



COMMUNITY DEVELOPMENT

333 Broadalbin Street SW, PO Box 490, Albany, Oregon 97321-0144 | BUILDING 541-917-7553 | PLANNING 541-917-7550

Staff Report

Vacation of Street

VC-01-22

July 11, 2022

HEARING BODIES:	Planning Commission	City Council
HEARING DATES:	Monday, July 18, 2022	Wednesday, August 10, 2022
HEARING TIMES:	5:15 p.m.	6:00 p.m.
HEARING LOCATION:	Planning Commission, Monday, July 18, 2022 Council Chambers, Albany City Hall, 333 Broadalbin Street SW <u>Virtual Option:</u> At 5:15 p.m., join the meeting using the link below: https://council.cityofalbany.net/groups/plc/zoom <u>Phone:</u> 1-253-215-8782; meeting id: 837-8633-4863; passcode: 464432 <u>In-person:</u> Appear in person at the meeting and register to speak using the sign-up sheet.	

City Council, Wednesday, August 10, 2022

Council Chambers, Albany City Hall, 333 Broadalbin Street SW

Virtual Option:

To testify, please email cdaa@cityofalbany.net by **noon the day of the meeting** with your name, address, phone number, and if you are speaking for, against, or neutral on the topic.

In-person: Appear in person at the meeting and register to speak using the sign-up sheet.

Watch Livestream at 6:00 p.m.: <http://www.cityofalbany.net/livestream>

Summary

On March 7, 2022, the Albany City Council initiated the vacation of Jefferson Street SE, north of Ninth Avenue and south of Pacific Boulevard.

The planning commission's recommendation on the proposal will be presented to the city council, who is the final decision-maker on this request.

Staff recommends the planning commission make a recommendation to the city council to approve the vacation of the right-of-way.

Application Information

Proposal:	Right-of-way vacation of the southern 150 feet of Jefferson Street SE, north of Ninth Avenue.
Review Body:	Planning Commission and City Council (Type IV-Q, Quasi-Judicial Decision)
Report Prepared By:	Matthew Ruettgers, Community Development Director
Property Owner:	City of Albany, 333 Broadalbin Street SE, Albany, OR 97321



Applicant:	Gordon Steffensmeier, Civil Engineer III, on behalf of the City of Albany 333 Broadalbin Street SE, Albany, OR 97321
Address/Location:	East of 816, 824, and 834 Jefferson Street SE and west of 615 Ninth Avenue SE.
Map/Tax Lot:	Linn County Assessor's Map No. 11S-03W-07AB; Tax Lots 300, 400, 500, and 6400.
Zoning:	LI (Light Industrial)
Comprehensive Plan Map:	Light Industrial
Acres:	N/A
Existing Land Use:	Single-Family Residential, Vacant, Homeless Shelter
Neighborhood:	Jackson Hill
Surrounding Uses:	North: State Highway South: Ninth Avenue right-of-way East: Homeless Shelter West: Single-Family Residence and Vacant
Prior History:	No prior land use cases.

Review Process and Appeals

The proposed vacation is processed through a Type IV quasi-judicial land use review process. The planning commission will hold a public hearing to consider the proposed vacation and will make a recommendation to the city council. The city council will hold a subsequent public hearing to consider the proposed vacation. After closing the public hearing, the city council will deliberate and make a final decision.

Within five days of the city council's final decision on this application, the community development director will provide written notice of decision to the applicant and any other parties entitled to notice. The city council's decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) if a person with standing files a notice of intent to appeal not later than 21 days after the notice of decision is mailed (Albany Development Code (ADC) 1.250).

Public Notice

A public notice was mailed to surrounding property owners within 200 or 400 feet of the subject portion of right-of-way on June 28, 2022, in accordance with Oregon Revised Statutes (ORS) 271 and ADC 1.250. A public notice was posted on the portion of right-of-way to be vacated on July 7, 2022, in accordance with ADC 1.250(4). Notice of the public hearing was published in the *Albany Democrat-Herald* on July 1, 2022, and July 11, 2022, in accordance with ADC 1.250(4).

The staff report for the proposed vacation was posted on the City's website on July 11, 2022, at least seven days before the first evidentiary public hearing. At the time this report was published, the Albany Planning Division had received written comments from one adjacent property owner, Tina Vanderburg, the owner of 834 Jefferson Street SE, regarding the proposed project.

Analysis of Development Code Criteria

The Albany Development Code (ADC or Code) includes the following review criteria, which must be met for this application to be approved. Code criteria are written in **bold** followed by findings, conclusions, and conditions of approval where conditions are necessary to meet the review criteria.

Vacations Review Criteria (ADC 2.630)

Criteria 1

The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan, city transportation or public facility plan.

Findings of Fact

1.1 The street to be vacated does not appear on any street plan or City facility plan.

- 1.2 The properties that the vacated area will revert to are the properties immediately east and west of the right-of-way.
- 1.3 The following Comprehensive Plan policies have been identified as relevant to this review criterion:
GOAL 11: Public Facilities and Services
 - a. Prohibit the construction of structures over public water lines and easements.
 - b. Prohibit the construction of structures over drainage improvements and easements.
 - c. Prohibit the construction of structures over public wastewater lines and easements.
- 1.4 Sanitary Sewer. Sanitary sewer utility maps indicate a sewer line lies within the proposed vacated right-of-way.
- 1.5 Water. There are two water service lines within the right-of-way proposed for vacation.
- 1.6 Storm Drainage. There are no storm drainage lines within the right-of-way proposed for vacation.

Conclusions

- 1.1 A sewer line and water lines exist within the right-of-way proposed for vacation.
- 1.2 The proposed vacation does not conflict with Albany's Transportation System Plan (TSP).
- 1.3 This criterion is met with the following condition.

Condition

Condition 1 A 66-foot public utility easement over the vacated right-of-way shall be retained.

Criteria 2

The requested vacation will not have a negative effect on access between public rights-of-way or to existing properties, potential lots, public facilities or utilities.

Findings of Fact

- 2.1 All properties adjacent to the right-of-way proposed for vacation will have access to Ninth Avenue SE if an access easement is retained over the vacated right-of-way. Vacating the right-of-way will not have a negative effect on any properties.
- 2.2 City of Albany staff have determined that, in order to provide two lanes for ingress and egress, the center 26 feet of the 66-foot-wide right-of-way needs to be retained as a public access easement.

Conclusions

- 2.1 The proposed street vacation will not negatively impact access between public right-of-way and will not eliminate street access to any parcels.
- 2.2 This criterion is met with the following condition.

Condition

Condition 2 An access easement over the center 26 feet of the vacated right-of-way shall be retained.

Criteria 3

The requested vacation will not have a negative effect on traffic circulation or emergency service protection.

Findings of Fact

- 3.1 As discussed above, the vacation will not have a negative impact on access between rights-of-way or remove access to any existing parcels.

Conclusions

- 3.1 The requested vacation will not have a negative effect on traffic circulation or emergency vehicle service protection.
- 3.2 This criterion is met without conditions.

Criteria 4

The portion of the right-of-way that is to be vacated will be brought into compliance with Code requirements, such as landscaping, driveway access, and reconstruction of access for fire safety.

Findings of Fact

4.1 The vacated right-of-way will be added to the adjacent lots. No changes are needed to bring the vacated area into compliance.

Conclusions

4.1 The vacated right-of-way will be in development code compliance without changes.

4.2 This criterion is met without conditions.

Criteria 5

The public interest, present and future, will be best served by approval of the proposed vacation.

Findings of Fact

5.1 The vacated right-of-way will become part of adjacent lots, rather than being a public right-of-way.

5.2 It is in the public interest to have the unused right-of-way incorporated into the adjacent lots.

Conclusion

5.1 Approving the right-of-way vacation will allow the right-of-way to become private property.

Overall Conclusion

As proposed, the application for a street vacation satisfies all of the applicable review criteria as outlined in this report.

Conditions of Approval

Condition 1 A 66-foot public utility easement over the vacated right-of-way shall be retained.

Condition 2 An access easement over the center 26 feet of the vacated right-of-way shall be retained.

Options for the Planning Commission

The planning commission has three options with respect to the proposed right-of-way vacation:

Option 1: Recommend that the city council approve request as proposed;

Option 2: Recommend that the city council approve the request with conditions of approval; or

Option 3: Recommend that the city council deny the request.

Motion

Based on the analysis in this report, staff suggests that the planning commission recommend that the city council approve the requested right-of-way vacation as described in this staff report, with one condition specific to the need for retaining a public utility easement over the entire right-of-way, and the other specific to an access easement over the center 26 feet of the 66-foot right-of-way. Below is a recommended motion to this effect:

I move that the planning commission recommend that the city council approve with conditions, the land use application for right-of-way vacation of a 66-foot-wide street under planning file VC-01-22, as described in the July 11, 2022, staff report. This motion is based on the findings and conclusions in the staff report, and the findings in support of the application made by the planning commission during deliberations on this matter.

Attachments

Legal description of proposed right-of-way vacation, including location map.

Attachment A

Legal Description of Jefferson Street right-of-way being vacated

The southerly 150 feet of Jefferson Street right-of-way lying north of Ninth Avenue. Said right-of-way also lying between Blocks 30 and 19 in Hackelman's Second Addition to Albany, Oregon. Said right-of-way also lying southerly of the northwest corner of the property described in Linn County, Oregon, deed record MF 1481-0416, and southerly of the northeast corner of that property described in Linn County, Oregon, deed records 2017-22485. As shown on the map below.

