



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

SUBJECT: STREET ALLEY VACATION

DATE: 03-23-09

Approved

Deanna Santana

Date

3/25/09

COUNCIL DISTRICT: 5

RECOMMENDATION

Conduct a public hearing and adopt a resolution to vacate a 20-foot street alley, located between Eastgate Avenue and Beverly Boulevard, with reservation of a public service easement over the vacated area.

OUTCOME

Council adopts a resolution to vacate the subject 20-foot street alley, between Eastgate Avenue and Beverly Boulevard, with reservation of a public service easement over the vacated area.

BACKGROUND

Salvatore Caruso submitted an application on behalf of the abutting property owners, Leung Yee Enterprise Inc., Agostiho P. Bittencourt, Jose Da Silva and Maria Da Silva, Genaro Bejines Prado, and Maria J. Ribeiro Richter, to vacate a 20-foot street alley, between Eastgate Avenue and Beverly Boulevard (map attached). The street alley was created through the recordation of Tract No. 221 recorded in Book 13 of Maps at pages 8 through 9, Santa Clara County Records, on April 1, 1947. This vacation is a condition of approval of the site development permit (H07-049) for exterior modification to an existing 28,475 square feet commercial facility and expansion of their parking facility.

On March 10, 2009, the Council adopted a resolution which declared the Council's intention to vacate a 20-foot street alley located between Eastgate Avenue and Beverly Boulevard. The resolution approved a map showing the subject right-of-way to be vacated, set the public hearing for April 14, 2009, at 1:30 p.m. and directed the Director of Public Works to post the site with Notice of Vacation.

ANALYSIS

Staff has determined that the subject alley is not needed for public purposes. A title report by Chicago Title Company, dated October 30, 2007 indicates that Leung Yee Enterprise Inc.,

Ribeiro Richter are the underlying fee owners to the area proposed for the street alley vacation. All concerned utility companies have been contacted in writing and have no objection to this vacation as long as Public Service Easement (PSE) is reserved within the area proposed for vacation. Upon vacation of the street alley, no further action by staff would be required.

No new information regarding this vacation has been received since the March 10, 2009 Council meeting.

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 street vacation process.

If Council adopts this resolution to vacate the subject Street Alley, located between Eastgate Avenue and Beverly Boulevard, 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. In addition, the public was afforded the opportunity to comment on the proposed vacation during the Planning Commission hearing on February 11, 2009. 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 April 14, 2009 Council agenda.

COORDINATION

The vacation has been coordinated with the Departments of Planning, Building, and Code Enforcement, Transportation, Police, Fire, the City Attorney's Office and the City Manager's Budget Office. In addition, the public was afforded the opportunity to comment on the proposed vacation during the Planning Commission hearing on February 11, 2009. The Planning Commission has recommended approval of the vacation. 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 with the condition that the City reserves a PSE over the entire area to be vacated.

FISCAL/POLICY ALIGNMENT

Vacating this Street Alley is in alignment with the Mayor's June 2008 Budget Message in that this action will reduce a potential City liability and deferred maintenance responsibility.

COST SUMMARY/IMPLICATIONS

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

BUDGET REFERENCE

Not applicable.

CEQA

CEQA: Exempt, H07-049.



KATY ALLEN
Director, Public Works Department

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

