

Legislation Details (With Text)

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Type: Public Hearings **Status:** Agenda Ready

In control: City Council

On agenda: 10/11/2021 **Final action:** 10/11/2021

Title: Public hearing regarding vacation of public right-of-way located on the northeast corner of the intersection of Liberty Road S and Pembroke Street SE.

Ward(s): 7
Councilor(s): Nordyke
Neighborhood(s): Faye-Wright
Result Area(s): Safe and Reliable Infrastructure, Good Governance

Sponsors:**Indexes:****Code sections:****Attachments:** 1. Resolution 2021-34, 2. Resolution 2009-47

Date	Ver.	Action By	Action	Result
10/11/2021	1	City Council	approved on Public Hearing	Pass

TO: Mayor and City Council**THROUGH:** Steve Powers, City Manager**FROM:** Peter Fernandez, PE, Public Works Director**SUBJECT:**

Public hearing regarding vacation of public right-of-way located on the northeast corner of the intersection of Liberty Road S and Pembroke Street SE.

Ward(s): 7
Councilor(s): Nordyke
Neighborhood(s): Faye-Wright
Result Area(s): Safe and Reliable Infrastructure, Good Governance

SUMMARY:

The area proposed for vacation is the site of former Fire Station Number 7. Vacating this right-of-way is necessary to correct a property recording error and for the City to sell the property. On September 13, 2021, City Council adopted Resolution No. 2021-34 initiating the vacation proceedings. If the vacation is approved by City Council at the public hearing, first reading of the ordinance will occur later in tonight's agenda.

ISSUE:

Shall the City Council approve the vacation of public right-of-way located on the northeast corner of the intersection of Liberty Road S and Pembroke Street SE subject to the condition that no driveways be permitted to or from the vacated area onto Liberty Road S?

RECOMMENDATION:

Approve the vacation of public right-of-way located on the northeast corner of the intersection of Liberty Road S and Pembroke Street SE subject to the condition that no driveways be permitted to or from the vacated area onto Liberty Road S.

FACTS AND FINDINGS:

Resolution 2021-34 (Attachment 1) initiating the vacation was adopted by Council on September 13, 2021.

The City Council may initiate a right-of-way vacation proceeding per *Oregon Revised Statute* 271.130.

The *Salem Revised Code* (SRC) 255.065(b)(1)(B) establishes that a vacation initiated by the City is a Class 2 Vacation. A Class 2 Vacation is initiated by resolution of the City Council.

Approval Criteria

The *Salem Transportation System Plan* (Salem 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: The proposed vacation will not degrade transportation services or accessibility in the surrounding neighborhood. The right-of-way has never been used for transportation purposes. In preparing to surplus this property in 2009, staff recommended that City Council dedicate additional right-of-way along the frontage of both Pembroke Street SE and Liberty Road S for future transportation needs. Resolution No. 2009-47 dedicated the additional right-of-way, but it also inadvertently included the entire lot where the former fire station is located (Attachment 2). The areas needed for right-of-way along the frontage of Pembroke Street SE and Liberty Road S are not part of this vacation. The vacation complies with this criterion.

Utilities: No utilities lie within the area proposed to be vacated. Vacation of this area will not impede

access to any existing utilities. 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: The area to be vacated is already developed as a former Fire Station. City staff in Public Works and Community Development confirmed that this vacation does not interfere with any current or future public services, facilities, or utilities. 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: The area to be vacated is already developed as a former Fire Station. City staff in Public Works and Community Development confirmed that this vacation does not interfere with any current or future public services, facilities, or utilities. The vacation complies with this criterion.

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

FINDING: This vacation is intended to correct an error made in 2009. In preparing to surplus this property in 2009, staff recommended that City Council dedicate additional right-of-way along the frontage of both Pembroke Street SE and Liberty Road S for future transportation needs. Resolution 2009-47, approved by Council on May 26, 2009, made this dedication. While the map attached to the resolution showed the correct area to be dedicated, the text of the resolution mistakenly referred to the entire lot, including the former fire station. A vacation is required for the City to surplus this property. Vacation proceedings were initiated in December 2009. These proceedings were suspended in 2010 following a decision to use the former fire station to store Police Department Bomb Squad vehicles. With construction of the new police facility, there is no longer a City use for the former fire station. The vacation complies with this criterion.

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

FINDING: As a major arterial, access to Liberty Road S is limited. The existing driveway onto Liberty Road S does not meet City standards for driveway access. Future access should be taken from Pembroke Street SE. Staff recommends that as a condition of the vacation, no driveway accesses be permitted to or from the vacated area onto Liberty Road S. With this condition the vacation complies with this criterion.

***(F)** All required consents have been obtained;*

FINDING: Vacations following ORS 271.080-271.130 and the SRC 255.065 Class 2 Proceeding do not require the consent of abutting property owners if the proposed vacation of right-of-way will not substantially affect the market value of the abutting property such that it will lower the market value of the abutting property. The proposed vacation of right-of-way will not substantially affect the market value of the abutting property such that it would lower the market value; any impact would be to increase the market value of the abutting property.

City-initiated vacations do not require the consent of owners of property within the "Affected Area;" however, vacations may not be approved if the majority of the affected owners, as computed on the basis provided in ORS 271.080, object in writing to the vacation.

No letters have been received from abutting or affected property owners regarding the proposed vacation. 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 271.080-271.130. Notice was posted at the site on September 27, 2021 and published in the *Statesman-Journal* on September 27 and October 4, 2021.

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

FINDING: Approval of this vacation subject to the condition that no driveways be permitted to or from the vacated area onto Liberty Road S is compatible and consistent with the intent, goals, and policies of the Salem TSP and the *Salem Revised Code*. The purpose of this vacation is to clean up a past error; there will be no adverse impact on the subject property or the surrounding properties. The proposed vacation complies with this criterion.

BACKGROUND:

Former Fires Station 7 is surplus to the City's needs and the property will be sold. Due diligence was conducted to determine the property is not suitable for City offices, storage, or shelter.

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

Attachments:

1. Resolution No. 2021-34
2. Resolution No. 2009-47