



**This item was continued
from 5-3-05, item 3.2**

DEVELOPMENT SERVICES
DEPARTMENT

DEVELOPMENT ENGINEERING
AND FINANCE DIVISION

CITY OF SACRAMENTO
CALIFORNIA

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April 5, 2005

City Council
Sacramento, California

Honorable Members in Session:

**SUBJECT: VACATION (ABANDONMENT) OF A PORTION OF THE ALLEY EAST OF 39TH
STREET BETWEEN "T" STREET AND "U" STREET WITHIN COUNCIL
DISTRICT 6, VACATION PROCEEDING NO. VP04-08**

LOCATION AND COUNCIL DISTRICT:

The alley east of 39th Street between "T" Street and "U" Street within Council District 6. (See Attachment "A").

RECOMMENDATION:

This report recommends that the City Council adopt the attached resolution:

- Approving vacation of the portion of the alley east of 39th Street between "T" Street and "U" Street.

CONTACT PERSONS: Cesar Narvaez, Engineering Technician III, 808-7873
Jerry Lovato, Senior Engineering Technician, 808-7918

FOR COUNCIL MEETING OF: May 3, 2005

SUMMARY:

Mr. Thomas Cregger requests the City vacate a 7-foot wide section of the subject 20-foot wide alley. The alley is located east of 39th Street between "T" Street and "U" Street. Staff has determined that the portion of the subject alley to be vacated is excess right-of-way not necessary for present or future public use, and the 13-foot wide remaining portion is enough for the abutting properties to access their properties.

COMMITTEE/COMMISSION ACTION:

The City Planning Commission has reviewed and determined that vacation of the portion of the subject alley is consistent with the City's General Plan.

BACKGROUND INFORMATION:

Originally, the subject alley ran from 39th Street through 42nd Street. In 1974 and 1995 the eastern portion of the alley was vacated leaving the approximate 136-foot western portion of the alley as a public alley. Approximately 25 years ago, Mr. Cregger's predecessor-in-interest built a fence, which encroached seven feet into the alley from the property at 3900 T Street. Their neighbor at 3906 T Street also pushed his/her fence back into the alley approximately 7 feet. Mr. Cregger requests the City vacate this 7-foot portion of the subject alley. Vacating this 7-foot portion of the alley will recognize the status quo over the past 25 years.

Seven out of eight owners of property abutting the subject alley support the request for abandonment. Three of the seven owners supporting the request have garages and gates that are accessed through the alley: the properties located at the east of the alley, 3619 T Street, 3924 T Street & 3925 U Street. Mr. Al Caniglia, who owns the property at 3909 U Street, is the only opposition to this request for vacation. He has stated that in the future his property might require the full width of the alley for access. This property at 3909 U Street is a rental property and currently does not have a garage or gate/door to access through the alley.

City departments and utility companies have reviewed and indicated support for this vacation. Letters regarding this vacation are on file with the Development Services Department, Development Engineering and Finance Division. Staff has reviewed the request for vacation and finds that the vacation is in conformance with State of California, Streets and Highways Code, Section 8310-8317. Staff has determined that the portion of the subject alley to be vacated is excess right-of-way not necessary for present or future public use and the 13-foot wide remaining portion is enough for the abutting properties to access their properties through the alley. Thus, staff recommends approval of the proposed vacation. The public utility easement in the alley will be retained.

Notice of vacation was posted along the subject right-of-way and notice of the vacation was mailed out to the affected properties on April 19, 2005. The public hearing date was published in the Daily Recorder on April 22, 2005 and April 29, 2005 (see Attachment "B" for the time schedule for this vacation).

Following vacation, the titles to the subject properties are cleared of the public alley easement.

FINANCIAL CONSIDERATIONS:

The applicant is responsible for all fees required to process the vacation application and there is no cost to the City.

ENVIRONMENTAL CONSIDERATIONS:

The Development Services Department, Environmental Planning Services Division has reviewed the vacation of a portion of the alley east of 39th Street between T and U Street and determined that the activity is exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines. Projects exempted under Section 15061(b)(3) consist of activities covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

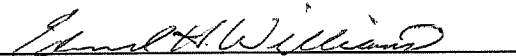
POLICY CONSIDERATIONS:

The Council action recommended in this report supports the City Strategic Plan and goal to promote and support economic vitality. The State of California, Streets and Highways Code, Section 8310-8317 allows for the vacation of streets, alleys, and easements.

ESBD CONSIDERATIONS:

City Council adoption of the attached resolution is not affected by City policy related to the ESBD Program.

Respectfully submitted,


Edward Williams, Manager
Development Engineering And Finance

RECOMMENDATION APPROVED:


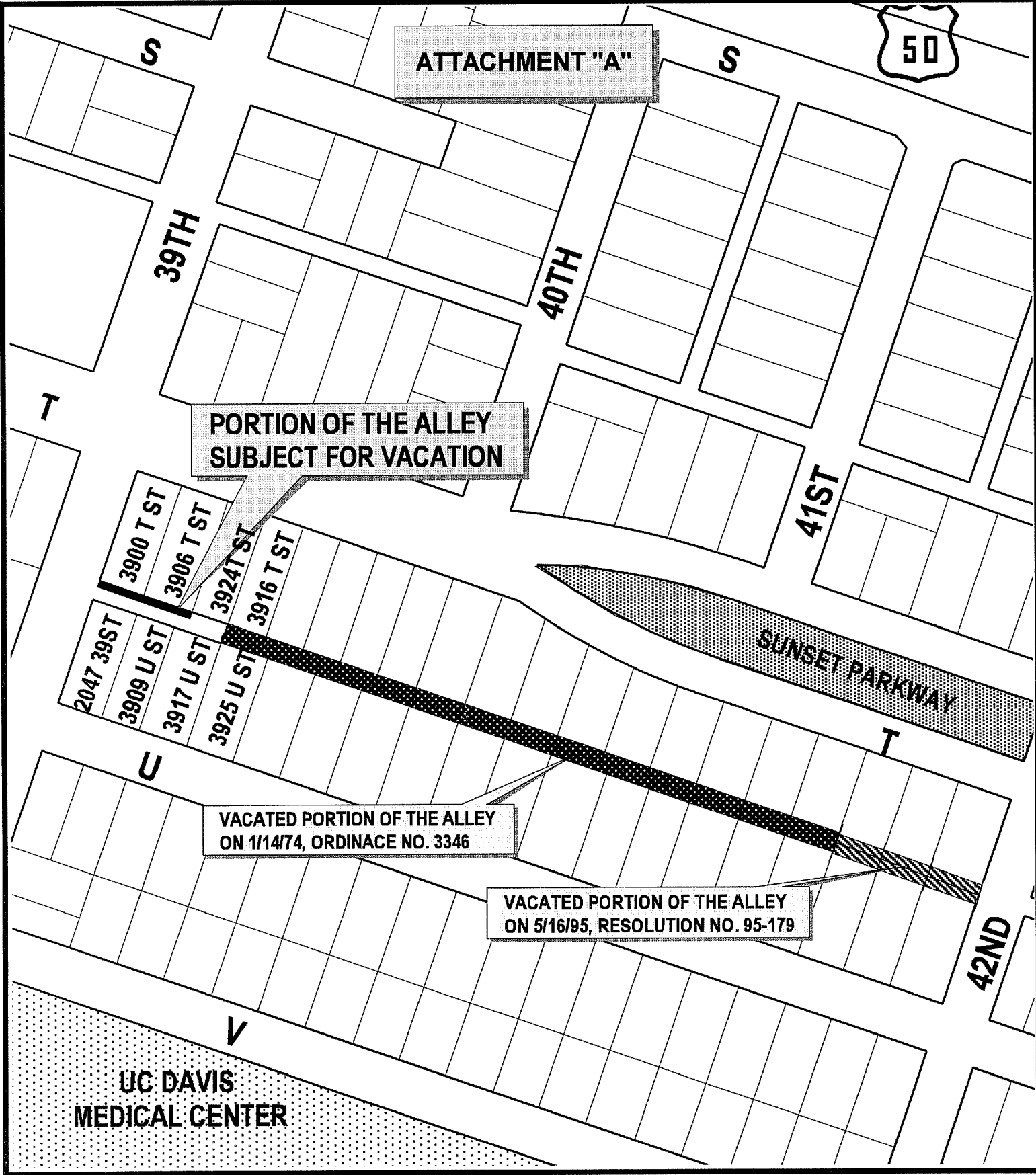

ROBERT P. THOMAS
City Manager

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ATTACHMENT "A"



PORTION OF THE ALLEY
SUBJECT FOR VACATION

VACATED PORTION OF THE ALLEY
ON 1/14/74, ORDINANCE NO. 3346

VACATED PORTION OF THE ALLEY
ON 5/16/95, RESOLUTION NO. 95-179

UC DAVIS
MEDICAL CENTER

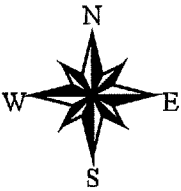


CesarN_033105



DEVELOPMENT SERVICES
DEPARTMENT

VACATION, VP04-08
Portion of the Alley East of 39th Street
Between "T" Street and "U" Street



ATTACHMENT B

NOTICING SCHEDULE

VACATION PROCEEDING NO. VP04-08

Posting on Alleys/Street	April 19, 2005
Mail Notices	April 19, 2005
1 st Copy of Resolution Published in Daily Recorder	April 22, 2005
2 nd Copy of Resolution Published in Daily Recorder	April 29, 2005
Public Hearing at City Council	May 3, 2005

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF: _____

VACATION OF A PORTION OF THE ALLEY EAST OF 39TH STREET BETWEEN “T” STREET AND “U” STREET WITHIN COUNCIL DISTRICT 6

VACATION PROCEEDING NO. VP04-08

WHEREAS, the City received a request from “Mr. Thomas Cregger.” to vacate a portion of the subject public alley within the City of Sacramento; and

WHEREAS, the City Council would consider the vacation in compliance with the State of California, Streets and Highways Code, Section 8310-8317, and

WHEREAS, the City Planning Commission reviewed the proposed vacation pursuant to Government Code Section 65402 and concluded that said vacation would be consistent with the City General Plan and the applicable Community Plan; and

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

The portion of the alley east of 39th Street between “T” Street and “U” Street specifically described in Exhibit “A” and Exhibit “B”, is hereby ordered vacated subject to the conditions specified in this resolution.

Reserving however, a public service easement (as defined in Section 8306 and 8340 of the California Streets and Highways Code) and right at any time, or from time to time to construct, maintain, operate, replace, remove, or renew any public service facilities in, upon, or over and across that public alley to be vacated, specifically described in Exhibit “A” and shown in Exhibit “B” and attached hereto.

1. The City Council hereby finds that said vacation has been submitted to and reported on by the City Planning Commission as to conformity with the City General Plan. The Council, pursuant to the State of California, Streets and Highways Code, Section 8310-8317 has considered this vacation in connection with the General and Community Plans and finds the vacation is consistent.
2. This vacation is subject to the following conditions:
 - a. The applicant shall construct street improvement along 39th Street of the vacated alley to the satisfaction of Development Services Department – Development Engineering and Finance Division.

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FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

3. All conditions specified in paragraph 2 for this resolution must be completed within two years of the date of this resolution. If all conditions are not completed within the two years specified, this resolution approving the vacation shall become void, unless the City Council grants a time extension.
4. Once the conditions in paragraph 3 are met, the City Clerk shall cause a certified copy of this resolution, attested by the City Clerk under seal, to be recorded. The vacation shall be effective when the City Clerk records this resolution with the County Recorder.

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

EXHIBIT A
LEGAL DESCRIPTION
FOR ABANDONMENT OF ALLEY

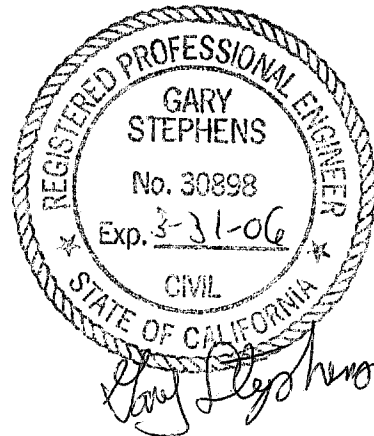
ALL THAT CERTAIN REAL PROPERTY SITUATED AND BEING IN THE CITY OF SACRAMENTO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF THE ALLEY IN THE BLOCK BOUNDED BY T AND U AND 39TH AND 42ND STREETS, DESCRIBED AS FOLLOWS:

FROM THE SOUTHERLY PRODUCTION OF THE WESTERLY LINE OF PARCEL NO. 1 AS DESCRIBED IN THE GRANT DEED RECORDED IN THE OFFICE OF THE RECORDER OF SACRAMENTO COUNTY IN BOOK 870528, PAGE 2615 TO THE SOUTHERLY PRODUCTION OF THE EASTERLY LINE OF PARCEL NO. 1 AS DESCRIBED IN EXHIBIT "ONE" IN THE GRANT DEED RECORDED IN THE OFFICE OF THE RECORDER OF SACRAMENTO COUNTY IN BOOK 20030508, PAGE 2082.

EXCEPTING THEREFROM THE SOUTHERLY 13 FEET OF SAID ALLEY.

RESERVING HOWEVER, THE RIGHT OF ENTRY TO REPAIR, MAINTAIN AND CONSTRUCT SEWER, WATER AND GAS PIPES, AND AERIAL OR UNDERGROUND POWER, TELEPHONE AND OTHER COMMUNICATION FACILITIES NOW IN PLACE IN SAID ALLEY, OR WHICH FROM TIME TO TIME MAY BE PLACED THEREIN. ALL PROCEEDINGS IN CONNECTION WITH THE AFORESAID ABANDONMENT ARE TO BE TAKEN SUBJECT TO SUCH RESERVATIONS AND EXCEPTIONS.



FOR CITY CLERK USE ONLY

RESOLUTION NO: _____

DATE ADOPTED: _____

EXHIBIT B

CL

T STREET 50' RW



39 STREET 50' RW

WESTERLY LINE OF
 PARCEL 1 PER GRANT
 DEED BK 870528 PG
 2615

EASTERLY LINE OF
 PARCEL 1 AS SHOWN
 IN EXHIBIT B PER
 GRANT DEED BK
 20030508 PG 2082.

PARCEL 1

PORTION OF ALLEY
 PROPOSED FOR
 ABANDONMENT

7'

7'

ALLEY 20' RW

CL



SCALE:
 1" = 30'

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____
 ADOPTED DATE: _____

PLAT MAP

CITY OF SACRAMENTO
 JANUARY 2005