

RESOLUTION NUMBER R- 310939  
DATE OF FINAL PASSAGE FEB 07 2017

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO SUMMARILY VACATING A PORTION OF WASHINGTON STREET AND A PORTION OF FRONTAGE STREET BETWEEN KURTZ STREET AND PACIFIC COAST HIGHWAY (RIGHT-OF-WAY VACATION NO. 1532869) – PROJECT NO. 435647.

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, Kennebec Properties II, LLC (Applicant), filed an application to vacate excess public right-of-way along Washington Street and a portion of frontage road between Kurtz Street and Pacific Coast Highway, being described as Right-of-Way Vacation No. 1532869; and

WHEREAS, Right-of-Way Vacation No. 1532869 is located on property currently owned by the City of San Diego, which is anticipated to be sold to the Applicant, as authorized by San Diego Resolution No. 310827; 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 public right-of-way is excess public right-of-way and is not required for street or highway purposes; and

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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 Right-  
of-Way Vacation No. 1532869, the Council finds that:

1. **There is no present or prospective public 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 area of the proposed right-of-way vacation was originally created by an Act of Congress in 1875 granting to the Atchison, Topeka and Santa Fe Railway Company land for purposes of the railway. In 1941, the Atchison, Topeka and Santa Fe Railway Company transferred the easement to Frontier Enterprises by grant deed. In 1947, 1951, and 1955, the California Highway Commission declared certain sections of State highway to be a freeway. In 1955, under the terms of a freeway agreement between the City of San Diego and the State of California, the City of San Diego assumed or resumed control and maintenance of relocated and reconstructed city streets, frontage roads, and road connections. Since that time, the public right-of-way which is proposed to be vacated has not been used for any public purpose, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated now or in the future.

The land intended to be vacated is no longer needed as public right-of-way and is not needed to provide public circulation or services. The neighborhood and community have several existing improved public rights-of-way that provide the public circulation necessary to the community and this portion of Washington Street and a portion of frontage road between Kurtz Street and Pacific Coast Highway is not needed for providing public circulation. Public water and sewer services are provided throughout the community and this portion of Washington Street and a portion of frontage road between Kurtz Street and Pacific Coast Highway is not needed for providing water or sewer services. Electricity, telephone, cable, and other services are provided through other easements and rights-of-way in the community.

As such, this portion of Washington Street and a portion of frontage road between Kurtz Street and Pacific Coast Highway is no longer be necessary and will have no prospective use. Therefore, there is no present or prospective public use for the public right-of-way, either for the purpose 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.** Presently the public right-of-way limits the use of this land to only circulation purposes and public utility, those being the purpose for which the public right-of-way was originally acquired. The property adjacent to this portion of Washington Street and a portion of frontage road between Kurtz Street and Pacific Coast Highway to be vacated will benefit by the vacation of the existing right-of-way as the property will become larger and will facilitate the future development of a currently unimproved property. The City of San Diego and

the County of San Diego will benefit by the increase of property value by increasing the area of privately owned land subject to property tax and the incremental increase to the tax base. With an increase of tax revenue, the general public will benefit by the vacation of the existing right-of-way by the increase of available public funds. The public will benefit by the reduction of liability to the City of San Diego by reducing the land it controls.

Further the public will benefit by the vacation of the public right-of-way by the development of a new facilities and employment opportunities resulting from the improvement of the vacant property.

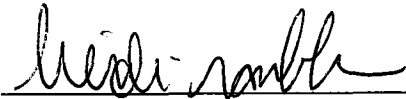
**3. The vacation does not adversely affect any applicable land use plan.** The adopted Midway/Pacific Highway Corridor Community Plan identifies the adjacent site for industrial development. The vacation of this portion of Washington Street and a portion of frontage road between Kurtz Street and Pacific Coast Highway will facilitate the fullest and highest use of the land as designated by the community plan. For these reasons, the proposed vacation of this portion of Washington Street and a portion of frontage road between Kurtz Street and Pacific Coast Highway is consistent with the policies and goals of the adopted Midway/Pacific Highway Corridor Community Plan and will not adversely affect the Midway/Pacific Highway Corridor Community Plan.

**4. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.** The area of the proposed right-of-way vacation was originally created by an Act of Congress in 1875 granting to the Atchison, Topeka and Santa Fe Railway Company land for purposes of the railway. The neighborhood and community have several existing improved public rights-of-way that provide circulation necessary to the public within and through the Midway/Pacific Highway Corridor Community Plan and this portion of Washington Street and a portion of frontage road between Kurtz Street and Pacific Coast Highway is not needed to provide public circulation. Public water and sewer services are provided throughout the community and this portion of Washington Street and a portion of frontage road between Kurtz Street and Pacific Coast Highway is not needed to provide water or sewer services. Electricity, telephone, cable and other services are provided through other easements and rights-of-way in the community. The remaining public right-of-way will not be detrimentally affected by the vacation of this portion of Washington Street and a portion of frontage road between Kurtz Street and Pacific Coast Highway in that this right-of-way is no longer necessary for the purposes it was originally acquired or any other public use of a like nature and 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. 1532869, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing Nos. 38964-1-B and 38964-2-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, 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: MARA W. ELLIOTT, City Attorney

By   
Heidi K. Vonblum  
Deputy City Attorney

HKV:nja  
01/10/17  
Or.Dept: DSD  
Doc. No.: 1420699

**EXHIBIT 'A'**  
**PUBLIC STREET VACATION**  
**LEGAL DESCRIPTION**

Those portions of Lots 7 and 8 in Block 183, and Right-of-Way Lots 149 through 151, inclusive, all of Middletown, according to partition Map thereof made by J.E. Jackson on File in the Office of the County Clerk of San Diego County, in the City of San Diego, County of San Diego, State of California, all as relinquished to the City of San Diego per Book 7529, Page 379, recorded March 4, 1959 in the Office of said County Recorder, more particularly described as follows:

**Commencing** at the Northeast corner of said Lot 7 as shown on Record of Survey No. 22317 recorded April 8, 2016 in the Office of said County Recorder, also being on the boundary of Parcel 1 of said relinquishment to the City of San Diego; thence along said boundary of Parcel 1 the following courses: North 60°39'17" West (North 61°18'10" West per said relinquishment) 6.50 feet to the Northwest corner of that certain 6.50 foot portion granted to the state of California per Book 1740, Page 53, recorded August 17, 1944 in the Office of said County Recorder; thence along the Northwesterly line of said 6.50 foot portion and said boundary of Parcel 1 South 29°20'43" West 61.48 feet (South 28°47'05" West 61.48 feet per said relinquishment); thence leaving said Northwesterly line, continuing along said boundary of Parcel 1 North 57°31'44" West 5.74 feet (North 58°05'22" West 5.74 feet per said relinquishment) to the beginning of a non-tangent 70.00 foot radius curve concave to the Northwest, a radial line to said point bears South 38°22'08" East; thence Southwesterly along said curve, through a central angle of 08°41'38" a distance of 10.62 feet to the intersection with a line parallel with and 57.0 feet Northwesterly of the centerline of Washington Street, as originally dedicated for public use as Harasthy Street per said Middletown Map; said point also being the most Southerly corner of that certain portion of land taken by Final Order of Condemnation to Metropolitan Transit Development Board (M.T.D.B.) per Document No. 1994-0443181, recorded July 15, 1994 of Official Records of said County and the **Point of Beginning**; thence continuing along said boundary of Parcel 1 and said curve, through a central angle of 28°53'38" a distance of 35.30 feet to the beginning of a 212.00 foot radius compound curve concave to the Northeast; thence Southwesterly, Westerly and Northwesterly along said curve, through a central angle of 19°19'34" a distance of 71.51 feet; thence North 71°27'18" West (North 72°00'56" West per said relinquishment) 6.10 feet to the beginning of a non-tangent 350.00 foot radius curve concave to the Southwest, a radial line to said beginning bears North 25°02'43" East; thence leaving said boundary of Parcel 1, Southeasterly along said curve, through a central angle of 04°11'51" a distance of 25.64 feet; thence South 60°45'26" East 42.54 feet to the beginning of a tangent 30.00 foot radius curve concave to the North; thence Southeasterly, Easterly and Northeasterly along said curve, through a central angle of 44°36'17" a distance of 23.35 feet; thence North 74°38'17" East 11.73 feet; thence parallel

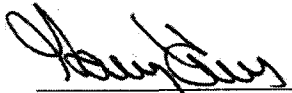
with and 57.0 feet Northwesterly of the centerline of said Washington Street, North 29°20'43" East, 32.54 feet to the **Point of Beginning**.

Said parcel contains 1,412 square feet or 0.032 acre, more or less.

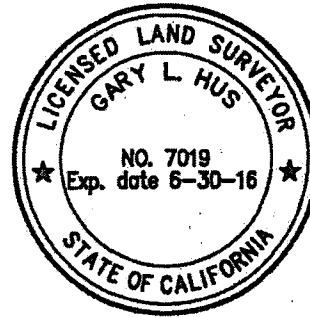
Attached hereto is a Drawing No. 38964-B labeled Exhibit 'B' and by this reference made a part thereof.

All bearings and distances in the above legal description are ground, and based upon the California Coordinate System, Zone 6, N.A.D. 83, Epoch 1991.35.

This legal description was prepared by me or under my direction in conformance with the Land Surveyors' Act.

  
GARY L. HUS  
LS 7019

07-26-2016  
DATE



P.T.S. 435647  
I.O. No. 24006081







Passed by the Council of The City of San Diego on FEB 07 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<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"/>
Chris Ward	<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"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**FEB 07 2017**

Date of final passage \_\_\_\_\_.

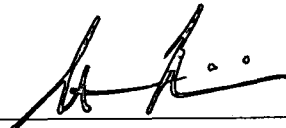
(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

(Seal)

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

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- 310939