

**From:** [Phan, Johnny](#)  
**To:** [Downtown West Project](#)  
**Subject:** FW: Street Vacation Issues  
**Date:** Tuesday, April 6, 2021 2:59:19 PM  
**Attachments:** [12837129 \(N794-OR-442\).pdf](#)

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**From:** Phan, Johnny  
**Sent:** Friday, March 19, 2021 12:14 PM  
**To:** Miller, J. Gregg <[gmilller@coblenzlaw.com](mailto:gmilller@coblenzlaw.com)>  
**Subject:** Street Vacation Issues

**From:** Choy, Steve <[steve.choy@sanjoseca.gov](mailto:steve.choy@sanjoseca.gov)>  
**Sent:** Thursday, March 18, 2021 2:50 PM  
**To:** Klein, Nanci <[Nanci.Klein@sanjoseca.gov](mailto:Nanci.Klein@sanjoseca.gov)>; Ice, Kevin <[Kevin.Ice@sanjoseca.gov](mailto:Kevin.Ice@sanjoseca.gov)>; Chang, Justina <[Justina.Chang@sanjoseca.gov](mailto:Justina.Chang@sanjoseca.gov)>  
**Cc:** Banwait, Amarjit <[Amarjit.Banwait@sanjoseca.gov](mailto:Amarjit.Banwait@sanjoseca.gov)>; Gonzalez, Ruben <[Ruben.Gonzalez@sanjoseca.gov](mailto:Ruben.Gonzalez@sanjoseca.gov)>  
**Subject:** Re: Check in re: Diridon Streets

Hi Nanci, Kevin -

We've looked high and low and we could not find a copy of Terry's "ownership" map for the DSAP/Baseball Stadium. (Thank you AJ and Ruben!)

We've reached out to our retirees (Patty says "Hi") and to Development Staff in both PW and Planning without luck. I also checked with our CFAS group in case they worked on something with RDA/SARA for a conceptual elevation but no response. We also went full circle and emails were sent to Bill Ekern, lol!

Regarding fee ownership of the public streets, the standard assumption per [California Civil Code 831](#) is as follows:

**ARTICLE 2. Boundaries [829 - 835]**  
( *Article 2 enacted 1872.* )

**831.** An owner of land bounded by a road or street is presumed to own to the center of the way, but the contrary may be shown.

This seems to be the case for when Cahill was abandoned in 1935. And also for N. Montgomery and St John when they were abandoned in to build the Arena.

**Per Reso 65750** (attached):

The underlying fee ownership for the subject streets is with the Redevelopment Agency. Upon vacation, the streets will be removed as an encumbrance upon the title and the Redevelopment Agency will deed to the City of San Jose the Arena property.

The presumption is that Civil Code 831 was applied since RDA was the property owner on both sides of the portions of Montgomery and St John.

As such, it is my opinion that underlying fee for other streets, in this area, would also be vested with the adjoining property owners. (A Title Report would be needed to confirm, or negate, that opinion.) This area is very old, with the streets established in the 1880's. This is prior to the area being annexed into the City of San Jose and was actually in the jurisdiction of Santa Clara County at the time.

So long story shorty....in the case of the Google Properties, if Google owns property on both sides of the street, they would own the underlying fee to both halves of the street once vacated.

I'm sorry we couldn't be of more help. Let me know if you have any questions.

Steve

**Steve Choy, PLS**  
City of San José, Dept. of Public Works  
408-793-6986 vm | 408-375-3206 cell

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**From:** Choy, Steve <[steve.choy@sanjoseca.gov](mailto:steve.choy@sanjoseca.gov)>  
**Sent:** Wednesday, March 17, 2021 4:31 PM  
**To:** Ice, Kevin <[Kevin.Ice@sanjoseca.gov](mailto:Kevin.Ice@sanjoseca.gov)>  
**Subject:** Re: Check in re: Diridon Streets

Unfortunately, no. For Cahill, per [ROS 785-M-1](#), it is shown to be vested with "**UPRR AND HEIRS OF CRANDALL & ALTMAN**".

I am still researching the other streets.

**Steve Choy, PLS**

City of San José, Dept. of Public Works  
408-793-6986 vm | 408-375-3206 cell

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**From:** Ice, Kevin <[Kevin.Ice@sanjoseca.gov](mailto:Kevin.Ice@sanjoseca.gov)>  
**Sent:** Wednesday, March 17, 2021 4:16 PM  
**To:** Choy, Steve <[steve.choy@sanjoseca.gov](mailto:steve.choy@sanjoseca.gov)>  
**Cc:** Chang, Justina <[Justina.Chang@sanjoseca.gov](mailto:Justina.Chang@sanjoseca.gov)>  
**Subject:** Re: Check in re: Diridon Streets

Thanks, Steve! So, that means we own it?

Kevin

**Kevin Ice**

Senior Manager, Real Estate Services  
Office of Economic Development  
City of San José  
(408) 535-8197 - desk  
(415) 992-1302 - cell

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**From:** Choy, Steve <[steve.choy@sanjoseca.gov](mailto:steve.choy@sanjoseca.gov)>  
**Sent:** Wednesday, March 17, 2021 3:43 PM  
**To:** Ice, Kevin <[Kevin.Ice@sanjoseca.gov](mailto:Kevin.Ice@sanjoseca.gov)>  
**Cc:** Chang, Justina <[Justina.Chang@sanjoseca.gov](mailto:Justina.Chang@sanjoseca.gov)>  
**Subject:** Re: Check in re: Diridon Streets

Looks like Cahill, Crandall, and Stover were already abandoned...in 1935!!!

<https://records.sanjoseca.gov/Ordinances/ORD2463.pdf>

**Steve Choy, PLS**

City of San José, Dept. of Public Works  
408-793-6986 vm | 408-375-3206 cell

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**From:** Choy, Steve  
**Sent:** Wednesday, March 17, 2021 2:05 PM

**To:** Ice, Kevin <[Kevin.Ice@sanjoseca.gov](mailto:Kevin.Ice@sanjoseca.gov)>

**Subject:** Accepted: Check in re: Diridon Streets

**When:** Wednesday, March 17, 2021 3:00 PM-3:30 PM.

**Where:** <https://zoom.us/j/98676022764?pwd=VmtWMXBYaGhwZmRLZWtrZDBBOG1idz09>

RECORDING REQUESTED BY

CITY OF SAN JOSE

WHEN RECORDED MAIL TO:

CITY OF SAN JOSE  
OFFICE OF THE CITY CLERK  
801 N. First St., Room 116  
San Jose, CA 95110

Attn: Cecilia Delgado

FILED FOR RECORD  
AT REQUEST OF

CITY OF SAN JOSE

95 MAR 21 PM 2:53

OFFICIAL RECORDS  
SANTA CLARA COUNTY  
DRENDA DAVIS  
RECORDER

MAR 2 1 1995

12837129

NO FEE <sup>11</sup>

( SPACE ABOVE THIS LINE FOR RECORDER'S USE )

RESOLUTION NO. 65750

DOCUMENT TITLE

The foregoing instrument is  
a correct copy of the original  
on file in this office.

Attest:

PATRICIA L. O'HEARN  
City Clerk

City Clerk of the City of San Jose,  
County of Santa Clara, State of California.

By *Rodriguez Vallejo*, Deputy

This document is for the benefit of the  
City of San Jose. Request for recordation  
without fee is made in accordance with  
Section 6103 of the Government Code of  
the State of California.

ATTEST: Patricia L. O'Hearn, City Clerk

By *Rodriguez Vallejo*, Deputy

RESOLUTION OF THE COUNCIL OF THE CITY OF SAN  
JOSE SUMMARILY VACATING PORTIONS OF WEST ST.  
JOHN AND NORTH MONTGOMERY STREETS

WHEREAS, those two certain maps entitled, "PLAT MAP SHOWING THAT PORTION OF WEST ST. JOHN STREET BETWEEN NORTH MONTGOMERY STREET AND THE SOUTHERN PACIFIC RAILROAD RIGHT-OF-WAY AND PLAT MAP SHOWING THAT PORTION OF NORTH MONTGOMERY STREET BETWEEN WEST SANTA CLARA AND WEST ST. JOHN STREETS," are attached to and incorporated into this resolution as Exhibit A ("Maps"); and

WHEREAS, the Maps were approved by the Director of Public Works on January 19, 1995, as the maps showing the below-described portions of the streets which this Council declares its intention to vacate ("Streets"); and

WHEREAS, this Council is authorized to summarily vacate an easement pursuant to and in accordance with the provisions of "Section 8331 Impassable street," of Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California; and

WHEREAS, this Council hereby finds that the Streets have been impassable for vehicular travel for five consecutive years; and

WHEREAS, this Council hereby finds no public money has been expended for the maintenance of the street during such period; and

WHEREAS, this Council hereby determines that the public convenience and necessity does not require the reservation of any portion of the Streets; and

WHEREAS, this Council finds from all the evidence submitted, including, but not limited to, that report from the Director of Public Works to the City Council dated January 19, 1995, and identified as Exhibit B to this resolution that the following portions of the Streets are not useful as a nonmotorized

transportation facility, or for present or prospective public facilities purposes; and

WHEREAS, the Planning Commission considered the request to vacate said portions of said streets and recommended approval as reported in the report from the Planning Commission to the City Council, dated March 26, 1990, attached hereto as "EXHIBIT C" and incorporated by this reference; and

WHEREAS, this Council finds that from and after the date of recordation of this resolution the Streets vacated will no longer constitute as public streets.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE:

This Council does hereby adopt the findings set forth in the above-referenced report of the Director of Public Works, and orders that under the provisions of Section 8331 Streets," of Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code, the following portions of West St. John Street between North Montgomery Street and the Southern Pacific Railroad right-of-way, and North Montgomery Street between West Santa Clara and West St. John Streets, in the City of San Jose are hereby vacated.

All that real property situated in the City of San José, County of Santa Clara, State of California described as follows:

MONTGOMERY STREET

PARCEL 1

Being all that portion of Montgomery Street as shown on that certain Record of Survey Map filed for record in the office of the Recorder of Santa Clara County on August 25, 1960 in Book 124 of Maps at page 42 and more particularly described as follows:

BEGINNING at the northwesterly corner of Parcel A as shown on said Record of Survey Map thence proceeding along the easterly line of Montgomery Street (60' wide) as shown on said map, S3° 07' 30" E, 544.55 feet to the southwesterly corner of Parcel C as shown on said map, thence along the westerly prolongation of the southerly line of said Parcel C, S87° 05' 00" W, 60.00 feet to the westerly line of said Montgomery street; thence along said westerly line N3° 07' 30" W, 513.67 feet to the intersection with the southwesterly prolongation of the northerly line of said Parcel "A", thence along said southwesterly prolongation of the northerly line of said Parcel "A", N59° 48' 30" E, 67.38 feet to the POINT OF THE BEGINNING.  
Containing approximately 0.729 acres.

## PARCEL 2

Beginning at the northeast corner of the parcel of land described in the deed from Henrietta Blanchard and others to United Gas and Electric Company, predecessor in interest of Pacific, dated June 30, 1902 and recorded in the office of the County Recorder of said County of Santa Clara in Book 254 of Deeds, at page 375; said northeast corner being the intersection of the southerly boundary line of West St. John Street (formerly San Augustine Street) with the westerly boundary line of Montgomery Street and running thence S77° 36' 30" W along the northerly boundary line of the parcel of land described in said deed dated June 30, 1902, said northerly boundary line being the southerly boundary line of West St. John Street (Formerly San Augustine Street), a distance of 21.70 feet; thence S52° 45' 30" E, 12.90 feet; thence S16° 25' 30" E, 50.00



feet, more or less, to a point in the easterly boundary line of the parcel of land described in said deed dated June 30, 1902, said easterly boundary line being the westerly boundary line of Montgomery Street; thence N3° 07' 30" W along the last mentioned boundary line, 60.50 feet, more or less, to the POINT OF THE BEGINNING

Containing approximately 0.010 acres.

WEST ST. JOHN (FORMERLY SAN AUGUSTINE STREET)

All that real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Being all that portion of West St. John Street, formerly known as San Augustine Street, and more particularly described as follows:

Beginning at the point of intersection of the southwesterly line of Montgomery Street (60 feet wide) with the northwesterly line of said West St. John Street thence proceeding S40° 45' E, 68.27 feet along the southeasterly prolongation of the southwesterly line of Montgomery Street to the intersection with the southerly line of St. John Street; thence continuing along said southerly line of St. John Street the following course and distances, S77° 35' W, 274.38 feet; thence S87° 00' W, 229.70 feet to the intersection with the southeasterly prolongation of the southwesterly line of Parcel One as described in that certain Final Order of Condemnation filed for record in the office of the Recorder of Santa Clara County on July 12, 1991 in Book L780, page 1842,

Official Records; thence along said southeasterly prolongation N40° 45' W, 75.88 feet to the intersection with the northerly line of West St. John Street; Thence continuing along the northerly line of West St. John Street N87° 00' E, 276.92 feet; thence N76° 50' E, 56.41 feet; thence N77° 45' E, 175.00 feet to the POINT OF BEGINNING.

ADOPTED THIS 21st day of February, 1995, by the following vote:

AYES: DIAZ, DIQUISTO, FERNANDES, FISCALINI, JOHNSON,  
PANDORI, POWERS, SHIRAKAWA, WOODY; HAMMER

NOES: NONE

ABSENT: NONE

VACANT: DISTRICT 10

  
\_\_\_\_\_  
SUSAN HAMMER, Mayor

ATTEST:

  
\_\_\_\_\_  
PATRICIA O'HEARN, City Clerk

# PLAT MAP

SHOWING THAT PORTION OF:  
 WEST ST. JOHN STREET  
 BETWEEN NORTH MONTGOMERY STREET AND THE SOUTHERN PACIFIC RIGHT-OF-WAY



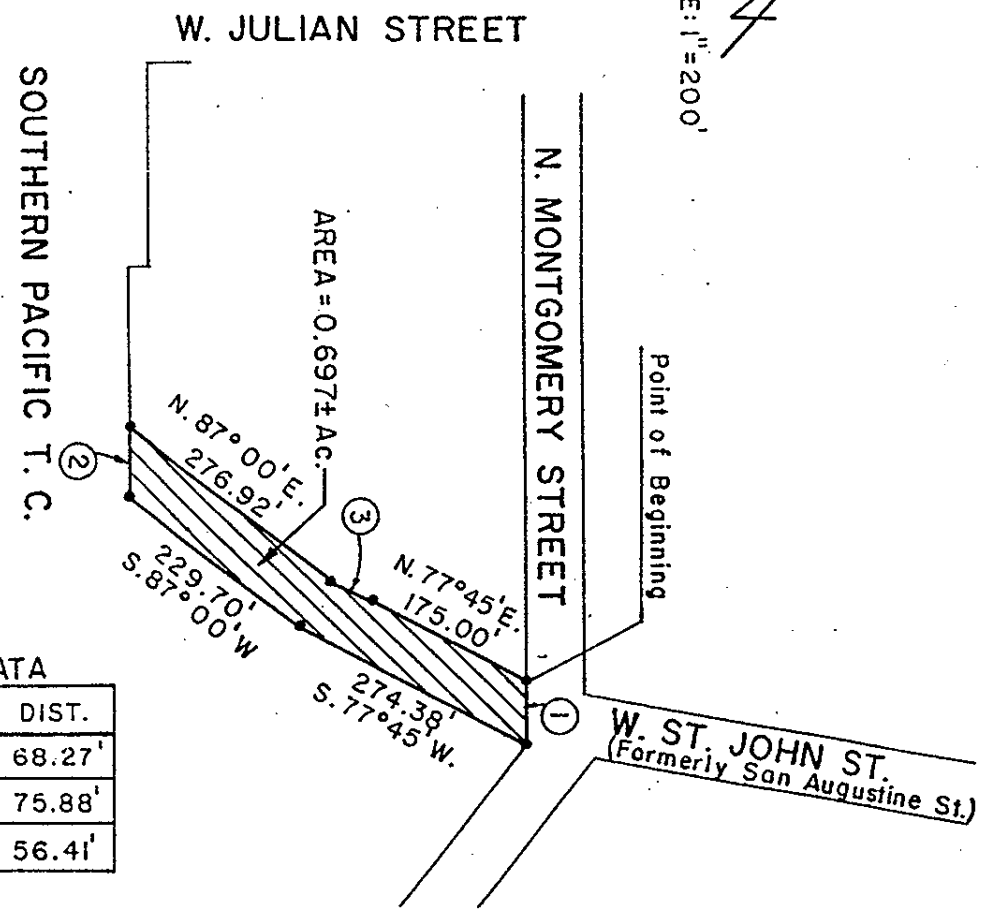
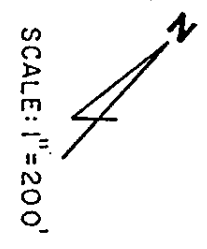
AREA TO BE VACATED

FILED WITH THE CITY COUNCIL OF THE CITY OF SAN JOSE THIS 21st DAY OF  
February, 1995, AND APPROVED BY SAID CITY COUNCIL THIS 21st DAY OF  
February, 1995 BY RESOLUTION NUMBER 65750

*Nancy Alford, Deputy*  
 CITY CLERK, CITY OF SAN JOSE

*G.F. Walfinger*  
 RALPH A. QUALLS, JR.  
 DIRECTOR OF PUBLIC WORKS,  
 CITY OF SAN JOSE

APPROVED THIS 15th DAY OF February, 1995

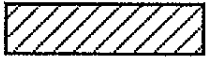


BOUNDARY DATA

NO.	BEARING	DIST.
1	S. 40° 45' E.	68.27'
2	N. 40° 45' W.	75.88'
3	N. 76° 50' E.	56.41'

# PLAT MAP

SHOWING THAT PORTION OF:  
NORTH MONTGOMERY STREET  
BETWEEN WEST SANTA CLARA AND WEST ST. JOHN STREETS



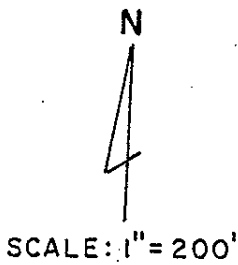
AREA TO BE VACATED

FILED WITH THE CITY COUNCIL OF THE CITY OF SAN JOSE THIS 21st DAY OF February, 1995, AND APPROVED BY SAID CITY COUNCIL THIS 21st DAY OF February, 1995 BY RESOLUTION NUMBER 65750

*Nancy Alford, Deputy*  
CITY CLERK, CITY OF SAN JOSE

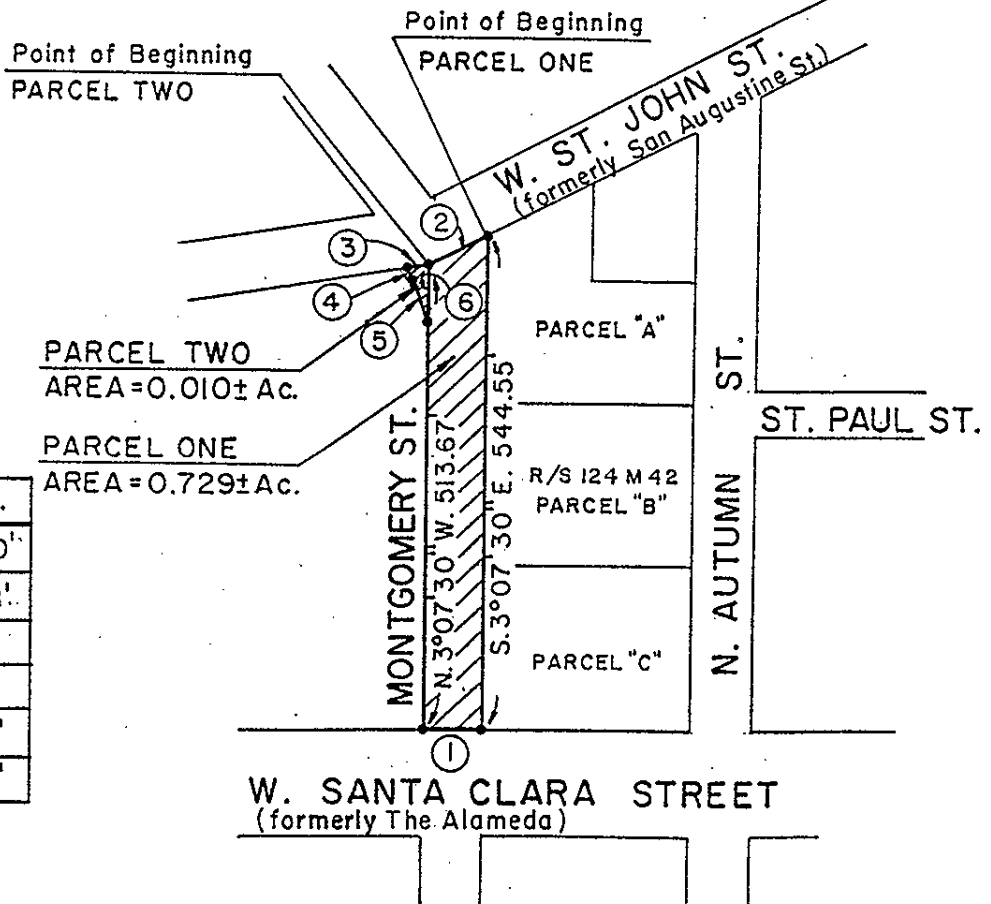
*G.F. Wafugie*  
RALPH A. QUALLS, JR.  
DIRECTOR OF PUBLIC WORKS,  
CITY OF SAN JOSE

APPROVED THIS 15<sup>th</sup> DAY OF February, 1995



BOUNDARY DATA

NO.	BEARING	DIST.
1	S.87°05'00"W.	60.00'
2	N.59°48'30"E.	67.38'
3	S.77°36'30"W.	21.7'
4	S.52°45'30"E.	12.9'
5	S.16°25'30"E.	50.0'
6	N.3°07'30"W.	60.5'



COUNCIL AGENDA: February 21, 1995  
ITEM: \_\_\_\_\_

## CITY OF SAN JOSE - MEMORANDUM

TO: HONORABLE MAYOR AND  
CITY COUNCIL

FROM: Ralph A. Qualls, Jr.  
Director of Public Works

SUBJECT: SEE BELOW

DATE: February 3, 1995

APPROVED: \_\_\_\_\_

DATE: \_\_\_\_\_

COUNCIL DISTRICT: 3

### SUBJECT

ADOPTION OF A RESOLUTION SUMMARILY VACATING PORTIONS OF WEST ST. JOHN AND NORTH MONTGOMERY STREETS. CEQA: RESOLUTION NO. 60199

### RECOMMENDATION

Adoption of a resolution summarily vacating West St. John Street between North Montgomery Street and the Southern Pacific Railroad right-of-way and North Montgomery Street between West Santa Clara and West St. John Streets.

### BACKGROUND

The Redevelopment Agency (Agency) of the City of San Jose has requested that Public Works process an application for the vacation of portions of West St. John and Montgomery Streets, as shown on the attached map. This vacation will facilitate the Agency in their preparation of the conveyance of the Arena property to the City.

### ANALYSIS

The portions of the streets proposed for vacation bisect the San Jose Arena. Demolition of structures which have been cordoned off in the Arena area began in March, 1989. Therefore, vehicular accessibility along with the need to spend public money for the maintenance of the portions of the streets to be vacated was eliminated. The streets were subsequently removed, and the San Jose Arena was constructed in the area bounded by West Julian Street, North Autumn/Montgomery Streets, West Santa Clara Street and the Southern Pacific Railroad right-of-way.

The provisions of "Section 8331 Impassable street," of Chapter 4 of Part 3 of Division 9 of the Streets and Highways Code of the State of California, as amended, provides for summary vacation of

HONORABLE MAYOR AND CITY COUNCIL

February 3, 1995

ADOPTION OF A RESOLUTION . . . VACATING WEST ST. JOHN AND  
MONTGOMERY STREETS

Page 2

a street if it has been impassable for vehicular travel for five consecutive years and no public money has been expended for maintenance of the street during such period.

All concerned public utilities have submitted comments and have no objections to the proposed vacation. There are no public utility facilities that will require the reservation of an easement to protect present or prospective public facilities.

The underlying fee ownership for the subject streets is with the Redevelopment Agency. Upon vacation, the streets will be removed as an encumbrance upon the title and the Redevelopment Agency will deed to the City of San Jose the Arena property.

COORDINATION

The required resolution has been reviewed by the City Attorney's Office and the vacation has been coordinated with the Redevelopment Agency and the appropriate public utility companies.

CEQA

Resolution No. 60199



RALPH A. QUALLS, JR.  
Director of Public Works

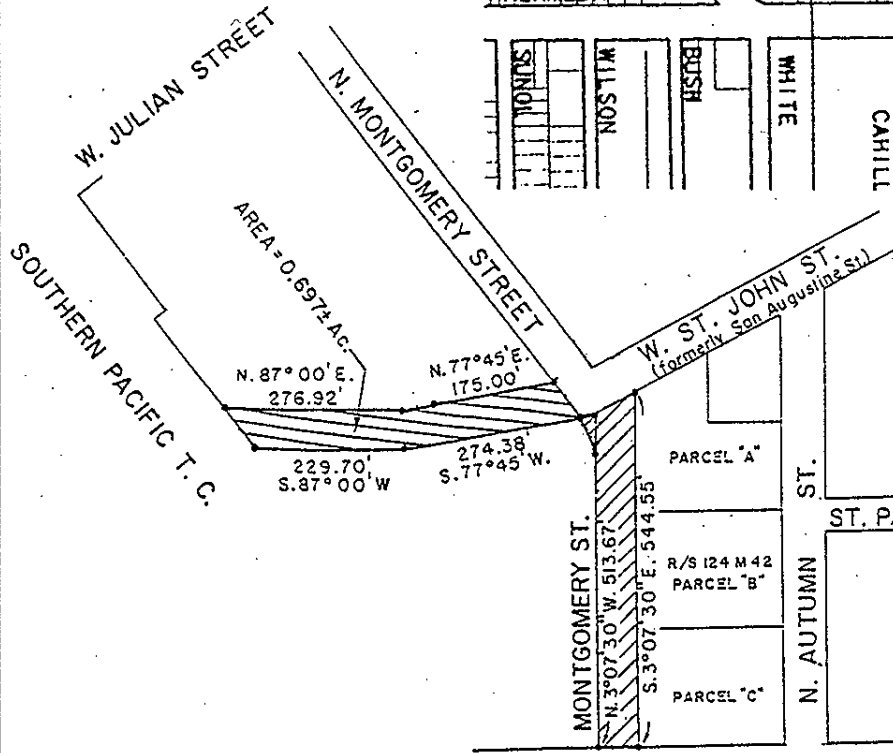
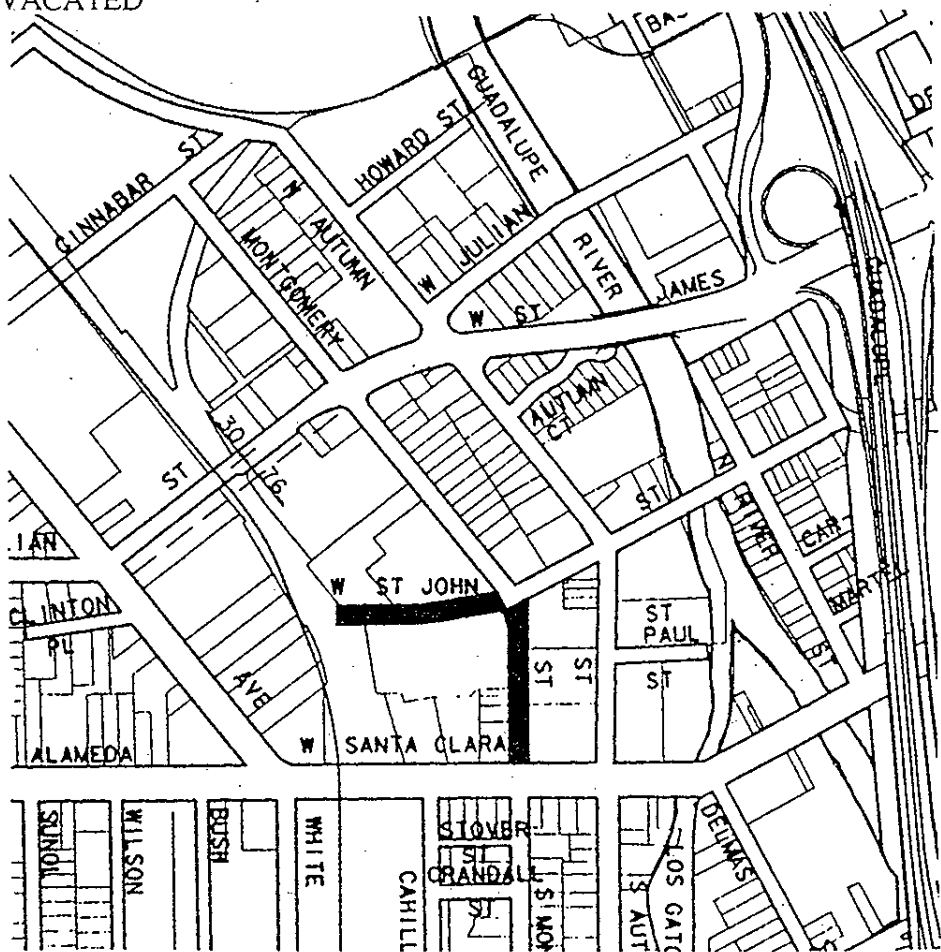
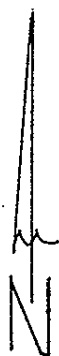
GFW:RC:MD:sa  
a:\...\stjhnmtg.wpd

# EXHIBIT

SHOWING THOSE PORTIONS OF:  
WEST ST. JOHN STREET AND NORTH MONTGOMERY STREET



AREA TO BE VACATED



AREA = 0.6972 AC.  
N. 87° 00' E. 276.92'  
S. 87° 00' W 229.70'  
N. 77° 45' E. 175.00'  
S. 77° 45' W. 274.38'

PARCEL "A"  
R/S 124 M 42  
PARCEL "B"  
PARCEL "C"

W. SANTA CLARA STREET  
(formerly The Alameda)

CITY OF SAN JOSE - MEMORANDUM

TO	Honorable Mayor and City Council	FROM	Planning Commission
SUBJECT	VACATION OF A PORTION OF ST. PAUL, MONTGOMERY, AND ST. JOHN STREETS	DATE	March 26, 1990

<u>APPROVED</u>	<u>DATE</u>
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COUNCIL DISTRICT 3


BACKGROUND

On March 14, 1990, the City Planning Commission considered a request to vacate a portion of St. Paul Street between Autumn Street and Los Gatos Creek, Montgomery Street between Santa Clara Street and St. John Street, and St. John Street between Montgomery Street and its westerly terminus. These vacations will facilitate the construction of the San Jose Arena.

RECOMMENDATION

The item, as recommended by the Planning Director on the attached report, was considered on the "consent calendar" and was recommended for approval by the Planning Commission (6-0-1; Reed absent).

Respectfully submitted by the Planning Commission.

  
 Gary J. Schoennauer, Secretary  
 Planning Commission

DB:pl

Attachment

7742L

M 7 9 4 PAGE 0 4 5 3



EXHIBIT C

PC 3-14-90 /  
Agenda Item 2.a.

## CITY OF SAN JOSE - MEMORANDUM

TO	Planning Commission	FROM	Gary J. Schoennauer Director of Planning
SUBJECT	Vacation of a Portion of St. Paul, Montgomery, and St. John Streets	DATE	March 6, 1990

APPROVED

DATE

Council District 3BACKGROUND


This is a request to vacate St. Paul Street between Autumn Street and Los Gatos Creek, Montgomery Street between Santa Clara Street and St. John Street, and St. John Street between Montgomery Street and its westerly terminus. These vacations will facilitate the construction of the San Jose Arena. The Department of Public Works recommends vacation of these rights-of-way because they are no longer needed for vehicular, bicycle, pedestrian, or equestrian traffic.

All affected public utility companies have been consulted and have no objection to the proposed vacation. San Jose Water Company has expressed a need to reserve an easement to protect existing facilities within St. John Street. Therefore, a public service easement will be retained over the entire St. John Street right-of-way.

Environmental clearance for the project is covered by the San Jose Arena Facility EIR.

RECOMMENDATIONS

Planning Staff recommends approval of the vacation to the satisfaction of the Director of Public Works.

*for*   
Gary J. Schoennauer  
Director of Planning

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