

Resolution No. 2023-XXX N.C.S.
of the City of Petaluma, California

**ADOPTING THE SUMMARY VACATION OF PUBLIC UTILITY EASEMENTS (PUE)
LOCATED AT ASSESSOR PARCEL NUMBER 006-163-040 AND 006-163-041
AND FINDING THIS ACTION IS CONSISTENT WITH A PREVIOUS
CERTIFIED MITIGATED NEGATIVE DECLARATION**

WHEREAS, North River Apartments, LLC (NRA) are required by the City to summarily vacate the Public Utility Easements (PUE) at Assessor Parcel Numbers 006-163-040 and 006-163-041, as shown on the Abandonment Exhibit (Exhibit A), Sewer Easement Exhibit (Exhibit B), and the Draft Vacation of Public Easements (Exhibit C); and

WHEREAS, the provisions of Chapter 4, commencing with Section 8330 of the California Streets and Highways Code, and more specifically Section 8333(a), authorize the Council to summarily vacate a public service easement that has not been used for the purpose for which it was dedicated for five consecutive years immediately preceding the proposed vacation, and there are no existing in-place public utility facilities in use that would be affected by the vacation; and if so under these provisions, only one Council action is necessary and a published notice, posting, and a public hearing are not required; and

WHEREAS, the purpose of the vacation is to remove the unused public service easements from the parcels to facilitate future development of the site; and

WHEREAS, the City's Department of Public Works and Utilities has reviewed this proposal and determined that the described public service easements proposed for vacation are no longer necessary for the purposes for which they were originally recorded, nor are they necessary for present or prospective public service purposes; and

WHEREAS, Government Code Section 65402(a) regulates government disposition of real property, mandating that prior to disposing of property, the jurisdiction's planning agency must first make a finding that the disposition of real property is in conformity with the jurisdiction's General Plan; and

WHEREAS, on January 9, 2018, pursuant to Government Code Section 65402(a), the Planning Commission approved, the General Plan Conformity Determination Concerning the Vacation of PUE Located at Assessor Parcel Numbers 006-163-040 and 006-163-041 as part of the approval of the site plan and architectural review; and

WHEREAS, the proposed vacation of the PUE is categorically exempt from review under the California Environmental Act pursuant to Title 14 California Code of Regulations Sections 15061 and 15305 as a minor alteration in land use limitations in that the vacation would remove City street interests that encumber the Developer's fee title to the underlying property and would not result in the creation of any new parcel; and

WHEREAS, on April 3, 2023, the City Council, held a regular public meeting where they duly received and considered evidence including the staff report and any comments from staff and the public.

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

1. Makes the following findings with substantial evidence:

- a. Pursuant to the California Environmental Quality Act (“CEQA”) City staff determined that the project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. City staff found that there is no possible significant effect directly related to the summary of vacation of easements as the easements have not been used in the past and there are no prospective uses for the easements, therefore no further action is required under CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR Section 15061(b)(3)), and independently, the project is categorically exempt (class 5) pursuant to Section 15305 of the State CEQA Guidelines (Minor Alterations in Land Use). None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project. Moreover, the entire project was previously reviewed for CEQA compliance, and the planning commission adopted the mitigated negative declaration and mitigation monitoring and reporting program by resolution 2018-02.
 - b. The three public service easements described in Exhibit A and B are excess and not required now or in the future for public service purposes and have not been used for public service purposes for the past five years; and
 - c. There are no known other public facilities or utilities located within the area to be vacated.
2. Based upon the findings made in Section 1 of this resolution and the provisions of Section 8333 of the Streets and Highways Code, the City Council does hereby order that the public service easements as shown on the vacation easement (Exhibit C), are summarily abated.
 3. The City Clerk shall cause a certified copy of this resolution, including Exhibits A, B, and C, and attested under seal, to be recorded in the office of the County Recorder of Sonoma County and return one copy to the Planning Division of the Community Development Department and the Engineering Division of the Public Works Department for their respective files.
 4. The public utility easements depicted and described in Exhibits A, B, and C, will no longer constitute a public utility easement from and after the date of recordation of the documents identified in Section 3 of this resolution.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 3rd day of April 2023, by the following vote:

Approved as to
form:

City Attorney

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

City Clerk

Mayor