

**AGENDA COVER MEMO**

**DATE:** October 10, 2003  
**TO:** Lane County Board of Commissioners  
**FROM:** Bill Robinson, Interim Lane County Surveyor *WR*  
**DEPARTMENT:** Public Works/Land Management Division

**AGENDA ITEM TITLE:** IN THE MATTER OF THE VACATION OF A PORTION OF PINE STREET LOCATED BETWEEN BLOCKS 36 AND 37 OF THE AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA, AS PLATTED IN 1914 AND RECORDED IN BOOK 7, PAGE 14, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING AND ADOPTING FINDINGS OF FACT (19-12-02-32)

**I. MOTION: TO APPROVE THE ORDER VACATING A PORTION OF PINE STREET LOCATED BETWEEN BLOCKS 36 AND 37 OF THE AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA, AS PLATTED IN 1914 AND RECORDED IN BOOK 7, PAGE 14, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING AND ADOPTING FINDINGS OF FACT (19-12-02-32)**

**II. ISSUE:**

To decide whether it is in the public interest to vacate a small portion of Pine Street, being 60 feet wide and 25 feet in length, and having been dedicated to the public on the Amended Plat of El Carmel Addition to Glenada, as platted in 1914, and recorded in Book 7, Page 14, 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 Dale A. Saari and Terrie D. Saari, the landowners of 100% of the property abutting the proposed vacation of Pine Street. The petitioners are requesting the vacation of the portion of the described road so they can better utilize their property.

Pine Street was dedicated to the public on the Amended Plat of El Carmel Addition to Glenada in 1914. Said portion of road is located between Lot 14, Block 37 and Lot 35, Block 36. The portion of Pine Street south of the proposed vacation was previously vacated on May 15, 1996, by Order Number 96-5-15-10.

The Surveyor's Office notified Qwest Communications, Central Lincoln People's Utility District, 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. One landowner in the area wrote back stating that there was a connection between a septic tank and drain field lying within the area proposed to be vacated. In response to this comment, the Surveyor's Office contacted the Lane County Sanitation Department, and the subject septic tank connection was found to be outside of the proposed vacation. The other agencies and landowners either had no objection or did not reply to the referral.

The petitioners contend that even though they own over 2 acres of land and several legal lots at the end of Pine Street, in reality there are only two limited building lots because most of the property is consumed by a deep ravine. The two building lots are at the north end of the property, on opposite sides of the proposed vacation, and the one on the east is limited due to underground drainage and septic issues. The petitioners have stated that they would like to replace their old single-wide trailer house on the west side of Pine Street but, because it is wedged between their septic drain field and the canyon, they would have to replace it with another single-wide trailer house. If the subject portion of Pine Street is vacated, they could replace their current home with a larger, more comfortable home, by not having the encumbrance of the right of way with and the location of the 20-foot setback requirement where it now exists.

**B. Analysis:**

Vacating the small portion of Pine Street, as petitioned for, would allow the property owners to more fully utilize their property. The subject right of way does not benefit the public as it is bounded on the east, west, and south by property owned by the petitioners.

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 the road dead-ends at this point and the petitioners own all of the land adjacent to the proposed vacation. It is believed that the public interest will be served, as unneeded public right of way will be put to better use.

**C. Alternatives/Options:**

The Board of County Commissioners has the option to:

1. Approve the proposed vacation of the portion of Pine Street within the Amended Plat of El Carmel Addition to Glenada, as petitioned for.
2. Deny the proposed vacation of the portion of Pine Street within the Amended Plat of El Carmel Addition to Glenada, 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 described portion of Pine Street within the Amended Plat of El Carmel Addition to Glenada, 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 important to the petitioner, as they would like to replace their existing mobile home before the ground becomes too wet.

**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: Bill Robinson x4198

ORIGINAL

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

**FILE NO. 4107**

**IN THE MATTER OF THE VACATION OF A PORTION OF )  
PINE STREET LOCATED BETWEEN BLOCKS 36 AND 37 )  
OF THE AMENDED PLAT OF EL CARMEL ADDITION TO )  
GLENADA, AS PLATTED IN 1914 AND RECORDED IN ) ORDER NO.  
BOOK 7, PAGE 14, LANE COUNTY, OREGON PLAT )  
RECORDS, WITHOUT A PUBLIC HEARING AND )  
ADOPTING FINDINGS OF FACT (19-12-02-32) )**

**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 a portion of Pine Street. Said right-of-way proposed to be vacated is more particularly described as follows:

All of the portion of right-of-way located between Lot 35, Block 36 and Lot 14, Block 37 in the Amended Plat of El Carmel Addition to Glenada, as platted in 1914 and recorded in Book 7, Page 14 of the Lane County, Oregon Plat Records, and located in Northwest Quarter (NW ¼) of the Southwest Quarter (SW ¼) of Section 2, Township 19 South, Range 12 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 landowners were notified by mail regarding the proposed vacation, and one neighboring land owner had a concern about a drain field and a connection to a septic tank within the area of the proposed vacation; and

**WHEREAS**, in response to the neighbor's comments, the Surveyor's Office investigated the matter of the septic system, and found it to be outside of the proposed vacation; and

**WHEREAS**, the other landowners and agencies either had no comment or did not respond to the referral; and

**WHEREAS**, no property will be denied legal vehicle access by this vacation; 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 Pine Street is hereby vacated; 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 10/17/03 land county  
Jones - Miller  
OFFICE OF LEGAL COUNSEL

**FILE NO. 4107**

Vacation, Director's Report  
Portion of Pine Street (19-12-02-32)  
H:\Survey\AGENDA\VACATION\Pine Street-di.doc (pkh)

## EXHIBIT "B"

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

FILE NO. 4107

<b>IN THE MATTER OF THE VACATION OF A PORTION OF PINE STREET LOCATED BETWEEN BLOCKS 36 AND 37 OF THE AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA, AS PLATTED IN 1914 AND RECORDED IN BOOK 7, PAGE 14, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING AND ADOPTING FINDINGS OF FACT (19-12-02-32)</b>	) ) ) ) ) ) ) )	<b>FINDINGS OF FACT</b>
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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 a portion of Pine Street, as shown on the Amended Plat of El Carmel Addition to Glenada, and as described in the Order, be vacated as petitioned for. The right of way proposed to be vacated is at the end of a dead-end street and the petitioners are requesting this vacation so that they can replace their small single-wide trailer house with a larger, more comfortable home, without the restrictions of the required setbacks along the subject right of way.

**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 2503, 2512, and 2605 of Assessor's Map 19-12-02-32.
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, Central Lincoln People's Utility District, 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.
4. That, vacating the described right of way, as described in the Order, will not deny any landowners legal road access to a public road.
5. 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.



## BEFORE THE BOARD OF COMMISSIONERS

## LANE COUNTY, OREGON

IN THE MATTER OF THE VACATION OF A	)	
PORTION OF PINE STREET BETWEEN	)	PETITION TO VACATE
BLOCKS 36 & 37, AMENDED PLAT OF EL	)	(Without a Public Hearing)
CARMEL ADDITION TO GLENADA, IN THE	)	
NORTHWEST ¼ OF THE SOUTHWEST ¼	)	
OF SECTION 2, TOWNSHIP 19 SOUTH,	)	
RANGE 12 WEST OF THE WILLIAMETTE	)	
MERIDIAN.	)	

We, the undersigned, Dale A. Saari and Terrie D. Saari, are the owners of Lot 14, Block 37, and Lot 35, in Block 36, AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA.

We, the undersigned, hereby request the vacation of the 60.0 foot wide street between Blocks 36 and 37, AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA, ADJACENT TO AND LYING BETWEEN THE ABOVE DESCRIBED LOTS. The vacation is more particularly described as follows:

All that portion of Pine Street lying between Blocks 36 and 37, AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA, adjacent to Lots 14 and 35, as platted and recorded in Book 7, Page 14, Lane County Oregon Plat Records, in Lane County, Oregon.

The street is adjacent to and East of a parcel identified on the Lane County Assessors Map 19-12-02-3-2, as Tax Lot 2605.

The purpose of this Vacation is to better utilize our land. A deep ravine runs southerly on Lots 14 through 19, just left or West of the lot numbers platted on the map. All of Lots 20 through 24 are consumed by a deep ravine together with all of the Vacated Pine Street to the East. In addition, the westerly portion of this request has been lawn since the mid 1970's.

We, the undersigned, are the owners of all the real property adjacent to the described street and no other persons would be affected by the vacation of this street. No portion of the above-described street is within the limits of an incorporated city or town.

We, the undersigned are also the owners of Lots 15, 16, 17, 18, 19, 20, 21, 22, 23 and 24, Block 37, and Lots 25, 26, 27, 28, 29, 30, 31, 32, 33 and 34, Block 36, AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA which lie adjacent to Vacated Pine Street, VACATED per ORDER # 96-5-15-10, JUNE 4, 1996.

Page 2 of 2

It is the Petitioners request that the current utilities remain in place. The vacation of this portion of Pine Street would render the adjacent properties more usable.

As the only persons owning the real property which this streets affects and for which vacation is sought; we, the undersigned, hereby approve of the proposed vacation and request that this vacation be initiated pursuant to ORS 368.351 without the notice and hearing requirements set forth in ORS 368.346.

Dale A. Saari  
Dale A. Saari  
85168 Pine Street  
Florence, OR 97439

Date

8/11/03

STATE OF OREGON)  
COUNTY OF LANE )

On August 11, 2003, personally appeared the above named Dale A. Saari and acknowledged the forgoing instrument to be his voluntary act and deed.

Before me:

Shelly Barrett  
Notary Public for Oregon



My Commission Expires: May 19, 2006

Terrie D. Saari

8.11.03

Date

Terrie D. Saari  
85168 Pine Street  
Florence, OR 97439

STATE OF OREGON)  
COUNTY OF LANE )

On August 11, 2003, personally appeared the above named Terrie D. Saari and acknowledged the foregoing instrument to be her voluntary act and deed.

Before me:

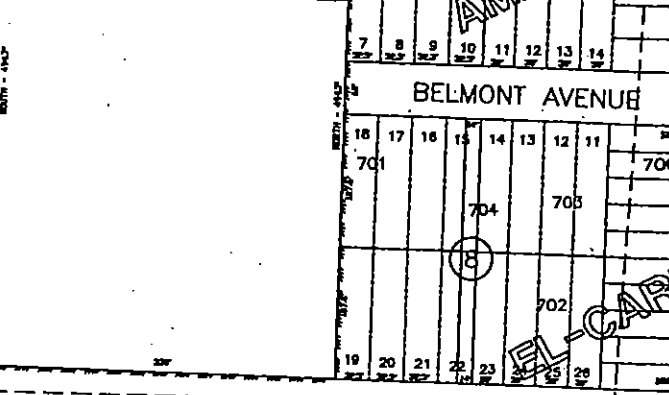
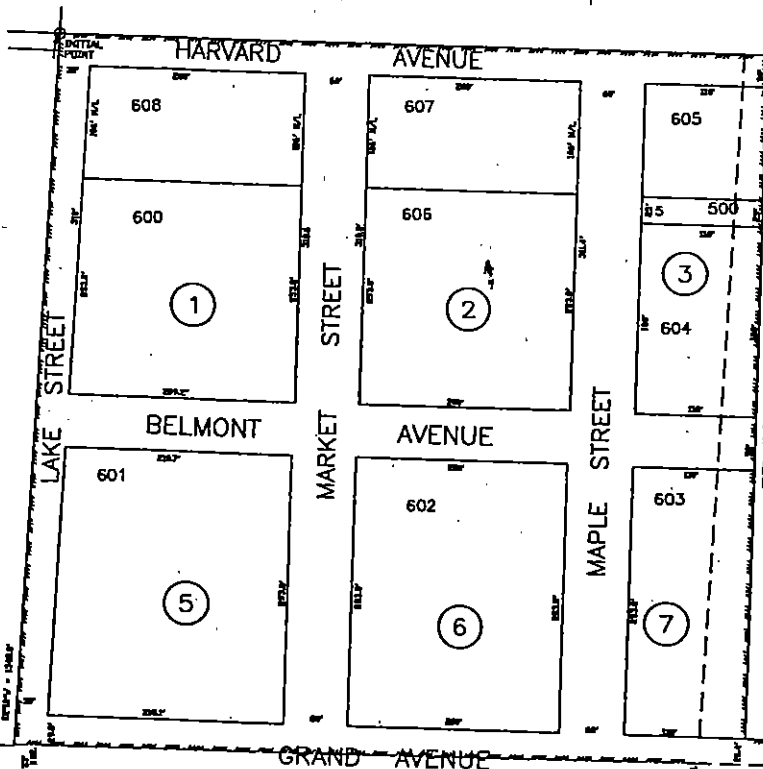
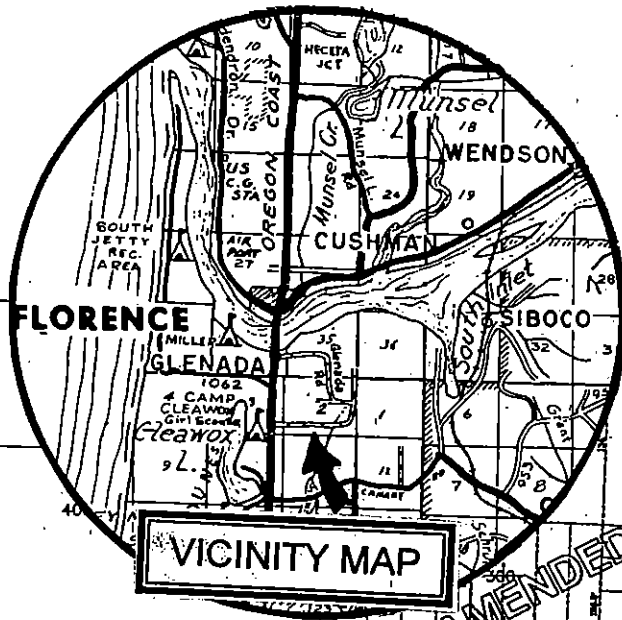
Shelly Barrett  
Notary Public for Oregon



My Commission Expires: May 19, 2006

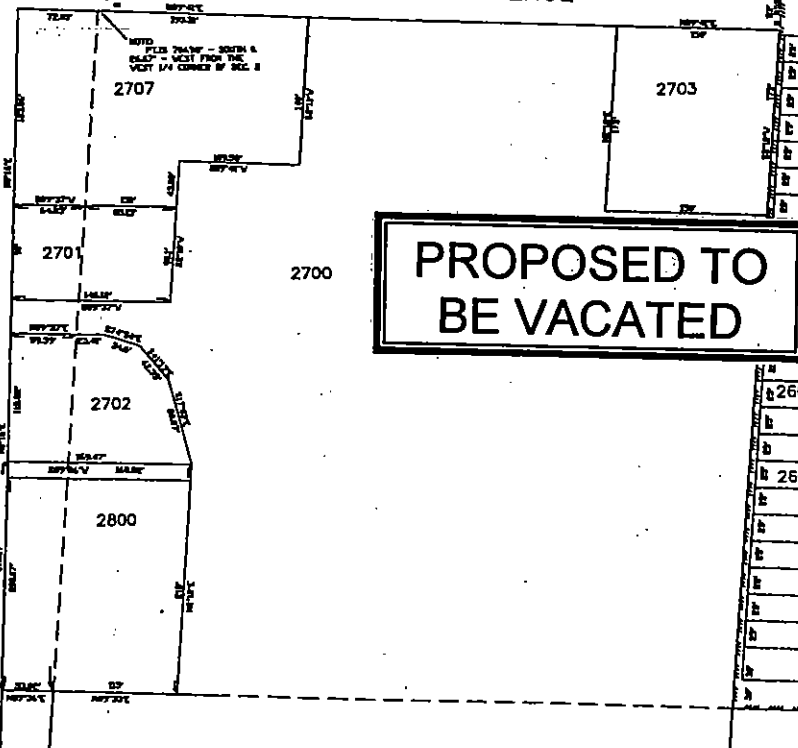
NW ¼ SW ¼ Section 2 T. 19 S. R. 12 W. W.M.  
LANE COUNTY

NO SCALE



U.S. HWY 101 ROOSEVELT HWY

**PROPOSED TO  
BE VACATED**



CO. RD. No. 2006 0.34 AC.

2600	1	2506	1	1902	800
2601	2	2507	2	1903	1001
2602	3	2508	3	1904	1002
2603	4	2509	4	1905	1701
2604	5	2510	5	1906	1702
2605	6	2511	6	1907	1800
2606	7	2512	7	1908	1901
2607	8	2513	8	1909	1902
2608	9	2514	9	1910	1903
2609	10	2515	10	1911	1904
2610	11	2516	11	1912	1905
2611	12	2517	12	1913	1906
2612	13	2518	13	1914	1907
2613	14	2519	14	1915	1908
2614	15	2520	15	1916	1909
2615	16	2521	16	1917	1910
2616	17	2522	17	1918	1911
2617	18	2523	18	1919	1912
2618	19	2524	19	1920	1913
2619	20	2525	20	1921	1914
2620	21	2526	21	1922	1915
2621	22	2527	22	1923	1916
2622	23	2528	23	1924	1917
2623	24	2529	24	1925	1918

ADDITION TO GLENADA