



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: November 19, 2018

Approved

Date

11/20/18

COUNCIL DISTRICT: 6

SUBJECT: SUMMARY VACATION OF A PORTION OF KEARNY STREET AT 255 SOUTH MONTGOMERY 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 18,256 square feet of street right-of-way at 255 South Montgomery Street ("Subject Portion");
- (b) Summarily vacating the Subject Portion, which is excess right-of-way and not required for street or highway purposes; 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 Subject Portion will be abandoned as a public street.

BACKGROUND

The City proposes to vacate 18,256 square feet of the Subject Portion of Kearny Street (see attached map), adjacent to 255 South Montgomery Street (APN 261-37-025).

The Subject Portion proposed for vacation is currently used as part of the City's Fire Training Center. The right-of-way is a remnant piece of Kearny Street that was never abandoned when

the Fire Training Center was constructed 1971. The Subject Portion is currently occupied by building structures and has not been used as a public street since the Fire Training Center was constructed.

There are existing City-owned storm and sanitary utility lines crossing the Subject Portion as well as other parts of the property on which the Subject Portion is located. The Subject Portion does not contain any other in-place public facilities that are in use.

ANALYSIS

Pursuant to Streets and Highways Code Section 8334, the City may summarily vacate an excess right-of-way of a street not required for street purposes if there are no in-place public utility facilities that are in use and would be affected by the vacation.

Staff has determined that the Subject Portion is excess right-of-way because it has been used as the City's Fire Training Center since 1971 and is a remnant that serves no street purposes.

The existing City-owned storm and sanitary utility lines crossing the Subject Portion will not be affected by the vacation because the City will remain the underlying owner of the property on which the Subject Portion is located. If this property is sold to a third party, the City would except from the sale an easement necessary to preserve any public facilities on the property or would require the purchaser to relocate the public facilities as a condition of the sale. Because there are no other public facilities located within the Subject Portion, no public facilities will be impacted by this vacation and staff does not believe the public convenience and necessity require the reservation of any public service easements to protect existing public facilities.

The portion of Kearny Street proposed for vacation is not a designated street on the City's General Plan Transportation Network Diagram. Staff has determined that the Subject Portion is not useful as a non-motorized transportation facility because it is encumbered by building structures and these uses (i.e. sidewalks and bike lanes) are already available along the bordering streets which are more suitable for such transportation.

According to the preliminary title report issued by First American Title Company, the City of San José holds fee title to the area to be vacated. If Council approves the proposed vacation, the public street easement will be terminated.

EVALUATION AND FOLLOW-UP

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

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PUBLIC OUTREACH

All concerned utility companies have been contacted in writing and have no objections to the proposed street vacation and have not requested a reservation of a public service easement as there are no public facilities in the Subject Portion other than the City's facilities.

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, Department of Transportation, Office of Economic Development, Police Department, Fire Department, and the City Manager's Budget Office. Additionally, the vacation and resolution have been reviewed by the City Attorney's Office.

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 \$7,027.00 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

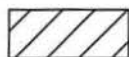
Director of Public Works

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

Attachment: Location Map

LOCATION MAP

SHOWING THAT PORTION OF KEARNY STREET
TO BE VACATED AT 255 SOUTH MONTGOMERY STREET



PORTION OF KEARNY STREET TO BE VACATED
AT 255 SOUTH MONTGOMERY STREET
(18,256 SF)

