

1 [Summary Vacation of Stevenson Street ~~between 8th and 9th Streets~~ east of 10th Street.]

2
3 **Ordinance ordering the summary vacation of a portion of Stevenson Street between 8th**
4 **~~and 9th Streets~~ east of 10th Street; adopting findings pursuant to the California Streets**
5 **and Highways Code Sections 8330 et seq.; adopting findings pursuant to the California**
6 **Environmental Quality Act; adopting findings that the vacation and sale are in**
7 **conformity with the City's General Plan and Eight Priority Policies of City Planning**
8 **Code Section 101.1; and authorizing official acts in furtherance of this Ordinance.**

9 Note: Additions are *single-underline italics Times New Roman*;
10 deletions are *strikethrough italics Times New Roman*.
11 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Findings. The Board of Supervisors of the City and County of San
14 Francisco hereby finds, determines and declares as follows:

15 A. The City and 1355 Market Street Associates, L.P. (the "Owner") have negotiated
16 an Agreement for Sale of Real Property (the "Purchase and Sale Agreement") under which
17 the City agreed to sell to the Owner a portion of Stevenson Street east of 10th Street, subject
18 to the prior vacation of such portion of Stevenson Street. As set forth in the Purchase and
19 Sale Agreement, any such vacation shall be made and determined by the Board of
20 Supervisors in its sole discretion. The Purchase and Sale Agreement and other real estate
21 transactional documents, including declarations of restrictions and a public access easement,
22 are part of companion legislation on file with the Clerk of the Board of Supervisors in File No.
23 081276 and are incorporated herein by reference.

24 B. The Department of Public Works has advised the City's Real Estate Division of
25 the following there are no in-place public utility facilities that are in use that would be affected

1 by vacation other than the facilities of AT&T and the San Francisco Public Utilities
2 Commission, which the Owner will address prior to the effective date of the vacation as set
3 forth below in Subsection C.

4 C. Section 8334 of the California Streets and Highways Code provides that the
5 legislative body of a local agency may summarily vacate an excess right-of-way of a street,
6 highway or public easement under certain circumstances. In particular, Section 8334
7 provides that the legislative body of a local agency may summarily vacate a street when a
8 portion of a street lies within the property under one ownership and does not continue through
9 such ownership or end touching property of another. In this instance, Stevenson Street is a
10 dead end surrounded on three sides by a one property owner. In addition, Section 8334.5 of
11 the California Streets and Highways Code allows for a summary vacation only if there are no
12 in-place utility facilities that are in use and would be affected by the vacation. Because the
13 Owner will address the in-place functioning utilities to the satisfaction of all utility operators
14 prior to the Closing (as defined in the Purchase and Sale Agreement), the continued function
15 and capacity of such facilities will not be affected.

16 D. The Director of Planning, by letter dated November 15, 2007, found that the
17 vacation and sale is categorically exempt from environmental review and is in conformance
18 with the City's General Plan, which letter is on file with the Clerk of the Board of Supervisors
19 under File No. 081276.

20 E. In ~~DPW Order No.~~ a letter dated _____, 2008, the Director of Public Works
21 determined that a summary vacation is appropriate in this instance and recommended such
22 action to the Board of Supervisors. This ~~Order~~ letter is on file with the Clerk of the Board of
23 Supervisors under File No. 081276 and is incorporated herein by reference.

24
25

1 F. Pursuant to the Streets and Highways Code Section 892, the Board hereby finds
2 and determines that the portion of Stevenson Street to be vacated hereunder, as shown in
3 DPW SUR Map No. _____, (the "Vacated Property") is a dead end street, and therefore has
4 no use for a nonmotorized transportation facility. A copy of such map is on file with the Clerk
5 of the Board of Supervisors in File No. 081276 and is incorporated herein by reference.

6 Section 2. The public conveyance and necessity require that no easements or other
7 rights be reserved for any public utility facilities and that any rights based upon any such
8 public utility facilities shall be extinguished automatically upon the effectiveness of the
9 vacation hereunder.

10 Section 3. The Board finds and determines that the Vacated Property is
11 unnecessary for present or prospective public use and that the public interest and
12 convenience require that the vacation be done as declared in this Ordinance, provided that
13 the Vacated Property is sold and thereafter developed as contemplated by and set forth in the
14 Purchase and Sale Agreement.

15 Section 4. The Board of Supervisors hereby finds that the summary vacation and
16 sale of the Vacated Property is, on balance, in conformity with the General Plan and
17 consistent with the Eight Priority Policies of Planning Code Section 101.1 for the same
18 reasons as set forth in the letter of the Director of Planning dated November 15, 2007, and
19 hereby incorporates such findings by reference as though fully set forth in this Ordinance.

20 Section 5. Pursuant to California Streets and Highways Code Sections 8330 et seq.
21 (Public Streets, Highways, and Service Easement Vacation Law, Summary Vacation) and
22 Section 787 of the San Francisco Public Works Code, the Board orders the summary vacation
23 of the Vacated Property immediately prior to the sale of the Vacated Property to the Owner.
24 The Clerk of the Board of Supervisors and the Director of Property shall be authorized, and
25

1 the Clerk shall be directed, to record or cause to be recorded in the Official Records of the
2 City and County of San Francisco a certified copy of this Ordinance ordering such vacation as
3 provided in Section 8335(a) of the California Streets and Highways Code at the Closing (as
4 defined in the Purchase and Sale Agreement), and thereupon such vacation shall be effective
5 without any further action by the Board of Supervisors. Immediately following the recordation
6 of this Ordinance, the Director of Property is authorized to record the Deed, as defined in and
7 in accordance with the Purchase and Sale Agreement. In the event that the Closing does not
8 occur for any reason, then this Ordinance shall be null and void and shall not be recorded.

9 Section 6. The Clerk of the Board, Director of Property, and Director of Public Works
10 are hereby authorized and directed to take any and all actions that they or the City Attorney
11 may deem necessary or advisable in order to effectuate the purpose and intent of this
12 Ordinance.

13
14
15
16
17
18
19
20
21
22
23
24
25

1 RECOMMENDED:

2

3

AMY L. BROWN
Director of Property

5

6

ED REISKIN
Director of Public Works

8

9

10

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

11

12

By: _____
John D. Malamut
Deputy City Attorney

13

14

15

16

17

18

19

20

21

22

23

24

25