

Notice to Taxing Districts

ORS 308.225



Cadastral Information Systems Unit
PO Box 14380
Salem, OR 97309-5075
fax 503-945-8737
boundary.changes@oregon.gov

Lincoln County
Legal Counsel
Room 110
225 W Olive St.
Newport OR 97365

**Description and Map Approved
July 6, 2020
As per ORS 308.225**

Description Map - Received from: Janet Harrison
On: 7/5/2020

This is to notify you that your Description and Map in Lincoln County for:
Withdrawal of parcel of real property from the Bear Valley Special Road District

Order No 5-20-129

has been: Approved 7/6/2020
 Disapproved

Department of Revenue File Number: 21-461-2020
Reviewed by: Robert Ayers, 503-983-3032
Boundary: Change Proposed Change

The change is for:
 Formation of a new district
 Annexation of a territory to a district
 Withdrawal of a territory from a district
 Dissolution of a district

If you have not already done so, the approved version of the Description and Map must also be filed with the County Assessor

Transfer
 Merge
 Establishment of Tax Zone

Code 500 = 6822
BVSRD - 691
code 4936131

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

5 In the Matter of:)
6)
7 WITHDRAWAL OF A PARCEL) ORDER # 5-20-129
8 OF REAL PROPERTY FROM)
9 THE BEAR VALLEY SPECIAL)
10 ROAD DISTRICT)

11
12 WHEREAS, on November 11, 2019, the Lincoln County Board of Commissioners
13 received a fully completed petition from Mark and Regina Baete to withdraw their property from
14 the Bear Valley Special Road District pursuant to ORS 198.870. (See Exhibit "1" attached to and
15 made part of this Order which includes a map of the property proposed to be withdrawn); and

16 WHEREAS, notice of the petition filing was sent to the District in accordance with ORS
17 198.870(2); and

18 WHEREAS, January 8, 2020, was set as the date for the first hearing on the proposed
19 withdrawal, and notice of the hearing was published and posted in accordance with ORS 198.730
20 and 198.800 (See Exhibit "2" attached to and made part of this Order); and

21 WHEREAS, the Board conducted the first public hearing on January 8, pursuant to ORS
22 198.805, and heard testimony in favor of the petition from Joshua Feil, attorney for the Petitioners'.
23 There were no objections to the Petition at the hearing or filed into the record. The Chair then
24 closed the hearing, and the Board set a second public hearing for March 11, 2020; and

25 WHEREAS, March 11, 2020, was set as the date for the second hearing on the proposed
26 withdrawal, and notice of the hearing was published and posted in accordance with ORS 198.730
27 and 198.800 (See Exhibit "3" attached to and made part of this Order); and

28 WHEREAS, the Board conducted the second public hearing on March 11, 2020, pursuant
29 to ORS 198.805, and heard testimony in favor of the petition from Joshua Feil, attorney for the
30 Petitioners'. There were no objections to the Petition at the hearing or filed into the record. The
31 Chair then closed the hearing, and the matter was scheduled for Board action on May 4, 2020.

7-10-3-A TL 1301
Also PS31784

32 The Board reconvened on May 4, 2020. It considered the criteria for making this decision
33 as found in ORS 198.870(4), which is that “the petition shall be approved if it has not been, or is
34 not or would not be, feasible for the territory described in the petition, to receive service from the
35 District. The petition shall be denied if it appears that it is, or would be, feasible for the territory
36 described in the petition to receive the service from the district.” The key here is the meaning of
37 the word “feasible” as used in the statute. Although ORS Chapter 198, and specifically ORS
38 198.705 (definitions for formation, changes of organization) does not define “feasible”, Webster’s
39 New World Dictionary Third College Edition tells us that “feasible” means “capable of being done
40 or carried out; practicable; possible.”

41 In the information provided in the record, Mr. Feil wrote: “Unlike a community pool
42 (which will presumably provide service to all who elect to use it, the Bear Valley Special Road
43 District (“BVSRD”) omitted Baete’s property when it recently made improvements along the
44 roads it manages. This would be comparable to the Greater Toledo Pool District decided that
45 taxpaying community members from a certain street could not use the pool. The BVSRD’s
46 voluntary decision to not service Baete’s Property (coupled with the approval of BVSRD’s
47 approval of Baete’s petition) is the strongest support for approval of the Petition. Baete’s
48 reasonable non-use of the roads within the district based on practicality (it would be impracticable
49 and absurd for Baete to access their Property through their roads of the BVSRD) only adds support
50 for approval of the withdrawal.”

51

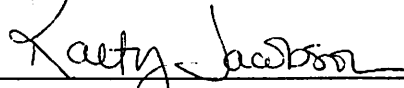
52 **IT IS HEREBY ORDERED THAT:**

- 53 (1) The Board approves the petition attached to this Order as Exhibit “1”;
- 54 (2) The boundary of the property to be withdrawn from the Bear Valley Special Road
55 District is also described in Exhibit “1”;
- 56 (3) Pursuant to ORS 198.870, within 10 days of the date of this order, duplicate copies of
57 this order shall be filed with: The Oregon Department of Revenue; the Oregon
58 Secretary of State, the Lincoln County Clerk; and the Lincoln County Assessor.

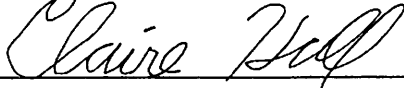
59 (4) Duplicate copies of this order shall also be forwarded to: Petitioners Mark and Regina
60 Baete; the Bear Valley Special Road District, c/o Randall Neal; and Lincoln County
61 Counsel Wayne Belmont.
62
63

DATED this 4th day of May, 2020.

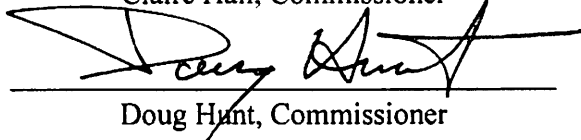
LINCOLN COUNTY BOARD OF COMMISSIONERS



Kaety Jacobson, Chair



Claire Hall, Commissioner



Doug Hunt, Commissioner

**PETITION FOR WITHDRAWAL OF REAL PROPERTY
BEAR VALLEY SPECIAL ROAD DISTRICT**

PURSUANT TO ORS 198.870, Mark S. Baete and Regina F. Baete, Trustees of the Baete Living Trust dated May 8, 2019, and any amendments thereto, the owners of the real property described below (the "**Property**"), hereby petition the Lincoln County Board of Commissioners to withdraw the Property from the Bear Valley Special Road District ("**Bear Valley SRD**").

A. Property Information:

- i. Address: 366 N. Bear Creek Rd., Otis, OR 97368
- ii. Map/Taxlot #: 07-10-03-A0-01301-00
- iii. Legal Description: See **Exhibit A**, attached hereto.
- iv. Map: See **Exhibit B**, attached hereto.

B. The name of the owners of the Property is: Mark S. Baete and Regina F. Baete, Trustees of the Baete Living Trust dated May 8, 2019, and any amendments thereto ("**Baete**").

C. Baete's mailing address is 366 Bear Creek Road, Otis, OR 97368.

D. Baete's phone number is (541) 996-3606.

E. The reason for this petition is that it has not been and is not feasible for the Property to receive service from the Bear Valley SRD, as demonstrated by the following:

- i. The driveway to the residence and other buildings on the Property is accessed from N. Bear Creek Road as shown in **Exhibit C**, attached hereto. N. Bear Creek Road is not and has not been part of the Bear Valley SRD road system. See **Exhibit D**, attached hereto.
- ii. Baete accesses the Property exclusively from N. Bear Creek Road. Accessing the Property from N. Deer Drive is not practical given the location of the residence and buildings on the Property.
- iii. Although a small portion of the Property fronts N. Deer Drive, which is part of the Bear Valley SRD road system, Baete and others do not access the Property from N. Deer Drive.
- iv. There is a gate on the west side of the Property facing N. Deer Drive. Baete and others do not use this gate to access to the Property. Rather, Baete only uses the gate to get to the grass on the side facing N. Deer Drive to mow it.
- v. The Bear Valley SRD recently made construction and improvements to the Bear Valley SRD's road system, including N. Deer Drive. These improvements included aprons along the access frontage to other properties within the Bear Valley SRD. However, no improvements were made to the access frontage from the Property to N. Deer Drive. See **Exhibit E**, attached.

F. The Board of the Bear Valley Special Road District Board HAS HAS NOT approved of this petition as shown in *Exhibit F*, attached hereto.

BAETE LIVING TRUST DATED MAY 8, 2019

Mark S. Baete
Mark S. Baete, Trustee
Date: 11-6-19

Regina J. Baete
Regina F. Baete, Trustee
Date: 11-6-19

EXHIBIT A
LEGAL DESCRIPTION

Parcel 1 of Partition Plat No. 1996-24 filed for record April 26, 1996 in Lincoln County Plat Records.

Property is free from encumbrances except:

1. An easement created by instrument, including the terms and provisions thereof,
Recorded : January 24, 1955 Book: 168 Page: 498
(Exact location unknown)

2. An easement created by instrument, including the terms and provisions thereof,
Dated : March 21, 1985
Recorded : April 23, 1985 Book: 160 Page: 646
In Favor of : Pacific Power and Light Company
Construction and distribution lines
(Exact location unknown)

3. Gravel drive with gate as disclosed by Partition Plat 1996-24.

4. Reciprocal easements with maintenance language, including the terms and provisions thereof,
Dated : May 3, 1996
Recorded : May 3, 1996 Book: 317 Page: 895
Re-recorded : May 13, 1996 Book: 317 Page: 1787
First Party : Marcella D. Rhoades
Second Party : Bruce F. Rudan, and heirs and assigns

COUNTY EXHIBIT 1
PAGE 3 OF 15

EXHIBIT B
TAX MAP – 366 N. BEAR CREEK ROAD

COUNTY EXHIBIT 1
PAGE 4 OF 15

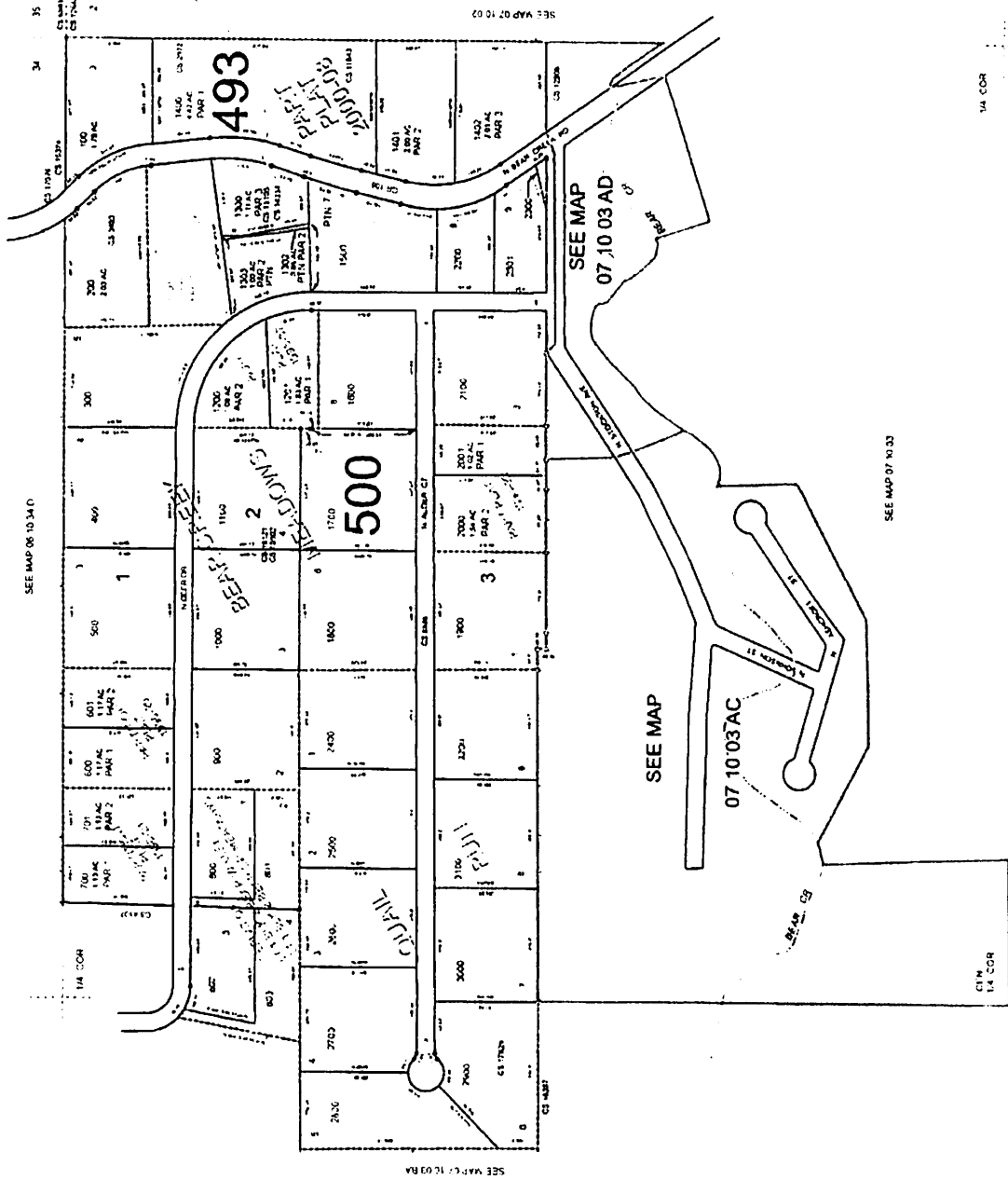
T-415 MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

1" = 100'

N.E. 1/4 SEC. 3 T.7S. R.10W. W.M.
LINCOLN COUNTY

07 10 03 A

Exhibit B: Tax Map 366 N. Bear Creek Road



1/4 COR

SEE MAP 07 10 33

SEE MAP

SEE MAP 07 10 03 AD

SEE MAP 07 10 02

SEE MAP 06 10 34 0

SEE MAP 17 10 03 BA

COUNTY 30000 1
PAGE 5 of 15

Revised SEB
10/14/2008

07 10 03 A

EXHIBIT C

TAXLOT/PHOTO OVERLAY OF 366 N. BEAR CREEK RD.

COUNTY EXHIBIT 1
PAGE 6 OF 15

Map

Exhibit C: Taxlot/Photo Overlay of 366 N. Bear Creek Rd.



Printed 08/30/2019



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EXHIBIT D
BEAR VALLEY SPECIAL ROAD DISTRICT
BOUNDARY MAP

COUNTY EXHIBIT 1
PAGE 8 OF 15

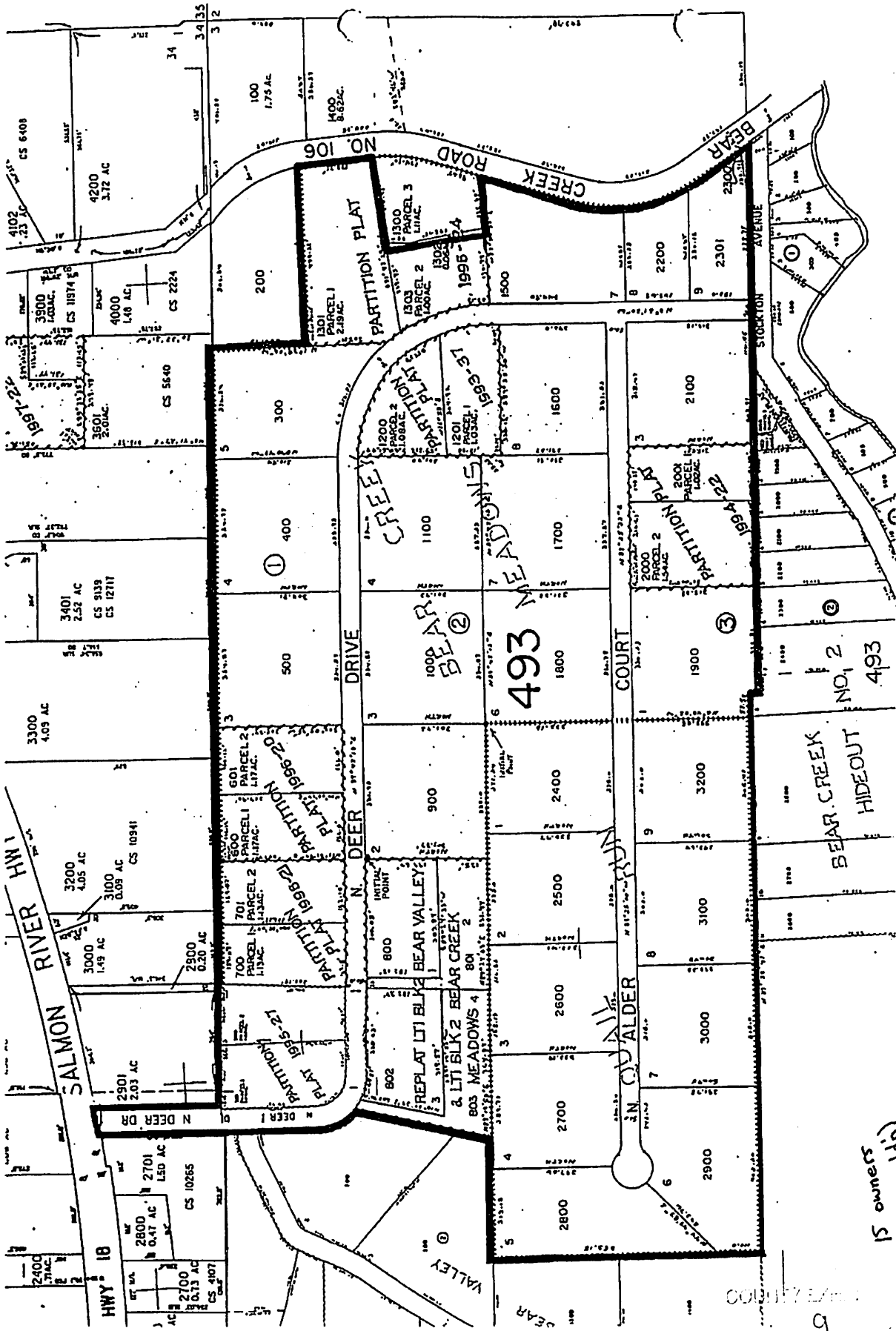


Exhibit D: Bear Valley Special Road District Boundary Map

Bear Creek Special Road District

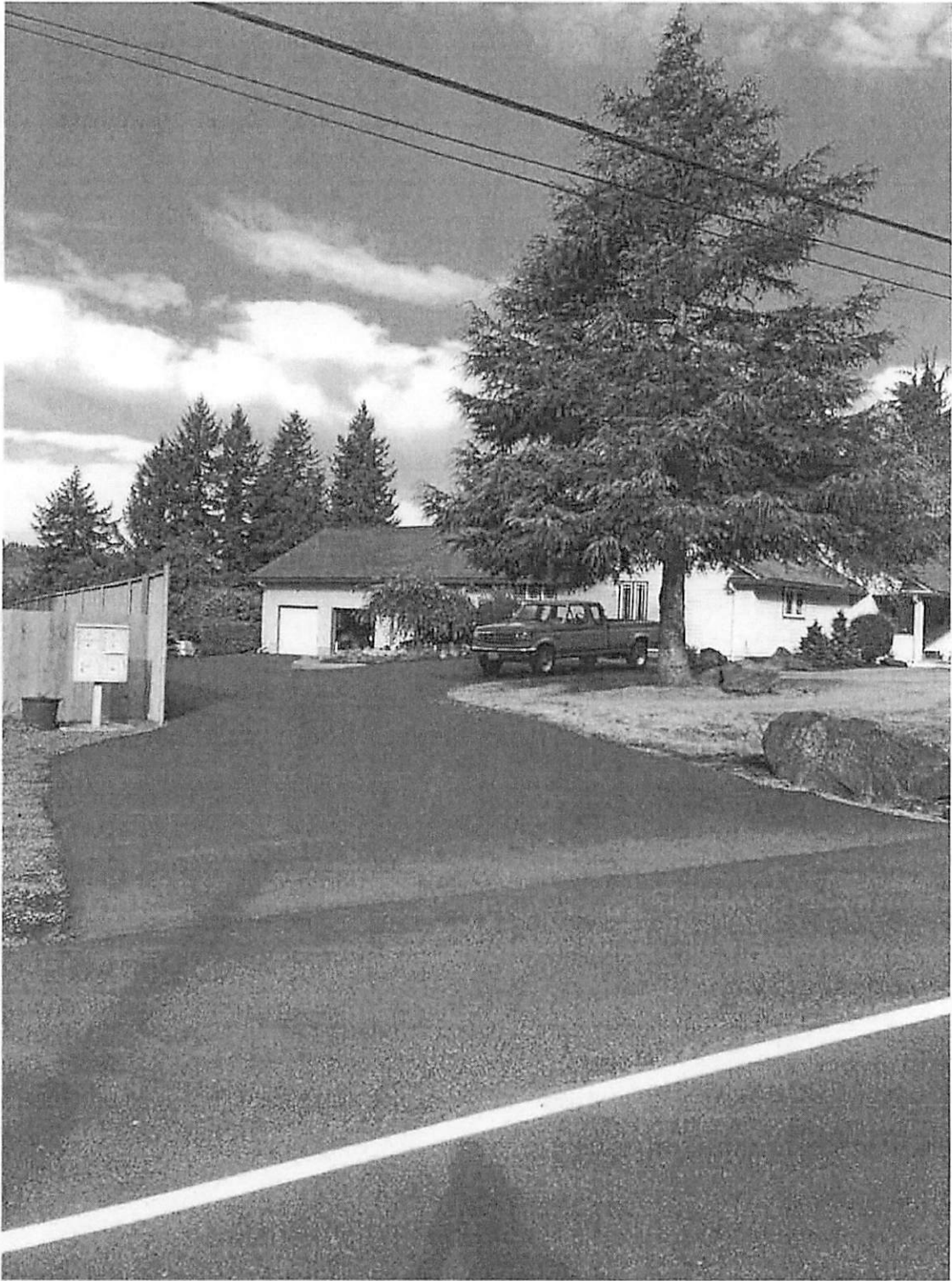
█ = boundary of proposed district

15 owners (11 owners)
17 lots

9
15

EXHIBIT E
**PHOTOGRAPHS OF ACCESS TO
N. DEER DRIVE FROM PROPERTY**

COUNTY EXHIBIT 1
PAGE 10 OF 15



Access to Property from N. Bear Creek Rd.



Property Frontage Along N. Deer Drive



Property Frontage Along N. Deer Drive

4810-9156-3429, v. 2

COUNTY/EASMENT 1
PAGE 13 OF 15



Comparison: Improvement to Neighboring
Property Frontage Along N. Deer Drive

EXHIBIT F

The Board of Directors of the Bear Valley Special Road District hereby approves of this petition by endorsement:

**ENDORSEMENT BY THE
BOARD OF DIRECTORS
OF THE
BEAR VALLEY SPECIAL ROAD DISTRICT**

Randall C. Neal
Randall C. Neal
Date: 10/15/2019

James R. Sweltz
James R. Sweltz
Date: 10-15-19

Adena Harmon
Adena Harmon
Date: 10/15/2019

COUNTY CLERK
OCT 15 2019

NOTICE OF HEARING

The Lincoln County Board of Commissioners will conduct a public hearing on a petition from Mark and Regina Baete to withdraw their property from the Bear Valley Special Road District. The hearing will be held at 9:30 A.M. on January 8, 2020, in the Board of Commissioners Conference Room which is Room 108 of the Lincoln County Courthouse located at 225 West Olive Street in Newport, Oregon. All interested persons may appear and be heard. Questions concerning this matter may be directed to the Office of Legal Counsel, 225 West Olive Street, Room 110, Newport, Oregon 97365, phone 541-265-4108. The property proposed to be withdrawn is located at 366 N. Bear Creek Road, Otis, Oregon, and is commonly known as tax lot 1301 on Assessor's Map No. 07-10-03-AO. The Legal description of the property is Parcel 1 of Partition Plat No. 1996-24. /s/ Kristin H. Yuille; Assistant County Attorney.

COPIES 2
DATE 1/7/20

