



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Cano

**SUBJECT:** SEE BELOW

**DATE:** November 19, 2018

Approved

Date

11/20/18

**COUNCIL DISTRICT: 3**

**SUBJECT: SUMMARY VACATION OF A PUBLIC SERVICE EASEMENT AT 525 WEST SANTA CLARA STREET AND 566 WEST JULIAN STREET**

## RECOMMENDATION

Conduct a Public Hearing and adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of an approximately 30,360 square foot public service easement ("PSE") at 525 West Santa Clara Street and 566 West Julian Street;
- (b) Summarily vacating the PSE which has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation; and
- (c) Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.

## OUTCOME

Upon recordation of the resolution of vacation, the PSE will be terminated and will no longer constitute a public service easement.

## BACKGROUND

The PSE is located within a portion of the previously vacated West St. John Street (Resolution No. 65750, dated February 21, 1995), between North Montgomery Street and the Peninsula Corridor Joint Powers Board right-of-way. When the City vacated the old West St. John Street, San Jose Water Company expressed a need to reserve a PSE for their planned facility. However,

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water facilities were never installed within the easement area and there will be no future plans to install new utilities.

### **ANALYSIS**

Pursuant to Streets & Highways Code Section 8333(a), a public service easement may be summarily vacated if the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation, and there are no in-place public utility facilities in use that would be affected by the vacation.

Staff has determined that the area proposed for vacation has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation. No public utility facilities were installed in the PSE and none are planned for the future. All concerned utility companies have been contacted in writing and have no objections to the proposed vacation.

According to the preliminary title report issued by First American Title Company, the City of San José holds the underlying fee ownership of the area proposed for vacation. Upon recordation of the vacation, the land will no longer be encumbered by the PSE.

### **EVALUATION AND FOLLOW-UP**

If Council adopts the resolution summarily vacating the PSE, no further action by Council will be required.

### **PUBLIC OUTREACH**

All concerned utility companies have been contacted in writing and have no objections to the PSE vacation.

This memorandum will be posted to the City's website for the December 4, 2018, City Council agenda.

### **COORDINATION**

The vacation has been coordinated with the Department of Planning, Building and Code Enforcement and the City Manager's Budget Office. Additionally, the vacation and resolution of vacation have been reviewed by the City Attorney's Office.

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**COMMISSION RECOMMENDATION/INPUT**

No Commission recommendation was associated with this action.

**COST SUMMARY/IMPLICATIONS**

The Department of Public Works collected cost-recovery fees in Fiscal Year 2018-2019 of \$4,127.00 to process the subject vacation. These fees were deposited into the Public Works Development Services Fee Fund (Fund 001).

**CEQA**

Exempt, File No. PP18-083.

/s/

MATT CANO

Director of Public Works

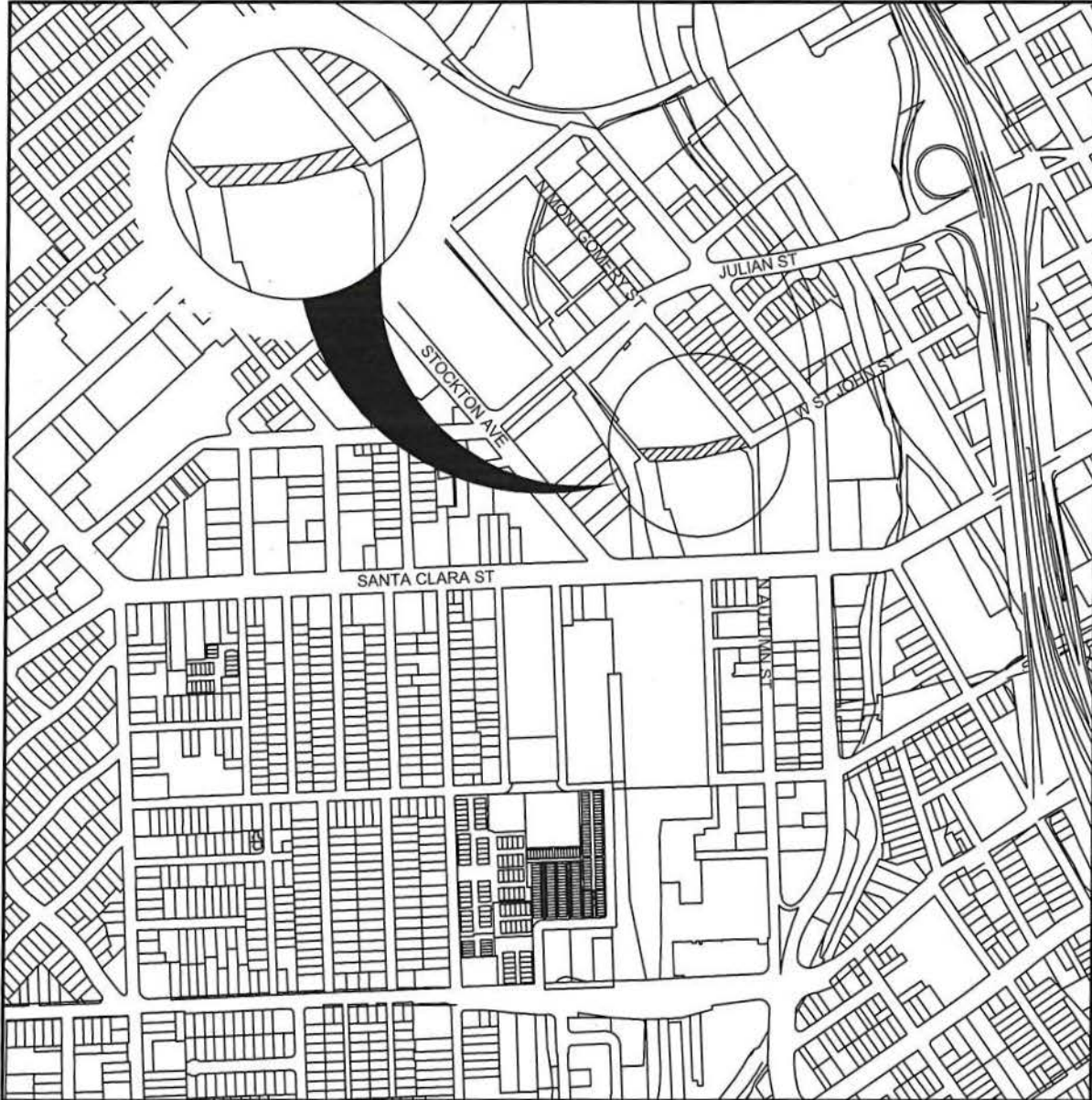
For questions please contact Matt Loesch, Deputy Director of Public Works, at (408) 975-7381.

Attachment: Location Map



# LOCATION MAP

SHOWING THAT PUBLIC SERVICE EASEMENT  
TO BE VACATED AT 525 WEST SANTA CLARA STREET



PUBLIC SERVICE EASEMENT TO BE VACATED  
AT 525 WEST SANTA CLARA STREET  
(30,360 SF)

