



Ordinance No. 894 Exhibit A
Right-of-Way Vacation Findings

OrePac Site Improvements

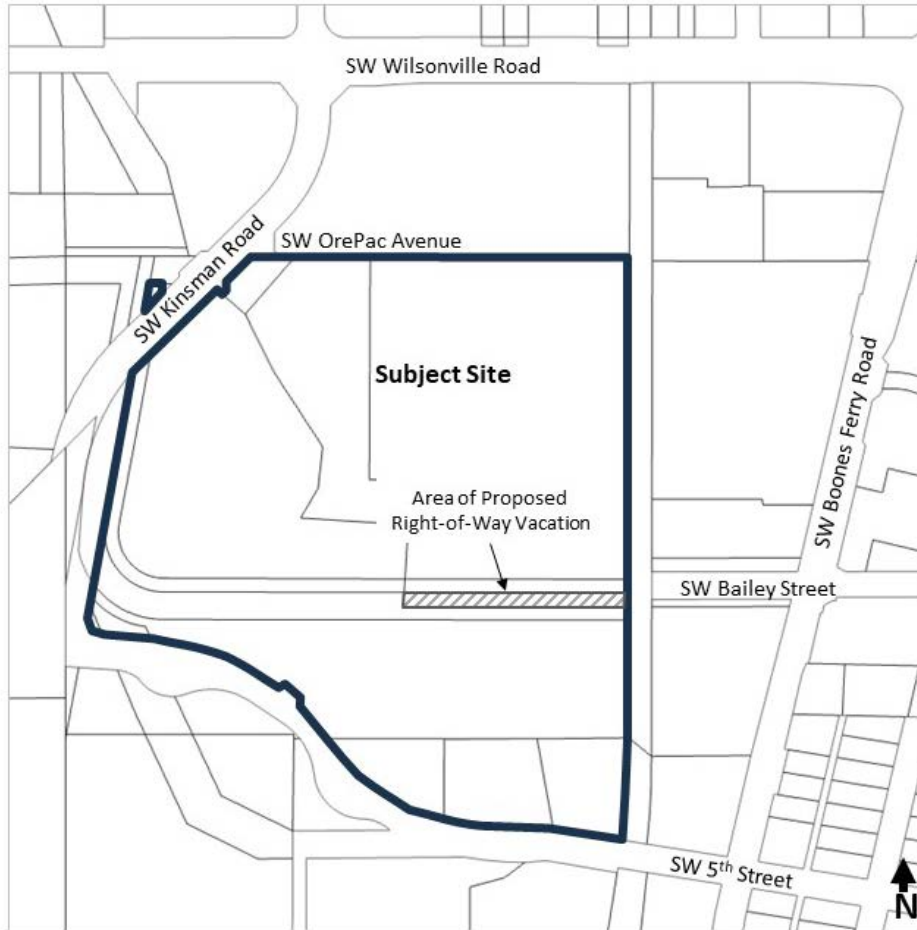
City Council
Quasi-Judicial Public Hearing

Hearing Date:	October 7, 2024
Date of Report:	September 17, 2024
Application No.:	DB24-0001 OrePac Site Improvements (STVC24-0001 Right-of-Way Vacation)
Request/Summary:	City Council approval of a request to vacate approximately 0.35 acre (15,275 square feet) of public right-of-way that is no longer needed for a road connection from Wilsonville’s Old Town area to SW Kinsman Road in the central portion of the OrePac site.
Location:	The OrePac properties are located at 30160 and 30170 SW OrePac Avenue, 30445 SW Boones Ferry Road, and 9655 SW 5 th Street. Tract “A”, the subject of the Right-of-Way Vacation request, as dedicated by Partition Plat No. 1990-92, is located in the northwest quarter of Section 23, Township 3 South, Range 1 West of the Willamette Meridian, City of Wilsonville, Clackamas County, Oregon.
Owner/Applicant:	Inland Pacific Properties LLC (Contact: Darin Coder)
Petitioners:	Inland Pacific Properties LLC; Oregon Electric Railroad; Oregon Charter Academy
Applicant’s Representative:	Mackenzie (Contact: Sid Hariharan Godt)
Comprehensive Plan Designation:	Industrial
Zone Map Classification:	Once vacated, zoning of Tract “A” is proposed to be extended from the adjoining Tax Lot 701 (Parcel 2 of Partition Plat No. 1990-92), which is zone Planned Development Industrial (PDI).
Staff Reviewers:	Cindy Luxhoj AICP, Associate Planner Amy Pepper, PE, Development Engineering Manager
Staff Recommendation:	<u>Approve</u> the requested Right-of-Way Vacation with conditions.

Applicable Review Criteria:

<u>Development Code:</u>	
Section 4.001	Definitions
Section 4.008	Application Procedures-In General
Section 4.009	Who May Initiate Application
Section 4.010	How to Apply
Section 4.011	How Applications are Processed
Section 4.014	Burden of Proof
Section 4.031 (.01) L.	Authority of the Development Review Board: Street Vacations
Subsection 4.032 (.01) D.	Authority of the Planning Commission: Street Vacations
Subsection 4.033 (.01) H.	Authority of City Council: Street Vacations
Section 4.034 (.07)	Application Requirements: Street Vacations
Subsection 4.035 (.04)	Site Development Permit Application
Subsection 4.035 (.05)	Complete Submittal Requirement
Subsection 4.111 (.03)	Zoning-Zone Boundary Lines: Street Vacations
<u>Other Planning Documents:</u>	
Wilsonville Comprehensive Plan and Transportation Systems Plan	
Previous Land Use Approvals	
<u>Oregon Revised Statutes:</u>	
ORS 271.080	Vacation in incorporated cities; petition; consent of property owners
ORS 271.090	Filing of petition; notice
ORS 271.100	Action by city governing body
ORS 271.110	Notice of hearing
ORS 271.120	Hearing; determination
ORS 271.130	Vacation on city governing body's own motion; appeal
ORS 271.140	Title to vacated areas
ORS 271.150	Vacation records to be filed; costs
ORS 271.190	Consent of owners of adjoining property; other required approval
ORS 271.200	Petition; notice
ORS 271.210	Hearing; grant of petition
ORS 271.220	Filing of objections; waiver
ORS 271.230	Records of vacations; fees

Vicinity Map



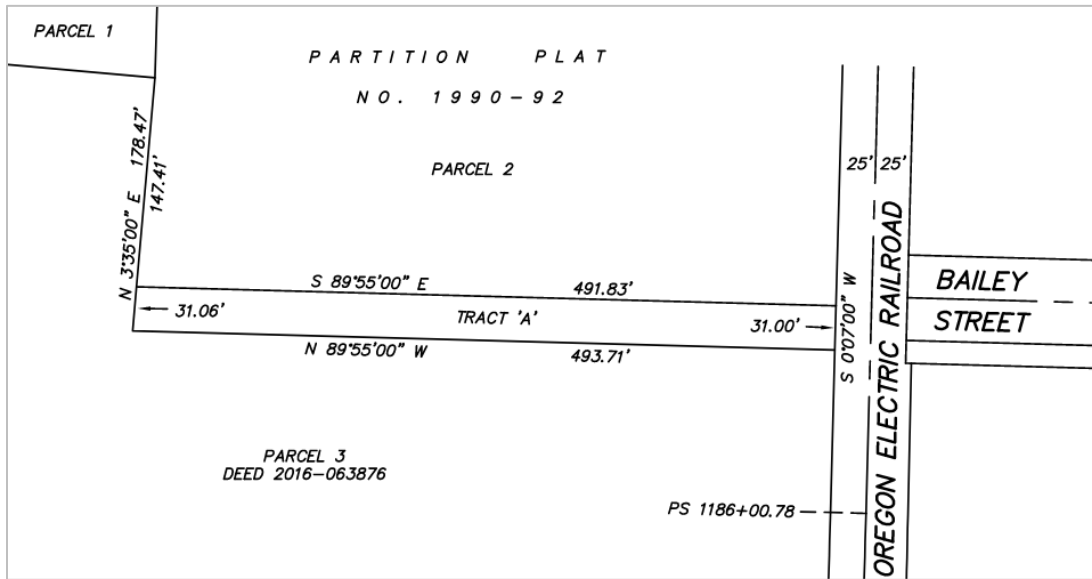
Background / Summary:

The OrePac property, owned by Inland Pacific Properties LLC, is located at 30160 and 30170 SW OrePac Avenue, 30445 SW Boones Ferry Road, and 9655 SW 5th Street, is comprised of 10 tax lots totaling 27.42 acres in southwest Wilsonville. The applicant has operated as a building products wholesale distributor at the subject site for about 40 years with the most recent expansion of the site occurring in 2005 with addition of a second building. Between 2016 and 2017, a parking area was constructed south of the approved OrePac building and storage area without required land use approvals.

The current application, reviewed by the Development Review Board at its September 9, 2024 meeting, includes a Zone Map Amendment, Stage 1 Preliminary Plan, Stage 2 Final Plan, Site Design Review, Lot Line Adjustment, Right-of-Way Vacation, and Type C Tree Plan. These actions are to bring the property into compliance with Code standards, as well as to prepare the southern part of the property, which is either vacant or in rural residential/agricultural use, for

future development. Two of these actions, the Right-of-Way Vacation and Zone Map Amendment, are recommended by the Development Review Board for City Council approval.

The vacation request is for a portion of public right-of-way south of the existing development and roughly central to the OrePac site, referred to as "Tract A", as shown in the illustration below.



Planning Commission Resolution No. 87PC32, at Condition of Approval 4, required dedication of a 31-foot-wide roadway right-of-way along the entire length of the southerly property line of Tax Lot 701 (Parcel 2 of Partition Plat No. 1990-92), representing half of the 62-foot-wide right-of-way required for development of an industrial street known as SW Brown Road to provide an east-west connection to SW Boones Ferry Road. Subsequently, Planning Commission Resolution No. 90PC30, at Condition of Approval 2, required dedication of said right-of-way, and Partition Plat No. 1990-92 dedicated the right-of-way as Tract "A" for the "use of the public as a public way forever". In 2016, by Resolution No. 2610, the City Council selected SW 5th Street, not SW Bailey Street, as the preferred final alignment of the SW Boones Ferry Road to SW Brown Road east-west connector. As a result, the existing public right-of-way dedicated in Partition Plat No. 1990-92 is now redundant. Therefore, the applicant is requesting vacation of the right-of-way, which will enable it to integrate Tract "A" into future development plans.

Conclusion and Conditions of Approval:

Staff recommends the City Council approve the requested Right-of-Way Vacation with the following conditions:

Request: Right-of-Way Vacation (STVC24-0001)

This action recommends to City Council approval of a Right-of-Way Vacation for the subject properties.
<ol style="list-style-type: none"> 1. <u>Prior to Land Transfer of the Vacated Right-of-way:</u> For any private utilities currently located within the proposed vacated right-of-way, and anticipated to remain in this location, applicant shall provide private utility easements on City approved forms. Private easements shall be of sufficient width as needed by the private utility and as approved by the City.

Findings of Fact:

NOTE: Pursuant to Section 4.014 the burden of proving that the necessary findings of fact can be made for approval of any land use or development application rests with the applicant in the case.

General Information

Application Procedures-In General
Section 4.008

The City’s processing of the application is in accordance with the applicable general procedures of this Section.

Initiating Application
Section 4.009

The owners of all property included in the application signed the application forms and initiated the application.

Request: Right-of-Way Vacation (STVC24-0001)

As described in the Findings below, the request meets the applicable criteria or will by Conditions of Approval.

Planning and Land Development Ordinance

Authority to Review Street Vacations
Subsections 4.031 (.01) L., 4.032 (.01) D., Subsection 4.033 (.01) H.

2. The applicant is requesting vacation of a portion of public right-of-way in the central part of the subject site, referred to as “Tract A”, which is no longer needed for a road connection from the Old Town area of Wilsonville to SW Kinsman Road. The proposed right-of-way vacation

is subject to initial review by the Development Review Board, which will make a recommendation to the City Council. The City Council has final decision-making authority on the requested vacation.

Street Vacation Reviewed In Accordance with ORS 271.
Subsection 4.034 (.07)

3. As shown in Findings 4-7 below, the City's review of the street vacation request is in accordance with ORS 271.

Previous City Approvals

Planning Commission Resolutions No. 87PC32 and 90PC30, and City Council Resolution No. 2610

4. Planning Commission Resolution No. 87PC32, at Condition of Approval 4, required dedication of a 31-foot-wide roadway right-of-way along the entire length of the southerly property line of Tax Lot 701 (Parcel 2 of Partition Plat No. 1990-92), representing half of the 62-foot-wide right-of-way required for development of an industrial street known as SW Brown Road to provide an east-west connection to SW Boones Ferry Road. Subsequently, Planning Commission Resolution No. 90PC30, at Condition of Approval 2, required dedication of said right-of-way, and Partition Plat No. 1990-92 dedicated the right-of-way as Tract "A" for the "use of the public as a public way forever". In 2016, by Resolution No. 2610, the City Council selected SW 5th Street, not SW Bailey Street, as the preferred final alignment of the SW Boones Ferry Road to SW Brown Road east-west connector. As a result, the existing public right-of-way dedicated in Partition Plat No. 1990-92 is now redundant. As a result, the existing dedicated public right-of-way (which was dedicated by Partition Plat No. 1990-92) is now redundant. Therefore, the applicant is requesting that the right-of-way vacation, which will enable it to integrate Tract "A" into future development plans.

Oregon Revised Statutes

Petition for Street Vacation/Proposed Use of Vacated Ground/Public Hearings
ORS 271.080 (1), ORS 271.090, ORS 271.100, ORS 271.110, ORS 271.120

5. The applicant's materials contain a signed petition with attached map and list that identifies the area of the proposed right-of-way vacation, abutting property owners and real property affected by the requested vacation (Exhibits B and C). Per the applicant's response narrative, it understands the governing body will hear the petition and objections, if any, to determine whether requirements for the proposed right-of-way vacation have been satisfied. Petitioners are receiving notice of the public hearings for the requested right-of-way vacation along with all other required notices for the public hearings. A portion of the new parking area is located in the subject area, and part of the new driveway, at its northern extent, is proposed to be located in it.

Consent of All Adjoining Properties and 2/3 of Affected Properties
ORS 271.080 (2)

6. The petition has been signed by all owners of the abutting property, who are also the owners of at least two-thirds (2/3) of real property affected thereby. The total size of real property affected thereby is 548,581 square feet. The sum of the area of real property affected thereby that is also within the abutting tax lots is 446,040 square feet, or 81% of the total real property affected thereby. Given that the petition has been signed by all owners of abutting property, consent of property owners for 81% (i.e. greater than two-thirds) of the area of the real property affected has been provided on the attached petitions (Exhibit B).

Title to Vacated Area
ORS 271.140

7. The title to the vacated area will be attached to the bordering properties consistent with state statute. Per the applicant's Code response, the applicant understands that, as the right-of-way was dedicated to the City of Wilsonville as part of Partition Plat No. 1990-92, the right-of-way area referred to as Tract "A" will be returned to Parcel 2 of Partition Plat No. 1990-92.

Vacation Records to be Filed
ORS 271.150

8. The ordinance approving the right-of-way vacation will be duly recorded in the records of Clackamas County, the cost of which will be borne by the petitioners.