



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: David Sykes

SUBJECT: SEE BELOW

DATE: August 20, 2012

Approved

Date

8/26/12

COUNCIL DISTRICT: 9

**SUBJECT: RIGHT OF WAY VACATION OF A PORTION OF CHERRY AVENUE
(FORMERLY CHYNOWETH AVENUE)**

RECOMMENDATION

Adopt a resolution of intention to vacate a portion of Cherry Avenue, east of Almaden Expressway and set a public hearing on October 16, 2012 at 1:30 p.m.

OUTCOME

Adopt a resolution of intention to vacate the subject portion of Cherry Avenue and set a public hearing for October 16, 2012, at 1:30 p.m. for consideration of adoption of a proposed resolution vacating the subject right-of-way. By approving the staff recommendation, Council would allow for the continuation of the planned extension of Cherry Avenue and the removal of excess street right-of-way.

BACKGROUND

Arcadia Development Company has submitted an application for the vacation of a portion of Cherry Avenue, east of Almaden Expressway (map attached). Cherry Avenue was formerly known as Chynoweth Avenue and on March 20, 2012, Council adopted the renaming of Chynoweth Avenue to Cherry Avenue (Resolution #76167). The proposed vacation is required to fulfill development conditions of the Planned Development Permit PD11-024 (Almaden Ranch), which proposes a commercial development totaling up to 400,000 square feet on a 43.5 acre site. As a condition of development, Arcadia Development Company is required to extend existing Cherry Avenue to connect to Sanchez Drive in compliance with the current plan line for this street segment. The vacated area is proposed for inclusion into the proposed site plan for this commercial development.

ANALYSIS

Staff has determined that this portion of Cherry Avenue is no longer needed as a public street. With the development of the Almaden Ranch project, the existing Cherry Avenue will be re-aligned and extended by the project, thus creating an excess area of street right-of-way. The title report indicates that the City holds fee title to the portion of Cherry Avenue proposed for vacation. In order to incorporate the proposed vacation area into the commercial development, Arcadia Development Company has requested to acquire fee title to the subject area. Therefore, concurrent with the proposed resolution to vacate the subject portion of Cherry Avenue, Council will also be asked via separate memorandum to approve an agreement authorizing the conveyance of fee interest of the subject area to Arcadia Development Company for just compensation through a purchase and sales agreement. Additionally, if the Council approves the proposed vacation on October 16, 2012, the resolution will be conditional upon the completion of the above mentioned purchase and sales agreement.

All concerned utility companies have consented to the proposed vacation and have not requested the reservation of any public service easement as there are no facilities that reside in the area proposed for vacation.

The actions required for the vacation of the subject right-of-way are:

September 11, 2012 at 1:30 p.m.: Council considers the adoption of a resolution of intention which:

1. Declares its intention to vacate the subject portion of Cherry Avenue;
2. Sets a public hearing October 16, 2012 at 1:30 p.m.;
3. Directs the City Clerk to file the vacation map and advertise said public hearing; and
4. Directs the Director of Public Works to post the site with a Notice of Public Hearing.

October 16, 2012, at 1:30 p.m.: Council conducts a public hearing and considers a resolution of vacation, which vacates the subject portions of Cherry Avenue.

EVALUATION AND FOLLOW UP

If Council adopts this resolution of intention to vacate the subject portion of Cherry Avenue, east of Almaden Expressway, a public hearing will be scheduled for October 16, 2012 at 1:30 p.m. for Council to consider whether it is appropriate to adopt a resolution vacating the area upon the condition of completion of the purchase and sale of fee title to the area.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**

- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This action does not meet any of the criteria above; however, the public was given the opportunity to comment on the proposed development and project site plan with the inclusion of the proposed vacation area. All concerned utility companies have been contacted in writing and have no objection to this vacation and have not requested any reservation of a public service easement since there are no facilities that reside in the area proposed for vacation. This memorandum will be posted online for the September 11, 2012 Council agenda.

COORDINATION

The proposed street vacation has been coordinated with the Department of Planning, Building and Code Enforcement, the Department of Transportation, the Office of Economic Development, and the City Manager's Budget Office. Additionally, the proposed street vacation and required resolution have been reviewed by the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

Vacating the subject portion of Cherry Avenue is in alignment with the Council-approved Budget Strategy Expenditure Control section by eliminating a City maintenance obligation and liability.

COST SUMMARY/ IMPLICATIONS

The Public Works Department has collected cost-recovery fees in 2012-2013 of \$5,920 to process the subject vacation. These fees were deposited into the Public Works Development Services Fee Fund (Fund 001). In addition, during the October 16, 2012 City Council meeting, the Council will be requested to declare the property surplus to the needs of the City and to

HONORABLE MAYOR AND CITY COUNCIL

August 20, 2012

Subject: Cherry Avenue Vacation

Page 4

approve the sale of the vacated street to the adjoining property owner, Arcadia Development Company.

CEQA

Almaden Ranch Retail Center EIR (Resolution No. 76168)

/s/

DAVID SYKES

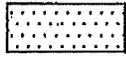
Director of Public Works

For questions please contact Harry Freitas, Assistant Director, at 408-535-8300.

Attachment

LOCATION MAP

SHOWING THAT PORTION OF THE STREET TO BE VACATED
AT CHERRY AVENUE



AREA TO BE VACATED

