

Ordinance No. 99- 9

**A SPECIAL ORDINANCE VACATING A PORTION OF A 16 FOOT WIDE UTILITY
EASEMENT LYING EAST OF THE WESTERLY BOUNDARIES OF LOTS 6-13,
INCLUSIVE, OF TRACT 1301 OF THE BASIN VIEW ESTATES, ALONG HUNTER
COURT**

WHEREAS, the owner of the properties adjacent to the easement to be vacated desire to vacate a portion the easement adjacent to Tax Lots 9900 and 14000 through 20000 of map 3809-35AA, located west of Hunter Court, and east of the westerly boundaries of Lots 6-13, inclusive, of Tract 1301 of the Basin View Estates; and

WHEREAS, a public hearing was held on June 28, 1999, pursuant to applicable laws, at which time all evidence and objections with reference to said proposed vacation were considered by the Planning Commission; and

WHEREAS, the City Council hearing notices having been duly given, did hold a public hearing on August 2, 1999; on the recommendation of the Planning Commission on the vacation; and

WHEREAS, the City Council has adopted the findings of the Planning Commission, attached hereto and incorporated by this reference as Exhibit "B"; and

WHEREAS, pursuant to such record and hearing, the City Council has determined the vacation to be in compliance with the Community Development Ordinance and the Comprehensive Plan;

NOW THEREFORE,

THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

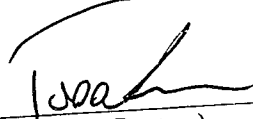
A portion of the 16 foot wide utility easement, including 12 feet of the 16 foot easement along Lot 6, and 10 feet of the 16 foot easement along Lots 7-13, as the easement appears on the Tract 1301 Basin View Estates Subdivision, Subdivision Map, Recorded February 5, 1996 in Klamath County, State of Oregon, being situated in the NW ¼ NE ¼ of Section 35, Township 38 South, Range 9 East, Willamette Meridian, Klamath County, Oregon, more particularly described as follows (and as shown on Exhibit "A"):

Beginning at the northeast corner of that tract described in said deed volume, said point also being the northwest corner of "Tract 1301 - Basin View Estates", thence along the boundary of said tract 1301 - Basin View Estates, S03°21'14"W 314.88 feet and S06°24'09"E 570.96 feet to the southwest corner of lot 13, of said tract 1301 - Basin View Estates; thence S83°35'51"W 10.00 feet; thence N06° 24'09"W 571.81 feet; thence N03°21'14"E 211.75 feet; thence N86°38'46"W 2.00 feet; thence N03°21'14"E 103.54 feet to a point on the north line of that tract of land described in said deed volume M80 page 5490; thence S88°44'37"E 12.01 feet to the point of beginning with bearings based on said "Tract 1301 - Basin View Estates";

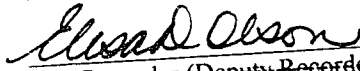
is hereby vacated, provided, however, the City reserves a 16' wide utility easement to repair, install or reconstruct utilities, or to install additional utilities, as needed, which includes the remaining portion of the existing utility easement, and an additional easement, which shall be dedicated by the Klamath County School District, lying adjacent to the existing utility easement

Passed by the Council of the City of Klamath Falls, Oregon, the 16th day of August, 1999.

Presented to the Mayor (~~Mayor-Pro-tem~~), approved and signed this 17th day of August, 1999.

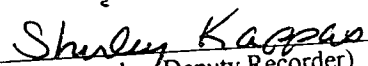

Mayor (~~Mayor-Pro-tem~~)

ATTEST:


City Recorder (~~Deputy Recorder~~)

STATE OF OREGON }
COUNTY OF KLAMATH }
CITY OF KLAMATH FALLS) SS

I, Shirley Kappas, ~~Recorder~~ (Deputy Recorder) for the City of Klamath Falls, Oregon, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Council of the City of Klamath Falls, Oregon, at the meeting held on the 16th day of August, 1999 and thereafter approved and signed by the Mayor (~~Mayor-Pro-tem~~) and attested by the City Recorder (~~Deputy Recorder~~).


City Recorder (~~Deputy Recorder~~)



**LOCATED IN THE NE1/4 OF SECTION 35
TOWNSHIP 38 SOUTH, RANGE 9 EAST, W.M.
KLAMATH COUNTY, OREGON**

Exhibit "B"

MINUTES OF THE CITY OF KLAMATH FALLS
PLANNING COMMISSIONJune 28, 1999
7:00 P.M.COMMISSIONERS PRESENT:Chairman Baker
Commissioner Frei
Commissioner Goss
Commissioner Doveri
Commissioner Harris
Commissioner WachterCOMMISSIONERS ABSENT:

Commissioner Finch

CITY STAFF PRESENT:Cameron Gloss, Planning Director
Charles McGhee Hassrick, City Planner
Jeff Ball, City Attorney

Commissioner Wachter moved to excuse Commissioner Finch. Commissioner Harris seconded the motion.

Commissioner Goss questioned the minutes from the last meeting regarding the fence height on page 4. I thought we were going to look at how we are going to calculate the fence and retaining wall.

Cameron Gloss stated that it was decided that staff would continue to calculate the retaining wall in the immediate future until we revisit the issue with the CDO changes.

Commissioner Wachter stated that he agreed with Commissioner Goss in the outcome of the fence issue.

Cameron Gloss stated that we could go back to the tape from the minutes and let you know if the minutes are correct. If you would like to revisit that issue we can do that.

Chairman Baker asked if the minutes could be reviewed before the next meeting.

Cameron Gloss agreed.

Commissioner Doveri moved that the minutes from the June 14, 1999 Planning Commission meeting be approved. Commissioner Harris seconded the motion.

PUBLIC HEARING - VACATION
(Recommendation to City Council)
2-V-99

PROPOSAL: Request to vacate 10 feet of the 16 foot easement within Lots 7 - 13, and 12 feet of the 16 foot easement within Lot 6. The property under review for the vacation permit is a portion of a 16 foot wide easement lying east of the westerly boundaries of Lots 6-13 inclusive of Tract 1301 of Basin View Estates, along Hunter Court. The addresses of properties directly affected include 556, 450, 444, 438, 326, 220, 114 and 108 Hunter Court. The applicant is Richard Robertson.

Charles McGhee Hassrick read the staff report.

Commissioner Doveri asked if there was anything in the easement, right now?

Charles McGhee Hassrick stated no. The issue with the sewer department and the engineering department was that future development north of those lots could create a need for that easement to be utilized by the sewer department. Rather than simply vacating the easement, the sewer and engineering departments wanted another easement to be placed adjacent to the existing easement to keep the full 16 foot width.

Commissioner Doveri asked what is to the north of lot 6?

Charles McGhee Hassrick stated that it is vacant and will be developed at some point.

Commissioner Doveri asked if we are going to end up with an easement that will touch corner to corner?

Exhibit "B"

Charles McGhee Hassrick stated no, the actual easement that the school district is proposing is directly adjacent to the portion of the easement that is unvacated. At the very top of the plot map where the map reads 12 feet; if you drew a line parallel to it and go 12 feet out you would still have 16 foot easement. That would go straight down, and only at lot 13 will there be a jog. The sewer department approved it. The easement stops north of lot 6.

APPLICANT: RICHARD E. ROBERTSON, 21730 EAST WANT, P. O. BOX 15, BEND, OR stated the following:

There is not an easement right of way past our property. As they develop the hillside they will address those issues as it pertains to their property.

Commissioner Doveri asked if the property is under one ownership, or multiple?

Mr. Robertson stated that there are multiple owners on Hunter Court.

Commissioner Doveri verified the property in question as north of lot 6.

Mr. Robertson stated that he thinks the owner is Mr. McGuire (actually Shih Hong Yee).

Charles McGhee Hassrick stated that there are several owners north of the property, but directly north of lot 6 is single ownership.

Commissioner Doveri asked if that was just for one lot or will this easement be a problem for all of the property owners as it progresses up the hill?

Charles McGhee Hassrick stated that it is an opportunity. It provides a backup for sewer and other utilities to potentially run up Homedale, so there is an opportunity to place any kind of sewer that will serve the lots on that side. The sewer will serve the lots to the northwest.

Mr. Robertson stated that there is an area that has a knoll that will be served by the easement. We negotiated the easement right of way with the county school district.

Commissioners Frei and Harris stated that they made site visits.

Commissioner Frei asked how close are the fences to the variances?

Mr. Robertson stated that he fences are on the property line. The sewer department would not be responsible for replacing the fence should they go in to utilize the easement.

Commissioner Frei confirmed that the fences are in the easement.

Mr. Robertson stated yes, that the fences would still be on the easement. The property owners will still have 8 to 4 feet.

Chairman Baker asked if the issue on lot 13 has been resolved?

Mr. Robertson stated that there is not an issue with lot 13, but that there will be a jog in the easement, which engineering was OK with.

Charles McGhee Hassrick stated that there was a difference in calculation. We we're under the understanding that would be an 8 foot vacation, but then it changed to 10 feet and now it is back to 8 feet.

Mr. Robertson stated that it is at 10 feet. At the time we had the consent forms it was 8 feet. The county school agreed to 10, but we only want to vacate 8 feet. So there is only going to be 16 feet total.

Proponents:

None

Opponents:

None

Those neither for nor against:

None

Charles McGhee Hassrick stated that there have been structures built on these lots already. Some of the structures have been built in the easement. One of the reasons for the vacation is to solve that situation as well. The City and school district don't want this to happen again.

Exhibit "B"

Commissioner Wachter asked what kind of structures?

Charles McGhee Hassrick stated that decks and houses were built within the easement.

MOTION: COMMISSIONER DOVERI MOVED THAT THE COMMISSION RECOMMEND TO CITY COUNCIL TO ACCEPT THE VACATION AS PROPOSED. COMMISSIONER FREI SECOND THE MOTION AND WITH ALL COMMISSIONERS PRESENT VOTING AYE, THE MOTION CARRIED.

PUBLIC HEARING – MAJOR VARIANCE
(Planning Commission Decision)
2-MV-99

PROPOSAL: Request for a Major Variance to reduce the interior side yard setback to accommodate a shop addition. The location is 4864 Driftwood Drive. The applicant is John and Patricia Mathis.

Cameron Gloss read the staff report. Also submitted photos of the site for the Commissioners to review.

Commissioner Doveri asked if the only utility company was the power company?

Cameron Gloss stated that is correct.

Commissioners Harris, Goss and Frei stated that they made site visits.

APPLICANT: JOHN T. MATHIS, 4864 DRIFTWOOD DRIVE, KLAMATH FALLS, OR stated the following:

I built a shop on the north end of my garage. Before I built the building I realized that it would be in close quarters because, at the time, there was a large apple tree. There is also a metal storage shed, so there really wasn't any room to build out back. I checked with a contractor, and he said he couldn't build it, but told me to go ahead and build it

State of Oregon, County of Klamath
Recorded 9/17/99, at 10:16 a.m.
In Vol. M99 Page 37105
Linda Smith,
County Clerk Fee \$ 35.00

By: City Recorder
Sue Klamath, sec
KFO. 97601