

D)

RESOLUTION NUMBER R- 306490

DATE OF FINAL PASSAGE DEC 07 2010

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO FOR THE VACATION OF A DRAINAGE EASEMENT BETWEEN WASHINGTON STREET AND UNIVERSITY AVENUE EAST OF DOVE STREET, SAN DIEGO, CALIFORNIA.

WHEREAS, California Streets and Highways Code sections 8320 *et seq.* and San Diego Municipal Code sections 125.1001 *et seq.* provide procedures for the vacation of public easements by City Council resolution; and

WHEREAS, it is proposed that a drainage easement between Washington Street and University Avenue east of Dove Street, described as being Drainage Easement No. 714170, 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

**DEC 07 2010**

WHEREAS, the matter was set for public hearing on \_\_\_\_\_, 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 drainage easement between Washington Street and University Avenue east of Dove Street, described as being Drainage Easement No. 714170, 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 current drainage easement will be replaced by a private drainage facility, the present easement and improvement will no longer be necessary. The existing drainage easement will have no prospective use. The drainage needs of the community will be served by other improvements both public and private 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 abandonment through improved utilization of the land made available by the abandonment.

Presently that portion of property which has the drainage easement over it is limited by the existence of the drainage easement in that the property must comply with the zoning regulations and the limitations to site development contained therein, thus the drainage easement is effectively a site constrain which limits the amount of the property that may be devoted to commercial development. The adopted Uptown Community Plan designates this site for a recommended density greater than the existing development. Without the vacation of the drainage easement the new buildings would be set back further from the public right-of-way and therefore the pedestrian sidewalk. Without the vacation new buildings would have a less significant presence in the neighborhood at the interface between the private property and public right-of-way and would diminish the pedestrian experience. Without the redevelopment of the property at 450 W Washington Street improvements in the neighborhood would not be created and or positively influence the economic development opportunities and life sustaining services

within the City. The public will benefit by the vacation of the drainage 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 abandonment is consistent with any applicable land use plan.

The adopted Uptown Community Plan identifies this property for Mixed-Use development. The vacation of the drainage easement will facilitate the redevelopment of the site at an intensity and density recommended by the adopted Uptown Community Plan. Without the vacation of the drainage easement the recommended intensity and density for the site at 450 W Washington Street as identified by the Uptown Community Plan would not be as great. For these reasons the proposed vacation of the drainage easement 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.

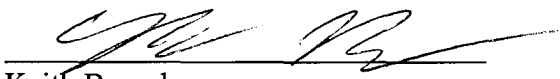
The drainage easement was acquired for the purposes of storm water conveyance and maintaining the public health of the neighborhood. With the replacement of a public storm drain pipe with a private storm drain, the existing easement and abandoned existing storm drain will have no prospective use. There 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 eighteen inch storm drain pipe within the

private property, the storm water needs of the neighborhood will continue to be served and the purpose for which the easement was acquired will cease its material necessity to meet the storm water needs of the neighborhood.

BE IT FURTHER RESOLVED, that the drainage easement located between Washington Street and University Avenue east of Dove Street described as being Drainage Easement No. 714170, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 21120-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 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-2011-417  
PL#2010-02968

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**FOR**  
**DRAINAGE EASEMENT VACATION**

BEING ALL OF THAT CERTAIN EASEMENT FOR THE PURPOSE OF A RIGHT OF WAY FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A PUBLIC DRAIN PIPE, 4-FEET IN WIDTH, AS GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED JANUARY 24, 1946, IN BOOK 2023, PAGE 374 OF OFFICIAL RECORDS, BEING THAT PORTION OF THE UNNUMBERED LOT LYING BETWEEN LOTS 5 AND 7, IN BLOCK 5 OF FLORENCE HEIGHTS, ACCORDING TO MAP THEREOF NO. 892, 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. 21120-B LABELED EXHIBIT 'B' BY THIS REFERENCE MADE A PART HEREOF.

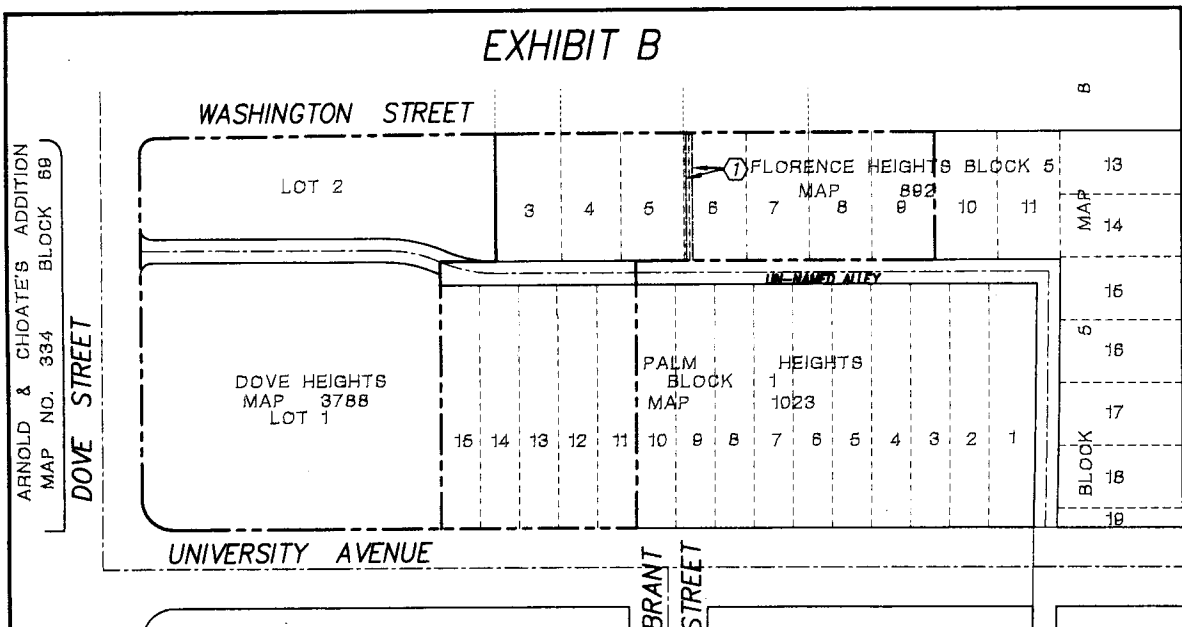
CONTAINS AN AREA OF 325 SQUARE FEET, MORE OR LESS.

  
C. JOHN EARDENSOHN  
LS 5278 EXPIRES 12-31-11



FILE: PTS 201016  
DRAWING 21120-B

# EXHIBIT B



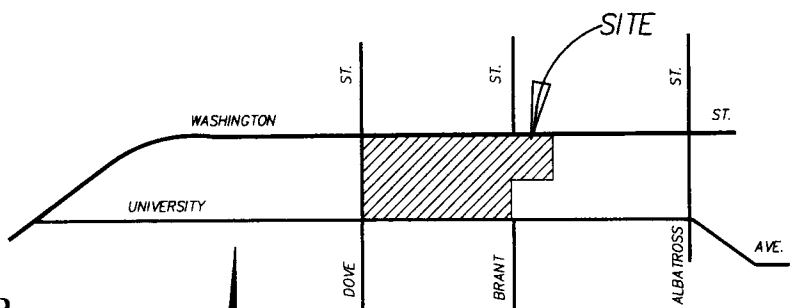
ASSESSOR'S PARCEL NUMBER:  
444-631-19 AND 444-631-20

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.

LEGEND:  
----- BOUNDARY

EASEMENT DATA  
① AN EASEMENT IN FAVOR OF THE CITY OF SAN DIEGO FOR A PUBLIC DRAIN PIPE AND INCIDENTAL PURPOSES APPURTENANT THERETO PER DOCUMENT RECORDED 1-24-46 IN BOOK 2023, PAGE 374, O.R.

REFERENCES:  
MAP NO. 892



Latitude 33  
Planning and Engineering  
4933 Paramount Dr. 2nd Flr.  
San Diego, Ca. 92123  
Tel 858-751-0633 Fax 858-751-0634

VICINITY MAP  
NO SCALE

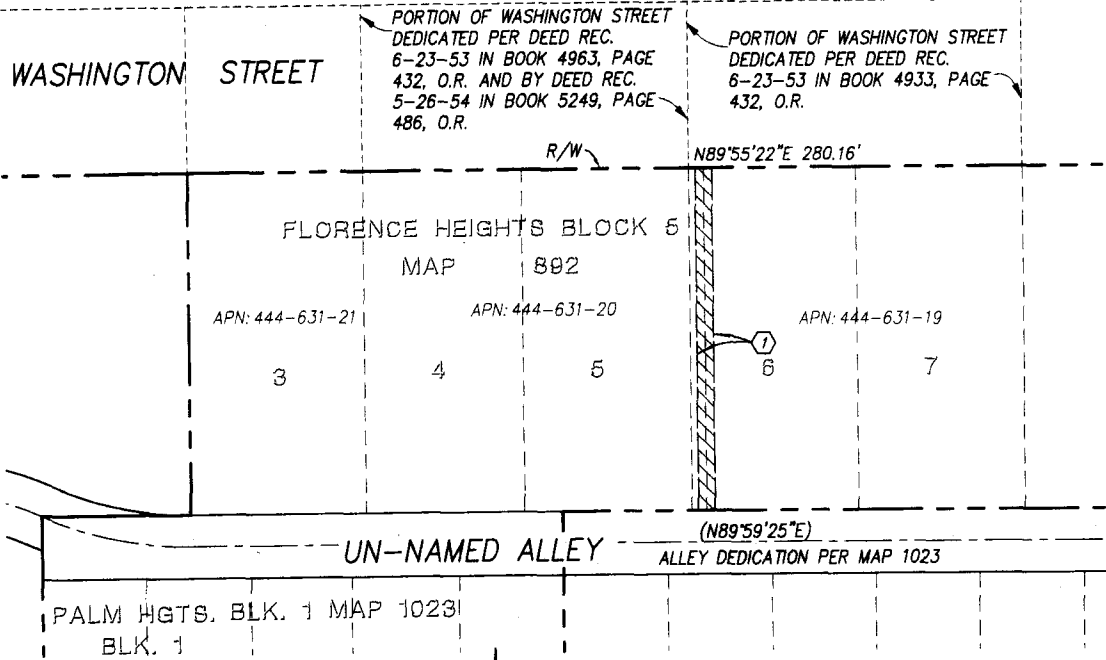
*C. John Eardensohn* 9/22/10  
C. JOHN EARDENSOHN L.S. 5278 DATE  
REGISTRATION EXPIRES 12-31-2011



## DRAINAGE EASEMENT VACATION IN PORTIONS OF LOTS 5, 6, AND 7 OF MAP NO. 892

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA DEVELOPMENT REVIEW DEPARTMENT SHEET 1 OF 2 SHEET	PTS NO. 201016
ORIGINAL	LAT33				<i>Gregory P. Walker</i> 9-28-10 FOR CITY ENGINEER DATE	1852-6277 CCS '83 COORDINATES
						212-1717 LAMBERT COORDINATES
						21120-1-B

# EXHIBIT B



**LEGEND:**

- UN-NAMED ALLEY RIGHT OF WAY
- BOUNDARY
- LOT LINE
- INDICATES DRAINAGE EASEMENT VACATED (325 SF)

**Latitude 33**

Planning and Engineering

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

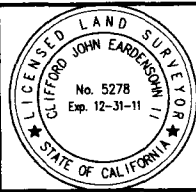


*John Eardensohn*

9/22/10

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

DATE



## DRAINAGE EASEMENT VACATION IN PORTIONS OF LOTS 5, 6, AND 7 OF MAP NO. 892

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 P. Hopkins</i> 9-28-10 FOR CITY ENGINEER DATE		1852-6277 CCS '83 COORDINATES
							212-1717 LAMBERT COORDINATES
							21120-2-B