

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Order Vacating a Portion of)
A Public Road at the Request of Stephen A. Walker) BOARD ORDER 22-287
And Mary L. Walker Without a Public Hearing,)
Public Works Docket RV-4-2022)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (“the Board”) sat for the transaction of county business in formal session on September 8, 2022. Commissioners Lindsay Berschauer, Casey Kulla, and Mary Starrett being present.

IT APPEARING TO THE BOARD as follows:

A. Ordinance 625 provides that the county will follow vacation procedures established in ORS Chapter 368, unless otherwise provided therein.

B. Under ORS 368.341(c), a county governing body may initiate proceedings to vacate property under ORS 368.326-368.366 if:

“(c) The owner of property abutting public property files with the county governing body a petition meeting the requirements of this section and requesting vacation of the public property that abuts the property owned by the person.”

C. Stephen Walker and Mary Walker (the “applicants”) petitioned for the vacation of a dedicated public road. *See* Exhibit A. The applicants own 100% of the underlying fee title and 100% of the property abutting the portion of the road that is proposed to be vacated. The petition identifies a roadway that was dedicated to the public but that to date has not been developed.

D. ORS 368.351 provides that where a petition is signed by the owners of 100% of the private property proposed to be vacated and 100% of the property abutting the public property proposed to be vacated, a county governing body may determine the vacation without a public hearing, so long as the county road official provides a written report finding that vacation is in the public interest.

E. Ordinance 625 provides that the county road official must further provide a description of the ownership of the property and the current uses of the property proposed to be vacated.

F. Ordinance 625 provides that the county road official may refer applications or petitions for the vacation of public property to the Yamhill County Surveyor.

G. A written report signed by county road official and Yamhill County Public Works Director Mark Lago states this proposed vacation is in the public interest. *See* Exhibit B. The

property currently serves no public function.

H. Ordinance 625 provides that, upon the receipt of the report and the return of any referrals, the Board shall consider whether initiation of vacation proceedings is "appropriate or in the best interest of the citizens of Yamhill County."

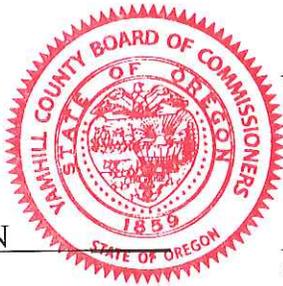
I. The Board hereby accepts the findings in the written report that this vacation is in the public interest. NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. The segment of undeveloped public road located entirely within tax lot R5507 00408, and bordering lots 77, 78, 79, 84, 85, and 86 of the pertinent Northwestern Land & Improvement Company subdivision, is hereby vacated.
2. Title to the segment of public road vacated by this Board Order vests in the underlying holders of fee title and their successors in interest.
3. No costs are imposed on the applicants as a result of this vacation. It is the responsibility of the applicants to record this vacation Order in the Deed and Mortgage records of Yamhill County, and to pay any recording fees.

DONE at McMinnville, Oregon on September 8, 2022.

ATTEST



YAMHILL COUNTY BOARD OF COMMISSIONERS

KERI HINTON
County Clerk

By: *Megan Marasco*
Deputy Megan Marasco

Chair

Lindsay Berschauer

LINDSAY BERSCHAUER

Commissioner

Casey Kulla

CASEY KULLA

Commissioner

Mary Starrett

MARY STARRETT

FORM APPROVED BY:

Christian Boenisch

Christian Boenisch
County Counsel

Yamhill County, Oregon
Petition for Vacation of Public Road
Where no Public Hearing is Required

Department of Public Works, 2060 Lafayette Ave, McMinnville, OR 97128
 Tel: 503-434-7515 • Fax: 503-472-4068

FOR ROAD OFFICIAL'S USE ONLY: After reviewing the petition below, the County Road Official has determined this petition is sufficient for consideration of the proposed vacation by Board of Commissioners.

By: _____ Title: _____ Date: _____

THE PETITION MUST INCLUDE:

- Completed petition form, signed by all petitioners. All signatures must be acknowledged by a notary public.
- All required attachments.
- Filing fee (make check payable to Yamhill County).
-

OFFICIAL USE ONLY

Docket No. RV-____-20____

Date

Rec'd By

Receipt #

Fee \$

NOTE: Fees are non-refundable.

Board of Commissioners:

Date

rec'd: _____

Date

Informal: _____

Hearing date:

PETITIONER	CO-PETITIONERS, if any
<p>Please print or type:</p> <p><u>Walker</u> <u>Stephen</u> <u>A.</u> Last Name First MI</p> <p><u>PO Box 129</u> Mailing Address (Street or PO Box)</p> <p><u>Amity</u> <u>OR</u> <u>97101</u> City State Zip</p> <p><u>503-570-1018</u> Telephone Fax</p>	<p>Please print or type</p> <p><u>Mary L. Walker</u></p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>Describe the public road or other county property proposed to be vacated, including county tax lot references:</p> <p><u>Please see attached maps</u></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>	

PETITION: The petitioner or petitioners identified above (referred to as "Petitioners") hereby petition the Yamhill County Board of Commissioners to vacate a certain public road or other county property described above. We hereby represent as follows:

1. Petitioners are the owners, as shown in the Deed and Mortgage Records of Yamhill County, of 100% of any private property proposed to be vacated and 100% of property abutting any public property proposed to be vacated.

2. No portion of the public road or other public property proposed to be vacated is situated within the corporate limits of any city.

3. This vacation is requested for the following reasons (mark all that apply):

- The property sought to be vacated is not now used for any public road or other public purposes.
- The property sought to be vacated is now used by petitioners in conjunction with and as part of their property.
- Other reasons: the property sought to be vacated is contained fully and terminates completely on petitioners private property

4. No person or other owner holds any recorded interest in the property proposed to be vacated except for the following whose addresses are listed below: (if none, so state.)

5. If any person owns any improvements constructed on public property proposed to be vacated, the name and address of the owner or owners is as follows: (if none, so state.)

6. If the petition is for vacation of property that will be redivided in any manner, a subdivision plan or partition plan is attached to show the redivision.

7. The proposed vacation would not deprive an owner of a recorded property right of access necessary for the exercise of that right.

8. The Petitioners request this petition be considered under ORS 368.326 to 368.366 and Yamhill County Ordinance 625.

We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that the above information is true and correct to the best of our knowledge. We hereby grant permission for and consent to Yamhill County, its officers, agents, and employees to come upon our property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this petition.

SIGNATURES OF ALL PETITIONERS:

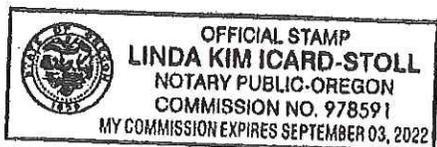
[Signature] _____
Mary Walker _____

STATE OF OREGON
County of Yamhill

} ss

This instrument was acknowledged before me on the 13th day of July, 2022 by the following persons: (attach additional notarized acknowledgments, if necessary) _____

[Signature]
Notary Public for Oregon
My commission expires: 9-3-2022



To Whom It May Concern:

This is a petition to vacate a portion of undeveloped road pursuant to ORS 368.326 to 368.366 and Yamhill County Ordinance 625.

The section of road is located in Map Tax Lot 5507-408 along the borders of lots 77, 78 and 85 and 86 of the Northwestern Land and Improvement Company Property Subdivision (see attached maps).

The petitioners are the owners of 100% of the private property surrounding the road proposed to be vacated.

No portion of the road or any of the surrounding property is situated within the corporate limits of any city.

This vacation is requested for the following reasons:

- the road in question has never been developed and has never been used as a public road

- the property sought to be vacated is now being used by the petitioners in conjunction with their surrounding property

- the road in question is contained and terminates fully on petitioners' property and does not provide access to any other land owner

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SECTION 12 T5S R6W W.M.
YAMHILL COUNTY
1" = 400'

SEE MAP 5 6 01

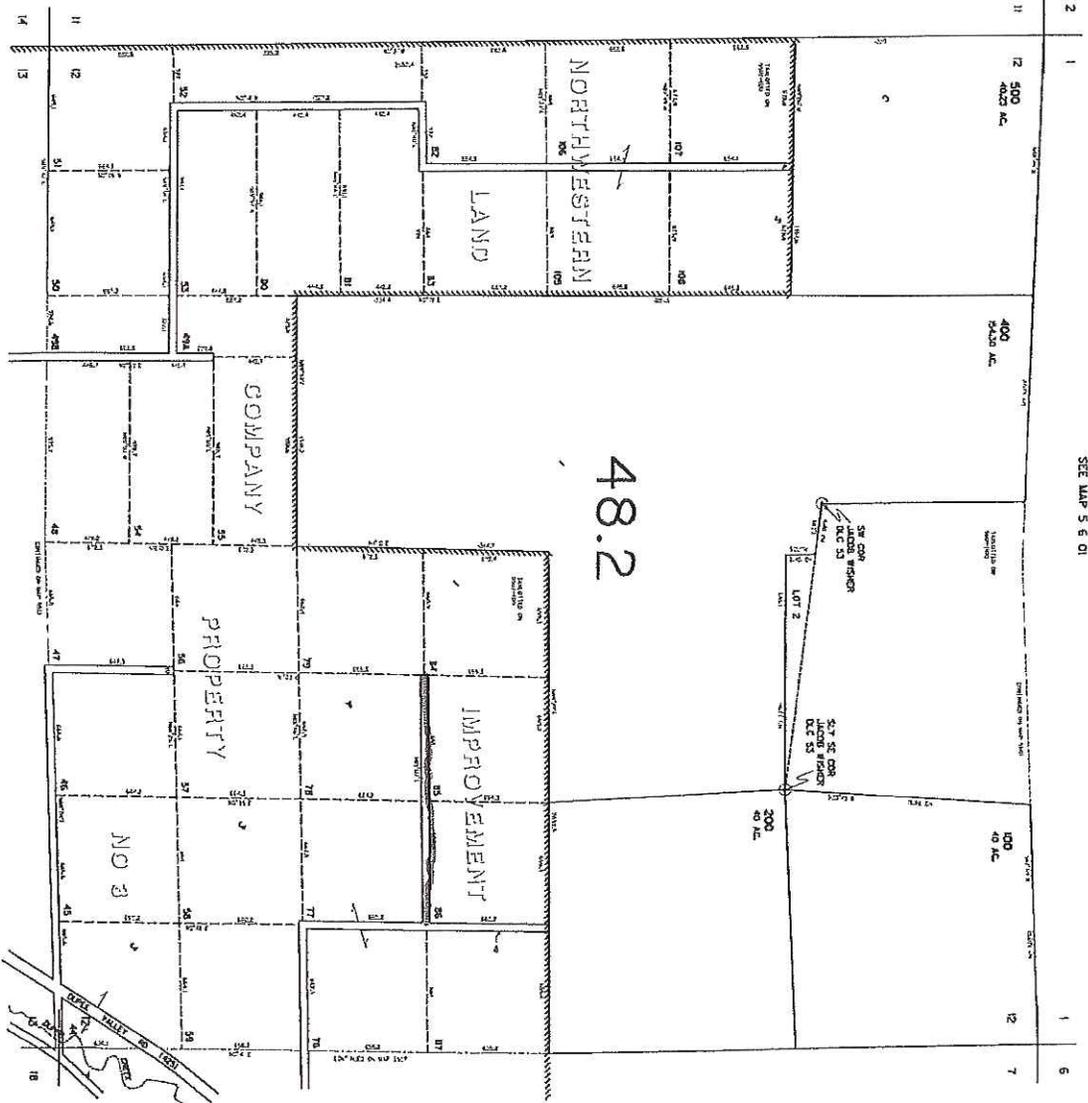
CANCELLED
500
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5 6 12

Exhibit A,
Page 5

SEE MAP 5 6 11

SEE MAP 5 6 13



SEE MAP 5 5 07

5 6 12



Exhibit A,
Page 6 of 6

BO 22-287

COUNTY ROAD OFFICIAL REPORT

on

ROADWAY VACATION PETITION

Docket No. RV-4-2022

Background

1. **Location and approximate length of proposal:** Unconstructed rights-of-way surrounding tax lot R5507 00408 in Section 12, T 5 S, R 6 W, adjoining Lots 84, 85, 86, 77,78, & 79 of Northwestern Land Improvement Subdivision, northeast of Sheridan and off of Dupee Valley Road.

Required information under Yamhill County Ord. 625, Section 4

1. **Ownership description:** Impacted property solely owned by petitioner.
2. **Current uses of the property:** Undeveloped "paper" right of way running across undeveloped rural countryside. Right of way was created circa 1914 via an orchard type subdivision map and apparently has never materialized in to an actual road.

Conclusion

The proposed vacation appears to be in the interest of the public and does not appear to deprive access to non-consenting owners. I recommend approval by the Board of Commissioner's.

The proposed vacation does not appear to be in the interest of the public and therefore I recommend denial by the Board of Commissioners citing the following reason(s):

Road Official's Signature & Title:


8/29/22

DIRECTOR OF
PUBLIC WORKS