

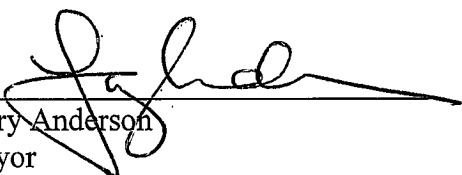
RESOLUTION NO. 08-R-884

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BROOKINGS
ACCEPTING THE FINDINGS AND FINAL ORDER OF THE CURRY COUNTY
BOARD OF COMMISSIONERS TO REALIGN THE RIGHT-OF-WAY FOR A
PORTION OF PARKVIEW DR.

BE IT RESOLVED by the City Council of the City of Brookings as follows:

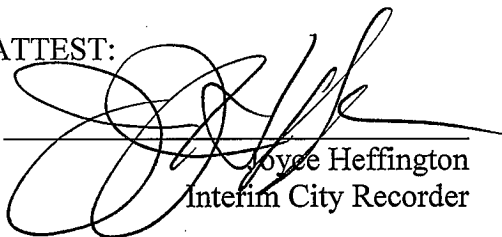
Effective upon adoption, the City Council is in agreement with the attached documents prepared by Curry County Board of Commissioners stating it is in the public's best interest to vacate the described portion of Parkview Drive provided the adjacent landowner deeds to the County the appropriate right-of-way to keep the physical road within the County's right-of-way.

PASSED by the City Council of the City of Brookings and signed by the Mayor of the City Council this 10th day of March, 2008.

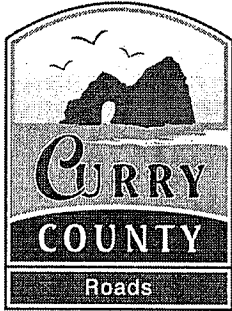


Larry Anderson
Mayor

ATTEST:



Joyce Heffington
Interim City Recorder



ATTACHMENT A

Curry County Road Department

28425 Hunter Creek Road

P.O. Box 746

Gold Beach, OR 97444

Daniel P. Crumley
Roadmaster

Phone (541) 247-7097
Fax (541) 247-7804

March 3, 2008

Dianne Morris
City of Brookings
898 Elk Drive
Brookings, OR 97415

Dear Dianne:

You may recall that when Ed Curtis, property owner at 17094 Parkview Drive, went through the partition process with the City of Brookings a discrepancy in the right of way for Parkview Drive was discovered. While the County has a deed for a 50 foot wide right of way for Parkview Drive, a portion of the road is located outside of the deeded right of way and encroaches onto property owned by Mr. Curtis. We are working with Mr. Curtis to acquire a deed from him for the necessary right of way to eliminate the encroachment and at the same time vacate to him that portion of the Parkview Drive right of way that will become surplus once the encroachment is secured.

This portion of Parkview Drive is within the City of Brookings and although the road remains a County Road, the County cannot vacate this surplus right of way without the concurrence of the City. ORS 368.361(3) provides a mechanism for this vacation to proceed providing the City, by resolution or order, concurs in the findings of the County. The Curry County Board of Commissioners has completed the vacation hearing process and needs to receive concurrence from the City before it can proceed further.

I have enclosed a packet of material related to this right of way vacation. Specifically, the enclosed material includes the following:

- >Draft Final Order, which includes findings that have been approved by the Curry County Commissioners
- >Road Official's Report recommending the vacation
- >Exhibit C which describes the right of way to be deeded by Mr. Curtis to the County

Please review the material and place this on a Council Agenda as soon as possible. If the City is in agreement with the County's findings, please have them approve a resolution or order that indicates the City's concurrence with the County's findings.

Feel free to contact me if you have any questions.

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Thank you for your help in this matter.

Sincerely,

A handwritten signature in cursive script, reading "Daniel P. Crumley". The signature is fluid and stylized, with a large loop at the end of the last name.

Daniel P. Crumley
Roadmaster

AFTER RECORDING RETURN TO:

Edward Scott Curtis
P.O. Box 4043
Brookings, OR 97415

MAIL TAX STATEMENTS TO:

Edward Scott Curtis
P.O. Box 4043
Brookings, OR 97415

BEFORE THE BOARD OF COUNTY COMMISSIONERS

IN AND FOR THE COUNTY OF CURRY, OREGON

In the Matter of the Vacation of a)
Section of Unneeded Right-of-Way)
Along Parkview Drive)

Final Order No. _____

WHEREAS, a recent private survey of property owned by Ed Curtis at 17094 Parkview Drive revealed the current alignment of Parkview Drive through the Curtis parcel does not match the deeded right-of-way for Parkview Drive and encroaches onto property owned by Mr. Curtis; and

WHEREAS, Mr. Curtis owns property on both sides of Parkview Drive at this location. He has expressed a desire to deed to the County that portion of the roadway that encroaches onto his property providing the County will vacate that portion of Parkview Drive right-of-way adjacent to his ownership that will no longer be needed by the County; and

WHEREAS, on January 2, 2008, the Board of Curry County Commissioners approved a resolution initiating procedures to vacate the property described in the attached Exhibit "A" and directed the Curry County Road Master to file a report under ORS 368.346(1); and

WHEREAS, the Curry County Road Master submitted his road official's report to the Board of Curry County Commissioners at the Board's regular meeting on January 14, 2008; and

WHEREAS, a copy of the Road Master's report is attached as Exhibit "B" to this order; and

WHEREAS, the Road Master's report reflects that the property proposed for vacation is now within the City of Brookings, although it remains under the jurisdiction of the County for road management purposes; and

WHEREAS, ORS 368.361(3) provides in part that a county governing body may vacate property that is under the jurisdiction of the County and that is entirely within the limits of a city if that city, by resolution or order, concurs in the findings of the county governing body in the vacation proceedings; and

WHEREAS, following notice as required by ORS 368.346(3), the Board of Curry County Commissioners held a hearing on the proposed vacation at 10:30 AM on February 19, 2008. At this hearing no one objected to the proposed vacation. Following the hearing, the Board of Curry County Commissioners directed Curry County Legal Counsel to prepare a report (or order) of tentative findings approving the vacation. These findings (which are outlined in the next "Whereas" below) were approved by the Board on March 3, 2008, and then forwarded to the City of Brookings for approval. When the findings are approved by the City of Brookings in a resolution or order, the resolution or order will be attached to the final order; and

WHEREAS, the Board finds that the vacation is in the public's interest, provided that Mr. Curtis deeds to the County the property described in Exhibit "C", because this will eliminate the current road encroachment onto private property and essentially render the right-of-way proposed for vacation as surplus and of no value to the County for its management of Parkview Drive;

NOW, THEREFORE, THE BOARD OF CURRY COUNTY COMMISSIONERS ORDERS AS FOLLOWS:

- 1) Based upon the resolution or order from the City of Brookings, a copy of which is attached as Exhibit "D", and the execution of a deed of the property described in Exhibit "C" by Mr. Edward Curtis, the subject property described in Exhibit "A" is hereby vacated in its entirety to Mr. Curtis in accordance with ORS 368.366(2).
- 2) The vacation is approved subject to the rights of existing utilities, if any.
- 3) Following the receipt of the deed described above, the County shall clarify its intentions by executing a quit claim deed of the vacated property to Mr. Edward Curtis.

- 4) This order shall be recorded with the Curry County Clerk and copies shall be given to the Curry County Surveyor and the Curry County Assessor pursuant to ORS 368.356(3).

DATED this ____ day of _____, 2008.

BOARD OF CURRY COUNTY COMMISSIONERS

Georgia Yee Nowlin, Chair

Lucie La Bonté, Vice Chair

Marlyn Schafer, Commissioner

State of Oregon)
)ss
County of Curry)

Subscribed and sworn to before me this ____ day of _____,
by _____

Notary Public
My Commission expires: _____

Approved as to Form:

M. Gerard Herbage
Curry County Legal Counsel

EXHIBIT "A"

A parcel of land lying within the Southwest Quarter of the Northwest Quarter of Section 31, Township 40 South, Range 13 West, Willamette Meridian, Curry County, Oregon, being more particularly described as follows:

Beginning at a point being North 337.493 feet and East 945.035 feet from the West $\frac{1}{4}$ (One Quarter) corner of said Section 31, thence S89°53'55"W, 89.48 feet to the True Point of Beginning and the deeded Westerly Right-of-Way of Parkview Drive; thence following along said Right-of-Way N27°37'05"E, 121.61 feet to the beginning of a 475.00 foot radius curve to the right, having a central angle of 13°45'13"; thence leaving said Right-of-Way and following along said curve the arc length of 114.022 feet, the long chord of which bears S18°44'26"W, 113.748 feet; thence S89°53'55"W, 19.83 feet to the True Point of Beginning, containing 1,128.55 square feet (0.026 acres).

JAN 15 2008

IN THE BOARD OF COUNTY COMMISSIONERS
IN AND FOR CURRY COUNTY

CURRY COUNTY CLERK

ATTACHMENT C

In the Matter of the Vacation of a)
Section of Unneeded Right-of-Way)
along Parkview Drive)

ROAD OFFICIAL'S
REPORT

COPY

I have examined the section of unneeded right-of-way along Parkview Drive located in the Southwest Quarter of the Northwest Quarter of Section 31, Township 40 South, Range 13 West, W.M., Curry County, Oregon. This right-of-way is more particularly described in the attached Exhibit A and shown on the attached Exhibit B.

This section of Parkview Drive right-of-way was deeded to the County by Wilbur Stafford, et ux in Deed Volume 37, Page 342. The present alignment of Parkview Drive, while unchanged for 30 plus years, is predominately occupying the easterly portion of this right-of-way and encroaches outside of the easterly deeded right-of-way boundary onto property owned by Ed Curtis. The right-of-way proposed for vacation is currently undeveloped vacant land with adjacent properties being in residential use.

The City of Brookings annexed properties in the vicinity of Parkview Drive into the City within the past few years. The section of Parkview Drive discussed in this proposed vacation is now within the City Limits of Brookings, but remains under the jurisdiction of the County for road management purposes. ORS 368.326 (1) prohibits a county from vacating property within a city. However an exception to this prohibition is found in ORS 368.361 (3), which states "Notwithstanding ORS 368.326, a county governing body may vacate property that is under the jurisdiction of the county and that is entirely within the limits of a city if that city, by resolution or order, concurs in the findings of the county governing body in the vacation proceedings". I have discussed this matter with the City of Brookings and have forwarded a copy of this report to them.

Details regarding the ownership of the lands adjacent to this section of right-of-way are as shown below:

Curry County Assessor's Map 40-13-31B
Tax Lot 1317, 0.83 acres owned by Edward C. Curtis zoned R-1-6
Tax Lot 1315, 0.37 acres owned by Mary C. Wise zoned R-3

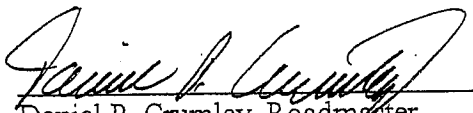
Vacation of this section of right-of-way will not limit access to other parcels in this vicinity.

Water lines (owner side of meter) and a sewer lateral may exist within the section of right-of-way proposed to be vacated.

Mr. Curtis has expressed his desire to deed to the County sufficient land to provide a 50-foot wide right-of-way (25 feet either side of existing road centerline) for the section of Parkview Drive that crosses his property. This will eliminate the current road encroachment onto private property and essentially render the right-of-way proposed for vacation as surplus and of no value to the County for its management of Parkview Drive.

I believe granting this vacation is in the public interest and recommend the following:

1. Conditionally approve the vacation of the section of Parkview Drive right-of-way as described in the attached Exhibit A and shown on the attached Exhibit B subject to approval by the City of Brookings and to the rights of any existing utilities. The size of the parcel proposed for vacation is approximately 1128 square feet (0.026 acres).
2. Prior to signing the final order, submit a request to the City of Brookings to review the findings from the vacation hearing and to provide a resolution or order if it concurs with the County's findings.
3. Should the City of Brookings concur with the County's findings, then approve the final order.
4. If a final vacation order is signed, accept the deed from Mr. Curtis for the Parkview Drive right-of-way. The parcels to be acquired are approximately 744 square feet (0.017 acres) and approximately 17 square feet (0.0004 acres).
5. Approve a Quitclaim Deed to Mr. Curtis to insure the vacated right-of-way will properly vest in his ownership.


Daniel P. Crumley, Roadmaster

1/9/08
Date

EXHIBIT "A"

C-3

A parcel of land lying within the Southwest Quarter of the Northwest Quarter of Section 31, Township 40 South, Range 13 West, Willamette Meridian, Curry County, Oregon, shown as parcel B on the attached Exhibit "B" and being more particularly described as follows:

Beginning at a point being North 337.493 feet and East 945.035 feet from the West $\frac{1}{4}$ (One Quarter) corner of said Section 31, thence S89°53'55"W, 89.48 feet to the True Point of Beginning and the deeded Westerly Right-of-Way of Parkview Drive; thence following along said Right-of-Way N27°37'05"E, 121.61 feet to the beginning of a 475.00 foot radius curve to the right, having a central angle of 13°45'13"; thence leaving said Right-of-Way and following along said curve the arc length of 114.022 feet, the long chord of which bears S18°44'26"W, 113.748 feet; thence S89°53'55"W, 19.83 feet to the True Point of Beginning.

EXHIBIT "B" SKETCH MAP

C-4

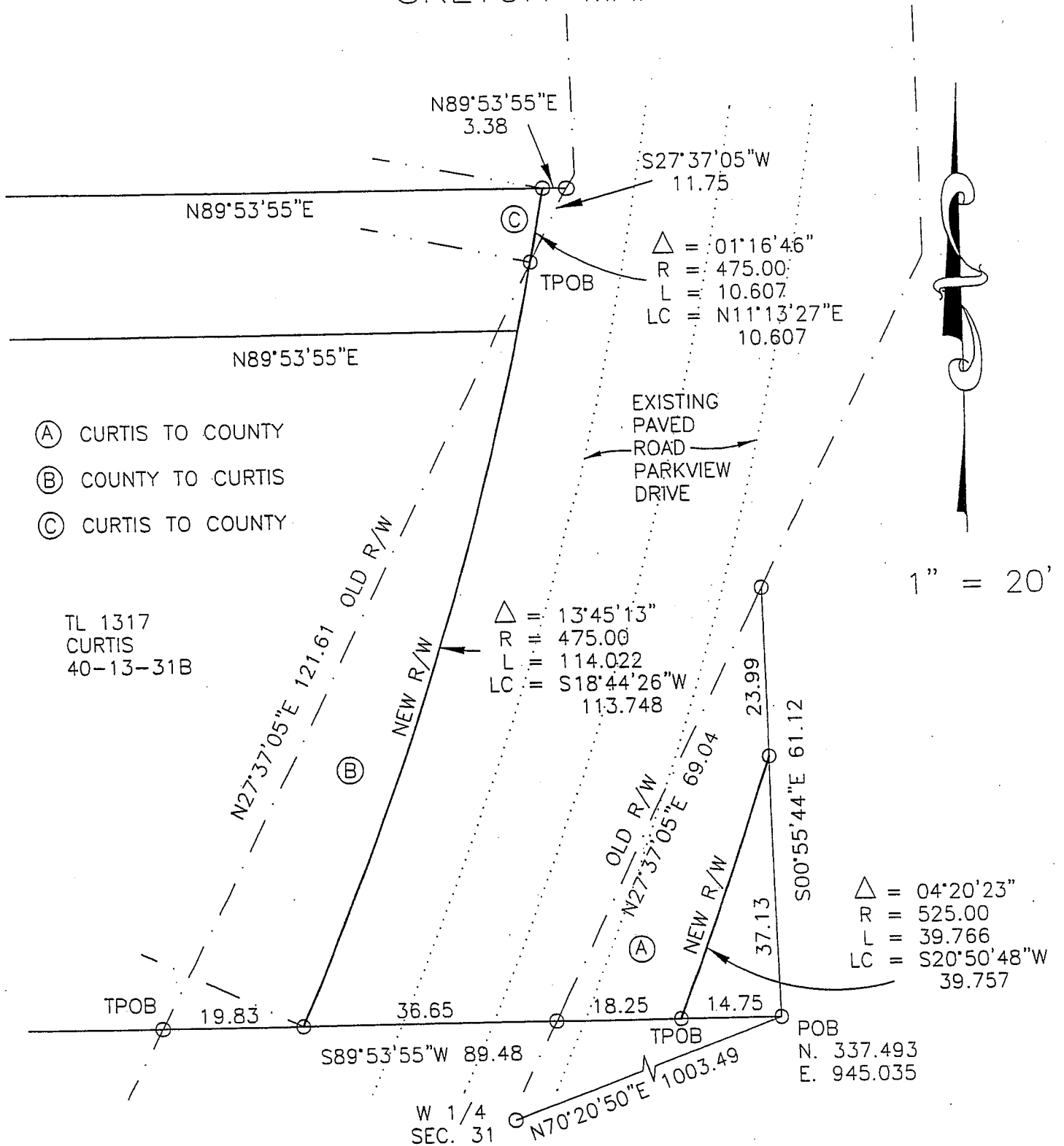


EXHIBIT "C"

Curtis to County

Two parcels of land lying within the Southwest Quarter of the Northwest Quarter of Section 31, Township 40 South, Range 13 West, Willamette Meridian, Curry County, Oregon, being more particularly described as follows:

Parcel A

Beginning at a point being North 337.493 feet and East 945.035 Feet from the West $\frac{1}{4}$ (One Quarter) corner of said Section 31; thence S89°53'55"W, 14.75 feet to the True Point of Beginning; thence S89°53'55"W, 18.25 feet to the deeded Easterly Right-of-Way of Parkview Drive; thence following along said Right-of-Way N27°37'05"E, 69.04 feet; thence leaving said Right-of-Way S00°55'44"E, 23.99 feet to the beginning of a 525.00 foot radius curve to the Right, having a central angle of 04°20'23"; thence following along said curve the arc length of 39.766 feet, the long chord of which bears S20°50'48"W, 39.757 feet, to the True Point of Beginning, containing 744.40 square feet (0.017 acres).

Parcel C

Beginning at a point being North 337.493 feet and East 945.035 feet from the West $\frac{1}{4}$ (One Quarter) corner of said Section 31; thence S89°53'55"W, 89.48 feet; thence N27°37'05"E, 121.61 feet to the True Point of Beginning and the beginning of a 475.00 foot radius curve to the Left, having a central angle of 01°16'46"; thence following along said curve the arc length of 10.607 feet, the long chord of which bears N11°13'27"E, 10.607 feet; thence N89°53'55"E, 3.38 feet to the deeded Westerly Right-of-Way of Parkview Drive; thence following along said Right-of-Way S27°37'05"W, 11.75 feet to the True Point of Beginning, containing 17.59 square feet (0.0004 acres).