

ORDINANCE NO. 5497

AN ORDINANCE VACATING A PORTION OF BAIN STREET SE RIGHT-OF-WAY THAT WAS CREATED BY DEEDS RECORDED IN LINN COUNTY DEED RECORDS VOLUME 270 PAGE 441 AND VOLUME 270 PAGE 443, ADJACENT TO 3051 OAKWOOD AVENUE SE; ADOPTING FINDINGS; AND DECLARING AN EMERGENCY (FILE VC-01-99).

WHEREAS, ON May 12, 1999, the City of Albany Community Development Department asked that the Albany City Council initiate the vacation of a portion of Bain Street SE; and

WHEREAS, the Albany City Council, on May 12, 1999, agreed to initiate this right-of-way vacation; and

WHEREAS, notices of public hearings were mailed, posted and published as required by state and local law; and

WHEREAS, the Albany Planning Commission held a public hearing on May 24, 1999, and recommended that the City Council approve the proposed vacation of Bain Street right-of-way; and

WHEREAS, the Albany City Council held a public hearing on June 9, 1999 and approved of the vacation of this section of Bain Street provided that a new public street is constructed between Airport Road and Pacific Boulevard; and

WHEREAS, the public street between Airport Road and Pacific Boulevard is currently under construction and has been financially guaranteed.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Subject Property. An approximately 29,215 square foot area of Bain Street SE right-of-way is hereby vacated. This property is located adjacent to 3130 Killdeer Avenue SE, Linn County Assessor's Map No. 11S-3W-04CB, Tax Lot 100.

Section 2: Findings. The findings attached as Exhibit A are hereby adopted in support of this decision.

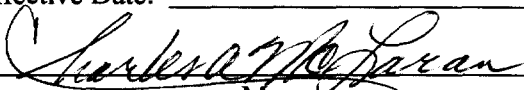
Section 3: Legal Description, Map, and Easement Retained. A copy of the legal description and a map showing the right-of-way being vacated are attached as Exhibits B and C. The City is retaining a Public Utility Easement over the western 30 feet of the Bain Street right-of-way, as shown on the map labeled Exhibit D.

Section 5: Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of this city of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.

Passed by the Council: August 22, 2001

Approved by the Mayor: August 22, 2001

Effective Date: August 22, 2001

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder

**EXHIBIT A**  
**FINDINGS: VC-01-99**

- 1.1 A Comprehensive Plan amendment was approved for the subject property in 1988. One of the conditions of approval at that time was that when site plan and zone change applications were submitted for the property, the need for street closures on both Bain Street and Oakwood Avenue would be reviewed.
- 1.2 Albany's Transportation System Plan, adopted August 13, 1997, includes provisions for the closure of Bain Street south of Highway 99E. The closure is necessitated by installation of a new east-west collector street between Highway 99E and Airport Road. If Bain Street were to remain connected to Highway 99E there would be conflicts with the new intersection on Highway 99E, and severe impacts to the existing neighborhood south of the highway due to increased cut-through traffic.
- 2.1 The vacation of Bain Street will not eliminate public street access for any property. The neighborhood will no longer have a direct connection to Highway 99E, but alternative routes are available via Waverly Drive and Airport Road. The inconvenience of losing direct neighborhood access to Highway 99E is offset by avoidance of the cut-through traffic the neighborhood would experience should Bain Street remain open, as well as intersection conflicts at the intersection of Highway 99E and the new collector street.
- 2.2 This vacation was initiated by the City of Albany Planning Division at the request of a representative of Coastal Farm & Home Supply. Coastal Farm intends to develop the property east of Bain Street (the old Linn County Fairgrounds), referred to herein after as the Linn County/Coastal Farm property.

On May 12, 1999, a discussion between City of Albany staff, Linn County staff, Whaanga Kewene (representative of Coastal Farm & Home Supply), and Roger Reid (attorney for Gordon Chan, owner of the property which abuts Bain Street to the west) took place. The topic of this discussion was the vacation of Bain Street along the west boundary of the Linn County/Coastal Farm property.

All parties agreed that Bain Street should be vacated, with the westerly 33 feet of the existing 60-foot wide right-of-way going to the Chan property and the easterly 27 feet of the right-of-way going to the Linn County/Coastal Farm property.

All parties agreed that the aisle width of the last aisle in the parking area (proposed as part of the development of the Linn County/Coastal Farm property) that will abut the Chan property should be 26 feet. This is the width required by Albany Development Code 9.130. In addition, the developer of the Linn County/Coastal Farm property will provide a 3-foot wide landscape strip adjacent to the curb on the west side of this parking area. The vegetation in this strip must be ground cover and deciduous trees only.

No shrubs that exceed three feet in height when mature shall be planted. This has been made a condition of approval of the Site Plan Review for development of the property.

**\*\*\* Finding 2.2 no longer applies because Costco now owns both the former Chan and Coastal Farm/Old Fairgrounds properties. The vacated area adjacent to the Old Fairgrounds property will revert to the Old Fairgrounds property per ORS 271.140.**

- 2.3 There is an existing public sanitary sewer line and water line within the right-of-way that is to be vacated. The water line may be abandoned. In order to protect the existing utilities in the right-of-way and allow for future utility construction and maintenance, the City will retain a public utility easement over the vacated right-of-way.

**\*\*\* Finding 2.3 indicates that an easement shall be retained over the entire right-of-way. The City shall retain an easement over the western 30 feet of the vacated right-of-way. A 30 foot easement in addition to the existing easements west of the right-of-way are sufficient for existing and future public utilities.**

- 3.1 The closure of Bain Street will remove the only north/south route out of the neighborhood between Waverly Drive and Airport Road. Vehicle trips currently using Bain Street to access Highway 99E will be diverted onto east/west local side streets in order to access Waverly Drive and Airport Road.
- 3.2 South Shore Drive is the only east/west street within the neighborhood that connects with Waverly Drive. Trips that currently use Bain Street to access areas to the west will be diverted to South Shore Drive. A traffic count of 860 was taken on this section of South Shore Drive on April 6, 1999. Traffic volumes are anticipated to nearly double to 1,630 trip per day with the closure of Bain Street.
- 3.3 Three east/west streets connect the neighborhood with Airport Road - Oakwood Avenue, North Shore Drive, and South Shore Drive. Trips that currently use Bain Street to access areas to the east will divert to these three streets. North Shore and South Shore Drives provide a more "direct" connection between Bain Street and Airport Road for the majority of the neighborhood, and each can be expected to experience roughly twice the volume of diverted traffic that Oakwood Avenue will from the closure of Bain Street. Both North Shore and South Shore Drives are expected to receive an additional 310 trips per day, for a total of 860, due to the closure of Bain Street. Local streets have adequate capacity to accommodate the projected traffic volumes.
- 3.4 Emergency services will be able to access the areas on any side of the proposed vacation site from numerous directions. All areas around the site will have several access points.
- 4.1 The applicants, who have submitted a concurrent site plan in conjunction with this vacation request, propose to remove the existing pavement and replace it with a parking lot and landscaping. They are also proposing to provide a driveway access to the property west of the area to be vacated.

**\*\*\* Finding 4.1 modification: Costco has removed the existing pavement and is replacing it with landscaping, a fueling station, and a parking lot.**

- 5.1 The Comprehensive Plan and the Transportation Plan recommend this vacation. Staff has evaluated the proposed vacation based upon the Street Vacation criteria listed in Section 2.440 of the Albany Development Code and found the subject vacation to be in conformance with Criteria 1, 2, 3, 4, and 5. The public interest, present and future, will be best served by approval of the proposed vacation.

# Exhibit B

COSTCO  
ALBANY, OREGON  
**RIGHT-OF-WAY VACATION**  
JOB NO. COS1400  
AUGUST 8, 2001  
SHEET 1 OF 2

## LEGAL DESCRIPTION:

A 60.00 FOOT WIDE STRIP OF LAND BEING A PORTION OF THE EXISTING BAIN STREET SITUATED IN THE SOUTHEAST QUARTER OF SECTION 5 IN TOWNSHIP 11 SOUTH, RANGE 3 WEST, WILLAMETTE MERIDIAN AND LOCATED IN THE CITY OF ALBANY, LINN COUNTY, OREGON; THE SAID STRIP OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE POINT OF INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF PACIFIC HIGHWAY AND THE WESTERLY RIGHT-OF-WAY LINE OF BAIN STREET (60.00 FEET WIDE); THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF PACIFIC HIGHWAY ALONG THE ARC OF A 5814.58 FOOT RADIUS CURVE CONCAVE NORTHWESTERLY, THROUGH A CENTRAL ANGLE OF 00°39'17" (THE LONG CHORD OF WHICH BEARS NORTH 49°37'18" EAST, 66.45 FEET) AN ARC DISTANCE OF 66.45 FEET TO A POINT OF NON-TANGENCY AND THE EASTERLY RIGHT-OF-WAY LINE OF SAID BAIN STREET; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE SOUTH 22°49'15" EAST, 1.85 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 111.00 FOOT RADIUS CURVE CONCAVE WESTERLY, THROUGH A CENTRAL ANGLE OF 21°07'01" (THE LONG CHORD OF WHICH BEARS SOUTH 12°15'44" EAST, 40.68 FEET) AN ARC DISTANCE OF 40.91 FEET TO A POINT OF TANGENCY; THENCE SOUTH 01°42'14" EAST, 416.17 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 29.70 FOOT RADIUS CURVE CONCAVE EASTERLY, THROUGH A CENTRAL ANGLE OF 21°53'49" (THE LONG CHORD OF WHICH BEARS SOUTH 12°39'09" EAST, 11.28 FEET) AN ARC DISTANCE OF 11.35 FEET TO A POINT OF NON-TANGENCY; THENCE LEAVING SAID EASTERLY RIGHT-OF-WAY LINE ALONG THE ARC OF A 46.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, THROUGH A CENTRAL ANGLE OF 117°36'10" (THE LONG CHORD OF WHICH BEARS SOUTH 07°25'23" EAST, 78.69 FEET) AN ARC DISTANCE OF 94.42 FEET TO A POINT OF CUSP ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID BAIN STREET; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE ALONG THE ARC OF A 311.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, THROUGH A CENTRAL ANGLE OF 02°57'16" (THE LONG CHORD OF WHICH BEARS NORTH 67°42'06" WEST, 16.03 FEET) AN ARC DISTANCE OF 16.04 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG THE ARC OF A 89.70 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, THROUGH A CENTRAL ANGLE OF 67°28'30" (THE LONG CHORD OF WHICH BEARS NORTH 35°26'29" WEST, 99.64 FEET) AN ARC DISTANCE OF 105.64 FEET TO A POINT OF TANGENCY; THENCE NORTH 01°42'14" WEST, 416.17 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 51.00 FOOT RADIUS CURVE CONCAVE WESTERLY, THROUGH A CENTRAL ANGLE OF 00°12'49" (THE LONG CHORD OF WHICH BEARS NORTH 01°48'38" WEST, 0.19 FEET) AN ARC DISTANCE OF 0.19 FEET TO THE **POINT OF BEGINNING**.

CONTAINS 29,215 SQUARE FEET (0.671 ACRES).

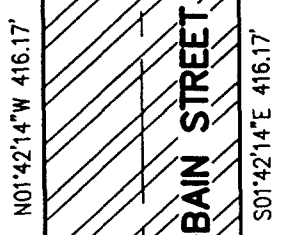
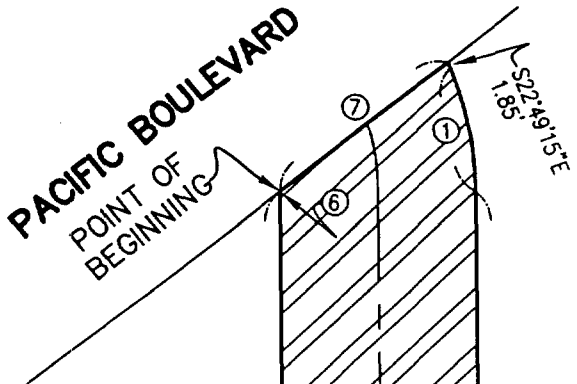


# Exhibit C

FOR A RIGHT-OF-WAY VACATION  
 A PORTION OF BAIN STREET  
 LOCATED IN THE SE 1/4 OF SECTION 5,  
 IN T 11 S, R 3 W, WILLAMETTE MERIDIAN  
 CITY OF ALBANY, LINN COUNTY, OREGON

AUGUST 8, 2001

CURVE TABLE					
	DELTA	RADIUS	LENGTH	CHORD	
1	21°07'01"	111.00'	40.91'	S12°15'44"E	40.68'
2	21°53'49"	29.70'	11.35'	S12°39'09"E	11.28'
3	117°36'10"	46.00'	94.42'	S07°25'23"E	78.69'
4	02°57'16"	311.00'	16.04'	N67°42'06"W	16.03'
5	67°28'30"	89.70'	105.64'	N35°26'29"W	99.64'
6	00°12'49"	51.00'	0.19'	N01°48'38"W	0.19'
7	00°39'17"	5814.58'	66.45'	N49°37'18"E	66.45'



**LEGEND:**

- PROPOSED RIGHT-OF-WAY VACATION  
 29,215 SQUARE FEET  
 0.671 ACRES



SCALE 1"=60'

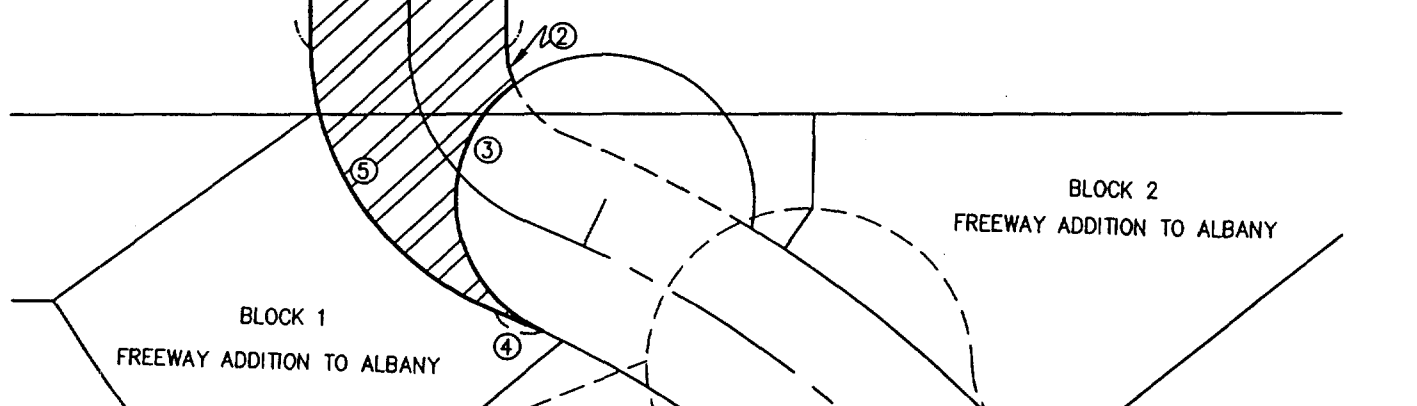
JOB NO. COS1400 SHEET 2 OF 2

**W R G**  
**D E S I G N I N G .**

10450 SW NIMBUS AVE., PORTLAND, OREGON 97223

☎ (503) 603-9933 FAX: (503) 603-9944

PLANNERS ■ ENGINEERS ■ LANDSCAPE ARCHITECTS ■ SURVEYORS



# Exhibit D

FOR A PUBLIC UTILITY EASEMENT  
 RETAINED BY THE CITY OF ALBANY  
 LOCATED IN THE SE 1/4 OF SECTION 5,  
 IN T 11 S, R 3 W, WILLAMETTE MERIDIAN  
 CITY OF ALBANY, LINN COUNTY, OREGON

AUGUST 8, 2001

CURVE TABLE					
	DELTA	RADIUS	LENGTH	CHORD	
1	15°37'10"	81.00'	22.08'	S09°30'49"E	22.01'
2	40°56'56"	59.70'	42.67'	S22°10'42"E	41.76'
3	75°27'24"	46.00'	60.58'	S28°29'46"E	56.30'
4	02°57'16"	311.00'	16.04'	N67°42'06"W	16.03'
5	67°28'30"	89.70'	105.64'	N35°26'29"W	99.64'
6	00°12'49"	51.00'	0.19'	N01°48'38"W	0.19'
7	00°20'26"	5814.58'	34.56'	N49°46'43"E	34.55'

**LEGEND:**



PROPOSED PUBLIC UTILITY  
 EASEMENT  
 15,009 SQUARE FEET  
 0.345 ACRES



SCALE 1"=60'

JOB NO. COS1400 SHEET 2 OF 2



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