

W. 14.a.

Memorandum Date: 05/12/2008
Order Date: 05/28/2008

TO: Board of County Commissioners
DEPARTMENT: Public Works
PRESENTED BY: Todd Winter, Parks Division Manager
AGENDA ITEM TITLE: PUBLIC HEARING/ORDER/ IN THE MATTER OF
AUTHORIZING THE SALE OF COUNTY PROPERTY THAT
HAS BEEN DESIGNATED AS PARKLAND AND IDENTIFIED
AS ASSESSOR'S MAP NO. 18-12-11-00-02000 AND 18-12-
26-12-00100

I. MOTION

Public Hearing/Order/ In the matter of authorizing selling county property that has been designated as parkland and identified as Assessor's Map No. 18-12-11-00-02000 and 18-12-26-12-00100.

II. AGENDA ITEM SUMMARY

Pursuant to Lane Manual 21.435 and Board Order No. 07-2-14-6, tax foreclosed property identified as Assessor's Map No. 18-12-11-00-02000 (Taylor Road Property) and 18-12-26-12-00100 (Casino Property) were designated as county parkland. The Parks Division and Property Management Division have identified the properties as a resource to be sold with sale revenue to be used for park purposes. Before the Board can authorize selling property designated as parkland a public hearing must be held.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

On September 15, 2004 the Lane County Board of Commissioners reviewed a feasibility report from staff pertaining to the designation of tax foreclosed property as county parkland, then selling the property with sale proceeds used for park purposes as required by statute. The Board voted 5-0 for option B of the report which directed staff to proceed at a measured pace by first designating only one or two properties as parkland with those parcels lying outside of a city's limits.

The board further directed staff to present a policy and procedure for review and approval by the Policies and Procedures Committee pertaining to tax foreclosed properties designated as parklands and then sold with proceeds used for park purposes. Lane Manual 21.435 was drafted and implemented as a result of the Board's direction to use tax foreclosed property as a revenue source for the Parks Division

Pursuant to Lane Manual 21.435 and Board Order No. 07-2-14-6, tax foreclosed properties identified as Assessor's Map No. 18-12-11-00-02000 and 18-12-26-12-00100 were designated as county parkland.

Pursuant to Board Order No. 07-2-14-6, Property Management staff and Parks staff are moving forward with Follow-Up by scheduling a public hearing to discuss selling the parcels and authorizing, through Board Order, the sale of each parcel.

Overview of Parcels

18-12-11-00-02000 : The parcel is located North of Florence off of Taylor Rd. and is just West of Clear Lake. The parcel is outside the Urban Growth Boundary of Florence.

A private fee appraisal of the parcel completed in the fall of 2006 valued it at \$110,000. The appraisal also noted that approximately 4 acres of wetlands are present based on a 1996 survey secured by the Lane Council of Governments.

The parcel is 10 acres. The majority of the parcel lies within the Clear Lake Water Protection Zone (CLWP).with a portion in the SW corner lying outside the zone and zoned F2. The parcel is covered with low lying vegetation and scattered fir trees with minimal merchantable timber.

The parcel was acquired through tax foreclosure in 1986. It had been offered at a Sheriff's auction in 1989 and available for private sale since that time. Until adoption of the CLWP zone in 1998 there was a moratorium on new development in the Clear Lake drainage. The CLWP zone now provides for placement of one dwelling on a lot of record within the zone (the parcel is a lot of record). The file also indicates that in 1995 the Parks Dept. requested to retain the parcel for possible Parks' use.

Access to the parcel is via Taylor Rd. (a local access road) and former County Rd. 386 which has been reduced in status to a local access road. Taylor Rd. is unimproved, is a sand and dirt road and requires a 4 wheel drive vehicle for access year round. Taylor Rd. is a dedicated public road only from Hwy. 101 to the point of its intersection with Rd. 386. The remainder of Taylor Rd extending East to Clear Lake is simply County owned property. Taylor Rd. has a locked gate at its intersection with Hwy. 101. This was done to reduce traffic and disturbance of the Clear Lake watershed.

Former County road 386 was established in 1884 and was commonly known as the Florence to Mercer Lake Road (it was the primary North/South road until the establishment of Hwy. 101 in the 1920s). In August 1980, the Board formally vacated much of Road 386 (which had been abandoned) except for a portion that provided access to the County's

parcel and tax lot 2200 North of the County's parcel. The portion that was not vacated was reduced in status to a local access road.

The exact "legal" location of the local access road is unclear (the legal description, written in 1884, is based on landmarks no longer in existence). There is a dirt/sand road running North from Taylor Rd. through the County's parcel and into tax lot 2200 which may be the legal access. Prior to development of the County's parcel (and tax lot 2200) it would be prudent for the affected property owners (tax lots 202, 2200 and the County's parcel) to agree on the location of the road and establish that location with the Public Works Dept.

A title report indicates no encumbrances to title on the County property. The parcel has not been surveyed. Estimates for a survey ranged between \$12,000 - \$15,000.

18-12-26-12-00100: The parcel is located East of Willow Loop and between 17th and 20th Avenues in Florence (the parcel is between property owned by the Confederated Tribes on which the casino resides and the City limits of Florence). It is outside the City's limits but within the Urban Growth Boundary. The property is zoned Suburban Residential.

The parcel is .86 acres. The parcel is contiguous with tax lots 200, 300, and 400 which are also owned by the County. The total acreage of the contiguous parcels is 7.49 (tax lots 200, 300 & 400 total 6.63 acres). A private fee appraisal done in the fall of 2006 valued the entire 7.49 acres at \$420,000.

Tax lot 100 was acquired through tax foreclosure in 1960. Tax lots 200, 300 & 400 appear to have been purchased by the County from Dwayne and Sharon Crist in 1960 for consideration of \$278.76 as noted in a Bargain and Sale deed recorded on June 15th in the County's deed records. Tax lots 200, 300 and 400 had been foreclosed upon by the County in 1954 and subsequently sold to the Crist's in 1957 for \$150.

Research of Board records during the time the Bargain and Sale deed was recorded has not revealed any information concerning the purchase. Assistant County Counsel Marc Kardell reviewed documents pertinent to the transaction and is of the opinion that tax lots 200, 300 and 400 would not be considered as tax foreclosed property and unless other documents to the contrary can be found, the parcels would be considered General Fund properties. A title report on the parcels also noted acquisition pursuant to the Bargain and Sale deed as opposed to a tax foreclosure.

The parcels (all 4) contain significant areas of wetlands. In the Spring of 2006 EGR & Associates was contracted to perform a wetlands delineation. Their report noted that 4.17 acres of the property is wetlands with 3.3 acres being upland area. Most of the upland area was located in the Northern portion of the property with virtually all of tax lot 100 (foreclosed property) being uplands as well as portions of tax lots 200 & 300 (General Fund property). Tax lot 400 is virtually all wetlands. The wetlands area includes a large, seasonal lake that would technically be considered "waters of the State" according to the report from EG&R. Follow up discussions with EG&R indicated that filling the wetlands and securing replacement wetlands does not appear to be economically feasible – particularly as a replacement "lake" would need to be created.

The fee appraisal valued the upland area, which potentially can be developed with residential housing, at \$125,000/acre (a developer would likely first annex the property to the city). The wetland area was valued at \$2,000/acre. Assuming the entire County ownership was sold for the \$420,000 appraised value and proceeds were distributed based on each tax lot's contribution to total value, the tax foreclosed parcel would receive \$107,500 which would go to the Parks Dept. if designated as parkland (.86 acres x \$125,000). The remainder of the proceeds would go to the General Fund (\$312,500).

All four of the tax lots were offered at a Sheriff's Sale in December, 1993 with a minimum bid of \$235,000. In 1998 Fred Myer Stores secured a purchase option on the property from the County but did not exercise it (they were going to use the property to mitigate wetlands on the property they built their store on). In the early 1990s, the City of Florence expressed an interest in the property to be used as open space/parkland. The City did not pursue acquisition from the County and has not contacted the County about the parcel since its initial interest.

Subject parcel 18-12-26-12-00100 (parcel adjoining the casino property) is .86 acres of a 7.49 acre contiguous tract of County owned property comprised of four tax lots (200, 300, and 400 from the General Fund) and the possible option of selling subject parcel 18-12-26-12-00100 together and contingent with the purchase of the other three tax lots will be a topic of future Board discussion and decision. Three of the tax lots (200, 300 & 400) were not acquired by tax foreclosure but were purchased by the County. If each lot was sold together, proceeds from the sale of each lot would be directed to their corresponding Fund, with the park parcel be used for Parks purposes and the General Fund parcels being used at the discretion of the Board.

B. Policy Issues

Pursuant to ORS 275.320, these properties were designated as county parkland by Order No. 07-2-14-6. The designation was in conformance with Lane Manual 21.435 which sets out policies for designation of tax foreclosed property as parkland. Lane Manual 21.435 was drafted and implemented as a result of the Board's direction to use tax foreclosed property as a revenue source for the Parks Division.

ORS 275.330 provides for selling designated parkland upon a finding by the Board that it is in the best interest of the county to do so. The statute also requires a public hearing before the Board can take action to sell designated parkland.

C. Board Goals

This action supports the *Parks Master Plan* Goal 1 by creating revenue for the maintenance and improvement of existing park and recreation lands or future

acquisition of lands that may be set aside for park and recreational purposes that will offer a variety of park and recreational opportunities for Lane County residents and visitors (*Lane County Parks Master Plan 1980, pg. 10*).

This action supports the *Parks Master Plan* by generating revenue that can be used for the maintenance and enhancement of existing infrastructure for the benefit of the general public. (*Lane County Parks Master Plan 1980, pg. 4*)

This action supports the *Strategic Plan* overall goal to protect the public's assets by maintaining, replacing or upgrading the County's investments in systems and capital infrastructure. (*Lane County Strategic Plan 2001-2005, pg. 13*)

Pursuant to item B2 [c] of the *Strategic Plan* (Resource Planning and Allocation) the county is to assess its real property assets and utilize them in a manner that is beneficial to the county.

D. Financial and/or Resource Considerations

Operating funds for the Property Management program are derived from sale proceeds of tax foreclosed property. The program has been self sufficient and does not receive any General Fund money. Through indirect charges and other charges by County depts., the Property Management program contributes approximately \$100,000 annually to the General Fund.

Revenue generated from the proceeds of tax foreclosed properties designated as parkland has been used for the improvement of existing parks and most recently for the development of a campground at Armitage Park. New improvements to existing park recreation lands can be used to generate new and increased revenue sources for Lane County Parks.

E. Analysis

The Board has given staff direction, which was set forth in Lane Manual 21.435 to identify tax foreclosed property for designation as parkland pursuant to ORS 275.320 with the intent to then sell such designated property pursuant to ORS 275.330. Proceeds from the sale would be used for the maintenance and/or improvement of existing parkland as required by the statute.

Before property designated as parkland can be sold, a public hearing is required. The statute does not require procurement of an offer for the property prior to authorizing its sale. The statute provides for selling park property at a public (auction) or private sale. Authorizing that a designated park property be sold does not obligate the Board to sell it or to accept any particular offer. The required notice for the public hearing has been published in the Register Guard on May 12th and again on May 19th and has also been published in Florence's local publication,

The Siuslaw News, on May 10th and May 17th.

F. Alternatives/Options

1. The Board can proceed with the authorization of selling both properties. The Board would then be able to offer the properties at a public auction and/or be able to accept an offer it deemed appropriate through private sale.
2. The Board can proceed with the authorization of selling one property, but not the other. The Board would then be able to offer the authorized property at a public auction and/or be able to accept an offer it deemed appropriate through private sale, and the non-authorized property would remain in the county's inventory of land managed by the Parks Division with the Parks Division responsible for expenses incurred in managing the property.
3. The Board can refrain from authorizing the sale of both properties. The properties would then remain in the county's inventory of land managed by the Parks Division with the Parks Division responsible for expenses incurred in managing the property.

IV. RECOMMENDATION

Parks Division recommends option 1.

V. TIMING/IMPLEMENTATION

A sale of the property can occur, either at a public or private sale, after the Board has approved selling it. The Board will provide direction to staff on the procedure it wishes to use to sell the parcel, either through public or private sale.

VII. FOLLOW-UP

The Board will provide direction to staff on the procedure it wishes to use to sell the parcel, either through public or private sale.

VII. ATTACHMENTS

Board Order
Legal Descriptions of Parcels Designated as Parkland
Plat Maps
Aerial Photos
Map of Clear Lake Protection Zone
Wetlands Delineation Map for Tax Lots 100, 200, 300, and 400

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY
STATE OF OREGON

ORDER NO.) IN THE MATTER OF AUTHORIZING SELLING
) COUNTY PROPERTY THAT HAS BEEN DESIGNATED
) AS PARKLAND AND IDENTIFIED AS ASSESSOR'S
) MAP NO. 18-12-11-00-02000 AND 18-12-26-12-00100
)
)
)
)
)

WHEREAS, Lane County owned property identified as Map No. 18-12-11-00-02000 and 18-12-26-12-00100 has been designated as county parkland pursuant to Order No. 07-2-14-6, and

WHEREAS, ORS 275.330 provides for selling such designated property, and

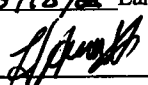
WHEREAS, in conformance with ORS 275.330(2) a public hearing on the matter was held on May 28, 2008 after notice of said hearing was duly published, and

WHEREAS, due consideration was given to testimony provided and, after hearing said testimony, the Board has deemed it to be in the best interest of the County to sell said designated parkland.

NOW THEREFORE, BE IT

ORDERED, that pursuant to ORS 275.330(2) county owned real property identified as Assessor's Map 18-12-11-00-02000 and 18-12-26-12-00100 and more particularly described in attachment "Legal Descriptions of Parcels Designated as Parkland" may be sold, alienated or otherwise conveyed at either a public or private sale subject to acceptance of an offer by the Board and that any proceeds from a sale be used as required by ORS 275.330(2).

DATED this _____ day of _____ 2008.

Approved as to Form
Date 5/18/08 Lane County


Office of Legal Counsel

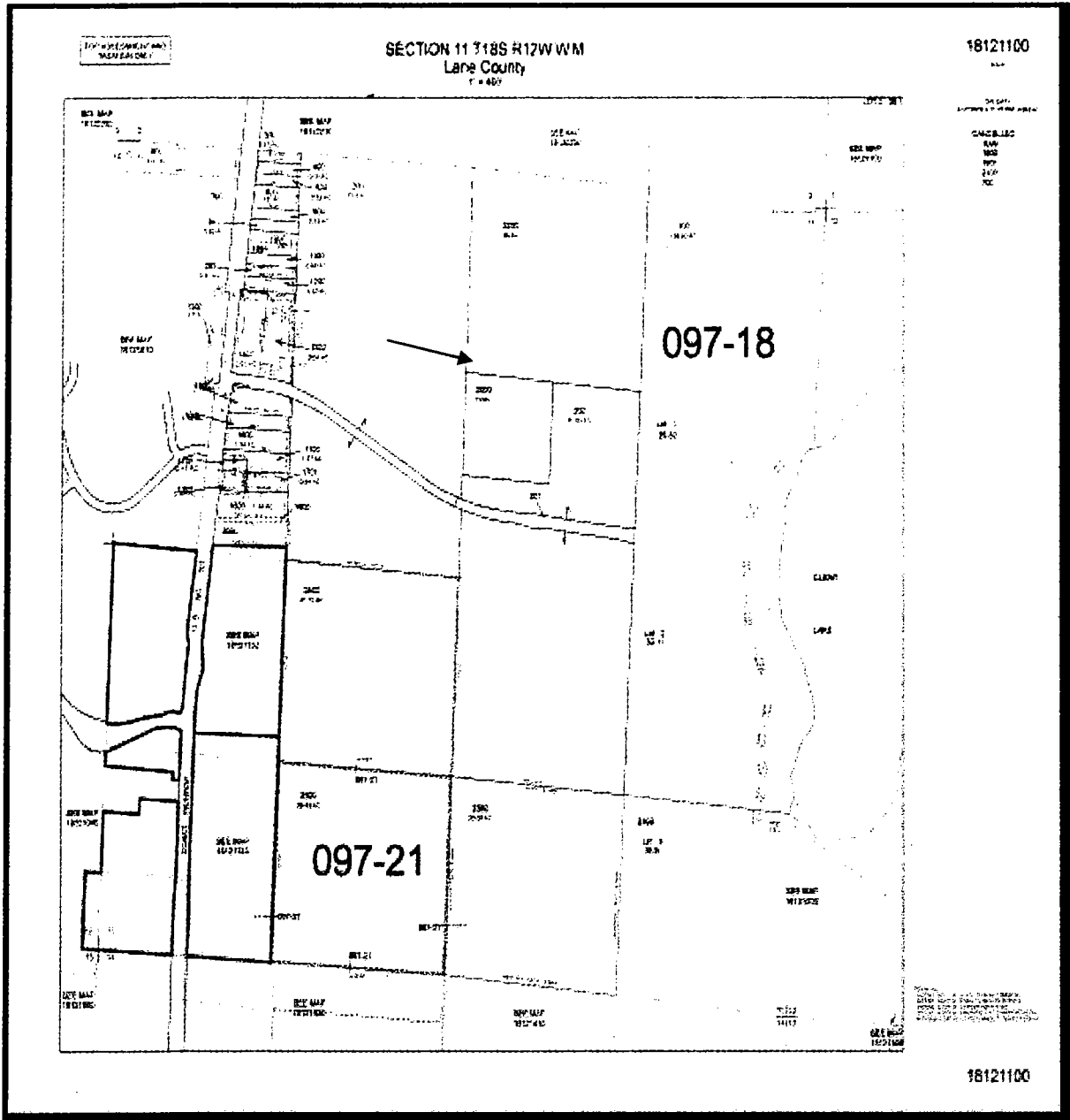
Faye Stewart, Chair
Lane County Board of Commissioners

Legal Descriptions of Parcels Designated as Parkland

18-12-11-00-02000: The Northwest quarter of the Southwest quarter of the Northeast quarter of Section 11, Township 18 South, Range 12 West of the Willamette Meridian, in Lane County, Oregon.

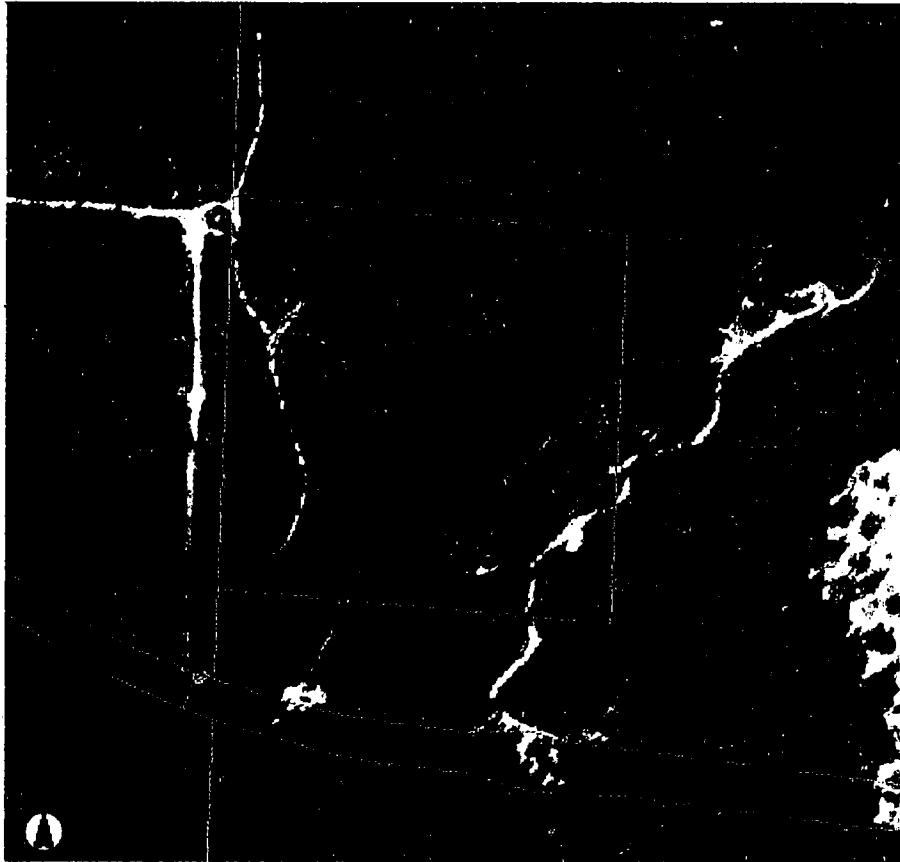
18-12-26-12-00100: Lots 1 to 10, inclusive, Block 38, HOLLY ADDITION TO THE CITY OF FLORENCE, as platted and recorded in book 4, Page 96, Lane County Oregon Plat Records, Lane County, Oregon.

18-12-11-00-02000 (Taylor Rd. Property)



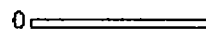
Taylor Rd. Property

ArcIMS HTML Viewer Map

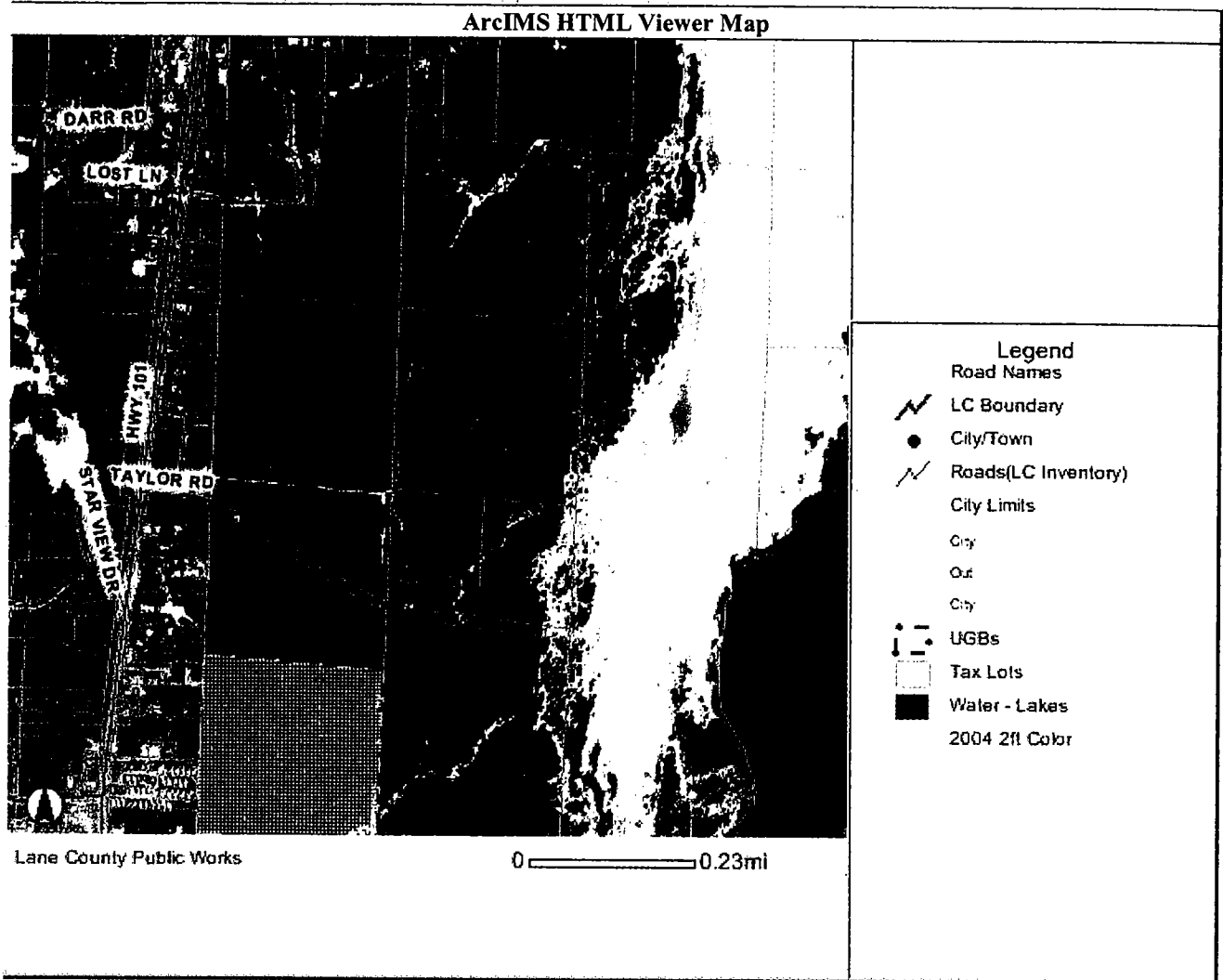


- Legend**
- Road Names
 - LC Boundary
 - City/Town
 - Roads(LC Inventory)
 - City Limits
 - City
 - City
 - UGBs
 - Tax Lots
 - Water - Lakes
 - 2004 2ft Color

Lane County Public Works

0  0.058mi

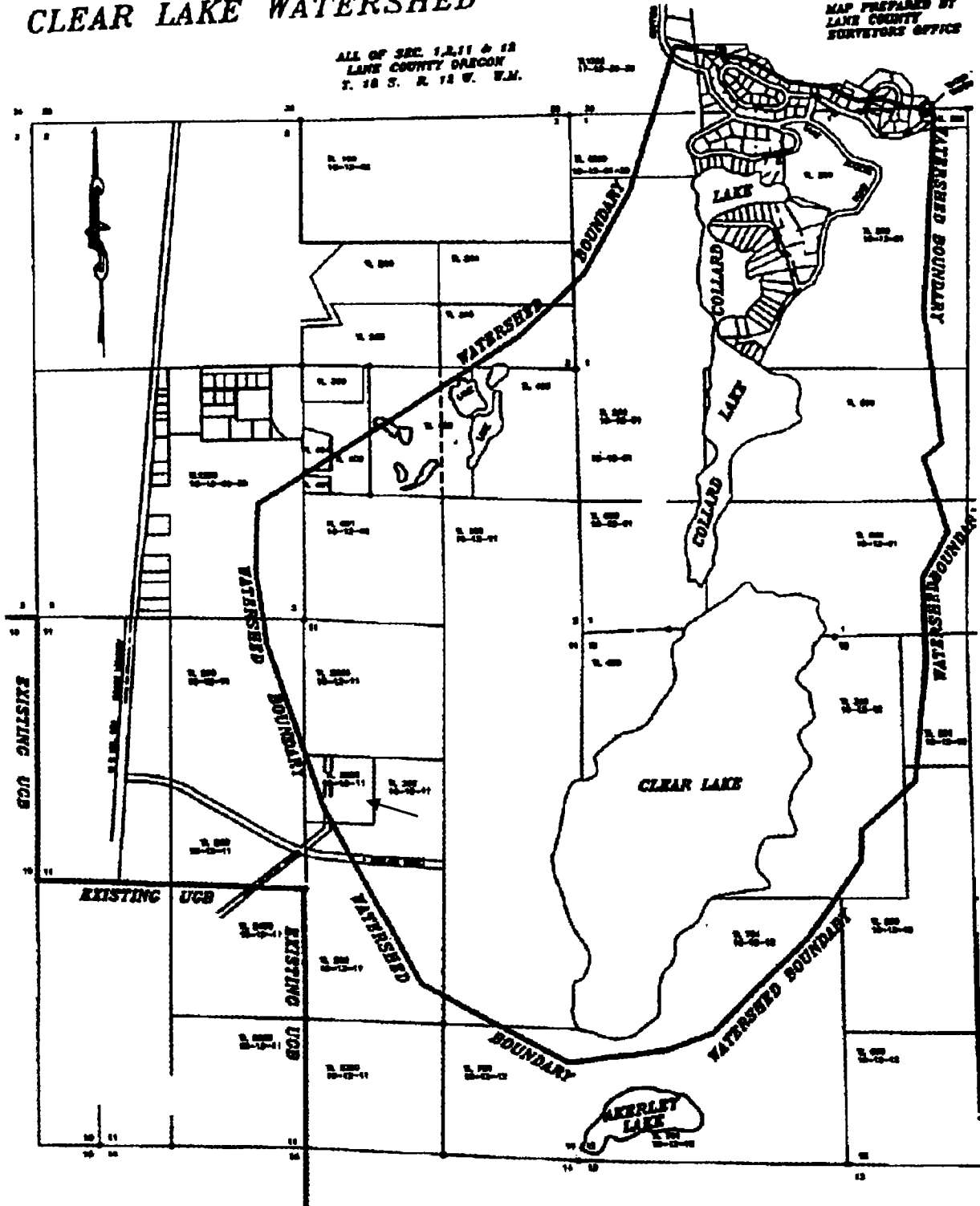
Taylor Rd. Property



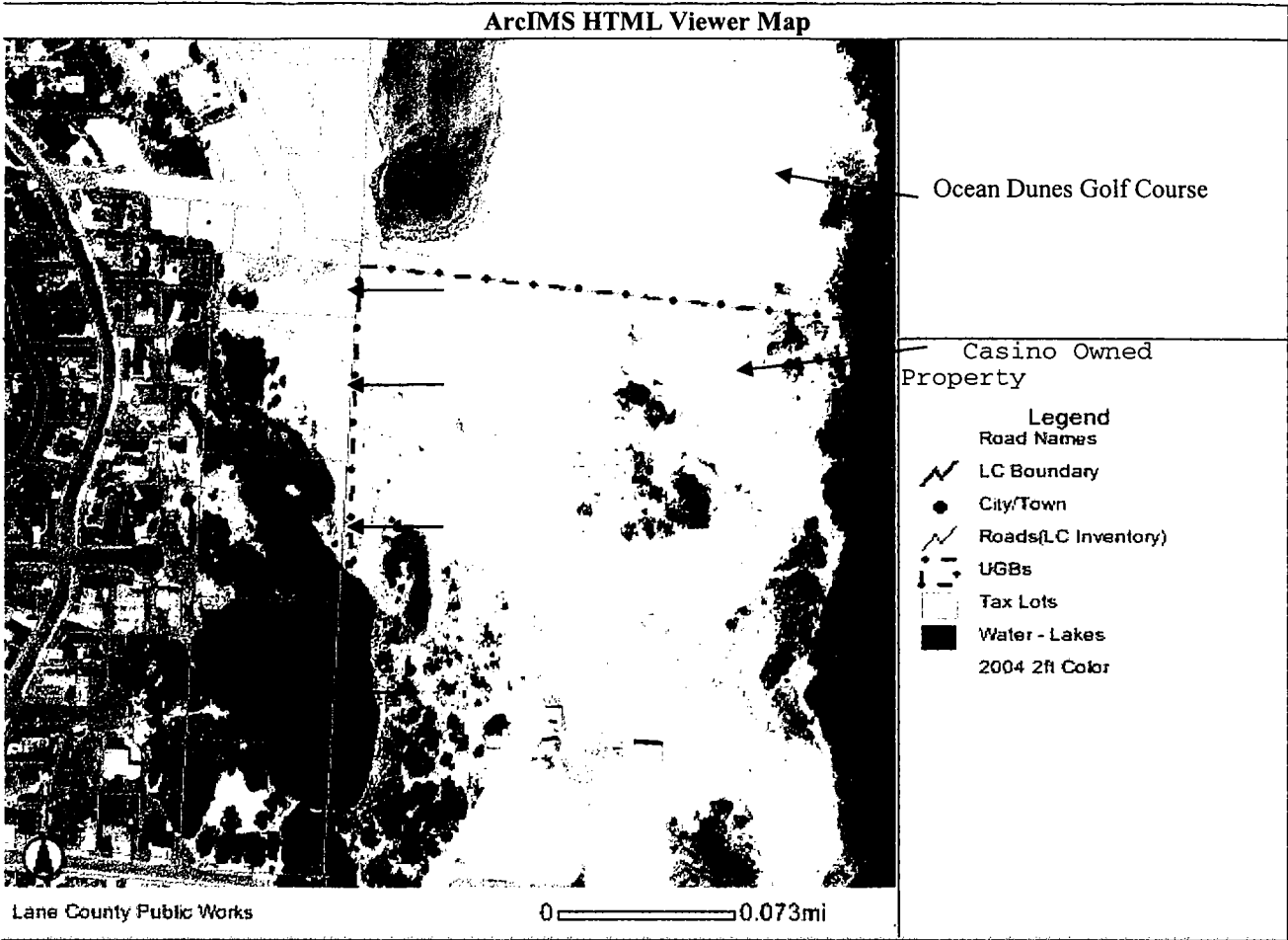
CLEAR LAKE WATERSHED

ALL OF SEC. 1, 11 & 12
LAKE COUNTY DRAIN
T. 18 S. R. 12 W. W.M.

MAP PREPARED BY
LAKE COUNTY
SURVEYORS OFFICE



Casino Property





WETLANDS AREA, TAX LOTS 100, 200, 300 & 400.