

August 19, 2008

TO: CHRIS JORDAN, CITY MANAGER  
FROM: TOM SOPPE, ASSOCIATE PLANNER  
SUBJECT: MIS-07-21, A PROPOSED STREET VACATION ON LORINDA LANE  
AND LORINDA COURT

#### PURPOSE

The City Council is being asked to approve a proposed street vacation. The City of West Linn is the applicant for this street vacation. The area to be vacated includes the right of way of Lorinda Lane between the private section of Lorinda Lane and the dead end of the Lorinda Lane. The area to be vacated also includes the entirety of the dead end street Lorinda Court which is a dead end off of this section of Lorinda Lane. The entirety of Lorinda Lane and Lorinda Court were intended to be private streets. The plat for the sections to be vacated accidentally included a section dedicating them to the City. Therefore these public sections of Lorinda Lane and Lorinda Court constitute a ROW "island" that does not connect to other City ROW except via the private section of Lorinda Lane. These streets have never been built to City standards and are not legally accessible by the City.

#### BACKGROUND

On June 23, 2008, the West Linn City Council passed a motion to direct the City Manager to commence a City-initiated public ROW vacation of Lorinda Court and this upper adjacent portion of Lorinda Lane. The process for considering street vacations is set forth in Oregon Revised Statutes (ORS) 271. If it chooses to do so, a city may vacate, or give up, right of way for a city street if it follows the procedures and makes the findings required by ORS Section 271.

#### DISCUSSION

As discussed above, the streets were dedicated by mistake in the plat, they are not built to City standards, and the City has no legal access to them via the private section of Lorinda Lane. A majority of residents of the subdivision as a whole support this proposed vacation. The City intends to preserve a utility easement over the entire ROW to be vacated. The ROW to be vacated and the identical easement to be preserved are described and mapped in the attached application for street vacation.

#### NECESSARY FINDINGS

Oregon Revised Statute 271.110 states that:

*“At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.”*

Thus, there are three findings to be made:

*1. The consent of the owners of the requisite area has been obtained.*

ORS 271.130(1) states:

The city governing body may initiate vacation proceedings authorized by ORS 271.080 and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110, but such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provision for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

Therefore the City as the applicant need not obtain the petition of the property owners of the affected area or the permission of the property owners that abut the ROW segments to be vacated. Staff has not been contacted by anyone who may be opposed to the vacation.

*2. Notice has been duly given.*

The city has provided the notice of the proposed street vacation as is required by the statute. This notice consists of newspaper advertisements for at least two weeks preceding the public hearing, and signs posted at either end of the area to be vacated advertising the proposal and the public hearing.

*3. The public interest will not be prejudiced by the vacation of the street or parts thereof.*

The subdivision was intended as a series of private streets, not public, per the City's planning decisions when it was proposed. Currently the public sections of the streets, dedicated by mistake, constitute an island of ROW that is not legally accessible from the remainder of the City ROW system and that is not built to City standards. The City is released from maintenance and repair responsibility from a street that is built as a private street to a lesser standard and that is not legally accessible to the Public Works Department to do repair and maintenance.

Overall the public interest will not be prejudiced by the vacation of the ROW.

#### OPTIONS

The City Council has the option to approve, approve with reservations, approve in part, or deny the proposed street vacation. Staff sees no reason to approve in part or with reservations, so the choice is either to approve or deny the application.

If approved, this section of Lorinda Lane and the entirety of Lorinda Court will be vacated as ROWs and will become private streets along with the rest of the Le Chevalier subdivision.

If denied, the ROW would continue to exist here, meaning it will continue to be an island of ROW not legally accessible by the City from other ROWs and not built to City standards.

#### RECOMMENDATION

Based upon this analysis, staff recommends adoption of the attached ordinance approving the proposed street vacation.