

RESOLUTION NUMBER R- 308552

ITEM # 331

DATE OF FINAL PASSAGE OCT 29 2013

10/29/13

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO VACATING A PORTION OF 52ND STREET (RIGHT-OF-WAY VACATION NO. 984229) WITH RESERVATION OF EASEMENT – PROJECT NO. 280211.

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

WHEREAS, Sarah Knoepfli, owner of the underlying property, filed an application with the City of San Diego to vacate a portion of 52nd Street, originally dedicated as Lemona Avenue, in the City of San Diego, County of San Diego, State of California, according to Map. No. 1488 of Alhambra Park, filed in the Office of the County Recorder November 4, 1912, being described as Right-Of-Way Vacation No. 984229; and

WHEREAS, Right-of-Way Vacation No. 984229 is located on property owned by Sarah Knoepfli and Matthew R. Eckerman; and

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

WHEREAS, the public right-of-way is excess public right-of-way and is not required for street or highway purposes; and

WHEREAS, in connection with Right-Of-Way Vacation No. 984229, the City desires to reserve and except a public easement; 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 OCT 29 2013, 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 Right-Of-Way Vacation No. 984229, the Council finds that:

1. There is no present or prospective 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. The portion of the public right-of-way proposed to be vacated has never been utilized as a street as envisioned in the original residential subdivision map and does not provide a logical connection to any other street or property. The portion of 52nd Street proposed to be vacated is unimproved, impassable to vehicle traffic, and only provides access to the two abutting properties at 4604 52nd Street and 4595 Contour Boulevard. Therefore, there is no present or prospective 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.

2. The public will benefit from the action through improved use of the land made available by the vacation. The abutting property owners would benefit as the vacation would permit the owners to utilize their underlying fee ownership of these properties without the restriction of the public right-of-way easement. This reversion back to private ownership would permit the owners to take actions to inhibit the public from illegally parking vehicles, disposing of trash, and conducting unlawful acts within the undeveloped public right-of-way. Additionally, allowing the vacation of this portion of right-of-way would reduce City liability. Therefore, the proposed vacation would benefit the public through improved use of the land made available by the vacation.

3. The vacation does not adversely affect any applicable land use plan. No portion of the proposed street vacation or adjacent properties has been designated as open space, pedestrian pathway, park, or a public view corridor in the Kensington-Talmadge neighborhood of the Mid City Communities Plan area. Therefore, the proposed right-of-way vacation does not adversely affect any applicable land use plan.

4. The public facility for which the right-of-way was originally acquired will not be detrimentally affected by the vacation. The area proposed for the right-of-way vacation was dedicated as a 60-foot wide public right-of-way which would have extended 52nd Street. However, due to the existing northern topography leading to a canyon area and lower elevation condominium unit developed below, the road segment on 52nd Street could not continue. Therefore, the purpose for which the public right-of-way was originally dedicated can no longer be achieved. Further, this portion of 52nd Street has not been improved and there are no future plans to do so. The public right-of-way does contain an active City storm drain pipeline, but access to, and maintenance of, the pipeline will be ensured through a reservation of easement by the City. Therefore, the public facility for which the right-of-way was originally acquired will not be detrimentally affected by the vacation.

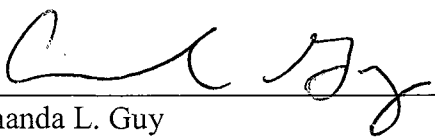
BE IT FURTHER RESOLVED, that Right-Of-Way Vacation No. 984229, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 36975-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and excepts from Right-Of-Way Vacation No. 984229 a permanent easement for storm drain easement purposes.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along and across that portion of 52nd Street, vacated by this Document, and as shown on Drawing No. 36975-B, marked as Exhibit "B."

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 
Amanda L. Guy
Deputy City Attorney

ALG:mm
10/11/13
Or.Dept:DSD
Doc. No. 652805

EXHIBIT "A"

Legal Description

Right-of-Way Vacation

That portion of 52nd Street, originally dedicated as Lemona Avenue, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 1488, filed in the Office of the County Recorder, November 4, 1912, more particularly described as follows:

Beginning at the most westerly corner of Lot 1 of said Map No. 1488; thence proceeding North 28° 40' 30" East along the Northwesterly line of said Lot 1, a distance of 125.00 feet to the most Northerly corner of said Lot 1, said corner being on the Northeasterly boundary line of said Map No. 1488, and on the Southwesterly boundary line of Map No. 5772 filed in the Office of the County Recorder, August 24, 1967; thence departing said Lot 1 and proceeding North 61° 19' 30" West along said boundary lines a distance of 60.00 feet to the most Easterly corner of Lot 33 of said Map No. 1488; thence departing said boundary lines and proceeding South 28° 40' 30" West along the Southeasterly line of said Lot 33 a distance of 125.00 feet to the most Southerly corner of said Lot 33; thence departing said Lot 33 and proceeding South 61° 19' 30" East a distance of 60.00 feet to the Point of Beginning.

Reserving therefrom a 10.00 foot wide strip of land for storm drain easement purposes; being the easterly 10 feet of the westerly 23 feet thereof.

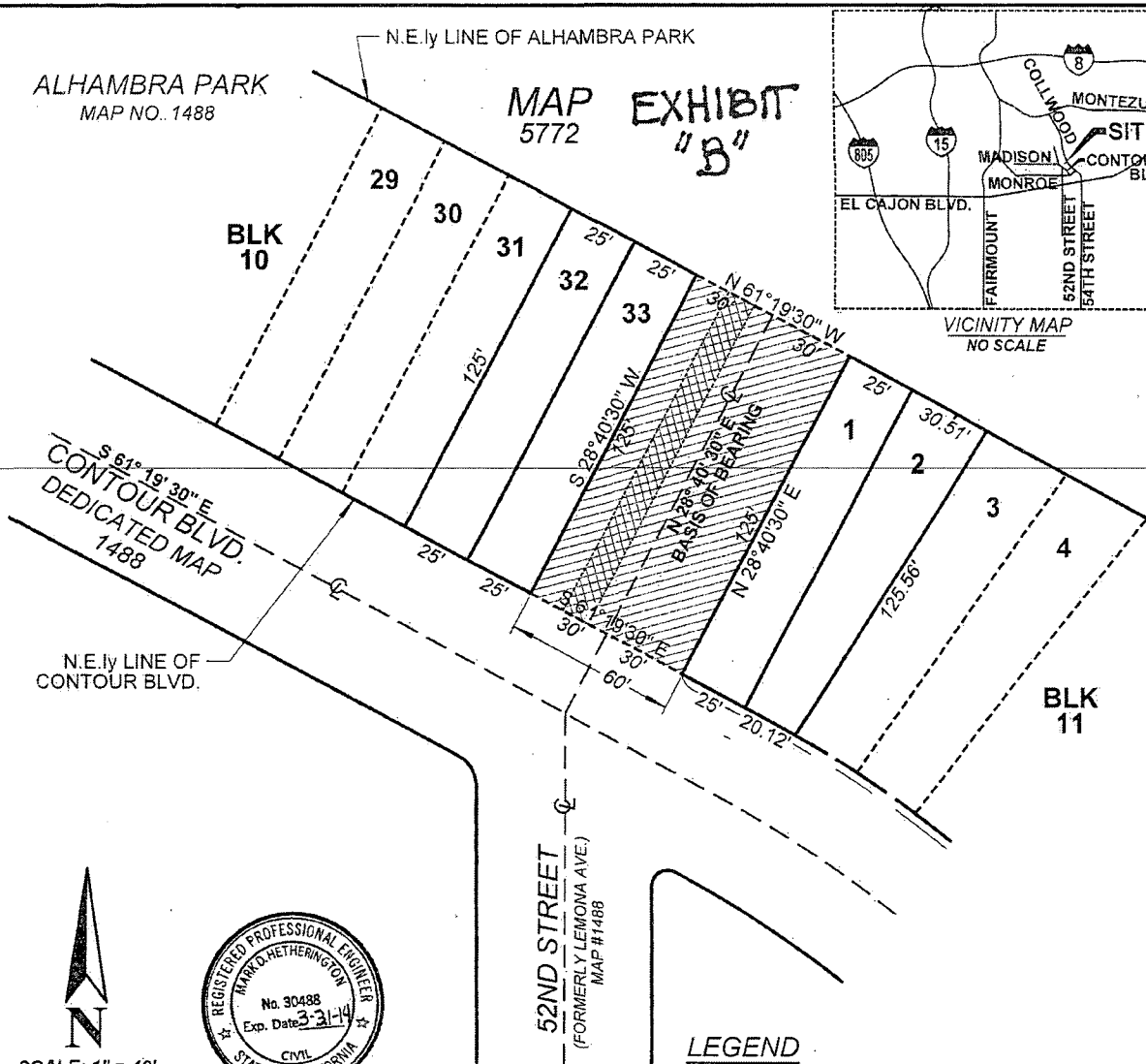
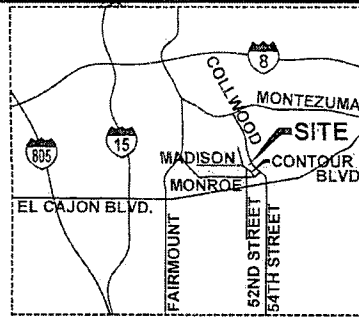
Attached hereto is drawing 36975-B labeled Exhibit "B" and by this reference made a part hereof.

I.O. No. 24002651
Project No. 280211
Dwg. No. 36975-B



ALHAMBRA PARK
MAP NO. 1488

MAP EXHIBIT
5772 "B"



SCALE: 1" = 40'



MARK D. HETHERINGTON, R.C.E. 30488

6/27/13
DATE

LEGEND



INDICATES RESERVED 10' WIDE STRIP OF LAND FOR STORM DRAIN PURPOSES



INDICATES VACATED RIGHT-OF-WAY

ASSESSOR'S PARCEL NO.:
RIGHT-OF-WAY LIES BETWEEN PARCELS
466-252-15-00 (Lot 33, Block 10) &
466-632-01-00 (Lot 1, Block 11)

REFERENCE DRAWINGS:
• MAP NO. 1488 (ALHAMBRA PARK)
• "PLANS FOR THE IMPROVEMENT OF DRAINAGE CHANNEL & STORM DRAINS COLLWOOD GLEN", MAP 12362-4-D
• "PLANS FOR THE IMPROVEMENT OF CONTOUR BLVD., DAWSON AVE."
• CITY OF SAN DIEGO ENGINEERING DEPT., MAP NO. 7206-L, SHEET 4 OF 8

BASIS OF BEARINGS:
THE BASIS OF BEARINGS FOR THIS MAP IS THE DASHED LINE OF CENTERLINE OF STREET AS SHOWN ON MAP NO. 1488 BEARING N 28° 40' 30" E

HETHERINGTON ENGINEERING, INC.

SOIL & FOUNDATION ENGINEERING • ENGINEERING GEOLOGY • HYDROGEOLOGY
5365 AVENIDA ENCINAS, SUITE A, CARLSBAD, CALIFORNIA 92008
(760) 931-1917 • 760-931-1917 (Fax) • WWW.HETHERINGTONENGINEERING.COM

RIGHT-OF-WAY VACATION
IN A PORTION OF (BETWEEN LOT 33 OF BLOCK 10 AND LOT 1 OF BLOCK 11, ALHAMBRA PARK) MAP NO. 1488

DESCRIPTION	BY	APPRVD.	DATE	FILMED
ORIGINAL	HEI			
	✓	jm	6-27-13	

CITY OF SAN DIEGO, CALIFORNIA
SHEET 1 OF 1 SHEET

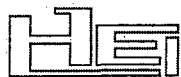
Gregory P. Halpin 6-27-13
FOR CITY ENGINEER DATE

I.O. 24002651
P.T.S. 280211

1856-6303
CCS83 COORD.

216-1743
LAMBERT COORD.

DWG 36975-B



Passed by the Council of The City of San Diego on OCT 29 2013, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kevin Faulconer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Todd Gloria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marti Emerald	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage OCT 29 2013.

(Please note: When a resolution is approved by the Council President as interim Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

TODD GLORIA, COUNCIL PRESIDENT
as interim Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By , Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 308552