



**City of Sacramento
City Council**

4

915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 10/25/2011

Report Type: Consent

Title: 3011 Academy Way (former Airgas Facility)

Report ID: 2011-00878

Location: 3011 Academy Way, District 2

Recommendation: Adopt 1) a Resolution amending Resolution No. 2003-688 relating to initiating the rezoning of the former Airgas Academy Way site and an amendment of Title 17 of the Sacramento City Code relating to fuel storage yards, and 2) a Resolution approving a Notice of Satisfaction of Agreement relating to the former Airgas Academy Way site.

Contact: Gregory Bitter, Principal Planner, (916) 808-7816, Community Development Department

Presenter: None

Department: Community Development Dept

Division: Planning

Dept ID: 21001221

Attachments:

- 01- Description/Analysis
- 02 - Background - Airgas (3011 Academy)
- 03 - Resolution Amending R2003-688
- 04 - Resolution Approving Notice of Satisfaction
- 05 - Exhibit A of Resolution Approving Notice of Satisfaction
- 06 - Location Map

City Attorney Review

Approved as to Form
Sabina D. Gilbert
10/13/2011 2:53:22 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
10/6/2011 3:43:30 PM

Approvals/Acknowledgements

Department Director or Designee: Max Fernandez - 10/11/2011 1:22:23 PM



Description/Analysis

Issue: In 2003, Airgas NCN, Inc. was processing entitlements to relocate their fuel storage facility from 3011 Academy Way to a vacant parcel at 6715 Florin Perkins Road. In July 2003, the Academy Way facility suffered a substantial explosion, resulting in the City Council re-evaluating the then existing, and adopting new, regulations related to fuel storage facilities in general and the Academy Way facility in particular.

Specifically, the Council included a condition on the Florin Perkins Road rezoning approval that required Airgas NCN, Inc. to execute an agreement with the City to 1) record a deed restriction on the 3011 Academy Way property prohibiting fuel storage uses on the site, 2) consent to the rezoning of the Academy Way site to a zoning designation that is more compatible with the surrounding residential uses, and 3) close the Academy Way site within a time certain. The Council also adopted Resolution No. 2003-688 that initiated the rezoning of the 3011 Academy Way property to an appropriate zone that would prohibit fuel storage yards and initiated an amendment to the Zoning Code to require a special permit for fuel storage yards that meet defined criteria. Airgas NCN, Inc. entered into the agreement and thereafter recorded the deed restriction, consented to the rezoning of the Academy Way site, and closed the Academy site, thereby satisfying its obligations under the agreement.

In 2007 and 2010, the City Council adopted Ordinance Nos. 2007-081 and 2010-029 to establish fuel storage yard location restrictions and special permit requirements in the Zoning Code. These restrictions and requirements have the effect of prohibiting the establishment of a fuel storage yard at the 3011 Academy Way property, and protect residential areas throughout the City from the potential hazards associated with fuel storage yards. These amendments to the Zoning Code make rezoning of the 3011 Academy Way property unnecessary in order to protect nearby residential areas from a fuel storage yard on the site.

The current owner of the 3011 Academy Way property has requested the City approve a notice of satisfaction of City Manager Agreement No. 2004-0169 and to rescind the requirement to rezone the property. Because of the actions described above, staff supports this request.

Policy Considerations: The 3011 Academy Way property is currently used by Ace Plumbing as a Contractor Storage Yard. This use is consistent with the 2030 General Plan Land Use designation of Employment Center Low Rise and the Zoning designation of Light Industrial (M-1). The deed restriction and Council adopted policies related to fuel storage yards have effectively prohibited a new fuel storage yard from locating on this site. Furthermore, Airgas NCN, Inc. had satisfied all of its obligations under the agreement before conveying the property to Ace Plumbing.

Committee/Commission Action: Not applicable.

Environmental Considerations: There are no environmental considerations.

Rationale for Recommendation: In response to the 2003 explosion at the Airgas fuel storage facility, the City Council sought to increase the level of safety to the neighborhood in and around the 3011 Academy Way property. The Council required a deed restriction on the property and new zoning restrictions related to fuel storage uses, and initiated a rezone of the property to a zone more compatible with the surrounding residential uses. Since 2003, a deed restriction has been placed on the property, and the Council has amended the Zoning Code 2 of 11

twice to strengthen City regulations regarding fuel storage yards. There is no longer a need to rezone the property, and the property owner's obligations in City Manager Agreement No. 2004-0169 have been fulfilled.

Staff therefore recommends the Council adopt 1) a Resolution amending Resolution No. 2003-688 relating to initiating the rezoning of the former Airgas Academy Way site and an amendment of Title 17 of the Sacramento City Code relating to fuel storage yards, and 2) a Resolution approving a Notice of Satisfaction of Agreement relating to the former Airgas Academy Way site.

Financial Considerations: There are no financial considerations associated with this item.

Emerging Small Business Development (ESBD): No goods or services are requested for this service.



Background

In 2003, Airgas NCN, Inc. was processing entitlements to relocate their fuel storage facility from 3011 Academy Way to a vacant parcel at 6715 Florin Perkins Road. In July 2003, the Academy Way facility suffered a substantial explosion, resulting in the City Council re-evaluating the then existing, and adopting new, regulations related to fuel storage facilities in general and the Academy Way facility in particular.

On September 30, 2003, the Council adopted Ordinance No. 2003-053 and Resolution No. 2003-688, which, in addition to rezoning the property at 6715 Florin Perkins Road, also restricted the ability to locate fuel storage uses at the 3011 Academy Way property. Specifically, Ordinance 2003-053 included a condition requiring Airgas NCN, Inc. to execute an agreement with the City to 1) record a deed restriction on the 3011 Academy Way property prohibiting fuel storage uses on the site (specifically, the 2 parcels owned by Airgas NCN, Inc. APNs: 265-0401-007 and 265-0401-008), 2) consent to the rezoning of the property to a zoning designation that is more compatible with the surrounding residential uses (all three parcels used by Airgas NCN, Inc. APNs: 265-0401-006, 265-0401-007 and 265-0401-008) and 3) close the Academy Way site within a time certain. Resolution 2003-688 formally initiated the rezoning of the 3011 Academy Way property to an appropriate zone that would prohibit fuel storage yards, and initiated an amendment to Title 17 of the Sacramento City Code (the Zoning Code) to require a special permit for fuel storage yards that meet defined criteria.

On March 1, 2004, the City and Airgas NCN, Inc. entered into City Manager Agreement No. 2004-0169. This Agreement obligated Airgas NCN, Inc. to 1) close the fuel storage yard that it then operated at the 3011 Academy Way property within a time certain; 2) record a deed restriction on the 3011 Academy Way property to prohibit the establishment or re-establishment of a fuel storage yard on the property; and 3) consent to the prohibition on the use of the property for a compressed gas storage and filling facility or other fuel storage yard and to the rezone of the 3011 Academy Way property to a zone more compatible with the surrounding residential uses.

In 2004, Airgas NCN, Inc. recorded a deed restriction to prohibit fuel storage on the 3011 Academy Way property in perpetuity (at Book 20040312 Page 2065, Sacramento County Recorder), and between 2005 and 2006 decommissioned the fuel storage yard located on the property. In 2007, the 3011 Academy Way property was sold to the owner of Ace Plumbing and converted into a contractor's storage yard.

In 2007 and 2010, the City Council adopted Ordinance Nos. 2007-081 and 2010-029 to establish fuel storage yard location restrictions and special permit requirements in the Zoning Code. These restrictions and requirements have the effect of prohibiting the establishment of a fuel storage yard at the 3011 Academy Way property, and protect residential areas throughout the City from the potential hazards associated with fuel storage yards. These amendments to the Zoning Code make rezoning of the 3011 Academy Way property unnecessary in order to protect nearby residential areas from a fuel storage yard on the site.

The current owner of the 3011 Academy Way property has requested the City approve a notice of satisfaction of City Manager Agreement No. 2004-0169 and to rescind the requirement to rezone the property. Because of the actions described above, staff supports this request.

RESOLUTION NO. 2011-

Adopted by the Sacramento City Council

AMENDING RESOLUTION NO. 2003-688 RELATING TO INITIATING THE REZONING OF THE FORMER AIRGAS ACADEMY WAY SITE AND AN AMENDMENT OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO FUEL STORAGE YARDS

BACKGROUND

- A. In response to the explosion in 2003 at the former Airgas NCN, Inc. fuel storage facility at 3011 Academy Way (APN 265-0401-006, 007, and 008) (“Academy Way Site”), the City Council adopted Resolution No. 2003-688 to initiate the rezoning of the Academy Way Site to an appropriate zone that would prohibit fuel storage yards (Section 1), and to initiate an amendment to Title 17 of the Sacramento City Code (the Zoning Code) to require a special permit for fuel storage yards that meet defined criteria (Section 2).
- B. The purpose of initiating the rezoning and the Zoning Code amendment was to prevent another fuel storage yard from locating at the Academy Way Site once Airgas vacated the property, and to protect residential areas throughout the City from potential fire and explosion hazards associated with fuel storage yards.
- C. In 2007 and 2010, the City Council adopted Ordinance Nos. 2007-081 and 2010-029 to establish fuel storage yard location restrictions and special permit requirements in the Zoning Code. These restrictions and requirements have the effect of prohibiting the establishment of a fuel storage yard at the Academy Way Site, and protect residential areas throughout the City from the potential hazards associated with fuel storage yards. These amendments to the Zoning Code make rezoning of the Academy Way Site unnecessary.
- D. The current zoning of the Academy Way Site, Light Industrial (M-1), is consistent with the Employment Center Low Rise land use designation for the Site under the 2030 General Plan.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council hereby amends Resolution No. 2003-688 to delete the provisions of Section 1 relating to the initiation of the rezoning of the Academy Way Site.



RESOLUTION NO.

Adopted by the Sacramento City Council

APPROVING A NOTICE OF SATISFACTION OF AGREEMENT RELATING TO THE FORMER AIRGAS ACADEMY WAY SITE (CITY MANAGER AGREEMENT NO. 2004-0169)

BACKGROUND

A. Pursuant to Ordinance No. 2003-053, the City and Airgas NCN, Inc. entered into City Manager Agreement No. 2004-0169 (“Agreement”) on March 1, 2004. The Agreement was recorded on March 12, 2004 at Book 20040312 Page 2065, Sacramento County Recorder, and relates to the real property located at 3011 Academy Way, Sacramento, California (APN 265-0401-006, 007, and 008) (“Academy Way Site”) as identified in the attached Exhibit A.

B. The Agreement obligated Airgas NCN, Inc. (1) to close the fuel storage yard that it then operated on the Academy Way Site within a time certain; (2) to record a deed restriction on the Academy Way Site to prohibit the establishment or re-establishment of a fuel storage yard on the Site; and (3) to consent to the prohibition on the use of the Academy Way Site for a compressed gas storage and filling facility or other fuel storage yard and to the rezoning of the Academy Way Site to a zone more compatible with the surrounding residential uses.

C. The obligations of Airgas NCN, Inc. under the Agreement are currently satisfied, and the current owner of the Academy Way Site has requested that a Notice of Satisfaction of Agreement be approved and recorded.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council authorizes the City Manager to execute the Notice of Satisfaction of Agreement relating to the fuel storage yard formerly operated by Airgas NCN, Inc. on the Academy Way Site (City Manager Agreement No. 2004-169) in the form attached as Exhibit A.

Section 2. Exhibit A is a part of this Resolution.



Record for the Benefit of the City of
Sacramento - Fee Exempt
Pursuant to Government Code
Section 6103 and 27383.

When Recorded, Mail to:

Office of the City Clerk
Historic City Hall
915 "I" Street
Sacramento, CA 95814-2604

APNs: 265-0401-006,007, and 008
Recorder's use

Space above this line for

**NOTICE OF SATISFACTION OF AGREEMENT
(CITY MANAGER AGREEMENT NO. 2004-0169)**

This NOTICE OF SATISFACTION OF AGREEMENT (the "Satisfaction"), dated October 25, 2011, for reference purposes only, is given by the City of Sacramento, a municipal corporation ("City") concerning property located at 3011 Academy Way, Sacramento, California (APN 265-0401-006, 007, and 008) (the "Property"), as identified on the attached Exhibit A, which was formerly owned by Airgas NCN, Inc. ("Airgas").

1. Pursuant to Ordinance No. 2003-053, on March 1, 2004, the City and Airgas entered into City Manager Agreement No. 2004-0169 (recorded on March 12, 2004 at Book 20040312, Page 2065, Office of the Sacramento County Recorder) affecting the Property.
2. As provided by City Manager Agreement No. 2004-0169, on March 12, 2004, Airgas recorded a deed restriction at Book 20040312, Page 2066, in the Office of the Sacramento County Recorder that prohibits use of the Property for a compressed gas storage and filling facility or other fuel storage yard in perpetuity.
3. By execution of City Manager Agreement No. 2004-0169, Airgas, for itself and its successors, assigns, and all other persons or entities acquiring the Property, has consented (1) to the prohibition on the use of the Property for a compressed gas storage and filling facility or other fuel storage yard, and (2) to the rezoning of the Property as described in Sacramento City Ordinance No. 2003-053.
4. As provided by City Manager Agreement No. 2004-0169, Airgas closed and decommissioned the Academy Way facility.

5. The recordation of the deed restriction, the consent to the prohibition on use and to the rezoning of the Property, and the closure of the Airgas facility have satisfied the City's objective to preclude use of the Property for a compressed gas storage and filling facility or other fuel storage yard.
6. Accordingly, all obligations under City Manager Agreement No. 2004-0169 are currently satisfied.

IN WITNESS WHEREOF, City has executed this NOTICE OF SATISFACTION OF AGREEMENT as of _____, 2011.

By:

City Manager

Attest:

City Clerk

Approved as to form:

City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

<p>State of _____) County of _____)</p> <p>On _____ before me, _____, <small>DATE NAME OF NOTARY</small></p> <p>notary public, personally appeared _____ <small>NAME(S) OF SIGNER(S)</small></p> <p>who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.</p> <p>I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.</p> <p style="text-align: center;">WITNESS my hand and official seal.</p> <p style="text-align: center;">_____ Signature of Notary</p>	<p style="text-align: center;">CAPACITY CLAIMED BY SIGNER</p> <p>~ INDIVIDUAL(S) ~ CORPORATE _____ OFFICER(S) _____ ~ PARTNER(S) ~ ATTORNEY-IN-FACT ~ TRUSTEE(S) ~ SUBSCRIBING WITNESS ~ GUARDIAN/CONSERVATOR ~ OTHER: _____</p> <hr/> <p>SIGNER IS REPRESENTING: NAME OF PERSON(S) OR ENTITY(IES)</p> <p>_____ _____ _____</p>
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ATTENTION NOTARY: Although the information requested below is **OPTIONAL**, it could prevent fraudulent attachment of this certificate to unauthorized document.

<p>THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:</p>	<p>Title or Type of Document _____ Number of Pages _____ Date of Document _____ Signer(s) Other Than Named Above _____</p>
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RIGHT THUMBPRINT OF SIGNER
Top of thumb here

EXHIBIT "A"

LEGAL DESCRIPTION

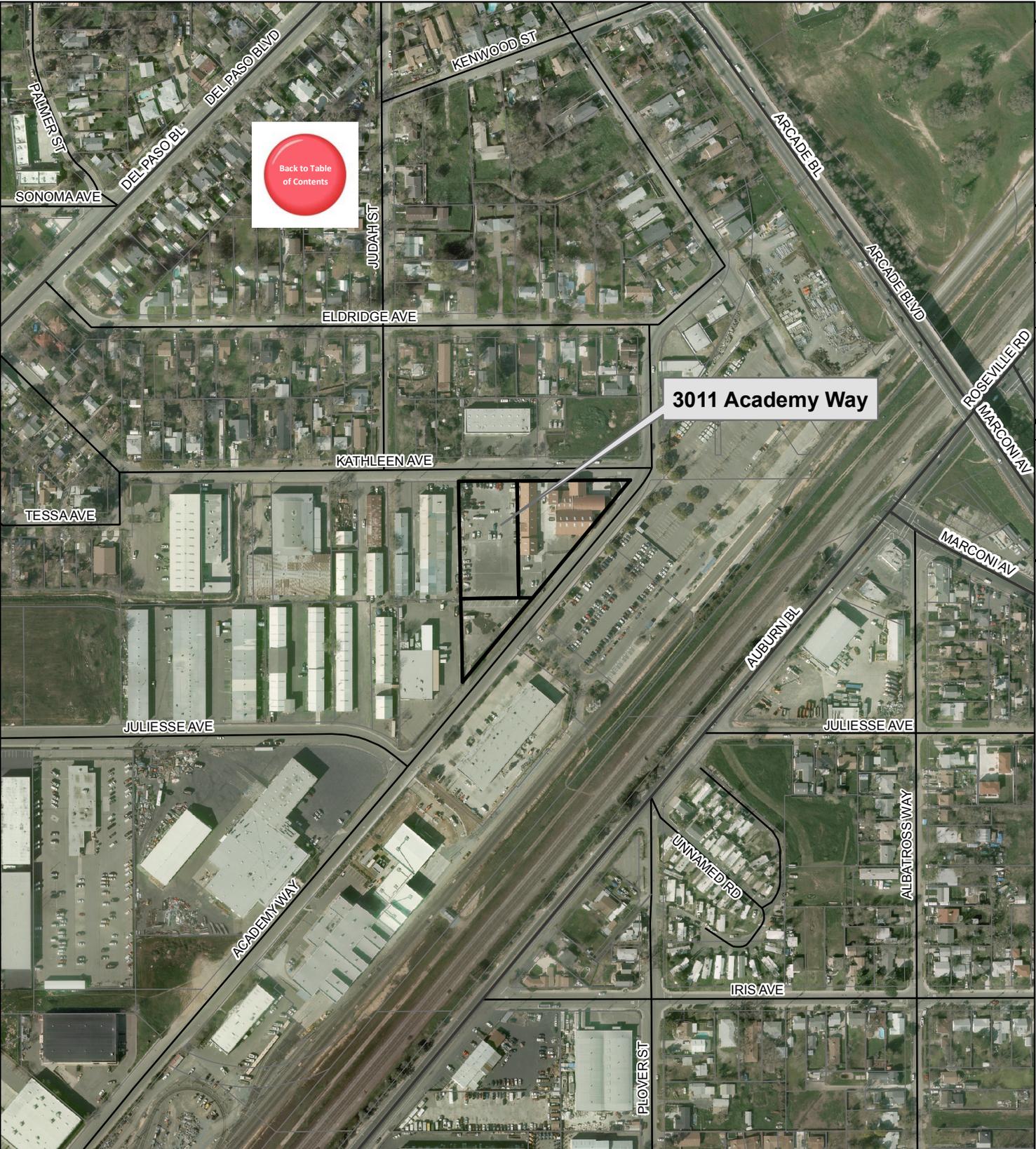
Parcel I: Lot 3, in Block 49 of North Sacramento Subdivision No. 8, according to the official plat thereof, filed in the office of the County Recorder of Sacramento County, California, on March 26, 1913, in Book 13 of Maps, Map No. 49.

EXCEPTING THEREFROM that portion of Lot 3, lying South of the Easterly extension of the South line of Lot 1, in said Block 49.

Parcel II: All that portion of Lots 2 and 3, Block 49, as shown on the "Plat of North Sacramento Subdivision No. 8", filed in the office of the county Recorder of Sacramento County, California, on March 26, 1913, in Book 13 of Maps, Map No. 49, described as follows:

Beginning at a point in the North line of said Lot 2 located South 89° 55' East 155.00 feet from the Northwest corner of said Lot 2 (said Northwest corner being in the East line of 17th Street, now abandoned); thence from said point of beginning, South 89° 55' East 177.81 feet to a point in the Southeasterly line of said Lot 3 and the Northwesterly line of Helena Avenue; thence along said Northwesterly line of Helena Avenue, South 40° 18' West 275.38 feet to a point in the Southeasterly line of said Lot 2 located South 89° 55' East 155.00 feet from the East line of 17th Street, now abandoned; thence leaving said Southeasterly line of Lot 2 North 0° 05' East 210.28 feet to the point of beginning.

Note: This property includes APN 265-0401-007 and APN 265-0401-008.



Back to Table of Contents

3011 Academy Way



3011 Academy Way Location Map

0 250 500 Feet

