

AN ORDINANCE VACATING AN EASTERLY PORTION OF RIGHT-OF-WAY FOR
LIBERTY ROAD S SOUTH OF THE INTERSECTION WITH RAINIER DRIVE SE; AND
DECLARING AN EMERGENCY

Section 1. Findings.

- Any and all portions of Liberty Road S. lying east of a line fifty two feet (52') easterly and parallel with the centerline of said road as monumented and depicted in Marion County Survey Record 1891, between the westerly extension of the south line of Rainier Drive SE and Station 109+67.30 P.S.C., and any and all portions of Liberty Road S., lying east of a line forty eight feet (48') easterly and parallel with the centerline of said road as monumented and depicted in Marion County Survey Record 1891, between Station 109+67.30 P.S.C. and the south line of Lot 50, Sunnyside Fruit Farms No. 3, or the westerly extension of said south line of Lot 50, Sunnyside Fruit Farms No. 3., located in Section 16, Township 8 South, Range 3 West, Willamette Meridian, City of Salem, Marion County, Oregon.

~~Any and all portions of Liberty Road S lying east of a line forty eight feet (48') easterly and parallel with the centerline of said road as monumented and depicted in Marion County Survey Record 1891, between the westerly extension of the south line of Rainier Drive SE, and the south line, or the westerly extension of Lot 50, Sunnyside Fruit Farms No. 3, located in Section 16, Township 8 South, Range 3 West, Willamette Meridian, City of Salem, Marion County, Oregon.~~

- (b) On November 14, 2016 the City Council adopted Resolution 2016-49, which initiated vacation of the above described portion of right-of-way for Liberty Road S.
- (c) A public hearing before the City Council to consider the vacation of the right-of-way was set for December 5, 2016, and notice of the hearing was provided as required by Oregon Revised Statutes (ORS) 271.110 and Salem Revised Code (SRC) 255.065.

1 (d) A public hearing before the City Council was held on December 5, 2016, at which time
2 interested persons were afforded the opportunity to present evidence and provide testimony
3 in favor of, or in opposition to, the proposed vacation, and upon consideration of such
4 evidence and testimony and after due deliberation, the City Council finds as follows:

5 (1) The City of Salem initiated this vacation, and the vacation will not substantially
6 impact the market value of abutting properties such that damages would be required
7 to be paid pursuant to ORS 271.130.

8 (2) The vacation is consistent with SRC 255.065 and complies with Section
9 255.065(b)(6) which establishes the criteria listed below for approving a right-of-way
10 vacation:

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

13 **FINDING: Transportation:** The area proposed to be vacated abuts Liberty Road S and Rainier
14 Drive SE. Liberty Road S is designated a major arterial street in the Salem Transportation
15 System Plan with an ultimate right-of-way width of 96 feet. With this vacation, there will
16 remain 48 feet of right-of-way from the centerline of Liberty Road S, allowing for future
17 transportation needs. ~~The development constructed a sidewalk and bike lane along their property~~
18 ~~frontage in this section. A portion of the constructed sidewalk may be in the area proposed to be~~
19 ~~vacated, therefore the recommended easement includes public access.~~

20 **Utilities:** Certain utilities are located within the area proposed for vacation, including
21 stormwater and Century Link facilities. The provision of these utilities can be accommodated
22 with an easement for construction, maintenance, repair, and replacement of existing municipal
23 and utility facilities.

24 The proposed right-of-way vacation complies with this criterion with the condition to reserve an
25 easement for ~~public access and~~ construction, maintenance, repair, and replacement of existing
26 municipal and utility facilities.

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

29 **FINDING:** There are no adopted plans that call for the extension of new public services,
30 facilities, or utilities through the area proposed to be vacated. With the provision of an easement

1 for ~~public access and~~ construction, maintenance, repair, and replacement of existing municipal
2 and public utilities, the proposed vacation will have no effect on the provision of public utilities,
3 services, or facilities. Therefore, the proposed vacation complies with this criterion.

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

6 **FINDING:** The intersection at Liberty Road S and Rainier Drive SE has been completed; it
7 includes a travel lane, bicycle lane, shoulder, and sidewalk. The right-of-way proposed for
8 vacation is not needed to provide for the efficient extension of future public services, facilities,
9 or utilities to the area. Therefore the proposed vacation complies with this criterion.

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

12 **FINDING:** The current property owner abutting the right of way, Rainier Estates LLC, has
13 already developed the subdivision that abuts the right of way to be vacated. Therefore the
14 proposed vacation satisfies this criterion.

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

17 **FINDING:** The proposed vacation does not conflict with the provisions of the UDC regarding
18 street connectivity and block lengths. The right-of-way to be vacated is not required to maintain
19 the intersection of Liberty Road S and Rainier Drive SE, and the block length is not affected.
20 Therefore, the proposed vacation complies with this criterion.

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

22 **FINDING:** Consents are not required for a Class 2, city-initiated vacation.

23 (G) *Notices required by ORS 271.080-270.130 have been duly given; and*

24 **FINDING:** Notice was submitted to the *Statesman Journal* for publication on Monday,
25 November 21, 2016, and Thursday, December 1, 2016. Notice was also posted at each end of
26 the area to be vacated.

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

28 **FINDING:** The proposed vacation satisfies this criterion.

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

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

7 **Section 4. Emergency Clause.** This act being necessary for the immediate preservation of the
8 public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in
9 full force and effect from and after the date of its passage.

10 **Section 5. Vacation Effective Date.** Pursuant to SRC 255.065(c)(3), this vacation shall not be
11 effective until the City Recorder has satisfied all requirements of SRC 255.065(c), and a certified
12 copy of this ordinance vacating the Property is recorded by the City Recorder with the county
13 clerk, assessor, and surveyor. The City Recorder shall provide copies to the Marion County
14 Assessory, the Marion County Surveyor, and any affected public utility.

15
16 PASSED by the City Council this _____ day of _____, 20167.

17 ATTEST:

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19
20 City Recorder

21 Approved by City Attorney: _____

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23 Checked by: J.Warncke
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