

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 22-05-24-05

IN THE MATTER OF THE VACATION OF A PORTION OF 7TH STREET, RAILROAD STREET, AND A PUBLIC ALLEY LOCATED IN AND BETWEEN BLOCKS 44 AND 53, SECOND AMENDED PLAT OF FERN RIDGE, AS PLATTED AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY OREGON PLAT RECORDS, LANE COUNTY, OREGON, WITHOUT A PUBLIC HEARING. (17-05-02-22)

WHEREAS, The Surveyor's Office of the Department of Public Works has received a valid petition signed by Arthur E. Cunningham, Sandra Cunningham, and James H. Jacobson, representing 100% ownership of the properties abutting the above named streets and alley herein proposed to be vacated, by the authority of ORS 368.351, a vacation without a public hearing; said streets and alley being more particularly described as follows:

All that portion of a 60 foot wide right of way known as 7th Street and Railroad Street, said streets located between Blocks 44 and 53, Second Amended Plat of Fern Ridge, as platted and recorded in Book 6, Page 28, Lane County Oregon Plat Records, Lane County, Oregon, being more particularly described as follows: Beginning at the Southwest corner of Lot 13, Block 53 of said Second Amended Plat of Fern Ridge; thence in an easterly direction along the north margin of 7th Street and Railroad Street, 256 feet, more or less, to the Southeast Corner of that tract of land described on that certain warranty deed recorded on Instrument No. 2019-039710, Lane County Oregon Deeds and Records; thence in a southerly direction 60 feet, more or less, to the Northeast corner of that tract of land described as Parcel 4 on that certain warranty deed recorded on Instrument 2002-069688, Lane County Oregon Deeds and Records; thence in a westerly direction along the south margin of said 7th Street and Railroad Street, 256 feet, more or less, to the Northwest corner of Lot 24, Block 44 of said Second Amended Plat of Fern Ridge; thence in a northerly direction 60 feet, more or less to the Point of Beginning, all in Lane County, Oregon.

Also:

The 16-foot wide north-south alley located between Lots 1 through 12 and 13 through 24, Block 44, Second Amended Plat of Fern Ridge, as platted and recorded in Book 6, Page 28, Lane County Oregon Plat Records, Lane County, Oregon.

WHEREAS, the petition, marked as Exhibit "A," and made a part of this Order, complies with the provisions of ORS 368.351 in that the petitioners, landowners of 100% of the properties abutting the subject streets and alley, request 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 public road easement herein proposed to be vacated lies entirely outside of any boundary of an incorporated city or town; and

WHEREAS, Comcast, EPUD, CenturyLink, and other agencies such as Lane County Land Management, Lane County Transportation Planning, Lane County Road Maintenance, Lane Fire Authority, Lane Council of Governments, and Bethel School District 52 were sent referrals seeking comment on the proposed vacation. The above listed utility companies, agencies and providers either had no objection to the vacation or did not respond to our referral; and

WHEREAS, there are no known public utilities within the streets and alley right of way; and

WHEREAS, ORS 368.331 states: *“A county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner.”* The petitioners, as 100% owners of the abutting properties have consented to this action; and

WHEREAS, the public interest will be served by this vacation as the streets and alley herein described are not needed for transportation purposes; will alleviate structural encroachments with the right of way of 7th Street; will remove the streets and alley right of way from Lane County’s jurisdiction; and will return a marginal portion of land to the County tax rolls; 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 and attached as Exhibit “B,” and made a part of this Order; and

WHEREAS, the petitioner has paid a vacation fee deposit of \$3,400 and will pay actual costs incurred, including recording fees, upon final approval of the vacation; and

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

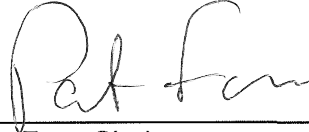
WHEREAS, the Board is of the opinion that approving the vacation as petitioned is in the best interest of the public.

NOW, THEREFORE, the Board of Commissioners of Lane County **ORDERS** as follows:

1. 7th Street, Railroad Street, and the public alley as described above and depicted on Exhibit “C,” is hereby VACATED.
2. At the petitioners’ request, and under the authority of ORS 368.366(2), hereby Order that vesting to the 16 foot wide alley revert entirely to Map and Tax Lot No. 17-05-02-22-01700.
3. At the petitioners’ request, and under the authority of ORS 368.366(1) (d), hereby Order that vesting to 7th Street and Railroad Street revert according to law.
4. A public utility easement will be retained for any public utilities that exist within the vacated rights of ways of 7th Street and Railroad Street.

5. This Order be filed with the Lane County Clerk and entered into the records of the Lane County Board of Commissioners Journal of Administration, after which copies are to be forwarded to the County Surveyor and County Assessor for appropriate action.

ADOPTED this 24th day of May, 2022.



Pat Farr, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date _____

LANE COUNTY OFFICE OF LEGAL COUNSEL

Exhibit "A"

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON.

IN THE MATTER OF THE VACATION OF A PORTION OF 7TH STREET,)
RAILROAD STREET, AND A PUBLIC ALLEY LOCATED IN AND)
BETWEEN BLOCKS 44, AND 53, SECOND AMENDED PLAT OF) PETITION TO VACATE
FERN RIDGE, AS PLATTED AND RECORDED IN BOOK 6, PAGE 28,)
LANE COUNTY OREGON PLAT RECORDS, LANE COUNTY, OREGON.)
(17-05-02-22))

Pursuant to the procedures set forth in ORS Chapter 368, we the undersigned Arthur E. Cunningham, Sandra Cunningham , and James H. Jacobson, as owners of the adjacent real property, hereby petition for the vacation of a portion of 7th Street and Railroad Street, located between Blocks 44 and 53 of Second Amended Plat of Fern Ridge, as platted and recorded in Book 6, Page 28, Lane County Oregon Plat Records, together with a 16 foot wide alley running north-south, said alley located adjacent to Lots 1 through 12 and 13 through 24, Block 44 of said Second Amended Plat of Fern Ridge, which area to be vacated is described as follows:

All that portion of a 60 foot wide right of way known as 7th Street and Railroad Street, said streets located between Blocks 44 and 53, Second Amended Plat of Fern Ridge, as platted and recorded in Book 6, Page 28, Lane County Oregon Plat Records, Lane County, Oregon, being more particularly described as follows: Beginning at the Southwest corner of Lot 13, Block 53 of said Second Amended Plat of Fern Ridge; thence in an easterly direction along the north margin of 7th Street and Railroad Street, 256 feet, more or less, to the Southeast Corner of that tract of land described on that certain warranty deed recorded on Instrument No. 2019-039710, Lane County Oregon Deeds and Records; thence in a southerly direction 60 feet, more or less, to the Northeast corner of that tract of land described as Parcel 4 on that certain warranty deed recorded on Instrument 2002-069688, Lane County Oregon Deeds and Records; thence in a westerly direction along the south margin of said 7th Street and Railroad Street, 256 feet, more or less, to the Northwest corner of Lot 24, Block 44 of said Second Amended Plat of Fern Ridge; thence in a northerly direction 60 feet, more or less to the Point of Beginning, all in Lane County, Oregon.

Also:

The 16-foot wide north-south alley located between Lots 1 through 12 and 13 through 24, Block 44, Second Amended Plat of Fern Ridge, as platted and recorded in Book 6, Page 28, Lane County Oregon Plat Records, Lane County, Oregon.

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

WHEREAS, the petitioners allege as follows:

1. Vacating 7th Street will eliminate structural encroachments that currently exist within the public right of way.
2. Vacating these public rights of ways will alleviate the County of its jurisdictional responsibilities for the areas that currently have no value for public use.

3. There are no known public utilities or power lines located in the area proposed to be vacated. If public utilities are discovered, an easement will be retained or otherwise be provided for in conjunction with the vacation.

WHEREAS, no portion of the area to be vacated is located within the boundaries of an incorporated city or town; and

WHEREAS, public interest will be served by returning unused public right of way back to private ownership and taxable real property; and

WHEREAS, petitioners, separately and collectively, acknowledge that the filing fee is a deposit and an estimate of the vacation fee, and that we accept responsibility for full payment of fees associated with the processing of this vacation in accordance with Lane Manual 60.853, regardless of whether this vacation is approved or denied; 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 public 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 road, with or without a public hearing pursuant to ORS Chapter 368.
2. Upon review of this matter, to order the vacation of the above described roads and alleys.
3. Petitioners request that title to the 16 foot wide alley located in Block 44 vest entirely to Map and Tax Lot No. 17-05-02-22-01700, pursuant to ORS 368.366(2).
4. Petitioners collectively agree and request that title to 7th Street and Railroad Street, revert and vest in accordance with ORS 368.366(1)(d).

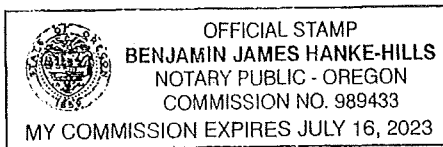
PETITIONER SIGNATURES:

Arthur E. Cunningham

Arthur E. Cunningham
PO Box 30
Alvadore, OR 97409
(17-05-02-22-00200, 17-05-02-22-01800)

State of Oregon)
County of Lane) §

On 10, DEC, 2021, personally appeared the above named Arthur E. Cunningham
and acknowledged the foregoing instrument to be a voluntary act before me:



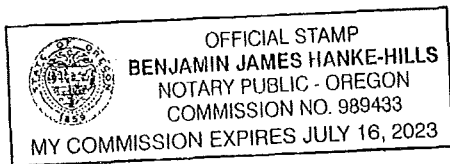
Ben Hanke-Hills
Notary Public for Oregon
My Commission Expires: 7/16/2023

Sandra Cunningham

Sandra Cunningham
PO Box 30
Alvadore, OR 97409
(17-05-02-22-00200, 17-05-02-22-01800)

State of Oregon)
County of Lane) §

On 10, DEC, 2021, personally appeared the above named Sandra Cunningham
and acknowledged the foregoing instrument to be a voluntary act before me:



Ben Hanke-Hills
Notary Public for Oregon
My Commission Expires: 7/16/2023

James H. Jacobson

James H. Jacobson
PO Box 59
Alvadore, OR 97409
(17-05-02-22-00300, 17-05-02-22-00300, 17-05-02-22-01700)

State of Oregon)
County of Lane)

On 10 DEC, 2021, personally appeared the above named JAMES H. JACOBSON
and acknowledged the foregoing instrument to be a voluntary act before me:

KALA WORLEY
Notary Public for Oregon
My Commission Expires: 2022

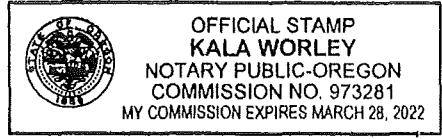


EXHIBIT "B"

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

DIRECTOR'S REPORT

IN THE MATTER OF THE VACATION OF A PORTION OF 7TH STREET, RAILROAD STREET, AND A PUBLIC ALLEY LOCATED IN AND BETWEEN BLOCKS 44 AND 53, SECOND AMENDED PLAT OF FERN RIDGE, AS PLATTED AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY OREGON PLAT RECORDS, LANE COUNTY, OREGON, WITHOUT A PUBLIC HEARING. (17-05-02-22)

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Arthur E. Cunningham, Sandra Cunningham, and James H. Jacobson, representing 100% ownership of the properties abutting the above named streets and alley herein proposed to be vacated, by the authority of ORS 368.351, a vacation without a public hearing.

7th Street, Railroad Street, and the unnamed public alley were dedicated for public use on the Second Amended Plat of Fern Ridge, platted and recorded in Book 6, Page 28, Lane County Plat Records in 1913. The streets and alley are located in the Alvadore area of Lane County and have never been used for public purposes.

7th Street and Railroad Street are both 60-feet wide and have a combined length of approximately 256 feet. Aerial imagery shows several structural encroachments within the right of way of 7th Street.

The 16-foot wide alley is located within Block 44 of said Second Amended Plat of Fern Ridge. The alley runs in a north-south direction and is approximately 300 feet in length. Additionally, the alley has never been used for public purposes.

The petitioners wish to vacate the streets and alley in order to alleviate the structural encroachments and return the easements back into private control and ownership. Surveyor's Office staff have determined there are no items of public interest that would necessitate keeping the road open to public travel such as access to recreational waterways, parks, or trails. There are no significant structures, such as bridges or railroad crossings along the streets and alley. There are no indications that public utilities exist within the streets and alley proposed to be vacated. Staff recommends that a public utility easement be retained for any public utilities that may exist in the vacated rights of way.

The streets and alley herein proposed to be vacated lie entirely outside of any boundary of an incorporated city or town.

ORS 368.331 states: *"A county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner."* The petitioners, as 100% owners of the abutting properties have consented to this action.

EXHIBIT "B"

Comcast, EPUD, and CenturyLink were sent referrals seeking comment on this proposed vacation. The aforementioned utility companies did not respond to our referral.

The Surveyor's Office also notified various other agencies including Lane Fire Authority, Lane Council of Governments, and Bethel School District 52. None of the aforementioned agencies, districts, or providers responded to the Surveyor's Office referral.

Lane County Transportation Planning, Lane County Land Management, and Lane County Road Maintenance staff have all indicated they have no objection to this request.

In summary, it has been determined the streets and alley as described in the Order and depicted on Exhibit "C," are not needed by the Lane County Transportation System. It has also been concluded the vacation of these streets and alley is in the public's best interest, as vacating these streets and alley will return unused public right of way back to private ownership, adding a marginal portion of land to the County tax rolls; and have no adverse effects on transportation patterns or recreational activities in the area. It is further recommended the vacation be allowed without a public hearing.

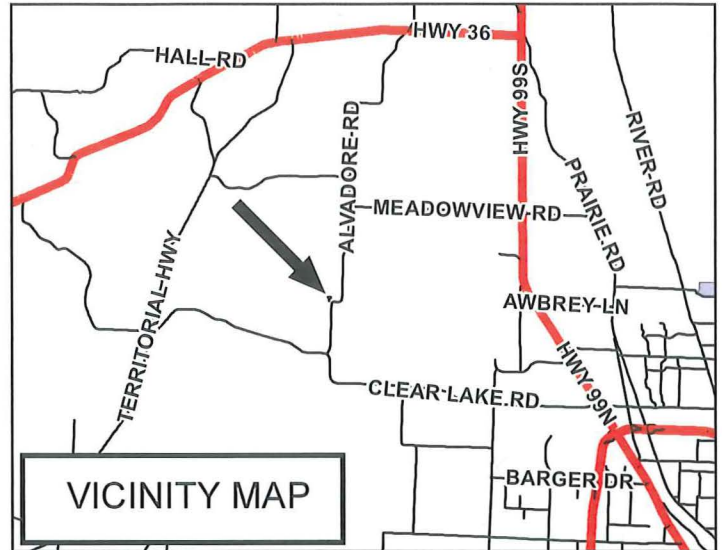
DATED this _____ day of _____, 2022.

Dan Hurley, Director
Department of Public Works

Exhibit "C"

PORTION OF 7TH STREET, RAILROAD STREET, & ALLEY
PROPOSED TO BE VACATED

SECOND AMENDED PLAT OF FERN RIDGE
NW 1/4 SECTION 2, T. 17S. R. 5W. W.M.
LANE COUNTY, OREGON



NO SCALE

