

**WEST LINN CITY COUNCIL
FINAL DECISION AND ORDER**

MISC-17-08

**IN THE MATTER OF THE VACATION OF A PORTION OF
RIGHT-OF-WAY (ROW) ON WILLSON STREET**

I. Overview

The applicant, Jeremy Barnett, proposed to vacate an undeveloped portion of Willson Street, located in the City of West Linn, Clackamas County, Oregon, adjacent to tax lots 5800, 7200, 2402, 2404 and 2600 of Assessor's Map 22E 30CB, as more particularly described in the Staff Report to the Council for December 11, 2017, and attached exhibits.

Street ROW vacations are reviewed and decided by City Council by the authority of Community Development Code (CDC) 92.010(A) and Oregon Revised Statute (ORS) Chapter 271 and acting as the City's "*Governing Body*" (ORS 271.005 (1)). Street ROW vacations are a two-step quasi-judicial process which encompass and require findings that: 1) there is consent of the owners of all abutting property and of not less than two-thirds in the area of the real property affected, 2) notice was proper, and 3) the vacation is in the public interest. (ORS 271.120).

At the meeting on December 11, 2017, the Council held a public hearing conducted under the procedures of Community Development Code (CDC) Chapter 99. The hearing commenced with a staff report presented by Jennifer Arnold, Associate Planner. The applicant then gave a brief presentation. Rory Bialostosky gave public testimony regarding the importance of keeping the pedestrian access trail within the right-of-way proposed to be vacated. The hearing was closed.

After deliberations, the Council approved a motion to approve the application by a 5-0 vote with the addition of the following amendments to the ordinance as proposed by Mayor Axelrod and Councilor Perry as follows:

WHEREAS, the City Council found that the petition was complete because 100 percent of abutting property owners support the vacation and over two-thirds of property within the ORS defined affected area support the vacation; and,

...

SECTION 2. Establish Public Utility and Trail Easement. All of the vacated right-of-ways described in Exhibits A and B, are subject to dedication of a public utility easement for their entirety and a pedestrian trail easement that meets the West Linn Comprehensive Trails Master Plan requirements.

II. Applicable Approval Criteria

The Council finds that the approval criteria of ORS 271.120 applies.

III. Findings

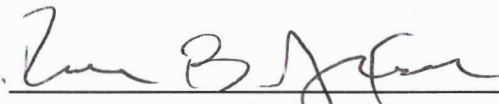
The City Council made the following findings which address the approval criteria:

1. The applicants obtained the requisite signatures of consent. The proposed street ROW vacation has the consent of 100 percent of the abutting property owners as required by ORS 271.080(2). The "affected area" was measured out by staff and is shown in Exhibit C. The "affected area" comprises 378,997 square feet. The square footage of properties supporting the vacation totals 263,952 square feet, which represents 69 percent. This amount exceeds the minimum two-thirds or 66.6 percent. All property owner signatures were notarized and validated.
2. The notice was correct. Notice was published in the West Linn Tidings newspaper once each week for the two consecutive weeks prior to the hearing. Staff posted a "Notice of Street Vacation" at each end of the ROWs 14 days prior to the hearing date.
3. The public interest will not be prejudiced by the vacation because: (a) the right-of-way does not serve any current or future purposes with the exception of a public utility and trail easement to be established on this right-of-way; (b) vacating the right-of-way, eliminates the requirement for the applicant to construct half street improvements for the frontage of property at 5685 West A Street along the Willson Street right-of-way, and the vacation allows the Property to take access off of West A Street.


The Council also accepts, adopts, and incorporates, by reference, the Staff Report to the Council for December 11, 2017, in its entirety, as findings demonstrating that the approval criteria for this application is met.

IV. Order

Based upon these findings of fact and the above-referenced evidence, the Council concludes that the application satisfies all applicable approval criteria. Accordingly, the Council approves the application for Case No. MISC-17-08 and the adoption of Ordinance No. 1668 as amended.



RUSSELL B. AXELROD, MAYOR



DATE

This decision may be appealed to the Land Use Board of Appeals in accordance with the applicable rules and statutes.

Mailed this 14th day of December, 2017.

Therefore, this decision becomes effective 21 days from the date of approval at 5 p.m.,
January 4, 2018.