

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 17-10-10-11

IN THE MATTER OF VACATING GLADYS FOLEY
GATEWAY (COUNTY ROAD NUMBER 1242)
WITHOUT A PUBLIC HEARING (19-02-16, 17, & 21)

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 Gladys Foley Gateway. The area being more particularly described as follows:

All that portion of Gladys Foley Gateway (County Road Number 1242) located adjacent to those lands described in Reception Numbers 2015-037672 and 2014-009202, Land County Deeds and Records, Lane County, Oregon, said Gateway being more particularly described as a strip of land 30.00 feet in width, 15.00 feet on each side of the following centerline:

Beginning at a point in the center of Rodgers Road (County Road Number 640), which point is North 1450.00 feet and West 417.00 feet from the southeast corner of Section 17, Township 19 South, Range 2 West, Willamette Meridian; thence along the centerline of Gladys Foley Gateway (County Road Number 1242), South 50°30'00" East 260.00 feet; thence South 45°40'00" East 300.00 feet; thence South 36°30'00" East 764.00 feet; thence South 36°00'00" East 982.00 feet; thence South 53°00'00" East 139.00 feet; thence South 71°45'00" East 72.00 feet; thence North 70°00'00" East 100.00 feet; thence North 55°40'00" East 300.00 feet to the terminus of this centerline description, said terminus being the point of beginning of the previously vacated portion of said road approved by Board Order No. 95-8-23-14.

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, Lane Electric Cooperative, 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 they either had no objection or did not respond to the referral; and

WHEREAS, the petitioner states there is buried utility lines and overhead powerlines within the right of way and an easement will be reserved for all existing utilities; and

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

WHEREAS, the gateway proposed to be vacated serves only one property owner and is not needed as public right of way; and

WHEREAS, the public interest will be served by this vacation, as it will add approximately two acres of land to the tax rolls and will relieve the public from potential liability for injury or misuse; and

WHEREAS, the petitioners have paid a vacation fee deposit of \$4,800 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", attached, and made a part of this Order, determining the Special Benefit to be de minimis; 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 Gladys Foley Gateway (County Road Number 1242), as depicted on the attached map marked as Exhibit "D", is hereby VACATED.
2. 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.
3. 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 10th day of October, 2017



Pat Farr, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date: 9/29/17
SI

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 A PORTION)
OF COUNTY ROAD NO. 1242, GLADYS FOLEY GATEWAY,)
IN SECTION 16, 17 & 21, TOWNSHIP 19 SOUTH, RANGE 2)
WEST OF THE WILLAMETTE MERIDIAN) PETITION TO VACATE
IN LANE COUNTY, OREGON)

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned DOUGLAS GROSSMAN and KATHLEEN MORAN, husband and wife, and Members of Rockport Partners, LCC., as owners of the adjacent real property hereby petition for the vacation of a portion of County Road Number 1242 (Gladys Foley Gateway), which area to be vacated is described as follows:

SEE EXHIBIT A

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 transfer the right-of-way County Road Number 1242, Gladys Foley Gateway to private ownership by the Petitioners.
2. There are underground utilities and powerlines located in the area to be vacated, and their disposition will be as follows:
A. Century Link has a buried utility within the area to be vacated and it will remain.
B. Pacific Power is an overhead power utility within the area to be vacated and it will remain.

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

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 this vacation due to the following list:

- The existing right-of-way only serves one property owner and no other public.
Removal will eliminate any future public for private maintenance costs and liabilities from 2,917 LF of existing right-of-way.
Vacation will return approximately 2 acres of public right-of-way to the Assessment and Taxation roles.

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 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.
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 in accordance with ORS 368.366.

DATED this 24th day of July, 2017.

EXHIBIT "A"

PETITIONERS:

Douglas Grossman
DOUGLAS GROSSMAN, Member of
ROCKPORT PARTNERS, LLC
Map# 19-02-21-00 TL 100 & 105
530 Beachcliff Row Drive
Rocky River, OH 44116

Kathleen Moran
KATHLEEN MORAN, Member of
ROCKPORT PARTNERS, LLC
Map# 19-02-21-00 TL 100 & 105
530 Beachcliff Row Drive
Rocky River, OH 44116

State of Oregon)
County of Lane) ^{ss.}

On July 24th, 2017, personally appeared the above-named Douglas Grossman, Member of Rockport Partners, LLC and acknowledged the foregoing instrument to be a voluntary act before me:



Karleen Tanay Coke
Notary Public for Oregon
My Commission Expires: August 05 2019

State of Oregon)
County of Lane) ^{ss.}

On July 24th, 2017, personally appeared the above-named Kathleen Moran, Member of Rockport Partners, LLC and acknowledged the foregoing instrument to be a voluntary act before me:



Karleen Tanay Coke
Notary Public for Oregon
My Commission Expires: August 05 2019

EXHIBIT A OF PETITION TO VACATE

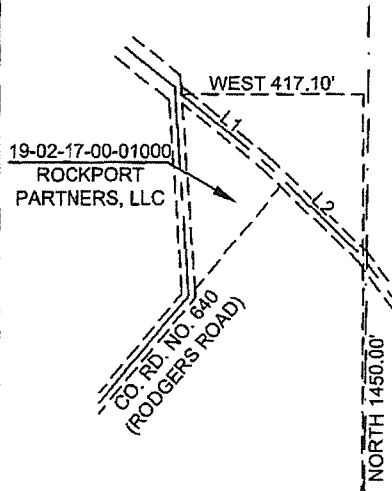
LEGAL DESCRIPTION
FOR VACATION OF COUNTY ROAD #1242
(GLADYS FOLEY GATEWAY)

All that portion of County Road Number 1242 (Gladys Foley Gateway) located adjacent to those lands described in Clerk's Reception Numbers 2015-037672 and 2014-009202, Lane County Deeds and Records, Lane County, Oregon, said County Road being more particularly described as a strip of land 30.00 feet in width, 15.00 feet on each side of the following described centerline:

Beginning at a point in the center of County Road Number 640 (Rodgers Road), which point is North 1450.00 feet and West 417.00 feet from the southeast corner of Section 17, Township 19 South, Range 2 West, Willamette Meridian;
Thence, along the centerline of County Road Number 1242 (Gladys Foley Gateway), South 50°30'00" East 260.00 feet;
Thence South 45°40'00" East 300.00 feet;
Thence South 36°30'00" East 764.00 feet;
Thence South 36°00'00" East 982.00 feet;
Thence South 53°00'00" East 139.00 feet;
Thence South 71°45'00" East 72.00 feet;
Thence North 70°00'00" East 100.00 feet;
Thence North 55°40'00" East 300.00 feet to the terminus of this centerline description, said terminus being the point of beginning of the previously vacated portion of said County Road.

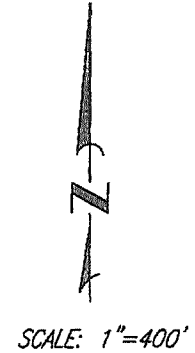
VACATION OF A PORTION OF COUNTY ROAD NUMBER 1242
(GLADYS FOLEY GATEWAY)

NW 1/4 SEC. 21, SW 1/4 SEC. 16 AND SE 1/4 SEC. 17
TOWNSHIP 19 SOUTH, RANGE 2 WEST, W.M.
LANE COUNTY, OREGON



LINE TABLE

L1	S 50°30'00" E	260.00'
L2	S 45°40'00" E	300.00'
L3	S 36°30'00" E	764.00'
L4	S 36°00'00" E	982.00'
L5	S 53°00'00" E	139.00'
L6	S 71°45'00" E	72.00'
L7	N 70°00'00" E	100.00'
L8	N 55°40'00" E	300.00'



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Kyle Patrick Gaffney

OREGON
DECEMBER 3, 2014
KYLE PATRICK GAFFNEY
89397

RENEWS: 06-30-2017

17 16
20 21

16
21

NOTE

THIS MAP WAS PREPARED FROM RECORD DATA PER MASTER ROAD FILE NO. 1242, AND COUNTY ROAD MAP BOOK 7, PAGE 403. THIS MAP WAS CREATED TO DEPICT THE ABOVE CITED ROAD VACATION AND IN NO WAY IMPLIES A SURVEY HAVING BEEN EXECUTED.

TERMINUS OF
ROADWAY TO BE
VACATED

VACATED PER THE LANE COUNTY BOARD OF COMMISSIONERS ORDER NO. 95-8-23-14, FILED AUGUST 31, 1995, IN THE COMMISSIONERS JOURNAL BOOK 156, PAGES 561-577.

OLSON & MORRIS 380 Q STREET SUITE 200

SPRINGFIELD, OR 97477 (541) 302-9790

EXHIBIT "B"

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

DIRECTOR'S REPORT

IN THE MATTER OF VACATING GLADYS FOLEY
GATEWAY (COUNTY ROAD NUMBER 1242)
WITHOUT A PUBLIC HEARING (19-02-16, 17, & 21)

Gladys Foley Gateway (County Road Number 1242) was established as a 30-foot wide public gateway in 1947 to provide access to the Gladys Foley farm which at that time was landlocked. The former Foley farm lands are now owned by a timber company. The easterly portion of the gateway (approximately 0.63 mile) was previously vacated by Board Order No. 95-8-23-14 when the adjoining owner obtained access by way of a perpetual easement at another location. The remaining portion of the gateway is a 14-wide gravel road and has been maintained by the petitioners. The road is completely contained within the petitioner's property and does not serve any other properties.

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. The petitioner's request is to vacate the public interest in the road and transfer the right of way into private ownership.

The Surveyor's Office notified Century Link Communications, Lane Electric Cooperative, 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 agencies and landowners either had no objection or did not respond to the referral.

The petitioners have stated there are overhead powerlines and underground utility lines within the area to be vacated. An easement will be reserved for all existing utilities.

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) is de minimis.

The proposed vacation will benefit the general public as it is not needed for transportation purposes for the public, no landowner will be denied access to their property and it relieves the County of any future obligations for this section of roadway. It is therefore recommended the portion of the right of way established as a public gateway, and as described in the Order, be vacated. It is further recommended the vacation be allowed without a public hearing.

DATED this 25th day of September, 2017

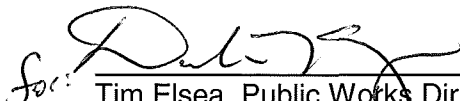
for: 
Tim Elsea, Public Works Director
Department of Public Works

EXHIBIT "C"

MAP and TAX LOT No.:

19-02-21-00-00105 &
19-02-17-00-01000

LANE COUNTY

Notification of Determination of Amount of Special Benefit
Deposit in Connection with a Proposed Vacation of "Gladys Foley Gateway,"
a Gateway 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 road known as Gladys Foley Gateway, County Road Number 1242, is \$0.00 (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 28th day of AUGUST, 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 "Gladys Foley Gateway,"
A Gateway Road, Pursuant to Lane Manual 60.853(3)(a)

Date: August 24, 2017

Applicants: Douglas Grossman and Kathleen Moran, Members of Rockport Partners, LLC.

PROPOSED VACATION OF A PLATTED ROAD

The Petitioners are proposing to vacate the remaining portion Gladys Foley Gateway, County Road No. 1242, from Rodgers Road, southeasterly to its terminus, and retaining a public utility easement for existing electric and telephone utility lines.

The road right of way is 30 feet wide and approximately 2,917 feet long, and is approximately 2.00 acres. The road contains a 14 foot wide gravel road, a bridge with two 4 foot corrugated pipe culverts, and electric and telephone utility lines.

Upon the vacation of the platted road, full property rights will revert and vest in the rightful owners 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 gateway 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 improved and adjoins Map and Tax Lot 19-02-21-00-00105 and 19-02-17-00-01000, both under the same ownership. Upon the vacation of the public road, full rights will revert back to the fee property owners along with all the benefits that result in private ownership, except that a public utility easement will be retained for existing electric and telephone lines.

3. Special Benefit to Property Owner(s):

Upon the vacation of the public road, the encumbrance is removed and the property owner receives full rights of ownership in accordance with the law, except the reservation of a utility easement.

The property is identified as Map and Tax Lot# 19-02-21-00-00105 & 19-02-17-00-01000, combined, and is approximately 461 acres outside the right of way, and 463 acres with the right of way. The amount of Road Right of Way to be vacated is approximately 2.00 acres. The special benefit is the 2.00 acres of right of way, less the retained public utility easement, reverted back to the landowner.

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 "Sales Comparison" approach 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 Gladys Foley Gateway to be vacated is near the Community of Creswell, Oregon. The neighborhood is a mixture of rural residential 10 acre minimum (RR10), exclusive farm use (EFU) impacted forest minimum (F2), non-impacted forest (F1). The lots range from mostly 10.00 acre to 40.00 acres, and up to 462 acres.

Subject Property (Map and Tax Lot# 19-02-21-00-00105 & 19-02-17-00-01000, combined). This property is zoned exclusive farm use (E-40) 40 acre minimum, and is currently unimproved.

5. Sales Analysis (Sales Comparison)

Using the "Sales Comparison Approach" method, the Right of Way appraiser performed market research that included review of comparable sales, listings, pending sales, communication with Lane County real estate staff, and personal experience.

Recent sales and listings were used to analyze the subject property. The comparables shared similar acreages, property zonings, were located in similar market areas, and the comparable sales occurred in 2014 and 2015, and there are two similar 2017 Listings. The comparable sale lot sizes ranged between 327.28 to 750.00 acres with the sale per acre prices ranging \$1,887 to \$5,500 per acre. The comparables analyzed are located in the appraisers work file.

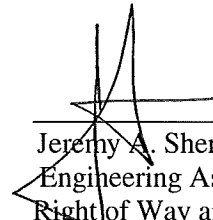
Based on the analysis of the comparable sales with the subject property, and other market research completed, the appraiser finds that the advantage arising from the added acreage after the vacation of the road to be \$1,200 (\$2,000/acre X 2 acres X 30% of fee value). Therefore the estimated value of the special benefit for the property is \$1,200.

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 no evidence that the proposed vacation will change the property to a more profitable value due to the size increase. The only advantage arising from the vacation is the result of returning full fee ownership to the owners, except for a utility easement. 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 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 \$1,200 and below the value considered de minimus. The appraiser concludes **payment of "Special Benefit" is not required (\$0.00).**



Jeremy A. Sherer, PLS
Engineering Associate
Right of Way and Construction
Services

Entrance to Gladys Foley Gateway
Looking South from Rodgers Road

