

**CITY OF KLAMATH FALLS
PLANNING COMMISSION**

**Staff Report
2-V-10**

December 13th, 2010

I. TITLE

Request to vacate a portion of an alley located adjacent to Lot 4 of Block 20 of Lake Addition and adjacent to a portion of an alley vacated per C.J. 23, Page 475, south of Nosler Street, north of Pelican Street, west of Berkeley Street, and east of California Avenue.

II. SUMMARY AND BACKGROUND

David and Sylvia Martin propose to vacate an alley that is 21 feet in width, 59.8 feet in length, adjacent to Lot 4 of Block 20 of Lake Addition and adjacent to a portion of an alley vacated per C.J. 23, Page 475. Although the portion of the alley proposed to be vacated also abuts Lot 22 of Block 19 of Buena Vista Addition and Lots 3 and 4 of Block 18 of Buena Vista Addition, 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 subject alley was created as part of the Klamath Lake Addition Subdivision. Other lots that have legal access to the subject alley do not have reversion rights as they were created through the approval of the Buena Vista Addition. Vacating the entire subject alley is not an option at this time because two lots use the alley for secondary access.

All of the adjacent property owners and 69.57% of the surrounding property area have consented, which meets ORS 271.080 requirements.

The right-of-way in question is not paved for any portion of its length, and terminates 90.5 feet east of California Avenue. The alley only accesses Berkeley Street. The alley section proposed for vacation can be found on Assessor's Map 3809-19DB, adjacent to tax lot 8900. All of the lots that abut the subject alley in Lake Addition are zoned Medium Density Residential, while the lots that abut the subject alley in Buena Vista Addition are zoned Single Family Residential.

Referring Agency Comments:

Engineering:

1. The Alley in question was dedicated to the public for use in 1915, on the Klamath Lake Addition Subdivision Plat. The Alley is bounded on the west and south by the Buena Vista Addition Subdivision.
2. Reversion rights to the Alley are in favor of Lot 4, Block 20 of Klamath Lake Addition.
3. The Alley Vacation boundary description and exhibit map shall be sealed and signed by the Professional Land Surveyor licensed in the State of Oregon preparing the document.
4. According to the City utility base maps, there are no dedicated City utilities within the Alley right of way.
5. The applicant shall provide the Planning Division with letters, or other acceptable written verification, from the Franchise Companies (Pacific Power, Qwest, Avista Gas, etc.) regarding their position on the Alley Vacation request.

County Building: “The County Building Division has no issues or concerns with this proposal at this time.”

Fire District # 1: “KCFD#1 will NOT object to the proposed vacation because it will have the effect of bringing the remaining portion of the alley into compliance with the maximum permitted dead end of 150 feet without a FD turnaround.”

Pacific Power: 10/22/10: “I have checked the records here in Portland and there doesn’t appear to be any poles, wires or other Pacific Power equipment in the alley. I have forwarded your inquiry down to the Klamath Falls Office for field verification and should have confirmation by next Monday.” 10/25/10: “I just received definitive confirmation that Pacific Power has no facilities in the alleyway.”

Qwest: “It appears that Qwest does NOT have any facilities in the alley you referred to. Therefore, Qwest has no objection to the proposed vacation.”

USBR: “In response to the City of Klamath Falls Planning Department’s pre-application meeting request for the subject applicant to vacate a portion of an alley that is 20-feet in width that is adjacent to Lot 4 of Block 20 of the Klamath Lake Addition, Lots 3 and 4 of Block 18 of the Buena Vista Addition, and Lot 22 of Block 19 of the Buena Vista Addition, in order extend their backyard, the Bureau of Reclamation has no comments and/or concerns at this time. There are no Reclamation facilities adjacent to or in the vicinity of the proposed site.”

Avista: “Avista has no conflicts with this vacation.”

Charter: “Charter Communications has no issue with the vacation of this portion of the alley.”

Basin Transit Service: No comments were received.
SPOKES: No comments were received.
Opponents: No comments were received.
Proponents: No comments were received.

III. RELEVANT REVIEW CRITERIA

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 Herring) 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.

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: 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.

Proposed 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.

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.**

IV. REQUESTED MOTIONS/ACTIONS

- Hold a public hearing and take testimony
- Motion to Accept the Proposed Findings as stated in the Staff Report
- Motion to recommend approval of the vacation to City Council based on the proposed findings

V. DOCUMENTS ATTACHED

- Vicinity Map
- Aerial Map
- Oregon Revised Statute (ORS) Spreadsheet and Map
- Photos of the Area

VI. PUBLIC NOTICE

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. All comments have been incorporated into this report.

Kelly O'Neill,
Planner

VICINITY MAP
NO SCALE

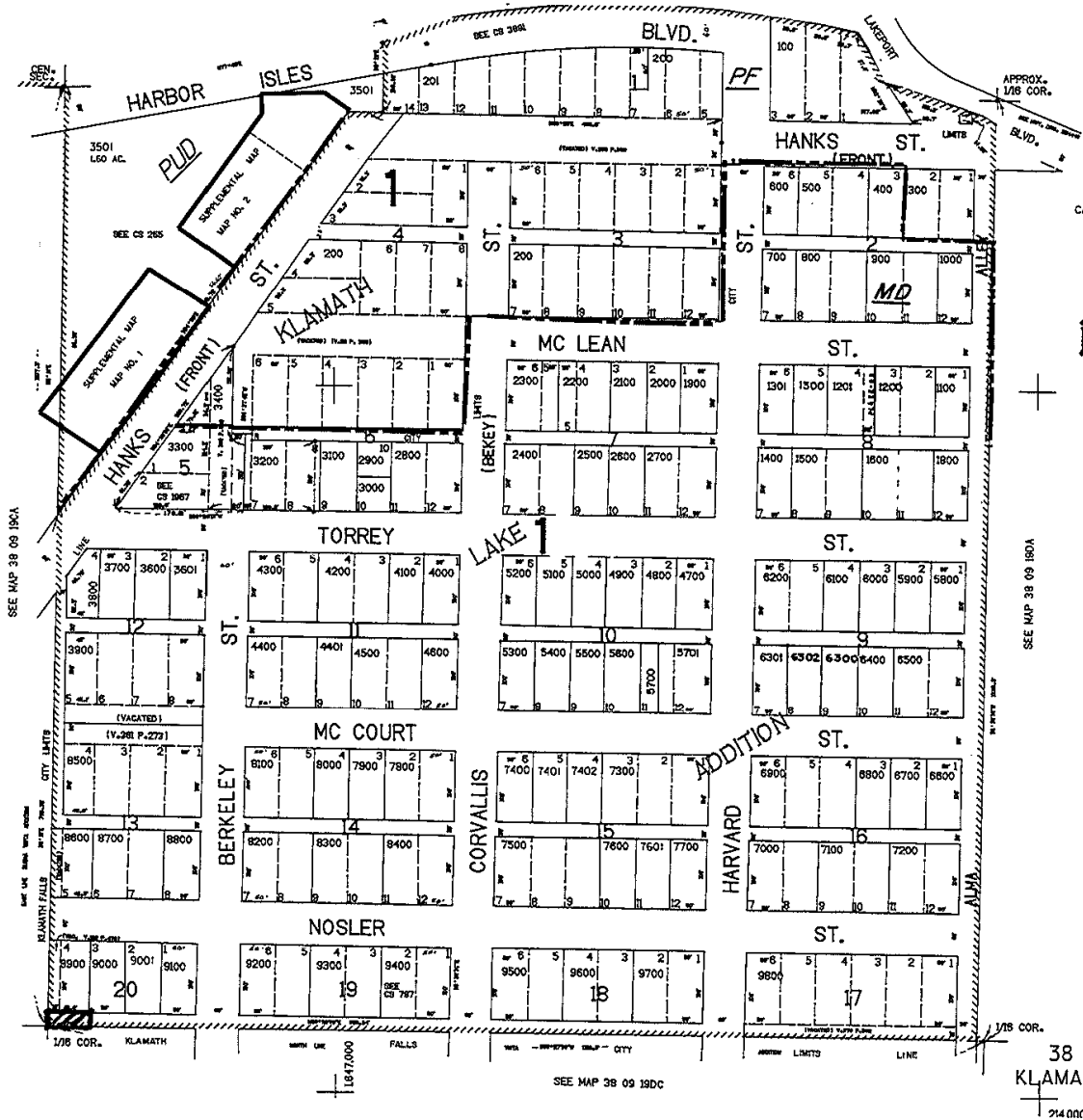
REVISED 5-6-08
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

NW1/4 SE1/4 SEC. 19 T.38S. R.09E. W.M.
KLAMATH COUNTY

38 09 19DB
KLAMATH FALLS

1"=100'

SEE MAP 38 09 19



CANCELLED NO.
3500

 Proposed Vacation

SEE MAP 38 09 19CA

SEE MAP 38 09 19DA

SEE MAP 38 09 19DC

38 09 19DB
KLAMATH FALLS

214.000

AERIAL MAP
NO SCALE



ORS SPREADSHEET AND MAP

CONSENT

Map and Tax Lot	Situs Address	Owner Name	Area	Affected Area	Percent
R-3809-019CD-00400-000		SOMERS MAUREEN & JUNIEL JOHN	7393.28	192.16	0.10%
R-3809-019CD-00500-000		SOMERS MAUREEN & JUNIEL JOHN	7378.12	2140.22	1.08%
R-3809-019CD-00600-000	701 WOCUS ST	SOMERS MAUREEN & JUNIEL JOHN	8989.84	4953.71	2.51%
R-3809-019CA-01000-000		CITY OF KLAMATH FALLS	5362.07	5362.07	2.71%
R-3809-019CA-01100-000	636 NOSLER ST	DOTSON WALTER & LINDA CO-TRUSTEE	10580.38	10580.38	5.35%
R-3809-019CD-06000-000	720 WOCUS ST	DERBY PATRICIA N	13800.20	7183.75	3.63%
R-3809-019CD-06100-000	710 WOCUS ST	LEMARR STEVEN A & SHARON L	6642.95	6400.60	3.24%
R-3809-019CD-06200-000		LEMARR STEVEN A & SHARON L	5010.81	5010.81	2.53%
R-3809-019DB-08900-000	624 NOSLER ST	MARTIN DAVID R & SYLVIA K	5909.86	5909.86	2.99%
R-3809-019DB-09000-000	616-618 NOSLER ST	OWENS BRUCE T & CHERYL A	4932.04	4932.04	2.50%
R-3809-019DB-09001-000		OWENS BRUCE T & CHERYL A	5245.80	5245.80	2.65%
R-3809-019DB-09200-000	2723 BERKELEY ST	WAGNER RITA D	9873.79	9873.79	4.99%
R-3809-019DB-09300-000	520 NOSLER ST	LEWIS HAZEL B	9925.20	8766.06	4.43%
R-3809-019DC-00900-000	513 PELICAN ST	LOKEY MATTHEW R	9033.40	8547.75	4.32%
R-3809-019DC-01100-000	2705 BERKELEY ST	STEINER MORGAN L & ELLEN P	9174.14	9174.14	4.64%
R-3809-019DC-01200-000	605 PELICAN ST	QUINN MICHAEL & PAPPAS SHARON TRUSTEE	8757.37	8757.37	4.43%
R-3809-019DC-01300-000	611 PELICAN ST	BULKLEY JUSTIN C	8427.30	8427.30	4.26%
R-3809-019DC-01400-000	619 PELICAN ST	HERRIG D MIRIAM	8899.28	8899.28	4.50%
R-3809-019DC-01500-000		HALL ROBERT CARLE	4380.91	4380.91	2.22%
R-3809-019DC-01600-000	2717 CALIFORNIA AVE	HALL ROBERT CARLE	4373.14	4373.14	2.21%
R-3809-019DC-01700-000		HYDE MARY WILLIAMS	4228.64	4228.64	2.14%
R-3809-019DC-01800-000	2705 CALIFORNIA AVE	HYDE MARY WILLIAMS	4183.49	4183.49	2.12%
CONSENT TOTALS =			162502.01	137523.27	69.57%

NONCONSENT

Map and Tax Lot	Situs Address	Owner Name	Area	Affected Area	Percent
R-3809-019CA-00200-000		KEMNITZER DISCLAIMER TRUST	36348.41	15666.83	7.93%
R-3809-019CA-00300-000		KEMNITZER DISCLAIMER TRUST	13807.05	13807.05	6.98%
R-3809-019CA-00400-000	705 WOCUS ST	KEMNITZER DISCLAIMER TRUST	8007.85	8007.85	4.05%
R-3809-019CA-00900-000	635 NOSLER ST	HUDICK JOHN A REVOC LIV TRUST	8411.92	4124.48	2.09%
R-3809-019DB-90000-000		TRENDWEST DEVELOPMENT CO	27580.21	2362.77	1.20%
R-3809-019DB-90011-000	565 HANKS ST	LUNDELL ROBERT G & DONNNA A	3005.44	590.88	0.30%
R-3809-019DB-90012-000	555 HANKS ST	COPE JAMES W & JANITA D	3074.55	287.06	0.15%
R-3809-019CD-05900-000	746 WOCUS ST	SHELTON SHERRIL F TRUST	14071.82	154.79	0.08%
R-3809-019DB-09100-000	2740 BERKELEY ST	THOMAS ARLENE E REVOCABLE LIVING TRUST	4909.30	4909.30	2.48%
R-3809-019DC-00800-000	511 PELICAN ST	LONG DWIGHT D & NELLIE E TRUSTEE	9327.27	850.45	0.43%
R-3809-019DC-01000-000	521 PELICAN ST	ECK DONALD WILLIAM & ECK JASON ARNOLD	9390.02	9390.02	4.75%
NONCONSENT TOTALS =			137933.84	60151.47	30.43%

TOTALS = 300435.85 197674.75 100.00%



**Photos of the Area
(Looking west down alley)**



(Looking west at area to be vacated)



**Photos of the Area
(Looking east down alley)**



(Looking at existing alley access)

