

PASSED

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

STATE OF OREGON

IN THE MATTER OF THE VACATION OF A PORTION OF)
 WEST BOUNDARY ROAD (CO. RD. 360, BLAKELY ROAD),)
 LOCATED IN THE SOUTHEAST ONE QUARTER OF THE) FINAL ORDER NO.
 NORTHWEST ONE QUARTER (SE1/4 NW1/4) OF SECTION) 09-1-14-5
 14, TOWNSHIP 19 SOUTH, RANGE 1 WEST OF THE)
 WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON,)
 WITH A PUBLIC HEARING AND ADOPTING FINDINGS OF)
 FACT (19-01-14-24))

WHEREAS, by approving Resolution and Order Number 08-12-3-1, the Board of County Commissioners set January 14, 2009 to conduct a public hearing on the matter of vacating a portion of West Boundary Road (County Road 360, originally Blakely Road) before the Board of Commissioners of Lane County, Oregon; and

WHEREAS, all necessary procedures for the vacation of the portion of West Boundary Road herein described, having been initiated by resolution, have been complied with, pursuant to ORS Chapter 368; and

WHEREAS, the Lane County Surveyor has examined the portion of West Boundary Road herein described; and

WHEREAS, notification of these proceedings has been provided by posting, mail, and legal publication by the County Surveyor in accordance with ORS 368.401 to 368.426, as evidenced by the Affidavit of Posting, Publication, and Mailing labeled as Exhibit "C", attached hereto and made a part hereof by this Order; and

WHEREAS, the portion of West Boundary Road proposed for vacation is of variable width, located in the vicinity of the intersection of Main Street and Parker Lane in the City of Lowell, and is a remnant portion of County Road No. 360 (originally Blakely Road) which was left un-vacated in a 1966 alteration and relocation of County Road 360 by Board of Commissioners Order filed January 7, 1966 in Commissioners Journal 28, Pages11-15; and

WHEREAS, this vacation is in conjunction with road-related construction associated with the Lowell Assisted Housing project which is included in the county's Five-Year Capital Improvement Program (CIP) for FY 08/09 – FY 12/13 adopted by Board of Commissioners Order Number 08-5-7-14, and helps facilitate the Intergovernmental Agreement between Lane County and the City of Lowell for the Lowell Assisted Housing Project, authorization for which was approved by Board of Commissioners Order Number 08-5-7-7; and

WHEREAS, the portion of West Boundary Road proposed for vacation lies within two parcels of land being transferred to the City of Lowell by Lane County and the U.S. Army Corps of Engineers, and said parcels will be combined with adjacent City owned land to the north to provide for a parcel large enough to facilitate the platting of a 20 lot subdivision, which will then be transferred to St. Vincent de Paul for construction of low and moderate income housing; and

WHEREAS, the portion of West Boundary Road proposed for vacation is within the city limits of the City of Lowell; and

WHEREAS, in accordance with ORS 368.361(3), concurrence by the City of Lowell is necessary to validate the vacation, and the City of Lowell has indicated they will provide this concurrence; and

WHEREAS, the Surveyor's Office notified the City of Lowell, the U.S. Army Corps of Engineers, St. Vincent de Paul of Lane County, Qwest Communications, Emerald People's 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 nearby property owners regarding the vacation, and

WHEREAS, Linda Jo Bugbee, owner of tax lot 3900 of Assessor's Map 19-01-14-24 responded with an objection to the vacation; and

WHEREAS, the City of Lowell responded in support of the vacation; and

WHEREAS, the portion of West Boundary Road to be vacated is not needed as part of the Lane County Transportation System; and

WHEREAS, Lane Manual 15.305 requires that vacations, other than those by petition, shall be referred to the Roads Advisory Committee for consideration and recommendations, and this vacation was considered and approved by the Roads Advisory Committee on October 22, 2008; and

WHEREAS, a public hearing was conducted on this date, as ordered, regarding the proposed vacation of the portion of West Boundary Road herein described; 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 368.346, marked as Exhibit "A", attached hereto and made a part hereof, by this Order; and

WHEREAS, the Board is of the opinion that approving the vacation as described in this Final Order is in the best interest of the public; now, therefore, it is hereby

ORDERED, that in accordance with ORS Chapter 368, the portion of West Boundary Road (County Road 360, Blakely Road) more particularly described as follows:

A parcel of land located in the Southeast One Quarter of the Northwest One Quarter (SE1/4 NW1/4) of Section 14, Township 19 South, Range 1 West of

the Willamette Meridian, being a portion of the lands that were conveyed as "Parcel 23A" in that certain Quitclaim Deed from Southern Pacific Company to the United States of America that was recorded December 13th, 1960 in Reel 164-D at Reception Number 18005 in the Official Records of Lane County, Oregon, being more particularly described as follows:

BEGINNING at a point on the north margin of the abandoned portion of West Boundary Road (County Road Number 360, formerly Blakely Road) as said road is shown on the plat of Meadows Addition that was recorded August 10, 1910 in Book 4 at Page 56 in the Plat Records of Lane County, Oregon and on Lane County Department of Public Works survey of the relocation of Blakely Road (County Road Number 360) dated October 1965 as filed under Index No. 103-8 in the Office of the County Surveyor of Lane County, Oregon, said point being approximately 90.29 feet right of Oregon Eastern Railway Engineer's Station "R" 1259+00.00; **THENCE**, leaving said **POINT OF BEGINNING** the following one numbered course: (1) South 21°23'18" West 59.71 feet, crossing into said abandoned portion of West Boundary Road (County Road Number 360), to a point on the southerly line of said "Parcel 23A" (Rec. No. 18005) which lies 150.00 feet right of Engineer's Station "R" 1259+00.00 and lies northerly of the relocated north margin of said West Boundary Road as said relocated margin is shown on said survey (Index No. 103-8) and called in Lane County Board of Commissioners Order that was filed January 7, 1966 in Reel 28 at Page 11 in the Office of Deeds and Records of Lane County; **THENCE**, along said southerly line of "Parcel 23A" (Rec. No. 18005) the following one numbered course: (2) South 68°36'42" East 131.69 feet, more or less, to a point on the aforesaid north margin of the abandoned portion of West Boundary Road; and **THENCE**, along said north margin of the abandoned portion of West Boundary Road the following one numbered course: (3) North 44°13'13" West 144.59 feet, more or less, **RETURNING** to the **POINT OF BEGINNING** and containing approximately 0.09 acres, more or less.

ALSO INCLUDING a parcel of land located in the Southeast One Quarter of the Northwest One Quarter (SE1/4 NW1/4) of Section 14, Township 19 South, Range 1 West of the Willamette Meridian, being a portion of the lands that were conveyed as "Parcel 20" in that certain Quitclaim Deed from the United States of America to Lane County that was recorded February 15, 1965 in Reel 259-D at Reception Number 92323 in the Official Records of Lane County, Oregon, being more particularly described as follows:

BEGINNING at a point on the north margin of the abandoned portion of West Boundary Road (County Road Number 360, formerly Blakely Road) as said road is shown on the plat of Meadows Addition that was recorded August 10, 1910 in Book 4 at Page 56 in the Plat Records of Lane County, Oregon and on Lane County Department of Public Works survey of the relocation of Blakely Road (County Road Number 360) dated October 1965 as filed under Index No. 103-8 in the Office of the County Surveyor of Lane County, Oregon, said point being approximately 90.29 feet right of Oregon Eastern Railway Engineer's Station "R" 1259+00.00; **THENCE**, leaving said **POINT OF BEGINNING** the following one numbered course: (1) South 21°23'18" West 59.71 feet, crossing into said abandoned portion of West Boundary Road (County Road Number

360), to a point which lies 150.00 feet right of Engineer's Station "R" 1259+00.00 and lies northerly of the relocated north margin of said West Boundary Road as said relocated margin is shown on said survey (Index No. 103-8) and called in Lane County Board of Commissioners Order that was filed January 7, 1966 in Reel 28 at Page 11 in the Office of Deeds and Records of Lane County; **THENCE**, running northerly of said relocated north margin of West Boundary Road, along the following two numbered courses: (2) continuing through the aforesaid abandoned portion of West Boundary Road, North 52°23'45" West 102.12 feet to a point that lies 121.48 feet right of Engineer's Station "R" 1258+01.95 and (3) North 39°45'00" West 47.76 feet to a point on the aforesaid north margin of the abandoned portion of West Boundary Road; and **THENCE**, along said north margin of the abandoned portion of West Boundary Road the following two numbered courses: (4) South 82°59'13" East 104.10 feet and (5) South 44°13'13" East 42.87 feet **RETURNING to the POINT OF BEGINNING** and containing approximately 0.14 acres, more or less.

The above description was based upon a description provided to the Office of the Lane County Surveyor by Branch Engineering, Inc. of Eugene, Oregon, which was based on a compilation of existing record information. The bearings shown hereon are based on those shown on the Survey Map by Richard P. Hankins that was filed June 30, 1993 as County Survey File Number 31330 in the Office of the County Surveyor of Lane County, Oregon. Bearings taken from other filed maps and recorded documents were rotated as necessary.

is hereby VACATED, and it is further

ORDERED, that an easement is hereby retained for any and all existing public utilities to preserve, maintain, repair, replace, remove or reinstall any public utility that may now exist within the bounds of the portion of West Boundary Road herein described by these proceedings as 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 14th day of January, 2009.

Chair
LANE COUNTY BOARD OF COMMISSIONERS

Attachment: Site Map

APPROVED AS TO FORM

Date 1-14-9 lane county

OFFICE OF LEGAL COUNSEL

EXHIBIT "A"

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

IN THE MATTER OF THE VACATION OF A PORTION OF WEST)	
BOUNDARY ROAD (CO. RD. 360, BLAKELY ROAD), LOCATED)	FINAL DIRECTOR'S
IN THE SOUTHEAST ONE QUARTER OF THE NORTHWEST ONE)	REPORT
QUARTER (SE1/4 NW1/4) OF SECTION 14, TOWNSHIP 19)	
SOUTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN, IN)	
LANE COUNTY, OREGON, WITH A PUBLIC HEARING AND)	
ADOPTING FINDINGS OF FACT (19-01-14-24))	

The Surveyor's Office of the Department of Public Works has received a request by the Engineering and Construction Services section of the Department of Public Works to initiate proceedings for the vacation of the subject portion of West Boundary Road. This vacation is in conjunction with road-related construction associated with the Lowell Assisted Housing Project which is included in the county's Five-Year Capital Improvement Program (CIP) for FY 08/09 – FY 12/13 adopted by Board of Commissioners Order Number 08-5-7-14, and helps facilitate the Intergovernmental Agreement between Lane County and the City of Lowell for the Lowell Assisted Housing Project, authorization for which was approved by Board of Commissioners Order Number 08-5-7-7.

On December 3, 2008, Resolution and Order Number 08-12-3-1 was passed by the Board of Commissioners which set a public hearing date of January 14, 2009 to consider this vacation.

The portion of West Boundary Road proposed for vacation is of variable width, located in the vicinity of the intersection of Main Street and Parker Lane in the City of Lowell, and is a remnant portion of County Road No. 360 (originally Blakely Road) which was left un-vacated in a 1966 alteration and relocation of County Road 360 by Board of Commissioners Order filed January 7, 1966 in Commissioners Journal 28, Pages 11-15. A search of the records found no documented reason for not vacating the excess right of way.

The portion of West Boundary Road proposed for vacation lies within two parcels of land being transferred to the City of Lowell by Lane County and the U.S. Army Corps of Engineers. The parcels will be combined with adjacent City owned land to the north to provide for a parcel large enough to facilitate the platting of a 20 lot subdivision. The lots will then be transferred to St. Vincent de Paul for construction of low and moderate income housing.

The portion of West Boundary Road proposed for vacation is within the city limits of the City of Lowell. In accordance with ORS 368.361(3), concurrence by the City of Lowell is necessary to validate the vacation. The City of Lowell has indicated they will provide this concurrence.

The Surveyor's Office notified the City of Lowell, the U.S. Army Corps of Engineers, St. Vincent de Paul of Lane County, Qwest Communications, Emerald People's 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 nearby property owners regarding the vacation. Linda Jo Bugbee, owner of tax lot 3900 of Assessor's Map 19-01-14-24 responded with an objection to the vacation. The City of Lowell responded in support of the vacation. The other agencies and landowners either had no objection to the vacation or did not respond to the referral.

EXHIBIT "A"

The vacation of the portion of West Boundary Road as described in the Final Order will have no adverse effects on transportation patterns in the area. The public interest will be served, as the portion vacated will be returned to the tax rolls as real property, and the vacation will directly help facilitate the Lowell-St. Vincent de Paul Assisted Housing Project to provide more low and moderate income housing within Lane County.

Lane Manual 15.305 requires that vacations, other than those by petition, shall be referred to the Roads Advisory Committee for consideration and recommendations. This vacation was considered and approved by the Roads Advisory Committee on October 22, 2008.

Notification of these proceedings has been provided by posting, mail and legal publication by the County Surveyor in accordance with ORS 368.401 to 368.426.

It is therefore recommended that the portion of West Boundary Road (Co. Rd. 360), as described in the Final Order, be vacated. It is further recommended that an easement for existing public utilities be retained in the Final Order.

DATED this 22 day of December, 2009.



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 THE VACATION OF A PORTION OF)
WEST BOUNDARY ROAD (CO. RD. 360, BLAKELY ROAD),)
LOCATED IN THE SOUTHEAST ONE QUARTER OF THE) FINDINGS OF FACT
NORTHWEST ONE QUARTER (SE1/4 NW1/4) OF SECTION)
14, TOWNSHIP 19 SOUTH, RANGE 1 WEST OF THE)
WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON,)
WITH A PUBLIC HEARING AND ADOPTING FINDINGS OF)
FACT (19-01-14-24))

The Surveyor's Office of the Department of Public Works has received a request by the Engineering and Construction Services section of the Department of Public Works to initiate proceedings for the vacation of the subject portion of West Boundary Road. This vacation is in conjunction with road-related construction associated with the Lowell Assisted Housing Project which is included in the county's Five-Year Capital Improvement Program (CIP) for FY 08/09 – FY 12/13 adopted by Board of Commissioners Order Number 08-5-7-14, and helps facilitate the Intergovernmental Agreement between Lane County and the City of Lowell for the Lowell Assisted Housing Project, authorization for which was approved by Board of Commissioners Order Number 08-5-7-7. The public interest will be served, as the portion vacated will be returned to the tax rolls as real property, and the vacation will directly help facilitate the Lowell-St. Vincent de Paul Assisted Housing Project to provide more low and moderate income housing within Lane 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 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 property abutting the proposed vacation is identified as tax lot 1500 of Assessor's Map 19-01-14 as presently drawn; tax lots 3400 and 3500 of Assessor's Map 19-01-14-24; and two parcels to be transferred to the City of Lowell, one by Lane County and the other by the U.S. Army Corps of Engineers, that presently are un-numbered, and are shown on the Site Map attached to the Final Order of Vacation.
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, the Surveyor's Office notified the City of Lowell, the U.S. Army Corps of Engineers, St. Vincent de Paul of Lane County, Qwest Communications, Emerald People's 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 nearby property owners regarding the vacation. Linda Jo Bugbee, owner of tax lot 3900 of Assessor's Map 19-01-14-24 responded with an objection to the vacation. The City of Lowell responded in support of the vacation. The other agencies and landowners either had no objection to the vacation or did not respond to the referral.
4. That, Lane Manual 15.305 requires that vacations, other than those by petition, shall be referred to the Roads Advisory Committee for consideration and recommendations, and this vacation was considered and approved by the Roads Advisory Committee on October 22, 2008.
5. That, the County Surveyor has provided legal notice for the public hearing by service, posting, and publication, as required by ORS 368.401 to 368.426.
6. That, pursuant to the provisions of ORS Chapter 368, a county governing body may make a determination about a vacation of property with a public hearing if:
 - (1) The county road official files a written report containing a description of the property proposed for vacation and stating that the vacation is in the public interest.
 - (2) The governing body shall establish a time and place for a hearing to consider the proposed vacation and shall give notice of said hearing under ORS 368.401 to 368.426.

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, with a public hearing, have been met.

EXHIBIT "C"

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


IN THE MATTER OF THE VACATION OF A PORTION OF WEST)	
BOUNDARY ROAD (CO. RD. 360, BLAKELY ROAD), LOCATED IN)	AFFIDAVIT OF
THE SOUTHEAST ONE QUARTER OF THE NORTHWEST ONE)	POSTING,
QUARTER (SE1/4 NW1/4) OF SECTION 14, TOWNSHIP 19 SOUTH,)	PUBLICATION
RANGE 1 WEST OF THE WILLAMETTE MERIDIAN, IN LANE)	AND MAILING
COUNTY, OREGON, WITH A PUBLIC HEARING AND ADOPTING)	
FINDINGS OF FACT (19-01-14-24))	

I, D. Michael Jackson, Lane County Surveyor, certify as follows:

That on the 17th day of December, 2008 I caused to be posted four (4) copies of the Notice of Hearing in the above entitled matter in four places, positioned to be visible to the traveling public, as follows:

1. Posted on the south side of a "Boat Ramp Closed" sign post located on the east side of Parker Lane, approximately 50 feet south of the intersection of Parker Lane and West Boundary Road (aka North Shore Drive).
2. Posted on the westerly side of a power pole located on the easterly side of West Boundary Road (aka North Shore Drive), approximately 100 feet southeasterly from the intersection of Main Street and West Boundary Road (aka North Shore Drive).
3. Posted on the northwesterly side of a 10" fir tree just inside a gated entrance to the east end of a gravel access road, approximately 70 feet easterly from the intersection of Hyland Lane and West Boundary Road (aka North Shore Drive).
4. Posted on the northerly side of a 12" cedar tree located 10 feet south of a gravel access road and approximately 270 feet easterly from a gate at said access road's easterly end, said gate being approximately 70 feet easterly from the intersection of Hyland Lane and West Boundary Road (aka North Shore Drive).

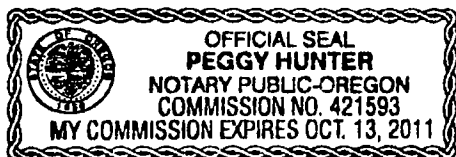
The undersigned further certifies that on December 22, 2008 and January 7, 2009 notice is scheduled to run in the Register Guard. Also, that on December 11, 2008 notice was sent to adjacent owners by Certified Mail, and to various other private entities and public agencies having an interest in these vacation proceedings by General Mail.

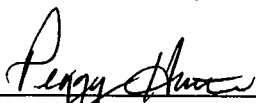


 D. Michael Jackson
 Lane County Surveyor

State of Oregon)
County of Lane)

Subscribed and sworn to before me this 19th day of December, 2008 by
D. Michael Jackson.

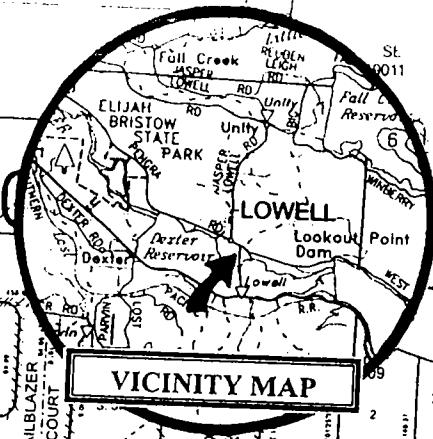
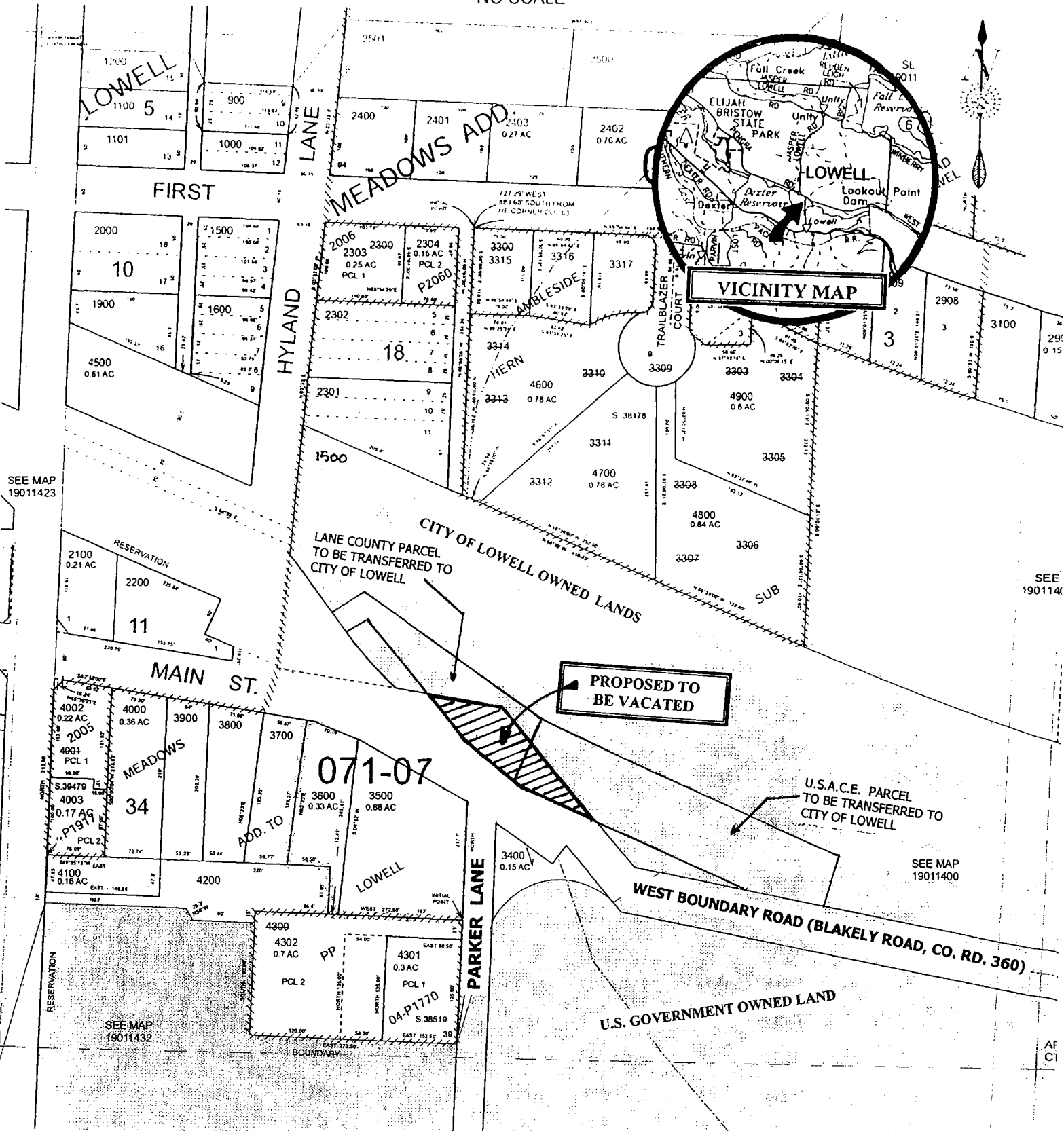




 NOTARY PUBLIC FOR OREGON
 My Commission Expires: Oct 13, 2011

ATTACHMENT Vacation—Portion of West Boundary Rd
(Originally Blakely Road, Co. Rd. 360)

SE1/4 of the NW1/4 Section 14, T. 19 S. R. 1 W., W.M.
LANE COUNTY
NO SCALE



PROPOSED TO BE VACATED

LANE COUNTY PARCEL TO BE TRANSFERRED TO CITY OF LOWELL

U.S.A.C.E. PARCEL TO BE TRANSFERRED TO CITY OF LOWELL

U.S. GOVERNMENT OWNED LAND

SEE MAP 19011423

SEE 1901144

SEE MAP 19011400

SEE MAP 19011432

AF CT