



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: January 27, 2020

Approved

Date

1/30/2020

COUNCIL DISTRICT: 6

**SUBJECT: SUMMARY VACATION OF A 10-FOOT PUBLIC UTILITIES
EASEMENT LOCATED AT 1363 SPENCER AVENUE**

RECOMMENDATION

Adopt a resolution:

1. Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of a 10-foot Public Utilities Easement at 1363 Spencer Avenue;
2. Summarily vacating the Public Utilities Easement, which is excess; and
3. 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 Public Utilities Easement will be abandoned as a public easement.

BACKGROUND

Marilyn Kautzer, property owner of 1363 Spencer Avenue, has submitted an application to vacate the Public Utilities Easement ("PUE") on her property (see attached location map). The PUE was created by dedication on the map of Tract No. 302 Graham Moulton Subdivision, recorded on May 22, 1946 in Book 10 of Maps, at Page 33, of Official Records, Office of the Recorder, County of Santa Clara.

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The property owner has indicated her desire to construct an accessory structure on her property that would encroach into the PUE. The PUE language prohibits buildings and structures of any kind from encroaching into the area.

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

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(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 in use that would be affected by the vacation.

Because there are no current or future public facilities to be located in the PUE, staff has determined that the PUE is excess. All concerned utility companies have been contacted in writing and have no objections to the proposed vacation.

According to the title report issued by Fidelity National Title Company, Curtis Kautzer and Marilyn Kautzer, as joint tenants, are the underlying fee owners of the area proposed for vacation. Upon recordation of the resolution of vacation, the land will no longer be encumbered by the PUE.

CONCLUSION

Staff has determined that the PUE is excess. Staff recommends the City Council adopt a resolution summarily vacating the PUE.

EVALUATION AND FOLLOW-UP

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

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on 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 vacation of the PUE.

This memorandum will be posted on the City's website for the February 11, 2020 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. Additionally, 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.

COST SUMMARY/IMPLICATIONS

The Department of Public Works collected cost-recovery fees during fiscal year 2019-2020 of \$4,472 to process the subject vacation. These fees were deposited into the Public Works Development Fee Program in the General Fund.

CEQA

Categorically Exempt, File No. ER19-080, CEQA Guidelines Section 15305 Minor Alterations in Land Use Limitations.

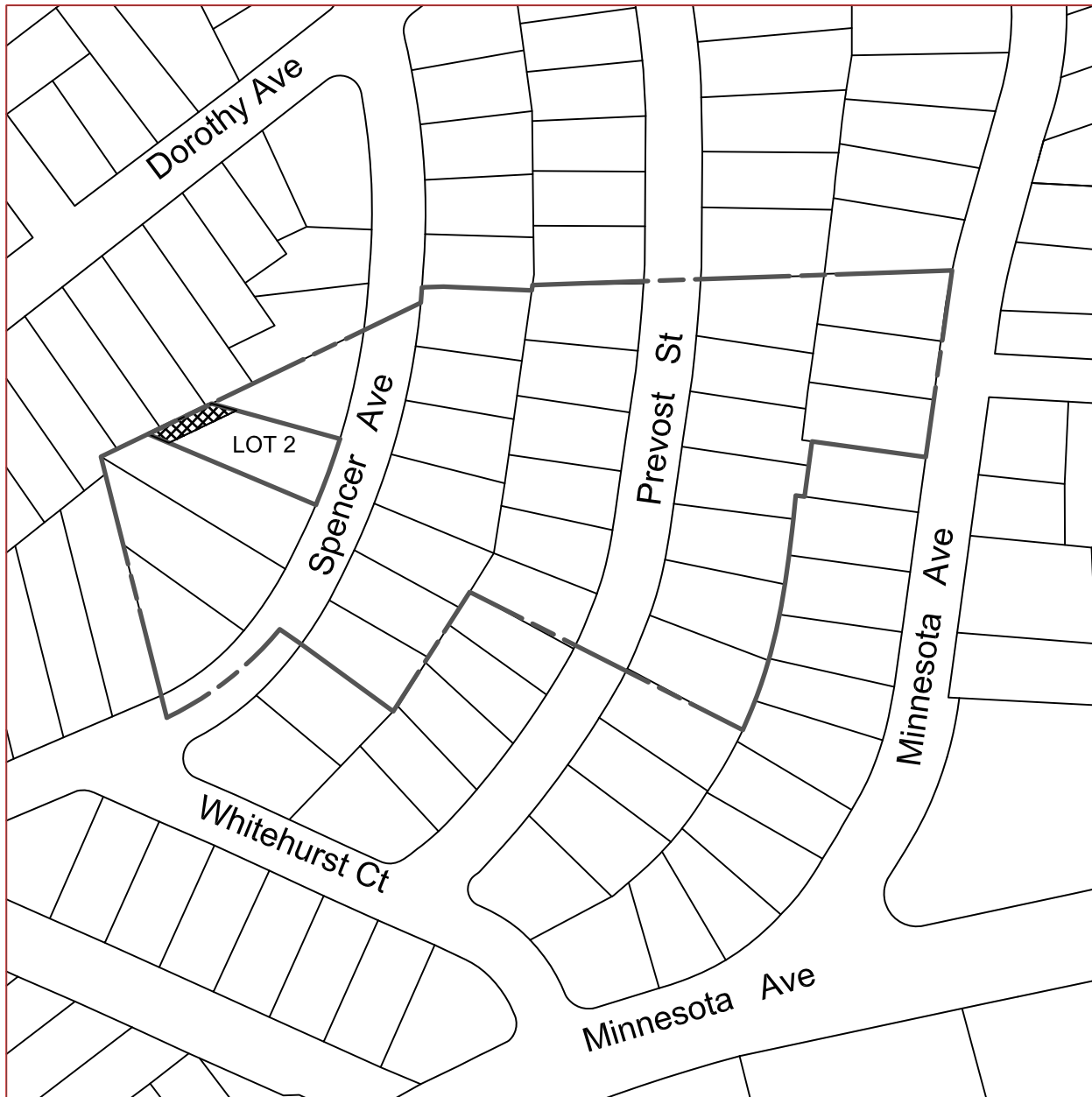
/s/
MATT CANO
Director of Public Works

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

Attachment: Location Map

LOCATION MAP

SHOWING A 10-FOOT PUBLIC UTILITIES EASEMENT
TO BE VACATED AT 1363 SPENCER AVENUE



10-FOOT PUBLIC UTILITIES EASEMENT TO BE VACATED



BOUNDARY OF TRACT NO. 302

