

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: November 16, 2015

Order ___ Ordinance XX Resolution ___ Motion ___ Information ___
No. No. 2015-2791 No.

SUBJECT: Vacate the Cherry Street right-of-way east of Center Street and west of the Friendsview Retirement Community campus

Contact Person (Preparer) for this Motion: Steve Olson, AICP, Associate Planner
Dept.: Community Development
File No.: VAC-15-001

HEARING TYPE: LEGISLATIVE QUASI-JUDICIAL NOT APPLICABLE

RECOMMENDATION:

Adopt Ordinance No. 2015-2791, vacating a section of the Cherry Street right-of-way located east of Center Street and west of the Friendsview Retirement Community campus, and reserving utility easements and access easements over the vacated area as needed for City and franchise utility facilities and vehicles.

EXECUTIVE SUMMARY: The Friendsview Retirement Community has requested the right-of-way vacation because they intend to redevelop the area west of their campus into the Friendsview University Village independent-living apartments. Friendsview owns the properties abutting the proposed vacation, and Cherry Street dead ends into the Friendsview campus. Vacating the Cherry Street right-of-way would allow Friendsview flexibility to develop the University Village area as a more pedestrian-oriented site.

The City Council initiated the vacation process on October 5, 2015 through Resolution 2015-3229. The initiation did not make a decision for or against the proposal; it merely scheduled it for a public hearing on November 16, 2015.

The vacation application was referred to City departments, local agencies and utilities for review. The street contains public water and sanitary sewer lines owned by the City, and franchise utility lines and equipment owned by Portland General Electric and Frontier. Waste Management garbage trucks also use the street to access their customers.

The proposed vacation would include all of the full right-of-way width of Cherry Street, east of Center Street and west of the Friendsview Retirement Community campus, approximately 40 feet wide by 382.41 feet long, as shown in Exhibit B.

The following easements would need to be created: A 15 foot wide public utility easement centered on the public waterline, a 15 foot wide public utility easement centered on the public sanitary sewer line, a 10 foot wide utility easement over Portland General Electric lines and equipment, a 10 foot wide utility easement over Frontier lines and equipment, and a 25 foot wide access easement for City emergency service vehicles, and franchise utility vehicles.

If the vacation is approved then the applicant shall have a surveyor prepare legal descriptions and maps of the easements, and submit them to city staff for review and approval. The instrument that creates the easements will be recorded simultaneously with the ordinance that vacates the right-of-way.

FISCAL IMPACT: No significant fiscal impact is expected. If the street is vacated then Friendsview Retirement Community will take over maintenance of the street area, which will slightly reduce the City's costs for street maintenance.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS): This portion of Cherry Street serves as a gateway for Friendsview Retirement Community. Friendsview owns 100% of the adjacent sites. Approval would allow more flexibility for the redevelopment of the area, while still retaining utility easements and access easements as needed to protect the public interest. The City supports the growth of local institutions like the Friendsview Retirement Community, and supports the development of a range of housing options needed by the community.

Attachments:

Ordinance No. 2015-2791 with:

Exhibit A: Findings

Exhibit B: Location map

1. VAC-15-001 vacation application
2. Utility maps and comments



ORDINANCE No. 2015-2791

AN ORDINANCE VACATING THE CHERRY STREET RIGHT-OF-WAY EAST OF CENTER STREET AND WEST OF THE FRIENDSVIEW RETIREMENT COMMUNITY CAMPUS, ADJACENT TO YAMHILL COUNTY TAX LOTS 3217CB-500, -600, -700, -800, -900, -1500, -1700, -1800, -1900, -2000, AND -90000 WITHIN THE CORPORATE CITY LIMITS OF NEWBERG, OREGON, AND RETAINING PUBLIC AND PRIVATE UTILITY AND ACCESS EASEMENTS OVER THE STREET BEING VACATED.

RECITALS:

1. Friendsview Retirement Community applied on August 7, 2015 to vacate the Cherry Street right-of-way east of Center Street and west of the Friendsview Retirement Community campus.
2. The Newberg City Council initiated the vacation on October 5, 2015 and set a public hearing date for November 16, 2015 through Resolution 2015-3229.
3. Notice was published in *The Newberg Graphic* newspaper once a week for two consecutive weeks prior to the final public hearing of the City Council.
4. The Newberg City Council conducted a public hearing on November 16, 2015, to consider the vacation and any written objections or remonstrances, and take public comment.
5. All of the abutting property owners have signed consent to vacate forms, as Friendsview Retirement Community owns all of the abutting properties.

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

1. The following described public right-of-way within the City of Newberg, County of Yamhill, State of Oregon, is hereby vacated: All of the full right-of-way width of Cherry Street, east of Center Street and west of the Friendsview Retirement Community campus, approximately 40 feet wide by 382.41 feet long, as shown in Exhibit B. Exhibit B is hereby adopted and by this reference incorporated.

And further, retaining a 15 foot wide public utility easement centered on the public waterline, a 15 foot wide public utility easement centered on the public sanitary sewer line, a 10 foot wide utility easement over Portland General Electric lines and equipment, a 10 foot wide utility easement over Frontier lines and equipment, and a 25 foot wide access easement for City emergency service vehicles, and franchise utility vehicles.

The applicant shall have a licensed surveyor prepare map and legal description exhibits for the utility and access easements noted above, and submit to City staff for review and approval.

2. The findings, listed as Exhibit A and attached to this ordinance, are hereby adopted and by this reference incorporated.
3. Subject to the above provisions, the recorder of the City of Newberg is hereby directed to file for recording with the County Clerk and Ex-Officio Recorder of Conveyances of the County of Yamhill, State of Oregon, a certified copy of this ordinance and a map of said public right-of-way (Exhibit B) so vacated, and the Recorder is further directed to file a copy of this ordinance and a map with the Surveyor and the Assessor of said Yamhill County, Oregon, respectively. The instrument creating the utility easements and access easements noted above shall be recorded simultaneously with the vacation ordinance.
4. Title to the real property included within said rights-of-way hereby vacated shall attach to the property abutting said right-of-way, in accordance with the provisions of ORS 271.140.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: December 16, 2015.

ADOPTED by the City Council of the City of Newberg, Oregon, this 16th day of November, 2015, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Sue Ryan, City Recorder

ATTEST by the Mayor this 19th day of November, 2015.

Bob Andrews, Mayor

EXHIBIT A
FINDINGS FOR APPROVAL OF A RIGHT-OF-WAY VACATION

ORS 271.130 lists the criteria for vacations. The section states that approval must include affirmative findings that:

Criteria 1. Notice shall be given as provided by ORS 271.110. Notice will be published in *The Newberg Graphic* for two consecutive weeks prior to the City Council hearing on this matter.

Finding: Notice has been provided in accordance with ORS 271.110. Notice was published in the *Newberg Graphic* for two consecutive weeks beginning November 4, 2015. In addition, notice has been posted near the site, and a mailed notice was sent to all property owners within 100 feet of the site.

Criteria 2. Obtain consent from the owners of all abutting property and at least 2/3 majority consent of owners in the affected area.

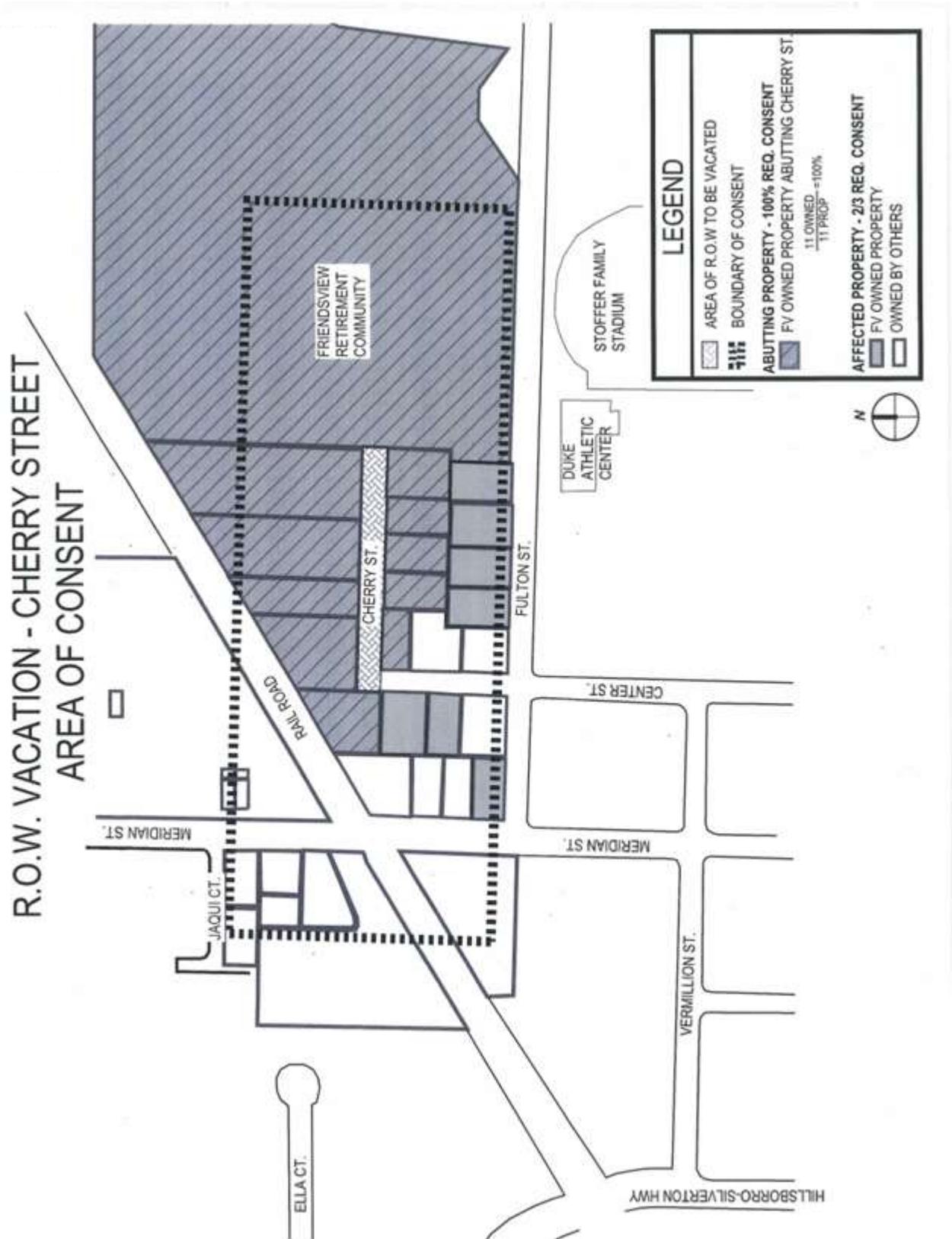
Finding: Written consent has been received from the owners of all abutting properties and more than 2/3 of owners in the affected area.

Criteria 3. Where owner consent has not been provided, the vacation will not significantly affect the value of the abutting properties, unless the city provides for paying damages.

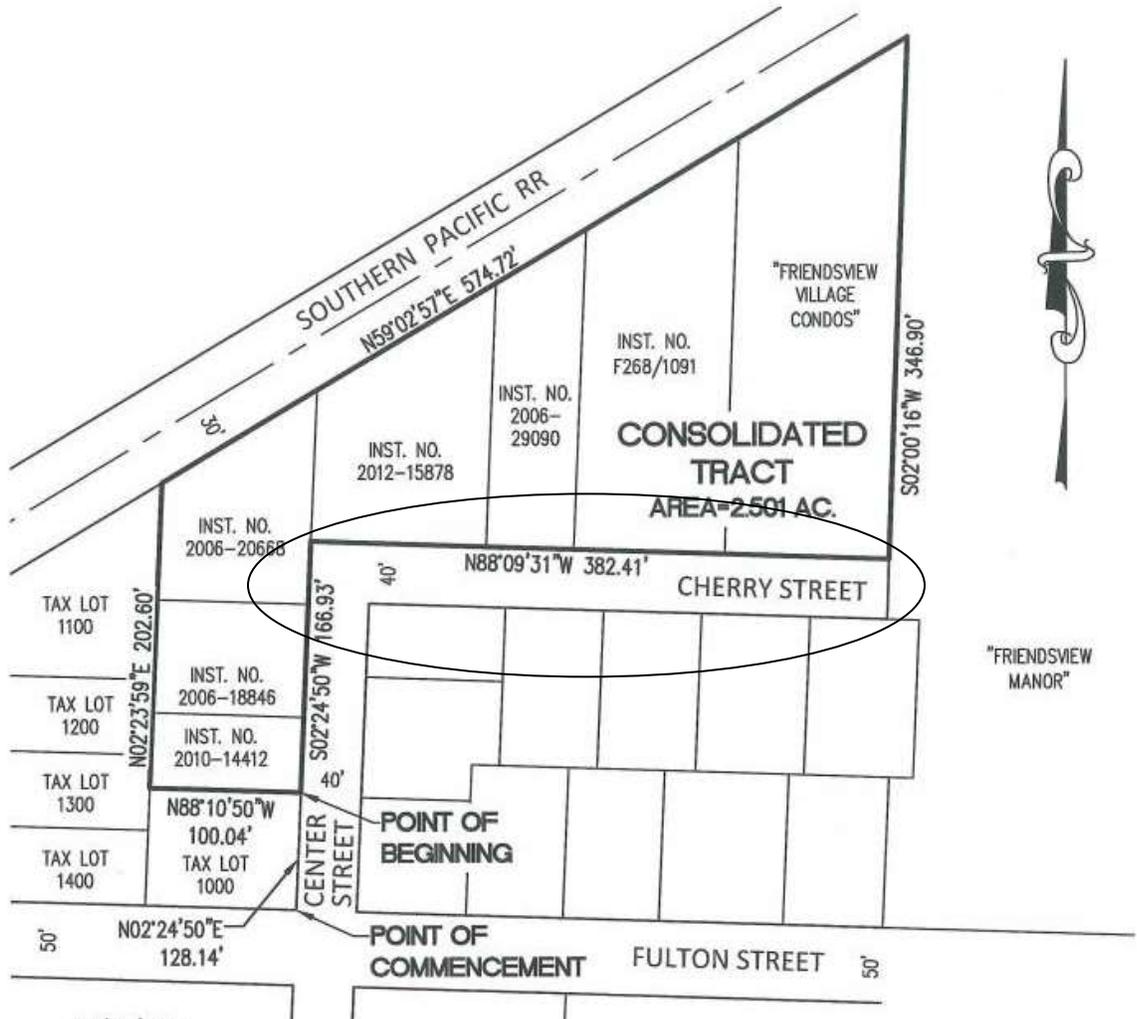
Finding: The owners of all abutting properties and more than 2/3 of owners in the affected area have provided written consent.

Conclusion: Based on the criteria and conclusionary findings, the proposed vacation satisfies City standards and approval criteria.

EXHIBIT B: LOCATION MAP



LAND LOCATED IN THE SW 1/4 OF SEC. 17, T3S, R2W, W.M.,
CITY OF NEWBERG, YAMHILL COUNTY, OREGON



08/22/2015
FOR CITY REVIEW

REGISTERED
PROFESSIONAL
LAND SURVEYOR

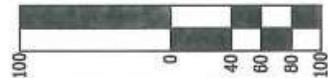
Theodore G. Lambert

OREGON
JULY 16, 1987
THEODORE G. LAMBERT
2294

RENEWS: 12/31/16

PREPARED FOR
FRIENDSVIEW MANOR
1301 FULTON STREET
NEWBERG, OR 97132

SCALE 1" = 100 FEET



FRIENDSVIEW - NORTH CONSOLIDATION EXHIBIT

AKS ENGINEERING & FORESTRY, LLC
12965 SW HERMAN RD SUITE 100
TUALATIN, OR 97062 www.aks-eng.com
PHONE: 503.563.6151 FAX: 503.563.6152

AKS

EXHIBIT

B

DRWN: TGL

CHKD: TGL

AKS JOB:

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