

W. S. B. ORIGINAL

AGENDA COVER MEMO

DATE: December 9, 2005
TO: Lane County Board of Commissioners
FROM: Bill Robinson, Lane County Surveyor
DEPARTMENT: Public Works/Land Management Division

AGENDA ITEM TITLE: IN THE MATTER OF VACATING THE ALLEY IN BLOCK 55, IN THE SECOND AMENDED PLAT OF FERN RIDGE, AS PLATTED AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (16-05-35-33)

I. MOTION:

TO APPROVE THE ORDER VACATING THE ALLEY IN BLOCK 55, IN THE SECOND AMENDED PLAT OF FERN RIDGE, AS PLATTED AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT.

II. ISSUE:

To decide whether the alley in Block 55 in the Second Amended Plat of Fern Ridge as platted and recorded in 1913 in Book 6, Page 28, Lane County, Oregon Plat Records, should be vacated as petitioned for.

III. DISCUSSION:

A. Background:

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Linn T. Witten, Richard D. Brown, Rhonda J. Nelson and Lawrence L. Warden, 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.

The purpose of this vacation request as stated by the petitioners is as follows: "The Alleyway adjoining the petitioners' property suffers from a lack of maintenance and use, which has substantially degraded the natural aesthetic beauty of the site. Furthermore, during spring/summer months, this area becomes tinder-dry with grasses, weeds, and unattended trees, which poses a significant fire hazard, thereby compromising the safety and security of the adjoining landowners, as well as the public at-large. It is further the

understanding of petitioners hereto that the County has no immediate or future plans to use and/or improve the Alleyway”.

The petitioners state that they are prepared to assume responsibility for the maintenance and upkeep of the Alleyway, in order to restore and maintain the safety and natural integrity of the property. The petitioners also assert there are no utilities in the area to be vacated.

This alley was established in 1913 in the Second Amended Plat of Fern Ridge as platted and recorded in Book 6, Page 28 of the Lane County, Oregon Plat Records. Large portions of the original plat, including many lots, roads and alleys have been vacated over the years. Many of the roads and alleys have never been constructed.

The Surveyor's Office notified Qwest 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 adjoining property owners regarding the vacation. The agencies and landowners either had no objection to the vacation or did not respond to the referral.

B. Analysis:

The alley in Block 55 proposed to be vacated is approximately 300 feet in length, with a width of 16 feet.

This alley is no longer needed by the Lane County Transportation System, and no property will be denied legal access as a result of the vacation. The public interest will be served, as vacating this portion of unused right-of-way will return it to the tax rolls as real property, and will allow the property owners to more fully utilize their properties, maintain the natural aesthetics of the site, and assume responsibility for managing vegetation which may otherwise pose a significant fire hazard.

C. Alternatives/Options:

The Board of County Commissioners has the options to:

1. Approve the vacation of the alley in Block 55 of the Second Amended Plat of Fern Ridge.
2. Deny the vacation of the alley in Block 55 of the Second Amended Plat of Fern Ridge.
3. Continue the matter of vacating the alley in Block 55 of the Second Amended Plat of Fern Ridge for further consideration.

D. Recommendations:

No property will be denied legal access by this vacation. The vacation is in the public's interest as vacating this alley will return it to the tax rolls as real property, and will allow the adjacent property owners to more fully maintain their properties, while having no

adverse effects on the transportation patterns in the area. The Public Works Director's Report therefore recommends that the Board support Option Number 1, approving the vacation of the alley in Block 55 as petitioned for.

All statutory procedures necessary for the vacation without a public hearing of the above mentioned alley in Block 55 in the Second Amended Plat of Fern Ridge have been complied with, including a report by the Director of Public Works who recommends the approval of the vacation as described in the petition.

E. Timing:

Timing of this matter is not critical.

IV. IMPLEMENTATION/FOLLOW-UP:

If the Board of County Commissioners approves the Order of Vacation 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 vacation is denied, an Order to Deny the Vacation will be presented to the Board at a later regularly scheduled meeting.

V. ATTACHMENTS:

Order w/attachments:

Petition

Director's Report - Exhibit "A"

Findings of Fact - Exhibit "B"

Attachment - Vicinity Map

Contact Person: Bill Robinson, x4198

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

IN THE MATTER OF VACATING THE ALLEY IN BLOCK)
 55, IN THE SECOND AMENDED PLAT OF FERN RIDGE, AS)
 PLATTED AND RECORDED IN BOOK 6, PAGE 28, LANE) ORDER NO.
 COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC)
 HEARING, AND ADOPTING FINDINGS OF FACT) 06-1-4-1
 (16-05-35-33))

WHEREAS, this matter now coming before the Board upon a petition received by the Surveyor's Office of the Lane County Department of Public Works requesting, under authority of ORS Chapter 368.341, the vacation of the alley in Block 55 in the Second Amended Plat of Fern Ridge as platted and recorded in Book 6, Page 28, Lane County, Oregon Plat Records. Said portion of alley being more particularly described as follows:

All that portion of the alley in Block 55 lying between the southerly right-of-way of Fifth Street and the northerly right-of-way of Sixth Street, as platted in the 2nd Amended Plat of Fern Ridge and recorded in Book 6, Page 28 of the Lane County, Oregon Plat Records, all in the Southwest One Quarter (SW1/4) of the Southwest One Quarter (SW1/4) of Section 35, Township 16 South, Range 5 West of the Willamette Meridian, in Lane County, Oregon.

WHEREAS, the petition 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 that the vacation be approved as proposed; and

WHEREAS, ORS Chapter 368.351 provides for the vacation of public roads and right-of-ways without a public hearing; and

WHEREAS, Qwest Communications, Emerald Peoples 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 adjacent landowners were notified by mail regarding the proposed vacation and either had no objection or did not respond to the referral; and

WHEREAS, no property will be denied legal access by this vacation; and

WHEREAS, the petitioners have paid a vacation fee of \$650 and will pay recording fees upon final approval of the vacation; and

WHEREAS, the petitioners are requesting this vacation in order to assume the responsibility of maintenance for the vacated right of way in order to preserve the natural aesthetics of the site and manage vegetation which poses a fire hazard in the spring and summer; and

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

WHEREAS, a large part of the streets, alleys and lots in the Second Amended Plat of Fern Ridge have previously been vacated; 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 "A", attached hereto and made a part hereof, by this Order; and

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

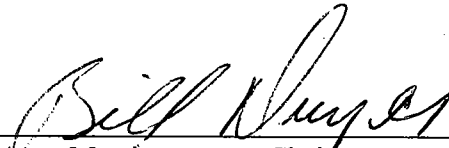
WHEREAS, the Board is of the opinion that approving the vacation as petitioned for is in the best interest of the public; now, therefore, it is hereby

ORDERED, that the above described alley in Block 55 in the Second Amended Plat of Fern Ridge is hereby vacated; and it is further

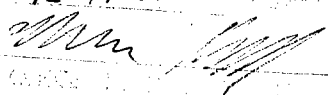
ORDERED, that in support of this action, the Board hereby adopts the Findings of Fact, marked as Exhibit "B", attached hereto and made a part hereof by this Order; and it is further

ORDERED, that this Order be entered into the Lane County Board of Commissioners Journal of Administration, and be further recorded in the Lane County, Oregon Deed Records.

DATED this 4th day of January, 2006.


~~Anna Morrison~~ Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Vicinity Map

APPROVED AT THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS
DATE: 12-19-05


IN THE BOARD OF COUNTY COMMISIONERS
OF LANE COUNTY, OREGON

File No.

IN THE MATTER OF THE VACATION OF A PORTION OF)
THE ALLEY ON BLOCK 55, IN 2nd AMENDED PLAT OF)
FERN RIDGE, IN SECTION 35, TOWNSHIP 16 SOUTH,) **PETITION TO VACATE**
RANGE 05 WEST OF THE WILLAMETTE MERIDIAN,)
IN LANE COUNTY, OREGON)

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned Linn T. Witten, Richard D. Brown, Rhonda J. Nelson, and Lawrence L. Warden, as owners of the adjacent real property hereby petition for the vacation of a portion of the Alley located on Block 55, which area to be vacated is described as follows:

“All that portion of the alley in Block 55 (“the Alleyway”), lying between the southerly right-of-way of 5th Street, and the northerly right-of-way of 6th Street, as platted in the 2nd Amended Plat of Fern Ridge, and recorded in Book 06, Page 28, of the Lane County, Oregon. Plat Records. All in the Southwest One Quarter (SW ¼) of Section 35, Township 16 South, Range 5 West, of the Willamette Meridian, in Lane County, Oregon.”

WHEREAS, the undersigned petitioners are the owners of 100% of all 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 as follows:

The Alleyway adjoining the petitioners’ property suffers from a lack of maintenance and use, which has substantially degraded the natural aesthetic beauty of the site. Furthermore, during the spring/summer months, this area becomes tinder-dry with grasses, weeds, and unattended trees, which poses a significant fire hazard, thereby compromising the safety and security of the adjoining landowners, as well as the public at-large. It is further the understanding of petitioners hereto that the County has no immediate or future plans to use and/or improve the Alleyway.

The undersigned petitioners are prepared to assume responsibility for the maintenance and upkeep of the Alleyway, in order to restore and maintain the safety and natural integrity of the property.

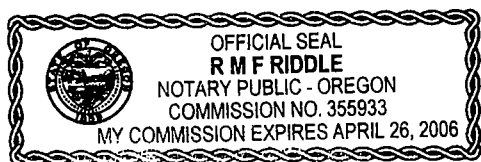
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STATE OF OREGON)
) ss.
County of Lane)

[Handwritten Signature]

Richard D. Brown
PO Box 115
Alvadore, Oregon 97409
Map# 16-05-35-33 TL 02100

SUBSCRIBED AND SWORN to before me this 9th day of August 2005.



[Handwritten Signature]
NOTARY PUBLIC FOR OREGON
My Commission Expires: 4-26-06

STATE OF OREGON)
) ss.
County of Lane)

[Handwritten Signature]

Rhonda J. Nelson
PO Box 115
Alvadore, Oregon 97409
Map# 16-05-35-33 TL 02100

SUBSCRIBED AND SWORN to before me this 9th day of August 2005.



[Handwritten Signature]
NOTARY PUBLIC FOR OREGON
My Commission Expires: 4-26-06

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STATE OF OREGON)
) ss.
County of Lane)

Lawrence L. Warden

Lawrence L. Warden
27391 5th Street
Junction City, Oregon 97448
Map# 16-05-35-33 TL 01998 &
Map# 16-05-35-33 TL 01999 &
Map# 16-05-35-33 TL 02000

SUBSCRIBED AND SWORN to before me this 11 day of August 2005.

Rachel T. Miller
NOTARY PUBLIC FOR OREGON
My Commission Expires: 4/25/09



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

IN THE MATTER OF VACATING THE ALLEY IN BLOCK 55, IN)
THE SECOND AMENDED PLAT OF FERN RIDGE, AS PLATTED)
AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY,) DIRECTOR'S REPORT
OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING,)
AND ADOPTING FINDINGS OF FACT (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.

The Second Amended Plat of Fern Ridge was platted in 1913 and recorded in Book 6, Page 28, of the Lane County, Oregon Plat Records. The alley in Block 55 proposed to be vacated is 16 feet wide and approximately 300 feet long. Large portions of the original plat, including many lots, roads and alleys have been vacated over the years. Many of the roads and alleys have never been constructed.

The petitioners wish to vacate this portion of the right of way in order to transfer the responsibility of maintenance for the vacated portion to the individual adjacent landowners. Petitioners state that the alleyway suffers from a lack of maintenance and use, which has degraded the natural aesthetics of the site, and that the unattended vegetation is a significant fire hazard in the spring and summer. Vacation of this alley will return it to the tax rolls as real property and will allow for more full utilization and maintenance of petitioners' properties. Petitioners assert there are no utilities in the area to be vacated.

The Surveyor's Office notified Qwest 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 adjoining property owners regarding the vacation. The agencies and landowners either had no objection to the vacation or did not respond to the referral.

This alley is no longer needed by the Lane County Transportation System and no property will be denied legal access as a result of this vacation. It is concluded that this vacation is in the public's interest, as it will return it to the tax rolls as real property and will allow for more full utilization and maintenance of petitioners' properties, while having no adverse effects on the transportation patterns in the area. It is therefore recommended that this alley in Block 55 of the Second Amended Plat of Fern Ridge, as described in the Order, be vacated as petitioned for. It is further recommended that the vacation be allowed without a public hearing.

DATED this 15th day of December, 2005.



Oliver P. Snowden, Public Works Director
Department of Public Works

EXHIBIT "B"

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

IN THE MATTER OF VACATING THE ALLEY IN BLOCK)
55, IN THE SECOND AMENDED PLAT OF FERN RIDGE, AS)
PLATTED AND RECORDED IN BOOK 6, PAGE 28, LANE) FINDINGS OF FACT
COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC)
HEARING, AND ADOPTING FINDINGS OF FACT)
(16-05-35-33))

The Department of Public Works has received a valid petition, signed by the owners of 100% of the property abutting the proposed vacation, requesting that the alley in Block 55 in the Second Amended Plat of Fern Ridge as platted and recorded in 1913 in Book 6, Page 28, Lane County, Oregon Plat Records, and as described in the Order, be vacated as petitioned for. The petitioners are requesting the vacation in order to assume the responsibility of maintenance for the vacated portion. Petitioners state that the alleyway suffers from a lack of maintenance and use, which has degraded the natural aesthetics of the site, and that the unattended vegetation is a significant fire hazard in the spring and summer. Vacation of this alley will allow for more full utilization and maintenance of petitioners' properties.

Findings of Fact (Public Interest)

The Board takes notice and finds:

1. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or easements based upon the determination that the vacation is "in the public interest."
2. That, pursuant to ORS 197.175 (2) (d), after acknowledgment of a county's comprehensive plan and implementing ordinances, the plan and ordinances, not the Statewide Planning Goals, control land use decisions.
3. That, Lane County's Rural Comprehensive Plan and implementing ordinances were originally acknowledged to be in compliance with the Statewide Planning Goals on September 13, 1984, and reacknowledged on February 14, 1992.
4. That, neither the Lane County Comprehensive Plan nor any land use regulation within the Lane Code establish mandatory standards for the vacation of public easements.

Conclusion of Law (Public Interest)

Based upon the above findings of fact, the Board concludes, as a matter of law, that neither the Statewide Planning Goals nor the Lane County Rural Comprehensive Plan and related land use regulations are an applicable measure of the "public interest", as it pertains to this vacation.

Findings of Fact (Impacts and Process of Vacation)

The Board takes notice and finds as follows:

1. That, the petitioners own property abutting the proposed vacation. Said property is further identified as Tax Lots 1900, 1998, 1999, 2000 and 2100 of Assessor's Map 16-05-35-33.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or easements based upon the determination that the vacation is "in the public interest".
3. That, Qwest 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 adjoining property owners were notified by mail regarding the proposed vacation and either had no objection or did not respond to the referral.
4. That, vacating this alley in Block 55 in the Second Amended Plat of Fern Ridge as described in the Order will not deny any landowners legal road access to a public road.
5. That, pursuant to ORS 368.351, a county governing body may make a determination about a vacation of property without a public hearing if:
 - (1) The county road official files a written report stating that the vacation is in the public interest.
 - (2) The proceedings were initiated by petition indicating the approval of 100% of the adjoining property owners.

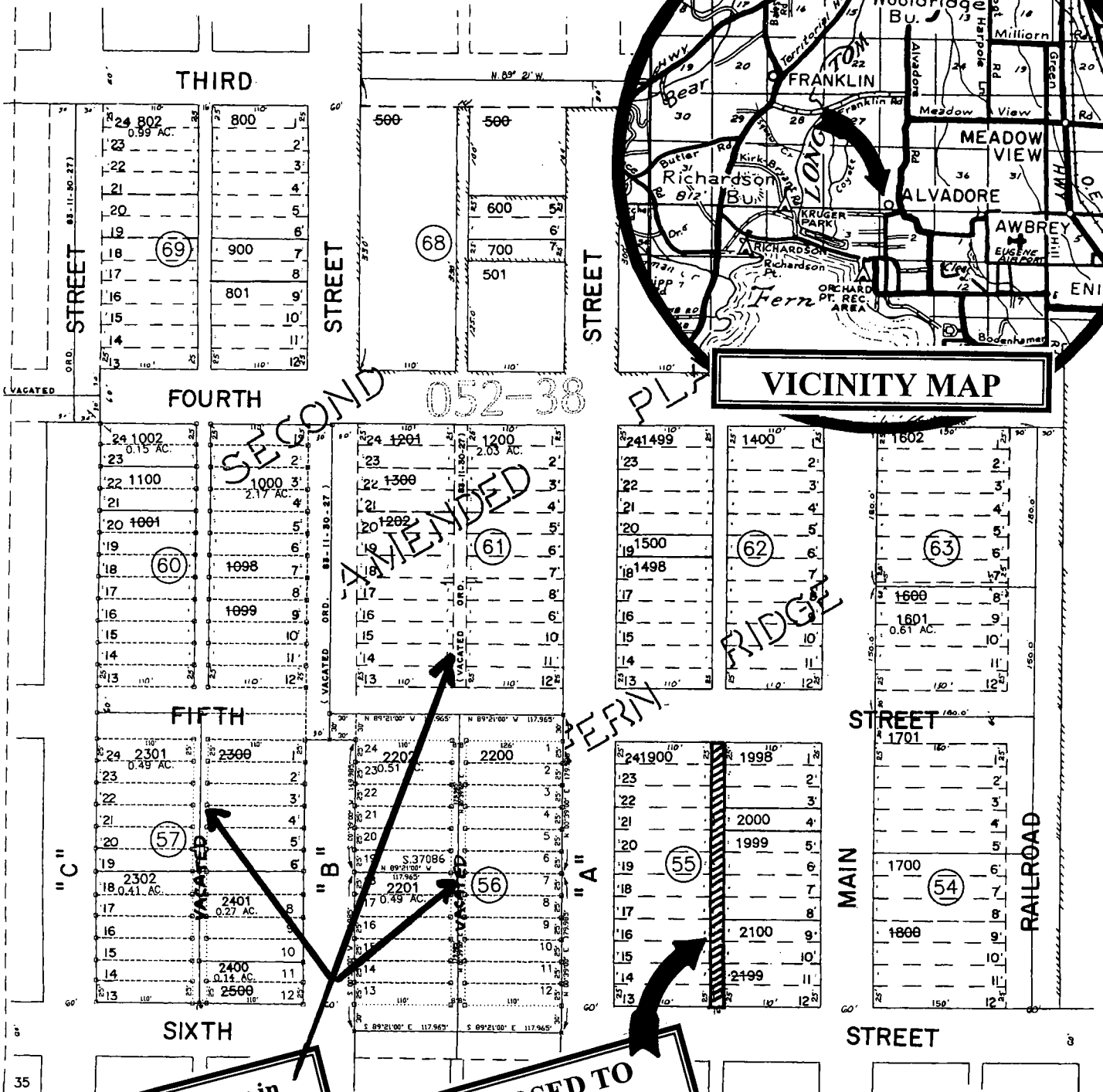
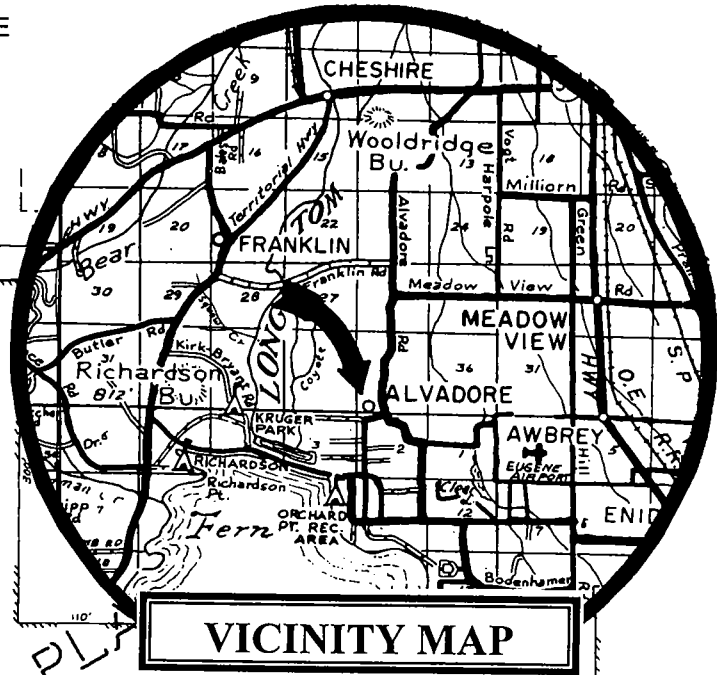
Items (1) and (2) have been complied with.

Conclusions of Law (Impacts and Process of Vacation)

Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making a determination on this vacation, without a public hearing, have been met.

SW ¼ SW ¼ Section 35 T. 16 S. R. 5 W. W.M.
LANE COUNTY
(IN THE 2ND AMENDED PLAT OF FERN RIDGE)

NO SCALE



Note: Alleys in Blocks 56, 57 & 61 previously vacated

PROPOSED TO BE VACATED

NOTE: THE
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PLAT IS