



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/01/2012

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Carlton Plan Amendment
DLCD File Number 001-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, October 12, 2012

This amendment was submitted to DLCD for review prior to adoption with less than the required 35-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Suzanne Dufner, City of Carlton
Gordon Howard, DLCD Urban Planning Specialist
Angela Lazarean, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

SEP 24 2012

LAND CONSERVATION AND DEVELOPMENT
For Office Use Only

STAMP

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Carlton**

Local file number: **VAC/CPMA/ZC 2012-01**

Date of Adoption: **9/10/2012**

Date Mailed: **9/19/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: **6/7/2012**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The adopted amendment included changing the Comprehensive Plan Map designation from "Residential" to "Public Facility" and changing the zoning from R-1 (Residential Low Density) to PF (Public Facility) on property referenced as Assessor Map #3421DB, Tax Lot 4900.

Does the Adoption differ from proposal? Yes, Please explain below:

The final proposal does not include Tax Lot 5000 (Assessor Map #3421DB).

Plan Map Changed from: **Residential**

to: **Public Facility**

Zone Map Changed from: **R-1**

to: **PF**

Location: **3421DB Tax Lot 4900**

Acres Involved: **2.15**

Specify Density: Previous: **7,500 sq.ft. minimum lot size** New: **N/A**

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD File No. 001-12 (19389) [17177]

ORDINANCE # 698

AN ORDINANCE AMENDING THE CITY OF CARLTON COMPREHENSIVE PLAN MAP AND ZONING MAP AND VACATING SPECIFICALLY IDENTIFIED PUBLIC RIGHTS-OF-WAY, AND DECLARING AN EMERGENCY

WHEREAS, on June 11, 2012, the City Council of the City of Carlton initiated an application to amend the Comprehensive Plan designation and rezone an approximately 0.91-acre property, identified as Township 3S, Range 4W, Section 21DB, Tax Lot 4900; and

WHEREAS, the subject property is located within the Carlton city limits, is designated as Low Density Residential on the Carlton Comprehensive Plan Map, and is zoned Low Density Residential (R-1); and

WHEREAS, the City of Carlton initiated a request to change the Comprehensive Plan Map designation to Public Facilities and rezone the property to Public Facility (PF) for the purpose of developing a new Public Works building; and

WHEREAS, the City Council of the City of Carlton also initiated a request to vacate public rights-of-way for Grant Street west of River Street to the Urban Growth Boundary, River Street north of Grant Street and south of Main Street, and Hill Street from north of Grant Street and south of Main Street; and

WHEREAS, the Planning Commission conducted a public hearing to consider the requests on July 25, 2012, at which time the public was given full opportunity to be present and heard on the matter; and

WHEREAS, at the close of the public hearing, a motion by the Planning Commission to recommend that the City Council approve the request by a unanimous vote; and

WHEREAS, the City Council conducted a public hearing to consider the requests on August 13, 2012, at which time the public was given full opportunity to be present and heard on the matter; and

WHEREAS, at the close of the public hearing, the City Council voted to approve the requests; and

WHEREAS, proper notice of the said public hearings was given to the public pursuant to applicable state statutes; and

WHEREAS, the City Council of the City of Carlton hereby adopted the findings as presented in the staff report dated August 13, 2012, and set forth conditions of approval as presented in Exhibit A;

NOW THEREFORE; the people of the City of Carlton ordain as follows;

SECTION 1. The Comprehensive Plan Map designation for the subject property is hereby changed from Low Density Residential to Public Facilities, and the zoning of the property is hereby changed from Low Density Residential (R-1) to Public Facility (PF).

SECTION 2. The vacation of public rights-of-way for Grant Street west of River Street to the Urban Growth Boundary, River Street north of Grant Street and south of Main Street, and Hill Street from north of Grant Street and south of Main Street, as shown on the map found in Exhibit B, are hereby approved subject to the conditions of approval found in Exhibit A of this Ordinance.

SECTION 3. Public Access and Utility Easement. An easement is hereby reserved by City for the portion of River Street and Hill Street to be vacated (between Grant and Main streets) to preserve, maintain, repair, remove and reinstall public or private franchise utilities as detailed in the reservation of access and utility easement interests, attached hereto as Exhibit C and incorporated herein by this reference.

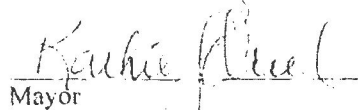
SECTION 4. Emergency Clause. The Council desires and deems it necessary for the preservation of the health, peace, and safety of the City of Carlton that this ordinance take effect at once, and therefore, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage by the Council and approval by the Mayor.

Passed by this Council this 10th day of September, 2012, by the following vote:

AYES: Williams, Rhoads, VanDeWalle, Oriet, Jernstedt, Carl

NAYS: _____

Approved by the Mayor this 10th day of September, 2012.


Mayor

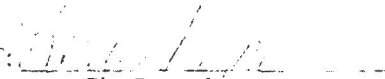
ATTEST: 
City Recorder

EXHIBIT A
Conditions of Approval
CPMA 2012-01, ZC 2012-01, and VAC 2012-01

1. *Prepare a vacation ordinance and map and indicate a utility easement granted by the City to benefit PGE with the City Engineer approving the final easement “language” and record a certified copy including the easement with the Yamhill County Clerk, after the city adopts an ordinance vacating the street.*

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

NW 1/4 SE 1/4 SEC 21 T3S R4W W.M.
YAMHILL COUNTY
1" = 100'

3 4 21DB
CARLTON

CANCELLED
1601
2000
2801
5501
5502
5601

Carlton Street Vacation 2012-01:

1. W Grant Street (west of River Street)
2. River Street (north of Grant Street, south of W Main Street)
3. Hill Street (north of Grant Street, south of W Main Street)

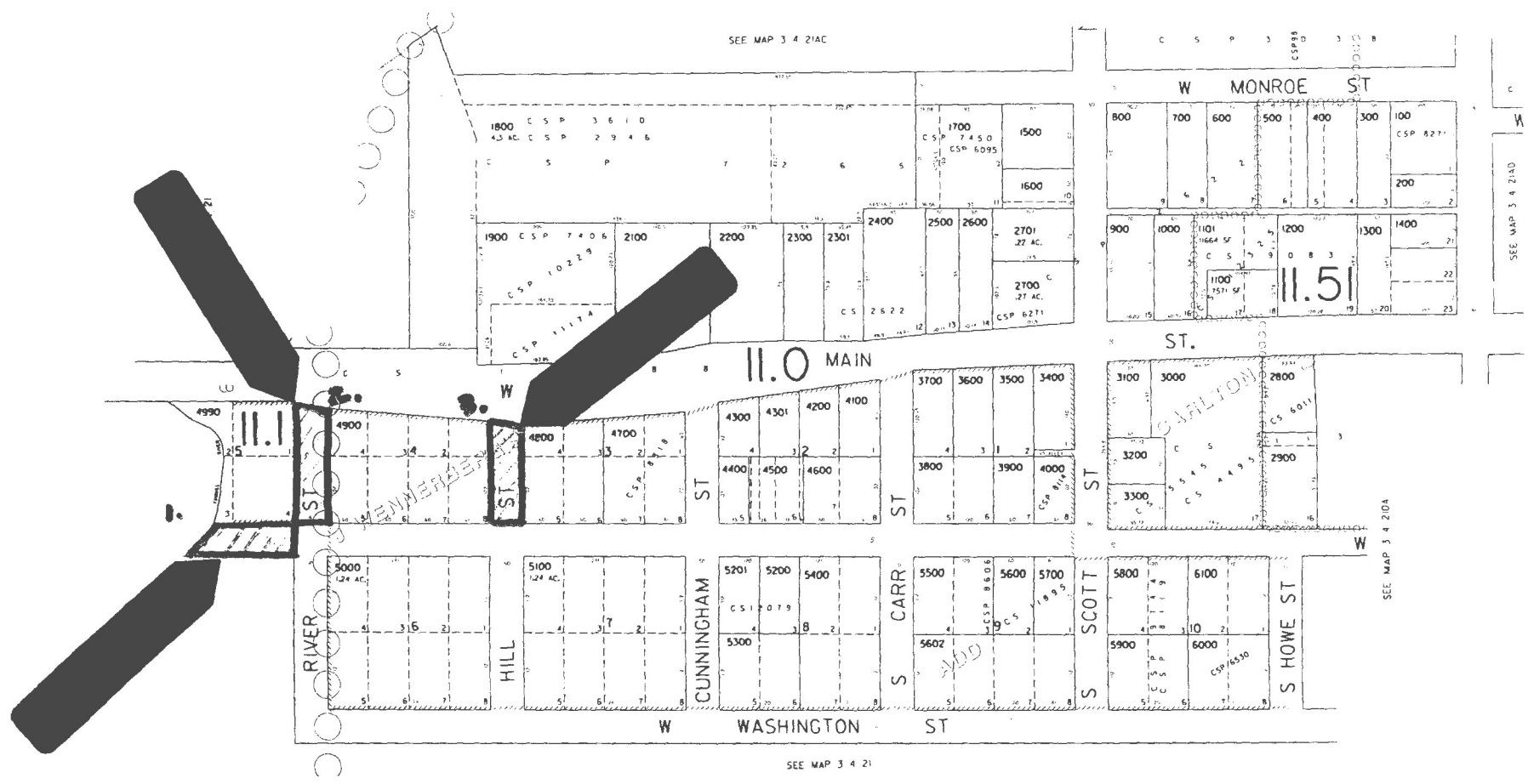


EXHIBIT B
Map of Vacated Public-Right-of-Way

3 4 21DB

EXHIBIT C
Reservation of Access and Utility Easement Interests

In vacating the public rights of way within the City of Carlton shown on the map found in Exhibit B of Ordinance 698, as more particularly described as follows:

That certain 50 foot wide portion of Hill Street right of way lying between Block 3 and 4, north of W Grant Street of the J Wennerberg's Addition to Carlton, City of Carlton, Yamhill County, Oregon; and

That certain 50 foot wide portion of River Street right of way lying between Block 4 and Block 5, North of W Grant Street of the J Wennerberg's Addition to Carlton, City of Carlton, Yamhill County, Oregon; and

That certain 50 foot wide portion of W. Grant Street right of way lying South of Block 5 of the J Wennerberg's Addition to Carlton, City of Carlton, Yamhill County, Oregon.

The City hereby reserves a perpetual easement for all existing public or private franchise utilities that now exist within the portion of River Street to be vacated (between Grant and Main streets) to preserve, maintain, repair, remove and reinstall any public or private franchise utilities that exist within the vacated right-of-way. The easement is subject to all limitations applicable to private franchise utilities located within City rights of way and any applicable franchise agreement with the City. The City of Carlton reserves its authority to authorize installation of additional private or franchise utilities within the easement area and to authorize repairs and maintenance. The City also hereby reserves an exclusive perpetual easement for existing or future City utilities within the portion of Hill Street to be vacated (between Grant and Main streets) to install, preserve, maintain, repair, remove and reinstall any City utilities within the vacated right-of-way.

The utility easements shall include the right of the City, its employees, agents, contractors, consultants and assigns to have ingress and egress above, upon and under the easement at all times for the purpose of excavating, constructing, installing, operating, repairing, maintaining and removing public or private utilities. The City, its employees, agents, contractors, consultants and assigns, shall have the right to clear and keep clear all trees, undergrowth, and other obstructions that may interfere with access, normal operation or maintenance of said utilities, out of and away from the easement.

It is understood that City may remove any physical obstructions including buildings, fences, trees, or shrubbery, and abate any use of the easement if City finds that the physical obstruction or use will interfere with the City utility or City's ability to maintain or repair the City utility, and such obstruction or abatement may be removed without recompense to the property owner(s). Access gates acceptable to the City shall be installed in fences which the City allows to be constructed across the easement.

Upon the final acceptance of any installed water, sewer or storm drain system by the City or private franchise utilities by others, the City (or franchise utility company) shall be responsible for all further restorations of the premises if at any time the City (or franchise utility company) causes the utilities to be repaired or maintained. The City (or franchise utility company), upon each and every occasion that the same be repaired, maintained or removed, shall restore the premise by removing all debris and leaving the ground surface in a neat and presentable condition. Grass and topsoil shall be restored as near as feasible to as good a condition as the same were prior to any repair or maintenance by the City (or franchise utility company).

**CITY OF CARLTON
CITY COUNCIL
STAFF REPORT:
DATE:**

CPMA/ZC 2012-01, VAC 2012-01
August 13, 2012

Handwritten notes:
2/13/12
L. V. G. M. P.
A. H. G. C. P.
P. H. G. P.
V. H. G. P.

**APPLICANT/
OWNER:**

City of Carlton
191 East Main Street
Carlton, OR 97111

REQUEST:

Comprehensive Plan Map amendment and Zone change: The request is to amend the Comprehensive Plan Map designation from Low Density Residential (R-1) to Public Facilities and to change the zoning designation from Low Density Residential (R-1) to Public Facility (PF).

Vacation Application: The request is to vacate public rights-of-way for Grant Street west of River Street to the Urban Growth Boundary, River Street north of Grant Street and south of Main Street, and Hill Street from north of Grant Street and south of Main Street.

SITE LOCATION:

The property is located north of W. Grant Street, south of W. Main Street and between S. Hill Street to the east and S. River Street to the west, next to Wennerberg Park (Assessor Map 3421 DB, Tax Lot 4900).

SITE SIZE:

Approximately 0.91 acre

DESIGNATION:

Comprehensive Plan Map: Low Density Residential (R-1)

Zoning: Low Density Residential (R-1)

CRITERIA:

CPMA/ZC: Carlton Comprehensive Plan and Carlton Development Code Sections 3.102.04, 3.108, and 3.110.

Vacation: Oregon Revised Statutes (ORS) Chapter 271

EXHIBITS:

Exhibit A: Site location maps
Exhibit B: Application

ACRONYMS:

CDC – Carlton Development Code
CMC – Carlton Municipal Code
CPMA – Comprehensive Plan Map Amendment
DLCD – Department of Land Conservation and Development
OAR – Oregon Administrative Rules

ODOT – Oregon Department of Transportation
ORD - Ordinance
ORS – Oregon Revised Statutes
PF – Public Facility
PWDS – Public Works Design Standards
R-1 – Low Density Residential
SDR – Site Design Review
TSP – Transportation System Plan
VAC – Street Vacation
ZC – Zone Change

I. REQUEST

The property for the Comprehensive Plan Map Amendment and Zone Change application consists of one tax lot approximately 0.91 acre in size. The applicant requests that the Comprehensive Plan Map designation be changed from Low Density Residential to Public Facilities and the zoning designation be changed from Low Density Residential (R-1) to Public Facilities (PF). The proposal also includes a request to vacate portions (as described in the request statement) of the rights-of-way for three streets – West Grant, River, and Hill.

II. PROCEDURE

Comprehensive Plan Map amendments/zone change applications are processed as Type III procedures. Type III procedures are conducted as stated in Section 3.201.02 of the Development Code. At their July 25th meeting, the Planning Commission made a recommendation in this matter to the City Council. The City Council then conducts this public hearing on August 13, 2012, to consider the request. The City Council makes the final local decision in this matter.

According to ORS 271.130 requests for vacation of public rights-of-way when initiated by a city governing body require consideration under a public hearing.

III. APPEAL

For Comprehensive Plan Map amendments and zone change requests, the City Council makes the final local decision. Appeal of a City Council decision must be filed with the Oregon Land Use Board of Appeals (LUBA).

An appeal of a vacation shall be taken within time and manner as indicated in ORS 271.130.

IV. SITE AND SURROUNDINGS

The subject property is located north of W. Grant Street, south of W. Main Street, and between S. Hill Street to the east and S. River Street to the west. The subject property is currently vacant.

Adjacent properties to the north across W. Main Street are designated as Residential and zoned Low-Density Residential (R-1) and are developed with single-family dwellings. Adjacent

properties to the south across Grant Street and west across River Street are designated as Residential and zoned R-1 and developed as Wennerberg Park or used as agricultural property. Properties to the east across Hill Street are under the residential designation and zone and developed with only a few residential properties. Property to the west across River Street is currently City owned, is designated and zoned Public Facilities and is used by the City for several Public Works Department activities such as a pump station and lab.

V. COMPREHENSIVE PLAN MAP AMENDMENT/ZONE CHANGE CRITERIA AND FINDINGS:

The standards of Development Code Section 3.110 are applicable to this request.

A. The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.

FINDING: The applicant requests the Comprehensive Plan Map designation be changed from Residential and the zoning designation be changed from Low Density Residential (R-1) to Public Facilities (PF). The applicant's stated intent is to develop a public works storage building (that includes office space, break area, shared work stations, and sufficient bay area space) and storage yard.

The Public Facilities (PF) zone district is the appropriate zone district that allows "public utility structures and buildings" (Code, Section 2.107.02, C.) as a permitted use. The Public Facilities Map designation in turn, is the most appropriate plan map designation to implement the PF zone district.

Comprehensive Plan Public Facilities Goal is applicable to this request. This Goal states:

To develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for future development.

If approved, the request provides an opportunity to combine an area used for Public Works Department activities to provide sufficient off-street parking to meet employee and visitor demands. The request is consistent with this goal. See Exhibit B, page 5 for "detailed description" of the proposed changes and the response to the Code, Section 17.180.05, Letter A.

B. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.

FINDING: As noted in Exhibit B, page 5, Section 17.180, Letter B., the zone can accommodate the site with the addition of a building and allowing for an expanded outdoor storage area.

C. Allowed uses in the proposed zone can be established in compliance with the development requirements in this Ordinance.

FINDING: Development of the site requires an additional review that determines development standards applicable to the construction of a new Public Works Department facility and including outdoor storage. See Exhibit B, page 6, for City response under Letter C.

D. Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.

FINDING: During site development review the ability to serve the property with public water and sewer lines is reviewed. Electric power will be provided by PGE. Access to the property will be via W. Grant Street that provides sufficient public right-of-way. Any other required or necessary improvements can be made at the time of construction.

Based upon comments provided by the City Engineer, Public Works Director, and Fire District there do not appear to be any utility or street issues that would affect the Comprehensive Plan Map amendment and Zone Change. Review of the actual site development outlines the type of connections and any potential upgrades to any of the public systems.

E. For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.

FINDING: This criterion is not applicable to this application.

F. The following additional criteria shall be used to review all non-residential changes:

- 1. The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone during the next 5 years, or the location of the appropriately zoned land is not physically suited to the particular uses proposed for the subject property, or lack site specific amenities required by the proposed use.*
- 2. The proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.*

FINDING: Regarding Criterion F(1), the applicant indicates that “the supply of vacant land in the proposed zone is inadequate to accommodate the planned development during the next 5 years, or the location of approximately zoned land is not suited to the planned Public Works development project. PF zoned property is very limited and not adjacent to existing public works operations. The City desires to consolidate public works operations at the existing public works site on Grant and River Streets. It would be inefficient to separate operations between two different sites.”

In response to Criterion F(2), the City determines that “the proposed zone will not destabilize the adjacent land uses in the area or adversely affect adjacent properties. Much of the surrounding properties are open public or agricultural use; Main Street is directly north, Wennerberg Park and agricultural property are to the south and west and only a few residential properties are to the

east. Also, some of the proposed property for rezoning is currently used for public works activities and will have no negative effect on abutting properties.”

Staff findings indicate that the request is consistent with Criteria F(1) and F(2).

VI. STREET VACATION CRITERIA

A. *The Council must consider whether the notice was duly given.*

Finding: In accordance with ORS 271.110, public notice was provided in a public notice format, through the newspaper during two different weeks in conjunction with both the Planning Commission and City Council hearings, and through posting of the property.

In accordance with Carlton Development Code 17.192.020, notice of the public hearings before the Planning Commission and City Council were mailed to property owners within 200 feet of the boundaries of the property.

B. *Such vacation shall not be made before the date set for hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080, object in writing thereto, nor shall any street area 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 City Council conducts a public hearing on the application on August 13, 2012. Upon holding a public hearing the Council may direct staff to prepare an ordinance to adopt the proposed street vacation.

ORS 271.080 defines the affected area as land lying on either side of the street 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 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.

Notice of the proposed vacation was sent to property owners located within 200 feet of the proposed vacation area as required by the Carlton Development Code. Notice was published in the local newspaper and posted within the vacation area.

Affected property owners had an opportunity to testify in support or opposition to the proposed street vacation at the public hearing before the Planning Commission conducted on Wednesday, July 25. Interested parties may also participate at the City Council hearing scheduled for Monday, August 13th, 2012.

C. *The Council must consider whether the public interest will be prejudiced by the vacation.*

Finding: If the proposed vacation is approved, use of the site will have access to W. Grant Street.

Property to the north of Tax Lot 4900 has access to W. Main Street and is not impacted by the proposed street vacations.

The single property to the south (Tax Lot 5000) continues to have frontage on W. Grant Street to the north, W. Washington Street to the south, Hill Street to the east, and River Street to west.

The other property under a Public Facilities zone district has street frontage on S. River Street and W. Washington dead-ends at the site.

Property to the east (Tax Lot 4800) continues to have frontage on W. Main Street to the north and W. Grant Street to the south.

Property to the west of Tax Lot 4900 is also under the City's ownership. Grant Street at its westerly terminus is outside the City's Urban Growth Boundary. Property to the west outside of City limits has street frontage on W. Main Street, as well as on the Grant/River Street intersection.

The proposed street vacation will not impact the Future Street Plan found in the Carlton Transportation System Plan (TSP).

The City Engineer, Public Works Department staff, and the local Fire Chief did not indicate any utility, street, or fire/life safety issues that would be affected by the street vacation.

City staff investigated the area and does not interpret the location of any underground private utilities within the rights-of-way.

On August 3rd, the City was contacted by Portland Gas and Electric (PGE) via email that included the following statement:

“PGE does ~~has~~ *have* facilities within this area and would respectfully request that you (*the City*) reserve rights for us (*PGE*) in the vacation ordinance that would allow us to install, operate, maintain, replace and access these facilities after the vacation goes through.”

The City Engineer confirmed that overhead utility lines along the portion of River Street to be vacated (between Grant and Main). The City has the authority to restrict or prohibit installation of additional public, private, or franchise utilities within the area being considered for vacation. However, the City may reserve a utility and maintenance easement allowing access for private utilities with control by the City. Staff recommends that such a utility easement be imposed with the recommendation that the City Engineer approve the final language of the easement to be included in the adoption ordinance.

The Planning found that this request does not prejudice the public interest provided the recommended conditions of street vacation approval can be met. (The private utility comment from PGE was not received by the City until after the Commission recommendation. City Council may add a condition to the decision based upon the updated details.)

VII. CONCLUSIONS AND RECOMMENDATIONS

The request to amend the Comprehensive Plan map designation and rezone the property from residential to public facilities use is consistent with the criteria and the location is within an area suitable for development of additional Public Works Department facilities based upon completion of the site development review process and including approval of any additional required and applicable permits.

For these reasons, the Planning Commission recommended that the City Council approve the requests for Comprehensive Plan Amendment/Zone Change 2012-01 and vacation of the specified public rights-of-way as identified in Vacation 2012-01.

If the City Council chooses to approve the application, the Planning Commission recommended placing the following condition of approval on the proposed request:

- I. Prepare a vacation ordinance and map and indicate a utility easement granted by the City to benefit PGE with the City Engineer approving the final easement “language” and record a certified copy including the easement with the Yamhill County Clerk, after the city adopts an ordinance vacating the street.

VIII. CITY COUNCIL ACTION

- A. Move that the City Council **APPROVE** Comprehensive Plan Map Amendment/Zone Change 2012-01 and Vacation 2012-01, based upon the staff report findings:
 1. With the condition of approval found in Section 7 (VII.) above.
 2. As modified by the City Council.
- B. Move to recommend that the City Council **DENY** Comprehensive Plan Map Amendment/Zone Change 2012-01 and Vacation 2012-01 (stating how the application does not meet the required standards).
- C. Continue the hearing to a time certain or indefinitely.



MID - WILLAMETTE VALLEY
COUNCIL OF GOVERNMENTS

100 High Street S.E. Suite 200
Salem, OR 97301-3667



DEPT OF

SEP 24 2012

LAND CONSERVATION
AND DEVELOPMENT

FIRST CLASS

Attn: Plan Amendment Specialist
DLCD
635 Capitol St NE, Ste 150
Salem OR 97301-2540