

W. 18.C.

AGENDA COVER MEMO

DATE: March 29, 2004
TO: Lane County Board of Commissioners
FROM: Bill Robinson, Lane County Surveyor *BR*
DEPARTMENT: Public Works/Land Management Division

AGENDA ITEM TITLE: IN THE MATTER OF VACATING A PORTION OF WILLOW STREET, IN THE PLAT OF GALLAGHER'S PART OF THE CITY OF FLORENCE, AS PLATTED AND RECORDED IN VOLUME 30, PAGES 12 AND 13 OF THE LANE COUNTY, OREGON DEED RECORDS.
(18-12-26)

I. MOTION:

TO APPROVE THE FINAL ORDER VACATING A PORTION OF WILLOW STREET, IN THE PLAT OF GALLAGHER'S PART OF THE CITY OF FLORENCE, AS PLATTED AND RECORDED IN VOLUME 30, PAGES 12 AND 13 OF THE LANE COUNTY, OREGON DEED RECORDS, BEING MORE PARTICULARLY DESCRIBED IN THE FINAL ORDER (18-12-26)

II. ISSUE:

To decide whether the vacation of a section of Willow Street, a public road, being approximately 173 feet in length, is in the public interest.

III. DISCUSSION:

A. Background:

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Randall Johnson and John G. and Kathryn A. Stone, landowners of at least 60% of property adjoining the portion of Willow Street proposed to be vacated. The petitioners are requesting this vacation in order to improve development potential of adjacent parcels by incorporation of proposed vacated land into said parcels.

Willow Street, originally platted as Wall Street and having a width of 60 feet, was first dedicated as a public road in 1891 as part of the Plat of Gallagher's, City of Florence.

Petitioner Randall Johnson's property abutting the proposed vacation of Willow Street falls within the Urban Growth Boundary of the City of Florence, and is part of a currently pending annexation action by the City of Florence. Mr. Johnson has received endorsement from the City of Florence to proceed with the annexation process, along with support by the City for this proposed Vacation of Willow Street (see Attachment "B" herewith).

Qwest Communications, Central Lincoln PUD, Northwest Natural Gas, Oregon Department of Transportation, the City of Florence, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and adjoining landowners were notified by mail regarding the proposed vacation.

Donald Saxon, owner of tax lot number 1812263102300, responded with a written objection, without specific reason, to the vacation as proposed. Bill Robinson, County Surveyor, spoke with Don Saxon on March 23, 2004, at the site. Don Saxon, at that time, said that he may either write a letter or come to the hearing to testify. Lane County Transportation Planning Department initially had a concern that some landowners may be denied access, then later withdrew their concern after further investigation and visiting personally with petitioner Randall Johnson.

The other agencies and landowners either had no objections or did not respond to the referral

The Board approved Resolution and Order Number 04-3-10-20 to set a public hearing on April 14, 2004 to hear and evaluate the merits of whether to vacate a portion of Willow Street, as petitioned for.

B. Analysis:

Vacation of the proposed portion of Willow Street to be vacated will not deny access to any other landowners. A non-vacated portion would remain between Highway 126 and tax lot 2300 owned by Donald Saxon. Early in the petition process the Transportation Planning Department of Lane County expressed they would not be supportive of a plan that would force surrounding properties to take separate access from Highway 126. After subsequent investigation that demonstrated no other landowners would be denied access by this proposed vacation, and after visiting personally with petitioner Randall Johnson, Transportation Planning have since withdrawn the objection. The portion of Willow Street to be vacated appears to be unimproved and unused, and there are no known utility or power lines located in the area to be vacated.

The petitioners have met the requirement of ORS 368.341(3)(f), as at least 60% of the adjoining landowners have signed the petition to vacate the road.

C. Alternatives/Options:

1. Approve the vacation of a portion of Willow Street, a public road, as petitioned for.
2. Deny the vacation of a portion of Willow Street, a public road, as petitioned for.
3. Continue the matter for further consideration.

D. Recommendations:

The Public Works Director's Report recommends that the Board support Alternative Number 1, to approve the vacation of the described portion of Willow Street, as petitioned for.

All statutory procedures necessary for the vacation of the above mentioned portion of Willow Street, a public road, have been complied with, including providing public notice and a report by the Director of Public Works who supports the approval of the vacation of the road.

E. Timing:

Timing is important in this matter, as petitioner Randall Johnson has a pending application to the City of Florence for annexation of properties abutting the proposed portion of Willow Street to be vacated.

IV. IMPLEMENTATION/FOLLOW-UP:

If the Board of County Commissioners approves the Final Order of Vacation it is to be forwarded to the Lane County Clerk for filing and recording, after which copies are to be forwarded to the County Surveyor and County Assessor for appropriate action. If the Order is denied, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

V. ATTACHMENTS:

Order w/attachments:

Director's Report - Exhibit "A"

Findings of Fact - Exhibit "B"

Affidavit of Posting – Exhibit "C"

Attachment "A" - Vicinity Map

Attachment "B" – Letter of Endorsement, City of Florence

Contact Person: Bill Robinson, x4198

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

**IN THE MATTER OF VACATING A PORTION OF)
WILLOW STREET, IN THE PLAT OF)
GALLAGHER'S PART OF THE CITY OF) FINAL
FLORENCE, AS PLATTED AND RECORDED IN) ORDER NO.
VOLUME 30, PAGES 12 AND 13 OF THE LANE)
COUNTY, OREGON DEED RECORDS. (18-12-26))**

WHEREAS, this matter now coming before the Board of County Commissioners for Lane County, Oregon, upon the Resolution, Notice of Hearing and Order No. 04-3-10-20 for the petition for the vacation of a portion of Willow Street; and

WHEREAS, Willow Street was established in 1891 with a statutory right of way width of 60 feet, said portion of right of way proposed to be vacated being more particularly described as follows:

Beginning at the southwest corner of Lot 11, Block 70, Gallagher's Part of the City of Florence, as platted and recorded in Book 30, Pages 12 and 13 of the Lane County, Oregon plat records; thence northerly along the west line of Lot 11 to the southwest corner of Lot 10 within that same block; thence westerly to the southeast corner of Lot 1, Block 67 of said plat; thence southerly to a point 33 feet south of the extended east line of Lot 20, Block 67 of said plat; thence northeasterly in a straight line to the point of beginning, and there ending, all within Section 26, Township 18 South, Range 12 West of the Willamette Meridian, in Lane County, Oregon.

WHEREAS, the petitioners have met the requirement of ORS 368.341(3)(f), as at least 60% of the adjoining landowners have signed the petition to vacate the road; and

WHEREAS, Qwest Communications, Central Lincoln PUD, Northwest Natural Gas, Oregon Department of Transportation, the City of Florence, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and abutting landowners were notified by mail regarding the proposed vacation; and

WHEREAS, petitioner Randall Johnson's property abutting the proposed vacation of Willow Street falls within the Urban Growth Boundary of the City of Florence, and is part of a currently pending annexation action by the City of Florence; and

WHEREAS, petitioner Randall Johnson has received endorsement from the City of Florence to proceed with the annexation process, along with support by the City for this proposed vacation of Willow Street; and

WHEREAS, there are no known utilities or powerlines located within the area to be vacated; and

WHEREAS, all necessary procedures for a vacation have been complied with, pursuant to ORS Chapter 368, including the giving of notice as evidenced by the Affidavit of Posting, Publication and

Mailing, labeled as Exhibit "C", attached hereto and made a part hereof by this Order; and

WHEREAS, the Director of the Department 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

WHEREAS, a public hearing was conducted on this date, as ordered, regarding the proposed vacation of the road as described above; and

WHEREAS, in accordance with the provisions of ORS 368.356, the Board is of the opinion that approving the vacation of the road, as described herein, is in the best interest of the public; now therefore, it is hereby

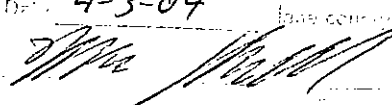
ORDERED, that the vacation of the above described portion of Willow Street is hereby approved, and the Board hereby adopts the Findings of Fact, as set forth in Exhibit "B", attached hereto and made a part hereof by this Order; and it is further

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 April, 2004

Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachments: Vicinity Map

APPROVED AND FORWARDED
Date: 4-3-04 Lane County


IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

File No.

IN THE MATTER OF THE VACATION OF A PORTION)
OF WILLOW STREET, IN SECTION 26, TOWNSHIP)
18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE)
MERIDIAN, IN LANE COUNTY, OREGON)

PETITION TO VACATE

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned Randall Johnson as owners of the adjacent real property hereby petition for the vacation of a portion of Public Road Name Willow Street, which area to be vacated is described as follows:

“All that portion of Public Road Name Willow Street located north of Highway 126 near Florence, Oregon more particularly described as follows:

Beginning at the southwest corner of Lot 11, Block 70, Gallaghers' part of the City of Florence, as platted and recorded in Book 30, Page 12 Lane County Oregon Plat Records, thence northerly along the west line of Lot 11 to the southwest corner of Lot 10 within that same block, thence westerly to the southeast corner of Lot 1, Block 67 of said Plat, thence southerly to a point 33' south of the extended east line of Lot 20, Block 67 of said Plat, thence north-easterly in a straight line to the point of beginning, and there ending, all within Lane County Oregon.”

WHEREAS, the undersigned petitioners are the owners of 100% of all the real property abutting the above described area to be vacated; and

WHEREAS, petitioners allege as follows:

1. The purpose of this vacation request is to remove the liability that currently exists for the public / Lane County associated with the unimproved / unused portion of Willow Street and further, to provide for better utilization of the land by incorporation of subject into the adjacent parcels for future potential development.
2. There are no utilities, and no power lines located in the area to be vacated.

Necessary easements for these public and private utilities will be executed between the parties, prior to completion of the vacation; and

WHEREAS, no portion of the area 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 area; and

WHEREAS, petitioners separately and collectively, have no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation without a 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 portion of road, with or without a hearing before the Board of Commissioners of Lane County, pursuant to ORS Chapter 368.

2. Upon review of this matter, to direct the vacation of the above described road, and direct that title to the vacated area revert and vest in accordance with ORS 368.366.

DATED this 3rd day of APRIL, 2003

PETITIONERS:

John G Stone
 Map# 18-12-26-31 TL 2001
 John G Stone and Kathryn A Stone
 PO Box 1267, Florence OR 97439

Kathryn A Stone

Randall Johnson
 Map# 18-12-26-31 TL 2200
 Randall Johnson
 C/O PO Box 2116, Florence OR 97439

Randall Johnson
 Map# 18-12-26-42 TL 1400
 Randall Johnson
 C/O PO Box 2116, Florence OR 97439

State of Oregon)
 County of Lane)ss.

On April 03, ----, 2003, personally appeared the above named RANDALL JOHNSON

----- and acknowledged the foregoing instrument to be a voluntary act before me:



Chienne Wilkins
 Notary Public for Oregon
 My Commission Expires: May 19, 2006

State of Oregon)
 County of Lane)ss.

On April 03-----, 2003, personally appeared the above named JOHN G. STONE and KATHRYN A. STONE-----

----- and acknowledged the foregoing instrument to be a voluntary act before me:



Chienne Wilkins
 Notary Public for Oregon
 My Commission Expires: May 19, 2006

State of Oregon)
 County of Lane)ss.

On _____, 2003, personally appeared the above named _____

----- and acknowledged the foregoing instrument to be a voluntary act before me:

 Notary Public for Oregon
 My Commission Expires: _____

EXHIBIT "A"
IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

IN THE MATTER OF VACATING A PORTION OF)	
WILLOW STREET, IN THE PLAT OF)	
GALLAGHER'S PART OF THE CITY OF)	DIRECTOR'S FINAL
FLORENCE, AS PLATTED AND RECORDED IN)	REPORT
VOLUME 30, PAGES 12 AND 13 OF THE LANE)	
COUNTY, OREGON DEED RECORDS (18-12-26))	

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Randall Johnson and John G. and Kathryn A. Stone, landowners of at least 60% of property adjoining the portion of Willow Street petitioned for Vacation.

Willow Street, originally platted as Wall Street and having a width of 60 feet, was first established as a public road in 1891 as part of the Plat of Gallagher's, City of Florence. The portion to be vacated lies within the Urban Growth Boundary of the City of Florence, and is part of a currently pending annexation action by the City of Florence. The portion of Willow Street lying between Highway 126 and the southerly end of the portion to be vacated is proposed to remain in public road status.

Qwest Communications, Central Lincoln PUD, Northwest Natural Gas, Oregon Department of Transportation, the City of Florence, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and nearby landowners were notified by mail regarding the proposed vacation.

Donald Saxon, owner of taxlot number 1812263102300, responded with a written objection, without specific reason, to the vacation as proposed. Bill Robinson, County Surveyor, spoke with Don Saxon on March 23, 2004, at the site. Don Saxon, at that time, said that he may either write a letter or come to the hearing to testify.

The Lane County Transportation Planning section initially had a concern that some landowners may be denied access, then later withdrew their concern after further investigation and visiting personally with petitioner Randall Johnson.

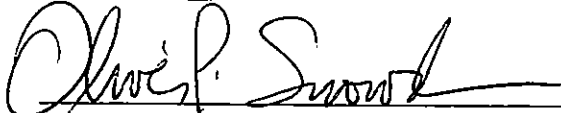
Mr. Johnson has received endorsement from the City of Florence to proceed with the annexation process, along with support by the City for this proposed Vacation of Willow Street (see attachment "B" herewith).

The other agencies and landowners either had no objections or did not reply to the referral.

Notification of these proceedings has been provided by posting, mail and legal publication by the County Surveyor as required by ORS 368 provisions.

This segment of road is no longer needed as part of the County transportation system. It is therefore recommended that the Final Order be approved and the described portion of Willow Street be vacated, as petitioned for.

DATED this 29th day of March, 2004



Oliver P. Snowden, Director
Department of Public Works

EXHIBIT "B"
IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

IN THE MATTER OF VACATING A PORTION OF WILLOW STREET, IN THE PLAT OF GALLAGHER'S PART OF THE CITY OF FLORENCE, AS PLATTED AND RECORDED IN VOLUME 30, PAGES 12 AND 13 OF THE LANE COUNTY, OREGON DEED RECORDS. (18-12-26))))))))	FINDINGS OF FACT
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The Surveyor's Office of the Department of Public Works has received a valid petition signed by Randall Johnson and John G. and Kathryn A. Stone, landowners of at least 60% of property adjoining the portion of Willow Street proposed to be vacated.

Willow Street, originally platted as Wall Street and having a width of 60 feet, was first established as a public road in 1891 as part of the Plat of Gallagher's, City of Florence. The portion to be vacated lies within the Urban Growth Boundary of the City of Florence, and is part of a currently pending annexation action by the City of Florence. The portion of Willow Street lying between Highway 126 and the southerly end of the portion to be vacated is proposed to remain in public road status.

Findings of Fact (Public Interest)

The Board takes notice and finds:

1. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate public roads or easements 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 public easements.

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 petitioners own property abutting the proposed vacation. Said property is further identified as Tax Lots 2001 & 2200 of Assessor's Map 18-12-26-31, and Tax Lot 1400 of Assessor's Map 18-12-26-42.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate public roads or easements based upon the determination that the vacation is "in the public interest".
3. That, Qwest Communications, Central Lincoln PUD, Northwest Natural Gas, Oregon Department of Transportation, the City of Florence, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation.
4. The portion to be vacated lies within the Urban Growth Boundary of the City of Florence, and is part of a pending annexation action by the City of Florence. The City of Florence has written a letter of support for the proposed vacation.
5. That, the County Surveyor has provided legal notice for the public hearing by service, posting, and publication, as required by ORS 368.401 to 368.426.
6. That, pursuant to ORS 368, a county governing body may make a determination about a vacation of property with a public hearing if:
 - (1) The county governing body receives a petition meeting the requirements of ORS 368.341.
 - (2) The county road official files a written report containing a description of the property proposed for vacation and stating that the vacation is in the public interest.
 - (3) The governing body establishes a time and place for a hearing to consider the proposed vacation and shall give notice of said hearing under ORS 368.401 to 368.426.

Items (1), (2) and (3) 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, with a public hearing, have been met.

EXHIBIT "C"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

IN THE MATTER OF VACATING A PORTION OF)
WILLOW STREET, IN THE PLAT OF)
GALLAGHER'S PART OF THE CITY OF)
FLORENCE, AS PLATTED AND RECORDED IN)
VOLUME 30, PAGES 12 AND 13 OF THE LANE)
COUNTY, OREGON DEED RECORDS)
(18-12-26))

AFFIDAVIT OF POSTING,
PUBLICATION
AND MAILING

I, Bill Robinson, Lane County Surveyor, certify as follows:

That on the 23rd day of March, 2004, I caused to be posted three (3) copies of the Notice of Hearing in the above entitled matter in three places, positioned to be visible to the traveling public, as follows:

1. Posted on power pole # V26L41 located at the end of the pavement on the southerly side near 2288 11th Street.
2. Posted on power pole #V26L21 located on the southwest corner of Spruce Street and 11th Street.
3. Posted on power pole #V26L5 located on the northeast corner of Tamarack Street and 9th Street.

I, further certify that on the 12th day of March 2004, notice was sent by Certified Mail to the abutting property owners affected by the proposed road action, in accordance with Oregon Revised Statutes Chapter 368. Notice was also sent by General Mail to other property owners in the area, as well as private and public agencies having an interest in these vacation proceedings. Also, on March 25, 2004 and April 5, 2004 notice is scheduled to run in the Register Guard, and on March 24, 2004 and April 7, 2004 notice is scheduled to run in the Siuslaw News.

Bill Robinson

Bill Robinson
Lane County Surveyor

Subscribed and sworn to before me this 29th day of March, 2004.

Peggy Hunter

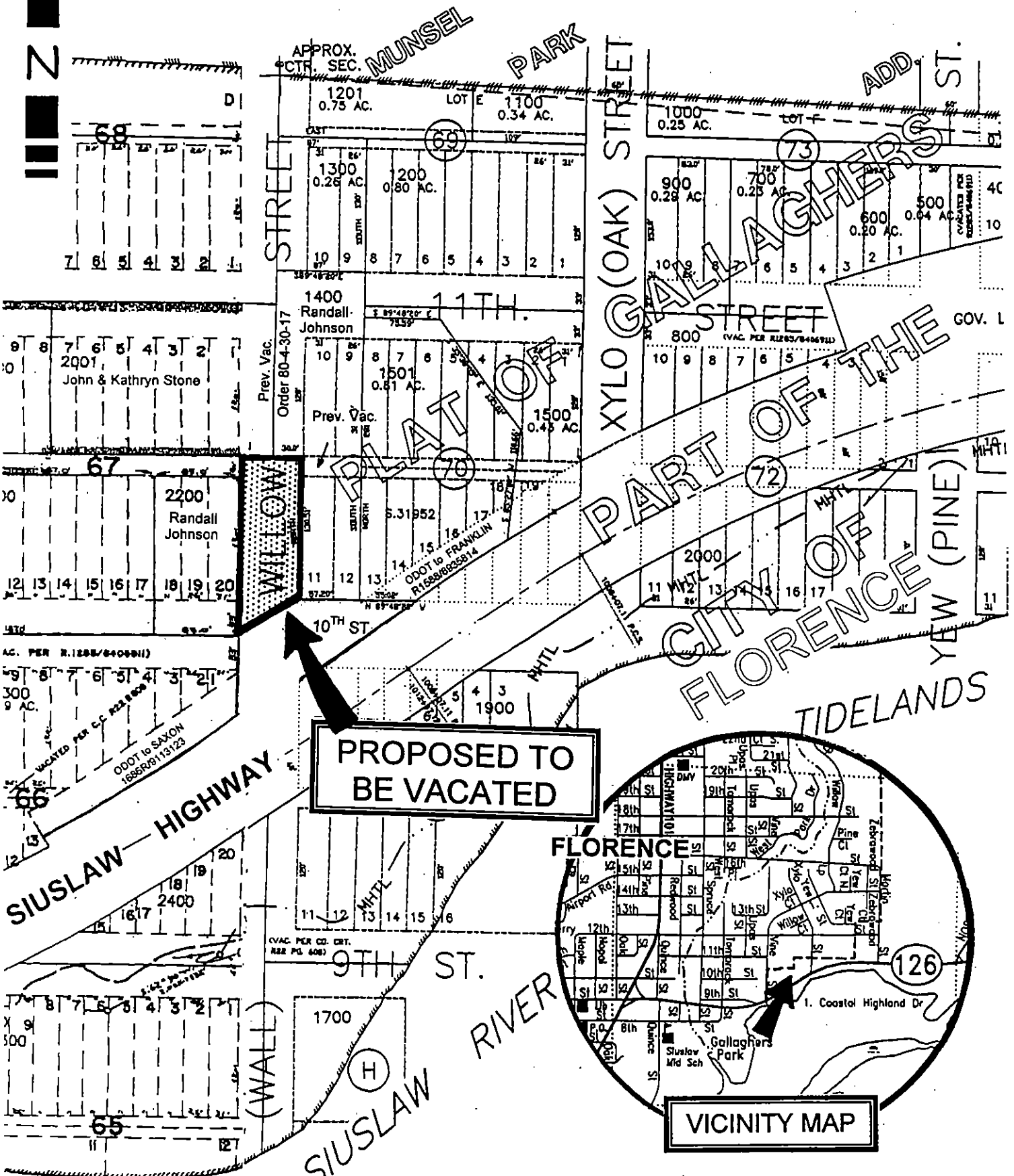
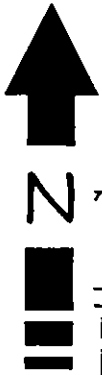
NOTARY PUBLIC FOR OREGON
My Commission Expires:



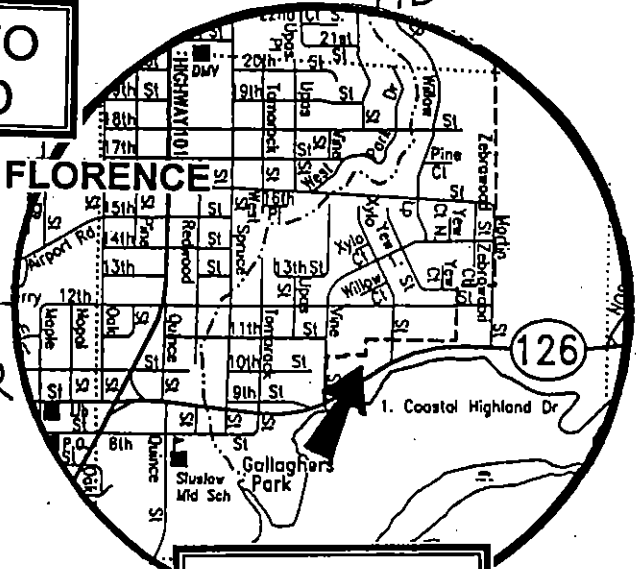
ATTACHMENT "A"

NE 1/4 SW 1/4 & NW 1/4 SE 1/4 Section 26 T. 18S. R. 12W. W.M.
LANE COUNTY

NO SCALE



**PROPOSED TO
BE VACATED**



VICINITY MAP

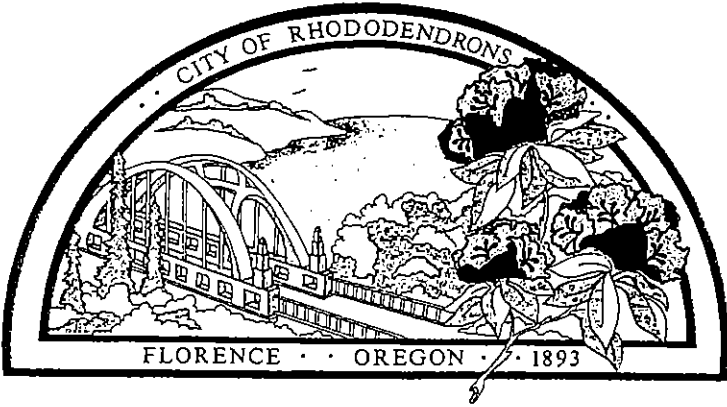
PLAT OF
PART OF THE
CITY OF FLORENCE
TIDELANDS

WILLOW STREET
SIUSLAW HIGHWAY

XYLO (OAK) STREET
GALLAGHERS ST.
YEW (PINE)

APPROX. CTR. SEC. 26
1201 0.75 AC.
LOT E 1100 0.34 AC.
1300 0.26 AC.
1200 0.80 AC.
1400 Randall Johnson
1501 0.81 AC.
1500 0.45 AC.
2200 Randall Johnson
2001 John & Kathryn Stone
1900
1700
9TH ST.
SIUSLAW RIVER
(WALL)

1000 0.25 AC.
900 0.28 AC.
700 0.25 AC.
500 0.04 AC.
600 0.20 AC.
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City of Florence

Community Development Department
Planning, Building Inspection and Economic Development

250 Highway 101
Florence, OR 97439-7628
TDD: (541) 997-3437

PH: (541) 997-8237
PH: (541) 997-2053
FAX: (541) 997-4109

Feb. 25, 2004

Board of County Commissioners
Lane County, Oregon

Dear Commissioners:

Randall Johnson has received the endorsement of the Florence City Council to proceed with annexation of his property to the City.

We are aware that Mr. Johnson has applied to the County for vacation of a portion of Willow Street from 10th Street north one/half block, and a portion of the alley connecting Vine and Willow Streets between 10th and 11th Streets. We would support his request as it will make the annexation cleaner.

Respectfully Submitted,

Roger McCorkle
Interim Comm. Dev. Dir.

RM:da

