

**TO:** James L. App, City Manager  
**FROM:** Ronald Whisenand, Community Development Director  
**SUBJECT:** Street Abandonment SA 10-001 (S. River Road Associates)  
**DATE:** July 6, 2010

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**Needs:** For the City Council to consider adopting a resolution for a summary vacation of portions of Niblick Road and old South River Road public right-of-ways associated with the development of the Hidden Creek Apartments.

**Facts:**

1. On January 6, 2009, the City Council approved development plan PD 08-010, Hidden Creek Village, an 81 unit apartment complex at 80 S. River Road.
2. The applicant, South River Road Associates, has requested the abandonment of variable width portions of old South River Road and Niblick Road right-of-ways in order to accommodate the development of the Hidden Creek Apartment project (see Attachment 2).
3. In the late 1980s, Niblick and South River Roads were realigned and their intersection was relocated southwest of the P. G. & E. substation.
4. At their meeting of June 22, 2010, the Planning Commission on a unanimous vote found that the proposed street abandonment is consistent with the General Plan and recommended approval of the request.
5. The right-of-ways proposed for abandonment are not specifically shown in the City's Circulation element of the General Plan.
6. The right-of-ways proposed for abandonment are not currently passable for vehicle travel.
7. No public money has been expended for maintenance of these right-of-ways since the realignment of Niblick and South River Roads.
8. Pursuant to the Streets and Highways Code, the subject right-of-ways may be considered for summary vacation.

**Analysis  
and**

**Conclusion:** The Planning Commission at their meeting June 22, 2010 unanimously recommended approval of the requested abandonment. The plans for the Hidden Creek apartments indicate that these right-of-ways will be used primarily as setback area from Cary Street.

Public right-of-ways created by subdivision maps are typically owned in underlying fee by adjacent property owners. The abandonment of right-of-way by a public agency is not a land give away. It is a vacation of easement rights on behalf of the public. In this case, the land is not currently being used as a street (and has no potential for future use as a street); therefore, the area of abandonment will appear incorporated with private property improvements, just as it does today.

Portions of the right-of-ways proposed for abandonment are needed by public utility companies. Therefore some portions of the right-of-ways will be retained as public utility easements, or new utility easements will be established when construction of relocated utility lines is complete.

During the course of plan review, construction of a walking path connecting the south end of Cary Street with Quarterhorse Lane was discussed. The benefit of the path was determined not to warrant the land disturbance and cost associated with the grading and retaining walls needed to make the path ADA compliant. A sidewalk will be extended from the south end of Cary Street to Niblick Road. This provides a continuous sidewalk connection to Quarterhorse Lane.

The public right-of-way remaining between the project and Niblick Road will be landscaped and maintained by the Landscape and Lighting District.

**Policy**

**Reference:** Streets and Highways Code

**Fiscal**

**Impact:** None.

**Options:**

- a. Adopt Resolution No. 10-xxx approving the request to abandon portions of historical Niblick and South River Road right-of-ways along the west and south boundaries of the site of the Hidden Creek Apartments subject to conditions to retain easements for certain public utilities.
- b. Amend, modify or reject the above option.

Attachments: (2)

1) Resolution of Abandonment

2) Abandonment Exhibit

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:  
CITY ENGINEER  
**COMMUNITY DEVELOPMENT DEPT.**  
**CITY OF EL PASO DE ROBLES**  
**1000 SPRING STREET**  
**PASO ROBLES, CA 93446**

RESOLUTION NO. 10-XXX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES  
VACATING PORTIONS OF UNUSED RIGHT-OF-WAYS OF  
NIBLICK AND SOUTH RIVER ROADS  
(HIDDEN CREEK VILLAGE)

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WHEREAS, on January 6, 2009, the City Council approved a development plan (PD 08-010) for the construction of Hidden Creek Village, an 81 unit affordable apartment complex at 80 S. River Road; and

WHEREAS, in the late 1980s, Niblick and South River Roads were realigned in a manner that left portions of their right-of-ways unused and unmaintained; and

WHEREAS, the unused portions of right-of-ways for Niblick and South River Roads are not specifically shown in the Circulation Element of the General Plan; and

WHEREAS, the unused portions of right-of-ways for Niblick and South River Roads have not been shown as necessary for access to any other private properties; and

WHEREAS, the development plan for Hidden Creek Village proposes to incorporate the unused portions of right-of-ways into the housing site. A general description of the portions to be vacated is shown in Exhibit "A" of this resolution; and

WHEREAS, Section 65402(a) of the Government Code provides that "...no street shall be vacated or abandoned, ... if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such... street vacation or abandonment... have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof"; and

WHEREAS, at its meeting of June 22, 2010, the Planning Commission recommended that the City Council find that the proposed vacation of the portions of Niblick and South River Roads described in Exhibit "A" to be consistent with the General Plan and approve said vacation; and

WHEREAS, the portions of Niblick and South River Roads considered for abandonment have been impassable for vehicle travel for more than five years; and

WHEREAS, no public money has been expended for maintenance of the portions of Niblick and South River Roads considered for abandonment since the realignment of these roads in the late 1980s; and

WHEREAS, pursuant to Streets and Highways Code 8331, these portions of Niblick and South River Roads may be considered for summary vacation; and

WHEREAS, based on the Staff Report, Staff presentation and having heard all evidence offered by any person interested in the proposed vacation, the City Council of the City of El Paso de Robles finds that the portions of Niblick and South River Roads as described in Exhibit "A" and attached to this Resolution, are unnecessary for present or prospective public use.

NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED BY THE CITY COUNCIL OF EL PASO de ROBLES AS FOLLOWS:

SECTION 1: The proposed vacation of portions of Niblick and South River Roads, as shown on Exhibit "A", is consistent with the General Plan for the City of El Paso de Robles.

SECTION 2: The subject portions of Niblick and South River Roads, as described as shown on Exhibit "A" be vacated for public purposes.

SECTION 3: The City shall retain easements for public utilities, satisfactory to the City Engineer.

SECTION 4: That the City Clerk of the City of El Paso de Robles is authorized to cause a certified copy of this Resolution to be recorded in the office of the County Clerk Recorder, County of San Luis Obispo, State of California.

SECTION 6: The above Recitals are incorporated into this Resolution.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 6<sup>th</sup> day of July, 2010 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Duane Picanco, Mayor

ATTEST:

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Dennis Fansler, City Clerk

# EXHIBIT A

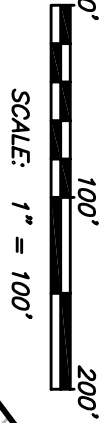
Portions of old Niblick Road and old South River Road as shown on Parcel Map P.R. 79-275 as recorded on the 17th day of June, 1980 in Book "29" of Parcel Maps at Page 43 and filed in the office of the county recorder, City of El Paso De Robles, County of San Luis Obispo, State of California.

D=437'34" SOUTH RIVER ROAD REALIGNMENT  
R=1050.00' PER 3288 OR 458  
L=84.78'

D=22°08'34"  
R=280.00'  
L=108.21'

PARCEL 7  
PR 91-095  
50/PM/45

PGE  
804 OR 187



PARCEL 1  
PR 79-275  
29/PM/43

PARCEL 1  
29-PM-43

CARY ST (F.M.Y. OLD SOUTH RIVER ROAD)

12' OFFER OF DEDICATION  
PER 29/PM/43

12' OFFER OF DEDICATION  
PER 1222/OR/417

S89°55'53"E 184.73'

OLD NIBLICK RD

CENTERLINE OF  
OLD NIBLICK ROAD

SCALE: 1" = 100'