

RESOLUTION NO. 73706

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**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE VACATING THE PUBLIC SERVICE EASEMENT ON THE NORTHWEST CORNER OF MAGLIOCCO DRIVE AND HUFF AVENUE**

**WHEREAS**, the vacation of a public service easement (“PSE”) on the northwest corner of Magliocco Drive and Huff Avenue 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 March 6, 2007, the City Council adopted Resolution No. 73674 (“Resolution of Intention”) declaring its intention to vacate the PSE on northwest corner of Magliocco Drive and Huff Avenue described in Section 3 of this Resolution; and

**WHEREAS**, the Resolution of Intention gave notice that on Tuesday, the 27th day of March, 2007 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 the PSE on northwest corner of Magliocco Drive and Huff Avenue; 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 January 22, 2007, entitled “Plat Showing That Portion of Public Service Easement on Northwest Corner of Magliocco Drive and Huff Avenue To Be Vacated” and showing the PSE 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 March 27, 2007, 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 PSE on the northwest corner of Magliocco Drive and Huff Avenue and received and considered all evidence submitted; and

**WHEREAS**, at the public hearing on the vacation of the portion of a PSE on the northwest corner of Magliocco Drive and Huff Avenue 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 February 12, 2007, identified as “EXHIBIT A” and incorporated herein, and the Plat Map, identified as “EXHIBIT B” and incorporated herein; and

**WHEREAS**, the PSE on the northwest corner of Magliocco Drive and Huff Avenue is being vacated for the purpose of fulfilling the development conditions of Planned Development Permit 01-075.

**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 PSE on the northwest corner of Magliocco Drive and Huff Avenue, as described in Section 3 of this Resolution, is not needed for public purposes.

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

- A. The PSE located at the northwest corner of Magliocco Drive and Huff Avenue described in Section 3 of this Resolution and depicted in the Plat Map is not necessary for present or prospective easement purposes; and
- B. 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 PSE on the northwest corner of Magliocco Drive and Huff Avenue for the purpose of fulfilling the development conditions of Planned Development Permit 01-075. The PSE on northwest corner of Magliocco Drive and Huff Avenue to be vacated is described as follows:

AREA TO BE VACATED

All of the 6-foot wide Public Service Easement shown on Lot 1 of Tract No. 9588, along the Northerly line of Magliocco Drive and the Westerly line of Huff Avenue, being the Southerly and Easterly 6 feet of said Lot 1, easement, and streets are shown on the Map of Tract No. 9588, which map was filed for record on March 29, 2006 in Book 799 of Maps at Pages 1 and 2, Records of the County of Santa Clara.

Containing an area of 2,178 square feet (0.05 acres), more or less.

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 PSE to be vacated will no longer constitute a public service easement.

ADOPTED this 27<sup>th</sup> day of March, 2007, by the following vote:

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AYES: CAMPOS, CHIRCO, LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED

NOES: NONE

ABSENT: CONSTANT, CORTESE

DISQUALIFIED: NONE

VACANT DISTRICT 4

\_\_\_\_\_  
CHUCK REED  
Mayor

ATTEST:

\_\_\_\_\_  
LEE PRICE, MMC  
City Clerk

AYES:

NOES:

ABSENT:

DISQUALIFIED:

VACANT:

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk