

ORDINANCE NO. 2017-03

AN ORDINANCE VACATING A PORTION OF APACHE TEARS COURT IN THE CITY OF LA PINE, DESCHUTES COUNTY, OREGON.

WHEREAS, Apache Tears Ct. is a public right-of-way within the City of La Pine (“City”) platted as part of the Black Bear Meadows subdivision; and

WHEREAS, Apache Tears Court was originally platted and presently constructed to terminate in a cul-de-sac, but has since been extended as a through street between Wheeler Rd. and Cabin Lake Rd.; and

WHEREAS, the extension of Apache Tears Court to create a through street rendered the “bulb” portions of the cul-de-sac superfluous; and

WHEREAS, the owners of the properties identified as Deschutes County Assessor Map and Tax Lots (“Tax Lot”) 221014DB00208 and 221014DB00209 (the “Petitioners”) petitioned City to vacate the western bulb portion of the Apache Tears Ct cul-de-sac fronting Tax Lot 221014DB00209; and

WHEREAS, Petitioners also consented to the reservation of a 4-foot-wide public sidewalk easement within the vacated area and to construct the sidewalk in the easement area; and

WHEREAS, all property owners abutting and/or adjacent to the vacated area consented to the vacation; and

WHEREAS, City provided the required notices and held a public hearing on April 12, 2017 to receive public comment on the proposed vacation; and

WHEREAS, no objections were filed concerning the proposed vacation; and

WHEREAS, the La Pine City Council, after reviewing the petition and receiving public comment found that the public interest will not be prejudiced by the proposed vacation and granted the petition.

NOW, THEREFORE, the City of La Pine ordains as follows:

1. Findings. In addition to the above stated findings, which are hereby adopted, the City Council adopts the following findings:

- a. City has jurisdiction over Apache Tears Ct. and authority to vacate all or any portion of Apache Tear Ct. pursuant to state law.
- b. All applicable legal requirements for the proposed vacation have been met and satisfied, including, without limitation, any applicable consent, notice, and publication requirements.
- c. The public interest will not be prejudiced by City’s vacation of the area proposed for vacation.

2. Vacation. The western portion of the Apache Tears Court cul-de-sac fronting Tax Lot 221014DB00209, more particularly described in the attached Exhibit A (the "Vacated Area") and depicted on the attached Exhibit B, is hereby vacated.

3. Reservation of Easement. City reserves and establishes an exclusive perpetual 4-foot-wide public sidewalk easement within the Vacated Area as depicted on the attached Exhibit B. The easement area may be improved with curbs and sidewalks and may be used by the public for pedestrian purposes. Notwithstanding the foregoing, the owner of Lot 9, BLACK BEAR MEADOWS, City of La Pine, Deschutes County, Oregon may construct a driveway and driveway access consistent with applicable City construction standards within the easement area.

4. Condition. The approved vacation is subject to the owner of Lot 9, BLACK BEAR MEADOWS, City of La Pine, Deschutes County, Oregon constructing and continually maintaining a sidewalk meeting City construction and maintenance standards within the easement area. If such sidewalk is not constructed within one year from the date this Ordinance No. ____ (this "Ordinance") is recorded as provided in Section 5 below, this Ordinance shall be null and void and the Vacated Area shall revert to public right-of-way. This condition runs with the land and is binding on and inures to all future owner and interest holders in Lot 9, BLACK BEAR MEADOWS, City of La Pine, Deschutes County, Oregon.

5. Recording. City will file and record a "Certified True Copy" of this Ordinance in the Deschutes County Clerk's Office, Deschutes County Assessor's Office, and with the Deschutes County Surveyor as soon as the City Manager deems the condition set forth in Section 4 to construct a sidewalk within the easement area to be satisfied.

6. Authorization. The City manager is authorized to execute any documents and to take such actions as are necessary to further the purposes and objective of this Ordinance.

7. Severability; Corrections. If any section, subsection, sentence, clause, and/or portion of this Ordinance is for any reason held invalid, unenforceable, and/or unconstitutional, such invalid, unenforceable, and/or unconstitutional section, subsection, sentence, clause, and/or portion will (a) yield to a construction permitting enforcement to the maximum extent permitted by applicable law, and (b) not affect the validity, enforceability, and/or constitutionality of the remaining portion of this Ordinance. This Ordinance may be corrected by order of the City Council to cure editorial and/or clerical errors.

This Ordinance was PASSED and ADOPTED by the La Pine City Council by a vote of ___ for and ___ against and APPROVED by the mayor on _____, 2017.

Dennis Scott, Mayor

ATTEST:

Cory Misley, City Manager

Exhibit A
Legal Description of Vacated Area

[attached]

Exhibit B
Depiction of Vacated Area

[attached]