

RECORDING INFORMATION
PASSED
DO NOT WRITE IN THIS SPACE

**IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON**

FILE NO. 4047

**IN THE MATTER OF VACATING A PORTION OF)
A PUBLIC UTILITY EASEMENT AND CANAL)
RIGHT-OF-WAY IN LOT 1, BLOCK 3 OF ROYAL)
DELLE, AS PLATTED AND RECORDED IN BOOK 29,)
PAGE 21, LANE COUNTY OREGON PLAT RECORDS,)
WITHOUT A PUBLIC HEARING, AND ADOPTING)
FINDINGS OF FACT. (17-03-23-34))**

**ORDER NO.
01-4-18-9**

WHEREAS, this matter now coming before the Board upon a petition received by the Surveyor's Office of the Lane County Department of Public Works requesting, under authority of ORS Chapter 368.326 and 368.341, the vacation of a portion of the public utility easement and canal right-of-way in Lot 1, Block 3 of Royal Delle as platted in 1960 and recorded in Book 29, Page 21, Lane County, Oregon Plat Records. The easement crosses over the southerly 15 feet of Lot 1, Block 3 of said plat. The portion proposed to be vacated is the northerly 8 feet of the westerly 70 feet of the easement and is more particularly described as follows:

Beginning at the Southwest corner of Lot 1, Block 3 of Royal Delle, as platted and recorded in Book 29, Page 21, Lane County, Oregon Plat Records; thence North 7.0 feet along the westerly line of said Lot, to the TRUE POINT OF BEGINNING; thence North 8.0 feet continuing along the westerly line of said Lot to the northerly line of easement; thence South 89°53' East 70.0 along the northerly line of easement; thence South 8.0 feet, being a line parallel with and 70.00 feet east of the west line of said Lot; thence North 89°53' West 70.0 feet, being a line parallel with and 8.00 feet south of the north line of easement, to the TRUE POINT OF BEGINNING; and there ending, all being in the Southeast quarter (SE ¼) of the Southwest quarter (SW ¼) of Section 23, Township 17 South, Range 3 West of the Willamette Meridian, in Lane County, Oregon.

WHEREAS, ORS 368.351 provides for the vacation of property without a public hearing; and

WHEREAS, the petition 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, agree that the vacation should be approved as proposed; and

WHEREAS, Qwest Communications, City of Springfield, Springfield Utility Board, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works were contacted regarding the vacation and either had no objection or did not reply to the referral; and

WHEREAS, there are no known utilities within the proposed vacation and no property will be denied legal access by this vacation; and

WHEREAS, the proposed vacation will allow the petitioners to more fully utilize their land by adding on a garage to their existing home and putting in a driveway; and

WHEREAS, the petitioners have paid a vacation fee of \$550 and will pay recording fees upon final approval of the vacation; 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 "A", attached hereto and made a part hereof, by this Order; and

WHEREAS, all statutory procedures under ORS 368.351 necessary for this vacation have been complied with; and

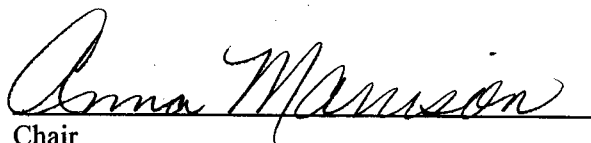
WHEREAS, the Board is of the opinion that approving the vacation, as petitioned for, is in the best interest of the public; now, therefore, it is hereby

ORDERED, that the above described portion of the public utility easement and canal right-of-way in Lot 1, Block 3 of Royal Delle, as shown on the map depicted as Exhibit "C", attached hereto and made a part hereof, is hereby vacated; and it is further

ORDERED, that in support of this action, the Board hereby adopts the Findings of Fact, marked as Exhibit "B", attached hereto and made a part hereof by this Order; and it is further

ORDERED, that this Order be entered into the Lane County Board of Commissioners Journal of Administration, and be further recorded in the Lane County, Oregon Deed Records.

DATED this 18th day of April, 2001



Chair

LANE COUNTY BOARD OF COMMISSIONERS

APPROVED AS TO FORM

Date 4-5-01 lane county


OFFICE OF LEGAL COUNSEL

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

FILE No. _____

IN THE MATTER OF THE VACATION OF)	
PORTION OF A P.U.E. AND CANAL)	
RIGHT OF AWAY, IN SECTION 23,)	PETITION TO VACATE
TOWNSHIP 17 SOUTH, RANGE 3 WEST)	
OF THE WILLAMETTE MERIDIAN, IN)	
LANE COUNTY OREGON.)	

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersign Tracy Robert Smith and Bonnie Sue Smith husband and wife, which area to be vacated is described as follows: Lot 1, Block 3, ROYAL DELLE, as platted and recorded in Book 29, Page 21, Lane County Oregon Plat Records, in Lane County, Oregon. Along the south line of the property there is a 15 foot public utility easement and canal right of way. The area to be vacated is along the north side of the existing easement going 8 feet south, and starting from the west property line going east 70 feet within the 8 foot area mentioned above (8'- 0" north to south x 70'- 0" west to east).

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, petitioners allege as follows:

1. The purpose of this vacation request is to allow a residential addition to an existing home which sits 17 feet north of the existing P.U.E. and Canal Right of Way easement. The type of addition proposed is a 2-Garage and driveway.
2. There are "NO" utilities, and "NO" powerlines located in the area to be vacated and their will be "NO" disposition needed.

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 be served and not prejudiced by vacation of the above described area, and

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

EXHIBIT "A"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

FILE NO. 4047

IN THE MATTER OF VACATING A PORTION OF)
A PUBLIC UTILITY EASEMENT AND CANAL)
RIGHT-OF-WAY IN LOT 1, BLOCK 3 OF ROYAL)
DELLE, AS PLATTED AND RECORDED IN BOOK 29,)
PAGE 21, LANE COUNTY OREGON PLAT RECORDS,)
WITHOUT A PUBLIC HEARING, AND ADOPTING)
FINDINGS OF FACT. (17-03-23-34))

DIRECTOR'S REPORT

The Surveyor's Office of the Department of Public Works has received a valid petition signed by the owners of 100% of the property over which the public utility easement and canal right-of-way crosses, requesting, by the authority of ORS 368.351, a vacation without a public hearing.

Royal Delle was established in 1960, as platted and recorded in Book 29, Page 21, Lane County, Oregon Plat Records. A 15-foot public utility easement and canal right-of-way lies over the southerly 15 feet of the petitioners property. The petitioners are requesting a vacation of a portion of this public utility easement and canal right-of-way in order to have room to build on a garage to their existing home and put in a driveway. The portion proposed to be vacated is the northerly 8 feet of the westerly 70 feet of the easement. The proposed vacation is allowed by ORS 368.326 and is shown on Exhibit "C".

Qwest Communications, Springfield Utility Board, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning programs of the Lane County Department of Public Works were contacted regarding the vacation and either had no objection or did not reply to the referral. Lane County Transportation Planning stated that they have no objections to the vacation, as the county is not using the canal right-of-way to drain storm runoff. AT&T's response was supportive of the vacation and said that the remaining 7 feet of the easement would be adequate for any future needs. The City of Springfield and Springfield Utility Board also reviewed the request and sent back comments in support of the proposed vacation.

The proposed vacation will enable the petitioners to build on to their house and put in a driveway. It then is concluded that it is in the public's interest, as vacating this portion of the easement will allow the property owners to more fully utilize their property. It is therefore recommended that the portion of the public utility easement and canal right-of-way, as described in the Order, be vacated as petitioned for.

It is further recommended that the vacation be allowed without a public hearing.

DATED this 29th day of MARCH, 2001.



G. Craig Starr, Acting Public Works Director

EXHIBIT "B"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

FILE NO. 4047

IN THE MATTER OF VACATING A PORTION OF)	
A PUBLIC UTILITY EASEMENT AND CANAL)	
RIGHT-OF-WAY IN LOT 1, BLOCK 3 OF ROYAL)	
DELLE, AS PLATTED AND RECORDED IN BOOK 29,)	FINDINGS OF FACT
PAGE 21, LANE COUNTY OREGON PLAT RECORDS,)	
WITHOUT A PUBLIC HEARING, AND ADOPTING)	
FINDINGS OF FACT. (17-03-23-34))	

The Department of Public Works has received a valid petition, signed by 100% of the property owners abutting the proposed vacation, requesting that a portion of the public utility easement and canal right-of-way in Lot 1, Block 3 of Royal Delle, as described in the Order, be vacated as petitioned for. The petitioners are requesting the vacation in order to have room to build on a garage to their house and put in a driveway.

Findings of Fact (Public Interest)

The Board takes notice and finds:

1. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate a subdivision, or part of a subdivision, based upon the determination that the vacation is "in the public interest."
2. That, pursuant to ORS 197.175 (2) (d), after acknowledgment of a county's comprehensive plan and implementing ordinances, the plan and ordinances, not the Statewide Planning Goals, control land use decisions.
3. That, Lane County's Rural Comprehensive Plan and implementing ordinances were originally acknowledged to be in compliance with the Statewide Planning Goals on September 13, 1984, and reacknowledged on February 14, 1992.
4. That, neither the Lane County Comprehensive Plan nor any land use regulation within the Lane Code establish mandatory standards for the vacation of lot lines.

Conclusion of Law (Public Interest)

Based upon the above findings of fact, the Board concludes, as a matter of law, that neither the Statewide Planning Goals nor the Lane County Rural Comprehensive Plan and related land use regulations are an applicable measure of the "public interest", as it pertains to this vacation.

Findings of Fact (Impacts and Process of Vacation)

The Board takes notice and finds as follows:

1. That, the petitioners own all the property abutting the proposed vacation. Said property is further identified as Tax Lot 4400 of Assessor's Map 17-03-23-34.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate a subdivision, or part of a subdivision, based upon the determination that the vacation is "in the public interest."
3. That, Qwest Communications, City of Springfield, Springfield Utility Board, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning programs of the Lane County Department of Public Works were contacted regarding the vacation of the public utility easement and canal right-of-way and either had no objection or did not reply to the referral.
4. That, there are no known utilities affected by the proposed vacation.
5. That, vacating a portion of the public utility easement and canal right-of-way in Lot 1, Block 3, as described in the Order, will not deny any property owners legal road access to a public road.
6. That, pursuant to ORS 368.351, a county governing body may make a determination about a vacation of property without a public hearing if:
 - (1) The county road official files a written report stating that the vacation is in the public interest.
 - (2) The proceedings were initiated by petition indicating the approval of 100% of the adjoining property owners.

Items (1) and (2) have been complied with.

Conclusions of Law (Impacts and Process of Vacation)

Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making a determination on this vacation, without a public hearing, have been met.

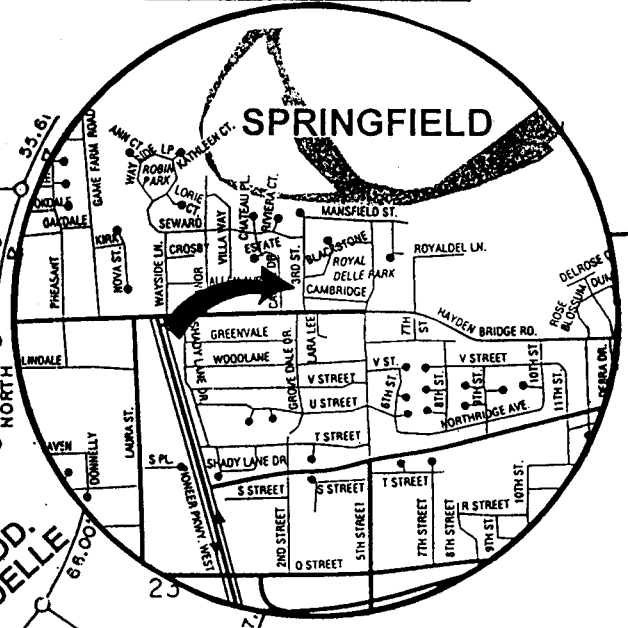
EXHIBIT "C"

ORIGINAL

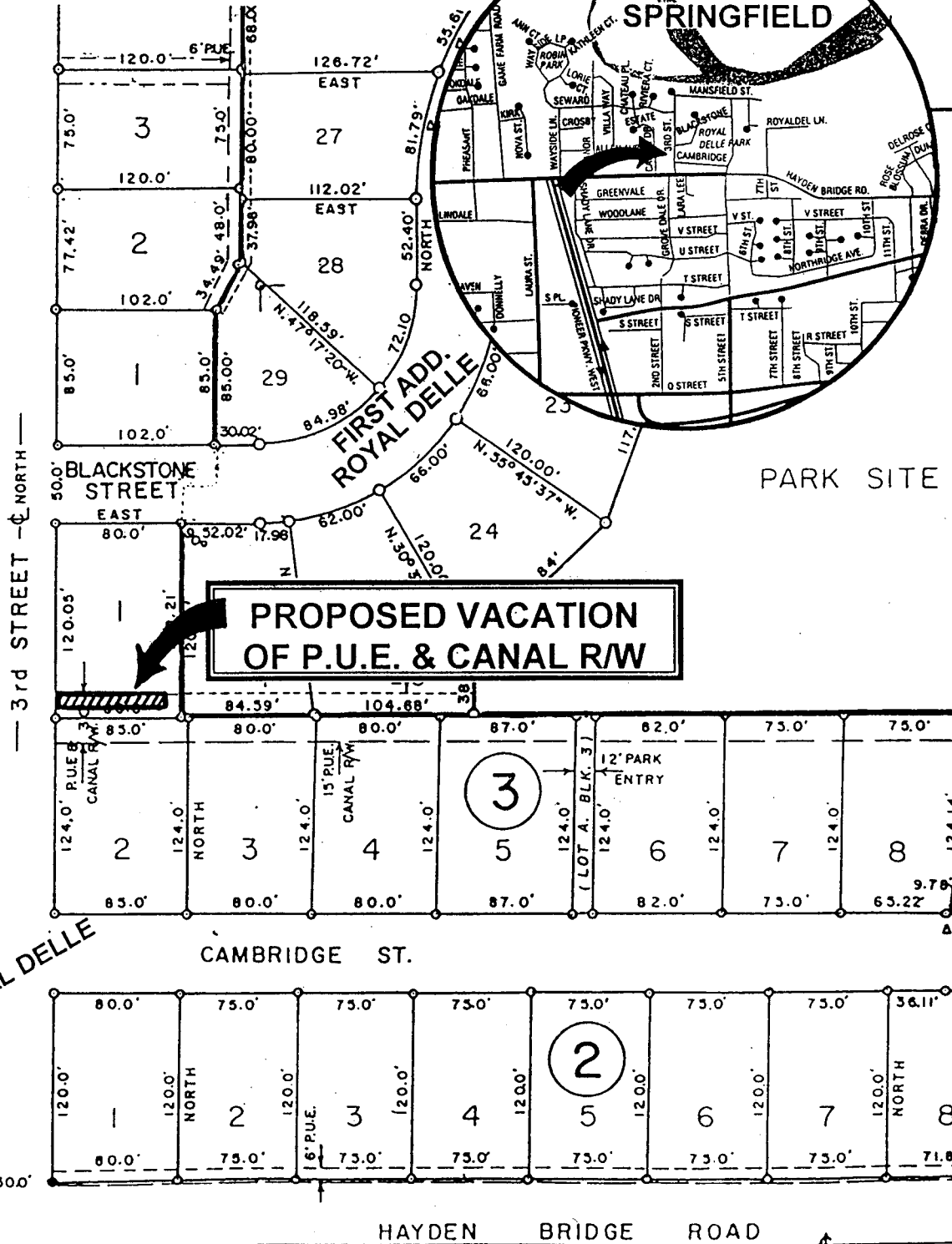
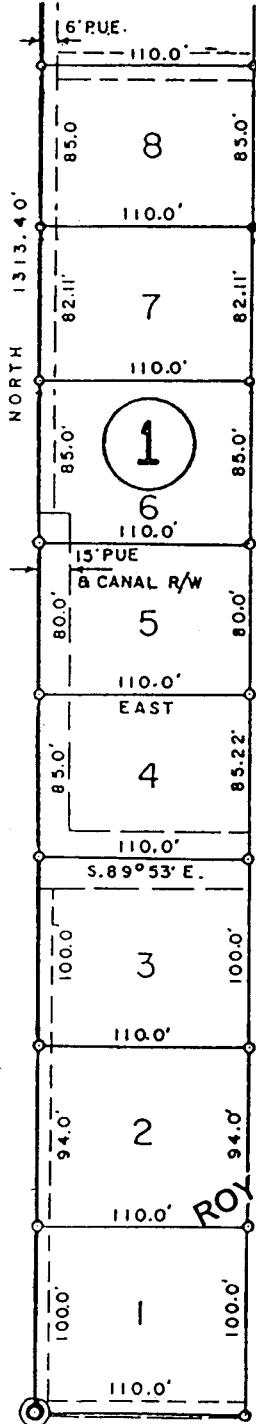
SE ¼ SW ¼ Sec. 23 T. 17S. R. 3W. W.M.
LANE COUNTY

NO SCALE

VICINITY MAP



MCKENZIE MANOR - 3rd ADDITION



PROPOSED VACATION
OF P.U.E. & CANAL R/W

PARK SITE