



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Ryan Russo
Director OakDOT

Alexa Jeffress,
Director EWD

SUBJECT: Vacation and Sale of A Portion of 22nd
Street

DATE: March 26, 2021

City Administrator Approval 

Date: **Apr 6, 2021**

RECOMMENDATION

Staff Recommends That The City Council Adopt The Following Legislation:

- 1) **A Resolution Conditionally Vacating By The City Of Oakland A Portion Of The Public Right-Of-Way Of 22nd Street At The Southeast Corner Of Its Intersection With Telegraph Avenue; And Adopting California Environmental Quality Act (CEQA) Findings; And**
- 2) **An Ordinance Authorizing The City Administrator Or His Or Her Designee To Negotiate And Execute A Purchase And Sale Agreement For The Sale Of The Vacated Portion Of The Public Right-Of-Way Of 22nd Street At The Southeast Corner Of Its Intersection With Telegraph Avenue Over Two Parcels Owned By The City Of Oakland To W/L Telegraph Owner LLC For Seven Hundred Ninety-Two Thousand Dollars (\$792,000) For Development Of The 2100 Telegraph Project; And Adopting CEQA Findings.**

EXECUTIVE SUMMARY

Approval of this Resolution will authorize the City Engineer to issue a vacation permit (Permit Number PPE2000052) conditionally vacating the westbound left turn lane on 22nd Street at the southeast corner of the intersection of 22nd Street and Telegraph Avenue as shown in **Exhibits A and B** (Legal Description and Map) to the Resolution. The portion of public right-of-way to be vacated will leave two existing small parcels, or “sliver parcels,” (collectively, the Property) measuring a combined 3,074.12 square feet.

Approval of the corresponding Ordinance will then authorize the City Administrator to convey the two small parcels to W/L Telegraph Owner, LLC (Developer) for a purchase price of \$792,000.00 to facilitate a mixed-use development project as contemplated in the Disposition and Development Agreement discussed below. The vacated portion of the street will be merged with adjoining parcels owned by the Developer to “square-off” the block. The intersection will be reconstructed and existing underground utilities will be relocated.

City Council
April 20, 2021

BACKGROUND / LEGISLATIVE HISTORY

On July 18, 2018, the City Planning Commission approved the 2100 Telegraph Avenue development project, Planning and Zoning Case File Number PL16440 (PUDF-01; PUDF-02, and ER16011). The Commission's actions included adoption of the California Environmental Quality Act (CEQA) findings, including certification of the Environmental Impact Report (EIR), rejection of alternatives as infeasible, and approval of the Planned Unit Development (PUD) and two associated Final PUD applications. The project includes demolition of existing buildings on the entire city block for a development that could include up to 2.8 million square feet of office or 1,556 residential dwelling units or a mix of the two, with ground floor retail and a large parking garage. The development is consistent with the General Plan. The approved project includes a "square" building footprint that will extend into what is currently a dedicated left turn lane on 22nd Street at the southeast corner of its intersection with Telegraph Avenue, requiring a street vacation.

The City and the Developer entered into a Disposition and Development Agreement (DDA) effective as of July 16, 2019, as authorized by City Council Ordinance No. 13558 C.M.S. The DDA defines the terms for the sale and development of City-owned property located at 2100 Telegraph, which Developer intends to merge with the Property and surrounding parcels owned by Developer to create the square-block development site. Section 3.1(a)(iii)(C) of the DDA requires Developer to satisfy PUD Condition of Approval 19 to address the 22nd Street Right of Way.

ANALYSIS AND POLICY ALTERNATIVES

Street Vacation

Vacation (abandonment) of public right-of-way is subject to Streets and Highways Code sections 8300 et seq. The City Council may, on its own initiative, initiate a proceeding to vacate all or part of a public street. Vacating a public street requires a public hearing and specific notices, including newspaper publication for two successive weeks prior to the hearing and posting of notices to vacate along the proposed street to be vacated. Proof of publication of a notice must be made by affidavit.

If the proposed street vacation is within an area for which a general plan is adopted, the legislative body must consider the general plan prior to vacating the street. This right-of-way vacation was found to be in compliance with the General Plan by the City Planning Commission when it approved the project entitlements and Condition of Approval #19 contemplating the street vacation.

At the public hearing, the City Council must hear evidence offered by interested members of the public, and if the City Council finds, from all the evidence submitted, that the street is unnecessary for present or prospective public use, the City Council may adopt a resolution vacating the street. The resolution to vacate may provide that the vacation occurs only after conditions required by the City Council have been satisfied and may instruct the Clerk that the resolution of vacation not be recorded until the conditions have been satisfied. The vacation is complete upon recordation of the resolution of vacation by the City Clerk.

Staff has determined that the City Council must make the following findings for vacating the portion of 22nd Street right-of-way, as required by the California Streets and Highways Code:

- The vacation conforms with the City's adopted General Plan.
- The vacation will not impact future access for non-motorized transportation.
- The vacation will not increase traffic or pedestrian inconvenience nor decrease traffic or pedestrian safety.

Sale of the Property

The portion of public right-of-way to be vacated will leave the Property, consisting of two existing small parcels owned by the City, as shown in **Exhibits A and B** of the Resolution measuring a combined 3,074.12 square feet. Developer intends to merge the Property with the adjoining parcels on the block bound by 22nd Street, Broadway, 21st Street, and Telegraph Avenue. The approved development project will relocate sidewalk, curb, gutter, meters, utilities, and other associated infrastructure, and will reconstruct the southeast corner of the intersection such that 22nd Street is a constant width in the westbound direction toward Telegraph Avenue.

Pending City Council authorization, staff and Developer have tentatively agreed to the terms of a Purchase and Sale Agreement (PSA) for the Property for a combined fair market value of \$792,000, or \$262.77 per square foot.

Staff has determined that the Property is exempt surplus land pursuant to Sections 54221(f)(1)(B) and 54221(f)(1)(E) of the California Surplus Lands Act (Government Code Section 54220 *et seq.*) because the Property is a former right of way, less than 5,000 square feet in area, and will be conveyed to the adjacent owner.

FISCAL IMPACT

Staff costs for processing the proposed summary vacation permit (PPE2000052) are covered by fees set by the Master Fee Schedule and have been paid by the Applicant.

The sale of the Property will generate \$792,000 in revenue to the City, including administrative processing fees of \$2,904 for surplus property and \$1,436 for appraisal of commercial properties. The land sales proceeds will be accepted and deposited into General Purpose Fund (1010), Real Estate Services Organization (85231), Sale of Land Revenue Account (48111), DP850 Administrative Project (1000019), Real Estate Program (PS32). The City will not incur any out-of-pocket costs from the sale of the Property and no City subsidies will be involved in the sale of the Property.

PUBLIC OUTREACH / INTEREST

Pursuant to statutory noticing requirements, vacation of 22nd Street includes newspaper publication for two successive weeks prior to the public hearing and posting notices to vacate along 22nd Street.

COORDINATION

The permit application was coordinated with Planning and Building Department, Budget Bureau, the Economic and Workforce Development Department, and the Office of the City Attorney. The Office of the City Attorney and Budget Bureau have reviewed the report, resolution and ordinance for form and legality.

SUSTAINABLE OPPORTUNITIES

Economic: The proposed street vacation and sale will add property to the tax base for the City, decrease the cost of street maintenance, and will allow the 2100 Telegraph Avenue development project to move forward as approved, which will create construction jobs and long term, permanent jobs. The sale of the two vacated parcels will generate \$792,000 in revenue to the City.

Environmental: Construction permits for infrastructure improvements related to the street vacation and sale require the permittee to comply with City ordinances and regional Best Management Practices for reducing nuisance noise, fugitive dust, construction debris disposal, and storm drainage pollutant runoff.

Race and Equity: The proposed street vacation and sale will allow the 2100 Telegraph Avenue development project to move forward as approved. The project will provide contracting opportunities for local businesses and will be adjacent to a transit station and multiple transit nodes, allowing for a wide range of access to employment.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The Environmental Impact Report (EIR) for the development project at 2100 Telegraph was certified by the Oakland Planning Commission on July 18th, 2018. No legal actions were filed challenging the EIR, and thus it is presumed valid. The proposed actions will not result in significant environmental impacts considered under CEQA, and no further/additional review is required. None of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code section 21166 and CEQA Guidelines sections 15162 and 15163 are present, in that:

1. There are no substantial changes to the project that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the EIR.
2. There are no substantial changes in the circumstances that would result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in the EIR.
3. There is no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified, which is expected to result in: (a) new significant environmental effects or a substantial increase in the severity of significant environmental effects already identified

in the EIR; or (b) mitigation measures which were previously determined not to be feasible would in fact be feasible, or which are considerably different from those recommended in the EIR and which would substantially reduce significant effects of the projects, but the City declines to adopt them.

As a separate and independent basis, the proposed actions are also exempt from CEQA review pursuant to CEQA Guidelines section 15183, projects consistent with a community plan or zoning.

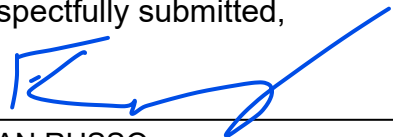
ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Adopt the Following Legislation:

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For questions regarding the street vacation, please contact Ariel Espiritu Santo, Agency Administrative Manager, Department of Transportation at (510) 238-2098. For questions regarding the sale, please contact Brendan Moriarty, Real Property Asset Manager, Economic and Workforce Development Department at (510) 238-6354.

Respectfully submitted,



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