

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE CONDITIONALLY VACATING AN APPROXIMATELY 1,381 SQUARE FOOT PORTION OF NORTH ALMADEN BOULEVARD AT THE INTERSECTION OF EAST SANTA CLARA AND DECLARING THE VACATED PROPERTY TO BE “EXEMPT SUPPLUS LAND” UNDER CAL. GOV. CODE § 54221(F)(1)(B) AND SAN JOSE MUNICIPAL CODE § 4.20.070

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authorizes the City Council to summarily vacate a public street if the City Council determines that it has been superseded by relocation, and there are no in-place public utility facilities that are in use and would be affected by the vacation; and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, after the satisfaction of the condition set forth in Section 3 of this Resolution, summarily vacate an approximately 1,381 square foot portion of North Almaden Boulevard at the intersection with East Santa Clara Street (“Subject Property”) constituting:

All that certain real property situate in the City of San José, County of Santa Clara, State of California, being a portion of the parcel of land described in the Grand Deed recorded April 6, 1967 as Document No. 3205485 in Book 7685 of Official Records, page 461, Santa Clara County Records, and being more particularly described as follows:

BEGINNING at the northerly corner of said parcel of land, also being an angle point in the general southwesterly line of Parcel A as shown on that map of Tract 9802 filed for record on July 7, 2006, in Book 803 of Maps, page 21, Santa Clara County Records;

Thence along said general southwesterly line, South 60° 06' 14" West, 10.00 feet, to a line parallel with, and 32.00 feet distant, from the centerline of Almaden Boulevard;

Thence along said parallel line, South 29° 47' 46" East, 70.75 feet;

Thence South 60° 06' 14" West, 2.00 feet, to a line parallel with, and 30.00 feet distant, from the centerline of Almaden Boulevard;

Thence along said parallel line, South 29° 47' 46" East, 20.87 feet;

Thence along a tangent curve to the left, having a radius of 120.00 feet, through a central angle of 27° 00'44" for an arc length of 56.57 feet, to a point of cusp with the southwesterly line of Parcel B as shown on said map of Tract 9802;

Thence along said southwesterly line, northwesterly, along a non-tangent curve to the right, having a radius of 10.00 feet, whose center bears North 33° 11' 30" East, through a central angle of 27° 00' 44" for an arc length of 4.71 feet;

Thence continuing along said southwesterly line and the southwesterly line of said Parcel A, North 29°47' 46" West, 141.59 feet, to the POINT OF BEGINNING.

Containing 1,381 square feet 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 November 23, 2020 entitled "PLAT MAP SHOWING THE PORTION OF THE NORTH ALMADEN

BOULEVARD EAST SANTA CLARA STREET 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 November 23, 2020 that was submitted to the City Council setting forth the facts justifying the conditional summary vacation of the Subject Property (hereinafter “Report”); and

WHEREAS, the City owns the Subject Property in fee; and

WHEREAS, on January 14, 2020, the City Council passed Resolution No. 79374, approving a site development permit allowing the construction of a 19-story hotel on an approximately 0.20 acres site located adjacent to the Subject Property; and

WHEREAS, the Axis Condominium property, owned by Bit Holdings Sixty-Eight, Inc., is located at 38 N. Almaden Blvd. adjacent to the Subject Property; and

WHEREAS, land that is less than 5,000 square feet and is transferred to an adjacent property owner is “exempt surplus land” under Cal. Gov. Code §54221(f)(1)(D);

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. Upon satisfaction of the condition specified in this Resolution, the Subject Property has been superseded by relocation and the vacation

- of the Subject Property would not cut off all access to a person's property which, prior to the relocation, adjoined the street; 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; and
 - G. The Subject Property is not needed for, nor adaptable to, municipal purposes, and the public interest would be served by the sale of such surplus real property; and
 - H. The proposed sale of the Subject Property conforms to Cal. Gov. Code §54221(f)(1)(B) in that the size of the surplus Subject Property is less than 5,000 square feet in area, is being sold to an owner of contiguous land, and, as such, should be declared "exempt surplus land"; and

- I. The proposed sale of the Subject Property also conforms to San José Municipal Code §4.20.070(A)/(B) in that both sales are to an adjacent property owner, not independently developable, and would limit the City's liability as well as reduce future ongoing maintenance obligations.

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 and declare the Subject Property as "exempt surplus lands" to the needs of the City, subject to the condition stated in Section 3 below.

SECTION 3. The vacation of the Subject Property shall be conditioned on, and shall not occur until, the property owner of 8 North Almaden Boulevard executes a City-Developer Agreement and provides bonds as required therein, which agreement guarantees, among other things, that public improvements will be constructed to conform the Subject Property to City standards and specifications.

SECTION 4. After receiving written confirmation from both the Director of Public Works and the Office of the City Attorney that the condition in Section 3 has been satisfied, 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 5. From and after the date this Resolution is recorded, the Subject Property will no longer constitute a public street.

NVF:EEH
7/27/2021

ADOPTED this _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

Exhibit A

[Exhibit follows on next page]

Exhibit B

[Exhibit follows on next page]