

(C)

RESOLUTION NUMBER R- 306489
DATE OF FINAL PASSAGE DEC 07 2010

A RESOLUTION OF THE COUNCIL OF THE CITY OF
SAN DIEGO FOR THE VACATION OF AN UNNAMED
ALLEY AND SEWER EASEMENT LOCATED BETWEEN
WASHINGTON STREET AND UNIVERSITY AVENUE
EAST OF DOVE STREET, SAN DIEGO, CALIFORNIA.

WHEREAS, California Streets and Highways Code section 8320 *et seq.* and San Diego
Municipal Code section 125.0901 *et seq.* provide procedures for the vacation of public rights-of-
way and easements by City Council resolution; and

WHEREAS, it is proposed that an un-named alley and sewer easement parallel to and
between Washington Street and University Avenue east of Dove Street, described as being Street
Vacation No. 714169, be vacated; 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 DEC 07 2010,
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 an un-
named alley between Washington Street and University Avenue east of Dove Street, described as
being Street Vacation No. 714169, the Council finds that:

(a) There is no present or prospective use for the public right-of-way, either for the purpose for which originally acquired, or for any other public use of a like nature that can be anticipated.

In that whoever may currently use the present un-named alley will have alternative routes within the local circulation system, the existing un-named alley will have no prospective use. The circulation needs of the community will be served by the neighborhood roads and alley network in the community. Persons who may use the current un-named alley will be served by alternative routes along dedicated public rights-of-way in the community. There is no other public use of a similar nature designated in the adopted Uptown Community Plan or General Plan that can reasonably be anticipated.

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

Presently the properties which have the un-named alley over them are limited by the existence of the un-named alley in that the properties may not redevelop or place new buildings over the area of land occupied by the existing un-named alley. The adopted Uptown Community Plan designates these sites for a recommended density greater than the existing development. Without the vacation of the existing un-named alley new buildings may not be placed over the alley and thus without the vacation of the un-named alley the recommended density of the adopted Uptown Community Plan will not be realized. Without the redevelopment of the property at 450 W Washington Street an approximately 59,760 square foot supermarket, 8,375 square feet of commercial retail space in five suites, enclosed parking garage, landscaping and other site improvements and minor improvements in the public right-of-way would not be created and positively influence the economic development opportunities and life sustaining

services within the City. The public will benefit by the vacation of the un-named alley and sewer easement through the addition of new an approximately 59,760 square foot supermarket, 8,375 square feet of commercial retail space in five suites, enclosed parking garage, landscaping and other site improvements and minor improvements in the public right-of-way, the increase in property tax revenue, the improved utilization of urban land and the development of commercial services designed and constructed to current state and local code requirements.

- (c) The vacation does not adversely affect any applicable land use plan.

The adopted Uptown Community Plan identifies this property for Mixed-Use development. The vacation of the un-named alley and sewer easement will facilitate the redevelopment of the site at an intensity and density recommended by the adopted Uptown Community Plan and without the vacation of the un-named alley and sewer easement the recommended intensity and density for the site at 450 W Washington Street as identified by the Uptown Community Plan would not be realized. For these reasons the proposed vacation of the un-named alley and sewer easement is consistent with the policies and goals of the adopted Uptown Community Plan.

- (d) The public facility for which the right-of-way was originally acquired will not be detrimentally affected by this vacation.

In that whoever may currently use the present alley will have alternative routes within the neighborhood circulation system, the existing un-named alley and sewer easement will have no prospective use. The circulation and utility needs of the community will be served by the neighborhood roads and alley network in the community. Persons who may use the current un-named alley will be served by alternative routes along dedicated public rights-of-way in the community. There is no other public use of a similar nature designated in the adopted Uptown

Community Plan or General Plan that can reasonably be anticipated. The public circulation purposes in the community will not be detrimentally affected by the vacation of the un-named alley and sewer easement for which the un-named alley and sewer easement was originally acquired in that there are and will be alternative routes of travel to allow persons the right to pass within and through the community and new sewer mains will be located within the immediate neighborhood to assure that the needs of the community are met.

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, that with respect to a sewer easement between Washington Street and University Avenue east of Dove Street, described as being Street Vacation No. 714169, the Council finds that:

(a) There is no present or prospective 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.

In that the sewer will be relocated within the public alley parallel with Dove Street and perpendicular with University Avenue, the existing easement and abandoned existing sewer will have no prospective use. The new eight inch sewer will serve the wastewater needs which necessitated the original pipe and easement. There is no other use of a like nature for this specific easement which can be reasonably anticipated.

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

Presently the properties which have the sewer easement over them are limited by the existence of the easement in that the properties may not redevelop or place new buildings over the area of the existing easement. The adopted Uptown Community Plan designates these sites

for a recommended intensity and density greater than the existing development. Without the vacation of the existing sewer easement new buildings may not be placed over the area of the easement and thus without the vacation of the easement the recommended intensity and density of the adopted Uptown Community Plan will not be realized. Without the redevelopment of the property at 450 W Washington Street an approximately 59,760 square foot supermarket, 8,375 square feet of commercial retail space in five suites, enclosed parking garage, landscaping and other site improvements and minor improvements in the public right-of-way would not be created and positively influence the economic development opportunities within the City. The public will benefit by the vacation of the easement through the addition of an approximately 59,760 square foot supermarket, 8,375 square feet of commercial retail space in five suites, enclosed parking garage, landscaping and other site improvements and minor improvements in the public right-of-way, the increase in property tax revenue, the improved utilization of urban land and the development of commercial services designed and constructed to current state and local code requirements.

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

The adopted Uptown Community Plan identifies this property for Mixed-Use development. The abandonment of the sewer easement will facilitate the redevelopment of the site at an intensity and density recommended by the adopted Uptown Community Plan and without the abandonment of the sewer easement the recommended intensity and density for the site at 450 W Washington Street as identified by the Uptown Community Plan would not be realized. For these reasons the proposed sewer easement abandonment is consistent with the policies and goals of the adopted Uptown Community Plan.

(d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this abandonment or the purpose for which the easement was acquired no longer exists.

The sewer easement was acquired for the purposes of moving wastewater to treatment facilities and to maintain the public health of the neighborhood. With the relocation of a new eight inch sewer within the public alley parallel with Dove Street and perpendicular with University Avenue, the existing easement and abandoned existing sewer will have no prospective use. The new eight inch sewer will serve the needs which necessitated the original pipe and easement. There is no other use of a like nature for this specific easement which can be reasonably anticipated and the purpose for which the easement was originally acquired will no longer exist. With the relocation of a new eight inch sewer within the public alley parallel with Dove Street and perpendicular with University Avenue, the needs of the neighborhood will continue to be served and the purpose for which the sewer easement was acquired will cease its material necessity to meet the wastewater needs of the neighborhood.

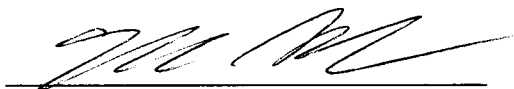
BE IT FURTHER RESOLVED, that an un-named alley and sewer easement between Washington Street and University Avenue east of Dove Street, described as being Street Vacation No. 714169, as more particularly described in the legal descriptions marked as Exhibits "A" and "A1" and shown on Drawing No. 21119-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, are ordered vacated.

BE IT FURTHER RESOLVED, that the vacation of the un-named alley and sewer easement between Washington Street and University Avenue east of Dove Street, described as being Street Vacation No. 714169, is conditioned upon the acceptance by the City Engineer and Director of Public Utilities of a realigned sewer. In the event this condition is 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, upon the acceptance by the City Engineer and Director of Public Utilities of the realigned sewer, 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 
Keith Bauerle
Deputy City Attorney

KB:hm
11/18/10
Or.Dept:DSD
R-2011-416
PL#2010-02968

EXHIBIT "A"
LEGAL DESCRIPTION
FOR
UN-NAMED ALLEY VACATION

ALL OF THAT CERTAIN ALLEY AS DEDICATED FOR PUBLIC USE ON DOVE HEIGHTS MAP NO. 3788, RECORDED JANUARY 22, 1958, AND A PORTION OF THAT CERTAIN ALLEY WEST OF THE NORTHERLY PROLONGATION OF THE WEST LINE OF LOT 10 AS DEDICATED ON PALM HEIGHTS MAP NO. 1023, RECORDED JANUARY 10, 1907, BOTH ON FILE IN THE OFFICE OF THE COUNTY RECORDER, IN THE CITY OF SAN DIEGO, COUNTY OF AN DIEGO, STATE OF CALIFORNIA.

ATTACHED HERETO IS DRAWING NO. 21119-B LABELED EXHIBIT 'B' BY THIS REFERENCE MADE A PART HEREOF.

CONTAINS 4482 SQUARE FEET MORE OR LESS.

 9/20/10
C. JOHN EARDENSOHN
LS 5278 EXPIRES 12-31-11



FILE: PTS 201016
DRAWING 21119-B

**EXHIBIT "A1"
LEGAL DESCRIPTION
FOR
SEWER EASEMENT VACATION**

BEING ALL OF THAT CERTAIN SEWER EASEMENT, 8' FEET IN WIDTH, LYING WITHIN LOT 1, OF DOVE HEIGHTS, AS GRANTED TO THE CITY OF SAN DIEGO ACCORDING TO MAP THEREOF NO. 3788, RECORDED JANUARY 22, 1958, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

ATTACHED HERETO IS DRAWING NO. 21119-B LABELED EXHIBIT 'B' BY THIS REFERENCE MADE A PART HEREOF.

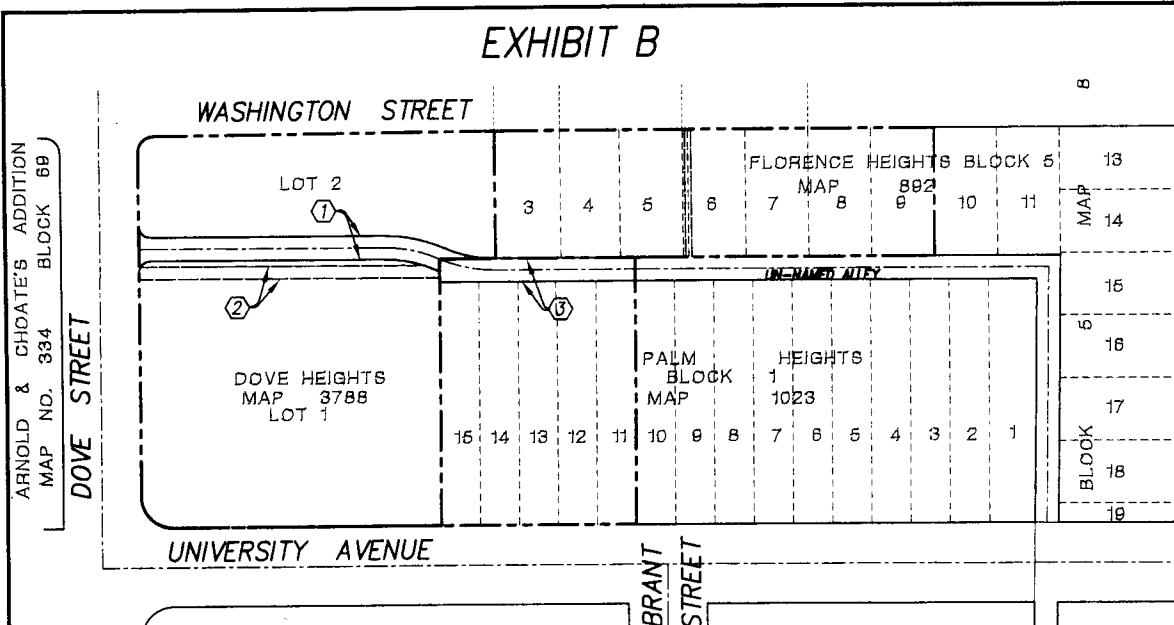
CONTAINS AN AREA OF 1516 SQUARE FEET, MORE OR LESS.

 9/20/10
C. JOHN EARDENSOHN
LS 5278 EXPIRES 12-31-11



FILE: PTS 201016
DRAWING 21119-B

EXHIBIT B



ASSESSOR'S PARCEL NUMBER:
444-623-01 AND 02, 444-631-01 AND 02

BASIS OF BEARINGS:
THE BASIS OF BEARINGS FOR THIS DRAWING IS A PORTION OF THE SUBDIVISION BOUNDARY LINE, (ALSO BEING COINCIDENTAL WITH THE NORTHERLY RIGHT-OF-WAY LINE OF THE 15.00 FOOT WIDE ALLEYWAY) AS SHOWN ON THE MAP OF DOVE HEIGHTS, ACCORDING TO MAP NO. 3788, I.E. S.89°59'25"W.

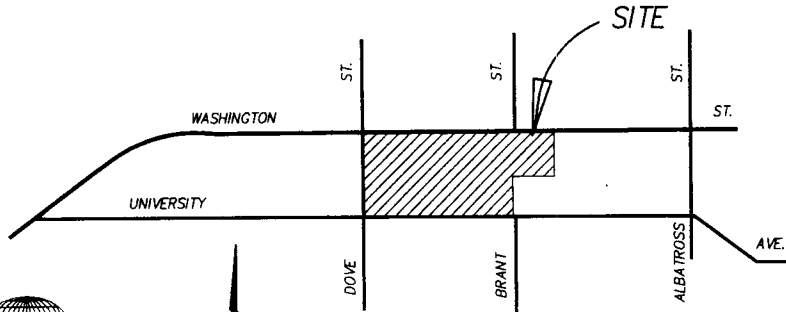
REFERENCES:
MAP NOS. 1023 AND 3788

LEGEND:
—— BOUNDARY LINE

EASEMENT DATA

- ① ALLEY DEDICATION PER MAP NO. 3788 VACATED
- ② SEWER EASEMENT PER MAP NO. 3788 VACATED
- ③ ALLEY DEDICATION PER MAP NO. 1023 VACATED

SCALE: 1"=80'

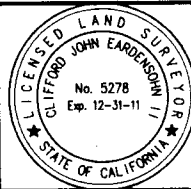


VICINITY MAP
NO SCALE

Latitude 33
Planning and Engineering

4933 Paramount Dr. 2nd Flr.
San Diego, Ca. 92123
Tel 858-751-0633 Fax 858-751-0634

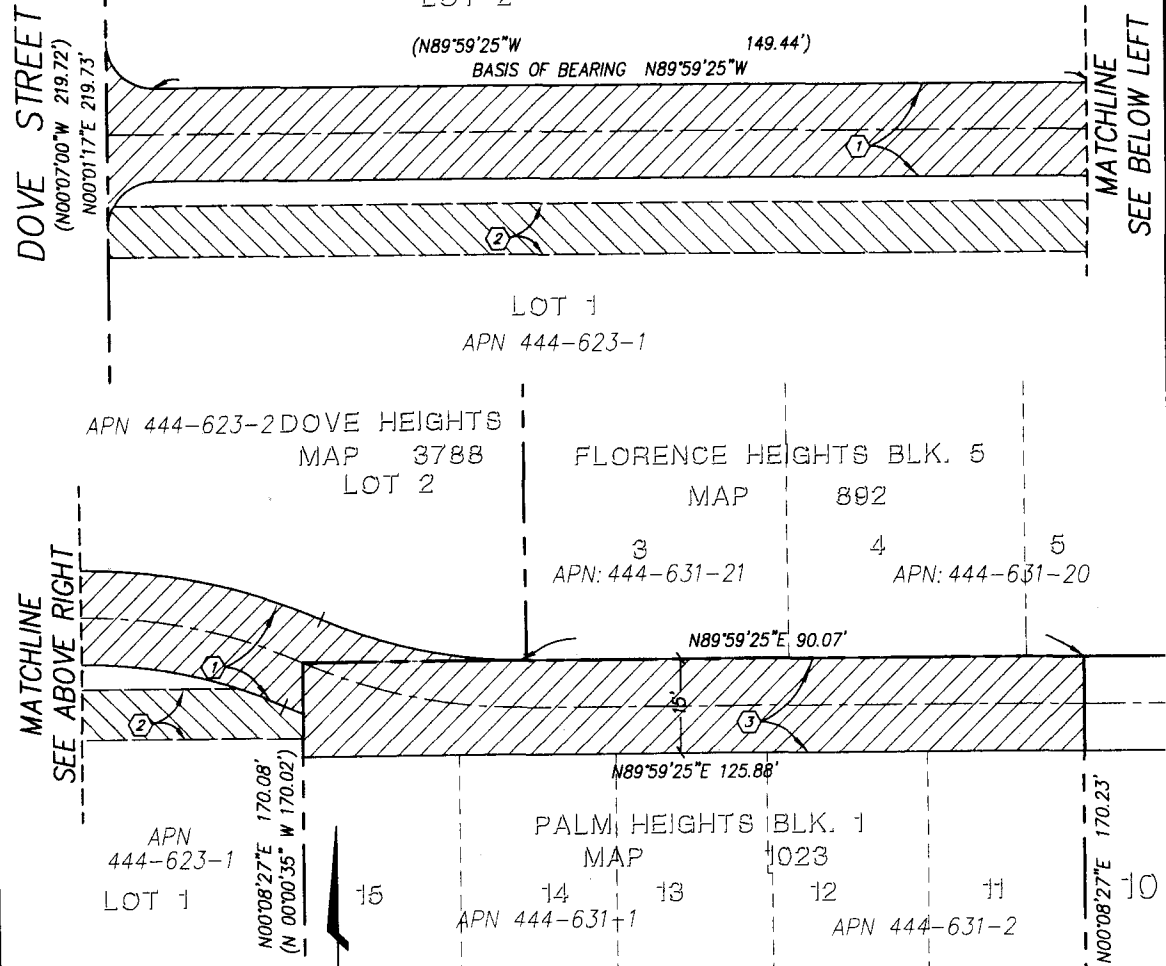
John Eardensohn 9/20/10
C. JOHN EARDENSOHN L.S. 5278 DATE
REGISTRATION EXPIRES 12-31-2011



SEWER EASEMENT AND ALLEY VACATION IN PORTIONS OF MAP NO. 1023 AND MAP NO. 3788

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT REVIEW DEPARTMENT SHEET 1 OF 2 SHEET		PTS NO.
ORIGINAL	LAT33				<i>George P. Hawkins</i> 9-28-10 FOR CITY ENGINEER DATE		201016
							1852-6277 CCS '83 COORDINATES
						212-1717 LAMBERT COORDINATES	
							21119-1-B

APN 444-623-2 **EXHIBIT B**
DOVE HEIGHTS MAP 3788
LOT 2



1" = 20'

LEGEND:

- EXISTING SEWER EASEMENT
- UN-NAMED ALLEY RIGHT OF WAY
- BOUNDARY
- LOT LINE
- INDICATES UN-NAMED ALLEY PER MAP NO. 3788 AND MAP NO. 1023 VACATED (4,482 SF)
- INDICATES SEWER EASEMENT PER MAP NO. 3788, VACATED (1,516 SF)

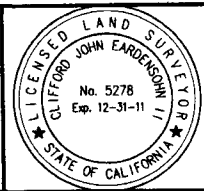
Latitude 33
Planning and Engineering

4933 Paramount Dr. 2nd Flr.
San Diego, Ca. 92123
Tel 858-751-0633 Fax 858-751-0634

John Eardensohn

9/20/10

C. JOHN EARDENSOHN L.S. 5278 DATE
REGISTRATION EXPIRES 12-31-2011



SEWER EASEMENT AND ALLEY VACATION
IN PORTIONS OF MAP NO. 1023 AND MAP NO. 3788

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT REVIEW DEPARTMENT SHEET 2 OF 2 SHEET	PTS NO. 201016
ORIGINAL	LAT33				<i>Gregory R. Harker</i> 9-28-10 FOR CITY ENGINEER DATE	1852-6277 CCS '83 COORDINATES
						212-1717 LAMBERT COORDINATES
						21119-2-B