



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen

**SUBJECT: SUMMARY VACATION OF A
PORTION OF ROCK AVENUE**

DATE: 10-13-09

Approved

Date

10/16/09

COUNCIL DISTRICT: 4

RECOMMENDATION

Adoption of a resolution summarily vacating a portion of Rock Avenue along the north side, immediately west of Oakland Road, in front of Tract 9795.

OUTCOME

Council adopts a resolution summarily vacating a portion of Rock Avenue along the north side, immediately west of Oakland Road, in front of Tract 9795 consistent with the condition of Planned Development Permit No. PD05-044.

BACKGROUND

HMH Engineers, the civil engineer of record, submitted an application on behalf to the property owner, Browning-Ferris Industries of California, to vacate a portion of Rock Avenue along the north side, immediately west of Oakland Road, in front of Tract 9795 (map attached). This portion of public right-of-way was created through a dedication of an easement for roadway purposes recorded on December 19, 1974 in Book B216 at Page 82 of Official Records, Office of the Recorder, County of Santa Clara. The vacation was a condition of Planned Development Permit No. PD05-044 for Tract 9795.

ANALYSIS

Staff has determined this portion of Rock Avenue is no longer needed for roadway purposes. Section 8334(a) of the California Streets and Highways Code allows the legislative body of a local agency to summarily vacate right-of-way when the local agency has determined that the proposed vacation abandons excess street right-of-way. Rock Avenue was surrounded by industrial land uses prior to 2004. Beginning in 2004, Council approved a series of General Plan Amendments converting industrial land uses to residential land uses. During the Planning stage, staff determined that a different roadway section is more appropriate given the adjacent residential land uses. This resulted in an excess right-of-way width of approximately 6 feet. All

utility companies having rights to this portion of Rock Avenue have provided written confirmation that they agree to this proposed vacation.

According to the title report issued by First American Title Company, Browning-Ferris Industries of California holds fee ownership to the subject portion of right-of-way. Upon recordation of the vacation, this portion of Rock Avenue will no longer require City maintenance.

EVALUATION AND FOLLOW-UP

This project conforms to the Public Works performance measurement of maintaining 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 Rock Avenue along the north side, immediately west of Oakland Road, in front of Tract 9795, then 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 November 3, 2009 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 a portion of Rock Avenue is in alignment with the Mayor's June 2009 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

CEQA: Mitigated Negative Declaration, PDC05-022.

/s/

KATY ALLEN
Director, Public Works Department

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

LOCATION MAP

SHOWING THE PORTION OF
ROCK AVENUE TO BE VACATED



AREA TO BE VACATED

