



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: January 18, 2022

Approved

Date

1/19/2022

COUNCIL DISTRICT: 6

**SUBJECT: CONDITIONAL VACATION OF A 10-FOOT WIDE PUBLIC UTILITY
EASEMENT AT 1420 UNIVERSITY AVENUE**

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 conditional vacation of a 10-foot-wide public utility easement at 1420 University Avenue (“Subject Property”);
- (b) Conditionally vacating the Subject Property, which contains in-place utility facilities that are in use; and
- (c) After the satisfaction of the conditions to the vacation, 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 Property located at 1420 University Ave will be vacated.

BACKGROUND

James Rukstalis, property owner of 1420 University Avenue, has submitted an application for vacation of the Subject Property on his property, which is Lot 74 of Tract No. 55. The Subject Property is approximately 1,000 square feet. The Subject Property was created by dedication on the map of Tract No. 55 Rose Park Unit No. 3, recorded on August 24, 1937 in Book 1 of Maps,

Page 56, of Official Records, Office of the Recorder, County of Santa Clara. Mr. Rukstalis has a desire to ensure that improvements he is in the process of installing on the Subject Property are not subject to future removal due to a public utility easement. The Subject Property prohibits a building from encroaching into this area. This vacation is not part of a development project.

On January 10, 2022, the City Clerk published notice of the public hearing on the proposed vacation and on January 11, 2022, the Department of Public Works posted the site with notices, all as provided in the Streets and Highways Code.

ANALYSIS

Staff has determined that, after satisfaction of the condition discussed below, the Subject Property is not needed for public purposes. All concerned utility companies have been contacted in writing and have no objections to the proposed vacation provided that the property owners execute a private overhead wire easement in favor of the utility companies having facilities in the Subject Property. Therefore, City staff recommend that the vacation be conditioned on the City receiving a fully executed copy of the overhead wire easement(s). Upon vacation of the Subject Property, the public utility easement will be abandoned and no further action by the City would be required.

CONCLUSION

A 10-foot wide public utility easement at 1420 University Avenue contains in-place utilities that are in use and will be vacated after satisfaction of the conditions to the vacation. Upon vacation of the Subject Property, the public utility easement will be abandoned and no further action by the City would be required.

EVALUATION AND FOLLOW-UP

If Council adopts the resolution conditionally vacating the Subject Property, no further action by Council will be required for the vacation. After receiving a copy of the executed overhead wire easement from Mr. Rukstalis, the City Clerk will record the resolution of vacation at which time the vacation of the public utility easement will be complete.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

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PUBLIC OUTREACH

All concerned utility companies have been contacted in writing and have no objections to the proposed vacation provided a private overhead wire easement is received from the property owner in their favor to replace the public utility easement.

This memorandum will be posted to the City's website for the February 1, 2022, City Council agenda.

The City Clerk published, and Public Works posted the site with, notice of the proposed vacation in accordance with the Streets and Highways Code.

COORDINATION

This memorandum has been coordinated with the departments of Planning, Building and Code Enforcement, Fire, Transportation, the City Manager's Budget Office, and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

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

COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees during Fiscal Year 2021-2022 of \$4,925.40 to process the subject vacation. These fees were received to support the Public Works Development Fee Program.

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CEQA

Categorically Exempt, File No. ER21-308, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations.

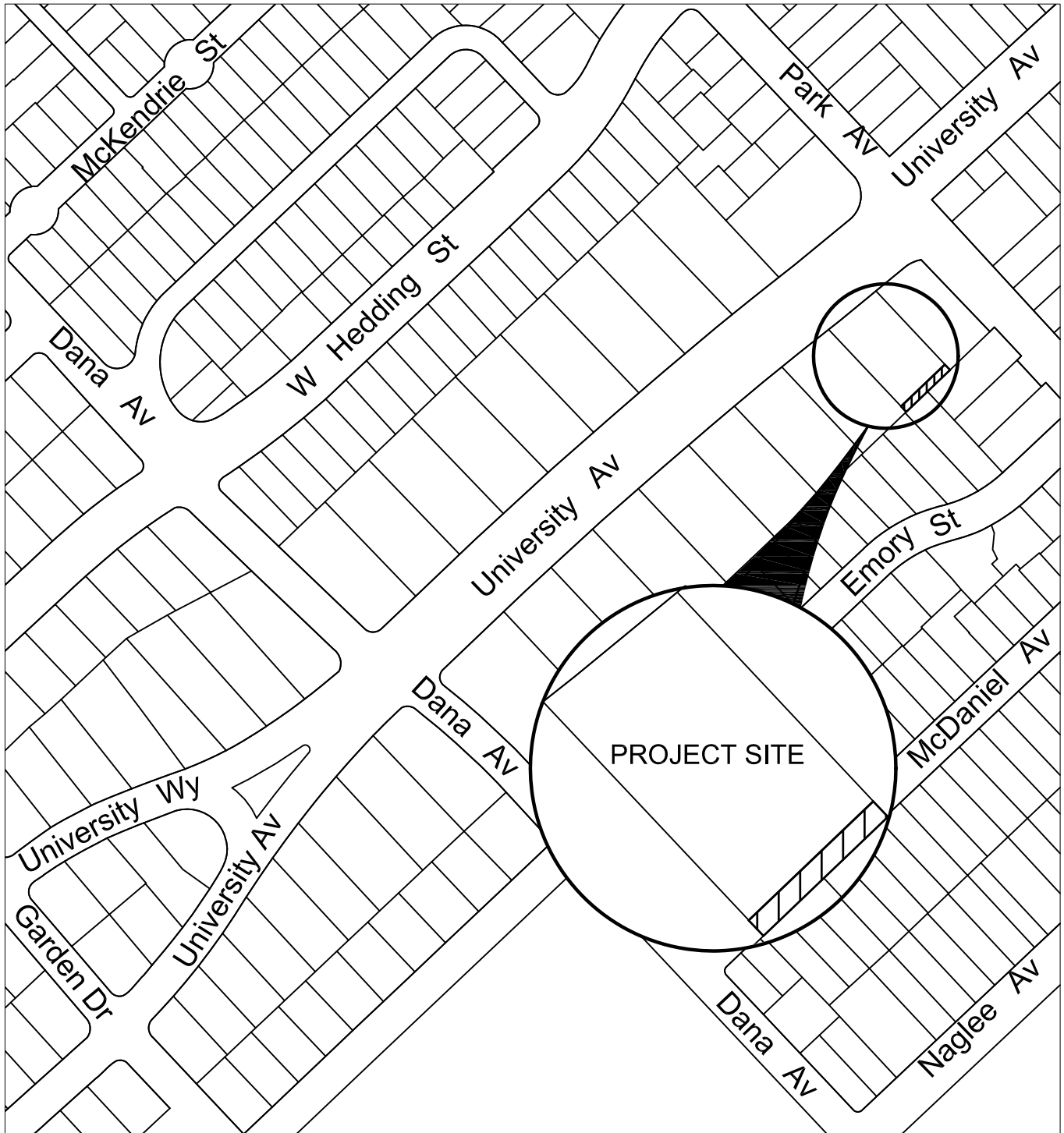
/s/
MATT CANO
Director, Public Works Department

For questions, please contact Matt Loesch, Assistant Director of Public Works, at (408) 535-8300.

Attachment: Location Map

LOCATION MAP

SHOWING THE 10-FOOT PUBLIC UTILITY EASEMENT TO BE VACATED



AREA TO BE VACATED ($\pm 1,000$ S.F.)

