

COUNCIL AGENDA: 8-3-04

ITEM: 10.2

Memorandum

TO: HONORABLE MAYOR, CITY
COUNCIL, AND REDEVELOPMENT
AGENCY BOARD

FROM: Del D. Borgsdorf
Harry S. Mavrogenes

SUBJECT: LIGHT AND AIR EASEMENT
QUITCLAIM

DATE: 7-16-04

COUNCIL DISTRICT: 5
SNI: East Valley/680

RECOMMENDATION

Adoption of resolutions:

- (1) By the City Council authorizing the City Manager to quitclaim the City's interest in a light and air easement burdening two properties owned by the Redevelopment Agency at the southeast corner of Story and King Roads back to the Agency; and,
- (2) By the Redevelopment Agency Board authorizing the Executive Director to accept the above referenced quitclaim.

CEQA: Negative Declaration (CP03-030 and H04-021).

BACKGROUND

In 1966, a light and air easement (the "Easement") was granted to the City by the owners of two properties (APN 486-11-032 & 037) at the southeast corner of Story and King Roads. The Easement was a condition of a development project to construct a drive-thru dairy. At the time, the local community objected to the growing commercial nature of the area. The purpose of the Easement was to create an additional setback of approximately 25 feet from Story and King Roads.

According to the title report provided by First American Title Company, the Redevelopment Agency (the "Agency") currently holds fee title to the two properties. The Agency and Blake Hunt Ventures ("BHV") have filed for a Planning permit (H04-021, Plaza San Jose) to replace approximately 143,600 square feet of existing retail space with approximately 194,700 square feet of new retail space on the two properties, among other properties (see attached map). As part of the Disposition and Development Agreement between the Agency and BHV, ownership of the two properties will be transferred to BHV. The Agency and BHV expressed a desire for the two properties to have clean title prior to the transfer.

7-16-04

Subject: Light and Air Easement Quitclaim

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An application to quitclaim the Easement has been submitted by the Agency. The area to be quitclaimed is not part of the traveled way.

ANALYSIS

The Easement runs along the east side of King Road, south of Story Road, and the south side of Story Road, east of King Road. It is approximately 25-foot wide and is immediately behind the property line at both locations.

The Department of Public Works, the Agency, and the City Attorney's office have been involved in numerous meetings and discussions regarding quitclaiming the Easement. The Easement was a condition of an old development permit. Since a new development permit will be issued for the two properties, the need for the easement no longer exists as well as any regulatory reason for maintaining the easement. Staff has determined that the Easement is no longer required.

PUBLIC OUTREACH

Not applicable.

COORDINATION

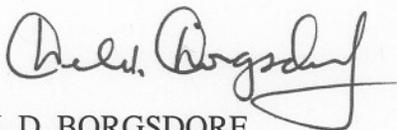
This memorandum and the Quitclaim Deed have been coordinated with the City Attorney's Office, the Redevelopment Agency, the City Manager's Budget Office, the Department of Finance, and the Department of Planning, Building and Code Enforcement.

COST IMPLICATIONS

No cost implications.

CEQA

Negative Declaration (CP03-030 and H04-021).



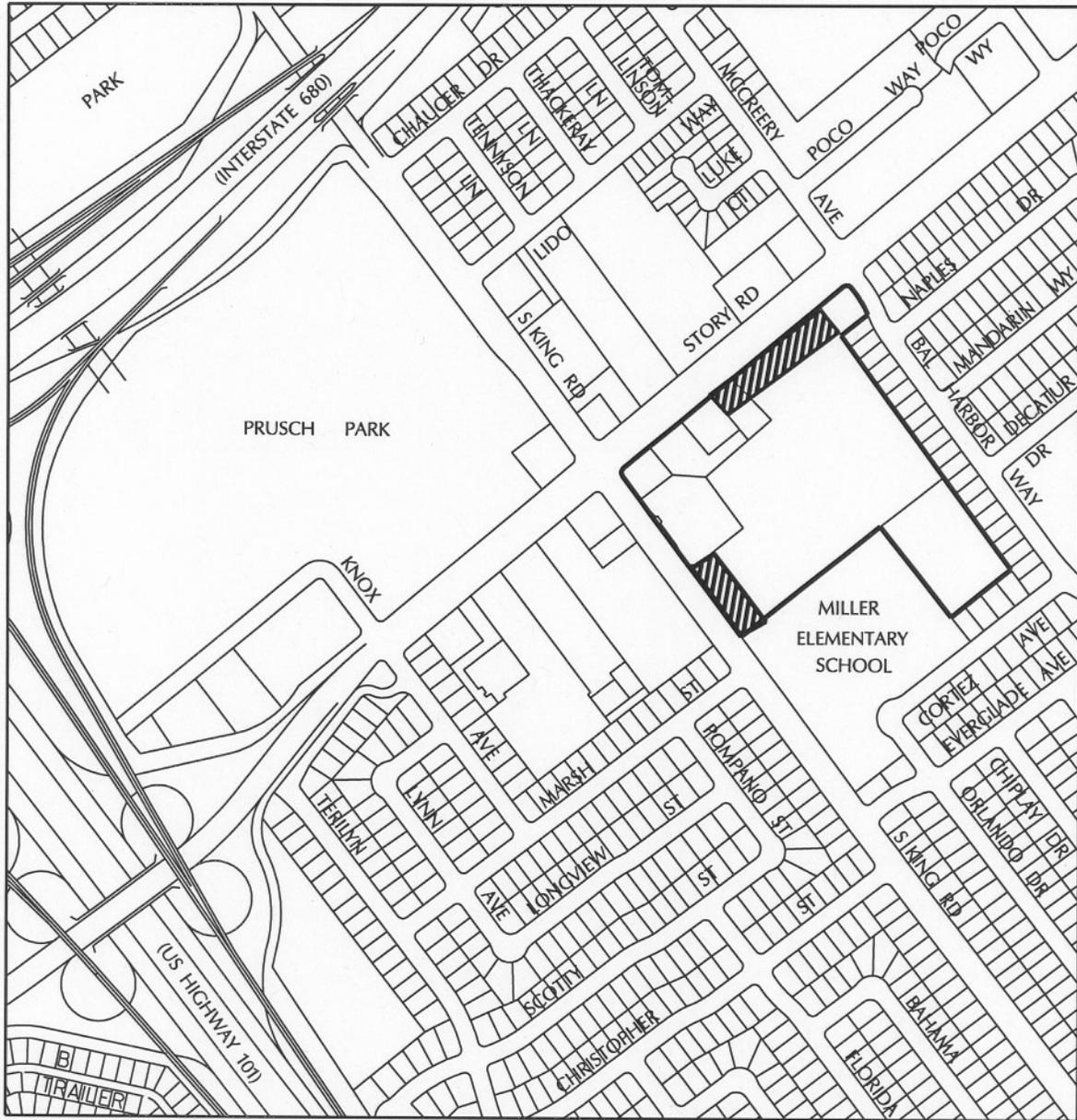
DEL D. BORGS DORF
City Manager



HARRY S. MAVROGENES
Executive Director

Attachment

LOCATION MAP



PROJECT SITE



LIGHT AND AIR
EASEMENT



N. T. S.

EXHIBIT A
Legal Description

Real property situate in the City of San Jose, County of Santa Clara, State of California being described as follows:

Those certain areas described as Parcels One and Two in that certain "Grant of Easement" recorded in the office of the County Recorder of Santa Clara County, California, on September 23, 1966 in Book 7515 of Official Records, at Page 50 and being described as follows:

Parcel One

Commencing at the point of intersection of the center line of Story Road with the center line of King Road; thence along said center line of Story Road North 49° 45' East 200.00 feet; thence South 37° 53' East 60.05 feet to an iron pipe in the southeasterly line of Story Road as said southeasterly line was established by that Deed from City Title Insurance Company, a corporation, to the City of San Jose, filed for record in the office of the County Recorder, Santa Clara County, California, on March 8, 1961 in Book 5097 of Official Records, at page 159; thence along said southeasterly line of Story Road North 49° 45' East 261.86 feet to the True Point of Beginning of this description at the northwesterly corner of that certain parcel of land conveyed from City Title Insurance Company, a corporation, to Story Road Drive In Dairy, a partnership, by Deed filed for record on October 31, 1963 in Book 6255 of Official Records, at page 692, Records of Santa Clara County, California; thence along the northeasterly prolongation of said southeasterly line of Story Road and along a line that is parallel with and distant 60.00 feet, measured at right angles, southeasterly from said center line of Story Road North 49° 45' East 442.20 feet to a point in the northeasterly line of that certain parcel of land conveyed from Paul Bleisch, et ux, to Joseph F. Muller, et al, by Deed filed for record on July 15, 1958 in Book 4122 of Official Records, at page 170, Records of Santa Clara County, California; thence along said northeasterly line of said lands conveyed to Joseph F. Muller, et al, South 37° 16' 30" East 25.03 feet to a point in a line that is parallel with and distant 85.00 feet, measured at right angles southeasterly from said center line of Story Road; thence along last said parallel line South 49° 45' West 441.25 feet to a point in the southwesterly line of said lands conveyed to Story Road Drive In Dairy; a partnership; thence along said southwesterly line North 39° 27' West 25.00 feet to the True Point of Beginning.

Parcel Two

Commencing at the point of intersection of the center line of King Road with the center line of Story Road; thence along said center line of King Road South 37° 53' East 484.12 feet to the most westerly corner of that certain parcel of land conveyed from Paul Bleisch, et ux, to Joseph F. Muller, et al, by Deed filed for record in the office of the County Recorder, Santa Clara County, California, on July 15, 1958 in Book 4122 of Official Records, at page 170; thence leaving said center line of King Road along a northerly line of said lands conveyed to Joseph F. Muller, et al, North 52° 12' East 45.00 feet to the True Point of Beginning of the description; thence continuing along said northerly line

North 52° 12' East 25.00 feet to a point in a line that is parallel with and distant 70.00 feet, measured at right angles, northeasterly from said center line of King Road; thence along said parallel line South 37° 53' East 284.10 feet to a point; thence South 49° 43' 45" West 25.02 feet to a point in a line that is parallel with and distant 49.00 feet, measured at right angles, northeasterly from said center line of King Road; thence along last said parallel line North 37° 53' West 284.50 feet to the True Point of Beginning.

Attached hereto is a plat labeled "Exhibit B" and by this reference is made a part hereof.



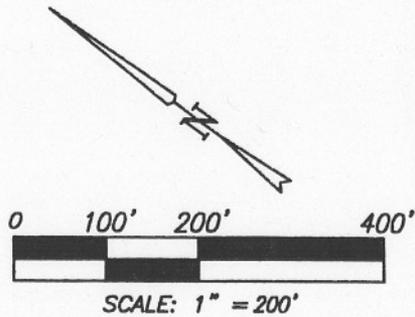
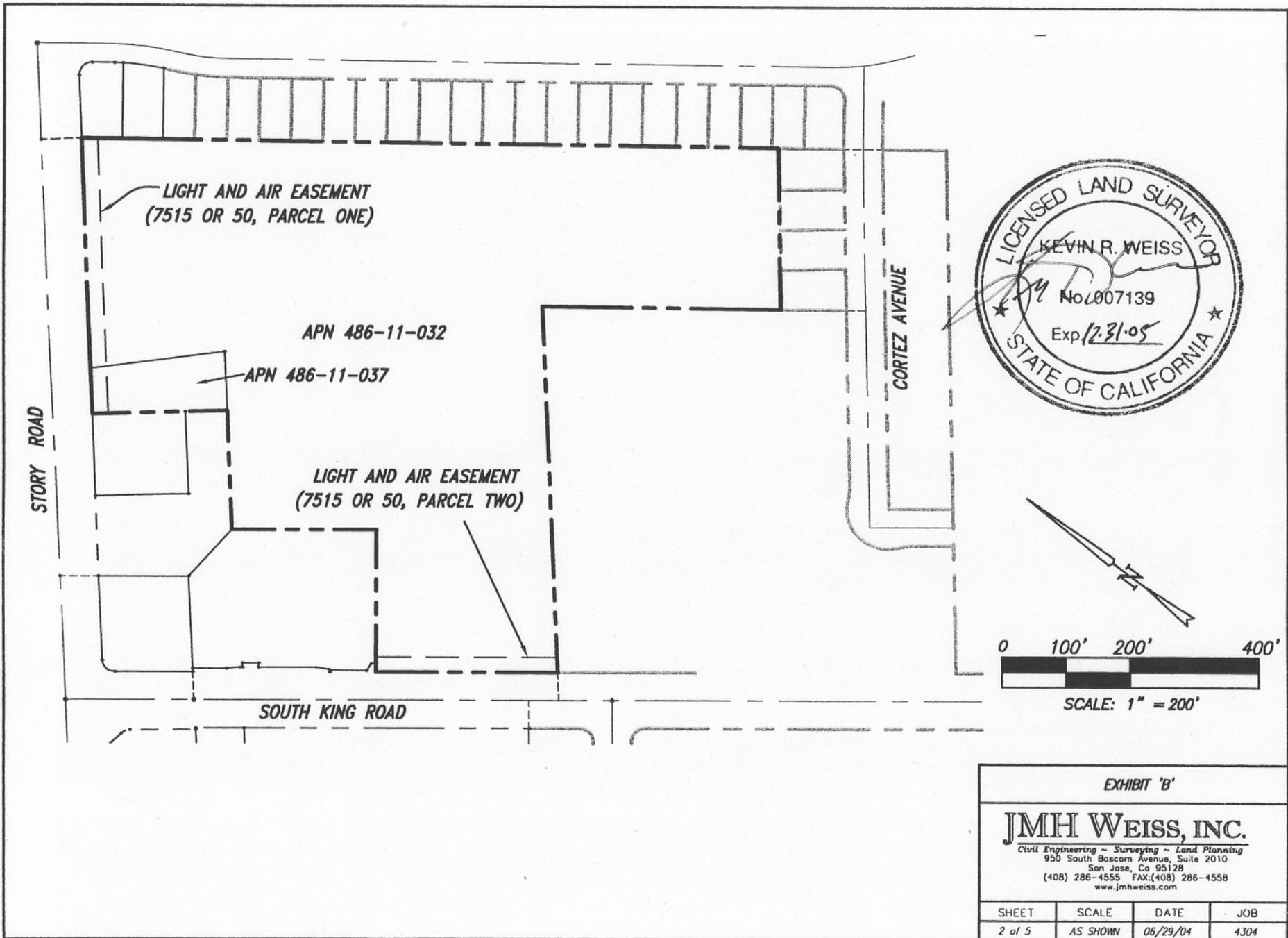


EXHIBIT 'B'			
JMH WEISS, INC.			
<small>Civil Engineering ~ Surveying ~ Land Planning 950 South Bascom Avenue, Suite 2010 San Jose, Ca 95128 (408) 286-4555 FAX: (408) 286-4558 www.jmhweiss.com</small>			
SHEET	SCALE	DATE	JOB
2 of 5	AS SHOWN	06/29/04	4304

STORY ROAD

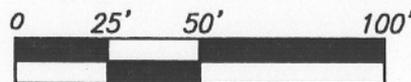
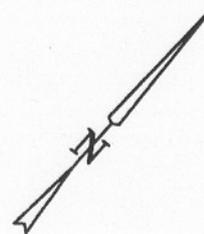
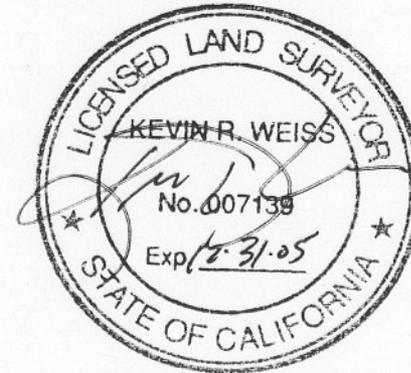
MONUMENT LINE

N 49°43'45" E 1056.00' (M-M)

LIGHT AND AIR EASEMENT
(7515 OR 50, PARCEL ONE)

APN 486-11-037
REDEVELOPMENT AGENCY
CITY OF SAN JOSE

APN 486-11-032
REDEVELOPMENT AGENCY
CITY OF SAN JOSE



SCALE: 1" = 50'

EXHIBIT 'B'

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www.jmhweiss.com

SHEET	SCALE	DATE	JOB
3 of 5	AS SHOWN	06/29/04	4.304

APN 486-11-042

REDEVELOPMENT AGENCY
CITY OF SAN JOSE
APN 486-11-032

LIGHT AND AIR EASEMENT
(7515 OR 50, PARCEL TWO)

SOUTH KING ROAD

MONUMENT LINE

N 37°54'20" W 524.24' (M-M)

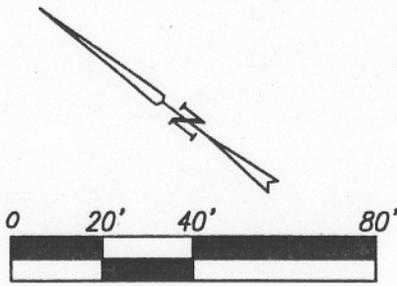


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