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I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.

Dana W. Jenkins, Lincoln County Clerk



After Recording Return to:

Margaret Hawker
City Recorder
City of Newport
169 SW Coast Hwy
Newport, OR 97365

CITY OF NEWPORT

ORDINANCE NO. 2087

AN ORDINANCE VACATING PORTIONS OF SW CASE STREET, SW 10TH STREET,
AND AN ALLEY BETWEEN SW 10TH AND 11TH STREETS

Summary of Findings:

1. On September 8, 2015, the Newport City Council initiated the process to vacate portions of SW 10th Street from SW Bay Street north to SW Case Street; SW Case Street from SW 10th Street east to SW 11th Street; and an alley between and parallel to SW 10th and 11th Streets from SW Bay Street north to SW Case Street as provided in Oregon Revised Statutes (ORS) Chapter 271 for the purpose of assisting the Pacific Communities Health District in its effort to expand and renovate the hospital following the passage of a bond measure in May of 2015.

2. Real property abutting the rights-of-way to be vacated are identified by tax lot reference and ownership, as follows:

a. SW 10th Street: Tax Lots 4500, 4600, 4800, 4900, 5000, 5100, 5200, 12900, 13100, 13200, 13500, 13501, 13502, and 13800 of Lincoln County Assessor's Map 11-11-08-CA. The properties are owned by the Pacific Communities Health District.

b. SW Case Street: Tax Lots 12700, 12900, 13000, and 13800 of Lincoln County Assessor's Map 11-11-08-CA. The properties are owned by the Pacific Communities Health District.

c. Alley between SW 10th and 11th Street: Tax Lots 12900, 13000, 13001, 13100, 13200, 13300, 13400, 13500, 13501, 13502, and 13600 of Lincoln County Assessor's Map 11-11-08-CA. The properties are owned by the Pacific Communities Health District.

3. Criteria for the approval of a City initiated street vacation are listed under ORS 271.130. They require that a public hearing be held to consider the question of whether or not the public interest will be prejudiced by the street vacation, and that abutting and affected property owners receive notice of the public hearing as provided by ORS 271.110. Further, ORS 271.130 requires that abutting property owners consent to the street vacation if it will substantially affect the market value of their property unless the city provides for paying damages, and it prohibits a vacation from occurring if the owners of a

majority of the area, computed on the basis provided in ORS 271.080, object in writing to the proposal. Findings contained in this ordinance establish that these criteria have been satisfied.

4. The Planning Commission of the City of Newport held a public hearing on October 12, 2015, for the purpose of reviewing the proposed street vacations and providing a recommendation to the City Council. Notice of the hearing was published in the Newport News-Times on September 25, 2015, October 2, 2015 and October 7, 2015. Notice of the hearing was mailed to abutting and affected property owners on September 22, 2015. The Planning Commission public hearing was held in accordance with the appropriate provisions of the Newport Zoning Ordinance and, after due deliberation and consideration of the proposed vacation, the Planning Commission, by a unanimous vote, recommended that the proposed street vacation be approved, provided public utility easements are reserved over the affected areas.

5. It has been determined that, at the present time, no City liens are existing or unpaid against the property to be vacated and, by virtue of the fact that it is a dedicated right-of-way, no taxes are unpaid thereon.

6. The City Council fixed November 2, 2015, at 6 p.m. at the Newport City Hall, 169 SW Coast Highway, Newport, Oregon, as the time and place for a formal public hearing regarding the vacation.

7. The City Recorder gave notice of the public hearing by publishing a notice in the Newport News-Times newspaper once each week for three consecutive weeks on October 16, 2015, October 23, 2015 and October 28, 2015, which notice described the ground proposed to be vacated, the date the street vacation was initiated, the name of at least one of the petitioners (i.e. the City Council), the date of the public hearing, and the requirement that written objections or remonstrances must be filed with the City of Newport prior to the time of the hearing, in accordance with ORS 271.110(1). Notice of the hearing was mailed to affected property owners on October 13, 2015.

8. Within five (5) days after the first day of publication of said notice in the newspaper and not less than fourteen (14) days before the hearing date, the City Recorder caused a copy of the notice to be posted in at least two (2) conspicuous places at or near each end of the proposed vacation, in accordance with ORS 271.110(2).

9. On November 2, 2015, at 6 p.m. at the Newport City Hall, the City Council held a public hearing in the Council Chambers on the vacation of the area described above and heard any written objections filed thereto, and heard oral testimony from members of the public in favor of and/or in opposition to the vacation.

10. The owners of the majority of the area affected, computed on the basis provided in ORS 271.080, have not objected in writing to the proposed vacation.

11. On October 27, 2015 the Port Commission for the Port of Newport approved the proposed vacation as required by ORS 271.190 for any such proposal that is made within 5,000 feet of the harbor or pierhead line of the port.

12. The market value of abutting properties will not be adversely affected by the street vacation because the rights-of-way are not needed for access purposes and the land accruing to abutting property owners as a result of the vacation increases the size and value of the respective properties. Further, eliminating the right-of-way allows Pacific Communities Health District property to be developed as a single block of land, which increases its value.

13. Abutting property owners have had an opportunity to review the proposed street vacation and have consented in writing to the vacation.

14. The Newport City Council finds that the policies it adopted on October 6, 2008, to guide when it will exercise its authority under state law to initiate a street vacation are sufficient to ensure the public interest will not be prejudiced. The Council considered how the subject proposal satisfied those policies when it elected to initiate the street vacation process on September 8, 2015, and concludes that the rationale set forth at that time continues to be compelling. It is summarized as follows:

a. The extent of public benefit. In May of 2015 the voters in the Pacific Communities Health District approved a bond measure to expand and renovate the hospital in Newport. This vote affirms that improving the health status of patients and their families is essential to community wellbeing. One of the key steps in fulfilling Samaritan Pacific Health Services' mission to the community is the expansion and updating of facilities to meet service area needs and to keep up with medical and technological advances.

The present hospital facilities are dated and have evolved in a manner to meet specific needs at a given point in time, but they are not coordinated into a facility that provides an efficient and secure patient and family experience. The new facilities will remove physical barriers, consolidate check-in points, maximize smooth work flow, and embrace present and future medical and technological advances.

To achieve the benefits above, the hospital expansion and renovation proposes to retain the 1988 hospital building and expand it in-line to the southwest encompassing portions of the existing SW 10th Street and SW Case Street right-of-ways. In a phased approach the single stow structures adjacent to and abutting the existing hospital will be demolished and the services within integrated into the new and rehabilitated hospital structure.

Once demolished the structures will be replaced by parking and green spaces to create a hospital campus environment. An improved and larger on-campus parking field will significantly benefit SW 9th Street by substantially decreasing the need for hospital on-street parking, and thus return the street parking to typical community-wide uses and also reduce the backing and turning maneuvers in SW 9th Street.

b. The extent of present and anticipated future use of the right-of-way. A right-of-way is property dedicated to the public for use as a street, path, trail, or utility corridor. This policy must also be read in concert with Newport Municipal Code (NMC) Chapter 14.26 and ORS 271.300 to 271.360, which require rights-of-way be retained if they provide estuary or ocean access, unless adequate alternatives exist.

At present, the subject sections of SW 10th Street, SW Case Street, and the alley between 10th and 11th Streets primarily serve Pacific Communities Health District properties and are functionally part of the internal circulation system for the Samaritan Pacific Health Service facilities. While they provide secondary access to the estuary and ocean, other more direct street access is available to the public via SW 11th Street to Harbor Drive and SW Bay Street. Therefore, public access to the estuary and ocean will not be compromised by the vacation of these rights-of-way.

Once the right-of-ways are vacated, internal circulation to new hospital facilities will be provided by “private” access drives and parking aisles owned and maintained by the Pacific Communities Hospital District and Samaritan Pacific Health Services. Access to the site in general is currently, and will continue to be provided by the surrounding public streets, which are SW 9th Street, SW Bay Street, SW 11th Street and SW Abbey Street. The vacation of the 10th and Case right-of-ways will not change driving patterns to the hospital campus as points of ingress and egress to the campus will be provided to each of these streets.

c. Potential environmental and geologic impacts. City inventories do not show any natural features or natural hazards on the site, thus a street vacation would not have any potential impacts.

d. Financial factors. Vacation of the street rights-of-way will reduce the amount of impervious surfaces for which the City of Newport is responsible for perpetual maintenance. There are no recorded reimbursement agreements of any type associated with the street improvements on 10th and Case.

Utilities are in place within the rights-of-way, including city water, sewer, and storm drainage facilities. Electricity, natural gas, fiber, and other non-city utilities may also exist within the rights-of-way. Blanket easements over the rights-of-way need to be retained to ensure that the City and other utility providers are not forced, at their expense, to relocate the utilities. The Pacific Communities Health District, through Samaritan Pacific Health Services, has acknowledged that it will need to relocate utilities. Once city utilities have been relocated in a manner acceptable to the Newport Public Works Director and the City receives written confirmation from other affected utility providers that their services have been relocated or placed within suitable easements, then the City can release the blanket easements.

e. Effect on property owners. This request has no impact on adjoining properties owned by others because existing circulation patterns on the public streets surrounding the Pacific Communities Health District properties will remain in their present condition.

f. Consistency with applicable plans, ordinances, and regulations. This request continues a pattern of street and alley right-of-way vacations adjacent to Pacific Communities Health District properties to facilitate the growth of the hospital campus, as documented in City of Newport Ordinances No. 547, 1412, 1485, 1502, and others. The petitioner's request is consistent with these previous ordinances which found in part—

“That the proposed vacation is in the interest of the general welfare as the expansion of Newport's only hospital at this location is less expensive than building at a new site;”

“That the taxpayers have approved the hospital expansion by vote;”

“That the vacation of that portion of S.W. 10th Street mentioned below will allow better utilization of the property and will not adversely affect the general traffic circulation of Newport;”

g. The amount and quality of the information provided by the person requesting vacation. The information submitted herewith is sufficient for the Council to act upon this right-of-way vacation request.

h. Other factors. Pacific Communities Health District, through Samaritan Pacific Health Services, has indicated that they understand that utility easements will be reserved over the rights-of-way to be vacated.

They have further indicated that it is their intent to provide a proposal for the relocation or replacement of the affected public utilities as part of a permit application for new and/or renovated hospital facilities, as contemplated in the bond measure. Reconfiguration of the public utilities will be coordinated with and approved by the City of Newport Public Works Director, with the expectation that once that approval is given the City will take appropriate steps to extinguish the blanket general utility easements reserved over the vacated street rights-of-way.

14. The City Council made a determination after considering the recommendation of the Planning Commission, the Planning Staff Report, and the evidence and argument presented at the public hearings and in the record, that the request is in compliance with the applicable criteria and voted to proceed with the street vacation.

15. To ensure that the public interest is not prejudiced, it is appropriate to make the vacation of these rights-of-way contingent upon the reservation of blanket utility easements for the reasons discussed herein.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Findings. The findings set forth above are hereby adopted in support of vacating the rights-of-way identified in Section 2 of this Ordinance.

Section 2. Street portions to be vacated. The following described portions of SW Case Street, SW 10th Street, and an alley between SW 10th and 11th Streets are hereby vacated subject to the retention of easements as specified in Section 3:

SW Case Street portion vacated:

That portion of SW Case Street shown on the Plat of Bayley and Case's Addition to the Town of Newport recorded in Book 1 at Page 8 of the Lincoln County Plat Records, which lies east of the northerly extension of the west line of Lot 7, Block 18 and west of the northerly extension of east line of Lot 6, Block 18 of the subdivision plat.

SW 10th Street portion vacated:

That portion of SW 10th Street shown on the Plat of Bayley and Case's Addition to the Town of Newport as "Fourth Street" recorded in Book 1 at Page 8 of the Lincoln County Plat Records, which lies south of the westerly extension of the south line of Lot 12, Block 19 and north of the westerly extension of the south line of Lot 12, Block 18 of the subdivision plat, excepting therefrom that portion previously vacated with City of Newport Ordinance No. 1502 recorded in Book 187 at Page 2415 of the Lincoln County Micro-Film Records.

Alley between SW 10th Street and SW 11th Street portion vacated:

An alley ten (10) feet in width located within Block 18 of the Plat of Bayley and Case's Addition to the Town of Newport recorded in Book 1 at Page 8 of the Lincoln County Plat Records.

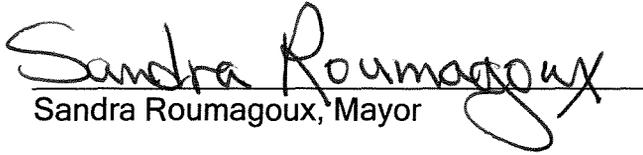
Section 3. Easements for utilities to be retained. Easements for public and private utilities are retained over the whole of the areas described for vacation in Section 2 above.

Section 4. Recording. The City Recorder is hereby directed to file certified copies of this ordinance for recording with the Lincoln County Clerk's Office, the County Assessor, and the County Surveyor.

Section 5. Effective Date. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: November 2, 2015.

Signed by the Mayor on November 4, 2015.


Sandra Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

Approved as to form:


Steve Rich, City Attorney