

Tillamook County, Oregon  
04/19/2024 02:00:00 PM

2024-001585

DEED-VACAT

\$125.00 \$11.00 \$61.00 \$10.00 \$25.00 \$32.50 - Total = \$264.50



I hereby certify that the within  
instrument was received for record and  
recorded in the County of Tillamook,  
State of Oregon

Christy Nyseth, Tillamook County Clerk

AFTER RECORDING, RETURN  
& SEND ALL TAX STATEMENTS TO:

Jeff Lee Heintz  
14231 Morton Rd.  
Oregon City, OR 97045

Robert & Michelle McSherry  
1480 SE Liberty Ave.  
Gresham, OR 97080

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON

In the Matter of the Vacation of a ) ORDER  
Portion of Custer Avenue, Tillamook ) #24- 017  
County, Oregon )

This matter came before the Tillamook County Board of Commissioners on April 17, 2024 at the request of the Chris Laity, Director, Public Works, at which time it appears that Road Vacation #574 was filed by property owners on November 22, 2023, in accordance with ORS 368.351. The road to be vacated is described in the attached Exhibit A.

The Board of Commissioners, being fully apprised of the records and files herein, finds as follows:

1. Road Vacation Petition #574 was properly filed with the Tillamook County Clerk on November 22, 2023, in accordance with ORS 368.341.
2. The Petitioners own 100% of the properties fronting the road vacation.
3. The road to be vacated is legally a Public Road.
4. The road to be vacated is a County Road.
5. The public right of way to be vacated is under the jurisdiction of Tillamook County.
6. Public notices were not required as a part of this petition as indicated in ORS 368.351.

- 7. The Tillamook County Public Works Director prepared and filed with the Board of Commissioners a written report which includes the assessment that the proposed vacation would be in the public interest, in accordance with ORS 368.351.
- 8. Therefore, after considering the Engineer's Report provided by the Director of Tillamook County Public Works, as well as records and files regarding this matter, the Board determines that the proposed vacation of the above described road is in the public interest, and that the above describe road should be vacated.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- 9. In accordance with ORS 368.351, the road as described in Exhibit A is hereby vacated.

DATED THIS 17<sup>th</sup> day of April, 2024.

THE BOARD OF COMMISSIONERS  
FOR TILLAMOOK COUNTY, OREGON

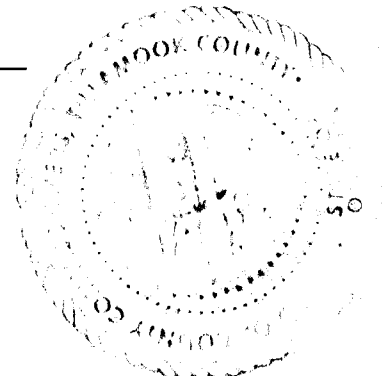
	Aye	Nay	Abstain/Absent
_____ Mary Faith Bell, Chair	_____	_____	_____/_____ ✓
_____ <i>Doug Olson</i> Doug Olson, Vice-Chair	X	_____	_____/_____
_____ <i>Erin D. Skaar</i> Erin D. Skaar, Commissioner	✓	_____	_____/_____

ATTEST: Christy Nyseth,  
County Clerk

APPROVED AS TO FORM:

By: *[Signature]*  
Special Deputy

*[Signature]*  
William K. Sargent,  
County Counsel





## Tillamook County Public Works

503 Marolf Loop Road, Tillamook, OR 97141

County Road Phone: 503-842-3419

Solid Waste Phone: 503-815-3975

Email: pubwks@co.tillamook.or.us

TTY Oregon Relay Service

*Land of Trees, Cheese, and Ocean Breeze*

# PETITION TO VACATE PUBLIC RIGHT OF WAY #574 PUBLIC WORKS STAFF REPORT

Date: March 16<sup>th</sup>, 2024

Report Prepared by: Jasper Lind, Engineering Technician II  
For Chris Laity, P.E., Director of Tillamook County Public Works

## I. GENERAL INFORMATION

Request: Petition to vacate that portion of Custer Avenue which is located between blocks 37 and 64 of the Brighton Beach Plat.

Area of Interest: An area of undeveloped dedicated public right of way which connects Bayview Boulevard to State Highway 101 approximately 1 mile west of Wheeler, Oregon as shown in the map for Township 2 north, Range 10 west, Section 9BB of the Willamette Meridian.

Petitioner: The petitioners represent 100% of private land abutting the right of way identified in the petition and all are signatories to the petition.

## II. APPLICABLE STATUTES / ORDINANCES:

- 1) ORS 368.326 to 368.426
- 2) (By Reference from ORS Ch. 92.180 thru 92.192)

## III. REVIEW:

### 1. Right of Way History

- 1) **Creation** – Petition #574 requests the vacation of a portion of the Custer Avenue Public Right of Way which is 190 feet long, more or less, and 60 feet wide. This road alignment was originally recorded on the 1909 map of Brighton Beach (C-0002).
- 2) **Prior Vacation / Dedication / Property Line Adjustment** – Since the time of the original map, a large portion of the area has been replatted through the 1996 Brighton Beach Estates map (C-460). That same year a substantial portion of Custer Avenue was recorded as vacated in County Court Journal Book 379 Page 625. This left one segment of right of way just under 600 feet in length still connected to Highway 101.

## 2. Current Petition to Vacate

- 1) The stated intent of the petitioners is to remove Public Right of Way from the land identified in the petition.
- 2) 100% of the adjacent or affected landowners are participating in the petition.

## **IV. PUBLIC ACCESS / TRANSPORTATION SYSTEM or FINANCIAL IMPACT:**

- 1) The only impact of this vacation to the county wide transportation system is that a single fire safety turnaround, currently within a public right of way, would be located on private property.
- 2) There are no financial costs to Tillamook County.
- 3) This petition does not impact any existing access to rivers, beaches, or recreational property.

## **V. STATUS OF PUBLIC UTILITIES**

- 1) All of the utilities responding to our inquiry through the Oregon Utility Notification Center were not located within the subject right of way, but rather, were located in adjacent or proximal right of way.

## **VII. PETITION CONCLUSION AND RECOMMENDATIONS:**

- 1) Tillamook County Engineering staff has reviewed the subject petition, its supporting documentation, and visited the site.
- 2) The subject property is located between the eastern right of way boundary for State Highway 101 and the western right of way boundary for Bayview Boulevard. Its northern and southern limits are, respectively, block 37 and block 64 of the Brighton Beach Estates Plat.
- 3) The expressed intent of the petitioner is to remove the public right of way as illustrated in Exhibit 01.
- 4) Engineering staff recommends **Approval** of Vacation Petition #574 with the following conditions:
  - a) Approval of this petition for Vacation in no way relieves the affected properties, their heirs or assigns, from easements or encumbrances not identified herein.
  - b) All fees associated with professional services, document preparation and public recording are to be the sole responsibility of the petitioners. Required final field survey and property line adjustments are to be completed based on BOCC approval, all recordings to be completed within one calendar year.
  - c) The existing fire safety turnaround shall be maintained in serviceable condition and free of obstruction by the property owners in perpetuity, or until such time that an alternative is constructed and approved of by both the District Fire Chief and Tillamook County Public Works in writing.

## **VIII. EXHIBIT LIST:**

1. Tax map showing the legal vesting pattern of the vacated right of way.
2. Satellite image and plat maps for the right of way to be vacated.
3. Maps of adjacent surveys and wetlands.
4. Aerial and street view images.
5. Original Petition with letters from Tillamook County Clerk & Assessor Office.

**EXHIBIT 01**

N89°51'00"E 548.34'

NEHALEM

BAY

P.T.B.R.R.

101

HIGHWAY

COAST

KENTON

AVE

N89°51'E

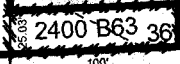
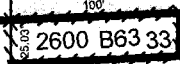
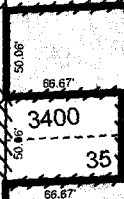
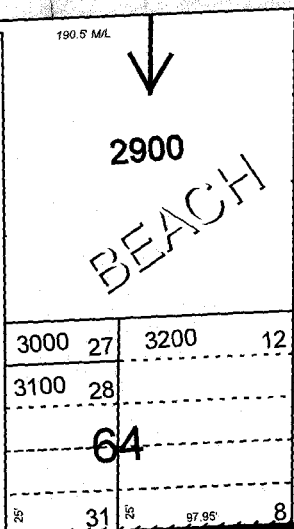
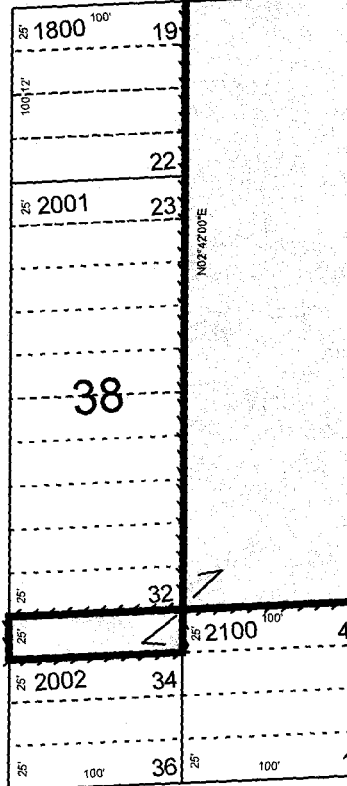
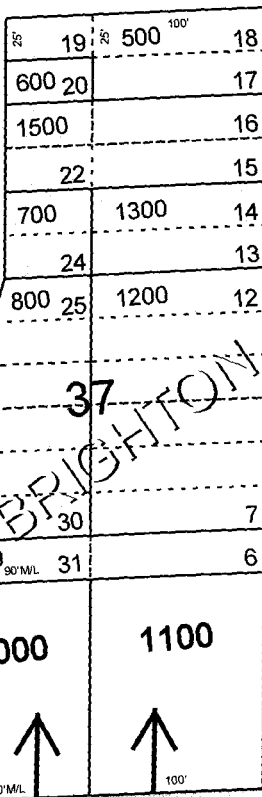
BRIGHTON

BEACH

BAY VIEW BOULEVARD

CUSTER AVE

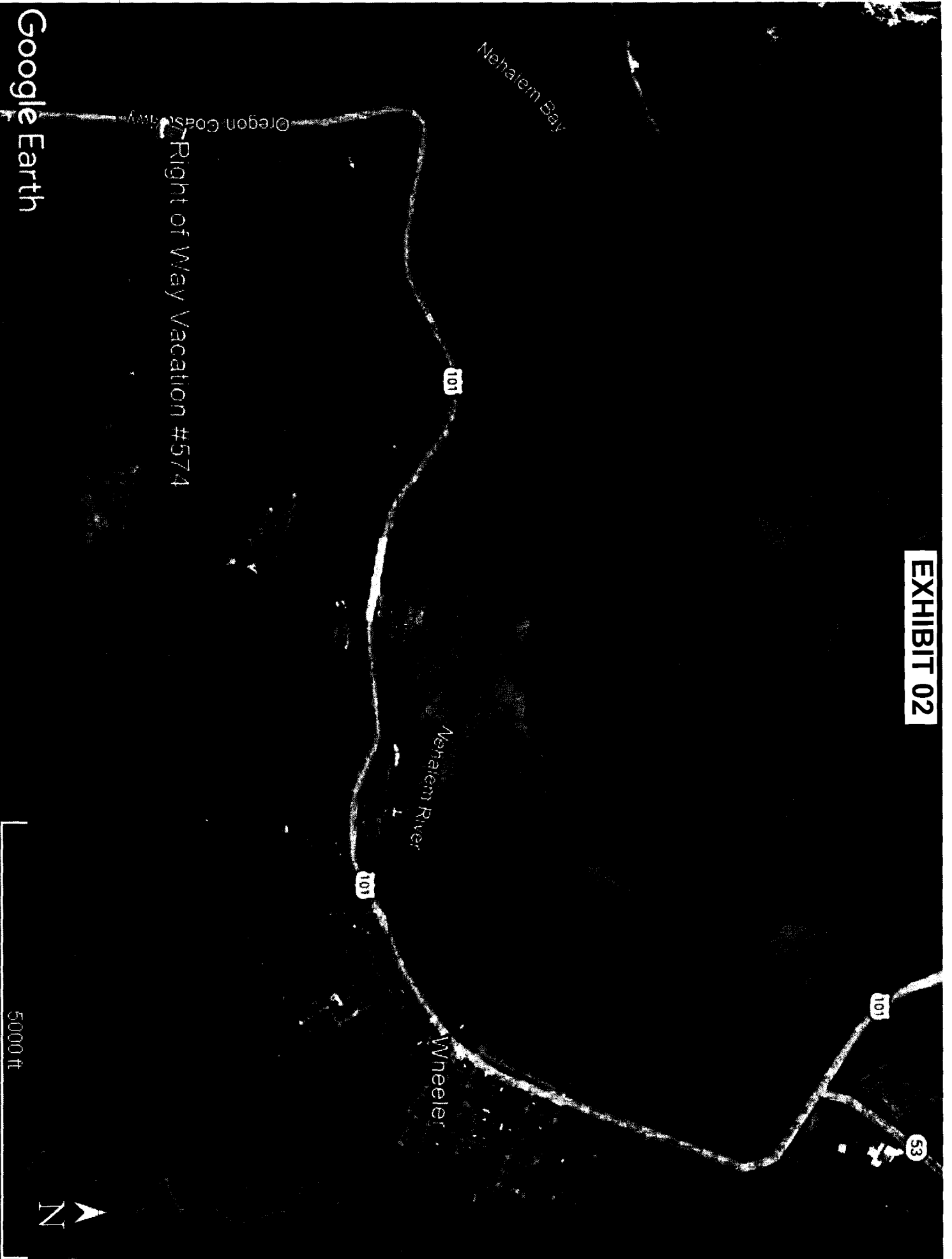
HALL ST



Proposed Area for Right of Way Vacation #574

02N10W09BB  
BRIGHTON BEACH

EXHIBIT 02



Google Earth

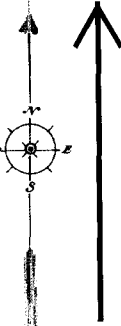
Right of Way Vacation #574

5000 ft



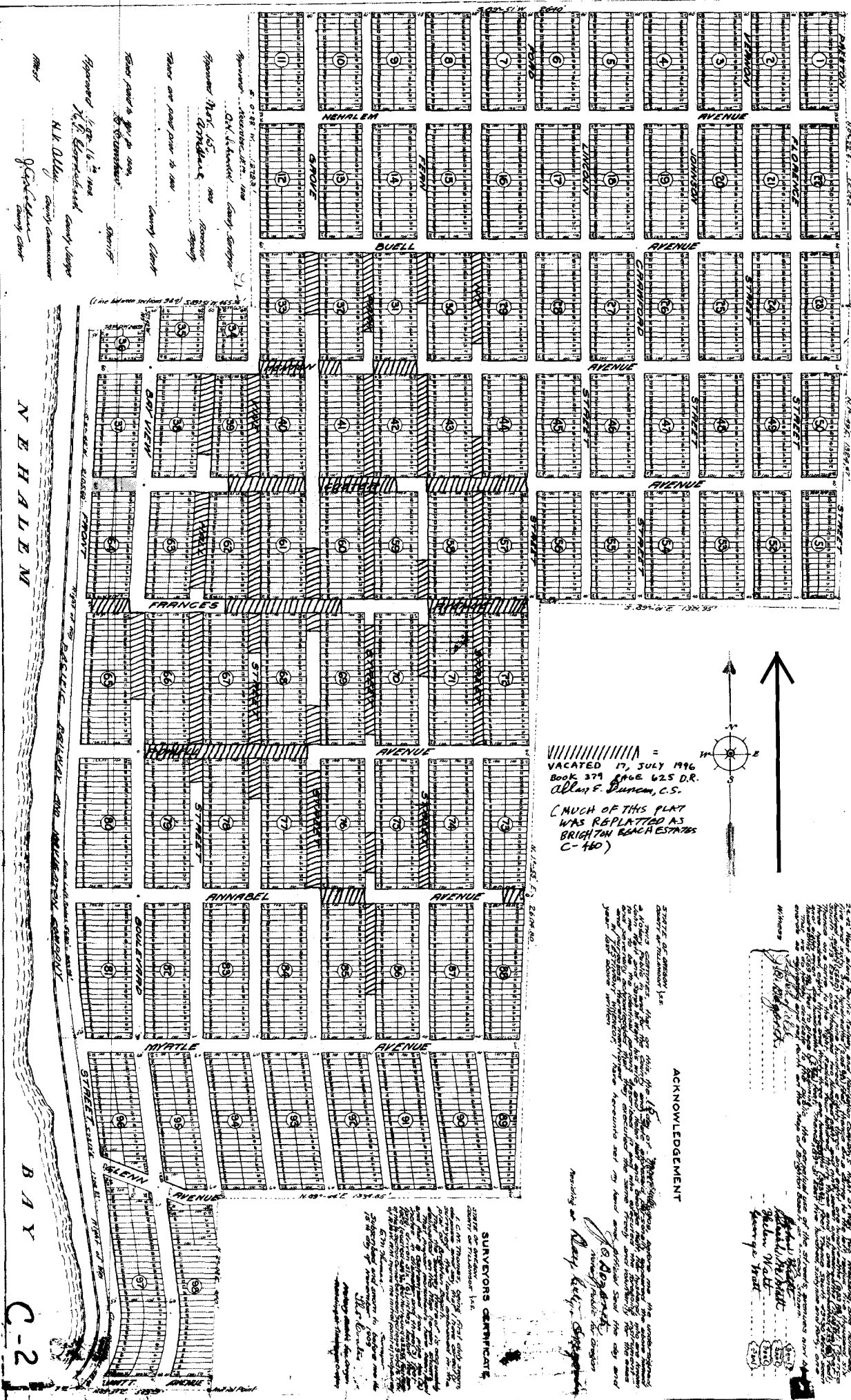
# MAP OF BRIGHTON BEACH

LOCATED IN  
SEC. 4 and SEC. 8, TOWNSHIP NO. 7 N. OF RANGE NO. 10 W.  
WILLAMETTE MERIDIAN  
Surveyed by CHAS. THOMPSON, C.S.  
Scale - One Inch = 100 Feet



/////// =  
VACATED 17, JULY 1996  
BOOK 379 PAGE 625 D.R.  
Allen F. Duncan, C.S.

(MUCH OF THIS PLAT  
WAS REPLATTED AS  
BRIGHTON BEACH ESTATES  
C-460)



NEHALEM  
BAY

C-2

Spanned 1870-1875  
Spanned 1875-1880  
Spanned 1880-1885  
Spanned 1885-1890  
Spanned 1890-1895  
Spanned 1895-1900  
Spanned 1900-1905  
Spanned 1905-1910  
Spanned 1910-1915  
Spanned 1915-1920  
Spanned 1920-1925  
Spanned 1925-1930  
Spanned 1930-1935  
Spanned 1935-1940  
Spanned 1940-1945  
Spanned 1945-1950  
Spanned 1950-1955  
Spanned 1955-1960  
Spanned 1960-1965  
Spanned 1965-1970  
Spanned 1970-1975  
Spanned 1975-1980  
Spanned 1980-1985  
Spanned 1985-1990  
Spanned 1990-1995  
Spanned 1995-2000

**DEDICATION**

I, the undersigned, do hereby dedicate to the public use of the people of the State of Oregon, the following described lands, to-wit:

That certain lands and premises, situated in the County of Washington, State of Oregon, and more particularly described as follows: ...

Witness my hand and seal at the City of Portland, Oregon, this 17th day of July, 1996.

Allen F. Duncan, C.S.

**ACKNOWLEDGEMENT**

I, the undersigned, do hereby acknowledge the foregoing dedication of the above described lands to the public use of the people of the State of Oregon, made by Allen F. Duncan, C.S., on the 17th day of July, 1996.

Witness my hand and seal at the City of Portland, Oregon, this 17th day of July, 1996.

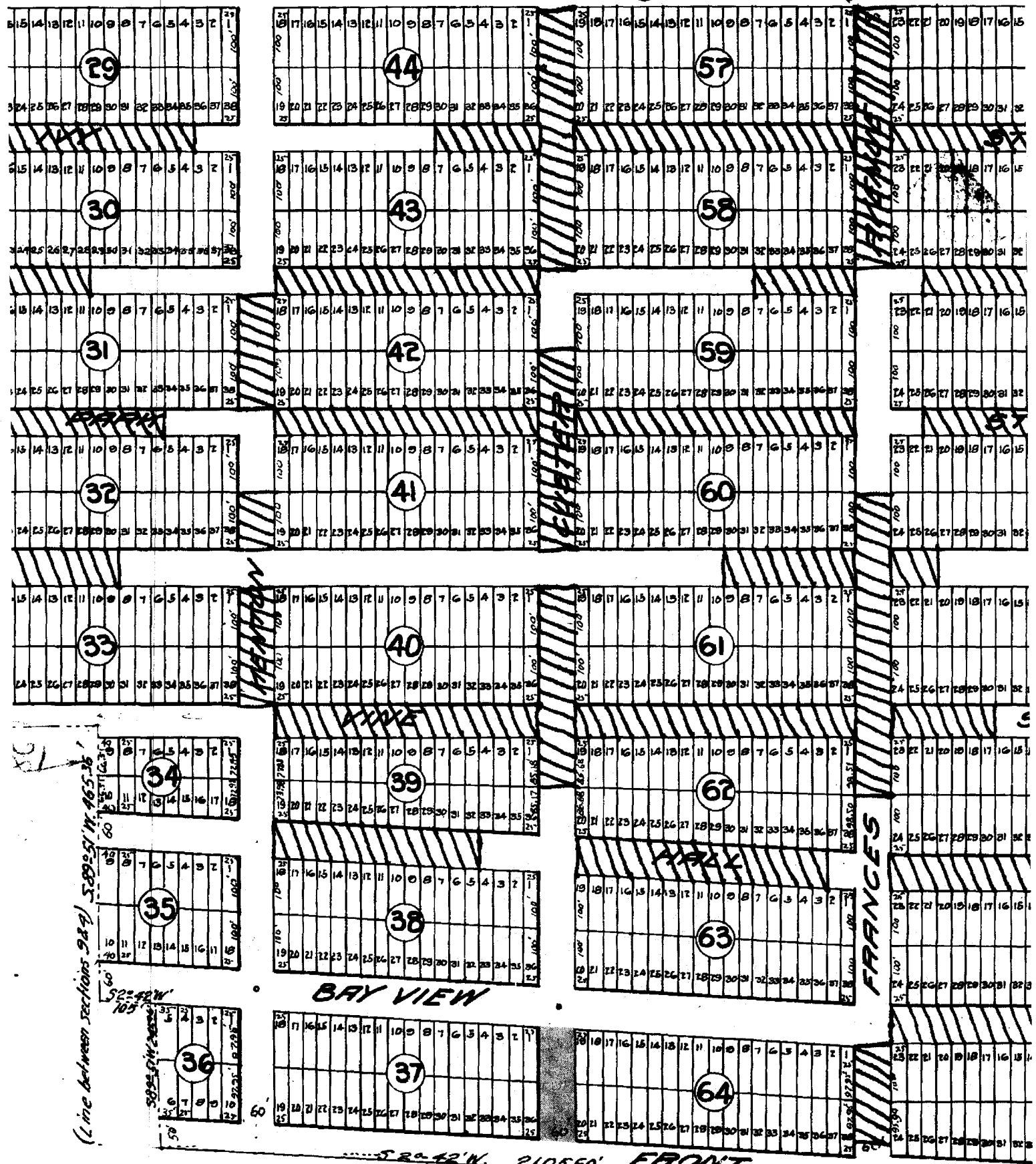
Allen F. Duncan, C.S.

**SURVEYORS CERTIFICATE**

I, the undersigned, do hereby certify that the foregoing plat was prepared by me or under my supervision, and that it is a true and correct copy of the original survey records on file in my office, and that the same are in accordance with the laws of the State of Oregon relating to surveys.

Witness my hand and seal at the City of Portland, Oregon, this 17th day of July, 1996.

Allen F. Duncan, C.S.



(Line between sections 24 & 25) S 89° 51' W 465.26'  
 52° 42' W 105'  
 50° 54' W 200'

BAY VIEW

FRANCES

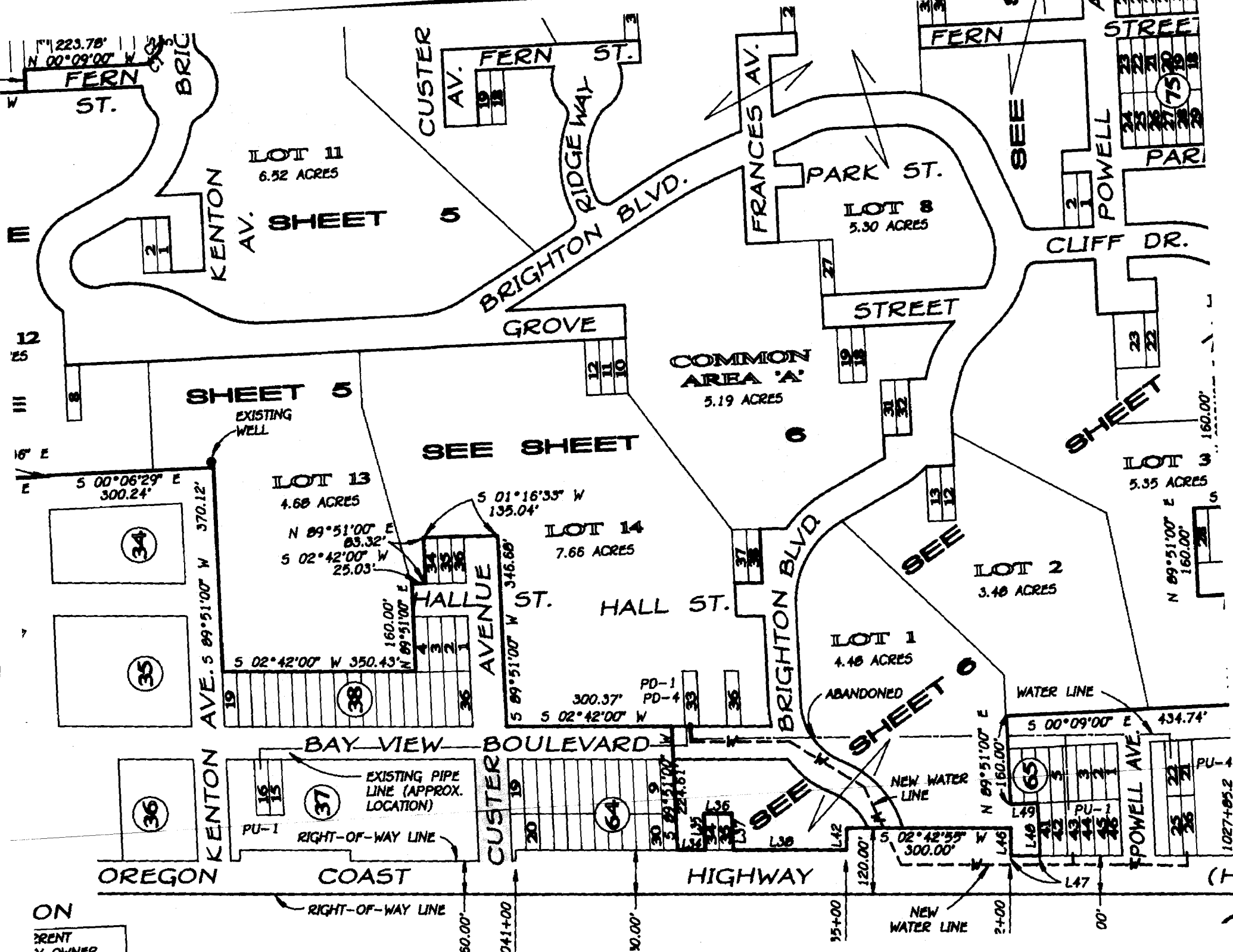
S 2° 42' N 2105.60' FRONT

Right of Way

PAC

N E H A L E M





LOT 11  
6.52 ACRES

LOT 8  
5.30 ACRES

LOT 3  
5.35 ACRES

LOT 13  
4.68 ACRES

LOT 14  
7.66 ACRES

LOT 2  
3.48 ACRES

LOT 1  
4.48 ACRES

COMMON  
AREA 'A'  
5.19 ACRES

223.78'  
N 00°09'00" W  
FERN ST.

5 00°06'29" E  
300.24'

5 01°16'35" W  
135.04'

N 89°51'00" E  
83.32'  
5 02°42'00" W  
25.03'

300.37'  
PD-1  
PD-4  
5 02°42'00" W

5 00°09'00" E  
434.74'

EXISTING PIPE  
LINE (APPROX.  
LOCATION)

NEW WATER  
LINE

NEW WATER  
LINE

ON  
RENT  
Y OWNER

RIGHT-OF-WAY LINE

RIGHT-OF-WAY LINE

RIGHT-OF-WAY LINE

120.00'  
95+00

2+00

1,027+85.2

15 12  
111  
16' E

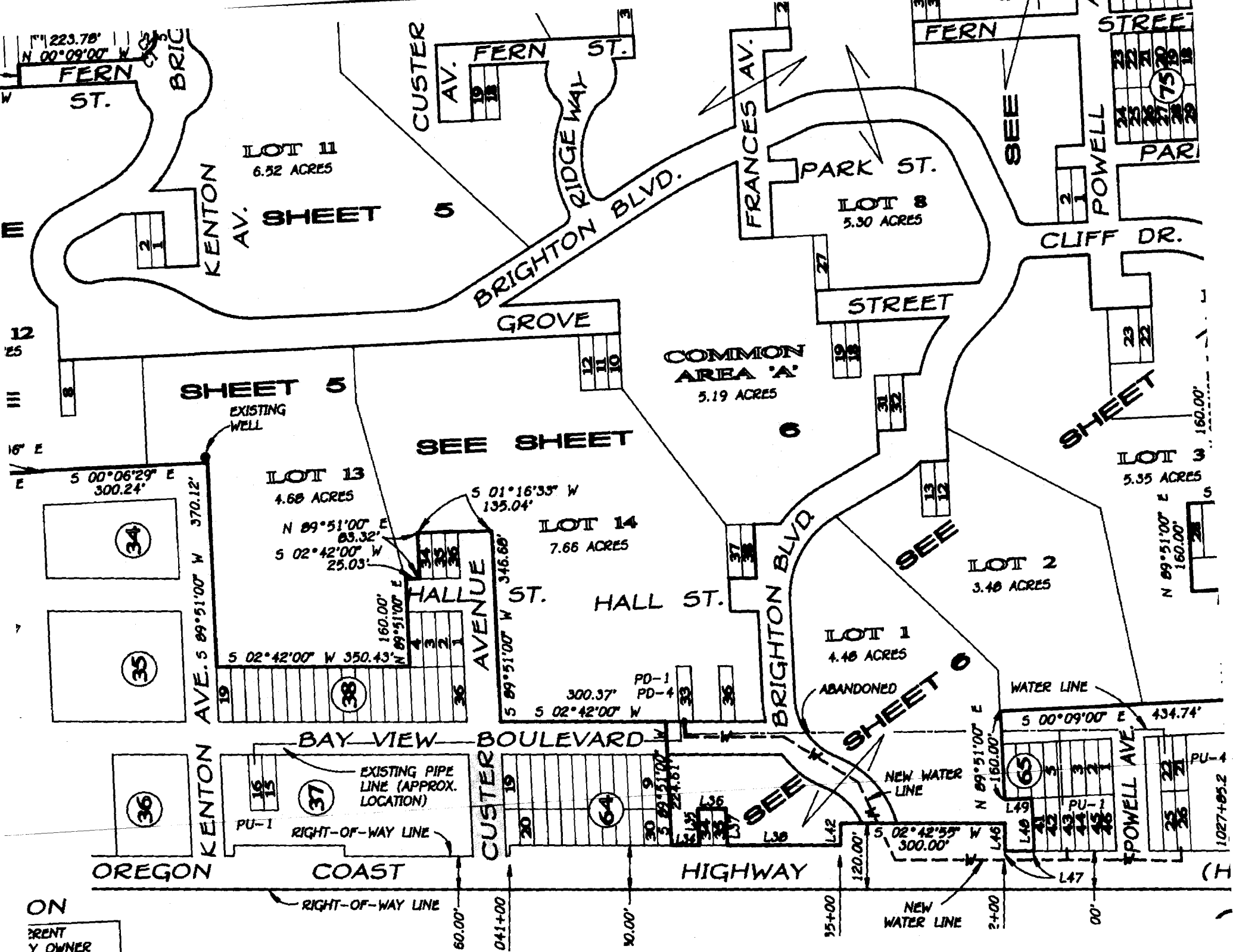
11

12

160.00'

N 89°51'00" E  
160.00'

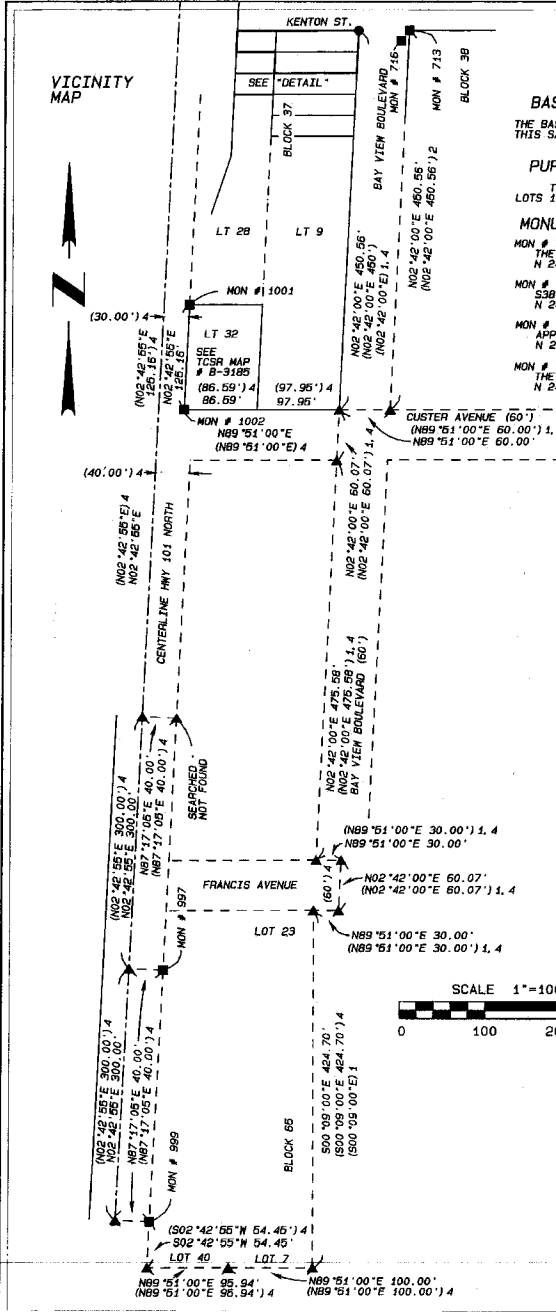
(H)



# EXHIBIT 03

A SURVEY OF LOTS 17, 18, AND 19, BLOCK 37, "BRIGHTON BEACH"  
 NW 1/4 OF NW 1/4, SECTION 9, T2N, R10W, W.M., TILLAMOOK COUNTY, OREGON

AUGUST 5, 2022  
 SHEET 1 OF 2



**BASIS OF BEARINGS**

THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALCULATED BEARING FROM THE NORTHWEST CORNER OF BLOCK 38 (MON # 713) TO MONUMENT # 999 PER TCSR MAP B-1848. THIS SAME BEARING BEING S12°01'14" W.

**PURPOSE**

THE PURPOSE OF THIS SURVEY IS TO SURVEY AND MONUMENT THE EXTERIOR BOUNDARY OF LOTS 17, 18, AND 19 COMBINED BLOCK 37, BRIGHTON BEACH.

**MONUMENT NOTES:**

- MON # 713 FOUND 5/8" REBAR WITH A PYC STAMPED "HLB & ASSOC INC" TOP 0.2' BELOW THE SURFACE. ORIGIN A-8857, HELD AS NW CORNER BLOCK 38; N 24,965.37, E 25,001.18 (MON)
- MON # 716 FOUND 2" IRON PIPE TOP 1.2' ABOVE THE SURFACE. TIED TCSR MAP 2114, S30°06'30"W 1.37' FROM MON # 713 (HELD BLOCK CORNER), NOT USED, N 24,965.37, E 25,001.18 (HELD MON # 713)
- MON # 720 FOUND 1/2" IRON PIPE TOP 0.4' ABOVE THE SURFACE, TIED TCSR MAP 2114, APPARENTLY SET AS A BLOCK CORNER, S53°12'52"W 2.61' FROM CALC SW BLK 38, NOT USED, N 25,029.38, E 25,004.01 (CALC SW BLK 38)
- MON # 734 FOUND 5/8" REBAR WITH A PYC STAMPED "HLB & ASSOC INC" TOP 0.2' BELOW THE SURFACE. ORIGIN B-1848, S07°26'36"E 0.17' FROM CALC POSITION; N 24,965.53, E 25,101.18 (CALC)
- MON # 975 FOUND BENT 5/8" REBAR WITH NO CAP, TOP 0.10' BELOW THE SURFACE, ORIGIN B-1692, NOT USED THIS SURVEY, SET AS PARCEL CORNER, N 25,034.77, E 24,803.98 (MON)
- MON # 876 FOUND BENT 5/8" REBAR WITH NO CAP, TOP 0.10' BELOW THE SURFACE, ORIGIN B-1692, NOT USED THIS SURVEY, SET AS PARCEL CORNER, N 25,025.12, E 24,881.01 (MON)
- MON # 997 FOUND 5/8" REBAR WITH NO CAP, TOP 0.9' BELOW THE SURFACE, ORIGIN B-1848, N20°36'32"W 0.25' FROM CALC POSITION AT HIGHWAY STA 1035+00 40' RT; N 23,848.93, E 24,713.86 (MON)
- MON # 999 FOUND 5/8" REBAR WITH PYC STAMPED "HLB INC" TOP 0.1' ABOVE THE SURFACE, ORIGIN B-1848, N12°01'14"E 0.10' FROM CALC POSITION @ STA 1032+00 40' RT; N 23,549.27, E 24,699.64 (CALC)
- MON # 1001 FOUND 5/8" REBAR WITH PYC STAMPED "TERRY JONES LS 2507", TOP 0.1' BELOW THE SURFACE, ORIGIN B-3185, N44°59'18"W 0.20' FROM CALC POSITION @ NW CORNER LOT 32 & HIGHWAY ROW; N 24,639.69, E 24,741.34 (CALC)
- MON # 1002 FOUND 5/8" REBAR WITH PYC STAMPED "TERRY JONES LS 2507", TOP 0.25' ABOVE THE SURFACE, ORIGIN B-3185, N01°49'53"W 0.27' FROM CALC POSITION @ S BDRY BLK 37 & HIGHWAY ROW; N 24,514.67, E 24,735.42 (CALC)
- MON # 1034 FOUND 5/8" REBAR WITH PYC STAMPED "TERRY JONES LS 2507", TOP 0.10' BELOW THE SURFACE, ORIGIN B-1692, NOT USED THIS SURVEY, SET AS ANGLE POINT IN HIGHWAY ROW; S30°11'01"N 1.41' FROM CALC POSITION; N 25,044.00, E 24,815.94 (MON)

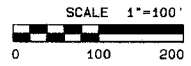
**NARRATIVE:**

I FOUND AND HELD THE ABSOLUTE POSITION OF MONUMENT # 713 AS THE NORTHWEST CORNER OF BLOCK 38. THE NORTHWEST CORNER OF BLOCK 38 (MONUMENT # 713) AND MONUMENT # 999 WERE UTILIZED FOR A BASIS OF BEARINGS. I HELD LOT AND BLOCK DIMENSIONS DETERMINED IN TCSR MAP # B-1848 AND B-3185 AFTER TIES TO MONUMENTS # 997 AND # 999 CONFIRMED THAT THEY WERE REASONABLE. I LAID OUT LOTS IN BLOCK 37 FROM MON # 713 USING THESE DIMENSIONS AND MY BASIS OF BEARINGS. I HELD THE HIGHWAY CENTERLINE ALIGNMENT AND CENTERLINE STATIONING PER TCSR MAP # B-3185. THE RIGHT OF WAY LINE EAST OF THE HIGHWAY CENTERLINE WAS DETERMINED FROM THE CENTERLINE STATIONING AND OFFSETS AS INDICATED IN BOOK 198, PAGE 444 TILLAMOOK COUNTY DEED RECORDS.

COORDINATES ARE LOCAL - ASSUMED

REGISTERED PROFESSIONAL LAND SURVEYOR  
*Neil A. Mendhall*  
 OREGON  
 JULY 19, 1982  
 NEILA.MENDHALL.JR.  
 2001

RENEWAL DATE: 12/31/22



SURVEY BY:  
 NEIL A. MENDHALL JR, LS 2001  
 PO BOX 2026  
 SEASIDE, OREGON 97138  
 (503) 738-6363  
 mendhall12025@msa1.com  
 file: covan valdez nhl.prc

SURVEY FOR:  
 JASON & CHRISTY HITZ  
 791 SW RED HILLS DRIVE  
 DUNDRE, OREGON 97115  
 (503) 266-9346

EQUIP:  
 SOKKIA SET 630R  
 TOTAL STATION  
 CREW: MAN, DNN, NDM

Symbol	Description
■	OTHER FOUND MONUMENT - SEE MONUMENT NOTES
⊠	FOUND BENT 5/8" REBAR NOT HELD
●	SET 5/8" X 30" REBAR WITH PLASTIC ORANGE CAP STAMPED "MENDHALL LS 2001"
▲	CALCULATED POSITION ONLY
---	HIGHWAY 101 CENTERLINE
—X—	METAL GATE (SEE DETAIL MAP)
---	MONUMENT TIES

- NO ( ) = MEASURED - CALCULATED PER THIS SURVEY
- ( ) = PER PLAT OF BRIGHTON BEACH MAP C-2
- ( 1 ) = PER CCSR MAP B-1848
- ( 2 ) = PER CCSR MAP A-8857
- ( 3 ) = PER CCSR MAP B-1976
- ( 4 ) = PER CCSR MAP B-1695
- ( 6 ) = PER CCSR MAP B-1692
- ( 7 ) = PER BOOK 198, PAGE 444 TCSR

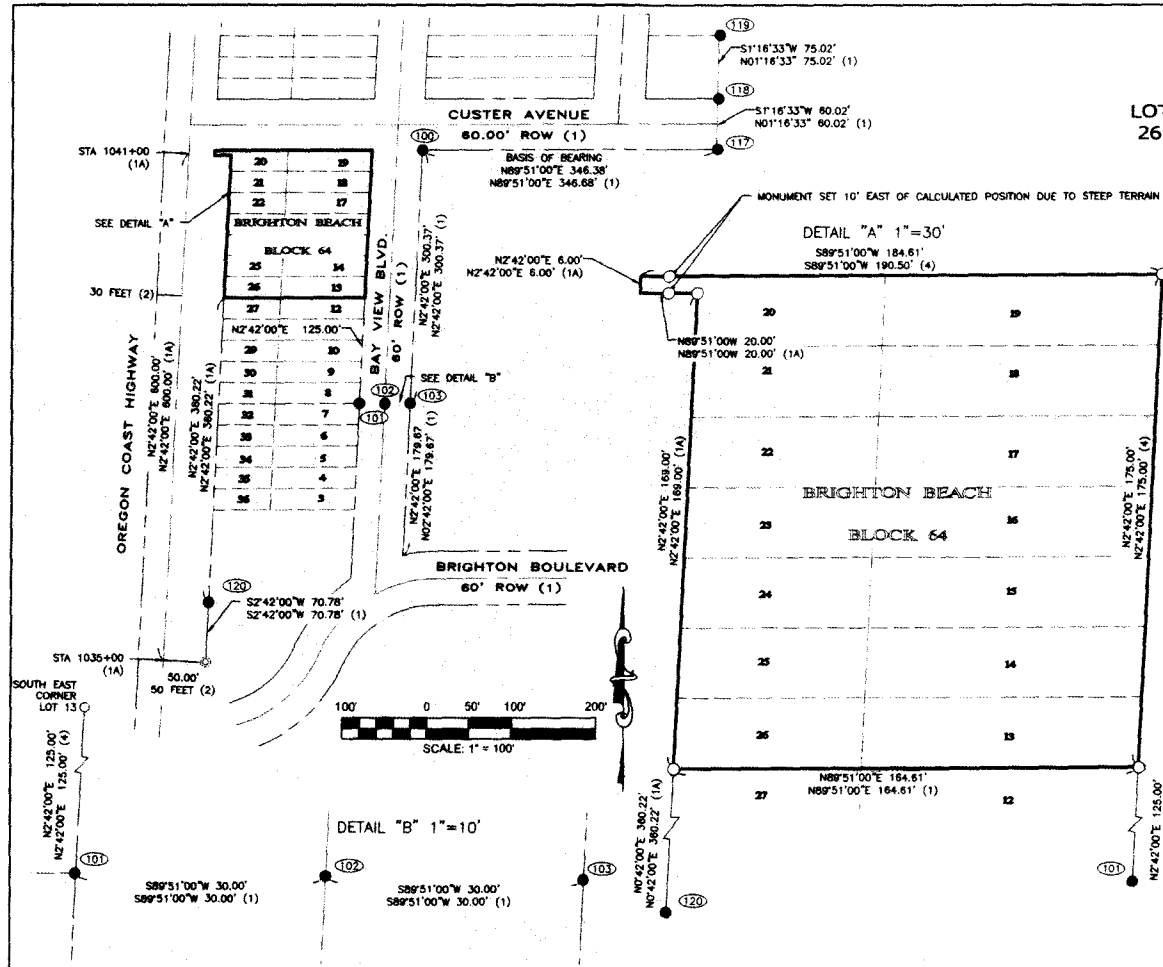
OTHER REFERENCE SURVEYS  
 TCSR MAP # B-1692  
 TCSR MAP # A-8101  
 TCSR MAP # A-2114

OTHER REFERENCE DEEDS  
 BOOK 162, PAGE 171 TCSR



# RECORD OF SURVEY

LOTS 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, AND  
26, BLOCK 64, BRIGHTON BEACH, NW OF THE NW 1/4 S9,  
T2N, R10W, W.M.,  
TILLAMOOK COUNTY



**NARRATIVE:**

THE PURPOSE OF THIS SURVEY, IS TO LOCATE THE EXTERIOR BOUNDARY OF THAT PROPERTY DESCRIBED IN TILLAMOOK COUNTY INSTRUMENT NUMBER 2022-06857.

HLB AND ASSOCIATES DID A SURVEY FOR BRIGHTON BEACH INCORPORATED ON JANUARY 31 1995 (B-1848) WHICH THE RIGHT OF WAY FOR THE OREGON COAST HIGHWAY WAS 80 FEET, ON JUNE 25, 1996, HLB AND ASSOCIATES CONDUCTED ANOTHER SURVEY WHICH WAS A REPLAY OF THE SAME PROPERTY (C-0480) THAT, CITING BOOK K PAGE 428, BETWEEN STATIONS 1035+00 TO 1041+00 THE RIGHT OF WAY SHALL BE 80 FEET. WE CALCULATED THE RIGHT OF WAY BETWEEN SAID STATIONS TO BE 80 FEET AS PER BOOK K PAGE 428.

THE WEST RIGHT OF WAY OF BAY VIEW BOULEVARD/EAST LINE OF BLOCK 64 IS CALCULATED BY HOLDING A 80.00 FOOT OFFSET FROM MONUMENTS 100 AND 103.

THE SOUTH RIGHT OF WAY OF CUSTER AVENUE/NORTH LINE OF BLOCK 64 IS HELD AS AN EXTENSION OF THE LINE BETWEEN MONUMENTS 100 AND 117.

THE EAST RIGHT OF WAY OF HIGHWAY 101 IS DETERMINED BY HOLDING NARRATIVE DESCRIBED IN C-0480.

STATIONING BETWEEN 1035+00 TO 1041+00 WAS DETERMINED BY HOLDING POINT 120 AND PROJECTING THE WEST LINE SOUTH 70.78 FEET PER C-0480 AND NORTH ALONG SAID LINE 800 FEET TO DETERMINE STATION 1041+00.

**SURVEY REFERENCES:**

- (1) RECORD DATA PER TILLAMOOK COUNTY SURVEY C-0480
- (1A) CALCULATED PER RECORD DATA SHOWN IN COUNTY SURVEY C-0480
- (2) RECORD DATA PER TILLAMOOK COUNTY DEED DATED 24, NOVEMBER, 1925, BOOK K PAGE 428
- (3) RECORD DATA PER TILLAMOOK COUNTY SURVEY B-3185
- (4) RECORD DATA PER MAP OF BRIGHTON BEACH, MAP C-2.

**BASIS OF BEARING:**

THE BASIS OF BEARING FOR THIS SURVEY IS THE LINE BETWEEN FOUND MONUMENTS 100 AND 117 WHICH BEARS N89°51'00"E, THE RECORD BEARINGS FROM THE PLAT OF BRIGHTON BEACH ESTATES, MAP NUMBER C-450.

**LEGEND:**

- BREAKLINE
- SET MONUMENT, 5/8" X 30" REBAR WITH YELLOW PLASTIC CAP, STAMPED "S&F LAND SERVICES"
- ⊗ FOUND MONUMENT NO.
- FOUND MONUMENT - SEE MONUMENT NOTES
- ROW RIGHT OF WAY
- XXX LOT NUMBER
- ⊙ CALCULATED POSITION
- CENTERLINE
- RIGHT OF WAY
- BOUNDARY LINE
- LOT/PARCEL LINE

**PROCEDURE/EQUIPMENT:**

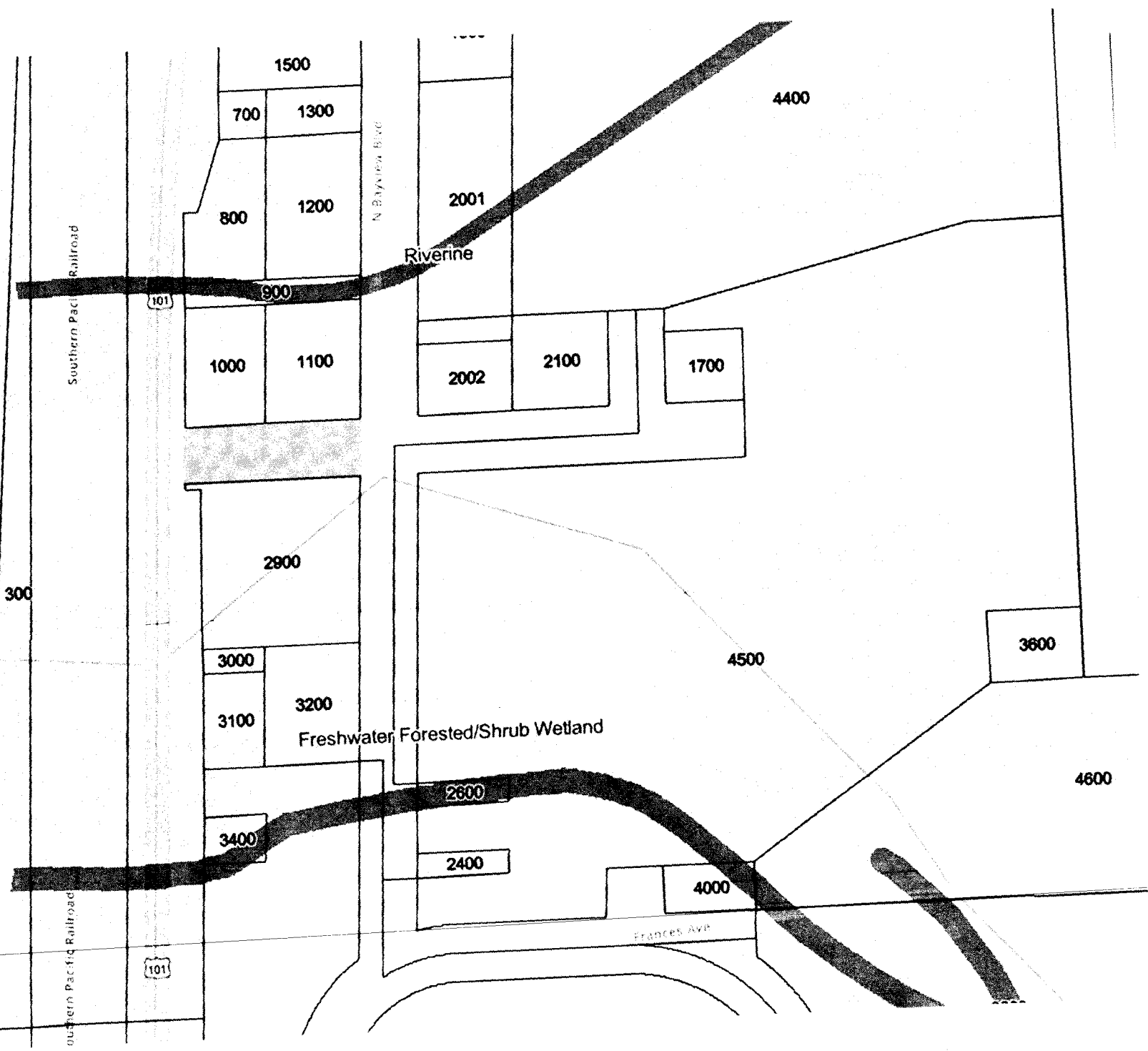
TRAVERSE DATA (COLLECTED USING A TRIMBLE 98 TOTAL STATION) WERE ADJUSTED USING THE LEAST SQUARES METHOD IN TRIANGLE BUSINESS CENTER (TBC). THE RESULTING RELATIVE ACCURACY IS IN CONFORMANCE WITH THE PRINCIPLES STATED IN O.R.S. 92.050.

**FOUND MONUMENTS TABLE:**

100	FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP STAMPED "HLB INC" FLUSH WITH SURFACE, SET PER SURVEY B-1848
101	FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP STAMPED "HLB INC" FLUSH WITH SURFACE, SET PER SURVEY B-1848
102	FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP STAMPED "HLB INC" FLUSH WITH SURFACE, SET PER SURVEY B-1848
103	FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP STAMPED "HLB INC" 2.1' BELOW SURFACE, SET PER SURVEY B-1848
117	FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP STAMPED "HLB INC" FLUSH WITH SURFACE, SET PER SURVEY B-1848
118	FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP STAMPED "HLB INC" 0.5' BELOW SURFACE, SET PER SURVEY B-1848
119	FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP STAMPED "HLB INC" 0.5' BELOW SURFACE, SET PER SURVEY B-1848
120	FOUND 5/8" REBAR WITH NO CAP, BENT, TIED SPIN HOLE, FLUSH WITH SURFACE, SET PER SURVEY C-0480

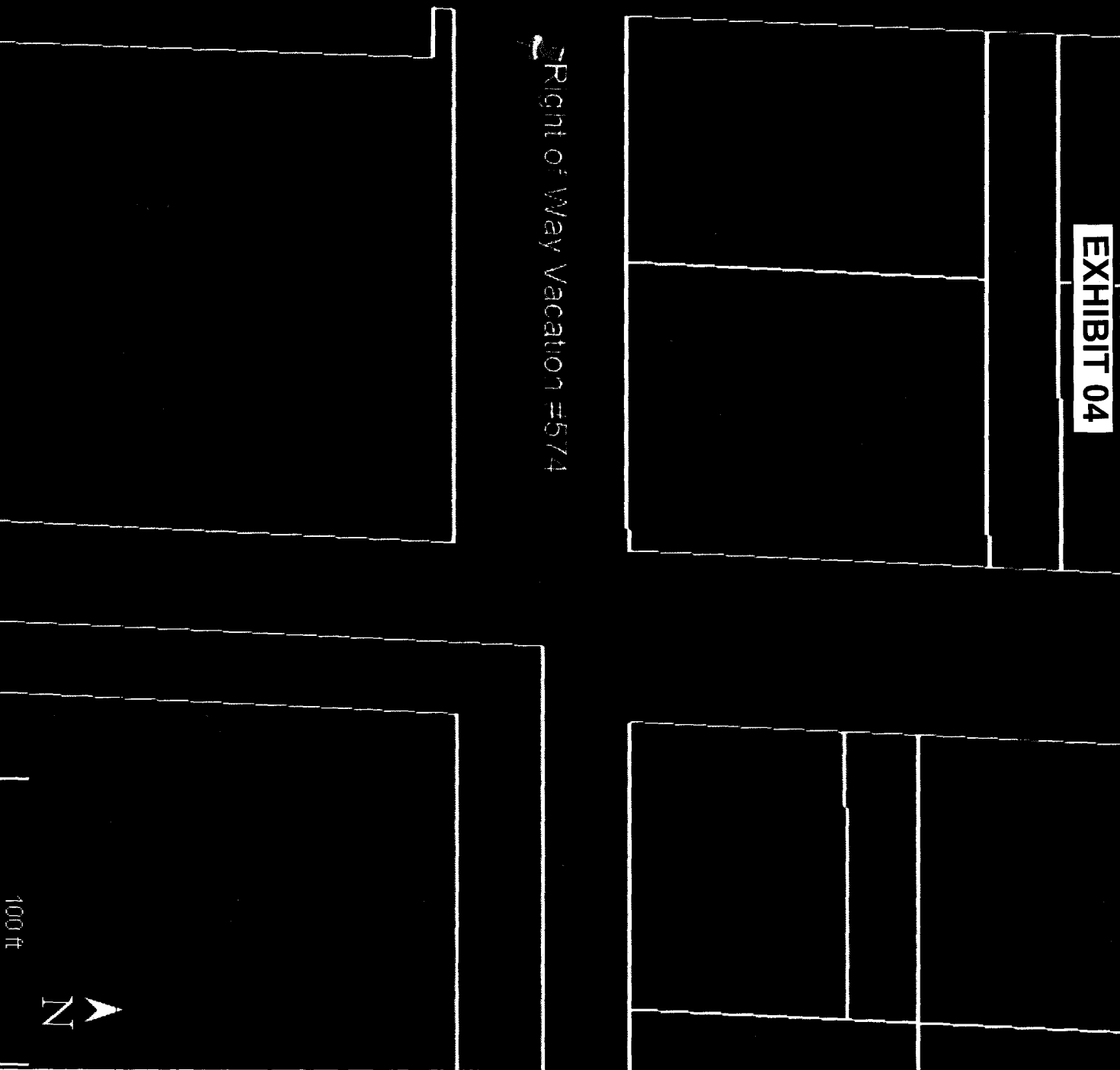
<p>PORTLAND, VANCOUVER, BEND, SEASIDE 1725 N ROOSEVELT DR. STE B, SEASIDE, OR 97138 (503) 738-3425</p>	<p>SURVEY FOR: <b>TIER 1 EXCAVATING, LLC</b> C/O JEFF HEINTZ</p>	<p>REGISTERED PROFESSIONAL LAND SURVEYOR <i>Jack L. White II</i> OREGON SEPTEMBER 10, 2019 JACK L. WHITE II R1887215</p>
	<p>LOTS 13-26, BLOCK 64 BRIGHTON BEACH, NW 1/4 OF THE NW 1/4, S9, T2N, R10W, W.M., TILLAMOOK COUNTY, OREGON</p>	

DATE	JOB NO.	FIELD	DRAWN	CHECKED
08/03/2023	23-0658-01	JPW/GAH	TLO	JLW



**EXHIBIT 04**

Right of Way Vacation #574



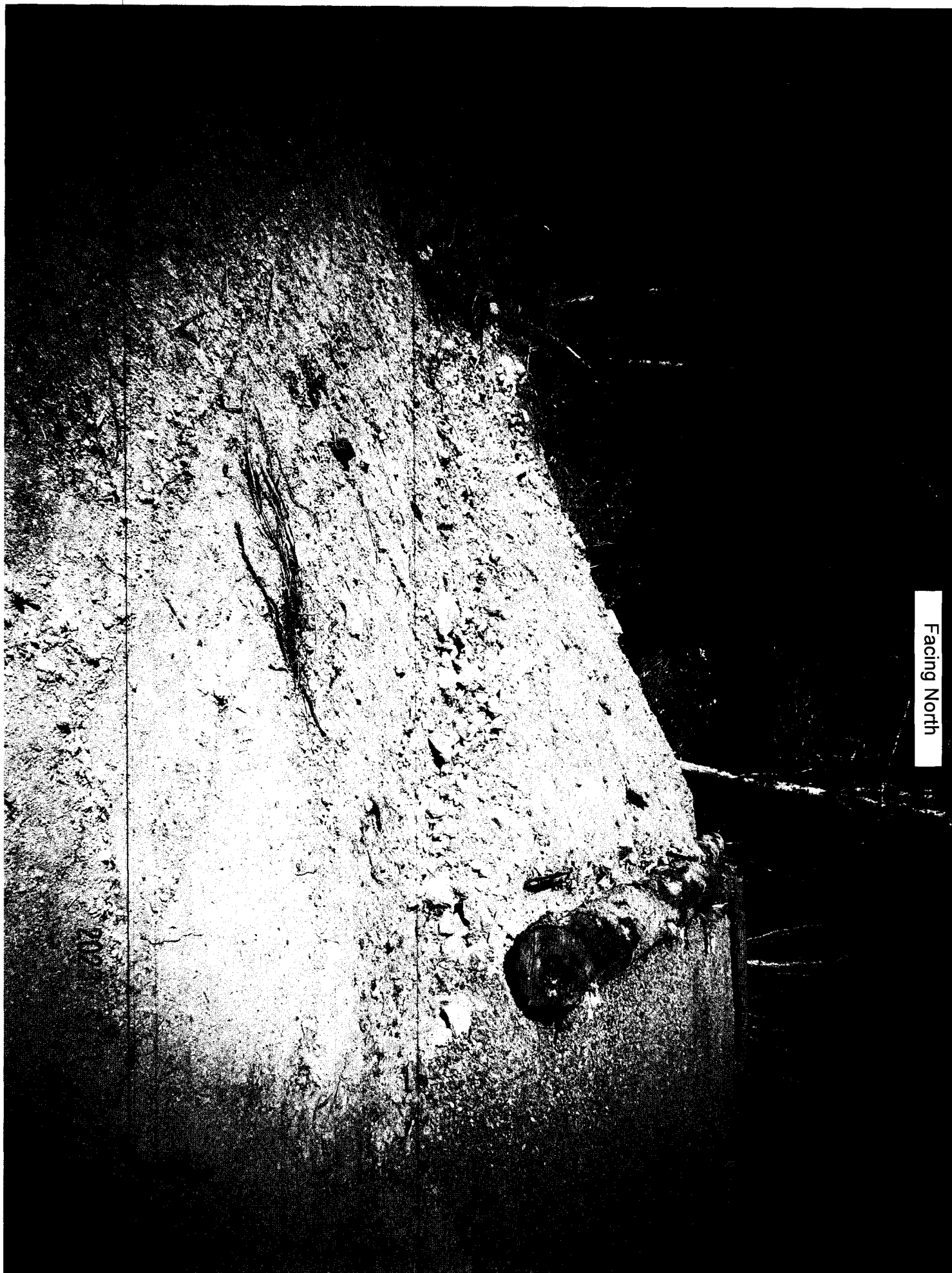
Google Earth





Facing West

Facing North



Fire turnaround  
visible from  
Highway 101

Google Earth

© 2004 Google

10 ft





Facing East



Google Earth

© 2024 Google

8.60 ft





*Land of Cheese, Trees and Ocean Breeze*

**Christy Biggs  
Tillamook County Clerk  
201 Laurel Ave.  
Tillamook, OR 97141  
(503) 842-3402**

November 22, 2023

Tillamook County Board of Commissioners  
201 Laurel Avenue  
Tillamook, OR 97141

Received  
NOV 22 2023  
Tillamook County  
Board of Commissioners

**RE: Petition No. 574 – Petition to vacate Custer Ave.**

Dear Commissioners:

Enclosed is a certified copy of Petition No. 5743 filed November 21, 2023, to vacate Custer Ave.

Certification from the Assessor regarding ownership was received on November 22, 2023, a copy of which is enclosed along with a certified copy of the petition.

Thank you in advance for your assistance in this matter.

Sincerely,

Christy Biggs  
County Clerk

Enclosures

**Tillamook County**  
**Department of Assessment and Taxation**  
201 Laurel Avenue  
Tillamook, Oregon 97141

November 22, 2023

Christy Biggs  
Tillamook County Clerk  
201 Laurel Avenue  
Tillamook, Oregon 97141

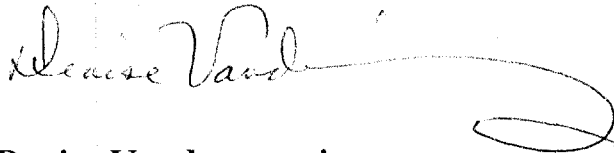
**RE: Petition No. 574 – Petition to vacate Custer Ave.**

Dear Ms. Biggs:

I have researched our records and certify that the petitioners are the adjacent landowners of record in the proposed vacation.

This certification is in accordance with ORS 368.341(3)(f).

Respectfully,

A handwritten signature in cursive script, reading "Denise Vandecoevering", with a long, sweeping flourish extending to the right.

**Denise Vandecoevering**  
Assessor & Tax Collector

cc. Wendy Schink, GIS Cartographic Analyst  
cc. KaSandra Larson, Chief Deputy of Assessment & Taxation

**FILED**

NOV 21 2023

BEFORE THE BOARD OF COUNTY COMMISSIONERS

#574

CHRISTY BIGGS  
COUNTY CLERK

FOR TILLAMOOK COUNTY, OREGON

IN THE MATTER OF THE VACATION OF )  
Custer Ave )  
\_\_\_\_\_ )

PETITION TO VACATE

I. The undersigned person(s) hereby petitions the Tillamook County Board of Commissioners to vacate the following described property:

Unimproved Custer Ave, Starting from the S.W. Corner of Parcel 2N10090100, East to the S.E. Corner of Parcel 2N1009BB0100, Then South to the N.E. Corner of Parcel 2N1009BB2900, Then West to N.W. Corner of Parcel 2N1009BB02900, Then 60' North Along ODOT HWY 101 ROW. to the Point of beginning As Illustrated on the MAP.

(Use separate sheet if more space is needed)

and certifies that all information contained in this Petition is true and complete.

II. The reasons for requesting this vacation are:

1. To Allow for better use of this Real Estate.  
2. To discourage the use of this Public Land for squatters and homeless people, Adjacent to our Properties.

(Use separate sheet if more space is needed)

III. Names and addresses of all persons holding any recorded interest in the property proposed to be vacated are:

NAME & ADDRESS	DESCRIPTION OF INTEREST
<u>Tillamook County</u>	<u>Recorded Public Right of Way</u>

(Use separate sheet if more space is needed)

IV. The names and addresses of all persons (including utilities) owning any improvements constructed on the property proposed to be vacated:

NONE

(Use separate sheet if more space is needed)

V. The names and addresses of all persons owning any real property abutting the property proposed to be vacation are:

NAME & ADDRESS DESCRIPTION OF PROPERTY

(Use Tax Lot No. if available)

Jeff Lee Heintz

2N1009BB02900

Robert

Patrick + Michelle McSherry - 2N1009BB0100

2N1009BB01100

(Use separate sheet if more space is needed)

VI. Attached to this Petition are 2 pages containing the notarized signatures of:

- Owners of 100% of the land abutting the property proposed to be vacated.
- Owners of at least 60% of the land abutting the property proposed to be vacated.
- At least 60% of the owners of the land abutting the property proposed to be vacated.

VII. The property proposed to be vacated:

- Will not be redivided in any manner.
- Will be redivided as shown on the attached subdivision or partition plan.

1/4 SEC. 9 T. 2N. R. 10W. W.M.  
ILLAMOOK COUNTY  
1" = 100'

02N10W09BB  
BRIGHTON BEACH

M.C.

SEE MAP 2N 10W 4C

PARTITION PLAT  
1993-51

PARCEL 1

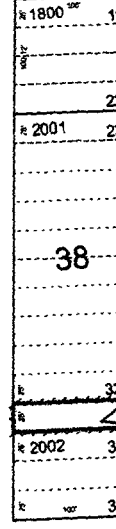
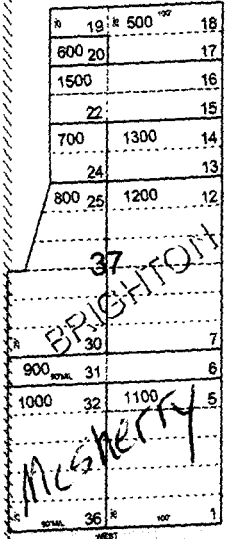
VINE STREET

KENTON AVE

101

BOULEVARD

- CANCELLED
- 100
- 200
- 1400
- 1900
- 2001
- 2000
- 2200
- 2300
- 2500
- 2700
- 3300
- 3500
- 1600
- 1700
- 2800



HALL ST

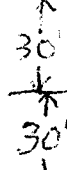
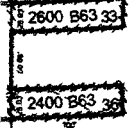
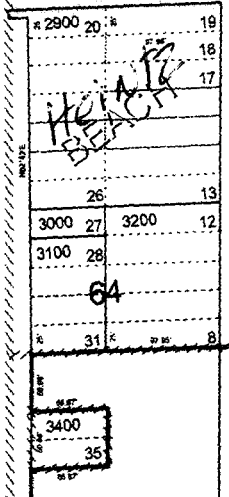
SEE MAP 2N 10W 9BA

HIGHWAY

CLUSTER AVE

BAY VIEW

COAST



198'  
To Be split down the middle  
To The Adjacent Property  
OWNERS

02N10W09BB  
BRIGHTON BEACH

Revised 7/31/23, WS

-6

T1



BAYVIEW Blvd. ↑

P.T.B.R.R.

300

SEE MAP 2N 10W 9BC

TILLAMOOK COUNTY  
PETITION TO VACATE  
SIGNATURE SHEET

Signature required in Section VI of the Petition to Vacate the following described property:

Unimproved Custer Ave, The section between Bayview  
Blvd. AND US Hwy 101 AS ILLUSTRATED ON THE MAP.

Signatures Required: X Robert Patrick McSherry  
X Michelle Rae McSherry

Description of owned property that abuts the property proposed to be vacated (Use legal description or Tax Lot Number)

2N1009BB0100  
2N1009BB0110

I certify that I am the owner of property that abuts the property proposed to be vacated, and approve of the proposed vacation

Signed and Dated this 9 day of November, 2023

Robert P. McSherry  
Signature

1450 SE Liberty, #14  
Address

Michelle R McSherry  
Signature

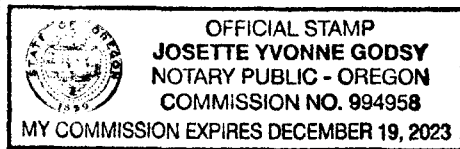
Wesham, Ore 97080  
City, State, Zip

ACKNOWLEDGEMENT

NOTARY PUBLIC )  
STATE OF OREGON ) ss.  
County of Tillamook )  
Claire Williams

On November 9, 2023, the above named person appeared before me and acknowledged the foregoing instrument to be a voluntary act and deed.

Josette Godsey  
Notary Public for the State of Oregon  
My Commission Expires: December 19, 2023



TILLAMOOK COUNTY  
PETITION TO VACATE  
SIGNATURE SHEET

Signature required in Section VI of the Petition to Vacate the following described property:

Unimproved Custer Ave. The section between Bayview  
Blvd AND US Hwy 101 AS illustrated on the MAP  
2N1009BBO2900 OWNER  
Signature Required: Jeff Lee Heintz

Description of owned property that abuts the property proposed to be vacated (Use legal description or Tax Lot Number)

2N1009BBO2900

I certify that I am the owner of property that abuts the property proposed to be vacated, and approve of the proposed vacation

Signed and Dated this 9<sup>th</sup> day of November, 2023

Jeff Lee Heintz  
Signature

14231 Morton Rd  
Address

Signature

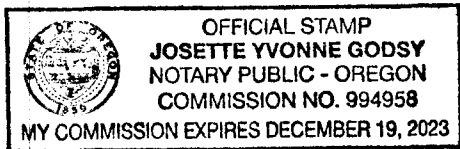
Oregon City, Or 97045  
City, State, Zip

ACKNOWLEDGEMENT

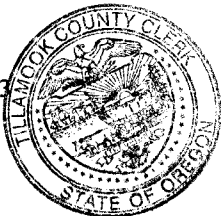
NOTARY PUBLIC )  
STATE OF OREGON ) ss.  
County of Tillamook )  
Clackamas

On November 9, 2023, the above named person appeared before me and acknowledged the foregoing instrument to be a voluntary act and deed.

Josette Godsey  
Notary Public for the State of Oregon  
My Commission Expires: December 19, 2023



Petition to Vacate, Page 3



CERTIFIED TO BE A TRUE AND  
CORRECT COPY OF THE ORIGINAL  
CHRISTY BIGGS

BY Christy Biggs Clerk  
DEPUTY



11/20/2023

In The Matter of Custer Ave. Road Vacation

Property Owners Contact Information,

Parcel # 2N1009BB02900

Jeff Lee Heintz

[Jeff.tier1@comcast.net](mailto:Jeff.tier1@comcast.net)

502-209-2470

Parcels #'s 2N1009BB01000

2N1009BB01100

Robert and Michelle McSherry

[Mitchmcsberry@yahoo.com](mailto:Mitchmcsberry@yahoo.com)

503-260-2908