



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Matt Cano

**SUBJECT:** SEE BELOW

**DATE:** May 20, 2019

Approved

*D. D. S. L.*

Date

*5/31/19*

**COUNCIL DISTRICT: 4**

**SUBJECT: SUMMARY VACATION OF A 5-FOOT WIRE CLEARANCE  
EASEMENT AND A 15-FOOT PUBLIC SERVICE EASEMENT AT 3860  
SUNCREST 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 summary vacation of a 5-foot Wire Clearance Easement (“WCE”) and a 15-foot Public Service Easement (“PSE”) (collectively “Subject Portions”) at 3860 Suncrest Avenue.
- b) Summarily vacating the Subject Portions, which has been determined to be excess.
- 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 Portions will be abandoned and no longer constitute as public easements.

## BACKGROUND

Nat Mani, property owner of 3860 Suncrest Avenue, submitted an application to vacate the Subject Portions on his property, which is Lot 10 of Tract No. 3279 (see attached location map). The Subject Portions were created by dedication on the map of Tract No. 3279 San Jose

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Highlands Unit No. 1, recorded on July 26, 1962 in Book 150 of Maps, at Pages 19-21, of Official Records, Office of the Recorder, County of Santa Clara. The Subject Portions include the WCE and PSE located within the property.

The property owner has indicated his desire to construct an accessory dwelling unit on his property that would encroach into the Subject Portions. The WCE limits a building to a maximum height of 15 feet within the area. The PSE prohibits a building from encroaching into the area.

There are no existing underground or overhead utilities within the Subject Portions and the easements were never used as intended. Written coordination with all concerned utility companies confirms there are no future facilities planned to be installed within the Subject Portions.

### **ANALYSIS**

Under Section 8306(a) of the California Streets & Highways Code, the WCE and PSE constitute as public service easements. Pursuant to Streets & Highways Code Section 8333(c), a public service easement may be summarily vacated if the City Council determines that it is excess, there are no other public facilities located within the easement, and 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 Portions are not needed for public purposes and therefore are excess. All concerned utility companies have been contacted in writing and have no objections to the proposed vacations.

According to the title report issued by Stewart Title Guaranty Company, Lalitha Nathan, Nataraj Mani, and Padma Mani, as joint tenants, are the underlying fee owners of the Subject Portions. Upon recordation of the resolution of vacation, the land within the Subject Portions will no longer be encumbered by public service easements and no further action by the City will be required.

### **EVALUATION AND FOLLOW-UP**

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

### **PUBLIC OUTREACH**

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

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This memorandum will be posted on the City's website for the June 11, 2019, City Council agenda.

### **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 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 Portions is in alignment with 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 on April 1, 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**

Categorically Exempt, File No. 3-15457, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations.

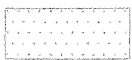
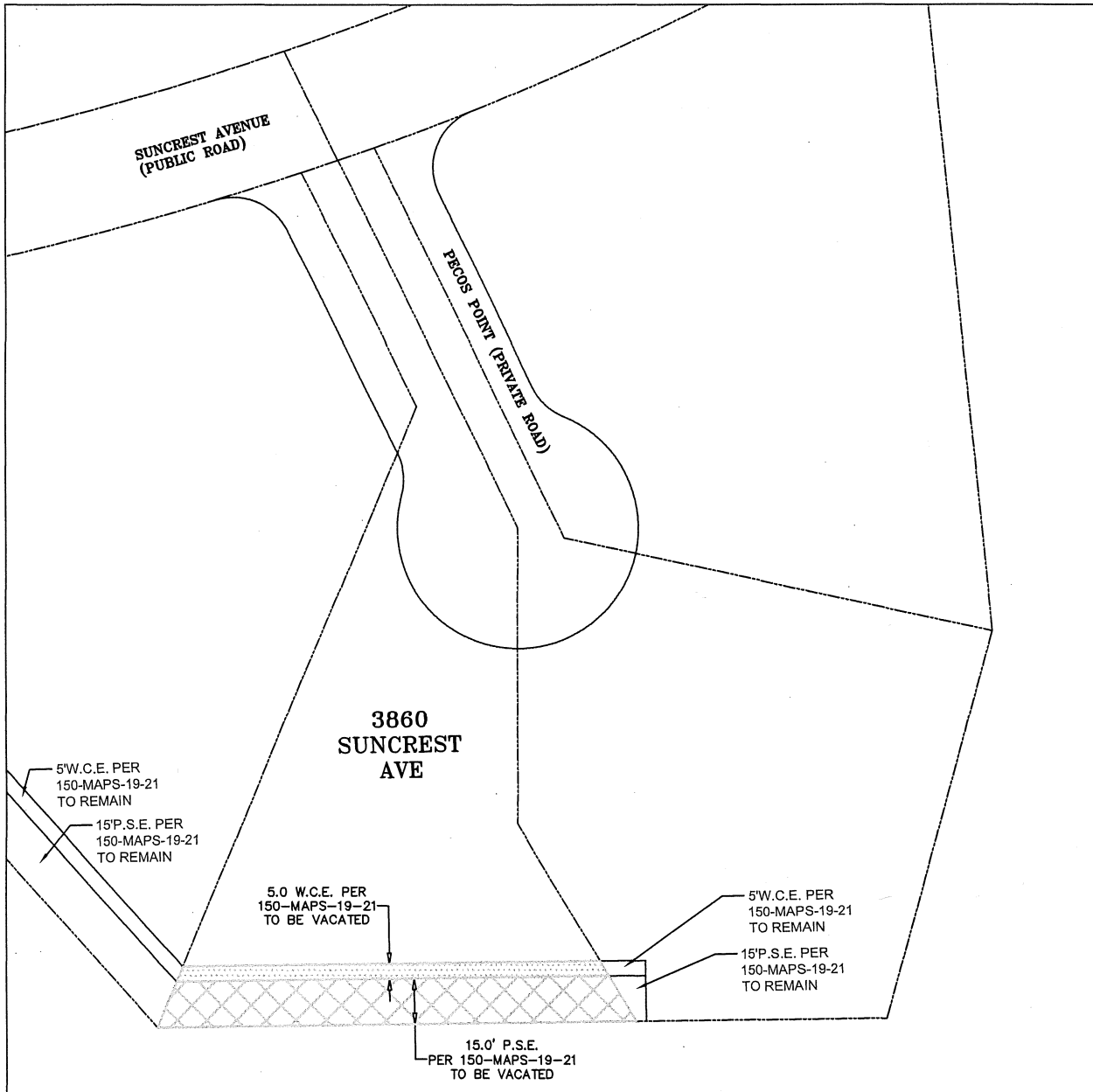
/s/  
MATT CANO  
Director of Public Works

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

Attachment: Location Map

# LOCATION MAP

SHOWING A 5-FOOT WIRE CLEARANCE EASEMENT AND A 15-FOOT PUBLIC SERVICE EASEMENT TO BE VACATED AT 3860 SUNCREST AVE



5-FOOT WIRE CLEARANCE EASEMENT TO BE VACATED



15-FOOT PUBLIC SERVICE EASEMENT TO BE VACATED

