



**DATE:** May 25, 2021

**TO:** Mayor and City Council

**FROM:** Director of Public Works

**SUBJECT:** Adopt Resolutions Making Findings to Designate Parcel No. 083-0221-006-06 on Mission Boulevard as Surplus Property and Begin the Surplus Property Process Consistent with the Surplus Property Land Act and Summarily Vacating the Public Service Easement on Parcel No. 083-0221-006-06 Pursuant to Section 8333 of the Streets and Highways Code

**RECOMMENDATION**

That Council adopts the attached resolutions (Attachments II and III):

1. Designating the 0.46-acre City owned Parcel No. 083-0221-006-06 as surplus property and authorizing the City Manager to begin the surplus property process consistent with the Surplus Property Land Act (Government Code section 54220 et seq.), and
2. Summarily vacating the existing storm drain easement at Parcel No. 083-0221-006-06 pursuant to Streets and Highways Code Section 8333.

**SUMMARY**

The purpose of this item is to seek a determination from Council that the parcel of land located near the northeast corner at Mission Boulevard and Fairway Street (APN 083-0221-006-06) is surplus property and to authorize the City Manager to move forward with the surplus property process consistent with the Surplus Property Land Act. Additionally, there is an existing storm drain easement on the property that needs to be vacated to clear the title for development potential.

**BACKGROUND**

This parcel of land near the northeast corner at Mission Boulevard and Fairway Street is currently an open area between the United Church of Hayward parking lot on the northside and backyard fencing of residential homes along the eastside (Attachment IV). The recently

completed Mission Boulevard Corridor Improvements Phase 2 project added a 10-foot-wide sidewalk and streetlights. South of this corner is the Linear Park.

The City-owned parcel contains a storm drain easement that was granted to the City in October 1958 by the Oliver Rousseau Organization (Attachment V). Staff researched as-built record documents and have not been able to locate evidence of a storm sewer facility constructed or installed within the easement. Staff also made a site visit and confirmed no City facilities currently exist within the storm drain easement at that location. Additionally, the completed Mission Boulevard Corridor Improvements Phase 2 project included storm drain improvements in the roadway and does not foresee the need for future utility improvements on this parcel. Any potential development would conflict with the storm drain easement. Staff has received an inquiry regarding the availability of this site for potential development. Adoption of the attached resolutions are necessary for the City to explore the development potential of the site.

## **DISCUSSION**

As part of the 2019 Housing Legislations, the State of California tightened control over cities' ability to dispose of land. Beginning in January 2020, all cities must comply with the amended Surplus Land Act (AB 1486). The Surplus Land Act now requires cities to offer any non-exempt surplus land to a housing sponsor certified by California Housing Finance Agency (CalHFA) that have provided notice to the California Department of Housing and Community Development (HCD) for the development of affordable housing prior to disposing of the property for sale or lease to any third-party. New penalties have also been included in the law, which include up to 50% of the sale price, if the new procedures are not followed by the City.

Staff has determined that the subject property is no longer needed for other future City purposes. This parcel can now be offered as available subject to the provisions of the Surplus Lands Act. Upon approval of the attached resolution, staff will develop and distribute a Notice of Availability to certain required public agencies and housing sponsors certified by CalHFA that have provided notice to HCD of their interest in acquiring surplus land. Interested parties have sixty days to respond. If responses are received, the City must negotiate in good faith for a minimum of ninety days. The Surplus Lands Act does not prevent the local agency from obtaining fair market value for the sale/lease of surplus properties. If there are no responses or if negotiations fail to result in a sale or lease, the City can proceed with the marketing and sale or lease to a third-party. If the sale or lease to a third-party results in the construction of less than ten housing units, there are no further requirements on the development of the property.

Pursuant to Streets and Highways Code Section 8333(c), a public easement may be summarily vacated if Council determines it is excess and there are no other public facilities located within the easement or in use that would be affected by the vacation. The requested vacation area is described in Exhibit A to the resolution of vacation.

## **ECONOMIC IMPACT**

There is no economic impact associated with this item.

## **FISCAL IMPACT**

The sale of the parcel will result in potential revenue for the City. A price for the property will be determined by staff based primarily on current market rates and as part of any subsequent land sale negotiation process.

## **STRATEGIC ROADMAP**

This agenda item does not directly relate to any of the six priorities outlined in the Council's Strategic Roadmap.

## **PUBLIC CONTACT**

This action qualifies as a summary vacation as defined under the California Streets and Highways Code Section 8333 (c) and therefore, a public hearing is not required per Streets and Highways Code Section 8335.

## **NEXT STEPS**

Upon a determination by Council that the parcel is surplus, the City Manager and staff will prepare the Notice of Availability, which will be issued to required parties consistent with the Surplus Land Act.

The City Clerk will record the adopted Resolution of Vacation with the Alameda County Recorder to finalize the vacation of the easement.

*Prepared by:* Dave Hung, Senior Civil Engineer  
Dan S. Scott III, City Surveyor  
Kathy Garcia, Deputy Director of Public Works

*Recommended by:* Alex Ameri, Director of Public Works

Approved by:



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Kelly McAdoo, City Manager