



CITY OF SACRAMENTO
CALIFORNIA

OFFICE OF THE
CITY MANAGER

February 5, 1981

CITY HALL
915 I STREET - 95814
(916) 449-5704

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Potential Conversion of 11th Street Mall to Traffic

SUMMARY

Councilman Roberts initiated an examination of the costs and feasibility of returning traffic to 11th Street between J and L Streets. This letter transmits responses from City Engineering, Community Services and City Attorney. The staff recommendation is that the Mall not be converted to automobile use.

BACKGROUND

Cost - City Engineer estimates the cost to be \$400,000.

Priorities - Attached documentation sets forth previous actions of the Council in approving Mall modification and financing. The return of 11th Street to traffic is not included.

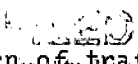
11th and L Garage - This garage was designed with the Mall in its current condition. Returning traffic to 11th Street would cause vehicles to stack up inside the garage exits.

11th and J Office Building - The Memorandum of Understanding with the developers of the new office building calls for the beautification of 11th Street from J to K with very limited vehicular access. Returning the street to full traffic would be inconsistent.

Legal - It appears that substantial risks would develop if 11th Street were converted back to traffic before all the bonds are retired.

CONCLUSIONS

Given the above listed factors, the return of traffic to 11th Street appears to be unfeasible at this time.


Office of the City Clerk

FEB 10 1981

RECOMMENDATION

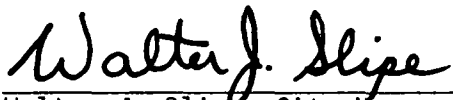
It is recommended that the City Council take no action to return traffic to the 11th Street Mall.

Respectfully submitted,



Mac Mailes
Assistant City Manager
for Community Development

Recommendation Approved:



Walter J. Slipe, City Manager

11TH STREET J TO K TO L
CONSTRUCTION COST ESTIMATE

1. Demolition:

Remove Concrete Structures (Based on Spink Study of 1978)

\$19,500 - 8,500 = 11,000 x 1.25	\$13,750
33,200 = 33,200 x 1.25	41,500

6" Reinforced Concrete Slab to Remove

\$16,000 S.F. x \$7.00/sq. ft. (Spink Study \$290 C.Y. 5.37 S.F.)	\$ 112,000
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Tree and Landscape Removal

5,450 sq. ft. x \$4.00/sq. ft.	21,800
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2. Traffic signal at 11th and K and modify traffic signal at 11th and J, 11th and L \$ 50,000

3. Paving: 4" A.C. at \$30/tons = \$.75/sq. ft.) 1.41 (Round to \$1.50)
7" A.B. at \$15/tons = .66/sq. ft.)

32,640 sq. ft. at \$1.50/sq. ft. =	\$ 48,960
Patch concrete - 1000 sq. ft. x \$5.00/sq. ft.	5,000
Sidewalk 16' x 160' x \$2.00/sq. ft.	5,120
Curb & Gutter No. 4 at \$10.00/L.F. 1,200 L.F. x 10	12,000
Raise and plug miscellaneous utility covers. 10 at 500	5,000
Gutter drains - 6 at 350	<u>2,100</u>

SUBTOTAL	\$ 317,230
10% Engineering	31,720
16% Contingency	<u>51,050</u>

TOTAL	\$ 400,000
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CITY OF SACRAMENTO

DEPARTMENT OF COMMUNITY SERVICES

3520 FIFTH AVENUE

(916) 449-5200

SACRAMENTO, CA 95817

SOLOM WISHAM, JR.
DIRECTOR

CITY MANAGER'S OFFICE
RECEIVED
JAN 30 1981

CROCKER ART MUSEUM DIVISION
GOLF DIVISION
METROPOLITAN ARTS DIVISION
MUSEUM AND HISTORY DIVISION
RECREATION DIVISION
PARKS DIVISION
ZOO DIVISION

January 29, 1981

MEMO TO: Mac Mailes, Assistant City Manager
for Community Development

SUBJECT: K Street Mall Modification--Demolition of 11th Street Mall
to Allow Standard Vehicular Traffic

This is in response to your request for concerns of this Department relating to the request by Councilman Roberts to return traffic on 11th Street in the vicinity of K Street Mall.

This Department does not object to the modification of 11th Street to allow the return of standard traffic other than an overall economic concern. A reconstruction of 11th Street for traffic would result in a minor reduction in maintenance and operating expenses for Parks Division. There are several things that the Council should consider aside from the economic issue. They are as follows:

1. The City Council approved a modification master plan in August of 1979 after reviewing hearings held by the Planning and Community Development Committee and the Budget and Finance Committee. The Council approved five projects at an estimated cost of \$223,000 on values effective mid-May of 1979.
2. The City Council approved the first project in the amount of \$55,000 as part of the City Capital Improvement Program for FY 1979-80. This project was to remove and replace the tot lot at 9th Street in Block 8-9 and to remove and modify the light pole fountain near 8th Street in Block 8-9. The redesign work for this project has been completed by the City staff and is now in the final stages of bid preparations to be presented to the City Council.
3. The remaining four projects were approved as part of the five-year CIP for FY 79-86. A second appropriation in the amount of \$104,000 for Project Number Two appears in the 1981-82 request. This project will result in a modification of a tidal pool fountain in the center of Block 9-10.

Mac Mailes
January 29, 1981
Page Two

4. As additional information, the Spink engineering report dated May 12, 1978 estimated that the removal of the pyramid fountain in the 11th Street plaza would cost \$33,200. A subsequent estimate made by City staff indicates that the cost is more like \$20,000, since it would not be necessary to remove all of the foundation as estimated by the Spink report.

I am attaching a copy of pertinent background material on previous priority actions by the City Council. Give me a call if you have questions on this matter.



SOLON WISHAM, JR.
Director of Community Services

SW:js

Attachment



CITY OF SACRAMENTO

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY

LELIAND J. SAVAGE
DAVID BENJAMIN
SAM JACKSON
WILLIAM P. CARNAZZO
SABINA ANN GILBERT
STEPHEN B. NOCITA
DEPUTY CITY ATTORNEYS

DEPARTMENT OF LAW

812 TENTH ST. SACRAMENTO, CALIF. 95814
SUITE 201 TELEPHONE (916) 449-5346

February 5, 1981

MEMORANDUM

TO: MAC MAILES, Assistant City Manager, Community Development
FROM: JAMES P. JACKSON, City Attorney
RE: REOPENING OF 11TH STREET TO TRAFFIC

This is in reply to your request for a brief memorandum as to the legal consequences of reopening 11th Street near K Street to vehicle traffic. The City Council may change the present use on 11th Street and reopen it to traffic because the improvements on 11th Street are publicly owned and under the jurisdiction and control of the City. However, because the present improvements on 11th Street were paid for in major part by the K Street Mall Assessment District, it may be necessary, with regard to some of the owners, to cancel remaining assessments and possibly even refund a portion of assessments already paid if the street is reopened. It is unclear as to which property owners in the assessment district would be entitled to relief from their assessments, but it would appear that the relief would apply at least to those property owners adjoining 11th Street.

The K Street Mall Assessment District was approved by the City Council in 1969. The property owners in the district filed a majority protest against the formation of the district, but the City Council overruled that protest with a 4/5 vote. Assessments were levied on May 19, 1970. The property owners still must pay assessments for 5 more years.

While there are two cases which approve a change of use of property after formation of an assessment district, it appears that in both cases the effect of the change did not substantially extinguish all of the uses for which the assessment district was formed. Also, there was no indication in those cases that the adjoining property owners were still paying the assessments at the time of the change of use. Thus, in the case of Ritzman vs. City of Los Angeles (1940) 38 CA 2d 470, land for park purposes was purchased with money collected from assessments levied against adjoining property. Some time later the City decided to place a freeway through a portion of the park. The Court held that the persons previously assessed for the park lands could not prevent the proposed freeway construction. The Court said at page 476:

Mac Mailles
Page Two
February 5, 1981

One assessed for improvements through the formation of an assessment district has no title or right in the improvements superior to that of the public in general...We know of no rules giving such an assessment payer a vested right in the improvements, providing that the improvements shall perpetually remain in the same form, or providing that they may not later be changed or even abandoned, in the public interest.

The United States Supreme Court reached a similar conclusion in Reichelderfer vs. Quinn (1932) 287 US 315, 77LED. 331. There, a park was purchased with money from assessments levied against adjoining property. Later, the government entity proposed to place a fire station in the park. The court upheld the proposed use indicating the assessed property owners had not paid to have the lands used forever as a park.

In a more recent case on this subject, the case of Furey vs. City of Sacramento (1979) 24 Cal 3d 862, distinguishes the above two cases. The Court said at Page 876:

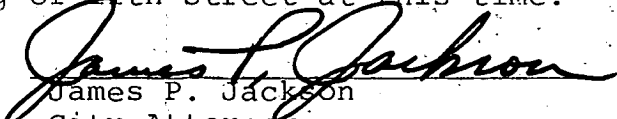
The aforementioned Reichelderfer and Ritzman cases are clearly distinguishable on this latter basis as well. There was no showing in those cases that the effect of the projects was to prospectively deprive the landowners of all or substantially all of the benefit underlying the assessments paid by them. It appears that the parks in question had been in existence for some time prior to the government action complained of--and thus had provided full benefits for a substantial period of time--and additionally there was no indication that the effect of the projects would be to substantially extinguish all recreational uses in those portions of the park remaining after their completion. Here, on the other hand, it is alleged that the effect of the governmental action in question is to remove for an indefinite time, if not forever, the possibility of deriving any significant benefit whatsoever from the subject improvement.

I am concerned because the reopening of 11th Street to traffic will remove the improvements which the adjoining property owners paid for and will place the street in the condition that existed prior to the formation of the assessment district. Thus, the property owners can argue that this change will deprive them of any of the significant benefits from the improvements installed by the assessment district. This does not mean that the City would need to reimburse such property owners for the full amount of the assessments paid by them, since the property owners have enjoyed the benefits of these improvements for 10 years. It would appear, however, at a minimum, that future assessments for the adjoining property owners

Mac Mailes
Page Three
February 5, 1981

on 11th Street should be cancelled. There are no cases directly in point on this issue, and it is possible that even greater fiscal exposure exists if 11th Street is reopened to traffic at this time. This exposure would be in the form of a reimbursement to those adjoining 11th Street of a portion of assessments already paid, and possible reimbursement and cancellation of assessments to property owners on a portion of K Street.

This does not mean that the street cannot be reopened at some future date after payment of the assessments is complete and the present improvements have been in use for a longer period of time. Also, perhaps if all of the adjoining property owners on 11th Street and a portion of K Street waive their rights to reimbursement for assessments already paid or to be paid in the future, no liability will exist because of the reopening of 11th Street at this time.


James P. Jackson
City Attorney

JPJ:KMF