BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 20-10-20-03

IN THE MATTER OF VACATING A PORTION OF PINE STREET, A PUBLIC ROAD, LOCATED IN BLOCK 1 OF THE PLAT OF PORTOLA, AS PLATTED AND RECORDED IN BOOK 4, PAGE 105, LANE COUNTY OREGON PLAT RECORDS, LANE COUNTY, OREGON, WITHOUT A PUBLIC HEARING. (17-06-29-30)

WHEREAS, the Surveyor’s Office of the Department of Public Works has received a valid petition signed by Kay Knelle and Morgan Knelle, requesting, under authority of ORS Chapter 368.341, the vacation of a public street more particularly described as follows:

All that portion of Pine Street dedicated to the public on the plat of Portola, recorded in Book 4, Page 105, Lane County Oregon Plat Records, Lane County, Oregon, described as follows:

Beginning at the Northwest corner of Lot 36, Block 1 of Plat of Portola, as platted and recorded in Book 4, Page 105, Lane County Oregon Plat Records, Lane County, Oregon; thence North 89°26’ East, 196.6 feet, more or less, along the southerly margin of Pine Street to a point that is South 89°26’ West 2.0 feet from the Northeast corner of said Lot 36; thence leaving said southerly margin of Pine Street, North 0°34’ West 25.0 feet to a point on the northerly margin of said Pine Street; thence South 89°26’ West, 227.0 feet, more or less, along said northerly margin of Pine Street to a point on the easterly margin of Noti Loop Road (Main Street as platted); thence South 51°10’ East, 39.4 feet, more or less, along said easterly margin of Noti Loop Road, to the Point of Beginning, all in Lane County, Oregon.

WHEREAS, the petition, marked as Exhibit “A”, and made a part of this Order, 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 the vacation be approved as proposed; and

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

WHEREAS, Emerald PUD, Spectrum, CenturyLink, and other agencies such as Lane County Land Management, Transportation Planning, Road Maintenance, Lane Fire Authority, Fern Ridge School District 28J, and adjoining and nearby property owners were notified of this action by mail. The above listed agencies and landowners either had no objection to the vacation or did not respond to our referral; and

WHEREAS, petitioners request a public utility easement be reserved for all existing public utilities; and

WHEREAS, the public street proposed to be vacated is not improved or open for public travel; and

WHEREAS, ORS 368.331 states “A county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner” and the owners have given consent by signing the petition; and
WHEREAS, no property will be denied legal access as a result of this vacation; and

WHEREAS, the public interest will be served by this vacation as it is not being used by the motoring public, and will help convert the unimproved portion of right of way into taxable real property; and

WHEREAS, no other areas of public interest that would necessitate retaining this public right of way have been identified; 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 “B”, attached, and made a part of this Order; and

WHEREAS, the Director of Lane County Public Works has provided a written report marked as Exhibit "C", determining the Special Benefit to the applicant is de minimis, pursuant to Lane Manual 60.854; and

WHEREAS, the petitioners have paid a vacation fee deposit of $3,400 and will pay actual costs incurred, including recording fees, upon final approval of the vacation; 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 will not be a detriment to public interest; and

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

1. The above described portion of Pine Street is hereby VACATED.

2. Title of the vacated area shall revert to the rightful owner pursuant to ORS 368.366.

3. An easement is hereby retained for any and all existing public utilities to preserve, maintain, repair, replace, remove or reinstall any public utilities that may now exist within the bounds of the portion of Pine Street herein described by these proceedings as vacated.

4. This Order be filed with the County Clerk and entered into the records of the Lane County Board of Commissioners Journal of Administration, and be further recorded in the Lane County, Oregon Deed Records.

ADOPTED this 20th day of October, 2020.

Heather Buch, Chair
Lane County Board of Commissioners
BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

PETITION TO VACATE

IN THE MATTER OF VACATING A PORTION OF PINE STREET, A PUBLIC ROAD, LOCATED IN BLOCK 1 OF THE PLAT OF PORTOLA, AS PLATTED AND RECORDED IN BOOK 4, PAGE 105, LANE COUNTY OREGON PLAT RECORDS, LANE COUNTY, OREGON. (17-06-29-30)

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned Kay Knettle and Morgan Knettle, husband and wife, as owners of the adjacent real property, hereby petition for the vacation of a portion of Pine Street, a public road, more particularly described as follows:

All that portion of Pine Street dedicated to the public on the Plat of Portola, recorded in Book 4, Page 105, Lane County Oregon Plat Records, Lane County, Oregon, described as follows:

Beginning at the Northwest corner of Lot 36, Block 1 of Plat of Portola, as platted and recorded in Book 4, Page 105, Lane County Oregon Plat Records, Lane County, Oregon; thence North 89°26' East, 196.6 feet, more or less, along the southerly margin of Pine Street to a point that is South 89°26' West, 2.0 feet from the Northeast corner of said Lot 36; thence leaving said southerly margin of Pine Street, North 0°34' West, 25.0 feet to a point on the northerly margin of said Pine Street, thence South 89°26' West, 227.0 feet, more or less, along said northerly margin of Pine Street to a point on the easterly margin of Noti Loop Road (Main Street as platted); thence South 51°10' East, 39.4 feet, more or less, along said northerly margin of Noti Loop Road, to the Point of Beginning, all in Lane County, Oregon.

Contains 5295 square feet, more or less.

Bearings are based on the Plat of Portola.

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

WHEREAS, the undersigned petitioners allege as follows:

1. The purpose of this vacation is to correct an encroachment of an existing house located within the right of way of Pine Street.
2. The area to be vacated is not currently being used for public purposes.
3. There are no known public utilities located within the right of way.

Necessary easements for all existing public and private utilities will be retained or otherwise provided for in conjunction with the vacation; and

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 not be affected by this vacation, as the house currently occupies the easement that is dedicated as Pine Street, therefore vacating Pine Street has no public impact; and

WHEREAS, vacation of the above described area will return a marginal portion of unimproved right of way to the tax rolls as real property; and

WHEREAS, petitioners, separately and collectively, acknowledge that the filing fee is a deposit and an estimate of the vacation fee, and that we accept responsibility for full payment of fees associated with the proceeding of this vacation in accordance with Lane Manual 60.854, regardless of whether this vacation is approved or denied; and

WHEREAS, petitioners, separately and collectively, have no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation with or without a hearing; and

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

WHEREAS, the portion of Pine Street proposed to be vacated is not improved or open to public travel; and

THEREFORE, the petitioners request the Board of Commissioners of Lane County:

1. To set a date to consider the vacation of the above described street, with or without a hearing pursuant to ORS Chapter 368.

2. Upon review of this matter, to order the vacation of the above described street, and direct that title to the vacated area in accordance with ORS 368.366.

DATED this 9th day of August, 2020.

Petitioners:

Morgan Knettle
17-06-29-30-01701
17-06-29-00-01000
25340 Vaughn Road
Veneta, OR. 97487

Kay Knettle
17-06-29-30-01701
17-06-29-00-01000
25340 Vaughn Road
Veneta, OR. 97487

State of Oregon)
County of Lane )

On Aug. 9, 2020, personally appeared the above named Kay Knettle and Morgan Knettle, and acknowledged the foregoing instrument to be their voluntary act before me:

Betty Jo Almaraz
Notary Public for Oregon
My Commission Expires: March 10, 2024

OFFICIAL STAMP
BETTY JO ALMARAZ
NOTARY PUBLIC - OREGON
COMMISSION NO. 997519
MY COMMISSION EXPIRES MARCH 10, 2024
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. ORS 368.326 to 368.366 allows a County governing body to vacate a subdivision or part of a subdivision, a road or right-of-way, or public interest in property under the jurisdiction of the County, based upon the determination that the vacation is “in the public’s interest.”

The petitioners wish to vacate the unimproved, platted right of way to alleviate existing building encroachments within the right of way. If approved by the Board, the vacated right of way will revert back into the petitioner’s ownership.

Pine Street was dedicated to the public in 1912 on the Plat of Portola, as platted and recorded in Book 4, Page 105 of the Lane County, Oregon Plat Records. The street is 25 feet wide and the vacated area measures approximately 212 feet in length along its centerline.

The street is unimproved and not open for public travel. There are obvious building encroachments that have been previously identified by a private boundary survey paid for by the petitioners. There are no obvious public utilities located within the area to be vacated. Lane County Staff has determined the street is not needed for transportation purposes. Additionally, Lane County Staff has not identified any area of public interest that would necessitate retaining this right of way for public use.

ORS 368.331 states “A county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner.” As stated above, Pine Street is unimproved and not used as access to the adjoining properties. All of the adjoining properties take access from other public access points.

Lane County Department of Public Works sections such as Transportation Planning, Road Maintenance, and Land Management Planning have determined the right of way is not needed for transportation purposes and have no objections to the vacation of this public right of way.

Lane Fire Authority, Fern Ridge School District 28J, and LCOG were notified by mail regarding these proceedings and did not respond to the Surveyor’s Office’s referral.
Utility companies such as Emerald PUD, Spectrum, and CenturyLink, all of which were identified as service providers in the area, were sent referrals seeking comment on this proposed vacation. Emerald PUD and CenturyLink responded stating they did not object to the vacation, but ask for an easement to be retained for any existing utilities if they exist. The petitioners have requested an easement be retained in the Final Order for any existing public utilities within the bounds of the right of way proposed to be vacated.

The Surveyor's Office also notified by mail all adjoining and nearby property owners. As of this date, no nearby property owner has objected to our referral.

A written report is provided, marked as Exhibit "C", determining the Special Benefit of the vacation of the public street to the applicants is de minimis.

It has been determined the portion of Pine Street as described in the Order is not needed by the Lane County Transportation System. It has also been concluded the vacation of the street is in the public’s interest, as it is unimproved and not being used as a transportation facility and will help convert the unimproved portion of right of way into taxable real property and will return a marginal portion of land to the County tax rolls. Vacating the street will also alleviate structural encroachments that exist within the right of way. Therefore, it is recommended the Board approve the vacation of the portion of Pine Street as described in the Order. It is further recommended the vacation be allowed without a public hearing.

DATED this ______ day of ______________, 2020.

___________________________________________
Dan Hurley, Public Works Director
Department of Public Works
LANE COUNTY

Notification of Determination of Amount of Special Benefit Deposit
in Connection with a Proposed Vacation of a Platted Street
Pursuant to Lane Manual 60.853(3)(a)

Pursuant to the provisions of Lane Manual 60.853(3)(a), my determination of the amount of "Special Benefit" and therefore the amount of deposit required in connection with the proposed vacation of "Pine Street" adjoined to the portion of Portola, as described as Lot 36, Block 1, Plat of Portola, as platted and recorded in Book 4, page 105; all in Lane County, Oregon Plat Records, is $0.00.

My determination is based on the Staff Report and recommendation, a copy of which is attached hereto and marked as "Attachment 1".

Dated this ______ day of __________________, 2020.

_________________________________________
Dan Hurley, Director
Lane County Public Works
STAFF REPORT

Notification of Determination of Amount of Special Benefit Deposit in Connection with a Proposed Vacation of "Pine Street," a platted Street, Pursuant to Lane Manual 60.853(3)(a)

Date: September 3, 2020

Applicant: Morgan and Kay Knettle

PROPOSED VACATION OF A DEDICATED PLATTED STREET

The applicants are proposing to vacate approximately a 5295 square feet portion of Pine Street along the applicant’s northern boundary, as described in the petition. It is level with some trees and is encumbered by an improvement on the west side.

Upon the vacation of the platted street, full property rights will vest in the rightful owner in accordance with ORS 368.366 (1)(c) and (1)(d). Please note that there are building encroachments in the existing street right of way.

NATURE OF BENEFIT TO BE RECEIVED IF THE PLATTED STREET IS VACATED

Lane Manual 60.853(3) “In addition to payment of the deposit and final fees referenced in subsections (1) and (2) above, a vacation of public property or public interest in property under the jurisdiction of the County governing body shall require payment by the petitioners of a deposit equal to the estimate of special benefit that results from the vacation and disposition of property 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 vacation of a platted street. When used in the context of a proposed vacation of a platted street, a practical definition follows:

"The advantages arising from the vacated portion of the platted street accruing directly and solely to the advantage of the adjacent property after the vacation."

2. Special Benefit to Evaluate:

The street was dedicated by said Portola and is considered an easement that encumbers the property and not fee ownership by the County. The street is unimproved, has connectivity, and appears to have encroachments on it, and the street has no use to the public or Lane County. Upon the vacation of the public street, full rights will revert back to the fee property owners of the property along with all the benefits that result in private ownership. Since the street is an easement and is in use by the fee owner, the street will be valued @ 40% of fee ownership.

3. Special Benefit to Property Owner(s):

Upon the vacation of the public street, the encumbrance is removed and the adjacent property owner will receive 100% full fee ownership of the street in accordance with the law.

The vacated street will be allocated 100% to the subject property, as described in Lot 36, Block 1, Plat of Portola, as platted and recorded in Book 4, page 105, in Lane County, Oregon Plat Records, also known as Map and Tax Lot# 17-06-29-30-01701. The site is approximately 0.22 acres outside the right of way, and 0.34 acres with the right of way. The amount of Street Right of Way to be vacated is approximately 0.12 acres.

VALUE INDICATION(S) OF PROPERTIES TO BE BENEFITED

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.”

4. Neighborhood Description and Subject; Properties Highest and Best Use Analysis

Neighborhood (Portola, in the Community of Noti) the majority of the neighborhood is a mixture of rural residential (RR-2), impacted forest (F-2), and rural public facility (RFP) zonings. The lots range from mostly 0.16 acres to 5.4 acres. The proposed street vacation is mostly level with slight sloping, moderately forested to the east, and is encumbered by a building to the northwest and center of lot.

Subject Property (Map and Tax Lot# 17-06-29-30-01701) The existing use of this property is improved land zoned Rural Residential (2 acre minimum). The added plottage from the street vacation will increase the property’s highest and best use to a more profitable use due to plottage increasing development potential.
5. Sales Analysis (Before and After Method)

Using the “Before and After” method, Right of Way staff performed market research that included review of comparable sales as well as interviews with local real estate professionals.

![Adjusted "Comparable" Sale Prices](image)

Recent sales were analyzed and used to bracket the subject properties. Sales shared similar lot sizes, property zonings, were located in similar market areas, and most sales occurred in 2015 and 2019. The sale parcels were analyzed by lot size, location, zonings, and site values.

Based on a “Before and After” analysis of the comparable sales with the subject property, and other market research completed, the appraiser finds that the advantage arising from the added acreage after the vacation of the street to be $5,000. Based on a site value of $27,000 for a 0.23 acre parcel, the value after the vacation will increase in value by $5,000 to $32,000 ($32,000 - $27,000) ($5,000 X 40%). Therefore the special benefit attributed to the vacated Street is estimated at $2,000.

**SUMMARY AND RECOMMENDATION OF SPECIAL BENEFIT**

*Lane Manual 60.853(3)(a)* 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. There is evidence that the proposed vacation will change the property to a more profitable use. Based on the data and analysis contained in this report, the appraiser finds a special benefit applicable to the proposed vacation that would result from this action.

Pursuant to Lane Manual 60.853(3)(a), a “Special Benefit” must be determined. Based on the “Before and After” estimation of value and under the highest and best use premise of adjacent land, the “Special Benefit” to the adjacent properties is estimated to be de minimus. The appraiser concludes payment of “Special Benefit” is not warranted for this vacation.

\[ \text{Signature} \]

Mike Davis
Right of Way Agent
Aerial View of Subject Property and Approximate Area (Street) to be Vacated
"Attachment 3" of Exhibit "C"

PORTOLA and Approximate Area (Street) to be Vacated

"Pine Street"

PLAT OF
PORTOLA
LANE COUNTY—OREGON

SCALE: 200 FT. = 1 IN.

PHILIP P. THOMAS
CIVIL ENG.