



DATE: December 4, 2018

CATEGORY: Consent

DEPT.: Public Works

TITLE: **Resolution to Summarily Vacate
Public Easements at 460 North
Shoreline Boulevard**

RECOMMENDATION

Adopt a Resolution Ordering the Summary Vacation of Public Easements at 460 North Shoreline Boulevard, to be read in title only, further reading waived (Attachment 1 to the Council report).

BACKGROUND

On October 8, 1962, the City was granted a general municipal easement, wire clearance easements, and public utility easement over a portion of the subject property as part of the subdivision map of Tract 2282. Joint trench facilities were installed in a portion of the public utility easement.

On June 20, 1963, the map was amended by the subdivision map of Tract 3523. The general municipal easement, wire clearance easement, and public utility easement over the subject property were rededicated on the amended map.

On January 30, 2018, the City Council approved a parcel map, Planned Community Permit, and Development Review Permit for MidPen Housing to construct 62 affordable units to replace 12 existing units on the 3.4-acre project site. The conditions of approval for the development (Application No. 331-16-PCZA) include vacating all existing easements that are or will no longer be needed and are in conflict with proposed or existing buildings. A portion of the public utility easement remains in use for existing joint trench facilities and will not be vacated.

ANALYSIS

MidPen Housing has requested the City vacate the unused easements over the subject property to allow for the proposed development. The easements infringe on the proposed affordable housing and existing buildings.

Staff has reviewed the vacation request and has confirmed that no City utilities exist in these easements. Staff does not foresee a future use for these easements by the City. PG&E, AT&T and Comcast have confirmed that they have no services in the easements and have no objections to the vacation.

In accordance with the Streets and Highways Code, if the City wishes to give up rights in an easement dedicated to the City over property that the City does not own, the easement is to be vacated and all property rights returned to the underlying property owner. If the easement has not been used for its intended purpose for five consecutive years immediately preceding the proposed vacation, a summary vacation may be ordered by the City.

Because there has been no City utility use for more than five years and staff does not envision a future use for these easements, it is recommended that a summary vacation of the easements dedicated in Tract No. 3532, Book 162, Pages 53 through 54, as described in Exhibits A through C to the Resolution (Attachment 1) be ordered by the City Council.

FISCAL IMPACT

When the City plans to vacate easements as part of a private development process, staff evaluates whether the City has assets in the easement and if there is any value created to the developer by the vacation. In making this determination, staff considers:

1. Does the City have an exclusive easement interest or is the easement for the benefit of others as well?
2. Did the City pay compensation to the current or former owner of the property for the easement rights?
3. If either or both of the former are in the affirmative, does the vacation of the easement create additional value to the development?

In this case, the easements to be vacated are nonexclusive easements that are also for the benefit of third parties. The easements were created with the filing of an earlier map, with no compensation by the City. Additionally, new easements will be dedicated on the parcel map for new utilities. Staff, therefore, recommends that no compensation be sought from the developer as the City does not have a compensable interest in the easements.

ALTERNATIVES

1. Retain the easements and do not approve the vacation.
2. Seek compensation from the developer for vacation of the easements.
3. Provide other direction.

PUBLIC NOTICING – Agenda posting and copy of the report to property owners.

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WF/TS/2/CAM
943-12-04-18CR-1

Attachment: 1. Resolution

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ZA, APWD – Solomon, SCE – Byrer, File (460 North Shoreline Boulevard), PM –
Gil