



CITY OF West Linn

STAFF REPORT FOR THE CITY COUNCIL

FILE NUMBER: MISC-22-08

HEARING DATE: September 12th, 2022

REQUEST: City initiated request to vacate a portion of unimproved Cornwall Street right-of-way

STAFF REPORT PREPARED BY: Ben Gardner, Assistant Planner

Planning Manager DSW City Engineer EL

TABLE OF CONTENTS

STAFF ANALYSIS AND RECOMMENDATION

GENERAL INFORMATION..... 1

EXECUTIVE SUMMARY..... 2

RECOMMENDATION..... 2

PUBLIC COMMENTS..... 2

ADDENDUM

APPROVAL CRITERIA AND FINDINGS..... 3

EXHIBITS

CC-1 LOCATION MAP..... 5

CC-2 APPLICANT SUBMITTAL..... 7

CC-3 COMPLETENESS LETTER..... 11

CC-4 AFFIDAVIT AND NOTICE PACKET..... 13

GENERAL INFORMATION

APPLICANT: City of West Linn
22500 Salamo Road
West Linn, OR 91068

SITE LOCATION: 12,100 square feet of unimproved Cornwall Street right-of-way adjacent to tax lots 21E36BA06300 and 21E36BA07701

DESCRIPTION: Proposed vacation of a portion of Cornwall Street unimproved right-of-way and establishment of a public utility easement and a trail easement.

SITE SIZE: 12,100 square feet will be vacated and 4,000 square feet will be established as a public utility and trail easement.

ZONING: R-10 (Residential)

PLAN DESIGNATION: Low Density Residential

APPROVAL CRITERIA: Oregon Revised Statute (ORS) 271. Hearing conducted per the procedures of Community Development Code (CDC) Chapter 99.

PUBLIC NOTICE: Notice was completed per CDC 99.080 and ORS 271.110

EXECUTIVE SUMMARY

The City of West Linn has initiated a right-of-way vacation for the portion of unimproved Cornwall Street right-of-way adjacent to tax lots 21E36BA06300 and 21E36BA07701. The proposed action will vacate 12,100 sq. ft. of the right-of-way. The right-of-way provides no opportunity to complete a street connection as it is blocked from connecting to Fairhaven Drive by the Tanner Creek Estates subdivision platted in 1997 (see Exhibit CC-1).

The proposed vacation is adjacent to the six-lot Willow Ridge Subdivision, which is currently under development. Stormwater improvements associated with the subdivision include a new stormwater line that will be located in the unimproved right-of-way proposed to be vacated. A 20-foot public utility easement (PUE), centered on the new stormwater line, will be recorded as part of this action and will provide adequate access for utility maintenance. The PUE will also provide the opportunity to install additional utilities in the future if needed.

The West Linn Community Development Code Chapter 48: Access, Egress, and Circulation establishes maximum block lengths (800 feet) with an exception to provide a pedestrian/bicycle connection. The Fairhaven Drive block length exceeds this maximum (1,600 feet from Sussex St. to Beacon Hill Drive) so it is recommended to dedicate 20-feet of the vacated Cornwall Street right-of-way, from the end of improved Cornwall Street to the existing pedestrian path located in existing Tract C of the Tanner Ridge Estates subdivision plat, as a Public Access Easement (PAE). The PAE location will coincide with the PUE.

Notice of the public hearing was posted for two consecutive weeks in the West Linn Tidings and posted at both ends of the proposed vacation (see Exhibit CC-4). The proposal will have no impacts to the adopted West Linn Transportation System Plan or surrounding properties.

RECOMMENDATION

Staff recommends the City Council approves the right-of-way vacation proposal.

PUBLIC COMMENTS:

No comments have been received as of the publication of this Staff Report.

ADDENDUM APPROVAL CRITERIA AND FINDINGS

ORS 271.130 Vacation on city governing body's own motion.

(1) The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners.

Staff Finding 1: The City of West Linn initiated vacation proceedings for a street right-of-way as authorized by ORS.271.080. Neither a petition nor consent of affected property owners is required. The criteria are met.

Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

Staff Finding 2: The notice provisions of ORS 271.110 have been met (see Staff Findings 5 to 7). The notice set the date for the public hearing as September 12th, 2022. No decision on the proposal was made before the noticed public hearing. The City has not received a written objection to the proposal by a majority of property owners in the affected area. The vacation will not substantially affect the market value of abutting properties as taxlot 7701 of Clackamas County Assessor Map 2S 1E 36BA (4003 Cornwall Street) will have continued direct access to the improved Cornwall Street right-of-way.

(2) Two or more streets, alleys, avenues and boulevards, or parts thereof, may be joined in one proceeding, provided they intersect or are adjacent and parallel to each other.

Staff Finding 3: Only one street, a portion of Cornwall Street, is part of the proposal. The criteria are met.

(3) No ordinance for the vacation of all or part of a plat shall be passed by the governing body until the city recording officer has filed in the office of the city recording officer or indorsed on the petition for such vacation a certificate showing that all city liens and all taxes have been paid on the lands covered by the plat or portion thereof to be vacated.

(4) Any property owner affected by the order of vacation or the order awarding damages or benefits in such vacation proceedings may appeal to the circuit court of the county where such city is situated in the manner provided by the city charter. If the charter does not provide for such appeal, the appeal shall be taken within the time and in substantially the manner provided for taking an appeal from justice court in civil cases.

Staff Finding 4: The proposal does not include the vacation of all or part of a plat. The City of West Linn understands the right to an appeal and the process to file. The criteria are met.

271.110 Notice of hearing.

(1) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.

Staff Finding 5: Public notice was published in the West Linn Tidings newspaper once each week for two consecutive weeks prior to the hearing (publish dates: August 24th, 2022 and August 31st, 2022). The notice included the ground covered by the vacation proposal, the date it was filed by the City of West Linn, the process to submit written or oral comment, and the date and time of the hearing. The criteria are met. Staff posted a “Notice of Street Vacation” at each end of the unimproved ROW proposed for vacation on August 25th, 2022. Both the sign posting and first day of publication in the newspaper were at least 14 days prior to the hearing date. The criteria is met.

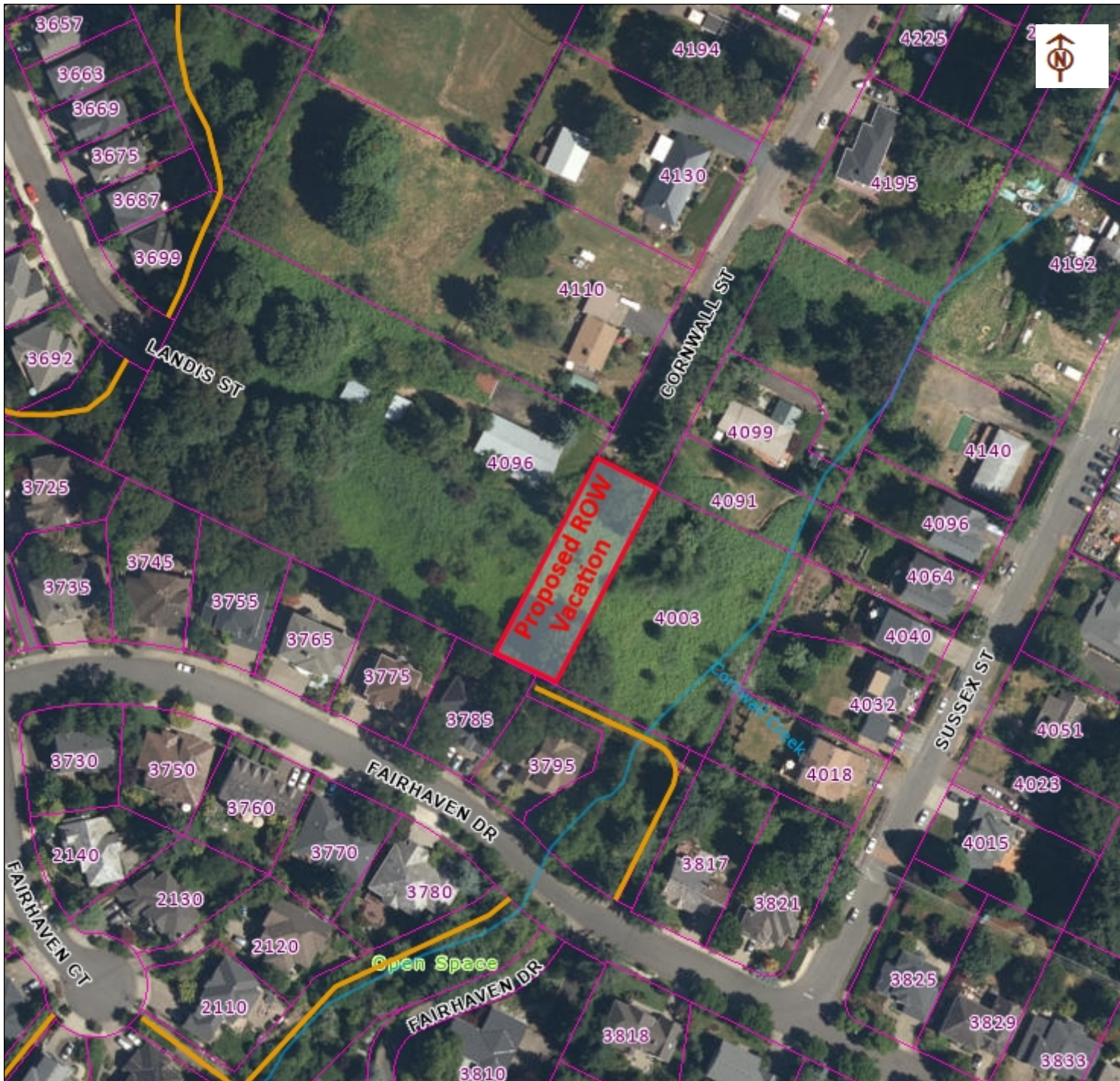
(2) Within five days after the first day of publication of the notice, the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice, which shall be headed, “Notice of Street Vacation,” “Notice of Plat Vacation” or “Notice of Plat and Street Vacation,” as the case may be. The notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be at least 14 days before the hearing.

Staff Finding 6: The first day of publication of the notice was August 24th, 2022. Staff posted a “Notice of Street Vacation” at each end of the unimproved ROW in the proposal on August 25th, 2022. Both the sign posting and first day of publication in the newspaper were at least 14 days prior to the hearing date. The criteria are met.



(3) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor.

Staff Finding 7: The proposal is City-initiated and all notices were funded by the City. The criteria are met.

EXHIBIT CC-1: LOCATION MAP



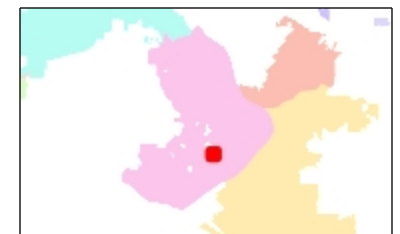
Legend

-  Paths and Trails
-  Unofficial Tax Lots

0 0.03 0.06 Miles



1: 2,257



Notes

This map was automatically generated using Geocortex Essentials.
Staff Report

EXHIBIT CC-2: APPLICANT SUBMITTAL

DEVELOPMENT REVIEW APPLICATION

For Office Use Only

STAFF CONTACT <i>B. Gardner</i>	PROJECT NO(S). <i>MISC-22-08</i>	PRE-APPLICATION NO. <i>N/A</i>
NON-REFUNDABLE FEE(S) <i>\$0</i>	REFUNDABLE DEPOSIT(S) <i>\$0</i>	TOTAL <i>\$0</i>

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input type="checkbox"/> Appeal and Review (AP) | <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Temporary Uses |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Lot Line Adjustment (LLA) | <input type="checkbox"/> Time Extension |
| <input type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Final Plat or Plan (FP) | <input type="checkbox"/> Pre-Application Conference (PA) | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Flood Management Area | <input checked="" type="checkbox"/> Street Vacation | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Hillside Protection & Erosion Control | | |

Home Occupation, Pre-Application, Sidewalk Use, Sign Review Permit, and Temporary Sign Permit applications require different or additional application forms, available on the City website or at City Hall.

Site Location/Address:

Cornwall Street Right-of-Way

Assessor's Map No.: *25 1E 36BA*

Tax Lot(s): *N/A*

Total Land Area: *12,049 sq. ft.*

Brief Description of Proposal:

City initiated vacation of the unbuilt portion of Cornwall Street right-of-way adjacent to the Willow Ridge subdivision (SUB-20-01)

Applicant Name: *Darren Wyss (City of West Linn)*

Phone: *503-742-6064*

Address: *22500 Salamo Rd*

Email: *dwyss@westlinnoregon.gov*

City State Zip: *West Linn, OR 97068*

Owner Name (required): *City of West Linn*

Phone:

Address: *22500 Salamo Rd*

Email:

City State Zip: *West Linn, OR 97068*

Consultant Name: (please print)

Phone:

Address:

Email:

City State Zip:

1. All application fees are non-refundable (excluding deposit). **Any overruns to deposit will result in additional billing.**
2. The owner/applicant or their representative should be present at all public hearings.
3. A decision may be reversed on appeal. The permit approval will not be effective until the appeal period has expired.
4. The City accepts electronic (.pdf) land use applications and project submissions from applicants. Applicants should submit this form and supporting documents through the [Submit a Land Use Application](https://westlinnoregon.gov/planning/submit-land-use-application) web page:
<https://westlinnoregon.gov/planning/submit-land-use-application>

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

Darren Wyss
 Applicant's signature

8-8-2022
 Date

[Signature]
 Owner's signature (required)

8/8/22
 Date



CENTERLINE CONCEPTS
LAND SURVEYING, INC.

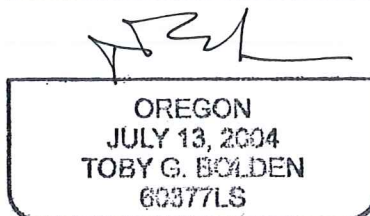
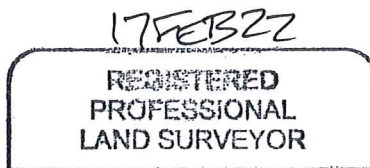
19376 Molalla Avenue, Ste. 120, Oregon City, OR 97045
P. 503-650-0188 F. 503-650-0189

Exhibit "A"
Legal Description

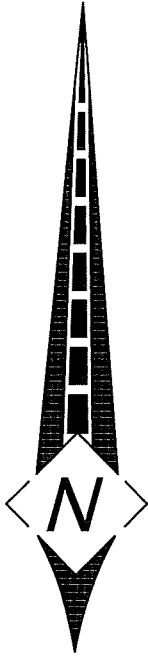
A Tract of land being a portion of Cornwall Street, located in the Northwest one-quarter of Section 36, Township 2 South, Range 1 East of the Willamette Meridian, City of West Linn, County of Clackamas, State of Oregon, being more particularly described as follows:

BEGINNING at the south corner of Lot 2, "GLENESK", Clackamas County Plat Records; thence along the southeast line of said Lot 2, North 27°41'39" East, 201.64 feet to a point that is North 62°18'21" West, 60.00 feet from the north corner of that Tract of land described in Deed Recorded as Document No. 2003-127282, Clackamas County Deed Records; thence leaving said southeast line of Lot 2, South 62°18'21" East, 60.00 feet to said north corner; thence along the northwest line of Lot 5 of said plat of "GLENESK", South 27°41'39" West, 200.00 feet to the west corner of said Lot 5; thence along the northeast line of the Plat of "TANNER CREEK ESTATES", North 63°52'20" West, 60.02 feet to the **POINT OF BEGINNING**.

Contains 12,049 square feet, more or less.



RENEWS: 31 DEC 23



LOT 2
"GLENESK"

CORNWALL
STREET

30'

30'

S62°18'21"E 60.00'

N27°41'39"E 201.64'

12,049±
SQUARE FEET

S27°41'39"W 200.00'

LOT 5
"GLENESK"
DOCUMENT NO.
2003-127282

SIGNED ON: 17 FEB 22

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 13, 2004
TOBY G. BOLDEN
60377LS

RENEWS: DECEMBER 31, 2023

POINT OF BEGINNING
SOUTH CORNER OF
LOT 2, "GLENESK"

N63°52'20"W 60.02'

LOT 9
"TANNER
CREEK
ESTATES"

LOT 10

TRACT "C"

CLIENT: ICON
ORIG. DATE: 2-17-2022
DRAWN BY: RLC
SHEET No. 1 OF 1

MISC-22-08

EXHIBIT "B" VACATION

CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON

SCALE: 1"=30'

11



CENTERLINE CONCEPTS

LAND SURVEYING, INC.

19376 MOLALLA AVE., SUITE 120

OREGON CITY, OREGON 97045

PHONE 503.650.0188 FAX 503.650.0189

Staff Report

EXHIBIT CC-3: COMPLETENESS LETTER



CITY OF West Linn

August 9th, 2022

Darren Wyss

City of West Linn
22500 Salamo Road
West Linn, OR 97068

SUBJECT: MISC-22-08 Application for Cornwall St right-of-way vacation

Mr. Wyss,

You submitted this application on August 8th, 2022. The Planning Department has reviewed the materials and found you have satisfied submittal requirements found in Oregon Revised Statute 271.130. The Planning Department finds that this application is **complete**. This is a legislative action and therefore the 120-day rule does not apply.

Please be aware that a determination of a complete application does not guarantee a recommendation of approval from staff for your proposal as submitted – it signals that staff believes you have provided the necessary information for the West Linn City Council to render a decision on your proposal.

Public notice will be prepared per Oregon Revised Statute 271.110. The tentative public hearing date before the West Linn City Council is scheduled for September 12th, 2022.

Please contact me at 503-742-6057, or by email at bgardner@westlinnoregon.gov if you have any questions or comments.

Sincerely,

Ben Gardner

Assistant Planner

EXHIBIT CC-4: AFFIDAVIT AND NOTICE PACKET

AFFIDAVIT OF NOTICE

We, the undersigned do hereby certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

PROJECT

File No.: **MISC-22-08**

Applicant's Name: **City of West Linn**

Development Name: **Street Vacation and Rededication of Cornwall St**

Scheduled Decision Date: **City Council Decision No Earlier than 09/12/22**

TIDINGS

Per ORS 271.110, notice was posted in the West Linn Tidings once each week for two consecutive weeks prior to the hearing. The first day of publication of such notice was at least 14 days before the hearing.

8/24/22	<i>Lynn Schroder</i>
8/31/22	<i>Lynn Schroder</i>

WEBSITE

Notice was posted on the City's website at least 10 days before the scheduled hearing date.

8/15/22	<i>Lynn Schroder</i>
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SIGN

Within 5 days after the first day of publication, and at least 14 days before the hearing, a sign was posted at the entrance of the proposed vacation per ORS 271.110.

8/24/22	<i>Ben Gardner</i>
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STAFF REPORT was posted on the website and provided to City Councilors at least 10 days before the scheduled public hearing.

9/1/22	<i>Darren Wyss</i>
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FINAL DECISION notice mailed to applicant, parties with standing, and the County surveyor's office.

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**WEST LINN CITY COUNCIL
PUBLIC HEARING NOTICE
FILE NO. MISC-22-08**

The West Linn City Council will hold a hybrid public hearing on **Monday, September 12th, 2022 at 6:00 p.m.** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider a City-initiated request to vacate and rededicate a portion of Cornwall St adjacent to the Willow Ridge Subdivision (section flanked by tax lots 21E36BA07701 and 21E36BA06300). The application was filed on August 8th, 2022.

The City Council hearing shall be conducted per CDC Chapter 99 and the decision shall be based upon the approval criteria found in Oregon Revised Statute 271. All written or oral comments must relate specifically to the applicable approval criteria.

All relevant materials in the above noted file are available on the City website <https://westlinnoregon.gov/planning/cornwall-street-vacation> or for inspection at no cost at City Hall. Alternately, or copies can be obtained for a minimal charge per page. At least ten days prior to the hearing, a copy of the staff report will be available. For further information, please contact Ben Gardner, Assistant Planner, at City Hall, 22500 Salamo Road, West Linn, OR 97068, bgardner@westlinnoregon.gov, or 503-742-6057.

Anyone wishing to present written testimony for consideration on this matter may submit their concerns before 12:00 pm on September 12th, 2022 to bgardner@westlinnoregon.gov or mail to City Hall. The City cannot accept *emailed* testimony after 12:00 pm on September 12th, 2022. The City Council will also accept written testimony in person at the public hearing.

The City Council meeting will be conducted in a hybrid format with some Councilors, staff, presenters, and members of the public attending remotely via Webex and others attending in-person at City Hall. Those who wish to participate remotely should complete the speaker form <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> **before 12:00 pm on the meeting day** to receive an invitation to join the meeting. Virtual participants can log in through a computer, mobile device, or call-in.

The City Council will receive a staff presentation and invite both virtual and in-person oral testimony from the public. Previously submitted written testimony is included as part of the record. The City Council may continue the public hearing to another meeting to obtain additional information, leave the record open, or close the public hearing and take action on the review as provided by state law. Failure to raise an issue during the hearing or in writing before the close of the hearing, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals based on that issue.

Publish: West Linn Tidings, August 24 and August 31, 2022

NOTICE OF PROPOSED STREET VACATION

WEST LINN CITY COUNCIL PUBLIC HEARING NOTICE FILE NO. MISC-22-08

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