



City Council Report

Date: July 11, 2022
To: City Council
Through: Marc Heirshberg, Deputy City Manager
From: Beth Huning, City Engineer
Marc Ahlstrom, Assistant City Engineer
Subject: Extinguish a Drainage Easement and Drainage Covenant located at 10655 East Southern Avenue
Council District 5

Purpose and Recommendation

The purpose of this report is to consider staff's recommendation to extinguish a Drainage Easement and Drainage Covenant located at 10655 East Southern Avenue.

Background

Arizona Revised Statutes Title 28 §§ 7201-7215 and Mesa City Code Title 9, Chapter 10, provide the City Council with authority to abandon, vacate or extinguish (collectively, hereafter, "abandon") unnecessary roadways, rights-of-way, or easements to which the City holds right or title to; the type of right or title the City owns (roadway, right-of-way, or easement) determines the law under which the City Council has its right to abandon. The term "abandon" is used in this Council Report to cover all three types of terminations of the City's rights or title. Additionally, the City generally maintains the right to release restrictive covenants it holds on real property.

Drainage easements and drainage covenants are granted to the City of Mesa to allow for the conveyance or retention of storm water from public streets onto private property. When an easement is no longer needed, or conflicts with new development, the City Council may extinguish the easement to provide owners with the ability to fully utilize their property. To remove an easement from a property's title, City Council may approve a resolution to extinguish (abandon) the easement in accordance with provisions in the Mesa City Code Title 9, Chapter 10.

Discussion

The Drainage Easement being requested to be extinguished was recorded in document no. 2021-0256576, on March 8, 2021, records of Maricopa County, Arizona. The Drainage Covenant was recorded in document no. 2021-0258223, on March 8, 2021, records of Maricopa County, Arizona. The owner is requesting the drainage easement and drainage covenant be extinguished to allow construction of a new frozen custard restaurant. A new drainage easement and drainage covenant will be granted with the

new development. Staff has determined the drainage easement and drainage covenant are no longer needed by the City.

Alternatives

An alternative is to not extinguish the requested drainage easement and drainage covenant. Choosing this alternative would result in the existing drainage easement and drainage covenant conflicting with the construction of a new frozen custard restaurant.

Fiscal Impact

The fiscal impact of this request is the \$750.00 processing fee paid by the developer.

Coordinated With

The Engineering and Development Services Departments concur with this request.