



**Staff Report**

**File #:** 24-181  
**Version:** 1

**Date:** 5/13/2024  
**Item #:** 3.3c.

**TO:** Mayor and City Council  
**THROUGH:** Keith Stahley, City Manager  
**FROM:** Brian D. Martin, PE, Public Works Director

**SUBJECT:**

Petition to vacate a public sanitary sewer easement located near Orchard Heights Road NW and Linwood Street NW.

Ward(s): Ward 8  
Councilor(s): Councilor Varney  
Neighborhood(s): West Salem Neighborhood Association  
Result Area(s): Safe, Reliable and Efficient Infrastructure.

**SUMMARY:**

The City of Salem received a petition from Bonaventure Development to vacate a public sanitary sewer easement located north of Orchard Heights Road NW and west of Linwood Street NW. Council may accept the petition and schedule a public hearing to consider the vacation or Council may reject the petition if it determines the vacation is not in the best interest of the City.

**ISSUE:**

Shall City Council accept a petition to vacate a public sanitary sewer easement located near Orchard Heights Road NW and Linwood Street NW and direct the City Manager to set a public hearing to consider the request?

**RECOMMENDATION:**

Accept a petition to vacate a public sanitary sewer easement located near Orchard Heights Road NW and Linwood Street NW and direct the City Manager to set a public hearing to consider the request.

**FACTS AND FINDINGS:**

Property owners may file a petition to vacate all or part of a right-of-way or a portion of a plat

pursuant to *Oregon Revised Statute* (ORS) 271.080 and 271.090, and *Salem Revised Code* (SRC) 255.065. On February 16, 2024, the Petitioner submitted a petition to vacate the public sanitary sewer easement located north of Orchard Heights Road NW and west of Linwood Street NW. (The petition is on file in the Public Works Department.) As a reason for the petition to vacate, the Petitioner stated that relocating the sanitary sewer away from the building foundations creates more efficiency in the overall building layout. The Petition indicated that this allows more units to be built, thus providing for a more cost-effective development.

This public sanitary sewer easement was created through Partition Plat 2012-0012 and is located on tax lot 073W16C00107. The legal description and map of the area proposed for vacation are included as Attachment 1. Public Works staff reviewed the petition and have determined it contains the submittal requirements and property owner consents for vacating a portion of a plat as required by SRC 255.065(b)(2)-(3) and ORS 271.080-271.230.

Notice of the proposed vacation of the public sanitary sewer easement was sent to all potentially affected public utilities. The City has a sanitary sewer line located within the area proposed to be vacated. As a condition of vacation, the property owner will be required to relocate the sanitary sewer line and provide an easement over the relocated sanitary sewer line. The construction of the new sanitary sewer line and the vacation of the existing easement are conditions of a land use decision issued for this property (SPR-ADJ-DAP-DR23-12). No other issues were identified with the proposed vacation.

At this first stage in the City Council review process, Council may accept the petition and schedule a public hearing to consider the vacation or Council may reject the petition if it determines the vacation is not in the best interest of the City. If Council rejects the petition, the petitioner will be given notice that the Council will take final action on their application at a future meeting. If Council accepts the petition, a public hearing on the proposed vacation will be scheduled. At this public hearing, Council will review the petition against the criteria for approval listed in SRC 255.065(b)(6) and ORS 271.080-271.230. After the public hearing, Council will then either enact an ordinance granting the vacation in whole or in part or adopt a resolution rejecting the proposed vacation. In addition, Council may impose such conditions or make such reservations as it deems in the public interest.

## **BACKGROUND:**

The Petitioner is in the process of developing a new 67-unit multi-family housing development. As part of the development approval process, the property owner applied for and received a Class 3 Site Plan Review, Class 2 Adjustment, Class 2 Driveway Approach Permit, and Class 1 Design Review (Case No. SPR-ADJ-DAP-DR23-12). Conditions 10 and 11 of the decision issued on June 7, 2023, require that the developer relocate the existing public sanitary sewer main and dedicate an easement for the new location, and that the existing public sanitary sewer easement be vacated prior to final occupancy of Buildings 2, 3, or 4.

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

**Attachments:**

1. Attachment 1 - Legal Description and Map