

RESOLUTION NO. 73993

**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 of 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 August 14, 2007, the City Council adopted Resolution No. 73945 ("Resolution of Intention") declaring its intention to vacate the portion of 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 11<sup>th</sup> day of September, 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 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 August 3, 2007, 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 September 11, 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 portion of Paula Street between Race Street and Meridian Way and received and considered all evidence submitted; and

Deleted: August 14

**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 July 23, 2007 ("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 Site Development Permit 07-014;

**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 August 28, 2007, 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 entire 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 as hereinafter described, for the purposes of constructing, maintaining, operating,

replacing, removing or renewing the existing, or any future, public facilities located thereon.. 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:

**A.P.N. 264-07-034**

**SITUATED** in the City of San Jose, County of Santa Clara, State of California and being a portion of Paula Street, as said Street is shown upon that certain Map entitled "Map of the Sainsevain Villa, San Jose, Santa Clara County, Cal.", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California on June 19, 1876 in Book 'A' of Maps at Page 11, and being more particularly described as follows:

**BEGINNING** at a point on the south right-of-way line of Paula Street (60.00 feet wide), 132.58 feet distant from the point of intersection of said south right-of-way line of Paula Street with the west right-of-way line of Race Street (60.00 feet wide), as said Streets are shown upon that above referred to 'Map of the Sainsevain Villa', said point of beginning being coincident with the northeast corner of those Lands conveyed to Alfred Almario and Dina Almario by Grant Deed recorded August 23, 2006 as Document No. 19075526, Santa Clara County Records, and running thence from said point of beginning along the said south right-of-way line of Paula Street, being coincident with the north line of said Lands of Almario, Westerly for a distance of 40.02 feet to the northwest corner of said Lands; thence leaving said south right-of-way line of Paula Street, at right angles Northerly, for a distance of 6.00 feet; thence running parallel with and northerly of the said south right-of-way line of Paula Street, Easterly for a distance of 40.02 feet to a point that is at right angles from the said northeast corner of Lands of Almario; thence Southerly, at right angles, for a distance of 6.00 feet to the **POINT OF BEGINNING** and containing therein 240 square feet more or less.

**A.P.N. 264-07-033**

**SITUATED** in the City of San Jose, County of Santa Clara, State of California and being a portion of Paula Street, as said Street is shown upon that certain Map entitled "Map of the Sainsevain Villa, San Jose, Santa Clara County, Cal.", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California on June 19, 1876 in Book 'A' of Maps at Page 11, and being more particularly described as follows:

**BEGINNING** at a point on the south right-of-way line of Paula Street (60.00 feet wide), 172.60 feet distant from the point of intersection of said south right-of-way line of Paula Street with the west right-of-way line of Race Street (60.00 feet wide), as said Streets are shown upon that above referred to 'Map of the Sainsevain Villa', said point of beginning being coincident with the northeast corner of those Lands conveyed to Michael Mohsen Ahi by Interspousal Transfer Deed recorded March 1, 2007 as Document No. 19322955, Santa Clara County Records, and running thence from said point of beginning along the said south right-of-way line of Paula Street, being coincident with the north line of said Lands of Ahi, Westerly for a distance of 40.02 feet to the northwest corner of said Lands; thence leaving said south right-of-way line of Paula Street, at right angles Northerly, for a distance of 6.00 feet; thence running parallel with and northerly of the said south right-of-

way line of Paula Street, Easterly for a distance of 40.02 feet to a point that is at right angles from the said northeast corner of Lands of Ahi; thence Southerly, at right angles, for a distance of 6.00 feet to the **POINT OF BEGINNING** and containing therein 240 square feet more or less.

**A.P.N. 264-07-055**

**SITUATED** in the City of San Jose, County of Santa Clara, State of California and being a portion of Paula Street, as said Street is shown upon that certain Map entitled "Map of the Sainsevain Villa, San Jose, Santa Clara County, Cal.", which Map was filed for record in the Office of the Recorder of the County of Santa Clara, State of California on June 19, 1876 in Book 'A' of Maps at Page 11, and being more particularly described as follows:

**BEGINNING** at a point on the south right-of-way line of Paula Street (60.00 feet wide), 212.62 feet distant from the point of intersection of said south right-of-way line of Paula Street with the west right-of-way line of Race Street (60.00 feet wide), as said Streets are shown upon that above referred to 'Map of the Sainsevain Villa', said point of beginning being coincident with the northeast corner of those Lands conveyed to Roberto S. Gonzales and Alice Gonzales by Grant Deed recorded April 15, 1968 in Book 8088 at Page 721, Santa Clara County Official Records, and running thence from said point of beginning along the said south right-of-way line of Paula Street, being coincident with the north line of said Lands of Gonzales, Westerly for a distance of 38.50 feet to the northwest corner of said Lands; thence leaving said south right-of-way line of Paula Street, at right angles Northerly, for a distance of 6.00 feet; thence running parallel with and northerly of the said south right-of-way line of Paula Street, Easterly for a distance of 38.50 feet to a point that is at right angles from the said northeast corner of Lands of Gonzales; thence Southerly, at right angles, for a distance of 6.00 feet to the **POINT OF BEGINNING** and containing therein 231 square feet more or less.

**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 11<sup>th</sup> day of September, 2007, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, CORTESE,  
LICCARDO, NGUYEN, OLIVERIO, PYLE, WILLIAMS,  
REED

NOES: NONE

ABSENT: NONE

DISQUALIFIED: NONE

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk