

LINN COUNTY
Recording Cover Sheet
All Transactions, ORS: 205.234

LINN COUNTY, OREGON 2013-18644
ORD-VAC
Cnt=1 Stn=7 S. WILSON 11/14/2013 03:26:48 PM
\$60.00 \$11.00 \$15.00 \$19.00 \$10.00 \$115.00

After Recording Return To:

City of Albany City Clerk

PO Box 490

Albany, OR 97321



00215674201300186440120123

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



All Tax Statements Should Be Sent To:

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

Vacating an Access Easement, Ordinance No. 5827

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

Coastal Farm & Home Supply LLC

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

Kennel property - 11S03W-10, TL 1100

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

\$0

Ord No. 5827

AN ORDINANCE VACATING AN ACCESS EASEMENT ON LOT 1 OF THE COASTAL FARM SUBDIVISION PLAT, LINN COUNTY SURVEY NUMBER 23139 (ORDINANCE EXHIBIT A), IN ALBANY, OREGON; ADOPTING FINDINGS; AND DECLARING AN EMERGENCY.

WHEREAS, notices of public hearing were mailed, posted, and published as required by state and local law; and

WHEREAS, the Albany Planning Commission held a public hearing on July 29, 2013; and

WHEREAS, the Albany Planning Commission recommended that the City Council approve the proposed access easement vacation; and

WHEREAS, the Albany City Council held a public hearing on August 14, 2013.

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

Section 1: Subject Property. The 24-foot wide access easement located on property described as Lot 1 of the Coastal Farm Subdivision plat (Linn County Survey Number 23139) and Linn County Assessor Map No. 11S-03W-09D; Tax Lot 100, is hereby vacated.

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

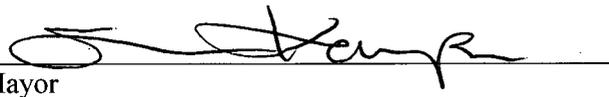
Section 3: Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the city of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.

Section 4: 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: Nov 13, 2013

Approved by the Mayor: Nov 13, 2013

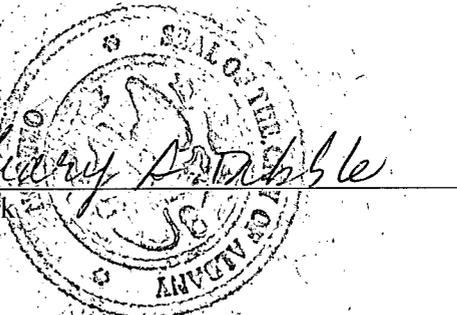
Effective Date: Nov 13, 2013



Mayor

ATTEST

City Clerk



ORDINANCE EXHIBIT A

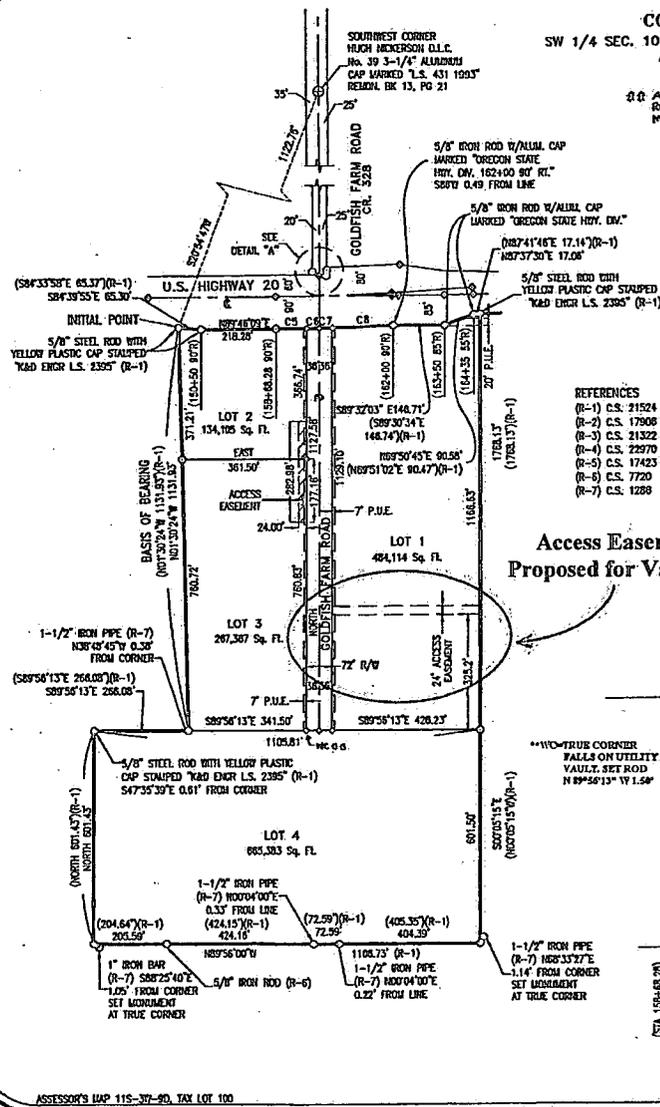
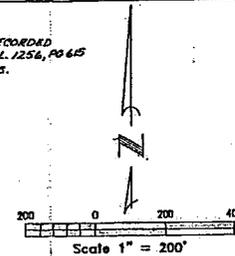
C.S. 23139
COASTAL FARM SUBDIVISION
 SW 1/4 SEC. 10 & SE 1/4 SEC. 09, T. 11 S., R. 03 W., W.M.,
 ALBANY, LINN COUNTY, OREGON
 DATE OF SURVEY: 10-30-01

3 AFFIDAVIT OF CORRECTION RECORDED
 JANUARY 22, 2002, IN NF VOL. 1256, PG 645
 LINN COUNTY DEED RECORDS.
 ROBERT M. LATHAM
 LINN COUNTY SURVEYOR

2 AFFIDAVIT OF INTERIOR MANUMENTATION
 RECORDED SEPTEMBER 11, 2002 IN
 NF VOL. 1255 PAGE 150 LINN COUNTY DEED RECORDS
 LATHAM & ASSOC.
 LINN COUNTY SURVEYOR

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR
 L. B. OLSON
 OREGON
 MAY 19, 1994
 LAWRENCE B. OLSON
 655
 RENEWAL DATE: 12-31-2002

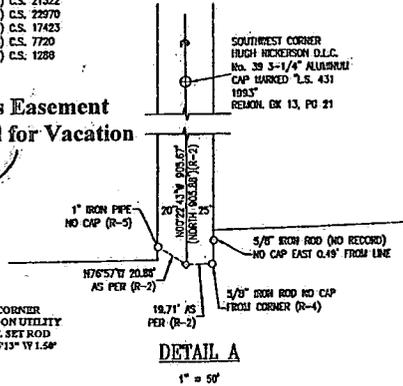
NOTE:
 A PORTION OF THE PROPERTY SHOWN HEREON LIES WITHIN THE
 100-YEAR FLOODPLAIN, AND ANY DEVELOPMENT OF PROPERTY
 WITHIN THE 100-YEAR FLOODPLAIN AS MOST CURRENTLY
 ESTABLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY,
 OR CITY OF ALBANY MAY BE RESTRICTED AND SUBJECT TO
 SPECIAL REGULATIONS BY THE CITY.



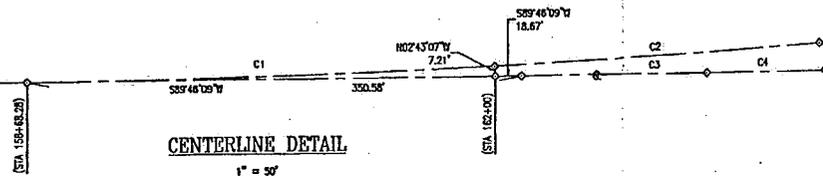
- REFERENCES
- (R-1) C.S. 21524
 - (R-2) C.S. 17808
 - (R-3) C.S. 21322
 - (R-4) C.S. 22970
 - (R-5) C.S. 17423
 - (R-6) C.S. 7720
 - (R-7) C.S. 1288

CURVE TABLE

NUMBER	DELTA ANGLE	CHORD DIRECTION	RADIUS	ARC LENGTH	CHORD LENGTH
C1	02°29'04"	N 88°31'31" E	7839.44	331.70	331.68
C2	01°44'10"	N 85°24'48" E	7839.44	231.47	231.46
C3	00°26'12"	N 89°33'03" E	17168.73	131.00	131.00
C4	00°17'00"	N 89°13'27" E	17168.73	85.00	85.00
C5	00°39'04"	N 89°24'24" E	7729.44	77.63	77.63
C6	00°16'01"	S 88°50'06" W	7729.44	38.01	38.01
C7	00°16'01"	S 88°43'04" W	7729.44	38.01	38.01
C8	01°17'50"	N 87°55'58" E	7729.44	175.78	175.78



- LEGEND
- ⊕ FOUND D.L.C. MONUMENT AS NOTED.
 - FOUND MONUMENT AS NOTED
 - SET 5/8" BY 30" REBAR WITH PLASTIC CAP STAMPED 'P.L.S. 655'.
 - ▲ FOUND P.K. MARK AS NOTED
 - ◇ POST-MONUMENT: TO BE SET, A 5/8" BY 30" REBAR WITH YELLOW CAP STAMPED 'P.L.S. 655'.
 - ◆ COMPUTED POINT.
 - DENOTES LINE NOT TO SCALE.
 - (- - -) RECORDED DATA.
 - C.S. = COUNTY SURVEY.



EA PROJECTS: 138 Albany Coastal Farm\Draw\138\138.dwg, FINAL PLAT 5-1, 11/19/01 12:45:56 PM,
 HP Design: 41 6506 (22658) plat, latham@latham.com (442) (loc: 1195-6264)

ASSESSOR'S MAP 115-37-80, TAX LOT 100



Community Development Department

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

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

STAFF REPORT Vacation (Access Easement) VC-01-13

<u>HEARING BODY</u>	CITY COUNCIL
<u>HEARING DATE</u>	Wednesday, August 14, 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 application proposes to vacate a private access easement that was dedicated on Linn County Survey 23139. The easement was dedicated in order to provide access rights to Goldfish Farm Road through the Coastal Farm property for the benefit of the Kennel property to the east. The easement is not a public easement, but because it was dedicated on a subdivision plat it must be extinguished through the vacation process. The applicant is proposing to relocate the access easement to another location on the property to continue providing access rights to the Kennel property. The new easement will be in the form of a recorded private agreement between the property owners.

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 July 29, 2013 and recommended that the City Council approve this vacation application with the following condition.

- 2.1 The applicant must provide a 24-foot wide private access easement over the subject property for the benefit of the owner of the property directly to the east [Kennel property - (Linn Co. Assessor Map 11S-03W-10, TL 1100)]. The location of the new access easement must be substantially the same as that shown on Attachment D

GENERAL INFORMATION

DATE OF REPORT:	August 7, 2013
FILE:	VC-01-13
TYPE OF APPLICATION:	Vacation of a private access easement that was dedicated on Linn County Survey 23139
REVIEW BODIES:	Planning Commission and City Council

APPLICANT: Coastal Farm & Home Supply LLC
ADDRESS/LOCATION: 1355 Goldfish Farm Road SE (Attachment A)
MAPS/TAX LOT: Linn County Assessor's Map No. 11S-0W-09D; Tax Lot 100
EXISTING LAND USE: Commercial
SURROUNDING ZONING: CC (Community Commercial) and LI (Light Industrial) (Attachment B)
SURROUNDING USES: Commercial (north and west); Residential (south); Undeveloped (east)

NOTICE INFORMATION

The site was posted on July 15, 2013, in accordance with Section 1.410 of the Albany Development Code. Two legal notices were published in the *Albany Democrat-Herald* on July 15, 2012, and July 22, 2013, in accordance with Oregon Revised Statute (ORS) 271.110. At the time this staff report was prepared (August 7, 2013), the Albany Planning Division had received no comments regarding this application.

STAFF ANALYSIS OF THE APPLICATION

OVERVIEW

In 2001, Coastal Farm & Home Supply LLC received a Site Plan Review approval for the construction of their development at 1355 Goldfish Farm Road SE. One of the requirements of this approval was to provide an access easement across the subject property for the benefit of the owner of the parcel directly to the east of the Coastal Farm site (Kennel property – Linn County Assessor Map No. 11S-03W-10, TL 1100). Coastal Farm provided this in the form of a 24-foot wide access easement just south of the building constructed with the initial development.

Now, Coastal Farm wishes to expand their development on this site by constructing a 64,000 square foot addition to the south side of the existing structure. This will necessitate that the access easement be relocated to the south side of the proposed building addition. Coastal Farm has agreed to provide an alternate access easement for the neighboring property.

The Albany Development Code (ADC) 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.

FINDINGS OF FACT

- (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 an 8-inch public sanitary sewer main runs along the full length of the north property boundary, adjacent to Highway 20; and, an 8-inch main exists in Goldfish Farm Road.
 - 1.3 Water. Water utility maps indicate that a 12-inch public water main exists in Highway 20, along the property's north frontage; a 24-inch main lies in Goldfish Farm Road along the frontage of the developed portion of the subject property; a 16-inch main lies in Goldfish Farm Road along the undeveloped southern portion of the subject property; and, an 8-inch main runs through the property along the southern boundary of the existing building, to feed a fire hydrant (Attachment C).
 - 1.4 Water. The existing public water main that runs parallel to the existing access easement will also need to be relocated to allow for the construction of the proposed expansion. The applicant is proposing to abandon this public water main and replace it with a private hydrant line to the south of the proposed new building.
 - 1.5 Storm Drainage. Storm drainage utility maps indicate that public storm drainage facilities exist (24-inch and 30-inch mains) in Goldfish Farm Road, along the full length of the subject property's frontage, and a 42-inch public storm drainage main runs along the north boundary of the property adjacent to Highway 20.
 - 1.6 Other Utilities. City staff has contacted the various franchise utility providers about the proposed right-of-way vacation. We received no feedback from any of these franchise utilities.
 - 1.7 Transportation. The access easement in question is not a public access easement, but is for the benefit of the owner of the property directly to the east of the Coastal Farm parcel. Relocating this access easement will have no impact on public transportation.

CONCLUSIONS

- 1.1 No public utilities exist within the existing access easement, or in the area of the proposed access easement relocation.
- 1.2 The existing public main near the access easement will be abandoned and replaced with a private hydrant line near the proposed relocated access easement south of the proposed expansion.
- 1.3 The proposed access easement vacation does not conflict with Albany's TSP.

- (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 The access easement being proposed for vacation is a 24-foot wide easement over the Coastal Farm parcel for the benefit of the Kennel parcel to the east. It is not a public access easement.
- 2.2 Vacation of the access easement would restrict access to the Kennel parcel from Goldfish Farm Road. The applicant is proposing to relocate the access easement to the south of the proposed building addition. The relocated access easement would maintain the legal right of access to the Kennel property from Goldfish Farm Road, through the Coastal Farm parcel.
- 2.3 If the vacation is not approved, the building addition for the Coastal Farm & Home Supply store would not be allowed in the proposed location.

CONCLUSIONS

- 2.1 Once vacated, the legal rights to access the Kennel parcel from Goldfish Farm Road would be eliminated. Therefore, the applicant is proposing to replace the existing access easement with a similar easement along the southern boundary of the Coastal Farm property.
- 2.2 The proposed vacation is necessary for the property owner to construct the proposed expansion to the south of the existing building.

CONDITION

- 2.1 The applicant must provide a 24-foot wide private access easement over the subject property for the benefit of the owner of the property directly to the east (Kennel property - (Linn Co. Assessor Map 11S-03W-10, TL 1100)). The location of the new access easement must be substantially the same as that shown on the applicant's submittal (see Attachment D).

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

FINDINGS OF FACT

- 3.1 The existing access easement is not a public access easement. It is for the benefit of a single parcel to the east of the subject property.

CONCLUSION

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

- (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 The proposed vacation is not for public right-of-way, but for a private access easement.

CONCLUSION

4.1 This criterion does not apply because the vacation is not for public right-of-way.

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

FINDINGS OF FACT

5.1 The vacation is to eliminate a private access easement over the subject property. The applicant is proposing to relocate the easement to the south of the proposed expansion, which will maintain the legal access rights that were established by the original access easement.

CONCLUSION

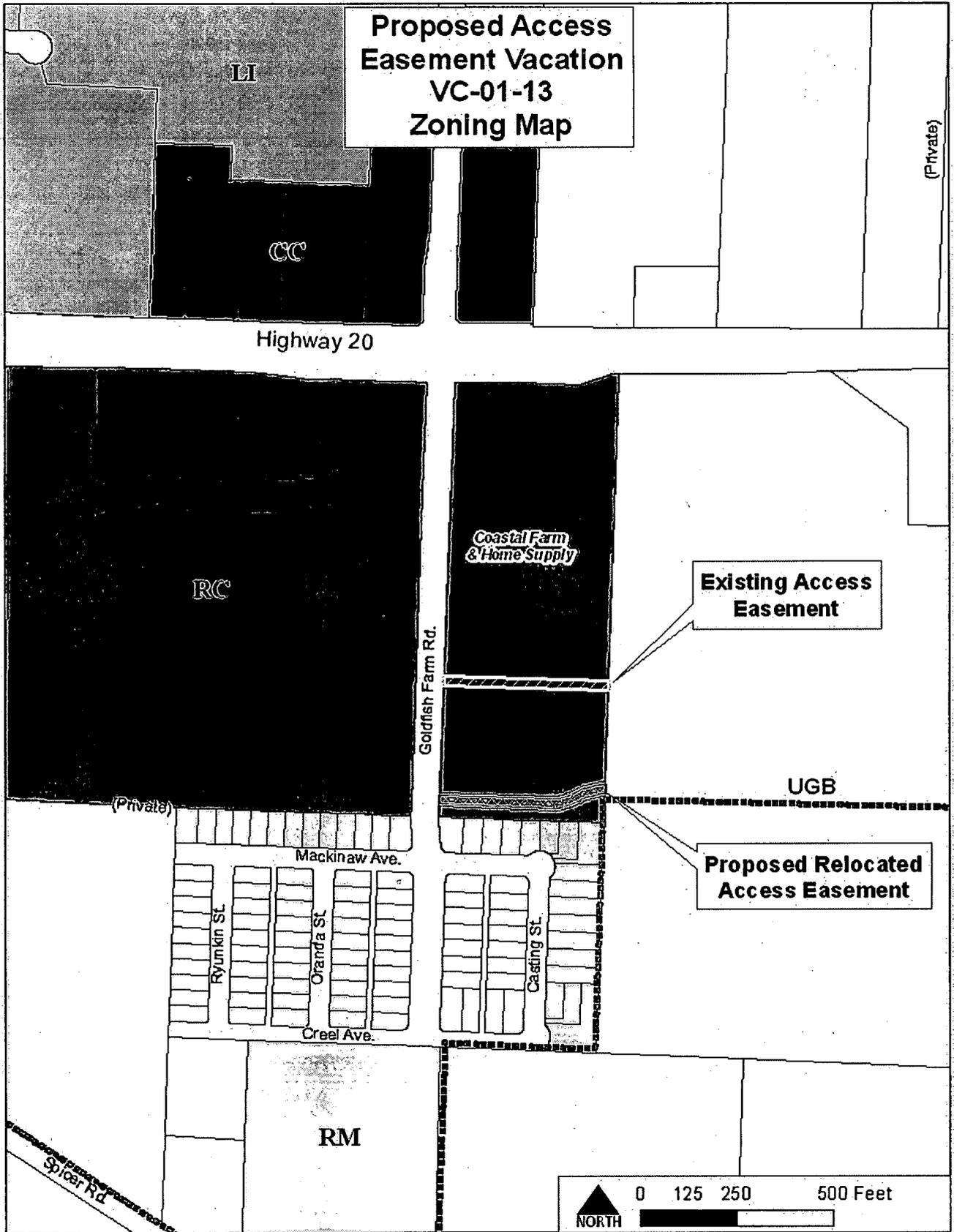
5.1 Vacation of the existing access easement and relocating it to another area on the subject property will not adversely impact the public interest.

Attachments: A - Location Map; B - Zoning Map; C - Utility Map; D – Proposed Relocated Easement

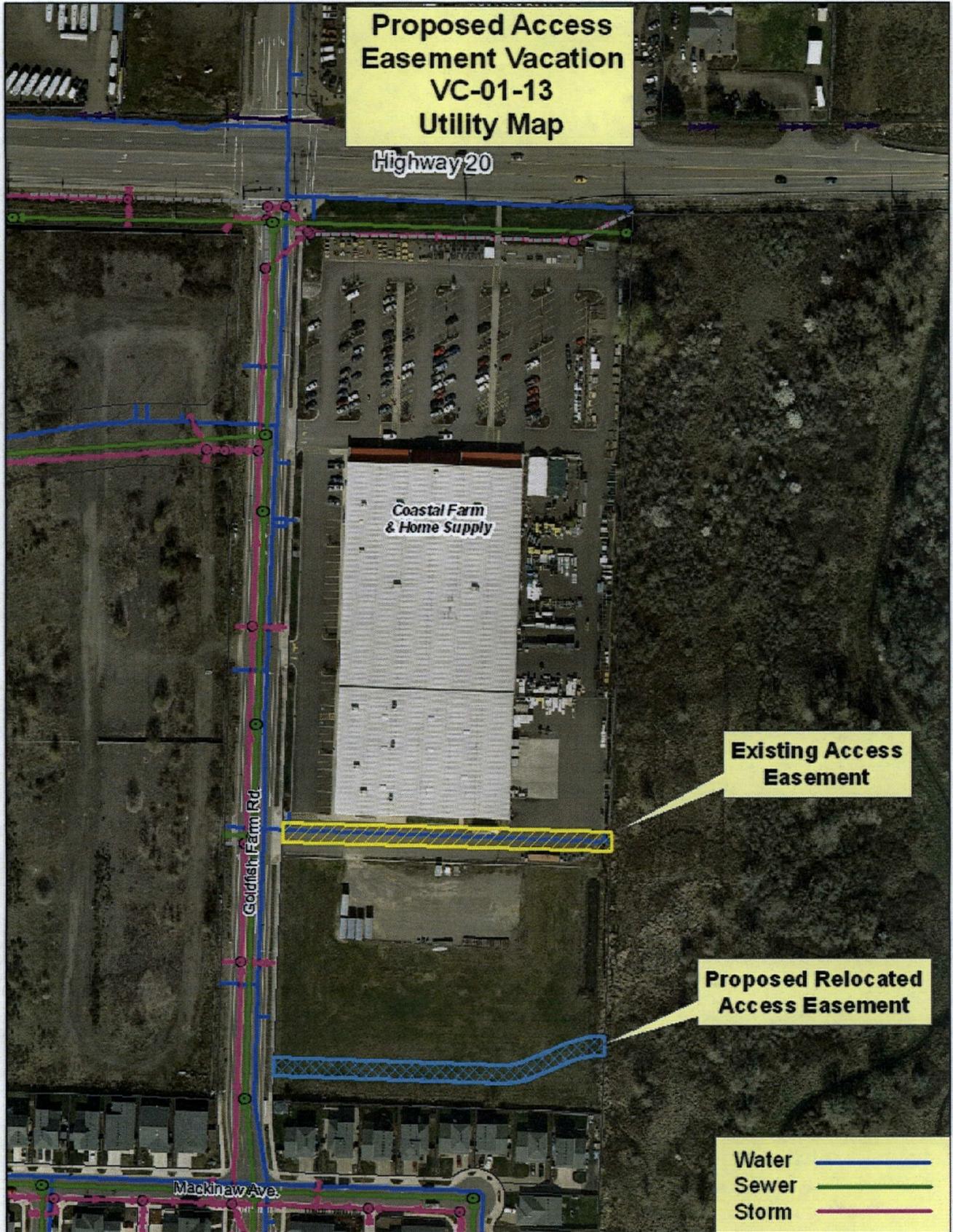
Attachment A – Location Map



Attachment B – Zoning Map



Attachment C – Utility Map



Attachment D – Proposed Relocated Easement

