

## **ORDINANCE NO. NS-2502**

### **AN ORDINANCE VACATING THE SOUTHERN 15 FEET OF NE PENN AVENUE BETWEEN THE BURLINGTON NORTHERN SANTA FE RAILROAD AND THE INTERSECTION OF NE PENN AVENUE AND NE 1<sup>st</sup> STREET**

#### **Findings:**

- A. On February 20, 2024, Greg Blackmore (Applicant) submitted a petition (PLMISC20240102) to vacate the southern 15 feet of the unimproved right-of-way of NE Penn Avenue between the Burlington Northern Santa Fe (BNSF) Railroad and the intersection of NE Penn Avenue and NE 1st Street.
- B. The Applicant requested that the City Council accept a petition to vacate the right-of-way to facilitate a larger mixed-use development on the adjacent site at 1565 NE 1<sup>st</sup> Street. Therefore, this right-of-way vacation ordinance will not be recorded until a final land use decision and building permits are issued by the City for construction of a development generally consistent with the conceptual plan.
- C. On May 1, 2024, the City Council accepted the petition and directed staff to proceed to process the right-of-way vacation application.
- D. On May 22, 2024, and May 29, 2024, the City published notice of a public hearing on the requested vacation in The Bulletin, a newspaper of general circulation in the City once each week for two consecutive weeks, consistent with ORS 271.110.
- E. On May 13, 2024, the City posted notice of the proposed street vacation at each end of the proposed vacation area, consistent with ORS 271.110, which requires that the City post notice at or near each end of the proposed vacation within five days after the first day of publication of the notice and at least 14 days before the hearing on the proposed vacation.
- F. The City has not received objections to the proposed vacation.
- G. The City Council held a public hearing on the proposed vacation on June 5, 2024, and found that the right-of-way vacation complied with applicable standards in Bend Code 3.80.070.
- H. The Applicant has complied with applicable standards.
- I. The City Council has determined that the public interest will not be prejudiced by the proposed vacation and that the property should be vacated upon fulfillment of the conditions within this ordinance.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

**Section 1.** The southern 15 feet of the NE Penn Avenue right-of-way between the BNSF railroad and the intersection of NE Penn Avenue and NE 1st Street is vacated as described in Exhibit A and depicted in Exhibit B with the following conditions:

- a. The applicant pays \$33,000 to the City for acquisition of the right-of-way area, plus recording costs prior to recording this vacation ordinance.
- b. The right-of-way vacation will not be effective until a final land use decision and building permits are issued by the City for construction of a development generally consistent with the conceptual plan proposed with PLSPR20230643.

Section 2. Upon satisfactory completion of the above conditions, the City Recorder shall file and record this Ordinance in the Deschutes County Clerk's Office.


Section 3. If conditions are not fulfilled within three years from this Ordinance's effective date, this Ordinance shall be null and void.

First Reading Date: June 5, 2024

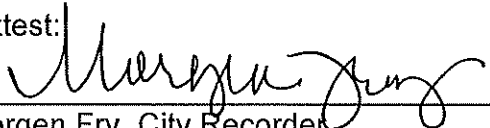
Second reading and adoption by roll call vote: June 20, 2024

YES: Mayor Melanie Kebler  
Councilor Barb Campbell  
Councilor Ariel Méndez  
Councilor Anthony Broadman  
Mayor Pro Tem Megan Perkins  
Councilor Mike Riley  
Councilor Megan Norris

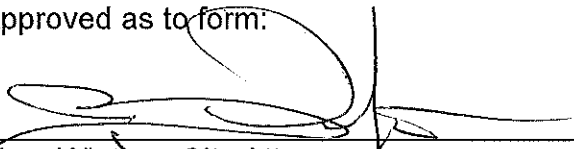
NO: none

  
\_\_\_\_\_  
Melanie Kebler, Mayor

Attest:

  
\_\_\_\_\_  
Morgen Fry, City Recorder

Approved as to form:

  
\_\_\_\_\_  
Mary Winters, City Attorney

**ROAD VACATION LEGAL DESCRIPTION**

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF TRACT 3, LYTLE ACRES (UNRECORDED), WITH THE SOUTH RIGHT OF WAY LINE OF PENN AVENUE; THENCE WEST ALONG SAID SOUTH RIGHT OF WAY LINE 7.00 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING WEST ALONG SAID SOUTH RIGHT OF WAY LINE, 37.12 FEET, MORE OR LESS, TO THE EASTERLY RIGHT OF WAY LINE OF THE OREGON TRUNK RAILWAY (A 100-FOOT RIGHT OF WAY); THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, N16°31'57"E 15.64 FEET TO A POINT THAT IS 15.00 FEET NORTHERLY FROM, WHEN MEASURED AT RIGHT ANGLES TO THE SOUTH RIGHT OF WAY LINE OF PENN AVENUE; THENCE EAST, PARALLEL WITH SAID SOUTH RIGHT OF WAY LINE, 32.54 FEET TO A POINT THAT IS 7.00 FEET WEST OF, WHEN MEASURED AT RIGHT ANGLES TO, THE NORTHERLY EXTENSION OF THE EAST LINE OF SAID TRACT 3; THENCE PARALLEL WITH SAID EAST LINE, S0°30'43"E 15.00 FEET TO THE **TRUE POINT OF BEGINNING**.  
CONTAINING 522 SQUARE FEET, MORE OR LESS.

