COUNCIL AGENDA: 06/19/18
FILE: 18-787
ITEM: 3.13

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: May 29, 2018

Approved D:DSyC

Date 6/7/18

COUNCIL DISTRICT: 9

SUBJECT: VACATION OF THE 25-FOOT AND 12.5-FOOT SETBACK EASEMENTS AT 4940 GATTUCIO DRIVE

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 vacation of the 25-foot and 12.5-foot light and air easements ("setback easements") at 4940 Gattucio Drive;

(b) Vacating the setback easements located at 4940 Gattucio Drive; 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 setback easements at 4940 Gattucio Drive will be extinguished and no longer constitute as a public easement.

BACKGROUND

Jaewoong Choi and Heekyoung Seo, property owners of 4940 Gattucio Drive, have submitted an application for the vacation of the setback easements, 25-foot wide along Rafton Drive and 12.5-foot wide along Gattucio Drive, located on their corner lot property (see attached map). The setback easements are approximately 5,474 square feet in total size, and were created by dedication on the map of Tract No. 1596, recorded on December 8, 1955 in Book 63 of Maps, Page 56, of Official Records, Office of the Recorder, County of Santa Clara, and applies to all 38 properties created by the subdivision.

The property owners have indicated their desire to construct future improvements to their property that would encroach into the setback easements. The setback easements prohibit buildings from encroaching into these areas.

On May 15, 2018, the City Council adopted a resolution which declared the Council's intention to vacate the subject setback easements. The resolution approved a map showing the subject easements proposed to be vacated, set the public hearing for June 19, 2018, at 1:30 p.m., directed the City Clerk to file the vacation map and advertise said public hearing, and directed the Director of Public Works to post the site with a Notice of Vacation.

ANALYSIS

Staff has reviewed the vacation application and has determined that the setback easements can be vacated because they are not necessary for current or prospective use. Ordinance No. 29821 "An Ordinance of the City of San Jose Amending Title 20 of the Municipal Code to Amend Various Sections of Chapter 20.30...." effective on December 30, 2016 amended the front setback requirement of a single family residence in zoning district R1-8 from 25-feet to 20-feet. Section 20.30.200 of Title 20 of the Municipal Code also requires the side setback for a corner lot single family residence in zoning district R1-8 to be 12.5-feet. Consequently, upon review of the vacation application by Planning staff, it was determined that the setback easement on the subject property are no longer necessary for public purposes in favor of the more appropriate current zoning setbacks. In light of this, staff recommends vacating the entire 25-foot and 12.5-foot setback easements as it is more appropriate to regulate setbacks through the enforcement of the City's zoning code instead of through setback easements. This reduction in setbacks was found consistent with the goals of the Envision San Jose 2040 General Plan ("General Plan") to encourage additional density and parking in conventional Residential Zoning Districts.

Since zoning district R1-8 applies to all of Tract No. 1596, if proposed, the 25-foot and 12.5-foot setback easements may be vacated for the entire tract, as all properties in the subdivision could be required to comply with the current 20-foot front setback for a single family residence in zoning area R1-8 (Municipal Code 20.30.200). However, only the property owners of 4940 Gattucio Drive have applied for a vacation of the setback easements and specifically requested that their application only result in the vacation of setback easements for their property as they did not want to affect other property owners' setback easements. Consequently, staff agreed to not further pursue a vacation of setback easements for the entire subdivision per the property owners request. In the future, other properties in the subdivision may seek a vacation of the setback easements.

According to the title report issued by First American Title Company, Jaewoong Choi and Heekyoung Seo hold fee ownership to the area being proposed for vacation at 4940 Gattucio Drive. Additionally, there is an existing public utility easement along the southerly property line that will remain.

EVALUATION AND FOLLOW-UP

If Council approves the resolution vacating the setback easements at 4940 Gattucio Drive, no further action by City Council will be required. The City Clerk will record the resolution of vacation at which time the vacation will be complete.

PUBLIC OUTREACH

This memorandum will be posted on the City's website for the June 19, 2018, City Council agenda. Additionally, staff will post the site with a Notice of Vacation, file the vacation maps and advertise said public hearing, which alerts the public to the hearing date, location and time.

COORDINATION

This vacation has been coordinated with the Department of Planning, Building and Code Enforcement and the City Manager's Budget Office. The vacation and resolution 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 setback easements is in alignment with the November 2016 Council approval of Ordinance No. 29821 which governs the setback requirements for single family residences in zoning district R1-8.

COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees on March 6, 2018, during fiscal year 2017-2018, of $5,264 to process the subject vacation. These fees were received to support the Public Works Development Fee Program.

CEQA

Exempt, File No. PP18-039, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitation.

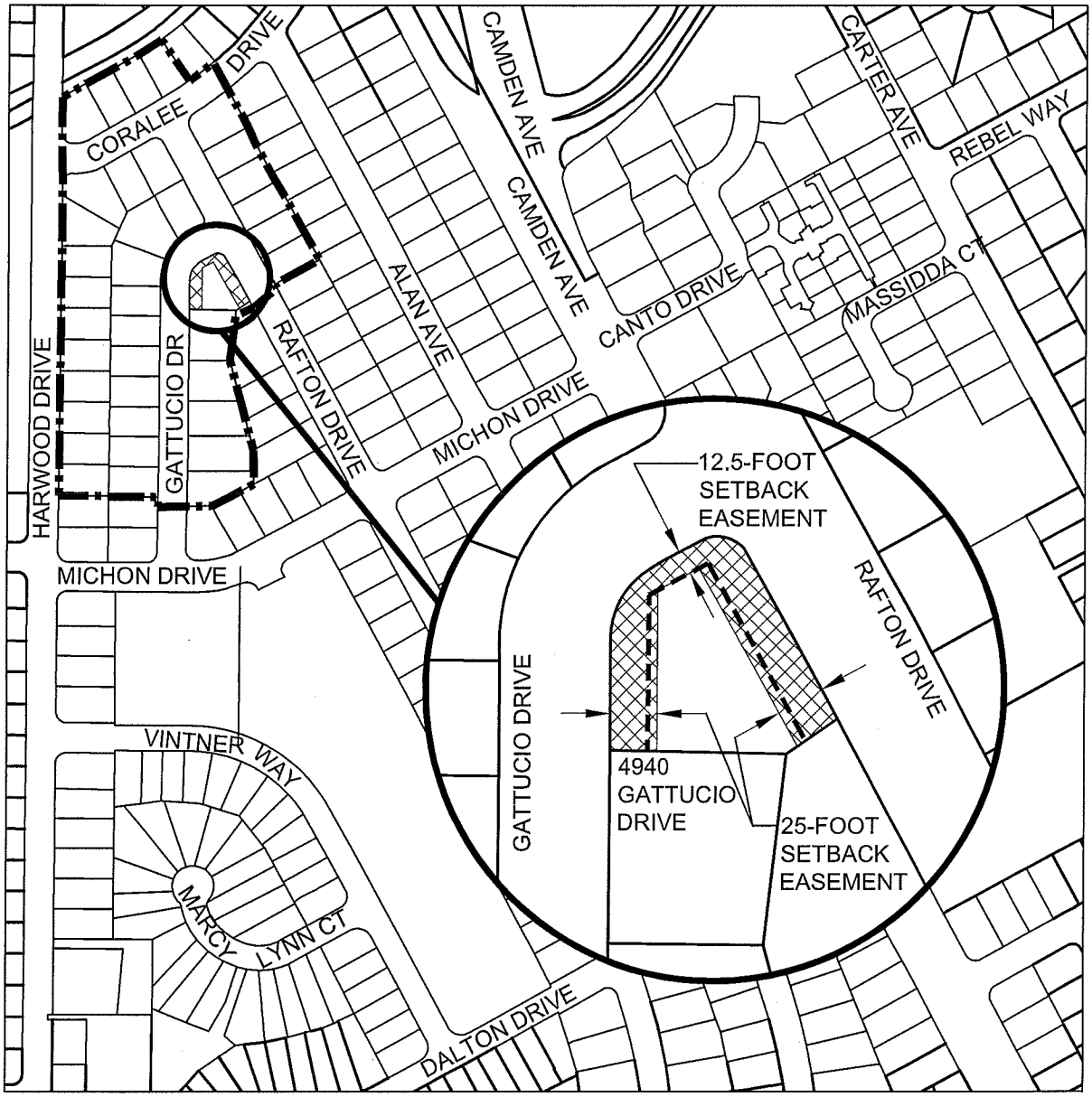
/s/
MATT CANO
Director of Public Works

Attachment: Location Map

For questions, please contact Ryan Do, Division Manager of Public Works, at (408) 535-6899.

LOCATION MAP

SHOWING THE 25-FOOT AND 12.5-FOOT SETBACK EASEMENT
AT 4940 GATTUCIO DRIVE TO BE VACATED



AREA TO BE VACATED (5,474 SQ. FT.)

R1-8 ZONING DISTRICT SETBACK

BOUNDARY OF TRACT 1596

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