

**COUNTY OF SONOMA
AGENDA ITEM
SUMMARY REPORT**

Clerk of the Board Use Only

Meeting Date

____/____/____

Agenda Item No:

Department: Permit and Resource Management Dept.

() 4/5 Vote Required

Contact:
Gary O'Connor

Phone:
(707) 565-3711

Board Date:
August 4, 2009

Deadline for Board Action:

AGENDA SHORT TITLE:

Right-of-Way Vacation

REQUESTED BOARD ACTION:

Conduct public hearing; after hearing adopt staff recommendation and approve resolution denying the petition to vacate all that portion of the public right-of-way generally described as being located to the north of the intersection of Preston Depot Rd, Cloverdale Blvd North/Old Redwood Hwy, and McCray Rd, and to the south of the Russian River, and as more specifically described and shown in the attached legal description and location map (Exhibit A and B).

(Fourth Supervisorial District)

CURRENT FISCAL YEAR FINANCIAL IMPACT

EXPENDITURES

ADD'L FUNDS REQUIRING BOARD APPROVAL

Estimated Cost	\$		Contingencies \$	
			(Fund Name:)	
Amount Budgeted	\$		Unanticipated Revenue	\$
			(Source:)	
Other Avail Approp	\$		Other Transfer(s)	\$
(Explain below)			(Source:)	
Additional Requested:	\$		Add'l Funds Requested:	\$

Explanation (if required):

Prior Board Action(s):

- On July 10, 2007 the Board approved Sonoma County Resolution No. 07-0614 accepting the relinquishment of a portion of superceded State right-of-way, wherein the above described subject right-of-way is located.

- On July 14, 2009 the Board approved Sonoma County Resolution No. 09-0630 declaring its intent to consider the proposed vacation of the subject right of way described above.

Alternatives - Results of Non-Approval:

If the subject area is vacated, the existing informal public use of the area and any prospective public use of the area will be eliminated. PRMD Comprehensive Planning staff has concluded that the vacation will be inconsistent with the Sonoma County General Plan. The vacation will be contrary to the recommendations of the Sonoma County Regional Parks Department.

Background:

On August 18, 2008 Permit & Resource Management (PRMD) staff received a *Petition for Vacation of Public Easement /Public Right-of-Way* (Attachment A), requesting the vacation of all that portion of the public right-of-way generally described as being located to the north of the intersection of Preston Depot Rd, Cloverdale Blvd North/ Old Redwood Hwy, and McCray Rd, and to the south of the Russian River, and as shown on the attached *Vicinity Map* (Attachment B). The petition was submitted by [REDACTED], an owner of one of the two parcels directly adjacent to the area of right-of-way proposed to be vacated.

[REDACTED] initially began communication with Transportation and Public Works Department (TPWD) regarding the subject right-of-way in November of 2006. After working with TPWD between November of 2006 and July of 2008, [REDACTED] was referred to PRMD to submit a petition to request vacation of the subject right-of-way. PRMD staff explained that the vacation process is governed by the Streets and Highways Code and requires referral to the neighboring property owners, other county and public agencies, public and private utilities, a general plan consistency determination, and a public hearing and vote with the Board of Supervisors.

Attachments:

- Resolution and Exhibits A and B
- A. Petition for Vacation of Public Easement/Public Right-of-Way
- B. Vicinity Map
- C. Proposed Construction Plan
- D. California Transportation Committee Resolution No. R3652 (Pages 1-4)
- E. Sonoma County Resolution No. 07-0614 (Pages 1-2)
- F. Photos of Parking / Turnaround Area
- G. Photos of Foot Trails and River (Pages 1-2)
- H. General Plan Consistency Determination
- I. Regional Parks Department Response
- J. 300 Foot Notification Response Letter
- K. Letters of Support (Pages 1-16)

On File With Clerk:

CLERK OF THE BOARD USE ONLY

Board Action (If other than "Requested")

Vote:

Background (Continued):

The petitioner's future plans for the subject area are as shown on the attached *Proposed Construction Plan* (Attachment C), and include removing the existing asphalt, relocating the existing guardrail, and installing a new fence. Public Works has reviewed and approved this proposed plan, and had agreed to remove the asphalt and relocate the guardrail. The petitioner will be responsible for installing the proposed fence. The proposed guard rail will be installed at a ten foot (10') offset from the existing public roadway, and the proposed fence will be installed along the southerly boundary of the subject right-of-way proposed to be vacated.

In response to the petition for the vacation of the subject public right-of-way, PRMD staff has taken the following steps to establish the merits of the vacation and the needs of the parties potentially affected by this vacation:

1. The subject right-of-way was researched to determine if the county had an interest to consider vacating. The subject right-of-way was determined to have formerly been part of the state highway system and was the site upon which the south end of the Preston Bridge, which no longer exists, crossed the Russian River to what is now known as Geysers Rd. PRMD staff determined, and confirmed with TPWD staff, that the subject area was relinquished to the County of Sonoma by the California Transportation Commission (CTC) in CTC Resolution No. R3652 (Attachment D, Pages 1-4), and was accepted by the County of Sonoma by County Resolution No 07-0614 (Attachment E, Pages 1-2) by the Board of Supervisors on July 10, 2007.

2. A field review was conducted by PRMD staff. Staff observed evidence of current public use of the right-of-way for vehicular parking and turn around, and pedestrian access to the Russian River. The parking/turnaround area consists of a large paved area (Attachment F), and the access to the river consists of several foot trails traversing the non-paved portion of the subject right-of-way. (Attachment G.)

3. Notification of the proposed vacation of the subject right-of-way was sent to the Comprehensive Planning Division of PRMD, in conformance with Section 65402 of the Government Code, and a General Plan Consistency Analysis Determination was requested. The proposed vacation of the subject right-of-way was determined to be inconsistent with the General Plan (Attachment H). Comprehensive Planning staff stated in their analysis "...vacation of this easement will result in loss of an existing public access point to the Russian River at Preston Bridge, as well as a portion of the proposed Russian River Waterway Trail, and is therefore inconsistent with Goal OSRC-17, Objective OSRC-17.1, and Policy OSRC-17d of the General Plan."

4. Notification of the proposed vacation was sent to the all county departments and public agencies with a potential interest in the subject right-of-way. Only one objection was received from Sonoma County Regional Parks. No objections were received from the City of Cloverdale, Cloverdale Fire Protection District, Cloverdale Post Office, Sonoma County Agricultural and Open Space, Sonoma County Emergency Services, Sonoma County Environmental Health, Sonoma County PRMD Project Review, Sonoma County PRMD Sanitation, Sonoma County Sheriff, Sonoma County Transportation and Public Works, or Sonoma County Water Agency.

Sonoma County Regional Parks objected to the proposed vacation in their letter dated March 23, 2009 (Attachment I), "...due to its potential impact to the public and its inconsistency with the General Plan." Regional Parks noted that the area proposed to be vacated was identified in the Russian River Trespass and Access Management Plan as "...a high priority public river site..." and indicated that the 2003 Draft Sonoma County Outdoor Recreation Plan specifies a goal to "...develop public river access at Preston Bridge on the Russian River."

Background (Continued):

5. Notification of the proposed vacation was sent to all public and private utilities with a potential interest in the subject right-of-way. An objection was raised by PG&E and Comcast concerning their existing utilities on a pole contained within the area proposed to be vacated. The petitioner took appropriate action to exclude the utility pole from the area proposed to be vacated and both utilities' objections were rescinded.

No other comments or objections to the proposed vacation or requests for reservations of public utility easements from the vacation were received from any other public or private utility.

6. Notification of the proposed vacation was sent to all owners of neighboring parcels located within 300 feet of the subject right-of-way. Two phone calls were received from neighbors that were notified of the action, but neither neighbor objected to the vacation. One letter was received from a neighbor that was notified of the vacation. The letter that was received (Attachment J) supported the vacation and cited several problems associated with public use of the subject area including continuous and ongoing criminal activity and general public nuisance in the form of ongoing drug sales and consumption, abandoned vehicles, garbage being dumped, and vehicles being set on fire.

No other comments or objections to the proposed vacation were received from any neighbors in response to the 300 foot notification.

7. Received and reviewed general letters of public support for the proposed vacation. Six letters (Attachment K, Pages 1- 15) were received that supported the proposed right-of-way vacation and cited several ongoing problems associated with public use of the subject area including: lack of any sanitary facilities for the public and the resulting public urination and defecation, lack of garbage cans that result in litter and broken glass in the parking area and directly in the river, lack of safe access to the river that has resulted in severe injuries and near drownings, lack of any clearly demarcated or developed access to the river which results in instances of trespass on adjoining property, loud music and parties that last late into the night and early morning, drug use and drinking that result in public intoxication, property damage to vehicles from the public using the subject right-of-way, cars parked in unsafe manners that limit sight distance on the corner and cause traffic congestion, fist fights and loud arguing, lack of barbeque pits that have resulted in fires, dumped vehicles and trailers, and possible well contamination from pollution of the river and general unsanitary conditions. The letters further state that the area across the river to the north located similarly in a public right-of-way is safer site for river access and has a better beach. The letters indicated that the Cloverdale River Park is only a ½ mile to the south of the subject area and has been developed with sanitary facilities, parking facilities, and barbeque and picnic facilities but is seldom used because the subject area is open and free of cost, whereas the park has a day use fee. The letters expressed concern that the County of Sonoma could have liability for any injuries occurring in the subject area if it continues to be used as a public right-of-way.

No letters were received from the public objecting to the proposed vacation.

Background (Continued):**Process:**

If a local agency has adopted a general plan, the Board must consider the general plan prior to vacating any street, highway, or public service easement. Prior to the hearing, the proposed vacation must be submitted to and reported upon by the planning agency (PRMD Comprehensive Planning Division) as to conformity with the general plan. The petition was reviewed by PRMD Comprehensive Planning Division staff, and it was concluded that the proposed vacation would be inconsistent with the general plan, because vacation will result in loss of an existing public access point to the Russian River at Preston Bridge, as well as a portion of the proposed Russian River Waterway Trail.

If after hearing the evidence the Board determines that the street, highway, or public service easement described in the petition is unnecessary for present or prospective public use; the Board may adopt a resolution vacating the street. The resolution should include a finding that the abandonment is consistent with the general plan, may provide that the vacation occurs only after conditions required by the legislative body have been satisfied and may instruct the clerk that the resolution of vacation not be recorded until the conditions have been satisfied.

If the petition is denied, there is no effect on the existing environment, and no action would be required by the California Environmental Quality Act (CEQA). If the petition is granted, the action would be exempt from CEQA pursuant to CEQA Guideline 15301 (minor alteration of existing facility; no increase in use).

Recommendations:

PRMD staff recommends that the Board of Supervisors adopt the attached resolution denying the proposed vacation of the subject area due to the present and prospective future public use of the area, its inconsistency with the General Plan, and Regional Park's objections.

Resolution Number

County of Sonoma
Santa Rosa, California

Date:

RESOLUTION TO DENY THE PETITION TO VACATE ALL THAT PORTION OF THE PUBLIC RIGHT-OF-WAY GENERALLY DESCRIBED AS BEING LOCATED TO THE NORTH OF THE INTERSECTION OF PRESTON DEPOT RD, CLOVERDALE BLVE NORTH / OLD REDWOOD HWY, AND MCCRAY RD, AND TO THE SOUTH OF THE RUSSIAN RIVER, PURSUANT TO THE STREETS AND HIGHWAYS CODE SECTION 8300 ET SEQ (FOURTH SUPERVISORIAL DISTRICT)

WHEREAS, state law provides a process for a local agency to consider the vacation of public streets, highways, and public easements; and

WHEREAS, Division 9, Part 3, Chapter 3 of the California Streets and Highways Code (Section 8300 et seq) provides for General Vacation, if a general plan has been adopted, only if the vacation is consistent with the general plan, and only if the street is unnecessary for present or prospective public use; and

WHEREAS, this Board has conducted a public hearing as required by law, and after considering the oral and documentary evidence presented to it has determined that the property, as described in the attached legal description and shown on the attached map, "Exhibits A and B," is necessary for present and prospective public use as demonstrated by the evidence submitted; and

WHEREAS, the Permit and Resource Management Department Comprehensive Planning Division has found the proposed vacation inconsistent with the General Plan, and the Board concurs in this conclusion; and

WHEREAS, Sonoma County Regional Parks Department has indicated that the street may be necessary for river access in the future; and

WHEREAS, the Board of Supervisors has reviewed the report of the Permit and Resource Management Department and considered the evidence presented at the public hearing and attached to the staff report;

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors finds and determines that all of the facts stated above are true and correct; and

BE IT FURTHER RESOLVED that the Board of Supervisors finds that the property described in the attached legal description and shown on the attached map, "Exhibits A and B," is necessary for present and prospective public use; and

BE IT FURTHER RESOLVED that the Board of Supervisors finds that the proposed vacation is inconsistent with the General Plan, and

BE IT FURTHER RESOLVED that the petition to vacate the above described property is denied.

SUPERVISORS VOTE:

Brown: Kerns: Zane: Carrillo: Kelley:

Ayes: Noes Absent: Abstain:

SO ORDERED.

Supporting maps are on file at:

County of Sonoma Board of Supervisors Office
575 Administration Drive, Room 100A
Santa Rosa, CA 95403

They can be viewed and/or copies requested during regular business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday. Call (707) 565-2241 for more information.