



Eugene City Council

101 W 10th Ave., Suite 203
Eugene, OR 97401
541-682-5010 • 541-682-5414 Fax
www.eugene-or.gov

EUGENE CITY COUNCIL AGENDA

April 15, 2024

5:30 p.m. CITY COUNCIL PUBLIC HEARING

City Council meetings will continue to be held in hybrid format using in person and virtual meeting technology. Information about online or other options for access and participation will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>

Meeting of April 15, 2024; Her Honor Mayor Lucy Vinis Presiding

Councilors

Matt Keating, President
Jennifer Yeh
Mike Clark
Lyndsie Leech

Randy Groves, Vice President
Alan Zelenka
Greg Evans
Emily Semple

5:30 p.m. CITY COUNCIL PUBLIC HEARING

1. PUBLIC HEARING: An Ordinance Vacating Premier Street and A Portion of First Avenue West, All Located Within The Plat of Pioneer Resources Business Park, and Providing For An Effective Date.

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010,
or visit us online at www.eugene-or.gov.

April 15, 2024 Public Hearing

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Vacating Premier Street and A Portion of First Avenue West, All Located Within The Plat of Pioneer Resources Business Park, and Providing For An Effective Date.

Meeting Date: April 15, 2024
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 1
Staff Contact: Jeff Gepper
Contact Telephone Number: 541-682-5282

ISSUE STATEMENT

The City Council will hold a public hearing for a right-of-way vacation request submitted by McDougal Bros Investments, LLC (City File VRI 23-1). The requested vacation of improved public right-of-way consists of Premier Street and a portion of First Avenue West, all located within the plat of Pioneer Resources Business Park. A vicinity map and aerial photo of the vacation request is provided as Attachment A and the ordinance is provided as Attachment B.

BACKGROUND

The applicant has requested a vacation of Premier Street and a portion of First Avenue West, both of which are public rights-of-way, to allow a private gated street and fencing to help secure the industrial properties along these streets.

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 (EC) 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.”

The area proposed to be vacated includes approximately 1,245 linear feet of First Avenue West public right-of-way, as well as 383 linear feet of Premier Street. First Avenue West, more commonly referred to as West 1st Avenue, currently serves as a loop road providing access to the industrially zoned parcels abutting the street. Premier Street is a stub street extending from First Avenue West to the south, serving several other vacant industrial parcels. The applicant has proposed to reserve the entire vacation area as a public utility easement.

The proposed area for vacation is located in a subdivision known as the plat of Pioneer Resources Business Park. Except for several lots being used for uncovered storage, all properties abutting the area to be vacated are undeveloped. The properties are zoned I-3 Heavy Industrial and allow for a variety of industrial uses. As explained in greater detail by the applicant, the site is heavily impacted by the existence of a now sealed Bethel-Danebo landfill. Due to issues associated with the landfill site, it was deemed uninhabitable, and no permanent human occupancy is permitted

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within the footprint of the landfill. Additionally, the applicant cites numerous issues, including camping and crime, that have required City intervention and police response. The applicant intends to fence and secure the area, and the proposed vacation would enable a private gated street for the industrial park.

More details on this request can be found in the full record of application materials to date, which will be provided separately to Councilors. Otherwise, application materials can be made available to the public in hardcopy or electronic format upon request. As a courtesy, the materials can also be accessed online here:

<https://pdd.eugene-or.gov/LandUse/SearchApplicationDocuments?file=VRI-23-0001>

Consent of Abutting and Affected Property Owners

In accordance with Oregon Revised Statutes (ORS) 271.080, the applicant has provided evidence of consent to the vacation from owners of at least two-thirds of the property within the affected area. In this case, the affected area per State law is the land lying on either side of the vacated area to the next lateral street, and 400 feet beyond each terminus of the proposed vacation for a portion of West 1st Avenue and the southern terminus of Premier Street.

Based on the signed consent forms submitted with the application, the applicant has obtained consent for the proposed vacation from the property owners of approximately 78 percent of the affected area, which exceeds the minimum requirements of ORS 271.080 and EC 9.8710. The applicant is also required to obtain concurrence from the abutting property owners. All properties abutting the proposed vacation are owned by McDougal Bros Investments, LLC.

A map showing the affected area, and the area of property owner consent, is included in the application file for reference.

Utilities

Public Works has reviewed this application and the surrounding facilities and infrastructure affected by the request. Concurrences from franchise utilities, including Eugene Water and Electric Board, have been included with the application. The rights-of-way in their current condition include underground wastewater and other utilities services. To ensure the City and utility companies have the necessary perpetual access for the operation and maintenance of public utilities that remain in the vacated area, the applicant has proposed a Public Utility Easement (PUE) over the entire area to be vacated.

Determination of Assessment

Pursuant to EC 9.8710(5), the applicant is required to pay a deposit equal to the assessment of special benefit resulting from the vacation. The amount of money to be deposited is to be determined by the City Manager. The initial assessment provided to the applicant was re-evaluated to ensure it accurately captured the amount of money to be paid by the applicant for this vacation request. Typically, the value is equivalent to the land value, plus the cost incurred by the City for construction of the public improvements (e.g. streets and sidewalks). In this case, the improvements were constructed by the developer as a Privately Engineering Public Improvement (PEPI) associated with the original subdivision. Given this fact, the City did not incur any cost for the construction of the streets or other infrastructure and the amount of money to be deposited

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only accounts for the land value of the right-of-way. The City provided a notice to the applicant of the assessment more than 20 days prior to the public hearing, in accordance with code requirements. The assessment was determined to be a total of \$44,900, which considered the value of the land area to be vacated, less the value of the public utility easement (PUE) to be reserved over the vacated area. At least five (5) working days prior to the public hearing, the applicant must submit a deposit of the full assessed amount with the City. If the application is approved and the vacation becomes effective, the deposit will be retained by the City. If the application is denied or the vacation fails to take effect for another reason, the deposit will be returned to the applicant.

Procedural Summary

The vacation request process serves 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. This request for vacation is being considered in accordance with EC 9.8700-9.8725 and ORS 271.080-271.230, and procedures in EC 9.7445-9.7455. The public hearing will also be conducted consistent with quasi-judicial procedures in State law and as set forth in EC 9.7065-9.7095.

Notice of public hearing for the requested vacation has been provided in the following manner: On March 15, 2024, notice was mailed to owners of property within 100 feet of the vacation area and interested parties. On March 28, 2024, the property was posted in the immediate vicinity of the requested vacation; and on March 31, 2024, legal notice was published in The Register-Guard newspaper. No public testimony has been received at this time. Any additional written testimony received prior to close of the public record will be forwarded to City Council for consideration.

A complete set of record materials for this Vacation request are available for review at Planning and Development Department at 99 West 10th Avenue. The City Council has also been provided a with copy of the application file and record. As a courtesy, some of the materials are also available for review online [here](#).

Applicable Criteria

The City Council must determine whether the consent of the owners of the requisite area has been obtained and whether notice has been duly given. The City Council must also address the relevant approval criterion from EC 9.8725 in making a decision on the proposed right-of-way vacation, as listed below in *italics*:

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.

Findings demonstrating compliance with these requirements can be found in Attachment B, Exhibit C of the Draft Ordinance.

PREVIOUS COUNCIL DIRECTION

None.

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COUNCIL OPTIONS

Information only.

CITY MANAGER'S RECOMMENDATION

This item is scheduled for a public hearing only. Deliberations and potential action are scheduled for April 22, 2024.

ATTACHMENTS

- A. Vicinity Map and Aerial Map of Vacation Request
- B. Proposed Ordinance
 - a) Exhibit A – Legal Description
 - b) Exhibit B – Site Plan
 - c) Exhibit C – Findings

FOR MORE INFORMATION

Staff Contact: Jeff Gepper, Senior Planner

Telephone: 541-682-5282

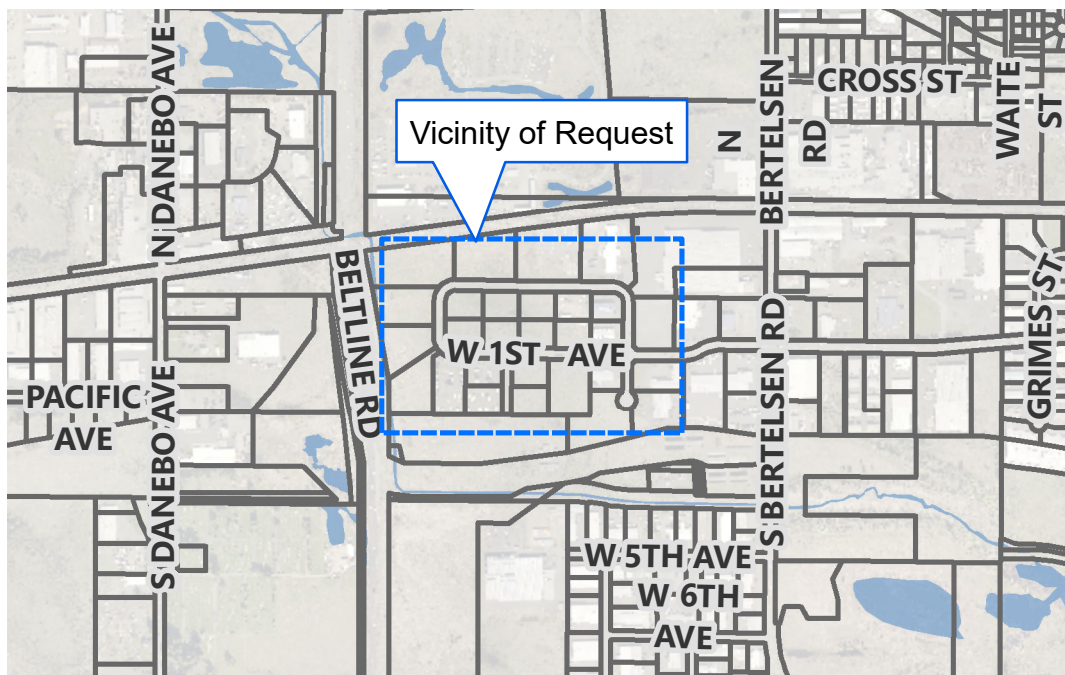
Staff E-Mail: JGepper@eugene-or.gov



Pioneer Business Park Vacation (File: VRI 23-1)

Right-of-Way Vacation Aerial Map and Vicinity

Attachment A



Caution: This map is based on imprecise source data, subject to change, and for general reference only.

Created on 12/15/2023
by City of Eugene Planning Division

*Areas included in the vacation request are:
Premier Street and a portion of West 1st
Avenue. See Ordinance
Exhibit B for more detailed map.

ORDINANCE NO. _____

AN ORDINANCE VACATING PREMIER STREET AND A PORTION OF FIRST AVENUE WEST, ALL LOCATED WITHIN THE PLAT OF PIONEER RESOURCES BUSINESS PARK, AND PROVIDING FOR AN EFFECTIVE DATE.

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 April 15, 2024, for the purpose of hearing protests and remonstrances to the proposed vacation of the following described rights-of-way:

The rights-of-way identified as Premier Street and a portion of First Avenue West, all located within the plat of Pioneer Resources Business Park, which are more particularly described on Exhibit A and depicted on Exhibit B attached to this Ordinance.

B. Notice was duly and regularly given of the public hearing and, on April 15, 2024, the City Council held a public hearing and heard all objections to the proposed vacation.

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, that consents required by EC 9.8710(6) and ORS 271.080(2) and statements of concurrence to the vacation from affected utility providers have been filed in the proceedings, and that vacation of the rights-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 rights-of-way described on Exhibit A and depicted on Exhibit B attached to this Ordinance are hereby vacated, except that the the City reserves a public utility easement for the entire area described in Exhibit A. The vacated rights-of-way 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.

Section 4. Notwithstanding the effective date of ordinances as provided in the Eugene Charter of 2002, this ordinance shall be come effective 30 days from the date of passage by the Eugene City Council and approval by the Mayor, or upon the recording of the public utility easement described in Section 2 of this Ordinance, in a form acceptable to the City Manager, whichever is later.

Passed by the City Council this

_____ day of _____, 2024.

Approved by the Mayor this

_____ day of _____, 2024.

City Recorder

Mayor

EXHIBIT A

RIGHT-OF-WAY VACATION

JOB NO. 2300110

OCTOBER 12, 2023

LEGAL DESCRIPTION

A TRACT OF LAND BEING A PORTION OF FIRST AVENUE WEST (70 FEET WIDE) AND PREMIER STREET (60 FEET WIDE) ALL LYING WITHIN THE PLAT OF PIONEER RESOURCES BUSINESS PARK, RECORDED JUNE 29, 1998 IN FILE 75, SLIDE 662, LANE COUNTY SURVEY RECORDS, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 17 SOUTH, RANGE 4 WEST, WILLAMETTE MERIDIAN, CITY OF EUGENE, LANE COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 22, SAID PLAT OF PIONEER RESOURCES BUSINESS PARK, SAID POINT ALSO BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF PREMIER STREET (60 FEET WIDE); THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE NORTH 02°39'07" EAST 347.21 FEET; THENCE NORTH 42°20'53" WEST 35.36 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST (70 FEET WIDE); THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE NORTH 87°20'53" WEST 290.68 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF 135.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, THROUGH A CENTRAL ANGLE OF 90°00'00" (THE LONG CHORD OF WHICH BEARS NORTH 42°20'53" WEST 190.92 FEET) AN ARC DISTANCE OF 212.06 FEET TO A POINT ON WESTERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST AND A POINT OF TANGENCY; THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE NORTH 02°39'07" WEST 235.00 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 135.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, THROUGH A CENTRAL ANGLE OF 90°00'00" (THE LONG CHORD OF WHICH BEARS NORTH 47°39'07" EAST 190.92 FEET) AN ARC DISTANCE OF 212.06 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST AND A POINT OF TANGENCY; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 87°20'53" EAST 393.91 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 02°39'07" WEST 70.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE NORTH 87°20'53" WEST 393.91 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 65.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, THROUGH A CENTRAL ANGLE OF 90°00'00" (THE LONG CHORD OF WHICH BEARS SOUTH 47°39'07" WEST 91.92 FEET) AN ARC DISTANCE OF 102.10 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST AND A POINT OF TANGENCY; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE SOUTH 02°39'07" WEST 235.00 FEET TO THE BEGINNING OF A TANGENT CURVE; THENCE ALONG THE ARC OF A 65.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY, THROUGH A CENTRAL ANGLE OF 90°00'00" (THE LONG CHORD OF WHICH BEARS SOUTH 42°20'53" EAST 91.92 FEET) AN ARC DISTANCE OF 102.10 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF FIRST AVENUE WEST AND A POINT OF TANGENCY; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 87°20'53" EAST 615.68 FEET; THENCE LEAVING SAID NORTHERLY RIGHT-OF-WAY LINE SOUTH 02°39'07" WEST 70.00 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID FIRST AVENUE WEST; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE NORTH 87°20'53" WEST 215.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID PREMIER STREET; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE SOUTH 47°39'07" WEST 35.36 FEET; THENCE SOUTH 02°39'07" WEST 346.89 FEET TO THE SOUTHERLY LINE SAID PLAT OF PIONEER RESOURCES BUSINESS PARK, SAID POINT ALSO BEING THE SOUTHWESTERLY CORNER OF LOT 23 OF SAID PLAT; THENCE ALONG SAID SOUTHERLY LINE NORTH 87°38'58" WEST 60.00 FEET TO THE **POINT OF BEGINNING**.

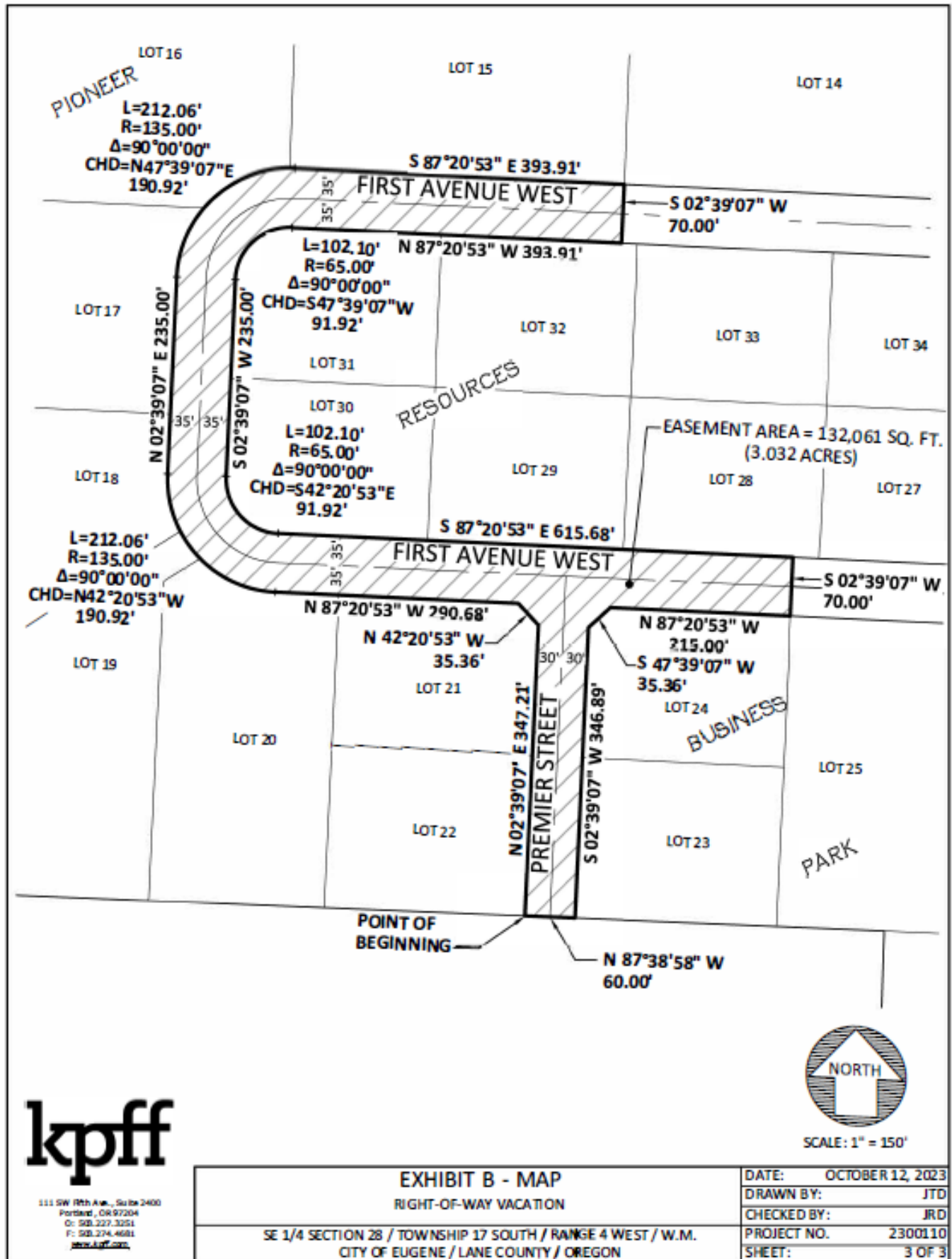
1 OF 3

CONTAINING 132,061 SQUARE FEET OR 3.032 ACRES, MORE OR LESS.

THE BASIS OF BEARINGS IS PER THE PLAT OF PIONEER RESOURCES BUSINESS PARK, RECORDED JUNE 29, 1998 IN FILE 75, SLIDE 662, LANE COUNTY SURVEY RECORDS.

THE TRACT OF LAND IS SHOWN ON THE ATTACHED EXHIBIT MAP AND BY THIS REFERENCE MADE A PART THEREOF.

Exhibit B



**FINDINGS IN SUPPORT OF VACATING PREMIER STREET AND A PORTION OF
FIRST AVENUE WEST, ALL LOCATED WITHIN THE PLAT OF PIONEER RESOURCES
BUSINESS PARK**

APPLICATION OVERVIEW

Name (File Number): Pioneer Business Park (VRI 23-1)

Applicant: McDougal Bros Investments LLC

Subject Property: Premier Street and a portion of First Avenue West.

Zoning: Abutting property zoned I-3 Heavy Industrial

Location: 3.032 acres of improved right-of-way located within the Pioneer Business Park.

BACKGROUND

McDougal Bros Investments, LLC (the applicant) filed a request for vacation of Premier Street and a portion of First Avenue West, both of which are improved public rights-of-way, to allow installation of a private gated street and fencing to help secure the industrial properties along these streets.

The area proposed to be vacated, a total of 3.032 acres or 132,061 square feet, includes approximately 1,245 linear feet of First Avenue West public right-of-way, as well as all 383 linear feet of Premier Street. The requested vacation is for rights-of-way within the Pioneer Resources Business Park Subdivision Plat, recorded June 29, 1998, with Lane County Deeds and Records. First Avenue West, more commonly referred to as West 1st Avenue, currently serves as a loop road providing access to the industrially zoned parcels abutting the street. Premier Street is a stub street extending from West 1st Avenue to the south, serving several other vacant industrial parcels.

In order to ensure access to existing utility services, the applicant has proposed a public utility easement for the entire area to be vacated.

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,

Exhibit C

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 improved right-of-way 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. 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 applicant has paid the required assessment.

In accordance with ORS 271.080, the applicant has provided evidence of consent to the vacation from owners of at least two-thirds of the property within the affected area. In this case, the affected area per State law is the land lying on either side of the vacated area to the next lateral street, and 400 feet beyond each terminus of the rights-of-way to be vacated. Based on the signed consent forms submitted with the application, the applicant has obtained consent for the proposed vacation from the property owners of approximately 78 percent of the affected area, which exceeds the requirements of ORS 271.080 and EC 9.8710.

Public Works has reviewed this application and the surrounding facilities and infrastructure affected by the request. Concurrences from franchise utilities, including Eugene Water and Electric Board, have been included with the application. The rights-of-way in their current condition include underground wastewater and other utilities services. To ensure the City and utility companies have the necessary perpetual access for the operation and maintenance of public utilities that remain in the vacated area, the applicant has proposed a Public Utility Easement (PUE) over the entire area to be vacated.

Compliance with Approval Criterion

Per EC 9.8725, the sole approval criterion for these vacations requires the 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-

Exhibit C

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 Premier Street and a portion of First West Avenue is in the public interest. This determination is based on the conclusion that vacation of the improved rights-of-way will provide an opportunity for the efficient use of land and will not negatively impact the transportation system, surrounding uses, or emergency access. As referenced by the applicant, the purpose of the vacation request is to allow a private gated street and fencing to help secure the industrial properties along these streets.

The vacation of the rights-of-way will allow for flexible and efficient use of lands zoned for heavy industrial uses, which may facilitate future economic stimulation in the long undeveloped site. As detailed in the application materials, many of the lots adjacent to the requested right-of-way vacation have been deemed uninhabitable due to the former landfill site and legal court settlement (Frontier Recovery LLC vs. Lane County, Oregon), which required that no permanent human occupancy on the footprint of the landfill be allowed. The result is that there are very limited uses allowed on the site. Vacation of the right-of-way further limits potential negative impacts on humans from the existing landfill and will allow for flexible use of a site constrained by detrimental historic uses.

Regarding public interest in managing City resources, the streets have been subject to settling and deterioration since their installation. Upon vacation, right-of-way maintenance will no longer be the responsibility of the City. The elimination of this maintenance cost for the City will allow for resources to be allocated to other street and maintenance projects. The vacation of the rights-of-way will also allow for controlled access onto the property. The applicant cites documented illegal activities on these streets that create an unsafe environment. As a result of the vacation, access to the area can be managed by the property owners. While not guaranteed, a possible outcome of controlled access is a reduction in calls for City police, fire, and parking services associated with activities occurring within the rights-of-way.

Conclusion

The applicant's requested vacation of the rights-of-way for Premier Street and a portion of First West Avenue is in the public interest, based on the above findings and the terms of the ordinance.