



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Re-open the Public Hearing and Adopt a Resolution for the Summary Vacation of an Existing Public Service and Utility Easement at 1646 Centre Pointe Drive (Staff Contact: Steve Erickson, 408-586-3001)
Category:	Public Hearings-Community Development
Meeting Date:	9/17/2019
Staff Contact:	Steve Erickson, 408-586-3301
<u>Recommendations:</u>	<ol style="list-style-type: none">1. Re-open the public hearing continued from September 3, 2019, hear comments and move to close.2. Adopt a resolution for the summary vacation of an existing Public Service and Utility Easement at 1646 Centre Pointe Drive.

Background:

On May 3, 2016, the City Council conditionally approved the Site Development Permit (SD15-0012), Conditional Use Permit (UP15-0016) and the Vesting Tentative Map (MT15-0011) to allow for the development of two mixed use buildings consisting of 694 dwelling units and 36,500 square feet of commercial space located at 1646 Centre Pointe Drive, within the Transit Area Specific Plan (TASP) area (Project).

Based on the above approvals, on September 5, 2017, the City Council subsequently approved the Subdivision Improvement Agreement (SIA) for the Project to guarantee completion of public improvements including installation of sidewalk; curb and gutter; driveway approach; median-island; street pavement; utility mainlines and services; relocation of existing public utilities; signage and striping; landscaping; and other miscellaneous items of work identified on the public improvement plans.

Analysis:

The Project Vesting Tentative Map and Conditions of Approval (COA), were recommended for approval by the Planning Commission on April 13, 2016, and approved by the City Council on May 3, 2016 (Attachments 3 and 4). The COA includes condition No. 57 requiring the Developer to dedicate new public service utility easements and to abandon/vacate an existing public service utility easement on the parcel once all existing public utilities within the easement are relocated, abandoned or removed. The easement to be abandoned/vacated was dedicated for public service purposes including sidewalk, storm, sewer, water, gas, electric, telephone and television facilities, and this easement contained public dry utilities.

In accordance with COA No. 57 and the approved SIA, the Developer has dedicated new public service utilities easements, and has completed the relocation of the existing dry utilities from the old easement. The existing easement is no longer needed for public use and it is recommended to be abandoned and vacated. Staff recommends the easement vacation because its location is not compatible with construction of the new development as previously approved by the City Council. The draft Resolution (Attachment 1) for the Summary Vacation and Exhibits A and B (Attachment 2) which shows the details of the 1,969 square foot easement that is recommended for vacation are provided in the agenda packet.

Pursuant to California Streets and Highways Code Sections 8333 and 8335, the City Council may summarily vacate and abandon a public service and utility easement that has been superseded by relocation and no other public facilities are located within the easement. The vacation process occurs in several steps, commencing with the relocation of any utilities located within the easement. Once the Resolution of Summary Vacation

including Exhibits A and B is adopted by the City Council and recorded with the County of Santa Clara Recorder's Office, the existing easement will be vacated and no longer exist.

Policy Alternative:

Alternative: Not adopt resolution for the summary vacation of an existing PSUE.

Pros: None

Cons: The easement in question is minor and staff has determined it is no longer required for public utilities. The approved project COA No. 57 requires the Developer to vacate the easement once all utility relocation have been completed. The location of the existing easement is not compatible with the development project approved by the City Council in 2016 as a residential structure was approved over the easement with the requirement to remove the existing utilities. Not approving the vacation would require redesigning the project to avoid construction of a structure within the easement. This would necessitate amending the various entitlements (SD1500012, UP15-0016, MT15-011, and SIA) that were previously approved by the City Council.

Reason not recommended: The project has already been adopted and entitled, and staff recommends proceeding with the vacation process to allow the development to move forward.

Fiscal Impact:

The Developer is funding the construction of the project.

California Environmental Quality Act:

This project is included within the area evaluated as part of the TASP Environmental Impact Report, SCH#2006032091, which was certified by the City Council on June 3, 2008. On May 3, 2016, the City Council found that the project is categorically exempt from further environmental review pursuant to Section 15168(c)(2) of CEQA.

Recommendations:

- 1) Reopen the public hearing continued from September 3, 2019, hear comments and move to close.
- 2) Adopt a resolution for the summary vacation of an existing Public Service and Utility Easement at 1646 Centre Pointe Drive.

Attachments:

1. Resolution
2. Exhibits A and B to Resolution – legal description
3. Approved Vesting Tentative Map
4. Adopted Resolution No. 8537 - Conditions of Approval