

# REPLACEMENT

COUNCIL AGENDA: 04-17-07

ITEM: 2.7



## Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen

**SUBJECT:** SUMMARY VACATION OF  
STORM DRAINAGE EASEMENT  
AT 143 FLEMING AVENUE

**DATE:** 04-11-07

Approved

*Katy Allen*

Date

*4/12/07*

**COUNCIL DISTRICT:** 5

### **REASON FOR REPLACEMENT MEMO**

Since the developer needs to create a new Storm Drain Easement (SDE) in a portion of the SDE that we are vacating, the City will only be vacating a *portion* of the existing SDE.

### **RECOMMENDATION**

Adoption of a resolution summarily vacating a portion of the Storm Drainage Easement lying within Lands of Braddock & Logan at 143 Fleming Avenue.

### **OUTCOME**

Vacation of a portion of the Storm Drainage Easement lying within Lands of Braddock & Logan at 143 Fleming Avenue.

### **BACKGROUND**

An application for the summary vacation of a portion of this Storm Drainage Easement (SDE) has been submitted by Braddock & Logan for the property at 143 Fleming Avenue (map attached). Braddock & Logan is subdividing the subject property (Tract 9890), as well as dedicating a public park to the City, and has requested to vacate this easement, which is currently not being used.

### **ANALYSIS**

This easement was inherited by the City when the subject property was annexed from the County of Santa Clara on December 15, 2006. Staff has determined that this easement is currently unused and would be an unnecessary encumbrance to the future homeowners of Tract 9890, with the exception of that portion that will be reserved for use by the subdivision. Additionally, this

easement stretches across a lot that is to be conveyed to the City for a future public park and the City does not want to accept encumbered property as future parkland. The applicant has also confirmed that this easement has not been used for the purpose for which it was originally acquired, for at least the last five years, which then allows for the summary vacation of the portion that will not be used by the subdivision per California Streets and Highways Code sections 8300 – 8374.

Upon recordation of this vacation, the portion of the SDE that is not required for the use of the subdivision will be removed from the subject property and no further action by the City will be required. The legal descriptions accompanying the resolution for this action have been revised to reflect the vacation of only a portion of the SDE.

### **POLICY ALTERNATIVES**

Not applicable.

### **PUBLIC OUTREACH/INTEREST**

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 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)**
- Criteria 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. This memorandum will be posted on the City's website for the April 17, 2007 Council agenda.

### **COORDINATION**

The resolution and memorandum have been coordinated with the Department of Transportation, the City Manager's Budget Office, and the City Attorney's Office.

### **COST SUMMARY/ IMPLICATIONS**

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

HONORABLE MAYOR AND CITY COUNCIL

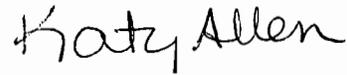
04-11-07

**Subject: Summary Vacation of Storm Drainage Easement on Tract 9890**

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**CEQA**

CEQA: Mitigated Negative Declaration, PDC05-061.

A handwritten signature in black ink that reads "Katy Allen". The signature is written in a cursive, flowing style.

KATY ALLEN  
Director, Public Works Department

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

PD:VT:dcs  
SmyVacPSE Fleming.doc  
Attachment

# LOCATION MAP

SHOWING THE S.D.E. TO BE VACATED ON 143 FLEMING AVE.



**AREA TO BE VACATED**

