



Legislation Details (With Text)

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Title: Approve the Agreement for Purchase and Sale of a Permanent Street Easement and Escrow Instructions for the acquisition of a 1,430 square foot permanent easement from a portion of 3897 N. Polk Avenue, Fresno (APN: 511-011-10), located on the west side of North Polk Avenue, between West Ashlan Avenue and West Dakota Avenue, owned by Michael J. Berube and Cynthia L. Berube, Trustees of the Declaration of Trust of Michael J. Berube and Cynthia L. Berube established January 24, 2005, for \$38,800 in monetary compensation, and authorize the Public Works Director or his designee to sign all documents necessary to complete the subject acquisition (Council District 1)

Sponsors: Public Works Department

Indexes:

Code sections:

Attachments: 1. 19-11514 Vicinity Map, 2. 19-11514 Location Map, 3. 19-11514 Agreement for Purchase and Sale, 4. 19-11514 Deed of Easement

Date	Ver.	Action By	Action	Result
11/14/2019	1	City Council	approved	

REPORT TO THE CITY COUNCIL

November 14, 2019

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

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

BY: R. SCOTT BEYELIA, Supervising Real Estate Agent
Public Works Department, Real Estate and Lease Services

SUBJECT

Approve the Agreement for Purchase and Sale of a Permanent Street Easement and Escrow Instructions for the acquisition of a 1,430 square foot permanent easement from a portion of 3897 N. Polk Avenue, Fresno (APN: 511-011-10), located on the west side of North Polk Avenue, between West Ashlan Avenue and West Dakota Avenue, owned by Michael J. Berube and Cynthia L. Berube, Trustees of the Declaration of Trust of Michael J. Berube and Cynthia L. Berube established January 24, 2005, for \$38,800 in monetary compensation, and authorize the Public Works Director or his designee to sign all documents necessary to complete the subject acquisition (Council District 1)

RECOMMENDATION

Staff recommends the City Council approve the Agreement for Purchase and Sale of a Permanent Street Easement and Escrow Instructions for the acquisition of a 1,430 square foot permanent easement and right of way from a portion of 3897 N. Polk Avenue, Fresno (APN: 511-011-10), owned by Michael J. Berube and Cynthia L. Berube, Trustees of the Declaration of Trust of Michael J. Berube and Cynthia L. Berube established January 24, 2005, for \$38,800 in monetary compensation, and authorize the Public Works Director or his designee to sign all documents necessary to complete the subject acquisition.

EXECUTIVE SUMMARY

The subject property is located at 3897 N. Polk Avenue (APN: 511-011-10), on the west side of North Polk Avenue, between West Ashlan Avenue and West Dakota Avenue. The 1,430 square foot easement along the North Polk Avenue frontage from the subject property is one of fifteen privately owned partial acquisitions for public street purposes required as a condition of approval of Tract Map 5538, located on the northwest corner of North Polk Avenue and West Dakota Avenue. The permanent street easement and right of way will be used to widen North Polk Avenue to accommodate additional traffic generated by the subdivision and allow for the extension of water and sewer mains to service to the proposed subdivision.

An appraisal was conducted by Tiffany K.V. Mach, MAI of Real Property Analysts, Inc. with a total appraised value of \$38,800. Michael J. Berube and Cynthia L. Berube, Trustees are the owners of the property and have agreed to accept the appraised value as full compensation. The developer of Tract 5538 is responsible for any and all costs associated with the purchase of the easement, which will be charged against the initial deposit of \$295,000, and subsequent additional deposit of \$51,000.

BACKGROUND

On May 17, 2006 the City of Fresno Planning Commission adopted Resolution No. 12484 approving Tentative Tract No. 5538 for a 93 lot single-family residential subdivision on 19.09 acres located on the northwest corner of North Polk Avenue and West Dakota Avenue. The approval of Tentative Map No. 5538 is consistent with the Fresno General Plan and the West Area Community Plan and complies with the provisions of the Subdivision Map Act.

The developer was unable to acquire the necessary right of way to facilitate the conditioned improvements related to Tract Map No. 5538 and thereby requested City staff to acquire the necessary right of way for the project. The developer executed an Addendum to the Subdivision Agreement for Tract Map No. 5538 and initially deposited of \$295,000, followed by a subsequent additional deposit of \$51,000 for any and all costs related to the aforementioned fifteen partial acquisitions necessary for the preconditioned improvements.

The City Attorney's Office has approved the Agreement for Purchase and Sale of a Street Easement and Escrow Instructions and the Deed of Easement as to form.

ENVIRONMENTAL FINDINGS

An environmental assessment initial study was prepared for Vesting Tentative Map No. 5538 in

accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. On June 20, 2006 City Council adopted E.A. No. R-05-71/T-5538/C-05-201, dated March 16, 2006, Finding of Conformity to the General Plan MEIR.

An analysis has been performed pursuant CEQA Guidelines § 15162 to determine whether subsequent environmental review is required for this project. Based upon this analysis the following findings are made to support the determination that no subsequent environmental review is required:

1. No substantial changes are proposed in the project which will require major revisions of the previous Finding of Conformity due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. There have been no changes.
2. No substantial changes have occurred with respect to the circumstances under which the project was undertaken which will require major revisions of the previous Finding of Conformity due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In this case, no substantial changes have occurred.
3. There is no new information, which was not known and could not have been known at the time of the previous Finding of Conformity showing that:
 - a. The project will have one or more significant effects not discussed in the previous Finding of Conformity;
 - b. Significant effects previously examined will be substantially more severe than shown in the previous Finding of Conformity;
 - c. Mitigation measures or alternatives previously found to be not feasible are now feasible and would substantially reduce one or more significant effects of the project.

Based upon these findings, it has been determined that no further environmental documentation is required for this project.

LOCAL PREFERENCE

Local preference was not considered because this agreement does not include a bid or award of a construction or services contract.

FISCAL IMPACT

This acquisition is located in Council District 1. This acquisition has no impact to the General Fund. Aggregate funds in the amount of \$346,000 for acquisition costs have been provided by the developer. All funding necessary for the subject acquisition was included in the current fiscal year adopted City budget.

Attachments:

Vicinity Map

Location Map

Agreement for Purchase and Sale

Deed of Easement