

## AGENDA COVER MEMO

**DATE:** October 24, 2003

**TO:** Lane County Board of Commissioners

**FROM:** Bill Robinson, Interim Lane County Surveyor *BR*

**DEPARTMENT:** Public Works/Land Management Division

**AGENDA ITEM TITLE:** IN THE MATTER OF VACATING A PORTION OF "A" STREET AND A PORTION OF THE EXTERIOR BOUNDARY OF THE PLAT OF GOSHEN, AS RECORDED IN VOLUME W, PAGES 349 AND 512, LANE COUNTY, OREGON DEED RECORDS, WITHOUT A PUBLIC HEARING AND ADOPTING FINDINGS OF FACT (18-03-23-1)

**I. MOTION:**

**TO APPROVE THE ORDER TO VACATE A PORTION OF "A" STREET AND A PORTION OF THE EXTERIOR BOUNDARY OF THE PLAT OF GOSHEN, AS PLATTED AND RECORDED IN VOLUME W, PAGES 349 AND 512, LANE COUNTY, OREGON DEED RECORDS, WITHOUT A PUBLIC HEARING AND ADOPTING FINDINGS OF FACT (18-03-23-1)**

**II. ISSUE:**

To decide whether the vacation of the portion of "A" Street, as described in the Order, which is 66 feet wide and approximately 167 feet in length, and the exterior platted boundary line that lies along the northerly margin of said portion of street, both being platted on the Plat of Goshen as recorded in the years 1889 and 1890, Volume W, Pages 349 and 512, Lane County, Oregon Deed Records, should be vacated as petitioned for.

**III. DISCUSSION:**

A. Background:

The Surveyor's Office of the Department of Public Works has received a valid petition signed by G. Stephen Jokinen, Will Bronson, Chairman of the Goshen Fire Department, and Paul E. Wilkins; the landowners of 100% of the property abutting the proposed vacation of the portion of "A" Street and adjoining exterior platted boundary line. The petitioners are requesting the vacation, by the authority of ORS 368.351, a vacation without a public hearing. The purpose of this request is to vacate the unused public right-of-way and the

platted boundary line, and to allow a property line adjustment between the petitioner's adjoining property.

The "Plat of Goshen" was recorded in 1889 in Volume W, Page 349, Lane County, Oregon Deed Records, and in 1890, "Goshen" was platted and recorded in Volume W, Page 512, Lane County, Oregon Plat Records. The portion of "A" Street that is proposed to be vacated was dedicated to the public on both plats as a 66-foot wide street. The petitioners wish to vacate the portion of "A" Street between 1<sup>st</sup> Street and the centerline of the north-south alley in Block 1, if extended northerly, which is about 167 feet in length. All other portions of the "A" Street located in the Plat of Goshen have previously been vacated, as recorded in Commissioners Journal Book 7, Pages 304-305 and Commissioners Journal Book 165, Pages 0372-0373.

Qwest Corporation, Emerald People's Utility District, Northwest Natural Gas, various other agencies including the Lane County Planning and Transportation Planning sections of the Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation. Qwest Corporation indicated that they have a buried cable within the right of way and requested that a 10-foot wide easement be reserved for their benefit. The other agencies and landowners either had no objection or did not respond to the referral.

B. Analysis:

Vacating the portion of "A" Street and the adjoining exterior platted boundary line of the Plat of Goshen, as petitioned for, would allow for the petitioners to adjust the property line between their properties and plan for the overall use of the property without having the right-of-way as an encumbrance. This portion of "A" Street is not constructed or open for public travel at this time, and the right-of-way is not needed as part of the Lane County transportation system. No property will be denied legal access to a public road.

Qwest Corporation has buried cable within the right of way, and the Final Order will reserve an easement for maintenance and repair of the existing cable. There is an existing drainage way within the right of way and the petitioners have agreed that they would leave the drainage way open and free from obstruction.

The public interest will be served, as vacating this portion of right-of-way will allow the property owners to more fully utilize their property. The vacation will also eliminate the stub road, as all other portions of "A" Street have previously been vacated.

C. Alternatives/Options:

The Board of County Commissioners has the option to:

1. Approve the proposed vacation of a portion of "A" Street and the portion of platted exterior boundary line of the Plat of the Goshen that adjoins it, as petitioned for.
2. Deny the proposed vacation of a portion of "A" Street and the portion of platted exterior boundary line of the Plat of the Goshen that adjoins it, as petitioned for.
3. Continue the matter for further consideration.

D. Recommendations:

The Public Works Director's Report recommends that the Board support Option Number 1, to approve the vacation of the portion of "A" Street and the portion of platted exterior boundary line of the Plat of Goshen that adjoins it, as petitioned for. No property will be denied legal access by this vacation. The vacation is in the public's interest, as vacating this portion of the exterior boundary line will allow the petitioners to make a property line adjustment between their adjoining property and vacating the described right-of-way will allow the property to revert back to private ownership and enable the landowners to more fully utilize their property.

All statutory procedures necessary for a vacation without a public hearing of the above mentioned right-of-way have been complied with, including a report by the Director of Public Works who recommends approval of the vacation as described in the petition.

E. Timing:

Timing is not critical in this matter.

**IV. IMPLEMENTATION/FOLLOW-UP:**

If the Board of County Commissioners approves the Order of Vacation, the documents are to be forwarded to the Lane County Clerk for filing and recording, after which, copies are to be forwarded to the County Surveyor and County Assessor for appropriate action. If the order is denied, an Order to Deny will be presented to the Board at a later regularly scheduled meeting.

**V. ATTACHMENTS:**

Order w/ attachments:

Petition to Vacate  
Director's Report - Exhibit "A"  
Findings of Fact - Exhibit "B"  
Vicinity Map - Attachment "A"

Contact Person: Bill Robinson x-4198

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

FILE NO. 4105

IN THE MATTER OF VACATING A PORTION OF	)	
"A" STREET AND A PORTION OF THE EXTERIOR	)	
BOUNDARY OF THE PLAT OF GOSHEN, AS	)	
RECORDED IN VOLUME W, PAGES 349 AND 512,	)	ORDER NO.
LANE COUNTY, OREGON DEED RECORDS,	)	
WITHOUT A PUBLIC HEARING AND	)	
ADOPTING FINDINGS OF FACT (18-03-23-1)	)	

WHEREAS, this matter now coming before the Board upon a petition 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 "A" Street and the adjoining portion of the exterior platted boundary line of the Plat of Goshen. Said areas to be vacated are described as follows:

"All that portion of "A" Street in the Plat of Goshen as platted and recorded in Volume W, Page 349 and Page 512, Lane County, Oregon Deed Records, lying between the westerly right of way of 1<sup>st</sup> Street and the portion of "A" Street that was vacated on February 13, 2002 by Order Number 02-2-13-5, all in Section 23, Township 18 South, Range 3 West.

ALSO, that portion of the exterior plat boundary that adjoins the portion of "A" Street described above in the Plat of Goshen, as platted and recorded in Volume W, Page 349 and Page 512, Lane County, Oregon Deed Records"

WHEREAS, the petition 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 that the vacation be approved as proposed; and

WHEREAS, ORS Chapter 368.351 provides for the vacation of public roads and right-of-ways without a public hearing; and

WHEREAS, Qwest Corporation, Emerald People's Utility District, Northwest Natural Gas, and various other agencies including the Lane County Planning and Transportation Planning sections of the Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation; and

WHEREAS, Qwest Corporation replied to the referral, stating that they have buried cable within the right of way and requested that a 10-foot easement be reserved for their benefit; and

WHEREAS, the petitioners have acknowledged in the petition that there is an existing drainage way and have agreed not to obstruct the flow of runoff through said drainage way; and

**WHEREAS**, it is in the best interest of the public that a public easement be retained to provide access to the drainage ditch; and

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

**WHEREAS**, the petitioners have paid a vacation fee of \$650 and will pay 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 "A", attached hereto and made a part hereof, by this Order; 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 that approving the vacation as petitioned for is in the best interest of the public; now, therefore, it is hereby

**ORDERED**, that the above described portion of "A" Street and the portion of the platted exterior boundary line which adjoins said portion of "A" Street on the Plat of Goshen, is hereby vacated; and it is further

**ORDERED**, that a 5-foot wide public drainage way be reserved, centered on the existing drainage ditch or centered on any relocation of the drainage ditch allowing the public the opportunity, as needed, to maintain the drainage ditch for flow of storm water; and it is further

**ORDERED**, that a 10-foot wide utility easement, with the buried cable being the centerline of said easement, be reserved for the right of Qwest Corporation to access and maintain their buried cable located within the vacated right-of-way; and it is further

**ORDERED**, that in support of this action, the Board hereby adopts the Findings of Fact, marked as Exhibit "B", attached hereto and made a part hereof by this Order; and it is further

**ORDERED**, that this Order be entered into the Lane County Board of Commissioners Journal of Administration, and be further recorded in the Lane County, Oregon Deed Records.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

\_\_\_\_\_  
Peter Sorenson, Chair  
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Attachment "A" - Vicinity Map

APPROVED AS TO FORM

Date 11-3-03 lane county

\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

FILE NO.

IN THE MATTER OF THE VACATION OF A )  
PORTION OF "A" STREET AND A PORTION )  
OF THE EXTERIOR BOUNDARY OF THE )  
PLAT OF GOSHEN AS PLATTED AND )  
RECORDED IN VOLUME W, PAGE 349, AND )  
GOSHEN AS PLATTED AND RECORDED IN )  
VOLUME W, PAGE 512, LANE COUNTY, )  
OREGON PLAT RECORDS SAID PLATS )  
BEING LOCATED UN SECTION 23, TOWNSHIP )  
18 SOUTH, RANGE 3 WEST OF THE )  
WILLAMETTE MERIDIAN IN LANE COUNTY, )  
OREGON. )

PETITION TO VACATE

PURSUANT to the procedures set forth in ORS Chapter 368, I the undersigned G. Stephan Jokinen, owner of adjacent real property hereby petition for the vacation of a portion of the Plat of Goshen and Goshen, which includes a portion of "A" Street and the portion of the exterior boundary that adjoins said portion of "A" Street. The areas to be vacated are described as follows:

"All that portion of "A" Street in the Plat of Goshen as platted and recorded in Volume W, Page 349 and in Goshen as platted and recorded in Volume W, Page 512, Lane County Oregon Plat Records, lying between the westerly right of way of 1<sup>st</sup> Street and the portion of "A" Street that was vacated on February 13, 2002 by Order Number 02-2-13-5, all in Section 23 Township 18 South, Range 3 West.

Also, that portion of the exterior boundary of the Plat of Goshen as platted and recorded in Volume W, Page 349, and Goshen as platted and recorded in Volume W, Page 512, that adjoins the portion of "A" Street described above."

WHEREAS, the undersigned petitioner is the owner of 100% of all the real property located adjacent to the above described area to be vacated, and

WHEREAS, petitioner alleges as follows:

1. The purpose of this vacation request is to vacate an unused public right-of-way and adjoining platted boundary line to allow a boundary line adjustment between the petitioners adjoining property.
2. There are no known utilities located in the area to be vacated.

WHEREAS, the petitioner acknowledges the existing drainage way and will not obstruct the flow of runoff through said drainage, and

WHEREAS, no portion of the area to be vacated is located within the boundaries of an incorporated City or Town, and



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

FILE NO. 4105

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BOUNDARY OF THE PLAT OF GOSHEN, AS	)	
RECORDED IN VOLUME W, PAGES 349 AND 512,	)	DIRECTOR'S REPORT
LANE COUNTY, OREGON DEED RECORDS,	)	
WITHOUT A PUBLIC HEARING AND	)	
ADOPTING FINDINGS OF FACT (18-03-23-1)	)	

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 "Plat of Goshen" was recorded in 1889 in Volume W, Page 349, Lane County, Oregon Deed Records, and in 1890, "Goshen" was platted and recorded in Volume W, Page 512, Lane County, Oregon Plat Records. The portion of "A" Street that is proposed to be vacated was dedicated to the public on both plats as a 66-foot wide street. The petitioners wish to vacate the portion of "A" Street between 1<sup>st</sup> Street and the centerline of the north-south alley in Block 1, if extended northerly, which is about 167 feet in length. All other portions of the "A" Street located in the Plat of Goshen have previously been vacated, as recorded in Commissioners Journal Book 7, Pages 304-305 and Commissioners Journal Book 165, Pages 0372-0373.

Qwest Corporation, Emerald People's Utility District, Northwest Natural Gas, various other agencies including the Lane County Planning and Transportation Planning sections of the Department of Public Works, and neighboring landowners were notified by mail regarding the proposed vacation. Qwest Corporation indicated that they have a buried cable within the right of way and requested that a 10-foot wide easement be reserved for their benefit. The other agencies and landowners either had no objection or did not respond to the referral.

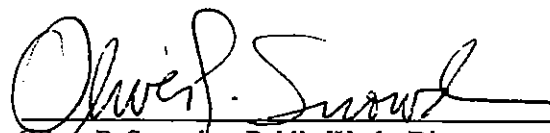
The petitioners have acknowledged that there is an existing drainage way within the right of way and have agreed that they would leave the drainage way open and free from obstruction.

The described portion of "A" Street is not constructed or open for public travel at this time, and the right-of-way is not needed as part of the Lane County transportation system. No property will be denied legal access to a public road as a result of the proposed vacation.

It is concluded that this vacation is in the public's interest, as vacating this portion of right-of-way will allow the petitioners to create a property line adjustment between their adjoining property and more fully utilize the property.

It is therefore recommended that the portion of "A" Street and the adjoining exterior platted boundary line, as described in the Order, be vacated as petitioned for, and that a utility easement be reserved for access and maintenance to the buried cable within the right-of-way and a 5-foot wide public drainage way be reserved, centered on the existing drainage ditch or centered on any relocation of the drainage ditch allowing the public the opportunity, as needed, to maintain the drainage ditch for flow of storm water. It is further recommended that the vacation be allowed without a public hearing.

DATED this 29<sup>th</sup> day of October, 2003.



Oliver P. Snowden, Public Works Director



**EXHIBIT "B"**

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

**FILE NO. 4105**

<b>IN THE MATTER OF VACATING A PORTION OF</b>	)	
<b>"A" STREET AND A PORTION OF THE EXTERIOR</b>	)	
<b>BOUNDARY OF THE PLAT OF GOSHEN, AS</b>	)	
<b>RECORDED IN VOLUME W, PAGES 349 AND 512,</b>	)	<b>FINDINGS OF FACT</b>
<b>LANE COUNTY, OREGON DEED RECORDS,</b>	)	
<b>WITHOUT A PUBLIC HEARING AND</b>	)	
<b>ADOPTING FINDINGS OF FACT (18-03-23-1)</b>	)	

The Department of Public Works has received a valid petition, signed by the owners of 100% of the property abutting the proposed vacation, requesting that a portion of "A" Street and the adjoining portion of the platted exterior boundary line of the Plat of Goshen, that extends westerly approximately 167 feet from the west margin of 1<sup>st</sup> Street in Goshen, as described in the Order, be vacated. The petitioners are requesting the vacation so they can plan for the overall use of their property, which will include a boundary line adjustment between their adjoining properties.

**Findings of Fact (Public Interest)**

The Board takes notice and finds:

1. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate a subdivision, or part of subdivision, a road or right-of-way, or public interest in property based upon the determination that the vacation is "in the public interest."
2. That, pursuant to ORS 197.175 (2) (d), after acknowledgment of a county's comprehensive plan and implementing ordinances, the plan and ordinances, not the Statewide Planning Goals, control land use decisions.
3. That, Lane County's Rural Comprehensive Plan and implementing ordinances were originally acknowledged to be in compliance with the Statewide Planning Goals on September 13, 1984, and reacknowledged on February 14, 1992.
4. That, neither the Lane County Comprehensive Plan nor any land use regulation within the Lane Code establish mandatory standards for the vacation of public easements.

**Conclusion of Law (Public Interest)**

Based upon the above findings of fact, the Board concludes, as a matter of law, that neither the Statewide Planning Goals nor the Lane County Rural Comprehensive Plan and related land use regulations are an applicable measure of the "public interest", as it pertains to this vacation.

**Findings of Fact (Impacts and Process of Vacation)**

The Board takes notice and finds as follows:

1. That, 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. Said property is further identified as Tax Lots 1500, 1800, 1900, & 2100 of Assessor's Map 18-03-23-1.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or right-of-ways based upon the determination that the vacation is "in the public interest".
3. That, Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, various other agencies including the Lane County Planning and Transportation Planning sections of the Department of Public Works, and abutting landowners were notified by mail regarding the proposed vacation. Qwest indicated that they have a buried cable within the right of way, and requested that a 10-foot wide easement be reserved. The other agencies and landowners either had no objection or did not respond to the referral.
4. That, the petitioners have acknowledged that there is an existing drainage way within the right of way and have agreed that they will not obstruct the flow of runoff through said drainage way, and a 5-foot wide drainage easement will be reserved centered above the existing drainage ditch or any relocation of the drainage ditch, allowing the public the opportunity, as needed, to maintain the drainage ditch for flow of storm water.
5. That, a 10-foot wide utility easement be reserved for the right of Qwest Corporation to access and maintain the buried cable located within the vacated right-of-way.
6. That, pursuant to ORS 368.351, a county governing body may make a determination about a vacation of property without a public hearing if:
  - (1) The county road official files a written report stating that the vacation is in the public interest.
  - (2) The proceedings were initiated by petition indicating the approval of 100% of the adjoining property owners.

Items (1) and (2) have been complied with.

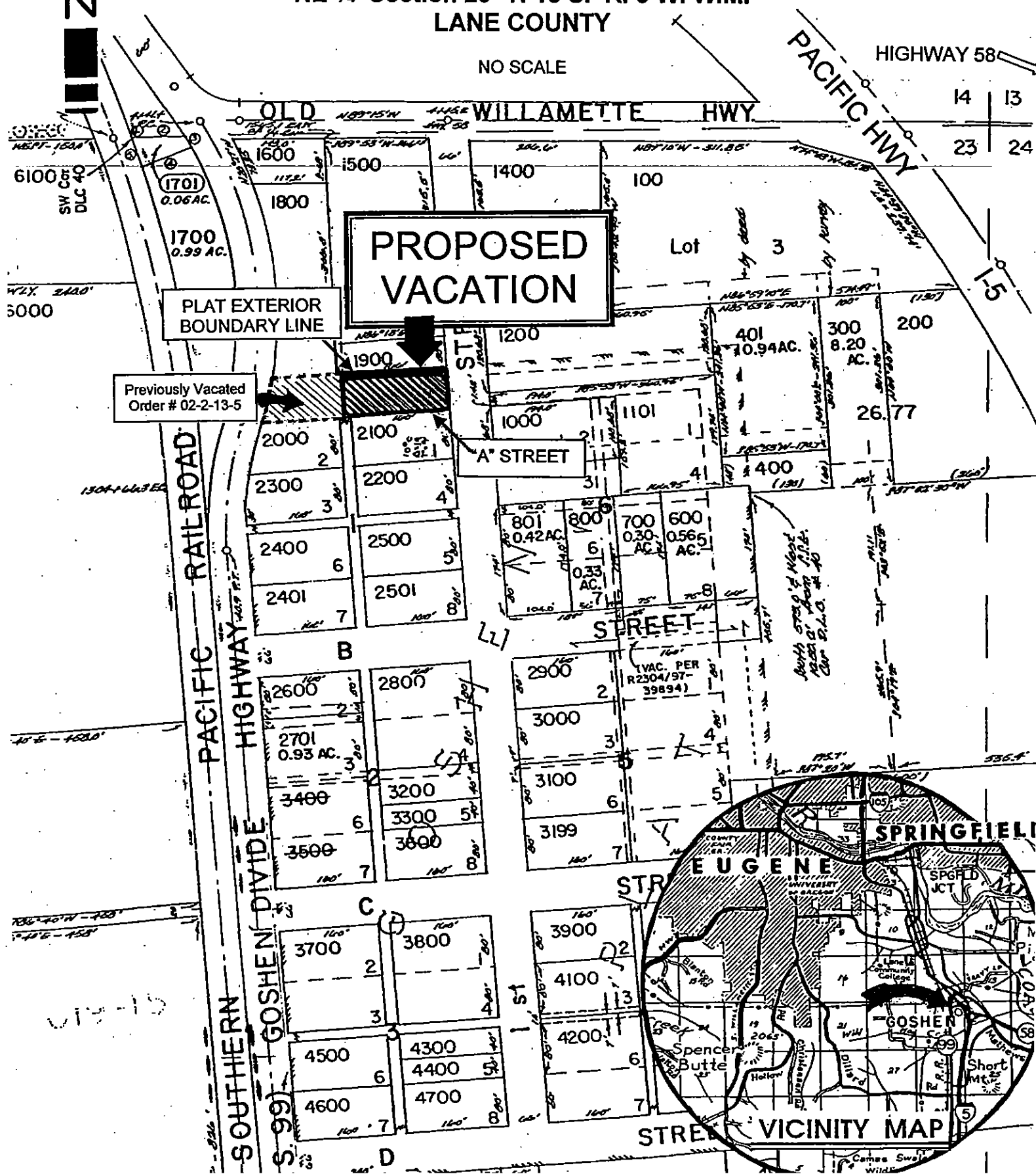
**Conclusions of Law (Impacts and Process of Vacation)**

Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making a determination on this vacation, without a public hearing, have been met.

ATTACHMENT "A"

NE 1/4 Section 23 T. 18 S. R. 3 W. W.M.  
LANE COUNTY

NO SCALE



Previously Vacated  
Order # 02-2-13-5

**PROPOSED  
VACATION**

PLAT EXTERIOR  
BOUNDARY LINE

A' STREET

STREET

PACIFIC RAILROAD  
PACIFIC HIGHWAY  
GOSHEN DIVIDE  
SOUTHERN

S. 99

HIGHWAY 58  
14 13  
23 24  
15

6100  
SW C&D  
DLC 40

1701  
0.06 AC.  
1700  
0.99 AC.

Lot 3

401  
10.94 AC.

300  
8.20 AC.

26.77

801  
0.42 AC.

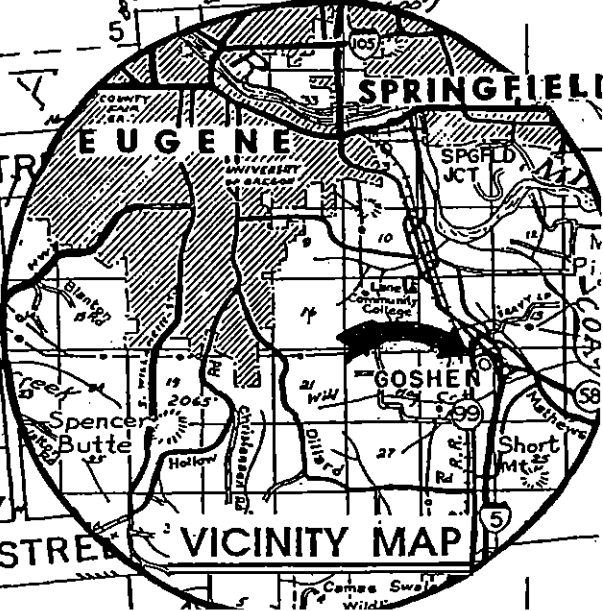
800  
0.33 AC.

700  
0.30 AC.

600  
0.565 AC.

(VAC. PER  
R2304/97-  
39894)

South Street of West  
Part of 1/4 Section 23  
Lane Co. Pl. C. 1/10/10



019-15