

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 17-05-16-02

IN THE MATTER OF VACATING A PORTION OF LAUREL STREET IN THE "AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA" AS PLATTED AND RECORDED IN BOOK 7, PAGE 14, LANE COUNTY OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING (19-12-02-31)

**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 a portion of Laurel Street as shown on the "Amended Plat of El Carmel Addition to Glenada", as platted and recorded in Book 7, Page 14, Lane County Oregon Plat Records. The area being more particularly described as follows:

All that portion of Laurel Street located adjacent to the east boundary of Lot 1, Block 10, of the "Amended Plat of El Carmel Addition to Glenada", as platted and recorded in Book 7, Page 14, Lane County Plat Records, said portion being a strip of land 60 feet wide and 169.8 feet in length, which lies between the southerly right-of-way line of Harvard Avenue and the easterly projection of the southerly line of Lot 1, Block 10.

**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 Century Link 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 adjoining and nearby property owners regarding the vacation; and

**WHEREAS**, the Fire Marshal for Siuslaw Valley Fire and Rescue initially responded with access concerns, but later withdrew his comments after talking with the primary petitioner and learning the proposed vacation was not the road he thought it was. Two neighboring landowners also had objections to the proposed vacation, but after talking with Mr. Sjoblom they have a better understanding of the encroachment problem and withdrew their objection. The other agencies and landowners did not respond to the referral; and

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

**WHEREAS**, the street proposed to be vacated is not improved or open for public travel; and

**WHEREAS**, the public interest will be served by this vacation, as it will allow the encumbering structure to remain in place and relieve the public from potential liability for injury or misuse; 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 Special Benefit Fee was determined to be \$5,000, and the petitioner has deposited this amount with the Lane County Surveyor; 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", attached, and made a part of this Order, determining the Special Benefit to the applicant; and

**WHEREAS**, the entire width of the subject portion of Laurel Street was originally dedicated on the "Amended Plat of El Carmel Addition to Glenada" and the cemetery property to the east was not a part of the plat, therefore the entire width of the vacated portion will revert to the Sjobloms, the owners of Lot 1, Block 10 of said plat; 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 approving the vacation as petitioned for is in the best interest of the public.

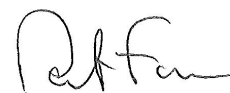
**NOW, THEREFORE**, the Board of Commissioners of Lane County **ORDERS** as follows:

1. The above described portion of Laurel Street in the "Amended Plat of El Carmel Addition to Glenada", as depicted on the attached map marked as Exhibit "D", is hereby VACATED.
2. The entire width of the described portion of Laurel Street is to be vested to the owners of Lot 1, Block 10 of the "Amended Plat of El Carmel Addition to Glenada".
3. An easement is hereby retained for any and all existing public utilities to preserve, maintain, repair, replace, remove or reinstall any public utilities that may now exist within the bounds of the portion of the platted street herein described by these proceedings as vacated.
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 16th day of May, 2017

APPROVED AS TO FORM  
Date 5/17/17

LANE COUNTY OFFICE OF LEGAL COUNSEL



Pat Farr, Chair  
Lane County Board of Commissioners

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

IN THE MATTER OF THE VACATION OF A PORTION OF )  
 LAUREL STREET AS DEDICATED TO THE PUBLIC ON )  
 THE AMENDED PLAT OF EL CARMEL ADDITION TO ) PETITION TO VACATE  
 GLENADA AS PLATTED AND RECORDED IN BOOK 7, )  
 PAGE 14, LANE COUNTY PLAT RECORDS, IN SECTION 2, )  
 TOWNSHIP 19 SOUTH, RANGE 12 WEST OF THE WILLAMETTE )  
 MERIDIAN )

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned Bradley Jon Sjoblom and Sandra Downey-Sjoblom, husband and wife, and Patricia N. Mullins and Glenada Odd Fellows Cemetery Association as owners of the adjacent real properties hereby petition for the vacation of a portion of a public road - LAUREL STREET, which area to be vacated is described as follows:

All that portion of Laurel Street located adjacent to the east boundary of Lot 1, Block 10, of the Amended Plat of El Carmel Addition to Glenada, as platted and recorded in Book 7, Page 14, Lane County Plat Records, said portion being a strip of land 60 feet wide and 169.8 feet in length, which lies between the southerly right-of-way line of Harvard Avenue and the easterly projection of the southerly line of Lot 1, Block 10.

**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 request is to gain ownership of the property that in 1942 a shop building was constructed. When Petitioners (Current Owners of Map and Tax Lot# 19-12-2-31-02500 - Brad Sjoblom and Sandra Downey-Sjoblom) purchased the property in April 2012, they were unaware that the shop building was built in the right-of-way called Laurel Street. The county taxes showed it to be with Map and Tax Lot# 19-12-2-31-02500 assessed as improvements and has been collecting tax for the improvement for over 20 years.

2. There are no utilities and one overhead power line located in the area to be vacated, and their disposition will be as follows:

A: Power lines crossing the Southwest Corner of area to be vacated.

Necessary easements for all existing public and private utilities will be retained or otherwise be provided for in conjunction with the vacation.

**WHEREAS**, no portion of the area to be vacated is located within the boundaries of an incorporated city or town.

**WHEREAS**, the public interest will be served by legitimizing the wrongful tax assessment for improvements on Map and Tax Lot# 19-12-2-31-02500 by Lane County.

**WHEREAS**, petitioners, Bradley Jon Sjoblom and Sandra Downey-Sjoblom, 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 the vacation in accordance with Lane Manual 60.853, regardless of whether this vacation is approved or denied.

**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.

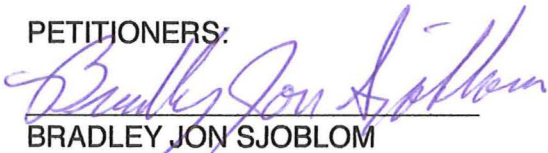
**THEREFORE**, the petitioners request the Board of Commissioners of Lane County:

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.

2. Upon review of this matter, to order the vacation of the above described road, and direct that title to the vacated area revert and vest to the owners of Lot 1, Block 10 in accordance with ORS 368.366

**DATED** this 26<sup>th</sup> day of Jan 2017

PETITIONERS:



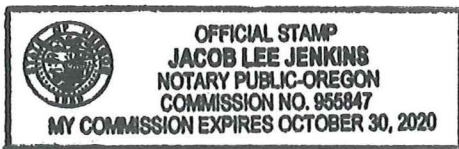
BRADLEY JON SJOBLUM  
Map and Tax Lot#**19-12-02-31-02500**  
30050 Heather Oak Drive  
Junction City, Oregon 97448

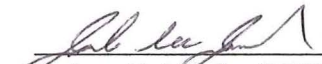


SANDRA DOWNEY-SJOBLUM  
Map and Tax Lot#**19-12-02-31-02500**  
30050 Heather Oak Drive  
Junction City, Oregon 97448

STATE of OREGON )  
COUNTY of LANE )

On Jan 26<sup>th</sup>, 2017 personally appeared the above named Bradley Sjoblom and Sandra Downey-Sjoblom and acknowledge the foregoing instrument to be voluntary act before me:



  
Notary Public for OREGON  
My commission expires: Oct 30, 2020

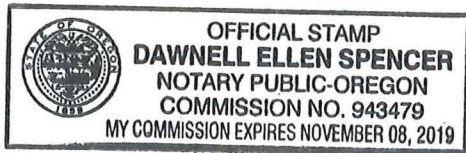
*Patricia N. Mullins*

PATRICIA N. MULLINS  
Map and Tax Lot# 19-12-02-31-02100

STATE of OREGON )  
COUNTY of LANE )

On Jan 25<sup>th</sup>, 2017 personally appeared the above named Patricia N Mullins  
\_\_\_\_\_ and acknowledge the foregoing instrument to be voluntary act before  
me:

*Dawnell Ellen Spencer*  
\_\_\_\_\_  
Notary Public for OREGON  
My commission expires: Nov. 8, 2019



*Kevin Karl Mittge*  
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Kevin Karl Mittge  
president of Glenada Odd Fellows Cemetery Association  
Map and Tax Lot# **19-12-02-31-04800**

STATE of OREGON )  
COUNTY of LANE )

On January 14, 2017 personally appeared the above named Kevin Karl Mittge  
and acknowledge the foregoing instrument to be voluntary act before  
me:

*Suzanne M. Smith*  
\_\_\_\_\_  
Notary Public for OREGON  
My commission expires: 2/8/17

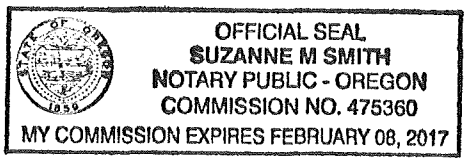


EXHIBIT "B"

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

DIRECTOR'S REPORT

IN THE MATTER OF VACATING A PORTION OF LAUREL STREET IN THE "AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA" AS PLATTED AND RECORDED IN BOOK 7, PAGE 14, LANE COUNTY OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING (19-12-02-31)

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 the vacation is "in the public's interest".

The portion of street being proposed to be vacated was dedicated to the public in 1914 on the "Amended Plat of El Carmel Addition to Glenada", as platted and recorded in Book 7, Page 14, Lane County Plat Records. A majority of the roads platted in this subdivision, including the portion of Laurel Street proposed to be vacated, have never been constructed within the platted right of way. The Sjobloms purchased Lot 1, Block 10, of said plat in 2012 and were unaware the shop building constructed in 1942 was encumbering the public right of way. The purpose of this vacation is to remove the public interest in this platted portion of Laurel Street, thus eliminating the structural encroachment issue which has been in existence for over 70 years.

The Surveyor's Office notified Century Link 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 adjoining and nearby property owners regarding the vacation. The Fire Marshal for Siuslaw Valley Fire and Rescue initially responded with access concerns, but later withdrew his comments after talking with the petitioner and learning the proposed vacation was not the road he thought it was. Two neighboring landowners also had objections to the proposed vacation, but after talking with Mr. Sjoblom they have a better understanding of the encroachment problem and withdrew their objection. The other agencies and landowners did not respond to the referral.

The entire width of the subject portion of Laurel Street was originally dedicated on the "Amended Plat of El Carmel Addition to Glenada" and the cemetery property to the east was not a part of the plat, therefore the entire width of the vacated portion will revert to the owner of Lot 1, Block 10 of said plat.

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 street is 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 this street is in the public's interest, as it will allow the land to be utilized and eliminate the structural encroachment. It is therefore recommended the portion of the public road dedicated to the public on "Amended Plat of El Carmel Addition to Glenada", and as described in the Order, be vacated. It is further recommended the vacation be allowed without a public hearing.

DATED this 1<sup>st</sup> day of May, 2017

  
\_\_\_\_\_  
Tim Elsea, Public Works Director  
Department of Public Works



EXHIBIT "C"

MAP and TAX LOT No.: 19-12-02-00-02500


LANE COUNTY

Notification of Determination of Amount of Special Benefit  
Deposit in Connection with a Proposed Vacation of "Laurel Street,"  
a Platted Road 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 an unimproved street commonly known as Laurel Street in the Amended Plat of El-Carmel-Addition, Book 6, Page 33, Lane County Plat Records; is \$5,000 (total).

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

Dated this 14<sup>th</sup> day of FEBRUARY, 2017.

  
\_\_\_\_\_  
Tim Elsea, Director  
Lane County Public Works

## STAFF REPORT

Notification of Determination of Amount of Special Benefit Deposit in  
Connection with a Proposed Vacation of a portion of "Laurel Street,"  
a platted road, Pursuant to Lane Manual 60.853(3)(a)

**Date:** February 15, 2017

**Applicants:** Bradley Jon Sjoblom and Sandra Downey-Sjoblom.

### PROPOSED VACATION OF A PLATTED ROAD

The Petitioners are proposing to vacate a portion of Laurel Street (Florence, OR) along the east side of Lot 1, Block 10, of El Carmel Addition as described in the petition to vacate. The portion to be vacated measures approximately 60 feet by 169.8 feet. The road, along the portion being vacated, platted and established in 1913 as a 60 foot wide public street in the Amended Plat of El-Carmel-Addition, Book 6, Page 33, Lane County Plat Records.

The road is encumbered by a 27' by 28.5' general purpose building, 10' high walls, metal siding and roof, electricity, water, and gravel flooring. Also, there is approximately 60' by 60' feet of gravel parking. Please see Exhibit "A" The purpose of the valuation is to correct the encroachment of the general purpose building by adding the Vacated Road Right of Way to Tax Lot 2500.

Upon the vacation of the platted road, full property rights will vest in the rightful owner in accordance with ORS 368.366 (1)(c) and (1)(d).

### NATURE OF BENEFIT TO BE RECEIVED IF THE PLATTED ROAD IS VACATED

*Lane Manual 60.853(3) "In addition to payment of the deposit and final fees referenced in subsections (1) and (2) above, a vacation of public property or public interest in property under the jurisdiction of the County governing body shall require payment by the petitioners of a deposit equal to the estimate of special benefit that results from the vacation and disposition of property to the benefitted property owners".*

#### 1. Special Benefit Defined:

Lane Manual does not define the term "Special Benefit"; however, in appraising acquisitions for right of way, a special benefit is defined as "*advantages arising from a public improvement for which property has been acquired under eminent domain accruing directly and solely to the advantage of the property remaining after the partial acquisition*" This definition does not include a general benefit which is defined as a benefit "*accruing to the community at large, to the area adjacent to the improvement, or to other property similarly situated as that acquired but which is not acquired.*" In Oregon, a "Special Benefit" is used to offset damages caused by the acquisition (See ODOT Right of Way Manual 4.310).

Although special and general benefit definitions apply to acquisitions through eminent domain, the Right of Way staff applies the same principles to the definition of a "Special Benefit" for the vacation

of a petitioned road. When used in the context of a proposed vacation of a platted road, a practical definition follows.

*“The advantages arising from the vacated portion of the platted road accruing directly and solely to the advantage of the adjacent property after the vacation.”*

## **2. Special Benefit to Evaluate:**

The road is unimproved and adjoins Map and Tax Lots 19-12-02-31-02500 and 04800. Upon the vacation of the public road, full rights will revert back to the fee property owners of the property along with all the benefits that result in private ownership.

## **3. Special Benefit to Property Owner(s):**

Upon the vacation of the public road, the encumbrance is removed and the adjacent property owners receive full rights of ownership of a portion of the road in accordance with the law. Those allocations are as follows:

**Property 1:** Map and Tax Lot# 19-12-02-31-02500. The site is approximately 0.46 acres outside the right of way, and 0.69 acres with the right of way. The amount of Road Right of Way to be vacated is approximately 0.23 acre. *Please note: The owner of the adjoining Tax Lot 4800 acknowledge full interest of vacated portion of Laurel Street to Tax Lot 2500.*

## **VALUE INDICATION(S) OF PROPERTIES TO BE BENEFITED**

The test for estimating a special benefit must be specific and measurable, which can be justified through an increase in market value due to change in a more profitable use. In this case, using the “Highest and Best Use” concept in conjunction with the “Before and After” rule is the most appropriate method for determining a “Special Benefit.”

## **4. Neighborhood Description and Subject; Properties Highest and Best Use Analysis**

**Neighborhood** The portion of platted road Laurel Street to be vacated is in the Community of Florence, Oregon. The area has a wide mixture of uses including residential).The neighborhood is a mixture of rural residential 2 acre minimum (RR2), impacted forest minimum (F2), non-impacted forest (F1), rural commercial (RC), and park and recreation (PR) zoning. The lots range from mostly 0.33 acre to 40.00 acres, and up to 460 acres.

**Property 1** (Map and Tax Lot# 19-12-02-31-02500) This property is zoned Rural Residential 2 acre minimum (RR2) and is currently unimproved except for an RV and fire pit on site.

## **5. Sales Analysis (Before and After Method)**

Using the “Before and After” method, the Right of Way appraiser performed market research that included review of comparable sales, listings, and pending sales, communication with Lane County real estate staff, and personal experience.

Recent sales and listings were used to analyze the subject property. Comparables shared similar lot sizes, property zonings, were located in similar market areas, and the comparable sales occurred in 2014 and 2016. The comparable sale lot sizes ranged between 0.33 to 0.88 acres with the sale prices ranging \$45,000 to \$60,000. The comparables analyzed are located in the appraisers work file.

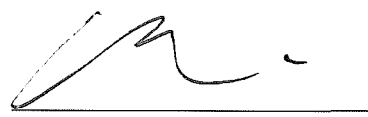
Based on a "Before and After" analysis of the comparable sales with each of the properties, and other market research completed, the appraiser finds an "advantage" arising from the added plottage after the vacation of the road. Therefore the estimated value of the special benefit for property 1 is \$5,000.

**SUMMARY AND RECOMMENDATION OF SPECIAL BENEFIT**

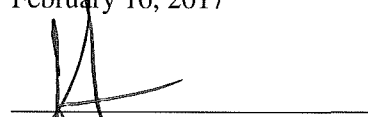
*Lane Manual 60.853(3)(a) The estimated value of the special benefit and the amount of money to be deposited shall be determined by the Public Works Director. In the event of an estimated special benefit value of less than \$2,500, it shall be considered de minimis and a payment of deposit for special benefit shall not be required.*

The relevant factors used to determine a "Special Benefit" have been examined. There is evidence that the proposed vacation will change the property to a more profitable value due to the size increase. Based on the data and analysis contained in this report, the appraiser finds a special benefit applicable to the proposed vacation that would result from this action.

Pursuant to Lane Manual 60.853(3)(a), a "Special Benefit" must be determined. Based on the "Before and After" estimation of value and under the highest and best use premise of adjacent land, the "Special Benefit" to the adjacent property is estimated to be \$5,000 total toward Bradley Jon Sjoblom and Sandra Downey-Sjoblom.



Mike Davis  
Real Property Officer  
February 16, 2017



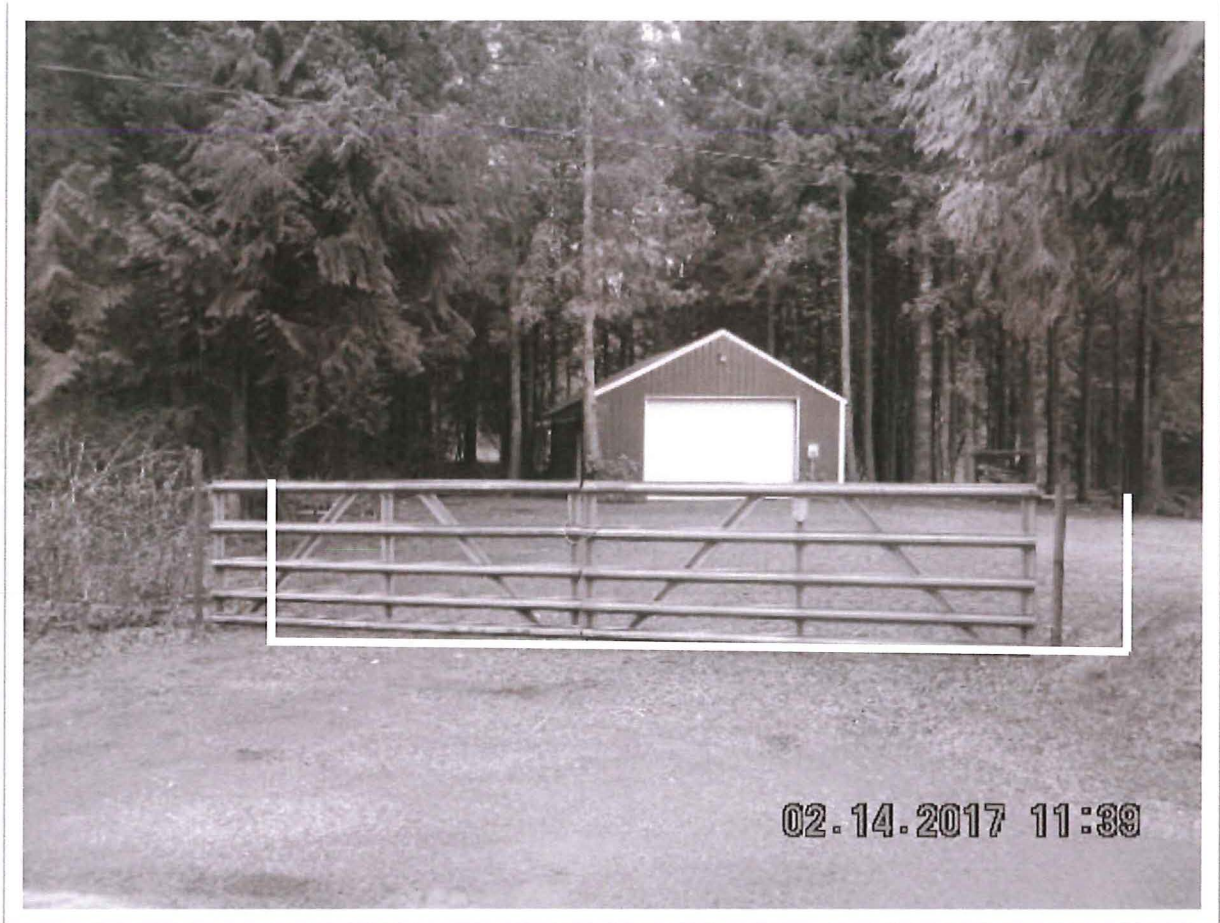
Jeremy A. Sherer  
Engineering Associate  
February 16, 2017

**Aerial View of Subject Property and Approximate Area to be Vacated**  
**Map #: 19-12-02-31**



"EXHIBIT A" OF SPECIAL BENEFIT  
REPORT EXHIBIT "C"

"Laurel Street" approximate area (60 X 169.8) to be vacated  
Picture taken from the north facing south



# Proposed to be Vacated Portion of Laurel Street in the Amended Plat of El Carmel Addition to Glenada SW 1/4 Section 2, T. 19 S., R. 12 W. W.M. Lane County



NO SCALE

VICINITY MAP

