



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: March 28, 2019

Approved

D. D. Syl

Date

3/29/19

COUNCIL DISTRICT: 1

**SUBJECT: SUMMARY VACATION OF AN APPROXIMATELY 1,149 SQUARE
FOOT PUBLIC UTILITY EASEMENT AT 5696 STEVENS CREEK
BOULEVARD**

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 1,149 square foot Public Utility Easement ("PUE") at 5696 Stevens Creek Boulevard;
- (b) Summarily vacating the PUE, 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 PUE will be terminated and will no longer constitute a public service easement.

BACKGROUND

Asset Gas SC Incorporated and Oliver Holdings SC, LLC have submitted an application for the vacation of the entire PUE on the south side of Stevens Creek Boulevard, approximately 70 feet southerly from the intersection of Stern Avenue and Stevens Creek Boulevard.

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The PUE was dedicated to public use in Book 42 of Maps, Page 22 of Official Records, Office of the Recorder, County of Santa Clara on April 13, 1953. As shown in the attached location map, the PUE extends along the rear portion of two properties under common ownership. The property owners have plans to demolish an existing gas station, combine the two existing lots, and construct a new 6-story hotel. The proposed project obtained a Planning Site Development Permit (H17-023) on January 8, 2019.

No public facilities have been installed within the PUE and staff have confirmed with local utility companies, no future utility infrastructure is planned.

ANALYSIS

Under Section 8306(a) of the California Streets & Highways Code, the PUE constitutes a public service easement. 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 because no public utility facilities have been installed in the PUE and none are planned for the future. In addition, there are no existing public utility facilities in use that would be affected by the vacation. All concerned utility companies have been contacted in writing and have no objections to the proposed vacation.

According to the title report issued by First American Title Company, Asset Gas SC Incorporated and Oliver Holdings SC, LLC are the underlying fee owners of the area proposed for vacation. Upon recordation of the vacation, the land will no longer be encumbered by the PUE.

EVALUATION AND FOLLOW-UP

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

PUBLIC OUTREACH

The public was given the opportunity to comment on the proposed development and site plan with the inclusion of the proposed vacation area as part of the Planning permit review and

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approval process. All concerned utility companies have been contacted in writing and have no objections to the subject PUE vacation.

This memorandum will be posted to the City's website for the March 26, 2019 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 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 2016-2017 of \$3,370 to process the subject vacation. These fees were deposited into the Public Works Development Fee Program in the General Fund.

CEQA

Stevens Creek and Stern Hotel Mitigated Negative Declaration, File No. H17-023.

/s/

MATT CANO

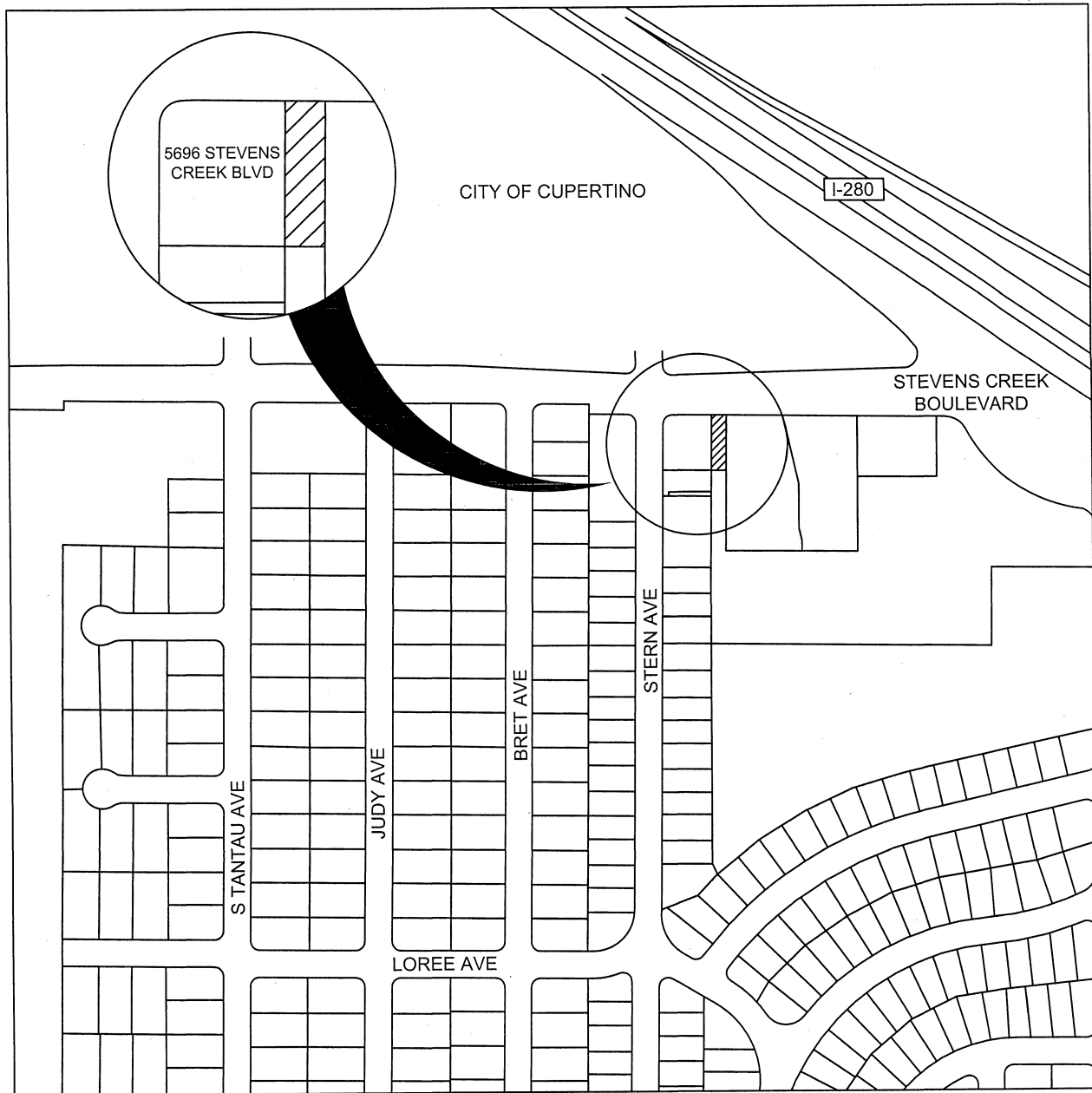
Director of Public Works

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

Attachment: Location Map

LOCATION MAP

SHOWING PUBLIC UTILITY EASEMENT
TO BE VACATED AT 5696 STEVENS CREEK BOULEVARD



AREA TO BE VACATED (1,149 SF +/-)

