY	APPROVED	DATE	FILMED			
ORIGINAL		✓ 3.M	10/2/09		<i>Gregory L. Hooper</i> FOR CITY ENGINEER	10-9-09	166781
							1860-6307
							CCS NAD 83 COORDINATES
							220-1747
							LAMBERT COORDINATES
							21039-B
STATUS							