

CITY OF STEVENSON, WASHINGTON

ORDINANCE NO. 2021-1170

AN ORDINANCE DECLARING VACATION OF AN UNNAMED STREET IN THE MEAGHERS ADDITION TO STEVENSON.

RECITALS

WHEREAS, the City Council of the City of Stevenson received a petition—signed by 100% of adjacent property owners—to vacate an unnamed street as hereinafter described; and

WHEREAS, upon receipt of the aforementioned petition, the City Council adopted Resolution 2020-368 affixing the date of a public hearing for the Council to consider objections to the vacation; and

WHEREAS, notices of the public hearing were duly posted; and

WHEREAS, at the December 10th, 2020 public hearing the City Council heard the following objections:

- City staff objected to the proposed vacation’s resulting in the isolation of Lot 19 of the Meaghers Addition to Stevenson from access to a public street.
- A petitioner, and the owner of Lot 14 of Meaghers Addition to Stevenson, indicated their willingness not to claim any interest in the roadway proposed for vacation.
- A petitioner, and the owner of Lots 18 and 19 of Meaghers Addition to Stevenson objected to the distribution of property as a matter of law, alleging the entire vacated road would accrue to Lot 18 insofar as the road was originally fully part of that lot and no other.

WHEREAS, the City Council understands these objections and has addressed them as follows:

- A covenant related to Lot 19’s access has been circulated for agreement by the property owners of Lots 18 and 19 of the Meaghers Addition to Stevenson, and the City Council intends to tie the effective date of this vacation to the owners recording of the covenant provided as Exhibit ‘C’ hereto.
- Relying upon the owner of Lot 14’s release of interest, RCW 35.79.050 stating that no vested right may be affected by a road vacation, and case law established in *London v. Seattle*, WN.2d 657, 666-07 (1980) and its progeny, the City Council intends the area of the street vacated hereby to vest with the owner of Lot 18 of the Meaghers Addition to Stevenson.

WHEREAS, according to the resolution of the objections as described herein, the City Council sees it as the best interests of the petitioners and the City of Stevenson that the street described in Exhibit “A” of this ordinance be vacated and abandoned.

NOW, THEREFORE, the City Council of the City of Stevenson do ordain as follows:

Section 1- Declaration of Vacation

THAT, the street fully described in Exhibit ‘A’ and graphically depicted in Exhibit ‘B’ be and the same is hereby declared vacated for all purposes and intents.

Section 2- Accrual of Property—Fee Waived

THAT, the street described in Exhibit ‘A’ shall accrue to Lot 18 of the Meaghers Addition to Stevenson as the sole adjacent property vested with fee interest; and that the City does not require a fee for releasing its interest in the vacated street.

Section 3- Reservation of Easement--Waived

THAT, the City waives its right to reserve a utility easement over the vacated street and none is reserved.

Section 4- Effective Date of Vacation

THAT, the vacation declared herein shall not become effective until the property owner of Lot 18 executes and records the covenant attached hereto as Exhibit ‘C’. Furthermore, if by December 31st, 2021, the owner of Lot 18 has not recorded said covenant, this ordinance shall be null and void.

Section 5-Severability

THAT, if any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

PASSED in regular session this _____ day of _____, 2021.

Mayor of the City of Stevenson

APPROVED AS TO FORM:

ATTEST:

Attorney for the City of Stevenson

Clerk of the City of Stevenson

Exhibit 'A'
TERRA SURVEYING
P.O. Box 617
Hood River, OR 97031
PHONE (541) 386-4531
E-Mail: terra@gorge.net

LEGAL DESCRIPTION
FOR
A
DRIVE VACATION
FOR
AUGUSTE ZETTLER

The following described tract is located in the southwest quarter of Section 36, Township 3 North, Range 7 East of the Willamette Meridian, County of Skamania and State of Washington. More particularly described as follows:

Commencing at a 1/2" iron rod monumenting the northwest corner of Lot 19 of Meaghers Addition to Stevenson, Washington, a re-plat of Meaghers Subdivision (1961) as recorded in Skamania County plat records on Book A, Page 120; thence South 00°18'05" West along the west line of said Lot 19 a distance of 89.61 feet to a 5/8" iron rod, L.S.15673 monumenting the southwest corner thereof; thence North 87°55'04" East a distance of 9.35 feet to a 5/8" iron rod, L.S.15673; thence South 89°39'21" East a distance of 114.45 feet to the southwest corner of a 20 foot driveway access per said plat and point of beginning of the following described tract to be vacated.

Thence North 00°19'00" East a distance of 20.00 feet to a point; thence South 89°39'21" East a distance of 48.67 feet to a point on the west line of Impala Drive; thence South 30°31'12" West along said west line a distance of 23.14 feet to a point; thence North 89°39'21" West a distance of 36.17 feet to the point of beginning.

October 14, 2020
Contains 839.71 Sq. Ft.
EMC

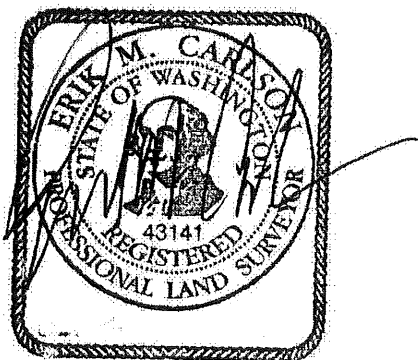
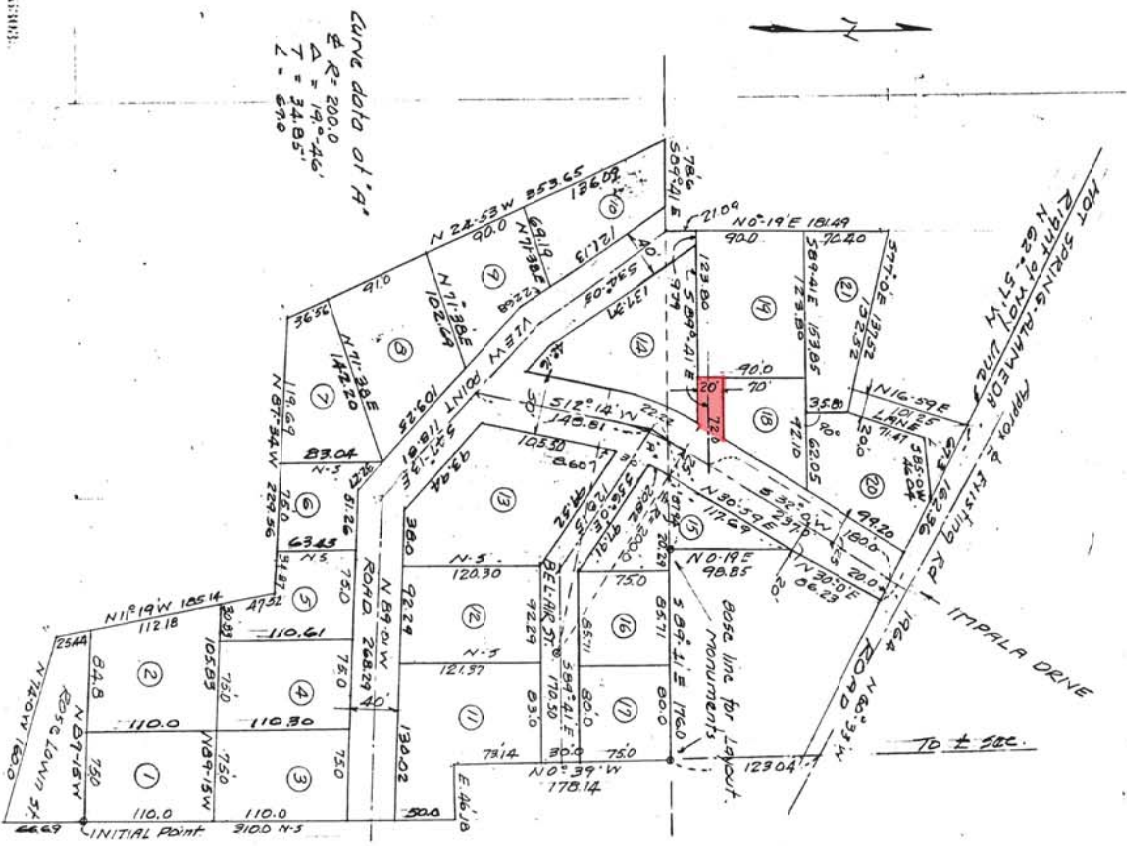


Exhibit B

MEAGHERS ADDITION TO STEVENSON WASHINGTON
A RE-PLAT OF MEAGHERS SUBDIVISION FILED MAY 15 1961
Scale 1" = 60'



Filed for record at the request of Richard W. Meagher, on
 and recorded in Volume 120 of Plats, Page 120 of
 Records of Stemata County,
Richard W. Meagher
 Surveyor

Richard W. Meagher
 Surveyor

I, Richard W. Meagher, Treasurer of Stemata County, Washington, do hereby certify that all taxes on the above property are fully paid up and including 1964.

Approved by Commission of Town of Stevenson this 25 day of May 1964.
Richard W. Meagher
 Commission

I hereby certify that the plat of Meagher's Sub-Division is based on correct and true bearings and distances and courses of angles are shown thereon correctly, and monuments have been set and all lot corners have been staked on the ground.
Richard W. Meagher
 Registered Professional Land Surveyor

This is to certify that on the 15th day of May, A.D. 1964 before me, the County Clerk of Stemata County, in and for the State of Washington, duly commissioned and sworn, personally appeared before me Richard W. Meagher and Richard W. Meagher, known to me to be the individuals named in the foregoing plat, to me known to me to be the individuals named in the foregoing plat, and they signed and assented the same as their free and voluntary act and for the uses and purposes mentioned therein.

ACKNOWLEDGMENT
 State of Washington)
 County of Stemata)
 I, Richard W. Meagher, County Clerk, do hereby certify that the undersigned owners of the land hereby platted, declare this plat and dedicate to the use of the public forever all roads, streets, avenues and lanes as shown on this plat.
 In witness whereof we have hereunto set our hands and seals this 15th day of May, 1964.
Richard W. Meagher
Richard W. Meagher

RESERVATIONS
 Any service, installation or construction charge for sewer, water or electricity are not covered by this plat.

DESCRIPTION
 Beginning at the Northwest Corner of Block 3 Johnson Addition, being the Northwest Corner of Block 2 of Cascade Addition as shown by Official Plat on file in the Office of the County Auditor, said plat being North 46.0 feet, and East 36.5 feet, from the quarter corner on the South side of Section 8, Township 36 North, Range 3 East, 3rd Meridian, thence North 11.19' West 135.14' feet, thence North 87.34' West 229.56' feet, thence North 24.53' West 19' 35.53' feet, thence South 69' 19' East 96.65' feet, thence South 69' 19' East 101.25' feet, thence South 62' 57' East 162.36' feet, thence South 30' 00' West 65.95' feet, thence South 00' 19' West 96.65' feet, thence South 69' 19' East 101.25' feet, thence South 62' 57' East 162.36' feet, thence South 30' 00' West 65.95' feet, to the Northwest Corner of Lot 8 of Cascade Addition, thence South 310.00' feet, along said side line of Lot 8 of Cascade Addition, to the Northwest Corner of Lot 9 of Block 2, Cascade Addition to be dedicated as a street.

After recording return to:

Exhibit 'C'

City of Stevenson
7121 East Loop Road
PO Box 371
Stevenson, WA 98648

COVENANT

A COVENANT to the City of Stevenson from AUGUSTE F. ZETTLER and CORA E. ZETTLER, husband and wife agreeing that certain land which he/she/they own and which is hereinafter described shall be subject to the conditions herein set forth.

That AUGUSTE F. ZETTLER and CORA E. ZETTLER, husband and wife, property owner, hereby covenants to the City of Stevenson as follows, on behalf of himself/herself/themselves and all of his/her/their heirs and assigns unto whose ownership any such land might pass, it being specifically covenanted that this is a perpetual covenant running with the land herein described:

1. That AUGUSTE F. ZETTLER and CORA E. ZETTLER, husband and wife is the owner of the following described real property in the City of Stevenson, Skamania County, Washington, to-wit:
Full Legal Description: Lot 18 and Lot 19 of MEAGHERS ADDITION TO STEVENSON, according to the replat thereof on file and of record at page 120 of Book A of Plats, Records of Skamania County, Washington
Tax Parcel #: 03-07-36-4-3-0500-00
Address: 185 Impala Drive
2. The City Council, in consideration of the Ordinance 2021-1170, vacating an unnamed, undeveloped public access within the Meaghers Addition to the Stevenson, seeks to retain Lot 19's ability to access a public street.
3. In accordance with the City of Stevenson's request, the property owner herein agrees that:
 - a. Said Lots 18 and 19 shall not be sold, transferred, or otherwise conveyed, as separate lots until Lot 19 becomes the beneficiary of an access and utility easement connecting Lot 19 to a public street. The easement shall be permanent and inseparable from the lot served.

4. This covenant shall be filed and recorded with the Skamania County Auditor so that it will appear as a covenant within the chain of title for the real property described herein.
5. This Covenant may be enforced by the City in all or any of the following ways, at its option:
 - a. By denying permit requests for construction, development, or use of said Lots 18 and 19.
 - b. By bringing charges in Skamania County District Court for failure to observe the terms of this Covenant, filing such charges as a public nuisance. Penalties to include, but not limited to, a cumulative penalty per violation per day, plus any court and attorney fees and disbursements associated with collection, at trial and on appeal.
 - c. By bringing a civil suit in Skamania County Superior Court for damages or for an injunction or other appropriate relief to enforce the terms of this covenant. In that event, the City shall be entitled to its attorney fees and disbursements at trial and on appeal.
6. This covenant shall be perpetual for as long as said Lots 18 and 19 remain in common ownership and Lot 19 does not benefit from the easement described in Section 3. In the event such an easement is granted and Lot 18 and Lot 19 are held under separate ownership, this covenant shall be null and void. A merger of Lots 18 and 19 into a single lot will also void this covenant.

Approved as to form: Ken Woodrich, City Attorney

Notarized Signature of
Property Owner:

Name Date

Name Date

STATE OF WASHINGTON)
) ss:
COUNTY OF SKAMANIA)

I hereby certify that I know or have satisfactory evidence that _____
signed this instrument and acknowledged that he/she/they is/are authorized to execute
such, and acknowledged it to be a free and voluntary act for the uses and purposes
mentioned in this instrument.

Dated this _____ day of _____, 20_____.

Notary's Signature
My appointment expires: _____