

MEMORANDUM

TO: Mayor and City Council

FROM: Faye Stewart, Public Works & Development Director

SUBJECT: ORDER APPROVING LEGALIZATION OF DOWNTOWN
MAIN STREET 65 FOOT WIDTH FOR THE MAIN STREET

DATE: July 5, 2023

Background

City Council has held the Public Hearing to receive comments regarding the legalization of the 65 foot Main Street right-of-way necessary to complete the "Evidence of Good Title" required by the Economic Development Administration for the Main Street Revitalization Project.

To complete the "Evidence of Good Title" supporting City ownership of the 65 foot Main Street right-of-way, City Council must approve the attached Order required by Oregon Revised Statute 223.950. This Order completes the legalization process setting Main Street right-of-way at 65 feet.

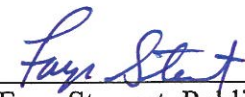
Recommendation

Staff recommends that Council approve the Order completing the legalization process, setting Main Street right-of-way width at 65 feet.

Cost

Recording fees with Lane County Deeds and Records Department.


Richard Meyers, City Manager


Faye Stewart, Public Works &
Development Director

ORDER NO. _____

**AN ORDER LEGALIZING MAIN STREET
REFLECTING THE CURRENT PUBLIC RIGHT OF WAY
FOR THE MAIN STREET REVITALIZATION PROJECT**

WHEREAS, the Economic Development Administration (EDA) approved the Main Street Revitalization Project on August 22, 2022; and

WHEREAS, EDA funding conditions require the City Engineer of Record, City Legal Counsel, and the City Manager to complete an “Evidence of Good Title” supporting City ownership of the 65’ Main Street right-of-way; and

WHEREAS, City staff, Branch Engineering, and Cascade Title have researched records generally relied upon to complete these forms; and

WHEREAS, while the Main Street right of way is on record, a recorded document establishing its full 65-foot width has yet to be located; and

WHEREAS, as far back as the late 1800s, recorded maps, pictures, and three individual property legal descriptions identify the 65-foot right of way along the full length of Main Street; and

WHEREAS, City utilities, including water and sewer mains and services, plus an adjacent storm drain connected to storm sewer pipe, are located within the Main Street right of way; and

WHEREAS, the City, County, and Oregon Department of Transportation have all improved this road, its utilities, and adjacent sidewalks over the years; and

WHEREAS, legalizing the full improved width of Main Street will place that road and associated utility lines within a public right of way, providing the City with clear authority to make future improvements to the road and utility infrastructure; and

WHEREAS, pursuant to ORS 223.935(1), road legalization is statutorily authorized if, through omission or defect, doubt exists as to the legal establishment of a public road; and

WHEREAS, pursuant to ORS 223.935(3), road legalization is statutorily authorized if the road, as traveled and used for 10 years or more, does not conform to the location of the road described in the City records; and

WHEREAS, Legal Counsel has recommended that the City rely upon ORS 223.935 et. seq. to legalize the full width of Main Street for provide EDA an Evidence of Good Title; and

WHEREAS, on June 12, 2023, the City Council initiated the process to confirm the current 65-foot Main Street right of way; and

WHEREAS, the City Engineer of Record, Branch Engineering, has surveyed and prepared a legal description for recording, which documents the Main Street width of 65 feet as traveled and used by the public for over 100 years; and

WHEREAS, based on the information presented, the Council makes the following findings of fact:

1. The full road width in question is a portion of Main Street situated immediately adjacent to dedicated portions of Main Street, which has been improved and holds utilities.

2. Branch Engineering's survey showing the full 65-foot width of Main Street has been filed with the City Council.

3. On June 26, 2023, the City Council posted and mailed notice of the legalization proceeding and provided the associated survey to the owners of abutting land.

4. At the public hearing conducted on July 10, 2023, members of the public were given an opportunity to file with the Council information that controverts any matter presented to the Council in the proceeding or alleging any new matter relevant to the proceeding.

5. No person has established a structure on any real property which encroaches within the proposed road right-of-way and remains unpermitted. For that reason, pursuant to ORS 223.945, no person is entitled to compensation as a result of this legalization process. No person has filed a claim for compensation under ORS 223.945(2) leading up to the hearing or thereafter; and

WHEREAS, the City Council of the City of Cottage Grove hereby determines that the proposed road legalization is in the public interest and, therefore, chooses to complete the road legalization procedures for the identified full width of Main Street.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. All of the foregoing recitals and findings of fact are hereby confirmed and adopted as findings of fact in support of this order.

2. The City Council of the City of Cottage Grove hereby enters its final order legalizing the road laid out and surveyed by the City Engineer, as described in Exhibit A, attached hereto and incorporated herein by this reference. The Council shall conduct no further hearing to consider the matter, which is hereby concluded. The road legalization

procedures are hereby declared complete and the identified 65-foot right-of-way width for Main Street shall hereafter exist as described in Exhibit A.

3. The City Recorder shall cause a copy of this Order to be recorded in Deeds and Records of Lane County, Oregon, and a copy of this Order shall be forwarded to the County Assessor.

4. Branch Engineering shall cause the centerline and right of way to be monumented and file a copy of the survey map and supporting narrative with the County Surveyor in accordance with ORS 223.950(2) and ORS 209.250.

5. Consistent with ORS 223.950(4), upon completion of the steps ordered above, any records showing the location of the road that conflict with the location of the road as described in this Order, and specifically within Exhibit A, are void.

SO ORDERED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR THIS 10TH DAY OF JULY, 2023.

Candace Solesbee, Mayor

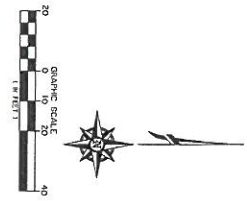
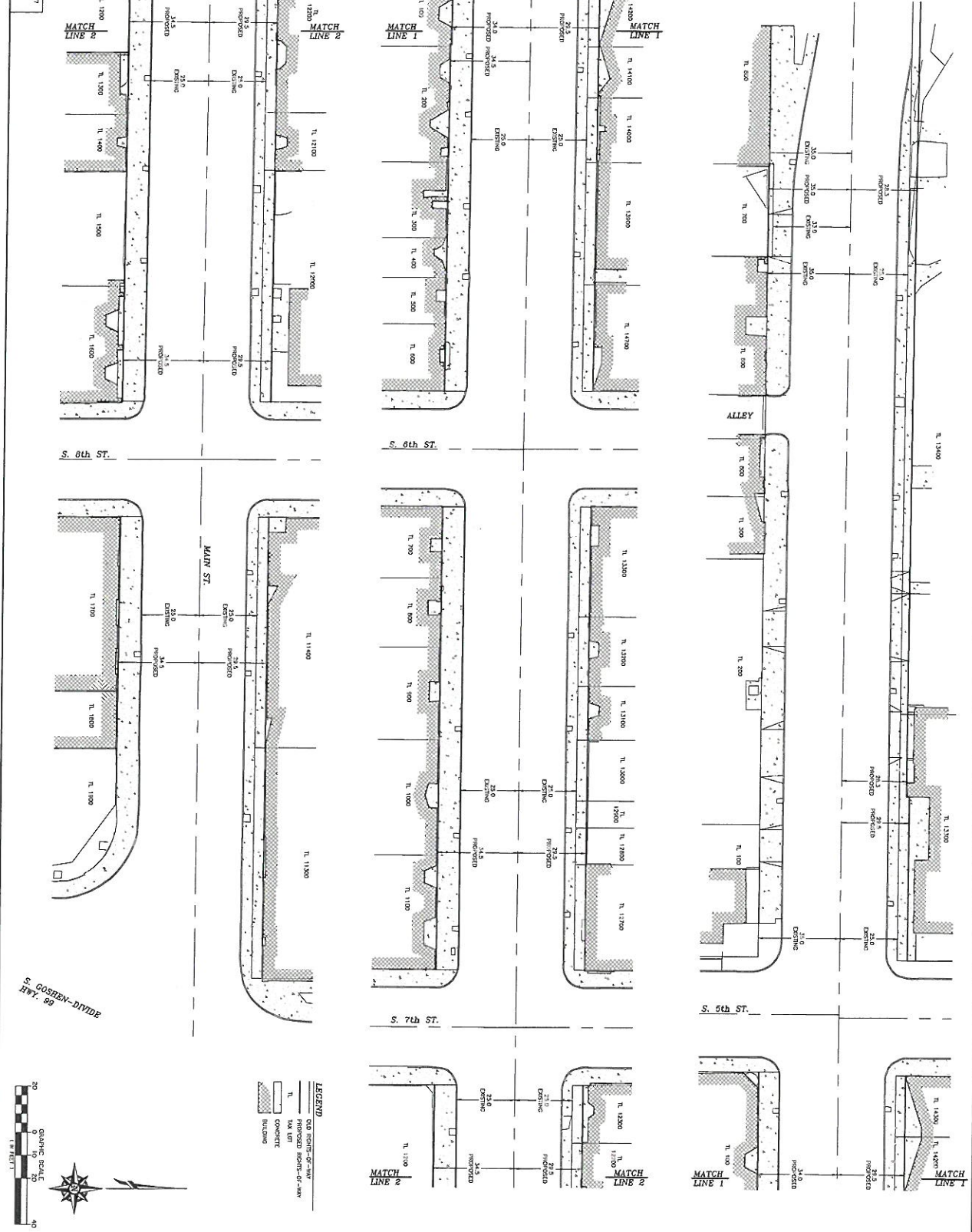
Dated: _____

ATTEST:

Richard Meyers, City Manager

Dated: _____

DATE: 2023-06-19
 DESIGNED BY: JTB
 CHECKED BY: JTB
 PROJECT NO: 22-0016



LEGEND
 --- OLD RIGHT-OF-WAY
 --- PROPOSED RIGHT-OF-WAY
 --- EXISTING
 --- PROPOSED
 --- BUILDING

DATE: JUNE 19, 2023
 DESIGNED BY: JTB
 CHECKED BY: JTB
 PROJECT NO: 22-0016
PROPOSED RIGHT-OF-WAY LEGALIZATION OF EAST MAIN ST.

PROPOSED RIGHT-OF-WAY LEGALIZATION
 FOR CITY OF COTTAGE GROVE
 BETWEEN 5th STREET TO HWY. 99
 COTTAGE GROVE, OREGON

Branch ENGINEERING
 CIVIL • TRANSPORTATION
 3150 SW 5th Ave.
 Suite 200, Portland, OR 97207
 Phone: 503.241.1234
 Fax: 503.241.1235
 www.branchengr.com

PROJECT TITLE:
 PROPOSED RIGHT-OF-WAY LEGALIZATION
 PRELIMINARY
 DESIGN
 DATE: 06/19/23
 DRAWN BY: JTB
 CHECKED BY: JTB
 PROJECT NUMBER: 22-0016