3rd Street/Switzler Avenue Legalization County Road #1276

ROAD OFFICIAL'S REPORT

UMATILLA COUNTY DEPARTMENT OF PUBLIC WORKS

August 15, 2001

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SWITZLER AVENUE AND 3RD STREET LEGALIZATION REPORT

HISTORY

Switzler Avenue from the Umatilla High School to U. S. Highway 730 was established as Road #909 by order dated May 9, 1935. The portion from Highway 730 north to the Union Pacific right-of-way was platted as part of Brownell's Addition to the City of Umatilla in 1944 though no records exist showing Umatilla County had jurisdiction over that portion of the road. Switzler Avenue from the Union Pacific right-of-way north to 3rd Street was obtained by deed from the Brownells to the County in 1939. In 1947 3rd Street was platted in the McNary Addition, but the McNary Addition was not part of the City at that time. In 1948 the County established County Road #926 which included all of 3rd Street as platted in the McNary Addition, as well as 1004.5 feet east of the McNary Addition in what is now Corps of Engineers property. In 1964 the County Commissioners recorded an affidavit certifying that the County had general charge and supervision over all of Switzler Avenue and 3rd Street.

GENERAL

A survey order dated May 2, 2001 was issued by the Board of Commissioners to survey and monument 3rd Street and Switzler Avenue. The survey showed most of the road to be close to its correct location with the exception of that portion of 3rd Street between Quincy Avenue and its east end in Corps of Engineers property.

In 1968 the City adopted Ordinance No. 291 vacating various streets. According to Tax Maps #5N 28 17AA, 5N 28 17AB, 5N 28 16BB, 5N 28 09CC, 5N 28 08DC, and 5N 28 08DD, Ordinance #291 also served to vacate 10-foot wide strips of right-of-way on each side of 3rd Street where it was platted 80 feet wide and 10 feet on the wide side where it was platted 70 feet wide, while reserving easement rights over the vacated strips. A copy of the ordinance is attached. There is nothing in the ordinance addressing the 10-foot vacated strips. It is possible that "Exhibit B-3" that the ordinance refers to may have, but it is not recorded and cannot be found in the Umatilla County Records Office, the Umatilla County Assessor's Office, or Umatilla City Hall. There is also no record of Umatilla County approving the vacation. Surveyors and property owners have used the Assessor maps, as property pins are set and some improvements are built as if the 10-foot strips were vacated. The City has requested that the road be legalized as shown on the Assessor maps.

IMPACTS TO UTILITIES AND PROPERTY OWNERS

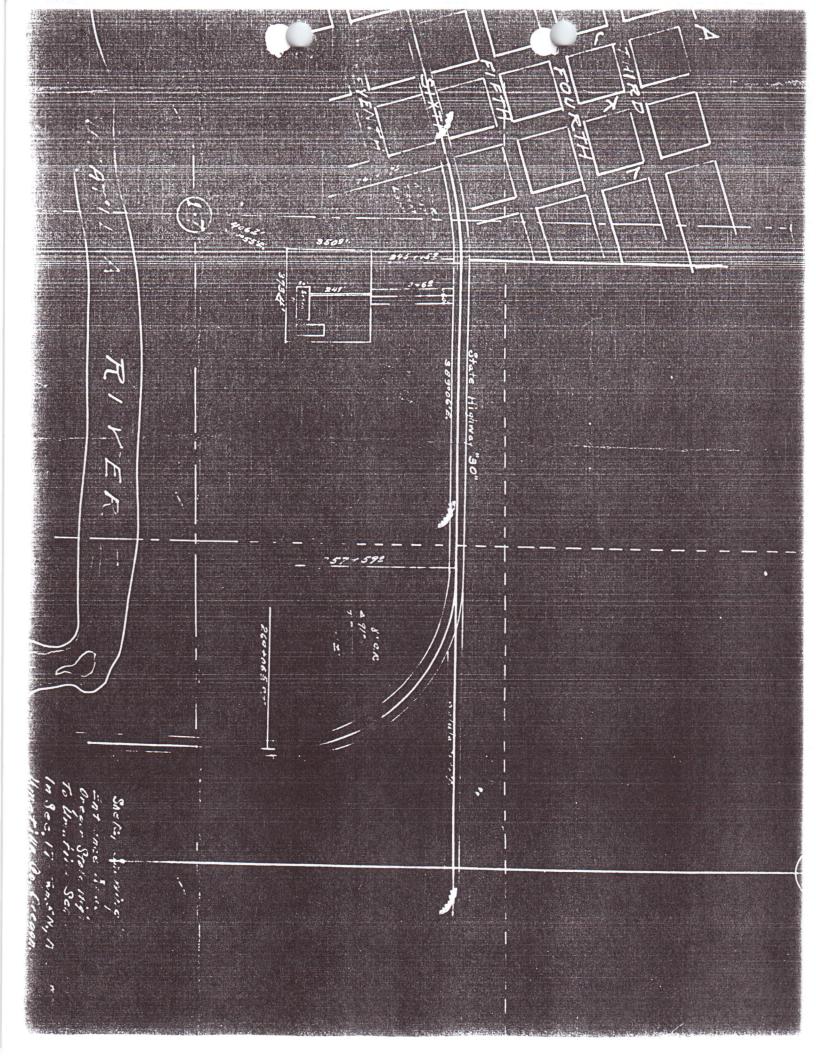
Legalization of the road as shown on the survey map and in the photos would have little or no impact to private property owners, as most of the portion of the road that is not within its correct location is that portion within Corps of Engineers or BLM lands. Utilities will not be affected as long as the "perceived" 10-foot easements are maintained.

STATUTES

ORS 368.201(3) provides a basis for the county governing body to initiate legalization proceedings if a road as traveled and used for 10 years or more does not conform to the location of a road described in county road records.

RECOMMENDATION

The Public Works Department recommends that the road be legalized as shown on the attached survey map and as described in the final order, which would maintain the 10-foot utility easements as shown on tax maps and survey maps.



IN THE COUNTY COURT OF THE STATE OF OREGON FOR UMATILLA COUNTY

In the matter of the petition of a number of residents of Umatilla for a 60 ft. road to run from their School Property to the Oregon State Highway situated in Section

17 Twp. 5 N. R. 28, N. R. 28

FINAL ORDER

Now on this day this matter coming on now to be heard upon the report of the Board of County Road Viewers heretofore instructed to view and raport upon said proposed road and said report having been publicly read on two different days of the same term of Court to-wit: Having been publicly read the first time on May 7, 1935 and publicly road the second time on May 8, 1935, and is now up for final hearing and it duly appearing that no objections or exceptions are on file against said road or report and said Board of viewers finds that said road as located surveyed and laid out to be a fensible and necessary one and a benefit to the public, therefore, it respectfully recommends that it be opened and established as a County Road of Umatilla County, Oregon.

The proposed road is described as follows:

Beginning at a point 60 ft. wide being 30 feet on each side of the center line of the survey as shown and described as follows:

Boginning at a point which is 728 feet north and 320.5 feet east of the center of Section 17, Township 5 North, Runge 28, E. W. M., which point is 182 feet east of the northwest corner of the Umatilla School district number 6 property and, joining on to the north line of said property; thence proceed north along the center line of the survey a distance of 346 feet to the south right of way line of The Columbia River Highway, now designated and known as State Highway Number 30 of Oregon; abov described strip of land containing .48 acres more or less.

The Board finds that the adjoining, abutting, and surrounding property is not damaged by this road and it is of the unanimous opinion that no damages, no dollars and no cents, be pald to owner or owners of the surrounding property thereto.

ITis therefore hereby ORDENED that said report of the Board of County Road Viewers be adopted in full and that said road be established and declared a public highway of Umatilla County, Oregon and given the number of 909.

Datad May 9, 1935.

Cline & Cheshie & Males you of Meiners Do. Judge Co. Commissioner Co. Commissioner

ORDER ESTABLISH-

ING SWITZLER AVE FROM HIGHWAY 730

TO HIGH SCHOOL

IN THE MATTER OF OREGON ROAD,

known as County Road No. 909;

KNOW ALL MEN BY THESE PRESENTS, That CHETOPA APARTMENTS, ING., a Corporation, of the County of Umatilla and State of Oregon, in consideration of the benefits and other valuable considerations, and the sum of One (\$1.00) Dollar, the receipt whereof is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the County of Umatilla, State of Oregon, the following described parcel of land, situate in Umatilla County, State of Oregon, to-wit:

A strip of land sixty feet wide for road purposes, the center line thereof being described as beginning at a point on the Northerly right of way line of the Oregon-Washington Railroad and Navigation Company, which point is described as follows: Beginning at the corner common to Sections 8, 9, 16 and 17, Township 5 North, Range 28 East of the Willamette Meridian, running thence North 0° 59' West 13.7 feet along the line between Sections 8 and 9, to the Southerly line of an existing County Road; thence South 73° 13' West 2116.9 feet along said Southerly boundary line of said County Road to a one-half inch pipe; thence South 16° 22' 30" East 456.07 feet to a one-half inch iron pipe in the Northerly line of the Oregon-Washington Railroad and Navigation Company's right of way; thence South 77° 45' West along said right of way line 500.09 feet to the true point of beginning; thence running North 11° 15' West 1250 feet, more or less, to the Columbia River. Grantor, however, reserves to itself, its successors and assigns, the right to construct and maintain over and upon said roadway culverts and pipe lines for conducting oil and gasoline and water across or to and from said Columbia River.

TO HAVE AND TO HOLD the same unto the County of Umatilla, State of Oregon, for the purposes of a public road forever.

IN WITNESS WHEREOF, said corporation has caused these presents to be signed by its proper officers, and its seal to be hereto attached by authority of resolution of its Board of Directors, this ____28th_ day of February , 1939.

CHETOPA APARTMENTS, INC

President

CHETOPA APARTMENTS,

By flore

DEED FOR SWITZLE AVENUE FROM UPRR R/W NORTH TO 3rd STREET

IN THE COUNTY COURT OF THE STATE OF OREGON

FOR UMATILLA COUNTY

In the Matter of Locating, Establishing, Altering, Widening, Straightening and Changing a County Road.

ORDER

Beginning at the intersection of 3rd. Street and the East City Limits of the City of Umatilla, running thence N. 73° 13' E. a distance of 5139.8 feet more or less to the West line of Tax 2, Section 9, Tp. 5 N. R. 28, E.W.M.

NOW ON THIS DAY this matter coming on to be heard upon the report of the Board of County Road Viewers heretofore appointed by this Court to view, survey if necessary, lay out, locate, relocate or change the road set forth in the Resolution of this Court, the same being the next regular term for the County Court of Umatilla County, Oregon, following the expiration of 10 days after the filing of said report of said Board of County Road Viewers of Umatilla County, Oregon, and said report having been publicly read on two different days of the same Term of said Court, to-wit: having been publicly read the first time on the 25 day of James, 1948 and publicly read the second time on the 29 day of Arms, 1948, and

It appearing to the Court that no person whose lands are directly affected by said report or any freeholder, residing in the road district where said road is located or any other person has filed a remonstrance against the proposed extablishment of said road, and the Court now and here being satisfied that said road will be a public utility and that the report of the Viewers is fair, just and favorable to the Court and to all persons concerned, the said is hereby adopted, and that the hereinafter described road, to-wit:

Beginning at the center of the intersection of 3rd. Street and the East City Limits of the City of Umatilla, Oregon, the centerline of which shall run N. 73° 13' E. a distance of 625.2 feet, said portion of the above described road shall be 60 feet in width. Thence continuing N. 73° 13' E. a distance of 870 feet more or less to a point, this portion of the road shall be 70 feet in width. Thence continuing N. 73° 13' E. a distance of 2640 feet. This portion of the road shall be 80 feet in width. Thence continuing N. 73° 13' E. a distance of 1004.6 feet more or less to a point on the West line of Tax No. 2 of Section 9, Tp. 5 N. R. 28, E.W.M. This portion of the road last above described shall be 60 feet in width.

be, and the same is hereby, established and declared to be a public highway of Umatilla County, State of Oregon.

It is further ORDERED that said road be finally surveyed

and opened and that the field notes be recorded in the office of the County Surveyor for Umatilla County, Oregon, and from and after the date of this order, said road shall be, and the same is, hereby declared to be a public highway of Umstilla County, Oregon.

DATED this day of time, 1948.

Court met this day resuant to adjournment, present the same icers as on the last day. The Journal the last day's proceedings was read and hereby approved and signed, and among other proceedings the following were had, to-wit:

Commissioner Commissioner

DEED

KNOW ALL MEN BY THESE PRESENTS: That Umatilla County, Oregon, a municipal corporation in the State of Oregon, for and in consideration of the sum of \$1,200.00, the receipt whereof is hereby acknowledged and pursuant to an order of sale of real property acquired by foreclosure of delinquent tax liens has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto W. E. Hughes and Pauline Hughes, husband and wife, their heirs and assigns, the following described parcel of land situated in Umatilla County, State of Oregon, to-wit:

 $N_2^{\frac{1}{2}}$ SE $_4^{\frac{1}{4}}$ in Section 25, Township 5 South, Range 31, E.W.M., and NW $_4^{\frac{1}{4}}$ SW $_4^{\frac{1}{4}}$ in Section 30, Township 5 South, Range 32, E.W.M., All in Umatilla County, Oregon.

together with the tenements, hereditaments and appurtenances thereunto belonging. TO HAVE AND TO HOLD the same to the said W. E. Hughes and Pauline Hughes

husband and wife their heirs and assigns, FOREVER.

IN WITNESS WHEREOF, said Umatilla C ounty, Oregon, has caused its name to be hereunto signed by D. R. Cook, its County Judge, and F. B. Hayes and Cecil B. Stanton, its County Commissioners, who have hereunto subscribed their names this 11th day of August, 1964.

UMATILLA COUNTY, ORECON
By D. R. COOK, County Judge
F. B. HAYES, County Commissioner
CECIL B. STANTON, County Commissioner

STATE OF OREGON SS. County of Umatilla

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County of Umatilla)

THIS CERTIFIES, That on this 11th day of August, 1964, before me, the undersigned, County Clerk of Umatilla County, Oregon, personally appeared the within named D. R. Cook, County Judge, F. B. Hayes, and Cecil B. Stanton, County Commissioners of Umatilla County, Oregon, who are known to me to be the identical persons named in and who, sitting for the transaction of County Business, executed the within instrument and acknowledged to me that they executed the same for and on behalf of Umatilla County, Oregon.

(SEAL)

JESSIE M. BELL, Clerk Umatilla County, Oregon

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AFFIDAVIT

STATE OF OREGON SS. COUNTY OF UMATILLA

We, D. R. Cook, Judge, Frank B. Hayes, and Cecil Stanton, the duly elected, we, b. R. Cook, Sudge, Frank B. Hayes, and Cecil Stanton, the duly elected qualified and acting County Commissioners of Umatilla County, State of Oregon, and comprising the Board of County Commissioners (hereinafter called "Board") do certify that the Board has general charge of and supervision over all County roads in said County; and that records in the Board's office show all County roads in said County Except the north shore approach road to Umatilla County bridge crossing the Columbia

THAT the following described roads are public roads, maintained by Umatilla County for the use of the general public and have been used as public roads for more

County for the use of the general public and note than 10 years last past.

1. That portion of County Road No. 754 extending southeasterly from the connection with U. S. No. 730, a distance of approximately 2,000 feet to the south line of the NW½ SW½ of Section 17, T. 5 N., R. 28 E., W.M.

2. All that portion of County Road No. 927 (known as Umatilla Oil Depot Road) lying northerly of the northerly right of way line of Oregon-Washington Railroad and Navigation Company in Sections 9 and 16, Township 5 North, Range 28 E., W.M.

3. All the northerly extension of Quincy Avenue in McNary Addition to Umatilla, Oregon, in Section 16, T. 5 N., Range 28 E., W.M. (County Easement Deed recorded in

Oregon, in Section 16, T. 5 N., Range 28 E., W.M. (County Easement Deed recorded in Deed Book 246, page 162).
4. All of County Road No. 909 (Switzler Avenue) in Sections 8 and 17, T. 5 N., R. 28 E., W.M. (County easement deed recorded in deed book 120, page 563).

n. 28 E., W.M. (County easement deed recorded in deed book 120, page 563).

5. All of County Road No. 926 being the easterly extension of Third Street in Umatilla, Oregon, lying in Sections 17, 8 and 9; T. 5 N., R. 28, E., W.M.

6. All that portion of County Road included within the southerly approach to the Umatilla County Bridge crossing the Columbia River lying northerly of the north right of way line of the Union Pacific Railway Company (Oregon Washington Railroad and Navigation Company) located in Sections 9 and 16, T. 5 N., R. 28 E., W.M. Umatilla County, Oregon.

7. All of the County Road included within the north shore access road to the Umatilla County Bridge located in Sections 8 and 9, T. 5 N., R. 28 E., W.M. Benton

County, Washington.

IN WITNESS WHEREOF, Umatilla County, acting by and through its Board of County Commissioners, has executed this instrument and affixed its official seal this 11th day of August., 1964.

#_/ 913 ORDINANCE NO. 291

387506

AN ORDINANCE FOR THE VACATION OF CERTAIN PORTIONS OF CITY STREETS ON THE NORTH SIDE OF UMATILLA AND ADJACENT TO THE UMATILLA RIVER, AND BEING STREETS IN THAT PORTION OF UMATILLA WHICH IS SUBJECT TO INUNDATION AS A RESULT OF THE JOHN DAY LOCK AND DAM PROJECT, ALL IN THE CITY OF UMATILLA, OREGON.

WHEREAS, on the 15th day of August , 1968, the Umatilla City Council duly determined to initiate proceedings to vacate certain portions of City streets in the City of Umatilla, Oregon, as hereinafter described in Exhibit "A(3)" attached hereto and incorporated herein by this reference; and set forth Monday, the 16th day of September , 1968, at 7:30 p.m., and the Council Chambers of the Umatilla City Hall, Umatilla, Oregon, as the time and place for hearing the matter for vacation of said streets as described in the attached Exhibit "A(3)" and of any objections or remonstrances thereto, and directed the City Recorder to cause a public notice of the time and place of such proposed hearing to be published once each week for four consecutive weeks, the first of said publications having been on August 22 1969 and the last of said publications having been on September 12 1968, as duly required by law, and to further post a copy of said notice as required by law; and

WHEREAS, it appears that said publication and posting were duly and lawfully performed; and

WHEREAS, at the hearing of said proposed street vacation it appeared that there were certain objections and alternatives submitted to the Council, and after hearing all matters for hearing before the Council concerning the same the Council adjourned the hearing to the Little-day-of-September, 1968, at 8:00
p.m., at the City Council Chambers, Umatilla City Hall, Umatilla, Oregon, for further consideration.

Page 1 - Ordinance

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 $R_{-}/$ 914

WHEREAS, said matter of the vacation of those streets designated in Exhibit "A(3)" attached hereto having been finally heard and discussed before the City Council, the City Council has determined and so finds that it is in the public interest to vacate those streets and alleys included in the attached Exhibit "A(3)" as designated in the attached Exhibit "B(3)", incorporated herein by this reference, and to further impose restrictions as hereinafter set forth in said Exhibit "B(3)", reserving easements in lieu of vacation in those areas described in said Exhibit "B(3)".

NOW, THEREFORE, THE CITY OF UMATILIA DOES ORDAIN AS FOLLOWS: SECTION 1. That the following described streets and alleys, as set forth in Exhibit "B(3)" attached hereto, are hereby, and the same are vacated.

SECTION 2. That the following portions of streets and alleys in lieu of absolute vacation that the public right of restricted casement is reserved as set forth in Exhibit "B(3)" attached hereto.

SECTION 3. That the title of the property which makes up that portion of streets being vacated, including those to which the easement of access is reserved, shall attach to the land bordering on such area in equal portions.

The foregoing Ordinance was introduced and read once in full, and by title only for the second reading and adopted by unanimous vote of Council present.

Approved by the Mayor the 16th day of September, 1968.

ATTEST: Stegard Marker

Mayor

Page 2 - Ordinance

R-/ 915 EXHIBIT A(3)

All of Ninth Street from east line of "I" Street to east line of NW% of Section 17, Township 5 North, Range 28, E.,W.M.

All of "J" and "K" Streets lying south of the centerline of alley through Blocks 103, 104, and 105 and lying North of the South line of NW4 Section 17, Township 5 North, Range 28, E.,W.M.

All of that portion of "A" Street lying South of the South line of Sixth Avenue.

All that portion of Fifth Street lying westerly of a line between the Southeast Corner of Lot 7, Block 34, extended southerly.

All that portion of Fourth Avenue lying westerly of a line described as follows:

Beginning at the northeast corner of Lot 4, Block 34; thence east to the center of "A" Streets; thence North to center of Fourth Avenue; thence east to east line of "A" Streets; thence North to North line of Fourth Avenue and point of terminus.

All that portion of alley on the North side of Block 1 of McNary Addition lying between the east line of Nugent Avenue and West line of Lot 2 of Block 1.

(As shown on that map filed in the City Recorders Office as Street Vacation Map Exhibit A(3)

Exhibit "B"

R-1

916

Resolution No. 11, 1968

All of Third Street lying between Brownell Slvd. and A Street within the City of Umatilla.

Portion of Severth and B Streets (intersection area)

Ninth Street and Southerly portions of I, J, and K Streets near Ninth Street.

A Street from Fifth Street to Columbia River waterfront.

I Street from Fifth Street to Columbia River waterfront.

Portions of alleys lying in Blocks 103, 104 and 105 Wardwells
Addition to the City of Umatilla, Oregon.

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917

STATE OF OREGON. COUNTY OF UMATILLA.

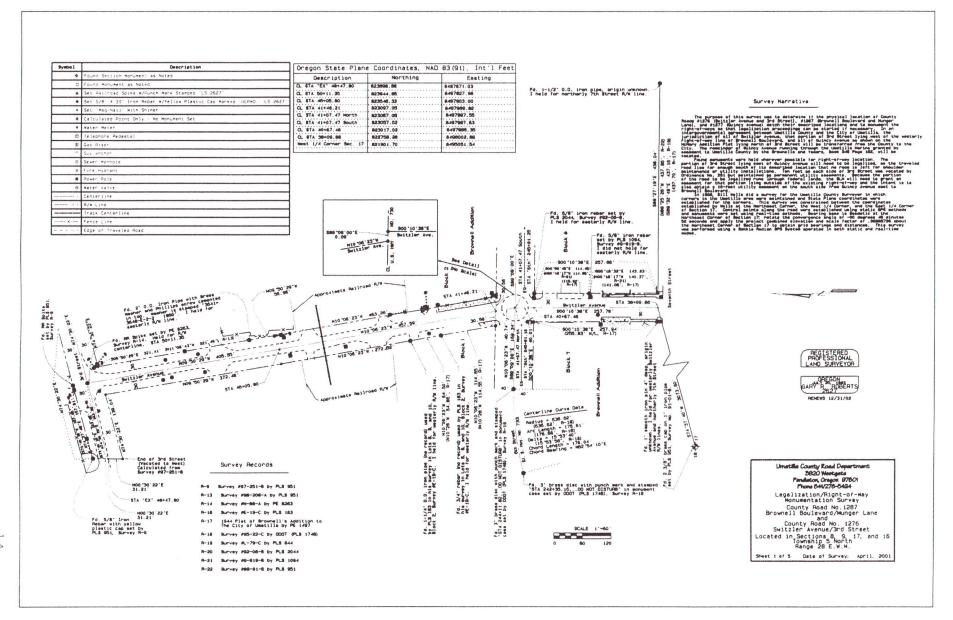
1, Jessie H. Bell, County Clerk, cartify that this instrument was received and recorded ON MAR 18.1976

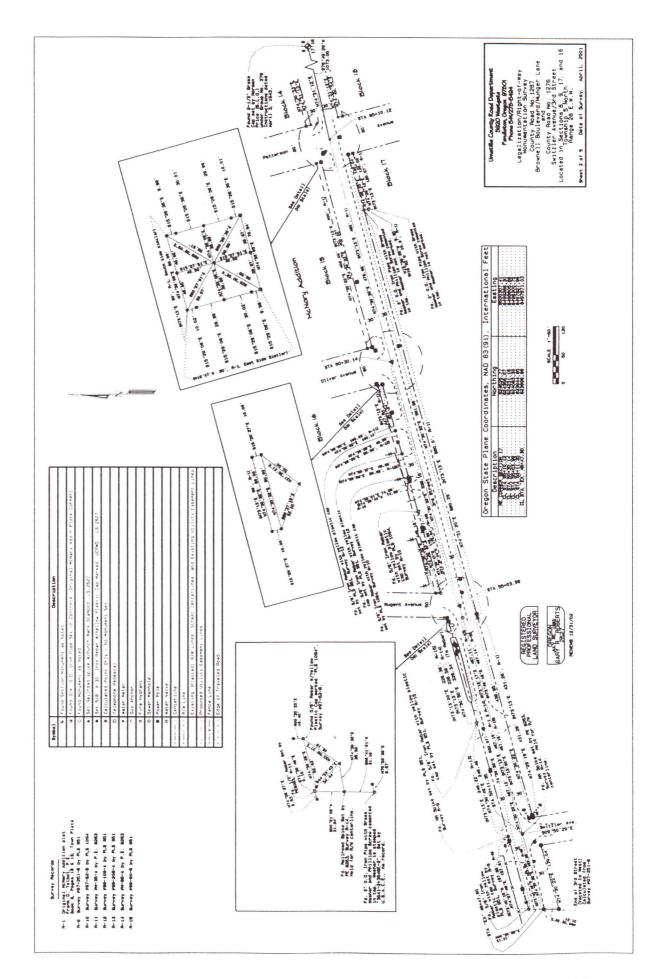
at 8:50 o'clock A. M. in the record of said County in

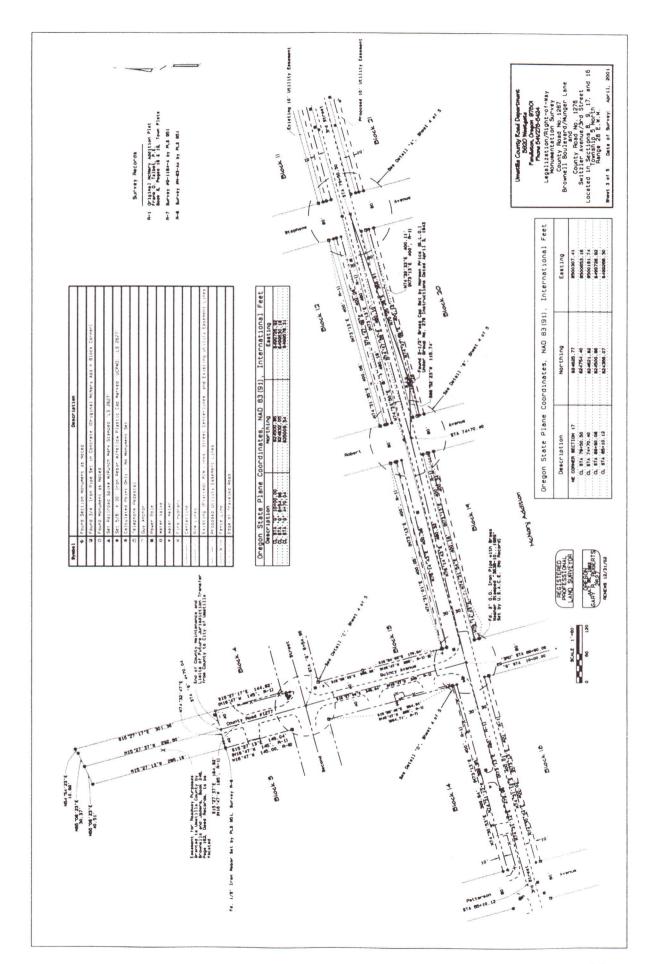
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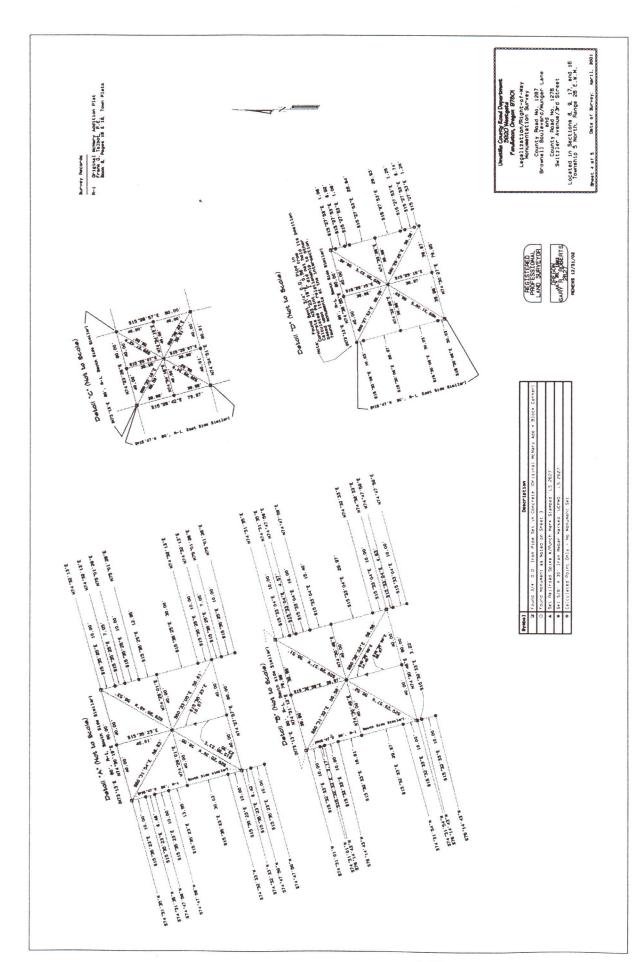
JESSIE M. BELL County Cierk Etly Brown

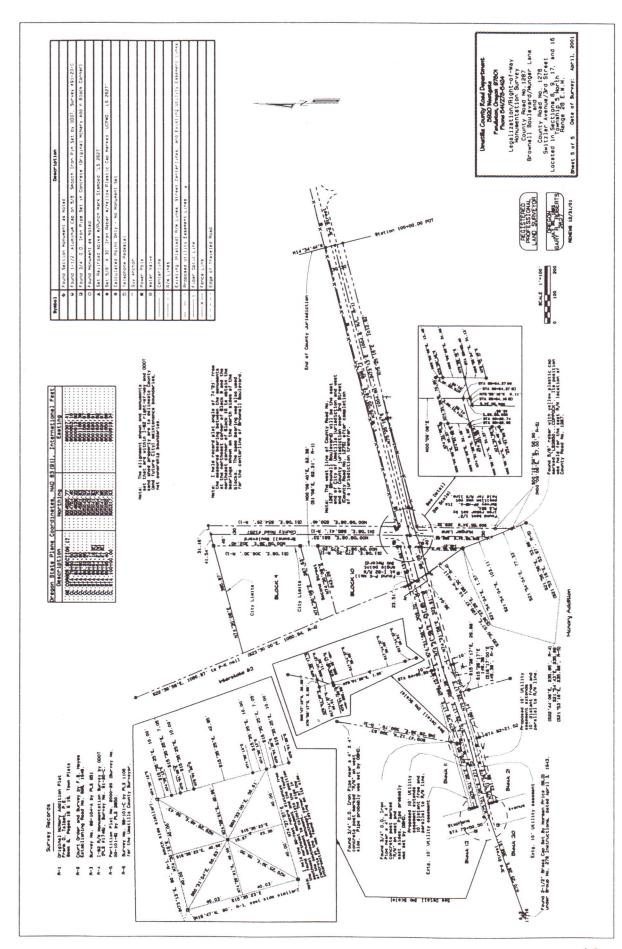
City of Umatilla P. O. Box 130 Umatilla, Oregon 97882

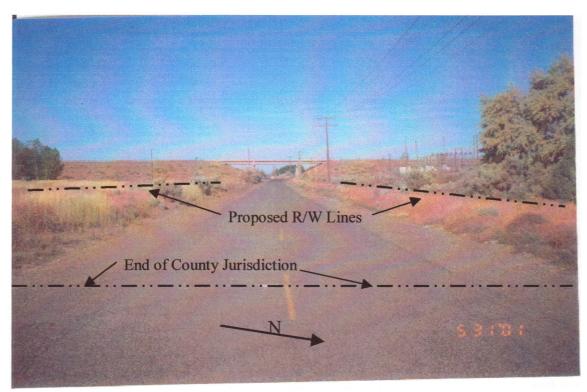




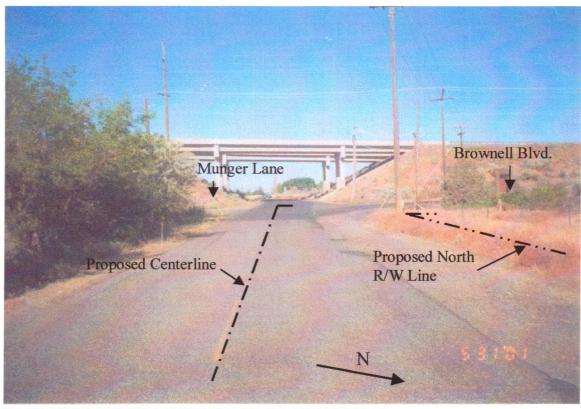




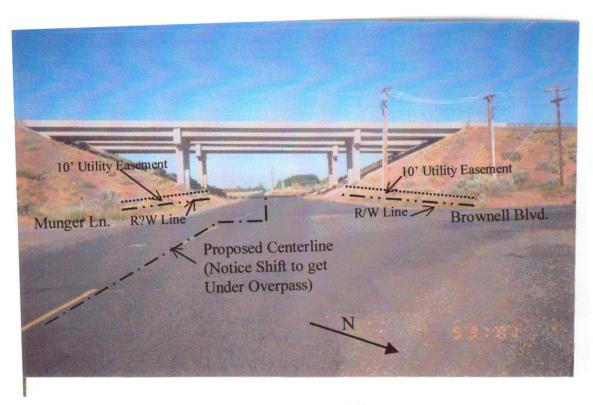




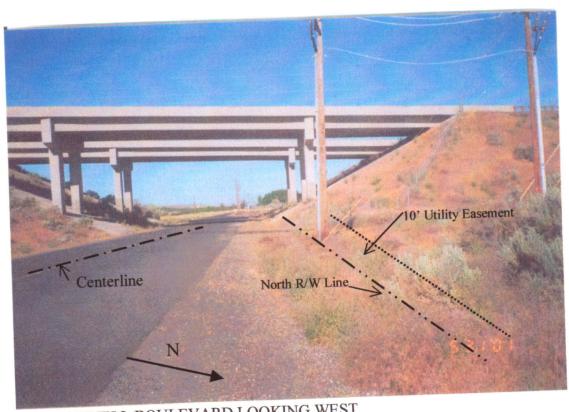
AT EAST END OF ROAD LOOKING WEST TOWARD I-82



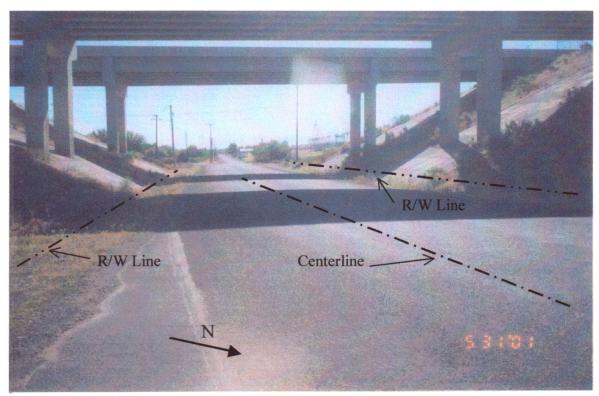
EAST OF BROWNELL BOULEVARD LOOKING WEST



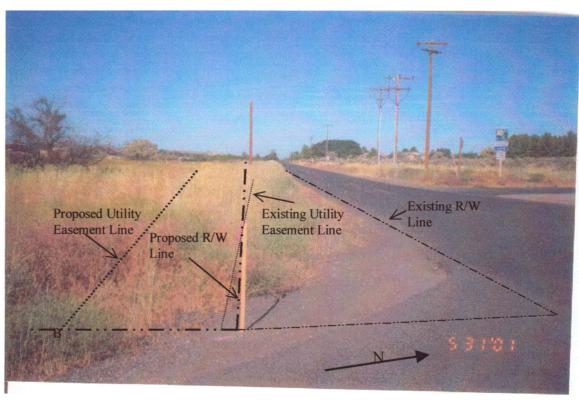
AT BROWNELL BOULEVARD LOOKING WEST



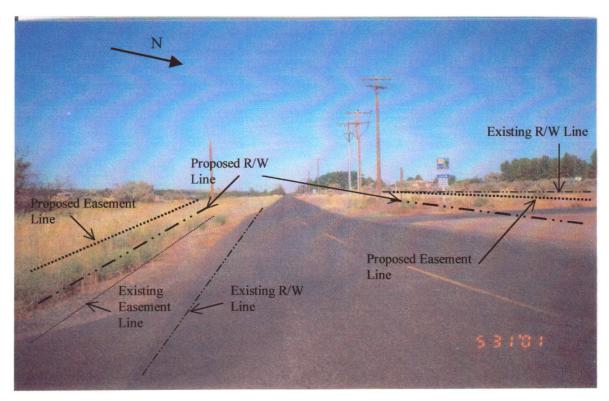
AT BROWNELL BOULEVARD LOOKING WEST



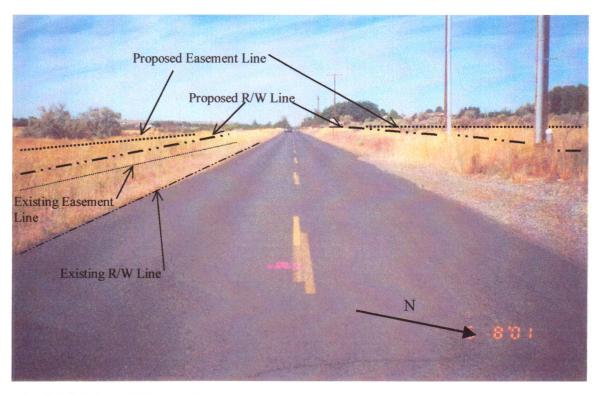
AT INTERSTATE 82 LOOKING WEST



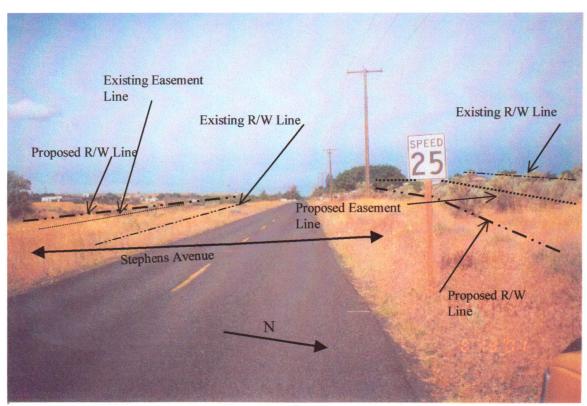
AT BROWNELL BLVD. WEST OF I-82 LOOKING WEST



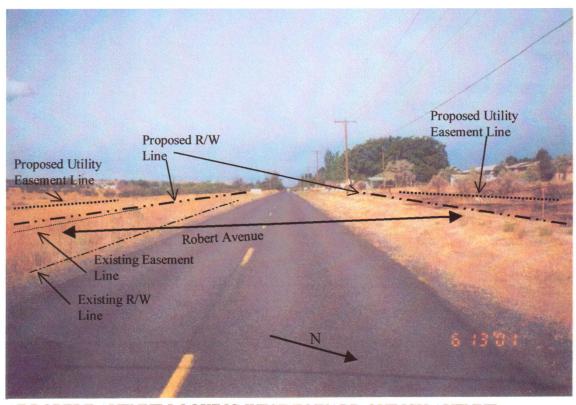
IN FRONT OF STATE SAND SHED LOOKING WEST



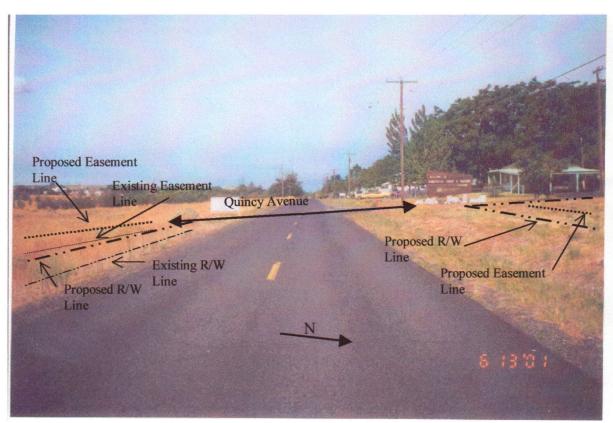
WEST OF STATE SAND SHED LOOKING WEST



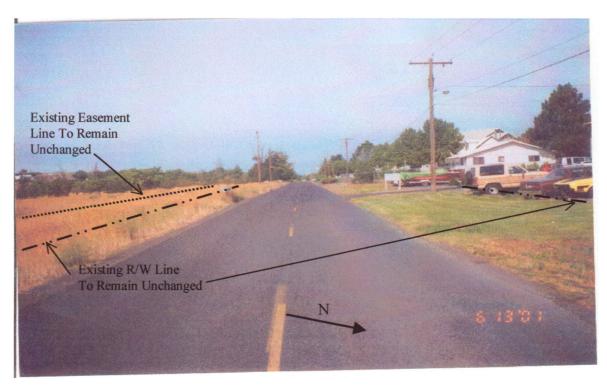
AT STEPHENS AVENUE LOOKING WEST TOWARD QUINCY AVENUE



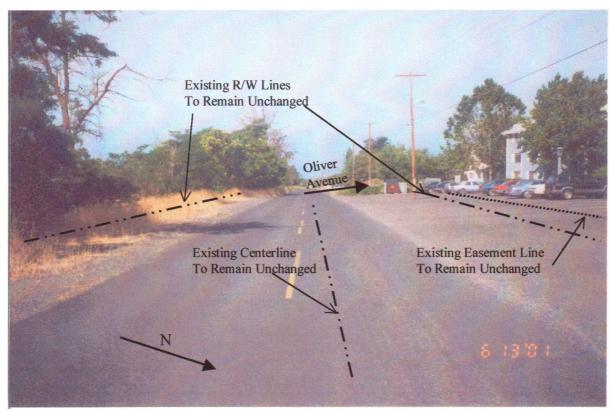
AT ROBERT AVENUE LOOKING WEST TOWARD QUINCY AVENUE



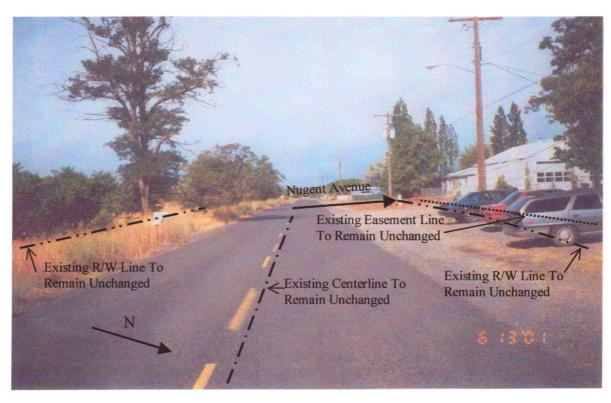
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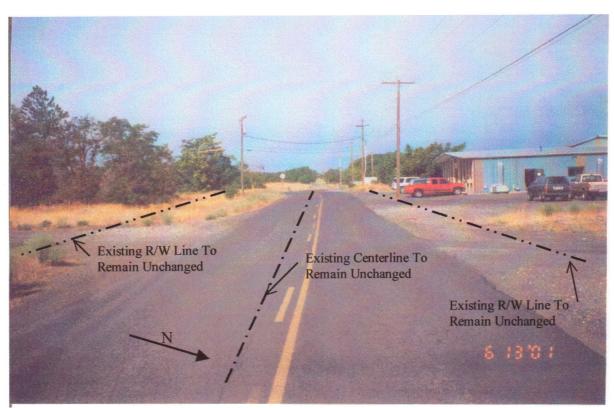
WEST OF QUINCY AVENUE LOOKING WEST



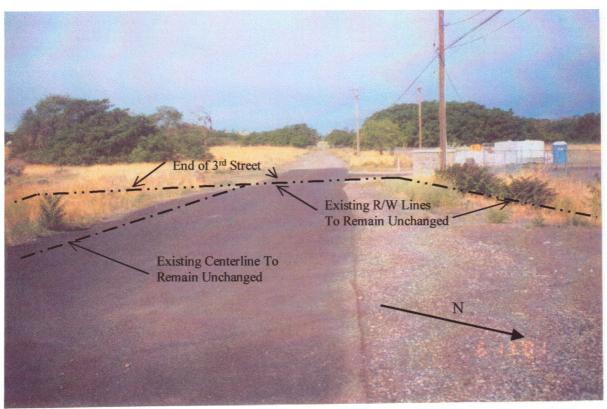
WEST OF PATTERSON LOOKING WEST TOWARD OLIVER AVENUE



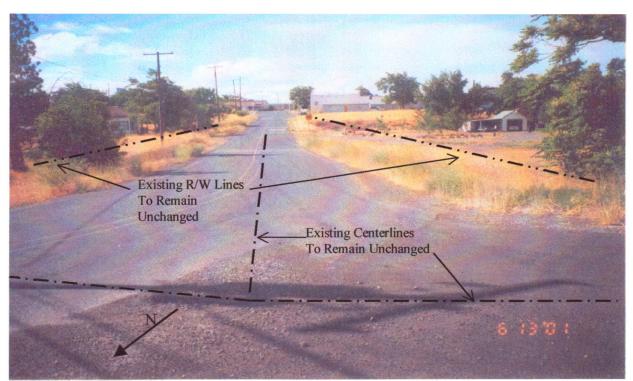
WEST OF OLIVER AVENUE LOOKING WEST TOWARD NUGENT AVENUE



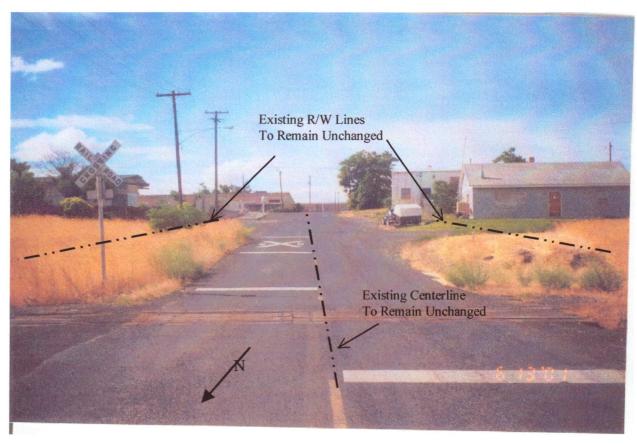
WEST OF NUGENT AVENUE LOOKING WEST



AT CORNER OF SWITZLER AND 3rd LOOKING WEST



AT THE INTERSECTION OF SWITZLER AND 3rd LOOKING SOUTH



AT TRACKS LOOKING SOUTH TOWARD HIGHWAY 730

AT HIGHWAY 730 LOOKING SOUTH TOWARD HIGH SCHOOL. THAT PART OF SWITZLER BETWEEN THE HIGHWAY AND THE HIGH SCHOOL IS ALSO STILL A COUNTY ROAD.