

TRINITY COUNTY PLANNING COMMISSION STAFF REPORT

APPLICANT: Dero Forslund

OWNERS: Ryan Partnership

PLANNER: Lisa Lozier, Deputy Director of Planning

PROJECT DESCRIPTION: Recommend to the Board of Supervisors approval of a request to vacate a portion of a 33-foot easement common to parcel boundary between Assessor Parcel Numbers 024-510-45-00 and 024-510-46-00.

PROJECT INFORMATION:

Planning Area: Weaverville area more specifically located at the intersection of Martin Road and State Highway 299 as indicated on Attachment 2.

Existing General Plan Designation: Commercial

Existing Zone District: C-2

Existing Land Use: Currently developed with older commercial buildings which may be built across the property line.

Adjacent Land Use:

	Land Use	Zoning	General Plan
North	Holiday Market	C2	C
South	Commercial	C2	C
East	Residential	C2	C
West	State Highway 299	C2	C

BACKGROUND:

Planning staff received a request to vacate an easement reserved by the Bureau of Land Management (BLM) for 33-foot easements for roadway and utilities located on and limited to the common boundary of lots 36 and 37 of Section 18, Township 33 North, Range 9 West, Mount Diablo Meridian, also described as Assessor parcels 024-510-45-00 and 024-510-46-00. (Attachment 3)

Land Patents issued by the United States through the BLM include descriptions of easements in regard to the Small Tract Act passed June 1, 1938. The easements were reserved for access and utilities on the lots described above. In 1992 BLM issued a letter discussing the intent for the

classification of easements granted to patents which basically states that the intent of the Small Tract Act easements was to provide access and utility accessibility to the affected tracts as a common law dedication to the land owner subject to the easement of the public for the Use of the land. If the right-of-way has been dedicated as a public easement, the dedication may only be abandoned by proper due course of law. (Attachment 4)

State of California, Streets and Highways Code Sections 8333(c), 8335(a) (1) and 8336(a)(b) (Attachment 5) provides regulatory guidance for vacation of easements intended for the use of public access and utilities.

Request for comment were sent to Weaverville CSD, Weaverville Sanitary District and Trinity Public Utilities District regarding the potential vacation. (Attachment 6) Each of the responding entities expressed no interest in the easement as described and no concern over the potential vacation of the easement. Department of Transportation also expressed no interest in the property and supports the vacation of the easement.

Government Code Section 65402 that real property intended for access shall be abandoned prior to a determination of consistency with the adopted General Plan. The proposed project has been found to be consistent with the General Plan Objective 1.9 for abandonment of roadways.

Review includes the consideration of retaining utility easements as necessary, denial of abandonments which provide access to resources or water ways and consideration for abandonment of road ways should consider the necessity of maintaining pedestrian, equestrian, utility or stock easements. The easement has not historically been used for public access nor has it been used for utility purposes (Attachment 7).

An email was received including questions regarding the vacation of the easement (Attachment 8).

ENVIRONMENTAL DETERMINATION:

California Environmental Quality Act (CEQA) under the General Rule exemption 15061(b)(3) which exempts activities where it can be seen with certainty that there is no possibility of causing a significant effect on the environment.

ALTERNATIVES: The following alternatives are available:

1. Continue the public hearing to request additional information.
2. Recommend denial of the request to vacate the 33-foot easement

RECOMMENDATION: Staff recommends that the Planning Commission:

1. Conduct a public hearing.
2. Close the public hearing.
3. Adopt a resolution recommending the Board of Supervisors:

a) find that vacation of the easement as described is not subject to California Environmental Quality Act (CEQA) under the General Rule exemption 15061(b)(3) which exempts activities where it can be seen with certainty that there is no possibility of causing a significant effect on the environment; and

b) adopt the attached Resolution recommending the Board of Supervisors approve a Resolution to vacate an easement as designated in Attachment 1.

ATTACHMENTS:

1. Draft Planning Commission Resolution 2021-03
2. Aerial Map indicating the location of easement proposed to be vacated
3. Patents for lots 36 and 37
4. BLM Letter regarding rights-of-way
5. Part 3: Public Streets, Highways, and Service Easement Vacation
6. Letters received from potential Utility holders
7. General Plan Objectives and Policies for Abandonment
8. Email received regarding the potential vacation of the easement
9. Draft Board Resolution

RESOLUTION NO. PC-2021-03

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF TRINITY RECOMMENDING THAT THE BOARD OF
SUPERVISORS APPROVE VACATION OF EASEMENT
COMMON TO APN's 024-510-45-00 AND 024-510-46-00**

WHEREAS, the owner of Assessor parcels 024-510-45-00 and 024-510-46-00 has requested that the County vacate an easement common to both Assessor parcels; and

WHEREAS, the easement was reserved by the Bureau of Land Management (BLM) included in land patents for 33-foot easements for roadway and utilities located on and limited to the common boundary of lots 36 and 37 of Section 18, Township 33 North, Range 9 West, Mount Diablo Meridian, also described as Assessor parcels 024-510-45-00 and 024-510-46-0; and

WHEREAS, in accordance with State of California Streets and Highways Code Sections 8333(c), the Board of Supervisors may summarily vacate a public service easement when the easement has been superseded by relocation, or determined excess by the easement holder, and there are no other public facilities located within the easement.; and

WHEREAS, notification was received from utilities with potential interest in the property with each of the utilities responding and expressed no interest in the easement as described and no concern over the potential vacation of the easement; and

WHEREAS, Department of Transportation also expressed no interest in retaining the easement and supports the vacation of the easement; and

WHEREAS, the Trinity County Planning Commission held a public hearing on March 11, 2021; and

WHEREAS, the Planning Commission determined the request for the proposed easement vacation is consistent with the adopted General Plan.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the County of Trinity recommends that the Board of Supervisors:

1. Find the request for vacation of an easement on private property exempt from the requirements of the California Environmental Quality Act under the General Rule exemption 15061(b)(3) on the basis that there are no substantial changes to the project or to circumstances under which the project is proposed to be undertaken, and no new information has become available or been made known showing unanalyzed environmental effects; and
2. Find that request to vacate the easement is consistent with the adopted General Plan; and

March 11, 2021

3. After review of all of the evidence submitted, that in accordance with Section 8333(c) and 8335(a) of the Streets and Highways Code of the State of California, the 33-foot easement for roadway and utilities located on and limited to the common boundary of lots 36 and 37 of Section 18, Township 33 North, Range 9 West, Mount Diablo Meridian, also described as Assessor parcels 024-510-45-00 and 024-510-46-00 be vacated

DULY PASSED AND ADOPTED this 11th day of March, 2021 by the Planning Commission of the County of Trinity by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

RECUSE:

DIANA STEWART, CHAIRMAN

Planning Commission

County of Trinity

State of California

ATTEST:

Kim Hunter

Secretary of the Planning Commission

By: _____
Deputy



Attachment 2

THE UNITED STATES OF AMERICA,

To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Land Office at Sacramento, California, is now deposited in the Bureau of Land Management, whereby it appears that full payment has been made by Erville A. Wright, pursuant to the provisions of the Act of Congress approved June 1, 1938 (52 Stat. 609), entitled "An Act to provide for the purchase of public lands for home and other sites," and the acts supplemental thereto, for the following described land:

Mount Diablo Meridian, California.

T. 33 N., R. 9 W., sec. 18, Lot 36.

The area described contains 1.29 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said Erville A. Wright and to his heirs the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said Erville A. Wright and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted a right of way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, also, to the United States, all coal, oil, gas, and other mineral deposits, in the land so patented, together with the right to prospect for, mine, and remove the same according to the provisions of said Act of (June 1, 1938.) This patent is subject to a right of way not exceeding 33 feet in width, for roadway and public utilities purposes, to be located across said land or as near as practicable to the exterior boundaries. Reserving unto the United States, its permittee or licensee, the right to enter upon, occupy and use, any part or all of that portion of said lands lying within 50 feet of the center line of the transmission line right of way of the Northern California Power Company for the purposes provided in the Act of June 10, 1920 (41 Stat. 1063), and subject to the conditions and limitations of Section 24 of said Act, as amended by the Act of August 26, 1935 (49 Stat. 846). Excepting and reserving, also, to the United States, pursuant to the provisions of the Act of August 1, 1946 (60 Stat. 755), all uranium, thorium or any other material which is or may be determined to be peculiarly essential to the production of fissionable materials, whether or not of commercial value, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine, and remove the same.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the TWENTY-SECOND day of APRIL

Attachment 3

7 P 4M
Sacramento 045144

4--1043

R E C E I V E D
Land Office
Sacramento, Calif.
June 14, 1954 9 A. M.

THE UNITED STATES OF AMERICA,
To all to whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Land Office at Sacramento, California, is now deposited in the Bureau of Land Management, whereby it appears that full payment has been made by Charles T. Strong, pursuant to the provisions of the Act of Congress approved June 1, 1938 (52 Stat. 609), and the acts supplemental thereto, for the following described land:

Mount Diablo Meridian, California. T. 33 N., R. 9 W., Sec. 18, Lot 37.

The area described contains 1.06 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said Charles T. Strong and to his heirs the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities and appurtenances of whatsoever nature thereunto belonging, unto the said Charles T. Strong and to his heirs and assigns forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts; and there is reserved from the land hereby granted a right-of-way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, also, to the United States all coal, oil, gas and other mineral deposits in the land so patented, together with the right to prospect for, mine and remove the same, according to the provisions of said Act of June 1, 1938. This patent is subject to a right-of-way not exceeding 33 feet in width, for roadway and public utilities purposes, to be located across said land or as near as practicable to the exterior boundaries. Excepting and reserving, also, to the United States, pursuant to the provisions of the Act of August 1, 1946 (60 Stat. 755), all uranium, thorium or any other material which is or may be determined to be peculiarly essential to the production of fissionable materials, whether or not of commercial value, together with the right of the United States through its authorized agents or representatives at any time to enter upon the land and prospect for, mine and remove the same. Also reserving to the United States, its permittee or licensee, the right to enter upon, occupy and use any part or all of that portion of said land lying within a strip of land 50 feet wide covered by the transmission line right-of-way of the Northern California Power Company, for the purposes provided in the Act of June 10, 1920 (41 Stat. 1063), and subject to the conditions and limitations of Section 24 of said Act, as amended by the Act of August 26, 1935 (49 Stat. 846).

IN TESTIMONY WHEREOF, the undersigned officer of the Bureau of Land Management, in accordance with section 1 of the act of June 17, 1948 (62 Stat., 476, 43 U. S. C. Sec. 15), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the FOURTH day of JUNE in the year of our Lord one thousand nine hundred and FIFTY-FOUR and of the Independence of the United States the one hundred and SEVENTY-EIGHTH. For the Director, Bureau of Land Management.

(SEAL)

RECORD OF PATENTS: Patent Number 1144719
Recorded at the Request of Jimmie Strong
July 9, 1954 at 20 min. past 2 P. M.
Hal E. Goodyear, Recorder
Florence A. Greenwell, Deputy
Fee \$1.80 (140)

By S. C. Nichols
Chief, Patents Section Unit
DEPT. OF THE INTERIOR RECEIVED
JUN 11 1954 Bureau of Land
Management State Office
Sacramento 14, California
Thos. D. Greenwell Deputy



24-510
T.A.C. 71-003
71-012

7/199
8/32
9/79
10/51
10/62
10/102
12/131
14/12
18/21
21/29
21/34
21/91
22/36



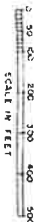
ALTHOUGH BASED IN WHOLE OR IN PART ON
RECORDED INFORMATION, THIS MAP IS NOT
A RECORD OF SURVEY AND ITS USE
FOR ASSESSMENT PURPOSES ONLY.

subject parcels

TRINITY COUNTY ASSESSOR'S OFFICE
BOOK TWENTY-FOUR PAGE FIFTY-ONE
DECEMBER 23, 2011

DECEMBER 23, 2011

DEPENDENT RESURVEY AND SUBDIVISION OF SECTION 18
NE 1/4 Sec Cor
Lot 137
S 88° 22' W



• 7734 - •

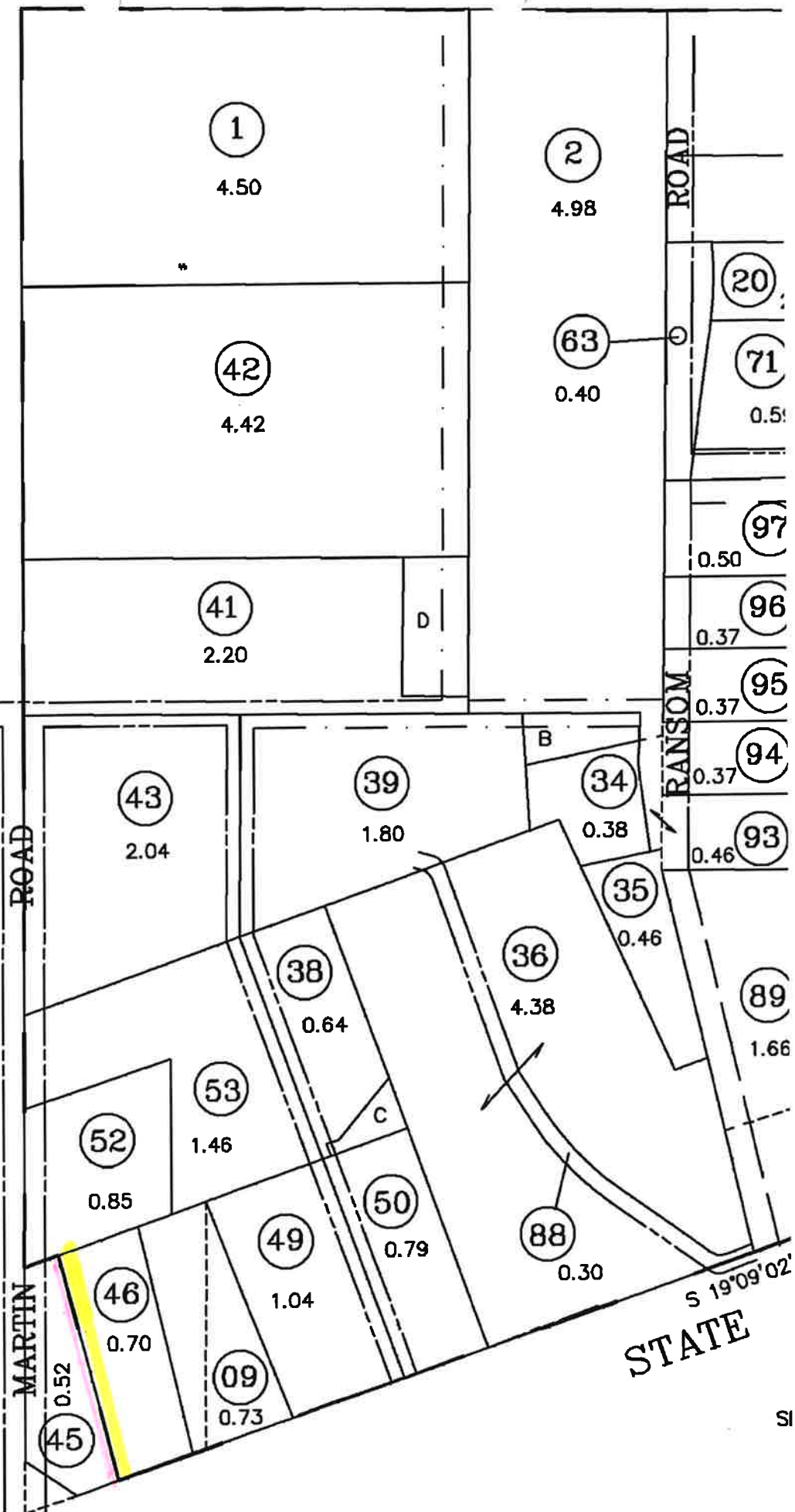
STOCKHOLM PLAY
The following production was not
a part of the play
Associated with neither artist
nor
Presented by none
THIS ARTIST'S FILE
July 2, 1951
Karlson

OF LAW AND THE REGULATIONS OF THIS BUREAU, IS HEREBY ACCEPTED.

CNLT, BRANCH OF SURVEY

500

71-012



SI

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240

I
Instruction
Memorandum
No. 91-196
Expires
9/30/92

February 25, 1991

To: AFOs

From: Director

Subject: Easements Reserved in Small Tract Act Leases and Patents

The issue of reserved rights-of-way (or easements) on Small Tract Act leases or patents has been the subject of debate for a number of years. There have been numerous Solicitor's Opinions on the subject as well as court decisions. This memorandum is an attempt to consolidate previously issued guidance and to provide policy and procedure when Small Tract Act rights-of-ways are encountered. -

BACKGROUND

(The Small Tract Act, passed June 1, 1938, and amended June 8, 1954, did not establish or reserve rights-of-way along the boundaries of leases or patents. The rights-of-way first appeared in the small tract lease form around 1945 and were intended to provide a corridor for access and utilities to small tracts. The lease form was amended in 1949 to specifically provide for maximum 33-foot rights-of-way. In 1950, the right-of-way was first codified in 43 CFR 257 as 33 feet (later changed to 50 feet) unless otherwise provided in the classification order.

Many times the classification order was silent on the issue of rights-of-way while at other times it created the opportunity for a public dedication of a right-of-way. However, there was no consistent use of the classification procedure. Therefore, small tract rights-of-way may or may not be identified in a classification order and may be encountered only as a lease provision or patent covenant.

DEDICATIONS

It is generally accepted that small tract rights-of-way are common law dedications to the public to provide ingress and egress to the lessees or patentees and to provide access for utility services. Confusion arises as to when the rights-of-way attach to the land, the status of the rights-of-way following termination of a lease or a classification order, and the uses which are allowed within the rights-of-way under the authority of the Small Tract Act.

Attachment 4

1. Between 1938 and 1949 when the lease form was changed to specifically provide for rights-of-way, there were no common law dedications associated with the Small Tract Act. Reservations of rights-of-way in tracts subsequently patented are addressed the same as other patent reservations.

2. From 1949 until the Small Tract Act was repealed in 1976, a right-of-way along the borders of each tract was available for public use as provided in the terms on the lease form, the classification order, or through the regulation requirements. !/, The right-of-way remained available as long as the lands were classified for small tract use. These rights-of-way were determined to be common law dedications and had the effect of a public easement.. However, until acceptance by use of the easement made the dedication complete, the United States could revoke or modify the offer to dedicate in whole or in part. Said another way, unless the common law rights-of-way were actually used for a road or public utilities to serve a small tract. the dedication disappeared with the termination of the classification. To the extent that the common law dedications were accepted through use by appropriate parties prior to revocation of the classification, those rights are protected by the provisions of 43 U.S.C. 1701(a) and 43 U.S.C. 1763.

CLASSIFICATION TERMINATION

1(a). When small tract classifications are terminated, the common law right-of-way dedication disappears to the extent that it was not accepted by actual use. Those rights-of-way on public lands within the classification boundaries and along designated tract borders which have been used for road or utilities purposes remain under the authority of the Small Tract Act. Referring to Illustration 1, lots 7, 8, 10, and 14 were patented under the Small Tract Act and following termination of the classification, lot 12 was patented under FLPILA. The remaining lots were not patented and remain public lands. Prior to termination of the classification, access roads were built along the borders of lots 7 & 8, 13 & 14, 19 & 20, and along the borders of lots 3 & 4, 9 & 10, 8 & 14, 9 & 15, and 10 & 16 as indicated. The construction of the roads dedicated the rights-of-way to public use.. Within the rights-of-way is a waterline that serves the patented lands. Upon termination of the classification, the road and waterline remain authorized under the authority of the Small Tract Act.

(b). After termination of the classification, additional rights-of-way uses may be made within the borders of the existing rights-of-way for roads and utilities that serve the small tract patents without additional authorization from the United States. Referring to Illustration 1, a future sewerline that will serve

the patented tracts may be constructed within the existing rights-of-way without additional authorization or stipulations from the United States.

1/ 43 CPR 2730, Small Tract, was removed from the CPR in 1980. Prior to 1980, 43 CPR 2731.6-2, Rights-of-way, read "The classification order may provide for rights-of-way over each tract for street and road purposes and for public utilities. If the classification order does not so provide, the right-of-way will be 50 feet along the boundaries of the tract."

2. Referring to Illustration 1, after termination of the classification, lot 12 is patented under FLPNA authority. The road into lot 10 is proposed to be extended to provide access to lot 12. A Title V right-of-way is required for the portion of the new road on public land crossing lots 11, 16, 17, and 18, because the right to construct within the small tract easement terminated upon the termination of the small tract classification. Authorization for the new road where it crosses lot 10 must be secured from the private landowner.

RIGHT-OF-WAY MANAGEMENT

1. The intent of the Small Tract Act easements was to provide access and utility accessibility to the affected tracts. No apparent "public" purpose or governmental use was contemplated except to carry out the purposes of the Small Tract Act to provide for intensive utilization of the public lands. There was no intent to reserve rights to the United States to collect revenue for the roads and utilities constructed. Therefore, rights-of-way authorized under the Small Tract Act are rental free.

2. Roads or utilities that cross public lands outside the tract borders (regardless of whether the rights-of-way serve the small tracts) or other facilities constructed within the rights-of-way borders that do not serve the small tracts require a separate rights-of-way authorization. Referring to Illustration 1, the powerline that crosses lots 13 and 19 was authorized under separate authority because it is outside the tract borders. In addition, a proposal to construct a crude oil pipeline within the rights-of-way is not authorized under the Small Tract Act and a separate authorization is required where the pipeline crosses lots 13, 19, and 20.

-3. Upon issuance of a small tract patent, the Secretary is deprived of all rights to the lands except those specifically reserved to the United States. Under a common law dedication, fee title lies with the owner of the land subject to the easement of the public for the use of the land. The government transfers all its interest in and jurisdiction over the lands as completely as if the patent had been made subject to a right-of-way in favor of a named holder of such right-of-way. The government has no legal power, except under eminent domain proceedings for some governmental purpose to eliminate this restriction from the patent.

4. Rights-of-way in connection with classified but unpatented small tracts may be used for the construction of roads and utilities to serve patented small tracts without the necessity of a formal grant from the United States.

- 9 5. Once rights-of-way become dedicated public easements through use by the public, the dedication may be abandoned only by proper authority pursuant to due course of law. In most cases the proper authority is the county or the city government. If it becomes desirable to abandon an existing small tract easement on public lands, contact the appropriate local government for assistance.. Using Illustration 1, a road was constructed along the borders of lots 3 & 4 and 9 & 10 to provide access to a small tract lease in lot 4. Although the lease was abandoned, the construction of the road prior to termination of the classification dedicated the road as a public easement. Unless the road is needed for public access, the local government should be contacted for abandonment of the public easement.⁴

Because of the confusion created by small tract easements, field offices should encourage existing small tract rights-of-way users and those that would construct future Small Tract Act authorized facilities on public land to apply for authorization under FLPMA and to make every effort to get existing Small Tract Act rights-of way platted to the public land records.

Questions should be directed to Jim Paugh at FTS 268-4200.

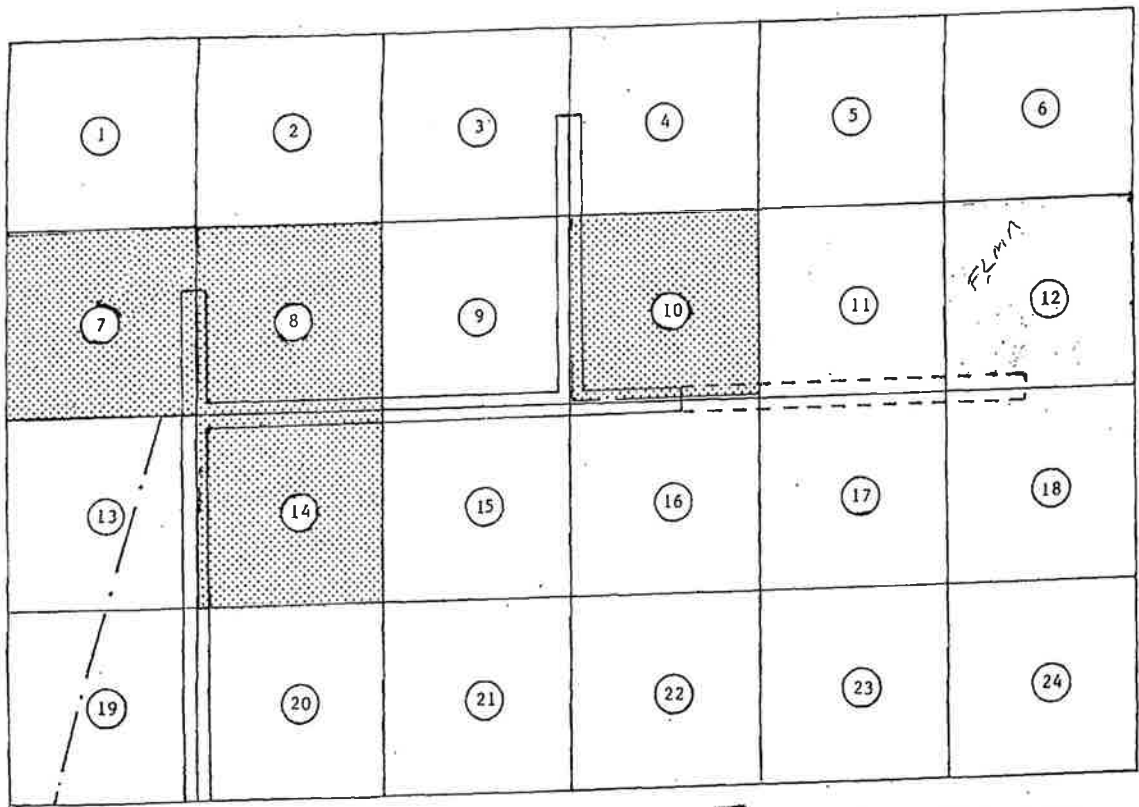




Michael J. Penfold

Assistant Director for Land and
Renewable Resources

- .1 Attachment
1 Illustration (1 p)

ILLUSTRATION 1



 Patented Under Small Tract Act
 Patented Under FLPMA



STREETS AND HIGHWAYS CODE - SHC

DIVISION 9. CHANGE OF GRADE AND VACATION [8000 - 8363]

(Division 9 added by Stats. 1941, Ch. 79.)

PART 3. PUBLIC STREETS, HIGHWAYS, AND SERVICE EASEMENTS VACATION LAW [8300 - 8363]

(Part 3 repealed and added by Stats. 1980, Ch. 1050, Sec. 29.)

CHAPTER 4. Summary Vacation [8330 - 8336]

(Chapter 4 added by Stats. 1980, Ch. 1050, Sec. 29.)

ARTICLE 1. Authority [8330 - 8334.6]

(Article 1 added by Stats. 1980, Ch. 1050, Sec. 29.)

8330.

- (a) The legislative body of a local agency may summarily vacate a street or highway that has been superseded by relocation.
- (b) A street or highway shall not be summarily vacated pursuant to this section if vacation would do either of the following:
- (1) Cut off all access to a person's property which, prior to relocation, adjoined the street or highway.
- (2) Terminate a public service easement, unless the easement satisfies the requirements of Section 8333.
- (Repealed and added by Stats. 1980, Ch. 1050, Sec. 29.)*

8330.5.

- (a) Subject to subdivisions (b) and (c), the commission may retain, relinquish to a local agency pursuant to Section 73, or summarily vacate a state highway that has been superseded by relocation.
- (b) The commission shall not vacate a state highway unless the commission has first given a notice of relinquishment pursuant to Section 73 and the legislative body of the local agency has protested within the prescribed 90-day period that the highway is not needed for public use and should be vacated by the commission.
- (c) If vacation of a state highway would cut off all access to the property of any person which, prior to relocation, adjoined the highway, the commission shall either retain the highway or relinquish it pursuant to Section 73.
- (Added by Stats. 1980, Ch. 1050, Sec. 29.)*

8331.

- The legislative body of a local agency may summarily vacate a street or highway if both of the following conditions exist:
- (a) For a period of five consecutive years, the street or highway has been impassable for vehicular travel.

Attachment 5

(b) No public money was expended for maintenance on the street or highway during such period.

(Repealed and added by Stats. 1980, Ch. 1050, Sec. 29.)

8332.

The legislative body of a local agency may summarily vacate a street or highway pursuant to an agreement entered into with the department pursuant to Section 100.2 to close the street or highway at or near the point of its interception with a state freeway.

(Repealed and added by Stats. 1980, Ch. 1050, Sec. 29.)

8333.

The legislative body of a local agency, or any public officer or employee authorized by the legislative body as provided in subdivision (a) of Section 8335, may summarily vacate a public service easement in any of the following cases:

(a) The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.

(b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date.

(c) The easement has been superseded by relocation, or determined to be excess by the easement holder, and there are no other public facilities located within the easement.

(Amended by Stats. 2015, Ch. 269, Sec. 35. Effective January 1, 2016.)

8334.

The legislative body of a local agency may summarily vacate any of the following:

(a) An excess right-of-way of a street or highway not required for street or highway purposes.

(b) A portion of a street or highway that lies within property under one ownership and that does not continue through such ownership or end touching property of another.

(Added by Stats. 1980, Ch. 1050, Sec. 29.)

8334.5.

Notwithstanding any other provision of this article, a street, highway, or public service easement may not be summarily vacated if there are in-place public utility facilities that are in use and would be affected by the vacation.

(Added by Stats. 1980, Ch. 1050, Sec. 29.)

8334.6.

State of California

STREETS AND HIGHWAYS CODE

Section 8335

8335. (a) (1) The legislative body may vacate a street, highway, or public service easement pursuant to the authority provided in this chapter by adopting a resolution of vacation.

(2) The legislative body may delegate the authority to vacate a public service easement to any public officer or employee otherwise qualified to prepare easements or approve parcel maps or final maps as defined in Title 7 of Division 2 of the Government Code, pursuant to the authority provided in this chapter by recordation of a document containing the information in subdivision (b).

(b) The resolution of vacation shall state all of the following:

(1) That the vacation is made under this chapter.

(2) The name or other designation of the street, highway, or public service easement and a precise description of the portion vacated. The description of the portion vacated may be by a precise map which is recorded or to which reference is made in the resolution and which is permanently maintained by the public entity.

(3) The facts under which the summary vacation is made. If the vacation is made pursuant to Section 8332, the statement shall include the date of the agreement. The resolution is prima facie evidence of the facts stated.

(4) That from and after the date the resolution is recorded, the street, highway, or public service easement vacated no longer constitutes a street, highway, or public service easement.

(5) If the resolution of vacation applies to a public service easement vacated by a public officer or employee delegated authority pursuant to subdivision (a), a certification that all entities having any right, title, or interest in the public service easement being vacated have been notified of this action.

(Amended by Stats. 2015, Ch. 269, Sec. 36. (SB 184) Effective January 1, 2016.)



State of California

STREETS AND HIGHWAYS CODE

Section 8336

8336. (a) The clerk shall cause a certified copy of the resolution of vacation, attested by the clerk under seal, to be recorded without acknowledgment, certificate of acknowledgment, or further proof in the office of the recorder of the county in which the property is located. No fee shall be charged for recordation.

(b) Upon such recordation, the vacation is complete.

(Added by Stats. 1980, Ch. 1050, Sec. 29.)



State of California

STREETS AND HIGHWAYS CODE

Section 8336

8336. (a) The clerk shall cause a certified copy of the resolution of vacation, attested by the clerk under seal, to be recorded without acknowledgment, certificate of acknowledgment, or further proof in the office of the recorder of the county in which the property is located. No fee shall be charged for recordation.

(b) Upon such recordation, the vacation is complete.

(Added by Stats. 1980, Ch. 1050, Sec. 29.)

Lisa Lozier

From: Andrew Pence
Sent: Monday, January 25, 2021 5:06 PM
To: Lisa Lozier
Subject: RE: P-20-38 road abandonment

Hi Lisa,

DOT has no interest in the property, and approves of the vacation. No one in DOT has been delegated the authority to vacate public service easements. Vacating these easement has to be made by the Board of supervisors after the planning commission has determined consistency with the General Plan. Typically a resolution of Vacation is sent to the Board of Supervisors for approval and signature.

Thanks,
Andy

From: Lisa Lozier
Sent: Monday, January 25, 2021 5:02 PM
To: Andrew Pence
Subject: P-20-38 road abandonment

Hello Andy,

I would like to revisit this project for the road abandonment off of Martin Road at Highway 299. I have received letters from the utilities and none have an interest in the easement located on the property. The TC General Plan policies are easy to justify, and, for the most part, the intent of the abandonment/vacation are consistent with the Streets and Highways code. In order to move forward, I need confirmation that DOT does not have an interest in the Property. Also, has anyone at DOT been delegated the authority (consistent section 8335 of the State Highways Code) to vacate public service easements? Keep in mind that the requested abandonment/vacation is entirely on private property.

Thanks,
Lisa

Lisa Lozier, AICP
Deputy Director of Planning
County of Trinity
61 Airport Road | Po Box 2819
Weaverville CA 96093-2819
llozier@trinitycounty.org

Until further notice, the Trinity County Planning, Building, Environmental Health, and Cannabis Offices are currently closed for walk-in services and appointments in order to reduce the spread of COVID-19. County staff are available by phone or email for assistance.

Attachment 6



Weaverville Community Services District

716 Main St.

P.O. Box 1510 Weaverville, CA 96093

Ph (530) 623-5051

Fx (530) 623-2108

December 3, 2020

Trinity County Community Development Services
P.O. Box 2819
Weaverville, CA 96093

Dear Ms. Lozier,

Weaverville CSD is ok with the Planning project P-20-38, Abandonment of Road and Utility Easement, requested by Dero Forslund.

Sincerely,

Tim Kasper
General Manager

"This district is an equal opportunity provider"

e-mail wcsd@weavervillecsd.com

www.weavervillecsd.com

Attachment 1

	TRINITY COUNTY PLANNING DEPARTMENT		Project Number: P-20-38 Date: 12/3/20
	P.O. Box 2819 Weaverville, CA 96093 Email: llozier@trinitycounty.org		

2 nd REQUEST FOR COMMENTS	
Sent by email – E Sent by mail – M	
<input checked="" type="checkbox"/> County Assessor's Office – E	<input checked="" type="checkbox"/> North Coast Water Quality Control – E
<input checked="" type="checkbox"/> County Transportation Department – E	<input checked="" type="checkbox"/> North Coast Unified Air Quality Management Dist. – E
<input checked="" type="checkbox"/> County Building Department – E	<input type="checkbox"/> Northeast Information Center - Chico State
<input checked="" type="checkbox"/> County Environmental Health Department – E	<input type="checkbox"/> Forest Service:
<input type="checkbox"/> County Surveyor	<input type="checkbox"/> Fire District: Weaverville Fire
<input type="checkbox"/> Supervisor:	<input checked="" type="checkbox"/> C.S.D.: Trinity County Waterworks District – E
<input checked="" type="checkbox"/> Caltrans - District: 02 – E	<input type="checkbox"/> Code Compliance/Cannabis Division – E
<input checked="" type="checkbox"/> CalFire/County Fire Chief's Association – E	<input checked="" type="checkbox"/> Trinity Public Utilities District (TPUD) – E
<input type="checkbox"/> B.L.M.	<input type="checkbox"/> CalCannabis (CDFA) – E
<input type="checkbox"/> Calif. Dept. of Fish & Wildlife – E	<input type="checkbox"/> Manu. Cannabis Safety Branch (CDPH) – E

The following project has been submitted to the Trinity County Planning Department for discretionary action (Use Permit, Rezone, Subdivision, etc.). An assessment of the potential impacts of the project is being made. Please review and submit comments by 12/18/2020

Project Description: Abandonment or "Road Vacation" for easements associated with the lot line between the subject APN's.

Location: Weaverville at highway 299 and Martin Road

Environmental Evaluation: Not Subject to CEQA

APN: 024-510-45-00 & 024-510-46-00

Approximate Lot Acres: combined acreage of

Sec: Twn. Rge:

Applicant: Dero Forslund

Existing Zoning: General Commercial (C-2)

Existing General Plan Designation: Commercial (C)

Overlays: Plan Review Overlay (front half only)

Owner: Ryan Partnership (Dana Ryan)

For information regarding this project contact Lisa Lozier: llozier@trinitycounty.org | Work Cell: 530-515-7260

SEE NEXT PAGE FOR COMMENT BOX →

Comments:

☒ No Comment.

☐ See attached comments.

Date:

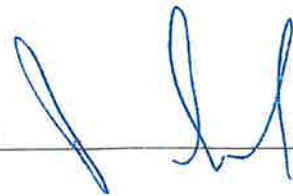
12-3-2020

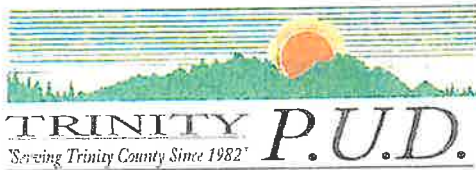
☐ We have reviewed the above request and have the following comments:

Reviewing Agency:

Wearerville Sanitary Dist.

Signature:

A handwritten signature in blue ink, consisting of a stylized 'S' followed by a 'D'.



December 3, 2020

Ms. Lisa Lozier, AICP
Trinity County Community Development Services
PO Box 2819
Weaverville, CA 96093

RE: Planning Project P-20-38, Abandonment of Road and Utility Easement

Dear Ms. Lozier:

Trinity Public Utilities District agrees to summarily vacate the Utility Easement which currently bisects land identified as Assessor Parcels 024-510-054 and 024-510-046, per the attached Site Map, as the easement has been superseded by relocation of the Trinity Public Utilities District infrastructure.

Please do not hesitate to call should you require further information or have any questions.

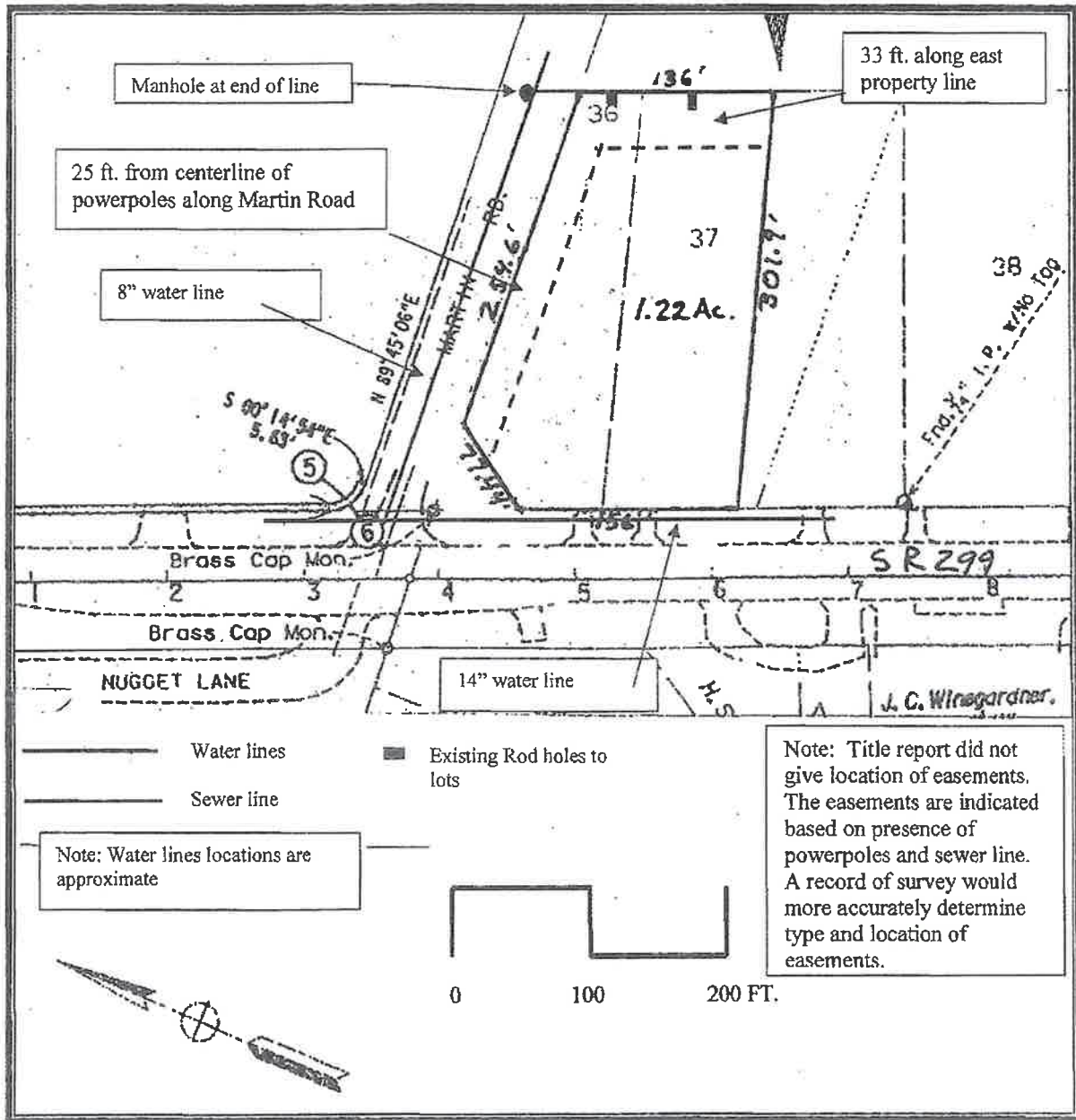
Sincerely,

Andy Lethbridge
Electric Superintendent

attachment

SITE MAP WITH EASEMENTS, WATER AND SEWER LINES

(Note: See Easement note at bottom of page)



State of California

GOVERNMENT CODE

Section 65402

65402. (a) If a general plan or part thereof has been adopted, no real property shall be acquired by dedication or otherwise for street, square, park or other public purposes, and no real property shall be disposed of, no street shall be vacated or abandoned, and no public building or structure shall be constructed or authorized, if the adopted general plan or part thereof applies thereto, until the location, purpose and extent of such acquisition or disposition, such street vacation or abandonment, or such public building or structure have been submitted to and reported upon by the planning agency as to conformity with said adopted general plan or part thereof. The planning agency shall render its report as to conformity with said adopted general plan or part thereof within forty (40) days after the matter was submitted to it, or such longer period of time as may be designated by the legislative body.

If the legislative body so provides, by ordinance or resolution, the provisions of this subdivision shall not apply to: (1) the disposition of the remainder of a larger parcel which was acquired and used in part for street purposes; (2) acquisitions, dispositions, or abandonments for street widening; or (3) alignment projects, provided such dispositions for street purposes, acquisitions, dispositions, or abandonments for street widening, or alignment projects are of a minor nature.

(b) A county shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another county or within the corporate limits of a city, if such city or other county has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, and a city shall not acquire real property for any of the purposes specified in paragraph (a), nor dispose of any real property, nor construct or authorize a public building or structure, in another city or in unincorporated territory, if such other city or the county in which such unincorporated territory is situated has adopted a general plan or part thereof and such general plan or part thereof is applicable thereto, until the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with said adopted general plan or part thereof. Failure of the planning agency to report within forty (40) days after the matter has been submitted to it shall be conclusively deemed a finding that the proposed acquisition, disposition, or public building or structure is in conformity with said adopted general plan or part thereof. The provisions of this paragraph (b) shall not apply to acquisition or abandonment for street widening or alignment projects of a minor nature if the legislative body having the real property within its boundaries so provides by ordinance or resolution.

Attachment 7

Policy 1.8.D: Location, design and development of transportation projects shall be consistent with the adopted land use policies of the county.

Policy 1.8.E: Identify potential impacts and/or conflicts between potentially growth-inducing transportation projects and the adopted land-use policies of the county.

Policy 1.8.F: Require mitigation for transportation projects with potentially significant impacts to existing or planned land uses in the county.

Policy 1.8.G: Require on and off-site road improvements at the time of land division in order to provide for the safe and efficient movement of traffic.

Policy 1.8.H: Development projects shall comply with all applicable county and State roadway conditions and/or standards.

Policy 1.8.I: All roads serving new land divisions or commercial, industrial or multiple family development requiring discretionary County approvals in the Weaverville and Hayfork Fire Protection Districts shall be County-maintained roads; however, upon approval by the affected fire district, roads shall be paved, but may be privately owned and maintained by a road maintenance association.

Objective 1.9: Develop standards for reviewing the abandonment of roadways. Standards shall include needs for generation circulation pattern, public utilities, and access to public resources and waterways.

Policy 1.9.A: Road abandonment shall provide the retention of utility and private easements as necessary.

Policy 1.9.B: Proposed abandonment of a road which provides reasonable access to public resources or waterways should be denied.

Policy 1.9.C: Abandonment of a road for vehicular traffic shall consider the need for retaining pedestrian, equestrian, utility or stock easements.

Financing of Improvements

Objective 1.10: Pursue highest priority transportation projects first, within the constraints of funding availability and eligibility.

Policy 1.10A: Develop projects and allocate transportation revenues available to the County and RTPA, focusing on the following priorities:

- Operational/Safety improvements to existing county roads.
- Maintenance of existing county roads.
- Rehabilitation/Reconstruction of existing county roads.
- Improvement of existing facilities to increase capacity and reduce congestion.
- Construction of new facilities to relieve congestion (Weaverville).
- Operational/Safety improvements to State highways.
- Passing lanes and other capacity improvements to State highways.

Policy 1.10.B: Seek and/or provide funding for all priority projects within Trinity County prior to supporting projects outside the county.

Lisa Lozier

From: Crystal Chase
Sent: Monday, March 1, 2021 2:37 PM
To: Info.Planning
Subject: Easement -request to vacate
Attachments: EASEMENT REQ-MAR 2021 PG 1OF 1.pdf

Hello,

I received the attached regarding a request to vacate public easement. We share and easement with the property and I am confused as to what is a public easement and what is a private easement. I am assuming that I will not want to relinquish the easement whether it is public or private but would like some clarification. If it is a public easement, would I still be able to use the private easement between the two properties? Would I still be able to exit the private easement on to the highway?

*Thank You
Crystal Chase*



CRYSTAL AIR

Attachment 8



TRINITY COUNTY
COMMUNITY DEVELOPMENT SERVICES
BUILDING ♦ PLANNING ♦ ENVIRONMENTAL HEALTH
P.O. BOX 2819, WEAVERVILLE, CALIFORNIA 96093
PHONE (530) 623-1351 ♦ FAX (530) 623-1353

Kim Hunter, Director

LISTED BELOW IS AN APPLICATION RECEIVED BY THE TRINITY COUNTY PLANNING DEPARTMENT. YOU HAVE RECEIVED THIS NOTICE BECAUSE YOU OWN PROPERTY THAT IS LOCATED WITHIN 300 FEET OF THE SUBJECT PROPERTY. ONLY THAT PROJECT HIGHLIGHTED IS NEAR YOUR PROPERTY.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Thursday, March 11, 2021** or as soon thereafter as may be heard, in the Trinity County Library Conference Room located at 351 Main Street, Weaverville, California, the Trinity County Planning Commission will hold public hearings regarding the following items:

REVOCATION OF CONDITIONAL USE PERMIT (P-19-19): Best Development Group LLC (Best Development) is requesting revocation of land use approvals for the Grocery Outlet project proposed to be located at 1155 Main Street (State Route 299), Weaverville. Best Development no longer has actual or prospective interest in the land subject to project approvals Resolution 2020-05 and Conditional Use Permit P-19-19. Assessor Parcel Numbers: 002-100-61, 62, 63, and 002-100-42. Planner: L. Lozier. *

REQUEST TO VACATE PUBLIC SERVICE EASEMENT (P-20-38) Request to vacate/abandon a public easement along the common boundary lines of Assessor Parcel Numbers 024-510-045 and 024-510-046. The project site is located on the southeast corner of the intersection of Martin Road and State Highway 299, Weaverville. Applicant: D Forslund. Planner L. Lozier ***

VARIANCE (VAR-20-01): A request for a variance from the required 20-foot rear yard setback in an R1 zone district. The project site is located on an undeveloped lot on Lakeview Dr, Trinity Center, and directly adjacent to the Trinity Center Airport. Assessor Parcel Number 007-560-14-00. Applicant: T Lorenzo. Planner: L. Lozier.

APPEAL OF PLANNING DIRECTOR'S DECISION (P-20-31): An appeal of Planning Director's Decision to approve a Commercial Cannabis License renewal application (CCL-453) for 4790 and 4798 Lewiston Road, Lewiston. Appellant: Laurie Wills / Friends of the Lewiston Grass Valley Creek. Licensee: Sabai Family Farms (Mark Dos Santos). Assessor Parcel Numbers 025-290-13, 29. *

APPEAL OF PLANNING DIRECTOR'S DECISION (P-20-43): An appeal of Planning Director's Decision to deny a Commercial Cannabis License renewal application (CCL-046) for 30 Shasta View Lane, Weaverville. Appellant: Mary Killion-Hurst. Licensee: Hurst Family Farms. Assessor Parcel Number 024-680-32-00. *

ANNUAL INITIAL VARIANCE (CCV-20-26): A request for a variance from the required 350' Cannabis cultivation setback from a neighboring residential dwelling (TCC 17.43.050.A.8). Project

**DRAFT
RESOLUTION NO. 2021-**

**A RESOLUTION OF THE TRINITY COUNTY BOARD OF SUPERVISORS TO
VACATE AN EASEMENT COMMON TO APN's 024-510-45-00 and 024-510-46-00**

WHEREAS, the owner of Assessor parcels 024-510-45-00 and 024-510-46-00 has requested that the County vacate an easement common to both Assessor parcels; and

WHEREAS, the easement was reserved by the Bureau of Land Management (BLM) included in land patents for 33-foot easements for roadway and utilities located on and limited to the common boundary of lots 36 and 37 of Section 18, Township 33 North, Range 9 West, Mount Diablo Meridian, also described as Assessor parcels 024-510-45-00 and 024-510-46-0; and

WHEREAS, in accordance with State of California Streets and Highways Code Sections 8333(c), the Board of Supervisors may summarily vacate a public service easement when the easement has been superseded by relocation, or determined excess by the easement holder, and there are no other public facilities located within the easement.; and

WHEREAS, notification was received from utilities with potential interest in the property with each of the utilities responding and expressed no interest in the easement as described and no concern over the potential vacation of the easement; and

WHEREAS, Department of Transportation also expressed no interest in retaining the easement and supports the vacation of the easement; and

WHEREAS, the Trinity County Planning Commission took action at a regularly scheduled meeting on March 11, 2021, found the vacation of the 33-foot easement consistent with the adopted General Plan objectives; and

WHEREAS, notice of public hearing was given by publication and by posting.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Trinity Finds:

1. The request for vacation of an easement on private property exempt from the requirements of the California Environmental Quality Act under the General Rule exemption 15061(b)(3) on the basis that there are no substantial changes to the project or to circumstances under which the project is proposed to be undertaken, and no new information has become available or been made known showing unanalyzed environmental effects; and
2. that vacating the easement is consistent with the adopted General Plan; and

3. After review of all of the evidence submitted, that in accordance with Section 8333(c) and 8335(a) of the Streets and Highways Code of the State of California, the 33-foot easement for roadway and utilities located on and limited to the common boundary of lots 36 and 37 of Section 18, Township 33 North, Range 9 West, Mount Diablo Meridian, also described as Assessor parcels 024-510-45-00 and 024-510-46-00 be vacated.

BE IT FURTHER RESOLVED AND ORDERED that a certified copy of this Resolution be recorded in the office of the Recorder of Trinity County in compliance with State and Highways Code Section 8336 (a & b) and that after said recordation, the vacation of previously described easement will be complete.

DULY PASSED AND ADOPTED this ____ day of _____ 2021 by the Board of Supervisors of the County of Trinity by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

RECUSE:

JEREMY BROWN, CHAIRMAN
County of Trinity Board of Supervisors

ATTEST:

RICHARD KUHNS, Psy.D
Clerk of the Board

By: _____
Deputy