



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Katy Allen

SUBJECT: VACATION OF A 60-FOOT
STORM DRAIN EASEMENT

DATE: 02-04-04

Approved

Date

Council District: 3

RECOMMENDATION

Adoption of a resolution of intention to vacate a 60-foot wide Storm Drain Easement on the northwest corner of Almaden Avenue and Woz Way and setting a public hearing on March 23, 2004 at 1:30 PM.

CEQA: Resolution Nos. 64273 & 68839 and addendum thereto, RH00-05-005.

BACKGROUND

BP Almaden Associates, LLC, also known as Boston Properties, is in the process of developing a 3.6 gross acre site located at the northwest corner of Almaden Boulevard and Woz Way in Downtown San José. The project site (see attached map) abuts the Guadalupe River to the west and is directly opposite the existing San José Convention Center on Almaden Boulevard to the east. The City currently leases the site from Boston Properties for the purpose of operating a parking lot.

Currently, the property is encumbered by a 60-foot wide public Storm Drain Easement. Within the easement is a 30-inch public storm drainage facility that outfalls directly to the Guadalupe River. This storm drainage facility runs east to west through the northerly one-third of the property. Boston Properties is proposing to subdivide the site and construct three office building structures with below grade parking, totaling approximately 860,000 square feet of office use.

Boston Properties has submitted an application to vacate the 60-foot wide Storm Drain Easement. The request to vacate the storm drain easement is in conjunction with an adjoining Site Development proposal (File No. RH00-05-005).

ANALYSIS

The Department of Public Works has reviewed the application and coordinated thoroughly with the Department of Transportation. The only public facility contained within the easement is a 30-inch diameter City storm drain pipe.

An agreement establishing a new 10-foot wide replacement easement has been executed by Boston Properties and the City Attorney's Office. Council previously authorized the City Manager to negotiate and execute an agreement for the replacement easement and its maintenance on December 17, 2002. However, the authorization assumes the 10-foot wide replacement Storm Drain Easement on the Boston Properties site would be dedicated to the City on the project Parcel Map. Instead, the easement will now be dedicated to the City by the property owner by separate recorded instrument. Per the City Attorney's Office recommendation, staff will request Council to re-authorize the City Manager to negotiate and execute an agreement for the replacement easement due to a change in process. This request will occur prior to Council consideration of the final Storm Drain Easement vacation to insure that the replacement easement is authorized by all parties prior to the vacation. The vacation of the 60-foot wide easement will not be recorded until all documents for the dedication of the replacement easement are complete and can be recorded concurrently with the vacation.

Upon Council authorization of the Storm Drain Easement and Maintenance Agreement, the Agreement will be executed by the City Manager and will be recorded with the vacation. The Agreement will give Boston Properties the right to construct an office building over the new easement and requires Boston Properties to reconstruct and maintain the existing storm drain pipe within the basement of one of its building.

The actions required for the vacation of the 60-foot wide Storm Drain Easement are:

February 24, 2004 at 1:30 PM: Council considers the adoption of a resolution of intention which:

1. Declares its intention to vacate a 60-foot wide Storm Drain Easement on the northwest corner of Almaden Avenue and Woz Way;
2. Sets a public hearing March 23, 2004 at 1:30 PM;
3. Directs the City Clerk to file the vacation map and advertise said public hearings; and
4. Directs the Director of Public Works to post the site with a Notice of Public Hearing.

March 23, 2004 1:30 PM: Council conducts a public hearing and considers a resolution of vacation, which vacates the 60-foot wide storm drain easement on the condition that the re-authorization of the City Manager to negotiate and execute an agreement for the replacement easement has been approved.

PUBLIC OUTREACH

The public was afforded the opportunity to comment on proposed development during the planning process. In addition on January 14, 2004, the Planning Commission considered and approved this vacation proposal which has given the public another opportunity to provide input and comments.

COORDINATION

The required resolution has been reviewed by the City Attorney's Office. The vacation has been coordinated with the Departments of Transportation and Planning, Building and Code Enforcement. The Planning Commission has approved the vacation.

COST IMPLICATIONS

Permit fees for this vacation have been collected.

CEQA

Resolution Nos. 64273 & 68839 and addendum thereto, RH00-05-005.

KATY ALLEN
Director, Public Works Department