

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR COLUMBIA COUNTY, OREGON

In the Matter of the Proposed Vacation of a)
Portion of Elder Street Situated in the)
Hillcrest Subdivision, Part 1, near)
Scappoose, Oregon)
)
[Columbia Hills/Gravestock/Hunt/Simons)
and Nelson Petition])

ORDER NO. 50-2000
(Setting Hearing)

WHEREAS, Columbia Hills Development Company, Donald Gravestock, William and Lesley Hunt, Terri Simons and Monika Nelson (nee Zimmerman) have filed with the Board a petition requesting the Board vacate a portion of Elder Street situated in the Hillcrest Subdivision, Part 1, near Scappoose, Oregon; and,

WHEREAS, by Order No. 22-2000, this Board initiated proceedings to vacate property under ORS 368.341; and,

WHEREAS, the county road official has filed with the Board a written assessment that it would not be in the public interest at this time to vacate that portion of Elder Street as requested by the petitioners, said recommendation being attached hereto as Exhibit A and by this reference incorporated herein; and,

WHEREAS, prior to the Board making the final determination on the matter, ORS 368.346 requires a time and place for a hearing be established to consider whether the proposed vacation is in the public interest;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board of County Commissioners will hold a public hearing on June 28, 2000, at 10:00 a.m. in the Commissioners' Meeting Room, Room 308, Columbia County Courthouse, St. Helens, Oregon, to consider whether the proposed vacation is in the public interest.
2. Notice of the hearing shall be provided under ORS 368.401 to 368.426 by posting and publication, and by service on each person with a recorded interest in any of the following:
 - (a) The property proposed to be vacated;
 - (b) An improvement constructed on public property proposed to be vacated; and
 - (c) Real property abutting public property proposed to be vacated.

3. During or before the hearing, any person may file information with the Board that controverts any matter presented to the Board in the proceeding or that alleges any new matter relevant to the proceeding.

DATED this 24th day of May, 2000.

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

EXHIBIT A



Columbia County Road Department
P.O. Box 366, 1004 Oregon Street, St. Helens, OR 97051

Director of Public Works

Phone (503) 397-5090
Fax 397-7215

TO: Columbia County Board of Commissioners

FROM: Dave Hill

DATE: May 17, 00

REF: Proposed Vacation, Elder Street, Hillcrest Subdivision

RECOMMENDATION: Deny Vacation of Elder Street.

DISCUSSION:

Columbia Hills Development Company has petitioned the Board of County Commissioners to vacate a portion of Elder Street in the Hillcrest Subdivision. A copy of the petition and a map of the area is attached.

The intent of the property owners through this vacation is to be able to join enough lots together and to acquire enough property to meet the minimum acreage requirements to place a residence on the properties. The properties, with the exception of the Simons properties, is vacant, and is forested or partially cleared. The right-of-way to be vacated, is mostly on a forested side slope (ranging from 40% to 100% slope).

I agree with the petitioners that the street has never been used, and is unsuitable for access to the abutting lots, as a public road, because of steep terrain. However, as some of the tax lots are otherwise landlocked, even though a public road cannot be constructed to access them, Elder Street does provide a public right-of-way that allows owners access by foot, horse, or other means.

Land Development Services and the Road Department prefer to see up front how the vacation of a public right-of-way will not landlock parcels. Land Development Services has stated that they cannot support the road vacation unless the lots are consolidated in a manner that will insure that no parcels will lose public road frontage. The petitioners have proposed an irrevocable bound parcel agreement that combines the parcels which somewhat satisfies this concern however the bound parcels do not meet the minimum lot sizes necessary to obtain a building permit. The development company is currently trying to sell a parcel of property in the area which would violate the bound parcel agreement. I also have some other concerns as follows:

1. The power of attorney used to sign the "Irrevocably Bound Parcel Creation Covenant" expired, therefore the agreements are probably not valid. Without the Bound Parcel Agreement there is a definite possibility that individual parcels could be sold and would be

landlocked if the road vacation was approved. ORS Statutes require that we cannot landlock a parcel without the owner's consent. We apparently have the consent through the petition and the "power of attorney" since the petition was signed prior to the expiration of the power of attorney, however it is still not a good practice to allow the potential to landlock parcels of property. Therefore, it is very important to have "legal" bound parcel agreements in this situation.

2. As mentioned above, the proposed "Irrevocably Bound Creation Covenant", does not match with the current proposed sale of properties, which violates the bound parcel agreement by splitting parcels.
3. I would like to see the access location for the bound parcels to determine if the access is feasible. Just because the parcel has access to a public right-of-way, does not mean that it is feasible or practical to construct an access to the property. This is to protect current and future owners of these properties.
4. The proposed bound parcels do not meet the buildable lot size requirement of 2.3 acres, and therefore because it will be necessary to reconfigure the lots to make a buildable lot, it is unknown how these lots will be configured and accessed in the future.

If the road was to be vacated, the petitioners have requested the property to be vested with certain parcels. As we have discussed before, I believe it would be best for the County not to designate where the property would be vested but rather allow it to be split down the centerline and then the adjacent property owners can then dedicate the property on their own. (This would be only if the Board of Commissioners authorized the road vacation.)

CONCLUSION: Specifically because the power of attorney had expired for the "Irrevocable Bound Parcel Creation Covenants" and because of the other uncertainties associated with this road vacation request, I do not believe it is in the public interest to vacate this road and recommend denial of this petition.

David Hill
Public Works Director