



COUNCIL AGENDA: 10/1/24
FILE: 24-197291
ITEM: 5.1

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Matt Loesch
Mukesh (Mookie) Patel

SUBJECT: See Below

DATE: September 9, 2024

Approved

Date:

9/17/24

COUNCIL DISTRICT: 6

SUBJECT: Summary Vacation of Melina Street, Bruce Avenue, and Portions of Regent Street, University Avenue, Emory Street, Walnut Street, and Spring Street with Reservations of Public Service Easements Within the Areas Being Vacated and Conditional Vacation of a Portion of University Avenue All Within Guadalupe Gardens

RECOMMENDATION

- a) Conduct a public hearing on the summary vacations of Melina Street, Bruce Avenue, and a portion of Regent Street, University Avenue, Emory Street, Walnut Street, and Spring Street with the reservation of Public Service Easements within the areas being vacated in Guadalupe Gardens, and a conditional vacation of a portion of University Avenue within Guadalupe Gardens.
- b) Adopt a resolution:
 - 1) Approving the report of the Director of Public Works and Director of Aviation setting forth the facts justifying the summary vacation of Melina Street, Bruce Avenue, and a portion of Regent Street, University Avenue, Emory Street, Walnut Street, and Spring Street with the reservation of Public Service Easements within the areas being vacated in Guadalupe Gardens (Subject Portion 1);
 - 2) Summarily vacating Subject Portion 1, which is excess right-of-way not required for street purposes and reserving Public Service Easements within the areas being vacated; and
 - 3) Directing the City Clerk to record a certified copy of the resolution of vacation for Subject Portion 1 with the Office of the Clerk-Recorder, County of Santa Clara.

c) Adopt a resolution:

- 1) Approving the report of the Director of Public Works and Director of Aviation setting forth the facts justifying the conditional vacation of a portion of University Avenue between Coleman Avenue and Walnut Street within Guadalupe Gardens (Subject Portion 2);
- 2) Conditionally vacating Subject Portion 2 following the completion of the condition to abandon and/or relocate existing in-use public utility facilities; and
- 3) After satisfaction of the condition, directing the City Clerk to record a certified copy of the resolution of vacation for Subject Portion 2 with the Office of the Recorder, County of Santa Clara.

SUMMARY AND OUTCOME

Upon recordation of the resolutions of vacation, Subject Portion 1 and Subject Portion 2 (collectively "Subject Portions") within Guadalupe Gardens will be abandoned as public streets and the City will retain public service easements over certain areas being vacated (**Attachment** – Location Map of Streets within Guadalupe Gardens to be Vacated). The City will be able to develop the areas as outlined in the Guadalupe Gardens Master Plan and approved Federal Aviation Administration Corrective Action Plan.

BACKGROUND

The City holds fee ownership to all parcels and rights-of-way that will be vacated. On February 14, 1995, City Council adopted Resolution No. 65732 authorizing the closure to vehicular traffic of 12 street segments within the Guadalupe Gardens area. On September 15, 1998, City Council adopted Resolution No. 68432 authorizing the closure to vehicular traffic of five additional street segments for reuse as open space.

The Guadalupe Gardens Master Plan (Master Plan), adopted by the City Council in 2002 guides street closures and re-use of this area. The Master Plan includes the following proposals.

- Closure of part of Spring Street (from Hedding Street to Asbury Street) for implementation of the Master Plan. Spring Street is currently temporarily closed but this action would make the closure permanent.

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- Conversion of Spring Street to a recreational path between Hedding Street and Asbury Street.
- Conversion of the remaining streets to walking trails and/or open space.

On October 19, 2021, City Council adopted Resolution No. 80264 authorizing a temporary 18-month closure of Spring Street, between Hedding Street and Asbury Street; Asbury Street, between Walnut Street and Taylor Street; and Irene Street, between Taylor Street and Asbury Street from October 19, 2021, and ending on April 19, 2023. This action supported the Airport's Corrective Action Plan (approved by the Federal Aviation Administration on August 1, 2021) to prevent future incompatible land uses on federally regulated land through the activation of the Guadalupe Gardens.

On April 11, 2023, the City Council adopted Resolution No. RES2023-97 extending the temporary closure for another 18 months starting on April 20, 2023, and ending on October 20, 2024. This action provided time for staff to coordinate and address utility conflicts with impacted utility companies.

Since the City does not intend to use these streets any longer for right-of-way purposes, the City needs to vacate the streets through the formal vacation process. Additionally, open space uses proposed in the Guadalupe Gardens are not authorized on street right-of-way. The City will retain the discretion to re-open any or all closed streets, which may be considered as future development within Guadalupe Gardens consistent with the Master Plan and Federal Aviation Administration Corrective Action Plan.

ANALYSIS

Pursuant to the Streets and Highways Code Section 8324(b), City Council may adopt a resolution to vacate a street if the legislative body finds, from all evidence submitted, that the street described in the notice of hearing or petition is unnecessary for present or prospective public use. The resolution of vacation may provide that the vacation occurs only after conditions required by the legislative body have been satisfied and may instruct the clerk that the resolution of vacation not be recorded until the conditions have been satisfied.

In addition, pursuant to the Streets and Highway Code Section 8334(a) and 8334.5, a street or highway may be summarily vacated if the legislative body of a local agency determines that it is excess right-of-way, not required for street or highway purposes, and that no in-place public utility facilities that are in use would be affected by the vacation.

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Staff has reviewed the vacation application and determined that the Subject Portions are excess rights-of-ways and not required for street purposes. Except for Spring Street, the streets identified to be vacated as part of the memorandum have not been used for roadway purposes since the City Council authorized their closure to vehicular traffic in the late 1990s. The streets are unpaved and inaccessible for public use. The portion of Spring Street proposed for vacation is approximately one-quarter of a mile long, a two-lane neighborhood collector street. However, Spring Street is currently closed under California Vehicle Code 21101.4. There are no privately owned parcels, residences, or businesses adjacent to or within the proposed vacation areas.

The vacation of Spring Street, between Asbury and Hedding Streets, and the future removal of the pavement, curb, and gutter would advance the local street closure/pavement removal projects previously conditioned by the City Council as part of the “naturalization” of the Guadalupe Gardens area per the 2002 Master Plan.

The vacation of the subject portions will not create neighborhood circulation issues or increase traffic or parking impacts for neighborhoods west of Coleman Avenue or east of Highway 87. Other than Spring Street, all these right-of-ways are no longer paved streets, so their vacation would have no impact on traffic.

Additionally, all concerned utility companies have been contacted in writing and have no objections to the proposed vacation so long as a public service easement is reserved over Subject Portion 1. Several public utility facilities are within Subject Portion 1, which will remain to serve future development. No in-place public utility facilities would be affected because public service easements would be reserved within the areas being vacated. However, within Subject Portion 2, there are in-place public utilities. The affected utility companies have agreed to either abandon or relocate the utilities out of this vacation area. A public service easement was not requested and will not be reserved. Therefore, staff recommends that Subject Portion 2 be conditionally vacated following the completion of abandonment or relocation of the existing utilities.

This approach allows the Airport to pursue a future commercial development project on those project parcels consistent with the approved Federal Aviation Administration Corrective Action Plan.

EVALUATION AND FOLLOW-UP

If the City Council approves the recommended actions, no further action by the Council will be required. After the Director of Public Works confirms in writing that the conditions for abandoning and/or relocating existing in-use utilities have been satisfied, the City

Clerk will record the vacation of University Avenue, between Coleman Avenue and Walnut Street, finalizing the process.

COST SUMMARY/IMPLICATIONS

Prior fees paid by the Airport were deposited to the Public Works Development Fee Program in the Public Works Development Fee Program Fund. There have been additional Public Works expenses and consultant fees incurred, the total is currently estimated in the amount of \$65,000 to account for staff time associated with processing the street vacation.

BUDGET REFERENCE

The table below identifies the fund and appropriations to fund the fees for right-of-way vacation, survey, and any staff time associated with processing the street vacation.

Fund #	Appn. #	Appropriation Name	Total Appropriation*	2024-2025 Proposed Capital Budget Page*	Last Budget Action (Date, Ord. No.)
527	423K	Guadalupe Gardens Fencing	\$277,000	504	6/18/2024, Ord. No. 31102

* The 2024-2025 Adopted Budget was approved by City Council on June 11, 2024, and adopted on June 18, 2024.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, the Departments of Planning, Building, and Code Enforcement, Parks, Recreational and Neighborhood Services, and Transportation.

PUBLIC OUTREACH

All concerned utility companies have been contacted in writing and have no objections to the proposed vacation provided that a public service easement is reserved over the

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Subject Portions except for University Avenue between Coleman Avenue and Walnut Street.

This memorandum will be posted on the City's Council Agenda website for the October 1, 2024 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Categorically Exempt, File No. ER22-158, CEQA Guidelines Section 15303(e) New Construction or Conversion of Small Structures.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

Matt Loesch
Director of Public Works

/s/

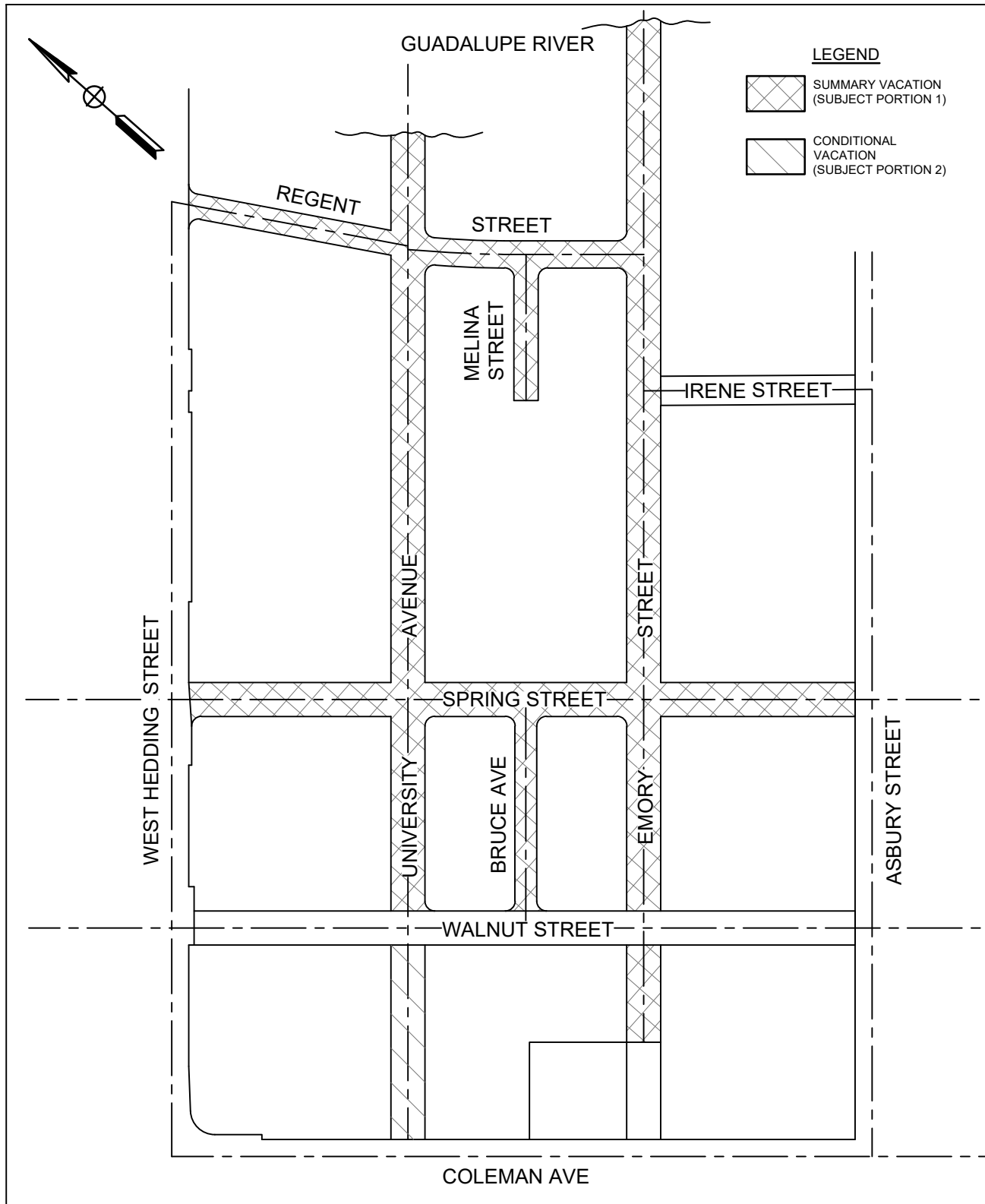
Mukesh (Mookie) Patel
Director of Aviation

For questions, please contact Sal Kumar, Deputy Director of Public Works, at sal.kumar@sanjoseca.gov

ATTACHMENT – Location Map of Streets within Guadalupe Gardens to be Vacated.

ATTACHMENT

LOCATION MAP OF STREETS WITHIN GUADALUPE GARDENS TO BE VACATED



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