



CITY OF
West Linn

Memorandum

Date: November 23, 2009

To: Chris Jordan, City Manager

From: Peter Spir, Associate Planner

Subject: Public hearing to vacate a portion of the Leonard Street right-of-way (ROW) between Exeter Street and Grant Street per Oregon Revised Statutes (ORS) 271.

PURPOSE:

The applicant proposes to vacate an undeveloped portion of the Leonard Street ROW between Grant Street and Exeter Street. There is a steep slope at the east end of the ROW making it impassible to motor vehicles but a path for pedestrians and bicycles could be reserved along with a sanitary sewer utility easement.

BACKGROUND

Leonard Street ROW was established as part of the Weslynn Plat of 1889. The steep grades in this ROW combined with the various alternate routes afforded by the grid pattern of streets meant that Leonard Street was never developed. Over the years, abutting property owners' gardens, fences and accessory structures encroached upon the ROW. The City of West Linn has a sanitary sewer line extending through this ROW. There are no properties that rely upon this ROW for access.

On October 26, 2009, West Linn City Council approved a public hearing to consider this street vacation application.

DISCUSSION

The procedures for street vacation are exclusively found in Oregon Revised Statute section 271. These procedures have been substantially unchanged for decades. ORS 271 requires that 100% of property owners whose lots abut the Leonard Street ROW must support the ROW vacation. The applicant has the approvals and signatures of 100% of the abutting property owners.

The vacation also must be supported by two-thirds or 66.6% of the “affected area” as defined in ORS 271.080(2). (see map on attachment 3, page 5) The affected area comprises 288,615 square feet. Owners of 219,329 square feet, (or 75.9%) support the vacation.

Although the City owns the ROW, the conveyance of the ROW to the City in 1889 was done with the expectation that it would be used for construction of a public street and utilities. In the event that these improvements are not fully installed, the ORS explains that the city may, through the vacation process, transfer the ROW back to the abutting properties or, in certain cases, to property owners who can show legal claim to the entire width of the ROW.

The City has never sought monetary compensation for ROW in the past 20 years. The City did require the installation of a bike path in 1990 near Long Street and most recently, the installation of a fence delineating a future path on Skye Parkway.

The principal applicant, Helen Pevzner, owns a house at 4410 Grant Street which abuts the Leonard Street ROW proposed to be vacated. Vacating the ROW will give her legal use of a grassed area for a garden and a water treatment bioswale. Part of her fence already extends into the ROW. The other applicants are participating as a way to legally expand their properties into areas that they have already cultivated as gardens or for other uses.

As previously noted, the city has a sanitary sewer line in the ROW. The City would retain a 20-foot wide utility easement. The grades are too steep especially at the east end of the ROW to accommodate a public street for vehicles but it may be appropriate to reserve a public access easement for future pedestrian and bicycle use.

OPTIONS

- City Council finds that the proposal has merit and approves the vacation with conditions that the 20-foot utility and public access easement be conveyed to the City.
- City Council finds the proposal has no merit or does not want to forego future public use of the ROW and denies the vacation.

RECOMMENDATION

- The City Engineering and Planning departments support the vacation with the condition that a 20-foot wide utility and public access easement be conveyed to the City.

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