



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: March 27, 2019

Department: Public Works Agenda Planning Date: March 21, 2019 Time required: 5 min.

Audio/Visual aids: Powerpoint

Contact: Kent Inman Phone: 503-373-4316

Department Head Signature: Brian Nicholas

TITLE: Public hearing to consider vacating a portion of Phipps Lane NE.

Issue, Description & Background: On February 27, 2019, in Order No. 19-032, the Marion County Board of Commissioners scheduled a public hearing for March 27, 2019, to consider vacating the dead end portion of Phipps Lane NE, North of Glendale Avenue NE, pursuant to ORS 368.346. Phipps Lane was created as a public street by the plat of Glendale Park in 1953. The portion of Phipps Lane proposed for vacation is a 60-foot wide right of way, 168 feet in length, lying north of Glendale Avenue (exhibits attached). It is a dead-end street, has never been developed, and serves no public purpose. This right-of-way is covered with grass and brush and has a well beaten foot path through it, which is used by people as an access route from Glendale Avenue to the Courthouse Athletic Club property by means of two openings cut through the fence at the north end of the right-of-way. The location is the site of numerous calls to the Marion County Sheriff's Office for response. There appears to be no evidence of past street construction existing and a search by the Surveyor's Office reveals no record of any previous vacation or abandonment of this right of way. If the vacation of this right of way is granted, the property would be vested to the property owners to the east and west of the right-of-way. No utilities exist within the public right of way that would require a utility easement.

Financial Impacts: There are no fiscal impact by initiating the proceedings to vacate a portion of Phipps Lane NE.

Impacts to Department & External Agencies: Vacation of the right-of-way is expected to reduce the frequency of response calls to this location by the Marion County's Sheriff's Office. There are no other impacts to county departments or external entities.

Options for Consideration: 1. Approve the vacation of the north end of Phipps Lane NE, north of Glendale Avenue NE. 2. Do not approve the vacation at this time.

Recommendation: Public Works recommends the board of commissioners approve the vacation of the north end of Phipps Lane NE, north of Glendale Avenue NE.

List of attachments: Order No. 19-032 Notice Affidavit Location Maps and Plat Photos Recording Cover Sheet, Board Order with Exhibits A and B



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Presenter:

Kent Inman, County Surveyor

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to:

Kent Inman - kinman@co.marion.or.us

BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY, OREGON

In the matter of receiving the road officials)
report and scheduling a hearing to vacate a)
portion of Phipps Lane NE.)

ORDER No. 19-030

This matter came before the Marion County Board of Commissioners at its regularly scheduled public meeting on Wednesday, February 27, 2019.

WHEREAS, the Marion County Board of Commissioners adopted resolution 19R-2 initiating the road vacation process for a portion of Phipps Lane NE, north of Glendale Avenue NE; and

WHEREAS, resolution 19R-2 required the Director of the Department of Public Works to prepare and file with the board a written report describing the ownership and uses of the portion of Phipps Lane proposed to be vacated, and an assessment of whether the vacation would be in the public interest pursuant to ORS 368.346; and

WHEREAS, the Director of the Department of Public Works has completed the report contemplated in resolution 19R-2; and

WHEREAS, the board wishes to receive the report and schedule a public hearing on the proposed road vacation on March 27, 2019; now, therefore,

1. IT IS HEREBY ORDERED that the Marion County Board of Commissioners receives the road officials report attached to this order as Exhibit A.
2. IT IS FURTHER ORDERED that a public hearing be scheduled for March 27, 2019, before the Marion County Board of Commissioners for the purpose of

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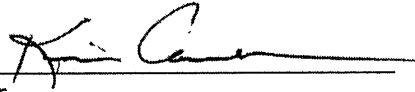
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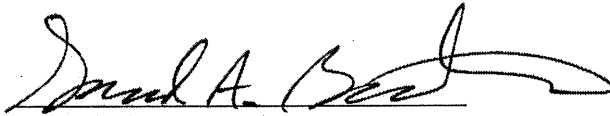
considering the proposed vacation of a portion of Phipps Lane NE, north of
Glendale Avenue NE, pursuant to ORS 368.346.

DATED at Salem, Oregon, this 27th day of February 2019.

MARION COUNTY BOARD OF COMMISSIONERS



Chair



Commissioner



Commissioner

ROAD OFFICIALS REPORT

VACATION OF A PUBLIC RIGHT OF WAY WITHIN GLENDALE PARK SUBDIVISION

CLERK'S FILE: 5787
February 21, 2019
Prepared by: Kent Inman

On February 13, 2019, Resolution Number 19R-2 was adopted by the Marion County Board of Commissioners to initiate the proceedings to vacate the dead end portion of Phipps Lane NE north of Glendale Avenue NE and directed the Public Works Director to file this report as required by Oregon Revised Statute 368.346.

The portion of Phipps Lane NE proposed to be vacated was created and dedicated to the public as a public right-of-way by the plat of Glendale Park Subdivision in 1953. This portion of Phipps Lane is located between Lot 18 and Lot 19 and north of Glendale Avenue NE as depicted on the Glendale Park subdivision plat. It is 60 feet wide and 168 feet in length. The dead end portion north of Glendale Avenue NE is undeveloped, except for a walking path leading to a fenced private property, was never constructed, and currently serves no practical purpose to the public. A call history provided by the Marion County Sheriff lists 38 calls received in 2018 from the three property owners adjoining the dead end portion of Phipps Lane NE. The common call types included burglary, drugs, graffiti, intoxication, noise, stolen vehicle, suspicious person, suspicious vehicle, theft, and trespass.

A search of the Surveyor's Office records reveals no record of any previous vacation or abandonment of this right-of-way

There are no utilities that would need to be protected by easements if the right-of-way is vacated.

Upon review of this proposed right-of-way vacation, the Planning, Land Development & Permits, and the Traffic Engineering sections have no objections to this vacation, if approved.

If the vacation of this right-of-way is granted, the property would be vested to the property owners to the east and west, as outlined in ORS 368.366, by extending the property owners boundary to the center of the vacated property.

The Public Works Director has determined that the vacation of this public right-of-way would be in the public interest, as this right-of-way has never been developed for public use and is a source of citizen complaints.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR THE COUNTY OF MARION, STATE OF OREGON**

In the Matter of the Vacation of a portion Phipps Lane)
) AFFIDAVIT
) CLERK'S FILE 5787

State of Oregon) ss:
County of Marion)

I, **Kent R. Inman**, depose and say that I caused to be hand delivered, notice that a public hearing has been set for March 27, 2019, at 9:30 a.m., to consider the vacation of the dead end portion of Phipps Lane, north of Glendale Avenue to all adjacent property owners and interested parties at least 30 days prior to said public hearing, in accordance with ORS 368.406.

I also depose and say that I posted 4 notices (a copy of which is attached hereto) to inform the public of the aforementioned matter, as described in said notice. The notices were posted at least 20 days prior to said public hearing in accordance with ORS 368.411 in the following places in the vicinity of the proposed property to be vacated to wit:

1. At the north end of the dead end portion of Phipps Lane.
2. At the south end of the dead end portion of Phipps Lane, north of Glendale Avenue.
3. On the south side of Devonshire Court approximately 500 feet east of Lancaster Drive.
4. At the southeast intersection of Lancaster Drive and Glendale Avenue.

That each said notice was posted in a conspicuous public place in plain view of the public on March 06, 2019.

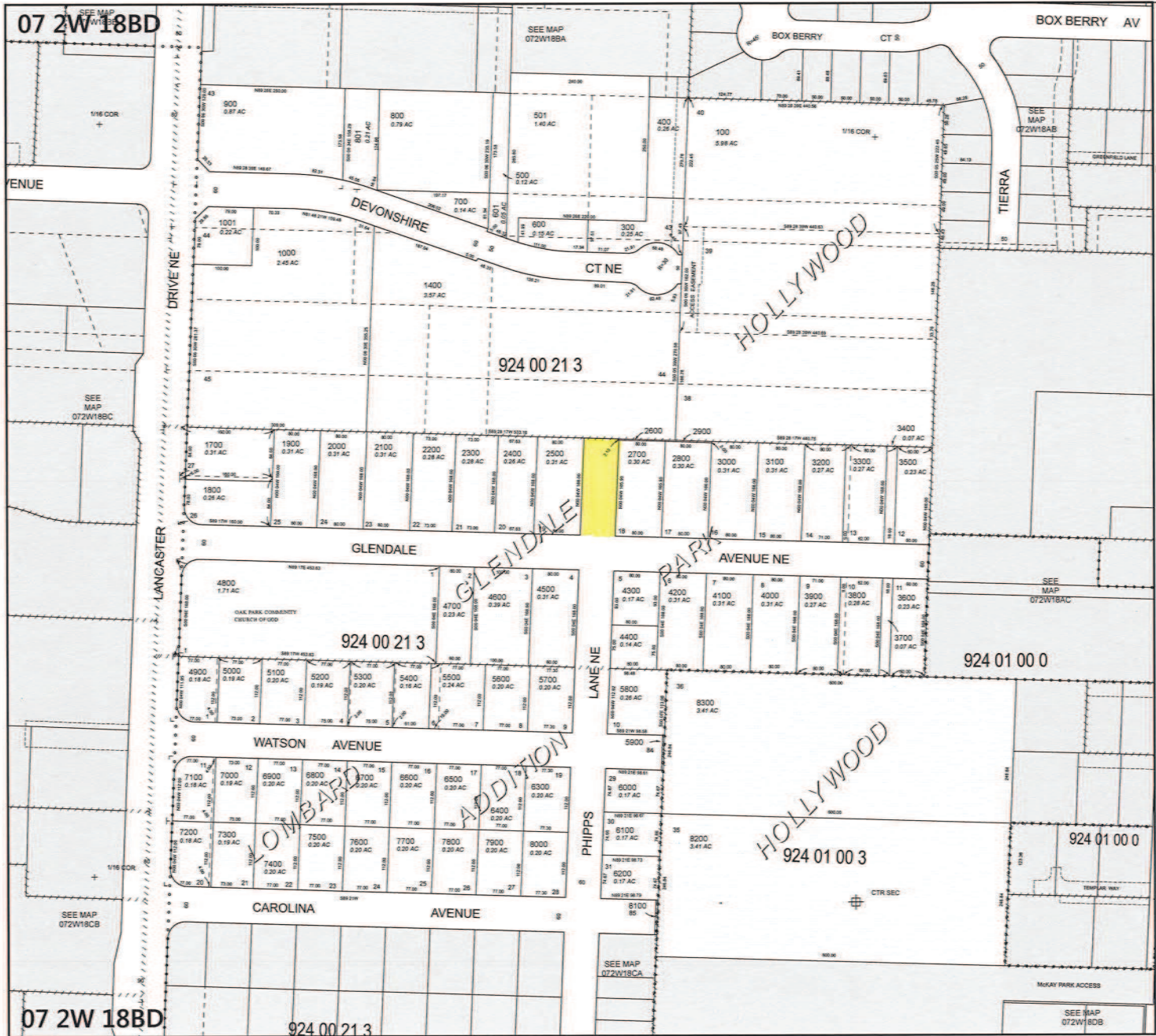
I also depose and say that I caused said public notice to be published in the **Statesman Journal** on March 8, 2019 and March 18, 2019, in accordance with ORS 368.416.

Dated this 18th day of March, 2019.



Subscribed and sworn to before me this 18th day of March, 2019 by Kent R. Inman.

Laura Lee Marcus
Notary Public for Oregon
My Commission Expires March 23, 2019



**07 2W 18BD
SALEM**



MARION COUNTY, OREGON
SE1/4 NW1/4 SEC18 T7S R2W W.M.
SCALE 1" = 100'

- LEGEND**
- Taxlot Boundary
 - Road Right-of-Way
 - Railroad Right-of-Way
 - Private Road ROW
 - Subdivision/Plat Bndry
 - Waterline - Taxlot Bndry
 - Historical Boundary
 - Easement
 - Railroad Centerline
 - Taxcode Line
 - Map Boundary
 - Waterline - Non Bndry

- CORNER TYPES**
- + 1/16TH Section Cor.
 - ⊙ D/LC Corner
 - ⊕ Section Corner
 - ⊕ 1/4 Section Cor.
 - 15 15
 - 21 22

NUMBERS
Tax Code Number
000 00 00 0
Acreage 0.25 AC All acres listed are Net Acres, excluding any portions of the taxlot within public ROWs

NOTES
Tick Marks: A tick mark in the road indicates that the labeled dimension extends into the public ROW

CANCELLED NUMBERS

100
200
201
1100
1101
1200
1300
1500
1600
1601

DISCLAIMER: THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSES ONLY



FOR ADDITIONAL MAPS VISIT OUR WEBSITE AT www.co.marion.or.us

PLOT DATE: 1/24/2018

**SALEM
07 2W 18BD**

Owner:
 SPIRIT MASTER FUNDING II LLC
 C/O CAPITOL RACQUET SPORTS INC
 PO BOX 3125
 SALEM, OR 97302

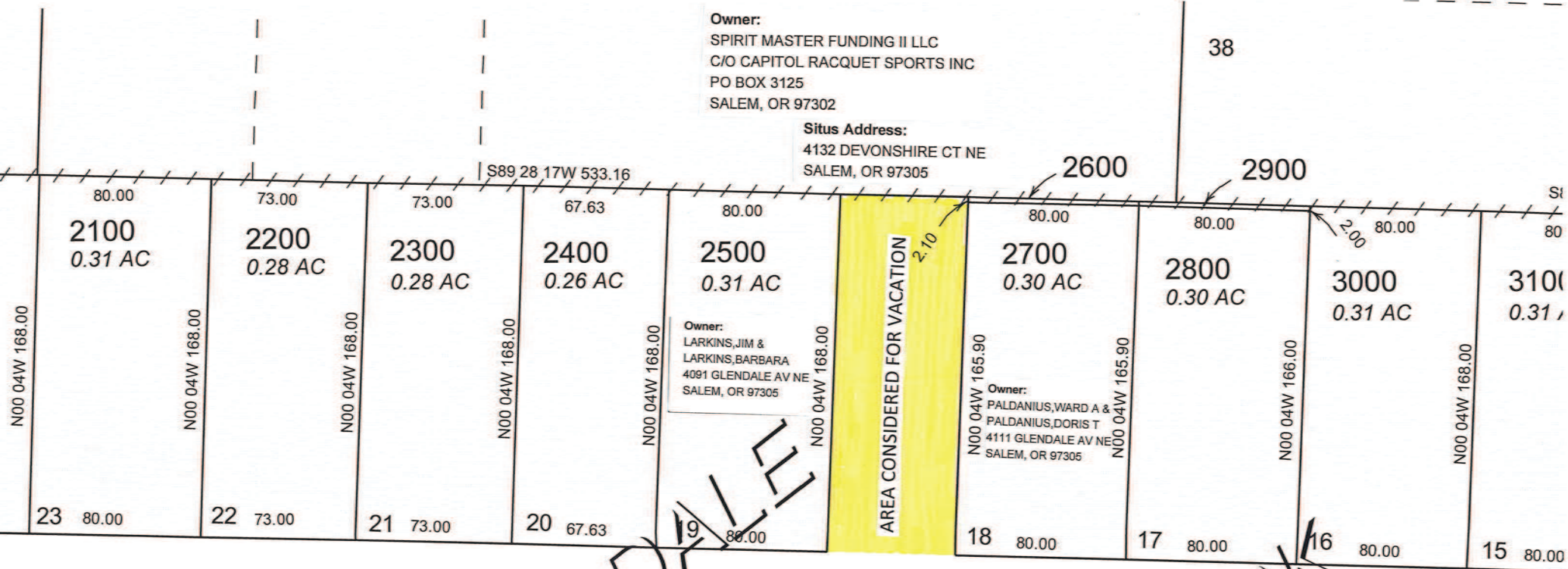
Situs Address:
 4132 DEVONSHIRE CT NE
 SALEM, OR 97305

S89 28 17W 533.16

38

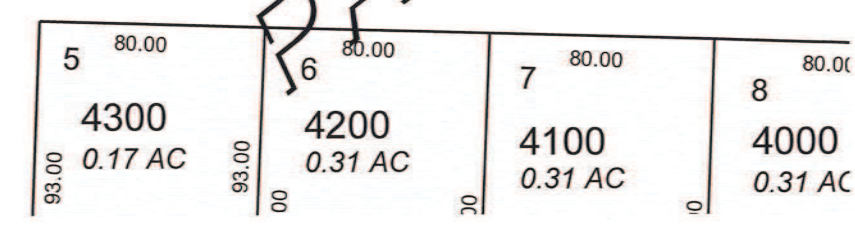
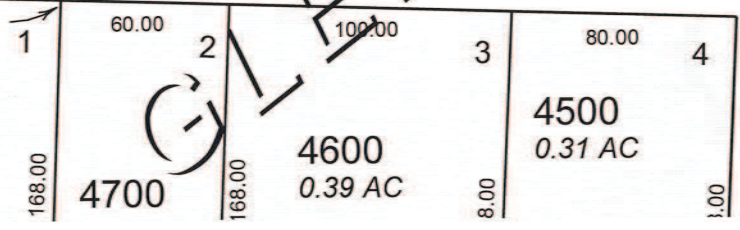
2600

2900



GLENDALE

AVENUE N

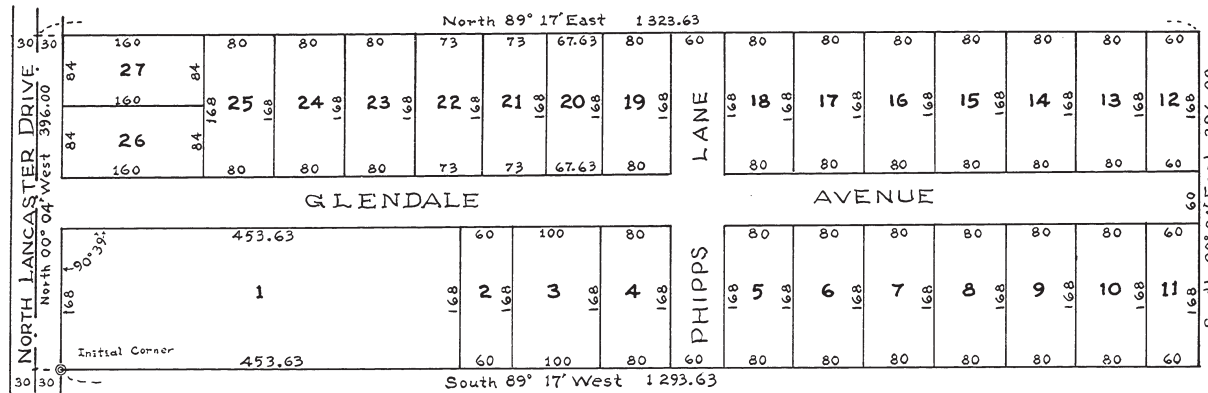


G L E N D A L E P A R K

RESUBDIVISION OF LOT 46 AND FRACTION OF LOTS 37, 38, AND 45 HOLLYWOOD, MARION COUNTY, OREGON

RESTRICTIONS

All structures shall be set-back 30 feet from Glendale Ave. No structure shall have less than 900 square feet of floor area exclusive of garage. Side line setback shall be 5 feet.



SURVEYOR'S CERTIFICATE

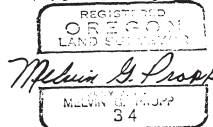
I, Melvin G. Propp, being first duly sworn depose and say, that I have surveyed and marked with proper monuments the land hereon shown as "Glendale Park" and which is described as follows:

Beginning at the Initial Corner which is North 00° 04' West 3568.08 feet and North 89° 17' East 30.00 feet from the Southeast corner of Towner Savage Donation Land Claim No 37 in Section 18, in Township 7 South, Range 2 West of the Willamette Meridian in Marion County, Oregon; running thence South 89° 17' West 30.00 feet; thence North 00° 04' West 396.00 feet; thence North 89° 17' East 1323.63 feet; thence South 00° 04' East 396.00 feet; thence South 89° 17' West 1293.63 feet to the place of beginning, containing 12.03 acres of land.

All lot corners are marked with iron pipe or iron bars. The Initial corner is a 2 inch galvanized iron pipe set 6 inches below the surface of the ground.

Melvin G. Propp

Subscribed and sworn to before me this 14th day of December 1953



E.E. Bristol
Notary Public for Oregon
My Commission Expires: Nov. 3, 1957



DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That the First Church of God, a Corporation duly incorporated and existing under the laws of the State of Oregon, and by its officers herein undersigned, being the owner of the land described in the surveyor's certificate hereon made and desiring to dispose of the same in lots, has caused the same to be surveyed and platted, the name to be known as "Glendale Park" and does dedicate to the public use forever the streets as shown on the plat hereon and does certify that all taxes and assessments levied against said land have been paid in full.

In witness whereof the First Church of God pursuant to a resolution by its board of directors has caused its corporate seal to be affixed and these presents to be subscribed by its chairman, Vice chairman, Secretary and Treasurer this 7th day of December, 1953.

Earl De Sart
Chairman
J.E. VanLydegraf
Vice Chairman
Ayle K. Wynn
Secretary
Jane Weinberg
Treasurer



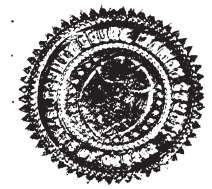
State of Oregon } ss
County of Marion }
On this 7th day of December, 1953 personally came before me, a notary public in and for said county and state the within named officers of said corporation, Earl DeSart, Chairman, J. E. VanLydegraf, Vice Chairman, L. D. Knox, Secretary, and Jane Weinberg, Treasurer, to me personally known to be the identical persons describe in and who executed the above instrument freely and voluntarily for the uses and purposes therein named without fear or compulsion from anyone
Witness my hand and seal this 7th day of December, 1953.
E.E. Bristol
Notary Public for Oregon
My Commission expires: Nov. 3, 1957.

The Above plat is hereby approved
W.W. Rosebraugh
President of Salem, Oregon Planning and Zoning Commission
A.D. Graham
County Surveyor

State of Oregon } ss
County of Marion }
I, Herman Wm. Lanke, County Recorder for said county and state do hereby certify that the within plat was received and duly recorded by me in Marion County Records in book of town plats volume 17, page 19, on this 21st day of December, 1953 at 9:30 A.M.
Herman Wm. Lanke
County Recorder



State of Oregon } ss
County of Marion }
I, R. Shelton, county assessor and Rex Hartley, county Judge, and E. L. Rogers and Roy J. Rice, county commissioners for Marion County, Oregon do hereby approve the within plat and dedication which are in due and legal form
R. Shelton
County Assessor
Rex Hartley
County Judge
Roy J. Rice
County Commissioner
E. L. Rogers
County Commissioner
Attest *A.C. Mattson*
County Clerk



SCALE
100ft per Inch



Phipps Lane north of Glendale Street



Phipps Lane south of Glendale Street



RECORDING COVER SHEET

THIS COVER SHEET HAS BEEN PREPARED BY THE PERSON PRESENTING THE ATTACHED INSTRUMENT FOR RECORDING (ORS 205.234). ANY ERRORS IN THIS COVER SHEET DO NOT AFFECT THE TRANSACTIONS CONTAINED WITHIN THE DOCUMENT.

A. Names of the Transactions described in the attached instrument:

Right of Way Vacation Order

B. Names of First Parties: **Marion County**

Names of Second Parties: **Jim and Barbara Larkins
Ward A. and Doris T. Paldanius**

C. Consideration Paid: (if applicable): **N/A**

D. Lien or Satisfaction Amount: (if applicable): **N/A**

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

Vacated right of way being attached to existing tax accounts. No separate statement required.

F. Name and address of person authorized to receive the instrument after recording:

**Kent Inman, PLS, County Surveyor
Marion County Department of Public Works
5155 Silverton Road NE
Salem, Oregon 97305**

**BEFORE THE BOARD OF COMMISSIONERS
FOR MARION COUNTY OREGON**

In the Matter of Vacating the Dead End Portion)
of Phipps Lane NE, North of Glendale Avenue) Public Works
NE, Within the Glendale Park Subdivision) Clerk's File # 5787

ORDER

This matter came before the board of commissioners at a public meeting conducted on March 27, 2019; and

WHEREAS, Resolution Number 19R-2 was adopted by the board of commissioners on February 13, 2019, initiating the proceedings to vacate the dead end portion of Phipps Lane, north of Glendale Avenue, and directed the Director of Public Works to prepare a written report as required by ORS 368.346; and

WHEREAS, on February 27, 2019, the board of commissioners received the written report from the Director of Public Works and set the date for the public hearing to be March 27, 2019, in Order Number 19-032 as required by ORS 368.346; and

WHEREAS, the board conducted a public hearing on the proposed vacation on March 27, 2019, and has considered all testimony given at the hearing, all materials presented by staff, and those providing written testimony; now therefore

IT IS HEREBY ORDERED that, the dead end portion of Phipps Lane, north of Glendale Avenue, as described on the attached Exhibit "A" and depicted on the attached Exhibit "B," be vacated and that said vacated property shall vest to Jim and Barbara Larkins, and Ward A. and Doris T. Paldanius, pursuant to ORS 368.366.

IT IS FURTHER ORDERED that no costs resulting from this vacation shall be assessed; that the County Surveyor shall mark related plats, as required by ORS 271.230; and that copies of this order shall be filed with the Marion County Clerk, Surveyor, and Assessor.

Dated this _____ day of _____, 2019.

BOARD OF COMMISSIONERS

Chair

Commissioner

Commissioner

EXHIBIT A

A portion of Phipps Lane created and dedicated to the public in the plat of Glendale Park, recorded in Volume 17, Page 19 of the Marion County, Oregon, Book of Town Plats, said portion being described as follows:

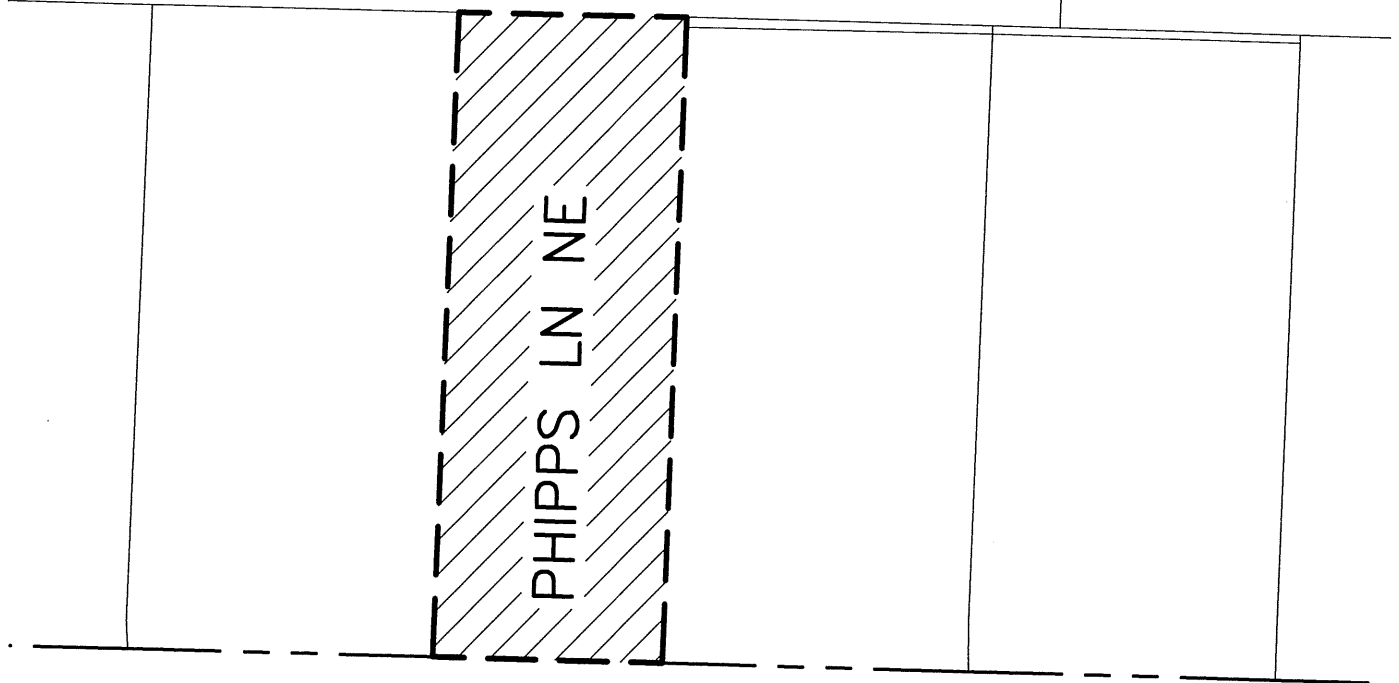
That portion of Phipps Lane located between the extension of the north right of way line of Glendale Avenue and the north line of said plat

REGISTERED
PROFESSIONAL
LAND SURVEYOR



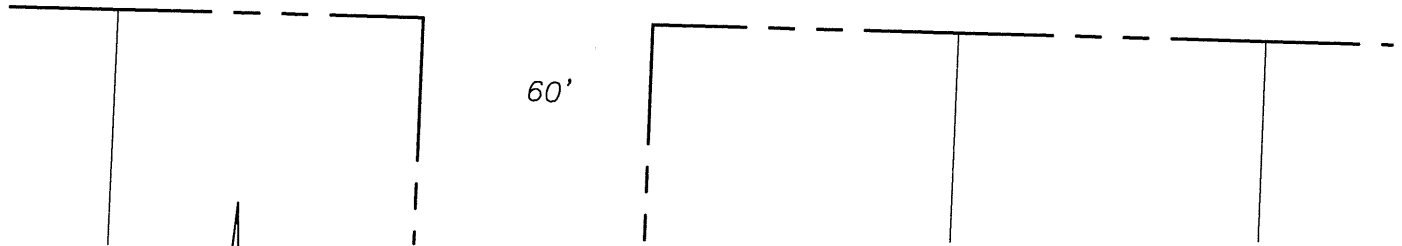
OREGON
JULY 13, 2004
KENT RYAN INMAN
60050LS

EXPIRES 6/30/19



60'

GLENDALE AVE NE



60'



AREA OF ROADWAY VACATION

THIS MAP IS FOR ILLUSTRATION PURPOSES ONLY

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 13, 2004
KENT RYAN INMAN
60050LS

SCALE: 1" = 50'

0' 50' 100' 150'



EXPIRES 6/30/19

EXHIBIT B

RIGHT-OF-WAY VACATION FOR THAT PORTION OF PHIPPS LN NE, LYING NORTH OF GLENDALE AVE NE, WITHIN THE PLAT OF GLENDALE PARK, RECORDED IN VOLUME 17, PAGE 19, OF THE MARION COUNTY, OREGON, BOOK OF TOWN PLATS

DATE: MARCH 8, 2019

DRAWN BY: S. WATSON

CHECK BY: K. INMAN

MARION COUNTY
SURVEYORS OFFICE
5155 SILVERTON ROAD
SALEM, OR 97305