

Agenda Item Staff Report

To: Honorable Chair and Members of Planning Commission
For the Meeting of August 29, 2024

From: Luis Torrico, Director of Community Development

Prepared by: Marco Espinoza, Planning Manager

Subject: Municipal Code Text Amendment 24-04, A request to approve a Municipal Code Text Amendment to modify the scenic easement and fence lines “as built” on the property located at 905 Wellington Road (APN: 8426-031-021) within Specific Plan 4, Area I.

SUMMARY

On July 18, 2024, the Planning Commission reviewed a Municipal Code Text Amendment (MCTA) initiation to modify the placement of the scenic easement and fence lines on the property located at 905 Welling Road which is within Specific Plan 4, Area I. Currently the scenic easement occupies approximately about 2/3 of the lot and limits future development of the site. The proposed boundary of the scenic easement would move approximately 100 feet back into the rear yard towards the north property line. Placing the boundary in line with the existing vegetated slope conditions of the site and not on the flat unvegetated portion of the lot. The Planning Commission voted 5-0 to approve the initiation for a MCTA.

Subsequently, the applicant submitted a formal application for a Municipal Code Text Amendment (MCTA 24-04) a request to modify the scenic easement and fence lines “as built” on the property located at 905 Wellington Road within Specific Plan 4, Area I.

RECOMMENDATION

Staff recommends the Planning Commission recommend denial of MCTA 24-04 to the City Council, a request to approve a Municipal Code Text Amendment to modify the scenic easement and fence lines “as built” on the property located at 905 Wellington Road (APN: 8426-031-021) within Specific Plan 4, Area I.

FISCAL IMPACT

There is no fiscal impact for the recommended action.

BACKGROUND

905 Wellington Road was developed in 1980 as part of the Oakridge Estates, a planned community by M.J. Brooks & Sons, Inc. consisting of 125 single-family residential lots. The community was developed within the mild slopes of the area creating a variety of lots with varying terrain. Some of the lots were also developed with a scenic easement and others with the possibility of equestrian uses.

The subject site is located at the northwest corner of Wellington Road and S. Valley Center Avenue and is zoned Specific Plan 4, Area I. The lot is No. 70 of Tract 35612 and measures 41,482 square feet in size and was developed in 1979-1980 with a single-story 1,652 square foot residence with an attached three-car garage. As shown below, the property is elongated with a front property line (South) dimension of approximately 76 feet with the side property lines (East and West) having dimensions of 333 and 373 linear feet and the rear property line (north) measuring 163 linear feet. The lot was also developed with a scenic easement all along the mid-rear portion of the property highlighted in yellow as shown on the approved plans (see Attachment 2). For some unknown reason, the tract fencing was placed within the delineated scenic easement shown below in red in Image No. 1 (see Images No's 2 - 3, next page).



Image No. 1 – Subject Site



Image No. 2 Looking South towards the house from the fence.



Image No. 3 Looking North towards the existing fence.

Staff became familiar with the subject site in 2010, when the previous owner, who owned the property for 31 years used the site to grow plant material for his landscape business. The plant material were within the scenic easement and on both sides of the tract fence. It was during this time that staff noticed a difference in how the site was developed to how it was represented on the approved plans. The tract fence was not in its planned location, the tract fences on other properties are correct and was used to delineate the boundaries of the scenic easement line throughout the development. Therefore, the scenic easement delineation line was possibly in the wrong location as well. At that time the unpermitted business operation was the main concern to be corrected and since no development was proposed, the scenic easement line and fence location became a secondary concern for the time being. At a later date Larry Stevens, a previous Director of Community Development had made a determination that the site was not developed per the plans and was modified at the time of construction, to accommodate a construction staging area and finalized as so, and the scenic easement delineation line was in line with the existing tract fence location.

The new property owner purchased the property after discussing the site with staff. In February of 2024, the property owner submitted an SB-9 Development Application to develop the site with an additional residential unit and two ADUs for a total of four units. It was during this process that Staff consulted the City Attorney on the previous determination of the Director of Community Development on the placement of the scenic easement line. The City Attorney determined that since the Director's determination was never codified, an MCTA would be needed to determine if the scenic easement line could be relocated to the as-built conditions.

On July 18, 2024, the Planning Commission reviewed the MCTA initiation to modify the placement of the scenic easement and fence lines on the property located at 905 Welling Road. After hearing staff and the applicant presentations, the Commission discussed the item. During their discussion, the Commission commented on the onsite conditions and the lack of documentation relating to the onsite conditions, and their desire to allow the public/neighbors to speak on the item. The Commission voted 5-0 to allow for the applicant to submit a formal Municipal Code Text Application to be able to hear the item and allow the public to participate in the process.

DISCUSSION/ANALYSIS

The subject site was used by the developer as their staging area and placed the contractor's trailer and materials on the site during construction of the tract (see Attachment No. 6 and Image No. 4 below).



Image No. 4 Subject site 1980 during construction.

Image No. 4, helps to understand the sites condition during the construction phase as one can see that the majority of the lot is flat and barren and only about 1/3 of the rear lot had a slope that was covered with natural vegetation.

All the lots on the north side of Wellington Road also have the scenic easement, the easement is delineated within the rear yards by the original tract fencing and are as shown in the approved Concept, Fencing and Grading plans (see Attachments No's 2, 3, & 4). However, the same fence within the rear yard of the subject lot does not correspond with the approved Concept, Fencing and Grading plans as it is about 100 feet further back towards the north property line. The current on-site conditions of the scenic easement area appear to consist of only the rear 1/3 of the site verse the approved plans showing the easement area on 2/3 of the site. As mentioned, staff is unaware why the developer did not place the fence in the designated location or if the scenic easement line was also intended to be relocated to the fence line to match all the other lots in the development. It is not uncommon for changes to take place during construction due to a variety of factors and then for the developer to submit "as-built" plans for the modifications. Unfortunately staff could not find any such modified plans for this lot's modifications.

The applicant is requesting to initiate the MCTA to modify Concept Plan of Specific Plan 4 to establish the new boundaries of the scenic easement on the subject lot starting at the tract fence and go north down the slope to the rear property line that is approximately 96.5 feet on the west property line and 165.6 feet on the east property line (see Attachment No. 1). The request would not alter the grade, slope or vegetation of the lot, north of the tract fence and the fence would not be relocated from its original location. The portion of the scenic easement area in question is flat

with no natural vegetation since the lot's development as seen in images No. 5 and 6. By moving the scenic easement line to the north, the lot would gain approximately 13,500 square feet of developable land.



Image No. 5



Image No. 6

Staff is not in support of the request to initiate the MCTA to adjust the scenic easement line to the location of the tract fence location as staff could not find any documentation of the developer changing the approved easement line or the intent to change it.


ALTERNATIVES

Staff is not proposing any alternatives for this request. However, the Planning Commission may recommend approval to the City Council of the MCTA 24-04, if the Commission believes that there is sufficient documentation/evidence that warrants the approval recommendation.

ENVIRONMENTAL REVIEW

Pursuant to CEQA guidelines Section 15061 (b)(3), CEQA does not apply to this item because there is no potential for causing a significant effect on the environment. Therefore, no additional environmental review is needed at this time.

Respectfully submitted,



Marco A. Espinoza
Planning Manager

Attachments:

1. Resolution PC 1685
2. Applicant's site plan scenic easement proposal
3. Concept Plan
4. Landscape & Fencing Plan
5. Grading Plan
6. 1974 Aerial photo – Pre-development
7. 1980 Aerial photo
8. 2014 Aerial photo
9. 2024 Aerial photo