



## Legislation Text

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**File #:** 2020-0931, **Version:** 1

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**To:** Sonoma County Board of Supervisors

**Department or Agency Name(s):** Permit Sonoma

**Staff Name and Phone Number:** Leonard Gabrielson, (707) 565-3711

**Vote Requirement:** Majority

**Supervisorial District(s):** First

**Title:**

**1:30 P.M. - RWV20-0001** Right of Way Vacation for Smith Street

**Recommended Action:**

After close of public hearing, adopt a resolution (1) finding that the project is exempt from CEQA; (2) ordering vacation of a portion of Smith Street between Sonoma Creek to Fifth Street West near the City of Sonoma, as described in the attached Exhibit A; and (3) reserving from the vacation certain easement rights for PG&E. (First District)

**Executive Summary:**

The application is a petition to vacate (permanently abandon), the public right-of-way in a portion of Smith Street. Approval of the resolution would authorize the vacation subject to specified conditions. The vacation would be completed when the conditions are satisfied and County staff records the Resolution. Staff recommends the Board make the required findings and vacate the subject public right-of-way, subject to the discussed utility reservation.

**Discussion:**

**Background:**

Petitioner DMV, LLC, owner of real property adjacent to the subject street area, submitted a Petition for Vacation of Public Easement/Public Right-of-Way ("Petition") on February 12, 2020. The Petition requests that the Board vacate a portion of the Smith Street public right-of-way (the "Vacation Petition Area") that runs from Sonoma Creek to Fifth Street West, between Assessor Parcel Numbers 018-460-003 and 128-011-013, in the unincorporated county area near the City of Sonoma.

The subject portion of Smith Street requested to be vacated is shown on the original Pueblo of Sonoma Map (1850) as well as subsequent mapping. However, the Vacation Petition Area is not part of the County's road system nor is it maintained by the County.

This portion of Smith Street is shown on the original Map of the Former Pueblo of Sonoma, dated 1850. Subsequent State statutes provided that, unless liquidated by prescribed surplusing process, all depicted streets and roads in said Map were declared and dedicated as public highways and county roads. The subject portion of Smith Street was never sold and accordingly has remained a public roadway and county highway, albeit one not formally used by the County. This portion of Smith Street has never been vacated or formally

extinguished in accordance with applicable law. Based on its public dedication per statute but never having been formally used or accepted into the County road system, this portion of Smith Street constitutes what is known as a “paper street” held by the County.

Vacation is the complete or partial abandonment of the public right in a street or public service easement. Under State statutes and applicable case law, the Board may vacate any public street, highway, or public service easement within its jurisdiction, provided the Board makes the following findings:

The interested proposed to be vacated is unnecessary for present or prospective public use;

The proposed vacation is in the public interest;

The proposed vacation is consistent with the County’s General Plan; and

The road proposed for vacation is not useful as a non-motorized transportation facility (bike trail).

**Analysis:**

County survey staff reviewed public records and the materials to determine the nature of the County’s interest in the Vacation Petition Area. Staff verified that the County has a public right-of-way interest in the Vacation Petition Area. Staff determined that because the relevant segment of Smith Street (Vacation Petition Area) was not being used by the public, the fact the portion of Smith Street was never accepted into the County’s road system, the fact the County has never maintained the subject portion of the right-of-way, and the fact the County and public have no foreseeable need for the right-of-way over the Vacation Petition Area, the right of way over the Vacation Petition Area is appropriate to be vacated by the Board.

Comprehensive Planning Division staff conducted a field review to verify the facts presented in the petition and to assess other relevant considerations. Staff did not observe any present public use of the Vacation Petition Area.

Comprehensive Planning Division staff also prepared a General Plan Consistency Analysis, as required by Streets and Highways Code Section 8313 and Government Code Section 65402, and determined that the proposed vacation is consistent with the General Plan and with the County’s Complete Streets Policy.

Staff referred the Petition to all County Departments and public agencies with a potential interest in the Vacation Petition Area, including Transportation and Public Works (TPW), Emergency Services, Law Enforcement, and the Water Agency. Staff did not receive any objections.

Staff notified all public and private utilities with potential interest in the Vacation Petition Area. Staff did not receive any objections. Pacific Gas and Electric did request certain reservation of easements and rights based on its existing utilities in the Vacation Petition Area. Staff concurs with that reservation and has included provisions to reserve and except the necessary rights as to those existing utilities, as allowed and required by applicable law.

Notice was given to all owners of neighboring parcels located within 350 feet of the parcels containing the Vacation Petition Area. Staff did not receive any objections.

**CEQA Determination:**

Staff determined that the proposed general vacation is exempt from California Environmental Quality Act (CEQA), including pursuant to the “general rule” of CEQA Guidelines Section 15061 (b)(3), which provides that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The proposed vacation would merely terminate a “paper street” that was never used by the public. No change in the existing use of the Vacation Petition Area is proposed by this action. There is no possibility that the proposed vacation may have a significant effect on the environment, and therefore the project is exempt from CEQA.

**Conclusions and Recommendation:**

Staff concludes that the Board may make all of the required findings to approve the Petition. The Vacation Petition Area has never been used as a formal public right-of-way. The requested vacation is consistent with the General Plan in that the subject portion of Smith Street is not part of a street grid, does not connect to arterial streets and is not near parks, schools, or other public uses. Granting the vacation will serve the public interest by returning rights not needed for public use to private ownership, and by eliminating any potential County liability related to the subject portion of Smith Road right-of-way.

Based on these factors staff recommends the Board adopt the Resolution ordering the vacation.

**Prior Board Actions:**

None

**FISCAL SUMMARY**

**Narrative Explanation of Fiscal Impacts:**

Not Applicable

**Narrative Explanation of Staffing Impacts (If Required):**

Not Applicable

**Attachments:**

- Att 1 RWV20-0001 Smith Street Application
- Att 2 RWV20-0001 Smith Street Assessor's Map 18-46
- Att 3 RWV20-0001 Smith Street Assessor's Map 128-01
- Att 4 RWV20-0001 Smith Street General Plan Consistency Determination
- Att 5 RWV20-0001 Smith Rd Resolution
- Att 6 RWV20-0001 Smith Rd Resolution Exhibit A
- Att 7 RWV20-0001 Smith Rd Resolution Exhibit B
- Att 8 RWV20-0001 Smith Street Power Point Presentation

**Related Items “On File” with the Clerk of the Board:**

None

