

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Order Vacating a Portion of            )  
A Public Road Created Through the 1909 Earlwood        )        BOARD ORDER 20-239  
Subdivision, at the Request of Kai W. Carlson and        )  
Spencer F. White, Without a Public Hearing,            )  
Public Works Docket RV-2-2019                                )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (“the Board”) sat for the transaction of county business in formal session on July 23, 2019, Commissioners Casey Kulla, Mary Starrett, and Richard L. “Rick” Olson being present.

IT APPEARING TO THE BOARD as follows:

A. Under ORS 368.341(c), a county governing body may initiate proceedings to vacate property under ORS 368.326-368.366 if:

“(c) The owner of property abutting public property files with the county governing body a petition meeting the requirements of this section and requesting vacation of the public property that abuts the property owned by the person.”

B. Kai W. Carlson, 35550 NE Wilsonville Road, Newberg, Oregon (Tax Lot 4201-01100), and Spencer F. White, 35330 NE Wilsonville Road, Newberg, Oregon (Tax Lot 4201-01201), (the “applicants”) jointly petitioned for the vacation of an undeveloped segment of public road that was created in 1909 as part of the Earlwood subdivision (Public Road #3135). The segment of road has never been developed. It extends east from Wilsonville Road (County Road #5) to the Willamette River, between the two developed residential lots owned by each of the applicants.

C. The petition submitted by the applicants included all of the information required by ORS 368.341.

D. Significant delay has occurred in processing the applicants’ request, due to the potential for the road right-of-way to provide public access to the Willamette River. Jarod

Logsdon, Parks and Work Crew Division Manager, participated in visits to the site to more fully understand the potential of the site to serve as public access, and also presented the request to the Parks Board. Following that review, Mr. Logsdon provided a memorandum dated August 21, 2019, which states, in part:

“The ROW was of interest to the parks department for its proximity to the Willamette River and the possibility for future development of a small watercraft launching site. Upon site visit, the investment required to develop a road, mitigate wetlands, and engineer access to the water did not seem feasible. Alternatively, an opportunity for a small craft launch site exists 1.5 miles west of the ROW at the established Willamette Greenway State Park.”

E. Ordinance 625 provides that the county will follow vacation procedures established in ORS Chapter 368.

F. ORS 368.346 provides that, when a vacation proceeding has been initiated under ORS 368.351:

“The county governing body shall direct the county road official to prepare and file with the county governing body a written report containing the following:

- (a) A description of the ownership and uses of the property proposed to be vacated;
- (b) An assessment by the county road official of whether the vacation would be in the public interest; and
- (c) Any other information required by the county governing body.”

G. The County Engineer/Surveyor submitted a Memorandum dated July 14, 2020 indicating that the proposed vacation is in the public interest and recommending approval. Under ORS 368.351, no hearing is required in this instance because owners of 100 percent of all property abutting the road approve of this vacation.

H. Ordinance 625 states that, upon the receipt of the report and the return of any referrals, the Board shall consider at its next formal session, whether initiation of vacation proceedings is “appropriate or in the best interest of the citizens of Yamhill County.”

I. In this case, the Board accepts the County Engineer/Surveyor’s report and recommendation. NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. The segment of undeveloped public road #3135 extending from N.E. Wilsonville Road to the Willamette River, between lots identified as 35550 N.E. Wilsonville Road (Tax Lot 4201-01100) and 35330 Wilsonville Road (Tax Lot 4201-01201) is hereby vacated.

2. Title to the segment of public road vacated by this Board Order vests in the neighboring property owners, to the centerline of the public road as it existed prior to being vacated.
3. No costs are imposed on any person as a result of this vacation. It is the responsibility of the applicants to record this vacation and acceptance of dedication Order in the Deed and Mortgage records of Yamhill County, and to pay any recording fees.

DONE at McMinnville, Oregon on July 23, 2020.

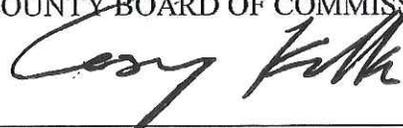
ATTEST



YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN  
County Clerk

Chair



CASEY KULLA

By: Carolina Rook  
Deputy Carolina Rook

Commissioner



MARY STARRETT

FORM APPROVED BY:



Timothy S. Sadlo  
Senior Assistant County Counsel

Commissioner



RICHARD L. "RICK" OLSON



**Yamhill County**  
**Public Works Department**  
**2060 Lafayette Avenue, McMinnville, OR 97128**  
**Ph. 503.434.7515 Fax 503.472.4068 E-mail pubwork@co.yamhill.or.us**

**Mark Lago**  
Director

**William A. Gille, P.E.**  
County Engineer

**ROAD OFFICIALS REPORT**

**RV-2-2019**

July 14, 2020

Yamhill County has received an "Application for Vacation of Public Road Where no Public Hearing is Required" dated April 1, 2019. The petitioner is Kai W. Carlson, 35550 NE Wilsonville Rd., Newberg, OR 97132, the co-petitioner is Spencer F. White, 35330 NE Wilsonville Rd., Newberg, OR 97132. A copy of the application and pertinent map information is attached hereto.

The requested vacation is for Public Road #3135 which was created by the subdivision "Earlwood" which was approved Sept 1, 1909. A copy of Earlwood is attached hereto and shows the 40 foot wide roadway proposed to be vacated to the East of Lot 2.

I have confirmed the ownerships as:

1. 35330 N.E. Wilsonville Rd., Newberg, Township 4 South, Range 2 West, Section 1, Tax Lot# 1201. This parcel is owned by Spencer F. White. The property is used for residential purposes.
2. 35550 N.E, Wilsonville Rd. Newberg, Township 4 South, Range 2 West, Section 1, Tax Lot #01100, owned by Kai W. and Carole W. Carlson. The property is used for residential purposes.

The roadway created in Earlwood Subdivision has not been constructed. The petitioner and co-petitioners are the only adjoiners to this stretch of roadway. The Southern end of the proposed vacation is at the Willamette River. Therefore, the vacation of this stretch of roadway would not landlock any parcel.

This stretch of right of way was evaluated for potential public access to the Willamette River. This location may or may not be suitable for some sort of public access. Prior to a final decision on vacating this right of way that possibility should be reviewed by County Parks and Chehalem Parks and Recreation.

Pursuant to this report these agencies have been notified, a site visit with them and the applicants was held. Both agencies have indicated that this is not river access that they want to preserve.

I therefore find that this vacation interest is in the public interest and recommend that the Board approve this request.

**B.O. 20-239**  
**Exhibit "A"**





# Yamhill County Parks

*Unique natural, cultural, and historic places where people can enjoy outdoor recreation and education activities.*

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615 E. Sixth Street. McMinnville. Oregon 97128 · Phone: 503-434-7463 · Fax: 503-472-5216

Date: August 21, 2019

To: Board of Commissioners

CC: Ken Huffer, County Administrator; Justin Hogue, Deputy County Administrator; Jessica Beach, Department of Community Justice Director; Jim Culbert, Parks and Recreation Advisory Board Chair

From: Jarod Logsdon, Parks and Work Crew Division Manager

Subject: Vacancy of County Rd #3135

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On behalf of Chairman Jim Culbert and the Parks Board members, the Yamhill County Parks Department agrees with the recommendation to vacate Public Road #3135. Created by the Earlwood Subdivision, the right of way sits off Wilsonville road in Newberg and joins the Willamette River. The ROW was of interest to the parks department for its proximity to the Willamette River and the possibility for future development of a small watercraft launching site. Upon site visit, the investment required to develop a road, mitigate wetlands, and engineer access to the water did not seem feasible. Alternatively, an opportunity for a small craft launch site exists 1.5 miles west of the ROW at the established Willamette Greenway State Park.

Thank you for your consideration,

Jarod Logsdon  
Parks and Work Crew Division Manager

**Yamhill County, Oregon**  
**Petition for Vacation of Public Road**  
**Where no Public Hearing is Required**

Department of Public Works, 2060 Lafayette Ave, McMinnville, OR 97128  
 Tel: 503-434-7515 • Fax: 503-472-4068

**OFFICIAL USE ONLY**

Docket No. RV-\_\_\_\_-20\_\_\_\_  
 Date \_\_\_\_\_  
 Rec'd By \_\_\_\_\_  
 Receipt # \_\_\_\_\_  
 Fee \$ \_\_\_\_\_

**NOTE: Fees are non-refundable.**  
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**FOR ROAD OFFICIAL'S USE ONLY:** After reviewing the petition below, the County Road Official has determined this petition is sufficient for consideration of the proposed vacation by Board of Commissioners.

By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Board of Commissioners:**

Date \_\_\_\_\_  
 rec'd: \_\_\_\_\_

**THE PETITION MUST INCLUDE:**

- Completed petition form, signed by all petitioners. All signatures must be acknowledged by a notary public.
- All required attachments.
- Filing fee (make check payable to Yamhill County).
- 

Date \_\_\_\_\_  
 Informal: \_\_\_\_\_

Hearing date: \_\_\_\_\_

PETITIONER	CO-PETITIONERS, if any
Please print or type: Carlson Kai W Last Name First MI 35550 NE Wilsonville Rd Mailing Address (Street or PO Box) Newberg OR 97132 City State Zip 503 686 8812 Telephone Fax	Please print or type SPENCER WHITE F. 35330 N.E. WILSONVILLE RD. NEWBERG OR 97132 503 625 6014

Describe the public road or other county property proposed to be vacated, including county tax lot references:  
 The land owned by Yamhill County between Lots R4201 01201 and R4201 01100 is not used as a road and has no purpose as a road between NE Wilsonville Road & the Willamette River

**PETITION:** The petitioner or petitioners identified above (referred to as "Petitioners") hereby petition the Yamhill County Board of Commissioners to vacate a certain public road or other county property described above. We hereby represent as follows:

1. Petitioners are the owners, as shown in the Deed and Mortgage Records of Yamhill County, of 100% of any private property proposed to be vacated and 100% of property abutting any public property proposed to be vacated.

2. No portion of the public road or other public property proposed to be vacated is situated within the corporate limits of any city.

3. This vacation is requested for the following reasons (mark all that apply):

- The property sought to be vacated is not now used for any public road or other public purposes.
- The property sought to be vacated is now used by petitioners in conjunction with and as part of their property.
- Other reasons: \_\_\_\_\_

4. No person or other owner holds any recorded interest in the property proposed to be vacated except for the following whose addresses are listed below: (If none, so state.)

None

5. If any person owns any improvements constructed on public property proposed to be vacated, the name and address of the owner or owners is as follows: (If none, so state.)

None

6. If the petition is for vacation of property that will be redivided in any manner, a subdivision plan or partition plan is attached to show the redivision.

7. The proposed vacation would not deprive an owner of a recorded property right of access necessary for the exercise of that right.

8. The Petitioners request this petition be considered under ORS 368.326 to 368.366 and Yamhill County Ordinance 625.

We hereby declare under penalties of false swearing (ORS 162.075 and 162.085) that the above information is true and correct to the best of our knowledge. We hereby grant permission for and consent to Yamhill County, its officers, agents, and employees to come upon our property to gather information and inspect the property whenever it is reasonably necessary for the purpose of processing this petition.

SIGNATURES OF ALL PETITIONERS:

[Signature] \_\_\_\_\_

Cary Carlson \_\_\_\_\_

[Signature] \_\_\_\_\_

STATE OF OREGON

County of \_\_\_\_\_

} ss

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by the following persons: (attach additional notarized acknowledgments, if necessary) \_\_\_\_\_

\_\_\_\_\_  
Notary Public for Oregon  
My commission expires: