

ORDINANCE No. 169

AN ORDINANCE OF THE CITY OF PECK VACATING THE NORTHERN HALF PORTION OF EAST KIRBY STREET TO THE PLANK'S AND THE SOUTHERN HALF OF EAST KIRBY STREET TO THE CITY OF PECK MARGUERITE STREET AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council has been asked to approve the vacation of a portion of a plat pursuant to Idaho Code § 50-1406, and

WHEREAS, a public hearing was on October 20, 2016, and

WHEREAS, Findings of Fact, Conclusions and Law and Decision have been adopted, and

WHEREAS, this Ordinance is for the purpose of releasing to the adjoining property owners, the City's right, title and interest in the public right-of-way vacated to the adjoining property owners.

NOW THEREFORE, be it ordained by the Mayor and City Council of Peck that:

1. That the vacation of the eastern portion of Kirby Street situated east of Marguerite Street and adjacent to Lot 12 Block 49 to the North and Lot 1 Block 50 to the South an area according to the original plat is 60 feet wide and 120.7 feet long, shall be and is hereby approved.
2. The vacated portion of Kirby Street is vacated equally to the abutting property owners.
3. That the conditions set out in the Findings of Fact, Conclusions of Law and Decision include the removal of a fence encroaching into the street.
4. This ordinance shall be recorded in the Nez Perce County Recorder's Office upon its adoption.
5. This ordinance shall be in full force and effect upon its passage, approval and publication.

DATED this 18th day of January, 2017.

CITY OF PECK

By: Nancy Greene
Nancy Greene, Mayor

ATTEST:

Tami K. Firzlaff
Tami Firzlaff, City Clerk

Instrument # 846965

NEZ PERCE COUNTY

2-23-2017 10:59:05 AM No. of Pages: 1

Recorded for : CITY OF PECK *

PATTY WEEKS

Fee: 0.00

Ex-Officio Recorder Deputy Cindy D. DeCamp

Index to: ORDINANCE

*CITY OF PECK

PO BOX 105

PECK, ID 83545-0105

ORDINANCE NO. 169

A Vacation of the eastern portion of Kirby Street located between Lot 12 Block 49 and Block 50 Lot 1 with the City of Peck

A public hearing was held on October 20, 2016 before the Peck City Council on the request of Chuck & Tammy Plank to vacate a portion of a roadway located between Lot 12 Block 49 and Block 50 according to the plat of the City of Peck located in the SW ¼ of Section 11 Township 36 North Range 1, W Boise Meridian Nez Perce County.

1. Chuck & Tami Plank own Lot 12 Block 49 Plat of the City of Peck. Plank has requested that the eastern portion of Kirby Street located east of Marguerite Street and adjacent to Lot 12 Block 49 and Lot 1 Block 50 be vacated.
2. The City of Peck owns Lot 1 Block 50 but does not have any structures or utilities located on the property.
3. The portion of Kirby Street to be vacated was originally platted in 1899 and according to the plat is 60 feet wide and 120.7 feet long and has not been used as a public street or right-of-way since originally platted.
4. The portion of Kirby Street lying between Lot 12, Block 49 and Lot 1, Block 50 is immediately adjacent to Big Canyon Creek. Across Big Canyon Creek

is a substantial change in elevation making access utilizing Kirby Street across Big Canyon Creek cost prohibitive and unlikely.

5. The subject property has been used by the abutting property owners for a number of years.
6. There is a wood fence originating on Lot 12 Block 49 presently encroaching into the right-of-way of Kirby Street. The fence may remain, however a condition of this vacation is that the fence will be removed within thirty days of an order of the City Council to do so.
7. No objections were heard to the proposed vacation.

Conclusions of Law

1. The public notice requirements for purposes of vacating public right of way have been met.
2. No public utilities lie within the area purposed to be vacated and no public right of way is provided across or through the area proposed to be vacated.
3. The public has no interest in the continued use of Kirby Street for public right of way purposes.
4. A vacation of the property would appear to be in the public interest.
5. The area of Kirby Street between Lot 12 Block 49 and Lot 1 Block 50 should be vacated equally to the abutting property owners.

Decision

The vacation request of Chuck & Tammy Plank to vacate the eastern portion of Kirby Street situated east of Marguerite Street and adjacent to Lot 12 Block 49 to the North and Lot 1 Block 50 to the South, shall be and is hereby approved. Upon the

condition that the fence encroaching into the vacated area originating on Lot 12 Block 49 will be removed upon subsequent order of the City Council.

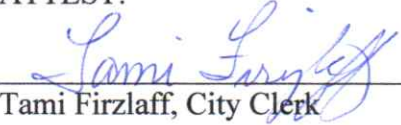
An Ordinance vacating the City's interest in the platted right of way shall be approved upon the approval of these Findings and Conclusions.

DATED this 14th day of December, 2016.

CITY OF PECK:


Nancy Greene, Mayor

ATTEST:


Tami Firzlaff, City Clerk