

RESOLUTION NUMBER R- 307449

DATE OF FINAL PASSAGE MAY 15 2012

SUMMARY VACATION EASEMENT VACATING SLOPE
EASEMENT LOCATED AT 8985 STARGAZE AVENUE
PROJECT NO. 253611.

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 Slope Easement Abandonment No. 894706 be vacated; and

WHEREAS, the easement has not been used for the purpose for which it was dedicated or acquired for 5 consecutive years immediately preceding 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 May 15, 2012, 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 the Slope Easement located at 8985 Stargaze Avenue, 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 street alignment and the slope easement were designed under the original subdivision know as Black Mountain Ranchos, Unit No. 1, Map No. 9855, recorded on October 29, 1980. At that time the property directly to the south was vacant. The street and slope easement design was done in anticipation that Stargaze Avenue was going to continue straight southward and that an east west cross street maybe needed directly south of the subject site. However, when the property directly to the south was developed, known as Hampe Hills, Map No. 12873, recorded on October 8, 1991, the anticipated street alignment was not utilized. Thus the slope easement area and the unimproved portion of Stargaze Avenue are no longer needed for public use.

(b) The public will benefit from the vacation through improved utilization of the land made available by the vacation.

This project proposes to vacate a side yard slope easement along the southern portion of the subject property. Due to the development of the property directly to the south the subject site, the slope easement is no longer needed. This vacation of the easement will bring the property current with the physical reality of the property. The current design which anticipates improved utilization of the private ownership land and became a benefit to the public.

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

The proposed vacation of a slope easement is on property that is designated for low density residential land use by the Rancho Penasquitos Community Plan. The project site is currently developed with single family residential development.

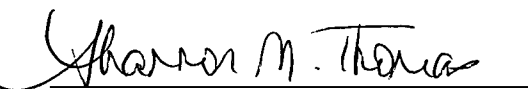
(d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this vacation or the purpose for which the easement was acquired no longer exists.

The street alignment and the slope easements were designed under the original subdivision know as Black Mountain Ranchos, Unit No. 1, Map No. 9855, recorded on October 29, 1980. At that time the property directly to the south was vacant. The street and slope easement design was done in anticipation that Stargaze Avenue was going to continue straight southward and that an east west cross street maybe needed directly south of the subject site. However, when the property directly to the south was developed, known as Hampe Hills, Map No. 12873, recorded on October 8, 1991, the anticipated street alignment was not utilized. Thus the slope easement area and the unimproved portion of Stargaze Avenue is no longer needed for the use for which it was originally acquired.

BE IT FURTHER RESOLVED, that the slope easement located within 8985, 8975 and 8965 Stargaze Avenue [more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 36619-B, marked as Exhibit "B"], which are by this reference incorporated herein and made a part hereof, is ordered vacated.

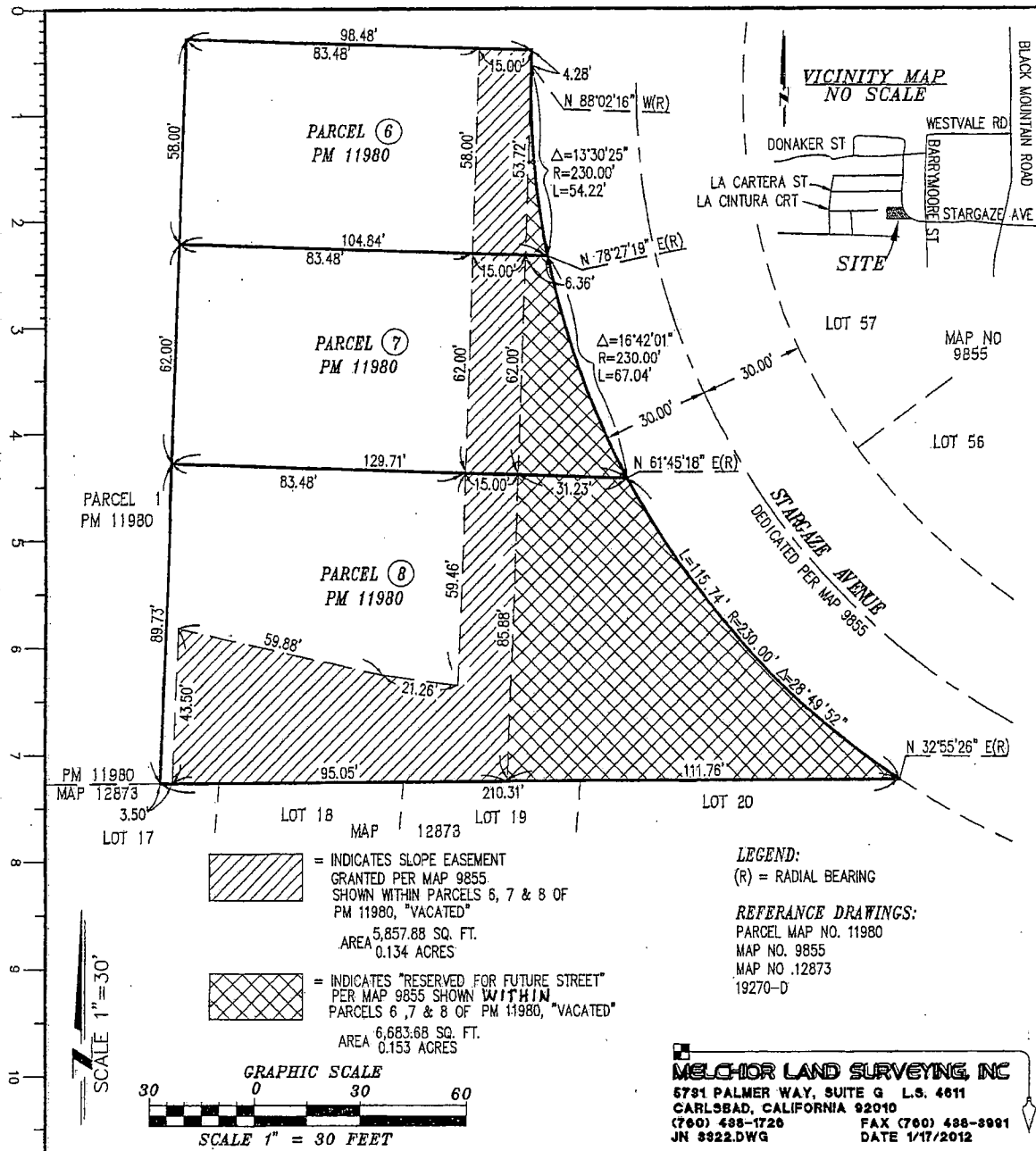
BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the office of the County Recorder.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Shannon M. Thomas
Deputy City Attorney

SMT:als
05/03/12
Or.Dept:DSD
Doc. No. 356470

EXHIBIT "B"



D. Melchior
DOUGLAS R. MELCHIOR P.L.S. 4611
DATE 11-21-2011

PROFESSIONAL LAND SURVEYOR
DOUGLAS R. MELCHIOR
NO. 4611
Exp. 9-30-12
STATE OF CALIFORNIA

SLOPE EASEMENT VACATION
"RESERVED FOR FUTURE STREET" VACATION
WITHIN "PARCELS 6, 7 & 8" OF PARCEL MAP NO.11980

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS NO. 253611
ORIGINAL	DA	✓	1-20-2012		SHEET 1 OF 1 SHEET	I.O. NO. 24002034
					Gregory P. Hopkins 1-23-2012 FOR CITY ENGINEER DATE	1935-6290 CCS'83 COORDINATES
						295-1728 LAMBERT COORDINATES
						36619-B