



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: SEE BELOW

DATE: 07-21-08

Approved

Date

7/24/08

COUNCIL DISTRICT: 5

**SUBJECT: SUMMARY VACATION OF THE PUBLIC SERVICE EASEMENT
WITHIN LOTS 6 AND 7 OF TRACT 2887, APN 486-38-048**

RECOMMENDATION

Adoption of a resolution summarily vacating a portion of the Public Service Easement lying within lot 6 and 7 of Tract 2887, APN 486-38-048 on the southside of Story Road, between Jackson Avenue and Leeward Drive.

OUTCOME

Council adopts a resolution summarily vacating a portion of a Public Service Easement lying within lot 6 and 7 of Tract 2887, APN 486-38-048 on the southside of Story Road, between Jackson Avenue and Leeward Drive.

BACKGROUND

An application for the vacation of a small portion of a Public Service Easement (PSE), lying within lots 6 and 7 of Tract 2887 (map attached), has been submitted by Vu Investment & Development, LLC, developer of the project site. The existing building is currently over the 8 foot PSE and the developer plans to rebuild this building with a 9,766 sq. ft. retail/commercial structure. This application for vacation is needed to remove this encumbrance from the property.

ANALYSIS

This easement was created when the map for Tract 2887 was recorded in 1961. Staff has determined that this portion of the easement lying within the property can be vacated without adverse effects. All utility companies having rights to it have provided written confirmation that they consent to the vacation. In addition, this portion of the easement does not contain any

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public utility facilities and has not been used for the purpose for which it was originally acquired, since its inception, which then allows for this summary vacation.

According to the title report issued by Chicago Title Company, dated June 6, 2008, Vu Investment & Development, LLC, holds fee ownership to the property. Upon recordation of this vacation, this portion of the PSE will be removed from the subject property 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 a portion of a Public Service Easement lying within lot 6 and 7 of Tract 2887, APN 486-38-048, on the Southside of Story Road, between Jackson Avenue and Leeward Drive, 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 consented to the proposed easement vacation. This memorandum will be posted to the City's website for the August 12, 2008 Council agenda.

COORDINATION

The vacation has been coordinated with the Department of Planning, Building, and Code Enforcement and City Manager's Budget Office. Additionally, the vacation and required

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resolution and memorandum have been reviewed by the City Attorney's Office. All appropriate public utility companies have consented to the proposed vacation.

FISCAL/POLICY ALIGNMENT

Vacating a portion of the public 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

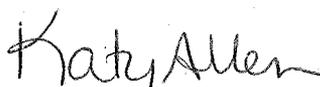
The Public Works Department collected cost-recovery fees to process this public right-of-way vacation.

BUDGET REFERENCE

Not applicable.

CEQA

Exempt, H08-015.



KATY ALLEN

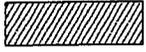
Director, Public Works Department

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

PD:ML:dcs
SmyVacPSE TF 3-04300.doc
Attachment

LOCATION MAP

PUBLIC SERVICE EASEMENT VACATION OF A PORTION OF
LOTS 6 AND 7 OF TRACT 2887, APN 486-38-048



AREA TO BE VACATED

