



Legislation Text

File #: 19-026, **Version:** 1

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SUBJECT: Continued Public Hearing - Vacation No. 18-03 for the Adoption of Resolutions Ordering the Vacation and Conditional Vacation of a 20-Foot Wide Temporary Access Easement Located on a Portion of 7 Lots within the Summer Creek Subdivision.

REPORT IN BRIEF

Considers approving two Resolutions ordering the vacation and conditional 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:

- A. 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 Lot 130 within the Summer Creek Phase One Subdivision (Vacation #18-03); and,
- B. Adopting **Resolution 2019-08**, a Resolution of the City Council of the City of Merced, California, ordering the conditional vacation of a 20-foot-wide Temporary Emergency Access Easement on Lots 5, 6, 7, 17, 18, and 29 within the Summer Creek, Phase One Subdivision (Vacation #18-03) subject to the easement area on lots 6,7,17,18 and 29 being deeded to the Merced Irrigation District (MID).

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, as staff continued to review the request for abandonment of the easement, it was 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.

Bright has worked with MID to negotiate the transfer of the easement area for Lots 6, 7, 17, 18, and 29 from Bright Development to MID (Lot 5 has already been sold to a private owner). As previously mentioned, MID is willing to allow the City to maintain the easement, but a maintenance agreement would be needed as well as a solution to the limited access once Lot 29 is developed. The City cannot prohibit the development of Lot 29 without purchasing the lot from Bright Development. The owner of Lot 5, however, does not want to dedicate their portion of the access easement to MID. Therefore, a maintenance agreement would be needed with the owner of Lot 5 if the City wishes to maintain the easement.

In order to have the majority of the easement area under one ownership making maintenance issues easier to deal with, staff is recommending the vacation of the easement on Lots 6, 7, 17, 18, and 29 be subject to the condition that the vacated areas be deeded by Bright Development, Inc. to MID.

Based on the above information, staff has determined the following five options for the City Council to

consider regarding the request to vacate the temporary emergency access easement along Lots 5, 6, 7, 17, 18, and 29. Options 1, 2, and 3 would eliminate the EVA. Options 4 and 5 would maintain the EVA.

1. Grant the vacation and relinquish the emergency vehicle access easement, with the condition that the easement area on Lots 6, 7, 17, 18, and 29 is deeded to MID.
2. Grant the vacation and reconsider the access from Whitewater Way to Yosemite Avenue to provide additional access to the area.
3. 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.
4. Deny the vacation, work with Bright Development to ensure property is deeded to MID, then work with MID and the owner of Lot 5 on a maintenance agreement as well as purchase of Lot 29 to allow sufficient access to Whitewater Way.
5. 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.

While the vacation of the emergency access between McKee Road and Whitewater Way is somewhat problematic, the vacation of the emergency access along Lot 130 is much less difficult. Therefore, staff has provided a separate resolution for the Council to grant the vacation of the easement adjacent to Lot 130. Staff is recommending City Council approve the resolution at Attachment 3 to grant the vacation of the easement adjacent to Lot 130.

Staff has also provided a resolution at Attachment 4 if the Council chooses to grant the vacation for the easement between McKee and Whitewater Way (Option 1 above), subject to the easement area for Lots 6, 7, 17, 18, and 29 being deeded to MID. However, if the Council chooses not to grant the vacation, staff is requesting direction on how to proceed with the vacation request. Council could direct staff to pursue any of the options above or provide other direction.

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.

Recommendation

Staff is recommending the City Council take action to approve the vacation for Lot 130 by adopting the Resolution at Attachment 3 and either approve the vacation for Lots 5, 6, 7, 17, 18, and 29, subject to the easement area for Lots 6, 7, 17, 18, and 29 being deeded to MID, by adopting the Resolution at Attachment 4 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 Lot 130
4. Draft City Council Resolution for Lots 5, 6, 7, 17, 18, and 29
5. Presentation