

W. 9. D. 8. ORIGINAL

04-3-10-18

**AGENDA COVER MEMO**

**DATE:** February 13, 2004  
**TO:** Lane County Board of Commissioners  
**FROM:** Bill Robinson, Lane County Surveyor *BR*  
**DEPARTMENT:** Public Works/Land Management Division

**AGENDA ITEM TITLE:** IN THE MATTER OF VACATING A PORTION OF MISSY LANE (AKA C.H. BAKER ROAD, CO. RD. #547), LOCATED IN SECTIONS 24 AND 25, TOWNSHIP 17 SOUTH, RANGE 2 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (17-02-24 & 25)

**I. MOTION:**

**TO VACATE A PORTION OF MISSY LANE (AKA C.H. BAKER ROAD, CO. RD. #547), LOCATED IN SECTIONS 24 AND 25, TOWNSHIP 17 SOUTH, RANGE 2 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (17-02-24 & 25)**

**II. ISSUE:**

To decide whether a portion of Missy Lane, having a length of approximately 227 feet and width of 40 feet, 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 Robert William Demers, Jr. and Theda E. Bryan. These individuals are the landowners of 100% of the property abutting the proposed vacation of Missy Lane. The petitioners are requesting the vacation, by the authority of ORS 368.351, without a public hearing.

The purpose of this request is to vacate a portion of Missy Lane in order to remove the encumbrance of its right-of-way, and dedicate to the County a 40 foot right-of-way where the road is built and currently maintained by the County.

C.H. Baker Road (County Road #547) was established by an order filed in the Commissioners Journal, dated June 2<sup>nd</sup>, 1904, having a width of 40 feet. With its original location beginning

at the south side of the Crabtree Road #21 (now part of the Upper Camp Creek Road, Co. Rd. #598), C.H. Baker Road ran south through the ¼ corner between sections 24 and 25 in Township 17 South, Range 2 West of the Willamette Meridian, then southwesterly a short distance before turning easterly for approximately two miles along the route now known as part of the Camp Creek Road (Co. Rd. #1290). The portion of C.H. Baker Road between Upper Camp Creek Road and Camp Creek Road was renamed Missy Lane as part of ordinance No. RN 123-78 dated October 4, 1978. At approximately the ¼ corner between sections 24 and 25 Missy Lane, as built, departs southwesterly from the original C.H. Baker Road as surveyed, to said Missy Lane's terminus at Camp Creek Road. This proposed vacation includes that portion of the original C.H. Baker Road from its departure from the "as built" Missy Lane, southwesterly to said original C.H. Baker Road's intersection with Camp Creek Road.

The Surveyors Office notified Qwest Communications, Eugene Water and Electric Board, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining property owners regarding the vacation. Qwest Communications responded stating they have facilities in the area and requested that their rights be protected. The other agencies and landowners either had no objection to the vacation or did not respond to the referral.

B. Analysis:

This portion of Missy Lane is not needed as part of the Lane County transportation system, and no property will be denied legal access. In conjunction with the vacation, a public utility easement will be reserved for existing communication lines.

Also in conjunction with the vacation, petitioner Robert William Demers, Jr. will dedicate that portion of 40 feet of right-of-way for Missy Lane, as built and currently maintained by the County, as it abuts his property. The public interest will be served, as vacating this portion of Missy Lane will allow for realignment of the legal right-of-way to better fit the "as built" alignment.

C. Alternatives/Options:

The Board of County Commissioners has the options to:

1. Approve the vacation of a portion of Missy Lane, having a length of approximately 227 feet, as petitioned for.
2. Deny the vacation of Missy Lane, 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 Missy Lane, as petitioned for. No property will be denied legal access by this vacation. The vacation is in the public's interest, as a dedication will in turn be obtained to facilitate realignment of the legal right-of-way to better fit the "as built" alignment.

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.

In conjunction with the vacation, a dedication matching the "as-built" and county maintained alignment of Missy Lane shall be accepted by separate action. If the Order is denied, the Dedication will be pulled from the agenda, and 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 x4198

RECORDING INFORMATION

DO NOT WRITE IN THIS SPACE

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

FILE NO. 4112

IN THE MATTER OF VACATING A PORTION OF )  
MISSY LANE (AKA C.H. BAKER ROAD, CO. RD. #547), )  
LOCATED IN SECTIONS 24 AND 25, TOWNSHIP 17 )  
SOUTH, RANGE 2 WEST OF THE WILLAMETTE ) ORDER NO.  
MERIDIAN, IN LANE COUNTY, OREGON, WITHOUT )  
A PUBLIC HEARING, AND ADOPTING FINDINGS OF )  
FACT (17-02-24 & 25) )

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 Missy Lane (aka C.H. Baker Road, Co. Rd. #547), more particularly described as follows:

BEGINNING at the one-quarter corner common to sections 24 and 25, Township 17 South, Range 2 West of the Willamette Meridian; run thence along the centerline of County Road No. 547 (C.H. Baker Road, aka Missy Lane) South 38.43 feet; thence North 78°15'34" East 20.43 feet; thence South 95.65 feet; thence South 61°00' West 89.65 feet to the northerly right-of-way line of County Road No. 1290 (Camp Creek Road); thence northwesterly along said right-of-way line, North 61°18'30" West 40.46 feet; thence leaving said right-of-way line North 28°40' East 10.86 feet; thence North 61°00' East 78.53 feet; thence North 87.56 feet; thence North 28°40' East 29.47 feet; thence on a 210.99 feet radius curve left (the chord of which bears North 26°54'27" East 12.95 feet) a distance of 12.96 feet to said centerline of County Road No. 547 (C.H. Baker Road, aka Missy Lane); thence along said centerline South 18.61 feet to the POINT OF BEGINNING, all in Lane County, Oregon; and

WHEREAS, the petition complies with the provisions of ORS Chapter 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, the petitioners are requesting the vacation of this portion of road in order to remove the encumbrance created by the right-of-way for C.H. Baker Road, and will dedicate to the County a 40 foot right-of-way where the road is built and currently maintained by the County, and

WHEREAS, Qwest Communications, Eugene Water and Electric Board, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane

County Department of Public Works, and the adjacent landowners were notified by mail regarding the proposed vacation; and

**WHEREAS**, Qwest Communications responded stating they have facilities in the area and requested that their rights be protected, and the other agencies and landowners either had no objections or did not reply to the referral; and

**WHEREAS**, as a part of this action, a public utility easement will be reserved for existing communication lines; and

**WHEREAS**, in conjunction with the vacation, petitioner Robert William Demers, Jr. will dedicate that portion of 40 feet of right-of-way for Missy Lane, as built and maintained by the County, as it abuts his property; and

**WHEREAS**, no property will be denied legal 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 Missy Lane is hereby vacated; and it is further

**ORDERED**, that a public utility easement is hereby reserved for existing communication lines; 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.

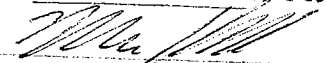
**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
Chair  
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Attachment "A" - Vicinity Map

APPROVED AS TO FORM

Date 2-23-04 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 C.H. BAKER ROAD IN SECTION 25 & 24, TOWNSHIP	)	
17 SOUTH, RANGE 2 WEST OF THE WILLAMETTE	)	PETITION TO VACATE
MERIDIAN, IN LANE COUNTY, OREGON	)	

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned Robert William Demers Jr., and THEDA E. BRYAN, or her successor(s) in interest, Trustee of the Hootinanny Revocable Living Trust, (a revocable grantor-type trust without set expiration date) dated May 1, 1997, as owners of the adjacent real property hereby petition for the vacation of a portion of County Road Number 547 (C.H. Baker Road), which area to be vacated is described as follows:

**BEGINNING** at the one-quarter corner common to Sections 24 and 25, Township 17 South, Range 2 West, of the Willamette Meridian; run thence along the centerline of County Road No. 547 (C.H. Baker Road), SOUTH 38.43 feet; thence North 78 °15'34" East 20.43 feet; thence SOUTH 95.65 feet; thence South 61 °00' West 89.65 feet to the northerly right-of-way line of County Road No. 1290 (Camp Creek Road); thence northwesterly along said right-of-way line, North 61 °18'30" West 40.46 feet; thence leaving said right-of-way line, North 28 °40' East 10.86 feet; thence North 61 °00' East 78.53 feet; thence NORTH 87.56 feet; thence North 28 °40' East 29.47 feet; thence on a 210.99 feet radius curve left (the chord of which bears North 26 °54'27" East 12.95 feet), a distance of 12.96 feet to said centerline of County Road No. 547 (C.H. Baker Road); thence along said centerline, SOUTH 18.61 feet to the point of beginning, all in Lane County, Oregon.

**WHEREAS**, the undersigned petitioners are the owners of 100% of all the real property adjacent to the above described

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

2. Upon review of this matter, to direct the vacation of the above described road, and direct that title to be vacated area revert and vest in accordance with ORS 368.366.

DATED this 14 day of JANUARY, 2004

PETITIONERS:

[Signature]

Map# 17-02-25 TL 902  
Addr: 88471 Missy Lane Springfield OR 97478

[Signature]

Map# 17-02-24 TL 1300  
Addr: 88503 Missy Lane Springfield OR 97478

State of Oregon)  
County of Lane ) ss.

[Signature] need January 14<sup>th</sup> 2004

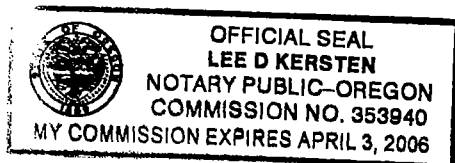
On this day [Signature], personally appeared the above named Robert William Demers Jr., and acknowledged the foregoing instrument to be a voluntary act before me:



[Signature]  
Notary Public for Oregon  
My Commission Expires: 10/13/2007

State of Oregon)  
County of Lane ) ss.

On this day January 5, 2004, personally appeared the above named THEDA E. BRYAN, or her successor(s) in interest, Trustee of the Hootinanny Revocable Living Trust, (a revocable grantor-type trust without set expiration date) dated May 1, 1997, and acknowledged the foregoing instrument to be a voluntary act before me:



[Signature]  
Notary Public for Oregon  
My Commission Expires: 4-3-06

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

FILE NO. 4112

<b>IN THE MATTER OF VACATING A PORTION OF</b>	)	
<b>MISSY LANE (AKA C.H. BAKER ROAD, CO. RD. #547),</b>	)	
<b>LOCATED IN SECTIONS 24 AND 25, TOWNSHIP 17</b>	)	<b>DIRECTOR'S</b>
<b>SOUTH, RANGE 2 WEST OF THE WILLAMETTE</b>	)	<b>REPORT</b>
<b>MERIDIAN, IN LANE COUNTY, OREGON, WITHOUT A</b>	)	
<b>PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT</b>	)	
<b>(17-02-24 &amp; 25)</b>	)	
	)	

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.

C.H. Baker Road (County Road #547) was established by an order filed in the Lane County Commissioners Journal, dated June 2<sup>nd</sup>, 1904, having a width of 40 feet. With its original location beginning at the south side of the Crabtree Road #21 (now part of the Upper Camp Creek Road, Co. Rd. #598), C.H. Baker Road ran south through the ¼ corner between sections 24 and 25 in Township 17 South, Range 2 West of the Willamette Meridian, then southwesterly a short distance before turning easterly for approximately two miles along the route now known as part of the Camp Creek Road (Co. Rd. #1290). The portion of C.H. Baker Road between Upper Camp Creek Road and Camp Creek Road was renamed Missy Lane as part of ordinance No. RN 123-78 dated October 4, 1978. At approximately the ¼ corner between sections 24 and 25 Missy Lane, as built, departs southwesterly from the original C.H. Baker Road as surveyed, to said Missy Lane's terminus at Camp Creek Road. This proposed vacation includes that portion of the original C.H. Baker Road from its departure from the as built Missy Lane, southwesterly to said original C.H. Baker Road's intersection with Camp Creek Road. The petitioners are requesting this vacation in order to remove the encumbrance of its right-of-way, and will dedicate to the County a 40 foot right-of-way where the road is built and currently being maintained by the County.

The Surveyors Office notified Qwest Communications, Eugene Water and Electric Board, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining landowners regarding the vacation. Qwest Communications responded stating they have facilities in the area and requested that their rights be protected. The other agencies and landowners either had no objection to the vacation or did not respond to the referral.



The portion of Missy Lane proposed to be vacated, having a length of approximately 227 feet, is no longer needed by the Lane County transportation system and no property will be denied legal access by this vacation. A public utility easement will be reserved for existing communication lines.

Also in conjunction with the vacation, petitioner Robert William Demers, Jr. will dedicate that portion of 40 feet of right-of-way for Missy Lane, as built and currently maintained by the County, as it abuts his property. It is concluded that this vacation is in the public's interest, as it will allow for realignment of the legal right-of-way to better fit the "as built" alignment.

It is therefore recommended that the portion of Missy Lane, 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 19<sup>th</sup> day of February, 2004.


  
Oliver P. Snowden, Public Works Director

EXHIBIT "B"

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

FILE NO. 4112

IN THE MATTER OF VACATING A PORTION OF	)	
MISSY LANE (AKA C.H. BAKER ROAD, CO. RD. #547),	)	
LOCATED IN SECTIONS 24 AND 25, TOWNSHIP 17 SOUTH,	)	
RANGE 2 WEST OF THE WILLAMETTE MERIDIAN, IN	)	FINDINGS OF FACT
LANE COUNTY, OREGON, WITHOUT A PUBLIC	)	
HEARING, AND ADOPTING FINDINGS OF FACT	)	
(17-02-24 & 25)	)	

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 Missy Lane (aka C.H. Baker Road, Co. Rd. #547) as described in the Order, be vacated as petitioned for. The petitioners are requesting this vacation, having a length of approximately 227 feet, in order to remove the encumbrance created by the right-of-way and will dedicate to the County a 40 foot right-of-way where the road is built and maintained by the County.

**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 roads or right-of-ways 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.

## EXHIBIT "B"

**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 Lot 1300 of Assessor's Map 17-02-24 and Tax Lot 902 of Assessor's Map 17-02-25.
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, Eugene Water and Electric Board, Northwest Natural Gas, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and adjoining landowners were notified by mail regarding the proposed vacation. Qwest Communications responded stating they have facilities in the area and requested that their rights be protected. The other agencies and landowners either had no objection to the vacation or did not respond to the referral.
4. That, vacating the portion of Missy Lane, as described in the Order, will not deny any landowners legal road access to a public road.
5. As a part of this vacation, a public utility easement will be reserved for existing communication lines. Also in conjunction with the vacation, petitioner Robert William Demers, Jr. will dedicate that portion of 40 feet of right-of-way for Missy Lane, as built and currently maintained by the County, as it abuts his property.
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.

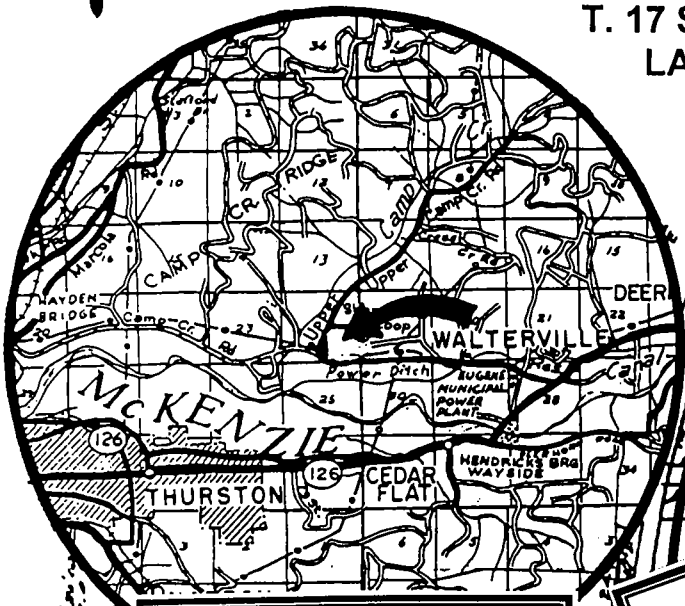
Items (1) and (2) have been complied with.

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

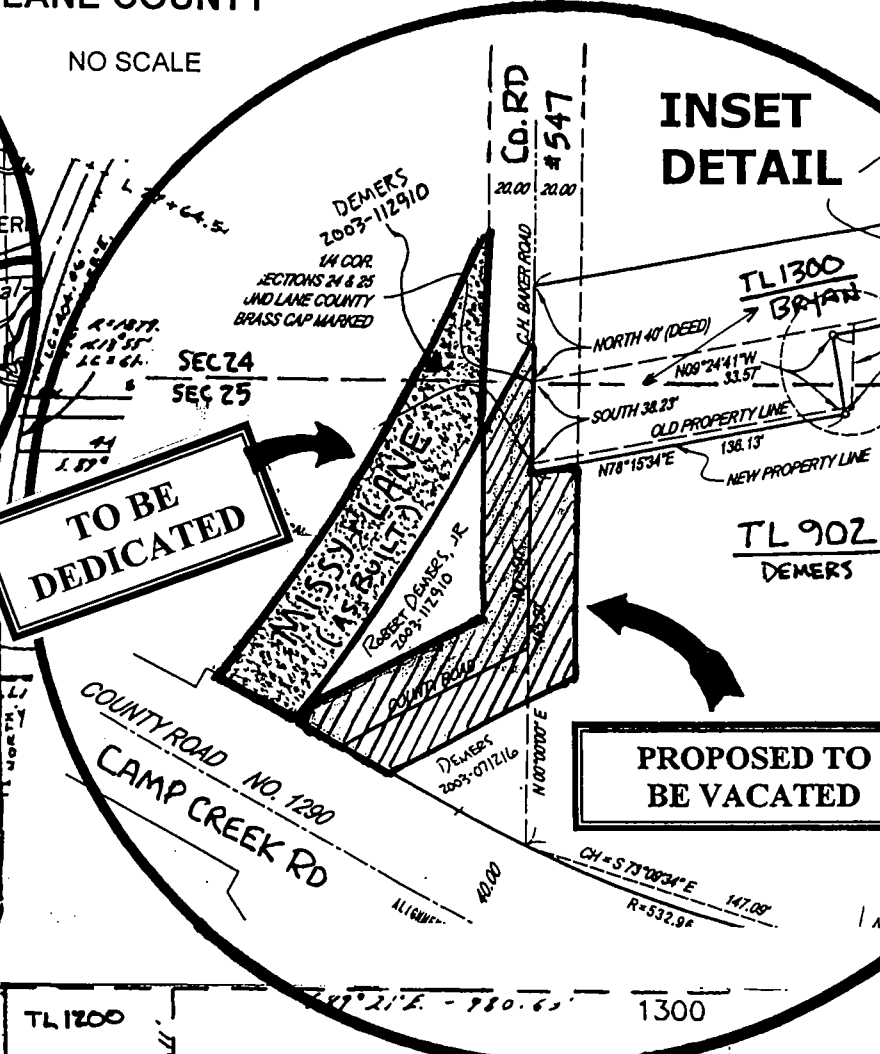
Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making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

NE 1/4 & NW 1/4 Section 25 and SW 1/4 Section 24  
T. 17 S., R. 2 W., W.M.  
LANE COUNTY

NO SCALE



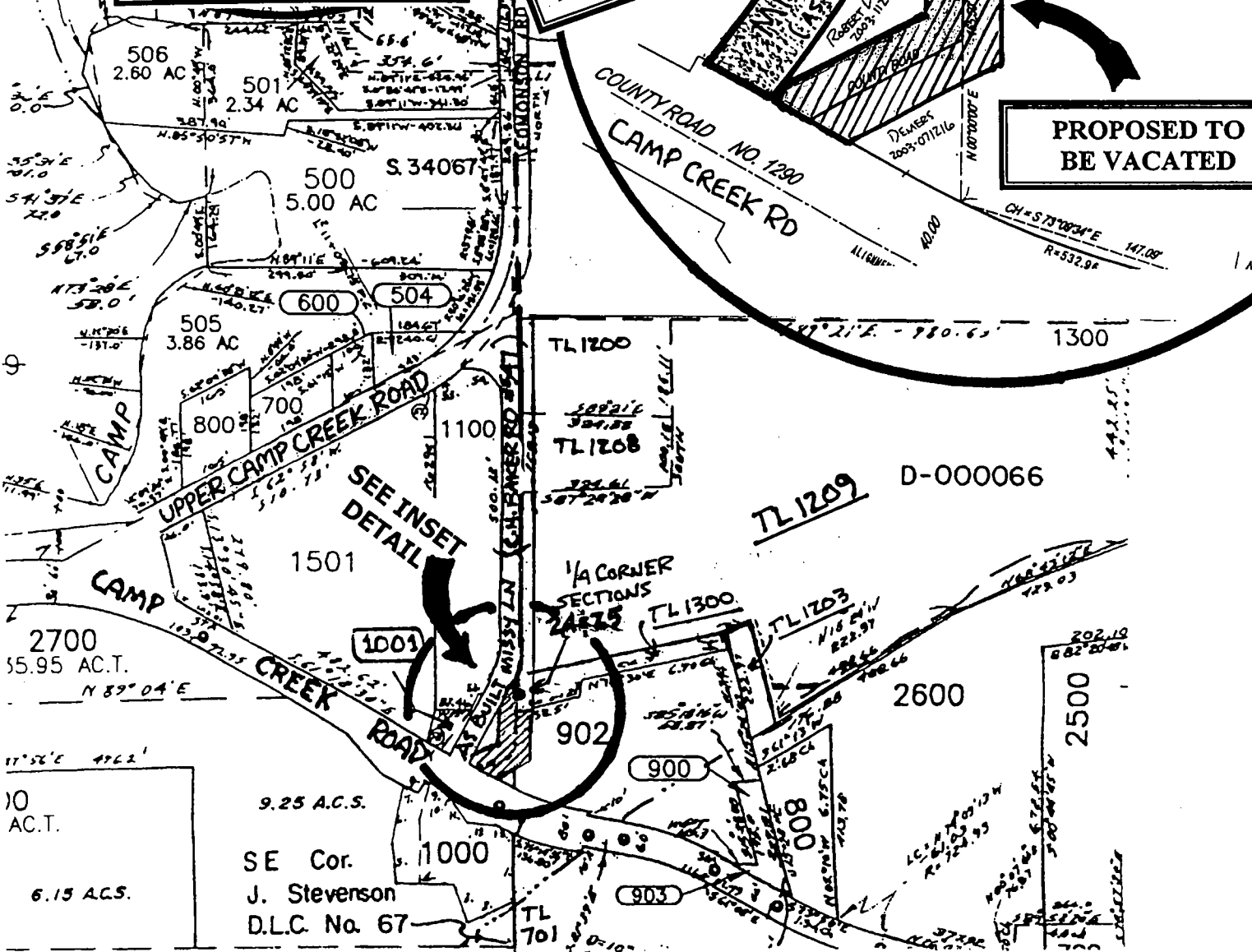
VICINITY MAP



INSET  
DETAIL

TO BE  
DEDICATED

PROPOSED TO  
BE VACATED



SEE INSET  
DETAIL

D-000066

SE Cor.  
J. Stevenson  
D.L.C. No. 67