

ORDINANCE BILL NO. 79-07

1
2 AN ORDINANCE VACATING AN ALLEY THAT RUNS FROM GAINES STREET NE TO
3 HOOD STREET NE BETWEEN BROADWAY STREET NE AND 5TH STREET NE, SALEM,
4 OREGON, AND DECLARING AN EMERGENCY.

5 *The City of Salem ordains as follows:*

6 **Section 1. Findings.**

7 (a) The City of Salem initiated vacation of an alley that runs from Gaines Street NE to
8 Hood Street NE between Broadway Street NE and 5th Street NE, Salem, Oregon (the
9 Property), more particularly described as follows:

10 A 16.00-foot wide alley within Block 7, Plat of North Salem, with additions,
11 in the Northwest one-quarter of Section 23, Township 7 South, Range 3 West,
12 Willamette Meridian, in the City of Salem, County of Marion, State of
Oregon, said alley being more particularly described as follows, to wit:

13 Beginning at the Northwest corner of Lot 1, Block 7, Plat of North Salem,
14 with additions, recorded March 15, 1871, in Book 1 at Page 34, Plat Records
15 of Marion County; thence South 19°30' West along the westerly boundary of
16 Lots 1 through 4 within said Block 7, a distance of 265.6 feet to the Southwest
17 corner of Lot 4, Block 7 and the northerly right-of-way of Gaines Street NE
18 (originally platted as Oak Street); thence North 70°30' West along the
19 northerly right-of-way of Gaines Street NE, a distance of 16.0 feet to the
20 Southeast corner of Lot 5, Block 7; thence North 19°30' East along the
21 easterly boundary of Lots 5 through 8, within said Block 7, a distance of 265.6
22 to the Northeast corner of Lot 8, Block 7 and the southerly right-of-way of
23 Hood Street NE; thence South 70°30' East along the southerly right-of-way of
24 Hood Street NE, a distance of 16.0 feet to the Northwest corner of Lot 1 and
25 the point of beginning, and containing 4,250 square feet, more or less.

26 (b) The Planning Commission reviewed the proposed vacation of the Property on January
27 9, 2007 and recommended approval of the vacation, subject to the condition reserving public
28 utility easements for maintenance of existing utilities.

(c) A public hearing before the City Council to consider the vacation of the Property was
set for February 5, 2007, and notice of the hearing was provided as required by ORS
271.110(1) and (2).

(d) Hearing upon the proposed vacation of the Property was held on February 5, 2007, at
which time all interested persons were afforded the opportunity to present evidence and
provide testimony in favor of, or in opposition to, the proposed vacation, and upon

1 consideration of such evidence and testimony and after due deliberation, the City Council
2 finds as follows:

3 (1) The combined Property contains approximately 4,250 square feet and is
4 located in an area that is zoned Retail/Commercial within the Broadway/High Street
5 Overlay Zone.

6 (2) The proposed vacation will not degrade transportation services or accessibility
7 in the surrounding neighborhood. The alley proposed for vacation is currently open
8 but provides access only to those properties that are a part of the proposed
9 development project.

10 (3) All utilities have been notified of these proceedings to allow protection of
11 their facilities. A public utility easement should be reserved to accommodate existing
12 and future municipal utilities, public utilities as defined by ORS 757.005, and
13 telecommunications carriers as defined by ORS 133.721 (collectively, "municipal and
14 public utilities").

15 (4) The proposed vacation complies with the Salem Area Comprehensive Plan.

16 (5) The proposed vacation will in no way impair safe and convenient pedestrian,
17 bicycle and vehicular circulation, or transportation system connectivity and complies
18 with the "Transportation Planning Rule," OAR 660-012-0000 through OAR 660-012-
19 0070.

20 (6) The Property is not needed for future roadway purposes, and public interest
21 will not be prejudiced if the Property is vacated.

22 (7) The vacation will not substantially impact the market value of abutting
23 properties such that damages would be required to be paid pursuant to ORS
24 271.130(1); any impact would be to increase the market value of abutting properties.

25 (8) The alley is paved but there are no curbs, gutters, or sidewalks along the alley.
26 The loss of this alley is balanced by the proposed project, which accomplishes the
27 goals of the Urban Renewal Agency for this tract of land, including incorporating a
28 vacated alley into the project.

1 **Section 2. Vacation.** That certain Property more particularly described in Section 1(a) of this
2 Ordinance is hereby vacated, subject to the condition set forth in Section 3 of this Ordinance.

3 **Section 3. Public Utility Easement Reserved.** There is hereby reserved, under, over, upon and
4 across the entire Property described in Section 1(a) of this Ordinance, a non-exclusive, perpetual,
5 public utility easement, for the construction, maintenance, repair and replacement of municipal and
6 public utility facilities, including, but not limited to, lines and mains for water, sewer,
7 telecommunications, electrical and natural gas.

8 **Section 4. Emergency Clause.** This act being necessary for the immediate preservation of the
9 public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full
10 force and effect from and after the date of its passage.

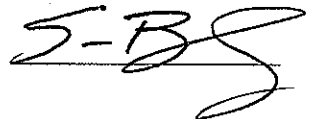
11 **Section 5. Vacation Effective Date.** This vacation shall not be effective until the City Recorder has
12 satisfied all requirements of SRC 76.144, and a certified copy of this ordinance vacating the Property
13 is recorded by the City Recorder with the county clerk, assessor and surveyor. The City Recorder
14 shall provide copies to the Marion County Assessor, the Marion County Surveyor and any affected
15 public utility.

16 PASSED by the Council this _____ day of _____, 2007.

17 ATTEST:

18
19
20 City Recorder

Approved by City Attorney:



21 Checked by: D. Baltz

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