

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 15-03-17-06

IN THE MATTER OF VACATING SECOND STREET,
THIRD STREET, AND A PORTION OF FOOTHILL
DRIVE IN THE PLAT OF "NORTH ADDITION, PLAT
A, WESTLAKE" AS PLATTED AND RECORDED IN
BOOK 22, PAGE 20, LANE COUNTY, OREGON
PLAT RECORDS, WITHOUT A PUBLIC HEARING
(19-12-27-3)

WHEREAS, a petition has been 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 Second Street, Third Street, and a portion of Foothill Drive in the "North Addition, Plat A, Westlake", as platted and recorded in Book 22, Page 20, Lane County Oregon Plat Records. The areas being more particularly described as follows:

All that portion of Second Street, as platted in "North Addition, Plat A, Westlake" subdivision as recorded in Book 22, Page 20, Lane County Oregon Plat Records and located in the Southwest Quarter (SW ¼) of Section 27, Township 19 South, Range 12 West of the Willamette Meridian.

ALSO: All that portion of Third Street, as platted in "North Addition, Plat A, Westlake" subdivision as recorded in Book 22, Page 20, Lane County Oregon Plat Records and located in Southwest Quarter (SW ¼) Section 27, Township 19 South, Range 12 West of the Willamette Meridian.

ALSO: All that portion of Foothill Drive north of the westerly extension of the north boundary of the "Playground Lot", as platted in "North Addition, Plat A, Westlake" subdivision as recorded in Book 22, Page 20, Lane County Oregon Plat Records and located in Southwest Quarter (SW ¼) Section 27, Township 19 South, Range 12 West of the Willamette Meridian.

WHEREAS, the petition, marked as Exhibit "A", and made a part of this Order, 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 the vacation be approved as proposed; and

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

WHEREAS, 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 the nearby property owners regarding the vacation; and

WHEREAS, there are three existing access and utility easements, recorded on Document Numbers 2008-019964, 2007-004450 and 2005-016187, Lane County Oregon Deed Records, providing access to properties lying easterly of petitioner's property and these easements will be retained in their entirety, including any portion that encumbers the public right of way proposed to be vacated; and

WHEREAS, no property will be denied legal access by this vacation; and

WHEREAS, the public interest will be served by this vacation, as it will allow the land to be put to productive residential use as anticipated by Ordinance No. PA1147 which rezoned the surrounding land from F-2/Impacted Forest Lands to RR-10/Rural Residential Lands; and

WHEREAS, the petitioners plan to replat "North Addition, Plat A, Westlake" and it is essential the public right of way be vacated so the property can be reconfigured into 10 acre lots, and

WHEREAS, the petitioners have paid a vacation fee deposit of \$3,400 and will pay actual costs incurred, including 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 "B", and made a part of this Order; and

WHEREAS, the Director of the Department of Public Works has provided a written report pursuant to Lane Manual 60.854, marked as Exhibit "C", determining the special benefit to the applicant to be \$13,769 and the petitioner has deposited this amount with the Lane County Surveyor; and

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

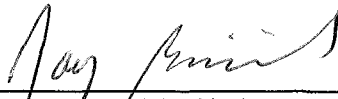
WHEREAS, the Board is of the opinion that approving the vacation as petitioned for is in the best interest of the public.

NOW, THEREFORE, the Board of Commissioners of Lane County **ORDERS** as follows:

1. The above described portions of Second Street, Third Street and Foothill Drive in the plat of "North Addition, Plat A, Westlake", as depicted on the attached map marked as Exhibit "D", are hereby VACATED.
2. An easement is hereby retained for any and all existing public utilities that may now exist within the bounds of the portion of right of way described by these proceedings.
3. The easements recorded on Document Numbers 2008-019964, 2007-004450 and 2005-016187, Lane County Oregon Deed Records, will be retained in their entirety for the benefit of the grantees properties described in said easements.

4. This Order be filed with the County Clerk and entered into the records of the Lane County Board of Commissioners Journal of Administration, and be further recorded in the Lane County, Oregon Deed Records.

ADOPTED this 17th day of March, 2015.



Jay Bozlevich, Chair
Lane County Board of Commissioners

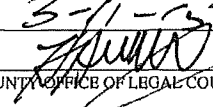
APPROVED AS TO FORM
Date 3-11-15

LANE COUNTY OFFICE OF LEGAL COUNSEL

EXHIBIT "A"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

IN THE MATTER OF THE VACATION OF SECOND STREET)
 (A PLATTED STREET), THIRD STREET (A PLATTED STREET),)
 AND A PORTION OF FOOTHILL DRIVE (A PLATTED STREET),)
 ALL LOCATED IN "NORTH ADDITION, PLAT A, WESTLAKE") PETITION TO VACATE
 SUBDIVISION, IN SUBSECTION 30, SECTION 27, TOWNSHIP)
 19 SOUTH, RANGE 12 WEST OF THE WILLAMETTE)
 MERIDIAN, IN LANE COUNTY, OREGON)

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned **Cedar Dunes, LLC, and T & K Lands, LLC, and the Daniel C. Guy Trust**, as the owners of the adjacent real property hereby petition for the vacation of Second Street, Third Street and a portion of Foothill Drive, said area to be vacated is more specifically described as follows:

All that portion of Second Street, as platted in "North Addition, Plat A, Westlake" Subdivision, as approved on August 1, 1955 and recorded in Bk. 22, Pg. 20, Lane County Deeds and Records, and located in the Southwest ¼ of Section 27, Township 19 South, Range 12 West.

All that portion of Third Street, as platted in "North Addition, Plat A, Westlake" Subdivision, as approved on August 1, 1955 and recorded in Bk. 22, Pg. 20, Lane County Deeds and Records, and located in the Southwest ¼ of Section 27, Township 19 South, Range 12 West.

All that portion of Foothill Drive north of the westerly extension of the north boundary of the "Playground Lot", as platted in "North Addition, Plat A, Westlake" Subdivision, as approved on August 1, 1955 and recorded in Bk. 22, Pg. 20, Lane County Deeds and Records, and located in the Southwest ¼ of Section 27, Township 19 South, Range 12 West.

As shown on Exhibit A, attached hereto.

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

WHEREAS, petitioners allege as follows:

1. The purpose of this vacation is to fulfill the requirements of Ordinance No. PA 1147. THIS VACATION IS MANDATED by that Ordinance. The Ordinance, which re-designated and rezoned the tract from F/F-2 to R/RR-10, requires "North Addition Plat A, Westlake" to be replatted consistent with RR10 zoning. Implicit in that requirement is the concurrent vacation of the subdivision streets because: the existing streets cannot be platted over; minimum lot size in the RR10 zone is 10 acres; and the existing

EXHIBIT "A"

configuration of the streets make it impossible to replat to 10 acres. In other words, to comply with the approved Ordinance, the streets must be vacated and the subdivision must be replatted to a 10 acre minimum.

2. The proposal serves to vacate unused, unimproved and unnecessary County streets in order to connect the tract owned by the property owner, and to allow residential use of the land consistent with zoning.
3. There are no utility or access easements or lines across the streets.
4. Necessary easements for all existing public and private utilities, if any are discovered, will be retained and run with the land, as provided by law.

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 by:

1. Complying with Ordinance PA 1147, as approved by the Lane County Board of Commissioners. Vacation with further compliance with Ordinance PA 1147, support the local land use process and avoid unnecessary litigation.
2. Adding land to the tax base;
3. Relieving the public from potential liability for injury or misuse;
4. Allowing the land to be put to productive residential use as anticipated by Ordinance PA 1147, SB 100 and the Statewide Planning Goals and Rules;
5. Eliminating from public ownership land that is not improved, has no anticipated use and will likely never be developed for public uses;
6. Eliminating redundant and unnecessary road right of way. The property is being replatted and subdivided. The subdivision process will ensure sufficient access.
7. The sections of roadway are not needed for legal access to the east. Adjacent stub parcels are served by an existing easement. Rec. No. 2007-004450.

WHEREAS, petitioners, separately and collectively, acknowledge that the filing fee is a deposit and an estimate of the vacation fee, and that we accept responsibility for full payment of fees associated with the processing of this vacation in accordance with Lane Manual 60.853, regardless of whether this vacation is approved or denied; and

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

THEREFORE, the petitioners request the Board of Commissioners of Lane County;

1. To set a date to consider the vacation of the above described portion of road, with or without a hearing, pursuant to ORS Chapter 368.

EXHIBIT "A"

2. Upon review of this matter, to order the vacation of the above described road, and direct that title to the vacated area and vest in accordance with ORS 368.366.

DATED this 7th day of October 2014.

PETITIONERS:

[Signature]

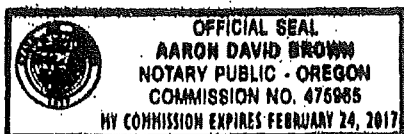
Guy Skeele
Member, Cedar Dunes, LLC
MAP 19-12-27-30, Tls 100-600,
Map 19-12-27-30, Tls 800-3700;
and Map 19-12-27-20, TL 701
5205 NE 14TH PL
PORTLAND, OR 97211

[Signature]

Tom Skeele
Member, T & K Lands, LLC
Map 19-12-27-40, TL 2300
88544 Collard Loop
Florence, OR 97439

STATE of OREGON)
COUNTY of LANE) ss.

On October 7th, 2014, personally appeared the above named Guy Skeele, member, Cedar Dunes, LLC, and acknowledged the foregoing instrument to be a voluntary act before me:

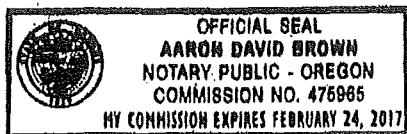


[Signature]

Notary Public for Oregon
My Commission Expires: February 24th 2017

STATE of OREGON)
COUNTY of LANE) ss.

On October 7th, 2014, personally appeared the above named Tom Skeele, member, T & K Lands, LLC, and acknowledged the foregoing instrument to be a voluntary act before me:



[Signature]

Notary Public for Oregon
My Commission Expires: February 24th 2017

EXHIBIT "A"

DATED this 31st day of October, 2014.

PETITIONERS:

~~Marsha Miller
Lane County
MAP 19-12-27-30, TL 700
3050 North Delta Hwy
Eugene, OR 97408~~

Daniel C. Guy
Daniel C. Guy
Trustee, Daniel C. Guy Trust
Map 19-12-27-40, TL 2301
3401 Creek View Dr.
Medford, OR 97504

Vicki H. Guy
Vicki H. Guy
Trustee, Daniel C. Guy Trust
Map 19-12-27-40, TL 2301
3401 Creek View Dr.
Medford, OR 97504

STATE of OREGON)
COUNTY of ~~LANE~~) ss.
Jackson

On October 31st, 2014, personally appeared the above named Daniel C. Guy and Vicki H. Guy, Trustees, Daniel C. Guy Trust, and acknowledged the foregoing instrument to be a voluntary act before me:



Jessica Luna
Notary Public for Oregon
My Commission Expires: July 2, 2018

~~STATE of OREGON)
COUNTY of LANE) ss.~~

~~On _____, 2014, personally appeared the above named Marsha Miller, _____ and acknowledged the foregoing instrument to be a voluntary act before me:~~

~~Notary Public for Oregon
My Commission Expires: _____~~

EXHIBIT "A"

EXHIBIT A
OF THE PETITION TO VACATE

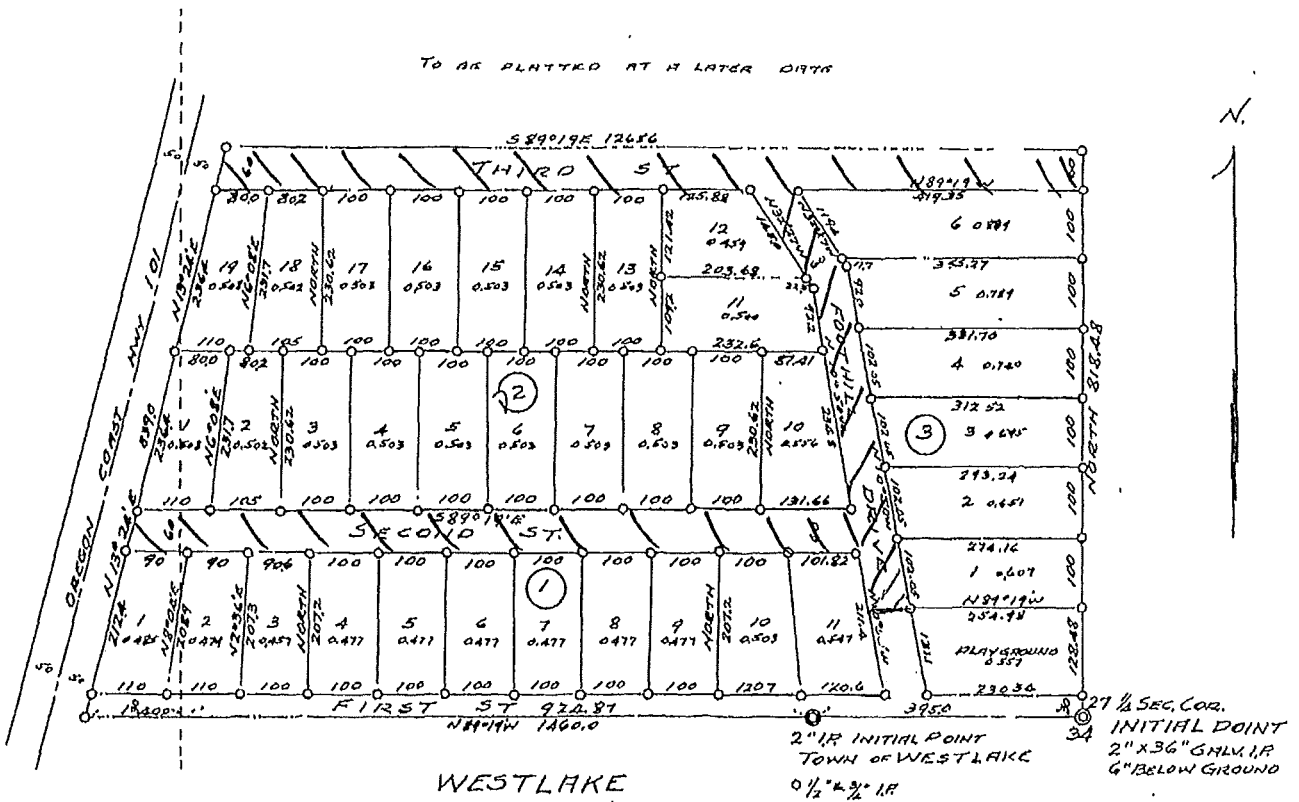


EXHIBIT "B"

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

DIRECTOR'S REPORT

IN THE MATTER OF VACATING SECOND STREET,
THIRD STREET, AND A PORTION OF FOOTHILL
DRIVE IN THE PLAT OF "NORTH ADDITION, PLAT A,
WESTLAKE" AS PLATTED AND RECORDED IN BOOK
22, PAGE 20, LANE COUNTY, OREGON PLAT
RECORDS, WITHOUT A PUBLIC HEARING
(19-12-27-3)

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. ORS 368.326 to 368.366 allows a county governing body to vacate a subdivision or part of subdivision, a road or right-of-way, or public interest in property under the jurisdiction of the county, based on the determination that the vacation is "in the public's interest".

The roads proposed to be vacated were dedicated to the public in 1955 on "North Addition, Plat A, Westlake" as recorded in Book 22, Page 20, Lane County, Oregon Plat Records. The original subdivision has not been developed and the roads are mostly unconstructed with the exception of a private easement that encumbers a portion of Third Street. The portions proposed to be vacated are all of Second Street and Third Street and all that portion of Foothill Drive north of the lot dedicated as a Playground on said plat. First Street and the portion of Foothill Drive adjacent to the Playground lot will remain public right of way.

The petitioners wish to vacate the described platted roads so they can create 10 acre lots to conform with Ordinance No. PA 1147 which rezoned the property from F-2 to RR-10. The existing configurations of the streets in "North Addition, Plat A, Westlake" make it impossible to create 10 acre lots, therefore the public right of way must be vacated and the subdivision replatted. Access to the new lots will be provided for in the new subdivision process. Existing easements that encumber the petitioner's property and benefit properties to the east of the petitioner's property will be retained, including any portion that encumbers the public right of way proposed to be vacated.


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 the nearby property owners regarding the vacation. The Dischingers, who are nearby landowners, responded with concerns of losing access to their property and utility rights. There are recorded private access and utility easements across the petitioner's property for the benefit of Dischingers. It was explained to them the proposed vacation only removes the public interest in the platted roads and will have no effect on their existing private access or utility easements. The Dischingers responded that their concerns had been addressed. The other agencies and landowners either had no objection to the vacation or did not respond to the referral.

A written report is provided, marked as Exhibit "C", determining the special benefit of the vacation to the applicant pursuant to Lane Manual 60.853(3). The petitioners have deposited the determined amount with the Lane County Surveyor.

EXHIBIT "B"

The platted roads are not needed by the Lane County Transportation System and no property will be denied legal access as a result of this vacation. It is concluded the vacation of these roads are in the public's interest, as it will allow the land to be put to productive residential use consistent with the current RR-10 zoning, add land to the tax base, and eliminate unnecessary road right of way. It is therefore recommended the portions of the public roads that were dedicated to the public on the "North Addition, Plat A, Westlake" and as described in the Order, be vacated. It is further recommended the vacation be allowed without a public hearing.

DATED this 11th day of March, 2015.



Marsha Miller, Public Works Director
Department of Public Works

EXHIBIT "C"

MAP No.: 19-12-27-30
Tax Lots: 100-600 Inclusive
800-3700 Inclusive

LANE COUNTY

Notification of Determination of Amount of Special Benefit Deposit
in Connection with a Proposed Vacation of dedicated roads
Pursuant to Lane Manual 60.853(3)(a)

Pursuant to the provisions of Lane Manual 60.853(3)(a), my determination of the amount of "Special Benefit" and therefore the amount of deposit required in connection with the proposed vacation of three dedicated but undeveloped roads located in the North Addition, Plat A, Westlake Subdivision, Lane County, Oregon Plat Records, is **\$13,769.00**.

My determination is based on a Staff Report and recommendation, a copy of which is attached hereto and marked as "Attachment 1".

Dated this 22nd day of DECEMBER, 2014.

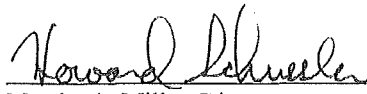

FOR Marsha A. Miller, Director
Lane County Public Works

EXHIBIT "C"

ATTACHMENT 1

STAFF REPORT

Recommendation in the Matter of Determination of Special Benefit
in Connection with a Proposed Vacation of Roads located in the North
Addition, Plat A, Westlake Subdivision, Lane County, Oregon
Pursuant to Lane Manual 60.853(3)(a)

Date: December 4, 2014

Applicants: Cedar Dunes, LLC
T&K Lands, LLC
Daniel C. Guy Trust

Proposed Vacation of Second Street, Third Street and a portion of Foothill Drive:

The proposed vacation consists of three platted, and with the exception of a portion of Third Street, undeveloped roads located in the North Addition, Plat A of the Westlake Subdivision, located just north of Dunes City and east of State Highway 101 as delineated on the attached Exhibit "A". The sections of public roads to be vacated pass through the applicants' lands that are presently platted as 36 approximately one-half acre lots on Map 19-12-27-30. The three roads, identified as Second Street, Third Street and a portion of Foothill Drive were dedicated to public use on July 5, 1955 by Earl and Ula Hill and the plat was approved on August 1, 1955 and recorded on Book 22, Page 20, Lane County Plat Records. The land was never developed into a roadway and is presently used as plottage by the petitioning parties.

The parcels to be vacated include two 60-foot wide strips that run in an east-west direction across the northern border and the mid-section of the subdivision, (Second and Third Streets) and the majority of Foothill Drive, an additional 60-foot wide strip that runs in a north-south direction between Blocks 2 and 3 of the existing plat. The platted land has a rolling topography and consists of sand dunes covered with brush and native trees.

The vacation is requested by the Petitioners to fulfill the requirements of Ordinance Number PA 1147, approved by the Lane County Commissioners on December 4, 2002. This ordinance approved re-designation the subject land from Forest use to Rural Residential, 10-acre minimum parcel size. As the existing roads within the subdivision cannot be platted over and are not configured so as to be utilized in a 10-acre re-plat, the roads within the existing plat must be vacated.

Tax Lots and Ownerships Adjacent to Proposed Vacation:

Four tax lots are located adjacent to the proposed roads to be vacated; three of which are owned by the Petitioners and one of which is owned by Lane County and is accessed off of First Street to the south and the section of Foothill Drive that will not be vacated.

Tax Lots that are adjacent and share the same boundary are as follows:

Map #19-12-27-20, Tax Lot 701-56.87 acres owned by Petitioner Cedar Dunes, LLC
Map# 19-12-27-40, Tax Lot 2301-1.06 acres owned by Petitioner Daniel C. Guy Trust
Map# 19-12-27-40, Tax Lot 2300-3.68 acres owned by Petitioner T&K Lands, LLC
Map# 19-12-27-30, Tax Lot 700-0.72 acres owned by Lane County

EXHIBIT "C"

ATTACHMENT "1"

Nature of Benefit to be Received if Proposed Vacation is Approved: Upon vacation of the roads within the existing plat, full rights will revert back to the fee owners of the property along with all the benefits that accrue to private ownership. With the exception of a portion of Third Street, the roads are unimproved and have not been constructed or maintained for travel by the public since approval of the existing subdivision plat in 1955. The roads are dedicated and not under fee ownership by the County. They are considered an easement that encumbers the property.

Vacation of the roads will allow the petitioners to vacate the existing plat and divide the land within the existing plat, as well as adjoining land under the Petitioners ownership, into Rural Residential 10-acre parcels, in compliance with Lane County Board of Commissioners Ordinance No. PA-1147.

As noted above, the property right to be released back to the current owners is not fee ownership by the County, but an easement interest that, by the original dedication, prohibits the owners from developing the land to its Highest and Best Use. The appraiser concludes that the right to be released represents 50% of the "bundle of rights" and for this reason will be valued at 50% of fee value.

According to information provided by the Acting Lane County Surveyor, the total area of the roads to be vacated within the existing plat is 177,387 square feet, or 4.07 acres.

Value Indication(s) of Properties to be benefited:

The appraiser completed an extensive search for recent sales of residential development land on the Oregon Coast. Data sources included the Regional Multiple Listing Service, Lane County Assessor sales records and discussions with experienced Realtors® in Florence, Oregon. From this research, the appraiser located a single recent transaction, which is the 2013 sale of the subject plat, along with an adjoining 57 +/- acres of similarly zoned RR-10 land.

A review of the Warranty Deed, recorded as Document No. 2013-051762 of the Lane County Deed Records, indicates the petitioners purchased a total of 81.3 acres for \$550,000. This is the most recent and valid indication of value for RR-10 zoned development land along the Oregon coast and calculates to a per-acre value of \$6,766.

Summary and Recommendation of Special Benefit:

The roads to be vacated under this application were dedicated to the County in a plat filed in 1955. They have not been constructed or maintained nor opened to the public. Vacation of the roads will allow a re-plat into larger home sites and will require vacation of the existing plat.

Pursuant Lane Manual 60.853, a special benefit must be determined. Based on "over the fence" estimation of value. Under the highest and best use premise of adjacent land, and based on the recent sale of the subject property, the "special benefit" is estimated to be 50% of the per-acre value indicated by the recent subject sale, or \$3,383 per acre. This calculates to a value of \$13,769.00 for the 4.07 acres of roads to be vacated.

As the value added exceeds the \$2,500 *de minimus value* required by Lane Manual 60.853(3)(a), the appraiser concludes that a payment for Special Benefit of **Thirteen Thousand Seven Hundred Sixty Nine and no/100 dollars, (\$13,769.00)** is warranted for this release.

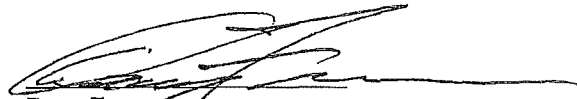

Doug Freeman
Sr. Real Property Officer
Lane County Public Works

EXHIBIT "C"

ATTACHMENT "1"

Aerial View of Roads to be Vacated



Lane County Assessor's Map 19-12-27-30

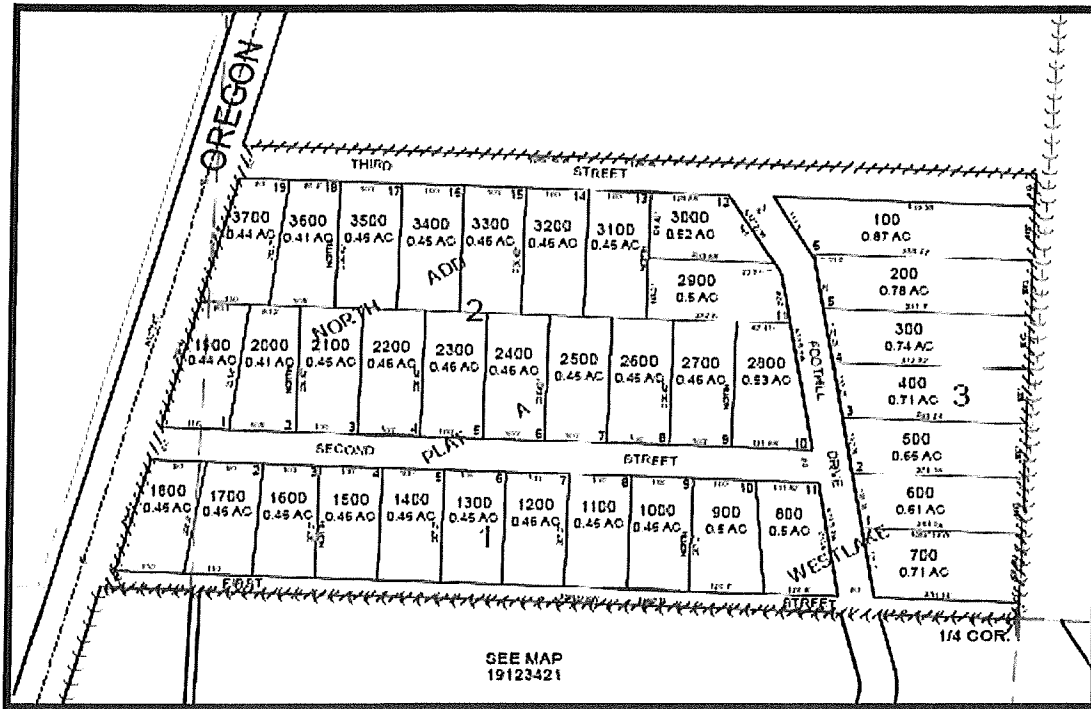


EXHIBIT "D"



Proposed Vacation of Second Street, Third Street and a portion of Foothill Drive

As platted on North Addition Plat "A", Westlake

SW 1/4 Section 27, T. 19S. R. 12W. W.M.

Lane County

No Scale

