



DATE: June 5, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Jeff Stutsman, PE, City Engineer, Public Works & Utilities
Dylan Brady, Assistant City Attorney

SUBJECT: Resolution Making Findings Pursuant to Streets and Highways Code Sections 8300 et. seq. to Summarily Vacate a Portion of an Unused Public Alley Easement Located Between Fair and Sheldon Streets, north of English Street, on Assessor Parcel Numbers APN 008-023-011 (407 Fair St.), 008-023-019 (408 Sheldon St.), 008-023-012 (413 Fair St.), 008-023-013 (417 Fair St.), 008-023-005 (416 Sheldon St.), and 008-023-006 (418 Sheldon St.).

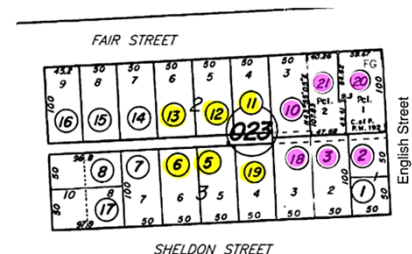
RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution making findings pursuant to Streets and Highways Code Sections 8300 et. seq. to summarily vacate a portion of an unused public alley easement located between Fair and Sheldon Streets, north of English Street, on Assessor Parcel Numbers APN 008-023-011 (407 Fair St.), 008-023-019 (408 Sheldon St.), 008-023-012 (413 Fair St.), 008-023-013 (417 Fair St.), 008-023-005 (416 Sheldon St.), and 008-023-006 (418 Sheldon St.).

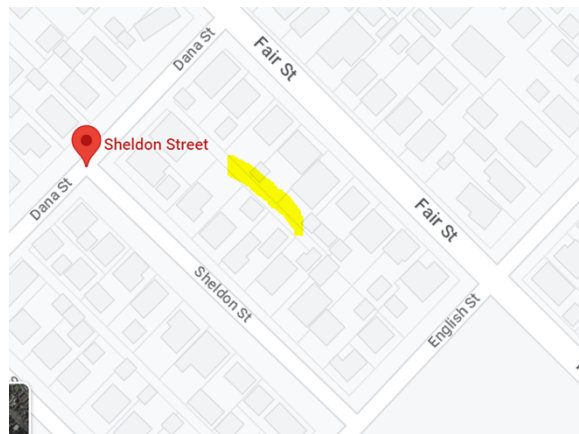
BACKGROUND

On May 7, 1979, City Council approved Resolution 8532 N.C.S., attachment 4, ordering the vacation, abandonment, and closing to the public use of a portion of a public alley easement located between Dana and English Streets, north of English Street, on six parcels abutting parcels closest to English Street. Parcels benefiting from the original vacation of public alley easement are highlighted in purple in the image (right).

The proposed easement vacation would extend upon the approved 1979 vacation by vacating a portion of the existing easement on an approximately 14-foot wide by 300-foot wide (4,200 Square Feet) portion of land comprised of six lots located mid-block between Fair and Sheldon Streets north of English Street.



The proposed vacation is also described in the image above, with parcels that are the subject of this request highlighted in yellow.



The request for vacation was initiated by the property owner at 417 Sheldon St., who would like to further develop his property in the additional usable square footage that would be gained from an approved vacation of the public access easement. Prior to applying for a vacation of the public alley easement, the 417 Sheldon St. property owner asked all other remaining property owners who are subject to the easement if they would be included in the request. Only those property owners whose properties are highlighted in yellow elected to take part in the vacation. Because the request for vacation was voluntary and because approval of the requested vacation would not negatively impact rear yard access for those property owners who declined to join as applicants, staff found that review of the application as proposed could proceed.

The City does not use that portion of the easement proposed to be vacated for utilities or access purposes. Staff referred the proposal to those public utility companies who may be party to the easement to determine if there are existing utilities within the easement or if any future utility easements are planned. All utility companies confirmed that there are no utilities, and that the easement is unnecessary.

On April 25, 2023, the Planning Commission by a vote of 4-1 voted to approve a resolution making a finding that the proposed summary vacation was in conformance with the City's General Plan. This approval was pursuant to Government Code Section 65402(a), which regulates the disposition of real property by public entities, before a public entity can dispose of property, the public entity's Planning Commission must find that the area's proposed vacation as a road conforms with the City's General Plan. The Planning Commission found that the proposed vacation was in conformance with the City's General Plan for three reasons. First, the vacation does not conflict with the Motor Vehicle Circulation or Bicycle and Pedestrian Circulation sections of the City's current General Plan. Second, the vacation would result in the property owner's property being free from the encumbrance of the public access easement, and the additional square footage would support accessory dwelling unit construction, which would implement policies in the City's Housing Element section of the City's General Plan. Third, approval of the summary vacation request would respond to policies contained in the General Plan's Economic Health and Sustainability element as the City would no longer be responsible for the maintenance of the area covered by the easement or potentially liable for incidents that may occur in this public alley

easement. For these reasons, the proposed vacation conforms with the City’s General Plan. The Resolution also made the required findings necessary for summary vacation and recommended that the City Council approve the proposed summary vacation. (Planning Commission Resolution attached as Exhibit 2)

DISCUSSION

Vacation (also known as abandonment) of streets is governed by California Streets and Highways Code, Division 9, Part 3, Sections 8300 *et seq.* Under Section 8331, a summary vacation, which is a simpler process than a standard vacation, can be used for streets if, for a period of five consecutive years, the street has been impassable for vehicular travel and if no public money was expended for maintenance of the street for that period. Both conditions are met for this public alley easement area. Additionally, Section 8334 of the Streets and Highways Code allows the legislative body of a local agency to summarily vacate an excess right-of-way of a street that is not required for street purposes.

The City has determined that the portion of the public alley easement proposed to be summarily abated is excess and not needed for street purposes, as the alley is no longer a through alley due to the 1979 vacation. The City Fire Department concluded following the review that a public alley is not necessary to ensure access to parcels abutting the alley. Additionally, the City Engineer determined that the public alley will not be used for the City’s circulation. This is partly because the proposed vacation is a continuation of the previously approved public alley vacation, which was previously described as unnecessary and now no longer provides continuous access from Dana Street to English Street.

PUBLIC OUTREACH

This agenda item appeared on the City’s tentative agenda document on May 15, 2023, which was a publicly-noticed meeting and the April 25, 2023, Planning Commission meeting.

COUNCIL GOAL ALIGNMENT

The proposed action supports City Council Workplan Item 103: Prioritize and incentivize sustainable infill development of the Council Goals, Objectives, and Workplan by providing a reasonable and justified land transaction to enable this small residential infill development.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (“CEQA”), City staff determined that the Project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Staff found that there is no possible significant effect directly related to the summary vacation of a portion of the public alley easement as proposed, as the alleys have not been used in the past and there are no prospective uses for the easement; therefore, no further action is required under CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14 CCR Section 15061(b)(3)), and independently, the Project is categorically exempt (class 5) pursuant to Section 15305 of the State CEQA Guidelines (Minor

Alterations in Land Use). None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

FINANCIAL IMPACTS

Staff asked an appraiser to determine the value of the public access easement, but he determined that the cost to perform the appraisal was in excess of the value that the City would receive from the potential vacation. This is because the vacation is only for a public access easement and due to the 1979 vacation the alley that the public access easement is over is no longer a through street and therefore does not provide any benefit to the public. Additionally, the vacation will result in the City no longer being required to maintain the portion of the public access easement that is being vacated and any liability that may result from it.

ALTERNATIVES

The City Council can deny the vacation which would result in the City needing to maintain the public access easement.

ATTACHMENTS

1. Resolution with Exhibit
 - a. Easement Vacation Description
2. Planning Commission 4/25/23 Resolution for General Plan Conformance
3. Location Map
4. 1979 Resolution for Vacation