



## Legislation Details (With Text)

**File #:** 19-108      **Version:** 1      **Name:**  
**Type:** Public Hearing Item      **Status:** Agenda Ready  
**File created:** 2/25/2019      **In control:** City Council/Public Finance and Economic Development Authority/Parking Authority  
**On agenda:** 3/18/2019      **Final action:** 3/18/2019  
**Title:** SUBJECT: Continued Public Hearing - Vacation No. 18-03 for the Adoption of Resolution Ordering the Vacation of a 20-Foot Wide Temporary Access Easement Located on a Portion of 7 Lots within the Summer Creek Subdivision

### REPORT IN BRIEF

The City Council will consider approving a Resolution ordering the vacation of a 20-foot wide temporary access easement located on a portion of 7 lots within the Summer Creek Subdivision, generally located west of McKee Road at Silverstone Drive.

### RECOMMENDATION

City Council - Adopt a motion adopting Resolution 2019-07, a Resolution of the City Council of the City of Merced, California, ordering the vacation of a 20-foot-wide Temporary Emergency Access Easement on Lots 5, 6, 7, 17, 18, 29, and 130 within the Summer Creek, Phase One Subdivision (Vacation #18-03).

### Sponsors:

### Indexes:

### Code sections:

**Attachments:** 1. Location Map, 2. Aerial Photo, 3. Draft City Council Resolution for Lots 5, 6, 7, 17, 18, 29, and 130, 4. Presentation

Date	Ver.	Action By	Action	Result
3/18/2019	1	City Council/Public Finance and Economic Development Authority/Parking Authority	approved as amended	Pass

*Report Prepared by: Julie Nelson, Associate Planner, Development Services Department*

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### REPORT IN BRIEF

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### RECOMMENDATION

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## ALTERNATIVES

1. Approve as recommended by staff; or,
2. Approve, subject to modifications by the City Council; or,
3. Deny; or,
4. Refer back to staff for reconsideration of specific items (specific items to be addressed in the motion); or,
5. Continue to a future meeting (date and time to be specified in motion).

## AUTHORITY

Section 8335 of the Streets and Highways Code authorizes the City Council to vacate a right-of-way or easement by adopting a resolution of vacation. Section 8336 of that Code requires the City Clerk to record a certified copy of the resolution of vacation. Additionally, City of Merced Administrative Policy A-6 provides direction to staff for processing vacation requests, and City Resolution 76-80 establishes a policy concerning costs associated with the vacation.

## CITY COUNCIL PRIORITIES

Not applicable.

## DISCUSSION

Vesting Tentative Subdivision Map #1247 for the Summer Creek Subdivision was approved by the Planning Commission with the condition that a Temporary Emergency Access Easement (EVA) be provided along Lots 5, 6, 7, 17, 18, 29, and 130 (Attachment 1). The Temporary EVA was dedicated by Final Map # 5282. Bright Development, Inc. is the owner of Lots 6, 7, 17, 18, 29, and 130. Lot 5 has been sold to Chris and Hassan Curtis and a home has been constructed on this lot.

Bright Development is requesting the Vacation/Abandonment of the 20-foot-wide temporary emergency vehicle access easement along the north property lines of Lots 6, 7, 17, 18, and 29 and along the southeast property line of Lot 130 within the Summer Creek Subdivision (see Location Map at Attachment 1). Chris and Hassan Curtis are requesting the Vacation/Abandonment of the temporary emergency vehicle access for Lot 5 of the Summer Creek Phase One Subdivision.

This item originally came before the City Council on December 17, 2018. At that time, the Council expressed concerns with access to the Summer Creek and Moraga Subdivisions and were hesitant to relinquish the temporary access easement between McKee Road and Whitewater Way (adjacent to Lots 5, 6, 7, 17, 18, and 29 of the Summer Creek Subdivision). The vacation request was continued to the January 7, 2019, City Council Meeting.

At the January 7, 2019, Council meeting, staff provided information on access to the area and explained the past Council actions that had precluded additional access from Whitewater Way to Yosemite Avenue. Staff reported that Bright Development was working with MID to possibly deed the easement area to MID, and MID would in turn, allow the City to maintain the emergency vehicle access easement. However, MID has since determined they did not want to own the land in fee, so this is no longer a viable option.

Staff continued to review the request for abandonment of the easement, and determined that MID has a distribution box located near the northeast corner of the easement area between McKee Road and Whitewater Way (refer to the aerial photo at Attachment 2). Because of this box, if a house was

built on Lot 29, emergency vehicles would no longer have enough room to maneuver through the area and get to Whitewater Way. Therefore, the easement would no longer be usable. City staff has spoken with MID regarding relocating the distribution box and determined relocation is not feasible. Because the City cannot prohibit the development of Lot 29 without purchasing the lot from Bright Development, the EVA could not be used once Lot 29 is developed.

Planning staff has met with the Fire Chief and Police Chief and determined the EVA is not needed for emergency access. Since the purpose of the access was for emergency vehicles only, staff recommends the EVA be vacated. This action would mean the easement area would remain a part of each of the individual lots and the property owners would be responsible for upkeep and maintenance. It should be noted that MID has indicated that they would not allow the easement area adjacent to Lots 5, 6, 7, 17, 18, and 29 to be fenced since they still have an easement for their underground facilities in this area.

Other options that the Council could consider are:

1. Grant the vacation and reconsider the access from Whitewater Way to Yosemite Avenue to provide additional access to the area.
2. Grant the vacation and work to obtain access to Whitewater Way with an east/west road that would align with Silverado Avenue to the west of McKee Road, providing additional access to the area.
3. Deny the vacation.

Although denial is an option, the original approval for the subdivision is clear that the emergency vehicle access was intended to be a temporary access until the other roads through the Moraga Subdivision were constructed.

If the Council chooses to grant the vacation of the Emergency Access easement on these 7 lots, the Council should adopt a motion approving the Draft Resolution at Attachment 3, thereby vacating the EVA on Lots 6, 7, 17, 18, 29, and 130.

### History and Past Actions

On May 21, 2003, the Planning Commission approved Tentative Map #1247 for the Summer Creek Subdivision. As a condition of approval, a temporary access was required from McKee Road.

On November 19, 2018, the City Council set a public hearing for December 17, 2018, to consider the vacation of the temporary access easement along Lots 5, 6, 17, 18, and 29, and Lot 130 within the Summer Creek Subdivision.

On December 17, 2018, the City Council held a public hearing on this matter and expressed some concerns regarding access to the area. Additionally, two people who own property in the area expressed concerns with abandoning the temporary access easement between McKee Road and Whitewater Way. As a result of this concern, the item was continued to the January 7, 2019, City Council meeting to allow staff time to prepare information regarding the access to the area.

At the January 7, 2019, Council meeting, staff provided information on the access to the area and

explained the past Council actions that had precluded additional access from Whitewater Way to Yosemite Avenue. Because Bright Development was working with MID to deed the property to MID, staff recommended the item be continued to the February 19, 2019, City Council meeting. After hearing public testimony regarding this item, the City Council voted to continue the item to February 19, 2019.

On February 19, 2019, staff advised Council that they had been informed that MID was not willing to accept the easement area. Therefore, staff needed more time to work out the issues related to the vacation request. The City Council opened the public hearing for this item and three speakers addressed the Council regarding the proposed vacation. Although some of the speakers expressed preference for maintaining the EVA, there was little support expressed for providing additional access to the area from Whitewater Way.

### Recommendation

Staff is recommending the City Council take action to approve the vacation for Lots 5, 6, 7, 17, 18, 29, and 130 by adopting the Resolution at Attachment 3 or provide direction to staff regarding the vacation for these lots.

### **IMPACT ON CITY RESOURCES**

There would be no impact on City resources as a result of this action.

### **ATTACHMENTS**

1. Location Map
2. Aerial Photo
3. Draft City Council Resolution for Lots 5, 6, 7, 17, 18, 29, and 130
4. Presentation