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Fee: \$36.00

Ordinance No. 07-15

**A SPECIAL ORDINANCE VACATING AN ALLEY LOCATED BETWEEN
BLOCK 207 OF MILLS SECOND ADDITION AND BLOCK 1 OF THE
SUPPLEMENTAL PLAT OF BLOCK 242 MILLS SECOND ADDITION, SOUTH
OF SOUTH 6TH STREET, NORTH OF SHASTA WAY, WEST OF MARTIN
STREET AND EAST OF EAST MAIN STREET.**

WHEREAS, the applicants, Walter Stallcup and the City of Klamath Falls, have submitted a written proposal for vacation of certain real property which is hereinafter described; and

WHEREAS, a public hearing was held on May 14, 2007, 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 June 18, 2007, 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 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:

An alley located between Block 207 of Mills Second Addition and Block 1 of the Supplemental Plat of Block 242 Mills Second Addition, south of South 6th Street, north of Shasta Way, west of Martin Street and east of East Main Street.

Passed by the Council of the City of Klamath Falls, Oregon, the 2nd day of July, 2007.

Presented to the Mayor, approved and signed this 3rd day of July, 2007.

Mayor

ATTEST:

City Recorder (Deputy Recorder)

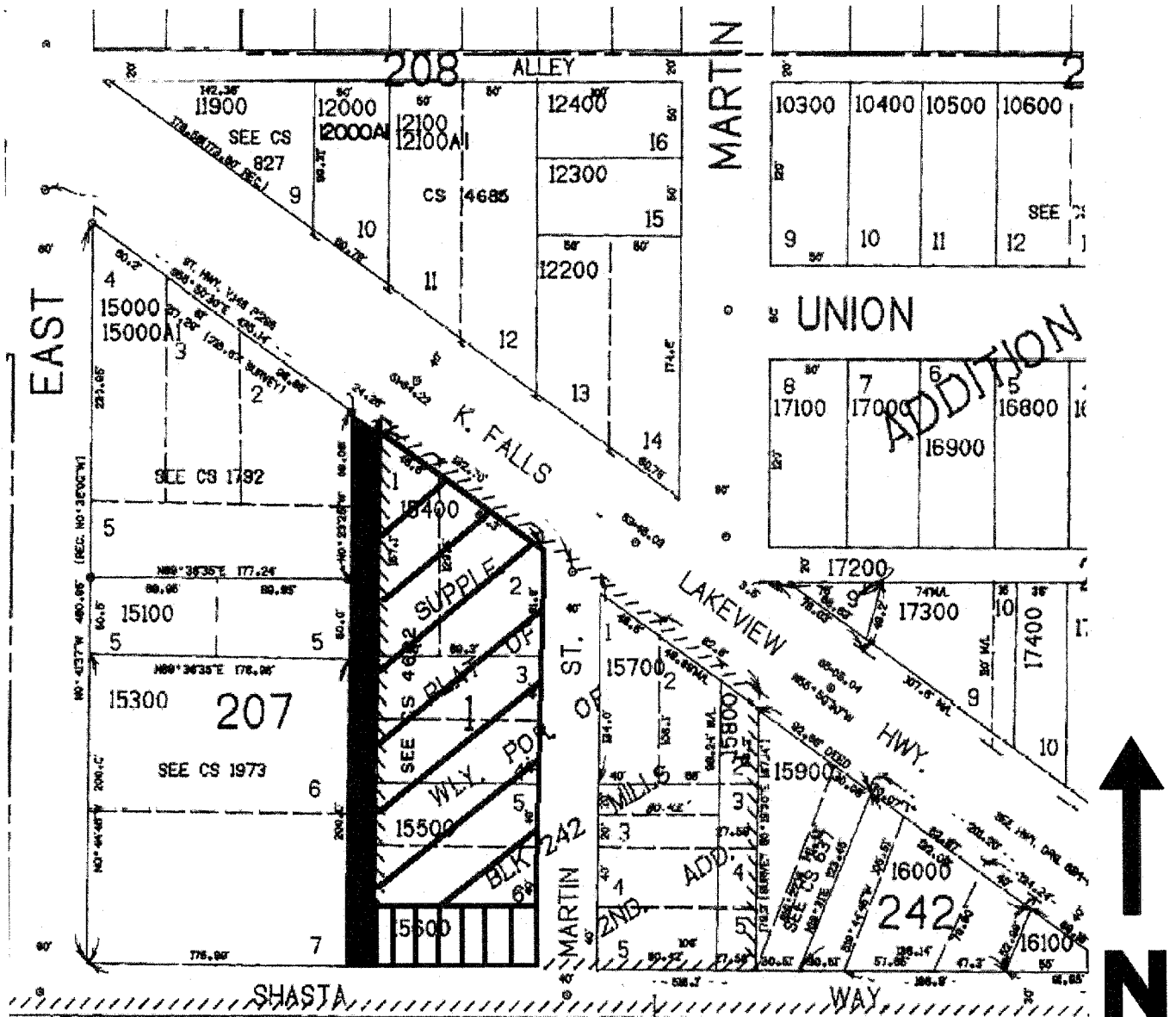
STATE OF OREGON }
COUNTY OF KLAMATH }
CITY OF KLAMATH FALLS } SS

I, Shirley Kagan, 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 2nd day of July, 2007 and therefore approved and signed by the Mayor and attested by the City Recorder.

City Recorder (Deputy Recorder)

Exhibit A

Vicinity Map
(Not to Scale)



Subject Property

Stallcup

PP&L

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. Mr. Stallcup has obtained the signatures of all abutting property owners and more than two thirds of the owners of the real property affected for the portion of the alley that he proposes to vacate. ORS 271.130 authorizes the City Council to initiate vacation proceedings without obtaining the required consent. Council approved Resolution 07-12, initiating the vacation proceedings for the remainder of the alley on April 16, 2007.

Finding: Consent of the owners of the requisite area has been obtained. **This criterion is met.**

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

Facts and Analysis: Notice of the Planning Commission public hearing was mailed to 16 adjacent property owners on March 22, 2007 and April 17, 2007 and published in the Herald and News on April 23, 2007. Notice of this public hearing was published in the Herald and News on May 28, June 4, 11, & 18, 2007 and mailed on May 15, 2007 to 17 adjacent property owners.

Proposed 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: This right-of-way is approximately 255 feet in length by 20 feet wide and is mostly unimproved. There is an asphalt apron and some gravel at the southern end of the alley near Shasta Way, and some asphalt in the right-of-way near South 6th Street. The remainder of the right-of-way is unimproved containing only native grass, weeds, and trash/debris. The right-of-way is located parallel and between East Main and Martin Streets, south of S. 6th Street and north of Shasta Way. If approved, the adjacent properties will equally receive 10 feet of the right-of-way.

The City does not have any water, storm or sanitary sewer infrastructure in this right-of-way. Neither Avista Utilities nor Qwest Corp. has issues with the proposed vacation. Charter Communications has some facilities in the right-of-way that were installed to service the applicant's property. Charter can remove these facilities without cost to the applicant.

Pacific Power and Light (PP&L) does not have utilities located within the right-of-way in question but they do have an interest in the portion of the alley that is adjacent to their property (map and tax lot R-3809-33DC-15600). PP&L would like to continue to access this portion of the alley to park equipment, if necessary, when servicing the substation or in case of emergency. Mr. Stallcup, the applicant, the owner (Rogue Partners Limited Partnership) of the property across the alley to the west of PP&L's property (map and tax lot R-3809-33DC-15300) and PP&L are working to record an easement that would grant PP&L access to the southernmost 40' of the alley if it is vacated. A draft of this proposed easement was sent to PP&L June 4, 2007 for review. PP&L is in the process of reviewing the proposal to verify that it meets their needs.

Proposed Finding: This right-of-way is mostly unimproved and is not used by vehicular traffic. The only utilities placed within the right-of-way are no longer necessary and can be easily removed. PP&L requests continued access to the portion of the alley adjacent to their substation. **This criterion is met with the following condition.**

- a. An easement is recorded to allow PP&L access to the southerly 40 feet of the vacated right-of-way. A strip of land approximately 10 feet by 40 feet.

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: The vacation of this right-of-way would eliminate an access point on S. 6th Street, an arterial street in the City. This is in conformance with Comprehensive Plan Policy 139 which states that arterial streets should have limited access points. The vacation of this right-of-way will not eliminate street frontage or required access to any of the lots in the area.

Proposed Finding: The vacation conforms to the Comprehensive Plan and applicable provisions of Chapters 10 to 14 of the CDO and any applicable street plans. **This criterion is met.**