

ORDINANCE NO. 5896

AN ORDINANCE VACATING A PORTION OF THE GEARY STREET RIGHT-OF-WAY NORTH OF LINN AVENUE, 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 Geary Street right-of-way north of vacated Linn Avenue to the Willamette River (File VC-01-17) (see legal description and map on attached Exhibit A), is hereby vacated.

Section 2: Transfer of Vacated Property. The western half of the vacated street right-of-way will revert to City of Albany Bowman Park Property within the Hackleman's 4th Addition. The southern 157 feet of the eastern half of the right-of-way being vacated will revert to the City of Albany, pursuant to a Quitclaim Deed filed in Linn County, Oregon Deed Records. The remainder of the eastern half of the vacated right-of-way, will revert to the property to the east which contains lots 4 and 5, Block 2 of Woodles Riverside 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: Easement Retained. The City retains a public utility easement and a storm drainage and sewer easement over the areas being vacated.

Section 5: 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 6: 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:

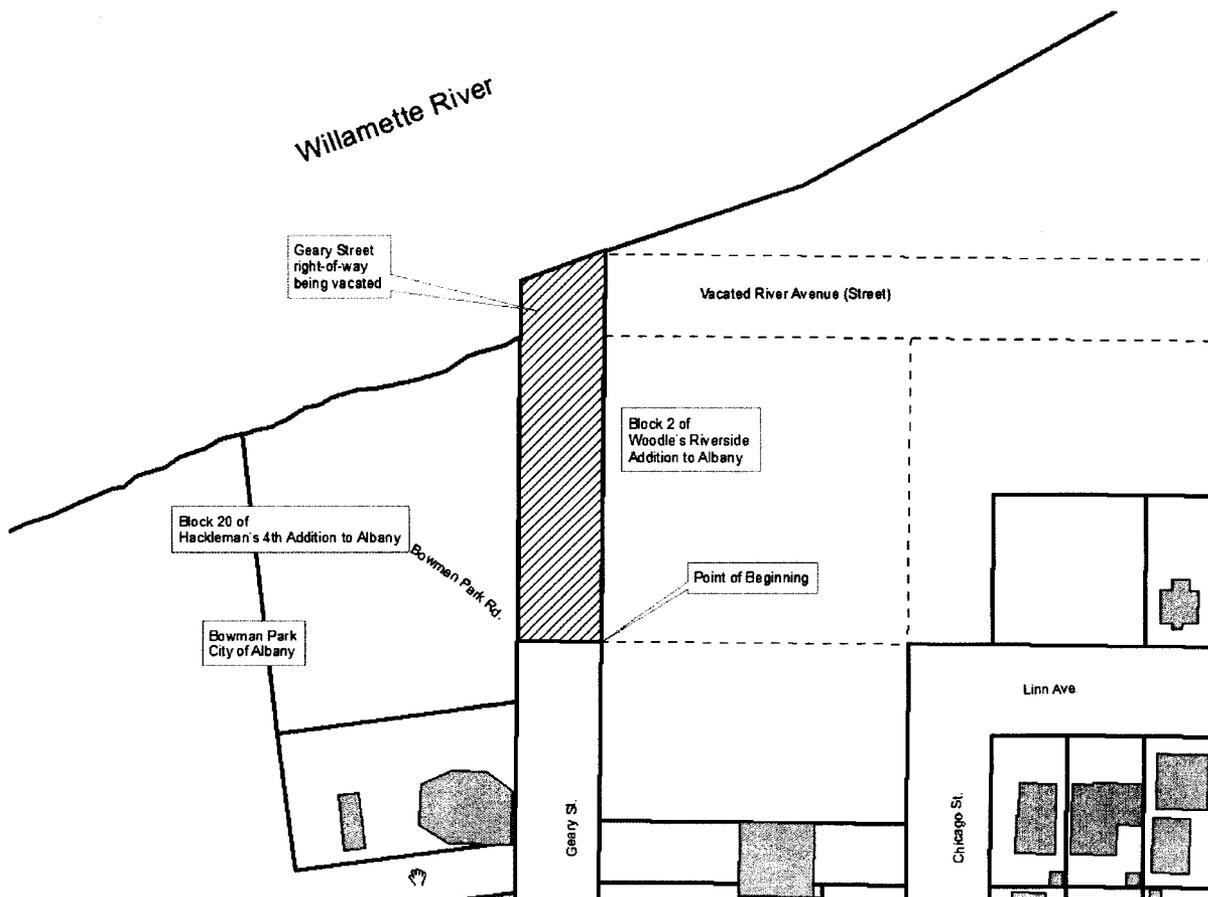


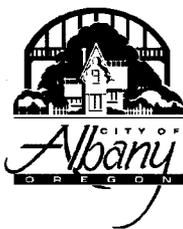
City Clerk

Legal Description for Geary Street right-of-way being vacated

A 60 foot wide tract of land lying between the east line of Block 20, Hackleman's 4th Addition to Albany and the west line of Block 2, Woodles Riverside Addition to Albany, Linn County, Oregon, more particularly described as follows:

A 60 foot wide tract of land lying west of the following described line – Beginning at the Southwest corner of Lot 5, Block 2, Woodles Riverside Addition to Albany; thence north along the east right-of-way line of Geary Street 282 feet, more or less, to the Willamette River. As shown on the map below.





Community Development Department

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

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STAFF REPORT

GEARY STREET RIGHT-OF-WAY VACATION EAST OF BOWMAN PARK

Planning File VC-01-17

<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

To address capacity concerns for the Riverfront Interceptor, the City of Albany Public Works Department plans to build a wet weather sewer lift station on the north side of Water Avenue near Montgomery Street. In 1995, the Federal Land and Water Conservation Fund (LWCF) provided funding for park land and improvements in this area of Monteith River Park. Section 6(f)(3) of the LWCF Act provisions protect these investments. Any property within a 6(f) boundary converted to other than public outdoor recreation uses must be replaced with a property of at least equal fair market value and of reasonably equivalent recreational value. Therefore, in order to proceed with the sewer project, City staff had to find replacement park land.

City staff identified the Geary Street right of way near Bowman Park as a replacement area of similar market and recreational value. Since the western half of the Geary Street right of way would revert to the City's Bowman Park property at no cost to the City, that area cannot be considered for the exchange. The eastern half of the right of way, which normally would revert to the property to the east, could be used for the exchange if the City purchases it after the vacation is completed (Exhibit A).

Willamette River View Holdings, LLC, the property owner, has submitted a Quitclaim deed for a 157-foot by 30-foot area of the east half of Geary Street. Based on an appraiser's estimate, the quitclaimed area has a value of \$9,090. The National Parks Service has reviewed and approved of this area to replace LWCF Section 6(f)(3) land to be converted to non-recreational uses for the sewer lift station.

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 Geary Street right-of-way vacation.

GENERAL INFORMATION

DATE OF REPORT:	September 25, 2017
FILE:	VC-01-17
TYPE OF APPLICATION:	Street Vacation for the northernmost 282 feet of Geary Street, south of the Willamette River, north of vacated Linn Avenue, east of 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 Lot 10501 & 11S-03W-05BD Tax Lot 300

ZONING: OS (Open Space) and RM (Residential Medium Density)

COMPREHENSIVE PLAN DESIGNATION: Public and Semi-Public, Residential Low Density, and Residential Medium Density

EXISTING LAND USE: Bowman Park

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

SURROUNDING USES: North: Willamette River
 South: Single-Family Residential Housing
 East: Vacant
 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 282 feet of Geary Street NE feet lying between Hackleman's Fourth Addition to Albany and Woodle's Riverside Addition to Albany. This section of Geary Street was 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. The property to the west is owned by the City of Albany and is being used as a City park. The property to the east is owned by Willamette River View Holdings LLC, who has submitted a Quitclaim Deed to the City of Albany for the southern 157 feet of their half of the vacated right of way.
- 1.3 Albany's Transportation System Plan does not identify this section of Geary 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, a 30-inch, and a 14-inch public sanitary sewer main lie within 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 is an 18-inch storm drainage line within the right of way proposed for vacation.

CONCLUSIONS

- 1.1 City utilities (sanitary sewer and storm drainage) exist within the area proposed for vacation.
- 1.2 Public utility easements are needed over the public sewer and storm drainage lines.
- 1.3 The proposed vacation does not conflict with Albany's Transportation System Plan.
- 1.4 This criterion is met with the condition that a utility easement is retained over the vacated area.

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 Geary Street 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 Most of the vacated right of way will remain a part of Bowman Park. The portion of the vacated right of way that will revert to the Willamette River View Holdings LLC property to the east will be developed when that vacant property is developed. 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 Vacating this right-of-way and adding most of it to Bowman Park, will allow the City to build a sewer pump station at Water Avenue and Montgomery Street. Most of the vacated right of way will become part of the Bowman Park property, rather than being a public right-of-way.

CONCLUSION

5.1 Approving the right of way vacation is in the public interest.

STREET VACATION CONCLUSION

The proposed street vacation meets all applicable review criteria with the condition that a utility easement is retained over the vacated area.

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.

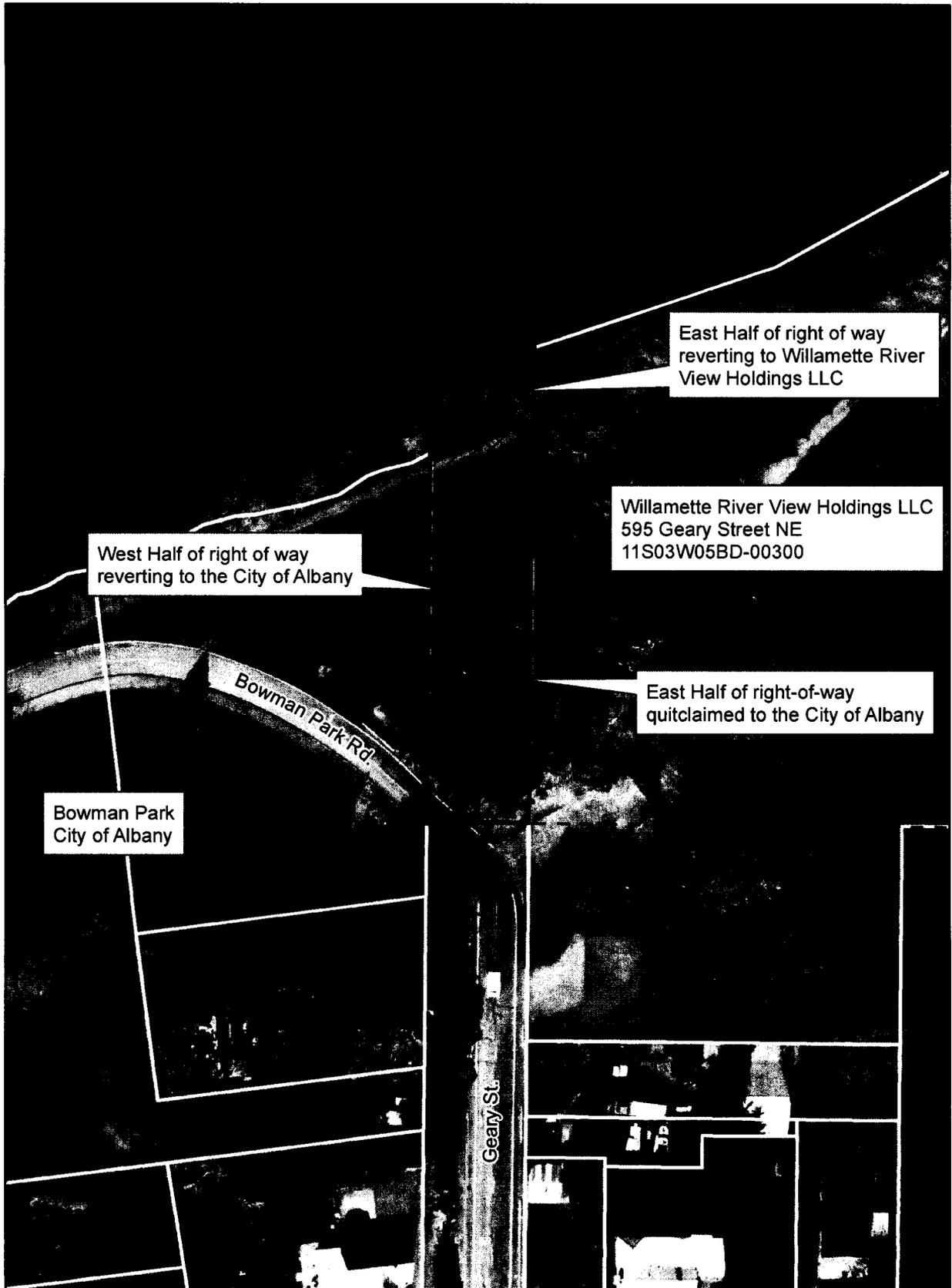
STAFF RECOMMENDATION

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 Geary Street right-of-way vacation.

Map of Proposed right of way vacation



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

The 60 foot wide right-of-way of Geary Street lying between the east line of Block 20 of Hackleman's 4th Addition to Albany and the west line of Woodle's Riverside Addition to Albany, more particularly described as follows;

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