

CITY OF GEARHART  
Staff Report to City Council  
Hager Avenue Street Vacation Request  
March 28, 2018

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I. APPLICATION DATA

REQUEST: To vacate an estimated 12' x 100' (1200 sq. ft.) section on the west side of Hager Avenue where it intersects with F Street. The area abuts the applicant's east property line. The applicant requests that the City grant them ownership of the vacated 12 feet so the dwelling will comply with the R-1 zone front yard setback and off-street parking requirements. If vacated the Hager Avenue ROW width will be reduced from an estimated 74 feet to 62 feet.

On March 8, 2018 the Planning Commission considered the request and decided to recommend City Council approval subject to conditions of approval.

FILE NUMBER: 18-001StV

OWNER: Jonathan & Keri Mills  
PO Box 2045  
Gearhart, OR 97138

APPLICANT: Same as owner

LOCATION: 610 Hager Avenue; Assessors Map Tax Lot 4401 & 4500, 6-10-10CB

EXHIBITS:

1. Application materials:
  - a. Petition for Street Vacation
  - b. Site map 2-1-18
  - c. DEQ approved septic plan 2-18-99
  - d. Tax Lot Map T6N R10W SEC 10CB WM
2. Affected Property Owner list and consent, Cheryl Lund 12-26-17
3. Street Vacation Statement of Assessed Value, Cheryl Lund 2-1-18
4. City Departments - Staff Review comment sheet; Police Chief supplemental approval 2-5-18

II. APPLICABLE CRITERIA

Gearhart Zoning Ordinance criteria relevant to the application are:

1. Section 3.1 Low Density Residential R-1
2. Article 12 Street and Alley Vacations
3. Gearhart Transportation System Plan (TSP) 2017

### III. Site Information, Review and Procedures

1. Zoning: The site is planned and zoned Low Density Residential R-1.
2. Access: Site access is on Hager Avenue, a city street with 74 feet of right-of-way adjoining the subject parcel. No prior street vacations have occurred adjoining the parcel, but several street vacations have occurred on Hager Avenue where the ROW varies widely and is only 25' wide just south of the subject parcel.

Gearhart Transportation System Plan: Hager Avenue is designated a local street with no planned bicycle or pedestrian improvements. A local street ROW width is 50' according to the recently adopted TSP street design standards.

3. Site Characteristics: The site is relatively flat. Property fencing, landscaping and driveway extend into the right-of-way. The septic system for the dwelling is on the adjoining tax lot 4401(0.10 acres) and is owned by the applicant. The water main serving the site is under Hager Avenue, near the middle.
4. Agency Comments: The City Administrator, Police Chief and Fire Chief originally objected to the request because of concerns about the general narrowness of Hager Avenue and the location of the owner's fence and landscaping in the ROW. The applicant subsequently agreed to reduce the width of vacation from 33' to 12'. Then, City Department Heads supported the request based on the reduction.

### IV. FINDINGS

1. Zoning Ordinance Section 3.1 Low Density Residential R-1: In the R-1 zone single family housing is an outright permitted use. The minimum lot size in an R-1 zone is 10,000 square feet. Lot coverage maximum allowed is 35% and building height maximum is 30 feet or two stories, whichever is less.

FINDINGS: The City finds that the subject parcel is currently 5,227 square feet and was created prior to the establishment of zoning standards. The proposed street vacation will add 1200 square feet to the applicant's parcel for a total area of 6,427

square feet. Lot coverage by the home is an estimated 35% now and will decrease if the request is approved.

The existing dwelling currently encroaches 5 feet into the front yard setback. Landscaping, fencing and the driveway currently encroach 33' into the right-of-way. The applicant requests ownership of the 12 feet to be vacated so the structure will comply with the R-1 zone 15' front yard setback, and two parking stalls on the driveway will be fully on-site.

2. Article 12 Street & Alley Vacations

a. Section 12.010 Compliance with State Statutes Required

A request for a street or alley vacation shall be submitted in accordance with the state statutes ORS 271.005 to 271.540.

FINDINGS: The requirements and procedures from ORS 271.005 to 271.540 have been incorporated into the Gearhart Zoning Ordinance Article 12 and are discussed below.

- b. Application. The applicant shall file a petition accompanied by consent forms from adjoining property owners affected by the street vacation as determined to be land lying on either side of the proposed vacation and extending laterally to the next parallel street, not to exceed 200 feet; and land for a like distance on either side of the street for 400 feet along its course beyond each terminus of the part proposed to be vacated. The statute requires all abutting property owners consent, and requires at least two thirds of owners of the real property land area described above.

FINDINGS: The applicant provided the required petition and consent from the two adjoining property owners as well as two thirds of owners of real property in the notice area. See attached table of affected property owners. The adjoining parcels are tax lots 4400 and 4600 and the other two sides of the subject parcel are adjoined by streets.

- c. Notice. Notice of a public hearing before the City Council shall be published in a city official newspaper once each week for two (2) consecutive weeks prior to the hearing. If no newspaper is published in said city, written notice of the petition and hearing shall be posted in three of the most public places in the city and by signage posted on the subject right-of-way area.

FINDINGS: For the City Council hearing a public notice will be published twice in the “Daily Astorian” and a Public Notice sign will be posted on the subject Hager Avenue location in accordance with city and state notice requirements.

- d. Section 12.020 Review Procedure. The Planning Commission shall review the request and provide a recommendation to City Council. The City Council must hold a public hearing and approve a street vacation by ordinance.

FINDINGS: The Planning Commission reviewed the request at their February 8, 2018 regular meeting and recommended approval subject to conditions. The City Council hearing is scheduled for April 4, 2018.

- e. Section 12.030 Assessment Compensation Requirements. Except in the case of a public agency, no ordinance vacating a street or alley shall be complete until the petitioner or his representative has received from the City Administrator a statement of the assessed value of the property to be vacated. The compensation to be paid by the applicant to the City shall be determined by ascertaining the most recent county assessor’s valuation of the land to which the vacated property is to be joined, determining the assessed value of each square foot of such property then multiplying that amount by one-half (50%).

FINDINGS: City staff prepared a tentative valuation of the subject area to be vacated (12’ x 100’) based on the formula described above in Section 12.030 Assessment Compensation Requirements. The value of the 1200 square foot area to be vacated is estimated to be \$25.34 per square foot. When the value is reduced by 50% (\$12.67) and multiplied by 1200 square feet of land area the assessment is \$15,204.00. See the attached *Street Vacation - Statement of Assessed Value* and the Clatsop County Tax Statement for 2017 prepared by Cheryl Lund on 2-1-18.

- f. Section 12.040 Title to the vacated area.

Title of the vacated areas shall attach to the lands bordering on each side in equal portions.

FINDINGS: The request does not vacate the whole street but rather 12 feet of the existing 74-foot right-of-way on the west side of Hager Avenue. This request is for one-side only. The subject vacation will result in retaining 62 feet of Hager Street

right-of-way. No land is being vacated on the opposite side of the street. See applicant's sketch.

g. SECTION 12.050 STREET VACATION APPROVAL CRITERIA

The following criteria provide a basis for the City to determine if the public street or alley should be vacated:

1. What is the reason for the application to vacate this particular area?

FINDINGS: The applicant's existing dwelling abuts Hager Avenue, a portion of which encroaches 5 feet into the R-1 front yard setback. The applicant requests a section of the street (12' wide x 100' long) be vacated and granted to the owner so that the dwelling complies with the 15-foot front yard setback and a portion of the driveway is on-site.

2. Does the vacation eliminate access to public infrastructure installations such as sewer, water or storm drainage facilities to abutting properties?

FINDINGS: There is a water line estimated to be in the center of the street that will not likely change. The street vacation does not eliminate emergency access to this portion of Hager, but constrains it due to existing fencing and landscaping. The proposal will provide improved access on the west half of the planned 50-foot ROW if existing fencing and landscaping in the subject 12-foot section is required to be removed.

3. Will the vacation result in the elimination of access to any parcel in the surrounding area?

FINDINGS: The vacation will not eliminate access to any parcel in the surrounding area because no parcel depends on the subject area for street access.

4. Would vacation inhibit the future development of infrastructure or future development of land surrounding the proposed vacation?

FINDINGS: No, if the 12-foot area is vacated the Hager Avenue ROW width will still be 62 feet wide. Future improvements to this portion of Hager Avenue will be made within a 50-foot wide ROW. Further, there is no undeveloped land surrounding the subject area that depends on the vacated area for access.

5. Is any portion of the subject vacation area noted on the Transportation System Plan of the City? If so, how does the vacation affect the plan?

FINDINGS: The Gearhart TSP designates Hager Avenue a local street with a planned 50-foot ROW and no planned street improvement projects. The existing Hager Avenue ROW adjoining the subject parcel is 74 feet wide. Vacating 12 feet of Hager Avenue still retains an estimated 62-foot wide ROW, more than needed for a local street.

The TSP designates F Street a collector street with a planned 60-foot wide ROW to accommodate future bicycle/pedestrian improvements. A sidewalk on the south side of F Street is planned. The current F Street ROW width is 60 feet adjoining the north side of the applicant's parcel. No additional ROW is required for planned F Street improvements.

6. Would the vacation inhibit the free flow of traffic in the immediate or surrounding area?

FINDINGS: The City Administrator, Fire and Police Chief's believe that the street width reduction will not inhibit their ability to respond to an emergency in this area. The street vacation does not change the pavement width of Hager Avenue and the street ROW is now 74' wide, unnecessarily wide for a local street. However the applicant's existing fencing and landscaping in 33 feet of existing ROW currently inhibits accessibility for emergency vehicles. The proposal will add land to the parcel's front yard adjoining the dwelling that is occupied by setback and driveway. The Planning Commission found some of the existing 21 feet of landscaping and fencing east of the 12-foot vacation area should be removed if the 12-foot vacation is approved.

7. Are there wetlands, flood plain or other naturally occurring elements in the immediate area?

FINDINGS: No

8. Does the proposed vacation create a buildable lot or a portion of a buildable lot?

FINDINGS: No

V. CONDITIONS OF APPROVAL

In the event of approval and in accordance with Section 12.060 Vacation Documentation Requirements the following steps shall be taken by the applicant:

1. Prior to recording the 12-foot street vacation with Clatsop County, the applicant shall assure that any necessary utility improvements or easements are provided and included in the final recording documentation. (City to provide a sample easement form)
2. The applicant shall provide a legal description of the ground to be vacated with exact and concise distances, to be provided by a land surveyor or attorney licensed by the State of Oregon and verified by the City Administrator.
3. Prior to recording the applicant shall pay the land value assessment of \$15,204.00 to the City, the precise amount to be determined by the final survey of the area to be vacated.
4. A certified copy of the ordinance and legal description vacating the street shall be filed for record with the Clatsop County Clerk. The petitioner(s) for vacation shall bear the recording cost and cost of preparing and filing the certified copy of the ordinance and survey exhibit. A copy of the certified and recorded documents shall be provided to the City Recorder.
5. Within 30 days of recording the applicant shall remove the fence from the Hager Street ROW, and remove landscaping within an estimated 10 feet of the existing pavement. Replacement landscaping shall be low ground cover plants.

#### VI. DECISION OPTIONS

The City Council has the following three options for a motion:

- a. Move to approve the request with the above conditions and direct city staff to prepare an ordinance for City Council approval of the proposed 12' street vacation.
- b. Move to continue the hearing to a future date certain meeting in order to obtain more specific information; or
- c. Move to deny the request and summarize findings in support of a denial.