

## AGENDA COVER MEMO

**DATE:** October 27, 2003  
**TO:** Lane County Board of Commissioners  
**FROM:** Bill Robinson, Interim Lane County Surveyor *BR*  
**DEPARTMENT:** Public Works/Land Management Division

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**AGENDA ITEM TITLE:** IN THE MATTER OF VACATING A PORTION OF THE EXTERIOR BOUNDARY OF LAND PARTITION PLAT NUMBER 94-P0526, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (20-03-32-3)

**I. MOTION:**

**TO APPROVE THE ORDER IN THE MATTER OF VACATING A PORTION OF THE EXTERIOR BOUNDARY LINE OF LAND PARTITION PLAT NUMBER 94-P0526, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (20-03-32-3)**

**II. ISSUE:**

To decide whether to vacate the northerly boundary line of Parcel 2 of Land Partition Plat Number 94-P0526, being a condition of approval for Preliminary Partition PA03-5214, as petitioned for.

**III. DISCUSSION:**

**A. Background:**

The Surveyor's Office of the Department of Public Works has received a valid petition signed by George E. Devine and Terri L. Devine, the owners of 100% of the property adjoining the proposed vacation, requesting, by the authority of ORS 368.351, a vacation without a public hearing.

Land Partition Plat Number 94-P0526 was platted in 1994 and recorded in the Lane County, Oregon Plat Records. The petitioners are requesting the vacation of the north line of Parcel 2 of said plat in order to meet a condition of approval required by Planning section of Lane County Public Works Department for Preliminary Partition PA 03-5214. The vacation will eliminate the line between two parcels that were joined by a Property Line Adjustment Deed, recorded in Recorder's Reception Number 2001-046113 and shown on County Survey File Number 33581.

Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works were contacted regarding the vacation and either had no objection or did not reply to the referral.

B. Analysis:

The public interest will be served, as vacating the northerly exterior boundary line of Parcel 2 of Land Partition Plat Number 94-P0526 will allow the petitioners to increase the size of Parcel 2, followed by a replat of the reconfigured parcel. Vacating the described parcel line will satisfy a requirement set by the Planning section of the Lane County Public Works Department for the approval of a preliminary partition. There are no known utilities affected by the proposed vacation, and no property will be denied legal access as a result of these proceedings.

The requirements of ORS 368.351(2) have been met, as the petitioner is the sole owner of 100% of the adjoining property and has submitted a petition to vacate containing their acknowledged signature.

C. Alternatives/Options:

The Board of County Commissioners has the options to:

1. Approve the vacation of a portion of the exterior boundary of Land Partition Plat Number 94-P0526, as petitioned for.
2. Deny the vacation of a portion of the exterior boundary of Land Partition Plat Number 94-P0526, as petitioned for.
3. Continue the matter of vacating a portion of the exterior boundary of Land Partition Plat Number 94-P0526, as petitioned for.

D. Recommendations:

The Public Works Director's Report recommends that the Board support Option Number 1, approving the vacation of the parcel line as petitioned for. The vacation will satisfy certain land development requirements set by the Planning section of Land Management Division of the Lane County Public Works Department for the preliminary partition approval of PA 03-5214. No property will be denied legal access by this proposed vacation.

All statutory procedures necessary for the vacation without a public hearing of the above mentioned exterior boundary line of Land Partition Plat Number 94-P0526 have been complied with, including a report by the Director of Public Works.

E. Timing:

Timing is a consideration in this matter. This portion of boundary line of Land Partition Plat Number 94-P0526 must be vacated before a pending Preliminary Partition can be approved.

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

If the Board of County Commissioners approves the Order of Vacation it is 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 vacation is denied, an Order to Deny the Vacation will be presented to the Board at a later regularly scheduled meeting.

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**V. ATTACHMENTS:**

Order w/attachments:

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

Contact Person: Bill Robinson x-4198

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

FILE NO. 4109

IN THE MATTER OF VACATING A PORTION OF )  
THE EXTERIOR BOUNDARY OF LAND PARTITION )  
PLAT 94-P0526, LANE COUNTY OREGON PLAT ) ORDER NO.  
RECORDS, WITHOUT A PUBLIC HEARING, AND )  
ADOPTING FINDINGS OF FACT (20-03-32-3) )

WHEREAS, this matter now coming before the Board upon a petition received by the County Surveyor's Office of the Lane County Department of Public Works requesting, under authority of ORS Chapter 368.326 and 368.341, the vacation of a portion of the exterior boundary line of Land Partition Plat Number 94-P0526. Said portion of boundary line being more particularly described as follows:

“The north line of Parcel 2 of Land Partition Plat Number 94-P0526, as recorded in Lane County, Oregon Plat Records, Lane County, Oregon.”

WHEREAS, the petition complies with the provisions of ORS 368.351 in that the petitioners, who own 100% of the property abutting the proposed vacation, agree that the vacation should be approved as proposed; and

WHEREAS, ORS Chapter 368.351 provides for the vacation of property without a public hearing; and

WHEREAS, Qwest Communications, Emerald People’s Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works were contacted regarding the vacation of the parcel line and either had no objection or did not reply to the referral; and

WHEREAS, there are no known utilities affected by the proposed vacation and no property will be denied legal access by this vacation; and

WHEREAS, the proposed vacation will satisfy certain land development requirements set by the Planning section of the Lane County Department of Public Works for the approval of Preliminary Partition PA 03-5214, and it has been concluded the public will benefit by this vacation, as vacating the above described exterior boundary line will allow the petitioners to more fully utilize their property; 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 northerly boundary line of Parcel 2 of Land Partition Number 94-P0526, as described above, is hereby vacated; and it is further~~

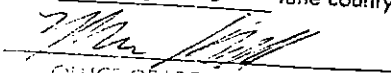
ORDERED, that in support of this action, the Board hereby adopts the Findings of Fact, marked as Exhibit "B", attached hereto and made a part hereof by this Order; and it is further

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: Vicinity Map (Attachment "A")

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 )  
 THE NORTH LINE OF PARCEL 2 OF LAND )  
 PARTITION PLAT NO. 94-P0526 )  
 LANE COUNTY OREGON PARTITION )  
 RECORDS )

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned GEORGE E. DEVINE and TERI L. DEVINE husband and wife, as owners of adjacent real property, hereby petition for the vacation of the North line of Parcel 2 of Land Partition Plat Number 94-P0526, Lane County Oregon Partition Records, which line to be vacated is described as follows:

“The North line of Parcel 2 of Land Partition Plat Number 94-P0526, Lane County, Oregon Partition Records.”

WHEREAS, the undersigned petitioners are the owners of 100% of all the real property located adjacent to the above described line to be vacated, and

WHEREAS, petitioners allege as follows:

1. The purpose of this vacation request is to eliminate the line between parcels that were joined by Property Line Adjustment Deed recorded in Recorders Reception Number 2001-046113, and to comply with conditions for approval for Lane County Planning Action 03-5214.
2. There are no utilities in the area to be vacated.

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

WHEREAS, the public interest will be served and not prejudiced by vacation of the above described line, and

WHEREAS, petitioners, separately and collectively, have no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation without a hearing, and

THEREFORE, the petitioners request an Order of the Board of Commissioners for Lane County as follows:

1. Setting a date for vacation of the above described line, without a hearing before the Board of Commissioners for Lane County pursuant to ORS Chapter 368.

DATED this 7<sup>th</sup>, day of AUGUST, 2003.  
PETITIONERS

*George E. Devine*

GEORGE E. DEVINE, OWNER, MAP 20-03-32-3  
TL 303

442 Talemna Dr.  
Cottage Grove, Or. 97424

*Teri L. Devine*

TERI L. DEVINE, OWNER MAP 20-03-32-3  
TL 303

442 Talemna. Dr.  
Cottage Grove, Or. 97424

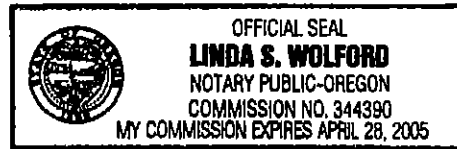
STATE OF OREGON)  
  )SS  
County of Lane            )

On this 7<sup>th</sup> day of AUGUST, 2003, personally appeared the above named  
GEOREG E. DEVINE and TERI L. DEVINE, and acknowledged the foregoing instrument to be  
a voluntary act and deed.

Witness my hand and seal this day and year last above written.

*Linda S. Wolford*

Notary Public for Oregon  
My Commission Expires 4/28/2005



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

FILE NO. 4109

IN THE MATTER OF VACATING A PORTION OF )  
THE EXTERIOR BOUNDARY OF LAND PARTITION )  
PLAT 94-P0526, LANE COUNTY OREGON PLAT ) **DIRECTOR'S REPORT**  
RECORDS, WITHOUT A PUBLIC HEARING, AND )  
ADOPTING FINDINGS OF FACT (20-03-32-3) )

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.

Land Partition Plat Number 94-P0526 was platted in 1994 and recorded in the Lane County, Oregon Plat Records. The petitioners are requesting the vacation of the north line of Parcel 2 of said plat in order to meet a condition of approval required by the Planning section of Lane County Public Works Department for Preliminary Partition PA 03-5214. The proposed vacation will eliminate the line between two parcels that were joined by a Property Line Adjustment Deed recorded in Recorder's Reception Number 2001-046113, and shown on County Survey File Number 33581. Simultaneously to the vacation proceedings, the petitioners will replat the reconfigured parcel. The proposed vacation is allowed by ORS 368.326.

Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning programs of the Lane County Department of Public Works were contacted regarding the parcel line vacation and either had no objection or did not reply to the referral.

The proposed vacation will satisfy certain requirements set by the Planning section of Lane County Land Management Division. It is concluded that it is in the public's interest, as vacating a portion of the boundary line of Land Partition Plat Number 94-P0526 will allow the property owners to more fully utilize their property. It is therefore recommended that the portion of the exterior line of Land Partition Plat Number 94-P0526, as described in the Order, be vacated as petitioned for.

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. 4109

IN THE MATTER OF VACATING A PORTION OF	)	
THE EXTERIOR BOUNDARY OF LAND PARTITION	)	
PLAT 94-P0526, LANE COUNTY OREGON PLAT	)	FINDINGS OF FACT
RECORDS, WITHOUT A PUBLIC HEARING, AND	)	
ADOPTING FINDINGS OF FACT (20-03-32-3)	)	

The Department of Public Works has received a valid petition, signed by George E. & Terri L. Devine, the owners of 100% of the property abutting the proposed vacation, requesting that the northerly exterior boundary line of Parcel 2 of Land Partition Plat Number 94-P0526, as described in the Order, be vacated as petitioned for. The vacation of said plat line is a condition of approval required by the Planning section of Lane County Land Management Division for Preliminary Partition PA 03-5214.

**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, part of a subdivision, 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 lot lines.

**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 petitioner owns all the property abutting the proposed vacation. Said property is further identified as Tax Lot 303 of Assessor's Map 20-03-32-3.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate a subdivision, part of a subdivision, or public interest in property, based upon the determination that the vacation is "in the public interest."

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3. That, Qwest Communications, Emerald People's Utility District, Northwest Natural Gas, and various other agencies including Transportation Planning and Lane County Planning programs of the Lane County Department of Public Works were contacted regarding the vacation of the lot line and either had no objection or did not reply to the referral.
4. That, the proposed vacation is a condition of approval set by the Lane County Planning program for Preliminary Partition PA 03-5214.
5. That, there are no known utilities affected by the proposed vacation.
6. That, vacating the northerly exterior boundary line of Parcel 2 of Partition Plat Number 94-P0526, as described in the Order, will not deny any property owners legal road access to a public road.
7. 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 the owners of 100% of the adjoining property.

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

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

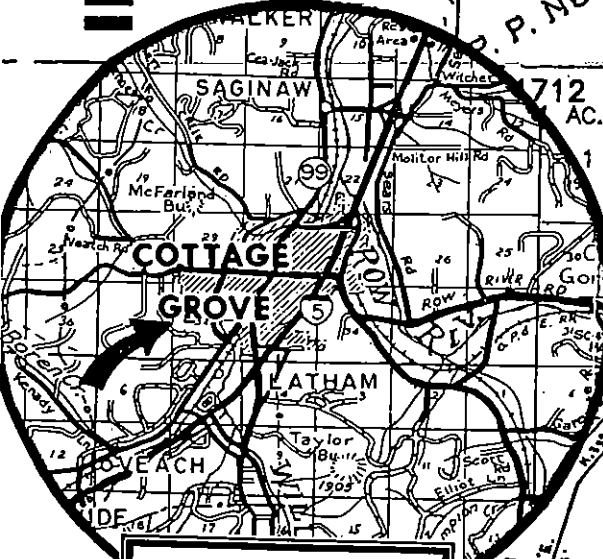
Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making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

SW 1/4 Section 32 T. 20 S. R. 3 W. W.M.  
LANE COUNTY

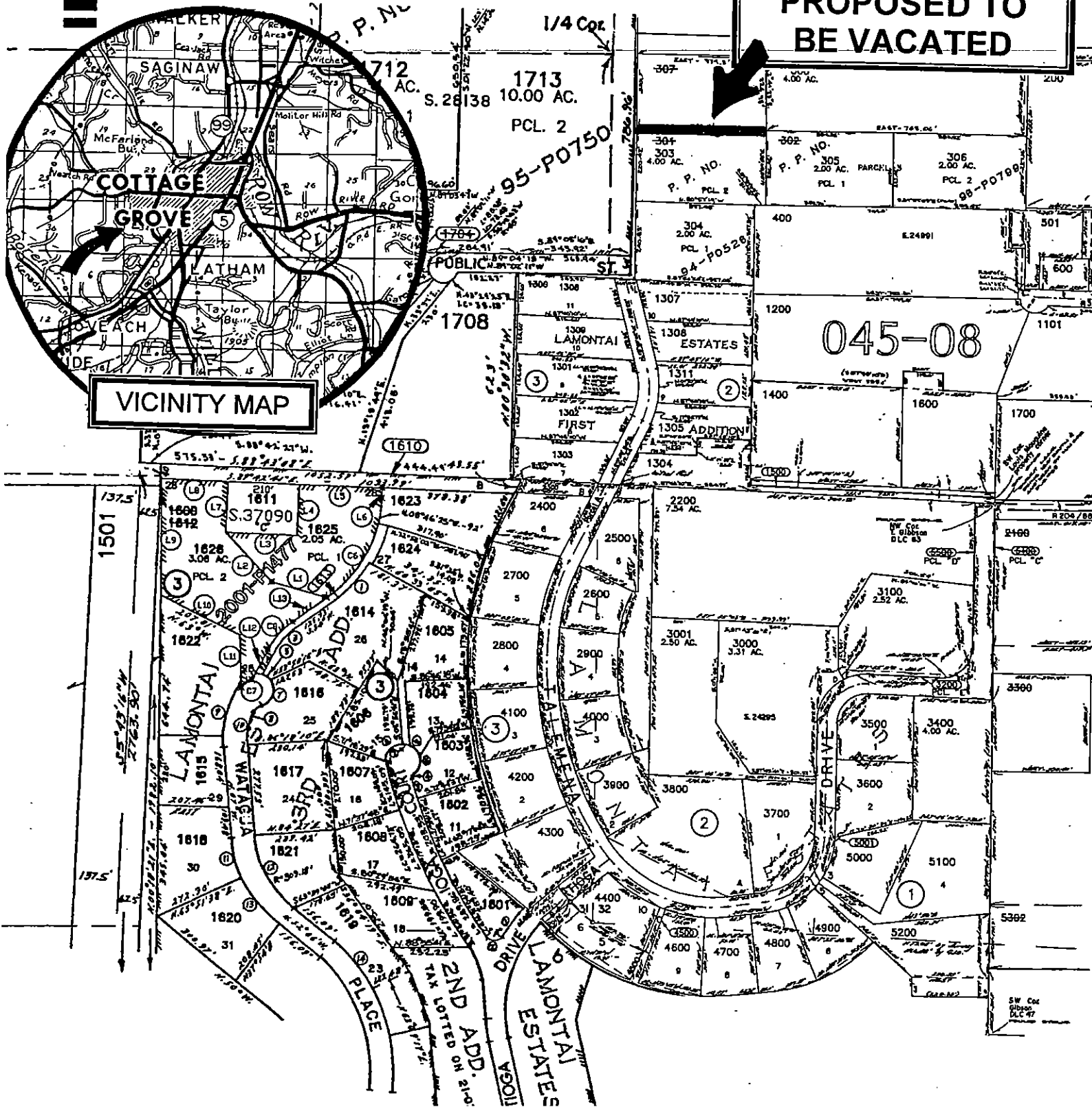
NO SCALE



**PARCEL LINE  
PROPOSED TO  
BE VACATED**



VICINITY MAP



045-08

95-P0750

P. P. NO. PCL 2

P. P. NO. 305 2.00 AC. PARCEL 1 PCL 1

306 2.00 AC. PCL 2 98-P0789

1713 10.00 AC. S. 28138 PCL. 2

1708

1300 LAMONTAI

1301 FIRST

1303

1307

1308 ESTATES

1311

1304

2200 7.54 AC.

3001 2.50 AC.

3000 3.31 AC.

3100 2.52 AC.

3500

3400 4.00 AC.

3600

5000

5100

4900

5200

SW Cor Gibson D.C. 97