

Ordinance No. 99- 13

**A SPECIAL ORDINANCE VACATING A PORTION OF
FULTON STREET BETWEEN SARGENT AND WORDEN AVENUES
WITHIN THE FAIRVIEW ADDITION**

WHEREAS, the owner of the property adjacent to the property to be vacated desires to vacate the eastern 110 feet of the 60-foot wide Fulton Street right-of-way between Sargent and Worden Avenues; and

WHEREAS, hearings were held on November 9, 1998 and June 14, 1999, pursuant to applicable laws, at which time all objections with reference to said proposed vacation were considered by the Planning Commission; and

WHEREAS, the City Council hearing notice having been duly given, did hold public hearings on February 16, July 19, and August 2, September 7, September 20, October 4, 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, subject to the following conditions:

1. The applicant shall apply for and obtain a Conditional Use Permit for any physical improvements that constitute an expansion to the school including, but not limited to a turfed play area.
2. The approval of this Vacation of right-of-way is contingent upon the applicant completing all proposed and required physical improvements associated with the Conditional Use Permit, and located within the former Fulton Street right-of-way within one year (12 months) of the adoption of this ordinance. Failure to complete the proposed and required improvements within this time frame will result in the right-of-way ownership reverting back to the City.

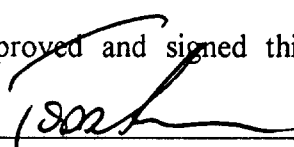
NOW THEREFORE,

THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

The eastern 110 feet, between Lot 6 of Block 8 and Lot 1 of Block 5 of the Fairview Addition, of the 60 foot-wide Fulton Street right-of-way between Sargent and Worden Avenues, located in the northwest ¼ of the southeast ¼ of Section 29, Township 38 South, Range 9 East, of the Willamette Meridian, of the City of Klamath Falls, Klamath County, Oregon, as shown on Exhibit "A", is hereby vacated.

Passed by the Council of the City of Klamath Falls, Oregon, the 18 day of October, 1999.

Presented to the Mayor (Mayor Pro tem), approved and signed this 19 day of October, 1999.



Mayor (Mayor Pro tem)

ATTEST:



City Recorder (Deputy Recorder)

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

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 18 day of October, 1999 and thereafter approved and signed by the ~~Mayor~~ (Mayor Pro tem) and attested by the City Recorder (Deputy Recorder).

Shirley Kappas
City Recorder (Deputy Recorder)

AFTER RECORDING RETURN TO:
City Recorder
500 Klamath Avenue
Klamath Falls, OR 97601

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY.

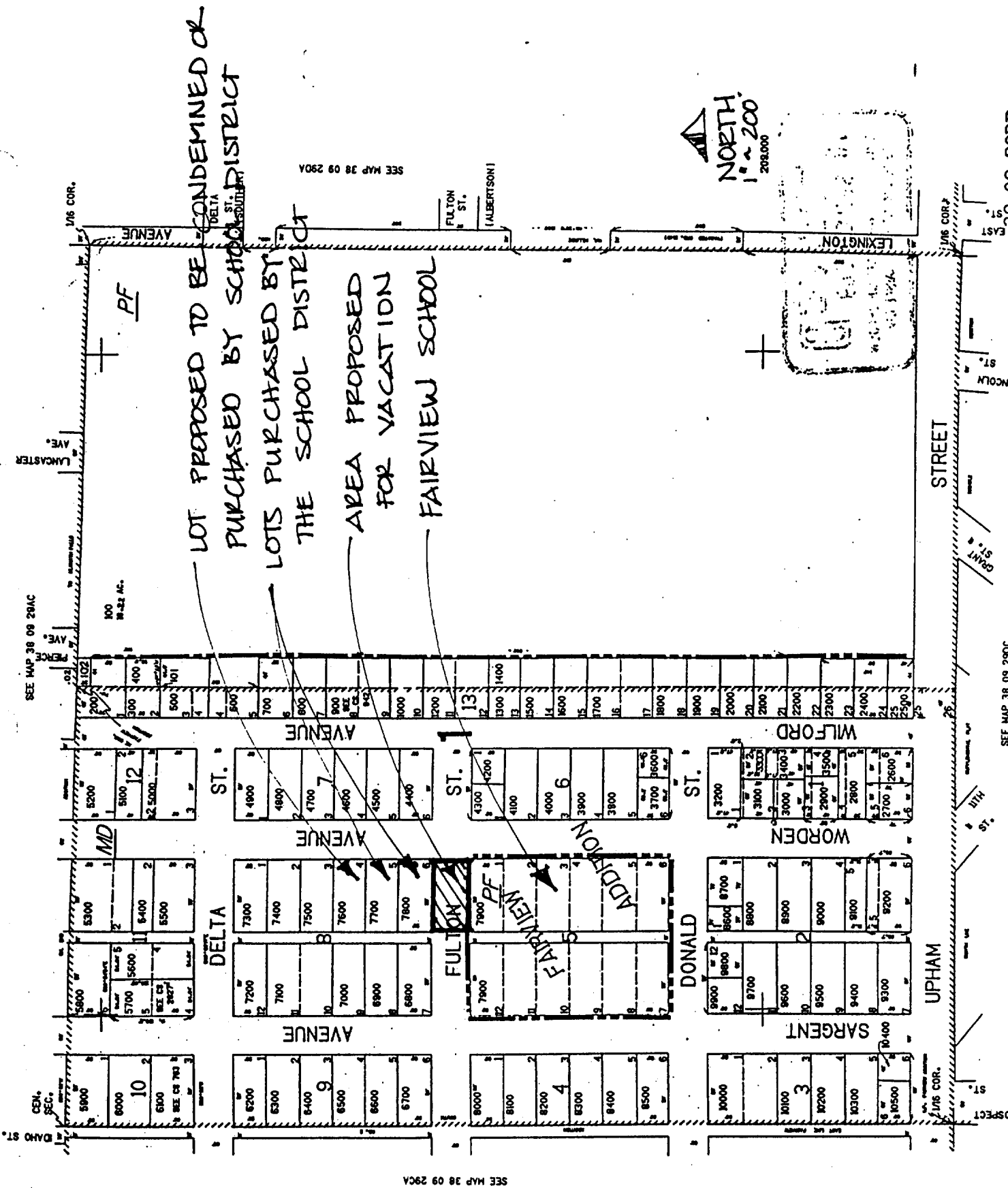


Exhibit "B"

The following addresses the criteria specific to section 13.025 of the City's Community Development Ordinance. In applying the facts to the criteria, specific cross references may have been made; however, the facts separately set forth are generally applicable to more than one criterion and therefore, should be treated as cumulative and supplementary.

1. Criterion. The consent of the owners of the requisite area has been obtained.

Finding. Signed petitions of consent for the original vacation request were obtained from property owners abutting the portion of the alley and Fulton Street proposed for vacation (1500 Worden Avenue, 1505 Sargent Avenue, and the City School). Consent petitions were also obtained from two-thirds (in area) of the properties within the area affected by the proposed vacation. The area requested for vacation has been modified. However, the City Attorney has stated that because the area requested for vacation has decreased, the original consent petitions remain valid.

2. Criterion. The notice of the proposed vacation has been duly given.

Finding. Notice of the vacation has been made, consistent with the CDO and any applicable state provisions. Notice was mailed to 57 property owners on July 1, 1999, and published in the Herald & News on June 21 and 28, and July 5 and 12, 1999. Jim Howard, Bruce Huffman and Vincent Belleci responded in opposition of the proposal.

3. Criterion. The public interest will not be prejudiced by vacation of such plat or part thereof.

Finding. The public interest will not be prejudiced by the vacation of a portion of the Fulton Street right-of-way. The vacation and proposed development would not

- cause negative visual impacts on the neighborhood as it can be designed and constructed to minimize the need for large retaining walls and fences exceeding four feet in height adjacent to Worden Street;
- increase traffic circulation problems as Fulton Street carries a low volume of vehicular traffic which parallel streets, Delta and Donald, appear to be able to absorb; no evidence has been introduced to show that in the brief period Fulton Street has been paved it has become a main arterial; Fulton Street is paved to a width of 22 feet, narrower than Donald and Delta; the extensions of Delta and Donald between Sargent and Oregon Avenue are both in better condition than is the extension of Fulton; the property owner at 1505 Sargent has the options to utilize the alley or proposed parking lot to access his driveway and garage located on Fulton Street; and there is no proof that there will be an increase in the number of cars attempting to utilize the alley; No affected citizen has testified in any hearing that they would be adversely affected in passing between Wilford or Worden and Oregon Avenue;
- create pedestrian circulation problems as a through route connecting Worden and Sargent Avenues can be accommodated in the design of the proposed play area;
- increase on-street parking as the design proposes relocating the existing twelve parking spaces and creating additional spaces on-site;
- create inadequate emergency service access to the site as the design provides access to the northern portion of the school through a proposed parking lot;
- have additional effects on the neighborhood with additional (long-term) expansion plans as the School District does not intend to expand Fairview Elementary School and has hired a consultant to create master plans for each school site;
- impede snow removal as no representative of the City Streets Department has expressed any concern in any hearing and the proposed parking lot on the northern portion of the school could be used for snow plow turn around and snow storage.

4. **Criterion.** The proposed vacation conforms to the Comprehensive Plan, all applicable street plans, and all applicable provisions of Chapters 10 to 14.

Findings. The proposed vacation conforms to the Comprehensive Plan, all applicable street plans, and all applicable provisions of Chapters 10 to 14. The proposal for vacation and development meets or could meet the following sections of the Comprehensive Plan and Community Development Ordinance (CDO):

- A) Comprehensive Plan Policy 118:** *...the costs of schools and parks should be minimized by joint location, acquisition and use of sites for both schools and parks."*

The District has the option to use Fairview Park and a portion of the Linkeville Cemetery for either everyday playground needs or for track meets and larger events. The district has stated that the park and cemetery are located too far away for everyday use.

- B) Comprehensive Plan Policy 119:** *Maximum education opportunity at minimum cost to the taxpayers will be supported.*

Staff created rough cost estimates for the District's proposal and three additional alternatives in an effort to save the District money. There are also other alternatives that could minimize the amount of funds expended on the project. The District has already expended a large sum of money on the purchase of two residential lots and is proposing to condemn a third residential lot. These purchases were made prior to the request for a vacation being approved. The School District feels that this option is the best alternative.

- C) Comprehensive Plan Policy 123:** *Both schools and properties adjacent to schools shall be developed in a manner which minimizes the negative impact on each other.*

The vacation and proposed development will not create major negative impacts on adjacent properties (See Findings for Criterion 3).

- D) The Comprehensive Plan states:** *a major concern of the community regarding the transportation system is the need to maintain and improve the livability of residential areas in the face of increasing population and transportation requirements.*

Fulton Street serves as a residential connector road and carries a low volume of vehicular traffic. Parallel streets, Delta and Donald appear to be able to absorb this amount of traffic. No evidence has been introduced to show that in the brief period Fulton Street has been paved it has become a main arterial. Fulton Street is paved to a width of 22 feet, narrower than Donald and Delta and the extensions of Delta and Donald between Sargent and Oregon Avenue are both in better condition than is the extension of Fulton. The property owner at 1505 Sargent has the options to utilize the alley or proposed parking lot to access his driveway and garage located on Fulton Street. There is no proof that there will be an increase in the number of cars attempting to utilize the alley. No affected citizen has testified in any hearing that they would be adversely affected in passing between Wilford or Worden and Oregon Avenue. Emergency services would have access to the rear of the school through a proposed parking lot, however access must occur from the west (Sargent Street).

- E) Comprehensive Plan Policy 146:** *Pedestrians will be given top priority in high-density residential and commercial areas.*

The area surrounding the school is zoned Medium Density Residential. Pedestrian access from Sargent to Worden Avenues should not be eliminated. A bus stop exists at the corner of Oregon Avenue and Fulton Street. The direct pedestrian connection from the surrounding neighborhood to the bus stop can be accommodated when the final design is proposed.

State of Oregon, County of Klamath
Recorded 1/31/00, at 8:47 a.m.
In Vol. M00 Page 3078
Linda Smith,
County Clerk Fee \$ 41⁰⁰