

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 17-07-18-05

IN THE MATTER OF RELEASING, DEDICATING
AND ACCEPTING PARCEL "B" OF THE PLAT OF
BANTAM PARK, AS RIGHT OF WAY FOR ARGON
AVENUE, A PUBLIC ROAD (17-04-02-33)

WHEREAS, by previous action the following land, described as Parcel "B" of the plat of Bantam Park, as platted on Book 39, Page 5, Lane County, Oregon Plat Records, was conveyed to Lane County, Oregon by that certain deed, recorded on Reel 227-D, Recorder's Reception Number 26204, Lane County, Oregon Deed Records; and

WHEREAS, the City of Eugene Public Works Department has requested the parcel strip be released and dedicated for road purposes to allow for public improvements and access to newly created lots within the plat of Addyson Creek First Addition as recorded on Instrument Number 2017-030625; and

WHEREAS, Parcel "B" of Bantam Park lies within the Urban Growth Boundary, but outside the Eugene city limits, and

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

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

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

1. The real estate, as described in the attached Draft Dedication marked as Exhibit "B", and depicted on the attached map marked as Exhibit "C", be released, dedicated, and accepted as public right of way.
2. The Board Chair is authorized to execute an original Dedication of Public Road Easement on behalf of the County.

3. This Order will be entered into the records of the Board of County Commissioner's Journal of Administration and the attached Dedication be recorded in the Lane County Oregon Deed Records, and the document number be noted on this Order.

ADOPTED this 18th day of July, 2017

Department of Public Works
Engineering and Construction Services Division

LANE COUNTY BOARD OF
COMMISSIONERS

Approved 6/28, 2017

By 
Pat Farr, Chair

By 
Peggy Keppler, County Engineer

APPROVED AS TO FORM

Date 7/19/17


LANE COUNTY OFFICE OF LEGAL COUNSEL

Dedication Recorded on Document No. _____, Lane County, Oregon
Deed Records.

EXHIBIT "A"

MAP No.: 17-04-02-32-10700


LANE COUNTY

Notification of an Estimated Value of the Special Benefit Deposit
in Connection with a Proposed Release and Public Road Dedication of an Access Control Strip
Pursuant to Lane Manual 60.854(8)(c)

Pursuant to the provisions of Lane Manual 60.854(8)(c), my determination of the amount of "Special Benefit" and therefore the amount of deposit required in connection with the proposed release of an access control strip known as Parcel "B," of the Plat of Bantam Park as Platted and Recorded in Book 39, Page 5, Lane County Plat Records in Lane County, Oregon, is **\$0.00**.

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

Dated this 29th day of June, 2017.



Tim Elsea, Director
Lane County Public Works

STAFF REPORT

Recommendation in the Matter of an Estimation of the Special Benefit Deposit
in Connection with a Proposed Release and Public Road Dedication of an Access Control Strip
Pursuant to Lane Manual 60.854(8)(c)

Date: June 27, 2017

Applicant: Fam-Lee, LLC, an Oregon Limited Liability Company

Proposed Release and Public Road Dedication:

The proposed release and subsequent public road dedication of an access control strip is described as Parcel "B" of the Plat of Bantam Park as Platted and Recorded in Book 39, Page 5, Lane County Plat Records in Lane County, Oregon. Parcel "B" is a 176.82' strip and runs along the northern boundary of Argon Avenue. It is held by Lane County in trust for the benefit of the people of Lane County in Bargain and Sales Deed RR# 227-D/26204, dated September 19, 1963.

The release and subsequent public road dedication of these access control strips are a request being made in conjunction with the City of Eugene approved subdivision plat named Addyson Creek, First Addition, on Map and Tax Lot 17-04-02-32-10700. The Addyson Creek, First Addition subdivision will be accepted and officially platted prior to the release and subsequent public road dedication of the access control strip. The effect of the release and public road dedication will widen Argon Avenue from an approximately 30 foot public right of way (29 feet plus 1 foot reserve strip) to an approximately 60 foot public right of way. The Special Benefit Estimation is made on the assumption that Addyson Creek First Addition is platted and recorded.

Tax Lots Adjacent to Proposed Release and Public Road Dedication:

Tax Map and Lot No's adjacent to the strip prior to the plat approval include 17-04-02-32-00200, 17-04-02-33-00600 and 601 on the south side of Argon Avenue and 17-04-02-33-10700 on the north side of Argon Avenue. These tax lots represent an un-platted lot, Lot 5, Block 2 and Lot 6, Block 2 of the Plat of Bantam on the south side of Argon Avenue and Lots 87 and 86 of the proposed Addyson Creek First Addition Subdivision on the north side of Argon Avenue, respectively.

Nature of Benefit to be Received if Proposed Release and Public Road Dedication is Approved:

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

1. Special Benefit Defined:

Lane Manual does not define the term "Special Benefit"; however, in appraising acquisitions for right of way, a special benefit is defined as "*advantages arising from a public improvement for which property has been acquired under eminent domain accruing directly and solely to the advantage of the property remaining after the partial acquisition.*" This definition does not include a general benefit which is

"Attachment 1"

defined as a benefit “*accruing to the community at large, to the area adjacent to the improvement, or to other property similarly situated as that acquired but which is not acquired.*” In Oregon, a “Special Benefit” is used to offset damages caused by the acquisition (See ODOT Right of Way Manual 4.310).

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

“The advantages arising from the release and subsequently public road dedication for which the property, created under the terms of the conveying document and through the regulatory provisions of Lane County’s subdivision ordinance, accruing directly and solely to the advantage of the property after the release and subsequent public road dedication.”

If a special benefit exists, it is offset by inverse damages, also known as development costs. Some of those costs include permits, engineering, construction, the land dedicated through the platting of the subdivision, and the cost to release and dedicate the access control strip.

2. Special Benefit to Evaluate:

The public presently has a possessory interest in the reserve strip held in trust by Lane County to restrict access in accordance with the subdivision ordinance and to “*dedicate said property or part thereof as a public road....*” The proposed release of the reserve strip will be in conjunction with the dedication of a right of way that will allow travel over and across the strip of land. This action will result in legal access by widening the street from approximately 30 feet to 60 feet.

3. Special Benefit to Property Owner(s):

LM 60.854(8)(b) gives no indication to which property owner is to receive the special benefit. Potentially, it could be any number of adjacent properties including the underlining fee owner. According to the conveying deed, once the dedication is authorized by the Planning Commission, “this trust shall terminate with respect to the property or part thereof so dedicated.” In other words, the possessory interest will revert back to the underlying fee owner only to be burdened by a public right of way. With the dedication and improvement of a wider road, it is clear that all the adjacent property owners will receive a benefit from the project.

4. Special Benefit Evaluation/Highest and Best Use:

The test for estimating a special benefit must be specific and measurable, which can be justified through an increase in market value due to change in a more profitable use. Using the “Highest and Best Use” concept in conjunction with the “Before and After” rule is the most appropriate method for determining a “Special Benefit.” It is the opinion of Right of Way staff that the Highest and Best Use before and after the release and subsequent public road dedication of each adjacent property is a public road right of way.

From a development perspective, staff has found that the market largely ignores the presence of an access control strip in its buying decision unless it cannot be released or if there is a deed condition that requires the developer to share in the road construction costs. On the other side, where development has already taken place, a fully informed buyer would have considered the half street and the access control strip in his purchase of the property, which would be reflected in the sales price. Using the “Before and After” method, Right of Way staff performed market research that included review of comparable sales with lots

"Attachment 1"

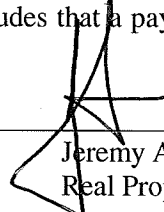
that have sold in Addyson Creek along Argon against other similar lots within the subdivision. Lots along Argon sold for less than similar lots within the subdivision. This could be for a number of reasons, including location near an older subdivision with class 3 construction quality homes with a newer, higher-end, class 5 construction quality homes. Nevertheless, there is no measurable increase in value of the lots due to the release and subsequent public road dedication of this access control strip.

Summary and Recommendation of Special Benefit:

Lane Manual 60.854(8)(b) The estimated value of the special benefit and the amount of money to be deposited shall be determined by the Public Works Director. In the event of an estimated special benefit value of less than \$2,500, it shall be considered de minimis and a payment of deposit for special benefit shall not be required.

The relevant factors used to determine a "Special Benefit" have been examined. The subdivision lots along Argon Avenue will receive a general benefit of a widened street. There is no evidence that the release and public road dedication of the access control strip will cause any one subdivision lot or property to change to a more profitable use. Thus, any advantages arising from the release of the public's possessory interest and subsequent public road dedication will be of a general nature and not specifically accruing directly and solely to the advantage of any subdivision lot or property.

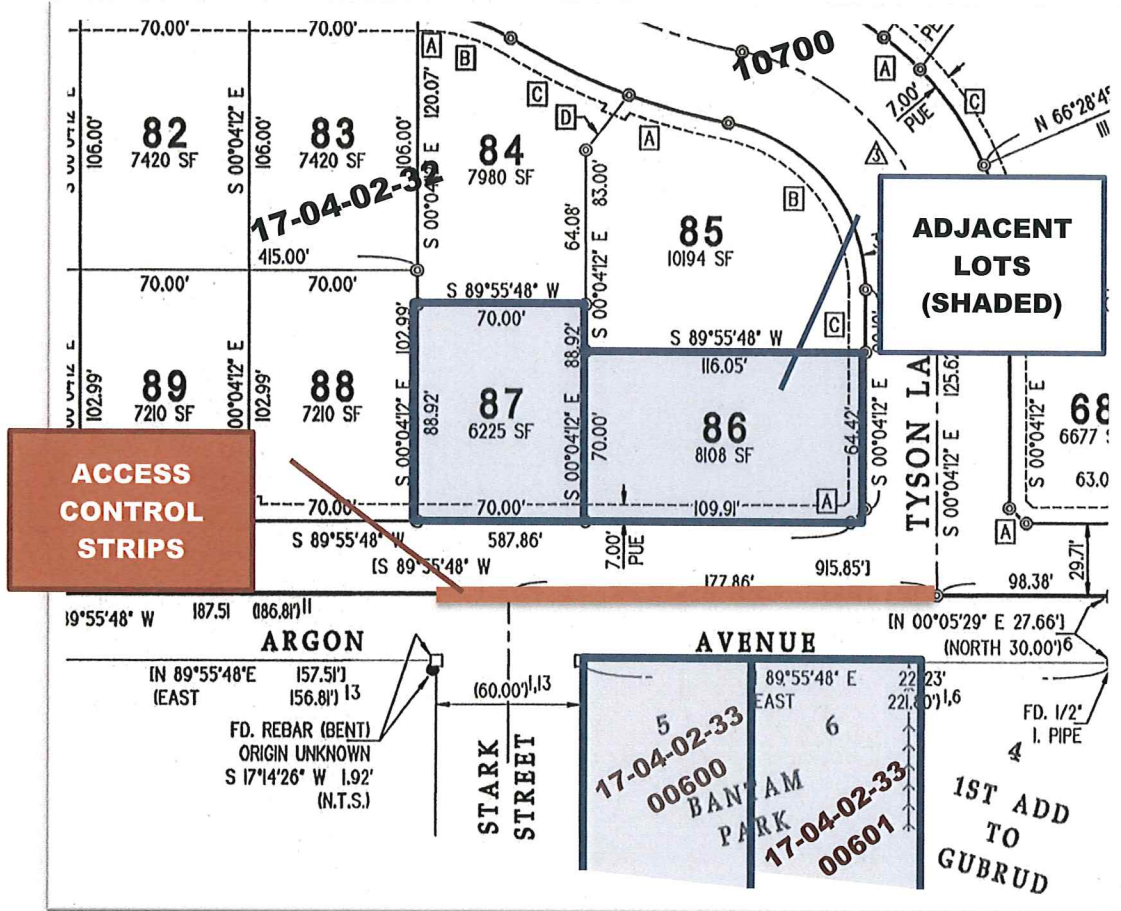
Pursuant to Lane Manual 60.854, a special benefit must be determined. The release of the possessory interest in exchange for a publically dedicated right of way will not produce a "Special Benefit" to adjoining subdivision lots and owners. As the value added is less than the \$2,500 *de minimus value* required by Lane Manual 60.854(8)(c), the appraiser concludes that a payment for Special Benefit is not warranted for this release.



Jeremy A. Sherer
Real Property Officer

CITY OF EUGENE APPROVED ADDYSON CREEK FIRST ADDITION SUBDIVISION

Showing Addyson Creek and Bantam Park Lots



STREET VIEW

Showing Argon Avenue looking east from Stark



**ADDYSON
CREEK
1ST ADD**

BANTAM PARK

**17-04-02-32
10700**

**17-04-02-33
600 & 601**

**ACCESS CONTROL
STRIP**

EXHIBIT "B"

DEDICATION OF A PUBLIC ROAD EASEMENT

LANE COUNTY

KNOW ALL MEN BY THESE PRESENTS, that Lane County (Grantor), a political subdivision of the State of Oregon, is the owner of certain real property, located in Section 2, Township 17 South, Range 4 West of the Willamette Meridian and that Lane County acquired title by that certain Bargain and Sale Deed from Norman K. Smith and Joanne J. Smith, husband and wife and Whitley W. Ewing, Jr. and Margaret Ewing, husband and wife, Grantors, recorded on Reel 227-D, Recorder's Reception Number 26204 of the Lane County, Oregon Deed Records, and that said Lane County does hereby dedicate to the free use of the Public (Grantee), for public road purposes, the following described tract of land, to wit:

Parcel "B" of Bantam Park, as platted and recorded in Book 39, Page 5, Lane County, Oregon Plat Records, in Lane County, Oregon.

It being the intent to release and dedicate the one-foot reserve strip (Parcel "B" of Bantam Park) as public right of way for Argon Avenue. There is no consideration for this dedication.

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

Approved this _____ day of _____, 2017

Pat Farr, Chair
Lane County Board of Commissioners

STATE OF OREGON)
COUNTY OF LANE) ss.

On _____, 2017, personally appeared the above-named Pat Farr, as Chair of the Lane County Board of Commissioners and acknowledged the foregoing instrument to be his voluntary act before me.

NOTARY PUBLIC FOR OREGON
My Commission Expires: _____

EXHIBIT "C"



RELEASE, DEDICATION and ACCEPTANCE

PARCEL "B" OF BANTUM PARK

SW ¼ Sec. 2 , T. 17 S., R. 4W. W.M.
Lane County

NO SCALE

