

AGENDA COVER MEMO

DATE: April 15, 2003
TO: Lane County Board of Commissioners
FROM: K. Robert Ezell, Lane County Surveyor *K Robert Ezell*
DEPARTMENT: Public Works/Land Management Division

AGENDA ITEM TITLE: IN THE MATTER OF VACATING THE SOUTHERLY BOUNDARY LINE OF A PARTITION PLAT, AS PLATTED AND RECORDED ON LAND PARTITION PLAT NUMBER 95-P0676, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (19-01-17)

I. MOTION:

TO APPROVE THE ORDER IN THE MATTER VACATING THE SOUTHERLY BOUNDARY LINE OF A PARTITION PLAT, AS PLATTED AND RECORDED ON LAND PARTITION PLAT NUMBER 95-P0676, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (19-01-17)

II. ISSUE:

To decide whether to vacate the southerly boundary line of Parcel 1 of Partition Plat Number 95-P0676 as petitioned for.

III. DISCUSSION:

A. Background:

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Wade Doak, President of Dexter Forest Fiber, Inc., the sole owner of 100% of the property abutting the proposed vacation, requesting, by the authority of ORS 368.351, a vacation without a public hearing.

Land Partition Plat Number 95-P0676 was platted in 1995 and recorded in the Lane County, Oregon Plat Records. The petitioner is requesting this vacation in order to meet a condition of approval required by Planning section of Lane County Public Works Department for Preliminary Partition PA 02-5982.

Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works were contacted regarding the vacation and either had no objection or did not reply to the referral.

B. Analysis:

The public interest will be served, as vacating the southerly exterior boundary line of Land Partition Plat Number 95-P0676 will allow the petitioners to increase the size of Parcel 1, followed by a replat of said Parcel and portions of Parcels 1, 2, and 3 of Partition PA 1523-85. Vacating the described parcel line will satisfy a requirement set by the Planning section of the Lane County Public Works Department for the approval of a preliminary partition. There are no known utilities affected by the proposed vacation, and no property will be denied legal access as a result of these proceedings.

The requirements of ORS 368.351(2) have been met, as the petitioner is the sole owner of 100% of the adjoining property and has submitted a petition to vacate containing their acknowledged signature.

C. Alternatives/Options:

The Board of County Commissioners has the options to:

1. Approve the vacation of a portion of the boundary line of Land Partition Plat Number 95-P0676, as petitioned for.
2. Deny the vacation of a portion of the boundary line of Land Partition Plat Number 95-P0676, as petitioned for.
3. Continue the matter of vacating a portion of the boundary line of Land Partition Plat Number 95-P0676, as petitioned for.
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, approving the vacation of the parcel line as petitioned for. The vacation will satisfy certain land development requirements set by the Planning section of Land Management Division of the Lane County Public Works Department for the preliminary partition approval PA 02-5982. No property will be denied legal access by this proposed vacation.

All statutory procedures necessary for the vacation without a public hearing of the above mentioned exterior boundary line of Land Partition Plat Number 95-P0676 have been complied with, including a report by the Director of Public Works.

E. Timing:

Timing is a consideration in this matter. This portion of boundary line of Land Partition Plat Number 95-P0676 must be vacated before a pending Preliminary Partition can be approved.

IV. IMPLEMENTATION/FOLLOW-UP:

If the Board of County Commissioners approves the Order of Vacation it is 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 vacation is denied, an Order to Deny the Vacation will be presented to the Board at a later regularly scheduled meeting.

If the Order of Vacation is not approved, but the petitioner is given the option to proceed with a public hearing, they will have 90 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

Director's Report - Exhibit "A"

Findings of Fact - Exhibit "B"

Attachment "A" - Vicinity Map

Contact Person: K. Robert Ezell x3626

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

FILE NO. 4096

IN THE MATTER OF VACATING THE SOUTHERLY)	
BOUNDARY LINE OF A PARTITION PLAT, AS)	
PLATTED AND RECORDED ON LAND PARTITION)	
PLAT NUMBER 95-P0676, LANE COUNTY OREGON)	ORDER NO.
PLAT RECORDS, WITHOUT A PUBLIC HEARING,)	
AND ADOPTING FINDINGS OF FACT (19-01-17))	

WHEREAS, this matter now coming before the Board upon a petition received by the County Surveyor's Office of the Lane County Department of Public Works requesting, under authority of ORS Chapter 368.326 and 368.341, the vacation of a portion of the exterior boundary line of Land Partition Plat Number 95-P0676. Said portion of boundary line being more particularly described as follows:

"Beginning at the 5/8 inch iron rod marking the Initial Point of Land Partition Plat No. 95-P0676, as recorded in the Lane County, Oregon Plat Records, said point also being the Southeast corner of Parcel 1 thereof, and run thence along the southerly line of said Parcel 1 as follows: South 68°59'53" West, 345.70 feet; along the arc of a 450.02 foot radius curve to the right, the long chord of which bears South 78°35'00" West, 149.84 feet, a distance of 150.54 feet; thence South 88°10'00" West, 80.78 feet to the Point of Termination, in Lane County, Oregon."

WHEREAS, the petition complies with the provisions of ORS 368.351 in that the petitioner, who is the sole landowner of 100% of the property abutting the proposed vacation, agrees that the vacation should be approved as proposed; and

WHEREAS, ORS Chapter 368.351 provides for the vacation of property without a public hearing; and

WHEREAS, Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works were contacted regarding the vacation of the parcel line and either had no objection or did not reply to the referral; and

WHEREAS, there are no known utilities affected by the proposed vacation and no property will be denied legal access by this vacation; and

WHEREAS, the proposed vacation will satisfy certain land development requirements set by the Planning section of the Lane County Department of Public Works for the approval of Preliminary Partition PA 02-5982, and it then is concluded the public will benefit by this vacation, as vacating the above

described boundary line will allow the petitioners to more fully utilize their property by reconfiguring their parcels of land; 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 southerly boundary line of Land Partition Number 95-P0656, as described above, 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: Vicinity Map (Attachment "A")

APPROVED AS TO FORM

Date 4-24-03 lane county

OFFICE OF LEGAL COUNSEL

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

FILE NO.

IN THE MATTER OF THE VACATION OF A PORTION OF THE)
 EXTERIOR PARTITION BOUNDARY LINE OF PARCEL 1, LAND)
 PARTITION PLAT NO. 95-P0676, IN SECTION 8, TOWNSHIP 19)
 SOUTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN,) PETITION TO VACATE
 IN LANE COUNTY, OREGON)

PURSUANT to the procedures set forth in ORS Chapter 368, the undersigned, do hereby petition for the vacation of a portion of the exterior boundary line of Parcel 1, Land Partition Plat No. 95-P0676, as recorded in the Lane County Partition Records, which boundary lines to be vacated are described as follows:

"Beginning at the 5/8 inch iron rod marking the Initial Point of Land Partition Plat No. 95-P0676, as recorded in the Lane County Official Records, said point also being the Southeast corner of Parcel 1 thereof, and run thence along the southerly line of said Parcel 1 as follows: South 68°59'53" West, 345.70 feet; along the arc of a 450.02 foot radius curve to the right, the long chord of which bears South 78°35'00" West, 149.84 feet, a distance of 150.54 feet; thence South 88°10'00" West, 80.78 feet to the Point of Termination, in Lane County, Oregon."

WHEREAS, petitioners allege the purpose of this vacation request is to vacate the southerly exterior boundary line of Parcel 1 in order to add additional property thereto by a property line adjustment, and to be followed by a replat of the new parcel by the partition procedure.

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, 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 partition boundary, with or without a hearing before the Board of Commissioners for Lane County pursuant to ORS Chapter 368.

DATED this 28th day of January 2003.

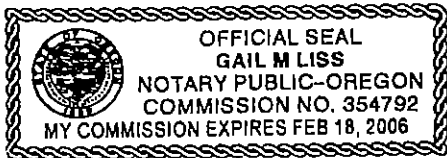
PETITIONERS

Dexter Forest Fiber, Inc.

By Wade Doak
 Wade Doak
 Map No. 19-01-08, Tax Lots 3800 and 3900
 P. O. Box 400
 Dexter, OR 97431

STATE OF OREGON)
) ss
County of Lane)

On this 28th day of January, 2003, there appeared before me the above-named Wade Doak, the President of Dexter Forest Fiber, Inc., and acknowledged that the foregoing instrument was executed on behalf of said corporation and was his voluntary act and deed.



Gail M Liss
Notary Public for Oregon
My commission expires 2/18/06

EXHIBIT "A"

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

FILE NO. 4096

IN THE MATTER OF VACATING THE SOUTHERLY)	
BOUNDARY LINE OF A PARTITION PLAT, AS)	
PLATTED AND RECORDED ON LAND PARTITION)	
PLAT NUMBER 95-P0676, LANE COUNTY OREGON)	DIRECTOR'S REPORT
PLAT RECORDS, WITHOUT A PUBLIC HEARING,)	
AND ADOPTING FINDINGS OF FACT (19-01-17))	

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.

Land Partition Plat Number 95-P0676 was platted in 1995 and recorded in the Lane County, Oregon Plat Records. The petitioner is requesting the vacation of this exterior plat line in order to meet a condition of approval required by the Planning section of the Lane County Land Management Division for Preliminary Partition PA 02-5982. The proposed vacation will allow the petitioners to increase the size of Parcel 1 of Land Partition Plat Number 95-P0676, followed by a replat of said Parcel and portions of Parcel 1, 2, and 3 of Partition PA 1523-85. The proposed vacation is allowed by ORS 368.326.

Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning programs of the Lane County Department of Public Works were contacted regarding the parcel line vacation and either had no objection or did not reply to the referral.

The proposed vacation will satisfy certain requirements set by the Planning section of Lane County Land Management Division. It then is concluded that it is in the public's interest, as vacating a portion of the boundary line of Land Partition Plat Number 95-P0676 will allow the property owners to more fully utilize their property. It is therefore recommended that the portion of the boundary line of Land Partition Plat Number 95-P0676, as described in the Order, be vacated as petitioned for.

It is further recommended that the vacation be allowed without a public hearing.

DATED this 23rd day of April, 2003.



 Oliver P. Snowden, Public Works Director

EXHIBIT "B"

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

FILE NO. 4096

IN THE MATTER OF VACATING THE SOUTHERLY)	
BOUNDARY LINE OF A PARTITION PLAT, AS)	
PLATTED AND RECORDED ON LAND PARTITION)	
PLAT NUMBER 95-P0676, LANE COUNTY OREGON)	FINDINGS OF FACT
PLAT RECORDS, WITHOUT A PUBLIC HEARING,)	
AND ADOPTING FINDINGS OF FACT (19-01-17))	

The Department of Public Works has received a valid petition, signed by Wade Doak, President of Dexter Forest Fibre, Inc., the sole owner of 100% of the property abutting the proposed vacation, requesting that the southerly exterior boundary line of Land Partition Plat Number 95-P0676, as described in the Order, be vacated as petitioned for. The vacation of said plat line is a condition of approval required by the Planning section of Lane County Land Management Division for Preliminary Partition PA 02-5982.

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 a subdivision, part of a subdivision, or public interest in property 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 lot lines.

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 petitioner owns all the property abutting the proposed vacation. Said property is further identified as Tax Lot 3800 & 3900 of Assessor's Map 19-01-08.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate a subdivision, part of a subdivision, or public interest in property, based upon the determination that the vacation is "in the public interest."
3. That, Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning programs of the Lane County Department of Public Works were contacted regarding the vacation of the lot line and either had no objection or did not reply to the referral.
4. That, the proposed vacation is a condition of approval set by the Lane County Planning program for Preliminary Partition PA 02-5982.
5. That, there are no known utilities affected by the proposed vacation.
6. That, vacating the southerly exterior boundary line of Partition Plat Number 95-P0676, as described in the Order, will not deny any property owners 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 the sole owner of 100% of the adjoining property.

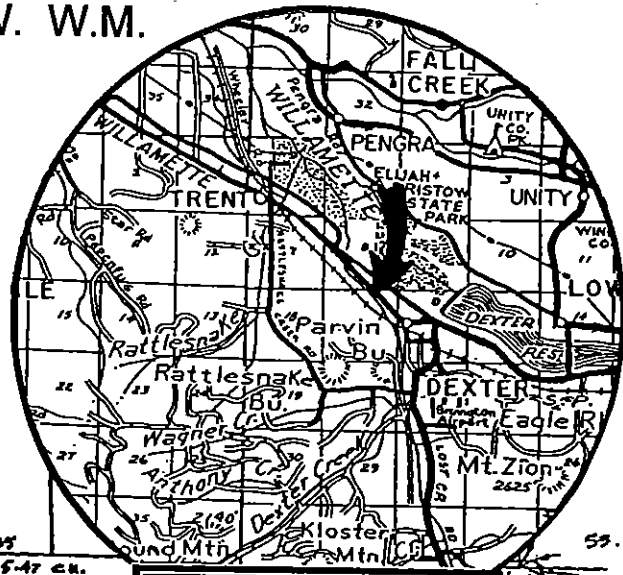
Items (1) and (2) have been complied with.

Conclusions of Law (Impacts and Process of Vacation)

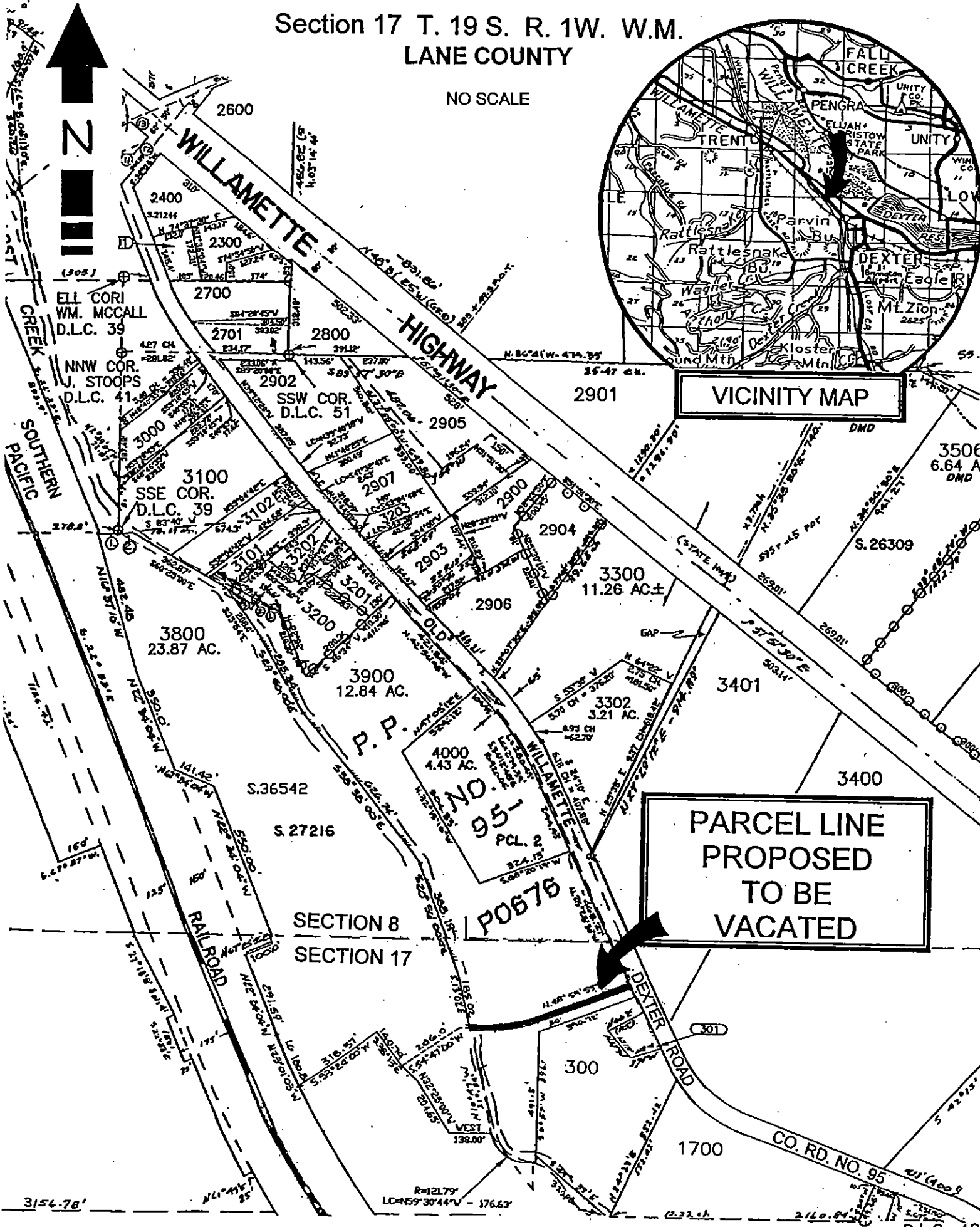
Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making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

Section 17 T. 19 S. R. 1W. W.M.
LANE COUNTY

NO SCALE



VICINITY MAP



PARCEL LINE PROPOSED TO BE VACATED