

MEMORANDUM**CITY OF SPRINGFIELD**

DATE OF HEARING: July 5, 2006**TO:** Springfield Planning Commission **PLANNING COMMISSION****FROM:** Andy Limbird **TRANSMITTAL****MEMORANDUM****SUBJECT:** Request for Vacation of Public Alley

ISSUE

The Planning Commission is requested to conclude a public hearing for a request to vacate a 14-foot wide mid-block alley located west of 4th Street between A Street and B Street. The Planning Commission will decide whether to advise the City Council to approve, approve with conditions or deny the request.

DISCUSSION

A public hearing for the vacation request was opened at the regular Planning Commission meeting on June 20, 2006. This hearing was continued to provide staff with the opportunity to respond to comments from Mr. Fred Simmons. These responses and additional findings are written in italics on the attached staff report. The applicant, the City of Springfield, is requesting the right-of-way vacation to facilitate development of a Municipal Justice Center and Jail on the downtown city block containing the subject alley. The proposed site plan incorporates the alley right-of-way within the future building envelope of the Justice Center and jail. The public right-of-way proposed for vacation consists of a 14-foot wide by 264-foot long paved alley extending from 4th Street through to Pioneer Parkway East (3rd Street). The mid-block alley is located immediately to the north of the existing police and municipal courts building, and a commercial lease space owned by the City. At present, vehicular traffic within the entirety of the alley is primarily limited to police and service vehicles. The extreme eastern end of the alley serves as a driveway egress point for a public parking area. The extreme western end of the alley serves as a driveway egress point to Pioneer Parkway East for parking utilized by the Best Little Printhouse. There are existing utilities within the alley that will be relocated prior to construction of the Justice Center. In the interim, easements or licenses will be provided to accommodate the utilities until relocation has been completed, and to allow continued use of the alley for vehicle and pedestrian access until such time as these uses are terminated or alternative arrangements are made.

RECOMMENDATION

Staff recommends approval of the vacation request with conditions based on the public hearing testimony, staff report and attached findings.

ACTION REQUESTED

Advise the City Council to approve the vacation request at a public hearing by motion and signature of the attached recommendation by the Planning Commission Chairperson.

ATTACHMENT 1. Revised Staff Report and Findings**ATTACHMENT 2.** Map showing the proposed vacation area**ATTACHMENT 3.** Recommendation to City Council

**ATTACHMENT 1
VACATION REQUEST
REVISED STAFF REPORT AND FINDINGS**

Case No. LRP2006-00019

APPLICANT

The City of Springfield

REQUEST

The vacation of a 14-foot wide by 264-foot long alley right-of-way.

LOCATION OF PROPERTY

The mid-block alley right-of-way (ROW) proposed to be vacated is located west of 4th Street between A Street and B Street in downtown Springfield. The alley lies within Tax Map 17-03-35-31.

BACKGROUND

The alley was created as public right-of-way with platting of the *Extended Survey of Springfield* in 1872. There are nine City-owned properties (Tax Map 17-03-35-31, Tax Lots 1500-1700 and 1900-2400) that are directly adjacent to the subject right-of-way. From a functional perspective, the subject right-of-way is used *primarily* by police and service vehicles as it connects with secure parking areas and the rear entrance of the police station. The alley also provides a physical separation between the existing police, municipal courts and commercial lease space buildings fronting onto A Street and parking areas fronting onto B Street. *The extreme eastern end of the alley serves as a driveway egress (exit) point for a public parking area within the northeastern quadrant of the block. The extreme western end of the alley serves as a driveway egress point for parking utilized by the Best Little Printhouse. Both the eastern and western ends of the alley are intended as one-way vehicle exit driveways onto 4th Street (east end) and Pioneer Parkway East (west end), respectively. Approximately 60 feet of the alley at each end of the block is used for public vehicular use (Photos 1 and 2).*

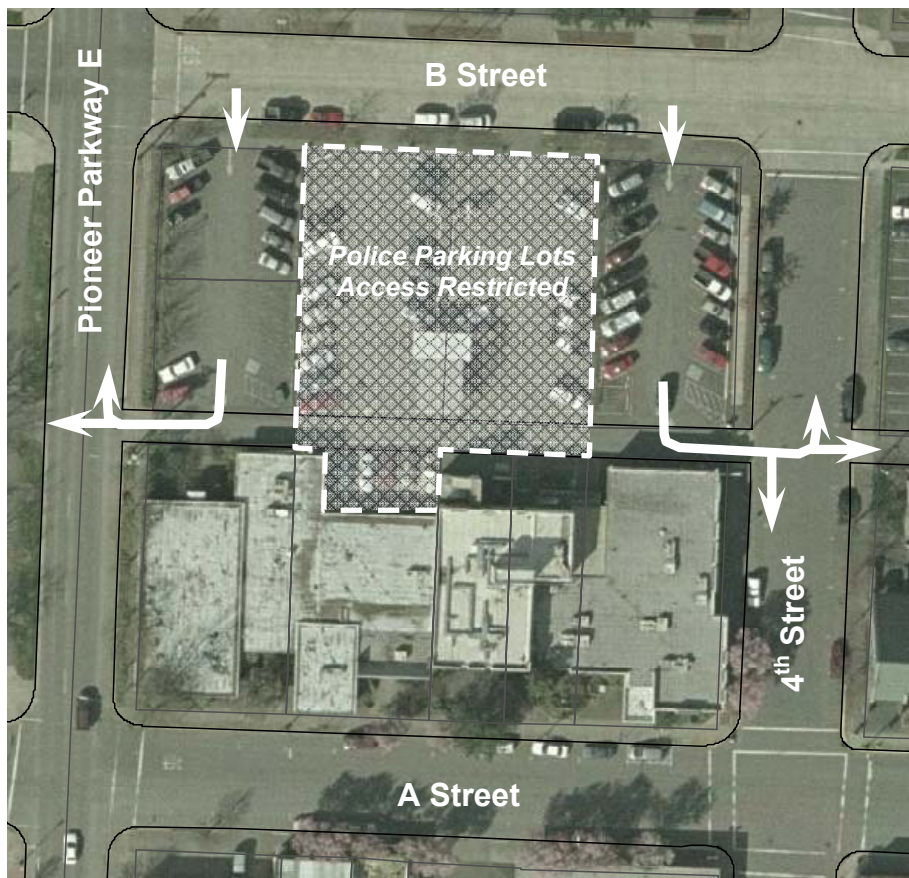


Photo 1: Alley egress onto 4th Street. Note location of Lane Elections ballot box.



Photo 2: Alley egress onto Pioneer Parkway East.

The vehicle circulation patterns for public use of the alley are depicted on the sketch map below:



PUBLIC HEARING TESTIMONY

One written submittal was made at the public hearing on June 20, 2006 by Mr. Fred Simmons (Exhibit 1). Mr. Simmons' testimony and staff responses follow (Mr. Simmons' statements have been numbered, and some have been edited for clarity where necessary):

- #1. *"The application is not complete. Article 9 [9.040(3)(a)] does not contain a legal description of the public rights of way to be vacated prepared by a licensed land surveyor."*

Staff Response to #1:

A legal description was prepared by the City Surveyor and is included as Exhibit 2 to this staff report. The legal description also is contained within the draft vacation ordinance (Exhibit 3).

- #2. *"A map pursuant to Article 9 of SDC 9.040(3)(e) No. 1 to 10 is not provided."*

Staff Response to #2:

A vicinity map and a site map are included as Exhibits 4 and 5 to this staff report.

- #3. *"Under Article 9 SDC the Section 9.040 application submittal (4) where public easements are proposed to be vacated a notarized letter of concurrence with the vacation from all utilities other than the city."*

Staff Response to #3:

The proposed vacation is a public right-of-way, not a public utility easement, and therefore notarized letters from utility providers are not required. Staff advise that not all utility companies responded to the notification of vacation proceedings. Notwithstanding, written acknowledgement of the vacation has been obtained from utility companies with facilities in the area including SUB Water, SUB Electric, Comcast and NW Natural Gas. The acknowledgements that have been received are attached as Exhibits 6-9 to this staff report. Staff also has discussed the vacation with representatives from Qwest Communications, but written confirmation had not been received at the time of writing. The response from Qwest will be submitted to the public hearing record at the Planning Commission meeting on July 5, 2006. As stated in Mr. Simmons' testimony, acknowledgement is not required from the City for its stormwater and sanitary sewer lines located within the alley. Staff advise that this follow-up re-notification and re-confirmation with the utility companies exceeds the requirements of ORS 271.080 and the SDC Article 9.

- #4. *"The notice of publication is not contained in staff report Article 9 SDC 9.050."*

Staff Response to #4:

A copy of the publication notice, affidavit of mailing, and confirmation fax from The Springfield News advertising department are included as Exhibits 10, 11 and 12 to this staff report.

- #5. *"The staff report does not contain the notice required to be mailed to all utility providers providing service within the city limits Article 9 SDC 9.050(3)."*

Staff Response to #5:

A copy of the notice sent to adjacent landowners and utility providers is included as Attachment 10 to this staff report. Supplemental acknowledgement also has been obtained from utility providers and these are attached to this staff report (Exhibits 6-9).

- #6. *"Finding #2 is deceptive as the staff report states that the alley of concern was created in the original map of Springfield in 1872 and has been used as a public alley since then. The existence is not in question or the vacation would not be at issue. The staff findings 1 2 3 are written with a*

permissive stance due to the nature of the applicant. The alley is shown in the discretionary use application info packet dated 23 Feb 2006 which was adopted by the city.”

Staff Response to #6:

This appears to be a statement as opposed to a question or request for clarification. A copy of the Extended Survey of Springfield dated April 5, 1872 is attached as Exhibit 13. In accordance with ORS 271.130 and SDC Article 9, the City may pursue vacation of a public right-of-way. Additionally, the proposed vacation is consistent with provisions of the City’s adopted planning documents – including the Metro Plan, Transplan and the Downtown Refinement Plan.

- #7. *“Finding #4 refers to SDC 40.100 maximum block perimeter it is clear that the closure of the alley is a stepping stone, therefore criterion (b) with the pending closure of B Street will be violated. The current design of the Justice Center requires the closure of B Street to be successful.”*

Staff Response to #7:

Although B Street vacation is a potential planning action that will be reviewed in the future, it is not the subject of this vacation request and staff report. Findings and conclusions of the alley vacation request are not predicated on a possible future outcome. Furthermore, the site plan review for the Justice Center currently being completed by staff does include vacation of the subject alley, but does not include closure of B Street. The determination as to whether this action is a “stepping stone” is another question for another day.

- #8. *“Finding #5 is in error as the alley is a public street that is used for access to the ballot drop off box and to customers of the Best Little Print House.”*

Staff Response to #8:

Staff acknowledge that the alley is used for vehicles exiting the City parking lot at the northeast corner of the block and the Best Little Print House parking lot at the northwest corner of the block. The alley does not have the same status as a typical public street, however, as evidenced by its partial blockage to public travel at the police parking area, narrow width, and “Do Not Enter” signs posted at both ends. As stated previously, both ends of the alley are functioning as one-way exit driveways. Vehicles are able to use the drive-up ballot drop box only after entering the City parking lot from B Street then turning left into the alley and approaching 4th Street. There is a “snorkel” drop slot on the south side of the drop box (facing the alley) for drive-up use. However, even without alley vacation, future construction activity on the north half of the block will eliminate the turning movement necessary to approach the drive-up drop slot. Therefore, the ballot box will require relocation or users will have to park along 4th Street and cross the public sidewalk to place a ballot in the drop slot. There is a drop slot on the north side of the box for this purpose. Because there is presently no driver expectation of being able to enter the east or west ends of the alley (due to exit-only traffic flow patterns), public use of the alley will be minimal when construction of the Justice Center is initiated on the north half of the block. See also the staff responses to Items #11, #12, and #16. The City will make arrangements with Lane Elections for the siting of one or more ballot drop boxes to replace the one near the eastern end of the alley to insure there is no gap in ballot drop box availability.

- #9. *“Finding #4 and 5 are not correct so the conclusion is in error as well.”*

Staff Response to #9:

Based on the supplemental information stated above and the findings prepared previously, staff are not amending the findings or the conclusion.

- #10. *“Finding #6 is in error as the plan is to vacate B St. between Pioneer Parkway East and 4th St. to*

allow construction of the Justice Center. This is with the full and open knowledge of the applicant and the staff member preparing the staff report and the Finding #6.”

Staff Response to #10:

The intention or decision to pursue B Street vacation at some point in the future is presumed, but does not factor into this proposed vacation decision. The site plan review for the Justice Center currently pending before staff does include vacation of this alley, but does not include closure of B Street. The staff findings are based on this request only and not a possible future condition. Therefore, staff are not changing the findings and conclusion.

- #11. *“Finding #8 is flawed as far as the commercial lease space. I would like to make a part of the record the lease agreement between the City of Springfield and the Best Little Printhouse. The public parking lot at the east end of the alley is affected as well.”*

Staff Response to #11:

Staff have reviewed the lease and note the following: 1) In 2003, the lease for Best Little Printhouse was extended to August, 2008, which is prior to anticipated relocation of the police and courts into the new Justice Center, based on an 18-month construction timetable. Therefore, the City will not necessarily be forced to terminate the lease early, unless the lessee chooses to do so; 2) The lease agreement provides for 16 parking spaces to serve the Best Little Printhouse, but the City has a clause in the lease providing for the right to remove or relocate the parking area at any time. The City will abide by the terms of the lease for the duration of the agreement, and parking egress will be afforded by a temporary easement or license until the parking area is no longer being used.

- #12. *“Finding #9 is not correct as access to the ballot box, the business and the parking lot is lost.”*

Staff Response to #12:

As stated previously, the alley serves as an exit for the parking lots but not as a means of entry. Lane County Elections has indicated the ballot box likely will be relocated after the November, 2006 election (Exhibit 14). A temporary public access easement or license over the eastern portion of the alley can be implemented until the ballot box is relocated. See also the staff response to Item #6.

- #13. *“Finding #12 and #13 do not discuss the impact of emergency services. The mass of the Justice Center and the Jail will require attack protocols for the Fire Dept. that have not been addressed.”*

Staff Response to #13:

Mr. Simmons is misinterpreting the issue of maintaining the safe and effective provision of emergency services after the right-of-way is vacated. This criteria of approval pertains to ensuring unobstructed and unfettered emergency access to structures and properties that otherwise might be isolated or landlocked upon vacation of a right-of-way. This is not the case with this proposal. The design, building materials, and supplementary fire suppression systems for the Justice Center and jail will be in accordance with all current Building and Fire Code requirements. This building will not be unlike many other commercial and industrial buildings within the City, and will not present an unusual hazard. In fact, the proposed construction materials are primarily non-combustible (concrete, steel and brick), which greatly reduces fire risk. The overall height of the building is approximately 3 stories at the highest point, which is a lower profile than many structures already existing in Springfield. The Springfield Fire and Life Safety Department has confirmed that suitable water flows are available for the proposed Justice Center and jail project, and that it will be accessible from a 360° perimeter by way of public streets (Exhibit 15).

- #14. *“Finding #15 is lacking as the application does not have required notarized letter of concurrence from utilities Article 9 SDC 9.040(4).”*

Staff Response to #14:

As stated previously, there is no requirement for notarized letters of concurrence from utility companies because public easements are not being vacated. However, staff have re-contacted all area utility providers and solicited written re-confirmation that they either do not have any utilities in the alley and/or they do not have an objection to vacation of the alley (Exhibits 6-9). Staff advise that vacation of the alley will not be immediate, and that temporary easements will be provided to maintain access and utilities within the alley until such time as relocation/removal is completed. Utility line placement or relocation is a standard practice usually associated with preparation of detailed construction drawings, and not during conceptual review. Staff advise that a reasonable condition of vacation approval would be provision of temporary easements or licenses to accommodate existing utilities located within the alley (See Condition 1 of the staff report).

- #15. *“The claim of no impact on other properties lacks technical support.”*

Staff Response to #15:

The alley only serves the tax lots within the 300 Block of A Street, comprising the police station, municipal courts and Best Little Printhouse lease space, and associated parking areas. The staff report and findings have been prepared on this basis. No other tax lots in the vicinity derive a direct benefit from the subject alley.

- #16. *“Finding #16 is without basis.
(A) The access to the ballot box is a critical public benefit that is used by many Springfield residents that are exercising their franchise to vote.”*

Staff Response to #16(A):

As stated previously, direct access to the ballot box will not be affected as it is located at the sidewalk on 4th Street and not within the alley. However, use of the drive-up drop slot may be affected should the ballot box remain in its current location after initiation of construction on the north half of the block. It is anticipated that Lane County Elections will relocate the drop box after the November, 2006 elections – which is prior to the start of construction of the Justice Center. Staff advise that in the worst case scenario, users will have to park on 4th Street and use the public sidewalk to access the ballot drop box. Therefore, Mr. Simmons’ assertion that citizens could be prevented from exercising their right to vote is unfounded, and the staff findings and conclusions will not be changed. See also staff responses to #8 and #12.

“(B) Access to the print shop is of great value to customers as it is the only print shop in downtown Springfield.”

Staff Response to #16(B):

As outlined earlier in the report, customer access to the Best Little Printhouse is from the parking lot located in the north half of the block. Deliveries to the print shop are made from the streetfront entrance on A Street. Provision of a temporary easement or license across the western end of the alley, allowing for access to the print shop until the lease is terminated, is a recommended condition of the vacation approval. This will allow print shop staff and customers to continue using a portion of the alley to exit the site. Furthermore, both the front and rear doors of the print shop will remain accessible to the public upon vacation of the alley.

- #17. *“Finding #17 has no basis as the application is incomplete and defective.”*

Staff Response to #17:

Additional clarification and supplemental findings have been provided to this report. As requested by Mr. Simmons' testimony, all relevant materials are attached to this staff report or will be submitted into the record at the re-convened public hearing meeting on July 5, 2006.

- #18. *"Finding #18 recites that the Lithia vacation required the applicant a private property owner to be held to a higher standard than the City the applicant in this request. The idea of rescision of this vacation would require demolition of a public building."*

Staff Response to #18:

Staff advise that, because the alley has been in existence since 1872, it is conceivable that alley access may be desirable in the distant future - after the life of the Justice Center building - with potential re-development of the city block. Admittedly, this is a long-range view and somewhat speculative. However, the bottom line is there would be an opportunity to reinstate the alley should a future City Council (or future landowner if the property changes hands) choose to do so.

- #19. *"Conclusion: The staff work on this vacation is poor and requires rejection of this vacation until the facts and criteria are met. There is time to answer the questions and will not impact or delay construction."*

Staff Response to #19:

Staff have supplemented the report for clarification of certain points and also to address, point-by-point, the issues raised by the submitted testimony. Based on staff review of Mr. Simmons' testimony and the responses contained herein, the findings contained in the report are consistent with the provisions of ORS 271.080 et. seq. and SDC Article 9.

SPRINGFIELD DEVELOPMENT CODE CRITERIA

Springfield Development Code (SDC) 9.060(2) establishes criteria for vacation of right-of-way that must be met in order to approve this request. The following findings address each of the criteria.

- (a) The Vacation shall be in conformance with the *Metro Plan*, *TransPlan*, the *Conceptual Local Street Map* and adopted functional plans, and applicable refinement plan diagram, plan district map, or conceptual development plan;**

Finding 1: The *Metro Plan* is a general plan which does not specifically discuss the vacation of rights-of-way. The right-of-way vacation process is found in SDC Article 9. The SDC is in conformance with the *Metro Plan*.

Finding 2: The alley is *not specifically identified or mentioned* in the *TransPlan*, any adopted functional plan, or the *Conceptual Local Street Map*. This alley is depicted in the background documentation for the *Downtown Refinement Plan*, but is not specifically mentioned in the *Refinement Plan*.

Finding 3: *The proposed alley vacation does not affect the downtown grid street network serving nearby commercial, institutional and residential properties because it is used by the public for egress only.*

Finding 4: There is not a plan district map or a conceptual development plan for this area.

Conclusion: There is no specific mention of the alley right-of-way in any of the above plans, nor are there policies regarding vacation of historic alleys in general. Therefore, this application complies with criterion (a).

- (b) The Vacation shall not conflict with the provisions of Springfield Municipal Code 1997; and this**

Code, including but not limited to, street connectivity standards and block lengths; and

Finding 5: SDC 40.100(5)(b) states that the maximum block perimeter shall be 1,400 feet. Upon vacation of the subject alley, the perimeter of the downtown city block located west of 4th Street and lying between A Street and B Street will be approximately 1,070 feet. *Therefore, this proposal meets the block length requirements of criterion (b).*

Finding 6: *The alley proposed for vacation does not function as part of the public street network, and lacks curb and gutter, sidewalks, street lighting and other facilities that would be conducive to pedestrian use. Parking is not allowable directly within the alley right-of-way as it is only 14 feet wide, which is too narrow for two-way traffic or for a passenger vehicle to comfortably pass alongside another parked vehicle. Approximately half of the alley (centered in the middle of the block) has been designated for Springfield Police use by way of posted signage and exclusionary fencing. For this reason, casual pedestrian use of the alley (eg. short-cutting) is not specifically prohibited, but is discouraged and is a minimal if not remote occurrence.*

Finding 7: The vacation does not involve a public street *that is part of the City's grid street system* and does not conflict with the provisions of either the Springfield Municipal Code or the Springfield Development Code.

Finding 8: *Section 3.206 of the Springfield Municipal Code states: "All vacation ordinances shall contain the following statement: 'Nothing herein contained shall cause or require the removal of, or the abandonment of any sewer, water main, gas main, conduit of any kind, direct-buried cable, wire, pole or thing used or intended to be used for any public service. The right is hereby reserved for the owner of any such utility or thing to maintain, continue, repair, reconstruct, renew, replace, rebuild, and enlarge any and all such things.' [Section 3.206 amended by Ordinance No. 5891, enacted May 18, 1998.]"*

In accordance with Section 3.206 of the Municipal Code, vacation of the alley right-of-way will not require utility providers to surrender facilities and equipment contained within the right-of-way, nor entitle the City to initiate construction within the alley without first arranging for appropriate removal and relocation of affected utilities. Consistent with City practice, and in accordance with the Springfield Municipal Code, staff recommend a condition requiring provision of temporary easements or licenses to accommodate existing utilities until they are removed or relocated.

RECOMMENDED CONDITION:

1. *Prior to or concurrent with recording of the alley vacation, temporary easements or licenses shall be provided for existing utilities located within the alley including, but not limited to, sanitary and storm sewer, cable television, telephone and telecommunications, and electricity.*

Conclusion: The alley right-of-way vacation does not conflict with the Municipal Code or Development Code and does not involve a public street *that is part of the City's grid street system*. *As conditioned herein, temporary easements or licenses will be provided to accommodate existing utilities until relocation or removal of these features. Therefore, this application complies with criterion (b).*

(c) There shall be no negative effects on access, traffic circulation, emergency service protection or any other benefit derived from the public right-of-way, publicly owned land or Partition or Subdivision Plat.

There Are No Negative Effects on Access

Finding 9: All tax lots within this downtown city block have frontage and access onto A Street, B Street,

4th Street and/or Pioneer Parkway East. The alley is not required to provide legal or physical access to any tax lots that otherwise would be isolated upon closure of the right-of-way. Access does not change because of the vacation proposal. *As discussed in the public hearing testimony and staff responses, the alley serves as a one-way driveway exit onto 4th Street and Pioneer Parkway East. Direct access to the parking lots for the police, courts, and commercial lease space occupied by the Best Little Printhouse is from B Street.*

Finding 10: All tax lots deriving access from the alley proposed for vacation are owned by the City.

Finding 11: The construction of the future municipal jail is not scheduled to begin until late 2008, after expiration of the commercial lease with the Best Little Printhouse. *The City will not necessarily have to terminate the lease prior to expiration, unless the lessee requests this action.*

Finding 12: The alley is not required to maintain access to the police and municipal courts building, commercial lease space, or parking areas. Public vehicular access to the alley is *limited to out-bound turns onto 4th Street and Pioneer Parkway East by posted traffic signage and exclusionary fencing for the police parking lot.*

Finding 13: Because the vacation request has no negative impacts on access, this application complies with this portion of the criterion (c).

There Are No Negative Effects On Traffic Circulation

Finding 14: The adjacent public streets are not affected by the proposed vacation, so there are no effects on traffic circulation.

Finding 15: *The existing police, courts and Best Little Printhouse conjoined buildings can be accessed from the perimeter public street system and nearby parking lots.*

Finding 16: *Unlike most other alleys in the downtown area, there is no provision for vehicles to pass and re-pass unhindered through the length of the alley. Conversely, vehicular access to the alley has been highly restricted by posted traffic signage and exclusionary fencing. As a result, only the eastern and western ends of the alley currently provide a limited function for exiting traffic from the adjacent parking lots.*

Finding 17: Because the vacation request will have no *significant* negative affect on traffic circulation, this application complies with this portion of the criterion (c). *Continued public access to the print shop and the ballot drop box will be afforded by temporary easements or licenses across the eastern and western portions of the alley.*

There Are No Negative Effects On Emergency Service Protection

Finding 18: Emergency access to properties within the subject city block will not change due to the proposed vacation.

Finding 19: A portion of the city block containing the right-of-way proposed for vacation already contains an emergency (police) service building. The subject city block is proposed for construction of a new police and courts building that will allow for police service to be maintained or enhanced beyond current levels.

Finding 20: *Springfield Fire and Life Safety advise that suitable emergency access to the entire block will be afforded by way of perimeter streets and driveways (Exhibit 15). Larger fire trucks typically*

require at least 20 feet clear width for comfortable passage; however, the alley right of way is only 14 feet wide and constrained by the presence of buildings, power poles, signposts and fencing. For this reason, full-size fire trucks likely would not use the subject alley during an emergency response.

Finding 21: Because there are no negative effects on emergency service, this application complies with this portion of criterion (c).

There Are No Negative Effects On Any Other Public Benefit Derived From the Right-Of-Way

Finding 22: There are public utilities contained within the alley. Temporary easements or licenses will be required across the area occupied by the alley until the affected utilities are relocated prior to construction of the Justice Center (*see Recommended Condition 1*). The easements or licenses will be used as an interim measure, and will be released or expire upon relocation of the utilities. Provision of utility services to other adjacent properties will not be affected by the proposal. Furthermore, provision of emergency (police) service to the community will not be affected by the proposed vacation.

Finding 23: *Construction on the Justice Center building is scheduled to begin in early 2007, and will require relocation of police, municipal and commercial parking. It is anticipated the alley will remain open to vehicle and pedestrian passage until construction of the jail facility scheduled to begin in late 2008.*

Finding 24: There are no *irreplaceable* public benefits derived from public access to the alley right-of-way. The alley is used almost exclusively by police and service vehicles and accesses City-owned property. Casual public use of the subject right-of-way is discouraged due to security concerns. *Current public use is limited to vehicles exiting the municipal and Best Little Printhouse parking lots. The City will abide by the provisions of the lease agreement with the Best Little Printhouse until such time as the lease is terminated or the leaseholder vacates the premises. An easement or license is to be provided allowing for continued use of the alley for access to the print shop and egress from the nearby parking lot. These arrangements would address much of the potential public benefit (ie. allowing for vehicles to exit the print shop parking lot) currently provided by the alley right-of-way.*

RECOMMENDED CONDITION:

- 2. Prior to or concurrent with recording of the alley vacation, temporary easements or licenses shall be provided across the eastern and western ends of the alley, allowing for continued public use of the egress driveways from the parking lots, access to the Lane Elections ballot drop box, and access to the commercial lease space presently occupied by the Best Little Printhouse.*

Finding 25: Because the ordinance protects any underground utilities and there are no negative effects or *irreplaceable* public benefits involved in this application, the proposal complies with this portion of the criterion (c).

Finding 26: A request in 2002 for vacation of a public alley at the downtown Lithia Toyota site was conditional upon recording of a deed restriction against the tax lots deriving access from the alley. The intent of this condition was to guarantee alley access for individual tax lots that otherwise would be isolated, should any come into different ownership. However, unlike a site entirely in private ownership, the Justice Center site is entirely publicly owned and the alley vacation is to facilitate construction of a public building. For this reason, staff advise that deed restrictions are not warranted for the subject properties. The City still has the discretion and ability to reinstate the alley should some or all of the tax lots currently deriving access from the alley come under different ownership - even if this occurs in the distant future.

CONCLUSION

Staff has demonstrated that the request to vacate the alley right-of-way is in conformance with the vacation criteria of approval (Ref. SDC 9.060(2)).

RECOMMENDATION

Recommendation of approval of the proposed vacation to the City Council, *subject to the following conditions:*

- 1. Prior to or concurrent with recording of the alley vacation, temporary easements or licenses shall be provided for existing utilities located within the alley including, but not limited to, sanitary and storm sewer, cable television, telephone and telecommunications, and electricity.*
- 2. Prior to or concurrent with recording of the alley vacation, temporary easements or licenses shall be provided across the eastern and western ends of the alley, allowing for continued public use of the egress driveways from the parking lots, access to the Lane Elections ballot drop box, and access to the commercial lease space presently occupied by the Best Little Printhouse.*