BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO.: 19-08-20-10

IN THE MATTER OF RELEASING, Dedicating, and Accepting Parcel "A" of the Plat of First Addition to Montebello Acres and Other Parcel Strips Conveyed to Lane County, as Right of Way for Yolanda Avenue, a Public Road (17-02-19-34)

WHEREAS, by previous action the following land, described as Parcel "A" on First Addition to Montebello Acres, as platted on Book 34, Page 21, Lane County, Oregon Plat Records, was conveyed to Lane County, Oregon by that certain Bargain and Sale Deed, recorded on Reel 193-D, Recorder's Reception Number 67609, Lane County, Oregon Deed Records; and

WHEREAS, by previous action a parcel of land was conveyed to Lane County for public road purposes which included one-foot wide reserve parcel strips, by that certain Warranty Deed recorded on Reel 169-D, Recorder's Reception Number 26391 of the Lane County, Oregon Deed Records; and

WHEREAS, the property is within the Springfield Urban Growth Boundary and the City of Springfield Public Works Department has requested the parcel strips described on the two attached Dedications of Public Road Easement be released and dedicated for road purposes to allow access to future development; and

WHEREAS, a portion of Yolanda Avenue is a Public Road, without having County Road status, and a portion of Yolanda Avenue has been accepted as a County Road; 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 parcels 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 "D," be released, dedicated, and accepted as County Road right of way for County Road Number 1949.

2. The real estate, as described in the attached Draft Dedication marked as Exhibit "C," and depicted on the attached map marked as Exhibit "D," be released, dedicated, and accepted as public right of way, but not as a County Road.
3. The Board Chair is authorized to execute an original two Dedications of Public Road Easement on behalf of the County.

4. 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 numbers be noted on this Order.

ADOPTED this ______ day of ______, 2019

Department of Public Works
Engineering and Construction Services Division

LANE COUNTY BOARD OF COMMISSIONERS

Approved 8/2/19, 2019
By

Peggy Keppler, County Engineer

APPROVED AS TO FORM
Date 8/12/19

LANE COUNTY OFFICE OF LEGAL COUNSEL

Dedications Recorded on Document No. ________________, and
Document No. ________________, Lane County, Oregon Deed Records.
"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 Access Control Strips Pursuant to Lane Manual 60.854(8)(c)

**Date:** July 29, 2019

**Applicant:** City of Springfield

**Proposed Release and Public Road Dedication:**

The City of Springfield requests that Lane County release 3 access control strips along Yolanda Avenue in conjunction with a proposed development of Map Number 17-02-19-34 Tax Lot 00200. The control strips include Parcel A of First Addition to Montebello Acres platted and recorded at Page 21 of Book 34, Lane County Plat Records, being conveyed by Deed 193-D/67609, the easterly 145' of Parcel B and all of Parcel D as described in Deed 169-D/26391, Lane County, Oregon, Deed Records.

The release of these three access control strips is a request being made by the City of Springfield. The purpose of the release is to clear this restriction so that there is legal public use of the street.

**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:
"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 strips 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 strips will be in conjunction with the dedication of a right of way by Lane County that will allow travel over and across the strips of land. This action will result in legal access.

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 release and dedication, it is clear that the adjacent property owner will receive a benefit from access to a public road.

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.

Tax Lots Adjacent to Proposed Release and Public Road Dedication:
Tax Map and Lot No's near and adjacent to the strips include tax map and lots 17-02-19-34-00100 and 106 for Parcel A; 17-02-19-34-00200 for Parcels B and D; and 17-02-19-34-00202 for Parcel D.

Nature of Benefit to be Received if Proposed Release is Approved:
Upon the release of the reserve strip, it will be dedicated as a public road and opened for public travel. These actions will result in legal access from a public street to Tax Lot and Map 17-02-19-34-00200 and 00202.

Value Indication(s) of Properties to be benefited:
Recent sales of similar residential sub-dividable land in the Springfield and Eugene area indicate a site value range between $130,000 and $452,050, with a SF value range between $1.55 and 5.35 SF. For this analysis, a value of 4.94/SF is reasonable for fee title. The title being released is a possessory interest that will be simultaneously converted to a dedicated road. Therefore, the value of the land will be 30% of fee, or $1.48/SF
Summary and Recommendation of Special Benefit:
The purpose of these reserve strips is to control access to the public street by placing it under the trust of the County. It was conveyed to Lane County with no consideration paid to the owner. Typically, the owner bears all the cost of construction and passes the cost to the buyers of each sold lot.

Pursuant Lane Manual 60.853, a special benefit must be determined. Based on “over the fence” estimation of value and under the highest and best use premise of adjacent land, the “special benefit” to the adjacent property is estimated as follows:

Parcel A (Parcel A, First Addition to Montebello) Except for 1 foot of frontage along tax lot 100 on the north side and on the south side with tax lot 106, this parcel will primarily benefit the existing street on each side of the strip. There is no specific benefit that would accrue directly and solely to the advantage of any particular property. Therefore, no special benefit can be applied.

Parcel B (East 145 feet of Parcel B as described in Deed 169-D/26391) the release of this strip is a benefit that accrues directly and solely to the tax lot 200 because it will provide access to the lot for development. The value of the strip is $215 (Price X Area = $1.48/ SF X 145 SF)

Parcel D (Parcel D as described in Deed 169-D/26391) Except for 1 foot of frontage along tax lot 200 on the north side and on the south side with tax lot 202, this parcel will primarily benefits the existing street on each side of the strip. There is no specific benefit that would accrue directly and solely to the advantage of any particular property. Therefore, no special benefit can be applied.

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.

Pursuant to Lane Manual 60.854, a special benefit must be determined. The release of the possessory interest will produce a “Special Benefit” only to tax lot 200, and all other released parcels do not produce a special benefit. The special benefit for tax lot 200 is $215, which is below $2,000 and is considered de minimus pursuant Lane Manual 60.854(8)(c). The appraisers conclude that a payment for Special Benefit is not warranted for this release of these access control strips.

Mike Davis, Right of Way Agent
Construction & Right of Way Services
Lane County Public Works

Jeremy A. Sherer, Engineering Associate
Construction & Right of Way Services
Lane County Public Works
"Attachment 1"
A&T Cadastral Map
Showing Yolanda Avenue Releases

STREET VIEW
Showing Platted Yolanda Avenue looking west from improved Yolanda Avenue
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 19, Township 17 South, Range 2 West of the Willamette Meridian and that Lane County acquired title by that certain Bargain and Sale Deed from Irvin L. Williams and Mabel C. Williams, husband and wife, recorded on Reel 193-D, Recorder's Reception Number 67609 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:

Parcel "A" of First Addition to Montebello Acres, as platted and recorded in Book 34 Page 21, Lane County, Oregon Plat Records, in Lane County, Oregon.

It being the intent to release and dedicate the 1-foot wide reserve strip (Parcel "A" of First Addition to Montebello Acres) as public right of way for Yolanda Avenue. 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 __________________, 2019

______________________
Pete Sorenson, Chair
Lane County Board of Commissioners

STATE OF OREGON)
COUNTY OF LANE ) ss.

On ____________________________, 2019, personally appeared the above-named Pete Sorenson, 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
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 19, Township 17 South, Range 2 West of the Willamette Meridian and that Lane County acquired title by that certain Warranty Deed from Vernon C. England and Grace M. England, husband and wife, recorded on Reel 169-D, Recorder's Reception Number 26391 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:

The easterly 145 feet of Parcel "B" and all of Parcel "D" being 60.49 feet in length, as described in that Warranty Deed recorded on Reel 169, Recorder's Reception Number 26391 of the Lane County, Oregon Deed Records, and lying within the right of way of Yolanda Avenue.

It being the intent to release and dedicate accept the 1-foot wide reserve strips as a public road right of way for Yolanda Avenue. There is no consideration for these presents.

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

Approved this ________________ day of ____________, 2019

Pete Sorenson, Chair
Lane County Board of Commissioners

STATE OF OREGON)
COUNTY OF LANE  ) ss.

On ____________________________, 2019, personally appeared the above-named Pete Sorenson, 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
RELEASE, DEDICATION, and ACCEPTANCE
RESERVE PARCEL STRIPS
SW 1/4 Section 19, T. 17 S., R. 2 W. W.M.
Lane County

VICINITY MAP

RESERVE PARCEL STRIPS TO BE RELEASED, DEDICATED AND ACCEPTED AS RIGHT OF WAY FOR YOLANDA AVENUE