



## PUBLIC WORKS DEPARTMENT

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### CITY COUNCIL STAFF REPORT

Meeting: December 17, 2019

#### Subject

Notice of Intent to Vacate Portions of a Public Utility Easement for Water Line Purposes and a Portion of an Emergency Access Easement Located at 23500 Cristo Rey Drive

#### Recommended Actions

1. Adopt Draft Resolution (Attachment A) declaring the City Council's intent to vacate portions of a public utility easement for water line purposes located on 23500 Cristo Rey Drive, setting a public hearing on January 21, 2020 at 6:45 p.m., and providing for public notice thereof; and
2. Adopt Draft Resolution (Attachment B) declaring the City Council's intent to vacate a portion of an emergency access easement located on 23500 Cristo Rey Drive, setting a public hearing on January 21, 2020 at 6:45 p.m., and providing for public notice thereof

#### Background

On April 17, 2018, the City Council approved the Development Permit DP-2017-01 and certified a Final Environmental Impact Report (EIR) to allow additions and renovations to the existing facilities at 23500 Cristo Rey Drive, including an addition to the existing skilled nursing facility, a new memory care building, and twenty-three new independent living units (the Forum Project) submitted by The Forum at Rancho San Antonio (Applicant).

#### Discussion

A discussion of the intent to vacate portions of a public utility easement for water line purposes and a portion of an emergency access easement on the subject property is described in further detail below.

#### *Public Utility Easement Vacation*

The existing water main, fire hydrants, water meters, and lateral connections that service the subject property are owned by the City of Cupertino and operated by San Jose Water Company (SJWC). These facilities are located within the private streets of the subject property and are currently encumbered by a public utility easement held by the City. The

existing easement is for water line purposes only and grants to the City the right to install and maintain these water lines and appurtenances.

During the building permit review process, Santa Clara County Fire Department required certain existing fire hydrants to be removed and/or relocated to comply with their current hydrant spacing requirements. Additionally, a portion of the proposed skilled nursing facility addition will encroach upon a portion of the existing easement.

The Applicant submitted a request to vacate the portions of the existing public utility easement that would no longer encumber water line appurtenances that will be removed and/or relocated, and to record a new public utility easement for water line purposes that will encumber the installation of new water main, fire hydrants and lateral connections to be constructed as part of the Forum Project. See Attachment C for the locations of the existing easement areas to be vacated and new easement areas.

In order to ensure a clean title is conveyed, staff recommends vacating the uninhibited portions of the existing easement. SJWC was contacted to determine if there were any objections to the City vacating the easement. An approval letter was received (Attachment D) stating there are no objections to the vacation. Additionally, SJWC required the recordation of the new public utility easement for water line purposes prior to construction of the new water facilities. See Attachment E for the recorded easement.

#### *Emergency Access Easement Vacation*

A segment of roadway along Via Esplendor will be realigned to accommodate street improvements fronting the new memory care building. The existing street is currently encumbered by an existing emergency access easement held by the City. The existing easement spans over the private streets within the subject property and grants to the City the right of emergency ingress and egress over these areas.

The Applicant submitted a request to vacate the affected portion of the existing emergency access easement along Via Esplendor, and to record a new emergency access easement that will follow the new alignment of Via Esplendor and "Street A", a new street being created for the development. See Attachment F for the location of the existing easement area to be vacated and new easement areas.

The Santa Clara County Fire Department was contacted to determine if there were any objections to the City vacating the easement. An approval letter was received from the Fire Department (Attachment G) stating there are no objections to the vacation or the new easement dedication.

In order to ensure a clean title is conveyed, staff recommends vacating the affected portion of the existing easement and concurrently recording the new easement. The City intends

to record both documents, the existing easement vacation and the new easement dedication, in subsequent order. See Attachment H for the draft easement dedication.

#### Next Steps

Actions for the vacation of the subject easements are:

1. December 17, 2019 at 6:45 p.m.: City Council considers adopting Resolution No. 19-XXX with the intent to vacate portions of a public utility easement for water line purposes and Resolution 19-XXX with the intent to vacate a portion of an emergency access easement, which:
  - a. Declares its intention to vacate the subject easements;
  - b. Sets a public hearing on January 21, 2020 at 6:45 p.m. to adopt said vacations;
  - c. Directs the City Clerk to post a certified copy of the resolutions along the line of said property and to publish a certified copy of the resolutions in the manner prescribed by law.
2. January 21, 2020 at 6:45 p.m.: City Council will conduct a public hearing to consider two resolutions to adopt the two said vacations; which vacates the subject easements.

Staff has determined that adoption of the resolutions declaring its intention to order vacation of portions of a public utility easement for water line purposes and a portion of an emergency access easement can occur without adverse effect.

These vacations facilitate construction of the Forum Project, for which an EIR was certified under the California Environmental Quality Act (CEQA) in Resolution No. 18-036, approved by City Council on April 17, 2018. No further CEQA action is required to approve these vacations.

#### Sustainability Impact

No sustainability impact.

#### Fiscal Impact

No fiscal impact.

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Prepared by: Jennifer Chu, Senior Civil Engineer

Reviewed by: Roger Lee, Director of Public Works

Approved for Submission by: Deborah Feng, City Manager

Attachments:

A – Draft Resolution No. 19-XXX

B – Draft Resolution No. 19-XXX

C – Existing and Proposed Public Utility Easement Areas

D – San Jose Water Company Approval Letter  
E – Recorded Public Utility Easement Dedication  
F – Existing and Proposed Emergency Access Easement Areas  
G – Fire Department Approval Letter  
H – Draft Emergency Access Easement Dedication