

TO: JAMES L. APP, CITY MANAGER

FROM: ROBERT A. LATA, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: STREET TREE EASEMENT ABANDONMENT 05-001  
238 ROSEMARY DRIVE (O'MEARA)

DATE: MAY 17, 2005

Needs: For the City Council to consider a request to abandon a surplus portion of a 15-foot street tree easement along the side frontage of a corner lot, in accordance with the procedural framework established in State law.

Facts:

1. The project site is located at 238 Rosemary Drive, within Tract 1170. The subject lot is located on the southeast corner of Rosemary and Ginger. (See attached location map.)
2. The 15-foot recorded street tree easement exceeds the City's current requirement. Only a 6-foot wide easement for utilities and planting would be necessary under current code standards.
3. The existing 15-foot street tree easement would prevent the applicant from expanding the existing home to within ten feet of the street-side yard as is otherwise allowed under the zoning code.
4. Building Plans for the expansion are currently in the plan check process where the Building Division sent back comments to the applicant on March 14, 2005. One of the Plan Check comments is to apply for an abandonment of the existing 15-foot street tree easement because the house expansion would not be able to encroach into an easement area.
5. The City Attorney has reviewed the legal framework surrounding abandonment of public interest in recorded easements and has concluded that each individual request must be acted upon by the City Council.
6. In cases where the easement is considered surplus and has not been utilized, a "Summary Vacation" process is the most expedient method to consider abandonment of public interest. The process requires the City Council to adopt a resolution with necessary findings, but the public noticing procedures are abbreviated from other public street and easement abandonment actions.

7. The expedient method of the "Summary Vacation" process is consistent with the intent of the City's Economic Strategy where Goal #1 under V. Development Process is to:

*Simplify and streamline the entitlement approval process for discretionary commercial, industrial and residential projects.*

Analysis  
and

Conclusion:

The request for the City to abandon nine feet of the existing 15-foot of street tree easement would establish a six foot street tree easement and be consistent with the Municipal Code. The easement in question has not been utilized for the purpose that it was created, and would therefore be considered surplus. If the City decided to implement a street tree-planting program within residential neighborhoods a 6-foot street tree easement would still be provided.

Approval of the abandonment request would allow the applicant to expand the existing residence to within ten feet of the street-side yard in accordance with all applicable zoning standards. The request would seem reasonable and would be consistent with past Council action regarding surplus street tree easements.

Policy

Reference:

City of Paso Robles Municipal Code; State of California Streets and Highways Code.

Fiscal

Impact:

None identified.

Options:

- a.** Adopt Resolution No. 05-xx approving the abandonment of nine feet of the existing 15-foot street tree easement, which would retain a six-foot street tree easement along the street side lot line;
- b.** Amend, modify, or reject, the above option.

Attachments:

1. Resolution Approving Easement Abandonment

**RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:**

CITY OF EL PASO DE ROBLES  
PLANNING DIVISION  
1000 SPRING STREET  
PASO ROBLES, CA 93446

ATTN.: D. NASH, ASSOCIATE PLANNER

**FOR RECORDERS USE ONLY**

---

RESOLUTION NO. 05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES  
APPROVING ABANDONMENT OF A PORTION OF A PUBLIC STREET  
TREE PLANTING EASEMENT (O'MEARA - APN: 009-566-012)

---

WHEREAS, the City Council of the City of El Paso de Robles is authorized under the provisions of Chapter 4 (Summary Vacation) of the State of California Streets and Highways Code to consider and act upon public service easement abandonment requests; and

WHEREAS, Tim & Deborah O'Meara has filed a request (Easement Abandonment 05-001) to abandon a 15 foot wide street tree easement along the Ginger Lane frontage of property located at 238 Rosemary Drive (as shown on the attached Exhibit A); and

WHEREAS, this subject property is also known as Lot 23 of Tract 1170 that is a recorded subdivision within the City of Paso Robles; and

WHEREAS, the 15-foot wide street tree easement was created at the time of recordation of the Final Tract Map 1170 on October 25, 1984; and

WHEREAS, the 15-foot wide recorded street tree easement exceeds the City's requirement for planting easement by 9 feet; and

WHEREAS, the easement has not been used for the propose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation (as prescribed by Section 8333(a) of the Streets and Highways Code); and

WHEREAS, this easement abandonment (vacation) request was placed on the City Council's agenda on May 17, 2005, and a staff report and resolution were part of the materials prepared for and considered by the City Council on that meeting date.

NOW, THEREFORE, BE IT RESOLVED, that based upon the facts and analysis presented in the staff report and statements of findings within this resolutions, the City Council of the City of El Paso de Robles does hereby approve the summary vacation as described below:

1. This summary vacation is being made pursuant to the provisions set forth in section 8333 et seq. of the Streets and Highways Code.

2. The vacation of public easement shall be only in the most easterly 9-foot portion of the existing 15-foot wide street tree easement along Ginger lane of lot 23 of Tract 1170 in the City of Paso Robles, County of San Luis Obispo, State of California, as recorded in October 25, 1984 in book 12, Page 6 of Maps, in the office of the County Recorder of San Luis Obispo County. The remaining 6-foot public utilities and street tree planting easement is retained. A map of the portion of the easement being vacated is attached hereto as Exhibit A and incorporated herein by reference.
3. The signatory authority on the recording document is hereby delegated to the City Manager, as a means of carrying out policy adopted by the City Council via this resolution.
4. The City Clerk is hereby authorized to have this resolution recorded in the Office of the County Recorder of San Luis Obispo County.

ADOPTED by the City Council of the City of El Paso de Robles at a regular meeting of said Council held on the 17<sup>th</sup> day of May 2005 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

---

Frank R. Mecham, Mayor

ATTEST:

---

Sharilyn M. Ryan, Deputy City Clerk



