

RESOLUTION NO. 73994

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE VACATING PORTIONS OF A PUBLIC SERVICE EASEMENT WITHIN LOT 1 OF TRACT 7502 ALONG SAMARITAN DRIVE AND CLYDELLE AVENUE AND PORTIONS OF A SIDEWALK EASEMENT WITHIN LOT 1 OF TRACT 7502 ALONG SAMARITAN DRIVE

WHEREAS, the vacation of portions of a Public Service Easement and Sidewalk Easement (hereinafter collectively referred to as the "Easement") within Lot 1 of Tract 7502 along Samaritan Drive and Clydelle 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 August 14, 2007, the City Council adopted Resolution No. 73946 ("Resolution of Intention") declaring its intention to vacate portions of the Easement within Lot 1 of Tract 7502 described in Section 3 of this Resolution; and

WHEREAS, the Resolution of Intention gave notice that on Tuesday, the 11th day of September 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 7502; 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 July 05, 2007, entitled "Plat Map Showing That Portion of A Public Service Easement within Lot 1 of Tract 7502 along Samaritan Drive and Clydelle Avenue: Figure 1" and "Plat Map Showing That Portion of a Sidewalk Easement within Lot 1 of Tract 7502 along Samaritan Drive: Figure 1" and showing portions of the Easement on Lot 1 of Tract 7502 proposed for vacation ("Plat Map") were 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, 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 7502, 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 7502 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, 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 7502, as described in Section 3 of this Resolution, are not needed for public purposes and there are no utility facilities within the Easement being vacated; and
- B. The Planning Commission considered the proposed easement vacation on July 18, 2007, and found the proposed Easement 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 September 10, 2007, attached hereto as "EXHIBIT C" and incorporated herein; and
- C. 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 7502 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 7502 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 7502 located thereon:

FIGURE 1

All that certain real property in the City of San Jose, County of Santa Clara, State of California, being all of that 10 foot Public Service Easement lying within Lot 1 as shown upon that Map of Tract 7502 filed for record on April 19, 1984, in Book 527 of Maps, pages 39 through 41, Santa Clara County Records;

Excepting therefrom, a portion of said 10 foot Public Service Easement, described as follows:

Beginning at the southeasterly corner of said Lot 1, being on the northerly line of Samaritan Drive;

Thence along said northerly line, North 89°59'42" West, 30.00 feet to the westerly line of that 30 foot Ingress Egress and Public Service Easement as shown on said Map, also being the TRUE POINT OF BEGINNING;

Thence continuing along said northerly line, North 89°59'42" West, 1,610.87 feet, to the westerly line of said Lot 1;

Thence along said westerly line, North 00°00'18" East, 5.00 feet;

Thence South 89°59'42" East, 379.98 feet:

Thence North 00°00'18" East, 5.00 feet, to the northerly line of said 10 foot Public Service Easement:

Thence along said northerly line, South 89°59'42" East, 123.25 feet;

Thence South 00°00'18" West, 5.00 feet;

Thence South 89°59'42" East, 1,107.63 feet, to the westerly line of said 30 foot Ingress Egress and Public Service Easement;

Thence along said westerly line, South 00°07'02" East, 5.00 feet, to the TRUE POINT OF BEGINNING.

Containing 0.20 acres, more or less.

FIGURE 1

All that certain real property in the City of San Jose, County of Santa Clara, State of California, being a portion of that 22 foot Sidewalk Easement lying within Lot 1 as

shown upon that Map of Tract 7502 filed for record on April 19, 1984, in Book 527 of Maps, pages 39 through 41, Santa Clara County Records;

Beginning at the northeasterly corner of said 22 foot Sidewalk Easement, being on the easterly line of said Lot 1;

Thence along said easterly line, South 00°07'02" East, 3.50 feet;

Thence North 89°59'42" West, 5.72 feet;

Thence South 60°00'00" West 28.00 feet;

Thence North 89°59'42" West, 176.00 feet;

Thence North 78°00'00" West, 19.25 feet;

Thence North 89°59'42" West, 38.00 feet;

Thence South 78°00'00" West 19.23 feet;

Thence North 89°59'42" West, 277.00 feet;

Thence North 65°00'00" West, 23.67 feet;

Thence North 89°59'42" West, 45.22 feet;

Thence South 72°00'00" West 33.98 feet;

Thence North 89°59'42" West, 100.00 feet;

Thence North 65°00'00" West, 18.93 feet;

Thence North 89°59'42" West, 9.00 feet;

Thence South 55°00'00" West 10.46 feet;

Thence North 89°59'42" West, 6.50 feet;

Thence North 72°00'00" West, 16.18 feet;

Thence North 89°59'42" West, 15.00 feet;

Thence South 72°00'00" West 22.64 feet;

Thence North 89°59'42" West, 75.00 feet;

Thence North 71°00'00" West, 36.87 feet;

Thence North 89°59'42" West, 130.39 feet;

Thence South 55°00'00" West 18.30 feet;

Thence North 89°59'42" West, 76.00 feet;

Thence North 80°00'00" West, 39.97.00 feet;

Thence North 89°59'42" West, 60.00 feet;

Thence South 82°00'00" West 60.59 feet;

Thence North 89°59'42" West, 43.00 feet;

Thence North 57°00'00" West, 18.19 feet;

Thence South 90°00'00" West 4.99 feet;

Thence South 57°00'00" West 18.18 feet;

Thence North 89°59'42" West, 58.00 feet;

Thence North 69°00'00" West, 39.07 feet;

Thence North 89°59'42" West 17.17 feet;

Thence South 80°00'00" West 37.41 feet;

Thence North 89°59'42" West, 42.17 feet;

Thence South 81°00'00" West 47.92 feet;

Thence North 89°59'42" West, 32.98 feet, to the westerly line of said Lot 1;

Thence along the westerly and southerly lines of said Lot 1, the following three courses:

1. Thence North 00°00'18" East, 4.00 feet;
2. Thence westerly, along a non-tangent curve to the right, having a radius of 20.00 feet, whose center bears North 00°00'18" East, through a central angle of 36°54'35" for an arc length of 12.88 feet;
3. Thence North 00°06'59" West, 9.99 feet, to the northerly line of said 22 foot Sidewalk Easement;

Thence along said northerly line, South 89°59'42" East, 1652.86 feet, to the TRUE POINT OF BEGINNING.

Containing 0.53 acres, 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. From and after the date this Resolution is recorded, the Easement vacated will no longer constitute a Public Easement.

ADOPTED this 11th 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

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk