

**CITY OF PEORIA, ARIZONA
COUNCIL COMMUNICATIONS**

CC: 25C
Amend No. _____

Date Prepared: June 12, 2008 Council Meeting Date: July 1, 2008

TO: Carl Swenson, City Manager
FROM: Dan Nissen, P.E., Acting Engineering Director
THROUGH: Kristine Luna, SR/WA, Real Property Administrator
PREPARED BY: Angela Manuel, Property Agent
SUBJECT: Adopt a Resolution to abandon City interest in a portion of an existing Federal Patent Easement for Roadway and Utilities, as recorded in Docket 2955, Page 311, Patent Number 1196669. A request by Kyle Mohan, located west of the northwest corner of 93rd Avenue and Happy Valley Road.

RECOMMENDATION:

The Mayor and Council adopt a Resolution to abandon City interest in a portion of an existing Federal Patent Easement for Roadway and Utilities, as recorded in Docket 2955, Page 311, Patent Number 1196669, and located west of the northwest corner of 93rd Avenue and Happy Valley Road, and authorize the City Clerk to record the Resolution with the Maricopa County Recorder's Office.

SUMMARY:

This request comes from Mr. Kyle Mohan who owns property west of the northwest corner of 93rd Avenue and Happy Valley Road. The parcel is currently encumbered by a 33-foot wide patent easement for roadway and utilities that runs along the western and southern boundaries of Mr. Mohan's parcel. Mr. Mohan has requested the abandonment of the easement that runs along the western edge of his parcel. The City will be utilizing the southern portion of the easement for the construction of the Happy Valley Road improvements.

Staff has reviewed this request and has determined that we do not anticipate a future need

CITY CLERK USE ONLY:

- Consent Agenda
- Carry Over to Date: _____
- Approved
- Unfinished Business (Date heard previous: _____)
- New Business
- Public Hearing: No Action Taken

ORD. # _____ RES. # 08-104
LCON# _____ LIC. # _____
Action Date: _____

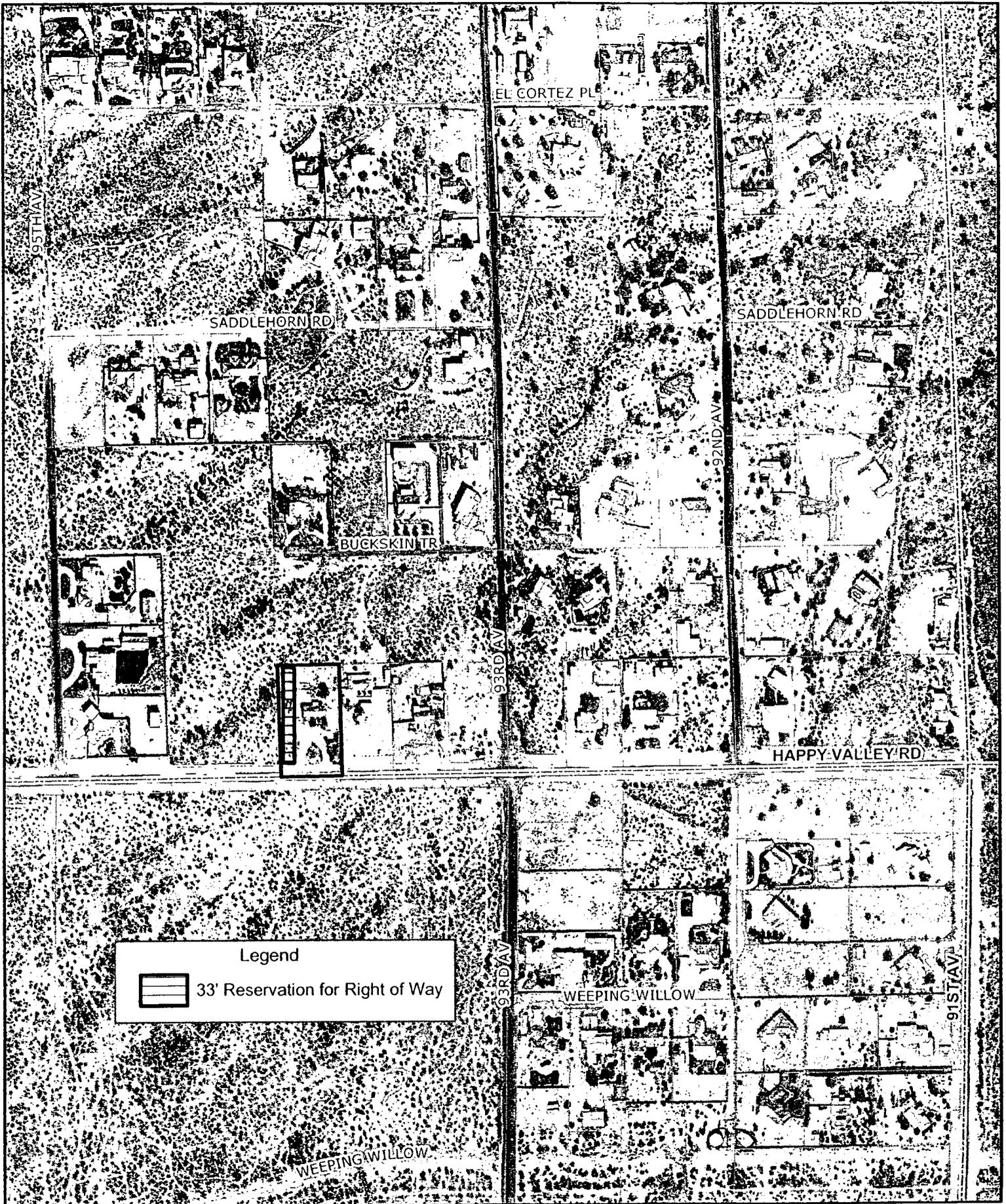
Council Communication
Abandonment - Federal Patent Easement
July 1, 2008
Page 2

for the roadway easement along the western edge of the parcel. Staff has also obtained letters from the existing utility companies giving their consent to abandon the western portion of the existing patent easement.

Legal access to adjacent, unsubdivided parcels will not be affected by this abandonment.

ATTACHMENTS:

1. Vicinity Map
2. Resolution



Legend
 33' Reservation for Right of Way



RESOLUTION NO. 08-104

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF PEORIA, MARICOPA COUNTY, ARIZONA FINDING THAT CERTAIN PUBLIC RIGHTS-OF-WAY DEDICATED TO THE PUBLIC BY THE UNITED STATES OF AMERICA FOR ROADWAY AND PUBLIC UTILITIES TO BE UNNECESSARY TO CITY PURPOSES AND NO LONGER REQUIRED TO BE RETAINED BY THE CITY AND DIRECTING THAT SUCH UNNECESSARY PUBLIC RIGHTS-OF-WAY BE DISPOSED OF IN THE MANNER PROVIDED BY LAW AND PROVIDING FOR AN EFFECTIVE DATE.

THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Peoria as follows:

WHEREAS, pursuant to A.R.S. 9-500.24, the City Council of the City of Peoria is vested with the power to determine and find that certain federal patent easements dedicated by the United States of America to public use may no longer be necessary to the City; and

WHEREAS, pursuant to A.R.S. 9-500.24, the City is vested with the power to vacate such easement by transferring title to adjacent property owners and others; and

WHEREAS, the Mayor and Council find and determine that a portion of a certain Patent Easement located in the City of Peoria, Maricopa County, Arizona, located west of the northwest corner of 93rd Avenue and Happy Valley Road, and more specifically described on the Legal Description (Exhibit A) attached to this Resolution is no longer needed by the City for Public Access and Public Utility purposes.

THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. That Mayor and Council find and determine that the western portion of the Patent Easement dedicated by the United States of America for public access and public utilities as recorded in Docket 2955, Page 311 and more specifically set forth on Exhibit "A" attached to this Resolution be and is hereby declared to be excess property and shall be conveyed in the manner provided by Chapter 4, Article 8, Title 9 Arizona Revised Statutes.

Resolution No. 08-104
Abandon Portion of Patent Easement
93rd & Happy Valley
Page: 2

SECTION 2. That City Manager and City Attorney are authorized and directed to take all actions including providing public notices and preparing documents for the sale and or conveyance of such property.

SECTION 3. That the City Engineer is directed to prepare and provide descriptions for the retention of such easements for public utilities, if any, as may be deemed appropriate across the described property.

SECTION 4. That the City Clerk shall record the original of this Resolution with the Maricopa County Recorder's Office.

WHEREAS, the immediate operation of the provisions of this Resolution is necessary for the preservation of the public peace, health and safety of the City of Peoria, an EMERGENCY is hereby declared to exist and this Resolution shall be in full force and effect from and after its passage, adoption and approval by the Mayor and Council of the City of Peoria, and it is hereby exempt from the referendum provision of the Constitution and laws of the State of Arizona.

PASSED AND ADOPTED by the Mayor and Council of City of Peoria, Arizona this 1st day of July, 2008.

Bob Barrett, Mayor

ATTEST:

Mary Jo Kief, City Clerk

APPROVED AS TO FORM:

Stephen M. Kemp, City Attorney

ATTACHMENT:

1. Exhibit A – Legal Description

Resolution No. 08-104
Abandon Portion of Patent Easement
93rd & Happy Valley
Page: 3

Exhibit A – Legal Description
Abandonment Area

A portion of that certain federal patent easement as reserved by the United States of America recorded in Docket 2955 Page 311, Patent Number 1196669, and more specifically described as:

The West 33 feet of the South half of the Southeast quarter of the Southwest Quarter of the Southeast Quarter of Section 4, Township 4 North, Range 1 East of the Gila and Salt River Meridian, Arizona;

Except the South 33 feet.