

After Recording Return to:

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

Lincoln County, Oregon
04/07/2020 11:52:31 AM
DOC-OR#
2020-03544
Cnt=1 Pgs=8 Stn=29
\$40.00 \$11.00 \$60.00 \$10.00 \$7.00 - Total = \$128.00



00180800202000035440080082

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



CITY OF NEWPORT
ORDINANCE NO. 2162
AN ORDINANCE VACATING A PORTION OF
UNDEVELOPED NE 31st AND HARNEY STREETS

Summary of Findings:

1. On November 4, 2019, the Newport City Council, at the request of property owner Wyndhaven Ridge, LLC, initiated the process to vacate undeveloped portions of the NE 31st Street and NE Harney Street rights-of-way in accordance with Oregon Revised Statutes (ORS) Chapter 271. Easements are being reserved for utilities along the south side of NE 31st Street, adjacent to property identified as Parcel 2, of Partition Plat 2019-11. The abutting owner, Wyndhaven Ridge, LLC, has agreed to dedicate right-of-way at the west end of NE 31st Street, should the City need use of the land for future roadway embankment work, and will dedicate right-of-way at the northwest corner of the NE 31st Street and NE Harney Street intersection to encompass an existing drainage culvert.
2. Real property abutting the rights-of-way to be vacated is identified as Tax Lots 309, 327 and 328 of Lincoln County Assessor's Map 10-11-32-00 (Parcels 1, 2 & 3, Partition Plat 2019-11) and Tax Lots 8602 and 8700 of Lincoln County Assessor's Map 10-11-33-CB. Property identified as Tax Lots 309, 327 and 328 are owned by Wyndhaven Ridge, LLC, Tax Lot 8602 is owned by the City of Newport, and Tax Lot 8700 is owned by Bret Hamrick.
3. Criteria for 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 December 9, 2019, 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 November 22, 2019, November 29, 2019 and December 4, 2019. Notice of the hearing was mailed to abutting and affected property owners on November 15, 2019. 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 it occurs concurrent with a utility easement reservation for that portion of the vacated area that would accrue to Parcel 2 of Partition Plat 2019-11 and the dedication of rights-of-way or utility easements by Wyndhaven Ridge, LLC, as proposed.
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 February 18, 2020 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 January 31, 2020, February 7, 2020 and February 12, 2020, 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 January 28, 2020.
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. 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.
10. Rights-of-way proposed to be vacated are more than 5,000 feet from the harbor or

pierhead line of the port; therefore, approval by the Port Commission of the Port of Newport is not required pursuant to ORS 271.190.

11. On February 18, 2020, 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.
12. The market value of abutting properties will not be adversely affected by the street vacation. Wyndhaven Ridge, LLC is the principal abutting property owner and its request to the Newport City Council to initiate the right-of-way vacation process serves as evidence of its consent. The City of Newport and Bret Hamrick own property at the south east terminal end of the undeveloped right-of-way proposed to be vacated. Neither of these properties rely upon access to the undeveloped right-of-way at this location, and both properties possess access onto NE Harney Street, which is unaffected by this proposal.
13. The Newport City Council finds that the public interest will not be prejudiced by the proposed vacation because the right-of-way being vacated is not needed for road purposes. Vacating the excess right-of-way will help Wyndhaven Ridge, LLC position Parcel 2 for future multi-family residential development, which will provide needed housing within the community consistent with the property's R-4 zoning classification. In exchange for vacating the right-of-way, Wyndhaven Ridge, LLC has agreed to dedicate new rights-of-way over its property that will enhance the City's ability to maintain the NE 31st Street roadway embankments and existing storm drainage infrastructure. Wyndhaven Ridge, LLC is further amenable to the City reserving a utility easement over the area to be vacated along the south side of NE 31st Street, where there are existing utilities. Given the above, it is evident that the public interest will not be prejudiced by the vacation and, in fact, the proposal furthers the public interest by configuring the rights-of-way in a manner that best serves the properties in the area and the City's need to maintain its utility infrastructure.
14. Pursuant to NMC 14.26.010, the City Council considered whether or not the rights-of-way being vacated are needed to provide public access to the Pacific Ocean. The rights-of-way to be vacated are in excess of what is needed for the roadway and; therefore, elimination of the rights-of-way will not impede public's use of NE 31st Street as a means of accessing the ocean.
15. 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.

Based on the above findings:

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 NE 31st Street and NE Harney Street are hereby vacated:

(The area described below is adjacent to Parcel 2, Partition Plat 2019-11)

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, T 10 S, R 11 W, W.M., LINCOLN COUNTY, OREGON MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD MARKING ENGINEERS STATION PC 19+53.66 40 FOOT RIGHT-OF-WAY LEFT, LOCATED NORTH 89°56'21" WEST 816.65 FEET FROM THE QUARTER CORNER BETWEEN SECTION 32 AND SECTION 33, T10W, R11W W.M.; THENCE SOUTH 37°36'16" EAST 97.87 FEET TO A POINT 30.00 FEET LEFT OF ENGINEERS STATION PT 18+56.27; THENCE ON A 984.90 FOOT RADIUS CURVE LEFT (LONG CHORD BEARS SOUTH 40°37'37" EAST 308.36 FEET) AN ARC DISTANCE OF 309.63 FEET; THENCE ON A 269.62 FOOT RADIUS CURVE LEFT (LONG CHORD BEARS SOUTH 73°57'10" EAST 222.07 FEET) AN ARC DISTANCE OF 228.89 FEET; THENCE ON A 70.27 FOOT RADIUS CURVE RIGHT (LONG CHORD BEARS SOUTH 67°15'16" EAST 72.43 FEET) AN ARC DISTANCE OF 76.09 FEET; THENCE ON A 507.50 FOOT RADIUS CURVE LEFT (LONG CHORD BEARS SOUTH 47°01'35" EAST 189.88 FEET) AN ARC DISTANCE OF 191.00 FEET; THENCE SOUTH 57°48'30" EAST 111.40 FEET; THENCE SOUTH 44°49'48" EAST 66.74 FEET TO THE EAST LINE OF SAID SECTION 32; THENCE SOUTH 00°23'21" EAST 7.41 FEET TO A 2 INCH IRON PIPE; THENCE NORTH 60°31'33" WEST 142.49 FEET; THENCE NORTH 74°53'04" WEST 247.12 FEET; THENCE NORTH 21°32'20" WEST 74.82 FEET; THENCE NORTH 70°42'17" WEST 281.32 FEET; THENCE NORTH 27°18'53" WEST 286.01 FEET; THENCE NORTH 20°07'25" WEST 99.33 FEET TO THE POINT OF BEGINNING.

(The area described below is adjacent to Parcel 3, Partition Plat 2019-11)

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, T 10 S, R 11 W, W.M., LINCOLN COUNTY, OREGON MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 5/8" IRON ROD MARKING ENGINEERS STATION PC 19+53.66 60 FOOT RIGHT-OF-WAY RIGHT, LOCATED NORTH 85°49'16" WEST 733.52 FEET FROM THE QUARTER CORNER BETWEEN SECTION 32 AND SECTION 33, T10W, R11W W.M.; THENCE SOUTH 14°37'01" EAST 101.96 FEET TO A POINT 30.00 FEET RIGHT OF ENGINEERS STATION PT 18+56.27; THENCE ON A 924.90 FOOT RADIUS CURVE LEFT (LONG CHORD BEARS SOUTH 40°37'37" EAST 289.57 FEET) AN ARC DISTANCE OF 209.77 FEET; THENCE ON A 209.62 FOOT RADIUS CURVE LEFT (LONG CHORD BEARS SOUTH 62°59'40" EAST 96.88 FEET) AN ARC DISTANCE OF 97.77 FEET; THENCE ON A 70.00 FOOT RADIUS CURVE

LEFT (LONG CHORD BEARS NORTH 65°05'04" EAST 54.30 FEET) AN ARC DISTANCE OF 55.76 FEET; THENCE NORTH 65°09'37" WEST 214.53 FEET; THENCE NORTH 34°56'59" WEST 196.72 FEET; THENCE NORTH 25°42'54" WEST 97.89 FEET TO THE POINT OF BEGINNING.

(The area described below is adjacent to Parcel 1, Partition Plat 2019-11)

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, T 10 S, R 11 W, W.M., LINCOLN COUNTY, OREGON MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 32, LOCATED SOUTH 00°23'21" EAST 489.95 FEET FROM THE QUARTER CORNER BETWEEN SECTION 32 AND SECTION 33, T10W, R11W W.M.; THENCE NORTH 50°16'50" WEST 86.87 FEET; THENCE NORTH 71°04'44" WEST 110.15 FEET; THENCE ON A 509.31 FOOT RADIUS CURVE LEFT (LONG CHORD BEARS SOUTH 56°13'50" EAST 206.24 FEET) AN ARC DISTANCE OF 207.67 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 32; THENCE NORTH 01°01'51" WEST 23.41 FEET TO THE POINT OF BEGINNING.

The subject tracts are illustrated on the map attached as "Exhibit A" to this ordinance.

Section 3. Easements for utilities to be retained. Easements for public and private utilities are retained over the areas described below.

(Area described below is adjacent to Parcel 2, Partition Plat 2019-11)

A TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 32, T 10 S, R 11 W, W.M., LINCOLN COUNTY, OREGON MORE PARTICULARLY DESCRIBED AS FOLLOWS:

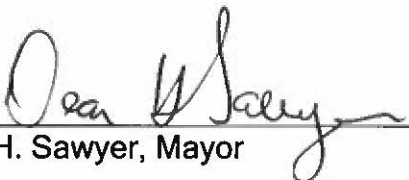
BEGINNING AT A 5/8" IRON ROD MARKING ENGINEERS STATION PC 19+53.66 40 FOOT RIGHT-OF-WAY LEFT, LOCATED NORTH 89°56'21" WEST 816.65 FEET FROM THE QUARTER CORNER BETWEEN SECTION 32 AND SECTION 33, T10W, R11W W.M.; THENCE SOUTH 37°36'16" EAST 97.87 FEET TO A POINT 30.00 FEET LEFT OF ENGINEERS STATION PT 18+56.27; THENCE ON A 984.90 FOOT RADIUS CURVE LEFT (LONG CHORD BEARS SOUTH 40°37'37" EAST 308.36 FEET) AN ARC DISTANCE OF 309.63 FEET; THENCE ON A 269.62 FOOT RADIUS CURVE LEFT (LONG CHORD BEARS SOUTH 73°57'10" EAST 222.07 FEET) AN ARC DISTANCE OF 228.89 FEET; THENCE ON A 70.27 FOOT RADIUS CURVE RIGHT (LONG CHORD BEARS SOUTH 67°15'16" EAST 72.43 FEET) AN ARC DISTANCE OF 76.09 FEET; THENCE ON A 507.50 FOOT RADIUS CURVE LEFT (LONG CHORD BEARS SOUTH 47°01'35" EAST 189.88 FEET) AN ARC DISTANCE OF 191.00 FEET; THENCE SOUTH 57°48'30" EAST 111.40 FEET; THENCE SOUTH 44°49'48" EAST 66.74 FEET TO THE EAST LINE OF SAID SECTION 32; THENCE SOUTH 00°23'21" EAST 7.41 FEET TO A 2 INCH IRON PIPE; THENCE NORTH 60°31'33" WEST 142.49 FEET; THENCE NORTH 74°53'04" WEST 247.12 FEET; THENCE NORTH 21°32'20" WEST 74.82 FEET; THENCE NORTH 70°42'17" WEST 281.32 FEET; THENCE NORTH 27°18'53" WEST 286.01 FEET; THENCE NORTH 20°07'25" WEST 99.33 FEET TO THE POINT OF BEGINNING.

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: February 18, 2020.

Signed by the Mayor on February 19, 2020.



Dean H. Sawyer, Mayor

ATTEST:



Margaret M. Hawker, City Recorder

EXHIBIT "A"

CURVE TABLE					
CURVE#	RADIUS	DELTA	ARC LENGTH	CHORD	
C1	(490.00')	18°32'47"	158.61'	N 54°12'56"E	157.92' F
C2	(260.00')	78°51'56"	357.89'	N 24°03'20"E	330.29' F
C3	(510.00')	28°53'12"	257.12'	N 29°49'16"E	264.41' F
C4	(358.10')	19°04'25"	119.21'	N 58°27'57"E	118.66' F
C5	(954.90')	36°24'57"	606.91'	N 49°49'43"E	596.76' F
C6	(603.11')	54°22'27"	572.36'	N 58°54'56"E	551.12' F
C7	(1145.90')	04°35'45"	91.92'	N 88°24'02"E	91.89' F
C8	(1145.90')	04°35'20"	98.44'	N 88°18'18"E	98.41' F
C9	(229.20')	21°04'23"	84.29'	N 88°08'31"E	83.82' F
C10	(410.00')	36°47'17"	263.25'	S 45°06'43"E	258.76' F
C10A	(410.00')	30°40'28"	219.50'	S 42°02'19"E	216.89' F
C10B	(410.00')	06°08'45"	43.74'	S 60°26'58"E	43.72' F
C11	(340.00')	78°52'04"	468.01'	S 24°03'20"E	431.92' F
C12	(590.00')	11°42'17"	120.53'	S 21°13'50"E	120.32' F
C13	(7799.44')	00°07'38"	17.31'	S 15°00'55"E	17.31' F
C14	(7799.44')	00°06'05"	13.79'	S 14°54'04"E	13.79' F
C15	(7799.44')	00°12'09"	27.57'	S 14°44'57"E	27.56' F
C16	(7799.44')	00°05'00"	11.33'	S 14°36'22"E	11.33' F
C13+C14+C15+C16	(7799.44')	00°30'51"	(70.00')	S 14°49'19"E	70.00' F
C17	(7799.44')	00°19'46"	44.85'	S 14°24'00"E	44.85' F
C18	(7799.44')	06°46'05"	921.32'	S 10°51'04"E	920.79' F
VACATION & DEDICATION CURVE DATA					
C19	(954.90')	18°00'46"	300.20'	S 40°37'37"E	298.96'
C20	(954.90')	18°00'46"	308.63'	S 40°37'37"E	308.36'
C21	(924.90')	18°00'46"	290.77'	S 40°37'37"E	289.67'
C22	(239.62')	56°17'39"	235.43'	S 77°46'49"E	226.08'
C23	(269.62')	48°38'20"	228.89'	S 73°57'10"E	222.07'
C24	(209.62')	26°43'20"	97.77'	S 62°59'40"E	96.88'
C25	(70.00')	45°38'30"	55.76'	N 65°05'04"E	54.30'
C26	(70.00')	51°05'00"	52.41'	N 16°43'19"E	60.36'
C27	(70.27')	52°02'40"	76.09'	S 67°15'16"E	72.43'
C28	(457.50')	29°06'30"	237.61'	S 43°15'16"E	234.96'
C29	(507.50')	21°33'50"	191.00'	S 47°01'35"E	189.88'
C30	(509.31')	23°21'45"	207.67'	S 56°13'50"E	206.24'
C31	(139.00')	13°26'53"	32.63'	S 51°08'04"E	32.55'
C32	(7799.44')	00°50'37"	114.84'	S 14°39'26"E	114.84'
C33	(7799.44')	00°41'47"	94.80'	S 13°53'14"E	94.80'
C34	(590.00')	08°37'00"	88.73'	N 22°46'29"E	88.65'
C35	(590.00')	03°05'17"	31.80'	N 16°55'19"E	31.80'

SURVEY BY
DARIUS K. FERGUSON P.L.S.
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REGISTERED
PROFESSIONAL
LAND SURVEYOR

Darius K. Ferguson

OREGON
JULY 16, 1987
DARIUS K. FERGUSON
2279

RENEWS 12-31-21

LINE TABLE

L1 = (S 59°33'11"E	2.63' F	L12 = (S 77°30'40"E	83.77' F
L2 = (S 71°04'44"E	110.15' F	L13 = (N 77°04'12"E	55.32' F
L3 = (S 50°15'50"E	86.87' F	L14 = (S 87°39'26"E	83.65' F
L4 = (N 86°05'09"E	78.52' F	L15 = (N 44°01'13"E	76.68' F
L5 = (S 89°18'06"E	94.78' F	L16 = (S 89°49'30"E	41.04' F
L6 = (N 86°46'34"E	46.61' F	L17 = (N 78°12'46"E	91.86' F
L7 = (S 73°09'02"E	37.37' F	L18 = (S 89°26'08"E	94.74' F
L8 = (N 14°59'43"E	63.06' F	L19 = (N 88°42'15"E	112.66' F
L9 = (S 63°57'36"E	11.73' F	L20 = (N 89°37'41"E	117.11' F
L10 = (S 62°42'34"E	92.88' F	L21 = (S 37°36'16"E	97.87' F
L11 = (S 71°00'54"E	80.26' F	L22 = (S 14°37'01"E	101.96' F
		L23 = (N 74°04'20"E	40.63' F
		L24 = (S 57°48'30"E	111.40' F
		L25 = (S 57°48'30"E	111.40' F
		L26 = (S 44°48'48"E	66.74' F
		L27 = (N 65°09'38"E	56.95' F
		L28 = (N 59°46'15"E	53.86' F