

**CITY OF FLORENCE
ORDINANCE NO. 6, SERIES 2015**

AN ORDINANCE FOR THE VACATION OF THE 10-FOOT WIDE ALLEY EXTENDING THE LENGTH OF BLOCK 23 OF THE PLAT OF GALLAGHER'S PART OF THE CITY OF FLORENCE AS PLATTED AND RECORDED IN BOOK 30, PAGE 12, LANE COUNTY, OREGON PLAT RECORDS, LYING EAST OF THE EASTERLY RIGHT OF WAY LINE OF HIGHWAY 101 (GALLAGHER STREET) AND WEST OF THE WESTERLY RIGHT OF WAY LINE OF REDWOOD (BERRY) STREET, IN LANE COUNTY, OREGON

RECITALS:

1. The City of Florence was petitioned by the abutting property owner, Ron LaFranchi of Ron's Oil Company on February 6, 2015 for vacation of the 10-foot wide alley extending the length of Block 23 of the Plat of Gallagher's Part of the City of Florence as platted and recorded in Book 30, Page 12, Lane County, Oregon Plat Records, lying east of the easterly right-of-way line of Highway 101 (Gallagher Street) and west of the westerly right-of-way line of Redwood (Berry) Street, in Lane County, Oregon.
2. Ron LaFranchi, owner of Ron's Oil Company owns personally, or through Ron's Oil all properties abutting the alleyway.
3. Affected property owners were noticed of the initial City Council hearing being held on March 10, 2015 per FCC 8-3-4-1 on February 25, 2015.
4. The Florence City Council initiated the vacation of the alley at a public hearing held on March 2, 2015.
5. Proper notice per FCC 8-3-5-1 was sent to all abutting and affected property owners prior to the Florence Planning Commission meeting on March 10, 2015.

6. The Florence Planning Commission held a duly noticed public hearing on March 10, 2015.
7. The Florence Planning Commission approved Resolution PC 15 06 VAC 01, recommending approval of the vacation to the Florence City Council with conditions of approval for the applicant to meet prior to a City Council meeting approving the vacation.
8. The applicant provided the Planning Department with proof of the met conditions of approval as requested by the Planning Commission prior to the City Council meeting approving the vacation.
9. The applicant has received the consent of 71.43% of affected property owners, more than the percentage required, and has provided those signatures as part of their application.
10. The City Council met on April 6, 2015, after giving the required notice per FCC 8-3-6-1, to consider the proposal, evidence in the record, and testimony received.
11. The City Council deliberated on April 6, 2015 and found that the request met the applicable criteria and that there appeared to be no public interest in retaining the alleyway for future use.

Based on these findings,

THE CITY COUNCIL OF THE CITY OF FLORENCE ORDAINS AS FOLLOWS:

1. The City of Florence approves the vacation of the public right-of-way located between 15th and 16th Streets east of Highway 101 and west of Redwood Street as shown on the map attached as Exhibit "C" and described above.
2. The alleyway described above and shown on the map attached as Exhibit "C" will be inured to and divided equally and among the adjacent properties.
3. The Findings of Fact as shown in Exhibit "A" and the above recitals are hereby adopted.
4. Per FCC 8-3-4-4, the applicant is directed to pay the agreed-upon amount assessed for the loss of the property to public use, \$17,990.00, within 30 days of approval per FCC 8-3-6-3.
5. This Ordinance and associated applicable Exhibits will be filed with Lane County Deeds and Records by the City of Florence upon receipt of payment for the alley. Recording costs have been paid by the applicant as part of their application fee of \$3,000.00.

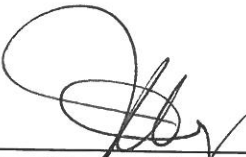
ADOPTION:

First Reading on the 6th day of April, 2015.

Second Reading on the 6th day of April, 2015

This Ordinance is passed and adopted on the 6th day of April, 2015.

AYES	5	Councilors Lyddon, Preisler, Greene, Lacer and Mayor Henry
NAYS	0	
ABSTAIN	0	
ABSENT	0	



Joe Henry, Mayor

Attest:



Kelli Weese, City Recorder

The vacant restaurant located at 1544 Highway 101, Taxlot 402, was originally approved as a Taco Time in 1978. The building remained relatively unchanged while occupied by the Taco Time until the early 2000s, after which the building was occupied by Muchas Gracias and Cactus BBQ.

Taxlot 401 of Block 23 is undeveloped and has never had any structures on it.

Ron LaFranchi, owner of Ron's Oil Company and of the three properties abutting the alley, has petitioned to have the alley (2,570 square feet) mid-block of Block 23 of Plat of Gallagher's Part of the City of Florence vacated. He applied for the vacation on February 6, 2015. City Council initiated the vacation on March 2, 2015 following a hearing to consider public interest in the vacation.

As part of the vacation procedures, the Planning Commission was tasked with providing a recommendation to the City Council regarding whether the vacation serves the public interest and if the vacation affects the goals for the Florence Comprehensive Plan or Section 10-1-1-3 of Florence City Code. The Planning Commission met on March 10, 2015 to consider the proposal and approved Resolution PC 15 06 VAC 01, recommending approval to the City Council.

III. ISSUES

Utilities in the alley were previously identified by the Planning Commission as an unresolved issue that should be taken care of prior to the Council hearing which would make the final decision regarding the vacation. Following the Planning Commission meeting, the applicant called for utility locates within the alley. No utilities were found within the alley that had not been previously identified by staff, namely the Central Lincoln PUD utility pole approximately at the corner of the vacant Cactus BBQ's drive-thru. Staff's position is that since the ultimate plan for the site includes the demolition of the Cactus BBQ building, no easement is needed for the alley.

IV. NOTICES & REFERRALS:

Notice: On March 3, 2015 notice was mailed to surrounding property owners within 200 feet north and south of the area to be vacated and 400 feet east and west of the area to be vacated. On March 12, 2015, notice was mailed again to surrounding affected property owners.

Notice was published in the Siuslaw News prior to the Planning Commission meeting on March 4, 2015. Prior to the City Council hearing regarding this request, notice was published for three consecutive weeks in the Siuslaw News on March 18, March 25, and April 1, 2015.

The property was posted on March 12, 2015. Notices regarding the vacation were posted at both ends of the alley and at two points between the east and west ends of the alley spaced closer than required by City Code.

At the time of this report, the City had received no written comments on the application.

Referrals: On March 4, 2015 referrals were sent to the Florence Building Department, Florence Public Works, Central Lincoln PUD and Siuslaw Valley Fire and Rescue.

At the time of this report, the City has received comments from Lynn Lamm of the Florence Police Department (Exhibit D), Robin Hicks of Central Lincoln PUD (Exhibit D), Steve Manning of Charter Communications (Exhibit D), and Public Works Director (Exhibit E). The Florence Police Department, Central Lincoln PUD, and Charter Communications had no concerns about the vacation. Public Works Director Mike Miller commented that because of the Central Lincoln PUD service in the alley, the applicant should call for locates for possible additional utilities. The applicant has complied with this request and delivered the results to staff on March 26, 2015.

V. APPLICABLE REVIEW CRITERIA

Florence City Code, Title 8:

Chapter 3: Property Vacations, Sections 3-3, 3-4-1 thru 3-4-4, 3-5-1, 3-5-2, 3-6-1, 3-6-2, and 3-6-3

Florence City Code, Title 10:

Chapter 1: Zoning Administration, Section 1-3
Chapter 36: Public Facilities, Section 2-1-A

Oregon Revised Statutes:

ORS 271.160: Vacations for purposes of rededication

Florence Realization 2020 Comprehensive Plan:

Chapter 8: Parks, Recreation and Open Space, Recommendation 9

VI. PROPOSED FINDINGS

FLORENCE CITY CODE

TITLE 8: CHAPTER 3: PROPERTY VACATIONS

8-3-3: INITIATION: Proceedings for the vacation of a public way or part thereof, may be initiated upon petition of the abutting owner(s) or upon the majority vote of the Council. The petition of the abutting owner(s) shall be accompanied by an application fee set by resolution. The fee is to cover administrative costs and the costs of publication and notice, and is not refundable.

The applicant applied for vacation of the alley on February 6, 2015. At their March 2, 2015 meeting, the Florence City Council initiated the vacation of the alley. The applicant has obtained 100% approval of abutting property owners and has since

obtained the signatures of 71.43% of affected property owners. The applicant has paid the requisite \$3,000 application fee.

8-3-4: DETERMINATION OF VALUE:

8-3-4-1: COUNCIL HEARING ON INITIATION: Upon receiving the petition for vacation the City Manager shall set a public hearing before the Council to make a preliminary determination of the public interest in the vacation, if any, and to determine the value of the public way to be vacated if the vacation appears to be in the public interest. Not less than five days prior written notice of the hearing shall be given to the petitioners and the owner(s) of affected property. Such notice shall be by first class U.S. Mail to such property owners as shown in the latest Lane County tax assessment roll or upon the City's utility records.

Notice of the initial hearing was mailed to affected property owners on February 25, 2015 prior to the initiating City Council meeting on March 2, 2015.

8-3-4-2: CRITERIA: In determining the value of the public way to be vacated, the Council shall consider any relevant appraisals the City possesses and the public information in the files of the Lane County Assessment and Taxation Department or its successor agency. Except for direct uses by a public body supported by local property taxes, in the absence of more relevant information the Council shall calculate the value based on the square foot value of abutting real property as shown on the current Lane County assessment roll, less a percentage for easements retained for public use. The abutting owner(s) may request the Council to obtain other evidence of value from a licensed real estate appraiser hired by the City. All such appraisal costs shall be borne by the requesting abutting property owner(s). The Council may consider this evidence and adjust its determination of value as the Council may find to be just and equitable. The basis for any such adjustment shall be stated on the record at the time the Council takes action. A determination of value shall be made and assessed to abutting property owners for all public ways being vacated.

The values calculated by staff for the loss of the public right-of-way was determined in accordance with the criteria available in FCC 8-3-4-2. An average price per square foot based on Real Market Land value was determined for Block 23. This value was multiplied by the number of square feet requested for vacation. The value determined through this method was \$14.95 per square foot.

The City had a recent appraisal for a highway-adjacent property in the North Commercial District which could have also been used to establish a value for the loss of the public land. This value was \$5.00 per square foot.

The City Council determined to assign a value of \$7.00/sq. ft. The total value of the public loss of the alleyway at \$7.00/sq. ft. is \$17,990.00.

8-3-4-3: ACTION: After the hearing is closed, the Council may deny the petition or may forward the petition to the Planning Commission for its recommendation and shall set the amount of the assessment.

The City Council initiated vacation of the alley on March 2, 2015 and forwarded the petition to the Planning Commission for recommendations. The Planning Commission held a public hearing on March 10, 2015 concerning the vacation.

8-3-5-1: PLANNING COMMISSION HEARING: Upon referral of vacation proceedings from the Council, the City Manager shall set a public hearing before the Planning Commission. Notice shall be given at least seven days before the public hearing by mailing the notice to the petitioner(s), affected property owners and others appearing on the matter before the Council in its hearing under subsection 8-3-4-1.

Notice was mailed to the applicant and affected property owners. These notices were mailed on March 3, 2013, seven days prior to the Planning Commission public hearing on the subject.

8-3-5-2: ACTION: After the hearing is closed, the Planning Commission shall determine whether the public interest will be served or prejudiced by the vacation of the public way or part thereof. In determining whether the public interest will be served or prejudiced, the Planning Commission shall consider the goals of the Florence Comprehensive Plan and Section 10-1-1-3 of this Code. The Planning Commission's decision shall be in the form of a recommendation to the Council.

The Florence Realization 2020 Comprehensive Plan criteria does not reference this alley nor the vacation of any alleys which are not included as part of the Transportation System Plan. This alley is not included as part of the Transportation System Plan. Florence City Code 10-1-1-3 is addressed below. The Planning Commission determined at their March 10, 2015 public hearing that the vacation will not negatively affect any public interest and that the vacation of the alley would serve the public interest. The Planning Commission approved Resolution PC 15 06 VAC 01, recommending approval of the vacation to the Florence City Council.

8-3-6-1: COUNCIL HEARING: Following the Planning Commission's recommendation, the City Manager shall set a public hearing before the Council.

A. Commencing at least 20 days before the hearing the notice required by this subsection shall be:

- 1. Published for three consecutive weeks in a newspaper of general circulation in the City;**
- 2. Posted at each end of the public way proposed for vacation and if the length of the public way exceeds 150 feet, within the area to**

be vacated in a conspicuous place at least once every 150 feet of length;

- 3. Mailed to the petitioner(s), the owners of affected property and any other person appearing before the Council and Planning Commission in the earlier hearings.**

Notice was published in the Siuslaw News on March 18, March 25, and April 1, 2015. Notice was posted at four places in the alley, at either end and at two points between, meeting the requirement that notice be posted at least once every 150 feet of length. Notices were mailed to the petitioners, the owners of affected properties, and all other persons appearing in earlier hearings on March 12, 2015.

B. The notice required by this subsection shall:

- 1. Describe the public way proposed to be vacated;**
- 2. Identify the name of at least one petitioner;**
- 3. Identify the date the Council initiated the proceedings and, if appropriate, the cost to be assessed abutting property;**
- 4. The date, time and place by which any written remonstrance must be filed;**
- 5. The date, time and place of the public hearing before the Council; and**
- 6. Where people may telephone or write for additional information.**

The notice distributed to property owners and on-site contained a description of the public way to be vacated; named the petitioner; identified the date Council initiated the proceedings and the cost to be assessed to the abutting property owners; the date, time, and place by which any written remonstrance could be filed; the date, time, and place of the public hearing before the City Council; and where people could telephone or write for additional information.

8-3-6-2:COUNCIL ACTION:

- A. After the hearing is closed, the Council shall determine whether the consent of the abutting owners has been obtained, whether notice has been duly given, and whether the public interest will be served or prejudiced by the vacation of the public way or part thereof. In determining whether the public interest will be served or prejudiced, the Council shall consider the goals of the Florence Comprehensive Plan, Section 10-1-1-3 of this Code, and whether the public way to be vacated may be needed for future public use. The Council may grant the petition in whole or in part, with such reservations as would appear to be for the**

public interest, including reservations pertaining to the public use of any easements retained by the City in the portion vacated.

The City Council is tasked by FCC 8-3-6-2 with determining whether property consent and notice has been duly given and whether the public interest will be served or prejudiced by the vacation of the public way.

- B. If such matters are determined in favor of the petition, the Council shall direct that an ordinance be prepared that would make such determination a matter of record and vacate the public way or part thereof. After the abutting owner(s) has paid or agreed to pay the value of the public way to be vacated, as provided in Section 8-3-6-3 of this chapter, the Council may take final action on the ordinance. If the abutting owner(s) has not done so or taken reasonable steps to do so within 30 days after the Council has directed that an ordinance be prepared, the petition shall be deemed withdrawn and the Council shall take no further action.**

In the interest of the applicant, Ordinance No. 6, Series 2015 has been drafted for the review of the City Council at their April 6, 2015 hearing. The petitioner has agreed to pay the \$17,990.00 requested by the City in full. Payment has been arranged in advance of the hearing and awaits only the final action of the City Council, meeting the criteria that such payment be received within 30 days of the action.

- C. Denial of the petition shall be by resolution setting forth the reasons for the denial.**

Should the City Council choose to deny the petition for vacation of the alley, that denial should be by resolution with reasons for the denial listed in the resolution.

8-3-6-3:PAYMENT OF COSTS OF VACATION:

- A. The abutting owner(s) shall, within 30 days after the Council has directed that a vacation ordinance be prepared, either pay the amount of the assessment in full, or, where the assessment is to be one hundred dollars (\$100.00) or more, apply, upon forms provided by the City Manager, for the voluntary imposition upon the parcel for a lien for the full amount of the assessment and the payment of that lien in twenty (20) semi-annual installments plus interest at the rate of ten percent (10%) per annum. Upon receipt of such an application, and following adoption of the vacation ordinance in the manner described in Section 8-3-6-2-B. Of this chapter, the City Manager shall compute the amount of the assessment and shall report to the City Recorder the amount of the assessment, the date upon which that assessment is due, the name of the owner of record or the purchaser of record, and the description of the property, and upon receiving that report the City Recorder shall docket the lien in her docket of liens, and from the time that docketing is completed, the City shall have a lien upon that described land for the**

amount of the charge and interest upon that charge at the rate of ten percent (10%) per annum, which interest shall be the full and only compensation to the City for its administrative costs. That lien shall be enforced in the manner provided in ORS chapter 223.

The applicant has provided payment for the assessed value lost of the alley to be vacated. These criteria have been met.

- B. If the proposed vacation is wholly denied, only the actual costs of preparing and giving the notice occasioned by the proceedings shall be retained by the City.**
- C. Any money retained, and any sum assessed and collected as benefits, shall be paid into the City treasury.**

The applicant has paid a \$3,000 application fee for the vacation petition. Should the proposal be denied, the applicant will be assessed the actual costs of preparing and giving the notice occasioned by the proceedings from this application fee.

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

10-1-1-3: PURPOSE: The purpose of this Title is to establish for the City a Comprehensive Zoning Plan designed to protect and promote the public health, safety and welfare, and to provide the economic and social advantages which result from an orderly, planned use of land resources. Such regulations are designed to achieve the following objectives:

- A. To fulfill the goals of Florence's Comprehensive Plan.**
- B. To advance the position of Florence as a regional center of commerce, industry, recreation and culture.**
- C. To provide for desirable, appropriately located living areas in a variety of dwelling types and at a suitable range of population densities, with adequate provision for sunlight, fresh air and usable open space.**
- D. Protect residential, commercial, industrial and civic areas from the intrusion of incompatible uses, and to provide opportunities for establishments to concentrate for efficient operation in mutually beneficial relationship to each other and to shared services.**
- E. To insure preservation of adequate space for commercial, industrial and other activities necessary for a healthy economy.**
- F. To promote safe, fast and efficient movement of people and goods without sacrifice to the quality of Florence's environment, and to provide adequate off-street parking.**

- G. To achieve excellence and originality of design in future developments and to preserve the natural beauty of Florence's setting.**
- H. To stabilize expectations regarding future development of Florence, thereby providing a basis for wise decisions with respect to such development.**

The vacation of this alley, in itself, will have no effect on the criteria presented in FCC 10-1-1-3. Granting the vacation of the alley may allow an increase in the prospects of possible future development of Block 23, creating the opportunity for more jobs in Florence and satisfying several aspects of FCC 10-1-1-3.

TITLE 10: CHAPTER 36: PUBLIC FACILITIES

10-36-2-1: Development Standards. The following standards shall be met for all new uses and developments:

- A. All new lots created, consolidated, or modified through a land division, lot line adjustment, lot consolidation, or street vacation must have street frontage and approved access to a street.**

The lots abutting this alley have approved access to surrounding streets and the vacation of the alley will have no effect on street frontage. The applicant intends to use the vacated alley for an increased building footprint for a future service station/convenience store. Vehicular and pedestrian access to the site would be through previously approved accesses and no changes have yet been proposed.

OREGON REVISED STATUTES

**CHAPTER 271 – USE AND DISPOSITION OF PUBLIC LANDS GENERALLY;
EASEMENTS**

271.160 Vacations for purposes of rededication. No street shall be vacated upon the petition of any person when it is proposed to replat or rededicate all or part of any street in lieu of the original unless such petition is accompanied by a plat showing the proposed manner of replatting or rededicating. If the proposed manner of replatting or rededicating or any modification thereof which may subsequently be made meets with the approval of the city governing body, it shall require a suitable guarantee to be given for the carrying out of such replatting or rededication or may make any vacation conditional or to take effect only upon the consummation of such replatting or rededication.

The applicant will be obtaining all portions of the vacated alley because the applicant owns all properties abutting the alley. The applicant has not indicated that he intends to rededicate any portion of the alley at this time.

FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN

CHAPTER 8: PARKS, RECREATION AND OPEN SPACE

RECOMMENDATIONS:

9. The City should review the listing of rights-of-way suitable for recreation use prior to vacating public rights-of-way.

The right-of-way proposed for vacation is not listed in Table 13: Inventory of Lands Important to Park System – Road Rights-of-way of Appendix C of the Florence Parks and Recreation Master Plan, 2011 (Park System Master Plan – Part 2, 1986).

VII. ALTERNATIVES

1. Approve the recommendation to the City Council based on the findings of compliance with City regulations.
 2. Modify the findings, reasons or conditions, and approve the recommendation as modified.
 3. Deny approval of the recommendation based on the Commission's findings.
 4. Continue the Public Hearing to a date certain if more information is needed.
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VIII. CONCLUSIONS AND RECOMMENDATIONS

Staff finds that the proposed vacation is in the public interest, meets the Comprehensive Plan goals, and the requirements of City Code with conditions, and recommends that the City Council approve, through Ordinance, the vacation of the alley described in Block 23 of the Plat of Gallagher's Part of the City of Florence.

IX. CONDITIONS OF APPROVAL

The application, as presented, meets or can meet applicable City codes and requirements, provided that the following conditions of approval are met.

1. Approval shall be shown on:
 - "A" Findings of Fact
 - "B" Petition for Alley Vacation
 - "C" Map of Area to be Vacated
 - "F" Referral Comments from PWD Miller

Findings of Fact attached as Exhibit “A” are incorporated by reference and adopted in support of this decision. Any modifications to the approved plans or changes of use, except those changes relating to Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.

2. Regardless of the content of material presented for the City Council, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal Planning Commission or City Council action as documented by the records of this decision and/or the associated Conditions of Approval. The applicant shall submit to the Community Development Department a signed “Agreement of Acceptance” of all conditions of approval prior to filing of the City Council Ordinance approving the vacation.

IX. EXHIBITS

“A” Findings of Fact
“B” Petition for Alley Vacation including additional signatures
“C” Map of Area to be Vacated
“D” Referral Comments from Chief Lamm
“E” Referral Comments from Robin Hicks, CLPUD
“F” Referral Comments from PWD Miller
“G” Referral Comments from Steve Manning, Charter

Exhibit C

