

RESOLUTION NUMBER R- 310216

DATE OF FINAL PASSAGE JAN 12 2016

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO GRANTING THE APPEAL, REVERSING THE PLANNING COMMISSION'S DECISION, AND APPROVING THE VACATION OF A SEWER AND STORM DRAIN EASEMENT LOCATED AT 5030 COLLEGE AVENUE, SAN DIEGO, CALIFORNIA (EASEMENT VACATION NO. 1491103) – PROJECT NO. 350930.

WHEREAS, California Streets and Highways Code section 8320 *et seq.* and San Diego Municipal Code section 125.1001 *et seq.* provide a procedure for the vacation of public service easements by resolution; and

WHEREAS, Chad Izmirian, an individual, acting on behalf of the Capstone Development Partners, LLC of the underlying property, filed an application with the City of San Diego to construct a 91-unit apartment development over subterranean parking (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit Nos. 1229240, 1491098, and 1491096) on portions of a 1.51-acre site (Project), which included vacating an 8-foot wide sewer and storm drain easement that was recorded and dedicated to the City of San Diego under deed Recorded November 6, 1956 Document No. 158844, Book 6335, Page 326, O.R., Approval No. 1491103 (Easement Vacation No. 1491103); and

WHEREAS, on September 24, 2015, the Planning Commission of the City of San Diego considered Planned Development Permit No. 1228240, Site Development Permit No. 1491098 and Neighborhood Development Permit No. 1491096, and Easement Vacation No. 1491103 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, after Project presentations, the Planning Commission heard public testimony and evidence having been submitted, determined that the Project could not be approved and denied the Project; and

WHEREAS, Capstone Development Partners, LLC appealed the Planning Commission decision to deny approval of Easement Vacation No. 1491103 (Appeal); and

WHEREAS, the matter was set for public hearing to be conducted by the City Council; 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 and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, that the City Council, having heard the arguments both in favor and opposition to the Project, and having reviewed all the available documentation, hereby determines to grant the Appeal of Capstone Development Partners, LLC, reverse the Planning Commission's decision, and approve Easement Vacation No. 1491103 using the findings presented by City staff to the Planning Commission in their recommendation for approval of the Project with the necessary changes to reflect the applicant's revisions to the Project.

BE IT RESOLVED, by the City Council of the City of San Diego, that with respect to Sewer and Storm Drain Easement Vacation No. 1491103, the City Council finds that:

- (a) **There is no present or prospective public 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.**

The 1.51-acre Project site is located at 5030 College Avenue and is a previously disturbed, vacant site in the College Area community. The existing sewer and storm drain easement is located through the center of the Project site, running in an east-west direction. The sewer facilities have previously been relocated out of the easement (new easement previously dedicated and facility constructed). The storm drain system within the existing easement is proposed to be abandoned in place and re-routed along the southern portion of the property. As conditioned by this Resolution, prior to recordation of the Easement Vacation, a new storm drain easement will be dedicated and new facilities constructed to replace the existing facility. Therefore, upon dedication of the new storm drain easement, construction of the new storm drain facility within the easement, termination of the existing storm drain facilities, and recordation of the Easement Vacation to vacate the easement in its entirety, there will be 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.

- (b) **The public will benefit from the action through improved utilization of the land made available by the vacation.**

The 1.51-acre Project site is located at 5030 College Avenue and is a previously disturbed, vacant site in the College Area community. The existing sewer and storm drain easement is located through the center of the Project site, running in an east-west direction. The Project proposes to vacate the easement in its entirety. The public will benefit from the vacation through the improved utilization of the land as the site may be developed with a residential use anticipated in both the Community Plan and the Core Sub-Area of the College Community Redevelopment Project Master Project Plan. Therefore, the public will benefit from the abandonment through improved utilization of the land made available by the Easement Vacation.

- (c) **The vacation is consistent with any applicable land use plan.**

The 1.51-acre Project site is located at 5030 College Avenue and is a previously disturbed, vacant site in the College Area community. The existing sewer and storm drain easement is located through the center of the Project site, running in an east-west direction. The site is within the College Area Community Plan which designates the site for High Density Residential development at a density range of 45-75 dwelling units per acre, and within the Core Sub-Area of the College Community Redevelopment Project Master Project Plan. Both documents identify

the site for residential development. The Community Plan does not contain specific guidelines regarding the vacation of easements. As the proposed Easement Vacation would facilitate the construction of a residential development anticipated in the land use plans, the Easement Vacation is consistent with the applicable land use plan.

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

The 1.51-acre Project site is located at 5030 College Avenue and is a previously disturbed, vacant site in the College Area community. The existing sewer and storm drain easement is located through the center of the Project site, running in an east-west direction. The sewer facilities have previously been relocated out of the easement (new easement previously dedicated and facility constructed). The storm drain system within the existing easement is proposed. As conditioned by this Resolution, prior to recordation of the Easement Vacation, a new storm drain easement will be dedicated and new storm drain facilities constructed to replace the existing facility. Therefore, upon dedication of the new storm drain easement, construction of the new storm drain facility within the easement, termination of the existing storm drain facilities, and recordation of the Easement Vacation to vacate the easement in its entirety, the public facility or purpose for which the easement was originally acquired will not be detrimentally affected by the Easement Vacation or the purpose for which the easement was acquired will no longer exist.

BE IT FURTHER RESOLVED, that the sewer and storm drain easement located within the property at 3050 College Avenue in Portion of Lot 21 of Rancho Mission Map No. 330, in connection with Planned Development Permit No. 1229240, Site Development Permit No. 1491098 and Neighborhood Development Permit No. 1491096, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 38886, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated subject to the following conditions:

BE IT FURTHER RESOLVED, the Easement Vacation is subject to the following conditions:

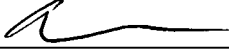
1. Prior to recordation of Easement Vacation, a new easement must be granted to the City of San Diego to the satisfaction of the City Engineer.

2. Prior to recordation of the Easement Vacation, all existing facilities within the proposed vacation must be removed or abandoned and new facilities must be installed and operational to the satisfaction of the City Engineer.
3. Prior to recordation of the Easement Vacation, new facilities must be installed and operational in a new sewer and/or storm drain easement, to the satisfaction of the City Engineer.

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 City Clerk 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:dkr  
January 19, 2016  
Or.Dept:DSD  
Doc. No.: 1207300

## EXHIBIT A

### LEGAL DESCRIPTION PARTIAL SEWER AND STORM DRAINAGE EASEMENT VACATION

A STRIP OF LAND 8.00 FEET IN WIDTH AS DESCRIBED IN DEED RECORDED NOVEMBER 6, 1956, DOCUMENT NO. 158844, BOOK 6335, PAGE 326 OFFICIAL RECORDS, LYING WITHIN A PORTION OF LOT 21 OF RANCHO MISSION OF SAN DIEGO, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA ACCORDING TO THE PARTITION MAP OF SAID RANCHO MADE IN ACTION OF JUAN M. LUCO, ET AL, VS. THE COMMERCIAL BANK OF SAN DIEGO, ET AL, AND ON FILE IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS LYING 4.00 FEET ON EACH SIDE OF THE FOLLOWING DESCRIBED CENTERLINE;

BEGINNING AT THE EASTERLY CORNER OF LOT 11, BLOCK 4, OF COLLEGE PARK UNIT NO. 1, ACCORDING TO MAP NO. 2196 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAID SAN DIEGO COUNTY; THENCE ALONG THE SOUTHWESTERLY LINE OF COLLEGE AVENUE OF SAID MAP SOUTH 28°07'30" EAST, 106.66 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 79°43'00" WEST, 52.25 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 90.00 FEET; THENCE WESTERLY AND SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 36°02'30", A DISTANCE OF 56.61 FEET TO THE BEGINNING OF A TANGENT REVERSE CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 90.00 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°54'30", A DISTANCE OF 24.99 FEET; THENCE SOUTH 59°35'00" WEST, 149.60 FEET TO THE NORTHEASTERLY LINE OF CAMPANILE TERRACE UNIT NO. 3, ACCORDING TO MAP THEREOF NO. 3454 FILED IN THE OFFICE OF THE COUNTY CLERK OF SAID COUNTY.

THE SIDELINES OF SAID STRIP OF LAND SHALL BE PROLONGED OR SHORTENED SO AS TO TERMINATE IN THE NORTHEASTERLY BOUNDARY OF SAID CAMPANILE TERRACE UNIT NO. 3 AND IN THE SOUTHWESTERLY LINE OF COLLEGE AVENUE.

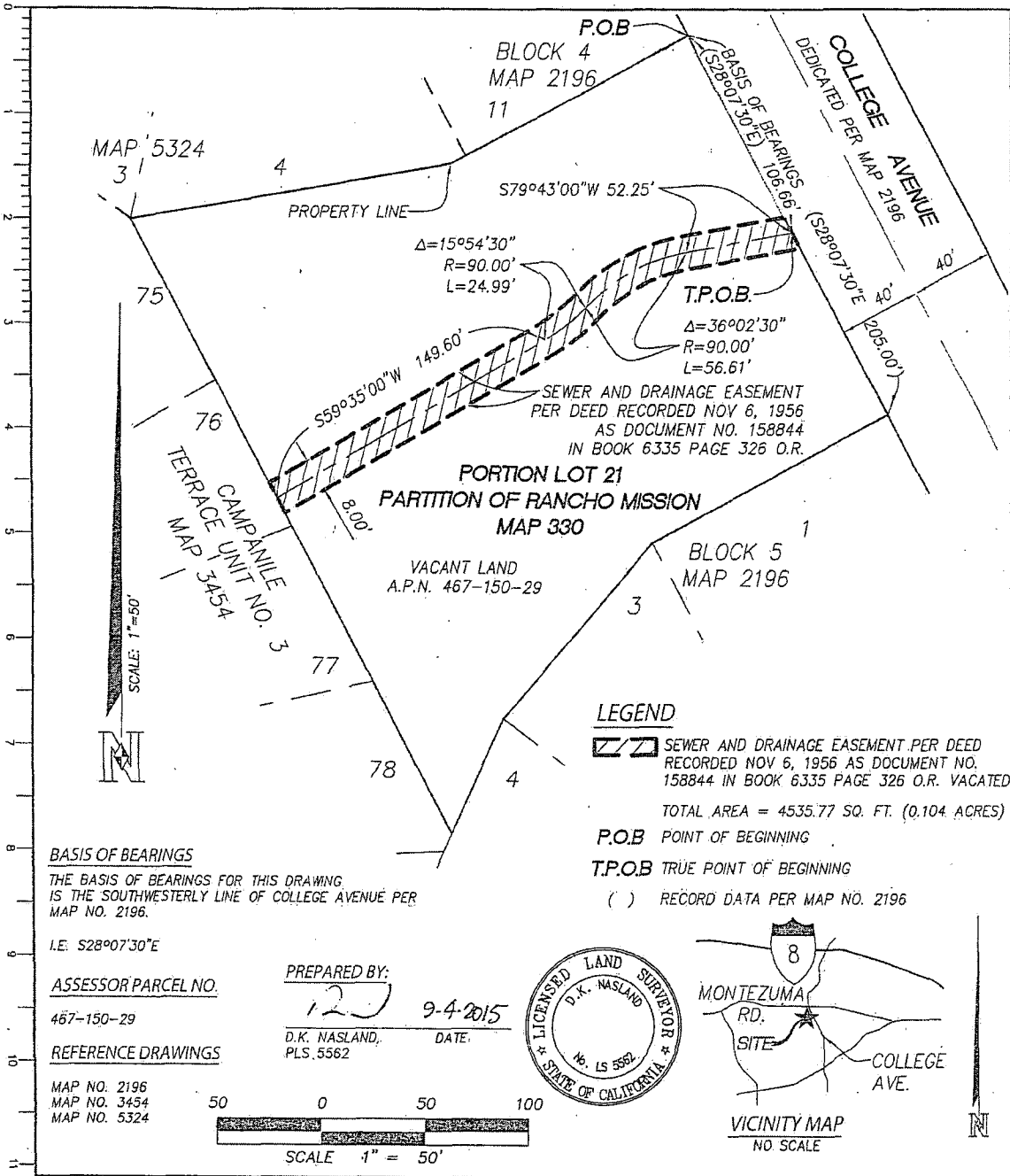
AREA = 4,536 SQ. FT / 0.104 ACRES MORE OR LESS

ATTACHED HERETO IS A DRAWING NO. 38886-B LABELED EXHIBIT "B" AND BY THIS REFERENCE MADE A PART HEREOF.

P.T.S. # 350930  
I.O. # 24004264



# EXHIBIT "B"



**BASIS OF BEARINGS**

THE BASIS OF BEARINGS FOR THIS DRAWING IS THE SOUTHWESTERLY LINE OF COLLEGE AVENUE PER MAP NO. 2196.

I.E. S28°07'30"E

**ASSESSOR PARCEL NO.**

467-150-29

**REFERENCE DRAWINGS**

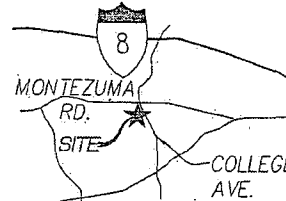
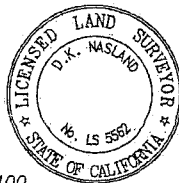
MAP NO. 2196  
MAP NO. 3454  
MAP NO. 5324

**PREPARED BY:**

D.K. NASLAND,  
PLS. 5562

9-4-2015

DATE.



**VICINITY MAP**  
NO SCALE

**LEGEND**

- SEWER AND DRAINAGE EASEMENT PER DEED RECORDED NOV 6, 1956 AS DOCUMENT NO. 158844 IN BOOK 6335 PAGE 326 O.R. VACATED
- TOTAL AREA = 4535.77 SQ. FT. (0.104 ACRES)
- P.O.B POINT OF BEGINNING
- T.P.O.B TRUE POINT OF BEGINNING
- ( ) RECORD DATA PER MAP NO. 2196



N.E. Job No. 113-110.1



**Nasland**

4740 Ruffner Street T (858) 292-7770  
San Diego, CA 92111 nasland.com

Civil Engineering Surveying Land Planning

RESOLUTION NO. \_\_\_\_\_

RECORDED \_\_\_\_\_

DOCUMENT NO. \_\_\_\_\_

## SEWER AND DRAINAGE EASEMENT VACATION IN PORTION OF LOT 21, PARTITION OF RANCHO MISSION, MAP 330

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA.	I.O. 24004264
ORIGINAL	N.E.		09/03/2015		SHEET 1 OF 1 SHEET	P.T.S. 350930
		CEB	9/10/15		<i>Frederick R. Lopez</i> FOR CITY ENGINEER	1860-6307 CCS 83 COORDINATES
					9/14/15 DATE	220-1747 LAMBERT COORDINATES
						38886-B

STATUS

Passed by the Council of The City of San Diego on JAN 12 2016, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Sherri Lightner	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<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"/>
Chris Cate	<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 type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JAN 12 2016.

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

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

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

(Seal)

By *Mary Fernandez*, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 310216