

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE SUMMARILY VACATING AN APPROXIMATELY 17,917 SQUARE FOOT PORTION OF SOUTH 6TH STREET WITH THE RESERVATION OF PUBLIC SERVICE EASEMENTS OVER A PORTION OF THE AREA VACATED

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 has been impassible for vehicular travel for five consecutive years and no public money was expended for maintenance on the street during such period, 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 an approximately 17,917 square foot portion of South 6th Street, reserving from the vacation a twenty-four foot (24') wide public service easement and a ten foot (10') wide public service easement, described below as "STRIP A" and "STRIP B", respectively, more particularly described as:

ALL THAT REAL PROPERTY SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF 6TH STREET AS SHOWN ON THAT CERTAIN RIGHT-OF-WAY RECORD MAP, R~134.14, DISTRICT 4, SANTA CLARA COUNTY, CALIFORNIA, ROUTE 280, POST MILE L1.7, SHEET NO. 14, REVISED JANUARY 1991, ON FILE WITH THE STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTH LINE OF THE SINCLAIR FREEWAY, ROUTE 280, AND THE NORTHEAST LINE OF 6TH STREET (80 FEET WIDE) AS SHOWN ON THE ABOVE REFERENCED RIGHT-OF-WAY RECORD MAP; THENCE ALONG SAID NORTHEAST LINE, S30°38'46"E, A DISTANCE OF 247.91 FEET TO A TANGENT CURVE TO

THE LEFT HAVING A RADIUS OF 20.00 FEET; THENCE CONTINUING ALONG SAID NORTHEAST LINE, EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 89°58'18", A DISTANCE OF 31.41 FEET TO THE NORTHWEST LINE OF VIRGINIA STREET; THENCE ALONG SAID NORTHWEST LINE, S59°22'56"W, A DISTANCE OF 38.42 FEET TO THE NORTH LINE OF PARCEL 63977 AS SHOWN ON THE PLAT ENTITLED "EXHIBIT A, PARCEL 63977, STREETS AND HIGHWAYS CODE SECTION 83", DATED MAY 2019, STATE OF CALIFORNIA, CALIFORNIA STATE TRANSPORTATION AGENCY, DEPARTMENT OF TRANSPORTATION; THENCE ALONG SAID NORTH LINE, N54°37'49"W, A DISTANCE OF 151.47 FEET TO THE SOUTHWEST LINE OF SAID 6TH STREET; THENCE ALONG SAID SOUTHWEST LINE, N30°38'46"W, A DISTANCE OF 105.09 FEET TO THE SOUTH LINE OF SAID SINCLAIR FREEWAY, ROUTE 280, AND A TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 40.00 FEET; THENCE ALONG SAID SOUTH LINE, NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 117°13'16", A DISTANCE OF 81.84 FEET; THENCE CONTINUING ALONG SAID SOUTH LINE, N86°34'30"E, A DISTANCE OF 24.41 FEET TO THE POINT OF BEGINNING.

CONTAINING 17,917 SQUARE FEET, MORE OR LESS.

STRIP A:

ALL THAT REAL PROPERTY SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF 6TH STREET AS SHOWN ON THAT CERTAIN RIGHT-OF-WAY RECORD MAP, R~134.14, DISTRICT 4, SANTA CLARA COUNTY, CALIFORNIA, ROUTE 280, POST MILE L1.7, SHEET NO. 14, REVISED JANUARY 1991, ON FILE WITH THE STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTH LINE OF THE SINCLAIR FREEWAY, ROUTE 280, AND THE NORTHEAST LINE OF 6TH STREET (80 FEET WIDE) AS SHOWN ON THE ABOVE REFERENCED RIGHT-OF-WAY RECORD MAP; THENCE ALONG SAID SOUTH LINE, S86°34'30"W, A DISTANCE OF 24.41 FEET TO A POINT ON A LINE, 21.70 FEET SOUTHWESTERLY OF, AND PARALLEL WITH, SAID NORTHEAST LINE OF 6TH STREET,

AND THE POINT OF BEGINNING; THENCE ALONG SAID PARALLEL LINE, S30°38'46"E, A DISTANCE OF 271.69 FEET TO THE NORTH LINE OF "PARCEL 63977" AS SHOWN ON THE PLAT ENTITLED "EXHIBIT A, PARCEL 63977, STREETS AND HIGHWAYS CODE SECTION 83", DATED MAY 2019, STATE OF CALIFORNIA, CALIFORNIA STATE TRANSPORTATION AGENCY, DEPARTMENT OF TRANSPORTATION; THENCE ALONG SAID NORTH LINE, N54°37'49"W, A DISTANCE OF 59.04 FEET, TO A POINT ON A LINE, 45.70 FEET SOUTHWESTERLY OF, AND PARALLEL WITH, SAID NORTHEAST LINE OF 6TH STREET; THENCE ALONG SAID PARALLEL LINE, N30°38'46"W, A DISTANCE OF 221.77 FEET TO SAID SOUTH LINE OF THE SINCLAIR FREEWAY, ROUTE 280, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT, FROM WHICH THE RADIUS POINT BEARS S38°50'35"E, A RADIAL DISTANCE OF 40.00 FEET; THENCE ALONG SAID SOUTH LINE, EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 35°25'05", A DISTANCE OF 24.73 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,952 SQUARE FEET, MORE OR LESS.

STRIP B:

ALL THAT REAL PROPERTY SITUATED IN THE CITY OF SAN JOSE, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING A PORTION OF 6TH STREET AS SHOWN ON THAT CERTAIN RIGHT-OF-WAY RECORD MAP, R~134.14, DISTRICT 4, SANTA CLARA COUNTY, CALIFORNIA, ROUTE 280, POST MILE L1.7, SHEET NO. 14, REVISED JANUARY 1991, ON FILE WITH THE STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTH LINE OF THE SINCLAIR FREEWAY, ROUTE 280, AND THE NORTHEAST LINE OF 6TH STREET (80 FEET WIDE) AS SHOWN ON THE ABOVE REFERENCED RIGHT-OF-WAY RECORD MAP; THENCE ALONG SAID SOUTH LINE, S86°34'30"W, A DISTANCE OF 24.41 FEET TO A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 40.00 FEET; THENCE CONTINUING ALONG SAID SOUTH LINE, SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 45°27'20", A DISTANCE OF 31.74 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID

SOUTH LINE, S29°46'54"E, A DISTANCE OF 198.16 FEET TO THE NORTH LINE OF "PARCEL 63977" AS SHOWN ON THE PLAT ENTITLED "EXHIBIT A, PARCEL 63977, STREETS AND HIGHWAYS CODE SECTION 83", DATED MAY 2019, STATE OF CALIFORNIA, CALIFORNIA STATE TRANSPORTATION AGENCY, DEPARTMENT OF TRANSPORTATION; THENCE ALONG SAID NORTH LINE, N54°37'49"W, A DISTANCE OF 23.80 FEET; THENCE LEAVING SAID NORTH LINE, N29°46'54"W, A DISTANCE OF 171.43 FEET TO SAID SOUTH LINE OF THE SINCLAIR FREEWAY, ROUTE 280, AND THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT, FROM WHICH THE RADIUS POINT BEARS S65°02'07"E, A RADIAL DISTANCE OF 40.00 FEET; THENCE ALONG SAID SOUTH LINE, NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 16°09'18", A DISTANCE OF 11.28 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,851 SQUARE FEET, MORE OR LESS.

BASIS OF BEARINGS:

THE BEARING OF N59°22'56"E BETWEEN FOUND MONUMENTS ALONG THE CENTERLINE OF EAST VIRGINIA STREET, AS SHOWN ON THE RECORD OF SURVEY FILED DECEMBER 23, 2010 IN BOOK 842 OF MAPS, AT PAGE 13, RECORDS OF SANTA CLARA COUNTY, CALIFORNIA, WAS USED AS THE BASIS OF BEARINGS.

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 April 23, 2020 entitled "MAP SHOWING THE SUMMARY VACATION OF A PORTION OF SOUTH 6TH STREET BETWEEN E. VIRGINIA STREET AND INTERSTATE 280 WITH THE RESERVATION OF PUBLIC SERVICE EASEMENTS OVER A PORTION OF THE AREA BEING VACATED" showing the Subject Property and reserved public service easements; and

WHEREAS, attached to this Resolution as Exhibit "B" and incorporated herein is a copy of the report, dated May 4, 2020 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 and reservation of the public service easements (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 has been impassible for vehicular travel for five consecutive years and no public money was expended for maintenance on the street during such period; 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 in-place public utility facilities located within the Subject Property; and
- F. The public convenience and necessity requires the reservation of public service easements as specified in this Resolution.

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, reserving and accepting from the vacation on, over, under and through the real property described in the Recitals to this Resolution as “STRIP A” and “STRIP B”, public service easements and all rights necessary to construct, maintain, operate, modify, enlarge, replace, remove and renew any and all in-place public utility facilities, said public service easements to be kept open and free from buildings and structures of any kind except irrigation systems and appurtenances thereto, lawful fences and all lawful unsupported roof overhangs.

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 and portions of it will constitute public service easements as specified in this Resolution.

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RD:EEH
05-30-19

ADOPTED this _____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:



SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

MAP

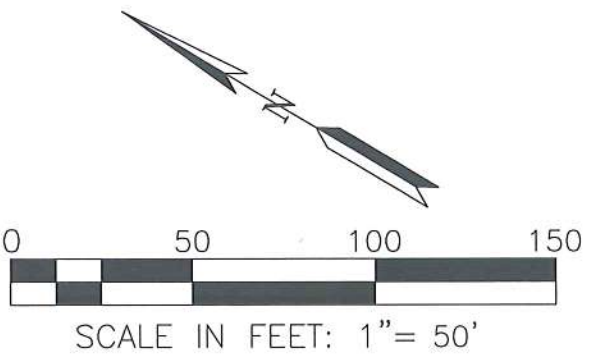
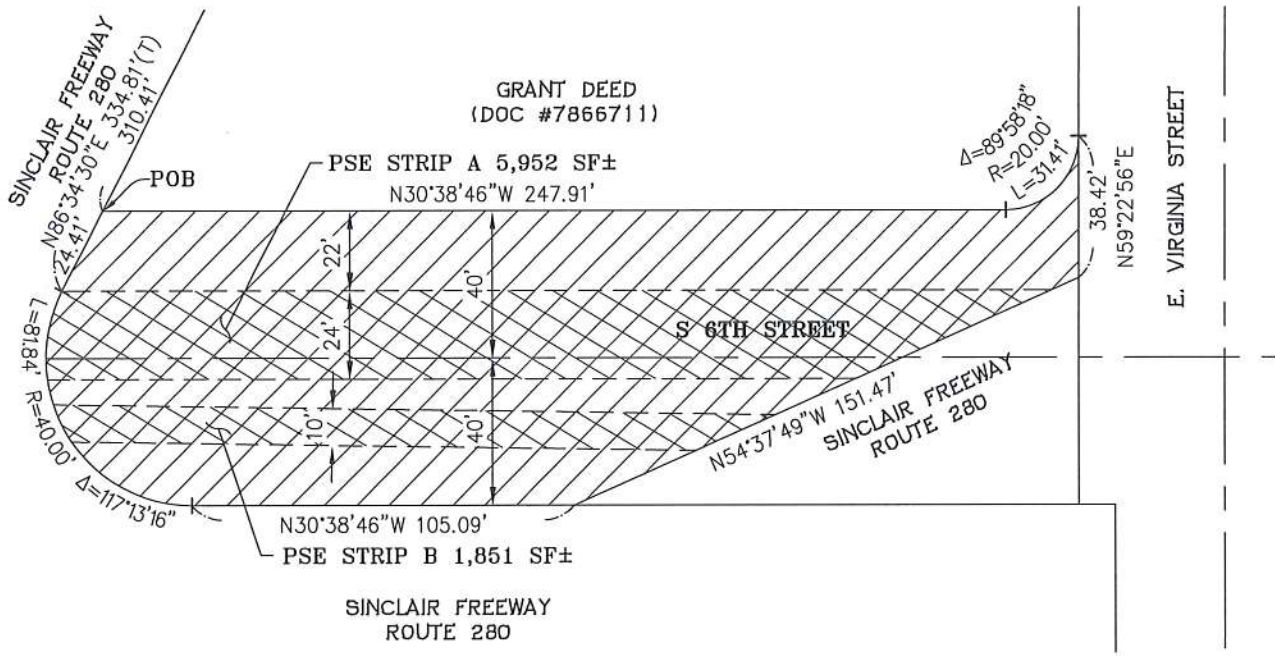
SHOWING THE SUMMARY VACATION OF A PORTION OF SOUTH 6TH STREET BETWEEN E. VIRGINIA STREET AND INTERSTATE 280 WITH THE RESERVATION OF PUBLIC SERVICE EASEMENTS OVER A PORTION OF THE AREA BEING VACATED.




-  AREA TO BE VACATED 17,917 SF±
-  PSE 7,803 SF±

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

for  APPROVED THIS 23RD DAY OF APRIL 2020
MATTHEW CANO
DIRECTOR OF PUBLIC WORKS,
CITY OF SAN JOSE



LEGEND	
	EXISTING LOT LINE
	CENTERLINE
	EASEMENT
(T)	TOTAL DIMENSION
POB	POINT OF BEGINNING



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: May 4, 2020

Approved

Date

5/7/2020

COUNCIL DISTRICT: 3

SUBJECT: SUMMARY VACATION OF A PORTION OF SOUTH 6TH STREET WITH THE RESERVATION OF PUBLIC SERVICE EASEMENTS WITHIN THE AREA BEING VACATED BETWEEN EAST VIRGINIA STREET AND INTERSTATE 280

RECOMMENDATION

Adopt a resolution:

- a. Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of a portion of South 6th Street between East Virginia Street and Interstate 280 (“Subject Portion”) with the reservation of public service easements (“PSEs”) over a portion of the area being vacated;
- b. Summarily vacating the Subject Portion, which has been impassible for vehicular travel and for which the City has not expended any public money for maintenance for a period of five years; 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 public street, the City will retain PSEs over a portion of the area vacated, and the adjoining property will be able to develop the vacated area consistent with the future development plans.

BACKGROUND

San Jose Housing and Land Investors, a California limited liability company, property owner of 295 East Virginia Street (Developer) has submitted an application to vacate the Subject Portion which abuts its property (see Location Map). The Subject Portion is approximately 17,917 square feet and is not improved or being utilized as a public street.

On January 9, 2019, the City approved a Site Development Permit, H17-019, to construct a six story below market rate senior housing consisting of 301 studio units (“Project”) on an approximate 1.72 gross acre site at 295 East Virginia Street. The site is bounded by Interstate 280 to the north, South 7th Street to the east, East Virginia Street to the south, and a segment of South 6th Street to the west. Located at the west side of the site, the Subject Portion is proposed to be incorporated as part of the Project for a parking lot.

To accomplish the land use plan as approved under H17-019, the vacation of the Subject Portion requires City Council approval.

ANALYSIS

Pursuant to the Streets and Highways Code Sections 8331 and 8334.5, a street right-of-way may be summarily vacated if the street has been impassable for vehicular travel for a period of five years and no public money was expended for maintenance on the street during such period and there are no in-place utility facilities in use that would be affected by the vacation.

The Subject Portion is not currently used as a public street. The Subject Portion has been impassable to vehicular traffic for longer than five years. In 2016, curb, gutter, and sidewalk improvements were constructed along the north side of East Virginia Street, to replace the chain link gates and signage prohibiting entry to the Subject Portion. There is an existing 6-inch diameter public sanitary sewer and a 42-inch diameter storm sewer in the Subject Portion. All concerned utility companies have been contacted in writing and have no objections to the proposed vacation provided public service easements are reserved over a portion of the area being vacated. To summarily vacate the Subject Portion, Council must reserve from the vacation a 24-foot and 10-foot wide public service easements over the area being vacated for the City storm and sanitary sewer lines and Pacific Gas and Electric gas line, respectively. Because the public service easements will be reserved for the in-place utilities, the utilities will not be affected by this vacation.

The vacation of the Subject Portion was found to be in conformance with the adopted San José 2040 General Plan during the January 9, 2019, Planning Director’s Hearing to approve H17-019.

In compliance with Section 892 of the Streets and Highways Code, staff determined that the Subject Portion is not useful as a non-motorized transportation facility, as these uses (i.e. bike

HONORABLE MAYOR AND CITY COUNCIL

May 4, 2020

Subject: Summary Vacation of a Portion of South 6th Street

Page 3

lanes) are available on neighboring streets and the nature of the cul-de-sac street terminating in private property does not necessitate public nonmotorized transportation facilities.

According to the preliminary title report by Commonwealth Land Title Company, the Developer holds the underlying fee ownership to the Subject Portion.

CONCLUSION

The City approved a Site Development Permit, H17-019, on January 9, 2019, to construct a six story below market rate senior housing consisting of 301 studio units at 295 East Virginia Street, which includes the Subject Portion located along the west side of the project site.

To accomplish the land use plan as approved under H17-019, the vacation of the Subject Portion requires further discretionary approval by the City Council.

Staff recommends that Council approve the proposed vacation to terminate the public street easement as this street has not been improved or utilized as a public street for a 5-year period and there are no plans to do so in the future.

EVALUATION AND FOLLOW-UP

If Council adopts the resolution summarily vacating the Subject Portion, no further action by Council will be required for the vacation. The City Clerk will record the resolution of vacation at which time the vacation will be complete.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

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 provided public service easements are reserved.

This memorandum will be posted to the City's website for the May 19, 2020, City Council agenda.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

Vacating the Subject Portion is in alignment with the Council-approved Budget Strategy Expenditure Control section by eliminating a City maintenance obligation and liability.

COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees during fiscal year 2019-2020 of \$4,243 to process the subject vacation. These fees were received to support the Public Works Development Fee Program.

CEQA

Mitigated Negative Declaration for Virginia Studios Project, File No. H17-019.

/s/
MATT CANO
Director, Public Works Department

For questions, please contact Matt Loesch, Assistant Director of Public Works, at (408) 535-8300.

Attachment: Location Map

LOCATION MAP

SHOWING THE SUMMARY VACATION OF A PORTION OF SOUTH 6TH STREET
BETWEEN E. VIRGINIA STREET AND INTERSTATE 280 WITH THE RESERVATION OF
PUBLIC SERVICE EASEMENTS OVER A PORTION OF THE AREA BEING VACATED.

 AREA TO BE VACATED 17,917 SF±

 PSE 7,803 SF±

SINCLAIR
FREEMAY
ROUTE 280

