

ORDINANCE NO. 5014

AN ORDINANCE VACATING THAT PORTION OF ALCO STREET BETWEEN 16TH AND 17TH AVENUES (Between Tax Lots 1300 and 1700, 11-3W-08BC AND ADOPTING ATTACHED EXHIBIT "A" KNOWN AS "FINDINGS" AND DECLARING AN EMERGENCY (FILE NO. VC-02-92).

WHEREAS, the Vacation has been initiated at the request of 100% of the adjoining property owners and property owners of 10 of 14 properties within the required 2/3rds signature area; and

WHEREAS, notices of the public hearings have been mailed, posted and published as required by state and local law; and

WHEREAS, the Albany Planning Commission held a Public Hearing on November 2, 1992, and recommended approval of the proposed vacation; and

WHEREAS, the Albany City Council held a Public Hearing on November 18, 1992, and parties were given an opportunity to be heard and the Council being fully informed.

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

Section 1: The Findings attached as Exhibit "A" are hereby adopted in support of this decision.

Section 2: That portion of Alco Street between Tax Lots 1300 and 1700, 11-3W-08CA is hereby vacated as shown on Exhibit "B".

Section 3: EMERGENCY CLAUSE

Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of this city of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.


Passed by the Council: November 18, 1992

Approved by the Mayor: November 18, 1992

Effective Date: November 18, 1992

  
\_\_\_\_\_  
Mayor

ATTEST:

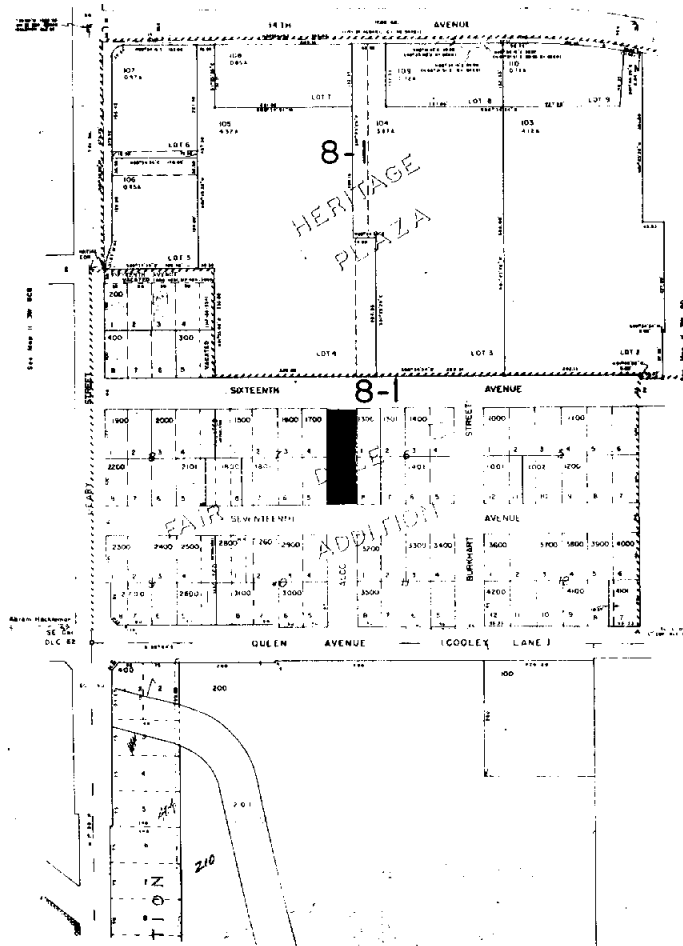
  
\_\_\_\_\_  
Deputy City Recorder

**EXHIBIT A**

**FINDINGS FOR STREET VACATION  
FILE NO. VC-02-92**

1. The Vacation has been initiated at the request of 100% of the adjoining property owners and property owners of 10 of 14 properties within the required 2/3rds signature area.
2. The proposed Vacation will not affect access to any existing lots.
3. Alco Street is not a designated arterial or collector street.
4. Alco Street north of 16th Avenue was vacated as part of the Heritage Plaza development.
5. Alco Street is an undeveloped/unused street between 16th and 17th Avenues.
6. The proposed vacation will not be inconsistent with the Comprehensive Plan Transportation Goal Policy No. 1 which calls for an efficient, safe, and non-disruptive relationship between the land use and the transportation system.
7. Staff has evaluated the proposal based upon the Street Vacation criteria listed in Section 2.440 of the Albany Development Code and found the vacation of Alco Street between 16th and 17th Avenues to be in conformance with Criteria 1, 2, 3, 4, and 5.

**EXHIBIT B**



**CITY OF ALBANY STREET VACATION  
STAFF REPORT**

**FILE NO.:** VC-02-92  
**HEARING BODY:** Albany Planning Commission Albany City Council  
**HEARING DATE:** November 2, 1992 November 18, 1992  
**HEARING TIME:** 5:15 P.M. 7:15 P.M.  
**HEARING LOCATION:** 250 Broadalbin SW, City Hall II Council Chambers

**GENERAL INFORMATION**

**Applicants:** S.O. and Dorothy E. Seida, 1123 Hill Street SE; Evans Estate, 1845 17th Avenue SE; Rodney Koch, 1840 17th Avenue SE; William and Mary Workman, 612 Clover Ridge Road NE; Robert Kimmel, 1539 Salem Avenue SE; and Marvin McCartney, 2776 Pineview Drive NW (abutting property owners - 100%) and property owners of 10 of 14 properties within the required 2/3rds signature area.

**Type of Request:** Street Vacation application for the vacation of that portion of Alco Street SE lying between 16th and Queen Avenues SE

**Total Land Area:** 12,000 square feet between 16th and 17th Avenues and 11,700 square feet between 17th and Queen Avenues

**Assessor's Map & Tax Lot No.:** 11-3W-08CA, Between Tax Lots 1300, 1700, 2900, 3000, 3200, and 3500.

**Neighborhood:** Jackson Hill

**Surrounding Comp. Plan Designation:** Medium Density Residential to the east and west; General Commercial to the north across 16th Avenue; Light Commercial to the south across Queen Avenue.

**Current Zoning Designation:** RM-5 (formerly R-2, Residential Limited Multiple Family) to the east and west; CC (formerly C-2, Community Commercial) to the north across 16th Avenue; NC (formerly C-1, Neighborhood Commercial) to the south across Queen Avenue.

**Existing Land Use:** Undeveloped street right-of-way

**Surrounding Land Use:** At the northwest, southwest and southeast corners of Alco Street and 17th Avenue, are single family homes; the remaining adjoining properties are vacant. Across 16th Avenue to the north is the Food Connection grocery store and to south across Queen Avenue, is the Shop 'n Kart grocery store.

**NOTICE INFORMATION:** Notices were mailed to affected property owners on October 22, 1992. Two legal notices are being published in the Albany Democrat-Herald, and the subject property was posted in accordance with Section 1.410ADC and ORS 271.110. At the time this report was written for the Planning Commission Hearing (October 26, 1992), no written correspondence had been received by the Planning Division from affected property owners. On October 30, 1992, the Planning Division received a letter from an affected party in support of the proposed vacation (see attached letter).

**VACATION CRITERIA:** Any Street or Subdivision Vacation proposal considered under a Type IV procedure must be demonstrated to be in conformance with each of the following criteria:

1. The requested vacation is consistent with relevant Comprehensive Plan policies and with any street plan city transportation or public facility plan.
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.
3. The requested vacation will not have a negative effect on traffic circulation or emergency service protection.
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.
5. The public interest, present and future, will be best served by approval of the proposed vacation.

**STAFF ANALYSIS:**

1. The Vacation has been initiated at the request of 100% of the adjoining property owners and property owners of 10 of 14 properties within the required 2/3rds signature area.
2. The proposed Vacation will not affect access to any existing lots.
3. Alco Street is not a designated arterial or collector street.
4. Alco Street north of 16th Avenue was vacated as part of the Heritage Plaza development.
5. Alco Street is an undeveloped/unused street between 16th and 17th Avenues.
6. There is an existing 8-inch public sanitary sewer line in the proposed area to be vacated between 17th Avenue and Queen Avenue which runs east west mid-block and then north near the center of the right-of-way to 17th Avenue.
7. Alco Street is graveled for approximately 100 feet south of 17th Avenue and is utilized by the adjoining property owner for parking and by the City of Albany for access to the existing public sanitary sewer lines. The portion adjacent to Queen Avenue is undeveloped.
7. Seventeenth Avenue between Alco and Burkhart Streets is a graveled road with access to both 16th and Queen Avenues via Burkhart Street which is also graveled.
8. The Engineering Division is willing to recommend approval for the section of Alco Street between 16th and 17th Avenues. However, the Engineering Division is recommending not granting approval of the vacation of Alco Street between 17th and Queen Avenues because of the existence of the existing sanitary sewer lines, the future extension of a waterline from Queen Avenue to serve 17th Avenue, and the construction of storm drain facilities at the time 17th Avenue is improved.

**STAFF CONCLUSIONS:**

1. The proposed vacation will not be inconsistent with the Comprehensive Plan Transportation Goal Policy No. 1 which calls for an efficient, safe, and non-disruptive relationship between the land use and the transportation system.
2. Staff has evaluated the proposal based upon the Street Vacation criteria listed in Section 2.440 of the Albany Development Code and found the vacation of Alco Street between 16th and 17th Avenues to be in conformance with Criteria 1, 2, 3, 4, and 5.

3. Because of the existing utilities located in Alco Street between 17th and Queen Avenues, the vacation would be detrimental to the public interest and therefore would not be in conformance with Street Vacation criteria No. 2

**STAFF RECOMMENDATIONS:**

1. That only that portion of Alco Street lying between 16th and 17th Avenues be vacated.

**PLANNING COMMISSION ACTION:**

Unanimously recommends to the City Council the **APPROVAL** of the Vacation of that portion of Alco Street, lying between 16th and 17th Avenues SE (Between Tax Lots 1300 and 1700, 11-3W-08BC based upon the staff analysis and the findings and conclusions listed in the staff report.

**CITY COUNCIL ACTION:**

**MOTION TO APPROVE**

I move that the City Council **APPROVE** the Vacation of that portion of Alco Street, lying between 16th and 17th Avenues SE (Between Tax Lots 1300 and 1700, 11-3W-08BC based upon the staff analysis and the findings and conclusions listed in the staff report.

**MOTION TO DENY**

I move that the City Council **DENY** the Vacation of that portion of Alco Street, lying between 16th Avenue SE and Queen Avenue SE (Between Tax Lots 1300, 1700, 2900, 3000, and 3200, 11-3W-08CA) and direct staff to prepare Findings and Conclusions for denial based upon the testimony received at the Public Hearing.

**APPEALS:** If the applicant or any affected property owner is dissatisfied with the decision or any conditions thereof required for approval by the City Council, s/he may file a "Notice of Intent to Appeal" with the State Land Use Board of Appeals within 21 days from the effective date of the Council's action.



VC-02-92  
Rec. 10-30-92

1835-17<sup>th</sup> S.E. in Albany  
30 October 1992

Albany Planning Department  
2 Broadalbin St.  
Albany, OR 97321

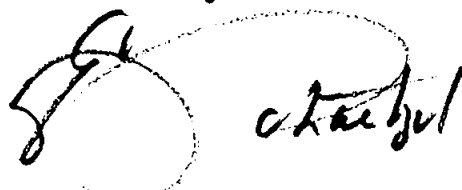
Gentlemen,

You have notified me by writing, of proposed vacating of street right-of-way. My home is roughly 50 feet away from that R.O.W. As I must handle work in the North of Nevada, next week, I can't attend your hearing, but I am glad to express my approval of the proposed action.

However, overall planning requires that we anticipate problems resultant to the vacating:

- (1) The traffic will increase, shortly, on 17<sup>th</sup>. With expected Federal help, 17<sup>th</sup> should be widened and improved.
- (2) We will necessarily exit 17<sup>th</sup> (when going East) at Burkhardt St., but shrubs and obstructions make it partly, as a "blind corner". Please make correction!

Most sincerely,

 Charles