


W.3.D.3

Memorandum Date: September 25, 2007
 Order Date: October 17, 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 SETTING A PUBLIC HEARING FOR THE PROPOSED 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 (17-01-23-20)

I. MOTION

To approve the Resolution, Notice of Hearing and Order to set a public hearing date of November 20, 2007 at 1:30 p.m. to consider 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 Resolution, Notice of Hearing and Order to set a public hearing date to consider 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.

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 northerly 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 will be executed and 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 will be executed and 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 agreed to provide the required easement in conjunction with the approval of the vacation, which will be processed as described in the preceding paragraph.

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.

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.

In accordance with ORS 368.341, the Lane County Surveyor's Office is processing this vacation by resolution with a public hearing. Setting a date for the public hearing will allow time for public posting and notice in this matter. The attached Resolution, Notice of Hearing and Order will set a public hearing date to consider the merits of the vacation of the described portion of right of way.

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 initiate 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. Opportunity to address concerns of all respondents to notice of this action will be provided for in the public hearing.

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 public hearing date as proposed by staff to consider the vacation of this portion of Latta Road, a public road.
2. Set any later public hearing date, as the Board may wish, to consider the vacation of this portion of Latta Road, a public road.
3. Refuse to set a date, either postponing the matter, or refusing to initiate proceedings to consider the vacation of this portion of Latta Road, a public road.

VI. TIMING/IMPLEMENTATION

Timing of this matter is important in order that a date for a public hearing be scheduled in a timely manner.

VII. RECOMMENDATION

The Public Works Director's Preliminary Report recommends that the Board support Option Number 1, to approve a public hearing date to consider the proposed vacation of this portion of Latta Road, a public road.

It is further recommended that requirements by respondents to notice of this vacation as described herein above be addressed and the details of satisfaction of said requirements be included in agenda documents associated with the public hearing.

VIII. FOLLOW-UP

If the Board of County Commissioners approves the Resolution, Notice of Hearing and Order setting a date for a public hearing on the vacation of this portion of Latta Road, 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 who will provide public notice of the proposed action. If the Board wishes to postpone the matter, or to terminate proceedings, an Order to Postpone or Terminate will be presented to the Board at a later regularly scheduled meeting.

IX. ATTACHMENTS

Resolution, Notice of Hearing and Order w/attachments:
Director's Preliminary Report - Exhibit "A"
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 SETTING A PUBLIC HEARING)	
FOR THE PROPOSED VACATION OF A PORTION OF)	RESOLUTION, NOTICE
LATTA ROAD, A PUBLIC ROAD, LOCATED IN THE)	OF HEARING, AND
NORTHWEST QUARTER (NW 1/4) OF SECTION 23,)	ORDER NO.
TOWNSHIP 17 SOUTH, RANGE 1 WEST OF THE)	
WILLAMETTE MERIDIAN, IN LANE COUNTY,)	
OREGON (17-01-23-20))	

THIS MATTER now coming before the Board of County Commissioners for Lane County, Oregon, and it appearing that a valid petition has been received by landowners of 100% of property adjoining the portion of Latta Road proposed to be vacated; 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 Latta Road requested to be vacated is the northernmost approximately 347 feet at its northerly terminus; and

WHEREAS, in accordance with ORS Chapter 368.341 proceedings may be undertaken to consider whether it is in the public interest and benefit to vacate the described portion of Latta Road; 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, the petitioners assert there are utilities located within the area to be vacated; and

WHEREAS, the petitioners originally submitted their petition with the intent of proceeding without a public hearing and, subsequent to responses of objection to notice of the proposed vacation, requested to continue the vacation proceedings with a public hearing; 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, and petitioners have agreed to build a turnaround at their expense, dedicate an additional 20' x 35' of right of way for the turnaround and provide the required easement in conjunction with approval of the vacation; and

WHEREAS, 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, and petitioners have agreed to provide the required easement in conjunction with the 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, and petitioners have agreed to build a turnaround at their expense in conjunction with approval of the vacation; 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, and 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, and 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, and 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, the portion of Latta Road herein considered for vacation is no longer needed by Lane County; and

WHEREAS, the Director of Public Works has provided a written preliminary report, as required by ORS 368.346, attached hereto, marked Exhibit "A" and made a part hereof by this Order, which recommends a date be set for the public hearing; and

WHEREAS, the petitioners have requested to proceed with a public hearing to consider their vacation request, and ORS Chapter 368 requires a public hearing to vacate property by resolution, and the Board deems it appropriate to conduct a public hearing to decide whether to vacate the herein described portion of Latta Road; now, therefore, it is hereby

RESOLVED, that in accordance with ORS Chapter 368, proceedings be undertaken to consider the vacation of 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.

and it is further

ORDERED, that November 20, 2007 be established as the date for conducting a public hearing regarding the proposed vacation of the above described portion of Latta Road, and that the said hearing be held at 1:30 p.m. at the Lane County Courthouse, 125 East 8th Avenue, Eugene, Oregon 97401; and it is further

ORDERED, that the Director of the Lane County Department of Public Works, pursuant to ORS Chapter 368.346, cause the Lane County Surveyor to examine the portion of Latta Road proposed to be vacated and that the Director provide a written Final Report of his findings, which are to be incorporated into the Final Order; and it is further

ORDERED, that notice of the public hearing be provided by service, posting and publication in accordance with ORS 368.401 to 368.426.

Inquiries regarding these proceedings may be directed to D. Michael Jackson, Lane County Surveyor, Public Service Building, 125 East 8th Avenue, Eugene, Oregon 97401, telephone (541) 682-4195.

Dated this _____ day of _____, 2007.

Chair
Lane County Board of Commissioners

Attachment: Vicinity Map

APPROVED AS TO FORM

Date 10-20-07 lane county

OFFICE OF LEGAL COUNSEL

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

IN THE MATTER OF SETTING A PUBLIC HEARING)
FOR THE PROPOSED 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 (17-01-23-20))

DIRECTOR'S
PRELIMINARY REPORT

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 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.

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. Various responses of objection and conditional non-objection were received, all of which will be addressed in the public hearing process, details of which will be included in the public hearing agenda documents.

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.

It is recommended that the proceedings for vacating the portion of Latta Road as described be commenced as authorized by ORS 368.341(1), and a public hearing date be established to allow the Board of County Commissioners to consider public input as well as staff presentation.

A final report will be submitted prior to the time of the public hearing.

DATED this 28th day of September, 2007.

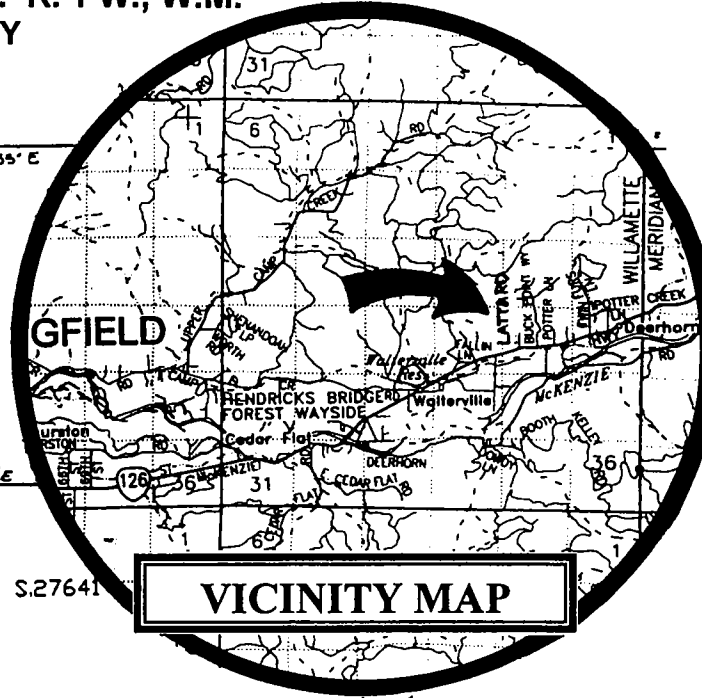
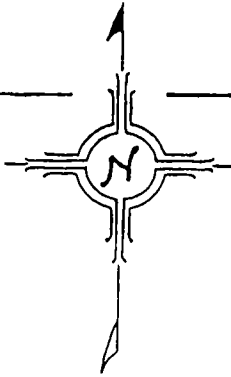

Oliver P. Snowden, Public Works Director

ATTACHMENT

Portion of Latta Rd—Vacation

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

5 14
23 500



East
S 89° 59' 55" E

400
23.00 AC.

401
16.58 AC.

S.27641

VICINITY MAP

MAP 17-01-23

N 0° 51' 00" W 1312.94'

600

700

800

Lot 5 34 14

605

701
7.86 AC.

SEE
SEE MAP 17-01-23

TO BE
VACATED

NE COR.
J. LATTA
D.L.C. 42

602

S.32178

803

APPROX.
1/4 COR.

MAP 17-01-23-30

MAP 17-01-23-30

606
2.19 AC.

607
1.06 AC.

603
RS.25346

MCKENZIE HWY 126

BUCK POINT WAY

019-09

MAP 17 01 23 4