



Staff Report

STAFF REPORT DATE: October 6, 2020

HEARING DATE: October 13, 2020

TO: City Council

FROM: Jana Fox, Current Planning Manager

PROPOSAL: **5th & Lombard Vicinity Street Vacation (SV2020-0001)**

LOCATION: The site is located in the public right-of-way, parallel to SW 5th Avenue. The site is bounded to the south by 11895 SW 5th Avenue, to the north by 4970 SW Lombard Avenue, and to the east by 4955 SW Pacific Avenue.

SUMMARY: The applicant, Reed Stager, has requested the City of Beaverton vacate an existing public right-of-way pursuant to ORS 271.130. The existing unnamed public right-of-way is proposed to be vacated and returned to private ownership. The subject right-of-way abuts to the north and south property owned by applicant, Reed Stager. The subject right-of-way is currently semi-developed and functions primarily as a driveway and does not connect through to any additional right-of-way. The right-of-way is approximately 120 feet in length and runs east-west from SW Lombard Avenue.

APPLICANT: C&S Property Management, Attn: Reed Stager
2040 NW Glassow Drive
Bend, OR 97703

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DECISION CRITERIA: Development Code Section 40.03.2 *Facilities Review* and 40.75.15.1.c.1-7 *Street Vacation*

RECOMMENDATION: **APPROVAL of SV2020-0001 (5th & Lombard Vicinity Street Vacation),** with conditions of approval in Attachment C.

BACKGROUND FACTS

Key Application Dates

Application	Submittal Date	Deemed Complete	120-Day	365-Day*
SV2020-0001	July 8, 2020	August 19, 2020	December 17, 2020	August 19, 2021

* Pursuant to Section 50.25.9 of the Development Code this is the latest date, with a continuance, by which a final written decision on the proposal can be made.

Existing Conditions Table

Zoning	Regional Center-Old Town (RC-OT)	
Current Development	The area proposed to be vacated is not developed as right-of-way but serves as an access driveway for an adjacent apartment development, which would receive the land upon vacation.	
Site Size	Approximately 115 lineal feet of right-of-way	
NAC	Central Beaverton NAC	
Surrounding Uses	Zoning: <u>North:</u> RC-OT <u>South:</u> RC-OT <u>East:</u> RC-OT <u>West:</u> RC-OT	Uses: <u>North:</u> Residential <u>South:</u> Residential <u>East:</u> Residential <u>West:</u> Residential

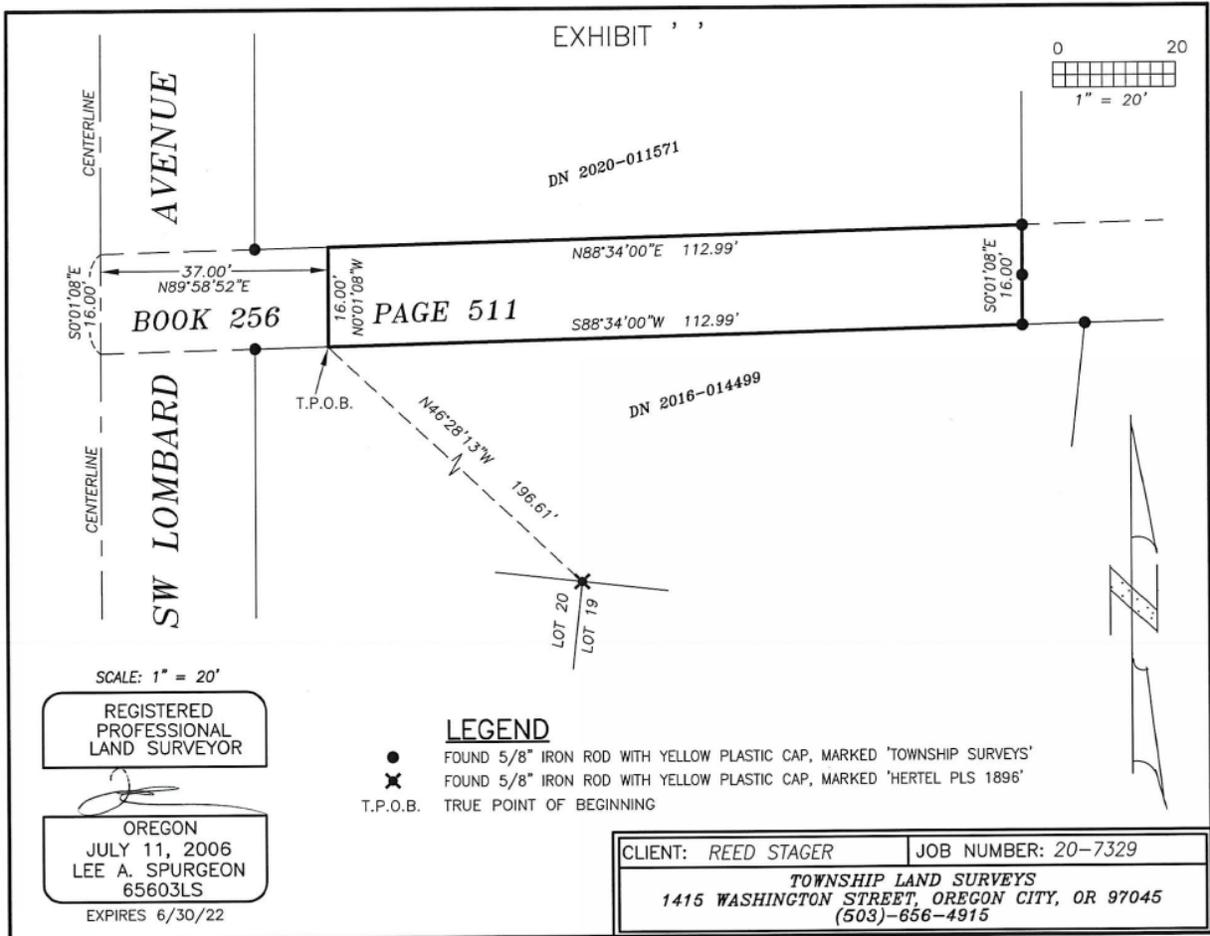
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<u>Attachment B:</u> SV2020-0001 <i>Street Vacation</i>	SV1-SV3
<u>Attachment C:</u> Recommended Conditions of Approval	COA1

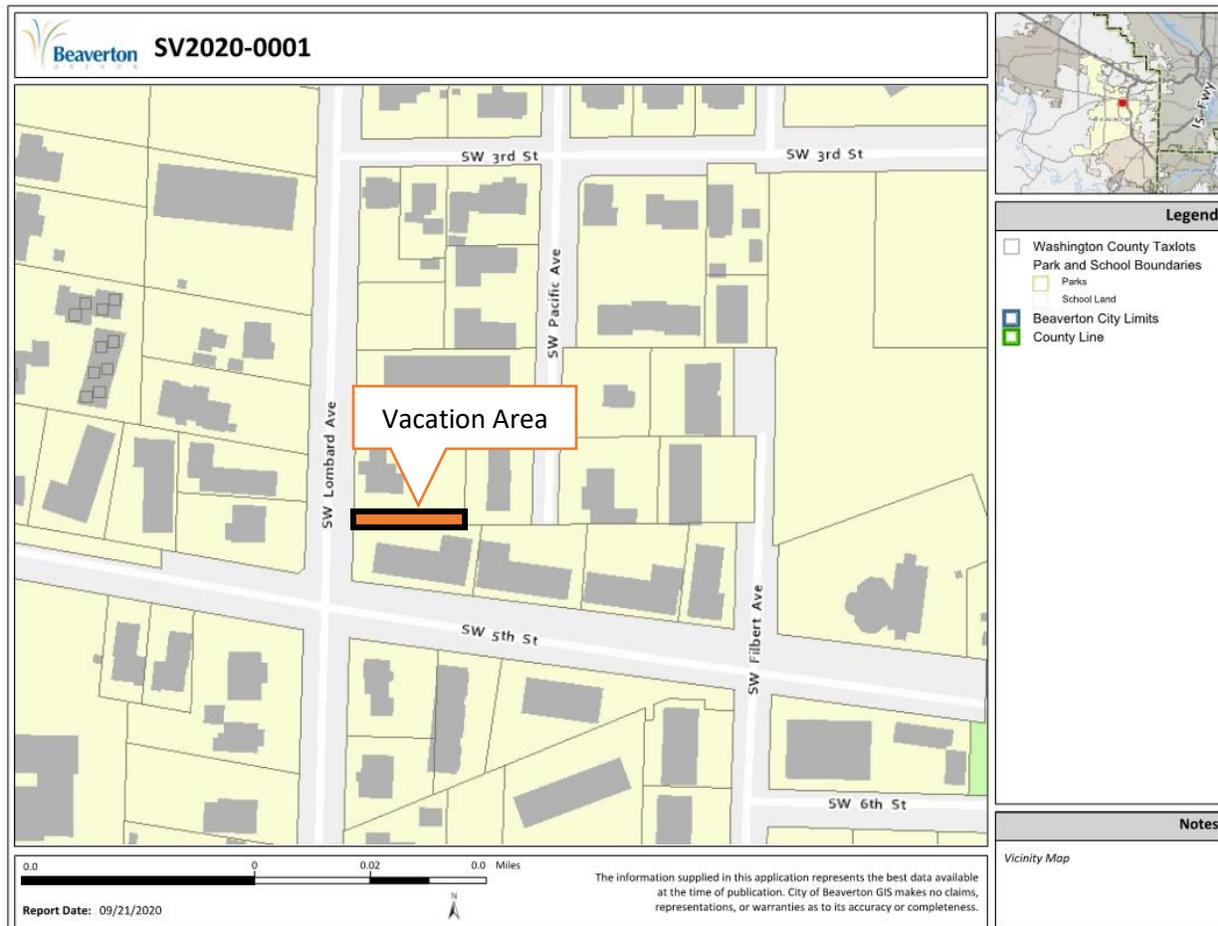
Exhibits

- Exhibit 1. Materials Submitted by Applicant**
 - Exhibit 1.1 Right-of-Way Survey (page SR-4 of this report)
 - Exhibit 1.2 Aerial Photo (page SR-5 of this report)

- Exhibit 2. Public Comment** (none received)



**5th & Lombard Vicinity Street Vacation
SV2020-0001
Right-of-Way Survey**



**5th & Lombard Vicinity Street Vacation
SV2020-0001
Vicinity Map**

**FACILITIES REVIEW COMMITTEE
TECHNICAL REVIEW AND RECOMMENDATIONS**

**5th & Lombard Vicinity Street Vacation
APPROVAL of SV2020-0001**

Section 40.03 Facilities Review Committee:

The Facilities Review Committee has conducted a technical review of the application, in accordance with the criteria contained in Section 40.03 of the Development Code. The Committee's findings and recommended conditions of approval are provided to the decision-making authority. As they will appear in the Staff Report, the Facilities Review Conditions may be re-numbered and placed in different order.

The decision-making authority will determine whether the application as presented meets the Facilities Review approval criteria for the subject application and may choose to adopt, not adopt, or modify the Committee's findings, below.

The Facilities Review Committee Criteria for Approval will be reviewed for all criteria that are applicable to the submitted applications as identified below:

- **All nine (9) criteria are applicable to the submitted Street Vacation application.**

Section 40.03.2

A. *The transportation facility, as proposed or modified, conforms to the Transportation System Plan.*

The Local Street Connectivity Map (Figure 6.18) of Chapter 6 of the City of Beaverton Comprehensive Plan (Transportation Element) and the Adopted Functional Classification Map (Figure 4-11) of the Beaverton Transportation System Plan (TSP) do not indicate the need for a future extension or connection of the unnamed right-of-way in any direction. The unnamed right-of-way proposed to be vacated has never been developed or used as a street. The unnamed right-of-way is not needed for any pedestrian, bicycle, or transit connections. Therefore, the proposed vacation will not adversely affect planned street connectivity as identified in the City of Beaverton Comprehensive Plan (Transportation Element) or Beaverton Transportation System Plan.

Therefore, the Committee finds that the proposal meets the criterion for approval.

B. *There are safe and efficient vehicular and pedestrian circulation patterns within the project boundaries.*

The unnamed right-of-way was dedicated in 1946 and has not been used as a public right-of-way since its dedication. The unnamed right-of-way is currently used as a driveway to serve the apartments at 11895 SW 5th Street and has a residential driveway curb cut and not a street intersection. Should the right-of-way be vacated it would continue to serve as the driveway for the adjacent apartments. The properties north and

south of the right-of-way are owned by the same property owner, the applicant for this street vacation. The vehicular and pedestrian circulation patterns will not be affected by the proposed street vacation.

Therefore, the Committee finds the proposal meets the criterion for approval.

- C. *The proposed development is consistent with all applicable provisions of Chapter 60 (Special Requirements) and all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Requirements) are in place.***

The subject proposal is for the vacation of an unnamed public right-of-way. Staff cites the Code Conformance Analysis at the end of this report regarding the proposal's conformance with Chapter 60. The chart concludes that the proposal meets the applicable sections of Chapter 60.

Therefore, the Committee finds the proposal meets the criterion for approval.

- D. *Adequate means are provided or proposed to be provided in a satisfactory manner, to ensure continued periodic maintenance and replacement of the following, as applicable: drainage facilities, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas and other facilities.***

No transportation facility is proposed therefore maintenance is not required.

Therefore, the Committee finds the criterion is not applicable.

- E. *The proposed transportation facility connects to the surrounding circulation systems in a safe, efficient, and direct manner.***

No transportation facility is proposed. The existing right-of-way is not improved and does not currently provide vehicular or pedestrian connections between any public right of way. As the TSP does not identify this location as a needed future vehicular connection, vacating the right-of-way will have no impact on the efficiency of the transportation system.

Therefore, the Committee finds the proposal meets the criterion for approval.

- F. *The proposed transportation facility or modification thereof will provide adequate fire equipment facility access and turnaround area, as well as adequate street lighting for crime and accident prevention as well as protection from hazardous conditions due to inadequate, substandard or ill-designed development.***

The applicant has provided an email from TVF&R Deputy Fire Marshall Jeremy Foster stating that after reviewing the proposed street vacation that a TVF&R Service Provider Permit was not necessary. Therefore, the committee finds that fire access will remain adequate. No new public transportation facilities are proposed, therefore not additional street lighting is needed.

Therefore, the Committee finds the proposal meets the criterion for approval.

- G. *Grading and contouring are the minimum necessary to accommodate the proposed transportation facility, while mitigating adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.***

No physical development or grading is proposed with this right-of-way vacation.

Therefore, the Committee finds the criterion is not applicable.

- H. *Access and facilities for physically handicapped people are maintained and/or incorporated into the subject transportation facility, with particular attention to providing continuous, uninterrupted access routes.***

The unnamed right-of-way is not developed as a public street and does not provide any access or facilities for handicapped persons. No physical development or grading is proposed with this right-of-way vacation.

Therefore, the Committee finds the criterion is not applicable.

- I. *The application includes all required submittal materials as specified in Section 50.25.1 of the Development Code.***

The applicant initiated this right-of-way vacation on July 7, 2020. In the review of the materials the Committee finds that all applicable submittal requirements, identified in Section 50.25.1, are contained within this proposal.

Therefore, the Committee finds the proposal meets the criterion for approval.

Chapter 60 Special Requirements

CODE STANDARD	CODE REQUIREMENT	PROJECT PROPOSAL	MEETS CODE?
Development Code Section 60.05			
Design Review Principles, Standards, and Guidelines	Requirements for new development and redevelopment.	No development is proposed.	N/A
Development Code Section 60.10			
Floodplain Regulations	Requirements for properties located in floodplain, floodway, or floodway fringe.	There is no 100-year floodplain located within the proposed vacation area.	N/A
Development Code Section 60.12			
Habitat Friendly and Low Impact Development Practices	Optional program offering various credits available for use of specific Habitat Friendly or Low Impact Development techniques.	No Habitat Friendly or Low Impact Development credits requested.	N/A
Development Code Section 60.30.10			
Off-street motor vehicle parking-	Requirements for the number of off-street motor vehicle parking spaces.	The proposal does not impact off-street motor vehicle parking.	N/A
Required Bicycle Parking Short Term Long Term	Requirements for the number of bicycle parking spaces.	The proposal does not impact required bicycle parking.	N/A
Development Code Section 60.55			
Transportation Facilities	Regulations pertaining to the construction or reconstruction of transportation facilities.	No new transportation facilities are proposed nor are existing transportation facilities proposed to be modified.	N/A
Development Code Section 60.60			
Trees & Vegetation	Regulations pertaining to the removal and preservation of trees.	No trees are proposed to be removed.	N/A
Development Code Section 60.65			
Utility Undergrounding	All existing overhead utilities and any new utility service lines within the project and along any existing frontage, except high voltage lines (>57kV) must be placed underground.	There are no existing overhead utilities within the project area.	N/A

RECOMMENDATION AND CONDITIONS OF APPROVAL BY THE FACILITIES REVIEW COMMITTEE:

Recommendation

The Facilities Review Committee finds that the proposal complies with all the technical criteria. The Committee recommends that the decision-making authority **APPROVE** the proposal **5th & Lombard Vicinity Street Vacation**, subject to the conditions of approval identified in Attachment C.

**SV2020-0001
ANALYSIS AND FINDINGS FOR
STREET VACATION APPROVAL**

Section 40.75.05. Purpose

The purpose of Street Vacation is to recognize that changes to the City's existing street system are occasionally required. Therefore, the following application has been established to allow limited changes to the City's existing street system without adversely affecting safe and efficient circulation throughout the City. A Street Vacation is a legislative action which is not subject to the 120 day rule of ORS 227.178. This Section is carried out by the approval criteria listed herein.

Section 40.75.15.1.C Approval Criteria

In order to approve a Street Vacation application, the City Council shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. *The proposal satisfies the threshold requirements for a Street Vacation application.*

Section 40.75.15.1.A.1 states that an application for Street Vacation shall be required when a proposal involves the abandonment or otherwise vacation of an existing public transportation right-of-way or public easement that is within the City of Beaverton.

The applicant has requested that the City vacate an unused portion of public right-of-way adjacent to property owned by the applicant. The subject right-of-way was created in 1946 and has never been developed or used as public right-of-way. Staff finds that the proposal meets the threshold for a Street Vacation.

Therefore, staff finds that the proposal meets the criterion for approval.

2. *All City application fees related to the application under consideration by the decision making authority have been submitted.*

The applicant has paid the required fee for the Street Vacation application.

Therefore, staff finds that the proposal meets the criterion for approval.

3. *The proposed Street Vacation meets the eligibility provisions of ORS 271.080.*

Staff cites the following provisions as applicable to the proposal, ORS 271.080 Vacation in incorporated cities; petition; consent of property owners:

(1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefore setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.

(2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof proposed to be vacated and extending laterally to the next street that serves as a parallel street, but in any case not to exceed 200 feet, and the land for a like lateral distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted.

In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing.

The applicant has submitted a petition for a Street Vacation consistent with subsection (1) above. The applicant has provided signatures from 72% of the property owners within the affected area, greater than the required two thirds to comply with subsection (2) above. Further, the applicant does not propose to vacate a plat or a portion of a plat. The proposed vacation would allow for greater flexibility in developing the parcels to the north and south of the unnamed right-of-way as one development site in the downtown area. Staff finds that the applicant has complied with ORS 271.080.

Therefore, staff finds that the proposal meets the criterion for approval.

4. *The proposed Street Vacation will not adversely impact street connectivity as identified in the Transportation Element of the Comprehensive Plan.*

The Local Street Connectivity Map (Figure 6.18) of Chapter 6 of the City of Beaverton Comprehensive Plan (Transportation Element) and the Adopted Functional Classification Map (Figure 4-11) of the Beaverton Transportation System Plan (TSP) do not indicate the need for a future extension or connection of the unnamed right-of-way in any direction. The unnamed right-of-way proposed to be vacated has never been developed or used as a street. The unnamed right-of-way is not needed for any public pedestrian, bicycle, or transit connections. Therefore, the proposed vacation will not adversely affect planned street connectivity as identified in the City of Beaverton Comprehensive Plan (Transportation Element) or Beaverton Transportation System Plan.

Therefore, staff finds that the proposal meets the criterion for approval.

5. *The proposed Street Vacation will not adversely impact police, fire, and emergency service in the area.*

The applicant has provided an email from TVF&R Deputy Fire Marshall Jeremy Foster

stating that after reviewing the proposed street vacation that a TVF&R Service Provider Permit was not necessary. The subject unnamed right-of-way to be vacated is currently not developed as right-of-way and surrounded by private property. The vacation of this right-of-way will not hinder emergency access.

Therefore, staff finds that the proposal meets the criterion for approval.

6. *That the vacation of the street will not hinder accessibility to any above ground or underground public facilities.*

There are no utilities within the right-of-way to be vacated. Therefore, the proposed right-of-way vacation will not hinder accessibility to above ground or underground public utilities.

Therefore, staff finds that this approval criterion is not applicable.

7. *Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.*

The Street Vacation application requires a public hearing with the City Council, pursuant to Section 50.45 of the Development Code. The proposed Street Vacation does not require additional applications and all documents relevant to the request have been filed.

Therefore, staff finds that this approval criterion is not applicable.

RECOMMENDATION

Based on the facts and findings presented, staff recommends **APPROVAL** of **SV2020-0001 (5th & Lombard Vicinity Street Vacation)** subject to the applicable conditions identified in Attachment C.

**CONDITIONS OF APPROVAL
SV2020-0001**

A. Prior to the vacation of the right-of-way:

1. The recorded vacation shall retain 37 feet from the centerline of SW Lombard Avenue as right-of-way to accommodate the 3-Lane Collector Street cross-section.
2. A land survey of the approved vacation is to be recorded with Washington County by the applicant. A copy of the recorded document shall be provided to the City.