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Fee: \$62.00

Ordinance No. 11-02

**A SPECIAL ORDINANCE VACATING A PORTION OF AN ALLEY RIGHT-OF-WAY,
LOCATED SOUTH OF NOSLER STREET, NORTH OF PELICAN STREET, WEST OF
BERKELEY STREET, AND EAST OF CALIFORNIA AVENUE**

WHEREAS, the applicants, David and Sylvia Martin, have submitted a written proposal for vacation of certain real property which is hereinafter described; and

WHEREAS, a public hearing was held on December 13, 2010, 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, hearing notices were duly given and the City Council held a public hearing on January 18, 2011, 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:

Section 1.

There is hereby vacated an alley right-of-way as shown on the map attached hereto as Exhibit A, and described as:

A portion of an alley right-of-way approximately 21 feet in width and 59.8 feet in length that abuts Lot 4 of Block 20 of Klamath Lake Addition and a portion of an alley vacated per C.J. 23, Page 475.

Because this alley was created as part of the Klamath Lake Addition subdivision, the City Council orders that this vacated portion of alley right-of-way shall in its entirety vest with Lot 4 of Block 20 of Klamath Lake Addition.

Passed by the Council of the City of Klamath Falls, Oregon, the 7th day of February, 2011.

Presented to the Mayor, approved and signed this 8th day of February, 2011.



Mayor

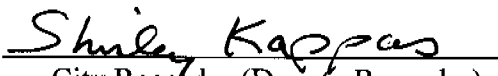
ATTEST:



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 7th day of February, 2011 and therefore approved and signed by the Mayor and attested by the City Recorder.



City Recorder (Deputy Recorder)

Exhibit A **ASSESSOR MAP** **(No Scale)**

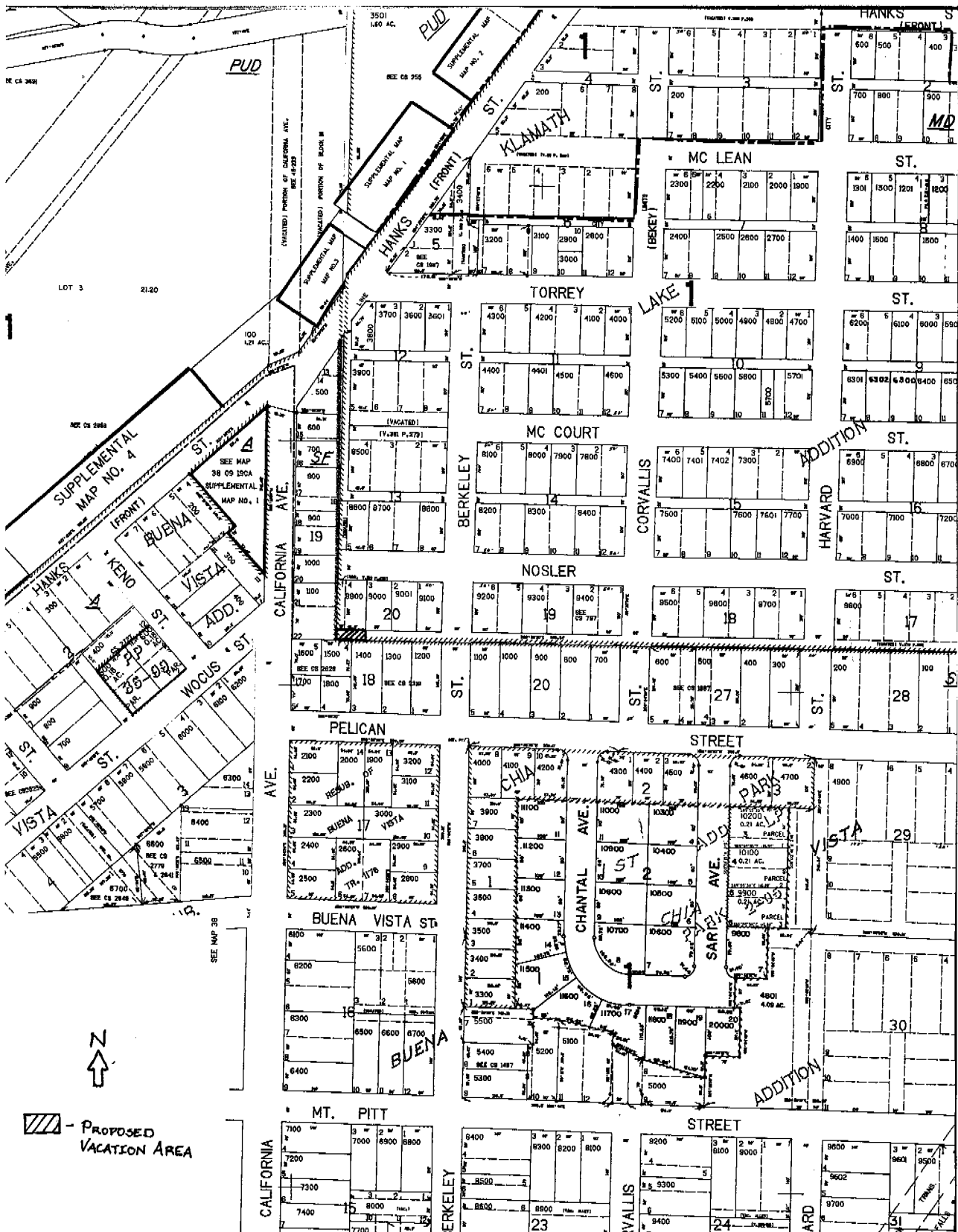


Exhibit B FINDINGS

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 obtained the signatures of all abutting property owners (Martin, Dotson, Hall and Herrig) and 69.57% of the surrounding property area as defined by ORS requirements.

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 this public hearing before the Planning Commission was mailed to 19 adjacent property owners on October 26, 2010 and published in the Herald and News on November 14, 2010.

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 alley right-of-way proposed for vacation is approximately 59.8 feet in length and 21 feet in width. The right-of-way is located south of Nosler Street, north of Pelican Street, west of Berkeley Street, and east of California Avenue. If approved, the reversion rights for this portion of alley belong to Lot 4 of Block 20 of Klamath Lake Addition and a portion of an alley vacated per C.J. 23, Page 475, as the alley was created as part of the Klamath Lake Addition Subdivision.

The entire subject alley right-of-way is unimproved. The City does not have any water, wastewater, storm water pipe, or geothermal infrastructure in this right-of-way. Avista, Charter Communications, Pacific Power and Qwest commented, but had no objections to the proposed vacation.

Vacating the entire subject alley is not an option at this time because two lots use the alley for secondary access. The owners of Lot 2 of Block 18 of the Buena Vista Subdivision currently use the alley for vehicular access to their rear yard. Along the eastern half of Lot 3 of Block 18 of the Buena Vista Subdivision there is a gate that accesses the alley, but the proposed alley vacation does not restrict the access from the gate. The owners of Lot 3 and Lot 4 of Block 18 of the Buena Vista Subdivision consented to the proposed alley vacation. No comments, either for or against, were received from property owners within the notification area.

Finding: Closure to the proposed portion of alley would not restrict access to the west as the alley terminates before reaching California Avenue. The vacation will not decrease access for lots that currently use the alley for secondary access. No comments were received in opposition

of this proposed vacation. The public interest will not be prejudiced by the vacation of a portion of this right-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 partial vacation of this right-of-way would not eliminate any existing or potential access point to any surrounding streets. The alley only accesses Berkeley Street which is currently classified as a local street. The proposed vacation would decrease the dead end alley length from approximately 209.8 feet to 150 feet in length. This decrease in length would bring the alley into compliance with the maximum permitted cul-de-sac length of 150 feet.

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.**