

RESOLUTION NO. 73519

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE VACATING A PORTION OF PAULA STREET BETWEEN RACE STREET AND MERIDIAN WAY AND RESERVING A PUBLIC SERVICE EASEMENT

WHEREAS, the vacation of a portion Paula Street between Race Street and Meridian Way 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 October 31, 2006, the City Council adopted Resolution No. 73476 ("Resolution of Intention") declaring its intention to vacate the portion of a Paula Street between Race Street and Meridian Way described in Section 3 of this Resolution and to reserve a public service easement over the area vacated; and

WHEREAS, the Resolution of Intention gave notice that on Tuesday, the 21st day of November, 2006 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 portion of Paula Street between Race Street and Meridian Way; 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 17, 2006, entitled "Plat Map Showing That Portion of Paula Street between Race Street and Meridian Way To Be Vacated" and showing the portion of the street 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 November 21, 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 a Paula Street between Race Street and Meridian Way and received and considered all evidence submitted; and

Deleted: October 31

WHEREAS, at the public hearing on the vacation of the portion of Paula Street between Race Street and Meridian Way 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 11, 2006 ("Report"), identified as "EXHIBIT A" and incorporated herein, and the Plat Map, identified as "EXHIBIT B" and incorporated herein; and

WHEREAS, the portion of Paula Street between Race Street and Meridian Way is being vacated for the purpose of fulfilling the development conditions of Planned Development Permit 06-046;

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 facts:

- A. The portion of Paula Street between Race Street and Meridian Way, as described in Section 3 of this Resolution, is not needed for public purposes; and
- B. The Planning Commission considered the proposed street vacation as a City-initiated 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 November 17, 2006, attached hereto as "EXHIBIT C" and incorporated herein; and
- C. There are a number of public facilities on the portion of Paula Street described in Section 3 of this Resolution; and
- D. All affected public utilities have been contacted and have no objections to the proposed vacation so long as a public service easement is reserved.

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

- A. The portion of Paula Street between Race Street and Meridian Way described in Section 3 of this Resolution and depicted in the Plat Map is not necessary for present or prospective roadway purposes; and
- B. Pursuant to the provisions of Section 892 of the Streets and Highways Code of the State of California, the portion of Paula Street between Race Street and Meridian Way proposed for vacation is not useful as a non-motorized transportation facility; and
- C. The public convenience and necessity requires the reservation of a public service easement over the area vacated; 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 Paula Street between Race Street and Meridian Way, subject to the reservation of a public service easement over and beneath the subject area, for the purpose of fulfilling the development conditions of Planned Development Permit 06-046. The portion of Paula Street between Race Street and Meridian Way to be vacated with reservation of a public service easement is described as follows:

AREA TO BE VACATED

Being a portion of Paula Street as shown on that certain map entitled "Map of the Sainsevain Villa, San Jose, Santa Clara County, Cal.", which was filed for record on June 19, 1876, in the Office of the Recorder of Santa Clara County in Book "A" of Maps at page 11, more particularly described as follows:

Beginning at a point on the southerly line of said Paula Street, distant thereon 172.5 feet easterly from the intersection thereof with the easterly line of Meridian Avenue; thence running easterly along a curve to the right, from a tangent bearing of N 75°48'39" E, having a radius of 292.00 feet, a central angle of 14°10'41", an arc length of 72.26 feet; thence N 89°59'20" E, 78.48 feet; thence S 00°00'20" E, 8.89 feet to the intersection with said southerly line of Paula Street; thence westerly along said southerly line, S 89°59'20" W, 150.00 feet to the POINT OF BEGINNING.

RESERVING THEREFROM: an easement for public utilities in general, with access thereto, including but not limited to poles, wires, and conduits for electrical, telephone, television, gas, storm, sanitary and water services, and all appurtenances thereto, under, upon or over a parcel of land described above.

SECTION 4. The City Clerk shall 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 portion of the street to be vacated will no longer constitute a public street.

ADOPTED this 21st day of November, 2006, by the following vote:

AYES:	CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE, NGUYEN, REED, WILLIAMS, YEAGER; GONZALES
NOES:	NONE
ABSENT:	PYLE
DISQUALIFIED:	NONE

RON GONZALES
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk