

W. G. E. G.
ORIGINAL

AGENDA COVER MEMO

DATE: November 3, 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 THE EXTERIOR BOUNDARY LINE OF PORTER ACRES, AS PLATTED AND RECORDED IN BOOK 5, PAGE 6, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (18-03-29)

I. MOTION:

TO APPROVE THE ORDER IN THE MATTER VACATING A PORTION OF THE EXTERIOR BOUNDARY LINE OF PORTER ACRES, AS PLATTED AND RECORDED IN BOOK 5, PAGE 6, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (18-03-29)

II. ISSUE:

To decide whether to vacate a portion of the easterly exterior boundary line of Lot 1 of Porter Acres, as petitioned for.

III. DISCUSSION:

A. Background:

The Surveyor's Office of the Department of Public Works has received a valid petition signed by Michael W. Solomon, President of the Faye and Lucille Stewart Charitable Foundation, sole owner of 100% of the property abutting the proposed vacation, requesting, by the authority of ORS 368.351, a vacation without a public hearing.

Porter Acres was platted in 1912 and recorded in Book 5, Page 6 of the Lane County, Oregon Plat Records. The purpose of this request is to vacate a portion of the easterly boundary of Lot 1 of Porter Acres to conform to the present ownership of an adjusted 5.38 acre parcel as shown on County Survey File Number 36177.

The Board of Commissioners recently approved the vacation of the unnamed public road adjacent to the subject lot line (Order Number 03-8-20-2). Other recent road actions in the

area include the dedication and acceptance of a portion of Christensen Road (County Road Number 759) that corresponds with the presently traveled roadway (Order Number 03-2-5-4), and the vacation of the excess portion of Christensen Road lying outside of the dedicated 60-foot right of way (Order Number 03-2-5-3).

Qwest Communications, Lane Electric Cooperative, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were contacted regarding the vacation. Transportation Planning made the comment that if the two tax lots adjoining the subject lot line are combined making one new lot, this new tax lot will be required to obtain a Facility Permit if requesting access to the County Road and, if required, may need to make necessary improvements to the County Road per requirements found in Lane Code. The other agencies and landowners either had no objection or did not reply to the referral.

B. Analysis:

The public interest will be served, as vacating a portion of the easterly exterior boundary line, as described in the Order, has been set as a condition of approval for a special use permit by the Planning section of Lane County Land Management Division, and the petitioner will be able to more fully utilize their property.

There are no known utilities affected by the proposed vacation, and no property will be denied legal access to a public road as a result of these proceedings.

The petitioners have met the requirements of ORS 368.351(2), as the petition to vacate contains the acknowledged signatures of the sole owner of adjoining property.

C. Alternatives/Options:

The Board of County Commissioners has the options to:

1. Approve the vacation of a portion of the exterior boundary line of Porter Acres.
2. Deny the vacation of a portion of the exterior boundary line of Porter Acres.
3. Continue the matter for further consideration.

D. Recommendations:

The Public Works Director's Report recommends that the Board support Option Number 1, approving the vacation of a portion of the exterior boundary 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. 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 Porter Acres have been complied with, including a report by the Director of Public Works.

E. Timing:

Timing is a consideration in this matter, as the petitioner has applied for a special use permit and the vacation is a requirement for approval of the verification of conditions.

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.

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. 4110

IN THE MATTER OF VACATING A PORTION OF)	
THE EXTERIOR BOUNDARY LINE OF PORTER)	
ACRES, AS PLATTED AND RECORDED IN BOOK 5,)	
PAGE 6, LANE COUNTY, OREGON PLAT RECORDS,)	ORDER NO.
WITHOUT A PUBLIC HEARING, AND ADOPTING)	
FINDINGS OF FACT (18-03-29))	

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 easterly exterior boundary line Porter Acres. Said portion of the exterior line being described as follows:

Beginning at the Brass Cap monument marking the north one-quarter corner of Section 29, Township 18 South, Range 3 West of the Willamette Meridian; thence along the north line of said Section 29, North 89°59'10" East 85.54 feet to a point referenced by a 4" x 10" stone with lead & tack bearing North 0°01'29" East 0.56 feet marking the northeast corner of Lot 1, PORTER ACRES, as platted and recorded in Book 5, Page 6, Lane County, Oregon Plat Records; thence leaving the north line of said Section 29 and along the east line of said Lot 1, Porter Acres, South 0°01'29" West 774.99 feet to the TRUE POINT OF BEGINNING of said vacation; thence continue South 0°01'29" West 547.65 feet to the ENDING POINT of said vacation being at the southeast corner of said Lot 1, Porter Acres, in Lane County, Oregon.

The bearings and distances used herein are based on that survey and map for Faye H. Stewart, dated August 18, 1999 by Charles W. Guile & Associates, Co. and being Lane County Surveyors File (CSF) Index No. 36177.

WHEREAS, the petition complies with the provisions of ORS 368.351 in that the petitioner, who is the sole landowner of 100% of the property abutting the proposed vacation, agrees 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, Lane Electric Cooperative, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were contacted regarding the vacation; and

WHEREAS, Transportation Planning made the comment that if the two tax lots adjoining the subject lot line are combined making one new lot, this new tax lot will be required to obtain a Facility Permit if requesting access to the County Road and, if required, may need to make necessary improvements to the County Road per requirements found in Lane Code; and

WHEREAS, the Board of Commissioners recently approved the vacation of the unnamed public road adjacent to the subject lot line (Order Number 03-8-20-2) as well as other road actions in the area including the dedication and acceptance of a portion of Christensen Road (County Road Number 759) that corresponds with the presently traveled roadway (Order Number 03-2-5-4), and the vacation of the excess portion of Christensen Road lying outside of the dedicated 60-foot right of way (Order Number 03-2-5-3), and

WHEREAS, there are no known utilities within 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 verification of conditions for a special use permit, and it then is concluded the public will benefit by this vacation, as vacating the above described boundary line will allow the petitioner 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 portion of the easterly exterior boundary line of Porter Acres, 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

APPROVED AS TO FORM

Date 11-3-03 lane county

CHIEF OF LEGAL COUNSEL

Attachment: Vicinity Map (Attachment "A")

FILE NO.

IN THE MATTER OF THE VACATION)
OF A PORTION OF THE EAST LINE OF)
LOT 1, PORTER ACRES, AS PLATTED)
AND RECORDED IN BOOK 5, PAGE 6,)
LANE COUNTY OREGON PLAT RE-)
CORDS, IN LANE COUNTY, OREGON)

PETITION TO VACATE

PURSUANT to the procedures set forth in ORS Chapter 368, the undersigned, Michael W. Solomon, President of the Faye and Lucille Stewart Charitable Foundation, as owner of the adjacent property, hereby petition for the vacation of a portion of the East line of Lot 1, PORTER ACRES, as platted and recorded in Book 5, Page 6, Lane County Oregon Plat Records, in Lane County, Oregon, the said portion of said line is described as follows:

Beginning at the Brass Cap monument marking the north one-quarter corner of Section 29, Township 18 South, Range 3 West of the Willamette Meridian; thence along the north line of said Section 29, North 89° 59' 10" East 85.54 feet to a point referenced by a 4" x 10" stone with lead & tack bearing North 0° 01' 29" East 0.56 feet marking the northeast corner of Lot 1, PORTER ACRES, as platted and recorded in Book 5, Page 6, Lane County Oregon Plat Records; thence leaving the north line of said Section 29 and along the east line of said Lot 1, Porter Acres, South 0° 01' 29" West 774.99 feet to the TRUE POINT OF BEGINNING of said vacation; thence continue South 0° 01' 29" West 547.65 feet to the ENDING POINT of said vacation being at the southeast corner of said Lot 1, Porter Acres, in Lane County, Oregon.

The bearings and distances used herein are based on that survey and map for Faye H. Stewart dated August 18, 1999 by Charles W. Guile & Associates, Co., and being Lane County Surveyors File (CSF) Index No. 36177.

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

WHEREAS, the petitioner allege as follows:

The purpose of this vacation request is to clear the said Lot 1 East boundary to conform to the present ownership of an adjusted 5.38 Acre parcel as shown on the above referred Stewart survey.

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 the vacation of the above described line, and

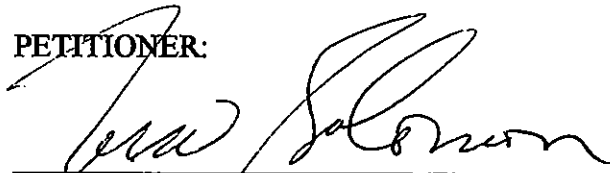
PETITION - PLAT LOT LINE

WHEREAS, the petitioner has no objections for Lane County proceeding under the authority of ORS Chapter 368.326, for vacation without a hearing, and

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

1. Setting a date for vacation of the above-described Lot line.
2. Upon review of this matter, to direct the vacation of the above-described Lot line.

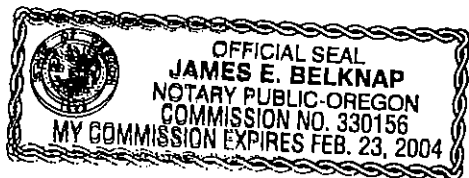
PETITIONER:



Michael W. Solomon, President of
 The Faye and Lucille Stewart Charitable Foundation
 P. O Box 11135
 Eugene, OR 97440

STATE OF OREGON)
)ss
 COUNTY OF LANE)

This instrument was acknowledged before me on July 18, 2003 by Michael W. Solomon, as President of the Faye and Lucille Stewart Charitable Foundation.



James E. Belknap
 Notary Public for Oregon
 My Commission Expires: 2/23/04

EXHIBIT "A"

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

FILE NO. 4110

IN THE MATTER OF VACATING A PORTION OF)
 THE EXTERIOR BOUNDARY LINE OF PORTER)
 ACRES, AS PLATTED AND RECORDED)
 IN BOOK 5, PAGE 6, LANE COUNTY, OREGON) DIRECTOR'S REPORT
 PLAT RECORDS, WITHOUT A PUBLIC HEARING,)
 AND ADOPTING FINDINGS OF FACT (18-03-29))

The Surveyor's Office of the Department of Public Works has received a valid petition signed by the sole owner of 100% of the property abutting the proposed vacation requesting, by the authority of ORS 368.351, a vacation without a public hearing.

Porter Acres was platted in 1912 and recorded in Book 5, Page 6, Lane County, Oregon Plat Records. The purpose of the request to vacate a portion of the original easterly boundary of Porter Acres to conform to the present ownership of an adjusted 5.38 acre parcel as shown on County Survey File Number 36177. Vacating a portion of the easterly exterior boundary line, as described in the Order, will fulfill one of the of conditions for a special use permit, as set by the Planning section of Lane County Land Management Division.

Qwest Communications, Lane Electric Cooperative, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and neighboring landowners were contacted regarding the vacation. Transportation Planning made the comment that if the two tax lots adjoining the subject lot line are combined making one new lot, this new tax lot will be required to obtain a Facility Permit if requesting access to the County Road and, if required, may need to make necessary improvements to the County Road per requirements found in Lane Code. The other agencies and landowners either had no objection or did not reply to the referral.

There are no known utilities affected by the proposed vacation, and no property will be denied legal access to their property as a result of these proceedings.

It is concluded that it is in the public's interest to vacate the subject portion of the easterly exterior boundary line of Porter Acres, as the proposed vacation will satisfy a requirement set by Lane County Planning section of the Land Management Division, and the vacation will allow the petitioners to more fully utilize their property . It is therefore recommended that the portion of the easterly exterior boundary line of Porter Acres, 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 29th day of October, 2003.



 Oliver P. Snowden, Director - Department of Public Works

EXHIBIT "B"

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

FILE NO. 4110

IN THE MATTER OF VACATING A PORTION OF)	
THE EXTERIOR BOUNDARY LINE OF PORTER)	
ACRES, AS PLATTED AND RECORDED)	
IN BOOK 5, PAGE 6, LANE COUNTY, OREGON)	FINDINGS OF FACT
PLAT RECORDS, WITHOUT A PUBLIC HEARING,)	
AND ADOPTING FINDINGS OF FACT (18-03-29))	

The Department of Public Works has received a valid petition, signed by Michael W. Solomon, President of the Faye and Lucille Stewart Charitable Foundation, the sole owner of 100% of the property owners abutting the proposed vacation, requesting that a portion of the easterly exterior boundary line of Porter Acres, as described in the Order, be vacated as petitioned for. The petitioner is requesting the vacation in order to comply with land development provisions set by the Planning section of the Lane County Land Management Division as a condition for a special use permit.

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 a subdivision, 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 Lots 106 and 1000 of Assessor's Map 18-03-29.
- ~~2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate a subdivision, or part of a subdivision, based upon the determination that the vacation is "in the public interest."~~
3. That, Qwest Communications, Lane Electric Cooperative, 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. Transportation Planning made the comment that if the two tax lots adjoining the subject lot line are combined making one new lot, this new tax lot will be required to obtain a Facility Permit if requesting access to the County Road and, if required, may need to make necessary improvements to the County Road per requirements found in Lane Code. The other agencies and landowners either had no objection or did not reply to the referral.
4. That, the proposed vacation will satisfy certain requirements set by Lane County Planning program as a condition for a special use permit.
5. That, there are no known utilities affected by the proposed vacation.
6. That, vacating a portion of the easterly exterior lot line of Porter Acres, as described in the Order, will not deny any property owners legal 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 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.

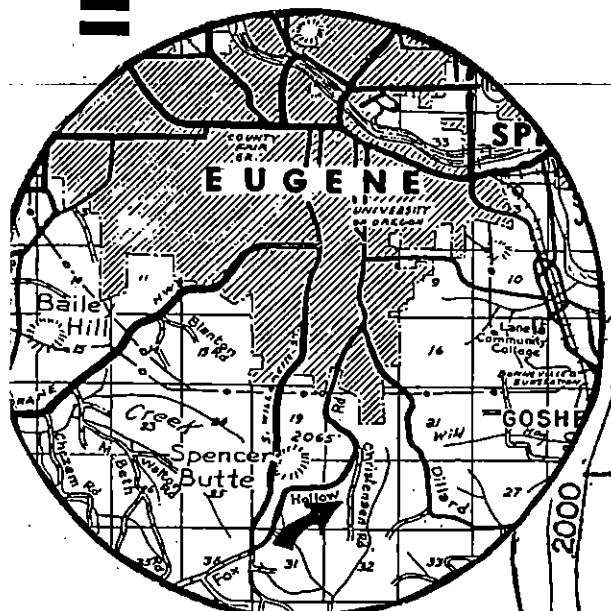
ATTACHMENT "A"

ORIGINAL

Sec. 29 T. 18S. R. 3W. W.M.

LANE COUNTY

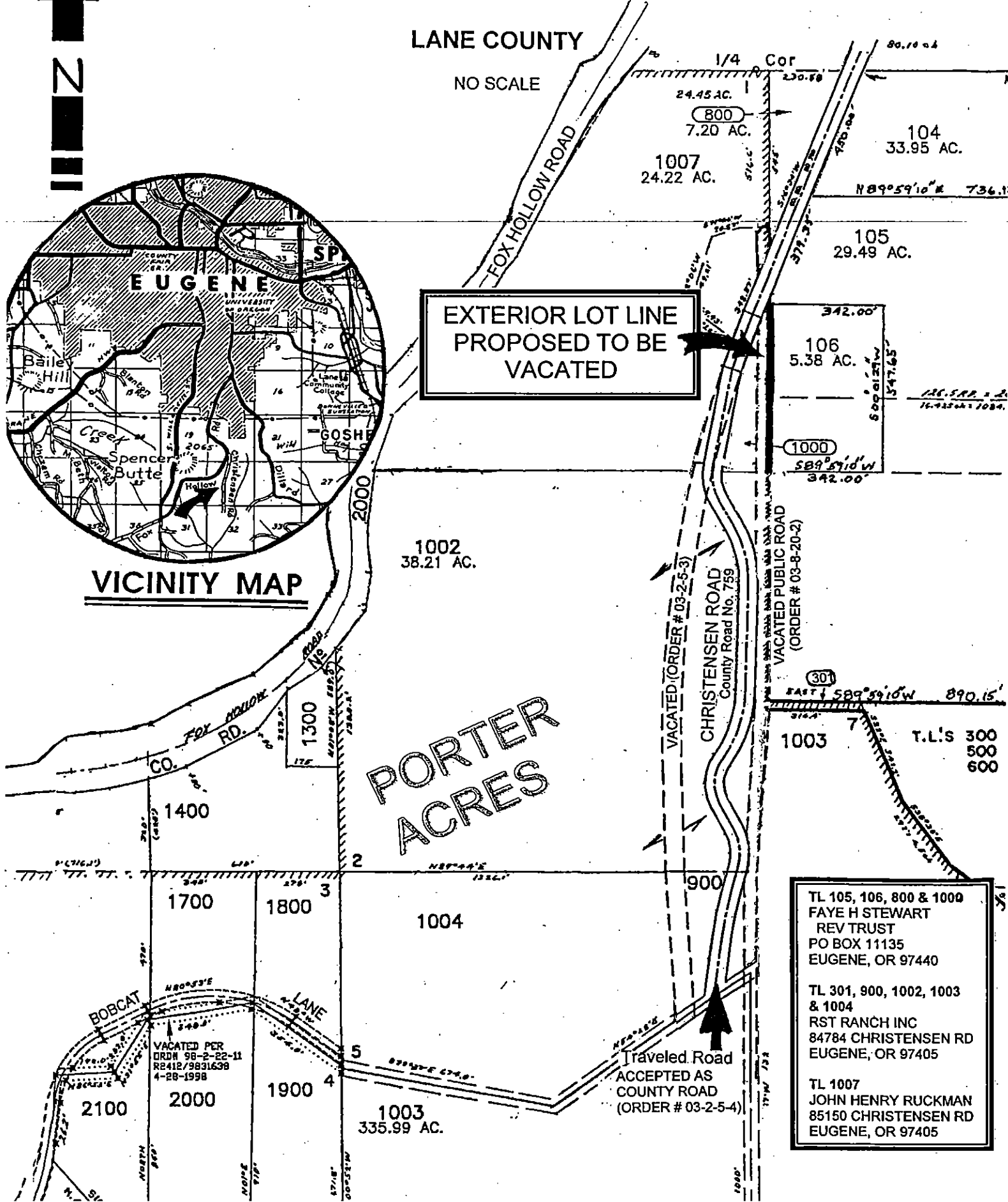
NO SCALE



VICINITY MAP

EXTERIOR LOT LINE PROPOSED TO BE VACATED

PORTER ACRES



TL 105, 106, 800 & 1000
 FAYE H STEWART
 REV TRUST
 PO BOX 11135
 EUGENE, OR 97440

TL 301, 900, 1002, 1003
 & 1004
 RST RANCH INC
 84784 CHRISTENSEN RD
 EUGENE, OR 97405

TL 1007
 JOHN HENRY RUCKMAN
 85150 CHRISTENSEN RD
 EUGENE, OR 97405

Traveled Road ACCEPTED AS COUNTY ROAD (ORDER # 03-2-5-4)

VACATED PUBLIC ROAD (ORDER # 03-8-20-2)

VACATED (ORDER # 03-2-5-3)

CHRISTENSEN ROAD County Road No. 759

VACATED PER ORD 98-2-22-11 RB412/3831638 4-28-1998