

RESOLUTION NO. 9391

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE DECLARING THE PUBLIC INTEREST AND NECESSITY OF ACQUIRING CERTAIN REAL PROPERTY LOCATED AT 2006 WEST CHAPMAN AVENUE AND AUTHORIZING THE ACQUISITION THEREOF.

Owner of Record: Jeffrey Horner, an unmarried man

THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY FIND, DETERMINE, ORDER AND RESOLVE AS FOLLOWS:

1. The City of Orange is a municipal corporation located in the County of Orange, State of California.
2. The property hereinafter described (the "Property") is to be taken in fee simple unless a lesser estate is described, along with a portion to be taken for a temporary construction easement.
3. The Property is to be taken for a public use, namely for the widening of Chapman Avenue.
4. The Property is to be acquired pursuant to the authority conferred upon the City of Orange to acquire property for public street purposes by eminent domain by California Code of Civil Procedure Section 1230.010 et seq. and California Government Code Sections 37350.5 and 40404.
5. A portion of the Property being condemned is property that has been impliedly dedicated to the City in accordance with Civil Code Section 1009.
6. The Property, including the temporary construction easement, is located at 2006 West Chapman Avenue, as is more particularly described in the attached exhibits, all of which are attached hereto and incorporated herein by this reference.
7. An Environmental Impact Report for the Chapman Avenue widening was prepared and certified in 1992 and no substantial changes have occurred with respect to the circumstances and project under which the 1992 EIR was certified.
8. No new information has become available, which was not known and could not have been known at the time the 1992 EIR was certified, that would result in any new significant effects from the project.

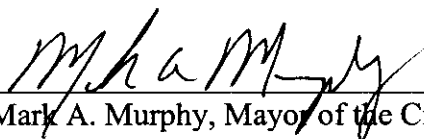
THE CITY COUNCIL OF THE CITY OF ORANGE FURTHER FINDS AND DETERMINES AS FOLLOWS:

1. That the public interest and necessity require the acquisition of the Property for the proposed project;
2. That the proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
3. That the Property is necessary for the proposed project; and
4. That an offer has been made to the owner of record of the Property pursuant to California Government Code Section 7267.2.

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE AS FOLLOWS:

1. The City Attorney is hereby authorized and directed to take all steps necessary to institute and prosecute proceedings in a court of competent jurisdiction to acquire the Property by eminent domain.
2. The Director of Finance is hereby authorized and directed to draw such warrants as may be required by the Superior Court for deposit with the State Treasury for probable compensation in accordance with California Code of Civil Procedure Section 1255.010.

ADOPTED this 27th day of March, 2001.



Mark A. Murphy, Mayor of the City of Orange

ATTEST:



Cassandra J. Cathcart, City Clerk of the City of Orange

I hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the 27th day of March, 2001, by the following vote:

AYES: COUNCILMEMBERS: SLATER, ALVAREZ, MAYOR MURPHY, COONTZ
NOES: COUNCILMEMBERS: NONE
ABSENT: COUNCILMEMBERS: NONE
ABSTAIN: COUNCILMEMBERS: NONE


Cassandra J. Cathcart, City Clerk of the City of Orange

EXHIBIT A

ASSESSOR PARCEL NO. 390-231-03

DATE PREPARED: 1/9/95

PREPARED BY: Yeichiro Kobayashi, P.E. 24202

THAT CERTAIN REAL PROPERTY SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF ORANGE, CITY OF ORANGE, DESCRIBED AS FOLLOWS:

THE SOUTH 15.00 FEET OF THE NORTH 45.00 FEET OF THE EAST 78.00 FEET OF THE WEST 185.96 FEET OF THAT PORTION OF SECTION 36, TOWNSHIP 4 SOUTH, RANGE 10 WEST, SAN BERNARDINO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE NORTH LINE OF SAID SECTION 36, WHICH IS 8 CHAINS WEST OF THE NORTHEAST CORNER OF SAID SECTION, SAID POINT BEING THE NORTHWEST CORNER OF LAND CONVEYED TO ELIZA TAYLOR BY DEED DATED DECEMBER 17, 1877; THENCE WEST ALONG THE NORTH LINE OF SAID SECTION 10.12 CHAINS TO THE NORTHEAST CORNER OF THE TRACT OF LAND DESCRIBED IN AGREEMENT OF SALE BY A. B. CHAPMAN TO J. RODRIGUEZ; THENCE SOUTH 10 CHAINS TO THE SOUTH LINE OF LAND CONVEYED TO S. N. TALKINGTON BY DEED; THENCE EAST ALONG THE SOUTH LINE THEREOF 10.12 CHAINS TO THE SOUTHWEST CORNER OF LAND TO ELIZA TAYLOR; THENCE NORTH 10 CHAINS TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 1,170 SQUARE FEET, MORE OR LESS.


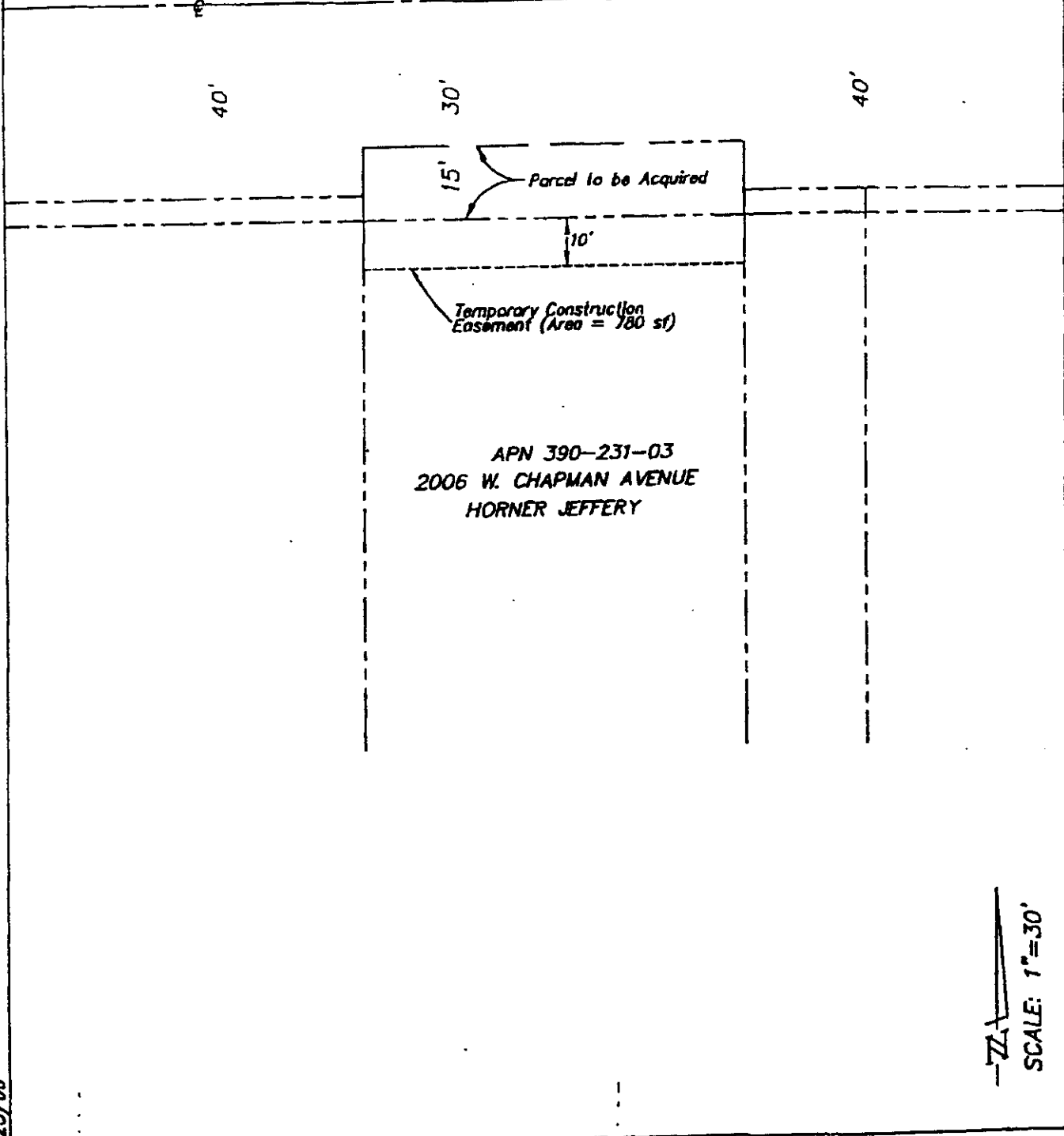

Yeichiro Kobayashi
P.E. 24202



EXHIBIT A-1

CITY OF ORANGE DEPARTMENT OF PUBLIC WORKS ORANGE COUNTY, CALIFORNIA TEMPORARY CONSTRUCTION EASEMENT

CHAPMAN AVENUE



APN 390-231-03
2006 W. CHAPMAN AVENUE
HORNER JEFFERY

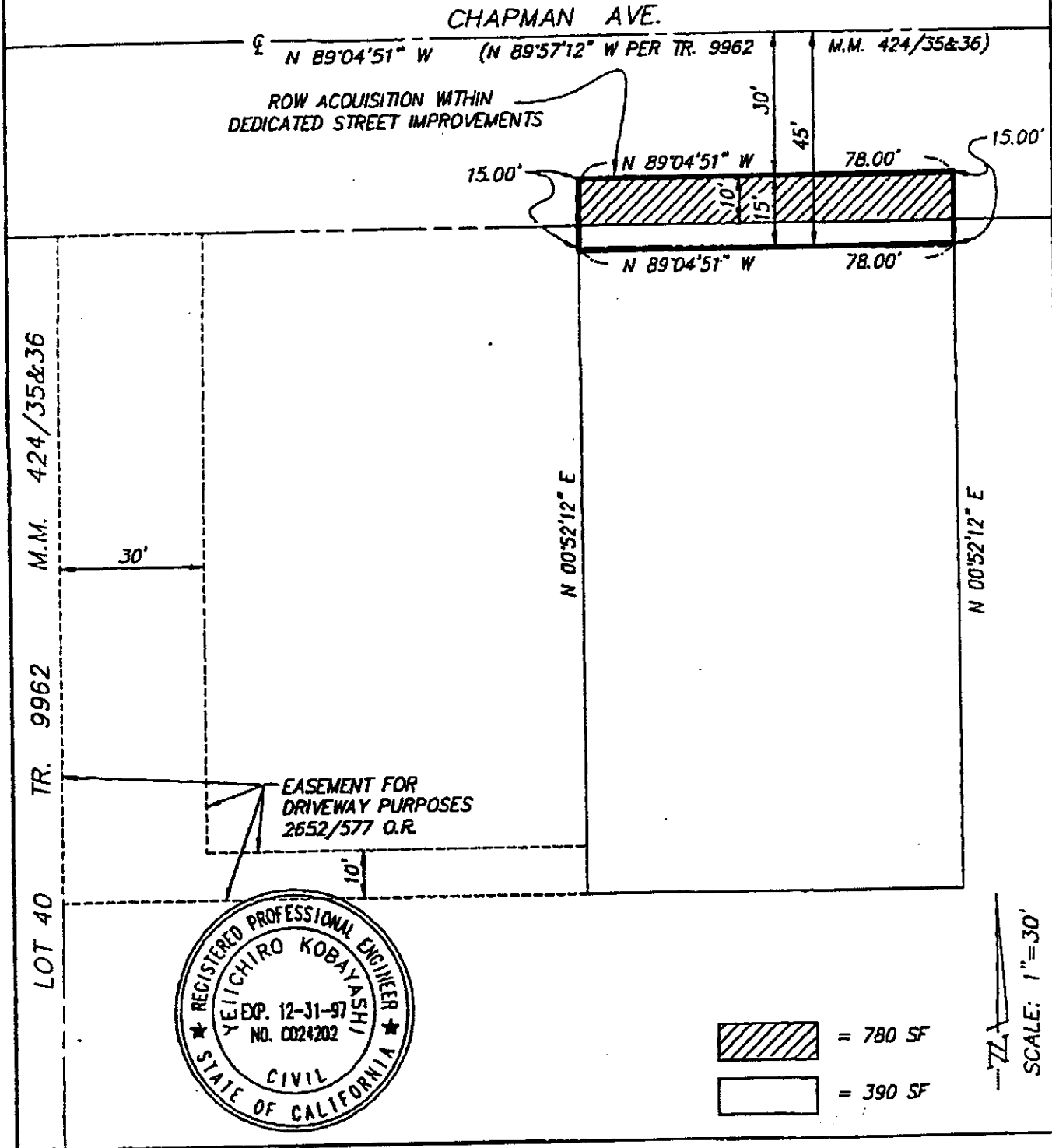
SCALE: 1"=30'



Top Plat 20: 3/23/00

WORK DESCRIPTION TEMPORARY CONSTRUCTION EASEMENT A.P. No. 390-231-03
LOCATION 2006 W. CHAPMAN AVENUE S.P. No. 3097 TRACT No. _____
VESTING HORNER JEFFERY BOOK _____ PAGE _____
DRAWN D.A.S. DATE 3/00 CHECKED B.S. DATE 3/00 RECORDING DATE _____ BOOK _____ PAGE _____ FILE _____

CITY OF ORANGE
 DEPARTMENT OF PUBLIC WORKS
 ORANGE COUNTY, CALIFORNIA

EXHIBIT B



 = 780 SF
 = 390 SF

SCALE: 1"=30'

WORK DESCRIPTION FEE A.P. No. 390-231-03
 LOCATION 2006 CHAPMAN AVENUE S.P. No. 3097 TRACT No. _____
 VESTING JEFFERY HORNER BOOK _____ PAGE _____
 DRAWN DAS DATE 6/00 CHECKED RS DATE 6/00 RECORDING DATE _____ BOOK _____ PAGE _____ FILE _____

TEMPORARY CONSTRUCTION EASEMENT

FOR VALUABLE CONSIDERATION, THE UNDERSIGNED OWNERS HEREBY GRANTS PERMISSION TO THE CITY OF ORANGE, ITS OFFICERS, EMPLOYEES, AGENTS, INVITEES, AND EMPLOYED CONTRACTORS, HEREINAFTER COLLECTIVELY REFERRED TO AS CITY, TO ENTER UPON, TO PASS AND REPASS OVER AND ALONG THAT PORTION OF ITS LAND DESCRIBED AND SHOWN ON THE EXHIBIT "A-1", ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF, FOR THE PURPOSE OF PROVIDING ACCESS AND WORKING AREA FOR THE CONSTRUCTION OF THE STREET WIDENING OF WEST CHAPMAN AVENUE; TO ENTER UPON, TO PASS AND REPASS OVER AND ALONG SAID LAND AND TO DEPOSIT TOOLS, IMPLEMENTS AND OTHER MATERIALS THEREON BY SAID CITY AND BY PERSONS UNDER CONTRACT WITH IT AND THEIR EMPLOYEES WHENEVER AND WHEREVER NECESSARY FOR THE PURPOSES SET FORTH.

THIS PERMISSION IS GRANTED SUBJECT TO THE FOLLOWING CONDITIONS BEING FULFILLED BY CITY:

- (A) UPON COMPLETION OF STREET WIDENING WORK, ALL SURFACE IMPROVEMENTS SHALL BE RESTORED TO THE SAME GENERAL CONDITIONS AS EXISTED PRIOR TO THE BEGINNING OF SAID CONSTRUCTION WORK.
- (B) CITY SHALL INDEMNIFY THE UNDERSIGNED AGAINST AND HOLD THE UNDERSIGNED HARMLESS FROM ANY LOSS OF OR DAMAGE TO ANY PROPERTY, OR INJURY OR DEATH OF ANY PERSON WHOMSOEVER, PROXIMATELY CAUSED IN WHOLE OR IN PART BY NEGLIGENCE OF CITY OR BY ANY ACT OR OMISSION FOR WHICH THE CITY IS LIABLE IN THE EXERCISE OF THE RIGHTS HEREIN GRANTED.

IT IS UNDERSTOOD THAT THE PERIOD OF USE OF SAID EASEMENT SHALL EXIST FOR A PERIOD OF NO MORE THAN 4 MONTHS AND SHALL COMMENCE WITH THE FIRST ENTRY ON OWNER'S PROPERTY BY CITY'S CONTRACTOR. IN THE EVENT SAID ACTUAL USE EXTENDS BEYOND THE PRESCRIBED PERIOD OF TIME AND SAID USE IS VERIFIED THROUGH THE CITY'S CONTRACTOR LOGS, THE CITY SHALL PAY THE OWNER AT THE RATE OF \$192.00 PER MONTH PRORATED TO THE ACTUAL DATE SAID ACTUAL USE TERMINATES. THIS EASEMENT SHALL BECOME NULL AND VOID AND SHALL TERMINATE UPON COMPLETION OF SAID CONSTRUCTION AND IN ANY EVENT SHALL CEASE AND TERMINATE NOT LATER THAN APRIL 1, 2004.

DATED _____

OWNER

BY _____

BY _____