

*For: Monday, **December 9, 2013**, City Council/URA Meeting*

Advance Packet Information

Dated: November 26, 2013

Included in this packet is documentation to support the following Agenda items:

PUBLIC HEARINGS/ORDINANCES

1. Public Hearing and Ordinance 13-O-719 regarding the vacation of a planting screen dedicated in the Woodland Park Addition. [Planning, pg. 2]
 - a. Excerpts from the Brookings Municipal Code and Oregon Revised Statutes [pg. 3]
 - b. Applicant's materials [pg. 5]
 - c. Ordinance 13-O-719 [pg. 11]
2. Ordinance 13-O-720, amending Exhibit "A" of Ordinance 13-O-712, to correct metes and bounds descriptions. [Planning, pg. 13]
 - a. Assessor's Map 40-13-31D [pg. 14]
 - b. Ordinance 13-O-720 [pg. 15]

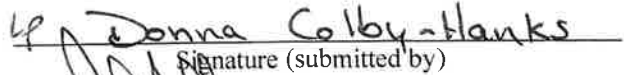
*Obtain Public Comment Forms and view the agenda and packet information on-line at www.brookings.or.us, or at City Hall. Return completed Public Comment Forms to the City Recorder before the start of meeting or during regular business hours.

All public meetings are held in accessible locations. Auxiliary aids will be provided upon request with advance notification. Please contact 541-469-1102 if you have any questions regarding this notice.

CITY OF BROOKINGS

COUNCIL AGENDA REPORT

Meeting Date: December 9, 2013


Signature (submitted by)

Originating Dept: PWDS/ Planning


City Manager Approval

Subject: Vacation of "Planting Screen" dedicated in Woodland Park Addition.

Recommended Motion: A motion to approve the vacation of the planting screen dedicated in Woodland Park Addition and proceed to adopting Ordinance No. 13-O-719.

Financial Impact: None.

Background/Discussion: The subject "Planting Screen", located at the southern most intersection of Alder Street and Spruce Drive, was dedicated to the public in Woodland Park Addition in 1952. The area is approximately 2,260 square feet in size and vegetated with a palm tree, a conifer tree, and grass. The planting screen is surrounded with Chetco Public Library to the west, a medical center to the north, and single family residences to the east but is only adjacent to the applicant's parcel to the south.

Maintenance of the planting screen area is the responsibility of City staff; however historically the adjacent property owner to the south has maintained the area. That current owner of that property has submitted the materials required by Chapter 12.50, Vacations of the Brookings Municipal Code (BMC) and ORS - 271, Vacation, to request this vacation. The proposed vacation does not affect any of the Brookings comprehensive plan statewide planning goal policies and therefore is not required to be heard by the Planning Commission.

The applicant has provided the materials required in BMC Chapter 12.50.020 for a complete application as well as the required filing fee of \$1,218. The applicant states in his findings that there are several mutual benefits of the vacation of this planting screen. The City would no longer need either Parks or Public Works staff to maintain the area. The current non-conforming setback for the applicant's dwelling would be resolved and comply with code requirements.

A utilities locate request resulted in verification that no utilities exist in this area. A notice was published in the local newspaper and notices were posted on the area to be vacated in compliance with ORS 271.110. Site Plan Committee reviewed the request and found it to be consistent with City ordinances and policies.

Policy Considerations: N/A

Attachment(s):

- a. BMC 12.50 and ORS 271
- b. Applicant's materials
- c. Ordinance 13-O-719

Brookings Municipal Code (BMC)

Chapter 12.50 Vacations

12.50.020 Application procedures.

Petitioners or persons requesting the council to initiate a vacation on its own motion, pursuant to ORS 271.130, shall file an application which shall contain the following:

A. Vicinity map drawn to scale of one inch equals 1,000 feet identifying the area proposed to be vacated and adjoining properties;

B. Legal description of area proposed to be vacated;

C. County assessor's parcel maps of the proposed vacation area identifying abutting and affected properties. Identified upon the assessor's parcel maps shall be those abutting and affected properties whose owners have consented to the proposed vacation;

D. Consent to vacate forms completed and signed by all consenting property owners within the abutting and/or affected area;

E. Names and addresses of all abutting and/or affected property owners, including map and tax lot numbers, prepared on mailing labels;

F. Written findings of fact prepared by the petitioner(s) or the petitioner(s)' representative;

G. The application shall be accompanied by a filing fee in the amount established by general resolution of the city council, no part of which is refundable. [Ord. 13-O-711 § 3.]

12.50.030 Vacation criteria.

A request to vacate will be reviewed by the site plan committee to verify consistency with city ordinances and policies. If the planning staff determines the proposed vacation affects any of the Brookings comprehensive plan statewide planning goal policies, the vacation request will be heard by the planning commission who will make a recommendation to the city council. In these cases, the vacation matter will be processed as a land use decision and notice will be provided as required by Chapter 17.84 BMC, Public Hearings Notice Procedures.

A request to vacate that is determined not to be a land use decision will be considered by the city council following a determination based upon the findings prepared and submitted by the petitioner(s), which shall address the following criteria:

A. Compliance with the comprehensive plan, circulation element or other applicable sections of the document.

B. If initiated by petition pursuant to ORS 271.080, the council shall make the determinations pursuant to ORS 271.120 based upon evidence provided by the petitioner(s) in the written findings.

C. If initiated by the city council on its own motion pursuant to ORS 271.130, a determination shall be made that the vacation will not substantially affect the market value of all such abutting property to the area proposed to be vacated, unless the city council proposes to provide for paying such damages.

D. Nothing in this chapter shall cause or require the removal or abandonment of any public or private sewer, water main, gas main, conduit of any kind, wire, pole or object used or intended to be used for any public service and the right hereby is reserved for the owner of any such utility or object to maintain, continue, repair, reconstruct, renew, replace, rebuild or enlarge all utilities and objects. [Ord. 13-O-711 § 3.]

Oregon Revised Statutes (ORS)

ORS 271.120 Hearing; determination. At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

Curry County Enterprise GIS

Vicinity map



Legend

- TOWNSHIPS
- ROADS
- PARCELS
- CITY LIMITS
- URBAN GROWTH BOUNDARY

0 1200 2400 3600 ft.

Map center: 42° 3' 14" N, 124° 16' 51" W



Scale: 1:12,000

This map is a public resource of general information. Use this information at your own risk. Curry County makes no warranty of any kind, expressed or implied, including any warranty of merchantability, fitness for any particular purpose or any other matter.

EXHIBIT A

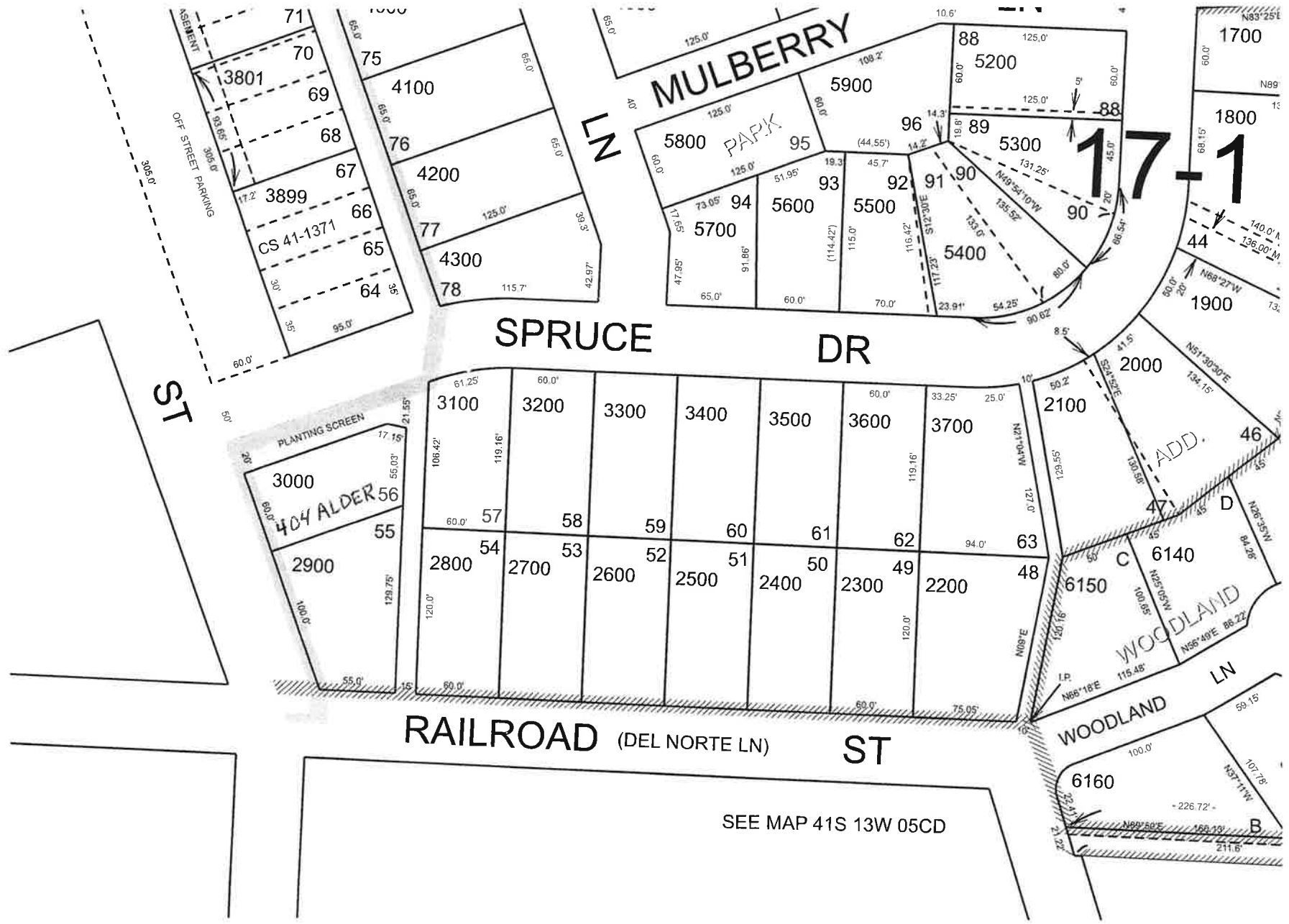
The "Planting Screen" Lot lying between Lot 56 and Spruce Drive, Woodland Park Addition, in the City of Brookings, Curry County, Oregon.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 25, 1995
RICHARD P. ROBERTS
2730

EXPIRATION DATE: 12/31/14



SEE MAP 41S 13W 05CD

41-13-5CA

City of Brookings
Consent to the Vacation of a Planting Screen

Larry D. Carpenter is applying for the vacation of a Planting Screen. Your signature on this form implies consent to this vacation.

I hereby consent to the vacation of:

planting screen which is in the vicinity of a parcel(s) of land in my ownership, identified as:

Assessor's Map #: 41-13-05CA

Tax Lot (s): 3000

Name: Larry D. Carpenter

Address: 404 Alder Street

Brookings, OR 97415

Signature: Larry D. Carpenter Date: Oct. 23, 2013

Signature: _____ Date: _____

STATE OF OREGON)

SS

COUNTY OF CURRY)

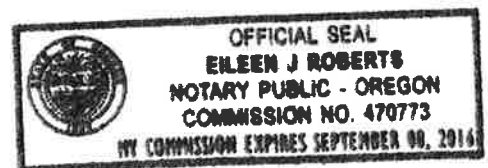
Signed or attested on October 23, 2013 (date)

By: Larry D. Carpenter

BEFORE ME: Eileen J. Roberts

Notary Public for: State of Oregon, County: Curry

My commission expires: Sept. 8, 2016



Abutting/affected parcels area
(only adjacent parcel)

Owner -

Larry D. Carpenter
404 Alder Street
Brookings, OR 97415

Assessor's Map-
41-13-05CA
tax lot 3000

October 23, 2013

To: City of Brookings regarding Consent to the Vacation of a Planting Screen.

From: Larry D. Carpenter

404 Alder Street

Brookings, Oregon 97415

I am requesting consent from the city of Brookings to vacate the planting screen, which is located next to my house, for the following reasons:

1. The City Public Works Department would be relieved from the responsibility of maintaining the planting screen.
2. It would give me the opportunity and space to do additional landscaping.
3. It would bring the non conforming setback space, which exists between my house and the planting screen, into compliance with the new fifteen foot side street setback requirement. The setback from my house is presently only four and one half feet from the planting screen.

For these reasons I believe that vacating the planting screen would be of mutual benefit to me and the City of Brookings. Your consideration of this matter would be greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Larry D. Carpenter". The signature is written in black ink and is positioned above the printed name.

Larry D. Carpenter

After recording return to:
City of Brookings
898 Elk Drive
Brookings, OR 97415

Mail Tax Statements for Exhibit A to :
Larry D. Carpenter
404 Alder Street
Brookings, OR 97415

**IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 13-O-719**

IN THE MATTER OF ORDINANCE 13-O-719, AN ORDINANCE VACATING "PLANTING SCREEN" LOT."

Sections:

- Section 1. Findings and Determination.
- Section 2. Vacation.
- Section 3. Certification of Ordinance

The City of Brookings ordains as follows:

Section 1. Findings and Determination. The City Council of the City of Brookings considered vacation of the following described parcel of land:

Planting Screen Lot, as described in Exhibit A.

The City Recorder of the City of Brookings gave due notice, pursuant to Oregon Revised Statute (ORS) 271.110, of the public hearing to be held before the City Council at 7:00 PM on December 9, 2013, in City Hall Council Chambers, Brookings, Oregon 97415. Said notice provided that, prior to the hearing, any persons whomsoever having any objection or remonstrance to said planting screen vacation, or any part thereof, must file written objection or remonstrance with the City Recorder.

It appears to the satisfaction of the City Council that the proposed vacation is in the best interests of the City. The public interest will not be prejudiced by the vacation and that the vacation will not substantially affect the market value of abutting property.

Section 2. Vacation. The City of Brookings does hereby vacate the Planting Screen Lot described in Exhibit A.

Section 3. Certification of Ordinance. The City Recorder is hereby instructed to forthwith record and file certified copies of this Ordinance with the County Clerk, County Assessor and County Surveyor of Curry County, Oregon.

First Reading: _____ Passage: _____
Second Reading: _____ Effective Date: _____

Signed by me in authentication of its passage this _____, day of _____, 2013.

ATTEST:

Mayor Ron Hedenskog

City Recorder Joyce Heffington

STATE OF OREGON
County of Curry

Signed or attested before me on the _____ day of December, 2013 by Ron Hedenskog, Mayor of the City of Brookings.

Notary Public - State of Oregon

EXHIBIT A

The "Planting Screen" Lot lying between Lot 56 and Spruce Drive, Woodland Park Addition, in the City of Brookings, Curry County, Oregon.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 25, 1995
RICHARD P. ROBERTS
2730

EXPIRATION DATE: 12/31/14

CITY OF BROOKINGS
COUNCIL AGENDA REPORT

Meeting Date: December 9, 2013

LP Donna Colby-blanks
Signature (submitted by)
[Signature]
City Manager Approval

Originating Dept: PWDS -Planning

Subject: Correction to Exhibit A, metes and bounds description, of Ordinance 13-O-712 adopting File ANX-1-13, Airport Annexation.

Recommended Motion: A motion to approval amending Exhibit A of Ordinance 13-O-712 to correct the metes and bounds description for File ANX-1-13, Airport Annexation and proceed to adopting ordinance.

Financial Impact: None.

Background/Discussion: The City Council approved File ANX-1-13, Airport Annexation in June, 2013 with adopting Ordinance 13-O-712. It has recently come to staff's attention that Exhibit A, the metes and bounds description, of Ordinance 13-O-712, used in filing the Airport Annexation omitted one parcel that was to be included. The parcel is identified as tax lot 103 on Assessor's Map 40-13-31D. The consent to annex forms, notices provided to adjacent properties, public notices, Planning Commission and City Council reports, and the text of adopting Ordinance No. 13-O-712 included this parcel.

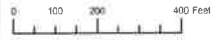
To resolve the issue, a revised metes and bounds description that encompasses all parcels that owners requested be annexed into the City of Brookings needs to be adopted. This will be accomplished with Ordinance 13-O-720.

Policy Considerations: None.

Attachment(s):

- A. Assessor's Map 40-13-31D
- B. Ordinance No. 13-O-720

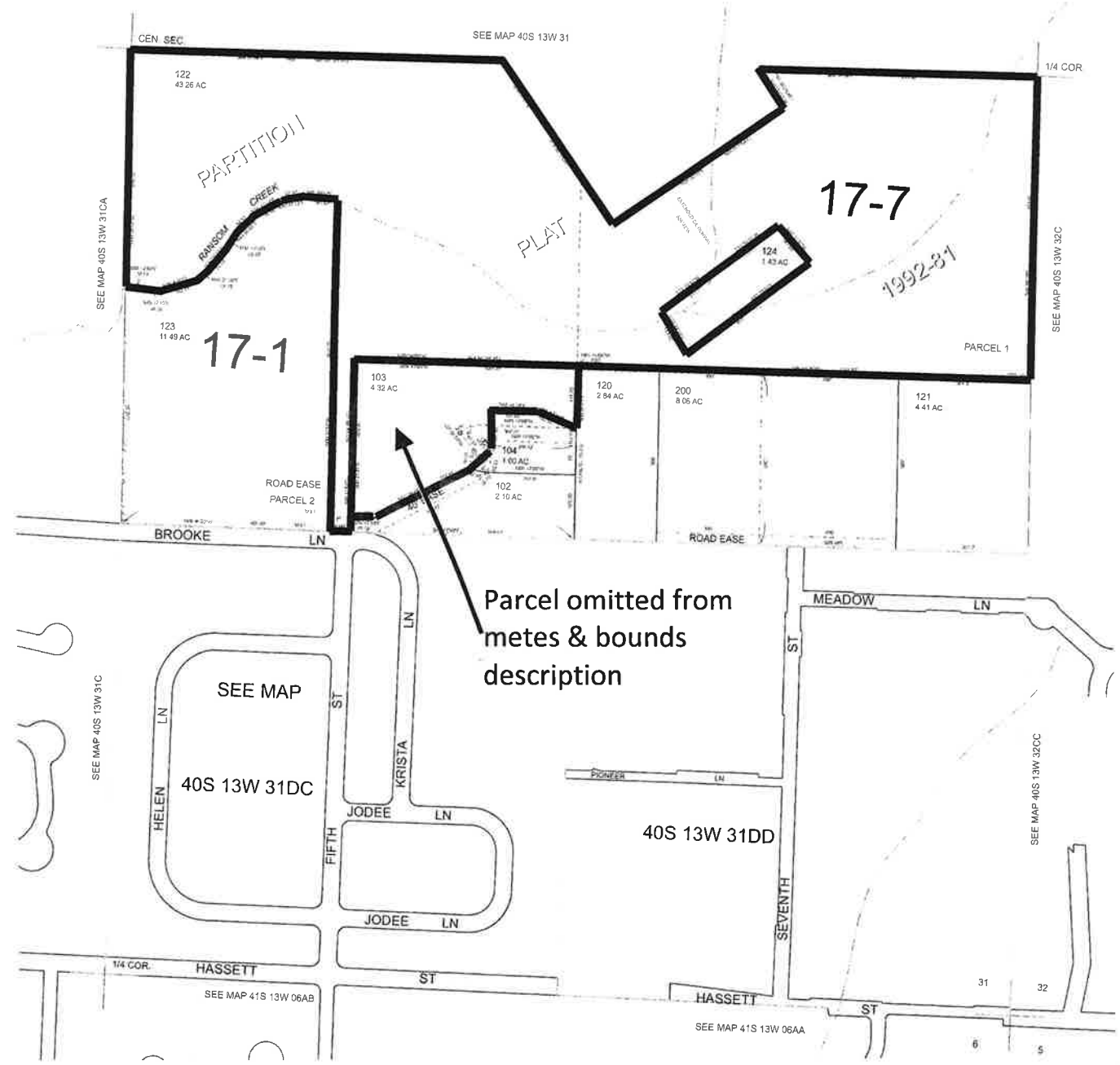
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY



SE1/4 SECTION 31 T.40S. R.13W. W.M.
CURRY COUNTY
1" = 200'

40S 13W 31D
& INDEX

- CANCELLED NO
- 100
- 101
- 105
- 106
- 110
- 300
- 400
- 401
- 402
- 403
- 404



Parcel omitted from metes & bounds description

Revised RAA
12/7/2006

40S 13W 31D
& INDEX

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON
ORDINANCE 13-O-720

IN THE MATTER OF ORDINANCE 13-O-720, AN ORDINANCE AMENDING, IN ITS ENTIRETY, EXHIBIT “A” OF ORDINANCE 13-O-712, AN ORDINANCE THAT AMENDED THE CITY LIMITS AND ZONING MAP OF THE CITY OF BROOKINGS.

Sections:

- Section 1. Ordinance Identified.
- Section 2. Amends Exhibit “A” of Ordinance 13-O-712

WHEREAS, Exhibit “A” of Ordinance 13-O-712, provides an inaccurate metes and bounds description for the territory annexed into the City of Brookings thereunder; and

WHEREAS, the consent to annex forms, the notices provided to adjacent properties, the public notices, the Planning Commission and City Council staff reports, and the text of Ordinance 13-O-712 identified accurately all parcels to be annexed; and

WHEREAS, amending Exhibit “A” to provide the correct metes and bounds description is necessary to perfect the annexation by providing an accurate description of the territory annexed into the City of Brookings under Ordinance 13-O-712.

NOW THEREFORE, the City of Brookings ordains as follows:

Section 1. Ordinance identified. This ordinance amends, in its entirety, Exhibit “A” of Ordinance 13-O-712, an Ordinance that amended the City limits and zoning map of the City of Brookings.

Section 2. Amends Exhibit “A” of Ordinance 13-O-712. Exhibit “A” is amended as attached in its entirety.

First Reading: _____ Passage: _____
Second Reading: _____ Effective Date: _____

Signed by me in authentication of its passage this _____, day of _____, 2013

ATTEST:

Mayor Ron Hedenskog

City Recorder Joyce Heffington

EXHIBIT A

A parcel of land lying in within the South Half of Section 30, and the Northwest Quarter and the East Half of Section 31, and the Southwest Quarter of Section 32, Township 40 South, Range 13 West, Willamette Meridian, Curry County, Oregon more particularly described as follows:

BEGINNING at a point lying on the north line of Parcel One of Partition Plat No. 1992-81, recorded December 30, 1992 in Instrument 1992-10510 Official Records of Curry County, Oregon, said point bears North $89^{\circ}54'37''$ West a distance of 815.96 feet from the common Quarter corner of Section 31 and Section 32;

thence, along said north line, South $89^{\circ}54'37''$ East (record South $89^{\circ}54'09''$ West) a distance of 815.96 feet to said Quarter corner;

thence, southerly along the Section line common to Section 31 and Section 32, South $00^{\circ}56'38''$ East a distance of 861.00 feet, more or less, to the center of an unnamed creek, said point being the Northwest corner of that parcel of land conveyed to the Sandra L. Bonney Trust Dated October 4, 1995, recorded April 16, 2004 in Instrument 2004-2314, Official Records of Curry County, Oregon;

thence, along the northerly line of said Bonney parcel, South $39^{\circ}40'10''$ East a distance of 57.28 feet;

thence South $47^{\circ}16'05''$ East a distance of 90.18 feet;

thence South $33^{\circ}51'20''$ East a distance of 135.41 feet;

thence South $86^{\circ}45'31''$ East a distance of 143.31 feet;

thence South $02^{\circ}18'34''$ East a distance of 12.06 feet, more or less, to the northerly boundary of that parcel of land conveyed to the Sandra L. Bonney Trust Dated October 4, 1995, recorded January 22, 1996 in Instrument 1996-0284, Official Records of Curry County, Oregon;

thence, along said northerly boundary, South $86^{\circ}45'31''$ East a distance of 56.19 feet, more or less, to the westerly boundary of that parcel of land conveyed to Patrick Wong and Teresita D. Wong, husband and wife, recorded April 16, 2004 in Instrument 2004-2315, Official Records of Curry County, Oregon;

thence, along said westerly boundary, South $07^{\circ}27'07''$ East a distance of 54.98 feet;

thence South $74^{\circ}12'24''$ East a distance of 94.89 feet;

thence South $47^{\circ}56'34''$ East a distance of 101.69 feet, more or less, to the westerly right-of-way of Old County Road said point being the beginning of a non-tangent curve, to the left with a radius of 100.00 feet, from which the radius point bears North $89^{\circ}33'16''$ East;

thence, southerly along said right-of-way, along the arc through a central angle of $27^{\circ}31'10''$, an arc distance of 48.03 feet;

thence South $27^{\circ}47'56''$ East a distance of 49.96 feet, to a point of a tangent curve to the right, with a radius of 25.00 feet;

thence, southerly, along the arc through a central angle of $98^{\circ}34'35''$, an arc distance of 43.01 feet;

thence South $70^{\circ}46'30''$ West a distance of 36.06 feet, more or less, to the south line of the Northwest Quarter of the Southwest Quarter of section 32;

thence, leaving said right-of-way and westerly along said south line, North $89^{\circ}13'38''$ West a distance of 530.38 feet, more or less, to the Southwest corner of the Northwest Quarter of the Southwest Quarter of Section 32;

thence, northerly along the Section line common to Section 31 and Section 32, North $00^{\circ}56'38''$ West a distance of 500.06 feet, more or less, to the southeast corner of Parcel One of said Partition Plat No. 1992-81;

thence, leaving said Section line and along the boundary of said Parcel One, South $89^{\circ}54'58''$ West a distance of 1321.93 feet;

thence North 65°46'34" West a distance of 8.97 feet, more or less, to the northeast corner of that parcel of land described in that Bargain and Sale Deed, recorded October 25, 2002 in Instrument 2002-6251, Official Records of Curry County, Oregon;

thence, leaving the boundary of said Parcel One, South 00°15'42" East a distance of 177.70 feet, more or less, to the northeast corner of that parcel of land described in that Bargain and Sale Deed, recorded October 25, 2002 in Instrument 2002-6250, Official Records of Curry County, Oregon;

thence, along the boundary of said Instrument 2002-6250, North 69°03'51" West a distance of 116.45 feet;

thence North 87°57'31" West a distance of 134.00 feet;

thence South 00°48'39" West a distance of 126.92 feet;

thence South 49°16'22" West a distance of 73.91 feet, to the northerly boundary of that parcel of land conveyed to Peter C. Spratt and Kathleen A. Spratt, husband and wife, recorded March 25, 2003 in Instrument 2003-2989, Official Records of Curry County, Oregon;

thence, southerly and westerly along said northerly boundary, South 61°07'28" West a distance of 317.47 feet;

thence North 89°58'31" West a distance of 65.59 feet, more or less, to the boundary of Parcel One of Partition Plat No. 1992-81, recorded December 30, 1992 in Instrument 1992-10510 Official Records of Curry County, Oregon;

thence, along the boundary of said Parcel One, South 00°12'25" East a distance of 41.43 feet;

thence North 89°46'50" West a distance of 60.00 feet;

thence North 00°12'25" West a distance of 959.19 feet to the centerline of Ransom Creek;

thence, along said centerline, North 86°21'10" West a distance of 101.67 feet;

thence South 76°46'45" West a distance of 62.50 feet;

thence South 58°41'16" West a distance of 98.16 feet;

thence South 43°19'54" West a distance of 58.57 feet;

thence South 32°13'30" West a distance of 63.72 feet;

thence South 38°50'57" West a distance of 74.68 feet;

thence South 46°21'22" West a distance of 42.45 feet;

thence South 70°42'33" West a distance of 112.71 feet;

thence North 79°52'43" West a distance of 46.66 feet;

thence North 88°42'31" West a distance of 57.64 feet to the North-South centerline of said Section 31;

thence, leaving said creek and along said North-South centerline, North 00°29'10" West a distance of 695.40 feet, to the Center Quarter Section corner of said Section 31;

thence South 89°54'37" East a distance of 421.01 feet, more or less, to the southwest corner of Parcel I of those tracts of land conveyed to the City of Brookings, recorded March 7, 1974 in Book of Records 33 Page 366, Official Records of Curry County, Oregon;

thence, leaving the boundary of said Partition Plat No. 1992-81 and along the westerly boundary of said Parcel I, North 24°36'32" West a distance of 327.00 feet;

thence North 37°32'01" West a distance of 248.70 feet;

thence North 00°00'34" West a distance of 69.00 feet;

thence North 36°00'00" East a distance of 264.00 feet, more or less, to the most northerly corner of said Parcel I;

thence, leaving the boundary of said Parcel I, North 65°15'02" West a distance of 323.38 feet, more or less, to the North-South centerline of said Section 31, said point also being the most northerly corner of Parcel Two of Partition Plat No. 1996-11, recorded April 25, 1996 in Instrument 1996-1832, Official Records of Curry County, Oregon;

thence, northerly along said North-South centerline, North 00°17'48" West a distance of 386.00 feet, more or less, to the Northwest corner of the Southwest Quarter of the Northeast Quarter of said Section 31;

thence North 37°52'31" West a distance of 451.07 feet;

thence, North 37°38'31" West a distance of 1252.42 feet, more or less, to a point lying on the Section line common to Section 30 and Section 31, said point being 1034.83 feet westerly from the Quarter corner common to said Section 30 and Section 31, also being the Southwest corner of that parcel of land conveyed to Curry County, recorded February 21, 1963 in Deed Volume 67 Page 493 Official Records of Curry County, Oregon;

thence, leaving said Section line and along the boundary of said Deed Volume 67 Page 493, North 12°11'06" West a distance of 144.59 feet;

thence North 53°18' 00" East a distance of 769.70 feet;

thence South 36°42'00" East a distance of 750.00 feet to the Quarter corner common to Sections 30 and 31;

thence, leaving said Section line and along the boundary of Parcel II of those tracts of land conveyed to the South Coast Lumber Company, recorded August 5, 1960 in Deed Volume 59 Page 336, Official Records of Curry County, Oregon, South 35°21'53" East a distance of 449.80 feet;

thence, North 54°37'04" East a distance of 413.38 feet, more or less, to the Southwest corner of that parcel of land conveyed to Curry County, recorded January 8, 1997 in Instrument 1997-0096, Official Records of Curry County, Oregon;

thence, leaving the boundary of said Deed Volume 59 Page 336 and along the boundary of said Instrument 1997-0096, North 14°07'25" East a distance of 221.08 feet;

thence North 49°11'06" East a distance of 22.11 feet;

thence North 88°44'16" East a distance of 158.02 feet;

thence South 80°50'48" East a distance of 115.83 feet;

thence South 04°08'11" East a distance of 80.94 feet, more or less, to the Section line common to Sections 30 and 31;

thence, leaving the boundary of said Instrument 1997-0096, Easterly along said Section line, 364.86 feet, more or less, to the Northeast corner of the Northwest Quarter of the Northeast Quarter of said Section 31;

thence Southerly along the One Sixteenth line 1320 feet, more or less, to the Southeast corner of the Northwest Quarter of the Northeast Quarter of said Section 31;

thence continuing Southerly along the One Sixteenth line 620 feet, more or less, to a point North 700 feet from the Center East One Sixteenth corner of Section 31;

thence Southeasterly 855 feet to a point on the East-West centerline of section 31, said point being 500 feet easterly of said Center East One Sixteenth;

thence Easterly along said east-West centerline 2.00 feet, more or less, to the POINT OF BEGINNING.

