

334  
(B)  
5/15

RESOLUTION NUMBER R- 307450

DATE OF FINAL PASSAGE MAY 15 2012

A RESOLUTION SUMMARILY VACATING PORTIONS OF STARGAZE AVENUE (VACATION NO. 894707).

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and San Diego Municipal Code section 125.0901 *et seq.* provide a procedure for the summary vacation of public rights-of-way by City Council resolution; and

WHEREAS, it is proposed that portions of the right-of-way located at 8985, 8974 and 8965 Stargaze Avenue, Public Right-of-Way Vacation No. 894707 be vacated; and

WHEREAS, 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, the public right of way to be vacated 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 Stargaze Avenue, the Council finds that:

(a) There is no present or prospective public 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.

There is no present or prospective public use for the unimproved portion of Stargaze Avenue, south of the intersection of La Cartera Street and Stargaze Avenue, west of the intersection of Barrymore Street and Stargaze Avenue. The area of the proposed vacation is currently used as vacant land directly west of the improved portion of Stargaze Avenue. The unimproved street does contain underground franchise facilities, and public water and sewer improvements. These public facilities would be unaffected by the vacation by reserving a general utility and access easement for the continued use and maintenance of the public facilities over the vacated street.

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

Ownership of the unimproved portion of Stargaze Avenue would revert to the underlying adjacent property owners. Prior to recording the right-of-way vacation, resolution and drawing, the owners would be required to record Encroachment Maintenance and Removal Agreement for the private facilities within the general utility and access easement. The public would benefit by the continued use as lawn area as a visual open area for the existing residential homes, it would decrease the area the City is required to maintain, it would decrease the area the City would be liable for, the potential increased property value and related potential tax revenue it would add to each property.

- (c) The vacation does not adversely affect any applicable land use plan.

The proposed area to be vacated is zoned RS-1-14, a Residential Zone and the Rancho Penasquitos Community Plan designates this area for Low Density Residential Land Use. This proposed street vacation was reviewed by City Staff and determined to be consistent with the Rancho Penasquitos Community Plan. This vacation, if approved, will allow these properties to be further developed for low density residential use allowed by the underlying RS-1-14 Zone.

- (d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by this vacation.

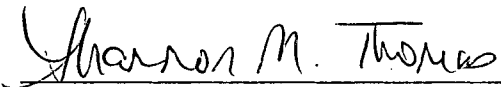
City Staff has reviewed the proposed street vacation and determined that there is no present or prospective public use for the unimproved portion of Stargaze Avenue. The unimproved street does not contain underground franchise facilities nor does it contain public water and sewer improvements. Public facilities would be unaffected by the vacation.

BE IT FURTHER RESOLVED, that Stargaze Avenue, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 36619-B, marked as Exhibit "B," which said drawing is attached hereto and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that said street vacation is conditioned upon recordation of an Encroachment Removal Agreement for private improvements within the public right-of-way. In the event this condition is not completed within three years following the adoption of this resolution, then this resolution shall become void and be of no further force or effect.

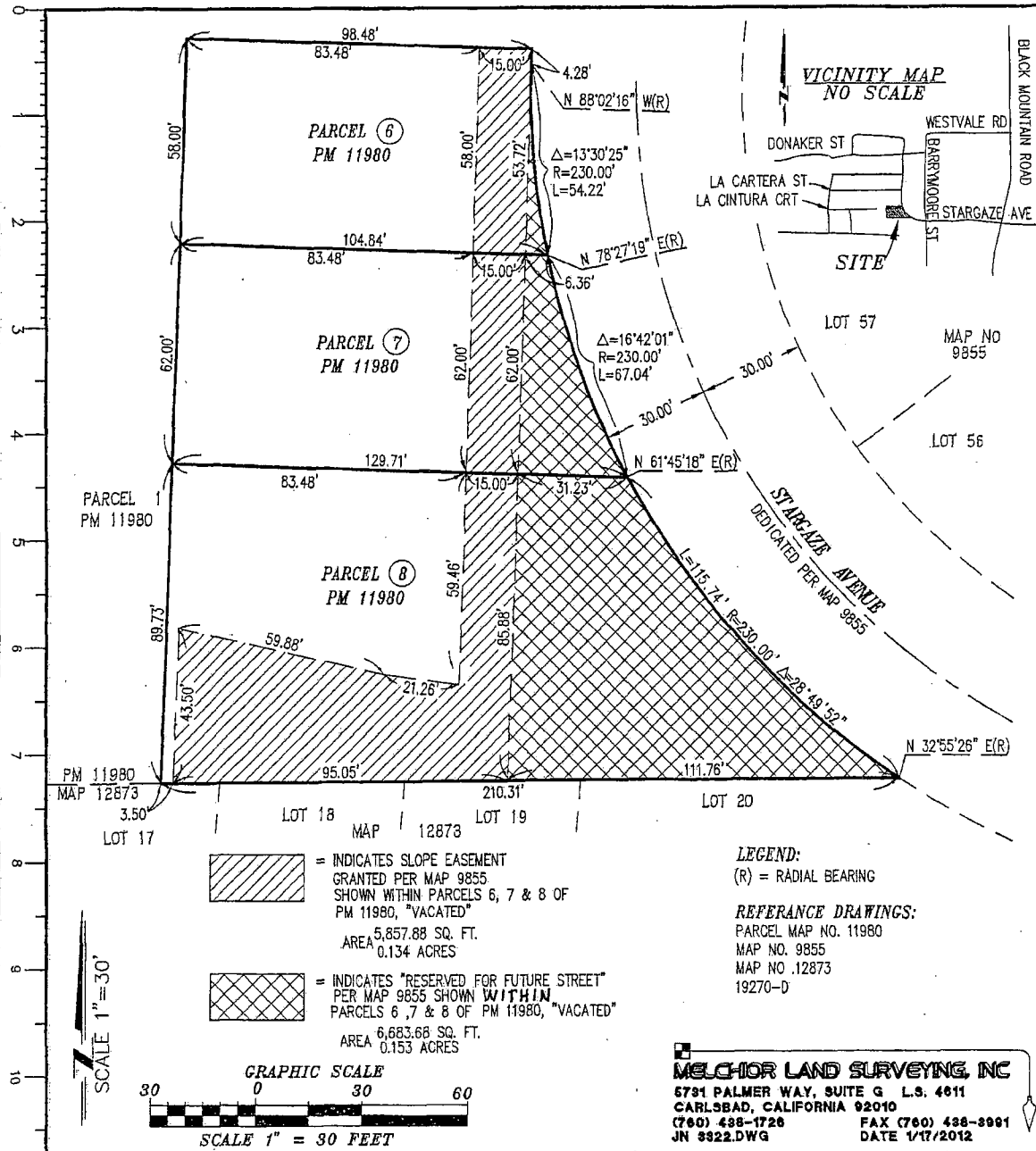
BE IT FURTHER RESOLVED, that the Development Services Department shall record a certified copy of this resolution with attached exhibits, attested by the City Clerk under seal, in the office of the County Recorder.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
05/03/12  
Or.Dept:DSD  
Doc. No. 356485

# EXHIBIT "B"



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

PROFESSIONAL LAND SURVEYOR  
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	DB	✓	1-20-2012		SHEET 1 OF 1 SHEET	L.C. NO. 24002034
					<i>Gregory P. Hopkins</i> 1-23-2012	1935-6290
					FOR CITY ENGINEER DATE	CCS'83 COORDINATES
						295-1728
						LAMBERT COORDINATES
						36619-B