

1 **ORDINANCE BILL NO. 8-17**

2 AN ORDINANCE VACATING A PORTION OF RIGHT-OF-WAY LOCATED SOUTH OF
3 AUMSVILLE HIGHWAY SE AND EAST OF KUEBLER BOULEVARD SE

4 *The City of Salem ordains as follows:*

5 **Section 1. Findings.**

6 (a) On January 27, 2017, the State of Oregon, Department of Administrative Services,
7 submitted a petition to vacate a portion of unimproved right-of-way located south of
8 Aumsville Highway SE and east of Kuebler Boulevard SE, more particularly described as:

9 Any and all portions of County Road No. 844 lying east of the east right-of-way of
10 Kuebler Blvd. and south of the south right-of-way of Aumsville Hwy., located in the
11 southeast quarter of Section 6, and the southwest quarter of Section 5, Township 8 South,
12 Range 2 West, Willamette Meridian, City of Salem, Marion County, Oregon.

13 (b) A public hearing before the City Council to consider the vacation of the right-of-way was set
14 for March 27, 2017, and notice of the hearing was provided as required by Oregon Revised
15 Statutes (ORS) 271.110 and Salem Revised Code (SRC) 255.065.

16 (c) A public hearing before the City Council was held on March 27, 2017, at which time
17 interested persons were afforded the opportunity to present evidence and provide testimony
18 in favor of, or in opposition to, the proposed vacation, and upon consideration of such
19 evidence and testimony and after due deliberation, the City Council finds as follows:

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

22 (2) The vacation is consistent with SRC 255.065 and complies with Section
23 255.065(b)(6) which establishes the criteria listed below for approving a right-of-way
24 vacation:

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

27 **FINDING:** *Transportation:* The unimproved right-of-way proposed to be vacated is not
28 currently used for public transportation purposes. This right-of-way was formerly an unimproved
29 county road, and is located outside of the current traveled portion of Kuebler Boulevard SE. It
30 has been functionally replaced by Kuebler Boulevard SE. The right-of-way is not improved and

1 use has been limited to occasional agricultural access.

2 *Utilities:* Staff forwarded the petition to the relevant City Departments and Public Utilities for
3 their review. There are no existing utilities within the area proposed for vacation. Because the
4 area proposed to be vacated has been functionally replaced by Kuebler Boulevard SE and
5 because there are no existing utilities within it, the proposed right-of-way vacation complies with
6 this criterion.

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

9 **FINDING:** There are no adopted plans that call for the extension of new public services,
10 facilities, or utilities, in addition to those utilities provided for in (A) above, through the proposed
11 area to be vacated. The proposed vacation will have no effect on the provision of public utilities,
12 services, or facilities and will not degrade transportation services or accessibility in the area.
13 Therefore, the proposed vacation complies with this criterion.

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

16 **FINDING:** The right-of-way which is proposed for vacation is within the boundaries of the Mill
17 Creek Corporate Center. The proposed vacation provides the opportunity for the land to be
18 developed for use as envisioned in the master plan for Mill Creek Corporate Center. The
19 proposed vacation will have no effect on the provision of services or facilities and will not
20 degrade transportation services or accessibility in the area. Therefore, the proposed vacation
21 complies with this criterion.

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

24 **FINDING:** The right-of-way proposed for vacation is located within the boundaries of the Mill
25 Creek Corporate Center. The proposed vacation provides the opportunity for the land to be
26 developed for use as envisioned in the master plan for Mill Creek Corporate Center. All of the
27 abutting properties will have access to the planned public street network. Therefore, the proposed
28 vacation complies with this criterion.

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

1 **FINDING:** The proposed vacation does not conflict with the provisions of the UDC regarding
2 street connectivity and block lengths. The proposed vacation does not interfere in any way with
3 the function of either Kuebler Boulevard SE or Aumsville Highway SE. Therefore, the proposed
4 vacation complies with this criterion.

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

6 **FINDING:** Petition-initiated vacations require the consent of one hundred percent of the
7 abutting real property owners and two-thirds of the property owners within the affected area
8 which is defined in ORS 271.080. The applicant has submitted the signed consent of abutting
9 and affected property owners and staff has determined that all of the required consents have been
10 obtained. Therefore, the proposed vacation complies with this criterion.

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

12 **FINDING:** Notice of this public hearing was provided as required by ORS 271.080-271.030.
13 Notice was published in the *Statesman Journal* and posted on the right-of-way for vacation.
14 Therefore, the proposed vacation complies with this criterion.

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

16 **FINDING:** Approval of this vacation with the recommended condition is compatible and
17 consistent with the intent, goals, and policies of the Salem TSP and the *Salem Revised Code*. In
18 addition, this vacation supports the public interest by releasing unneeded property for future
19 development. Therefore, the proposed vacation complies with this criterion.

20 **Section 2. Assessment of Special Benefit.** Council hereby waives the assessment of special
21 benefit at the request of the petitioner.

22 **Section 3. Vacation.** That certain property more particularly described in Section 1(a) of this
23 Ordinance is hereby vacated.

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

12
13 PASSED by the City Council this _____ day of _____, 2017.

14 ATTEST:

15
16
17 City Recorder

18 Approved by City Attorney: _____

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20 Checked by: J.Warncke