

RESOLUTION NO. 73536

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE VACATING A PORTION OF A PUBLIC ALLEYWAY BETWEEN ALMADEN AVENUE AND VINE STREET FROM EDWARDS AVENUE TO OAK STREET

WHEREAS, the vacation of a portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street 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 November 14, 2006, the City Council adopted Resolution No. 73486 ("Resolution of Intention") declaring its intention to vacate a portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street described in Section 3 of this Resolution; and

WHEREAS, the Resolution of Intention gave notice that on Tuesday, the 5th day of December, 2006 at 1:30 p.m., in the Council Chambers of the City Council, in the City Hall of the City of San José, the Council would hear any and all persons interested in or objecting to the vacation of said portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street; 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 street 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 October 13, 2006, entitled "Plat map showing that portion of an alleyway to be vacated between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street" and showing the portion of the alleyway 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 December 5, 2006, 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 the portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street, and received and considered all evidence submitted; and

WHEREAS, at the public hearing on the vacation of a portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street

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 October 25, 2006, identified as "EXHIBIT A" and incorporated herein, and the Plat Map, 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. This vacation is in conformance with Washington Neighborhood Revitalization Plan (the "Plan") and the Strong Neighborhoods Initiative (SNI) Update of the Plan, and the portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street described in Section 3 of this Resolution is no longer required for vehicular travel; and
- B. The Planning Commission considered the proposed street vacation and found the proposed street vacation to be consistent with the City's General Plan and recommended approval of the proposed vacation, as reported in the report from the Planning Commission to the City Council dated October 13, 2006, attached hereto as "EXHIBIT C" and incorporated herein; and
- C. There are no public facilities in use on the portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street described in Section 3 of this Resolution; and
- D. All affected public utilities have been contacted and have none have objections to the proposed vacation; and

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

- A. The portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street described in Section 3 of this Resolution and depicted in the Plat Map is 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 portion of a public alleyway between Almaden Avenue and Vine Street from Edwards Avenue to Oak Street proposed for vacation is not useful as a non-motorized transportation facility; and

- C. The public convenience and necessity does not require the reservation of a public service easement over the entire area of the street proposed for vacation; and
- D. 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 portion of a public alleyway situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Being a portion of Block 9, Range 3 West as shown on that certain Map entitled "Map of Mace's Southwestern Addition", filed in Book A of Maps at Page 16 further described as follows:

Beginning at a point of intersection of the northwesterly right of way line of Edwards Avenue with the northeasterly line of an alley, distant thereon 137.80 feet southwesterly from the intersection of the last said northwesterly right of way line of Edwards Avenue with the southwesterly right of way line of Almaden Avenue, said point also being the South corner of that certain parcel of land described in a deed to Roberto Guerra and Mayra Guerra filed September 20, 2005 under Recorders Series Number 18585436, Santa Clara County Records; thence northwesterly and parallel with the southerly boundary line of Almaden Avenue 250.00 feet along the northeasterly line of said alley to the West corner of Lot 5 of said "Map of Mace's Southwestern Addition"; thence southerly 20.10 feet to the North corner of that parcel of land described in a deed to Rosendo Zaragoza and Irma Zaragoza filed September 8, 2006 under Recorders Series Number 19097288, Santa Clara County Records, said point also lying on the southwesterly line of said alley; thence southeasterly and parallel with the southerly boundary line of Almaden Avenue 248.00 feet along last said southwesterly line to the East corner of Lot 14 of said "Map of Mace's Southwestern Addition", said point also lying on said northwesterly right of way line of Edwards Avenue; thence northeasterly along last said northwesterly right of way line of Edwards Avenue, 20.00 feet to the Point of Beginning.

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. From and after the date this Resolution is recorded, the street vacated will no longer constitute a public street.

ADOPTED this 5th day of December, 2006, by the following vote:

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

NOES: NONE

ABSENT: LeZOTTE

DISQUALIFIED: NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk