

W 10 D 1
03-3-12-7

AGENDA COVER MEMO

DATE: February 13, 2003
TO: Lane County Board of Commissioners
FROM: K. Robert Ezell, Lane County Surveyor *KRE*
DEPARTMENT: Public Works/Land Management Division

AGENDA ITEM TITLE: IN THE MATTER OF THE VACATION OF AN UNNAMED ROAD IN GRANDVIEW ORCHARD TRACT, AS PLATTED IN 1913 AND RECORDED IN BOOK 6, PAGE 29, LANE COUNTY, OREGON PLAT RECORDS, LOCATED OFF CAMAS SWALE ROAD, WITHOUT A PUBLIC HEARING AND ADOPTING FINDINGS OF FACT (19-03-16)

I. MOTION:

TO APPROVE THE ORDER VACATING AN UNNAMED ROAD IN GRANDVIEW ORCHARD TRACT, AS PLATTED IN 1913 AND RECORDED IN BOOK 6, PAGE 29, LANE COUNTY, OREGON PLAT RECORDS, LOCATED OFF CAMAS SWALE ROAD, APPROXIMATELY 2 MILES WEST OF CRESWELL, WITHOUT A PUBLIC HEARING AND ADOPTING FINDINGS OF FACT (19-03-16)

II. ISSUE:

To decide whether it is in the public interest to vacate an unnamed and unconstructed road, being 40 feet wide and 1584 feet in length, and having been dedicated to the public on the plat of Grandview Orchard Tract, as platted in 1913, and recorded in Book 6, Page 29, Lane County, Oregon Plat Records, as petitioned for, without a public hearing.

III. DISCUSSION:**A. Background:**

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Ann and John Krutsinger, Pamela and Robert Lungren, Patricia Feola, Harry and Viola Clough, and Barbara and Richard Marlatt, the landowners of 100% of the property abutting the proposed vacation of the unnamed road on the Grandview Orchard Tract. The petitioners are requesting the vacation of the described road, for the purpose of utilizing the vacated road easement. The former owners of the adjacent property have placed improvements (fences and outbuildings) within the right of way and the current owners wish to continue the use of such improvements.

The unnamed road was dedicated to the public on the plat of Grandview Orchard Tract, as platted in 1913. Said road is located between Lots 1 through 4 and Lots 5 through 8 of said plat, is 40 feet wide and 1584 feet in length. The road is unconstructed and the petitioners have stated that the road has never been developed since it was platted in 1913.

The Surveyor's Office notified Qwest Communications, Lane Electric Cooperative, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners regarding the vacation. Lane Electric Cooperative wrote back stating that they have an existing primary line that runs down the right of way and requested that an easement be reserved so that they can access and maintain their powerlines. Lane County Transportation Planning stated that an easement for the benefit of Tax Lots 701, 702, and 703, is required. The Lane County Planning section and the Zone 2 Foreman also expressed a concern that that all adjoining properties need to have legal access from Camas Swale Road. The other agencies and landowners either had no objection or did not reply to the referral.

B. Analysis:

Vacating the unnamed and unconstructed road, as petitioned for, would allow for the use of the property by the petitioners. This portion of right-of-way is undeveloped and it is reported by the petitioners that there are currently fences and outbuildings within the platted right of way. Vacating the subject road would allow for the petitioners to keep those in place, continue the use of the improvements, and make further improvements within the right of way.

The petition complies with the provisions of ORS 368.351, in that the petitioners, who are the landowners of 100% of the property abutting the proposed vacation, request that the vacation be approved as proposed.

No property will be denied legal access as a result of this vacation, as all of the owners of the lots adjacent to the subject road currently own adjoining lots that have frontage along Camas Swale Road. If any of the adjacent lots are sold in the future that leave them landlocked, the seller will need to provide an easement to these lots. The property owners of Lots 1 through 4 have executed an easement that runs along the east side of these lots, but the permit for access off of Camas Swale Road was denied because of the existing public right of way on the west side of their property. If the vacation of this public right of way is approved, the property owner can re-apply for an access permit, if needed.

Lane Electric Cooperative has requested that an easement be reserved so that they can access their utility lines. An easement will be reserved in the Order to vacate the unnamed platted road.

It is believed that the public interest will be served, as vacating this unconstructed right-of-way will allow the property owners to more fully utilize their property.

C. Alternatives/Options:

The Board of County Commissioners has the option to:

1. Approve the proposed vacation of the unnamed road within the plat of Grandview Orchard Tract, as petitioned for.
2. Deny the proposed vacation of the unnamed road within the plat of Grandview Orchard Tract, as petitioned for.
3. Continue the matter for further consideration.
4. Direct that a public hearing be held for the proposed vacation and that staff contact the petitioners to see if they wish to proceed with this stipulation.

D. Recommendations:

The Public Works Director's Report recommends that the Board support Option Number 1, to approve the vacation of the unnamed road within the plat of Grandview Orchard Tract, as petitioned for. No property will be denied legal access by this vacation. The vacation is in the public's interest as vacating the described right-of-way will allow the adjacent property owners to more fully utilize their property.

All statutory procedures necessary for a vacation without a public hearing of the above mentioned right-of-way have been complied with, including a report by the Director of Public Works who recommends approval of the vacation as described in the petition.

E. Timing:

Timing is not known to be a factor in this matter.

IV. IMPLEMENTATION/FOLLOW-UP:

If the Board of County Commissioners approves the Order of Vacation, the documents are to be forwarded to the Lane County Clerk for filing and recording, after which, copies are to be forwarded to the County Surveyor and County Assessor for appropriate action. If the order is denied, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

If the petitioners are given an option to proceed with a public hearing, they will have 180 days to decide whether or not to continue with the proposed vacation. If they decide to proceed with the proposed vacation the staff will prepare a Resolution and Order to set a date for a public hearing, but if the petitioners decide to terminate the proceedings, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

V. ATTACHMENTS:

Order w/ attachments:

- Petition to Vacate
- Director's Report - Exhibit "A"
- Findings of Fact - Exhibit "B"
- Vicinity Map - Attachment "A"

Contact Person: K. Robert Ezell x3626

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

FILE NO. 4093

IN THE MATTER OF THE VACATION OF AN UNNAMED)
ROAD IN GRANDVIEW ORCHARD TRACT, AS PLATTED)
IN 1913 AND RECORDED IN BOOK 6, PAGE 29, LANE)
COUNTY, OREGON PLAT RECORDS, LOCATED OFF) ORDER NO.
CAMAS SWALE ROAD, WITHOUT A PUBLIC HEARING)
AND ADOPTING FINDINGS OF FACT (19-03-16))

WHEREAS, this matter now coming before the Board upon a petition received by the Surveyor's Office of the Lane County Department of Public Works requesting, under authority of ORS Chapter 368.341, the vacation of the unnamed public road in the Grandview Orchard Tract. Said right-of-way proposed to be vacated is more particularly described as follows:

All of the portion of right-of-way located between Lots 1 through 4 and Lots 5 though 8 on the plat of Grandview Orchard Tract, as platted in 1913 and recorded in Book 6, Page 29 of the Lane County, Oregon Deed Records, and located in Section 16, Township 19 South, Range 3 West of the Willamette Meridian.

WHEREAS, the petition complies with the provisions of ORS 368.351 in that the petitioners, who are the landowners of 100% of the property abutting the proposed vacation, request that the vacation be approved as proposed; and

WHEREAS, ORS Chapter 368.351 provides for the vacation of public roads and right-of-ways without a public hearing; and

WHEREAS, various public and private agencies and neighboring adjoining landowners were notified by mail regarding the proposed vacation; and

WHEREAS, Lane Electric Cooperative requested that an easement be reserved for access to their power lines that run down the subject right of way; and

WHEREAS, Lane County's Transportation Planning section, Planning section, and Zone 2 Foreman all had concerns regarding access to the lots that would appear to be landlocked if the right of way is vacated; and

WHEREAS, no property will be denied legal vehicle access by this vacation, as all the owners of the lots adjacent to the subject road also own adjoining lots that have frontage along Camas Swale Road; and

WHEREAS, the petitioners have paid a vacation fee of \$650 and will pay recording fees upon final approval of the vacation; and

WHEREAS, the Director of the Department of Public Works has provided a written report in support of the proposed vacation, as required by ORS 368.351, marked as Exhibit "A", attached hereto and made a part hereof, by this Order; and

WHEREAS, all statutory procedures under ORS 368.351 necessary for this vacation have been complied with; and

WHEREAS, the Board is of the opinion that approving the vacation as petitioned for is in the best interest of the public; now, therefore, it is hereby

ORDERED, that the above described portion of the unnamed public road in Grandview Orchard Tract is hereby vacated; and it is further

ORDERED, that a utility easement be reserved for the right of Lane Electric Cooperative to access and maintain their existing utilities located within the vacated right-of-way; and it is further

ORDERED, that in support of this action, the Board hereby adopts the Findings of Fact, marked as Exhibit "B", attached hereto and made a part hereof by this Order; and it is further

ORDERED, that this Order be entered into the Lane County Board of Commissioners Journal of Administration, and be further recorded in the Lane County, Oregon Deed Records.

DATED this _____ day of _____, 2003.

Peter Sorenson, Chair
Lane County Board of Commissioners

Attachment "A" - Vicinity Map

APPROVED AS TO FORM
Date 2-24-03 lane county
[Signature]
OFFICE OF LEGAL COUNSEL

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

File No.

In the Matter of the Vacation of an
Unnamed road through Grandview Orchard
Tract, in Section 19, Township 03 South,
Range 16 West of the Willamette Meridian,
in Lane County, Oregon

PETITION TO VACATE

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned, Ann and John Krutsinger, husband and wife, Pamela and Robert Lundgren, husband and wife, Patricia Feola, Harry and Viola Clough, husband and wife, and Barbara and Richard Marlatt, husband and wife, as owners of the adjacent real property hereby petition for the vacation of the UNNAMED County Road located in Grandview Orchard Tract, which area to be vacated is described as follows:

“All of the County Road (unnamed) located in Grandview Orchard Tract as platted in Volume 6, page 29 Lane County Oregon Plat Records, dated February 17, 1913, Lane County, Oregon.” The roadway platted in 1913 is not described except by diagram showing a roadway 40’ wide and 2400 chains long running north/south in the middle of Grandview Orchard Tract (diagram from Volume 6 page 29 attached).

WHEREAS, the undersigned petitioners are the owners of 100% of all the real property located adjacent to the above described area to be vacated; and

WHEREAS, petitioners allege as follows:

1. The purpose of this vacation request is to allow the adjacent property owners to make full use of their property and place improvements without fear of condemnation. The roadway as platted in 1913 has never been developed and over the years previous owners have placed improvements in the roadway (fences and outbuildings). Current owners wish to continue such improvements.
2. There are no utilities or powerlines located in the area to be vacated.

WHEREAS, no portion of the area to be vacated is located within the boundaries of an incorporated city or town; and

WHEREAS, the public interest will be served and not prejudiced by vacation of the above described area, the Unnamed and undeveloped roadway in Grandview Orchard Tract; and

WHEREAS, petitioners, separately and collectively, have no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation without a hearing; and

THEREFORE, the petitioners request an Order of the Board of Commissioners for Lane County as follows:

1. Setting a date for vacation of the above described portion of road, with or without a hearing before the Board of Commissioners of Lane County, pursuant to ORS Chapter 368.
2. Upon review of this matter, to direct the vacation of the above described road, and direct the title to the vacated area revert and vest in accordance with ORS 368.366.

DATED this 6th day of October, 2002.

PETITIONERS:

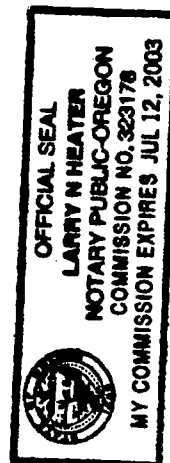
[Signature]
 John C. Krutsinger

[Signature]
 Ann Krutsinger

Map # 19-03-16-00
 Lot # 00700, 00701, 00702, 00703
 32611 Camas Swale Road
 Creswell, Oregon 97426

State of Oregon, County of Lane
 On October 6, 2002
 personally appeared the above named, Ann Krutsinger, and John Krutsinger, and acknowledged the foregoing instrument to be a voluntary act before me:

[Signature]
 Notary Public of Oregon
 My Commission Expires: 7-12-2003



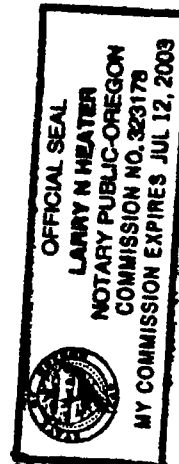
[Signature]
 Harry L. Clough

[Signature]
 Viola Clough

Map # 19-03-16-00
 Lot # 00600,
 32551 Camas Swale Road
 Creswell, Oregon 97426

State of Oregon, County of Lane
 On Oct 9, 2002
 personally appeared the above named, Harry Clough, and Viola Clough, and acknowledged the foregoing instrument to be a voluntary act before me:

[Signature]
 Notary Public of Oregon
 My Commission Expires: 7-12-2003

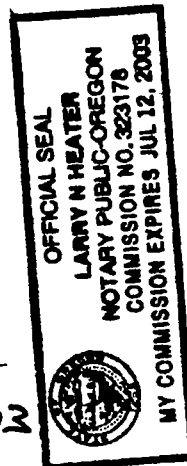


Patricia L Feola
Patricia L Feola

Map # 19-03-16-00
Lot # 00800
32571 Camas Swale Road
Creswell, Oregon 97426

State of Oregon, County of Lane
On October 6, 2002
personally appeared the above named,
Patricia L. Feola, and
acknowledged the foregoing instrument to
be a voluntary act before me:

Larry N Heater
Notary Public of Oregon
My Commission Expires: 2-12-2003



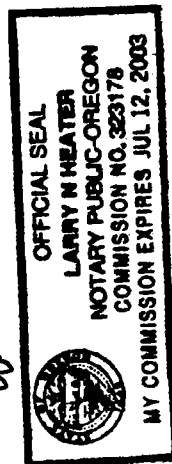
Richard F Marlatt
Richard F. Marlatt

Barbara J Marlatt
Barbara J. Marlatt

Map # 19-03-16-00
Lot # 01104
32550 Danville Road
Creswell, Oregon 97426

State of Oregon, County of Lane
On October 6, 2002
personally appeared the above named,
Richard and Barbara Marlatt, and
acknowledged the foregoing instrument to
be a voluntary act before me:

Larry N. Heater
Notary Public of Oregon
My Commission Expires: 2-12-2003



see attached

Robert A. Lundgren

Map # 19-03-16-00
Lot # 00901
32579 Camas Swale Road
Creswell, Oregon 97426

State of Oregon, County of Lane
On _____, 2002
personally appeared the above named,
Robert Lundgren, and
acknowledged the foregoing instrument to
be a voluntary act before me:

Notary Public of Oregon
My Commission Expires: _____

see attached

Pamela E. Lundgren

Map # 19-03-16-00
Lot # 00901
32579 Camas Swale Road
Creswell, Oregon 97426

State of _____, County of _____
On _____, 2002
personally appeared the above named,
Pamela E. Lundgren, and
acknowledged the foregoing instrument to
be a voluntary act before me:

Notary Public of _____
My Commission Expires: _____

Patricia L Feola

State of Oregon, County of Lane
On _____, 2002
personally appeared the above named,
Patricia L. Feola, and
acknowledged the foregoing instrument to
be a voluntary act before me:

Map # 19-03-16-00
Lot # 00800
32571 Camas Swale Road
Creswell, Oregon 97426

Notary Public of Oregon
My Commission Expires: _____

Richard F. Marlatt

State of Oregon, County of Lane
On _____, 2002
personally appeared the above named,
Richard and Barbara Marlatt, and
acknowledged the foregoing instrument to
be a voluntary act before me:

Barbara J. Marlatt

Map # 19-03-16-00
Lot # 01104
32550 Danville Road
Creswell, Oregon 97426

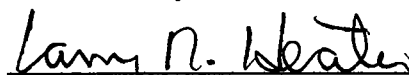
Notary Public of Oregon
My Commission Expires: _____



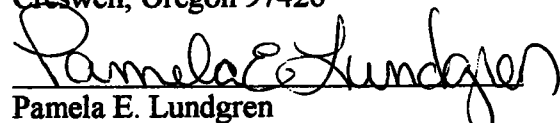
Robert A. Lundgren

State of Oregon, County of Lane
On Oct 6, 2002
personally appeared the above named,
Robert Lundgren, and
acknowledged the foregoing instrument to
be a voluntary act before me:

Map # 19-03-16-00
Lot # 00901
32579 Camas Swale Road
Creswell, Oregon 97426



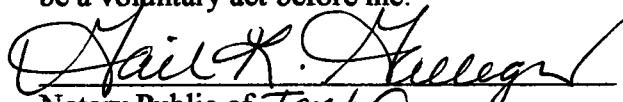
Notary Public of Oregon
My Commission Expires: 7-12-2008



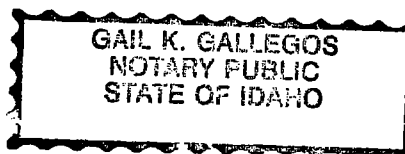
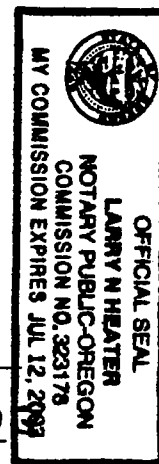
Pamela E. Lundgren

State of IDAHO, County of CASSIA
On 11-6, 2002
personally appeared the above named,
Pamela E. Lundgren, and
acknowledged the foregoing instrument to
be a voluntary act before me:

Map # 19-03-16-00
Lot # 00901
32579 Camas Swale Road
Creswell, Oregon 97426



Notary Public of Idaho
My Commission Expires: 10-15-04



GRANDVIEW ORCHARD TRACT

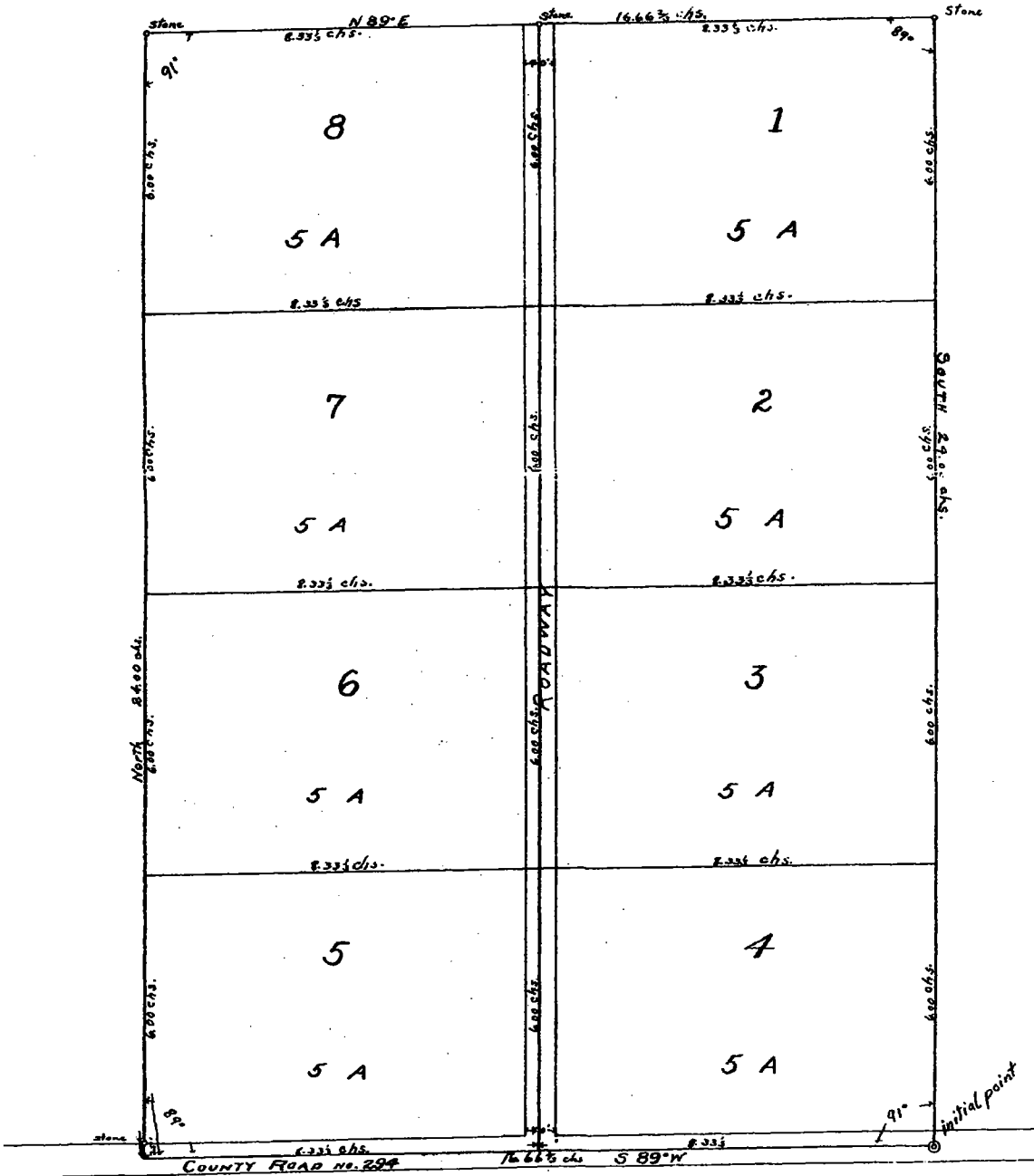
ORIGINAL

IN

Sec. 16, T. 19 S., R. 3 W., W.M., Lane County,
OREGON.

Scale 2 chs = 1 in.

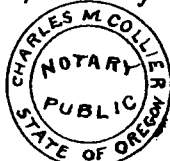
Mar 13, 1912, H.W. Libby, C.E.



DESCRIPTION:- Beginning at the initial point the boundaries of the platted tract run as follows:- South 89° West 16.66 2/3 chains, thence North 2400 chains, thence North 89° East 16.66 2/3 chains, thence South 2400 chains to the place of beginning, containing 40 Acres of land in Section 16, Township 19 South of Range 3 West of the Willamette Meridian, Lane County, Oregon.

State of Oregon } s.s.
County of Lane } I, Hollis W. Libby, being first duly sworn on oath say that I am a surveyor of Eugene, Oregon and that I have correctly surveyed and marked with proper monuments the lands as represented on this plat of Grandview Orchard Tract and that I planted 6 inches below the surface of the ground for an initial point a stone 6" x 6" x 12", said stone being 40.27 chains South 89° West of a stone set in County Survey number 867, 15.67 chains North and 3.49 chains West of the Southeast corner of the James H. Butler Donation Land Claim number 75 in Township 19 South of Range 3 West of the Willamette Meridian, Lane County, Oregon.

Subscribed and sworn to before me this 14th day of March 1912.
Charles M. Collins
Notary Public



Hollis W. Libby

Know all men by these presents, that we, R.E. Dersham and Lily M. Dersham and the Creswell Orchard Company, a corporation duly organized and doing business under the laws of the State of Oregon, owners in fee simple of the tract above described, hereby declare this plat of Grandview Orchard Tract to be a true plat of property owned and laid out by them and do hereby lay out and establish the lots as shown on said plat and dedicate the highways shown thereon to be used as such to the public forever.

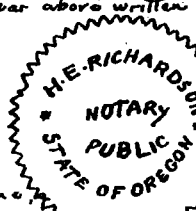
Witness our hands and seals this 2nd day of July 1912
Signed and sealed by the Creswell Orchard Company by its president and secretary in presence of
F.A. Richardson
A.L. Gove
Signed and sealed by said R.E. Dersham and Lily M. Dersham in presence of
F.A. Richardson
M. A. Devenant

THE CRESWELL ORCHARD COMPANY
By F.A. Richardson President
Albert L. Gove Secretary
R.E. Dersham
Lily M. Dersham



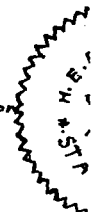
State of OREGON } s.s.
County of LANE } On this 2nd day of July 1912 personally appeared before me a notary public in and for said county and state, F.A. Richardson and Albert L. Gove, to me personally known, who being first duly sworn, did say that they are respectively the president and secretary of the Creswell Orchard Company and that the seal affixed to said instrument is the corporate seal of said Creswell Orchard Company and that the above instrument was signed in behalf of said Company by authority of its board of directors and said F.A. Richardson and Albert L. Gove each acknowledged said instrument to be the free act and deed of said corporation. In testimony whereof I have hereunto set my hand and affixed my official seal the day and year above written

F.A. Richardson
Notary Public for Oregon



State of Oregon } s.s.
County of Lane } On this 23rd day of October, 1912 personally appeared before me, Notary Public in and for said county and state, R. E. Dersham and Lily M. Dersham his wife to me personally known to be the identical persons described in and who executed the above dedication and acknowledged to me that they executed the same freely and voluntarily and for the purposes therein mentioned. In witness whereof I have hereunto set my hand and affixed my official seal the day and year first above written

F.A. Richardson Notary Public for Oregon



APPROVED this 17th day of February 1913
Helmus W. Thompson COUNTY JUDGE
R. J. Humphill COUNTY COMMISSIONER
Geo. M. Hawler COUNTY COMMISSIONER

G. Martin
D.L.C. No. 72

NW Cor.
J. Martin
D.L.C. No. 75
N89°00'E.

2776.59'

1093.63'

South 61.28 ch = 4094.48

500

600

700

6.00 ch = 396

South 60.72 ch = 4007.52

GRAND ORCHARD TRACT

872.5'
180°18'E
S = 1' 106 + 17.17 PL. R.
L. 2094 06.46 PAT. R.

L. 2734 12.96 PL. R.
K. 572.96
L. 554.46 E
L. 530.85
N. 87°30'E
L. 57.4

L. 2384 91.77 PL. R.

SOUTH - 826.10
L. 1117 16.00 ch = 396.71
L. 1117 16.00 ch = 396.71
L. 1117 16.00 ch = 396.71

1002
1001
110'

175
155
901
516

6.00 ch = 396

COUNTY

See Inset

00°19'55"E
536.48

762.57
5.00 14' 55" W

5.97 57' 45" W
49.70

EXHIBIT "A"
IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

FILE NO. 4093

IN THE MATTER OF THE VACATION OF AN UNNAMED)
ROAD IN GRANDVIEW ORCHARD TRACT, AS PLATTED)
IN 1913 AND RECORDED IN BOOK 6, PAGE 29, LANE)
COUNTY, OREGON PLAT RECORDS, LOCATED OFF)
CAMAS SWALE ROAD, WITHOUT A PUBLIC HEARING)
AND ADOPTING FINDINGS OF FACT (19-03-16))

DIRECTOR'S REPORT

The Surveyor's Office of the Department of Public Works has received a valid petition signed by the owners of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing.


Grandview Orchard Tract was platted in 1913 and recorded in Book 6, Page 29, Lane County, Oregon Plat Records. The right-of-way proposed for vacation is 40 feet wide and 1584 feet in length, and is located between Lots 1 through 4 and Lots 5 through 8 of the said subdivision running northerly off of Camas Swale Road. The right of way is not currently developed and no information could be found that showed this roadway has ever been constructed or opened for public travel. The petitioners are requesting this vacation so that they can fully utilize their property and place improvements without fear of condemnation. Over the years, the previous owners of the adjacent property placed fences and outbuildings within the right of way, and the current owners wish to make improvements to what is already there.

Qwest Communications, Lane Electric Cooperative, Northwest Natural Gas, various other agencies including the Transportation Planning and Planning sections of the Lane County Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation. Lane Electric Cooperative wrote back stating that they have an existing primary line that runs down the right of way and requested that an easement for access be reserved for their power lines. Lane County Transportation Planning stated that an easement for the benefit of Tax Lots 701, 702, and 703, is required. The Lane County Planning section and the Zone 2 Foreman also expressed a concern that all adjoining properties need to have legal access from Camas Swale Road. The other agencies and landowners either had no objection or did not reply to the referral.

No property will be denied legal access as a result of this vacation, as all of the owners of the lots adjacent to the subject road currently own adjoining lots that have frontage along Camas Swale Road. If any of the adjacent lots are sold in the future that leave them landlocked, the seller will need to provide an easement to these lots. The property owners of Lots 1 through 4 of Grandview Orchard Tract have executed an easement that runs along the east side of these lots, but the permit for access off of Camas Swale Road was denied because of the existing public right of way on the west side of their property. If the vacation of this public right of way is approved, the property owner can re-apply for an access permit, if needed.

It is concluded that this vacation is in the public's interest, as the road has not been constructed since the plat dedicated the road in 1913, it is not needed for the road system, and it will allow the property owners to more fully utilize the vacated right of way, which is owned by them, but is encumbered by a public road easement. It is therefore recommended that the unnamed road in Grandview Orchard Tract, as described in the Order, be vacated as petitioned for, and that a utility easement be reserved for the right of Lane Electric Cooperative to access, repair and maintain any of their existing power lines over the vacated right-of-way. It is further recommended that the vacation be allowed without a public hearing.

DATED this day 11th of February, 2003.



Oliver P. Snowden, Director - Department of Public Works

EXHIBIT "B"

**IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON**

FILE NO. 4093

IN THE MATTER OF THE VACATION OF AN UNNAMED)	
ROAD IN GRANDVIEW ORCHARD TRACT, AS PLATTED)	
IN 1913 AND RECORDED IN BOOK 6, PAGE 29, LANE)	
COUNTY, OREGON PLAT RECORDS, LOCATED OFF)	FINDINGS OF FACT
CAMAS SWALE ROAD, WITHOUT A PUBLIC HEARING)	
AND ADOPTING FINDINGS OF FACT (19-03-16))	

The Department of Public Works has received a valid petition, signed by the owners of 100% of the property abutting the proposed vacation, requesting that the unnamed public road, as shown of the plat of Grandview Orchard Tract, and as described in the Order, be vacated as petitioned for. The right of way proposed to be vacated is undeveloped, and it is reported by the petitioners that there are fences and outbuildings encroaching upon the right of way. The petitioners wish to utilize the vacated road easement and make improvements to the existing structures.

Findings of Fact (Public Interest)

The Board takes notice and finds:

1. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or right-of-ways based upon the determination that the vacation is "in the public interest."
2. That, pursuant to ORS 197.175 (2) (d), after acknowledgment of a county's comprehensive plan and implementing ordinances, the plan and ordinances, not the Statewide Planning Goals, control land use decisions.
3. That, Lane County's Rural Comprehensive Plan and implementing ordinances were originally acknowledged to be in compliance with the Statewide Planning Goals on September 13, 1984, and reacknowledged on February 14, 1992.
4. That, neither the Lane County Comprehensive Plan nor any land use regulation within the Lane Code establish mandatory standards for the vacation of public easements.

Conclusion of Law (Public Interest)

Based upon the above findings of fact, the Board concludes, as a matter of law, that neither the Statewide Planning Goals nor the Lane County Rural Comprehensive Plan and related land use regulations are an applicable measure of the "public interest", as it pertains to this vacation.

Findings of Fact (Impacts and Process of Vacation)

The Board takes notice and finds as follows:

1. That, the Surveyor's Office of the Department of Public Works has received a valid petition signed by the owners of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing. Said property is further identified as Tax Lots 600, 700, 701, 702, 703, 800, 901 & 1104 of Assessor's Map 19-03-16.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or right-of-ways based upon the determination that the vacation is "in the public interest".
3. That, Qwest Communications, Lane Electric Cooperative, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation and Lane Electric Cooperative requested an easement be reserved so that they can access their existing powerlines.
4. That, an easement will be reserved in the Order for the right of Lane Electric Cooperative to access and maintain their existing powerlines.
5. That, the right of way proposed to be vacated is undeveloped, and no information has been found that showed this roadway has ever been constructed or opened for public travel.
6. That, vacating the described right of way, as described in the Order, will not deny any landowners legal road access to a public road.
7. That, pursuant to ORS 368.351, a county governing body may make a determination about a vacation of property without a public hearing if:
 - (1) The county road official files a written report stating that the vacation is in the public interest.
 - (2) The proceedings were initiated by petition indicating the approval of 100% of the adjoining property owners.

Items (1) and (2) have been complied with.

Conclusions of Law (Impacts and Process of Vacation)

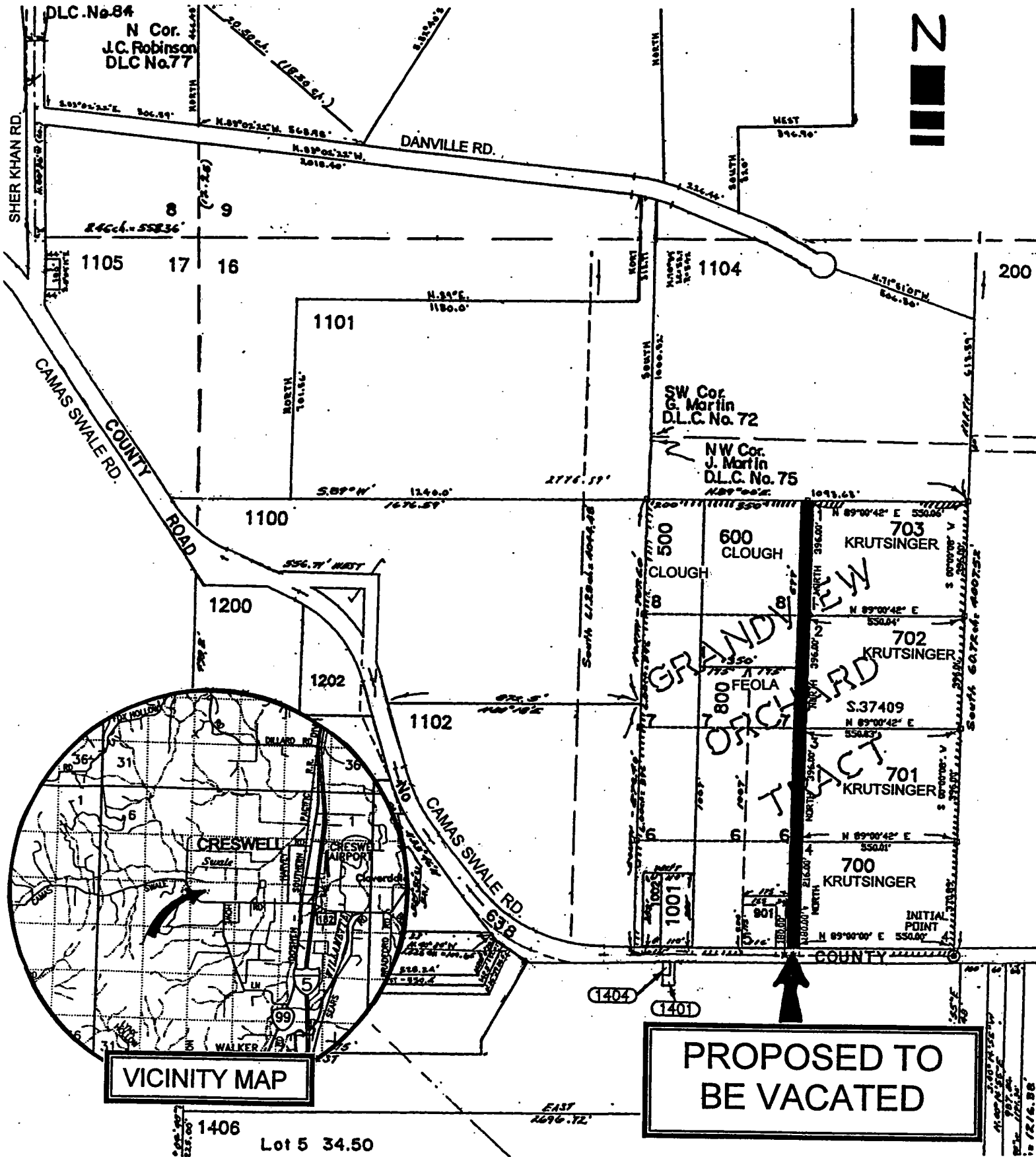
Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making a determination on this vacation, without a public hearing, have been met.

ATTACHMENT "A"

ORIGINAL

Section 16 T. 19S. R. 3W. W.M. LANE COUNTY

NO SCALE



VICINITY MAP

**PROPOSED TO
BE VACATED**

1406 Lot 5 34.50

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