

AN ORDINANCE VACATING TWO PORTIONS OF THE MADISON STREET RIGHT-OF-WAY NORTH OF WATER AVENUE, AND A PORTION OF THE MAIN STREET RIGHT-OF-WAY NORTH OF FRONT AVENUE, IN ALBANY, OREGON; ADOPTING FINDINGS; AND DECLARING AN EMERGENCY.

WHEREAS, notices of public hearing were mailed on February 8, 2013; published in the *Albany Democrat-Herald* on February 11 and February 18, 2013; and posted on the site, as described in Section 1 below, on February 8, 2013 as required by state and local law; and

WHEREAS, the Albany Planning Commission held a public hearing on February 25, 2013; and

WHEREAS, the Albany Planning Commission recommended that the City Council approve the proposed vacations; and

WHEREAS, the Albany City Council held a public hearing on March 27, 2013, and reviewed the testimony presented at the public hearing and the findings in the staff report; and deliberated the vacation.

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

Section 1: Subject Property. Two portions of the Madison Street right-of-way north of Water Avenue (File VC-02-12); and, a portion of the Main Street right-of-way north of Front Avenue (File VC-03-12) (see legal descriptions on attached Ordinance Exhibit A and maps labeled Ordinance Exhibit B and Ordinance Exhibit C), are hereby vacated.

Section 2: Findings. The Findings and Conclusions in the Staff Report attached as Ordinance Exhibit F are hereby adopted in support of this decision.

Section 3: Easement Retained. The City retains a public utility easement over the portion of Vacation Area #1 as described in Ordinance Exhibit D and shown on Ordinance Exhibit E.

Section 4: Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the 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.

Section 5: The City Recorder shall, within 10 days of the effective date of this ordinance, file a certified copy of the ordinance with the Linn County Clerk, Linn County Assessor, and Linn County Surveyor (ORS 271.150). The petitioner for the vacation shall bear the recording costs.

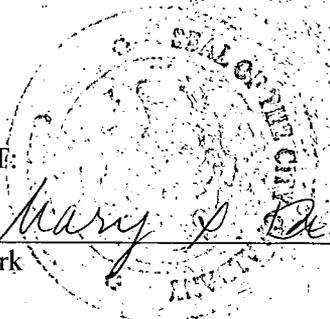
Passed by the Council: March 27, 2013

Approved by the Mayor: March 27, 2013

Effective Date: March 27, 2013

[Signature]
Mayor

ATTEST:
[Signature]
City Clerk



ORDINANCE EXHIBIT A

Right-of-Way Vacations VC-02-12 and VC-03-12 Legal Descriptions

Vacation Area #1

A portion of the public right-of-way of Madison Street in the Southeast 1/4 of Section 6, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon, said portion being more particularly described as follows:

Beginning at a point on the easterly right-of-way line of Madison Street, said point being N08°16'10"W 229.31 feet from the Southwest corner of Block 124, Hackleman's Addition to Albany, said Block corner being at the intersection of said easterly right-of-way line of Madison Street with the northerly right-of-way line of Water Avenue; thence along said Madison Street right-of-way line, N08°16'10"W 101.84 feet; thence leaving said right-of-way line S78°15'58"W 11.40 feet; thence S76°40'22"W 24.65 feet; thence S08°14'16"E 105.81 feet; thence N70°32'47"E 25.41 feet; thence along the arc of a 227.00 foot radius curve right (chord bears N71°57'49"E 11.23 feet) 11.23 feet to the point of beginning.

Vacation Area #2

A portion of the public right-of-way of Madison Street in the Southeast 1/4 of Section 6, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon, said portion being more particularly described as follows:

Beginning at the southeast corner of Block 123, Hackleman's Addition to Albany, said corner being at the intersection of said westerly right-of-way line of Madison Street with the northerly right-of-way line of Water Avenue; thence along said Water Avenue right-of-way line, N81°45'00"E 12.00 feet; thence leaving said right-of-way line N08°15'00"W 154.13 feet; thence along the arc of an 8.00 foot radius curve left (chord bears N58°52'13"W 12.36 feet) 14.13 feet; thence S70°32'47"W 2.55 feet to the east line of said Block 123 and westerly right-of-way line of Madison Street; thence S08°16'10"E 161.47 feet to the point of beginning.

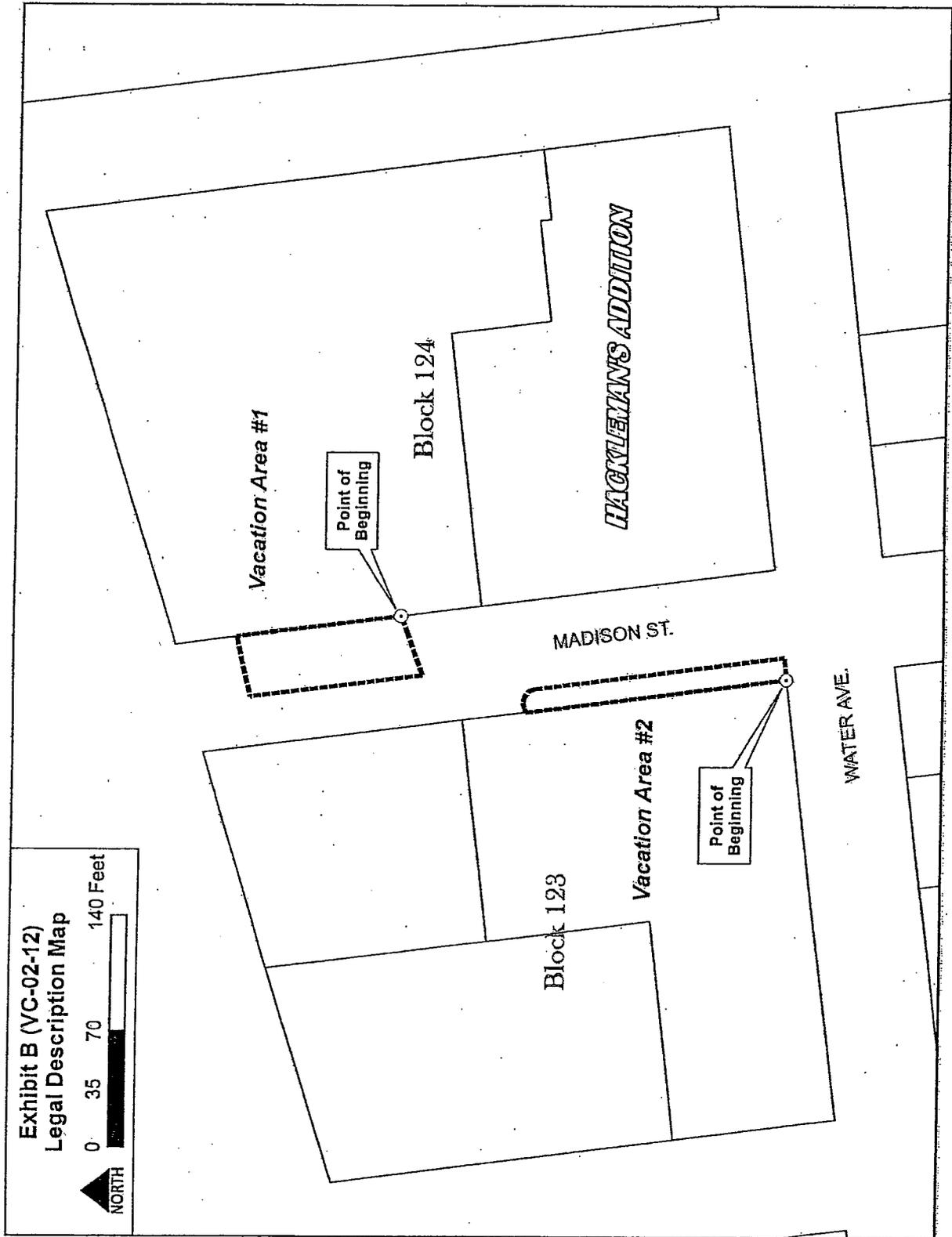
Vacation Area #3

A portion of the public right-of-way of Main Street in the Southeast 1/4 of Section 6, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon, said portion being more particularly described as follows:

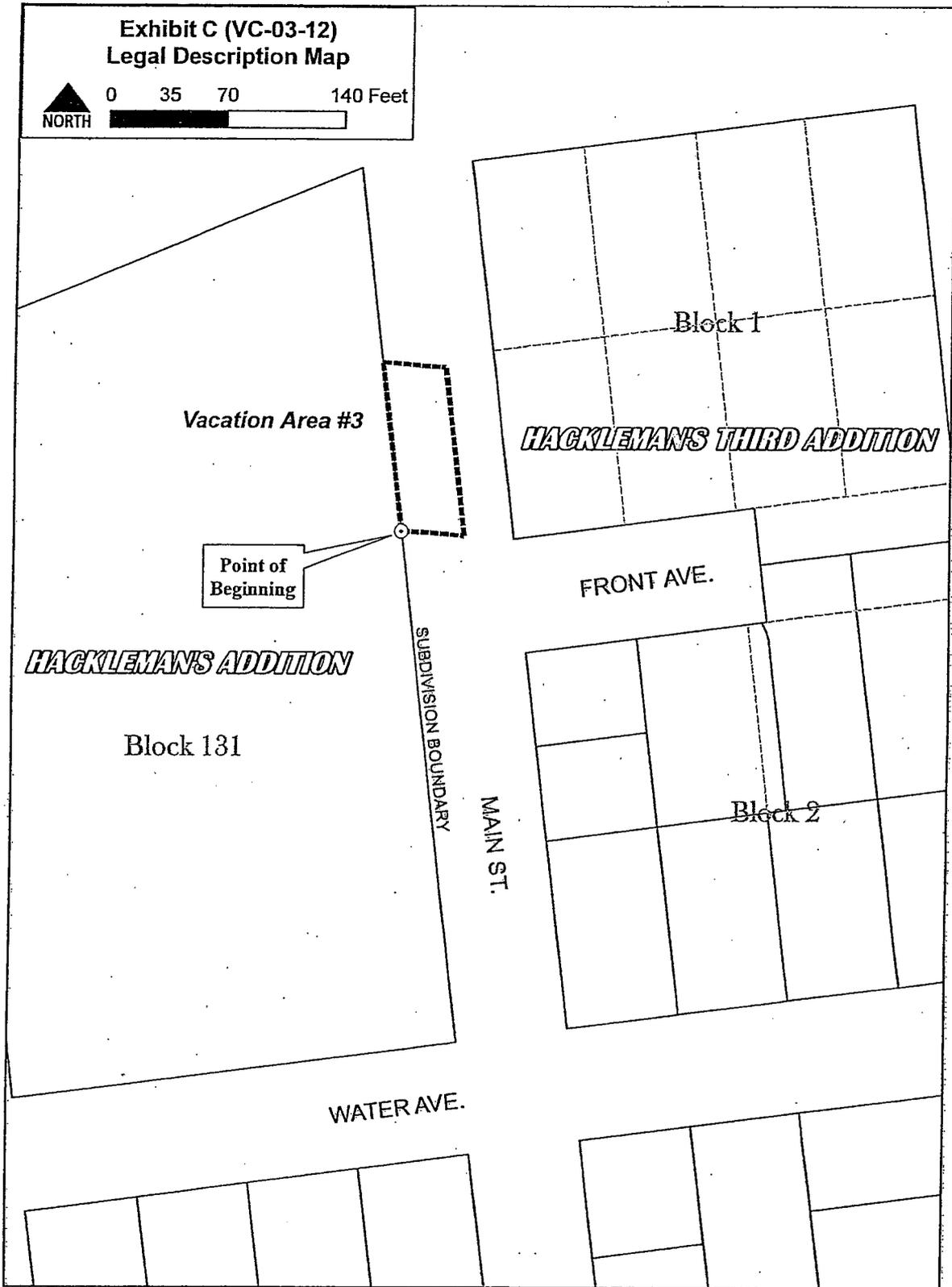
Beginning at a point on the westerly right-of-way line of Main Street, said point being N08°12'30"W 298.32 feet from the Southeast corner of Block 131, Hackleman's Addition to Albany, said Block corner being at the intersection of said westerly right-of-way line of Main Street with the northerly right-of-way line of Water Avenue; thence along said Main Street right-of-way line, N08°12'30"W 97.75 feet; thence leaving said right-of-way line S84°14'12"E 35.04 feet; thence running parallel to said westerly right-of-way line, S08°12'30"E 97.37 feet; thence along the arc of a 302.00 foot radius curve left (chord bears N84°50'30"W 34.95 feet) 34.97 feet to the point of beginning..

The Basis of Bearings for these descriptions is Linn County survey CS 22962.

ORDINANCE EXHIBIT B



ORDINANCE EXHIBIT C



ORDINANCE EXHIBIT D

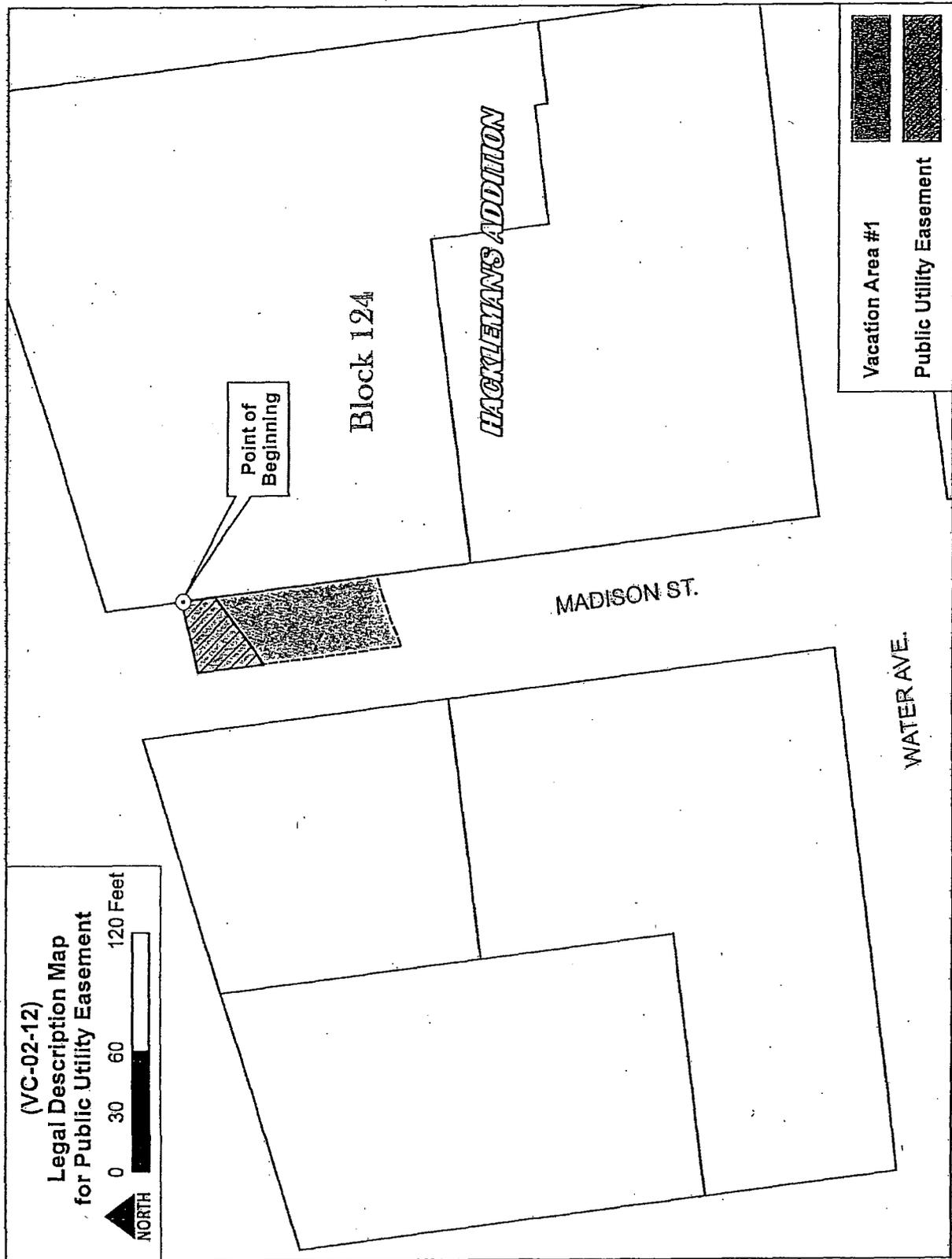
Public Utility Easement Legal Description

Beginning at a point on the easterly right-of-way line of Madison Street, said point being the Northeast corner of that portion of said right-of-way vacation described as *Vacation Area #1* on Ordinance Exhibit A for City of Albany planning case file VC-02-12, in the Southeast 1/4 of Section 6, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon, said point and corner being N08°16'10"W 331.15 feet from the Southwest corner of Block 124, Hackleman's Addition to Albany, said Block corner being at the intersection of said easterly right-of-way line of Madison Street with the northerly right-of-way line of Water Avenue; thence leaving said right-of-way line, S78°15'58"W 11.40 feet; thence S76°40'22"W 24.65 feet; thence S08°14'16"E 34.62 feet; thence N49°49'36"E 42.35 feet to the original east line of said right-of-way; thence along said original right-of-way line, N08°16'10"W 15.10 feet to the point of beginning.

The Basis of Bearings for this description is Linn County survey CS 22962.

ORDINANCE EXHIBIT E

Public Utility Easement Legal Description Map





ORDINANCE EXHIBIT F Community Development Department

333 Broadalbin Street SW, P.O. Box 490, Albany, OR 97321

Phone: (541) 917-7550 Facsimile: (541) 917-7598

STAFF REPORT

Vacations (Public Street Right-of-Way) VC-02-12 and VC-03-12

<u>HEARING BODY</u>	CITY COUNCIL
<u>HEARING DATE</u>	Wednesday, March 27, 2013
<u>HEARING TIME</u>	7:15 p.m.
<u>HEARING LOCATION</u>	Council Chambers Albany City Hall, 333 Broadalbin Street SW

EXECUTIVE SUMMARY

The vacation applications propose to vacate a portion of the Main Street right-of-way north of Front Avenue, and two portions of the Madison Street right-of-way north of Water Avenue. The rights-of-way are unimproved and dead end at the Willamette River. No portions of these sections of streets are currently used for vehicular traffic, nor are they expected to be extended to the north. The vacations are intended to provide property for inclusion in the proposed Edgewater Village development. A public sanitary sewer main lies within the northern section of the proposed Madison Street vacation (Vacation Area #1); this will necessitate the retention of a public utility easement.

The five (5) Vacation review criteria are addressed in detail in the staff report below.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission held a public hearing on February 25, 2013 and recommended that the City Council to approve this vacation application with the following condition.

- 1.1 A 30-foot wide public utility easement will be retained over the existing public sewer main running through the northern area being vacated in Madison Street (Vacation Area #1), as described in Ordinance Exhibit D and shown on Ordinance Exhibit E.

GENERAL INFORMATION

DATE OF REPORT:	March 18, 2013
FILES:	VC-02-12 and VC-03-12
TYPE OF APPLICATIONS:	Vacations of portions of public rights-of-way.
REVIEW BODY:	City Council
APPLICANTS:	Edgewater Village LLC (VC-02-12); City of Albany (VC-03-12)
ADDRESS/LOCATION:	Main Street, north of Front Avenue; Madison Street, north of Water Avenue. (Attachment A)
MAPS/TAX LOT:	Public right-of-way and adjacent properties are shown on Linn County Assessor's Map Nos. 11S-03W-06DA and 06DC

TOTAL LAND AREAS: Approximately 9,500 square feet total
EXISTING LAND USE: Unimproved public street rights-of-way
SURROUNDING ZONING: WF (Waterfront) and RS-6.5 (Residential Low Density); (Attachment B)
SURROUNDING USES: Single-family residential (east and south); Small business and single-family residential (south); Dave Clark Riverfront Path (north).

NOTICE INFORMATION

The site was posted on February 8, 2013, in accordance with Section 1.410 of the Albany Development Code. Two legal notices were published in the *Albany Democrat-Herald* on February 11, 2013, and February 18, 2013, in accordance with Oregon Revised Statute (ORS) 271.110. At the time this staff report was prepared (March 18, 2013), the Albany Planning Division had received no comments.

STAFF ANALYSIS

Vacation Files VC-02-12 and VC-03-12

OVERVIEW

The areas in question for VC-02-12 are portions of the Madison Street right-of-way that lie north of Water Avenue. This section of right-of-way from Water Avenue to the Willamette River is approximately 370 feet long. The property was dedicated as public street right-of-way with the Hackleman's Addition subdivision in 1882. Madison Street is an unimproved public street right-of-way that dead ends at the Willamette River to the north. This section of Madison Street has historically been used by a variety of industrial uses on the adjacent properties for access and parking. The proposal is to vacate sections of the right-of-way to allow for the applicant to use the property in the proposed Edgewater Village development.

The area in question for VC-03-12 is a portion of the Main Street right-of-way that lies north of Front Avenue. This section of right-of-way from Front Avenue to the Willamette River is approximately 220 feet long. The property was dedicated as public street right-of-way with the Hackleman's Third Addition subdivision in 1887. Main Street is an unimproved public street right-of-way that dead ends at the Willamette River to the north. This section of Main Street has historically provided access to a variety of industrial uses on the west side of Main Street for access. The proposal is to vacate a section of the right-of-way to allow for the developer to use the property in the proposed Edgewater Village development. If vacated, the right-of-way will initially revert to City ownership as part of Tax Lot 1800 (community garden parcel). In order to use this area as proposed in the Edgewater Village development, the applicant must obtain the property from the City after the vacation is approved.

The Albany Development Code (ADC) 2.630 contains the following review criteria which must be met for this application to be approved. Code criteria are written in *bold italics* and are followed by findings, conclusions, and conditions where conditions are necessary to meet the review criteria.

Criterion (1) The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan city transportation or public facility plan.

FINDINGS OF FACT

1.1 The following Comprehensive Plan policies have been identified as relevant to this review criterion:

GOAL 11: Public Facilities and Services

- a. Prohibit the construction of structures over public water lines and easements.
 - b. Prohibit the construction of structures over drainage improvements and easements.
 - c. Prohibit the construction of structures over public wastewater lines and easements.
- 1.2 Sanitary Sewer. Sanitary sewer utility maps indicate that a 30-inch public sanitary sewer main exists in a portion of the area proposed for vacation in Madison Street (Attachment C). The public sewer main on each side of Madison Street is protected by a 30-foot wide public utility easement. A 30-foot wide public utility easement (centered over the main) will be required for the sewer main that runs through the portion of Madison Street to be vacated.
- 1.3 Water. Water utility maps indicate that no public water mains exist in the portions of the rights-of-way proposed for vacation (Attachment C).
- 1.4 Storm Drainage. Storm drainage utility maps indicate that no public storm drainage facilities lie within the areas proposed for vacation, but a 15-inch storm drain main does run within the Madison Street right-of-way parallel to the areas proposed for vacation in Madison Street (Attachment C).
- 1.5 Other Utilities. City staff has contacted the various franchise utility providers about the proposed right-of-way vacation. We received no response to our request for information from any of these franchise utilities.
- 1.6 Transportation. The rights-of-way proposed for vacation are within dead-end sections of Madison Street and Main Street located north of Water Avenue. The existing public street rights-of-way are 66 feet wide, and extend northerly to the Willamette River. The streets are classified as local streets and are not improved. Historically, the rights-of-way have been used as access and parking for the adjacent industries.
- 1.7 Transportation. The City's Transportation System Plan (TSP) does not identify these rights-of-way as being part of the city's arterial/collector street system, nor does it anticipate any future construction of public street improvements in the rights-of-way.

CONCLUSIONS

- 1.1 A 30-inch public sanitary sewer main lies within the portion of right-of-way proposed for vacation in the northern section of Madison Street.
- 1.2 The proposed vacation does not conflict with Albany's TSP.
- 1.3 There are no plans for improving or extending these streets.
- 1.4 A public utility easement is needed to protect the existing public sanitary sewer that lies within the area to be vacated in the northern section of Madison Street.

CONDITION

- 1.1 A 30-foot wide public utility easement must be retained over the existing public sanitary sewer main that runs through the northern section of the proposed vacation within Madison Street (see Ordinance Exhibits D and E). This will allow access to the public main within the vacated area, and will assure that no structures are built too close to the main.

Criterion (2) The requested vacation will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, public facilities or utilities.

FINDINGS OF FACT

- 2.1 These sections of public right-of-way are unimproved, and have historically served only as access and parking for the industrial uses that have existed on the adjacent parcels. The parcels on both sides of the Madison Street right-of-way are owned by Edgewater Village LLC; the Main Street right-of-way north of Front Avenue is bounded on the west by property owned by Edgewater Village LLC, and on the east by property owned by the City of Albany.
- 2.2 Vacation of the subject areas would not land-lock or deny access to any existing parcel. The southern portion of Madison Street to be vacated would leave a 54-foot wide right-of-way, which is the current City standard for local streets. The northern portion of the Madison Street vacation area would leave a 30-foot wide right-of-way that would accommodate a future pedestrian/bicycle link to the Dave Clark Riverfront Path, as well as provide vehicular access to the public sewer for City personnel. The portion of Main Street proposed for vacation would also leave a 30-foot wide right-of-way that would accommodate a future pedestrian/bicycle link to the Riverfront Path, as well as provide vehicular access to the public sewer for City personnel.
- 2.3 Once vacated, the areas within Madison Street would be incorporated into the applicant's properties on both sides of the street right-of-way. Once vacated, the area within the Main Street right-of-way will become part of the City-owned parcel on the east side of Main Street.
- 2.4 If the vacations are not approved, the proposed development layout for the Edgewater Village project would need to be modified.
- 2.5 The northern portion of Madison Street right-of-way proposed for vacation includes a section of public sanitary interceptor sewer. A 30-foot wide public utility easement is required over this public main due to its size and depth. The required public utility easement will assure access rights to the main and prevent construction of permanent structures over the main.

CONCLUSIONS

- 2.1 Once vacated, the developer's intent is to utilize the areas for development with residential structures as indicated in the Edgewater Village planned development layout.
- 2.2 The proposed vacations would leave unobstructed sections of public right-of-way that would allow for access from Water Avenue to the Dave Clark Riverfront Path.
- 2.3 A public utility easement will be needed over the existing public sewer main that runs through the area proposed for vacation in the northern portion of the Madison Street right-of-way.

Criterion (3) The requested vacation will not have a negative effect on traffic circulation or emergency service protection.

FINDINGS OF FACT

- 3.1 The sections of public rights-of-way affected are unimproved dead-end streets. The Madison Street section is bounded on both the east and the west by properties owned by the applicant (Edgewater Village LLC), and does not provide access to any properties other than the applicant's. The Main Street section is bounded on the west by property owned by the developer (Edgewater Village LLC) and on the east by property owned by the City of Albany.

- 3.2 When vacated, the applicant's proposal is to incorporate the vacated areas into the Edgewater Village development.
- 3.3 The vacation of the Main Street section will not deny access to the City-owned parcel, as it can be accessed from Front Avenue on the south and Sherman Street on the east. Nor, will the vacations affect emergency vehicle access to any surrounding properties.

CONCLUSION

- 3.1 The requested vacation will not have a negative effect on traffic circulation or emergency vehicle access.

Criterion (4) The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.

FINDINGS OF FACT

- 4.1 This portion of the Madison Street right-of-way was initially dedicated as part of the Hackleman's Addition subdivision plat in 1882. The right-of-way to be vacated in Madison Street will be incorporated into the adjacent properties to the west and east (both properties owned by Edgewater Village LLC).

The portion of the Main Street right-of-way to be vacated was initially dedicated as part of the Hackleman's 3rd Addition subdivision plat in 1887. This area will revert to the property on the east side of the right-of-way owned by the City of Albany, because the right-of-way was initially dedicated entirely from property to the east.

- 4.2 The areas to be vacated are currently not being used for public access to any parcels. The rights-of-way are not improved and dead end to the north at the Willamette River.
- 4.3 The areas proposed for vacation in Madison Street would be incorporated into the parcels adjacent to the vacated property. The area proposed for vacation in Main Street would become part of the City-owned property on the east side of Main Street. Upon future development of the property, the vacated areas must be developed according to the Development Code requirements in effect at the time of development.

CONCLUSION

- 4.1 All parcels that will incorporate the vacated areas are currently undeveloped. Future development of any of these parcels must be accomplished in accordance with the Albany Development Code.

Criterion (5) The public interest, present and future, will be best served by approval of the proposed vacation.

FINDINGS OF FACT

- 5.1 The areas proposed for vacation lie within dead-end public rights-of-way. The areas to be vacated are currently not being used for access to any parcels.
- 5.2 It will be necessary to maintain a public utility easement over the northern portion of Madison Street to be vacated to allow for access to the existing public sewer main, and to assure that no structures are built over the main.
- 5.3 Vacation of the sections of right-of-way will not impact other properties, as the rights-of-way are currently unimproved and dead-end at the Willamette River.

CONCLUSION

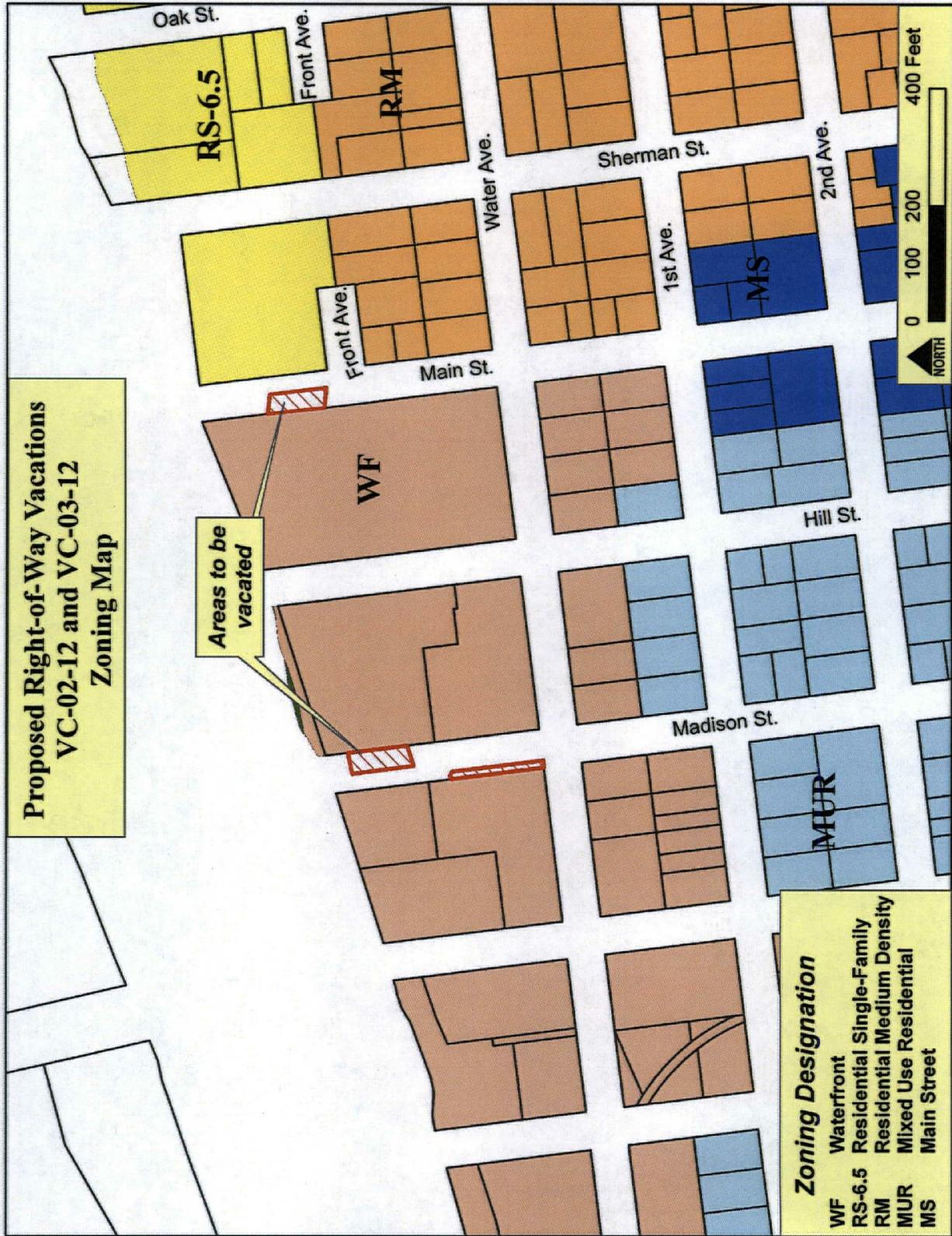
5.1 Vacating these sections of the right-of-way will not adversely impact the public interest.

Attachments: A - Location Map; B - Zoning Map; C - Utility Map

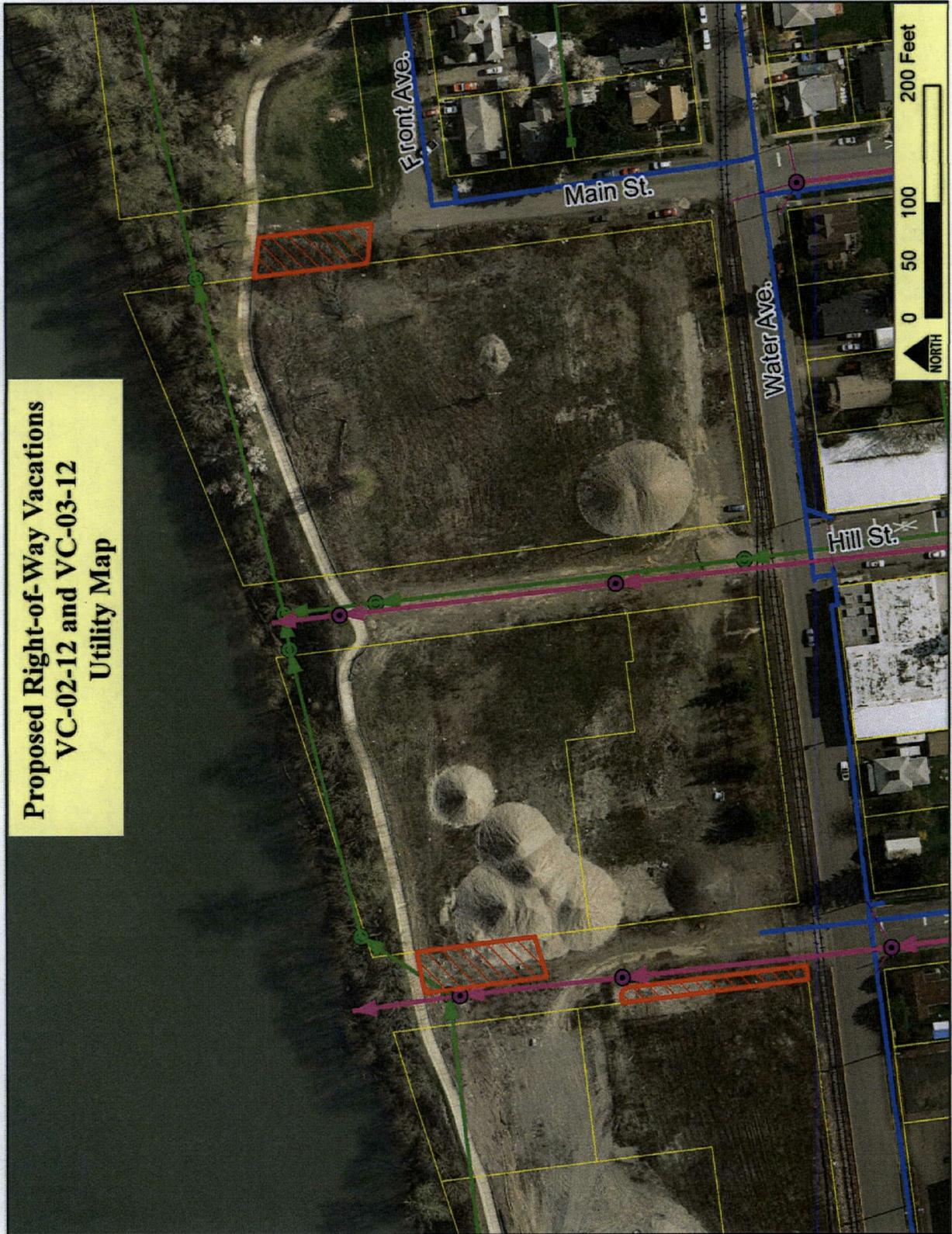
Attachment A – Location Map



Attachment B – Zoning Map



Attachment C – Utility Map



LINN COUNTY

Recording Cover Sheet
All Transactions, ORS: 205.234

LINN COUNTY, OREGON **2013-05464**
ORD-VAC
Cnt=1 Stn=1 COUNTER **04/02/2013 11:59:13 AM**
\$80.00 \$11.00 \$15.00 \$19.00 \$10.00 **\$135.00**



I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Steve Druckenmiller - County Clerk



After Recording Return To:

City of Albany City Clerk

PO Box 490

Albany, OR 97321

All Tax Statements Should Be Sent To:

1. Name/Title of Transaction - by ORS 205.234 (a)

Vacating public right-of-way, Ordinance No. 5804

2. Grantor/Direct Party - required by ORS 205.125(1)(b) and ORS 205.160

City of Albany

3. Grantee/Indirect Party - required by ORS 205.125(1)(a) and ORS 205.160

Edgewater Village LLC and City of Albany

4. True and Actual Consideration (if there is one), ORS 93.030

\$0