

ORDINANCE BILL NO. 19-19

AN ORDINANCE VACATING A PORTION OF DOGWOOD DRIVE SOUTH

The City of Salem ordains as follows:

Section 1. Findings.

(a) On August 26, 2019, Council accepted a petition from Dogwood Heights, LLC, Eric Jensen, to vacate a portion of Dogwood Drive S, more particularly described and shown in Exhibit A and 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 September 23, 2019, 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 September 23, 2019, 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 being used as a driveway for Tax Lots 5000 and 5100. Tax Lots 5000 and 5100 have adequate access onto the existing street system. The vacation complies with this criterion.

Utilities: An existing 8-inch City sanitary sewer main and a 6-inch water main are currently located within the area proposed for vacation. The Petitioner is proposing to relocate these facilities as part of Phase 2 of the Dogwood Heights Subdivision. Once plat for Phase 2 of the

1 Dogwood Subdivision is approved, these facilities will no longer be needed and will be
2 abandoned. In order to ensure continued service until new mains are operational, staff
3 recommends that a condition be applied to this vacation that requires either:

- 4 • Final approval of the Dogwood Heights Phase 2 Subdivision Plat, or
- 5 • Provision of easements for the construction, maintenance, repair, and replacement of
6 existing municipal utilities proposed to remain within the current right-of-way in a form
7 and location acceptable to the City.

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

10 **FINDING:**

11 All public services and facilities will be extended as required and approved as part of Phase 2 of
12 the Dogwood Heights Subdivision. The vacation complies with this criterion.

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

15 **FINDING:**

16 All public services and facilities will be extended as required and approved as part of Phase 2 of
17 the Dogwood Heights Subdivision. The vacation complies with this criterion.

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

20 **FINDING:**

21 The vacation will not impede access to the abutting properties. This area does not currently
22 provide access to any other lots in the areas, except Tax Lots 5000 and 5100, which will continue
23 to have access onto the existing street system. The vacation will allow the existing properties to
24 continue access onto the existing street system, along with access onto proposed street
25 connections within the subdivision. The vacation complies with this criterion.

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

28 **FINDING:**

29 The subject property is located in a developed and developing area where improved streets and
30 sidewalks exist and continue with new development. The local street system serving the

1 development provides the necessary connections and access to the local streets and circulation
2 system serving this residential neighborhood.

3 Blocks shall be a maximum of 600 feet between street centerlines. The length of the blocks was
4 taken into consideration at the time of design layout. There are many street connections within
5 the proposed development, ensuring that block lengths are in compliance with code. The
6 vacation complies with this criterion.

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

8 **FINDING:**

9 Petition-initiated vacations require the consent of 100 percent of the abutting real property
10 owners and two-thirds of the property owners within the affected area, which is defined in ORS
11 271.080. The applicant has submitted the signed consent of abutting and affected property
12 owners and staff has determined that all of the required consents have been obtained. The
13 vacation complies with this criterion.

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

15 **FINDING:**

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

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

20 **FINDING:**

21 Approval of this vacation as a condition of Phase 2 of the Dogwood Heights Subdivision is
22 compatible and consistent with the intent, goals, and policies of the Salem TSP and *Salem*
23 *Revised Code*. This vacation supports the public interest by releasing property for future
24 improvement and development. The vacation complies with this criterion.

25 **Section 2. Vacation.** That certain property more particularly described in Section 1(a) of this
26 Ordinance is hereby vacated, subject to the following conditions:

- 27 a) Final approval of the Dogwood Heights Phase 2 Subdivision Plat, or
28 b) Provision of easements for the construction, maintenance, repair, and replacement of
29 existing municipal utilities proposed to remain within the current right-of-way in a form
30 and location acceptable to the City.

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

(a) All fees have been satisfied.

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

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

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

Section 4. Codification. In preparing this ordinance for publication and distribution, the City Recorder shall not alter the sense, meaning, effect, or substance of this ordinance, but within such limitations, may:

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

(b) Rearrange sections;

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

(d) Delete references to repealed sections;

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

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

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

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

PASSED by the City Council this _____ day of _____, 2019.

ATTEST:

City Recorder

Approved by City Attorney: _____

Checked by: Julie Warncke