



10/04/2012 09:36:43 AM

Fee: \$72.00

Ordinance No. 318

**A SPECIAL ORDINANCE VACATING A PORTION OF GREENLEAF STREET
RIGHT-OF-WAY, A PORTION OF CLEARBROOK PLACE RIGHT-OF-WAY,
AND A PORTION OF BIG SKY DRIVE RIGHT-OF-WAY,
ALL OF WHICH WERE DEDICATED AS PART OF TRACT 1478,
HORSE COUNTRY SUBDIVISION**

WHEREAS, the applicant, 5 Star Ranch, LLC, has submitted a written proposal for vacation of certain real property which is hereinafter described; and

WHEREAS, hearing notices were duly given and the City Council held a public hearing on August 14, 2012 pursuant to applicable laws, at which time all evidence and objection with reference to said proposed vacation were considered; and

WHEREAS, pursuant to such hearing the City Council has determined the vacation to be in compliance with the Comprehensive Plan and the Oregon Revised Statutes; and

WHEREAS, the City Council adopted findings attached hereto and incorporated by this reference as Exhibit B; NOW THEREFORE,

THE CITY OF MALIN ORDAINS AS FOLLOWS:

Section 1.

The right-of-way, as shown on the map attached hereto as Exhibit A and described as follows, is hereby vacated:

Said portion of right-of-way can be found on Klamath County Assessor's Map R-4112-15BB.

Passed by the Council of the City of Malin, Oregon, the 14th day of August, 2012.

Presented to the Mayor, approved and signed this 14th day of August, 2012.

Gary R Zieg
Mayor

ATTEST:

Kay Neumeyer
City Recorder

State of Oregon
County of Klamath

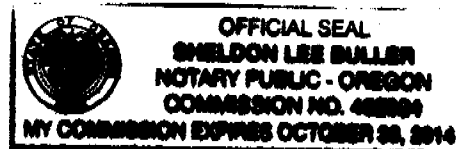
This instrument was acknowledged before me on October 3, 2012, by Gary R Zieg, Mayor, and Kay Neumeyer, City Recorder, of City of Malin

The foregoing instrument was acknowledged before me this 3 of October, 2012

BY Kay Neumeyer, Gary Zieg

My Commission Expires: 10/13/2014

STATE OF Oregon COUNTY OF Klamath



COUNTY OF KLAMATH }
CITY OF MALIN }

SS

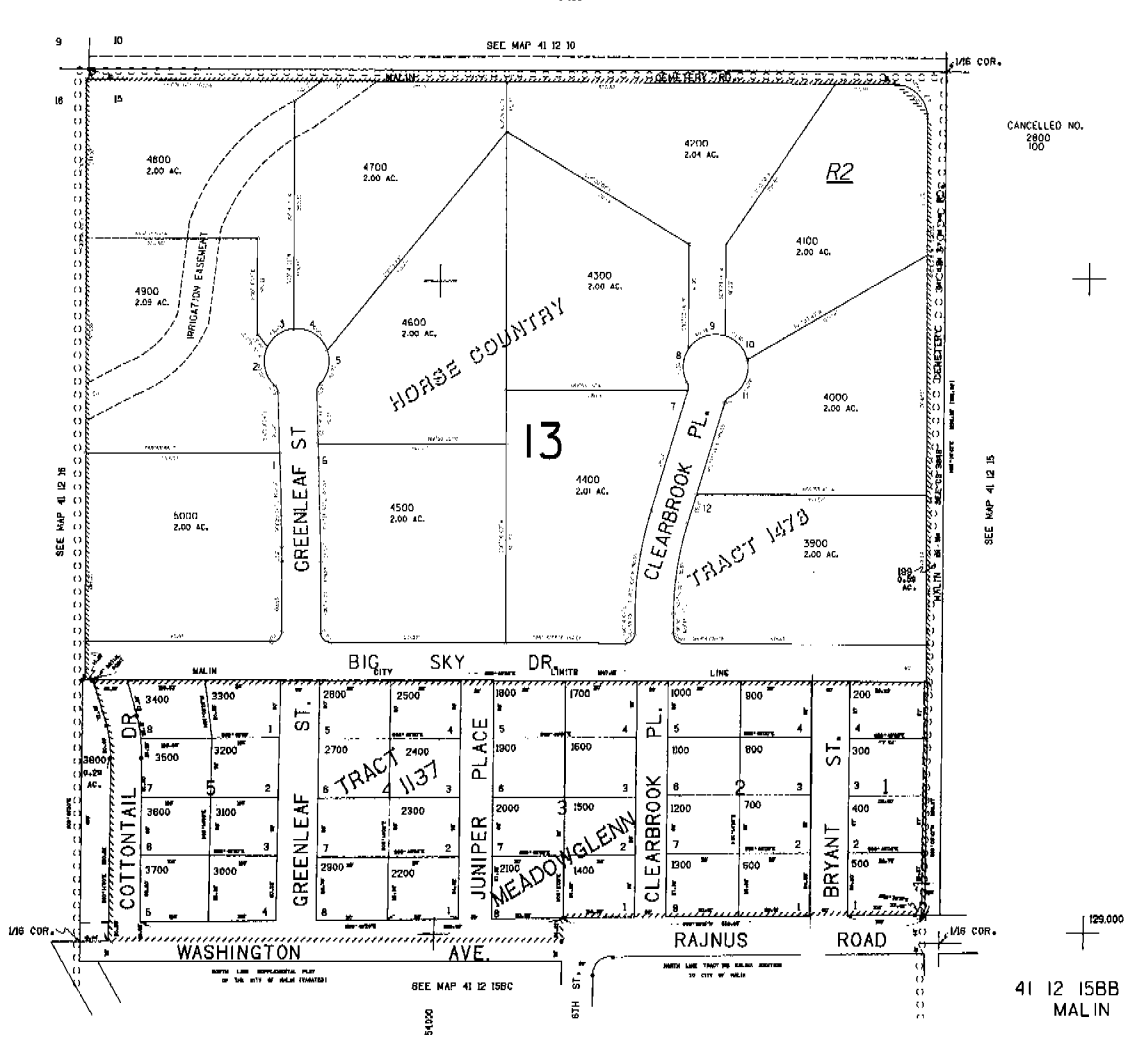
I, Kay Neumann Recorder (Deputy Recorder) for the City of Malin, Oregon, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Council of the City of Malin, Oregon at the meeting on the 14th day of August, 2012 and therefore approved and signed by the Mayor and attested by the City Recorder (Deputy Recorder).

Kay Neumann
City Recorder (Deputy Recorder)

REVISED 9-26-08

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

41 12 15BB
MALIN





112 N. 5th St – Suite 200
PO Box 909
Klamath Falls OR 97601
(541) 851-9405

**VACATION DESCRIPTIONS OF PORTIONS OF
BIG SKY DRIVE, GREENLEAF ST AND CLEARBROOK PLACE
LOCATED IN TRACT 1478 – “HORSE COUNTRY SUBDIVISION”**

GREENLEAF STREET:

A portion of Greenleaf Street situated in the NW1/4 of NW1/4 of Section 15, Township 41 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, said portion of Greenleaf Street being that 60' wide right of way and cul-de-sac bulb as platted on Tract 1478 – “Horse Country Subdivision”, according to the official plat thereof on file in the Klamath County Surveyors Office, said portion being more particularly described as follows:

Beginning at the southeast corner of Lot 1, Tract 1478 – “Horse Country Subdivision”, said point being S89°45'55"E 287.93 feet from the southwest corner of said Lot 1 and along the north right of way line of Big Sky Drive; thence northeasterly along the arc of a 15.00 foot radius curve to the left, through a central angle of 90°00'01" (the long chord of which bears N45°14'04"E, 21.21 feet) an arc distance of 23.56 feet; thence N00°14'04"E, 109.83 feet; thence northwesterly along the arc of a 770.00 foot radius curve to the left, through a central angle of 01°43'38" (the long chord of which bears N00°37'45"W, 23.21 feet) an arc distance of 23.21 feet; thence N01°29'34"W 232.65 feet; thence northwesterly along the arc of a 15.00 foot radius curve to the left, through a central angle of 46°11'13" (the long chord of which bears N24°35'10"W, 11.77 feet) an arc distance of 12.09 feet; thence along the arc of a 50.00 foot radius curve to the right, through a central angle of 272°22'26" (the long chord of which bears N88°30'26"E, 69.23 feet) an arc distance of 237.68 feet; thence southwesterly along the arc of a 15.00 foot radius curve to the left, through a central angle of 46°11'13" (the long chord of which bears S21°36'03"W, 11.77 feet) an arc distance of 12.09 feet; thence S01°29'34"E, 232.65 feet; thence southeasterly along the arc of a 830.00 foot radius curve to the right, through a central angle of 01°43'38" (the long chord of which bears S00°37'45"E, 25.02 feet) an arc distance of 25.02 feet; thence S00°14'04"W, 109.83 feet; thence southeasterly along the arc of a 15.00 foot radius curve to the left, through a central angle of 89°59'59" (the long chord of which bears S44°45'56"E, 21.21 feet) an arc distance of 23.56 feet to a point on the north right of way line of Big Sky Drive, thence westerly along the north right of way line of Big Sky Drive N89°45'55"W, 90.00 feet to the Point of Beginning, containing 30,859 square feet more or less, with bearings based on the plat of Tract 1478 – “Horse Country Subdivision”.

CLEARBROOK PLACE:

A portion of Clearbrook Place situated in the NW1/4 of NW1/4 of Section 15, Township 41 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, said portion of Clearbrook Place being that 60' wide right of way and cul-de-sac bulb as platted on Tract 1478 – “Horse Country Subdivision”, according to the official plat thereof on file in the Klamath County Surveyors Office, said portion being more particularly described as follows:

Beginning at the southeast corner of Lot 7, Tract 1478 – “Horse Country Subdivision”, said point being S89°45'55"E 184.01 feet from the southwest corner of said Lot 7 and along the north right

of way line of Big Sky Drive; thence northeasterly along the arc of a 15.00 foot radius curve to the left, through a central angle of $90^{\circ}00'01''$ (the long chord of which bears $N45^{\circ}14'04''E$, 21.21 feet) an arc distance of 23.56 feet; thence $N00^{\circ}14'04''E$, 30.90 feet; thence northeasterly along the arc of a 530.00 foot radius curve to the right, through a central angle of $17^{\circ}13'55''$ (the long chord of which bears $N08^{\circ}51'02''E$, 158.80 feet) an arc distance of 159.40 feet; thence $N17^{\circ}27'59''E$ 191.17 feet; thence northwesterly along the arc of a 15.00 foot radius curve to the left, through a central angle of $46^{\circ}11'13''$ (the long chord of which bears $N05^{\circ}37'37''W$, 11.77 feet) an arc distance of 12.09 feet; thence along the arc of a 50.00 foot radius curve to the right, through a central angle of $272^{\circ}22'26''$ (the long chord of which bears $S72^{\circ}32'01''E$, 69.23 feet) an arc distance of 237.69 feet; thence southwesterly along the arc of a 15.00 foot radius curve to the left, through a central angle of $46^{\circ}11'13''$ (the long chord of which bears $S40^{\circ}33'36''W$, 11.77 feet) an arc distance of 12.09 feet; thence $S17^{\circ}27'59''W$, 191.17 feet; thence southwesterly along the arc of a 470.00 foot radius curve to the left, through a central angle of $17^{\circ}13'55''$ (the long chord of which bears $S08^{\circ}51'02''W$, 140.82 feet) an arc distance of 141.35 feet; thence $S00^{\circ}14'04''W$, 30.90 feet; thence southeasterly along the arc of a 15.00 foot radius curve to the left, through a central angle of $89^{\circ}59'59''$ (the long chord of which bears $S44^{\circ}45'56''E$, 21.21 feet) an arc distance of 23.56 feet to a point on the north right of way line of Big Sky Drive, thence westerly along the north right of way line of Big Sky Drive $N89^{\circ}45'55''W$, 90.00 feet to the Point of Beginning, containing 31,215 square feet more or less, with bearings based on the plat of Tract 1478 - "Horse Country Subdivision".

BIG SKY DRIVE:

The northerly 30' of Big Sky Drive situated in the NW1/4 of NW1/4 of Section 15, Township 41 South, Range 12 East of the Willamette Meridian, Klamath County, Oregon, said portion of Big Sky Drive being that right of way as platted on Tract 1478 - "Horse Country Subdivision", according to the official plat thereof on file in the Klamath County Surveyors Office, said portion being more particularly described as follows:

Beginning at the southwest corner of Lot 1, Tract 1478 - "Horse Country Subdivision"; thence easterly along the north right of way line of Big Sky Drive $S89^{\circ}45'55''E$, 1298.30 feet; thence $S00^{\circ}06'11''W$, 30.00 feet to the centerline of Big Sky Drive; thence westerly along the centerline of Big Sky Drive $N89^{\circ}45'55''W$, 1298.30 feet; thence $N00^{\circ}06'05''W$, 30.00 feet to the Point of Beginning, containing 38,949 square feet more or less, with bearings based on the plat of Tract 1478 - "Horse Country Subdivision".

Exhibit B FINDINGS

RELEVANT REVIEW CRITERIA, FACTS AND ANALYSIS, AND PROPOSED FINDINGS

This proposal is being reviewed according to the provisions of the Oregon Revised Statutes, specifically Sections 271.080-271.230, regarding Vacations of Public Lands.

A. Criterion: Consent of the owners of the requisite area has been obtained.

Facts and Analysis: ORS 271.080 requires the applicant to obtain signed petitions of consent from all property owners abutting the proposed vacation and from property owners representing at least two-thirds of the affected area as defined by ORS 271.080(2). The Applicant is the owner of all lots abutting the sections of Greenleaf Street, Clearbrook Place and Big Sky Drive proposed for vacation. The applicant also represents approximately 25 acres of the 32 acre affected area. This calculates out to more than the required 2/3.

Finding: Consent of the owners of the requisite area has been obtained; the application is valid under ORS 271.080(2). **This criterion is met.**

B. Criterion: Notice of the proposed vacation has been duly given.

Facts and Analysis: ORS 271.110 requires the city recorder to give notice of the request to vacate and the hearing at which the request will be considered. Notice of this public hearing was posted in three of the most public places in the city: city hall, the public library, and the post office on July 27, 2012. Per subsection one of the ORS, the notice stated the area requested for vacation, the date the request was filed, the name of the applicant, the date by which any objection or remonstrance may be made in writing and filed with the city recorder prior to the hearing, and the date on which the request will be heard and considered by the Council. Per subsection two of the ORS, a copy of the Notice, headed "Notice of Street Vacation", was posted at least 14 days before the Council hearing, on July 27, 2012, in two conspicuous places: at the end of the developed sections of Greenleaf Street and Clearbrook Place.

Finding: Notice of the proposed vacation was duly given by mail to 0 adjacent property owners, posted in three public places, and posted in two conspicuous places on site. **This criterion is met.**

C. Criterion: The public interest will not be prejudiced by the vacation of such plat or part thereof.

Facts and Analysis: This property had never been developed and no property owners will be adversely affected.

Finding: The public interest will not be prejudiced by the vacation of said portions of Greenleaf Street, Clearbrook Place and Big Sky Drive. **This criterion is met.**

D. Criterion: The vacation conforms to the Comprehensive Plan any applicable street plans.

Facts and Analysis: The vacation of the portions of rights-of-way will not eliminate street access to any lots as the Horse Country Subdivision and rights-of-way dedicated as part of the Tract, were never constructed or built on. In addition to the request to vacate the rights-of-way, a partition is proposed to consolidate all parcels into one lot, 0.60 acres less than the original lot. A portion of the Big Sky Drive right-of-way will remain and function as an alley.

Finding: The vacation will conform to the Comprehensive Plan and any applicable street plans. **This criterion is met.**