

## Legislation Details (With Text)

**File #:** 18-219      **Version:** 1

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

**In control:** City Council

**On agenda:** 5/29/2018      **Final action:**

**Title:** Vacation of Vacation Lane SE

Ward(s): 3  
Councilor(s): Nanke  
Neighborhood(s): Faye Wright

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

**Attachments:** 1. Ordinance No. 8-18 (Vacation Lane SE), 2. Vacation Lane SE Vicinity Map

Date	Ver.	Action By	Action	Result
5/29/2018	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:**

Vacation of Vacation Lane SE

Ward(s): 3  
Councilor(s): Nanke  
Neighborhood(s): Faye Wright

**ISSUE:**

Shall City Council conduct first reading of Ordinance Bill No. 8-18 (Attachment 1), which vacates Vacation Lane SE subject to the following two conditions:

1. A reconfiguration of the lots in such a way as to ensure that all lots have adequate access to a public street; and
2. Payment of an assessment of special benefit in the amount of \$40,369.30?

**RECOMMENDATION:**

Conduct first reading of Ordinance Bill No. 8-18 (Attachment 1), which vacates Vacation Lane SE subject to the following two conditions:

1. A reconfiguration of the lots in such a way as to ensure that all lots have adequate access to a public street; and
2. Payment of an assessment of special benefit in the amount of \$40,369.30.

## **SUMMARY AND BACKGROUND:**

The City of Salem received a petition from Matthew and Suzanne Bailey (Petitioner) to vacate Vacation Lane SE, which is shown on the vicinity map (Attachment 2).

Vacation Lane SE is unimproved and currently functions as a private driveway for an existing dwelling. Vacating Vacation Lane SE would allow for the creation of a more efficient access alignment, which the Petitioner intends to construct in the future.

## **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 Vacation Lane SE.

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 April 9, 2018, Council accepted the petition and directed the City Manager to set a public hearing to consider this petition-initiated vacation.

On May 14, 2018, the City Council held a public hearing at which the vacation of Vacation Lane SE was approved, subject to conditions.

### Approval Criteria

The *Salem Transportation System Plan* (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:* Vacation Lane SE currently functions as a private driveway for an existing dwelling. Vacating this right-of-way will not have an adverse impact on the surrounding transportation

network. However, vacating Vacation Lane SE will eliminate access for three existing lots, all of which are owned by the petitioners. As a result, this vacation is conditioned on reconfiguring the lots within the recorded plat to ensure that all lots have adequate access to a public street.

*Utilities:* Staff forwarded the petition to the relevant City departments and public and municipal utilities for their review. Public water, sewer, and storm facilities do not exist within the right-of-way to be vacated. No comments were received from municipal utilities.

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

**FINDING:**

There are no utilities present at the site of this proposed vacation and no plans to construct any. 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:**

There are no services, facilities, or utilities present at the site of this proposed vacation, and no plans to construct any. There would also be no interference with any existing services, facilities, or utilities proposed at this location. 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 is intended to help improve access to the abutting property, which is entirely owned by the petitioner. The 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 area to be vacated serves only as driveway access to the property owned by the petitioner, and the intent of the vacation is to allow the petitioner to develop a better access to the property. Connectivity in the surrounding area will not be affected. 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. Therefore, the proposed 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. Therefore, the proposed vacation complies with this criterion.

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

**FINDING:**

Approval of this vacation with the recommended conditions is compatible and consistent with the intent, goals, and policies of the Salem TSP and the *Salem Revised Code*. In addition, this vacation supports the public interest by releasing property for future improvement and development. Therefore, the proposed 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 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 \$1.90 per square foot. The area to be vacated totals 21,247 square feet, resulting in a recommended assessment of special benefit in the amount of \$40,369.30. Notice of the recommended assessment of special benefit was mailed to the property owners as required by SRC 255.065(b)(7)(C).

Staff recommends Council approve the petition to vacate Vacation Lane SE subject to the following two conditions:

1. A reconfiguration of the lots in such a way as to ensure that all lots have adequate access to a public street; and
2. Payment of an assessment of special benefit in the amount of \$40,369.30.

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

Attachments:

1. Ordinance Bill No. 8-18
2. Vicinity Map