

**CITY OF FLORENCE
ORDINANCE NO. 9, SERIES 2021**

AN ORDINANCE APPROVING THE REQUEST FOR VACATION OF A PEDESTRIAN WALKWAY BETWEEN LOTS 13 AND 14 OF THE SANDPIPER SUBDIVISION OF THE CITY OF FLORENCE, AS PLATTED AND RECORDED IN BOOK 69, PAGE 25, LANE COUNTY, OREGON PLAT RECORDS, WHERE THAT RIGHT-OF-WAY LIES BETWEEN TAX LOTS 00118 AND 00999 OF MAP 18-12-27-10, AS APPLIED FOR BY SIMONE CALFEE IN LANE COUNTY, OREGON.

RECITALS:

1. The City of Florence was petitioned by the abutting property owner, Simone Calfee, on January 25, 2021, for the vacation of a 15' X 153.42' Pedestrian Right-of-Way located between Petitioner's property at 1525 20th St. and a neighboring property at 1499 20th Street as platted and recorded in Book 69, Page 25, Lane County, Oregon Plat Records.
2. Simone Calfee is sole owner of property located at 1525 20th St. on the east side of the abutting said right-of-way.
3. The Florence City Council initiated the vacation of the right-of-way at a public hearing held on March 15, 2021.
4. Proper notice per FCC 8-3-5-1 was sent to all abutting and affected property owners prior to the Florence Planning Commission meeting on March 23, 2021.
5. The Florence Planning Commission held a duly noticed public hearing on March 23, 2021.
6. The Florence Planning Commission approved Resolution PC 21 02 VAC 01, recommending approval of the vacation to the Florence City Council with conditions of approval for the applicant to meet prior to a City Council meeting approving the vacation.
7. The applicant provided the Planning Department with proof that the conditions of approval were met as requested by the Planning Commission prior to the City Council meeting approving the vacation.
8. The applicant has received the consent of the owners of more than two-thirds of affected property and has provided those signatures as part of their application.
9. Notice was sent to all abutting and affected property owners prior to the Florence City Council meeting on May 18, 2021.
10. The City Council met on June 7, 2021, to consider the proposal, evidence in the record, and testimony received.

11. The City Council deliberated on June 7, 2021, and found that the request met the applicable criteria and it appeared the public interest would be best served through the vacation of the right-of-way.

Based on these findings,

THE CITY COUNCIL OF THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

1. The City of Florence approves the vacation of the pedestrian walkway between 1525 and 1499 20th St. as described above.
2. The City of Florence maintains the drainage and public utility easement area as referenced in the aforementioned Sandpiper Subdivision necessary for protection and maintenance of drainage and utility infrastructure as described in Exhibit "B."
3. The pedestrian walkway described above and shown on the map attached as Exhibit "B" will be inured to and divided equally and among the adjacent properties, unless otherwise agreed upon by all parties.
4. The Findings of Fact as shown in Exhibit "A" and the above recitals are hereby adopted.
5. Per FCC 8-3-4-4, the applicant is directed to pay the agreed-upon amount assessed for the loss of the property to public use, \$9,363.26 within 30 days of approval per FCC 8-3-6-3.
6. This Ordinance and associated applicable Exhibits will be filed with Lane County Deeds and Records by the City of Florence upon receipt of payment for the right-of-way. Recording costs have been paid by the applicant as part of their application fee of \$3,196.02.

ADOPTION:

First Reading on the 7th day of June, 2021.

Second Reading on the 7th day of June, 2021.

This Ordinance is passed and adopted on the 7th day of June, 2021.

AYES	5	Councilors Woodbury, Wantz, Meyer, Wisniewski and Mayor Henry
NAYS	0	
ABSTAIN	0	
ABSENT	0	

Joe Henry, Mayor

Attest:

Kelli Weese, City Recorder

CITY OF FLORENCE (PROPOSED)
Ordinance No. 9, Series 2021
Exhibit “A”

Public Hearing Date:	June 7, 2021	Planner:	
Date of Report:	May 28, 2021		Roxanne Johnston, CFM
Application:	CC 21 01 VAC 01		
Related File:	PC 21 02 VAC 01		

I. PROPOSAL DESCRIPTION

Proposal: **CC 21 01 VAC 01 - 20th Street Pedway**: Vacation of a 15' X 135.42' public pedestrian walkway/right-of-way located between Lots 13 and 14 of the Sandpiper subdivision, with said lots being addressed as 1499 and 1525 20th St., respectively. The subject area occupies approx. 0.047 acre or 2,031.20 square feet, more or less. Petitioner proposes vacation of the right-of-way in order to retain a previously constructed side yard fence on the west side of Petitioner’s property. This walkway area is not developed with public access.

Applicant: Simone Calfee

Property Owner: City of Florence

Location: Approximately 300 feet west of the intersection of 20th St. and Oak St. More specifically, the pedestrian walkway/right-of-way is located between Lots 13 and 14 of the Sandpiper subdivision, with said lots being shown on Tax Assessor’s Map [18-12-27-10, Tax Lots 00118 and 00119](#), and addressed as 1499 and 1525 20th St.

Comprehensive Plan Map Designation: Medium Density Residential

Zone Map Classification: Medium Density Residential

Surrounding Land Use / Zoning:

Site:	Single-family residential / Medium Density Residential
North:	Siuslaw School District property / High Density Residential
South:	20 th St., single-family residences /Medium Density Residential); Miller Park/Open Space; and Lane County Maintenance Yard/ Limited Industrial
West:	Single-family residences/ Medium Density Residential
East:	Single-family residences / Medium Density Residential

Streets / Classification:

West – Kingwood/collector street; East – Oak St. / collector street; South – 20th St./local street

II. NARRATIVE:
Process

On January 25, 2021, Simone Calfee submitted a petition to vacate a 15' X 135.42' public pedestrian walkway/right-of-way (pedway). This pedway is located between Lots 13 and 14 of the Sandpiper subdivision and between 1499 and 1545 20th St. Petitioner owns Lot 14. The pedway occupies approximately 0.04663 acre, or 2,031.20 square feet, more or less. Petitioner purchased Lot 14 with current fencing that extends from the west side yard across the pedway itself. Because the pedway is 15 feet in width, the most northern boundary of the pedway abuts a Siuslaw School District campus property; which is fenced. The most southern boundary abuts the 20th St. right-of-way.

The applicant has expressed a desire to vacate the pedway in order to retain the existing fencing.

On March 15, 2021, the Florence City Council initiated vacation procedures following a preliminary determination that vacation of the right-of-way *appears* to be in the public interest. The Council also determined a cost amount to recuperate the value of the land lost to the public. This amount, \$9,363.26, of which will be added to the Parks fund towards improving or developing park infrastructure.

On March 23, 2021, the Planning Commission held a public hearing as part of these vacation procedures. They voted to recommend approval to the City Council because they determined that the vacation serves the public interest and does not adversely affect the goals for the Florence Comprehensive Plan or Section 10-1-1-3 of Florence City Code.

Condition of Pedway

The subject pedestrian way is fenced which effectively prevents public access. Furthermore, this is a wooden opaque fence. The petitioner purchased the residence with this fencing in place. There is also a fence on the school campus immediately north of the pedway and no connecting pathway is provided internal to the campus. A 10' X 15' drainage/public utility easement is located in the most northern side of the subject pedestrian way.

Park Planning

FLORENCE PARKS AND RECREATION MASTER PLAN, 2011. P. 4, Ch 6

“Sale of Unusable Land

The City has parcels of undeveloped land and rights-of-way. Where the committee found parcels located in an area that could specifically address a level of service or connectivity issue they were included in the Future Recreation Resources Map, Figure 7.1. While the City’s inventory of parkland does not include much that is not usable, if they did receive land parcels that could not be converted to active or passive public recreation uses, they could sell or trade them. Funds would then be used for park and recreation purposes.”

FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN CHAPTER 8: PARKS, RECREATION AND OPEN SPACE RECOMMENDATIONS

9. *“The City should review the listing of rights-of-way suitable for recreation use prior to vacating public rights-of-way.”*

The 1987 Florence Master Parks Plan, adopted into the 2011 Florence Recreation Master Plan (Parks Plan), identifies four pedestrian ways in the Petitioner’s vicinity: three along the north side of the 20th St. ROW west of Oak St. and one on the south side of 20th, west of Oak and nearer to Kingwood. All four of these pedestrian ways are labeled and shown in Exhibit C. This last pedway, which connects to Miller Park, is shown to be located immediately east of the Lane County Maintenance Yard. It is currently thickly overgrown with shrubs and trees, an indication that this is not a pathway that is being used. If this pedway were developed for accessibility, the nearest pedestrian way to the north is the ‘middle’ pedestrian way located between Lots 9 and 10 of the Sandpiper subdivision. The most westerly pedestrian way would also be an option too, as an access path to 20th St. and then to Kingwood St. Currently, Kingwood St. is closed to 20th St. vehicular traffic and the ‘middle’ and western pedways are not in use as access points to the school. An important note is that the 1987 Plan indicates that all of these pedways were low on the priority list for development.

III. POTENTIAL ISSUES/RATIONALE FOR VACATION

At the City Council’s March 15, 2021 ‘initiation’ hearing, staff explained that the school campus is closed, meaning that foot traffic is not expected to exit and enter the campus from the neighborhood, including the Subject Pedway and that the main campus entrance on Oak St. is the most optimal pedestrian connection. Also discussed was that if pedestrian access between Miller Park and the school campus was needed in the future, then the next optimal points of access would be the middle or most western pedestrian ways and the pedestrian way immediately east of the Lane County Maintenance Yard. On March 23, 2021, the Planning Commission found no issues with this pedestrian walkway/right-of-way vacation and that this proposal meets the requirement that the vacation would be in the best public interest.

IV. NOTICES & REFERRALS:

Notice: On May 18, 2021, notice was mailed to owners of property within 200 feet east and west of the area to be vacated and 400 feet north and south of the area to be vacated for this third hearing of the three required hearings. Notices for the previous hearings were all sent out according to the procedural requirements of FCC Title 10 Chapters 1 and 2.

Vacations are not a land use issue, but require that notice be mailed to property owners at least twenty days prior to the City Council public hearing. This stage of the vacation procedures required newspaper media notice and a posted notice on the

area to be vacated. The media notice was published on May 22, 29, and June 2, of 2021.

At the time of this report, the City had received no written comments on the application.

V. APPLICABLE REVIEW CRITERIA

Florence City Code, Title 8:

Chapter 3: Property Vacations, Sections 3-3 through 3-5-2

Florence City Code, Title 10:

Chapter 36: Public Facilities, Section 2-1-A

Oregon Revised Statutes:

ORS 271: Use and Disposition of Public Lands Generally, Easements; ORS 271.005 - ORS 271.230

Florence Realization 2020 Comprehensive Plan, Chapter 8: Parks, Recreation and Open Space Recommendations

Florence Parks and Recreation Master Plan; Editions 1987 and 2011

VI. PROPOSED FINDINGS

FLORENCE CITY CODE

TITLE 8: CHAPTER 3: PROPERTY VACATIONS

8-3-3: INITIATION: Proceedings for the vacation of a public way or part thereof, may be initiated upon petition of the abutting owner(s) or upon the majority vote of the Council. The petition of the abutting owner(s) shall be accompanied by an application fee set by resolution. The fee is to cover administrative costs and the costs of publication and notice, and is not refundable.

The applicant applied for vacation of the pedestrian walkway/right-of-way on January 25, 2021 and paid the application fee of \$3,196.02. At their March 15, 2021 meeting, the Florence City Council initiated the vacation of this ROW. Of the three abutting property owners to the pedway, the applicant has obtained 100% approval of the required signatures needed prior to the City Council hearing finalizing the right-of-way vacation as outlined in ORS Chapter 271, Section 271.080.

8-3-4: DETERMINATION OF VALUE:

8-3-4-1: COUNCIL HEARING ON INITIATION: Upon receiving the petition for vacation the City Manager shall set a public hearing before the Council to make a preliminary determination of the public interest in the vacation, if any, and to determine the value of the public way to be vacated if the vacation appears to

be in the public interest. Not less than five days prior written notice of the hearing shall be given to the petitioners and the owner(s) of affected property. Such notice shall be by first class U.S. Mail to such property owners as shown in the latest Lane County tax assessment roll or upon the City's utility records.

Notice was mailed to affected property owners prior to the initiation hearing by City Council on March 9, 2021. The criteria were met.

8-3-4-2: CRITERIA: In determining the value of the public way to be vacated, the Council shall consider any relevant appraisals the City possesses and the public information in the files of the Lane County Assessment and Taxation Department or its successor agency. Except for direct uses by a public body supported by local property taxes, in the absence of more relevant information the Council shall calculate the value based on the square foot value of abutting real property as shown on the current Lane County assessment roll, less a percentage for easements retained for public use. The abutting owner(s) may request the Council to obtain other evidence of value from a licensed real estate appraiser hired by the City. All such appraisal costs shall be borne by the requesting abutting property owner(s). The Council may consider this evidence and adjust its determination of value as the Council may find to be just and equitable. The basis for any such adjustment shall be stated on the record at the time the Council takes action. A determination of value shall be made and assessed to abutting property owners for all public ways being vacated.

The value calculated by staff for the loss of the public right-of-way was determined in accordance with the criteria available in FCC 8-3-4-2. To begin with, an average price per square foot based on Real Market Land value was determined for abutting tax lots 00118, 00119 and 00300. This average value was \$4.88.

After establishing the average value of \$4.88 for the three abutting tax lots, it was necessary to subtract a 150 sq. ft. area (10' X 15') inside of the pedway because it contains a drainage/utility easement. This drainage easement was platted with the Sandpiper subdivision and is valued differently (at a 25% value) than the pedestrian way. After subtracting the drainage area, the remainder sq. ft. of the pedestrian way equals 1,881.2 sq. ft. This number is then multiplied by the \$4.88 and totals \$9,180.26

To find a value for the 150 sq. ft. drainage easement, it is necessary to multiply the average value for the three abutting tax lots, \$4.88 by 25%, or 0.25. This figure totals \$183.00. Therefore, the 150 sq ft drainage easement is valued at \$183.00.

Adding the land value of the abutting lots (\$9,180.26) to the drainage easement (\$183.00), the final land value number totals \$9,363.26. This total represents the total value of the public loss of the subject right-of-way.

At the March 15, 2021 City Council Initial hearing, Council was also presented an alternative formula set to determine the value of the pedestrian way. This value calculated the linear frontage of each of the properties to which the value was

assessed and the respective percentages applied the percentage as the amount of sq. ft. from each would be used to calculate the number of sq. ft. This served to weight the impact of the average value of each property rather than apply each equally. The number arrived at using the weighted method totaled \$10,802.65. The Council compared the two methodologies and chose not to approve this weighted method; but rather base the final value at \$9,363 as explained above.

8-3-4-3: ACTION: After the hearing is closed, the Council may deny the petition or may forward the petition to the Planning Commission for its recommendation and shall set the amount of the assessment.

The City Council initiated vacation of the ROW on March 15, 2021, and forwarded the petition to the Planning Commission for recommendations.

8-3-5-1: PLANNING COMMISSION HEARING: Upon referral of vacation proceedings from the Council, the City Manager shall set a public hearing before the Planning Commission. Notice shall be given at least seven days before the public hearing by mailing the notice to the petitioner(s), affected property owners and others appearing on the matter before the Council in its hearing under subsection 8-3-4-1.

Notice was mailed to the applicant and affected property owners. These notices were mailed on March 16, 2021, seven days prior to the Planning Commission public hearing held on March 23, 2021 on the subject.

8-3-5-2: ACTION: After the hearing is closed, the Planning Commission shall determine whether the public interest will be served or prejudiced by the vacation of the public way or part thereof. In determining whether the public interest will be served or prejudiced, the Planning Commission shall consider the goals of the Florence Comprehensive Plan and Section 10-1-1-3 of this Code. The Planning Commission's decision shall be in the form of a recommendation to the Council.

On March 23, 2021, the Planning Commission determined that the vacation will not adversely affect any public interest served by the vacation. The Florence Realization 2020 Comprehensive Plan mentions the subject property in the context of Chapter 8, Recommendation 9, which calls for the City to review rights-of-way listed as suitable for recreation use prior to vacation.

The current Parks Master Plan adopts the 1986 Parks Master Plan as reference. The 1986 plan designates the three pedestrian ways platted with the Sandpiper subdivision as areas of potential importance for the development of Florence's park system. Specifically, these pedestrian walkways were identified for potential use as neighborhood or linear park types. Given that nearby Oak St. serves as a more logical pedestrian access point between Miller Park and the school campus, and that the two remaining pedestrian ways to the west could offer better potential access points to Miller Park immediately east of the Lane County Maintenance Yard, and if the school campus were open along the south border, then those two western pedestrian ways would become rational choices.

TITLE 10: CHAPTER 36: PUBLIC FACILITIES

10-36-2-1: Development Standards. The following standards shall be met for all new uses and developments:

- A. All new lots created, consolidated, or modified through a land division, lot line adjustment, lot consolidation, or street vacation must have street frontage and approved access to a street.**

The subject ROW abuts 20th Street. Should this pedway be vacated, the existing fencing serves to continue keeping pedestrian traffic off of site. Again, the western pedestrian walkways previously discussed may provide opportunities for future pedestrian access as does the unimproved pedestrian way immediately east of the Lane County Maintenance Yard, which connects to Miller Park.

OREGON REVISED STATUTES

**CHAPTER 271 – USE AND DISPOSITION OF PUBLIC LANDS GENERALLY;
EASEMENTS**

271.005 Definitions for ORS 271.005 to 271.540. As used in ORS 271.005 to 271.540:

- (1) “Governing body” means the board or body in which the general legislative power of a political subdivision is vested.**
- (2) “Governmental body” means the State of Oregon, a political subdivision, the United States of America or an agency thereof.**
- (3) “Political subdivision” means any local government unit, including, but not limited to, a county, city, town, port, dock commission or district, that exists under the laws of Oregon and has power to levy and collect taxes. [1981 c.787 §2]**

271.010 [Amended by 1965 c.25 §1; 1971 c.287 §1; repealed by 1981 c.153 §79]

271.020 [Amended by 1953 c.283 §3; 1977 c.275 §1; repealed by 1981 c.153 §79]

271.030 [Amended by 1953 c.283 §3; repealed by 1981 c.153 §79]

271.040 [Repealed by 1981 c.153 §79]

271.050 [Repealed by 1981 c.153 §79]

271.060 [Repealed by 1981 c.153 §79]

271.070 [Repealed by 1981 c.153 §79]

VACATION

271.080 Vacation in incorporated cities; petition; consent of property owners.

- (1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.**
- (2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side**

of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing. [Amended by 1999 c.866 §2]

271.090 Filing of petition; notice. The petition shall be presented to the city recorder or other recording officer of the city. If found by the recorder to be sufficient, the recorder shall file it and inform at least one of the petitioners when the petition will come before the city governing body. A failure to give such information shall not be in any respect a lack of jurisdiction for the governing body to proceed on the petition.

271.100 Action by city governing body. The city governing body may deny the petition after notice to the petitioners of such proposed action, but if there appears to be no reason why the petition should not be allowed in whole or in part, the governing body shall fix a time for a formal hearing upon the petition.

These requirements have been incorporated into Florence City Code with matching criteria or, in some cases, more stringent criteria. These criteria have been discussed and have been met.

271.110 Notice of hearing.

- (1) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.
- (2) Within five days after the first day of publication of the notice, the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice, which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation," as the case may be. The notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be at least 14 days before the hearing.
- (3) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and

other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor. [Amended by 1991 c.629 §1; 2005 c.22 §196]

Noticing requirements for this hearing before the Planning Commission have been met. Noticing requirements for the final hearing before the Florence City Council will be carried out as per Oregon Revised Statutes and Florence City Code.

271.130 Vacation on city governing body's own motion; appeal.

- (1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.**
- (2) Two or more streets, alleys, avenues and boulevards, or parts thereof, may be joined in one proceeding, provided they intersect or are adjacent and parallel to each other.**
- (3) No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.**
- (4) Any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter. If the charter does not provide for such appeal, the appeal shall be taken within the time and in substantially the manner provided for taking an appeal from justice court in civil cases. [Amended by 1995 c.658 §101]**

The applicant, a private citizen, has requested vacation through petition.

271.140 Title to vacated areas. The title to the street or other public area vacated shall attach to the lands bordering on such area in equal portions; except that where the area has been originally dedicated by different persons and the fee title to such area has not been otherwise disposed of, original boundary lines shall be adhered to and the street area which lies on each side of such boundary line shall attach to the abutting property on such side. If a public square is vacated the title thereto shall vest in the city. [Amended by 1981 c.153 §58]

The area proposed for vacation would attach to the abutting lots, one of which is owned by the applicant. The abutting neighbor to the west is entitled to an equal portion should the pedway be vacated; however, the neighbor has not expressed an

interest to do so. The division of the vacated ROW is not the subject of this review; meaning it is between the Petitioner and neighbor through legal methods to redistribute or sell the property between them.

271.150 Vacation records to be filed; costs. A certified copy of the ordinance vacating any street or plat area and any map, plat or other record in regard thereto which may be required or provided for by law, shall be filed for record with the county clerk. The petitioner for such vacation shall bear the recording cost and the cost of preparing and filing the certified copy of the ordinance and map. A certified copy of any such ordinance shall be filed with the county assessor and county surveyor.

271.160 Vacations for purposes of rededication. No street shall be vacated upon the petition of any person when it is proposed to replat or rededicate all or part of any street in lieu of the original unless such petition is accompanied by a plat showing the proposed manner of replatting or rededicating. If the proposed manner of replatting or rededicating or any modification thereof which may subsequently be made meets with the approval of the city governing body, it shall require a suitable guarantee to be given for the carrying out of such replatting or rededication or may make any vacation conditional or to take effect only upon the consummation of such replatting or rededication.

271.170 Nature and operation of statutes. The provisions of ORS 271.080 to 271.160 are alternative to the provisions of the charter of any incorporated city and nothing contained in those statutes shall in anywise affect or impair the charter or other provisions of such cities for the preservation of public access to and from transportation terminals and navigable waters.

Applicable criteria have been incorporated into Florence City Code. Recording requirements will be carried out according to applicable statutes. The applicant has not proposed replatting or rededication.

271.180 Vacations in municipalities included in port districts; petition; power of common council; vacating street along railroad easement. To the end that adequate facilities for terminal trackage, structures and the instrumentalities of commerce and transportation may be provided in cities and towns located within or forming a part of any port district organized as a municipal corporation in this state, the governing body of such cities and towns, upon the petition of any such port, or corporation empowered to own or operate a railroad, steamship or other transportation terminal, or railroad company entering or operating within such city or town, or owner of property abutting any such terminal, may:

- (1) Authorize any port commission, dock commission, common carrier, railroad company or terminal company to occupy, by any structure, trackage or machinery facilitating or necessary to travel, transportation or distribution, any street or public property, or parts thereof, within such city or town, upon such reasonable terms and conditions as the city or town may impose.

- (2) Vacate the whole or any part of any street, alley, common or public place, with such restrictions and upon such conditions as the city governing body may deem reasonable and for the public good.
- (3) If any railroad company owns or has an exclusive easement upon a definite strip within or along any public street, alley, common or public place, and if the city governing body determines such action to be to the advantage of the public, vacate the street area between the strip so occupied by the railroad company and one property line opposite thereto, condition that the railroad company dedicates for street purposes such portion of such exclusive strip occupied by it as the city governing body may determine upon, and moves its tracks and facilities therefrom onto the street area so vacated. The right and title of the railroad company in the vacated area shall be of the same character as previously owned by it in the exclusive strip which it is required by the city governing body to surrender and dedicate to street purposes.

271.190 Consent of owners of adjoining property; other required approval. No vacation of all or part of a street, alley, common or public place shall take place under ORS 271.180 unless the consent of the persons owning the property immediately adjoining that part of the street or alley to be vacated is obtained thereto in writing and filed with the auditor or clerk of the city or town. No vacation shall be made of any street, alley, public place or part thereof, if within 5,000 feet of the harbor or pierhead line of the port, unless the port commission, or other bodies having jurisdiction over docks and wharves in the port district involved, approves the proposed vacation in writing.

These criteria do not apply to this petition for vacation.

271.200 Petition; notice.

- (1) Before any street, alley, common or public place or any part thereof is vacated, or other right granted by any city governing body under ORS 271.180 to 271.210 the applicant must petition the governing body of the city or town involved, setting forth the particular circumstances of the case, giving a definite description of the property sought to be vacated, or of the right, use or occupancy sought to be obtained, and the names of the persons to be particularly affected thereby. The petition shall be filed with the auditor or clerk of the city or town involved 30 days previous to the taking of any action thereon by the city governing body.
- (2) Notice of the pendency of the petition, containing a description of the area sought to be vacated or right, use or occupancy sought to be obtained, shall be published at least once each week for three successive weeks prior to expiration of such 30-day period in a newspaper of general circulation in the county wherein the city or town is located.

These criteria have been met or will be met prior to the final hearing by the Florence City Council as required by Florence City Code and these statutes.

271.210 Hearing; grant of petition. Hearing upon the petition shall be had by the city governing body at its next regular meeting following the expiration of 30 days from the filing of the petition. At that time objections to the granting of the whole or any part of the petition shall be duly heard and considered by

the governing body, which shall thereupon, or at any later time to which the hearing is postponed or adjourned, pass by a majority vote an ordinance setting forth the property to be vacated, or other rights, occupancy or use to be thereby granted. Upon the expiration of 30 days from the passage of the ordinance and the approval thereof by the mayor of the city or town, the ordinance shall be in full force and effect.

271.220 Filing of objections; waiver. All objections to the petition shall be filed with the clerk or auditor of the city or town within 30 days from the filing of the petition, and if not so filed shall be conclusively presumed to have been waived. The regularity, validity and correctness of the proceedings of the city governing body pursuant to ORS 271.180 to 271.210, shall be conclusive in all things on all parties, and cannot in any manner be contested in any proceeding whatsoever by any person not filing written objections within the time provided in this section.

271.230 Records of vacations; fees.

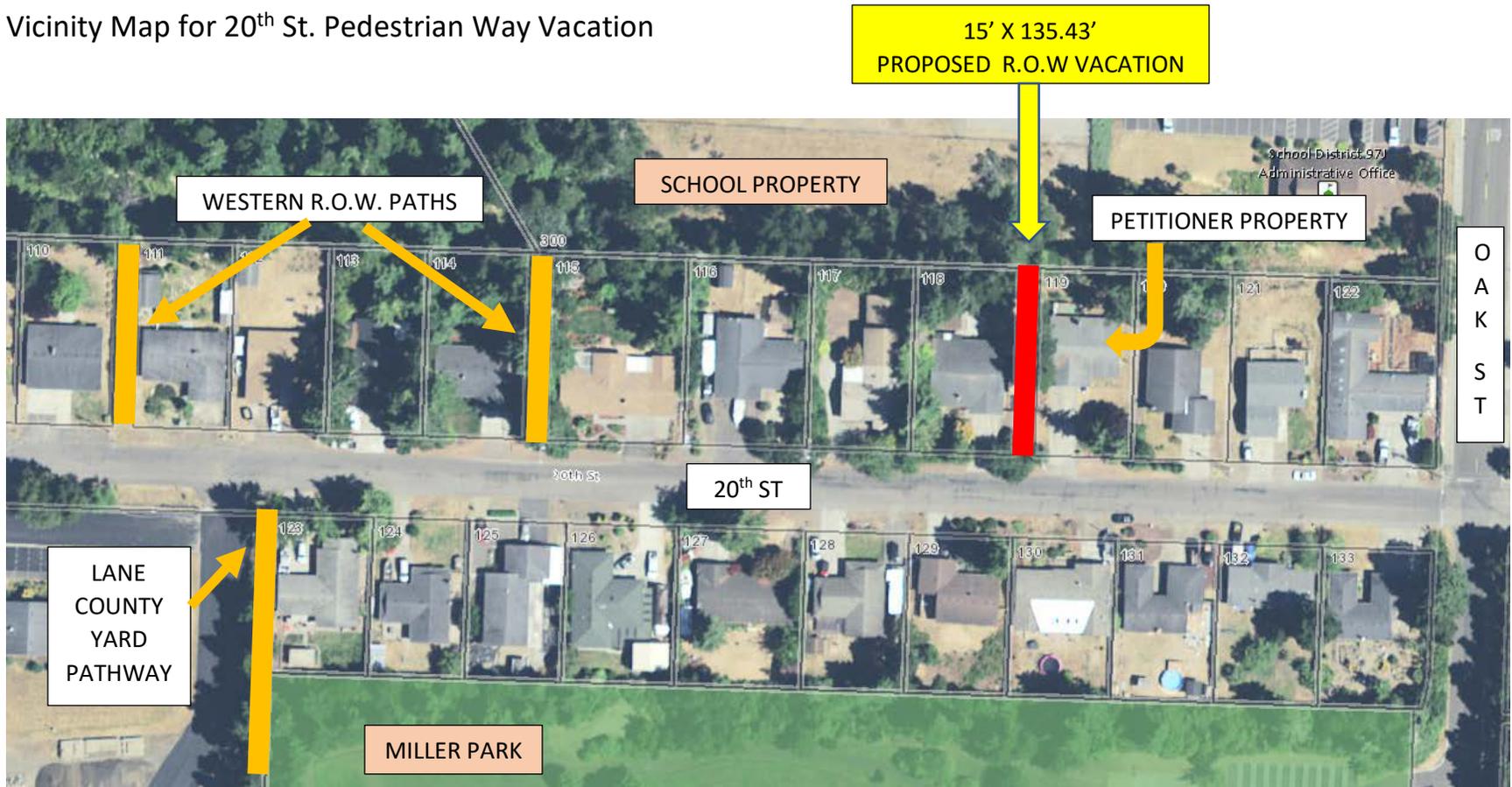
- (1) If any town or plat of any city or town is vacated by a county court or municipal authority of any city or town, the vacation order or ordinance shall be recorded in the deed records of the county. Whenever a vacation order or ordinance is so recorded, the county surveyor of such county shall, upon a copy of the plat that is certified by the county clerk, trace or shade with permanent ink in such manner as to denote that portion so vacated, and shall make the notation "Vacated" upon such copy of the plat, giving the book and page of the deed record in which the order or ordinance is recorded. Corrections or changes shall not be allowed on the original plat once it is recorded with the county clerk.
- (2) For recording in the county deed records, the county clerk shall collect the same fee as for recording a deed. For the services of the county surveyor for marking the record upon the copy of the plat, the county clerk shall collect a fee as set by ordinance of the county governing body to be paid by the county clerk to the county surveyor. [Amended by 1971 c.621 §31; 1975 c.607 §31; 1977 c.488 §2; 1979 c.833 §30; 1999 c.710 §12; 2001 c.173 §5]

The Florence City Council is scheduled to hear and deliberate the request for vacation at a meeting to be held on June 7, 2021. Requirements for objections, recording, and fees will be observed as required by these statutes and Florence City Code.

VII. CONCLUSION

The proposed vacation is in the public interest and meets the Comprehensive Plan goals and the requirements of City Code.

Vicinity Map for 20th St. Pedestrian Way Vacation



Sandpiper Subdivision Excerpt

