

Legislation Details (With Text)

File #:	21-343	Version:	1
Type:	Ordinance Second Reading	Status:	Passed
		In control:	City Council
On agenda:	8/9/2021	Final action:	8/9/2021
Title:	Vacation of a portion of an alley and a portion of an unopened right-of-way for 12th Street NE adjacent to the railroad northeast of D Street NE.		
	Ward(s): 1		
	Councilor(s): Stapleton		
	Neighborhood(s): Grant		
	Result Area(s): Safe and Reliable Infrastructure		

Sponsors:

Indexes:

Code sections:

Attachments: 1. Ordinance 8-21, 2. Legal Description & Map

Date	Ver.	Action By	Action	Result
8/9/2021	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 a portion of an alley and a portion of an unopened right-of-way for 12th Street NE adjacent to the railroad northeast of D Street NE.

Ward(s): 1
Councilor(s): Stapleton
Neighborhood(s): Grant
Result Area(s): Safe and Reliable Infrastructure

SUMMARY:

The City of Salem received a petition from Salem Keizer School District 24J (Petitioner) to vacate a portion of an alley and a portion of an unopened right-of-way for 12th Street NE adjacent to the railroad northeast of D Street NE. The property is needed for construction of the North Salem High School tennis courts.

ISSUE:

Shall City Council conduct second reading of Ordinance Bill No. 8-21, which vacates an alley and a portion of an unopened right-of-way for 12th Street NE adjacent to the railroad northeast of D Street NE, and not waive the assessment of special benefit?

RECOMMENDATION:

Conduct second reading of Ordinance Bill No. 8-21, which vacates an alley and a portion of an unopened right-of-way for 12th Street NE adjacent to the railroad northeast of D Street NE, and not waive the assessment of special benefit.

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 a portion of an alley and a portion of an unopened right-of-way for 12th Street NE adjacent to the railroad northeast of D Street NE. The petition is on file with the Public Works Department.

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 May 24, 2021, Council accepted the petition and directed the City Manager to set a public hearing to consider this petition-initiated vacation. On June 28, 2021, the City Council held a public hearing at which this vacation was approved, subject to conditions.

On July 26, 2021, the City Council conducted first reading of Ordinance Bill No. 8-21, which vacates the area described above.

Approval Criteria

(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 area to be vacated is currently unimproved and does not function as part of the transportation network. The vacation complies with this criterion.

Utilities: An existing 21-inch City storm main and an 8-inch sanitary sewer main are currently located within the area proposed for vacation. The 8-inch sanitary sewer main will be abandoned as part of this project. The 21-inch storm main is located within the portion of unopened right-of-way for 12th Street NE and will require the provision of an easement for the construction, maintenance, repair, and replacement of the utility as a condition of the vacation.

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

FINDING:

The 21-inch storm main will require the provision of an easement for the construction, maintenance, repair, and replacement of the utility as a condition of the vacation.

The vacation complies with this criterion on the condition of the provision of the easement.

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

FINDING:

The 21-inch storm main will require the provision of an easement for the construction, maintenance, repair, and replacement of the utility as a condition of the vacation.

The vacation complies with this criterion on the condition of the provision of the easement.

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

FINDING:

The vacation will not impede access to the abutting properties. The right-of-way to be vacated does not currently function as part of the transportation network. The vacation complies with this criterion.

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

FINDING:

Vacation of this right-of-way will have no impact on street connectivity or block lengths in this area. 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. The 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. The vacation complies with this criterion.

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

FINDING:

Approval of this vacation is compatible and consistent with the intent, goals, and policies of the *Salem Transportation System Plan* and *Salem Revised Code*. This vacation supports the public interest by releasing property for an educational use. The 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 the 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 \$3.00 per square foot or \$2.10 with provision of easements. The total assessment of special benefit for the right-of-way to be vacated is \$27,231.

Petitioner submitted a letter requesting that the City Council waive payment of the assessment of special benefit. Staff does not recommend waiving the assessment of special benefit.

BACKGROUND:

The right-of-way proposed for vacation is unimproved and historically was incorporated into a field adjacent to Parrish Middle School and North Salem High School. Petitioner intends to use the vacated right-of-way in the development of tennis courts for North Salem High School. The City granted the School District a Revocable License to Encroach into Public Right-of-Way in August 2020 so work on the tennis courts could proceed while this vacation is being processed.

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

Attachments:

1. Ordinance Bill No. 8-21
2. Legal Description and Map