

**GLADSTONE PLANNING COMMISSION AGENDA
GLADSTONE CITY HALL, 525 PORTLAND AVENUE**

Tuesday, May 17, 2016

**6:30 P.M. CALL TO ORDER
ROLL CALL
FLAG SALUTE**

CONSENT AGENDA

All items listed below are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a commission member or person in the audience requests specific items to be removed from the Consent Agenda for discussion prior to the time the commission votes on the motion to adopt the Consent Agenda.

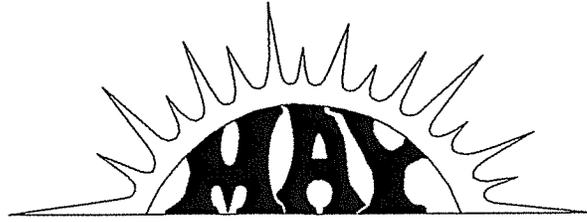
1. Minutes of April 19, 2016 Meeting

REGULAR AGENDA

2. **Continued Public Hearing from April 19th meeting:** Z0035-16-D, Design Review; Bart Kearns – manufactured home/watchman’s quarters in conjunction with property located at 6005 Duniway Avenue. Site is south side of Duniway at the end of Watts Street. Zone designation LI, Light Industrial. (no attachments)
3. **Public Hearing:** Z0248-16-I; Casey Cutting - Proposal to vacate a portion of Kenmore Street – that segment from its intersection with Donna Lynn Way west to its terminus – approximately 150 feet in length. This will be the first of two public hearings, the Planning Commission will consider the proposal and make recommendation to Council. City Council will then hold a public hearing and make final decision on the proposal.

BUSINESS FROM THE PLANNING COMMISSION

ADJOURN



CONSENT AGENDA

GLADSTONE PLANNING COMMISSION MEETING MINUTES of April 19, 2016

Meeting was called to order at 5:30 PM.

ROLL CALL:

The following City officials answered roll call: Commissioner Kirk Stempel, Commissioner Natalie Smith, Commissioner Malachi de AElfweald, Commissioner Les Poole, Commissioner Linda Neace, Commissioner Kevin Johnson, and Chairperson Tammy Stempel.

ABSENT:

None.

STAFF:

Jolene Morishita, Assistant City Administrator; David Doughman, City Attorney; Clay Glasgow, City Planner, Jeff Jolley, Police Chief; Mike Funk, Fire Marshal; Jim Whynot, Public Works Director.

Chairperson Tammy Stempel made a few comments regarding the duties of the Planning Commission.

CONSENT AGENDA:

1. Approval of February 16, 2016 Minutes:

Commissioner de AElfweald wanted to note that under the Regular Agenda, Item #3, the decision to go with a heavy composition roof was due to safety concerns. Commissioner Johnson wanted to note that the owner's name is Dennis Marsh, not Kevin Marsh.

Commissioner Neace made a motion to approve the minutes with the above amendments. Motion was seconded by Commissioner Poole. Motion passed unanimously.

REGULAR AGENDA:

2. Public Hearing: Z0035-16-D, Design Review, Bart Kearns – Manufactured Home/Watchman's Quarters in Conjunction with Property Located at 6005 Duniway Avenue. Site is South Side of Duniway at the end of Watts Street. Zone Designation – LI, Light Industrial:

Chairperson Tammy Stempel opened the public hearing at 5:35 PM and went over the procedure. None of the Commissioners wanted to disqualify themselves and all of them have visited the site. None of the audience members had any objections.

Mr. Glasgow went over the staff report. He pointed out that the wetlands designation no longer applies to this property. Commissioner Johnson pointed out an error regarding sidewalks. There was discussion regarding the wetlands designation. Commissioner de AElfweald asked if there was sufficient accessibility for fire trucks – Fire Marshal Funk said that would vary, depending on what is parked where. Fire Marshall Funk has questions/concerns regarding the address of the site, the ability to turn fire trucks around, and whether someone will be living there full time. He said that having a residential type structure in an industrial area can be problematic. Commissioner de AElfweald asked Police Chief Jolley what kind of postings/contacts would be necessary for a watchman in relation to the Police Department. Chief Jolley said they would want to make sure they were certified through the State/DPSST, but the postings/contacts requirements would be the same as any other business in the City. Chairperson Tammy Stempel asked if there had been any issues at the Road Runner building as far as vandalism, thefts, etc. that would justify the need for a watchman. Chief Jolley was not aware of any crime issues in

that area. Jim Whynot, Public Works Director, said there were no issues as far as Public Works. Dave Caum, Plant Manager, explained that they have 25 full time employees that work as needed and hours change. The Food Defense Assessment has been giving them more requirements regarding security/monitoring the facility. He said there have been thefts from the property, vehicles broken into, illegal dumping, trespassing, and drug paraphernalia left on the grounds. They haven't decided on who the watchman will be, but they are hoping that it will be one of their current employees.

Public Testimony:

Steve Gleason is hoping that this will not be the same situation as the one on Portland Avenue. He feels it looks bad in the neighborhood.

Katherine Ellerby is opposed to the watchman's quarters because of the continuing screening issues and other problems with the one on Portland Avenue. They have not had any response from City administration.

Jim Hopp is opposed because he feels the area has turned into a slum/eyesore.

Police Chief Jolley said they have issued citations relating to the Portland Avenue site and now the City Attorneys are involved to help get the issues resolved. Lori Green has had her house vandalized but doesn't see the need for a security guard. Sean Price said that the Portland Avenue/Duniway area becomes a parking lot during high school football games which may cause accessibility issues for the fire trucks.

Due to time constraints the hearing for Z0035-16-D, Design Review will be held over until the next meeting, May 17th, 2016 at 6:30 PM.

Commissioner de AElfweald made a motion to continue the hearing until May 17th, 2016 at 6:30 PM. Motion was seconded by Commissioner Neace. Motion passed unanimously.

If anyone has any correspondence please send it to Assistant City Administrator Jolene Morishita at Morishita@ci.gladstone.or.us. Mr. Doughman pointed out that if anyone emails any of the Commissioners directly they will not receive a response because it is not allowed.

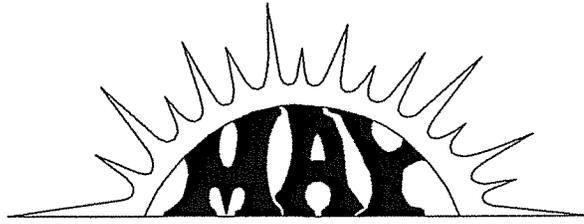
ADJOURN:

Commissioner Neace made a motion to adjourn. Motion was seconded by Commissioners de AElfweald and Poole. Motion passed unanimously.

Meeting adjourned at 6:30 PM.

Minutes approved by the Planning Commission this _____ day of _____, 2016.

Tamara Stempel, Chair



REGULAR AGENDA

City of GLADSTONE

STAFF REPORT/RECOMMENDATION TO THE GLADSTONE PLANNING COMMISSION

File: Z0248-16-I
Applicant: Casey Cutting, et.al.
Hearing Dates: Planning Commission May 17th; Council June 14, 2016
Planning Staff: Clay Glasgow
Report Date: May 4, 2016

I. GENERAL INFORMATION

- A. Proposal: vacate a portion of the right-of-way for E. Kenmore Street: that segment from its intersection with Donna Lynn Way west to its terminus; approximately 150 feet in length. If the right-of-way vacation is approved the land will be absorbed into private property on either side.
- C. Location: between 710 E. Kenmore Street and 990 Donna Lynn Way (see map.)
- D. Zone: R-7.2; Single Family Residential
- E. Comprehensive Plan Designation: Residential
- F. Site Information: The land in question is currently unimproved right-of-way for E. Kenmore Street. This proposal involves vacating a portion of the right-of-way.
- G. Vicinity Description: The area is both zoned for and developed with residential use on individual properties. Property adjacent to the north has recently

City Hall
525 Portland Avenue
Gladstone, OR 97027
(503) 656-5223
FAX: (503) 650-8938
E-Mail: (last name)@ci.gladstone.or.u
Website:
www.ci.gladstone.or.us

Municipal Court
525 Portland Avenue
Gladstone, OR 97027
(503) 656-5224 ext. 1
E-Mail: municourt@ci.gladstone.or.u

Police Department
535 Portland Avenue
Gladstone, OR 97027
(503) 655-8211
Website:
www.ci.gladstone.or.us

Fire Department
555 Portland Avenue
Gladstone, OR 97027
(503) 557-2776
Website:
www.ci.gladstone.or.us

Public Library
135 E. Dartmouth
Gladstone, OR 97027
(503) 656-2411
FAX: (503) 655-2438
E-Mail: qiref@lincc.lib.o

Senior Center
1050 Portland Avenue
Gladstone, OR 97027
(503) 655-7701
FAX: (503) 650-4840

City Shop
18595 Portland Avenue
Gladstone, OR 97027
(503) 656-7957
FAX: (503) 722-9078



received approval for subdivision, to continue the pattern of single-family residential use on individual properties.

II. FINDINGS

This request is subject to applicable provisions of Oregon Revised Statutes (ORS) Chapter 271.080 – 271.150.

III. CONCLUSIONS

Planning staff has reviewed this request in reference to the applicable provisions of Oregon Revised Statutes. Based upon this review, staff makes the following conclusions:

1. ORS Chapter 271 discusses Use and Disposition of Public Lands Generally. At 271.080, the process for pursuing road vacation is detailed.

271.080(1); Vacation in Incorporated Cities: Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefore setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such. *Proper application has been filed.*

271.080(2): There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing. *Proper letters of consent have been submitted.*

2. *271.090; Filing of Petition:* The petition shall be presented to the city recorder or other recording officer of the city. If found by the recorder to be sufficient, the recorder shall file it and inform at least one of the petitioners when the petition will come before the city governing body. A failure to give such information shall not be in any respect a lack of jurisdiction for the governing body to proceed on the petition. *Petition was submitted, proposal scheduled for review by the Planning Commission and City Council.*

3. *271.100; Action by City governing body:* The city governing body may deny the petition after notice to the petitioners of such proposed action, but if there appears to be no reason why the petition should not be allowed in whole or in part, the governing body shall fix a time for a formal hearing upon the petition. *Hearing dates and times set.*

4. *271.110; Notice of Hearing:* a) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered. *Notice of proposed vacation is scheduled to appear in the Clackamas Review, in each of the two weeks prior to the first hearing on the matter.*

b) Within five days after the first day of publication of the notice, the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice, which shall be headed, Notice of Street Vacation, Notice of Plat Vacation or Notice of Plat and Street Vacation, as the case may be. The notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be at least 14 days before the hearing.

c) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor.

- (5) *271.120; Hearing, determination:* At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.
- (6) *271.140; Title to Vacated Areas:* The title to the street or other public area vacated shall attach to the lands bordering on such area in equal portions; except that where the area has been originally dedicated by different persons and the fee title to such area has not been otherwise disposed of, original boundary lines shall be adhered to and the street area which lies on each side of such boundary line shall attach to the abutting property on such side. If a public square is vacated the title thereto shall vest in the city.
- (7) *271.150; Vacation records to be filed:* A certified copy of the ordinance vacating any street or plat area and any map, plat or other record in regard thereto which may be required or provided for by law, shall be filed for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of any such ordinance shall be filed with the county assessor and county surveyor.

REQUEST FOR COMMENTS:

City of Gladstone Public Works, Gladstone Fire, Gladstone Police,
Water Environment Services (WES)

RESPONSES RECEIVED:

IV. RECOMMENDATION

The Planning Commission is authorized to make recommendations to City Council on proposed road vacations. Based on the above findings and conclusions, Planning staff recommends the Planning Commission forward to Council a recommendation of approval, subject to the following conditions:

1. A certified copy of the ordinance vacating any street or plat area and any map, plat or other record in regard thereto which may be required or provided for by law, shall be filed for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of any such ordinance shall be filed with the county assessor and county surveyor.

To: Jolene Morishita, City of Gladstone

Re: Vacation of small street area on Kenmore St next to 710 E Kenmore

It is the desire of all property owners abutting a small section of Kenmore Street (approx. 25' x 120.44') that it be vacated, and split between the North and South property owners.

The property in question is unimproved, is not being used by the city, except for a storm sewer line that goes thru it (which could be accommodated with an easement). There is no possibility or reason to continue this section of road thru as it dead ends into the backside of a private residence which resides on a dead end street (Columbia Ave).

The South property owner (Mr. Donn Markwardt) has fenced and maintained this section of the street for 25 plus years. If vacated, he would have 12.5' x 120.44' added to the North side of his property. He would like to put a garden, garden shed, and room to park a vehicle on it.

The North property owner (Mr. Casey Cutting) is in the process of splitting his property into a small development which has been approved by the City of Gladstone. The benefit to his property would be that currently, because of this small section of unimproved city street, the lot adjoining it is considered a 'corner lot'. Because of this, that lot will have 2 – 20' setbacks. (One facing Kenmore, and one facing Donna Lynn Way). This only will leave room to put what is called a 'skinny house' which would look out of place in the neighborhood. If this small section of unimproved street is vacated, this lot would then become a standard lot, with a standard side setback (typically 5') which would allow for a wider, more attractive footprint which will also fit the area better.

Clay Glasgow, the county planner who represents the City of Gladstone has indicated his opinion that vacating this small section of the street makes sense and he would recommend it.

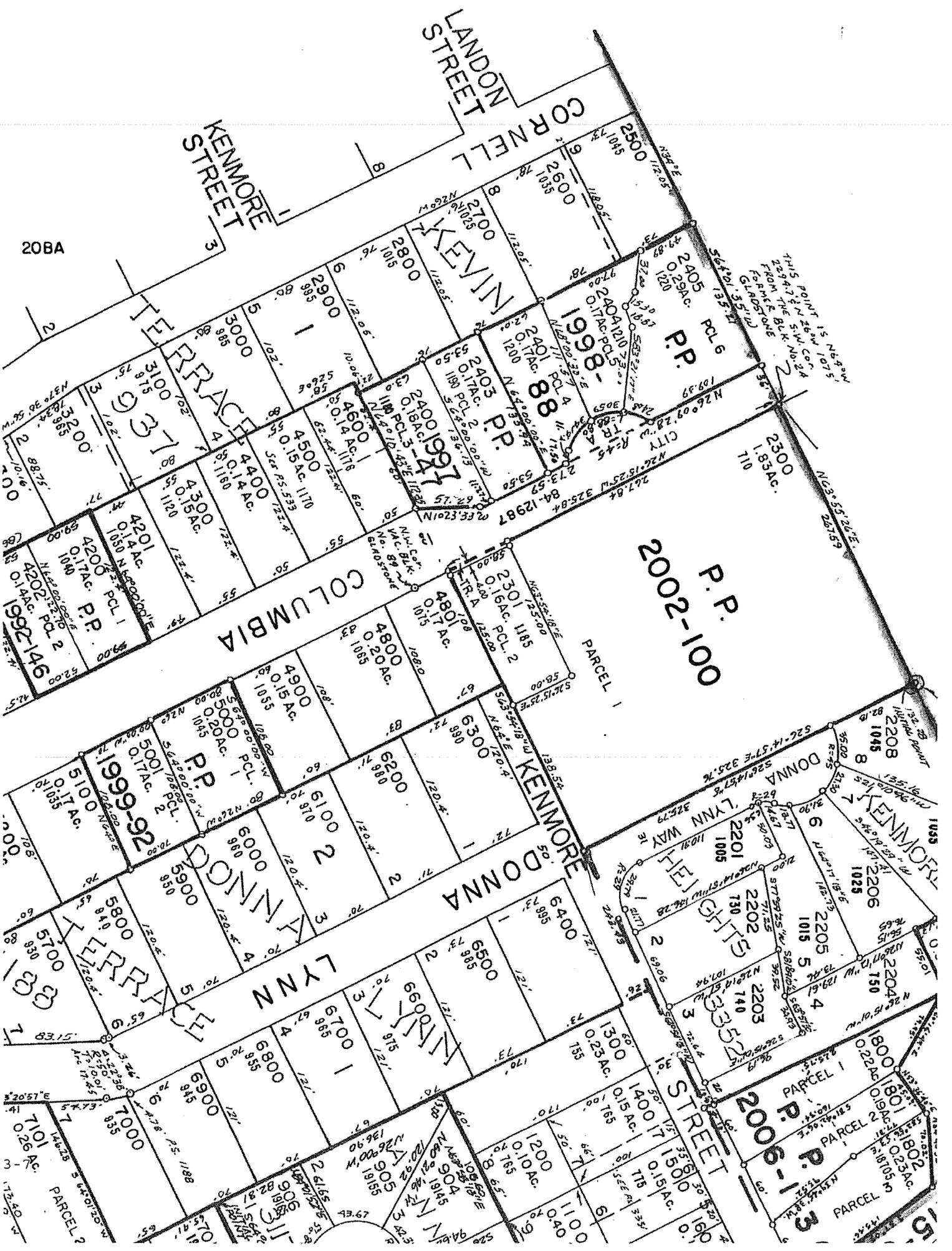
Please see attached drawing showing the area described, as well as a real estate addendum with signatures and initials of all adjoining property owners. Please note that the real estate agent that wrote the addendum was not entirely clear on the street vacation process, and has described the process incorrectly in item #1 as a county approval scenario talking about Mr. Glasgow's comments.

The attached addendum is included to show that all property owners are in agreement and would like to pursue the vacation process, and this letter should be considered a formal request of said property owners.

I believe that I have supplied the information you requested re this request, but if you need anything else from myself or the other property owners please let me know and I will do my best to get it to you promptly.

Sincerely,

Casey Cutting



20BA

P.P. 100-2002

P.P. 1-2006

LANDON STREET

CORNELL

KENMORE STREET

KENMIN

KENMORE

DONNA

LYNN

HERK

COLUMBIA

TERRACE

P STREET

L STREET

KENMORE

DONNA

LYNN WAY

S STREET

W STREET

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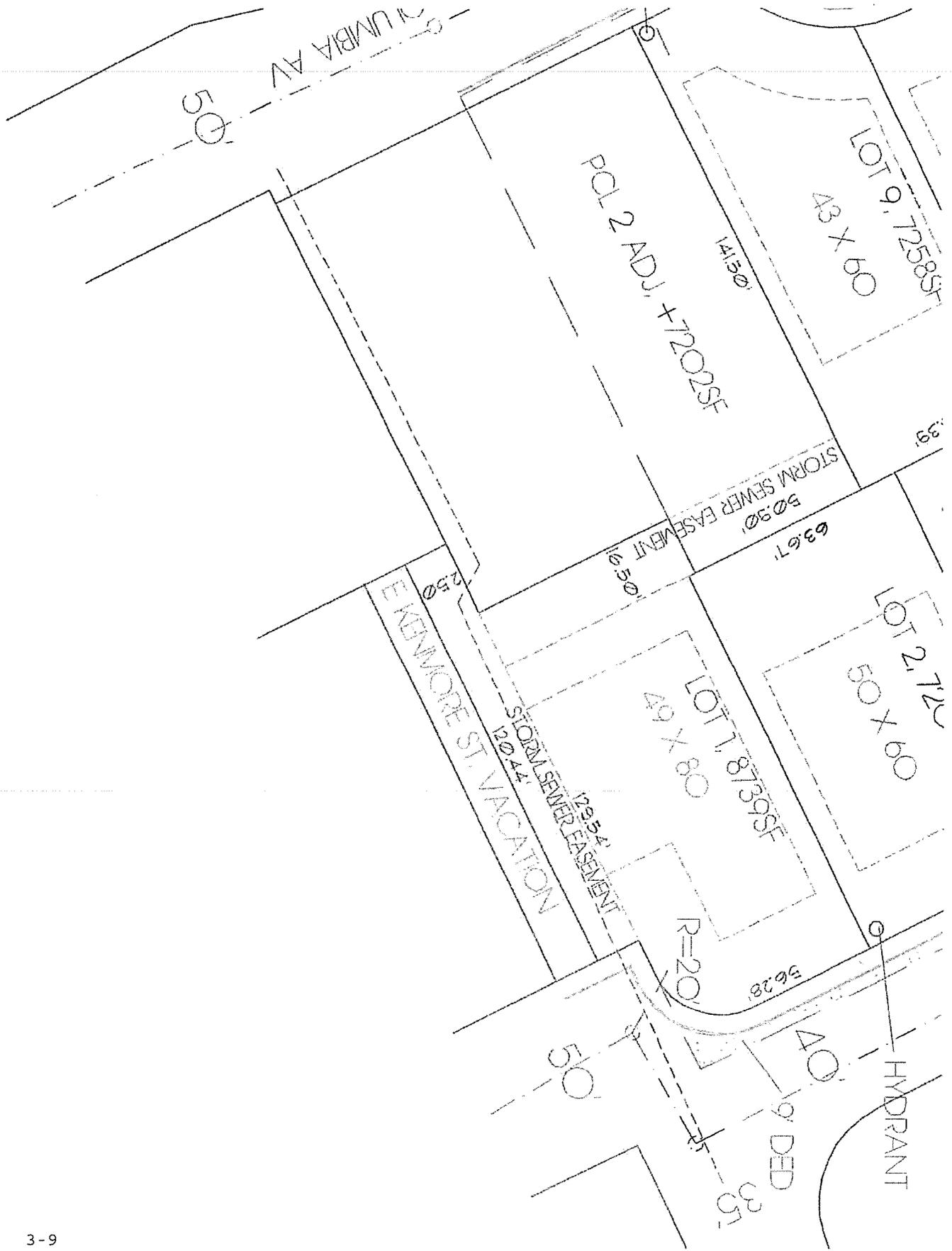
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PARCEL 97

PARCEL 98

PARCEL 99

PARCEL 100





2 2 E 20AB
GLADSTONE

N.W. 1/4 N.E. 1/4 SEC. 20 T.2S. R.2E. W.M.
CLACKAMAS COUNTY
1" = 100'

D. L. C.
FENDAL C. CASON NO. 50

Cancelled Taxes:

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- Parcel Boundary
- Private Easement
- Easement Boundary
- Easement Certificate
- Tax Code Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plat
- Water
- Corner
- Section Corner
- Trough Line
- Easement Line
- D.C. Line
- Meander Line
- P.L. 22 Section Line
- Historic Corner 4/2
- Historic Corner 2/2

THIS MAP IS FOR ASSESSMENT
PURPOSES ONLY

2 2 E 20AB
GLADSTONE

Glasgow, Clay

From: David Doughman
Sent: Tuesday, December 01, 2015 9:35 AM
To: schultz@ci.gladstone.or.us
Subject: ROW vacation process

Hi Ross:

Here is a summary of the vacation process that you may pass on to the interested resident. I am also providing a [link to the ORS Chapter](#) where the resident may find more detail on the process.

Summary of ORS Chapter 271.080-271.130 requirements:

- The vacation must be initiated by petition of not less than 2/3rds of the property owners abutting the street/ROW;
- The property owner(s) must file the petition with the city recorder and must describe the grounds to be vacated, the purpose for which the proposed vacation is to be used, and the reason for the vacation;
- Notice of a hearing for consideration of the vacation must be made in a newspaper once each week for two consecutive weeks prior to the hearing and a notice of the vacation proposal shall be posted at least two conspicuous places in the proposed vacation area;
- The governing body, by ordinance, will decide whether or not to vacate the ROW.

Please let me know if you have any questions.

David

David F. Doughman
BEERY ELSNER & HAMMOND LLP
1750 SW Harbor Way, Suite 380
Portland, OR 97201
t (503) 226 7191 | f (503) 226 2348
www.gov-law.com

This is intended for addressees only. It may contain legally privileged, confidential or exempt information. If you are not the intended addressee, any disclosure, copying, distribution, or other use of this e-mail is prohibited. Please contact me immediately by return e-mail and delete the message and any attachments.



Please consider the environment before printing this email.

I, Walt Rivers, own the property at 1075 Columbia Ave in Gladstone, Oregon. I consent to the vacation of the ROW abutting my property, identified in map below.

Signed: Errol Rivers as Power of attorney for Walter Rivers

I, Sandra Rivers, own the property at 1075 Columbia Ave in Gladstone, Oregon. I consent to the vacation of the ROW abutting my property, identified in map below.

Signed: Errol Rivers as Power of attorney for Sandra Rivers

I, Errol Rivers, own the property at 1185 Columbia Ave in Gladstone, Oregon. I consent to the vacation of the ROW abutting my property, identified in map below.

Signed: Errol Rivers

I, Donn Markwardt, own the property at 990 Donna Lynn Way in Gladstone, Oregon. I consent to the vacation of the ROW abutting my property, identified in map below.

Signed: Donn S. Markwardt

I, Patsie Markwardt, own the property at 990 Donna Lynn Way in Gladstone, Oregon. I consent to the vacation of the ROW abutting my property, identified in map below.

Signed: Patsie Markwardt

I, Casey Cutting, own the property at 710 E Kenmore in Gladstone, Oregon. I consent to the vacation of the ROW abutting my property, identified in map below.

Signed: Casey Cutting

Glasgow, Clay

From: Casey Cutting [casey.cutting@gmail.com]
Sent: Friday, March 18, 2016 10:25 PM
To: Jolene Morishita
Cc: Tami Bannick; Eric Swanson
Subject: Re: ROW vacation process
Attachments: 10 06 15 710 E Kenmore GS 1 pg addendum regarding the vacation of public street fully executed.pdf; Letter requesting Kenmore Street vacation.pdf; Street vacation highlighted.pdf; Street vacation on Kenmore.pdf

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Jolene,

Please see attached request for the street vacation that we spoke of adjacent to 710 E Kenmore. I believe that it matches the requirements that you indicated to me, but if you believe it to be lacking in any aspect, please let me know, and I will do my best to correct it for you.

Sincerely,
Casey Cutting

On Mon, Feb 8, 2016 at 11:01 AM, Jolene Morishita <morishita@ci.gladstone.or.us> wrote:

Hello Mr. Cutting,

Here is a summary of the vacation process that we spoke about over the phone. I am also providing a [link to the ORS Chapter](#) where you may find more details on the process.

Summary of ORS Chapter 271.080-271.130 requirements:

- The vacation must be initiated by petition of not less than 2/3rds of the property owners abutting the street/ROW;
- The property owner(s) must file the petition with the city recorder and must describe the grounds to be vacated, the purpose for which the proposed vacation is to be used, and the reason for the vacation;
- Notice of a hearing for consideration of the vacation must be made in a newspaper once each week for two consecutive weeks prior to the hearing and a notice of the vacation proposal shall be posted at least two conspicuous places in the proposed vacation area;
- The governing body, by ordinance, will decide whether or not to vacate the ROW.

Jolene Morishita

Assistant City Administrator

