



City of Arts & Innovation

City Council Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: JULY 10, 2018**

FROM: COMMUNITY & ECONOMIC DEVELOPMENT **WARD: 3**
DEPARTMENT

SUBJECT: PLANNING CASE P17-0471 BY RICHARD HAMM, ON BEHALF OF PELICAN MERRILL AVENUE, LLC FOR THE VACATION OF 2,427 SQUARE FEET OF EXCESS RIGHT-OF-WAY – SEGMENT OF MERRILL AT 3575-3661 MERRILL AVENUE

ISSUE:

Approve the proposal by Richard Hamm of Pelican Merrill Avenue, LLC to summarily vacate excess right-of-way approximately 809 feet in width and 3 feet in depth, totaling 2,427 square feet, on the north side of Merrill Avenue between Riverside and De Anza Avenues.

RECOMMENDATIONS:

That the City Council:

1. Approve Planning Case P17-0471 for the Summary Vacation, subject to the recommended conditions;
2. Adopt the attached Resolution vacating approximately 2,427 square feet of excess right-of-way; and
3. Authorize the City Manager, or his designee, to execute quitclaim deeds as necessary.

BACKGROUND:

On May 22, 2018, the City Council approved a proposed General Plan Amendment, Specific Plan Amendment, Rezoning Request, Site Plan Review, Traffic Pattern Modification Measures, Street Vacation, and a Variance to facilitate the construction of the Merrill Avenue Brownstones, a mixed-use development consisting of 108 residences, 1,200 square feet of commercial space, on-site parking and residential amenities on 3.17 acres located at 3575-3661 Merrill Avenue. However, a resolution for the vacation of the excess right of way was inadvertently excluded from the project approval. In order to facilitate implementation of the already approved project, the subject excess right of way along Merrill Avenue needs to be summarily vacated. Findings in support of the Summary Vacation are detailed in the section below.

DISCUSSION:

This request is to summarily vacate a portion of excess right-of-way on Merrill Avenue. The right-of-way is rectangular in shape and approximately 809 feet in length and 3 feet deep, totaling approximately 2,427 square feet. The area to be vacated is improved with a public sidewalk, which is proposed to be removed and relocated as part of the Brownstones project. Should this summary vacation be approved, this case will remove the subject 2,427 square-foot area from the public right-of-way.

The following is a discussion of the facts and findings required for approval of a summary vacation:

- ***The property is excess right-of-way and is not required for street purposes.***

This excess right-of-way is not needed to accommodate existing or proposed public passage or travel. The north side of Merrill Avenue is over-dedicated to 44 feet from the street centerline where 33 feet would be required. The area to be vacated is not required for street purposes. Surrounding properties to the east and west will not be affected, and the proposed vacation will not impact east-west vehicular or pedestrian circulation on Merrill Avenue.

- ***Access to adjoining properties will not be affected.***

Access to adjacent properties and public streets will not be affected. The adjacent businesses are served by existing driveways on Merrill Avenue. Upon vacation of the excess portion of Merrill Avenue, the vacated land will be consolidated with the adjoining property.

- ***The street has been superseded by relocation.***

The area to be vacated has been utilized as a public sidewalk, which will be relocated as part of the proposed Brownstones project. With the approved reconfiguration of the Merrill Avenue street section, the area to be vacated will no longer be improved with any public sidewalk, parkway, curb, gutter or roadway.

FISCAL IMPACT:

There is no impact since all project costs are borne by the applicant.

Prepared by: David Welch, Interim Community & Economic Development Director
Certified as to
availability of funds: Adam Raymond, Chief Financial Officer/City Treasurer
Approved by: Rafael Guzman, Assistant City Manager
Approved as to form: Gary G. Geuss, City Attorney

Attachments:

1. Aerial Photo
2. City Council Notice of Action – May 22, 2018
3. Summary Vacation Resolution
4. Legal and Plat Map