

Legislation Details (With Text)

File #: 21-344 **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 easement over previously vacated George Street NW.
Ward(s):8
Councilor(s): Lewis
Neighborhood(s): West Salem NA
Result Area(s): Safe and Reliable Infrastructure

Sponsors:**Indexes:****Code sections:****Attachments:** 1. Ordinance 9-21, 2. Legal & 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 easement over previously vacated George Street NW.

Ward(s):8
Councilor(s): Lewis
Neighborhood(s): West Salem NA
Result Area(s): Safe and Reliable Infrastructure**SUMMARY:**

The City of Salem received a petition from The Family Life Church (Petitioner) to vacate a portion of an easement over previously vacated George Street NW. The Petitioner seeks to construct a building over the area currently occupied by this easement.

ISSUE:

Shall City Council conduct second reading of Ordinance Bill No. 9-21, which vacates a portion of an easement over previously vacated George Street NW and waive the assessment of special benefit?

RECOMMENDATION:

Conduct second reading of Ordinance Bill No. 9-21, which vacates a portion of an easement over previously vacated George Street NW and 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 easement over previously vacated George Street NW (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, City Council conducted a public hearing, following which this vacation was approved.

On July 26, 2021 the City Council conducted first reading of Ordinance Bill 9-21, which vacates the area described above.

Approval Criteria

The *Salem Transportation System Plan* 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: The easement to be vacated currently lies over a portion of the parking lot for the Family Life Church, a small portion of the church itself, a portion of the church lawn, and a portion of a single-family residential property located at 847 George Street NW. Vacation of the easement would not impact the transportation network. The vacation complies with this criterion.

Utilities: Notice of the proposed vacation was sent to all potentially affect public utilities. No utilities indicated that they have facilities located within the area proposed for vacation. The 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 utilities located in or planned for the proposed vacation area. However, a new utility easement is needed from Wallace Road NW to the northern terminus of Valley View Avenue NW in order to supply tax lot 073W16DD00300 with necessary gravity utilities, including storm and sanitary sewer. With the condition to provide a new easement, the vacation meets 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 utilities located in or planned for the proposed vacation area. However, a new utility easement is needed from Wallace Road NW to the northern terminus of Valley View Avenue NW in order to supply tax lot 073W16DD00300 with necessary gravity utilities, including storm and sanitary sewer. With the condition to provide a new easement, the vacation meets this criterion.

***(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 easement does not serve to maintain access to 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:

The vacation will not impede access to the abutting properties. The easement does not serve to maintain access to the transportation network. 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:

The conditional vacation of the easement would have no impact on the public interest. Petitioner intends to construct another building that will maintain the property's current 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 fee value of this property at \$7.50 per square foot; the value of the easement is estimated to be 30 percent of the fee value. The area to be vacated totals 9,572 square feet, resulting in a potential assessment of special benefit in the amount of \$21,550 (30 percent of the fee value).

The new utility easement from Wallace Road NW to the northern terminus of Valley View Avenue NW is approximately 8,300 square feet. Because the new easement is similar in size and value to the easement to be vacated, staff recommends that City Council waive the assessment of special benefit for this vacation.

BACKGROUND:

George Street NW was vacated in 1978. At that time, a 30-foot public utility easement was reserved as part of the vacation. The Petitioner seeks to construct a building over the area currently reserved for the easement.

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

Attachments:

1. Ordinance Bill No. 9-21
2. Legal Description and Map