



66-foot-wide local street, with one travel lane in each direction. The segment proposed to be vacated begins at Adams Street to the east and ends at Wilma Court to the west.

Diana Avenue terminates at the intersection with Monroe Street. The portion of Diana Avenue between Wilma Court and Monroe Street is not proposed to be vacated to ensure continued physical access to properties on Wilma Court. In addition, a portion of Diana Avenue at Adams Street is not proposed to be vacated, to ensure continual legal and physical access to the vehicle fuel station located at 3502 Adams Street.

Emily Court, proposed to be vacated in its entirety, is identified in General Plan 2025 as a 66-foot-wide local street and terminates at the intersection with Diana Avenue.

The proposed area to be vacated is surrounded by the CBU campus to the north; State Route 91 (SR-91) to the south; and a Shell gas station to the east. A self-storage facility, Riverside Renta Space, is located across Monroe Street at the terminus of Diana Avenue.

As a matter of information, the vacation of Diana Avenue between Adams Street and Monroe Street, including Wilma Court and Emily Court in their entirety (Planning Case P12-0309), was previously proposed in conjunction with the adoption of the original California Baptist University Specific Plan. While the Specific Plan was approved and implemented, the proposed Street Vacation was continued off-calendar to allow for additional coordination but was ultimately withdrawn by CBU in May 2015.

## **DISCUSSION:**

### *Project Description*

The applicant is requesting approval of a Street Vacation to vacate approximately 2.83 acres of public streets consisting of a segment of Diana Avenue, approximately 2,250 feet in length and 50 feet in width, and the entirety of Emily Court, approximately 130 feet in length and 60 feet in width. The applicant is requesting the vacation to better ensure student safety by including traffic calming measures along Diana Avenue.

### *Appeal*

The Appellant filed a timely appeal of the City Planning Commission's recommendation to approve the proposed project. The Appellant's basis for the appeal include: 1) previous comment letters from Planning Case P12-0309 have been withheld from the Planning Commission; 2) the environmental review of the Adams Street/Diana Avenue/State Route 91 interchange project has begun, and this proposal is related thereto and premature; 3) a categorical exemption under the California Environmental Quality Act (CEQA) cannot be applied to this proposal; 4) the vacation and abandonment of Diana Avenue would be unconstitutional as an illegal gift to and subsidy of a religious institution; 5) the 2011 Traffic Study proves that Diana Avenue cannot be vacated or abandoned; 6) previous CBU entitlement applications were prepared by former members of the then Planning Commission; and 7) the City has failed to notify the families on Wilma Court and Emily Court of this proceeding proposing to vacate and abandon their streets (Attachment 5).

The following summarizes the concerns expressed about the proposed project and a response by staff is provided with each concern:

1. Concern: Previous comment letters from Planning Case P12-0309 have been withheld from the Planning Commission.

Response: The comment letters associated with Planning Case P12-0309 (Street Vacation), dated January 2, 2013, April 23, 2015, and May 7, 2015 do not bring up any new issues, and are attached for reference (Attachment 6).

2. Concern: The environmental review of the Adams Street/Diana Avenue/State Route 91 interchange project has begun, and this proposal is related thereto and premature.

Response: The proposed Street Vacation and the Adams Street/Diana Avenue/State Route 91 interchange project are separate projects. The Initial Study for the Adams Street/Diana Avenue/State Route 91 interchange project is underway. The anticipated delivery date to circulate the draft environmental document is September 2020; it is anticipated that the draft environmental document will result in the preparation of a Negative Declaration or a Mitigated Negative Declaration. Staff has reviewed the environmental impacts of the proposed street vacation and determined that it is categorically exempt from CEQA review pursuant to Sections 15061(b)(3) (Common Sense Rule) of the CEQA Guidelines.

3. Concern: A categorical exemption under CEQA cannot be applied to this proposal.

Response: Planning Division Staff has determined that the proposed street vacation is categorically exempt from CEQA review pursuant to Sections 15061(b)(3) (Common Sense Rule) of the CEQA Guidelines, which stipulate that a project is exempt from CEQA if covered by the general rule that CEQA applies only to projects that have a potential for causing a significant effect on the environment. The proposal involves the vacation of local streets, which is not identified as a major component of the local roadway network, and it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment. In addition, Diana Avenue is primarily used by CBU, who will continue to utilize the street for its campus resulting in no change to existing conditions. For vehicles that use Diana Avenue as a cut through, they will use other City streets, such as Magnolia Avenue and Indiana Avenue. The number of trips generated by other users are minimal and can be handled by alternative City streets without a change in the level of service or vehicle miles traveled.

4. Concern: The vacation and abandonment of Diana Avenue would be unconstitutional as an illegal gift to and subsidy of a religious institution.

Response: The segment of Diana Avenue and Emily Court, between Wilma Court and Adams Street, will be sold at fair market value, subject to an appraisal.

5. Concern: The 2011 Traffic Study proves that Diana Avenue cannot be vacated or abandoned.

Response: Diana Avenue is classified as a local street in the General Plan and provides access to property directly abutting the public right-of-way. Based on the findings provided

in the Planning Commission staff report, it can be concluded that the subject right-of-way is not needed for vehicular or pedestrian traffic or for present or future public use.

6. Concern: Previous CBU entitlement applications were prepared by former members of the then Planning Commission.

Response: Pursuant to the City's Planning Commission Rules, should there be a conflict of interest, Commissioners must abstain from voting and are required to leave the dais until the completion of consideration of the item, including the vote. No current Planning Commissioners participated in the preparation of the entitlement application.

7. Concern: The City has failed to notify the families on Wilma Court and Emily Court of this proceeding proposing to vacate and abandon their streets.

Response: Staff sent a notice of public hearing to property owners within 300 feet of the boundaries of the CBU campus, pursuant to the noticing requirements of the Zoning Code.

### Public Comments

Following publication of the Planning Commission staff report, staff received five letters, one in support of the proposed project and four letters in opposition (Attachment 6).

The following summarizes the concerns expressed about the proposed project in written comments received after publication of the Planning Commission staff report. A response by staff is provided with each topic of concern:

1. Concern: The City will gift the segment of Diana Avenue and Emily Court to CBU.

Response: The segment of Diana Avenue and Emily Court, between Wilma Court and Adams Street, will be sold at fair market value, subject to an appraisal.

2. Concern: Continued access to the State Route 91 on-ramps.

Response: Diana Avenue is classified as a local street in the General Plan which provides access to property directly abutting the public right-of-way. Access to the State Route 91 on-ramps will continue to be provided via Adams Street by means of Magnolia and Indiana Avenues.

### Conclusion

Staff recommends denial of the Appeal and supports the Street Vacation subject to the revised recommended Conditions of Approval.

The vacation of a segment of Diana Avenue and the entirety of Emily Court will not impact access or circulation to surrounding properties or to the City's overall circulation element. The project, as proposed, will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area.

The portion of Diana Avenue and Emily Court proposed to be vacated are primarily used by CBU for ingress and egress to its campus. Any traffic to or from Monroe Street or Wilma Court, will still have access to Adams Street via Magnolia Avenue or Indiana Avenue. There is currently no north bound access from Diana Avenue to Adams Street.

The City Attorney's Office has prepared a resolution pursuant to the Public Streets, Highways, and Service Easements Vacation Law declaring the City Council's intent to hold a public hearing to consider the vacation of a segment of Diana Avenue and Emily Court, between Wilma Court and Adams Street.

**FISCAL IMPACT:**

There is no fiscal impact associated with this action, since all project costs are borne by the applicant.

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

**Attachments:**

1. Resolution of Intent to Hold a Public Hearing
2. City Planning Commission Revised Conditions of Approval
3. City Planning Commission Report and Exhibits – November 14, 2019
4. City Planning Commission Minutes – November 14, 2019
5. Appeal Letter
6. Comment Letters
7. Presentation