

# EUGENE CITY COUNCIL

## AGENDA ITEM SUMMARY



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Action: Ordinance Vacating the Portion of West 4<sup>th</sup> Alley Located between 4<sup>th</sup> and 5<sup>th</sup> Avenues and Lincoln and Charnelton Streets (VRI 13-1)

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Meeting Date: January 13, 2013  
Department: Planning and Development  
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Agenda Item Number: 7  
Staff Contact: Steve Ochs  
Contact Telephone Number: 541-682-5453

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### ISSUE STATEMENT

The City Council is scheduled to take action on an alley vacation request submitted by CB Simons on behalf of Simons Properties and CSA Oregon LLC. The property affected by this proposed action is the east/west right-of-way of West 4<sup>th</sup> Alley, between Lincoln Street and Charnelton Street.

### BACKGROUND

The applicant is requesting the City of Eugene to vacate the West 4<sup>th</sup> Alley right-of-way from Charnelton Street to Lincoln Street while retaining a public utility easement over the alley. The area of the request is 4,669 square feet. The applicant is requesting the vacation to allow for new commercial development on the property and to create a better business environment facing the alley.

On December 9, 2013, the City Council held a public hearing. At the public hearing, four people spoke in support of the vacation and no one spoke in opposition.

Cheryl Monson noted that the property owner currently leases to 28 small businesses with 230 employees and that the vacation would allow establishment of new storefronts to accommodate new tenants and businesses on the site and support economic development in the Whiteaker area.

Peter Anthony testified that the property owner had already greatly improved the area and that expanding businesses would further improve the neighborhood.

John Barofsky supported the vacation for fiscal reasons, noting that the money the City receives for the alley would go into the road fund to support road maintenance.

Jim Spickerman noted that the alley storefronts cannot be built as proposed given the setback requirements along the alley. The result of vacating the alley would be to change the area from an auto- oriented use to a pedestrian-friendly use.

The City Council also posed questions of staff which are discussed in more detail below. At the end

of the hearing the City Council closed the record.

### **CITY COUNCIL QUESTIONS**

Councilor Brown asked how this proposal was different from the vacation proposal that was previously denied. Physically there is no difference in the request. The proposal is to vacate the entire alley while retaining a public utility easement over the entire alley. The primary change is that the applicant has provided more information in this application regarding how the site would be redeveloped and how these changes would benefit the community at large. Specifically, the applicant indicated that they would convert indoor parking adjacent to the alley into storefronts along the alley (See Attachment B).

Councilor Zelenka asked if public pedestrian access would be maintained with the vacation. At the hearing, staff noted that a public pedestrian access easement was not proposed by the applicant, but that the City Council could amend the ordinance to include a public pedestrian easement. The applicant has since requested that if the City Council finds that adding a pedestrian easement is necessary, they would prefer the City Council deny the application. With the additional easement, the property owner does not wish to purchase the alley. The applicant notes that they would be required to pay the taxes on the property, but would not receive the benefit of treating the area as their own property and could not enforce any rules or conditions set out in a public easement. Therefore, the applicant requests either approval without a pedestrian easement, or denial of the request if the City Council finds that the vacation must include a pedestrian access easement in order to determine the vacation is in the public's interest.

As background, staff has previously noted that the alley is primarily used by the applicant and his tenants and currently provides only minimal value as an access route for the general public, given that the alley ends at Charnelton Street and does not continue to the east. 5<sup>th</sup> Avenue serves as the primary accessway for vehicles, bikes and pedestrians and will be unaffected by this vacation.

Councilor Clark noted that the east end of the alley had buildings built up on both sides and was very narrow and asked for more information about public safety issues in that area. Public Works staff reported a total of nine crashes in the last three years at two intersections along 5<sup>th</sup> Avenue. There were no reported accidents on the alley itself. The police provided information that on that block over the last three years there have been 290 calls for service with 108 citations or arrests. Further details regarding the public safety information is attached (See Attachment F).

### **City Council Determination**

The question before the City council is whether the proposed alley vacation is in the public interest. The council determined that the original request was not in the public interest. Since that time the applicant has since provided additional information regarding the intended use of the property, including, site plans and elevations showing the transition from an existing indoor parking area to new storefronts and businesses. The applicant needs greater flexibility along the alley to make façade and access improvements to tenant spaces to enhance their viability and success. These objectives are consistent with the City's goals of supporting local businesses and the overall vitality of downtown.

Additionally staff notes the following factors can be considered in this instance:

- The alley currently provides minimal value as an access route for the general public, given that the alley dead-ends at the jail. 5<sup>th</sup> Avenue serves as the primary accessway for vehicles, bikes and pedestrians, which will be unaffected by this vacation.
- The alley is primarily used by the applicant and his tenants, which will be retained for private use. The applicant will pay for the alley and public maintenance of the alley will no longer be required.
- Public utilities that run through the alley do provide an important community need and will be retained with a public utility easement.

Based on these factors staff has drafted an ordinance and findings (Attachment C) to support the conclusion that vacation of the alley is in the public interest. If the City Council believes vacation of the alley must include retention of a public pedestrian easement, the City Council should deny this request given the applicant's position regarding the easement.

Requests for the vacation of public streets and alleys are considered in accordance with sections 9.8700-9.8725 of the Eugene Code (EC) and Oregon Revised Statutes (ORS) 271.080-271.230, and processed pursuant to EC 9.7445-9.7455. The City conducted the public hearing in accordance with quasi-judicial procedures in State law and as set forth in EC 9.7065 through EC 9.7095.

### **RELATED CITY POLICIES**

The Eugene City Council will address the relevant approval criteria from EC 9.8725 in making a decision on the proposed street vacation, as listed below:

*The City Council shall approve, or approve with conditions and reservations of easements, the vacation of improved public right-of-way, public ways acquired with public funds, or undeveloped subdivision and partition plats, or portions thereof, including public right-of-way and improved public easements located therein, only if the council finds that approval of the vacation is in the public interest.*

### **COUNCIL OPTIONS**

The council may consider the following options:

- 1) Adopt the ordinance as attached.
- 2) Adopt the ordinance with specific amendments.
- 3) Deny the ordinance.

### **CITY MANAGER'S RECOMMENDATION**

The City Manager recommends that the City Council approve the vacation request and adopt the

ordinance and findings as attached.

### **SUGGESTED MOTIONS**

Move to adopt Council Bill 5104, an ordinance vacating the east/west right-of-way of West 4th Alley between Lincoln Street and Charnelton Street.

### **ATTACHMENTS**

- A. Map of Alley Vacation Request
- B. Applicant's Site Plan and Proposed Elevations
- C. Draft Ordinance (with Exhibits A – C) for Alley Vacation
- D. Notice of Assessment of Benefits
- E. Public Testimony
- F. Public Safety Response Public Works and Police

### **FOR MORE INFORMATION**

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