

# PLANNING COMMISSION

Meeting Date: 04/17/2023

## ADDITIONAL ITEM ADDED AFTER DISTRIBUTION OF PACKET (# 1 )

### AGENDA ITEM # 3

**Applicant/Project Name:** PLANNING COMMISSION RESOLUTIONS PC23-5308 AND PC23-5309 RECOMMENDING TO CITY COUNCIL THE SUMMARY VACATION AND ABANDONMENT OF PUBLIC RIGHT-OF-WAY FOR PORTIONS OF NORTH CITY DRIVE AND MID CITY LANE, AND OF THE GENERAL UTILITY EASEMENT OVER FORMER JUNE WAY AND MID CITY LANE, ALL WITHIN THE BOUNDARY OF TENTATIVE SUBDIVISION MAP 21-0002 FOR NORTH CITY EAST

**Project Number:** TMP-1881, Summary Vacations VAC 23-0008 and VAC 23-0009

**Brief Description:** Correction of typographical error in Environmental Review section of staff report; addition of sentence to first paragraph of Background of staff report; and update to Attachment 1, Resolution 23-5308.

**Date** 04/12/23  
**Time** 10:40 a.m.

**PLANNING COMMISSION MEETING DATE:**

April 17, 2023

**SUBJECT:**

PLANNING COMMISSION RESOLUTIONS PC23-5308 AND PC23-5309 RECOMMENDING TO CITY COUNCIL THE SUMMARY VACATION AND ABANDONMENT OF PUBLIC RIGHT-OF-WAY FOR PORTIONS OF NORTH CITY DRIVE AND MID CITY LANE, AND OF THE GENERAL UTILITY EASEMENT OVER FORMER JUNE WAY AND MID CITY LANE, ALL WITHIN THE BOUNDARY OF TENTATIVE SUBDIVISION MAP 21-0002 FOR NORTH CITY EAST

**CASE NUMBERS:**

Summary Vacations VAC 23-0008 and VAC 23-0009

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**Recommendation**

APPROVE the following:

1. APPROVE Resolution PC 23-5308 (VAC23-0008) recommending to City Council the summary vacation and abandonment of the public right-of-way for portions of North City Drive and Mid City Lane, reserving from Mid City Lane drainage and utility rights; and
2. APPROVE Resolution PC 23-5309 (VAC 23-0009) recommending to City Council the summary vacation and abandonment of the General Utility Easement over former June Way and Mid City Lane.

**Board or Commission Action**

On December 5, 2022, the Planning Commission considered the proposed vacation and abandonment of an adjacent portion of Mid City Lane right-of-way in accordance with Streets and Highways Code Section 8313 and Government Code Section 65402, and found it to be in conformity with the adopted General Plan. Planning Commission accordingly approved Resolution PC 22-5013.

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**Background**

Portions of North City Drive were dedicated by Document 2018-0391390, recorded September 19, 2018, and by Parcel Map 20991, recorded August 8, 2012. A portion of the North City Drive right-of-way proposed to be vacated is at the northwest quadrant of the intersection of North City Drive with Campus Way. Another portion is north of the June Way roundabout, where former June Way extended north of North City Drive (Attachment A). The final portion of North City Drive to be summarily vacated was granted by Final Order of Condemnation Document 2017-0217746 recorded May 15, 2017.



The former alignment of June Way extended northerly, parallel to Campus Way, from North City Drive. Proposed to be vacated is the General Utility Easement granted by Document 2017-0283712 recorded on June 22, 2017 over portions of June Way and Mid City Lane (Attachment B).

Former Mid City Lane extended west from Campus Way, north of North City Drive (Attachment A). The subject portion of Mid City Lane was dedicated for public street and public utility easement purposes per Map 15997 recorded October 16, 2014.

On July 26, 2022, City Council adopted Ordinance 2022-1519 (Specific Plan Amendment SP21-0002) amending the University District Specific Plan (UDSP). Revisions included the conversion of Mid City Lane into a pedestrian plaza, closed to vehicular traffic. The amendment also replaced the north leg of June Way at North City Drive with a pedestrian access and limited vehicular/driveway access to a private underground garage. Accordingly, on March 28, 2023, City Council ordered the summary vacation of the northerly portion of Mid City Lane over Assessor's Parcel Number (APN) 220-202-01, reserving therefrom drainage and utility rights. Likewise, the current action proposes to vacate the portion of Mid City Lane immediately west of the Campus Way roundabout, reserving therefrom drainage and utility rights.

## **Discussion**

### Public Street Vacations over Portions of North City Drive and Former Mid City Lane.

California Streets and Highways Code (CSHC) Section 8334(a) provides that the legislative body of a local agency may summarily vacate an excess right-of-way or highway not required for street or highway purposes. The portions of right-of-way proposed to be vacated on North City Drive and on Mid City Lane are in excess, have not been used for, and are not needed for present or future public street purposes. Vacation of the excess right-of-way for Mid City Lane will allow the affected area to be used as a pedestrian paseo, drainage, and general utility easement consistent with the University District Specific Plan. Vacation of the excess right-of-way for North City Drive will allow the affected area to be used as a vehicular/driveway access into the private underground garage, also as contemplated by the UDSP, and to allow the construction of the proposed Phase "A" building contemplated by City Council Resolution 2022-9054 for Site Development Plan SDP21-0003.

CSHC 8334.5 requires that a street may not be summarily vacated if there are in-place public utility facilities that are in use and would be affected by the vacation. Further, Section 8340(c) provides that if there are in-place public utility facilities that are in use, a public entity shall, unless the legislative body determines the public convenience and necessity otherwise require, reserve, and except from the vacation any easement and right necessary to maintain, operate, replace, remove, or renew the public utility facilities. In this case, drainage and general utility rights are to be reserved from the public street vacation of Mid City Lane. The existing utilities in place within Mid City Lane will remain unaffected by the vacation of public street. There are no utilities in place within the portions of North City Drive to be vacated.



General Utility Easement over Portions of Former June Way and Mid City Lane. CSHC 8333(c) permits the legislative body of a local agency to summarily vacate a public service easement if the easement has been superseded by relocation or determined to be excess by the easement holder, and there are no public facilities within the easement. Staff has determined that the General Utility Easement to be vacated within former June Way and North City Drive is in excess, and there are no public facilities within the easement.

In accordance with California Streets and Highways Code (CSHC) Section 8313 and Government Code Section 65402, the local planning agency is required to consider the proposed vacation action and to report on the conformity with the adopted General Plan. Staff reviewed the limits of the proposed right-of-way vacation, the road and utility infrastructure existing and proposed, and the General Plan. Staff concluded that a public road is not needed along the portions of Mid City Lane and North City Drive to be vacated. Likewise, drainage and utility infrastructure is not needed within the portions of former June Way and former Mid City Lane to be vacated.

Following Planning Commission action, the proposed vacation and abandonment of excess rights-of-way and public service easement can be considered by the City Council. If City Council orders the vacation and abandonment, the vacated rights-of-way will revert to the underlying owner. The vacated public service easements will remove an encumbrance on the property and allow use of the area by the proposed development.

### **Environmental Review**

The proposed vacation and abandonment of excess rights-of-way is within the scope of the certified Final Environmental Impact Report (FEIR) (SCH No. 2008101083), which is in accordance with the California Environmental Quality Act (CEQA) Section 15162. Further, the proposed vacation and abandonment is deemed Categorical Exempt pursuant to Section 15305 Class 5 (Minor Alterations in Land Use Limitations), in that this is a minor realignment of right-of-way.

### **Public Comment**

No public comments were received during the processing of these vacation applications.

### **Attachments**

- A. Aerial Easement Exhibit: Public Right-of-Way at North City Drive and Former Mid City Lane
- B. Aerial Easement Exhibit: General Utility Easement over June Way and Mid City Lane

### **Adopting Resolutions:**

1. APPROVE Resolution PC 23-5308 (VAC23-0008) recommending to City Council the summary vacation and abandonment of the public right-of-way for portions of North City Drive and Mid City Lane, reserving from Mid City Lane drainage and utility rights



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2. APPROVE Resolution PC 23-5309 (VAC23-0009) recommending to City Council the summary vacation and abandonment of the General Utility Easement over former June Way and Mid City Lane

Prepared by:

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Stephanie Kellar, Deputy City Engineer

Submitted/Approved by:

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Joseph Farace, Planning Division Manager

RESOLUTION PC 22-5308

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN MARCOS  
RECOMMENDING TO THE CITY COUNCIL THE SUMMARY VACATION AND  
ABANDONMENT OF PUBLIC RIGHT-OF-WAY FOR PORTIONS OF NORTH CITY  
DRIVE AND MID CITY LANE, AND RESERVING FROM MID CITY LANE DRAINAGE  
AND UTILITY RIGHTS

VAC 23-0008  
Urban Villages San Marcos, LLC

Brief Legal Description: Refer to Exhibits A, B, and C

WHEREAS, staff considered a request for the vacation and abandonment of public street for a portion of North City Drive and Mid City Lane located adjacent to Parcel "A" of Document 2023-0003236 recorded in the Office of the County Recorder of San Diego County, which parcel is located west of Campus Way, north of North City Drive, and east of Twin Oaks Valley Road; the affected portions of North City Drive and Mid City Lane more particularly described in Exhibits A and B; and

WHEREAS, a portion of North City Drive was dedicated as a Public Street, Utility, and Drainage Easement per easement deed recorded September 19, 2018 as Document 2018-0391390 in the Office of the County Recorder of San Diego County; and

WHEREAS, a portion of North City Drive was dedicated for public street purposes by Parcel Map 20991 for TPM No. 684-BA, recorded August 8, 2012 as File No. 2012-0468918 in the Office of the County Recorder of San Diego County; and

WHEREAS, a portion of North City Drive was granted for public street purposes by Final Order of Condemnation recorded May 15, 2017 as Document 2017-0217746 in the Office of the County Recorder of San Diego County; and

WHEREAS, the subject portion of Mid City Lane was granted as a Public Street and Public Utility Easement by Map 15997 for City of San Marcos Tract No. 14-002-1, recorded on October 16, 2014 as File No. 2014-0449952 in the Office of the County Recorder of San Diego County; and

WHEREAS, California Streets and Highways Code (CSHC) Section 8334(a) provides that the legislative body of a local agency may summarily vacate an excess right-of-way or highway not required for street or highway purposes, and staff have determined that the streets proposed to be vacated are in excess; and

WHEREAS, CSHC Section 8340(c) provides that if there are in-place public utility facilities that are in use, a public entity shall, unless the legislative body determines the public

convenience and necessity otherwise require, reserve, and except from the vacation any easement and right necessary to maintain, operate, replace, remove, or renew the public utility facilities; and

WHEREAS, drainage and utility rights as granted for Mid City Lane by Map 15997 for City of San Marcos Tract No. 14-002-1, recorded on October 16, 2014 as File No. 2014-0449952 are to be reserved from the public street vacation and the existing utilities in place will remain unaffected by the vacation of public street; and

WHEREAS, in accordance with Streets and Highways Code Section 8313 and Government Code Section 65402, the local planning agency is required to consider the proposed vacation action and to report on the conformity with the adopted General Plan; and

WHEREAS, on at a regularly-scheduled and duly noticed meeting held on April 17, 2023, the Planning Commission did consider the proposed summary vacation of street right-of-way; and

WHEREAS, the Planning Commission did review and consider the previously adopted Final Environmental Impact Report (FEIR) (SCH No. 2008101083) and it is determined that no new environmental information or documentation was presented revealing any new unidentified environmental impacts which had not been previously mitigated and the proposed vacation is within the scope of the impacts identified in FEIR.

NOW, THEREFORE, the Planning Commission does hereby resolve as follows:

- A. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Resolution.
- B. The Planning Commission hereby recommends that the City Council approve the summary vacation of this public street right-of-way as described and depicted on the attached Exhibits A and B, incorporated by reference and made a part of this Resolution as though fully set forth herein, and reserving from Mid City Lane drainage and utility rights.
- C. The Planning Commission's decision is based on the following findings and determinations:
  - 1. The proposed right-of-way vacation is consistent with the City's General Plan.
  - 2. The proposed right-of-way vacation complies with the objectives of the adopted City-wide Land Use Policy Plan.
  - 3. The affected right-of-way is hereby determined to be excess and not required for street or highway purposes.
  - 4. The street vacation proposes to reserve and except from the vacation drainage and utility rights as necessary to maintain, operate, replace, remove, or renew the public

utility facilities on Mid City Lane as granted by Map 15997 for City of San Marcos Tract No. 14-002-1, recorded on October 16, 2014 as File No. 2014-0449952.

5. The proposed right-of-way vacation will not be detrimental to public health, safety, and welfare.
  6. All requirements of California Environmental Quality Act (CEQA) have been met in that the proposed street vacations will not have a significant effect on the environment, as reviewed and analyzed in the previously Final Environmental Impact Report (FEIR) for the University District Specific Plan and 2022 Addendum to the FEIR (State Clearinghouse No. 2008101083).
- D. To the extent permitted by law, the applicant/developer shall defend and hold the City of San Marcos, its agents and employees harmless from liability from: (i) any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permits arising from the project as defined in the conditions of approval, or issuance of grading or building permits; (ii) any damages, liability and/or claim of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the applicant/developer or its contractors, subcontractors, agents, employees or other persons acting on applicant/developer's behalf which relate to the project; and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. The applicant/developer further agrees that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of City by counsel selected by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project, but shall survive in perpetuity.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of San Marcos, California, at a regular meeting thereof, held on this 17<sup>th</sup> day of April, 2023 by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

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Christopher Carroll, Chairman

ATTEST:



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Gina Henderson, Senior Office Specialist

**Exhibit(s):**

Exhibit A – Street Vacation Legal Description, Portions of North City Drive and Mid City Lane

Exhibit B – Plat of Street Vacation, Portions of North City Drive and Mid City Lane

Exhibit C – Street Vacation Exhibit, Portion of North City Drive

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**STREET VACATION - NORTH CITY DRIVE AND MID CITY LANE**

That portion of North City Drive as dedicated to the City of San Marcos per easement deed recorded September 19, 2018 as Document No. 2018-0391390 of Official Records, hereinafter **PARCEL "A"**,

Together with that portion of North City Drive as dedicated to the City of San Marcos per City of San Marcos Parcel Map TPM No. 684-BA, in the City of San Marcos, County of San Diego, State of California, according to Parcel Map thereof No. 20991, filed in the office of the County Recorder of said County August 08, 2012 as File No. 2012-0468918 of Official Records, hereinafter **PARCEL "B"**,

Also together with that portion of Mid City Lane as dedicated to the City of San Marcos per City of San Marcos Tract No. 14-002-1, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 15997, filed in the office of the County Recorder of said County October 16, 2014 as File No. 2014-0449952 of Official Records, hereinafter **PARCEL "C"**,

All of said Parcels lying within the following described closed figure:

**BEGINNING** at the common corner of Lots 12 through 15, inclusive, in Block 58 of Rancho Los Vallecitos de San Marcos, in the City of San Marcos, County of San Diego, State of California, according to Map thereof No. 806, filed in the office of the County Recorder of said County December 21, 1895 of Official Records;

Thence North 72°57'02" East 287.60 feet (287.00' per said Map No. 806) along the Southerly line of said Lot 15 to the common corner of Lots 11, 12, 15, and 16 of said Map No. 806;

Thence North 16°58'11" West 30.00 feet along the Westerly line of said Lot 16 to a line being parallel with and 30.00 feet Northerly, measured at right angles from said Southerly line;

Thence North 72°57'02" East 145.92 feet along said parallel line to the Northwest corner of Mid City Lane as dedicated per said Map No. 15997;

Thence continuing North 72°57'02" East 34.00 feet along the Northerly 40.00 foot half-width sideline of Mid City Lane as dedicated per said Map No. 15997 to the beginning of a non-tangent 65.00 foot radius curve, concave Easterly, a radial line to which bears North 69°04'10" West;

Thence Southwesterly and Southerly along said curve through a central angle of 89°59'16", a distance of 102.09 feet to the Westerly 40.00 foot half-width sideline of

Campus Way as dedicated per said Map No. 15997, a radial line to which bears South 20°56'34" West ;

Thence South 17°02'13" East 207.99 feet along said Westerly sideline to the beginning of a non-tangent 65.00 foot radius curve, concave Southeasterly, a radial line to which bears North 55°01'01" West;

Thence Southwesterly along said curve through a central angle of 14°02'25", a distance of 15.93 feet to the Northerly 40.00 foot half-width sideline of North City Drive as dedicated per said Map No. 15997, a radial line to which bears North 69°03'26" West;

Thence South 72°57'47" West 34.00 feet along said Northerly sideline of North City Drive to the Northwest corner of North City Drive as dedicated per said Map No. 15997;

Thence along the Northerly sideline of North City Drive per said easement deed Document No. 2018-0391390 the following four courses:

Continuing South 72°57'47" West 357.89 feet;

Thence South 73°55'07" West 19.74 feet to the beginning of a tangent 62.00 foot radius curve, concave Northerly;

Thence Northwesterly along said curve through a central angle of 47°17'19", a distance of 51.17 feet to the beginning of a 32.00 foot radius compound curve, a radial line to which bears South 31°12'26" West;

Thence Northwesterly along said compound curve through a central angle of 26°12'43", a distance of 14.64 feet, a radial line to which bears South 57°25'09" West;

Thence South 72°57'47" West 27.59 feet leaving said Northerly sideline of North City Drive per said easement deed;

Thence North 17°02'13" West 5.50 feet;

Thence South 72°57'47" West 75.92 feet;

Thence North 17°02'13" West 271.06 feet to a line being parallel with and 30.00 feet Northerly, measured at right angles from the Southerly line of said Lot 15;

Thence North 72°57'02" East 99.78 feet along said parallel line to the Westerly line of said Lot 15;

Thence South 16°58'15" East 30.00 feet along said Westerly line of Lot 15 to the **POINT OF BEGINNING**.

**PARCEL "A"**

Contains 0.03 Acres or 1,425 Square Feet, more or less.

**PARCEL "B"**

Contains 10 Square Feet, more or less.

**PARCEL "C"**

Contains 0.05 Acres or 1,969 Square Feet, more or less.

Reserving therefrom an easement for Utility and Drainage rights, more particularly described as follows:

**BEGINNING** at the Northwest corner of Mid City Lane as dedicated per said Map No. 15997;

Thence North 72°57'02" East 34.00 feet along the Northerly 40.00 foot half-width sideline of Mid City Lane as dedicated per said Map No. 15997 to the beginning of a non-tangent 65.00 foot radius curve, concave Easterly, a radial line to which bears North 69°04'10" West;

Thence Southwesterly and Southerly along said curve through a central angle of 55°25'24", a distance of 62.88 feet, a radial line to which bears South 55°30'26" West;


Thence South 72°57'02" West 3.68 feet;

Thence North 17°02'58" West 29.48 feet to a line being parallel with and 30.00 feet Southerly of said Northerly sideline of Mid City Lane;

Thence South 72° 57' 02" West 19.54 feet along said parallel line to the Westerly limits of said Mid City Lane;

Thence North 17° 02' 58" West 30.00 feet along said Westerly limits to the **POINT OF BEGINNING**

Contains 0.02 Acres or 822 Square Feet, more or less.

  
Joseph G. Cresto  
PLS 8050

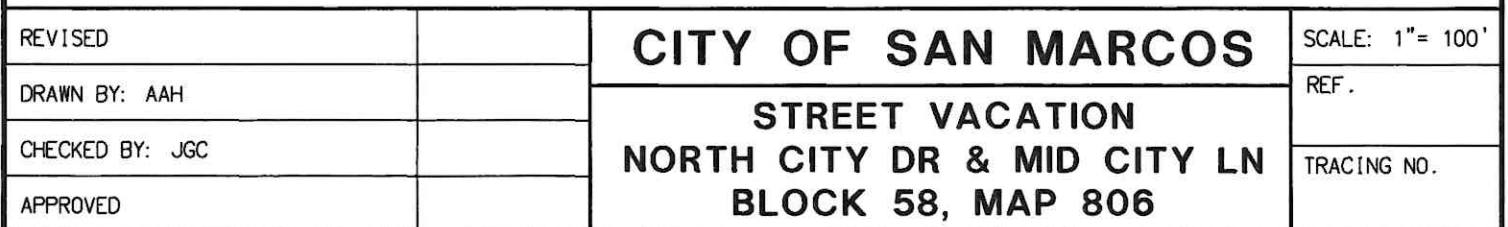
8/16/2022  
Date

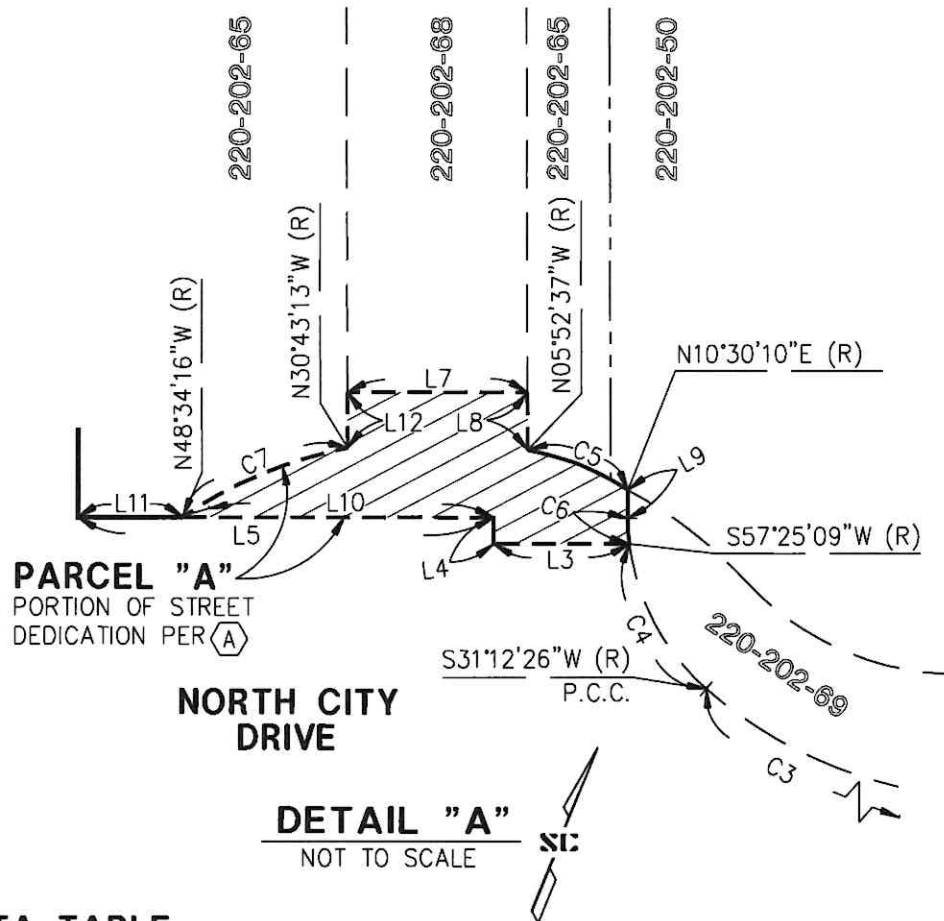


END OF LEGAL DESCRIPTION



SHEET 1 OF 3

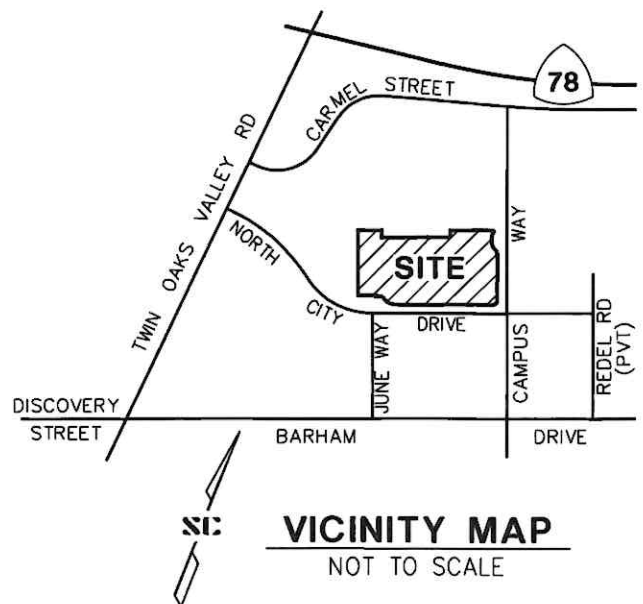


**LINE DATA TABLE**

NO.	BEARING	LENGTH
L3	S72°57'47"W	27.59'
L4	N17°02'13"W	5.50'
L5	S72°57'47"W	75.92'
L7	N72°57'47"E	40.00'
L8	S17°02'13"E	10.53'
L9	S17°02'13"E	0.12'
L10	S72°57'47"W	65.22'
L11	S72°57'47"W	10.70'
L12	N17°02'13"W	11.41'

**CURVE DATA TABLE**

NO.	DELTA	RADIUS	LENGTH
C3	47°17'19"	62.00'	51.17'
C4	26°12'43"	32.00'	14.64'
C5	16°22'47"	93.00'	26.59'
C6	15°32'38"	32.00'	8.68'
C7	17°51'03"	93.00'	28.97'



REVISED

DRAWN BY: AAH

CHECKED BY: JGC

APPROVED

**CITY OF SAN MARCOS**

**STREET VACATION**  
**NORTH CITY DR & MID CITY LN**  
**BLOCK 58, MAP 806**

SCALE: N/A

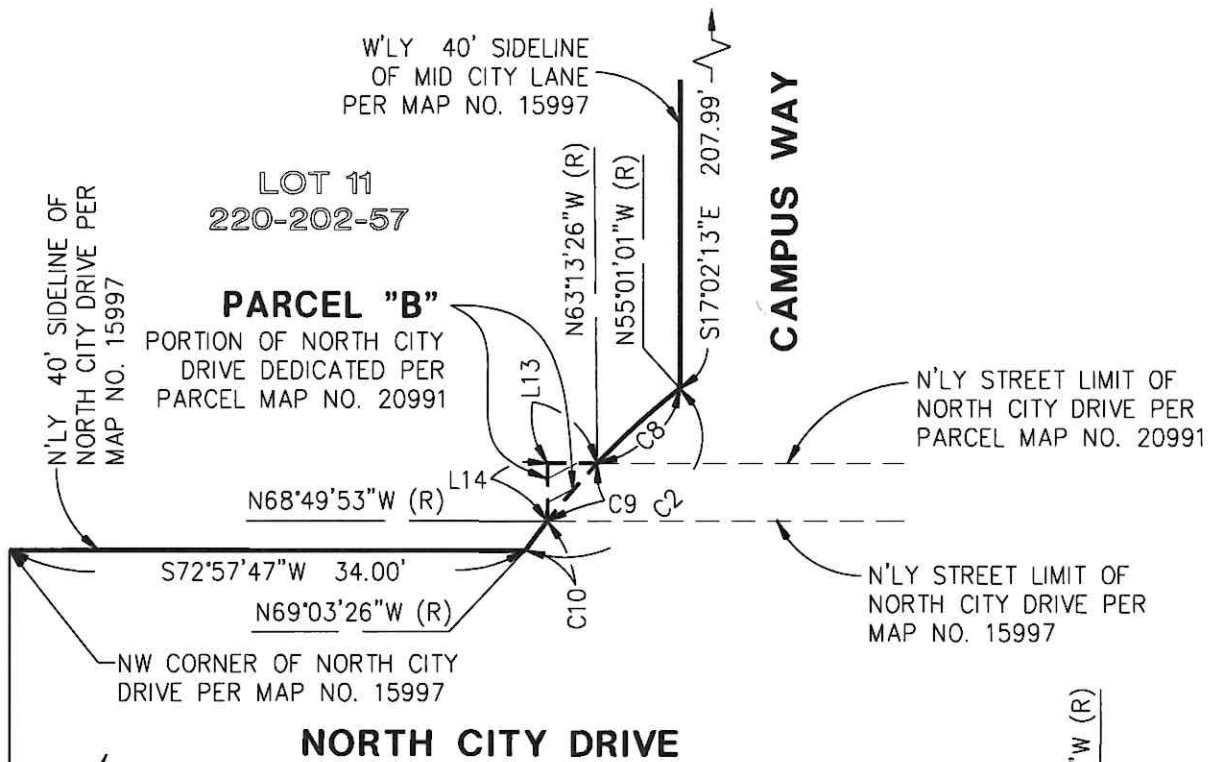
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TRACING NO.



# EXHIBIT "B"

SHEET 3 OF 3



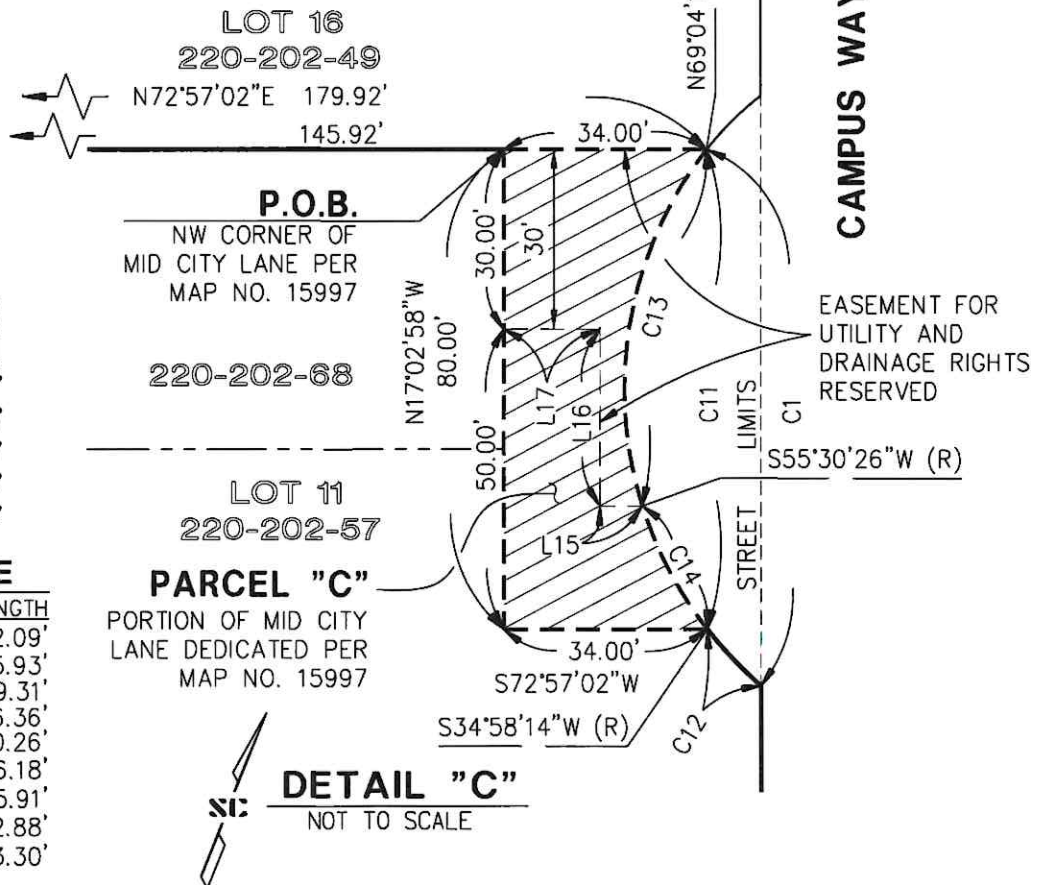
**DETAIL "B"**  
NOT TO SCALE

## LINE DATA TABLE

NO.	BEARING	LENGTH
L13	N72°57'47"E	4.17'
L14	N17°02'13"W	4.80'
L15	S72°57'02"W	3.68'
L16	N17°02'58"W	29.48'
L17	S72°57'02"W	19.54'

## CURVE DATA TABLE

NO.	DELTA	RADIUS	LENGTH
C1	89°59'16"	65.00'	102.09'
C2	14°02'25"	65.00'	15.93'
C8	08°12'25"	65.00'	9.31'
C9	05°36'27"	65.00'	6.36'
C10	00°13'33"	65.00'	0.26'
C11	75°57'36"	65.00'	86.18'
C12	14°01'40"	65.00'	15.91'
C13	55°25'24"	65.00'	62.88'
C14	20°32'12"	65.00'	23.30'



**DETAIL "C"**  
NOT TO SCALE

REVISED

DRAWN BY: AAH

CHECKED BY: JGC

APPROVED

**CITY OF SAN MARCOS**

**STREET VACATION  
NORTH CITY DR & MID CITY LN  
BLOCK 58, MAP 806**

SCALE: N/A

REF.

TRACING NO.

# EXHIBIT "C"

