

RESOLUTION NUMBER R- 305238

DATE OF FINAL PASSAGE SEP 8 2009

SUMMARY VACATION OF ORCUTT AVENUE AND FRIARS ROAD WITH RESERVATION OF EASEMENTS – ORCUTT AVENUE STREET VACATION, PROJECT NO. 56280.

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, it is proposed that the public right-of-way located at Orcutt Avenue and Friars Road, be vacated; and

WHEREAS, in connection with said vacation, the City desires to reserve and except a public easement(s); and

WHEREAS, (1) the public right-of-way, or portion of the public right-of-way, is excess public right-of-way and is not required for street or highway purposes; (2) the public right-of-way lies within one ownership and does not continue through that ownership or touch the property of another owner; (3) the public right-of-way has been impassable for vehicular travel for a period of five years and public funds have not been expended for maintenance of the public right-of-way during that period; and

WHEREAS, the public right-of-way to be vacated contains public utility facilities that would not be affected by the vacation; 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

WHEREAS, the matter was set for public hearing on SEP 8 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 Council of the City of San Diego, that with respect to the unimproved portion of Orcutt Avenue and Friars Road, the Council finds that:

**(a) There is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated.** City Staff has reviewed the proposed street vacation and determined that there is no present or prospective public use for the unimproved portion of Orcutt Avenue and Friars Road. The area of the proposed vacation is currently used as an open parking lot. The unimproved street does contain underground franchise facilities, and public water and sewer improvements. These public facilities would be unaffected by the vacation by reserving a general utility and access easement for the continued use and maintenance of the public facilities over the vacated street.

**(b) The public will benefit from the action through improved use of the land made available by the vacation.** Ownership of the unimproved portion of Orcutt Avenue and Friars Road would revert to the underlying adjacent property owner. The paved parking lot and parking of vehicles would be allowed to remain. Prior to recording the right-of-way vacation, resolution and drawing, the owner would be required to construct a 5-foot sidewalk within the 10-foot curb-to-property line along the area to be vacated to match the existing sidewalk on Friars Road and Mission Gorge Road, and to record Encroachment Maintenance and Removal

Agreements for the private facilities within the general utility and access easement: a masonry wall, sewer laterals, parking lot, landscaping and irrigation. The public would benefit by these stated improvements of this property.

**(c) The vacation does not adversely affect any applicable land use plan.** The proposed area to be vacated is zoned CC-1-3, a Commercial Zone and the Navajo Community Plan designates this area for Commercial Land Use. This proposed street vacation was reviewed by City staff and determined to be consistent with the Navajo Community Plan. This vacation, if approved, will allow this property to be developed for commercial use allowed by the underlying CC-1-3 zone.

**(d) The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.** City staff has reviewed the proposed street vacation and determined that there is no present or prospective public use for the unimproved portion of Orcutt Avenue and Friars Road. The area of the proposed vacation is currently used as an open parking lot. The unimproved street does contain underground franchise facilities, and public water and sewer improvements. These public facilities would be unaffected by the vacation by reserving a general utility and access easement for the continued use and maintenance of the public facilities over the vacated street.

BE IT FURTHER RESOLVED, that Orcutt Avenue Street Vacation, more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20337-B, marked as Exhibit "B," which said drawing is attached hereto and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and accepts from the foregoing vacation the permanent easement as more particularly described hereinafter:


Beginning at the northeast corner of said Lot 1; Thence westerly along the northerly line of said Lot 1 and Lot 2, north 89 degrees 13 feet 41 inches west, 238.04 feet; Thence leaving said northerly line, north 59 degrees 31 feet 53 inches east, 132.77 feet to the beginning of a tangent 82.00-foot radius curve, concave southwesterly; Thence easterly and southeasterly along the Arc of said curve through a central angle of 120 degrees 22 feet 2 inches, an Arc length of 172.27 feet to the end of said curve, a radial line to said point bears north 89 degrees 53 feet 55 inches east, said point also being the point of beginning.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along and across that portion of Orcutt Avenue and Friars Road, vacated by this Document and as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20337-B, marked as Exhibit "B."

BE IT FURTHER RESOLVED, that said street vacation is conditioned upon the requirement that the owner construct a 5-foot sidewalk within the 10-foot curb-to-property line along the area to be vacated to match the existing sidewalk on Friars Road and Mission Gorge Road, and to record Encroachment Maintenance and Removal Agreements for the private facilities within the general utility and access easement: a masonry wall, sewer laterals, parking lot, landscaping and irrigation. 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.

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:   
Andrea Contreras Dixon  
Deputy City Attorney

ACD:cw  
08/18/09  
Or.Dept:DSD  
JO: 42-8194  
Drawing No. 20337-B  
R-2010-101  
MMS: #10179

**EXHIBIT "A"**

**LEGAL DESCRIPTION**  
**STREET VACATION WITH A GENERAL UTILITY AND ACCESS**  
**EASEMENT RESERVATION**

ALL THAT PORTION OF ORCUTT AVENUE AND FRIARS ROAD CONTIGUOUS TO LOT 1 AND LOT 2 OF WORM SUBDIVISION, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 5636, FILED IN THE OFFICE OF THE COUNTY RECORDER, OCTOBER 19, 1965, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID LOT 1 AND LOT 2, NORTH 89°13'41" WEST, 238.04 FEET; THENCE LEAVING SAID NORTHERLY LINE, NORTH 59°31'53" EAST, 132.77 FEET TO THE BEGINNING OF A TANGENT 82.00 FOOT RADIUS CURVE, CONCAVE SOUTHWESTERLY; THENCE EASTERLY AND SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 120°22'02", AN ARC LENGTH OF 172.27 FEET TO THE END OF SAID CURVE, A RADIAL LINE TO SAID POINT BEARS NORTH 89°53'55" EAST, SAID POINT ALSO BEING THE POINT OF BEGINNING.

RESERVING AN EASEMENT FOR GENERAL UTILITY AND ACCESS OVER THE ENTIRE AREA OF THE ABOVE DESCRIBED PARCEL.

THE ABUTTER'S RIGHT OF ACCESS IS HEREBY RELINQUISHED TO AND FROM FRIARS ROAD AND ORCUTT AVENUE ALONG THE NORTHWESTERLY, NORTHERLY AND NORTHEASTERLY LINE OF THE ABOVE DESCRIBED PARCEL.

"ATTACHED HERETO IS A DRAWING NO. 20337-B LABELED EXHIBIT "B" AND BY THIS REFERENCE MADE A PART HEREOF IS MADE."

  
Dennis W. Good, LS 8084

2007.08.29  
DATE

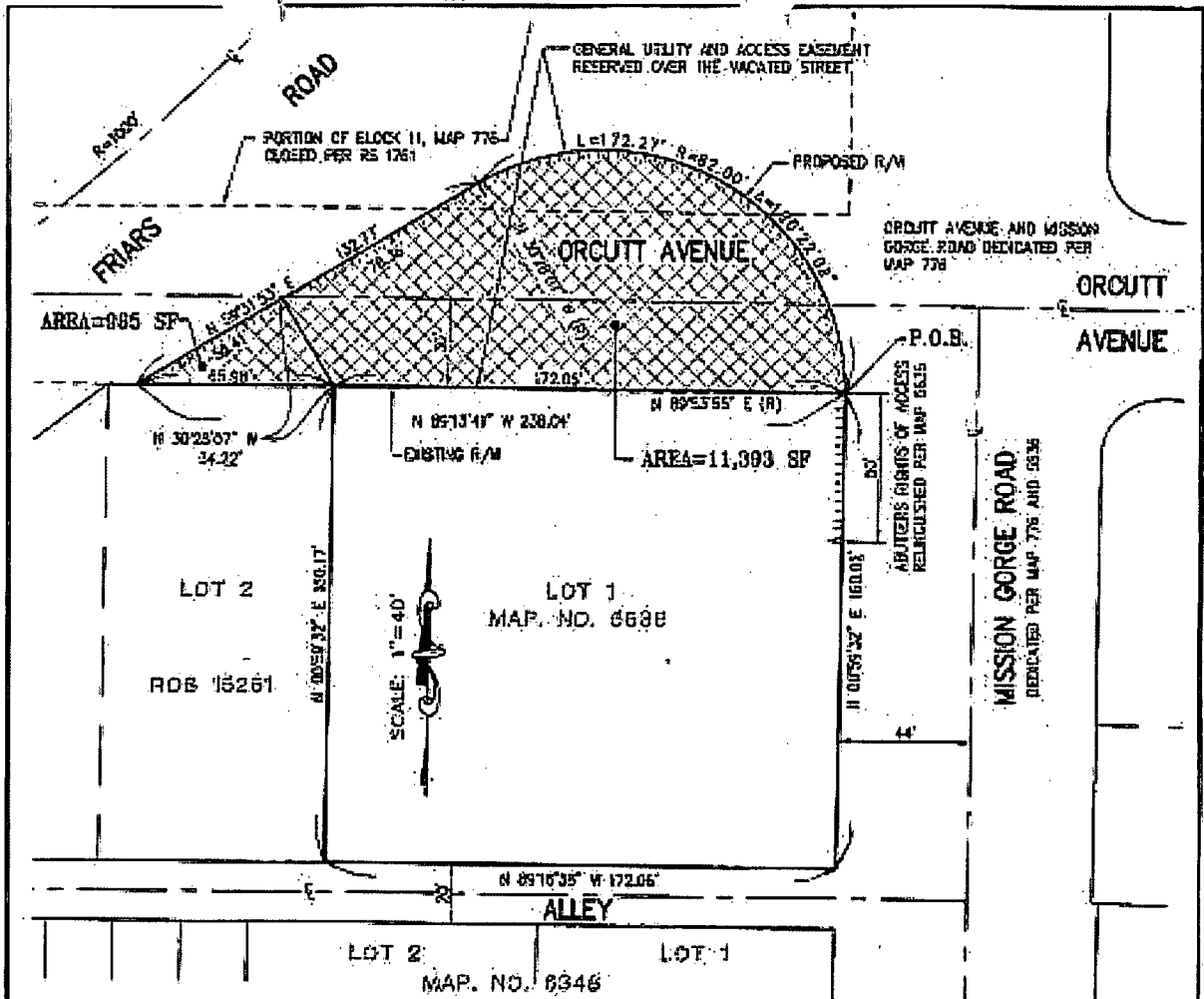


DWG NO. 20337-B  
J.O. NO. 428194  
PTS NO. 56280

00

R-305238

EXHIBIT "B"



REFERENCE DRAWINGS

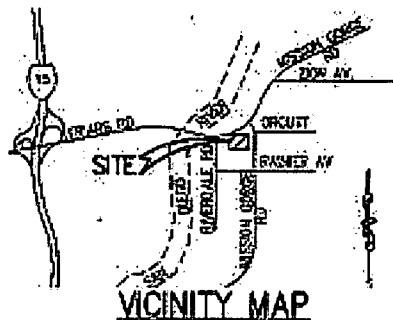
10145-D, 10515-D & 13543-16-D MAP 6636 & R.O.S. 15261

ASSESSOR'S PARCEL NO.

458-342-10

LEGEND

- INDICATES STREET VACATION & GENERAL UTILITY AND ACCESS EASEMENT RESERVATION CONTAINS 12,398.00 SQ.FT.
- ADJUTERS RIGHTS OF ACCESS RELINQUISHED HEREON
- P.O.B. POINT OF BEGINNING
- (R) INDICATES RADIAL BEARING



**K&S ENGINEERING**

Planning Engineering Surveying

*Handwritten: 2007.08.29*

CONRS N. 0040, L.S. 0024 DATE 7/31/07  
7321 Mission Center Court, Suite 100  
San Diego Co, 92146



STREET VACATION: PORTION OF ORCUTT AVENUE and FRIARS ROAD WITH GENERAL UTILITY AND ACCESS EASEMENT RESERVATION

DESCRIPTION	BY	APPROVED	DATE	FILED	CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT SERVICES DEPARTMENT	VAL 428194 PT# 56280
ORIGINAL	K&S	<i>[Signature]</i>	8-30-07		SHEET 1 OF 1 SHEET	1868-6299 20337-B
					<i>[Signature]</i> 9/16/07 FOR CITY ENGINEER DATE	228-1739 UNBERT COORDINATES
					DIVISION HEAD	20337-B
					SECTION HEAD	
				STATUS		

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