

RESOLUTION NO. 1641

A RESOLUTION ACCEPTING A QUITCLAIM DEED FROM STANLEY AND DEBRA HARDY FOR A TRACT OF LAND SITUATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 36, TOWNSHIP 1 NORTH, RANGE 3 EAST OF THE WILLAMETTE MERIDIAN IN THE CITY OF TROUTDALE, MULTNOMAH COUNTY, OREGON

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. In 1989, as a condition of a land use partition, Stanley and Debra Hardy and Kenneth and Jean Parks conveyed an easement to the City of Troutdale for public road purposes on a tract of land situated in the southeast one-quarter of Section 36, Township 1 North, Range 3 East of the Willamette Meridian in the City of Troutdale, Multnomah County, Oregon.
2. The conveyance was accepted by the City by Resolution No. 788 on December 12, 1989 and recorded in Multnomah County Records Book 2264, Page 553 et al. The conveyance later appeared in Multnomah County Tax Assessor maps as a portion of public right-of-way rather than just an easement.
3. It has recently become known that a Right-of-Way Deed recorded on February 8, 1923 contained a restrictive covenant prohibiting the property's use for public road purposes without the consent of all the private easement holders that acquired an interest in the property pursuant to the Right-of-Way Deed. This did not happen prior to the conveyance by the Hardy's and the Parks's.
4. In 1996, George Zifcak purchased Tax Lot 8700 in Section 36 to develop as a single-family residential subdivision, intending to provide public access to the subdivision from Sandy Dell Road, including the property in question. Since then, issues regarding the validity of the 1989 conveyance by Hardy/Parks and acceptance by the City caused delays and additional expense for Mr. Zifcak, leading to his filing a tort claim notice against the City. A settlement to the claim was negotiated and approved by the City Council on January 8, 2002. One condition of the settlement was that the City would make a good faith effort to acquire any interest possessed by the Hardy's and the Parks's in the land in question and, if obtained, transfer that interest to Mr. Zifcak.
5. Mr. and Mrs. Hardy were contacted by City staff and agreed to relinquish any interest they had in the property and signed the appropriate Quitclaim Deed, which the City is accepting by means of this Resolution.

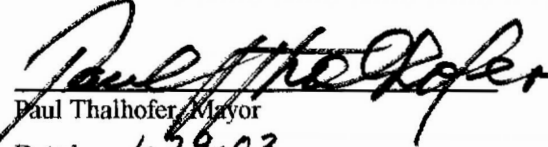
NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 1. The City of Troutdale accepts a Quitclaim Deed, attached hereto and made a part hereof, from Stanley and Debra Hardy for a tract of land situated in the southeast one-quarter of Section 36, Township 1 North, Range 3 East of the Willamette Meridian in the City of Troutdale, Multnomah County, Oregon.

Section 2. This resolution shall be effective upon adoption.

YEAS: 7
NAYS: 0
ABSTAINED: 0


Debbie Stickney, City Recorder


Paul Thalhofer, Mayor
Dated: 1-29-03

Adopted: January 28, 2003

Recorded in MULTNOMAH COUNTY, OREGON
C. Swick, Deputy Clerk
A43 4 ATKLM
Total : 34.00
2003-028736 02/06/2003 02:10:28pm

After recording return to:

Until a change is requested, all tax statements shall be sent to the following address:

City Recorder
City of Troutdale
104 SE Kibling Avenue
Troutdale, OR 97060

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104 SE Kibling Avenue
Troutdale, OR 97060

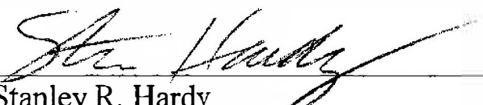
QUITCLAIM DEED--STATUTORY FORM

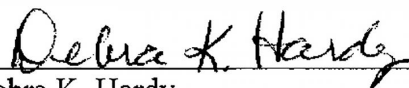
Stanley R. Hardy and Debra K. Hardy, Grantor, releases and quitclaims to the City of Troutdale, an Oregon Municipal Corporation, Grantee, all of Grantor's right, title and interest in and to the real property in Multnomah County, Oregon, described in Exhibit A attached hereto and by reference incorporated herein. This deed passes the fee, in addition to the easement rights previously granted in Resolution No. 788-R, recorded at Book 2264, page 553, and the vesting deed recorded at Book 2264, page 554, December 28, 1989.

The true consideration for this conveyance consists in whole of other value given.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

DATED this 23rd day of JANUARY, 2003.


Stanley R. Hardy


Debra K. Hardy

Public with Title

2003-01

4f

STATE OF Oregon)
) ss.
County of Multnomah)

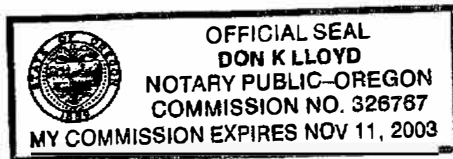
On the 23rd day of January, 2003, Stanley R. Hardy appeared before me and executed this deed acknowledging the execution to be a voluntary act.



Don K. Lloyd
Notary Public for Oregon
My Commission Expires: 11-11-03

STATE OF Oregon)
) ss.
County of MULTNOMAH)

On the 23rd day of January, 2003, Debra K. Hardy appeared before me and executed this deed acknowledging the execution to be a voluntary act.



Don K. Lloyd
Notary Public for Oregon
My Commission Expires: 11-11-03

CITY CERTIFICATE OF ACCEPTANCE

I, Debbie Stickney, Recorder for the City of Troutdale, hereby certify that the foregoing document was accepted by the Council of the City of Troutdale on the 28th day of January, 2003, by Resolution No. 1641.

Dated this 30th day of January, 2003.

Debbie Stickney
City Recorder

STATE OF OREGON

)
)ss:
)

County of: Multnomah



(Notary Seal)

On the 30th day of Jan, 2003, personally appeared before me, the above named: Debbie Stickney
 who did execute the foregoing in my presence and acknowledged the same to be his/her voluntary act and deed.

Dated this 30th day of Jan, 2003.

Notary Public for Oregon

My Commission Expires: 9-12-03

EXHIBIT A

A tract of land situated in the Southeast one quarter of Section 36, Township 1 North, Range 3 East of the Willamette Meridian, in the City of Troutdale, County of Multnomah and State of Oregon, being more particularly described as follows:

Beginning at the Southeast corner of said legal subdivision; thence North $00^{\circ}32'42''$ East, along the East line thereof, a distance of 40.00 feet to a point; thence North $89^{\circ}46'30''$ West, parallel with the South line of said legal subdivision, a distance of 495.22 feet to a point in the Westerly East line of "SANDEE PALISADES", a duly recorded plat situated in said County; thence South $00^{\circ}13'30''$ West, along said Westerly East line, a distance of 40.00 feet to a point in the South line of said legal subdivision; thence South $89^{\circ}46'30''$ East, along said South line, a distance of 495.00 feet to the point of beginning.