



AGENDA

Lincoln County Board of Commissioners

Board of Commissioners
225 West Olive Street
Room 110
Newport, OR 97365
Phone: 541.265.4100
FAX: 541.265.4176

Wednesday, December 7, 2016

9:30 a.m.

**Commissioner's Meeting Room
Lincoln County Courthouse
225 W. Olive Street, Room 108
Newport, Oregon**

I. CALL TO ORDER

II. ROLL CALL - ESTABLISHMENT OF A QUORUM

III. RECOGNITION/PROCLAMATION

A. Employee Recognitions:

1. Stuart Fisher – Juvenile Department – 25 Years of Service
2. Richard Evans – Planning Department – 20 Years of Service
3. David Boys – Sheriff's Office – 15 Years of Service
4. Suzi O'Toole – Parole and Probation – 10 Years of Service
5. Carrie Hays – Health and Human Services – 5 Years of Service

B. New Hire Introductions – Presented by: Bridget Robertson

IV. ADOPTION OF CONSENT CALENDAR

A. Minutes of Board of Commissioners Meeting

B. Commission Appointments and Resignations

C. License Applications or Renewals

D. Tax Foreclosure, Right-of-Way, Sales and Deeds

E. General Budget Resolutions

F. Acting as Governing Body of County Wide Service Districts

G. Documents and Recording Matters in the Commissioners Journal

1. Order #12-16- 308 Intergovernmental Agreement #31504 between the Oregon Department of Transportation for Single Trip Permit Authorization. Agreement covers the permit process for

overweight/over dimensional loads traveling the State and County road system. (Terms; 10 years)

2. Order #12-16-309 Agreement Between Road and Driveway and Lincoln County for the 2016 Overlay with Asphalt Concrete on a portion of Bear Creek Road – Co. Rd 106 (Terms; 9/1/16 – 9/30/16; \$248,847.38)
3. Order #12-16-310 Amendment 2 –Master Intergovernmental Agreement for Sharing Multiple Wireless Communications Sites Lincoln County – Agreement #28244, Between Lincoln County and Oregon Department of Transportation (Terms: Expires 06/30/2022)
4. Order #12-16-311 Amendment 2 –Intergovernmental Agreement Site Specific Supplemental Table Mountain Communications Site - Site #28244, Between Lincoln County and Oregon Department of Transportation (Terms: Expires 06/30/2022)
5. Order #12-16-312 Amendment 2 –Intergovernmental Agreement Circuit Sharing from Cape Perpetua to Eagle Crest Communications Sites - Site #28244, Between Lincoln County and Oregon Department of Transportation (Terms: Expires 06/30/2022)
6. Order #12-16-313 Amendment 2 –Intergovernmental Agreement Site Specific Supplemental Cape Perpetua Communications Sites - Site #28244, Between Lincoln County and Oregon Department of Transportation (Terms: Expires 02/24/2022)
7. Order #12-16-314 Amendment 2 –Intergovernmental Agreement Site Specific Supplemental Euchre Mountain Communications Sites - Site #28244, Between Lincoln County and Oregon Department of Transportation (Terms: Expires 11/30/2021)
8. Order #12-16-315 Bill of Sale Between Lincoln County and Oregon Department of Transportation for Microwave Equipment located at Cape Perpetua Communications Site, Euchre Mountain Communications Site, Prairie Communications Site and Table Mountain Communications Site
9. Order #12-16-316 Amendment #12 to Agreement #147795 Between Oregon Health Authority and Lincoln County for Financing of Community Addictions and Mental Health Services (Terms; Effective 7/1/15 – 6/30/17)
10. Order #12-16-317 Service Learning Agreement Between Mollie Vance and

Lincoln County Health and Human Services and Linfield College. The purpose of this agreement is to develop students' sense of belonging to the college and the campus community.

11. Order #12-16-318 Amendment #4 to the Agreement Between Intercommunity Health Network, Inc. and Lincoln County Health and Human Services (Terms; Effective date 9/14/16; \$465/Enrolled Member case rate)

H. Execution of Documents

1. Amendment #13 to Agreement #147795 Between Oregon Health Authority and Lincoln County for Financing of Community Addictions and Mental Health Services (Terms; Effective 7/1/15 – 6/30/17)
2. Amendment #03 to Agreement #27292 Between the State of Oregon and Lincoln County for the Local bridge Program Project Yaquina River (Trapp Creek Road) Bridge No. 12118A Lincoln County (Terms; LBP funds \$1,992,687)

V. PUBLIC HEARING

- A. **Legalization of SE 23rd Street in Lincoln City (County Road #107) – Presented by:**
John Waffenschmidt and Roy Kinion

VI. DECISION/ACTION

- A. Order #12-16-319 **Purchase of Property for Crisis Respite Housing and Services, Newport, Oregon**
- B. Order #12-16-320 **Name Change for the Portion of US Hwy 20 to be Transferred to Lincoln County as part of US Hwy 20 PME Project**

VII. DISCUSSION/INFORMATION

VIII. BOARD OF COMMISSIONERS AS THE GOVERNING BODY OF COUNTY-WIDE SERVICE DISTRICTS

IX. REPORTS

- A. **Elected Officials/Department Directors/Program Coordinators and Consultants**

1. Commissioners

X. CONSTITUENT INPUT (Limited to five minutes per constituent)

XI. EXECUTIVE SESSION

- A. **Pursuant to ORS 192.660(2)(h) to discuss litigation matters**

XII. ADJOURNMENT

XIII. OTHER SCHEDULED MEETINGS AND APPOINTMENTS OF THE BOARD

Wednesday, December 14, 2016 – 9:30 a.m. – Board of Commissioners Meeting in the Commissioner’s Meeting Room, Lincoln County Courthouse Room #108, 225 West Olive Street, Newport.

For special physical, language or other accommodations at Board's meeting, please contact the Board at 265-4100 (voice) or dial 7-1-1 Relay Service and include e-mail as soon as possible, but at least 48 hours before the meeting.



Lincoln County Public Works
Roy L. Kinion
Public Works Director

County of Lincoln

880 NE 7th Street
Newport, Oregon 97365-2599
Phone (541) 265-5747
FAX (541) 574-1295

November 30, 2016

Lincoln County
Board of Commissioners
225 W. Olive
Newport, Oregon 97365

Re: Legalization of a Portion of SE 23rd Drive No. 107

Honorable Chair and Commissioners:

The Road Department would like to legalize a portion of SE 23rd Drive No. 107, from the centerline intersection of the Oregon Coast Highway and said SE 23rd Drive thence easterly, along the traveled way of said SE 23rd Drive to the East line of that parcel described in MF 34, Page 349, Lincoln County Deed Records, (Tax Lot 1000, Map 07-11-23-00) *further investigation reveals the description should read-* SE 23rd Drive No. 107, from the centerline intersection of the Oregon Coast Highway and said SE 23rd Drive thence easterly, along the traveled way of said 23rd Drive to the West line of that Parcel described in MF 117, Page 1677 (Tax Lot 1004, Map 07-11-23) so that a specific right-of-way will be established. Preliminary work by the County Surveyor's office reveals defects in the original survey information for this portion of the road and the road as traveled and used for 10 or more years does not conform to the location of the road described in the county records. Because most of the land adjacent to SE 23rd Drive is zoned Planned Industrial and there is significant potential for development of this area, we believe a legalization of SE 23rd Drive is necessary.

Under ORS 368.201(2) (a) and (b) the governing body may initiate proceedings to legalize a county road if the location of the road cannot be accurately determined due to numerous alterations of the road or if there is a defective survey of the road or adjacent property.

Also, under ORS 368.201(3) the governing body may initiate proceedings to legalize a county road if the road as traveled and used for 10 years or more does not conform to the location of a road described in the county records.

The legalization process has been started and various portions of the work completed. The County Surveyor has surveyed the appropriate portion of the road and has provided a memorandum, centerline description, survey and field notes.

Under ORS 368.206(1)(b) the county road official is to file a written report with the county governing body including the survey required under this section and any other information required by the governing body. This letter constitutes my written report.

The county commissioners directed that the process of legalization of this portion of SE 23rd Drive be commenced by Order No. 11-16-277. The survey and legalization is for approximately .7 miles of the road from the centerline intersection of the Oregon Coast Highway and said SE 23rd Drive easterly to the West line of that Parcel described in MF 117, Page 1677 (Tax Lot 1004, Map 07-11-23). County Deed Records indicate a right-of-way width of 30 feet from the beginning point of the legalization, 1275 feet east to the East line of 07-11-22, then a 60 foot right-of-way width for the remainder of the legalization. Some utilities are currently located outside of the 60 foot Deeded right-of-way but would be within the right-of-way to be legalized. A right-of-way width of 30 feet does not meet the standard width of 60 feet that is required for a County Road with a functional class status of Rural Major Collector. Additional work will need to be done in the future to increase this width. At this time, it is necessary to legalize SE 23rd at its existing width.

Under ORS 368.211, "A county governing body shall provide for compensation under this section to any person who has established a structure on real property if the structure encroaches on a road that is the subject of legalization proceedings under ORS 368.201." There are no structures encroaching on the road, therefore there should be no claims for compensation.

John Waffenschmidt, Lincoln County Surveyor, has sent the Board of Commissioners a memorandum detailing a brief history of this portion of the road. The Surveyor states that his work has revealed an ambiguity in the locations of the Deeds.

I think a sufficient basis has been established for the legalization of the subject portion of the road. It is my recommendation that you accept the attached memorandum, centerline description, survey and field notes together with this report and proceed with the legalization of approximately .7 miles of SE23rd Drive County Road 107 as surveyed by the Lincoln County Surveyor.

Please contact me if you have any questions or comments.

Sincerely,



Roy Kinion
Public Works Director

xc: John Waffenschmidt, County Surveyor
Wayne Belmont, Legal Counsel
File



John L. Waffenschmidt, - PLS
County Surveyor

880 NE 7th
Newport, Oregon 97365
(541) 265-4147

November 17, 2016

To: Board of Commissioners

From: John L. Waffenschmidt, PLS
County Surveyor

Re: Legalization memorandum for County Road #107 (SE 23rd Street, in Lincoln City).

Pursuant to the Board's order we have completed the survey for the proposed legalization of SE 23rd Street. The field notes, map, and centerline description required for the Board to proceed with this legalization are attached.

Description

This road begins at Highway 101, then runs Easterly about 0.7 miles to its end which is on the West line of that Parcel described in MF 117, Page 1677 (Tax Lot 1004, Map 07-11-23). The road continues on as a non-County Road from there, running generally Easterly through easements to serve several properties.

History

County Road 107 right of way was surveyed by County Surveyor Z. M. Derrick in March, 1940, (see Field Book 113, Pages 100-111). Right of way was acquired by deeds dated April and May of 1940 (see deed references on the next page). It appears that the construction of the road came after the survey and deeds. The deed from Harry Thorpe (Book 87, Page 347) mentions that it will "become effective when the bed of the road is graded to a width of at least 20 feet wide". As early as 1945/46 a survey and map by D. B. Ambler, County Engineer, show the road was not constructed in its deeded right of way. This is also what we find today with our current survey. Per ORS 368.201(3) this is a basis for legalization of road.

(3) If the road as traveled and used for 10 years or more does not conform to the location of a road described in the county records.

The first portion of the road lies in the east half of Section 22, Township 7 South, Range 11 West. This portion of the road was acquired by deed with a stated width of 30 feet.

The remainder of the road lies in the west half of Section 23, Township 7 South, Range 11 West. The road in Section 23 was acquired by 2 deeds, each with a stated width of 60 feet.

No historic deed was located for the portion of the road which crosses into Government Lot 5, of Section 23, (now property of Firs Holdings LLC, 07-11-23-00-00500). Per ORS 368.201(1) this is another basis for legalization of road.

(1) If, through omission or defect, doubt exists as to the legal establishment or evidence of establishment of a public road.



John L. Waffenschmidt, - PLS
County Surveyor

880 NE 7th
Newport, Oregon 97365
(541) 265-4147

1997 Vacation and Dedication

In 1997 a portion of the Easterly end of the road was vacated and a realigned road was dedicated. We observed there is a discrepancy in the point of beginning from legal description of the 1997 realigned road. Due to this discrepancy, a latent ambiguity, the portion of the road which was realigned in 1997 has been included in this legalization survey.

Comments

In the opinion of this surveyor, SE 23rd Street should be legalized for the reasons described above and as further detailed on the survey map.

In harmony with the original deeds, the proposed legalization has a 30 foot width through Section 22, and a 60 foot width in Section 23. The 30 foot wide right of way, while sufficient to contain the road surface (except at the connection to Highway 101), does not necessarily contain the ditches, the cut and fill slopes, or all of the existing utilities. Other remedies may need to be pursued in the future to widen the 30 foot right of way to a width necessary for this classification of road.

Sincerely

John L. Waffenschmidt – County Surveyor

Deed References

DV 87, PAGE 347
HARRY THORPE TO COUNTY OF LINCOLN
RIGHT-OF-WAY DEED 30' WIDTH
DATE: MAY 16, 1940
RECORDED: APRIL 22, 1941

MF 331, PAGE 1977
ORDER TO VACATE A
PORTION OF THORPE ROAD
DATED JANUARY 15, 1997

DV 87, PAGE 523
H. L. LINDBERG TO COUNTY OF LINCOLN
RIGHT-OF-WAY DEED 60' WIDTH
DATE: APRIL 8, 1940
RECORDED: MAY 20, 1941

MF 331, PAGE 1981
DEVIL'S LAKE ROCK CO.
RIGHT-OF-WAY DEED 60' WIDTH
DEEDED JANUARY 13, 1997

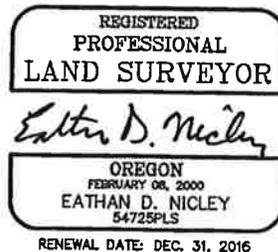
DV 87, PAGE 524
WILLIAM BROWN TO COUNTY OF LINCOLN
RIGHT-OF-WAY DEED 60' WIDTH
DATE: APRIL 8, 1940
RECORDED: MAY 20, 1941

For the legalization of
County Road number 107,
commonly known as
SE 23rd Drive

A description of a right of way for County Road number 107, commonly known as SE 23rd Drive, which begins at Highway 101, and then runs easterly, approximately 0.7 miles to its end. The portions of said road in Section 22, having a width of 30 feet, lying 15 feet on each side of centerline, and the portions of said road in Section 23, having a width of 60 feet, lying 30 feet on each side of centerline, said centerline being more particularly described as follows:

Beginning at a point on the Centerline of Highway 101, said point being situated 320.83 feet north, and 1131.99 feet west, of the 1/4 corner (per CS 20216) common to Sections 22 and 23, Township 7 South, Range 11 West, Willamette Meridian: thence S82°00'00"E for 129.28 feet; to station 1+29.28 the beginning of a horizontal curve, the radius point of which bears S8°00'00"W, and 338.31 feet, thence along said curve through a central angle of 22°50'00" for 134.82 feet to station 2+64.10 point of tangency; thence S59°10'00"E for 202.02 feet; to station 4+66.12 the beginning of a horizontal curve, the radius point of which bears N30°50'00"E, and 351.27 feet, thence along said curve through a central angle of 29°36'00" for 181.47 feet to station 6+47.59 point of tangency; thence S88°46'00"E for 291.94 feet; to station 9+39.53 the beginning of a horizontal curve, the radius point of which bears S1°14'00"W, and 162.00 feet, thence along said curve through a central angle of 46°04'00" for 130.25 feet to station 10+69.78 point of tangency; thence S42°42'00"E for 117.65 feet; to station 11+87.43 the beginning of a horizontal curve, the radius point of which bears N47°18'00"E, and 240.00 feet, thence along said curve through a central angle of 50°36'00" for 211.95 feet to station 13+99.38 point of tangency; thence N86°42'00"E for 140.48 feet; to station 15+39.86 the beginning of a horizontal curve, the radius point of which bears N3°18'00"W, and 491.75 feet, thence along said curve through a central angle of 16°20'00" for 140.18 feet to station 16+80.04 point of tangency; thence N70°22'00"E for 162.30 feet; to station 18+42.34 the beginning of a horizontal curve, the radius point of which bears S19°38'00"E, and 266.00 feet, thence along said curve through a central angle of 27°30'00" for 127.67 feet to station 19+70.01 point of tangency; thence S82°08'00"E for 221.71 feet; to station 21+91.72 the beginning of a horizontal curve, the radius point of which bears S7°52'00"W, and 1083.00 feet, thence along said curve through a central angle of 7°21'00" for 138.93 feet to station 23+30.65 point of tangency; thence S74°47'00"E for 269.83 feet; to station 26+00.48 the beginning of a horizontal curve, the radius point of which bears S15°13'00"W, and 2512.00 feet thence along said curve through a central angle of 3°31'18" for 154.40 feet; to station 27+54.88 the beginning of a reverse horizontal curve, the radius point of which bears N18°44'18"E, and 466.00 feet, thence along said curve through a central angle of 22°57'47" for 186.76 feet; to station 29+41.64 the beginning of a reverse horizontal curve, the radius point of which bears S4°13'29"E, and 496.00 feet, thence along said curve through a central angle of 38°25'38" for 332.66 feet; to station 32+74.30 the beginning of a reverse horizontal curve, the radius point of which bears N34°12'09"E, and 320.00 feet, thence along said curve through a central angle of 32°50'09" for 183.39 feet to station 34+57.69 point of tangency; thence S88°38'00"E for 80.54 feet; to station 35+38.23 the beginning of a horizontal curve, the radius point of which bears N1°22'00"E, and 392.00 feet, thence along said curve through a central angle of 9°16'00" for 63.40 feet; to station 36+01.63 the beginning of a reverse horizontal curve, the radius point of which bears S7°54'00"E, and 238.00 feet, thence along said curve through a central angle of 16°36'05" for 68.96 feet, to station 36+70.59 more or less, to the Westerly line of that parcel described in MF 117, Page 1677, Lincoln County Deed Records, and the terminus of County Road number 107. Note: the sidelines of this right of way are to be lengthened or shortened to end on said west line of parcel described in MF 117, Page 1677, Lincoln County Deed Records.

Located in the Easterly half of Section 22, and the Westerly half of Section 23, Township 7 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon.



SURVEY OF A PROPOSED LEGALIZATION FOR COUNTY ROAD # 107 AKA SE 23RD Drive, Lincoln City

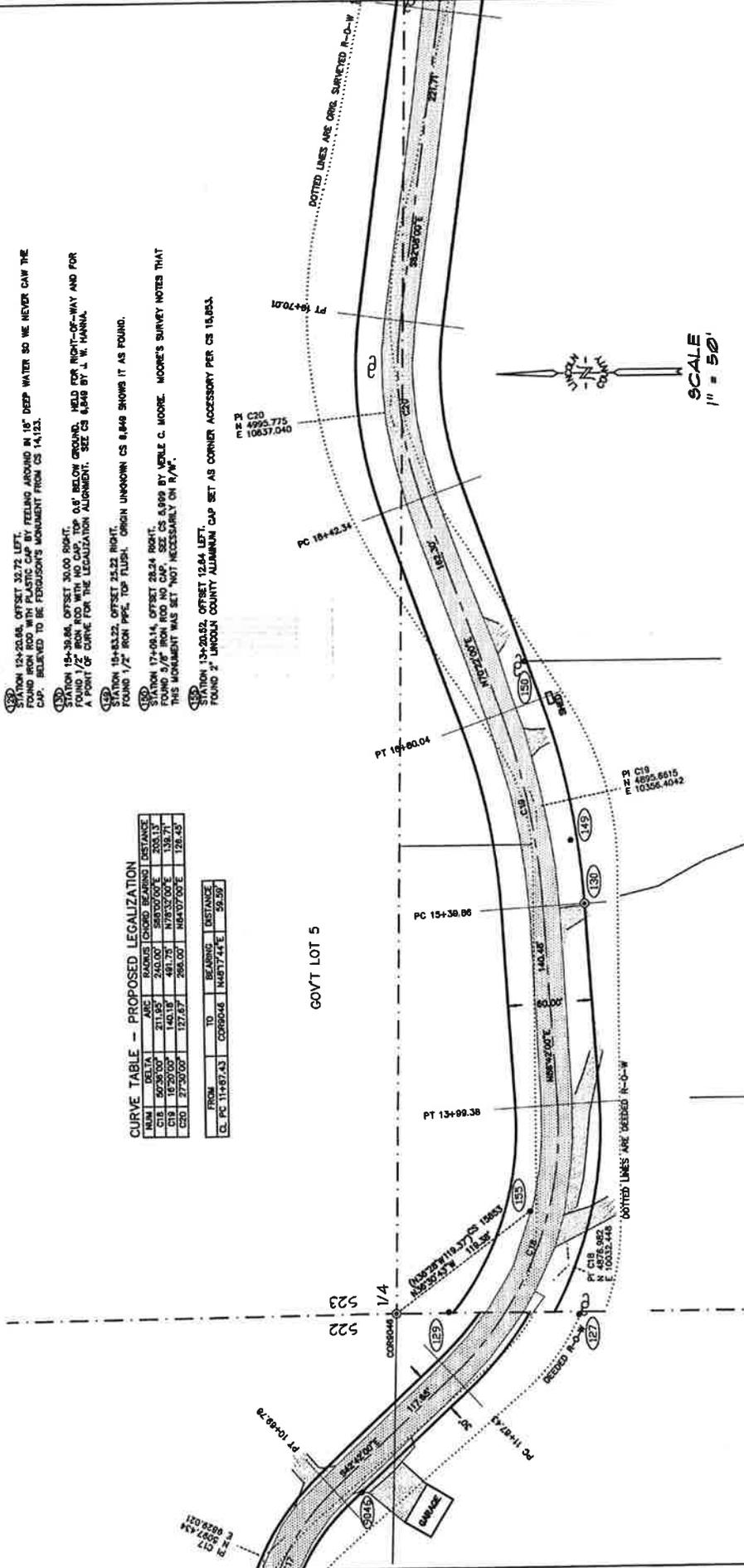
C.S. # _____
FILED _____
LINCOLN COUNTY SURVEYOR

MONUMENT NOTES

- CORR0046 FOUND BRASS CAP BY FEELING AROUND IN 2' OF WATER. A CARBONITE POST IS UP AGAINST THE CAP ON THE SOUTH SIDE. HELD FOR 1/4 CORNER. SEE CS 6566, CS 11,426, AND 15,863 FOR CORNER REPORTS. SEE CS 17,176 AND CS 20,216 FOR GEODETIC TIES.
- STATION 10+83.46, OFFSET 15.25 RIGHT. FOUND 1/2" IRON ROD AT THE END OF A BRACKET FOR A SKYWAY ARMOR. CAP MISSING. THIS MONUMENT WAS RECORDED IN 2003. SEE CS 17,176. THE 1/4 CORNER BEARS 57°10'30" 128.94' FROM THIS POINT (RECORD FROM 1990 PER CS 15,853 WAS 57°09'36" 128.03').
- STATION 12+48.45, OFFSET 48.52 RIGHT. FOUND 5/8" IRON ROD TOP 1' RIGHT, STRENGTHENED AND RESET IN SPIN HOLE. ORIGIN UNKNOWN.
- STATION 12+20.86, OFFSET 32.72 LEFT. FOUND IRON ROD WITH PLASTIC CAP BY FEELING AROUND IN 16" DEEP WATER SO WE NEVER SAW THE CAP. BELIEVED TO BE FERDINAND'S MONUMENT FROM CS 14,123.
- STATION 15+38.86, OFFSET 30.00 RIGHT. FOUND 1/2" IRON ROD WITH PLASTIC CAP. HELD FOR RIGHT-OF-WAY AND FOR A POINT OF CURVE FOR THE LEGALIZATION ALIGNMENT. SEE CS 8,848 BY J. W. HANNA.
- STATION 15+83.22, OFFSET 25.22 RIGHT. FOUND 1/2" IRON PIPE, TOP FLUSH. ORIGIN UNKNOWN CS 8,848 SHOWS IT AS FOUND.
- STATION 17+00.14, OFFSET 28.24 RIGHT. FOUND 3/8" IRON ROD NO CAP. SEE CS 8,999 BY VERLE C. MOORE. MOORE'S SURVEY NOTES THAT THIS MONUMENT WAS SET "NOT NECESSARILY ON R/W".
- STATION 13+20.82, OFFSET 12.84 LEFT. FOUND 2" LINCOLN COUNTY ALUMINUM CAP SET AS CORNER ACCESSORY PER CS 15,853.

CURVE TABLE - PROPOSED LEGALIZATION

FROM	TO	BEARING	DISTANCE			
CL PC 11487.43	CORR0046	146°57'44"E	59.50'			
MIN	DELTA	ARC	RADIUS	CHORD	BEARING	DISTANCE
C18	80°36'00"	211.93'	240.00'	240.00'	89°03'00"E	339.31'
C19	19°20'00"	142.18'	164.00'	164.00'	184°10'00"E	128.45'
C20	27°20'00"	127.87'	296.00'	296.00'	184°10'00"E	128.45'



RECORDED
PROFESSIONAL
LAND SURVEYOR
Esther P. McNeil
ORIGON
ESTHER P. MCNEIL
LICENSE NO. 10032-448

SURVEY FOR
LINCOLN COUNTY
ROAD DEPARTMENT
E 1/2 S. 22, W 1/2 S. 23, T18, R14W, W1/4
SCALE: 1" = 50'
SHEET NO. 3 of 6
DRAWN BY: THORPE/SPRAN
CHECKED BY: DMJ/JLB

SURVEY BY
LINCOLN COUNTY
SURVEYOR'S OFFICE
804 N. 7TH STREET
NEWPORT, OR 97156-5
DATE: 11/28/2018
FIELD CREW: DMJ/LJM/DMJ
DRAFTED BY: DMJ

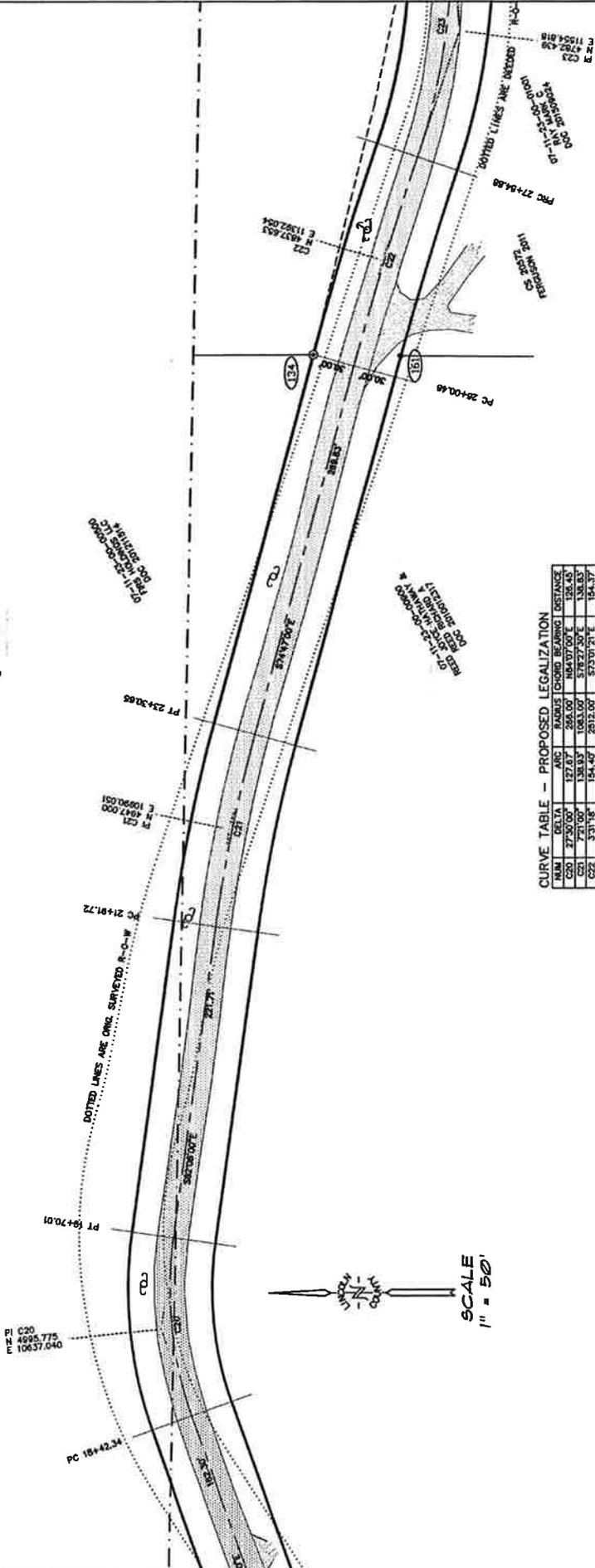
COORDINATE TABLE

POINT NUMBER	NORTHING	EASTING
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3	5000.000	10000.000
4	5000.000	10000.000
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96	5000.000	10000.000
97	5000.000	10000.000
98	5000.000	10000.000
99	5000.000	10000.000
100	5000.000	10000.000

- LEGEND
- INDICATES FOUND MONUMENT AS NOTED HEREON. HELD FOR CONTROL.
 - INDICATES OREGON AERIAL PHOTO CONTROL POINT AS NOTED HEREON.
 - INDICATES FOUND MONUMENT AS NOTED HEREON.
 - INDICATES POWER POLE.

SURVEY OF A PROPOSED LEGALIZATION FOR COUNTY ROAD #107 SE 23RD Drive, Lincoln City

C.S. # _____
FILED _____
LINCOLN COUNTY SURVEYOR



CURVE TABLE - PROPOSED LEGALIZATION

NAME	DELTA	ARC	RADIUS	CHORD	BEARING	DISTANCE
C20	27.30°00"	127.67'	266.00'	164.07'00"	E	128.45'
C21	7.21°00"	138.93'	1083.00'	578.27'00"	E	138.63'
C22	3.31°18"	154.40'	2012.00'	573.01'21"	E	154.37'

MONUMENT NOTES

STATION 28+00.48 PC, OFFSET 30.00' LEFT, FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERROUSION PLUS 2278' HELD FOR RIGHT-OF-WAY AND POINT OF CURVE FOR LEGALIZATION. SEE CS 11,846 AND CS 17,987.

LEGEND

- INDICATES FOUND MONUMENT AS NOTED HEREON, HELD FOR CONTROL.
- INDICATES DEEC AERIAL PHOTO CONTROL POINT AS NOTED HEREON.
- INDICATES FOUND MONUMENT AS NOTED HEREON.
- CDL INDICATES POWER POLE.

<p>SURVEY BY LINCOLN COUNTY SURVEYOR'S OFFICE 800 N. 7TH STREET NEWPORT, OR 97158</p> <p>DATE: 11/28/2016 FIELD CREW: EDN/AJW/DMM/DJA DRAFTED BY: EDN CHECKED BY: DMJ/AJW</p>	<p>SURVEY FOR LINCOLN COUNTY ROAD DEPARTMENT E 1/2 S. 23, W 1/2 S. 23, T7N, R31W, W. 1/4</p> <p>SCALE: 1" = 50' SHEET NO. 4 OF 8 COORD. FILE: THORPE.SURPROJ DRAWING NAME: THORPE.TB.DWG</p>
<p>REGISTERED PROFESSIONAL LAND SURVEYOR</p> <p><i>Edna D. Meeley</i> EDNA D. MEELEY LICENSE NO. 11111 BOARD REG. 03. 03. 03</p>	

SURVEY OF A PROPOSED LEGALIZATION FOR COUNTY ROAD #107 AKA SE 23RD Drive, Lincoln City

C.S. # _____
FILED _____
LINCOLN COUNTY SURVEYOR

NOTES:
THIS PORTION OF SE 23RD DRIVE (COUNTY ROAD NUMBER 107, AKA, KESACK ROAD) WAS CREATED BY A DEED (ON 87, PAGE 2) DATED ON 05/11/1941, AND A 1944 RECORD, MAY 20, 1941, WITH A STATED 60' WIDTH. IT HAS BEEN KNOWN FOR DECADES THAT THE PHYSICAL ROAD DID NOT GET CONSTRUCTED FOLLOWING THE DEEDED RIGHT-OF-WAY. THIS IS WELL ILLUSTRATED ON CS 5966 BY VELE C. MOORE ON HIS SURVEY RECORDED IN 1974, LESTER FULTZ SURVEYED USING THE APPARENT CENTERLINE WITH CS 8838 RECORDED IN 1980. DANIELS PERSONS'S 1987 SURVEY FOR MR. MICHAEL PHILIPS (CS 11646) SHOWS APPROXIMATE 7/8" LOCATION BASED ON EXISTING CENTERLINE.

FOR THE PURPOSE OF THIS SURVEY A MID POINT OF THE PAVEMENT WAS CALCULATED FROM TIES TO THE EDGE OF PAVEMENT ON EACH SIDE, A NEW CENTERLINE OF STANDARD CURVES AND TANGENT SEGMENTS WAS THEN CALCULATED TO FIT WITHIN 1' FOOT OF THE PHYSICAL MID POINT.

A TYPICAL SECTION OF ROAD IN THIS PROJECT AREA HAS PAVEMENT WHICH IS APPROXIMATELY 22' WIDE. IN ADDITION TO ADJACENT TO THE PAVEMENT, ADDITIONAL FIELD WORK WOULD BE REQUIRED TO SHOW ALL OF THESE ITEMS.

THE BASIS FOR THIS LEGALIZATION IS CONTINUOUS USE OF THE ROAD FOR OVER 10 YEARS IN ITS PRESENT LOCATION AS WELL AS ABANDONMENT IN THE DEED DESCRIBING SAID OF WHICH ARE NOTED HEREON.

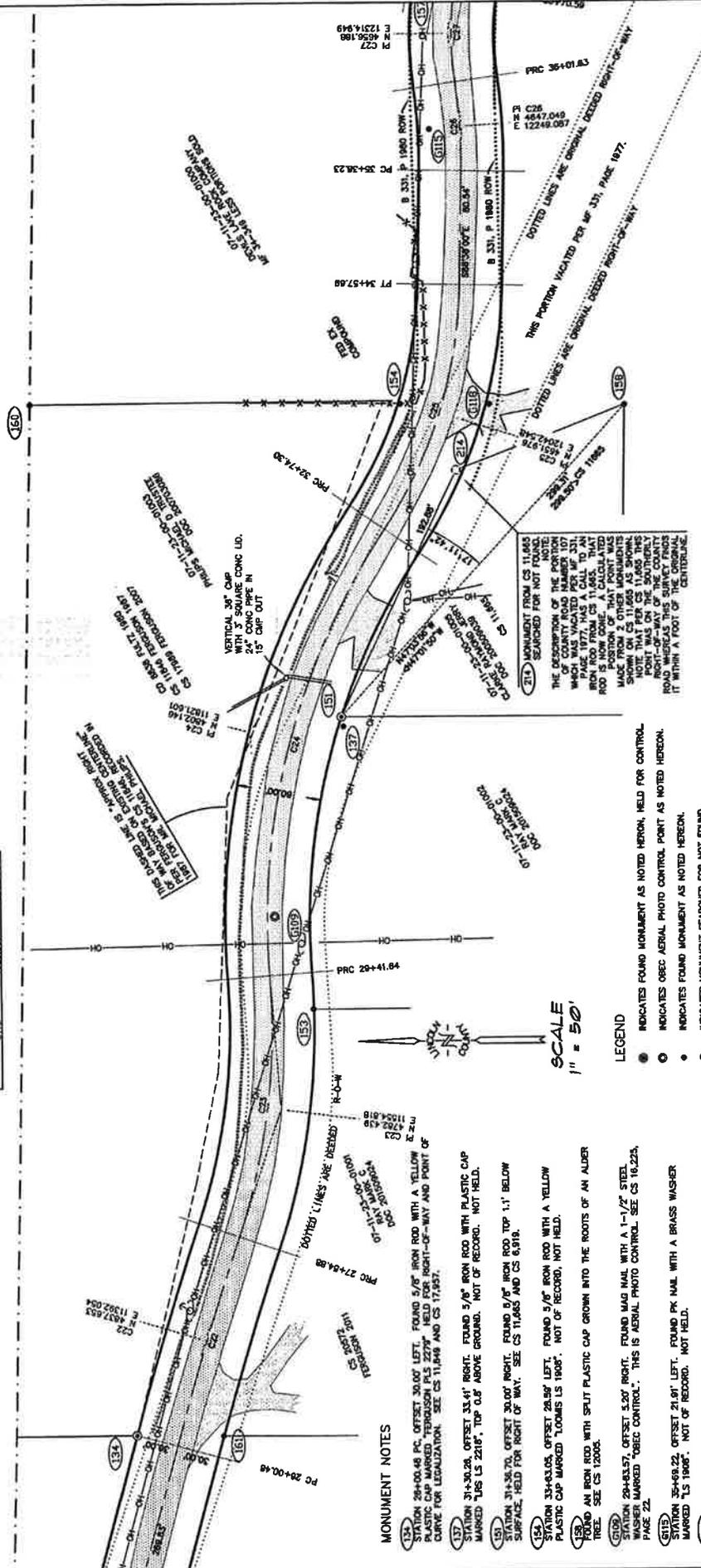
IN SECTION 23 A RIGHT-OF-WAY WIDTH OF 80', BEING 30' EACH SIDE OF THE CENTERLINE AS DETERMINED ABOVE, WAS HELD PER THE ORIGINAL DEEDS.

CURVE TABLE - PROPOSED LEGALIZATION

CHAIN	DELTA	ARC	RADIUS	CHORD	BEARING	LENGTH	CHORD BEARING	DISTANCE
C22	27°31'18"	154.40'	2912.00'	579.00'	71°E	154.37'	71°E	154.37'
C23	27°37'47"	186.78'	446.00'	592.49'	39°E	186.32'	39°E	186.32'
C24	32°25'39"	332.06'	496.00'	579.00'	59°E	331.86'	59°E	331.86'
C25	32°58'09"	633.46'	392.00'	488.44'	00°E	633.37'	00°E	633.37'
C26	17°44'00"	70.89'	238.00'	586.27'	00°E	70.83'	00°E	70.83'

COORDINATE TABLE

POINT NUMBER	NORTHING	EASTING
152	4153.78	11833.30
153	4153.78	11833.30
154	4153.78	11833.30
155	4153.78	11833.30
156	4153.78	11833.30
157	4153.78	11833.30
158	4153.78	11833.30
159	4153.78	11833.30
160	4153.78	11833.30
161	4153.78	11833.30
162	4153.78	11833.30
163	4153.78	11833.30
164	4153.78	11833.30
165	4153.78	11833.30
166	4153.78	11833.30
167	4153.78	11833.30
168	4153.78	11833.30
169	4153.78	11833.30
170	4153.78	11833.30



MONUMENT NOTES

152 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

153 FOUND 3/4" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

154 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

155 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

156 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

157 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

158 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

159 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

160 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

161 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

162 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

163 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

164 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

165 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

166 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

167 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

168 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

169 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

170 FOUND 5/8" IRON ROD WITH A YELLOW PLASTIC CAP MARKED 'FERGUSON PLS 2279'. NOT HELD FOR ROAD LEGALIZATION. SEE CS 11,646 AND CS 17,997.

MONUMENT NOT FOUND

211 MONUMENT FROM CS 11,646 SEARCHED FOR NOT FOUND. THE DESCRIPTION OF THE PORTION OF COUNTY ROAD NUMBER 107 WAS RECORDED IN DEED CS 11,646, PAGE 1977, HAS A CALL TO AN IRON ROD FROM CS 11,646. THE POSITION OF THAT POINT WAS MADE FROM 2 OTHER MONUMENTS SHOWN ON CS 11,646. THIS POINT WAS ON THE SOUTHWEST RIGHT-OF-WAY OF SAID COUNTY ROAD. IT WITHIN A FOOT OF THE ORIGINAL CENTERLINE.

LEGEND

- INDICATES FOUND MONUMENT AS NOTED HEREON. HELD FOR CONTROL.
- INDICATES GROUND AERIAL PHOTO CONTROL POINT AS NOTED HEREON.
- INDICATES FOUND MONUMENT AS NOTED HEREON.
- INDICATES MONUMENT SEARCHED FOR NOT FOUND.
- INDICATES POWER POLE.
- INDICATES GUY ANCHOR WIRE.
- O- INDICATES OVERHEAD POWER LINES.
- X- INDICATES CHAIN LINK FENCE.
- INDICATES UNDERGROUND PHONE LINES PER PAINTED LOCATE.
- INDICATES PHONE RISER.

SCALE
1" = 50'

SURVEY BY LINCOLN COUNTY SURVEYOR'S OFFICE 8600 NE 17TH STREET NEWPORT, OR 97159	SURVEY FOR LINCOLN COUNTY ROAD DEPARTMENT
	DATE: 11/28/2016 FIELD CREW: DM/ALM/DM/ELA DRAWN BY: DM CHECKED BY: DM/ALM
ROAD: 1" = 60' SHEET NO. 8 OF 8 CODE FILE: THORPE/SURROU DRAWING NO. 16	REGISTERED PROFESSIONAL LAND SURVEYOR [Signature] EXPIRES: 12/31/2017 ORIGINAL REG. NO. 804

SURVEY OF A PROPOSED LEGALIZATION FOR COUNTY ROAD #107 AKA SE 23RD Drive, Lincoln City

C.S. # _____
FILED _____
LINCOLN COUNTY SURVEYOR

STATION	DELTA	ARC	RADIUS	CHORD BEARING	DISTANCE
C24	32°25'38"	498.00'	575.00'	328.48'	308.48'
C25	32°25'38"	498.00'	575.00'	328.48'	308.48'
C26	32°25'38"	498.00'	575.00'	328.48'	308.48'
C27	32°25'38"	498.00'	575.00'	328.48'	308.48'

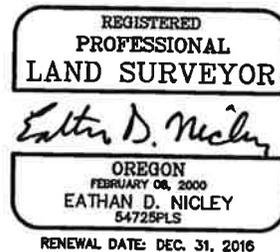
POINT NUMBER	NORTHING	EASTING
6100	1189.100	1189.100
6101	1248.435	1248.435
6102	1307.770	1307.770
6103	1367.105	1367.105
6104	1426.440	1426.440
6105	1485.775	1485.775
6106	1545.110	1545.110
6107	1604.445	1604.445
6108	1663.780	1663.780
6109	1723.115	1723.115
6110	1782.450	1782.450
6111	1841.785	1841.785
6112	1901.120	1901.120
6113	1960.455	1960.455
6114	2019.790	2019.790
6115	2079.125	2079.125
6116	2138.460	2138.460
6117	2197.795	2197.795
6118	2257.130	2257.130
6119	2316.465	2316.465
6120	2375.800	2375.800
6121	2435.135	2435.135
6122	2494.470	2494.470
6123	2553.805	2553.805
6124	2613.140	2613.140
6125	2672.475	2672.475
6126	2731.810	2731.810
6127	2791.145	2791.145
6128	2850.480	2850.480
6129	2909.815	2909.815
6130	2969.150	2969.150
6131	3028.485	3028.485
6132	3087.820	3087.820
6133	3147.155	3147.155
6134	3206.490	3206.490
6135	3265.825	3265.825
6136	3325.160	3325.160
6137	3384.495	3384.495
6138	3443.830	3443.830
6139	3503.165	3503.165
6140	3562.500	3562.500
6141	3621.835	3621.835
6142	3681.170	3681.170
6143	3740.505	3740.505
6144	3800.840	3800.840
6145	3860.175	3860.175
6146	3919.510	3919.510
6147	3978.845	3978.845
6148	4038.180	4038.180
6149	4097.515	4097.515
6150	4156.850	4156.850
6151	4216.185	4216.185
6152	4275.520	4275.520
6153	4334.855	4334.855
6154	4394.190	4394.190
6155	4453.525	4453.525
6156	4512.860	4512.860
6157	4572.195	4572.195
6158	4631.530	4631.530
6159	4690.865	4690.865
6160	4750.200	4750.200
6161	4809.535	4809.535
6162	4868.870	4868.870
6163	4928.205	4928.205
6164	4987.540	4987.540
6165	5046.875	5046.875
6166	5106.210	5106.210
6167	5165.545	5165.545
6168	5224.880	5224.880
6169	5284.215	5284.215
6170	5343.550	5343.550
6171	5402.885	5402.885
6172	5462.220	5462.220
6173	5521.555	5521.555
6174	5580.890	5580.890
6175	5640.225	5640.225
6176	5699.560	5699.560
6177	5758.895	5758.895
6178	5818.230	5818.230
6179	5877.565	5877.565
6180	5936.900	5936.900
6181	5996.235	5996.235
6182	6055.570	6055.570
6183	6114.905	6114.905
6184	6174.240	6174.240
6185	6233.575	6233.575
6186	6292.910	6292.910
6187	6352.245	6352.245
6188	6411.580	6411.580
6189	6470.915	6470.915
6190	6530.250	6530.250
6191	6589.585	6589.585
6192	6648.920	6648.920
6193	6708.255	6708.255
6194	6767.590	6767.590
6195	6826.925	6826.925
6196	6886.260	6886.260
6197	6945.595	6945.595
6198	7004.930	7004.930
6199	7064.265	7064.265
6200	7123.600	7123.600
6201	7182.935	7182.935
6202	7242.270	7242.270
6203	7301.605	7301.605
6204	7360.940	7360.940
6205	7420.275	7420.275
6206	7479.610	7479.610
6207	7538.945	7538.945
6208	7598.280	7598.280
6209	7657.615	7657.615
6210	7716.950	7716.950
6211	7776.285	7776.285
6212	7835.620	7835.620
6213	7894.955	7894.955
6214	7954.290	7954.290
6215	8013.625	8013.625
6216	8072.960	8072.960
6217	8132.295	8132.295
6218	8191.630	8191.630
6219	8250.965	8250.965
6220	8310.300	8310.300
6221	8369.635	8369.635
6222	8428.970	8428.970
6223	8488.305	8488.305
6224	8547.640	8547.640
6225	8606.975	8606.975
6226	8666.310	8666.310
6227	8725.645	8725.645
6228	8784.980	8784.980
6229	8844.315	8844.315
6230	8903.650	8903.650
6231	8962.985	8962.985
6232	9022.320	9022.320
6233	9081.655	9081.655
6234	9140.990	9140.990
6235	9200.325	9200.325
6236	9259.660	9259.660
6237	9318.995	9318.995
6238	9378.330	9378.330
6239	9437.665	9437.665
6240	9497.000	9497.000
6241	9556.335	9556.335
6242	9615.670	9615.670
6243	9675.005	9675.005
6244	9734.340	9734.340
6245	9793.675	9793.675
6246	9853.010	9853.010
6247	9912.345	9912.345
6248	9971.680	9971.680
6249	10031.015	10031.015
6250	10090.350	10090.350
6251	10149.685	10149.685
6252	10209.020	10209.020
6253	10268.355	10268.355
6254	10327.690	10327.690
6255	10387.025	10387.025
6256	10446.360	10446.360
6257	10505.695	10505.695
6258	10565.030	10565.030
6259	10624.365	10624.365
6260	10683.700	10683.700
6261	10743.035	10743.035
6262	10802.370	10802.370
6263	10861.705	10861.705
6264	10921.040	10921.040
6265	10980.375	10980.375
6266	11039.710	11039.710
6267	11099.045	11099.045
6268	11158.380	11158.380
6269	11217.715	11217.715
6270	11277.050	11277.050
6271	11336.385	11336.385
6272	11395.720	11395.720
6273	11455.055	11455.055
6274	11514.390	11514.390
6275	11573.725	11573.725
6276	11633.060	11633.060
6277	11692.395	11692.395
6278	11751.730	11751.730
6279	11811.065	11811.065
6280	11870.400	11870.400
6281	11929.735	11929.735
6282	11989.070	11989.070
6283	12048.405	12048.405
6284	12107.740	12107.740
6285	12167.075	12167.075
6286	12226.410	12226.410
6287	12285.745	12285.745
6288	12345.080	12345.080
6289	12404.415	12404.415
6290	12463.750	12463.750
6291	12523.085	12523.085
6292	12582.420	12582.420
6293	12641.755	12641.755
6294	12701.090	12701.090
6295	12760.425	12760.425
6296	12819.760	12819.760
6297	12879.095	12879.095
6298	12938.430	12938.430
6299	12997.765	12997.765
6300	13057.100	13057.100
6301	13116.435	13116.435
6302	13175.770	13175.770
6303	13235.105	13235.105
6304	13294.440	13294.440
6305	13353.775	13353.775
6306	13413.110	13413.110
6307	13472.445	13472.445
6308	13531.780	13531.780
6309	13591.115	13591.115
6310	13650.450	13650.450
6311	13709.785	13709.785
6312	13769.120	13769.120
6313	13828.455	13828.455
6314	13887.790	13887.790
6315	13947.125	13947.125
6316	14006.460	14006.460
6317	14065.795	14065.795
6318	14125.130	14125.130
6319	14184.465	14184.465
6320	14243.800	14243.800
6321	14303.135	14303.135
6322	14362.470	14362.470
6323	14421.805	14421.805
6324	14481.140	14481.140
6325	14540.475	14540.475
6326	14600.810	14600.810
6327	14660.145	14660.145
6328	14719.480	14719.480
6329	14778.815	14778.815
6330	14838.150	14838.150
6331	14897.485	14897.485
6332	14956.820	14956.820
6333	15016.155	15016.155
6334	15075.490	15075.490
6335	15134.825	15134.825
6336	15194.160	15194.160
6337	15253.495	15253.495
6338	15312.830	15312.830
6339	15372.165	15372.165
6340	15431.500	15431.500
6341	15490.835	15490.835
6342	15550.170	15550.170
6343	15609.505	15609.505
6344	15668.840	15668.840
6345	15728.175	15728.175
6346	15787.510	15787.510
6347	15846.845	15846.845
6348	15906.180	15906.180
6349	15965.515	15965.515
6350	16024.850	16024.850
6351	16084.185	16084.185
6352	16143.520	16143.520
6353	16202.855	16202.855
6354	16262.190	16262.190
6355	16321.525	16321.525
6356	16380.860	16380.860
6357	16440.195	16440.195
6358	16499.530	16499.530
6359	16558.865	16558.865
6360	16618.200	16618.200
6361	16677.535	16677.535
6362	16736.870	16736.870
6363	16796.205	16796.205
6364	16855.540	16855.540
6365	16914.875	16914.875
6366	16974.210	16974.210
6367	17033.545	17033.545
6368	17092.880	17092.880
6369	17152.215	17152.215
6370	17211.550	17211.550
6371	17270.885	17270.885
6372	17330.220	17330.220
6373	17389.555	17389.555
6374	17448.890	17448.890
6375	17508.225	17508.225
6376	17567.560	17567.560
6377	17626.895	17626.895
6378	17686.230	17686.230
6379	17745.565	17745.565
6380	17804.900	17804.900
6381	17864.235	17864.235
6382	17923.570	17923.570
6383	17982.905	17982.905
6384	18042.240	18042.240
6385	18101.575	18101.575
6386	18160.910	18160.910</

For the legalization of
County Road number 107,
commonly known as
SE 23rd Drive

A description of a right of way for County Road number 107, commonly known as SE 23rd Drive, which begins at Highway 101, and then runs easterly, approximately 0.7 miles to its end. The portions of said road in Section 22, having a width of 30 feet, lying 15 feet on each side of centerline, and the portions of said road in Section 23, having a width of 60 feet, lying 30 feet on each side of centerline, said centerline being more particularly described as follows:

Beginning at a point on the Centerline of Highway 101, said point being situated 320.83 feet north, and 1131.99 feet west, of the 1/4 corner (per CS 20216) common to Sections 22 and 23, Township 7 South, Range 11 West, Willamette Meridian: thence S82°00'00"E for 129.28 feet; to station 1+29.28 the beginning of a horizontal curve, the radius point of which bears S8°00'00"W, and 338.31 feet, thence along said curve through a central angle of 22°50'00" for 134.82 feet to station 2+64.10 point of tangency; thence S59°10'00"E for 202.02 feet; to station 4+66.12 the beginning of a horizontal curve, the radius point of which bears N30°50'00"E, and 351.27 feet, thence along said curve through a central angle of 29°36'00" for 181.47 feet to station 6+47.59 point of tangency; thence S88°46'00"E for 291.94 feet; to station 9+39.53 the beginning of a horizontal curve, the radius point of which bears S1°14'00"W, and 162.00 feet, thence along said curve through a central angle of 46°04'00" for 130.25 feet to station 10+69.78 point of tangency; thence S42°42'00"E for 117.65 feet; to station 11+87.43 the beginning of a horizontal curve, the radius point of which bears N47°18'00"E, and 240.00 feet, thence along said curve through a central angle of 50°36'00" for 211.95 feet to station 13+99.38 point of tangency; thence N86°42'00"E for 140.48 feet; to station 15+39.86 the beginning of a horizontal curve, the radius point of which bears N3°18'00"W, and 491.75 feet, thence along said curve through a central angle of 16°20'00" for 140.18 feet to station 16+80.04 point of tangency; thence N70°22'00"E for 162.30 feet; to station 18+42.34 the beginning of a horizontal curve, the radius point of which bears S19°38'00"E, and 266.00 feet, thence along said curve through a central angle of 27°30'00" for 127.67 feet to station 19+70.01 point of tangency; thence S82°08'00"E for 221.71 feet; to station 21+91.72 the beginning of a horizontal curve, the radius point of which bears S7°52'00"W, and 1083.00 feet, thence along said curve through a central angle of 7°21'00" for 138.93 feet to station 23+30.65 point of tangency; thence S74°47'00"E for 269.83 feet; to station 26+00.48 the beginning of a horizontal curve, the radius point of which bears S15°13'00"W, and 2512.00 feet thence along said curve through a central angle of 3°31'18" for 154.40 feet; to station 27+54.88 the beginning of a reverse horizontal curve, the radius point of which bears N18°44'18"E, and 466.00 feet, thence along said curve through a central angle of 22°57'47" for 186.76 feet; to station 29+41.64 the beginning of a reverse horizontal curve, the radius point of which bears S4°13'29"E, and 496.00 feet, thence along said curve through a central angle of 38°25'38" for 332.66 feet; to station 32+74.30 the beginning of a reverse horizontal curve, the radius point of which bears N34°12'09"E, and 320.00 feet, thence along said curve through a central angle of 32°50'09" for 183.39 feet to station 34+57.69 point of tangency; thence S88°38'00"E for 80.54 feet; to station 35+38.23 the beginning of a horizontal curve, the radius point of which bears N1°22'00"E, and 392.00 feet, thence along said curve through a central angle of 9°16'00" for 63.40 feet; to station 36+01.63 the beginning of a reverse horizontal curve, the radius point of which bears S7°54'00"E, and 238.00 feet, thence along said curve through a central angle of 16°36'05" for 68.96 feet, to station 36+70.59 more or less, to the Westerly line of that parcel described in MF 117, Page 1677, Lincoln County Deed Records, and the terminus of County Road number 107. Note: the sidelines of this right of way are to be lengthened or shortened to end on said west line of parcel described in MF 117, Page 1677, Lincoln County Deed Records.

Located in the Easterly half of Section 22, and the Westerly half of Section 23, Township 7 South, Range 11 West, Willamette Meridian, Lincoln County, Oregon.



Ouderkirk & Hollen

Attorneys at Law

P. O. Box 1167
Newport, OR 97365

J. F. "Jeff" Ouderkirk
jeffo@ouderkirkhollen.com

Jeffrey C. Hollen
jeffh@ouderkirkhollen.com

615 SW Hurbert Street, Ste. A
Tel: 541-574-1630 Fax: 541-574-1638
www.ouderkirkhollen.com

December 1, 2016

The Honorable Bill Hall
The Honorable Douglas Hunt
The Honorable Terry Thompson
Lincoln County Commissioners
Lincoln County Court House
225 West Olive Street, Room 110
Newport, Oregon 97365

Re: Objection to Proposed Legalization
SE 23rd Drive
Lincoln City, Oregon

Dear Commissioners:

This firm represents Larry Morris in his capacity as owner of the real property that lies generally to the south of SE 23rd Drive at its intersection with Highway 101. Recently the enclosed Notice of Legalization was received by Mr. Morris. He expressed concerns to me advising that a good portion of the current road lies within the boundaries of his real property. Mr. Morris was led to believe by county representatives that the realignment was going to occur and as a result of conversations with county representatives Mr. Morris made infrastructure improvements in conformance with county requirements.

For this reason Mr. Morris strongly objects to the legalization of SE 23rd Drive as proposed, with respect to its current location upon his real property since that portion clearly lies outside the legally described legal right of way for SE 23rd Drive.

Mr. Morris advises that when Highway 101 was improved in that vicinity over the past two years, and before, there were numerous conversations with ODOT and county representatives regarding the realignment. As a direct result Mr. Morris incurred the expense of having K & E Construction (ODOT's contractor on the job) do excavation, install a manhole in the deeded right of way and new drain line, back fill with gravel and compact the surface to state specifications. This was done in the deeded right of way on the northerly side. This was done with the understanding that SE 23rd Drive would be realigned in this area.

In keeping with the instructions contained in the Notice of Legalization I went to the public works office and was provided with a copy of the Preliminary Investigative Survey. Mr. Nicely explained some of the survey and emphasized that it was preliminary.

To illustrate the issue, a portion of the Preliminary Investigative Survey relating to the area of concern is enclosed. Orienting from Highway 101 and proceeding easterly your attention is drawn to the dotted line captioned "DOTTED LINES ARE DEEDED R-O-W." This is where SE 23rd Drive belongs. Your attention is also drawn to the two bold dark lines designated L18

The Honorable Bill Hall
The Honorable Douglas Hunt
The Honorable Terry Thompson
Re: Objection to Proposed Legalization
SE 23rd Drive
Lincoln City, Oregon
December 1, 2016
Page 2 of 2

and L19. This is where SE 23rd Drive exists on the ground. As you can see in the vicinity of the intersection the road surface encroaches on the Morris property as much as twenty-five feet.

The Morris family has been aware of this encroachment and has permitted it as a courtesy with the understanding that the road would eventually be realigned. Therefore his receipt of the Notice of Legalization without the realignment work being done by the county came as an unpleasant surprise after Mr. Morris's cooperation with ODOT and the County and the understanding regarding what was going to occur.

Mr. Morris has expressed a desire to resolve this matter in an amicable and mutually beneficial way. My recommendation is that you table this matter allowing negotiations to occur between your counsel and Mr. Morris's to determine whether this matter can be resolved without further escalation.

Very truly yours,

OUDEKIRK & HOLLEN


J.F. Ouderkirk

JFO/o
Cc: client
Wayne Belmont, Esq.
Roy Kinion
Encs.



County of Lincoln

Lincoln County Public Works

Roy L. Kinion
Public Works Director

880 NE 7th Street
Newport, Oregon 97365-2599
Phone (541) 265-5747
FAX (541) 574-1295

07-11-22-AD-02500-00
MORRIS CLARICE T TRUSTEE
% MORRIS LARRY
CONT
PO BOX 419, LINCOLN CITY, OR 97367

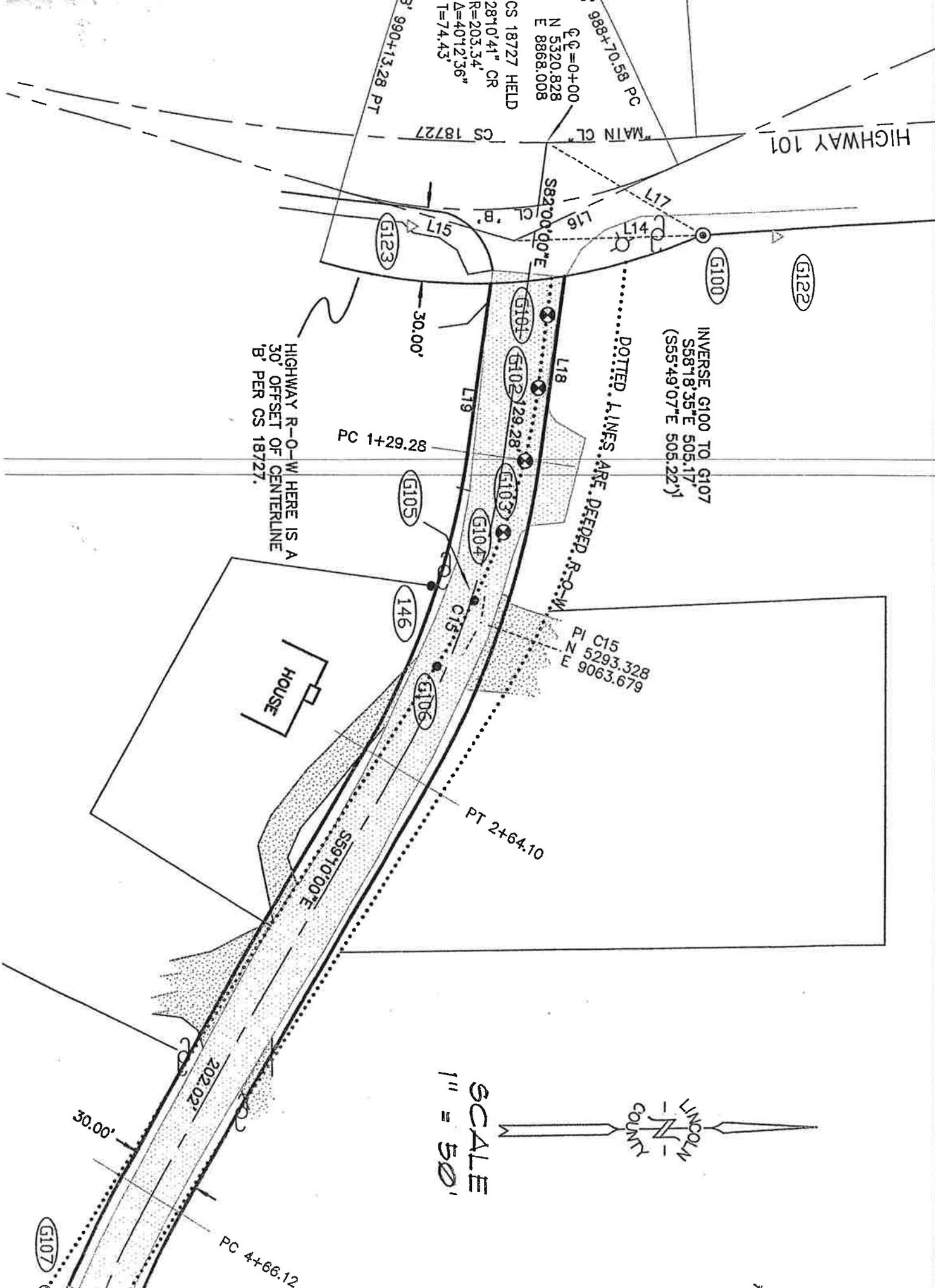
Notice of Legalization

All persons interested in or concerned with that portion of County Road number 107, also known as SE 23rd Drive, in Lincoln City, Situated in the East 1/2 of Section 22 and the West 1/2 of Section 23, T7S, R11W, W. M. comprising approximately 0.7 miles of road from the Centerline intersection of the Oregon Coast Highway and said SE 23rd Drive thence easterly, along the traveled way of said SE 23rd Drive to the East line of that parcel described in MF 34, Page 349, Lincoln County Deeds Records, (Tax Lot 1000, Map 07-11-23-00) and the terminus of this legalization

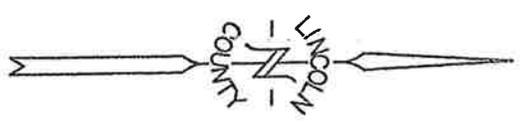
The Board of Commissioners will hold a public hearing on Wednesday, the 7th day of December, 2016, at 9:30 a.m. in the Commissioners' Meeting Room, Lincoln County Courthouse, Room 108, 225 West Olive Street, Newport, Oregon, to receive testimony and determine whether the road, as resurveyed, shall be ordered legalized.

Objections to this action under ORS 368.211 must be filed before or during the hearing or the roadway, as resurveyed, will be declared legalized. Detailed information, maps, and descriptions of the proposed legalization may be examined at the Lincoln County Road Department, 880 NE 7th Street, Newport, Oregon, between the hours of 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday, except legal holidays.

Please direct questions and comments to Roy Kinion, Public Works Director, 880 NE 7th Street, Newport, Oregon 97365, by mail, by email at rkinion@co.lincoln.or.us or by telephone at 541-574-1211.



SCALE
1" = 50'



TICVICK, LLC
1420 SE 23RD STREET
LINCOLN CITY, OR. 97367

DECEMBER 5, 2016

THE LINCOLN COUNTY BOARD OF COMMISSIONERS
C/O Roy L. Kinion
Public Works Director
880 NE 7th Street
Newport, Or 97365

To Whom It May Concern,

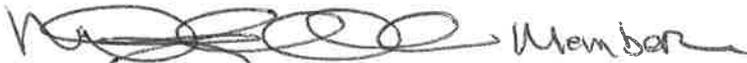
We are writing as concerned property owners located at 2818 SE 23rd Street. Our business is 23rd Street R V & Boat Storage and is located across twenty third street and two properties to the east of Mr. Philips property located on 23rd Street. Mr. Philips has proposed a site development

Lincoln County's proposal to create a 60 foot road right of way on 23rd street in Lincoln City, Or. amazed us. Twenty Third Street does not have a sixty foot right-of-way as it approaches Hwy 101 on the west end and then at the east end there is a substantially smaller right of way for the road passing between our property and the adjacent property to our North. So currently what is being proposed is a 60 foot right of way that is bottle necked on both ends. Our property is 20 foot below 23rd street road grade and it would be quite difficult to widen 23rd street along our property which is south of 23rd street

I would like to see your long range plan for this general area and a justification for widening 23rd street to 60 feet wide. My recollection is that the road as it is, has been serving this area quite adequately for 50 years and it does not make sense to me that the county infringe on a persons use of property with out clear evidence that the infringement is for the common good of other citizens in the community. Most indicators to me is that the City of Lincoln City is not seeking to industrialize but continues to focus upon leisure time industries of which they do an exemplarily job.

TicVick also had a recent commercial appraisal of our property which is in part an industrial rental complex for small business. At the time of the appraisal the appraiser indicated to me that there was a high demand for these units. That is exactly the kind of unit Mr. Philips is proposing to build. It looks thoughtfully planned and our industrial units have been filled for five or six years. This community needs a complex such as he is proposing.

Thank you for your consideration.


TicVick, LLC

Duane Ticknor and Miles Vickstrom, Proprietors
CC: Mike Philips

BEFORE THE BOARD OF COMMISSIONERS

LINCOLN COUNTY, OREGON

LEGALIZATION OF SE 23RD)
STREET IN LINCOLN CITY)
(COUNTY ROAD #107))

**MEMORANDUM SUBMITTED
ON BEHALF OF
MIKE PHILIPS, TRUSTEE**

This memorandum is submitted on behalf of Mike Philips regarding the hearing before the County Commissioners on the legalization of SE 23rd Street in Lincoln City, also known as Thorpe County Road No. 107.

Mr. Philips, through his trust, owns property that abuts the road. Specifically, his property is described as Tax Lot 1003 on Lincoln County Assessor's Map 7-11-23. The parcel owned by Mr. Philips is 2.87 acres in size. The parcel is relatively long and narrow and therefore his property will be significantly impacted by the decision of the County Commissioners in this case. Mr. Philips' position is that while the road should be legalized, it should be legalized in a manner that does the least damage to the adjoining owners, considering that the County placed the road, in many places, outside the right of way when it was built. Mr. Philips' deed runs to the right of way. After he had a surveyor locate the edge of the right of way, it became clear at that point that the road had been built outside of the designated right of way and was to a degree physically located on Mr. Philips property. While he understands the practicality of legalizing the road portion that is paved, he also understands that the County has the ability to minimize the adverse impact to his property, as well as others along the road, by their decision in this case. He is requesting that the County legalize the road right of way to a width of 30 feet, as it has authority to do under ORS 368.221, and keep the legalization in close proximity to the existing paved road.

STATUTORY PROVISIONS PERTAINING TO COUNTY ROAD LEGALIZATIONS

The statutory criteria that govern the County's decision in this case are found in ORS 368.201 through ORS 368.221.

Under ORS 368.201(3), the County has authority to legalize a road to conform to the location of the road described in the county records, if the road has been used for 10 years or more. However, the County must realize that when the road is not built in the correct location by the County in the first place, there are consequences to adjoining owners if the County does not take care to craft a solution that takes into account the many factors that have resulted from an erroneous placement in the first place. Viewing an aerial photograph of the length of the road demonstrates that in some areas the paved surface is clearly outside the original described right of way. For the County to now try to legalize a centerline that matches the centerline of the pavement would do a great disservice to everyone along the road. In this case, the easy solution is not the right solution. As the Commissioner's hear testimony on this matter, it will become clear that the Commissioners must craft a meaningful location of the road that does the least harm to the adjoining owners.

The Commissioners clearly have the authority to craft a location that meets the needs of the tax paying owners. ORS 368.221 provides that a county governing body may legalize a road at any width that is less than the width of the road described in ORS 368.206 if the county governing body determines that the legalization of the road at the lesser width is in the public interest or any encroachment on the road may not be practically removed under ORS 368.211. These findings can clearly be made in this case. Additionally, there is no requirement that the paved road be in the center of the right of way.

A 60 FOOT ROAD RIGHT OF WAY IS NOT NEEDED

The portion of SE 23rd from its beginning at Highway 101 to a low wetland area at the quarter corner of Sections 22 and 23 has a right of way that is 30 feet in width.

The originally dedicated right of way was 30 feet. The County does not intend to legalize this portion of the right of way beyond 30 feet. Indeed, it probably does not have the legal ability to widen the right of way beyond the original dedication.

The right of way dedication for the remainder of the road was 60 feet in width, but even with the 60 foot right of way the road was constructed to a significant degree outside of the dedicated right of way. The survey performed by the County surveyor as part of these legalization proceedings states on page 1 "It has been known and documented for over 70 years that the deeded alignment for County Road Number 107 does not match the constructed alignment."

The road has been constructed for a long period of time. Generally speaking, the road follows the contour of the land. In the section of road approaching the Philips' property there is a steep hillside to the south and a drop off to the north. It is simply not practical to widen the road to need a 60 foot right of way. Additionally, the road terminates just beyond the Philips' property. The Lincoln City Urban Growth Boundary terminates shortly after the termination of the road and only encompasses the property lying along the road. The property outside the urban growth boundary is zoned timber conservation and is therefore not suitable for development based on Oregon's land use laws.

Industrial and heavy commercial properties along the road have used the road without need of having it widened. The actual surfaced road adequately serves the properties that will be using it.

Furthermore, a 30 foot right of way will be adequate to install any utilities that are needed. Keep in mind that the first portion of the road only has a 30 foot right of way so utilities will need to be accommodated within that width. As a practical matter, utilities east of that portion of the road with the 30 foot right of way will also be accommodated within a 30 foot right of way because of the topographical constraints. The area to the south of the road is a reasonably steep hillside. The area to the north of the road is a reasonably steep drop off. Baldy Creek runs to the north of the road and there is a wetland area below the road. Therefore, any utilities as a practical matter will need to be placed in close proximity to the paved surface. Additionally, because the road is short, and the area to be developed is limited, the amount of utilities needed is limited.

The county road in this case is a short road (approximately .7 miles according to the survey) that terminates just beyond Mr. Philips' property. Because the edge of the urban growth boundary is in close proximity to the end of the road, there are no plans to extend the roadway beyond that. If the road were to be extended, the county would in fact need to acquire property to extend it. That is extremely unlikely. The aerial photographs also demonstrate that the developed area along SE 23rd Street ends just past Mr. Philips' property.

It is also to be noted that the land along SE 23rd Street is generally used for heavy commercial and industrial uses. Property of this nature is very limited in Lincoln County and especially in Lincoln City. The County recognized this concept when it previously modified the setbacks along streets in industrially zoned areas. That action was reasonable, appropriate, and appreciated.

Industrial lands are important in providing economic opportunities and job growth in Lincoln County. As noted above, that land is in short supply. The project that Mr. Philips has

planned for his property are a number of uses that would allow heavy commercial and industrial uses for businesses. In short, he wants to provide significant economic benefit to northern Lincoln County. He is prepared to make a large investment in the property. However, his plans have taken a detour because the county road was not placed in the correct location. This has added a burden to Mr. Philips because he finds that the County is now claiming land for a road that by legal description is his. Out of the 2.87 acre parcel, the present survey with a 60 foot right of way would take a significant chunk of his property (.44 acres). By taking that acreage, it takes the property off the tax rolls and cuts into the jobs and industrial base of the county. Mr. Philips believes a reasonable solution would be to legalize the road at a narrower width or further south in the right of way which would still allow the county to maintain all of the paved road within the right of way with a reasonable area for utilities. Such a legalization would in fact conform to the prior use over a number of years.

Even the county has relied upon the dedicated location of the road in performing administrative functions. The Assessor's office has relied upon the dedicated location in assessing taxes. It has been taxing Mr. Philips on the property that runs to the road right of way as described in the county records. For the county to now significantly change the location of the roadway and take .44 of an acre of Mr. Philips' property is disingenuous. According to information obtained at the Assessor's office, flat industrial land in Lincoln City that is served by utilities is approximately \$275,000 per acre. While the Philips' property value is less than that because of its location and lack of all utilities, it is still valuable and will be more valuable once buildings are constructed.

As noted above, Mr. Philips is willing to work out a reasonable arrangement with the location of the road. He understands that the paved roadway should remain the paved roadway

and should not need to be moved. He also understands that there needs to be a reasonable width along the roadway for utilities. However, that need can be accommodated without taking .44 of an acre of Mr. Philips' property.

The road legalization statutes were created for a purpose. There are times when county roads are not in the proper location or need to be slightly modified. However, the statute should not be used as a buzz saw but as a scalpel in crafting solutions to the situation.

Dated this 7th day of December, 2016.

Respectfully submitted,



Dennis L. Bartoldus
Attorney for Mike Philips
PO Box 1510
Newport, OR 97365
Phone: (541) 265-5400
Email: dennis@bartolduslaw.com

BEFORE THE BOARD OF COMMISSIONERS

LINCOLN COUNTY, OREGON

LEGALIZATION OF SE 23RD)
 STREET IN LINCOLN CITY)
 (COUNTY ROAD #107))

**EXHIBITS SUBMITTED
 BY MIKE PHILIPS**

EXHIBIT NO.	DESCRIPTION
1	Land Sale Contract from Devils Lake Rock to Philips
2	Warranty Deed from Devils Lake Rock to Philips
3	Aerial map of Road
4	Aerial map of Philips' Property and Road
5	Diagram by Surveyor Darius Ferguson re: Impact on Philips property
6	Philips' Development Diagram for Property
7	Lincoln City Zoning Map showing Urban Growth Boundary
8	Aerial Map showing forestland beyond UGB
9	Lincoln County Zoning Map
10	Photo along Philips' Property
11	Photo along Philips' Property
12	Photo of utility locates SE corner of Philips' property
13	Photo of phone pedestal
14	Photo of SE 23 rd West of Philips' property (looking east)
15	Photo of SE 23 rd West of Philips' property (looking west)
16	Photo showing road through wetland area on SE 23 rd
17	Photo showing road through wetland area on SE 23 rd
18	Photo showing road through wetland area on SE 23 rd
19	Photo showing road through wetland area on SE 23 rd

CONTRACT—REAL ESTATE

CM
107

THIS CONTRACT, Made the 15th day of October 1954 between
DEVILS LAKE ROCK CRUSHING CO., an Oregon corporation.

of the County of Lincoln and State of Oregon hereinafter called
the first party, and MICK PHILLIPS CONCRETE, INC., an Oregon Corporation

of Lincoln and State of Oregon hereinafter called the second party,

WITNESSETH, That in consideration of the stipulations herein contained and the payments to be made
as hereinafter specified, the first party hereby agrees to sell, and the second party agrees to purchase, the follow-
ing described real estate, situate in the County of Lincoln, State of Oregon, to-wit:

PARCEL I: A tract of land situated in the Northwest 1/4 of the Northeast 1/4
of the Southwest 1/4 of Section 23, Township 7 South, Range 11 West of the
Willamette Meridian, in Lincoln County, Oregon, more particularly described as
follows:

Beginning at the West 1/4 corner of Section 23, Township 7 South, Range 11 West
of the Willamette Meridian, in Lincoln County, Oregon; thence South 88° 54' 13"
East along the East-West centerline of said Section 23, 1326.01 feet to the
true point of beginning of the tract herein described; thence from said true
point of beginning South 88° 54' 13" East along said East-West centerline
499.63 feet; thence South 0° 16' 58" East, 193.0 feet, more or less, to the
Northerly right of way line of Thorpe Road No. 107; thence Northwesterly along
said Northerly right of way line 518 feet, more or less, to a point that is
South 0° 16' 58" East from the true point of beginning; thence North 0° 16' 58"
West, 88.0 feet, more or less, to the true point of beginning.

PARCEL II: A tract of land situated in the Northwest 1/4 of the Northeast 1/4
of the Southwest 1/4 of Section 23, Township 7 South, Range 11 West, of the
Willamette Meridian, in Lincoln County, Oregon, more particularly described as
follows:

Beginning at the West 1/4 corner of Section 23, Township 7 South, Range 11 West
of the Willamette Meridian, in Lincoln County, Oregon; thence South 88° 54' 13"
East along the East-West centerline of said Section 23, 1825.64 feet to the
true point of beginning of the tract herein described; thence from said true
point of beginning South 88° 54' 13" East along said East-West centerline
200.00 feet; thence South 0° 16' 58" East, 288.55 feet, more or less, to the
Northerly right of way line of Thorpe Road No. 107; thence Northwesterly along
said Northerly right of way line 223.72 feet, more or less, to a point that is
South 0° 16' 58" East from the true point of beginning; thence North 0° 16' 58"
West, 193.0 feet, more or less, to the true point of beginning.

SCUH-02

EXHIBIT

tabbles

1

for the sum of Thirty-seven thousand five hundred and no/100 Dollars (\$ 37,500.00)
on account of which Eight thousand eight hundred and no/100 Dollars (\$ 8,800.00)
is paid on the execution hereof (the receipt of which is hereby acknowledged by the first party), and the remainder to be paid to the order of the first party with interest at the rate of 10% per cent per annum from
October 15, 1980, on the dates and in amounts as follows:

\$550.00 on the 15th day of November, 1980 and a like sum on the 1st day of each month thereafter until the contract is paid in full.

Buyer assumes the responsibility and costs of improvements and any leveling and the cost of installation of drainage tile or pipe.

The buyer (also called second party) warrants to and covenants with the seller that the real property described in this contract is
* (A) primarily for buyer's personal, family, household or agricultural purposes,
(B) for an organization or (even if buyer is a natural person) is for business or commercial purposes other than agricultural purposes.

Taxes for the current tax year shall be prorated between the parties herein as of the date of this contract. The second party, in consideration of the premises, hereby agrees to pay all taxes hereafter levied and all public and municipal liens and assessments hereafter lawfully imposed upon said premises, all promptly and before the same or any part thereof become past due. That he will keep all buildings now or hereafter erected on said premises insured in favor of the first party against loss or damage by fire (with extended coverage) in an amount not less than \$

in a company or companies satisfactory to first party, and will have all policies of insurance on said premises made payable to the first party as first party's interest may appear and will deliver all policies of insurance on said premises to the first party as soon as insured. All improvements placed thereon shall remain, and shall not be removed before final payment be made for said above described premises.

(Continued on reverse)

*IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures; for this purpose, use Stevens-Ness Form No. 1308 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Ness Form No. 1307 or similar.

DEVILS LAKE ROCK CRUSHING CO.
2531 SE 23rd.
Lincoln City, Oregon*

SELLER'S NAME AND ADDRESS

Mike Phillips Concrete, Inc.
P.O. Box 272 -
Rose Lodge, Oregon 97372

BUYER'S NAME AND ADDRESS

After recording return to:

Devils Lake Rock Crushing Co.
2531 S. E. 23rd
Lincoln City, Oregon 97367
NAME, ADDRESS, ZIP

Until a change is requested all tax statements shall be sent to the following address.

Mike Philips Concrete, Inc.
P.O. Box 272
Rose Lodge, Oregon 97372
NAME, ADDRESS, ZIP

STATE OF OREGON,

County of _____ } ss.

I certify that the within instrument was received for record on the day of _____, 19____, at _____ o'clock _____ M., and recorded in book _____ on page _____ or as file/reel number _____ Record of Deeds of said county. Witness my hand and seal of County affixed.

SPACE RESERVED FOR RECORDER'S USE

Recording Officer

By _____ Deputy

7-11-23-1000

The first party agrees that at his expense and within 30 days from the date hereof, he will furnish into record a title insurance policy insuring for an amount equal to said purchase price insurable title in and to said premises in the first party's name, subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other improvements and encumbrances of record of any First party also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement he will deliver a deed and sufficient deed conveying said premises in fee simple unto the second party, free from and without any and all liens and encumbrances as of the date hereof and free and clear of all encumbrances since said date placed, permitted or arising by, through or under first party, excepting however the said easements and restrictions and the taxes, municipal liens, water rates and public charges as assumed by the second party and further excepting all liens and encumbrances created by the second party in his assignment.

But in case the second party shall fail to make the payments aforesaid, or any of them, punctually and upon the dates to wit and at the times above specified, or fail to keep any of the other terms or conditions of this agreement, time of payment and strict performance being declared to be of the essence of this agreement, then the first party shall have the following rights: (1) to declare this contract null and void; (2) to declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable and/or (3) to enforce this contract by suit in equity, and in any of such cases, all the right and interest hereby created or then existing in favor of the second party, derived under this agreement, shall utterly cease and determine; and the premises aforesaid shall revert and re-vest in the first party without any declaration of forfeiture or act of re-entry, or without any other act by first party to be performed and without any right of the second party to reimbursement or compensation for money paid or for improvements made as absolutely fully and perfectly as if this agreement had never been made.

The true and actual consideration paid for this transfer stated in terms of dollars, is \$ 37,500.00. However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration (indicate which) the whole

And in case suit or action is instituted to enforce this contract or to enforce any of the provisions thereof, second party agrees to pay such sum as the trial court may adjudge reasonable as attorney's fees to be allowed plaintiff in said suit or action, and if an appeal is taken from any judgment or decree of such trial court, the buyer further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal.

The second party further agrees that failure by the first party at any time to require performance by the second party of any provision hereof shall in no way affect first party's right hereunder to enforce the same, nor shall any waiver by said first party of any breach of any provision hereof be held to be a waiver of any succeeding breach thereof or as a waiver of the provision itself.

In construing this contract, it is understood that the first party of the second party may be more than one person; that if the contract so requires, the singular pronouns shall be taken to mean and include the plural, the masculine and the feminine, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, said parties have executed this instrument in duplicate; if either of the undersigned is a corporation, it has caused its corporate name to be signed and its corporate seal affixed hereto by its officers duly authorized thereunto by order of its board of directors.

DEVILS LAKE ROCK CRUSHING COMPANY
Don H. Morris - Pres.

MIKE PHILIPS CONCRETE, INC.
Mike Philips

NOTE—The sentence between the symbols () if not applicable, should be deleted (see ORS 93.030)

STATE OF OREGON,)
 County)
 19)

STATE OF OREGON, County of Lincoln) ss.
October 15, 19*80*
 Personally appeared *Don H. Morris* and
 who, being duly sworn,
 each for himself and not one for the other, did say that *the former is the president and that the latter is the secretary of*
 Devils Lake Rock Crushing Company, a corporation,
 and that the seal affixed to the *within instrument is the corporate seal*
 of said corporation and that said *instrument was signed and sealed in the*
 hall of said corporation by authority of its board of directors, and each of
 them acknowledged said instrument to be *his* voluntary act and deed
 Before me:
Don H. Morris (SEAL)

(SEAL)
 Notary Public for Oregon
 My commission expires:

Notary Public for Oregon
 My commission expires: *3-14-84*

(DESCRIPTION CONTINUED)

MD 381725

STATE OF OREGON
 County of Lincoln

I, *Alberta M. Bryant*, County Clerk, in and for said county do hereby certify that the *within instrument* was received for record, and recorded in the record of *deeds* of said county at Newport, Oregon.

Date *Oct. 15, 1980* A.M. P.M. *4:14*
 Book *117* Page *1693*

WITNESS my hand and seal of said office affixed.
 ALBERTA M. BRYANT
 County Clerk

By *am Curtina* Deputy
25. Oct. 1980

UK

KNOW ALL MEN BY THESE PRESENTS, That Devils Lake Rock Crushing Co.

hereinafter called the grantor, for the consideration hereinafter stated, to grantor said by Michael O. Philips, hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Lincoln and State of Oregon, described as follows, to-wit:

Lot			
Map Number	Parcel	Special Interest	
01-11-23-0 0	1003	00	
Acres	class	sub-class	
2.60		33	

For detailed description see attached page

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever. And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances.

and that grantor will warrant and forever defend the above granted premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 27,500. However, the actual consideration consists of or includes other property or value given or promised which is part of the consideration (indicate which).

In construing this deed and where the context so requires, the singular includes the plural.

WITNESS grantor's hand this _____ day of _____ 19__

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

Devils Lake Rock Crushing Co
By Don H. Morris - Pres.

STATE OF OREGON, County of Lincoln

Personally appeared the above named Don H. Morris August 28, 19__

and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me: Donna King
Notary Public for Oregon
My commission expires 10-10-88

(OFFICIAL SEAL)

NOTE—The contents between the symbols @, if not applicable, should be deleted. See Chapter 462, Oregon Laws 1967, as amended by ORS 462.005.

Devils Lake Rock Crushing Co
2531 SE 21st
Lincoln, OR 97367

GRANTOR'S NAME AND ADDRESS

Michael O. Philips
PO Box 241
Lincoln, OR 97367

AFTER RECORDING RETURN TO

Michael O. Philips
PO Box 241
Lincoln, OR 97367

NAME, ADDRESS, ZIP

Grant & Grantee if recorded all fee interests shall be shown on the following receipt:

Michael O. Philips
PO Box 241
Lincoln, OR 97367

NAME, ADDRESS, ZIP

SPACE RESERVED FOR RECORDER'S USE

STATE OF OREGON

County of _____

I certify that the within instrument was received for record on the _____ day of _____, 19__ at _____ o'clock _____ and recorded in book _____/volume _____ on page _____ or as fee/like/instrument/microfilm/recordation No. _____ Record of Marriage of said County.

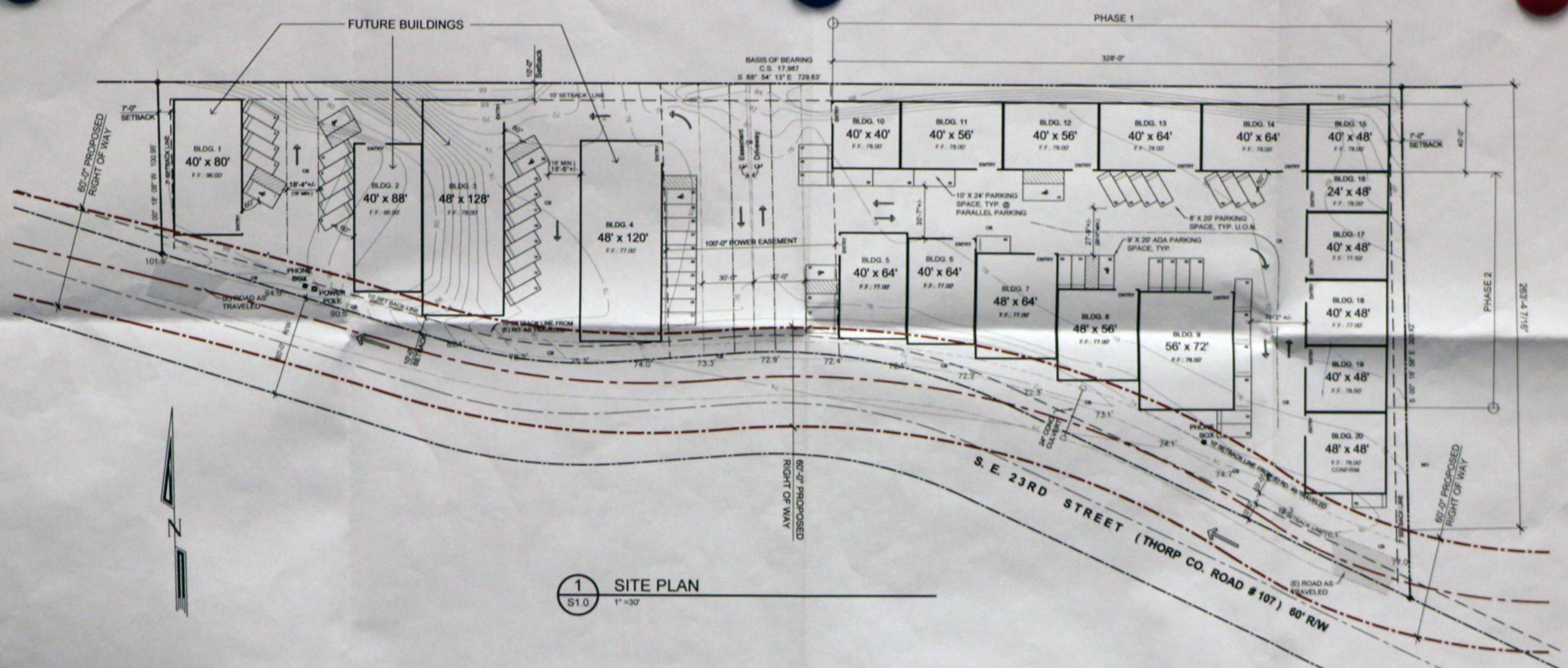
Witness my hand and seal of County aforesaid.

By _____ Deputy

tabbler

EXHIBIT

2



1 SITE PLAN
S1.0 1"=30'

GENERAL NOTES

- All construction per the 2014 International Building Code (Oregon Structural Specialty Code). Details not shown are to conform to the provisions of the Code.
- The contractor is responsible for worksite safety. Minimum standards are per OSHA.
- Materials
Concrete: $f_c = 3000$ psi min, 28 day strength (design basis is 2500 psi - no special inspection required).
Rebar: $f_y = 60$ ksi for #4 and larger (grade 60). Grade 40 for #3.
Anchor Bolts: ASTM A307 galvanized. Provide AB's for Simpson Holdowns per manufacturer. Use 5/8" dia x 12" long, w/3" sq x 3/16" plate washer in min. 3 x 6 PT sill plate. See foundation/shearwall plan for location and spacing. 40" maximum oc unless noted otherwise. 16" oc at double shearwalls.
Lumber: Douglas fir #2 or better unless otherwise noted.
Glulam Beams: $F_b = 2400$ psi, $F_v = 165$ psi, $E = 1,800,000$ psi. PSJ: Parakam by Trus-Joist.
Materials not noted are to meet or exceed the general provisions of the IBC and local standards and practices. Provide galvanized or stainless steel fasteners and brackets for exterior use, etc.
- Consult with engineer for resolution of any discrepancies prior to construction.
- The notes are general and may not apply to specific details. Refer to the plans and details for details specific to this project.

LEGEND

- S1.0 SITE PLAN & GENERAL NOTES
- S2.0 FLOOR PLAN
- S3.0 MEZZANINE FLOOR FRAMING & ROOF FRAMING PLANS
- S4.0 SECTIONS & DETAILS
- S5.0 EXTERIOR ELEVATIONS
- C1.0 CIVIL PLAN

REV	DATE	DESCRIPTION	REVISIONS
1	9/27/16	ISSUED	
2		SCALE	Noted
3		JOB NO.	
4		DRAWING NO.	S1.0

Stricker Engineering, LLC
 14500 Old Condon Bridge Road
 64885 Glacier View Dr. Bend, OR 97703
 Web: strickerengineering.com
 Ph: 503-601-3430 • enyesthoker76@gmail.com

PHILIPS
 SE 23RD ST.
 LINCOLN CITY, OR 97367
 SITE PLAN & GENERAL NOTES

DRAWN:
 ISSUED: 9/27/16
 SCALE: Noted
 JOB NO.:
 DRAWING NO.:
S1.0



PARCEL I: A tract of land situated in the Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 23, Township 7 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon, more particularly described as follows:

Beginning at the West 1/4 corner of Section 23, Township 7 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon; thence South 88° 54' 13" East along the East-West centerline of said Section 23, 1326.01 feet to the true point of beginning of the tract herein described; thence from said true point of beginning South 88° 54' 13" East along said East-West centerline 499.61 feet; thence South 0° 16' 58" East, 193.0 feet, more or less, to the Northerly right of way line of Thorpe Road No. 107; thence Northwesterly along said Northerly right of way line 518 feet, more or less, to a point that is South 0° 16' 58" East from the true point of beginning; thence North 0° 16' 58" West, 88.0 feet, more or less, to the true point of beginning.

PARCEL II: A tract of land situated in the Northwest 1/4 of the Northeast 1/4 of the Southwest 1/4 of Section 23, Township 7 South, Range 11 West, of the Willamette Meridian, in Lincoln County, Oregon, more particularly described as follows:

Beginning at the West 1/4 corner of Section 23, Township 7 South, Range 11 West of the Willamette Meridian, in Lincoln County, Oregon; thence South 88° 54' 13" East along the East-West centerline of said Section 23, 1825.64 feet to the true point of beginning of the tract herein described; thence from said true point of beginning South 88° 54' 13" East along said East-West centerline 230.00 feet; thence South 0° 16' 58" East, 288.55 feet, more or less, to the Northerly right of way line of Thorpe Road No. 107; thence Northwesterly along said Northerly right of way line 253.72 feet, more or less, to a point that is South 0° 16' 58" East from the true point of beginning; thence North 0° 16' 58" West, 193.0 feet, more or less, to the true point of beginning.

36765
MICROFILM

STATE OF OREGON
County of Lincoln
I, Gloria A. MacArthur, County Clerk, do hereby certify that the within and foregoing plat is a true and correct copy of the original as filed for recording in the office of the County Clerk, Lincoln County, Oregon.
Gloria A. MacArthur, County Clerk
Notary Public for Oregon
My Comm. Expires 12/31/1983
WITNESSETH my hand and seal of said office at Lincoln, Oregon, this 1st day of June, 1983.
By: [Signature]
June 1983

B331 P1981

After Recording Return to:
Michael L. Stam
Lincoln County Road Department
880 NE 7th Street
Newport, OR 97365-2599

RIGHT-OF-WAY DEED

KNOW ALL MEN BY THESE PRESENTS, that DEVILS LAKE ROCK CO., hereinafter called GRANTOR, for good and sufficient consideration to GRANTOR paid by Lincoln County, hereinafter called GRANTEE, does hereby release and quitclaim unto said GRANTEE, its successors, heirs and assigns, the following real property for road purposes, with the tenements, hereditaments and appurtenances, situated in the County of Lincoln, State of Oregon, which right-of-way is described in Exhibit "A", which exhibit is attached hereto and is incorporated by this reference herein.

TO HAVE AND TO HOLD, the same unto the County of Lincoln, State of Oregon, for the purpose of a public road, forever.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 13th day of January, 1997.

DEVILS LAKE ROCK CO.

By: Don H. Morris
Don H. Morris, President

STATE OF OREGON)
)ss.
County of Lincoln)

SUBSCRIBED AND SWORN to before me by Don H. Morris, as President of Devils Lake Rock Co., this 13th day of January, 1997.

Sonja J. Simpson
NOTARY PUBLIC FOR OREGON
My Commission Expires: 2-18-00



B331 P1982

EXHIBIT "A"

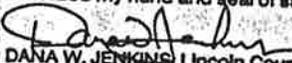
LEGAL DESCRIPTION OF A 60 FOOT RIGHT OF WAY THROUGH TAX LOT 1000, 30 FEET ON EITHER SIDE OF THE FOLLOWING DESCRIBED CENTERLINE:

COMMENCING AT ENGINEERS CENTERLINE STATION P.C. 33+83.20 OF THE THORPE COUNTY ROAD #107, SAID CENTERLINE STATION BEING 329.28 FEET SOUTH AND 2005.67 FEET EAST OF THE WEST ONE-QUARTER CORNER OF SECTION 23, T. 7 S., R. 11 W., W.M., LINCOLN COUNTY, OREGON, SAID STATION BEING THE TRUE POINT OF BEGINNING OF THE FOLLOWING DESCRIBED REALIGNMENT CENTERLINE; THENCE ALONG THE ARC OF A 200.00 FOOT RADIUS CURVE TO THE LEFT, THE LONG CHORD OF WHICH BEARS S 77° 27' 55" E 94.73 FEET, FOR AN ARC DISTANCE OF 95.63 FEET; THENCE N 88° 50' 10" E 158.93 FEET; THENCE ALONG THE ARC OF A 1000.00 FOOT RADIUS CURVE TO THE RIGHT, THE LONG CHORD OF WHICH BEARS S 88° 29' 56" E 92.99 FEET, FOR AN ARC DISTANCE OF 93.02 TO THE WEST BOUNDARY OF THAT TRACT OF LAND DESCRIBED IN MF 117-1681 OF LINCOLN COUNTY FILM RECORDS, SAID POINT BEING THE TERMINATION OF SAID CENTERLINE.

STATE OF OREGON)
County of Lincoln) ss.

I, Dana W. Jenkins, County Clerk, in and for said county, do hereby certify that the within instrument was received for record, and recorded in the Book of Records of said county at Newport, Oregon.

Book 331 Page 1981
WITNESS my hand and seal of said office affixed.


DANA W. JENKINS, Lincoln County Clerk



Doc : 6165811
Rect: 71406 0.00
01/28/1997 03:49:57pm

Map

tabbles
EXHIBIT
4



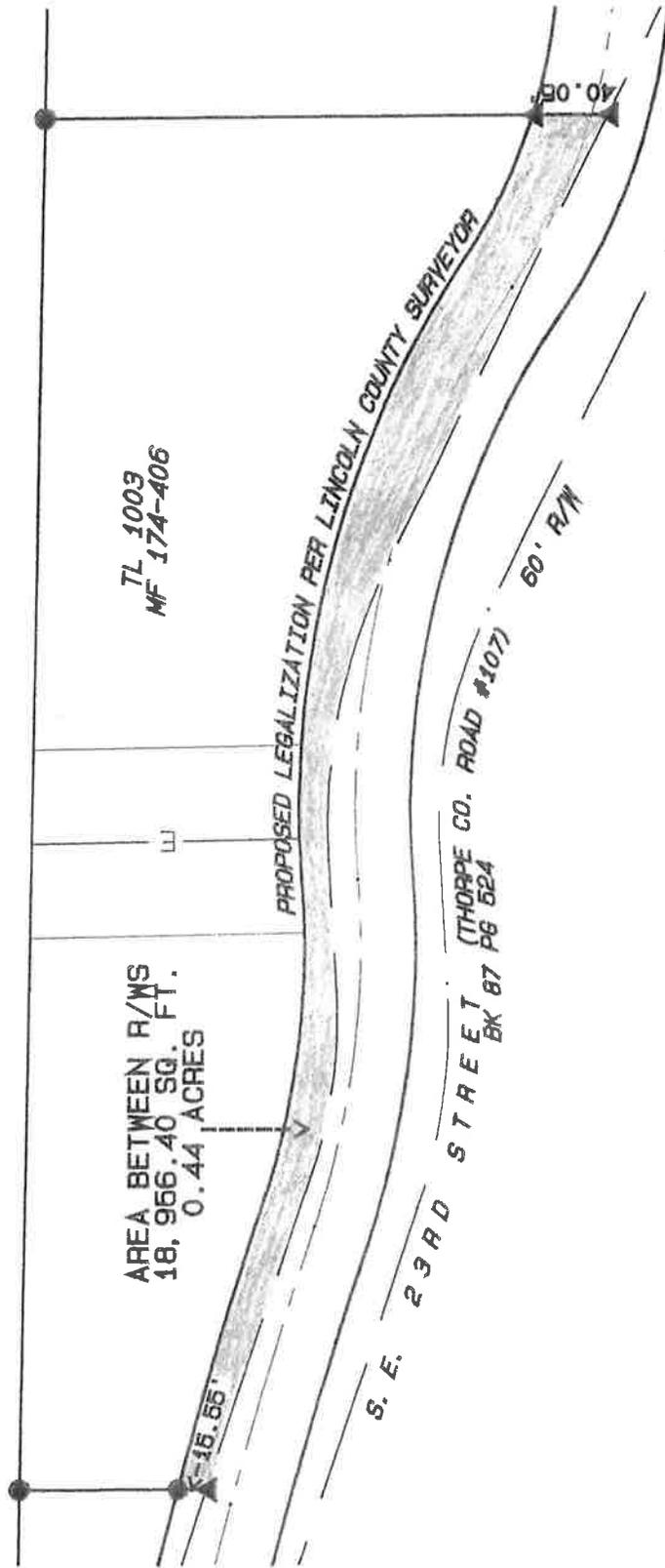
Printed 12/24/2015

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MAP SHOWING AREA BETWEEN DEEDED AND PROPOSED LOCATIONS
 OF S.E. 23RD STREET (THORPE ROAD),
 LOCATED IN THE NE 1/4 OF THE SW 1/4 OF SECTION 23,
 T 7 S, R 11 W, W.M., LINCOLN COUNTY, OREGON
 FOR: MR. MICHAEL PHILLIPS

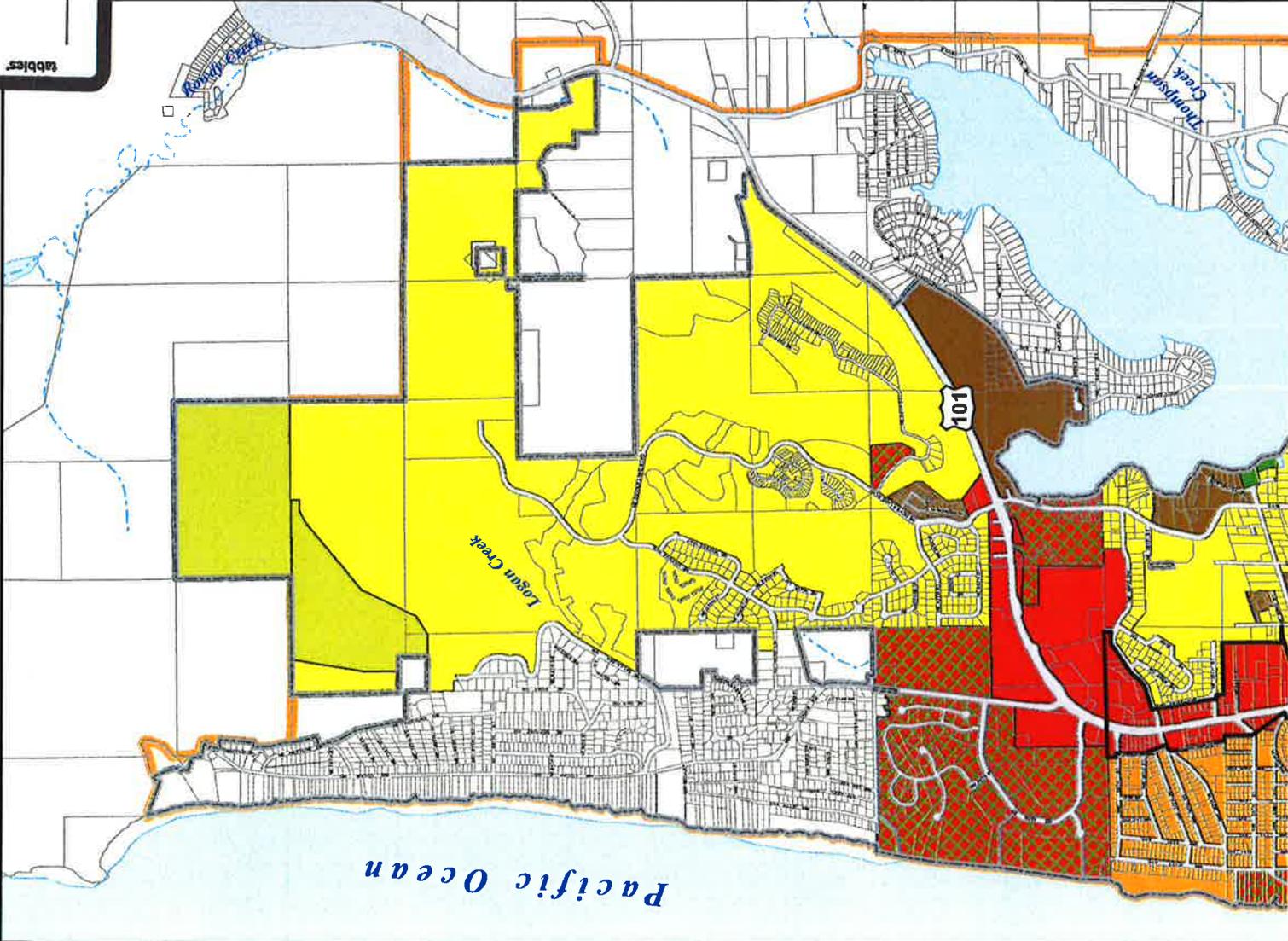
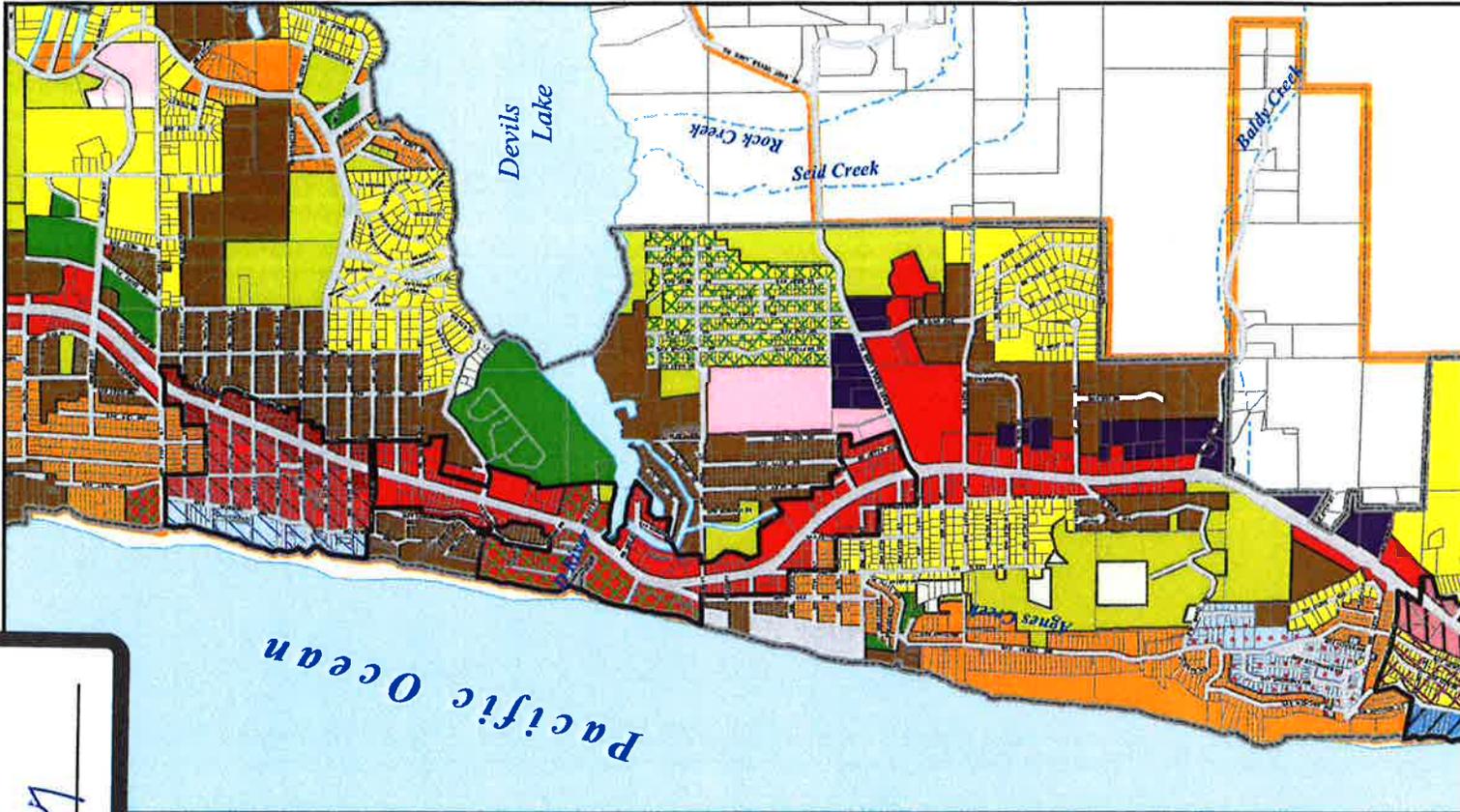
SCALE 1" = 100'
 OCTOBER 19, 2016



PREPARED BY
 DARIUS K. FERGIJSON P.L.S.
 LAND SURVEYING
 6062 S.E. HWY. 101, SUITE B
 LINCOLN CITY, OR. 97367
 PH: (541) 994-5854

EXHIBIT
 5
 Tabblers

EXHIBIT
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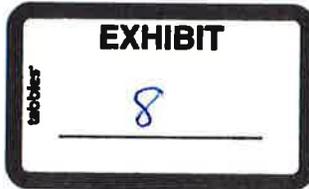


Map



Printed 12/05/2016

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Lincoln County Zoning

Zones

-  A-C [Agricultural Conservation]
-  C-1 [Retail Commercial]
-  C-2 [General Commercial]
-  C-T [Tourist Commercial]
-  CITY
-  DMDS [Dredged Material Deposit Site]
-  I-P [Planned Industrial]
-  I-P DMDS
-  M-P [Planned Marine]
-  M-P DMDS
-  M-W [Marine Waterway]
-  P-F [Public Facilities]
-  R-1 [Residential]
-  R-1 PD
-  R-1-A [Residential]
-  R-2 [Residential]
-  R-4 [Residential]
- 

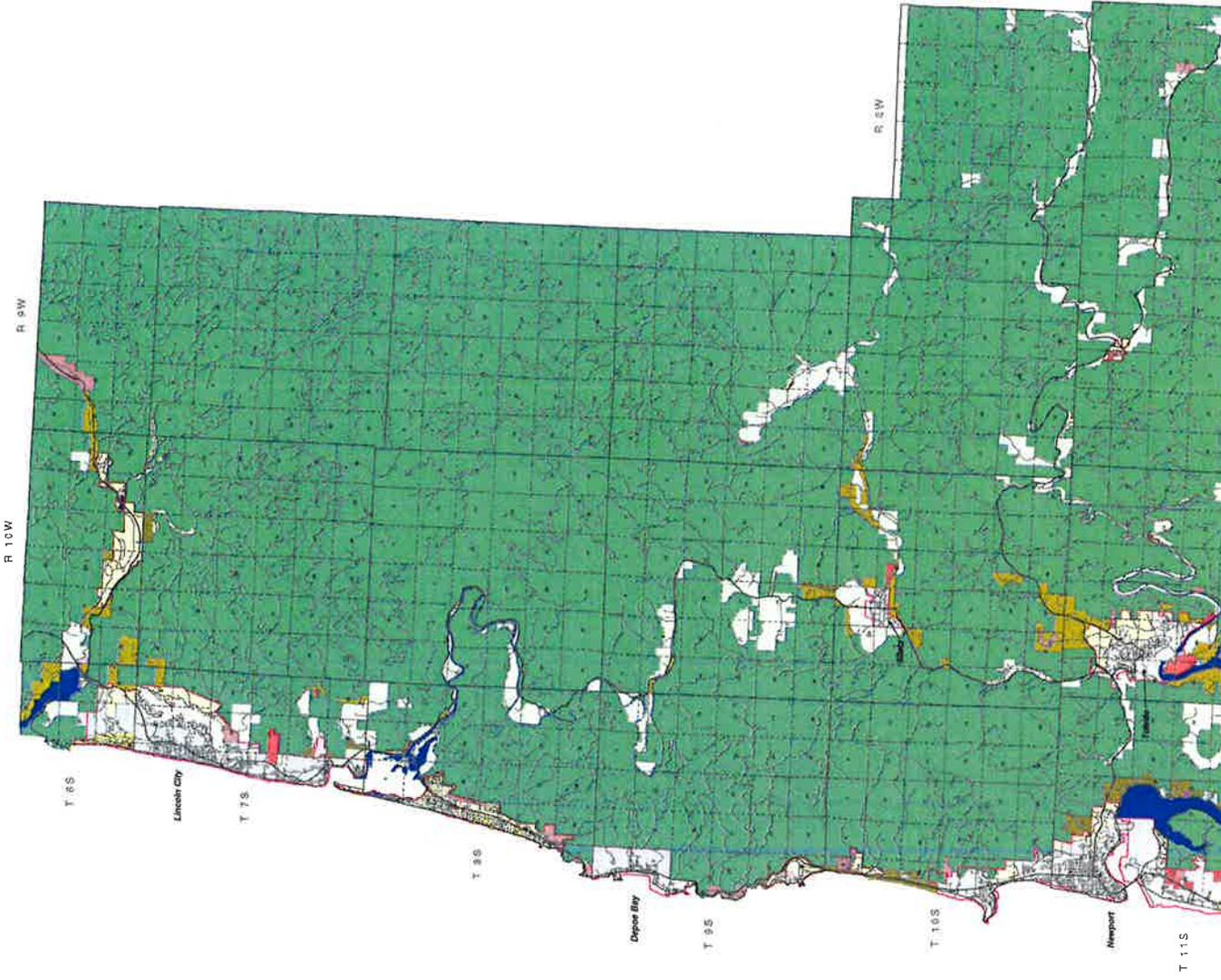


EXHIBIT
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EXHIBIT
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EXHIBIT

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EXHIBIT
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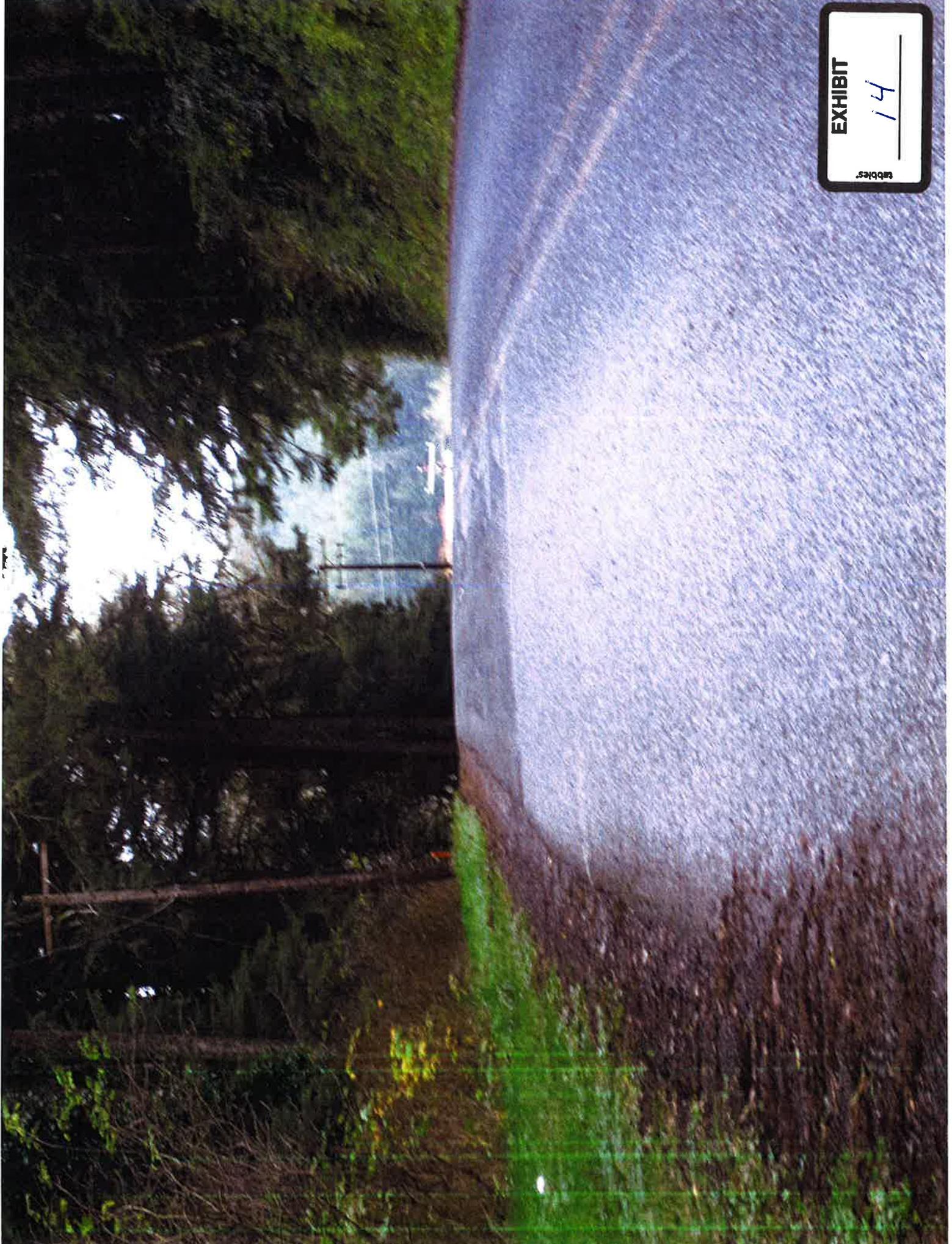
EXHIBIT
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EXHIBIT

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EXHIBIT

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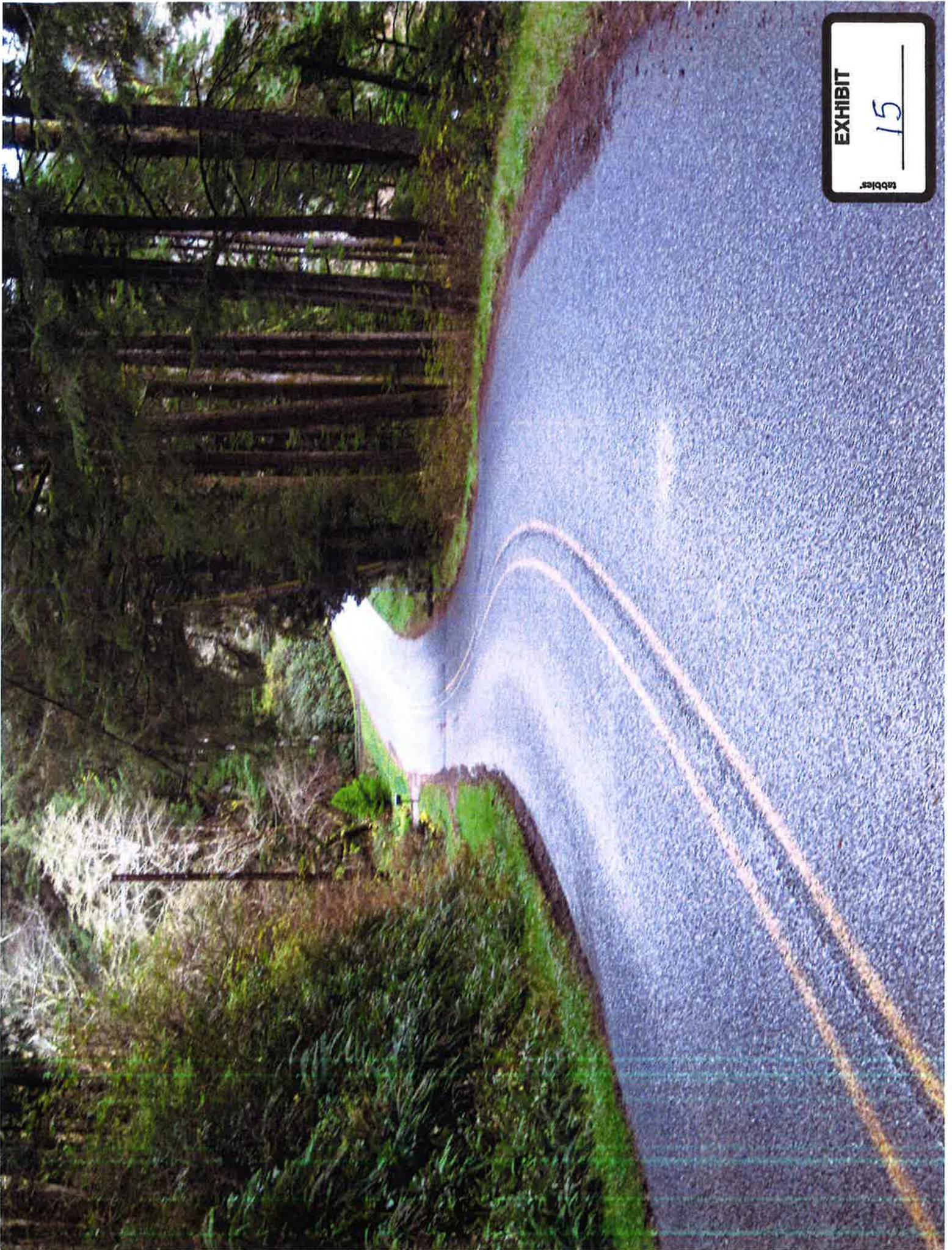




EXHIBIT
16
evidence

EXHIBIT

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bbles



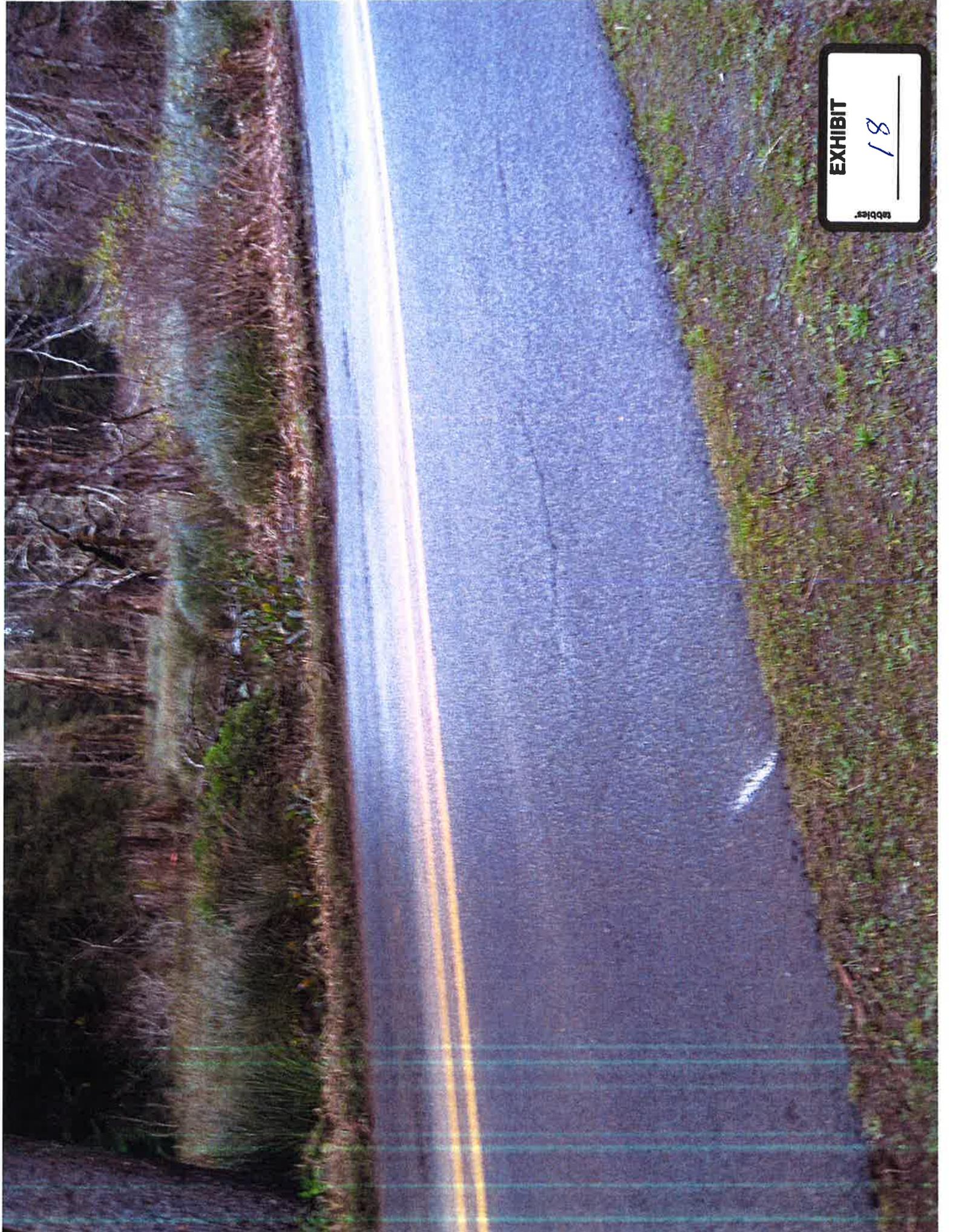


EXHIBIT
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EXHIBIT
19



1 **BEFORE THE BOARD OF COMMISSIONERS**
2 **FOR LINCOLN COUNTY, OREGON**
3

4 In the Matter of)
5) **ORDER NO. _____**
6)
7 *Authorizing Purchase of Property Pursuant*)
8 *to Commercial Real Estate Agreement and*)
9 *Designating County Counsel to Act to Execute*)
10 *Necessary Agreements and Documents to Carry Out*)
11 *Purchase. Lincoln County (Purchaser) and*)
12 *Julie A. Gearin (Seller), Property Located at 33, 35,*)
13 *37 and 41 NW Cottage Street, Newport, Oregon*)
14

15 WHEREAS Lincoln County (Purchaser) and Julie Ann Gearin (Seller) negotiated
16 the terms of a sale of real property located at 33, 35, 37 and 41 NW Cottage Street,¹
17 Newport, Oregon generally described as Tax Lots 8900 and 9200, Lincoln County
18 Assessor's Map 11-11-10 BA; and

19 WHEREAS the parties agreed through a Commercial Real Estate Agreement (as
20 amended, which by this reference is incorporated herein as if fully set forth, and is hereby
21 referred to as Purchase Agreement) on a sales price of \$315,000 with \$5,000 provided as
22 earnest money and the remainder due at closing. The Purchase Agreement was
23 contingent on a number of conditions, including but not limited to: (1) inspections and
24 due diligence inquiries by the County that the property would meet County's intended
25 uses; (2) a meeting with neighbors to inform them of the County's use of the property for
26 Crisis Respite Housing and related services; and (3) the Board's decision and action to
27 purchase requiring review and acceptance at public meetings of the Board; and

28 WHEREAS the parties have been working on these contingencies and conditions
29 which have all been met: (1) two inspections were conducted on behalf of the County

¹ Various documents used in this process have only referenced 37 and 41 NW Cottage. The addresses in the Assessor's records include 33, 35, 37 and 41 NW Cottage for these two properties. The Assessor's Map and Tax Lot references and the legal descriptions for the properties have not changed.

1 (building and environmental, level one) and no issues were identified and confirmation
2 was received from City of Newport Planning that the intended uses meet City Planning
3 and Zoning Codes; (2) a meeting was held with neighbors on November 21, 2016; and
4 (3) the Board reviewed the agreement and progress towards meeting the contingencies
5 and conditions at the Board Meeting on November 23, 2016 and again at the Board
6 Meeting on November 30, 2016 where they directed preparation of an Order for the
7 December 7 meeting to finalize the purchase; and

8 WHEREAS completion of the Purchase Agreement involves authorizing County
9 Counsel to act and to execute necessary legal documents, including but not limited to,
10 finalize all conditions of closing in the Purchase Agreement; execute and implement all
11 escrow instructions and agreements to complete the purchase; review, modify (if needed)
12 and accept on behalf of the County conveyance documents (statutory warrant deed) and
13 title insurance; review and accept any prorations related to the transaction and authorize
14 payments or accept credits related to closing, including those associated with escrow;
15 authorize payments due at closing including purchase price as negotiated; and review and
16 execute any and all related actions and documents to complete the transactions; and

17 WHEREAS the Board of Commissioners now desires to authorize actions
18 necessary to carry out implementation of the Purchase Agreement.

19 NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

20 1. That Lincoln County shall purchase properties generally described as 33, 35, 37
21 and 41 NW Cottage Street in Newport Oregon under the terms and conditions of the
22 Purchase Agreement as amended and as authorized under this Order.

23 2. That County Counsel is authorized to finalize and implement the Purchase
24 Agreement on behalf of the County for the Subject Property subject to terms and
25 conditions as determined appropriate by County Counsel for the County and thereafter to
26 sign any and all agreements, instructions, instruments and documents and make any
27 payments or accept any credits as necessary to complete the purchase.

1 3. That County Counsel may execute as necessary, such additional documents as
2 needed to effectuate this Agreement.

3 4. That to the extent any other Board actions or signatures on documents may be
4 determined necessary, those actions or signatures are hereby authorized without further
5 action by the Board.

6 5. That a copy of this Order be provided to Wayne Belmont, County Counsel.

DATED: December 7, 2016

LINCOLN COUNTY BOARD OF COMMISSIONERS

BILL HALL, Chair

TERRY N. THOMPSON, Commissioner

DOUG HUNT, Commissioner

BEFORE THE BOARD OF COMMISSIONERS
FOR LINCOLN COUNTY, OREGON

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In the Matter of)
)
Establishing Name Change for Portion of US Hwy 20 to be) **ORDER NO. _____**
Transferred to Lincoln County as part of US Hwy 20 PME Project)

WHEREAS the Oregon Department of Transportation (ODOT) undertook a major project to realign US Hwy 20 (US Hwy 20 Pioneer Mountain to Eddyville (PME)) which is soon coming to completion. The project creates 5.5 miles of new road with passing lanes to replace an approximately 10 mile segment of winding road; and

WHEREAS as part of the project, Lincoln County had previously agreed to accept transfer from ODOT of the older 10 mile segment into the County Road system to continue access to homes and properties along the road; and

WHEREAS ODOT recently required that the Board of Commissioners rename the portion of road that will be transferred to the County as the continuation of the name "US Hwy 20" will be applied to the new segment of the road and cannot be duplicated on the portion transferred to the County; and

WHEREAS under Lincoln County Code (LCC) Chapter 6, Addressing and Naming of Roads, the Board of Commissioners retains final authority to name roads and may initiate the naming of a road under LCC 6.129 and 6.6.132; and

WHEREAS under criteria for naming roads, including but not limited to the prohibition of duplication of existing road names or similar sounding names,¹ the Board proposed to name the portion of old US Hwy 20 to be transferred to the County as "Crystal Creek Loop", which was vetted by County departments and offices as required by the Code; and

WHEREAS the procedure for naming/renaming the road called for the Board to initiate the change and provide written notice of the proposed name to all persons owning property abutting the road or having an address on the affected road. The Board did so through Order 10-16-267 adopted October 19, 2016; and

WHEREAS following notice affected persons had the right to appeal the name to the Board in accordance with provisions of the Code, after which the Board would hold a public hearing on the proposed name to make a determination on the name; and

¹ For this reason, names using Eddyville, Chitwood, Pioneer Mountain, Yaquina and others cannot be used because roads with those names or similar names already exist

33 WHEREAS several property owners contacted the Board with suggested alternative names, which
34 for purposes of the Lincoln County Code the Board deemed as "appeals". Therefore, the Board held a
35 public hearing on November 23, 2016 to receive input on the proposed name and alternatives. Two people
36 attended the hearing and discussed alternatives they would prefer to see used for the transferred road;
37 and

38 WHEREAS on November 30, 2016 the Board deliberated about the proposed name and alternatives
39 and determined that Crystal Creek Loop meets the criteria under LCC Chapter 6 and selected that name for
40 the road. The new road also will require new street addresses (numbers) which have been prepared by the
41 County for properties along the road. LCC Chapter 6.

42 WHEREAS the address and name changes are effective on the date of this Order. Property owners
43 and others may begin to use the new addresses and road name immediately, and are required to use the
44 new addresses and road name no later than March 8, 2017.² Notice of the new road name and new
45 addresses will be provided to affected property owners, County offices and other designated parties as set
46 forth in LCC 6.119 (6) and LCC 6.129(13).

47 NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

48 1. That the Board of Commissioners designates and adopts the name Crystal Creek Loop, Lincoln
49 County Code (LCC) Chapter 6, as the name of the portion of old US Hwy 20, which will be transferred to
50 the County by the Oregon Department of Transportation to Lincoln County effective the date of this Order.³
51

52 2. That staff provide the required written notices to all persons and parties entitled to notice under
53 LCC 6.119 and LCC 6.129(13), including but not limited to each affected property owner, the Assessor's
54 Office, the County Clerk's Office, the Planning Department, the Road Department, each affected telephone
55 and utility company, affected fire department(s), emergency agencies including Willamette Valley
56 Communications Center and Toledo 9-1-1 Dispatch, and the United State Post Office.
57

58 3. That name change and the associated addresses are effective immediately and may be used by
59 property owners and others. All persons and entities are required to use the new name and addresses by
60 March 8, 2017. LCC 6.119(6) and LCC 6.129(14).
61

62 4. That copies of this Order also be provided to the County Surveyor and County Counsel.

DATED _____, 2016

LINCOLN COUNTY BOARD OF COMMISSIONERS

Bill Hall, Chair

Terry N. Thompson, Commissioner

Doug Hunt, Commissioner

² This date is consistent with the requirements of LCC 6.119(6) and LCC 6.129(14).

³ This name shall apply to all portions of the road transferred by ODOT to Lincoln County as part of the completion of the US Hwy 20 (US Hwy 20 Pioneer Mountain to Eddyville (PME)) realignment project.

