

RESOLUTION NUMBER R- 307696

DATE OF FINAL PASSAGE SEP 25 2012

PUBLIC RIGHT-OF-WAY VACATION OF PORTIONS OF MORGAN STREET AND SHERMAN STREET, PUBLIC RIGHT-OF-WAY VACATION NO. 617461, WITH RESERVATION OF EASEMENTS.

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 portions of Morgan Street and Sherman Street, Public Right-of-Way Vacation No. 617461, be vacated; and

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

WHEREAS, 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; 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

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CITY OF SAN DIEGO

WHEREAS, the matter was set for public hearing on September 25, 2012, 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 vacation of the public right-of-way located on portions of Morgan Street and Sherman Street, Public Right-of-Way Vacation No. 617461, 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 originally acquired or for any other public use of a like nature that can be anticipated.**

City staff has reviewed the proposed public right-of-way vacation and determined that there is no present or prospective public use for the unimproved portions of Morgan Street and Sherman Street, directly south of the intersection of Sherman Street and Anna Avenue. The area of the proposed vacation is currently used as vacant land directly west of a surface parking lot for the San Diego Humane Society. 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.**

The San Diego Humane Society will purchase the unimproved portions of Morgan and Sherman Streets from the City as part of a related action, "Land Sale" Project No. 171738 and

then intends to remodel and expand their current facilities. The public would benefit by these stated improvements of this facility on this property and through improved utilization of the land.

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

The proposed area to be vacated is zoned IL-3-1, an Industrial Zone and the Linda Vista Community Plan designates this area for Industrial Land Use. This proposed public right-of-way vacation is consistent with the Linda Vista Community Plan. This vacation, if approved, will allow this property to be developed for light industrial use allowed by the underlying IL-3-1 Zone and will not adversely affect any applicable land use plan.

**(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 public right-of-way vacation and determined that there is no present or prospective public use for the unimproved portions of Morgan and Sherman Streets. The street alignment was designed under the original subdivision known as Vernon Park, Map No. 569, recorded on October 23, 1888. The street has not been improved and is unimproved vacant land directly west of a surface parking lot for the current San Diego Humane Society. Friars Road is directly to the south of the project site, which is fully developed as a Four-Lane Major Roadway as identified by the Linda Vista Community Plan.

There are no plans to improve Morgan Street and the small portion of Sherman Street that is involved between Sherman Street and Friars Road. The unimproved area does contain underground franchise facilities, and public water and sewer improvements. A general utility and access easement for the continued use and maintenance of the public facilities over the vacated street is reserved; therefore, the public facilities would be unaffected by the vacation.

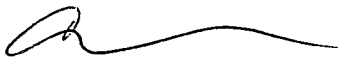
BE IT FURTHER RESOLVED, that the public right-of-way on portions of Morgan Street and Sherman Street, Public Right-of-Way Vacation No. 617461, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20997-B, marked as Exhibit "B," which said drawing is attached hereto and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from the foregoing vacation the permanent easement for public utility purposes as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 20997-B, marked as Exhibit "B," which said drawing is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along and across those portions of Morgan Street and Sherman Street vacated by this document and as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 20997-B, marked as Exhibit "B," which said drawing is attached hereto and made a part hereof.

BE IT FURTHER RESOLVED, that after the property owner has fulfilled any and all conditions of this public right-of-way vacation, 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   
\_\_\_\_\_  
Corrine L. Neuffer  
Deputy City Attorney

CLN:jls  
9/7/2012  
Or.Dept: DSD  
JO: 23432028  
Drawing No. 20997-B  
Doc. NO. 434150

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EXHIBIT "A"  
LEGAL DESCRIPTION  
FOR STREET VACATION  
OF PORTIONS OF  
MORGAN AND SHERMAN STREETS

THOSE PORTIONS OF MORGAN STREET, FORMERLY ADAMS STREET), AND SHERMAN STREET OF VERNON PARK, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NUMBER 569 FILED IN THE OFFICE OF THE SAN DIEGO COUNTY RECORDER, OCTOBER 23, 1888, DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF LOT 17 IN BLOCK 1 OF SAID MAP;

THENCE SOUTHEASTERLY ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID MORGAN STREET AS DEDICATED PER SAID MAP, SOUTH 53° 25' 23" EAST, 143.77 FEET TO THE INTERSECTION OF SAID NORTHERLY RIGHT OF WAY LINE OF MORGAN STREET WITH THE NORTHWESTERLY LINE OF THE RIGHT OF WAY DESCRIBED IN DEED TO "SAN DIEGO METROPOLITAN TRANSIT DEVELOPMENT BOARD", RECORDED IN THE CITY OF SAN DIEGO, JUNE 30, 1999 AS INSTRUMENT NO. 1999-457570, OF OFFICIAL RECORDS THROUGH WHICH A POINT A RADIAL BEARS NORTH 31° 31' 08" WEST;

THENCE WESTERLY ALONG THE ARC OF SAID NORTHWESTERLY LINE THROUGH A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 832.00 FEET THROUGH A CENTRAL ANGLE OF 01°50'39", A DISTANCE OF 26.78 FEET TO THE SOUTHERLY RIGHT OF LINE OF MORGAN STREET;

THENCE ALONG SAID SOUTHERLY LINE, NORTH 53° 25' 23" WEST, 159.21 FEET TO THE INTERSECTION OF THE SOUTHERLY RIGHT OF WAY LINE OF ANNA AVENUE AS DEDICATED PER CITY OF SAN DIEGO ORDINANCE 5482 (N.S.) ON NOVEMBER 10, 1953 SHOWN ON STREET OPENING -11-218 ON FILE AT THE ENGINEERING MAPS AND RECORDS DEPARTMENT OF THE CITY OF SAN DIEGO AND THE SOUTHERLY RIGHT OF WAY LINE OF MORGAN STREET (SOUTHERLY LIMIT OF SHERMAN STREET AS SHOWN ON MAP 569);

THENCE NORTH 81° 35' 52" EAST, 35.37 FEET TO THE POINT OF BEGINNING  
CONTAINS APPROXIMATELY 0.087 AC

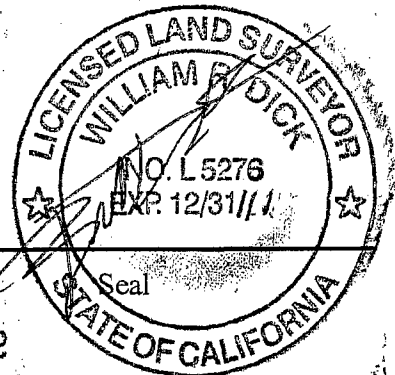
RESERVING THEREFROM A GENERAL UTILITY AND ACCESS EASEMENT GRANTED TO THE CITY OF SAN DIEGO OVER THE ABOVE DESCRIBED PROPERTY.

PTS NO 171768

DWG 20997-B

  
William R. Dick LS 5276

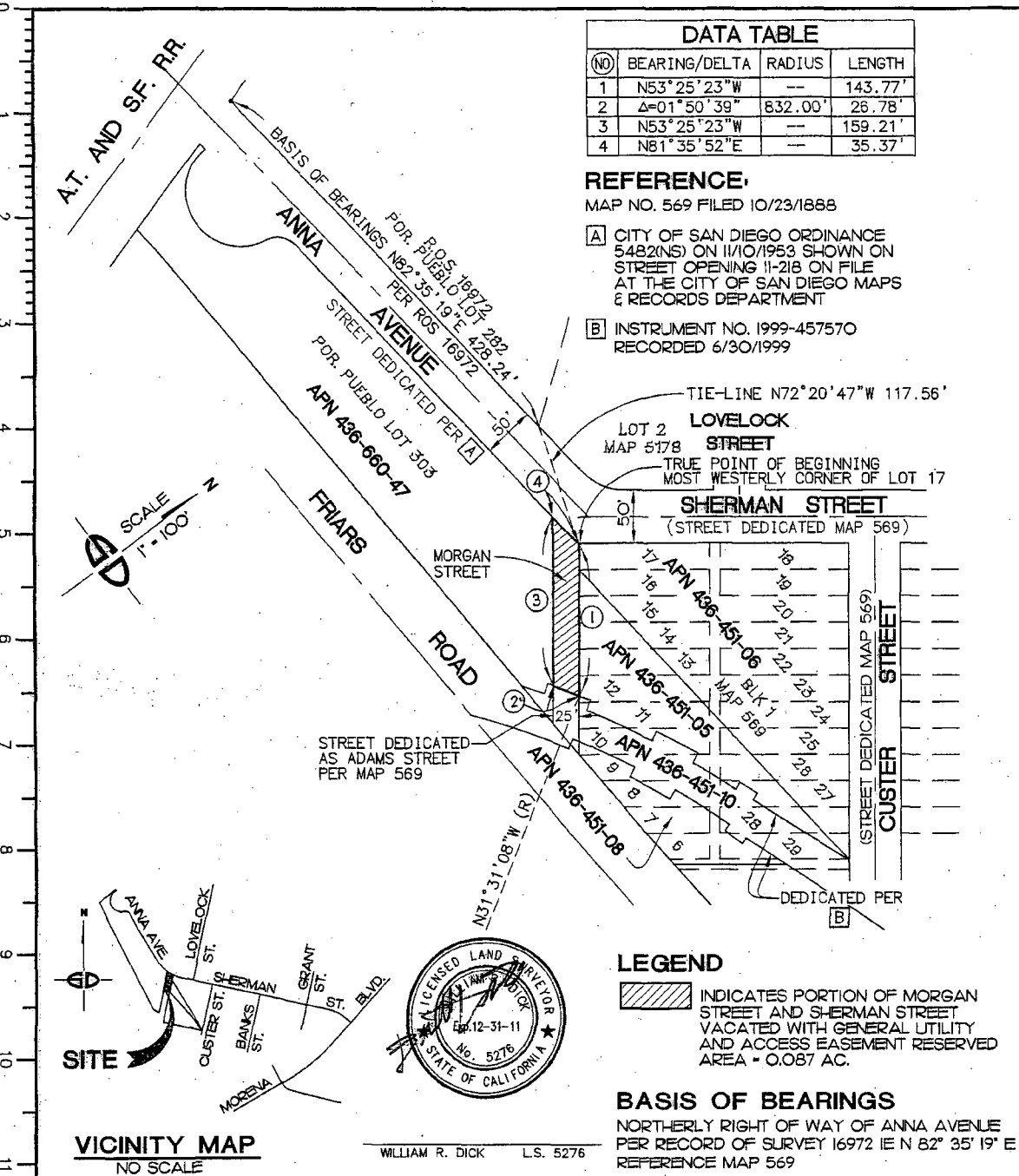
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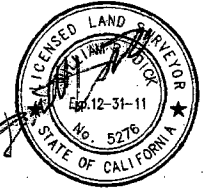
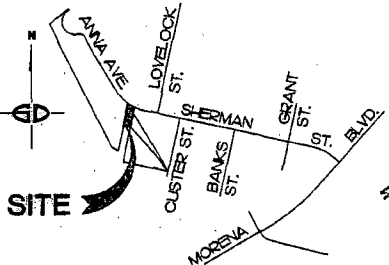
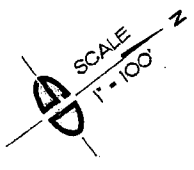
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(NO)	BEARING/DELTA	RADIUS	LENGTH
1	N53°25'23"W	---	143.77'
2	Δ=01°50'39"	832.00'	26.78'
3	N53°25'23"W	---	159.21'
4	N81°35'52"E	---	35.37'

**REFERENCE:**  
 MAP NO. 569 FILED 10/23/1868  
 [A] CITY OF SAN DIEGO ORDINANCE 5482(NS) ON 11/10/1953 SHOWN ON STREET OPENING 11-218 ON FILE AT THE CITY OF SAN DIEGO MAPS & RECORDS DEPARTMENT  
 [B] INSTRUMENT NO. 1999-457570 RECORDED 6/30/1999



**LEGEND**  
 INDICATES PORTION OF MORGAN STREET AND SHERMAN STREET VACATED WITH GENERAL UTILITY AND ACCESS EASEMENT RESERVED AREA = 0.087 AC.

**BASIS OF BEARINGS**  
 NORTHERLY RIGHT OF WAY OF ANNA AVENUE PER RECORD OF SURVEY 16972 IE N 82° 35' 19" E REFERENCE MAP 569

**VICINITY MAP**  
NO SCALE

WILLIAM R. DICK L.S. 5276

**Snipes-Dye associates**  
 civil engineers and land surveyors  
 8348 CENTER DRIVE, STE. G, LA MESA, CA 91942  
 TELEPHONE (619) 697-9234 FAX (619) 460-2033

**STREET VACATION WITH  
 GENERAL UTILITY AND ACCESS EASEMENT RESERVATION  
 MORGAN STREET AND SHERMAN STREET BETWEEN ANNA AVENUE AND FRIARS ROAD**

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	PTS NO. 171768
ORIGINAL	SDA	<i>[Signature]</i>	4/19/10		SHEET 1 OF 1 SHEET <i>Gregory J. Hopkins</i> 4/20/10 FOR CITY ENGINEER DATE	1858-6267
						CCS 83 COORDINATES
						218-1707
						LAMBERT COORDINATES
						<b>20997-B</b>

STATUS

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