

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 16-02-09-08

IN THE MATTER OF VACATING A PORTION OF 5TH
AVENUE AND A PORTION OF AN ALLEY IN BLOCK
19 OF HUBERT, AS PLATTED AND RECORDED IN
BOOK 6, PAGE 32, LANE COUNTY, OREGON PLAT
RECORDS, WITHOUT A PUBLIC HEARING
(16-05-10-33)

WHEREAS, the Surveyor's Office of the Department of Public Works has received a valid a petition signed by Shannon Patrick Fitzgerald, Attorney-in-Fact for Patricia V. Turner-Cheshire, and Kittie Stratton requesting, under authority of ORS Chapter 368.341, the vacation of a portion of a public road and alleyway in the plat of Hubert as platted and recorded in Book 6, Page 32, Lane County, Oregon Plat Records. The areas being more particularly described as follows:

All that portion of 5th Avenue located west of High Street and that portion of the 12-foot wide alley lying between Lot 1 and Lot 2, Block 19, on the plat of Hubert, recorded in Book 6, Page 32, Lane County Plat Records and located in Section 10, Township 16 South, Range 5 West of the Willamette Meridian.

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, who are the landowners of 100% of the property abutting the proposed vacation, 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 Oregon Utility Notification Center was contacted and Blachly-Lane Electric indicated they have power lines within the subject area and Country Vision stated they have cable near the west end of the proposed vacation; and

WHEREAS, an easement will be reserved for all existing utilities; and

WHEREAS, the Surveyor's Office also notified Century Link 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 nearby property owners regarding the vacation: and they either had no objection to the vacation or did not respond to the referral; and

WHEREAS, the road and alleyway proposed to be vacated are not improved or open for public travel; and

WHEREAS, if the vacation is approved, the petitioners plan to reconfigure their property lines to eliminate encroachment issues; and

WHEREAS, there is potential for Lot 1, Block 19, of Hubert to lose access as a result of this vacation, but because Lot 1 is in common ownership with Lots 3 and 4, Block 18, of Hubert, all adjoining owners currently have legal access, 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" and the owners have given consent by signing the petition; and

WHEREAS, Shannon Patrick Fitzgerald, Attorney-in-Fact for Patricia B. Turner-Cheshire, will address legal access in the future as needed; and

WHEREAS, the public interest will be served by this vacation as it will help to alleviate an encroachment issue and convert the unimproved portion of right of way into taxable real property; 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 "B", attached, and made a part of this Order; and

WHEREAS, the Director of Lane County Public Works has provided a written report marked as Exhibit "C", determining the special benefit to the applicant is de minimis, pursuant to Lane Manual 60.853 (3)(a); and

WHEREAS, the petitioners have 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 for is in the best interest of the public.

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

1. The above described public road is hereby VACATED.
2. An easement is hereby retained for any and all existing public utilities to preserve, maintain, repair, replace, remove or reinstall any public utilities that may now exist within the bounds of the portion of the alleys herein described by these proceedings as vacated.
3. This Order be filed with the County Clerk and entered into the records of the Lane County Board of Commissioners Journal of Administration, and be further recorded in the Lane County, Oregon Deed Records.

ADOPTED this 9th day of February, 2016.



Faye Stewart, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM
Date 

LANE COUNTY OFFICE OF LEGAL COUNSEL