

TO: City Council
FROM: Joseph M. Deakin, Director of Public Works
SUBJECT: Orchard Bungalow Assessment District (OBAD)
DATE: February 18, 2003

NEEDS: For the City Council to consider accepting all streets of the Orchard Bungalow Tract that were improved with Assessment District Funds into the City's Maintenance System.

- FACTS:**
1. The status of the streets within and adjacent to the Orchard Bungalow Tract has been an ongoing discussion over the last few years.
 2. The original map that created the lots and the streets for the Orchard Bungalow Tract was originally established in the County. The final map recorded in November 1920. The Owner's Certificate of the final map clearly specified that the streets were not offered or dedicated for public use but were reserved to the owners, their heirs and assigns.
 3. In 1977, the Orchard Bungalow Tract was annexed to the City as Annexation No. 31.
 4. In 1980, the City received a letter from John Arsenio asking for the City's assistance in forming an Assessment District to provide streets, sewer, water, storm drain, electrical, gas, telephone and television services to the Orchard Bungalow Tract. Mr. Arsenio owned 123 of the 132 lots in the tract, or 93%.
 5. In September 1981, the City Council adopted Resolution No. 2631 which formed the Assessment District pursuant to the Municipal Improvement Bond Act of 1913 and the Improvement Bond Act of 1915.
 6. The Assessment District was formed to install sewer, water, drainage, utilities and to pave roads. It should be noted that the City Council excluded certain property owners within the Orchard Bungalow Tract who requested that they be excluded from the Assessment District.
 7. The City acquired easements for the construction and maintenance of roads and utilities from a majority of landowners within the Orchard Bungalow Tract. The remaining easements were acquired through eminent domain.
 8. According to the City's records, certain property owners within the District only wanted to pay for the installation of water, sewer, and other utilities but not for the paving of roads. Consequently, only certain properties and only certain streets were paved with District funds. This explains, in part, the irregular paving, or in some areas, the lack of paving, along some of the streets.
 9. It was generally believed by the City Council and members of the public at the time that the roads were paved with the Assessment District Funds that they would remain private. Apparently, neither the Council nor the public realized at the time the Assessment District formed that using District bonds would cause improvements funded and constructed with those bond proceeds would be public improvements. The roads in Orchard Bungalow have been consequently maintained as private.
 10. The Assessment District Bonds were repaid in 1999-2000. At about the same time, several residents expressed concern about the deteriorating street conditions in the Orchard Bungalow area. After numerous public hearings, letters to residents, and surveys, the City Council directed staff in February 2001 to initiate proceedings to formally and decisively declare Orchard Bungalow streets as public streets. These streets would include those that

were paved with District Funds. (A separate issue, to be considered by the Council in the near future, are certain streets adjacent to the District but constructed with private funds.)

11. In April 2001, the City Council engaged the services of Vaughan Surveys to perform a field survey of the existing streets to determine their exact locations and to insure that they fall within the road easements as shown in the final map that recorded in 1920. The City Council appointed an Ad Hoc Committee to review results and provide the Council project recommendations.
12. In September 2001, staff presented the field survey to the Ad Hoc Committee. The field survey report concluded that approximately seventeen (17) lots encroach into the road easement (generally with fences, one garage). At this meeting, staff was directed to compile all the easement deeds from the original Assessment District properties to determine how the road dedications were originally made.
13. On December 13, 2001, the Ad Hoc Committee met again to report that road easement deeds were recorded for all the lots that were in the Orchard Bungalow Assessment District.

ANALYSIS

AND

CONCLUSION: Staff is presenting this item to the City Council in order to implement their action/direction in February 2001. This action is limited only to the acceptance of certain streets, as more fully described below, that were constructed with Assessment District funds.

I. Assessment District Streets

The City Council may accept the streets listed below into the City's Maintenance System by adopting the attached Resolution. The Resolution requires the City staff to remove existing traffic control devices that do not meet City Standards, to protect the City from potential liability associated with non-conforming devices. However, accepting streets does not require that the City widen those streets; the existing paved streets are being accepted as non-standard streets, with the standard 40-foot width dedicated. The streets proposed for acceptance are:

- a. Pino Way;
- b. Burro Verde;
- c. Osos Way;
- d. Orchard Drive;
- e. Jackson Drive;
- f. Vista Grande from the Walnut Drive intersection to the portion of the street adjacent to lots 317 and 263;
- g. Walnut Drive from the Shannon Hill Drive intersection to the Vista Grande intersection; and
- h. North Trigo Lane north of Ivy Lane intersection.

II. Vista Grande

Vista Grande was never constructed between Union Road and Walnut Drive. It is a "paper" street. It is likely that it was not constructed due to existing topography (a canyon and deep swale). All of the lots that abut Vista Grande have access to either Morro Way or Pino Way. It is recommended that the City Council formally abandon Vista Grande between Union Road and Walnut Drive. To that end, the attached Resolution of Intent could be adopted by the City Council to initiate abandonment procedures.

POLICY

REFERENCE: Minute Action 2/6/01 City Council Meeting

**FISCAL
IMPACT:**

It is estimated that annualized maintenance cost of the streets is \$90,000 to \$100,000.

OPTIONS:

- a. That the City Council:
 1. Adopt Resolution No. 03-xx accepting the streets within the Orchard Bungalow Assessment District into the City's Maintenance System; and
 2. Adopt Resolution No. 03-xx approving intent to abandon the unimproved portion of Vista Grande between Union Road and Walnut Drive.
- b. Amend, modify or reject the above option.

Attachments: (2)

- 1) Resolution No. 03-xx
- 2) Resolution No. 03-xx

RESOLUTION NO. 03-

A RESOLUTION OF INTENTION FOR VACATING UNIMPROVED STREETS IN
THE ORCHARD BUNGALOW TRACT AND GIVING NOTICE OF
A TIME AND PLACE FOR A PUBLIC HEARING

THAT THE CITY COUNCIL OF THE CITY OF PASO ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

1. That it is the intention of the City Council to close and vacate Vista Grande between Union Road and Walnut Drive.
2. For further particulars as to the proposed vacation, reference is thereby made to a map and plan now on file in the office of the City Clerk of the City of Paso Robles.
3. That March 18, 2003, at the hour of 7:30 P.M., on said date in the Paso Robles City Hall, 1000 Spring Street, Paso Robles, California, is the time and place set forth for hearing all persons interested or having objection to the proposed closing.
4. That the Capital Projects Engineer of the City of Paso Robles be and is hereby directed to cause a copy of this Resolution of Intention to be published fifteen (15) days prior to the date set herein for hearing in the Paso Robles Press, a newspaper of general circulation, published and circulated in the City of Paso Robles, California.
5. The Capital Projects Engineer of the City of Paso Robles be and is hereby directed to cause a notice of the passage of this Resolution of Intention and the time and place for hearing hereon by conspicuously posting notices thereof along the line of the easement to be vacated.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 18th day of February 2003 on the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:

The City of El Paso de Robles
1000 Spring Street
Paso Robles, CA 93446

RESOLUTION NO. 03-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
ACCEPTING CERTAIN STREETS WITHIN THE ORCHARD BUNGALOW
ASSESSMENT DISTRICT

WHEREAS, the Orchard Bungalow Tract (herein referred to as "Tract"), as recorded in Book 2 of Maps, at page 55, in the City of El Paso de Robles, County of San Luis Obispo, State of California, was originally located in the unincorporated area of the County of San Luis Obispo and was established with the recordation of a final map in November 1920; and

WHEREAS, the original Tract Map provided that the streets within the Tract were not to be dedicated to the public but were reserved as private streets to the owners, their heirs and assigns; and

WHEREAS, the original Tract Map, including the description of street right-of-ways, is incorporated into this Resolution herein by reference; and

WHEREAS, on March 3, 1977, the Tract was annexed to the City of El Paso de Robles (herein "City") as Annexation No. 31 by Resolution No. 77-2 of the San Luis Obispo Local Area Formation Commission; and

WHEREAS, in 1980, the developer requested the City assist in forming the Orchard Bungalow Assessment District ("OBAD") which encompassed a portion of the property within the Tract, pursuant to the Municipal Improvement Act of 1913, for the purposes of, among others, installing water mains and sewer mains and constructing street paving (herein "Improvements"); and

WHEREAS, the developer's intent in making such a request was to fund private, not public streets; and

WHEREAS, the record does not indicate that anyone explained to the City Council or the public at that time that an assessment district may not be formed to fund private streets and that improvements constructed with an assessment district's bonds would be public, not private; and

WHEREAS, in the absence of any information to inform them otherwise, the City Council, as it existed in 1980, apparently believed that an assessment district could be formed to fund private streets; and

WHEREAS, on August 19, 1980, the City Council adopted Resolutions No. 2458, 2459, 2460 and 2461, which approved the proposed assessment district's boundaries, undertook proceedings pursuant to special assessment and assessment bond acts for the acquisition and construction of improvements, appointed the Assessment District Engineer and Attorney and declared the City's intent to acquire and construct improvements; and

WHEREAS, in September 1981, the City Council adopted Resolution No. 2631, which formed OBAD pursuant to the Municipal Improvement Bond Act of 1913 and the Improvement Bond Act of 1915; and

WHEREAS, the City acquired easements for the Improvements within OBAD; and

WHEREAS, a Notice of Completion for the Construction Project was filed on December 13, 1982; and

WHEREAS, since the construction of the streets, they have been treated by the City and OBAD residents as being private; and

WHEREAS, in 1998, the City notified property owners within OBAD that assessments would no longer be levied because all outstanding bonds were being retired; and

WHEREAS, since that time, there have been numerous public discussions to determine whether the streets within OBAD should be public streets to be maintained by the City or private streets to be maintained by individual property owners within the boundaries of OBAD; and

WHEREAS, the streets constructed within OBAD are all at least twenty (20) feet in width (although the right-of-way and utility easements are an average of forty (40) feet in width) and are not improved with curbs, gutters and sidewalks, were not improved to current City standards; and have had privately installed speed humps and other traffic control devices that are not installed to City standards; and

WHEREAS, the streets within OBAD have been used by members of the general public since they were initially constructed; and

WHEREAS, in February 2001, after numerous public hearings and separate meetings with various residents, the City Council directed City Staff to initiate proceedings to include all streets within the Orchard Bungalow Tract into the City's street maintenance system, including those streets within OBAD, as well as those streets outside of OBAD but within the Tract; and

WHEREAS, based on the City Staff Report, the City Staff presentation and written and oral public testimony taken during numerous public hearings and evidence that the City obtained easements for the streets within OBAD prior to the construction of the Improvements, the City Council desires to remedy the situation authorized by a former city council;

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED as follows:

SECTION 1. The above Recitals are true and correct and are incorporated into this Resolution by reference.

SECTION 2. Subject to the conditions set forth in this resolution, the following streets, or portions of streets, which are located within easements dedicated for right-of-way purposes within the boundaries of OBAD are hereby accepted into the City's maintenance program in their current condition to be maintained as non-standard City streets:

- a. Pino Way;
- b. Burro Verde;
- c. Osos Way;
- d. Orchard Drive;
- e. Jackson Drive;
- f. Vista Grande from the Walnut Drive intersection to the portion of the street adjacent to lots 317 and 263;
- g. Walnut Drive from the Shannon Hill Drive intersection to the Vista Grande intersection; and
- h. North Trigo Lane north of the Ivy Lane intersection.

A map showing the general location of the above-listed streets is attached hereto as **Exhibit B** and incorporated herein by reference. A legal description of the above-listed streets, or portions of streets being accepted into the City maintenance system is attached hereto as **Exhibit A** and incorporated herein by reference.

SECTION 3. The City shall maintain the above-listed streets on a schedule and in the manner established by the City.

SECTION 4. The City may, but shall not be required to, construct curbs, gutters or sidewalks along the streets and within the dedicated right-of-way easements being accepted by the City under this resolution.

SECTION 5. Subject to the conditions set forth in this resolution, the streets designated in this resolution within the boundaries of OBAD are hereby accepted by the City for the purposes of maintenance. Although the current width of such streets is less than forty (40) feet, the City Council hereby determines that it is necessary for the public convenience and necessity to acquire such streets. This determination is based upon the continuing use of such streets by members of the public and the fact that the streets are not constructed to the full width of the dedicated right-of-way easement, thus allowing for potential future expansion of the streets if the City determines that such expansion is necessary for the public health, safety and welfare.

SECTION 6. As a specific condition to acceptance by the City of the streets designated herein, all speed humps and any other traffic control devices located on or about such streets that do not conform to City standards shall be removed. City shall perform the installation of any traffic control devices on or about such streets, in accordance with normal City standards and procedures. In addition, City shall issue and have recorded encroachment permits for any existing encroachments within the right-of-way easements. City may revoke any such encroachment permits and/or cause the removal of any such encroachments into a right-of-way easement.

SECTION 7. The City Engineer, pursuant to Section 12.32.110 of the City Municipal Code, is authorized to place signs and markings indicating "No Parking" upon any streets within the Tract for purposes of allowing emergency vehicles to safely travel on the streets within the Tract.

SECTION 8. The City Clerk is hereby authorized to cause a copy of this resolution to be recorded in the official records of the County of San Luis Obispo.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 18th day of February 2003 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Frank R. Mecham, Mayor

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk

Exhibit "A"
Legal Description

Those portions of roads within the Orchard Bungalow Tract as per the Map recorded in Book 2 of Maps, at Page 55, in the City of El Paso de Robles, County of San Luis Obispo, State of California, more particularly described as follows:

Parcel A (Jackson Drive):

That portion of unnamed road presently known as Jackson Drive fronting Lots 24-30, 69-71, 73-74 and 87-93 as shown on said Map.

Parcel B (Pino Way):

That portion of unnamed road presently known as Pino Way fronting 81-86 and 89-109 as shown on said Map.

Parcel C (Walnut Drive):

That portion of unnamed road presently known as Walnut Drive fronting Lots 59, 62, 65-68, 72, 75-81, 109-112, 114-115, 229 and 277-278 as shown on said Map.

Parcel D (Orchard Drive):

That portion of unnamed road presently known as Orchard Drive fronting Lots 114, 117, 118, 121, 122, 125, 126, 130, 131, 134, 135, 137, 139, 141, 142, 278-290, and 295-298 as shown on said Map.

Parcel E (Burro Verde):

That portion of unnamed road presently known as Burro Verde fronting Lots 290-296 as shown on said Map.

Parcel F (Vista Grande):

That portion of unnamed road presently known as Vista Grande fronting Lots 229, 230, 263-266, 277 and 318-325 as shown on said Map.

Parcel G (Osos Way):

That portion of unnamed road presently known as Osos Way fronting Lots 226, 230-239, 246 and 266-276 as shown on said Map.

Parcel H (Trigo Lane):

That portion of unnamed road presently known as Trigo Lane fronting Lots 63, 64, 67, 115, 116, 119, 120 and 123 as shown on said Map.


Bryce Dilger, PLS

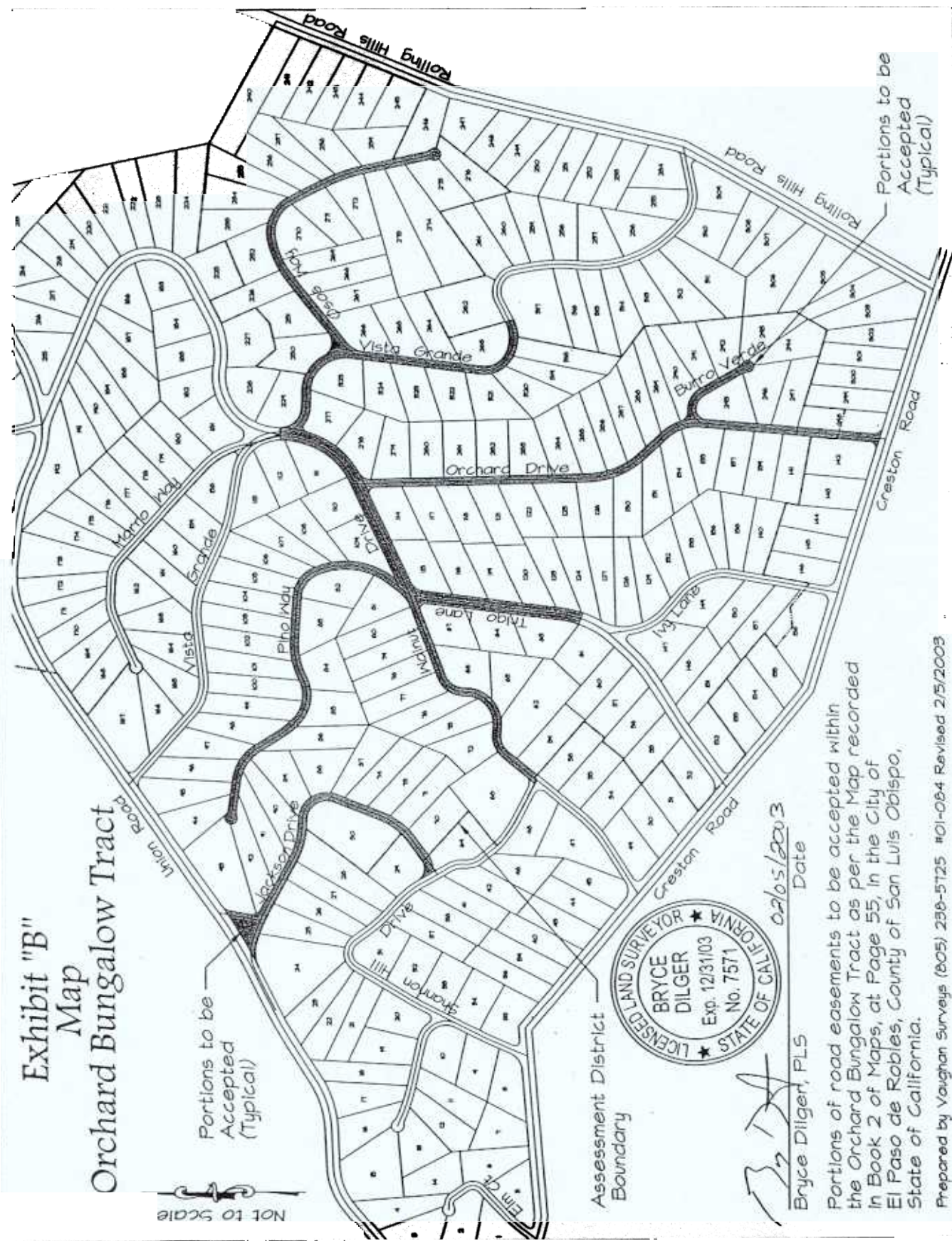
02/05/2003
Date



Exhibit "B" Map

Orchard Bungalow Tract

NOT TO SCALE



Portions to be Accepted (Typical)

Assessment District Boundary

Portions to be Accepted (Typical)



[Signature]
Bryce Dilger, PLS

02/05/2003 Date

Portions of road easements to be accepted within the Orchard Bungalow Tract as per the Map recorded in Book 2 of Maps, at Page 55, in the City of El Paso de Robles, County of San Luis Obispo, State of California.

Prepared by Vaughn Surveys (805) 239-5125 #01-064 Revised 2/5/2003