


T. 15. C.

Memorandum Date: October 29, 2007

Order Date: November 20, 2007

TO: Board of County Commissioners

DEPARTMENT: Public Works, Land Management Division

PRESENTED BY: D. Michael Jackson, Lane County Surveyor 

AGENDA ITEM TITLE: IN THE MATTER OF THE VACATION OF A PORTION OF LATTA ROAD, A PUBLIC ROAD, LOCATED IN THE NORTHWEST QUARTER (NW 1/4) OF SECTION 23, TOWNSHIP 17 SOUTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITH A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (17-01-23-20)

I. MOTION

To approve the vacation of a portion of Latta Road, a public road, located in the Northwest Quarter (NW1/4) of Section 23, Township 17 South, Range 1 West of the Willamette Meridian, in Lane County, Oregon (17-01-23-20)

II. AGENDA ITEM SUMMARY

The Board is being asked to approve the vacation of the northernmost approximately 347 feet of Latta Road, a public road having a right of way width of 60 feet and extending north approximately 0.2 miles in length from its junction with the McKenzie Highway (State Highway #126), located approximately 1.5 miles east of Walterville, Oregon.

III. BACKGROUND/IMPLICATIONS OF ACTION**A. Board Action and Other History**

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Paul M. and Denise M. Oestreich, the landowners of 100% of the property abutting the proposed vacation of Latta Road. The petition was originally submitted with the intent of proceeding without a public hearing. Required notices of the vacation request were sent to agencies and landowners, and various responses of objection and conditional non-objection were received. The petitioners were notified of these responses, and have chosen to continue their vacation request using the process of public hearing.

On October 17, 2007, Resolution and Order Number 07-10-17-5 was passed by the Board of Commissioners which set a public hearing date of November 20, 2007 to consider this vacation.

The petitioners are requesting this vacation in order to allow for livestock to access pasture on both sides of the portion to be vacated, and to restrict unwanted traffic northerly of the southerly end of the portion to be vacated. All of the land adjacent to the dead end portion to be vacated is owned by the petitioners. The vacation would allow reconfiguration of their fences and pastures. Petitioners state that undesirable traffic has become a nuisance by using their private driveway as a turnaround, often times unsure of their location. Petitioners further assert there are utilities located within the area to be vacated.

Latta Road was originally established by deed recorded May 23, 1966, Reel 288-D, Instrument No. 48310, with a width of 60 feet. It was accepted by Lane County on August 13, 1969 (Commissioners Journal 46, Page 279) as a public road, but not as a County Road. It began at a point on the northerly right of way line of the McKenzie Highway #126 and ran northerly approximately 0.2 miles. The portion of road requested to be vacated is the northernmost approximately 347 feet at its terminus

The Surveyor's Office notified Qwest Communications, Eugene Water and Electric Board, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining and nearby property owners regarding the vacation

Lane County Planning responded with no objection, provided that a turnaround acceptable to the jurisdictional fire district be constructed, and that a 30' wide private easement be provided to benefit tax lots 600, 601 and 605 of Assessor's map 17-01-23, which are all within the petitioners' ownership. Petitioners have agreed to build a turnaround at their expense and dedicate an additional 20' x 35' of right of way for the turnaround. A deed for the additional dedication has been executed and is to be presented to the Board for approval on the same day as the public hearing for the vacation, and the deed shall be acted upon only after approval of the vacation. Upon completion of the turnaround it will be inspected for approval by Lane County Planning at the expense of petitioners. Petitioners also have agreed to provide the required easement for parcels 600, 601 and 605 in conjunction with approval of the vacation. The easement document has been executed and is being held by Lane County, and will be recorded only after approval of the vacation.

Lane County Transportation Planning responded with no objection, provided that a private easement be provided to benefit tax lots 600, 601 and 605 of Assessor's map 17-01-23, which are all within the petitioners' ownership. Petitioners have executed the required easement, which is being held by Lane County, and will be recorded only after approval of the vacation.

McKenzie Fire and Rescue District responded with no objection, provided that adequate clearance be maintained for emergency vehicle access. Petitioners have agreed to build a turnaround at their expense in conjunction with approval of the vacation. Fire Chief Dale Ledyard was contacted and stated that the turnaround design chosen by the petitioners (noted as the "Acceptable Alternative to 120' Turnaround" in Appendix D of the 2007 Oregon Fire Code) would satisfy minimum Fire District requirements.

Eugene Water and Electric Board responded with no objection, provided that a public utility easement is retained for their existing facilities in the area. An easement to address this request will be retained in the Final Order.

Qwest Corporation responded with no objection, provided that a public utility easement is retained for their existing facilities in the area. An easement to address this request will be retained in the Final Order.

Julie Udy, owner of tax lots 17-01-23-30-400 and 301, responded with an objection to the vacation, stating her son who has a disability uses the entire existing length of Latta Road for his rehabilitative walking program, and Ms. Udy would like the full existing length of Latta Road to remain public for her family and other people in the neighborhood to use. Petitioners were made aware of this objection.

Dean S. Kaufman, Esq., attorney for Barbara Hunter, owner of tax lots 17-01-23-604 and 607, responded with an objection to the vacation on behalf of Ms. Hunter. The objection states that it is uncertain whether the reversionary interest to Ms. Hunter would be sufficient to accommodate ingress and egress for commercial vehicles used by the lessee of the property, McKenzie Disposal Service. Ms. Hunter was contacted personally, and after explaining that only the northerly 347 feet of Latta Road is proposed for vacation, which is at least 400 feet from her property, Ms. Hunter held to her objection. Petitioners were made aware of this objection.

The other agencies and landowners either had no objection to the vacation or did not respond to the referral.

B. Policy Issues

Lane Manual 15.300 allows for consideration of vacation of rights of way where little need exists for the road, specifically [15.300(1)] roads that are dead-end roads which serve four or fewer permanent residences. The portion of right of way herein considered for vacation falls into this category.

C. Board Goals

Part of Lane County's Strategic Plan is to contribute to appropriate community development in the area of land development (Lane County Strategic Plan, Goals, P. 13). The vacation of this portion of dead-end right of way, in combination with establishment of a private easement to parcels all within petitioners' ownership, will be in conformity with this part of the Strategic Plan.

D. Financial and/or Resource Considerations

Vacation of this portion of right of way will return a marginal portion of land to the tax rolls as taxable land.

IV. ANALYSIS

ORS 368.341(1) provides that a county governing body may process vacation proceedings to vacate public rights of way by resolution provided certain conditions are met, and those conditions will be complied with by these proceedings.

The vacation of this portion of Latta Road will have no adverse effects on transportation patterns in the area, and the portion to be vacated is not needed by the Lane County Transportation system. Requirements by Lane County Planning and Transportation Planning for the petitioners to provide an easement to specified petitioner owned parcels, and to construct a turnaround with additional dedication, will be met as described herein above. The public hearing will allow for Board of Commissioners consideration of concerns or objections returned in response to notification of this vacation request.

The proceedings that propose to vacate the said portion of Latta Road have provided ample opportunity for comment from the public, affected property owners and other agencies. All required legal notices have been provided in accordance with ORS 368.346 and the Board is free to act at this time.

The public interest will be served and not prejudiced, as vacating this portion of Latta Road will provide for more full utilization of petitioners' property, reduce the occurrence of nuisance traffic approaching the petitioners' home, provide for the establishment of a designated turnaround area for the public and emergency vehicles, and add a marginal portion of land to the tax rolls.

V. ALTERNATIVES/OPTIONS

The Board of County Commissioners has the option to:

1. Approve the Final Order to vacate the portion of Latta Road, a public road, as petitioned for.
2. Deny the vacation of this portion of Latta Road, a public road, as petitioned for. An Order to Deny would be prepared for a future agenda date.
3. Continue the matter for further consideration.

VI. TIMING/IMPLEMENTATION

Timing of this matter is important in order that petitioners can begin and complete construction of the turnaround within the 60 day time period that is a requirement in conjunction with the approval of this vacation.

VII. RECOMMENDATION

The Public Works Director's Final Report recommends that the Board support Option Number 1, to approve vacation of this portion of Latta Road.

It is further recommended that petitioners provide an easement to their parcels 600, 601 and 605 of Assessor's map 17-01-23 as required by Lane County Planning and Transportation Planning. Also, it is recommended that petitioners construct a turnaround at petitioners' expense as required by Lane County Planning, to be inspected upon completion by Lane County Planning at petitioners' expense, and that petitioners dedicate an additional 20' x 35' of right of way for said turnaround. The turnaround will also meet the approval of the jurisdictional fire district.

The public interest will be served and not prejudiced, as vacating this portion of Latta Road will provide for more full utilization of petitioners' property, reduce the occurrence of nuisance traffic approaching the petitioners' home, provide for the establishment of a designated turnaround area for the public and emergency vehicles, and add a marginal portion of land to the tax rolls.

VIII. FOLLOW-UP

If the Board of County Commissioners approves the Final Order of Vacation, the following actions shall be taken:

- The Order 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.
- The dedication for additional right of way for the required turnaround will be presented to the Board for approval and acceptance immediately subsequent to the vacation's approval. The dedication documents shall be recorded subsequent to the vacation documents recordation.
- The executed easement for parcels 600, 601 and 605 being held by Lane County shall also be recorded subsequent to the approval of and recordation of the vacation documents.
- Upon completion of the turnaround it will be inspected by Lane County Planning and a statement of approval shall be provided to the Lane County Surveyor's Office.

If the vacation is denied, the following actions shall be taken:

- An Order to Deny the vacation will be presented to the Board at a later regularly scheduled meeting.
- The additional dedication for the turnaround will be pulled from the Agenda and not be acted upon by the Board, and the dedication documents shall be returned to the petitioners unrecorded.
- The easement document for parcels 600, 601 and 605 being held by Lane County shall be returned to the petitioners unrecorded.

IX. ATTACHMENTS

Final Order w/attachments:

Petition to Vacate

Final Director's Report - Exhibit "A"

Findings of Fact - Exhibit "B"

Affidavit of Posting, Publication and Mailing – Exhibit "C"

Attachment - Vicinity Map

Contact Person: D. Michael Jackson x-4198

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

IN THE MATTER OF THE VACATION OF A PORTION)
 OF LATTA ROAD, A PUBLIC ROAD, LOCATED IN)
 THE NORTHWEST QUARTER (NW 1/4) OF SECTION) **FINAL ORDER**
 23, TOWNSHIP 17 SOUTH, RANGE 1 WEST OF THE)
 WILLAMETTE MERIDIAN, IN LANE COUNTY,)
 OREGON, WITH A PUBLIC HEARING, AND)
 ADOPTING FINDINGS OF FACT (17-01-23-20))

WHEREAS, the Surveyor's Office of the Department of Public Works has received a valid petition signed by Paul M. and Denise M. Oestreich, the landowners of 100% of the property abutting the proposed vacation of Latta Road; and

WHEREAS, the petitioners originally submitted their petition with the intent of proceeding without a public hearing; however, in response to notice of the request for vacation various objections and conditional non-objections were received, and the petitioners were made aware of these responses and chose to proceed with a public hearing; and

WHEREAS, by approving Resolution and Order Number 07-10-17-5, the Board of County Commissioners set November 20, 2007 to conduct a public hearing on the matter of vacating the portion of Latta Road, a public road, described herein before the Board of Commissioners for Lane County, Oregon; and

WHEREAS, all necessary procedures for the vacation of the portion of Latta Road herein described, having been initiated by petition, have been complied with, pursuant to ORS Chapter 368; and

WHEREAS, the Lane County Surveyor has examined the portion of Latta Road herein described; and

WHEREAS, notification of these proceedings has been provided by posting, mail, and legal publication by the County Surveyor in accordance with ORS 368.401 to 368.426, and 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 petitioners are requesting this vacation in order to allow for livestock to access pasture on both sides of the portion to be vacated, and to restrict unwanted traffic northerly of the southerly end of the portion to be vacated; and

WHEREAS, petitioners state that undesirable traffic has become a nuisance by using their private driveway as a turnaround, often times unsure of their location; and

WHEREAS, Latta Road was originally established by deed recorded May 23, 1966, Reel 288-D, Instrument No. 48310, with a width of 60 feet, and was accepted by Lane County on August 13, 1969 (Commissioners Journal 46, Page 279) as a public road, but not as a County Road; and

WHEREAS, the portion of road requested to be vacated is the northernmost approximately 347 feet at its terminus; and

WHEREAS, all of the land adjacent to the dead end portion to be vacated is owned by the petitioners; and

WHEREAS, the Surveyor's Office notified Qwest Communications, Eugene Water and Electric Board, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining and nearby property owners regarding the vacation; and

WHEREAS, Lane County Planning responded with no objection, provided that a turnaround acceptable to the jurisdictional fire district be constructed, and that a 30' wide private easement be provided to benefit tax lots 600, 601 and 605 of Assessor's map 17-01-23, which are all within the petitioners' ownership. Petitioners have agreed to build a turnaround at their expense and dedicate an additional 20' x 35' of right of way for the turnaround. A deed for the additional dedication has been executed and is to be presented to the Board for approval on the same day as the public hearing for the vacation, and the deed shall be acted upon only after approval of the vacation. Upon completion of the turnaround it will be inspected for approval by Lane County Planning at the expense of petitioners. Petitioners also have agreed to provide the required easement for parcels 600, 601 and 605 in conjunction with approval of the vacation. The easement document has been executed and is being held by Lane County, and will be recorded only after approval of the vacation; and

WHEREAS, Lane County Transportation Planning responded with no objection, provided that a private easement be provided to benefit tax lots 600, 601 and 605 of Assessor's map 17-01-23, which are all within the petitioners' ownership. Petitioners have executed the required easement, which is being held by Lane County, and will be recorded only after approval of the vacation; and

WHEREAS, McKenzie Fire and Rescue District responded with no objection, provided that adequate clearance be maintained for emergency vehicle access. Petitioners have agreed to build a turnaround at their expense in conjunction with approval of the vacation. Fire Chief Dale Ledyard was contacted and stated that the turnaround design chosen by the petitioners (noted as the "Acceptable Alternative to 120' Turnaround" in Appendix D of the 2007 Oregon Fire Code) would satisfy minimum Fire District requirements; and

WHEREAS, Eugene Water and Electric Board responded with no objection, provided that a public utility easement is retained for their existing facilities in the area. An easement to address this request will be retained in the Final Order; and

WHEREAS, Qwest Corporation responded with no objection, provided that a public utility easement is retained for their existing facilities in the area. An easement to address this request will be retained in the Final Order; and

WHEREAS, Julie Udy, owner of tax lots 17-01-23-30-400 and 301, responded with an objection to the vacation, stating her son who has a disability uses the entire existing length of Latta Road for his rehabilitative walking program, and Ms. Udy would like the full existing length of Latta Road to remain public for her family and other people in the neighborhood to use. Petitioners were made aware of this objection; and

WHEREAS, Dean S. Kaufman, Esq., attorney for Barbara Hunter, owner of tax lots 17-01-23-604 and 607, responded with an objection to the vacation on behalf of Ms. Hunter. The objection states that it is uncertain whether the reversionary interest to Ms. Hunter would be sufficient to accommodate ingress and egress for commercial vehicles used by the lessee of the property, McKenzie Disposal Service. Ms. Hunter was contacted personally, and after explaining that only the northerly 347 feet of Latta Road is proposed for vacation, which is at least 400 feet from her property, Ms. Hunter held to her objection. Petitioners were made aware of this objection; and

WHEREAS, the other agencies and landowners either had no objection to the vacation or did not respond to the referral; and

WHEREAS, in satisfaction of Lane County Planning and Lane County Transportation Planning requirements for petitioners to provide a 30 feet wide private easement to benefit tax lots 600, 601 and 605 of Assessor's map 17-01-23, petitioners have executed an easement for this purpose, which is being held by Lane County and will be recorded subsequent to and in conjunction with this Order of Vacation; and

WHEREAS, in conjunction with the requirement by Lane County Planning and McKenzie Fire and Rescue District for construction of a turnaround, petitioners have executed a deed for the purpose of dedicating an additional 20' x 35' of right of way for the turnaround, and said deed will be presented to the Board for approval immediately after approval of the vacation, and said deed will be recorded subsequent to and in conjunction with this Order of Vacation; and

WHEREAS, the public interest will be served by this vacation, as vacating this portion of Latta Road will provide for more full utilization of petitioners' property, reduce the occurrence of nuisance traffic approaching the petitioners' home, provide for the establishment of a designated turnaround area for the public and emergency vehicles, and add a marginal portion of land to the tax rolls; and

WHEREAS, by virtue of a 30' wide private easement provided by petitioners to benefit tax lots 600, 601 and 605 of Assessor's map 17-01-23, which are all within the petitioners' ownership, no property will be denied legal access by this vacation; and

WHEREAS, the petitioners have paid a vacation fee of \$1500 and will pay recording fees upon final approval of the vacation; and

WHEREAS, a public hearing was conducted on this date, as ordered, regarding the proposed vacation of the portion of Latta Road herein described; and

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

ORDERED, that in accordance with ORS Chapter 368, the portion of Latta Road more particularly described as follows:

Beginning at the Southwest corner of the Southeast One Quarter (SE1/4) of the Northwest One Quarter (NW1/4) of Section 23, Township 17 South, Range 1 West of the Willamette Meridian; thence North 0°06'55" West 346.91 feet to a point; thence South 89°53'05" West 60.00 feet to a point; thence South 0°06'55" East 346.62 feet to a point; thence South 89°50'20" East 60.00 feet to the Point of Beginning, all in the Northwest One Quarter (NW1/4) of Section 23, Township 17 South, Range 1 West of the Willamette Meridian, Lane County, Oregon.

The bearings and distances herein are based upon the deed from Jacob H. Koch, Paul L. Oestreich and Arlette Oestreich to Lane County for road purposes recorded May 23, 1966, Reel 288-D, recorder's reception number 48310. The intent of this vacation description is to include all that portion of Latta Road lying north of a westerly extension of the south line of Parcel 2 as shown in the revised survey by William A. Eimstad dated April, 1962, revised May, 1966 and filed in the Office of the Lane County Surveyor in May, 1966 as County Survey File Number 14538.

is hereby VACATED, and it is further

ORDERED, that the turnaround required in conjunction with this vacation be completed within 60 days after the approval of this vacation, and upon completion the turnaround be inspected and approved by Lane County Planning at petitioners' expense, and that Lane County Planning provide the Lane County Surveyor's Office with certification of approval of the turnaround; and it is further

ORDERED, that if the turnaround required in conjunction with this vacation is not completed to the satisfaction of Lane County Planning within 60 days after the approval of this vacation, this Order of Vacation shall be rescinded by a separate order to be prepared by the Lane County Surveyor's Office and presented to the Board of Commissioners; and it is further

ORDERED, that the deed executed by the petitioners to provide an additional 20' x 35' of right of way for the turnaround as required in conjunction with this vacation, to be approved by the Board of Commissioners only after the approval of this vacation, be recorded in the Lane County, Oregon Deed Records subsequent to and in conjunction with this vacation order, and it is further

ORDERED, that the easement executed by the petitioners to benefit parcels 600, 601 and 605 of Assessor's Map 17-01-23 as required in conjunction with this vacation, which has been held by Lane County until approval of this vacation, be recorded in the Lane County, Oregon Deed Records subsequent to and in conjunction with this vacation order, and it is further

ORDERED, that an easement is hereby retained for any and all existing public utilities to preserve, maintain, repair, replace, remove or reinstall any public utility that may now exist

within the bounds of the portion of Latta Road herein described by these proceedings as vacated; and it is further

ORDERED, that in support of this action, the Board hereby adopts the Findings of Fact, marked as 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.

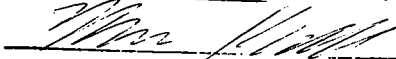
DATED this _____ day of _____, 2007.

Chair, Lane County Board of Commissioners

Attachment: Vicinity Map

APPROVED AS TO FORM

Date 11-8-07 lane county



OFFICE OF LEGAL COUNSEL

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

File No.

ORIGINAL

IN THE MATTER OF THE VACATION OF A
PORTION OF LATTA ROAD, IN THE
NORTHWEST QUARTER OF SECTION 23,
TOWNSHIP 17 SOUTH, RANGE 1 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, Paul M and Denise M Oestreich, husband and wife, as owners of all of the adjacent real property hereby petition for the vacation of a portion of Latta Road which is described as follows:

All that portion of Latta Road being further described as, **Beginning at the Southwest corner of the Southeast one quarter of the Northwest one quarter of Section 23, Township 17 South, Range 1 West, of the Willamette Meridian, and run thence North 00° 06' 55" West 346.91 feet to a point; thence South 89° 53' 05" West 60.00 feet to a point; thence South 00° 06' 55" East 346.62 feet to a point; thence South 89° 50' 20" East 60.00 feet to the place of beginning, all in the Northwest one quarter of Section 23, Lane County, Oregon.**

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

Whereas, petitioners allege as follows:

The purpose of this vacation request is to allow for livestock to access pasture land on both sides of Latta Road; and

To discourage public use of our property as a turnaround when they come to the end of the road. There is no public access to the property above the end of the road.

Whereas, there are utility and electrical power lines in the area to be vacated. Necessary easements for all existing public and private utilities will be retained or otherwise be provided for in conjunction with 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 with or without a hearing; and

Therefore, the petitioners request the Board of Commissioners of Lane County:

1. To set a date to consider the vacation of the above described portion of Latta Road, with or without a hearing, pursuant to ORS Chapter 368.
2. Upon review of the matter, to order 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 19th day of May, 2007.

Petitioners:

Paul M. Oestreich
Paul M. Oestreich
 Map#17-01-23-00-00600, 601, 602,
 and 605
 88715 Latta Road, Springfield, Or
 PO Box 92
 Walterville, Or 97489

Denise M. Oestreich
Denise M Oestreich
 Map#17-01-23-00-00600, 601, and
 605
 88715 Latta Road, Springfield, Or
 PO Box 92
 Walterville, Or 97489

State of Oregon

County of Lane

On May 19, 2007, personally appeared the above named Paul M. Oestreich and Denise M. Oestreich and acknowledged the foregoing instrument to be a voluntary act before me:



Alison Myers
 Notary Public for Oregon
 My Commission Expires: Dec. 18, 2007

EXHIBIT "A"

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

| | | |
|---|---|-------------------------|
| IN THE MATTER OF THE VACATION OF A PORTION |) | |
| OF LATTA ROAD, A PUBLIC ROAD, LOCATED IN THE |) | |
| NORTHWEST QUARTER (NW 1/4) OF SECTION 23, |) | FINAL DIRECTOR'S |
| TOWNSHIP 17 SOUTH, RANGE 1 WEST OF THE |) | REPORT |
| WILLAMETTE MERIDIAN, IN LANE COUNTY, |) | |
| OREGON, WITH A PUBLIC HEARING, AND ADOPTING |) | |
| FINDINGS OF FACT (17-01-23-20) |) | |

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Paul M. and Denise M. Oestreich, the landowners of 100% of the property abutting the proposed vacation of Latta Road. The petition was originally submitted with the intent of proceeding without a public hearing. Required notices of the vacation request were sent to agencies and landowners, and various responses of objection and conditional non-objection were received. The petitioners were notified of these responses, and have chosen to continue their vacation request using the process of public hearing.

It was recommended that a public hearing be held regarding the proposed vacation due to the landowner objections returned in response to notification of the vacation proposal. On October 17, 2007, Resolution No. 07-10-17-5 was passed by the Board of Commissioners, which set a public hearing date of November 20, 2007 to consider this petition for vacation.

The petitioners are requesting this vacation in order to allow for livestock to access pasture on both sides of the portion to be vacated, and to restrict unwanted traffic northerly of the southerly end of the portion to be vacated. All of the land adjacent to the dead end portion to be vacated is owned by the petitioners. The vacation would allow reconfiguration of their fences and pastures. Petitioners state that undesirable traffic has become a nuisance by using their private driveway as a turnaround, often times unsure of their location. Petitioners further assert there are utilities located within the area to be vacated

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The Surveyor's Office notified Qwest Communications, Eugene Water and Electric Board, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining and nearby property owners regarding the vacation.

Lane County Planning responded with no objection, provided that a turnaround acceptable to the jurisdictional fire district be constructed, and that a 30' wide private easement be provided to benefit tax lots 600, 601 and 605 of Assessor's map 17-01-23, which are all within the

petitioners' ownership. Petitioners have agreed to build a turnaround at their expense and dedicate an additional 20' x 35' of right of way for the turnaround. A deed for the additional dedication has been executed and is to be presented to the Board for approval on the same day as the public hearing for the vacation, and the deed shall be acted upon only after approval of the vacation. Upon completion of the turnaround it will be inspected for approval by Lane County Planning at the expense of petitioners. Petitioners also have agreed to provide the required easement for parcels 600, 601 and 605 in conjunction with approval of the vacation. The easement document has been executed and is being held by Lane County, and will be recorded only after approval of the vacation.

Lane County Transportation Planning responded with no objection, provided that a private easement be provided to benefit tax lots 600, 601 and 605 of Assessor's map 17-01-23, which are all within the petitioners' ownership. Petitioners have executed the required easement, which is being held by Lane County, and will be recorded only after approval of the vacation.

McKenzie Fire and Rescue District responded with no objection, provided that adequate clearance be maintained for emergency vehicle access. Petitioners have agreed to build a turnaround at their expense in conjunction with approval of the vacation. Fire Chief Dale Ledyard was contacted and stated that the turnaround design chosen by the petitioners (noted as the "Acceptable Alternative to 120' Turnaround" in Appendix D of the 2007 Oregon Fire Code) would satisfy minimum Fire District requirements.

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The other agencies and landowners either had no objection to the vacation or did not respond to the referral.

The public interest will be served and not prejudiced, as vacating this portion of Latta Road will provide for more full utilization of petitioners' property, reduce the occurrence of nuisance traffic

approaching the petitioners' home, provide for the establishment of a designated turnaround area for the public and emergency vehicles, and add a marginal portion of land to the tax rolls.

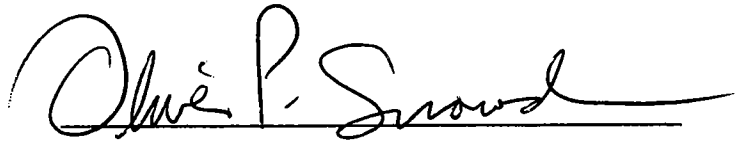
The vacation of this portion of Latta Road will have no adverse effects on transportation patterns in the area, and the portion to be vacated is not needed by the Lane County Transportation system.

Notification of these proceedings has been provided by posting, mail and legal publication by the County Surveyor in accordance with ORS 368.401 to 368.426.

It is therefore recommended that the portion of Latta Road as described in the Final Order be vacated.

It is further recommended that provisions be made in the Final Order to address requirements by Lane County Planning, Lane County Transportation Planning and McKenzie Fire and Rescue District as described herein above regarding provision of easements to parcels, construction of a turnaround and additional dedication for the turnaround. Also, it is recommended that an easement for existing public utilities be retained in the Final Order.

DATED this 5th day of November, 2007.

A handwritten signature in cursive script that reads "Oliver P. Snowden". The signature is written in black ink and is positioned above a horizontal line.

Oliver P. Snowden, Public Works Director

EXHIBIT "B"

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

| | | |
|--|---|------------------|
| IN THE MATTER OF THE VACATION OF A |) | |
| PORTION OF LATTA ROAD, A PUBLIC ROAD, |) | |
| LOCATED IN THE NORTHWEST QUARTER (NW |) | FINDINGS OF FACT |
| 1/4) OF SECTION 23, TOWNSHIP 17 SOUTH, |) | |
| RANGE 1 WEST OF THE WILLAMETTE MERIDIAN, |) | |
| IN LANE COUNTY, OREGON, WITH A PUBLIC |) | |
| HEARING, AND ADOPTING FINDINGS OF FACT |) | |
| (17-01-23-20) |) | |

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Paul M. and Denise M. Oestreich, the landowners of 100% of the property abutting the proposed vacation of Latta Road. The petition was originally submitted with the intent of proceeding without a public hearing. Required notices of the vacation request were sent to agencies and landowners, and various responses of objection and conditional non-objection were received. The petitioners were notified of these responses, and have chosen to continue their vacation request using the process of public hearing.

The request to vacate this portion of right of way is in the public interest, as vacating this portion of Latta Road will provide for more full utilization of petitioners' property, reduce the occurrence of nuisance traffic approaching the petitioners' home, provide for the establishment of a designated turnaround area for the public and emergency vehicles, and add a marginal portion of land to the tax rolls.

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 subdivisions, 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 re-acknowledged 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 property abutting the proposed vacation is identified as tax lots 601, 602 and 605 of Assessor's Map 17-01-23.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate subdivisions, roads or easements based upon the determination that the vacation is "in the public interest".
3. That, the Surveyor's Office notified Qwest Communications, Eugene Water and Electric Board, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining and nearby property owners regarding the vacation.
4. That, Lane County Planning responded with no objection, provided that a turnaround acceptable to the jurisdictional fire district be constructed, and that a 30' wide private easement be provided to benefit tax lots 600, 601 and 605 of Assessor's map 17-01-23, which are all within the petitioners' ownership. Petitioners have agreed to build a turnaround at their expense and dedicate an additional 20' x 35' of right of way for the turnaround. A deed for the additional dedication has been executed and is to be presented to the Board for approval on the same day as the public hearing for the vacation, and the deed shall be acted upon only after approval of the vacation. Upon completion of the turnaround it will be inspected for approval by Lane County Planning at the expense of petitioners. Petitioners also have agreed to provide the required easement for parcels 600, 601 and 605 in conjunction with approval of the vacation. The easement document has been executed and is being held by Lane County, and will be recorded only after approval of the vacation.
5. That, Lane County Transportation Planning responded with no objection, provided that a 30 feet wide private easement be provided to benefit tax lots 600, 601 and 605 of Assessor's map 17-01-23, which are all within the petitioners' ownership. Petitioners have executed the required easement, which is being held by Lane County, and will be recorded only after approval of the vacation.
6. That, McKenzie Fire and Rescue District responded with no objection, provided that adequate clearance be maintained for emergency vehicle access. Petitioners have agreed to build a turnaround at their expense in conjunction with approval of the

vacation. Fire Chief Dale Ledyard was contacted and stated that the turnaround design chosen by the petitioners (noted as the "Acceptable Alternative to 120' Turnaround" in Appendix D of the 2007 Oregon Fire Code) would satisfy minimum Fire District requirements.

7. That, Eugene Water and Electric Board responded with no objection, provided that a public utility easement is retained for their existing facilities in the area. An easement to address this request will be retained in the Final Order.
8. That, Qwest Corporation responded with no objection, provided that a public utility easement is retained for their existing facilities in the area. An easement to address this request will be retained in the Final Order.
9. That, Julie Udy, owner of tax lots 17-01-23-30-400 and 301, responded with an objection to the vacation, stating her son who has a disability uses the entire existing length of Latta Road for his rehabilitative walking program, and Ms. Udy would like the full existing length of Latta Road to remain public for her family and other people in the neighborhood to use. Petitioners were made aware of this objection.
10. That, Dean S. Kaufman, Esq., attorney for Barbara Hunter, owner of tax lots 17-01-23-604 and 607, responded with an objection to the vacation on behalf of Ms. Hunter. The objection states that it is uncertain whether the reversionary interest to Ms. Hunter would be sufficient to accommodate ingress and egress for commercial vehicles used by the lessee of the property, McKenzie Disposal Service. Ms. Hunter was contacted personally, and after explaining that only the northerly 347 feet of Latta Road is proposed for vacation, which is at least 400 feet from her property, Ms. Hunter held to her objection. Petitioners were made aware of this objection.
11. That, the other agencies and landowners either had no objection to the vacation or did not respond to the referral.
12. 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.
13. That, pursuant to the provisions of ORS Chapter 368, a county governing body may make a determination about a vacation of property with a public hearing if:
 - (1) The county governing body adopts a resolution 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 shall establish 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 THE VACATION OF A PORTION |) | |
| OF LATTA ROAD, A PUBLIC ROAD, LOCATED IN THE |) | AFFIDAVIT OF POSTING, |
| NORTHWEST QUARTER (NW 1/4) OF SECTION 23, |) | PUBLICATION AND MAILING |
| TOWNSHIP 17 SOUTH, RANGE 1 WEST OF THE |) | |
| WILLAMETTE MERIDIAN, IN LANE COUNTY, |) | |
| OREGON, WITH A PUBLIC HEARING, AND ADOPTING |) | |
| FINDINGS OF FACT (17-01-23-20) |) | |

I, D. Michael Jackson, Lane County Surveyor, certify as follows:

That on the 29th day of October, 2007, 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 a Stop sign post at the northwest corner of the intersection of Latta Road and McKenzie Highway 126.
2. Posted on a Do Not Enter-Exit Only sign post at the exit from the Walterville School (40589 McKenzie Highway) onto McKenzie Highway 126, at the northwest corner of that intersection.
3. Posted on a bulletin board inside the Walterville Post Office.

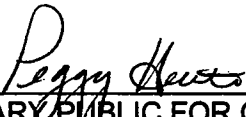
The undersigned further certifies that on October 31, 2007 and November 14, 2007 notice is scheduled to run in the Register Guard. Also, that on October 18, 2007 notice was sent to adjacent owners by Certified Mail, and to various other private entities and public agencies having an interest in these vacation proceedings by General Mail.



 D. Michael Jackson
 Lane County Surveyor

State of Oregon)
County of Lane)

Subscribed and sworn to before me this 29th day of October, 2007 by D. Michael Jackson.

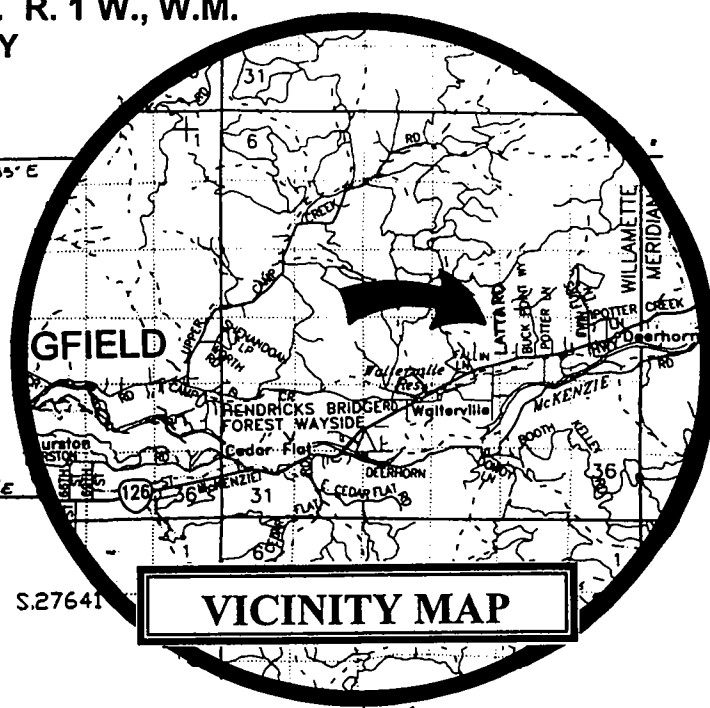
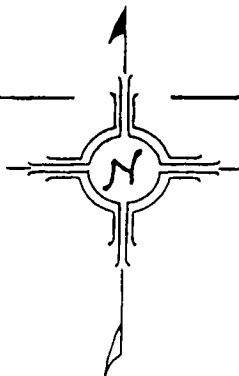


 NOTARY PUBLIC FOR OREGON
 My Commission Expires:

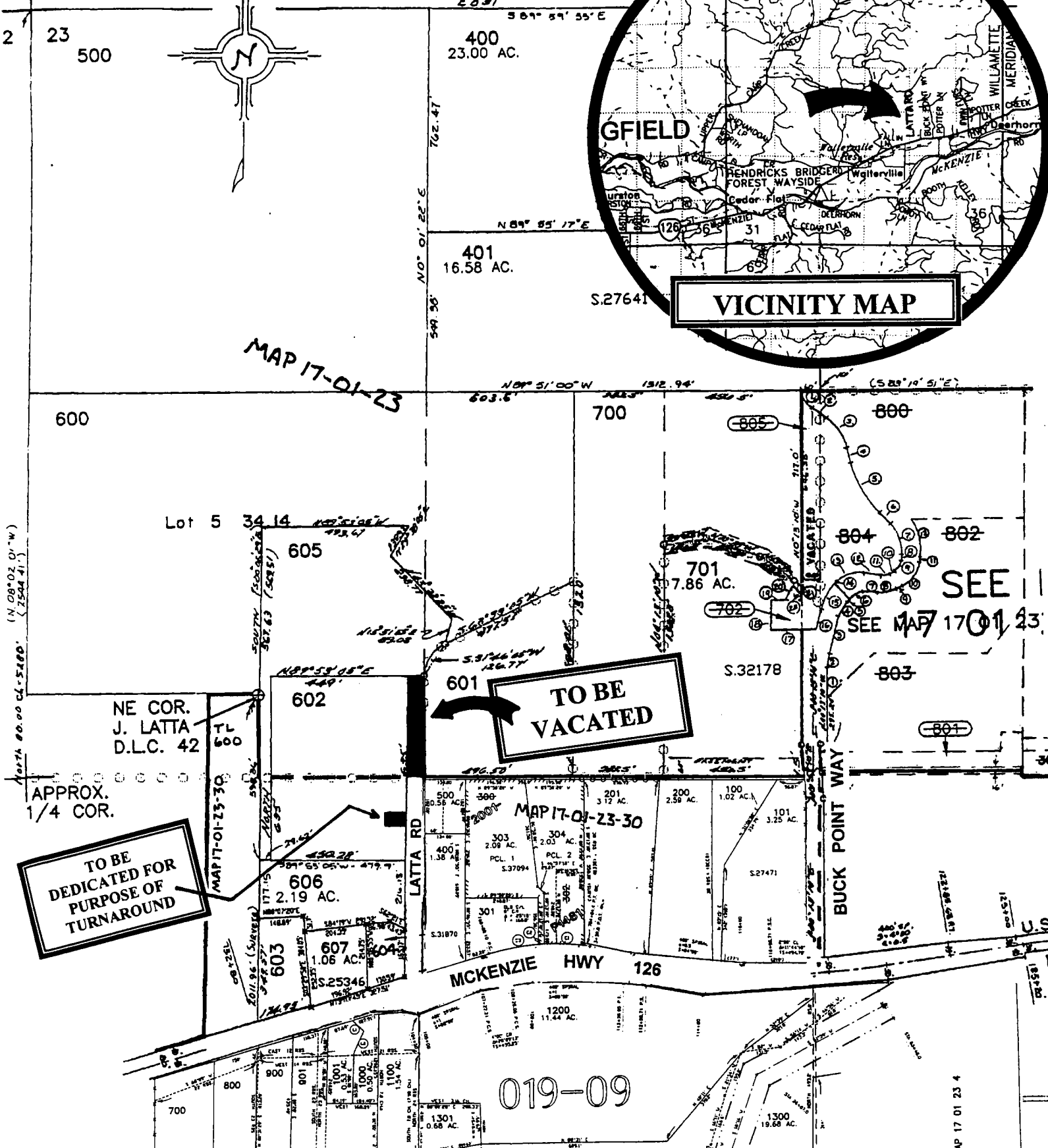


NW1/4 Section 23, T. 17 S. R. 1 W., W.M.
LANE COUNTY
NO SCALE

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VICINITY MAP



019-09