

RESOLUTION NUMBER R- 314548DATE OF FINAL PASSAGE DEC 13 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO VACATING A PEDESTRIAN OVERPASS
EASEMENT FOR THE BAYSHORE BIKEWAY BARRIO
LOGAN – PROJECT NO. 696947.

WHEREAS, California Streets and Highways Code section 8320, *et seq.* and San Diego Municipal Code section 125.1001, *et seq.* provide a procedure for the vacation of public service easements by the Council of the City of San Diego (City Council); and

WHEREAS, The San Diego Association of Governments (SANDAG) filed an application to vacate an unnamed public pedestrian easement granted to the City of San Diego with a total area of 0.08 acres, being described as Easement Vacation No. 2590828. The easement is located on Pueblo Lots 1166 and 1167 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to the miscellaneous map thereof No. 36 made by James Pascoe in 1870; and

WHEREAS, the easement is located on property owned by Burlington Northern Santa Fe Railway (BNSF); located at the intersection of Harbor Drive and 32nd Street. The project site is zoned IH-2-1 within the Barrio Logan Community Plan, and is also located within the Airport Land Use Compatibility Overlay Zone (San Diego International Airport), the Federal Aviation Administration Part 77 Noticing Area (San Diego International Airport), the Coastal Overlay Zone, the Parking Standards Transit Priority Area, the Residential Tandem Parking Overlay Zone, the Transit Area Overlay Zone and Transit Priority Area; and

WHEREAS, the matter was set for a public hearing on December 13, 2022, 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, the Office of the City Attorney has drafted this resolution based on the information provided by City staff, including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; and

WHEREAS, under San Diego 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 the evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that with respect to Easement Vacation No. 2590828, the Council finds that:

Findings for Easement Vacations [San Diego Municipal Code (SDMC) Section 125.1040]

(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 project site of the existing unnamed public pedestrian easement, located at the intersection of Harbor Drive and 32nd Street, was granted by the railroad to the City of San Diego in 1955 (City Resolution No. 132113) for pedestrian overpass purposes. SANDAG's Bayshore Bikeway Barrio Logan project (Approval No. 2990552) proposes approximately 2.5 miles of Class I bikeway along Harbor Drive in the City of San Diego and includes a new at-grade pedestrian crossing of 32nd Street where non-ADA compliant pedestrian bridges exist today. Since the Bayshore Bikeway Barrio Logan would implement ADA-compliant at-grade pedestrian crossings, the project also proposes the removal of the existing pedestrian bridges.

After Approval No. 2990552 is implemented and the existing pedestrian bridges are removed, the existing easement will no longer serve the purpose for which it was originally acquired, and no prospective public use can be anticipated.

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

The intersection of 32nd Street and Harbor Drive in the Barrio Logan Community is a four-legged signalized intersection that does not allow at-grade pedestrian movements across any leg of the intersection. Pedestrians needing to cross 32nd Street and Harbor Drive are directed to the pedestrian bridges, owned by the City of San Diego, which do not comply with current Americans with Disabilities Act (ADA) standards. Removal of existing pedestrian bridges and subsequent vacation of the existing pedestrian overpass easement would allow the construction of improvements at the intersection. Such improvements include a traffic signal modification and ADA-compliant curb ramps to allow at-grade pedestrian movements across 32nd Street and Harbor Drive.

Proposed actions would represent a benefit to community by providing ADA-compliant at-grade crossing at the 32nd Street and Harbor Drive intersection for pedestrians and active transportation users. Vacation of the existing easement and subsequent implementation of improvements at 32nd Street, would allow connection to an existing segment of the Bayshore Bikeway corridor which provides a scenic active transportation route to major bayfront employers, as well as tourist and recreational destinations.

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

This is an easement vacation application, and no development is proposed as part of the easement vacation. The project would not modify existing land use or zoning designation but would allow for the demolition of the pedestrian bridge.

The proposed project is consistent with the 2021 Barrio Logan Community Plan (Figure 3-5: Planned Bicycle Networks) which identifies the segment as an Existing or Planned Bikeway. Section 3.5 (Bicycling) states that a goal of the Mobility Element section of the 2021 Barrio Logan Community Plan is to support a safe and comprehensive local and regional bikeway network.

(d) The public facility of 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.

SANDAG's Bayshore Bikeway Barrio Logan project will remove existing pedestrian bridges at the 32nd Street and Harbor Drive intersection and will eliminate the need for the pedestrian overpass easement in question, per City Grading and Right of Way Permit (Approval No. 2990552). Instead, ADA-compliant at-grade pedestrian crossing improvements will be implemented. Because the Bayshore Bikeway Barrio Logan project will eliminate the need to the overpass easement, the purpose for which the easement was acquired no longer exists.

BE IT FURTHER RESOLVED, that Easement Vacation No. 2590828, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 42597-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated subject to the following condition:

1. Prior to recording the easement vacation, the Applicant shall obtain approval for the demolition of the pedestrian overpass bridge located at the intersection of Harbor Drive and 32nd Street and such demolition shall have occurred in accordance with such grading and public plans to the satisfaction of the City Engineer.

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

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Corrine L. Neuffer
Corrine L. Neuffer
Chief Deputy City Attorney

CLN:cm
November 18, 2022
Or.Dept: Development Services
Doc. No. 3146941

EXHIBIT "A"
LEGAL DESCRIPTION
PEDESTRIAN OVERPASS EASEMENT VACATION

AN EASEMENT FOR PEDESTRIAN OVERPASS PURPOSES IN FAVOR OF THE CITY OF SAN DIEGO RECORDED MARCH 9, 1956 IN BOOK 6050 AT PAGE 385 OF OFFICIAL RECORDS, UPON, OVER AND ACROSS THOSE PORTIONS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY'S RIGHT OF WAY IN PUEBLO LOTS 1166 AND 1167 OF THE PUEBLO LANDS OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MISCELLANEOUS MAP THEREOF NO. 36 MADE BY JAMES PASCOE IN 1870, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY.

TOTAL AREA = 3,269 SF (0.075 AC), MORE OR LESS (BASED ON GROUND DISTANCES).

ATTACHED HERETO IS DRAWING NO. 42597-B, LABELED EXHIBIT "B", AND BY REFERENCE MADE A PART HEREOF.



JOEL D. RIIPINEN LS 7942

7-6-2022



PTS No. 696947
DWG. No 42597-B

REFERENCES

CITY DWG. 4797-B; MISC. MAP 36;
 ROS 984, ROS 1005, ROS 15487,
 ROS 20257, ROS 22504, CR 38124;
 CR 37326, CITY DWG. 41370-D;
 BK. 261 - PG. 282 DEEDS,
 BK. 5126 - PG. 222 O.R.,
 BK. 6050 - PG. 385 O.R.;
 S.B.E. MAP 804-37-24

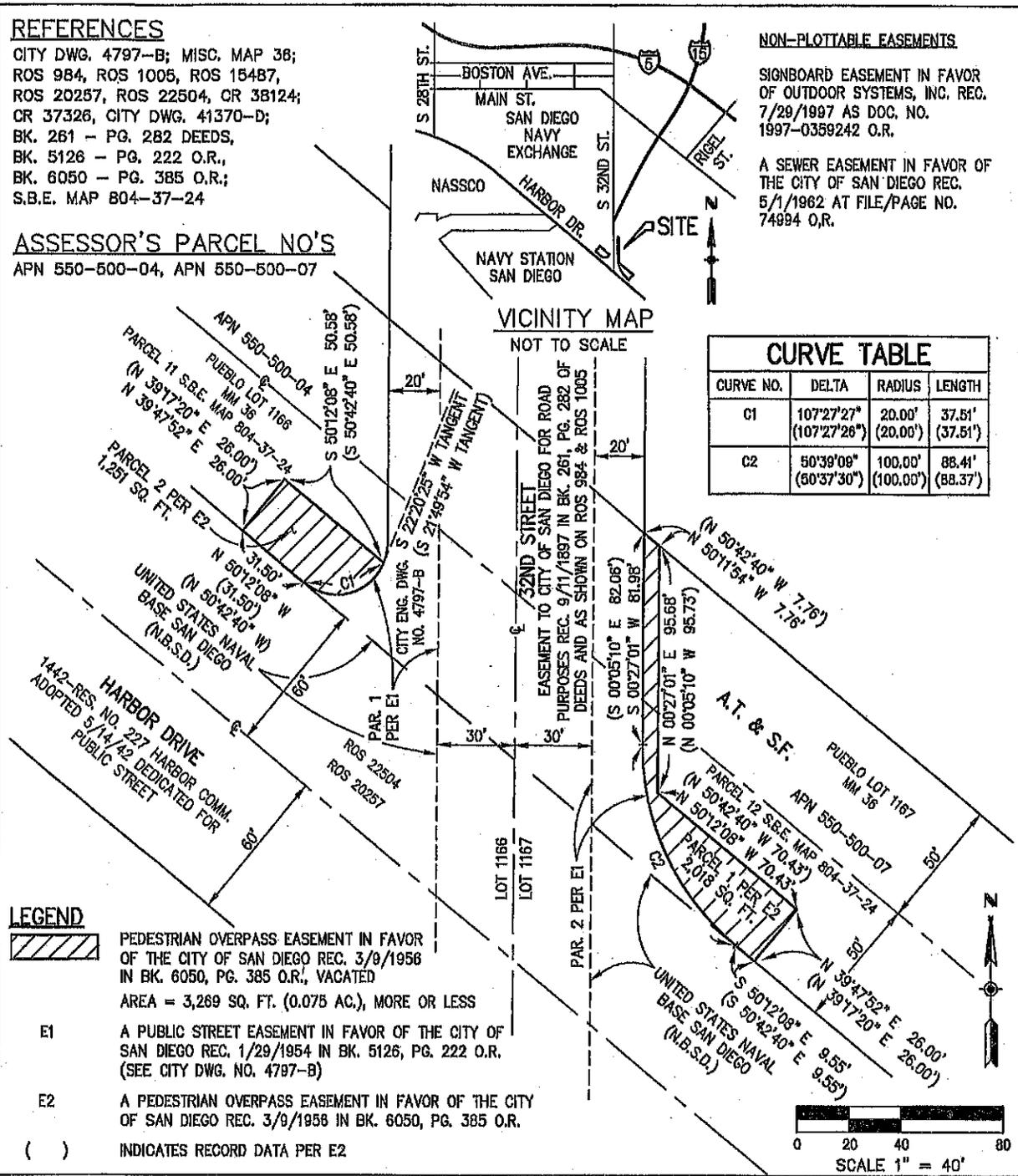
ASSESSOR'S PARCEL NO'S

APN 550-500-04, APN 550-500-07

NON-PLOTTABLE EASEMENTS

SIGNBOARD EASEMENT IN FAVOR
 OF OUTDOOR SYSTEMS, INC. REC.
 7/29/1997 AS DOC. NO.
 1997-0359242 O.R.

A SEWER EASEMENT IN FAVOR OF
 THE CITY OF SAN DIEGO REC.
 5/1/1962 AT FILE/PAGE NO.
 74994 O.R.



LEGEND

- PEDESTRIAN OVERPASS EASEMENT IN FAVOR OF THE CITY OF SAN DIEGO REC. 3/9/1956 IN BK. 6050, PG. 385 O.R., VACATED
 AREA = 3,269 SQ. FT. (0.075 AC.), MORE OR LESS
- E1 A PUBLIC STREET EASEMENT IN FAVOR OF THE CITY OF SAN DIEGO REC. 1/29/1954 IN BK. 5126, PG. 222 O.R. (SEE CITY DWG. NO. 4797-B)
- E2 A PEDESTRIAN OVERPASS EASEMENT IN FAVOR OF THE CITY OF SAN DIEGO REC. 3/9/1956 IN BK. 6050, PG. 385 O.R.
- () INDICATES RECORD DATA PER E2

AGUIRRE & ASSOCIATES
 8363 CENTER DRIVE, SUITE 5A
 LA MESA CA 91942 (619) 464-6978

 7/8/2022
 JOEL D. RIPINEN L.S. 7942 DATE



DOCUMENT No. _____
 RECORDED _____

PUBLIC OVERPASS EASEMENT VACATION

OVER A PORTION OF THE RIGHT-OF-WAY OF THE BURLINGTON NORTHERN & SANTA FE RAILWAY CO., SUCCESSOR IN INTEREST TO THE ATCHINSON TOPEKA & SANTA FE RAILWAY CO., LYING WITHIN PUEBLO LOTS 1166 & 1167 OF THE PUEBLO LANDS OF SAN DIEGO, MISCELLANEOUS MAP NO. 36

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS 696947
ORIGINAL	JR				SHEET 1 OF 1 SHEET	I.O. N/A
					FOR CITY LAND SURVEYOR	1830-6289
					DATE	CCS 83 COORDINATES
						190-1729
						NAD 27 COORDINATES
						42597-B
STATUS						

Passed by the Council of The City of San Diego on DEC 13 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 13 2022.

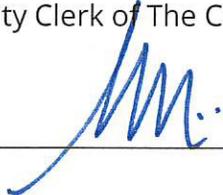
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

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

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R-_____

314548