

HAND DELIVERED

Frederick A. Batson
batson@gleaveslaw.com

April 16, 2019

Lane County Board of Commissioners
125 East 8th Avenue
Eugene, OR 97401

Re: Collard Lake Road

Dear Board of Commissioners:

This firm represents Marilyn Adkins on the issues related to Collard Lake Road and its rightful status as a county road.

We understand that three of your constituents spoke in the public session on March 12th regarding this road being a county road pursuant to a 1976 county resolution or order whereby the Board of Commissioners voted unanimously and unconditionally to make Collard Lake Road a county road. Those constituents also detailed the myriad of reasons it should be a county road as the only road serving six subdivisions, Heceta Water District, and providing the only road for emergency vehicles needing to get to the residents in the area and the properties served by the road.

The Board indicated in its March 12th meeting on local access roads that it wanted a work session focused solely on Collard Lake Road and requested County Counsel's input on whether the road was accepted as a county road in 1976 when the County Commissioners as the governing body of Lane County **moved "to accept Collard Lake road into the county road system" and "Hayward seconded and it was ordered all commissioner voting 'aye'."**

County Counsel recently posted and provided a 12-page opinion with several hundred pages of exhibits. While we have not had the opportunity to fully digest it, it appears that County Counsel, in essence, says the 1976 vote was meaningless and constitutes a legal nullity. See page 9.

The work session today does not provide much of an opportunity to our client and the other owners to participate in the County's decision. However, we would request that: (1) the County recognize when its governing board unanimously voted to accept a road as a county road and so orders it in a resolution, as it did in 1976, that that was not a meaningless act or a nullity that can be ignored; and (2) that the County treat Collard Lake Road as a county road.

OFFICES

975 OAK STREET | SUITE 800
EUGENE OREGON 97401-3156

MAILING ADDRESS

PO Box 1147
EUGENE OREGON 97440-1147

Alternatively, if the County believes more action is required to formalize that status that such action be taken.

With respect to County Counsel's opinion - we would like to voice our disagreement with County Counsel's argument that the action in 1976 was a legal nullity. In our view, Collard Lake Road was made a county road by resolution or order under **ORS 368.001(1) which says a county governing body may "by resolution or order make any public road in its jurisdiction a county road"**. That, in fact, occurred when the County Commissioners, as the governing body of Lane County, (1) moved "to accept Collard Lake road into the county road system. Hayward seconded and it was ordered all commissioner voting 'aye'." Exhibit 1.

The fundamental basis of County Counsel's opinion that what occurred in 1976 is a legal nullity and meaningless is on pages 9-10 of his memo [the first 9 pages are historical]. As we understand it, County Counsel makes the following points:

1. The normal county practice of the county is to follow up on a resolution accepting the road as a county road with a written order.

Our response: This point is one based on practice and not ORS 368.001(1) which says a county governing body may "by resolution or order make any public road in its jurisdiction a county road." As noted above, that statutory requirement was met when in 1976 county governing body of Lane County moved "to **accept Collard Lake road into the county road system**. Hayward seconded and it was ordered all commissioner voting 'aye'." Minutes were presumably approved at the next meeting. That alone met the statutory language. What occurred was either a resolution or order making Collard Lake Road a county road. The County can implement it in its own way but the statute was satisfied.

2. County Counsel appears to say the 1976 Board action was "a direction to County Staff to take the steps to accept Collard Lake Road *in the future*".

Our response: The board approved a motion "to accept Collard Lake Road into the county road system" and "ordered" the road be accepted as a county road. The motion, resolution and order are worded in the present tense, not as something to occur in the future in the county's official minutes.

3. The resolution (County Counsel's description of the 1976 action) did not include action by the Board to accept the less than 50 foot width of the existing ROW, and per County Counsel a waiver was required by law in order for a County Board to accept a county road with less than 50' right-of-way.

Our response: The only reference to a waiver potentially being needed was in a staff proposal that said "we would recommend a waiver of the 50' right of way for that section of Collard Lake Access Road leading from Mercer Lake Road to the subdivision area". Exhibit 2. However, at the 1976 commissioners meeting it was reported that the

“owner from Mercer Lake Road up to the beginning of the 50’ right-of-way would dedicate the additional 10’ to make the 50’ with the obvious result that the ROW would be 50’ and no waiver would be needed. The result was no waiver for being less than 50’ was needed or required in the resolution.

4. County Counsel states the road could not be a county road under the resolution and order because county staff was not able to get a *voluntary* contribution of a small triangle that would result in 50’ along the entire stretch of Collard Lake Road making the entire resolution null and void despite no such condition being included in the resolution.

Our response: In fact, dedications were obtained by the county from the property owners along the entire roadway. Only one small triangular notch of a few feet width that had been used for years before 1976 as part of the road was missed. (County Counsel exhibits L-N). Staff convinced multiple property owners to dedicate that additional 10 feet of their property to the County without compensation on the representation Collard Lake Road would be a county road. They recorded the deeds from those owners of that right-of-way [none of which have been given back]. Now the County wants to keep the dedicated property but not recognize the road or its resolution that was used to get the dedications.

The only area that is at all at issue is a small insignificant notch that is the entire reason County Counsel says the resolution is null and void. We would urge each commissioner to look at the map attached to this letter as Exhibit 3 showing that insignificant notch that is the entire foundation for County Counsel’s argument the road did not meet county width standards. That triangular notch of a few feet did not and does not prevent the road from being a county road with 50’ of ROW first because it was the County’s responsibility to get that ROW once the road was ordered to be a county road without a waiver and second because the County already had a public prescriptive easement covering that section – the road in that area was built and openly used by the public for a public road from 1965-1976. At that time ORS 368.405(2) allowed the public to obtain public ways by adverse use.

County staff back in the 80’s recognized this small triangular area was owned by usage when they noted that “if that owner fails to respond in a reasonable time, we plan to place the acceptance order on the agenda taking the remaining right of way through usage.” (Exhibit 4) In fact, staff went so far as to draft up a follow-up resolution and order attached as Exhibit N to the County Counsel’s opinion stating that it had the right-of-way and noting the triangle notch had been obtained by “use” – i.e. public use (copy of Exhibit N is attached here for reference.

Regardless of whether the County obtained the small notch by usage or failed to follow through in otherwise acquiring it, it was the County’s responsibility to get the dedication or take the small notch involuntarily once the 1976 resolution was unconditionally adopted accepting the county road into the county road system without a waiver of the 50’ ROW requirement. The 50’ road dedications from all the property owners on the

roadway recorded by the county and the public use of the few feet represented by the triangular notch met the county road width standards.

5. County Counsel relies on the *Colombo* case to say the 1976 resolution was a nullity because it did not on its face waive the 50' requirement.

Our response: The *Colombo* case actually hurts the County's argument. To understand why the County's reliance on *Colombo* is misplaced and actually hurts the County's analysis one needs to know the facts of that case. In *Colombo*, a county road undisputedly existed as a county road long prior to 1927. In 1927, the county constructed an arc that circumvented a portion of the old county road. The old road continued to provide access to the plaintiffs' houses where the arc did not. Deeds were recorded with a change of location and a 1927 county court (acting in a unique and limited road capacity) entered a final order establishing a new road location along the arc but not containing anything vacating the old road that provided access to the plaintiff's property. 21 years later in 1948, the county court acting in its limited capacity under a different statute entered an order saying *nun pro tunc* [retroactively] that the 1927 order vacated the old location that provided access to the plaintiff's property even though there was nothing in the old 1927 order doing so. The court said that attempt 20 years later by the county court [acting as the road authority under a specific statute] to retroactively add something to the old order that wasn't in the order – i.e. a vacation of the old road - was null.

Colombo doesn't help the County because there was no need in this case to get a waiver and one wasn't required to be in the 1976 resolution since the County was to obtain 50' of right-of-way. Notably, we do not ask the County to inject a waiver of the 50' into the resolution so there is nothing we are asking be inserted into the 1976 resolution as the defendant in *Colombo* requested. In contrast, County Counsel attempts to inject into the language of the 1976 motion a conditional withdrawal of the designation of Collard Lake Road as a county road if all the 50' ROW wasn't obtained *voluntarily* and by dedication vs. public use or by legal action when such a condition was not in the 1976 resolution. Such a reading would be contrary to what the court in *Colombo* found – i.e. a later county court cannot retroactively insert something that isn't in the original resolution. That attempt by the County to inject a conditional withdrawal of its order into the 1976 resolution making the road a county road is precisely what is prohibited by *Colombo*.

The *Colombo* case also hurts the County on its claim that it couldn't have a public right-of-way across the notch by usage. In *Colombo* the court itself found a public road existed on the old alignment by public prescriptive easement and "is vested in the public" by public use – just as we assert the small triangle in the road alignment was obtained by public use for now 40 years but at least 11 years as of 1976.

6. County counsel also notes that the resolution should not be followed because in 1976 the County misunderstood that some subdivisions the County approved after the road was built contained county roads was inaccurate in that those roads were public roads but not county roads at the time.

Our response: Counsel doesn't explain how a County staff error warrants the County saying something its Commissioners approved, accepted and ordered was a nullity – especially since there was no action under ORS 60.026 to withdraw the designation due to that County staff error. A County staff error on facts doesn't render a Commissioner resolution accepting a road as a county road null and void. To the contrary, the County would have to file a withdrawal of the designation, give notice to the property owners and go through a formal withdrawal process under ORS 368.026 – something that has not occurred.

7. Counsel also attaches historical information regarding actions by the property owners after 1976 that continue to request the County accept it as a county road. He then concludes that means the road wasn't a county road simply because the residents continued in their efforts to get the County to take care of the road and therefore, the argument goes, knew it wasn't a county road. County Counsel says a petition was filed in 1981 by some owners in the area but rejected because the road needed improvements to come up to County standards with no mention of the County's 1976 resolution in the rejection or in the petition.

Our response: This seventh point is irrelevant to the legal status of Collard Lake Road. It is the County's actions and its adoption of a resolution or order accepting Collard Lake Road as a county road that matter. No mention was made in the petition or in the rejection of the prior resolution and order in 1976 that made the road a county road. It does not render what the County Commissioners did null and void as it did not involve any action by the Commissioners to withdraw the prior order and resolution as required by statute (ORS 368.026).

8. County Counsel also claims prior Oregon cases relied on by the owners do not apply because they do not deal with county responsibility for county roads. *Hendrickson v. Astoria*, 127 Or 1 (1928); *Mid County Cemetery District v. Tompson*, 267 Or 637 (1974); *Hugget v. Moran*, 201 Or 105 (1954). County Counsel says the fact that the *Astoria* case found a county was liable for not maintaining sidewalks on a dedicated road was irrelevant because it addressed a "way" and the specific dedication at issue was a city street or way and not a county road. County Counsel also says *Mid County* has the same issues. Last, County Counsel says *Hugget* doesn't apply because a 1981 statute removes the specific statutory right to obtaining a right-of-way by prescription (even though the resolution at issue in our case was in 1976 when the statute did allow for obtaining right-of-way by public usage and there was 10 years of use of Collard Lake Road as a public road prior to 1976 and five years of it being accepted as a county road prior to 1981).

Our response:

- a. The court's analysis of *what is acceptance* by a public body in *Astoria* is important and does apply whether one is dealing with dedications or county roads. The issue here is did the County accept Collard Lake Road as a public road or as a county road. *Astoria* specifically addressed what city actions were needed to have a road or way accepted by a county such that it took on the liability to maintain it. The court held the city had by its actions *accepted* the walkway as part of the dedicated street. The court noted that *acceptance* may be implied by some acts of control and possession so the construction of a sewer and a walkway and lighting by the city. Those actions indicated the city had *accepted* the dedication of the street. *Id* at 8. That *acceptance* analysis applies here where the issue is also whether the county accepted Collard Lake Road as a county road by an unambiguous and non-isolated act such as a County Commissioner resolution unanimously accepting Collard Lake Road as a county road and County staff obtaining multiple dedications of ROWs from owners for that road that were unambiguous and not isolated an acts of acceptance by the county of responsibility for the road because the case is all about what results in a governmental body accepting and taking on the responsibility associated with that acceptance.
- b. The court's analysis in *Mid-County* is also directly relevant to the County's argument that additional steps were required under its usual procedures and are the only way an acceptance can occur. As the court noted:

“Finally, defendants contend that the charter of Canyon City, which provides a method for dedicating city streets (§§ 17 thru 23) is exclusive and, in effect, abolishes common law dedication. Common law dedication may be either express or implied, *McCoy v. Thompson*, 84 Or 141, 147, 164 P 589 (1917), and the general rule is as stated in *McQuillin op. cit.* 636, § 33.04: “Statutory dedications are those made pursuant to the provisions of the statute, but they are not exclusive of the common-law method.”

Ample support for this statement is found in the decisions of the courts. See: *McQuillin op. cit.* 636, citing *Denver v. Publix Cab Co.*, supra; *City of Elsa v. Weaver* (Tex Civ App) 304 SW2d 212 (1957); *Galewski v. Noe*, 266 Wis 7, 62 NW2d 703 (1954); *East Birmingham Realty Co. v. Birmingham Machine & Foundry Co.*, 160 Ala 461, 49 So 448 (1909); *Cole v. Minn. Loan & Trust Co.*, 17 ND 409, 117 NW 354 (1908). The only decision to the contrary which we have seen is the *City of Oakland* case, relied on by the defendants. Like the Supreme Court of Colorado in the similar case of *City and County of Denver*, supra, we are not persuaded by the California case. This is not to say that the legislature is without power to regulate a city's power to dispose of property owned by it, but it seems to us that the reasons adduced by the California court for its interpretation of the Oakland City Charter are inadequate to justify that court's departure from the general rule. We hold, therefore, that the Canyon City Charter provisions in

question are not exclusive of common law dedication, either of the municipality's own property, or of property privately owned. (Emphasis added).

Here, the County's action in accepting, by a County Commissioner motion and order, Collard Lake Road as a county road and its staff's actions in seeking out and obtaining numerous dedications of private property to the county road is more than sufficient to indicate Collard Lake Road was accepted into the county road system regardless of internal county processes in other situations.

- c. The court's analysis in *Huggart* regarding whether a county road was created by public use also applies even absent formal acceptance of a full width road. There, the Defendant claimed that the roadway was not a county road, and denied that he ever represented it to be a county road. He noted there was no formal acceptance of the road of a legal width. The court noted: "An offer of dedication may be impliedly accepted by some act or acts showing that the municipality has assumed control and possession of the land dedicated as a public way, but the acts relied on must be unequivocal and not equivocal or isolated. *Hendrickson v. City of Astoria*, supra, p. 8; 18 CJ 82, Dedication, § 80; 26 CJS 104, Dedication, § 40a." The court also noted: "Whenever a statute prescribes the minimum width of public roads to be established in the future, and a public road is established by prescription, the width thereof is the minimum necessary to the establishment of a legal road in the absence of evidence of the taking of a greater amount." There, the court noted 40 years of public use established the road as a public road by prescription.

Similarly here, as of 1981 when the statute changed, there had been 15 years of public use of Collard Lake Road as a roadway. From 1976 through 1983 the County took actions indicating the road was a county road by obtaining dedications of right-of-way and by maintaining the entire length of the road. The cases do support a finding that the road became a county road.

We would prefer that the County recognize its governing body unanimously made Collard Lake Road a county road in 1976 rather than potentially have to ask a judge whether our analysis or County Counsel's analysis is correct. As a result, we would ask the County to recognize that Collard Lake Road is a county road and was made one in 1976 and should be maintained as such. It is not a local access road only subject to management by whether there is a failure of the road that is only required to be repaired when a failure amounts to an emergency.

Sincerely,



Frederick A. Batson

FAB/cam

Attachments: (Exhibits 1 – 4, Exhibit N)

00135

0017

Hayward said the ten cents per thousand assessed valuation figure was based on the assessed valuation for 75-76 year instead of the 76-77 year so if the assessed valuations went up, the amount of tax levy would go down in the first year.

Utecht said a projection for the second and third years could be made.

Utecht noted three priorities of the plan: 1. a single borrow card-universal library card, 2. mobile library service-Bookmobile, and 3. rapid communication.

Hayward read a letter from Sharon Posner, President of the League of Women Voters, and Evelyn Hanks, Library Committee Chairman, who believed that the proposal would provide good library service for all residents of Lane County. They urged the proposal be brought to the voters during the May primary.

Elliott said he had extreme concern for the three or four million dollar shortage of funds the county was facing to provide the basic services, but if the people were willing to finance a library service they should be given the opportunity.

Hayward asked if there were some payments to the cities in this plan.

Mr. Utecht said since this was a county wide tax it would be applied equally to residents of the incorporated as well as unincorporated areas. Money collected in incorporated areas would be returned to the cities involved. It was the hope of the committee, he continued, that city councils would pass a resolution of intent that may be used for library services, and that they would not reduce their current library budgets. It would benefit city councils to keep or increase the funding because part of the monies returned in contracting services to serve those outside the incorporated areas would be based on the current library budgets.

Elliott said all of this must be explained to the voters and Hayward felt hopeful that with a reasonable plan that the voters would want to establish the service.

Hayward moved that the Board accept recommendation of the Lane County Library Advisory Committee for a county wide library program.

Elliott seconded, and it was so ordered all Commissioners voting "aye."

Staff would bring back actual figures for a serial levy at a subsequent meeting.

In a discussion concerning a request for acceptance of Collard Lake Access Road, Collard Loop and Collard Lake Way as a county road, Al Driver, Transportation Director, said the roads in Mercer Lake Heights Subdivision and the First Addition were county roads and maintenance

access was from Collard Lake Access Road and was heavily travelled in the summer time. He said the owner from Mercer Lake Road up to the beginning of the 50 foot right of way would dedicate the additional 10 feet to make the 50. Considering all of the factors and the number of lots and the access to the lake, Driver felt that the road should be put on the county road system. He recommended preparing the necessary documents for resubmittance at a later date.

The Board agreed that there was a high volume of traffic on the road and Elliott moved to accept Collard Lake Road into the county road system. Hayward seconded and it was so ordered all Commissioners voted "aye."

In a discussion of a request for acceptance of North Bank and Delta Roads as county roads Driver said the North Bank was partly a county road and then entered forest service land and then private ownership. The private land owners had indicated a desire for the county to assume the responsibility of the road up through their area and the forest service agreed, asking us to extend the current county road about 1/2 mile. Driver cited a few problems: the current roadway had only 40 feet of right of way (the forest service would grant an easement for the additional 10 feet but there might be difficulty in getting an additional 10 from the property owners); the travel way was only 16 feet wide rather than 24 but seemed sufficient for the people to get to and from their houses. Since the county had to maintain the current county road up to its end, Driver felt that the 1/2 mile would create no great burden or additional cost and recommended approval.

Elliott questioned the 16 foot travel surface, and Wood asked if there was any additional traffic beyond that of the property owners.

Driver said there were about eight or ten private ownerships and that there could be timber sales traffic as well.

Hayward expressed some confusion as to why there was a recommendation for acceptance with several apparent problems.

Since there appeared to be little public need served, Wood wondered if it was the County's responsibility to make improvements. Elliott suggested that there be a traffic count on the road and a projection of timber hauling, as he was concerned about the 16 foot width. Driver said he would investigate and come back with more information.

Driver said the forest service had asked the county to consider Delta Road as part of the County system. There were about 15 residences on the roadway which was 18 feet in width. The right of way was 50 feet and sufficient. Elliott said the map indicated the right of way was actually 40 feet, and Driver then concurred saying that the 10 additional feet could probably be obtained.

The Board agreed with proper right of way it could be considered, and it would be brought back at a later date.



February 9, 1976

MEMO

TO: Board of County Commissioners

FROM: AI Driver

SUBJECT: Request for Acceptance of Collard Lake Access Road, Collard Loop and Collard Lake Way as a County Road

Over the past 7 to 8 years we have received a number of requests to accept Collard Lake Access Road as a County Road. These requests have been refused primarily on the basis of insufficient right of way. We have re-evaluated these requests and would recommend acceptance for the following reasons:

(1) Collard Lake Access Road is the only access to Collard Lake and the utilization is very high in the summer months.

(2) Mercer Lake Heights Subdivision and the First Addition are approved subdivisions with access from Collard Lake Access Road only. The roads in this subdivision are county roads and our access for maintenance is from Collard Lake Access Road.

(3) Collard Lake Acres, the First Addition and Collard Lake Heights are approved subdivisions with some 66 lots fronting on Collard Lake Access Road, Collard Lake Way or Collard Lake Loop. The right of way for these roads is 50 feet.

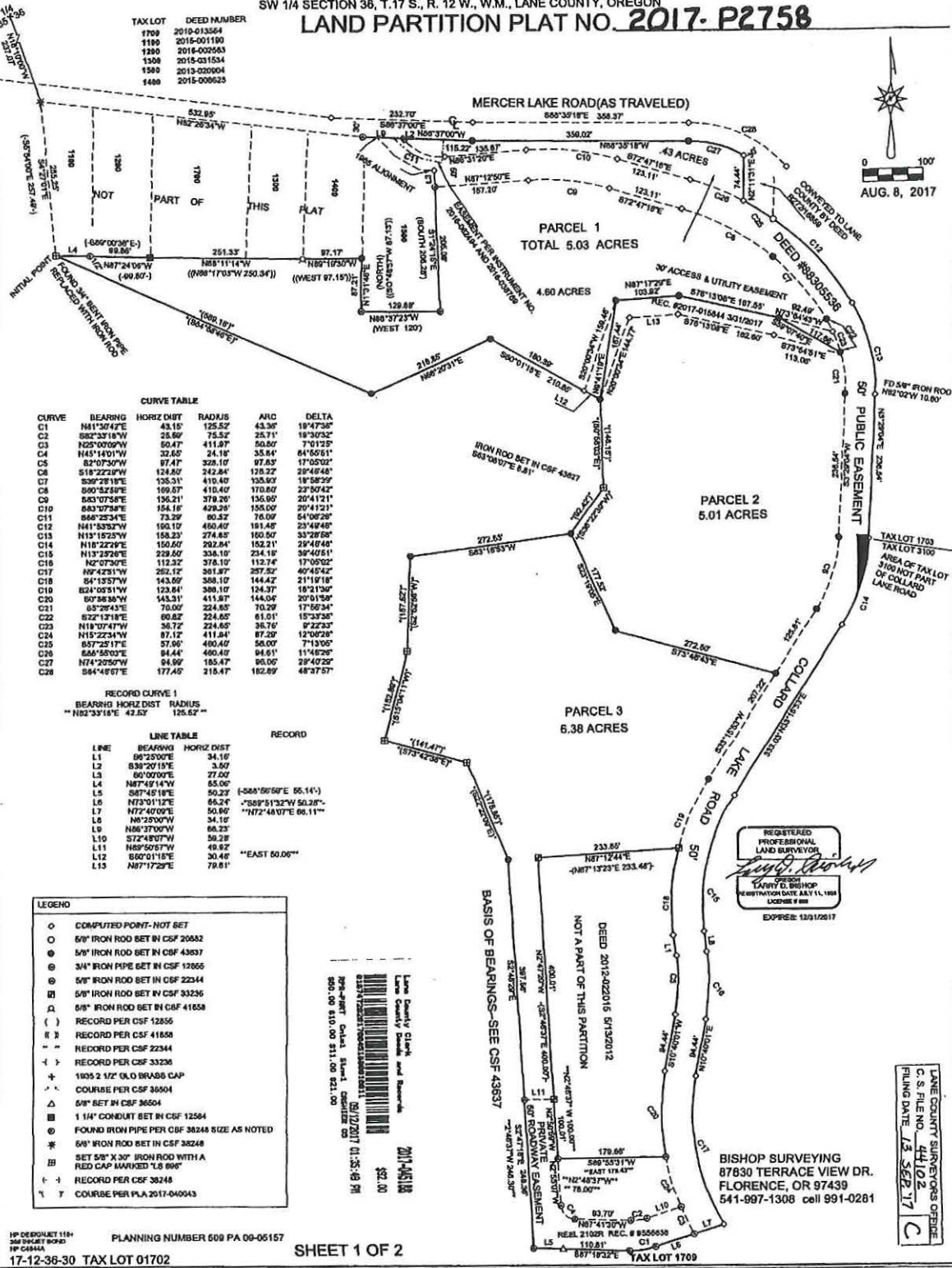
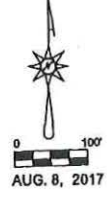
We would recommend a waiver of the ¹⁰50 foot right of way for that section of Collard Lake Access Road leading from Mercer Lake Road to the subdivision area.

10' R/W will be dedicated

PARTITION PLAT
FOR
HAGEN LIVING TRUST
SW 1/4 SECTION 36, T.17 S., R. 12 W., W.M., LANE COUNTY, OREGON
LAND PARTITION PLAT NO. 2017-P2758

RECORDED:
DATE 12 Sept 2017
COUNTY CLERK
BY *Deane*

TAX LOT	DEED NUMBER
1700	2010-013564
1100	2010-001100
1200	2010-002503
1300	2010-021554
1500	2013-020004
1400	2015-000623



CURVE TABLE

CURVE	BEARING	HORIZ DIST	RADIUS	ARC	DELTA
C1	N41°30'47"E	43.15'	125.52'	43.30'	18°47'38"
C2	S82°33'18"W	28.69'	75.52'	25.71'	18°30'32"
C3	N25°00'59"W	50.47'	411.87'	50.60'	7°01'23"
C4	N45°14'01"W	32.62'	24.18'	35.84'	64°05'51"
C5	S2°07'30"W	97.47'	328.10'	97.83'	17°05'02"
C6	S19°22'30"W	124.80'	242.84'	128.22'	28°46'48"
C7	S39°28'18"E	135.31'	410.40'	135.82'	18°58'59"
C8	S90°52'59"E	199.67'	410.40'	170.80'	23°50'42"
C9	S63°07'58"E	136.21'	379.26'	136.60'	20°41'21"
C10	S63°07'58"E	154.16'	428.28'	155.00'	20°41'21"
C11	S66°25'34"E	73.29'	60.52'	76.09'	54°06'28"
C12	N41°53'52"W	100.10'	460.40'	101.48'	23°49'48"
C13	N13°18'23"W	158.23'	274.83'	160.50'	33°28'08"
C14	N18°22'39"E	150.60'	292.84'	152.21'	28°46'48"
C15	N13°23'26"E	228.60'	336.10'	234.18'	36°40'51"
C16	N2°07'30"E	112.32'	376.10'	112.74'	17°05'02"
C17	N9°42'51"W	252.12'	381.87'	297.52'	40°45'42"
C18	S4°13'57"W	143.69'	388.10'	144.42'	21°19'18"
C19	S24°05'51"W	123.84'	388.10'	124.37'	18°21'30"
C20	S07°36'58"W	143.31'	411.93'	144.06'	20°51'58"
C21	S5°28'43"E	70.00'	224.85'	70.29'	17°56'34"
C22	S22°13'18"E	60.82'	224.85'	61.01'	15°33'38"
C23	N18°07'47"W	36.72'	224.85'	36.76'	8°22'33"
C24	N15°22'34"W	87.12'	411.84'	87.20'	12°00'28"
C25	S57°23'17"E	57.96'	490.40'	58.00'	7°13'05"
C26	S58°55'03"E	84.44'	490.40'	84.61'	11°48'29"
C27	N74°20'50"W	84.99'	185.47'	95.06'	28°40'22"
C28	S64°48'07"E	177.45'	210.47'	182.89'	48°37'57"

RECORD CURVE 1
BEARING HORIZ DIST RADIUS
**N82°33'18"E 42.62' 126.62'

LINE TABLE

LINE	BEARING	HORIZ DIST	RECORD
L1	S89°20'07"E	34.16'	
L2	S39°20'15"E	3.60'	
L3	S61°00'00"E	27.00'	
L4	N87°45'14"W	65.00'	
L5	S87°45'18"E	50.23'	(S88°56'56"E 65.14')
L6	N73°01'12"E	66.24'	(S89°51'32"W 50.23')
L7	N72°40'00"E	50.80'	(N72°48'07"E 66.11')
L8	N6°29'00"W	34.12'	
L9	N86°37'00"W	68.23'	
L10	S72°48'07"W	58.29'	
L11	N69°50'57"W	49.82'	
L12	S60°01'18"E	30.48'	"EAST 50.06"
L13	N87°17'22"E	79.81'	

- LEGEND**
- COMPUTED POINT-NOT SET
 - 5/8" IRON ROD SET IN CSF 20082
 - 5/8" IRON ROD SET IN CSF 43937
 - 3/4" IRON PIPE SET IN CSF 12655
 - 5/8" IRON ROD SET IN CSF 22344
 - 5/8" IRON ROD SET IN CSF 33236
 - 5/8" IRON ROD SET IN CSF 41658
 - RECORD PER CSF 12655
 - RECORD PER CSF 41658
 - RECORD PER CSF 22344
 - RECORD PER CSF 33236
 - 1905 2 1/2" O.D. BRASS CAP
 - COURSE PER CSF 36504
 - 5/8" SET IN CSF 36504
 - 1 1/4" CONDUIT SET IN CSF 12564
 - FOUND IRON PIPE PER CSF 38248 SIZE AS NOTED
 - 5/8" IRON ROD SET IN CSF 38248
 - SET 5/8" X 30" IRON ROD WITH A RED CAP MARKED 'L8 890'
 - RECORD PER CSF 38248
 - COURSE PER P.L.A. 2017-040043

Lane County Clerk and Recorder
RECORDED
DATE 09/12/2017 01:55:48 PM
BY *Deane*

REGISTERED PROFESSIONAL LAND SURVEYOR
LARRY D. BISHOP
LARRY D. BISHOP
REGISTRATION DATE MAY 11, 1988
LICENSE # 888
EXPIRES 12/31/2017

BISHOP SURVEYING
87830 TERRACE VIEW DR.
FLORENCE, OR 97439
541-997-1308 cell 991-0281

LANE COUNTY SURVEYORS OFFICE
C.S. FILE NO. 44102
FILING DATE 13 SEP 17

MEMORANDUM

lane county



TO Commissioner Ivel
FROM John E. Goodson, Acting Director
Department of Public Works
SUBJECT Reply to Citizen Concern

DATE February 14, 1983

- Collard Lake Road - Board action of 1976 was that this road would be accepted into the County system when right-of-way dedications were obtained. Staff finally succeeded in obtaining the dedication at the intersection with the existing County road but one small portion of right-of-way in the mid-section remains undedicated. Ownership of the parcel has recently changed however and we have contacted the new owner. If that owner fails to respond in a reasonable time, we plan to place the acceptance order on the agenda, taking the remaining right-of-way through usage.

JEG:y

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

IN THE MATTER OF ACCEPTANCE AND ESTABLISHMENT AS A COUNTY ROAD, AND COMMONLY KNOWN AS COLLARD LAKE ROAD, FROM A POINT IN COUNTY ROAD NUMBER 590 (MERCER LAKE ROAD) SOUTHERLY 2850 FEET, MORE OR LESS, TO A POINT ON THE WEST LINE OF MERCER LAKE HEIGHTS AS PLATTED AND RECORDED IN BOOK 58 PAGE 25 OF THE LANE COUNTY OREGON PLAT RECORDS AND BEING IN SECTION 36, TOWNSHIP 17 SOUTH, RANGE 12 WEST, WILLAMETTE MERIDIAN

NOT APPROVED BY Bill Vanmeter due not go to BCC as of 3/83

RESOLUTION AND ORDER

PULLED BY COUNTY COUNSEL

THIS MATTER now coming before the Board of County Commissioners of Lane County, Oregon, and the persons hereinafter named and listed within Lane County, complying with the terms of ORS Chapter 308, having at the respective times presented to the Board of County Commissioners good and sufficient deeds recorded in the Lane County Oregon Deed Records set opposite their names, together with the Lane County Assessor's Tax Lot Number, as follows:

ASSESSOR'S TAX LOT AND MAP NUMBER	NAME	LANE COUNTY DEED RECORDS RECORDING INFORMATION
17-12-36-3 TL 1700	Donald C. Frisbie	Reel 257-D No. 87901
17-12-36-3 TL 1700	Ruel E. Chapman Donald T. Wells	Reel 881-R No. 7801138
17-12-36-3 1704	Surf Mobile Homes, Inc.	Reel 928-R No. 7852488
17-12-36-3 1703	William S. and Katherine O. Lawler	Reel 928-R No. 7852489
17-12-36-3 TL 1700	Donald C. Frisbie	Reel 1226-R No. 8300139
17-12-36-3 TL 3100	Dorothy I. McElroy	Established by user. For reference only, see reel 1140-R, Recorder's Reception Number 8124595

now therefore, it is hereby

RESOLUTION AND ORDER
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File Copy
Bob Ezell

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

*Not Approved
by Bill VanVactor
due not go to
BCC of 3/83
AS of*

IN THE MATTER OF ACCEPTANCE AND ESTABLISHMENT)
AS A COUNTY ROAD, AND COMMONLY KNOWN AS COLLARD)
LAKE ROAD, FROM A POINT IN COUNTY ROAD NUMBER)
590 (MERCER LAKE ROAD) SOUTHERLY 2850 FEET,)
MORE OR LESS, TO A POINT ON THE WEST LINE OF)
MERCER LAKE HEIGHTS AS PLATTED AND RECORDED)
IN BOOK 58 PAGE 25 OF THE LANE COUNTY OREGON)
PLAT RECORDS AND BEING IN SECTION 36, TOWNSHIP)
17 SOUTH, RANGE 12 WEST, WILLAMETTE MERIDIAN)

RESOLUTION AND ORDER

THIS MATTER now coming before the Board of County Commissioners for Lane County, Oregon, and the persons hereinafter named and listed below and who, owning land within Lane County, complying with the terms of ORS Chapter 368, having at the respective times presented to the Board of County Commissioners good and sufficient deeds recorded in the Lane County Oregon Deed Records set opposite their names, together with the Lane County Assessor's Tax Lot Number, as follows:

ASSESSOR'S TAX LOT AND MAP NUMBER	NAME	LANE COUNTY DEED RECORDS RECORDING INFORMATION
17-12-36-3 TL 1700	Donald C. Frisbie	Reel 257-D No. 87901
17-12-36-3 TL 1700	Ruel E. Chapman Donald T. Wells	Reel 881-R No. 7801138
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17-12-36-3 TL 1700	Donald C. Frisbie	Reel 1226-R No. 8300139
17-12-36-3 TL 3100	Dorothy I. McElroy	Established by user. For reference only, see reel 1140-R, Recorder's Reception Number 8124595

now therefore, it is hereby

*File Copy
Bob Esell*

ORIGINAL

ORDERED, that the above mentioned deeds are hereby accepted for the purpose of establishing a public road and that Collard Lake Road as described in the legal description attached hereto, and made a part hereof by this Resolution and Order, marked Exhibit "A," be established as a public road; now, therefore, it is hereby

RESOLVED that pursuant to the regular meeting of the Board of County Commissioners on February 18, 1976, whereat the said board, by unanimous vote, moved to accept said Collard Lake Road into the county road system; now, therefore, it is hereby

ORDERED that said Collard Lake Road, as dedicated in the above granted easement, constituting a continuous and contiguous strip of land approximately 2850 feet in length and variable feet in width, and being more particularly described on the said attached Exhibit "A" shall be and is hereby expressly accepted by the said Board of County Commissioners as a county road; and it is further

ORDERED that all parts of the above mentioned deeds between the termini hereinabove specified which are not included within the right-of-way of the road established, as hereinabove specified and described, are hereby declared vacated, as provided for in ORS Chapter 368; and, it is further

ORDERED, that immediately upon this Order becoming final and operating to establish the road as provided in ORS Chapter 368, that said road as established be finally surveyed and opened and that the Public Works Director file with the County Clerk a complete set of field notes, together with a plat conforming with the requirements of ORS Chapter 368, and that the County Surveyor, file and keep a record of said road survey; and, it is further

ORDERED that this Order shall be entered into the records of the Board of County Commissioners Journal of Administration and in Road Proceedings Case Number 3786, named Collard Lake Road, and numbered County Road Number 2216.

DATED this 3rd day of March, 1983.

ORDER

Chairman, Lane County Board of Commissioners

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LEGAL DESCRIPTION

COLLARD LAKE ROAD

Beginning at Engineers' Centerline Station L 0 + 00.00, said Station being South 262.69 feet and East 611.72 feet from the West one-quarter Corner of Section 36, Township 17 South, Range 12 West of the Willamette Meridian, Lane County, Oregon, said Station being within the right-of-way of County Road Number 590 (Mercer Lake Road); RUN thence South 39° 20' 15" East 67.59 feet; thence along the arc of a 100.52 foot radius curve left (the Long Chord of which bears South 66° 25' 27" East, 91.49 feet) a distance of 94.98 feet; thence North 86° 31' 20" East, 135.87 feet; thence along the arc of a 409.26 foot radius curve right (the Long Chord of which bears South 83° 07' 58" East, 146.98 feet) a distance of 147.78 feet; thence South 72° 47' 16" East, 123.11 feet; thence along the arc of a 440.74 foot radius curve right (the Long Chord of which bears South 51° 23' 38" East, 321.54 feet) a distance of 329.13 feet; thence along the arc of a 254.65 foot radius curve right (the Long Chord of which bears South 13° 15' 27" East 146.71 feet) a distance of 148.82 feet; thence South 3° 29' 06" West 236.54 feet; thence along the arc of a 272.84 foot radius curve right (the Long Chord of which bears South 18° 22' 29" West, 140.22 feet) a distance of 141.81 feet; thence South 33° 15' 52" West 333.03 feet; thence along the arc of a 358.10 foot radius curve left (the Long Chord of which bears South 13° 25' 26" West, 243.08 feet) a distance of 248.00 feet; thence South 6° 25' East, 34.16 feet; thence along the arc of a 358.10 foot radius curve right (the Long Chord of which bears 2° 07' 30" West, 106.38 feet) a distance of 106.77 feet; thence South 10° 40' West, 94.44 feet; thence along the arc of a 381.97 foot radius curve left (the Long Chord of which bears South 28° 49' 30" East, 485.84 feet) a distance of 526.55 feet; thence South 68° 19' East, 107.22 feet to Engineers' Centerline Station L 28 + 75.80 P.O.T.; said Station being on the West line of Mercer Lake Heights as platted and recorded in Book 58 Page 25, Lane County Oregon Plat Records, said point being South 3° 30' 26" East 242.16 feet from the Northwest corner of Lot 1, Block 2 of Mercer Lake Heights, and there ending, all in Lane County, Oregon.

The width in feet of the strip of land above referred to is as follows:

<u>STATION TO STATION</u>	<u>WIDTH ON NORTHEASTERLY SIDE OF CENTERLINE</u>
L 0 + 00.00 P.O.B. - L 0 + 00.00 P.O.B.	0.00 feet tapering on a straight line to 20.00 feet

L 0 + 00.00 P.O.B. - L 28 + 66.39 P.O.T.	20.00 feet
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L 28 + 66.39 P.O.T. - L 28 + 75.80 P.O.T.	20.00 feet tapering on a straight line to 0.00 feet
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<u>STATION TO STATION</u>	<u>WIDTH ON SOUTHWESTERLY SIDE OF CENTERLINE</u>
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L 0 + 00.00 P.O.B. - L 0 + 05.98 P.O.T.	0.00 feet
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L 0 + 05.98 P.O.T. - L 0 + 05.98 P.O.T.	0.00 feet tapering on a straight line to 19.58 feet
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L 0 + 05.98 P.O.T. - L 0 + 84.86	19.58 feet tapering on a straight line to 20.16 feet
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EXHIBIT

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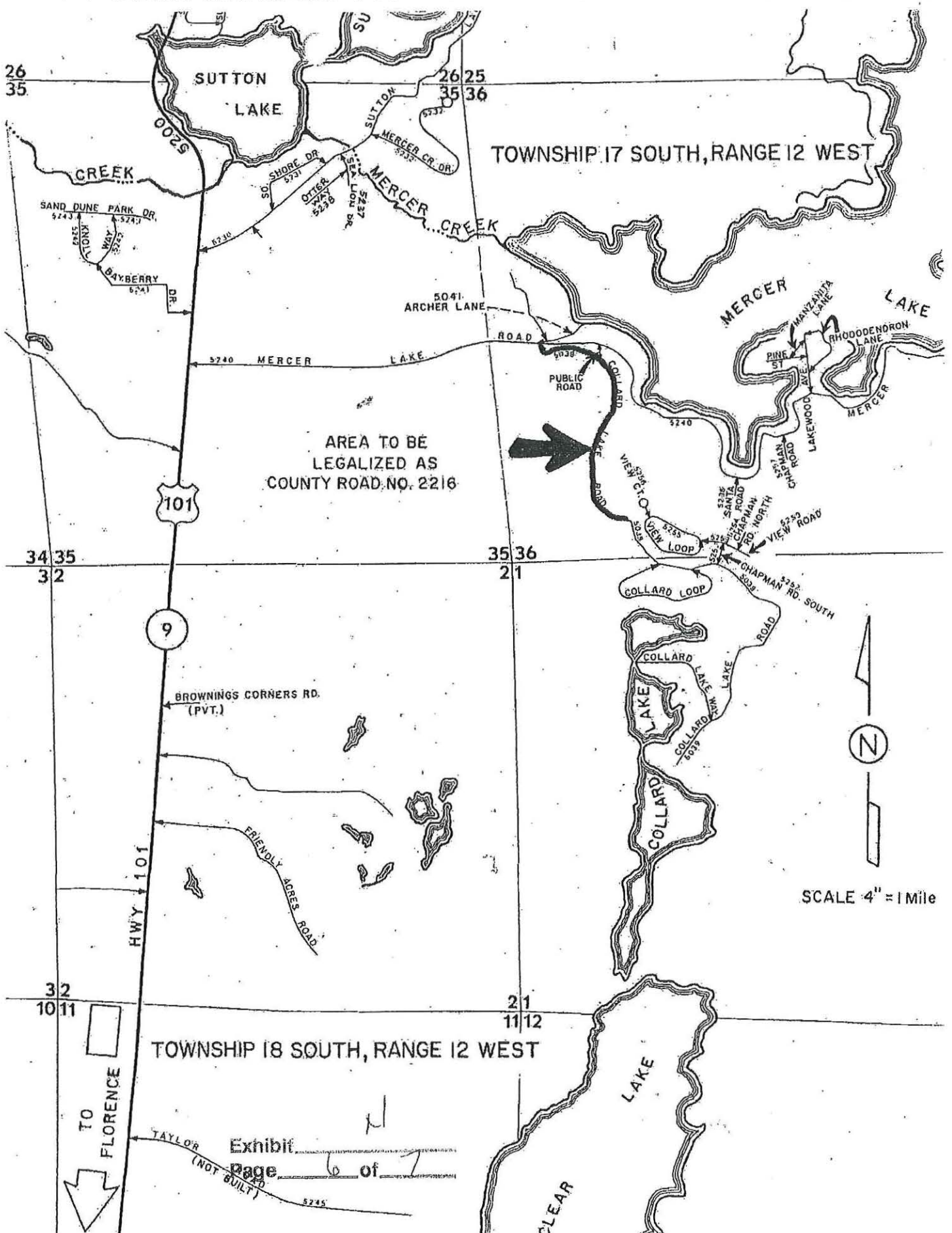
<u>STATION TO STATION</u>	<u>WIDTH ON SOUTHWESTERLY SIDE OF CENTERLINE</u>
L 0 + 84.86 P.O.C. - L 1 + 20.86 P.O.C.	20.16 feet tapering on a straight line to 22.36 feet
L 1 + 20.86 P.O.C. - L 1 + 45.39 P.O.C.	22.36 feet tapering on a straight line to 19.57 feet
L 1 + 45.39 P.O.C. - L 1 + 46.06 P.O.C.	19.57 feet tapering on a straight line to 30.00 feet
L 1 + 46.06 P.O.C. - L 28 + 89.91 P.O.T.	30.00 feet
L 28 + 89.91 P.O.T. - L 28 + 75.80 P.O.T.	30.00 feet tapering back on a straight line to 0.00 feet

Subject to that road right-of-way which is hereby acknowledged to be lying within County Road Number 590 (Mercer Lake Road).

EXHIBIT

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TOWNSHIP 17 SOUTH, RANGE 12 WEST

AREA TO BE LEGALIZED AS COUNTY ROAD NO. 2216



SCALE 4" = 1 Mile

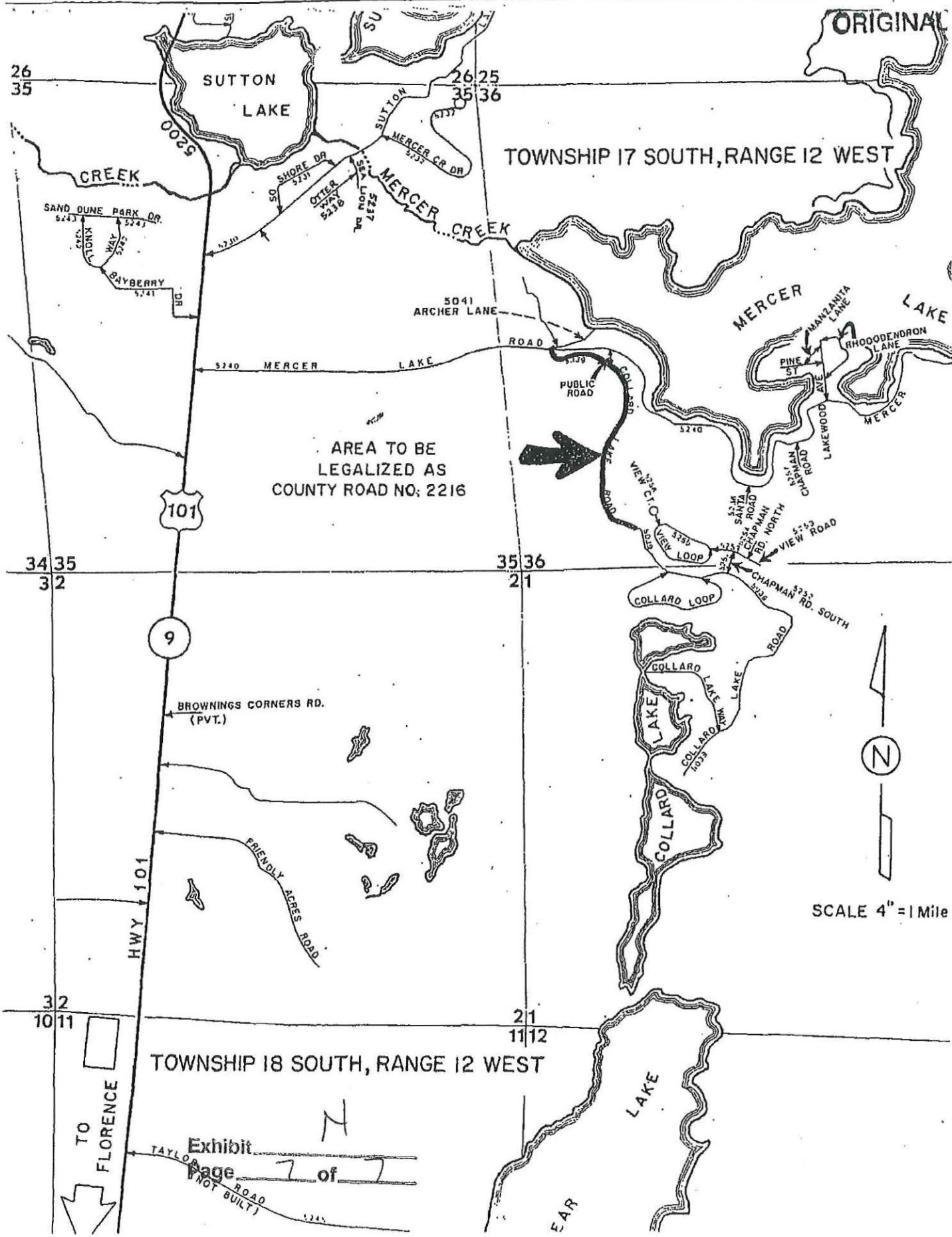
TOWNSHIP 18 SOUTH, RANGE 12 WEST

TO FLORENCE

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TAYLOR (NOT BUILT)

CLEAR



ORIGINAL

TOWNSHIP 17 SOUTH, RANGE 12 WEST

AREA TO BE LEGALIZED AS COUNTY ROAD NO. 2216

SCALE 4" = 1 Mile



TOWNSHIP 18 SOUTH, RANGE 12 WEST

TO FLORENCE

Exhibit Page 7 of 7

TAYLOR ROAD (NOT BUILT)

Paul and Dera Roux

88352 Collard Lake Rd

April 15, 2019

Lane County Commissioners

Dear Lane County Commissioners,

Thank you for hearing us and giving us time to express our concerns about our Collard Lake Rd at the last meeting.

As you know, our road serves, not only the 176 or so residents, but also, through Heceta Water, thousands of residents who live north of Florence.

My wife and I live beyond the road failures in a great community of at least 25 houses. Since the failure I have witnessed many neighbors, especially older residents, experience a great deal of unrelenting anxiety about further failure and the possibility of not being able to get out in the event of an emergency. We too are very concerned that the hole is breaking into the hold some more and do hope that it will be fixed before it becomes worse and we can no longer get in or out or access emergency services.

Thank you, we are encouraged at your having set up an emergency meeting to address the issue.

As to the future of Collard Lake Rd, in view of its strategic importance for coastal Lane county, a tourist hotspot, we hope it will soon be declared the County Rd it always has been (and which our Realtors inferred it was).

Sincerely,

Paul and Dera Roux

----- Forwarded message -----

From: **Joan Hunter** <joan.hunter112@gmail.com>
Date: Sat, Apr 13, 2019 at 4:36 PM
Subject: Letter for lane county commissioners
To: <riverguy99@gmail.com>

Hello to all concerned,

My husband, Ed Callahan, and I are very encouraged that you as the board of commissioners are having the hearings on the state of Collard Lake Rd. As residents of View Ct. we are very concerned on the damage to the road by the fallen tree. Although, the current damage is beyond our turn off, we have concerns and worries about any future problems that may arise. Having access to emergency vehicles and everyday travel down Collard Lake Rd. Is immensely important for all residents in this area.

Thank you all for the time spent on this emergency and we appreciate your continued support for recognizing Collard Lake Rd. as a Lane County road.

Joan Hunter
Ed Callahan
5967 View Ct.
Florence, OR 97439



Re: LAST CHANCE TO BE HEARD AT THE COLLARD LAKE RD. EMERGENCY SESSION! Inbox x



Bev Lasota
to me

10:44 AM (1 hour ago) ☆ ↶ ⋮

Please thank the county commission for calling the special emergency session about the tree damage to the road. We can't be there to attend, but we know how important it is to get the hole in the road repaired before it gets worse. I know several of the neighbors need to get to town to work every day. Those of us who don't go into town on a daily basis still need access to grocery stores or emergency care.

Thanks for your efforts, Skip.
Sincerely, Bev Lasota

Sent from my iPad

Collard Lake Road AA-CLR ROAD REPAIR ISSUE x

John Mullin

Sat, Apr 13, 8:32 PM (16 hours ago)

to riverguy99

Attn: Lane County Commissioners

My name is John Mullin, and my wife Brooke, and our 6 month old daughter Isabel live at 88347 Collard Lake Road, which is one of the last houses on this county road. I was encouraged by reports from the last meeting, where Skip and Camille Thomsen and other stalwart neighbors shouldered the burden of communicating to you the serious situation presented by the dangerous condition of the road on which we reside. This truly is the only means of access to our home, so we greatly appreciate your special consideration of this issue, which is of extreme importance to those of us who live beyond the compromised section of road. As you might imagine, the continual rains typical of this time of year have not helped its already precarious condition, and further deterioration is a certainty at this point.

My wife's parents, Richard and Irene Davis, also recently moved to 88683 Collard Lake Road, and along with our friends and neighbors Bob and Leilani Mayes, they echo our keen interest in seeing its longtime designation as an Oregon County Road upheld and honored. We all lend our wholehearted support to Skip, Camille and our intrepid neighbors in forwarding this agenda, and look forward to hearing the outcome of this important session.

Sincerely,

John and Brooke Mullin

Reply Reply all Forward



163



Collard Lake Road Inbox x



Karen & Alex Orobey

7:05 PM (1 hour ago) ☆ ↩ ⋮

to riverguy99 ▾

Lane County board of Commissioners,

I would like to express my concern of the huge problem of Collard Lake Road totally breaking off and washing out. We are one of those 25 homes that won't have a way out, Or be able to have emergency services get to us, in case of an emergency. I'm alone most of the year because my husband works in Kuwait. So, I'm very worried, Since Collard Lake Road is deteriorating at a rapid speed! Thank you for setting up an emergency session for Collard Lake Road. We feel very encouraged!

Sincerely,
Karen & Alex Orobey
6039 Collard Lake Way
Florence, OR
97439

Sent from my iPhone



Lesley Bullock

to me

10:25 AM (2 hours ago) ☆ ↶ ⋮

**To: Mr. Daniel Hurley, Lane County Public Works Director,
Ms Peggy Keppler, County Engineer,
Mr. Orin Schumacher, Road Maintenance Manager,
and The Board of County Commissioners**

Dear Board,

Thank you so much for hearing us and addressing our concerns regarding Collard Lake Road and its status as a county maintained road and its eminent condition. We are happy to know that we are being heard. So many people depend on Collard Lake Road for ingress and egress and the condition it is in is very concerning for the future. If it should become impassable, that would be catastrophic for so many residents. Just the thought of emergency vehicles not being able to get to us is very frightening, not to mention the public utilities who maintain public safety and environmental concerns.

Thank you for taking the time to address this issue and for helping us out.

Sincerely,

Mike and Lesley Bullock
6022 Collard Lake Way
Florence, Oregon 97439

