

# City Council Staff Report

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**Date:**

5/1/2024

**Applicant:**

Mapleton City

**Location:**

City rights-of-way

**Prepared By:**

Sean Conroy, Community  
Development Director

**Public Hearing:**

No

**Attachments:**

1. Proposed policy.
2. Examples.

**REQUEST**

A discussion item to review a policy for evaluating requests by private property owners to vacate portions of existing rights-of-way.

**BACKGROUND & DESCRIPTION**

In some instances in the City, the dedicated road right-of-way is much wider than the existing street pavement and other improvements. This is most prevalent in the older neighborhoods that do not have curb, gutter or sidewalk. Recently the City has had three separate requests to sell or transfer some of the excess right-of-way to the adjacent land owner. Without an adopted policy, staff is unclear how to proceed when these types of requests arise.

Staff is proposing the attached policy to define a process and establish basic review criteria for right-of-way vacation requests. The policy would provide guidance, but would not be binding. Below is a summary of the policy:

- 1) Applicant would submit a request.
- 2) Request would be reviewed by the DRC.
- 3) A public hearing would be scheduled with the City Council.
- 4) Proposed review criteria would include:
  - City has determined that the ROW being vacated is unlikely to be needed to accommodate future road widening, curb, gutter, sidewalk or trail improvements, or other utility needs.
  - ROW to remain consistent along a block and not adjusted for a single property.
  - Vacated ROW must be combined with adjacent parcel.
- 5) Applicant to pay City for the ROW.
- 6) Applicant is responsible for all fees associated with survey, deed preparation and replatting when necessary.

The City is required to received adequate economic consideration when transferring public property. The law does not define what constitutes adequate consideration. The City could require fair market value, or establish some lesser amount. Staff is proposing to establish a fee much below fair market value at \$25,000 an acre. This is due to the fact that the right-of-way most likely was donated to the City as part of a development exaction. Since the property was given to the City, charging fair market value could be seen as being excessive.

**RECOMMENDATION**

Provide direction on the proposed policy.



## Excess Right-of-Way Vacation Policy

- I. **Intent:** To establish a general policy for considering requests from private property owners to vacate unused or underutilized rights-of-way throughout the City.
- II. **Application:** A property owner or owners wishing to acquire excess right-of-way shall submit a right-of-way vacation application, which is available on the City's website or at the Community Development Department, and pay the established application fee. The applicant shall indicate why they are requesting the vacation.
- III. **Review Process:** The City's Development Review Committee (DRC) shall review all applications for completeness and consistency with the criteria established in this policy and prepare a recommendation to the City Council. The City Council shall hold a public hearing to review the application. If the Council approves the request, it shall do so by ordinance. The City Council is under no obligation to approve the request.
- IV. **Review Criteria:** The City Council may utilize the following criteria for reviewing a right-of-way vacation application:
  - A. The City has determined that the right-of-way being vacated is unlikely to be needed to accommodate future road widening, curb, gutter, sidewalk or trail improvements or other public utility needs.
  - B. The right-of-way being vacated should not be for only a single property if there are other abutting properties that face the same street within a block. The newly established right-of-way should be consistent along the block or in between two intersecting streets.
  - C. The applicant's property must abut the right-of-way being vacated.
  - D. The vacated right-of-way cannot remain as a separate parcel and must be combined with the applicant's abutting parcel.



- E. The right-of-way vacation will not be contrary to the public interest or have the potential of impacting the public health and welfare of the community.
- V. **Purchase Price:** The City is required to receive adequate consideration when transferring publicly owned property. The recommended purchase price is \$25,000 per acre.
- VI. **Vacation:** If the City Council approves a request to vacate right-of-way, the following steps should be followed:
  - A. The applicant shall prepare a survey showing the final proposed right-of-way.
  - B. The City shall prepare a deed based on the survey description to transfer the property.
  - C. If the applicant's property is part of a platted subdivision, the applicant shall prepare an amended plat reflecting the new right-of-way.
  - D. Upon receipt of payment as described in section "V", Mapleton City will record the deed transferring the right-of-way as well as the amended subdivision plat if the applicant's property is part of platted subdivision.
  - E. The applicant shall record a deed combining the vacated right-of-way with their parcel.



Attachment "2"

