

RESOLUTION NUMBER R- 305222

DATE OF FINAL PASSAGE SEP 1 2009

SUMMARY VACATION OF A PORTION OF 8TH AVENUE
AND APPROVAL OF PARCEL MAP NO. 634240.

WHEREAS, California Streets and Highways Code section 8330 *et seq.* and San Diego Municipal Code section 125.0901 *et seq.* provide a procedure for the summary vacation of public rights-of-way by City Council resolution; and

WHEREAS, Todd Haynes and Gary Haehnle, Applicant, requested Vacation No. 670145, consisting of approximately 4,150 square feet of the unimproved portion of the 8th Avenue public right-of-way located adjacent to 3606 8th Avenue, 7th Avenue and State Route 163, to unencumber their property; and

WHEREAS, the public right-of-way lies within one ownership and does not continue through that ownership or touch the property of another owner and public funds have not been expended for maintenance of the public right-of-way; and

WHEREAS, the public right-of-way to be vacated does not contain active 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 City 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 SEP 1 2009, 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 City Council of the City of San Diego, that with respect to a portion of 8th Avenue, Vacation No. 670145, the City Council finds that:

- (a) There is no present or prospective public use for the public right-of-way, either for the purpose for which it was originally acquired, or for any other public use of a like nature that can be anticipated. There is no current or anticipated future plan to improve this portion of 8th Avenue because steep slopes preclude the reasonable extension of 8th Avenue between 7th Avenue and State Route 163, nor is development of this portion of 8th Avenue required to allow for normal circulation through the neighborhood.
- (b) The public will benefit from the vacation through improved use of the land made available by the vacation. Extreme topography precludes the reasonable extension of this portion of 8th Avenue and approval of the vacation would reduce public liability and the need for maintenance for an unimproved and unnecessary right-of-way. The vacation has been conditioned to install a modified turn-around adjacent to the 2632 8th Avenue parcel which is still within the public right right-of-way, just north of the proposed vacation. The implementation of this condition would improve the existing site condition by providing a vehicle turn-around point where none exists thus benefitting the public through the beneficial use of land.

- (c) The vacation does not adversely affect any applicable land use plan in that the Uptown Community Plan acknowledges that there are a number of public rights-of-way in this community which will not be developed due to steeply-sloped canyons in the area. Moreover, the single-family residential land use designation for the site would not be changed with this action.
- (d) The public street system for which the public right-of-way was originally acquired will not be detrimentally affected by this vacation in that the area has a well-established traffic pattern with sufficient circulation options.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, as follows:

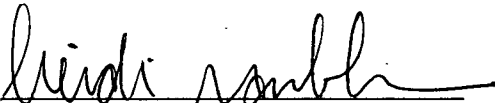
1. That the portion of the 8th Avenue right-of-way, located between 7th Avenue and State Route 163, as more particularly described in the legal description marked as Exhibit "A," and shown on Parcel Map No. 634240, marked as Exhibit "B," and on file in the office of the City Clerk as Document Nos. RR- 305222-1 and RR- 305222-2 which are by this reference incorporated herein and made a part hereof, is ordered vacated.
2. That said street vacation includes the following conditions listed below. In the event these conditions are 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.
 - (1) Prior to the recordation of Parcel Map No. 634240, the applicant shall construct a 10-foot by 25-foot paved area adjacent to the 2632 8th Avenue parcel (located within the public right right-of-way), which would provide a modified turn around at the terminus of the proposed vacation.

- (2) Prior to the recordation of Parcel Map No. 634240, the applicant shall provide two "Private Driveway" signs on either sides of the street at the beginning of the proposed vacation.
- (3) Prior to the issuance any construction permit for the public improvements, the Applicant shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.
- (4) Prior to the issuance of any construction permit for the public improvements, the Applicant shall submit a Water Pollution Control Plan [WPCP] to the City Engineer. The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.
- (5) Parcel Map No. 634240, showing a building-restricted easement on the Lot 10 parcel, shall be recorded against the property in order to tie Lots 47, 48 and a portion of Lot 10 together in order to maintain the required 50 feet of street frontage per the underlying zone.

BE IT FURTHER RESOLVED, that Parcel Map No. 634240 is approved.

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 
Heidi K. Vonblum
Deputy City Attorney

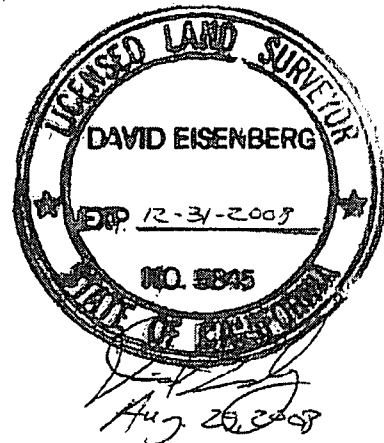
HKV:js
07/23/2009
Or.Dept:DSD
R-2010-74

EXHIBIT 'A'
STREET VACATION
LEGAL DESCRIPTION

THAT PORTION OF EIGHTH AVENUE ADJOINING LOTS 47 AND 48, BLOCK 8 OF CRITTENDEN'S ADDITION, MAP 303, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP 1185 OF THE RESUBDIVISION OF THE EAST HALF OF SAID BLOCK 8, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JUNE 16, 1909, AND ADJOINING A PORTION OF LOT 10, BLOCK 7, OF SAID MAP 1185 DESCRIBED AS FOLLOWS;

BEGINNING AT THE NORTHEAST CORNER OF LOT 47 AS SHOWN ON SAID MAP 1185, THENCE SOUTH 20°58'56" EAST 22.86 FEET; THENCE SOUTH 40°07'12" EAST 38.30 FEET TO THE SOUTH EASTERLY CORNER OF SAID LOT 48; THENCE SOUTH 88°18'48" EAST 66.08 FEET ALONG THE NORTHERLY LINE OF BROOKES AVENUE AS VACATED TO THE SOUTHWESTERLY CORNER OF LOT 10, BLOCK 7, OF SAID MAP 1185; THENCE NORTH 39°12'39" WEST 72.83 FEET TO AN ANGLE POINT; THENCE SOUTH 59°54'13" WEST 25.74 FEET; THENCE NORTH 20°58'56" WEST 19.41 FEET; THENCE SOUTH 69°01'04" WEST 25.34 FEET TO THE POINT OF BEGINNING. CONTAINING 3312 SQUARE FEET (0.076 ACRES) MORE OR LESS.

J.O. NO. 431029
PTS. NO. 157745
DWG. NO. 20871-B



R- 305222