

ORDINANCE NO. 5897

AN ORDINANCE VACATING A PORTION OF THE DENVER STREET RIGHT-OF-WAY WITHIN BOWMAN PARK, IN ALBANY, OREGON; ADOPTING FINDINGS; AND DECLARING AN EMERGENCY.

WHEREAS, notices of public hearing were mailed on September 22, 2017; published in the *Albany Democrat-Herald* on September 18, 2017, and September 25, 2017; and posted on the site, as described in Section 1 below, on September 18, 2017, as required by state and local law; and

WHEREAS, the Albany Planning Commission held a public hearing on October 2, 2017, and recommended that the City Council approve the proposed street and right-of-way vacation; and

WHEREAS, the Albany City Council held a public hearing on October 11, 2017, 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. The Denver Street right-of-way within Bowman Park (File VC-02-17) (see legal description and map on attached Exhibit A), is hereby vacated.

Section 2: Transfer of Vacated Property. The vacated street right-of-way will revert to City of Albany Bowman Park Property within the Hackleman's 4th Addition.

Section 3: Findings. The Findings, Conclusions, and Conditions in the Staff Report are hereby adopted in support of this decision as presented in Exhibit B of this Ordinance.

Section 4: Emergency Clause. In as much as this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the City of Albany, or to facilitate the prompt and timely completion of important City business, an emergency is hereby declared to exist; and this Ordinance shall take effect and be in full force and effect when signed by the Mayor.

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.

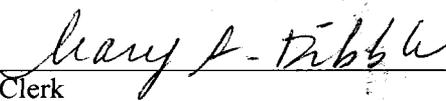
Passed by the Council: Oct 11, 2017

Approved by the Mayor: Oct 11, 2017

Effective Date: Oct 11, 2017


Mayor

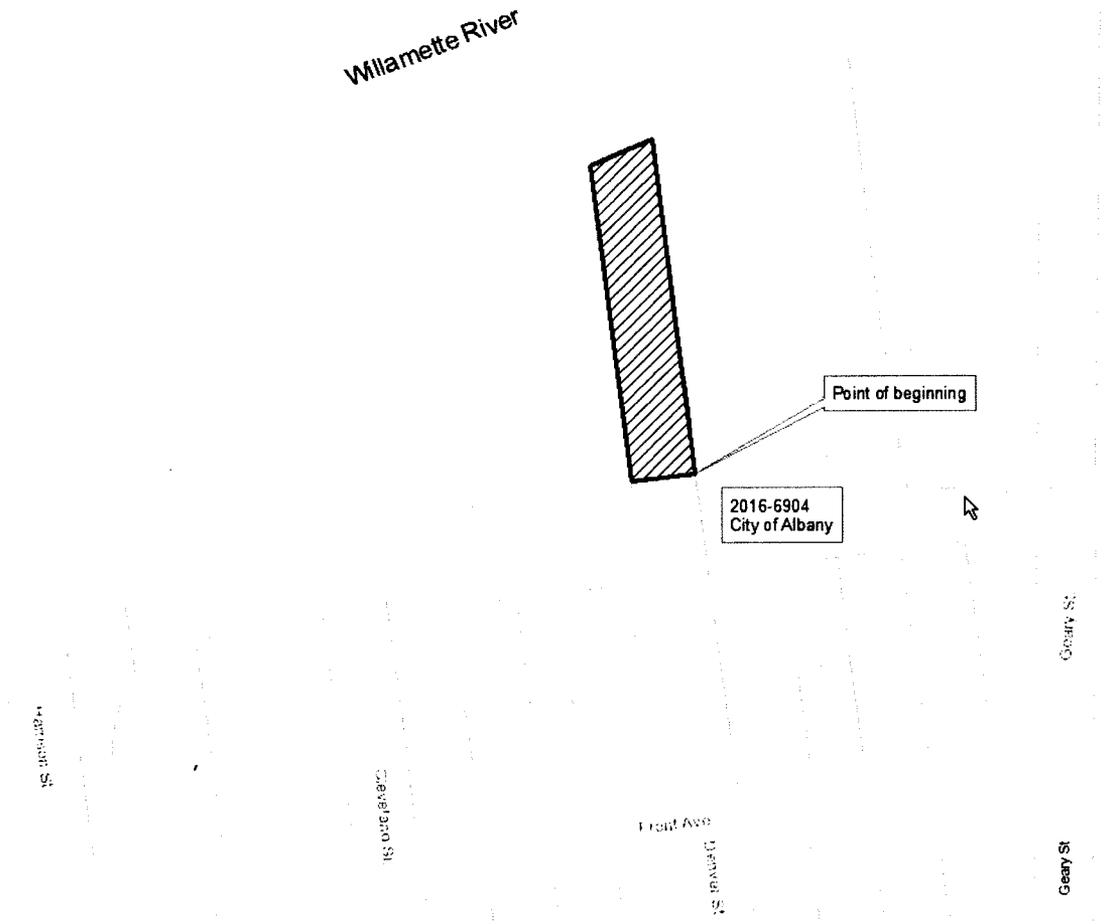
ATTEST:


City Clerk

Legal Description of proposed Denver Street right-of-way vacation

The 66 foot wide right-of-way of Denver Street between Blocks 11 and 20 of Hackleman's 4th Addition to Albany, Oregon, more particularly described as follows;

Beginning at the northwest corner of that property conveyed to the City of Albany by a deed recorded in Linn County, Oregon, Deed Records 2016-6904, said corner lying on the east right-of-way line of Denver Street; thence westerly perpendicular with the east right-of-way line of Denver Street 66 feet to the west right of way line of Denver Street; thence northerly along the west right-of-way line of Denver Street 340 feet, more or less, to terminus of the Denver Street right-of-way at the Willamette River; thence northeasterly along the terminus of the Denver Street right-of-way at the Willamette River to the east right-of-way line of Denver Street; thence southerly along the east right-of-way line of Denver Street 350 feet, more or less, to the point of beginning. As shown on the map below.





Community Development Department

333 Broadalbin Street SW, P.O. Box 490
Albany, OR 97321

Phone: 541-917-7550 Facsimile: 541-917-7598
www.cityofalbany.net

STAFF REPORT

DENVER STREET RIGHT-OF-WAY VACATION IN BOWMAN PARK

Planning File VC-02-17

<u>HEARING BODY</u>	PLANNING COMMISSION	CITY COUNCIL
<u>HEARING DATE</u>	Monday, October 2, 2017	Wednesday, October 11, 2017
<u>HEARING TIME</u>	5:15 p.m.	7:15 p.m.
<u>HEARING LOCATION</u>	Council Chambers, Albany City Hall, 333 Broadalbin Street SW	

SUMMARY

While investigating the Federally Funded 6(f) Park Land within the City of Albany, it was discovered that the area of the Denver Street right of way within Bowman Park has been included within the 6(f) encumbered map boundary. Only City park property, not street right-of-way, should be included in 6(f) Park Land. In order to remedy the situation before the City submits a new 6(f) map to the state following the Geary Street vacation, staff recommends that Council vacates the Denver Street right-of-way within Bowman Park.

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 Denver Street right-of-way vacation.

GENERAL INFORMATION

DATE OF REPORT:	September 11, 2017
FILE:	VC-02-17
TYPE OF APPLICATION:	Street Vacation for the northernmost 350 feet of Denver Street, south of the Willamette River in Bowman Park.
REVIEW BODIES:	Planning Commission and City Council (Type IV) – Street Vacation
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:	Bowman Park; 300 Geary Street NE, Albany, OR 97321
MAP/TAX LOT:	Linn County Assessor's Map No. 11S-03W-05CB; Tax Lots 2400, 10201 & 10500
ZONING:	OS (Open Space)
COMPREHENSIVE PLAN DESIGNATION:	Public and Semi-Public
EXISTING LAND USE:	Bowman Park

SURROUNDING ZONING: North: None (Willamette River)
 South: RM (Residential Medium Density)
 East: OP (Open Space)
 West: OP (Open Space)

SURROUNDING USES: North: Willamette River
 South: Single-Family and Multi-Family Residential Housing
 East: City Park
 West: City Park

PRIOR HISTORY: No prior Land Use Cases

NOTICE INFORMATION

A Notice of Public Hearing was published in the Democrat-Herald newspaper on September 18 and 25 of 2017.

A Notice of Public Hearing was mailed on September 22, 2017, to all property owners located within 300 or 400 feet of the subject properties. A notice of public hearing was also posted on the subject site at two locations on September 18, 2017. Lastly, the staff report for the proposal was posted on the City's website and available for public review on September 25, 2017. At the time this staff report was completed, no comments had been received.

STAFF ANALYSIS

The Albany Development Code (ADC) includes the following review criteria for street vacations, conditional uses, and replats, which must be met for this application to be approved. Code criteria are written in ***bold italics*** and are followed by findings and conclusions.

VACATIONS REVIEW CRITERIA (ADC 2.630)

Criterion (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 proposed vacation includes the northernmost 350 feet of Denver Street NE feet within Hackleman's Fourth Addition to Albany. This section of Denver Street was platted but never constructed.
- 1.2 The properties that the vacated area will revert to are the properties immediately east and west of the right-of-way. All of the properties are owned by the City of Albany and are being used as a City park.
- 1.3 Albany's Transportation System Plan does not identify Denver Street as being a part of the city's arterial/collector street system, nor does it identify it as a critical local street connection.
- 1.4 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.

- 1.5 Sanitary Sewer. Sanitary sewer utility maps indicate that a 36-inch public sanitary sewer main lies across the right-of-way proposed for vacation.
- 1.6 Water. There are no water lines within the right of way proposed for vacation.
- 1.7 Storm Drainage. There are no storm drainage lines within the right of way proposed for vacation.

CONCLUSIONS

- 1.1 City utilities (sanitary sewer) exist within the area proposed for vacation.
- 1.2 The existing sewer lies on City property and within the right-of-way under the pavement of the Bowman Park parking lot. It will remain on City property after the street vacation.
- 1.3 No public utility easements are needed over the public utilities on City-owned property.
- 1.4 The proposed vacation does not conflict with Albany’s Transportation System Plan.
- 1.5 This criterion is met without conditions.

Criterion (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 The portion of Denver proposed for vacation has never been constructed as a City street and does not provide access to any existing properties or between public rights of way. Vacating the right-of-way will not have a negative effect on any properties.

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 without conditions.

Criterion (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.

CONCLUSION

- 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.

Criterion (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 remain a part of Bowman Park. No changes are needed to bring the vacated area into compliance.

CONCLUSION

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

4.2 This criterion is met without conditions.

Criterion (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 the Bowman Park property, rather than being a public right of way.

5.2 It is in the public interest to have the land that has been designated as 6f encumbered property to be a City property rather than a public right of way.

CONCLUSION

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

STREET VACATION CONCLUSION

The proposed street vacation meets all applicable review criteria without conditions.

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 proposal:

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.

STAFF RECOMMENDATION

Based on the analysis in this report, staff suggests that the Planning Commission recommend that the City Council approve the requested street vacation in this staff report. Motions to this effect will be provided for consideration during the public hearing on this application.

ATTACHMENTS

A. Attachment A – Map of Proposed right of way vacation

B. Attachment B – Legal Description of proposed Denver Street right-of-way vacation

Map of Proposed right of way vacation



Legal Description of proposed Denver Street right-of-way vacation

The 66 foot wide right-of-way of Denver Street between Blocks 11 and 20 of Hackleman's 4th Addition to Albany, Oregon, more particularly described as follows;

Beginning at the northwest corner of that property conveyed to the City of Albany by a deed recorded in Linn County, Oregon, Deed Records 2016-6904, said corner lying on the east right-of-way line of Denver Street; thence westerly perpendicular with the east right-of-way line of Denver Street 66 feet to the west right of way line of Denver Street; thence northerly along the west right-of-way line of Denver Street 340 feet, more or less, to terminus of the Denver Street right-of-way at the Willamette River; thence northeasterly along the terminus of the Denver Street right-of-way at the Willamette River to the east right-of-way line of Denver Street; thence southerly along the east right-of-way line of Denver Street 350 feet, more or less, to the point of beginning. As shown on the map below.

