BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 18-11-27-03

IN THE MATTER OF RELEASING, DEDICATING, AND ACCEPTING LOT “A” OF THE PLAT OF RETA FRANKLIN ADDITION, AS RIGHT OF WAY FOR HORACE STREET, A PUBLIC ROAD (18-02-05-23)

WHEREAS, by previous action the following land, located within the City of Springfield and described as Lot “A” of the plat of Reta Franklin Addition, as platted on Book 28, Page 22, Lane County, Oregon Plat Records, was conveyed to Lane County, Oregon by that certain deed, recorded on Reel 179-D, Recorder’s Reception Number 44041, Lane County, Oregon Deed Records; and

WHEREAS, the City of Springfield Public Works Department has requested the parcel strip be released and dedicated for road purposes to allow access to future development; and

WHEREAS, at the time Reta Franklin Addition was platted, Lot “A” was outside the city limits and conveyed to Lane County to hold in public trust. Lot “A” has since been annexed into the City. Lane County will release the strip and dedicate it as public right of way on the condition the City of Springfield approves and accepts the deed; and

WHEREAS, the Director of Lane County Public Works has provided a written report marked as Exhibit “A”, determining the special benefit to the applicant is de minimis pursuant to Lane Manual 60.854 (8)(c); and

WHEREAS, said parcel need no longer remain as a parcel of county owned real estate, but should be dedicated for road purposes.

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

1. The real estate, as described in the attached Draft Dedication marked as Exhibit “B”, and depicted on the attached map marked as Exhibit “C”, be released and dedicated as public right of way on the condition the dedication be accepted by the City of Springfield.

2. The Board Chair is authorized to execute an original Dedication of Public Road Easement on behalf of the County.
3. This Order will be entered into the records of the Board of County Commissioner's Journal of Administration and the attached Dedication be recorded in the Lane County Oregon Deed Records, and the document number be noted on this Order.

ADOPTED this 27th day of November, 2018.

Department of Public Works
Engineering and Construction Services Division

[Signature]
Approved 11/14/2018
By Peggy Keppler, County Engineer

LANE COUNTY BOARD OF COMMISSIONERS

[Signature]
By Jay Bozievich, Chair

Dedication Recorded on Document No. ____________, Lane County, Oregon Deed Records.

APPROVED AS TO FORM

Date 11/14/18

LANE COUNTY OFFICE OF LEGAL COUNSEL
LANE COUNTY

Notification of an Estimated Value of the Special Benefit Deposit in Connection with a Proposed Release and Public Road Dedication of an Access Control Strip Pursuant to Lane Manual 60.854(8)(c)

Pursuant to the provisions of Lane Manual 60.854(8)(c), my determination of the amount of "Special Benefit" and therefore the amount of deposit required in connection with the proposed release of an access control strip known as Lot "A," Reta Franklin Addition, as Platted and Recorded in Volume 28, Page 22, Lane County Plat Records in Lane County, Oregon, is $0.00.

My determination is based on a Staff Report and recommendation, a copy of which is attached hereto and marked as "Exhibit A".

Dated this _______ day of ____________________, 2018.

_________________________________________
Dan Hurley, Director
Lane County Public Works
"Exhibit A"

STAFF REPORT

Recommendation in the Matter of an Estimation of the Special Benefit Deposit
in Connection with a Proposed Release and Dedication of an Access Control Strip
Pursuant to Lane Manual 60.854(8)(c)

Date: October 26, 2018

Applicant: City of Springfield

Proposed Release and Public Road Dedication:

The proposed release and subsequent public road dedication by the City of Springfield of an access control strip is described as Lot “A,” Reta Franklin Addition, as Platted and Recorded in Volume 28, Page 22, Lane County Plat Records in Lane County, Oregon. Lot “A” is 1.00’ wide and approximately 532’ long and runs along the northern and 5.00’ wide running along the easterly boundary of Horace Street for 40.00’. It is held by Lane County in trust for the benefit of the people of Lane County in Warranty Deed RR# 179-61-D, Clerk’s Files No. 44041, dated September 15, 1959.

The release of this access control strip is a request being made by the City of Springfield. At issue are prior street dedication made in the 1990’s north and east of the reserve strip, resulting in a strip of land that generally “floats” within the existing city street. The purpose of the release is to clear this restriction so that there is legal public use of the street.

Tax Lots Adjacent to Proposed Release and Public Road Dedication:

Tax Map and Lot No’s near and adjacent to the strip include tax map and lot 18-02-05-22-00800, which is owned by the Lane County School District (Mt Vernon), and map and tax lots 18-02-05-23-00201 through 205.

Nature of Benefit to be Received if Proposed Release and Public Road Dedication is Approved:

Lane Manual 60.854(8)(b) “In addition to payment of the fees specified in subsection (8)(a) above, the release and dedication of access control strips by the County governing body shall require payment by the applicant of a deposit equal to the estimate of special benefit that results from the action to the benefitted property owners.”

1. Special Benefit Defined:

Lane Manual does not define the term “Special Benefit”; however, in appraising acquisitions for right of way, a special benefit is defined as “advantages arising from a public improvement for which property has been acquired under eminent domain accruing directly and solely to the advantage of the property remaining after the partial acquisition.” This definition does not include a general benefit which is defined as a benefit “accruing to the community at large, to the area adjacent to the improvement, or to other property similarly situated as that acquired but which is not acquired.” In Oregon, a “Special Benefit” is used to offset damages caused by the acquisition (See ODOT Right of Way Manual 4.310).

Although special and general benefit definitions apply to acquisitions through eminent domain, the Right of Way staff applies the same principles to the definition of a “Special Benefit” for the release and public road dedication of an access control strip. When used in the context of a release and a public road dedication of an access control strip, a practical definition follows:
"Exhibit A"

"The advantages arising from the release and subsequently public road dedication for which the property, created under the terms of the conveying document and through the regulatory provisions of Lane County’s subdivision ordinance, accruing directly and solely to the advantage of the property after the release and subsequent public road dedication."

2. Special Benefit to Evaluate:

The Public presently has a possessory interest in the reserve strip held in trust by Lane County to restrict access in accordance with the subdivision ordinance and to “dedicate said property or part thereof as a public road....” The proposed release of the reserve strip will be in conjunction with the dedication of a right of way by the City of Springfield that will allow travel over and across the strip of land. This action will result in legal access by removing the County’s interest.

3. Special Benefit to Property Owner(s):

LM 60.854(8)(b) gives no indication to which property owner is to receive the special benefit. Potentially, it could be any number of adjacent properties including the underlining fee owner. According to the conveying deed, once the dedication is authorized by the Planning Commission, “this trust shall terminate with respect to the property or part thereof so dedicated.” In other words, the possessory interest will revert back to the underlying fee owner only to be burdened by a public right of way. With the dedication and improvement of a wider road, it is clear that all the adjacent property owners will receive a benefit from the project.

4. Special Benefit Evaluation/Highest and Best Use:

The test for estimating a special benefit must be specific and measurable, which can be justified through an increase in market value due to change in a more profitable use. Using the “Highest and Best Use” concept in conjunction with the “Before and After” rule is the most appropriate method for determining a “Special Benefit.” It is the opinion of Right of Way staff that the Highest and Best Use before and after the release and subsequent public road dedication of each adjacent property is a public road right of way.

Although there is a general benefit to the public, Staff is unable to determine who would specifically benefit from the release of the reserve strip. The applicant is not an owner of an adjacent land, and the only coterminous land is map and tax lot 18-02-05-23-00205, who is not a party to the request to release the reserve strip. Without a specific benefit, it is impossible to measure and assign a value to anything other than the strip itself.
Summary and Recommendation of Special Benefit:

_Lane Manual 60.854(8)(b)_ The estimated value of the special benefit and the amount of money to be deposited shall be determined by the Public Works Director. In the event of an estimated special benefit value of less than $2,500, it shall be considered de minimis and a payment of deposit for special benefit shall not be required.

The relevant factors used to determine a “Special Benefit” have been examined. A “Special Benefit” could not be determined since it is not specific or measurable.

Pursuant to Lane Manual 60.854, a special benefit must be determined. The release of the possessory interest will not produce a “Special Benefit.” As there is no special benefit, and no value could be determined, it is assumed to be a _de minimus value_ required by Lane Manual 69.854(8)(c). The appraiser concludes that a payment for Special Benefit is not warranted for this release.

Jeremy A. Sherer, Engineering Associate
Construction & Right of Way Services
Lane County Public Works
"Exhibit A"

A&T Cadastral Map
Showing Horace Street Strip Release

STREET VIEW
Showing Horace Street looking east from Filbert Lane
DEDICATION OF A PUBLIC ROAD EASEMENT

LANE COUNTY

KNOW ALL MEN BY THESE PRESENTS, that Lane County (Grantor), a political subdivision of the State of Oregon, is the owner of certain real property, located in Section 5, Township 18 South, Range 2 West of the Willamette Meridian and that Lane County acquired title by that certain Warranty Deed from Horace F. Franklin and Reta C. Franklin, husband and wife, Grantors, recorded on Reel 179-D, Recorder’s Reception Number 44041 of the Lane County, Oregon Deed Records, and that said Lane County does hereby dedicate to the free use of the Public (Grantee), for public road purposes, the following described tract of land, to wit:

A northerly and easterly portion of Lot “A” of Reta Franklin Addition, as platted and recorded in Book 28 Page 22, Lane County, Oregon Plat Records, in Lane County, Oregon.

It being the intent to release and dedicate the access control strip (Lot “A” of Reta Franklin Addition) as public right of way for Horace Street. There is no consideration for this dedication.

The Board of Commissioners hereby accepts and approves for recording this dedication as described herein.

Approved this ________________ day of ____________________, 2018

Jay Boziewich, Chair
Lane County Board of Commissioners

STATE OF OREGON)
COUNTY OF LANE      ) ss.

On ________________________________, 2018, personally appeared the above-named Jay Boziewich, as Chair of the Lane County Board of Commissioners and acknowledged the foregoing instrument to be his voluntary act before me.

________________________________________
NOTARY PUBLIC FOR OREGON
My Commission Expires: ________

After recording return to: Lane County Surveyor’s Office, 3050 N. Delta Hwy, Eugene, OR 97408
EXHIBIT "C"

RELEASE, DEDICATION, and ACCEPTANCE

LOT "A", RETA FRANKLIN ADDITION

NW ¼ Sec. 5, T18S, R2W, W.M.
Springfield, Lane County, Oregon

No Scale

Vicinity Map

LOT "A", TO BE RELEASED, DEDICATED, AND ACCEPTED