

RESOLUTION NO. RES-2017-070

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA VACATING A PORTION OF THE PUBLIC RIGHT-OF-WAY ALONG THE EAST SIDE OF DONAHUE STREET, BETWEEN W. 8<sup>TH</sup> STREET AND W. 9<sup>TH</sup> STREET, PURSUANT TO GOVERNMENT CODE SECTION 8300 ET. SEQ., TO ACCOMMODATE THE DEVELOPMENT OF DETURK WINERY VILLAGE; FILE NUMBER PRJ16-012

WHEREAS, on April 15, 2015, an application was submitted to the Planning and Economic Development Department requesting a Vacation of Public Right-of-way for a 18,725-square foot area, located on the east side of Donahue Street, as shown in the legal description attached hereto as Exhibit A and incorporated herein; and

WHEREAS, the Vacation of Public Right-of-way was requested in order to accommodate a proposed mixed-use project, DeTurk Winery Village, consisting of 185 apartments and 20,000 square feet of existing commercial space (the Project); and

WHEREAS, on April 19, 2016, the City Council adopted Resolution No. 28768 stating its Intention to Consider Vacation of Public Right-of-way for an 18,725-square foot area along the east side of Donahue Street, between W. 8<sup>th</sup> Street and W. 9<sup>th</sup> Street; and

WHEREAS, pursuant to Streets and Highways Code Section 8300 et. seq., the City Council may approve vacation of the public right-of-way described in that resolution if it finds that the area is unnecessary for present or prospective public use; and

WHEREAS, in accordance with Streets and Highways Code Section 8300 et. seq., the City proposes to reserve access rights for public uses together with public easements for public sewer, water, storm drain, and public utilities within that portion of Donahue Street being vacated; and

WHEREAS, nothing in the Streets and Highways Code prevents the City from vacating a street without charging costs if it is determined that the vacation is in the public interest. Expanding the Project site by 18,725 square feet will allow the development of an additional 23 residential units and will facilitate the inclusion of 15 residential units reserved for very low income occupants; and

WHEREAS, an appraisal, prepared by Howard R. Levy, MAI, AI-GRS, Ward Levy Appraisal Group, Inc., dated September 20, 2016, concluded that because the City will reserve public access rights on the subject area, the value of the property being vacated is zero dollars. City staff has reviewed the document and agrees with that conclusion; and

WHEREAS, on March 23, 2017, the Planning Commission held a duly noticed public hearing at which all those wishing to be heard were allowed to speak or present written comments and other materials. During that hearing, the Commission considered the application, the staff reports, oral and written, the General Plan and zoning on the subject property, the testimony, written comments, the present or prospective public use(s) of the subject right-of-way

and other materials presented, and found that the requested Vacation of Public Right-of-way is justified to accommodate the Project and better achieve the objectives and policies of the General Plan and Downtown Station Area Specific Plan; and

WHEREAS, on May 9, 2017, the Council held a duly noticed public hearing at which point all those wishing to be heard were allowed to speak or present written comments and other materials. During that hearing, the Council considered the application, the staff reports, oral and written, the General Plan and zoning on the subject property, the testimony, written comments, the present or prospective public use(s) of the subject right-of-way and other materials presented, and found that the requested Vacation of Public Right-of-way is justified to achieve the objectives and policies of the General Plan and Downtown Station Area Specific Plan in that:

- A. Pursuant to the California Streets and Highways Code Section 8324(b), if the legislative body finds that the area described in the Resolution of the City Council Stating Its Intention to Consider Vacation of Public Right-of-way (reference City Council Resolution No. 28768 attached to this report) is unnecessary for present or prospective public use, the legislative body may approve vacation of that area. The area being vacated is currently used for public parking. As conditioned, the City will reserve access for public uses in the entire area being vacated. Staff has determined that City-ownership of the area is not necessary for present or prospective public use.
- B. Nothing in the California Streets and Highways Code prevents the Council from vacating a street or public service easement without charging costs if it determines that the vacation is in the public interest. The addition of 18,725 square feet to the Project area will result in an additional 23 residential units. The applicant has also provided an appraisal prepared by Howard R. Levy, Ward Levy Appraisal Group, Inc., dated September 20, 2016 (Appraisal). The Appraisal concludes that the value of the property is zero dollars since the City will reserve the entire 18,725-square foot area for public use. City staff has reviewed the appraisal and agrees with that conclusion.
- C. The requested Vacation of Public Right-of-way helps to ensure the land use promotes the use of public transit by establishing appropriate new housing units within walking distance of Downtown SMART Station site.
- D. The requested Vacation of Public Right-of-way facilitates the development of affordable housing within the boundaries of the Downtown Station Area Specific Plan.
- E. The ownership in fee of the Public Right-of-way is not necessary to provide pedestrian and public parking in that the City will reserve public access for pedestrian and public parking and right and privileges associated with public utilities within the Donahue Street corridor.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa finds that the 18,725-square foot area of public right-of-way located along the east side of Donahue Street between W. 8<sup>th</sup> Street and W. 9<sup>th</sup> Street, as further described in Exhibit A

attached hereto and incorporated herein by this reference, is not necessary for present or prospective public use.

BE IT FURTHER RESOLVED that the Council finds that it is in the public interest to vacate the 18,725-square foot area described in Exhibit A to accommodate development of the Project.

BE IT FURTHER RESOLVED that the Council approves the vacation of an 18,725-square feet of area located along the east side of Donahue Street between W. 8<sup>th</sup> Street and W. 9<sup>th</sup> Street, based on the legal description stamped March 24, 2016, subject to each of the following conditions:

1. A legal description and plat of the proposed right of way vacation are to be attached to the vacation document approved by City Council and marked as “Exhibit A”. The legal description shall include reference to the Public Access and Public Utility Easement Reservation.
2. Reservations of Public Access, Sewer, Water, and Storm Drainage Easements and a Public Utility Easement will be made over the portion of the Right of Way to be vacated. The easement reservations shall encompass all public and franchise utilities. The City of Santa Rosa shall have access to this easement at all times, day and night. All utility surface structures (i.e. manholes, storm drain inlets, underground boxes and vaults, etc.) shall be fully accessible at all times.
3. Design of private improvements in the public easement corridor on Donahue Street shall be subject to review and approval of the City Engineer, Planning and Economic Development. The Water Department, during Public Utility maintenance activities, will take due caution when performing or repair of public utilities, but will not be responsible for repairs or replacement of tree, landscaping or structures unless such repair or replacement is specifically approved by the City Engineer, Planning and Economic Development.
4. All public improvements required by Project approvals shall be completed prior to final occupancy (final inspection on Building Permit) being issued for any of the DeTurk Winery Village structures (Buildings A, B, C or D).
5. A parking agreement between the City and the Developer shall be recorded concurrent with the approved Vacation of Public Right-of-way, which agreement shall provide for shared public use of the parking stalls within the vacated right-of-way.
6. An Irrevocable Offer of Dedication of the Vacated Right of way shall be recorded concurrently with the approved Vacation by which the City may take back the Vacated Right of Way if the project, as approved, does not receive approval for final occupancy from the City before the expiration of all City entitlements and or Building Permits, including City approved time extensions, if any, or as otherwise agreed by the City.

7. Prior to issuance of any building permits for any portion of the project, the Vacation of Public Right-of-way, Parking Agreement, Irrevocable Offer of Dedication and any other documents required to be recorded by the Project's conditions of approval shall be recorded concurrently by the City Engineer, Planning and Economic Development, subject to City Clerk approval, with conformed and original recorded copies returned to Engineering Development Services, Planning and Economic Development.
8. The City Clerk shall be directed by City Council that the Vacation of Public Right-of-way, together with the documents to be recorded concurrently pursuant to this Resolution or the Project's conditions of approval, are not to be recorded until the City Clerk has been notified by the Chief Building Official that the Building Permit has been approved and is ready to be issued.

BE IT FURTHER RESOLVED that the Council finds and determines this Vacation of Public Right-of-way would not be granted but for the applicability and validity of each and every one of the above conditions and that if any one or more of the above conditions are invalid, this entitlement to use would not have been granted without requiring other valid conditions for achieving the purposes and intent of such approval.

IN COUNCIL DULY PASSED this 9th day of May, 2017.

AYES: (6) Mayor Coursey, Vice Mayor Tibbetts, Council Members Combs, Olivares, Sawyer, Schwedhelm

NOES: (0)

ABSENT: (1) Council Member Rogers

ABSTAIN: (0)

ATTEST: \_\_\_\_\_ APPROVED: \_\_\_\_\_  
City Clerk Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Exhibit A – Right-of-way Vacation/Legal Description