

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of the Proposed Vacation of a )  
Portion of Fourth & "D" Streets and A )  
Portion of an Alleyway in the Neer City, )  
Oregon, Subdivision )  
[Robert C. Smith Petition] )  
\_\_\_\_\_ )

**RESOLUTION NO. 59 - 2003**  
(Initiating/Finalizing Vacation Proceedings)

WHEREAS, pursuant to ORS 368.341(1) the Board of Commissioners for Columbia County, Oregon (hereinafter referred to as the Board) may initiate proceedings to vacate property under ORS 368.326 to 368.366; and

WHEREAS, Robert C. Smith owns property abutting a portion of Fourth Street, and a portion of "D" Street, lying within the plat of Neer City, Oregon, which are proposed to be vacated, and has filed with the Board a petition requesting that the Board vacate said portions of Fourth and "D" Streets; and

WHEREAS, a copy of such petition is attached hereto, labeled Exhibit A, and is incorporated herein by this reference; and

WHEREAS, the petition included a consent form signed by David Welter, owner of additional property abutting the platted but unconstructed rights-of-way proposed to be vacated, but did not include a consent form signed by Gerald L. Modin, owner of property abutting a portion of Fourth Street proposed to be vacated and commonly known as Tax Accounts No. 6212-022-00200 and 1700, nor from the Oregon Department of Transportation, owner of abutting property known as Highway 30; and

WHEREAS, Robert C. Smith has subsequently purchased those properties known as Tax Account Nos. 6212-022-00200 and 1700, from Gerald L. Modin by Quitclaim Deeds recorded in the records of the Columbia County Clerk as Instrument Nos. 03-12528 and 03-12529; and

WHEREAS, Robert Smith amended his petition for vacation by a written request dated August 13, 2003, requesting that the portion of the platted but unconstructed alleyway running from the Columbia River Highway U.S. 30 west to the western lot line of that property commonly known as Tax Account No. 6212-022-00400 be vacated, said amendment being attached hereto as Exhibit B and by this reference incorporated herein; and

WHEREAS, Mr. Smith further amended his petition in a telephone confirmation that his request for the vacation of Fourth Street should extend to the western lot line of Lot 10, Block 2, property owned by Mr. Smith; and

WHEREAS, the eastern ends of Fourth Street and the alleyway proposed for vacation, as platted, abut the Columbia River Highway 30, and the consent to this vacation from the Oregon Department of Transportation has been received and is attached hereto as Exhibit C and by this referenced incorporated herein; and

WHEREAS, Mr. Smith has requested vacation of these portions of Fourth and "D" Streets and that certain alleyway described above in an attempt to create a property on which a home might be built; and

WHEREAS, that portion of Fourth Street proposed to be vacated is generally described as lying between Lots 10, 11 and 12, Block 2 and Lots 1, 2 and 3, Block 5; and Lots 7 through 12, Block 3, and Lots 1 through 6, Block 4, Neer City, Oregon, and

WHEREAS, that portion of "D" Street proposed to be vacated is generally described as lying between Lot 1, Block 8 and Lot 6, Block 9; Lots 1 and 12, Block 5, and Lots 6 and 7, Block 4; and, Lots 1 and 12, Block 2, and Lots 6 and 7, Block 3, Neer City, Oregon; and

WHEREAS, that portion of the alleyway proposed to be vacated is generally described as lying between Lots 2 through 6 and Lots 7 through 12, Block 3, and Lots 1, 2, and 3, Block 2, and Lots 10, 11, 12, Block 2; and

WHEREAS, a map of that portion of the platted but unconstructed rights-of-way proposed to be vacated is attached hereto as Exhibit D and is incorporated herein by this reference; and

WHEREAS, pursuant to ORS 368.351(2), the proceedings for vacation were initiated by a petition that contains the acknowledged signatures of owners of 100 percent of any private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting the public property proposed to be vacated and the petition indicates such owners' approval of the proposed vacation; and

WHEREAS, the petition submitted by Robert Smith complies with the petition requirements of ORS 368.341(3); and

WHEREAS, because the petition meets the signature requirements of ORS 368.351(2), the Board may make a determination about the vacation without holding a hearing if the county road official, i.e., the Public Works Director, files with the Board a written report that contains an assessment that the vacation is in the public interest;

WHEREAS, the County Roadmaster, Dave Hill, has filed a report dated August 20, 2003, with the Board indicating that it was his assessment that the vacation would be in the best interests of the public and the affected property owners, although requesting that the vacation of "D" Street begin 50 feet north of the Neer City Road right-of-way, retaining this 50 feet as dedicated property for possible future road widening projects, a copy of the Roadmaster's report being attached hereto, labeled Exhibit E and incorporated herein by this reference; and

WHEREAS, the Board finds that the petition meets the requirements of ORS 368.341 and contains the acknowledged signatures and owners' approval as required by ORS 368.351(2);

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. Vacation of certain platted, unconstructed rights-of-way, as more particularly described below and as shown in Exhibit D, is in the public interest.

Tracts of land in Section 12, Township 6 North, Range 2 West, Willamette Meridian, Columbia County, Oregon, more particularly described as

follows:

The following described portions of streets and a certain alleyway lying within the subdivision of Neer City, as recorded in Deed Book H, Page 510, records of Columbia County, Oregon, in Section 12, Township 6 North, Range 2 West of the Willamette Meridian, Columbia County, Oregon:

"D" Street beginning 50 feet north of the Neer City Road right-of-way and extending north to the northern section line.

All that portion of Fourth Street which lies Westerly of the Columbia River Highway U.S. 30, as platted, west to the Westerly lot line of Lot 10, Block 2.

All of the unnamed alleyway running through Blocks 2 and 3 of the above said subdivision lying East of the West lines of Lots 3 and 10 of said Block 2.

2. The property described as above and depicted in Exhibit D is hereby vacated and shall hereby vest in the abutting property owners as provided in ORS 368.366(1)(d) by extension of said owners' abutting property boundaries to the centerline of the vacated platted road.
3. This vacation is being made with a specific reservation of any existing right-of-way for utility easements.
4. Pursuant to Order No. 55-2001, the required fee of \$2,000 was paid by the petitioner, \$1,000 deposited directly into the County Road Fund and \$1,000 into the General Fund, Fees for Services, Road Vacations, Line Item No. 100-00-00-3255, out of which the following costs shall be paid:

SERVICE	FEE	SUBTOTAL
Filing Petition by the Clerk	\$28.50	\$ 28.50
Review for Correct Property Description by County Surveyor [if required]	\$30.00 [per parcel]	\$ 00.00
Hearing (if required)	\$100.00	\$00.00
Recording Final Order by the Clerk	\$26.00 [first page]	\$26.00
	\$5.00 [each additional page x 16 pp.]	\$80.00
Two Certified Copies by the Clerk [one to Assessor, one to Surveyor]	\$3.75 [per copy x 2]	\$ 7.50

	\$00.25 [per page x 34 pp.]	\$8.50
Posting the Approved Road Vacation by County Surveyor	\$45.00 [ per parcel]	\$45.00
	TOTAL OWED	\$195.50

5. The \$28.50 filing fee has already been paid to the County Clerk. The Treasurer is hereby authorized to disburse the following amounts from the Fees for Services, Road Vacations account as follows:

To County Clerk : \$ 122,00  
To County Surveyor : \$ 45.00

6. This order shall be recorded with the County Clerk, a copy inserted in the appropriate road jacket, and certified copies of it shall be filed with the County Surveyor and the County Assessor.

DATED this 25th day of October, 2003.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

APPROVED AS TO FORM:

By: [Signature]  
Office of County Counsel

By: [Signature] Chair  
By: [Signature] Commissioner  
By: [Signature] Commissioner

S:\COUNSEL\ROADS\FOURTH & D\ORD INITIATE.wpd

EXHIBIT A

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

FILED  
BY *Stamm*  
COLUMBIA COUNTY CLERK  
Aug 14 2 02 PM '03

In the Matter of the Vacation of \_\_\_\_\_ }  
Located Near \_\_\_\_\_ }  
Columbia County, Oregon \_\_\_\_\_ }

PETITION FOR VACATION  
No. 2003-01

I/We, Robert C Smith, [insert name(s) of all petitioners], who  
reside at 79129 ALSTON MAYFIELD RD RAINIER ORE 97048 P.O. BOX 97 [insert address],  
[phone] petition the Board of County Commissioners for the vacation of  
the following property:

1. Description of Property Proposed for Vacation [attach additional sheets if necessary]:

a. General Description:

*West*  
~~Per~~ St Running N' FROM NEER City RD  
TO SECTION LINE  
4 TH ST RUNNING NORTH FROM O ST.

b. Legal Description:

PARCEL 1 Lots 1-2-3-10-11-12 Block 2 NEER city  
PARCEL 2 Lots 2-3-4-5-6-7-8-9-10- Block 3 NEER city  
PARCEL 3 Lots 2-11-12 Block 4  
PARCEL 4 Lots 1-2-11-12 And All that part of Lots 3-40  
lying EASTERNLY OF NEER city ROAD BLOCK 5  
NEER city RD Columbia County Oregon

2. Description of Your Property Interest [attach additional sheets if necessary]:

a. Type of interest you have in any property affected by the proposed vacation:

*Building HOME SITE ON Property.*

b. Legal Description of your property:

*SAME AS 1-B*

Copy DED

3. Creation of Public Interest.

See Exhibit \_\_\_\_, attached. [Attach copies of deeds, plats, orders or other documentation showing creation of public interest in the property or right-of-way proposed for vacation and present ownership of the parcel].

4. Statement of reasons for vacation [attach additional sheets if necessary]:

TO Build home + ~~join~~ Connect ALL lots Together

5. Names and addresses of all persons holding any recorded interest in the property proposed to be vacated [attach additional sheets if necessary]:

DAVID WELTER

70740 NEER City RD RA

6. Names and address of all persons owning any improvements constructed on property proposed to be vacated [attach additional sheets if necessary]:

NONE

7. Names and addresses of all persons owning any real property abutting the property proposed to be vacated [attach additional sheets if necessary]:

X DAVID WELTER 70740 NEER City RD.  
Ward F Welter  
Bill Bill Welter

8. The signature(s), acknowledged before a notary or other person authorized to take acknowledgments of deeds, of at least a) the owners of sixty (60) percent of the land abutting the property proposed to be vacated, or b) sixty (60) percent of the owners of land abutting the property proposed to be vacated, are attached (attach consent forms).

[Note: without the acknowledged signatures of owners of 100 percent of any private property proposed to be vacated and acknowledged signatures of owners of 100 percent of property abutting any public property proposed to be vacated, a hearing will be required].

9. If the petition is for the vacation of property that will be redivided in any manner, a subdivision plan or partitioning plan showing the proposed redivision is attached.

10. A true and accurate map of the proposed vacation is attached as Exhibit \_\_\_\_.

11. I verify that I have flagged all corners of the area proposed to be vacated and that the flags are reliably and accurately located and are easily visible.
12. The non-refundable vacation fee of \$1,000 is tendered with this petition.
13. Signature and Verification(s):

STATE OF OREGON       )  
                                  ) ss.  
County of Columbia    )

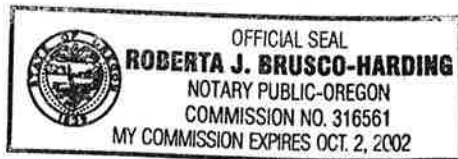
I/We Robert C Smith David Welter Lillibell Welter, am/are  
the petitioner(s) herein and hereby swear, under penalties of perjury, that the statements made  
in this petition, and the attachments hereto, are true to the best of my/our knowledge.

Robert C Smith  
(Petitioner's Name) (Date)

David Welter  
(Co-Petitioner's Name [if any])

Lillibell Welter  
(Co-Petitioner's Name [if any])

Subscribed and sworn to before me this 4<sup>th</sup> day of September,  
2001.



Roberta J. Brusco-Harding  
Notary Public for Oregon  
My Commission Expires:

X

**CONSENT OF ABUTTING PROPERTY OWNER(S)**

(Each co-owner of abutting property must sign)

1. Name(s) of abutting property owner(s): DAVID WELTER, L. MABEL WELTER
2. Mailing address of abutting property owner(s): 70740 NEER CANY RD.  
SPRING ORE 97048
3. Legal description of abutting [YOUR] property (attach additional sheets if necessary; your deed or title report can be attached in lieu of writing legal description): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Tax Account No.** \_\_\_\_\_

4. Legal description of property proposed for vacation (attach additional sheets if necessary): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

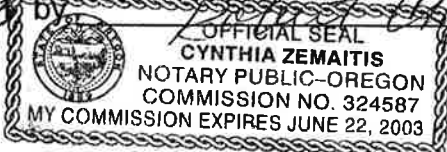
5. I/We am/are the owner(s) of the above-described property abutting the property proposed to be vacated and consent to the proposed vacation.

[Signature] 5-20-03  
(Property Owner's Signature) Date

\_\_\_\_\_  
(Co-Property Owner's Signature [if any]) Date

STATE OF OREGON )  
 ) ss.  
County of Columbia )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of May, 2003 by Robert Charles Smith



[Signature]  
Notary Public for Oregon  
My Commission Expires: 6/22/03



NW1/4 SEC. 12 T.6N. R.2W. W.M.

COLUMBIA COUNTY

THIS MAP HAS BEEN PREPARED FOR ASSESSMENT PURPOSES ONLY

Scale: 1" = 100'

Current Revision Date: 5/04/01

2 2 2  
NEER CITY

SEE MAP 6 2 1

CS# 2634  
CS# 2634 A



SEE MAP 6 2 12 2 1

SEE MAP 6 2 12

6 2 12 2 2  
NEER CITY

SEND TAX STATEMENTS TO:  
Robert C. Smith  
P.O. Box 67  
Rainier, OR 97048

AFTER RECORDING, RETURN TO:  
Robert C. Smith  
P. O. Box 67  
Rainier, OR 97048

### STATUTORY WARRANTY DEED

LYNN O'DELL, Grantor, conveys and warrants to ROBERT C. SMITH, Grantee, the following described real property, free of encumbrances except as specifically set forth herein:

PARCEL 1: Lots 1, 2, 3, 10, 11 and 12, Block 2, NEER CITY, Columbia County, Oregon.

PARCEL 2: Lots 2, 3, 4, 5, 6, 7, 8, 9 and 10, Block 3, NEER CITY, Columbia County, Oregon.

EXCEPTING that portion of Lot 2 that lies within Columbia River Highway.

PARCEL 3: Lots 2, 11 and 12, Block 4, NEER CITY, Columbia County, Oregon.

PARCEL 4: Lots 1, 2, 11, 12 and all that part of Lots 3 and 10 lying Easterly of Neer City Road, Block 5, NEER CITY, Columbia County, Oregon.

TOGETHER WITH the vacated portion of the alleyway running across Block 5, that inured to said Lots 1, 2, 11 and 12 by Vacation Order No. 77-93; ALSO TOGETHER with the vacated portion of 4th Street that inured to said Lots 1 and 2 by Vacation Order No. 77-93.

PARCEL 5: All that part of Lots 1 and 2 lying Northeasterly of Neer City Road, Block 8, NEER CITY, Columbia County, Oregon.

#### SUBJECT TO:

The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads, and highways.

Mineral and all hydrocarbon substances reservation as contained in the following deeds:

1. Deed from Columbia County recorded November 10, 1967, Deed Book 167, Page 203 and 204, Deed Records of Columbia County, Oregon.

2. Deed from Columbia County recorded March 12, 1993, Instrument No. 93-2076, Official Records of Columbia County, Oregon.

3. Deed from Columbia County recorded March 12, 1993, Instrument No. 93-2077, Official Records of Columbia County, Oregon.

Easements for utilities over and across the premises formerly included within the boundaries of alleyway across Block 5 and 4th Street, now vacated, if any such exists.

This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations. Before signing or accepting this instrument, the person acquiring fee title to the property should check with the appropriate city or county planning department to verify approved uses.

The true and actual consideration for this conveyance is \$14,500.

DATED this 31 day of MAY, 1994.

Lynn O'Dell  
Lynn O'Dell

STATE OF OREGON )  
County of Columbia ) ss:

Personally appeared the above named Lynn O'Dell and acknowledged the foregoing instrument to be his voluntary act and deed.

Debra Braun Beardsley  
Notary Public for Oregon

I hereby certify that the within instrument was received for record and recorded in the County of Columbia, State of Oregon.

13543  
3543 '98 OCT 28 AM 1:58



ELIZABETH HUSER, County Clerk  
By: Huser Deputy  
Receipt # 14169 # of Pages 3  
FEES \$ 10.00



I hereby certify that the within instrument was received for record and recorded in the County of Columbia, State of Oregon.

07693 '94 AUG -9 P1:40  
Pages 2



ELIZABETH HUSER, County Clerk  
By: Huser Deputy  
Receipt # 2522 Fees \$ 40.00

PAGE 2 - WARRANTY DEED

EXHIBIT B

August 13, 2003

I would like to Include the Alley  
Way on blocks 2 and 3 from the  
Hiway to Lots 10 and 3 on block  
2 to be Vacated.

Thank You,



R.C. Smith

COLUMBIA COUNTY

AUG 14 2003

COUNTY COUNSEL

# CONSENT TO VACATE

I, Deolinda G. Jones, Right of Way Manager for the State of Oregon Department Transportation, being authorized to make decisions that effect the real estate interests of ODOT, hereby state that I have read the attached petition for the vacation of a portion of two sections of undeveloped public right of way in Goble, OR. I further state and confirm by my signature below, that I consent to the vacation of the aforementioned street or portions thereof in Columbia County, Oregon.

The State of Oregon Department of Transportation is the operator of the Rainier to Goble Section of State Highway 30 adjoining the portion of 4th Street and in close proximity to that portion of the alleyway Immediately north of said 4<sup>th</sup> Street sought to be vacated, located in Township 6N, Range 2W, Section 12 2 2, and further described in the Petition for Vacation.


All agreements to vacate that are signed by ODOT are given with the following comments:

*Any reconstruction or relocation of any ODOT facilities or services that may be required as a result of this vacation action, shall be performed at no cost to the State of Oregon. Under no circumstances shall the Consent hereby given, be construed as a provision of a right of access to a Highway owned and/or operated by ODOT. ODOT makes no representations concerning access to local street/roads.*

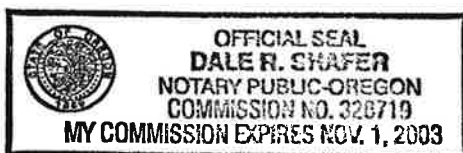
My Portland mailing address and telephone number are as follows:

Harry T. Whitney  
Oregon Department of Transportation  
Region 1 Right of Way  
123 NW Flanders Street  
Portland, OR 97209-4037  
(503) 731-8440

State of Oregon }  
County of Marion }

  
Deolinda G. Jones  
For the State of Oregon  
Department of Transportation

SWORN AND SUBSCRIBED TO before me this 23<sup>rd</sup> day of September, 2003, by Deolinda G. Jones.



  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 11/01/2003

NW1/4 NW1/4 SEC. 12 T.6N. R.2W. W.M.

COLUMBIA COUNTY

THIS MAP HAS BEEN PREPARED FOR ASSESSMENT PURPOSES ONLY

Scale: 1" = 100'

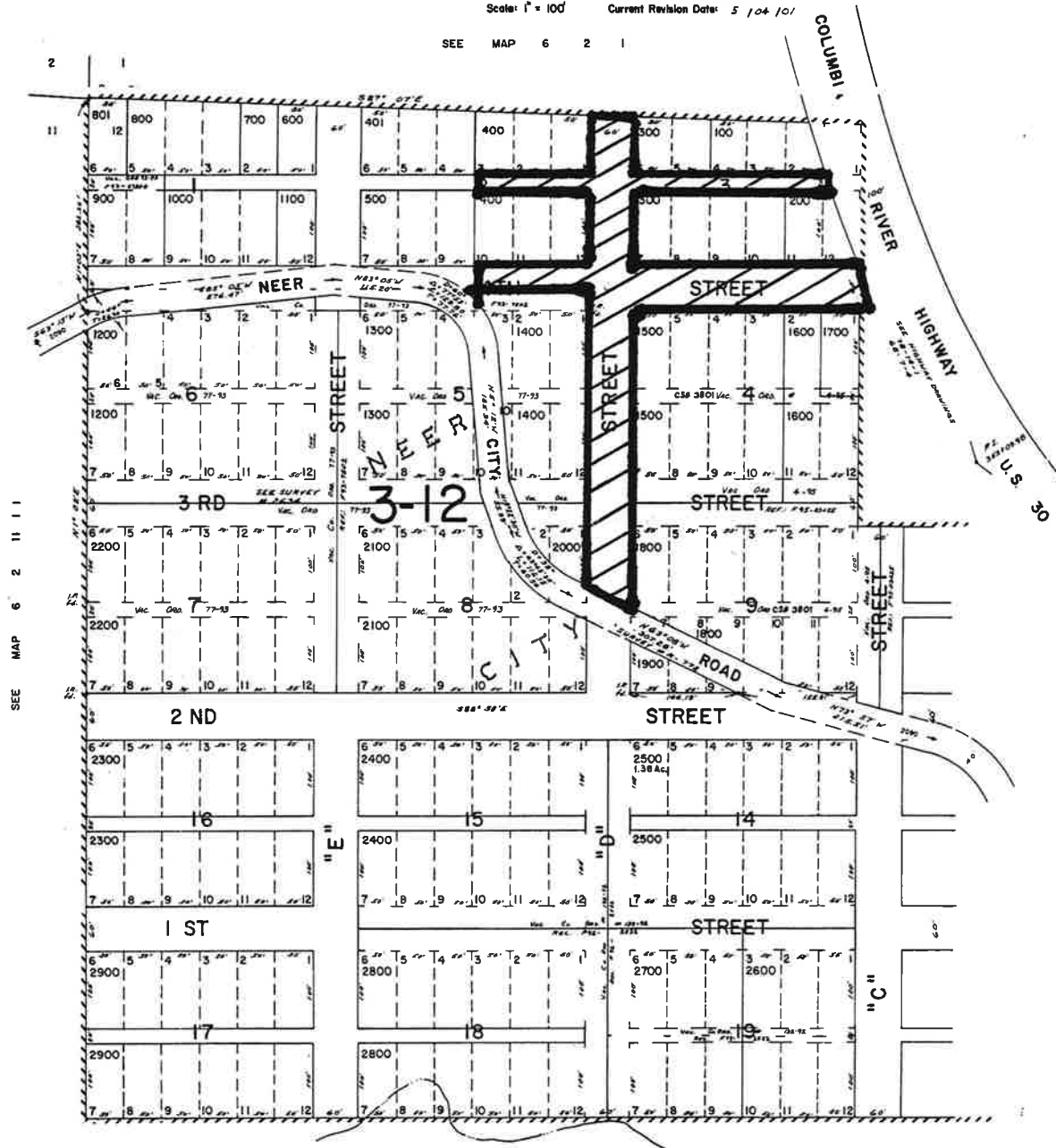
Current Revision Date: 5/10/10/

6 2 12 2 2

NEER CITY

SEE MAP 6 2 1

CS# 2834  
CS# 2634 A



SEE MAP 6 2 11 11

SEE MAP 6 2 12 2 1

VACATE



SEE MAP 6 2 12

6 2 12 2 2

NEER CITY

# EXHIBIT D

NW1/4 NW1/4 SEC. 12 T.6N. R.2W. W.M.

COLUMBIA COUNTY

THIS MAP HAS BEEN PREPARED FOR ASSESSMENT PURPOSES ONLY

Scale: 1" = 100'

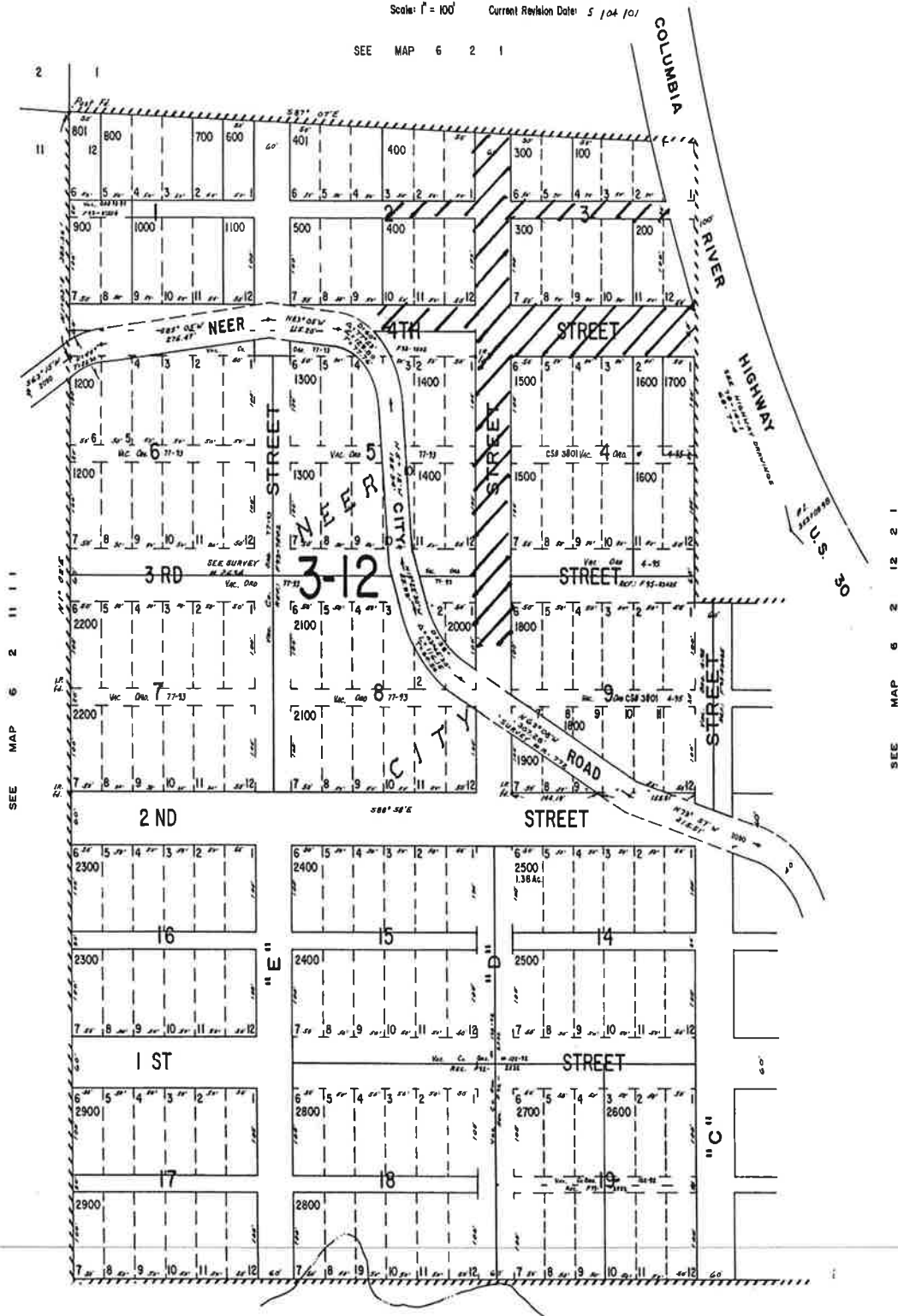
Current Revision Date: 5/04/01

6 2 12 2 2

NEER CITY

SEE MAP 6 2 1

CS# 2834  
CS# 2834 A



SEE MAP 6 2 12

6 2 12 2 2

NEER CITY



**Columbia County Road Department**

1054 Oregon Street, St. Helens, OR 97051

**Dave Hill, Public Works Director**

Ph: (503) 397-5090 Fax: 397-7215

e-mail: [hilld@co.columbia.or.us](mailto:hilld@co.columbia.or.us)

COLUMBIA COUNTY

AUG 26 2003

COUNTY COUNSEL

**TO:** Board of Commissioners

**VIA:** Cynthia Zemaitis

**FROM:** Dave Hill, Public Works Director

**DATE:** Aug 20, 2003

**REF:** Robert "Bob" Smith's proposed road vacation of a portion of "D" and 4<sup>th</sup> Streets, of the Neer City Subdivision

**RECOMMENDATION:** Approve vacations with slight change to proposed "D" Street vacation

**Description:** Vacations of public streets and alley ways within the Neer City Plat (North East 1/4, North West 1/4, Section 12, Township 6 North, Range 2 West, Willamette Meridian). The Neer City Plat was recorded in 1883 creating 60' wide north - south and east - west oriented public streets and 20' wide alley ways. The plat was typical for the time, creating rectangle lots and blocks within the plat, without regard to the topography.

The area has small hills of rock outcrops and the east side has a 40' bluff line that runs northwest to southeast parallel to the State Highway. The land is relatively open with a few standing timber as it was clear-cut in 1992 and replanted.

The east end of 4<sup>th</sup> Street and the east end of the alley way running through blocks 1, 2, & 3, both travel over a 40' bluff and then down a 100 % slope about 100 feet to the Hwy 30 right-of-way, making it practically impossible to construct roads at these locations to County standards. The portion of "D" Street to be vacated separates the private properties of Mr. Smith and Mr. Welter (who has signed in favor of the vacation).

I do not believe the public has any need for the use of these right-of-ways, and it would be beneficial to vacate the right-of-ways so that the property owners may fully utilize the land. I recommend approval of the proposed road vacations with minor modifications as follows:

A. "D" Street. Vacation from 50 feet north of the Neer City Road right-of-way north to the northern section line. (The Road Department desires to retain the first 50' from the Neer City Road right-of-way for possible future road widening projects.)



B. 4<sup>th</sup> Street. Vacation from eastern edge of "D" Street east to the Hwy 30 right-of-way.

C. Alley way dividing blocks 1, 2, and 3. Vacation from center of block 2 east to the Hwy 30 right-of-way.

**Assessment:** This vacation is in the best interests of the public and affected property owners.

**Other information:** Consider notifying the Oregon Department of Transportation of this proposed vacation.

I hereby certify that the within instrument was received for record and recorded in the County of Columbia, State of Oregon.

17288 03 NOV -5 AM 0:57



ELIZABETH HUSER, County Clerk

By: *[Signature]* Deputy

Receipt # 4405217 of Pages 17  
FEES \$ 106.00

Return to:  
Columbia County Commissioners  
230 Strand St.  
St. Helens, Oregon 97051