

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO. 15-12-01-03

IN THE MATTER OF RELEASING A PORTION OF
PARCEL "B" OF SKYLINE RANCH AS PLATTED AND
RECORDED IN FILE 74, SLIDES 188-190, LANE
COUNTY, OREGON PLAT RECORDS (17-02-20)

WHEREAS, by previous action Parcels A, B, & C, of Skyline Ranch, as platted in File 74, Slide 188-190, were conveyed to Lane County by a certain deed recorded on Reel 1945R, Recorder's Reception Number 9431702, Lane County, Oregon Deed Records for the purpose of maintaining possession by Lane County in order to prevent or limit access to roads classified as arterials or collectors; and

WHEREAS, these parcels are 1-foot wide access control strips that limit access from Marcola Road and Camp Creek Road; and

WHEREAS, Lane County Planning section has requested that a portion of Parcel "B" be released in order to allow access from Camp Creek Road to property which has recently been partitioned; and

WHEREAS, the effect of this release will not change the current use, as the area of release has been permitted for access to other properties; and

WHEREAS, the County no longer needs to hold possessory interest of the portion of Parcel "B" along the northeasterly right of way of Camp Creek Road between Engineer's Centerline Station L2 13+28.67 POC, 40' Lt. and L2 13+67.33 POC, 40' Lt., as shown on Partition Plat Number 2015-P2658; and

WHEREAS, Parcels "A" and "C" and the remainder of the Parcel "B" will remain as control strips to limit access; and

WHEREAS, the Director of Lane County Public Works has provided a written report marked as Exhibit "A", determining the special benefit to the applicant is de minimis pursuant to Lane Manual 60.854 (8)(c).

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

1. The portion of Parcel B of Skyline Ranch, as described above and depicted on the attached map marked as Exhibit "B" be released.
2. This Order will be entered into the records of the Board of County Commissioner's Journal of Administration and in the road records for Camp Creek Road.

ADOPTED this 1st day of December, 2015.

Department of Public Works
Engineering and Construction Services Division

Approved November 10, 2015

By Bill Morgan
Bill Morgan, County Engineer

LANE COUNTY BOARD OF
COMMISSIONERS

By Jay Bozeyich
Jay Bozeyich, Chair

APPROVED AS TO FORM
Date 11/10/15
LANE COUNTY OFFICE OF LEGAL COUNSEL

EXHIBIT "A"

MAP No.: 17-02-20-00-00427

LANE COUNTY

Notification of an Estimated Value of the Special Benefit Deposit
in Connection with a Proposed Partial Release of an Access Control Strip
Pursuant to Lane Manual 60.854(8)(c)

Pursuant to the provisions of Lane Manual 60.854(8)(c), my determination of the amount of "Special Benefit" and therefore the amount of deposit required in connection with the proposed partial release of an access control strip known as Parcel "B," of the Plat of Skyline Ranch as Platted and Recorded in File 74, Slides 188 through 190, Lane County Plat Records in Lane County, Oregon, is **\$0.00**.

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

Dated this 22 day of October, 2015.



Marsha A. Miller, Director
Lane County Public Works

STAFF REPORT

Recommendation in the Matter of an Estimation of the Special Benefit Deposit
in Connection with a Proposed Partial Release of an Access Control Strip
Pursuant to Lane Manual 60.854(8)(c)

Date: October 14, 2015

Applicant: Christian Properties, Incorporated, an Oregon Corporation

Proposed Release and Public Road Dedication:

The proposed partial release of the access control strip is described as Parcel "B," of the Plat of Skyline Ranch as Platted and Recorded in File 74, Slides 188 through 190, Lane County Plat Records in Lane County, Oregon. The portion to be released is 1 foot by 40 feet and runs along the northeasterly boundary of Camp Creek Road. It is held for the purposes of maintaining possession by Lane County in order to prevent or limit access to roads classified as arterials or collectors, in Bargain and Sales Deed recorded April 28, 1994 (See figure "A" and "B").

The partial release of the access control strip is a request being made in conjunction with Lane County's approved Replat of Parcel #1 of Partition Plat No. 2002-P1560 located on Map and Tax Lot 17-02-20-00-00427 (See figure "A"). The Replat will be accepted and officially platted prior to the partial release of the access control strip. The effect of the release will not change the current use as access to the properties. The Special Benefit Estimation is made on the assumption that the Replat is platted and recorded and that ingress egress across the strip will continue unimpeded.

Lots Adjacent to Proposed Partial Release:

The partial release of lot B is located on Parcel 1 of Land Partition Plat No. 2002-P1560 and is known as Map and Tax Lot No. 17-02-20-00-00427. The area of release also serves as an access point for other lots within Skyline Ranch subdivision, including a church.

Nature of Benefit to be Received if Proposed Partial Release is Approved:

Lane Manual 60.854(8)(b) "In addition to payment of the fees specified in subsection (8)(a) above, the release and dedication of access control strips by the County governing body shall require payment by the applicant of a deposit equal to the estimate of special benefit that results from the action 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).

"ATTACHMENT 1" OF EXHIBIT "A"

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 release and public road dedication of an access control strip. When used in the context of a release and a public road dedication of an access control strip, a practical definition follows:

“The advantages arising from the partial release of an access control strip for which the property, created under the terms of the conveying document and through the regulatory provisions of Lane County’s subdivision ordinance, accruing directly and solely to the advantage of the property after the partial release of an access control strip.”

If a special benefit exists, it is offset by inverse damages, also known as development costs. Some of those costs include permits, engineering, construction, the land dedicated through the platting of the subdivision, and the cost to release and dedicate the access control strip.

2. Special Benefit to Evaluate:

The Public presently has a possessory interest in the control strip held by Lane County to prevent or limit access to roads classified as arterial and collectors, and to *“dispose of said property or any part thereof as the Lane County Commissioners shall order.”* There is an existing private access easement over and across the control strip and access has been previously authorized by Lane County through two different facility permits. Since the County has already authorized access across this portion of the control strip, releasing the County’s possessory interest would have no effect on the property owner’s ability to access their property.

3. Special Benefit to Property Owner(s):

A clear, plain reading of LM 60.854(8)(b) gives no indication to which property owner is to receive the special benefit. Potentially, it could be any number of adjacent properties including the underlining fee owner. According to the conveying deed, the Lane County Commissioners may *“dispose of said property or any portion thereof...”* In other words, the possessory interest will revert back to the underlying fee owner; at the same time continue to be burdened by a private access easement, which serves a church and other properties.

4. Special Benefit Evaluation/Highest and Best Use:

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. 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.” It is the opinion of Right of Way staff that the Highest and Best Use before and after the partial release of each adjacent property will remain the same.

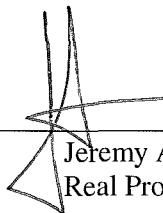
The possessory interest held by the County has become irrelevant when it authorized a use for which it was to restrict. Benefits have already been realized by the property owners when the County authorized access across the control strip. Therefore there is no specific or measurable benefit to estimate.

Summary and Recommendation of Special Benefit:

Lane Manual 60.854(8)(b) *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. Actions by the County have allowed access over and across the control strip, so the release of the strip has no specific or measurable benefits to estimate.

Pursuant to Lane Manual 60.854, a special benefit must be determined. The release of the possessory interest will not produce a “Special Benefit” to adjoining properties. As the value added is less than the \$2,500 *de minimus value* required by Lane Manual 60.854(8)(c), the appraiser concludes that a payment for Special Benefit is not warranted for this release.



Jeremy A. Sherer
Real Property Officer

"ATTACHMENT 1" OF EXHIBIT "A"

FIGURE "A" AERIAL VIEW OF SKYLINE RANCH

Showing Access Control at Camp Creek Road

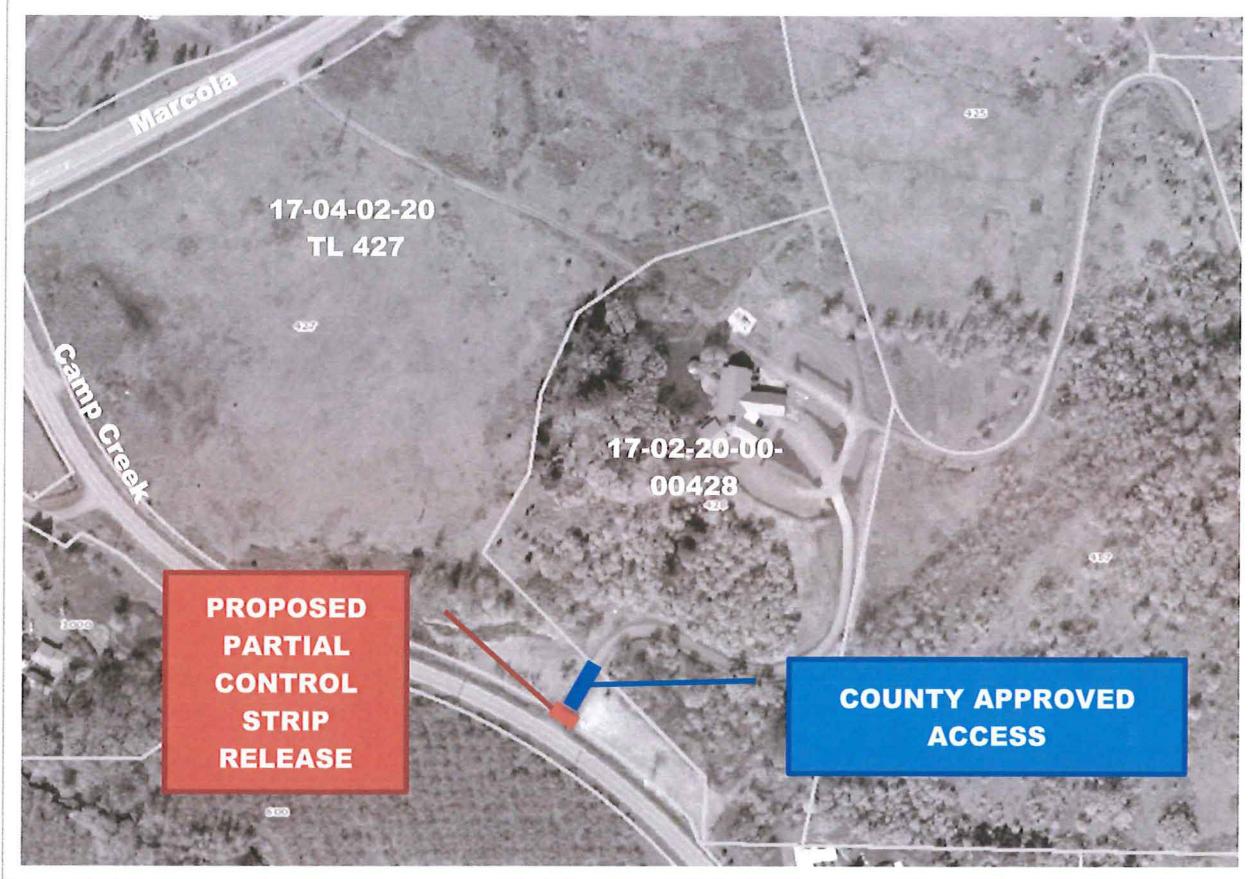


FIGURE "B" GOOGLE STREET VIEW

Showing Access to Skyline Ranch Properties



EXHIBIT "B"

**Release of a Portion of Parcel "B"
of Skyline Ranch**

**Section 20, T. 17 S., R. 2 W. W.M.
Lane County**

NO SCALE

