



00003025200600179120050053

09/06/2006 10:45:28 AM

Fee: \$41.00

Ordinance No. 06-27

A SPECIAL ORDINANCE VACATING EIGHT FEET OF BOTH SIDES OF THE KEY STREET RIGHT-OF-WAY ADJACENT TO LOTS 1-9, BLOCK 3 AND LOTS 5-10, BLOCK 2 OF THE 6TH STREET ADDITION AND RECLASSIFYING THE RIGHT-OF-WAY AS AN ALLEY

WHEREAS, Council did hereby initiate proceedings for vacating eight feet of the Key Street right-of-way adjacent to lots 1 through 9 of Block 3 and eight feet of the Key Street right-of way adjacent to lots 5 through 10 of Block 2 of the Sixth Street Addition within the City of Klamath Falls through Resolution 06-18; and

WHEREAS, the Community Development Director was directed to initiate the vacation process under Sections 13.005 to 13.055 of the Community Development Ordinance through the same Resolution; and

WHEREAS, the applicant, City of Klamath Falls has submitted a written proposal for vacation of certain real property which is hereinafter described; and

WHEREAS, the Planning Commission cancelled the public hearing due to a lack of a quorum on June 26, 2006; and

WHEREAS, a public hearing was held on July 10, 2006, pursuant to applicable laws, at which time all evidence and objection 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 7, 2006, on the recommendation of and including the record of the Planning Commission concerning the vacation; 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; and

WHEREAS, the City is establishing an 8' wide public utility easement on eastern side of Key Street, and an 8' wide public utility easement for map and tax lot 3909-04AA-1400, lot 9 of block 3 frontage to repair or reconstruct existing utilities, or to install additional utilities or future pedestrian access, as needed and;

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

THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

There are hereby vacated, rights-of-way of land as shown on the map attached hereto as Exhibit A, and described as:

Eight feet of each side of the Key Street right-of-way, leaving a 24 foot wide right-of-way to be developed as an alley.

Portions to be included are described as follows:

Key Street right-of-way adjacent to Lots 1-9, Block 3 and Lots 5-10, Block 2 of the 6th Street Addition and reclassify the right-of-way from a street to an alley.

provided, however, an 8' wide public utility easement on eastern side of Key Street; Lots 5 – 10, Block 2 and an 8' wide public utility easement on the western side of Key Street for map and tax lot 3909-04AA-1400, Lot 9 of Block 3 of the 6th Street Addition frontage be established to repair or reconstruct existing Avista Utilities, as needed.


Passed by the Council of the City of Klamath Falls, Oregon, the 21st day of August, 2006.

Presented to the Mayor, approved and signed this 22nd day of August, 2006.



Mayor


ATTEST:



City 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 on the 21st day of August, 2006 and therefore approved and signed by the Mayor and attested by the City Recorder (Deputy Recorder).



~~City Recorder~~ (Deputy Recorder)

Exhibit A
VICINITY MAP
No Scale

NE1/4 NE1/4 SEC. 04 T.39S. R.09E. W.M.
KLAMATH COUNTY

39 09 04AA
KLAMATH FALLS

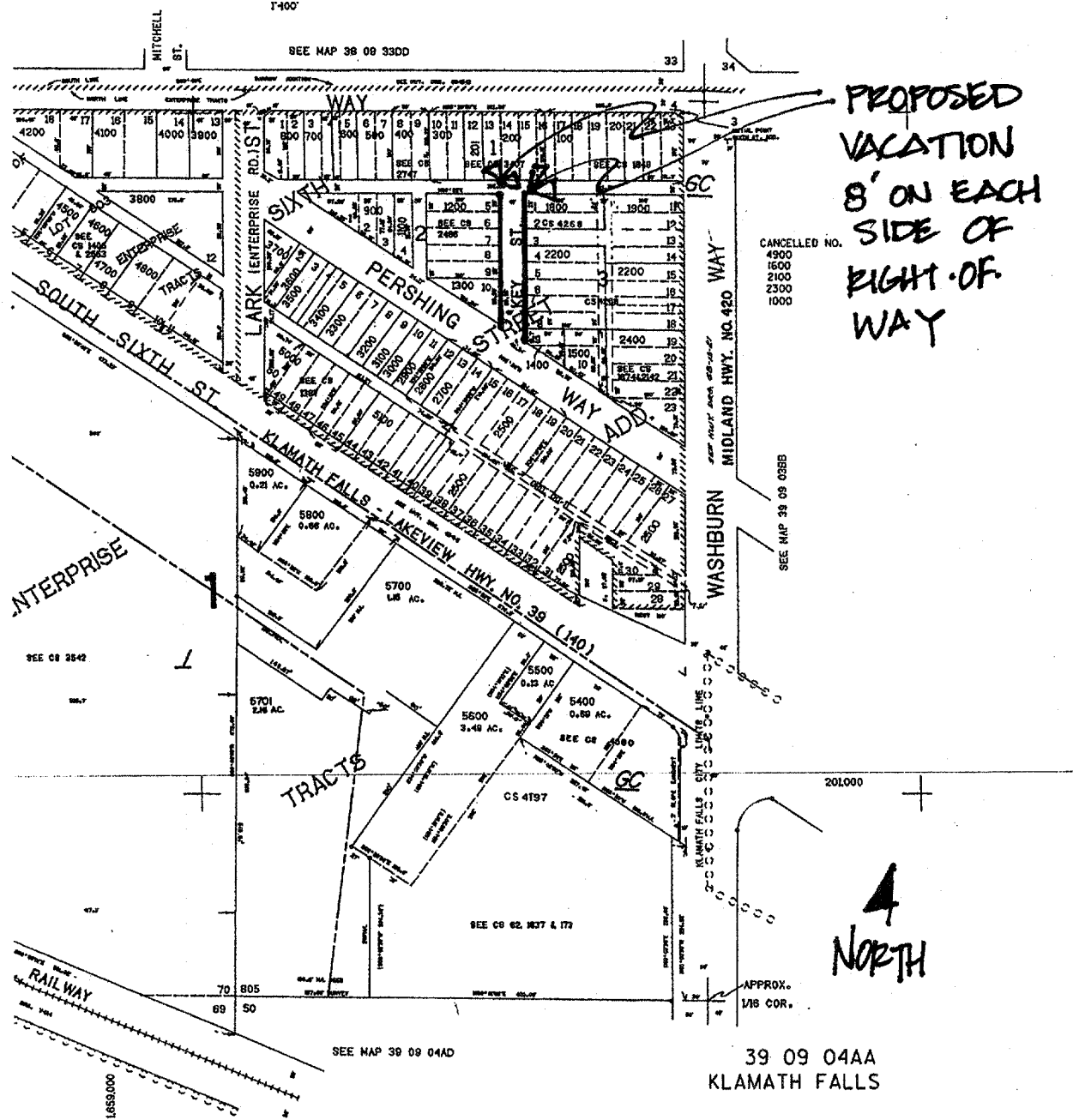


Exhibit B FINDINGS

RELEVANT REVIEW CRITERIA, FACTS AND ANALYSIS, AND PROPOSED FINDINGS

This proposal is being reviewed according to the provisions of the Klamath Falls Community Development Ordinance (CDO), Chapters 10-14, specifically Sections 13.005-13.055, regarding Vacations.

A. Criterion: Consent of the owners of the requisite area has been obtained.

Facts and Analysis: Per CDO Section 10.515(1) consent of the owners of all abutting property and of not less than two thirds in area of the real property affected thereby as defined by ORS 271.080(2) are required. Council approved Resolution 06-18, initiating the vacation proceedings on May 15, 2006.

Finding: The Consent of the owners of the requisite area did not need to be obtained as the vacation proceedings were initiated by the City Council on May 15, 2006, by Resolution. **This criterion is met.**

B. Criterion: Notice of the proposed vacation has been duly given.

Facts and Analysis: Notice of this public hearing was mailed to 21 adjacent property owners within 500 feet of the subject property on May 17, 2006 and published in the Herald and News on June 6, 2006.

Finding: Notice of the proposed vacation was duly given by mail and published in the local newspaper. **This criterion is met.**

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

Facts and Analysis: Currently the right-of-way is approximately 220 feet in length by 40 feet wide and is unimproved. The location of the vacation is between Pershing Street and an alley that runs parallel and south of Shasta Way; and is west of and parallel to Washburn Way. The vacation would reclassify the street to an alley and create a right-of-way of 24 feet wide. City standards require alleys to be 24 feet wide.

If approved, Mr. Toro is required to improve the 24 foot right-of-way to city alley standards as a condition of approval associated with his restaurant expansion.

If approved, the adjacent properties of the Key Street right-of-way adjacent to Lots 1-9, Block 3 and Lots 5-10, Block 2 of the 6th Street Addition will equally receive 8 feet. The remaining 24 feet will become the reclassified alley right-of-way. Public access will still be permitted through the right-of-way.

There is an existing water main that is partially located in the southeast end of the Key Street right of way. According to Water Division staff the water main located at the southeast corner of Key Street is utilized by one residence and will be replaced by the City and relocated in the Pershing Way right-of-way.

Avista Utilities has a ¾ inch gas service on Key Street Between the alley and Pershing Way serving 2505 Pershing Way. This would need to be in the proposed alley way or in a 10 foot wide easement. During further conversations with Avista it was determined that the service line running from the north end of the alley starts 12 feet from the west property line and skews back to the south end of the alley to 6 feet from the west property line. At that point, the line crosses the alley and goes approximately 15 feet into the property addressed as 2505 Pershing Way.

Finding: The public interest will not be prejudiced by the vacation of said portions of the Key Street right-of-way within the 6th Street Addition with the following condition:

Condition: The ¾ inch gas service line within Key Street shall be protected through a Public Utility Easement (PUE) or within the remaining 24 foot wide alley.

D. Criterion: The vacation conforms to the Comprehensive Plan, all applicable provisions of Chapters 10 to 14 of the City Code and any applicable street plans.

Facts and Analysis: Currently the right-of-way is approximately 220 feet in length, 40 feet wide and is unimproved. The vacation would reclassify the street to an alley and create a right-of-way of 20 feet wide. City standards require alleyways to be 24 feet wide. Avista Gas Utility has a ¾ inch service line that serves 2505 Pershing Way and requests access through the alleyway or a 10 foot easement.

If approved, the adjacent properties of the Key Street right-of-way those lots being 1-9, Block 3 and Lots 5-10, Block 2 of the 6th Street Addition will equally receive 8 feet. The remaining 24 feet will become the reclassified alley right-of-way.

Finding: The vacation will conform to the Comprehensive Plan and applicable provisions of Chapters 10 to 14 of the CDO and any applicable street plans with the implementation of the following condition:

Condition: The ¾ inch gas service line within Key Street shall be protected through a Public Utility Easement (PUE) or within the remaining 24 foot wide alley.