

ORDINANCE NO. 2021-02

**ORDINANCE VACATING THE ALLEY LOCATED
BETWEEN 1208 AND 1222 BIRCH STREET
FILE NO. 311-21-000011-PLNG**

WHEREAS, petitions have been filed with the City of Forest Grove to initiate the vacation of the alley located between 1208 and 1222 Birch Street; and

WHEREAS, notice of the proposed vacation was published in the *Forest Grove News-Times* on April 29 and May 6, 2021, as required by ORS 271.110(1); and

WHEREAS, notice of the proposed vacation was posted on and adjacent to the site proposed for vacation on April 19, 2021, as required by ORS 271.110(2); and

WHEREAS, notice of this proposal was mailed on April 19, 2021, to property owners and residents within 300 feet of the site, as required by Development Code §17.1.715; and

WHEREAS, the City Council held the duly-noticed Public Hearing concerning this vacation on May 10, 2021 and continued the hearing on May 24, 2021, and has made a determination pursuant to ORS 271.120 on the basis of the findings contained in Section 1 below.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

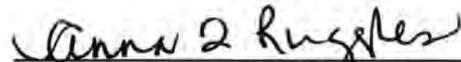
Section 1. On the basis of the findings in attached Exhibit "A", the alley located between 1208 and 1222 Birch Street as described in Exhibit "B" is hereby vacated.

Section 2. This ordinance is effective 30 days following its enactment by the City Council.

Section 3. A certified copy of this ordinance shall be recorded with the Washington County Clerk, County Assessor and County Surveyor.

PRESENTED AND PASSED the first reading the 10th day of May, 2021.

PASSED the second reading the 24th day of May, 2021.



Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 24th day of May, 2021.



Peter B. Truax, Mayor

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ORDINANCE NO. 2021-02

EXHIBIT "A"

Criterion: Oregon Revised Statute Chapter 271.120 allows the city governing body (the City Council) to hear a vacation request. The proceedings can be initiated upon receipt of a petition from 100% of the adjoining property owners, and of the owners of 2/3 in area of the "affected property" (defined by statute as an area 200 feet on either side of the proposed vacation area, for a distance of 400 feet from either end).

Finding: *These petitions were filed with the Community Development Department on March 22, 2021.*

Criterion: A hearing date must be set.

Finding: *The hearing date was set for May 10, 2020.*

Criterion: Notice of the hearing must be published in the local paper at least once a week for two consecutive weeks prior to the hearing; and notice must be posted at or near each end of the proposed vacation.

Finding: *Notice was published in the Forest Grove News-Times on April 29 and May 6, 2021. Notice was posted at or near the proposed vacation site on April 19, 2021. Notice was mailed to property owners and residents within 300 feet of the site and within the affected area defined above, on April 19, 2021.*

Notice was also provided to these utility providers: Ziply, Northwest Natural Gas, MACC, and AT&T. No objections to the proposed vacation have been received.

Criterion: At the hearing, the Council must determine if a majority of the owners of the area affected have objected in writing to the vacation. Affected property is defined as that land lying on either side of the street for a distance of 200 feet, and the land beyond each terminus for a distance of 400 feet, of the part of the street proposed for vacation. The calculation of affected property does not include public right-of-way.

Finding: *Petitions in support of the vacation have been received from 100% of the abutting property owners and 86% of the owners of real property within the affected area defined by statute, in excess of the 2/3 requirement. No objections (letters or email) have been received.*

Criterion: Rights-of-way may not be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages.

Finding: *The abutting property owner is requesting the vacation to allow the further development of the property. As a result, it is found that the City has received consent from the abutting property owners and that the proposed vacation would not have an adverse impact on the market value of the property.*

Criterion: If matters are determined in favor of the vacation, the City shall by ordinance make such determination a matter of record and vacate the right-of-way.

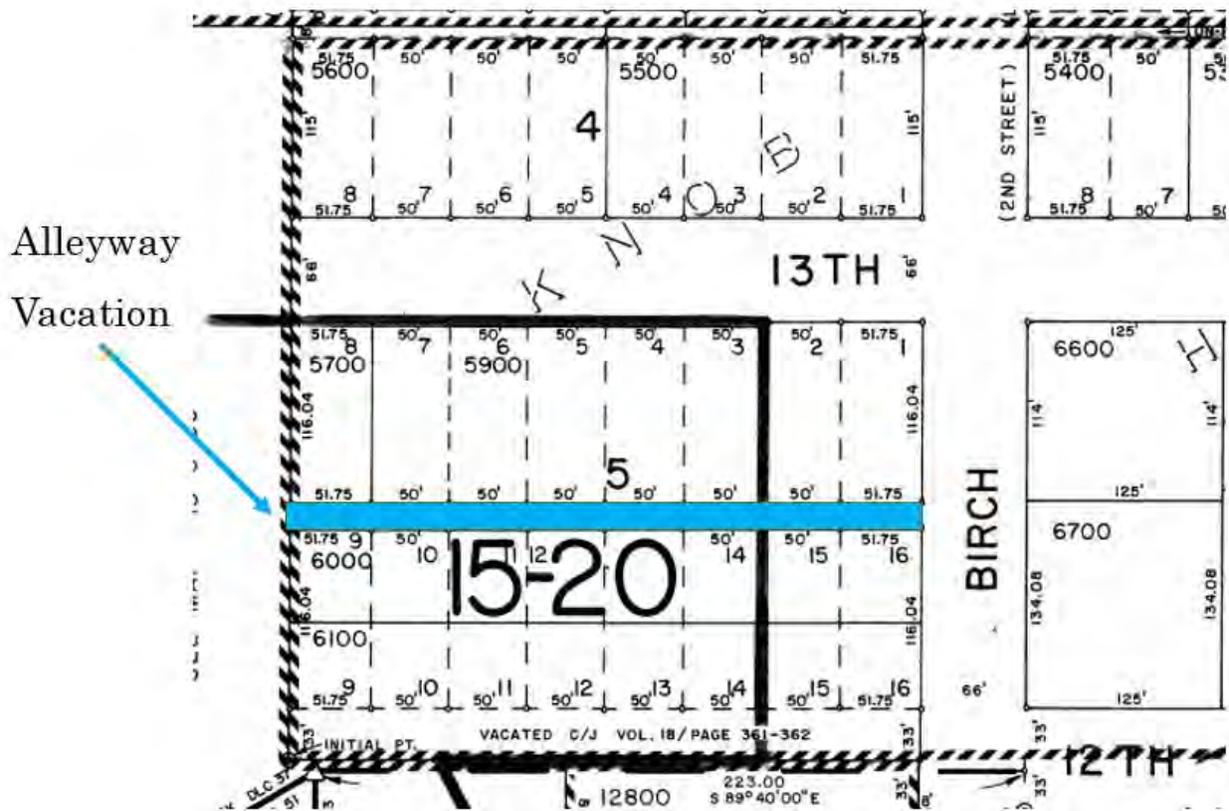
Finding: An ordinance to vacate the right-of-way is attached.

Criterion: The City may, upon hearing, make such reservations (conditions) as appear to be for the public interest.

Finding: No reservations, conditions or easements over the vacated area appear to be necessary.

EXHIBIT "B"

Washington County Tax Map 1S306CA



Date: May 24, 2021

Agenda Item: 6.

Subject: CONTINUE PUBLIC HEARING AND SECOND READING OF ORDINANCE NO. 2021-02
VACATING THE ALLEY BETWEEN 1208 AND 1222 BIRCH STREET; APPLICANT:
MICHAEL MOORE; FILE NO. 311-21-000011-PLNG

CITY COUNCIL MEETING

Request to Testify at Public Hearing

Public Hearings: Hearings are held on each matter required by state law or City policy. Sign in before the meeting on the Public Hearing form posted in the foyer. The presiding officer will review the hearing instructions prior to testimony. The presiding officer will call the individual or group by the name given on the sign-in form. When addressing the Council, please use the witness table (center front of the room), provide your full name and please limit your remarks to three (3) minutes unless the presiding officer grants an extension. Written or oral testimony is heard prior to any Council action. All testimony is electronically recorded. Written testimony may be submitted by 3:00 p.m. the day of the meeting to: CityCouncilors@forestgrove-or.gov.

Please sign-in below to testify:

PROPONENTS: *(Please print legibly)*

First & Last Name:
Michael Moore, Applicant

Address: **City, State & Zip Code:**

OPPONENTS: *(Please print legibly)*

First & Last Name:

Address: **City, State & Zip Code:**

OTHERS: *(Please print legibly)*

First & Last Name:

Address: **City, State & Zip Code:**

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<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>7.</u>
MEETING DATE:	<u>05/10/2021</u>
FINAL ACTION:	<u>FIRST READING ORD 2021-02</u>

CITY COUNCIL STAFF REPORT

TO: City Council

FROM: Jesse VanderZanden, City Manager

PROJECT TEAM: Bryan Pohl, Community Development Director

MEETING DATE: May 10, 2021

SUBJECT TITLE: Public Hearing and First Reading of Ordinance Vacating Alley between 1208 and 1222 Birch Street; File No. 311-21-000011-PLNG

ACTION REQUESTED:

<input checked="" type="checkbox"/>	Ordinance	<input type="checkbox"/>	Order	<input type="checkbox"/>	Resolution	<input type="checkbox"/>	Motion	<input type="checkbox"/>	Informational
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X all that apply

ISSUE STATEMENT: The alley located between 1208 and 1222 Birch Street is a 16-foot-wide dead-end right-of-way. The abutting property owners have petitioned to have the alley vacated.

BACKGROUND: The alley was platted as part of the Knob Hill Addition in 1909. It has been partially improved to provide vehicular access to the abutting properties.

All relevant utility companies were notified, and no objections to the vacation have been received. Further, as the right-of-way was dedicated to the public, there is no fee ownership of land by the City. As a result, there is no consideration of any payment to the City for the vacation of the right-of-way (aside from the processing fee).

Oregon Revised Statute Chapter 271.120 allows the city governing body (the City Council) to hear a vacation request. The proceedings can be initiated upon receipt of a petition from 100% of the adjoining property owners, and of the owners of 2/3 in area of the “affected property” (defined by statute as an area 200 feet on either side of the proposed vacation area, for a distance of 400 feet from either end). These petitions were filed with the Community Development Department on March 22, 2021.

The vacation procedure is as follows:

- (A) A hearing date must be set. *The hearing date was set for May 10, 2021.*
- (B) Notice of the hearing must be published in the local paper at least once a week for two consecutive weeks prior to the hearing; and notice must be posted at or near each end of the proposed vacation.

Notice was published in the Forest Grove News-Times on April 29 and May 6, 2021. Notice was posted at or near the proposed vacation site on April 19, 2021. Notice was mailed to property owners and residents within 300 feet of the site and within the affected area defined above, on April 19, 2021.

Notice was also provided to utility providers Hillsboro Water, Verizon, Northwest Natural Gas, MACC, and AT&T, and no objections to the proposed vacation have been received.

- (C) At the hearing, the Council must determine if a majority of the owners of the area affected have objected in writing to the vacation. Affected property is defined as that land lying on either side of the street for a distance of 200 feet, and the land beyond each terminus for a distance of 400 feet, of the part of the street proposed for vacation. The calculation of affected property does not include public right-of-way. The petition to request a vacation must be signed by 100% of the abutting property owners and 2/3 of the property owners within the affected area as defined above.

Petitions in support of the vacation have been received from 100% of the abutting property owners and about 86% of the owners of real property within the affected area defined by statute, in excess of the 2/3 requirement. As of the writing of this report, no objections (letters or email) have been received.

- (D) Rights-of-way may not be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages.

The abutting property owner is requesting the vacation to allow the further development of the property. As a result, it is found that the City has received consent from the abutting property owners and that the proposed vacation would not have an adverse impact on the market value of the property.

- (E) If matters are determined in favor of the vacation, the City shall by ordinance make such determination a matter of record and vacate the right-of-way. *An ordinance to vacate the right-of-way is attached.*
- (F) The City may, upon hearing, make such reservations (conditions) as appear to be for the public interest. *No reservations, conditions or easements over the vacated area appear to be necessary.*

FISCAL IMPACT: Adoption of the ordinance will have no fiscal impact on the City.

STAFF RECOMMENDATION: Staff recommends adoption of the ordinance to vacate the alley between 1208 and 1222 Birch Street.

ATTACHMENTS:

- PowerPoint
- Ordinance to vacate the alley between 1208 and 1222 Birch Street
- Application materials



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**NOTICE OF PUBLIC HEARING
FOREST GROVE CITY COUNCIL
FILE NUMBER 311-21-000011-PLNG**

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a **Public Hearing** on **Monday, May 10, 2021, at 7:00 p.m.** or thereafter, at the Community Auditorium, 1915 Main Street, to review the following proposal:

PROPOSAL: Vacation of the alley located between 1208 and 1222 Birch Street
Applicant: Michael Moore and Panvadee Moore
File Number: 311-21-000011-PLNG

CRITERIA: Applicable criteria for review and approval of this request may be found in Oregon Revised Statutes Chapter 271.005 through 271.170.

At this time and place, all persons will be given reasonable opportunity to give testimony about the proposal. If an issue is not raised in the hearing (by person or by letter) or if the issue is not explained in sufficient detail to allow the City Council to respond to the issue, then that issue cannot be used for an appeal to the Land Use Board of Appeals.

COVID-19: During the pandemic, all public meetings are held in a “hybrid” format allowing the public to attend meetings both virtual and in-person. The Community Auditorium is open and has limited availability and social distancing measures. The public can observe the meetings LIVE on Zoom Webinar or on television on Tualatin Valley Community Television (TVCTV) Government Access Programming or LIVE Channel 30 on their website. The City Council encourages that written comments or testimony be submitted at the hearing or sent prior to the hearing to the attention of the City Recorder’s Office, P.O. Box 326, 1924 Council Street, Forest Grove, OR 97116, aruggles@forestgrove-or.gov. A copy of the staff report is available seven days prior to the hearing and is published on the City’s website at <https://www.forestgrove-or.gov/meetings>. For further information pertaining to this proposal, please contact Community Development Director Bryan Pohl, bpohl@forestgrove-or.gov, Community Development Department, 1924 Council Street, (503) 992-3224 between 9 a.m. and 5 p.m.

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Anna D. Ruggles, CMC, City Recorder
City of Forest Grove

Forest Grove News-Times
04/29/2021 & 05/06/2021

Date: May 10, 2021

Agenda Item: 7.

Subject: PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2021-02 VACATING THE ALLEY BETWEEN 1208 AND 1222 BIRCH STREET; APPLICANT: MICHAEL MOORE; FILE NO. 311-21-000011-PLNG

CITY COUNCIL MEETING

Request to Testify at Public Hearing

Public Hearings: Hearings are held on each matter required by state law or City policy. Sign in before the meeting on the Public Hearing form posted in the foyer. The presiding officer will review the hearing instructions prior to testimony. The presiding officer will call the individual or group by the name given on the sign-in form. When addressing the Council, please use the witness table (center front of the room), provide your full name and please limit your remarks to three (3) minutes unless the presiding officer grants an extension. Written or oral testimony is heard prior to any Council action. All testimony is electronically recorded. Written testimony may be submitted by 3:00 p.m. the day of the meeting to: CityCouncilors@forestgrove-or.gov.

Please sign-in below to testify:

PROPONENTS: *(Please print legibly)*

First & Last Name:

Michael Moore, Applicant

Address:

City, State & Zip Code:

OPPONENTS: *(Please print legibly)*

First & Last Name:

Address:

City, State & Zip Code:

OTHERS: *(Please print legibly)*

First & Last Name:

Address:

City, State & Zip Code:

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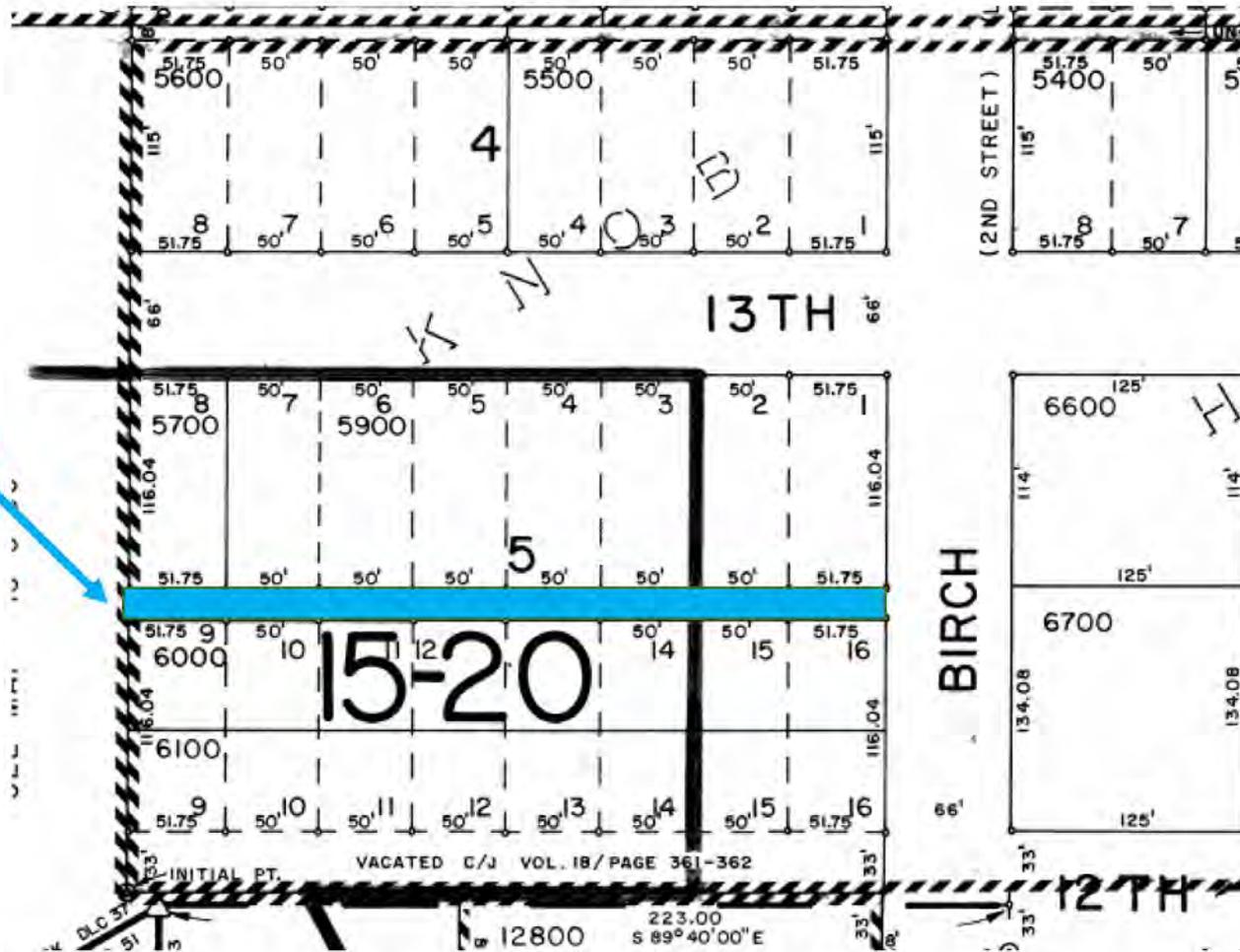
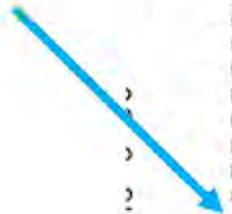


Alleyway Right-of-Way Vacation

Bryan Pohl
Community
Development Director

Washington County Tax Map 1S306CA

Alleyway
Vacation



Aerial Photo of Area



Alleyway Vacation

Vacation Criteria

Oregon Revised Statute Chapter 271.120

Has a majority of the owners of the area affected objected in writing to the vacation?

- *Petitions in support of the vacation have been received from 100% of the abutting property owners and 86% of the owners of real property within the affected area defined by statute.*

Rights-of-way may not be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property.

- *The abutting property owner is requesting the vacation. Thus, the proposed vacation would not have an adverse impact on the market value of the property.*

The City may, upon hearing, make such reservations (conditions) as appear to be for the public interest.

- *No reservations, conditions or easements over the vacated area appear to be necessary.*

Recommendation

Adopt the ordinance to vacate the alleyway
between 1208 and 1222 Birch Street

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ORDINANCE NO. 2021-02

**ORDINANCE VACATING THE ALLEY LOCATED
BETWEEN 1208 AND 1222 BIRCH STREET
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WHEREAS, notice of this proposal was mailed on April 19, 2021, to property owners and residents within 300 feet of the site, as required by Development Code §17.1.715; and

WHEREAS, the City Council held the duly-noticed Public Hearing concerning this vacation on May 10, 2021 and continued the hearing on May 24, 2021, and has made a determination pursuant to ORS 271.120 on the basis of the findings contained in Section 1 below.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1. On the basis of the findings in attached Exhibit "A", the alley located between 1208 and 1222 Birch Street as described in Exhibit "B" is hereby vacated.

Section 2. This ordinance is effective 30 days following its enactment by the City Council.

Section 3. A certified copy of this ordinance shall be recorded with the Washington County Clerk, County Assessor and County Surveyor.

PRESENTED AND PASSED the first reading the 10th day of May, 2021.

PASSED the second reading the 24th day of May, 2021.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 24th day of May, 2021.

Peter B. Truax, Mayor

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ORDINANCE NO. 2021-02

EXHIBIT "A"

Criterion: Oregon Revised Statute Chapter 271.120 allows the city governing body (the City Council) to hear a vacation request. The proceedings can be initiated upon receipt of a petition from 100% of the adjoining property owners, and of the owners of 2/3 in area of the "affected property" (defined by statute as an area 200 feet on either side of the proposed vacation area, for a distance of 400 feet from either end).

Finding: *These petitions were filed with the Community Development Department on March 22, 2021.*

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Finding: An ordinance to vacate the right-of-way is attached.

Criterion: The City may, upon hearing, make such reservations (conditions) as appear to be for the public interest.

Finding: No reservations, conditions or easements over the vacated area appear to be necessary.

EXHIBIT "B"

Washington County Tax Map 1S306CA

