

ORDINANCE BILL NO. 8-18**AN ORDINANCE VACATING VACATION LANE SE**

The City of Salem ordains as follows:

Section 1. Findings.

(a) On April 9, 2018, Council accepted a petition from Matthew and Suzanne Bailey to vacate Vacation Lane SE, more particularly described as:

A tract of land located in the Northeast One-Quarter of Section 10, Township 8 South, Range 3 West, Willamette Meridian, City of Salem, Marion County, Oregon, and being more particularly described as follows:

Beginning at the southeast corner of Lot 21, of the Plat of “Alder Brook Annex No. 1”; thence along the easterly line of said Lot 21, North 12°08’17” West 169.47 feet to a point of curvature; thence along a curve to the left with a Radius of 25.00 feet, Delta of 99°56’51”, Length of 43.61 feet, and a Chord of North 62°06’42” West 38.29 feet to the southerly right-of-way line of Winding Way (30.00 feet from the centerline); thence along a curve that is a 30.00 foot offset southerly of the centerline of Winding Way, being a non-tangent curve to the left (with a Radial Bearing of North 22°05’07” West) with a Radius of 234.63 feet, Delta of 22°18’18”, Length of 91.34 feet, and a Chord of North 56°45’44” East 90.76 feet to a point of tangency; thence North 45°36’35” East 30.11 feet to the northwesterly line of Lot 22 of said Plat; thence along said northwesterly line, along a non-tangent curve to the left (with a Radial Bearing of South 44°08’38” East) with a Radius of 44.30 feet, Delta of 57°59’38”, Length of 44.84 feet, and a Chord of South 16°51’33” West 42.95 feet to a point of tangency; thence along the westerly line of said Lot 22, South 12°08’17” East 199.13 feet to the southerly line of said Plat; thence along said southerly line, South 72°01’44” West 5.03 feet to the westerly line of Lot 21, Block 1 of the Plat of “Alderbrook Manor”; thence along said westerly line, along a non-tangent curve (with a Radial Bearing of South 77°09’32” West) with a Radius of 125.00 feet, Delta of 86°45’53”, Length of 189.29 feet, and a Chord of South 30°32’28” West 171.72 feet to the southwesterly line of said Plat; thence along said southwesterly line, North 47°14’05” West 68.99 feet to the southeasterly line of Lot 22, Block 1 of said Plat;

1 thence along said southeasterly line, along a non-tanget curve (with a Radial Bearing of
2 North 12°20'45" East) with a Radius of 75.00 feet, Delta of 111°44'48", Length of
3 146.28 feet, and a Chord of North 46°28'21" East 124.17 feet to the southerly line of the
4 Plat of "Alder Brook Annex No. 1" (with a Radial Bearing of South 80°35'57" West);
5 thence along said southerly line, South 72°01'44" West 4.95 feet to the Point of
6 Beginning.

7 **(b)** A public hearing before the City Council to consider the vacation of the right-of-way was set
8 for May 14, 2018, and notice of the hearing was provided as required by Oregon Revised
9 Statutes (ORS) 271.110 and Salem Revised Code (SRC) 255.065.

10 **(c)** A public hearing before the City Council was held on May 14, 2018, at which time interested
11 persons were afforded the opportunity to present evidence and provide testimony in favor of, or
12 in opposition to, the proposed vacation, and upon consideration of such evidence and testimony
13 and after due deliberation, the City Council finds as follows:

14 **(1)** The vacation will not substantially impact the market value of abutting properties
15 such that damages would be required to be paid pursuant to ORS 271.130; any impact
16 would be to increase the market value of abutting properties.

17 **(2)** The vacation is consistent with SRC 255.065 and complies with Section
18 255.065(b)(6) which establishes the criteria listed below for approving a right-of-way
19 vacation:

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

22 **FINDING:**

23 *Transportation:* Vacation Lane SE currently functions as a private driveway for an existing
24 dwelling. Vacating this right-of-way will not have an adverse impact on the surrounding
25 transportation network. However, vacating Vacation Lane SE will eliminate access for three
26 existing lots, all of which are owned by the petitioners. As a result, this vacation is conditioned
27 on reconfiguring the lots within the recorded plat to ensure that all lots have adequate access to a
28 public street.

29 *Utilities:* Staff forwarded the petition to the relevant City departments and public and municipal
30 utilities for their review. Public water, sewer, and storm facilities do not exist within the right-of-

1 way to be vacated. No comments were received from municipal utilities.

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

4 **FINDING:**

5 There are no utilities present at the site of this proposed vacation and no plans to construct any.
6 The vacation complies with this criterion.

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

9 **FINDING:**

10 There are no services, facilities, or utilities present at the site of this proposed vacation, and no
11 plans to construct any. There would also be no interference with any existing services, facilities,
12 or utilities proposed at this location. The vacation complies with this criterion.

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

15 **FINDING:**

16 The vacation is intended to help improve access to the abutting property, which is entirely owned
17 by the petitioner. The vacation complies with this criterion.

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

20 **FINDING:**

21 The area to be vacated serves only as driveway access to the property owned by the petitioner,
22 and the intent of the vacation is to allow the petitioner to develop a better access to the property.
23 Connectivity in the surrounding area will not be affected. The vacation complies with this
24 criterion.

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

26 **FINDING:**

27 Petition-initiated vacations require the consent of 100 percent of the abutting real property
28 owners and two-thirds of the property owners within the affected area, which is defined in ORS
29 271.080. The applicant has submitted the signed consent of abutting and affected property
30

owners and staff has determined that all of the required consents have been obtained. Therefore, the proposed vacation complies with this criterion.

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

FINDING:

Notice of Public Hearing was provided as required by ORS 271.080-271.030. Notice was published in the *Statesman Journal* and posted on the right-of-way for vacation. Therefore, the proposed vacation complies with this criterion.

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

FINDING:

Approval of this vacation with the recommended conditions is compatible and consistent with the intent, goals, and policies of the Salem TSP and the *Salem Revised Code*. In addition, this vacation supports the public interest by releasing property for future improvement and development. Therefore, the proposed vacation complies with this criterion.

Section 2. Assessment of Special Benefit. In accordance with SRC 255.065(b)(7)(C), Council may, in its discretion, require the petitioner to pay an assessment of special benefit in an amount deemed by Council to be just and equitable. The amount of the assessment is generally determined by computing the square foot value of property in the vicinity of the vacation and multiplying it by the square footage of the area to be vacated. The Real Property Services Division of the Urban Development Department estimated the value of this property at \$1.90 per square foot. The area to be vacated totals 21,247 square feet, resulting in a recommended assessment of special benefit in the amount of \$40,369.30. Notice of the recommended assessment of special benefit was mailed to the property owners as required by SRC 255.065(b)(7)(C).

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

(a) A reconfiguration of the lots in such a way as to ensure that all lots have adequate access to a public street.

(b) Payment of an assessment of special benefit in the amount of \$40,369.30.

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

1 (a) All fees have been satisfied.

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

3 (c) The petitioner has complied with all conditions attached to the vacation.

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

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

8 (a) Renumber sections and parts of sections of the ordinance;

9 (b) Rearrange sections;

10 (c) Change reference numbers to agree with renumbered chapters, sections, or other parts;

11 (d) Delete references to repealed sections;

12 (e) Substitute the property subsection, section, or chapter, or other division numbers;

13 (f) Change capitalization and spelling for the purpose of uniformity;

14 (g) Add headings for purposes of grouping like sections together for ease of reference; and

15 (h) Correct manifest clerical, grammatical, or typographical errors.

16
17 PASSED by the City Council this _____ day of _____, 2018.

18 ATTEST:

19 City Recorder

20 Approved by City Attorney:_____

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23 Checked by: Julie Warncke
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