

Attachment A

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ATTACHMENT A
Before the Board of Supervisors in and for the
County of Monterey, State of California

Resolution No. _____

Adopt Resolution to:

- a. Vacate the public road right-of-way interest over the entire 3.95 miles of Portuguese Canyon Road from the intersection of Cross Country Road to the terminus of the County maintained portion of the road, subject to the reservation of easements for public utilities;
- b. Find that the 3.95 miles of Portuguese Canyon Road is unnecessary for present or prospective public use;
- c. Find that the proposed vacation of 3.95 miles of Portuguese Canyon Road is in the public interest because it furthers public health and safety by preventing illegal poaching, trespassing and dumping that is occurring along this portion of Portuguese Canyon Road;
- d. Accept the Planning Commission resolution dated May 10, 2017 containing a report of General Plan conformity;
- e. Find that the vacation of the County's right-of-way interest of Portuguese Canyon Road is categorically exempt from the California Environmental Quality Act (CEQA) under Guidelines sections 15061(b)(3), 15301, and 15304;
- f. Find that the County's right-of-way interest of Portuguese Canyon Road is not useful as a nonmotorized transportation facility as required by California Streets and Highways Code section 892;
- g. Authorize the County Surveyor to file a Notice of Exemption with the County Clerk;
and
- h. Direct the County Surveyor to submit the certified copy of the resolution to the County Recorder for recordation.

WHEREAS, in 1928, the Board of Supervisors of the County of Monterey appointed viewers to lay out and survey a road, forty feet in width, running up Portuguese Canyon and County maintenance of a 3.95 mile portion of the roadway began shortly thereafter; and

WHEREAS, a petition signed by 10 freeholders, in accordance with the requirements of California Streets and Highways (S&H) Code Section 8321, was received requesting the abandonment or vacation of the publicly maintained portion of the road; and

WHEREAS, in accordance with California Streets and Highways Code Section 8313, the Monterey County Planning Commission considered this vacation on May 10, 2017, pursuant to the procedure prescribed in California Government Code Section 65402, and (1) passed a resolution to report to the Board that this vacation and the South County Area Plan, a part of the General Plan, and (2) found that the vacation will not have a significant impact on the environment and is exempt from environmental review in accordance with Section 15301(c), 15304 and 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, the 3.95 mile portion of Portuguese Canyon Road is a dead-end rural road that serves a limited number of parcels and is not necessary for current or prospective public use; and

WHEREAS, landowners have complained that the public use of the remote rural road has encouraged illegal poaching, trespassing and illegal dumping along the right-of-way and the landowners' private properties; and

WHEREAS, the County right-of-way interest in the 3.95 mile portion of Portuguese Canyon Road located in the San Miguel area of unincorporated Monterey County is not useful as a nonmotorized transportation facility as required by Section 892 of the California Streets and Highways Code; and

WHEREAS, the underlying fee title property owners have agreed to grant a non-exclusive access easements appurtenant to all parcels and properties currently accessed from the County maintained portion of Portuguese Canyon Road, and said easement deeds shall be recorded concurrently with this resolution of vacation; and

WHEREAS, the Board of Supervisors is authorized to vacate public streets or roads pursuant to S&H Code Section 8312.

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Supervisors of the County of Monterey hereby:

1. Finds that the foregoing recitals are true and correct and so declares and determines.
2. Accepts the Planning Commission resolution dated May 10, 2017 containing a report of General Plan conformity and a finding that the proposed road vacation is categorically exempt from the CEQA pursuant to the CEQA Guidelines at sections 15301(c); 15304; and 15061(b)(3)
3. Authorizes the County Surveyor to file a Notice of Exemption with the County Clerk.
4. Pursuant to the provisions of California Streets and Highways Code Sections 8312 and 8340(a), vacates the entirety of the County Maintained portion of Portuguese Canyon Road (from the intersection of Cross Country Road to the terminus of the County maintained portion of the road, 3.95± miles), excepting and reserving therefrom rights for all public utilities, existing and future, within said vacated strip being 40 feet wide, as more fully described in Exhibit "A" which is attached hereto and incorporated herein.
5. Upon recordation of the deeds granting non-exclusive access easements appurtenant to all parcels and properties currently accessed from the County maintained portion of Portuguese

Canyon Road, directs the County Surveyor to submit a certified copy of the Resolution to the County Recorder for recordation.

6. From and after the date that this resolution is recorded in the Office of the County Recorder, the vacated road shall no longer constitute a public road and shall be removed from the County Road System and be deleted from the list of County Maintained Roads.

PASSED AND ADOPTED on this 29th day of August, 2017 upon motion of Supervisor _____, seconded by Supervisor _____, by the following vote, to-wit:

AYES:

NOES:

ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book ____, for the meeting on August 29, 2017.

Dated:

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
, Deputy

EXHIBIT “A”

Legal Description of the County Maintained Portion of Portuguese Canyon Road

Situate in Sections 1, 2, 11, 12, 13 and 14, in Township 24 South, Range 12 East, Mount Diablo Meridian, Monterey County, California and being more particularly described as follows:

All the County maintained portion of Portuguese Canyon Road, 40 feet in width, lying 20 feet on each side of, and contiguous to the existing road centerline, as constructed, maintained and travelled, as approximately following the courses shown on that certain map entitled “Proposed Portuguese Canon Road,” dated August 19, 1928, on file in the Office of the County Surveyor, Serial Numbers 5308 and 5309, said County maintained portion lying within the aforesaid Sections 1, 2, 11, 12, 13 and 14.

Prepared by:

Michael K. Goetz – PLS 5667
County Surveyor
Monterey County, California

Date