


Memorandum Date: June 12, 2008
Order Date: July 2, 2008

TO: Board of County Commissioners

DEPARTMENT: Public Works, Land Management Division

PRESENTED BY: D. Michael Jackson, Lane County Surveyor 

AGENDA ITEM TITLE: IN THE MATTER OF SETTING A PUBLIC HEARING TO CONSIDER THE PROPOSED LEGALIZATION OF A PORTION OF BARRETT CREEK LANE, LOCATED IN THE NORTHWEST ONE QUARTER OF THE SOUTHEAST ONE QUARTER (NW1/4 SE1/4) OF SECTION 34, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN (18-12-34-42)

I. MOTION

To Approve the Resolution and Order to Set a Public Hearing Date of August 20, 2008 at 1:30 P.M. at the Lane County Courthouse, Eugene, Oregon, for the Purpose of Conducting a Public Hearing to Consider the Approval of the Final Order Legalizing a Portion of Barrett Creek Lane.

II. AGENDA ITEM SUMMARY

The Board is being asked to approve the Resolution and Order to set a public hearing date of August 20, 2008 at 1:30 P.M. at the Lane County Courthouse, Eugene, Oregon for the purpose of conducting a public hearing to consider the approval of the Final Order legalizing a portion of Barrett Creek Lane.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The portion of Barrett Creek Lane proposed for legalization is located in the Glenada area southwest of the City of Florence, south of the Hwy 101 bridge over the Siuslaw River and west of Hwy 101, and runs from the westerly right of way of Old Ferry Road westerly 550 feet to the easterly right of way of Cherry Street. Aerial photos indicate Barrett Creek Lane's present geographical location closely matches its location as early as 1953. Barrett Creek Lane has historically been used as access for various improved and unimproved parcels which were originally established in the plats of Glenada (Vol. W, P. 261), the South Florence Addition to Glenada (Bk. 2, P. 9) and the Amended Map of South Florence Addition to Glenada (Bk. 2, P. 13), as platted and recorded in the Lane County, Oregon Plat Records.

Recent vacations (Board of Commissioners Orders 07-4-4-12 and 07-11-20-11)

affecting the plats and rights of way of Colter's Addition to Glenada (Bk. 4, Page 84), the Amended Plat of Colter's Addition to Glenada (Bk. 6, P. 25), Glenada (Vol. W, P. 261), the South Florence Addition to Glenada (Bk. 2, P. 9) and the Amended Map of South Florence Addition to Glenada (Bk. 2, P. 13) raised public comment regarding the status of Barrett Creek Lane. Questions have long existed as to the status and exact location of Barrett Creek Lane as traveled. No dedications for public right of way or acceptance by Lane County as public or county road have been found for Barrett Creek Lane.

In a letter dated November 30, 2007 Charles C. Rosecrans, Jr. and Kathleen S. Rosecrans, owners of tax lots 400 and 500 of Assessor's Map 18-12-34-42 over which the road travels in part, denied Lane County the use of Barrett Creek Lane as it exists on their property, and have also denied other members of the public use of the road.

Board of Commissioners Order 08-1-8-5 authorized the use of County Road Funds to pursue legalization of Barrett Creek Lane.

In accordance with ORS 368.221, a right of way width of 20 feet was chosen in order to minimize the impact upon existing property and improvements. A centerline description of the portion of road to be legalized, including right of way width, is attached to and made a part of the Resolution and Order as Exhibit "A".

A final survey of the centerline with monuments set to define the right of way lines of the project will be completed in accordance with ORS Chapter 368 if the road is legalized. The survey indicating the alignment and monumentation of the road will be filed for public record in the County Surveyor's Office.

B. Policy Issues

ORS 368.201 provides that a county governing body may initiate proceedings to legalize a county road based upon: A) The determination that through conditions of omission or defect, doubt exists as to the legal establishment or evidence of establishment of a public road; or B) If the location of the road cannot be accurately determined; or, C) If the road as traveled and used for 10 years or more does not conform to the location of a road described in the county records.

In the legalization proceedings any person may file information that may controvert any matter presented as a part of these proceedings.

C. Board Goals

One of the goals listed in Lane County's Strategic Plan is to contribute to appropriate community development in the area of transportation (Lane County Strategic Plan, Goals, P. 8). The legalization of this road would be of public utility and a benefit to the public.

D. Financial and/or Resource Considerations

Legalization of this portion of Barrett Creek Lane as a County Road would result in potential maintenance costs to Lane County.

IV. ANALYSIS

Uncertainties and controversy among landowners regarding the status of Barrett Creek Lane and its location in relation to adjacent properties have long existed. No dedications for public right of way or acceptance by Lane County as public or county road have been found for Barrett Creek Lane. Charles C. Rosecrans, Jr. and Kathleen S. Rosecrans, owners of tax lots 400 and 500 of Assessor's Map 18-12-34-42 over which the road travels in part, have denied Lane County the use of Barrett Creek Lane as it exists on their property, and have also denied other members of the public use of the road. The Board has authorized the use of County Road Funds to pursue legalization of Barrett Creek Lane.

Approving the Resolution and Order to set a public hearing to consider legalizing the portion of Barrett Creek Lane from Old Ferry Road westerly to Cherry Street will facilitate the timely progression of the legalization process.

V. ALTERNATIVES/OPTIONS

The Board of County Commissioners has the option to:

1. Approve the Resolution and Order to set a public hearing to consider the legalization of Barrett Creek Lane as proposed.
2. Not approve the Resolution and Order to set a public hearing to consider the legalization of Barrett Creek Lane.
3. Continue the matter for further consideration.

VI. TIMING/IMPLEMENTATION

Timing of this matter is important in order to facilitate progression of the legalization process in a timely manner.

VII. RECOMMENDATION

It is recommended that the Board of Commissioners approve Option 1, to proceed with the legalization of Barrett Creek Lane by approving the Resolution and Order setting a date for a public hearing which will enable the consideration of the approval of a Final Order to legalize Barrett Creek Lane as proposed and supported by the Public Works Director who has provided a Director's Preliminary Report attached to the Resolution and Order as Exhibit "B".

VIII. FOLLOW-UP

If the Board of County Commissioners approves the Resolution and Order setting a date for a public hearing to consider legalizing Barrett Creek Lane, the Resolution and Order with related attachments are to be forwarded to the Lane County Clerk for filing, indexing and entry into the Commissioner's Journal of Administration, after which copies are to be forwarded to the County Surveyor who will provide the Notice of Hearing as

required by ORS 368.206(c) by service to owners of abutting land and other interested parties and by posting. If the Board wishes to postpone the matter, or to terminate proceedings, an Order to Postpone or Terminate will be presented to the Board at a later regularly scheduled meeting.

IX. ATTACHMENTS

Resolution and Order w/attachments:

Legal Description – Exhibit "A"

Director's Preliminary Report – Exhibit "B"

Site Map - Attachment "A"

Contact Person: D. Michael Jackson x-4198

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

IN THE MATTER OF SETTING A PUBLIC HEARING TO)	
CONSIDER THE PROPOSED LEGALIZATION OF A)	RESOLUTION AND
PORTION OF BARRETT CREEK LANE, LOCATED IN THE)	ORDER NO.
NORTHWEST ONE QUARTER OF THE SOUTHEAST ONE)	
QUARTER (NW1/4 SE1/4) OF SECTION 34, TOWNSHIP 18)	
SOUTH, RANGE 12 WEST OF THE WILLAMETTE)	
MERIDIAN (18-12-34-42))	

THIS MATTER now coming before the Board of County Commissioners for Lane County, Oregon and the Board having duly determined to institute proceedings to legalize a portion of a Barrett Creek Lane, said portion being located in the Glenada area southwest of the City of Florence, south of the Hwy 101 bridge over the Siuslaw River and west of Hwy 101, running from the westerly right of way of Old Ferry Road westerly 550 feet to the easterly right of way of Cherry Street, in the Northwest One Quarter of the Southeast One Quarter (NW1/4 SE1/4) of Section 34, Township 18 South, Range 12 West of the Willamette Meridian; and

WHEREAS, ORS 368.201 provides that a county governing body may initiate proceedings to legalize a county road based upon: A) The determination that through conditions of omission or defect, doubt exists as to the legal establishment or evidence of establishment of a public road; or B) If the location of the road cannot be accurately determined; or, C) If the road as traveled and used for 10 years or more does not conform to the location of a road described in the county records; and

WHEREAS, aerial photos indicate Barrett Creek Lane's present geographical location closely matches its location as early as 1953; and

WHEREAS, Barrett Creek Lane has historically been used as access for various improved and unimproved parcels which were originally established in the plats of Glenada (Vol. W, P. 261), the South Florence Addition to Glenada (Bk. 2, P. 9) and the Amended Map of South Florence Addition to Glenada (Bk. 2, P. 13), as platted and recorded in the Lane County, Oregon Plat Records; and

WHEREAS, no dedications for public right of way or acceptance by Lane County as public or county road have been found for Barrett Creek Lane; and

WHEREAS, questions have long existed as to the status and exact location of Barrett Creek Lane as traveled; and

WHEREAS, in a letter dated November 30, 2007 Charles C. Rosecrans, Jr. and Kathleen S. Rosecrans, owners of tax lots 400 and 500 of Assessor's Map 18-12-34-42 over which the road travels in part, denied Lane County the use of Barrett Creek Lane as it exists on their property, and have also denied other members of the public use of the road; and

WHEREAS, Board of Commissioners Order 08-1-8-5 authorized the use of County Road Funds to pursue legalization of Barrett Creek Lane.

WHEREAS, the Lane County Public Works Engineering and Construction Services Division has completed a preliminary survey of the portion of Barrett Creek Lane herein proposed to be legalized, as now constructed and traveled; and

WHEREAS, in accordance with ORS 368.221 a right of way width of 20 feet was chosen in order to minimize the impact upon existing property and improvements, and a centerline description of the portion of road to be legalized, including right of way widths, is described in Exhibit "A", attached hereto and made a part hereof by this Resolution and Order; and

WHEREAS, the Public Works Director has prepared a preliminary report marked Exhibit "B" in conformance with ORS 368.206, and is attached hereto and made a part hereof by this Order; now therefore it is hereby

RESOLVED AND ORDERED that pursuant to ORS Chapter 368.201 to ORS 368.221, the Board of County Commissioners for Lane County does hereby declare its intent to legalize the said road as described in Exhibit "A" attached hereto and made a part hereof by these proceedings; and, it is further

ORDERED, that a public hearing on legalization of the portion of Barrett Creek Lane as described in Exhibit "A" be conducted by the Board of County Commissioners on August 20, 2008, at 1:30 P.M, at the Lane County Courthouse/Public Service Building, Eugene, Oregon. Remote access to the hearing in order to facilitate testimony shall be provided at a location in Florence, Oregon, said location to be specified in the Notice of Public Hearing. Notice of this hearing shall be provided by the County Surveyor's Office, Department of Public Works, in accordance with ORS 368.206(c). Purpose of the hearing shall be to hear and determine whether the subject road shall be legalized as a lawful public road having a right of way width of 20 feet. Objections, claims for damages and/or information that controvert any matter presented to the Board of County Commissioners must be filed or presented to said Board of County Commissioners on or before the close of the hearing to legalize this road.

Persons wishing further information regarding the proposed legalization of the portion of Barrett Creek Lane as described in Exhibit "A" may contact the Lane County Surveyor, D. Michael Jackson, at (541) 682-4198 or by writing the Lane County Surveyor's Office at 125 E. 8th Avenue; Eugene, OR 97401.

DATED this _____ day of _____, 2008.

Chair, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 6-20-08 lane county

OFFICE OF LEGAL COUNSEL

BARRETT CREEK LANE**CENTERLINE DESCRIPTION**

A strip of land twenty (20) feet in width lying ten (10) feet on each side of the centerline of Barrett Creek Lane, located in Section 34, Township 18 South, Range 12 West of the Willamette Meridian, Lane County, Oregon, as surveyed by Lane County in 2008; the centerline being described as follows:

Beginning at Engineers' Centerline Station L 0+00.00 POB, said station being 2,066.78 feet North and 1,337.17 feet East of the Brass Cap marking the South One-Quarter Corner of Section 34, Township 18 South, Range 12 West of the Willamette Meridian, Lane County, Oregon, said station also being 15.44 feet right of Engineer's Centerline Station 17+82.18 POT of Old Ferry Road, formerly known as the ROOSEVELT COAST HIGHWAY as shown on Oregon State Highway Department Drawing Number 2B23-5 dated February 1930; run thence North 62° 00' 00" West, 79.72 feet; thence on an eighteen (18) degree curve left (the long chord of which bears North 69° 00' 00" West, 77.58 feet) a distance of 77.78 feet; thence North 76° 00' 00" West, 40.79 feet; Thence on a forty (40) degree curve right (the long chord of which bears North 67°00'00" West, 44.82 feet) a distance of 45.00 feet; thence North 58°00'00" West, 47.96 feet; thence on a forty-four (44) degree curve left (the long chord of which bears South 89° 00' 00" West, 141.84 feet) a distance of 150.00 feet; thence South 56° 00' 00" West, 108.75 feet to Engineers' Centerline Station L 5+50.00 POT and there ending, all in Lane County, Oregon.

EXCEPT: That portion lying within the right of way of Old Ferry Road, formerly known as the ROOSEVELT COAST HIGHWAY as shown on Oregon State Highway Department Drawing Number 2B23-5 dated February 1930.

ALSO EXCEPT: That portion lying within the right of way of Cherry Street lying within GLENADA, as platted and recorded in Volume "W", Page 261 and the AMENDED MAP OF SOUTH FLORENCE ADDITION TO GLENADA, as platted and recorded in Book 2, Page 13, Lane County Oregon Plat Records.

The bearings used herein are based on the Oregon Coordinate System (NAD 83/91), South Zone.

EXHIBIT 'B'

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

IN THE MATTER OF SETTING A PUBLIC HEARING TO)	
CONSIDER THE PROPOSED LEGALIZATION OF A PORTION OF)	DIRECTOR'S
BARRETT CREEK LANE, LOCATED IN THE NORTHWEST ONE)	PRELIMINARY
QUARTER OF THE SOUTHEAST ONE QUARTER (NW1/4 SE1/4))	REPORT
OF SECTION 34, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF)	
THE WILLAMETTE MERIDIAN (18-12-34-42))	

The Lane County Department of Public Works has resolved to legalize as a county road a portion of Barrett Creek Lane as now constructed and traveled. In accordance with ORS 368.221, a right of way width of 20 feet was chosen in order to minimize the impact upon existing property and improvements. All legal criteria for proceeding with the legalization have been met.

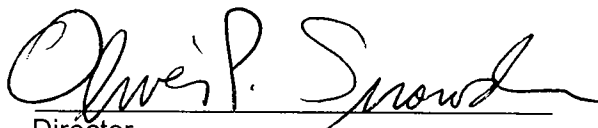
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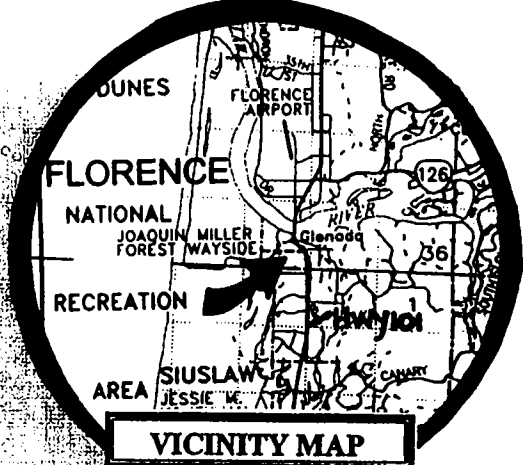
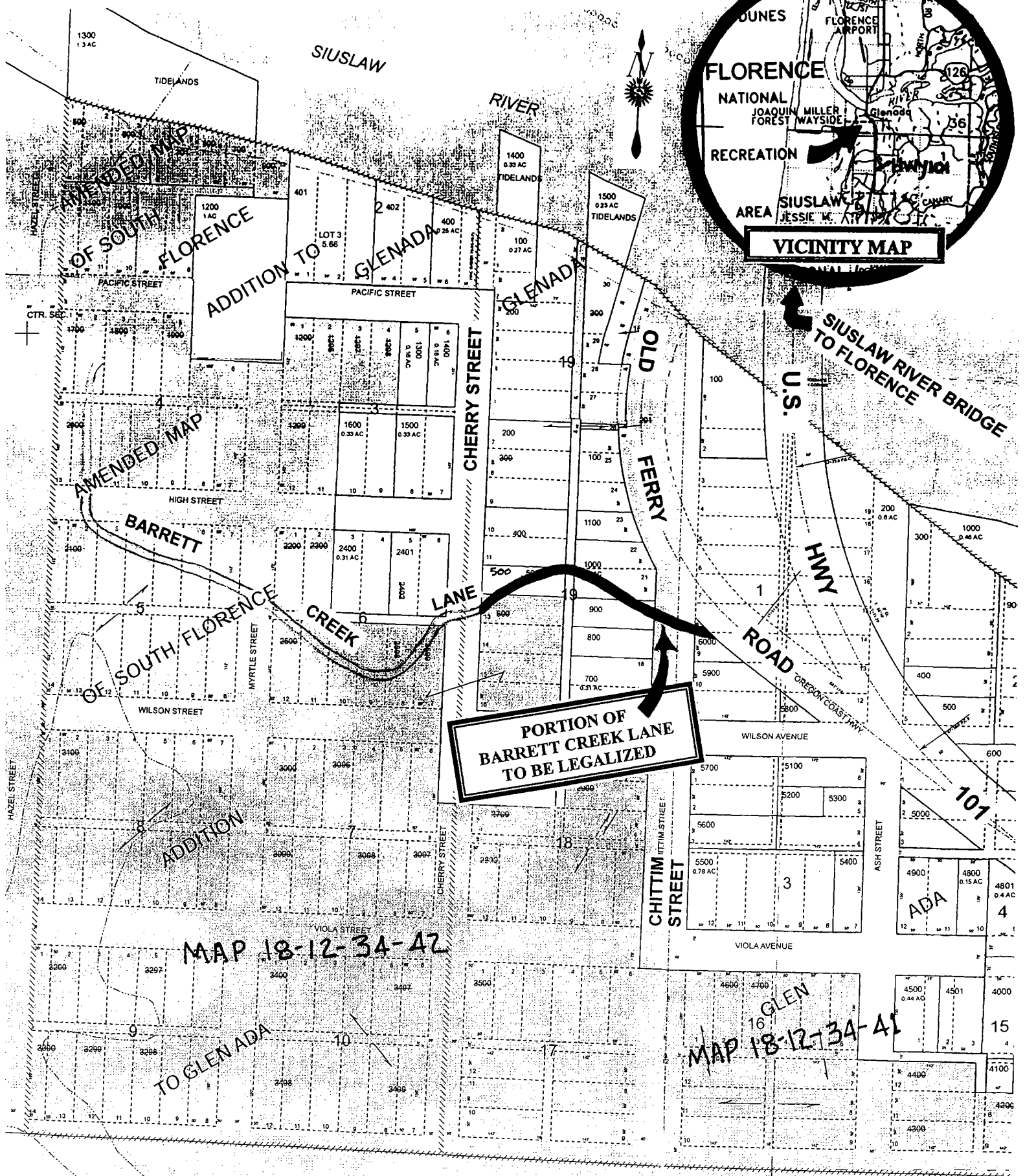
It is recommended the Resolution and Order be approved and that a date be set for conducting a public hearing by the Board of County Commissioners to consider the legalization of said portion of Barrett Creek Lane.

A complete report will be submitted prior to the time of the public hearing.

Dated this 20th day of June, 2008.


 Director
 Department of Public Works

NW1/4SE1/4 Section 34, T. 18 S. R. 12 W., W.M.
LANE COUNTY
NO SCALE



**PORTION OF
BARRETT CREEK LANE
TO BE LEGALIZED**

MAP 18-12-34-42

MAP 18-12-34-41