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Memorandum Date: July 22, 2009
Order Date: August 19, 2009

TO: Board of County Commissioners
DEPARTMENT: Public Works, Land Management Division
PRESENTED BY: Mike Jackson, Lane County Surveyor
Marsha Miller, Public Works Director

AGENDA ITEM TITLE: IN THE MATTER OF INITIATING PROCEEDINGS TO WITHDRAW COUNTY ROAD STATUS (BUT NOT THE PUBLIC ROAD STATUS) OF A PORTION OF BARRETT CREEK LANE (COUNTY ROAD NUMBER 2277), LOCATED IN THE NORTHWEST ONE QUARTER OF THE SOUTHEAST ONE QUARTER (NW1/4 SE1/4) OF SECTION 34, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN (18-12-34-42)

I. MOTION

TO APPROVE THE RESOLUTION AND ORDER TO SET A PUBLIC HEARING DATE OF SEPTEMBER 30, 2009 AT 1:30 P.M. AT THE LANE COUNTY COURTHOUSE, EUGENE, OREGON TO CONSIDER THE APPROVAL OF THE FINAL ORDER TO WITHDRAW THE COUNTY ROAD STATUS (BUT NOT PUBLIC ROAD STATUS) OF A PORTION OF BARRETT CREEK LANE (COUNTY ROAD NUMBER 2277).

II. AGENDA ITEM SUMMARY

The Board is being asked to approve the Resolution and Order to set a public hearing date of September 30, 2009 at 1:30 P.M. at the Lane County Courthouse, Eugene, Oregon for the purpose of conducting a public hearing to consider the approval of the Final Order withdrawing County Road status (but not the public road status) of a portion of Barrett Creek Lane (County Road Number 2277).

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The Surveyor's Office of the Department of Public Works has received direction from the Director of Public Works to withdraw the County Road status (but not the public road status) of a portion of Barrett Creek Lane, which was legalized as County Road #2277 by Final Order Number 08-8-20-2.

The portion of Barrett Creek Lane proposed for withdrawal is located in the Glenada area southwest of the City of Florence, south of the Hwy 101 bridge over the Siuslaw

River and west of Hwy 101, and runs from the westerly right of way of Old Ferry Road westerly 550 feet to the easterly right of way of Cherry Street. Barrett Creek Lane has historically been used as access for various improved and unimproved parcels which were originally established in the plats of Glenada (Vol. W, P. 261), the South Florence Addition to Glenada (Bk. 2, P. 9) and the Amended Map of South Florence Addition to Glenada (Bk. 2, P. 13), as platted and recorded in the Lane County, Oregon Plat Records.

In 2007, vacations of portions of the above mentioned plats as part of the transferal of County owned parcels to the State of Oregon Department of Parks and Recreation, raised public comment regarding the status of Barrett Creek Lane. Questions had long existed as to the status and exact location of Barrett Creek Lane as traveled. No dedications for public right of way or acceptance by Lane County as public or county road were found for Barrett Creek Lane at that time.

After ensuing discussion and dissention regarding the status of Barrett Creek Lane, which included notice from one of the landowners denying Lane County access across their property using Barrett Creek Lane as historically traveled, Lane County Public Works initiated the process of legalizing Barrett Creek Lane as a county road. Board of Commissioners Order 08-1-8-5 authorized the use of County Road Funds to pursue legalization of Barrett Creek Lane. A preliminary survey having a right of way width of 20 feet and a legal description of the portion of Barrett Creek Lane proposed for legalization were completed, and the final survey was filed in the Office of the Lane County Surveyor as County Survey File Number 41557.

The matter of legalizing the road was brought before the Board of Commissioners on June 25, 2008 and the Board approved Resolution and Order Number 08-6-25-17, setting a public hearing date of August 20, 2008.

On August 20, 2008 a public hearing was held in the matter of Legalizing Barrett Creek Lane. After public testimony and dissenting discussion, a decision on the Legalization was postponed in order that Commissioner Bill Fleenor and Public Works Director Marsha Miller have an opportunity to invite and engage interested and affected parties in further discussion to examine the possibility of a consensual alternative solution.

During the period from September, 2008 through May, 2009 meetings were held by Commissioner Fleenor, Public Works Director Marsha Miller and Public Works staff wherein progress was made toward a solution among affected landowners in the form of a private easement as an alternative to legalization. However, that solution eventually failed due to reluctance of one landowner to sign the easement.

The matter was returned to the Board of Commissioners on June 24, 2009, at which time the Board voted unanimously to approve Final Order 08-8-20-2 legalizing the subject portion of Barrett Creek Lane as County Road #2277. At that time Public Works Director Marsha Miller informed the Board that Public Works would at some future date initiate proceedings for withdrawal of County Road status of that portion of Barrett Creek Lane.

Lane County has never maintained any portion of Barrett Creek Lane, and no allocation of funding has been made for Barrett Creek Lane maintenance. The subject portion of

Barrett Creek Lane was legalized as a method of establishing public status for that portion of road. Lane County Public Works is hereby presenting the withdrawal of County Road Status (but not the Public Road status) of Barrett Creek Lane for Board of Commissioners consideration.

Qwest Communications, Central Lincoln People's Utility District, Northwest Natural Gas, the City of Florence, various other agencies including Transportation Planning and Lane County Planning sections of the Lane County Department of Public Works, and the adjoining and other neighboring landowners were notified by mail regarding the proposed withdrawal of County Road status. John Maitland, owner of tax lot 18-12-34-13-1200, responded with suggestions for improvements he feels should be made to the road by the county prior to the withdrawal. His comments will be made available at the public hearing. The other agencies and landowners either had no objection to the withdrawal or did not respond to the referral.

B. Policy Issues

As per Lane Manual 15.300, conversion of County Roads to Local Access Road or Public Road (non-county maintained) by withdrawal of County Road status, pursuant to ORS 368.026, may be considered where little need exists for the road to be part of the County Road System. The described portion of Barrett Creek Lane falls within the guidelines of withdrawing County Road status per Lane Manual 15.300(3), Roads that are undeveloped rights of way, are dirt roads, or are not currently maintained by County forces.

C. Board Goals

One of the goals listed in Lane County's Strategic Plan is to contribute to appropriate community development in the area of transportation (2001's Lane County Strategic Plan, Goals, P. 8). The purpose of the recent legalization of this road was to assure local landowner and public rights to use the road. Two points in Lane County's new vision for Lane County government in the immediate future state 1) County government will exist at a level the public supports and 2) The purpose of County government and scope of County services may be limited. The withdrawal of this portion of road is consistent with these two points.

D. Financial and/or Resource Considerations

Withdrawal of County Road status of this portion of Barrett Creek Lane will relieve Lane County of future maintenance responsibility and associated expenditures. Costs associated with the processing of this withdrawal will be paid from the road fund, and are estimated at approximately \$4000.

IV. ANALYSIS

If the order to withdraw County Road status is approved, this portion of Barrett Creek Lane will be reclassified as a Public Road and the maintenance shall become the responsibility of the owners of the adjacent properties and/or the users of the road. The public interest will be served, as this portion of road is not an integral part of the County Road system and withdrawing County Road status on this portion of road will eliminate any future

expenditure of public funds to maintain it. Residents will continue to be able to access their property and the public will still have the right to use the road.

During the legalization process of this portion of Barrett Creek Lane reasonable efforts were made by Lane County to seek an acceptable alternative to legalization among landowners and users of the road. When no alternative was successfully reached, the legalization process was continued in order to establish public status of the road, while leaving the option of withdrawal as a possible subsequent action.

ORS 368.026 states that a governing body may initiate proceedings to withdraw county road status by having the county road official prepare a report stating reasons for the proposed withdrawal and the effects the proposed withdrawal may have on land abutting the County Road proposed to be withdrawn. The Director's Preliminary Report addresses these issues.

V. ALTERNATIVES/OPTIONS

The Board of County Commissioners has the option to:

1. Set the Agenda Hearing date as proposed by the Public Works Director to consider the withdrawal of County Road status (but not the Public Road status) from a portion of Barrett Creek Lane, as described.
2. Set any later Agenda Hearing date as the Board may wish.
3. Refuse to set a date, either postponing the matter or refusing to initiate proceedings to withdraw the County Road status from a portion of Barrett Creek Lane.

VI. TIMING/IMPLEMENTATION

Timing of this matter is important in order that Lane County's maintenance responsibilities for the road be relinquished and vested in users of the road in as timely a manner as possible.

VII. RECOMMENDATION

It is recommended the Board of Commissioners approve Option 1, to proceed with the withdrawal of County Road status of Barrett Creek Lane by approving the Resolution and Order setting a date for a public hearing. The Public Works Director's Preliminary Report, attached to the Resolution and Order as Exhibit "A", states that it is advisable to set a Public Hearing date at this time, thus commencing procedures to withdraw County Road status, yet retain the Public Road status, from the described portion of Barrett Creek Lane.

VIII. FOLLOW-UP

If the Board of County Commissioners approves the Resolution and Order setting a date for a public hearing for the proposed withdrawal of County Road status (but not the Public Road status), 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 who will provide public notice of the proposed action. If the Board wishes to postpone the matter or terminate proceedings, an Order to Postpone or Terminate will be presented to the Board at a later regularly scheduled meeting.

IX. ATTACHMENTS

Resolution and Order w/attachments:

Director's Preliminary Report – Exhibit "A"
Site Map - Attachment "A"

Contact Person: Mike Jackson x-4198

EXHIBIT "A"

Road status. John Maitland, owner of tax lot 18-12-34-13-1200, responded with suggestions for improvements he feels should be made to the road by the county prior to the withdrawal. His comments will be made available at the public hearing. The other agencies and landowners either had no objection to the withdrawal or did not respond to the referral.

If the order to withdraw County Road status is approved, this portion of Barrett Creek Lane will be reclassified as a Public Road and the maintenance shall become the responsibility of the owners of the adjacent properties and/or the users of the road. The public interest will be served, as this portion of road is not an integral part of the County Road system and withdrawing County Road status on this portion of road will eliminate any future expenditure of public funds to maintain it. Residents will continue to be able to access their property and the public will still have the right to use the road.

A final report will be provided prior to the public hearing as required by ORS 368.026.

DATED this 5th day of August, 2009.



Director
Department of Public Works

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

IN THE MATTER OF INITIATING PROCEEDINGS TO)	
WITHDRAW COUNTY ROAD STATUS (BUT NOT THE)	RESOLUTION AND ORDER
PUBLIC ROAD STATUS) OF A PORTION OF BARRETT)	NO.
CREEK LANE (COUNTY ROAD NUMBER 2277), LOCATED)	
IN THE NORTHWEST ONE QUARTER OF THE)	
SOUTHEAST ONE QUARTER (NW1/4 SE1/4) OF SECTION)	
34, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE)	
WILLAMETTE MERIDIAN (18-12-34-42))	

THIS MATTER now coming before the Board of County Commissioners for Lane County, Oregon, and it appearing that a portion of Barrett Creek Lane (County Road #2277), being approximately 550 feet in length, is no longer needed as part of the County's road system; and

WHEREAS, the portion of Barrett Creek Lane herein proposed for Withdrawal of County Road status (but not the public road status) was legalized as a County Road by Board of Commissioners Final Order No. 08-8-20-2; and

WHEREAS, the legalization of this portion of Barrett Creek Lane was initiated by Lane County in response to long-standing questions and dissention regarding its status, and the notice by one landowner denying Lane County access across their property using Barrett Creek Lane as historically traveled; and

WHEREAS, during the legalization process of this portion of Barrett Creek Lane reasonable efforts were made by Lane County to seek an acceptable alternative to legalization among landowners and users of the road; and

WHEREAS, when attempts by Lane County and local landowners to reach an alternative solution to legalization yielded no solution, the legalization process was continued in order to establish public status of the road, while leaving the option of withdrawal as a possible subsequent action; and

WHEREAS, Lane County has never maintained any portion of Barrett Creek Lane, and no allocation of funding has been made for Barrett Creek Lane maintenance; therefore, this road meets the criteria for withdrawing County Road status per Lane Manual 15.300 (3), Roads that are undeveloped right-of-ways, are dirt roads, or are not currently maintained by County forces; and

WHEREAS, the adjoining landowners, as well as any other users, will continue to be served by this road as a Public Road, and no one will be denied access if the road is reduced in status from being a County Road to a Public Road; and

WHEREAS, various public and private agencies and neighboring landowners were notified by mail regarding the proposed withdrawal of County Road status; and

WHEREAS, John Maitland, owner of tax lot 18-12-34-13-1200, responded with suggestions for improvements he feels should be made to the road by the county prior to the withdrawal, and his comments will be made available at the public hearing; and

WHEREAS, the other agencies and landowners either had no objection to the withdrawal or did not respond to the referral; and

WHEREAS, ORS 368.026 states that a governing body may initiate proceedings by having the county road official prepare a report stating reasons for the proposed withdrawal and the effects the proposed withdrawal may have on land abutting the County Road proposed to be withdrawn, and a Preliminary Director's Report has been prepared to address these issues; and

WHEREAS, Oregon Revised Statutes, Chapter 368, requires a public hearing to withdraw County Road status from a County Road and the Board deems it appropriate to conduct a public hearing to decide whether to withdraw the County Road status (but not the Public Road status), from a portion of Barrett Creek Lane. The Public Works Director has prepared a Preliminary Report recommending that proceedings be initiated to consider withdrawal of County Road status on the described segment of Barrett Creek Lane, marked Exhibit "A" attached hereto and made a part hereof by these proceedings; and NOW, THEREFORE, IT IS HEREBY

RESOLVED, that in accordance with Oregon Revised Statutes, Chapter 368, proceedings be undertaken to withdraw the County Road status (but not the Public Road status) of a portion of Barrett Creek Lane, said road being 20 feet wide, and being more particularly described as follows:

A strip of land twenty (20) feet in width lying ten (10) feet on each side of the centerline of Barrett Creek Lane, located in Section 34, Township 18 South, Range 12 West of the Willamette Meridian, Lane County, Oregon, as surveyed by Lane County in 2008; the centerline being described as follows:

Beginning at Engineers' Centerline Station L 0+00.00 POB, said station being 2,066.78 feet North and 1,337.17 feet East of the Brass Cap marking the South One-Quarter Corner of Section 34, Township 18 South, Range 12 West of the Willamette Meridian, Lane County, Oregon, said station also being 15.44 feet right of Engineer's Centerline Station 17+82.18 POT of Old Ferry Road, formerly known as the ROOSEVELT COAST HIGHWAY as shown on Oregon State Highway Department Drawing Number 2B23-5 dated February 1930; run thence North 62° 00' 00" West, 79.72 feet; thence on an eighteen (18) degree curve left (the long chord of which bears North 69° 00' 00" West, 77.58 feet) a distance of 77.78 feet; thence North 76° 00' 00" West, 40.79 feet; Thence on a forty (40) degree curve right (the long chord of which bears North 67°00'00" West, 44.82 feet) a distance of 45.00 feet; thence North 58°00'00" West, 47.96 feet; thence on a forty-four (44) degree curve left (the long chord of which bears South 89° 00' 00" West, 141.84 feet) a distance of 150.00 feet; thence South 56° 00' 00" West, 108.75 feet to Engineers' Centerline Station L 5+50.00 POT and there ending, all in Lane County, Oregon.

EXCEPT: That portion lying within the right of way of Old Ferry Road, formerly known as the ROOSEVELT COAST HIGHWAY as shown on Oregon State Highway Department Drawing Number 2B23-5 dated February 1930.

ALSO EXCEPT: That portion lying within the right of way of Cherry Street lying within GLENADA, as platted and recorded in Volume "W", Page 261 and the

AMENDED MAP OF SOUTH FLORENCE ADDITION TO GLENADA, as platted and recorded in Book 2, Page 13, Lane County Oregon Plat Records.

The bearings used herein are based on the Oregon Coordinate System (NAD 83/91), South Zone.

now, therefore, it is hereby

ORDERED, that September 30, 2009 be established as the date for conducting a public hearing regarding the proposed withdrawal of County Road status (but not the Public Road status) from said portion of Barrett Creek Lane, and that the said hearing be held at 1:30 p.m. in the Lane County Courthouse, 125 E. 8th Avenue, Eugene, Oregon; and it is further

ORDERED, that the Director of the Lane County Department of Public Works cause the Lane County Surveyor to examine the road proposed to be withdrawn from County Road status and that the Director provide a written Final Report of findings, as required by ORS 368.026, which are to be incorporated into the Final Order; and it is further

ORDERED, that notice of the public hearing be provided by service, posting and publication in accordance with ORS Chapter 368.401 to 368.426.

Inquiries regarding these proceedings may be directed to Mike Jackson, Lane County Surveyor, Public Service Building, 125 East 8th Avenue, Eugene, Oregon 97401, telephone (541) 682-4195.


Dated this _____ day of _____, 2009.

Chair, Lane County Board of Commissioners

Attachment: Site Map

APPROVED AS TO FORM

Date 8-6-09 lane county

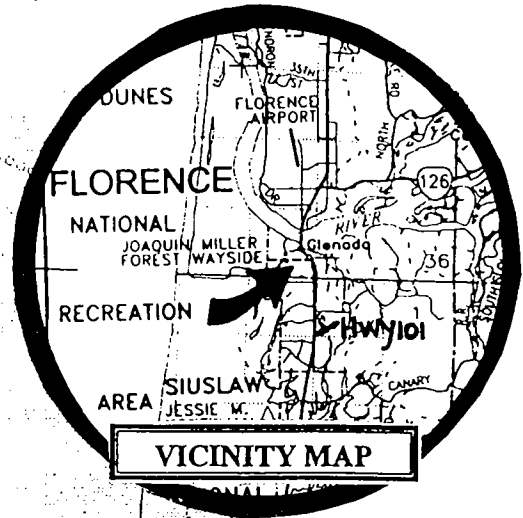
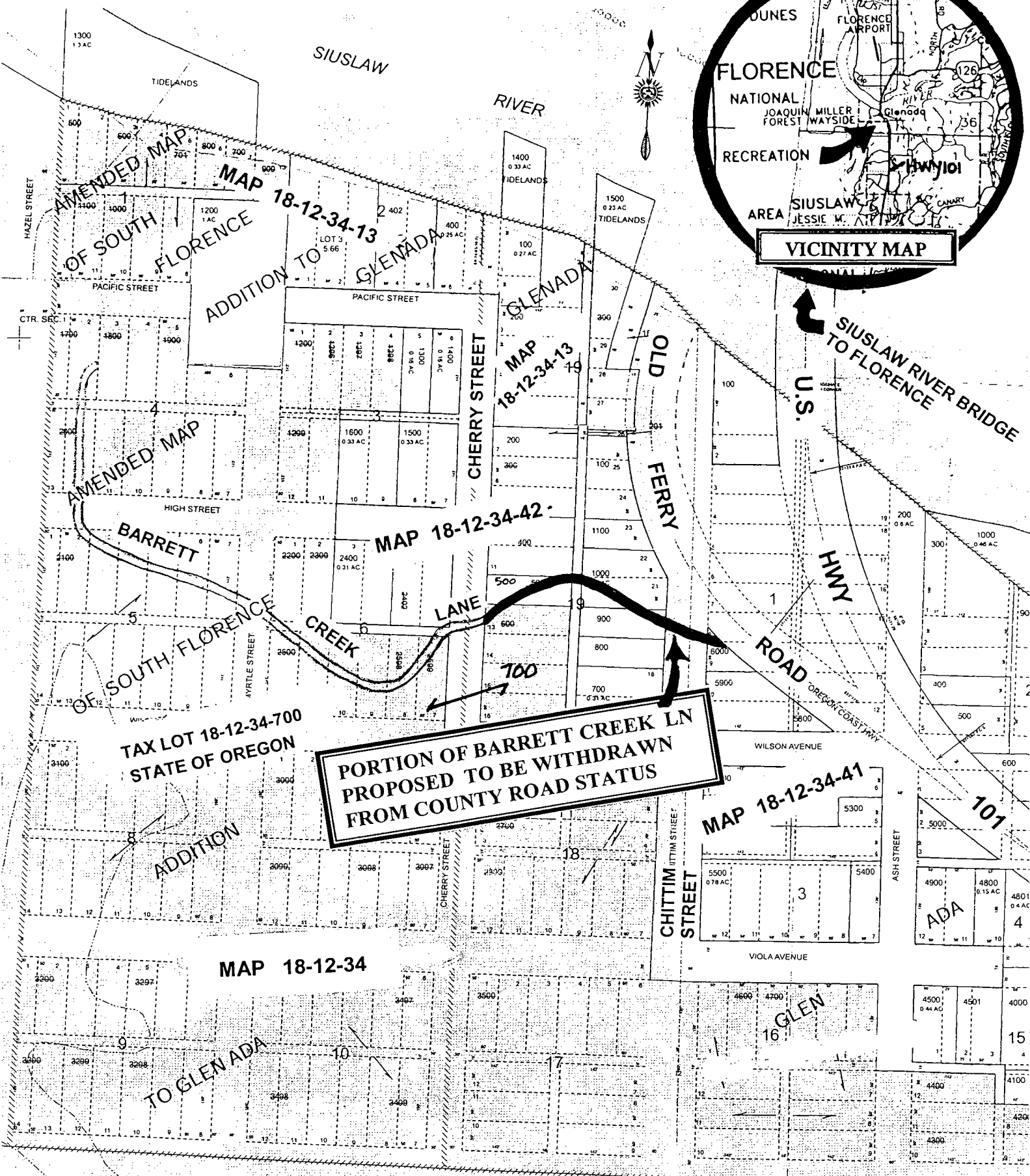


OFFICE OF LEGAL COUNSEL

ATTACHMENT "A"

Withdrawal of County Road Status
Barrett Creek Lane (Co. Rd. #2277)

NW1/4SE1/4 Section 34, T. 18 S. R. 12 W., W.M.
LANE COUNTY
NO SCALE



**PORTION OF BARRETT CREEK LN
PROPOSED TO BE WITHDRAWN
FROM COUNTY ROAD STATUS**

**TAX LOT 18-12-34-700
STATE OF OREGON**