

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Proposed Vacation )  
of An Unnamed Road or Alleyway )  
Lying Adjacent to the Neer City )  
Subdivision, Goble, Oregon )  
)  
[Godsey Petition] )

ORDER NO. 12 - 2004  
(Finalizing Vacation Proceedings)

WHEREAS, pursuant to ORS 368.341(1)(b) the Board of County Commissioners for Columbia County, Oregon adopted Amended Resolution No. 45-01 initiating proceedings to vacate an unnamed road or alleyway lying adjacent to the Neer City Subdivision, Goble, Oregon, pursuant to a petition filed with the Board by Gerald and Cindy Godsey requesting the vacation of a portion of this unnamed right-of-way lying north of Neer City Road; and

WHEREAS, at the request of the Public Works Department and for general mapping purposes, the Board of County Commissioners, through Amended Resolution No. 45-01, declared their intent to vacate that portion of the unnamed road or alleyway lying south of Neer City Road should the vacation request be approved; and

WHEREAS, the property petitioned for vacation is generally described as:

That particular roadway encompassing the East 16 feet of the North 20 rods of Section 11, Township 6 North, Range 2 West, Willamette Meridian, Columbia County, Oregon.

and

WHEREAS, staff recommended that the petitioners submit an Irrevocably Bound Parcel Creation Covenant to alleviate the potential of land locking that parcel of property owned by the Godseys commonly referred to as Tax Account No. 6202-000-01300, said executed Covenant being attached hereto as Exhibit A and by this reference incorporated herein; and

WHEREAS, pursuant to ORS 368.346, a public hearing was scheduled for February 25, 2004, at 10:00 a.m. in the Commissioners' Meeting Room, Room 308 of the Columbia County Courthouse, St. Helens, Oregon, to determine if the proposed vacation was in the interest of the public; and

WHEREAS, pursuant to ORS 368.401 to 368.426, notice of the hearing was provided by posting and publication and by service on each person with a recorded interest in the proceeding; and

WHEREAS, County Roadmaster Dave Hill has filed a report with the Board stating his

assessment that the vacation would be in the public interest, said Roadmaster's report being attached hereto, labeled Exhibit B and incorporated herein by this reference; and

WHEREAS, after holding the hearing as scheduled, receiving the reports of staff and testimony of interested parties, the Board finds that the petition meets the requirements of ORS 368.326 to ORS 368.366;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. Vacation of that unnamed road or alleyway lying adjacent to the Neer City Subdivision, Goble, Oregon, as more particularly described above, is in the public interest.
2. The unnamed road or alleyway as described above, and as depicted on the map attached hereto as Exhibit C and incorporated herein by this reference, is hereby vacated and shall hereby vest in the owners of the land abutting the vacated property by extension of said owners' abutting property boundaries to the center of the vacated property.
3. Pursuant to Order No. 96-93, the following costs are due from this vacation and shall be deducted from the \$500.00 deposit paid by Mr. and Mrs. Godsey:

<u>SERVICE</u>	<u>FEE</u>	<u>SUBTOTAL</u>
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
Review by other County Departments	\$175.00 [per single street or alley (or portion thereof)]	\$175.00
	\$ 50.00 [each additional street or alley]	\$ 00.00
Hearing (if required)	\$100.00	\$100.00
Recording Final Order by the Clerk	\$ 26.00 [first page] \$5.00 [per @ additional page/10 pp.]	\$ 26.00 \$ 50.00

Two Certified Copies By the Clerk [one to Assessor, one to Surveyor]	\$ 3.75 \$ .25	[per copy] [per page/22 pp.]	\$ 7.50 \$ 5.50
Posting the Approved Road Vacation by County Surveyor	\$ 45.00	[per parcel]	\$ 45.00
Recording Covenant	\$ 26.00		\$ 26.00
		TOTAL	\$463.50

4. The Clerk has already deducted the \$28.50 filing fee from the \$500.00 deposit, leaving a balance of \$471.50 in the trust account. The Clerk is hereby authorized to disburse the remainder of the deposit as follows:

To the Clerk:	\$115.00
To the Treasurer:	\$320.00
To Godseys	\$ 36.50

5. This order and the executed Irrevocably Bound Parcel Creation Covenant shall be recorded in the County Clerk deed records, a copy inserted in the appropriate road jacket, and certified copies shall be filed with the County Surveyor and the County Assessor.

DATED this 3rd day of March, 2004.

Approved as to form

By: Sarah T. Toon  
Office of County Counsel

S:\COUNSEL\ROADS\ALLEY NEER CITY\FINAL ORDER.wpd

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA/COUNTY, OREGON

By: [Signature]  
Chair

By: \_\_\_\_\_  
Commissioner

By: [Signature]  
Commissioner

IRREVOCABLY BOUND PARCEL CREATION COVENANT

Gerald R. and Cindy K. Godsey are owners of Tax Lots 6211-011-00100 and 6202-000-01300 near Rainier, Columbia County. They hereby irrevocably bind the lots together as defined herein.

1. Said lots are hereby bound together and, except as stated below, are hereinafter to be treated as bound together in a parcel.
2. No owner, its heirs, successors or assigns shall, except as stated below, sell or otherwise hypothecate title of either lot separately from the remaining lot, though lot line adjustments are permitted, but only as approved by Columbia County.
3. Notwithstanding the above, one of the lots may be sold, and thus separated from the parcel, if and only if both (1) the remaining lot subject to this covenant retains 50 feet of useable and/or feasible frontage on a public right-of-way in compliance with Columbia County road standards and (2) the lot being sold either has 50 feet of useable and/or feasible frontage on a public right-of-way in compliance with Columbia County road standards or are bound together in a irrevocable covenant similar to this covenant with another group which has such frontage.
4. This covenant runs with the land for the benefit of Columbia County. This covenant can be waived or modified only by recording a written instrument certifying approval of the Director of the Department of Land Services or the Board of Commissioners of Columbia County. Such approval or recording is not required for sales that meet the conditions of Provision 3 above nor for modifications which remove that provision.
5. This covenant shall not become effective unless and until Columbia County approves the vacation of the unnamed road or alleyway adjacent to the eastern-most side of each lot as petitioned by the adjacent property owners.
6. This covenant is solely for the purpose of insuring that no property ownership will be left without frontage on a public right-of-way due to the vacation of this unnamed road or alleyway.

Dated this 15 day of January, 2002.

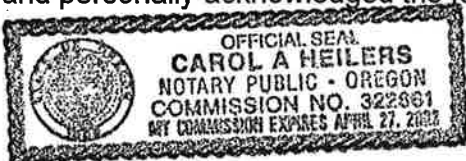
Gerald R. Godsey  
Gerald R. Godsey

Cindy K. Godsey  
Cindy K. Godsey

ACKNOWLEDGMENT

STATE OF OREGON            )  
  ) ss.  
County of Columbia        )

Gerald R. Godsey and Cindy K. Godsey appeared before me this 15<sup>th</sup> day of January, 2002, and personally acknowledged the foregoing instrument.



Carol A. Heilers  
Notary Public of Oregon  
My Commission Expires: \_\_\_\_\_

**Columbia County Road Department**

P.O. Box 366, 1004 Oregon Street, St. Helens, OR 97051

Phone: 503-397-5090 Fax: 503-397-7215

E-mail: colroad@columbia-center.org

**M E M O R A N D U M**

**to:** Board of County Commissioners  
Cynthia Zemaitis, County Counsel

**from:** David Hill, Public Works Director

**subject:** Vacation of Unnamed Alleyway, Petitioned by Godsey

**date:** January 30, 2004

**Recommendation: Approve vacation after a hearing to consider testimony from abutting property owners**

Gerald and Cindy Godsey have petitioned the Board of County Commissioners to vacate an unnamed alleyway abutting their property adjacent to the Neer City Subdivision. The Godsey's own most of the property abutting the right-of-way proposed to be vacated however technically I believe there are two other properties that are also abutting and the owners should be notified of a hearing.

The other property owners are as follows:

6212-022-01200  
Petre Bruce and Carlota Rumball  
70755 Neer City Road  
Rainier OR 97048

6202-000-01207  
David and Carol ST Onge  
560 Hillcrest Rd.  
St Helens, OR 97051

**COLUMBIA COUNTY**

FEB 03 2004

**COUNTY COUNSEL**

The property proposed to be vacated is currently used by the Godsey's as farm (pasture) land. The right-of-way width is 16 feet, which is very narrow for a public road however the topography at this location would probably allow a driveway to be built within this 16 foot width. I do not believe there are any utilities located within this right-of-way.

The Godsey's would like to have the right-of-way vacated to assist in meeting fire break standards, as the right-of-way is very close to their existing home. The property to the north owned by the St Onge's has good access to Terry (Neer City Cemetery) County Road and I would discourage any access to the Stout property via this alleyway. The other abutting property to the southeast (tax lot 1200) is primarily located on the opposite side of Neer City County Road

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and access to the abutting piece via this alleyway is insignificant.

I have attached a photograph of the location of this right-of-way where it intersects Neer City County Road and the proximity of the Godsey residence. Mr Godsey indicates that the east side of the subject right-of-way is basically along the fence line as shown in the photograph, which means that the west side of the right-of-way is about 16 feet closer to their residence than the fenceline, which becomes very close to their residence (10 to 15 feet or so).

Mr. St Onge has indicated to me that he does not want to see the right-of-way vacated because he would like to keep the possibility of using it as another access to his property. He indicates that it is very difficult for him to access this end of his property from above because the ground is very steep. I estimate from the USGS Quad map (exhibit 4) that the ground is sloped at about 30%, which is certainly too steep for a roadway straight down but a roadway that sidehills the terrain for access to the bottom end could probably be constructed.

**Recommendation.** The subject right-of-way is very close to the existing Godsey residence, and at 16 feet wide, it would be difficult (although possible) for a driveway to be constructed within this right-of-way. If a driveway was constructed in this public right-of-way to access the St. Onge property to the rear, the public might assume that they have the right to use this driveway. In general, I do not typically recommend removing a feasible access to a property for the benefit of another, however in this case a new driveway in this location would have a very large impact on the Godsey property, and vacation of the right-of-way seems to have a relatively minor impact on the St Onge property.

Therefore, in the matter of public interest, I recommend that this alleyway be vacated as proposed, provided that a hearing is scheduled to allow all abutting property owners a chance to comment.

I would also recommend that the legal description be reviewed for accuracy. I do not believe that it is necessary to reserve easements on this right-of-way for utilities even though it is common practice to do so.

# EXHIBIT I



**SUBJECT AREA**

