

## Legislation Details (With Text)

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**File #:** 17-139      **Version:** 1

**Type:** Ordinance First Reading      **Status:** Second Reading

**In control:** City Council

**On agenda:** 4/10/2017      **Final action:**

**Title:** Vacating a public right-of-way located south of Aumsville Highway SE and east of Kuebler Boulevard SE

Ward(s): 3  
Councilor(s): Nanke  
Neighborhood(s): SEMCA

**Sponsors:****Indexes:****Code sections:**

**Attachments:** 1. Attachment 1 Ordinance Bill No. 8-17, 2. Legal and Exhibit

Date	Ver.	Action By	Action	Result
4/10/2017	1	City Council	introduced on first reading	Pass

**TO:** Mayor and City Council

**THROUGH:** Steve Powers, City Manager

**FROM:** Peter Fernandez, PE, Public Works Director

**SUBJECT:**

Vacating a public right-of-way located south of Aumsville Highway SE and east of Kuebler Boulevard SE

Ward(s): 3  
Councilor(s): Nanke  
Neighborhood(s): SEMCA

**ISSUE:**

Shall City Council conduct first reading of Ordinance Bill No. 8-17 (Attachment 1), which vacates a public right-of-way located south of Aumsville Highway SE and east of Kuebler Boulevard SE; and, advance Ordinance Bill No. 8-17 to second reading for enactment?

**RECOMMENDATION:**

Conduct first reading of Ordinance Bill No. 8-17 (Attachment 1), which vacates a public right-of-way located south of Aumsville Highway SE and east of Kuebler Boulevard SE; and, advance Ordinance

Bill No. 8-17 to second reading for enactment.

## **SUMMARY AND BACKGROUND:**

The City of Salem received a petition from the State of Oregon, Department of Administrative Services, to vacate an unimproved right-of-way in the southeast quadrant of the intersection of Aumsville Highway SE and Kuebler Boulevard SE.

The land containing this portion of right-of-way was annexed into the City of Salem in March 1975. The right-of-way was formerly an unimproved county road. It is located outside of the current traveled portion of Kuebler Boulevard SE and remains unimproved. This right-of-way is located within the Mill Creek Corporate Center. The proposed vacation provides the opportunity for land to be developed for use as envisioned in the master plan for Mill Creek Corporate Center.

The proposed vacation right-of-way is consistent with the intent, goals, and policies of the *Salem Transportation System Plan* (TSP) and complies with the criteria established in *Salem Revised Code* (SRC) 255.065(6). The proposed vacation will not affect the provision of public utilities, services, or facilities, and will not degrade transportation services or accessibility in the area. Approval of this vacation is in the best interest of public health, safety, and welfare of the citizens of the City of Salem and furthers public interest by releasing unneeded property.

## **FACTS AND FINDINGS:**

On January 27, 2017, the State of Oregon, Department of Administrative Services, submitted a petition to vacate this portion of unimproved right-of-way. Public Works staff reviewed the petition and have determined it contains all the submittal requirements and owner consents as required by SRC 255.065(b)(2)(3) and *Oregon Revised Statutes* (ORS) 271.080-271.230.

The right-of-way is located outside of the current traveled portion of Kuebler Boulevard SE. The area containing this right-of-way was annexed into the City of Salem in March 1975. The right-of-way to be vacated is 850 feet long by 40 feet wide and encompasses approximately 34,000 square feet. The legal description and map are provided in Attachment 2.

The proposed vacation eliminates a former county road right-of-way that has been functionally replaced by Kuebler Boulevard SE. The right-of-way is not improved and its use has been limited to occasional agricultural access. Approximately 75 percent of the former road abuts land owned by the State of Oregon, Department of Administrative Services, and is slated for sale and development with employment uses. The remaining 25 percent of the roadway abuts the City-owned wetlands located within the Mill Creek Corporate Center.

On February 27, 2017, City Council directed staff to set a date for the public hearing in compliance with ORS 271.080-271.230 and SRC 255.065.

On March 27, 2017, City Council held a public hearing on the proposed vacation and voted to approve the vacation, and waive the assessment of special benefit.

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

The *Salem* TSP establishes the goals, policies, and objectives for planning, development, and operation of its 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;*

*Transportation:* The unimproved right-of-way proposed to be vacated is not currently used for public transportation purposes. This right-of-way was formerly an unimproved county road and is located outside of the current traveled portion of Kuebler Boulevard SE. It has been functionally replaced by Kuebler Boulevard SE. The right-of-way is not improved and use has been limited to occasional agricultural access.

*Utilities:* Staff forwarded the petition to the relevant City Departments and public utilities for their review. There are no existing utilities within the area proposed for vacation. Because the area proposed to be vacated has been functionally replaced by Kuebler Boulevard SE and because there are no existing utilities within it, the proposed right-of-way vacation complies with this criterion.

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

There are no adopted plans that call for the extension of new public services, facilities, or utilities, in addition to those utilities provided for in (A) above, through the proposed area to be vacated. 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. Therefore, 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;*

The right-of-way that is proposed for vacation is within the boundaries of the Mill Creek Corporate Center. The proposed vacation provides the opportunity for the land to be developed for use as envisioned in the master plan for Mill Creek Corporate Center. The proposed vacation will have no effect on the provision of services or facilities and will not degrade transportation services or accessibility in the area. Therefore, the proposed vacation complies with this criterion.

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

The right-of-way proposed for vacation is located within the boundaries of the Mill Creek Corporate Center. The proposed vacation provides the opportunity for the land to be developed for use as envisioned in the master plan for Mill Creek Corporate Center. All abutting properties will have access to the planned public street network. Therefore, the proposed vacation complies with this criterion.

**(E)** *The vacation does not conflict with provisions of the Unified Development Code including the*

*street connectivity standards and block lengths;*

The proposed vacation does not conflict with the provisions of the Unified Development Code regarding street connectivity and block lengths. The proposed vacation does not interfere in any way with the function of either Kuebler Boulevard SE or Aumsville Highway SE. Therefore, the proposed vacation complies with this criterion.

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

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 as 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. Therefore, the proposed vacation complies with this criterion.

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

Notice of this 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. Therefore, the proposed vacation complies with this criterion.

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

Approval of this vacation with the recommended condition is compatible and consistent with the intent, goals, and policies of the Salem TSP and the SRC. In addition, this vacation supports the public interest by releasing unneeded property for future development. Therefore, the proposed vacation complies with this criterion.

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

Attachments:

1. Ordinance Bill No. 8-17
2. Property Description and Map