

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 at the Request of Larry McWilliams ) BOARD ORDER 22-29  
and Robert Burnett, Without a Public Hearing, )  
Public Works Docket RV-2-2021 )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (“the Board”) sat for the transaction of county business in formal session on January 27, 2022. Commissioners Lindsay Berschauer, Casey Kulla, and Mary Starrett being present.

IT APPEARING TO THE BOARD as follows:

A. Ordinance 625 provides that the county will follow vacation procedures established in ORS Chapter 368, unless otherwise provided therein.

B. 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.”

C. Larry McWilliams, together with Robert Burnett (the “applicants”), petitioned for the vacation of a dedicated public road. The applicants collectively own 100% of the private property proposed to be vacated and 100% of the properties abutting the public property proposed to be vacated. The petition identifies a small parcel between the applicants’ properties that was dedicated to the public in 1961 as part of a development plan that was never implemented.

D. ORS 368.351 provides that where a petition is signed by the owners of 100% of the private property proposed to be vacated, and 100% of the property abutting the public property proposed to be vacated, a county governing body may determine the vacation without a public hearing, so long as the county road official provides a written report finding that vacation is in the public interest.

F. Ordinance 625 provides that the county road official must further include in this report a description of the ownership of the property and the current uses of the property proposed to be vacated.

G. Ordinance 625 provides that the county road official may refer applications or petitions for the vacation of public property to the Yamhill County Surveyor.

H. Yamhill County Surveyor Jason Foose has prepared a written report, signed by county road official and Yamhill County Public Works Director Mark Lago on Nov. 15, 2021, that states this proposed vacation is in the public interest. The report includes a legal description of the property that was provided by the applicants and notes that the property currently is being used as a shared residential driveway. This report is included as Exhibit A.

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

I. The Board hereby accepts the findings in the surveyor’s report that this vacation is in the public interest. NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. The undeveloped parcel located between the lots identified as Tax Lot R3207AD00200 and R3207AD00300 is hereby vacated.
2. Title to the segment of public road vacated by this Board Order vests to the neighboring parcels and their successors in interest; specifically,
3. The northeasterly portion of the vacated parcel vests to applicant Larry McWilliams in the manner described in Exhibit B, with a non-exclusive easement reserved to applicant Robert Burnett for ingress and egress along the existing driveway to his residence; and
4. The southwesterly portion of the vacated parcel vests to applicant Robert Burnett in the manner described in Exhibit C, with a non-exclusive easement reserved to applicant Larry McWilliams for ingress and egress along the existing driveway to his residence.
5. No costs are imposed on the applicants as a result of this vacation. It is the responsibility of the applicants to record this vacation Order in the Deed and Mortgage records of Yamhill County, and to pay any recording fees.

DONE at McMinnville, Oregon on January 27, 2022.

[Signature page follows]

ATTEST



YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN  
County Clerk

*Lindsay Berschauer*

Chair

LINDSAY BERSCHAUER

By: *Caroline Rook*  
Deputy Carolina Rook

*Casey Kulla*

Commissioner

CASEY KULLA

*Mary Starrett*

Commissioner

MARY STARRETT

FORM APPROVED BY:

*Christian Boenisch*

Christian Boenisch  
County Counsel

**BOC STAFF ACTION REPORT RV-2-2021**

**Summary of Action:** Co-petitioners want to vacate and divide a portion of residual right-of-way. The parcel was dedicated by a predecessor circa 1961 as part of a development scheme which has not materialized. Over time the co-petitioners have adopted the parcel as their consolidated single point of access to Oregon State Highway 219. Co-petitioners have indicated a future plan to incorporate the area to their respective lots via a formal lot line adjustment.

**Authority:** ORS 368.341(1)(c) Petition by owner. ORS 368.351(1) Written report of county road official

**Fiscal Effect(s):** Incidental costs associated with administrative processing (diminutive).

**Public Support:** Co-petitioners. ODOT conditionally supports the action noting a concern that access easements are established and the existing point of access is compliant.

**Public Dissent:** None known at this time

**Current uses of the property proposed to be vacated:** Property is used as a residential shared private driveway and adjoining lawn/yard.

**Public interest assessment:** This proposed vacation is in the public interest because use as a through street never materialized and the single access point of the shared driveway promotes highway safety on OR 219.

**County Reviewers:**

Office	YEA	NAY	No Objection	Signature/Date or See attached objection
County Surveyor			✓	<i>[Signature]</i> 11/12/21
Planning Director	<i>[Signature]</i>			11/12/21
Public Works Director	✓			<i>[Signature]</i> 11/15/21

**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

**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: \_\_\_\_\_

**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).

**OFFICIAL USE ONLY**

Docket No. RV-\_\_\_\_-20\_\_\_\_

Date

Rec'd By

Receipt #

Fee \$

NOTE: Fees are non-refundable.

\*\*\*\*\*

Board of Commissioners:

Date

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

Date

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

Hearing

date:

PETITIONER	CO-PETITIONERS, if any
Please print or type: <u>larry@specificnw.net</u> <u>503-800-1449</u>	Please print or type <u>Robert L Burnett</u>
Last Name                      First                      MI <u>McWilliams</u> <u>Larry</u> <u>W</u>	<u>3713 N College</u>
Mailing Address (Street or PO Box) <u>PO Box 1033</u>	<u>Newberg, Or 97132</u>
City                                      State                                      Zip <u>Newberg, Or 97132</u>	<u>503-853-0270</u>
Telephone                                      Fax	
Describe the public road or other county property proposed to be vacated, including county tax lot references: <u>see attached property description information</u>	

**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 162.076 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:

Larry McWilliams Robert L. Burnett

STATE OF OREGON

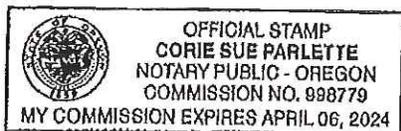
County of Yamhill

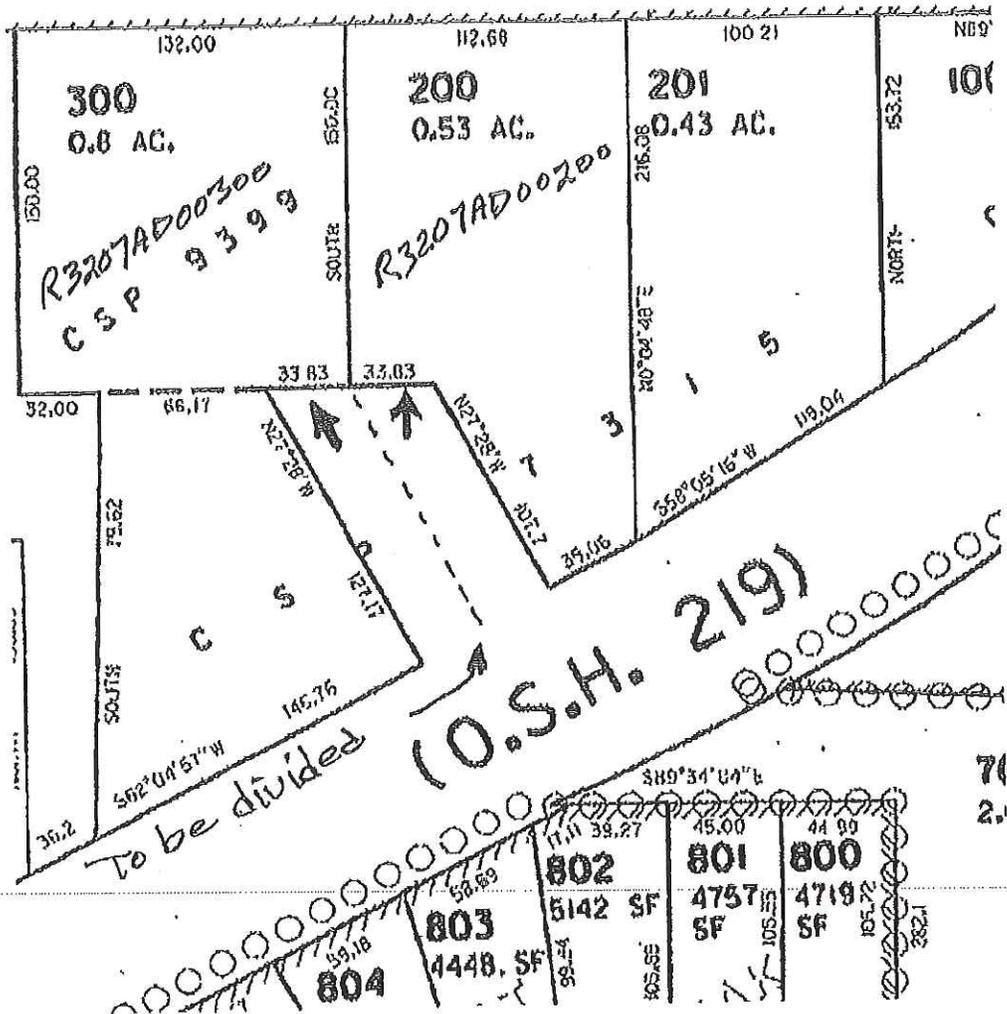
} ss

This instrument was acknowledged before me on the 20 day of September, 2021 by the following persons: (attach additional notarized acknowledgments, if necessary) Larry McWilliams and

Robert L. Burnett

[Signature]  
Notary Public for Oregon  
My commission expires: 4/6/2024





R3207AD00200      McWilliams  
 R3207AD00300      Burnett

802	801	800
5142 SF	4757 SF	4719 SF
803	804	
4448 SF		

9/19/2021

To whom this may concern

Property description and petition to vacate.

The location of the property we are applying to be vacated lies on the north side of Oregon State Highway 219 in Yamhill County east of the city of Newberg. It is between Yamhill County tax lot # R3207AD00200 and tax lot # R3207AD00300. See attached Yamhill County mapping for a visual perspective and size of the property. This property as shown has never had parcel or tax lot numbers assigned to it by Yamhill County that we have found. It is a long forgotten very small piece of land that sits along the side of the Highway. It has never been used by the public for any reason since it goes nowhere. The only usage in the year 2021 is to gain driveway access to two residential homes. Our assumption is, possibly many years ago it might have been looked at, as a possible county road turning north off Oregon Highway 219. For whatever reasons over the years the idea clearly was scrapped and never revisited for development. Today this small area is of no use to anyone, other than the Burnett and McWilliams families.

We will be dividing the vacated property down the center. Then each will be applying for lot line adjustments with the county.

Thank you, very kindly for your time in addressing our petition to vacate this small area. If there are any questions or anything we may have failed to provide, please contact us.

---

Robert Burnett  
503-853-0270  
Tax lot #R3207AD00300

Larry McWilliams  
503-800-1449  
Tax lot #R3207AD00200

You are welcome to visit this very small piece of property at any time.

LARRY W MCWILLIAMS  
JENNIFER L MCWILLIAMS  
PO BOX 1038  
NEWBERG, OR 97132

1371

DATE

9/24/21

96-7423  
3232 14

PAY TO  
THE ORDER OF

Yamhill County Dept of Public Works \$ 300.00

DOLLARS



Member Services  
800-835-3333



myfirstcom.org • 541-396-2145

FOR Portion to Rec'd Fee

*Jennifer Williams*

100

VOL. 19 MAR 980

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, That we, LAURENCE F. SKENE and ROSA MAE SKENE, husband and wife, do hereby dedicate to the use of THE PUBLIC forever for road purposes the following tracts:

PARCEL 1: Beginning at a point on the North line of Lot 12 Onehalem Terrace Subdivision, in Yamhill County, Oregon, said point being 192 feet West of the Northeast corner of said Lot 12; thence North 25 feet; thence 61.09 feet along the arc of a curve to the right the chord of which bears North 25° East and has a radius of 70 feet; thence North 50° East 213.5 feet; thence 108.1 feet along the arc of a curve to the right the chord of which bears North 70° East and has a radius of 154.8 feet to a point 252.1 feet North of the Northeast corner of Lot 13 of said Subdivision; thence North 50 feet; thence 143 feet along the arc of a curve to the left the chord of which bears South 70° West and has a radius of 204.8 feet; thence South 50° West 213.5 feet; thence 104.7 feet along the arc of a curve to the left the chord of which bears South 25° West and has a radius of 120 feet; thence South 25 feet; thence East 50 feet to the place of beginning.

PARCEL 2: Part of the William T. Wallace Donation Land Claim #47 in Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon, described as follows:

Beginning at the Northwest corner of said Claim; thence South 20.10 chains; thence South 89° 55' East 409 feet; thence South 150 feet; thence South 89° 55' East 33.83 feet to the beginning point of the tract herein described; thence North 89° 55' West 67.66 feet; thence South 27° 28' East 139.5 feet to the Northwesterly boundary line of the right of way of the State Highway from Newberg to Hillsboro; thence Northeasterly along the Northwesterly boundary line of said Highway 60 feet; thence North 27° 28' West 107.7 feet to the place of beginning.

We, the undersigned, hereby certify that we are the sole owners in fee simple of the land involved in this dedication for the use of the public.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 15 day of July, 1961.

*Laurence F. Skene*

*Rosa Mae Skene*

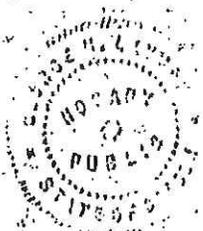
STATE OF OREGON }  
County of Yamhill } ss.

VOL. 19 PAGE 991

On this 15 day of July, 1961, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named LAURENCE F. SKENE and ROSA MAE SKENE, husband and wife, who are known to me to be the identical individuals described in and who executed the within instrument, and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

*George H. Layman*  
Notary Public for Oregon  
My Commission expires Oct. 1, 1964



65873

STATE OF OREGON, }  
County of Yamhill, } ss.

I, JACK BEELER, County Clerk in and for said County and State, do hereby certify that the within instrument of Writing was received and has been by me duly recorded on Page \_\_\_\_\_ of Volume \_\_\_\_\_ of the Records of \_\_\_\_\_ for said County, on this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 1961 at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

In testimony whereof, I have hereto subscribed my name and affixed my Official Seal.  
JACK BEELER, County Clerk  
By *Wilma D. Jurely*  
Deputy

250

Return to  
*George H. Layman*  
Newberg, Ore.

**From:** [NELSON Scott](#)  
**To:** [Jason Foose](#)  
**Cc:** [THIESSEN David J](#); [KNECHT Casey](#)  
**Subject:** RW vacation in Yamhill County for property outside of ODOT normal right-of-way limits  
**Date:** Wednesday, October 6, 2021 10:37:59 AM  
**Attachments:** [Image003.png](#)  
[Petition.pdf](#)

---

[This email originated outside of Yamhill County]

Hello Jason, please consider this email a formal comment from ODOT regarding the attached petition for vacation of public road.

ODOT has no ownership or jurisdictional authority for this portion of right-of-way, which falls outside of the normal highway right-of-way section (see sketch below).

ODOT supports the vacation with the condition that access easements are established and recorded granting both properties (TL 200 and TL 300) the necessary rights to continue to use the shared driveway. The shared driveway intersects with the Hillsboro-Silverton Highway at milepoint 18.25 (right side). ODOT maintains approach permitting authority for the Hillsboro-Silverton Highway; this approach is considered a legal private approach & no action is required by the property owners. It is recommended that the established access easements are physically described to ensure clarity and intent.

thanks

**B Scott Nelson, P.E.**

Region 2 Access Management Engineer



455 Airport Rd SE, Bldg. B  
Salem, OR 97301  
Office 503.986.2882  
Cell 503.602.0703

