

W. G.C. 1
ORIGINAL

AGENDA COVER MEMO

DATE: September 2, 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 FIR STREET, IN THE AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA, AS PLATTED AND RECORDED IN BOOK 7, PAGE 14, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT (19-12-02-31)

I. MOTION:

TO APPROVE THE ORDER VACATING A PORTION OF FIR STREET, IN THE AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA, AS PLATTED AND RECORDED IN BOOK 7, PAGE 14, LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT.

II. ISSUE:

To decide whether the portion of Fir Street north of Summitt Avenue adjacent to Lots 20 through 32 of Block 33 and Lots 11 through 23 of Block 34 of the Amended Plat of El Carmel Addition to Glenada as recorded in 1914 in Book 7, Page 14, Lane County, Oregon Plat 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 Thomas A. and Maria J. Eaton, husband and wife, 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 purpose of the proposed vacation is to vacate an unconstructed portion of Fir Street which does not lend itself to being constructed due to a drainage bisecting said portion, and to allow more contiguous utilization of the petitioners' properties which are bisected by this portion of right-of-way.

The Amended Plat of El Carmel Addition to Glenada was platted in 1914 and recorded in Book 7, Page 14 of the Lane County, Oregon Plat Records. Like this portion of Fir Street proposed to be vacated, many of the streets established in the original plat have never been constructed, some of which have previously been vacated. Summitt Avenue, at the southerly end of the proposed vacation, is unconstructed. Grand Avenue, at the northerly end of the block containing the proposed vacation, is a constructed public road.

The Surveyors Office notified Qwest Communications, Central Lincoln Public Utility District, 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 and other nearby property owners regarding the vacation. Nancy Hathaway, partial owner of tax lot 19-12-02-700, initially responded with a concern regarding maintaining all feasible legal access to her property. She subsequently withdrew her concern after visiting the site with petitioner/landowner Thomas Eaton and surveyor Don Wolford. The other agencies and landowners either had no objection to the vacation or did not respond to the referral.

B. Analysis:

The portion of Fir Street proposed to be vacated is approximately 335 feet in length, with a width of 60 feet.

This portion of Fir Street is no longer needed by the Lane County Transportation System, and no property will be denied legal access as a result of the vacation. A drainage bisects the portion to be vacated, which logistically and practically reduces its desirability for potential construction. The public interest will be served, as vacating this portion of unconstructed right-of-way will allow the landowners to more fully and contiguously utilize their properties which are bisected by this portion of right-of-way.

C. Alternatives/Options:

The Board of County Commissioners has the options to:

1. Approve the vacation of this portion of Fir Street north of Summitt Avenue between Blocks 33 and 34 of the Amended Plat of El Carmel Addition to Glenada.
2. Deny the vacation of this portion of Fir Street.
3. Continue the matter of vacating this portion of Fir Street for further consideration.

D. Recommendations:

No property will be denied legal access by this vacation. The vacation is in the public's interest as vacating this portion of the described right-of-way will allow the adjacent property owners to more effectively utilize and maintain the property. The Public Works Director's Report therefore recommends that the Board support Option Number 1, approving the vacation of this portion of Fir Street as petitioned for.

All statutory procedures necessary for the vacation without a public hearing of the above mentioned portion of Fir Street in the Amended Plat of El Carmel Addition to Glenada have been complied with, including a report by the Director of Public Works who recommends the approval of the vacation as described in the petition.

E. Timing:

Timing of this matter is not critical.

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 - Vicinity Map

Contact Person: Bill Robinson, x4198

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

**IN THE MATTER OF VACATING A PORTION OF FIR)
STREET, IN THE AMENDED PLAT OF EL CARMEL)
ADDITION TO GLENADA, AS PLATTED AND RECORDED)
IN BOOK 7, PAGE 14, LANE COUNTY, OREGON PLAT) ORDER NO.
RECORDS, WITHOUT A PUBLIC HEARING, AND)
ADOPTING FINDINGS OF FACT (19-12-02-31))
)**

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 Fir Street north of Summitt Avenue between Blocks 33 and 34 of the Amended Plat of El Carmel Addition to Glenada as platted and recorded in Book 7, Page 14, Lane County, Oregon Plat Records. Said portion of Fir Street being more particularly described as follows:

All that portion of Fir Street north of the northerly right-of-way of Summitt Avenue and adjacent to Lots 20 through 32 of Block 33 and Lots 11 through 23 of Block 34, as platted in the Amended Plat of Carmel Addition to Glenada and recorded in Book 7, Page 14 of the Lane County, Oregon Plat Records, all in the Northeast One Quarter (NE1/4) of the Southwest One Quarter (SW1/4) of Section 2, Township 19 South, Range 12 West of the Willamette Meridian, in Lane County, Oregon.

WHEREAS, the petitioners are requesting the vacation of this unconstructed portion of right-of-way, which is bisected by a drainage that logistically and practically reduces its desirability for potential construction, in order to more fully utilize their properties as a contiguous unit; and

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 Communications, Central Lincoln Public Utility District, 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 and other nearby landowners were notified by mail regarding the proposed vacation; and

WHEREAS, Nancy Hathaway, partial owner of tax lot 19-12-02-700, initially responded with a

concern regarding maintaining all feasible legal access to her property, and subsequently withdrew her concern after visiting the site with petitioner/landowner Thomas Eaton and surveyor Don Wolford; and

WHEREAS, the other agencies and landowners either had no objection or did not respond to the referral; 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 Fir Street north of Summitt Avenue between Blocks 33 and 34 of the Amended Plat of El Carmel Addition to Glenada 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 _____, 2004.

Bobby Green, Sr. Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Attachment—Vicinity Map

APPROVED AS TO FORM
Date 9-8-04 lane county
[Signature]
OFFICE OF LEGAL COUNSEL

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

IN THE MATTER OF VACATING A PORTION OF FIR STREET,)
IN THE AMENDED PLAT OF EL CARMEL ADDITION TO)
GLENADA, AS PLATTED AND RECORDED IN BOOK 7, PAGE 14,)
LANE COUNTY, OREGON PLAT RECORDS, WITHOUT A) DIRECTOR'S REPORT
PUBLIC HEARING, AND ADOPTING FINDINGS OF FACT)
(19-12-02-31))

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 Amended Plat of El Carmel Addition to Glenada was platted in 1914 and recorded in Book 7, Page 14, of the Lane County, Oregon Plat Records. The portion of Fir Street proposed to be vacated is 60 feet wide and approximately 335 feet long.

The petitioners wish to vacate this portion of the right-of-way in order to more fully utilize their properties as a contiguous unit. Petitioners' properties are presently bisected by this portion of unconstructed right-of-way. This portion of right-of-way is bisected by a drainage, which logistically and practically reduces its desirability for potential construction. The affected lots would still have legal access from Grand Avenue to the north (existing gravel), the remaining unvacated portion of Fir Street (existing gravel) off Grand Avenue, and Summitt Avenue to the south (unconstructed and unvacated).

The Surveyors Office notified Qwest Communications, Central Lincoln Public Utility District, 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 and other nearby property owners regarding the vacation. Nancy Hathaway, partial owner of tax lot 19-12-02-700, initially responded with a concern regarding maintaining all feasible legal access to her property. She subsequently withdrew her concern after visiting the site with petitioner/landowner Thomas Eaton and surveyor Don Wolford. The other agencies and landowners either had no objection to the vacation or did not respond to the referral.

This portion of Fir Street is no longer needed by the Lane County Transportation System and no property will be denied legal access as a result of this vacation. It is concluded that this vacation is in the public's interest, as it will allow the property owners to more fully utilize their property. It is therefore recommended that this portion of Fir Street north of Summitt Avenue between Blocks 33 and 34 in the Amended Plat of El Carmel Addition to Glenada, 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 8th day of September, 2004.



Oliver P. Snowden, Public Works Director
Department of Public Works

EXHIBIT "B"

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

IN THE MATTER OF VACATING A PORTION OF FIR)
STREET, IN THE AMENDED PLAT OF EL CARMEL)
ADDITION TO GLENADA, AS PLATTED AND RECORDED)
IN BOOK 7, PAGE 14, LANE COUNTY, OREGON PLAT) FINDINGS OF FACT
RECORDS, WITHOUT A PUBLIC HEARING, AND)
ADOPTING FINDINGS OF FACT (19-12-02-31))
)

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 Fir Street north of Summitt Avenue adjacent to lots 20 through 32 of Block 33 and lots 11 through 23 of Block 34 of the Amended Plat of El Carmel Addition to Glenada as platted and recorded in 1914 in Book 7, Page 14, Lane County, Oregon Plat Records, and as described in the Order, be vacated as petitioned for. The petitioners are requesting this vacation of a portion of Fir Street, which is bisected by a drainage that logistically and practically reduces its desirability for potential construction, in order to more fully utilize their properties as a contiguous unit.

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 easements 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 petitioners own property abutting the proposed vacation. Said property is further identified as Tax Lots 3700, 3701, 3800, 3900 and 3903 of Assessor's Map 19-12-02-31.
2. That, pursuant to ORS 368.326 to 368.366, a county governing body may vacate roads or easements based upon the determination that the vacation is "in the public interest".
3. That, Qwest Communications, Central Lincoln Public Utility District, 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 and other nearby property owners were notified by mail regarding the proposed vacation. Nancy Hathaway, partial owner of tax lot 19-12-02-700, initially responded with a concern regarding maintaining all feasible legal access to her property. She subsequently withdrew her concern after visiting the site with petitioner/landowner Thomas Eaton and surveyor Don Wolford. The other agencies and landowners either had no objection or did not respond to the referral.
4. That, vacating this portion of Fir Street in the Amended Plat of El Carmel Addition to Glenada as described in the Order will not deny any landowners legal road access to a public road.
5. 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)

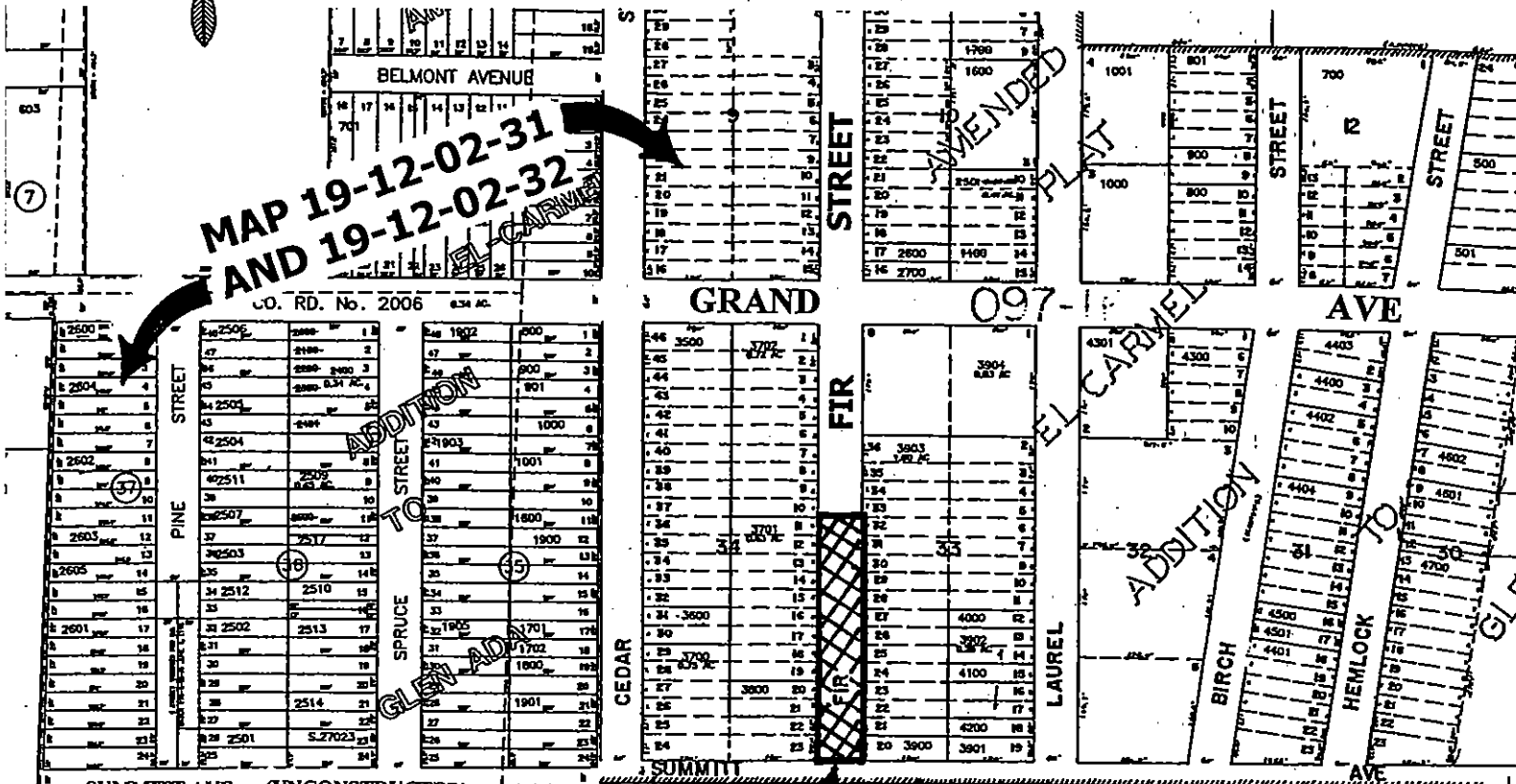
Based on the above findings of fact, the Board concludes, as a matter of law, that this vacation will not have any predictable negative impact on present or future land use, either in terms of allowable uses or actual development. The Board further concludes that statutory procedures necessary for making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



NE 1/4 SW 1/4 Section 2 T. 19 S. R. 12 W. W.M.
LANE COUNTY
(IN AMENDED PLAT OF EL CARMEL ADDITION TO GLENADA)

NO SCALE

MAP 19-12-02-31
AND 19-12-02-32



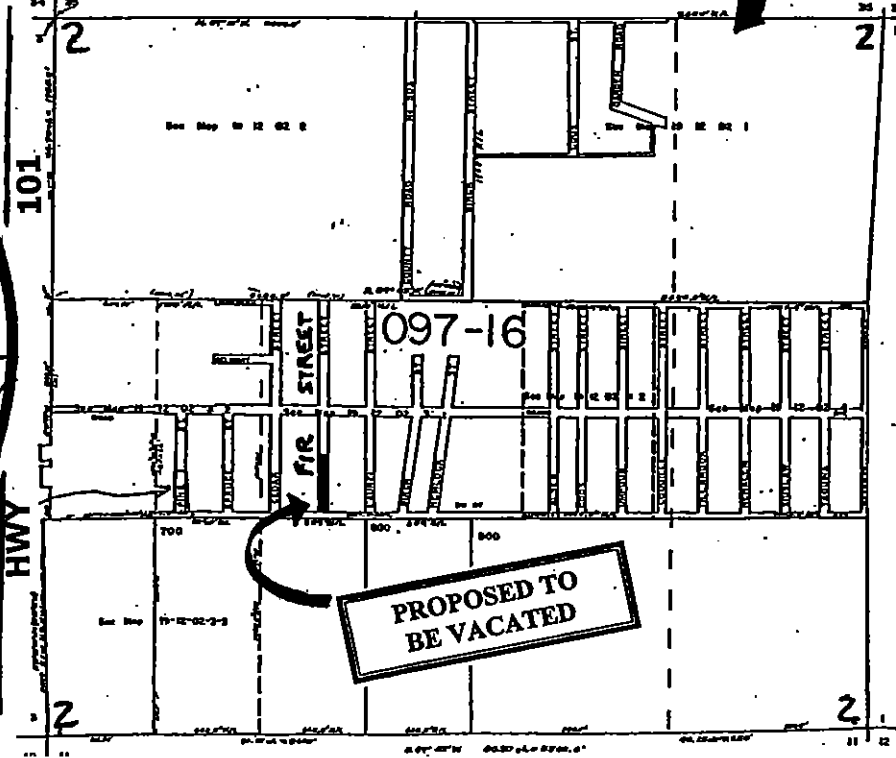
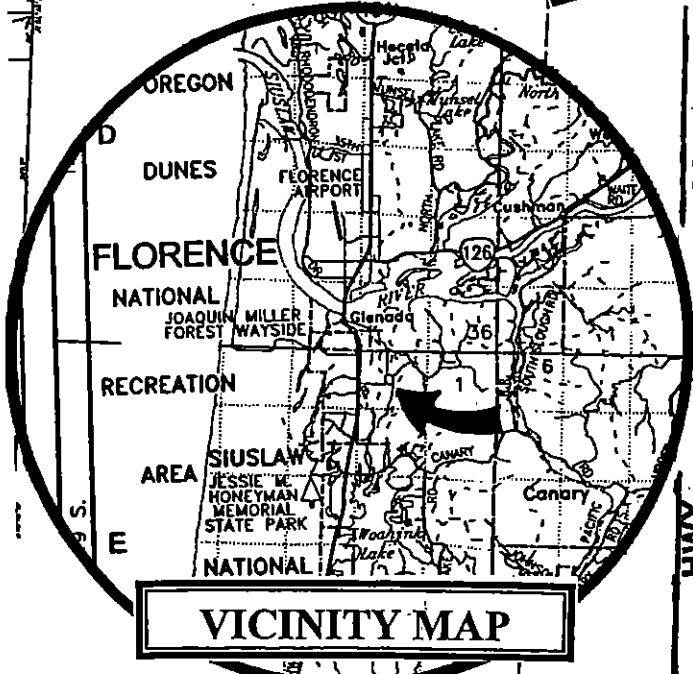
SUMMITT AVE. (UNCONSTRUCTED)

SUMMITT AVE (UNCONSTRUCTED)

HWY 101, +/- 1/4 MILE

PROPOSED TO BE VACATED

AREA MAP OF SECTION 2



ORIGINAL

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

FILE NO.

IN THE MATTER OF THE VACATION OF)
PART OF FIR STREET. IN THE AMENDED)
PLAT OF EL-CARMEL ADDITION TO)
GLENADA AS PLATTED AND RECORDED))
BOOK 7 PAGE 14, LANE COUNTY)
OREGON PLAT RECORDS)

PURSUANT to the procedures set forth in ORS Chapter 368, we the undersigned **THOMAS A. EATON**, also known as **THOMAS EATON**, and **MARIA J. EATON**, also known as **MARIA EATON**, husband and wife, as owners of adjacent real property, hereby petition for the vacation of **FIR STREET** adjacent to Lots 20 through Lot 32, Block 33, and Lots 11 through Lot 23 Block 34 within the **AMENDED Plat of EL-CARMEL ADDITION TO GLENADA**, as platted and recorded in Book 7 Pages 14, Lane County Oregon Plat Records, which area to be vacated is described as follows:

“All that portion of the Platted Fir Street adjacent to Lots 20 through Lot 32, Block 33, and Lots 11 through Lot 23 Block 34, all in the Amended Plat of El-Carmel Addition to Glenada, as platted and recorded in Book 7 Pages 14, Lane County, Oregon Plat Records.”

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

WHEREAS, petitioners allege as follows:

1. The purpose of this vacation request is to vacate the street in those portions in which a street cannot be built and would otherwise service no other home sites.
2. There are no utilities in the area to be vacated.

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

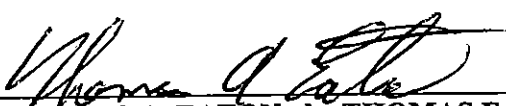

WHEREAS, the public interest will be served and not prejudiced by vacation of the above described area, and

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 portion of Fir Street, without a hearing before the Board of Commissioners for Lane County pursuant to ORS Chapter 368.
2. Upon review of this matter, to direct the vacation of the above described portion of Fir Street and to direct that title to the vacated area revert and vest in accordance with ORS 368.366.

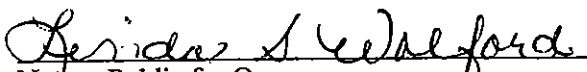
DATED this 12th, day of APRIL, 2004.
PETITIONERS

THOMAS A. EATON aka THOMAS EATON MARIA J. EATON aka MARIA EATON
 OWNERS, MAP 19-12-02-31 TL 3903, 3900, 3701 and 3800 and 3700
 85171 Laurel St.
 Florence, Or. 97439

STATE OF OREGON))SS
County of Lane)

On this 12th day of APRIL, 2004, personally appeared the above named **Thomas A. Eaton aka Thomas Eaton, and Maria J. Eaton aka Maria Eaton**, and acknowledged the foregoing instrument to be a voluntary act and deed.
Witness my hand and seal this day and year last above written.


Notary Public for Oregon
My Commission Expires APRIL 28, 2005



ORIGINAL

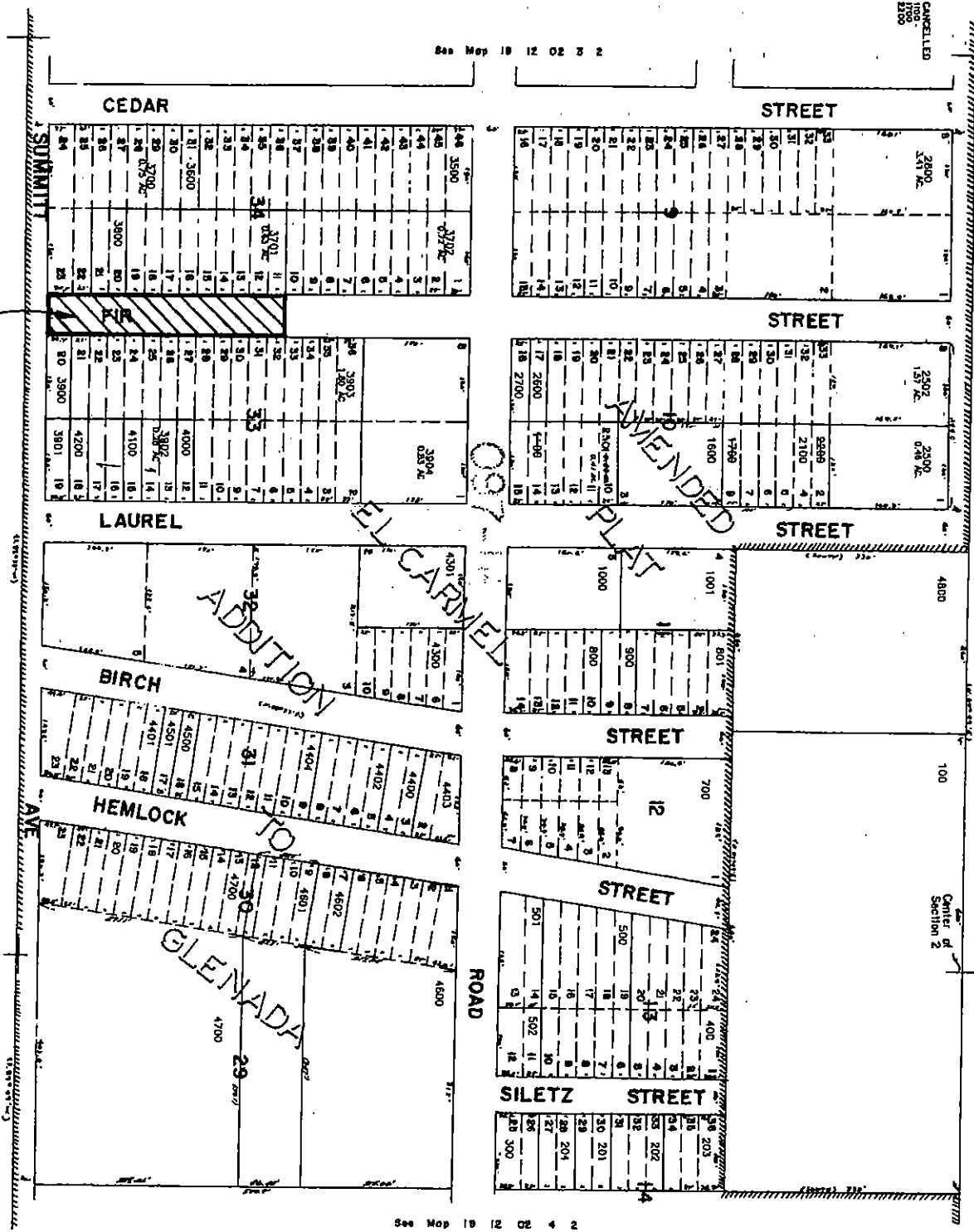
NE 1/4 SW 1/4 Sec 2 T19S R.2W.M.

LANE COUNTY

1"=100'

19 12 02 3 1

NO.	DATE	BY
1	1912	W.M.
2	1913	W.M.
3	1914	W.M.
4	1915	W.M.
5	1916	W.M.
6	1917	W.M.
7	1918	W.M.
8	1919	W.M.
9	1920	W.M.
10	1921	W.M.
11	1922	W.M.
12	1923	W.M.
13	1924	W.M.
14	1925	W.M.
15	1926	W.M.
16	1927	W.M.
17	1928	W.M.
18	1929	W.M.
19	1930	W.M.
20	1931	W.M.
21	1932	W.M.
22	1933	W.M.
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24	1935	W.M.
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26	1937	W.M.
27	1938	W.M.
28	1939	W.M.
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30	1941	W.M.
31	1942	W.M.
32	1943	W.M.
33	1944	W.M.
34	1945	W.M.
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37	1948	W.M.
38	1949	W.M.
39	1950	W.M.
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43	1954	W.M.
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56	1967	W.M.
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60	1971	W.M.
61	1972	W.M.
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63	1974	W.M.
64	1975	W.M.
65	1976	W.M.
66	1977	W.M.
67	1978	W.M.
68	1979	W.M.
69	1980	W.M.
70	1981	W.M.
71	1982	W.M.
72	1983	W.M.
73	1984	W.M.
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83	1994	W.M.
84	1995	W.M.
85	1996	W.M.
86	1997	W.M.
87	1998	W.M.
88	1999	W.M.
89	2000	W.M.
90	2001	W.M.
91	2002	W.M.
92	2003	W.M.
93	2004	W.M.
94	2005	W.M.
95	2006	W.M.
96	2007	W.M.
97	2008	W.M.
98	2009	W.M.
99	2010	W.M.
100	2011	W.M.



AREA TO BE VACATED