



DATE: April 3, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Jeff Stutsman, PE, City Engineer—Public Works & Utilities (PW&U)
Gina Benedetti-Petnic, PE, Assistant Director—PW&U
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SUBJECT: Resolution Adopting the Summary Vacation of Public Utility Easements (PUE),
Located at Assessor Parcel Numbers 006-163-040 and 006-163-041, and Finding
This Action is Consistent with a Certified Mitigated Negative Declaration

RECOMMENDATION

It is recommended that the City Council adopt the attached Resolution Adopting the Summary Vacation of Public Utility Easements (PUE), Located at Assessor Parcel Numbers 006-163-040 and 006-163-041 and Finding This Action is Consistent with a Previously Certified Mitigated Negative Declaration.

BACKGROUND

On January 23, 2018, the City of Petaluma Planning Commission approved a Site Plan and Architectural Review (SPAR) for the North River Apartments Project being developed by North River Apartments, LLC (NRA) via Resolution No. 2018-03 and certified a Mitigated Negative Declaration for the project via Resolution No. 2018-02. The project is located at 368 and 402 Petaluma Boulevard, APNs 006-163-040 and 006-163-041, and consists of the development of two apartment buildings including 184 rental units as well as 4,677 square feet of commercial space, 4,981 square feet of tenant amenity area, and 1,953 square feet of the leasing office.

The project includes the construction of Oak Street and Water Street North, as well as certain water, sewer, and dry utility improvements and upgrades, both within the project site and between the project site and East Washington Street. The project also includes a new Class I multi-use path along the Petaluma River. As a condition of approval, the project was required to dedicate easements to the City of Petaluma for the construction of Oak and Water Streets and was also required to obtain additional right-of-way off-site. The right-of-way easements granted to the City of Petaluma on the project site expressly include the right of possession for the “construction, improvement, maintenance, repairs, operation, and replacement of (i) public structures, facilities, and improvements; and (ii) gas pipes, electroliners, and underground wires and conduits for

electrical, television and telephone services, together with any and all appurtenances pertaining thereof on, over, across and under” the project site. (See **Attachment 3**, Irrevocable Offer of Dedication.)

Condition of Approval No. 83 of Resolution 2018-03 provides that “all existing public sanitary sewer easements...as well as the existing temporary construction easement (D.N. 2005-138424) shall be vacated via ordinance by the City Council.” Condition of Approval No. 83 specifically referenced the following City easements: 448 O.R. 108, 458 O.R. 276, 2348 O.R. 635, and 459 O.R. 60. However, the relevant easements appearing on the title are listed below in Table 1, and are collectively referred to herein as “City Easements.”

Table 1

1	445 O.R. 108 Resolution 4774 C.S. adopted in March 1938	Sewer easement recorded on March 9, 1938, in Book 448 of Official Records, Page 108, described as: “...easement and right-of-way ten (10) feet in width across and under the land hereinafter described, for the purpose of laying, constructing, and maintaining and intercepting sewer along the route or course, according to the design and in the manner shown and described in the Plans and Specifications for the construction of a Municipal Sewage Disposal Project for the City of Petaluma California...”
2	459 O.R. 60 Resolution 4849 C.S. adopted on July 20, 1938.	Sewer easement recorded on July 22, 1938, in Book 459 of Official Records, Page 60, described as: “...easement and right-of-way for the purpose of laying, constructing and maintaining a sewer line along the following described course or line in the City of Petaluma, County of Sonoma...”
3	2347 O.R. 474	Utility easement recorded on August 19, 1968, in Book 2347 of Official Records, Page 474, described as: “...utility easement including the right to excavate for, install, to replace (of the initial or any other size), to maintain and use such easement as the second party shall from time to time elect for utility purposes over and across the hereinafter described strip of being a strip of land 10.0 feet in width...”

DISCUSSION

Vacation (also known as abandonment) of public service easements is governed by California Streets and Highways Code, Division 9, Part 3, Sections 8300 *et seq.* Under Section 8333, a summary vacation, which is a simpler process than a standard vacation, can be used for a public

service easement that has not been used for the purpose for which it was dedicated for at least five years immediately before the vacation and there are no other public facilities located within the easement. This proposal is eligible for the summary vacation process.

The original utility easements were necessary when the utilities were on private property (Attachment 1 - Exhibit A, Abandonment Easement). As part of the North River Apartments Project, public right of way was dedicated to the City as part of the construction of the new Oak Street and Water Street North (Attachment 3, Irrevocable Offer of Dedication). New utilities were constructed within the dedicated right of way, eliminating the need for the existing easements (Attachment 1 – Exhibit B, Sewer Easement).

Compensation for the vacation of a public service easement is not required as the easement is no longer necessary and the utilities were relocated in the dedicated easement to the City as part of the North River Apartment project. Therefore, it is recommended that the City Council not seek compensation in this case.

PUBLIC OUTREACH

This agenda item appeared on the City’s tentative agenda document on March 20, 2023, which was a publicly-noticed meeting.

COUNCIL GOAL ALIGNMENT

The proposed action supports the following City Council goals, objectives, and workplan item by providing a reasonable and justified land transaction to enable this small residential infill development.

Workplan Item 103: Prioritize and incentivize sustainable infill development.

ENVIRONMENTAL REVIEW

Pursuant to the California Environmental Quality Act (“CEQA”) City staff determined that the project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. City staff found that there is no possible significant effect directly related to the summary of vacation of easements as the easements have not been used in the past and there are no prospective uses for the easements, therefore no further action is required under CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines (14CCR Section 15061(b)(3)), and independently, the project is categorically exempt (class 5) pursuant to Section 15305 of the State CEQA Guidelines (Minor Alterations in Land Use). None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

Moreover, the entire project was previously reviewed for CEQA compliance, and the planning commission adopted the mitigated negative declaration and mitigation monitoring and reporting program by Resolution No. 2018-02.

FINANCIAL IMPACTS

This action has no impact on the existing budget and is considered cost neutral. Staff resources expended in the processing of the easement vacations are reimbursed by the applicant as a cost-recovery item. While not quantified, there would be future cost savings in utility infrastructure maintenance.

ATTACHMENTS

1. Resolution
 - a. Abandonment Exhibit
 - b. Sewer Easement Exhibit
 - c. Draft Vacation of Public Easements
2. Location Map
3. Irrevocable Offer of Dedication
4. Planning Commission Resolution No. 2018-03