

## Legislation Details (With Text)

**File #:** 22-503 **Version:** 1  
**Type:** Public Hearings **Status:** Agenda Ready  
**In control:** City Council  
**On agenda:** 11/14/2022 **Final action:**  
**Title:** Public hearing regarding a petition to vacate Cross Street SE west of 20th Street SE.

Ward(s): 2  
Councilor(s): Nishioka  
Neighborhood(s): Southeast Salem Neighborhood Association  
Result Area(s): Safe, Reliable, and Efficient Infrastructure

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

**Attachments:** 1. Vicinity Map, 2. Legal Description and Map, 3. Cross Street SE - Local Street Connectivity, 4. Opinion of Value - Real Estate Property Services Division

Date	Ver.	Action By	Action	Result
11/14/2022	1	City Council	returned to city staff for further review	Pass

**TO:** Mayor and City Council  
**THROUGH:** Keith Stahley, City Manager  
**FROM:** Peter Fernandez, PE, Public Works Director

**SUBJECT:**

Public hearing regarding a petition to vacate Cross Street SE west of 20<sup>th</sup> Street SE.

Ward(s): 2  
Councilor(s): Nishioka  
Neighborhood(s): Southeast Salem Neighborhood Association  
Result Area(s): Safe, Reliable, and Efficient Infrastructure

**SUMMARY:**

The City of Salem received a petition from DEW Investments, LLC (Petitioner) to vacate Cross Street SE west of 20<sup>th</sup> Street SE as shown in the attached figures. Petitioner seeks to vacate this area to allow the neighboring Hyundai Dealership to use the right-of-way for secured parking and storage of vehicles.

**ISSUE:**

Shall the City Council deny the vacation of Cross Street SE west of 20<sup>th</sup> Street SE?

## RECOMMENDATION:

Deny the vacation of Cross Street SE west of 20<sup>th</sup> Street SE.

## 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 as shown on Attachments 1 and 2. The Petitioner has submitted a petition to vacate Cross Street SE west of 20<sup>th</sup> Street SE pursuant to these ordinances. The petition is on file with the Public Works Department. The petitioner seeks to vacate an under-improved 137-foot-long section of Cross Street SE west of 20<sup>th</sup> Street SE to allow for the neighboring Hyundai Dealership to use the right-of-way for secured parking and storage of vehicles. The petitioner owns the surrounding property and seeks to eliminate multiple gates, crossings, and cross fencing along its current property boundaries.

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 October 10, 2022, Council accepted the petition and directed the City Manager to set a public hearing to consider this petition-initiated vacation. However, after reviewing the potential adverse impacts of vacating this section of Cross Street SE, staff are recommending Council deny the request.

### 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 proposed for vacation does not presently serve a transportation function since the right-of-way for Cross Street SE terminates approximately 137 feet west of 20<sup>th</sup> Street SE. There is a gap in the right-of-way for Cross Street SE of approximately 425 feet. Cross Street SE resumes east of 18<sup>th</sup> Street SE and continues approximately 1,180 feet west to the intersection of 14<sup>th</sup> Street SE. Cross Street SE extends west another 200 feet to the railroad tracks but there is no crossing of the railroad at this location.

The area to be vacated could potentially be used as part of an extension of Cross Street SE from 20<sup>th</sup> Street SE to the residential neighborhood and the partially developed 9.88-acre industrial lot to the west (see Attachment 3). Presently any pedestrian connection between the two areas requires walking along Hines Street SE, Mission Street SE, and 20<sup>th</sup> Street SE. Both the *Salem Comprehensive Policies Plan* (adopted as part of the Our Salem project) and the *Salem Transportation System Plan (TSP)* contain objectives and policies that support the goal of providing an interconnected local street system that allows for dispersal of traffic and encourages a mix of travel modes.

T 4 Local Connectivity Goal: Provide an interconnected local street system that allows for dispersal of traffic, encourages a mix of travel modes, reduces the length of trips, and increase opportunities for people to walk and bike.

Salem Transportation System Plan  
*Local Street Connectivity Element*

Goal: To provide an interconnected local street system that allows for dispersal of traffic and encourages a mix of travel modes.

Objective No. 1: A local street circulation pattern that provides access to property and connections to Collector and Arterial streets, neighborhood activity centers, and emergency access.

Policy 1.3 Spacing of Connections: Connections to existing or planned streets and undeveloped properties along the border of a parcel shall be provided at no greater than 600-foot intervals unless the City determines that adjacent layout or topographical conditions justify greater length.

Objective No. 2: A local street system designed to meet the needs of pedestrians and encourage walking as a transportation mode.

Policy 2.2 Block Standards: The City shall set a maximum block-length standard of 600 feet between street centerlines unless the City determines that adjacent layout or topographical conditions justify greater length.

Vacating Cross Street SE west of 20<sup>th</sup> Street SE would create an approximately 700-foot-long block on 20<sup>th</sup> Street SE from Mission Street SE to Wilbur Street SE. An alternative connection could be with Wilbur Street SE. However, there is low potential for a future extension of Wilbur Street SE because the gap between the western and eastern segments of Wilbur Street SE is greater than 1,000 feet. The closest street that connects 20<sup>th</sup> Street SE west to 14<sup>th</sup> Street SE is Oxford Street SE. The distance between Mission Street SE and Oxford Street SE is approximately 1,700 feet. A connection at Cross Street SE would reduce the size of this large block by approximately 320 feet.

The vacation would be in contradiction to the connectivity goals, objectives, and policies in the *Salem Comprehensive Policies Plan* and the Salem TSP.

*Utilities:* An existing 15-inch sanitary sewer line and a Portland General Electric (PGE) utility pole are located within the area to be vacated. Vacation of this right-of-way would require the provision of an easement for the construction, maintenance, repair, and replacement of the utilities as a condition of the vacation.

The vacation does not comply with this criterion based on future needs for transportation.

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

*utilities;*

**FINDING:**

*Transportation:* The right-of-way proposed for vacation could be extended west to connect to the existing right-of-way for Cross Street SE. Vacating this right-of-way would prevent the extension of a local street.

*Utilities:* The 15-inch sanitary sewer line and PGE utility pole would require the provision of an easement for the construction, maintenance, repair, and replacement of the utility as a condition of the vacation.

The vacation does not comply with this criterion because it would prevent the extension of a local street.

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

**FINDING:**

*Transportation:* Opportunities to extend a local street between Mission Street SE and Oxford Street SE west of 20<sup>th</sup> Street SE are limited. Cross Street SE presents the best opportunity since extending the other street stubs (Wilbur, Howard, and Lewis Streets SE) would go through existing buildings. The gap between existing right-of-way is also the shortest at Cross Street SE.

*Utilities:* The 15-inch sanitary sewer line and PGE utility pole would require the provision of an easement for the construction, maintenance, repair, and replacement of the utility as a condition of the vacation.

The vacation does not comply with this criterion because of limited opportunities to extend the local street network in alternate locations.

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

**FINDING:**

In its current configuration, 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:**

Vacating Cross Street SE would create an approximately 700-foot-long block on 20<sup>th</sup> Street SE from Mission Street SE to Wilbur Street SE. The UDC establishes that streets shall have a maximum spacing of 600 feet from right-of-way line to right-of-way line (SRC 803.030(a)). Street connectivity

standards included in the UDC call for eventual connection with existing streets at no greater than 600-foot intervals, with certain exceptions (SRC 803.035(a)).

The vacation would be in contradiction to the UDC provisions relating to street spacing and connectivity goals. The vacation does not comply 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 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 not compatible and consistent with the intent, goals, and policies of the Salem Comprehensive Policies Plan and the Salem TSP. The vacation would eliminate a potential future opportunity to improve local street connectivity for all users. Further, the area proposed to be vacated is located within the FEMA regulatory floodway. This limits potential development of the area.

For the above reasons, the vacation would prejudice the public interest; therefore, it does not comply 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 \$10.00 per square foot over the unencumbered square footage and \$5.00 per square foot over the easement area. The total assessment of special benefit for the right-of-way to be vacated would be \$44,575.00 (see Attachment 4).

As an alternative to vacating Cross Street SE, City staff have offered the Petitioner a revocable permit to encroach in the right-of-way. This would effectively allow the neighboring Hyundai Dealership to use the right-of-way for parking and storage of vehicles until such time as the City chose to extend Cross Street SE to enhance connectivity in this area. Petitioner has declined the offer and has chosen instead to pursue vacation, which staff do not support for the reasons stated in this report.

Robert D. Chandler  
Assistant Public Works Director

**Attachments:**

1. Vicinity Map
2. Legal Description and Map
3. Cross Street SE - Local Street Connectivity Map
4. Opinion of Value - Real Estate Property Services Division