

## MEMORANDUM

City of Springfield

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**To:** Springfield Planning Commission  
**From:** Gregory Mott, Planning Manager  
**Date:** March 8, 2007  
**Subject:** Proposed Springfield Development Code Amendment to allow vacation of public right-of-way, retention in City ownership and alternative public use of the right-of-way.

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### Issue

On January 22, 2007, the Springfield City Council initiated amendment of Article 9 VACATIONS of the Springfield Development Code. The purpose of the amendment is to create specific criteria for Council-initiated public right-of-way vacation when the City will retain ownership and the former right-of-way will be used for an alternative public purpose. The existing vacation criteria is not responsive to these circumstances so new criteria are proposed.

### Background

The January 22, 2007 Agenda Item Summary initiating this SDC amendment cited a need to create these provisions because the existing vacation standards did not contemplate, and therefore could not recognize “reasons other than policies contained in the Metro Plan, TransPlan, or other planning documents” as a justification for right-of-way vacation. Most past vacation proceedings were based on private party initiatives with the objective of property acquisition for private purpose. In all of these circumstances the Council’s review was based on community need to preserve the right-of-way for public transportation use vs. the property owner/applicant’s private interests. The approval criteria did not allow any public purpose consideration other than those purposes identified in TransPlan and, with respect to the issues raised by past applicants, “public purpose” was never part of the equation.

The proposed amendments now allow the Council to weigh whether or not the public interests can still be served even if the right-of-way is no longer used for transportation activities. The new criteria are:

- (a) The Vacation was initiated by the City Council pursuant to ORS 271.130(1);
- (b) Notice has been given pursuant to ORS 271.130(1);
- (c) Approval of the vacation would be consistent with provision of safe, convenient and reasonably direct routes for cyclists and pedestrians as provided in OAR 660-012-0045(3); and,
- (d) Whether provisions have been made to ensure that the vacated property will remain in public ownership.

These criteria still maintain a public stewardship responsibility and do require affirmative findings regarding the potential effects on cyclists and pedestrians, but they also provide the Council with a broader field of consideration if the City retains ownership to provide another public purpose for the right-of-way.

The situation of not having criteria responsive to a given circumstance is not new. The Council has adopted new criteria in the past specifically to accommodate uses that were not contemplated in earlier versions of the Development Code, or to provide the City with stronger discretionary authority when considering use approvals in unique circumstances. In 1991 new discretionary use criteria were adopted to site public and private elementary and middle schools; in 1997 new

discretionary use criteria were adopted to site wireless telecommunications facilities; and in 2000 new discretionary use criteria were adopted to allow approval of innovative design standards in place of adopted design standards for multi-unit developments. In each of these instances the then discretionary use criteria of Article 10 was unresponsive to the review and consideration of these particular uses.

### **Conclusion**

The Planning Commission is requested to consider the proposed amendments after conducting a public hearing and forwarding a recommendation to the City Council for consideration with other testimony entered into the record of this matter. The Planning Commission action can include support, qualified support, opposition, or no recommendation.

- Attachments:
1. Proposed new text for Article 9 VACATIONS, Subsection 9.060(3) (a-d)  
Criteria of Approval
  2. Findings in Support of proposed new Vacation criteria of approval (Subsection 9.060(3) (a-d))