



Memorandum Date: April 26, 2024
Order Date: May 14, 2024

TO: Board of County Commissioners

DEPARTMENT: Public Works/Engineering and Construction Services/Surveyors

PRESENTED BY: Trevor Ross, Deputy Lane County Surveyor

AGENDA ITEM TITLE: ORDER / IN THE MATTER OF THE VACATION OF A PORTION OF A STREET, AS DEDICATED FOR PUBLIC USE, IN THE SECOND AMENDED PLAT OF FERN RIDGE, BOOK 6, PAGE 28, LOCATED IN SECTION 35, TOWNSHIP 16 SOUTH, RANGE 5 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITHOUT A PUBLIC HEARING. (16-05-35-33)

I. MOTION

TO APPROVE THE ORDER TO VACATE A STREET BETWEEN FOURTH STREET AND FIFTH STREET, A PUBLIC ROAD DEDICATED IN THE SECOND AMENDED PLAT OF FERN RIDGE, LOCATED IN LANE COUNTY, OREGON WITHOUT A PUBLIC HEARING.

II. AGENDA ITEM SUMMARY

The Board is being asked to approve the vacation of the unimproved portion of A Street, between Fourth Street and Fifth Street, as depicted on the map attached as Exhibit "C," at the request of the Petitioners.

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 Ron and Lisa Danville, Rhonda Smyser, Laura Carver, and Debera Warden, owners of 100% of the properties abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing.

The roads herein proposed to be vacated lie entirely outside of any boundary of an incorporated city or town.

The portion of A Street proposed to be vacated lies between the south margin of Fourth Street and the north margin of Fifth Street and adjacent to Tax Lot Numbers 1498, 1499, 1203 and 1204 of Assessor's Map 16-05-35-33. The total length of A Street to be vacated is

approximately 300 feet in length. This road was dedicated to the public in the Second Amended Plat of Fern Ridge, Book 6, Page 28, Lane County Oregon Plat Records, Lane County, Oregon.

The land abutting the portions of roads proposed to be vacated are owned entirely by the Petitioners.

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 100% of the owners abutting this proposed vacation, have consented to this action.

Utility Providers were sent referrals seeking comment on this proposed vacation. None responded to our referral. At the Petitioner's request, a public utility easement will be retained for any existing public utilities that exist within the bounds of the right of way proposed to be vacated.

Referral comment requests were also sent to other agencies including Lane Council of Governments, Lane Community College, Lane ESD, Lane Fire Authority, Bethel School District, and the Oregon Department of Fish and Wildlife. There were no responses received.

Lane County Transportation Planning, Lane County Land Management, and the Zone 4 Foreman for Lane County Public Works Road Maintenance were also notified. There were questions from Lane County Transportation Planning, but no opposition to the proposal. No other responses or objections were received from Lane County Staff.

Eighteen nearby and/or adjacent landowners were notified by mail, with none objecting to our referral.

B. Policy Issues

Lane Manual 15.030 supplements ORS 368 in allowing for consideration of vacation of rights of way where little need exists for the right of way 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 Order are consistent with 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 will allow the land to be put to useful residential use.

D. Financial and/or Resource Considerations

Vacation of the described public right of way will return a marginal portion of land to the 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 have determined the vacation of this portion of A Street will have no adverse effects on transportation patterns in the area, and the portion to be vacated is unimproved and not needed by the Lane County Transportation system. If the vacation is approved, the road will revert to abutting properties pursuant to ORS 368.366.

G. Alternatives / Options

The Board of County Commissioners has the option to:

1. Approve the vacation of the portion of A Street as described in the Order.
2. Deny the vacation.
3. Continue the matter for further consideration.

IV. RECOMMENDATION

The Public Works Director's Report recommends the Board support Option Number 1, to approve the vacation A Street, as described in the Order. The public interest will be served and not prejudiced, as vacating this public road will return unused public right of way back to private ownership, adding a marginal portion of land to the County tax rolls, while having no adverse effects on transportation patterns in the area.

All statutory procedures necessary for a vacation without a public hearing of the above-mentioned public road has been complied with, including a report by the Director of Public Works, who recommends approval of the vacation as described in the Order.

V. TIMING / IMPLEMENTATION

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

VI. FOLLOW-UP

If the Board of County Commissioners approves the Order to Vacate A Street, 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 Report - Exhibit "B"
- Map – Exhibit "C"

Contact Person: Trevor Ross, Ext. 6938

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 24-05-14-03

IN THE MATTER OF THE VACATION OF A PORTION OF
A STREET, AS DEDICATED FOR PUBLIC USE, IN THE
SECOND AMENDED PLAT OF FERN RIDGE, BOOK 6,
PAGE 28, LOCATED IN SECTION 35, TOWNSHIP 16
SOUTH, RANGE 5 WEST OF THE WILLAMETTE
MERIDIAN, IN LANE COUNTY, OREGON, WITHOUT A
PUBLIC HEARING. (16-05-35-33)

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 requesting, by the authority of ORS 368.351, a vacation without a public hearing. ORS 368.326 to 368.366 allows a county governing body to vacate a subdivision or part of a subdivision, a road or right-of-way, or public interest in property under the jurisdiction of the county, based upon the determination the vacation is "in the public's interest."

All that portion of A Street located between the south margin of Fourth Street and the north margin of Fifth Street, as dedicated for public use, in the Second Amended Plat of Fern Ridge, as platted and recorded on Book 6, Page 28 of the Lane County Plat Records, Lane County, Oregon.

WHEREAS, the petition complies with the provisions of ORS 368.351 in that the Petitioners, landowners of 100% of the properties 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 roads herein proposed to be vacated lie entirely outside of any boundary of an incorporated city or town; and

WHEREAS, Lane County Land Management, Lane County Transportation Planning, Lane County Road Maintenance Zone 4, the Oregon Department of Fish and Wildlife, Bethel School District, Lane Fire Authority, Lane Council of Governments, Lane Community College, Lane ESD, Xfinity, Spectrum Cable, Lumen/Century Link, NW Natural Gas, Emerald PUD, and eighteen adjoining and nearby property owners were notified of this action by mail. The above listed agencies and landowners either had no objection to the vacation or did not respond to our referral; and

WHEREAS, the Petitioners hereby retain a public utility easement for any utilities that currently exist within the bounds of the roads being vacated; 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 Petitioners, representing 100% of the abutting landowners, have given consent to these proceedings by signing the petition; and

WHEREAS, the public interest will be served by this vacation as it is unimproved; will remove the responsibility of managing the public road right of way from Lane County's jurisdiction; will allow the vacated lands to be put to more productive use by the underlying landowner; and will return approximately 0.41 acres to the tax rolls; 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; 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 is in the best interest of the public.

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

1. The portion of A Street 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 14th day of May, 2024.

Laurie Trieger, Chair
Lane County Board of Commissioners

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

IN THE MATTER OF THE VACATION OF A PORTION OF	)	
"A" STREET, AS DEDICATED FOR PUBLIC USE, IN THE	)	
SECOND AMENDED PLAT OF FERN RIDGE, BOOK 6,	)	
PAGE 28, LOCATED IN SECTION 35, TOWNSHIP 16 SOUTH,	)	PETITION TO VACATE
RANGE 3 WEST, OF THE WILLAMETTE MERIDIAN, IN	)	
LANE COUNTY, OREGON, WITHOUT A PUBLIC HEARING.	)	
(16-05-35-33)	)	

PURSUANT to the procedure set forth in ORS Chapter 368, we the undersigned Ron and Lisa Danville, Rhonda Smyser, Laura Carver, and Debera Warden, as owners of the adjacent real property hereby petition for the vacation of a portion of A Street, between Fourth Street and Fifth Street, which area to be vacated is described as follows:

All that portion of A Street located between the south margin of Fourth Street and the north margin of Fifth Street, as dedicated for public use, in the Second Amended Plat of Fern Ridge, as platted and recorded on Book 6, Page 28 of the Lane County Plat Records, Lane County, Oregon.

WHEREAS, the undersigned petitioners are the owners of 100% of all the real property 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 portions of A Street between Fourth Street and Fifth Street; and
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 unimproved portion of the 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 without a hearing; and

1. To set a date to consider the vacation of the above-described portion of road, without 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 18th day of March, 2024

Petitioners:

R. Danville

Ron Danville
(16-05-35-33-01204)

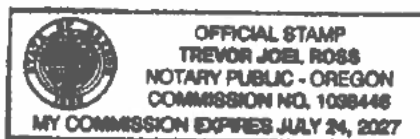
Lisa Danville

Lisa Danville
(16-05-35-33-01204)

State of Oregon)

SS

County of Lane)



Subscribed and sworn to (or affirmed) before me on this 18th day of March, 2024, by Ron Danville and Lisa Danville, and proved to me on the basis of satisfactory evidence to be the persons who appeared before me.

[Signature]
Notary Public for Oregon
My Commission Expires: July 24, 2027

Gillian Joy Corazza
Gillian Joy Corazza, Power of Attorney (successor atty-in-fact)
for Rhonda Smyser
P.O. Box 45
Alvadore, Oregon 97409
(16-05-35-33-01203)

State of Oregon)

SS

County of Lane)



Subscribed and sworn to (or affirmed) before me on this 21st day of March, 2024, by Gillian Joy Corazza as Power of Attorney, for Rhonda Smyser, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

[Signature]
Notary Public for Oregon
My Commission Expires: July 24, 2027

Marianne Warden

Debera Warden, Marianne Warden
27391 5th St.

Junction City, OR 97448

(16-05-35-33-01498)

SS

Subscribed and sworn to (or affirmed) before me on this 10th day of March, 2024, by*
Debera Warden, and proved to me on the basis of satisfactory evidence to be the person who
appeared before me. *Marjorie Warden as Buyer

*Marianne Warden as Power of Attorney for,

My Commission Expires: July 24, 2024

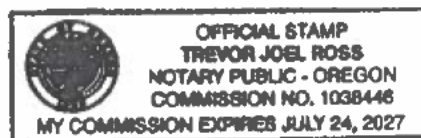
Lana Carter

27390 4th St.

Junction City, OR 97448

(16-05-35-33-01499)

SS



Subscribed and sworn to (or affirmed) before me on this 21st day of March, 2024, by Laura Carver, and proved to me on the basis of satisfactory evidence to be the person who appeared before me.

My Commission Expires: July 24, 2027

EXHIBIT "B"

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

DIRECTOR'S REPORT

IN THE MATTER OF THE VACATION OF A PORTION OF "A" STREET, AS DEDICATED FOR PUBLIC USE, IN THE SECOND AMENDED PLAT OF FERN RIDGE, BOOK 6, PAGE 28, LOCATED IN SECTION 35, TOWNSHIP 16 SOUTH, RANGE 5 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITHOUT A PUBLIC HEARING. (16-05-35-33)

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 requesting, by the authority of ORS 368.351, a vacation without a public hearing. ORS 368.326 to 368.366 allows a county governing body to vacate a subdivision or part of a subdivision, a road or right-of-way, or public interest in property under the jurisdiction of the county, based upon the determination that the vacation is "in the public's interest."

The Petitioners, Ron and Lisa Danville, Rhonda Smyser, Laura Carver, and Debera Warden, wish to vacate a portion of A Street described in the Order and depicted on Exhibit "C" to the Order. A Street is considered a Local Access Road (public road) as defined in Lane Code 15.010(34)(e). The purpose of vacating the road is for the Petitioner's personal use.

A Street was dedicated to the public in the Second Amended Plat of Fern Ridge, Book 6 Page 28, Lane County Oregon Plat Records, Lane County, Oregon.

A Street is in the community of Alvadore and is also outside of any incorporated city limits and is adjacent to Tax Lots 1203, 1204, 1498, and 1499 on Assessor's Map No. 16-05-35-33, between the south margin of Fourth Street and the north margin of Fifth Street. The Petitioner's request that the entirety of the aforementioned portion of A Street be vacated. The area of this road proposed to be vacated is depicted on Exhibit "C" to the Order.

The purpose of this vacation request is to vacate the unimproved portion of A Street for the purposes of controlling access to their properties and for dwelling siting and development. Regarding ORS 368.331 - Limitation on use of vacation to eliminate access, the unimproved public road A Street provides no access to any structures or improvements on the Petitioner's properties. In other words, it is an unimproved public road with no utility or power line easements. Vacation of these unimproved portions would have no deleterious impact on the Petitioner's property and no impact on any other Lane County properties. 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.

Referrals seeking comment to these proceedings were sent to the utility companies serving this area including Xfinity, Lumen/CenturyLink, Spectrum Cable, N.W. Natural Gas, and Emerald PUD- none of which responded to our referral. With that being said, the Petitioner has requested that a utility easement be retained in the Order for any utility that currently exists

EXHIBIT "B"

within the bounds of the right of way being vacated. The referral sent to the utility providers indicated that the Petitioner has asked to retain an easement for existing utilities.

Several Lane County Public Works Divisions were asked to provide comment on these proceedings. Lane County Transportation Planning did respond to our referral and were not opposed to the proposed vacation.

In addition to the agencies and divisions listed above, referrals were sent to Lane Fire Authority, Bethel School District, the Oregon Department of Transportation, the Oregon Department of Fish and Wildlife, Lane Council of Governments, Lane Community College, Lane ESD and eighteen adjacent and/or nearby property owners. The agencies and landowners did not respond to our referral.

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.*" As stated above, the Petitioners are the sole owners of the adjacent properties and have consented to the vacation of these roads as evidenced by the signed petition. The roads will still serve as access but will lose their public status if these proceedings are approved. Other forms of legal access can be created by the Petitioners in the future if deemed necessary.

The County's costs of processing the vacation will be paid in full by the Petitioners.

In summary, it has been determined A Street, as described in the Order, is not needed by the Lane County Transportation System. It has also been concluded the vacation of this road is in the public's best interest, as vacating the public road will return unused public right of way back to private ownership, adding a marginal portion of land to the County tax rolls, while having no adverse effects on transportation patterns or recreational activities in the area. It is further recommended the vacation be allowed without a public hearing.

DATED this _____ day of _____, 2024.

Dan Hurley, Public Works Director
Department of Public Works

**PROPOSED TO BE VACATED
UNCONSTRUCTED PORTION OF 'A' STREET
IN THE SECOND AMENDED PLAT OF FERN RIDGE**

