



ORDINANCE NO. 5962

AN ORDINANCE VACATING 4.54 FEET OF EXCESS RIGHT-OF-WAY ON THE NORTH SIDE OF 13TH AVENUE WEST OF HOP STREET, IN ALBANY, OREGON.

WHEREAS, the notice of public hearing was mailed on May 25, 2021, published in the Albany Democrat-Herald on June 7, 2021, and June 14, 2021, and posted at the site, as described in Section 1 below, on May 26, 2021, as required by state and local law; and

WHEREAS, the Albany Planning Commission held a public hearing on June 14, 2021, and recommended that the city council approve the proposed right-of-way vacation; and

WHEREAS, the Albany City Council held a public hearing on July 14, 2021, reviewed the testimony presented at the public hearing and the findings in the staff report, and deliberated on the vacation.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Subject Property. A 4.54-foot-wide strip of right-of-way on the north side of 13th Avenue west of Hop Street, within Takena Estates subdivision (File VC-02-20) (see legal description and map on attached Exhibit A), is hereby vacated.

Section 2: Transfer of Vacated Property. The vacated right-of-way will revert to the properties north of the right-of-way.

Section 3: Findings. The findings, conclusions, and conditions in the staff report are hereby adopted as the council's own as presented in Exhibit B of this ordinance.

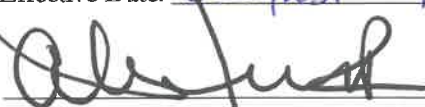
Section 4: Easement Retained. The City retains a franchise utility easement over the right-of-way being vacated.

Section 5: The city recorder shall, within 10 days of the effective date of this ordinance, file a certified copy of the ordinance with the Linn County clerk, Linn County assessor, and Linn County surveyor (ORS 271.150). The petitioner for the vacation shall bear the recording costs.

Passed by the Council: July 14, 2021

Approved by the Mayor: July 14, 2021

Effective Date: August 13, 2021



Mayor



ATTEST:



City Clerk

Exhibit A

Legal Description for 13th Avenue SW right-of-way vacation

A portion of the 13th Avenue SW right-of-way dedicated by a deed recorded in Linn County Oregon Deed Records MF 1103-814, more particularly described as follows;

Beginning at a point on the south property line of Lot 9 of Takena Estates subdivision, said point lying 42.00 feet east of the southwest corner of said Lot 9, and lying 4.54 feet south of the north line of the right-of-way dedicated to the City of Albany with a deed recorded in Linn County Oregon Deed Records MF 1103-814;

Thence east 118.04 feet parallel with and 4.54 feet south of the north line of the right-of-way recorded in Linn County Oregon Deed Records MF 1103-814;

Thence east-northeast along the arc of a 20-foot radius curve to the left 13.74 feet to a point on the north line of the right-of-way recorded in Linn County Oregon Deed Records MF 1103-814, said point also lying on the south property line of Lot 7 of Takena Estates subdivision;

Thence west 130.73 feet along the north line of the right-of-way dedicated with the deed recorded in MF 1103-814, said line also being the south line of Lots 7, 8, and a portion of Lot 9 of Takena Estates subdivision;

Thence south 4.54 feet to the point of beginning.

As shown on the attached map, attached hereto and made a part hereof this description.

Proposed 13th Avenue SW Right-of-Way Vacation

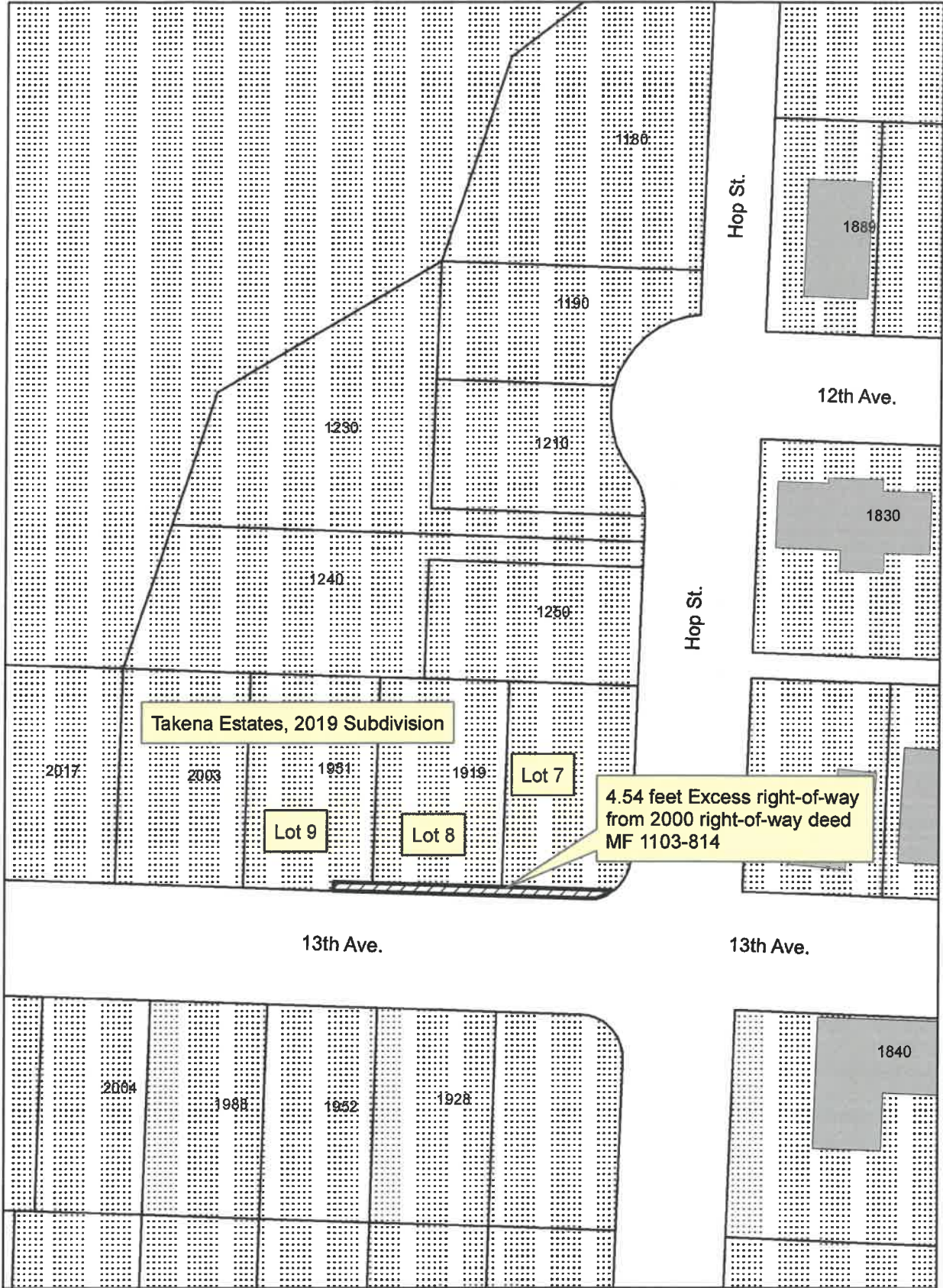


Exhibit B



COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

Staff Report

Right-of-Way Vacation

VC-02-20

June 7, 2021

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, June 14, 2021	Wednesday, July 14, 2021
HEARING TIMES:	5:15 P.M.	6:00 P.M.
HEARING LOCATION:	<p>Due to Governor Brown’s Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection.</p> <p>At the scheduled start of the hearing, join with the GoToMeeting app on your computer, tablet, or smartphone (using your device’s microphone and speakers):</p> <p>PLANNING COMMISSION, Monday, June 14, 2021 https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc If you wish to dial in using your phone: Call 1-571-317-3122 and when prompted enter access code 498-239-709</p> <p>CITY COUNCIL, Wednesday, July 14, 2021 https://zoom.us/j/5419177500?pwd=UzdQbFgvSUxVRVErZjAwSnIxVXZQZz09 If you wish to dial in using your phone: Call 1-253-215-8782, meeting ID: 541 917 7500, passcode: 252269</p>	

Summary

On November 16, 2020, the Albany City Council initiated the vacation of excess right-of-way on the north side of 13th Avenue, west of Hop Street SW.

The planning commission’s recommendation on the proposal will be presented to the city council, who is the final decision-maker on this request.

Staff recommends the planning commission make a recommendation to the city council to approve the vacation of the right-of-way.

Application Information

Proposal:	Right-of-way vacation for a 4.54-foot strip of excess right-of-way on 13th Avenue SW within the Takena Estates subdivision.
Review Body:	Planning Commission and City Council (Type IV-Q, Quasi-Judicial Decision)



Report Prepared By:	Matthew Ruetters, Community Development Director
Property Owner:	City of Albany, 333 Broadalbin St. SE, Albany, OR 97321
Applicant:	Gordon Steffensmeier, Civil Engineer III, on behalf of the City of Albany; 333 Broadalbin St. SE, Albany, OR 97321
Address/Location:	1901, 1919, and 1951 13th Avenue SW, Albany, OR 97321
Map/Tax Lot:	Linn County Assessor's Map No. 11S-04W-12BC; Tax Lots 3700, 3800, and 3900.
Zoning:	RS 6.5 (Residential Single Family)
Comprehensive Plan Map:	Residential Low-Density
Acres:	N/A
Existing Land Use:	Single-Family Residential
Neighborhood:	West Albany
Surrounding Uses:	North: Single-family residences South: Single-family residences East: Single-family residences West: Single-family residences
Prior History:	No prior land use cases.

Review Process and Appeals

The proposed vacation is processed through a Type IV quasi-judicial land use review process. The planning commission will hold a public hearing to consider the proposed vacation and will make a recommendation to the city council. The city council will hold a subsequent public hearing to consider the proposed vacation. After closing the public hearing, the city council will deliberate and make a final decision.

Within five days of the city council's final decision on this application, the Community Development Director will provide written notice of decision to the applicant and any other parties entitled to notice. The city council's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a Notice of Intent to Appeal not later than 21 days after the notice of decision is mailed [ADC 1.520(6)].

Public Notice

A public notice was mailed to surrounding property owners within 200 or 400 feet of the subject portion of right-of-way on May 25, 2021, in accordance with ORS 271 and ADC 1.250. A public notice was posted on the proposed right-of-way to be vacated on May 26, 2021, in accordance with ADC 1.250(4). Notice of the public hearing was published in the *Albany Democrat-Herald* on June 7, 2021, and June 14, 2021, in accordance with ADC 1.250(4).

The staff report for the proposed vacations were posted on the City's website on June 7, 2021, at least seven days before the first evidentiary public hearing. At the time this report was published, the Albany Planning Division had not received any written comments regarding the proposed project.

Analysis of Development Code Criteria

The Albany Development Code (ADC or Code) includes the following review criteria, which must be met for this application to be approved. Code criteria are written in **bold** followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.

Vacations Review Criteria (ADC 2.630)

Criteria 1

The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan, city transportation or public facility plan.

Findings of Fact

- 1.1 The vacated right of way lies on the north side of 13th Avenue just west of Hop Street.
- 1.2 The properties the vacated area will revert to are the properties immediately north of the right-of-way.
- 1.3 The following Comprehensive Plan policies have been identified as relevant to this review criterion:
GOAL 11: Public Facilities and Services
 - a. Prohibit the construction of structures over public water lines and easements.
 - b. Prohibit the construction of structures over drainage improvements and easements.
 - c. Prohibit the construction of structures over public wastewater lines and easements.
- 1.4 Sanitary Sewer. Sanitary sewer utility maps indicate no sewer lines lie within the proposed vacated right-of-way.
- 1.5 Water. There are no water lines within the right-of-way proposed for vacation.
- 1.6 Storm Drainage. There are no storm drainage lines within the right-of-way proposed for vacation.
- 1.7 Franchised Utilities. There are franchised utilities within the right-of-way proposed for vacation.

Conclusions

- 1.1 Franchised utilities exist within the right-of-way proposed for vacation.
- 1.2 The proposed vacation does not conflict with Albany's Transportation System Plan.
- 1.3 This criterion is met if an easement is retained over the right-of-way.

Criteria 2

The requested vacation will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, public facilities or utilities.

Findings of Fact

- 2.1 All properties adjacent to the right-of-way proposed for vacation have access to public streets and public facilities. Vacating the rights-of-way will not have a negative effect on any properties.
- 2.2 The City of Albany needs to retain an easement for the franchised utilities within the right-of-way.

Conclusions

- 2.1 The proposed street vacation will not negatively impact access between public right-of-way and will not eliminate street access to any parcels.
- 2.2 This criterion is met if an easement is retained over the vacated right-of-way. Staff proposed a condition accordingly.

Criteria 3

The requested vacation will not have a negative effect on traffic circulation or emergency service protection.

Findings of Fact

- 3.1 As discussed above, the vacation will not have a negative impact on access between rights-of-way or remove access to any existing parcels.

Conclusions

- 3.1 The requested vacation will not have a negative effect on traffic circulation and will improve emergency vehicle service protection.
- 3.2 This criterion is met without conditions.

Criteria 4

The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.

Findings of Fact

- 4.1 The vacated right-of-way will be added to the adjacent lots. No changes are needed to bring the vacated area into compliance.

Conclusions

- 4.1 The vacated right-of-way will be in development code compliance without changes.
- 4.2 This criterion is met without conditions.

Criteria 5

The public interest, present and future, will be best served by approval of the proposed vacation.

Findings of Fact

- 5.1 The vacated right-of-way will become part of adjacent lots, rather than being a public right-of-way.
- 5.2 It is in the public interest to have the unused right-of-way incorporated into the adjacent lots.

Conclusion

- 5.1 Approving the right-of-way vacation will allow the right-of-way to become private property.

Street Vacation Conclusion

The proposed street vacation meets all applicable review criteria with the condition that an easement for franchised utilities be retained over the vacated right of way.

Overall Conclusion

As proposed, the application for a street vacation satisfies all of the applicable review criteria as outlined in this report.

Options for the Planning Commission

The planning commission has three options with respect to the proposed right-of-way vacation:

- Option 1: Recommend that the city council approve request as proposed;
- Option 2: Recommend that the city council approve the request with conditions of approval; or
- Option 3: Recommend that the city council deny the request.

Motion

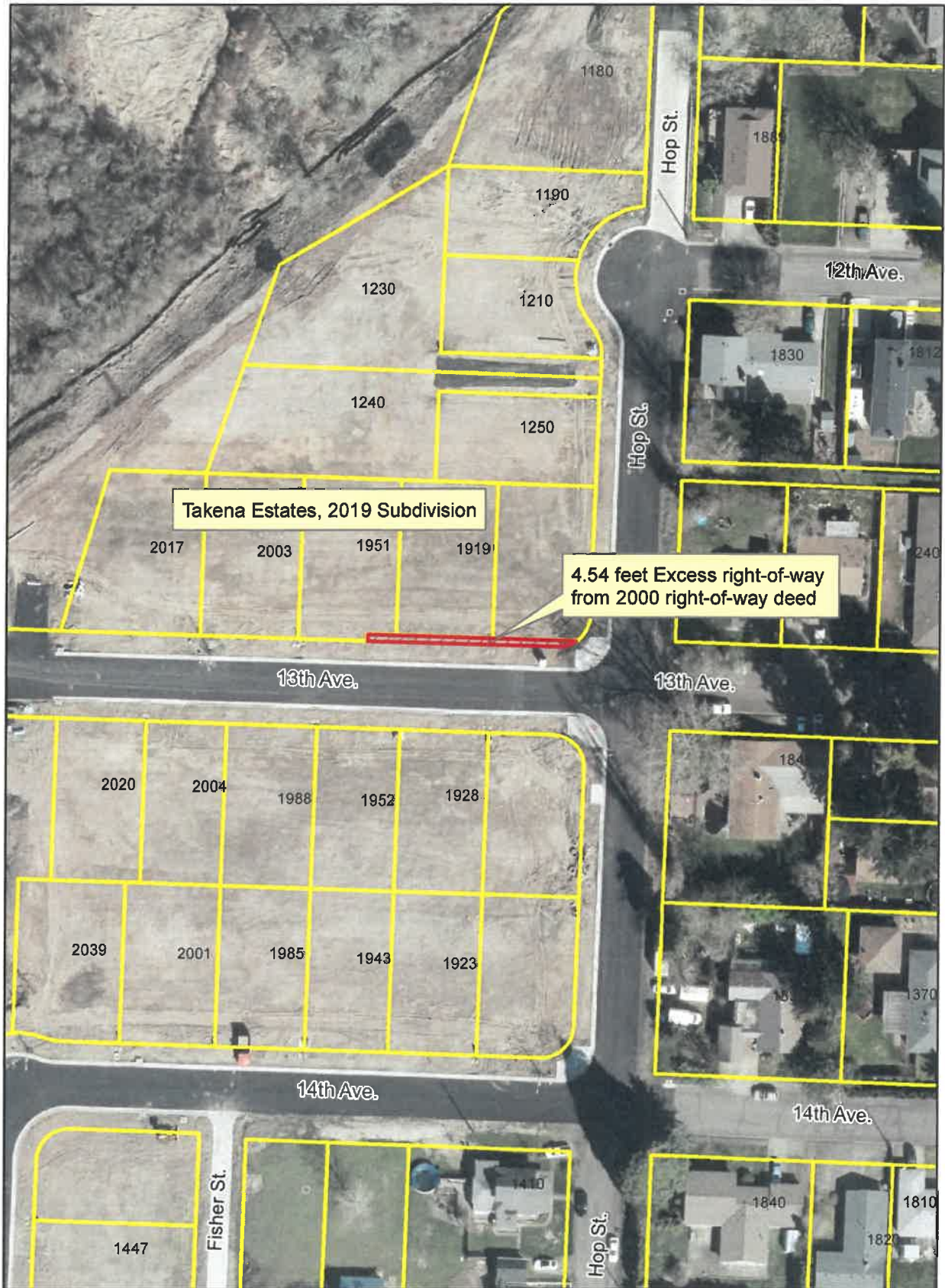
Based on the analysis in this report, staff suggests that the Planning Commission recommend that the City Council approve the requested right-of-way vacation as described in this staff report, with one condition specific to the need for retaining a franchise utility easement. Below is a recommended motions to this effect:

I move that the planning commission recommend that the city council approve with condition, the land use application for right-of-way vacation under planning file VC-02-20, as described in the June 7, 2021, staff report. This motion is based on the findings and conclusions in the staff report, and the findings in support of the application made by the planning commission during deliberations on this matter.

Attachments

- A. Map of proposed right-of-way vacation.
- B. Legal description of proposed right-of-way vacation.

Proposed 13th Avenue SW Right-of-Way Vacation



VC-02-20: Legal Description for 13th Avenue SW Right-of-Way Vacation.

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