

DATE ISSUED: January 21, 2005

REPORT NO. PC-05-227

ATTENTION: Planning Commission, Agenda of January 27, 2005

SUBJECT: PLUM STREET VACATION - PROJECT NO. 6360. PROCESS 5

OWNER/APPLICANT: M. William and Peggy Sue Tilden

SUMMARY

Issue: Should the Planning Commission recommend to the City Council approval of a Planned Development Permit and Public Right-of-Way Vacation for the southerly 100 feet of the 70-foot wide right-of-way of Plum Street at 1202 and 1203 Plum Street?

Staff Recommendation:

1. RECOMMEND APPROVAL of Planned Development Permit (PDP) No. 84425; and
2. RECOMMEND APPROVAL of Right-of-Way Vacation No. 39220.

Community Planning Group Recommendation: The Peninsula Community Planning Board considered the project at their meeting on August 21, 2003 and voted 11-1-1 to recommend denial of the project (Attachment 13) due to concerns about neighborhood parking and the need to provide a public benefit.

Environmental Review: The project has been determined to be exempt from the California Environmental Quality Act (CEQA) in accordance with the State CEQA Guidelines 15301, Existing Facilities.

Fiscal Impact: The cost of processing this application is paid for by the applicant.

Code Enforcement Impact: None with this action.

Housing Impact Statement: The Inclusionary Housing Ordinance requires all new residential development of two units or more to provide affordable housing. This project proposes only vacation of the public right-of-way adjacent to two existing single-family

homes. Therefore, the proposed project would not impact housing supply or affordability.

BACKGROUND

The project is comprised of the two existing single-family residential properties located at 1202 and 1203 Plum Street, and the southerly 100 feet of the 70-foot wide right-of-way of Plum Street adjacent to both subject properties, within the Peninsula Community Plan area (Attachments 1-3). The project site is located at the southern terminus of Plum Street, immediately south of Carleton Street, and is designated Single Family Residential in the Peninsula Community Plan and zoned RS-1-7 (Residential – Single Unit).

The segment of Plum Street south of Carleton Street is a partially improved paper street 200 feet long running in an approximate north-south direction, of which the southerly 100 feet fronts the project sites. An existing 27-foot wide road along the eastern edge of the right-of-way, which terminates in a non-standard cul-de-sac, provides access to three existing residential properties: 1234 Plum Street (southwest corner of Plum and Carleton Streets), and the two subject properties located at 1202 and 1203 Plum Street. A fourth home in the vicinity (1229 Plum) is located at the southeast corner of Plum and Carleton Streets and has access to its driveway and 2 car garage via a curb cut fronting Carleton Street.

The north side of the right-of-way is developed with landscape areas and low retaining walls which have been part of the neighborhood since the 1950s based upon historical photos and reports from persons who lived in the home at that time (Attachment 8). The subject homes were constructed in the 1950s, and City records show that the paved area of Plum Street was first constructed in 1955. Portions of Plum Street adjacent to the subject properties at Byron Street have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965). The neighborhood in the vicinity of the project site is developed with single-family homes of various sizes and architectural styles. The neighborhood was originally subdivided as part of the Roseville subdivision in 1914.

The project requires a Process 4 Planned Development Permit (PDP) and a Process 5 Street Vacation, to be consolidated and considered as a Process 5 decision (City Council) in accordance with SDMC 125.0940. Development which does not comply with all base zone regulations or all development regulations may apply for deviations through a PDP. As stated in the Municipal Code, the purpose of the PDP regulations is to establish a review process for development that allows an applicant to request greater flexibility from the strict application of the regulations. The intent is to encourage imaginative and innovative planning and to assure that the development achieves the purpose and intent of the applicable land use plan and that it would be preferable to what would be achieved by strict conformance with the regulations.

On May 18, 1993, City Council established Policy 600-15 on street vacations. Council determined it acceptable to vacate in whole or part a public right-of-way when there is no present or prospective use and when such action would serve the public interest.

DISCUSSION

Project Description:

The project consists of two discretionary actions: (1) a Planned Development Permit (PDP) pursuant to §126.0602; and (2) a Right-of-Way Vacation pursuant to §125.0940 of the Municipal Code and Section 8300 *et seq.* of the California Streets and Highways Code, and in conformance with Council Policy 600-15.

Planned Development Permit – The PDP (Attachment 10) is required for this project in order to allow a deviation from the RS-1-7 zone development regulation which requires a lot to have a minimum of 50 feet of street frontage. Currently, both lots have 100 feet of frontage onto the partially improved Plum Street public right-of-way; however, vacation of this 100 foot of street frontage along each of the subject sites would shift their frontage in a perpendicular manner to the 70-foot wide public right-of-way along the new terminus of Plum Street. As a result of the vacation, each site would have 35 feet of street frontage. As a condition of the PDP and street vacation, both properties are required to enter into a shared access agreement to ensure perpetual access to both parties from the terminus of Plum Street, and private maintenance of the driveway and cul-de-sac areas. The deviation from the 50-foot RS-1-7 zone standard would not be detrimental to the public health, safety and welfare in this limited application. No development is proposed with the request to vacate the right-of-way, and access to the subject properties would continue to be provided through the terms of the private agreement between the affected property owners. From a neighborhood standpoint, the modified street frontages for the two subject properties would likely not be perceptible, as the road will remain in its current location, as it has existed for the last 50 years.

Right-of-Way Vacation – The street vacation would remove from public use the southerly 100-foot portion of the existing 70-foot right-of-way dedication along the 100-foot frontage of Plum Street at 1202 and 1203 Plum Street (Attachments 4-5). The City of San Diego Municipal Code allows that a public right-of-way vacation may be initiated at the request of any person and may be summarily vacated if it does not contain public utility facilities, does not contain active public utility facilities, or contains public utility facilities that would not be affected by the vacation. As part of the project review, city staff has determined that the portion of Plum Street to be vacated would not adversely impact existing water or sewer utilities in Plum Street. The following utility companies have also determined that the proposed vacation would have no adverse impact on their utilities: SBC (formerly Pacific Bell) and Cox Cable. As a condition of approval, a general utility easement will be reserved to protect existing water and SDG&E utilities within Plum Street. The portion of the public right-of-way to be vacated is not required for street or highway purposes.

The California Streets and Highways Code at Section 8312 find that “a city legislative body may vacate, pursuant to this part, all or part of a street . . . within the city.” The legislative body shall consider the general plan prior to vacating the street. The City of San Diego regulates right-of-way vacations through the Municipal Code at §125.0940 and through Council Policy 600-15.

Findings for these requirements are substantiated in the Resolution (Attachment 27).

Portions of Plum Street at Byron Street to the south have previously been vacated through Resolution 39937 (1926) and Resolution 185546 (1965); therefore, there is no existing right-of-way connecting Plum Street to Byron Street and no through access for pedestrians or vehicular traffic. There is no capacity for the street to serve more than the three existing residences at 1203 and 1203 Plum Street (subject properties), and 1234 Plum Street (corner of Plum and Carleton Streets). The existing driveable width of Plum Street is approximately 27'-0" at its widest point and would not require relocation. The portion of Plum Street to remain would provide a 70'-0" wide and 100-foot deep right-of-way, with a 27' pavement width remaining for reasonable access to 1234 Plum Street. The partial right-of-way vacation would not precipitate a name change for the street, and would not adversely affect fire and life safety services. The proposed vacation would result in an additional 3500 square feet added to each project site for a total project site area of 11,475 square feet at 1202 Plum Street, and approximately 8,500 square feet at 1203 Plum Street.

Community Plan Analysis:

The project will not adversely affect the goals of the Peninsula Community Plan and Local Coastal Program plan and is consistent with the City of San Diego Progress Guide and General Plan. Plum Street currently dead ends along the frontage of the subject site and is not a through street. As noted previously, there is no existing right-of-way connecting Plum Street to Byron Street and no existing or planned through access for pedestrians or vehicular traffic. The Transportation Element of the Peninsula Community Plan does not identify Plum Street as a pedestrian path, or as a key component of access and circulation in the community. Additionally, the Plan does not identify Plum Street as a protected view corridor (Figure 16). At approximately 11,475 square-feet and 8,500 square feet in size, the new lots would not be out of character for the immediate neighborhood.

Environmental Analysis:

The project has been determined to be exempt from the California Environmental Quality Act (CEQA) in accordance with the State CEQA Guidelines 15332 regarding in-fill development.

Project-Related Issues:

Municipal Code Conformance - The project requires a Planned Development Permit (PDP) [SDMC Section 126.0707(a)] and a Street Vacation to be consolidated and considered as a Process 5 decision (City Council) in accordance with SDMC 125.0940. A public right-of-way may be vacated only if the decision maker makes the findings referenced under SDMC 125.0941. An application for a Planned Development Permit may be approved or conditionally approved only if the decision maker makes all of the findings in SDMC 126.0604. The findings for the PDP and Right-of-Way Vacation are substantiated in the resolutions (Attachments 11-12). The proposed project has been demonstrated to conform to the regulations and requirements of the RS-1-7 zone and the Peninsula Community Plan and Local Coastal Program.

Community Planning Group Recommendation –

The Peninsula Community Planning Board considered the project on August 21, 2003 and voted 11-1-1 to recommend denial of the project (Attachment 13) due to concerns about neighborhood parking and the need for the project to provide a public benefit. Each home fronting Plum Street has a 2 car garage, providing adequate on-site parking. However, the area of Plum Street south of Carleton Street is occasionally used for non-designated parking by the four adjacent property owners. Parking will still be available, excepting the area to be vacated. Beyond this area of Plum Street most, if not all, homes in the neighborhood vicinity have adequate on-site parking for two cars, and visitors utilize on-street parking. Staff has surveyed the project area through a number of field visits to the site at various times of the day, and has observed that there is always an abundance of on-street parking available. There is no prospective use for the right-of-way, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated. It is unlikely that Plum Street would be built to a full 40-foot width or widened at this location due to the limited properties it currently serves (3).

Additionally, portions of the right-of-way to the south at Byron and Plum Streets were previously vacated in 1925 and 1965, and have steep slopes, so extending Plum Street southerly direction is highly unlikely. Staff supports that the project can meet the necessary finding that a public benefit will result from the right-of-way vacation, in that the public will benefit from the action through improved utilization of land made possible by the street vacation, and the City will be relieved of any liability or maintenance costs with the land reverting to private ownership.

Public Correspondence –

Correspondence from the public both in support and in opposition to the proposed vacation was received during the project review (Attachment 15).

Conclusion:

Staff finds that the project as proposed would be in accordance with the provisions of the Council Policy, the City's Municipal Code; the State Streets and Highways Code; the California Environmental Quality Act; the City's Progress Guide and General Plan; and the Peninsula Community Plan and Local Coastal Program Plan. Staff therefore recommends approval of the Planned Development Permit No. 84425 and approval of Right-of-Way Vacation No. 39220.

ALTERNATIVES

1. Recommend approval of Planned Development Permit (PDP) No. 84425 and Right-of-Way Vacation No. 39220 with modifications.
2. Recommend denial of Planned Development Permit (PDP) No. 84425 and Right-of-Way Vacation No. 39220 if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

**Marcela Escobar-Eck
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Development Services Department**

**Patricia J. FitzGerald
Development Project Manager
Development Services Department**

Attachments:

1. Location Map
2. Aerial Photograph
3. Community Plan Land Use Map
4. Right of Way Vacation Exhibit
5. Project Site Plan
6. Plum Street Looking South
7. Plum Street Looking North
8. Plum Street Photo History
9. Project Data Sheet
10. Draft PDP Permit with Conditions
11. Draft PDP Resolution with Findings
12. Draft SV Resolution with Findings
13. Community Planning Group Recommendation
14. Ownership Disclosure Statement
15. Letters of Support/Opposition
16. Peninsula Public Views