

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

A RESOLUTION OF THE PLANNING BOARD CITY OF ALAMEDA FINDING THE
VACATION OF AN EXCESS PORTION OF EVERETT STREET APPROXIMATELY
116 FEET NORTHEASTERLY OF BLANDING AVENUE TO BE IN CONFORMANCE
WITH THE GENERAL PLAN

WHEREAS, on April 7, 2020, Apex Companies, LLC submitted, on behalf of the property owner, TC I 2421 Blanding LLC, an application for an encroachment permit for various improvements to a private parking lot serving 2421 Blanding Avenue, located at the north end of Everett Street; and

WHEREAS, approximately 960 square feet of right-of-way on Everett Street, approximately 116 feet northeasterly of Blanding Avenue, is located behind a privately owned mechanized gate providing access to the private property; and

WHEREAS, on August 6, 2020, the City of Alameda approved an encroachment permit for improvements to the parking lot, subject to a condition of approval requiring the owner to either remove the gate or complete a vacation of the excess right-of-way along Everett Street; and

WHEREAS, the excess portion of the public street is adjacent to the property owned by TC I 2421 Blanding LLC; and

WHEREAS, the private improvements on excess City right-of-way require the right-of-way to be vacated for orderly development; and

WHEREAS, the subject offer of dedication of the Everett Street right-of-way is not needed to serve the City's operational needs; and

WHEREAS, California Streets and Highways Code Section 8313 and Government Code Section 65402 require the location, purpose, and extent of a street vacation conform with the City's General Plan; and

WHEREAS, the subject right-of-way is designated General and Maritime Industry in the Alameda 2040 General Plan.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Board finds the vacation of the excess right-of-way is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(c), which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing streets, involving negligible or no expansion of existing or former use, and on a separate and independent basis, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposed vacation will have a significant effect on the environment. The proposed action will vacate portions of the right-of-way not needed for public purposes and will not result in direct

or indirect physical changes in the environment. None of the exceptions in CEQA Guidelines Section 15300.2 apply; and

BE IT FURTHER RESOLVED, in accordance with Government Code Section 65402, the Planning Board finds that the location, purpose and extent of the vacation of public right-of-way along Everett Street as described in Exhibits 1, 2 and 3 to the accompanying staff report is in conformance with the General Plan. The street vacation is consistent with the Alameda 2040 General Plan Mobility Element. Policy ME-14 in the Mobility Element supports actions to improve the City's street network so that it is efficient and that individual streets function in ways that support their surrounding context. Therefore, the proposed vacation of this excess strip of right-of-way on Everett Street that is impassible for public traffic is consistent with the General Plan.

HOLD HARMLESS. To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney's fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys' fees.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by filing with the Planning, Building and Transportation Department a written notice of appeal stating the basis of appeal and paying the required fees.

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