



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: November 12, 2024

ITEM NUMBER:CC-2

SUBJECT: GENERAL PLAN CONFORMITY REPORT AND RESOLUTION FOR THE PROPOSED ABANDONMENT OF AN UTILITY EASEMENT ENCUMBERING THE PROPERTY LOCATED AT 2016 WALLACE AVENUE (PORTION OF ASSESSOR'S PARCEL NUMBER 422-252-18)

FROM: PLANNING DIVISION / DEVELOPMENT SERVICES DEPARTMENT

PRESENTATION

BY: BILL RODRIGUES, PLANNING MANAGER

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RECOMMENDATION

1. Find that the Planning Commission General Plan Conformance reporting is not subject to the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3); and
2. Adopt a Resolution that reports on General Plan conformance for the proposed City abandonment an utility easement encumbering the real property located at 2016 Wallace Avenue.

APPLICANT OR AUTHORIZED AGENT

The applicant and authorized agent is the City of Costa Mesa.

EXECUTIVE SUMMARY

The City received a request from the Dean C. Dawson Trust, property owner, to abandon a 20-foot-wide utility easement at 2016 Wallace Avenue. The utility easement is set within the subject property and was originally dedicated by a reservation from the right-of-way vacation of Sterling Avenue. There are no utilities located within the easement.

The requested abandonment was reviewed by Costa Mesa's Public Works Department, Engineering Division. They City Engineer determined that the utility easement is not necessary for present or prospective public or utility purposes, and is also not needed for any motorist and/or non-motorist rights-of-way usage.

Pursuant to Government Code Section 65402 (Restrictions on Acquisition and Disposal of Real Property), as part of a vacation process, the Costa Mesa Planning Commission must report on its conformity with the City’s General Plan. After the Planning Commission’s determination, the requested vacation will be presented to the City Council for final action.

The abandonment of an unused utility easement located on private property will not adversely impact the City’s ability to continue providing utility services to the subject property or surrounding properties. Therefore, staff recommends that the Planning Commission find this action exempt from the California Environmental Quality Act and adopt a resolution finding that the proposed abandonment is consistent with the City’s General Plan.

BACKGROUND AND SETTING

The subject property is a rectangularly-shaped interior lot that is approximately 18,387 square feet in area and is improved with a six-unit single-story apartment building originally constructed in 1961 (see Exhibit 1). The property is designated High Density Residential by the Land Use Element of the City’s General Plan and is zoned R2-HD, Multiple-Family Residential, High Density. The land use designation is intended to support the development of residential uses up to a density of 20 units per acre. The zoning district is consistent with and implements the General Plan designation. The property’s zoning is intended to promote development of multi-family rental as well as ownership dwelling units on lots having a minimum area of 12,000 square feet. The surrounding area is designated, zoned, and developed similar to the subject property.

Exhibit 1 Site Plan



The utility easement was originally reserved when the right-of-way for Sterling Avenue was vacated by the City Council on November 5, 1984. City Council Resolution 84-139, which was subsequently recorded as Document No. 84-513164, ordered the vacation of surplus right-of-way located on a portion of Sterling Avenue. In vacating four areas (referenced therein as “parcels”), the recorded resolution “reserved therefrom” an easement for all existing underground and overhead public utilities together with the right of ingress and egress for the purpose of maintaining, replacing, and upgrading said existing public utilities. The easement reservation on this site affects the rear 20 feet of the subject property abutting Sterling Avenue.

ANALYSIS

The request is to vacate an easement for utility purposes over the rear (i.e., easterly) 20 feet of the lot (approximately 1,200 square feet). This easement specifically allows for public utilities and access and maintenance of the same, but since it was established in 1984, the easement has gone unused. The project site and the immediately surrounding area are fully developed and include the full complement of utility services provided to residential developments. The City’s abandonment (i.e., vacation) of its rights to this easement will not adversely affect existing or future development potential of the subject property or the surrounding area.

Government Code Section 65402 requires the City’s planning agency (Planning Commission) to review and report to the City Council its determination whether the location, purpose, and extent of the proposed abandonment/vacation is consistent with the General Plan.

Costa Mesa’s Public Works Department, Engineering Division has reviewed and supports the property owner’s request.

The Planning Commission’s report as to General Plan conformity will be forwarded to the City Council, who is the final decision-making body. If the abandonment/vacation is approved, there will be no physical changes to the subject property; rather, only the City’s opportunity to install utilities and then access them for maintenance purposes will no longer exist. Since all necessary utilities exist in the area and currently serve this and other nearby developed sites, the need to retain this easement isn’t necessary.

GENERAL PLAN CONFORMANCE

Pursuant to Government Code Section 65402(a), “if a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof”. Below is an analysis for the Planning Commission’s consideration in regard to

the abandonment/vacation of the subject property and Government Code Section 65402(a):

Utility easement abandonment conformance with General Plan in regard to “location”:

The utility easement to be abandoned is located across the rear 20 feet of the subject property adjacent to Sterling Avenue. This location of the utility easement is unnecessary as the subject property is bordered to the west and east by public streets. Utilities necessary to serve the nearby residential developments are properly located within the existing public rights-of-way, where there is adequate area for utility maintenance and future utilities as needed. Essentially, the City Engineer has determined that there is no need for the City to maintain a utility easement over a portion of private property. As such, abandoning this easement has no effect on the City’s ability to provide or continue providing infrastructure to serve nearby residential development.

Utility easement abandonment conformance with General Plan in regard to “purpose”:

The intended purpose of the easement is to retain space adjacent to Sterling Avenue in which to place either underground or overhead utilities to serve the subject and nearby properties. Though this easement has existed since 1984, it has never been utilized by the City, and/or other agencies for its intended purpose. Rather, utilities were placed within the public rights-of-way on either Sterling Avenue or Wallace Avenue. As such, abandoning this easement has no effect on the City’s ability to provide or continue providing infrastructure to serve nearby residential development. In addition, the release of the utility easement provides for greater opportunities that support the residential use of the property including, but not limited to, potential increases in density, open space and landscaping.

Project conformance with General Plan in regard to “extent”:

The proposed utility easement abandonment affects an area of private property that measures approximately 20 feet by 60 feet (approximately 1,200 square feet). While the City would be vacating its easement right to place utility infrastructure in this space, the City is not giving up real property. The extent of this easement is a right to utilize a portion of privately owned land for a specified purpose. By abandoning this easement, the underlying land remains privately owned, albeit with one less encumbrance on the property’s title. And because Sterling Avenue and Wallace Avenue abut the front and rear of the subject property, utilities are provided to this and nearby properties for the purpose of providing infrastructure to meet the demands of residential development.

ENVIRONMENTAL DETERMINATION

Abandonment of the utility easement was reviewed for compliance with the California Environmental Quality Act, CEQA Guidelines, and the City’s environmental procedures. CEQA Guidelines Section 15061(b)(3) (General Rule) states that when it can be seen with certainty that there is no possibility that an action will have a significant effect on the environment, that activity is not subject to CEQA. The evaluation of General Plan consistency to abandon/vacate the City’s easement right to install infrastructure will not

have any effect on the environment as no physical changes are proposed or authorized with the abandonment. Therefore, it can be seen with certainty that there is no possibility of significant environmental effects, and the abandonment/vacation is not subject to CEQA.

ALTERNATIVES

Modify this report and/or find that the proposed acquisition is not in conformance with the General Plan. Pursuant to Government Code Section 65402, the Planning Commission must report upon general plan conformance. However, if the Planning Commission believes this agenda report is inaccurate and/or that the proposed utility easement abandonment/vacation is inconsistent with the General Plan, the Planning Commission may so state in its resolution and provide facts in support thereof.

LEGAL REVIEW

This report and draft resolution has been approved as to form by the City Attorney's Office.

PUBLIC NOTICE

The project was not noticed in that pursuant to State and local provisions, public noticing is not required for the Planning Commission report on General Plan conformance.

CONCLUSION

This proposed utility easement abandonment/vacation is consistent with the City's General Plan in regard to purpose, location and extent. Disposing of this easement will not adversely impact the City's ability to provide necessary infrastructure to support existing and future development in this area as utilities exist within the adjacent public rights-of-way in Wallace Avenue and Sterling Avenue. As such, this easement is not needed. In addition, the Planning Commission determination for General Plan Conformance is not subject to CEQA in that there is no possibility of significant environmental effects resulting from the abandonment/vacation.

NEXT STEPS

If and after the Planning Commission makes a determination of General Plan conformity, the City Council will consider whether or not to move forward with the abandonment.