



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Cano

SUBJECT: SEE BELOW

DATE: May 4, 2020

Approved

Date

5/7/2020

COUNCIL DISTRICT: 3

SUBJECT: SUMMARY VACATION OF A PORTION OF SOUTH 6TH STREET WITH THE RESERVATION OF PUBLIC SERVICE EASEMENTS WITHIN THE AREA BEING VACATED BETWEEN EAST VIRGINIA STREET AND INTERSTATE 280

RECOMMENDATION

Adopt a resolution:

- a. Approving the report of the Director of Public Works setting forth the facts justifying the summary vacation of a portion of South 6th Street between East Virginia Street and Interstate 280 (“Subject Portion”) with the reservation of public service easements (“PSEs”) over a portion of the area being vacated;
- b. Summarily vacating the Subject Portion, which has been impassible for vehicular travel and for which the City has not expended any public money for maintenance for a period of five years; and
- c. Directing the City Clerk to record a certified copy of the resolution of vacation with the Office of the Recorder, County of Santa Clara.

OUTCOME

Upon recordation of the resolution of vacation, the Subject Portion will be abandoned as public street, the City will retain PSEs over a portion of the area vacated, and the adjoining property will be able to develop the vacated area consistent with the future development plans.

BACKGROUND

San Jose Housing and Land Investors, a California limited liability company, property owner of 295 East Virginia Street (Developer) has submitted an application to vacate the Subject Portion which abuts its property (see Location Map). The Subject Portion is approximately 17,917 square feet and is not improved or being utilized as a public street.

On January 9, 2019, the City approved a Site Development Permit, H17-019, to construct a six story below market rate senior housing consisting of 301 studio units (“Project”) on an approximate 1.72 gross acre site at 295 East Virginia Street. The site is bounded by Interstate 280 to the north, South 7th Street to the east, East Virginia Street to the south, and a segment of South 6th Street to the west. Located at the west side of the site, the Subject Portion is proposed to be incorporated as part of the Project for a parking lot.

To accomplish the land use plan as approved under H17-019, the vacation of the Subject Portion requires City Council approval.

ANALYSIS

Pursuant to the Streets and Highways Code Sections 8331 and 8334.5, a street right-of-way may be summarily vacated if the street has been impassable for vehicular travel for a period of five years and no public money was expended for maintenance on the street during such period and there are no in-place utility facilities in use that would be affected by the vacation.

The Subject Portion is not currently used as a public street. The Subject Portion has been impassable to vehicular traffic for longer than five years. In 2016, curb, gutter, and sidewalk improvements were constructed along the north side of East Virginia Street, to replace the chain link gates and signage prohibiting entry to the Subject Portion. There is an existing 6-inch diameter public sanitary sewer and a 42-inch diameter storm sewer in the Subject Portion. All concerned utility companies have been contacted in writing and have no objections to the proposed vacation provided public service easements are reserved over a portion of the area being vacated. To summarily vacate the Subject Portion, Council must reserve from the vacation a 24-foot and 10-foot wide public service easements over the area being vacated for the City storm and sanitary sewer lines and Pacific Gas and Electric gas line, respectively. Because the public service easements will be reserved for the in-place utilities, the utilities will not be affected by this vacation.

The vacation of the Subject Portion was found to be in conformance with the adopted San José 2040 General Plan during the January 9, 2019, Planning Director’s Hearing to approve H17-019.

In compliance with Section 892 of the Streets and Highways Code, staff determined that the Subject Portion is not useful as a non-motorized transportation facility, as these uses (i.e. bike

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lanes) are available on neighboring streets and the nature of the cul-de-sac street terminating in private property does not necessitate public nonmotorized transportation facilities.

According to the preliminary title report by Commonwealth Land Title Company, the Developer holds the underlying fee ownership to the Subject Portion.

CONCLUSION

The City approved a Site Development Permit, H17-019, on January 9, 2019, to construct a six story below market rate senior housing consisting of 301 studio units at 295 East Virginia Street, which includes the Subject Portion located along the west side of the project site.

To accomplish the land use plan as approved under H17-019, the vacation of the Subject Portion requires further discretionary approval by the City Council.

Staff recommends that Council approve the proposed vacation to terminate the public street easement as this street has not been improved or utilized as a public street for a 5-year period and there are no plans to do so in the future.

EVALUATION AND FOLLOW-UP

If Council adopts the resolution summarily vacating the Subject Portion, no further action by Council will be required for the vacation. The City Clerk will record the resolution of vacation at which time the vacation will be complete.

CLIMATE SMART SAN JOSE

The recommendation in this memo aligns with one or more Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

The public was given the opportunity to comment on the proposed development and site plan with the inclusion of the proposed vacation area as part of the Planning permit review and approval process.

All concerned utility companies have been contacted in writing and have no objection to the proposed vacation provided public service easements are reserved.

This memorandum will be posted to the City's website for the May 19, 2020, City Council agenda.

COORDINATION

This memorandum has been coordinated with the Department of Planning, Building and Code Enforcement, Department of Transportation, Fire Department, and the City Manager's Budget Office. The vacation and resolution have been reviewed by the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

FISCAL/POLICY ALIGNMENT

Vacating the Subject Portion is in alignment with the Council-approved Budget Strategy Expenditure Control section by eliminating a City maintenance obligation and liability.

COST SUMMARY/IMPLICATIONS

The Public Works Department collected cost-recovery fees during fiscal year 2019-2020 of \$4,243 to process the subject vacation. These fees were received to support the Public Works Development Fee Program.

CEQA

Mitigated Negative Declaration for Virginia Studios Project, File No. H17-019.

/s/
MATT CANO
Director, Public Works Department

For questions, please contact Matt Loesch, Assistant Director of Public Works, at (408) 535-8300.

Attachment: Location Map

LOCATION MAP

SHOWING THE SUMMARY VACATION OF A PORTION OF SOUTH 6TH STREET
BETWEEN E. VIRGINIA STREET AND INTERSTATE 280 WITH THE RESERVATION OF
PUBLIC SERVICE EASEMENTS OVER A PORTION OF THE AREA BEING VACATED.

 AREA TO BE VACATED 17,917 SF±

 PSE 7,803 SF±

SINCLAIR
FREEWAY
ROUTE 280

