



RESOLUTION NO. 2016-139

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ORDERING THE VACATION OF PORTIONS OF WEST SPRUCE AVENUE (FORMERLY NORTH JOSEPHINE) AND WEST ELGIN AVENUE

WHEREAS, pursuant to Resolution of Intention No. 1106-D, on file in the Office of the City Clerk of the City of Fresno (the "City Clerk"), a public hearing was held on July 28, 2016, at a regular meeting of the Council of the City of Fresno, California (the "City"), at which evidence was heard for and against the vacation of the hereinafter described public street right-of-way, situated within the City; and

WHEREAS, UCP Tapestry, LLC., is requesting the proposed vacation of those portions of West Spruce Avenue (formerly North Josephine) and West Elgin Avenue as described in Exhibit "A," and as shown on Exhibit "B," which are attached and incorporated in this Resolution; and

WHEREAS, the proposed vacation is to accommodate development as proposed by Tentative Tract No. 5595 and Conditional Use Permit (CUP) C-06-272; and

WHEREAS, West Spruce Avenue (formerly North Josephine) and West Elgin Avenue was dedicated an easement for public street purposes by Map of Herndon Park in Volume 12 of Plats at Page 87, Fresno County Records; and

WHEREAS, the Traffic and Engineering Services Division, other City departments and utility agencies have reviewed the proposed vacation and determined that the right-of-way proposed for vacation is unnecessary for present or prospective public street purposes subject to the reservation of a public utility easement over a portion of the area being vacated, and the removal of all existing street improvements



from the area proposed to be vacated; and

WHEREAS, this action is being taken pursuant to the provisions of the Public Streets, Highways, and Service Easements Vacation Law (California Streets and Highways Code Sections 8300-8363).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. The Council finds from all the evidence submitted that the vacation of those portions of West Spruce Avenue (formerly North Josephine) and West Elgin Avenue as described in Exhibit "A," and as shown on Exhibit "B" is unnecessary for present and prospective public street purposes.

2. The public interest and convenience require, and it is hereby ordered, that as contemplated by Resolution of Intention No. 1106-D adopted by the Council on June 2016, the public street right-of-way as described in Exhibit "A" and shown on Exhibit "B," which are attached and incorporated herein, be and are hereby vacated and abandoned.

3. The City reserves a portion of the area to be vacated as a permanent easement to be used any time, to construct, maintain, operate, replace, remove and renew sanitary sewers, water mains, storm drains, and appurtenant structures in, upon, and over the public road easement proposed to be vacated and, pursuant to any existing franchises or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment, and fixtures for the operation of gas pipelines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution



of electric energy, petroleum and its products, ammonia and water, and for incidental purposes, including access to protect such works from all hazards in, upon, and over the public street right-of-way to be vacated as described in Exhibit "C" and shown in Exhibit "D," which are attached and incorporated herein.

4. All proceedings for the vacation of such right-of-way are intended to be and shall be taken subject to the removal of all existing street improvements from the area proposed to be vacated. All work required by such conditions shall be completed in compliance with City Standard Specifications and approved by the Public Works Department.

5. The City Clerk shall certify to the passage of this Resolution and shall file a certified copy, attested by the City Clerk under the seal of the City, in the Office of the City Clerk.

6. The City Clerk shall file a certified copy of the resolution for recordation in the Office of the Recorder of Fresno County, but not until the City Engineer determines that all existing street improvements have been removed from the area proposed to be vacated and all work associated with this requirement has been accepted by the City.

7. This vacation shall become effective on the date this resolution is recorded.

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\* \* \* \* \*

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF FRESNO )

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 28<sup>th</sup> day of July, 2016.

AYES : Brand, Brandau, Olivier, Quintero, Soria, Caprioglio  
NOES : None  
ABSENT : Baines  
ABSTAIN : None

Mayor Approval: N/A, 2016  
Mayor Approval/No Return: August 5<sup>th</sup>, 2016  
Mayor Veto: N/A, 2016  
Council Override Vote: N/A, 2016

YVONNE SPENCE, CMC  
City Clerk

BY: *Yvonne Spence*  
Deputy

APPROVED AS TO FORM:  
DOUGLAS T. SLOAN  
CITY ATTORNEY'S OFFICE

BY: *Seth Mehrtens*  
Seth Mehrtens Date  
Deputy City Attorney 8/11/16

Attachments: Exhibits "A" through "D"

PW File 11655

August 1, 2016

RECEIVED

Council Adoption: 7/28/2016  
Mayor Approval:  
Mayor Veto:  
Override Request:



TO: MAYOR ASHLEY SWEARENGIN

FROM: YVONNE SPENCE, CMC  
City Clerk

2016 AUG 5 PM 4 17  
CITY CLERK, FRESNO CA

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 7/28/16, Council adopted the attached Resolution No. 2016-139, entitled, **Ordering the vacation of portions of W. Spruce Avenue (formerly N. Josephine) and W. Elgin Avenue.** Item No. 10:15 #1, ID#16-714, by the following vote:

Ayes : Brand, Brandau Caprioglio, Olivier, Quintero, Soria  
Noes : None  
Absent : Baines  
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before August 8, 2016. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10<sup>th</sup> day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

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**APPROVED/NO RETURN:** \_\_\_\_\_

**VETOED** for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

Ashley Swearengin, Mayor

Date: 8/5/16

**COUNCIL OVERRIDE ACTION:**

Date: \_\_\_\_\_

Ayes :  
Noes :  
Absent :  
Abstain :



## EXHIBIT A LEGAL DESCRIPTION

Those portions of the Southeast quarter of Section 32, Township 12 South, Range 19 East, Mount Diablo Base and Meridian, in the City of Fresno, County of Fresno, State of California, described as follows:

### PARCEL "A":

**COMMENCING** at the Northwest corner of said Lot 211; thence North  $02^{\circ}15'51''$  West, along the Northerly prolongation of the West line of said Lot 211, a distance of 60.65 feet to a point on the Northwesterly right-of-way of North Josephine Avenue; thence North  $79^{\circ}18'56''$  East, along the Northwesterly right-of-way of said North Josephine Avenue, a distance of 28.79 feet to the **TRUE POINT OF BEGINNING**;

Thence continuing North  $79^{\circ}18'56''$  East, along the Northwesterly right-of-way of said North Josephine Avenue, a distance of 37.15 feet to the cusp of a 434.00 foot radius non-tangent curve, concave Southeasterly, a radial to said cusp bears North  $18^{\circ}28'09''$  West; thence Southwesterly, along said curve, through a central angle of  $03^{\circ}57'57''$ , an arc distance of 30.04 feet; thence North  $66^{\circ}41'29''$  West, a distance of 9.11 feet to the **TRUE POINT OF BEGINNING**.

### PARCEL "B":

**BEGINNING** at the Northeast corner of Lot 36 the Map of Herndon Park, according to the map thereof recorded on April 16, 1946 in Volume 12 of Plats at Page 87, Fresno County Records; thence South  $79^{\circ}18'56''$  West, along the Northerly line of said Lot 36 and along the Northwesterly line of Lots 34 and 35 of said Map of Herndon Park, a distance of 314.30 feet to the most Westerly corner of said Lot 34; thence North  $56^{\circ}48'04''$  West, along the Northwesterly prolongation of the Southwesterly line of said Lot 34, a distance of 57.70 feet to a point on the Northwesterly right-of-way of North Josephine Avenue as shown on said Map of Herndon Park; thence North  $79^{\circ}18'56''$  East, along the Northwesterly right-of-way of said North Josephine Avenue, a distance of 432.91 feet to the beginning of a 230.00 foot radius non-tangent curve, concave Northeasterly, a radial to said beginning bears South  $70^{\circ}48'56''$  West; thence, Southeasterly, along said curve, through a central angle of  $03^{\circ}39'51''$ , an arc distance of 14.71 feet; thence South  $17^{\circ}03'17''$  West, a distance of 15.63 feet to the beginning of a 410.00 foot radius non-tangent curve, concave Southeasterly, a radial to said beginning bears North  $33^{\circ}16'29''$  West; thence Southwesterly, along said curve, through a central angle of  $23^{\circ}30'55''$ , an arc distance of 168.27 feet; thence South  $33^{\circ}12'36''$  West, a distance of 12.93 feet to a point on the Southeasterly prolongation of the Southwesterly line of said Lot 36; thence North  $56^{\circ}48'04''$  West, along the Southeasterly prolongation of the Southwesterly line of said Lot 36, a distance of 10.00 feet to the most Southerly corner of said Lot 36; thence North  $33^{\circ}12'36''$  East, along the Southeasterly line of said Lot 36, a distance of 117.91 feet to the **POINT OF BEGINNING**.

### PARCEL "C":

**COMMENCING** at the Northeast corner of said Lot 36; thence South  $79^{\circ}18'56''$  West, along the Northwesterly line of said Lots 34, 35 and 36, and the Southwesterly prolongation thereof, being the Southeasterly right-of-way of said North Josephine Avenue, a distance of 343.15 feet to the intersection with the Southwesterly



5-20-16



## LEGAL DESCRIPTION (CONTINUED)

side of the alley lying Southwesterly of said Lot 34, said point being the **TRUE POINT OF BEGINNING**;

Thence continuing South  $79^{\circ}18'56''$  West, along the Southeasterly right-of-way of said North Josephine Avenue, a distance of 211.94 feet; thence South  $33^{\circ}05'56''$  West, a distance of 3.02 feet to the most Westerly corner of Lot 27 of said Map of Herndon Park; thence North  $56^{\circ}48'04''$  West, along the Northwesterly prolongation of the Southwesterly line of said Lot 27, a distance of 20.00 feet; thence North  $59^{\circ}49'38''$  East, a distance of 24.92 feet to a point being 20.00 feet Northwesterly of the Northwesterly line of Lots 27 and 28 of said Map of Herndon Park; thence North  $79^{\circ}18'56''$  East, parallel with and 20.00 feet Northwesterly of the Northwesterly line of said Lots 27 and 28, a distance of 184.15 feet to a point on the Northwesterly prolongation of the Northeasterly line of Lot 29 of said Map of Herndon Park; thence South  $56^{\circ}48'04''$  East, along the Northwesterly prolongation of the Northeasterly line of said Lot 29, a distance of 28.85 feet to the **TRUE POINT OF BEGINNING**.

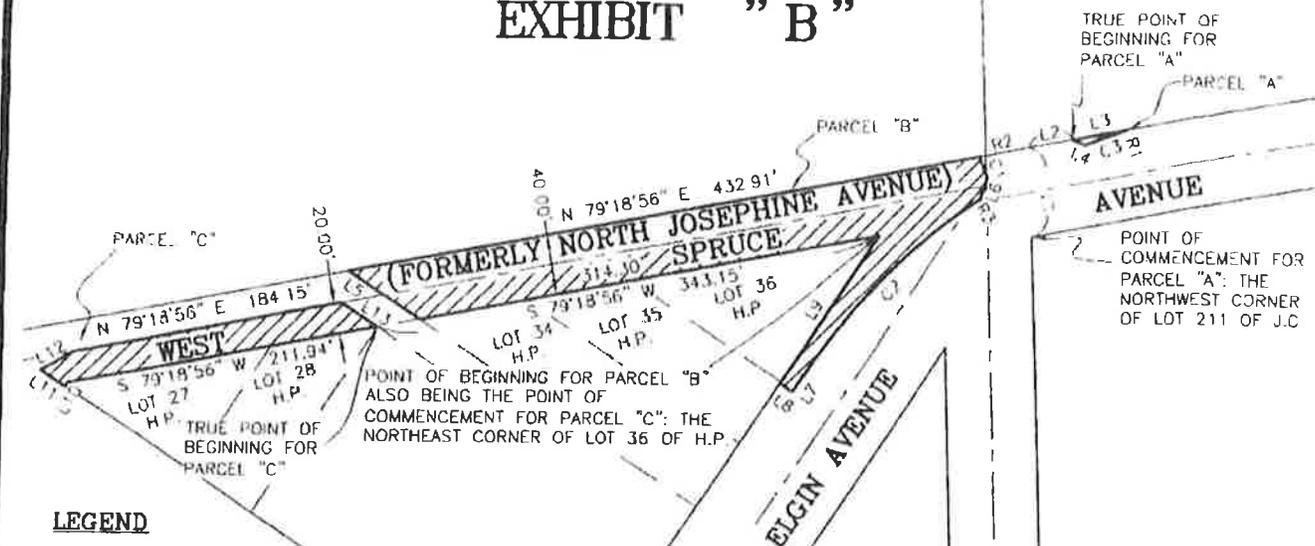
Containing 22,596 total square feet, more or less.

5-20-16





# EXHIBIT "B"



### LEGEND

J.C. INDICATES J. C. FORKNER FIG GARDENS SUBMISION NO. 3, ACCORDING TO THE MAP THEREOF RECORDED IN VOLUME 8 OF PLATS AT PAGE 79, FRESNO COUNTY RECORDS.

H.P. INDICATES MAP OF HERNDON PARK RECORDED IN VOLUME 12 OF PLATS AT PAGE 87, FRESNO COUNTY RECORDS.



INDICATES AREA TO BE ABANDONED.

AREA: PARCEL A: 89 +/- SQ. FT.  
PARCEL B: 18,310 +/- SQ. FT.  
PARCEL C: 4,197 +/- SQ. FT.

TOTAL: 22,596 +/- SQ. FT.

OWNER: THE CITY OF FRESNO

RADIAL	BEARING	DISTANCE
R1	N 18°28'09" W	434.00'
R2	S 70°48'56" W	230.00'
R3	N 33°16'29" W	410.00'

CURVE	DELTA ANGLE	RADIUS	ARC LENGTH
C1	3°39'51"	230.00'	14.71'
C2	23°30'55"	410.00'	168.27'
C3	3°57'57"	434.00'	30.04'

LINE	BEARING	DISTANCE
L1	N 02°15'51" W	60.65'
L2	N 79°18'56" E	28.79'
L3	N 79°18'56" E	37.15'
L4	N 66°41'29" W	9.11'
L5	N 56°48'04" W	57.70'
L6	S 17°03'17" W	15.63'
L7	S 33°12'36" W	12.93'
L8	N 56°48'04" W	10.00'
L9	N 33°12'36" E	117.91'
L10	S 33°05'56" W	3.02'
L11	N 56°48'04" W	20.00'
L12	N 59°49'38" E	24.92'
L13	S 56°48'04" E	28.85'



5-20-16



SCALE: 1" = 120'



(FORMERLY HERNDON

AVENUE)

Rev. Feb. 19, 2016  
Rev. Nov. 19, 2015  
W O.10-026

Ref. & Rev

PW File No: \_\_\_\_\_  
Plat No: \_\_\_\_\_

T - 2012 - \_\_\_\_\_

## CITY OF FRESNO DEPARTMENT OF PUBLIC WORKS

PORTIONS OF THE SOUTHEAST QUARTER OF SECTION 32,  
TOWNSHIP 12 SOUTH, RANGE 19 EAST, MOUNT DIABLO BASE  
AND MERIDIAN, TO BE ABANDONED

Proj. ID: -  
Fund No.: -  
Org. No.: -

Dr. By: GMR  
Ck. By:  
Date: 2-27-2014  
Scale: 1"=120'

SHEET NO. 1  
OF 1 SHEETS

15-A-\_\_\_\_\_



## EXHIBIT "C" LEGAL DESCRIPTION

That portion of the Southeast quarter of Section 32, Township 12 South, Range 19 East, Mount Diablo Base and Meridian, in the City of Fresno, County of Fresno, State of California, described as follows:

**BEGINNING** at the Northeast corner of Lot 36 the Map of Herndon Park, according to the map thereof recorded on April 16, 1946 in Volume 12 of Plats at Page 87, Fresno County Records; thence North  $33^{\circ}36'19''$  East, along the Northeasterly prolongation of the Southeasterly line of said Lot 36, a distance of 55.50 feet to a point on the Northwesterly right-of-way line of West Spruce Avenue, said point being 40.00 feet Northeasterly prolongation of the Northwesterly line of said Lot 36; thence North  $79^{\circ}43'19''$  East, along the Northwesterly right-of-way line of said West Spruce Avenue, parallel with and 40.00 feet Northeasterly prolongation of the Northwesterly line of said Lot 36, a distance of 37.76 feet to the beginning of a 230.00 foot radius non-tangent curve, concave Northeasterly, a radial to said beginning bears South  $71^{\circ}13'19''$  West; thence, Southeasterly, along said curve, through a central angle of  $03^{\circ}39'51''$ , an arc distance of 14.71 feet; thence South  $17^{\circ}27'40''$  West, a distance of 15.63 feet to the beginning of a 410.00 foot radius non-tangent curve, concave Southeasterly, a radial to said beginning bears North  $32^{\circ}52'30''$  West; thence Southwesterly, along said curve, through a central angle of  $23^{\circ}35'33''$ , an arc distance of 168.82 feet; thence, non-tangent to said curve, South  $30^{\circ}55'30''$  West, a distance of 12.09 feet to a point on the Southeasterly prolongation of the Southwesterly line of said Lot 36; thence North  $56^{\circ}23'41''$  West, along the Southeasterly prolongation of the Southwesterly line of said Lot 36, a distance of 10.00 feet to the South corner of said Lot 36; thence North  $33^{\circ}36'19''$  East, along the Southeasterly line of said Lot 36, a distance of 118.15 feet to the **POINT OF BEGINNING**.

Containing 4,040 square feet, more or less.



5-20-16

