



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: October 13, 2020

Approved

Date

10/15/2020

COUNCIL DISTRICT: 3

SUBJECT: SUMMARY VACATION OF A STREET EASEMENT AT 1605 INDUSTRIAL AVENUE WITH THE RESERVATION OF A PUBLIC STORM DRAIN EASEMENT AND A PUBLIC SANITARY SEWER EASEMENT WITHIN THE AREA BEING VACATED

RECOMMENDATION

Adopt a resolution:

- (a) Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of the street easement (“Subject Portion”) at 1605 Industrial Avenue with the reservation of a public storm drain easement and a public sanitary sewer easement within the area being vacated;
- (b) Summarily vacating the Subject Portion, which has been determined to be excess, and reserving a public storm drain easement and public sanitary sewer easement within the area being vacated; 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 and will no longer constitute part of public right-of-way, thereby saving the City long-term maintenance costs and removing liability through the vacation. A public storm drain easement and a public sanitary sewer easement will be reserved within the area being vacated.

BACKGROUND

On January 15, 1974, the Subject Portion was granted to the City of San José per Grant Deed Instrument Number 4686060, of Official Records of Santa Clara County. A street has not been constructed and there are no plans to construct a street in the future as part of the City's General Plan.

Portions of a public storm drain main and sanitary sewer main have been built underneath the street easement. As part of Planned Development Permit PD18-044, the sanitary sewer main will be realigned. Easements for the existing public storm drain main and the new alignment of the sanitary sewer main will be reserved. Portions of the sanitary sewer easement that lie outside of the street easement will be secured through a separate Grant of Easement.

ANALYSIS

Pursuant to the California Streets & Highways Code Section 8334(a), a street may be summarily vacated if the City Council determines that it is excess right-of-way and not required for street purposes. Staff has reviewed the vacation application and determined that the Subject Portion is excess right-of-way and is not required for street purposes. The Subject Portion is currently unpaved and inaccessible from Ridder Park Drive. Existing private ingress/egress easements within the Subject Portion along the Kings Row frontage for access to adjacent properties, 641 Kings Row and 643 Kings Row, will not be affected by this vacation.

There are existing in-place public storm drain and public sanitary sewer facilities that are in use. Staff has determined that the reservation of a public storm drain easement and a public sanitary sewer easement is necessary and therefore, the facilities would not be affected by the vacation.

According to the preliminary title report issued by First American Title Insurance Company, LBA RVI-Company XX, LLC, a Delaware limited liability company, holds the underlying fee ownership to the Subject Portion.

All concerned utility companies have been contacted in writing and have no objection to the proposed action.

CONCLUSION

The Subject Portion has been deemed excess and is no longer needed for public purposes. Staff recommends Council adopt this resolution to vacate the Subject Portion with reservations for a Public Storm Drain Easement and a Public Sanitary Sewer Easement.

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EVALUATION AND FOLLOW-UP

If Council adopts this resolution summarily vacating the Subject Portion, no further action by Council will be required. The City Clerk will record the resolution of vacation at which time the vacation will be complete.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

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

This memorandum will be posted on the City's Council Agenda website for the October 27, 2020 Council Meeting.

COORDINATION

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

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

Vacating the Subject Portion is in alignment with Council-approved Budget Strategy Expenditure Control section by eliminating a City maintenance obligation and liability.

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COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees on April 23, 2019, during fiscal year 2018-2019, of \$4,292 to process the subject vacation. These fees were deposited into the Public Works Department Services Fee Fund (Fund 001).

CEQA

Mitigated Negative Declaration for the 1605 Industrial Avenue Project. File No. PD18-044.

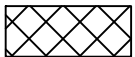
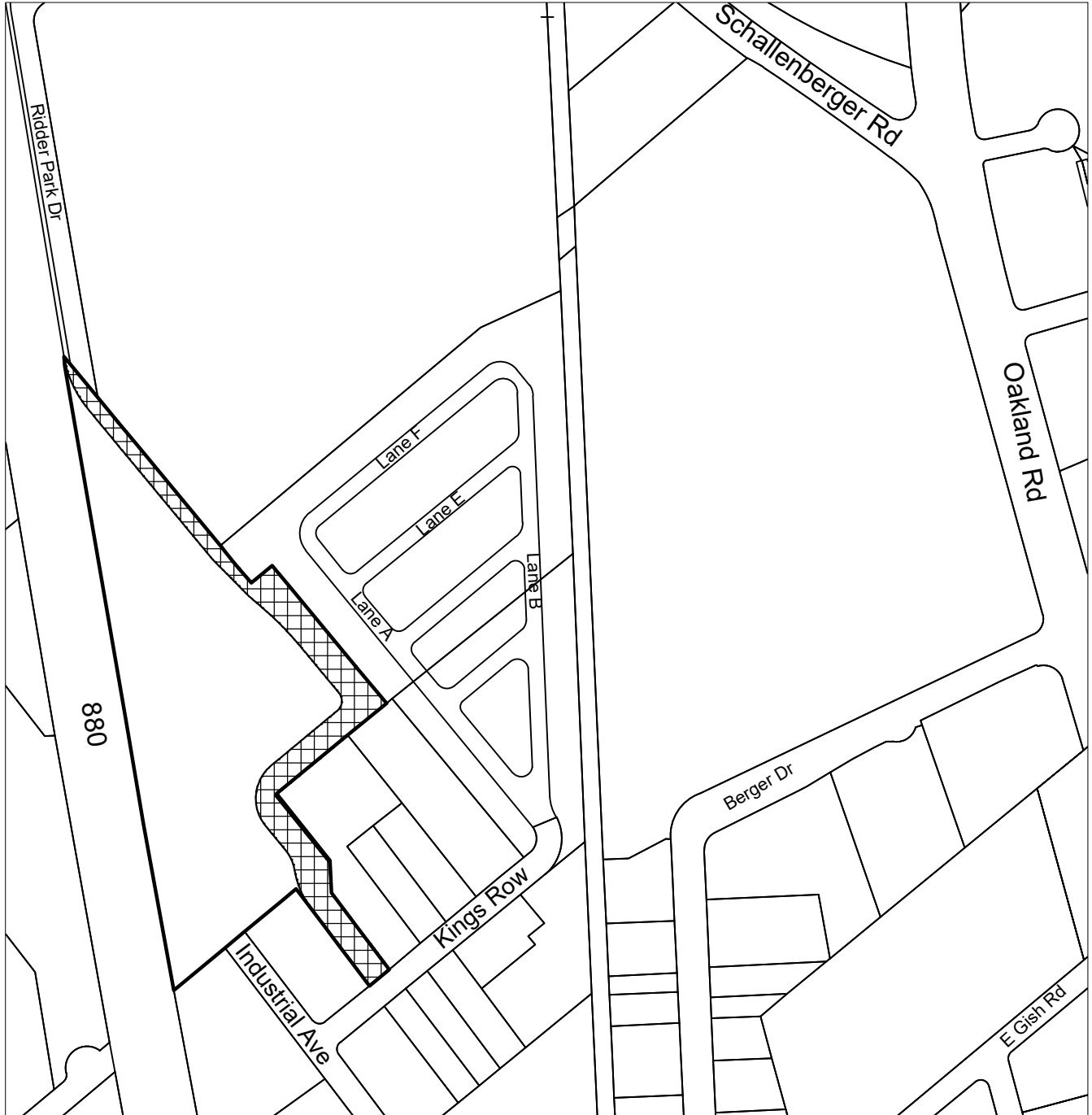
/s/
MATT CANO
Director of Public Works

For questions please contact J. Guevara, Deputy Director of Public Works, at (408) 807-1801.

Attachment: Location Map

LOCATION MAP

SHOWING THE STREET EASEMENT TO BE SUMMARILY VACATED
WITH THE RESERVATION OF A PUBLIC STORM DRAIN EASEMENT
AND PUBLIC SANITARY SEWER EASEMENT



AREA TO BE VACATED



BOUNDARY OF 1605 INDUSTRIAL AVE

