



City Council Report

Date: April 5, 2021

To: City Council

Through: Marc Heirshberg, Deputy City Manager

From: Beth Huning, City Engineer
Rob Kidder, Assistant City Engineer

Subject: Extinguishing all the 5-foot Use and Benefit Easements located on The Final Plat for Eastmark - DU 3/4 North Phase 4, located north of the northeast corner of South Ellsworth Road and East Point Twenty-Two Boulevard, and extinguishing all the 5-foot Use and Benefit Easements located on The Final Plat for Eastmark - DU 3/4 North Phase 5, located south of the southeast corner of South Ellsworth Road and East Warner Road.
Council District No. 6

Purpose and Recommendation

The purpose of this report is to consider staff's recommendation to extinguish the 5-foot use and benefit easements (UBE) located on The Final Plat for Eastmark – DU 3/4 North Phase 4 MDR and The Final Plat for Eastmark – DU 3/4 North Phase 5 MDR, located east of South Ellsworth Road and south of East Warner Road.

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.

Use and Benefit Easements (UBE) are dedicated on lots to provide adjacent lot owner ingress and egress for the purpose of repair, maintenance, drainage, and improvement of any of the lots that are contiguous to the easement area. The UBE is needed to gain access to the side of a house through the adjacent lot when houses are constructed at the side property line. When an easement is no longer needed, or conflicts with new development, the City Council may extinguish easements 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 the easement in accordance with provisions in the Mesa City Code, Title 9, Chapter 10.

Discussion

The 5-foot UBE's requested to be extinguished were dedicated on The Final Plat for Eastmark – DU 3/4 Phase 4 MDR and The Final Plat for Eastmark – DU 3/4 Phase 5 MDR recorded in Book 1495 of Maps, Page 36, records of Maricopa County, Arizona and Book 1521 of Maps, Page 33, records of Maricopa County, Arizona.

A new home builder has purchased the lots located on The Final Plat for Eastmark – DU 3/4 Phase 4 MDR and The Final Plat for Eastmark – DU 3/4 Phase 5 MDR. and is designing a traditional house that will fit on the narrower lots. Therefore, UBE's are no longer needed. The property owner is requesting the UBE's be extinguished to accommodate a new residential development. Staff has determined that the UBE's are no longer needed.

Alternatives

An alternative would be to not extinguish the UBE's. This alternative will result in the existing UBE's conflicting with the proposed new traditional house designed for the narrower lots in this subdivision.

Fiscal Impact

The fiscal impact of this request is the \$750.00 processing fee collected from the applicant.

Coordinated With

The Engineering and Development Services Departments concur with this request.