

ORDINANCE 1812

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, VACATING A PORTION OF THE PUBLIC RIGHT-OF-WAY OF ALM WAY ADJACENT TO NW 8th STREET IN NORTH BEND WAY; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of North Bend (“City”) initiated a potential vacation of a segment of the public right-of-way of Alm Way adjacent to NW 8th Street in North Bend Way, North Bend, Washington (“ROW”), through passage of Resolution No. 2113 on July 16, 2024; and

WHEREAS, upon passage of Resolution No. 2113, the City gave notice of the pendency of the Resolution and the time and place fixed for a public hearing regarding the potential ROW vacation in the manner required by state law and to allow public testimony regarding the ROW vacation; and

WHEREAS, the City further mailed a similar notice to the owners or reputed owners of all lots, tracts, or parcels of land or other property abutting the portion of the public ROW sought to be vacated, as such owners or reputed owners are shown on the rolls of the County Treasurer; and

WHEREAS, a public hearing was held on the vacation of said ROW on August 20, 2024; and

WHEREAS, the Council finds there are sufficient grounds for the vacation and that said portions of City ROW are not needed for any public purpose, and that vacation thereof would be in the public interest;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND,
WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. Street Vacation and Reservation of Easements:

- A. The following described portions of City right-of-way are hereby vacated:

The ROW legally described in Exhibit A attached hereto and depicted on the survey marked Exhibit B attached hereto, subject to an easement for public utilities.

B. The property lying in this described ROW shall inure and belong to those persons entitled to receive the property in accordance with RCW 35.79.040, conditions upon the following sections (C)-(D).

C. Reservation in favor of the City of a perpetual Nonexclusive Easement under, over, through and across the vacated right-of-way described in Subsection A of this Section for the purpose of laying, maintaining, and installing future and existing water, sanitary sewer, storm water facilities, and street lights, including street light conduits and power cabinets, and including a reservation in favor of the City of the right to grant easements for utilities over, under and on all portions of the vacated right-of-way as described above. The City shall have the absolute right, at times as may be necessary for immediate entry upon said Easement Area for the purpose of maintenance, inspection, construction, repair or reconstruction of the above improvements without incurring any legal obligation or liability. The owners of the adjacent properties agree and shall not in any way block, restrict or impede access and egress to or from said Easement Area, and/or in any way block restrict or impede full use of the real property within the Easement Area by the City for the above-described purposes. No building, wall, rockery, fence, trees, or structure of any kind shall be erected or planted, nor shall any fill material be placed within the boundaries of said Easement Area, without the express written consent of the City. Except as required or approved by the City, no excavation shall be made within three feet of said facilities. The surface level of the ground within the Easement Area shall be maintained at the elevation as currently existing.

This easement shall be a covenant running with the adjacent property parcels and burden said real estate, and shall be binding on the successors, heirs and assigns of all parties.

D. In accordance with RCW 35.79.030, the City reserves a non-exclusive access easement for public utilities, public vehicular access and a power easement over the Property to the adjacent parcel located at 1321 Alm Way, North Bend, Washington, owned by Tanner Electric Cooperative, a Washington corporation. The City grants Tanner Electric a utility easement over, under, through and upon the east 30 feet for the construction, operation, maintenance, repair, replacement, improvement, and removal of electrical distribution facilities. The owners of the adjacent property shall not erect any structures and shall not place trees or other obstructions on the easement that would interfere with Grantee's rights.

Section 2. Consideration for Street Vacation: In consideration for the vacation of the portion of ROW legally described in Section 1 of this ordinance, 90 NB Investments LLC, also known as "Vector", shall pay Three Hundred Thirty-Seven Thousand, Eight Hundred Fifty-Eight and No/100 Dollars (\$337,858.00) to the City of North Bend.

The vacation authorized by this ordinance shall not become effective, and the recording of this ordinance pursuant to Section 3 herein, shall not occur until the City receives Three Hundred Thirty-Seven Thousand, Eight Hundred Fifty-Eight and No/100 Dollars (\$337,858.00) for the property described in Section 1 of this ordinance.

Section 3. Recording With County Auditor: Pursuant to RCW 35.79.030, the City Clerk or her designee is hereby requested to deliver and have recorded with the King County Auditor a certified copy of this ordinance and the two quit claim deeds after their execution.

Section 4. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND,
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 20TH DAY OF
AUGUST, 2024.**

CITY OF NORTH BEND:

Mary Miller, Mayor

APPROVED AS TO FORM:

Kendra Rosenberg, City Attorney

ATTEST/AUTHENTICATED:

Published: August 21, 2024
Effective: September 4, 2024

Susie Oppedal, City Clerk