

After recording, return to:
Board of County Commissioners
Columbia County Courthouse
230 Strand, Room 331
St. Helens, OR 97051

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Proposed Vacation of)
an Unnamed Platted Right-Of-Way at the)
South End of Flint Drive, Scappoose, Oregon)
)
[Marilyn J. Shober])
_____)

ORDER NO. 3-2015

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

WHEREAS, the unnamed Right-Of-Way is a platted, unconstructed right-of-way in the Apple Valley Scappoose Orchard Track in the west Scappoose area; and

WHEREAS, on June 23, 2014, Marilyn J. Shober, who owns property abutting both sides of the platted right-of-way, filed with the Board a Petition, attached hereto as Exhibit 1 and incorporated herein by this reference, requesting that the Board vacate that portion of the unnamed Right-Of-Way; and

WHEREAS, the area proposed for vacation is described on page 4 of Exhibit 1, and is generally depicted on page 5 of Exhibit 1; and

WHEREAS, in accordance with ORS 368.351, the Petition contains the acknowledged signatures of owners of 100 percent of the land abutting the property proposed to be vacated and the acknowledged signatures of 100 percent of the owners of property abutting any public property proposed to be vacated; and

WHEREAS, the Petition indicates the owners' approval of the proposed vacation as confirmed by Lonny Welter, Transportation Planner, in the attachment labeled Exhibit 2, incorporated herein by this reference; and

WHEREAS, because the Petition meets the signature requirements of ORS 368.351, the Board may make a determination about the vacation without holding a hearing if the county road official, i.e., the County Roadmaster, files with the Board a written report that contains an assessment that the

vacation is in the public interest; and

WHEREAS, County Roadmaster Dave Hill has filed a report dated November 20, 2014, which is attached hereto as Exhibit 3 and is incorporated herein by this reference, indicating that the proposed vacation would be in the public interest; and

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

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. Vacation of an unnamed platted Right-Of-Way at south end of Flint Drive as more particularly described and shown in Exhibit 1 is in the public interest.

2. The property described on page 4 and depicted on page 5 in Exhibit 1 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 right-of-way.

3. This vacation is being made with a specific reservation of any existing rights-of-way for utility easements.

4. Pursuant to Order No. 55-2001 and the decision of the Board of County Commissioners, the required fee of \$1,000 for vacations of public rights-of-way was paid by the petitioner; \$500 was deposited directly into the County Road Fund and \$500 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	\$46.00 [first page]	\$46.00
	\$5.00 [each additional page x12 pp.]	\$60.00
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 13 pp.]	\$3.25
Posting the Approved Road Vacation by County Surveyor	\$100.00 [per parcel]	\$100.00

	TOTAL EXPENSES	\$ 245.25
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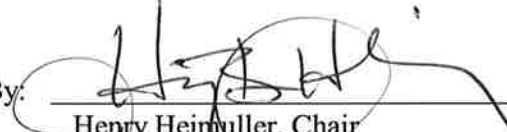
5. The \$28.50 filing fee has already been paid to the County Clerk. The Treasurer is hereby authorized to disburse the following amounts from the Fees for Services, Road Vacations account as follows:

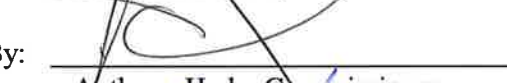
To County Clerk	:	\$ 145.25
To County Surveyor	:	\$ 100.00

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

DATED this 21st day of January 2015.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Henry Heimuller, Chair

By: 
Anthony Hyde, Commissioner

By: 
Earl Fisher, Commissioner

APPROVED AS TO FORM:

By: 
Office of County Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Vacation of Public)
Access on Shober farm)
Located Near Apple Valley track)
Columbia County, Oregon FLINT Dr)

PETITION FOR VACATION

I/We, MARILYN J. Shober, [insert name(s) of all petitioners], who
reside at 53131 FLINT Dr [insert
address], 503-549-3858 [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: vocate of Apple Valley Track Between
Tracts 28, 28 1/2, 29 1/2, 30, 30 1/2, 31 & 31 1/2
Known as Apple Valley Scappoose Orchard Tracks
Sept 24, 2014

b. Legal Description:
See attached Exhibit A M.J.S.

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:
Center of our farm area

b. Legal Description of your property:

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]:

Farm land in use with animals would rather not have public access thru fields to harm or scare

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

NONE

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]:

see attached papers

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)

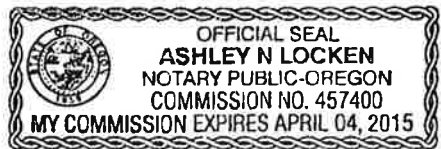
I/We MARILYN J. Shober, am/are the petitioner(s) herein and hereby swear, under penalties of perjury, that the statements made in this petition, and the attachments hereto, are true to the best of my/our knowledge.

Marilyn J. Shober 6-23/14
(Petitioner's Name) (Date)

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

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

²⁰¹⁴_{200=al} Subscribed and sworn to before me this 23 day of June.



Ashley N Locken
Notary Public for Oregon
My Commission Expires: 4-4-15

Exhibit 7

Exhibit 1
page 4 of 5Road Vacation
Legal Description

All that portion of a 40.00 foot public Right-of-Way, also known as Flint Drive, dedicated in the subdivision of *Apple Valley Scappoose Orchard Tracts*, located in Section 2, Township 3 North, Range 2 West, W.M., recorded on May 5, 1911, in Plat Book 1, Page 17, Columbia County Records, being more particularly described as follows:

Beginning at the Southeast corner of Tract 29 ½ of the aforementioned Plat; thence N 89°52' W along the South line of Tracts 29 ½, 28 ½, and 28 to the Southwest corner of said Tract 28; thence S 0°47'15" E a distance of 40.00 feet more or less to Northwest corner of Tract 31 ½; thence S 89°52' E along the North line of Tracts 31 ½, 31 and 30 ½ to a point on the North line of Tract 30, said point being N 89°52' W 40.00 feet more or less from the Northeast corner of said Tract 30; thence N 0°44'40" W parallel with the West line of Tract 30 a distance of 40.00 feet more or less to the point of beginning.

Apple Valley Scappoose Orchard Tract Road Vacation
Names and Addresses of Abutting Property Owners:

Tax Lot Number & Name and Address	Consent? Y / N	Signature Verified?
1. 3202-00-04200 Raymond F & Diane M. Steves 32272 Apple Valley Road Scappoose, OR 97056	Yes	Yes
2. 3202-00-4600 William R. & Marilyn J. Shober PO Box 458 53129 Flint Drive Scappoose, OR 97056	Marilyn Yes William (Deceased)	Yes
3. 3202-00-4700 William R. & Marilyn J. Shober PO Box 458 53129 Flint Drive Scappoose, OR 97056	Marilyn Yes William (Deceased)	Yes
4. 3202-00-3900 Eleanor Blessing 32345 Baumgardener Lane Scappoose, OR 97056	Yes	Yes
5.		



Columbia County Road Department

1054 Oregon Street, St. Helens, OR 97051

David Hill, Public Works Director

Ph: (503) 366-3964 Fax: 397-7215

e-mail: David.Hill@co.columbia.or.us

to: Board of Commissioners
from: David Hill, Public Works Director
date: November 20, 2014

Subject: Road Vacation of an Un-Named Platted Right-of-way at the End of Flint Drive in the Apple Valley Scappoose Orchard Tract

Request: Discussion at Staff Meeting to Schedule Hearing

Marilyn Shober has petitioned the Board of County Commissioners (Attachment 1) to vacate that portion of a 40 foot wide public right-of-way between tracts 28, 28 ½, and 29 ½ to the north and 30, 30 ½, 31, and 31 ½ to the south in the subdivision of Apple Valley Scappoose Orchard Tracts located in Township 3 North, Range 2 West, Section 2, as shown on the attached maps (Attachments 2, 3, 4, and 5). Apple Valley Scappoose Orchard Tracts was recorded July 5, 1911 in Columbia County Records Plat Book 1, page 17.

Ms. Shober states the reason for the vacation to be, "Farm land in use with animals would rather not have public access through fields to harm or scare or harass." The Shober's own property on both sides of the subject roadway and they are currently using the right-of-way as farm land. One side of the right-of-way is their residence, and the other side is their barn and out-buildings.

Staff Comments:

- Joe Flori (Assessors Office) made suggestions for corrections on the application. These corrections have been made. He also identified that the date in Exhibit A should be changed from May 5, 1911 to July 5, 1911. Other than these items no objections.
- Glen Higgins (Land Development Services) in general does not favor vacating platted roads. He suggests that the Road Department check if the Flint Drive right-of-way can be developed to accommodate possible future development of the area. If not, no objection.

The abutting properties surrounding the proposed right-of-way to be vacated are all zoned RR5, 5 - 20 acres in size, have dwellings on them, and are being used as pasture, timberland, or other residential purposes. The abutting property owners are listed on Attachment 6, and 100% of the abutting property owners have consented to proposed road vacation. The subject right-of-way has not been constructed as a public roadway and is currently being used primarily as pasture, and there is a fenceline at about the center line of the right-of-way to divide the properties.

There are no apparent utilities within the right-of-way proposed to be vacated.

The only issue of concern would be access to the Eleanor Blessing property, tax lot 3900. Current access to the Blessing property is over Baumgardner Lane as shown on Attachment 3, which is a private easement. Ms. Blessing is currently talking about establishing lots of record for her properties which are currently combined into one tax account. (She may have 4 lots of record under one tax account number.) This possibly means that there could be 3 more houses on her one tax account #3900.

The unconstructed platted public right-of-way to the north of Baumgardner Lane and north of the Blessing property, crosses over very steep terrain and construction of any road within this right-of-way is not feasible. Construction of a roadway within the right-of-way proposed to be vacated, however, does seem feasible. We have had subsequent discussion with Eleanor Blessing who has signed the consent form for the proposed vacation, and we have discussed the potential issues regarding road access to future homesites with her and she has confirmed that she is still in support of the proposed road vacation and consents to it.

Marilyn Shober states the reason for the proposed vacation is to not have public access through their farm. If the road vacation is not approved, another option for Ms. Shober may be to allow Ms. Shober to construct a gate across the area proposed to be vacated. ORS 368.056 states "A county governing body may issue a permit to a person to allow construction of a gate or stock guard on a public road under the jurisdiction of the county governing body. The county governing body may impose any conditions or specifications on the permit it determines advisable to preserve the purposes of the public road." It is my understanding, however, that the public would still have rights to access and use the right-of-way even if a gate was placed across the right-of-way, however motorized vehicular access could be restricted. Placing a gate across the right-of-way would not be preferred by the Shobers.

Glen Higgins suggests that the right-of-way proposed to be vacated may allow for additional development in the future. I do not believe that the terrain in this area will allow for the expansion of the City of Scappoose in this direction. Scappoose has many better options for expansion than this area, so therefore, I believe the only additional development in any foreseeable future is going to be by way of minor partitions by those that have signed the consent to the vacation.

Therefore, I believe it is in the matter of public interest to vacate the subject right-of-way as proposed.

Because there is 100% consent to the proposed road vacation, the vacation could be approved without a hearing however I would suggest holding a hearing on the matter to allow for testimony. Notice by mail must be made to the abutting property owners at least 30 days prior to the hearing, it must be posted 20 days prior to the hearing, and publication must be made once at least 20 days before the hearing, and once within 10 days of the hearing. **Therefore, I recommend scheduling a hearing about 45 days out from the date of our discussion on this matter.**

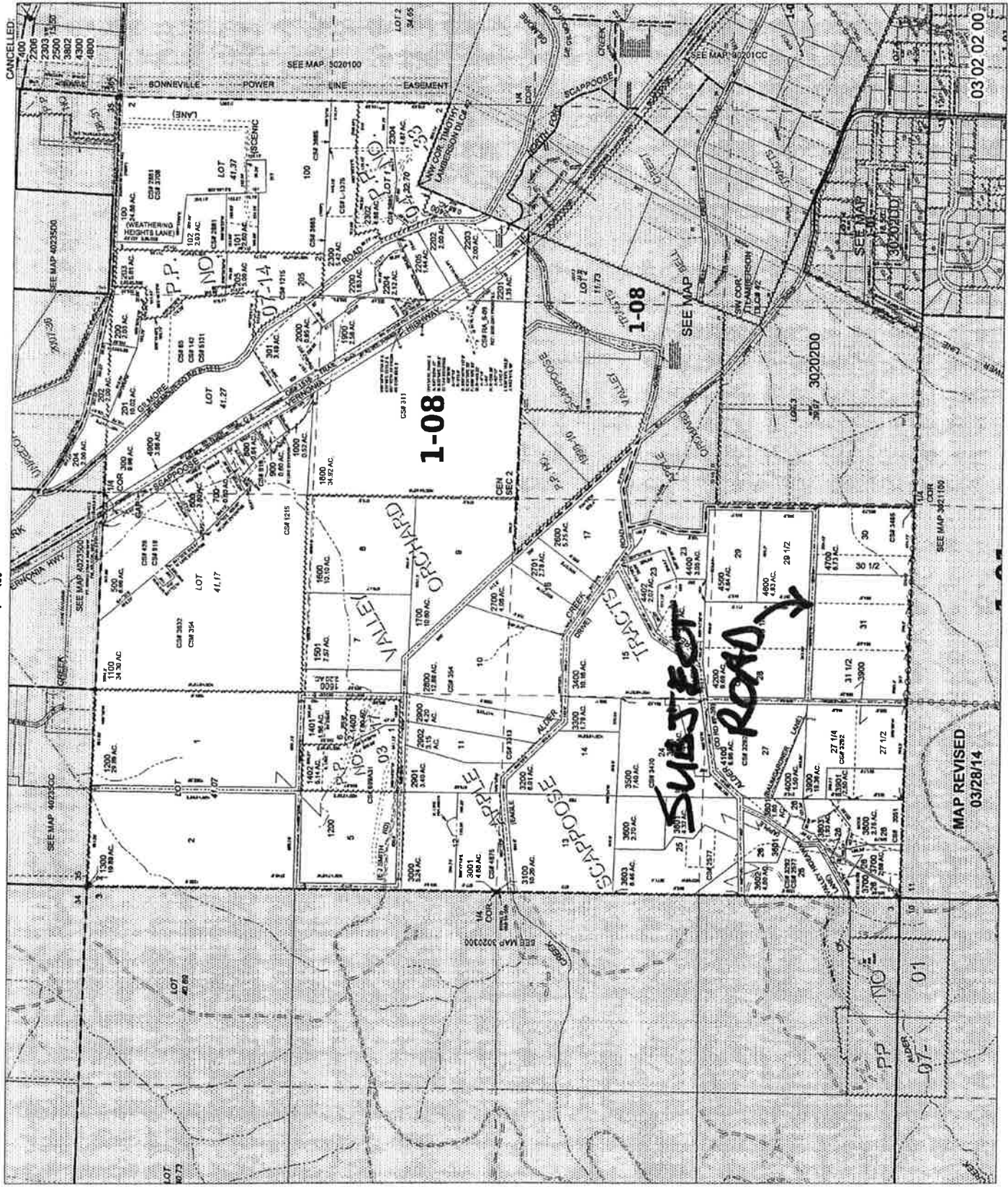
SECTION 2 T.3N. R.2W. W.M.
COLUMBIA COUNTY

0 100 200 400 Feet

1" = 400'

03 02 02 00

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY



03 02 02 00

MAP REVISED
03/28/14

03 02 02 00

Scappoose City Vicinity with Flint Drive Unnamed ROW Vacation

