VOL 0748 PAGE 659

ORDINANCE NO. 5176

AN ORDINANCE VACATING THAT PORTION OF AN 80-FOOT WIDE ROADWAY EASEMENT WHICH ALIGNS WITH THE INTERSECTION OF BELMONT AVENUE AND PACIFIC BOULEVARD SW (HIGHWAY 99E) AND ADOPTING ATTACHED EXHIBIT "A" KNOWN AS "FINDINGS" AND DECLARING AN EMERGENCY (FILE NO. VC-01-95).

WHEREAS, the Albany City Council on February 22, 1995, voted to initiate the proposed Alley Vacation; and

WHEREAS, notices of the public hearings have been mailed, posted and published as required by state and local law; and

WHEREAS, the Albany Planning Commission held a Public Hearing on March 27, 1995, and recommended approval of the proposed vacation; and

WHEREAS, the Albany City Council held a Public Hearing on April 12, 1995, and parties were given an opportunity to be heard and the Council was made fully informed.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: The Findings attached as Exhibit "A" are hereby adopted in support of this decision.

<u>Section 2</u>: That portion of an 80-foot wide roadway easement which aligns with the intersection of Belmont Avenue and Pacific Boulevard SW (Highway 99E) on Tax Lot 202, Linn County Assessor's Map No. 11-3W-30, as shown in Exhibit "B" is hereby vacated, subject to the following conditions of approval:

- 1. A joint-access/maintenance easement shall be reserved for the vacated roadway easement for Parcels B and C.
- 2. That the Council withhold the second reading of the Ordinance approving the Vacation of the roadway easement until a joint access/maintenance agreement is reviewed and approved by the City and signed by the adjacent property owner(s) which shall be recorded and run as an encumbrance with the land.
- 3. Prior to the second reading of the Vacation Ordinance by the City Council, the proposed joint-use access easement shall be extended to serve Parcel C or a Lot Line Adjustment must be approved by the Planning Division.

<u>Section 3</u>: WHEREAS, the Albany City Council held the first reading of the Ordinance on April 12, 1995, and whereas, the joint-use access/maintenance agreement was recorded on April 28, 1995, in Volume 0745, Page 510 of the Linn County Deed Records, Linn County, Oregon.

Section 4: EMERGENCY CLAUSE

Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of this city of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.



ATTEST:

Diputy City Recorder

Return to: City of Albany - Recorder P.O. Box 490, Albany, OR 97321

May 10, 1995 Passed by the Council: _ May 10, 1995 Approved by the Mayor: _ May 10, 1995 Effective Date: . arles Al Xaran

VOL 0748 PAGE 660

EXHIBIT A

FINDINGS FOR ALLEY VACATION PLANNING CASE FILE NO. VC-01-95

- 1. The vacation has been initiated by the City of Albany to facilitate the development of the property.
- 2. On March 1, 1982, Partitioning approval was given for the subject property (Partition Case No. PA-02-82) subject to the condition that an 80' roadway easement be granted to the City of Albany aligning with the intersection of Belmont Avenue and U.S. Highway 99 (Pacific Boulevard and that access to Parcels B and C be limited to said easement. In such case that the City does not utilize said easement for a roadway, a joint access for Parcels B and C shall be provided and shall align with Belmont Avenue.
- 3. In 1988, the concept to extend Belmont Avenue east across the railroad tracks was abandoned and Lanier Street was extended south from Belmont Avenue to connect with Pacific Boulevard at its intersection with Ellingson Road. There is no longer a need for a public street in this location.
- 4. The property owner is proposing that a 40-foot wide joint-use access easement be provided in the place of the existing 80-foot wide roadway easement for a distance of 100 feet from Pacific Boulevard. This will allow for the access driveway to development(s) occurring on Parcels B and C to be located a minimum of 75 feet from the intersection of the access with Pacific Boulevard.
- 5. Staff has evaluated the proposal based upon the Street Vacation criteria listed in Section 2.440 of the Albany Development Code and found the subject vacation to be in conformance with Criteria 1, 2, 3, 4, and 5.

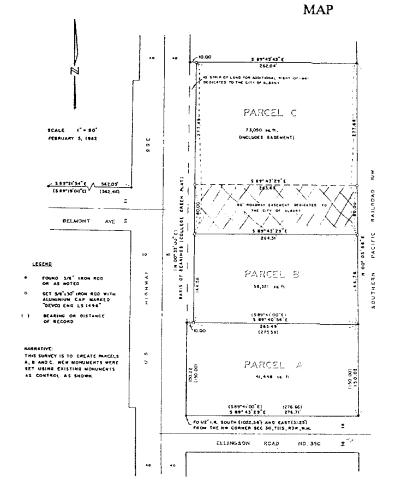


EXHIBIT B

MINOR PARTITION FOR KUTSCH ENTERPRISES, INC.

IN THE NW 1/4 SEC 30, THS, R3W, W.M. CITY OF ALBANY, LINN COUNTY, ORE.

DEVED ENGINEERING, INC.
P.O. BOX 1211
CORVALLIS, OR 97550

OMERS CERTIFICATE AND DEDICATION

DADE ALL HON BY THESE PRESENTS THAT I, CARDON AUTSON, SECRETARY FOR UNDER LIC., BETHE THE DWER OF THE LIND RESERVENCE HERD HOME CAUSED SUID LIND TO BE APP DIVILED AS YORK. I HERRET DUTIONE CITY OF ADAMY THE USDIENT AF LIND FOR STREET BLOTTO-THAT AS YORK.

Laland unser, y

ACCOUNTY OF LINN) SS

This is to certain that on the $\frac{1}{2}$ but of $\frac{1}{2}\frac{1}{2}$ but of $\frac{1}{2}\frac{1}{$





SLEVENCES, CERTIFICATE

1, 14.4. C. METERSIN, REGISTERED LAND SUMETRE IN THE STATE OF OPECAN, BET Summ, DENTER ME SAN THAT I MAY CONCELLY SUMMETED AND MARED HIM MOREM TO LAND REALISATIOD OF THE MAY OF PARTIAL AND THAT THE REQUIREDENTS OF ARTICLE 3. LAND REALISATION OF THE MAY OF PARTIAL AND THAT THE REQUIREDENTS OF ARTICLE 3. LAND REALISATION OF THE TAX OF PARTIAL AND THAT THE REQUIREDENTS OF ARTICLE 3.



VOL 0748 PAGE 661

.....

,

.

20-STATE OF OREGON County of Linn м May 23 10 17 AM *95 M R[0 s[0 A_____ 0____ I hereby certify that the attached was received and duly recorded by me in Linn County records. STEVE DRUCKENMILLER 748 Linn County Clerk By _____, De MF_ PAGE 659 By_ ..., Deputy