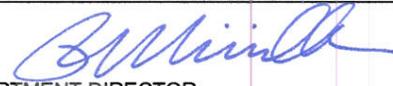


AGENDA ITEM NO.

COUNCIL MEETING

APPROVED BY



DEPARTMENT DIRECTOR

CITY MANAGER

May 14, 2009

FROM: PATRICK N. WIEMILLER, Director 
Public Works Department

BY: SCOTT L. MOZIER, PE, City Engineer/Assistant Director 
Public Works Department, Engineering Division

SUBJECT: ADOPT A RESOLUTION RESCINDING RESOLUTION NO. 2009-24 AND ORDERING THE VACATION OF THE CALIFORNIA-ATCHISON ALLEY, THE ATCHISON-LORENA ALLEY, AND EAST ATCHISON AVENUE, ALL BETWEEN SOUTH WALNUT AND SOUTH PLUMAS AVENUES (LOCATED IN COUNCIL DISTRICT 3)

KEY RESULT AREA

Customer Satisfaction

RECOMMENDATION

Recommend the Council adopt the attached Resolution rescinding Resolution No. 2009-24 and ordering the vacation of the California-Atchison Alley, the Atchison-Lorena Alley, and East Atchison Avenue, all between South Walnut and South Plumas Avenues.

EXECUTIVE SUMMARY

In January 2009 Brian Glover requested the vacation of the California-Atchison Alley, the Atchison-Lorena Alley, East Atchison Avenue, and a portion of East Lorena Avenue, all between South Walnut and South Plumas Avenues. On January 27, 2009 a hearing was held and the Council adopted Resolution No 2009-24 ordering the vacation of the aforementioned streets and alley easements. Resolution No. 2009-24 was not recorded and the vacation was not completed because the conditions imposed on the vacation have not been satisfied.

The development plans for the West Regional Center have since changed, making the vacation of East Lorena Avenue no longer necessary. This requires rescinding Resolution No. 2009-24 and replacing it with the attached resolution that excludes the portion of East Lorena Avenue from the vacation proposal. The attached resolution proposes the vacation of the California-Atchison Alley, the Atchison-Lorena Alley, and East Atchison Avenue, all between South Walnut and South Plumas Avenues, as shown on Exhibit "A" of the attached resolution. The purpose of the proposed vacation is to allow for the development of the Redevelopment Agency of the City of Fresno's West Regional Center.

KEY OBJECTIVE BALANCE

The proposed vacation balances the three key objectives of Customer and Employee Satisfaction, and Financial Management. The proposed vacation provides for Customer Satisfaction by allowing for the development of the Redevelopment Agency of the City of Fresno's West Fresno Regional Center.

BACKGROUND

In January 2009 Brian Glover requested the vacation of the California-Atchison Alley, the Atchison-Lorena Alley, East Atchison Avenue, and a portion of East Lorena Avenue, all between South Walnut and South Plumas Avenues. The purpose of this proposed vacation was to allow for the development of the Redevelopment Agency of the City of Fresno's West Regional Center. On January 6, 2009, the Council adopted Resolution of Intention No. 1071-D, setting the time and place for the public hearing at 10:20 a.m. on January 27, 2009, in the Council Chamber at Fresno City Hall. The public hearing was duly noticed in accordance with the Public Streets, Highways, and Service Easements Vacation Law. The hearing was held as scheduled and the Council adopted Resolution No 2009-24 ordering the vacation of the aforementioned streets and alley easements. Resolution No. 2009-24 was not recorded and the vacation was not completed because the conditions imposed on the vacation have not been satisfied.

The development plans for the West Regional Center have since changed, making the vacation of East Lorena Avenue no longer necessary. This requires rescinding Resolution No. 2009-24 and replacing it with the attached resolution that excludes the portion of East Lorena Avenue from the vacation proposal. The attached resolution proposes the vacation of the California-Atchison Alley, the Atchison-Lorena Alley, and East Atchison Avenue, all between South Walnut and South Plumas Avenues, as shown on Exhibit "A" of the attached resolution. The streets and alleys proposed to be vacated were dedicated by the map of Long Brother's Addition recorded January 1888 in Book 1 of Plats at Page 59, Fresno County Records. The Redevelopment Agency of the City of Fresno has acquired all of the lots adjacent to the streets and alleys proposed to be vacated and all of said lots have been cleared of structures and are now vacant. The purpose of the proposed vacation is to allow for the development of the Redevelopment Agency of the City of Fresno's West Regional Center.

Because a portion of the original vacation as ordered by Resolution No. 2009-24 is being removed, and the remaining portions of the vacation have been duly noticed and addressed during the hearing held on January 27, 2009, the City Attorney's Office has determined that the attached resolution can be presented and approved as a Council consent item.

The Traffic Division, other City Departments and utility agencies have reviewed this proposal and determined that the rights-of-way proposed for vacation are unnecessary for present or prospective public street or alley purposes, subject to the reservation of public utility easements as shown on Exhibit "B" of the attached resolution, and subject to the conditions for approval detailed in Exhibit "C" of the attached resolution.

Environmental Assessment No. EA-08-077 shows with certainty that the project is categorically exempt, and there is no possibility that the proposed vacation may have a significant adverse

effect on the environment, and the proposed vacation is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to Subsection 15301(c)/Class 1 of the CEQA guidelines.

The City Attorney's Office has approved the attached Resolution as to form.

The vacation, if approved, will become effective when the vacating Resolution is recorded in the office of the Fresno County Recorder.

FISCAL IMPACT

There will be no impact to the City's General Fund.

PNW/SLM/AJ/eam
Adopt Reso Rescind Reso 2009-24 to Remove Vac of Lorena 5-14-09

Attachment: Resolution

P.W. File 11386

Recording Requested By:
Public Works Department
City of Fresno
No Fee-Gov't. Code Sections
6103 and 27383

When Recorded, Mail To:
City Clerk
City of Fresno
2600 Fresno Street
Fresno, CA 93721-3623

SPACE ABOVE THIS LINE FOR RECORDER'S USE

RESOLUTION NO. _____

RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA
RESCINDING RESOLUTION NO. 2009-24 AND ORDERING THE VACATION OF THE
CALIFORNIA – ATCHISON ALLEY, THE ATCHISON – LORENA ALLEY, AND EAST
ATCHISON AVENUE, ALL BETWEEN SOUTH WALNUT AND SOUTH PLUMAS AVENUES

WHEREAS, in January 2009 Brian Glover requested the vacation of the California-
Atchison Alley, the Atchison-Lorena Alley, East Atchison Avenue, and a portion of East
Lorena Avenue, all between Walnut and Plumas Avenues; and

WHEREAS, pursuant to Resolution of Intention No. 1071-D, on file in the Office of the
City Clerk of the City of Fresno (the City Clerk), a public hearing was held on January 27,
2009 at a regular meeting of the Council of the City of Fresno, California (the City), at which
evidence was heard for and against the vacation of the aforementioned streets and alleys
easements, situated within the City; and

WHEREAS, the hearing was held as scheduled and the Council adopted Resolution
No 2009-24 ordering the vacation of the aforementioned streets and alley easements; and

WHEREAS, Resolution No. 2009-24 was not recorded and the vacation was not
completed because the conditions imposed on the vacation have not been satisfied; and

WHEREAS, the development plans for the West Regional Center have since changed,
making the vacation of East Lorena Avenue no longer necessary which requires rescinding

Resolution No. 2009-24 and replacing it with this resolution that excludes the portion of East Lorena Avenue from the vacation proposal; and

WHEREAS, Brian Glover now requests the vacation of the California-Atchison Alley, the Atchison-Lorena Alley, and East Atchison Avenue, all between South Walnut and South Plumas Avenues, as shown on Exhibit "A" which is attached and incorporated in this resolution.

WHEREAS, the streets and alleys proposed to be vacated were dedicated by the map of Long Brother's Addition recorded January 1888 in Book 1 of Plats at Page 59, Fresno County Records; and

WHEREAS, the Redevelopment Agency of the City of Fresno has acquired all of the lots adjacent to the streets and alleys proposed to be vacated and all of said lots have been cleared of structures and are now vacant; and

WHEREAS, the purpose of the proposed vacation is to allow for the development of the Redevelopment Agency of the City of Fresno's West Fresno Regional Center; and

WHEREAS, Environmental Assessment No. EA-08-077 shows with certainty that the project is categorically exempt and there is no possibility that the proposed vacation may have a significant adverse effect on the environment, and the proposed vacation is therefore exempt from the California Environmental Quality Act (CEQA) pursuant to Subsection 15301(c)/Class 1 of the CEQA guidelines; and

WHEREAS, the Traffic Division, other City Departments and utility agencies have reviewed this proposal and determined that the rights-of-way proposed for vacation are unnecessary for present or prospective public street or alley purposes subject to the reservation of public utility easements as shown on Exhibit "B", and subject to the conditions

for approval detailed in Exhibit "C", which are attached and incorporated in this resolution;
and

WHEREAS, this action is being taken pursuant to the provisions of the Public Streets, Highways, and Service Easements Vacation Law (California Streets and Highways Code Sections 8300-8363); and

WHEREAS, since a portion of the original vacation as ordered by Resolution No. 2009-24 is being removed, and the remaining portions of the vacation have been duly noticed and addressed during the hearing held on January 27, 2009, the City Attorney's Office has determined that this resolution can be presented and approved as a Council consent item.

NOW, THEREFORE, IT IS RESOLVED BY THE COUNCIL OF THE CITY AS
FOLLOWS:

1. Resolution No. 2009-24 is hereby rescinded.
2. The Council finds from all the evidence submitted that the California – Atchison Alley, the Atchison – Lorena Alley, and East Atchison Avenue, all between South Walnut and South Plumas Avenues are unnecessary for present and prospective public street and alley purposes. The public street and alley easements to be vacated are shown on Exhibit "A", which is attached and incorporated in this Resolution.
3. The public interest and convenience require, and it is hereby ordered, that, as contemplated by Resolution of Intention No. 1071-D adopted by the Council on January 6, 2009, the public street and alley easements shown on Exhibit "A" be and are hereby vacated and abandoned.
4. All proceedings for the vacation of such rights-of-way are intended to be and shall be taken subject to the reservation of public utility easements as shown on Exhibit "B", and subject to the conditions for approval detailed in Exhibit "C", which are attached and

incorporated in this resolution. All work required by such conditions shall be completed in compliance with City Standard Specifications and will require engineered construction plans prepared by a registered civil engineer and approved by the Public Works Department.

5. The City reserves a portion of the area to be vacated as a permanent easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove and renew sanitary sewers, water mains, storm drains, and appurtenant structures in, upon, and over the public street easement proposed to be vacated and, pursuant to any existing franchises or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment, and fixtures for the operation of gas pipelines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia and water, and for incidental purposes, including access to protect such works from all hazards in, upon, and over the public street easement to be vacated. The portion to be reserved pursuant to this paragraph is shown on Exhibit "B"

6. The City Clerk shall certify to the passage of this Resolution and shall file a certified copy, attested by the City Clerk under the seal of the City, in the Office of the City Clerk.

7. The City Clerk shall file a certified copy of the Resolution for recordation in the Office of the Recorder of Fresno County, but not until the Director of Public Works of the City determines that the conditions specified in Section 3 above have been satisfied and accepted by the City. The vacation shall become effective on the date this Resolution is recorded.

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CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the _____ day of _____, 2009.

AYES:
NOES:
ABSTAIN:
ABSENT:

Mayor Approval: _____, 2009
Mayor Approval/No Return: _____, 2009
Mayor Veto: _____, 2009
Council Override Vote: _____, 2009

REBECCA E. KLISCH
City Clerk

BY: _____, Deputy

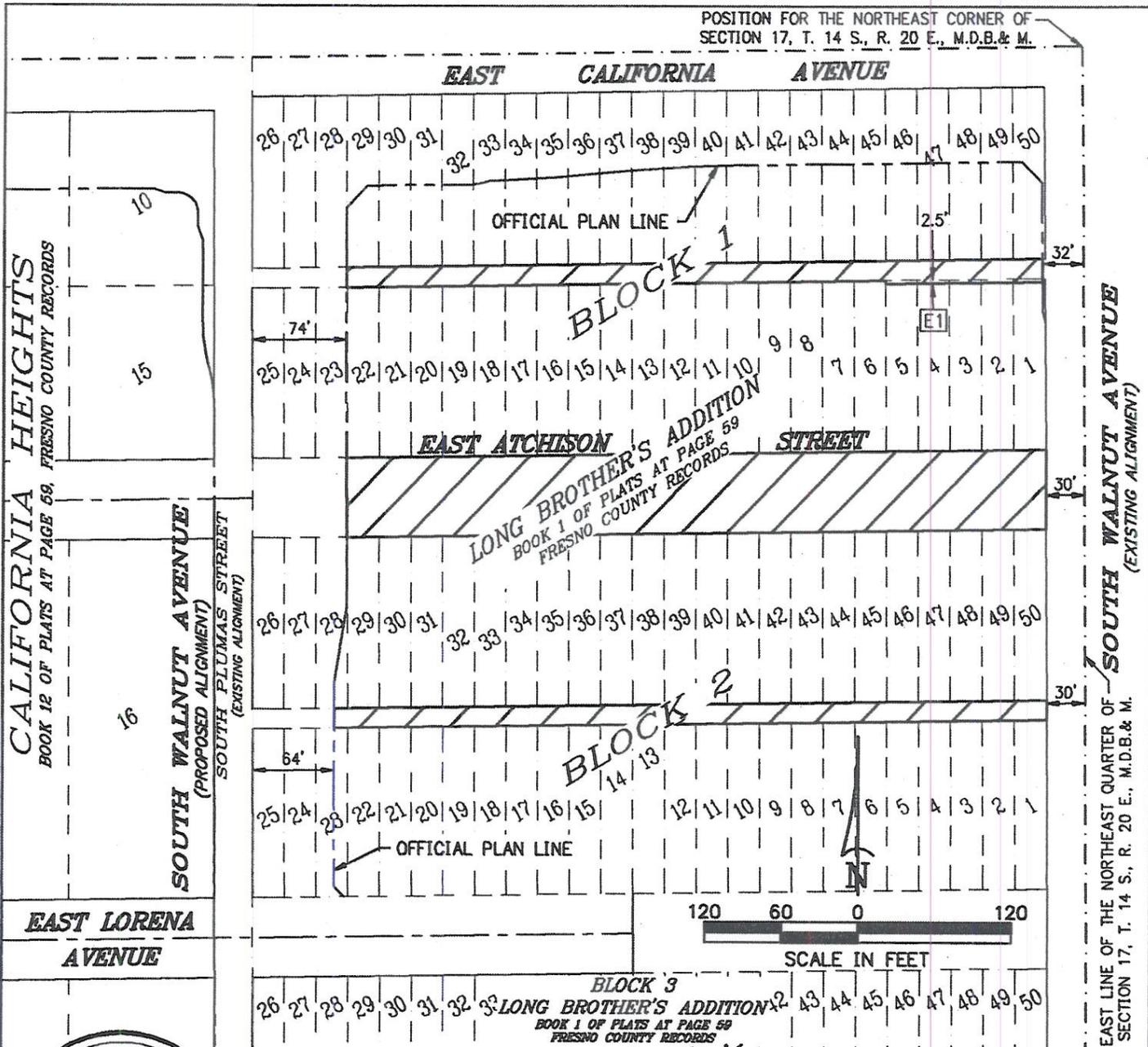
APPROVED AS TO FORM:

JAMES C. SANCHEZ
CITY ATTORNEY

By:  _____, Deputy
K. BRADLEY

Reso Rescinding Reso 2009-24 Removing Lorena From Vac 5-14-09

PW File No. 11386

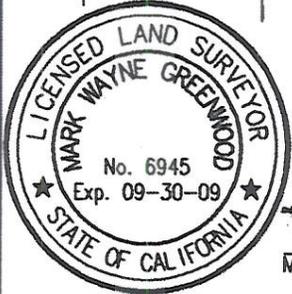


CALIFORNIA HEIGHTS
BOOK 12 OF PLATS AT PAGE 68, FRESNO COUNTY RECORDS

SOUTH WALNUT AVENUE
(PROPOSED ALIGNMENT)
SOUTH PLUMAS STREET
(EXISTING ALIGNMENT)

EAST LINE OF THE NORTHEAST QUARTER OF SECTION 17, T. 14 S., R. 20 E., M.D.B. & M.
SOUTH WALNUT AVENUE
(EXISTING ALIGNMENT)

EAST LORENA AVENUE



Mark W. Greenwood
MARK W. GREENWOOD LS 6945

LEGEND

 INDICATES AREA TO BE VACATED

E1

EASEMENT FOR PUBLIC ALLEY AND INCIDENTAL PURPOSES IN FAVOR OF THE CITY OF FRESNO, RECORDED FEBRUARY 16, 1965 IN BOOK 5133, PAGE 353, DOCUMENT No. 13489, OFFICIAL RECORDS OF FRESNO COUNTY.

REV. 04/29/09 PWL
REV. 12/31/08 PWL
REV. 12/23/08 PWL
REV. 12/22/08 PWL
REV. 10/06/08 SF
REV. 08-27-2008 RNM
PLOT VIEW: PLOT VAC 01
AUTOCAD ID: 07129 PM.dwg

EXHIBIT "A"
(VACATION REQUEST)

OF A PORTION OF LONGS BROTHER'S ADDITION RECORDED IN BOOK 1 OF PLATS AT PAGE 59, FRESNO COUNTY RECORDS

PREPARED FOR

REDEVELOPMENT AGENCY
OF THE CITY OF FRESNO

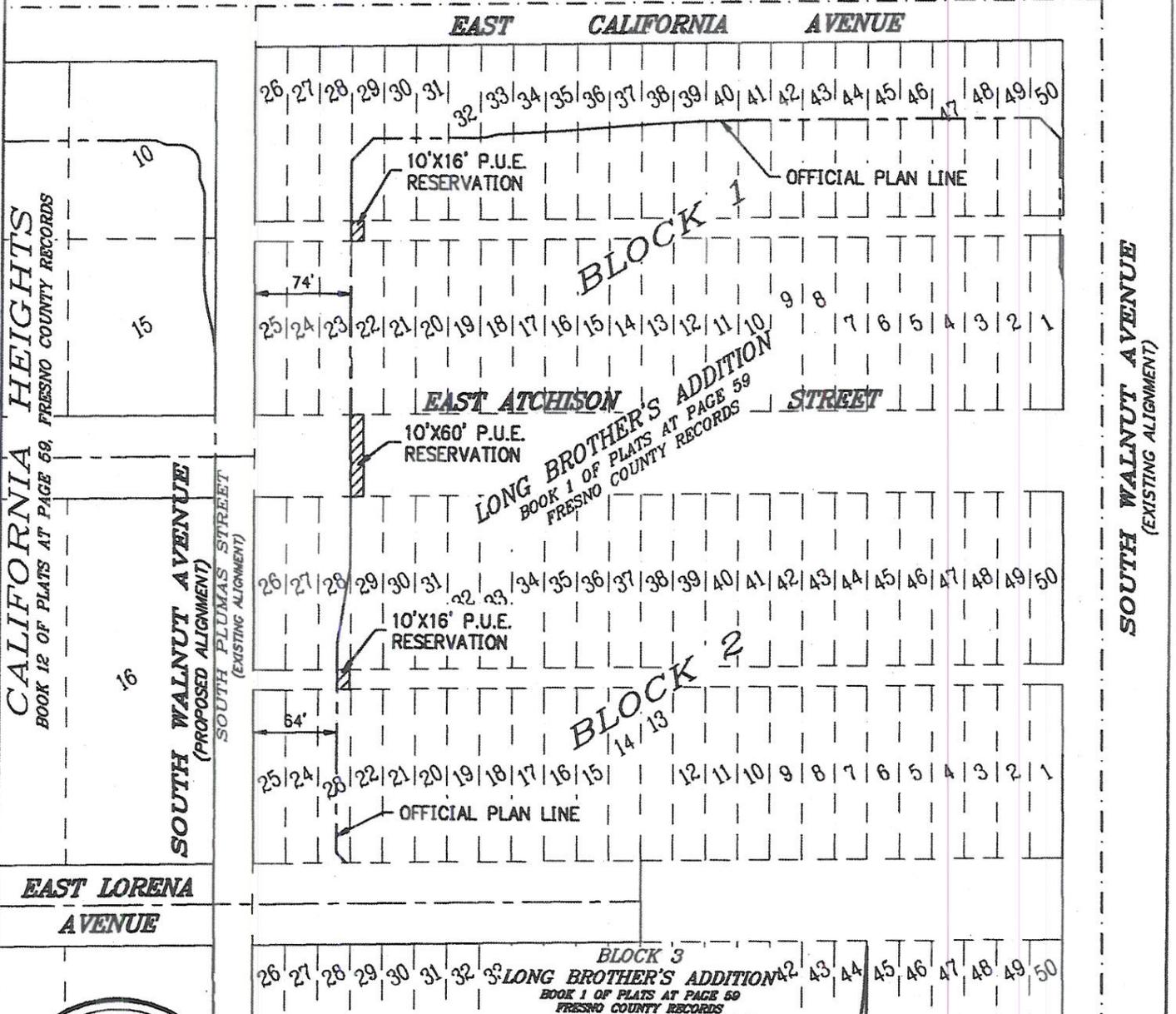
R.W.GREENWOOD ASSOCIATES, INC.
CIVIL ENGINEERING - LAND SURVEYING
2558 E. OLIVE AVE. - FRESNO, CALIFORNIA 93701 - Tel. (559) 268-7831

W.O. No. 07129 DECEMBER 2008

Notes by M. COLLINGS
F.B. No. 248 Pg. 61
Dr. by NPF
Checked by _____

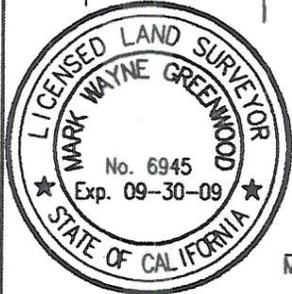
Sheet 1 of 2

Drawing No. _____



CALIFORNIA HEIGHTS
BOOK 12 OF PLATS AT PAGE 58, FRESNO COUNTY RECORDS

SOUTH WALNUT AVENUE
(EXISTING ALIGNMENT)



Mark W. Greenwood
MARK W. GREENWOOD LS 6945

REV. 04/29/09 P.W.
REV. 12/31/08 P.W.
PLOT VIEW: PLOT PUE
AUTOCAD ID: 07129 PM.dwg

EXHIBIT "B"
(PUBLIC UTILITY EASEMENT)

OF A PORTION OF LONGS BROTHER'S ADDITION
RECORDED IN BOOK 1 OF PLATS AT PAGE 59,
FRESNO COUNTY RECORDS

PREPARED FOR

REDEVELOPMENT AGENCY
OF THE CITY OF FRESNO

R.W.GREENWOOD ASSOCIATES, INC.

CIVIL ENGINEERING - LAND SURVEYING
2558 E. OLIVE AVE. - FRESNO, CALIFORNIA 93701 - Tel. (559) 268-7831

W.O. No. 07129 DECEMBER 2008

Notes by M. COLLINGS
F.B. No. 248 Pg. 61
Dr. by NPF
Checked by _____
Drawing No. _____

Sheet 2 of 2

EXHIBIT "C"
CONDITIONS FOR APPROVAL

1. PG&E has facilities within the area proposed to be vacated and requests that a public utility easement or specific easement be reserved to provide for their facilities. Any relocation of those facilities shall be at the expense of the Applicant.
2. The Fresno Metropolitan Flood Control District (FMFCD) states that revisions to the existing drainage patterns and processing of street improvement plans will need to be reviewed and approved by the District prior to implementation.
3. City's Traffic Management Division requires that existing public improvements be removed and off site improvements be constructed to City standards.
4. City's Traffic Signal and Street Lighting Division states that four wood poles will need to be removed. These poles have 70 watt luminaries.
5. Comcast indicated that they have existing facilities in the area which need to be protected.
6. City's Public Works Department requires that right-of-way on the Plumas Street alignment be reserved in accordance with the draft OPL for the Walnut Avenue 4-lane roadway.
7. City's Fire Department requires that access and water supply be reviewed when the proposed regional center is submitted for site plan review.
8. City's Department of Public Utilities requires that all the existing public sewer and water lines be abandoned and removed from the area proposed to be vacated. The plans for the abandonment and removal of said lines will be subject to review and approval by Department of Public Utilities.
9. The proposed vacation will eliminate access to several record lots in Block 1, 2 and 3 of Long Brothers Addition. Access to all lots shall be provided by a means approved by the City of Fresno's Development Department.
10. City's Department of Public Utilities – Water Division requires that Applicant shall have existing water mains and services abandoned by City forces at his expense prior to vacation of public right-of-way.