



## MEMORANDUM

TO: Coburg City Council

FROM: Henry Hearley, City Planner

RE: Procedures for Vacation

DATE: April 2, 2021

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**BACKGROUND:** There is an alley located in between the properties located at 91097 N Miller Street, 32872 E McKenzie Street, 32878 E McKenzie Street, 32803 E Lincoln Way, and 32811 E Lincoln Way (see **Exhibit 1**). The alley appears to have first been platted in 1902 on Coleman's Second Addition to Coburg (see **Exhibit 2**). According to the recitals on the plat, the streets and alleys included on the plat were dedicated to the public. The alley in question presently contains grasses and no pavement and the status of utility lines or other city infrastructure located underground within the alley is unknown.

Information was passed to staff about the history (goes back about 20 years) of the alley and the presence of fences and other small accessory structure that may encroach into the alley. Staff have been informed the alley is not free and clear of obstructions, making it difficult or impossible to travel from one end to the other. The present issue was most recently raised when an adjacent property owner inquired about development into the alley, as it seems to have occurred in the past.

**QUESTIONS PRESENTED:** Vacate the alley in question or explore further investigation into removing the protruding fences and other structures from the alley right-of-way.

If the alley is to be vacated the Coburg Development Code offers two options for initiation of vacation: 1) City Council can take up the issue, or 2) a petition of adjoining and area owners in accordance with ORS 271.080.

Additionally, if the alley is to be vacated, staff are looking for direction from City Council to look at whether or not other alleys in Coburg also should be vacated.

**DISCUSSION:** This memo is intended to serve as informational only. No decision is asked or expected of City Council, only staff direction as to the questions posed above. The purpose of the alley and its interest to the City is unknown, as is what, if any, legal development can occur within an alley. Answers to these questions require further investigation. Public Works has indicated support of vacation of the alley in question and believes that there may be additional alleys in Coburg that no longer serve their intended purpose and should also be vacated. One benefit of vacation to Public Works staff is no longer having to maintain this alley or other alleys in Coburg. Vacation turns over ownership of the alley to the adjacent property owners, whom would now be responsible for the maintenance and upkeep of the alley.

As alluded to earlier, the alley in question appears to have fences and other small accessory structures that protrude into it, staff present **Exhibit 3** as one example. Staff would also like to point out, the alley itself and the existing fences and other small accessory structures have not been surveyed, so there is no way to know the exact location and width of the alley in relation to the aforementioned structures.

The alley located between the block located to the west is free and open of obstructions. The alley located immediately to the east of the alley in question enters into the Hayden Homes subdivision and offers access and frontage to several homes. Connection to the Hayden Homes alley with the alley in question is presently blocked by a fence and flowerbeds, but the fence and flowerbed appear to have been built in a manner that would permit future connection with minor alterations (see **Exhibit 4**).

If vacation is pursued, per the Coburg Development Code, vacation is a TYPE IV application and process. A TYPE IV process requires a minimum of two public hearings, one before Planning Commission and one before City Council. Planning Commission would issue a recommendation onto City Council for final action<sup>1</sup>.

- OPTIONS:**
- (1) The City Council can direct staff to vacate the alley in question. In this case, a sub option is posed.
    - (a) City Council can initiate this action; or
    - (b) If the neighbors are serious about pursuing vacation of the alley, they can petition the City Council.
  - (2) If vacation of the alley is not desired, City Council can either:
    - (a) Do nothing (leave the situation as is) or;
    - (b) Direct staff to further investigate the process to begin asking property owners to remove the protruding fences and other structures from the alley right-of-way.
  - (3) The City Council can also direct staff to review all alleyways for possible vacation.

More than one option could be chosen.

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<sup>1</sup> See Article X.E “Type of Review Procedures” and Article XXIII “Vacation” of the Coburg Development Code for the process and criteria for vacation of an easement, right-of-way or plat.

**CONSIDERATIONS:** If the neighbors petition the City Council for vacation, that petition must be in conformance with ORS 271.080, which in short outlines that the petition shall include consent of all abutting property owners and not less than two-thirds in area of the real property affected. In this instance, staff would recommend the petitioners consult an independent land use attorney or professional planner in preparing their request.

**EXHIBITS:**

Exhibit 1: Aerial View of Subject Alley (outlined in red)

Exhibit 2: Plat of Coleman's Second Addition to Coburg

Exhibit 3: Pictures of Structures/Fences in Alley

Exhibit 4: Picture of Fence/Flowerbed at Hayden Homes (on opposite side of alley in question)