

W.9.D.1
04-3-10-11

AGENDA COVER MEMO

DATE: February 17, 2003

TO: Lane County Board of Commissioners

DEPT.: Public Works

PRESENTED BY: Frank Simas
Right of Way Manager

AGENDA ITEM TITLE: In the Matter of Rejecting the Decision of the Director of Public Works Denying a Driveway Access to Property at 92256 Marcola Road Identified as Tax Lot 16-01-18-40 1900 and Directing Staff to Allow Access Subject to the Issuance of a Facility Permit.

I. MOTION

THAT THE ORDER BE ADOPTED DIRECTING STAFF TO ALLOW A DRIVEWAY ACCESS TO TAX LOT 16-01-18-40 1900, TO ISSUE A FACILITY PERMIT IN CONNECTION WITH THE CONSTRUCTION OF SAID DRIVEWAY, AND TO AUTHORIZE THE CONSTRUCTION OF SAID DRIVEWAY AT COUNTY EXPENSE.

II. ISSUE OR PROBLEM

A Public Hearing was held in the above matter on October 29, 2003, and was continued to December 4, 2003, to allow the full Board to be in attendance. The public record was held open during the interim to allow for the submittal of any additional written material by the appellant or staff. At the hearing on December 4, 2003, the Board directed staff to allow access pursuant to the issuance of a Facility Permit and in accordance with any conditions therein.

III. DISCUSSION

A. Background

Arlen and Cheryl Jallo own property at 92256 Marcola Road that fronts on Marcola Road within the area of the Marcola Road Improvement Project (M. P. 10.49

to 11.75). Prior to the completion of the road project, they had an existing driveway access onto Marcola Road that was eliminated during the construction based on the application of Lane County Access Management Guidelines and in recognition that the property has alternate legal and physical access from a street abutting their property on the west.

The Jalloos appealed this decision to the Director of Public Works in accordance with LC 15.900, and the Director's decision was to support the staff recommendation to eliminate this driveway. In accordance with LC 15.900(8), they appealed to the Board of County Commissioners seeking a modification or reversal of the Director's decision.

B. Analysis

When staff analyzed this driveway during the Access Management phase of design, it was noted the sight distance for the access to Marcola Road did not meet the minimum standard of 250 feet for traffic approaching from the Northeast, and that because the dwelling takes its primary access from Queen Street, the access to Marcola Road should be eliminated.

After hearing additional testimony from County staff in support of the Director of Public Works' denial, and from a citizen of the Marcola area in support of the allowing of the driveway, the Board voted to reject the decision of the Director of Public Works and directed staff to allow the driveway access onto Marcola Road subject to the issuance of a Facility Permit and in accordance with any related conditions.

Based on the testimony presented, the Board determined that the driveway should be allowed for the following reasons:

1. The driveway has been in existence for a long time, dating back to when the property was used as a headquarters for the Eastern Lane Fire Patrol, with no recorded accidents attributed to the driveway or other apparent contributions to safety hazards.
2. The Jalloos had not been given adequate personal and detailed advance notice that the driveway would be removed and would not be reconstructed as part of the construction project.
3. The Jalloos should be able to have vehicular access to the property to and from the street on which their dwelling fronts.

Pursuant to the Board's direction, staff has met with Mrs. Jallo to determine the best location for the proposed driveway access, and determined that the driveway is to be located at Engineer's Station L7 15+888 Lt., and will be 7.2 meters (23.62 ft.) in width. Staff has issued a Facility Permit, and arranged for the construction of the new driveway at County expense.

A photo of the completed driveway access taken February 20, 2004, is attached below.



C. Alternatives/Options

1. Approve the Order documenting Board direction to reject the Director of Public Works decision denying access, and directing staff to allow access, issue a Facility Permit and arrange for the construction of the driveway at County expense.

D. Recommendations

It is recommended that the Board approve the Order.

IV. IMPLEMENTATION/FOLLOW-UP

The signed Order will be entered into the records of the Board of County Commissioners' Journal of Administration of Lane County, Oregon.

V. Attachments

None

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

ORDER

(IN THE MATTER OF REJECTING THE
(DECISION OF THE DIRECTOR OF
(PUBLIC WORKS DENYING A DRIVEWAY
(ACCESS TO PROPERTY AT 92256 MARCOLA
(ROAD IDENTIFIED AS TAX LOT 16-01-18-40
(1900 AND DIRECTING STAFF TO ALLOW
(ACCESS SUBJECT TO THE ISSUANCE OF A
(FACILITY PERMIT.

WHEREAS, a Public Hearing in accordance with Lane Code 15.900(8) was held on October 29, 2003, and continued until December 3, 2003, to hear the appeal of Arlen and Cheryl Jallo to Public Works staff and the Director of Public Works' decision to eliminate and deny an existing driveway access approach onto their property at 92256 Marcola Road in connection with the construction of improvements to Marcola Road; and

WHEREAS, after hearing testimony from staff supporting the recommendation that the driveway approach not be replaced, and from the appellant and a member of the public in support of allowing the driveway, the Board determined that the driveway should be allowed for the following reasons:

1. The driveway has been in existence for a long time without recorded accidents attributed to the driveway or other apparent contributions to safety hazards in that area, dating back to when the property was used as a headquarters for the Eastern Lane Fire Patrol. Access will be in the public interest and will not jeopardize public safety or cause unnecessary damage to the road facility.
2. The Jalloes had not been given adequate personal and detailed advance notice that the driveway would be removed and would not be reconstructed as part of the construction project.
3. The Jalloes should be able to have vehicular access to their property from the street on which their property fronts because of the long history of access to that property.

IT IS HEREBY ORDERED that Public Works staff shall issue a Facility Permit to allow the replacement of an access onto said property at approximate Engineer's Station L7 15+888 Lt., and shall arrange for the construction of said driveway at County expense in accordance with the conditions of said Facility Permit based on the findings and reasons described above.

IT IS FURTHER ORDERED that this Order be entered into the records of the Board of County Commissioner's Journal of Administration of Lane County, Oregon.

Dated this _____ day of _____, 2004.

Chair
Lane County Board of Commissioners