

W.18.a.  
03-9-10-15 ORIGINAL

**AGENDA COVER MEMO**

**DATE:** August 22, 2003  
**TO:** Lane County Board of Commissioners  
**FROM:** William D. Robinson, <sup>WDR</sup> Interim Lane County Surveyor  
**DEPARTMENT:** Public Works/Land Management Division

**AGENDA ITEM TITLE:** IN THE MATTER OF VACATING A PORTION OF MAPLE STREET, LOCATED BETWEEN BLOCK 8 AND BLOCK 9, IN THE PLAT OF GLENADA, AS PLATTED AND RECORDED IN VOLUME W, PAGE 261, LANE COUNTY, OREGON DEED RECORDS (18-12-35-32)

**I. MOTION:**

**TO ADOPT AN ORDER TO DENY THE VACATION OF A PORTION OF MAPLE STREET, POSITIONED ALONG THE EAST BOUNDARY OF PRICHARD STATE WAYSIDE BETWEEN VIOLA AVENUE (COMMONLY KNOWN AS GLENADA ROAD) AND THE SIUSLAW RIVER AND BETWEEN BLOCK 8 AND BLOCK 9 IN THE PLAT OF GLENADA, AS PLATTED AND RECORDED IN VOLUME W, PAGE 261, LANE COUNTY, OREGON DEED RECORDS (18-12-35-32)**

**II. ISSUE:**

To decide whether the vacation of a portion of Maple Street, being 60 feet wide and approximately 150 feet in length, and located between Block 8 and Block 9 in the plat of Glenada, as platted and recorded in Volume W, Page 261, Lane County, Oregon Deed Records, is in the public interest.

**III. DISCUSSION:**

**A. Background**

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Michael Carrier, Director of the State of Oregon Parks and Recreation Department, and Arleta W. Ross, Trustee of the Ross Living Trust, requesting a vacation of a portion of Maple Street. The petitioners are requesting this vacation in order to extend the width of the two adjoining properties, the property on the west being known as Prichard State Wayside, and private property on the east.

Glenada was platted in 1889 and recorded in Volume W, Page 261, Lane County, Oregon Deed Records. The portion proposed to be vacated is the most northerly 150 feet, more or less, of Maple Street located between the Siuslaw River and Viola Avenue (commonly known as Glenada Road).

The petitioners allege that the described right of way has never been used or developed; however, upon a field examination on August 14, 2003 by Bill Robinson, Interim County Surveyor, he said that he saw evidence of public use. He stated that there were tire tracks of vehicles within the right of way of Maple Street and similarly worn footpaths from Maple Street out to the shoreline of the Siuslaw River. Bill Robinson spoke with a person who had just parked within the right of way, embarking on a clam-digging excursion, who said that he parked there often. He also noted that a small stream about 5 feet wide lies in the right of way, or near the east line of the right of way, that drains into the river.

The petition also states that Tax Lot 2300 (Lots 3, 4, 5 and 6 of Block 8, Glenada) was donated to the State of Oregon for the purpose of establishing it as a state park and providing public access to the river through the park. Bill Robinson noted that the park is currently undeveloped, and it appears that access to the river is gained by way of Maple Street rather than through the park. If the vacation were approved, the park would gain an additional 30-foot strip of land. But at the same time, the public would lose the easterly irreplaceable 30-foot width of public access to the public shoreline of the Siuslaw River, and possibly lose access to the stream that runs down to the river.

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. The agencies and landowners either had no objections or did not respond to the referral.

The Board approved Resolution and Order Number 03-7-16-8 to set a public hearing on July 16, 2003 to hear and evaluate the merits of whether to vacate a portion of Maple Street, as petitioned for.

#### **B. Analysis**

Because the subject right of way provides legal access to the Siuslaw River, a public hearing is being held so that the general public can be notified and given an opportunity to comment on the proposed vacation.

If the petition to vacate the subject portion of Maple Street is approved, the west half of the right of way will revert to the state property and increase the area of Prichard State Wayside, and the east half will revert back to private ownership. The described portion of right of way is not currently constructed, but it appears that the public uses the right of way as access to the river. The petitioners have stated that the establishment of the state park was to provide public access to the river, however it appears that the public does not access the river through the park, but rather there is evidence of the public using the Maple Street right of way to park their vehicles and similarly a footpath from the right of way down to the river. There is a stream that drains into the river near the easterly right of way of Maple Street, and if the right of way is vacated, the public may lose the benefit of the stream also.

There are no known utilities within the right of way proposed to be vacated, and no landowner would be deprived of legal access to their property if the vacation were approved.

All required legal notices have been provided in accordance with ORS 368.346 and the Board is free to act at this time.

**C. Alternatives/Options**

The Board of County Commissioners has the options to:

1. Approve the vacation of a portion of Maple Street, as petitioned for.
2. Deny the vacation of a portion of Maple Street, as petitioned for.
3. Continue the matter for further consideration.

**D. Recommendations**

The Public Works Directors Final Report recommends that the Board support Option Number 2, denying the vacation of the portion of Maple Street, as it does not appear to be in the public's interest to vacate the right of way.

All statutory procedures necessary for the vacation of the above mentioned portion of Maple Street, have been complied with, including providing public notice and a report by the Director of Public Works who recommends that the petition to vacate the described portion of Maple Street be denied.

**E. Timing**

Timing is not critical in this matter.

**IV. IMPLEMENTATION/FOLLOW-UP:**

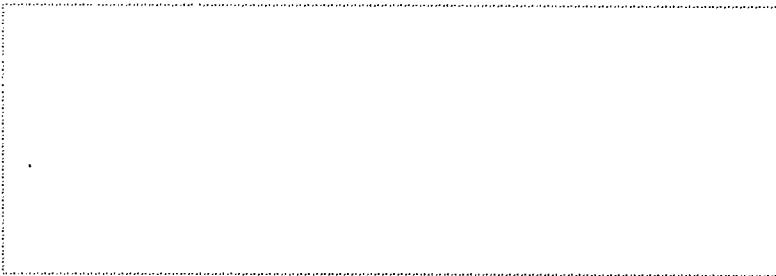
If the Board approves the Order to Deny the vacation of the described portion of Maple Street the Order will then be forwarded to the County Clerk to file the record in the Commissioner's Journal. The original document will be kept in the records administered by the County Surveyor of the Public Works Department. If the Board approves the vacation, an Order To Vacate will be provided for their final action at a later Board Agenda date.

**V. ATTACHMENTS:**

Final Order with attachments:

- Petition to Vacate
- Director's Report
- Affidavit of Posting, Publication & Mailing
- Attachment "A" - Map

Contact Person: Bill Robinson x-4198



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

**FILE NO. 4094**

<b>IN THE MATTER OF VACATING A PORTION OF</b>	)	
<b>MAPLE STREET, LOCATED BETWEEN BLOCK 8</b>	)	
<b>AND BLOCK 9, IN THE PLAT OF GLENADA, AS</b>	)	<b>ORDER TO DENY</b>
<b>PLATTED AND RECORDED IN VOLUME W, PAGE</b>	)	<b>NO.</b>
<b>261, LANE COUNTY, OREGON DEED RECORDS</b>	)	
<b>(18-12-35-32)</b>	)	

**WHEREAS**, this matter now coming before the Board of County Commissioners for Lane County, Oregon, upon the Resolution, Notice of Hearing and Order No. 03-7-16-8 for the proposed vacation of a portion of a portion of Maple Street being located in the Northwest Quarter (NW ¼) of the Southwest Quarter (SW ¼) of Section 35, Township 18 South, Range 12 West of the Willamette Meridian; and

**WHEREAS**, the Board of Commissioners has the authority to consider the petition to vacate this portion of Maple Street under the provisions of ORS 368; and

**WHEREAS**, Maple Street was platted as a 60-foot wide public road in 1898 on the plat of Glenada; and

**WHEREAS**, the portion of Maple Street proposed to be vacated is more particularly described as follows:

All that portion of the road right of way of Maple Street that extends from Viola Avenue (commonly known as Glenada Road) to the Siuslaw River, located between Block 8 and Block 9 of the plat of Glenada as platted and recorded in Volume W, Page 261, Lane County, Oregon Deed Records, all in Lane County, Oregon.

**WHEREAS**, the petitioners are requesting this vacation to extend the width of the State of Oregon's property, known as Prichard State Wayside, and the private property adjoining the subject right of way; and

**WHEREAS**, the petitioners have met the requirement of ORS 368.341(3)(f) as the petition has been signed by all of the adjoining landowners; and

**WHEREAS**, various public and private agencies have been notified of the proposed vacation; and

**WHEREAS**, the petitioners have paid a vacation fee of \$1500, and

**WHEREAS**, the Director of Public Works has provided a written report, as required by ORS 368.346, attached hereto, marked Exhibit "A", and made a part hereof by this Order; and

**WHEREAS**, all necessary procedures for a vacation have been complied with, pursuant to ORS Chapter 368, including the giving of notice as evidenced by the Affidavit of Posting and Publication labeled as Exhibit "B", attached hereto and made a part hereof by this Order; and

**WHEREAS**, a public hearing was conducted on this date, as ordered, regarding the proposed vacation of the road as described above; and

**WHEREAS**, in accordance with the provisions of ORS 368.356, the Board is of the opinion that denying the vacation of the road, as described herein, is in the best interest of the public, at this time; now therefore, it is hereby

**ORDERED**, that the vacation of the above described portion of Maple Street is hereby denied; 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 and in the records for administered by the Lane County Surveyor.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Peter Sorenson, Chair  
LANE COUNTY BOARD OF COMMISSIONERS

APPROVED AS TO FORM

Date 8-26-03 lane county

\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

Attachment "A" - Vicinity Map

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

File No.

IN THE MATTER OF THE VACATION OF A PORTION )  
 OF MAPLE STREET IN SECTION 35, TOWNSHIP 18 )  
 SOUTH, RANGE 12 WEST OF THE WILLAMETTE ) PETITION TO VACATE  
 MERIDIAN, IN LANE COUNTY, OREGON )

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned State of Oregon, acting by and through its Parks and Recreation Department, and Arleta W. Ross as owners of the adjacent real property hereby petition for the vacation of a portion of Maple Street, which area to be vacated is described as follows:

"All that portion of the road right of way of Maple Street that extends from Glenada Road to the Siuslaw River located adjacent to Tax Lot 2300 and Tax Lots 1901 and 2200."

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

**WHEREAS**, petitioners allege the purpose of this vacation request is to extend the width of the State of Oregon's property, known as Prichard State Wayside, by 30 feet and the private property by 30 feet. This right of way has never been used or developed. It protected public access to the Siuslaw River from Glenada Road when Tax Lot 2300 was private property. Tax Lot 2300 was donated to the State of Oregon for the purpose of establishing it as a state park and providing public access to the river through the park.

**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; 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**, 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 the matter, to direct the vacation of the above-described road, and direct that title to be vacated area revert and vest in accordance with ORS 368.366.

DATED this 25 day of NOVEMBER, 2002.

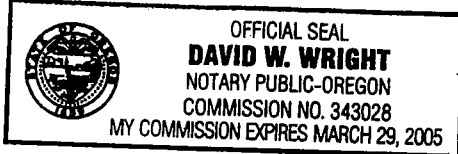
PETITIONERS:

Michael Conz, Director  
 Map# 18-12-35-32 TL 2300  
 State of Oregon, Parks and Recreation Dept.  
 Addr: 85701 Glenada Road  
 Florence, OR 97439

Arleta W Ross, Trustee  
 Map# 18-12-35-32 TL 1901 and 2200  
 Arleta W. Ross Ross Living Trust  
 Addr: 85675 Glenada Road  
 Florence, OR 97439

State of Oregon )  
County of Marion)

On December 12, 2002, personally appeared the above named MICHAEL CARRIER,  
DIRECTOR and acknowledged the foregoing instrument to be a voluntary act  
before me.

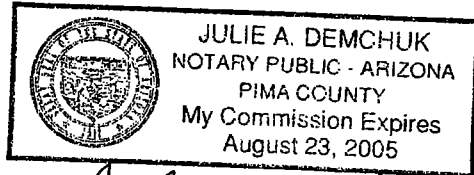


David W Wright  
Notary Public for Oregon  
My Commission Expires: 3-29-05

State of ARIZONA )  
County of PIMA )

On NOVEMBER 25, 2002, personally appeared the above named ARLETA W  
ROSS and acknowledged the foregoing instrument to be a voluntary act  
before me.

Julie A Demchuk  
Notary Public for Arizona  
My Commission Expires: 08/23/05



Julie A Demchuk

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

FILE NO. 4094

IN THE MATTER OF VACATING A PORTION OF )  
MAPLE STREET, LOCATED BETWEEN BLOCK 8 )  
AND BLOCK 9, IN THE PLAT OF GLENADA, AS )  
PLATTED AND RECORDED IN VOLUME W, PAGE )  
261, LANE COUNTY, OREGON DEED RECORDS )  
(18-12-35-32) )

FINAL  
DIRECTOR'S REPORT

The Surveyor's Office of the Department of Public Works has received a valid petition to vacate a portion of Maple Street. The Board of Commissioners, by Resolution, Notice of Public Hearing and Order No.03-7-16-8 has set September 10, 2003 at 1:30 to hear information, staff report and public comment to determine whether it is in the public interest, as required by ORS 368.346 to vacate the described portion of Maple Street.

Notification of these proceedings has been provided by posting, mail, and legal publication, in accordance with ORS 368.401 to 368.426.

The plat of Glenada was platted in 1889 and recorded in Volume W, Page 261 of the Lane County, Oregon Deed Records. The portion of Maple Street proposed to be vacated lies between Block 8 and Block 9 of Glenada, north of Viola Avenue (commonly known as Glenada Road) and south of the Siuslaw River.

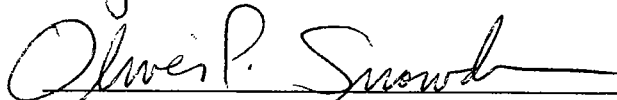
Qwest Communications, Central Lincoln People's Utility District, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation. The agencies and landowners either had no objections or did not respond to the referral.

The petitioners allege that the described right of way has never been used or developed; however, upon a field examination on August 14, 2003 by Bill Robinson, Interim County Surveyor, he said that he saw evidence of public use. He stated that there were tire tracks of vehicles within the right of way of Maple Street and similarly worn footpaths from Maple Street out to the shoreline of the Siuslaw River. Bill Robinson spoke with a person who had just parked within the right of way, embarking on a clam-digging excursion who said that he parked there often. He also noted that a small stream about 5 feet wide lies in the right of way, or near the east line of the right of way, that drains into the river.

The petition also states that Tax Lot 2300 (Lots 3, 4, 5 and 6 of Block 8, Glenada) was donated to the State of Oregon for the purpose of establishing it as a state park and providing public access to the river through the park. Bill Robinson noted that the park is currently undeveloped, and it appears that access to the river is gained by way of Maple Street rather than through the park. If the vacation were approved, the park would gain an additional 30-foot strip of land. But at the same time, the public would lose the easterly irreplaceable 30-foot width of public access to the shoreline of the Siuslaw River, and possibly lose access to the stream that runs down to the river.

It is concluded that the proposed vacation would not be in the public's interest, as it appears that the right of way is used by the public as a means to access the Siuslaw River, and it is further recommended that the vacation of the portion of Maple Street, as described in the Final Order be denied.

DATED this 25<sup>th</sup> day of August, 2003



Oliver P. Snowden, Director - Department of Public Works



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

FILE NO. 4094

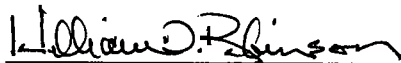
IN THE MATTER OF VACATING A PORTION OF )	
MAPLE STREET, LOCATED BETWEEN BLOCK )	
8 AND 9, IN THE PLAT OF GLENADA, AS )	AFFIDAVIT OF POSTING,
PLATTED AND RECORDED IN VOLUME W, )	PUBLICATION
PAGE 261, LANE COUNTY, OREGON DEED )	AND MAILING
RECORDS (18-12-35-32) )	

I, William D. Robinson, Interim Lane County Surveyor, certify as follows:

That on the 14th day of August, 2003, I caused to be posted three (3) copies of the Notice of Hearing in the above entitled matter in three places, positioned to be visible to the traveling public, as follows:

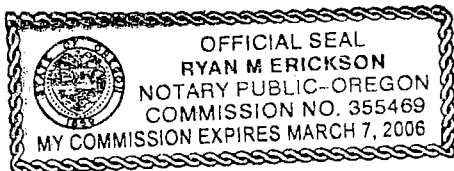
1. Posted on a power pole located on the North Side of Glenada Road 100 feet (more or less) East of its intersection with Pine Street.
2. Posted on a power pole located on the North Side of Glenada Road at its intersection with Maple Street.
3. Posted on a power pole located at the northeast corner of Hwy. 101 and Glenada Road.

The undersigned further certifies that on August 18, 2003 and September 3, 2003 notice is scheduled to run in the Register Guard. Also that on August 7, 2003 notice was sent to adjacent owners and various private and public agencies having an interest in these vacation proceedings by Certified Mail.

  
 \_\_\_\_\_  
 William D. Robinson  
 Interim Lane County Surveyor

State of Oregon )  
County of Lane )<sup>ss.</sup>

Subscribed and sworn to before me this 22<sup>nd</sup> day of August, 2003.



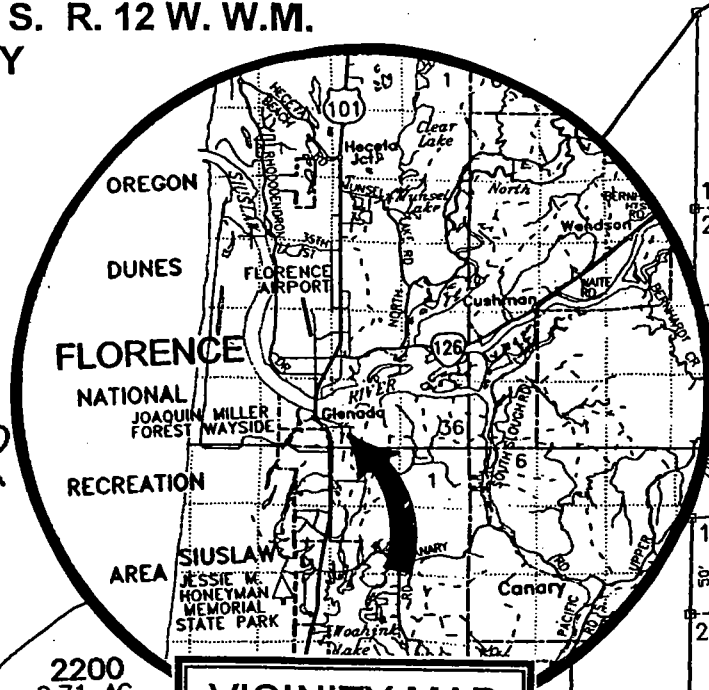
  
 \_\_\_\_\_  
 NOTARY PUBLIC FOR OREGON  
 My Commission Expires:

# ATTACHMENT "A"

ORIGINAL

NW ¼ SW ¼ Section 35 T. 18 S. R. 12 W. W.M.  
LANE COUNTY

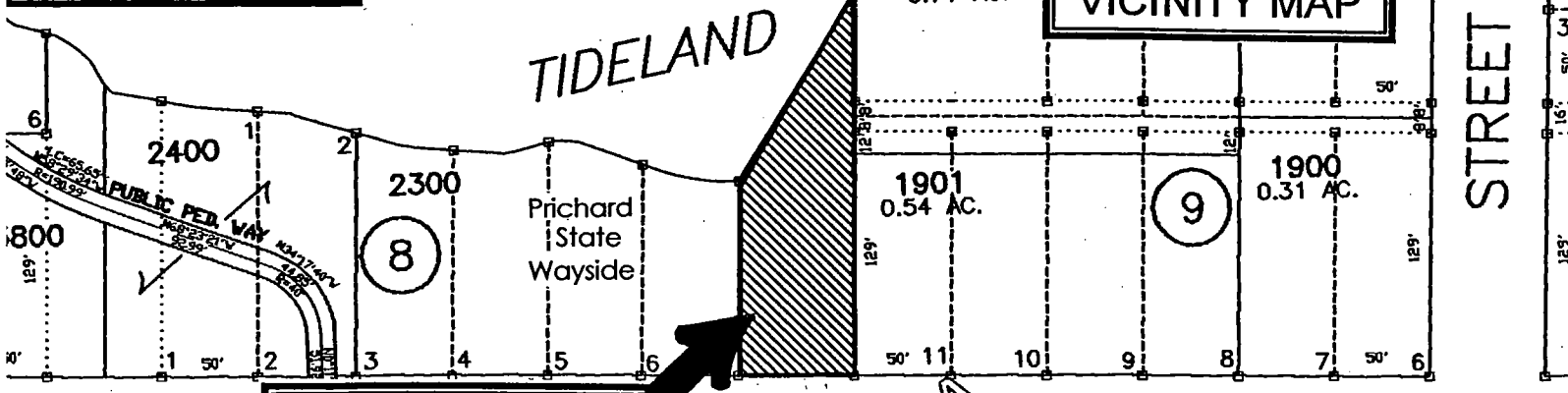
NO SCALE



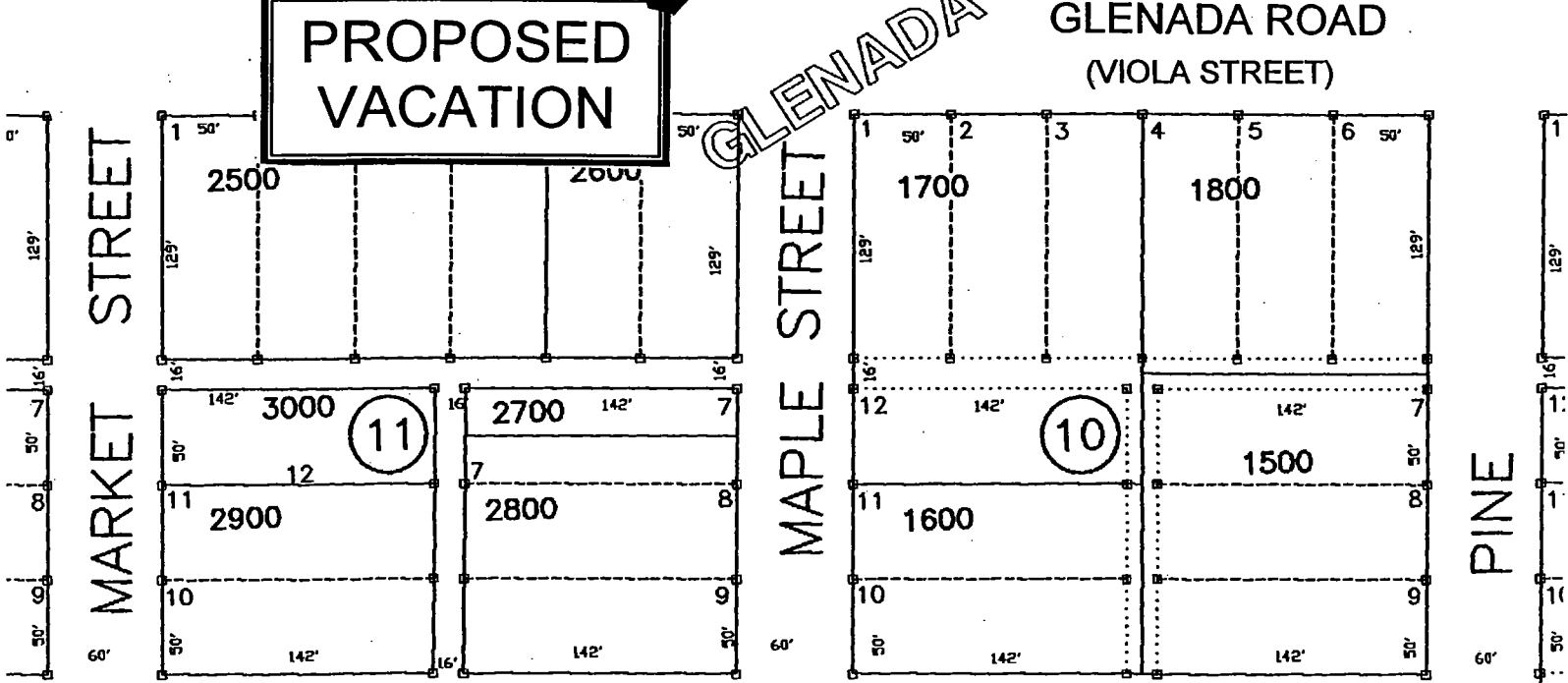
TAX LOTS 1901 & 2200  
ROSS LIVING TRUST  
1927 W PLACITA DE AGOSTO  
GREEN VALLEY, AZ 85614

TAX LOT 2300  
STATE OF OREGON  
1115 COMMERCIAL ST NE  
SALEM, OR 97310

SIUSLAW RIVER



**PROPOSED VACATION**



COLTER STREET

STREET