



ORDINANCE NO. 5964

AN ORDINANCE VACATING THE ALLEY IN BLOCK 6 OF WINONA PARK SUBDIVISION, IN ALBANY, OREGON.

WHEREAS, the notice of public hearing was mailed on May 25, 2021, published in the Albany Democrat-Herald on June 7, 2021, and June 14, 2021, and posted at the site, as described in Section 1 below, on May 26, 2021, as required by state and local law; and

WHEREAS, the Albany Planning Commission held a public hearing on June 14, 2021, and recommended that the city council approve the proposed right-of-way vacation; and

WHEREAS, the Albany City Council held a public hearing on July 14, 2021, reviewed the testimony presented at the public hearing and the findings in the staff report, and deliberated on the vacation.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1: Subject Property. A 16-foot-wide public alley right-of-way in Block 6 of Winona Park Subdivision, between 12th Avenue SE, 13th Avenue SE, and Madison Street SE. (File VC-04-20) (see legal description and map on attached Exhibit A), is hereby vacated.

Section 2: Transfer of Vacated Property. The vacated right-of-way will revert to the properties east and west of the right-of-way.

Section 3: Findings. The findings, conclusions, and conditions in the staff report are hereby adopted as the council's own as presented in Exhibit B of this ordinance.

Section 4: Easement Retained. The City retains a utility easement and a sewer easement over the right-of-way being vacated.


Section 5: The City recorder shall, within 10 days of the effective date of this ordinance, file a certified copy of the ordinance with the Linn County clerk, Linn County assessor, and Linn County surveyor (ORS 271.150). The petitioner for the vacation shall bear the recording costs.

Passed by the Council: July 14, 2021

Approved by the Mayor: July 14, 2021

Effective Date: August 13, 2021



  
\_\_\_\_\_  
Mayor

ATTEST:

Mary A. Dibble  
\_\_\_\_\_  
City Clerk

---

## **Exhibit A**

### **Legal Description for 16-foot-wide Alley right-of-way being vacated from 12th Avenue SE to 13th Avenue SE between Hill Street SE and Madison Street SE**

The 16 foot by 300 foot alley in Block 6 of Winona Park subdivision, Albany, Linn County, Oregon. As shown on the map below.

# Proposed Alley Right-of-Way Vacation



# Exhibit B



## 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 Alleyway

VC-04-20

June 7, 2021

|                   |   |                          |
|-------------------|---|--------------------------|
| HEARING BODIES:   | Planning Commission   | City Council             |
| HEARING DATES:    | Monday, June 14, 2021   | Wednesday, July 14, 2021 |
| HEARING TIMES:    | 5:15 P.M.   | 6:00 P.M.                |
| HEARING LOCATION: | Due to Governor Brown's Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection.<br>At the scheduled start of the hearing, join with the GoToMeeting app on your computer, tablet, or smartphone (using your device's microphone and speakers):<br>PLANNING COMMISSION, Monday, June 14, 2021<br><a href="https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc">https://www.gotomeet.me/CommunityDevelopmentCityofAlbany/pc</a><br>If you wish to dial in using your phone:<br>Call 1-571-317-3122 and when prompted enter access code 498-239-709<br><br>CITY COUNCIL, Wednesday, July 14, 2021<br><a href="https://zoom.us/j/5419177500?pwd=UzdQbFgvSUxVRVErZjAwSnIxVXZQZz09">https://zoom.us/j/5419177500?pwd=UzdQbFgvSUxVRVErZjAwSnIxVXZQZz09</a><br>If you wish to dial in using your phone:<br>Call 1-253-215-8782, meeting ID: 541 917 7500, passcode: 252269 |                          |

## Summary

On November 16, 2020, the Albany City Council initiated the vacation of the alley between 12th Avenue SE and 13th Avenue SE, and between Hill Street SE and Madison Street SE.

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 a 16-foot-wide alley between 12th Avenue SE and 13th Avenue SE, and between Hill Street SE and Madison Street SE. |
| Review Body:        | Planning Commission and City Council (Type IV-Q, Quasi-Judicial Decision)  |
| Report Prepared By: | Matthew Ruettgers, Community Development Director  |

[cd.cityofalbany.net](http://cd.cityofalbany.net)



|                         |  |
|-------------------------|--|
| Property Owner:         | City of Albany, 333 Broadalbin St. SE, Albany, OR 97321  |
| Applicant:              | Gordon Steffensmeier, Civil Engineer III, on behalf of the City of Albany; 333 Broadalbin St. SE, Albany, OR 97321 |
| Address/Location:       | Bounded by 12th Avenue SE and 13th Avenue SE, and Hill Street SE and Madison Street SE.                            |
| Map/Tax Lot:            | Linn County Assessor's Map No. 11S-03W-07AC; Tax Lots 3300-4000.   |
| Zoning:                 | RM (Residential Medium Density)  |
| Comprehensive Plan Map: | Residential Medium Density   |
| Acres:                  | N/A  |
| Existing Land Use:      | Single-Family Residential  |
| Neighborhood:           | South Albany   |
| Surrounding Uses:       | North: Residential<br>South: Residential<br>East: Residential<br>West: Residential                                 |
| 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 [ADC 1.520(6)].

## 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 May 25, 2021, in accordance with ORS 271 and ADC 1.250. A public notice was posted on the portion of right-of-way to be vacated on May 27, 2021, in accordance with ADC 1.250(4). Notice of the public hearing was published in the *Albany Democrat-Herald* on June 7, 2021, and June 14, 2021, in accordance with ADC 1.250(4).

The staff report for the proposed vacation was posted on the City's website on June 7, 2021, at least seven days before the first evidentiary public hearing. At the time this report was published, the Albany Planning Division had not received any written comments 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 alley 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 that a sewer line lies within the proposed vacated right-of-way.
- 1.5 Water. There are no water 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 exists within the right-of-way proposed for vacation.
- 1.2 The proposed vacation does not conflict with Albany's Transportation System Plan.
- 1.3 This criterion is met if an easement is retained over the right-of-way. Staff proposes a condition accordingly.

## 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 have access to public streets and public facilities. Vacating the rights-of-way will not have a negative effect on any properties.
- 2.2 The City of Albany needs to retain an easement for the sewer line within the right-of-way.

## 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 if an easement is retained over the vacated right-of-way.

## 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 and will improve 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.

## Street Vacation Conclusion

The proposed street vacation meets all applicable review criteria with the condition that a sewer easement be retained over the vacated right-of-way.

## Overall Conclusion

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

## 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 sewer easement. Below is a recommended motion to this effect:

*I move that the planning commission recommend that the city council approve with condition, the land use application for right-of-way vacation of a 16-foot-wide alley under planning file VC-04-20, as described in the June 7, 2021, 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

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

**VC-04-20: Legal description for 16-foot-wide alley right-of-way being vacated from 12th Avenue SE to 13th Avenue SE between Hill Street SE and Madison Street SE.**

The 16-foot by 300-foot alley in Block 6 of Winona Park subdivision, Albany, Linn County, Oregon. As shown on the map below, attached hereto and made a part hereof this description.

