

RESOLUTION NO. _____

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN
JOSE SUMMARILY VACATING A 5-FOOT WIDE SIDEWALK
EASEMENT AT 1800 SARATOGA AVENUE**

WHEREAS, subdivision (c) of Section 8333 of the Streets and Highways Code of the State of California authorizes the City Council to summarily vacate a public service easement when the public service easement has been determined to be excess and there are no other public facilities within the easement that would be affected by the vacation; and

WHEREAS, the City Council intends to summarily vacate a 5-foot wide public service easement for sidewalk purposes constituting all that real property situated within 1800 Saratoga Avenue in the City of San José, County of Santa Clara, State of California ("Subject Property"), more particularly described as follows:

THAT PORTION OF A SINGLE PARCEL OF LAND PER THAT CERTAIN LOT LINE ADJUSTMENT PERMIT, FILE NO. AT15-037, RECORDED ON AUGUST 10, 2016, AS DOCUMENT NO. 23396377, SANTA CLARA COUNTY RECORDS, IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST CORNER OF SAID SINGLE PARCEL, SAID CORNER ALSO BEING ON THE SOUTHEAST RIGHT-OF-WAY OF SARATOGA AVENUE AS SHOWN ON THAT CERTAIN MAP ENTITLED "RECORD OF SURVEY, PORTION OF LOT 14- SOROSIS FARM SUBDIVISION", RECORDED IN BOOK 104 AT PAGE 6 OF MAPS, SANTA CLARA COUNTY RECORDS; THENCE NORTH 39°00' 15" EAST, COINCIDENT WITH SAID SOUTHEAST RIGHT-OF-WAY OF SARATOGA AVENUE, A DISTANCE OF 384.28 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY;

THENCE NORTHEASTERLY AND SOUTHEASTERLY, ALONG THE ARC OF SAID TANGENT CURVE, WITH A WITH A RADIUS OF 30.00 FEET, THROUGH A CENTRAL ANGLE OF 139°23'38", AN ARC DISTANCE OF 72.99 FEET TO THE WEST RIGHT-OF-WAY OF QUITO ROAD AS SHOWN ON SAID RECORD OF SURVEY; THENCE NORTH 35°03'33" WEST, LEAVING SAID WEST RIGHT-OF-WAY OF QUITO ROAD, A DISTANCE OF 16.61 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHERLY, WITH A RADIAL BEARING OF NORTH 54°47'01" EAST; THENCE WESTERLY AND SOUTHWESTERLY, ALONG THE ARC OF LAST SAID NON-TANGENT CURVE WITH A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 105°46'46", AN ARC DISTANCE OF 46.16 FEET TO THE POINT OF INTERSECTION THEREOF WITH A LINE WHICH IS PARALLEL WITH AND 5.00 FEET SOUTHEAST OF SAID SOUTHEAST RIGHT-OF-WAY OF SARATOGA AVENUE; THENCE SOUTH 39°00'15" WEST, ALONG LAST SAID PARALLEL LINE, A DISTANCE OF 384.28 FEET TO THE POINT OF INTERSECTION THEREOF WITH THE SOUTHWEST LINE OF SAID SINGLE PARCEL; THENCE NORTH 50°59'45" WEST, ALONG THE SOUTHWEST LINE OF SAID SINGLE PARCEL, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2,232 SQUARE FEET OR 0.05 ACRES, MORE OR LESS.

WHEREAS, on May 24, 2018, the Director of Public Works approved the plat map entitled "Plat Map Showing the Summary Vacation of a 5-Foot Wide Sidewalk Easement at 1800 Saratoga Ave" ("Plat Map"), attached hereto as "Exhibit A" and incorporated herein, which shows the Subject Property; and

WHEREAS, at the public hearing, the City Council had before it the Plat Map and a report from the Director of Public Works to the City Council dated May 29, 2018 ("Report"), attached hereto as "Exhibit B" and incorporated herein; and

WHEREAS, at the public hearing, the City Council heard all persons interested in the proposed summary vacation and considered all evidence submitted;

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:

1. The Subject Property is unnecessary for present or prospective public use; and
2. No public facilities are located within the Subject Property that would be affected by a summary vacation.

SECTION 2. Based upon the findings made in Section 1 of this Resolution and the provisions of Section 8333(c) of the Streets and Highways Code, the City Council does hereby order that the Subject Property shall be and hereby is summarily vacated.

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 service easement.

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 SUMMARY VACATION OF
A 5-FOOT WIDE SIDEWALK BASEMENT AT 1800 SARATOGA AVE



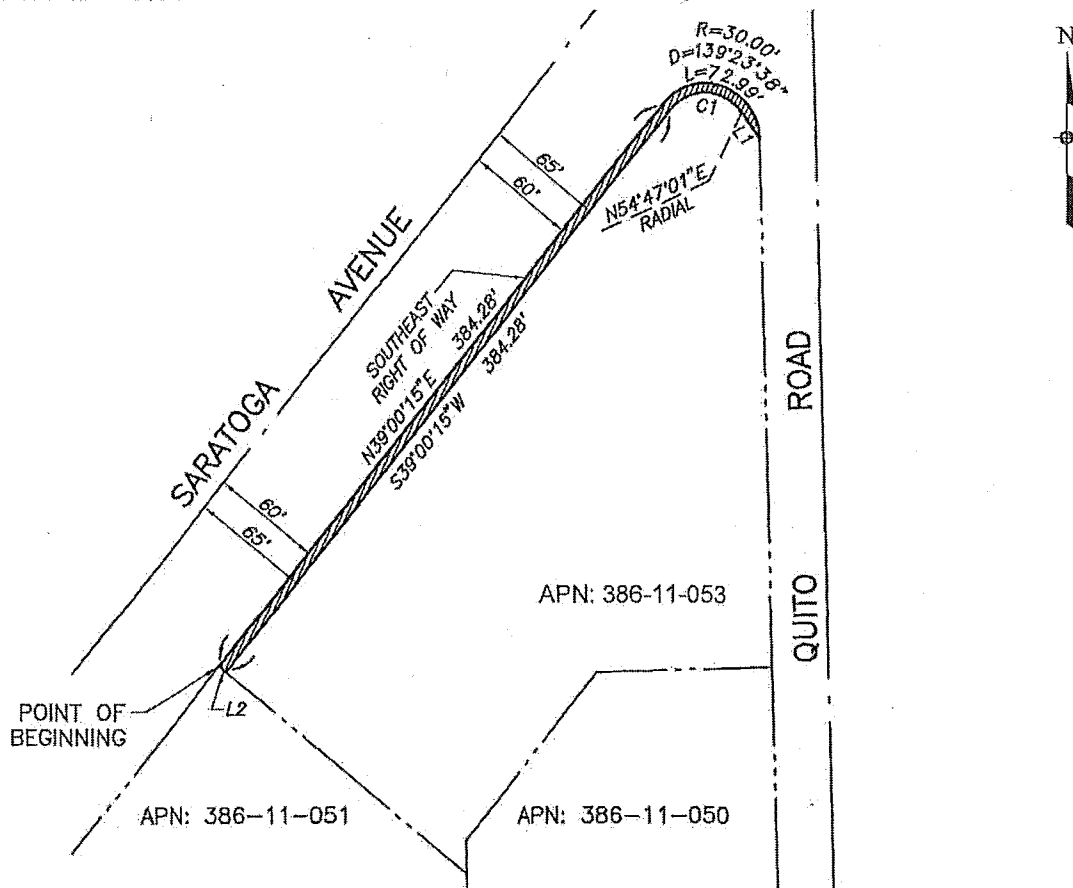
AREA TO BE VACATED

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

MATT CANO
DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE

APPROVED THIS 24 DAY OF May 2018





Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: May 29, 2018

Approved

Date

COUNCIL DISTRICT: 1

**SUBJECT: SUMMARY VACATION OF A 5-FOOT WIDE SIDEWALK EASEMENT
AT 1800 SARATOGA AVENUE**

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 a 5-foot wide sidewalk easement ("SWE") at 1800 Saratoga Avenue;
- (b) Summarily vacating the SWE which has been determined to be excess; 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 SWE will be extinguished and no longer constitute as a public easement.

BACKGROUND

On June 21, 2016, the City Council adopted a resolution approving a Conditional Use Permit (CP15-014) to allow the demolition of three existing buildings and the construction of a 14,700 square foot commercial building with a drive-through ("Project") at 1800 Saratoga Avenue (Assessor's Parcel No. 386-11-053, formerly 1804 Saratoga Avenue). The project site is located at the southwest corner of Saratoga Avenue and Lawrence Expressway.

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As part of the Project, Farrar Investments, LLC dedicated 7,466 square feet for public right-of-way purposes (Document No. 23835019) to the County of Santa Clara ("County") along the Saratoga Avenue frontage. The dedication will allow the County to construct planned improvements, which is anticipated to start in 2019. The County's planned improvements include widening Saratoga Avenue for a second eastbound left turn lane, traffic signal modifications, and new curb, gutter, and sidewalk along the project frontage. The dedication to the County encompasses the City's 2,232 square foot SWE (Document No. 23670018), which was previously dedicated.

ANALYSIS

Under Section 8306(a) of the California Streets and Highways Code, the SWE constitutes a public service easement. Pursuant to Streets and Highways Code Section 8333(c), a public service easement may be summarily vacated if the easement has been determined to be excess, and there are no other public facilities within the easement that would be affected by the vacation.

Staff has determined that the area proposed for vacation is excess. The dedication to the County for public right-of-way purposes provides the necessary easement for sidewalk improvements along the Saratoga Avenue frontage. The City's SWE is not necessary. In addition, there are no other public facilities within the easement that would be affected by the vacation. Utility companies were not contacted since the area within the SWE will remain as County right-of-way.

According to the title report issued by Chicago Title Insurance Company, Farrar Investments, LLC, a California Limited Liability Company, holds the underlying fee ownership to the area proposed for vacation. If approved, the land will become unencumbered by the SWE upon recordation of the vacation and no further action by the City will be required.

EVALUATION AND FOLLOW-UP

If Council adopts the resolution vacating the SWE at 1800 Saratoga Avenue, no further action by the Council will be required.

PUBLIC OUTREACH/INTEREST

This memorandum will be posted to the City's website for the June 19, 2018, City Council agenda.

THE HONORABLE MAYOR AND CITY COUNCIL

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COORDINATION

The vacation has been coordinated with the City Manager's Budget Office. Additionally, the vacation and resolution has been reviewed by the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

Staff initiated the proposed vacation in support of the County's planned improvements at the intersection of Saratoga Avenue and Lawrence Expressway and to limit the City's liability; therefore, no fees were collected to process the vacation.

CEQA

Determination of Consistency with the Mitigated Negative Declaration for the CVS/Pharmacy Store #9498, Resolution No. 77850 (C15-008 and CP15-014).

/s/

MATT CANO

Director of Public Works

Attachment: Location Map

For questions please contact Ryan Do, Division Manager, at (408) 535-6899.