

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE SUMMARILY VACATING THE WESTERLY HALF STREET OF TERRAINE STREET NORTHERLY TERMINUS

WHEREAS, Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a public street if the City Council determines that it is excess right-of-way of a street not required for street purposes, and there are no in-place public utility facilities that are in use and would be affected by the vacation; and

WHEREAS, the City Council intends to summarily vacate the westerly half street of Terraine Street northerly terminus ("Subject Property") constituting all that real property situated in the City of San José, County of Santa Clara, State of California, more particularly described as:

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEING A PORTION OF TERRAINE STREET, AN EXISTING PUBLIC RIGHT OF WAY AS SHOWN UPON THAT CERTAIN RECORD OF SURVEY RECORDED IN BOOK 206, PAGE 52 OF RECORDS OF SAID SANTA CLARA COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF BASSETT STREET 45.00 FEET IN WIDTH AND THE WESTERLY LINE OF TERRAINE STREET 60.00 FEET IN WIDTH AS SHOWN ON SAID RECORD OF SURVEY;

THENCE NORTH 29° 26' 03" WEST ALONG THE WESTERLY LINE OF SAID TERRAINE STREET A DISTANCE OF 54.99 FEET TO A POINT ON THE SOUTHERLY BOUNDARY LINE OF THE LANDS CONVEYED TO THE SOUTHERN PACIFIC RAILROAD COMPANY AS SHOWN ON THAT CERTAIN DEED RECORDED IN BOOK 20, PAGE 636 OF DEEDS OF SAID SANTA CLARA COUNTY ON APRIL 29, 1871;

THENCE NORTH 60° 33' 57" EAST ALONG SAID SOUTHERLY LINE OF THE LANDS CONVEYED TO THE SOUTHERN PACIFIC RAILROAD COMPANY A DISTANCE OF 30.00 FEET TO THE CENTER LINE OF SAID TERRAINE STREET;

THENCE SOUTH 29° 26' 03" EAST ALONG LAST MENTIONED CENTER LINE A DISTANCE OF 54.99 FEET;

THENCE SOUTH 60° 33' 57" WEST A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,650 SQUARE FEET (0.038 ACRES) MORE OR LESS

WHEREAS, attached to this Resolution as Exhibit "A" and incorporated herein is a map approved by the Director of the Department of Public Works on August 17, 2018 entitled "PLAT MAP SHOWING THE WESTERLY HALF STREET OF TERRAINE STREET NORTHERLY TERMINUS TO BE VACATED" showing the Subject Property; and

WHEREAS, attached to this Resolution as Exhibit "B" and incorporated herein is a copy of the report, dated August 20, 2018 that the Director of the Department of Public Works submitted to the City Council setting forth the facts justifying the summary vacation of the Subject Property (hereinafter "Report");

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. The City Council hereby adopts the Report and, based upon the Report and all other evidence submitted, makes the following findings:

- A. The Subject Property is excess right-of-way of a street not required for street purposes; and

- B. Government Code Section 65402 does not apply to this vacation; and
- C. The proposed vacation is consistent with the City's General Plan; and
- D. The Subject Property is unnecessary for nonmotorized transportation as bordering rights-of-way are available and more suitable for such transportation; and
- E. There are no in-place public utility facilities located within the Subject Property that would be affected by the proposed vacation; and
- F. The public convenience and necessity does not require the reservation of a public service easement.

SECTION 2. Based upon the findings made in Section 1 of this Resolution and the provisions of Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California, the City Council does hereby summarily vacate the Subject Property.

SECTION 3. The City Clerk is hereby directed to record a certified copy of this Resolution, including the exhibits hereto, with the Office of the Recorder for the County of Santa Clara.

SECTION 4. From and after the date this Resolution is recorded, the Subject Property will no longer constitute a public street.

ADOPTED this _____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI TABER, CMC
City Clerk

PLAT MAP

SHOWING THE WESTERLY HALF STREET OF TERRAINE STREET
NORTHERLY TERMINUS TO BE VACATED



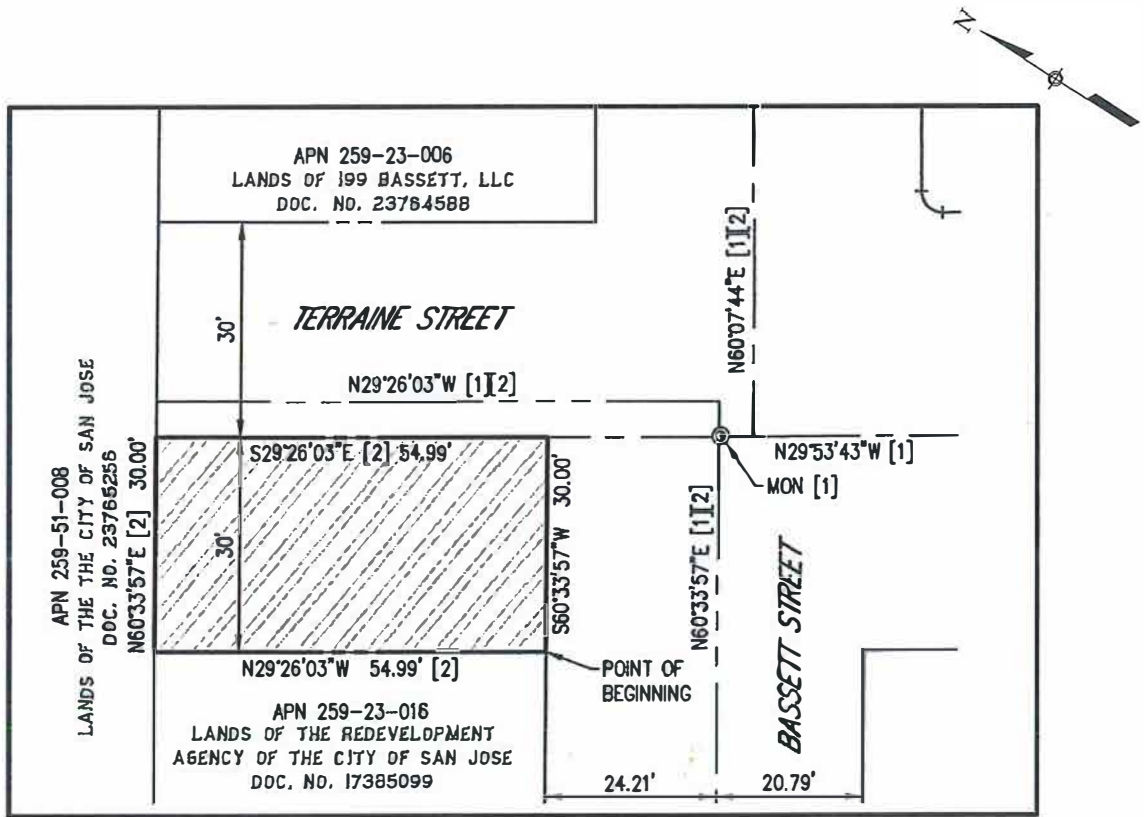
AREA TO BE VACATED

FILED WITH THE CITY COUNCIL OF THE CITY OF SAN JOSE THIS _____ DAY OF _____, AND APPROVED BY SAID CITY COUNCIL THIS _____ DAY OF _____ BY RESOLUTION NUMBER _____

CITY CLERK, CITY OF SAN JOSE

APPROVED THIS 17 DAY OF AUGUST 2018

MATT CANO
DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE





Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: August 20, 2018

Approved

Date

COUNCIL DISTRICT: 3

**SUBJECT: SUMMARY VACATION OF THE WESTERLY HALF STREET OF
TERRAINE STREET NORTHERLY TERMINUS**

RECOMMENDATION

Conduct a Public Hearing and adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of the westerly half street of Terraine Street northerly terminus (“Subject Portion”);
- (b) Summarily vacating the Subject Portion which has been determined to be excess right-of-way not required for street purposes; and
- (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.

OUTCOME

Upon recordation of the resolution of vacation, the Subject Portion will be abandoned as a public street and no longer constitute part of Terraine Street.

BACKGROUND

Consistent with the Brandenburg Mixed-Use Project / North San Pedro Housing Sites Final Environmental Impact Report and Addendum (Resolution 72170), the City adopted a resolution approving a Conditional Use Permit (CP11-034) on December 14, 2011, to allow 135 affordable apartments (“Project”) on a 0.73 gross acre site at 201 Bassett Street (Assessor’s Parcel No. 259-

23-016, 259-23-027, and 259-51-008). The project site is bounded by the Union Pacific Railroad line to the north, a segment of Terraine Street to the east, Bassett Street to the south, and State Route 87 to the west. Affordable housing developer, First Community Housing (“Applicant”), will design and construct the 100% affordable apartments consisting of 118 studios, 16 one-bedroom apartments, and one two-bedroom unrestricted manager’s apartment.

The Subject Portion is proposed to be included with the Project. In order to accomplish the land use plan, as approved under CP11-034, the street vacation of the Subject Portion requires further discretionary approval by the City Council.

ANALYSIS

Pursuant to Streets and Highways Code Sections 8334 and 8334.5, a street right-of-way may be summarily vacated if the City Council determines that it is excess and not required for street purposes and there are no in-place public utility facilities in use that would be affected by the vacation.

Staff has reviewed the vacation application and determined that the Subject Portion is excess right-of-way and not required for street purposes. Presently, the Subject Portion is unpaved and inaccessible by vehicle due to the curb, gutter, and sidewalk improvements along Bassett Street. The Subject Portion is not being used for street purposes. In compliance with Section 892 of the Streets and Highways Code, staff has also determined that the Subject Portion is not useful as a nonmotorized transportation facility as these uses (i.e. sidewalks, bike lanes, etc.) are already available along the bordering streets which are more suitable for such transportation uses. Aside from a City storm drain inlet, which will be removed as part of the Project, the Subject Portion does not contain any in-place public utility facilities per written correspondence from various public utility companies. The City storm drain inlet will be unnecessary since stormwater runoff within the Subject Portion will be captured by the onsite storm drain system.

According to the preliminary title report by First American Title Insurance Company, the Applicant holds the underlying fee ownership to the Subject Portion.

The easterly half of Terraine Street northerly terminus is not included with this vacation as it is outside the proposed Project limits. However, it will require vacation in order to effectuate Special Use Permit (SP17-023) related to the redevelopment of 199 Bassett Street, located east of the Project. Approved by the City on November 15, 2017, SP17-023 allows the demolition of two vacant warehouse buildings and the construction of an 18-story residential tower to include 302 residential units with four levels of underground parking and ten commercial condominiums totaling approximately 9,300 square feet of ground floor commercial uses.

EVALUATION AND FOLLOW-UP

If Council adopts the resolution vacating the Subject Portion, no further action by the Council will be required.

PUBLIC OUTREACH/INTEREST

The public was given the opportunity to comment on the proposed development and site plan with the inclusion of the proposed vacation area as part of the Planning permit review and approval process.

All concerned utility companies have been contacted in writing and have no objection to the proposed vacation and have not requested a reservation of a public service easement as there are no facilities in the Subject Portion.

This memorandum will be posted to the City's website for the September 11, 2018, City Council agenda.

COORDINATION

The vacation has been coordinated with the Department Planning, Building and Code Enforcement, Department of Transportation, Office of Economic Development, Police Department, Fire Department, and the City Manager's Budget Office. Additionally, the vacation and resolution have been reviewed by the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

The Planning Commission approved the development project and site plan, which includes the proposed vacation area.

COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees on June 19, 2018, for Fiscal Year 2017-2018, of \$ 4,291.00 to process the subject vacation. These fees were received to support the Public Works Development Fee Program.

THE HONORABLE MAYOR AND CITY COUNCIL

August 20, 2018

Subject: Summary Vacation of the Westerly Half Street of Terraine Street Northerly Terminus

Page 4

CEQA

North San Pedro Apartments Project Initial Study / Addendum to the Final Environmental Impact Report and Environmental Impact Report for the Brandenburg Mixed Use Project / North San Pedro Housing Sites, Resolution No. 72170 (CP11-034 / GPT03-03-01).

/s/

MATT CANO

Director of Public Works

Attachment: Location Map

For questions please contact Matthew Loesch, Acting Deputy Director, at (408) 975-7381.