



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen

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

**DATE:** 11-26-07

Approved

*Delma J. [Signature]*

Date

11/29/07

**COUNCIL DISTRICT: 9**

## RECOMMENDATION

Adoption of a resolution of intention to vacate a 2.5-foot public service easement along a private street, Pistache Lane, between Leigh Avenue and Foxworthy Avenue and setting a public hearing on January 29, 2008 at 1:30 p.m.

## OUTCOME

Adoption of this resolution will declare Council's intention to vacate the subject 2.5-foot public service easement along a private street, Pistache Lane, between Leigh Avenue and Foxworthy Avenue and set a public hearing for January 29, 2008 at 1:30 p.m. for consideration of adoption of a proposed resolution vacating the subject easement.

## 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 will be granted to the City by the property owner and recorded prior to the PSE vacation. This proposed vacation will facilitate the timely construction of the on-site residential structures.

## 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.

The actions required for the vacation of the PSE are:

December 18, 2007 at 1:30 p.m.: Council considers the adoption of a resolution of intention which:

1. Declares its intention to vacate a 2.5-foot public service easement along a private street, Pistache Lane, between Leigh Avenue and Foxworthy Avenue;
2. Sets a public hearing January 29, 2008 at 1:30 p.m.;
3. Directs the City Clerk to file the vacation map and advertise said public hearing; and
4. Directs the Director of Public Works to post the site with a Notice of Public Hearing.

January 29, 2008 at 1:30 p.m.: Council conducts a public hearing to consider adoption of a resolution of vacating a 2.5-foot public service easement along a private street, Pistache Lane, between Leigh Avenue and Foxworthy Avenue.

### **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 of intention to vacate the subject PSE, a public hearing will be scheduled for January 29, 2008 at 1:30 p.m. for Council to consider whether it is appropriate to vacate the subject PSE.

### **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 December 18, 2007 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.

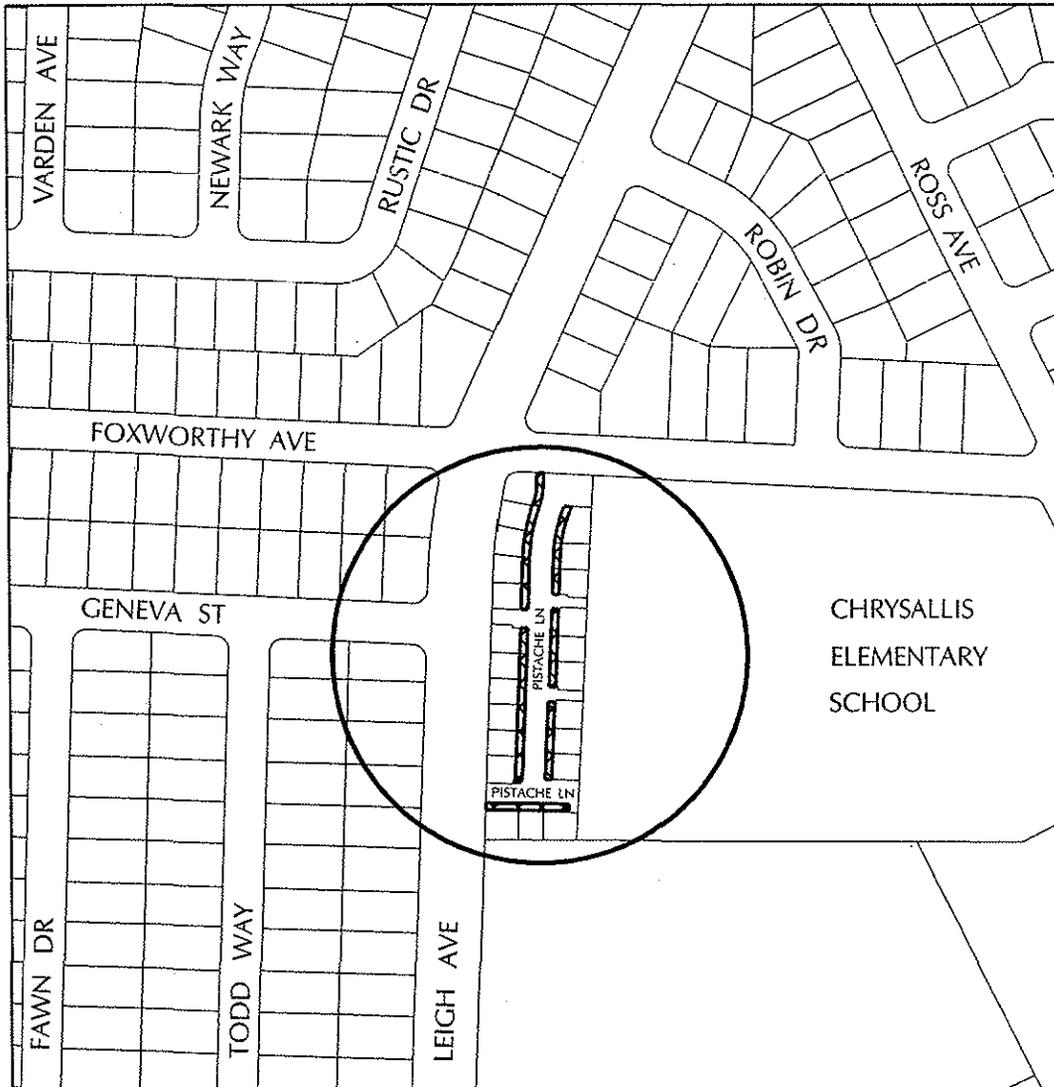


KATY ALLEN

Director, Public Works Department

# LOCATION MAP

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



**AREA TO BE VACATED**

