

# ORDINANCE NO. 799

## AN ORDINANCE VACATING THE SOUTHERLY 60 FEET OF CP PARK ACCESSWAY AND AMENDING THE COMPREHENSIVE PLAN MAP AND ZONING MAP DESIGNATIONS OF THE VACATED PROPERTY

### THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. CP Park subdivision includes a Tract A that was dedicated to the public as a park. Tact A, including its accessway to adjacent property to the south, was subsequently deeded to the City by the developer of the subdivision.
2. The public accessway between CP Park and the commercial shopping center to its south has become a public nuisance because it is a favorite hangout for young people who engage in undesirable behavior there.
3. In response to public comment from nearby residents about the problems that this accessway creates for them, the City Council decided to close off the accessway in 2003.
4. Even though the accessway is closed off, it remains a nuisance to the abutting property owners in that adolescents and others continue to climb over or break through the fence in order to hang out and engage in mischievous behavior.
5. After repeated complaints from adjacent residents about the problems associated with this accessway, the City Council desires to vacate the access strip. In order to dispose of the property the City must convey it by deed or other legal instrument. The City wishes to convey it to an adjacent residential property owner so that the land can be incorporated into a fenced private yard that is maintained by the property owner.
6. In conjunction with vacating the access strip, the City Council also desires to amend the comprehensive plan map and zoning district map designations for the vacated strip to be consistent with the adjacent residential property.

### NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE

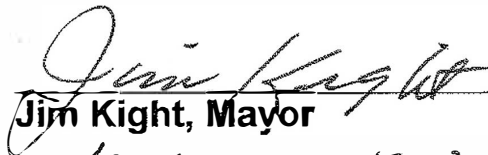

**Section 1.** The findings of fact contained in the Planning Commission's final order pertaining to this accessway vacation are incorporated by reference.

**Section 2.** The southerly 60 feet of Tract A of CP Park subdivision be vacated and said tract be conveyed by deed to the owners of adjoining Lot 1 of Faith

Park subdivision. The owners of Lot 1 shall be responsible for paying all associated recording fees.

**Section 3.** The Troutdale Comprehensive Plan map designation for the vacated property shall be amended from Open Space to High Density Residential and the Troutdale Zoning Map designation shall be amended from Open Space to Apartment Residential to be consistent with adjacent Lot 1 of Faith Park subdivision.

**YEAS: 6**  
**NAYS: 0**  
**ABSTAINED: 0**

  
\_\_\_\_\_  
**Jim Kight, Mayor**  
  
\_\_\_\_\_  
**Date**

  
\_\_\_\_\_  
**Debbie Stickney, City Recorder**

**Adopted: March 9, 2010**



Current Plan Designation: Open Space

Current Zoning: Open Space

Proposed Plan Designation: High Density Residential

Proposed Zoning: Apartment Residential

PLANNING COMMISSION  
FINAL ORDER

FINDINGS AND RECOMMENDATION

**FILE:** 09-085

**TYPE IV HEARING:** Vacation and Map Amendments

**HEARING DATE:** January 20, 2010

**APPLICANT:** City of Troutdale

**LAND OWNER:** City of Troutdale

**PROJECT NAME:** CP Park Accessway Vacation and Plan and Zoning Map Amendments

**REQUEST:** Vacate the southerly 60 feet of CP Park accessway and amend the comprehensive plan map designation for the vacated property from Open Space to High Density Residential (HDR) and amend the zoning map designation from Open Space to Apartment Residential (A-2) to be consistent with that of the adjacent property to the east.

**LOCATION:** Located between 2843 SW Faith Ct. and 2846 SW Hope Ct. within C.P. Park Subdivision and north of Troutdale Commons retail center (Albertsons)

**SITE SIZE:** 840 square feet (14' x 60')

The Troutdale Planning Commission held a public hearing on January 20, 2010 to take public testimony and to formulate a recommendation to the City Council concerning vacation of a 14' x 60' strip (840 s.f.) of public park accessway and amending the Comprehensive Plan map designation and Zoning map designation for the vacated strip. Having provided the opportunity for the public to express their views on the proposal, the Planning Commission now makes and enters the following findings of fact together with its recommendation to the Council for action.

1. The subject property is part of CP Park that was both dedicated to the City on the plat

recorded as CP Park and also deeded to the City by separate document. The subject property is a portion of the 14-foot wide accessway between residential lots that allows access between the park and abutting commercially zoned property to the south. The accessway has become a public nuisance because kids hang out there to engage in undesirable behavior.

2. Because of complaints from adjacent residents about undesirable activity occurring in the secluded accessway, in 2003 the City fenced off the southerly 60 feet of the path by installing a six-foot high chain link fence on both ends. Even though the pathway had been fenced off, neighbors continue to complain that kids are repeatedly breaking through or climbing over the fence to hang out and conduct undesirable activity within the closed off accessway.

3. On November 10, 2009 the Troutdale City Council voted unanimously to initiate this vacation so that the property can be conveyed to an adjacent property owner and included in the side yard area of the adjacent property to fully remove the opportunity for misuse of the pathway.

4. Once vacated, the property will no longer be dedicated for park purposes and the City can freely dispose of it. Assuming that the City will convey the vacated property to the adjacent property owner to the east, it makes sense to concurrently amend the comprehensive plan designation and zoning of the property to be consistent with that adjacent land.

5. The Troutdale Parks, Recreation and Greenways Plan shows this accessway as a connection between the park and land to the south; however, the Plan does not support continued use of the pathway and does not identify a recreational need for it. The Troutdale Transportation System Plan does not identify this pedestrian accessway as part of the City's transportation network or trail system. Consequently, the proposed vacation does not cause a conflict with the Comprehensive Land Use Plan.

6. In the six years that this pathway has been closed off, there have not been complaints about its closure nor have residents been demanding that the pathway be reopened. The public interest will not be prejudiced by the vacation.

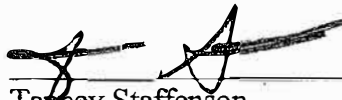
7. Amending the Comprehensive Plan Map for the proposed 840 s.f. vacated access strip from Open Space to High Density Residential complies with applicable statewide land use planning goals and is consistent with the applicable goals and policies of the Comprehensive Land Use Plan.

8. The proposed map amendment is not intended to accommodate additional dwellings or to meet projected need for residential land. It is a housekeeping measure to avoid having split plan designations and zoning on a single piece of property.

9. This proposed map amendment is not being done to address projected need. It is strictly a housekeeping measure to have map consistency on the 840 s.f. of public open space that is being vacated.
10. The proposed HDR designation is the same as that of the adjacent land. Uses allowed in the proposed designation will not significantly adversely affect existing or planned uses on adjacent lands.
11. No change in use of the vacated property is anticipated, so additional public facilities and services will not be needed.
12. As a result of this vacation the adjacent parcels would be increased in size but not enough to enable them to be further divided or for additional dwellings to be constructed.
13. The proposed Apartment Residential (A-2) zoning is the only possible zoning classification for the proposed HDR plan designation of the subject property in order for there to be consistency between the Plan Map and the Zoning Map.
14. Given the small area that is the subject of this rezone, no new uses are expected to occur. The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.
15. Because no change of use will result from this zone amendment action, no additional public facilities, services or transportation network is needed.
16. The zone change to A-2 complements the park property vacation and will enhance livability and the value of the adjacent land because it removes the negative impacts associated with misuse of this public park area in the past.
17. The zone map amendment will not be detrimental to the general interest of the community.
18. Notice of the public hearing has been provided in accordance with applicable law.
19. Written testimony was submitted by Tom Kloster, Metro's Regional Transportation Planning Manager, opposing the vacation because he believes it would be contrary to adopted local and regional policies that support connectivity between residential neighborhoods and adjacent commercial centers.
20. Testimony from an adjacent property owner, Bill Ormund, favored the vacation and map changes. However, he expressed concern that if the vacated property is incorporated into the abutting residential lot and enclosed by a fence, the remnant concrete sidewalk within the park

will dead end at the new residential fence and will likely become another hang out area for kids. He would like to see this remnant sidewalk removed if the vacated property is permanently fenced off.

In view of the above findings of fact, the Planning Commission recommends that the Troutdale City Council approve vacating the 14' x 60' public accessway in CP park and amending the Comprehensive Land Use Plan Map from Open Space (OS) to High Density Residential (HDR) and amending the Zoning Map from Open Space (OS) to Apartment Residential (A-2) to be consistent with that of the adjacent property to the east.



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Tamey Staffenson  
Planning Commission Vice-Chair

Until a change is requested, all tax statements shall be sent to:

Larry W. and Jennifer McWilliams  
2843 SW Faith Court  
Troutdale, OR 97060

Multnomah County Official Records  
C Swick, Deputy Clerk

2010-069790

After recording return to:



\$61.00

00677385201000697900060066

06/04/2010 02:50:03 PM

1R-B&S DEED  
\$30.00 \$11.00 \$15.00 \$5.00

Cnt=1 Str=11 RECCASH2

pk

City Recorder  
City of Troutdale  
104 SE Kibling Avenue  
Troutdale, OR 97060

STATUTORY BARGAIN AND SALE DEED

The City of Troutdale, an Oregon municipal corporation, Grantor, conveys to Larry W. McWilliams and Jennifer McWilliams, husband and wife, Grantees, the following described real property:

A portion of Tract 'A' of the "C.P. Park" subdivision plat, recorded under book 1209 pages 43 and 44, Multnomah County Survey Records, located in the William C. Mitchell D.L.C. No. 52 in the southeast quarter of Section 35, Township 1 North, Range 3 East, Willamette Meridian, City of Troutdale, Multnomah County, Oregon, being more particularly described as follows:

Beginning at the southeast corner of Tract 'A' on the south boundary of the "C.P. Park" subdivision plat; thence along the east boundary of said Tract 'A' N00°06'09"W 60.00 feet to the southwest corner of Lot 5, Block 4 of said "C.P. Park"; thence S89°53'51"W 14.00 feet to the west boundary of said Tract 'A'; thence along the west boundary of said Tract 'A' S00°06'09"E 60.00 feet to the southwest corner of said Tract 'A' on the south boundary of said "C.P. Park"; thence along the south boundary of said "C.P. Park" N89°53'51"E 14.00 feet to the Point of Beginning.

The above described portion of Tract 'A' contains 842 square feet (0.02 acres), more or less. Basis of bearings is per the "C.P. Park" subdivision plat.

The true consideration for this conveyance is other property or value given.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855,

b



OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

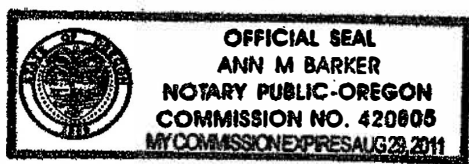
DATED: May 5, 2010.

THE CITY OF TROUTDALE, OREGON,  
An Oregon municipal corporation

By: *Jim Kight*  
Jim Kight, Mayor

STATE OF OREGON )  
 ) ss.  
COUNT OF MULTNOMAH )

This instrument was acknowledged before me on May 5, 2010 by Jim Kight, Mayor, of the City of Troutdale.



BEFORE ME: *Ann M. Barker*  
Notary Public for Oregon  
Commission Expires: *Aug. 29, 2011*

(seal)



# CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

## EXECUTIVE DEPARTMENT

Fax: (503) 665-7265

### Administration

City Administrator  
City Recorder

### Human Resources

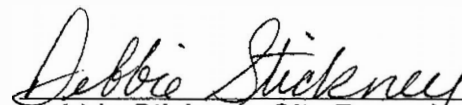
### Community Service

## CERTIFICATION OF PUBLIC RECORD OF THE CITY OF TROUTDALE, OREGON


I, DEBBIE STICKNEY, hereby certify that I am the duly appointed, qualified, and acting City Recorder of the City of Troutdale, Oregon, and

I Further Certify that the attached photo copy of Ordinance No. 799 is a correct, true and exact copy of an official public record of the City of Troutdale, Oregon, that was adopted by the City Council on March 9, 2010 and that the record copy thereof is in my official care, custody and control in my capacity as set forth below my signature.

Witness my Hand, and Seal of the City of Troutdale, Oregon, this 7<sup>th</sup> day of May, 2010.

  
Debbie Stickney, City Recorder

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[www.troutdale.info](http://www.troutdale.info)

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