



ORDINANCE NO. 5961

AN ORDINANCE VACATING FOUR PEDESTRIAN RIGHTS-OF-WAY EAST OF SUNRISE ELEMENTARY SCHOOL ADJACENT TO LAFAYETTE STREET AND MADISON STREET, IN ALBANY, OREGON.

WHEREAS, the notice of public hearing was mailed on May 25, 2021, published in the Albany Democrat-Herald on June 7, 2021, and June 14, 2021, and posted at the site, as described in Section 1 below, on May 27, 2021, as required by state and local law; and

WHEREAS, the Albany Planning Commission held a public hearing on June 14, 2021, and recommended that the city council approve the proposed rights-of-way vacation; and

WHEREAS, the Albany City Council held a public hearing on July 14, 2021, reviewed the testimony presented at the public hearing and the findings in the staff report, and deliberated on the vacations.

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

Section 1: Subject Property. Four pedestrian rights-of-way within Lafayette Acres Subdivision east of Sunrise Elementary School (File VC-01-20) (see legal description and map on attached Exhibit A), are hereby vacated.

Section 2: Transfer of Vacated Property. The vacated rights-of-way will revert to the properties north and south of the rights-of-way.

Section 3: Findings. The findings, conclusions, and conditions in the staff report are hereby adopted as the council's own as presented in Exhibit B of this ordinance.

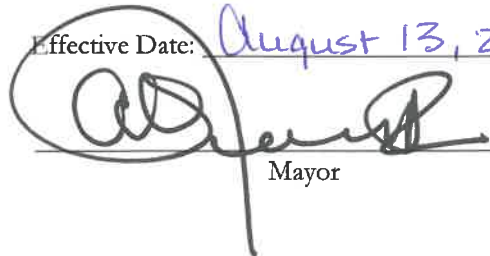
Section 4: Easement Retained. The City retains a public utility easement and a storm drainage easement over the right-of-way east of Madison Street between Lots 12 and 13 of Block 3, Lafayette Acres Third Addition.

Section 5: The city recorder shall, within 10 days of the effective date of this ordinance, file a certified copy of the ordinance with the Linn County clerk, Linn County assessor, and Linn County surveyor (ORS 271.150). The petitioner for the vacation shall bear the recording costs.

Passed by the Council: July 14, 2021

Approved by the Mayor: July 14, 2021

Effective Date: August 13, 2021



Mayor



ATTEST:



City Clerk

Exhibit A

Legal Description for 4 Public Walkway rights-of-way being vacated in Lafayette Acres subdivision

Four 10-foot wide Public Walkway rights of way in Lafayette Acres subdivision, more particularly described as follows;

The 10-foot wide Public Walkway right-of-way lying between Lots 18 and 19, Block 1, of Lafayette Acres Second Addition.

The 10-foot wide Public Walkway right-of-way lying between Lots 12 and 13, Block 1, of Lafayette Acres Second Addition.

The 10-foot wide Public Walkway right-of-way lying between Lots 12 and 13, Block 3, of Lafayette Acres Third Addition.

The 10-foot wide Public Walkway right-of-way lying between Lots 6 and 7, Block 3, of Lafayette Acres First Addition.

*** A Utility Easement is being retained by the City of Albany over the right of way being vacated between Lots 12 and 13 in Block 3.

As shown on the attached map, attached hereto and made a part hereof this description.

4 Public Walkway rights-of-way to be vacated

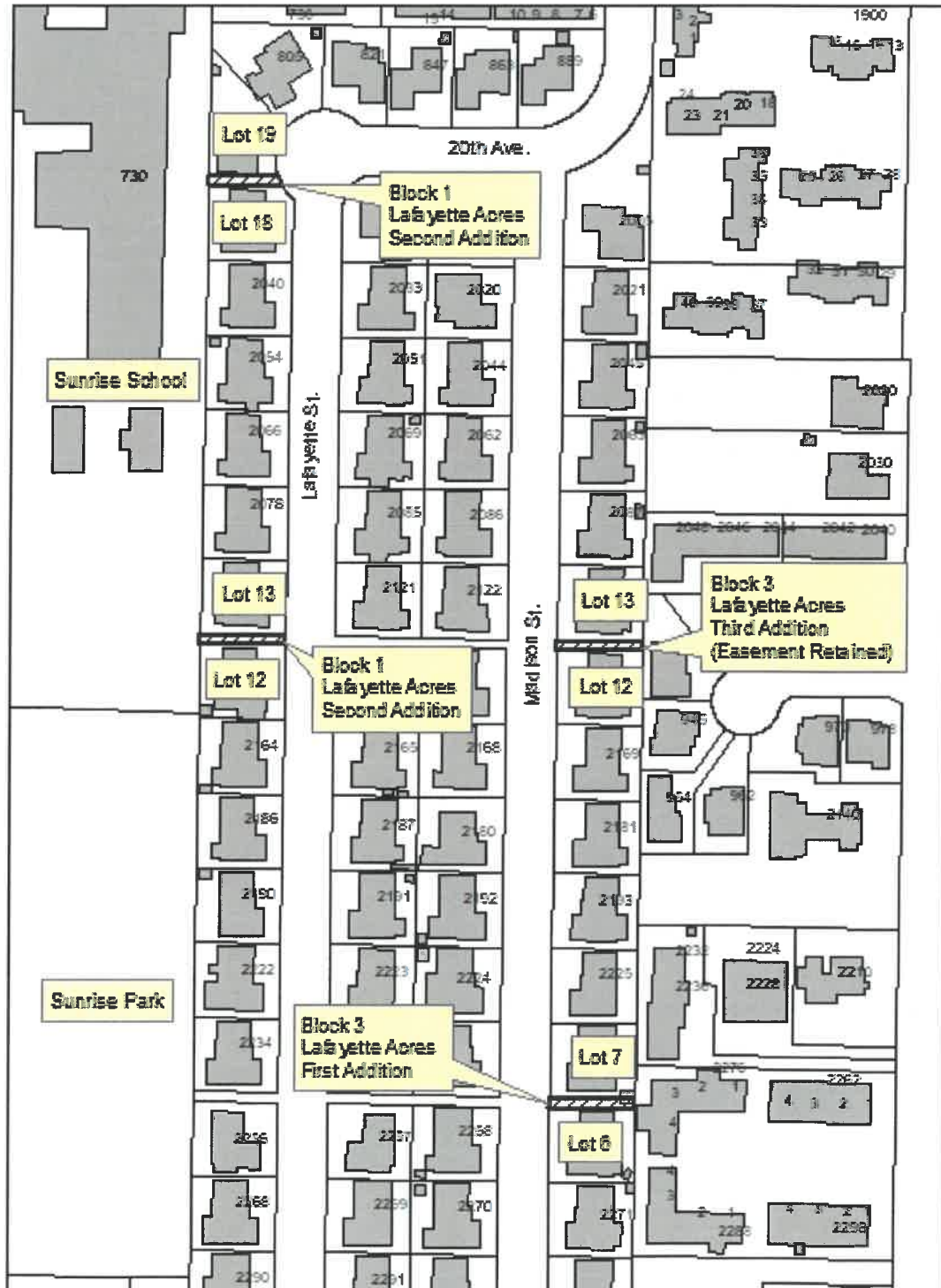


Exhibit B



COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

Staff Report

Right-of-Way Vacation

VC-01-20

June 7, 2021

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, June 14, 2021	Wednesday, July 14, 2021
HEARING TIMES:	5:15 P.M.	6:00 P.M.
HEARING LOCATION:	Due to Governor Brown's Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection. At the scheduled start of the hearing, join with the GoToMeeting app on your computer, tablet, or smartphone (using your device's microphone and speakers): PLANNING COMMISSION, Monday, June 14, 2021 https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc If you wish to dial in using your phone: Call 1-571-317-3122 and when prompted enter access code 498-239-709 CITY COUNCIL, Wednesday, July 14, 2021 https://zoom.us/j/5419177500?pwd=UzdQbFgvSUxVRVERZiAwSnIxVXZQZz09 If you wish to dial in using your phone: Call 1-253-215-8782, meeting ID: 541 917 7500, passcode: 252269	

Summary

On September 21, 2020, the Albany City Council initiated the vacation of four pedestrian rights-of way adjacent to Lafayette Street SE and Madison Street SE, east of Sunrise Elementary School. Fourteen homeowners along Lafayette Street SE submitted a signed petition requesting that council vacate two unused pedestrian rights-of-way between Sunrise Elementary School and Lafayette Street SE. Staff recommended that council also vacate two undeveloped and unneeded pedestrian rights-of-way east of Madison Street in conjunction with the two on Lafayette Street SE.

The planning commission's recommendation on the proposal will be presented to the City Council, who is the final decision-maker on this request.

Staff recommends the planning commission make a recommendation to the city council to approve the vacation of the four pedestrian rights-of-way.



Application Information

Proposal:	Right-of-way vacation of four pedestrian rights-of-way east of Sunrise Elementary School.
Review Body:	Planning Commission and City Council (Type IV-Q, Quasi-Judicial Decision)
Report Prepared By:	Matthew Ruetters, Community Development Director
Property Owner:	City of Albany, 333 Broadalbin St. SE, Albany, OR 97321
Applicant:	Gordon Steffensmeier, Civil Engineer III, on behalf of the City of Albany; 333 Broadalbin St. SE, Albany, OR 97321
Address/Location:	Unassigned; adjacent to 2004 and 2022 Lafayette Street SE, 2120 and 2142 Lafayette Street SE, 2123 and 2147 Madison Street SE, and 2237 and 2259 Madison Street SE
Map/Tax Lot:	None; Adjacent to Linn County Assessor's Map No. 11S-03W-07DD; Tax Lots 10606 and 10605, and Linn County Assessor's Map No. 11S-03W-18AA; Tax Lots 2623, 2624, 2642, 2643, 8100, and 8200.
Zoning:	RS 6.5 (Residential Single-Family)
Comprehensive Plan Map:	Residential Low-Density
Acres:	N/A
Existing Land Use:	Unused pedestrian paths on Lafayette Street SE, vacant on Madison Street SE.
Neighborhood:	South Albany
Surrounding Uses:	North: Residential South: Residential East: Residential West: Sunrise Elementary School
Prior History:	No prior land use cases.

Review Process and Appeals

The proposed vacations are processed through a Type IV quasi-judicial land use review process. The planning commission will hold a public hearing to consider the proposed vacations and will make a recommendation to the city council. The city council will hold a subsequent public hearing to consider the proposed vacations. After closing the public hearing, the city council will deliberate and make a final decision.

Within five days of the city council's final decision on this application, the Community Development Director will provide written notice of decision to the applicant and any other parties entitled to notice. The city council's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a Notice of Intent to Appeal not later than 21 days after the notice of decision is mailed [ADC 1.520(6)].

Public Notice

A public notice was mailed to surrounding property owners within 200 or 400 feet of the subject portion of right-of-way on May 25, 2021, in accordance with ORS 271 and ADC 1.250. A public notice was posted on the portion of right-of-way to be vacated on May 27, 2021, in accordance with ADC 1.250(4). Notice of the public hearing was published in the *Albany Democrat-Herald* on June 7, 2021, and June 14, 2021, in accordance with ADC 1.250(4).

The staff report for the proposed vacations were posted on the City's website on June 7, 2021, at least seven days before the first evidentiary public hearing. At the time this report was published, the Albany Planning Division had not received any written comments regarding the proposed project.

Analysis of Development Code Criteria

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

Vacations Review Criteria (ADC 2.630)

Criteria 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 vacated pedestrian rights-of-way lie between Lafayette Street SE and Sunrise Elementary School, and between Madison Street SE and residential properties to the east.
- 1.2 The properties that the vacated area will revert to are the properties immediately north and south of the rights-of-way.
- 1.3 Albany's Transportation System Plan does not identify the pedestrian rights-of-way as a critical transportation connection.
- 1.4 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.
- 1.5 Sanitary Sewer. Sanitary sewer utility maps indicate no sewer lines lie within the proposed vacated rights-of-way.
- 1.6 Water. There are no water lines within the right-of-way proposed for vacation.
- 1.7 Storm Drainage. There is a storm drainage line within one of the rights-of-way proposed for vacation.

Conclusions

- 1.1 City utilities (storm drainage) exist within one of the four pedestrian rights-of-way proposed for vacation.
- 1.2 The proposed vacation does not conflict with Albany's Transportation System Plan.
- 1.3 This criterion is met if an easement is retained over the right-of-way containing the storm drainage line.

Criteria 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 All properties adjacent to the four rights-of-way proposed for vacation have access to public streets and public facilities. Vacating the rights-of-way will not have a negative effect on any properties.

- 2.2 The City of Albany needs to retain access to the existing storm drainage pipe in one of the rights-of-way. An easement must be retained over that storm drainage pipe.

Conclusions

- 2.1 The proposed street vacation will not negatively impact access between public right-of-way and will not eliminate street access to any parcels.
- 2.2 This criterion is met if an easement is retained over the storm drainage main. Staff proposes a condition accordingly.

Criteria 3

The requested vacation will not have a negative effect on traffic circulation or emergency service protection.

Findings of Fact

- 3.1 As discussed above, the vacation will not have a negative impact on access between rights-of-way or remove access to any existing parcels.

Conclusions

- 3.1 The requested vacation will not have a negative effect on traffic circulation and will improve emergency vehicle service protection.
- 3.2 This criterion is met without conditions.

Criteria 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 vacated right-of-way will be added to the adjacent lots. No changes are needed to bring the vacated area into compliance.

Conclusions

- 4.1 The vacated right-of-way will be in development code compliance without changes.
- 4.2 This criterion is met without conditions.

Criteria 5

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

Findings of Fact

- 5.1 The vacated right-of-way will become part of adjacent lots, rather than being a public right-of-way.
- 5.2 It is in the public interest to have the unused pedestrian paths and vacant land incorporated into the adjacent lots.

Conclusion

- 5.1 Approving the right-of-way vacation will allow the right-of-way to become private property.

Street Vacation Conclusion

The proposed street vacation meets all applicable review criteria with the condition that an easement be retained over the right-of-way containing the storm drainage pipe.

Overall Conclusion

As proposed, the application for a street vacation satisfies all of the applicable review criteria as outlined in this report.

Options for the Planning Commission

The planning commission has three options with respect to the proposed right-of-way vacation:

- Option 1: Recommend that the City Council approve request as proposed;
- Option 2: Recommend that the City Council approve the request with conditions of approval; or
- Option 3: Recommend that the City Council deny the request.

Motion

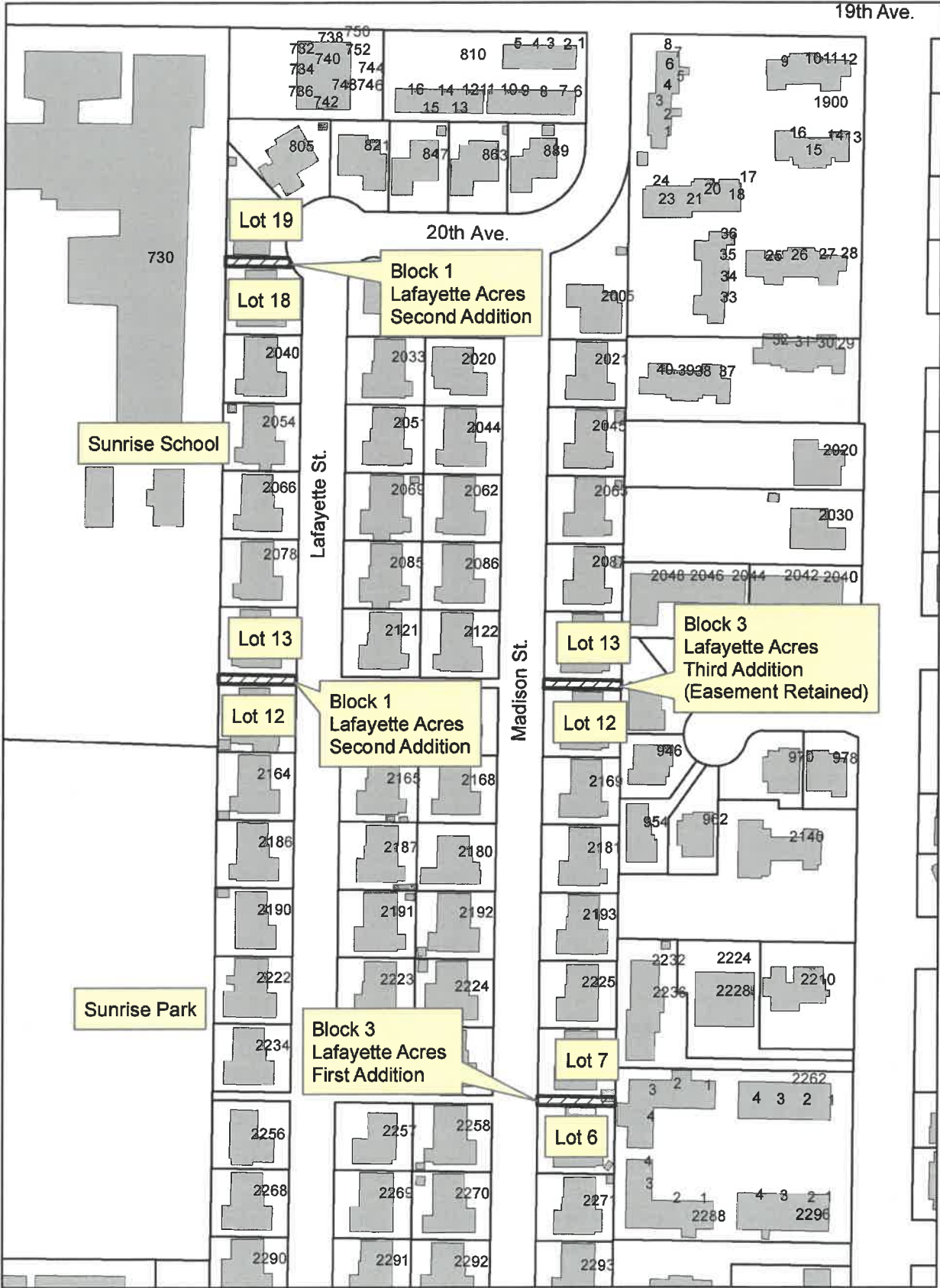
Based on the analysis in this report, staff suggests that the Planning Commission recommend that the City Council approve the requested right-of-way vacation as described in this staff report, with one condition specific to the need for retaining a public utility easement. Attachment A shows where the easement is to be retained. Below is a recommended motion to this effect:

I move that the planning commission recommend that the city council approve with condition, the land use application for right-of-way vacation under planning file VC-01-20, as described in the June 7, 2021, staff report. This motion is based on the findings and conclusions in the staff report, and the findings in support of the application made by the planning commission during deliberations on this matter.

Attachments

- A. Map of proposed right-of-way vacation, and easement retained.
- B. Legal description of proposed pedestrian path right-of-way vacation

Four Public Walkway Rights-of-Way to be Vacated



VC-01-20: Legal Description for Four Public Walkway Rights-of-Way Being Vacated in Lafayette Acres Subdivision.

Four 10-foot wide Public Walkway rights-of-way in Lafayette Acres subdivision, more particularly described as follows:

The 10-foot wide Public Walkway right-of-way lying between Lots 18 and 19, Block 1, of Lafayette Acres Second Addition.

The 10-foot wide Public Walkway right-of-way lying between Lots 12 and 13, Block 1, of Lafayette Acres Second Addition.

The 10-foot wide Public Walkway right-of-way lying between Lots 12 and 13, Block 3, of Lafayette Acres Third Addition.

The 10-foot wide Public Walkway right-of-way lying between Lots 6 and 7, Block 3, of Lafayette Acres First Addition.

*** A Utility Easement is being retained by the City of Albany over the right-of-way being vacated between Lots 12 and 13 in Block 3.

As shown on the attached map, attached hereto and made a part hereof this description.