

REVIEWED
LEGAL COUNSEL



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Vacating a Portion of Cook Avenue * ORDER NO. 2021-015
in Deschutes County, Oregon *

WHEREAS, proceedings for vacating a portion of Cook Avenue, depicted and described in Exhibit "A" attached hereto and by this reference incorporated herein, were initiated by the Board of County Commissioners pursuant to ORS 368.341 upon the owners of property abutting said portion of Cook Avenue filing a petition, attached hereto as Exhibit "B" and by this reference incorporated herein, and upon adoption of Resolution No. 2021-023; and

WHEREAS, said petition contains the acknowledged signatures of owners of more than sixty percent of property abutting said portion of Cook Avenue and indicates said owners' approval of vacation; and

WHEREAS, upon request by the Board of County Commissioners, the County Road Official has prepared and filed with the Board a written report, attached hereto as Exhibit "C" and by this reference incorporated herein, concerning the proposed vacation pursuant to ORS 368.346(1); and

WHEREAS, said report contains the County Road Official's assessment that the proposed vacation is in the public interest; and

WHEREAS, a hearing before the Board of County Commissioners was held on Wednesday, July 21, 2021, at 9:00 a.m. in the Barnes and Sawyer Rooms of the Deschutes County Services Center, 1300 NW Wall Street, Bend, Oregon 97701, for consideration of the matter; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. That vacation of the property described in the attached Exhibit "A" is in the public interest.

Section 2. That the property described in the attached Exhibit "A" is hereby vacated.

Section 3. That the property vacated in Section 2 herein shall vest as described and depicted in the attached Exhibit "D".

Section 4. That the Deschutes County Surveyor is directed to mark the plat as provided in ORS 271.230.

Section 5. That this Order shall be recorded with the Deschutes County Clerk, and that copies shall be filed with the Deschutes County Surveyor and County Assessor.

Dated this _____ day of _____, 2021.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

ANTHONY DEBONE, Chair

ATTEST:

PHIL CHANG, Vice Chair

Recording Secretary

PATTI ADAIR, Commissioner

EXHIBIT "A"
PORTION OF COOK AVENUE

A portion of Cook Avenue to be Vacated, located in the Southeast One-Quarter (SE1/4) of Section 31, Township 16 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon being more particularly described as follows:

Beginning at the most Southerly corner of Parcel 1, Partition Plat No. 2014-5, Deschutes County Official Records, said point lying on the East Right-of-Way of Re-aligned O. B. Riley Road, also lying on the West Right-of-Way of Cook Avenue, said point being the TRUE POINT OF BEGINNING, thence along the West Right-of-Way of said Cook Avenue North 00°05'02" West 20.60 feet to a point being on the Westerly extension of the North line of Lot 3, Block 70, Townsite Of Laidlaw, Deschutes County, Oregon; thence leaving said West line along the Westerly extension of the North line of said Lot 3 North 89°57'31" East 70.00 feet to the Northwest corner of said Lot 3, said point lying on the East Right-of-Way of said Cook Avenue; thence leaving said North Line along the East Right-of-Way of said Cook Avenue South 00°05'02" East 116.00 feet to the Southwest corner of said Lot 3 said point lying on the South Section line of Section 31; thence along said South Line South 89°57'31" West 33.02 feet; thence along an arc of a Non-Tangent 580.0 feet curve to the Left a distance of 102.48 feet, the cord of which bears North 21°16'02" West 102.34 feet to the TRUE POINT OF BEGINNING.

Containing 0.14 acres more or less.

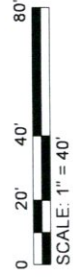
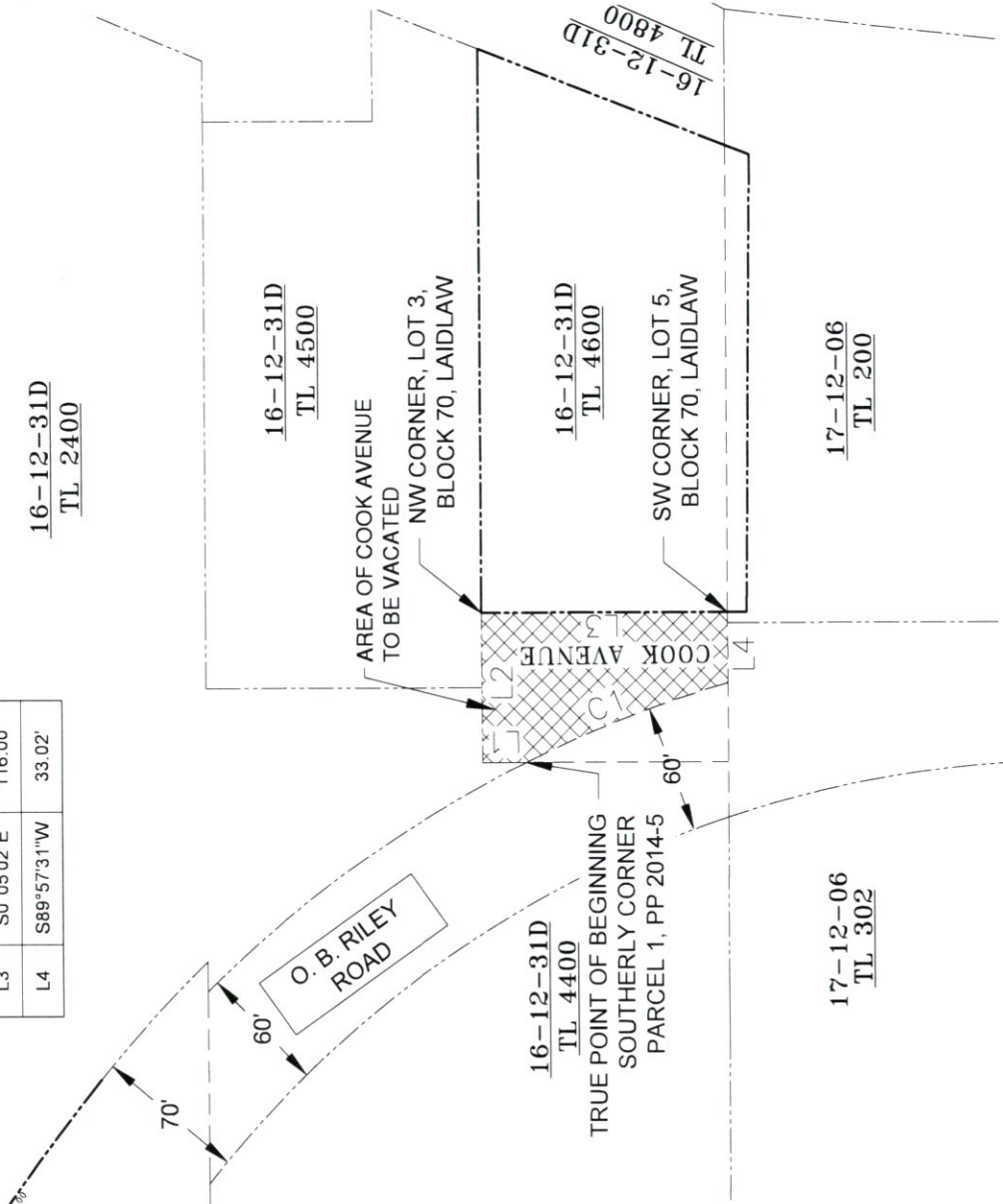
ROAD VACATION SEPTEMBER, 2020

A PORTION OF COOK AVENUE,
LOCATED IN THE SE 1/4 OF SECTION 31,
TOWNSHIP 16 SOUTH, RANGE 12 EAST, W.M.
DESCHUTES COUNTY, OREGON

Curve Table					
Curve	Radius	Length	Chord	Bearing	Delta
C1	580.00	102.48	102.34	N21°16'02"W	10°07'23"

16-12-31D
TL 2400

Parcel Line Table		
LINE	BEARING	LENGTH
L1	N0°05'02"W	20.60'
L2	N89°57'31"E	70.00'
L3	S0°05'02"E	116.00'
L4	S89°57'31"W	33.02'



SURVEYOR
SUN COUNTRY
ENGINEERING & SURVEYING, INC.
920 S.E. ARMOUR ROAD
BEND, OREGON 97702



SUN COUNTRY ENGINEERING & SURVEYING, INC.
920 S.E. ARMOUR ROAD BEND, OREGON 97702 PHONE 382-8882

ROAD VACATION
PATRICK TODD

Drafting	RMF No.	Date	Revisions
Design	---	---	---
Scale	1"=40'	---	---
Date	09/03/2020	---	---
W.O. No.	9066-01B	---	---

PETITION FOR VACATION OF A PUBLIC ROAD

TO: BOARD OF COMMISSIONERS FOR DESCHUTES COUNTY

We, the undersigned, holding recorded interests for the property abutting the proposed property for vacation, respectfully request the following described road be vacated.

Description of road to be vacated: A section of Cook Avenue as described on the attached Exhibit A and as shown on the attached B ("Road Vacation Map").

Reason for road vacation request: This 116' portion of Cook Avenue is not used for public roadway purposes and is not needed for street connectivity. No roadway improvements or utilities exist in the road or easements for the utilities will be provided. The property has only been used by the two undersigned abutting owners who both agree to this petition and to the proposed vacation of this portion of Cook Avenue. The vacation will not result in loss of access to either parcel abutting the vacated section because the owner of Tax Lot 4600 (Sara Whitney) has agreed to provide access to abutting Tax Lot 4500, owned by Patrick Todd. The parties are related. The remainder of Cook Avenue immediately to the north of this section and adjacent to TL 4500 was already vacated in BOCC Order No. 2020-040 (copy attached hereto as Exhibit C). Tax Lot 4500 was then the subject of a lot line adjustment (Exhibit D) and transfer by deed (Exhibit E), and as a result, Tax Lot 4500 as adjusted (Exhibit F) now has approximately 185 feet of frontage on O.B. Riley Road and is likely eligible to apply for a driveway permit. The proposed vacation will eliminate an obsolete roadway, reduce County maintenance obligations and is otherwise in the public interest.

DATED this 1 day of February 2021.

Sara Whitney

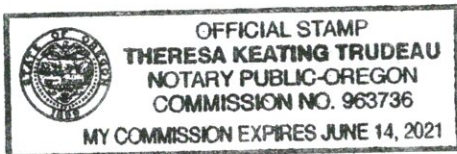
SARA WHITNEY
64414 O.B. Riley Rd.
Bend, OR 97701

Patrick Todd

PATRICK TODD
P.O. Box 5758
Bend, OR 97708

STATE OF OREGON)
) ss.
County of Deschutes)

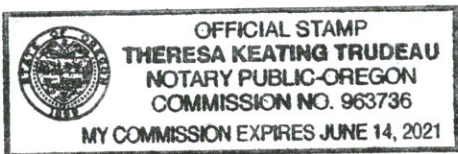
On this 1 day of February, in the year 2021, before me, a Notary Public, personally appeared Sara Whitney personally, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.



WITNESS my hand and official seal.

Theresa Keating Trudeau
Notary Public for Oregon.

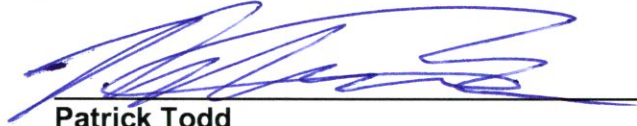
On this 1 day of February, in the year 2021, before me, a Notary Public, personally appeared Patrick Todd personally, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.



WITNESS my hand and official seal.

Theresa Keating Trudeau
Notary Public for Oregon.

I CERTIFY THAT THIS IS THE TRUE AND ORIGINAL PETITION CIRCULATED BY ME.



Patrick Todd
PO Box 5758
Bend OR 97708
(541) 948-4035



MEMORANDUM

TO: Board of County Commissioners

FROM: Cody Smith, County Engineer, Deschutes County Road Department

DATE: July 14, 2021

SUBJECT: Road Official's Report
Vacation of a Portion of Cook Ave in Section 31, Township 16 South, Range 12 East

Background:

Deschutes County Road Department has received a petition to vacate a portion of the public right of way for Cook Avenue. Chief Petitioner for the proposed vacation is Patrick Todd, owner of Tax Lot 4500 on Assessor's Map 16-12-31D; additional Petitioner for the proposed vacation is Sara Whitney, owner of Tax Lot 4600 on Assessor's Map 16-12-31D. The petitioners have also submitted an agreement acknowledging their consent for the subject right of way to inure to Tax Lot 4600.

The subject right of way, which is described and depicted in proposed Order No. 2021-015, Exhibit "A", was established by the 1904 plat for the Townsite of Laidlaw (Deschutes County Official Records Document No. 1918-000027). Cook Avenue north of the proposed vacation area and south of US 20 was vacated in 2002 (Deschutes County Official Records No. 2002-24038) and 2020 (Deschutes County Commissioners Journal No. CJ2020-265). The proposed vacation area is not maintained by Deschutes County and consists of a poor condition paved road. An existing overhead utility exists within the proposed vacation area. The proposed vacation area abuts a small northerly portion of Tax Lot 200 on Assessor's Map 17-12-06, owned by Oregon Parks and Recreation Department (OPRD); OPRD is not a petitioner for the proposed vacation.

The Petitioners have requested the vacation for the following reason:

"This 116' portion of Cook Avenue is not used for public roadway purposes and is not needed for street connectivity. No roadway improvements or utilities exist in the road or easements will be provided. The property has only been used by the two undersigned abutting owners who both agree to this petition and to the proposed vacation of this portion of Cook Avenue. The vacation will not result in a loss of access to either

parcel abutting the vacated section...The proposed vacation will eliminate an obsolete roadway, reduce County maintenance obligations and is otherwise in the public interest.”



Figure 1 –Aerial Photo of Proposed Vacation Area

The Road Department mailed preliminary notices of the proposed vacation to adjoining property owners and affected utilities and agencies. Responses to those notices are as follows:

- *Pacific Power*: Richard Birch, Property Agent for Pacific Power, submitted the following written response dated May 28, 2021:

“...I have reviewed the attached letter regarding vacating a portion of Cook Ave and Pacific Power has overhead powerlines within the to be vacated area that would need to be addressed before we can approve. 1 of 2 things need to occur for us to sign off:

- 1. The county reserves a 20 foot utility reservation in the vacation document – or -*
- 2. The new landowner agrees to sign an easement for the power line that would record concurrently with the street vacation...”*

The Petitioners have granted and recorded a right of way easement to PacifiCorp on March 31, 2021 (Deschutes County Official Records No. 2021-20268).

The following notified parties did not provide a response:

- *Bend Broadband*
- *CenturyLink*
- *Pine Ridge Pump*
- *Oregon Parks and Recreation Department*
- *Deschutes County Community Development Department*
- *Deschutes County Legal Counsel*

Findings:

Based upon the submitted petition materials, responses to the preliminary notices, and the Road Department’s research of the subject right of way, the Road Department finds that:

- The subject right of way was dedicated to the public on the Townsite of Laidlaw plat recorded as Document No. 1918-000027 in the office of the County Clerk, Deschutes County, Oregon (ORS 368.326).
- The proposed vacation will not deprive access to any owners of a recorded property right (ORS 368.331).
- The petitioners, who represent the owners of more than 60 percent of property abutting the subject right of way, have submitted a complete petition and submitted the required fee (ORS 368.341(1)(c); ORS 368.341(3); ORS 368.341(4); ORS368.351).
- As the petition for vacation does not include acknowledged signatures of owners of 100 percent of property abutting the proposed vacation area, the vacation proceedings are subject to a public hearing (ORS 368.346).
- The subject right of way does not appear to be needed for current or future public use.

Recommendation:

Based on the above findings, the Road Department has determined that the proposed vacation is in the public interest. The Road Department recommends that the Board of County Commissioners approve the

vacation of a portion of the right of way of Cook Avenue as described in proposed Order No. 2021-015 subject to the following conditions:

1. No opposition to the vacation is reported to the County prior to vacation order presentation to the Board of County Commissioners or during the required public hearing.
2. The vacated property shall vest according to the agreement submitted by the petitioners (proposed Order No. 2021-015, Exhibit "D") under the authority granted by ORS 368.366(2).

This report is made pursuant to ORS 368.326 through 368.366, concerning the vacation of county property.

**AGREEMENT FOR VACATION OF RIGHT-OF-WAY AND VESTING OF
VACATED PROPERTY**

This Agreement is entered into by and between Patrick Todd ("Todd") and Sara Whitney ("Whitney") (collectively, the "Parties").

WHEREAS, Todd is the owner of real property located at 64414 O.B. Riley Road, Bend, Deschutes County, Oregon and described with particularity on the attached Exhibit 1;


WHEREAS, Whitney is the owner of real property located at 64404 O.B. Riley Road, Bend, Deschutes County, Oregon and described on the attached Exhibit 2.

WHEREAS, Whitney has submitted an application, to which Todd has consented, to the Road Department for Deschutes County to vacate a portion of Cook Avenue, approximately 116' in length that is adjacent to Todd's property and Whitney's property, which property to be vacated is described and marked on the attached Exhibit 3;

Now, therefore, for good and valuable consideration, the Parties hereby agree that the portion of Cook Avenue that is subject to the Parties' pending Petition to Vacate shall, upon approval of that Petition, vest in the name of Sarah Whitney and inure to Whitney's property described in Exhibit 2.



Patrick Todd



Sara Whitney

STATE OF OREGON)
) ss.
County of Deschutes)

This instrument was acknowledged before me on the 8 day of March 2021, by PATRICK TODD.



Notary Public of Oregon

STATE OF OREGON)
) ss.
County of Deschutes)

This instrument was acknowledged before me on the 8 day of March 2021, by SARA WHITNEY.





Notary Public of Oregon

TAX LOT 4500

Lots One (1), Two (2), Nine (9), and Ten (10), Block Seventy (70), of the Townsite Of Laidlaw, Deschutes County, Oregon, together with those portions of vacated 15th Street, Riverside Avenue, Cook Avenue, and Alley which inured unto said Lots upon the vacation thereof.

TOGETHER WITH: A portion of Parcel One (1), Partition Plat Number 2014-05, located in the Southeast One-Quarter (SE1/4) of Section 31, Township 16 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon being more particularly described as follows:

Beginning at the most Southerly corner of said Parcel 1, said point lying on the Easterly Right-of-Way of Re-aligned O. B. Riley Road and being the TRUE POINT OF BEGINNING; thence along the Easterly Right-of-Way of said Re-aligned O. B. Riley Road along the arc of a 580.00 foot curve to the Left, through a central angle of 18°20'32", an arc length of 185.68 feet (the cord of which bears North 35°29'57" West, 184.88 feet) to a point of non-tangency being an angle point in said Right-of-Way; thence North 89°57'31" East 13.94 feet; thence leaving said Right-of-Way North 89°57'31" East 93.20 feet to a point on the West Right-of-Way of vacated Cook Avenue; thence South 00°05'02" East along said West Right-of-Way line 150.60 feet to the TRUE POINT OF BEGINNING.

TOGETHER WITH: That portion of Cook Avenue, vacated per Order No. 2020-040, which inured thereto.

Containing 1.10 acres more or less.

Sun Country Engineering & Surveying, Inc.

EXHIBIT 1

Lots 3 through 8, Block 70, Townsite of Laidlaw, recorded August 1, 1918 in Cabinet A, Page 38, Deschutes County, Oregon.

TOGETHER WITH that portion of vacated alley and Riverside Avenue incurring thereto,

ALSO TOGETHER WITH a parcel of land lying in the Northeast Quarter (NE1/4) of Section 6, Township 17 South, Range 12, East of the Willamette Meridian, Deschutes County, Oregon, and being a portion of that property described in that deed to the State of Oregon, by and through its State Highway Commission, recorded in Book 106, Page 243, Deschutes County Records of Deeds,

Beginning at a 5/8" x 30" aluminum capped iron rod at the intersection of the North line of said Section 6 and the East line of Cook Avenue, Townsite of Laidlaw (Tumalo); thence along said North line South 89°53'30" East, 218.39 feet to a 1/2" x 12" iron rod being the centerline of Riverside Avenue (vacated) in said Townsite; thence along said centerline extended South 21°26'30" West, 12.28 feet; thence North 89°14'30" West, 213.93 feet to the Southerly extension of said East line of Cook Avenue; thence along said East line North 0°00'30" East, 9.00 feet to the Point of Beginning

EXHIBIT 2

PORTION OF COOK AVENUE

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Containing 0.14 acres more or less.

EXHIBIT 3

ROAD VACATION

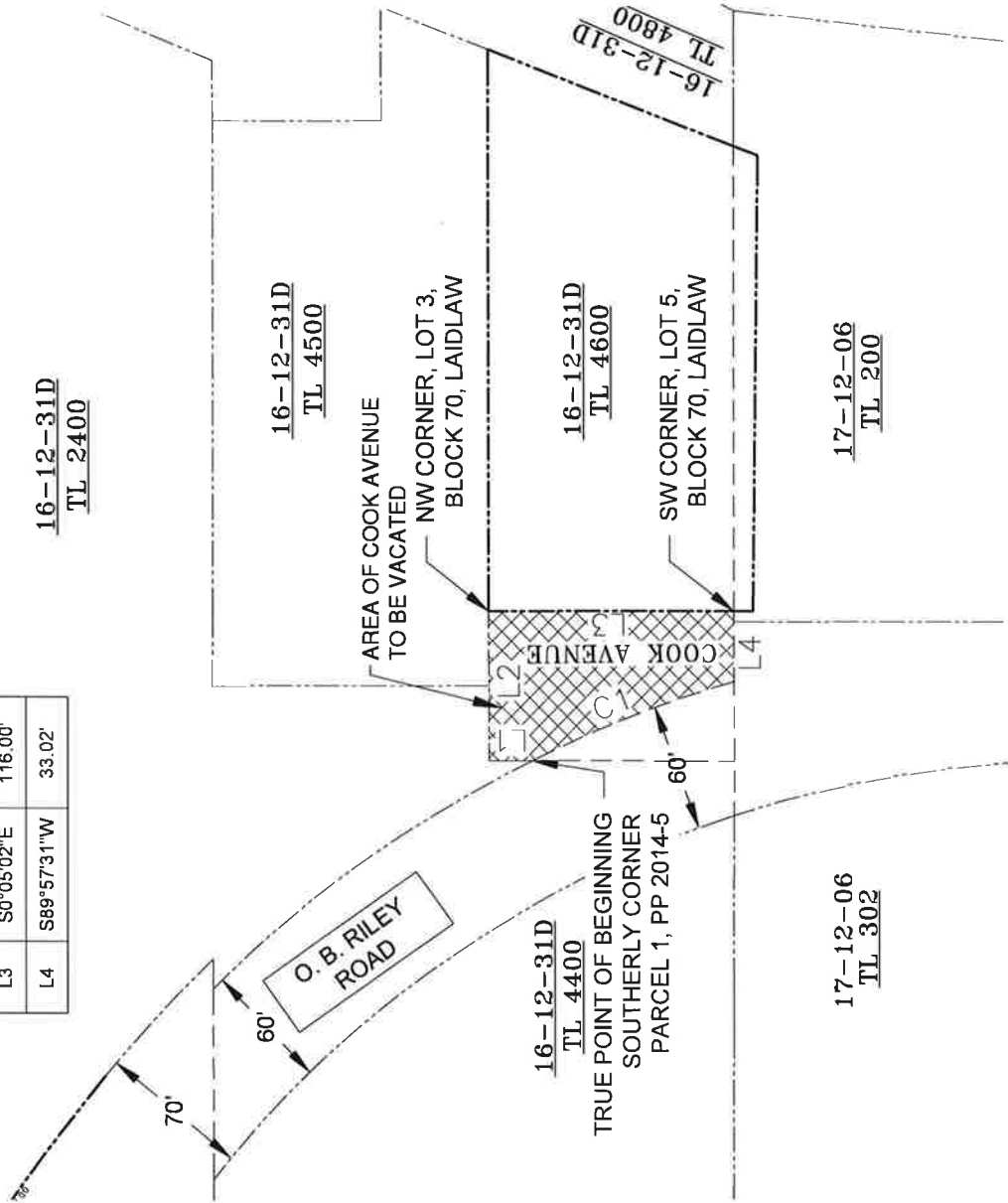
SEPTEMBER, 2020

A PORTION OF COOK AVENUE,
LOCATED IN THE SE 1/4 OF SECTION 31,
TOWNSHIP 16 SOUTH, RANGE 12 EAST, W.M.
DESCHUTES COUNTY, OREGON

Curve Table				
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16-12-31D
TL 2400



SURVEYORS:
SUN COUNTRY
ENGINEERING & SURVEYING, INC.
920 S.E. ARMOUR ROAD
BEND, OREGON 97702



SUN COUNTRY ENGINEERING & SURVEYING, INC.
920 S.E. ARMOUR ROAD BEND, OREGON 97702 PHONE 362-8882

ROAD VACATION
PATRICK TODD

Title

Drafting	RFM	No.	Date	Revisions
Design	---	---	---	---
Scale	1"=40'			
Date	09/03/2020			
W.O. No.	9656-01B			