Memorandum Date: December 7, 2023
Order Date: January 9, 2024

TO: Board of County Commissioners

DEPARTMENT: Public Works/Engineering and Construction Services/Surveyors

PRESENTED BY: Mikeal Jay Blommé, County Surveyor and Trevor Ross, Deputy County Surveyor

AGENDA ITEM TITLE: ORDER / IN THE MATTER OF THE VACATION OF A PORTION OF 7TH AVENUE, A PUBLIC ROAD, LOCATED IN SECTION 4, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITH A PUBLIC HEARING. (18-12-04-11).

I. MOTION

TO VACATE OF A PORTION OF 7TH AVENUE, A PUBLIC ROAD, LOCATED IN SECTION 4, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITH A PUBLIC HEARING.

II. AGENDA ITEM SUMMARY

The Petitioners have requested to vacate the west half of 7th Avenue.

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 Trevor Means, signing as a landowner, and Rebecca Brooke, Forest Supervisor for the Siuslaw National Forest, representing 66% ownership of the properties abutting the Public Road herein proposed to be vacated, by the authority of ORS 368.346, a vacation with a public hearing.

The Petitioners wish to vacate the unimproved west half of 7th Avenue along the east property line of Lot 1, Block 6 of the First Addition to Holt Park. Said property is identified as map and tax lot number 18-12-04-11-01300. 7th Avenue was dedicated to the public in the plat of the First Addition to Holt Park, all in Lane County, Oregon. The

road measures approximately 100 feet in length, and the half width proposed to be vacated is 30 feet wide. The Petitioners state the purpose is to vacate the unimproved west half of 7th Avenue as it abuts National Forest Lands on the north and private property on the west with no future possibility of public access needs for either property along this corridor. The owner of Lot 1, Block 6 has also removed garbage and debris from this area, as it was occupied in this manner by the previous tenant.

The Surveyor's Office notified Lumen/Century Link Communications, Central Lincoln PUD, Northwest Natural Gas, and various other agencies including Lane County Transportation Planning, Lane County Planning, and the Road Maintenance sections of the Lane County Department of Public Works, and the adjoining and nearby property owners regarding the vacation. The agencies either had no objection to the vacation or did not respond to the referral. Our office received one response to our referral from a landowner. This response was from the owner of Lot 6, Block 7 of the First Addition to Holt Park along the east margin of 7th Avenue which is adjacent to the proposed vacation. Their comments were not in opposition to this proposal. An easement will be retained in the Final Order for any existing public utilities that are within the bounds of the right of way proposed to be vacated.

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 66% of the owners abutting this proposed vacation, have consented to this action, and no property will be denied legal access because of Board approval of this action.

B. Policy Issues

ORS 368.326 to 368.366 provides for procedures by which a County governing body may vacate portions of a subdivision or public rights of way. Lane Manual 15.030 supplements 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 because of the vacation and where the vacation will not adversely affect orderly development of adjacent property. The lots and rights of way herein considered for vacation as described in the Order fall into these categories.

C. Board Goals

The vision of Lane County's Strategic Plan, in part, is to create a vibrant community through wise stewardship of its human and natural resources. The vacation of this right of way as described in the Order is consistent with these categories.

D. Financial and/or Resource Considerations

Vacation of the described right of way will return a marginal portion of land to the County tax rolls as real property. **The County's costs of processing the vacation will be paid in full by the petitioners.**

E. Health Implications

There are no significant health implications.

F. Analysis

Lane County Staff has determined the vacation of 7th Avenue will have no adverse effects on transportation patterns in the area and is not needed for transportation purposes. The road is unimproved, and if the vacation is approved, ownership of the road shall revert in accordance with ORS 368.366.

G. Alternatives/Options

The Board of County Commissioners has the option to:

1. Approve the vacation of a portion of 7th Avenue, as described in the Order.

2. Deny the vacation.

3. Continue the matter for further discussion.

IV. RECOMMENDATION

The Public Works Director's Final Report recommends the Board of Commissioners approve the vacation of 7th Avenue, as described in the Order.

V. TIMING/IMPLEMENTATION

The petitioner's respectfully request that the Board consider this matter in a timely manner.

VI. FOLLOW-UP

If the Board of County Commissioners approves the Order to Vacate a portion of 7th Avenue 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 and County Assessor for appropriate action. If the Order to Vacate is not approved, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

VII. ATTACHMENTS

Order with Exhibits:
Petition to Vacate – Exhibit "A"
Director's Final Report – Exhibit "B"
Affidavit of Posting – Exhibit "C"
Vicinity Map – Exhibit "D"

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.24-01-09-26	IN THE MATTER OF THE VACATION OF A PORTION OF 7TH AVENUE, A PUBLIC ROAD, LOCATED IN SECTION 4, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON. (18-12-04-11).

WHEREAS, the Surveyor's Office of the Department of Public Works has received a valid petition signed by Trevor Means, signing as a landowner and Rebecca Brooke, Forest Supervisor for the Siuslaw National Forest, representing 66% ownership of the properties abutting the public road herein proposed to be vacated, by the authority of ORS 368.346, a vacation with a public hearing of the following described road:

> The west half of 7th Avenue located adjacent to Lot 1, Block 6 of the First Addition Holt Park, as platted and recorded in Book 31, Page 8, Lane County Oregon Plat Records, Lane County, Oregon.

WHEREAS, ORS 368.326 to 368.366 provides for procedures by which a County governing body may vacate portions of a subdivision or public rights of way. Lane Manual 15.030 supplements 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; and

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

WHEREAS, 7th Avenue is located outside the city limits of Florence, Oregon and therefore is under Lane County's jurisdiction; and

WHEREAS, the Petitioner has paid a vacation fee deposit of $4,800 and will pay actual costs incurred, including recording fees, upon final approval of the vacation; and

WHEREAS, the Public Works Director of Lane County 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 Petitioner hereby retains a public utility easement for any utilities that currently exist within the bounds of the roads being vacated; 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. The portions of 7th Avenue as described above are hereby VACATED.

2. Pursuant to ORS 368.366, title to the vacated lands will revert to private ownership as provided by law.

3. 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 roads herein described by these proceedings as vacated.

4. 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 January, 2024.

Chair
LANE COUNTY BOARD OF COMMISSIONERS

Exhibit "A"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

IN THE MATTER OF THE VACATION OF A PORTION OF 7TH AVENUE, A PUBLIC ROAD, LOCATED IN SECTION 4, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITH A PUBLIC HEARING. (18-12-04-11)	))))))	PETITION TO VACATE

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned Trevor Means and the Siuslaw National Forest, as owners of the adjacent real property, hereby petition to vacate all of the west half of the 7TH Avenue, which area to be vacated is described as follows:

All that portion of the west half of 7TH Avenue located adjacent to Lot 1, Block 6 of the First Addition to Holt Park, all in Lane County, Oregon.

WHEREAS, the undersigned petitioners are the owners of at least 60% of all the real property located adjacent to the above described area to be vacated; and

WHEREAS, petitioners allege as follows:

1. The purpose of this vacation request is to vacate the unimproved west half of 7TH Avenue.

2. There are no utilities and no power lines located in the area to be vacated. If found otherwise, necessary easements for all public and private utilities will be retained or otherwise be provided for in conjunction with this vacation; and

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

WHEREAS, the public interest will be served by removing Lane County's jurisdictional responsibilities to the portion of public road; and

WHEREAS, petitioners, separately and collectively, acknowledge that the filing fee is an estimate of the vacation fee, and that we accept responsibility for full payment of Lane County Surveyor's Office and Deeds & Records fees, 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 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 a public hearing pursuant to ORS Chapter 368.

2. Upon review of this matter, to order the vacation of the above described road, and direct that title to the vacated area revert and vest in accordance with ORS 368.366.

DATED this 14th day of August, 2023

Petitioners:

Trevor Eugene Means

Trevor Eugene Means, Owner
2563 J Street
Springfield, OR 97477
(18-12-04-11-01300)

OFFICIAL STAMP
WANDA NOWAKOWSKI
NOTARY PUBLIC - OREGON
COMMISSION NO. 997266
MY COMMISSION EXPIRES MARCH 04, 2024

State of Oregon)
SS
County of ~~Lane~~ Benton)

Subscribed and sworn to (or affirmed) before me on this 14th day of August, 2023, by Trevor Eugene Means, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Notary Public

Notary Public for Oregon
My Commission Expires: March 4, 2024

Rebecca Brooke, Forest Supervisor
Siuslaw National Forest
3200 Southwest Jefferson Way
Corvallis, OR 97331
(17-12-00-00-01400)

OFFICIAL STAMP
WANDA NOWAKOWSKI
NOTARY PUBLIC - OREGON
COMMISSION NO. 997266
MY COMMISSION EXPIRES MARCH 04, 2024

State of Oregon)
SS
County of ~~Lane~~ Benton)

Subscribed and sworn to (or affirmed) before me on this 14th day of August, 2023, by Rebecca Brooke, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Notary Public

Notary Public for Oregon
My Commission Expires: March 4, 2024

Exhibit “B”

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

DIRECTOR’S FINAL REPORT	IN THE MATTER OF THE VACATION OF A PORTION OF 7TH AVENUE, A PUBLIC ROAD, LOCATED IN SECTION 4, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON. (18-12-04-11).

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Trevor Means, signing as a landowner and Rebecca Brooke, Forest Supervisor for the Siuslaw National Forest, representing 66% ownership of the properties abutting the Public Road herein proposed to be vacated, by the authority of ORS 368.346, a vacation with a public hearing.

The Petitioners wish to vacate the unimproved west half of 7th Avenue along the east property line of Lot 1, Block 6 of the First Addition to Holt Park as described in the Order and shown on attached Exhibit “C” vicinity map. Said property is identified as map and tax lot number 18-12-04-11-01300. 7th Avenue was dedicated to the public in the plat of the First Addition to Holt Park, all in Lane County, Oregon.

The Petitioners state the purpose is to vacate the unimproved west half of 7th Avenue as it abuts National Forest Lands on the north and private property on the west with no future possibility of public access needs for either property along this corridor. The owner of Lot 1, Block 6 has also removed garbage and debris from this area, as it was occupied in this manner by the previous tenant.

7th Avenue is located inside the Urban Growth Boundary of the City of Florence but has not been annexed into city limits. The avenue was established as a public road dedication in December 1960 with a 60-foot right of way width in the plat of the First Addition to Holt Park and has a functional classification as an unimproved Local Access Road.

There are no bridges or railroad crossings along the road with the terminus of 7th Avenue along the south boundary of the Siuslaw National Forest. The vacation of the west half of 7th Avenue will not restrict public access to the Siuslaw National Forest along this public road as the east half remains a public road. The Siuslaw National Forest is also a petitioner who is in favor of this vacation. Additionally, there are public access corridors onto the Siuslaw National Forest to the east and west of 7th Avenue as established in the plat of the First Addition to Holt Park. Lane County Staff has not identified any other areas of public interest such as access trails or waterways to consider.

The Petitioners state the purpose of the vacation is the road no longer serves a present or future public right of way need as it is unimproved with no future needs for a road extending beyond its current terminus.

Exhibit “B”

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 66% of the owners abutting this proposed vacation, have consented to this action.

The Surveyor’s Office notified Lumen/Century Link Communications, Central Lincoln PUD, Northwest Natural Gas, various other agencies including Lane County Transportation Planning, Lane County Planning, and the Road Maintenance sections of the Lane County Department of Public Works, and the adjoining and nearby property owners regarding the vacation. The agencies had no objection to the vacation or did not respond to the referral. The adjoining neighbor along the east margin of 7th Avenue submitted comment on the proposed vacation but did not write in opposition. An easement will be retained in the Order for any existing public utilities that are within the bounds of the right of way proposed to be vacated.

It is recommended the vacation be approved and a public utility easement be retained for all public utilities that exist within the right of way to be vacated.

DATED this _____ day of _____, 2023.

_____
Dan Hurley, Director
Department of Public Works

EXHIBIT C

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

AFFIDAVIT OF POSTING

IN THE MATTER OF THE VACATION OF A PORTION OF 7TH AVENUE, A PUBLIC ROAD, LOCATED IN SECTION 4, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITH A PUBLIC HEARING. (18-12-04-11)

I, Trevor J. Ross, Deputy County Surveyor, certify as follows:

On the 16th day of November 2023, and in accordance with ORS 373.270, I posted eight (8) copies of the Notice of Hearing in the above entitled matter in eight places, positioned to be visible to the traveling public, as follows:

1. Posted on a Power Pole No. 125296 on the north side of Joshua Lane at 7th Avenue.
2. Posted on a Power Pole No. 125297 on the north side of Joshua Lane at Nautilus Court.
3. Posted on a Power Pole No. 125278 on the north side of Joshua Lane between 5th and 6th Avenue.
4. Posted on a Power Pole No. 125197 on the south side of Joshua Lane at 4th Avenue.
5. Posted on a Power Pole No. 125201 on the south side of Joshua Lane between 3rd and 4th Avenue.
6. Posted on a Power Pole No. 125203 on the south side of Joshua Lane between 3rd and 4th Avenue.
7. Posted on a Power Pole No. 125205 on the west side of 3rd Avenue at Joshua Lane.
8. Posted on a Power Pole No. 125200 on the south side of Joshua Lane between 3rd and 4th Avenue.

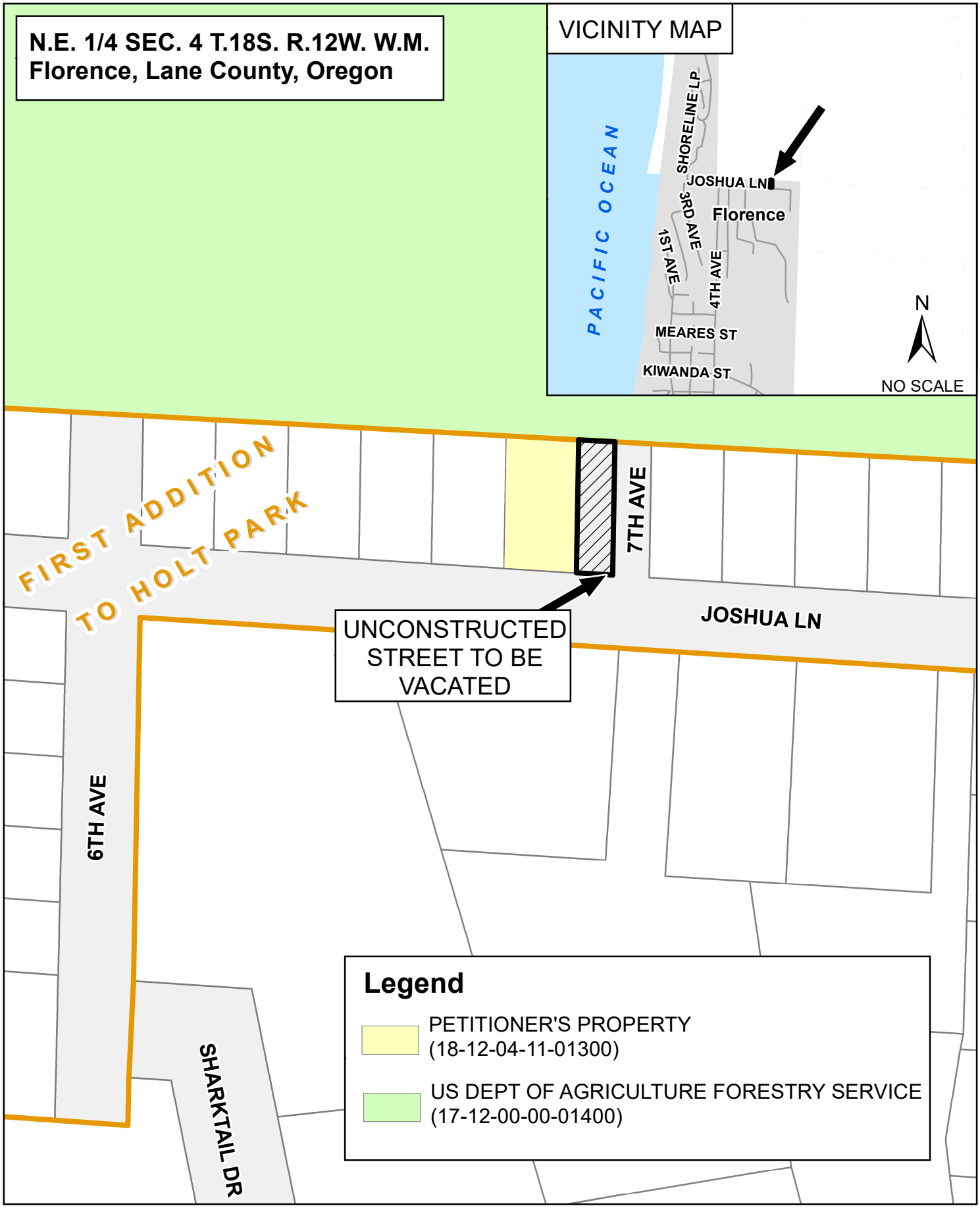
OFFICIAL STAMP
KALA WORLEY
NOTARY PUBLIC-OREGON
COMMISSION NO. 1023043
MY COMMISSION EXPIRES MARCH 23, 2026

Trevor J. Ross
Deputy County Surveyor

State of Oregon)
County of Lane) §

Subscribed and sworn to before me this 30 day of NOVEMBER, 2023 by Trevor J. Ross, Deputy County Surveyor.

KALA WORLEY
NOTARY PUBLIC FOR OREGON
My Commission Expires: 2026

Exhibit "D"

WEST HALF OF 7TH AVENUE - IN THE FIRST ADDITION TO HOLT PARK PROPOSED TO BE VACATED