



00243497202400052480040049

I, Amy A Southwell, 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.



Amy A Southwell, Lincoln County Clerk

AFTER RECORDING RETURN TO:

City Recorder
City of Newport
169 SW Coast Highway
Newport, OR 97365

NO CHANGE IN TAX STATEMENTS

CITY OF NEWPORT ENCROACHMENT PERMIT AGREEMENT

THIS AGREEMENT is between the City of Newport, an Oregon municipal corporation, hereinafter (City), and Wyndhaven Ridge II, LLC, an Oregon Limited Liability Company, hereinafter (Owner).

RECITALS

A. Owner owns the real property located at 410 NE 31st Street, Newport, Oregon (currently identified as Tax Lot 328 of Lincoln County Assessor's Tax Map 10-11-32-00; Acct. No. R52734), and legally described as

[Parcel 1:]

Parcel 2 PARTITION PLAT 2019-11, in Lincoln County Oregon, filed for record October 9, 2019 in the Lincoln County Plat Records. TOGETHER WITH that portion of vacated street areas that inured thereto by virtue of Ordinance No. 2162, recorded April 7, 2020 Document No. 2020-03544, Lincoln County Records.

B. Owner desires this encroachment agreement to use a portion of the adjoining street right-of-way to construct a fence of maximum 36" height. The proposed fence will not obstruct the clear-vision area, as described in Newport Municipal Code section 14.17.020/"Clear Vision Area Defined," of adjacent street(s).

PERMIT AGREEMENT TERMS

1. Benefited Property: The rights granted by this permit agreement are appurtenant to Owner's Property. Owner warrants that Owner has fee simple title or sufficient interest to Owner's Property to allow Owner to bind current and future owners of Owner's Property.

2. Permitted Encroachment: City authorizes the existing encroachment of a fence of maximum 36" height into the public right-of-way adjacent to the lot identified as Tax Lot 328 of Lincoln County Assessor's Tax Map 10-11-32-00 and further identified as 410 NE 31st Street, Newport Oregon.

3. Safety: Owner agrees to maintain the permitted encroachment in good condition so that it does not become a nuisance or hazard. Owner agrees to maintain and repair only those encroachments authorized by this permit.

4. Indemnity. Owner hereby agrees to defend and indemnify City and its officials and employees as to any loss, liability, claim, or demand relating to this permit or the permitted encroachment.

5. Termination: This permit shall be terminated in the event of the destruction, removal, or abandonment of the permitted encroachment. This Permit may be revoked at any time on written notice to Owner, for any reason.

6. Notice: Any notice relating to this Permit shall be effective 48 hours after mailing. Notices shall be sent to the following addresses, unless another address is provided to the other party by written notice.

CITY:

City of Newport
Attn: City Manager
169 SW Coast Highway
Newport OR 97365

OWNER(S):

Wyndhaven Ridge II, LLC
[REDACTED]
[REDACTED]

7. Removal of Improvements: Within five days of the termination of this permit, Owner, or Owner's successor in interest, shall commence to remove the permitted encroachments and shall complete removal and restoration of the rights-of-way within 30 days.

8. Lien: City may impose a lien on Owner's property to secure performance of Owner's obligations under this permit.

9. Advice of Counsel: The parties hereto acknowledge and understand that this Encroachment Permit has been prepared by the City. Owner is aware that this permit contains substantial, binding obligations, and that Owner has the right to and should consult with Owner's attorney regarding any questions respecting the meaning or legal effect of this permit.

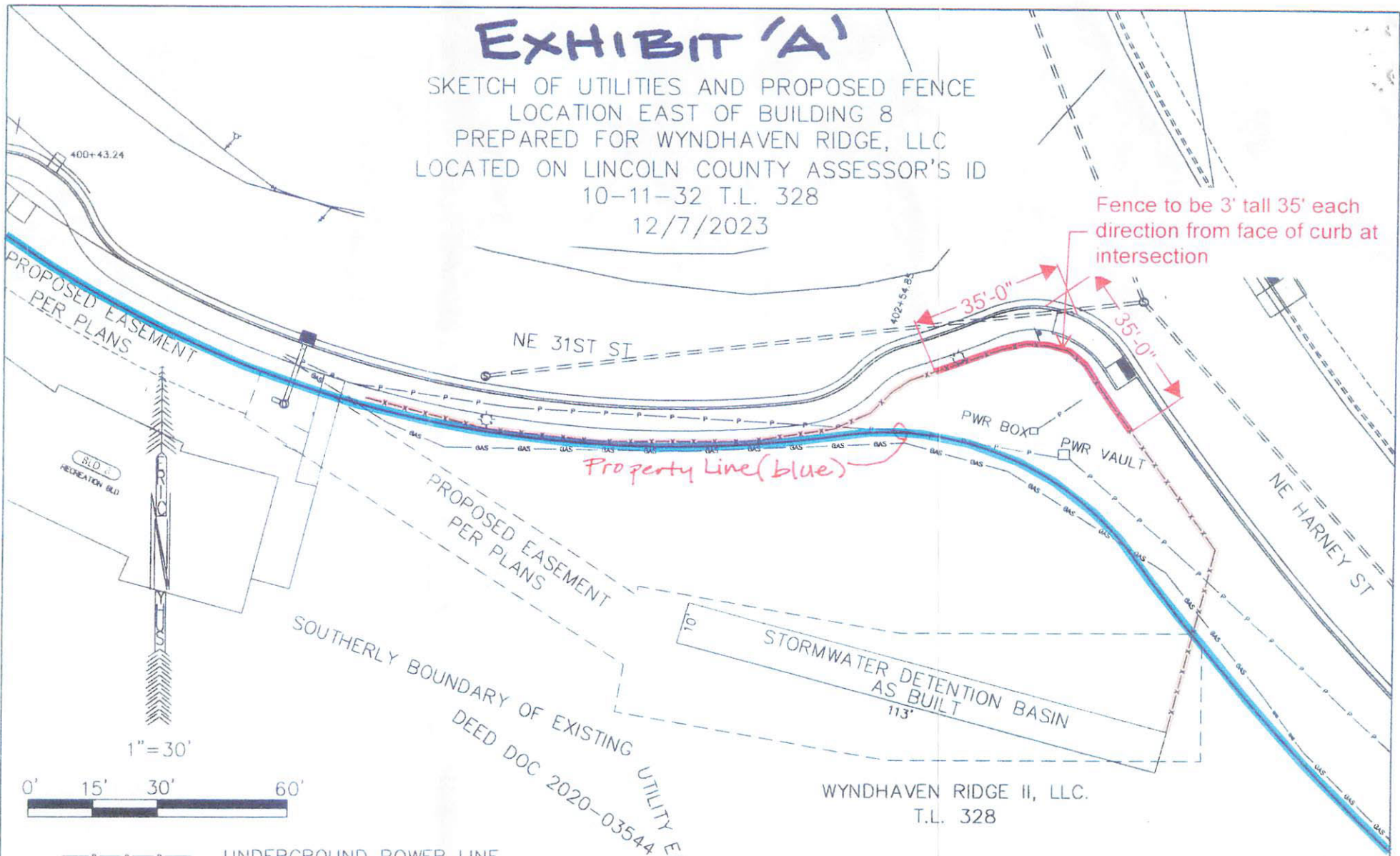
10. Attorneys' Fees: In the event that either party shall bring suit or action to enforce any term or provision hereof, the prevailing party shall be entitled to its reasonable attorneys' fees, including any appeal.

11. Insurance: Owner shall maintain liability insurance respecting the permitted encroachments and include the City as a named insured. This provision is for the benefit of the City and Owner and there are no intended third party beneficiaries to this provision or any other portion of this Encroachment Permit Agreement. City will have no liability or responsibility for failure to enforce this provision.

12. Binding Upon Future Owners: The terms and obligations of this Encroachment Permit Agreement shall run with Owner's Property and shall be binding on, and for the benefit of,

EXHIBIT 'A'

SKETCH OF UTILITIES AND PROPOSED FENCE
 LOCATION EAST OF BUILDING 8
 PREPARED FOR WYNDAVEN RIDGE, LLC
 LOCATED ON LINCOLN COUNTY ASSESSOR'S ID
 10-11-32 T.L. 328
 12/7/2023



Fence to be 3' tall 35' each direction from face of curb at intersection

- P — P — P — UNDERGROUND POWER LINE
- GAS — GAS — GAS — UNDERGROUND GAS LINE
- X — X — X — PROPOSED FENCE LOCATION
- - - - - PROPOSED EASEMENT PER PLANS
- - - - - EXISTING UTILITY EASEMENT BOUNDARY

NOTE: UTILITY LOCATIONS BASED ON LOCATE PAINT AND OBSERVABLE ABOVE GROUND STRUCTURES

SOLID BOLD LINE DENOTES PROPERTY BOUNDARY

<p>NYHUS SURVEYING INC. GARY NYHUS/STEVEN NYHUS/ERIC NYHUS PROFESSIONAL LAND SURVEYOR</p>	CHECKED BY:
	DRAWN BY: EGN
	DATE: 12-7-2023
	SCALE: 1" = 30'
	PROJECT: