

RESOLUTION NUMBER R- 307573

DATE OF FINAL PASSAGE JUL 10 2012

A RESOLUTION SUMMARILY VACATING NATURAL OPEN SPACE EASEMENT, OPEN SPACE EASEMENT, AND IRREVOCABLE OFFER TO DEDICATED EASEMENT FOR OPEN SPACE LOCATED AT 3665 VIA DE LA VALLE, SAN DIEGO, CALIFORNIA – PROJECT NO. 192099.

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and 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 the existing natural open space easement, open space easement, and Irrevocable Offer to Dedicate an Easement for Open Space, (hereinafter, the “easement area”) (Easement Abandonment No. 678520), be vacated; and

WHEREAS, the easement area has been superseded by relocation and there are no other public facilities located within the easement area; and

WHEREAS, the easement area 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 JUL 10 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 existing natural open space easement, open space easement, and Irrevocable Offer to Dedicate an easement for Open Space located at 3665 Via de la Valle, 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 existing site, which is developed with an animal care facility, was issued a Coastal Development Permit (CDP) from the California Coastal Commission (ref. CDP Nos. F-9010 and 6-82-519) that established both the open space easement and deed restriction on a portion of the property to provide protection of the San Dieguito River's floodplain area. Thereafter, the site was legally modified several times, including grading and improvements within the easement area. These permitted activities have resulted in a change to the location of the floodplain. Therefore, the restrictions no longer serve the purpose or intent for public benefit or use for which the easement area was originally required or that can be reasonably anticipated.

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

Currently, the property is developed with an animal care facility, and is limited by the restrictions imposed by the easement area. Without the vacation, the commercial development is restricted in its ability to perform additions or upgrades on the subject property. The public will benefit from the vacation of the easement area because the vacation will provide the commercial facility the ability to expand if necessary and to provide additional services to the community.

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

The City of San Diego General Plan identifies the project site as ‘Proposition “A” Lands and this project is also subject to the policies of the North City Future Urbanizing Area Framework Plan (FP). The FP identifies various planning subareas, and this property is within Subarea II, the San Dieguito Subarea. The land use is restricted to what is allowed by the current zoning regulations. The FP identifies the site for future residential use subject to a General Plan amendment and phase shift. The easement area on the property is no longer necessary and the vacation of the easement area would not impact the current or future uses identified in adopted land use plans.

(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 existing site, which is developed with an animal care facility, was issued a Coastal Development Permit (CDP) from the California Coastal Commission (ref. CDP Nos. F-9010 and 6-82-519) that established both the open space easement and deed restriction on a portion of the property to provide protection of the San Dieguito River’s floodplain area. Thereafter, the site was legally modified several times, including grading and improvements within the easement area. These permitted activities have resulted in a change to the location of the floodplain. Therefore, the easement restrictions no longer serve the public purpose for which the easement area was originally acquired and that public purpose will not be detrimentally affected by the vacation.

BE IT FURTHER RESOLVED, that the natural open space easement, open space easement, and Irrevocable Offer to Dedicate and Open Space Easement (the “easement area”) located within 3665 Via de la Valle, as more particularly described in the legal description

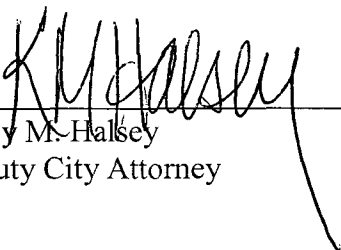
marked as Exhibit "A" and shown on Drawing No. 21064-2-B marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that said easement vacation is conditioned upon final recordation of California Coastal Commission Coastal Development Permit (CDP) No. F-9010-A3, an amendment to CDP Nos. F-9010 and 6-82-519. 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



Keely M. Halsey
Deputy City Attorney

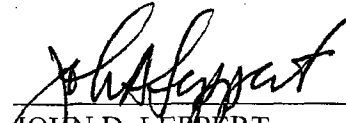
KMH:als
06/18/12
Or.Dept:DSD
Doc. No. 385043_2

EXHIBIT "A"
LEGAL DESCRIPTION
OPEN SPACE EASEMENT VACATION

LEGAL DESCRIPTION

ALL OF THAT NATURAL OPEN SPACE EASEMENT, OPEN SPACE EASEMENT GRANTED TO THE CITY OF SAN DIEGO ON FEBRUARY 24, 1983 PER MAP NO. 10603, AND IRREVOCABLE OFFCER TO DEDICATE OPEN SPACE RECORDED JULY 24, 1980 PER FILE NUMBER 80-232672, O.R., IN PARCEL 2 OF PARCEL MAP NO. 15180, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MARCH 24, 1988.

ATTACHED HERETO IS A DRAWING NO. 21064-B LABELED EXHIBIT "B" AND BY THIS REFERENCE MADE A PART HEREOF IS MADE.



JOHN D. LEPPERT
RCE NO. 26283

7/11/11

DATE

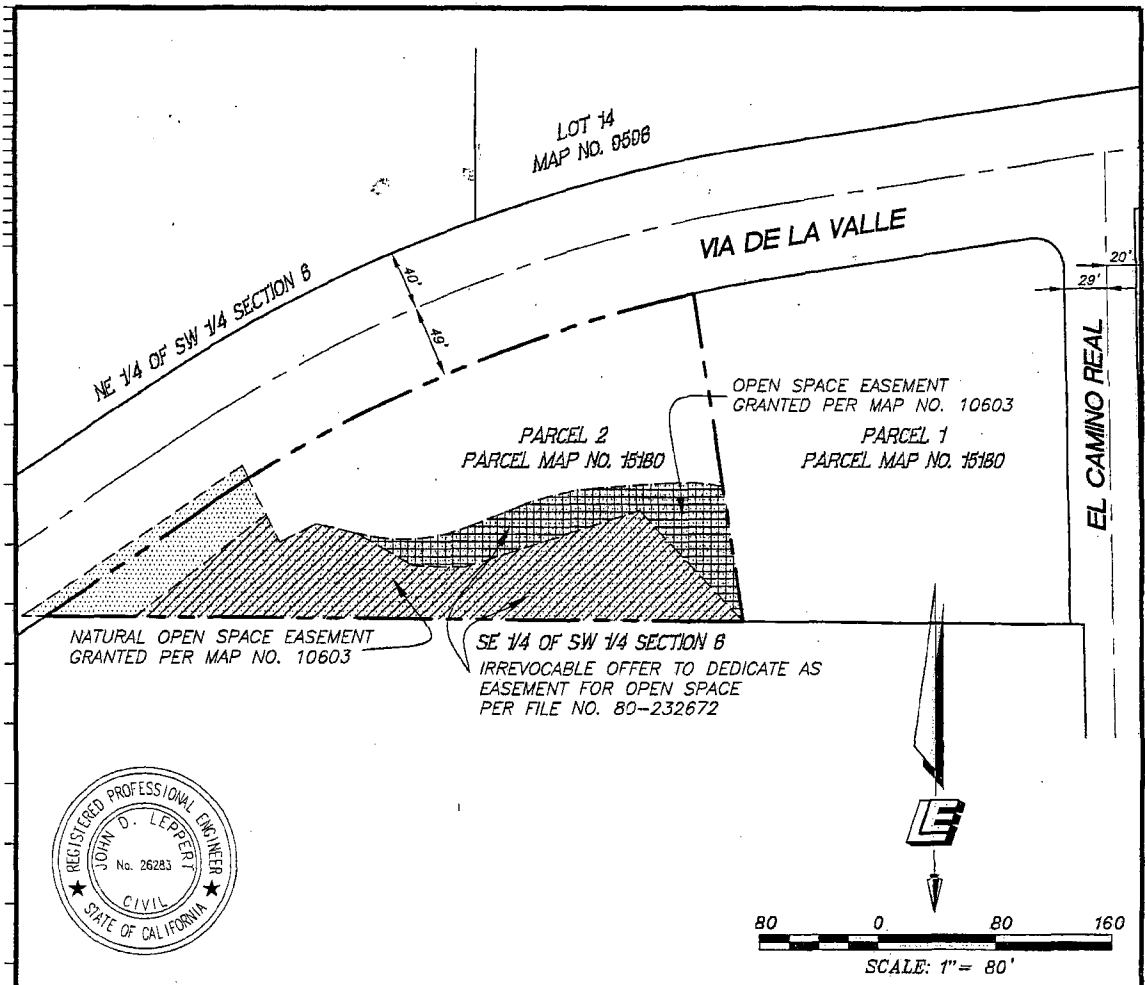


PTS NO. 192099
I.O. NO. 24000121
DWG. NO. 21064-2-B

R- 307573

JUL 10 2012

EXHIBIT "B"



LEGEND

PROPERTY BOUNDARY

OPEN SPACE EASEMENT GRANTED
PER MAP NO. 10603
AREA = 7,314.75 SF (0.168 AC) VACATED

NATURAL OPEN SPACE EASEMENT GRANTED
PER MAP NO. 10603
AREA = 18,757.34 SF (0.431 AC) VACATED

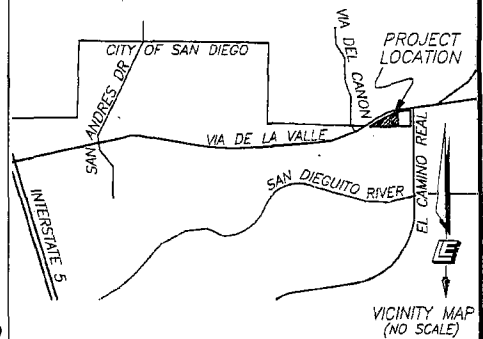
IRREVOCABLE OFFER TO DEDICATE
AS OPEN SPACE PER FILE NO. 80-232672
AREA = 31,919.06 SF (0.733 AC) VACATED

ASSESSOR'S PARCEL NUMBER

302-210-52-00

REFERENCES

MAP NO. 10603
PARCEL MAP NO. 15180



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

John D. Leppert
JOHN D. LEPPERT, P.E. 26283

3/14/2012
DATE

OPEN SPACE EASEMENT VACATION IN PARCEL 2 OF PARCEL MAP NO. 15180

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA SHEET 2 OF 2 SHEET	P.T.S. No. 192099 I.O. No. 24000121
ORIGINAL	JML					
	AEA		5/16/2012		<i>Gary R. Hopkins</i> FOR CITY ENGINEER	1938-6259 NAD 83 COORDINATES
	IS				DATE 5-16-2012	298-1699 LAMBERT COORDINATES
						21064-2-B

RECEIVED

STATUS

R- 307573

JUL 10 2012