



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: June 3, 2019

Approved

Date

6/13/19

COUNCIL DISTRICT: 9

**SUBJECT: VACATION OF THE 25-FOOT AND 12.5-FOOT SETBACK EASEMENTS
WITHIN TRACT NO. 6285**

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") located within Tract No. 6285.
- (b) Vacating the 25-foot and 12.5-foot light and air easements within Tract No. 6285.
- (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 located within Tract No. 6285 will be vacated. By vacating the Setback Easements, all properties within Tract No. 6285 will conform to the current San Jose Municipal Code front and side setback requirements for single family residences in zoning district R1-8 and the property owners within Tract No. 6285 can construct building improvements up to the current setbacks.

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BACKGROUND

Charmein Locascio, property owner of 1670 Glenrock Court, has submitted an application for the vacation of the 25-foot front setback easement on her property, which is Lot 5 of Tract No. 6285. The setback easement was created by dedication on the map of Tract No. 6285, recorded on September 20, 1978 in Book 426 of Maps, at Pages 56 and 57, of Official Records, Office of the Recorder, County of Santa Clara, and applies to all properties. The property owner has indicated her desire to construct future improvements to her property that would encroach into the setback easement. The setback easement prohibits a building from encroaching into the area.

On June 4, 2019, the City Council adopted a resolution to declare the Council's intention to vacate the Setback Easements within the tract. The resolution also approved a map showing the Setback Easements proposed to be vacated, set a Public Hearing for June 25, 2019, 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 determined that all Setback Easements in Tract No. 6285 can be vacated as 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 Easements are no longer necessary for public use in favor of the more appropriate current zoning setbacks. Staff also concluded that it is more appropriate to regulate setbacks through the enforcement of the City's zoning code instead of through setback easements. This reduction in the setback 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 the December 2016 adoption of Ordinance No. 29821, the volume of setback easement vacation requests has increased. As a result, staff coordinated with the City Attorney's Office and the Office of the County Recorder to establish a proactive process through vacating all setback easements for entire subdivisions as opposed to the prior practice of vacating setback easements for individual properties upon request. Therefore, staff recommends including all the setback easements created by Tract No. 6285 in this vacation process. Vacating setback easements by subdivision reduces the overall cost to property owners as multiple applications and corresponding costs would not be repeated.

Consequently, because zoning district R1-8 applies to all of Tract No. 6285, staff has determined that the Setback Easements may be vacated for the entire tract, as all properties in the

subdivision will be required to comply with the current setbacks for single family residence in zoning area R1-8 (Municipal Code 20.30.200). Additionally, as this proposed vacation will remove setback easements that conflict with the 2016 Council-approved reduced setback requirements in the City's zoning code for this property, staff finds that the proposed vacation is consistent with and will facilitate a General Plan goal to allow additional density and parking with the zoning district R1-8.

Through County records, staff has identified the owners within Tract No. 6285 of the properties subject to the Setback Easements. There are existing public utility easements within Tract No. 6285 that will remain on the properties.

EVALUATION AND FOLLOW-UP

If Council approves the resolution vacating the Setback Easements within Tract No. 6285, 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

Extensive outreach was conducted by staff prior to the 2016 approval of Ordinance No. 29821 including facilitating numerous community and stakeholder meetings.

This memorandum will be posted on the City's website for the June 25, 2019, City Council agenda. Additionally, if at the June 4, 2019 Council meeting, Council approves a resolution of intention to vacate the Setback Easements, 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.

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.

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COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees on April 12, 2019, during fiscal year 2018-2019, of \$5,916 to process the subject vacation. These fees were received to support the Public Works Development Fee Program.

CEQA

Categorically Exempt, File No. 3-24873, CEQA Guidelines Section 15305, Minor Alterations in Land Use Limitations.

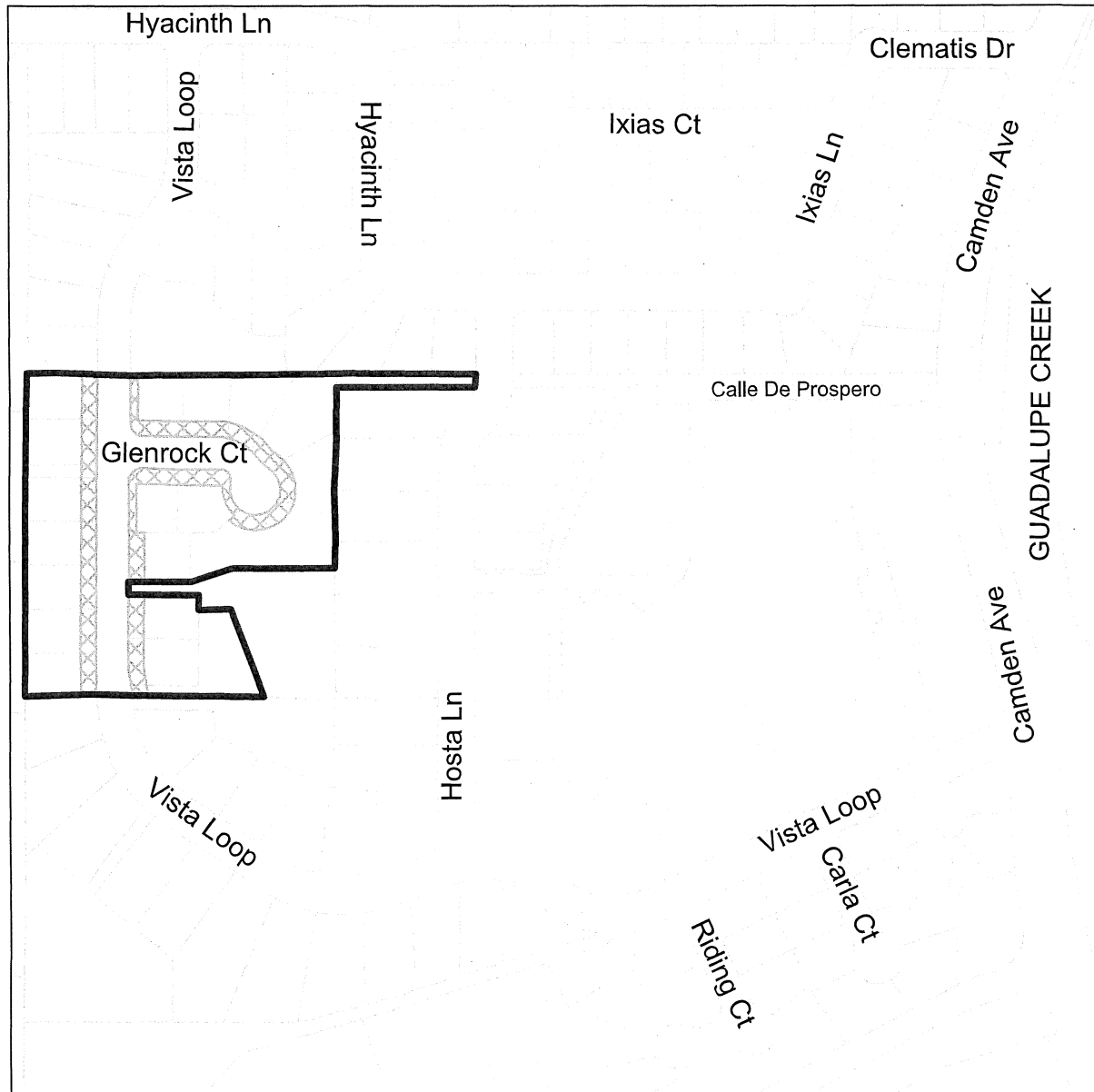
/s/
MATT CANO
Director of Public Works

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

Attachment: Location Map

LOCATION MAP

SHOWING THE 25-FOOT AND 12.5-FOOT SETBACK EASEMENTS
WITHIN TRACT NO. 6285 TO BE VACATED



AREA TO BE VACATED



BOUNDARY OF TRACT NO. 6285

