

9611756

BOOK 157 PAGE 1144

ORIGINAL

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

FILED

FEB 22 1996

COUNTY CLERK  
BY Jam Dewille

ORDER NO. 96-2-14-14

FILE NO. 3960

IN THE MATTER OF VACATING A LINE OF SIGHT )  
RESTRICTION EASEMENT ON LOT 7, STEELHEAD )  
MEADOWS SUBDIVISION, AS PLATTED AND )  
RECORDED IN FILE 75, SLIDE 117, LANE COUNTY )  
OREGON PLAT RECORDS, WITHOUT A PUBLIC )  
HEARING AND ADOPTING FINDINGS OF FACT )  
(18-02-05) )

Z689FEB.22'96#07\*REC 40.00

Z689FEB.22'96#07\*PFUND 10.00

Z689FEB.22'96#07\*AS&T 20.00

WHEREAS, this matter now coming before the Board upon a petition under ORS Chapter 368.341, received by the Director of the Lane County Department of Public Works, for the vacation of a line of sight restriction easement on Lot 7, Steelhead Meadows Subdivision as platted and recorded in File 75, Slide 117, Lane County, Oregon Plat Records, and

WHEREAS, ORS Chapter 368.351 provides for the vacation of public property and roads without a public hearing; and

WHEREAS, the petition complies with the provisions of ORS 368.351, in that the petitioner, who is the landowner of 100% of the property abutting the proposed vacation, agrees that the vacation should be approved as proposed; and

WHEREAS, no landowner would be denied legal access to their property; and

WHEREAS, the line of sight restriction easement on Lot 7 in the Steelhead Meadows Subdivision is within the Urban Growth Boundary of the City of Springfield which supports the vacation as described above; and

WHEREAS, the petitioners have signed the petition requesting the vacation and are the owners of all the property abutting the easement proposed for vacation; and

WHEREAS, the petitioners request the vacation in order to finish construction of a single family dwelling; and

WHEREAS, the petitioner has paid a vacation fee of \$550 and will be responsible for payment of recording fees upon final approval of the vacation; and

WHEREAS, the Director of Public Works has provided a written report in support of the proposed vacation, as required by ORS 368.346, attached hereto, marked Exhibit "A" and made a part hereof, by this Order; and

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**WHEREAS**, all statutory procedures under ORS 368.351 necessary for this vacation have been complied with; and

**WHEREAS**, the Board considered the proposed vacation on February 14th, 1996, in accordance with ORS Chapter 368; and

**WHEREAS**, the Board is of the opinion that approving the vacation as petitioned for is in the best interest of the public; now, therefore, it is hereby

**ORDERED** that the line of sight restriction easement on Lot 7, Steelhead Meadows Subdivision as platted and recorded in File 75, Slide 117, be vacated and that in support of this action, the Board hereby adopts the Findings of Fact, as set forth in Exhibit "B", attached hereto and made a part hereof by this Order; and it is further

**ORDERED** that this Order be entered into the Lane County Board of Commissioners Journal of Administration, and be further recorded in the Lane County, Oregon Deed Records.

**DATED** this 14th day of February, 1996.

  
\_\_\_\_\_  
Chair  
LANE COUNTY BOARD OF COMMISSIONERS

ORIGINAL

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EXHIBIT "A"

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IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

FILE NO. 3960

IN THE MATTER OF VACATING A LINE OF SIGHT )  
 RESTRICTION EASEMENT ON LOT 7, STEELHEAD )  
 MEADOWS SUBDIVISION, AS PLATTED AND )  
 RECORDED IN FILE 75, PAGE 117, LANE COUNTY, ) DIRECTOR'S REPORT  
 OREGON PLAT RECORDS, WITHOUT A PUBLIC )  
 HEARING AND ADOPTING FINDINGS OF FACT )  
 (18-02-05) )

Steelhead Meadows was platted in 1995 in File 75, Slides 116-118. Slide 117 shows a line of sight restriction easement through Lot 7. The subdivision is within the Urban Growth Boundary of the City of Springfield and the line of sight restriction easement was requested by the City as a condition of approval. The City has issued a "Stop Work Order" on the single family residence now being built on the lot because of the existing easement and will not allow the building to proceed until the easement is vacated.

The City of Springfield has re-evaluated the need for the line of sight restriction easement and is in support of vacating the easement as described.

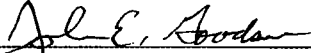
The Department of Public Works has received a valid petition, signed by the owners of 100% of the property abutting the easement to be vacated as described in the Order, requesting by the authority of ORS 368.351, a vacation without a public hearing. They are requesting the vacation in order to proceed with construction of a residence. Access will not be denied to any landowner by this vacation.

The proposed vacation will benefit the general public.

In that the City of Springfield is supportive of the vacation as petitioned for, it is recommended that the line of sight restriction easement as described in the Order, be vacated.

It is further recommended that the vacation be allowed without a public hearing.

DATED this 31<sup>st</sup> day of JANUARY, 1996.

  
 \_\_\_\_\_  
 John E. Goodson, Director  
 Department of Public Works

DIRECTOR'S REPORT  
 Line of Sight Restriction Easement, Lot 7  
 Steelhead Meadows, File 75, Slide 117

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**EXHIBIT "B"**

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**IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY**

**STATE OF OREGON**

FILE NO. 3960

<b>IN THE MATTER OF VACATING A LINE OF SIGHT )</b>	
<b>RESTRICTION EASEMENT ON LOT 7, STEELHEAD )</b>	
<b>MEADOWS SUBDIVISION, AS PLATTED AND )</b>	
<b>RECORDED IN FILE 75, SLIDE 117, LANE COUNTY, )</b>	<b>FINDINGS OF FACT</b>
<b>OREGON PLAT RECORDS, WITHOUT A PUBLIC )</b>	
<b>HEARING AND ADOPTING FINDINGS OF FACT )</b>	
<b>(18-02-05) )</b>	

The Department of Public Works has received a valid petition, signed by the owners of 100% of the property abutting the proposed vacation, requesting that a line of sight restriction easement as described in the Order be vacated as petitioned for. The petitioners request the vacation stating that it would allow them to proceed with the construction of a single family residence on Lot 7.

**Findings of Fact (Public Interest)**

The Board takes notice and finds:

1. That, pursuant to ORS 368.351, a county governing body may vacate a public easement or any other public property based upon the determination that the vacation is "in the public interest".
2. That, pursuant to ORS 197.175 (2) (d), after acknowledgment of a county's comprehensive plan and implementing ordinances, the plan and ordinances, not the Statewide Planning Goals, control land use decisions.
3. That, Lane County's Rural Comprehensive Plan and implementing ordinances were originally acknowledged to be in compliance with the Statewide Planning Goals on September 13, 1984, and reacknowledged on February 14, 1992.
4. That, neither the Lane County Comprehensive Plan nor any land use regulation within the Lane Code establish mandatory standards for the vacation of a public easement or any other public property.

**Conclusion of Law (Public Interest)**

Based upon the above findings of fact, the Board concludes, as a matter of law, that neither the Statewide Planning Goals nor the Lane County Rural Comprehensive Plan and related land use regulations are an applicable measure of the "public interest", as it pertains to this vacation.

**Findings of Fact (Impacts and Process of Vacation)**

The Board takes notice and finds as follows:

1. That, the petitioner owns all property abutting the proposed vacation. Said property is further identified as tax lot 3209 of assessor's map 18-02-05-13.
2. That, the previously identified property is outside any city limits but is within the Urban Growth Boundary of the City of Springfield, and therefore under the jurisdiction of Lane County.
3. That, the City of Springfield Transportation Division supports the proposed vacation.
4. That, vacating the line of sight restriction easement as described in the Order will not deny access to any landowners.
5. That, pursuant to ORS 368.351, a county governing body may make a determination about a vacation of a public easement or any other public property without a public hearing if:
  - (1) The county road official files a written report stating that the vacation is in the public interest.
  - (2) The proceedings were initiated by petition indicating the approval of 100% of the adjoining property owners.

Items (1) and (2) have been complied with.

**Conclusions of Law (Impacts and Process of Vacation)**

Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making a determination on this vacation, without a public hearing, have been met.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

FILE No.

IN THE MATTER OF THE VACATION OF )  
 THE LINE OF SIGHT RESTRICTION )  
 EASEMENT ON LOT 7, STEELHEAD )  
 MEADOWS SUBDIVISION, AS PLATTED ) PETITION TO VACATE  
 AND RECORDED IN FILE 75, SLIDE 117, )  
 LANE COUNTY OREGON PLAT RECORDS, )  
 IN LANE COUNTY OREGON. )

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned Tyrone B. Jones and Shirley J. Jones, husband and wife, owners of the above described real property hereby petition for the vacation of the LINE OF SIGHT RESTRICTION EASEMENT, which easement to be vacated is described as follows:

The Line of Sight Restriction Easement located on Lot 7, STEELHEAD MEADOWS Subdivision, as platted and recorded in File 75, Slide 117, Lane County Oregon Plat Records.

WHEREAS, the undersigned petitioners are the owners of all the real property affected by the above described easement to be vacated, and

WHEREAS, petitioners allege as follows:

1. The purpose of this vacation request is to allow the partitioners to proceed with the construction of a single family residence.
2. There are no utilities and powerlines located in the easement to be vacated.

WHEREAS, no portion of the easement to be vacated is located within the boundaries of an incorporated City or Town, and

WHEREAS, the public interest will be served and not prejudiced by vacation of the above described easement, and

WHEREAS, petitioners, separately and collectively, have no objection to Lane County proceeding under authority of ORS Chapter 368.326, for vacation without hearing, and

THEREFORE, the petitioners request an Order of the Board of Commissioners for Lane County as follows:

- 1. Setting a date for vacation of the above described easement, with or without a hearing before the Board of Commissioners for Lane County pursuant to ORS Chapter 368.
- 2. Upon review of this matter, to direct the vacation of the above described easement.

DATED this 23<sup>rd</sup> Day of JANUARY 1996.

PETITIONERS:

Tyrone B. Jones  
 1265 Cal Young Road  
 Eugene, Oregon 97401

Shirley Jones  
 1265 Cal Young Road  
 Eugene, Oregon 97401

STATE OF OREGON )  
COUNTY OF LANE ) ss

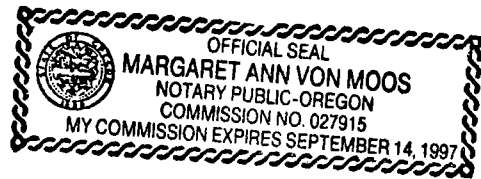
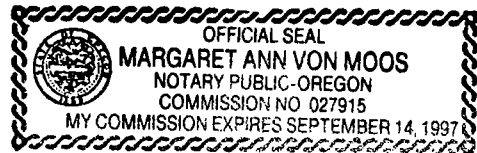
On JANUARY 23, 1996, personally appeared the above named Tyrone B. Jones and acknowledged the foregoing instrument to be a voluntary act before me:

Margaret Ann von Moos  
 Notary Public for Oregon  
 My Commission Expires: 9-14-97

STATE OF OREGON )  
COUNTY OF LANE ) ss

On JANUARY 23, 1996, personally appeared the above named Shirley J. Jones and acknowledged the foregoing instrument to be a voluntary act before me:

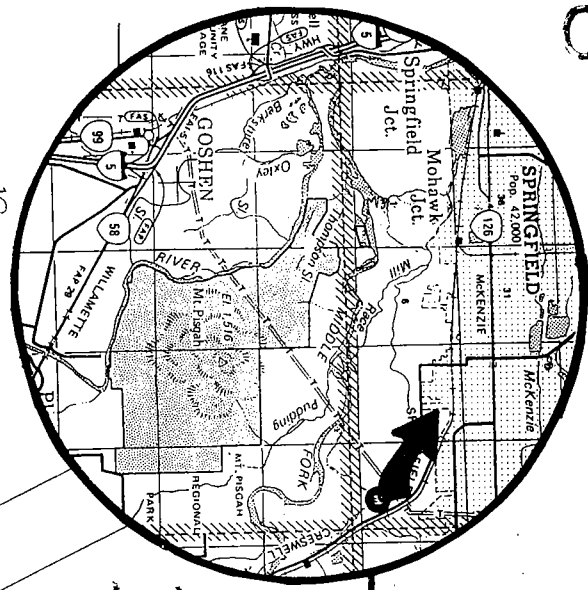
Margaret Ann von Moos  
 Notary Public for Oregon  
 My Commission Expires: 9-14-97



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ORIGINAL

VICINITY MAP

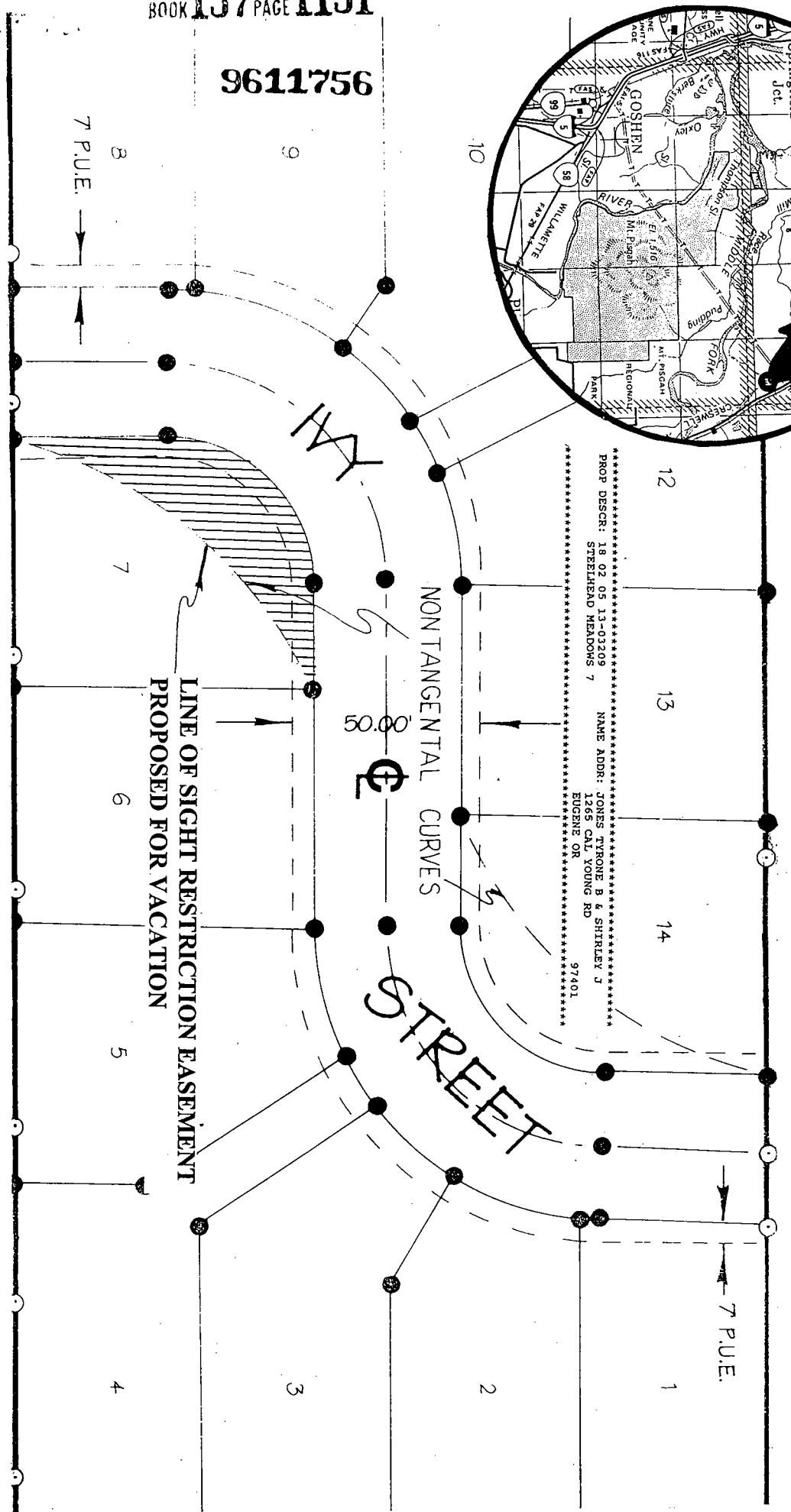


ATTACHMENT "A"

N.E. 1/4, SECTION 5

TOWNSHIP 18 SOUTH, RANGE 2 WEST, W.M.

1" = 100'



\*\*\*\*\*  
 PROP DESCR: 18 02 05 13-01209 NAME ADDR: JONES TYRONE B & SHIRLEY J  
 STEELHEAD HEADONS 7 1265 CAL YOUNG RD  
 EUGENE OR 97401  
 \*\*\*\*\*

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**State of Oregon**

**County of Lane — ss.**

I, the County Clerk, in and for the said  
County, do hereby certify that the within  
instrument was received for record at

22 FEB 96 9 : 30

Reel **2144R**

Lane County OFFICIAL Records  
Lane County Clerk

By:

*Donal S. Suchan*

County Clerk