

ORDINANCE BILL NO. 8-21

AN ORDINANCE VACATING A PORTION OF AN ALLEY AND A PORTION OF AN UNOPENED RIGHT-OF-WAY FOR 12TH STREET NE ADJACENT TO THE RAILROAD NORTHEAST OF D STREET NE

The City of Salem ordains as follows:

Section 1. Findings.

(a) On May 24, 2021, Council accepted a petition from Salem Keizer School District (24J) to vacate a portion of an alley and a portion of an unopened right-of-way for 12th Street NE adjacent to the railroad northeast of D Street NE.

(b) A public hearing before the City Council to consider the vacation of the right-of-way was set for June 28, 2021, 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 June 28, 2021, 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; any impact would be to increase the market value of abutting properties.

(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 area to be vacated is currently unimproved and does not function as part of the transportation network. The vacation complies with this criterion.

Utilities: An existing 21-inch City storm main and an 8-inch sanitary sewer main are currently located within the area proposed for vacation. The 8-inch sanitary sewer main will be abandoned as part of this project. The 21-inch storm main is located within the portion of unopened right-

1 of-way for 12th Street NE and will require the provision of an easement for the construction,
2 maintenance, repair, and replacement of the utility as a condition of the vacation.

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

5 **FINDING:** The 21-inch storm main will require the provision of an easement for the
6 construction, maintenance, repair, and replacement of the utility as a condition of the vacation.
7 The vacation complies with this criterion on the condition of the provision of the easement.

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

10 **FINDING:** The 21-inch storm main will require the provision of an easement for the
11 construction, maintenance, repair, and replacement of the utility as a condition of the vacation.
12 The vacation complies with this criterion on the condition of the provision of the easement.

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

15 **FINDING:** The vacation will not impede access to the abutting properties. The right-of-way to
16 be vacated does not currently function as part of the transportation network. The vacation
17 complies with this criterion.

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

20 **FINDING:** Vacation of this right-of-way will have no impact on street connectivity or block
21 lengths in this area. The vacation complies with this criterion.

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

23 **FINDING:** Petition-initiated vacations require the consent of 100 percent of the abutting real
24 property owners and two-thirds of the property owners within the affected area, which is defined
25 in ORS 271.080. The applicant has submitted the signed consent of abutting and affected
26 property owners and staff has determined that all of the required consents have been obtained.
27 The vacation complies with this criterion.

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

1 **FINDING:** Notice of Public Hearing was provided as required by ORS 271.080-271.030. Notice
2 was published in the *Statesman Journal* and posted on the right-of-way for vacation. The
3 vacation complies with this criterion.

4 *(H) The public interest would not be prejudiced by the vacation;*

5 **FINDING:** Approval of this vacation is compatible and consistent with the intent, goals, and
6 policies of the *Salem Transportation System Plan* and *Salem Revised Code*. This vacation
7 supports the public interest by releasing property for an educational use. The vacation complies
8 with this criterion.

9 **Section 2. Assessment of Special Benefit.** In accordance with SRC 255.065 (b)(7)(C), Council
10 may, in its discretion, require the petitioner to pay an assessment of special benefit in an amount
11 deemed by Council to be just and equitable. The amount of the assessment is generally
12 determined by computing the square foot value of the property in the vicinity of the vacation and
13 multiplying it by the square footage of the area to be vacated. The Real Property Services
14 Division of the Urban Development Department estimated the value of this property at \$3.00 per
15 square foot or \$2.10 with provision of easements. The total assessment of special benefit for the
16 right-of-way to be vacated is \$27,231.

17 **Section 3. Vacation.** That certain property more particularly described in Section 1(a) of this
18 Ordinance is hereby vacated, subject to the following conditions:

19 (a) Provision of an easement for the construction, maintenance, repair, and replacement of
20 existing municipal utilities proposed to remain within the unopened right-of-way for 12th Street
21 NE; and

22 (b) Payment of an Assessment of Special Benefit in the amount of \$27,231.

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

25 (a) All fees have been satisfied.

26 (b) All required legal documents have been signed, filed, and if required, recorded.

27 (c) The petition has complied with all conditions attached to the vacation.

28 (d) A certified copy of this ordinance is recorded with the Marion County Clerk.

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

- 4 (a) Renumber sections and parts of sections of the ordinance;
- 5 (b) Rearrange sections;
- 6 (c) Change reference numbers to agree with renumbered chapters, sections, or other parts;
- 7 (d) Delete references to repealed sections;
- 8 (e) Substitute the property subsection, section, or chapter, or other division numbers;
- 9 (f) Change capitalization and spelling for the purpose of uniformity;
- 10 (g) Add headings for purposes of grouping like sections together for ease of reference; and
- 11 (h) Correct manifest clerical, grammatical, or typographical errors.

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PASSED by the City Council this _____ day of _____, 2021.

ATTEST:

City Recorder

Approved by City Attorney: _____

Checked by: Julie Warncke