



## Staff Report

**File #:** 23-116  
**Version:** 1

**Date:** 3/27/2023  
**Item #:** 4.a.

**TO:** Mayor and City Council  
**THROUGH:** Keith Stahley, City Manager  
**FROM:** Brian D. Martin, PE, Acting Public Works Director

### SUBJECT:

Public hearing regarding the vacation of 1<sup>st</sup> Street NW.

Ward(s): 1  
Councilor(s): Stapleton  
Neighborhood(s): West Salem NA  
Result Area(s): Safe, Reliable, and Efficient Infrastructure

### SUMMARY:

Public hearing to consider the vacation of the remaining section of 1<sup>st</sup> Street NW, east of Murlark Street NW. This section of roadway (approximately 300 feet) is underimproved and provides limited transportation function. Vacating 1<sup>st</sup> Street NW will help spur development in the surrounding area.

### ISSUE:

Shall City Council approve the vacation of 1<sup>st</sup> Street NW with the condition that access and utility easements be provided?

### RECOMMENDATION:

Approve the vacation of 1<sup>st</sup> Street NW with the condition that access and utility easements be provided.

### FACTS AND FINDINGS:

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.

Resolution 2023-04 (Attachment 1) initiating this vacation was adopted by Council on February 27, 2023.

Notice of the proposed vacation was sent to all potentially affected public utilities. Public utilities exist within this right-of-way and will require provision of utility easements. The area proposed for vacation retains sufficient right-of-way at the eastern end to construct a cul-de-sac at the southern terminus of Melinda Avenue NW that extends south from 2<sup>nd</sup> Street NW (Attachment 2, Vicinity Map). An access easement will be retained to accommodate continued access to businesses adjacent to the area to be vacated.

### 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 since Edgewater and 2<sup>nd</sup> Streets NW, both parallel to 1<sup>st</sup> Street NW, already perform the function of connecting Murlark Avenue NW and Wallace Road NW. The area proposed for vacation is presently used by one business to access rear parking with building frontage on Edgewater Street NW. An access easement will be required to accommodate continued access to businesses adjacent to the area being vacated.

**Utilities:** A 10-inch sanitary sewer line exists 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 this utility as a condition of the vacation.

With the condition to provide easements for access and sanitary sewer, 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:**

**Transportation:** Vacating this remnant length of an unimproved street will not negatively impact vehicle and pedestrian connectivity. This street is presently used by one business to access rear parking with building frontage on Edgewater Street NW. The area proposed for vacation retains sufficient right-of-way at the eastern end to construct a cul-de-sac at the southern terminus of Melinda Avenue NW that extends south from 2<sup>nd</sup> Street NW. An access easement will be retained to

accommodate continued access to businesses adjacent to the area being vacated.

*Utilities:* A 10-inch sanitary sewer line exists 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 this utility as a condition of the vacation.

With the condition to provide easements for access and sanitary sewer, 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:**

*Transportation:* Edgewater and 2<sup>nd</sup> Streets NW, both parallel to 1<sup>st</sup> Street NW, provide the needed connection between Murlark Avenue NW and Wallace Road NW. An access easement will be retained to accommodate continued access to businesses adjacent to the area being vacated.

*Utilities:* A 10-inch sanitary sewer line exists 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 this utility as a condition of the vacation.

With the condition to provide easements for access and sanitary sewer, 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 surrounding properties remain vacant or blighted because any effort to construct a new building on any abutting lot would require that 1st Street NW be constructed to City of Salem local street classification standards. Vacating this right-of-way will support future best use and development of abutting property. An access easement will be retained to accommodate continued access to businesses adjacent to the area being vacated.

With the condition to provide an access easement, 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:** The Unified Development Code standards for street spacing is contained in SRC 803.030. If the right-of-way for 1<sup>st</sup> Street NW is vacated, the street spacing between Edgewater and 2<sup>nd</sup> Streets NW will be approximately 260 feet. The resultant block length complies with the street spacing standards contained in SRC 803.030.

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 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 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 March 13, 2023, and published in the *Statesman-Journal* on March 13, 2023, and March 20, 2023.

The vacation complies with this criterion.

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

**FINDING:** Vacation of 1<sup>st</sup> Street NW would support development in an area that is currently vacant or blighted. Any current effort to construct a new building on any abutting lot would require that 1<sup>st</sup> Street NW be constructed to City of Salem local street classification standards. Vacating 1<sup>st</sup> Street NW would remove that burden and encourage development of the vacant or blighted adjacent areas. The public interest would not be prejudiced by the vacation.

The vacation complies with this criterion.

## **BACKGROUND:**

1<sup>st</sup> Street NW is located in west Salem within the boundary of the West Salem Urban Renewal Area. On September 12, 2022, the Urban Renewal Agency approved funding to engage an engineering consultant to prepare the materials to initiate vacation of the remaining 300 feet of 1st Street NW east of Murlark Avenue NW. The section of 1<sup>st</sup> Street between Melinda Avenue NW and Wallace Road NW was previously vacated by City Council in 2015 associated with construction of the Goodwill development.

West Salem Urban Renewal Area funds have been allocated to construct public utilities and street improvements along 2nd Street NW to aid multi-modal circulation through this area and support redevelopment.

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

**Attachments:**

1. Resolution No. 2023-04
2. Vicinity Map