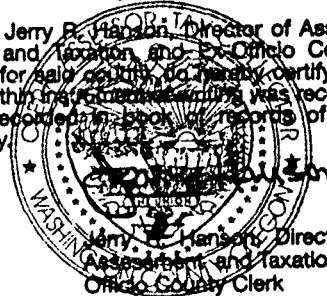


20  
11  
6  
WT-B

STATE OF OREGON } SS  
County of Washington }

I, Jerry E. Hanson, Director of Assessment and Taxation, and Ex-Officio County Clerk for said county, do hereby certify that the within and foregoing was received and recorded in the records of said county.



After recording, please return to:  
Washington County Surveyor's Office  
155 North First #350-15  
Hillsboro, Oregon 97124

Jerry E. Hanson, Director of Assessment and Taxation, Ex-Officio County Clerk

**RIGHT-OF-WAY  
DEDICATION DEED**

Doc : 2000029471  
Inv : 8798 37.00  
04/12/2000 04:21:20pm

KNOW ALL MEN BY THESE PRESENTS, that **Cherrywood Condominiums, LLC**, hereinafter called the grantor, in consideration of the granting of approval of a **Site Plan, Item No. SP 99-8** of the City of Sherwood, which is the whole consideration, does hereby grant to Washington County, a political subdivision of the State of Oregon, Grantee, for the use of the public as a public way forever, an easement for right-of-way purposes over that certain real property situated in the City of Sherwood, County of Washington and State of Oregon, shown on the attached Exhibit "B" and being more particularly described as follows:

**DEDICATION OF RIGHT-OF-WAY**  
Described in Exhibit "A", and shown on Exhibit "B",  
Attached hereto and by this reference made a part hereof.

Grantor hereby covenants to and with Grantee, that it is the owner of said property which is free from all encumbrances, except for easements, conditions and restrictions of record, and will warrant and defend the easement rights herein granted from all lawful claims whatsoever, except as stated herein.

To Have and To Hold, the above described and granted premises unto Washington County for the public forever for the uses and purposes hereinabove mentioned.

Dedication Deed, Page 1 of 2  
Item No. SP 99-8  
Jk

1-4

IN WITNESS WHEREOF, the above named Grantor, by and through its Managing Member has caused this instrument to be duly signed.

Dated this 5 day of April, 2000.

Cherrywood Condominiums, LLC

By: [Signature]  
Michael S. Morse, Managing Member

STATE OF OREGON )  
County of Washington )<sup>ss</sup>

The foregoing instrument was acknowledged before me on 5 day of April, 2000, by Michael S. Morse, Managing Member for said LLC.

Mary B. Anderson  
Notary Public for Oregon  
My Commission expires: Nov. 11, 2003

Accepted on behalf of Washington County,  
Oregon.

Dated this 12<sup>th</sup> day of April, 2000

By: [Signature]  
Kenneth A. Bauer, County Surveyor

Approved as to form:

Loretta S. Skurdahl  
Senior Assistant County Counsel

Date: 12/17/98



Dedication Deed, Page 2 of 2  
Item No. SP 99-8  
Jk

EXHIBIT 'A'  
For  
RIGHT-OF-WAY  
DEDICATION

Being all of that tract of land described in document no. 91-02027, Washington County Deed Records, located in the NE ¼ of Section 30, Township 2 South, Range 1 West, Willamette Meridian, City of Sherwood, Washington County, Oregon, southerly of a line lying 33.00 feet northerly of and parallel with the centerline of Edy Road (County Road 1459), said centerline being more particularly described as follows:

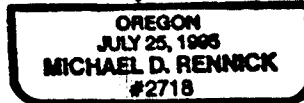
Beginning at a 5/8" iron rod with yellow plastic cap marked "O.S.H.D." in a monument box at Engineer's Station "SO" 10+00.00 as shown on Survey No. 25595, Washington County Surveyor's Records, thence North 89°30'38" East, 356.04 feet to a 5/8" iron rod with yellow plastic cap marked "O.S.H.D." in a monument box at Engineer's Station "SO" 13+56.04 per said Survey No. 25595.

EXCEPTING THEREFROM that portion thereof lying within the right-of-way of County Road No. 1459 (SW Edy Road).

The Basis of Bearings for this description is Survey No. 27891, said County Records.

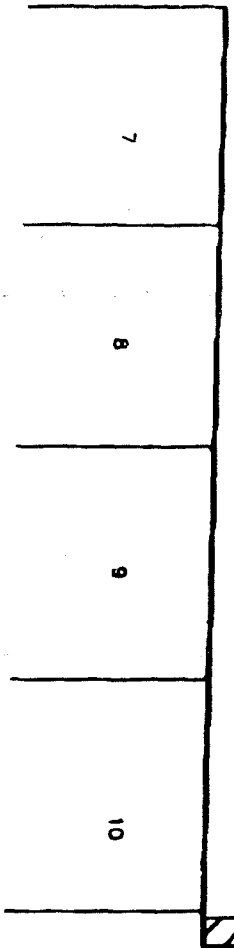


*Michael D. Rennick*



*Renews 01-01-01*

H O U S T O N  
P A R K



DOCUMENT NO. 91-02027  
WASHINGTON COUNTY DEED RECORDS

EXHIBIT 'B'  
FOR RIGHT-OF-WAY DEDICATION  
OVER AND ACROSS  
A TRACT OF LAND LOCATED IN THE NE 1/4  
OF SECTION 30, T. 2 S., R. 1 W., W.M.  
CITY OF SHERWOOD  
WASHINGTON COUNTY, OREGON



SCALE:  
1" = 50'

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Michael D. Rennie*

OREGON  
JULY 25, 1983  
MICHAEL D. RENNICK  
2718

RENEWAL DATE: 01-01-01

H

N89°30'38"E  
50.00'

33'

EDY ROAD

C.R. NO. 1459

N89°30'38"E

FD 5/8" IR W/YPC  
MARKED "O.S.H.D."  
IN MON. BOX  
PER S.N. 25,595

25'

FD 5/8" IR W/YPC  
MARKED "O.S.H.D."  
IN MON. BOX  
PER S.N. 25,595  
"50" 13+56.04



Recorded Document

2000-029471

ROW Dedication - Cherrywood

Condominiums, LLC

Reference pages

Not a part of record. For reference use only.

City of Sherwood, Oregon

Resolution No. 96-645

A RESOLUTION DIRECTING A PUBLIC HEARING BE HELD ON THE PROPOSED VACATION OF A PORTION OF LAND BETWEEN COUNTY ROAD #1459 AND COUNTY ROAD #1324 (OLD EDY ROAD) IN THE CITY OF SHERWOOD, AND DIRECTING THE CITY RECORDER TO GIVE NOTICE THEREBY BY PUBLICATION AND POSTING OF NOTICE.

---

**WHEREAS**, portions of land between County Road #1459 and County Road #1324 (Old Edy Road) is a dedicated public right-of-way, giving the public rights over the land for street and utility improvements; and

**WHEREAS**, the purpose for this vacation is to vacate a portion of land between County Road #1459 and County Road #1324 (Old Edy Road) that is no longer needed for public use and because alternate access has been created; and

**WHEREAS**, the City Council having considered the request on August 27, 1996, finds that it is in the public interest to vacate that portion land between County Road #1459 and County Road #3124 (Old Edy Road) because the public interest will not be prejudiced by this vacation as provided by ORS 271.120.

**NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:**

That a public hearing be held on the proposed vacation on Tuesday, September 24, 1996, at 7:30 p.m. at the Council meeting in Stewart Community/Senior Center, and that the Recorder be and is hereby authorized and directed to give notice thereof, substantially in the following form, by publication once each week for two successive weeks prior to the hearing date and by posting within five days after the day of first publication, at or near each end of the proposed vacation, a copy of the following notice in at least two conspicuous places in the vacation area:

Notice of Street Vacation

The City Council of the City of Sherwood will hear and consider objections to the matter of a proposed right-of-way vacation at 7:30 p.m. on September 24, 1996, at its meeting in the Stewart Community/Senior Center, 855 North Sherwood Boulevard, Sherwood, Oregon. The areas to be vacated are described as follows:

A parcel of land located between County Road (C..R.)1459,C.R. 1324 and Pacific Highway West, in the Northeast and Southeast one-quarter of Section 30, Township 2 South, Range 1 West of the Willamette Meridian, City of Sherwood, Washington County, Oregon, said parcel being more particularly described as follows:

Beginning at a point which bears North 66° 08' 08" West 32.33 feet from the East one-quarter of Section 30, said point also being at the intersection of the northerly right-of-way line of Pacific Highway West and the westerly right-of-way line of C.R.1324; thence along said westerly right-of-way line North 0° 00'00" East 110.64 feet to the intersection of said westerly right-of-way line and the southerly right-of-way line of C.R. 1459; thence along said southerly right-of-way line South 46° 56' 30" West 152.91 feet to a point on the North line of a parcel deeded to Paul S. Selden in Book 1165, page 720 of Washington County Deed Records; thence leaving said southerly right-of-way line along said North line North 89° 43' 00" East 76.00 feet; thence South 0° 00' 00" East 40.00 feet to the northerly right-of-way line of said Pacific Highway West; thence along last said right-of-way line North 46° 56' 30" East 48.89 feet to the point of beginning.

Parcel containing 6,637 square feet or 0.152 acres, more or less.

Said vacation is being proposed by the Sherwood City Council. Persons affected thereby who object to the proposed street vacation should file their objections in writing with the City Recorder at City Hall, 20 NW Washington, Sherwood, Oregon, prior to the time set for the hearing.

Approved by the City Council this 27<sup>th</sup> day of August 1996.



Walter Hitchcock, Mayor

Attest:




Jon Bormet, City Manager-Recorder



SHWX0052  
P.G.L.  
12-15-95

**LEGAL DESCRIPTION FOR PARCEL  
TO BE VACATED**

A parcel of land located between County Road (C.R.)1459, C.R. 1324 and Pacific Highway West, in the Northeast and Southeast one-quarter of Section 30, Township 2 South, Range 1 West of the Willamette Meridian, City of Sherwood, Washington County, Oregon, said parcel being more particularly described as follows:

 Beginning at a point which bears North 66° 08' 08" West 32.33 feet from the East one-quarter of Section 30, said point also being at the intersection of the northerly right-of-way line of Pacific Highway West and the westerly right-of-way line of C.R.1324; thence along said westerly right-of-way line North 0° 00'00" East 110.64 feet to the intersection of said westerly right-of-way line and the southerly right-of-way line of C.R. 1459; thence along said southerly right-of-way line South 46° 56' 30" West 152.91 feet to a point on the North line of a parcel deeded to Paul S. Selden in Book 1165, page 720 of Washington County Deed Records; thence leaving said southerly right-of-way line along said North line North 89° 43' 00" East 76.00 feet; thence South 0° 00' 00" East 40.00 feet to the northerly right-of-way line of said Pacific Highway West; thence along last said right-of-way line North 46° 56' 30" East 48.89 feet to the point of beginning.

Parcel containing 6,637 square feet or 0.152 acres, more or less.

Bearings for this description are based on the Plat of County Road #1324 as recorded in the Washington County Surveyors Office.

PGL:dlh\c:\project\s\shwx0052\borcher.leg  
DAVID EVANS AND ASSOCIATES, INC.

A PROFESSIONAL SERVICES CONSULTING FIRM  
OFFICES IN OREGON, WASHINGTON, CALIFORNIA AND ARIZONA  
2828 S.W. CORBETT AVENUE  
PORTLAND, OREGON 97201-4830  
(503) 223-6663 FAX (503) 223-2701

SEE MAP  
2S 1 30A

C.R. 2912  
SCHOLLS

SHERWOOD

RD.

94-99862  
91-20456

91-38373

154.93  
EASEMENT  
91-38373  
145.30

88-10

C.R. 1324

DRIVE

389° 51' E  
102.19'  
400  
1.92 Ac

20775

Linke  
Enterprise  
Annis

500  
77 Ac

501  
24 Ac

PACIFIC

600  
13.77 Ac.

325

C.S. 10175

(C.S. 25)

BORCHERS

BEGIN 1324

N6° 09' E

SW

92

15.78

123.53

13.56

197.34



BEGIN 1070

1/4 SEC. COR.

LANGER

S.W.

2060

3 91 + 8.1 2.4

392 + 22.5 7.7

S.W. 2

HP OfficeJet T Series  
Personal Printer/Fax/Copier/Scanner

Fax History Report for  
Hite House  
5036254254  
Nov 24 2003 11:33am

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**Last Fax**

<u>Date</u>	<u>Time</u>	<u>Type</u>	<u>Identification</u>	<u>Duration</u>	<u>Pages</u>	<u>Result</u>
Nov 24	11:31am	Sent	5038463909	1:57	5	OK

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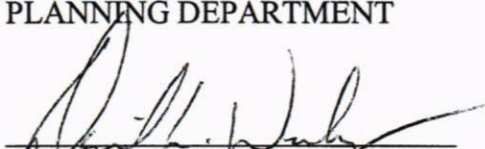
Result:

OK - black and white fax  
OK color - color fax



TO: CITY COUNCIL

FROM: PLANNING DEPARTMENT

  
Dave Wechner, Planning Director

## I. BACKGROUND

- A. Applicant:  
Paul and Grace Selden  
10418 Champoeg Rd. NE  
Aurora, OR 97002
- Owner:  
City of Sherwood  
20 NE Wshington  
Sherwood, OR 97140
- B. Location: The property is a parcel of land located east of the intersection of SW Borchers Road and Edy Road, adjacent to State Highway 99W. The property is further identified as in the NE ¼ of the SE ¼ of Section 30, Township 2 South; Range 1 West, W.M..
- C. Zoning: Retail Commercial (RC).
- D. Request: The applicant is requesting vacation of this portion of public right-of-way, with subsequent ownership falling to the adjacent property owners.

A consideration of the request was originally done before the City Council on August 27, 1996, and found in public interest to vacate that portion of land between County Road #1459 and #1324 (the subject parcel). After the public hearing on the request, the petition decision was tabled by Council and not revisited until this year, when the Seldens again raised the issue of street vacation to Council.

The Seldens are the owners of tax lot #1900, adjacent to the southwest corner of the property.

## II. ISSUES

The applicant owns a feed store on Highway 99W, and originally requested that the City vacate their interest in the land (hereafter referred to as the "subject parcel") containing 6,637 square feet of area which is currently in public ownership as a portion of the Borchers Road/ Edy Road right-of-way. Pursuant to ORS 271.080, whenever any person interested in any real property in an incorporated city desires to vacate all or part of any street they may file a petition describing the parcel and setting forth reasons for the proposed vacation. The petition must also contain the consent of owners of all abutting property. In a letter to the City Manager on August 8<sup>th</sup>, 1996, the Seldens detailed their requested for vacation, stating: "I am vitally interested in upgrading

and updating both the land and the building. Vacation is necessary to provide additional parking and access from Pacific Highway to Borchers Road.”

There is no attachment to the petition for vacation containing consent from the abutting property owners (one, the owners of tax lot #500 and 501 to the northeast of the subject property). In absence of this consent, the request for street vacation is not technically complete, and the issue should be resolved prior to final approval. It is very likely to be supported by the adjacent owners of property, as they could benefit from the additional property, but their consent is nonetheless absent at this time.

The City Engineer’s office responded to the vacation request by stating that there is likely to be a future need for utility extensions across this property, and the City’s interest in that regard should be maintained.

Staff is concerned about the reasons for the applicant’s request, where he states that : “Vacation is necessary to provide additional parking and *access from Pacific Highway to Borchers Road.*” While the area being vacated should have no special restrictions for parking, the parcel is not suitable for providing access from Pacific Highway to Borchers Road; in fact, that is the very reason the connection to the highway would be considered for vacation. A connection to Hwy 99W at this point would not meet ODOT’s intersection spacing requirements, and a connection to the Borchers Road / Edy Road intersection at this point would result in an unsafe condition. The applicant should be aware that the approval of the vacation does not imply approval of any points of access to either state highway 99W or the Borchers/Edy Road intersection.

The landscape requirements along 99W as required in the Zoning and Community Development Code, section 5.203.03 should be considered by Council in deliberations, as new developments are required to provide a 25’ landscaped corridor along the 99W right-of-way. The Seldens proposed parking expansion would be considered a new development, under the code.

### III. RECOMMENDATION

Based on a review of the applicable state statute ORS 271.080, provisions of the Zoning and Community Development Code, and the City Engineer’s comments and review, staff recommends approval of SV 96-2 contingent upon the following conditions:

1. The petitioner shall obtain consent of the adjacent property owner (of tax lot 500) prior to the City’s release of interest in the right-of-way.
2. The City shall retain an easement over the entire subject property for utility extensions, if necessary to provide public services.



**City of Sherwood, Oregon**  
**Resolution No. 2000-886**

A RESOLUTION DIRECTING A PUBLIC HEARING BE HELD ON THE PROPOSED VACATION OF A PORTION OF LAND BETWEEN COUNTY ROAD #1459 (BORCHERS ROAD) AND COUNTY ROAD #1324 (OLD EDY ROAD) IN THE CITY OF SHERWOOD, AND DIRECTING THE CITY RECORDER TO GIVE NOTICE THEREBY BY PUBLICATION AND POSTING OF NOTICE.

WHEREAS, portions of land between County Road #1459 (Borchers Road) and County Road #1324 (Old Edy Road) is a dedicated public right-of-way, giving the public rights over the land for street and utility improvements; and,

WHEREAS, the purpose for this vacation is to vacate a portion of land between County Road #1459 (Borchers Road) and County Road #1324 (Old Edy Road) that is no longer needed for public use as a street, and because alternate access has been created; and,

WHEREAS, the City retains an interest in this parcel of land for the purposes of locating utilities, and will retain this interest via utility easement; and,

WHEREAS, the City Council having considered the request on June 27, 2000, finds that it is in the public interest to vacate that portion of land between County Road #1459 and County Road #3124 because the public interest will not be prejudiced by this vacation as provided by ORS 271.120.

NOW, THEREFORE, THE CITY RESOLVES As FOLLOWS:

That a public hearing be held on the proposed vacation on Tuesday, July 27, at 7:30 p.m. at the Council meeting in Stewart Community/Senior Center, and that the Recorder is hereby authorized and directed to give notice thereof, substantially in the following form, by publication once each week for two successive weeks prior to the hearing date in the local newspaper (per ORS 271.110) and by posting within five days after the day of first publication, at or near each end of the proposed vacation, a copy of the following notice in at least two conspicuous places in the vacation area:

Notice of Street Vacation

The City Council of the City of Sherwood will hear and consider objections to the matter of a proposed right-of-way vacation at 7:30 p.m. on , at its meeting in the Stewart Community/Senior Center, 855 North Sherwood Boulevard, Sherwood, Oregon. The areas to be vacated are described as follows:

A parcel of land located between County Road (C..R.)145S,C.R. 1324 and Pacific Highway West, in the Northeast. and Southeast one-quarter of Section 30, Township 2 South, Range 1 West of the Willamette Meridian, City of Sherwood, Washington County, Oregon, said parcel being more particularly described in the attached legal description dated 12-15-95, submitted by David Evans and Associates, Inc.

SHWX0052  
P.G.L.  
12-15-95

**LEGAL DESCRIPTION FOR PARCEL  
TO BE VACATED**

A parcel of land located between County Road (C..R.)1459, C.R. 1324 and Pacific Highway West, in the Northeast and Southeast one-quarter of Section 30, Township 2 South, Range 1 West of the Willamette Meridian, City of Sherwood, Washington County, Oregon, said parcel being more particularly described as follows:

3000 Beginning at a point which bears North 66° 08' 08" West 32.33 feet from the East one-quarter of Section 30, said point also being at the intersection of the northerly right-of-way line of Pacific Highway West and the westerly right-of-way line of C.R.1324; thence along said westerly right-of-way line North 0° 00'00" East 110.64 feet to the intersection of said westerly right-of-way line and the southerly right-of-way line of C.R. 1459; thence along said southerly right-of-way line South 46° 56' 30" West 152.91 feet to a point on the North line of a parcel deeded to Paul S. Selden in Book 1165, page 720 of Washington County Deed Records; thence leaving said southerly right-of-way line along said North line North 89° 43' 00" East 76.00 feet; thence South 0° 00' 00" East 40.00 feet to the northerly right-of-way line of said Pacific Highway West; thence along last said right-of-way line North 46° 56' 30" East 48.89 feet to the point of beginning.

Parcel containing 6,637 square feet or 0.152 acres, more or less.

Bearings for this description are based on the Plat of County Road #1324 as recorded in the Washington County Surveyors Office.

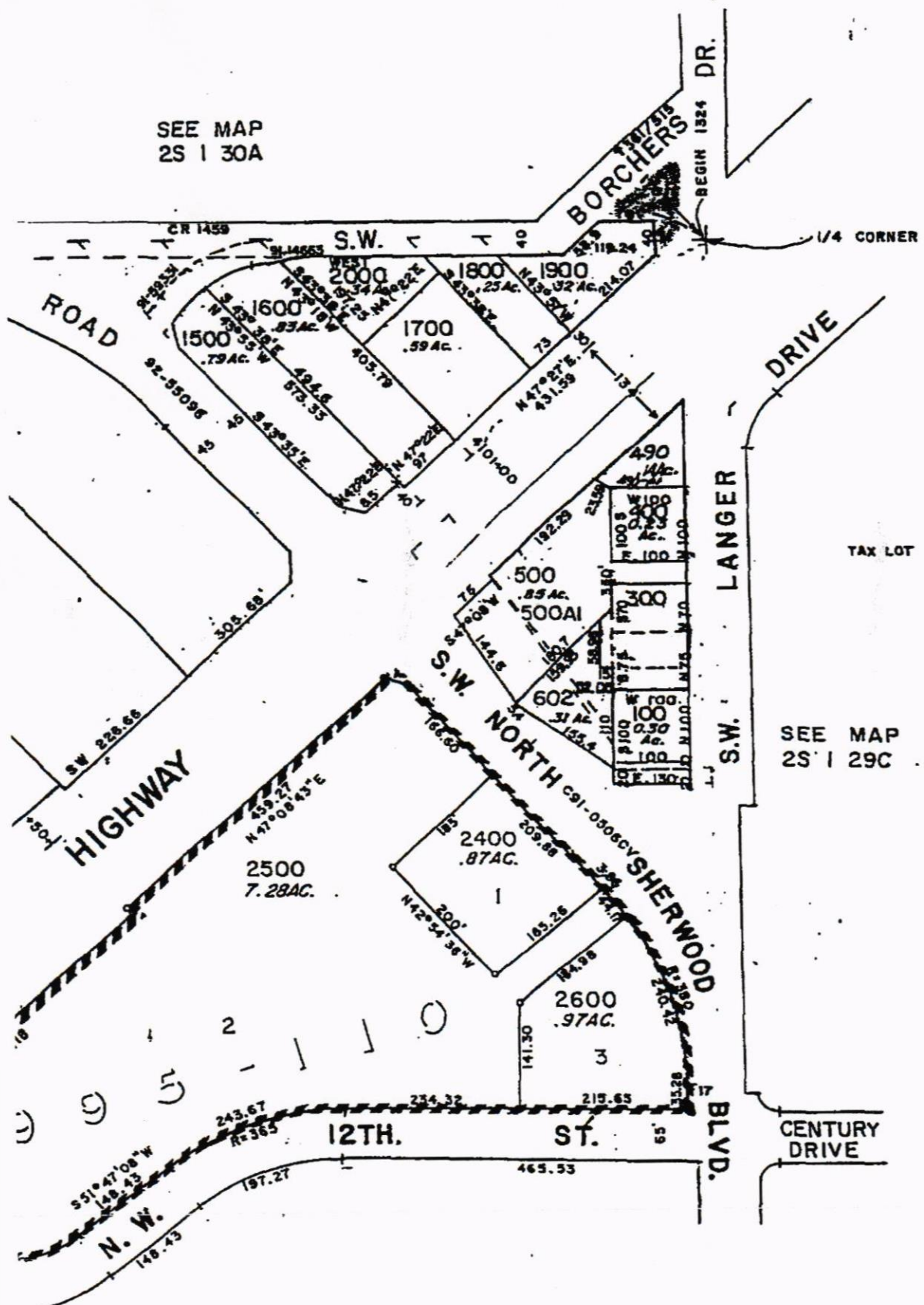
PGL:dlh\o:\project\s\shwx0052\borcher.leg  
DAVID EVANS AND ASSOCIATES, INC.  
A PROFESSIONAL SERVICES CONSULTING FIRM  
OFFICES IN OREGON, WASHINGTON, CALIFORNIA AND ARIZONA  
2828 S.W. CORBETT AVENUE  
PORTLAND, OREGON 97201-4830  
(503) 223-6663 FAX (503) 223-2701



V.M.

2S 1 30D

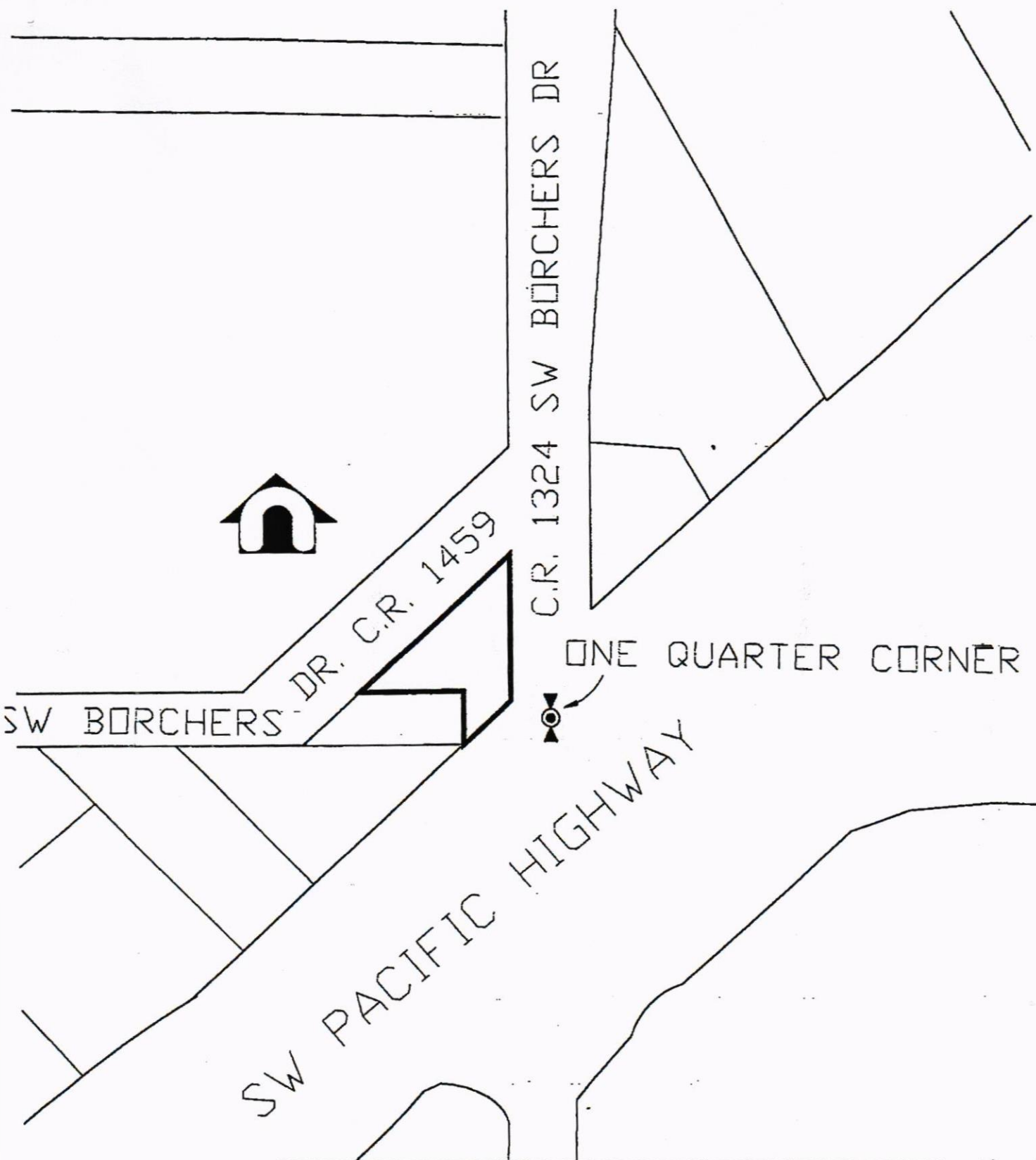
SEE MAP  
2S 1 30A



- TAX LOT
- 700 CANCELLED
  - 702
  - 703
  - 704
  - 705
  - 902
  - 2202
  - 1401
  - 1501
  - 600
  - 701
  - 200
  - 601

SEE MAP  
2S 1 29C

FOR ASSESSMENT  
PURPOSES ONLY  
DO NOT RELY ON  
FOR ANY OTHER USE



DAVID EVANS AND ASSOCIATES, INC.  
 2828 S.W. CORBETT AVENUE  
 PORTLAND, OREGON 97201-4802  
 (503) 223-6683

PROJECT	SHERWOOD VACATIONS			
TITLE	BORCHER RD. AREA			
FILE	DRAWN BY	DESIGN BY	SCALE	DATE
SHWX0052	PGL	PGL	NTS	12-15-95

SHEET  
#



## DEFINITIONS

**271.005 Definitions.** As used in ORS 271.005 to 271.540:

(1) "Governing body" means the board or body in which the general legislative power of a political subdivision is vested.

(2) "Governmental body" means the State of Oregon, a political subdivision, the United States of America or an agency thereof.

(3) "Political subdivision" means any local government unit, including, but not limited to, a county, city, town, port, dock commission or district, that exists under the laws of Oregon and has power to levy and collect taxes. [1981 c.787 §2]

**271.010** [Amended by 1965 c.25 §1; 1971 c.287 §1; repealed by 1981 c.153 §79]

**271.020** [Amended by 1953 c.283 §3; 1977 c.275 §1; repealed by 1981 c.153 §79]

**271.030** [Amended by 1953 c.283 §3; repealed by 1981 c.153 §79]

**271.040** [Repealed by 1981 c.153 §79]

**271.050** [Repealed by 1981 c.153 §79]

**271.060** [Repealed by 1981 c.153 §79]

**271.070** [Repealed by 1981 c.153 §79]

## VACATION

**271.080 Vacation in incorporated cities; petition; consent of property owners.**

(1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.

(2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be

sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing and duly acknowledged before an officer authorized to take acknowledgments of deeds.

**271.090 Filing of petition; notice.** The petition shall be presented to the city recorder or other recording officer of the city. If found by the recorder to be sufficient, the recorder shall file it and inform at least one of the petitioners when the petition will come before the city governing body. A failure to give such information shall not be in any respect a lack of jurisdiction for the governing body to proceed on the petition.

**271.100 Action by council.** The city governing body may deny the petition after notice to the petitioners of such proposed action, but if there appears to be no reason why the petition should not be allowed in whole or in part, the governing body shall fix a time for a formal hearing upon the petition.

**271.110 Notice of hearing.** (1) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.

(2) Within five days after the first day of publication of the notice the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation," as the case may be; the notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be not less than 14 days before the hearing.

(3) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treas-

*note*  
271.080  
annul  
199  
regulation  
see  
attached  
copy of  
ch. 866



ury and any surplus refunded to the depositor. [Amended by 1991 c.629 §1]

**271.120 Hearing; determination.** At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

**271.130 Vacation on council's own motion; appeal.** (1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

(2) Two or more streets, alleys, avenues and boulevards, or parts thereof, may be joined in one proceeding, provided they intersect or are adjacent and parallel to each other.

(3) No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.

(4) Any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter. If the

charter does not provide for such appeal, the appeal shall be taken within the time and in substantially the manner provided for taking an appeal from justice court in civil cases. [Amended by 1995 c.658 §101]

**Note:** For text of 271.130 operative until January 15, 1998, see 271.130 (1995 Edition). See notes preceding 1.001 for further explanation.

**271.140 Title to vacated areas.** The title to the street or other public area vacated shall attach to the lands bordering on such area in equal portions; except that where the area has been originally dedicated by different persons and the fee title to such area has not been otherwise disposed of, original boundary lines shall be adhered to and the street area which lies on each side of such boundary line shall attach to the abutting property on such side. If a public square is vacated the title thereto shall vest in the city. [Amended by 1981 c.153 §58]

**271.150 Vacation records to be filed; costs.** A certified copy of the ordinance vacating any street or plat area and any map, plat or other record in regard thereto which may be required or provided for by law, shall be filed for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of any such ordinance shall be filed with the county assessor and county surveyor.

**271.160 Vacations for purposes of re-dedication.** No street shall be vacated upon the petition of any person when it is proposed to replat or rededicate all or part of any street in lieu of the original unless such petition is accompanied by a plat showing the proposed manner of replatting or rededicating. If the proposed manner of replatting or rededicating or any modification thereof which may subsequently be made meets with the approval of the city governing body, it shall require a suitable guarantee to be given for the carrying out of such replatting or rededication or may make any vacation conditional or to take effect only upon the consummation of such replatting or rededication.

**271.170 Nature and operation of statutes.** The provisions of ORS 271.080 to 271.160 are alternative to the provisions of the charter of any incorporated city and nothing contained in those statutes shall in anywise affect or impair the charter or other provisions of such cities for the preservation of public access to and from transportation terminals and navigable waters.

**271.180 Vacations in municipalities included in port districts; petition; power of common council; vacating street along railroad easement.** To the end that ade-



quate facilities for terminal trackage, structures and the instrumentalities of commerce and transportation may be provided in cities and towns located within or forming a part of any port district organized as a municipal corporation in this state, the governing body of such cities and towns, upon the petition of any such port, or corporation empowered to own or operate a railroad, steamship or other transportation terminal, or railroad company entering or operating within such city or town, or owner of property abutting any such terminal, may:

(1) Authorize any port commission, dock commission, common carrier, railroad company or terminal company to occupy, by any structure, trackage or machinery facilitating or necessary to travel, transportation or distribution, any street or public property, or parts thereof, within such city or town, upon such reasonable terms and conditions as the city or town may impose.

(2) Vacate the whole or any part of any street, alley, common or public place, with such restrictions and upon such conditions as the city governing body may deem reasonable and for the public good.

(3) If any railroad company owns or has an exclusive easement upon a definite strip within or along any public street, alley, common or public place, and if the city governing body determines such action to be to the advantage of the public, vacate the street area between the strip so occupied by the railroad company and one property line opposite thereto, condition that the railroad company dedicates for street purposes such portion of such exclusive strip occupied by it as the city governing body may determine upon, and moves its tracks and facilities therefrom onto the street area so vacated. The right and title of the railroad company in the vacated area shall be of the same character as previously owned by it in the exclusive strip which it is required by the city governing body to surrender and dedicate to street purposes.

**271.190 Consent of owners of adjoining property; other required approval.** No vacation of all or part of a street, alley, common or public place shall take place under ORS 271.180 unless the consent of the persons owning the property immediately adjoining that part of the street or alley to be vacated is obtained thereto in writing and filed with the auditor or clerk of the city or town. No vacation shall be made of any street, alley, public place or part thereof, if within 5,000 feet of the harbor or pierhead line of the port, unless the port commission, or other bodies having jurisdiction over docks and wharves in the port district in-

volved, approves the proposed vacation in writing.

**271.200 Petition; notice.** (1) Before any street, alley, common or public place or any part thereof is vacated, or other right granted by any city governing body under ORS 271.180 to 271.210 the applicant must petition the governing body of the city or town involved, setting forth the particular circumstances of the case, giving a definite description of the property sought to be vacated, or of the right, use or occupancy sought to be obtained, and the names of the persons to be particularly affected thereby. The petition shall be filed with the auditor or clerk of the city or town involved 30 days previous to the taking of any action thereon by the city governing body.

(2) Notice of the pendency of the petition, containing a description of the area sought to be vacated or right, use or occupancy sought to be obtained, shall be published at least once each week for three successive weeks prior to expiration of such 30-day period in a newspaper of general circulation in the county wherein the city or town is located.

**271.210 Hearing; grant of petition.** Hearing upon the petition shall be had by the city governing body at its next regular meeting following the expiration of 30 days from the filing of the petition. At that time objections to the granting of the whole or any part of the petition shall be duly heard and considered by the governing body, which shall thereupon, or at any later time to which the hearing is postponed or adjourned, pass by a majority vote an ordinance setting forth the property to be vacated, or other rights, occupancy or use to be thereby granted. Upon the expiration of 30 days from the passage of the ordinance and the approval thereof by the mayor of the city or town, the ordinance shall be in full force and effect.

**271.220 Filing of objections; waiver.** All objections to the petition shall be filed with the clerk or auditor of the city or town within 30 days from the filing of the petition, and if not so filed shall be conclusively presumed to have been waived. The regularity, validity and correctness of the proceedings of the city governing body pursuant to ORS 271.180 to 271.210, shall be conclusive in all things on all parties, and cannot in any manner be contested in any proceeding whatsoever by any person not filing written objections within the time provided in this section.

**271.230 Records of vacations; fees.** (1) If any town or plat of any city or town is vacated by a county court or municipal au-



*Note This section amended by 99 legislature see attached §127 draft 710*

thority of any city or town, the vacation order or ordinance shall be recorded in the deed records of the county and shall be indexed under the letter "V," title "Vacations." Whenever a vacation order or ordinance is so recorded, the county surveyor of such county shall, upon the original plat and any copy thereof certified by the county clerk, trace or shade with permanent ink in such manner as to denote that portion so vacated, and shall make the notation "Vacated" upon such original plat or copy thereof, giving the book and page of the deed record in which the order or ordinance is recorded.

(2) For recording in the county deed records, the county clerk shall collect the same fee as for recording a deed. For the services of the county surveyor for marking the record upon the original plat, the county clerk shall collect a fee as set by ordinance of the county governing body to be paid by the county clerk to the county surveyor. [Amended by 1971 c.621 §31; 1975 c.607 §31; 1977 c.488 §2; 1979 c.833 §30]

#### MISCELLANEOUS PROVISIONS RELATING TO THE TRANSFER, LEASE, DONATION OR USE OF PUBLIC LANDS

**271.300 Application and administration of ORS 271.300 to 271.360.** (1) The power granted by ORS 271.300 to 271.360 is vested in each political subdivision of the State of Oregon. The power is self-operating, without the necessity of further legislation.

(2) In carrying ORS 271.300 to 271.360 into effect, a political subdivision shall act through its duly constituted governing body. Each political subdivision through its governing body may provide rules necessary in carrying out ORS 271.300 to 271.360. [Amended by 1981 c.787 §26; 1985 c.443 §4]

**271.310 Transfer or lease of real property owned or controlled by political subdivision; procedure in case of qualified title.** (1) Except as provided in subsection (2) of this section, whenever any political subdivision possesses or controls real property not needed for public use, or whenever the public interest may be furthered, a political subdivision may sell, exchange, convey or lease for any period not exceeding 99 years all or any part of their interest in the property to a governmental body or private individual or corporation. The consideration for the transfer or lease may be cash or real property, or both.

(2) If the ownership, right or title of the political subdivision to any real property set apart by deed, will or otherwise for a burial ground or cemetery, or for the purpose of interring the remains of deceased persons, is

limited or qualified or the use of such real property is restricted, whether by dedication or otherwise, the political subdivision may, after the county court or governing body thereof has first declared by resolution that such real property is not needed for public use, or that the sale, exchange, conveyance or lease thereof will further the public interest, file a complaint in the circuit court for the county in which such real property is located against all persons claiming any right, title or interest in such real property, whether the interest be contingent, conditional or otherwise, for authority to sell, exchange, convey or lease all or any part of such real property. The resolution is prima facie evidence that such real property is not needed for public use, or that the sale, exchange, conveyance or lease will further the public interest. The action shall be commenced and prosecuted to final determination in the same manner as an action not triable by right to a jury. The complaint shall contain a description of such real property, a statement of the nature of the restriction, qualification or limitations, and a statement that the defendants claim some interest therein. The court shall make such judgment as it shall deem proper, taking into consideration the limitation, qualifications or restrictions, the resolution, and all other matters pertinent thereto. Neither costs nor disbursements may be recovered against any defendant.

(3) Real property needed for public use by any political subdivision owning or controlling the property shall not be sold, exchanged, leased or conveyed under the authority of ORS 271.300 to 271.360, except that it may be exchanged for property which is of equal or superior useful value for public use. Any such property not immediately needed for public use may be leased if, in the discretion of the governing body having control of the property, it will not be needed for public use within the period of the lease.

(4) The authority to lease property granted by this section includes authority to lease property not owned or controlled by the political subdivision at the time of entering into the lease. Such lease shall be conditioned upon the subsequent acquisition of the interest covered by the lease. [Amended by 1955 c.755 §1; 1961 c.136 §1; 1979 c.284 §127; 1981 c.787 §27; 1985 c.443 §5]

**271.320 Exchange of trust fund assets.** If any property owned by a political subdivision is held as an asset of any special trust fund securing the payment of bonds, it may be exchanged, under the authority granted in ORS 271.310, for other property of equal or superior value, and property so received in exchange shall be an asset of the fund in lieu



August 8, 1996

John Bormet, City Manager  
City of Sherwood  
540 N. W. Washington St.  
Sherwood, Oregon 97140

Subj: Vacation of the old Edy road that lies between  
the Pacific Hwy and Borchers road.

Dear Mr. Bormet,

As owner of the property that borders to the south and west of the area to be vacated (currently called AFGES) I am vitally interested in upgrading and updating both the land and the building.

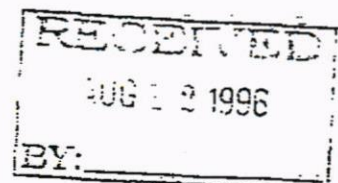
Vacation is necessary to provide additional parking and access from the Pacific Hwy to Borchers road. The upgrading will be complimentary to the new Texaco station.

Looking forward to hearing from you.

Sincerely,



Paul S. Selden  
10418 Champoeg rd., NE  
Aurora, Oregon 97002  
(503) 678-5161



May 7, 1998



Jon Bormet, City Manager  
City of Sherwood, Oregon  
20 NW Washington St.  
Sherwood, Oregon 97140

Ref: Vacation of Edy rd., between Texaco Station and  
Sherwood Feed & Seed.

Dear Jon,

As my property is contiguous to the southern side of the vacated road, I am vitally interested in what the city plans to do with that piece of property.

My wife and I have both spoken with you and your Assistant City Manager with regard to that vacation but, as yet, we have not received a firm answer from either of you as to any plans you may have.

Please respond, in writing, so that we can make plans as to what improvements we can make on our store building and the parking that is needed.

Looking forward to hearing from you.

Regards,

A handwritten signature in cursive script that reads "Paul S. Selden".

Paul S. Selden  
10418 Champeog rd. NE  
Aurora, Oregon 97002

**From:** Terry Keyes  
**To:** Dave Wechner  
**Date:** 4/18/00 1:54PM  
**Subject:** Selden Vacation

Dave,

I understand this turd is now in your pocket so I thought you might like a little more history on the issue.

About 3 months ago the Selden's, owners of the "upscale" feed store on highway 99W, met with John Morgan and me to discuss this vacation. They told us everything that is in Derrick's memo. However, what they did not tell us is why Sherwood should give up land for free. By the way, they are not interested in an easement for parking and they are not interested in buying the land from us. They only are interested in free land from the city.

My concerns with this vacation are:

1. We may need the land in the future for something. Maybe a water line or maybe a biofiltration swale.
2. The land is worth a lot of money and the Seldens want it for free. How do I get a deal like this?
3. The Selden's say they need it for parking. They don't need more parking--they need more business.
4. If we give the land to the Seldens, I would not be surprised if they turn around and sell the whole site to someone like Arco. In this case they will make a lot of money off our free land.

When John and I met with this folks they claimed that the state (aka ODOT) took much of their land without paying anything for it. It was a touching story and I asked them to show us some verification of that fact. Apparently, instead of doing the research, or having a title company do the research, they went to one of the mayor's Wednesday night gatherings and moaned that they were promised this land for free but the city never followed through.

In conclusion, I don't have a strong engineering opinion about this vacation. However, my personal opinion is that we should not be giving away anything owned by the citizens of Sherwood for free.

Have a nice day.

Terry

**From:** Chris Wiley  
**To:** Dave Wechner; Roxanne Gibbons  
**Subject:** Who wants the file on the Taber annexation

I am ready to turn over everything I have on the Taber annexation so you guys can notice it again and get the ball rolling. Which one of you wants my file? I imagine a lot of it will duplicate what you already have on file but better safe than sorry. The document in the front of the file is copies of the pages in the Oregon statutes that Derryck Dittman gave me last week.



CHAPTER 866

AN ACT

SB 99

Relating to land use; amending ORS 197.015 and 271.080.

Be It Enacted by the People of the State of Oregon:

**SECTION 1.** ORS 197.015 is amended to read:

197.015. As used in ORS chapters 195, 196 and 197, unless the context requires otherwise:

(1) "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the statewide planning goals.

(2) "Board" means the Land Use Board of Appeals [or any member thereof].

(3) "Commission" means the Land Conservation and Development Commission.

(4) "Committee" means the Joint Legislative Committee on Land Use.

(5) "Comprehensive plan" means a generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. "Comprehensive" means all-inclusive, both in terms of the geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. "General nature" means a summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. A plan is "coordinated" when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. "Land" includes water, both surface and subsurface, and the air.

(6) "Department" means the Department of Land Conservation and Development.

(7) "Director" means the Director of the Department of Land Conservation and Development.

(8) "Goals" means the mandatory statewide planning standards adopted by the commission pursuant to ORS chapters 195, 196 and 197.

(9) "Guidelines" means suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state agencies, cities, counties and special districts to a single approach.

sory and shall not limit state agencies, cities, counties and special districts to a single approach.

(10) "Land use decision":

(a) Includes:

(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:

(i) The goals;

(ii) A comprehensive plan provision;

(iii) A land use regulation; or

(iv) A new land use regulation; [or]

(B) A final decision or determination of a state agency other than the commission with respect to which the agency is required to apply the goals; or

**(C) A decision of a county planning commission made under ORS 433.763;**

(b) Does not include a decision of a local government:

(A) Which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment;

(B) Which approves or denies a building permit issued under clear and objective land use standards;

(C) Which is a limited land use decision;

(D) Which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; or

(E) Which is an expedited land division as described in ORS 197.360;

(c) Does not include a decision by a school district to close a school;

**(d) Does not include authorization of an outdoor mass gathering as defined in ORS 433.735, or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period; and**

[(d)] (e) Does not include:

(A) A writ of mandamus issued by a circuit court in accordance with ORS 215.428 (7) or 227.178 (7); or

(B) A local land use approval in response to a writ of mandamus.

(11) "Land use regulation" means any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan.

(12) "Limited land use decision" is a final decision or determination made by a local government pertaining to a site within an urban growth boundary which concerns:

(a) The approval or denial of a subdivision or partition, as described in ORS chapter 92.

(b) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review.

(13) "Local government" means any city, county or metropolitan service district formed under ORS



chapter 268 or an association of local governments performing land use planning functions under ORS 195.025.

(14) "Metro" means a metropolitan service district organized under ORS chapter 268.

(15) "Metro planning goals and objectives" means the land use goals and objectives that a metropolitan service district may adopt under ORS 268.380 (1)(a). The goals and objectives do not constitute a comprehensive plan.

(16) "Metro regional framework plan" means the regional framework plan required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan.

(17) "New land use regulation" means a land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land regulations acknowledged under ORS 197.251.

(18) "Person" means any individual, partnership, corporation, association, governmental subdivision or agency or public or private organization of any kind. The Land Conservation and Development Commission or its designee is considered a person for purposes of appeal under ORS chapters 195 and 197.

(19) "Special district" means any unit of local government, other than a city, county, metropolitan service district formed under ORS chapter 268 or an association of local governments performing land use planning functions under ORS 195.025 authorized and regulated by statute and includes but is not limited to: Water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts.

(20) "Voluntary association of local governments" means a regional planning agency in this state officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.

(21) "Wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

**SECTION 2.** ORS 271.080 is amended to read:

271.080. (1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.

(2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property

and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing [*and duly acknowledged before an officer authorized to take acknowledgments of deeds*].

Approved by the Governor July 26, 1999  
 Filed in the office of Secretary of State July 26, 1999  
 Effective date October 23, 1999

**CHAPTER 867**

**AN ACT**

SB 345

Relating to public safety; creating new provisions; and amending ORS 137.305, 181.610, 181.640, 181.650, 181.660, 181.661, 181.662, 181.664 and 181.670.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 181.610 is amended to read:

181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

(1) "Abuse" has the meaning given the term in ORS 107.705.

(2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to ORS 181.620.

(3) "Certified reserve officer" means a reserve officer who has been designated by a local law enforcement unit, has received training necessary for certification and has met the minimum standards and training requirements established under ORS 181.640.

(4) "Commissioned" means an authorization granting the power to perform various acts or duties of a police officer or certified reserve officer and acting under the supervision and responsibility of a county sheriff or as otherwise provided by law.

(5) "Corrections officer" means an officer or member of a law enforcement unit who is employed full time thereby and is charged with and primarily performs the duty of custody, control or supervision of individuals convicted of or arrested for a criminal



accessories as they are described in an existing corner record or survey map in the office of the county surveyor, the surveyor shall complete and submit to the county surveyor a record of the changes found or made to any corner or accessories to the corner. The record shall be submitted within 45 days of the corner visits, and shall include the surveyor's seal and original signature, business name and address, and be on stable base reproducible material in the form required by the county surveyor.

(10) The signature and stamp of a registered professional land surveyor on any survey map or plat constitutes certification that the map or plat complies with all applicable provisions of this chapter.

(11) Any registered professional land surveyor failing to comply with the provisions of subsections (1) to (9) of this section, ORS 92.050 to 92.080 or any county ordinance establishing standards for surveys or plats shall be subject to disciplinary action by the State Board of Examiners for Engineering and Land Surveying.

(12) Any federal or state agency, board or commission, special district or municipal corporation making a survey of lands within this state shall comply with this section.

**SECTION 12.** ORS 271.230 is amended to read:

271.230. (1) If any town or plat of any city or town is vacated by a county court or municipal authority of any city or town, the vacation order or ordinance shall be recorded in the deed records of the county *[and shall be indexed under the letter "V," title "Vacations."]*. Whenever a vacation order or ordinance is so recorded, the county surveyor of such county shall, upon *[the original plat and any] a copy [thereof] of the plat that is certified by the county clerk, trace or shade with permanent ink in such manner as to denote that portion so vacated, and shall make the notation "Vacated" upon [such original plat or copy thereof] such copy of the plat, giving the book and page of the deed record in which the order or ordinance is recorded. **Corrections or changes shall not be allowed on the original plat once it is recorded with the county clerk.***

(2) For recording in the county deed records, the county clerk shall collect the same fee as for recording a deed. For the services of the county surveyor for marking the record upon the original plat, the county clerk shall collect a fee as set by ordinance of the county governing body to be paid by the county clerk to the county surveyor.

Approved by the Governor July 14, 1999  
 Filed in the office of Secretary of State July 15, 1999  
 Effective date Regular effective date

**CHAPTER 711**

AN ACT

HB 2821

Relating to Board of Boiler Rules; amending ORS 480.600.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 480.600 is amended to read:

480.600. (1) The permit fee established under ORS 480.510 to 480.665, for a quantity of pressure vessels available for inspection at the same location, shall be fixed by the Board of Boiler Rules at cost, in accordance with the time required to conduct the inspection and the inspector's mileage to the place of inspection. However, in no case shall the total payment be more than the total of the individual pressure vessel fees fixed by ORS 480.510 to 480.665.

(2) The owner or user of any vessel which is to be inspected during the inspection period under the provisions of ORS 480.570 shall pay to the Department of Consumer and Business Services a special permit fee of \$25, except that the department may require payment of a permit fee as provided in ORS 480.595 where it finds the vessel to be in violation of the minimum safety standards during the inspection period. In addition, for a quantity of pressure vessels inspected at the same location, the board may establish a different special permit fee which recognizes the lower costs of handling, but in no such case shall the total payment be more than the total of individual pressure vessel fees fixed by ORS 480.510 to 480.665.

(3) If there is a lengthened inspection interval under ORS 480.560 (2), the permit fee interval shall be lengthened correspondingly.

(4) Whenever an insurance company notifies its insured that it will no longer insure a boiler or pressure vessel, or that insurance on a boiler or pressure vessel is no longer in force, the insurance company shall also notify the chief boiler inspector, in a form and manner prescribed by the chief boiler inspector, of the description and vessel registration numbers of the boilers or pressure vessels for which insurance is canceled or suspended or is not to be renewed.

(5) Whenever an owner or user of a boiler or pressure vessel fails to pay any fee required by this chapter within 60 days after the date of depositing written notification in the United States mail, postage prepaid, and addressed to the last-known address of the owner or user, the fee shall be considered delinquent and the fee shall be *[doubled]* **increased by an amount equal to 50 percent of the original fee.** The court may award reasonable attorney fees to the department if the department prevails in an action to collect a fee required by this chapter. The court may award reasonable attorney fees to a defendant who prevails in an action to collect a fee required by this chapter if the court determines that the department had no objectively reasonable basis



*Home of the Tualatin River National Wildlife Refuge*

City Recorder  
20 NW Washington Street  
Sherwood OR 97140  
Office #625-4246  
FAX# 625-5524  
Alternate FAX 625-0679  
e-mail:  
wileyc@sherwood.or.us

TO: Derryck Dittman

DATE: April 14, 2000

SUBJ: Selden Fiasco

Derryck, as I look over these documents, I conclude the following:

Resolution 96-645 noticed the hearing for September 24, 1996 regular Council meeting.

At the September 24, 1996, the hearing was continued until the October 8, 1996 regular Council meeting because it wasn't noticed properly?

At the October 8, 1996 regular Council meeting, the matter was tabled and never came back on any subsequent agendas.

I assume we're starting over?

Please advise. Thanks.



For Chris **Urgent**

Date 4.18.07 Time \_\_\_\_\_

**While You Were Out**

M D. Duttman

Of \_\_\_\_\_

Phone \_\_\_\_\_

AREA CODE NUMBER EXTENSION

Telephoned  Please Call

Came To See You  Will Call Again

Returned Your Call  Wants To See You

Message You have to start over.  
pick up copy of  
ords. from my office

Signed \_\_\_\_\_

9711

ADAMS BUSINESS FORMS

For Mrs Selder **Urgent**

Date 4.20.07 Time 11:20a

**While You Were Out**

M Chris

Of \_\_\_\_\_

Phone \_\_\_\_\_

AREA CODE NUMBER EXTENSION

Telephoned  Please Call

Came To See You  Will Call Again

Returned Your Call  Wants To See You

Message we have to start the  
hearing process over. This  
will take longer to get  
accomplished then we first  
anticipated. ~~your~~ your  
docs. are being forwarded  
to Planning Director Dave  
Wechner. He will let you

Signed \_\_\_\_\_

9711

ADAMS BUSINESS FORMS

City of Sherwood, Oregon

Resolution No. 96-645

A RESOLUTION DIRECTING A PUBLIC HEARING BE HELD ON THE PROPOSED VACATION OF A PORTION OF LAND BETWEEN COUNTY ROAD #1459 AND COUNTY ROAD #1324 (OLD EDY ROAD) IN THE CITY OF SHERWOOD, AND DIRECTING THE CITY RECORDER TO GIVE NOTICE THEREBY BY PUBLICATION AND POSTING OF NOTICE.

---

**WHEREAS**, portions of land between County Road #1459 and County Road #1324 (Old Edy Road) is a dedicated public right-of-way, giving the public rights over the land for street and utility improvements; and

**WHEREAS**, the purpose for this vacation is to vacate a portion of land between County Road #1459 and County Road #1324 (Old Edy Road) that is no longer needed for public use and because alternate access has been created; and

**WHEREAS**, the City Council having considered the request on August 27, 1996, finds that it is in the public interest to vacate that portion land between County Road #1459 and County Road #3124 (Old Edy Road) because the public interest will not be prejudiced by this vacation as provided by ORS 271.120.

**NOW, THEREFORE, THE CITY RESOLVES AS FOLLOWS:**

That a public hearing be held on the proposed vacation on Tuesday, September 24, 1996, at 7:30 p.m. at the Council meeting in Stewart Community/Senior Center, and that the Recorder be and is hereby authorized and directed to give notice thereof, substantially in the following form, by publication once each week for two successive weeks prior to the hearing date and by posting within five days after the day of first publication, at or near each end of the proposed vacation, a copy of the following notice in at least two conspicuous places in the vacation area:

Notice of Street Vacation

The City Council of the City of Sherwood will hear and consider objections to the matter of a proposed right-of-way vacation at 7:30 p.m. on September 24, 1996, at its meeting in the Stewart Community/Senior Center, 855 North Sherwood Boulevard, Sherwood, Oregon. The areas to be vacated are described as follows:

A parcel of land located between County Road (C..R.)1459,C.R. 1324 and Pacific Highway West, in the Northeast and Southeast one-quarter of Section 30, Township 2 South, Range 1 West of the Willamette Meridian, City of Sherwood, Washington County, Oregon, said parcel being more particularly described as follows:

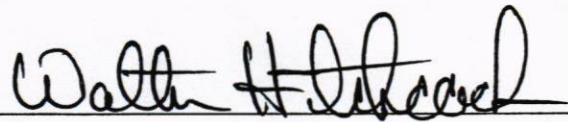


Beginning at a point which bears North 66° 08' 08" West 32.33 feet from the East one-quarter of Section 30, said point also being at the intersection of the northerly right-of-way line of Pacific Highway West and the westerly right-of-way line of C.R.1324; thence along said westerly right-of-way line North 0° 00'00" East 110.64 feet to the intersection of said westerly right-of-way line and the southerly right-of-way line of C.R. 1459; thence along said southerly right-of-way line South 46° 56' 30" West 152.91 feet to a point on the North line of a parcel deeded to Paul S. Selden in Book 1165, page 720 of Washington County Deed Records; thence leaving said southerly right-of-way line along said North line North 89° 43' 00" East 76.00 feet; thence South 0° 00' 00" East 40.00 feet to the northerly right-of-way line of said Pacific Highway West; thence along last said right-of-way line North 46° 56' 30" East 48.89 feet to the point of beginning.

Parcel containing 6,637 square feet or 0.152 acres, more or less.

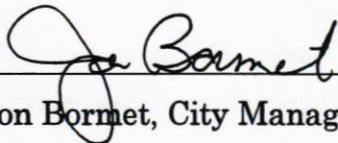
Said vacation is being proposed by the Sherwood City Council. Persons affected thereby who object to the proposed street vacation should file their objections in writing with the City Recorder at City Hall, 20 NW Washington, Sherwood, Oregon, prior to the time set for the hearing.

Approved by the City Council this 27<sup>th</sup> day of August 1996.



Walter Hitchcock, Mayor

Attest:



Jon Bormet, City Manager-Recorder

SHWX0052  
P.G.L.  
12-15-95

**LEGAL DESCRIPTION FOR PARCEL  
TO BE VACATED**

A parcel of land located between County Road (C..R.)1459, C.R. 1324 and Pacific Highway West, in the Northeast and Southeast one-quarter of Section 30, Township 2 South, Range 1 West of the Willamette Meridian, City of Sherwood, Washington County, Oregon, said parcel being more particularly described as follows:

3EN Beginning at a point which bears North 66° 08' 08" West 32.33 feet from the East one-quarter of Section 30, said point also being at the intersection of the northerly right-of-way line of Pacific Highway West and the westerly right-of-way line of C.R.1324; thence along said westerly right-of-way line North 0° 00'00" East 110.64 feet to the intersection of said westerly right-of-way line and the southerly right-of-way line of C.R. 1459; thence along said southerly right-of-way line South 46° 56' 30" West 152.91 feet to a point on the North line of a parcel deeded to Paul S. Selden in Book 1165, page 720 of Washington County Deed Records; thence leaving said southerly right-of-way line along said North line North 89° 43' 00" East 76.00 feet; thence South 0° 00' 00" East 40.00 feet to the northerly right-of-way line of said Pacific Highway West; thence along last said right-of-way line North 46° 56' 30" East 48.89 feet to the point of beginning.

Parcel containing 6,637 square feet or 0.152 acres, more or less.

Bearings for this description are based on the Plat of County Road #1324 as recorded in the Washington County Surveyors Office.

PGL:dlh\o:\project\s\shwx0052\borcher.leg  
DAVID EVANS AND ASSOCIATES, INC.

A PROFESSIONAL SERVICES CONSULTING FIRM  
OFFICES IN OREGON, WASHINGTON, CALIFORNIA AND ARIZONA  
2828 S.W. CORBETT AVENUE  
PORTLAND, OREGON 97201-4830  
(503) 223-6663 FAX (503) 223-2701



August 8, 1996

John Bormet, City Manager  
City of Sherwood  
540 N. W. Washington St.  
Sherwood, Oregon 97140

Subj: Vacation of the old Edy road that lies between  
the Pacific Hwy and Borchers road.

Dear Mr. Bormet,

As owner of the property that borders to the south and west of the area to be vacated (currently called AFGES) I am vitally interested in upgrading and updating both the land and the building.

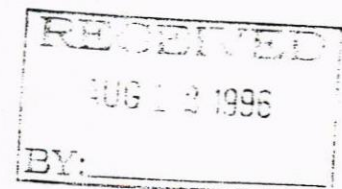
Vacation is necessary to provide additional parking and access from the Pacific Hwy to Borchers road. The upgrading will be complimentary to the new Texaco station.

Looking forward to hearing from you.

Sincerely,



Paul S. Selden  
10418 Champoeg rd., NE  
Aurora, Oregon 97002  
(503) 678-5161



SHWX0052  
P.G.L.  
12-15-95

**LEGAL DESCRIPTION FOR PARCEL  
TO BE VACATED**

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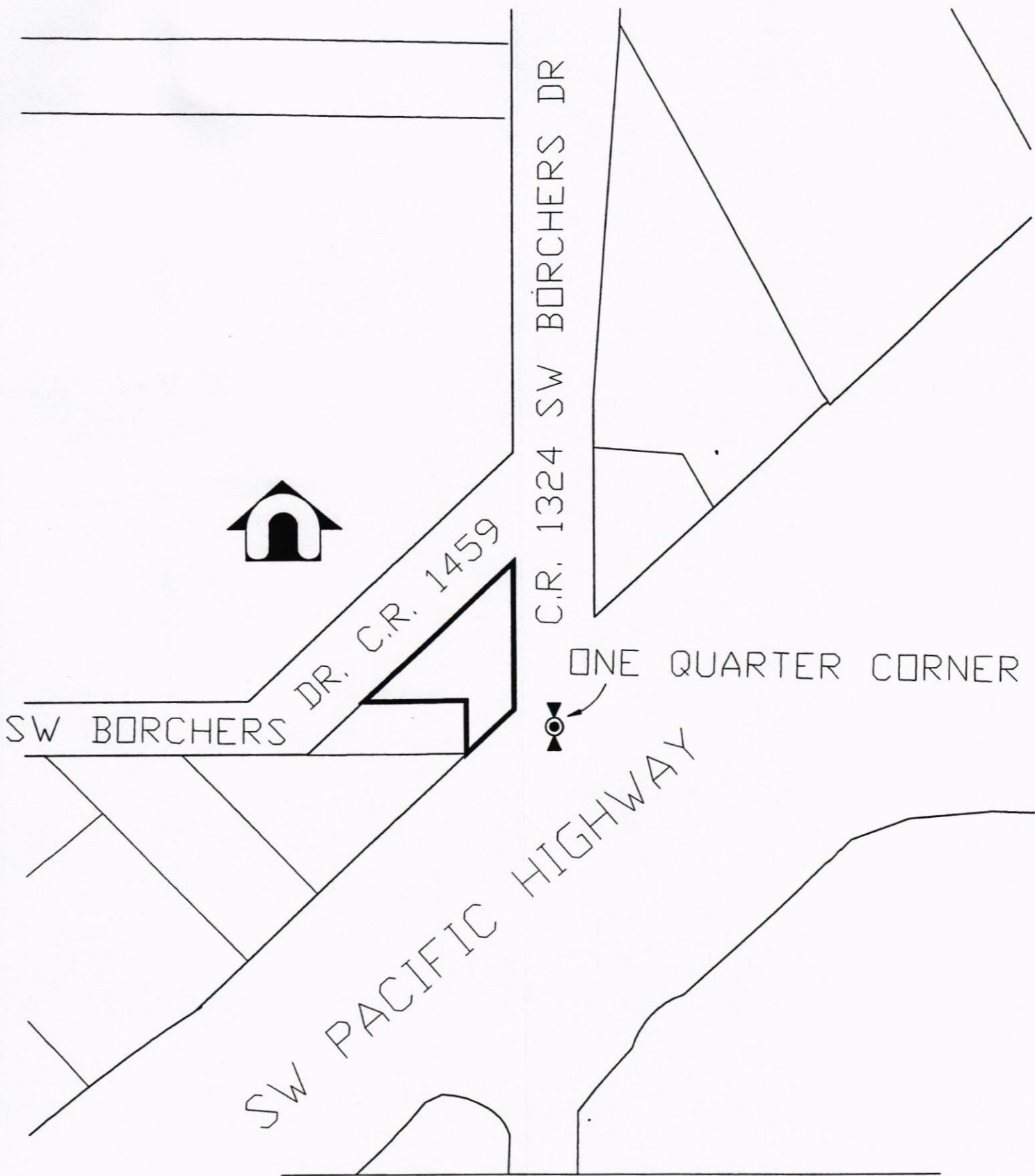
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Parcel containing 6,637 square feet or 0.152 acres, more or less.

Bearings for this description are based on the Plat of County Road #1324 as recorded in the Washington County Surveyors Office.

PGL:dlh\o:\project\s\shwx0052\borcher.leg  
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**dea**  
 DAVID EVANS AND ASSOCIATES, INC.  
 2828 S.W. CORBETT AVENUE  
 PORTLAND, OREGON 97201-4802  
 (503) 223-6663

PROJECT	SHERWOOD VACATIONS			
TITLE	BORCHER RD. AREA			
FILE	DRAWN BY	DESIGN BY	SCALE	DATE
SHWX0052	PGL	PGL	NTS	12-15-95

SHEET  
 #







SEE MAP  
2S 1 30A

W. C.R. 2912

SCHOLLS

SHERWOOD

R.D.

94-99862

273.49

91-38373

91-20456

164.93

EASEMENT  
91-38373

145.30

206

391+6.1 P.I.

392+7.6 P.I.

88-10

C.R. 1324

DRIVE

S89° 51'E

102.19'

400

1.92 AC.

409.03'

S54° 14'E

20775

200'

S34° 14'E

334.76'

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Al prope

C.S. 11441

501

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191.65'

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185.83'

501

.24 AC.

Linke  
Enterprise  
Annis

500

.77 AC.

Al prope

C.S. 11441

501

.24 AC.

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191.65'

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191.65'

PACIFIC

HWY

600

13.77 AC.

328

E. 10125

(C.S. 25)

BORCHERS

BEGIN 1324

N6° 09'E

191.65'

185.83'

191.65'

185.83'

191.65'

185.83'

BEGIN 1070

1/4 SEC. COR.

LANGER

S.W.

S.W.

S.W.

S.W.



135.6

197.34

92

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133.35

R=1033

135.6

197.34

92

87.31

133.35

R=1033

135.6

197.34

92

87.31

133.35

R=1033

135.6

197.34

92

87.31

the south-west portion of the Sherwood Market Place. Mr. Copenhaver pointed out that the traffic pattern in the south-west end of the Market Place will also be revised to correct the traffic pattern. He remarked that Providence Medical Center will be building an urgent medical care facility at the vacant lot on the west end of the project. Mr. Cain provided a photo-image of the proposed revisions.

In response to Mayor Hitchcock's question, Bill Whiteman, Chair of the Planning Commission advised that the Commission is comfortable with the proposed modifications, but had expressed some concerns with regard to the traffic conditions. He commented that the Planning Commission is requesting that the location of the video drop box be moved since it creates a wrong-way hazard for motorists.

**6. Public Hearings:**

- A. Land Use Hearing: Ordinance Vacating Portions of Land Between county Road #1459 and #1324 (Selden)**
- B. Land Use Hearing: Ordinance Vacating Right-of-Way for Street and Utility Easement on the Southerly Portion of Tax Lot 2103, Map 2S1 32 D (Turner)**
- C. Land Use Hearing: Ordinance Vacating a Portion of West Villa Road (Claus)**

Mayor Hitchcock advised that the three public hearing items have been removed from the agenda and will be rescheduled for the next Council meeting (October 8<sup>th</sup>). He commented that the notification process required by Oregon Statutes had not been completed.

**7. City Manager's Report:**

With regard to the recent fire at Second and Pine, Mr. Bormet remarked that the owner, Chris Corrado, is to be commended for the quick clean-up of the project. He indicated that Mr. Corrado was at this site at the time of the Council meeting and had nearly completed demolition and removal of the debris. Mayor Hitchcock requested that staff send a letter to Mr. Corrado extending their sympathy and appreciation for the quick response.

**8. Unfinished Business:**

None



**9. New Business:**

**A. Award of Bid to Eagle Elsner, Inc., to Pave Oregon Street:**

Councilor Cottle commented that Oregon Street from Murdock to the Railroad will be paved. He pointed out that Washington County will repair the remainder of the street. Mr. Bormet advised that there will also be an 8-foot wide paved bike path on Murdock adjacent to the existing sidewalk. Councilor Kennedy suggested that the pumping station in the area be dressed up, and that a sign be installed at the Murdock and Oregon Streets announcing that Sherwood is the home of the Tualatin River National Wildlife Refuge. Mr. Bormet advised that an architect will be contacted to add fill at the pump station area in order to plant appropriate landscaping, which will be done next spring, and that the entire intersection of Murdock and Oregon is scheduled for a major clean-up effort.

Councilor Boyle moved, seconded by Councilor Cottle, that Eagle Elsner, Inc., be awarded a contract in the amount of \$104,417.50 to repave Oregon Street.

**Vote for passage of motion: Yes: 5      No: 0**

Mr. Bormet advised that the current temporary patch work on Murdock Road will be paved over under the Washington County MSTIP program in 1999.

**10. Other Business:**

None

**11. Council Member Comments:**

Councilor Kennedy inquired as to the status of the demolition and debris removal of the house adjacent to the tannery, which had burned down some weeks ago. Mr. Bormet advised that he will follow-up on the clean-up, and commented that a letter had been received from DEQ formally putting the tannery on notice that the facility is a problem source and will be closely monitored and regulated by the DEQ. He noted that the tannery will be subject to a formal permitting process and will be regularly inspected and strictly regulated by DEQ. Mr. Bormet stated that issuance of business licenses could become a condition of approval, and could be withheld if the business is violating a nuisance ordinance. Mayor Hitchcock requested that staff continue to enforce the City's nuisance ordinance since DEQ is several years behind in its efforts.

In response to Councilor Kennedy's question, Mr. Bormet advised that the contaminated soil and water at the tannery site is a big issue on which he is working closely with Unified Sewerage Agency.

Councilor Boyle reported that the Fire District is also working with the tannery, who may have to hire a consultant to put in fire safety equipment to protect the citizens of Sherwood.

Mayor Hitchcock announced that the regular City Council meeting will be adjourned, and after a short break Council will reconvene for a workshop to discuss the tree ordinance.

**12. Adjournment:**

There being no further business before Council, the regular meeting adjourned at approximately 7:55 p.m.

Respectfully submitted,

Kathy Cary  
Deputy City Recorder



City Council Workshop  
8:00 p.m. - Tuesday, September 24, 1996

Members of the City Council reconvened for a workshop session to discuss and evaluate effects of the Tree Ordinance adopted in January 1995 by Ordinance No. 94-991.

Mayor Hitchcock requested that Staff review the experiences of enforcing the tree ordinance and the effects of that enforcement.

Mr. Bormet reported that the Tree Ordinance went into effect in January 1995, under an emergency situation; however, he did not believe it could be enforced, and it was his feeling that there was no attempt to enforce the ordinance.

Mr. Bormet noted that the ordinance is clear in its intent that all trees that can be retained should be retained; however, recent events indicate that there is a great deal of confusion as to how many and which trees should be retained during the grading permit process, which requires a tree inventory, while avoiding long-term delays for the developer.

Council concurred that the intent of the ordinance was to avoid clear cutting of trees prior to submitting an application for a development to the Planning Commission. After extensive discussions of the history and intent of the tree ordinance, the following comments were offered for staff consideration in development of additional or clarifying language:

- Determine conditions under which trees may be retained, while avoiding long delay to developer, require tree inventory as condition of grading permit.
- Require developer to identify trees that are to be retained.
- Resolve the conflict between the decision making authority of the Planning Commission versus the City's Park Board.
- Clarify and define mitigation: 1:1 ratio versus inch to inch, or tree for tree of the same diameter; if developer can't physically re-plant the number of required replacement trees, the City is to establish a fund to purchase trees for the community. 1:1 to a developer means one tree for one tree, but to the City Administration it means caliper inch to caliper inch.

- Clarify intent: Ordinance is to not take trees out that could be saved; e.g., the building footprint; prevent a developer from re-grading an entire development.
- Focus on retention of trees in industrial zones, include landscaping for industrial areas.
- Institute Tree Removal Permit procedures; make applicable to home owners.
- Is tree ordinance workable in required Metro density areas?
- Factoring in common sense, what constitutes a dangerous tree, and how is removal determined, by whom, is it mitigated?
- Mitigate caliper, and allow arborists to decide which trees are essential to the area; re-plant trees that can be incorporated into the site; a 10-inch fir tree can be removed without mitigation, can an 11-inch tree be removed?
- Remove tree questions from jurisdiction of Parks Board.
- Prevent clear cutting.
- Street trees are becoming controversial problem; address in the tree ordinance? If street trees do not survive for one year on the maintenance bond, the City has no authority to have street tree re-planted.
- Contact arborists to re-forest Sherwood; conduct program to educate residents about trees; advertise that the City has a tree fund and offer to plant trees for \$25. Modify ordinance to limit cutting of five to 10 trees and clear up other requirements, include discussions on reforestation; define how to calculate dollar value of caliper.
- Modify to eliminate cutting of street trees; allow mitigation of any size over 2 inches for street trees.
- Reestablish Tree Committee to study and re-draft ordinance.



Mayor Hitchcock requested that staff work with Planning Commission Chair Bill Whiteman to develop appropriate changes and begin the formal process for modification of the Tree Ordinance by January 1997.

There being no further discussion items, the meeting adjourned at approximately 9:10 pm.

Respectfully submitted,

Kathy Cary  
Deputy City Recorder



**City Council Meeting**  
**September 24, 1996 - 7:30 p.m.**  
**Stewart Senior/Community Center**  
**855 North Sherwood Boulevard**

1. Call to Order
2. Roll Call
3. Consent Agenda
  - A. Approval: City Council Minutes September 10, 1996
  - B. Approval: Resolution No. 96-651 Amending Personnel Manual to add Job Descriptions for Engineering Coordinator and Library Personnel
4. Announcements
5. Community Comments

*Community comments are limited to items NOT on the agenda. Anyone may address the City Council on their subject(s) of choice. Please don't hesitate to step up to the podium if you have something to say.*
6. Public Hearings
  - A. Land Use Hearing: Ordinance Vacating Portions of Land Between County Road #1459 and #1324 (Selden)
  - B. Land Use Hearing: Ordinance Vacating Right-of-Way for Street and Utility Easement on the Southerly Portion of Tax Lot 2103, Map 2S1 32D (Turner)
  - C. Land Use Hearing: Ordinance Vacating a Portion of West Villa Road (Claus)
7. City Manager's Report
8. Unfinished Business



9. New Business

A. Award of bid to Eagle Elsner, Inc. to pave Oregon Street.

10. Other Business

11. Council Member Comments

12. Adjournment

City of Sherwood  
City Council Meeting

September 24, 1996

1. **Call to Order:**

At Mayor Hitchcock's request, Scout K. R. Stevens, gaveled the Council meeting to order at approximately 7:30 pm. Scout Troop 844 led the pledge of allegiance.

2. **Roll Call:**

**Council Members Present:**

Walt Hitchcock, Mayor  
Jane Aamold  
Bill Boyle  
Mark Cottle  
Barry Kennedy

**Staff Present:**

Jon Bormet, City Manager  
Sue Engels, Development Dir.  
Scott Spence, Asst. to City Manager  
Kathy Cary, Deputy City Recorder

3. **Consent Agenda:**

- A. Approval: City Council Minutes September 10, 1996
- B. Approval: Resolution No. 96-651 Amending Personnel Manual to add Job Descriptions for Engineering Coordinator and Library Personnel.

Councilor Cottle moved, seconded by Councilor Boyle, that the Consent Agenda be approved.

Vote for passage of motion: Yes: 5      No: 0

4. **Announcements:**

None

5. **Community Comments:**

David Copenhaver and Barry Cain of Gramor Development, 9895 SE Sunnyside Road, Suite P, Clackamas, addressed the Council. Mr. Copenhaver advised that he was in attendance on behalf of the Sherwood Market Place. He provided a slide presentation of the proposed redesign of



**5. Community Comments:**

John Drennan, 11495 SW Greenburg Road, Tigard, addressed the Council. Mr. Drennan stated that he has some questions regarding Sunset Boulevard at the Woodhaven development site. He stated that the elevation, as determined by City Staff Brandon Vu, is 169.84, and the 100-year floodplain in the area is 179, fewer than 10 feet higher at the area where the road is being improved. Mr. Drennan advised that he had discussed the issue with both Mr. Bormet and Ms. Engels, at which time he advised that he was concerned about the type of restrictions that would have to be met if someone purchased his property to construct apartments. Mr. Drennan stated that Mr. Bormet had advised him the roads on his property would have to adhere to 179 feet, which is 10 feet higher than the main road to access the property.

After some discussion, Mayor Hitchcock referred Mr. Drennan to the City staff for a resolution of his technical requests.

Odge Gribble, 340 Railroad Street, Sherwood, addressed the Council. Ms. Gribble announced that the annual Onion Festival is being held Saturday, October 12, from 9:00 to 5:00, and urged that all attend.

**6. Public Hearings:**

**A. Land Use Hearing: Ordinance Vacating Portions of Land Between county Road #1459 and #1324 (Selden)**

Mayor Hitchcock advised that there are some legal questions regarding vacation of portions of County Road 1459 and 1324 which need to be resolved and the item will be tabled.

**B. Land Use Hearing: Ordinance Vacating Right-of-Way for Street and Utility Easement on the Southerly Portion of Tax Lot 2103, Map 2S1 32 DC (Turner)**

Mayor Hitchcock pointed out that the hearings disclosure statement provided by staff was incorrect. He noted that there are a number of criteria which must be met for the action to be approved, and public testimony is limited to those findings and standards that apply to street vacation. Mayor Hitchcock noted that any appeal of the decisions must be based on the specific issues raised in the public hearing. He requested that Council members advise of any potential conflict of interest, ex-parte contact or bias regarding the two vacations being discussed in the public hearing.

Councilor Cottle advised that he had spoken extensively with the applicant Moe Turner because he was at one time interested in purchasing Mr.