BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 20-07-21-02

IN THE MATTER OF RELEASING, DEDICATING, AND ACCEPTING LOT "A" OF THE PLAT OF MILO’S PARK, AS RIGHT OF WAY FOR MILO WAY, A PUBLIC ROAD (17-04-23-24)

WHEREAS, by previous action the following land, located within the City of Eugene and described as Lot "A" of the plat of Milo’s Park, as platted on Book 19, Page 26, Lane County, Oregon Plat Records, was conveyed to Lane County, Oregon by that certain deed, recorded on Reel 23-53D, Recorder’s Reception Number 11509, Lane County, Oregon Deed Records; and

WHEREAS, the City of Eugene 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 Milo’s Park 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; 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 Eugene.

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 21st day of July, 2020.

Department of Public Works
Engineering and Construction Services Division

Approved 7/6/2020, 2020

By Peggy Keppler
Peggy Keppler, County Engineer

LANE COUNTY BOARD OF COMMISSIONERS

By Heather Buch, Chair

Dedication Recorded on Document No. ______________________, Lane County, Oregon Deed Records.
LANE COUNTY

Notification of an Estimated Value of the Special Benefit Deposit
in Connection with a Proposed Release and Public Road Dedication of Access Control Strips
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 one access control strip. The control strip is Parcel A, of Milo’s Park platted and recorded at Page 26 of Book 19, Lane County Plat Records, being conveyed by Reel 23, August 25, 1953, Deed 11509, Lane County, Oregon, Deed Record, 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 __________________, 2020.

__________________________
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 Access Control Strips Pursuant to Lane Manual 60.854(8)(c)

Date: June 23, 2020

 Applicant: Vista Ventures Limited

Proposed Release and Public Road Dedication:

City of Eugene requests that Lane County release one access control strip along Milo Way in conjunction with a proposed development of Map Number 17-04-23-24 Tax Lot 02100. The control strip is Parcel A, Milo’s Park platted and recorded at Page 26 of Book 19, Lane County Plat Records, being conveyed by Reel 23, August 25, 1953, Deed 11509, Lane County, Oregon, Deed Records.

The release of this access control strip is a request being made by the City of Eugene. 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:

Lane County has a ownership in the reserve strip to restrict access in accordance with the subdivision ordinance and to “be used for public road purposes” The proposed release of the reserve strip will be in conjunction with the dedication of a right of way by City of Eugene that will allow travel over and across the strip 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, the land is “to be used for public road purposes” 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.” Relying primarily on the legal use of the property, 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 Lot Adjacent to Proposed Release and Public Road Dedication:
Tax Map and Lot No near and adjacent to the strip is tax map and lot 17-04-23-24-02100.

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 17-04-23-24-02100.

Value Indication(s) of Properties to be benefited:
Recent sales of similar residential sub-dividable land in the Eugene area indicate a site value range between $338,000 and $452,050, with a SF value range between $4.13 and 5.35 SF. For this analysis, a value of 5.00/SF is reasonable for fee title.

Summary and Recommendation of Special Benefit:
The purpose of this reserve strip is to control access to the public street by placing it under the ownership of the County. It was conveyed to Lane County with no consideration paid to the owner.

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: ($5.00 SF X 60 SF = $300.00 X 30% = $90.00)

Parcel A (Lot “A”, Milo’s Park) Parcel A will primarily benefit Tax Lot 2100 on the north side this parcel will primarily benefit the existing street on each side of the strip. Due to the restricted use of the property only being used for public road purposes, and the underlying fee ownership will stay under the ownership of Lane County the land will be valued at 30% of real market value.
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: (\$5.00 \text{ SF} \times 60 \text{ SF} = \$300.00 \times 30\% = \$90.00) 

**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” to tax lot 2100. The special benefit for tax lot 2100 is $\$90.00$, 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 this access control strip.

\[ \text{Signature} \]

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

\[ \text{Signature} \]

Jeremy A. Sherer, Engineering Associate  
Construction & Right of Way Services  
Lane County Public Works
"Attachment 1" of EXHIBIT "A"

A&T Cadastral Map
Showing Milo Way Release

STREET VIEW
Showing release strip looking south from improved Milo Way
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 23, Township 17 South, Range 4 West of the Willamette Meridian and that Lane County acquired title by that certain Warranty Deed from Maynard Mathews and Milo Mathews, Grantors, recorded on Reel 23-53D, Recorder's Reception Number 11509 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:

Lot “A” of Milo’s Park, as platted and recorded in Book 19 Page 26, Lane County, Oregon Plat Records, in Lane County, Oregon.

It being the intent to release and dedicate the access control strip (Lot “A” of Milo’s Park) as public right of way for Milo Way. 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 ________________, 2020.

____________________________
Heather Buch, Chair
Lane County Board of Commissioners

STATE OF OREGON)
COUNTY OF LANE )ss.

On ____________________________, 2020, personally appeared the above-named Heather Buch, 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, & ACCEPTANCE
LOT "A", MILO'S PARK

N.W.1/4 SEC. 23 T.17S. R.4W. W.M.
Eugene, Lane County, Oregon

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