

ORDINANCE BILL NO. 20-17

AN ORDINANCE VACATING THE SOUTHEASTERLY PORTION OF OLD MACLEAY ROAD SE

The City of Salem ordains as follows:

Section 1. Findings.

(a) On June 12, 2017, the City Council adopted Resolution No. 2017-33, which initiated a Class 2 vacation of the southeasterly portion of Old MacLeay Road SE, more particularly described in Exhibit A, and as shown in Exhibit B, attached hereto and by this reference incorporated herein.

(b) A public hearing before the City Council to consider the vacation of the right-of-way was set for July 24, 2017, and notice of the hearing was provided as required by Oregon Revised Statutes (ORS) 271.110 and Salem Revised Code (SRC) 255.065.

(c) A public hearing before the City Council was held on July 24, 2017, at which time interested persons were afforded the opportunity to present evidence and provide testimony in favor of, or in opposition to, the proposed vacation, and upon consideration of such evidence and testimony and after due deliberation, the City Council finds as follows:

(1) The vacation will not substantially impact the market value of abutting properties such that damages would be required to be paid pursuant to ORS 271.130.

(2) The vacation is consistent with SRC 255.065 and complies with Section 255.065(b)(6) which establishes the criteria listed below for approving a right-of-way vacation:

(A) The area proposed to be vacated is not presently, or will not in the future be needed for public services, facilities, or utilities;

FINDING:

Transportation: The portion of Old MacLeay Road SE to be vacated is no longer needed for transportation due to the extension of Gaffin Road SE to MacLeay Road SE.

Utilities: Staff forwarded the petition to the relevant City departments and public utilities for their review. Portland General Electric, Century Link, and the City of Salem responded that facilities currently exist within the area proposed for vacation and requested that easements be provided as a condition of the vacation.

1 **(B)** *The vacation does not prevent the extension of, or the retention of public*
2 *services, facilities, or utilities;*

3 **FINDING:**

4 The Water System Master Plan requires a 20-foot permanent easement that is needed for a
5 future 12-inch water line along the portion of Old MacLeay Road SE proposed to be vacated.
6 A 30-foot temporary construction easement is also needed in order to install the water line. In
7 addition, a 45-foot permanent easement is needed for an existing 30-inch sewer line, per City
8 of Salem design standards. With the condition to provide an easement for existing and future
9 public utilities, the proposed vacation will have no effect on the provision of public utilities,
10 services, or facilities and will not degrade transportation services or accessibility in the area. The
11 proposed vacation complies with this criterion.

12 **(C)** *Public services, facilities, or utilities can be extended in an orderly and efficient*
13 *manner in an alternate location;*

14 **FINDING:**

15 The transportation needs formerly fulfilled by Old MacLeay Road SE will be met by Gaffin
16 Road SE. With the condition to provide an easement for existing and future public utilities,
17 the proposed vacation will have no effect on the provision of public utilities, services, or
18 facilities and will not degrade transportation services or accessibility in the area. The proposed
19 vacation complies with this criterion.

20 **(D)** *The vacation does not impede the future best use, development of, or access to*
21 *abutting property;*

22 **FINDING:**

23 The proposed vacation will allow the owner of the abutting storage unit facility to increase
24 and improve their ability to use the property. Access to the storage unit facility will occur via
25 Gaffin Road SE. The proposed vacation complies with this criterion.

26 **(E)** *The vacation does not conflict with provisions of the Unified Development*
27 *Code (UDC), including the street connectivity standards and block lengths;*

28 **FINDING:**

29 The proposed vacation does not conflict with the provisions of the UDC regarding street
30 connectivity and block lengths. The proposed vacation does not interfere in any way with the

1 function of Cordon Road SE, Gaffin Road SE, or MacLeay Road SE. Therefore, the proposed
2 vacation complies with this criterion.

3 *(F) All required consents have been obtained;*

4 **FINDING:**

5 Vacations following ORS 271.080-271.130 and the SRC 255.065 Class 2 Proceeding do not
6 require the consent of abutting property owners if the proposed vacation of right-of-way will
7 not substantially affect the market value of the abutting property such that it will lower the
8 market value of the abutting property. The proposed vacation of right-of-way will not
9 substantially affect the market value of the abutting property such that it would lower the
10 market value; any impact would be to increase the market value of the abutting property.
11 City-initiated vacations do not require the consent of owners of property within the “Affected
12 Area;” however, vacations may not be approved if the majority of the affected owners, as
13 computed on the basis provided in ORS 271.080, object in writing to the vacation.
14 No letters have been received from abutting or affected property owners regarding the
15 proposed vacation. The proposed vacation complies with this criterion.

16 *(G) Notices required by ORS 271.080-271.130 have been duly given;*

17 **FINDING:**

18 Notice of this public hearing was provided as required by ORS 271.080-271.130. Notice was
19 published in the Statesman-Journal on July 10, 2017 and July 17, 2017. The Public Hearing
20 Notice was posted on the property as of July 10, 2017. The proposed vacation complies with
21 this criterion.

22 *(H) The public interest would not be prejudiced by the vacation.*

23 **FINDING:**

24 Approval of this vacation is compatible and consistent with the intent, goals, and policies of
25 the Salem TSP and the Salem Revised Code and is in the best interest of the public health,
26 safety, and welfare of the citizens of the City of Salem. The proposed vacation complies with
27 this criterion.

28 **Section 2. Vacation.** That certain property more particularly described in Section 1(a) of this
29 Ordinance is hereby vacated, subject to the conditions set forth in Section 3 of this Ordinance.

1 **Section 3. Municipal and Public Utility Easement Reserved.** There is hereby reserved, under,
2 over, upon and across the property described in Section 1(a) of this Ordinance, a non-exclusive,
3 perpetual, municipal and public utility easement, for the construction, maintenance, repair and
4 replacement of municipal and public utility facilities, including, but not limited to, lines and
5 mains for water, sewer, telecommunications, electrical and natural gas.

6 **Section 4. Vacation Effective Date.** Pursuant to SRC 255.065(c)(3), this vacation shall not be
7 effective until:

- 8 (a) All fees have been satisfied.
- 9 (b) All required legal documents have been signed, filed, and if required, recorded.
- 10 (c) The petition has complied with all conditions attached to the vacation.
- 11 (d) A certified copy of this ordinance is recorded with the Marion County Clerk.

12 **Section 5. Codification.** In preparing this ordinance for publication and distribution, the City
13 Recorder shall not alter the sense, meaning, effect, or substance of this ordinance, but within such
14 limitations, may:

- 15 (a) Renumber sections and parts of sections of the ordinance;
- 16 (b) Rearrange sections;
- 17 (c) Change reference numbers to agree with renumbered chapters, sections, or other parts;
- 18 (d) Delete references to repealed sections;
- 19 (e) Substitute the property subsection, section, or chapter, or other division numbers;
- 20 (f) Change capitalization and spelling for the purpose of uniformity;
- 21 (g) Add headings for purposes of grouping like sections together for ease of reference; and
- 22 (h) Correct manifest clerical, grammatical, or typographical errors.

23
24 PASSED by the City Council this _____ day of _____, 2017.

25 ATTEST:

26 City Recorder

27 Approved by City Attorney: _____

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30 Checked by: Julie Warncke