

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 18-05-01-04

IN THE MATTER OF ACCEPTING A DEDICATION OF PUBLIC ROAD EASEMENT TO BE USED FOR DAY LANE AND RELEASING, DEDICATING, AND ACCEPTING PARCEL "A" AS RIGHT OF WAY FOR DAY LANE (17-05-10)

WHEREAS, Carlson Family Investments, LLC, owning land within Lane County which is not within the limits of an incorporated city or town, presenting to the Board of County Commissioners a sufficient dedication, being properly executed and forever dedicating a portion of land to the use of the public for road purposes for Day Lane, and the Board of County Commissioners deeming it proper, as a convenience for property owners in the area and as a benefit to the general public, to accept the dedication for a public road easement; and

WHEREAS, the dedication was a condition of approval by Lane County for a recent land partition located on the south side of Day Lane; and

WHEREAS, said Dedication of Public Road Easement was recorded in Lane County Oregon Deed Records on March 23, 2018 on Document Number 2018-013443; and

WHEREAS, by a previous action a strip of land was dedicated for road purposes for Day Lane which included a one-foot wide access control strip along the southerly margin, described as Parcel "A", and was conveyed to Lane County by Warranty Deed recorded on Reel 168-61D, Reception Number 25315, Lane County, Oregon Deed Records; and

WHEREAS, the Lane County Planning section of the Lane County Land Management Division has requested that Parcel "A" be released in order to allow legal access from Day Lane to the property which has recently been partitioned; and

WHEREAS, Parcel "A" need no longer remain as a parcel of county owned real estate, but should be dedicated and accepted for road purposes; and

WHEREAS, the Director of Lane County Public Works has provided a written report marked as Exhibit "A", determining the Special Benefit to the applicant is de minimis pursuant to Lane Manual 60.854 (8)(c); and

NOW, THEREFORE, the Board of County Commissioners of Lane County **ORDERS** as follows:

1. The Dedication of Public Road Easement recorded on Document Number 2018-013443, Lane County, Oregon Deed Records is accepted by the Board of County Commissioners of Lane County as public road easement, and not as a County road.
2. The real estate, as described in the attached Draft Dedication marked as Exhibit "B", and depicted on the attached map marked as Exhibit "C", be released, dedicated, and accepted as public road easement, and not as a County road.

3. The Board Chair is authorized to execute an original Dedication of Public Road Easement on behalf of the County.
4. This Order will be entered into the records of the Board of County Commissioner's Journal of Administration and the attached Dedication be recorded in the Lane County Oregon Deed Records, and the document number be noted on this Order.

ADOPTED this 1st day of May, 2018

Department of Public Works
Engineering and Construction Services Division

LANE COUNTY BOARD OF
COMMISSIONERS

Approved 4/12, 2018

By Jay Bozievich
Jay Bozievich, Chair

By Peggy Keppler
Peggy Keppler, County Engineer

APPROVED AS TO FORM

Date 4-19-18

[Signature]
LANE COUNTY OFFICE OF LEGAL COUNSEL

Dedication of Parcel "A" recorded on Document No. _____, Lane County,
Oregon Deed Records.

MAP No.: 17-05-10-00-01300

LANE COUNTY

Notification of Determination of Amount of Special Benefit Deposit
in Connection with a Proposed Release of a reserve strip
Pursuant to Lane Manual 60.854(8)(c)

Pursuant to the provisions of Lane Manual 60.854(8)(c), my determination of the amount of "Special Benefit" and therefore the amount of deposit required in connection with the proposed release of a reserve strip described as Parcel "A," in Road Deed to Lane County recorded Reel No. 168-61-D , Clerk's Filing No. 25315, Lane County Deeds and Records, is **\$0.00**.

My determination is based on a Staff Report and recommendation, a copy of which is attached hereto and marked as "Attachment 1".

Dated this 12TH day of APRIL, 2018.



Dan Hurley, Interim Director
Lane County Public Works

STAFF REPORT

Recommendation in the Matter of Determination of Special Benefit
in Connection with a Proposed Release of a reserve strip
Pursuant to Lane Manual 60.854(8)(c)

Date: March 20, 2018

Applicant: Ryan Erickson, EGR & Associates

Owner: Carlson Family Investment LLC

Proposed Release and Road Dedication:

The proposed release of a reserve strip is described as Parcel "A," in Road Deed to Lane County recorded Reel No. 168-61-D, Clerk's Filing No. 25315, Lane County Deeds and Records. The Parcel is un-developed, flat and measures 1 foot by 836 feet and is 836 square feet. The release is being requested in conjunction with an approved Lane County partition of Map and Tax Lot 17-05-10-00-01300.

Tax Lots Adjacent to Proposed Vacation:

There are no other lots adjacent to the reserve strip

Nature of Benefit to be Received if Proposed Partial Release is Approved:

Lane Manual 60.854(8)(b) "In addition to payment of the fees specified in subsection (8)(a) above, the release and dedication of access control strips by the County governing body shall require payment by the applicant of a deposit equal to the estimate of special benefit that results from the action to the benefitted property owners."

1. Special Benefit Defined:

Lane Manual does not define the term "Special Benefit"; however, in appraising acquisitions for right of way, a special benefit is defined as *"advantages arising from a public improvement for which property has been acquired under eminent domain accruing directly and solely to the advantage of the property remaining after the partial acquisition."* This definition does not include a general benefit which is defined as a benefit *"accruing to the community at large, to the area adjacent to the improvement, or to other property similarly situated as that acquired but which is not acquired."* In Oregon, a "Special Benefit" is used to offset damages caused by the acquisition (See ODOT Right of Way Manual 4.310).

Although special and general benefit definitions apply to acquisitions through eminent domain, the Right of Way staff applies the same principles to the definition of a "Special Benefit" for the release and public road dedication of an access control strip. When used in the context of a release and a public road dedication of an access control strip, a practical definition follows:

"The advantages arising from the partial release of an access control strip for which the property, created under the terms of the conveying document and through the regulatory provisions of Lane County's subdivision ordinance, accruing directly and solely to the advantage of the property after the partial release of an access control strip."

2. Special Benefit to Evaluate:

The Public presently has a possessory interest in the control strip held by Lane County in trust to prevent or limit access to the road. The release of the control strip will be followed by the dedication of additional right of way. The strip will be encumbered by a road right of way easement that will be dedicated to the public as a road.

3. Special Benefit to Property Owner(s):

Although LM 60.854(8)(b) gives no indication to which property owner is to receive the special benefit, it is assumed that the benefit is to any and all properties that abut the strip of land. In this case, the only property that abuts the strip is 17-05-10-00-01300.

Upon the release of the reserve strip, it will be dedicated as a public road and opened for public travel along with additional dedication proposed by the applicant and owner. This action will result in legal access from a public street to Tax Lot and Map 17-05-10-00-01300.

4. Special Benefit Evaluation/Highest and Best Use:

The test for estimating a special benefit must be specific and measurable, which can be justified through an increase in market value due to change in a more profitable use. Using the "Highest and Best Use" concept in conjunction with the "Before and After" rule is the most appropriate method for determining a "Special Benefit." It is the opinion of Right of Way staff that the Highest and Best Use before and after the partial release of the property will remain the same. This valuation is a "Desk Appraisal."

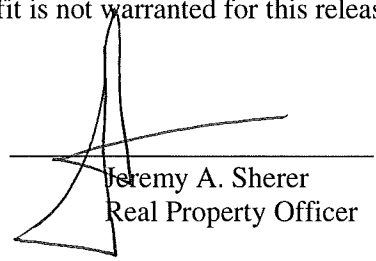
The subject property is approximately 17.64 acres, or 768,399 square feet, generally level, zoned Rural Residential, and has a water front amenity (Fern Ridge Lake). Recent sales of rural residential land in the subject property's market area indicate a site value of approximately \$570,000. The price per square foot is \$0.74/SF (\$570,000/768,399 SF).

The contributory value of the strip to the subject property can be calculated multiplying the price per square foot of the subject property with the area of the strip. The value of the strip, unencumbered is $\$0.74 \times 834 \text{ SF} = \618 . The encumbrance of the public right of way easement and dedication will substantially reduce the remaining property right to the underlying fee owner. Therefore, it is reasonable to reduce the value of the strip to 100% of fee simple. The resulting value of the strip of land to the adjacent landowner is \$0.

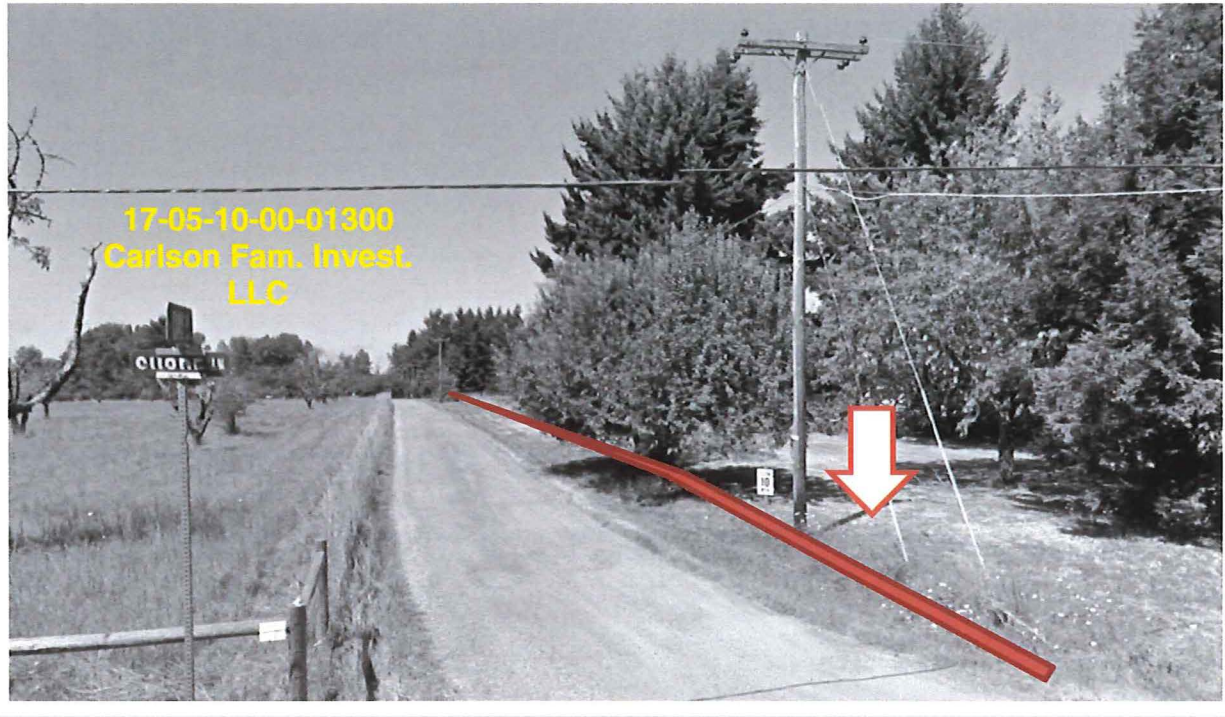
Summary and Recommendation of Special Benefit:

The purpose of this reserve strip is to control access to the public street by placing it under the trust of the County. Once the strip is released, it will be dedicated as a public right of way. Pursuant Lane Manual 60.853, a special benefit must be determined. For reasons stated above, the reserve strip will have no value or special benefit to the adjacent landowner.

As the value added is less than the \$2,500 *de minimus value* required by Lane Manual 60.854(8)(c), the appraiser concludes that a payment for Special Benefit is not warranted for this release.


Jeremy A. Sherer
Real Property Officer

Google Road View of Subject Property and Area to be Released



Lane County Assessor's Map 17-05-10-00-01300

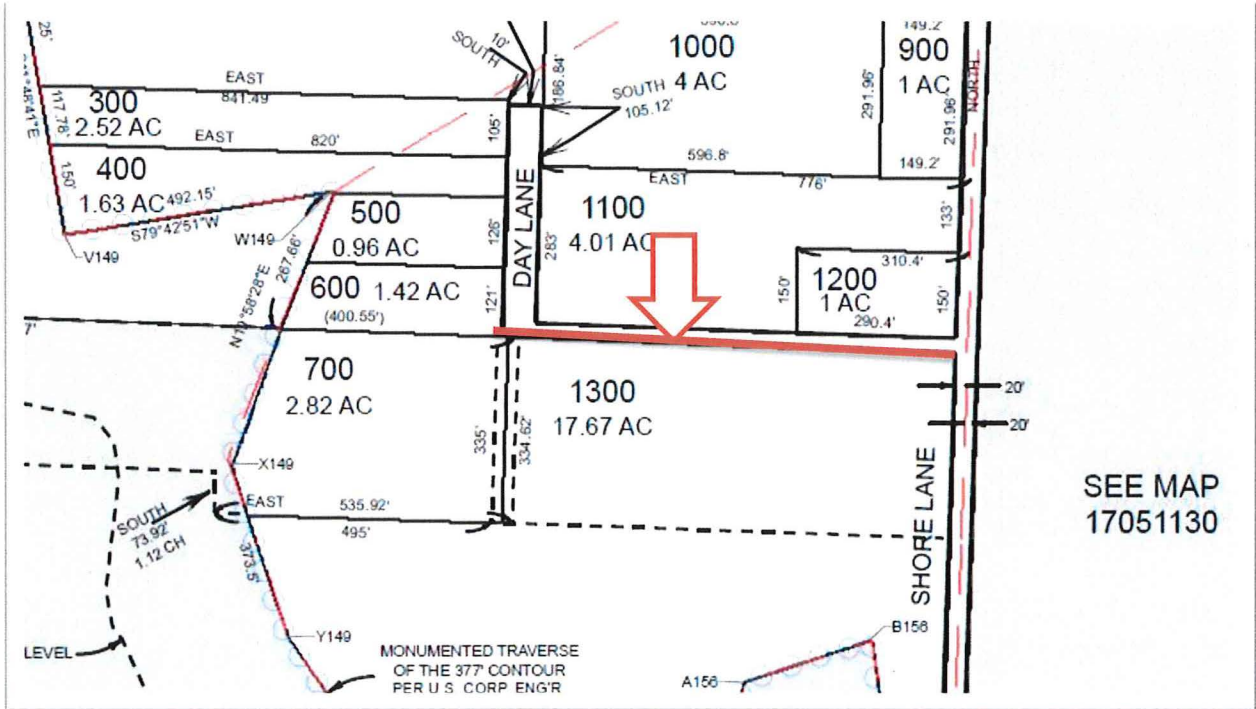


EXHIBIT "B"

DEDICATION OF A PUBLIC ROAD EASEMENT

LANE COUNTY

KNOW ALL MEN BY THESE PRESENTS, that Lane County (Grantor), a political subdivision of the State of Oregon, is the owner of certain real property, located in Section 10, Township 17 South, Range 5 West of the Willamette Meridian and that Lane County acquired title by that certain Warranty Deed from Arnold P. Brekstad and Barbara Lewis Brekstad, husband and wife, Grantors, recorded on Reel 168-61D, Recorder's Reception Number 25315 of the Lane County, Oregon Deed Records, and that said Lane County does hereby dedicate Parcel "A" to the free use of the Public (Grantee), for public road purposes, the following described tract of land being more particularly described as follows:

Beginning at a point on the East line of Section 10, Township 17 south, Range 5 West, Willamette Meridian, 990.0 feet South of the East one-quarter corner thereof and run thence North 89°41' West 836.0 feet; thence North 1.0 foot; thence South 89°41' East 836.0 feet; thence South 1.0 foot to the point of beginning, in Lane County, Oregon.

EXCEPT that portion lying within County Road No. 897 (Shore Lane).

It being the intent to release and dedicate the described one-foot access control strip as public right of way for Day Lane. There is no consideration for this dedication.

The Board of Commissioners hereby accepts and approves for recording this dedication as described herein.

Approved this _____ day of _____, 2018

Jay Bozievich, Chair
Lane County Board of Commissioners

STATE OF OREGON)
COUNTY OF LANE) ss.

On _____, 2018, personally appeared the above-named Jay Bozievich, as Chair of the Lane County Board of Commissioners and acknowledged the foregoing instrument to be his voluntary act before me.

NOTARY PUBLIC FOR OREGON
My Commission Expires:_____

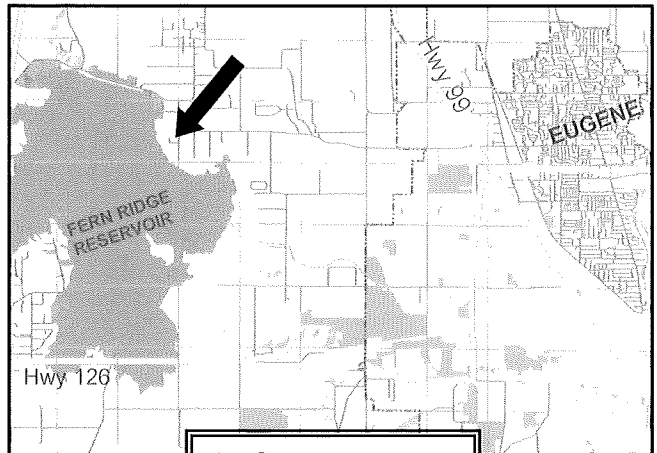
EXHIBIT "C"

DAY LANE
ACCEPT A DEDICATION OF PUBLIC ROAD EASEMENT
and
RELEASE, DEDICATE & ACCEPT PARCEL "A"

SE 1/4 Sec. 10, T. 17 S., R. 5W. W.M.
Lane County



NO SCALE



VICINITY MAP

