

RESOLUTION NUMBER R- 315631

DATE OF FINAL PASSAGE JUN 04 2024

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING THE APPEAL AND AFFIRMING THE DEVELOPMENT SERVICES DEPARTMENT'S DECISION VACATING A 2,977-SQUARE-FOOT GENERAL UTILITY EASEMENT, EASEMENT VACATION NO. PMT-3155119 FOR 4620 PACIFIC VIEWPOINT-PROJECT NO. PRJ-1056469.

WHEREAS, San Diego Municipal Code section 125.1010(a) provides a procedure for the vacation of public easements by City staff designated by the City Manager; and

WHEREAS, VIEWPOINT DEVELOPMENT, LLC filed an application to vacate a Public Service Easement located at 4620 Pacific Highway in the Old Town Community Planning Area, Easement Vacation No. PMT-3155119; and

WHEREAS, the project site was previously analyzed within the certified Program Environmental Impact Report (PEIR) No. 561630/SCH No. 2018011022 for the Old Town Community Plan. An evaluation was prepared to determine if conditions specified in the California Environmental Quality Act (CEQA) Statute and Guidelines, including Guidelines Sections 15162, 15164, and 15168, would require the preparation of additional CEQA review. As addressed in the Addendum prepared for the project and the separate CEQA resolution, the project is a later activity within the scope of the PEIR that will not result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and

WHEREAS, on March 4, 2024, the Development Services of the City of San Diego approved Easement Vacation No. PMT-3155119 and adopted the Addendum pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on March 18, 2024, the Supporter's Alliance for Environmental Responsibility submitted an appeal of the Development Services Department's approval of Easement Vacation No. PMT-3155119 (Appeal); and

WHEREAS, on June 4, 2024, the City Council of the City of San Diego (City Council) considered the Appeal of Easement Vacation No. PMT-3155119, pursuant to the Land Development Code of the City of San Diego, received for its consideration written and oral presentations, evidence having been submitted, and testimony having been heard from all interested parties at the public hearing, 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 and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the City Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that it denies the Appeal and adopts the following findings with respect to Easement Vacation No. PMT-3155119:

1. 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 2,977-square-foot general utility and access easement is located at 4620 Pacific Highway (Assessor's Parcel Number 442-74-0600). The existing easement was granted

to the City of San Diego in 1965 for general utilities and access purposes. The easement is not currently used by the City, is not planned for use by the City, and precludes development within the easement area. Removal of the easement will serve the public by facilitating the construction of a new 223-dwelling-unit seven-story building that provides affordable housing. No portion of the easement vacation is within the public right-of-way and removing the encumbrance will allow the development of a project consistent with City plans, policies and regulations. 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 any other public use of a like nature that can be anticipated.

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

The elimination of the easement would facilitate more productive use of the property by enabling the future construction of a new 223-dwelling-unit seven-story building over a portion of the existing easement location. The land made available by the vacation will allow for the improvement of the property consistent with the Old Town Community Plan, in that the vacation would allow the development of market rate and affordable housing at the project site consistent with the Community Plan's land use designation. The Old Town Community Plan identifies the site as mixed commercial residential within the Taylor Sub-District. The Taylor Sub District serves as the northern gateway to the community and primarily contains institutional uses including the Old Town Transit Center and the Caltrans District 11 headquarters. Within the Taylor Sub District, the Community Plan envisions a mix of residential, hotel, commercial, and institutional uses in proximity to the transit center. The project complies with that vision by providing residential uses, and by providing affordable housing furthers other Community Plan goals and policies including Policy LU-2.3, which encourages the inclusion of onsite affordable housing units in residential developments. Therefore, the public will benefit from the action through improved utilization of the land made available by the vacation.

3. The vacation is consistent with any applicable land use plan.

The Old Town Community Plan identifies the following site within the Taylor Sub-District. The Taylor Sub District serves as the northern gateway to the community, and it envisions a mix of residential, hotel, commercial, and institutional uses in proximity to the Old Town Transit Center. The project complies with the Community Plan, including Policy LU-2.3, which encourages the inclusion of onsite affordable housing units in residential developments. No portion of the easement vacation is within the public right-of-way. Removing the encumbrance will facilitate productive use of the property consistent with the adopted Old Town Community Plan. Therefore, the vacation is consistent with the applicable land use plan.

4. 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.

The existing easement was granted to the City of San Diego in 1965 for general utilities and access purposes. The easement is not active and is no longer needed. No public facilities will


be impacted by this easement vacation as none exist. No portion of the easement vacation is within the public right-of-way and removing the encumbrance will provide benefits by removing the potential liability associated with an unutilized and unneeded easement and facilitating the development of market rate and affordable housing consistent with applicable City plans, policies, and regulations. Therefore, the public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the vacation and the purpose for which the easement was acquired no longer exists.

BE IT FURTHER RESOLVED, that the City of San Diego general utility and access easement located at 4620 Pacific Highway, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 100361-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 quitclaim deed with an attached copy of this resolution and any exhibits, in the Office of the County Recorder releasing to the property owner, all rights title and interest in said easement.

APPROVED: MARA W. ELLIOTT, City Attorney

By



Noah J. Brazier
Deputy City Attorney

NJB:nja

06/05/2024

Or. Dept: Development Services

Doc. No. 3671927

Attachments: Exhibit A – Legal Description
Exhibit B – Drawing No. 100361-B

EXHIBIT "A"
LEGAL DESCRIPTION
GENERAL UTILITY AND ACCESS EASEMENT VACATION

ALL THAT GENERAL UTILITY AND ACCESS EASEMENT GRANTED TO THE CITY OF SAN DIEGO, LYING WITHIN LOT 2 OF JENNINGS TRACT, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 5632, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO, OCTOBER 06, 1965, O.R.

ATTACHED HERETO IS DRAWING NO. 100361-B LABELED EXHIBIT "B" AND BY THIS REFERENCE MADE A PART HEREOF.

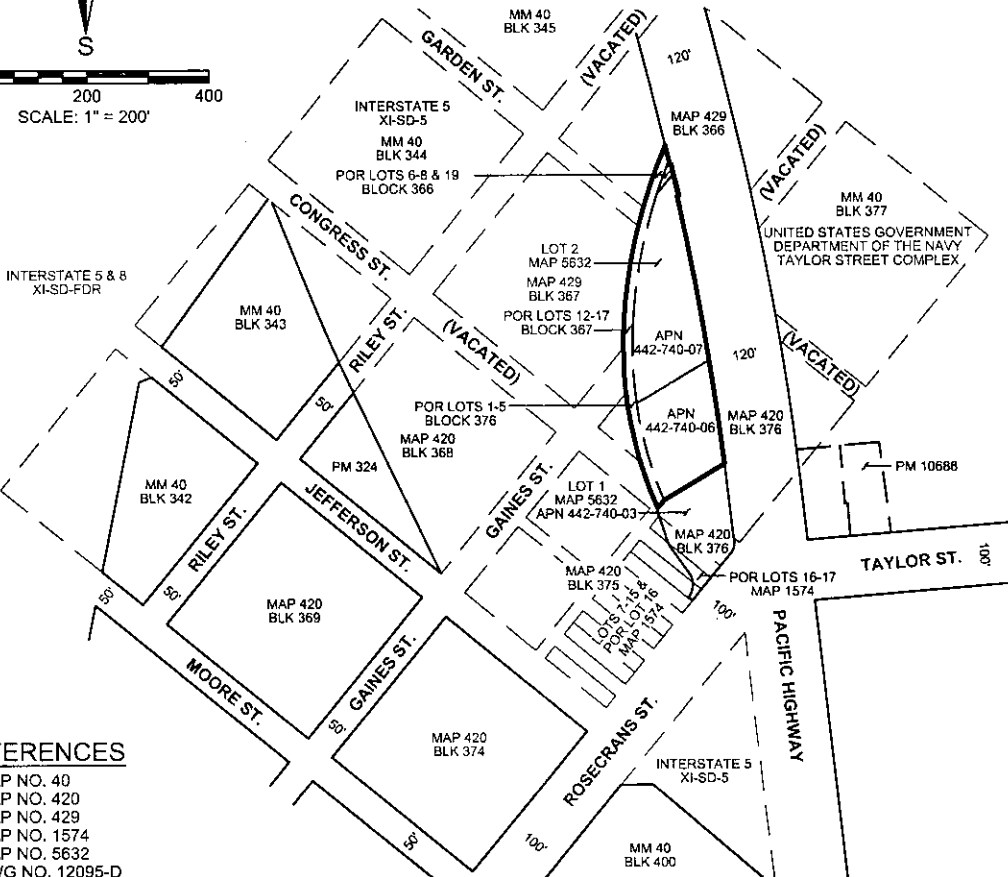
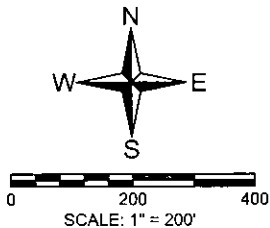


MAXIMILIAN LEBL, PLS 9323

DATE:

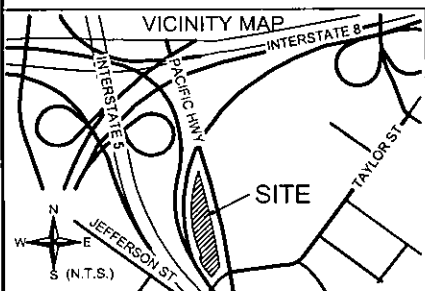
PRJ. NO. 1056469
DWG. NO. 100361-B

EXHIBIT "B"



REFERENCES

- MAP NO. 40
- MAP NO. 420
- MAP NO. 429
- MAP NO. 1574
- MAP NO. 5632
- DWG NO. 12095-D



LEGEND

- PROPERTY LINE
- RIGHT-OF-WAY LINE
- CENTER LINE
- ADJOINING PROPERTY LINE
- EXISTING EASEMENT LINE
- GENERAL UTILITY AND ACCESS EASEMENT GRANTED TO THE CITY OF SAN DIEGO, TO BE VACATED. CONTAINING 2,977 SQUARE FEET (0.068 AC)
- () RECORD DATA PER MAP NO. 5632

BASIS OF BEARINGS:

THE SOUTH LINE OF LOT 2 MAP NO. 5632 I.E. N 59°00'07" E

MAXIMILIAN LEBL, PLS 9323

PASCO LARET SUITER
& ASSOCIATES
PH. 858.259.8212 | PLSAENGINEERING.COM

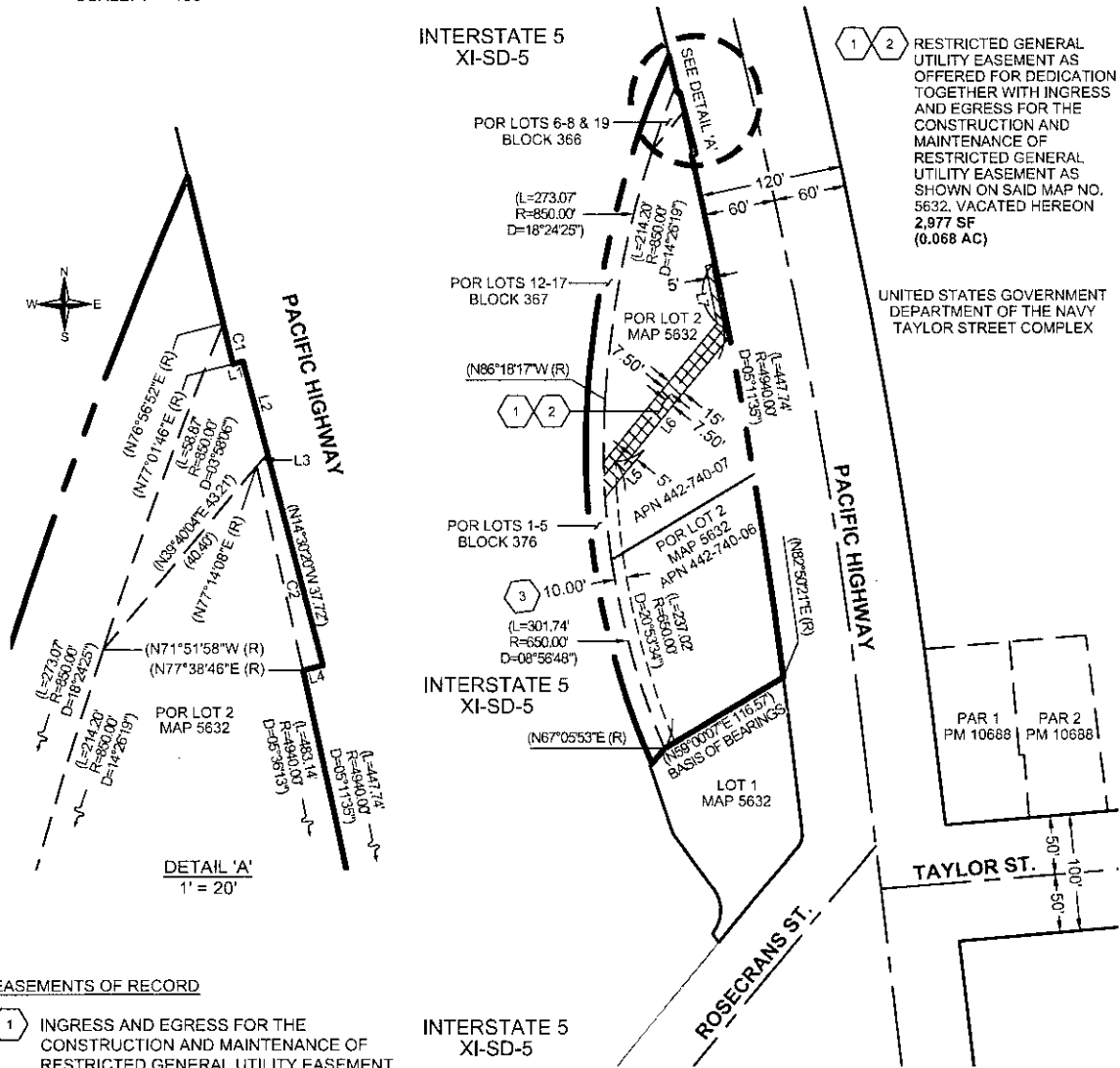
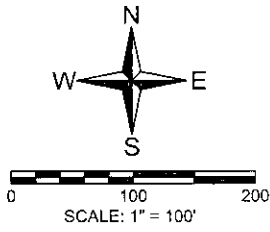


RESOLUTION NO. _____
RECORDED: _____
DOCUMENT NO: _____
RECORDED: _____

GENERAL UTILITY AND ACCESS EASEMENT VACATION
GRANTED OVER A PORTION OF LOT 2 OF JENNINGS TRACT, ACCORDING TO MAP NO. 5632

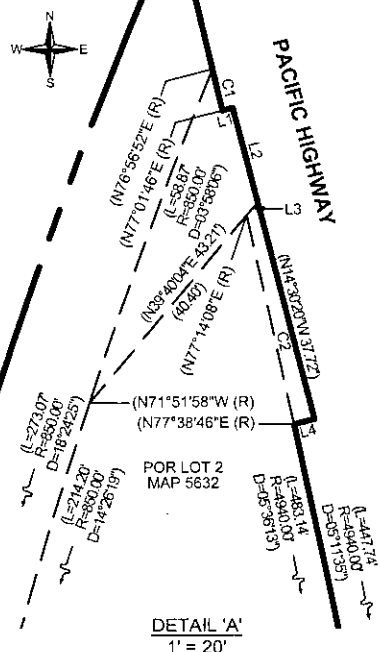
DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO SHEET 1 OF 2	PRJ 1056469 I.O. N/A
ORIGINAL	PLSA				FOR CITY LAND SURVEYOR	1854-6267 CCS 83 COORD
					DATE	214-1707 NAD 27 COORDINATES
					100361-1-B	B001
					STATUS	

EXHIBIT "B"



1 2 RESTRICTED GENERAL UTILITY EASEMENT AS OFFERED FOR DEDICATION TOGETHER WITH INGRESS AND EGRESS FOR THE CONSTRUCTION AND MAINTENANCE OF RESTRICTED GENERAL UTILITY EASEMENT AS SHOWN ON SAID MAP NO. 5632, VACATED HEREON 2,977 SF (0.068 AC)

UNITED STATES GOVERNMENT DEPARTMENT OF THE NAVY TAYLOR STREET COMPLEX



EASEMENTS OF RECORD

- 1 INGRESS AND EGRESS FOR THE CONSTRUCTION AND MAINTENANCE OF RESTRICTED GENERAL UTILITY EASEMENT AS STATED IN THE OWNERS CERTIFICATE AND SHOWN ON SAID MAP NO. 5632.
- 2 RESTRICTED GENERAL UTILITY EASEMENT AS OFFERED FOR DEDICATION AND SHOWN ON SAID MAP NO. 5632.
- 3 10 FOOT PRIVATE EASEMENT TO LOT 1 AS OFFERED FOR DEDICATION AND SHOWN ON SAID MAP NO. 5632.

INTERSTATE 5 XI-SD-5

LINE TABLE

- L1 - (N75°29'40"E 1.77")
- L2 - (N14°30'20"W 16.12")
- L3 - (N39°42'04"E 2.81")
- L4 - (N75°29'40"E 3.48")
- L5 - (N39°12'00"E 22.34")
- L6 - (N39°12'00"E 145.22")
- L7 - (N10°50'00"W 55.00")

CURVE TABLE

- C1 - (L=7.04' R=4940.00' D=00°04'54")
- C2 - (L=35.40' R=4940.00' D=00°24'38")

GENERAL UTILITY AND ACCESS EASEMENT VACATION
GRANTED OVER A PORTION OF LOT 2 OF JENNINGS TRACT, ACCORDING TO MAP NO. 5632

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO SHEET 2 OF 2	PRJ 1056469 I.O. N/A
ORIGINAL	PLSA					
					FOR CITY LAND SURVEYOR	DATE
						1856-6269 CCS 83 COORD
						210-1711 NAD 27 COORDINATES
					STATUS	100361-2-B
						B002

Passed by the Council of The City of San Diego on JUN 04 2024, 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"/>
Henry L. Foster III	<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 JUN 04 2024.

(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)

DIANA I.S. FUENTES
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

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