Memorandum Date: October 24, 2024
Order Date: November 12, 2024

TO: Board of County Commissioners

DEPARTMENT: Public Works/Engineering and Construction Services/Surveyors

PRESENTED BY: Trevor Ross, Deputy Lane County Surveyor

AGENDA ITEM TITLE: ORDER / IN THE MATTER OF SETING A PUBLIC HEARING FOR THE VACATION OF A PORTION OF FISK STREET, A PUBLIC ROAD, IN THE PLAT OF FISK'S ADDITION TO THE TOWN OF GLENADA, LOCATED IN SECTION 35, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON. (18-12-35-33).

I. MOTION

MOVE TO APPROVE THE ORDER TO SET A PUBLIC HEARING DATE OF **JANUARY 14, 2025, AT 1:30 P.M.**, TIME CERTAIN, TO CONSIDER THE VACATION OF A PORTION OF FISK STREET, A PUBLIC ROAD, IN THE PLAT OF FISK'S ADDITION TO THE TOWN OF GLENADA.

II. AGENDA ITEM SUMMARY

The Petitioners have requested to vacate a portion of Fisk Street. As provided by ORS 368.346, it is required a date for a Public Hearing be set to allow testimony to be entered into the public record regarding the proposed public road vacation prior to action by the Board.

III. BACKGROUND / IMPLICATIONS OF ACTION

A. Board Action and Other History

The Surveyor's Office of the Department of Public Works has received a valid amended petition signed by Norman L. Nobel and Susan P. Noble, trustees for the Norman L. and Susan P. Noble Trust, and Gethrin D. Noble, owners of 100% of the properties abutting the proposed vacation requesting, by the authority of ORS 368.346, a vacation with a public hearing.

The roads herein proposed to be vacated lie entirely outside of any boundary of an incorporated city or town.

The portion of Fisk Street proposed to be vacated lies between the southerly property line of Tax Lot No. 400 of Assessor's Map 18-12-35-33 and the northerly property line of Tax Lot No. 2500 of Assessor's Map No. 18-12-35-33. The total length of Fisk Street to be vacated is approximately 142 feet in length and is unimproved. This road was dedicated to the public in the plat of Fisk's Addition to the Town of Glenada, as platted and recorded on Book 2, Page 9, Lane County Oregon Plat Records, Lane County, Oregon.

The land abutting the portions of roads proposed to be vacated are owned entirely by the Petitioners.

ORS 368.331 states, *"A county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner."* The Petitioners, as 100% of the owners abutting this proposed vacation, have consented to this action.

Utility Providers were sent referrals seeking comment on this proposed vacation. The Surveyor's Office notified companies serving this area including Lumen/CenturyLink, Spectrum Cable, N.W. Natural Gas, and Central Lincoln PUD. None responded to our referral. At the Petitioner's request, a public utility easement will be retained for any public utilities existing within the bounds of the right of way proposed to be vacated.

Referral comment requests were also sent to other agencies including Lane Council of Governments, Lane Community College, Lane ESD, Siuslaw Valley Fire and Rescue, Siuslaw School District, and the Oregon Department of Fish and Wildlife. There were no responses received.

Lane County Transportation Planning, Lane County Land Management, and the Zone 5 Foreman for Lane County Public Works Road Maintenance were also notified. There were no objections from Lane County Staff.

Fourteen nearby and/or adjacent landowners were notified by mail, with one objecting to our referral citing access restriction concerns.

B. Policy Issues

Lane Manual 15.030 supplements ORS 368 in allowing for consideration of vacation of rights of way where little need exists for the right of way and where the vacation will not adversely affect orderly development of adjacent property. The rights of way herein considered for vacation as described in the Order are consistent with these categories.

C. Board Goals

The vision of Lane County's Strategic Plan, in part, is to create a vibrant community through wise stewardship of its human and natural resources. The vacation of this right of way as described in the Order will allow the land to be put to useful residential use.

D. Financial and/or Resource Considerations

Vacation of the described right of way will return a marginal portion of land to the tax rolls as real property. The County's costs of processing the vacation will be paid in full by the Petitioners.

E. Health Implications

There are no significant health implications.

F. Analysis

Lane County staff have determined the vacation of Fisk Street will have no adverse effects on transportation patterns in the area, and the portions to be vacated are unimproved and not needed by the Lane County Transportation system. If the vacation is approved the roads will revert to abutting properties pursuant to ORS 368.366.

G. Alternatives / Options

The Board of County Commissioners has the option to:

1. Approve the Order setting a date for the Public Hearing for **JANUARY 14, 2025, AT 1:30 P.M.**, time certain.

2. Deny the Order and direct staff otherwise.

IV. RECOMMENDATION

The Public Works Director's Preliminary Report recommends the Board of Commissioners approve the Order to set a Public Hearing date for the proposed vacation of a portion of Fisk Street, as described in the Order.

V. TIMING / IMPLEMENTATION

Timing in this matter is important in order to facilitate the necessary notification requirements required by law. The proposed hearing date, as specified in the Order, will allow time for public posting or notice.

VI. FOLLOW-UP

Upon approval of the Order to set a Public Hearing, the County Surveyor will carry out the necessary steps under ORS 373.270 to provide public notice of the hearing. Subsequently, a Final Report will be prepared and submitted at that hearing by the Director of the Public Works Department. If the Board is in support of vacating a portion of Fisk Street, a Final Order can be executed at that time. If the Board does not support the vacation, an Order to deny will be presented at a later date.

VII. ATTACHMENTS

Order to Set Public Hearing with Exhibits:
- Petition to Vacate- Exhibit "A"
- Director's Preliminary Report - Exhibit "B"
- Vicinity Map – Exhibit "C"

Contact Person: Jay Blommé, Ext. 6997

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 24-11-12-05	IN THE MATTER OF SETTING A PUBLIC HEARING FOR THE VACATION OF A PORTION OF FISK STREET, A PUBLIC ROAD, IN THE PLAT OF FISK'S ADDITION TO THE TOWN OF GLENADA, LOCATED IN SECTION 35, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON. (18-12-35-33)

WHEREAS, the Surveyor's Office of the Department of Public Works has received an amended valid petition signed by Norman L. Noble and Susan P. Noble, trustees for the Norman L. Noble and Susan P. Noble Trust, and Gethrin D. Noble, representing 100% ownership of the properties abutting the Public Road herein proposed to be vacated, by the authority of ORS 368.346, a vacation with a public hearing of the following described road:

> All that portion of Fisk Street, lying between the east margin of Market Street and the west margins of the alleys between Block 3 and Block 6, and adjacent to Lot 12, Block 6 and Lot 7, Block 3, dedicated for public use in the plat of Fisk's Addition to the Town of Glenada, as platted and recorded on Book 2, Page 9 of the Lane County Plat Records, Lane County, Oregon.

WHEREAS, ORS 368.326 to 368.366 provides for procedures by which a County governing body may vacate portions of a subdivision or public rights of way. Lane Manual 15.030 supplements ORS 368 in allowing for consideration of vacation of rights of way where little need exists for the rights of way, where no property owner is denied legal access as a result of the vacation and where the vacation will not adversely affect orderly development of adjacent property; and

WHEREAS, Fisk Street is located outside the city limits of Florence, Oregon and therefore is under Lane County's jurisdiction; and

WHEREAS, ORS 373.270 requires the governing body to give notice either by posting or publishing the time and place of the Public Hearing, the County governing body shall hear the matter, consider any objections or testimony offered by any person interested and determine whether it is necessary, expedient or for the best interests of the County to vacate the public road; and

WHEREAS, the Public Works Director of Lane County has recommended a Public Hearing date be established to consider the vacation of the portion of Fisk Street as hereon described, and has provided a written report attached hereto and made a part hereof by this Order marked as Exhibit "B;" and

WHEREAS, the Board is of the opinion that setting a date to hold a Public Hearing to consider the request to vacate a portion of Fisk Street is in the best interest of the public; and

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

1. A Public Hearing shall be held on **January 14, 2025, at 1:30 p.m.**, time certain, to formally consider Petitioners request to vacate a portion of Fisk Street, as described herein.

2. Legal notice of the Public Hearing be posted or published, in accordance with ORS 368.346.

3. The Director of the Lane County Department of Public Works to prepare and provide a Final Report on the proposed vacation.

ADOPTED this 12th day of November 2024.

Laurie Trieger, Chair
Lane County Board of Commissioners

EXHIBIT "A"

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY

IN THE MATTER OF THE VACATION OF A PORTION OF FISK STREET, A PUBLIC ROAD, IN THE PLAT OF FISK'S ADDITION TO THE TOWN OF GLENADA, LOCATED IN SECTION 35, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON, WITH A PUBLIC HEARING. (18-12-35-33)	)	PETITION TO VACATE

PURSUANT to the procedure set forth in ORS Chapter 368, we the undersigned Norman L. Noble and Susan P. Noble, trustees for the Norman L. and Susan P. Noble Trust, and Gethrin D. Noble, together owners of the adjacent real property hereby petition for the vacation of a portion of Fisk Street, which area to be vacated is described as follows:

> All that portion of Fisk Street, lying between the east margin of Market Street and the west margins of the alleys between Block 3 and Block 6, and adjacent to Lot 12, Block 6 and Lot 7, Block 3, dedicated for public use in the plat of Fisk's Addition to the Town of Glenada, as platted and recorded on Book 2, Page 9 of the Lane County Plat Records, Lane County, Oregon.

WHEREAS, the undersigned petitioners are the owners of 100% of all the real property adjacent to the above described area to be vacated; and

WHEREAS, petitioners allege as follows:

1. The purpose of this vacation request is to vacate the unimproved portion of Fisk Street.

2. There are no utilities and no power lines located in the area to be vacated. If found otherwise, necessary easements for all public and private utilities will be retained or otherwise be provided for in conjunction with this vacation; and

WHEREAS, no portion of the area to be vacated is located within the boundaries of an incorporated city or town;

WHEREAS, the public interest will be served by removing Lane County's jurisdictional responsibilities to the portion of public road; and

WHEREAS, petitioners, separately and collectively, acknowledge that the filing fee is an estimate of the vacation fee, and that we accept responsibility for full payment of Lane County Surveyor's Office and Deeds & Records fees, regardless of whether this vacation is approved or denied; and

WHEREAS, petitioners, separately and collectively, have no objection to Lane County proceeding under the authority of ORS Chapter 368.326, for vacation with a hearing; and

1. To set a date to consider the vacation of the above-described portion of road, with a public hearing pursuant to ORS Chapter 368.

2. Upon review of this matter, to order the vacation of the above-described road, and direct that title to the vacated area revert and vest in accordance with ORS 368.366.

DATED this 11th day of October, 2024

Petitioners:

Norman L. Noble, Trustee

Norman L. Noble, Trustee of the
Norman L. and Susan P. Noble Trust
P.O. Box 87
Florence, OR 97439
(18-12-35-33-00400, 02500)

S P Noble Trustee

Susan P. Noble, Trustee of the
Norman L. and Susan P. Noble Trust
P.O. Box 87
Florence, OR 97439
(18-12-35-33-00400, 02500)

State of Oregon)
SS
County of Lane)

Subscribed and sworn to (or affirmed) before me on this 11th day of October, 2024, by Norman L. Noble and Susan P. Noble, Trustees of the Norman L. and Susan P. Noble Trust, proved to me on the basis of satisfactory evidence to be the persons who appeared before me.

OFFICIAL STAMP
SHARON K. GRAHAM
NOTARY PUBLIC - OREGON
COMMISSION NO. 1031268
MY COMMISSION EXPIRES NOVEMBER 27, 2026

S Graham

Notary Public for Oregon
My Commission Expires: 11/27/2026

Gethrin D. Noble

Gethrin D. Noble
P.O. Box 87
Florence, OR 97439
(18-12-35-33-00400, 02500)

State of Oregon)
SS
County of Lane)

Subscribed and sworn to (or affirmed) before me on this 11th day of October, 2024, by Gethrin D. Noble, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

OFFICIAL STAMP
SHARON K. GRAHAM
NOTARY PUBLIC - OREGON
COMMISSION NO. 1031268
MY COMMISSION EXPIRES NOVEMBER 27, 2026

S Graham

Notary Public for Oregon
My Commission Expires: 11/27/2026

EXHIBIT "B"

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

DIRECTOR'S PRELIMINARY REPORT	IN THE MATTER OF SETING A PUBLIC HEARING FOR THE VACATION OF A PORTION OF FISK STREET, A PUBLIC ROAD, IN THE PLAT OF FISK'S ADDITION TO THE TOWN OF GLENADA, LOCATED IN SECTION 35, TOWNSHIP 18 SOUTH, RANGE 12 WEST OF THE WILLAMETTE MERIDIAN, IN LANE COUNTY, OREGON. (18-12-35-33).

The Surveyor's Office of the Department of Public Works has received a valid and amended petition signed by Norman L. Noble and Susan P. Noble, trustees for the Norman L. Noble and Susan P. Noble Trust, and Gethrin D. Noble, representing 100% ownership of the properties abutting the Public Road herein proposed to be vacated, by the authority of ORS 368.346, a vacation with a public hearing. The Petitioners initially submitted a valid petition to vacate without a public hearing. When notified of opposition from an adjoining landowner after referral comments were received, citing access restriction concerns, the Petitioners submitted an amended petition to vacate with a public hearing.

The Petitioners wish to vacate the unimproved portion of Fisk Street running between Lot 12, Block 6 and Lot 7, Block 3 of Fisk's Addition to the Town of Glenada as described in the Order and shown on attached vicinity map, Exhibit "C." Said properties are identified as map and tax lot number 18-12-35-33-00400 and 18-12-35-33-02500. Fisk Street was dedicated to the public in the plat of Fisk's Addition to the Town of Glenada, all in Lane County, Oregon.

The Petitioners state the purpose is to vacate the unimproved portion of Fisk Street to control access to their properties and to preserve the natural gradient, vegetation, and mature tree cover for future development.

ORS 368.331 states, *"A county governing body shall not vacate public lands under ORS 368.326 to 368.366 if the vacation would deprive an owner of a recorded property right of access necessary for the exercise of that property right unless the county governing body has the consent of the owner."* The Petitioners, as 100% of the owners abutting this proposed vacation, have consented to this action.

The Surveyor's Office notified utility companies serving this area including Lumen/CenturyLink, Spectrum Cable, N.W. Natural Gas, and Central Lincoln PUD none of which responded to our referral. With that being said, the Petitioners have requested a utility easement be retained in the Final Order for any utility that currently exists within the bounds of the right of way being vacated. The referral sent to the utility providers indicated that the Petitioners have asked to retain an easement for existing utilities.

Several Lane County Public Works Divisions were also asked to provide comment on these proceedings. None were opposed to the proposed vacation. In addition to the agencies and divisions listed above, referrals were sent to Siuslaw Valley Fire and Rescue, Siuslaw School

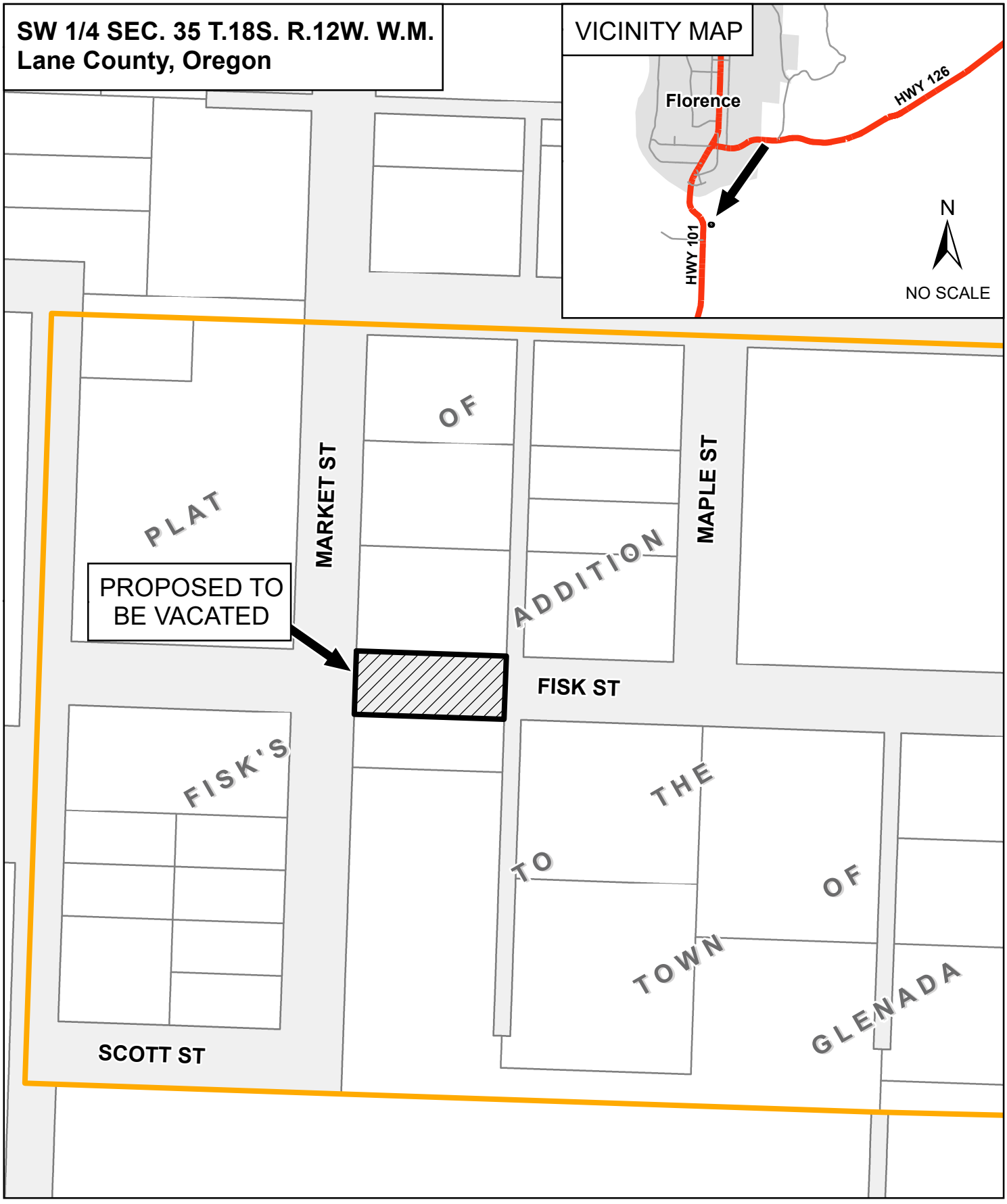
EXHIBIT "B"

District, the Oregon Department of Fish and Wildlife, Lane Council of Governments, Lane Community College, Lane ESD and fourteen adjacent and/or nearby property owners. The agencies did not respond to our referral. Fourteen nearby or adjacent property owners were also notified of this proposal. One adjacent landowner responded in opposition of this proposal citing access restriction to their property.

It is recommended the Order be approved setting a Public Hearing date of January 14, 2025, at 1:30 p.m. time certain, to consider the proposed vacation of the portion of Fisk Street as described in Exhibit "A" of said Order.

DATED this 29th day of October, 2024.

Dan Hurley, Public Works Director
Department of Public Works

EXHIBIT "C"

PORTION OF FISK STREET IN THE PLAT OF FISKS ADDITION TO THE TOWN OF GLENADA - PROPOSED TO BE VACATED -