

Ordinance No. 02-22

A SPECIAL ORDINANCE VACATING
A PORTION OF THE CARLYLE AVENUE RIGHT-OF-WAY
BETWEEN IDAHO STREET AND SARGENT AVENUE

WHEREAS, the owners of the properties adjacent to the right-of-way to be vacated obtained the necessary consent petitions from surrounding property owners to initiate the vacation proceedings, and

WHEREAS, the owners of the properties adjacent to the right-of-way to be vacated desire to vacate the Carlyle Avenue right-of-way between the Idaho Street right-of-way and the Sargent Avenue right-of-way; and

WHEREAS, a hearing was held on October 14, 2002, 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 a public hearing on November 28, 2002, on the recommendation of, and including the record of the Planning Commission concerning the vacation; and

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

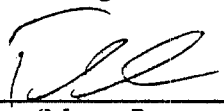
NOW THEREFORE,

THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

A portion of the Carlyle Avenue right-of-way located adjacent to lot 12, Block 35 and lot 1, Block 36 of the Second Addition of Klamath Falls, between the Idaho Street right-of-way and the Sargent Avenue right-of-way, Klamath County, Oregon, being more particularly described in EXHIBIT B (and as shown on EXHIBIT C) is hereby vacated.

Passed by the Council of the City of Klamath Falls, Oregon, the 2nd day of December, 2002.

Presented to the Mayor (~~Mayor-Pro-tem~~), approved and signed this 3rd day of December, 2002.


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

ATTEST:

City Recorder (~~Deputy Recorder~~)

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

State of Oregon, County of Klamath
Recorded 01/08/2003 3:15 p. m.
Vol M03 Pg 01539-43
Linda Smith, County Clerk
Fee \$ 41⁰⁰ # of Pgs 5

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 2nd day of December, 2002 and thereafter approved and signed by the Mayor (~~Mayor-Pro-tem~~) and attested by the City Recorder (~~Deputy Recorder~~).


City Recorder (~~Deputy Recorder~~)

**EXHIBIT A
FINDINGS**

1. Whether the consent of the owners of the requisite area has been obtained.

Findings of Fact: ORS 271.080 (2) states: "There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated."

The vacation application was accompanied by 49 consent forms signed by the affected property owners and duly notarized. The 49 properties represented by the consent forms represent all abutting property owners and a total of 74 percent of the affected properties within the required distances. The necessary percentage of affected property owners has been exceeded by the consent forms submitted by the applicants.

2. Whether the notice of the proposed vacation has been duly given.

Findings of Fact: The applicant has submitted 49 signed consent forms with the application, and the forms were sent to all 66 property owners in the vicinity. The forms were accompanied by information about the proposed vacation and a map that showed the area.

Notice of the Planning Commission hearing was mailed to all property owners on both August 14, 2002 and again on September 19, 2002. The second mailing notified owners of the new rescheduled hearing date. Notice of the City Council hearing was mailed to 66 adjacent property owners on October 16, 2002.

ORS 271.110 (1) requires that: "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." Notice of the Planning Commission hearing was submitted to the Herald and News newspaper for publication on two consecutive Sundays, September 29 and October 6, 2002. Notice of the City Council hearing was published in the Herald and News newspaper on October 20, 27, November 4 and 11, 2002

The notice requirements of both the City Development Ordinance (CDO) and Oregon Revised Statutes have therefore been met.

3. Whether the public interest will be prejudiced by vacation of such plat or part thereof.

Findings of Fact: The 900 block of Carlyle Street has never been in public use. The east terminus is sealed by Sargent Avenue and the west terminus dead-ends into unimproved alley (Idaho Street). Adjacent property owners have made and maintained landscaping improvements. There are no public or private utilities in the right-of-way proposed to be vacated. The next block of Carlyle to the east will probably also never be developed as a street, due to similar slope restrictions. Connecting Carlyle Street to Oregon Avenue would be the only reason to ever develop this right-of-way for street use. Currently, the paved portion of Carlyle runs only for about three blocks at the top of the hill, from Lancaster Avenue to Worden Avenue. The section of Carlyle Street right-of-way that would have allowed future connection to Lexington and Crescent Avenue to the east has already been vacated due to its very steep slope and unsuitability for street development. Continuation of Carlyle Street west to Oregon Avenue would entail purchase of private property for additional right-of-way and possibly, demolition of existing private improvements, and a new intersection on Oregon Avenue in this vicinity would lead to increased congestion and difficulty in intersection alignment or spacing.

Returning this essentially unusable 6,000 square feet of land to private use would be beneficial to the adjacent property owners and generate tax revenues for the City. A less steep, developed access to Oregon Avenue is available via Delta Street about 320 feet to the south.

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

Findings of Fact: The City Transportation System Plan (TSP), Table 7-2, contains street design standards for local streets that a future westward extension of Carlyle Avenue from Worden or Sargent Avenues through to Oregon Avenue could not meet. The TSP is the adopted transportation element of the City

Comprehensive Plan. Specifically, the design standards suggested that local streets not exceed a maximum of ten percent slope and that a minimum spacing between streets of 400 feet be maintained. The steep downward-sloped terrain would make a street grade of ten percent extremely difficult, if not impossible to achieve, and the existing locations and spacing of intersecting streets along Oregon Avenue would make the 400-foot spacing of a Carlyle intersection impossible. The same standards are reiterated in the CDO and Public Works Design Standards. Development of the existing right-of-way would therefore be contrary to applicable City street plans and policies, and vacation of the proposed section would conform with the same.

EXHIBIT B
VACATION LEGAL DESCRIPTION

Beginning at the southeast corner of Lot 12, Block 35 of the plat of Second Addition to Klamath Falls; thence S 89° 22' 15" W, 88.05 feet along the south property line of said Lot, to the southwest corner of Lot 12, Block 35; thence S 00° 25' 00" E, 60.00 feet to the northwest corner of Lot 1, Block 36 of said plat; thence N 89° 22' 15" E, 88.24 feet along the north property line of said Lot, to the northeast corner of Lot 1, Block 35; thence N 00° 35' 40" E, 60.00 feet to the point of beginning.

EXHIBIT C
VACATION VICINITY MAP

