

RESOLUTION OF VACATION NO. 899

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND ORDERING THE VACATION OF AN ALLEYWAY LOCATED OFF WRIGHT AVENUE BETWEEN SOUTH 13TH STREET AND MARINA WAY SOUTH (File No. ST 1103984)

WHEREAS, Hynes Family Holdings, LLC has submitted an application requesting that an alleyway located between 1314 and 1320 Wright Avenue be vacated by the City of Richmond; and

WHEREAS, pursuant to Street and Highways Code Sections 8320 et. Seq., the City of Richmond desires to vacate the subject alley, more particularly described in Exhibits A and B attached hereto and incorporated herein and hereafter referred to as the "area to be vacated," consisting of a map of the area to be vacated and legal description; and

WHEREAS, the City Engineer has reported to this Council that the area to be vacated is surplus and is not necessary to meet the transportation needs of the City; and

WHEREAS, the City is authorized to vacate all or part of a public street or public service easement within the City pursuant to the Public Street, Highways and Service Vacation Easements Law (State of California Streets and Highways Code, Section 8300 et. seq.); and

WHEREAS, Section 8340 (c) of the State of California Streets and Highways Code requires that unless public convenience and necessity require otherwise, the City must reserve and except from the vacation any easement and right necessary to maintain, operate, replace, remove and renew public utility facilities; and

WHEREAS, AT&T requests that an easement be reserved from the vacation; and

WHEREAS, on August 2, 2007, the Planning Commission found that the proposed street vacation satisfies the required findings for a street vacation as set forth by the State of California Streets and Highways Code, and voted unanimously to recommend approval to the City Council; and

WHEREAS, the City Clerk administratively set the public hearing for the City Council to consider the proposed vacation for November 6, 2007 pursuant to the Streets and Highways Code Section 8320; and

WHEREAS, notice of the hearing on the proposed street vacation as described on Exhibits A and B was duly published and posted as required by Streets and Highways Code Section 8322 and 8323; and,

WHEREAS, on November 6, 2007, the City Council opened and conducted the public hearing, allowing all interested parties an opportunity to speak.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF RICHMOND DOES HEREBY RESOLVE AS FOLLOWS:

1. The City Council finds, based on all the evidence submitted, that the alleyway described in the vacation map and legal description attached hereto, as Exhibits A and B, are not necessary for present or prospective transportation needs and is hereby vacated subject to the following conditions:
 - a. The following language shall be added to the legal description prior to recordation of the Resolution of Vacation, "EXCEPTING AND RESERVING THEREFROM PURSUANT TO THE PROVISIONS OF SECTION 8340 of the Street and Highways Code and for the benefit of Pacific Bell Telephone Company dba AT&T California ("AT&T"), the permanent easement and the right at any time or from time to time to construct maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cable, wires, poles and other convenient structures, equipment and fixtures for the operation of

telegraphic and telephone lines and other communication facilities, including access and the right to keep the property free from inflammable materials and wood growth, and otherwise protect the same from all hazards, in, upon, over and across that portion off of Wright Avenue between S. 13th Street and Marina Way South or parts thereof.”

- b. Prior to the recordation of the Resolution of Vacation, the applicant shall submit the appropriate fee to the Engineering Department for review and approval of the Street Vacation Map.
- 2. The City Clerk is hereby directed to record this order declaring vacation of the subject alley described in Exhibits A and B in the Office of the Contra Costa County Recorder only after conditions required by the City Council have been satisfied.
- 3. Upon vacation of the portion of said street and transfer of ownership, the new property owners(s) shall have all properties adjoining the vacated right-of-way registered under a single parcel number at the Contra Costa County Recorder’s office. All existing easements, including one for the overhead AT&T lines, shall be carried forward on the new map. A copy of said recordation shall be submitted to the Planning Director within one month of the recordation of the Resolution of Vacation.

I certify that the foregoing resolution was passed and adopted by the City Council of the City of Richmond, California, at a regular meeting thereof held November 6, 2007, by the following vote:

- AYES: Councilmember Bates, Butt, Lopez, Marquez, Rogers, Sandhu, Thurumond, Viramontes, and Mayor McLaughlin
- NOES: None
- ABSTAIN: None
- ABSENT: None

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved as to form:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

LOUISE RENNE, Interim
City Attorney

State of California }
County of Contra Costa : ss.
City of Richmond }

I certify that the foregoing is a true copy of Resolution of Vacation No.899, finally passed and adopted by the Council of the City of Richmond at meeting held on November 6, 2007.