

ORDINANCE NO. 2020-03

**ORDINANCE VACATING 19TH PLACE RIGHT-OF-WAY EAST OF POPLAR STREET
FILE NUMBER 311-20-000014-PLNG**

WHEREAS, petitions have been filed with the City of Forest Grove to initiate the vacation of 19th Place east of Poplar Street; and

WHEREAS, notice of the proposed vacation was published in the *Forest Grove News-Times* on May 14 and 21, 2020, as required by ORS 271.110(1); and

WHEREAS, notice of the proposed vacation was posted on and adjacent to the site proposed for vacation on May 4, 2020, as required by ORS 271.110(2); and

WHEREAS, notice of this proposal was mailed on May 4, 2020, to property owners and residents within 300 feet of the site, as required by Development Code §17.1.715; and

WHEREAS, the City Council held the duly-noticed Public Hearing concerning this vacation on May 26, 2020 and continued the hearing on June 8, 2020, and has made a determination pursuant to ORS 271.120 on the basis of the findings contained in Section 1 below.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

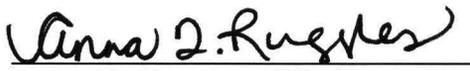
Section 1. On the basis of the findings in attached Exhibit "A", 19th Place right-of-way east of Poplar Street as described in Exhibit "B" is hereby vacated.

Section 2. This ordinance is effective 30 days following its enactment by the City Council.

Section 3. A certified copy of this Ordinance shall be recorded with the Washington County Clerk, County Assessor and County Surveyor.

PRESENTED AND PASSED the first reading the 26th day of May, 2020.

PASSED the second reading the 8th day of June, 2020.



Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 8th day of June, 2020.



Peter B. Truax, Mayor

ORDINANCE NO. 2020-03

EXHIBIT "A"

Criterion: Oregon Revised Statute Chapter 271.120 allows the city governing body (the City Council) to hear a vacation request. The proceedings can be initiated upon receipt of a petition from 100% of the adjoining property owners, and of the owners of 2/3 in area of the "affected property" (defined by statute as an area 200 feet on either side of the proposed vacation area, for a distance of 400 feet from either end).

Finding: *These petitions were filed with the Community Development Department on February 25, 2020.*

Criterion: A hearing date must be set.

Finding: *The hearing date was set for May 26, 2020.*

Criterion: Notice of the hearing must be published in the local paper at least once a week for two consecutive weeks prior to the hearing; and notice must be posted at or near each end of the proposed vacation.

Finding: *Notice was published in the Forest Grove News-Times on May 14 and 21, 2020. Notice was posted at or near the proposed vacation site on May 4, 2020. Notice was mailed to property owners and residents within 300 feet of the site and within the affected area defined above, on May 4, 2020.*

Notice was also provided to these utility providers: Hillsboro Water, Verizon, Northwest Natural Gas, MACC, and AT&T. No objections to the proposed vacation have been received.

Criterion: At the hearing, the Council must determine if a majority of the owners of the area affected have objected in writing to the vacation. Affected property is defined as that land lying on either side of the street for a distance of 200 feet, and the land beyond each terminus for a distance of 400 feet, of the part of the street proposed for vacation. The calculation of affected property does not include public right-of-way.

Finding: *Petitions in support of the vacation have been received from 100% of the abutting property owners and 74% of the owners of real property within the affected area defined by statute, in excess of the 2/3 requirement. No objections (letters or email) have been received.*

Criterion: Rights-of-way may not 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.

Finding: *The abutting property owner is requesting the vacation to allow the further development of the property. As a result, it is found that the City has received consent from the abutting property owners and that the proposed vacation would not have an adverse impact on the market value of the property.*

Criterion: If matters are determined in favor of the vacation, the City shall by ordinance make such determination a matter of record and vacate the right-of-way.

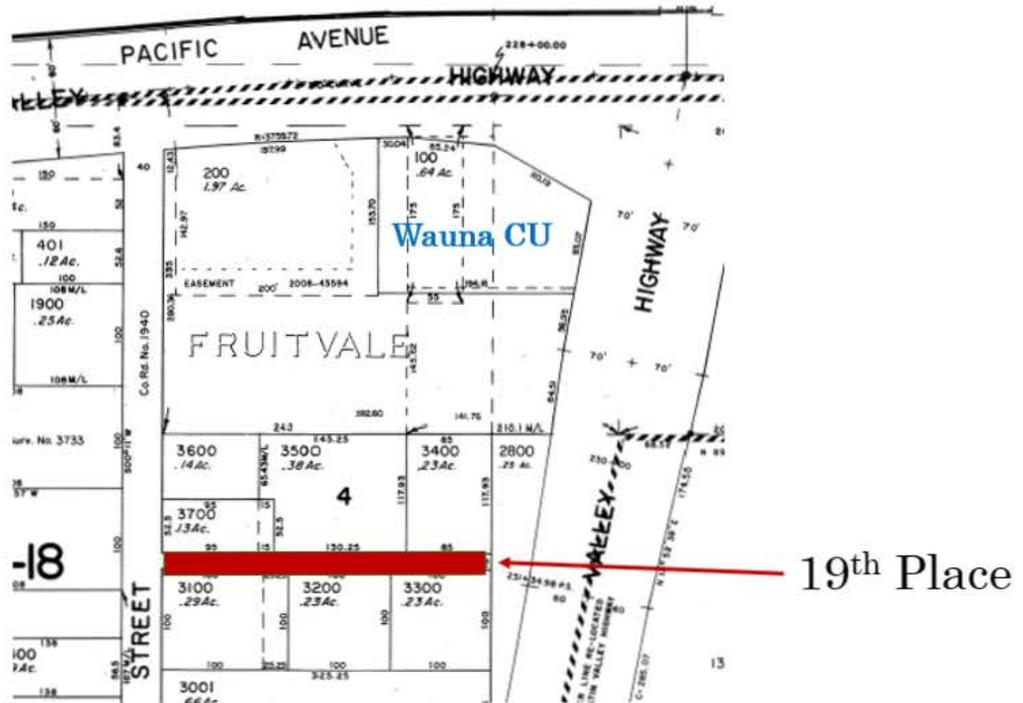
Finding: *An ordinance to vacate the right-of-way is attached.*

Criterion: The City may, upon hearing, make such reservations (conditions) as appear to be for the public interest.

Finding: *No reservations, conditions or easements over the vacated area appear to be necessary.*

EXHIBIT "B"

Washington County Tax Map 1S305BA



Date: June 8, 2020

Agenda Item: 6.

Subject: CONTINUE PUBLIC HEARING AND SECOND READING OF ORDINANCE NO. 2020-03 VACATING 19TH PLACE RIGHT-OF-WAY EAST OF POPLAR STREET; APPLICANT: JT SMITH COMPANIES; FILE NO. 311-20-000014-PLNG

CITY COUNCIL MEETING

Request to Testify at Public Hearing

Public Hearings – Public hearings are held on each matter required by state law or City policy. Anyone wishing to testify should sign-in for the Public Hearing prior to the meeting. The Mayor or presiding officer will review the complete hearing instructions prior to testimony. The Mayor or presiding officer will call the individual or group by the name given on the sign-in form. When addressing the Mayor and Council, please move to the witness table (center front of the room). Each person should speak clearly into the microphone and must state their first and last name and provided a mailing address for the record. All testimony is electronically recorded. In the interest of time, Public Hearing testimony is limited to three minutes unless the Mayor or presiding officer grants an extension. Written or oral testimony is heard prior to any Council action.

Please sign-in below to testify:

PROPONENTS: (Please print legibly)

First & Last Name:

Address:

City, State & Zip Code:

OPPONENTS: (Please print legibly)

First & Last Name:

Address:

City, State & Zip Code:

OTHERS: (Please print legibly)

First & Last Name:

Address:

City, State & Zip Code:

Please continue on Page 2:

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June 5, 2020

Michael C. Robinson
Admitted in Oregon
T: 503-796-3756
C: 503-407-2578
mrobinson@schwabe.com

VIA E-MAIL

Mr. Peter Truax, Mayor
Forest Grove City Council
Forest Grove City Hall
1924 Council Street
PO Box 326
Forest Grove, OR 97116-0326

RE: City of Forest Grove File Number 311-20-00014-PLNG; Petition to Vacate 19th
Place between Poplar Street and the Highway 47 Bypass by J.T. Smith Companies

Dear Mr. Truax:

This office represents J.T. Smith Companies (“Smith”). This letter responds to the issues raised in the May 15, 2020 letter from Wauna Credit Union (“Wauna”). I have asked Ms. Ruggles to place this letter before you for the continued public hearing on the street vacation at your June 8, 2020 public meeting. Wauna’s letter acknowledges that its issue concerning traffic is not related to the street vacation but is instead related to the Development Review Application which is scheduled to be heard by the Forest Grove Planning Commission on July 6, 2020. As your Community Development Director told you at the public hearing on May 26, 2020, traffic is unrelated to the relevant issues under the street approval criteria in ORS 271.005-271.170. As an aside, the Community Development Department Staff Report to the City Council found that the street vacation petition satisfied the relevant approval criteria. Nevertheless, Smith believes it is helpful to the City Council and Wauna to address the traffic issue even though it is not a basis for the street vacation petition.

Wauna’s concern is traffic that will be generated by the proposed multi-family residential development’s impact on the access easement for the Wauna Credit Union building. Wauna’s building is located north of the street proposed to be vacated. The proposed multi-family residential development is on land zoned Commercial and the proposed development will generate far fewer vehicle trips than the typical commercial use, especially a grocery store that was previously planned to occupy the site, from whom Wauna Credit Union purchased their property. This conclusion is supported by a Traffic Impact Analysis submitted with the development application. Mr. Matt Bell, an Oregon licensed Traffic Engineer with Kittelson and Associates performed the traffic study of the existing traffic patterns in the area that includes traffic counts in December, 2019 while school was still in session and pre-COVID-19 quarantine orders in Oregon. Mr. Bell then analyzed the proposed multi-family development to determine

Mr. Peter Truax, Mayor
June 5, 2020
Page 2

projected traffic impacts and concluded that the proposed development can be constructed while maintaining acceptable traffic operations.

The Applicant has discussed traffic and access issues with the Oregon Department of Transportation (“ODOT”), which controls Oregon Highway 47 and issues access permits for the highway. ODOT has said that they it does not want additional street connections to Oregon Highway 47. It is extremely unlikely that ODOT would approve an application for even partial access at 19th Avenue.

The proposed development will provide a vehicular connection from Poplar Street to Oak Street at 19th Avenue to improve vehicular circulation in the area, as well as an additional connection from Poplar Street to Oak Street through the western portion of the development.

The Applicant has responded to the traffic issue. While not relevant to the street vacation decision, the evidence shows that the proposed development will not negatively impact Wauna.

The Applicant respectfully requests that the City Council approve the street vacation petition at the conclusion of its public hearing on July 8, 2020.

Very truly yours,



Michael C. Robinson

MCR/jmhi

cc: Mr. Jesse Nemecek (*via email*)
Mr. Andrew Tull (*via email*)
Mr. James Reitz (*via email*)

PDX\133294\251057\MCR\28105086.1



A place where families and businesses thrive.

<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>7.</u>
MEETING DATE:	<u>05/26/2020</u>
FINAL ACTION:	<u>First Reading</u> <u>ORD 2020-03</u>

CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *May 26, 2020*

PROJECT TEAM: *James Reitz, AICP, Senior Planner*
Bryan Pohl, Community Development Director

SUBJECT TITLE: *Public Hearing and First Reading of an Ordinance to Vacate the 19th Place Right-of-Way East of Poplar Street*

ACTION REQUESTED:

<input checked="" type="checkbox"/>	Ordinance	<input type="checkbox"/>	Order	<input type="checkbox"/>	Resolution	<input checked="" type="checkbox"/>	Motion	<input type="checkbox"/>	Informational
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X all that apply

ISSUE STATEMENT: 19th Place east of Poplar Street is a 16-foot-wide unimproved dead-end right-of-way. The applicant is purchasing all the abutting property and has submitted an application to develop an apartment complex. Vacating this un-used right-of-way is the first step in that process.

BACKGROUND: 19th Place previously served as the access to several single-family homes. Those homes were purchased and demolished in the mid-1990s as part of a project to develop a shopping center. That project was ultimately abandoned before any construction began. The applicant intends to develop the entire shopping center site with an apartment complex.

The site is comprised of 18 parcels, which would be consolidated into 3 parcels. When the consolidation process is complete, 19th Place would no longer be necessary for access or utilities. A City sanitary line is still extant; it will be disconnected and abandoned when the site redevelops. The water line was previously removed, and no storm drain line was ever present.

All relevant utility companies were notified, and no objections to the vacation have been received. Further, as the right-of-way was dedicated to the public, there is no fee ownership of land by the City. As a result, there is no consideration of any payment to the City for the vacation of the right-of-way (aside from the processing fee).

Oregon Revised Statute Chapter 271.120 allows the city governing body (the City Council) to hear a vacation request. The proceedings can be initiated upon receipt of a petition from 100% of the adjoining property owners, and of the owners of 2/3 in area of the “affected property” (defined by statute as an area 200 feet on either side of the proposed vacation area, for a distance of 400 feet from either end). These petitions were filed with the Community Development Department on February 25, 2020.

The vacation procedure is as follows:

- (A) A hearing date must be set. *The hearing date was set for May 26, 2020.*

- (B) Notice of the hearing must be published in the local paper at least once a week for two consecutive weeks prior to the hearing; and notice must be posted at or near each end of the proposed vacation.

Notice was published in the Forest Grove News-Times on May 14 and 21, 2020. Notice was posted at or near the proposed vacation site on May 4, 2020. Notice was mailed to property owners and residents within 300 feet of the site and within the affected area defined above, on May 4, 2020.

Notice was also provided to utility providers Hillsboro Water, Verizon, Northwest Natural Gas, MACC, and AT&T, and no objections to the proposed vacation have been received.

- (C) At the hearing, the Council must determine if a majority of the owners of the area affected have objected in writing to the vacation. Affected property is defined as that land lying on either side of the street for a distance of 200 feet, and the land beyond each terminus for a distance of 400 feet, of the part of the street proposed for vacation. The calculation of affected property does not include public right-of-way. The petition to request a vacation must be signed by 100% of the abutting property owners and 2/3 of the property owners within the affected area as defined above.

Petitions in support of the vacation have been received from 100% of the abutting property owners and 74% of the owners of real property within the affected area defined by statute, in excess of the 2/3 requirement. As of the writing of this report, no objections (letters or email) have been received.

- (D) Rights-of-way may not 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.

The abutting property owner is requesting the vacation to allow the further development of the property. As a result, it is found that the City has received consent from the abutting property owners and that the proposed vacation would not have an adverse impact on the market value of the property.

- (E) If matters are determined in favor of the vacation, the City shall by ordinance make such determination a matter of record and vacate the right-of-way. *An ordinance to vacate the right-of-way is attached.*
- (F) The City may, upon hearing, make such reservations (conditions) as appear to be for the public interest. *No reservations, conditions or easements over the vacated area appear to be necessary.*

FISCAL IMPACT: Adoption of the ordinance will have no fiscal impact on the City.

STAFF RECOMMENDATION: Staff recommends adoption of the ordinance to vacate the 19th Place right-of-way east of Poplar Street.

ATTACHMENTS:

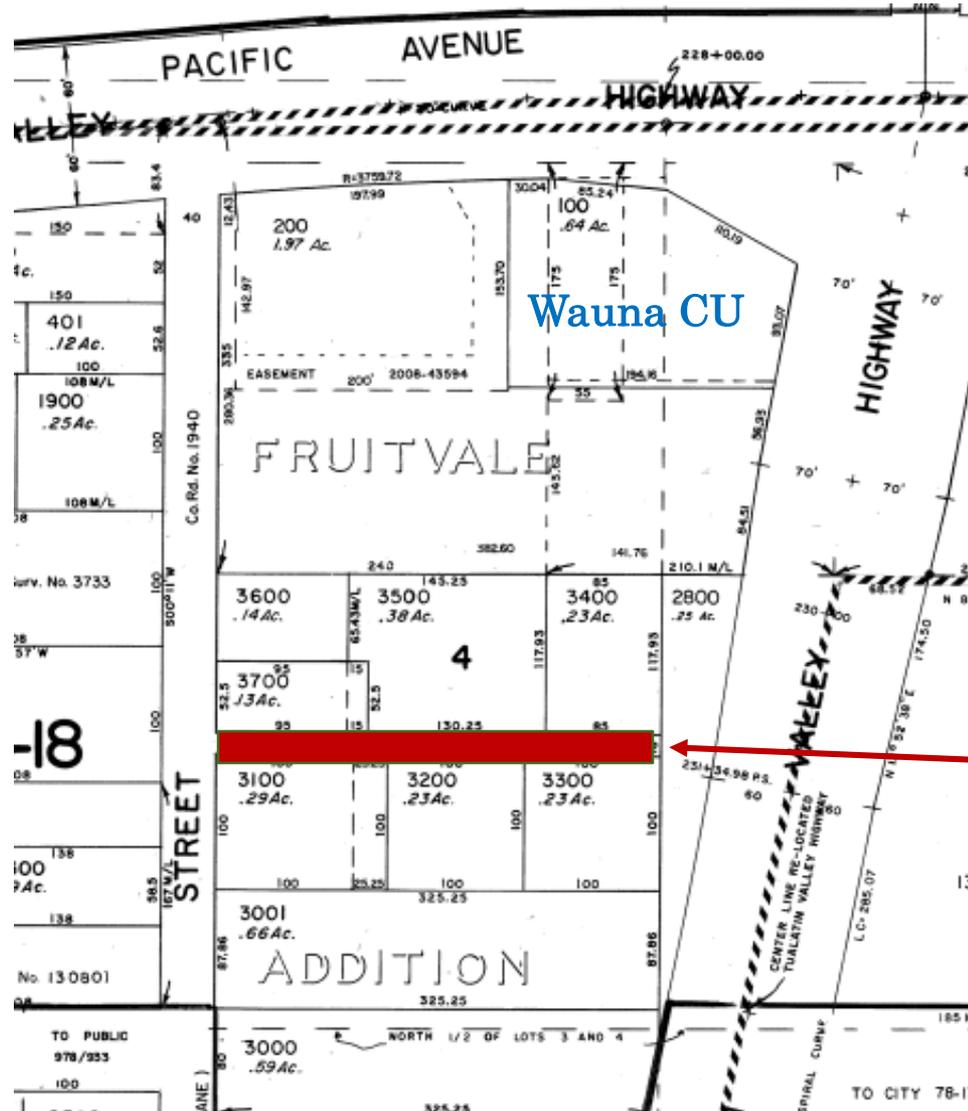
- Power Point
- Ordinance to vacate the 19th Place right-of-way east of Poplar Street
- Application materials



19th Place Right-of-Way Vacation

James Reitz, AICP
Senior Planner

Washington County Tax Map 1S305BA



19th Place

Aerial Photo of Area



19th Place

Vacation Criteria

Oregon Revised Statute Chapter 271.120

Has a majority of the owners of the area affected objected in writing to the vacation?

- *Petitions in support of the vacation have been received from 100% of the abutting property owners and 74% of the owners of real property within the affected area defined by statute.*

Rights-of-way may not be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property.

- *The abutting property owner is requesting the vacation. Thus, the proposed vacation would not have an adverse impact on the market value of the property.*

The City may, upon hearing, make such reservations (conditions) as appear to be for the public interest.

- *No reservations, conditions or easements over the vacated area appear to be necessary.*

Recommendation

Adopt the ordinance to vacate the 19th Place
right-of-way east of Poplar Street

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Written Testimony



May 15, 2020

City Recorder's Office
PO Box 326
Forest Grove OR 97116

RE: Vacation of 19th Place / File # 311-20-000014-PLNG

To whom it may concern:

Wauna Credit Union located at 3532 Pacific Avenue, owns adjacent property of the proposed JT Smith Companies residential development. There is currently only one access to our location which is to turn onto Popular Street off of Hwy 8 and use the easement street to enter our corner lot.

The proposed vacation of 19th Place is not of concern specifically, but the additional traffic due to the development of 196 residential units is a concern. This will impact the traffic on Popular Street and the easement built for access to the Wauna Credit Union branch. The priority for this new development should be access improvement.

It is our understanding that there are future plans to punch 19th street through to Hwy 47 therefore providing an additional access option. This additional access would mitigate our traffic concerns.

In addition, the improve of 19th Avenue to access Oak Street would also add an additional access and egress option for Wauna Credit Union members and would assist in mitigating our traffic load concern.

Your attention to address this concern is greatly appreciated.

Sincerely,

A handwritten signature in blue ink that reads 'Robert Blumberg'.

Robert Blumberg
CEO & President

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19TH PLACE RIGHT-OF-WAY

VACATION APPLICATION MATERIALS

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3J CONSULTING

9600 SW NIMBUS AVENUE, SUITE 100
BEAVERTON, OREGON 97008
PH: (503) 946.9365
WWW.3JCONSULTING.COM

February 25, 2020

City Council
City of Forest Grove
1924 Council Street
Forest Grove, OR 97116

RECEIVED

FEB 25 2020

City of Forest Grove

19th Place Right-of-Way Vacation Request

To the City Council:

3J Consulting, Inc. acts on behalf of JT Smith Companies in petitioning to vacate 19th Place, a public street. The right-of-way vacation request is for approximately 5,200 square feet located to the south of Pacific Avenue extending east from Poplar Street for a distance of 326 feet (see Exhibit C).

The reason for the vacation is to develop a multi-family development in the in the Community Commercial zoning district of the City of Forest Grove. The existing right-of-way on 19th Place is not necessary to serve the proposed development and splits the site, creating site layout challenges that can be mitigated through a vacation.

The applicant, the City's planning staff, and the City's engineering department concur that the land in question is currently not necessary or useful in providing access to Poplar Street at this time. It is not fully clear why the right-of-way dedications occurred, but presumably, the dedication would ensure access if each individual lot were developed with separate structures requiring access to Poplar Street. Approval of the requested vacation would result in removal of 19th Place right-of-way with title to the vacated street will attach to the applicant's property.

The applicable standards for review and approval of a right-of-way vacation in any incorporated city are found in Chapter 271 of the Oregon Revised Statutes- Use and Disposition of Public Lands Generally; Easements. Specifically, the sections pertaining to right-of-way vacation are found in Sections 271.080 through 271.230. Responses to each of these ORS sections are included with this request as Exhibit A.

Forest Grove Municipal Code Section 17.3.030.E requires that when a street is vacated, the land within the boundary will automatically be subject to the same zoning designation that is applicable to the lands to which the street attaches. The properties surrounding 19th Place are zoned Community Commercial (CC).

A specific requirement for right-of-way vacation petition is consent of all abutting property owners and two-thirds of the area of affected property (as defined in ORS 271.080). As shown within the Attached Exhibit E, more than 2/3rds of the area of land affected by the proposed vacation has responded in the affirmative to the proposed petition. The Applicant has documented that 74 percent of the property area within the affected area is in favor of the petition. All required property owner consent has been obtained, in writing, by the applicant, and is included with this request as Exhibit D.



The applicant respectfully submits this request for right-of-way vacation of 19th Place. The applicant requests a hearing be scheduled before the Forest Grove City Council once proper notice has been given, per the standards of ORS 271.

If any additional information is needed, please do not hesitate to contact me. Thank you for your consideration of this request.

Sincerely,



Andrew Tull
Principal Planner
3J Consulting, Inc.

Attachments:

- Exhibit A: Applicable ORS Standards and Responses
- Exhibit B: Affected Land Area Map
- Exhibit C: Affected Land Area Table
- Exhibit D: Consent to Vacate Petition
- Exhibit E: Consenting Properties Map

Copy:

- Jesse Nemec, JT Smith Companies
- Aaron Murphy, 3J Consulting, Inc.



EXHIBIT A

EXHIBIT A

APPLICABLE CRITERIA

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.

Finding: The property is owned by Albertson's Stores Sub, LLC. The description of the ground proposed to be vacated is shown on Attachment b of the right-of-way vacation. The purpose for which the ground is proposed to be used and the reason for the vacation is to develop a multi-family development in the in the Community Commercial zoning district of the City of Forest Grove. The existing right-of-way on 19th Place is not necessary to serve the proposed development and splits the site, creating site layout challenges that can be mitigated through a street 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.

Finding: The total area affected by the proposed vacation is equal to 16.31 acres [Exhibit B]. Property owners representing 12.1 acres of the affected have signed in favor of the petition [Exhibit D]. Thus, the required 2/3rds required consent threshold has been exceeded by 1.23 acres. The consent of the owners of the sole abutting property owner, Albertsons, and the owners of greater than two-thirds in area of the real property affected thereby is included, in writing, as Exhibit D of the right-of-way vacation petition letter.

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.

Finding: This petition is presented to the City Recorder of the City of Forest Grove for review by the City Council and contains all information required for a sufficient petition.

271.100 Action by city governing body. 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.

Finding: The applicant respectfully requests a hearing before the City Council of Forest Grove on this right-of-way vacation 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 at least 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 treasury and any surplus refunded to the depositor.

Finding: The City can meet these notice requirements prior to a public hearing.

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.

Finding: In order for a vacation to occur, the governing body 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 the public right-of-way. In this case, the petitioner has provided signatures indicating consent from the abutting property owners and from the owners of the required 2/3rds of the area within the affected land area. Notice of the public hearing has been duly provided by the City in response to the applicant's petition.

Regarding the usefulness of the area in question, the applicant, the City's planning staff, and the City's engineering department all agree that the ground to be vacated is currently unnecessary or useful in providing access to Poplar Street. The dedication would ensure access to structures requiring access to Poplar Street.

The public interest is not prejudiced by the proposed vacation, and lawful access shall be provided to all abutting properties through Poplar Street. The proposed vacation area is free of public utilities. Additionally, the applicant will provide bicycle/pedestrian access through the proposed development connecting to Tualatin Valley Highway via an access easement. Because such matters are determined in favor of the petition, the City Council body shall by ordinance make such determination in favor of the petition and vacate such plat or street.

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]

Finding: The applicant represents the owner of the lands bordering the area to be vacated. The title to the vacated street will attach to the applicant's property.

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.

Finding: The applicant agrees to bear all recording and file preparation costs.

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.

Finding: The City of Forest Grove does not maintain right-of-way vacation provisions in its City Charter separate from ORS 271.080 to 271.160.

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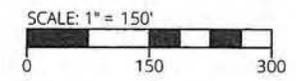
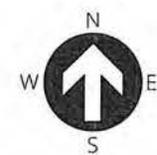
EXHIBIT B



SITE STATISTICS	
SITE ADDRESS:	1925 POPLAR STREET
TAX MAP:	13305BA LOTS 200, 1500, 1000, 2000, 2100, 2300, 2300, 2400, 2800, 3000, 3061, 3100, 3200, 3300, 3400, 3500, 3600, & 3700
SIZE:	320,145 SQUARE FEET
JURISDICTION:	CITY OF FOREST GROVE
SITE PROPERTIES:	18
AFFECTED AREA PROPERTIES:	35

LEGEND	
■	SUBJECT PROPERTY 15%
■	AFFECTED AREA PROPERTY 55%

SITE NOTE
 SITE MAP HAS BEEN PREPARED USING DATA FROM EXISTING TAX MAPS AND METROS PLUS GIS DATA. THIS MAP HAS BEEN PREPARED FOR ILLUSTRATIVE PURPOSES ONLY. ALL BOUNDARY AND DIMENSIONAL INFORMATION SHOULD BE VERIFIED BY A PROFESSIONAL LAND SURVEYOR.



FOREST GROVE - 19TH PLACE RIGHT-OF-WAY VACATION

EXHIBIT B

AFFECTED LAND AREA FEBRUARY 2020

3J CONSULTING
 CIVIL ENGINEERING | WATER RESOURCES | COMMUNITY PLANNING

EXHIBIT C

FOREST GROVE – 19TH PLACE RIGHT-OF-WAY VACATION
 Exhibit C: Affected Land Area Table

Property Owner	Address	Area (Sq. Ft.)	Area (Acres)	Tax Map	Tax Lot	Signed	Signed Area (Acres)
Coopers Corner Condo Owners	3423 19th Ave	3,800	0.0872	1S305BA	1100	No	
Coopers Corner Condo Owners	3435 19th Ave	1,298	0.0298	1S305BA	80051	No	
Albertson's Stores Sub LLC	3510 Pacific Ave	85,644	1.9661	1S305BA	200	Yes	1.9661
Albertson's Stores Sub LLC	1927 Oak St	11,760	0.2700	1S305BA	1500	Yes	0.2700
Albertson's Stores Sub LLC	1942 Poplar St	10,809	0.2481	1S305BA	1900	Yes	0.2481
Albertson's Stores Sub LLC	1934 Poplar St	20,856	0.4788	1S305BA	2000	Yes	0.4788
Albertson's Stores Sub LLC	1924 Poplar St	20,815	0.4778	1S305BA	2100	Yes	0.4778
Albertson's Stores Sub LLC	1916 Poplar St	10,406	0.2389	1S305BA	2200	Yes	0.2389
Albertson's Stores Sub LLC	1910 Poplar St	8,065	0.1851	1S305BA	2300	Yes	0.1851
Albertson's Stores Sub LLC	1904 Poplar St	16,266	0.3734	1S305BA	2400	Yes	0.3734
Albertson's Stores Sub LLC	No Site Address	10,461	0.2401	1S305BA	2800	Yes	0.2401
Albertson's Stores Sub LLC	1845 Poplar St	28,052	0.6440	1S305BA	3000	Yes	0.6440
Albertson's Stores Sub LLC	1907 Poplar St	26,000	0.5969	1S305BA	3001	Yes	0.5969
Albertson's Stores Sub LLC	1913 Poplar St	12,525	0.2875	1S305BA	3100	Yes	0.2875
Albertson's Stores Sub LLC	3520 19th Pl	10,000	0.2296	1S305BA	3200	Yes	0.2296
Albertson's Stores Sub LLC	3530 19th Pl	9,975	0.2290	1S305BA	3300	Yes	0.2290
Albertson's Stores Sub LLC	3539 19th Pl	10,070	0.2312	1S305BA	3400	Yes	0.2312
Albertson's Stores Sub LLC	3519 19th Pl	16,415	0.3768	1S305BA	3500	Yes	0.3768
Albertson's Stores Sub LLC	1931 Poplar St	6,251	0.1435	1S305BA	3600	Yes	0.1435
Albertson's Stores Sub LLC	1925 Poplar St	5,775	0.1326	1S305BA	3700	Yes	0.1326
Alderson Jason	1921 Oak St	11,760	0.2700	1S305BA	1400	No	

Brown Mason K Trust	1911 Fir Rd	5,000	0.1148	1S305AB	8100	No	
Christopherson Freeda M Trust	1909 Oak St	13,093	0.3006	1S305BA	1200	No	
Columbia West LLC	No Site Address	73,565	1.6888	1S305AB	501	Yes	1.6888
Columbia West LLC	No Site Address	53,816	1.2354	1S305AB	502	Yes	1.2354
Easton Hardware Building LLC	3602 Pacific Ave	69,420	1.5937	1S305AB	503	No	
Gleason John L	1915 Oak St	11,760	0.2700	1S305BA	1300	No	
Housing Authority of Washington	1921 Fir Rd	79,609	1.8276	1S305AB	800	Yes	1.8276
Rice Yvonne Trust Et Al	3412 Pacific Ave	25,206	0.5787	1S305BA	501	No	
Rice Yvonne Trust Et Al	1943 Oak St	16,934	0.3887	1S305BA	1700	No	
Somerville David	1937 Oak St	17,676	0.4058	1S305BA	1600	No	
Stuck John D	1919 Fir Rd	7,677	0.1762	1S305AB	900	No	
TOTAL AREA		710,759	16.32				12.1

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EXHIBIT D



A place where families and businesses thrive.

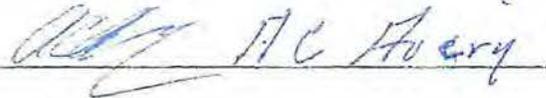
CONSENT TO VACATE PETITION

JT Smith Companies is in the process of purchasing a 7.35-acre property known as 1925 Poplar Street. Within the subject site, the previous owner(s) of the property dedicated a portion of the property to the City of Forest Grove as Right-of-Way for 19th Place. The dedication was to provide access from Poplar St to a few single family homes. These single family homes have been demolished and the 19th Place right of way is no longer needed in that location or configuration. In order to request the surplus portion of the right-of-way back from the City, the owner is required to prepare a petition to vacate the surplus right-of-way. As part of this process, the owner must show that neighboring property owners are in favor of the vacation. In this case, a total of 32 properties and 12 property owners have been considered to be "affected", in accordance with the State's notification guidelines.

A signature on the line below indicates that you have been contacted about the proposed right-of-way vacation for 19th Place and that you have no objections to the City's release of this surplus property. By signing this document, you also acknowledge that you are aware that approximately 5,200 square feet of the City's existing right-of-way will be reverted to the properties from which it was originally dedicated.

Printed Owner's Name	Owner's Signature	Address	Tax Map	Tax Lot
Cross, Danny & Muntz, Kaylee	<hr/>	3423 19th Ave	1S305BA	1100
Coopers Corner Condo Owners	<hr/>	3435 19th Ave	1S305BA	80051
Albertson's Stores Sub, LLC.	<i>Wynne K. Boushey</i> <hr/>	3510 Pacific Ave	1S305BA	200
Albertson's Stores Sub, LLC.	<i>Wynne K. Boushey</i> <hr/>	1927 Oak St	1S305BA	1500
Albertson's Stores Sub, LLC.	<i>Wynne K. Boushey</i> <hr/>	1942 Poplar St	1S305BA	1900
Albertson's Stores Sub, LLC.	<i>Wynne K. Boushey</i> <hr/>	1934 Poplar St	1S305BA	2000

Printed Owner's Name	Owner's Signature	Address	Tax Map	Tax Lot
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	1924 Poplar St	1S305BA	2001
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	1916 Poplar St	1S305BA	2200
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	1910 Poplar St	1S305BA	2300
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	1904 Poplar St	1S305BA	2400
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	No Situs Address	1S305BA	2800
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	1845 Poplar St	1S305BA	3000
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	1907 Poplar St	1S305BA	3001
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	1913 Poplar St	1S305BA	3100
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	3520 19th Pl	1S305BA	3200
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	3530 19th Pl	1S305BA	3300
Albertson's Stores Sub, LLC.	<u>Marilyn K. Boudreau</u>	3539 19th Pl	1S305BA	3400

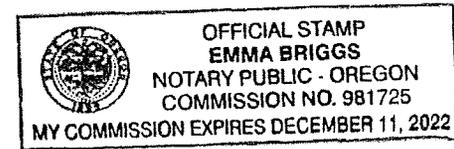
Printed Owner's Name	Owner's Signature	Address	Tax Map	Tax Lot
Albertson's Stores Sub, LLC.		3519 19th Pl	1S305BA	3500
Albertson's Stores Sub, LLC.		1931 Poplar St	1S305BA	3600
Albertson's Stores Sub, LLC.		1925 Poplar St	1S305BA	3700
Alderson, Jason		1921 Oak St	1S305BA	1400
Brown, Mason K. Trust		1911 Fir Rd	1S305AB	8100
Christopherson, Freeda M. Trust		1909 Oak St	1S305BA	1200
Columbia West, LLC.		No Situs Address	1S305AB	501
Columbia West, LLC.		No Situs Address	1S305AB	502
Easton Hardware Building, LLC.		3602 Pacific Ave	1S305AB	503
Gleason, John L. & Gleason, Betty J.		1915 Oak St	1S305BA	1300
Housing Authority of Washington County		1921 Fir Rd	1S305AB	800

State of Oregon)
)ss.
County of Washington)

This instrument was acknowledged before me on this 10th day of February, 2020

By Kami P Kalewa

[Signature]
Notary Public for Oregon
My Commission expires: December 11, 2022



State of _____)
)ss.
County of _____)

This instrument was acknowledged before me on this _____ day of _____, 2020

By _____

Notary Public for Oregon
My Commission expires: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

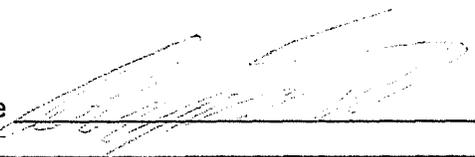
State of California
County of Alameda)

On January 30, 2019 before me, Angela Parliament, a Notary Public
(insert name and title of the officer)

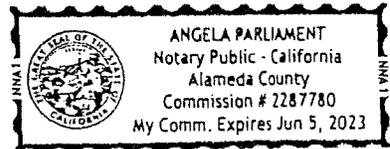
personally appeared Marilyn K. Beardsley
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 

(Seal)



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

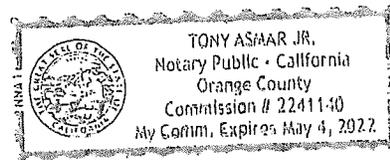
State of California
County of Orange

On 2-10-2020 before me, Tony Asaar Jr., NOTARY PUBLIC
(insert name and title of the officer)

personally appeared Alfred C. Asaar
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

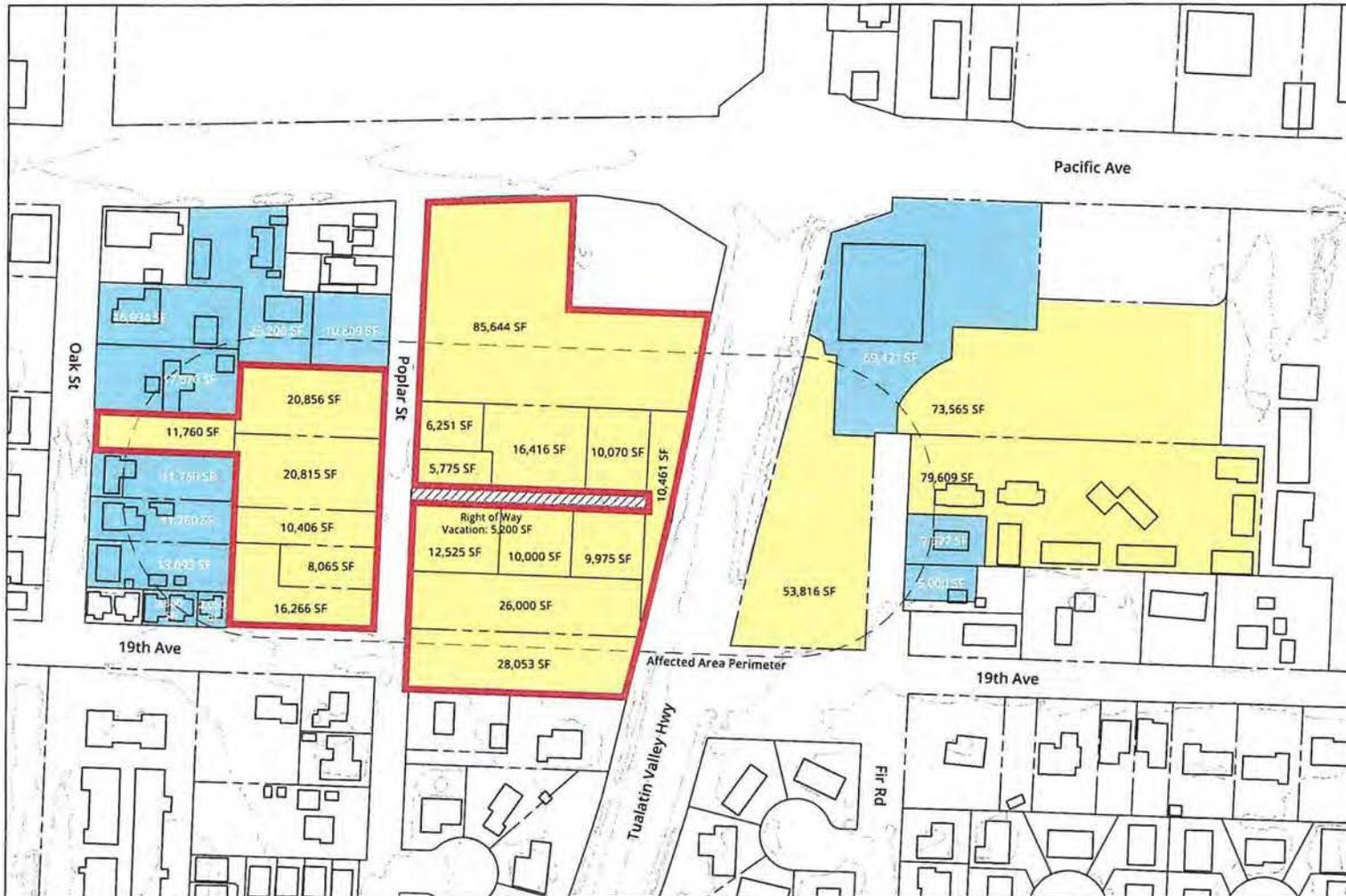
WITNESS my hand and official seal.



Signature _____ (Seal)

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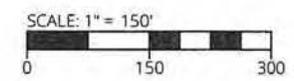
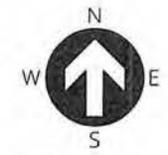
EXHIBIT E



SITE STATISTICS	
SITE ADDRESS:	1925 POPLAR STREET
TAX MAP:	15305BA LOTS 200, 1500, 1900, 2000, 2100, 2200, 2300, 2400, 2800, 3000, 3001, 3100, 3200, 3300, 3400, 3500, 3000, & 3700
SIZE:	320,145 SQUARE FEET
JURISDICTION:	CITY OF FOREST GROVE
SITE PROPERTIES:	18
AFFECTED AREA PROPERTIES:	35

LEGEND	
	PETITIONER OWNED PROPERTY CONSENTED 45%
	AFFECTED AREA PROPERTY PETITION CONSENTED 29%
	AFFECTED AREA PROPERTY PETITION 26%

SITE NOTE
 SITE MAP HAS BEEN PREPARED USING DATA FROM EXISTING TAX MAPS AND METRO'S PLUS GIS DATA. THIS MAP HAS BEEN PREPARED FOR ILLUSTRATIVE PURPOSES ONLY. ALL BOUNDARY AND DIMENSIONAL INFORMATION SHOULD BE VERIFIED BY A PROFESSIONAL LAND SURVEYOR.



FOREST GROVE - 19TH PLACE RIGHT-OF-WAY VACATION

EXHIBIT E

FEBRUARY 2020

CONSENTING PROPERTIES

3J CONSULTING
 CIVIL ENGINEERING, WATER RESOURCES, COMMUNITY PLANNING



ORDINANCE NO. 2020-03

**ORDINANCE VACATING 19TH PLACE RIGHT-OF-WAY EAST OF POPLAR STREET
FILE NUMBER 311-20-000014-PLNG**

WHEREAS, petitions have been filed with the City of Forest Grove to initiate the vacation of 19th Place east of Poplar Street; and

WHEREAS, notice of the proposed vacation was published in the *Forest Grove News-Times* on May 14 and 21, 2020, as required by ORS 271.110(1); and

WHEREAS, notice of the proposed vacation was posted on and adjacent to the site proposed for vacation on May 4, 2020, as required by ORS 271.110(2); and

WHEREAS, notice of this proposal was mailed on May 4, 2020, to property owners and residents within 300 feet of the site, as required by Development Code §17.1.715; and

WHEREAS, the City Council held the duly-noticed Public Hearing concerning this vacation on May 26, 2020 and continued the hearing on June 8, 2020, and has made a determination pursuant to ORS 271.120 on the basis of the findings contained in Section 1 below.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. On the basis of the findings in attached Exhibit "A", 19th Place right-of-way east of Poplar Street as described in Exhibit "B" is hereby vacated.

Section 2. This ordinance is effective 30 days following its enactment by the City Council.

Section 3. A certified copy of this Ordinance shall be recorded with the Washington County Clerk, County Assessor and County Surveyor.

PRESENTED AND PASSED the first reading the 26th day of May, 2020.

PASSED the second reading the 8th day of June, 2020.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 8th day of June, 2020.

Peter B. Truax, Mayor

ORDINANCE NO. 2020-03

EXHIBIT "A"

Criterion: Oregon Revised Statute Chapter 271.120 allows the city governing body (the City Council) to hear a vacation request. The proceedings can be initiated upon receipt of a petition from 100% of the adjoining property owners, and of the owners of 2/3 in area of the "affected property" (defined by statute as an area 200 feet on either side of the proposed vacation area, for a distance of 400 feet from either end).

Finding: *These petitions were filed with the Community Development Department on February 25, 2020.*

Criterion: A hearing date must be set.

Finding: *The hearing date was set for May 26, 2020.*

Criterion: Notice of the hearing must be published in the local paper at least once a week for two consecutive weeks prior to the hearing; and notice must be posted at or near each end of the proposed vacation.

Finding: *Notice was published in the Forest Grove News-Times on May 14 and 21, 2020. Notice was posted at or near the proposed vacation site on May 4, 2020. Notice was mailed to property owners and residents within 300 feet of the site and within the affected area defined above, on May 4, 2020.*

Notice was also provided to these utility providers: Hillsboro Water, Verizon, Northwest Natural Gas, MACC, and AT&T. No objections to the proposed vacation have been received.

Criterion: At the hearing, the Council must determine if a majority of the owners of the area affected have objected in writing to the vacation. Affected property is defined as that land lying on either side of the street for a distance of 200 feet, and the land beyond each terminus for a distance of 400 feet, of the part of the street proposed for vacation. The calculation of affected property does not include public right-of-way.

Finding: *Petitions in support of the vacation have been received from 100% of the abutting property owners and 74% of the owners of real property within the affected area defined by statute, in excess of the 2/3 requirement. No objections (letters or email) have been received.*

Criterion: Rights-of-way may not 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.

Finding: *The abutting property owner is requesting the vacation to allow the further development of the property. As a result, it is found that the City has received consent from the abutting property owners and that the proposed vacation would not have an adverse impact on the market value of the property.*

Criterion: If matters are determined in favor of the vacation, the City shall by ordinance make such determination a matter of record and vacate the right-of-way.

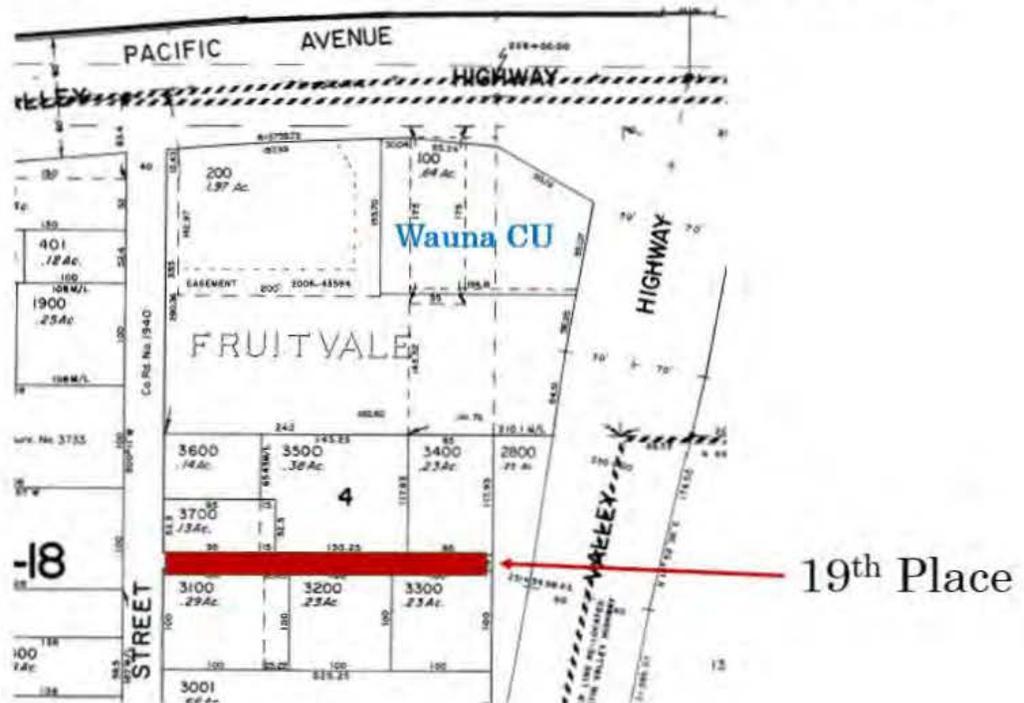
Finding: *An ordinance to vacate the right-of-way is attached.*

Criterion: The City may, upon hearing, make such reservations (conditions) as appear to be for the public interest.

Finding: *No reservations, conditions or easements over the vacated area appear to be necessary.*

EXHIBIT "B"

Washington County Tax Map 1S305BA





A place where families and businesses thrive.

**NOTICE OF PUBLIC HEARING
FOREST GROVE CITY COUNCIL
FILE NUMBER 311-20-000014-PLNG**

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a **Public Hearing** on **Tuesday, May 26, 2020, at 7:00 p.m.** or thereafter, at the Community Auditorium, 1915 Main Street, to review the following proposal:

PROPOSAL: Vacation of 19th Place between Poplar Street and the Hwy 47 Bypass
Applicant: JT Smith Companies
File Number: 311-20-000014-PLNG

CRITERIA: Applicable criteria for review and approval of this request may be found in Oregon Revised Statutes Chapter 271.005 through 271.170.

At this time and place, all persons will be given reasonable opportunity to give testimony about the proposal. If an issue is not raised in the hearing (by person or by letter) or if the issue is not explained in sufficient detail to allow the City Council to respond to the issue, then that issue cannot be used for an appeal to the Land Use Board of Appeals.

COVID-19: The City Council meeting will be conducted remotely by video conferencing. The public may attend and observe in the Community Auditorium as space allows (no more than 10 persons total at one time). However, the Council encourages the public to observe the meeting through technology rather than in person. The meeting will be televised **LIVE** on MACC TVCTV [CHANNEL 23](#). The Council encourages that written comments or testimony be submitted at the hearing or sent prior to the hearing to the attention of the City Recorder's Office, P.O. Box 326, 1924 Council Street, Forest Grove, OR 97116, aruggles@forestgrove-or.gov. A copy of the staff report is available seven days prior to the hearing and is published on the City's website at <https://www.forestgrove-or.gov/meetings>. For further information pertaining to this proposal, please contact Senior Planner James Reitz, jreitz@forestgrove-or.gov, Community Development Department, 1924 Council Street, (503) 992-3233 between 9 a.m. and 5 p.m.

###

Anna D. Ruggles, CMC, City Recorder
City of Forest Grove

Forest Grove News-Times
05/14/2020 & 05/21/2020

Date: May 26, 2020

Agenda Item: 7.

Subject: PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2020-03 VACATING 19TH PLACE RIGHT-OF-WAY EAST OF POPLAR STREET; APPLICANT: JT SMITH COMPANIES; FILE NO. 311-20-000014-PLNG

CITY COUNCIL MEETING

Request to Testify at Public Hearing

Public Hearings – Public hearings are held on each matter required by state law or City policy. Anyone wishing to testify should sign-in for the Public Hearing prior to the meeting. The Mayor or presiding officer will review the complete hearing instructions prior to testimony. The Mayor or presiding officer will call the individual or group by the name given on the sign-in form. When addressing the Mayor and Council, please move to the witness table (center front of the room). Each person should speak clearly into the microphone and must state their first and last name and provided a mailing address for the record. All testimony is electronically recorded. In the interest of time, Public Hearing testimony is limited to three minutes unless the Mayor or presiding officer grants an extension. Written or oral testimony is heard prior to any Council action.

Please sign-in below to testify:

PROPONENTS: *(Please print legibly)*

First & Last Name:

Address:

City, State & Zip Code:

OPPONENTS: *(Please print legibly)*

First & Last Name:

Address:

City, State & Zip Code:

OTHERS: *(Please print legibly)*

First & Last Name:

Address:

City, State & Zip Code:

**Pamplin
Media Group**

6605 SE Lake Road, Portland, OR 97222
PO Box 22109 Portland, OR 97269-2169
Phone: 503-684-0360 Fax: 503-620-3433
E-mail: legals@commnewsletters.com

AFFIDAVIT OF PUBLICATION

State of Oregon, County of Washington, Clackamas, SS I, Charlotte Allsop, being the first duly sworn, depose and say that I am the Accounting Manager of the **News Times**, a newspaper of general circulation, serving Forest Grove in the aforesaid county and state, as defined by ORS 193.010 and 193.020, that

**City of Forest Grove
NOTICE OF PUBLIC HEARING FOREST
GROVE CITY COUNCIL FILE NUMBER 311-
20-000014-PLNG**

Ad#: 163631

A copy of which is hereto annexed, was published in the entire issue of said newspaper(s) for 2 week(s) in the following issue(s):
05/13/2020, 05/20/2020

Charlotte Allsop

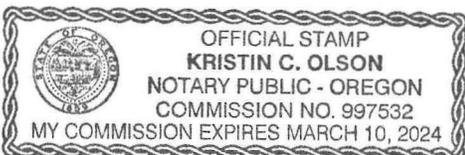
Charlotte Allsop (Accounting Manager)

Subscribed and sworn to before me this
05/20/2020.

Kristin C. Olson

NOTARY PUBLIC FOR OREGON

Acct #: 104052
Attn: Anna D. Ruggles
FOREST GROVE, CITY OF
PO BOX 326
FOREST GROVE, OR 97116



**NOTICE OF PUBLIC HEARING
FOREST GROVE CITY COUNCIL
FILE NUMBER 311-20-000014-PLNG**

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Anna D. Ruggles, CMC, City Recorder
City of Forest Grove
Publish May 13, 20, 2020

NT163631

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