CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

STREET and EASEMENT VACATION

Department of Public Works, Development Services
200 East Santa Clara Street, San Jose, CA 95113
http://www.sanjoseca.gov/pwdev
(408) 535-3555

Section 8309 of the Streets & Highway Code defines VACATION as "The complete or partial abandonment or termination of the public right to use a street, highway, or public service easement."

Applicability

The process of vacation or abandonment of public service easements or rights-of-way is governed by State and municipal codes that require that certain information and findings be considered before public easements/rights-of-way can be vacated to private use.

The following are examples of public rights-of-way that require formal action by the legislative body (whether created by map or separate instrument dedication):

- **Easements** – public utility, public service, storm & sanitary sewer, landscape tree planting, sidewalk, slope, light and air.
- **Building Setback / Light and Air Easements** – established by Final or Parcel Map.
- **Public Street Right-of-Way** – dedicated either by easement or fee interest.

The following are examples of easements and rights-of-way not subject to the public vacation process:

- Easements granted to public utilities by separate instrument in which the public has no interest.
- Easements granted between individual property owners.
- Easement rights owned by other public agencies such as Santa Clara Valley Water District, school districts, or regional park districts.

Categories of Street Vacation Process

The street / easement vacation process can be separated into two categories, REGULAR and SUMMARY. Each process is specified by the Government Code, State of California, Streets & Highways Code, Section 8300.

Specific statutory requirements are stated in this code which relate to the environmental clearance, public utility consent, review by other governmental agencies, public noticing, conduct of public hearings, and that the legislative body (City Council) make certain findings with regard to the easement or right-of-way.

REGULAR – The Regular process requires approximately 10 to 12 weeks between the acceptance of the vacation application and the final City Council hearing deciding the approval of the vacation. The street or easement may then be deemed vacated upon the recordation of the City Council resolution. If the City holds a fee interest in the property under the street or easement vacated, then it may take several months to negotiate the sale of the property.

SUMMARY – The Summary process can take 6 weeks from the date of acceptance of the vacation application. Summary Vacations also require approval by the City Council.

Project Review Procedure

Below is a list of the different Street Vacation Application types with a brief description of each type:

Street Easement – To be used when vacation is only proposing to vacate the Public Street Right-of-Way. This does not include the vacation of any other easement.

Street Easement & Easement – To be used when vacation is proposing to vacate the Public Street Right-of-Way and other easements, as identified earlier in the Applicability section.

Easement Only – To be used when vacation is only proposing to vacate easements other than Public Street Right-of-Way, as identified earlier in the Applicability section.

Submission Methods:

1) **Online Application for Street and Easement Vacation:** Visit the following site to apply for your Street and Easement Vacation online: www.sjpermits.org. You will need to have an online account which you can create on the website. You will also need to attach all required documents as attachments during your online application; or

   When applying online you will have the option to create both the vacation application and to initiate a San Jose ePlan project. If you initiate an ePlan project you will receive a separate invitation email with log-in information and submission instructions for the project. The benefit of submitting via SJePlans is that the platform integrates with the City's permitting system and provides one place for you to upload plans digitally, receive plan check comments, monitor project status, and obtain copies of issued permits. Please visit our SJePlans Resources page for more information.

   For ePlan submissions you will upload all required documents directly to the SJePlan Project. All other submissions you will need to attach all required documents as attachments during your online application.

   For a list of required ePlans and Attachments for each type of online Street and Easement Vacation Application refer to Attachment A

   Schedule an Appointment with Staff (Optional): Prior to or after you have made the online application submittal you may wish to contact the Project Engineer or team member assigned to your project to schedule an intake meeting. This meeting will help the applicant determine what documents are required for a full submittal, what documents were missing from the online submittal or the required corrections of the online submitted documents prior to being accepted for review. The Project team will also be able to provide the invoice for payment at the meeting, if not provided previously. If the meeting is scheduled prior to making the submittal, the online application must be made prior to the meeting.

2) **Standard Application - Schedule an Appointment with Staff**

   Project Related – Schedule an appointment or submit directly to the Public Works Development Review Team. If you already know the name of the PW Development Review Team members, please contact them directly to schedule an appointment for plan submittal. If you are unsure of the PW Development Review Team assigned to your project, please contact staff at (408) 535-7802 with your Planning Permit number, and we will look up the name of the Project Engineer assigned to your project.

   Stand Alone - Submit a completed **Application for Vacation of a Street or Easement** with the items listed below directly to the Public Works Counter on the 1st Floor of City Hall or by emailing the submission to pwgeneralinfo@sanjoseca.gov. Questions can be emailed or by calling the number above.

Instructions

For any Street and/or Easement Vacation Application the following documents need to be submitted:

Submit a completed **Application for Vacation of a Street or Easement** with the items listed below directly to the Public Works Counter on the 1st Floor of City Hall or by emailing your request to pwgeneralinfo@sanjoseca.gov. Questions can be emailed or by calling the number above. A Public Works Counter staff member will respond within 2-3 working days.

When submitting a Vacation application, include the following:

1) **Application for Vacation of a Street or Easement** – Must be completed by either the Applicant or Property Owner. Include the following information on the Application:
   - **Applicant's / Owners Information** – include the name, address, and daytime phone number of the Applicant or his/her designated legal entity. If an agent is applying on behalf of the property owner, then information must be provided for both parties.
   - **Provide a Description of Adjacent Property** – Include a description of the property adjacent to the street or easement proposed for vacation.
   - **Specify Vacated Area** – public street, public utility, or other type of easement.
   - **Explain the Request** – State why the easement / right-of-way should be vacated. What is the intended use for the vacated property?
   - **Sign the Application** – Print your name, sign, and date the application. If an agent is applying on behalf of the property owner, then both parties must sign the application.

2) **Documents** – The following documents are to be submitted with the application:
   - **Letters of review and approval:** Provided from all Utility companies that may have some interest in the street or easement to be vacated (See Attachment B). These letters must be signed by the utility company and indicate their approval of the vacation (See the attached examples).
   - **Title Report:** Must be current (issued within 90 days) addressing the underlying fee title of the easement area proposed for vacation. The Title Report must be specific to the area proposed for vacation.
   - **Plat map and legal description:** Must be of the street or easement to be vacated prepared by a Licensed Land Surveyor or qualified Civil Engineer. A qualified Civil Engineer is an Engineer that has obtained their Professional Engineer (PE) license prior to January 1982.
   - **Backup Documents**: All documents and maps referenced in the plat and legal description. Also include any pertinent documents or maps referenced in the Title report.

   NOTE: A title report, utility approval letters, plat map, and legal description are **not** required for Building **Setback Easement vacation**. The City will process these vacation requests for the entire tract subdivision with the first application received. By signing the application, the applicant acknowledges and agrees to this process.

Upon Receipt, City staff will review the application for completeness

- If the submittal is complete, staff will accept the application package. The applicant will be advised of the time it will take to review the details of the application and schedule a City Council hearing (or other hearings required by law).

- If the submittal is incomplete (missing documents, etc.) staff will return the application to the applicant for completion prior to any review taking place.

Fees

A vacation processing fee will be assessed once the application is submitted and reviewed by City staff to determine if a summary or full vacation is required. The fees will be provided and will be required to be paid prior to the vacation application being deemed complete. Please see the fee schedule titled "Public Works Permit Fees" for the current fee amount.

ePlan and Online Application Attachment Requirements

Note: If your application was started as an ePlan Application, submit the documents in the indicated folder. If you did not initiate this project as an ePlan application, submit the documents indicated in the "Online Application Only" section during the "Attachments" section of the online application. Please note that the City reserves the right to convert the project from being Online only to an ePlan application during the project intake review.

ePlan Application: Refer to the City of San Jose SJePlans Resources page for more information.

Plans Folder

- **Plat Map** (if applicable)
- **Legal Description** (if applicable)

Documents Folder

- **Street or Easement Vacation Application**
- **Utility Company Letters of review and approval**
- **Title Report** (if applicable)
- **Backup Documents** (if applicable)

Online Application Only

When attaching these documents, during the Add Application stage or using the "Add Attachments" on the My Permit Detail page of your permit application on SJPermits, make sure to select the following Attachment Type indicated after the dash. Each document will be required to provide a description of the uploaded attachment.

- **Plat Map** (if applicable) – Street Vacation
- **Legal Description** (if applicable) – Street Vacation
- **Street or Easement Vacation Application** – Miscellaneous Document
- **Utility Company Letters of review and approval** – Miscellaneous Document
- **Title Report** (if applicable) – Miscellaneous Document
- **Backup Documents** (if applicable) – Supporting Documents

APPROVAL OF VACATION BY UTILITY COMPANIES

Prior to applying for a street or easement vacation, you must check with all of the utility companies that may have an interest in the street or easement proposed for vacation.

Below is a list of contacts for the different utility companies operating in San Jose. To expedite their review of your proposal, you should send each of them a copy of the plat map showing the area proposed for vacation, a letter requesting their review, as well as provide them with a pre-typed letter addressed to the City of San Jose that they can use for indicating their response to the proposed vacation. Examples of both letters are included.

Your application cannot be accepted until you have a positive response from each of the four affected utility companies.

If email is listed below, email the request to the email shown. If no email shown, mail the request.

Utility Company Contacts:

Bruno Czech, Right of Way Manager & PWC
bc2742@att.com
AT&T of California
1700 Space Park Dr.
Santa Clara, CA 95054

landquestions@pge.com
Pacific Gas and Electric Company
Land and Environmental Management
Attn: David Neal
111 Almaden Boulevard, Room 814
San Jose, CA 95113

Michael Shults, Construction Specialist
michael_shults@cable.comcast.com
COMCAST
1900 S. 10th Street
San Jose, CA 95112

Depending on the location of the street or easement proposed for vacation, you will need to contact one of the following water companies. Staff can assist you in determining the appropriate company.

Primary
Wanda Folk
wanda.folk@sjwater.com
San Jose Water Company
1265 South Bascom Avenue
San Jose, CA 95128

Secondary
Nicole Dunbar
nicole.dunbar@sjwater.com
San Jose Water Company
1265 South Bascom Avenue
San Jose, CA 95128

Sukhpreet.Mann@sanjoseca.gov
Address letter to: Jeffrey Provenzano
San Jose Municipal Water System
3025 Tuers Road
San Jose, CA 95121

Jared Ajlouny, Vice President of Operations
jajlouny@greatoakswater.com
Great Oaks Water Co.
20 Great Oaks Blvd Ste 120
San Jose, CA 95119

SAMPLE LETTER TO UTILITY COMPANY

Bold indicates information specific to your request

Utility Company Name & Address

Date

SUBJECT: REQUEST FOR UTILITY APPROVAL OF THE VACATION OF:
Description of Street or Easement proposed for vacation.

Dear **Contact Name**:

As the property owner, developer or owner's agent of the property located at **property location** I/We are applying to the City of San Jose for the vacation of the **Description of Street or Easement proposed for vacation** adjacent to or across our property. One of the requirements of the City's application is the consent of your company to vacate, or vacate with the retention of an easement which meets your requirements.

Attached for your convenience are copies of the following: (check applicable boxes)

- ❑ Assessor's Parcel Map for APN **Assessor Parcel Number**
- ❑ Final Map of Tract Number **Tract Number**
- ❑ Plat of the property showing the easement / right-of-way to be vacated
- ❑ Property description and/or description of the easement
- ❑ Explanation of the proposed disposition of the easement or right-of-way, and an anticipated date by which I need the information.

If you have any questions regarding this request, please contact me at **phone number**.

Name
Address

SAMPLE LETTER APPLICANT PREPARES FOR UTILITY COMPANY'S USE IN RESPONDING

Bold indicates information specific to your request

ENDORSEMENT APPROVAL

MATT LOESCH
Director of Public Works
City of San Jose
200 East Santa Clara Street - 3rd floor
San Jose, California 95113
Attention: Samuel Yung

Dear Mr. Loesch:

SUBJECT: VACATION OF: **Description of Street or Easement proposed for vacation.**

Utility Company Name has reviewed the attached application for the vacation of **Description of Street or Easement proposed for vacation** and has the following response:

- ❑ No objection to the vacation
- ❑ No objection to the vacation, but with the following reservation:_____ _____
- ❑ Objects to the proposed vacation for the following reasons:_____ _____
- ❑ A plat map is attached for your information.

Utility Contact Name
Utility Company Name
Utility Company Address