

203B
2/4/19

(R-2019-334)

RESOLUTION NUMBER R- 312198

DATE OF FINAL PASSAGE FEB 04 2019

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING RIGHT-OF-WAY VACATION NO. 2231450 SUMMARILY VACATING A PORTION OF UNIMPROVED BIRMINGHAM DRIVE CONTAINING 6,430 SQUARE FEET; RESERVING A GENERAL UTILITY AND ACCESS EASEMENT CONTAINING 3,312 SQUARE FEET; AND VACATING A TEMPORARY ROAD EASEMENT CONTAINING 6,459 SQUARE FEET.

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, Sharp Healthcare filed an application to vacate a public right-of-way on a portion of Birmingham Drive; reserve a general utility and access easement; and vacate a temporary road easement being described as Right-of-Way Vacation No. 2231450 and within Drawing No. 40364-B; and

WHEREAS, Right-of-Way Vacation No. 2231450 is located on the public right-of-way within a portion of Birmingham Drive dedicated per document recorded 3-25-1932 in Book 96, Page 347 of Official Records, including the Temporary Road Easement granted to the City of San Diego per document recorded December 31, 1991 as Document No. 1991-0685901 of Official Records; and

WHEREAS, in connection with Right-of-Way Vacation No. 2231450, the City desires to reserve and accept a general utility public easement described as a General Utility and Access Easement Reservation described in Drawing No. 40364-B - Parcel B on a portion of Birmingham Drive; and

WHEREAS, the portion of the Birmingham Drive 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

WHEREAS, the matter was set for public hearing on February 4, 2019, 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 Birmingham Drive Public Right-of-Way Vacation Approval No. 2231450, the Council makes the following findings required by the San Diego Municipal Code Section 125.0941:

(a) 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 Applicant, Sharp HealthCare, submitted a right-of-way vacation application to vacate a portion of Birmingham Drive consisting of approximately 6,430 square-feet; reserve a general utility and access easement consisting of approximately 3,312 square-feet; and vacate a temporary road easement consisting of approximately 6,459 square-feet. The 0.3-acre site at 7909 Birmingham Drive, Assessor's Parcel Number 427-540-2900, near the intersection of

Birmingham Drive and Birmingham Way is located within the 127 acre Serra Mesa Health-Institutional Complex of the Serra Mesa Community Planning area.

The public right-of-way, known as Birmingham Drive, was dedicated to the City of San Diego for street purposes on January 25, 1932. Over time, most of the properties to the northeast developed into medical facilities. A larger subdivision known as the Children's Hospital and Health Center was created and included a street dedication for Children's Way and extended Birmingham Way to the east per City Council Resolution R-279144, recorded on December 31, 1991. The street dedication established 10 parcels dedicated for street purposes, including a temporary road easement. The temporary road easement was necessary for improved and safer traffic circulation for Birmingham Drive. The temporary road easement was conditioned into the City Council Resolution and will terminate and cease to exist upon the vacation of Birmingham Drive.

The Serra Mesa Community Plan identifies Birmingham Way as a prime arterial street and Birmingham Drive as a collector street. The vacation of a portion of Birmingham Drive will not detrimentally affect traffic and pedestrian circulation within the Serra Mesa Health-Institutional Complex. Arterial streets are usually four to six lanes wide and designed primarily for through traffic, but they also provide access to abutting property. Collector Streets are typically two to four lanes wide and may be two-lane minor streets or one-lane alleys that functions as feeder traffic to the arterial streets. The surrounding land uses near the 0.3-acre subject site are developed with several types of health care facilities, a medical campus, and health-institutional facilities serving the San Diego region. The network of street system (primary arterial, major street, and collector streets), public transit, bicycle lanes, and pedestrian sidewalks serving this medical complex are already developed. The excess right-of-way is no longer necessary because the network of street system as primary arterial, major street, and

collector street classifications have been met. Additionally, the public right-of-way, known as Birmingham Drive, was dedicated to the City of San Diego for street purposes on January 25, 1932. Over time, most of the properties to the northeast developed into medical facilities. In 1991, a larger subdivision known as the Children's Hospital and Health Center was created. This new development necessitated a wider public road to run east and west, which was eventually dedicated per City Council Resolution R-279144, recorded on December 31, 1991, and became Birmingham Way. With this dedication, a temporary road easement was established to connect Birmingham Way to Birmingham Drive. This temporary road easement is no longer needed as Birmingham Drive and Birmingham Way were realigned and connected in a northerly/southerly street alignment shown as shown on Exhibit B, (Drawing No. 40364-B). The vacation of 0.3-acre of right-of-way on Birmingham Drive will not detrimentally affect future travel forecast serving the medical complex. Therefore, there is no present or prospective public use for the right-of-way, either for street or highway purposes or for any other public use of a like nature that can be anticipated.

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

The project proposes to vacate a portion of Birmingham Drive, which is excess public right-of-way that has no present or prospective use for street or highway purposes. The 0.3-acre site is located within the Serra Mesa Health-Institutional Complex, which is classified as an Employment Center within the Serra Mesa Community Plan. The Serra Mesa Community Plan identifies the need for a network of paths, planting strips, and additional parking spaces for subsequent development of land uses within the Serra Mesa Health-Institutional Complex. The applicant, Sharp Healthcare, applied for a State of California subdivision mapping action to vacate the excess right-of-way. Although no development beyond the right-of-way vacation is

proposed, the site is currently improved with curb and gutter, landscaping, and additional off-site street parking. These existing improvements that will remain meet the objective of the Serra Mesa Community plan for off-site parking, curb and gutters fronting Birmingham Way, and landscaping. The public will benefit from the vacation as it removes unnecessary and unproductive encumbrances on the property and accurately reflects what has been built. Therefore, the public will benefit from the action through improved use of the land made available by the vacation.

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

The Serra Mesa Community Plan identifies Birmingham Way as a prime arterial street and Birmingham Drive as a collector street within the Employment Center of the community plan. The project proposes to vacate a portion of Birmingham Drive, which is excess public right-of-way that has no present or prospective use for street or highway purposes. The vacation of a portion of Birmingham Drive will not detrimentally affect traffic and pedestrian circulation within the Serra Mesa Health-Institutional Complex. Although no development beyond the right-of-way vacation is proposed, the site is currently improved with curb and gutter, landscaping, and additional off-site street parking. The vacation of this portion of Birmingham Drive does not adversely affect the applicable land use plan as the existing improvements meet the objective of the Serra Mesa Community plan for off-site parking, curb and gutters fronting Birmingham Way, and landscaping. For these reasons, the proposed vacation of this portion of Birmingham Drive is consistent with the policies and goals of the adopted Serra Mesa Community Plan and will not adversely affect the 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.

The public right-of-way, known as Birmingham Drive, was dedicated to the City of San Diego for street purposes on January 25, 1932. Over time, most of the properties to the northeast developed into medical facilities. A larger subdivision known as the Children's Hospital and Health Center was created and included a street dedication for Children's Way and extended Birmingham Way to the east per City Council Resolution R-279144, recorded on December 31, 1991. The street dedication established 10 parcels dedicated for street purposes including a temporary road easement. The temporary road easement was necessary for improved and safer traffic circulation for Birmingham Drive. The temporary road easement was conditioned into the City Council Resolution and will terminate and cease to exist upon the vacation of Birmingham Drive.

The project proposes to vacate a portion of Birmingham Drive, which is excess public right-of-way, that has no present or prospective use for street or highway purposes. The Serra Mesa Community Plan identifies Birmingham Way as a prime arterial street and Birmingham Drive as a collector street. The right-of-way vacation of a portion of Birmingham Drive will not detrimentally affect traffic circulation within the Serra Mesa Health-Institutional Complex. The 50-foot wide, two lane Birmingham Drive will remain and meet the standard definition of a collector street for Birmingham Way. This portion of Birmingham Drive is not needed for traffic and pedestrian circulation. In addition, a general utility and access easement reservation is requested by the Public Utilities Department within the excess public-right-of-way proposed to be vacated. The public right-of-way was originally acquired for street purposes and will not be detrimentally affected by the vacation because the excess public-right-of-way has no present or prospective use for street or highway purposes.

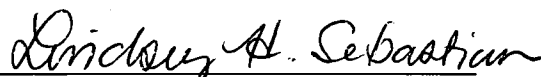
BE IT FURTHER RESOLVED, that Right-of-Way Vacation No. 2231450, as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 40364-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that the City of San Diego reserves and accepts from Right-of-Way Vacation No. 2231450, the General Utility and Access Easement Reservation for public utility and access purposes, as more particularly described hereinafter in the legal description marked as Exhibit "A" and shown on Drawing No. 40364-B, marked as Exhibit "B," which are by this reference incorporated herein and made a part hereof, is ordered reserved.

BE IT FURTHER RESOLVED, that the easements reserved herein are in, under, over, upon, along, and across that portion of Birmingham Drive, vacated by this Document and as more particularly described in the legal description marked as Exhibit "A" and shown on Drawing No. 40364-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: MARA W. ELLIOTT, City Attorney

By 
Lindsey H. Sebastian
Deputy City Attorney

LJS:als
01/17/2019
Or.Dept:DSD
Doc. No.: 1911309

Attachment: Exhibits A & B – Legal Description

EXHIBIT A
LEGAL DESCRIPTION
STREET VACATION

PORTION OF BIRMINGHAM DRIVE VACATED (PARCEL "A")

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF PUEBLO LOT 1199 OF THE PUEBLO LANDS OF SAN DIEGO, ACCORDING TO MAP THEREOF MADE BY JAMES PASCOE IN 1870, A COPY OF WHICH MAP WAS FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY ON NOVEMBER 14, 1921, AND IS KNOWN AS MISCELLANEOUS MAP NO. 36; ALSO BEING THAT PORTION OF BIRMINGHAM DRIVE AS DEDICATED PER DOCUMENT RECORDED MARCH 25, 1932 IN BOOK 96, PAGE 347 OF OFFICIAL RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION WITH THE NORTHERLY LINE OF BIRMINGHAM WAY, AS DEDICATED PER RESOLUTION NO. 279144, RECORDED DECEMBER 31, 1991, AS DOCUMENT NO. 1991-0685748 OF OFFICIAL RECORDS, WITH THE EASTERLY LINE OF THE LAND DESCRIBED IN THE GRANT DEED RECORDED JULY 10, 1987 AS DOCUMENT NO. 87-385885 OFFICIAL RECORDS; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID BIRMINGHAM WAY, NORTH 89°39'00" WEST, 107.12 FEET TO THE INTERSECTION WITH THE SOUTHEASTERLY LINE OF SAID PORTION OF BIRMINGHAM DRIVE AS DEDICATED PER DOCUMENT RECORDED MARCH 25, 1932 IN BOOK 96, PAGE 347 OF OFFICIAL RECORDS; SAID POINT BEING THE **POINT OF BEGINNING** OF THIS DESCRIPTION; THENCE ALONG SAID SOUTHEASTERLY LINE, NORTH 41°52'36" EAST, 78.38 FEET; THENCE LEAVING SAID LINE, NORTH 0°11'50" EAST, 75.19 FEET TO THE NORTHWESTERLY LINE OF SAID BIRMINGHAM DRIVE; THENCE ALONG SAID LINE, SOUTH 41°52'36" WEST, 178.82 FEET TO THE WESTERLY PROLONGATION OF SAID NORTHERLY LINE OF BIRMINGHAM WAY; THENCE ALONG SAID PROLONGATION, SOUTH 89°39'00" EAST, 66.79 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 6,430 SQUARE FEET (0.148 ACRES), MORE OR LESS.

GENERAL UTILITY AND ACCESS EASEMENT RESERVED (PARCEL "B")

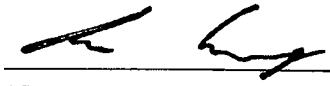
RESERVING THEREFROM A GENERAL UTILITY AND ACCESS EASEMENT, DESCRIBED AS BEING THE NORTHWESTERLY 21.00 FEET OF THE PORTION OF BIRMINGHAM DRIVE BEING DESCRIBED AND VACATED ABOVE.

CONTAINING 3,312 SQUARE FEET (0.076 ACRES), MORE OR LESS.

TEMPORARY ROAD EASEMENT VACATED (PARCEL "C")

ALL OF THAT TEMPORARY ROAD EASEMENT GRANTED TO THE CITY OF SAN DIEGO AS DESCRIBED IN DOCUMENT RECORDED DECEMBER 31, 1991 AS DOCUMENT NO. 1991-0685901 OF OFFICIAL RECORDS. CONTAINING 6,459 SQUARE FEET (0.148 ACRES MORE OR LESS).

ATTACHED HERETO IS CITY DRAWING NUMBER 40364-B AND BY REFERENCE MADE A PART HEREOF.

 **8-24-2018**
ADAM E. EISENBERG, LS 9096 DATE

PTS No. 576547
I.O. No. 24007483
DRAWING No. 40364-B



EXHIBIT "B"

LEGEND

PORTION OF BIRMINGHAM DRIVE DEDICATED PER DOCUMENT RECORDED 3-25-1932 IN BOOK 96, PAGE 347 OF OFFICIAL RECORDS, VACATED (PARCEL 'A')
 AREA = 6,430 SQUARE FEET (0.148 ACRES).

GENERAL UTILITY AND ACCESS EASEMENT RESERVED (PARCEL B)
 AREA = 3,312 SQUARE FEET (0.076 ACRES).

TEMPORARY ROAD EASEMENT GRANTED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED DECEMBER 31, 1991 AS DOCUMENT NO. 1991-0685901 OF OFFICIAL RECORDS, VACATED (PARCEL 'C')
 AREA = 6,459 SQUARE FEET (0.148 ACRES).

PROPERTY LINE/ R-O-W LINE

LOT LINE

CENTERLINE

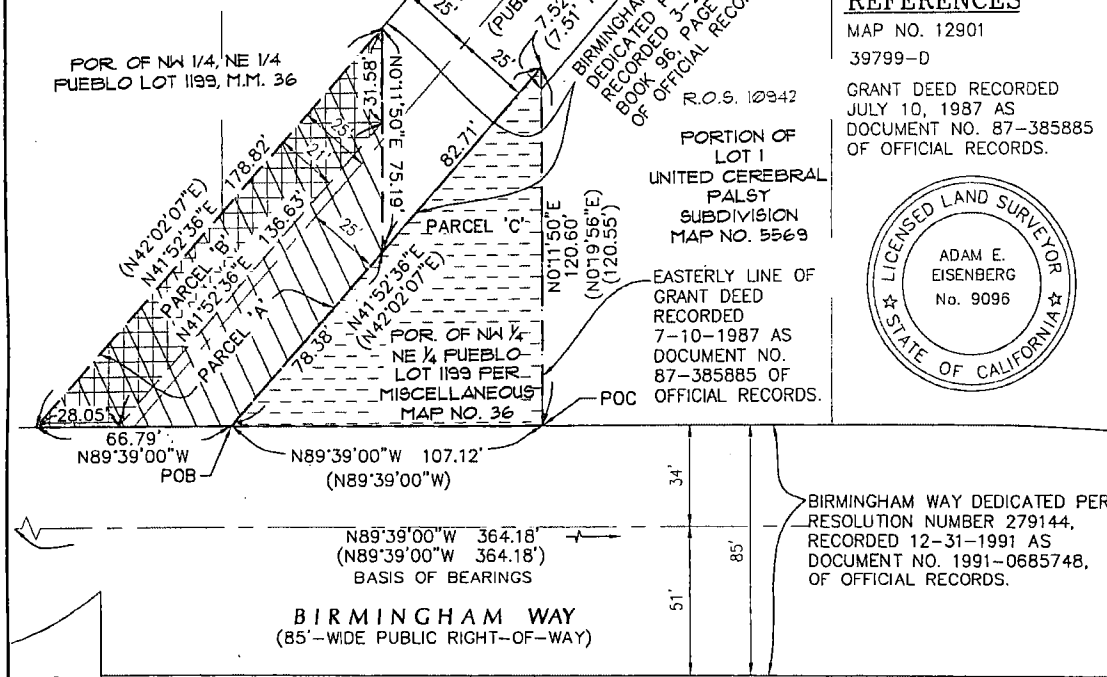
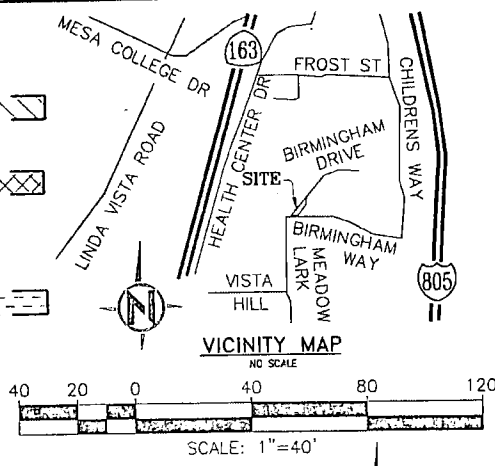
POINT OF COMMENCEMENT POC

POINT OF BEGINNING POB

RECORD OR CALCULATED DATA PER MAP NO. 12901, UNLESS OTHERWISE INDICATED ()

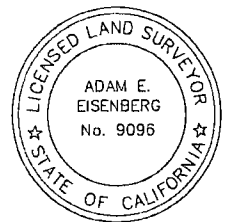
BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS SURVEY IS A PORTION OF THE CENTERLINE OF BIRMINGHAM WAY PER MAP No. 12901. I.E.: NORTH 89°39'00" WEST



REFERENCES

MAP NO. 12901
 39799-D
 GRANT DEED RECORDED JULY 10, 1987 AS DOCUMENT NO. 87-385885 OF OFFICIAL RECORDS.



BVE
 9449 Balboa Avenue, Suite 270
 San Diego, CA 92123 (619) 299-5550
 ADAM E. EISENBERG LS 9096 DATE 8-24-2018

RESOLUTION NO. _____
 DATE ADOPTED _____
 DOCUMENT NO. _____
 RECORDED _____

PARCEL 'A' - STREET VACATION (PORTION OF BIRMINGHAM DRIVE)
PARCEL 'B' - GENERAL UTILITY AND ACCESS EASEMENT RESERVATION
PARCEL 'C' - TEMPORARY ROAD EASEMENT VACATION

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	P.T.S. NO. 576547
ORIGINAL					SHEET 1 of 1 SHEETS	I.O.NO. 24007483
					<i>Richard R. ...</i> FOR CITY ENGINEER	1870-6281 NAD-83 COORDINATES
					10/3/18 DATE	230-1721 LAMBERT COORDINATES
						DWG NO. 40364-B
					STATUS	

Passed by the Council of The City of San Diego on FEB 04 2019, 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"/>
Jennifer Campbell	<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"/>
Monica Montgomery	<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"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage FEB 04 2019.

(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.

(Seal)

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

By Linda Irwin, Deputy

Office of the City Clerk, San Diego, California

Resolution Number R- 312198