

W.S.A.


ORIGINAL

Memorandum Date: August 15, 2007

Order Date: September 12, 2007

TO: Board of County Commissioners

DEPARTMENT: Public Works, Land Management Division

PRESENTED BY: D. Michael Jackson, Interim Lane County Surveyor 

AGENDA ITEM TITLE: IN THE MATTER OF VACATING THE ALLEY IN BLOCK 48 IN THE 2ND AMENDED PLAT OF FERN RIDGE, AS PLATTED AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (17-05-03-11)

I. MOTION

TO VACATE THE ALLEY IN BLOCK 48 IN THE 2ND AMENDED PLAT OF FERN RIDGE, AS PLATTED AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (17-05-03-11)

II. AGENDA ITEM SUMMARY

The Board is being asked to approve the vacation of the north-south alley in Block 48 in the Second Amended Plat of Fern Ridge, being 300 feet in length, with a right of way width of 16 feet.

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 Thomas S. Van Meter and Nora J. Van Meter, the owners of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing.

The purpose of this vacation request, as stated by petitioners, is to facilitate reconfiguration of petitioners' parcel in order to meet Lane County setback requirements associated with the development of their parcel. The alley proposed to be vacated is unconstructed, and petitioners further state in their petition that they understand that Lane County has no plans to use or improve the alley. Petitioners state in their petition that they are prepared to assume the responsibility for the maintenance and upkeep of the alley in order to restore and maintain the safety and natural integrity of the property. Although the petition addresses the possibility of public utilities existing within the portion of alley to be vacated, in a subsequent discussion with petitioner Thomas Van Meter he

indicated that to his knowledge there are no public utility interests in the alley that need to be protected, and that he gets his service from the street.

The alley proposed to be vacated was established in 1913 in the 2nd Amended Plat of Fern Ridge as platted and recorded in Book 6, Page 28 of the Lane County, Oregon Plat Records. Many streets and alleys within this plat have previously been vacated. Many of the streets and alleys have never been constructed.

The Surveyor's Office notified Qwest Communications, Emerald People's Utility District, 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, while having no objection to the vacation, responded with the comment that any improvement to petitioners' property would require a replat. Petitioner Thomas Van Meter was notified of Planning's response, and with that knowledge he advised to proceed with the vacation. 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 and 15.305 supplement ORS 368 in allowing for consideration of vacation of rights of way, including alleys, where little need exists for the right of way, where no property owner is denied legal access as a result of the vacation and where the vacation will not adversely affect orderly development of adjacent property. The alley herein considered for vacation falls into these categories.

C. Board Goals

Part of Lane County's Strategic Plan is to contribute to appropriate community development in the area of transportation and land development (Lane County Strategic Plan, Goals, P. 13). The vacation of this portion of right of way will not conflict with this part of the Strategic Plan.

D. Financial and/or Resource Considerations

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

IV. ANALYSIS

The vacation of this alley 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. No property will be denied legal access by this vacation.

The public interest will be served and not prejudiced, as vacating this alley will provide for more full utilization of petitioners' property, including reconfiguration of their parcel to meet Lane County setback requirements. Vacation of the alley will allow the petitioners to assume maintenance responsibility for the alley. The vacation will result in the addition of a marginal portion of land to the tax rolls, while having no adverse effects on

transportation patterns in the area.

V. ALTERNATIVES/OPTIONS

The Board of County Commissioners has the option to:

1. Approve the vacation of this alley, as petitioned for.
2. Deny the vacation of this alley, as petitioned for.
3. Continue the matter for further consideration.

VI. TIMING/IMPLEMENTATION

Timing of this matter is important in order for the petitioners to proceed with development of their parcel.

VII. RECOMMENDATION

The Public Works Director's Report recommends that the Board support Option Number 1, to approve the vacation of this alley, as petitioned for. The public interest will be served and not prejudiced, as vacating this alley will provide for more full utilization of petitioners' property, facilitate maintenance by the landowners of the area to be vacated and add a marginal portion of land to the County tax rolls, while having no adverse effects on transportation patterns in the area.

All statutory procedures necessary for a vacation without a public hearing of the above mentioned right of way have been complied with, including a report by the Director of Public Works who recommends approval of the vacation as described in the petition.

VIII. FOLLOW-UP

If the Board of County Commissioners approves the Order to Vacate this alley, 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 to Vacate is not approved, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

IX. ATTACHMENTS

Order w/attachments:

Petition to Vacate
Director's Report - Exhibit "A"
Findings of Fact - Exhibit "B"
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 VACATING THE ALLEY IN BLOCK 48)
 IN THE 2ND AMENDED PLAT OF FERN RIDGE, AS PLATTED)
 AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY,) ORDER NO.
 OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING,)
 AND ADOPTING FINDINGS OF FACT (17-05-03-11))

WHEREAS, this matter now coming before the Board upon a petition received by the Surveyor's Office of the Lane County Department of Public Works requesting, under authority of ORS Chapter 368.341, the vacation of the alley in Block 48 in the 2nd Amended Plat of Fern Ridge as platted and recorded in 1913 in Book 6, Page 28, Lane County, Oregon Plat Records. Said alley being more particularly described as follows:

All that portion of the 16-foot wide north-south alley in Block 48 between the southerly right of way of Seventh Street and the northerly right of way of Eighth Street, all in the 2nd Amended Plat of Fern Ridge as platted and recorded in Book 6, Page 28, Lane County, Oregon Plat Records, in the Northeast One Quarter (NE1/4) of the Northeast One Quarter (NE1/4) of Section 3, Township 17 South, Range 5 West of the Willamette Meridian, in Lane County, Oregon.

WHEREAS, the petition complies with the provisions of ORS 368.351 in that the petitioners, who are the landowners of 100% of the property abutting the proposed vacation, request that the vacation be approved as proposed; and

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

WHEREAS, The Surveyor's Office notified Qwest Communications, Emerald People's Utility District, 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, while having no objection to the vacation, responded with the comment that any improvement to petitioners' property would require a replat. Petitioner Thomas Van Meter was notified of Planning's response, and with that knowledge he advised to proceed with the vacation. The other agencies and landowners either had no objection to the vacation or did not respond to the referral; and

WHEREAS, although the petition addresses the possibility of public utilities existing within the portion of alley to be vacated, in a subsequent discussion with petitioner Thomas Van Meter he indicated that to his knowledge there are no public utility interests in the alley that need to be protected, and that he gets his service from the street; and

WHEREAS, no property will be denied legal access by this vacation; and

WHEREAS, the petitioners have paid a vacation fee of \$650 and will pay recording fees upon final approval of the vacation; and

WHEREAS, the petitioners are requesting this vacation in order to facilitate reconfiguration of their parcel in order to meet Lane County setback requirements associated with the development of their parcel; and

WHEREAS, the alley proposed to be vacated is unconstructed; and

WHEREAS, many of the streets and alleys in the 2nd Amended Plat of Fern Ridge have previously been vacated; 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 368.351, marked as Exhibit "A", attached hereto and made a part hereof, by this Order; and

WHEREAS, all statutory procedures under ORS 368.351 necessary for this vacation have been complied with; 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 above described alley in Block 48 in the 2nd Amended Plat of Fern Ridge is hereby 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

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

File No.

1. IN THE MATTER OF THE VACATION OF THE ALLEY ON)
BLOCK 48 SECOND AMMENDED)
PLAT OF FERN RIDGE)
AS PLATTED AND RECORDED IN VOLUME 6, PAGE 28,)
LANE COUNTY, OREGON PLAT RECORDS)
IN LANE COUNTY OREGON)

PETITION TO VACATE

2. PURSUANT to the procedures set forth in ORS Chapter 368, we undersigned Thomas S. Van Meter and Nora J. Van Meter, husband and wife; hereby petition for the vacation of the 12 foot alley located on Block 48, which area to be vacated is described as follows:

“The entire alley in Block 48 (“the Alleyway”), lying between the southerly right-of-way of 7th Street, and the northerly right-of-way of 8th Street as platted in the 2nd Amended Plat of Fern Ridge, and recorded in Book 06, Page 28 of the Lane County, Oregon Plat Records. All in the Northeast One Quarter (NE ¼) of the Northeast One Quarter (NE ¼) of Section 3, Township 17 South, Range 5 West, of the Willamette Meridian, in Lane County, Oregon.”

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

4. **WHEREAS**, petitioners allege as follow:

1. The purpose of this vacation request is to reconfigure lot to meet county planning set back regulation.

2. It is further the understanding of the petitioners hereto that the County has no immediate or future plans to use and/or improve the Alleyway. Vacating the alleyway will return this portion to the tax rolls thereby generating revenue for the county.

The undersigned petitioners are prepared to assume the responsibility for the maintenance and upkeep of the Alley way in order to restore and maintain the safety and natural integrity of the property.

Any necessary easements for all existing public and private utilities will be retained or otherwise be provided for in conjunction with the vacation and;

5. **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

6. 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 road, with or without a hearing pursuant to ORS Chapter 368.
2. Upon review of this 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.

7. PETITIONERS:

Thomas S. Van Meter

THOMAS S. VAN METER
Map# 17-05-03-11 Tax Lot 800
27303 8th St.
Junction City, OR 97448

Nora J. Van Meter

NORA J. VAN METER
Map# #17-05-03-11 Tax Lot 800
27303 8th St.
Junction City, OR 97448

State of Oregon)
County of Lane) ss.

On June 26, 2007, personally appeared the above named Thomas S Van Meter & Nora J Van Meter and acknowledged the foregoing instrument to be a voluntary act before me.



[Signature]
Notary Public for OREGON
My Commission Expires: November 21, 2009

EXHIBIT "A"

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

IN THE MATTER OF VACATING THE ALLEY IN BLOCK 48 IN THE 2ND AMENDED PLAT OF FERN RIDGE, AS PLATTED AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (17-05-03-11))))))))	DIRECTOR'S REPORT
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The Surveyor's Office of the Department of Public Works has received a valid petition signed by the owners of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing.

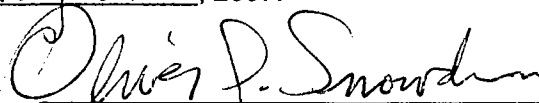
The alley proposed to be vacated was established in 1913 in the 2nd Amended Plat of Fern Ridge as platted and recorded in Book 6, Page 28 of the Lane County, Oregon Plat Records. The portion to be vacated is 300 feet in length, with a right of way width of 16 feet. Many streets and alleys within this plat have previously been vacated. Many of the streets and alleys have never been constructed.

The petitioners wish to vacate this alley to facilitate reconfiguration of their parcel in order to meet Lane County setback requirements associated with the development of their parcel. The alley proposed to be vacated is unconstructed, and petitioners state in their petition that they understand that Lane County has no plans to use or improve the alley. Petitioners also state in their petition that they are prepared to assume the responsibility for the maintenance and upkeep of the alley in order to restore and maintain the safety and natural integrity of the property. Although the petition addresses the possibility of public utilities existing within the portion of alley to be vacated, in a subsequent discussion with petitioner Thomas Van Meter he indicated that to his knowledge there are no public utility interests in the alley that need to be protected, and that he gets his service from the street. Vacation of this alley will return a marginal portion of land to the tax rolls as real property and will allow for more full utilization and maintenance of petitioners' property.

The Surveyor's Office notified Qwest Communications, Emerald People's Utility District, 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, while having no objection to the vacation, responded with the comment that any improvement to petitioners' property would require a replat. Petitioner Thomas Van Meter was notified of Planning's response, and with that knowledge he advised to proceed with the vacation. The other agencies and landowners either had no objection to the vacation or did not respond to the referral.

This alley is no longer needed by the Lane County Transportation System and no property will be denied legal access as a result of this vacation. It is concluded that the vacation of this alley is in the public's interest, as it will return it to the tax rolls as real property and will allow for more full utilization and maintenance of petitioners' property, while having no adverse effects on the transportation patterns in the area. It is therefore recommended that this alley in Block 48 of the 2nd Amended Plat of Fern Ridge, as described in the Final Order, be vacated as petitioned for. It is further recommended that the vacation be allowed without a public hearing.

DATED this 21st day of August, 2007.



Oliver P. Snowden, Public Works Director
Department of Public Works

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

**IN THE MATTER OF VACATING THE ALLEY IN BLOCK 48)
IN THE 2ND AMENDED PLAT OF FERN RIDGE, AS PLATTED)
AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY,) FINDINGS OF FACT
OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING,)
AND ADOPTING FINDINGS OF FACT (17-05-03-11))**

The Surveyor's Office of the Department of Public Works has received a valid petition signed by the owners of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing. The purpose of this vacation request, as stated by petitioners, is to facilitate reconfiguration of petitioners' parcel in order to meet Lane County setback requirements associated with the development of their parcel. The alley proposed to be vacated is unconstructed, and petitioners further state in their petition that they understand that Lane County has no plans to use or improve the alley. Petitioners state in their petition that they are prepared to assume the responsibility for the maintenance and upkeep of the alley in order to restore and maintain the safety and natural integrity of the property. Although the petition addresses the possibility of public utilities existing within the portion of alley to be vacated, in a subsequent discussion with petitioner Thomas Van Meter he indicated that to his knowledge there are no public utility interests in the alley that need to be protected, and that he gets his service from the street. Vacation of this alley will return a marginal portion of land to the tax rolls as real property and will allow for more full utilization and maintenance of petitioners' properties.

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 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 Lot 800 of Assessor’s Map 17-05-03-11.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or easements based upon the determination that the vacation is “in the public interest”.
3. That, the Surveyor’s Office notified Qwest Communications, Emerald People’s Utility District, 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, while having no objection to the vacation, responded with the comment that any improvement to petitioners’ property would require a replat. Petitioner Thomas Van Meter was notified of Planning’s response, and with that knowledge he advised to proceed with the vacation. The other agencies and landowners either had no objection to the vacation or did not respond to the referral.
4. That, vacating this alley in Block 48 in the 2nd Amended Plat of Fern Ridge as described in the Order will not deny any landowners legal road access to a public road.
5. That, pursuant to ORS 368.351, a county governing body may make a determination about a vacation of 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)

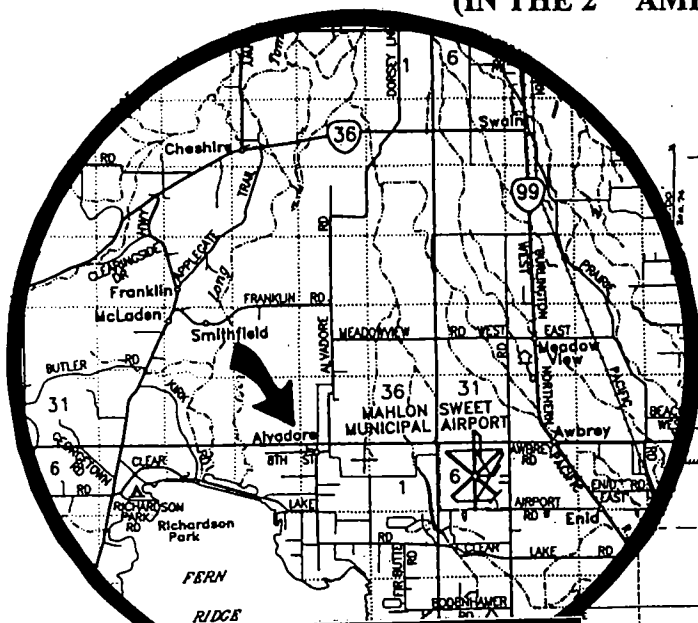
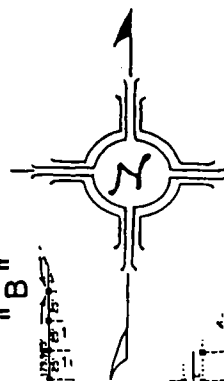
Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making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

ATTACHMENT

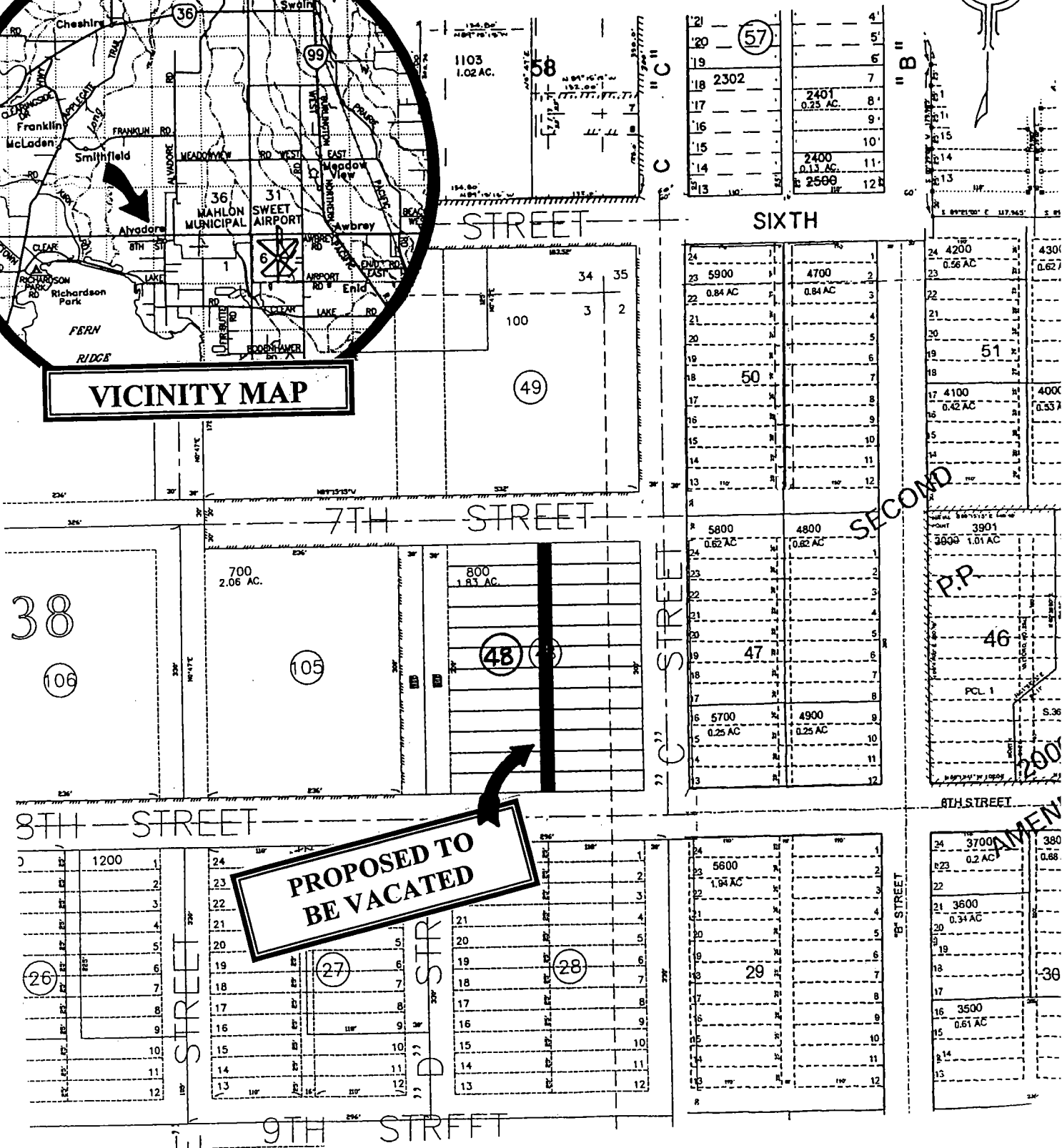
(2nd Amended Plat Fern Ridge
Alley in Block 48--Vacation)

NE ¼ NE ¼ Section 3 T. 17 S. R. 5 W. W.M.
LANE COUNTY
(IN THE 2ND AMENDED PLAT OF FERN RIDGE)

NO SCALE



VICINITY MAP



PROPOSED TO
BE VACATED