

RESOLUTION NO. 73342

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A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE VACATING PORTIONS OF A PUBLIC SERVICE EASEMENT AND COVENANT OF EASEMENT WITHIN LOT 1 OF TRACT 9665 AT THE NORTHWEST CORNER OF BASSETT AND NORTH FIRST STREETS

WHEREAS, the vacation of portions of a Public Service Easement and Covenant of Easement for ingress, egress, emergency access and incidental purposes (hereinafter collectively referred to as the "Easement") within Lot 1 of Tract 9665 at the Northwest corner of Bassett and North First Streets described in Section 3 of this Resolution is being conducted pursuant to and in accordance with the provisions of Chapter 3 of Part 3 of Division 9 of the Streets and Highways Code of the State of California; and

WHEREAS, on June 27, 2006, the City Council adopted Resolution No. 73295 ("Resolution of Intention") declaring its intention to vacate portions of the Easement within Lot 1 of Tract 9665 described in Section 3 of this Resolution; and

WHEREAS, the Resolution of Intention gave notice that on Tuesday, the 8th day of August at 1:30 p.m., in the Council Chambers of the City Council, in the City Hall of the City of San Jose, the Council would hear any and all persons interested in or objecting to the vacation of said portions of the Easement within Lot 1 of Tract 9665; and

WHEREAS, the Resolution of Intention giving notice of the date, time and place of the public hearing was published in the manner prescribed by law; and

WHEREAS, notices of the proposed easement vacation, stating the purpose of the Resolution of Intention and the time and place set for the public hearing, were posted in the manner prescribed by law; and

WHEREAS, prior to the public hearing the plat map approved by the Director of Public Works on June 6, 2006, entitled "Plat Map Showing That Portion of A Public Service Easement and Covenant of Easement within Lot 1 of Tract 9665 at the Northwest Corner of Bassett and North First Streets: Figure 1 - Parcels 1 and 2; Figure 2 - Parcels 3 and 4; Figure 3 - Parcels 5, 6, and 7" and showing portions of the Easement on Lot 1 of Tract 9665 proposed for vacation ("Plat Map") was filed in the Office of the City Clerk and made available for examination by any persons desiring to do so; and

WHEREAS, on August 8, at 1:30 p.m. in the City Council chambers, the City Council heard any and all persons interested in or objecting to the proposed vacation of portions of the Easement within Lot 1 of Tract 9665, and received and considered all evidence submitted; and

WHEREAS, at the public hearing on the vacation of portions of the Easement within Lot 1 of Tract 9665 described in Section 3 of this Resolution, the City Council had before it

a report from the Director of Public Works to the City Council, dated June 5, 2006, identified as "EXHIBIT A" and incorporated herein, and the Plat Maps, identified as "EXHIBIT B" and incorporated herein.

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

SECTION 1. The City Council hereby adopts the Report and, based upon the Report and all other evidence submitted at the public hearing, makes the following findings of relevant fact:

- A. The portions of the Easement within Lot 1 of Tract 9665, as described in Section 3 of this Resolution, is not needed for public purposes; and
- B. All affected public utilities have been contacted and have no objections to the proposed vacation.

SECTION 2. The City Council makes the following conclusions and findings based upon an analysis of the above facts:

- A. The portions of the Easement within Lot 1 of Tract 9665 described in Section 3 of this Resolution and depicted in the Plat Map are not necessary for present or prospective public street purposes; and
- B. Pursuant to the provisions of Section 892 of the Streets and Highways Code of the State of California, the portions of the Easement within Lot 1 of Tract 9665 proposed for vacation are not useful as a nonmotorized transportation facility; and
- C. The proposed vacation is consistent with the City's General Plan.

SECTION 3. Based on the above stated facts, conclusions and findings, the City Council hereby vacates the following portions of the Easement within Lot 1 of Tract 9665 located thereon:

All that certain real property situated in the City of San Jose, County of Santa Clara, State of California, being portions of the Public Service Easement (PSE) and Covenant of Easement for Ingress, Egress, Emergency Access and Incidental Purposes (COE) within Lot 1, as said lot is shown on map of Tract 9665 for Condominium Purposes, entitled "Classics at North Keystone", filed November 1, 2005 in Book 793 of Maps at Pages 29 through 31 inclusive, Records of Santa Clara County, more particularly described in seven (7) PSE and COE Vacation Parcels, as follows:

FIGURE 1 - PARCEL 1

BEGINNING at the most southerly corner of said Lot 1;

THENCE along the southeasterly line of said Lot 1, North 59°33'30" East, 48.03 feet to the intersection with the northeasterly line of said PSE and COE, as shown on said map;

THENCE along the general northeasterly line of said PSE and COE, the following two (2) courses:

1. North 30°26'30" West, 102.67 feet;
2. North 59°33'30" East, 10.83 feet to the TRUE POINT OF BEGINNING of this description;

THENCE leaving said point and along the following four (4) courses:

1. North 59°33'30" East, 10.00 feet;
2. North 30°26'30" West, 4.17 feet;
3. South 59°33'30" West, 10.00 feet;
4. South 30°26'30" East, 4.17 feet to the TRUE POINT OF BEGINNING of this description.

Containing 42 square feet, more or less.

FIGURE 1 - PARCEL 2

BEGINNING at the most southerly corner of said Lot 1;

THENCE along the southeasterly line of said Lot 1, North 59°33'30" East, 164.11 feet to the intersection with the southwesterly line of said PSE and COE, as shown on said map;

THENCE along the general southwesterly line of said PSE and COE, the following two (2) courses:

1. North 30°26'30" West, 102.67 feet;
2. South 59°33'30" West, 10.83 feet to the TRUE POINT OF BEGINNING of this description;

THENCE leaving said point and along the following four (4) courses:

1. South 59°33'30" West, 10.00 feet;
2. North 30°26'30" West, 4.17 feet;
3. North 59°33'30" East, 10.00 feet;
4. South 30°26'30" East, 4.17 feet to the TRUE POINT OF BEGINNING of this description;

Containing 42 square feet, more or less.

FIGURE 2 - PARCEL 3

BEGINNING at the most southerly corner of said Lot 1;

THENCE along the southeasterly line of said Lot 1, North 59°33'30" East, 190.04 feet to the intersection with the northeasterly line of said PSE and COE, as shown on said map;

THENCE along the general northeasterly line of said PSE and COE, the following two (2) courses:

1. North 30°26'30" West, 102.67 feet;
2. North 59°33'30" East, 10.83 feet to the TRUE POINT OF BEGINNING of this description;

THENCE leaving said point and along the following four (4) courses:

1. North 59°33'30" East, 10.00 feet;
2. North 30°26'30" West, 4.17 feet;
3. South 59°33'30" West, 10.00 feet;
4. South 30°26'30" East, 4.17 feet to the TRUE POINT OF BEGINNING of this description.

Containing 42 square feet, more or less.

FIGURE 2 – PARCEL 4

BEGINNING at the most southerly corner of said Lot 1;

THENCE along the southeasterly line of said Lot 1, North 59°33'30" East, 306.12 feet to the intersection with the southwesterly line of said PSE and COE, as shown on said map;

THENCE along the general southwesterly line of said PSE and COE, the following two (2) courses:

1. North 30°26'30" West, 102.67 feet;
2. South 59°33'30" West, 10.83 feet to the TRUE POINT OF BEGINNING of the description;

THENCE leaving said point and along the following four (4) courses:

1. South 59°33'30" West, 10.00 feet;

2. North 30°26'30" West, 4.17 feet;
3. North 59°33'30" East, 10.00 feet;
4. South 30°26'30" East, 4.17 feet to the TRUE POINT OF BEGINNING of this description.

Containing 42 square feet, more or less.

FIGURE 3 – PARCEL 5

BEGINNING at the most southerly corner of said Lot 1;

THENCE along the southeasterly line of said Lot 1, North 59°33'30" East, 332.05 feet to the intersection with the northeasterly line of said PSE and COE, as shown on said map;

THENCE along the general northeasterly line of said PSE and COE, the following two (2) courses:

1. North 30°26'30" West, 102.67 feet;
2. North 59°33'30" East, 10.83 feet to the TRUE POINT OF BEGINNING of this description;

THENCE leaving said point and along the following four (4) courses:

1. North 59°33'30" East, 10.00 feet;
2. North 30°26'30" West, 4.17 feet;
3. South 59°33'30" West, 10.00 feet;
4. South 30°26'30" East, 4.17 feet to the TRUE POINT OF BEGINNING of this description.

Containing 42 square feet, more or less.

FIGURE 3 – PARCEL 6

BEGINNING at the most southerly corner of said Lot 1;

THENCE along the southeasterly line of said Lot 1, North 59°33'30" East, 448.13 feet to the intersection with the southwesterly line of said PSE and COE, as shown on said map;

THENCE along the general southwesterly line of said PSE and COE, the following two (2) courses:

1. North 30°26'30" West, 102.67 feet;
2. South 59°33'30" West, 10.83 feet to the TRUE POINT OF BEGINNING of this description;

THENCE leaving said point and along the following four (4) courses:

1. South 59°33'30" West, 10.00 feet;
2. North 30°26'30" West, 4.17 feet;
3. North 59°33'30" East, 10.00 feet;
4. South 30°26'30" East, 4.17 feet to the TRUE POINT OF BEGINNING of this description.

Containing 42 square feet, more or less.

FIGURE 3 – PARCEL 7

BEGINNING at the most southerly corner of said Lot 1;

THENCE along the southeasterly line of said Lot 1, North 59°33'30" East, 474.57 feet to the intersection with the northeasterly line of said PSE and COE, as shown on said map;

THENCE along the general northeasterly line of said PSE and COE, North 30°26'30" West, 102.67 feet to the TRUE POINT OF BEGINNING of this description;

THENCE leaving said point and along the following eight (8) courses:

1. North 30°26'30" West, 3.98 feet;
2. North 59°33'30" East, 10.33 feet;
3. North 30°26'30" West, 4.17 feet;
4. North 59°33'30" East, 17.66 feet;
5. South 30°26'30" East, 3.98 feet;
6. South 59°33'30" West, 7.67 feet;
7. South 30°26'30" East, 4.17 feet;
8. South 59°33'30" West, 20.32 feet to the TRUE POINT OF BEGINNING of this description.

Containing 153 square feet, more or less.

SECTION 4. The City Clerk is directed to record a certified copy of this Resolution in the Santa Clara County Recorder's Office.

SECTION 5. The portion of the Easement to be vacated herein will no longer constitute an ingress and egress easement, emergency access and incidental purposes easement from and after the date of recordation of the documents identified in Section 3 of this Resolution.

ADOPTED this 8th day of August, 2006, by the following vote:

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AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, NGUYEN,
PYLE, REED, WILLIAMS, YEAGER

NOES: NONE

ABSENT: LeZOTTE

DISQUALIFIED: GONZALES

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk