



City Council Memorandum

City of Arts & Innovation

TO: HONORABLE MAYOR AND CITY COUNCIL **DATE: MARCH 3, 2020**

FROM: COMMUNITY & ECONOMIC DEVELOPMENT **WARD: 5**
DEPARTMENT

SUBJECT: P19-0461 STREET VACATION OF A SEGMENT OF DIANA AVENUE AND
EMILY COURT, BETWEEN WILMA COURT AND ADAMS STREET

ISSUE:

Approve a proposal by California Baptist University to vacate approximately 2.83 acres of public streets consisting of a segment of Diana Avenue and Emily Court, between Wilma Court and Adams Street.

RECOMMENDATIONS:

That the City Council:

1. Determine that the proposed project is exempt from further California Environmental Quality Act review pursuant to Sections 15061(b)(3) (Common Sense Rule) of the California Environmental Quality Act Guidelines, as the project will not have a significant effect on the environment;
2. Approve Planning Case P19-0461 Street Vacation based on the findings outlined in the staff report and summarized in the attached findings and subject to the recommended conditions; and
3. Adopt the attached Resolution vacating the subject right-of-way pursuant to the Public Streets, Highways and Service Easements Vacation Law.

PLANNING COMMISSION RECOMMENDATION:

On November 14, 2019, the City Planning Commission recommended approval of Planning Case P19-0461 Street Vacation, subject to the Conditions of Approval, to vacate a segment of Diana Avenue and Emily Court, between Wilma Court and Adams Street, by a vote of 7 ayes, 0 noes, and 1 abstention.

BACKGROUND:

On February 4, 2020, the City Council: 1) Denied the appeal by Christopher Sutton, on behalf of Riverside Renta Space, of the Planning Commission's recommendation to approve a proposal by California Baptist University to vacate approximately 2.83 acres of public streets consisting of a segment of Diana Avenue and Emily Court, between Wilma Court and Adams Street; and 2) Adopted a Resolution, pursuant to the Public Streets, Highways and Service Easements Vacation Law, declaring its intent to hold a public hearing on March 3, 2020 to consider the vacation of a segment of Diana Avenue and Emily Court, between Wilma Court and Adams Street (Attachments 2 and 3).

DISCUSSION:

The proposed Street Vacation will 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. California Baptist University is requesting the Street Vacation to better ensure student safety by including traffic calming measures along Diana Avenue.

Pursuant to the provisions of the Public Streets, Highways, and Services Easements Vacation Law (commencing with Section 8300 of the Streets and Highway Code and Section 21101 of the Vehicle Code of the State of California), and Chapter 19.890 (Street, Alley and Walkway Vacations), the City may regulate traffic on its public streets, alleys, and walkways only to the extent expressly authorized. The law permits the City to vacate a street, alley, or walkway only upon a finding supported by substantial evidence that the right-of-way is no longer needed for vehicular or pedestrian traffic and is unnecessary for present or prospective public use.

The following facts are provided to support the proposed vacation of the subject portion of Diana Avenue and the entirety of Emily Court:

- The proposed area to be vacated will no longer be needed for street purposes or for access to adjacent parcels, as adequate access will be provided through the surrounding streets, including the remaining portions of Diana Avenue to the east and west, Monroe Street to the west, Adams Street to the east, and Magnolia Avenue to the north.
- The proposed area to be vacated is unnecessary for present or prospective public use or vehicular traffic. The main use for this segment of Diana Avenue and Emily Court is for access to and from California Baptist University (CBU). CBU is the only property owner adjacent to this segment of Diana Avenue and Emily Court being vacated. There are no other uses, residences or business that would require access to this portion of Diana Avenue or Emily Court as indicated since these properties are all owned by CBU. The residences on Wilma Court have access via Monroe Street to the west and a portion of Diana Avenue, which is excluded from this Vacation. There are other thoroughfares to access public streets, such as Magnolia Avenue to the north, Adams Street to the east, and Monroe Street to the west. This portion of Diana Avenue is only used for ingress and egress to CBU or for cut through traffic. There are other City streets that can be utilized to travel between arterial streets.
- As stated above, properties to the east and west of the proposed vacation will retain public access from Adams Street, Monroe Street and the remaining segments of Diana Avenue, and as such the area to be vacated will not be necessary for access to any parcels.

- The proposed vacation will not impact access to any other parcels as all other streets will remain in their current configuration, and the proposed vacation will not impact east-west vehicular or pedestrian circulation.

Based on the findings above, as well as the findings set forth in the attached vacation resolution, it can be concluded that the subject right-of-way is not needed for vehicular or pedestrian traffic or for present or prospective public use. Should this proposal be approved by City Council, the vacated right-of-way will be placed within the CBUSP – California Baptist University Specific Plan and designated CBUSP – California Baptist University Specific Plan based on the City's General Plan.

Public Notice and Comments

Public notices were mailed to property owners within 300 feet of the site. Additionally, a Notice of Public Hearing regarding this project was posted along the right-of-way to be vacated on February 14, 2020.

Members of the public, including the Appellant, provided comments at the City Council public hearing on February 4, 2020. The following summarizes the public comments received on the proposed project, not already addressed in the February 4, 2020 City Council Memorandum. A response by staff is provided with each topic of concern:

1. Concern: Caltrans constructed Diana Avenue with State gas tax money; under Article XIX and XIX D of the California Constitution, funds received from the sale of Diana Avenue are prohibited to be used for any purposes other than transportation.

Response: As a matter of information, Caltrans mapped Diana Avenue and subsequently relinquished Diana Avenue to the City. On December 23, 1958 the City Council adopted Resolution No. 8458, accepting and naming Diana Avenue as a City street. The City did not expend any funds to acquire Diana Avenue. Article XIX and XIX D of the California Constitution are related to motor vehicle revenues and vehicle license fee revenues for transportation purposes, respectively. Motor vehicle revenues collected by the state are to be used for the research, planning, construction, improvement, maintenance, and operation of public streets, highways, and public mass transit guideways. Vehicle license fee revenues for transportation purposes requires the State to use revenues derived from vehicle fees solely for transportation purposes. Neither one of these Articles restrict or have any bearing on the proposed street vacation. They are strictly directed to the state and the restrictions placed on the state for fees and taxes it collects.

FISCAL IMPACT:

There is no fiscal impact to the General Fund, 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 Vacation
2. City Council Memorandum and Attachments – February 4, 2020
3. City Council Resolution No. 23539 (Adopted February 4, 2020)
4. Presentation