



Legislation Details (With Text)

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Title: HEARING - To vacate a portion of East Divisadero Avenue between North Blackstone Avenue and North Abby Street (Council District 7)
1. ***RESOLUTION - Ordering the vacation a portion of East Divisadero Avenue between North Blackstone Avenue and North Abby Street (Subject to Mayor's Veto)

Sponsors: Public Works Department

Indexes:

Code sections:

Attachments: 1. 19-11253 Divisadero Vacation Vicinity Map, 2. 19-11253 Divisadero Vacation Environmental Assessment, 3. 19-11253 Divisadero Vacation Resolution to Vacate

Date	Ver.	Action By	Action	Result
9/19/2019	1	City Council	adopted	Pass

REPORT TO THE CITY COUNCIL

September 19, 2019

FROM: SCOTT L. MOZIER, PE, Director
Public Works Department

THROUGH: RANDALL W. MORRISON, PE, Assistant Director
Public Works Department, Engineering Division

BY: JASON A. CAMIT, PLS, Chief Surveyor
Public Works Department, Engineering Division, Right of Way Section

SUBJECT

HEARING - To vacate a portion of East Divisadero Avenue between North Blackstone Avenue and North Abby Street (Council District 7)

1. ***RESOLUTION - Ordering the vacation a portion of East Divisadero Avenue between North Blackstone Avenue and North Abby Street (Subject to Mayor's Veto)

RECOMMENDATIONS

Staff recommends the City Council conduct the required public hearing and at the close of the hearing, adopt the attached resolution ordering the vacation of a portion of East Divisadero Avenue between North Blackstone Avenue and North Abby Street.

EXECUTIVE SUMMARY

Vigen Incorporated on behalf of McDonald's USA, LLC is requesting the vacation of a portion of East Divisadero Avenue between North Blackstone Avenue and North Abby Street as described in Exhibit "A" and as shown on Exhibit "B" of the attached Resolution to Vacate. The purpose of this vacation is to satisfy conditions of approval for Development Permit Number P18-01459.

BACKGROUND

This portion of East Divisadero Avenue was dedicated by deed recorded January 14, 1972 in Book 5977, Page 655, Official Records Fresno County and deed recorded February 15, 1972 in Book 5989, Page 829, Official Records Fresno County. These dedications were to accommodate the East Divisadero Avenue widening project. The development of the Community Regional Medical Center created a dead end street to the east of this proposed street vacation. This dead end resulted in a change in vehicular circulation. This change in circulation created lower traffic volumes which no longer required a four lane public street for East Divisadero Avenue. East Divisadero Avenue now only requires a two lane public street. Development Permit Number P18-01459 discovered that a small portion of the McDonald's drive through has been built onto this excess right of way. A condition of approval for Development Permit Number P18-01459 is to vacate the right of way area where these improvements are encroaching.

The Public Works Department, other City departments and utility agencies have reviewed the proposed vacation and determined that the public street right-of-way proposed for vacation is unnecessary for present or prospective public street purposes as described in Exhibit "A" and as shown on Exhibit "B" of the attached Resolution, subject to reserving a public utility easement over the entire area proposed for vacation.

This action is being taken pursuant to the provisions of the Public Streets, Highways, and Service Easements Vacation Law (California Streets and Highways Code Sections 8300-8363).

On August 22, 2019, the Council adopted Resolution of Intent Number 1132-D, setting the time and place for the public hearing at 10:00 a.m. on September 19, 2019, in the Council Chambers at Fresno City Hall. The public hearing has been duly noticed in accordance with the Public Streets, Highways, and Service Easements Vacation Law.

The City Attorney's Office has approved the attached resolution as to form.

The vacation, if approved by the Council at the public hearing, will become effective when the vacating resolution is recorded in the office of the Fresno County Recorder, but not until the City Engineer determines that the conditions listed in the attached resolution have been satisfied and accepted by the City.

ENVIRONMENTAL FINDINGS

The City of Fresno adopted Environmental Assessment Number P18-03313 for the above-described project on August 22, 2019 and determined that it is Categorical Exempt, pursuant to Section 15332/Class 32 of the California Environmental Quality Act (CEQA) Guidelines.

Staff has performed a preliminary environmental assessment of this project and determined that it falls within the Categorical Exemption set forth in CEQA Guidelines Section 15332/Class 32 which

exempts infill development. Staff found that those conditions are met with the vacation conditions set forth by Public Works. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. The project site has no value as habitat for endangered, rare or threatened species. Approval of the project would not result in any significant effects related to traffic, noise, air quality or water quality. The site can be adequately served by all required utilities and public services.

Furthermore, Staff has determined that none of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project. Therefore, the proposed project is not expected to have a significant effect on the environment.

LOCAL PREFERENCE

Local preference does not apply because the vacation of a public street easement does not involve bidding or contracting.

FISCAL IMPACT

This project has no impact to the General Fund and is located in Council District 7. McDonald's USA, LLC has paid all processing fees to cover staff cost in accordance with the Master Fee Schedule.

Attachments:

Divisadero Vacation Vicinity Map
Divisadero Vacation Environmental Assessment
Divisadero Vacation Resolution to Vacate