

**TOWN OF
APPLE VALLEY, CALIFORNIA
AGENDA MATTER**

Subject Item:

REQUEST TO VACATE A PORTION OF A SEWER EASEMENT IN LOT 26, TRACT 2851

Summary Statement:

Staff received a request from PHD Group, LLC (developer of the property owned by Navajo Highway 18, LLC, under a long term lease to Walgreens Co.) to vacate the unused and unexercised portion of a sewer easement previously granted to the Apple Valley Water District by John and Elizabeth Lund on February 16, 1982 as instrument number 82-031019 in the office of the San Bernardino County Recorder (Exhibit "A"). The Town of Apple Valley, as successor to the Apple Valley Water District, has the authority to address this issue.

The Grant of Easement in question describes the present location of an existing 6 inch sewer line on the North 10 feet of the property along Lot 69 and the North tip of Lot 27 which should remain in effect. However, the easement grant goes on to describe the West 60 feet of Lot 26 as part of the encumbered area. There is not currently nor has there been historically a sewer line in the West 60 feet of Lot 26 (Exhibit "B"). Staff has determined that it is not contiguous to the exercised area of the easement and is not needed for any future development of the properties in this area.

Recommended Action:

1. Find that the West 60 feet of the sewer easement located in Lot 26, Tract 2851, is unnecessary for present or future use by the Town of Apple Valley;
2. Adopt Resolution No.2009-14, "A Resolution of the Town Council of the Town of Apple Valley, California, vacating a portion of a sewer easement at Lot 26, Tract 2851, pursuant to the Streets and Highway Code Section 8333-8334.5";
3. Instruct the Town Clerk to cause the Resolution vacating a portion of the sewer easement and accompanying Quitclaim Deed be recorded in the office of the County Recorder of the County of San Bernardino.

Proposed by: Dennis Cron, Assistant Town Manager, Municipal Services **Item Number** _____

T. M. Approval: _____ **Budgeted Item** Yes No N/A

RESOLUTION No. 2009-14

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, VACATING A PORTION OF A SEWER EASEMENT IN LOT 26, TRACT 2851, PURSUANT TO THE STREETS AND HIGHWAY CODE SECTIONS 8333-8334.5

THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

WHEREAS, the Town Council of the Town of Apple Valley, California, intends to vacate the West 60 feet of the sewer easement located at Lot 26, Tract 2851, as per plat recorded in Book 39 of Maps, pages 27 and 28, Official Records, San Bernardino County, State of California; and

WHEREAS, the Town Council of the Town of Apple Valley now finds that it is in the public interest that a portion of said sewer easement be vacated, and the portion of the sewer easement to be vacated is not contiguous to the exercised area of the easement and is not needed for any future development, and it hereby meets the requirements of section 8333-8334.5 of the Streets and Highways Code;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY DOES RESOLVE AND ORDER AS FOLLOWS:

Section 1: That pursuant to the Public Streets, Highways and Service Easements Vacation Law, Division 9, Part 3 Chapter 4, (Summary Vacation), California Streets and Highways Code beginning at section 8300, relating to the vacation of public streets, highways, and service easements, the following described portion of easement for sewer purposes is hereby vacated:

The West 60 feet of Lot 26, Tract No. 2851 in the County of San Bernardino, State of California, as per plat recorded in Book 39 of Maps, pages 27 and 28, records of said County

Affects Assessor's Parcel: 443-161-40

Section 2: The Town Clerk shall record this Resolution of vacation pursuant to Streets and Highways Code section 8336.

Section 3: That from and after the date this Resolution is recorded, said portion of the easement shall no longer constitute an easement for sewer purposes as hereinabove described.

Section 4: If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, the Town shall be deemed to have adopted this resolution without such section.

APPROVED and ADOPTED this _____ day of _____, 20__.

MAYOR

ATTEST:

TOWN CLERK

Recording requested by Apple Valley
County Water District

82-031019

When recorded, return to Apple
Valley County Water District
P.O. Box 429, Apple Valley CA 92307

RECORDED IN OFFICIAL RECORDS
FEB 16 1982 AT 4 P.M.
SAN BERNARDINO COUNTY, CALIF.

A. P. No. 443-161-40

NO FEE

FOR RECORDER'S USE

ASSESSMENT NO. 764 DOCUMENTARY TRANSFER TAX \$ 0

GRANT OF EASEMENT

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

John D. Lund and Elizabeth B. Lund, husband and wife, as joint tenants

hereby GRANT to the Apple Valley County Water District, an easement to construct, maintain, operate, repair, replace, renew, extend or remove a pipeline for sewer purposes, with the right of ingress and egress to and from same, over and under the following described property in the County of San Bernardino, State of California.

The North 10.00 feet of Lots 27 and 69 and the West 60 feet of Lot 26, Tract No. 2851 in the County of San Bernardino, State of California, as per plat recorded in Book 39 of Maps, pages 27 and 28, records of said County

82-031019

ALL AS MORE PARTICULARLY SHOWN ON A MAP ATTACHED HERETO AND MADE A PART HEREOF. Said easement to continue in full force and effect so long as said pipeline is operated and maintained upon the above described property.

The easement herein granted shall also include the right to use, during the construction period, such areas adjacent to the easement as may be reasonably necessary for the performance of the work and for access to the work during construction.

Date: November 6, 1981

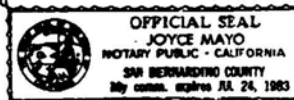
STATE OF CALIFORNIA
COUNTY OF
San Bernardino

On November 6, 19 81, before me,
the undersigned, a Notary Public in and for said County and State,
personally appeared John D. Lund and
Elizabeth B. Lund

known to me to be the persons whose names are subscribed
to the foregoing instrument, and acknowledged to me that they

executed the same.
WITNESS my hand and official seal.
Joyce Mayo
Notary Public, of and for said County

John D. Lund
John D. Lund
Elizabeth B. Lund
Elizabeth B. Lund



Real Property conveyed in the within
instrument to the Apple Valley County
Water District, Apple Valley, Cali-
fornia, a body corporate and politic
is hereby accepted by order of its
Secretary, and the Grantee consen-
to the recordation thereof by its
duly authorized officer.

Dated: _____
Secretary, Apple Valley County Water
District

CERTIFICATE OF ACCEPTANCE

THIS IS TO CERTIFY that the interest in real property conveyed by the deed or grant dated the 6 day of November 19 82, from John D. Lund and Elizabeth B. Lund, husband and wife, as joint tenants

to the Apple Valley County Water District, a political corporation, is hereby accepted by order of the Board of Directors on the 16 day of February, 19 82, and the grantee consents to recordation thereof by its duly authorized officer.

DATED: February 8, 1982

APPLE VALLEY COUNTY WATER DISTRICT

By: Frances Maurer
Frances Maurer, Secretary of the
Apple Valley Water District and of
the Board of Directors thereof.

(SEAL)

82-031019

POR TRACT NO. 2851, M.B. 39/27-28

3112-56

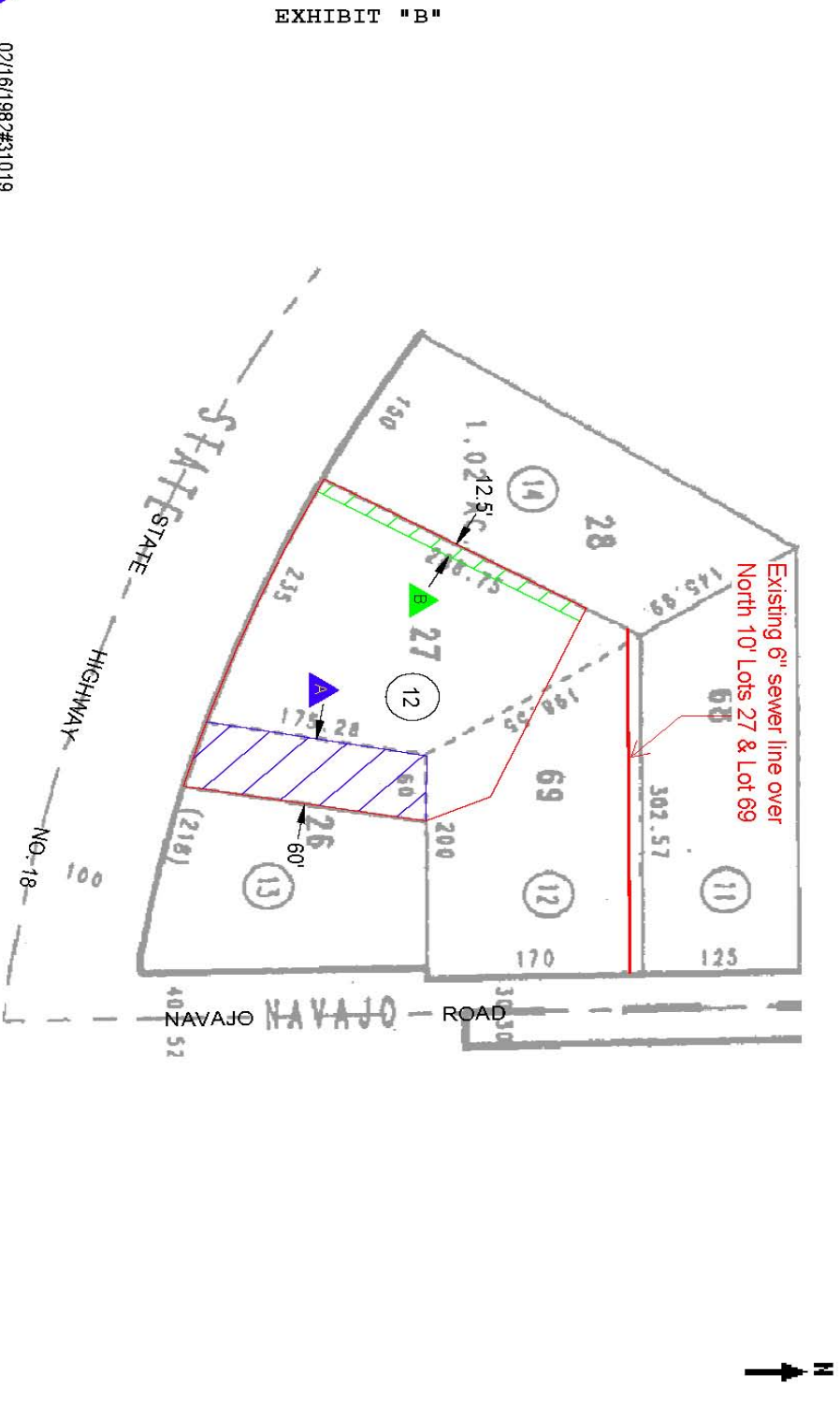


EXHIBIT "B"

- ▲ 02/16/1982#31019
(Pipeline For Sewer, Ingress, Egress & Incidental)
- ▲ Tract No. 2851, M.B. 39/27-28
(Public Utilities & Incidental)

Tax ID#3112-561-12-0-000
Map not to scale

First American Title Company

The map may or may not be a survey of the land depicted hereon. You should not rely upon it for any purpose other than orientation to the general location of the parcel or parcels depicted. First American Title expressly disclaims any liability for alleged loss or damage which may result from reliance upon this map.