



## Staff Report

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**File #:** 22-343

**Version:** 1

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**Item #:** 4.a.

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**TO:** Mayor and City Council

**THROUGH:** Kristin Retherford, Interim City Manager

**FROM:** Peter Fernandez, PE, Public Works Director

### **SUBJECT:**

Public hearing regarding vacation of three easements adjacent to Reed Road SE at its intersections with Strong Road SE and Lindburg Road SE.

Ward(s): 3

Councilor(s): Phillips

Neighborhood(s): Morningside

Result Area(s): Safe, Reliable, and Efficient Infrastructure

### **SUMMARY:**

Street improvements are being constructed on Reed Road SE in the vicinity of Strong Road SE and Lindburg Road SE associated with a residential development project. Three existing easements are located within the area needed for the roadway improvement. The easements must be vacated for the property owner to dedicate the improved street to the City as public right-of-way.

### **ISSUE:**

Shall City Council approve the vacation of three easements adjacent to Reed Road SE at its intersections with Strong Road SE and Lindburg Road SE?

### **RECOMMENDATION:**

Approve the vacation of three easements adjacent to Reed Road SE at its intersections with Strong Road SE and Lindburg Road SE.

### **FACTS AND FINDINGS:**

Resolution 2022-325 (Attachment 1) initiating the vacation was adopted by Council on May 9, 2022.

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.

Notice of the proposed vacation was sent to all potentially affected public utilities. Portland General Electric (PGE) was the only utility to respond to the notice. They indicated that they would not need to reserve any easement rights at the locations proposed for easement vacation.

### 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 easements to be vacated are located within area needed for roadway improvement (see Attachment 2, Vicinity Map) and will be dedicated to the City as public right-of-way. The vacation complies with this criterion.

**Utilities:** Street improvements are being constructed as part of a residential development project (The Grove Apartments). The City is working with the developer on the location of utilities as part of the street improvements. The vacation complies with this criterion. PGE has utilities in this area, but they confirmed with the City that the vacation of these easements does not negatively impact their ability to operate utilities at this location.

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

**FINDING:** The City is working with the developer on the placement of all utilities related to the street improvements required as part of the development of The Grove Apartments. Street improvements and utility placement are being executed according to the City's development standards. PGE has verified that they will be able to continue to operate their utility upon vacation of the subject easements. 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 easements being vacated are in areas that will be dedicated back to the City as public right-of-way. The right-of-way will be part of a street improvement to be constructed according to the City's development standards. No public services, facilities, or utilities will be negatively impacted. The vacation complies with this criterion.

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

**FINDING:** The easements to be vacated are in areas that will be dedicated back to the City as public right-of-way. The right-of-way will accommodate street improvements and utilities that are all constructed according to City development standards. No access issues are being created by this vacation. 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:** This vacation is eliminating three existing easements that will be dedicated back to the City as public right-of-way. The right-of-way is along existing roads that are being improved. No connectivity or block length changes will take place as a result of this vacation. 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 proceedings 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 July 25, 2022, and published in the *Statesman-Journal* on July 25, 2022, and August 1, 2022.

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

**FINDING:** Vacation of these easements, which will be dedicated back to the City as public right-of-way, is compatible and consistent with the intent, goals, and policies of the Salem TSP and the SRC. The proposed vacation complies with this criterion.

**BACKGROUND:**

Street improvements are being constructed on Reed Road SE in the vicinity of Strong Road SE and Lindburg Road SE as part of The Grove Apartments. The City has expanded the scope of street and utility improvements and is working with the developer on the road improvement project through cost-sharing with City-controlled Development District Funds. Three existing easements are located within the area that are needed for the roadway improvement. These easements are located within areas that will be dedicated to the City as public right-of-way. The vacation is necessary because the City cannot accept dedication of right-of-way that is encumbered with easements.

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

Attachments:

1. Resolution No. 2022-25
2. Vicinity Map