

ORDINANCE BILL NO. 80-07

AN ORDINANCE VACATING AN UNOPENED MCGILCHRIST STREET SE RIGHT-OF-WAY,
WEST OF 12TH STREET SE, SALEM, OREGON.

The City of Salem ordains as follows:

Section 1. Findings.

(a) Boulder Creek LLC filed a petition to vacate an unopened McGilchrist Street SE
right-of-way, west of 12th Street SE, Salem, Oregon, more particularly described as:

Beginning at the point of intersection of the south line of Lot 14, Block 1,
MORNINGSIDE ADDITION to the City of Salem with the west right-of-way
line of 12TH Street S.E. in Section 34, Township 7 South, Range 3 West of
the Willamette Meridian in Marion County, Oregon;

Thence westerly along the southerly line of said Lot 14 and the southerly line
of Lot 15 in said Block 1, a distance of 316 feet, more or less, to the
Southwest corner of said Lot 15, and being on the east line of Bluff Avenue
S.E.;

Thence southerly a distance of 60.00 feet, more or less, to the Northwest
corner of Lot 16 in Block 2 of said MORNINGSIDE ADDITION;
Thence easterly along the northerly line of Lot 16 and Lot 1 in said Block 2, a
distance of 316.00 feet, more or less, to the westerly right-of-way line of
aforesaid 12TH Street S.E.;

Thence northerly along said westerly right-of-way line, a distance of 60.00
feet, more or less, to the point of beginning.

The above described tract of land contains 18,960 square feet of land, more or
less.

(b) The Planning Commission reviewed the proposed vacation of the Property on
November 21, 2006 and recommended approval of the vacation, subject to the conditions of
reserving an access easement and a municipal public utility easement for maintenance of
existing utilities and payment of an assessment of special benefit.

(c) A public hearing before the City Council to consider the vacation of the Property was
set for December 11, 2006, 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 opened on December 11,
2006 and continued to 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

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

3 (1) The combined Property contains approximately 18,960 square feet and is
4 bordered by properties that are zoned Retail Commercial, Commercial Office, and
5 Public Amusement..

6 (2) The proposed vacation will not degrade transportation services or accessibility
7 in the surrounding neighborhood. The right-of-way is unimproved and does not
8 appear to have been used in the past for roadway purposes.

9 (3) All utilities have been notified of these proceedings to allow protection of
10 their facilities. A 10 foot by 30 foot municipal public utility easement in the
11 southeast corner of the property should be reserved to accommodate existing and
12 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 **Section 2. Vacation.** That certain Property more particularly described in Section 1(a) of this
26 Ordinance is hereby vacated, subject to the conditions set forth in Section 3 and Section 4 of this
27 Ordinance.

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

6 Beginning at the point of intersection of the north line of Lot 1, Block 2,
7 MORNINGSIDE ADDITION to the City of Salem with the west right-of-way
8 line of 12TH Street S.E. in Section 34, Township 7 South, Range 3 West of
9 the Willamette Meridian in Marion County, Oregon;

10 Thence westerly along the northerly line of said Lot 1 in said Block 2,
11 a distance of 30.00 feet;

12 Thence northerly and perpendicular to the northerly line of said Lot 1
13 in said Block 2, a distance of 10.00 feet;

14 Thence easterly and parallel with the northerly line of said Lot 1 in
15 said Block 2, a distance of 30.00 feet, more or less, to the westerly
16 right-of-way line of aforesaid 12TH Street S.E.;

17 Thence southerly along said westerly right-of-way line, a distance of
18 10.00 feet, more or less, to the point of beginning.

19 The above described tract of land contains 300 square feet of land,
20 more or less.

21 **Section 4. Access Easement Reserved.** There is hereby reserved, under, over, upon and across the
22 Property described in Section 1(a) of this Ordinance, a non-exclusive, perpetual, access easement, for
23 ingress and egress.

24 **Section 5. Assessment of Special Benefit.** The Council hereby finds that the real properties
25 abutting the Property vacated herein are and have been benefitted by such vacation in the full sum of
26 \$28,440, which sum together with the name of the owners of such abutting real properties, and
27 descriptions thereof, is set out herein and the Council hereby declares the properties are the only
28 benefitted properties as a result of the vacation, and there is hereby assessed upon and against such
parcels of land described the amount of \$28,440:

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<u>Owner</u>	<u>Map No.</u>	<u>Tax Lot</u>
Boulder Creek, LLC	73W34DA	800
Boulder Creek, LLC	73W34DA	900
Boulder Creek, LLC	73W34DA	1000

Section 6. Vacation Effective Date. This vacation shall not be effective until the City Recorder has satisfied all requirements of SRC 76.144, and a certified copy of this ordinance vacating the Property is recorded by the City Recorder with the county clerk, assessor and surveyor. The City Recorder shall provide copies to the Marion County Assessor, the Marion County Surveyor and any affected public utility.

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

ATTEST:

City Recorder
 Approved by City Attorney: 

Checked by: D. Baltz

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