



COUNCIL ORDINANCE NO. 20676

**AN ORDINANCE VACATING A PORTION OF EAST 5TH AVENUE LOCATED
WITHIN THE BOUNDARIES OF THE PLAT OF TOWN RUN.**

ADOPTED: November 14, 2022

SIGNED: November 16, 2022

PASSED: 7:0

REJECTED:

OPPOSED:

ABSENT:

EFFECTIVE: December 17, 2022



ORDINANCE NO. 20676

AN ORDINANCE VACATING A PORTION OF EAST 5TH AVENUE LOCATED WITHIN THE BOUNDARIES OF THE PLAT OF TOWN RUN.

The City Council of the City of Eugene finds that:

A. The City Council of the City of Eugene approved an agenda scheduling a public hearing at 5:30 p.m. on October 17, 2022, for the purpose of hearing protests and remonstrances to the proposed vacation of the following right-of-way:

The portion of East 5th Avenue located within the boundaries of the Plat of Town Run and more particularly described in Exhibit A and depicted on Exhibit B attached to this Ordinance.

B. Notice was duly and regularly given of the public hearing and, on September 19, 2022, the City Council held a public hearing and heard all objections to the proposed vacation.

NOW, THEREFORE,

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Eugene finds that notice of the public hearing on the proposed vacation was published and posted as required by law, and that vacation of the right-of-way described in Exhibit A and depicted on Exhibit B attached to this Ordinance is in the public interest, as described in the Findings attached as Exhibit C to this Ordinance and hereby adopted in support of this Ordinance.

Section 2. The right-of-way described in Exhibit A and depicted on Exhibit B attached to this Ordinance is hereby vacated and shall revert pursuant to the statutes of the State of Oregon.

Section 3. The City Recorder is directed to file a certified copy of this Ordinance, including all attachments with the Recorder of Lane County, Oregon. In addition, a certified copy of this Ordinance shall be filed with the Lane County Assessor and a certified copy shall be filed with the Lane County Surveyor.

Passed by the City Council this

14th day of November, 2022.



City Recorder

Approved by the Mayor this

16 day of November, 2022.



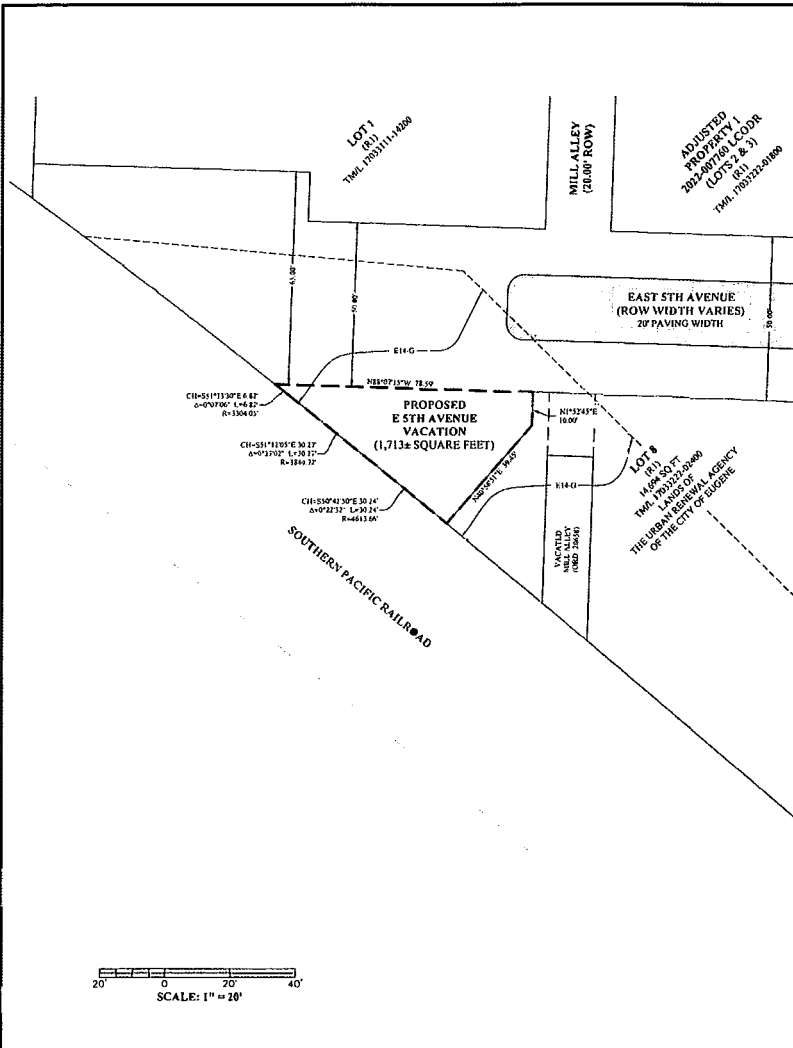
Mayor

EAST 5TH AVENUE VACATION

Situated in the Northeast 1/4 of Section 31 in Township 17 South, Range 3 West of the Willamette Meridian in the City of Eugene, Lane County Oregon and described as follows:

Being all that portion of East 5th Avenue that (1) lies west of the west lines of Lot 8 of the plat of "Town Run", (2) northeasterly of the northeast margin of the Southern Pacific Railroad Right-of-Way, and (3) southerly of the westerly extension of the north line of said Lot 8; all as shown on the plat of "Town Run" as platted and recorded April 3, 2020, in in Lane County Oregon Plat Records, and assigned Reception Number 2020-016334 in Lane County Oregon deed Records.

**EAST 5TH AVENUE RIGHT-OF-WAY
VACATION SITE PLAN
FOR
EUGENE RIVERFRONT DISTRICT LLC
NE 1/4 SECTION 31
TOWNSHIP 17 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN
CITY OF EUGENE, LANE COUNTY, OREGON
MARCH 11, 2022**



RIGHT-OF-WAY TO BE VACATED:
ALL THAT PORTION OF EAST 5TH AVENUE THAT (1) LIES WEST OF THE WEST LINES OF LOT 8 OF THE PLAT OF "TOWN RUN" (TAX LOT 02400 OF TAX MAP 17-03-32-22, LANDS OF THE URBAN RENEWAL AGENCY OF THE CITY OF EUGENE), (2) NORTHEASTERLY OF THE NORTHEAST MARGIN OF THE SOUTHERN PACIFIC RAILROAD RIGHT-OF-WAY, AND (3) SOUTHERLY OF THE WESTERLY EXTENSION OF THE NORTH LINE OF SAID LOT 8; ALL AS SHOWN ON THE PLAT OF "TOWN RUN".

EASEMENT TO REMAIN:
E14-G VARYING WIDTH EASEMENT FOR WATER LINES AND RELATED UTILITY FACILITIES AS CREATED IN THE DECLARATION OF EASEMENTS, INCLUDING THE TERMS AND PROVISIONS THEREOF, BY THE EUGENE WATER & ELECTRIC BOARD, A MUNICIPAL UTILITY OF THE CITY OF EUGENE, OREGON, THAT WAS RECORDED APRIL 17, 2018, RECEPTION NO. 2018-017637, LANE COUNTY DEEDS AND RECORDS; AS AMENDED BY (1) "AMENDMENT TO DECLARATION OF EASEMENTS" RECORDED OCTOBER 16, 2019, RECEPTION NUMBER 2019-046745; (2) "SECOND AMENDMENT TO DECLARATION OF EASEMENTS" RECORDED MARCH 5, 2021, RECEPTION NUMBER 2021-015455; AND (3) "THIRD AMENDMENT TO DECLARATION OF EASEMENTS" RECORDED OCTOBER 15, 2021, RECEPTION NUMBER 2021-065888; ALL IN LANE COUNTY DEEDS AND RECORDS.

LEGEND:
(R1) FLAT OF TOWN RUN AS FILED APRIL 3, 2020 IN LANE COUNTY OREGON PLAT RECORDS AND ASSIGNED RECEPTION NUMBER 2020-016334 IN LANE COUNTY OREGON DEED RECORDS.

T.M.L. TAX MAP/LOT NUMBER.

ADJOINER TAX LOT:
TM 1703222 TL 02400

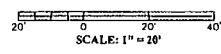
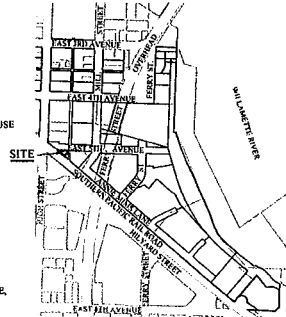
ZONING:
DOWNTOWN RIVER SPECIAL AREA WITH A MIXED USE SUBAREA (S-DRMU)

SETBACKS:
NONE FOR THIS ZONE CLASSIFICATION.

ADDRESSES:
NONE.

EXISTING USE:
VACANT.

OWNERSHIPS:
URBAN RENEWAL AGENCY OF THE CITY OF EUGENE, OREGON, A MUNICIPAL CORPORATION



REGISTERED PROFESSIONAL LAND SURVEYOR

Rev. A. D.

OREGON
JULY 20, 1993
REX A. BETZ
#2806
RENEWS: 12/31/23

EGR & Associates, Inc.
Engineers, Geologists and Surveyors

23308 Prairie Road
Eugene, Oregon 97402

(541) 688-6322
Fax (541) 688-6087

**FINDINGS IN SUPPORT OF VACATING A PORTION OF EAST 5TH AVENUE
LOCATED WITHIN THE BOUNDARIES OF THE PLAT OF TOWN RUN**

APPLICATION OVERVIEW

Name (File Number): E 5th Ave Vacation at Town Run (VPU 21-1)

Applicant: Eugene Urban Renewal Agency

Subject Property: A portion of E 5th Avenue Right-of-Way abutting Tax lot 02400 of Assessors Map 17-03-32-22

Zoning: Abutting property zoned S-DR Downtown Riverfront Special Area Zone

Location: A 1,713 square foot area located southeast of the E 5th avenue and High Street.

BACKGROUND

The Eugene Urban Renewal Agency (URA or the applicant) filed a request for vacation related to the City Council’s approval the Town Run Subdivision (located on the Downtown Riverfront property). The URA acquired approximately 16.5 acres of land from the Eugene Water and Electric Board (EWEB) in order to facilitate the property’s development. As part of preparing the property for development, the URA submitted, and the City approved, a subdivision plat (the Plat of Town Run). As part of the new subdivision, the URA dedicated new rights-of-way for a street network throughout the subdivision. The newly dedicated rights-of-way will also serve as the location of new utilities to serve the entire site (including water, sanitary and storm sewer, and electric).

In order to ready the newly subdivided lot for sale and subsequent development, the applicant requests approval to vacate a small portion of the East 5th Avenue right-of-way that is not in alignment with the street layout. The vacation request is briefly summarized below:

VPU 22-1 Vacation of Undeveloped Plat

Request for approval of Vacation of a portion of East 5th Avenue, an unimproved right-of-way created through the original plat of Eugene City in 1852. The total requested vacation area consists of 1,713 square feet of public right-of-way.

FINDINGS

The vacation process serves as a means to evaluate the need for public ways as land develops and uses change over time, and to address the manner in which the City may dispense with

public ways. Public ways are defined by the Eugene Code as follows: “Any street, road, alley, right-of-way, pedestrian or bicycle easement or accessway, or utility easement for public use that is controlled by the city, county, or state.”

This request for vacation is being considered in accordance with Sections 9.8700 – 9.8725 of the Eugene Code (EC) and Oregon Revised Statutes (ORS) 271.080 – 271.230 and processed pursuant to EC 9.7445 – 9.7455. EC 9.8710(3) requires that any vacation of an undeveloped subdivision and partition plat be considered and decided upon by the City Council in accordance with the procedures in EC 9.7455 through 9.7455. The public hearing is being conducted consistent with quasi-judicial procedures in State law and as set forth in EC 9.7065 – 9.7095.

When right-of-way is vacated, ORS 271.140 generally requires ownership of the land underlying the vacated right-of-way to revert back to owners of the adjacent lands from which it was originally dedicated. In this instance, if the vacation is approved, the right-of-way will revert to the Eugene Urban Renewal Agency as the owner of the adjacent lands. EC 9.8710(5) requires the applicant to pay a special assessment to the City equal to the assessed value of the real property and any costs incurred by the City in the construction of public improvements as determined by the City Manager. The City Manager has determined that the cost of construction of the new streets dedicated by the URA is equal to or exceeds the assessed value of the real property being vacated and any costs incurred by the City in the construction of public improvements within the vacation area. As noted above, the URA is paying to construct and install the new streets and utilities, at a cost of approximately \$16.5 million. The value of the newly created rights-of-way and transportation/utility improvements far exceeds the real market value of the vacation.

Compliance with Approval Criterion

Per EC 9.8725, the sole approval criterion for these vacations requires City Council to find that approval of the requested vacation is in the public interest. The full text of the approval criterion is provided below, with findings demonstrating compliance:

EC 9.8725: Approval Criteria for the Vacation of Improved Public Right-of-Way, Public Ways Acquired with Public Funds, and Undeveloped Subdivision and Partition Plats. The city council shall approve, or approve with conditions and reservations of easements, the vacation of improved public right-of-way, public ways acquired with public funds, or undeveloped subdivision and partition plats, or portions thereof, including public right-of-way and improved public easements located therein, only if the council finds that approval of the vacation is in the public interest.

The following findings demonstrate that vacation of a portion of East 5th Avenue is in the public interest. This determination is based on the conclusion that vacation of the that portion of the undeveloped plat will provide an opportunity for the efficient use of land and will not negatively impact the transportation system, surrounding uses, or emergency access. The purpose of the applicant’s vacation request is to:

Exhibit C

- Allow for the full development of the Town Run Subdivision in accordance with the Downtown Riverfront Concept Plan for redevelopment of the Downtown Riverfront site.
- Prepare the newly subdivided lots for sale and subsequent mixed-use development.
- Remove unnecessary right-of-way currently encumbering the Downtown Riverfront site.

The subject portion of East 5th Avenue (VPU 21-1 & VPU 21-2) was intended as part of a development associated with a plat that was never fully developed (Original Plat of Eugene City). The area to be vacated is undeveloped, with the exception of a water main belonging to EWEB that crosses the northeast corner of the right-of-way. EWEB's easement for the water main is described in the "Declaration of Easements" that was recorded April 17, 2018, at Document Number 2018-017637 in Lane County Oregon Deed Records. Neither the water main nor the easement are part of this vacation request and the City Council's decision will not affect the water main or easement. Statements of concurrence from affected utility providers for the vacation of right-of-way further confirm that the subject right-of-way does not provide a public benefit.

The small portion of East 5th Avenue right-of-way identified for vacation does not currently provide access to surrounding streets. The undeveloped right-of-way does not provide required frontage for any abutting lots, as all abutting lots have adequate frontage on the proposed street system in accordance with Eugene Code. As there is a proposed public street system providing vehicular and pedestrian access to the lots and the vacation area does not connect to any other rights-of-way, the undeveloped right-of-way does not provide significant public transportation benefit, nor does it provide vehicular or pedestrian circulation on adjoining streets.

Conclusion

The applicant's requested vacation of a portion of East 5th Avenue right-of-way is in the public interest, based on the above facts and the terms of the ordinance.