

**FOR COUNCIL MEETING OF:  
AGENDA ITEM NO.:  
PUBLIC WORKS FILE NO.:**

November 9, 2009  
4.3 (b)

**TO: MAYOR AND CITY COUNCIL**  
**THROUGH: LINDA NORRIS, CITY MANAGER**  
**FROM: PETER FERNANDEZ, P.E., PUBLIC WORKS DIRECTOR**  
**SUBJECT: SET PUBLIC HEARING FOR PETITION-INITIATED VACATION OF  
STRONG ROAD SE RIGHT-OF-WAY FROM REED ROAD SE  
NORTHWEST APPROXIMATELY 2,200 FEET**

**ISSUE:**

Shall the City Council direct the City Manager to set a public hearing to consider the petition-initiated vacation of the right-of-way for Strong Road SE, starting at Reed Road SE, and extending northwest approximately 2,200 feet?

**RECOMMENDATION:**

Staff recommends that the Council direct the City Manager to set a public hearing to receive input on the petition-initiated vacation of the right-of-way for Strong Road SE, starting at Reed Road SE, and extending northwest approximately 2,200 feet.

**BACKGROUND:**

The section of Strong Road SE proposed for vacation is designated as a collector in the *Salem Transportation System Plan*. This portion of Strong Road SE connects Fairview Industrial Drive SE to Reed Road SE. A separate section of Strong Road SE extends from Reed Road SE south to 27<sup>th</sup> Street SE (see Attachment 1, Vicinity Map). The petitioner, Sustainable Fairview Associates, LLC, owns all of the land abutting the portion of Strong Road SE proposed for vacation. It is their intention to replace the transportation function of the vacated area with a new collector street alignment further to the west, connecting to Strong Road SE south of Reed Road SE and to the northern portion of Strong Road SE. The vacated area would then be incorporated into the master planned development for this property. Staff anticipates that this vacation will be conditioned on construction of the replacement street.

**FACTS AND FINDINGS:**

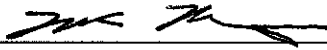
The City has received a property owner petition to vacate a section of the right-of-way for Strong Road SE, beginning at Reed Road SE and extending northwesterly approximately 2,200 feet (Attachment 2). Property owners may file such a petition to vacate all or part of a street as provided for in Oregon Revised Statutes (ORS)

Set Public Hearing for Petition-Initiated Vacation of Strong Road SE  
Right-of-way from Reed Road SE Northwest Approximately 2,200 Feet  
Council Meeting of November 9, 2009  
Page 2

Chapter 271.080, ORS Chapter 271.090, and *Salem Revised Code* (SRC) Chapter 76.130. City staff has reviewed this petition and have determined it to be sufficient.

The area proposed for vacation is a 40-foot-wide right-of-way for Strong Road SE. The proposed vacation contains approximately 88,000 square feet of land. The legal description and exhibit map are attached to this staff report as Attachment 3.

Staff is recommending that a public hearing be set for this petition-initiated vacation in compliance with ORS 271.100 and SRC 76.130(d). All utilities will be notified of these proceedings to allow for protection of their facilities.

  
\_\_\_\_\_  
Mark Becketl, AICP  
Parks and Transportation Services Manager

JW:AB/JP:G:\GROUP\DIRECTOR\ANN\COUNCIL 09\REPORTS\2009NOV9\CCSRINITIATESTRONGRDVACATION.DOC

Attachments:

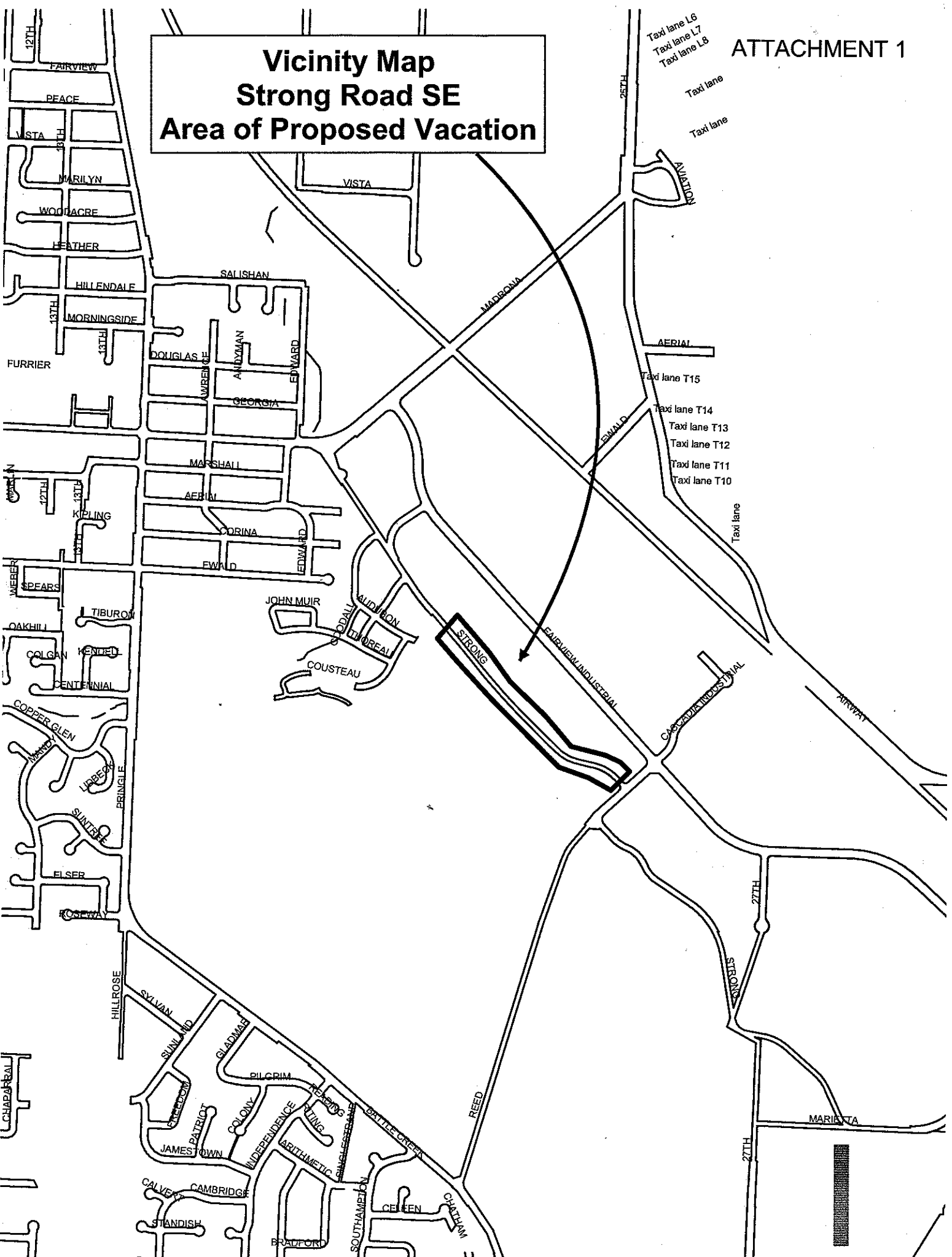
1. Vicinity Map
2. Property Owner Petition (without exhibits)
3. Legal Description and Exhibit Map

Ward 3

October 30, 2009, 10:02 AM

Prepared by: Julie Warncke, Transportation Planning Manager

# Vicinity Map Strong Road SE Area of Proposed Vacation



BEFORE THE CITY COUNCIL OF THE CITY OF SALEM  
FOR THE STATE OF OREGON, COUNTY OF MARION

In the matter of the Petition of the Vacation	)	
of a portion of Strong Road SE in the City of	)	
Salem, Marion County, Oregon	)	
	)	PETITION FOR VACATION
By:	)	
	)	
Sustainable Fairview Associates, LLC	)	
	)	
_____ Petitioner.	)	

COME NOW, the petitioner, Sustainable Fairview Associates, LLC, who hereby petition the Council of the City of Salem to enact an ordinance vacating a portion of Strong Road SE in the City of Salem, County of Marion, Oregon, described in paragraph 2 below. This petition is filed pursuant to the authority of ORS 271 and SRC 76.130 to 76.144 and is based upon the information set forth herein and the exhibits attached hereto.

1. **Filing Fee.** The executed Private Petition for the Vacation of public right of way form and corresponding filing fee is attached hereto as Exhibit 1.
2. **Description of Property to be Vacated.** The property to be vacated is described as: A portion of Strong Road SE, in the City of Salem, Marion County, Oregon, legally described in Exhibit 2, attached hereto and hereby incorporated.
3. **Title Company Report.** Attached hereto as Exhibit 3 and hereby incorporated is the title report of First American Title Insurance Company stating the names of persons holding an interest in the subject property; and also attached hereto as Exhibit 6C and hereby incorporated is a list of those owners within the affected area as defined by statute. Attached hereto as Exhibit 2, and by this reference incorporated herein is a legal description of the subject property for the proposed street vacation, prepared by LEI Surveying & Engineering, LLC.

4. **Consent of Abutting Owners.** There is one (1) abutting owner. The one abutting owner, Sustainable Fairview Associates, LLC, is the petitioner herein. The abutting owner consents and petitions the City for this vacation.

The abutting owners executed and notarized consent are attached as Exhibit 4.

5. **Consents of Affected Owners.** Attached hereto as Exhibit 5 are the executed, notarized consents of the owners of more than two-thirds of the property within the "affected area," defined as running 200' parallel and 400' off each end of the proposed vacation. Two of the affected owners have attached conditions on their consents:

PGE – PGE has requested that a non-exclusive easement be reserved across the area to be vacated;

Pringle Creek Community - Did not formally sign a consent. But they indicated that they would not be opposed to the vacation if the actual closing of Strong Road to traffic does not occur until a substitute route is constructed through Petitioner's property.

6. **Tax Map.** The Marion County Assessor Maps showing the portion of Strong Road SE to be vacated and the affected area was provided by Petitioner's attorney and is attached hereto as Exhibit 6. Each property within the affected area which has consented to the vacation has been marked "c" on this map.

7. **Proposed Use of the Area to be Vacated.** Upon vacation, title to the area to be vacated will attach to the property owned by Sustainable Fairview Associates, LLC. There are no immediate plans to construct anything within the vacated area at this time. However, the vacated area will be incorporated in the Petitioner's master planned development for a private driveway, pedestrian and bicycle trail.

8. **Reasons for the Vacation.** (A) The vacated area will be incorporated into the Sustainable Fairview Associates, LLC property and used as part of the private internal path and street network for multi-purpose use that will serve the property; (B) The vacation would eliminate

the public's duty and liability to maintain this street that services only Sustainable Fairview Associates, LLC. Other surrounding property owners besides Sustainable Fairview Associates, LLC have direct access to Fairview Industrial Drive. Fairview Industrial Drive adequately serves all existing surrounding users at this time. The portion of Strong Road SE to be vacated does not serve as an integral transportation route in this area.

9. **Policy 2.10 Criteria for Evaluating Proposed Vacation of Rights-of-Way.**

- a. *Is the right-of-way proposed for vacation actively used for transportation purposes?*

Finding: The right-of-way proposed for vacation is used for transportation purposes, however does not serve much purpose at this time. The portion of Strong Road SE to be vacated roughly parallels Fairview Industrial Drive. At its furthest, the portion of Strong Road SE to be vacated runs approximately 300 feet apart from Fairview Industrial Drive; separated only by one lot at any given point. These intervening lots all take access off of Fairview Industrial Drive and have no direct access on to Strong Road SE. The only property that takes access off of Strong Road SE is that property owned by the Petitioner. Fairview Industrial Drive is fully improved as a Minor Arterial, while Strong Road SE is designated as a collector, although it is not fully developed as such. If vacated, Petitioner will still have the ability to take access off of Reed Road, which is a Minor Arterial in the Salem Transportation Systems Plan (STSP). Additionally, Petitioner's property will likely be required to tie in with an existing street connection already provided to the northwest of the property. A primary gateway point into the development will be located where the public portion of Strong Road SE ends, opposite Reed Road, and the internal street network of Petitioner's development begins.

The portion of right-of-way to be vacated almost exclusively serves the Petitioner's property. If vacated, there will not be a significant degradation in

transportation services and accessibility in the surrounding area, since Fairview Industrial Drive is located essentially one lot away and is already a more significant transportation route as it is designated a Minor Arterial in the STSP. It is unlikely the Petitioner will choose to remove any improvement if Strong Road SE is vacated, but will likely prefer to use it instead as a private bicycle and pedestrian transportation route which would be an amenity to future development on the property. This will be determined at the time a final master plan is implemented.

- b. *Does the proposed vacation restrict the City's compliance with the State Transportation Planning Rule (TPR) and Salem Transportation System Plan's policies on transportation system connectivity?*

Finding: The proposed vacation does not restrict the City's compliance with the State Transportation Planning Rule. Any traffic that might be using the portion of Strong Road SE for through access may easily use Fairview Industrial Drive as an alternative. Fairview Industrial Drive already operates at an acceptable level of service, and any traffic that might be added to this route due to the vacation of Strong Road SE would be minimal, and would in no way have a significant effect on the performance standards of Fairview Industrial Drive. Additionally, Strong Road SE is not improved with sidewalks or bicycle lanes. On the other hand, Fairview Industrial Drive has been fully improved with both sidewalks and bicycle lanes. This area is generally characterized by industrial and office development, not typically located as close to community activity centers such as schools, parks, shopping, and transit stops as other uses might be. In virtually all instances, Fairview Industrial Drive provides a more direct route to these community activity centers than Strong Road SE would. Given the close proximity of Strong Road SE to Fairview Industrial Drive and Fairview Industrial Drive's fully developed pedestrian

and bicycle amenities, and given that Strong Road SE does not provide these amenities at this time, vacation of Strong Road SE does not restrict compliance with the TPR.

Likewise, the vacation would not be in violation of the STSP's policies on transportation system connectivity. Strong Road SE is designated as a collector street in the STSP while Fairview Industrial Drive is designated as a Minor Arterial. In reality, the vast majority of traffic uses Fairview Industrial Drive when traveling in this area. The only property served by this portion of Strong Road SE is Petitioner's property, and this property will still maintain frontage on Reed Road, which is also designated as a Minor Arterial. When developed, it is likely that the property will be required to tie in with an existing street connection already provided to the northwest of the property. As mentioned above, Petitioner anticipates locating a primary gateway point into the development where the public portion of Strong Road SE ends, opposite Reed Road, and the internal street network of Petitioner's development begins. Strong Road SE is not improved with sidewalks or bicycle lanes, while Fairview Industrial Drive is, thus not impacting connectivity policies related to these modes of transportation. In fact, the vacated portion will be developed to serve pedestrian and bicycle users of the future development. While Strong Road SE served a more useful purpose in the past, the development of Fairview Industrial Drive has more or less rendered the portion of Strong Road SE to be vacated, superfluous.

- c. *Is the right-of-way proposed for vacation improved or unimproved to urban standards?*

Finding: Strong Road SE is improved to urban standards and is classified as a collector in the STSP. The portion of Strong Road SE to be vacated has been

identified in the STSP for a high priority level improvement project, in order to bring it up to the standards of a fully improved collector. The STSP then notes that these improvements are to be done largely by development. The Petitioner's property almost exclusively benefits from this portion of Strong Road SE, and therefore would likely be liable for most of the required improvements to this connection. Vacation of this right-of-way is an important step in implementing the development objectives Petitioner has for this property. As mentioned above, the Petitioner will likely use the road instead as a private bicycle and pedestrian transportation route which would be an amenity for future development on the property. Retaining and improving Strong Road SE in its current location makes less sense as the Petitioner gets closer to actual development of the property, especially if the developer of the property will eventually be required to put new roads in as a condition to development.

- d. *Is the right-of-way proposed for vacation part of or near a planned transportation improvement?*

Finding: Strong Road SE has been identified for a high priority level improvement project. As discussed, these improvements seem unnecessary given that transportation services are better provided at this point by Fairview Industrial Drive. Since the development will likely require more convenient transportation routes, and since most other motorists choose to use Fairview Industrial Drive anyway, Strong Road SE could be better used to encourage and enhance Petitioner's development.

The right-of-way to be vacated is located near other planned transportation improvement projects. However vacation of Strong Road SE will not have any adverse affect on the need or success of any of these projects.

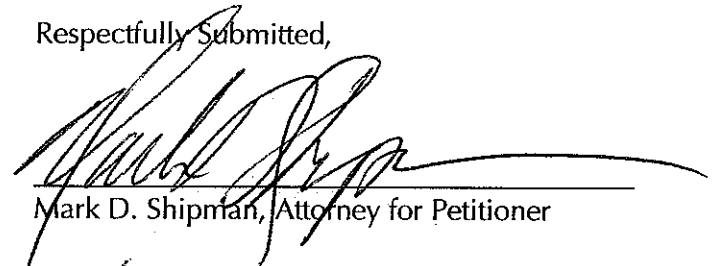
e. *Does the vacation of the right-of-way satisfy a compelling public need?*

Finding: Redevelopment of Petitioner's property will be an important project for the community, as it will likely redevelop 140+ acres of currently vacant property. Vacating the Strong Road SE connection in this location will help in the redevelopment project, while causing hardly any appreciable impact on the transportation system for the reasons listed above.

10. Request for Accelerated Reading. There is a public interest in moving this forward on an accelerated basis since the current street configuration almost exclusively provides private access at public cost. This request is non-controversial. The parties affected by the request have consented. Therefore, we, the undersigned petitioners, respectfully request that the Council of the City of Salem hold deliberations on the same night as the hearing, suspend the rules, declare an emergency, give a first and second reading and pass the ordinance all on the same night as the hearing.

WHEREFORE, petitioners pray for an ordinance from the Council of the City of Salem vacating that certain portion of Strong Road SE, in the City of Salem, Marion County, Oregon.

Respectfully Submitted,



Mark D. Shipman, Attorney for Petitioner

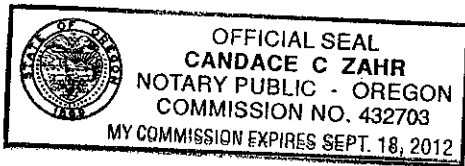


Sustainable Fairview Associates, LLC Petitioner  
Richard S. Hall, Managing Member

State of Oregon )  
 ) ss.  
County of Marion )

On this 8<sup>th</sup> day of July 2009, personally appeared Richard S. Hall, Managing Member on behalf of Sustainable Fairview Associates, LLC, an Oregon limited liability company, who being duly sworn, did acknowledge the foregoing instrument to be its voluntary act and deed.

Before me:

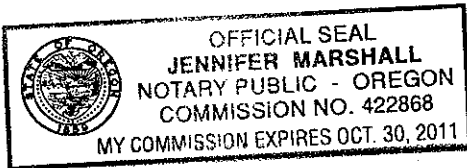


Candace C. Zahn  
Notary Public for Oregon  
My Commission Expires: Sept. 18 2012

State of Oregon )  
 ) ss.  
County of Marion )

On this 7 day of July, 2009, personally appeared Mark D. Shipman and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me:



Jennifer Marshall  
Notary Public for Oregon  
My Commission Expires: 10/30/11

**STRONG ROAD VACATION DESCRIPTION**

That portion of "Strong Road" (C.R. 839) a 40.00 foot wide right of way within the City of Salem, Marion County Oregon, the right of way lines measuring 20.00 feet on each side of the centerline thereof, bounded on the northwest by a line measured perpendicular to said centerline and through the most easterly corner of "PRINGLE COMMUNITY", a legal subdivision replat in the City of Salem, Oregon and recorded in the Marion County Book of Town Plats, Vol. 46, Page 52, and bounded on the southeast by the westerly right of way line of "Reed Road" a 68.00 foot wide right of way as it is now established within the City of Salem, Oregon, measuring 34.00 feet on each side of the centerline thereof and as shown on "FAIRVIEW INDUSTRIAL PARK—PHASE II" a legal subdivision in the City of Salem, Oregon and recorded in the Marion County Book of Town Plats, Vol. 41, Page 18, said centerline being more particularly described as follows:

**COMMENCING** at the most easterly corner of the aforesaid "PRINGLE COMMUNITY" subdivision, thence N 45°42'05" E at right angles to said "Strong Road" centerline for a distance of 20.00 feet to a point on the centerline of said "Strong Road" and being the northwesterly terminus of the centerline being described herein, thence on the centerline of said "Strong Road" the following courses; S 44°17'55" E for a distance of 40.97 feet to the point of curvature of a curve concave to the southwest the radial center of which bears S 45°42'05" W with a radius of 7677.53 feet, thence on said curve through a central angle of 02°41'10" for an arc distance of 359.93 feet, thence S 41°36'45" E for a distance of 312.04 feet, thence S 43°57'34" E for a distance of 199.12 feet, thence S 45°39'17" E for a distance of 196.98 feet, thence S 47°17'57" E for a distance of 246.77 feet, thence S 48°16'51" E for a distance of 209.61 feet to the point of curvature of a curve concave to the northeast the radial center of which bears N 41°43'09" E with a radius of 387.41 feet, thence on said curve through a central angle of 30°52'28" for an arc distance of 208.76 feet, thence S 79°09'19" E for a distance of 136.46 feet to the point of curvature of a curve concave to the southwest the radial center of which bears S 10°50'41" W with a radius of 400.00 feet, thence on said curve through a central angle of 34°29'12" for an arc distance of 240.76 feet, thence S 44°40'07" E for a distance 47.43 feet to a point distant 30.00 feet from the aforementioned west right of way line of "Reed Road" as measured

to said centerline for a distance of 20.00 feet to a point of curvature in the southerly right of way line of said "Strong Road", of a curve concave to the southwest the radial center of which bears S 45°19'53" W with a radius of 30.00 feet, thence on said curve through a central angle of 90°00'00" for an arc distance of 47.12 feet to a cusp on the westerly right of way line of said "Reed Road", thence on said westerly right of way line N 45°19'53" E for a distance of 100.00 feet to a cusp of a curve on the northerly right of way line of said "Strong Road" and being S 45°19'53" W at a distance of 20.00 feet from the southeast corner of Lot 14 of said " FAIRVIEW INDUSTRIAL PARK—PHASE II", said curve being concave to the northwest the radial center of which bears N 44°40'07" W with a radius of 30.00 feet, thence leaving said westerly right of way line of "Reed Road" on said northerly right of way line of "Strong Road" on said curve through a central angle of 90°00'00" for an arc distance of 47.12 feet, thence leaving said northerly right of way line S 45°19'53" W for a distance of 20.00 feet to the point of beginning.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR



OREGON  
JANUARY 17, 1995  
L. M. ALLEN  
2688

EXP. 12-31-09

Checked by: 

**STRONG ROAD  
VACATION EXHIBIT I**

RADIAL CENTER  
S 45°42'05" W  
7677.53'

SEE DETAIL "A"

FAIRVIEW INDUSTRIAL PARK  
PHASE II  
LOT 8

SCALE 1" = 120'

20'  
359.93'  
Δ = 02°41'10"  
312.04'  
STRONG ROAD  
S 41°36'45" E - 312.04'  
S 43°57'34" E - 199.12'  
S 45°39'17" E - 196.98'

LOT 9

LOT 10

LOT 11

**DETAIL "A" (1"=20')**

DEDICATED TO  
"PRINGLE COMMUNITY"

MOST EASTERLY CORNER  
OF "PRINGLE COMMUNITY"

RADIAL CENTER  
S 45°42'05" W  
7677.53'

STRONG ROAD

10'  
20.00  
N 45°42'05" E  
S 44°17'55" E - 40.97'

**LEI** ENGINEERING &  
SURVEYING

2805 19TH ST. SE TEL 503-399-3828  
SALEM, OR. 97302 FAX 503-365-1852

CLIENT:  
SUSTAINABLE FAIRVIEW ASSOCIATES, LLC  
PO BOX 144  
SALEM, OR 97308

DRAWN:  
W. KUENZI

FIELD:  
W. KUENZI

CALC'D:  
L.M. ALLEN

CHECKED:  
L.M. ALLEN

PROJECT:  
33-14

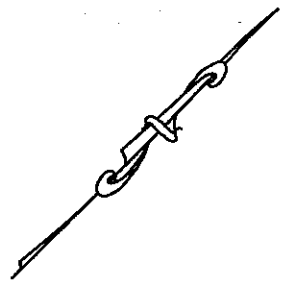
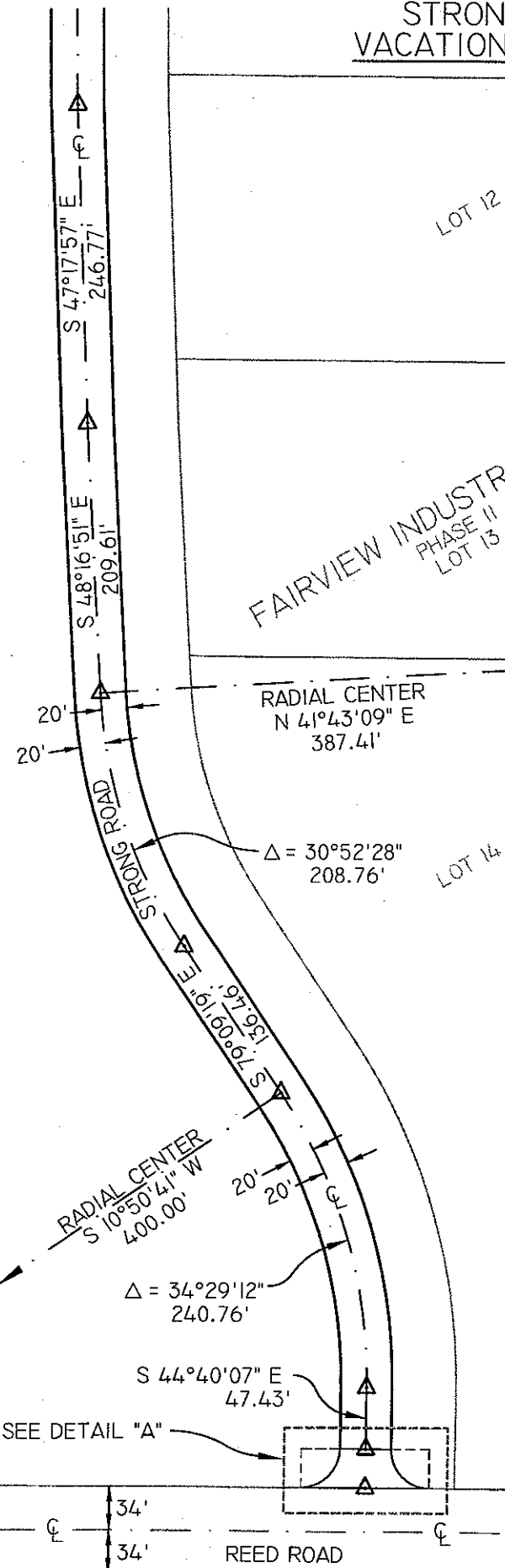
DRAWING No.:  
STRONG-EXH

DATE:  
9/29/09

SCALE:  
1"=120'

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1 OF 2

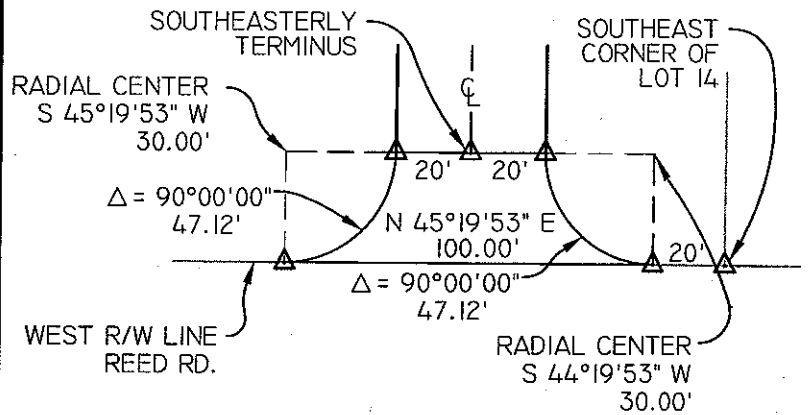
STRONG ROAD  
VACATION EXHIBIT II



SCALE 1" = 120'

Checked by:

DETAIL "A" (1"=50')



**LEI** ENGINEERING & SURVEYING

2805 19TH ST. SE TEL 503-399-3828  
SALEM, OR. 97302 FAX 503-365-1852

CLIENT:  
SUSTAINABLE FAIRVIEW ASSOCIATES, LLC  
PO BOX 144  
SALEM, OR 97308

PROJECT:  
33-14

DRAWING No.:  
STRONG-EXH

FIELD DATE:  
9/29/09

SCALE:  
1"=120'

DRAWN:  
W. KUENZI

FIELD:  
W. KUENZI

CALC'D:  
L.M. ALLEN

CHECKED:  
L.M. ALLEN

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2 OF 2