



## Staff Report

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**File #:** 19-513  
**Version:** 1

**Date:** 11/12/2019  
**Item #:** 7.2a.

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

### **SUBJECT:**

Second reading of Ordinance Bill No. 19-19 vacating a portion of Dogwood Drive S.

Ward(s): 7  
Councilor(s): Vacant  
Neighborhood(s): SWAN  
Result Area(s): Safe, Reliable, and Efficient Infrastructure.

### **ISSUE:**

Shall City Council conduct second reading of Ordinance Bill No. 19-19 (Attachment 1), which vacates a portion of Dogwood Drive S subject to the following condition:

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

### **RECOMMENDATION:**

Conduct second reading of Ordinance Bill No. 19-19, which vacates a portion of Dogwood Drive S subject to the following condition:

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

## SUMMARY:

The City of Salem received a petition from Dogwood Heights, LLC, Eric Jensen, to vacate an unimproved portion of Dogwood Drive S. Vacation of this right-of-way is a condition of approval for Phase 2 of the Dogwood Heights Subdivision.

## FACTS AND FINDINGS:

Property owners may file a petition to vacate all or part of a right-of-way pursuant to *Oregon Revised Statute* (ORS) 271.080 and 271.090, and *Salem Revised Code* (SRC) 255.065. The Petitioner has submitted a petition to vacate a portion of Dogwood Drive S.

Public Works staff reviewed the petition and have determined it contains all the submittal requirements and property owner consents as required by SRC 255.065(b)(2)-(3) and ORS 271.080-271.230. On August 26, Council accepted the petition and directed the City Manager to set a public hearing to consider this petition-initiated vacation.

On September 23, 2019, the City Council held a public hearing at which the vacation of a portion of Dogwood Drive S was approved, subject to the following condition:

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

On October 28, 2019, the City Council conducted first reading of Ordinance Bill No. 19-19, which vacates a portion of Dogwood Drive S subject to the condition outlined above.

### Approval Criteria

The *Salem Transportation System Plan* (Salem TSP) establishes the goals, policies, and objectives for planning, development, and operation of its street system. SRC 255.065(b)(6) implements these goals, policies, and objectives by establishing the criteria for approving the vacation of a 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 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 Dogwood Subdivision is approved, these facilities will no longer be needed and will be abandoned. In order to ensure continued service until new mains are operational, staff recommends that a condition be applied to this vacation that requires either:

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

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

**FINDING:**

All public services and facilities will be extended as required and approved as part of Phase 2 of the Dogwood Heights Subdivision. The 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:**

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

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

**FINDING:**

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

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

**FINDING:**

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

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

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

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

**FINDING:**

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

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

**FINDING:**

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

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 the 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 \$8.30 per square foot or \$4.15 with provision of easements. The area to be vacated totals 16,155 square feet, resulting in a potential assessment of special benefit in the amount of \$134,086.50, or \$67,043.25 with provision of easements.

Staff recommends Council waive the assessment of special benefit, as the Petitioner is dedicating significantly more land to the City as right-of-way (over 55,000 square feet) in comparison to the amount proposed for vacation (16,155 square feet). Council approved this waiver with its action on September 23, 2019.

**BACKGROUND:**

This portion of Dogwood Drive S is unimproved and is currently being used as a driveway for two separate tax lots. Vacation of this right-of-way is a condition of approval for Phase 2 of the Dogwood Heights Subdivision. If the vacation is approved, the subject area will become part of Tax Lot 5100 and part of Lots 25, 26, 27 in Phase 2 of Dogwood Heights Subdivision.

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

**Attachment:**

1. Ordinance Bill No. 19-19
2. Exhibits A & B to Ordinance Bill No. 19-19