

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

RESOLUTION NO. 2012-028

Declaring Intent to Vacate a Portion of a Public Road under ORS 368.341(1) (a), and Directing the County Road Official to Prepare a Report as Required by ORS 368.346(1)

The Multnomah County Board of Commissioners Finds:

- a. ORS 368.326 to 368.366 establishes the process and procedure the County must follow to vacate a public road under the jurisdiction of Multnomah County.
- b. The portion of a public road under the jurisdiction of the County, proposed for vacation, was established by the dedication of the road on the duly recorded plat for the Hillhurst Subdivision in 1892; the public road shall be referred to as the "Hillhurst Road."
- c. Hillhurst Road was never improved and consisted of a mostly 30 foot wide right of way that encompassed the perimeter of the Hillhurst Subdivision. In 2009, a Declaratory Judgment Action under ORS Chapter 28 was brought by certain abutting landowners (Landowners) challenging the existence of the Hillhurst Road. In August of 2011, a ruling by letter opinion of the trial court found that although the Hillhurst Road was duly established under then Oregon law, subsequent events resulted in a vacation of the entire road, and a judgment so holding was entered by the trial court in October 2011.
- d. The County's Land Use and Transportation Program (LUTP) reasonably and firmly believes the trial court erred in its decision, and the County filed a timely notice of appeal of the trial court judgment with the State Court of Appeals. The State Court of Appeals Settlement Program imposes upon the parties to any appeal the obligation to explore settlement options prior to proceeding with the appeal.
- e. The County as the "appellant" and the Landowners as the "respondents" have proposed a mutually acceptable settlement option under which the County will initiate and conduct a vacation of the portion of the Hillhurst Road that immediately abuts Landowners' property. If the vacation is successfully completed, the County will dismiss its appeal, and the Landowners will stipulate and assist in the vacation of the trial court judgment.
- f. The vacation of the portion of the Hillhurst Road as more particularly described in Exhibit A is in the public's interest, is consistent with the County's land use and transportation goals, plans and needs in the vicinity, and accomplishes an equitable resolution of this matter.

The Multnomah County Board of Commissioners Resolves:

1. Pursuant to ORS 368.341(1), and for the reasons stated above, the Board declares its intent to vacate the portion of the Hillhurst Road more particularly described in the attached "Exhibit A."
2. The Manager of the LUTP is directed to prepare and file a report with the Board in accordance with ORS 368.346(1).

ADOPTED this 8th day of March, 2012.

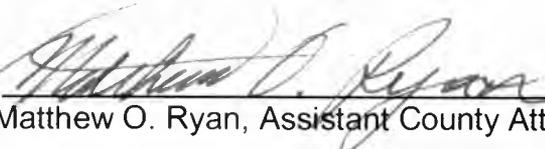
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON





Jeff Cogen, Chair

REVIEWED:
JENNY M. MORF, ACTING COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By 

Matthew O. Ryan, Assistant County Attorney

SUBMITTED BY: M. Cecilia Collier, Director Department of Community Services

EXHIBIT "A"

PARCEL 1

A portion of that public road within the boundaries of Hillhurst, Book 176, Pages 36 and 37, and Tulamette Acres, Book 560, Pages 27 and 28, Multnomah County Plat Records, situated in the Northwest One-quarter of Section 15 and the Southwest One-quarter of Section 10, Township 1 North, Range 1 West, W.M., Multnomah County, Oregon, more particularly described as follows:

Beginning at the Southwest corner of Lot 21, Hillhurst; thence Northerly, along the West line of Lots 21, 22, 23, 24 and 25, Hillhurst, to the Northwest corner of said Lot 25; thence Easterly, along the North line of Lots 25, 26, 27, 28 and 29, Hillhurst, to the Northeast corner of said Lot 29; thence Southerly, along the East line of said Lot 29, to the northerly Southwest corner of that tract of land described in that road purpose deed to Multnomah County recorded as Document No. 99-148493, Multnomah County Deed Records; thence Easterly, along the northerly South line of said Multnomah County tract, to the re-entrant corner of said Multnomah County tract; thence Southerly, along the southerly West line of said Multnomah County tract, to the South line of Lot 5, Hillhurst; thence Easterly, along the South line of said Lot 5, to the Southeast corner thereof; thence Easterly, perpendicular to the East line of said Lot 5, a distance of 30.00 feet to the East line of said Hillhurst; thence Northerly, along the East line of said Hillhurst, to the Northeast corner of said Hillhurst; thence Westerly, along the North line of said Hillhurst, to the Southwest corner of Lot 5, Tulamette Acres; thence Northwesterly, along the West line of said Lot 5, to the Northeast corner of that tract of land described in that road purpose deed to Multnomah County recorded on October 9, 1991 in Book 2464, Page 1032, Multnomah County Deed Records; thence Westerly, along the North line of last said Multnomah County tract, to the East line of Lot 11, Tulamette Acres; thence Southerly, along the East line of said Lot 11, to the North line of said Hillhurst; thence Westerly, along the North line of said Hillhurst, to the Northwest corner of said Hillhurst; thence Southerly, along the West line of said Hillhurst, to a point on a line extending Westerly from the Southwest corner of said Lot 21, Hillhurst, said line being perpendicular to the West line of said Lot 21; thence Easterly, along last said line, a distance of 30.00 feet to the point of beginning.

PARCEL 2

A portion of that public road within the boundaries of Hillhurst, Book 176, Pages 36 and 37, Multnomah County Plat Records, situated in the Northwest One-quarter of Section 15, Township 1 North, Range 1 West, W.M., Multnomah County, Oregon, more particularly described as follows:

Beginning at the Southwest corner of Lot 13, Hillhurst; thence Easterly, along the South line of Lots 12 and 13, Hillhurst, to the Southeast corner of said Lot 12; thence Southerly, perpendicular to the South line of said Lot 12, a distance of 30.00 feet to the South line of said Hillhurst; thence Westerly, along the South line of said Hillhurst, to a point on a line extending Southerly from the Southwest corner of said Lot 13, said line being perpendicular to the South line of said Lot 13; thence Northertly, along last said line, a distance of 30.00 feet to the point of beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JUNE 30, 1997
JAMES S. CLAYTON
2832

RENEWAL DATE: 1/1/2014

As shown on the attached EXHIBIT MAP, herein made a part of this document. In the event of a conflict or discrepancy between the map as shown on the EXHIBIT MAP and the written legal description, the written legal description shall prevail.

EXHIBIT MAP

