


W. S.A.

ORIGINAL

Memorandum Date: April 28, 2008
Order Date: May 28, 2008

TO: Board of County Commissioners

DEPARTMENT: Public Works, Land Management Division

PRESENTED BY: D. Michael Jackson, Lane County Surveyor 

AGENDA ITEM TITLE: IN THE MATTER OF THE VACATION OF PORTIONS OF FIRST AVENUE (CO. RD. #856), THE ALLEY IN BLOCK 28 AND FALCON STREET AS PLATTED AND RECORDED IN THE PLAT OF HECETA BEACH (BK. 7, P. 25), LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (18-12-04-13 & 42)

I. **MOTION**

TO VACATE PORTIONS OF FIRST AVENUE (CO. RD. #856), THE ALLEY IN BLOCK 28 AND FALCON STREET AS PLATTED AND RECORDED IN THE PLAT OF HECETA BEACH (BK. 7, P. 25), LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (18-12-04-13 & 42)

II. **AGENDA ITEM SUMMARY**

The Board is being asked to approve the vacation of a portion of First Avenue (Co. Rd. #856), a portion of the alley in Block 28 and a portion of Falcon Street in the Plat of Heceta Beach. The portions proposed for vacation comprise two separate 10 feet wide strips of right of way, the northerly portion being 425 feet in length and the southerly portion being 120 feet in length.

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 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 primary petitioner Association of Unit Owners of Driftwood Shores Surfside Inn Condominium (Driftwood Shores), is to return a 10 feet wide strip of right of way that was dedicated in 1968 to the adjacent property owned by Driftwood Shores in order to provide for more full utilization of their property. The petition for vacation was initiated by Driftwood Shores and sent to four additional owners of properties abutting the vacation, effectively obtaining signatures representing 100% of the abutting properties. The petitioners further state that there are no utilities

within the area to be vacated.

First Avenue was originally established with a width of 50 feet in 1915 in the Plat of Heceta Beach as platted and recorded in Book 7, Page 25, Lane County, Oregon Plat Records. That portion of First Avenue from the south line of Kiwanda Street northerly to the north line of Park Way was accepted as part of County Road No. 856 by Board of Commissioners Resolution of Acceptance and Order filed October 21, 1959 in Commissioners Journal 9, Pages 82 and 83. In 1968 the easterly 10 feet of Blocks 23 and 28 in the Plat of Heceta Beach were dedicated and accepted as a part of County Road No. 856 (First Avenue) in Board of Commissioners Order filed May 8, 1968 in Commissioners Journal 38, Page 222, and the Dedication recorded on Reel 391-R, Recorder's Reception Number 24475, Lane County, Oregon Deed Records. This additional dedication to Lane County for right of way purposes was granted by owners Jake L. and Elsie Mann, and mortgagee Fred Holm, prior to acquisition by Driftwood Shores. A search of the records revealed no specific requirements or reasons for the dedication.

The alley in Block 28 and Falcon Street, including the portions of each herein proposed for vacation, were established with widths of 15 feet and 50 feet, respectively, in 1915 in the Plat of Heceta Beach. In 1968 all of the alley in Block 28 except the easterly 10 feet and all the portion of Falcon Street contiguous with Block 28 except the easterly 10 feet were vacated by Board of Commissioners Order of Vacation Number 2640 filed May 8, 1968 and recorded in Commissioners Journal 38, Page 223. The entire 15 feet wide alley in Block 23 was vacated in 1971 by Order of Vacation Number 71-11-24-9 filed in Commissioners Journal 59, Page 349.

The Surveyor's Office notified the City of Florence, Qwest Communications, Central Lincoln 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 and nearby property owners regarding the vacation. The agencies and landowners either had no objection to the vacation or did not respond to the referral.

The portion of rights of way proposed for vacation are within the Urban Growth Boundary but outside the City Limits of the City of Florence. The City of Florence is supportive of this vacation, and is presently in the process of annexation of the Driftwood Shores property and portions of First Avenue which will include the portions of rights of way herein proposed for vacation.

There are known improvements existing within the area proposed for vacation, and the meeting of setback requirements along the First Avenue frontage of the Driftwood Shores property has been an ongoing issue with which Lane County Planning and Transportation Planning have been involved, including the granting of a 1993 setback variance and a pending application for variance. The vacation as proposed would help reduce those encroachments, although there will be residual areas of landscaping and parking facilities existing within the remaining right of way subsequent to the vacation.

As shown on a site drawing by primary petitioner's surveyor J.D. McGee, a site visit confirmed that the northerly limit of the proposed vacation as described in the petition

extends into the existing asphalt of a portion of the First Avenue Loop. An exception has been added to the vacation's legal description in the Final Order, as agreed to by the primary petitioner, which will resolve that encroachment at the northerly end of the vacation, and as such the Final Order's legal description for the vacation will vary from the legal description contained in the petition.

B. Policy Issues

Lane Manual 15.300 and 15.305 supplement 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. The rights of way herein considered for vacation as described in the Final Order fall into these categories.

C. Board Goals

Part of Lane County's Strategic Plan is to contribute to appropriate community development in the area of transportation and land development (Lane County Strategic Plan, Goals, P. 8). The vacation of the portion of right of way as described in the Final Order is consistent with this part of the Strategic Plan.

D. Financial and/or Resource Considerations

Vacation of this portion of unused right of way will return a marginal portion of land to the tax rolls as real property.

IV. ANALYSIS

The vacation of the portions of First Avenue, the alley in Block 28 and Falcon Street as described in the Final Order will have no adverse effects on transportation patterns in the area, and the portion to be vacated is not needed as part of the Lane County Transportation system. No property will be denied legal access by this vacation.

The public interest will be served and not prejudiced, as this vacation will facilitate the long-existing commercial enterprise of Driftwood Shores to more fully utilize their property. The vacation will help facilitate compliance with setback requirements where the Driftwood Shores property fronts the westerly right of way of First Avenue. The resulting right of way width of the portion of First Avenue affected by this vacation will be a minimum of 50 feet, which is the original width of First Avenue as established, and which will meet Lane County minimum standards for an Urban Local street, and City of Florence minimum standards for a "feeder" street.

V. ALTERNATIVES/OPTIONS

The Board of County Commissioners has the option to:

1. Approve the vacation of portions of First Avenue (Co. Rd. #856), the alley in Block 28 and Falcon Street in the Plat of Heceta Beach, as described in the Final Order.

2. Deny the vacation of portions of First Avenue (Co. Rd. #856), the alley in Block 28 and Falcon Street in the Plat of Heceta Beach, as described in the Final Order.
3. Continue the matter for further consideration.

VI. TIMING/IMPLEMENTATION

Timing of this matter is important in order to complete the vacation prior to the impending annexation of the Driftwood Shores property by the City of Florence, and to facilitate timely progression of planned improvements to the Driftwood Shores property.

VII. RECOMMENDATION

The Public Works Director's Report recommends that the Board support Option Number 1, to approve the vacation of portions of First Avenue (Co. Rd. #856), the alley in Block 28 and Falcon Street in the Plat of Heceta Beach, as described in the Final Order. The public interest will be served and not prejudiced, as vacating these unneeded portions of rights of way will provide for more full utilization of primary petitioner's property while adding a marginal portion of land to the County tax rolls. The vacation of the rights of way as described in the Final Order will have no adverse effects on transportation patterns in the area.

All statutory procedures necessary for a vacation without a public hearing of the above mentioned rights of way have been complied with, including a report by the Director of Public Works who recommends approval of the vacation as described in the petition.

VIII. FOLLOW-UP

If the Board of County Commissioners approves the Order to Vacate the portions of rights of way as described in the Final Order, 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.

IX. ATTACHMENTS

Order w/attachments:

- Petition to Vacate
- Director's Report - Exhibit "A"
- Findings of Fact - Exhibit "B"
- Attachment - Site Map

Contact Person: D. Michael Jackson x-4198

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

IN THE MATTER OF THE VACATION OF PORTIONS OF)
 FIRST AVENUE (CO. RD. #856), THE ALLEY IN BLOCK 28)
 AND FALCON STREET AS PLATTED AND RECORDED IN) ORDER NO.
 THE PLAT OF HECETA BEACH (BK. 7, P. 25), LANE)
 COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC)
 HEARING, AND ADOPTING FINDINGS OF FACT)
 (18-12-04-13 & 42))

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 portions of First Avenue (Co. Rd. #856), the alley in Block 28 and Falcon Street in the Plat of Heceta Beach as platted and recorded in 1915 in Book 7, Page 25, Lane County, Oregon Plat Records; and

WHEREAS, the area proposed for vacation as described in the petition for vacation extended into the existing asphalt of a portion of First Avenue Loop at the northerly limits of the proposed vacation; and

WHEREAS, as agreed to by the primary petitioner, an exception has been added to the legal description in order to withdraw the northerly vacation limits from encroachment into the existing asphalt of a portion of First Avenue Loop, said description of the portions of rights of way to be vacated being more particularly described as follows:

The easterly 10 feet of Block 23 and the easterly 10 feet of Block 28 as platted and recorded in the Plat of Heceta Beach (Bk 7, P 25), said portions of said blocks having been dedicated as right of way for First Avenue (Co. Rd. #856) by that Deed recorded May 10, 1968 on Reel 391-R, Reception No. 24475, Lane County, Oregon Deed Records, and accepted in Lane County Board of Commissioners Order filed May 8, 1968 in Commissioners Journal 38, Page 222; EXCEPTING herefrom the following described tract: Beginning at a point on the northerly line of Block 28, 10 feet westerly of the northeast corner of Block 28, thence easterly along the north line of Block 28 a distance of 10 feet to the said northeast corner of Block 28; thence southerly along the easterly line of Block 28 a distance of 20 feet; thence northwesterly to the point of beginning.

Also, the easterly 10 feet of the 15 feet wide alley in Block 28 lying westerly of the westerly right of way of First Avenue and the easterly 10 feet of Falcon Street lying westerly of the westerly right of way of First Avenue as platted and recorded in the Plat of Heceta Beach (Bk 7, P 25), said portions of alley and street having been left unvacated in the vacation of portions of said alley and

Falcon Street between First Avenue and Beach Drive in Lane County Board of Commissioners Order of Vacation No. 2640 filed May 8, 1968 in Commissioners Journal 38, Page 223;

All in the Southwest One Quarter of the Northeast One Quarter (SW1/4NE1/4) and the Northwest One Quarter of the Southeast One Quarter (NW1/4SE1/4) of Section 4, Township 18 South, Range 12 West of the Willamette Meridian, Lane County, Oregon; and

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; and

WHEREAS, ORS Chapter 368.351 provides for the vacation of public roads and rights of way without a public hearing; and

WHEREAS, The Surveyor's Office notified the City of Florence, Qwest Communications, Central Lincoln 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 and nearby property owners regarding the vacation, and the agencies and landowners either had no objection to the vacation or did not respond to the referral; and

WHEREAS, the primary petitioner, Association of Unit Owners of Driftwood Shores Surfside Inn Condominiums (Driftwood Shores), has stated in the petition that the purpose of the vacation is to return to the private ownership of Driftwood Shores the 10 feet wide strip of land that was dedicated for right of way purposes by previous owners in 1968, in order to provide for more full utilization of their property; and

WHEREAS, the petitioners further state that there are no utilities within the area to be vacated; and

WHEREAS, there are known improvements located within the area to be vacated and although this vacation will reduce those encroachments there will be residual areas of landscaping and parking facilities existing within the remaining right of way subsequent to the vacation; and

WHEREAS, the portions of rights of way to be vacated are not needed as part of the Lane County transportation system, and the vacation will leave that portion of First Avenue affected by the vacation with a right of way width of a minimum of 50 feet, which is the original width of First Avenue as established, and said minimum 50 feet width will meet Lane County minimum standards for an Urban Local street and City of Florence minimum standards for a "feeder" street; and

WHEREAS, the portions of rights of way to be vacated are within the Urban Growth Boundary but outside the City Limits of the City of Florence; and

WHEREAS, the City of Florence is supportive of this vacation, and is presently in the process of annexation of the Driftwood Shores property and portions of First Avenue which will include the portions of rights of way herein described for vacation; and

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

WHEREAS, the petitioners have paid a vacation fee deposit of \$3400 and will pay actual costs incurred, including recording fees, upon final approval of the vacation; 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 described in this Final Order is in the best interest of the public; now, therefore, it is hereby

ORDERED, that the above described portions of First Avenue (Co. Rd. #856), the alley in Block 28 and Falcon Street in the Plat of Heceta Beach are 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 _____, 2008.

Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Site Map

APPROVED AS TO FORM

Date 5-15-08 lane county

OFFICE OF LEGAL COUNSEL

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

FILE NO.

IN THE MATTER OF THE VACATION)
 OF PORTIONS OF FIRST AVENUE)
 (CO. RD. #856), THE ALLEY IN BLOCK 28)
 AND FALCON STREET AS PLATTED AND) PETITION TO VACATE
 RECORDED IN THE PLAT OF HECETA)
 BEACH (BK. 7, P 25), LANE COUNTY,)
 OREGON PLAT RECORDS (18-12-04-13 & 42))

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned ASSOCIATION OF UNIT OWNERS OF DRIFTWOOD SHORES SURFSIDE INN CONDOMINIUM, an Oregon Corporation, JEFFREY C. AND CONNIE M CALDWELL, husband and wife, JERARD D. OFLOCK AND REGINA M. OFLOCK, husband and wife, BARRY AND LAURA MERZ, husband and wife, and DAVID PRIVAT, as owners of adjacent real property hereby petition for the vacation of the portions of First Avenue (Co. Rd. #856), the alley in Block 28 and Falcon Street as platted and recorded in 1915 in the Plat of Heceta Beach (Bk 7, P 25), Lane County, Oregon Plat Records, more particularly described as:

The easterly 10 feet of Block 23 and easterly 10 feet of Block 28 as platted and recorded in the Plat of Heceta Beach (Bk 7, P 25), said portions of said blocks having been dedicated as right of way for First Avenue (Co. Rd. #856) by that Deed recorded May 10, 1968 on Reel 391-R, Reception No. 24475, Lane County, Oregon Deed Records, and accepted in Lane County Board of Commissioners order filed May 8, 1968 in Commissioners Journal 38, Page 222.

Also, the easterly 10 feet of the 15 feet wide alley in Block 28 lying westerly of the westerly right of way of First Avenue and the easterly 10 feet of Falcon Street lying westerly of the westerly right of way of First Avenue as platted and recorded in the plat of Heceta Beach (Bk 7, P 25), said portions of alley and street having been left unvacated in the vacation of portions of said alley and Falcon Street between First Avenue and Beach Drive in Lane County Board of Commissioners Order of Vacation No. 2640 filed May 8, 1968 in Commissioners Journal 38, Page 223;

All in the Southwest One Quarter of the Northeast One Quarter (SW1/4NE1/4) and the Northwest One Quarter of the Southeast One Quarter (NW1/4SE1/4) of Section 4, Township 18 South, Range 12 West of the Willamette Meridian, Lane County, Oregon.

WHEREAS, the undersigned petitioners are the owners of 6 of 6 lots located adjacent to the above described area to be vacated; and are 5 of 5 owners of those lots.

WHEREAS, petitioners allege as follows:

1. The purpose of this vacation request is to: Return the 10 foot strip of land, previously dedicated in May, 1968, to Block 23 and Block 28 in the Plat of Heceta Beach, as platted and recorded in Book 7, Page 25, Lane County Oregon Record of Plats. Vacating this portion of First Avenue will provide for more full utilization of petitioners' property, provide more separation between the petitioners' property and the right-of-way, and add a marginal portion of land to the tax rolls.
2. The vacation of this portion of First Avenue will have no adverse effects on transportation patterns in the area, and the portion to be vacated is not needed by the Lane County

Transportation system. The 10 foot strip of land is no longer necessary to be held in the public interest.

- 3. That this vacation will not deny any property legal access to a public road.
- 4. There are no utilities located in the area to be vacated.

WHEREAS, no portion of the area to be vacated is located within the boundaries of an incorporated City or Town, and

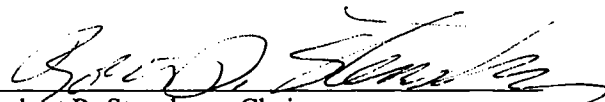
WHEREAS, the public interest will be served and not prejudiced by vacation of the above described area, and

WHEREAS, petitioners, separately and collectively, have no objection to Lane County proceeding under the authority of ORS Chapter 368.341, 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 portion of road and alley, 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 road and alley direct that title to the vacated area revert and vest in accordance with ORS 368.635.

DATED this 10 day of March, 2008.


 Robert R. Stansbury, Chairman
 Association of Unit Owners of Driftwood Shores Surfside Inn Condominium

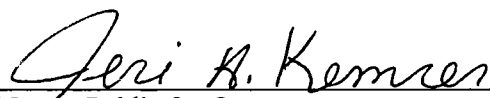
Map 18-12-04-13, Tax Lots 2001, 7000

Site Address: 88416 First Avenue
Florence, Oregon 97439

STATE OF OREGON)
County of Lane) SS

On this 10 of March, 2008, personally appeared the above named Robert R. Stansbury, and acknowledged the foregoing instrument to be a voluntary act and deed.

Witness my hand and seal this day and year last above written.


 Notary Public for Oregon

My Commission expires 8/24/2009



Jeri A. Kemrer

PETITIONER

Jeffrey C. Caldwell
Jeffrey C. Caldwell

Connie M. Caldwell
Connie M. Caldwell

Map 18-12-04-13, Tax Lot 5000

Site Address: 4558 Falcon Street
Florence, Oregon 97439

Owner Address: 2310 Main Street
Springfield, OR 97478

STATE OF OREGON)
County of Lane) SS

On this 24 day of March, 2008, personally appeared the above
named JEFFREY C. CALDWELL AND CONNIE M. CALDWELL, husband and wife,
and acknowledged the foregoing instrument to be a voluntary act and deed.

Witness my hand and seal this day and year last above written.

Notary Public for Oregon Jeri A. Kemmer
My Commission expires 8-24, 2009



Jeri A. Kemmer

PETITIONER

Jerard D. Oflock Regina M. Oflock
 Jerard D. Oflock Regina M. Oflock

Map 18-12-04-42, Tax Lot 1202

Site Address: 88384 First Avenue
 Florence, Oregon 97439

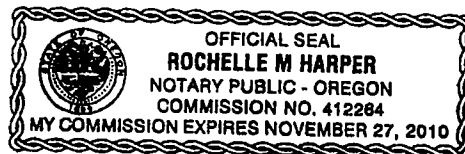
Owner Address: 2250 Rogue River Highway
 Grants Pass, OR 92527

STATE OF OREGON)
County of Lane) SS

On this 18th day of March, 2008, personally appeared the above
named JERARD D. OFLOCK AND REGINA M. OFLOCK, husband and wife,
and acknowledged the foregoing instrument to be a voluntary act and deed.

Witness my hand and seal this day and year last above written.

Notary Public for Oregon Rochelle M. Harper
My Commission expires November 27, 2010



PETITIONER

Barry A. Merz
Barry A. Merz, Trustee

Laura L. Merz
Laura L. Merz, Trustee

Map 18-12-04-13, Tax Lot 4300

Site Address: 4572 Arch Street
Florence, Oregon 97439

Owner Address: 16399 West Mozart Avenue
Los Gatos, CA 95032

STATE OF CALIFORNIA)
County of SANTA CLARA) SS

On this 20th day of March, 2008, personally appeared the above
named BARRY A. MERZ AND LAURA L. MERZ, trustees MERZ FAMILY TRUST,
and acknowledged the foregoing instrument to be a voluntary act and deed.

Witness my hand and seal this day and year last above written.

Patricia Mahan
Notary Public for California
My Commission expires 03/03/09



PETITIONER

David J. Privat
David J. Privat

Map 18-12-04-42, Tax Lot 700

Site Address: 88395 1st Avenue
Florence, Oregon 97439

Owner Address: 3123 SW Kenyon Street
Seattle, WA 98126-3550

STATE OF WASHINGTON)
County of King) SS

On this 17th day of March, 2008, personally appeared the above
named DAVID J. PRIVAT and acknowledged the foregoing instrument to be a
voluntary act and deed.

Witness my hand and seal this day and year last above written.

Adam L. Johnson

Notary Public for Washington

My Commission expires 04.09.09

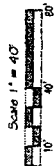
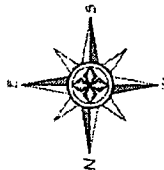


PROPOSED RIGHT-OF-WAY VACATION

PKS

NARRATIVE

The purpose of this survey is to identify existing monuments of record along First Avenue and to show the relative location of parcel surfaces in the proposed street vacation and resulting right-of-way area.

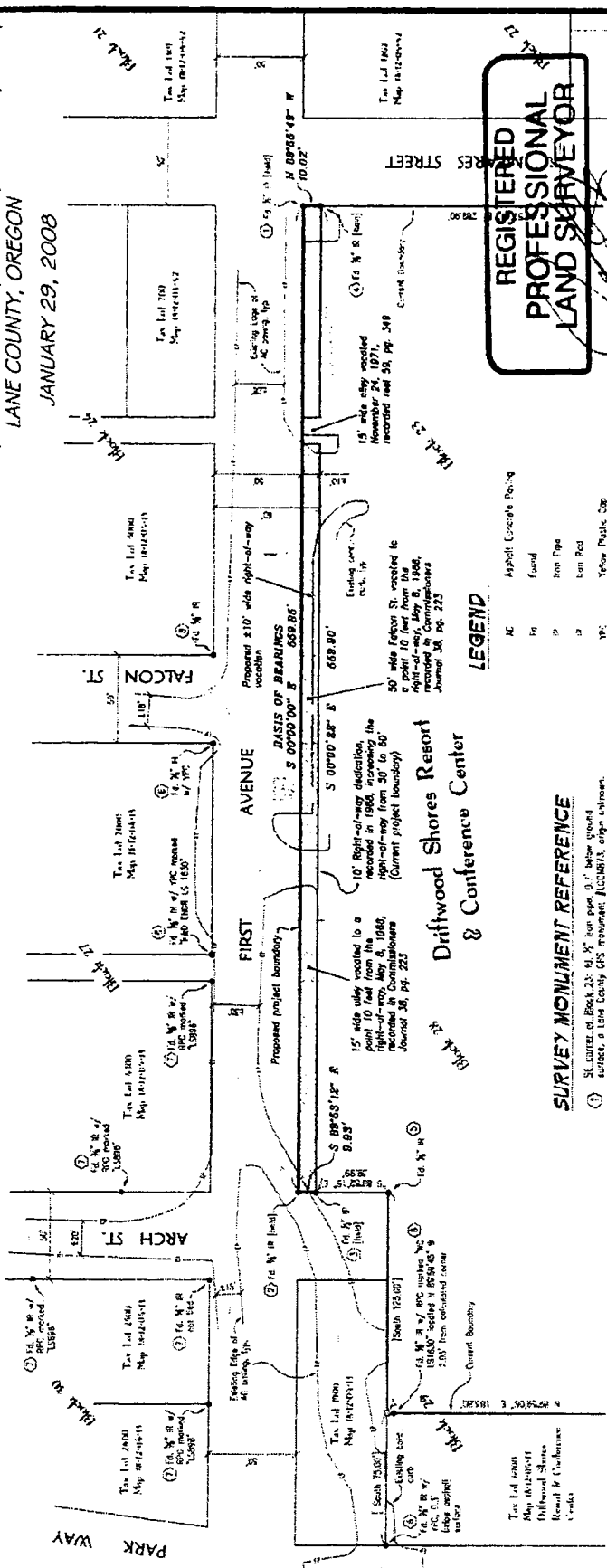


DRIFTWOOD SHORES RESORT & CONFERENCE CENTER

LOCATED IN

BLOCKS 23 & 28 OF "HECETA BEACH" in the N.E. 1/4 & S.E. 1/4 OF SECTION 4, T. 18 S., R. 12 W., W.M., LANE COUNTY, OREGON

JANUARY 29, 2008



LEGEND

AC	Asphalt Concrete Paving
FC	Found
IP	Iron Pipe
LR	Lean Red
YPC	Yellow Public Cap
RPC	Red Public Cap
Conc.	Concrete
●	Found Monument, as found
○	Cast-in-place Monument
J	Existing Project Boundary
—	Existing Property Boundary
—	Proposed Right-of-way location
—	Feeling Edge of AC Paving
—	Feeling Concrete Edge
[]	Record Reading & Distance
①	Point Number Reference

SURVEY MONUMENT REFERENCE

1. S. corner of Block 23, 41' x 10' iron pipe 0.7" above ground surface, set per CS 770205.
2. W. corner of Block 28, 16' x 16' iron rod, 0.55" above asphalt surface, set per CS 14236.
3. Boundary corner of Driftwood Shores, 16' x 16' iron pipe, U.S. steel ground, set per CS 770205.
4. S. corner of Driftwood Shores, 16' x 16' iron rod, 0.5" above ground surface, set per CS 720948, also set per CS 30188.
5. Boundary corner of Driftwood Shores, 16' x 16' iron rod, 0.5" above ground surface, CS 770205.
6. Monument as shown, set per CS 30188.
7. Monument as shown, set per CS 30370.
8. Monument referenced in CS 30188.

RIGHT-OF-WAY BOUNDARY & BASIS OF BEARINGS

1. Found and set points 1 and 2 (point "X" & "Y", referenced on CS 30188) were used as the basis of bearings for the proposed right-of-way boundary shown. A better existing between found monument points 4 and 1; found monument points 1 and 2, and a "best fit" line based on found monuments 2, 3 & 5. The "best monument" positions are record distances temporarily set and, while some origins are unknown, they have been accepted and recorded in previous record surveys.

REGISTERED PROFESSIONAL LAND SURVEYOR

OREGON
FEB. 8, 2000
JOHN D. MCGEE
#58902

RENEWAL DATE 12/31/08

JDMcGees, Inc.
Engineering
Land Use Planning
Measurement Design
Surveying & Construction
3927 Spigler Road
Portland, OR 97202
503-288-0208
503-288-0274

Street No. **1 of 1**

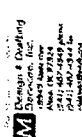


EXHIBIT "A"

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

IN THE MATTER OF THE VACATION OF PORTIONS OF FIRST)	
AVENUE (CO. RD. #856), THE ALLEY IN BLOCK 28 AND)	
FALCON STREET AS PLATTED AND RECORDED IN THE PLAT)	DIRECTOR'S REPORT
OF HECETA BEACH (BK. 7, P. 25), LANE COUNTY, OREGON)	
PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND)	
ADOPTING FINDINGS OF FACT (18-12-04-13 & 42))	

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 purpose of this vacation request, as stated by primary petitioner Association of Unit Owners of Driftwood Shores Surfside Inn Condominium (Driftwood Shores), is to return a 10 feet wide strip of right of way that was dedicated in 1968 to the adjacent property owned by Driftwood Shores in order to provide for more full utilization of their property. The petition for vacation was initiated by Driftwood Shores and sent to four additional owners of properties abutting the vacation, effectively obtaining signatures representing 100% of the abutting properties. The petitioners further state that there are no utilities within the area to be vacated.

First Avenue was originally established with a width of 50 feet in 1915 in the Plat of Heceta Beach as platted and recorded in Book 7, Page 25, Lane County, Oregon Plat Records. That portion of First Avenue from the south line of Kiwanda Street northerly to the north line of Park Way was accepted as part of County Road No. 856 by Board of Commissioners Resolution of Acceptance and Order filed October 21, 1959 in Commissioners Journal 9, Pages 82 and 83. In 1968 the easterly 10 feet of Blocks 23 and 28 in the Plat of Heceta Beach were dedicated and accepted as a part of County Road No. 856 (First Avenue) in Board of Commissioners Order filed May 8, 1968 in Commissioners Journal 38, Page 222, and the Dedication recorded on Reel 391-R, Recorder's Reception Number 24475, Lane County, Oregon Deed Records. This additional dedication to Lane County for right of way purposes was granted by owners Jake L. and Elsie Mann, and mortgagee Fred Holm, prior to acquisition by Driftwood Shores. A search of the records revealed no specific requirements or reasons for the dedication.

The alley in Block 28 and Falcon Street, including the portions of each herein proposed for vacation, were established with widths of 15 feet and 50 feet, respectively, in 1915 in the Plat of Heceta Beach. In 1968 all of the alley in Block 28 except the easterly 10 feet and all the portion of Falcon Street contiguous with Block 28 except the easterly 10 feet were vacated by Board of Commissioners Order of Vacation Number 2640 filed May 8, 1968 and recorded in Commissioners Journal 38, Page 223. The entire 15 feet wide alley in Block 23 was vacated in 1971 by Order of Vacation Number 71-11-24-9 filed in Commissioners Journal 59, Page 349.

The Surveyor's Office notified the City of Florence, Qwest Communications, Central Lincoln 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 and nearby property owners regarding the vacation. The agencies and landowners either had no objection to the vacation or did not respond to the referral.

EXHIBIT "A"

The portions of rights of way proposed for vacation are within the Urban Growth Boundary but outside the City Limits of the City of Florence. The City of Florence is supportive of this vacation, and is presently in the process of annexation of the Driftwood Shores property and portions of First Avenue which will include the portions of rights of way herein proposed for vacation.

There are known improvements existing within the area proposed for vacation, and the meeting of setback requirements along the First Avenue frontage of the Driftwood Shores property has been an ongoing issue with which Lane County Planning and Transportation Planning have been involved, including the granting of a 1993 setback variance and a pending application for variance. The vacation as proposed would help reduce those encroachments, although there will be residual areas of landscaping and parking facilities existing within the remaining right of way subsequent to the vacation.

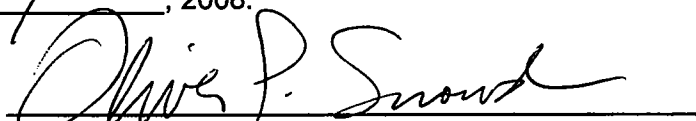
As shown on a site drawing by primary petitioner's surveyor J.D. McGee, a site visit confirmed that the northerly limit of the proposed vacation as described in the petition extends into the existing asphalt of a portion of the First Avenue Loop. An exception has been added to the vacation's legal description in the Final Order, as agreed to by the primary petitioner, which will resolve that encroachment at the northerly end of the vacation, and as such the Final Order's legal description for the vacation will vary from the legal description contained in the petition

The vacation of the portions of First Avenue, the alley in Block 28 and Falcon Street as described in the Final Order will have no adverse effects on transportation patterns in the area, and the portion to be vacated is not needed as part of the Lane County Transportation system. No property will be denied legal access by this vacation.

The public interest will be served and not prejudiced, as this vacation will facilitate the long-existing commercial enterprise of Driftwood Shores to more fully utilize their property. The vacation will help facilitate compliance with setback requirements where the Driftwood Shores property fronts the westerly right of way of First Avenue. The resulting right of way width of the portion of First Avenue affected by this vacation will be a minimum of 50 feet, which is the original width of First Avenue as established, and which will meet Lane County minimum standards for an Urban Local street, and City of Florence minimum standards for a "feeder" street.

It is therefore recommended that the portions of First Avenue (Co. Rd. #856), the alley in Block 28 and Falcon Street in the Plat of Heceta Beach, as described in the Final Order, be vacated. It is further recommended that the vacation be allowed without a public hearing.

DATED this 9th day of May, 2008.



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 THE VACATION OF PORTIONS OF)	
FIRST AVENUE (CO. RD. #856), THE ALLEY IN BLOCK 28)	
AND FALCON STREET AS PLATTED AND RECORDED IN)	FINDINGS OF FACT
THE PLAT OF HECETA BEACH (BK. 7, P. 25), LANE)	
COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC)	
HEARING, AND ADOPTING FINDINGS OF FACT)	
(18-12-04-13 & 42))	

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 purpose of this vacation request, as stated by primary petitioner Association of Unit Owners of Driftwood Shores Surfside Inn Condominium (Driftwood Shores), is to return a 10 feet wide strip of right of way that was dedicated in 1968 to the adjacent property owned by Driftwood Shores in order to provide for more full utilization of their property. The petitioners further state that there are no utilities within the area to be vacated.

The configuration of the 10 feet wide portions of right of way proposed for vacation is a result of a combination of dedications and vacations that occurred in 1915 (dedications in the Plat of Heceta Beach, Book 7, Page 25); in 1968 (dedication of the easterly 10 feet of Blocks 23 and 28 in the Plat of Heceta Beach); in 1968 (the vacation of the alley in Block 28 and that portion of Falcon Street contiguous with Block 28, except the easterly 10 feet of each); and in 1971 (the vacation of the entire alley in Block 23 in the Plat of Heceta Beach).

As shown on a site drawing by primary petitioner's surveyor J.D. McGee, a site visit confirmed that the northerly limit of the proposed vacation as described in the petition extends into the existing asphalt of a portion of the First Avenue Loop. An exception has been added to the vacation's legal description in the Final Order, as agreed to by the primary petitioner, which will resolve that encroachment at the northerly end of the vacation, and as such the Final Order's legal description for the vacation will vary from the legal description contained in the petition.

The rights of way located along the westerly side of First Avenue (Co. Rd. #856) contiguous with the Driftwood Shores property as described in the Final Order are no longer needed as part of Lane County's transportation system, and the remaining width of the First Avenue right of way after the vacation will be a minimum of 50 feet and will meet minimum Lane County standards for an Urban Local street and City of Florence minimum standards for a "feeder" street. No property will be denied legal access by this vacation. Vacation of this portion of right of way will return a marginal portion of land to the tax rolls as real property and will allow for more full utilization and maintenance of primary petitioner's properties. The portion of rights of way as described in the Final Order are within the Urban Growth Boundary but outside the City Limits of the City of Florence. The City of Florence is supportive of this vacation, and is presently in the process of annexation of the Driftwood Shores property and portions of First Avenue which will include the portions of rights of way to be vacated.

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 2001, 4300, 5000 and 7000 of Assessor’s Map 18-12-04-13, and Tax Lots 700 and 1202 of Assessor’s Map 18-12-04-42.
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, the Surveyor’s Office notified the City of Florence, Qwest Communications, Central Lincoln 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 and nearby property owners regarding the vacation. The agencies and landowners either had no objection to the vacation or did not respond to the referral.
4. That, vacating the rights of way 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.

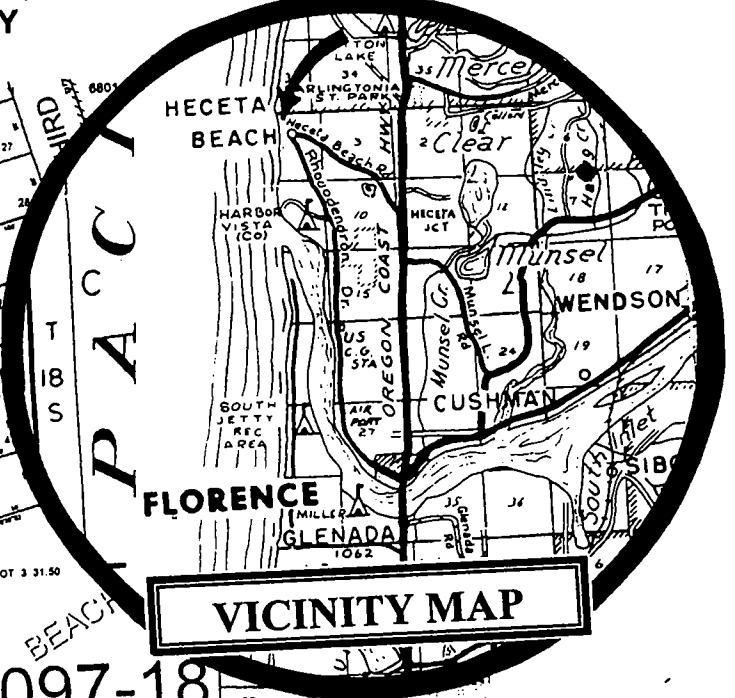
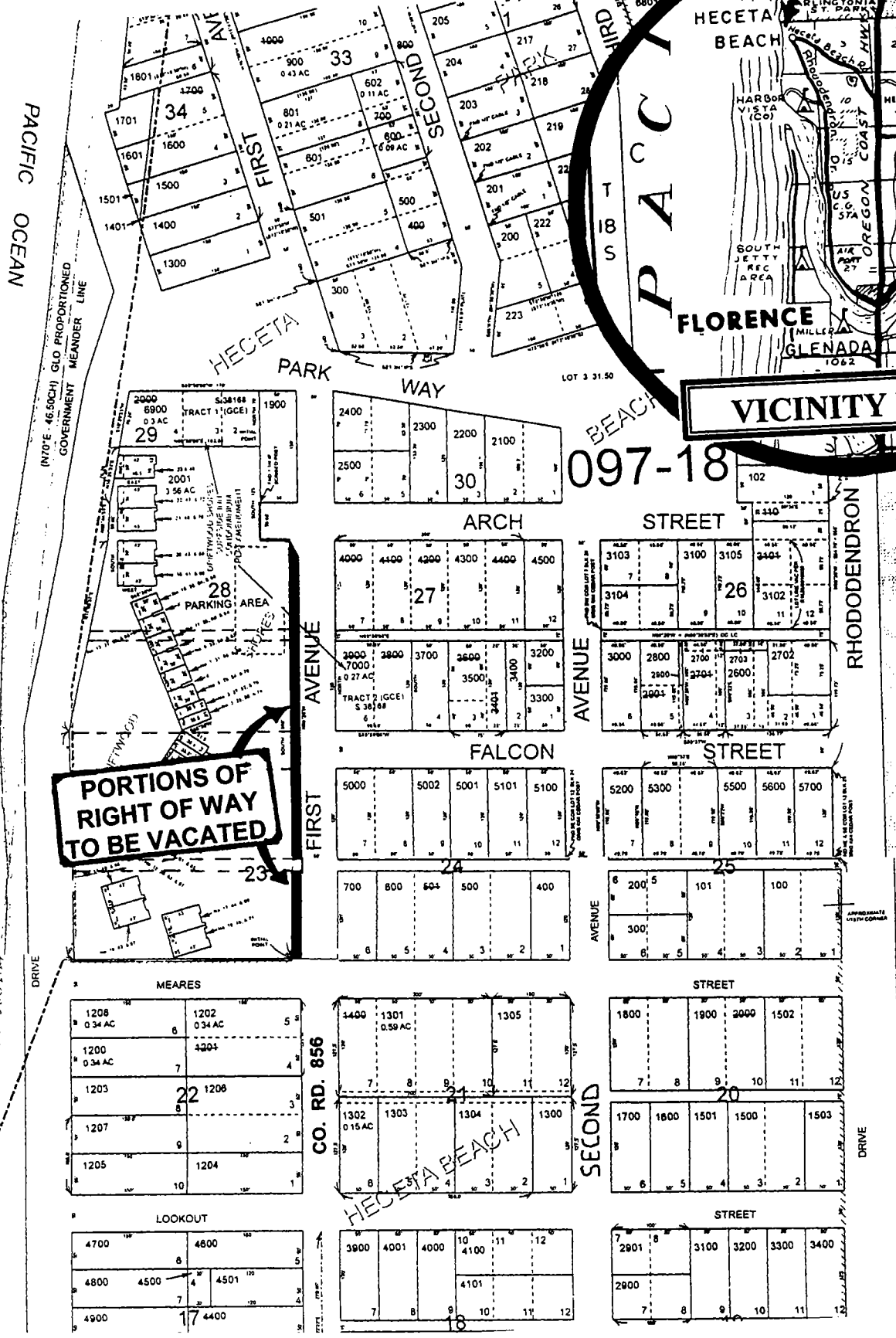
ATTACHMENT Vacation—Portions of 1st Avenue, Alley in Block 28, and Falcon Street in Plat of Heceta Beach

SW1/4NE1/4 and NW1/4SE1/4 Section 4, T. 18 S. R. 12 W., W.M.

LANE COUNTY
NO SCALE



- SHORES
- SECOND FLOOR
- UNIT SW
 - 201 647
 - 202 644
 - 203 650
 - 204 640
 - 205 654
 - 206 656
 - 207 652
 - 208 658
 - 209 662
 - 210 662
 - 211 666
 - 212 666
 - 213 670
 - 214 674
 - 215 674
 - 216 678
 - 217 682
 - 218 682
 - 219 686
 - 220 686
 - 221 690
 - 222 694
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 - 226 702
 - 227 702
 - 228 706
 - 229 706
 - 230 710
 - 231 714
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 - 233 718
 - 234 718
 - 235 722
 - 236 722
 - 237 726
 - 238 726
- FOURTH FLOOR
- UNIT SW
 - 401 649
 - 402 646
 - 403 652
 - 404 642
 - 405 656
 - 406 638
 - 407 660
 - 408 634
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VICINITY MAP

097-18