RESOLUTION - ACTION REQUESTED 2020-482

MEETING: August 4, 2020

TO: The Board of Supervisors

FROM: Mike Healy, Public Works Director

RE: Recommend Rejection of Application to Vacate a Portion of the LDP Equestrian Trail

RECOMMENDATION AND JUSTIFICATION:
Accept the Recommendation of Rejection Concerning a Request by Petitioners David and Mary Anne Taylor Seeking to Vacate the Pedestrian and Equestrian (P&E) Public Service Easement Within Lot 638, Lake Don Pedro Subdivision Unit No. 2-M

Property Owners David and Mary Anne Taylor have requested that the Board again hear their arguments seeking the abandonment of the remaining portion of the Pedestrian and Equestrian (P&E) Public Service Easement within Lot 638, Lake Don Pedro Subdivision Unit No. 2-M as delineated on Map No. 1676, recorded September 8, 1969, Mariposa County Records.

The land owners have requested the abandonment of that portion which is parallel with the south line of Lot 638, consisting of the southerly 30 feet of said Lot 638. The proposed abandonment is approximately 175 feet long.

Should the Board determine that there is sufficient cause to hear further testimony to vacate this portion of the P&E Trail a Formal Advertised Notice of a Public Hearing to hear arguments of this action will be scheduled for a later date. Should the Board determine that this action is unwarranted no further actions on this matter will be undertaken. Regardless of the Board determination the existing 10 foot wide utilities easement would remain intact.

All utility providers have been contacted by the petitioner and the petitioner has filed letters stating that utility providers have no present infrastructure located within these bounds and voice no current objection to the property owners' request. The Lake Don Pedro Owners' Association has also filed a letter of no objection.

This portion of trail is a dead end with no outlet connection but with sufficient space to reverse direction both for equestrian or pedestrian use.

Staff has met with Mr. and Mrs. Taylor and has reviewed their documents and
arguments in support of abandonment of this portion of the long established Pedestrian and Equestrian Trail System and staff fails to see a verifiable public interest argument from the documents put forward by the applicants.

One of the arguments presented by the petitioners to bolster their support for this amendment is increased emergency fire water via a personally owned tank that they propose to make available for fire suppression efforts. Staff would be hard pressed to be persuaded that this would be a viable or substantial emergency water source given the limited capacity of the tank and the fact that the subdivision is serviced by a system of fire hydrants that meet current standards and which is managed by a Public Water System provider regulated by the State of CA.

Petitioners also propose to allow access to the tank in a manner that is illustrated in a CAL FIRE brochure which is a part of the petitioner’s submittal. Staff minimizes this benefit given that if this abandonment is granted there is not an offer of deed restriction or any enforceable instrument that would mandate clear and free future access to the tank by fire apparatus. To this point the petitioners have stated a desire to construct a solar field in the easement area, should their petition be granted which may create an obstruction to access by the previously mentioned fire apparatus argument, further diminishing in staff’s view the weight of their stated public benefit.

As previously stated, staff has struggled to identify a clear and compelling public interest in this petition for abandonment. One of the "Quality of Life" cornerstones in the development and marketing strategy of this subdivision was the convenient access to passive recreation public trails for both pedestrian and equestrian enthusiasts. In staff’s view the further erosion of the future availability of these recreational opportunities, even though this request is but for 175 feet in length, diminishes the healthy lifestyle enhancements envisioned both by the developer and those who made the decision to become land owners within this development. Staff also harbors a concern that granting this request will result in future similar requests from other property owners within the subdivision causing further erosion of neighborhood recreational opportunities.

Staff recognizes the letter submitted by the Lake Don Pedro Owners' Association stating a position of no objection to this single lot abandonment by their Architectural Control and Compliance Committee. Staff believes that more information and dialog with the Owners' Association is necessary given the impact that single lot abandonment actions will have on the use and enjoyment of the entire recreational trail system.

For these reasons staff recommendation is to reject the irrevocable petition of abandonment by David and Mary Anne Taylor.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**
Pedestrian and equestrian trails were created throughout the Lake Don Pedro
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Subdivision upon the recording of the original subdivision maps. The intent was to provide a trail system network throughout the subdivision with trail connections at various connections.

There were no pre development approval provisions made to maintain the trail system and the County has never established a program or provided funding to maintain these dedicated trails.

In the past, the County did respond to complaints and performed a complete inventory of the trails and documented numerous encroachments and/or obstructions which created conflict with trail users. At that time as a resident service the County did install trail markers to identify the on-site trail location. There was also a local service group that advocated for the use of the trails. The extent of maintenance that was done by this group is unknown. The level of recent activity by this group of trail advocates is also unknown.

 Portions of the trail have been abandoned in the past, the most recent being that portion of trail along the westerly boundary of Lot 638, which was completed by Board Resolution 11-133.

Additionally, the Board of Supervisors heard a similar request from the same parties on July 17, 2012, when the request was denied. Copies of that agenda item and an excerpt of those Minutes are attached.

Lastly, in a separate but related issue, the matter of indemnification relative to the trails was also discussed on August 4, 2015. Copies of that agenda item, as well as a Minutes excerpt, are attached.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:
Should the Board determine that there is sufficient cause to hear further testimony to vacate this portion of the P&E Trail a Formal Advertised Notice of a Public Hearing to hear arguments of this action will be scheduled for a later date. Should the Board determine that this action is unwarranted no further actions on this matter will be undertaken. Regardless of the Board determination the existing 10 foot wide utilities easement would remain intact.

ATTACHMENTS:
ApplicantsSubmittal (PDF)
LettersofSupport (PDF)
Exhibit A & B (PDF)
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vicinity3 (PDF)
Taylor P & E Abandonment Request - July 17, 2012 (PDF)
July 17, 2012 Minutes Excerpt (PDF)
August 4, 2015 P & E Indemnification Item from County Counsel (PDF)
August 4, 2015 CSA 1 M Minutes Excerpt (PDF)
April 5, 2011 P & E Trail vacation item (PDF)
PUBLIC COMMENT from Mary Anne Taylor (PDF)

RESULT: ADOPTED [4 TO 1]
MOVER: Marshall Long, District III Supervisor
SECONDER: Merlin Jones, District II Supervisor
AYES: Merlin Jones, Marshall Long, Kevin Cann, Miles Menetrey
NAYS: Rosemarie Smallcombe