


W.4.D.3.

ORIGINAL

Memorandum Date: June 6, 2008
Order Date: June 25, 2008

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 PORTIONS OF FIRST AVENUE (CO. RD. #856), THE ALLEY IN BLOCK 28 AND FALCON STREET AS PLATTED AND RECORDED IN THE PLAT OF HECETA BEACH (BK. 7, P. 25), LANE COUNTY, OREGON PLAT RECORDS (18-12-04-13 & 42)

I. MOTION

TO APPROVE THE RESOLUTION AND ORDER TO SET A PUBLIC HEARING DATE OF JULY 30TH, 2008 AT 1:30 P.M. TO CONSIDER THE PROPOSED VACATION OF PORTIONS OF FIRST AVENUE (CO. RD. #856), THE ALLEY IN BLOCK 28 AND FALCON STREET AS PLATTED AND RECORDED IN THE PLAT OF HECETA BEACH (BK. 7, P. 25), LANE COUNTY, OREGON PLAT RECORDS (18-12-04-13 & 42)

II. AGENDA ITEM SUMMARY

The Board is being asked to approve the Resolution and Order to set a public hearing date to consider the proposed vacation of a portion of First Avenue (Co. Rd. #856), a portion of the alley in Block 28 and a portion of Falcon Street in the Plat of Heceta Beach. The portions proposed for vacation comprise two separate 10 feet wide strips of right of way, the northerly portion being 425 feet in length and the southerly portion being 120 feet in length.

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 the owners of 100% of the property abutting the proposed vacation initially requesting, by the authority of ORS 368.351, a vacation without a public hearing.

On May 28, 2008 in a regular meeting of the Lane County Board of Commissioners this vacation proposal was presented for consideration. Although the vacation was not denied, a vote to approve the vacation failed. After further discussion, it was determined that the proposal for vacation would be considered in a public hearing if the petitioners were to choose to pursue the public hearing process and submit the additional fee

deposit necessary to process with a public hearing. Primary petitioner Association of Unit Owners of Driftwood Shores Surfside Inn Condominium (Driftwood Shores) has submitted the additional fee deposit in order to proceed with a public hearing.

The Surveyor's Office notified the City of Florence, Qwest Communications, Central Lincoln 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. The agencies and landowners either had no objection to the vacation or did not respond to the referral.

The portions of rights of way proposed for vacation are within the Urban Growth Boundary but outside the City Limits of the City of Florence. The City of Florence is supportive of this vacation, and is presently in the process of annexation of the Driftwood Shores property and portions of First Avenue which will include the portions of rights of way herein proposed for vacation.

In response to the direction received in the May 28, 2008 Board of Commissioners meeting, at the request of the primary petitioner and in accordance with ORS 368.341, the Lane County Surveyor's Office is now processing this vacation 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 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 and 15.305 supplement ORS 368 in allowing for consideration of vacation of rights of way where little need exists for the rights 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 rights of way herein considered for vacation as described in the Final Order fall 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. 8). The vacation of the portion of right of way as described in the Final Order is consistent 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 the portions of First Avenue, the alley in Block 28 and Falcon Street as described in the Final Order will have no adverse effects on transportation patterns in the area, and the portion to be vacated is not needed as part of the Lane County

Transportation system. No property will be denied legal access by this vacation.

ORS 368.341 provides that a county governing body may initiate proceedings to process a petition to vacate property provided certain conditions are met, and those conditions will be complied with by these proceedings.

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 portions of First Avenue (Co. Rd. #856), the alley in Block 28 and Falcon Street in the Plat of Heceta Beach, as described in the Resolution and Order.
2. Set any later public hearing date, as the Board may wish, to consider the vacation of these portions of rights of way.
3. Refuse to set a date, either postponing the matter, or refusing to initiate proceedings to consider the vacation of these portions of rights of way.

VI. TIMING/IMPLEMENTATION

Timing of this matter is important in order to complete the vacation prior to the proposed annexation of the Driftwood Shores property and First Avenue by the City of Florence.

VII. RECOMMENDATION

The Public Works Director's Preliminary Report recommends that the Board support Option Number 1, to approve setting a public hearing date to consider the proposed vacation of these portions of rights of way.

VIII. FOLLOW-UP

If the Board of County Commissioners approves the Resolution and Order setting a date for a public hearing on the vacation of these portions of rights of way, 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 and Order w/attachments:
Director's Preliminary Report - Exhibit "A"
Attachment - Site 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 PORTIONS OF)	RESOLUTION AND
FIRST AVENUE (CO. RD. #856), THE ALLEY IN)	ORDER NO.
BLOCK 28 AND FALCON STREET AS PLATTED AND)	
RECORDED IN THE PLAT OF HECETA BEACH (BK. 7,)	
P. 25), LANE COUNTY, OREGON PLAT RECORDS)	
(18-12-04-13 & 42))	

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 portions of First Avenue, the alley in Block 28 and Falcon Street as described herein proposed to be vacated; and

WHEREAS, on May 28, 2008 in a regular meeting of the Lane County Board of Commissioners this vacation proposal was presented for consideration, and although the vacation was not denied, a vote to approve the vacation failed. After further discussion, it was determined that the proposal for vacation would be considered in a public hearing if the petitioners were to choose to pursue the public hearing process and submit the additional fee deposit necessary to process with a public hearing; and

WHEREAS, primary petitioner Association of Unit Owners of Driftwood Shores Surfside Inn Condominium (Driftwood Shores) has submitted the additional fee deposit in order to proceed with a public hearing; 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 portions of First Avenue, the alley in Block 28 and Falcon Street as described herein; and

WHEREAS, the purpose of this vacation request, as stated by primary petitioner Association of Unit Owners of Driftwood Shores Surfside Inn Condominium (Driftwood Shores), is to return a 10 feet wide strip of right of way that was dedicated in 1968 to the adjacent property owned by Driftwood Shores in order to provide for more full utilization of their property; and

WHEREAS, the petitioners assert there are no utilities located within the area to be vacated; and

WHEREAS, the portions of rights of way proposed for vacation are within the Urban Growth Boundary but outside the City Limits of the City of Florence; and

WHEREAS, the City of Florence is supportive of this vacation, and is presently in the process of annexation of the Driftwood Shores property and portions of First Avenue which will include the portions of rights of way herein proposed for vacation; and

WHEREAS, the Surveyor's Office notified the City of Florence, Qwest Communications, Central Lincoln 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, and the agencies and landowners either had no objection to the vacation or did not respond to the referral; and

WHEREAS, the portions of rights of way herein considered for vacation are 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 the Board deems it appropriate to conduct a public hearing to decide whether to vacate the herein described portions of rights of way; and

WHEREAS, the area proposed for vacation as described in the petition for vacation extended into the existing asphalt of a portion of First Avenue Loop at the northerly limits of the proposed vacation; and

WHEREAS, as agreed to by the primary petitioner, an exception has been added to the legal description and incorporated herein in order to withdraw the northerly vacation limits from encroachment into the existing asphalt of a portion of First Avenue Loop; now, therefore, it is hereby

RESOLVED, that in accordance with ORS Chapter 368, proceedings be undertaken to consider the vacation of the portions of rights of way more particularly described as follows:

The easterly 10 feet of Block 23 and the easterly 10 feet of Block 28 as platted and recorded in the Plat of Heceta Beach (Bk 7, P 25), said portions of said blocks having been dedicated as right of way for First Avenue (Co. Rd. #856) by that Deed recorded May 10, 1968 on Reel 391-R, Reception No. 24475, Lane County, Oregon Deed Records, and accepted in Lane County Board of Commissioners Order filed May 8, 1968 in Commissioners Journal 38, Page 222; EXCEPTING herefrom the following described tract: Beginning at a point on the northerly line of Block 28, 10 feet westerly of the northeast corner of Block 28, thence easterly along the north line of Block 28 a distance of 10 feet to the said northeast corner of Block 28; thence southerly along the easterly line of Block 28 a distance of 20 feet; thence northwesterly to the point of beginning.

Also, the easterly 10 feet of the 15 feet wide alley in Block 28 lying westerly of the westerly right of way of First Avenue and the easterly 10 feet of Falcon Street lying westerly of the westerly right of way of First Avenue as platted and

recorded in the Plat of Heceta Beach (Bk 7, P 25), said portions of alley and street having been left unvacated in the vacation of portions of said alley and Falcon Street between First Avenue and Beach Drive in Lane County Board of Commissioners Order of Vacation No. 2640 filed May 8, 1968 in Commissioners Journal 38, Page 223;

All in the Southwest One Quarter of the Northeast One Quarter (SW1/4NE1/4) and the Northwest One Quarter of the Southeast One Quarter (NW1/4SE1/4) of Section 4, Township 18 South, Range 12 West of the Willamette Meridian, Lane County, Oregon; and

and it is further

ORDERED, that July 30, 2008 be established as the date for conducting a public hearing regarding the proposed vacation of the above described portions of rights of way, 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 portions of rights of way proposed to be vacated and that the Director provide a written Final Report of 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 _____, 2008.

Chair
Lane County Board of Commissioners

Attachment: Vicinity Map

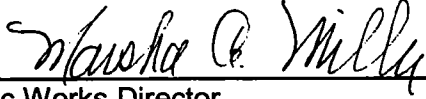
EXHIBIT "A"

right of way of First Avenue. The resulting right of way width of the portion of First Avenue affected by this vacation will be a minimum of 50 feet, which is the original width of First Avenue as established, and which will meet Lane County minimum standards for an Urban Local street, and City of Florence minimum standards for a "feeder" street.

It is recommended that the proceedings for vacating these portions of First Avenue, the alley in Block 28 and Falcon Street as described in the Resolution and Order 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.

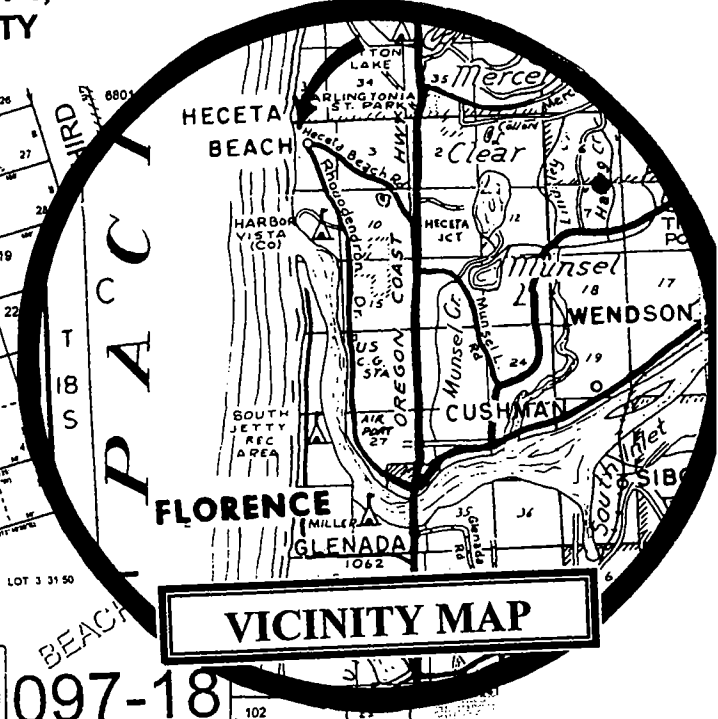
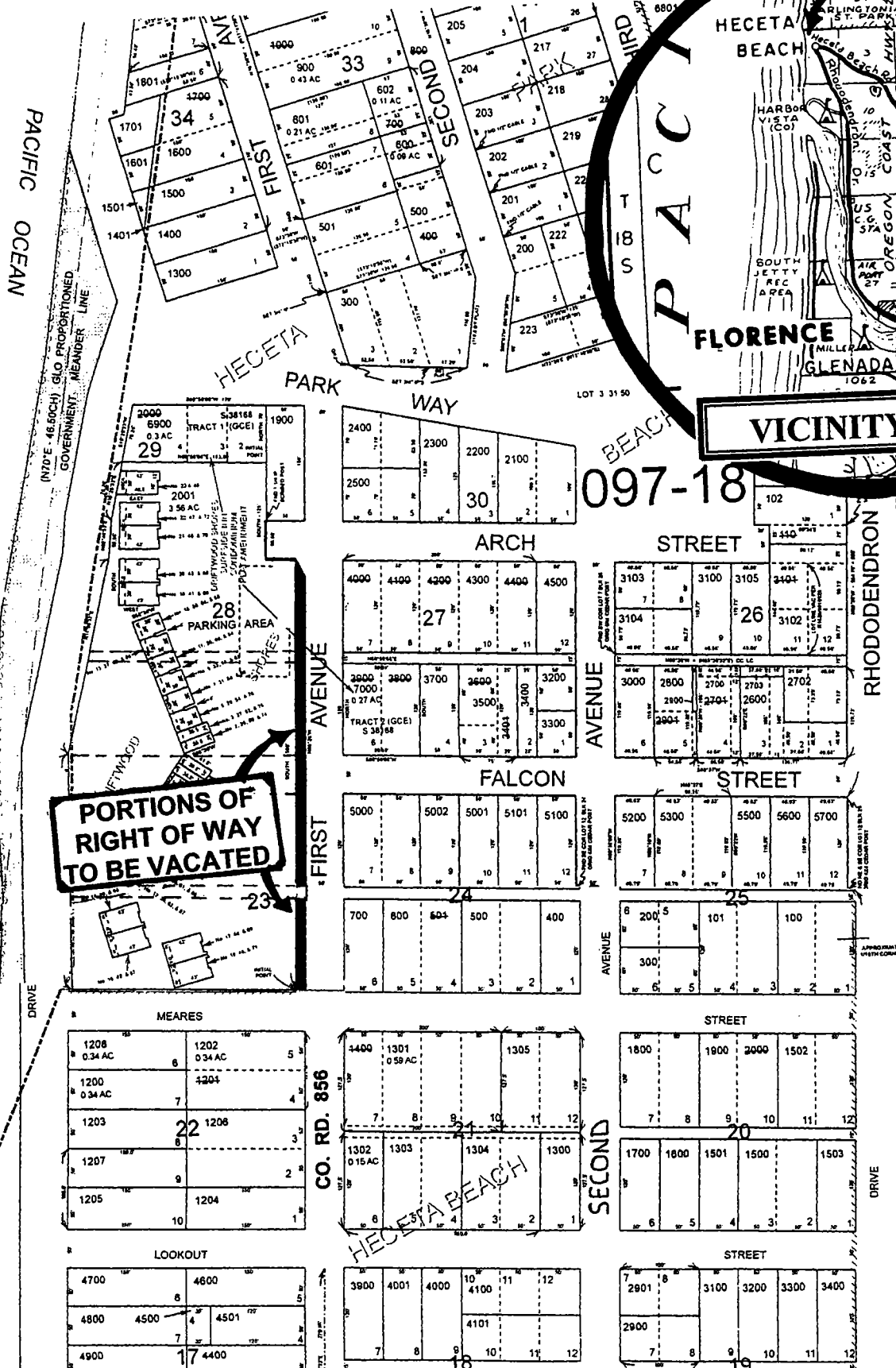
DATED this 13 day of June, 2008.



Public Works Director
Department of Public Works

ATTACHMENT Vacation—Portions of 1st Avenue, Alley in Block 28, and Falcon Street in Plat of Heceta Beach

SW1/4NE1/4 and NW1/4SE1/4 Section 4, T. 18 S. R. 12 W., W.M.
LANE COUNTY
NO SCALE



SHORES

SECOND FLOOR	
UNIT	518
14	201 647
15	202 644
16	203 650
17	204 640
18	205 654
19	206 636
10	209 638
11	210 632
12	213 662
13	214 628
14	217 666
15	218 624
16	221 670
17	222 620
18	225 674
19	226 616
10	229 676
11	230 613
12	231 681
13	232 610
4	233 684
5	234 607
6	235 687
7	236 604
8	238 602
FOURTH FLOOR	
UNIT	618
401	649
402	646
403	652
404	642
405	656
406	638
409	660
410	634
413	664
414	630
417	668
418	626
421	672
422	622
425	676
426	618

PORTIONS OF RIGHT OF WAY TO BE VACATED

VICINITY MAP

097-18

SE 18'