



City of Rialto

Legislation Text

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For: City Council Meeting [September 28, 2021]
TO: Honorable Mayor and City Council
APPROVAL: Marcus Fuller, City Manager
FROM: Michael Tahan, Interim Public Works Director
David Hammer, City Engineer

Request City Council Adopt **Resolution No. 7774** Approving the Vacation of Existing Right of Way Located within Tract Map No. 17708, which is Generally Located on the West Side of Acacia Avenue and North of East James Avenue, and Reserving an Easement for Public Utility Purposes.

BACKGROUND:

On May 30, 2007, the Planning Commission conditionally approved Tentative Tract Map No. 17708. The conditions of approval stated, "the necessary right of way shall be dedicated for Joyce Avenue, Orchard Street and Marcella Avenue for private streets and other facilities..." The conditions of approval also required the community to be gated.

On November 22, 2017, the City Council approved Tract Map No. 17708. The final map included an offer to dedicate by the owner to the City of Rialto, the public in general and public utility companies and acceptance by the City Council on behalf of the same "an easement for streets and public utilities, sewer, emergency access, in, under, over, through and across Orchard Street, Marcella Avenue and Joyce Avenue, subject to improvement as shown on this final map".

These streets were intended to be private streets, however, the final map created a public easement and must be corrected through vacation of the City's public street easement interest. A vicinity location map of the proposed vacation area is included as **Attachment 1**.

Pursuant to Government Code Section 65402(a), before vacating a street, the proposed vacation must be submitted to the Planning Commission to consider whether the proposed vacation conforms to the City's General Plan, and to make a recommendation to the City Council.

On September 8, 2021, the City Planning Commission adopted Resolution No. 2021-43 confirming that these streets are considered local streets and are not identified on the Circulation Element of the City's General Plan. On that basis, the Planning Commission determined that the proposed vacation of existing right-of-way of Orchard Street, Marcella Avenue and Joyce Avenue within Tract Map No. 17708 is in conformance with the General Plan. A copy of the Resolution is included as **Attachment 2**.

ANALYSIS/DISCUSSION:

Streets and Highways Code Sections 8330-8336 allow for summary vacation of right-of-way and access rights. The legislative body of a local agency may summarily vacate a street or highway if both of the following conditions exist: (a) For a period of five consecutive years, the street or highway has been impassable for vehicular travel, (b) No public money was expended for maintenance on the street or highway during such period.

Summary vacation of public street right-of-way and access rights requires the City Council to adopt a resolution of vacation, subject to the Planning Commission's determination that the summary vacation is consistent with the City's General Plan.

Although the public street easement interests will be vacated, a Public Utility Easement will be reserved for the right of utility companies to operate within the vacated right of way.

The proposed Resolution for the summary vacation and reservation of a public utility easement is included as **Attachment 3**.

ENVIRONMENTAL IMPACT:

This action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

GENERAL PLAN CONSISTENCY:

Vacating the proposed excess Right-of-Way is consistent with the Circulation Element of the City's General Plan.

Goal 2-21: Ensure high-quality planned developments in Rialto.

Goal 3-6: Require that all developed areas within Rialto are adequately served with essential public services and infrastructure.

LEGAL REVIEW:

The City Attorney has reviewed and supports this staff report and Resolution.

FINANCIAL IMPACT:

Operating Budget Impact

The City will not incur any costs by vacating the proposed Right-of-Way.

Capital Improvement Budget Impact

The proposed action will not affect the City's Capital Improvement Budget.

RECOMMENDATION:

Staff recommends that the City Council Adopt the Resolution approving the Vacation of Right-of-Way and Reserving an Easement for Public Utility Purposes on Orchard Street, Marcella Avenue and Joyce Avenue within Tract Map No. 17708.