



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

CONSENT
August 05, 2010

Honorable Mayor and
Members of the City Council

Title: Extension of Time to Complete the Vacation of T Street between Interstate 5 and 3rd Street

Location/Council District: "T" Street between Interstate 5 and 3rd Street in Council District 4 (see Attachment 1).

Recommendation: Adopt a **Resolution** extending the time to complete the conditions required by Resolution No. 2004-631 for the Vacation of "T" Street between Interstate 5 and 3rd Street within Council District 4.

Contact: Jerry Lovato, Senior Engineering Technician, (916) 808-7918;
Thomas Adams, Engineering Technician, (916) 808-7929

Presenters: Not Applicable

Department: Transportation

Division: Engineering Services

Organization No: 15001151

Description/Analysis

Issue: Pursuant to a request for vacation made by Mr. Lenard Zipperian, owner of the property with Assessor's Parcel Number (APN) 009-0103-008, the City Council ordered a portion of "T" Street, between Interstate 5 and 3rd Street vacated subject to certain conditions. (See Attachment 2, Resolution No. 2004-631). In accordance with Resolution No. 2004-631, Mr. Zipperian is requesting that the City Council grant a one-year extension to complete the conditions of vacation stated in Resolution No. 2004-631. Staff recommends the granting of a one-year extension to complete the conditions of vacation.

A summary of the project's history is included in Attachment 1, Page 3.

Policy Considerations: The Council action recommended in this report is consistent with the City's Strategic Plan to promote and support economic vitality and is in compliance with California Streets and Highways Code, sections 8330 through 8334.5, which establish the procedure for the summary vacation of streets, alleys, and easements.

Environmental Considerations:

California Environmental Quality Act (CEQA): None

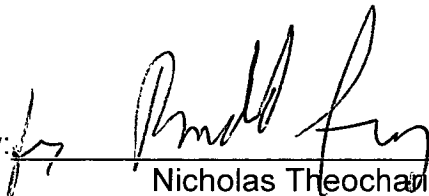
Sustainability Considerations: None


Committee/Commission Action: None

Rationale for Recommendation: To complete the conditions of the adopted Resolution 2004-631.

Financial Considerations: The applicant is responsible for all fees required to process the time extension application and there is no cost to the City.

Emerging Small Business Development (ESBD): None

Respectfully Submitted by: 
Nicholas Theocharides
Engineering Services Manager

Approved by: 
Jerry Way
Director of Transportation

Recommendation Approved:

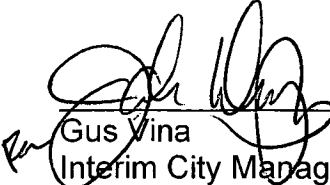

Gus Vina
Interim City Manager

Table of Contents:

Report	Pg 1
Attachments	
1 Background	Pg 3
2 Resolution No. 2004-631	Pg 4
3 Letter of Request	Pg 7
4 Resolution	Pg 9

Background

On August 5, 2004, the City Council adopted Resolution 2004-631 vacating the public road right-of-way cul-de-sac at "T" Street between Interstate 5 and 3rd Street. The vacation was requested by Mr. Lenard Zipperian so that the area vacated could be used for additional parking spaces for the office building at 1900 3rd Street. Resolution No. 2004-631 contains several conditions of vacation that Mr. Zipperian must complete within two years of adoption of this resolution. (See Attachment 2) Failure to complete the conditions of vacation within the two years specified in the resolution will void said resolution of vacation if no extension has been granted.

A legal dispute of land ownership (quiet title/partition) of one of the adjacent parcels (APN: 009-0103-026) had delayed the completion of satisfying some of the conditions, and on March 8, 2006, Mr. Zipperian notified the City's Development Services Department that additional time will be required to complete the conditions of vacation. With that request, City Council adopted Resolution 2006-517 which granted Mr. Zipperian two additional years to complete the conditions of vacation. In light of the changes in the economy, Mr. Zipperian was unable to complete all conditions of the vacation request and is now requesting a one-year time extension to complete the vacation conditions before the expiration date of August 5, 2008. (See Attachment 3)

Mr. Zipperian recently notified Department of Transportation that the conditions of abandonment are currently being worked on and plans to have all conditions satisfied in the near future. With this information, Mr. Zipperian requests an additional year extension to complete the conditions of the vacation to avert voiding Resolution No. 2004-631. (See Attachment 2) This newly requested extension will expire on August 5, 2011. Staff reviewed the request and recommends granting the one-year extension to complete the conditions required in Resolution No. 2004-631.

RESOLUTION NO. 2004-631

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF: AUG 0 5 2004

**THE VACATION OF "T" STREET BETWEEN INTERSTATE 5
AND 3RD STREET WITHIN COUNCIL DISTRICT 4**

VACATION PROCEEDING NO. VP03-20

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

- A. WHEREAS, the City received a request from Mr. Lenard Zipperian to vacate the subject street within the City of Sacramento; and
- B. WHEREAS, the City Council would consider the vacation in compliance with the City guidelines for Street Closures - City Resolution No. 96-176 and the State of California, Streets and Highways Code, Section 8310-8317, and
- C. 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:

"T" Street between Interstate 5 and 3rd 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 road right-of-way 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. The City Council finds that the subject street for vacation is unnecessary for present and prospective public use.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: 2004-631

DATE ADOPTED: AUG 0 5 2004

3. This vacation is subject to the following conditions:

a. The applicant shall provide the following conditions to the satisfaction of the Development Services Department:

i. Unless other arrangements are made satisfactory to the City of Sacramento and satisfactory to the owners of property with APN 009-0103-026, the applicant (owner of property with APN 009-0103-008) shall provide the Development Services Department with proof of a reciprocal ingress, egress and maneuvering easement/agreement among the owners of properties with APN's 009-0103-026, 009-0044-022 and 009-0103-008 across the subject "T" street proposed for vacation in order to provide access to 3rd Street. Any such easement/agreement shall be recorded with the County Recorder's Office and shall constitute a covenant running with the land such that it is binding upon future purchasers and shall be, by its terms, effective until terminated or amended by written consent of the parties.

ii. Street light and all appurtenances shall be removed and salvaged to the City of Sacramento.

iii. Proper signage shall be installed to the entrance of the vacated portion of "T" Street.

iv. Construct a standard driveway per City Standards at such place as shall be approved by the City.

v. Any new sidewalk, driveway or access ramp constructed with this vacation shall conform with the American Disability Act (A.D.A.) requirements in all respects.

vi. Prior to recordation of the T Street vacation, a special permit shall be reviewed and approved for off-site or stand alone parking on the property south of the public right of way to be vacated, and/ or other development entitlements, as required. (As an advisory note to the vacation, the public right-of-way that will be incorporated into the parking lot for the office building on the north side of the public right-of-way will need to comply with shading requirements.)

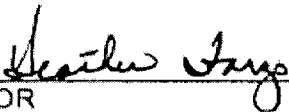
The applicant shall submit public improvement plans and obtain notice to proceed from the Development Services Department to execute the above-mentioned improvements.

vii. Access to Fire Department shall be in accordance to the California Fire Code Section 902.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: 2004-631
DATE ADOPTED: AUG 05 2004

- 4. All conditions specified in paragraph 3 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.
- 5. Once the conditions in paragraph 2 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.: 2004-631

DATE ADOPTED: AUG 05 2004

LenArd S. Zipperian
1990 Third St., Suite 900
Sacramento, CA 95811
916-441-0127 Fax 916-441-5663

June 22, 2010

HAND DELIVERED

City of Sacramento
Development Services/Attn: Thomas Adams
C/O Jerry Lovato
300 Richards Blvd. Floor 200
Sacramento, CA 95811

Dear Mr. Adams:

Re: Application to Extend Time for Completing of
Abandonment of 3rd and T Street Cul-de-Sac
Adjacent to the I-5 Freeway

Pursuant to your the notice dated June 7, 2010 from the City of Sacramento Department of Transportation that "the extension for this application will expire on August 5, 2010", this letter constitutes an application to the City of Sacramento for an additional one-year extension for the Abandonment of the 3rd and T Street cul-de-sac adjacent to the I-5 freeway; and, enclosed with this letter is my check in the amount of \$500.00.

As you and the other members of the City staff are aware, my engineer started processing of all of the development plans last fall and because of various complications of which you and the other staff members are aware, as of June 21, 2010, my engineer still needs to obtain final approval from the City of the changes in the development plans that the City requested be made a few weeks ago.

Also, it is my understanding that the City has not completed preparing the "Public Improvement Agreement (PIA)" for joint review with my engineer, nor has the City completed the security forms that I will need to sign.

However, in order to expedite matters to the best I can, inasmuch as the contractor's bid is \$22,717, I have obtained a cashier's check from Wells Fargo Bank, Private Banking, in the amount of \$23,000 made payable to the City a copy of which check


City of Sacramento
June 22, 2010
Page 2

I am also enclosing with this letter, which cash deposit when the City is ready to accept it will constitute security to the City for the completion of the required improvements pursuant to the contractor's bid.

Although, I understand from the contractor that they have been ready to start construction earlier this month, they cannot do so until the above items have been completed by the City. I now also understand that I will need to be receiving from the City, a "Notice to Proceed for Construction".

Accordingly, in case there are further remaining complications, with preparation of all the necessary documents by the City of Sacramento, and/or complications encountered by the contractor during construction of the improvements required by the City of Sacramento as a condition of the final abandonment of the 3rd and T Street cul-de-sac, I ask that the City of Sacramento grant an additional one year construction for completion of such abandonment of the 3rd and T Street cul-de-sac.

Respectfully submitted,



Lenard S. Zipperian

LSZ:rm

Enclosures: check in the amount of \$500.00, and copy of check in the amount of \$23,000

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Attachment 4

RESOLUTION NO.

Adopted by the Sacramento City Council

**RESOLUTION APPROVING THE TIME EXTENSION FOR RESOLUTION NO. 2004-631, THE VACATION OF "T" STREET BETWEEN INTERSTATE 5 AND 3RD STREET WITHIN COUNCIL DISTRICT 4
VACATION PROCEEDING NO. VAC10-004**

BACKGROUND

- A. On August 5, 2004, the City Council adopted Resolution No. 2004-631 vacating a portion of "T" Street between Interstate 5 and 3rd Street subject to certain conditions required to be completed within two years of the date of Resolution No. 2004-631.
- B. Resolution No. 2004-631 provides that it shall become void if the conditions of vacation are not completed within two years of the date of Resolution No. 2004-631, August 5, 2006, unless a time extension to complete the conditions is granted by City Council.
- C. Resolution No. 2006-517 was adopted and granted a two-year extension of Resolution No. 2004-631 prior to the expiration date of August 5, 2006..
- D. Resolution No. 2008-535 was adopted and granted a additional two-year time extension of Resolution No. 2004-631 that is due to expire August 5, 2010.
- E. A one-year time extension is being requested to complete the required conditions of Resolution No. 2004-631.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. A one-year time extension for completing the conditions of vacation required by Resolution No. 2004-631 is hereby granted and hence Resolution No. 2004-631 will expire on August 5, 2011.