

W.T.U.

ORIGINAL

AGENDA COVER MEMO

DATE: June 5, 2006
TO: Lane County Board of Commissioners
FROM: Bill Robinson, Lane County Surveyor *BR*
DEPARTMENT: Public Works/Land Management Division

AGENDA ITEM TITLE: IN THE MATTER OF VACATING THE REMAINING WESTERLY PORTION OF THE ALLEY IN BLOCK 117, 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 (16-05-35-31)

I. MOTION:

TO APPROVE THE ORDER VACATING THE REMAINING WESTERLY PORTION OF THE ALLEY IN BLOCK 117, 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 remaining westerly portion of the alley in Block 117 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 Donald D. Cole and Carol Candler-Cole, and Steven D. Hartsell, 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 to create lots useable for single-family dwellings. 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. Previous Order of Vacation 99-6-30-4 vacated all of the alley in Block 117 except the portion herein proposed to be vacated. 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 portion of alley in Block 117 proposed to be vacated is approximately 59 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.

C. Alternatives/Options:

The Board of County Commissioners has the options to:

1. Approve the vacation of the portion of alley in Block 117 of the Second Amended Plat of Fern Ridge.
2. Deny the vacation of the portion of alley in Block 117 of the Second Amended Plat of Fern Ridge.
3. Continue the matter of vacating the portion of alley in Block 117 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 utilize 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 portion of alley in Block 117 as petitioned for.

All statutory procedures necessary for the vacation without a public hearing of the above mentioned portion of alley in Block 117 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 REMAINING)
 WESTERLY PORTION OF THE ALLEY IN BLOCK 117, IN THE)
 SECOND AMENDED PLAT OF FERN RIDGE, AS PLATTED) ORDER NO.
 AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY,)
 OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING,)
 AND ADOPTING FINDINGS OF FACT (16-05-35-31))

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 a portion of the alley in Block 117 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:

Beginning at the intersection of the north margin of the east-west public alley with the east margin of Commercial Street in Block 117 of the Second Amended Plat of Fern Ridge as platted and recorded in Book 6, Page 28 of the Lane County, Oregon Plat Records, in Lane County, Oregon, said point also being the southwest corner of Lot 1 in said Block 117; thence leaving said north margin and running southwesterly along said east margin 16 feet to the northwest corner of Lot 22 of said Block 117; thence leaving said east margin, along said south margin of said east-west alley in Block 117, South 89°21' East 59.20 feet to a point that is South 89°21' East 10 feet from the northeast corner of Lot 21 of said Block 117; thence leaving said south margin, North 00°09' East 16 feet to the north margin of said east-west alley; thence along said north margin North 89°21' West 59.24 feet, more or less, to the point of beginning, all in the Northeast One Quarter (NE1/4) 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 create lots useable for single family dwellings; and

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

WHEREAS, previous Order of Vacation 99-6-30-4 vacated all of the alley in Block 117 except the portion herein proposed to be 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 portion of alley in Block 117 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 _____ day of _____, 2006.

Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Vicinity Map

APPROVED AS TO FORM

Date: 6-16-06 Lane County

OFFICE OF CLERK OF COUNTY

IN THE BOARD OF COUNTY COMMISSIONERS
OF LANE COUNTY, OREGON

FILE No.

IN THE MATTER OF THE VACATION OF)	
ALL OF THE REMAINING ALLEY)	
LOCATED IN BLOCK 117, SECOND)	
AMENDED PLAT OF FERN RIDGE AS)	
PLATTED AND RECORDED IN BOOK 6,)	PETITION TO
PAGE 28, LANE COUNTY OREGON PLAT)	VACATE
RECORDS, IN SECTION 35, TOWNSHIP 16)	
SOUTH, RANGE 5 WEST, OF THE WILLAMETTE)	
MERIDIAN, IN LANE COUNTY, OREGON)	

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned Donald D. Cole & Carol Candler-Cole, and Steven D. Hartsell, as the owners of adjacent real property hereby petition for the vacation of the following described platted alley:

All the remaining alley contained within Block 117 of the Second Amended Plat of Fern Ridge as platted and recorded in Book 6, Page 28 of the Lane County Oregon Plat Records, in Lane County, Oregon, being more particularly described as follows:

Beginning at the intersection of the north margin of the east-west public alley with the east margin of Commercial Street in Block 117 of the Second Amended Plat of Fern Ridge as platted and recorded in Book 6, Page 28 of the Lane County Oregon Plat Records, in Lane County, Oregon, said point also being the southwest corner of Lot 1 in said Block 117; thence leaving said north margin and running southwesterly along said east margin, 16 feet to the northwest corner of Lot 22 of said Block 117; thence leaving said east margin, along said south margin of said east-west alley in Block 117, South 89°21' East 59.20 feet to a point that is South 89°21' East 10 feet from the northeast corner of Lot 21 of said Block 117; thence leaving said south margin, North 00°09' East 16 feet to the north margin of said east-west alley; thence along said north margin, North 89°21' West 59.24 feet, more or less, to the point of beginning, all in Lane County, Oregon.

Please note the attached drawing, Exhibit "A" showing areas to be vacated.

2487vac7.wpd

WHEREAS, the undersigned petitioners are the owners of 100 % of all the real property located adjacent to the above described streets and alleys to be vacated, and

WHEREAS, petitioners allege as follows:

(1) The purpose of this vacation request is to create lots useable for single family dwellings.

(2) There are no existing utilities or power lines, public or private, located in the streets or alleys to be vacated.

Therefore, it will not be necessary to execute any easements for utilities, public or private, prior to the completion of this vacation, and

WHEREAS, no portion of the areas to be vacated are located within the limits of an incorporated city or town, and

WHEREAS, the public interest will be served and not prejudiced by vacation of the above described areas, and

WHEREAS, petitioners have no objection to Lane County proceeding under the authority of ORS Chapter 368.351, for vacation without a hearing, and

THEREFORE, the petitioners request an Order of the Board of Commissioners for Lane County as follows:

(1) Setting a date for vacation of the above described portions of roads and alleys, with or without a hearing before the Board of Commissioners for Lane County pursuant to ORS Chapter 368.

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

DATED this 11th day of April, 2006.

PETITIONERS:

Steven D. Hartsell

Steven D. Hartsell
Assessor's Map # 16 05 35 3 1, TL # 1600
Address: 91967 Greenhill Road
Junction City, 97448

Donald D. Cole

Donald D. Cole
Assessor's Map # 16 05 35 3 1, TL # 1500
Address: P.O. Box 8546
Coburg, OR 97408

Carol Candler-Cole

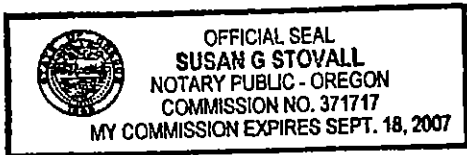
Carol Candler-Cole
Assessor's Map # 16 05 35 3 1, TL # 1500
Address: P.O. Box 8546
Coburg, OR 97408

STATE OF OREGON)
) ss
County of Lane)

On April 11, 2006, personally appeared the above-named, Steven D. Hartsell, and acknowledged the foregoing instrument to be his voluntary act and deed. Before me:

Susan G. Stovall

Notary Public for Oregon
My Commission Expires: 9/18/07



STATE OF OREGON)
) ss
County of Lane)

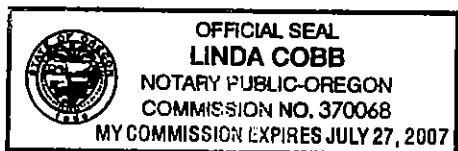
On April 14, 2006, personally appeared the above-named, Donald D. Cole, and acknowledged the foregoing instrument to be his voluntary act and deed. Before me:



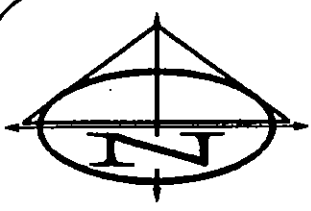
Linda Cobb
Notary Public for Oregon
My Commission Expires: July 27, 2007

STATE OF OREGON)
) ss
County of Lane)

On April 14, 2006, personally appeared the above-named, Carol Candler-Cole, and acknowledged the foregoing instrument to be her voluntary act and deed. Before me:



Linda Cobb
Notary Public for Oregon
My Commission Expires: July 27, 2007



SCALE : 1" = 100'

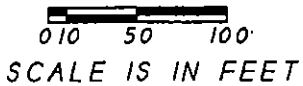
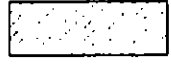


EXHIBIT "A"
PROPOSED PUBLIC ALLEY VACATION
 ALL REMAINING ALLEY IN BLOCK 117
 SECOND AMENDED PLAT OF FERN RIDGE
 ASSESSOR'S MAP 16 05 35 3 1
 LANE COUNTY, OREGON
 APRIL, 2006

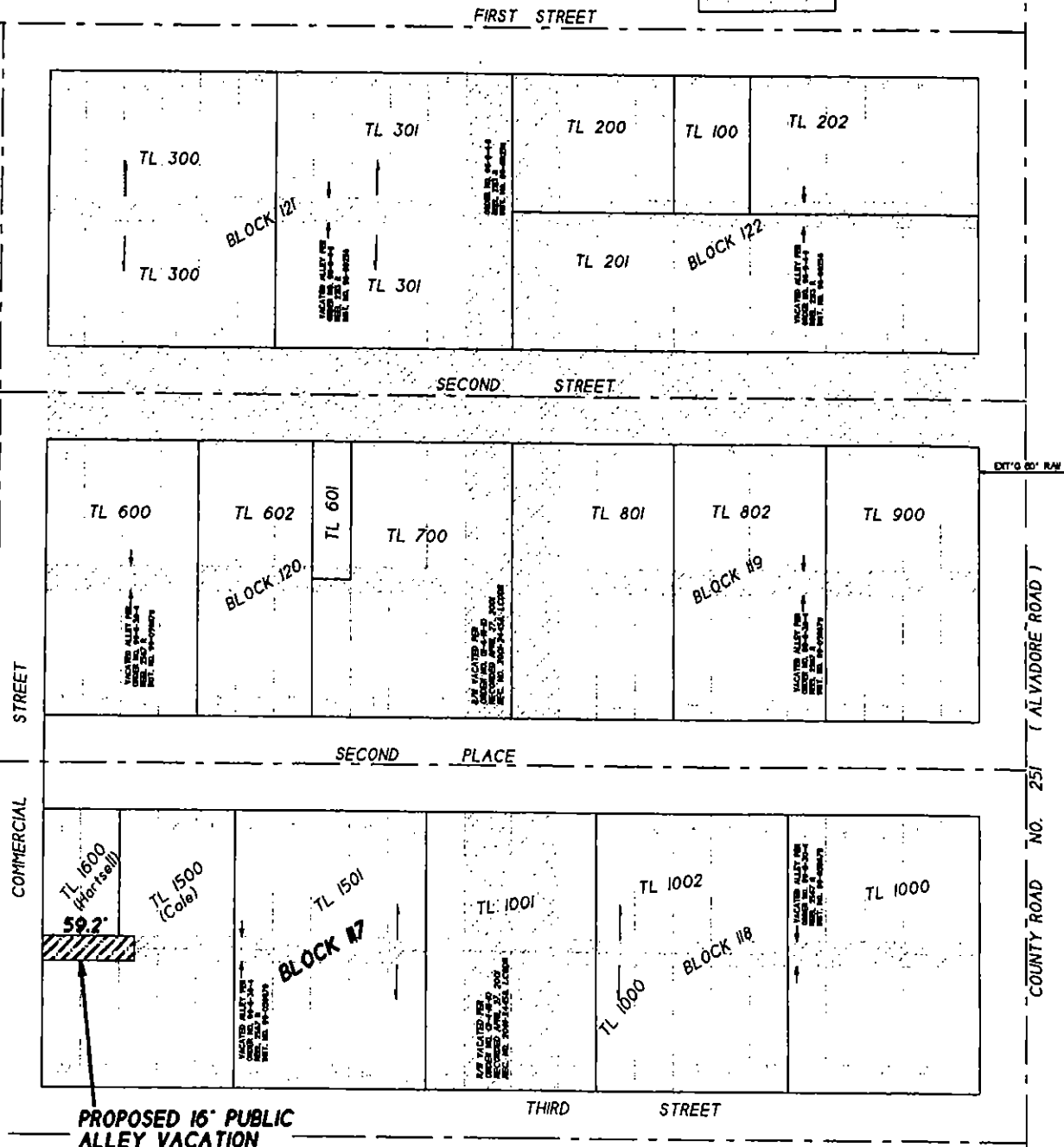
LEGEND



AREA TO BE VACATED



PREVIOUSLY VACATED AREA



PROPOSED 16' PUBLIC ALLEY VACATION

POAGE ENGINEERING & SURVEYING, INC.
 P.O. BOX 2827 • EUGENE, OREGON 97402 • (541) 685-6888
 JOB No. 2487, DWN. BY: MJK, DATE: 5-23-02
 CADD FILE: 2487VAC6.GCD

EXHIBIT "A"

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

IN THE MATTER OF VACATING THE REMAINING WESTERLY)
PORTION OF THE ALLEY IN BLOCK 117, IN THE SECOND)
AMENDED PLAT OF FERN RIDGE, AS PLATTED AND) DIRECTOR'S REPORT
RECORDED IN BOOK 6, PAGE 28, LANE COUNTY, OREGON)
PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND)
ADOPTING FINDINGS OF FACT (16-05-35-31)

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 portion of alley in Block 117 proposed to be vacated is 16 feet wide and approximately 59 feet long. Previous Order of Vacation 99-6-30-4 vacated all of the alley in Block 117 except the portion herein proposed to be vacated. 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 create lots useable for single-family dwellings. 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 portion of 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 portion of alley in Block 117 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 9th day of June, 2006.



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 REMAINING)
WESTERLY PORTION OF THE ALLEY IN BLOCK 117, IN THE)
SECOND AMENDED PLAT OF FERN RIDGE, AS PLATTED) FINDINGS OF FACT
AND RECORDED IN BOOK 6, PAGE 28, LANE COUNTY,)
OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING,)
AND ADOPTING FINDINGS OF FACT (16-05-35-31))

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 a portion of the alley in Block 117 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 create lots useable for single-family dwellings. 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 1500 and 1600 of Assessor's Map 16-05-35-31.
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 portion of alley in Block 117 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.

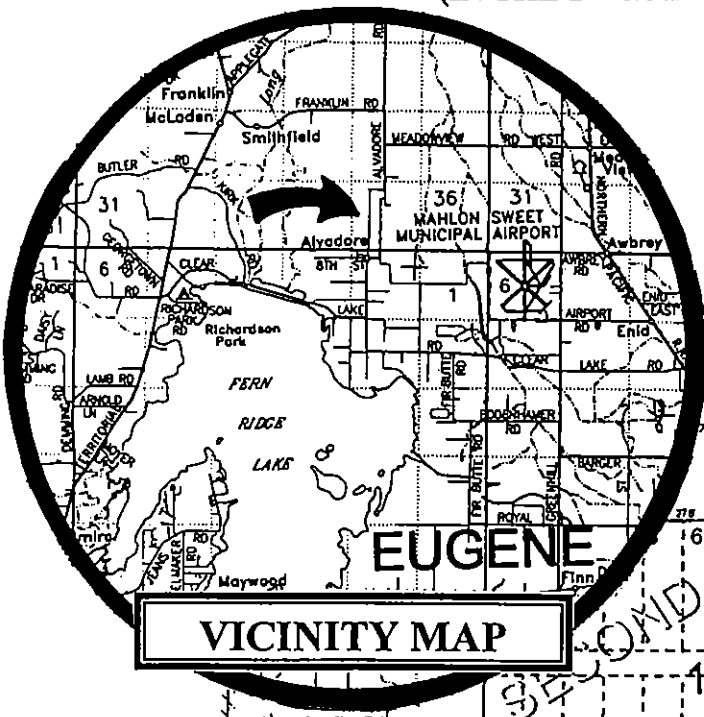
Items (1) and (2) have been complied with.

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.

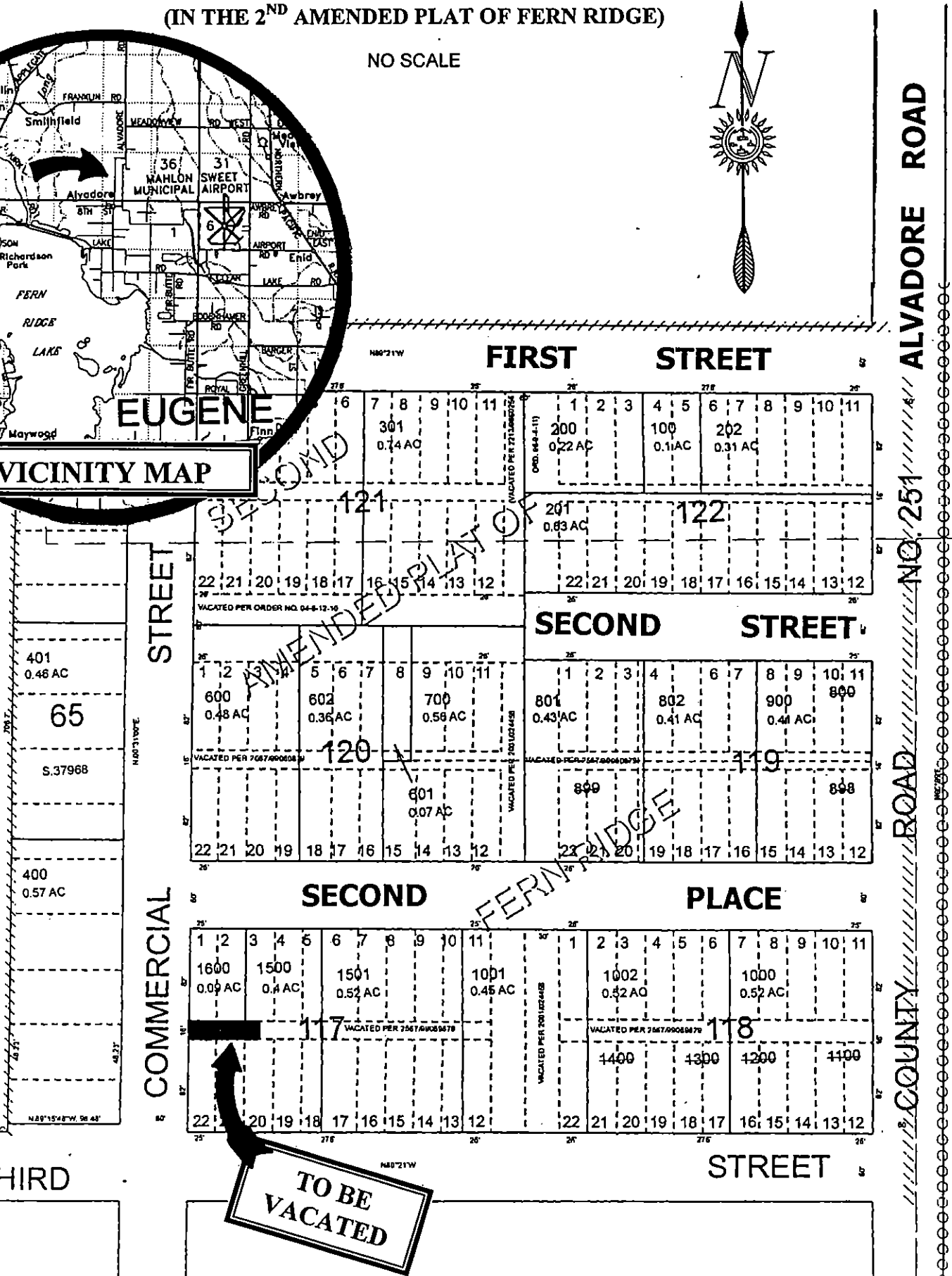
NE 1/4 SW 1/4 Section 35 T. 16 S. R. 5 W. W.M.
LANE COUNTY
(IN THE 2ND AMENDED PLAT OF FERN RIDGE)

NO SCALE



VICINITY MAP

2-38



ALVADORE ROAD NO. 251 COUNTY ROAD