

Legislation Details (With Text)

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Title: Public hearing regarding vacation of 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 - Legal Description and Exhibit, 2. Notice of Public Hearing, 3. ROW Vacation Valuation, 4. Written Testimony - 1

Date	Ver.	Action By	Action	Result
3/27/2017	1	City Council	approved as amended	Pass

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Peter Fernandez, PE, Public Works Director

SUBJECT:

Public hearing regarding vacation of 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 approve the vacation of a public right-of-way located south of Aumsville Highway SE and east of Kuebler Boulevard SE, subject to the condition that the petitioner, State of Oregon, Department of Administrative Services, pay an Assessment of Special Benefit in the amount of \$50,960?

RECOMMENDATION:

Approve the vacation of a public right-of-way located south of Aumsville Highway SE and east of

Kuebler Boulevard SE, subject to the condition that the petitioner, State of Oregon, Department of Administrative Services, pay an Assessment of Special Benefit in the amount of \$50,960.

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 TSP and complies with the criteria established in 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 the public health, safety, and welfare of the citizens of the City of Salem and furthers the 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 *Salem Revised Code* (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 1.

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

The *Salem Transportation System Plan* (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;*

FINDING:

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;*

FINDING:

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;*

FINDING:

The right-of-way which 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;*

FINDING:

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 of the 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 (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 either Kuebler Boulevard SE or Aumsville Highway SE. Therefore, the proposed vacation complies with this criterion.

(F) All required consents have been obtained;

FINDING:

Petition-initiated vacations require the consent of one hundred 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 this public hearing (Attachment 2) 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 condition 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 unneeded property for future development. Therefore, the proposed vacation complies with this criterion.

Public Comment

As of the date of the preparation of this staff report, no comments have been received.

Assessment of Special Benefit

In accordance with SRC 255.065(b)(7)(C), the 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 the right-of-way for this vacation at \$2 per square foot (Attachment 3).

Approximately 75 percent of the former road will be returned to the property currently owned by the State of Oregon and proposed for sale and development. The remainder abuts land owned by the City and will be protected as wetlands. The area that will be returned to the State of Oregon and be available for development is approximately 637 linear feet by 40 feet wide, or 25,480 square feet. Applying the value of \$2 per square foot to the 25,480 square feet of the vacation yields a total of \$50,960. Notice of the proposed Assessment of Special Benefit was provided to the petitioner on March 14, 2017.

Alternatives

The City Council may:

1. Enact an ordinance granting the vacation, in whole or in part;
2. Enact an ordinance granting the vacation, in whole or in part, with conditions or reservations it deems to be in the public interest, or
3. Adopt a resolution rejecting the proposed vacation.

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

Attachments:

1. Legal Description and Map
2. Notice of Public Hearing
3. ROW Vacation Valuation