



# COUNTY OF HUMBOLDT

## Legislation Text

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File #: 21-1040, Version: 1

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**To:** Board of Supervisors

**From:** Public Works

**Agenda Section:** Consent

**SUBJECT:**

Resolution to Summarily Vacate Right of Way on Trinidad Scenic Drive in Trinidad

**RECOMMENDATION(S):**

That the Board of Supervisors:

1. Adopt the attached resolution to summarily vacate a portion of Trinidad Scenic Drive in Trinidad, pursuant to Streets and Highways Code section 8334. (Attachment 1), and
2. Direct the Clerk of the Board to record in the Office of the County Recorder via the Land Use Division a certified copy of the resolution.

**SOURCE OF FUNDING:**

Roads Division (1200)

**DISCUSSION:**

The Humboldt County Department of Public Works received a request from Susan Whitney and Lawrence Williams that the county vacate a portion of Trinidad Scenic Drive. Susan Whitney and Lawrence Williams purchased their residential property at 1990 Scenic Drive on October 14, 1993. as a result of county survey work done around 1998, it was discovered that a portion of their home lies within the right of way of Trinidad Scenic Drive (Attachment 2). Since 1998, owners of the house consulted and met with county staff in an attempt to uncloud the title on their home. The proposed vacation will eliminate the encroachment of the house onto the right of way of Trinidad Scenic Drive.

Trinidad Scenic Drive was dedicated as a public road on the Town of Westhaven Map in 1916. Trinidad Scenic Drive was the State Highway at that time and the State purchased additional right of way easements along Trinidad Scenic Drive in 1921. Trinidad Scenic Drive was relinquished to Humboldt County on July 21, 1955.

Per Assessor records, the home at 1990 Scenic Drive was constructed in 1962. The house today is more or less the same as when it was originally constructed. The right of way has been in existence for more than 40 years before the home was constructed. It is not known if the construction plans for the

house incorrectly showed the right of way or if the surveyor incorrectly staked the house foundation within the right of way of Trinidad Scenic Drive. The area proposed for vacation does not appear to ever have been developed as a roadway. Due to steep terrain, the area proposed for vacation does not provide access to coastal resources. Instead, the area appears to have been intended for a turnout area, but it was not used as such leading up to construction of the home.

The proposed vacation will vacate 9,800 square feet. Of which 8,686 square feet were dedicated on the Town of Westhaven Map and 1,114 square feet were purchased with taxpayer dollars. Because taxpayer monies were spent to acquire a portion of the right of way that is proposed to be vacated, the owner of the house must compensate the county at fair market value for that portion of the right of way to be vacated. Based on the appraised land value, the owners have agreed to pay Three Thousand Four Hundred Sixty-Five Dollars and Thirty Cents (\$3,465.30) for that portion of the right of way proposed to be vacated.

The proposed vacation is being processed via Summary Vacation Procedures pursuant to the provisions of Streets and Highways Code section 8334. This code section states a 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.

The Department of Public Works has physically inspected the portion of the road proposed for vacation. The county has neither constructed nor maintained the portion of right of way proposed to be vacated.

The Planning and Building Department has found the proposed vacation to be of a “minor” nature and is, therefore, exempt from a Planning Commission Report for Acquisitions, Dispositions, and Abandonments pursuant to Government Code section 65402(a). They determined that the right of way was not acquired for use other than street purposes; no property will be land locked if the vacation is granted; Trinidad Scenic Drive is a developed road, while the county right of way is partially developed with an existing residence; the property is not described in any county adopted Trails Plan; there is an existing residence constructed over the right of way; there are terrain issues that would not be conducive to establishing trail access; and the parcel has legal frontage on Trinidad Scenic Drive (Attachment 3).

The proposed vacation has been reviewed by the Public Works Environmental Services Division and has been determined to have no significant environmental effect and, therefore, is not subject to the California Environmental Quality Act (CEQA), as per the provisions in the Guidelines for Implementation of CEQA [14 California Code of Regulations Section 15305] (Attachment 4).

There are no public utilities located within the area proposed for vacation. The property is on a well and septic system per Westhaven Community Services District. No utility companies requested an easement over the proposed vacation area.

The California Coastal Commission (CCC) was notified of the proposed vacation. The CCC did not request that a public access easement be reserved for the benefit of the State of California. However, the CCC did express concern about potential loss of access to the coast from the site if the public right of way was vacated. The area of the proposed vacation is a very steep, inaccessible section of coast. There is no visible evidence of footpaths down to the ocean along the ocean frontage of the Whitney and Williams property. Useable public access is available to the south at Moonstone Beach and to the north at Luffenholtz Beach. Ultimately CCC legal staff opined that a Coastal Development Permit, or a de minimis waiver, *should* be applied for. Because the CCC did not *require* a Coastal Development Permit, or a de minimis waiver, neither are being applied for.

FINANCIAL IMPACT:

This item does not affect the General Fund. Fees paid by the applicant cover staff time associated with the vacation process.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by providing for and maintaining infrastructure .

OTHER AGENCY INVOLVEMENT:

Humboldt County Planning and Building Department

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose not to approve the requested vacation and direct Public Works to begin the legal process of removing the unauthorized encroachment of the house and appurtenances from the right of way of Trinidad Scenic Drive.

ATTACHMENTS:

1. Resolution to Summarily Vacate a Portion of Trinidad Scenic Drive
2. Vacation Map
3. Exemption from Planning Commission Report
4. CEQA Determination

PREVIOUS ACTION/REFERRAL:

Board Order No.: NA

Meeting of: NA

File No.: NA