



THE CITY OF SAN DIEGO

## Report to the Planning Commission

DATE ISSUED: May 27, 2020 REPORT NO. PC-20-031

HEARING DATE: June 4, 2020

SUBJECT: WILSHIRE TERRACE VACATION - Process Five Decision

PROJECT NUMBER: [611694](#)

OWNER/APPLICANT: Wilshire Terrace Partners, LLC – Shahriar Afshar, Owner/Applicant

### SUMMARY

Issue: Should the Planning Commission recommend to City Council the approval of a Public-Right-of-Way Vacation and a Planned Development Permit for the vacation of an unimproved 0.083-acre portion of Myrtle Avenue in the Greater North Park Community Plan area?

Staff Recommendation: Recommend the City Council APPROVE Public Right-of-Way Vacation No. 2171894 and Planned Development Permit No. 2429095.

Community Planning Group Recommendation: On June 18, 2019, the North Park Planning Committee (NPPC) voted 5-2-0 to recommend approval with conditions (Attachment 11).

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 (In-Fill Development Projects). The environmental exemption determination for this project was made on April 14, 2020 (Attachment 10).

Fiscal Impact Statement: All costs associated with the processing of this project are paid from a deposit account funded by the applicant.

Code Enforcement Impact: None with this application.

Housing Impact Statement: The Public Right-of-Way Vacation is a mapping action only; no development is proposed at this time. The project site is designated Low density residential; single-family residential use and development at a density between 5-9 dwelling units per acre within the Greater North Park Community Plan. The site zoned RM-3-7 permits a maximum density of 1 dwelling unit for each 1,000 square feet of lot area. The proposed mapping action would accommodate future residential development permitted in the RM-3-7 zone.

## BACKGROUND

The 0.083-acre (3,598 square feet) project site is a Public Right-Of-Way located at the intersection of Wilshire Terrace and Myrtle Avenue, south of 3505 Wilshire Terrace. The site is in the RM-3-7 Zone, Airport Influence Area (SDIA- Review Area 2), FAA Part 77 Notification Area (SDIA- 115' AMSL), Transit Overlay Zone, and Transit Priority Area within the North Park Community Plan area. The North Park Community Plan designates the site as Low density residential at 5 to 9 dwelling units per acre.

The proposed Public-Right-of Way vacation within Myrtle Avenue would revert the vacated 3,598 square-foot area to the abutting parcels' underlying fee owners. The parcels located at 3505 Wilshire Terrace (APN 453-282-1200) and 3440 Florida Street (APN 453-342-1200) would each obtain 1,799 square feet of land for private ownership (Figure 1). A Planned Development Permit would be required for 3505 Wilshire Terrace, since the vacated area would change the parcel property line designations as discussed below. Likewise, the lot depth would be 60 feet as opposed to the current 100 feet; a deviation of the land development regulations for the required lot depth of a parcel pursuant to [SDMC Section 131.0421\(e\) Table 131-04G](#) (Figures 3 & 4).

The Planned Development Permit is a Process Four, Planning Commission decision, pursuant to San Diego Municipal Code ([SDMC](#)) [Section 126.0604\(b\)](#), and the Public-Right-of Way vacation is a Process Five, City Council decision, pursuant to [SDMC Section 125.0940](#). The two discretionary actions have been consolidated under this application and processed concurrently, pursuant to the Consolidation of Processing regulations contained in [SDMC Section 112.0103](#). Therefore, the decision to approve, conditionally approve, or deny this project will be made by the City Council.

## DISCUSSION

### Project Description:

The application is a request for a street vacation, in accordance with [SDMC Section 125.0910\(b\)\(3\)](#); the public right-of-way has been impassable for vehicular travel for a period of 5 five years and public funds have not been expended for maintenance of the public right-of-way during that period.

The project proposes the vacation of approximately 60 feet by 60 feet of right-of-way within Myrtle Avenue (Figure 1). The 0.083-acre (3,598 square-feet) street vacation is a portion of Myrtle Avenue dedicated per Map 526, Lot 2 of University Heights Resubdivison No. 3, Map 4471, on February 19, 1960. Myrtle Avenue is an improved east/west street that dead ends just west of Florida Street and was never improved to connect with Wilshire Terrace (Figure 2). The topography of the site is relatively steep, and ranges from an elevation of approximately 215 to 242 feet Above Mean Sea Level (AMSL).

The right-of-way area to be vacated would revert to the two abutting parcels for private ownership as the underlying fee owners: 3505 Wilshire Terrace (APN 453-282-1200) and 3440 Florida Street (APN 453-342-1200). The site located at 3505 Wilshire Terrace is a 6,000 square-foot undeveloped lot and the site located at 3440 Florida Street is an approximately 16,000 square-foot, multi-family

residential development that takes access from Myrtle Avenue and Florida Street. The vacation is conditioned to require the construction of two new 16-foot wide driveways, new sidewalk, curb and gutters, curb inlet, and replacement of storm cleanouts and drain pipes. The existing gas and water lines will remain, and drainage and SDG& E easements will be reserved (Attachment 5 & 6).

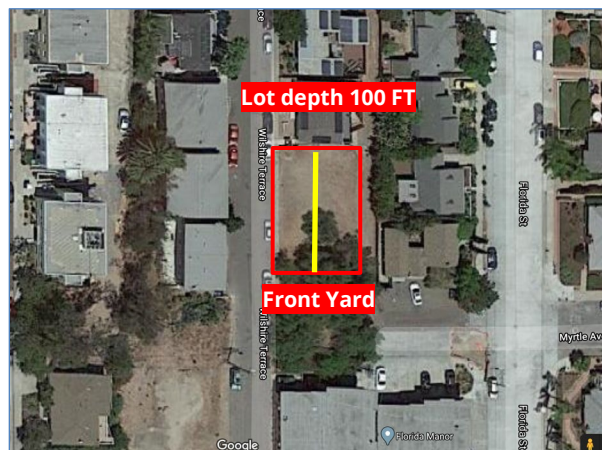


**Figure 1** Aerial view of street vacation



**Figure 2** Street view looking west on Myrtle Ave of street vacation

The property located at 3505 Wilshire Terrace is currently a corner lot, located at the intersection of Wilshire Terrace and Myrtle Avenue. In compliance with [SDMC Section 113.0246](#), for corner properties, the front property line lies along the narrowest street frontage as identified in Figure 3. As such, the lot depth is 100 feet (measured from the front property line to the rear property line) and the lot width is 60 feet. The incorporation of the proposed vacated area will change the property line designations for 3505 Wilshire Terrace, as it will now create a double frontage lot, changing the lot depth to 60 feet (measured from the front property line along Wilshire Terrace to the opposing property line along Myrtle Ave) and the lot width to 100 feet (Figure 4). Since the minimum lot depth in the RM-3-7 zone is 100 feet pursuant to [SDMC Section 131.0431\(e\)](#), a Planned Development Permit is required for the deviation pursuant to [SDMC Section 126.0602\(b\)\(1\)](#).



**Figure 3** Front yard on Myrtle Ave – Lot depth 100'



**Figure 4** Front yards on Myrtle Ave & Wilshire Terr – Lot depth 60'

Although the proposed street vacation will result in a substandard lot depth for 3505 Wilshire

Terrace, all other development standards including the lot width, lot area, and street frontage, conform to the requirements of the underlying zone. The existing 6,000 square-foot lot could accommodate future development of up to six dwelling units. With the street vacation and the increased lot area, at approximately, 7,800 square-feet, up to eight dwelling units could be built.

The parcel located at 3505 Wilshire Terrace is in the RM-3-7 zone, Transit Priority Area and is within an “in-fill project” area pursuant to Affordable Housing, In-Fill Projects, and Sustainable Regulations pursuant to San Diego Municipal Code [Section 143.0915\(b\)](#). The Affordable Housing, In-Fill Projects, and Sustainable Regulations provide flexibility of development regulations for projects providing affordable housing opportunities. The regulations provide incentives to facilitate the development of affordable housing, in-fill projects, and sustainable buildings to achieves the purpose and intent of the applicable land use plan. Additionally, the Transit Priority Area allows reduced parking requirements for residential development. The new lot configuration will not only be able to accommodate future residential development permitted in the RM-3-7 zone, but will be subject to additional flexibility and incentives for in-fill development.

#### Community Plan Analysis:

The proposed right-of-way vacation for an unimproved portion of Myrtle Avenue and construction of a sidewalk and other improvements within the adjacent street segment is subject to the recommendations of the citywide General Plan. Community-specific recommendations are provided by the North Park Community Plan, the City's adopted land use plan for this area. The proposed street vacation is consistent with Community Plan land use and does not significantly affect the attainment of specific recommendations pertaining to park opportunities.

The Community Plan's Land Use Map designates the adjacent properties as Low density residential. This land use provides for single-family residential use and development at a density between 5 to 9 dwelling units per acre. The proposed street vacation does not affect the Community Plan land use as the right-of-way is unimproved and can be incorporated as part of the existing uses within the abutting lots. The 0.083-acre area can accommodate approximately one dwelling unit within the allocated density range if the street vacation is approved and subject to a separate development application.

The segment of the Myrtle Avenue right-of-way proposed to be vacated is identified as a local street by the Mobility Element's Planned Street Classification map, however is not part of the Community Plan's classified streets network. The proposed street vacation would not affect the following types of facilities identified as part of the Community' Plan's mobility network: Pedestrian Routes, Existing or Planned Bicycle Network, and Planned Transit Facilities.

Unimproved local streets may be vacated if there is no potential need or feasibility for public access infrastructure ([Open Space, Landforms and Natural Habitats](#)). The steep terrain increases the difficulty and cost to improve this segment of Myrtle Avenue for public access. However, the Community Plan's Recreation Element contains the following policies that propose alternative uses for “paper streets”:

- RE-1.5, Increase recreational opportunities by acquiring and developing land

through street/alley rights-of-way vacations (paper streets), to provide for park and recreation.

- RE-4.8, Evaluate utilization of paper streets as future park and open space opportunities by vacating street right-of-way, and acquiring the land for design and construction of park amenities to support passive recreation, such as pathways, overlooks, seating, interpretive signs, and landscaping.

Alternatives to public access require relinquishment of underlying property rights by abutting owners. This site would also not be suitable for a typical pocket park because of the steep slopes and small size. The abutting segments of Wilshire Terrace and Myrtle Avenue have limited connectivity with the broader neighborhood, however has relatively close access to Balboa Park.

#### Conclusion:

The 0.083-acre portion of Myrtle Avenue public right-of-way is limited to circulation and public utility. The City controls and is liable for an area that cannot be used for public purposes. The adjacent properties will benefit from the street vacation because they will control, maintain and be responsible for this area. The City of San Diego and the County of San Diego will benefit from the increase in property value by increasing the area of privately owned land subject to property taxation. With an increase of tax revenue, the general public will benefit by the increase of available public funds. The public will also benefit by the reduction of liability to the City of San Diego from land it controls, the required public improvements contingent on the vacation, and future residential development.

City staff recommends that the Planning Commission recommend that the City Council approve Public Right-of-Way Vacation 2171894 and Planned Development Permit 2429095.

#### ALTERNATIVES

1. Approve Public Right-of-Way Vacation No. 2171894 and Planned Development Permit No. 2429095, with modifications.
2. Deny Public Right-of-Way Vacation No. 2171894 and Planned Development Permit No. 2429095, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



PJ Fitzgerald  
Assistant Deputy Director  
Development Services Department

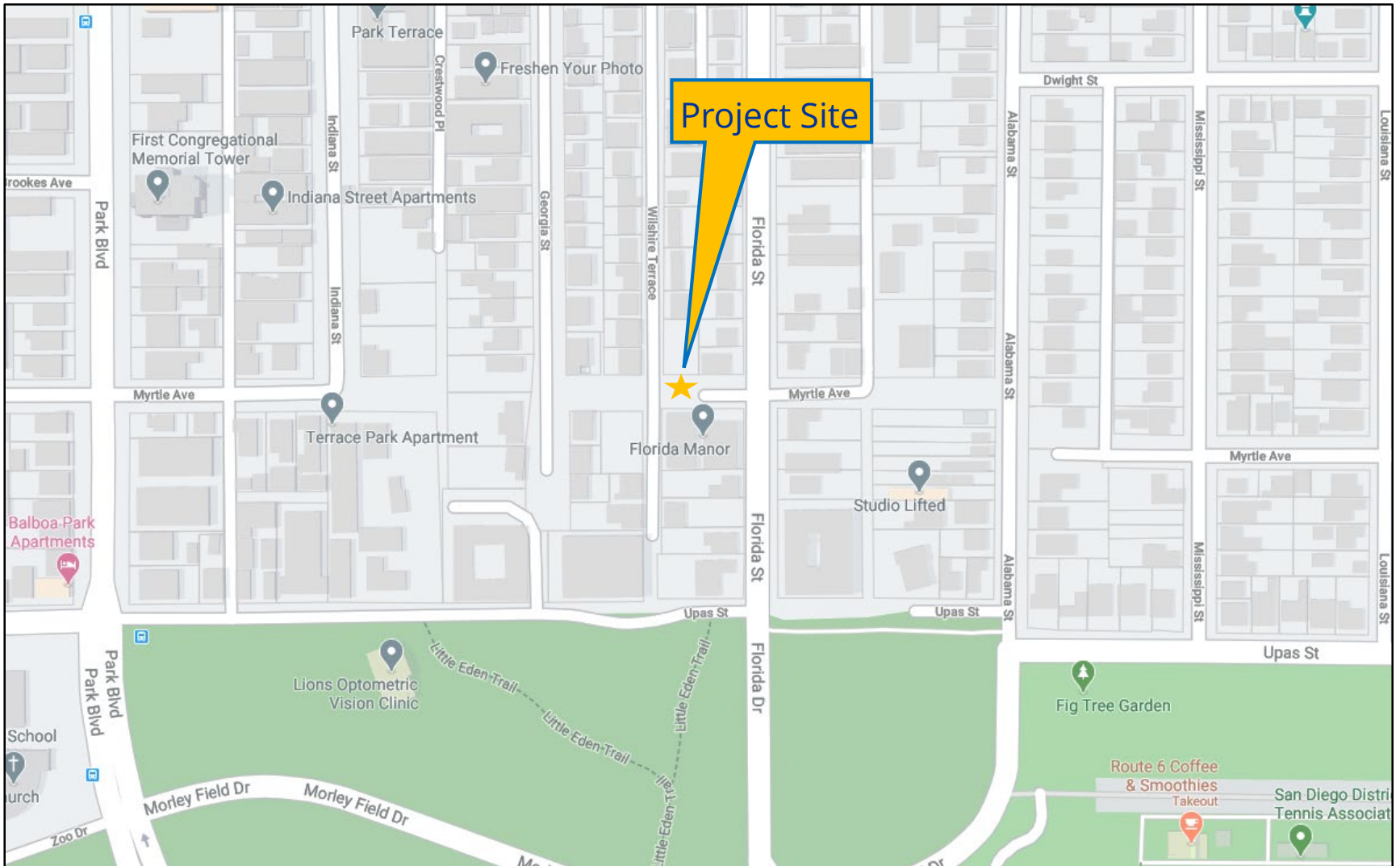


Edith Gutierrez  
Development Project Manager  
Development Services Department

Attachments:

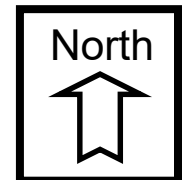
1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Exhibit A – Legal Description
5. Exhibit B - Street Vacation & Access Easement Reservation
6. Public Improvement exhibit
7. Draft Vacation Resolution with Findings
8. Draft Planned Development Permit Resolution with Findings
9. Draft Planned Development Permit with Conditions
10. Environmental Exemption
11. Community Planning Group Recommendation





## Project Location Map

Wilshire Terrace - Vacation / 3505 Wilshire Terrace  
PROJECT NO. 611694

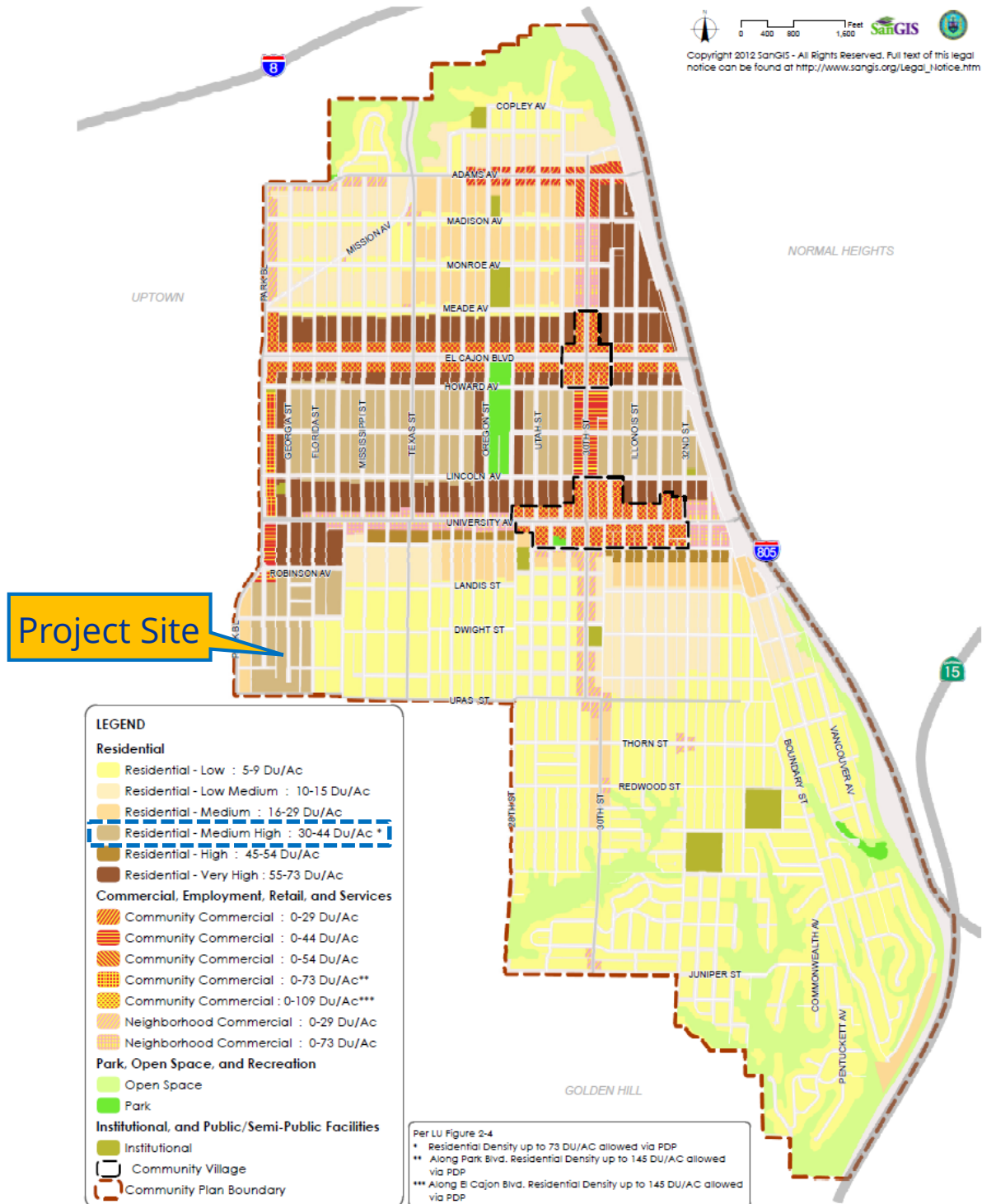


# NORTH PARK COMMUNITY PLAN

Figure 2-1: Community Plan Land Use Map

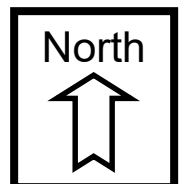
## ATTACHMENT 2

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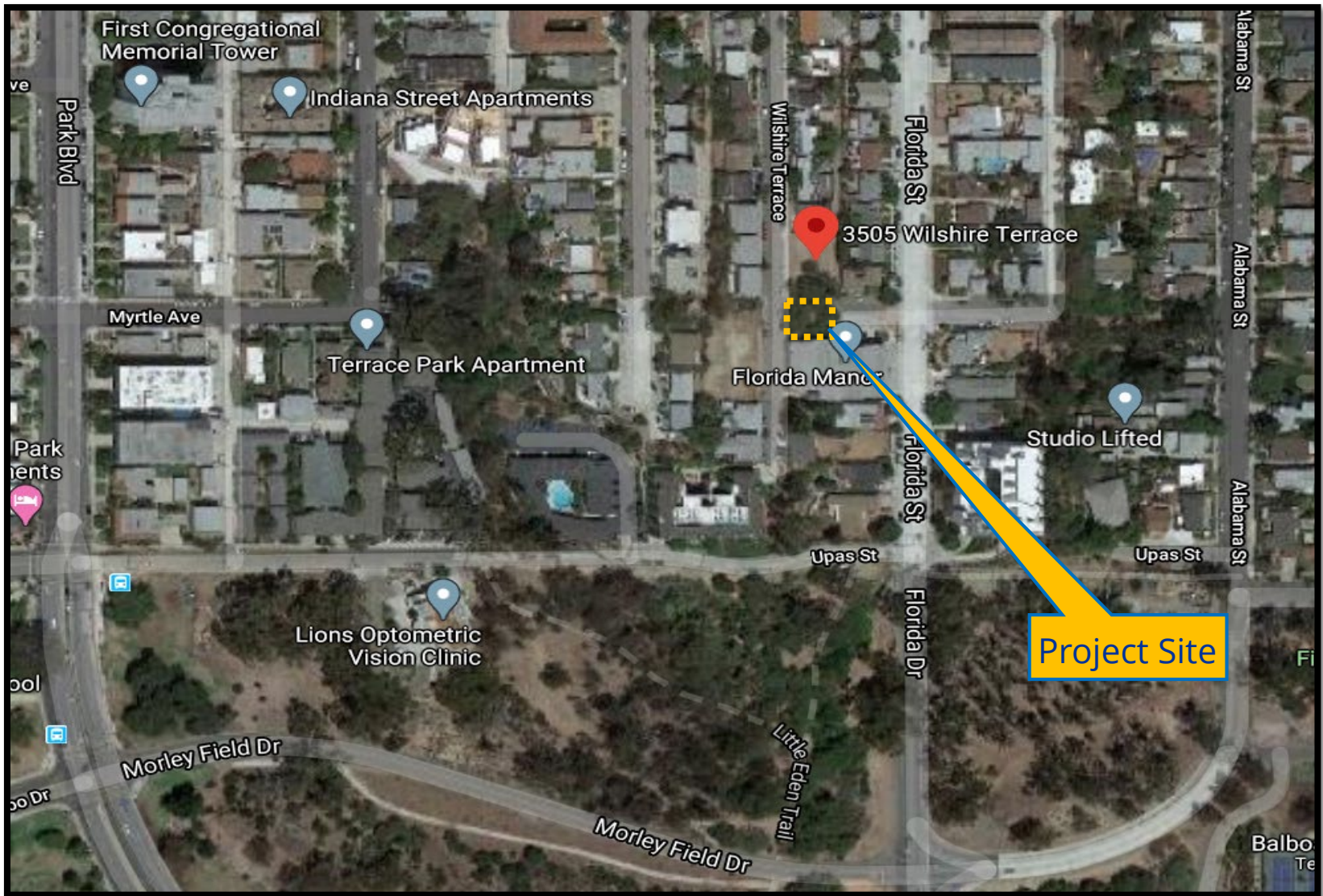


## Land Use Map

Wilshire Terrace – Vacation / 3505 Wilshire Terrace  
PROJECT NO. 611694

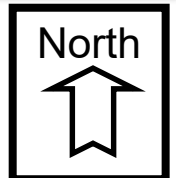






## Aerial Photo

Wilshire Terrace – Vacation / 3505 Wilshire Terrace  
PROJECT NO. 611694



**EXHIBIT "A"**  
**LEGAL DESCRIPTION**  
**STREET VACATION MYRTLE AVENUE**  
**WITH WATER, SEWER, STORM DRAIN AND ACCESS**  
**EASEMENT RESERVED**

BEING A VACATION OF A PORTION OF MYRTLE AVENUE DEDICATED PER AMENDED MAP OF UNIVERSITY HEIGHTS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF MADE BY G.A. D'HEMECOURT MAP NO. 526, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF MYRTLE AVENUE LYING SOUTHERLY AND ADJACENT TO LOT 2 OF UNIVERSITY HEIGHTS RESUBDIVISION NO. 3, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 4471, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, FEBRUARY 19, 1960.

RESERVING THEREFROM AN EASEMENT FOR WATER, SEWER, STORM DRAIN AND ACCESS OVER THE ENTIRE AREA OF THE ABOVE DESCRIBED PARCEL.

**ALSO RESERVING THEREFROM** AN EASEMENT FOR AND RIGHT-OF-WAY FOR SDG&E TO ERECT, CONSTRUCT, CHANGE THE SIZE OF, IMPROVE, RECONSTRUCT, RELOCATE, REPAIR, REMOVE, MAINTAIN AND USE FACILITIES CONSISTING OF OVERHEAD AND UNDERGROUND ELECTRIC FACILITIES, COMMUNICATION FACILITIES AND ALL APPURTENANCES INCLUDING NECESSARY ANCHORAGE FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRICITY AND FOR PIPELINES AND APPURTANCES, TOGETHER WITH THE RIGHT OF INGRESS THERETO AND EGRESS THEREFROM OVER SAID EASEMENT AND OVER OTHER PRACTICAL ROUTES. NO BUILDING OR OTHER STRUCTURE SHALL BE PERMITTED WITHIN THE EASEMENT. SDG&E'S PRIOR WRITTEN CONSENT SHALL BE REQUIRED BEFORE PLANTING ANY TREES OR INCREASING/DECREASING THE GROUND ELEVATION WITHIN THE EASEMENT.

**ALSO RESERVING THEREFROM** AN EASEMENT FOR AND RIGHT-OF-WAY FOR COX COMMUNITATION TO ERECT, CONSTRUCT, CHANGE THE SIZE OF, IMPROVE, RECONSTRUCT, RELOCATE, REPAIR, REMOVE, MAINTAIN AND USE FACILITIES CONSISTING OF OVERHEAD AND UNDERGROUND CABLE FACILITIES, COMMUNICATION FACILITIES AND ALL APPURTENANCES INCLUDING NECESSARY ANCHORAGE FOR THE TRANSMISSION AND DISTRIBUTION OF CABLE AND FOR PIPELINES AND APPURTANCES, TOGETHER WITH THE RIGHT OF INGRESS THERETO AND EGRESS THEREFROM OVER SAID EASEMENT AND OVER OTHER PRACTICAL ROUTES. NO BUILDING OR OTHER STRUCTURAL SHALL BE PERMITTED WITHIN THE EASEMENT. COX COMMUNICATION PRIOR WRITTEN

CONSENT SHALL BE REQUIRED BEFORE PLANTING ANY TREES OR  
INCREASING/DECREASING THE GROUND ELEVATION WITHIN THE EASEMENT.

CONTAINING 3,598 SQ. FT., MORE OR LESS.

ATTACHED HERETO IS DRAWING NO. 40895-B LABELED EXHIBIT "B" AND BY THIS  
REFERENCE MADE A PART HEREOF.

---

WILLIAM A. SNIPES, L.S. 8034  
DATED:

DWG. NO. 40895-B  
P.T.S. NO. 611694

EXHIBIT "B"

BASIS OF BEARINGS

THE BASIS OF BEARINGS FOR THIS PLAT IS A PORTION OF THE CENTERLINE OF MYRTLE AVENUE AS SHOWN ON MAP 4471, I.E. S 89°54' W.

REFERENCE DRAWINGS

MAP 526 & MAP 4471

PROPERTY INFORMATION

- Ⓐ APN: 453-282-12
- Ⓑ APN: 453-342-12

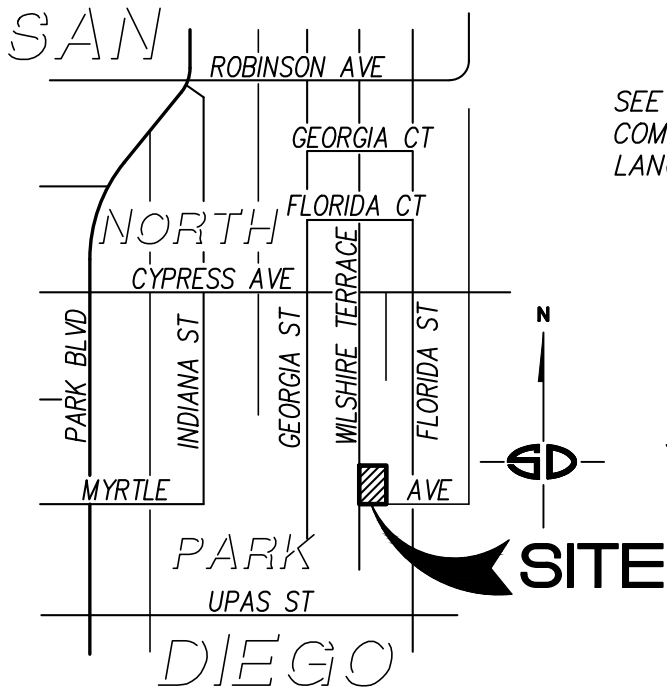
EASEMENTS

- 1 4' UTILITY EASEMENT PER MAP 4471.
- 2 PORTION OF STREET VACATED BY THE CITY RESOLUTION NO. 11226.
- 3 PORTION OF STREET OPENINGS BY THE CITY RESOLUTION NO. 38042.
- 4 PROPOSED 60' WATER, SEWER, STORM DRAIN & ACCESS EASEMENT RESERVED HEREON.

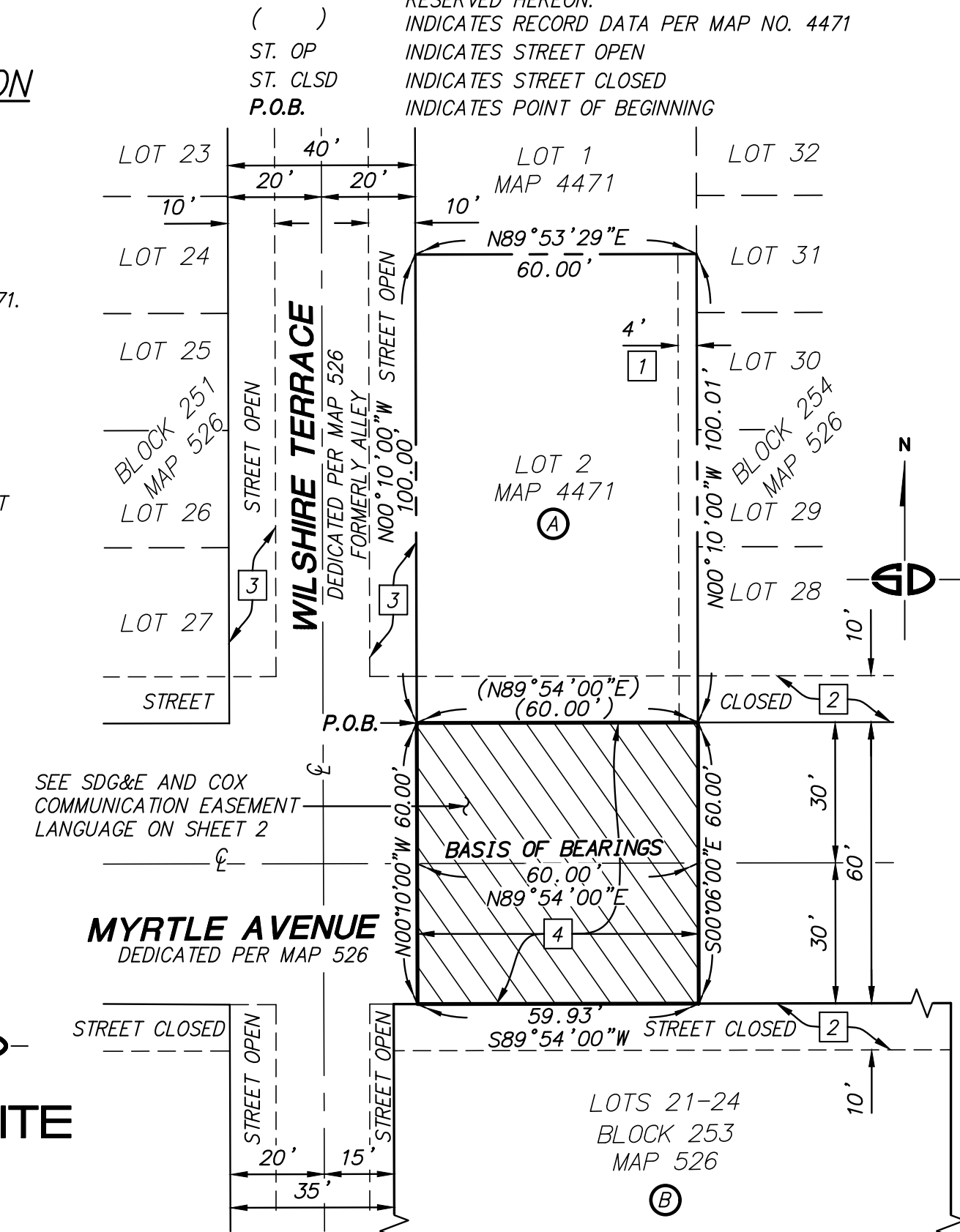
LEGEND



INDICATES PUBLIC STREET RIGHT-OF-WAY VACATED HEREON. 3,597.91 SQ. FT. (0.083 AC.), WATER, SEWER, STORM DRAIN & ACCESS EASEMENT RESERVED HEREON.  
INDICATES RECORD DATA PER MAP NO. 4471  
INDICATES STREET OPEN  
INDICATES STREET CLOSED  
INDICATES POINT OF BEGINNING



VICINITY MAP  
NO SCALE



DETAIL A  
SCALE: 1"=30'



WILLIAM A. SNIPES L.S. 8034 DATE  
EXPIRES 12-31-20

DOCUMENT NO. \_\_\_\_\_  
RECORDED \_\_\_\_\_  
RESOLUTION NO. \_\_\_\_\_  
RECORDED \_\_\_\_\_

STREET VACATION WITH WATER, SEWER, STORM DRAIN  
& ACCESS EASEMENT RESERVATION  
PORTION OF MYRTLE AVENUE, EAST OF WILSHIRE TERRACE

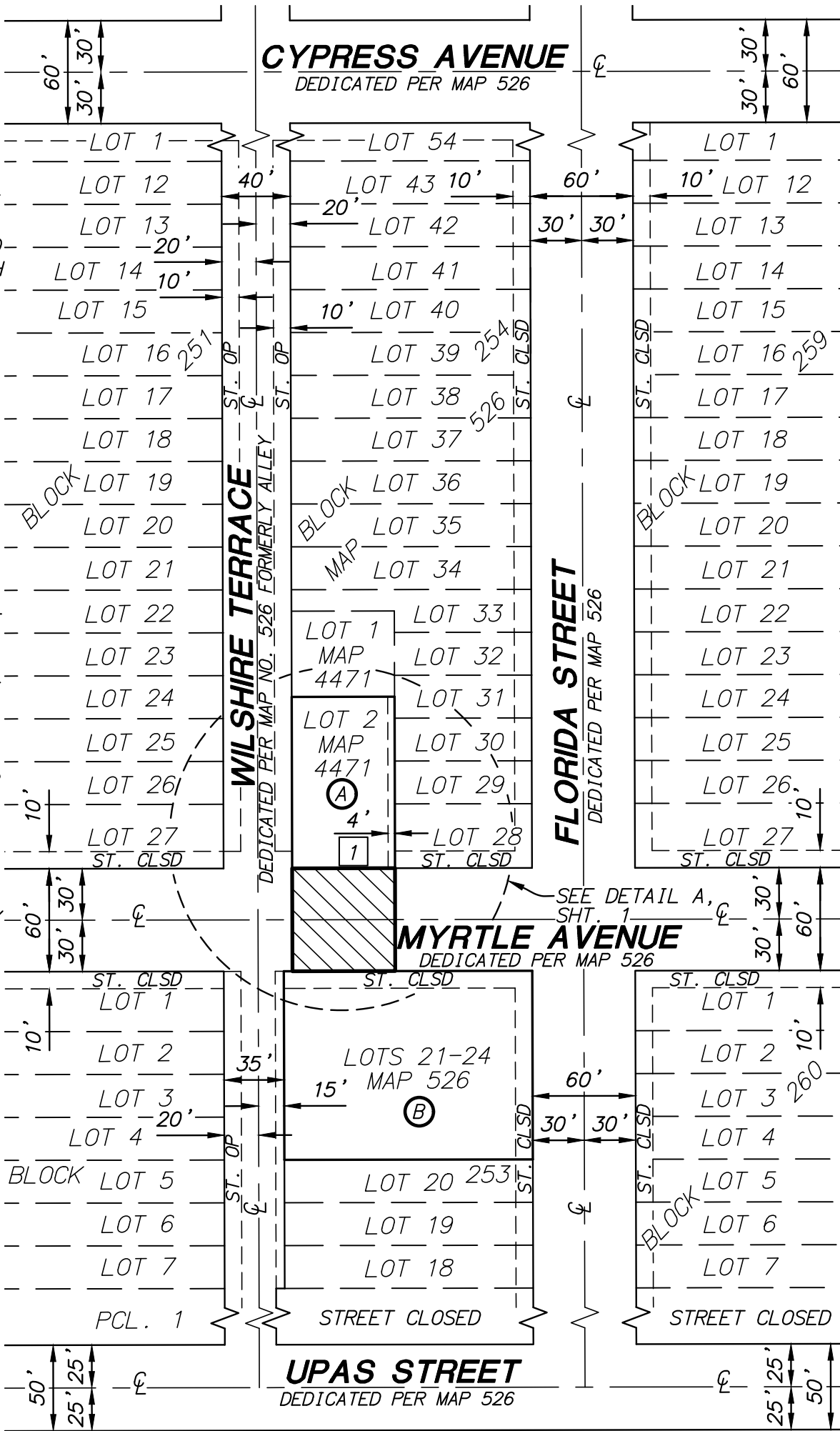
DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	P.T.S. NO. 611694
ORIGINAL	SDA				SHEET 1 OF 2 SHEETS	
					FOR CITY LAND SURVEYOR	1850-6285 NAD 83 COORDS.
					DATE	210-1725 LAMBERT COORDINATES
						40895-1-B
STATUS						

SDG&E EASEMENT LANGUAGE

RESERVING AN EASEMENT AND RIGHT OF WAY FOR SDG&E TO ERECT, CONSTRUCT, CHANGE THE SIZE OF, IMPROVE, RECONSTRUCT, RELOCATE, REPAIR, REMOVE, MAINTAIN AND USE FACILITIES CONSISTING OF OVERHEAD AND UNDERGROUND ELECTRIC FACILITIES, COMMUNICATION FACILITIES AND ALL APPURTENANCES INCLUDING NECESSARY ANCHORAGE FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRICITY AND FOR PIPELINES AND APPURTENANCES, TOGETHER WITH THE RIGHT OF INGRESS THERETO AND EGRESS THEREFROM OVER SAID EASEMENT AND OVER OTHER PRACTICAL ROUTES. NO BUILDING OR OTHER STRUCTURE SHALL BE PERMITTED WITHIN THE EASEMENT. SDG&E'S PRIOR WRITTEN CONSENT SHALL BE REQUIRED BEFORE PLANTING ANY TREES OR INCREASING/DECREASING THE GROUND ELEVATION WITHIN THE EASEMENT.

COX COMMUNICATION EASEMENT LANGUAGE

RESERVING AN EASEMENT AND RIGHT OF WAY FOR COX COMMUNICATION TO ERECT, CONSTRUCT, CHANGE THE SIZE OF, IMPROVE, RECONSTRUCT, RELOCATE, REPAIR, REMOVE, MAINTAIN AND USE FACILITIES CONSISTING OF OVERHEAD AND UNDERGROUND CABLE FACILITIES, COMMUNICATION FACILITIES AND ALL APPURTENANCES INCLUDING NECESSARY ANCHORAGE FOR THE TRANSMISSION AND DISTRIBUTION OF CABLE AND FOR PIPELINES AND APPURTENANCES, TOGETHER WITH THE RIGHT OF INGRESS THERETO AND EGRESS THEREFROM OVER SAID EASEMENT AND OVER OTHER PRACTICAL ROUTES. NO BUILDING OR OTHER STRUCTURE SHALL BE PERMITTED WITHIN THE EASEMENT. COX COMMUNICATION PRIOR WRITTEN CONSENT SHALL BE REQUIRED BEFORE PLANTING ANY TREES OR INCREASING/DECREASING THE GROUND ELEVATION WITHIN THE EASEMENT.



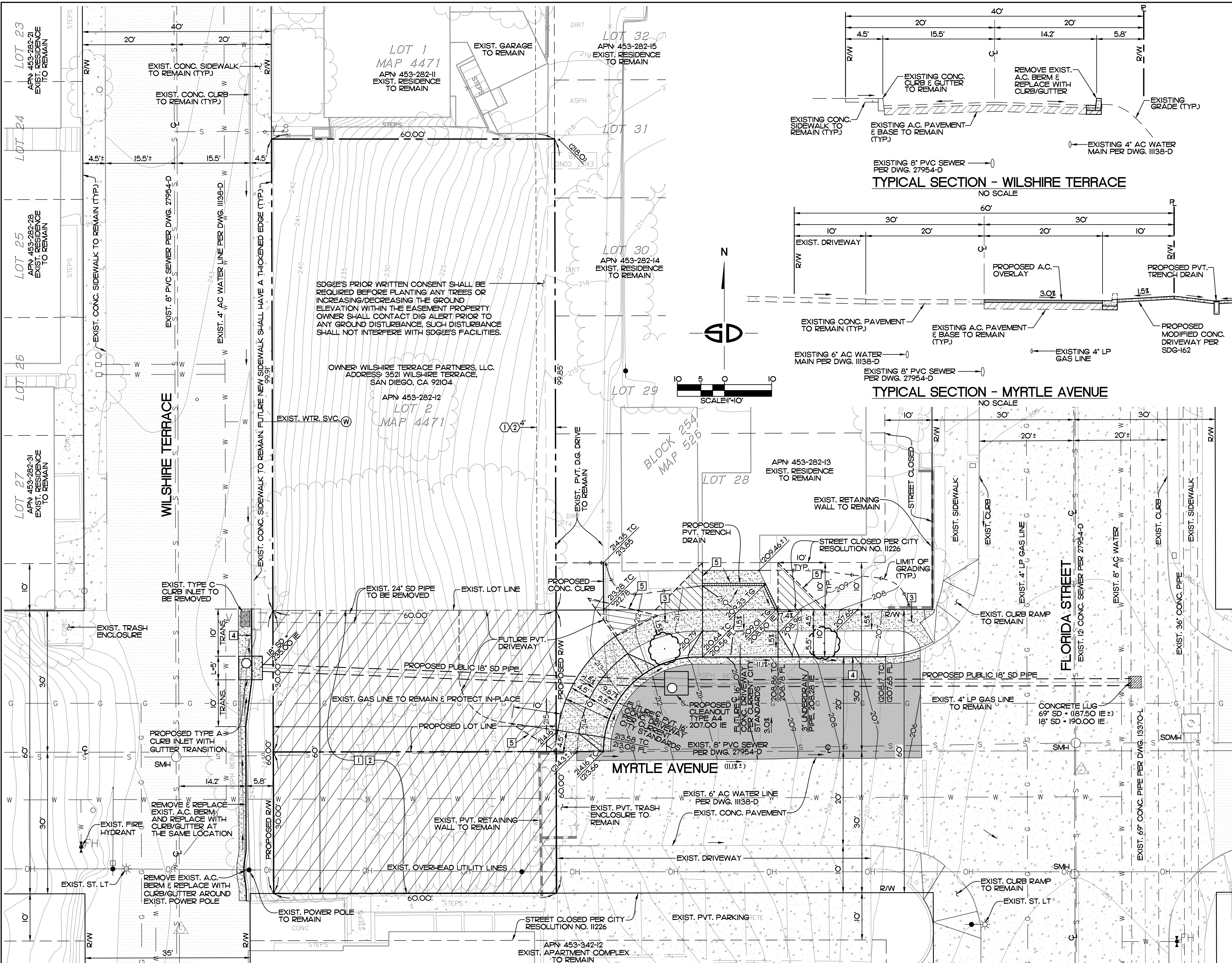
WILLIAM A. SNIPES L.S. 8034  
EXPIRES 12-31-20

DATE

STREET VACATION WITH WATER, SEWER, STORM DRAIN  
& ACCESS EASEMENT RESERVATION  
PORTION OF MYRTLE AVENUE, EAST OF WILSHIRE TERRACE

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	
ORIGINAL	SDA				SHEET 2 OF 2 SHEETS	
					FOR CITY LAND SURVEYOR	
					DATE	
					P.T.S. NO. 611694	
					1850-6285 NAD 83 COORDS.	
					210-1725 LAMBERT COORDINATES	
					40895-2-B	





**GRADING TABULATIONS:**

TOTAL PROJECT BOUNDARY SITE AREA:	6,585 SF.	EXISTING IMPERVIOUS SURFACE:	2,345 SF.	MAXIMUM HEIGHT OF FILL SLOPES:	N/A
ON-SITE AREA TO BE GRADED:	N/A	PROPOSED NEW & REPLACED IMPERVIOUS SURFACE:	805 SF.	MAXIMUM HEIGHT OF CUT SLOPES:	N/A
OFF-SITE AREA TO BE GRADED:	1,454 SF.	AMOUNT OF CUT:	0 C.Y.	RETAINING / CRIB WALLS:	N/A
PERCENT OF TOTAL ON-SITE TO BE GRADED:	N/A	AMOUNT OF FILL:	0 C.Y.	TOTAL LENGTH:	N/A
TOTAL SOIL DISTURBED AREA:	1,454 SF.	AMOUNT OF IMPORT MATERIAL:	0 C.Y.	MAX. HEIGHT:	N/A
TOTAL AREA TO BE GRADED:	1,454 SF.	AMOUNT OF EXPORT MATERIAL:	0 C.Y.	MAX. CUT FOR STORM DRAIN:	5'

**KEY NOTES:**

- PROPOSED PORTION OF STREET TO BE VACATED.
- PROPOSED 60' GENERAL UTILITY & ACCESS EASEMENT RESERVED HEREON.
- PROPOSED CONCRETE SIDEWALK.
- PROPOSED CONCRETE CURB/GUTTER.
- NO OBJECTS HIGHER THAN 24 INCHES WILL BE PROPOSED IN THE VISIBILITY AREAS. NO FENCES/SHRUBS HIGHER THAN 24 INCHES IN HEIGHT ARE PERMITTED IN THE VISIBILITY AREAS OF THE PROPOSED DRIVEWAYS.

**NOTE:**

ALL PROPOSED IMPROVEMENTS WITHIN THE PUBLIC RIGHT-OF-WAY WILL BE CONSTRUCTED PER THE MOST CURRENT CITY OF SAN DIEGO STANDARD DRAWINGS.

**ENGINEER OF WORK**  
**Snipes-Dye associates**  
civil engineers and land surveyors  
8348 CENTER DRIVE, STE. G, LA MESA, CA 91942  
TELEPHONE: (619) 697-9234 FAX: (619) 460-2033  
Son P. Nguyen R.C.E. 86249  
EXPIRES 03-31-21



**LEGEND**

**EXISTING IMPROVEMENTS**

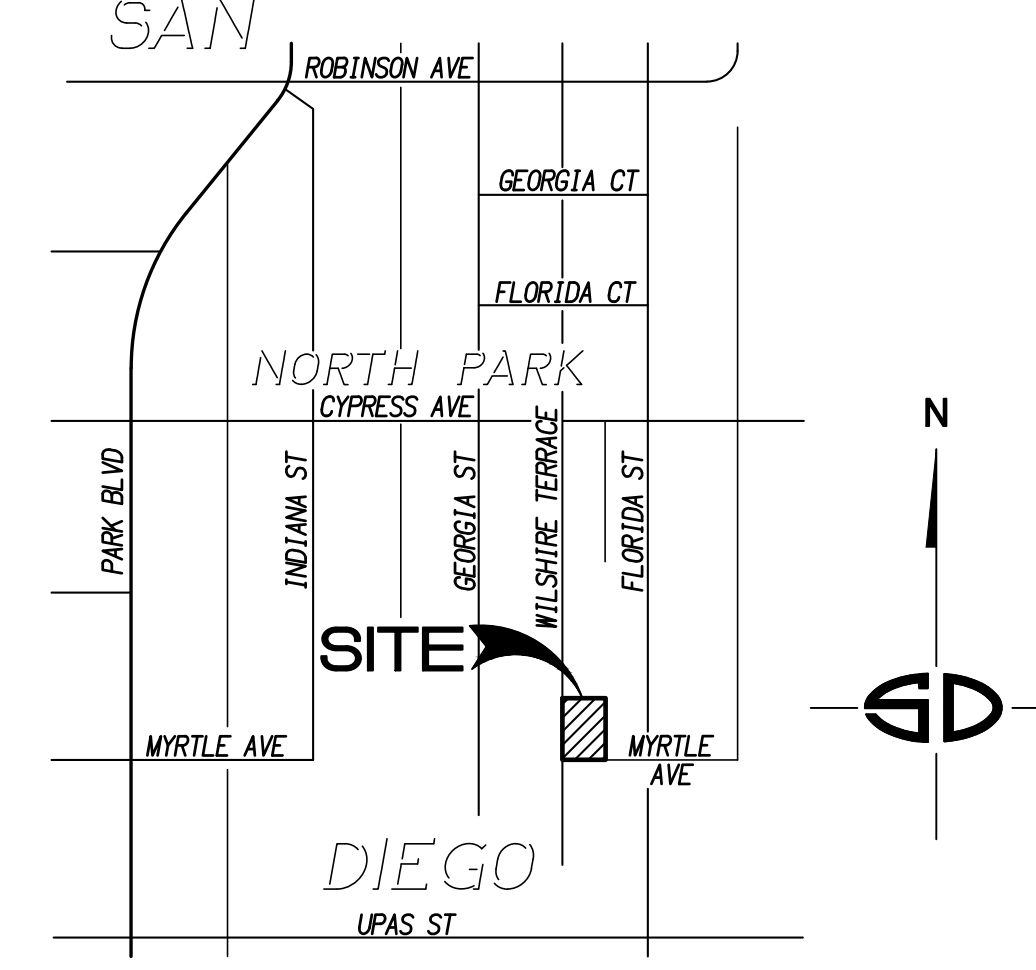
IMPROVEMENT	SYMBOL
EXIST. CONTOUR	205
EXIST. ASPHALT SURFACE	
EXIST. CONCRETE SURFACE	
EXIST. CONC. CURB	
EXIST. STREET LIGHT	
EXIST. UTILITY POLE	
EXIST. FIRE HYDRANT	
EXIST. WATER MAIN	W
EXIST. SEWER MAIN	S
EXIST. OVERHEAD UTILITY LINES	OH
EXIST. GAS LINE	G
EXIST. STORM DRAIN PIPE	
EXIST. WATER SERVICE	W
RIGHT-OF-WAY	R/W
PROPERTY LINE	P

**PROPOSED IMPROVEMENTS**

PROPOSED SPOT ELEVATION	2450
PROPOSED CONTOUR	214
PROPOSED CONC. PAVEMENT	
PROPOSED A.C. OVERLAY	
PROPOSED 6" CONCRETE CURB/GUTTER	
PROPOSED CONCRETE DRIVEWAY	
PROPOSED TYPE A CURB INLET	
PROPOSED STORM DRAIN PIPE	
PROPOSED STREET TREE	
SAWCUT	
DIRECTION OF DRAINAGE	

**EASEMENTS:**

- EXIST. 4' UTILITY EASEMENT PER MAP 4471.
- RESERVING AN EASEMENT AND RIGHT-OF-WAY FOR SDGE TO ERECT, CONSTRUCT, CHANGE THE SIZE OF, IMPROVE, RECONSTRUCT, RELOCATE, REPAIR, REMOVE, MAINTAIN, AND USE FACILITIES CONSISTING OF OVERHEAD AND UNDERGROUND ELECTRICAL FACILITIES AND ALL APPURTENANCES INCLUDING NECESSARY ANCHORAGE FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRICITY AND FOR PIPELINES AND APPURTENANCES, TOGETHER WITH THE RIGHT OF INGRESS THERETO AND EGRESS THEREFROM OVER SAID EASEMENT AND OVER OTHER PRACTICAL ROUTES.



Prepared By:	SNIPES-DYE ASSOCIATES	Revision 14:	
Name:	8348 CENTER DRIVE, SUITE G LA MESA, CA 91942	Revision 13:	
Phone #:	(619) 697-9234	Revision 12:	
		Revision 11:	
		Revision 10:	
		Revision 9:	
		Revision 8:	
		Revision 7:	
		Revision 6:	OCTOBER 8, 2019
		Revision 5:	JULY 23, 2019
		Revision 4:	JUNE 3, 2019
		Revision 3:	FEBRUARY 4, 2019
		Revision 2:	OCTOBER 23, 2018
		Revision 1:	
Project Address:	MYRTLE AVENUE SAN DIEGO, CA 92104	Original Date:	MAY 25, 2018
Project Name:	MYRTLE STREET VACATION APPROVAL # 2171894/ NEIGHBORHOOD DEVELOPMENT PERMIT APPROVAL # 2272369	Sheet	1 of 1
Sheet Title:	EXHIBIT	DEP#	
		P.T.S.	611694

**EXHIBIT**

**MYRTLE AVENUE VACATION**  
SAN DIEGO, CA 92104

**SNIPES-DYE ASSOCIATES** 8348 CENTER DRIVE, SUITE G, LA MESA, CA 91942-2910 (619) 697-9234, FAX (619) 460-2033

**ATTACHMENT 9**

NO.	DATE	REVISION DESCRIPTION	BY	DATE	REVISION DESCRIPTION	BY
1	10-23-18	REVISE LIMITS OF STREET VACATION & STREET IMPROVEMENTS	SDA	10-8-19	REVISE STREET IMPROVEMENTS	SDA
2	02-04-19	REVISE LIMITS OF STREET VACATION & STREET IMPROVEMENTS	SDA			
3	06-03-19	REVISE STREET IMPROVEMENTS	SDA			
4	07-23-19	REVISE STREET IMPROVEMENTS	SDA			

SHEET 1 OF 1

1 SHEETS

SDA NO. SD4541 (D-1)

RESOLUTION NUMBER R-\_\_\_\_\_

DATE OF FINAL PASSAGE \_\_\_\_\_

VACATION OF A PORTION OF MYRTLE AVENUE  
WILSHIRE TERRACE VACATION PROJECT NO. 611694

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, it is proposed that an unimproved 0.083-acre portion of Myrtle Avenue Public Right-of-Way Vacation No. 2171894 be vacated; 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 \_\_\_\_\_, 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 all that portion of Myrtle Avenue lying southerly and adjacent to Lot 2 of University Heights Resubdivision No. 3, in the City of San Diego, County of San Diego, State of California, according to Map thereof no. 4471, filed in the Office of the County Recorder of San Diego County, February 19, 1960, the Council finds that:

**(a) There is no present or prospective use for the public right-of-way, either for the facility for which originally acquired, or for any other public use of a like nature that can be anticipated.**

The unimproved 0.083-acre portion of Myrtle Avenue public right-of-way located at the intersection of Wilshire Terrace and Myrtle Avenue, does not serve as vehicular or pedestrian access for any of the properties in the area. The proposed public-right-of way vacation would revert the vacated 3,598 square-foot area to the abutting parcels. The parcels located at 3505 Wilshire Terrace (APN 453-282-1200) and 3440 Florida Street (APN 453-342-1200) would each obtain 1,799 square feet of land for private ownership. Myrtle Avenue is an improved east/west street that dead ends just west of Florida Street and was never improved to connect with Wilshire Terrace. The topography of the site is relatively steep, with a grade differential of approximately 27 feet. The portion of Myrtle Avenue public right-of-way proposed to be vacated is identified as a local street by the Mobility Element's Planned Street Classification map of the North Park Community Plan, however is not part of the Community Plan's classified streets network. The proposed street vacation does not affect the Community Plan land use as the right-of-way is unimproved and can be incorporated as part of the existing uses within the abutting lots. The proposed street vacation would not affect the following types of facilities identified as part of the Community' Plan's mobility network: Pedestrian Routes, Existing or Planned Bicycle Network, and Planned Transit Facilities. Unimproved local streets may be vacated if there is no potential need or feasibility for public access infrastructure. The steep terrain increases the difficulty and cost to improve this segment of Myrtle Avenue for public access.

Therefore, there is no present or prospective use for the public right-of-way, either for the facility for which 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 use of the land made available by the vacation.**

The 0.083-acre portion of Myrtle Avenue public right-of-way is limited to circulation and public utility. The City controls and is liable for an area that cannot be used for public purposes. The adjacent properties will benefit from the street vacation because they will control, maintain and be responsible for this area. The City of San Diego and the County of San Diego will benefit from the increase in property value by increasing the area of privately owned land subject to property taxation. With an increase of tax revenue, the general public will benefit by the vacation of the exiting right-of way by the increase of available public funds. The public will also benefit by the reduction of liability to the City of San Diego from land it controls yet gains no benefit or use from. The adopted North Park Community Plan designates the area as Low density residential development. The existing 6,000 square-foot lot located at 3505 Wilshire Terrace could accommodate future residential development of up to six dwelling units. With the street vacation and the increased lot area, at approximately, 7,800 square-feet, up to eight dwelling units could be built. The site is in the RM-3-7 zone, Transit Priority Area and is within an "in-fill project" area pursuant to Affordable Housing, In-Fill Projects, and Sustainable Regulations pursuant to San Diego Municipal Code Section 143.0915 (b). The Affordable Housing, In-Fill Projects, and Sustainable Regulations provide flexibility of development regulations for projects providing affordable housing opportunities. The regulations provide incentives to facilitate the development of affordable

housing, in-fill projects, and sustainable buildings to achieves the purpose and intent of the applicable land use plan. Additionally, the Transit Priority Area allows reduced parking requirements for residential development. The new lot configuration will not only be able to accommodate future residential development permitted in the RM-3-7 zone, but will be subject to additional flexibility and incentives for in-fill development.

Because the land has never been used as right-of-way, it is in the public interest to vacate the right-of-way and transfer responsibility of the land to the adjacent property owners. 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 portion of Myrtle Avenue public right-of-way proposed to be vacated is identified as a local street by the Mobility Element's Planned Street Classification map of the North Park Community Plan, however is not part of the Community Plan's classified streets network. The proposed street vacation would not affect the following types of facilities identified as part of the Community Plan's mobility network: Pedestrian Routes, Existing or Planned Bicycle Network, and Planned Transit Facilities. Unimproved local streets may be vacated if there is no potential need or feasibility for public access infrastructure. The steep terrain increases the difficulty and cost to improve this segment of Myrtle Avenue for public access. However, the Community Plan's Recreation Element contains the following policies that propose alternative uses for "paper streets" such as parks, passive recreation, pathways or landscaping.

This site would not be suitable for a typical pocket park because of the steep slopes and small size of the site. The abutting segments of Wilshire Terrace and Myrtle Avenue have limited



connectivity with the broader neighborhood, however have relatively close access to Balboa Park.

Therefore, the vacation does not adversely affect any applicable land use plan.

**(d) The public facility for which the right-of-way was originally acquired will not be detrimentally affected by the vacation.**

The Myrtle Avenue public right-of-way was originally acquired in 1960 as part of a street network through map dedications. The steep terrain increases the difficulty and cost to improve this segment of Myrtle Avenue for public access and does not represent a logical extension of the existing road network. 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 Public Right-of-Way Vacation No. 2171894, in connection with Neighborhood Development Permit No. 2277369, as more particularly described in the legal description marked as Exhibit "A," and shown on Drawing No. 40895-1-B and 40895-2-B, marked as Exhibit "B," which said drawing is attached hereto and made a part hereof, is ordered vacated.

BE IT FURTHER RESOLVED, that said street vacation is conditioned upon the following:

1. Prior to the recordation of the Public Right-of-Way Vacation No. 2171894, the Owner/Permittee shall assure, by permit and bond, the removal and replacement of Public Storm Drain Cleanouts and Pipes per current City Standards, as shown on Exhibit B.
2. Prior to the recordation of the Public Right-of-Way Vacation No. 2171894, the Owner/Permittee shall provide a drainage easement for proposed public storm drain system per current City Standards.
3. Prior to the recordation of the Public Right-of-Way Vacation No. 2171894, the Owner/Permittee shall assure, by permit and bond, the construction of a two (2) new 16-foot

driveways per current City Standards, adjacent to the site on Myrtle Avenue, satisfactory to the City Engineer.

4. Prior to the recordation of the Public Right-of-Way Vacation No. 2171894, the Owner/Permittee shall assure, by permit and bond, the construction of new curb and gutter, adjacent to site on Myrtle Avenue and Wilshire Terrace, per current City Standards, satisfactory to the City Engineer.
5. Prior to the recordation of the Public Right-of-Way Vacation No. 2171894, the Owner/Permittee shall assure, by permit and bond, the construction of a new Sidewalk, adjacent to Myrtle Avenue, per current City Standards, satisfactory to the City Engineer.
6. The Owner/Permittee shall reserve an easement and right-of-way for SDG&E to erect, construct, change the size of, improve, reconstruct, relocate, repair, remove, maintain and use facilities consisting of overhead and underground electric facilities, communication facilities and all appurtenances including necessary anchorage for the transmission and distribution of electricity and for pipelines and appurtenances, together with the right of ingress thereto and egress therefrom over said easement and over other practical routes.

In the event this condition is 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.

7. The Owner/Permittee shall obtain written consent from SDG&E prior to planting any trees or increasing/decreasing the ground elevation within the easement.

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

## **ATTACHMENT 7**

(R-[Reso Code])

By

\_\_\_\_\_  
[Attorney]

Deputy City Attorney

EG:EG

[Month]/[Day]/[Year]

Development Services Department

JO: 24007931

Drawing No.: 40895-1-B and 40895-2-B

R-R-[Reso Code]

CITY COUNCIL RESOLUTION NO. \_\_\_\_\_  
PLANNED DEVELOPMENT PERMIT NO. 2429095  
**WILSHIRE TERRACE VACATION PROJECT NO. 611694**

WHEREAS, Wilshire Terrace Partners LLC, Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit for a lot deviation of a lot depth of 60 feet where the required lot depth is 100 feet as a result of a Public Right-of-Way Vacation, located at 3505 Wilshire Terrace in the RM-3-7 zone, Airport Influence Area (SDIA- Review Area 2), FAA Part 77 Notification Area (SDIA- 115' AMSL), Transit Overlay Zone, and Transit Priority Area within the North Park Community Plan area.

WHEREAS, on April 14, 2020, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act [CEQA] (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15332 (In-Fill Development Projects); and

WHEREAS, on June 4, 2020, the Planning Commission of the City of San Diego considered Planned Development Permit No. 2429095, and pursuant to Resolution No. \_\_\_\_\_-PC voted to recommend approval of the Permit; 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

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 it adopts the following findings with respect to Planned Development Permit No. 2429095:

**A. PLANNED DEVELOPMENT PERMIT [SDMC Section 126.0605(a)]**

**Findings for all Planned Development Permits:**

**1. The proposed development will not adversely affect the applicable land use plan.**

The project proposes a deviation at 3505 Wilshire Terrace as a result of Public Right-of-Way Vacation No. 2171894, in which a deviation from the San Diego Municipal Code Section 131.0431(e) for a lot depth of 60 feet will be created where the required lot depth is 100 feet. The right-of-way area to be vacated would revert to the two abutting parcels for private ownership: 3505 Wilshire Terrace (APN 453-282-1200) and 3440 Florida Street (APN 453-342-1200). The site located at 3505 Wilshire Terrace is a 6,000 square-foot undeveloped lot and the site located at 3440 Florida Street is an approximately 16,000 square-foot lot, developed with a multi-family residential development.

The Community Plan Land Use Map designates this site as Low density residential. This land use designation provides for residential development at a density between 5-9 dwelling units per acre. The incorporation of the proposed vacated area will change the property line designations for 3505 Wilshire Terrace, as it will now create a double frontage lot, changing the lot depth to 60 feet (measured from the front property line along Wilshire Terrace to the opposing property line along Myrtle Ave) and the lot width to 100 feet. The proposed new property line designation does not affect the North Park Community Plan land use. The existing 6,000 square-foot lot could accommodate future development of up to six dwelling units. With the street vacation and the increased lot area, at approximately 7,800 square-feet, up to eight dwelling units could be built; within the allocated density range. Therefore, the proposed lot depth deviation to 3505 Wilshire Terrace will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare; and**

The project proposes a deviation at 3505 Wilshire Terrace as a result of Public Right-of-Way Vacation No. 2171894, in which a deviation from the San Diego Municipal Code Section 131.0431(e) for a lot depth of 60 feet will be created where the required lot depth is 100 feet. The right-of-way area to be vacated would revert to the two abutting parcels for private



ownership: 3505 Wilshire Terrace (APN 453-282-1200) and 3440 Florida Street (APN 453-342-1200). The site located at 3505 Wilshire Terrace is a 6,000 square-foot undeveloped lot and the site located at 3440 Florida Street is approximately 16,000 square-foot, developed with a multi-family residential development.

The proposed street vacation, and new property line designation, would accommodate future residential and limited commercial uses permitted in the RM-3-7 zone, in compliance with all City's codes, policies and regulations at the time of development. The vacation is conditioned to require the construction of two new 16-foot wide driveways, new sidewalk, curb and gutters, curb inlet, and replacement of storm cleanouts and drain pipes. The existing gas and water lines will remain, and drainage and SDG& E easements will be reserved. Therefore, the proposed vacation and lot depth deviation to 3505 Wilshire Terrace will not be detrimental to the public health, safety, and welfare.

- 3. The proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126 .0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.**

The project proposes a deviation at 3505 Wilshire Terrace as a result of Public Right-of-Way Vacation No. 2171894, in which a deviation from the San Diego Municipal Code Section 131.0431(e) for a lot depth of 60 feet will be created where the required lot depth is 100 feet. The right-of-way area to be vacated would revert to the two abutting parcels for private ownership: 3505 Wilshire Terrace (APN 453-282-1200) and 3440 Florida Street (APN 453-342-1200). The site located at 3505 Wilshire Terrace is a 6,000 square-foot undeveloped lot and the site located at 3440 Florida Street is approximately 16,000 square-foot, developed with a multi-family residential development.

Although the proposed street vacation will result in a substandard lot depth for 3505 Wilshire Terrace, all other development standards including the lot width, lot area, and street frontage, conforms to the requirements of the underlying zone. The existing 6,000 square-foot lot could accommodate future development of up to six dwelling units. With the street vacation and the increased lot area, at approximately 7,800 square-feet, up to eight dwelling units could be built.

The project site is in the RM-3-7 zone, Transit Priority Area, and is within an "in-fill project" area pursuant to Affordable Housing, In-Fill Projects, and Sustainable Regulations pursuant to San Diego Municipal Code Section 143.0915(b). The Affordable Housing, In-Fill Projects, and Sustainable Regulations provide flexibility of development regulations for projects providing affordable housing opportunities. The regulations provide incentives to facilitate the development of affordable housing, in-fill projects, and sustainable buildings to achieves the purpose and intent of the applicable land use plan. Additionally, the Transit Priority Area allows reduced parking requirements for residential development.

The vacated area and change in property line configuration will result in a more desirable project by making it possible to accommodate future development consistent with the General Plan Housing Element adopted by the City Council in March 2013, and the Regional Housing Needs Allocation goals for the 2010-2020. This project achieves the goals to alleviating the housing needs by increasing future residential development with added flexibility and incentives. Therefore, the proposed development will comply with the regulations of the Land Development Code including any proposed deviations pursuant to Section 126.0602(b)(1) that are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone, and any allowable deviations that are otherwise authorized pursuant to the Land Development Code.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED, that Planned Development Permit No. 2429095 is granted to Wilshire Terrace Partners LLC, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

**RECORDING REQUESTED BY**  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES  
PERMIT INTAKE, MAIL STATION  
501

**WHEN RECORDED MAIL TO**  
**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**

INTERNAL ORDER NUMBER: 24007931

SPACE ABOVE THIS LINE FOR RECORDER'S USE

PLANNED DEVELOPMENT PERMIT NO. 2429095  
**WILSHIRE TERRACE VACATION PROJECT NO. 611694**  
CITY COUNCIL

This Planned Development Permit is granted by the City Council of the City of San Diego to Wilshire Terrace Partners LLC, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0604. The 0.13-acre project site is located at 3505 Wilshire Terrace in the RM-3-7 zone, Airport Influence Area (SDIA- Review Area 2), FAA Part 77 Notification Area (SDIA- 115' AMSL), Transit Overlay Zone, and Transit Priority Area in the North Park Community Plan area.

The project site is legally described as Lot 1 of University Heights Resubdivision No. 3, in the City of San Diego, County of San Diego, State of California, according to Map thereof no. 4471, filed in the Office of the County Recorder of San Diego County, February 19, 1960.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to deviate from the San Diego Municipal Code Section 131. 0431(e) for a lot depth of 60 feet where the required lot depth is 100 feet, described and identified by size, dimension, quantity, type, and location on the approved Exhibit "B", dated \_\_\_\_\_ on file in the Development Services Department.

The project shall include:

- The recordation of Public Right-of-Way Vacation No. 2171894 will change the property line designations at 3505 Wilshire Terrace; a deviation from San Diego Municipal Code Section 131. 0431(e) is allowed for a lot depth of 60 feet where the required lot depth is 100 feet.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36- month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable

guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by \_\_\_\_\_.

2. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.

3. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.

4. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.

5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

7. The Owner/Permittee shall secure all necessary construction permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

8. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s)

back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

11. The Owner/Permittee shall comply with the conditions of the Public Right-of-Way Vacation No. 2171894.

**INFORMATION ONLY:**

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on \_\_\_\_\_and Resolution No. \_\_\_\_\_.

## ATTACHMENT 9

Permit Type/PTS Approval No.: Planned Development Permit No. 2429095

Date of Approval: \_\_\_\_\_

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

\_\_\_\_\_  
Edith Gutierrez  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

\_\_\_\_\_  
**The undersigned Owner/Permittee**, by execution hereof, agrees to each and every condition of  
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

**WILSHIRE TERRACE PARTNERS, LLC**  
Owner/Permittee

By \_\_\_\_\_  
SHAHRIAR AFSHAR  
Managing Partner

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**

## NOTICE OF EXEMPTION

(Check one or both)

TO: ☒ Recorder/County Clerk  
 P.O. Box 1750, MS A-33  
 1600 Pacific Hwy, Room 260  
 San Diego, CA 92101-2400

FROM: City of San Diego  
 Development Services Department  
 1222 First Avenue, MS 501  
 San Diego, CA 92101

☐ Office of Planning and Research  
 1400 Tenth Street, Room 121  
 Sacramento, CA 95814

**Project Name/Number:** Wilshire Terrace Vacation/611694

**SCH No.:** N.A.

**Project Location-Specific:** 3505 Wilshire Terrace, San Diego, CA 92104

**Project Location-City/County:** San Diego/San Diego

**Description of nature and purpose of the Project:** Neighborhood Development Permit (NDP) and Public Right-of-Way Vacation for portion of Myrtle Avenue Map No. 526, located at 3505 Wilshire Terrace. The 0.14-site is in RM-3-7 zone within the Greater North Park Community Plan, Residential Tandem Parking Overlay Zone, Transit Area Overlay Zone, Transit Priority Area, Airport Influence Area (Review Area 2), and the Federal Aviation Administration Part 77 Notification Area. The site is designated Community Commercial in the San Ysidro Community Plan. The North Park Community Plan land use designation identifies the site as Residential -Low (5-9 Du/Ac). An NDP is requested to allow a deviation to the minimum lot depth of the RM-3-7 zone, per Section 143.0920(a) of the Municipal Code.

**Name of Public Agency Approving Project:** City of San Diego

**Name of Person or Agency Carrying Out Project:** Shahriar Afshar, 5353 Shannon Ridge Lane, San Diego, CA 92130, (619) 368-6790

**Exempt Status:** (CHECK ONE)

- ☐ Ministerial (Sec. 21080(b)(1); 15268);
- ☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));
- ☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c))
- ☒ Categorical Exemption: Categorically exempt from CEQA pursuant to CEQA State Guidelines, Section 15332 (In-Fill Development Projects)

**Reasons why project is exempt:** The City of San Diego conducted an environmental review that determined the project would not have the potential for causing a significant effect on the environment. The project meets the criteria set forth in CEQA Section 15332. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the applicable zoning designation and regulations. The proposed development occurs within city limits on a project site of no more than 5 acres and is substantially surrounded by urban uses. The project site has no value as habitat for endangered, rare or threatened species. The project would not result in any significant effects related to air quality, noise, traffic or water quality. The site can be adequately serviced by all required utilities and public services. In addition, the exceptions listed in CEQA Section 15300.2 would not apply.


Lead Agency Contact Person: Rhonda Benally

Telephone: (619) 446-5468

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? ☐ Yes ☐ No

It is hereby certified that the City of San Diego has determined the above activity to be exempt from CEQA

 Senior Planner  
Signature/Title

April 14, 2020  
Date

Check One:

- (X) Signed By Lead Agency  
( ) Signed by Applicant

Date Received for Filing with County Clerk or OPR:





# NORTH PARK PLANNING COMMITTEE

[northparkplanning.org](http://northparkplanning.org)

## URBAN DESIGN-PROJECT REVIEW SUBCOMMITTEE

MEETING MINUTES: **Monday, May 6, 2019 – 6:00 p.m.** North Park

Recreation Center / Adult Center, 2719 Howard Avenue

### I. Parliamentary Items

- A. **Call to Order (6:02):** NPPC Members: Stayner, Pounaki, Vidales, Taylor; Voting Community Members: Bonn, Steppke, Hill
- B. **Modifications & Adoption of the Agenda:** no modifications
- C. **Approval of Previous Minutes:** October 1, 2018: Steppke has correction to minutes: Stephen Russell's name was spelled incorrectly in the previous minutes.

**Motion to approve October 1, 2018 Minutes with correction:** Steppke/Taylor (5/0/2); Pounaki and Bonn abstained as they were both absent for the last meeting.

- D. **Announcements:** Vidales mentioned that the North Park Festival of the Arts will take place on May 11<sup>th</sup> and the next NPPC meeting will be on May 14<sup>th</sup> (one of the topics being heard will be the 30<sup>th</sup> street bike lanes).

### II. Non-Agenda Public Comment: None.

### III. Items

- A. **Action Item: Map Waiver at the Hamilton III Project (Process 3)** (6:07 – 6:23)

**PTS. 627462 Map Waiver to create three (3) residential condominium units for a completed duplex and existing detached single dwelling unit for a total of 2,745 square foot of conversion located at 4174, 4176 & 4178 Hamilton Street. The 0.12 acre site is located in the RM-3-7 Base Zone of the North Park Community Planning Area.**

Presentation made by Robert Bateman, followed by questions and conversation summarized below. Answers to questions summarized in bold where possible:

- Pounaki asked follow up questions: Is there still a single family home? **-yes** , Is construction complete? **-yes**
- Resident from audience asked a question about whether there were single family homes previously on this lot. **One of the units was originally a single family home but will be reclassified as a condominium.**

- Taylor asked a question about where the entrance to the building would be, specifically where the ingress and egress for pedestrians are – **on the north side of the property along property line and in the alley**
- Steppke asked if the single-family home will be sold as a condominium – **yes**
- Bonn asked about cosmetic changes that might be needed which Robert Bateman answered **the driveway, sidewalk and bricks in right of way in front of Hamilton unit will be repaired/replaced. Repairs were made in alley adjacent to the new duplex.**
- Vidales asked about the parking situation – **two for the two units in the duplex and a spot in the garage for the former single-family home (now condo).**
- Stayner asked what other repairs there would be in addition to the sidewalk/right of way and alley. **There will be no others.**
- Pat Sexton (resident) asked if any units would be “low income” -**no.**

**Motion to approve the Map Waiver for the properties on 4174, 4176 & 4178 Hamilton Street due to desirability of home ownership within the community for stability. The NPPC disagrees strongly with the practice of “Duel Tracking” which allows projects to initially be permitted as apartments and then be entitled as condominiums. Vidales/Taylor (5-2-0) Steppke and Bonn opposed.**

**B. Action Item: Right of Way Vacation and Neighborhood Development Permit for the Wilshire Terrace Development (Process 5).** (6:23 -7:10)

**PTS. 611694 Right of Way Vacation and Neighborhood Development Permit (NDP) for portion of Myrtle Avenue Map No. 526. located at 3505 Wilshire Terrace. The 0.14 site is in RM-3-7 Base zone within the North Park Community Plan area. Presented by Shahriar Afshar.**

Shahriar Afshar presents to the subcommittee and the audience on his project. This was followed by questions and conversation summarized below. Answers to questions summarized in bold where possible:

- Afshar explains what a street vacation is and described the lot (portion of Myrtle) in question. He mentioned that offsite improvements have been requested by the city including offsite improvements to a sidewalk extending west on the north side of Myrtle from Florida. He is offering to beautify the proposed vacated property for the benefit of the properties surrounding this area, which is presently an overgrown extremely steep slope that is not useable for any purpose.
- Stayner asked what would be built on the property that he owns- **unknown as of today.** Do we know what kind of grading will be needed on the vacated property? – **There will be no building on the Myrtle right of way because of the presence of utilities, the applicant is making the request so he can landscape it for the sake of beautification of the surrounding neighborhood and the future project.**
- Pounaki asked if the new sidewalk would still allow vehicles to enter the privately owned access route to existing properties on Florida – **yes**
- Sean Cahall (resident) is a property owner adjacent (lot 28 in the map) and he extends his provisional support with the condition that part of the land be used as a community park citing the North Park Community Plan. He asks the NPCC to make a motion to support his request.
- Peter Hill clarifies that the request is to vacate the Myrtle Street section in question. Afshar clarifies that the only ask is the vacation request listed above. There will be a curb cut in the sidewalk offsite

improvement to access the future alley. There was a question about utilities, and it appears the alley on the south side of the applicant's property may be a utility easement.

- Vidales confirmed with Cahall (resident) that he understood what was being asked for property adjacent to his property. Shahriar will provide a copy of the exhibit that more clearly shows what the final product will look like.
- Vidales asked if there would be compensation for the property "lost" by the city. **There is no separate cash payment that will be made to the city for them losing their interests. Utility improvements and offsite improvements will be made by applicant at request of city.**
- Taylor asked about improving the vacated property with the creation of a walkway connecting Wilshire Terrace to Florida – **cannot be determined at this time**
- Bonn asked for clarifications on the access road to the south – **it is private property, will not be improved**
- Taylor asked if the owner has easement over the access route – **he does not**
- Steppke asked if the existing gravel road portion of Myrtle east of the proposed vacation is the primary access route for the homes on Florida – **it is not**
- Stayner asks about the proposed storm drain pipe that would go from Wilshire Terrace to Florida through the paper portion of Myrtle... the ability to grade the proposed vacated property, making it a park, would be constrained by the steep slope and utilities that will transect the property. Vidales and Cahall suggested that a meandering path could be added. Stayner asked whether the city-owned part of Myrtle would be developed or improved by the city – **unclear.**
- Cahall (resident) asked what the future parking situation would be. He would like an engineering summary.
- Bonn asks if the vacated street will be paved – **it will not**
- Stayner asks if applicant would also provide beautification on city-owned half of Myrtle– **it is not clear yet what will be requested by city.**
- Peter Hill offers a comment in discussion that due to steep existing slope of property, ADA compliance would make the proposed pocket park almost impossible.

Motion made by Vidales: To approve the right of way vacation with certain requirements for public improvement of the site by applicant, but applicant disagreed with the wording and insists that there be a clarification that it remain private property, not used by public for travel between Florida and Wilshire Terrace. Steppke had a question on liability in the case of injury-would applicant or city be liable if someone was hurt. There was no vote on this motion.

**Motion to approve the right of way vacation, neighborhood development permit and site development permit for 3505 Wilshire Terrace with the condition that the city reserve a portion of the vacation to be converted and improved as open space or pocket park for the enjoyment of the surrounding community, to connect pedestrians to Wilshire Terrace and to be in compliance with the North Park Community Plan Policies RE – 1.5 and RE – 4.8 as it pertains to finding recreational opportunities for vacations of "paper streets." Vidales/Taylor (5-2-0) Hill and Pounaki vote no.**

C. **Action Item: Neighborhood Development Permit for The Lincoln Project (Process 2)** (7:10 -7:42)

PTS 619766 Neighborhood Development Permit for deviations to development standards related to the construction of a four level, 10,978 square foot, 11 unit (including 1 affordable unit) apartment building with stacked parking at 3770 Alabama Street. The 0.11 acre site is located in