

RESOLUTION NO. 6667

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
DECLARING THE VACATION AND ABANDONMENT OF PUBLIC UTILITIES
EASEMENT AT 115 INDEPENDENCE DRIVE AND 104 AND 110
CONSTITUTION DRIVE (APNS 056-236-10, 055-236-020, 055-236-190)**

WHEREAS, on June 22, 2021, the City Council of the City of Menlo Park adopted Resolution No. 6640 declaring the intention of the City to abandon the Public Utility Easements within property at 115 Independence Drive and 104 and 110 Constitution Drive; and

WHEREAS, on August 9, 2021, the Planning Commission fully reviewed, considered, evaluated the whole of the record including all public and written comments, pertinent information, documents and plans, and certified the Final EIR for the Project adopted findings of fact in accordance with CEQA, and adopted a Mitigation Monitoring and Reporting Program; and

WHEREAS, on August 9, 2021, the Planning Commission held a public hearing on this subject to consider the aforementioned proposed abandonment and found that the proposed abandonment consistent with the General Plan and recommended that the City Council approved the requested abandonment as proposed; and

WHEREAS, following the Planning Commission's review, consideration, evaluation, and certification of the final EIR and approval of the use permit, architectural control, BMR Housing agreement, and community amenities operating covenant, the City Council received a timely appeal of the Planning Commission's actions on the project; and

WHEREAS, on September 14, 2021, the City Council held a public hearing and separately reviewed and considered the aforementioned appeal, and fully reviewed, considered, evaluated, and certified the final EIR, adopted findings pursuant to CEQA, and adopted an MMRP;

WHEREAS, on September 14, 2021, the City Council considered the entire record, including all public and written comments, pertinent information, documents and plans prior to taking action to deny the appeal and approve the use permit, architectural control, BMR Housing agreement, and community amenities agreement for the Menlo Portal development project; and

WHEREAS, a public hearing was held before the City Council of the City of Menlo Park regarding the forgoing matter on September 14, 2021; and

WHEREAS, a notice of said public hearing was duly made by publication, mailing, and posting as required by law, and proof thereof is on file with the City Clerk of the City of Menlo Park; and

WHEREAS, no protests were filed with or received by said City Council; and

WHEREAS, the City Council finds that to promote orderly development and necessity require that utility easements be reserved within the area to be vacated.

NOW, THEREFORE, the City of Menlo Park, acting by and through its City Council, having considered and been fully advised in the matter and good cause appearing therefore,

BE IT AND IT IS HEREBY RESOLVED by the City of Menlo Park:

1. That the City Council hereby finds that the Final EIR constitutes an adequate, objective, and complete analysis addressing all issues relevant to the approval of the proposed abandonment of the existing Public Utility Easements and replace them with a new on site public utility easement.
2. That the City Council hereby finds that, the monitoring and reporting of CEQA mitigation measures in connection with the proposed abandonment will be conducted in accordance with the attached MMRP, and incorporated into the Conditions of Approval of the use permit and architectural control for the Project. All proposed mitigation measures are capable of being fully implemented by the efforts of the City, the Applicant, or other identified public agencies of responsibility, and will reduce the environmental impacts to a less-than significant level.
3. That the Public Utility Easement should be abandoned, because it is no longer needed in the current location and would be replaced in conjunction with development of the project site, and because abandonment of the easement from its current location would allow the Applicant to proceed with the construction of the proposed housing units and associated site improvements, which therefore demonstrate that the public convenience, necessity, and the best interests of the residents of Menlo Park will be served by such abandonment.
4. That the City Council hereby abandons, to the full extent permitted by law, the Public Utility Easements located 10 feet wide behind 104 Constitution Drive, and 20 feet wide between 110 Constitution Drive and 115 Independence Drive, described on the legal plats, Exhibit B, attached hereto and by the legal description of said public utility easement on file in the Engineering Division, and said Exhibits and legal descriptions area incorporated herein and made part of hereof.
5. That the City reserves Public Utilities Easements as more particularly shown on Exhibit B.
6. That the City Council finds that said abandonment is consistent with the General Plan as the public utility easement abandonment would be compatible with orderly development, because each required utility would be granted a replacement easement for undergrounded utilities to serve the project and surrounding sites.

SEVERABILITY

If any term, provision, or portion of these findings or the application of these findings to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of these findings, or their application to other actions related to the Project, shall continue in full force and effect unless amended or modified by the City.

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I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing City Council Resolution was duly and regularly passed and adopted at a meeting by said City Council on the fourteenth day of September, 2021, by the following votes:


AYES: Combs, Mueller, Nash, Wolosin

NOES: Taylor

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this seventeenth day of November, 2021.

DocuSigned by:

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Judi A. Herren, City Clerk

Exhibits

- A. City Council adopted Resolution of Intention No. 6640
- B. Project Plans
- C. Menlo Portal Final EIR
- D. Statement of Findings and Facts pursuant to CEQA (See Attachment A, Exhibit C)
- E. Mitigation Monitoring and Reporting Program (MMRP) (See Attachment A, Exhibit D)

RESOLUTION NO. 6640

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MENLO PARK
DECLARING THE INTENTION OF SAID CITY TO ABANDON PUBLIC UTILITY
EASEMENTS WITHIN THE PROPERTIES AT 115 INDEPENDENCE DRIVE, 104
CONSTITUTION DRIVE, AND 110 CONSTITUTION DRIVE**

WHEREAS, the City Council of the City of Menlo Park has considered the abandonment of public utility easements within the properties at 115 Independence Drive, 104 Constitution Drive, and 110 Constitution Drive shown in Exhibit A, which is attached and made apart thereto; and

WHEREAS, the Planning Commission is scheduled to review the proposed abandonment for consistency with the City's General Plan at its meeting on July 26, 2021; and

WHEREAS, the City Council will hold a Public Hearing on August 24, 2021 at approximately 5:00 p.m. as required by law to determine whether said public utility easements shall be abandoned.

NOW, THEREFORE, BE IT RESOLVED, that a Resolution of Intention of the City Council of the City of Menlo Park does hereby propose the abandonment of public utility easements within the properties at 115 Independence Drive, 104 Constitution Drive, and 110 Constitution Drive.

I, Judi A. Herren, City Clerk of Menlo Park, do hereby certify that the above and foregoing Council resolution was duly and regularly passed and adopted at a meeting by said City Council on the twenty-second day of June, 2021 by the following votes:

AYES: Combs, Mueller, Nash, Wolosin

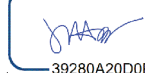
NOES: None

ABSENT: Taylor

ABSTAIN: None

IN WITNESS THEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twenty-second day of June, 2021.

DocuSigned by:



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Judi A. Herren, City Clerk