

AFFIDAVIT OF POSTING
ORDINANCE #174

STATE OF OREGON)
)
COUNTIES OF CLACKAMAS)
 AND WASHINGTON)
)
CITY OF WILSONVILLE)

I, the undersigned, City Recorder of the City of Wilsonville, State of Oregon, being first duly sworn on oath depose and say:

On the 11th day of February, 1981, I caused to be posted copies of the attached Ordinance #174, an ordinance vacating Bobert Road East, South of Thunderbird Mobile Club, in the following four public and conspicuous places of the City, to wit:


WILSONVILLE POST OFFICE
WILSONVILLE CITY HALL
LOWRIE'S FOOD MARKET
KOPPER KITCHEN

The ordinance remained posted for more than five (5) consecutive days prior to the time for said public hearing on the 17th day of February, 1981.



DEANNA J. THOM, City Recorder

Subscribed and sworn to before me
this 19th day of February, 1981



NOTARY PUBLIC, STATE OF OREGON

My commission expires: May 10, 1981

ORDINANCE NO. 174

AN ORDINANCE INITIATED ON COUNCIL'S OWN MOTION FOR VACATION OF EXTENSION OF BOBERG ROAD NO. 1571, ALSO KNOWN AS BARBER STREET, IN THE CITY OF WILSONVILLE, CLACKAMAS COUNTY, STATE OF OREGON

THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

WHEREAS, the extension of Boberg Road which intersects with, is at right angles to, and extends westerly from Boones Ferry Road, also known as Parkway Avenue, is a public easement road within the city limits of the City of Wilsonville. The said road of public easement hereinafter referred to as "extension of Boberg Road" was created by Clackamas County Commission Order No. 71-704 which was prepared in accordance with ORS 368.582 after required public hearing on August 4, 1971. The subject property is 33 feet in width and extends in a general westerly and easterly direction from Pacific Interstate Highway 5 to Boones Ferry Market Road No. 27, presently known as Parkway Avenue, a distance of approximately 1353 feet; and

WHEREAS, Winston W. Kurth, Assistant Director of the Department of Environmental Services of Clackamas County, Oregon, has recommended that the City of Wilsonville vacate the public easement which is located within the Wilsonville city limits and within the City's jurisdictional authority;

and this recommendation was approved by Scott H. Parker, County Counsel of Clackamas County, Oregon, on February 28, 1980. A copy of the opinion request by Assistant Director Kurth to County Counsel Parker, dated February 19, 1980, is attached hereto, marked Exhibit "A"; and a copy of the response and opinion of County Counsel Parker is attached hereto marked Exhibit "B" for identification purposes; and

WHEREAS, the extension of Boberg Road as hereinafter described has been abandoned for some time as a public road and right-of-way, and is not and has not been used as a road of public easement for a number of years. The vacation of said easement would formalize an existing condition of abandonment and enable the adjoining property owners to complete the planned development of their respective properties and aid in the orderly development of the Town Center Loop Roadway Interchange with the new alignment of Parkway Avenue; and

WHEREAS, the Wilsonville City Council has received written requests to commence these vacation proceedings and the Council has investigated the matter and being fully informed in the premises has determined that (1) there is no need for a 33 foot wide road of public easement between Pacific Interstate Highway 5 and Boones Ferry Market Road No. 27, presently known as Parkway Avenue, (2) that the proposed vacation is essential for the City's development and future use of the Town Center Loop Roadway Interchange and the planned new

alignment of Parkway Avenue, (3) that it would be in the best interest of the City of Wilsonville and the inhabitants thereof if the said road of public easement as hereinafter described was vacated and (4) that the proposed vacation would not adversely effect or damage any person, firm or corporation; and

WHEREAS, the City Planning Commission has made certain findings, conditions and recommendations, which are hereby approved and adopted by the City Council and which are attached hereto as Exhibit "C" to this Ordinance; and

WHEREAS, the Wilsonville City Recorder has given due notice of the proposed vacation and hearing thereon by publishing notice in the Tigard Times (the City's official newspaper) once each week for four (4) consecutive weeks; and has given notice of the proposed vacation hearing thereon by posting written notice in three (3) of the most public places of the City according to the provisions of ORS 271.110(1); and has also posted "NOTICE OF STREET VACATION" in the manner and at the places and for the time required by ORS 271.110(2); and

WHEREAS, a public hearing on the question of proposed vacation was held pursuant to the aforementioned notice at the Wilsonville City Hall, Wilsonville, Clackamas County, Oregon, at 7:30 o'clock p.m., Pacific Daylight Savings Time, on Monday, the 20th day of October, 1980, at which hearing there were no objections to or any remonstrances against the proposed vacation.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF WILSONVILLE, as follows:

Section 1. A portion of the unimproved street area known as the extension of Boberg Road, also known as Barber Street, Wilsonville, Clackamas County, Oregon, shall be vacated, and the vacation thereof shall be effective on the adoption of this Ordinance after second and final reading as provided by the Wilsonville City Charter, the said portions described as follows, to-wit:

A portion of Boberg Road, Co., No. 1571, lying 30' West of the westerly right-of-way of Boones Ferry Road (Market Road No. 27), and continuing to the easterly right-of-way of I-5 (Baldock Freeway) located in Section 14, T3S - R1W.

Section 2. The above described legal description is a modification of the original proposed vacation in order for the City to reserve certain portions of the unimproved

street in the public interest and therefore reflects the fact of said reservation.

Section 3. That title to the street area vacated shall attach to the land bordering on said area in equal proportions as provided in ORS 271.40.

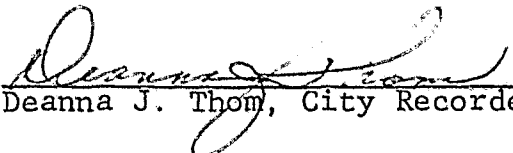
Section 4. The public interest will not be prejudiced by the proposed vacation.

Section 5. All city liens and all taxes have been paid on the land hereinafter described and which is to be vacated.

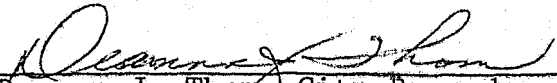
Section 6. The vacation will not substantially affect the market value of the abutting properties and no damages are payable.

Section 7. The proposed vacation is consistent with the City's Comprehensive Development Plan for the area, and those findings, conditions and recommendations of the City Planning Commission as have been heretofore set forth in the City of Wilsonville Resolution No. CXXXVIII (138), adopted by this body on the 2nd day of September, 1980.


Submitted to the Council and read the first time at a regular meeting thereof on the 3rd day of February, 1981, and scheduled for second reading at a regular meeting of the Council on the 17th day of February, 1981, commencing at the hour of 7:30 o'clock p.m., at the Wilsonville City Hall.


Deanna J. Thom, City Recorder

ENACTED by the Council on the 17th day of February
1981, by the following vote: YEAS 3 NAYS 0.


Deanna J. Thom, City Recorder

DATED and signed by the Mayor this 18th day of
February, 1980.


William G. Lowrie, Mayor

MEMORANDUM



902 ABERNETHY ROAD
OREGON CITY, OREGON 97045
(503) 655-8521

WINSTON W. KURTH
Assistant Director
JOHN C. MCINTYRE
Director
DAVID H. SEIGNEUR
Planning Director
RICHARD L. DOPP
Development Services Administrator

TO: Scott Parker
County Counsel

FROM: Winston Kurth

SUBJ: Withdrawal of Boberg Road from County Road System

DATE: February 19, 1980

The following is in regards to the Mark McCulloch letter requesting the County to hear vacation of Boberg Road. The section of right-of-way was accepted as a County road by Commissioner's Journal 38, Page 7, Order No. 1571, under date of April 6, 1942. A copy is attached for your information.

As a result of interest from adjacent owners, the County, by Order 71-535 initiated a resolution to vacate the right-of-way.

At the public hearing held on August 4, 1971, the petition for vacation was denied on the basis of the City of Wilsonville's requesting the right-of-way be retained until completion of its master plan. At this hearing, the Board ruled that since the right-of-way was in the City of Wilsonville, ~~the road be withdrawn~~ from the County road system and become ~~a road of public easement~~. Commissioner Order No. 71-704 was prepared in accordance with ORS 96.582 and executed by the Board to complete the road withdrawal.

The road is now a public easement road within the city limits of the City of Wilsonville. The purpose of the action was to put the responsibility of the right-of-way with the City of Wilsonville.

My advice would be to petition the City of Wilsonville to vacate the public easement which is located within their "city limits" on jurisdictional authority.

WINSTON W. KURTH - Assistant Director
Department of Environmental Services

/lb

Attach.

EXHIBIT "A"



OFFICE OF COUNTY COUNSEL

CLACKAMAS COUNTY

908 MAIN STREET • OREGON CITY, OREGON 97045 • (503) 655-8362

February 28, 1980

COUNTY COUNSEL
Michael J. Montgomery
Scott H. Parker

ASSISTANT COUNTY COUNSEL
Keith Kinsman
Beth Blount
Michael E. Judd
John E. Schwab

Mark McCulloch
Attorney At Law
2208 First National Bank Tower
1300 SW Fifth Avenue
Portland, OR 97201

Dear Mark:

Enclosed please find copy of Winston Kurth's recommendation regarding Boberg Road. We suggest you follow his advice, since apparently the County has no authority over it any longer.

Sincerely

Scott H. Parker
County Counsel

/al
Enc.

cc: Winston W. Kurth

EXHIBIT "B"

*Exhibit C
Mala*

PLANNING COMMISSION RESOLUTION
STREET VACATION FOR A PORTION OF
BARBER STREET BETWEEN PARKWAY
AVENUE AND I-5 FREEWAY

WHEREAS, Don Mala has submitted a Petition requesting vacation of a 30' x 1100' right-of-way along the northern property line of Tax Lot 100, 3-1W-14D; and

WHEREAS, under the provisions of the City of Wilsonville Ordinance No. 131 proposed street vacations are to be submitted to the Planning Commission for recommendation to the City Council, and

WHEREAS, the Planning Commission has reviewed the applicant's request together with staff recommendations at a regularly scheduled Planning Commission meeting conducted on August 11, 1980, and

WHEREAS, the Planning Commission deems it appropriate to recommend to the City Council approval of the street vacation as requested based on the applicant's testimony and submitted documentation supported by staff recommendations.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Wilsonville Planning Commission does hereby recommend to the City Council approval of the street vacation as requested based on the following findings and conditions of approval.

FINDINGS

The following findings are hereby entered into the public record as confirmation of the Planning Commission's consideration of the application for a street vacation as submitted.

1. That the subject right-of-way is unimproved and does not serve a vital function in the City's transportation system.
2. That the existing right-of-way is not needed to adequately serve Tax Lot 100 and that vacation of said right-of-way will facilitate an efficient and logical site planning of Tax Lot 100 related to implementation of the City Center Master Plan.
3. That while not directly related to the vacation request, a need for a bike path-pedestrian way has been documented in a Memo from Ed Davis, City Administrator,

to the Planning Commission dated June 9, 1980. It is noted by the Planning Commission that while a need exists for such a pathway, that the location and design of the pathway would be more appropriately linked to termination of alignment for the west leg of the Town Center Loop and with sight development plans for the adjacent properties.

CONDITIONS OF APPROVAL

The following Conditions of Approval are hereby adopted by the Planning Commission and recommended to the City Council for its consideration as part of the street vacation request.

1. That the applicant waive its right of remonstrance against any local improvements district which may be formed to construct public improvements which will serve the subject site.
2. That the applicant work with the City to determine an appropriate alignment of a bike path-pedestrian way and that said alignment be established prior to or in conjunction with Stage II Development Plans for Tax Lot 100 and that upon determination of appropriate alignment the applicant dedicate the necessary right-of-way for said pathway.
3. That prior to further City Council review of LID No. 5L, the applicant, together with other affected property owners, submit to the Planning Commission documents specifying the proposed alignment and design of the intersection of Parkway Avenue with the Town Center Loop for authorization to create said right-of-way. Such documentation to include associated right-of-way vacations and a bus turnout lane if determined appropriate by Tri-Met.

EXHIBITS

The following exhibits are hereby entered into the public record by the Planning Commission as confirmation of its consideration of the application as submitted.

1. City of Wilsonville Comprehensive Plan.
2. Town Center Master Plan Ordinance No. 55.
3. City of Wilsonville Street System Master Plan.
4. Memo from Ed Davis to Planning Commission dated June 9, 1980.