

Legislation Details (With Text)

File #: 17-521 **Version:** 1
Type: Ordinance First Reading **Status:** Passed
In control: City Council
On agenda: 12/4/2017 **Final action:** 12/4/2017
Title: Vacation of Frontage Road NW and Paradise Court NW
Ward(s): 8
Councilor(s): Lewis
Neighborhood(s): West Salem Neighborhood Association

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

Attachments: 1. Ordinance No. 28-17, 2. Legal Description and Map

Date	Ver.	Action By	Action	Result
12/4/2017	1	City Council	approved	Pass

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Peter Fernandez, PE, Public Works Director

SUBJECT:

Vacation of Frontage Road NW and Paradise Court NW

Ward(s): 8
Councilor(s): Lewis
Neighborhood(s): West Salem Neighborhood Association

ISSUE:

Shall City Council conduct first reading of Ordinance Bill No. 28-17 (Attachment 1), which vacates Frontage Road NW and Paradise Court NW, and advance Ordinance Bill No. 28-17 to second reading for enactment?

RECOMMENDATION:

Conduct first reading of Ordinance Bill No. 28-17, which vacates Frontage Road NW and Paradise Court NW, and advance Ordinance Bill No. 28-17 to second reading for enactment.

SUMMARY AND BACKGROUND:

The City of Salem received a petition from Capital Manor, Inc., (Capital Manor) to vacate Frontage Road NW and Paradise Court NW as described in Attachment 2.

Capital Manor provides a range of needed housing, including independent living units and facilities that support the continuum of care for seniors. Capital Manor is in the process of executing a master plan for their campus to expand their capacity.

Capital Manor owns all of the properties abutting the proposed vacation and is preparing to consolidate the existing lots into three larger lots. The vacation of Paradise Court NW and Frontage Road NW allows Capital Manor to proceed with the Phase I implementation of its Master Plan, which includes designing and constructing a new 34-bed Memory Care Addition as well as 34 new Independent Living Units consisting of two-family and detached single-family homes on the northwest quadrant of the site. With the vacation of Paradise Court NW, Capital Manor will be able to provide new independent living units that will help meet the needs of this community.

Integral to this expansion are: (1) the redesign of the internal vehicular circulation to provide a single point of entry to the community; (2) a second controlled access for emergency and maintenance vehicles from Rosewood Drive NW; and, (3) the conversion of Paradise Court NW from a public street to a private drive. These proposed modifications will provide improved internal circulation and better access to current Capital Manor, resulting in enhanced safety and security for all residents of Capital Manor.

The proposed vacation includes an easement reserved over a previously vacated portion of Frontage Road NW through Ordinance Bill No. 26-81. Much of the area previously vacated is currently occupied by a building that was constructed over the reserved easement. Utilities that previously existed in this easement have been abandoned.

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. Capital Manor submitted a petition to vacate Frontage Road NW and Paradise Court NW. On October 9, 2017, Council accepted the petition and directed the City Manager to set a public hearing to consider this petition-initiated vacation.

On November 13, 2017 the City Council held a public hearing at which the vacation of Frontage Road NW and Paradise Court NW 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 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: Capital Manor plans to redesign the community's circulation system to provide a single point of entry, with a second controlled access for emergency and maintenance vehicles from Rosewood Drive NW. Implementation of this revised circulation system includes reconfiguring and consolidating the existing lots into three larger lots. This reconfiguration is in process through the Capital Manor Partition Plat. Once this partition plat has received final approval, the right-of-way proposed for vacation will no longer be needed to provide transportation access and circulation.

Utilities: Staff forwarded the petition to the relevant City Departments and Public Utilities for their review. Public water, sewer, and storm facilities exist within the right-of-way to be vacated and, as such, the petitioner must provide an easement over the vacated area. If the utilities are relocated as part of future development, the easement would be released.

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

FINDING:

The vacation is part of a larger process for the total redevelopment of properties owned by Capital Manor. This vacation is the first step in that process. While an easement for utilities will be reserved over the area being vacated, the long term plans include abandonment or relocation of some public utilities and construction of new private utilities. In addition, Capital Manor will be required to take over maintenance and costs associated with the three streetlights on Paradise Court NW.

(C) *Public services, facilities, or utilities can be extended in an orderly and efficient manner in an alternate location;*

FINDING:

The vacation is part of a larger process to completely redevelop the properties owned by Capital Manor in a way that will allow it to function in a more orderly and efficient manner.

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

FINDING:

The property abutting the proposed vacation is wholly owned by Capital Manor. Subject to final approval of the Capital Manor Partition Plat, the area proposed for vacation will no longer be needed to provide access to abutting properties. The vacation is intended to help the abutting property develop to its future best use.

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

FINDING:

The properties owned by Capital Manor will be redeveloped in a manner that is consistent with the provisions of the UDC.

(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), 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 Frontage Road NW right-of-way at \$6.00 per square foot and the value of Paradise Court NW at \$7.75 per square foot. The Real Property Services Division recommends a 50 percent reduction in value to account for the utility easement over this area, which reduces the value to \$3.00 and \$3.88 per square foot, respectively.

The right-of-way proposed to be vacated along Frontage Road NW totals approximately 28,128 square feet. With the condition to provide an easement for utilities, staff recommends that the assessment of special benefit for Frontage Road NW be calculated based on \$3.00 per square foot for a total of \$84,384. This amount does not include valuation for the improvements on the property

such as pavement, sidewalks, and curbs.

The right-of-way proposed to be vacated along Paradise Court NW totals approximately 40,357 square feet. With the condition to provide an easement for utilities, staff recommends that the assessment of special benefit for Paradise Court NW be calculated based on \$3.88 per square foot for a total of \$156,585.16. This amount does not include valuation for the improvements on the property such as pavement, sidewalks, and curbs.

Vacation of the northeast portion of Frontage Road NW addresses an easement reserved as part of a vacation approved in 1981 by Ordinance No. 26-81. Since the right-of-way was previously vacated and utilities have since been relocated and a building constructed over part of the reserved easement, staff recommends that the assessment of special benefit for this area be waived. This amount was not included in the total recommended assessment.

Staff recommends Council approve the petition to vacate Frontage Road NW and Paradise Court NW subject to the following four conditions:

1. Final approval of the Capital Manor Partition Plat.

Staff is recommending that the vacation be contingent upon final approval of the Capital Manor Partition Plat because the streets proposed for vacation currently provide access to more than 30 individual lots. The partition will consolidate these lots and the other properties owned by Capital Manor into three larger lots that will have access from streets other than those proposed to be vacated. If the vacation occurred prior to final plat approval, these lots would not have legal access until the lots were reconfigured.

2. Provision of an easement for utilities over the right-of-way proposed for vacation (excluding the area previously vacated in 1981).

The utility easement is to provide for existing public utilities that serve these properties as well as properties on Hosanna Court NW.

3. Petitioner to maintain and pay on-going expenses for the three streetlights on Paradise Court NW.

The street lights will no longer be on public property, therefore the petitioner will need to assume responsibility for them.

4. Payment of an assessment of special benefit in the amount of \$240,969.16.

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

Attachments:

1. Ordinance Bill No. 28-17
2. Exhibit A - Legal Description and Map