



## Staff Report

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**File #:** 17-432  
**Version:** 2

**Date:** 9/11/2017  
**Item #:** 7.1a.

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**TO:** Mayor and City Council  
**THROUGH:** Steve Powers, City Manager  
**FROM:** Peter Fernandez, PE, Public Works Director

### **SUBJECT:**

Class 2 vacation of the southeasterly portion of Old MacLeay Road SE.

Ward(s):3  
Councilor(s): Nanke  
Neighborhood(s): Southeast Mill Creek Association

### **ISSUE:**

Shall City Council conduct first reading of Ordinance Bill No. 20-17 (Attachment 1), which vacates the southeasterly portion of Old MacLeay Road SE subject to the condition that an easement is provided for construction, maintenance, repair, and replacement of municipal and utility facilities, and advance Ordinance Bill No. 20-17 to second reading for enactment?

### **RECOMMENDATION:**

Conduct first reading of Ordinance Bill No. 20-17, which vacates the southeasterly portion of Old MacLeay Road SE subject to the condition that an easement is provided for construction, maintenance, repair, and replacement of municipal and utility facilities, and advance Ordinance Bill No. 20-17 to second reading for enactment.

### **SUMMARY AND BACKGROUND:**

On June 12, 2017, City Council adopted Resolution No. 2017-33, which initiated vacation of the southeasterly portion of Old MacLeay Road SE.

On July 24, 2017, a public hearing was held during which City Council approved the vacation of the southeasterly portion of Old MacLeay Road SE (Exhibits A and B to the Ordinance Bill), subject to the condition that an easement is provided for the construction, maintenance, repair, and replacement of municipal and utility facilities.

As part of development north and west of Cordon Road SE, Gaffin Road SE has been extended north across Cordon Road SE to intersect with MacLeay Road SE. This extension of Gaffin Road SE makes the southeasterly portion of Old MacLeay Road SE (totaling approximately 13,150 square feet) unnecessary.

The proposed vacation is consistent with the intent, goals, and policies of the *Salem Transportation System Plan (Salem TSP)* and complies with the criteria established in the *Salem Revised Code (SRC)* 255.065(6). The proposed vacation contains existing municipal and utility facilities, and will therefore require an easement for constructing, maintaining, repairing, and replacing these facilities. Approval of this vacation is in the best interest of public health, safety, and welfare of the residents of the City of Salem and furthers the public interest by releasing unneeded City-owned property.

## **FACTS AND FINDINGS:**

The proposed vacation eliminates a road that will become unnecessary as a result of the extension of Gaffin Road SE to meet MacLeay Road SE. The proposed vacation will also allow the owner of the abutting storage unit facility to increase and improve use of the property.

On June 12, 2017, City Council directed staff to set a date for a public hearing in compliance with *Oregon Revised Statutes (ORS)* 271.080-271.230 and SRC 255.065. The public hearing was scheduled for July 24, 2017.

On July 24, 2017, a public hearing was held during which the City Council approved the vacation of the southeasterly portion of Old MacLeay Road SE, subject to the condition that an easement is provided for the construction, maintenance, repair, and replacement of municipal and utility facilities.

### **Criteria for Evaluating Proposed Vacation of Rights-of-Way**

The *Salem TSP* establishes the goals, policies, and objectives for planning, development, and operation of the City's street system. SRC 255.065(6) implements these goals, policies, and objectives by establishing the criteria for approving the vacation of public right-of-way. The eight criteria are listed below along with findings that detail how each criterion is met.

**(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 portion of Old MacLeay Road SE to be vacated is no longer needed for transportation due to the extension of Gaffin Road SE to MacLeay Road SE.

*Utilities:* Staff forwarded the petition to the relevant City departments and public utilities for their review. Portland General Electric, Century Link, and the City of Salem responded that facilities currently exist within the area proposed for vacation and requested that easements be provided as a condition of the vacation.

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

**FINDING:**

The *Water System Master Plan* requires a 20-foot permanent easement that is needed for a future 12-inch water line along the portion of Old MacLeay Road SE proposed to be vacated. A 30-foot temporary construction easement is also needed in order to install the water line. In addition, a 45-foot permanent easement is needed for an existing 30-inch sewer line, per City of Salem design standards. With the condition to provide an easement for existing and future public utilities, the proposed vacation will have no effect on the provision of public utilities, services, or facilities and will not degrade transportation services or accessibility in the area. The proposed vacation complies with this criterion.

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

**FINDING:**

The transportation needs formerly fulfilled by Old MacLeay Road SE will be met by Gaffin Road SE. With the condition to provide an easement for existing and future public utilities, the proposed vacation will have no effect on the provision of public utilities, services, or facilities and will not degrade transportation services or accessibility in the area. The proposed vacation complies with this criterion.

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

**FINDING:**

The proposed vacation will allow the owner of the abutting storage unit facility to increase and improve the ability to use the property. Access to the storage unit facility will occur via Gaffin Road SE. The proposed vacation complies with this criterion.

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

**FINDING:**

The proposed vacation does not conflict with the provisions of the UDC regarding street connectivity and block lengths. The proposed vacation does not interfere in any way with the function of Cordon Road SE, Gaffin Road SE, or MacLeay Road SE. Therefore, the proposed vacation complies with this criterion.

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

**FINDING:**

Vacations following ORS 271.080-271.130 and the SRC 255.065 Class 2 Proceeding do not require the consent of abutting property owners if the proposed vacation of right-of-way will not substantially affect the market value of the abutting property such that it will lower the market value of the abutting property. The proposed vacation of right-of-way will not substantially affect the market value of the abutting property such that it would lower the market value; any impact would be to increase the market value of the abutting property.

City-initiated vacations do not require the consent of owners of property within the "Affected Area;" however, vacations may not be approved if the majority of the affected owners, as computed on the basis provided in ORS 271.080, object in writing to the vacation.

No letters were received from abutting or affected property owners regarding the proposed vacation. The proposed vacation complies with this criterion.

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

**FINDING:**

Notice of this public hearing was provided as required by ORS 271.080-271.130. Notice was published in the *Statesman-Journal* on July 10, 2017, and July 17, 2017. The Public Hearing Notice was posted on the property as of July 10, 2017. The proposed vacation complies with this criterion.

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

**FINDING:**

Approval of this vacation is compatible and consistent with the intent, goals, and policies of the *Salem TSP* and the *Salem Revised Code* and is in the best interest of the public health, safety, and welfare of the residents of the City of Salem. The proposed vacation complies with this criterion.

Public Comment

No comments were received regarding this proposed vacation.

Robert D. Chandler, PhD, PE  
Assistant Public Works Director

Attachments:

1. Ordinance Bill No. 20-17
2. Exhibit A - Legal Description
3. Exhibit B - Map