

REVIEWED
LEGAL COUNSEL



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Vacating a Portion of W.R. Wilkinson Road in Deschutes County, Oregon * * * ORDER NO. 2022-031

WHEREAS, proceedings for vacating a portion of W.R. Wilkinson Road, depicted and described in Exhibit "A" and depicted in Exhibit "B", 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 W.R. Wilkinson Road filing a petition, attached hereto as Exhibit "C" and by this reference incorporated herein, and upon adoption of Resolution No. 2022-045; and

WHEREAS, said petition contains the acknowledged signatures of owners of one hundred percent of property abutting the subject portion of W.R. Wilkinson Road 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 "D" 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; 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" and depicted in the attached Exhibit "B" is in the public interest:

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

Section 3. That the property vacated in Section 2 herein shall vest with the rightful owner or owners holding title according to law in accordance with ORS 368.366(1)(c).

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 _____, 2022.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

PATTI ADAIR, Chair

ATTEST:

ANTHONY DEBONE, Vice Chair

Recording Secretary

PHIL CHANG, Commissioner

Exhibit A

Right of way Vacation

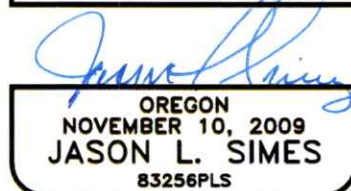
A portion of W.R. Wilkinson Road lying in the lands described in Document 2008-37771, Deschutes County Official Records, located in the Southwest One-Quarter of the Southeast One-Quarter of Section 35, Township 17 South, Range 12 East, Willamette Meridian, Deschutes County, Oregon, being a sixty-foot-wide strip of land with thirty feet on each side of the following described centerline:

Commencing at a 1/2" iron rod with an illegible yellow plastic cap at the East Sixteenth corner on the South line of said Section 35; Thence on the East line of the said Southwest One-Quarter of the Southeast One-Quarter of Section 35 North 0°10'20" West 30.00 feet to a 5/8" iron rod with a yellow plastic cap marked "LS 2527" at the Southeast corner of said Document 2008-37771 and the North right of way line of Bear Creek Road; Thence along said North right of way line and the South line of said Document 2008-37771 North 89°41'34" West 110.33 feet to the **TRUE POINT OF BEGINNING**; Thence North 74°00'00" West 136.59 feet; Thence North 88°30'00" West 385.44 feet; Thence North 90°00'00" West 616.44 feet; Thence North 74°00'00" West 84.81 feet more or less to the West line of the lands described in said Document 2008-37771 and the **POINT OF TERMINUS**.

The sidelines shall be lengthened or shortened to terminate on the lines commenced and closed upon.

The Basis of Bearings is North 89°41'34" West along said North right of way line of Bear Creek Road and said South line of Document 2008-37771.

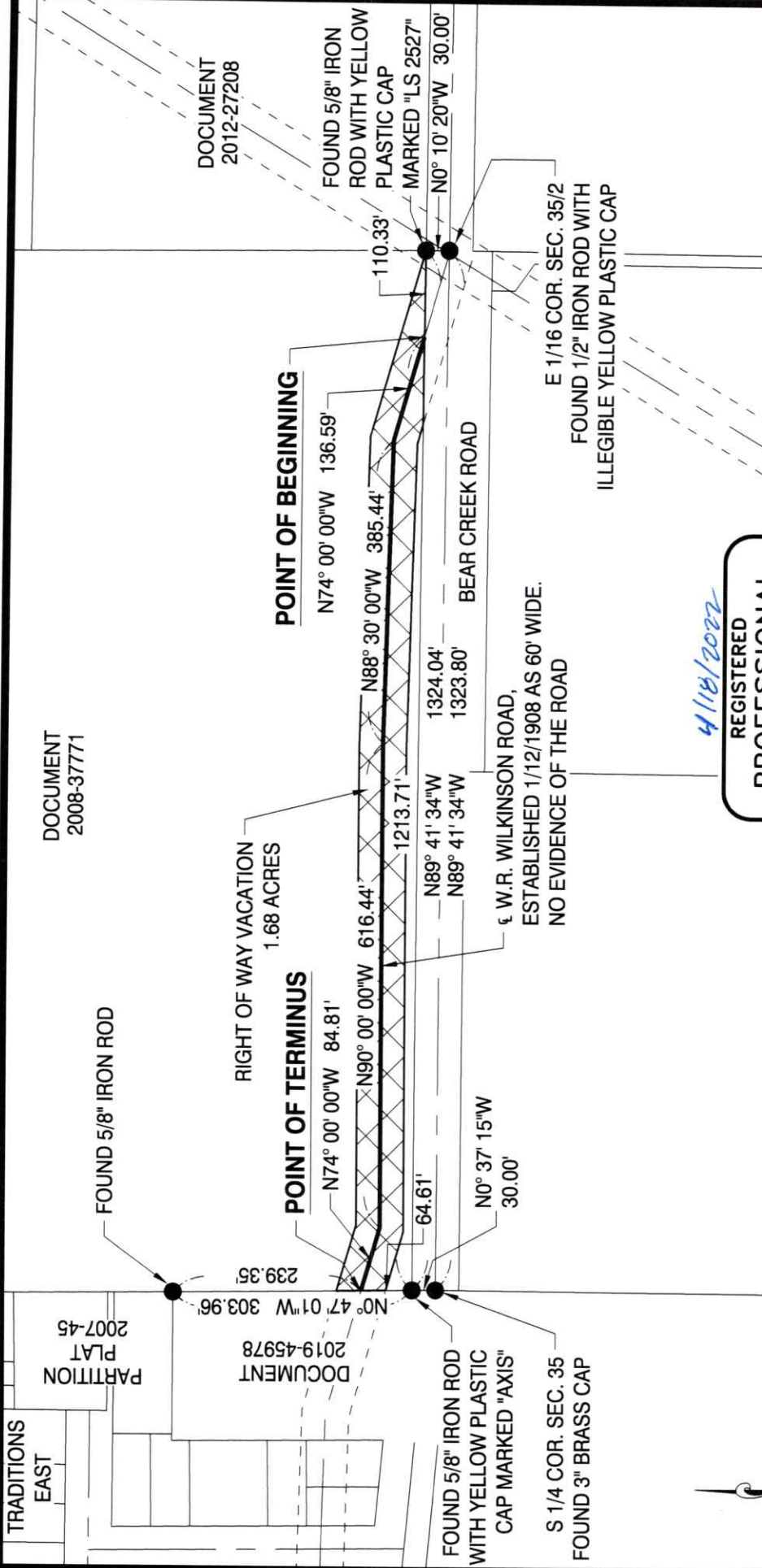
The above described lands contain 1.68 acres, more or less.



EXPIRES 6/30/22

EXHIBIT B

A PORTION OF W.R. WILKINSON ROAD,
 LOCATED IN THE SOUTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF
 SECTION 35, TOWNSHIP 17 SOUTH, RANGE 12 EAST, WILLAMETTE MERIDIAN,
 DESCHUTES COUNTY, OREGON.



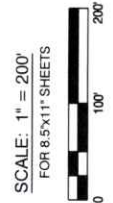
H.A. McCOY
 ENGINEERING & SURVEYING LLC
 1180 SW LAKE ROAD SUITE 201
 REDMOND, OR 97756
 (541) 923-7554

REGISTERED
**PROFESSIONAL
 LAND SURVEYOR**

Jason L. Simes
 OREGON
 NOVEMBER 10, 2009
JASON L. SIMES
 83256PLS

EXPIRES 6/30/22

4/18/2022



PROJECT: RIGHT OF WAY VACATION	PROJECT NO: 20-101
DESIGN: JJW	DATE: 04/18/22
REV: DETAIL 1	PAGE: EXH. B

PETITION FOR VACATION OF A PUBLIC ROAD

TO: THE DESCHUTES COUNTY BOARD OF COMMISSIONERS

We, the undersigned (holding recorded interest or abutting the proposed property or owning improvements constructed on the proposed property for vacation), respectfully request the following described road be vacated.

Description of road to be vacated: W.R. Wilkinson Road, established 1/12/1908 as a 60' right-of-way.

Located in Deschutes Co Tax Assessor's Map Number 171235, Tax Lot 1500, Deschutes County.

Reason for road vacation request: Development of a master-planned residential community, including public improvements.

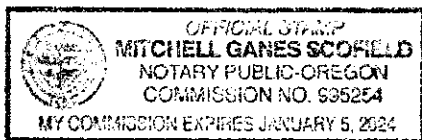
DATED this 28th day of January, 20 22.

PRINT NAME	SIGNATURE	ADDRESS	CITY	STATE	ZIP
<u>CRAIG R. SMITH</u>	<u>[Signature]</u>	<u>2464 SW GLACIER Pl</u>	<u>REDMOND</u>	<u>OR</u>	<u>97756</u>
<u>H Porter DeKens</u>	<u>[Signature]</u>	<u>5691 MIRAMAR Dr</u>	<u>FRISCO</u>	<u>TX</u>	<u>75034</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

STATE OF OREGON)
County of Deschutes) ss.

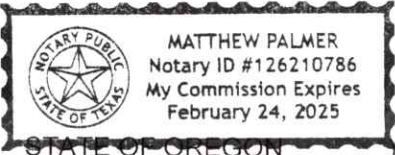
On this 28th day of January, in the year 2022, before me, a Notary Public, personally appeared Craig Smith personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.

WITNESS my hand and official seal
[Signature]
Notary Public for Oregon.
My Commission expires: Jan 5th, 2024



STATE OF ~~OREGON~~ ^{Texas MP})
)
County of Collin) ss.

On this 10 day of February, in the year 2022 before me, a Notary Public, personally appeared Harry Porter Burns personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.



WITNESS my hand and official seal
[Signature]
Notary Public for Oregon. Texas MP
My Commission expires: 2/24/25

STATE OF OREGON)
)
County of _____) ss.

On this ____ day of _____, in the year 20____, before me, a Notary Public, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.

WITNESS my hand and official seal

Notary Public for Oregon.
My Commission expires: _____

STATE OF OREGON)
)
County of _____) ss.

On this ____ day of _____, in the year 20____, before me, a Notary Public, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is(are) subscribed to this instrument, and acknowledged that he (she, they) executed it.

WITNESS my hand and official seal

Notary Public for Oregon.
My Commission expires: _____

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

[Signature]
SIGNATURE
2464 SW Glacier Pl #110 Redmond, OR 97756
ADDRESS
TELEPHONE: 559-892-7129



MEMORANDUM

TO: Board of County Commissioners

FROM: Cody Smith, County Engineer

DATE: June 8, 2022

SUBJECT: **Road Official's Report**
Vacation of a Portion of W.R. Wilkinson Road Rd in Section 35, Township 17S, Range 12E

Background:

Deschutes County Road Department has received a petition to vacate a portion of the public right of way for Wilkinson Road. Chief Petitioner for the proposed vacation is H. Porter Burns on behalf of Porter Kelly Burns Landholdings LLC, owner of Tax Lot 100 on Assessor's Map 17 12 35DC; additional Petitioner for the proposed vacation is Craig R. Smith on behalf of Hayden Homes. Tax Lot 100 on Assessor's Map 17 12 35DC comprises all of the abutting or underlying properties to the subject right of way.

The subject right of way was established on January 12, 1908 by Crook County order recorded as Crook County Commissioners Journal Volume 4, Page 189, which established a 60-foot wide right of way.

The subject right of way is contained within the area of the HB 4079 – City of Bend Affordable Housing Pilot Program, which will include expansion of the Bend Urban Growth Boundary and annexation by the City of Bend of the subject tax lot to provide for development of 347 housing units, including 108 affordable housing units. The subject property was approved for a zone change, from Multiple Use Agricultural (MUA10) to Urbanizable Area (UA), on May 20, 2022 under County Land Use File No. 247-22-00124-ZC. Presently, the subject right of way contains no road improvements but does contain public utilities. Bear Creek Road, an improved public road, exists immediately south of the area proposed for vacation.

The Petitioners provided the following reason for the proposed vacation:

"Development of a master-planned residential community, including public improvements."

More specifically, the proposed vacation will facilitate the platting of Phases 2 and 7 of the HB 4079 – City of Bend Affordable Housing Pilot Program on the subject tax lot.

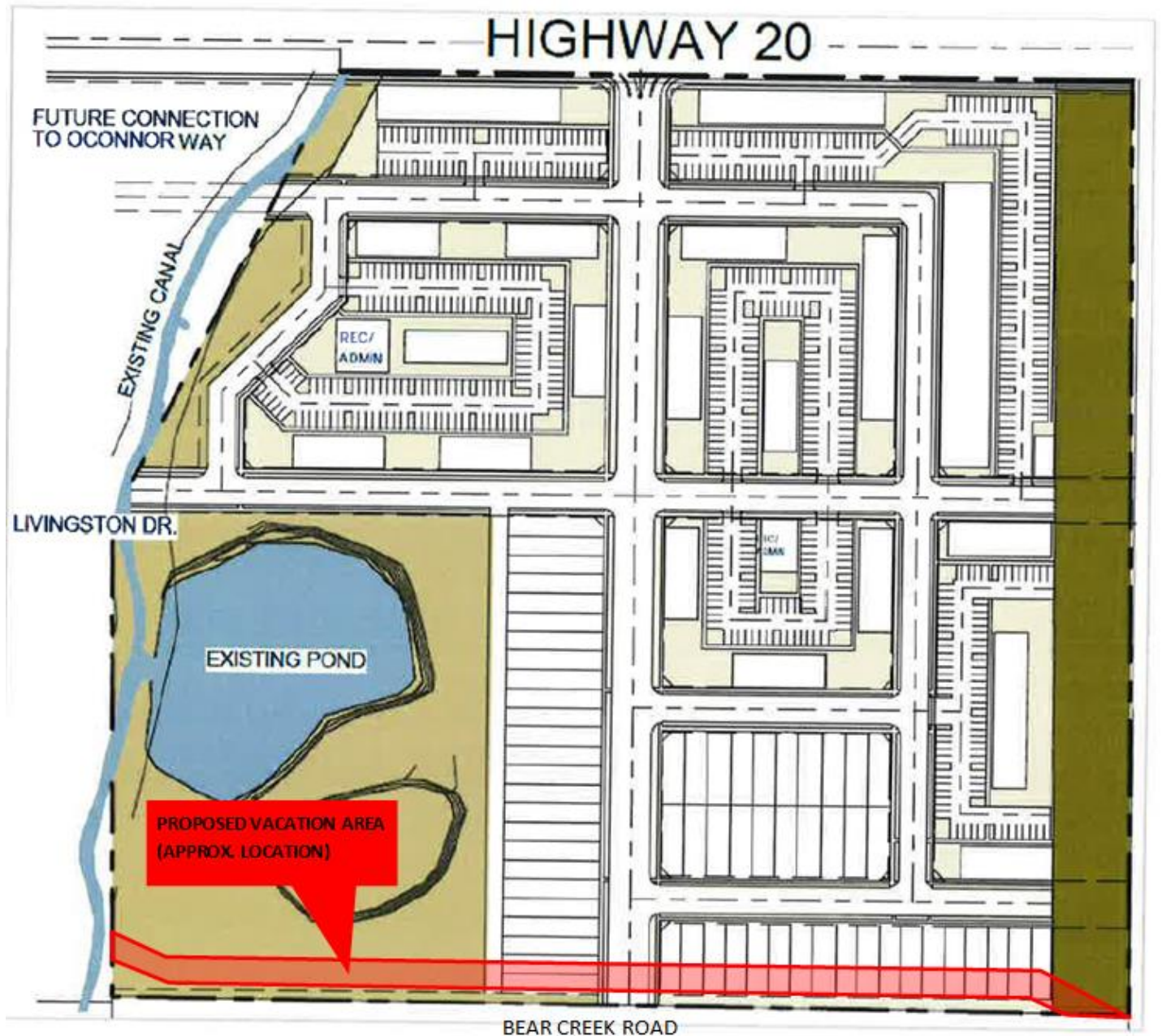


Figure –Extract from Zone Change Application (County Land Use File No. 247-22-00124-ZC) with Notes

The Petitioners submitted completed service provider consent forms from the all service providers within the proposed vacation area; those service providers and their responses are listed below:

- TDS Telecom dba Bend Broadband
 - Representative: Todd Johnson
 - Has existing facilities within the area proposed for vacation
 - **Consents to the proposed vacation**

- Central Oregon Irrigation District
 - Representative: Kelley O'Rourke
 - Has existing facilities within the area proposed for vacation
 - **Consents to the proposed vacation**
 - Comments: *COID has an established Right of Way for the A Lateral and an abandoned ditch within the vacation scope. COID is not removing our easement/right of way with our signature on the proposed vacation of Wilkinson/Aldridge Road. (Note: The Petitioners mistakenly submitted a separate petition for the vacation of a portion of Aldridge Road that had previously been vacated.)*

- Cascade Natural Gas Corporation
 - Representative: Joshua Aignar
 - Has existing facilities within the area proposed for vacation
 - **Consents to the proposed vacation**
 - Comments: *There is current blanket easement in requested vacation corridor.*

- Pacific Power
 - Representative: Ian Treadway
 - Has existing facilities within the area proposed for vacation
 - **Consents to the proposed vacation**

Findings:

Based upon the submitted petition materials, responses to service provider notices, and the Road Department's research of the subject right of way, the Road Department makes the following findings:

- The subject right of way was established by Crook County order in 1908 (Crook County Commissioner's Journal Volume 4, Page 189) (ORS 368.326).
- No owners of a recorded property right would be deprived of access necessary for the exercise of their property right with the proposed vacation if implemented (ORS 368.331).
- The petitioners, who represent 100 percent of the owners 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).
- The subject right of way contains public utilities, and the owners of those utilities have consented to the proposed vacation.
- The proposed vacation area contains no existing public road improvements.
- The proposed vacation is necessary for implementation of Phases 2 and 7 of the HB 4079 – City of Bend Affordable Housing Pilot Program.

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 W.R. Wilkinson Road as described in proposed Order No. 2022-031 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.
2. The vacated property shall vest in the rightful owner(s) holding title according to law pursuant to ORS 368.366 (1)(c).

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