

ORDINANCE NO. 5704

AN ORDINANCE VACATING A PORTION OF FERRY STREET SW, BETWEEN QUEEN AVENUE AND THE SOUTHERN PACIFIC TRANSPORTATION COMPANY RAILROAD RIGHT-OF-WAY, IN ALBANY, OREGON; AND ADOPTING FINDINGS.

WHEREAS, on July 26, 2007, the City of Albany City Council directed staff to initiate the vacation of this portion of right-of-way (File VC-03-07); and

WHEREAS, notices of public hearings were mailed, posted, and published as required by state and local law; and

WHEREAS, the Albany Planning Commission held a public hearing on February 11, 2008; and

WHEREAS, the Albany Planning Commission recommended that the City Council take a first reading only until the conditions of approval are met (driveway/access paving or financial assurances); and

WHEREAS, the Albany City Council held a public hearing on February 27, 2008, and took first reading on the vacation ordinance, and;

WHEREAS, the applicant has satisfied all conditions of approval that needed to be met before this ordinance is adopted.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Subject Property. The portion of Ferry Street SW (see legal description on attached Exhibit A and map labeled Exhibit B) is hereby vacated.

Section 2: Findings. The Findings, Conclusions, and Conditions in the Staff Report attached as Exhibit C are hereby adopted in support of this decision.

Section 3: Easement Retained. The City retains a public utility easement over the entire area being vacated. The easement will benefit the City, as well as franchise utilities, their successors, assigns, authorized agents, and/or contractors.

Section 4: Access Easement Retained. The City retains an access easement over the entire area being vacated. This access easement is for the benefit of the adjacent parcels (as described in Linn County Microfilm Deed Records DN2006-17224, MF428-739, MF403-14, and MF989-576) and the Southern Pacific Transportation Company. This easement also provides legal access rights over the vacated area for emergency response vehicles.

Section 5: Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of this city of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.

Section 6: The City Recorder shall, within 10 days of the effective date of this ordinance, file a certified copy of the ordinance with the County Clerk, County Assessor, and County Surveyor (ORS 271.150). The petitioner for the vacation shall bear the recording costs.

Passed by Council: October 22, 2008

Approved by Mayor: October 22, 2008

Effective Date: October 22, 2008

Wan Bedon
Mayor

ATTEST

City Clerk

U:\Community Development\Planning\Current\2007\07vc03 ordinance and cc sr revised.doc

EXHIBIT A

Right-of-Way Vacation VC-03-07

A tract of land located in the southwest one-quarter of Section 7, Township 11 South, Range 3 West, Willamette Meridian, City of Albany, Linn County, Oregon, that consists of:

ALL of that right-of-way of Ferry Street from the north line of Queen Avenue to the southerly right-of-way line of the Southern Pacific Railroad.

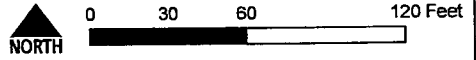
EXCEPTING THEREFROM that 16-foot-wide strip previously vacated by City of Albany Ordinance No. 3921 as recorded by Vacation Document in MF Volume 135, Page 58 of the Linn County, Oregon Deed Records on May 25, 1976.

More particularly described as follows:

Beginning at the northwest corner of Lot 9, Block 1 of the Mary B Industrial Subdivision; thence, South 38°54'35" West, 67.60 feet to the northerly extension of the west boundary of the Ferry Street right-of-way, said point also being North 8°47'35" West, 14.56 feet from the northeast corner of that tract owned by Peter and Glenna Slenning as described in MF428-739, Linn County, Oregon, Deed Records; thence, South 8°47'35" East, 339.77 feet along the west right-of-way line of Ferry Street to the north line of the Queen Avenue right-of-way, said point also being the southeast corner of that tract owned by Michael R. Johnson and Timothy L. Jordan as described in MF403-14, Linn County, Oregon, Deed Records; thence, North 87°15' East, 50.28 feet to the east boundary of the Ferry Street right-of-way, said point also being the southwest corner of Lot 13, Block 1 of the Mary B Industrial Subdivision; thence, along the west boundary of said Mary B Industrial Subdivision, North 8°47'35" West, 390.55 feet to the point of beginning.

This area being vacated contains 18,258 square feet (0.42 acres) of land, more or less.

EXHIBIT B
Legal Description Map
VC-03-07



Point of Beginning
[NW Corner Lot 9, Blk 1
Mary B Industrial Sub.]

Southern Pacific Railroad
Right-of-Way

Previously Vacated
Right-of-Way

Slenning Tract
MF428-739

Whippo Tract
DN2006-17224

Johnson/Jordan
Tract
MF403-14

Mary B Industrial
Subdivision

Nix/Celtic Enter. Tract
MF989-576

QUEEN AVENUE

FERRY STREET SW

S38°54'35"W
67.60'

N08°47'35"W
390.55'

S08°47'35"E
339.77'

N87°15'E
50.28'

16'

50'

9

11

10

12

13



Community Development Department

333 Broadalbin Street SW, P.O. Box 490, Albany, OR 97321

Phone: (541) 917-7550 Facsimile: (541) 917-7598

STAFF REPORT

Vacation (Public Street Right-of-Way)

<u>HEARING BODY</u>	CITY COUNCIL
<u>HEARING DATE</u>	Wednesday, February 27, 2008
<u>HEARING TIME</u>	7:15 p.m.
<u>HEARING LOCATION</u>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW

GENERAL INFORMATION

DATE OF REPORT:	February 20, 2008
FILE:	VC-03-07
TYPE OF APPLICATION:	Vacation of that portion of Ferry Street SW, between Queen Avenue on the south and the railroad right-of-way on the north.
REVIEW BODIES:	City Council (The Planning Commission held a public hearing on February 11, 2008.)
APPLICANT:	The Albany City Council initiated the vacation at the request of Gary Brown; owner of Tax Lots 2601, 2613, and 3100 (Linn County Assessors Map No. 11S-03W-07CB).
ADDRESS/LOCATION:	Right-of-way adjacent to 1630 Ferry Street SW (see Staff Report Attachment A)
MAP/TAX LOT:	Street right-of-way and adjacent properties are shown on Linn County Assessor's Map No. 11S-03W-07CB
TOTAL LAND AREA:	Approximately 18,255 square feet (0.42 acres)
PURPOSE OF REQUEST:	Vacation of public right-of-way to allow for new development on adjacent property to be constructed on the property line with no front yard setback.
EXISTING LAND USE:	Unimproved public right-of-way (Ferry Street SW); currently used as access to three parcels on the west side of the right-of-way.
NEIGHBORHOOD:	Jackson Hill
SURROUNDING ZONING:	North: LI (Light Industrial) East: LI (Light Industrial) South: LI (Light Industrial) West: LI (Light Industrial) (See Staff Report Attachment B)
SURROUNDING USES:	North: Railroad switching yard South: Light industrial uses East: Vacant light industrial use West: Light industrial uses

NOTICE INFORMATION

A notice of public hearing was mailed to surrounding property owners on January 28, 2008. The site was posted on January 23, 2008, in accordance with Section 1.410 of the Albany Development Code. Two legal notices have been published in the *Albany Democrat-Herald* on January 28, and February 4, 2008, in accordance with Oregon Revised Statute (ORS) 271.110.

At the time this staff report was prepared (February 20, 2008), the Albany Planning Department had received a letter from Stephen and Peggy Whippo, owners of Tax Lot 2500 on the west side of this portion of Ferry Street SW. This letter is attached to the staff report as Attachment G.

PLANNING COMMISSION RECOMMENDATION

The Albany Planning Commission recommended APPROVAL WITH CONDITIONS of this Vacation application for a portion of the Ferry Street SW right-of-way, north of Queen Avenue (File VC-03-07). The proposed conditions are found in this staff report.

CITY COUNCIL DECISION

MOTION TO APPROVE

If the findings in the staff report adequately address testimony presented at the public hearing, the City Council may approve the application based on the findings and conclusions of the staff report.

I MOVE that the City Council APPROVE WITH CONDITIONS the application that would result in the vacation of a portion of the Ferry Street SW right-of-way, north of Queen Avenue SW (File VC-03-07). This motion is based on the findings and conclusions of the staff report and testimony presented at the public hearing.

MOTION TO DENY

If the City Council determines that there is insufficient evidence to demonstrate that the review criteria have been met, the City Council may deny the application.

I MOVE that the City Council DENY the application for the vacation of a portion of the Ferry Street SW right-of-way, north of Queen Avenue SW (File VC-03-07).

STAFF ANALYSIS

Vacation File VC-03-07

The Albany Development Code (ADC) contains the following review criteria which must be met for this application to be approved. Code criteria are written in ***bold italics*** and are followed by findings, conclusions, and conditions where conditions are necessary to meet the review criteria.

OVERVIEW

This portion of Ferry Street is a 360-foot-long section of unimproved public right-of-way between Queen Avenue and the Southern Pacific railroad right-of-way. The Ferry Street right-of-way is currently used for access to three parcels along its west boundary, one parcel on the east, and the railroad yard to the north. This section of Ferry Street right-of-way was initially 66 feet wide. In 1976, the City vacated the westernmost 16 feet of the right-of-way between Queen Avenue and the railroad right-of-way.

The owner of the property to the east (Gary Brown) is proposing to construct a mini-storage development on his property (SP-40-07). The proposed design of the storage facility has buildings being located up to the west property boundary (along the Ferry Street right-of-way). Because this is currently adjacent to a public right-of-way, there is a required "front yard" setback. In order to eliminate the "front yard" setback requirement, the applicant has chosen to request that Ferry Street be vacated. That would result in the west boundary of his property no longer being considered a "front yard," and the setback would not be necessary. [See Staff Report Attachment C.]

At the September 26, 2007, City Council meeting, the Council agreed to initiate the vacation application in order to relieve the applicant of the responsibility of obtaining a signature from the Southern Pacific (Railroad) Transportation Company. The railroad company, and all other affected property owners, received notice of the proposed vacation and were given an opportunity to comment.

- (1) *The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan, city transportation or public facility plan.*

FINDINGS OF FACT

- 1.1 The following Comprehensive Plan policies have been identified as relevant to this review criterion:

GOAL 11: Public Facilities and Services

- a. Prohibit the construction of structures over public water lines and easements.
 - b. Prohibit the construction of structures over drainage improvements and easements.
 - c. Prohibit the construction of structures over public wastewater lines and easements.
- 1.2 Sanitary Sewer. Sanitary sewer utility maps indicate that an 8-inch public sanitary sewer main lies within the southern 150 feet of the area proposed for vacation. Laterals tapped from this main appear to serve each of the parcels adjacent to this section of right-of-way.
- 1.3 Water. Water utility maps indicate that a 2-inch public water line lies within the southern 250 feet of the area proposed for vacation. Water services tapped from this water line appear to serve the three parcels along the west boundary of this section of right-of-way.
- 1.4 Storm Drainage. Storm drainage utility maps indicate that catch basins at the northeast and southeast corners of Ferry Street SW and Queen Avenue SW collect runoff from these streets. The runoff is then routed through a short length of pipe to a ditch along the east side of Ferry Street SW north of Queen Avenue SW, which runs to the ditch along the south boundary of the railroad property.
- 1.5 Other Utilities. City staff has contacted the various other utility providers about this proposed right-of-way vacation. Based on information gathered from these private utilities, applicant submittals, and other as-built drawings, it has been determined that there are other utilities (such as natural gas, phone, etc.) within the area to be vacated.
- 1.6 Transportation. The right-of-way proposed for vacation is a dead-end section of Ferry Street SW located north of Queen Avenue SW. The length of the street is about 360 feet. The street is classified as a local street and is not improved. The street has a gravel surface and currently provides access to four parcels zoned Light Industrial. The road is also used by the railroad to access their facilities at the north end of this section of right-of-way.

- 1.7 Transportation. Albany's Transportation System Plan (TSP) does not identify this portion of Ferry Street SW as being a part of the City's arterial/collector street system, nor does it anticipate linking or connecting this portion of Ferry Street SW with another street.

CONCLUSIONS

- 1.1 There are public sanitary sewer, water, and storm drainage facilities within this portion of the Ferry Street SW right-of-way proposed for vacation. (See Staff Report Attachment D.) Because of the locations of these facilities, staff recommends that a public utility easement be maintained over the entire area proposed for vacation. This easement would provide access rights to the City and other utility companies and would prohibit the construction of any permanent structures within this area.
- 1.2 The proposed vacation does not conflict with Albany's TSP.

CONDITION

- 1.1 The City will retain a public utility easement over the entire area proposed for vacation. This easement will allow legal access to the area for maintenance of any existing utilities, or construction of new facilities, and would prohibit the construction of any permanent structures within this easement.
- (2) *The requested vacation will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, public facilities or utilities.*

FINDINGS OF FACT

- 2.1 The area proposed for vacation is a section of Ferry Street SW right-of-way, north of Queen Avenue SW. This portion of Ferry Street SW is a 360-foot-long unimproved public right-of-way that terminates at the south boundary of the Southern Pacific railroad yard. The right-of-way currently provides access to four parcels and the railroad yard to the north.
- 2.2 The parcels adjacent to this section of Ferry Street SW right-of-way are zoned Light Industrial (LI). The parcels on the west side of the right-of-way are developed with small scale commercial/light industrial uses. The parcel on the east side of the right-of-way is being proposed for a self-storage facility (SP-40-07). The parcel on the east also has access from Queen Avenue SW and Industrial Way SW.
- 2.3 There are public utilities within this portion of right-of-way (see Findings under Criterion 1). In order to maintain access to these utilities, a public utility easement will be kept over the entire vacated area.
- 2.4 Approval of this vacation request would result in creation of several land-locked parcels. In order to provide access to those parcels, an access easement will be retained over the right-of-way proposed for vacation. This access easement will be for the benefit of those parcels adjacent to the right-of-way, as well as the railroad, and for emergency response vehicles.
- 2.5 Ferry Street SW currently has a gravel surface that is maintained by the City of Albany. Even so, gravel and dirt are often pulled onto Queen Avenue SW by exiting vehicles, creating a maintenance problem.
- 2.6 ADC 12.100(1) requires that approaches and driveways to public streets be paved.
- 2.7 ADC 9.130 requires a minimum paved width of 24 feet for two-way driveways.
- 2.8 In order to comply with the ADC provisions that driveways be paved, construction of driveway pavement within Ferry Street SW would need to be imposed as a condition of approval for the vacation. The parcels that use the existing right-of-way for access are already developed, so an opportunity to condition future development to make the improvement is unlikely.

- 2.9 If the vacation is not approved, the current development application for the parcel adjoining the east side of the right-of-way would be required to comply with ADC 12.060. That would require the development to both provide a setback from the right-of-way and also construct a partial width street improvement to City standards along the site's entire Ferry Street SW frontage.
- 2.10 Once vacated, this portion of Ferry Street SW will function as a driveway access to the parcels that currently take access from the street and the railroad. In order to better accommodate that function into the future, the access road must be paved by the applicant to a minimum width of 24 feet between Queen Avenue SW and the railroad right-of-way.
- 2.11 The applicant's proposed mini-storage development on the adjacent property to the east cannot be approved until the vacation is finalized. It is possible that the applicant would choose to pave the driveway in the vacated area in conjunction with other paving work associated with the mini-storage development. In order to allow for combining this paving work, the City will accept a financial assurance for the driveway paving as meeting the requirement for having the vacation ordinance read a second time. The financial assurance must be in a form acceptable to the City Attorney and must be equivalent to 150 percent of a construction estimate for the work that is approved by the City.
- 2.12 The applicant (Gary Brown; Celtic Enterprises, LLC) has submitted a letter (see Attachment F) requesting that the condition to pave the driveway access within the vacated area be limited to a shorter section adjacent to Queen Avenue SW. If the City Council agrees with the applicant, the condition for paving the access way will be modified for the notice of decision.

CONCLUSIONS

- 2.1 The area proposed for vacation is not needed for connectivity between public rights-of-way.
- 2.2 A public utility easement will be maintained over the entire area proposed for vacation to allow access to the various utilities within this area.
- 2.3 An access easement will be retained in order to provide access rights to the parcels located adjacent to Ferry Street SW, the railroad to the north, and for emergency response vehicles.
- 2.4 Once vacated, Ferry Street SW will serve as a driveway access. The driveway will need to be paved to a minimum width of 24 feet for the full distance between Queen Avenue SW and the railroad right-of-way to the north.
- 2.5 Even with construction of a private driveway, the burden on development of the parcel east of Ferry Street SW is much less than what would be required should the right-of-way not be vacated.
- 2.6 The applicant has the option of providing to the City a financial assurance for the driveway work.

CONDITIONS

- 2.1 The City will retain a public utility easement and an access easement over the full area proposed for vacation.
- 2.2 Prior to the second reading of the vacation ordinance, the applicant must either pave the access road in Ferry Street SW, between Queen Avenue SW and the railroad right-of-way, or provide a financial assurance for the work equivalent to 150 percent of a construction cost estimate approved by the City.

- (3) *The requested vacation will not have a negative effect on traffic circulation or emergency service protection.*

FINDINGS OF FACT

- 3.1 The area proposed for vacation is a gravel dead-end street providing access to four parcels and the railroad yard.
- 3.2 Emergency services vehicles must have legal access to each of the adjacent parcels and to the railroad yard to the north.
- 3.3 In order to maintain access to these existing uses, an access easement will be retained over the area proposed for vacation.
- 3.4 A condition of approval for the vacation will be to pave a private access road from Queen Avenue SW to the railroad right-of-way to a minimum width of 24 feet. Paving the access road will improve emergency vehicle access to the adjacent properties and minimize the amount of gravel and dirt carried onto Queen Avenue SW from Ferry Street SW.

CONCLUSIONS

- 3.1 In order to maintain legal access from Queen Avenue SW to these existing uses, an access easement will be retained over the area to be vacated that will benefit the adjacent parcels and the railroad and allow access by emergency response vehicles.
- 3.2 The requested vacation will not have a negative effect on traffic circulation and pavement improvements that are required as a condition of the vacation approval and will improve emergency vehicle access to the area.

CONDITION

- 3.1 See Conditions under Criterion 2 above.

- (4) *The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.*

FINDINGS OF FACT

- 4.1 The right-of-way to be vacated will be incorporated into the parcels directly abutting it or revert back to the owners of the properties from which the right-of-way was dedicated. The Linn County Cartographic Supervisor has determined that upon vacation the eastern half of the original right-of-way will transfer to Tax Lot 2601 and the western half of the original right-of-way would go to Tax Lots 2500, 2501, and 2502, based on the frontages of those parcels. Because 16 feet of the original right-of-way was previously vacated, the properties along the west side of Ferry Street SW would receive only 17 feet of the remaining 50-foot right-of-way. This property distribution is shown on Staff Report Attachment E.
- 4.2 The area to be vacated is currently being used by adjacent property owners for access to their parcels/businesses.
- 4.3 The area proposed for vacation would not become part of the adjacent properties "front yard" setback, and therefore would not require additional landscaping, etc.
- 4.4 Pavement improvements that will occur as a condition of the vacation approval will improve emergency vehicle access to the area.

- 4.5 If the right-of-way is vacated, maintenance responsibility over the driveway/access would shift to the owners of the properties benefited by the access easement.

CONCLUSIONS

- 4.1 No additional landscaping will be necessary if the area is vacated because the vacated area will no longer be considered a “front yard” for the adjacent parcels.
- 4.2 Paving the access road will provide a cleaner, more stable surface for vehicle access (including emergency vehicles) to each of the parcels (and railroad property) using the road for access.
- 4.3 The adjacent property owners and the railroad company would assume maintenance responsibility of the driveway/access within the vacated area.

CONDITION

- 4.1 See Condition 2.2.

(5) *The public interest, present and future, will be best served by approval of the proposed vacation.*

FINDINGS

- 5.1 The area proposed for vacation is an unimproved right-of-way. The area to be vacated is currently being used by adjacent property owners for access to their properties.
- 5.2 Retaining an access easement over the area to be vacated will assure access rights to all property owners along the vacated right-of-way, as well as emergency vehicles.
- 5.3 Retaining a public utility easement over the area to be vacated will provide the City and other utility companies the right to access the utilities within the area.
- 5.4 Paving the shared access from Queen Avenue SW to the railroad right-of-way would satisfy the Development Code requirement regarding improving driveways (ADC 12.100). The paving will also improve emergency vehicle access and minimize the amount of gravel and dirt carried onto Queen Avenue SW from Ferry Street SW.
- 5.5 Upon final approval of the vacation, the City will no longer have any maintenance responsibility for the street within the vacated area. Public utility maintenance within the vacated area would still be the City's responsibility.
- 5.6 ORS 227.178 (1) states: Except as provided in subsections (3) and (5) of this section, the governing body of a city or its designee shall take final action on an application for a permit, limited land use decision or zone change, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete.
- 5.7 ORS 227.178 (5) states: The 120-day period set in subsection (1) of this section may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed 245 days.
- 5.8 ORS 227.178 (10) states: A city may not compel an applicant to waive the 120-day period set in subsection (1) of this section or to waive the provisions of subsection (8) of this section or ORS 227.179 as a condition for taking any action on an application for a permit, limited land use decision or zone change except when such applications are filed concurrently and considered jointly with a plan amendment.

- 5.9 ORS 227.179 (1) states: Except when an applicant requests an extension under ORS 227.178 (5), if the governing body of a city or its designee does not take final action on an application for a permit, limited land use decision or zone change within 120 days after the application is deemed complete, the applicant may file a petition for a writ of mandamus under ORS 34.130 in the circuit court of the county where the application was submitted to compel the governing body or its designee to issue the approval.
- 5.10 This application was deemed complete on January 7, 2008; therefore the city has until May 6, 2008 to make a final decision (120 days), unless the applicant requests an extension to the 120-day limit.
- 5.11 On February 27, 2008 the Albany City Council held a public hearing regarding the proposed vacation of a portion of Ferry Street right-of-way, north of Queen Avenue. As part of their deliberations, the Council voted to include an additional condition to the approval of the vacation application. This additional condition is that the applicant must have a legal agreement prepared that identifies the parties responsible for ongoing maintenance of the driveway/access that the applicant must pave within the vacated right-of-way. The applicant must submit a copy of this maintenance agreement, signed by all affected property owners and recorded by Linn County, to the City before the vacation ordinance will be read a second time.

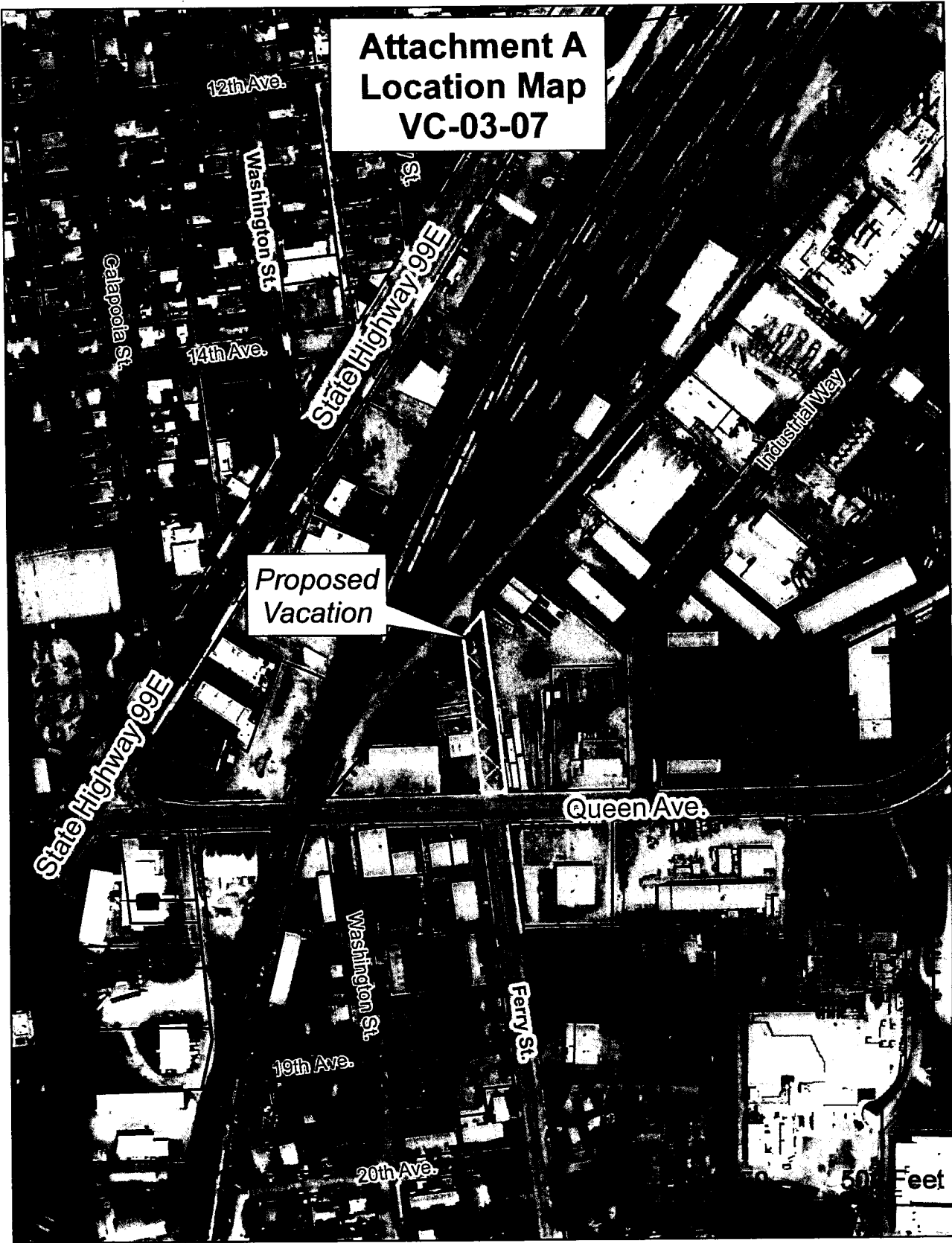
CONCLUSIONS

- 5.1 Without an extension to the 120-day limit, the City must make a final decision (second reading of the ordinance) regarding this application by May 6, 2008.
- 5.2 In an attempt to allow as much time as possible for the applicant to complete the required paving, it is recommended that the applicant request an extension of the 120-day limit.
- 5.3 In order to allow for time to take this vacation application back to the Council for denial if the condition of paving is not met before the deadline to make the final decision on the land use application, the applicant must either complete the paving, or provide the appropriate financial assurance for the paving, at least 4 weeks prior to the expiration of the 120 days.

CONDITIONS

- 5.1 The applicant must complete the required driveway/access paving, or provide financial assurance for the paving, at least 4 weeks prior to the expiration of the 120-day land use decision limit. If an extension of the 120-day limit is requested by the applicant, then the paving requirement must be satisfied at least 4 weeks prior to the expiration of the amended land use decision limit.
- 5.2 The applicant must submit to the City a shared maintenance agreement that details how the shared access way will be maintained after the vacation is finalized. This agreement must be signed by all parties that will have some responsibility for ongoing maintenance of the access way. The agreement must also be recorded with Linn County.

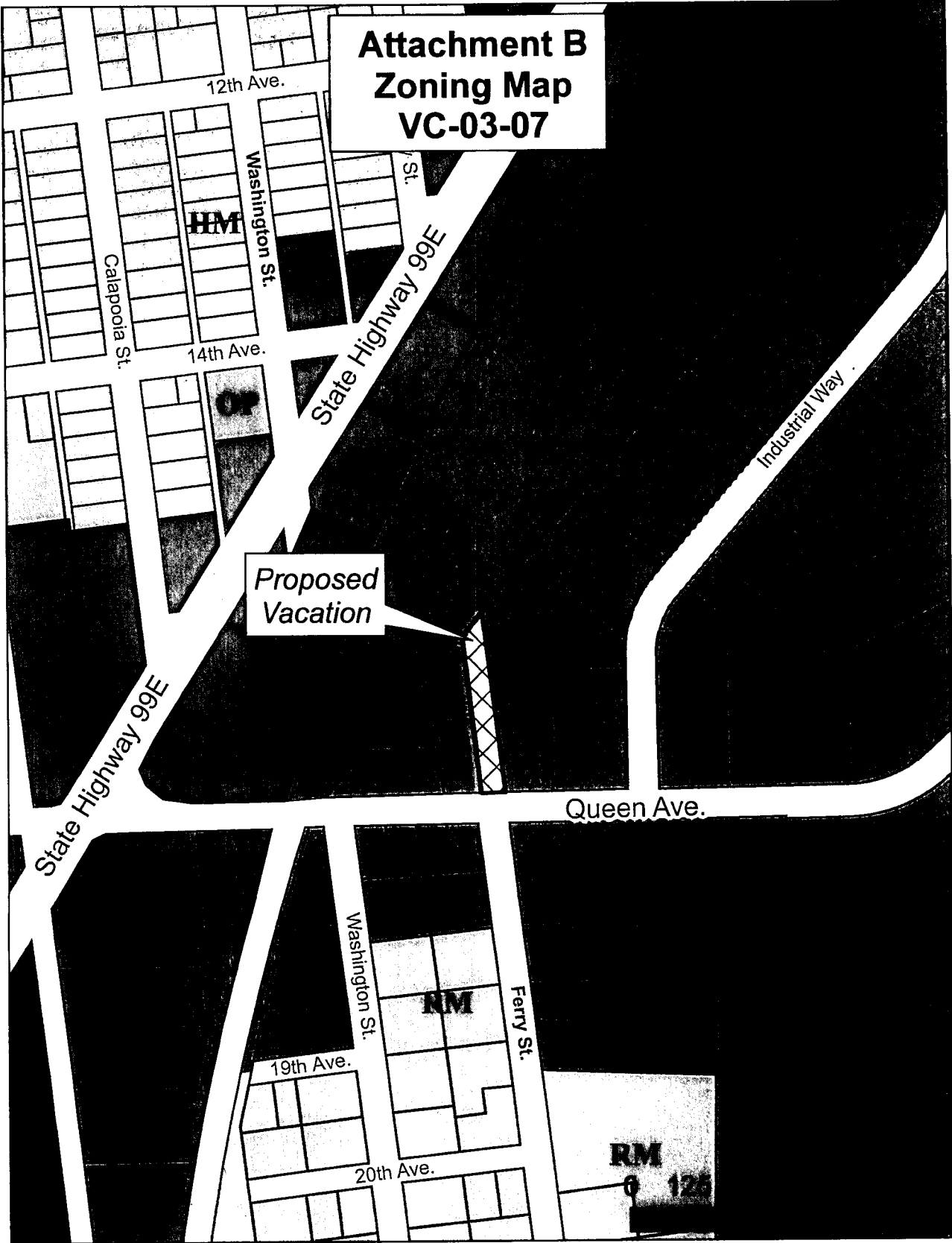
**Attachment A
Location Map
VC-03-07**



Proposed
Vacation

50 Feet

**Attachment B
Zoning Map
VC-03-07**



RECEIVED
JUL 17 2007

FERRY ST. R-O-W

property boundary

Proposed Mini-Storage Development

LEGEND

- NEW FIRE HYDRANT
- ⊕ EXISTING FIRE HYDRANT
- ⊞ NEW CATCH BASIN
- ⊞ EXISTING CATCH BASIN
- ⊞ STORM DRAIN MANHOLE
- ⊞ SANITARY SEWER MANHOLE
- UTILITY POLE
- EXISTING GUY WIRE
- ⊞ EXISTING HIGH
- ⊞ EXISTING VALVE
- ⊞ EXISTING PHONE PERISCOPE
- ⊞ EXISTING WATER METER

CODE INFORMATION

OCCUPANCY	OCCUPANT LOAD
OFFICE STORAGE UNITS (BLDG. A TO I)	OFFICE STORAGE UNITS 1 PER 100 SF 1 PER 200 SF
TYPE OF CONSTRUCTION <td>ENERGY REQUIREMENTS</td>	ENERGY REQUIREMENTS
OFFICE STORAGE UNITS (BLDG. A TO I)	ROOF WALLS UNHEATED
ALLOWABLE AREAS <td>FIRE PROTECTION (OFF APP. B AND C)</td>	FIRE PROTECTION (OFF APP. B AND C)
OFFICE STORAGE UNITS (BLDG. A TO I)	FLOW REQUIRED 2.250 GPM (2 HOUR DURATION)
ACTUAL AREAS <td>MINIMUM NUMBER OF HYDRANTS - 2</td>	MINIMUM NUMBER OF HYDRANTS - 2
OFFICE BUILDING A 1,178 SF	AVERAGE SPACING BETWEEN HYDRANTS - 450'
OFFICE BUILDING B 7,088 SF	MAXIMUM DISTANCE FROM STREET TO HYDRANT - 225'
OFFICE BUILDING C 10,310 SF	ACTUAL SPACING BETWEEN ON-SITE HYDRANTS - 425'
OFFICE BUILDING C/D 8,068 SF	ACTUAL DISTANCE FROM STREET TO HYDRANT - 185'
OFFICE BUILDING E 5,488 SF	SETBACKS (ADC 4.190)
OFFICE BUILDING F 8,118 SF	REQUIRED FRONT SETBACK 15'
OFFICE BUILDING G 8,872 SF	REQUIRED INTERIOR SETBACK NONE
OFFICE BUILDING H 10,332 SF	PARKING REQUIREMENTS (ADC 4.250)
OFFICE BUILDING I 3,828 SF	OFFICES 1 SPACE PER 300 SF
FIRE SEPARATIONS	REQUIRED SPACES - 4
1-HOUR WALL WHERE LESS THAN 10'	
2-HOUR WALL WHERE LESS THAN 6'	

SITE PLAN

SCALE: 1" = 20'



SCALE IN FEET

REPLACE EXISTING DRIVEWAY CURB WITH NEW SIDEWALK AND CURB ACCORDING TO PUBLIC WORKS STANDARD DRAWINGS #313 AND #304

REPLACE EXISTING SIDEWALK AND CURB ACCORDING TO PUBLIC WORKS STANDARD DRAWINGS #313 AND #304 AT TAP FOR ON-SITE FIRE PROTECTION SERVICE

RELOCATE EXISTING STOP SIGN BEHIND NEW SIDEWALK

CONSTRUCT NEW DRIVEWAY APPROACH ACCORDING TO PUBLIC WORKS STANDARD DRAWING #309

CONSTRUCT NEW 6" WIDE SIDEWALK BEHIND EXISTING CURB ACCORDING TO PUBLIC WORKS STANDARD DRAWING #313 ALONG PROPERTY FRONTAGE ON INDUSTRIAL WAY

PRELIMINARY

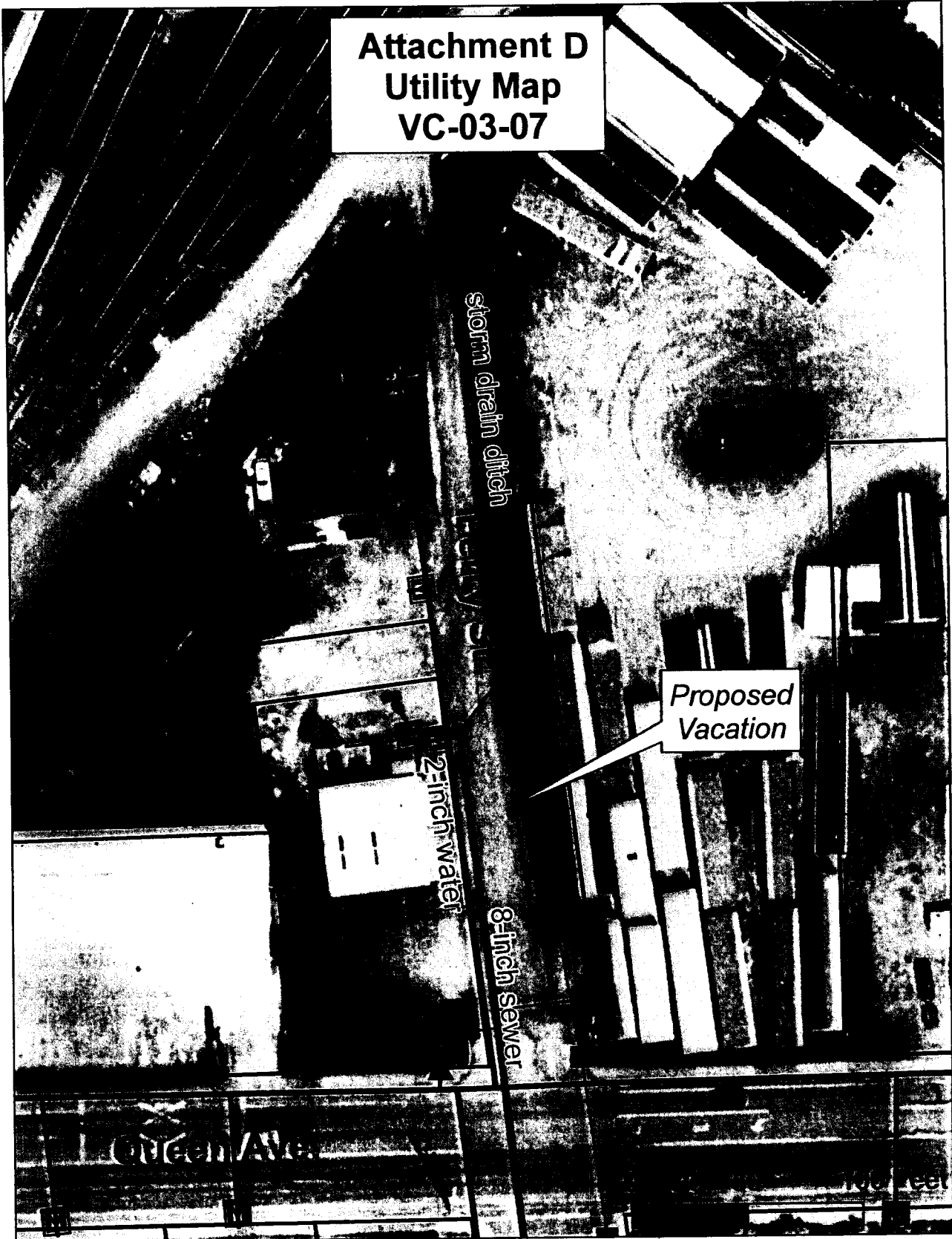
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ALBANY MINI STORAGE DEVELOPMENT
1688 INDUSTRIAL WAY SE ALBANY, OREGON 97321

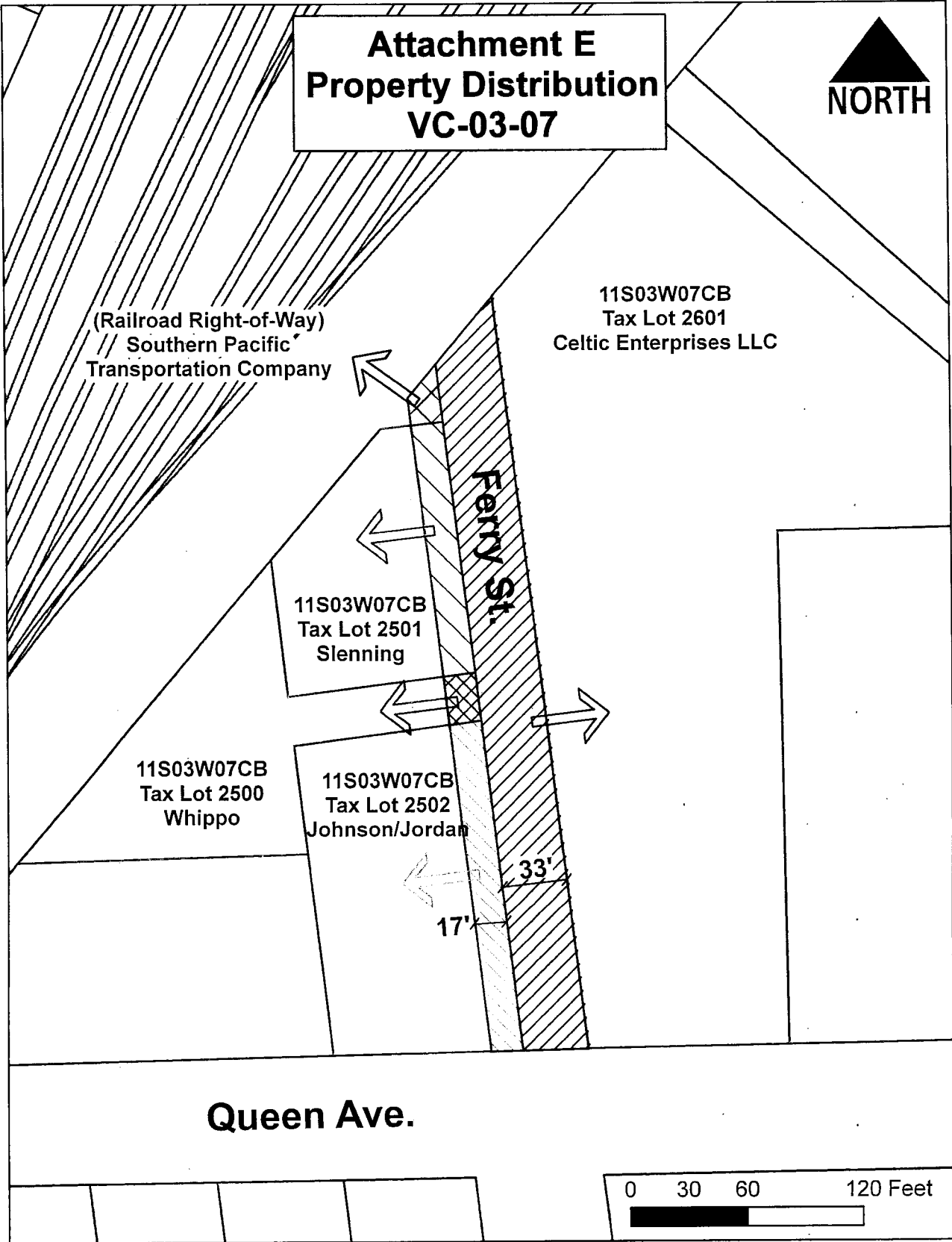
SITE PLAN

DATE: 1/07
JOB NUMBER: 108
DRAWING: C1
SHEET 1 OF 1

**Attachment D
Utility Map
VC-03-07**



**Attachment E
Property Distribution
VC-03-07**



Attachment F

CELTIC ENTERPRISES, LLC

P.O. Box 614

Albany, OR 97321

Phone 541-979-6917••••e-mail gary@gbrownrealtor.com

January 30, 2008

Mr. Don Donovan
City of Albany Planning Dept.
333 Broadalbin SW
Albany, OR 97321

Re: Ferry Street vacation application

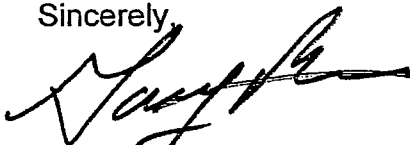
Don:

In reference to the city's possible requirement for us to pave the section of Ferry Street for which we are requesting vacation, I can understand the concern that accessing Queen Avenue from a graveled Ferry Street could cause pavement deterioration. However, it makes no sense for us to pave our side of the easement as it is for ingress from Queen Ave. It is the other side of the easement that would drag gravel onto the street.

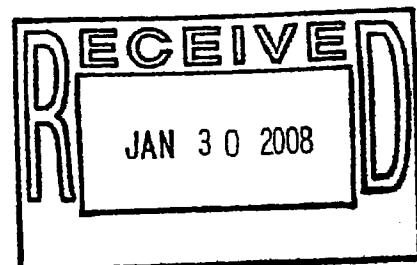
I am requesting that the Planning Dept. consider letting us pave an apron to drive on for accessing Queen. I am willing to pave the apron on both sides of the easement for a distance of 25 to 30 feet, or whatever you deem necessary to preserve the integrity of Queen's pavement.

Please let me know the position of the Planning Department on this as soon as possible. As always, thank you for your help.

Sincerely,



Gary Brown



**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

Gary Brown
Celtic Enterprises LLC
P.O. Box 614
Albany, OR 97321

(Space above this line for Recorder's use only.)

Reciprocal Driveway Easement & Maintenance Agreement

Recitals

1. THIS RECIPROCAL EASEMENT AGREEMENT is made and entered at the date executed below.
2. The City initiated a street vacation for an unimproved portion of Ferry Street which is the property governed by this easement. The vacated property subject to this reciprocal easement agreement is described in Exhibit A attached hereto and depicted in Exhibit B incorporated herewith ("Property").
3. The City's road vacation is filed under VC-03-07 by the City of Albany Planning Division. As a consequence of the street vacation, several property owners abutting the vacated street now take ownership of a portion of the vacated street.
4. As a condition of approval for the vacation of this street, the City is requiring that a private driveway be paved from its access point from Queen Avenue to the Southern Pacific Railroad property. The width of the driveway will begin at the width of the existing Ferry Street paved access and will taper to a 24-foot width in a distance of approximately 70 feet. From that point to the Southern Pacific Railway property, it will be 24 feet in width. Celtic Enterprises, LLC will pay all costs associated with construction of this driveway. There will be additional paving installed at the same time on the West side of the driveway immediately adjacent to the property owned by Michael Johnson and Timothy Jordan. The width of that additional paving will be approximately 7 feet. Johnson and Jordan will pay this additional paving at the pro-rated overall cost of the driveway paving. The location of the paving and the specifications of the paving are shown on Exhibit B.
5. Grantor Stephen Whippo and Peggy Whippo ("Grantor Whippo") own a tract abutting a portion of the Property that is more particularly described in the Linn County Recorder's Office, Deed Ref. DN2006-17224.
6. Grantors Peter C. Slenning and Glenna R. Slenning ("Grantor Slenning") own a tract abutting a portion of the Property more particularly described in the Linn County Recorder's office at Volume 428, pg 739.

7. Grantors Michael R. Johnson and Timothy L. Jordan (“Grantor Johnson/Jordan”) own a tract abutting a portion of the Property that is more particularly described in Linn County Recorder’s office at Volume 403, pg 14.

8. Grantor Celtic Enterprises LLC (“Grantor Celtic”) holds equitable title to a tract abutting a portion of the Property held by Grantor Betty L. Nix, Trustee of the John T. Nix, Jr. Credit Shelter Trust (“Grantor Nix”). This tract consists of four separate parcels described in the following three deeds as recorded in the Linn County Oregon Deed of Records: Vol. 989, pg. 574, Vol. 989, pg. 576, Vol., 1552, pg. 560.

9. Grantee Southern Pacific Railroad owns the land that abuts the north line of the Property.

10. After the vacation of the street, the private driveway is not part of the city-maintained road network.

11. This easement is intended to create a permanent and reciprocal right-of-way for a driveway benefiting Grantors’ and Grantee’s property and to provide for the maintenance and repair of such private driveway. The driveway is shown on Exhibit “B” attached hereto and incorporated herewith.

12. The use of the term “Grantor” and “Grantees” includes their respective heirs, successors, or assigns to this Agreement. “Grantors” includes all grantors listed in paragraphs 5-8 above. Use of the “Grantors” in this agreement does not nullify the intent of the Grantors to also benefit as grantees of the easement contained herein.

Easement and Maintenance Terms

1. **Recitals Incorporated.** The above recitals are material and incorporated herein.

2. **Easement Area.** This easement is granted for the paved driveway that the City of Albany is requiring as set out in paragraph 4 of the Recitals above. The Property subject to this easement is depicted on the attached Exhibit A.

3. **Easement Use.** Grantors hereby grant to each other a perpetual non-exclusive easement for ingress and egress from Queen Avenue for Grantors’ for pedestrian and vehicular traffic only and for emergency service vehicles as necessary. Grantors hereby grant to Grantee a perpetual non-exclusive easement for ingress and egress from Queen Avenue for Grantee’s for pedestrian and vehicular traffic only and for emergency service vehicles as necessary. Each Grantor shall also be allowed the right to install any sub-surface storm drain lines to the drainage ditch along Grantor Celtic/Nix’s property that may be reasonable necessary in the future at the Grantor’s own expense.

4. **Nature of Use.** Use of the right-of-way shall be on a regular, continuous, nonexclusive, non-priority basis, benefiting all parties, their successors, assigns, lessees, mortgagees, invitees, guests, customers, agents and employees. However, no party's rights hereunder shall lapse in the event of that party's failure to use the easement and right-of-way on a continuous basis.

11. **Dispute Resolution.** Any dispute or claim that arises out of or that relates to this agreement, or to the interpretation or breach thereof, or to the existence, scope, or validity of this agreement shall be resolved by arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) Arbitration Service of Portland, Inc., and judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof. The parties acknowledge that mediation helps parties settle their dispute and any party may propose mediation whenever appropriate through Arbitration Service of Portland or any mediator selected by the parties. The parties hereby stipulate to the use of a single arbitrator. The parties also may use another form of arbitration should all parties to the dispute so stipulate.

12. **No Third Party Benefit.** Nothing in this Agreement, express or implied, is intended or shall be construed to confer on any person, other than the parties to this Agreement, any right, remedy, or claim under or with respect to this Agreement.

13. **Severability.** If any provision of this Agreement shall be invalid or unenforceable in any respect for any reason, the validity and enforceability of any such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired.

14. **Entire Agreement.** This Agreement (including the documents and instruments referred to in this Agreement) constitutes the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior understandings and agreements, whether written or oral, among the parties with respect to such subject matter.

IN WITNESS WHEREOF, the owner(s) have hereunto set their hands in duplicate.

Grantors:

Date: 10-03-08

Stephen Whippo
Stephen Whippo

Date: 10-3-08

Peggy Whippo
Peggy Whippo

Date: 10-03-08

Peter C. Slanning
Peter C. Slanning

Date: 10-03-08

Glenna R. Slanning
Glenna R. Slanning

Date: 10/03/08

Michael R. Johnson
Michael R. Johnson

Date: 10-3-08

Timothy L. Jordan
Timothy L. Jordan

Date: 10/3/08
3/10/08

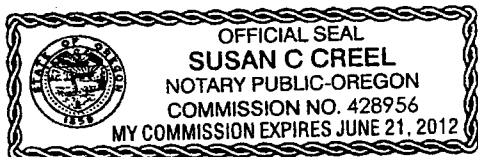
[Signature]
Gary Brown, Authorized Member
Celtic Enterprises, LLC

Date: 10/3/08
3/10/08

[Signature]
Betty L. Nix, Trustee of the John T. Nix, Jr. Credit
Shelter Trust

STATE OF OREGON)
) ss.
County of Linn)

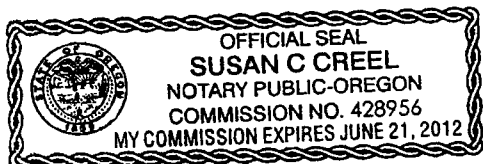
The foregoing instrument was acknowledged before me this 3RD day of OCTOBER, 2008 by STEPHEN WHIPPO.



[Signature]
Notary Public for OREGON
My commission expires: 6-21-2012

STATE OF OREGON)
) ss.
County of Linn)

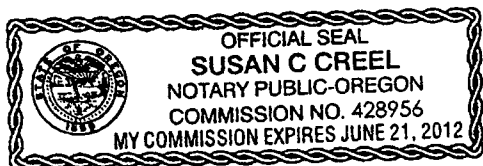
The foregoing instrument was acknowledged before me this 3RD day of OCTOBER, 2008 by PEGGY WHIPPO.



[Signature]
Notary Public for OREGON
My commission expires: 6-21-2012

STATE OF OREGON)
) ss.
County of Linn)

The foregoing instrument was acknowledged before me this 3RD day of OCTOBER, 2008 by PETER C. SLENNING.



[Signature]
Notary Public for OREGON
My commission expires: 6-21-2012

STATE OF OREGON)
) ss.
County of Linn)

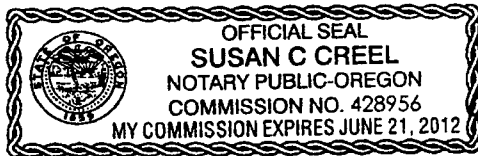
The foregoing instrument was acknowledged before me this 3RD day of OCTOBER, 2008 by GLENNA R. SLENNING.



Susan C Creel
Notary Public for OREGON
My commission expires: 6-21-2012

STATE OF OREGON)
) ss.
County of Linn)

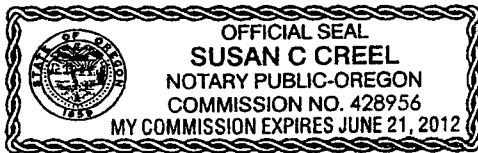
The foregoing instrument was acknowledged before me this 3RD day of OCTOBER, 2008 by MICHAEL R. JOHNSON.



Susan C Creel
Notary Public for OREGON
My commission expires: 6-21-2012

STATE OF OREGON)
) ss.
County of Linn)

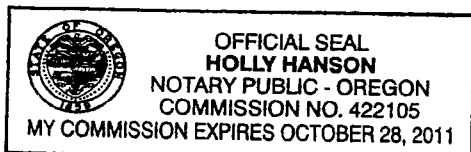
The foregoing instrument was acknowledged before me this 3RD day of OCTOBER, 2008 by TIMOTHY L. JORDAN.



Susan C Creel
Notary Public for OREGON
My commission expires: 6-21-2012

STATE OF OREGON)
) ss.
County of Linn)

The foregoing instrument was acknowledged before me this 3RD day of October, 2008 by GARY BROWN.



Holly Hanson
Notary Public for Oregon
My commission expires: 10/28/11

STATE OF OREGON)
) ss.
County of Linn)

The foregoing instrument was acknowledged before me this 3rd day of October,
2008 by BETTY L. NIX.

Holly Hanson
Notary Public for Oregon
My commission expires: 10/28/11

