

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 06-02-08

Approved

Date

6/6/08

COUNCIL DISTRICT: 9

**SUBJECT: SUMMARY VACATION OF A BUILDING SET BACK LINE EASEMENT
AT 2517 SOUTH BASCOM AVENUE**

RECOMMENDATION

Adoption of a resolution summarily vacating a 25-foot Building Set Back Line easement at 2517 South Bascom Avenue, recorded June 23, 1965 as part of Tract No. 3970 in Book 196 of Maps at Pages 18 and 19 of Official Records, Office of the Recorder, County of Santa Clara.

OUTCOME

Council adopts a resolution summarily vacating a 25-foot Building Set Back Line easement at 2517 South Bascom Avenue.

BACKGROUND

HMH Engineers, the civil engineer of record, submitted an application on behalf of the property owners, Lena Basso, as Trustee of the Survivor's Trust created under the Richard and Lena Basso 1987 Trust, and William R. Benevento and Betty J. Benevento, as Trustees of the William and Betty Benevento 1987 Trust, to vacate a 25-foot Building Set Back Line (BSBL) easement on a private property located at 2517 South Bascom Avenue (map attached). The BSBL was created through the recordation of Tract No. 3970 recorded in Book 196 of Maps at pages 18 and 19, Santa Clara County Records, on June 23, 1965 for light and air purposes. This vacation is in conjunction with a Condition Use Permit No. CP07-101 for a four-story 69-unit residential care and service facility (senior assisted living) at the subject property. The Conditional Use Permit is scheduled to be heard by the Planning Commission June 11, 2008. The decision of the Planning Commission to approve or deny the Conditional Use Permit may be appealed to the City Council in accordance with the provisions of Title 20 of the Municipal Code.

ANALYSIS

Staff has determined the subject BSBL easement, in its current configuration, is not consistent with the Commercial Pedestrian (CP) Zoning District. The CP Zoning District requires setback from the property line of zero to ten feet maximum. New proposed buildings are encouraged to be closer to the sidewalk. The easement is no longer needed for its original intended purposes. Also, the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation. Based on this reason, the easement may be summarily vacated per the Streets & Highways Code, Section 8333(a).

According to the title report issued by First American Title Insurance Company, Lena Basso, as Trustee of the Survivor's Trust created under the Richard and Lena Basso 1987 Trust, and William R. Benevento and Betty J. Benevento, as Trustees of the William and Betty Benevento 1987 Trust, are the underlying fee owners of the area proposed for vacation. All concerned utility companies have been contacted in writing and have no objection to this vacation. Upon recordation of the vacation, the land will become unencumbered by this easement and no further action by the City will be required.

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 summarily vacating the subject BSBL easement at 2517 South Bascom Avenue, no further action by the City will 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 June 24, 2008 Council agenda.

COORDINATION

The vacation has been coordinated with the Department of Planning, Building, and Code Enforcement 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 the subject BSBL easement 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: Mitigated Negative Declaration, CP07-101.



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 BUILDING SET BACK LINE EASEMENT
AT 2517 BASCOM AVENUE



AREA TO BE VACATED

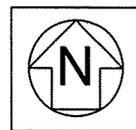


EXHIBIT A