



Ordinance No. 08-02

02/14/2008 03:55:43 PM

Fee: \$41.00

**A SPECIAL ORDINANCE VACATING UNIMPROVED PORTIONS OF RIGHTS-OF-WAY WITHIN  
THE CHELSEA ADDITION INCLUDING:  
NUNGESSER AVENUE BETWEEN COOLIDGE STREET AND THE UNION PACIFIC RAILROAD  
RIGHT-OF-WAY,  
THE INTERSECTION OF NUNGESSER AVENUE AND COOLIDGE STREET,  
AND A 23.5 FOOT PORTION OF COOLIDGE STREET SOUTH OF NUNGESSER AVENUE.**

**WHEREAS**, the applicant, Falcon Ridge Development, LLC, has submitted a written proposal for vacation of certain real property which is hereinafter described; and

**WHEREAS**, a public hearing was held on November 13, 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 December 17, 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 C;" NOW THEREFORE,

**THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:**

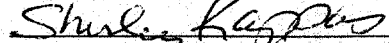
There are hereby vacated, rights-of-way of land as described in a detailed legal description attached hereto as "Exhibit A," and as shown on the map attached hereto as "Exhibit B."

Passed by the Council of the City of Klamath Falls, Oregon, the 7<sup>th</sup> day of January, 2008.

Presented to the Mayor, approved and signed this 8th day of January, 2008.

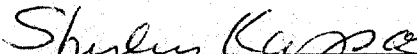
  
\_\_\_\_\_  
Mayor

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 on the \_\_\_\_\_ day of \_\_\_\_\_, 2008 and therefore approved and signed by the Mayor and attested by the City Recorder (Deputy Recorder).

  
\_\_\_\_\_  
City Recorder (Deputy Recorder)

**Exhibit A**  
**Detailed Legal Description**



430 Walnut Ave.  
PO Box 909  
Klamath Falls OR 97601

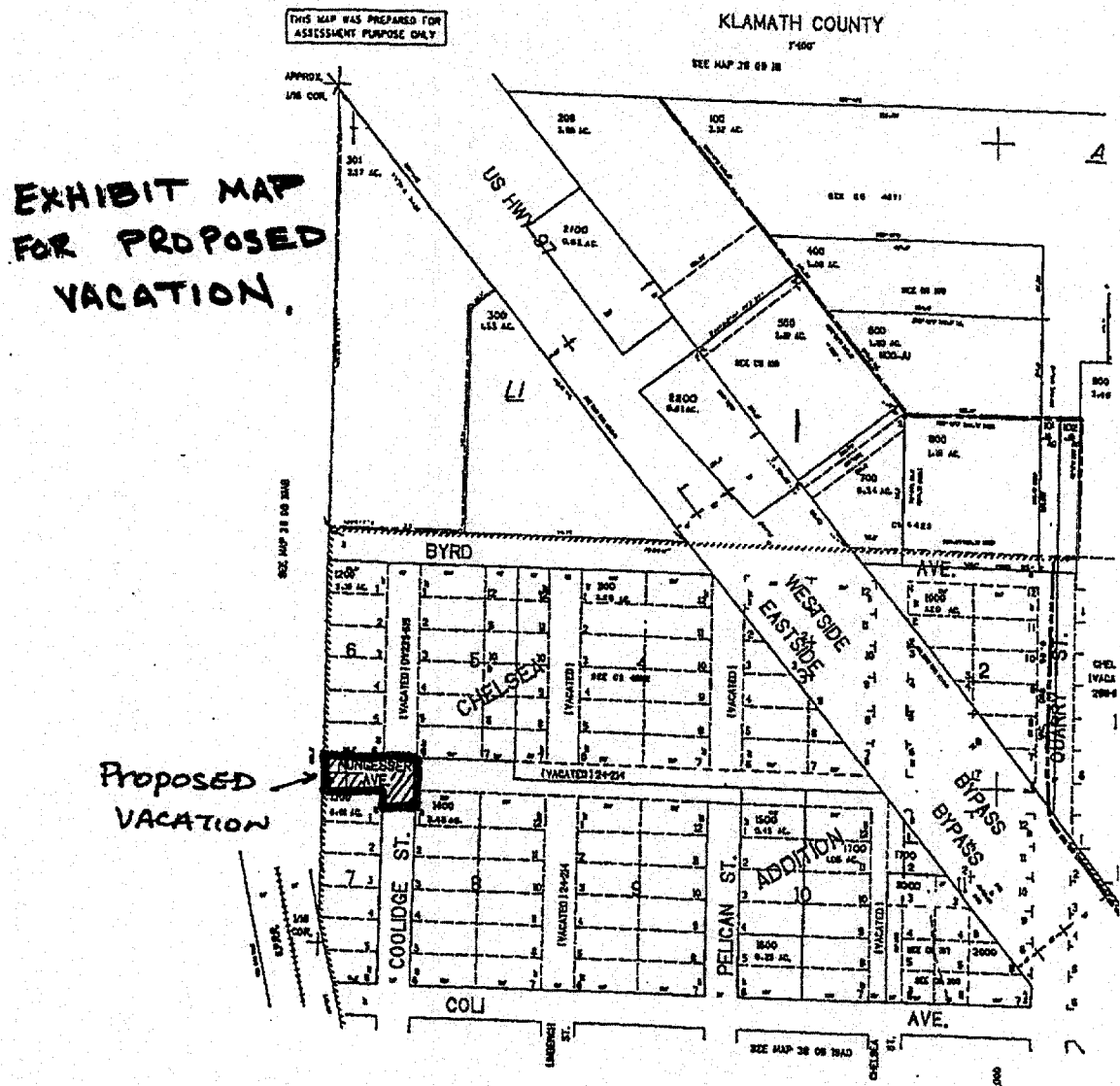
**VACATION DESCRIPTION OF  
NUNGESSER AVENUE WITH A PORTION OF COOLIDGE STREET  
LOCATED IN CHELSEA ADDITON**

**NUNGESSER AVENUE AND COOLIDGE STREET PARCEL:**

A portion of Nungesser Avenue and Coolidge Street situated in the E1/2 of NE1/4 of Section 19, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, said portion of Nungesser Avenue being that 50 foot wide strip adjacent to Lot 1, Block 7 and Lot 6, Block 6 of Chelsea Addition; and a portion of Coolidge Street south of the north right of way line of Nungesser Avenue, according to the official plat thereof on file in the Klamath County Clerks Office, said portions being more particularly described as follows:

Beginning at the southwest corner of said Lot 6, Block 6; thence N.89°49'W. along the north right-of-way line of Nungesser Avenue, a distance of 140.5 feet to the southwest corner of Lot 6, Block 5; thence S.00°11'W., along the east right of way line of Coolidge Street, a distance of 73.5 feet; thence S.89°49'E., 50.00 feet to the west right of way line of Coolidge Street; thence N.00°11'E., along the west right of way line of Coolidge Street, a distance of 23.5 feet to the northeast corner of said Lot 1, Block 7; thence N.89°49'W., 90.6 feet to the southwest corner of said Lot 1, Block 7; thence N.00°04'E., 50.00 feet along the west boundary of said Chelsea Addition, to the Point of Beginning. Containing 8200.0 square feet more or less, with bearings based on the plat of Chelsea Addition.

**Exhibit B**  
**Vicinity Map**  
**(Not to Scale)**



## Exhibit C

### 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. The Applicant has obtained the signatures of all abutting property owners and more than two thirds of the owners of the real property within the identified area. As required by the Planning Commission, the Applicant has furnished the necessary revised site map and related legal description detailing the affected portions of the Nungesser Ave. and Coolidge St. rights-of-way requested to be vacated.

**Finding:** Consent of the owners of the requisite area has been obtained for the identified area potentially affected by the vacation of portions of the Nungesser Ave. and Coolidge St. rights-of-way. A revised site map and related legal description of the affected area has been provided. **This criterion is met.**

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

**Facts and Analysis:** Notice was mailed to 26 adjacent property owners on August 30, 2007 and published in the Herald and News on September 3, 2007 for the originally-scheduled Commission meeting held on September 24, 2007. At the request of the Applicant, the Proposed Vacation along with the related Proposed Subdivision was continued to a future meeting, date uncertain. Notice of the second scheduled Commission public hearing was mailed to all applicable adjacent property owners on October 10, 2007 and published in the Herald and News on October 15, 2007. Notice of a City Council public hearing for this meeting (December 17<sup>th</sup>) was mailed to all applicable adjacent property owners on November 20<sup>th</sup> and published in the Herald and News on November 26<sup>th</sup>, December 3<sup>rd</sup>, December 10<sup>th</sup>, and December 17<sup>th</sup> of this year.

**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:** The Affected R.O.W. is bordered to the west by the Union Pacific Railroad right-of-way. All property abutting to the east and north, and those portions to the south outside of that part of the Nungesser Ave. right-of-way to be retained, are under the ownership of the Applicant for both the Proposed Vacation as well as the related proposed subdivision of Tract 1509. Given the existing heavy use by both passenger and freight trains of the Union Pacific Railroad tracks, as well as the type of existing and proposed development in the immediate area; it is doubtful that a connection of this neighborhood with that on the other side of the tracks to the northwest would be deemed feasible anytime in the near future. And, even if such a plan seemed likely to happen, such a connection would make more sense to implement via that portion of Coli Ave. west of Coolidge St.; that section is not part of this Proposed Vacation project. Access to the north and south will not be compromised as that small portion of overlapping Nungesser Ave. and Coolidge St. rights-of-way will be replaced to the east by a re-aligned right-of-way for Coolidge St. While the Proposed Subdivision is a separate project, the purpose of the Proposed Vacation is solely tied to the subsequent approval and development of the Proposed Subdivision. With this in mind, the level of public access in this area will actually increase. Additional public rights-of-way are proposed to be established and improved.

The City does not have any water, stormwater or sanitary sewer infrastructure in this right-of-way. No comments were received from local utility companies to indicate the location of other utilities in this right-of-way. In Union Pacific Railroad's comments there was no mention for the need to access their adjacent railroad right-of-way via the affected street right-of-way. No comments, either for or against, were received from property owners within the notification area.

Finding: The public interest will not be prejudiced by the vacation of said portions of Nungesser Ave. and Coolidge St. rights-of-way. **This criterion is met.**

**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 Proposed Vacation will meet all applicable rules and regulations for vacations as outlined under Secs. 13.005-13.050 of the CDO and will not conflict with any Policies as established under the City Comprehensive Plan. The City possesses no future plans to install an improved street within the affected rights-of-way. The City will not lose any legal protection to access and maintain City utilities as no such utilities exist nor are planned to be installed within the affected rights-of-way. Based upon the layout of the rights-of-way created under the Chelsea Addition in relation to the segment of railroad right-of-way running through this part of town, it appears the former pre-dated the latter. With the tracks in place and the high amount of train traffic they receive, the affected rights-of-way could serve no feasible purpose, other than to only provide access to the Pacific Southern railroad tracks. There are other existing public rights-of-way in the immediate area to serve this purpose.

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