



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen

**SUBJECT:** PUBLIC SERVICE EASEMENT  
VACATION ON PISTACHE LANE

**DATE:** 01-07-08

Approved

*Deanna Puhar*

Date

*1/10/08*

**COUNCIL DISTRICT:** 9

## RECOMMENDATION

Conduct a public hearing and adopt a resolution vacating a 2.5-foot public service easement along a private street, Pistache Lane, between Leigh Avenue and Foxworthy Avenue.

## OUTCOME

Adoption of this resolution will vacate a 2.5-foot public service easement along a private street, Pistache Lane, between Leigh Avenue and Foxworthy Avenue.

## BACKGROUND

Charles W. Davidson Company, the civil engineer of record, submitted an application on behalf of the property owner, LB/L III – Edenbridge II San Jose LLC, to vacate a 2.5-foot public service easement (PSE) along a private street, Pistache Lane, between Leigh Avenue and Foxworthy Avenue (map attached). The PSE was created through the recordation of Tract No. 9903 recorded in Book 815 of Maps at pages 47 through 50, Santa Clara County Records, on July 2, 2007. The tract map was a condition of approval for 23 new single-family detached residential units on 1.68 gross acre site per Planned Development Rezoning, PDC06-055. During the building permit stage, the property owner/developer discovered that the subject PSE is in conflict with the project's proposed second-story living space overhangs. The property owner proposed the vacation of the subject PSE and the granting of new public service easement for only areas that are needed. The new replacement public service easements have been granted to the City and recorded. This proposed vacation will facilitate the timely construction of the on-site residential structures.

On December 18, 2007, Council adopted a resolution which declared the Council's intention to vacate the subject PSE. The resolution approved a map showing the PSE proposed to be vacated, set the public hearing for January 29, 2008 at 1:30 p.m. and directed the Director of Public Works to post the site with a Notice of Vacation.

### **ANALYSIS**

Staff has determined that the subject PSE is not needed for public purposes. LB/L III – Edenbridge II San Jose LLC is the underlying fee owner to the area proposed for easement vacation. All concerned utility companies have been contacted in writing and have no objection to this vacation. Upon vacation of the PSE, this encumbrance will be removed and no further action by staff would be required.

No new information regarding this vacation has been received since the December 18, 2007 Council meeting.

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

This project addresses Public Works performance measures to maintain a 100% cost-recovery program by charging service fees to pay for the staff time involved in this easement vacation process.

If Council adopts this resolution to vacate the subject PSE, no further action by staff would be required.

### **POLICY ALTERNATIVES**

Not applicable.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action does not meet any of the criteria above. All concerned utility companies have been contacted in writing and have no objection to this vacation. This memorandum will be posted to the City's website for the January 29, 2008 Council agenda.

**COORDINATION**

The vacation has been coordinated with the Department of Planning, Building, and Code Enforcement, Transportation, Police, Fire, and the City Manager's Budget Office. In addition, the vacation and required resolution have been reviewed by the City Attorney's Office. All appropriate public utility companies have consented to the proposed vacation.

**FISCAL/POLICY ALIGNMENT**

Vacating this PSE is in alignment with the Mayor's June 2007 Budget Message in that this action will reduce a potential City liability.

**COST SUMMARY/IMPLICATIONS**

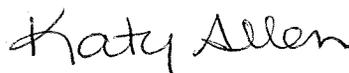
The Public Works Department collected cost-recovery fees to process this easement vacation.

**BUDGET REFERENCE**

Not applicable.

**CEQA**

CEQA: Negative Declaration, PDC06-055.

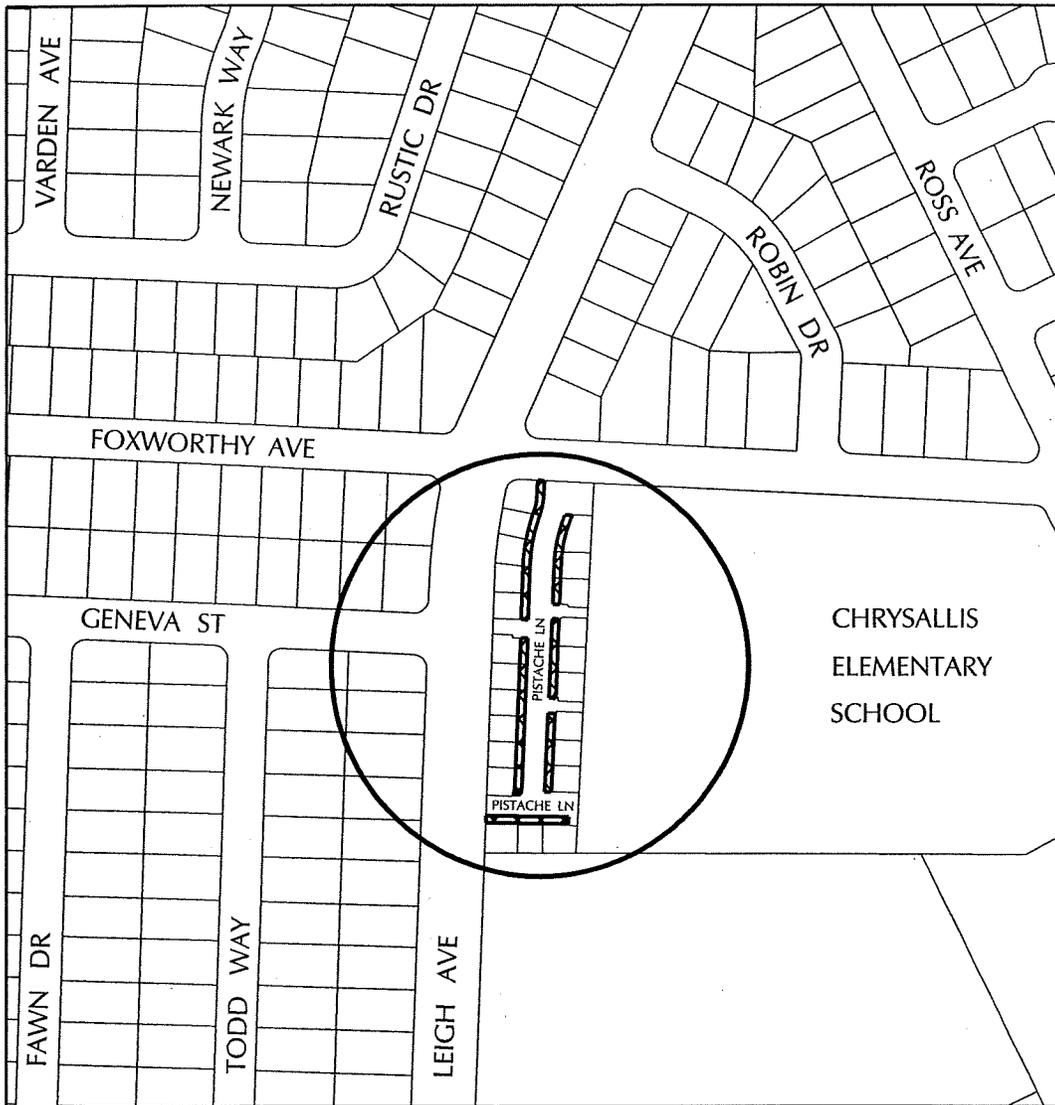


KATY ALLEN  
Director, Public Works Department

For questions please contact TIMM BORDEN, DEPUTY DIRECTOR, at 408-535-8300.

# LOCATION MAP

SHOWING THE VACATION OF A PUBLIC SERVICE EASEMENT  
LOCATED ON EACH SIDE OF PISTACHE LANE (PRIVATE STREET)



**AREA TO BE VACATED**

