

Item 333-10/18/16

(R-2017-134)

Subitem C

RESOLUTION NUMBER R- 310723  
DATE OF FINAL PASSAGE OCT 18 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO SUMMARILY VACATING AN OPEN SPACE  
EASEMENT FOR THE HERITAGE BLUFFS II PROJECT –  
PROJECT NO. 319435.

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 the open space easement described below be vacated; and

WHEREAS, on September 8, 2016, the Planning Commission of the City of San Diego  
considered Open Space Easement Vacation No. 1559636, and pursuant to Resolution No. 4809-  
PC voted 5:0:0:2 to recommend approval of the Vacation; and

WHEREAS, the matter was set for public hearing on October 18, 2016, testimony having  
been heard, evidence having been submitted, and the City Council having fully considered the  
matter and being fully advised concerning the same; 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 NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that with respect to Open  
Space Easement Vacation No. 1559636 located in Black Mountain Ranch, 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 easement was originally acquired for the purpose of protecting open space and coastal sage scrub, but there is no longer a public use for that purpose because the site was determined to contain non-native grassland rather than coastal sage scrub. The open space easement was an incremental step in the implementation of VTM 95-0173 which was approved by the City Council on October 31, 1995. The easement was granted on August 23, 1996, accepted by the City on December 23, 1996, and recorded on January 16, 1997. At the time the easement was granted, the Multiple Species Conservation Plan had not yet been approved and the easement was an interim method to protect specific areas of coastal sage scrub until the larger open space system could be dedicated to the City for inclusion in the Multiple Species Conservation Plan. Since the original granting of the easement, the site has undergone extensive biological resource mapping and the proposed easement vacation area has been determined to contain non-native grassland rather than coastal sage scrub.

The easement also has no other anticipated public uses. The proposed easement vacation affects a very small area at the edge of a much larger open space easement. Furthermore, the Heritage Bluffs II project has been designed to dedicate areas of higher biological value to the MHPA, including areas of coastal sage scrub, which will diminish the value of this open space in comparison. The easement is for open space, with no restrictions on past, present or prospective public use. There are no facilities within the easement. The purpose of the easement was to protect open space. The easement was not granted to facilitate any public use of any kind in the past, present or future. Therefore, 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

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

Vacation of the open space easement will allow for the development of the Heritage Bluffs II project by allowing a necessary emergency access roadway through a small area of open space. The development of the Heritage Bluffs II project will create the needed housing anticipated in the Black Mountain Ranch Subarea Plan area. The adjacent site, the location of the Heritage Bluffs II project, is designated by the Black Mountain Ranch Subarea Plan as Residential and Open Space. The Black Mountain Ranch Subarea Plan's Residential land use for the adjacent site is identified as Low Density, which permits two to five dwelling units per acre. The Subarea Plan allows for 220 dwelling units on-site, including a requirement for 35 affordable units, yet also requires secondary water and wastewater improvements and an emergency access road for fire and life safety. The vacation of the open space easement will allow the Heritage Bluffs II project to provide the residential development anticipated by the Black Mountain Ranch Subarea Plan and all necessary improvements including the secondary water and wastewater improvements and an emergency access road for fire and life safety. Therefore, the public will benefit from the action through improved utilization of the land made available by the vacation.

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

The total area of the open space easement vacation is 0.172-acres, or 7,504 square feet. The Subarea Plan anticipates the adjacent site, which is the project site for Heritage Bluffs II, for Residential and Open Space, and approval of the vacation will allow the Heritage Bluffs II project to be built, which in turn will provide the residential units and additional open space anticipated by the Subarea Plan. The Heritage Bluffs II project site is designated by the Black Mountain Ranch Subarea Plan as Residential and Open Space which anticipates the development of a 220 unit single-family residential project. The Black Mountain Ranch Subarea Plan's residential land use for the adjacent site is identified as Low Density at a density range of two to five dwelling units per acre. Although the Heritage Bluffs II project is consistent with the Subarea Plan, secondary water and wastewater improvements and an emergency access road for fire and life safety are required to serve the project. The only location for these improvements and the emergency access road is across the existing open space easement.

Approximately seventy-three percent of the adjacent project site will remain as open space and a component of the City's MHPA consistent with the goals and policies of the General Plan Conservation Element. The Heritage Bluffs II project has been designed to minimize its impacts on environmental resources and will be adjusting the MHPA, primarily to avoid impacts to sensitive biological resources. Pursuant to the Final MCSP Plan (August, 1998), "adjustments to the MHPA and/or preserve boundaries can be made without the need to amend the MSCP Plan or subarea plan if the adjustment will result in the same or higher biological value of the preserve." The proposed exchange involves removal of 20.5-acres from the existing MHPA (including the proposed 0.172-acres offsite open space easement vacation) and the replacement of 20.5-acres of higher quality habitat. The habitat interfaces will not be substantially changed. The configuration and amount of land within the MHPA for the project is substantially as designated in the Black Mountain Ranch Subarea Plan. The proposed exchange will confine the majority of the development to the least environmentally sensitive areas and will add more drainage areas to the MHPA than were previously mapped within the preserve boundaries. The proposed boundary line adjustment will avoid impacts to the majority of non-wetland drainages, maintain a 100-foot wide setback from the blueline stream, and avoid impacts to the mulefat scrub and freshwater habitats currently outside the MHPA boundary. It will also preserve non-native grassland that supports thread-leaved Brodiaea, adding protection to this MSCP-covered and narrow endemic species. An additional 7.84-acres off-site will be added to the MHPA, including an approximately 0.84-acre area just north of the project boundary and 7-acres of non-native grassland adjacent to Lusardi Creek. The area adjacent to Lusardi Creek supports a tributary and the habitat to be added to the MHPA will provide an additional buffer to the creek and improve this habitat/linkage corridor. The proposed adjustment will result in an increase in the protection of sensitive species in an area more likely to retain biological value.

Planned land uses adjacent to the MHPA within the Black Mountain Ranch Subarea Plan include single-family and multi-family residential, as well as active recreation. The subdivision has been designed to minimize impacts and maintain the function of the MHPA. Consistent with the City's MSCP Subarea Plan, Open Space Element of the Black Mountain Ranch Subarea Plan and Conservation Element of the General Plan, the subdivision will prevent drainage from flowing directly into the MHPA; reduce the impact of toxics, noise, and lighting; provide new barriers along the MHPA boundary; establish brush management zones; and limit access to the

Black Mountain Ranch Open Space Park to deter off-trail use. The subdivision site plan and design guidelines conform to the MHPA land use adjacency guidelines and the applicable land use plan. The vacation is consistent with any applicable land use plan.

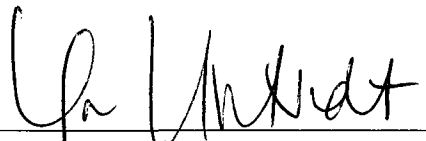
- (d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists.**

There are no public facilities within the open space easement. The purpose of the open space easement was an incremental step in the implementation of VTM 95-0173 which was approved by the City Council on October 31, 1995. The easement was granted on August 23, 1996, accepted by the City on December 23, 1996, and recorded on January 16, 1997. At the time the easement was granted, the Multiple Species Conservation Plan had not yet been approved and the easement was an interim method to protect specific areas of coastal sage scrub until the larger open space system could be dedicated to the City for inclusion in the Multiple Species Conservation Plan. Since the original granting of the easement, the site has undergone extensive biological resource mapping and the proposed easement vacation area has been determined to contain non-native grassland rather than coastal sage scrub. The original purpose, to protect coastal sage scrub, no longer exists. The proposed easement vacation affects a very small area at the edge of a much larger open space easement. As described above, the Heritage Bluff II project will be adjusting the MHPA, primarily to avoid impacts to sensitive biological resources. It will exchange existing MHPA areas (including this open space easement) with higher quality habitat, including coastal sage scrub, additional drainage areas, mulefat scrub, and fresh water habitats. The project will also create a habitat preserve for the listed species, *Brodiaea fillifolia*, to be managed by a habitat manager in perpetuity. Therefore, the public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation or the purpose for which the easement was acquired no longer exists.

BE IT FURTHER RESOLVED, that the open space easement located within Black Mountain Ranch in connection with Vesting Tentative Map No. 1193244, as more particularly described in the legal description marked as Exhibit A, and shown on Drawing Nos. 39082-1-B, 39082-2-B, and 39082-3-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   
Inga B. Lintvedt  
Deputy City Attorney

IBL:mcm  
September 29, 2016  
Or.Dept: DSD  
Doc. No.: 1358081\_2

Exhibit A: Legal Description  
Exhibit B: Drawing Nos. 39082-1-B, 39082-2-B, and 39082-3-B

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 18 2016.

ELIZABETH S. MALAND  
City Clerk

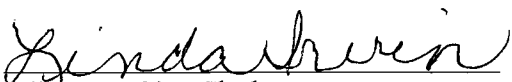
By   
Deputy City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

Negative Open Space Easement Vacation

That portion of Parcel 3 of Parcel Map No. 18504, in the City of San Diego, County of San Diego, State of California, according to the map thereof filed in the Office of the County Recorder of said County on July 18, 2000 as File No. 2000-377963 of Official Records, more particularly described as follows:

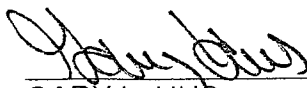
**Commencing** at the Southeast Corner of said Parcel 3; thence along the Southerly line thereof South 89°20'20" West, 990.01 feet (North 89°29'59" East, 990.01 feet per said Parcel Map) to the Southeast corner of Parcel "G" of that certain Negative Open Space Easement granted to the City of San Diego per Document No. 1997-0021224 recorded January 16, 1997 of Official Records; thence leaving said Southerly line and along the Easterly line of said Easement North 0°38'35" West, 14.61 feet to the **True Point of Beginning**; thence continuing along said Easterly line North 0°38'35" West, 103.40 feet to an angle point in the Northeasterly line of said Easement; thence leaving said Easterly line and along said Northeasterly line North 66°39'19" West, 93.96 feet; thence leaving said Northeasterly line South 30°17'40" East, 40.84 feet; thence South 3°40'06" West, 51.42 feet; thence South 25°42'16" East, 37.70 feet; thence South 47°13'47" East, 25.01 feet; thence South 76°48'33" East, 25.51 feet; thence North 75°35'01" East, 10.91 feet to the **True Point of Beginning**.

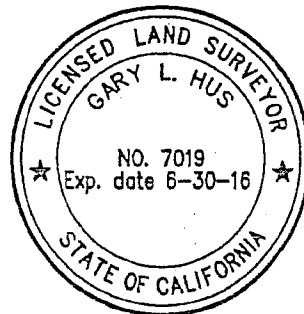
Said parcel contains 0.172 acre or 7,504 square feet, more or less.

Attached hereto is Drawing No. 39082-B labeled Exhibit "B" and by this reference made a part hereof.

All distances in the above legal description are ground, and bearings are based upon the California Coordinate System of 1983, Zone 6, Epoch 1991.35.

This legal description was prepared by me or under my direction in conformance with the Land Surveyors' Act.

 01-11-2016  
GARY L. HUS DATE  
LS 7019



PTS NO. 319435  
I.O. NO. 24004059

# Exhibit "B"

**ASSESSOR'S PARCEL NO.:**

312-160-12

**REFERENCE DRAWINGS:**

- ROS 21725      • ROS 10451
- PM 18504     • ROS 5714
- VTM 1193244

**BASIS OF BEARINGS:**


THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA COORDINATE SYSTEM OF 1983, ZONE 6, EPOCH 1991.35 AND IS DETERMINED BY G.P.S. MEASUREMENTS TAKEN IN SEPTEMBER, 2013 AT POINTS 'A' AND 'B' SHOWN HEREON. SAID POINTS WERE ESTABLISHED FROM 1ST ORDER G.P.S. STATION NO. 254 AND 1ST ORDER G.P.S. STATION NO. 107 PER RECORD OF SURVEY NO. 14492.

I.E. NORTH 00°32'34" EAST

DISTANCES SHOWN HEREON ARE GROUND LEVEL DISTANCES. THE COMBINED SCALE FACTOR AT POINT 'A' IS 0.999940054. GRID DISTANCE = GROUND DISTANCE X COMBINED SCALE FACTOR. ELEVATION AT POINT 'A' IS 772.99 FT. (N.G.V.D. 29).


QUOTED BEARINGS FROM REFERENCE DEEDS/MAPS MAY OR MAY NOT BE IN TERMS OF SAID SYSTEM.

**LEGEND:**

 INDICATES A PORTION OF THE NEGATIVE OPEN SPACE EASEMENT GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT NO. 1997-0021224, RECORDED JAN. 16, 1997, O.R., VACATED.  
AREA = 0.172 ACRE

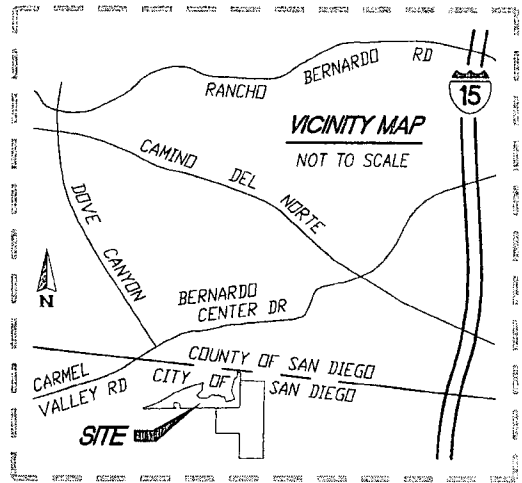
P.O.C. INDICATES POINT OF COMMENCEMENT

T.P.O.B. INDICATES TRUE POINT OF BEGINNING

 INDICATES FOUND MONUMENT AS NOTED

OD INDICATES OUTSIDE DIAMETER

( ) INDICATES RECORD AND MEASURED DATA PER ROS 21725



*Gary L. Hus*      01-11-2016  
GARY L. HUS, L.S. 7019      DATE



**PROJECT DESIGN CONSULTANTS**

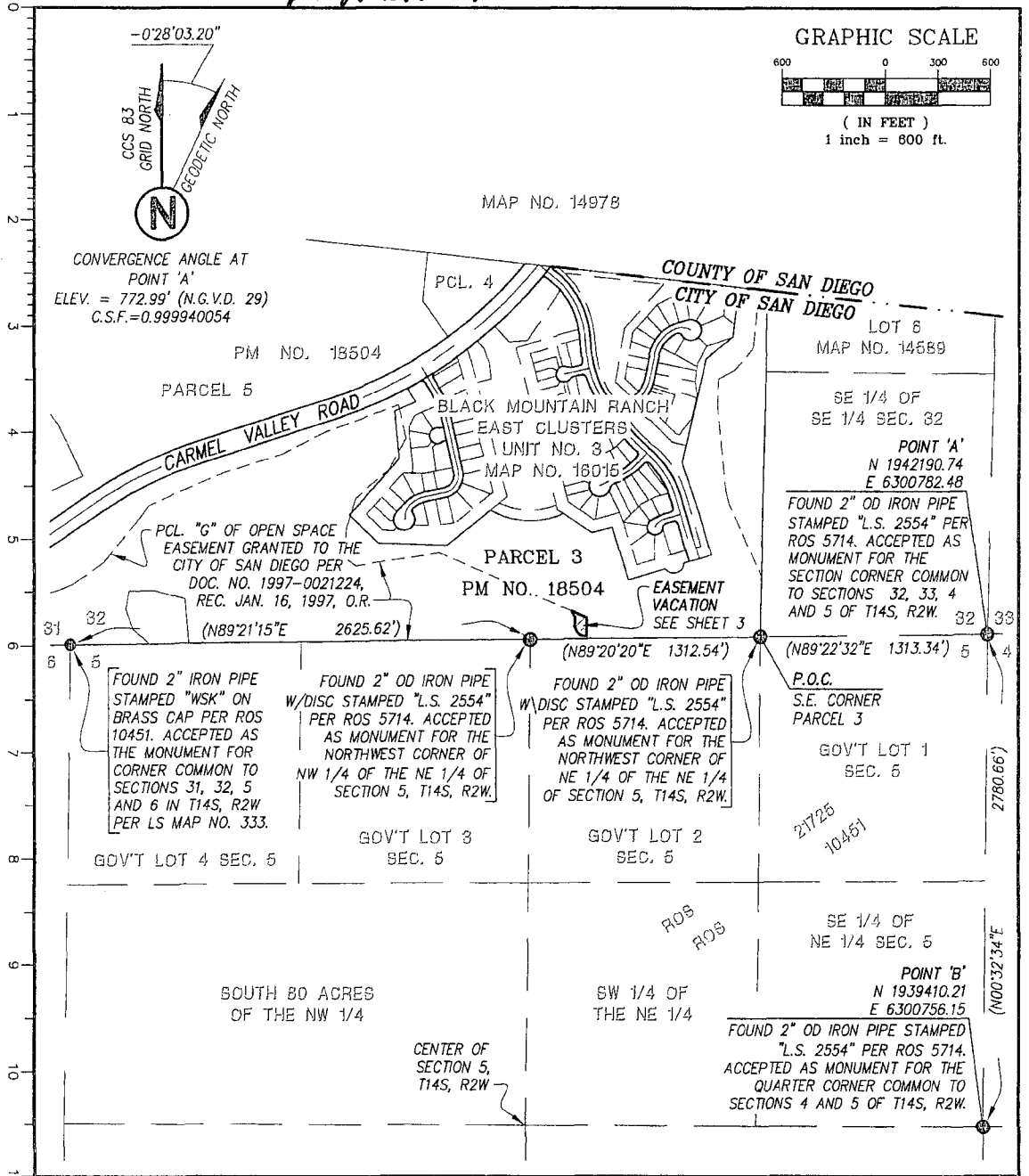
701 B Street, Suite 800      San Diego, CA 92101  
619.235.6471 Tel      619.234.0349 Fax

## NEGATIVE OPEN SPACE EASEMENT VACATION

IN PARCEL 3, PARCEL MAP. NO. 18504

DESCRIPTION	BY	APPRVD.	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	P.T.S. NO. 319435
ORIGINAL	PDC				SHEET 1 OF 3 SHEETS	I.O. NO. 24004059
		AEA	1/12/16		<i>Fredrick R. Lopez</i> FOR CITY ENGINEER	1940-6295
					1/13/16 DATE	CCS83 COORDINATES
						300-1735
						LAMBERT COORDINATES
						39082-1-B

# Exhibit "B"



**PROJECT DESIGN CONSULTANTS**

701 B Street, Suite 800 San Diego, CA 92101  
619.235.6471 Tel 619.234.0349 Fax

## NEGATIVE OPEN SPACE EASEMENT VACATION

IN PARCEL 3, PARCEL MAP. NO. 18504

DESCRIPTION	BY	APPRVD.	DATE	FILMED
ORIGINAL	PDC			
		AEA	11/27/16	

CITY OF SAN DIEGO, CALIFORNIA  
SHEET 2 OF 3 SHEETS

*Frank R. K.B.* 1/13/16  
FOR CITY ENGINEER DATE

P.T.S. NO. 319435  
I.O. NO. 24004059

1940-6295  
CCS83 COORDINATES  
300-1735

LAMBERT COORDINATES

39082-2-B





OCT 18 2016

Passed by the Council of The City of San Diego on \_\_\_\_\_, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherr Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 18 2016.

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By Linda Brucin, Deputy

<p>Office of the City Clerk, San Diego, California</p> <p>Resolution Number R- <u>310723</u></p>
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