

DEPARTMENT: Public Works

BY: Dana Hertfelder

PHONE: 966-5356

**RECOMMENDED ACTION AND JUSTIFICATION:**

Public hearing to Consider

Res.  
07-518

- 1) Resolution Of Intent to Accept an Irrevocable and Perpetual Offer of Dedication of Public Service Easement Right of Way to the County of Mariposa on the realigned Portion of the Don Pedro Pedestrian and Equestrian Easement. located on Lot 696 Lake Don Pedro Subdivision Unit 2-M as described in Exhibit A

Res.  
07-519

- 2) Vacation of that portion of the Don Pedro Pedestrian Easement as shown on the map entitled "Lake Don Pedro Subdivision Unit No. 2-M", Lot 696, filed for recordation on September 8, 1969 as Map No. 1676, Mariposa County Records

The property owner has requested to relocate this portion of the Don Pedro Pedestrian and Equestrian easement from along the western boundary line of their property to the eastern boundary line. The current property owner is requesting this action because their house and driveway, constructed by the previous owner, is located within the Don Pedro Pedestrian and Equestrian Easement. This section of the Don Pedro Pedestrian and Equestrian easement is a short section of trail that provides access from the trail system located on the north side of Zelma way to the more extensive trail system running parallel to Zelma Way, located behind the existing lots (Figure 1). Relocating the Pedestrian Equestrian easement to the eastern property line of APN 020-180-001 will not impact the utility of the trails, and would resolve the issue of the property owner's encroachment into the trail system.

Section 8333 Public Service Easement Vacation, of the California Streets and Highway code allows a legislative body of a local agency to summarily vacate a public service easement when the easement has been superseded by relocation and there are no other public facilities located within the easement.. To vacate a public service easement, the legislative body must adopt a resolution of vacation that states that the vacation is made under Chapter 3 of the California Streets and Highways Code, provides a precise description (or map) of the portion to be vacated, the facts under which the summary vacation is made, and that from the date of the resolution the public service easement vacated longer constitutes a public service easement.

**BACKGROUND AND HISTORY OF BOARD ACTIONS:**

**ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

- 1) Do not accept offer of dedication and vacate this portion of the Don Pedro Pedestrian Equestrian Easement. The property owner would be required to find an alternative solution to their encroachment into the trails system.

Financial Impact? ( ) Yes (x) No	Current FY Cost: \$	Annual Recurring Cost: \$
Budgeted In Current FY? ( ) Yes ( ) No ( ) Partially Funded		
Amount in Budget: \$		List Attachments, number pages consecutively
Additional Funding Needed: \$		1 Legal Description
Source:		2 Figure 1
Internal Transfer		3 Resolution of Vacation
Unanticipated Revenue	4/5's vote	4 Public Hearing
Transfer Between Funds	4/5's vote	
Contingency	4/5's vote	
( ) General ( ) Other		

**CLERK'S USE ONLY:**

Res. No.: 07-518 Ord. No. \_\_\_\_\_

Vote - Ayes: 5 Noes: \_\_\_\_\_

Absent: \_\_\_\_\_

*AW* Approved

( ) Minute Order Attached ( ) No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.

Date: \_\_\_\_\_

Attest: MARGIE WILLIAMS, Clerk of the Board  
County of Mariposa, State of California

By: \_\_\_\_\_  
Deputy

**COUNTY ADMINISTRATIVE OFFICER:**

\_\_\_\_\_ Requested Action Recommended

\_\_\_\_\_ No Opinion

Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CAO: \_\_\_\_\_



# COUNTY OF MARIPOSA

P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

JANET BIBBY, CHAIR  
LYLE TURPIN, VICE CHAIR  
BRAD ABORN  
DIANNE A. FRITZ  
BOB PICKARD

DISTRICT III  
DISTRICT II  
DISTRICT I  
DISTRICT IV  
DISTRICT V



## MARIPOSA COUNTY BOARD OF SUPERVISORS

### MINUTE ORDER

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TO: DANA HERTFELDER, Public Works Director

FROM: MARGIE WILLIAMS, Clerk of the Board *MW*

SUBJECT: PUBLIC HEARING: 1) Adopt a Resolution of Intent to Accept an Irrevocable and Perpetual Offer of Dedication of Public Service Easement Right of Way to the County of Mariposa on the Realigned Portion of the Don Pedro Pedestrian and Equestrian Easement Currently Located on the North Side of Zelma Way, Relocating to the Eastern Property Line of APN 020-180-001; and 2) Vacation of that Portion of the Don Pedro Pedestrian and Equestrian Easement as Referenced in Item B 1) and as Shown on the Map Entitled "Lake Don Pedro Subdivision Unit No. 2-M", Lot 696, filed for Recordation on September 8, 1969 as Map No. 1676, Mariposa County Records

RESOLUTION 07-518 & 07-519

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on November 6, 2007

#### ACTION AND VOTE:

B) Dana Hertfelder, Public Works Director;

PUBLIC HEARING: 1) Adopt a Resolution of Intent to Accept an Irrevocable and Perpetual Offer of Dedication of Public Service Easement Right of Way to the County of Mariposa on the Realigned Portion of the Don Pedro Pedestrian and Equestrian Easement Currently Located on the North Side of Zelma Way, Relocating to the Eastern Property Line of APN 020-180-001; and 2) Vacation of that Portion of the Don Pedro Pedestrian and Equestrian Easement as Referenced in Item B 1) and as Shown on the Map Entitled "Lake Don Pedro Subdivision Unit No. 2-M", Lot 696, filed for Recordation on September 8, 1969 as Map No. 1676, Mariposa County Records

**BOARD ACTION:** Dana Hertfelder presented the staff report and he advised that a house and improvements were constructed within the existing easement and the recommended action will realign the easement. He responded to a question from the Board and advised that this hearing was noticed – the public hearing requirements apply to the vacation of the easement and a formal resolution is provided for that; and acceptance of the easement only requires action by the Board. County Counsel responded to a question from the Board and advised that one motion would be acceptable as long as it includes both actions. Staff advised that the realignment complies with the setback requirements and does not affect any of the surrounding properties; and he responded to questions from the Board and advised that there were no comments received from public utilities or from the public.

The public portion of the hearing was opened and input was provided by the following:

Paul Chapman stated he agrees that this is the easiest way to resolve this issue; however, he feels that this shows that the realtors and title companies did not do their jobs.

Staff responded to questions from the Board relative to other encroachment issues; and relative to payment of the costs for this process.

Dick Hutchinson questioned how many more times the title companies and others fail to catch encroachments in their processing.

Dana Hertfelder commented on the Building Department's permit processing for the Don Pedro subdivision area and their review of the equestrian easements. (M)Turpin, (S)Aborn, Res. 07-518 was adopted accepting the offer of dedication of the easement as recommended; and Res. 07-519 was adopted vacating the portion of easement as recommended/Ayes: Unanimous. The hearing was closed.

Cc: Becky Crafts, Assessor  
Kris Schenk, Planning Director  
Dana Hertfelder, Public Works Director  
Dr. Mosher, Health Officer  
John Davis, Building Director  
File

When Recorded Please Return to:  
Clerk of the Board

DOC#: **2076627**

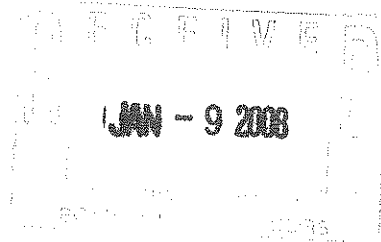
Titles: 1 Pages: **4**



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Fees	0.00
Taxes	0.00
Others	0.00
PAID	<u>\$0.00</u>

Mariposa County Resolution No. 07-519



1

**A RESOLUTION OF INTENT TO VACATE THAT PORTION OF THE DON PEDRO PEDESTRIAN AND EQUESTRIAN PUBLIC SERVICE EASEMENT LOCATED ON ASSESSORS PARCEL NUMBER 020 180-001, 2694 ZELMA WAY DON PEDRO SUBDIVISION 2-M**

WHEREAS, a written request to abandon a portion of the Don Pedro Pedestrian and Equestrian easement has been made by the owner of the property upon which said easement lies; and

WHEREAS, this public service easement has been superseded by relocation which provides for improved public utilization of the easement, moves this section of the easement father away from the intersection of El Campo and Zelma Way for improved Public Safety, relocates this portion of the easement closer to the adjacent easement and there are no other public facilities located within this easement.

NOW THEREFORE, BE IT RESOLVED by the Mariposa County Board of Supervisors, a political subdivision of the State of California, that the Board hereby determines and orders as follows:

1. The County of Mariposa, by and through its Board of Supervisors, summarily vacates the easement described in this resolution pursuant to Street & Highways Code , Division 9, chapter 3, § 8333, and finds that this vacation will provide for improved utilization and public safety o f the public service easement
2. The easement hereby vacated is described in Exhibit "A": attached hereto, and by reference, made a part hereof.
3. The approval of the easement vacation is conditioned upon the applicant providing acceptable new public service easements to the public service involved. Upon receipt by the Public Works Department of easements, this Resolution will become effective.
4. A certified copy of this Resolution No. 07-519 shall be recorded in the office of the Mariposa County Recorder by the Clerk of the Board, and upon such recordation, the easement hereby vacated shall no longer constitute a street highway or public service easement.

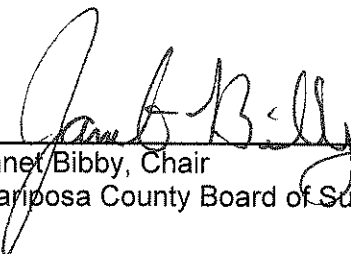
PASSED AND ADOPTED by the Mariposa County Board of Supervisors, this 6th day of November, 2007, by the following vote:

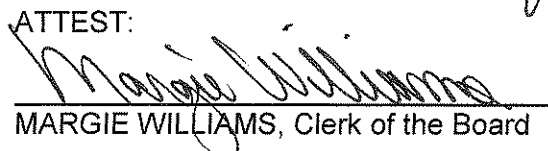
AYES: ABORN, TURPIN, BIBBY, FRETZ, PICKARD

NOES: NONE

ABSENT: NONE

ABSTAINED: NONE

  
 Janet Bibby, Chair  
 Mariposa County Board of Supervisors

ATTEST:  
  
 MARGIE WILLIAMS, Clerk of the Board

APPROVED AS TO FORM  
  
 THOMAS P. GUARINO, County Counsel

EXHIBIT A

An easement for pedestrian and equestrian trail purposes on, over, across and under a strip of land situated in a portion of the Southwest one-quarter (SW 1/4) of Section 28 and in a portion of the Northwest one-quarter (NW 1/4) of Section 33, all in Township 3 South, Range 15 East, M.D.B.&M., Mariposa County, State of California, said strip of land having a uniform width of 30.00 feet, said strip of land being more particularly described as follows:

The easterly 30.00 feet of Lot 696 as shown on the map entitled "Lake Don Pedro Subdivision Unit No. 2-M" filed for record September 8, 1969, as Map No. 1676, Mariposa County Records. The westerly line of said strip of land being 30.00 feet distant westerly from the easterly line of said Lot and is to be lengthened or shortened so as to intersect the northerly and southerly lines of said Lot 696.

Prepared By:

Jerome S. Freeman  
Jerome S. Freeman  
L.S. No. 4079

Dated:

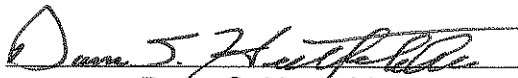
November 20, 2007



2076627

CERTIFICATE OF ACCEPTANCE BY MARIPOSA COUNTY

This is to certify that interest conveyed by this Easement Document dated November 20, 2007, from Shirley G. Serrato and Juan G. Serrato To the County of Mariposa, a political subdivision is hereby accepted by Dana S. Hertfelder, Director of Public Works, pursuant to the authority conferred by resolution of the Board of Supervisors of Mariposa County, adopted August 13, 1985, and the grantees hereby consent to the recordation thereof by its duly authorized officer.

  
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Dana S. Hertfelder  
Director of Public Works

11-28-07  
Date





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Executed at Mariposa County on 10/4/2007  
Published in Mariposa Gazette on 10/25/2007 & 11/1/2007:2C

### Notice of Vacation

In accordance with Division 9, Chapter 3, Section 8320 of the California Streets and Highways Code a public hearing will be held at 10:00 a.m. on November 6, 2007, in the Mariposa County Board of Supervisor's room located 5100 Bullion Street, Mariposa California to discuss the vacation of that portion of the Don Pedro Pedestrian and Equestrian Easement located along the Westerly Boundary of Assessors Parcel No. of the Don Pedro Pedestrian and Equestrian Easement located along the Easterly Boundary of Assessors Parcel No. 020-180-001 (2694 Zelma Way) Copies of the site plan showing the proposed section of the Don Pedro Pedestrian and Equestrian Easement to be vacated may be obtained from the Mariposa County Department of Public Works at 4639 Ben Hur Road, Mariposa, California.

10/25/07 11/1/07:2C