



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen

**SUBJECT: PUBLIC USE AND NECESSITY
HEARING - ALONGI**

DATE: 10-20-04

Approved

Date

10/21/04

Council District: 6

RECOMMENDATION

Adoption of a resolution:

1. Determining that public use and necessity require the acquisition of a surface trail easement on a portion of an automobile tow and storage property owned by Vincent S. Alongi and Ida A. Alongi, Co-Trustees of the Vincent S. Alongi and Ida A. Alongi Revocable Living Trust dated August 20, 1992 and Carmel M. Alongi and Stanley Paul Alongi, Co-Trustees of the Nicholas N. Alongi Exemption Trust under the Nicholas N. Alongi and Carmel M. Alongi Revocable Living Trust dated January 7, 1992, located at 940 Lonus Street;
2. Finding that: (a) The property interest to be acquired is necessary for the completion of the Los Gatos Creek Trail – Reach 4 project; (b) The proposed project is planned and located in the manner that will be most compatible with the greatest public good and the least private injury; (c) City staff established an amount of just compensation not less than the full amount of the approved appraisal; (d) City staff made an offer to the owners for the full appraised amount; and (e) The proposed taking and use are authorized by law;
3. Directing the City Attorney to file an eminent domain action to acquire the above property interest.

CEQA: Mitigated Negative Declaration, PP04-01-014.

BACKGROUND

The Los Gatos Creek Trail Master Plan was adopted by the City Council in 1985. The Plan included trail development proposals along five reaches of the Los Gatos Creek in the City from

Bascom Avenue to the Arena Green confluence with the Guadalupe River near downtown San Jose. The most recent phase of the trail from Blackford Elementary School to Meridian Avenue was dedicated and open to the public in June 1989.

This property easement purchase will allow continued development of the Los Gatos Creek Trail along Reach 4 from Lincoln Avenue to Auzerais Avenue. A portion of this reach had previously been constructed in 1988 between Lonus Street and Route 280 as part of an adjacent private storage facility development near the creek.

ANALYSIS

Acquisitions of land, easements or other use rights will be required on portions of properties belonging to nine owners for this particular reach of the Los Gatos Creek Trail. It is anticipated that the proposed trail segment on the Del Monte former cannery site will be dedicated as part of the redevelopment of the property thereby making acquisition unnecessary. Subsequent Council action will be requested as agreements are negotiated or public use and necessity resolutions are needed.

On June 24, 2004, the City presented an offer of \$89,281 for the easement including some improvements located within the easement area consisting of asphalt paving. The offer was based upon the full appraised value of the easement and improvements. The portion of the property over which the City will acquire the subject easement consists of a strip between 25' and 37' in width spanning the entire width of the parcel comprising a total of 2,841 square feet. A total of 2,413 square feet is located along the top of the creek bank on level land with the remaining 428 square feet located within the banks of the creek itself. In the ensuing negotiations the owners expressed their opinion that the compensation offered was inadequate without presenting any relevant supporting documentation or evidence. A final attempt to have the owner present supporting evidence was made on September 22, 2004 with a requested response no later than October 5, 2004. No additional response was received. A map showing the subject location is attached hereto as Exhibit A.

PUBLIC OUTREACH

Four public workshops for the Los Gatos Creek Master Plan were held during the latter part of 1985, which included representatives of the neighborhood associations, private corporations, private citizens, homeowners and public agencies. A Citizen's Advisory Committee was also formed to provide direction to master planning efforts. A community meeting was held on April 17, 2003 with interested neighborhood parties to address specific concerns related to the Reach 4 trail alignment during the design development phase..

COORDINATION

Preparation of this memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, the Department of Planning, Building and Code Enforcement and the Department of Parks, Recreation and Neighborhood Services.

COST IMPLICATIONS

Deposit of \$89,281 into the State Treasury Condemnation Fund and any additional funds that the court may determine.

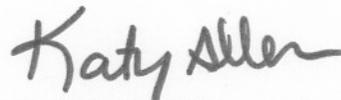
Cost implications associated with the bridge and trail construction project will be discussed in future Council memoranda concerning those improvements.

BUDGET REFERENCE

Fund #	Appn. #	Appn. Name	RC #	Total Appn.	Amt. For Contract	2004-2005 Adopted Capital Budget Page	Last Budget Action (Date, Ord. No.)
471	6924	Los Gatos Creek Trail-Lincoln-Auzerais and Willow-Pedro		\$2,894,000	N/A	Page V - 910	10-12-04
		Total		\$2,894,000			

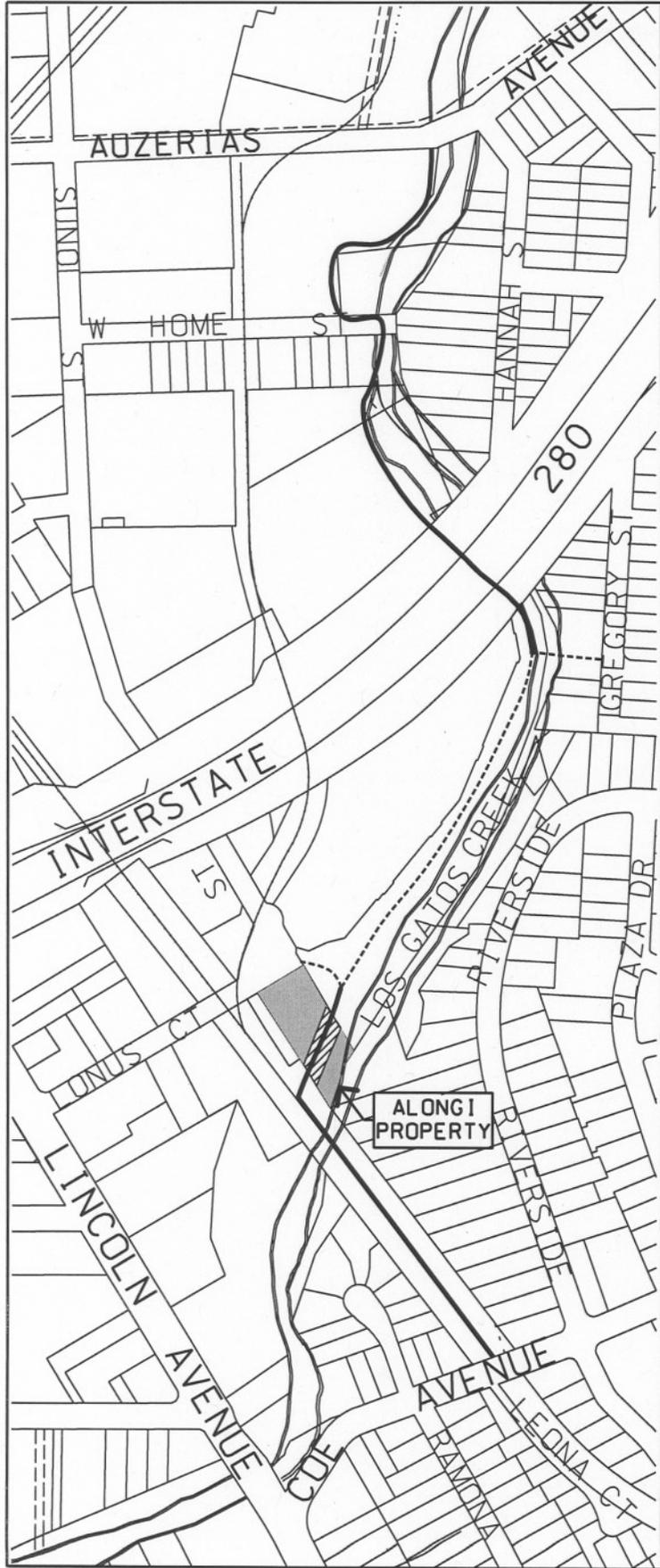
CEQA

Mitigated Negative Declaration, PP04-01-014.



KATY ALLEN

Director, Public Works Department



LEGEND

- PROPOSED TRAIL
- - - EXISTING TRAIL
- ALONGI PROPERTY
- ▨ ALONGI PROPERTY TO ACQUIRE EASEMENT

EXHIBIT A

City of San Jose

LOS GATOS CREEK TRAIL

Lincoln Avenue to Auzerias Avenue