

1 **ORDINANCE BILL NO. 28-17**

2 AN ORDINANCE VACATING FRONTAGE ROAD NW AND PARADISE COURT NW

3 *The City of Salem ordains as follows:*

4 **Section 1. Findings.**

5 (a) On October 9, 2017, Council accepted a petition from Capital Manor to vacate Frontage
6 Road NW and Paradise Court NW, more particularly described and shown in Exhibit A, attached
7 hereto and by this reference incorporated herein.

8 (b) A public hearing before the City Council to consider the vacation of the right-of-way was set
9 for November 13, 2017, and notice of the hearing was provided as required by Oregon Revised
10 Statutes (ORS) 271.110 and Salem Revised Code (SRC) 255.065.

11 (c) A public hearing before the City Council was held on November 13, 2017, at which time
12 interested persons were afforded the opportunity to present evidence and provide testimony in
13 favor of, or in opposition to, the proposed vacation, and upon consideration of such evidence and
14 testimony and after due deliberation, the City Council finds as follows:

15 (1) The vacation will not substantially impact the market value of abutting properties
16 such that damages would be required to be paid pursuant to ORS 271.130; any impact
17 would be to increase the market value of abutting properties.

18 (2) The vacation is consistent with SRC 255.065 and complies with Section
19 255.065(b)(6) which establishes the criteria listed below for approving a right-of-way
20 vacation:

21 (A) *The area proposed to be vacated is not presently, or will not in the future be needed for*
22 *public services, facilities, or utilities;*

23 **FINDING:**

24 *Transportation:* Capital Manor plans to redesign the community's circulation system to provide
25 a single point of entry, with a second controlled access for emergency and maintenance vehicles
26 from Rosewood Drive NW. Implementation of this revised circulation system includes
27 reconfiguring and consolidating the existing lots into three larger lots. This reconfiguration is in
28 process through the Capital Manor Partition Plat. Once this partition plat has received final
29 approval, the right-of-way proposed for vacation will no longer be needed to provide
30 transportation access and circulation.

1 *Utilities:* Staff forwarded the petition to the relevant City Departments and Public Utilities for
2 their review. Public water, sewer, and storm facilities exist within the right-of-way to be vacated
3 (excluding that portion previously vacated by Ordinance No. 26-81) and, as such, the petitioner
4 must provide an easement over the vacated area. If the utilities are relocated as part of future
5 development, the easement would be released.

6 *(B) The vacation does not prevent the extension of, or the retention of public services, facilities,*
7 *or utilities;*

8 **FINDING:**

9 The vacation is part of a larger process for the total redevelopment of properties owned by
10 Capital Manor. This vacation is the first step in that process. While an easement for utilities will
11 be reserved over the area being vacated (excluding that portion previously vacated by Ordinance
12 No. 26-81) , the long term plans include abandonment or relocation of some public utilities and
13 construction of new private utilities. In addition, Capital Manor will be required to take over
14 maintenance and costs of the three streetlights on Paradise Court NW.

15 *(C) Public services, facilities, or utilities can be extended in an orderly and efficient manner in*
16 *an alternate location;*

17 **FINDING:**

18 The vacation is part of a larger process to completely redevelop the properties owned by Capital
19 Manor in a way that will allow it to function in a more orderly and efficient manner.

20 *(D) The vacation does not impede the future best use, development of, or access to abutting*
21 *property;*

22 **FINDING:**

23 The property abutting the proposed vacation is wholly owned by Capital Manor. Subject to final
24 approval of the Capital Manor Partition Plat, the area proposed for vacation will no longer be
25 needed to provide access to abutting properties. The vacation is intended to help the abutting
26 property develop to its future best use.

27 *(E) The vacation does not conflict with provisions of the Unified Development Code (UDC),*
28 *including the street connectivity standards and block lengths;*

29 **FINDING:**

30

1 The properties owned by Capital Manor will be redeveloped in a manner that is consistent with
2 the provisions of the UDC.

3 *(F) All required consents have been obtained;*

4 **FINDING:**

5 Petition-initiated vacations require the consent of 100 percent of the abutting real property
6 owners and two-thirds of the property owners within the affected area, which is defined in ORS
7 271.080. The applicant has submitted the signed consent of abutting and affected property
8 owners and staff has determined that all of the required consents have been obtained. Therefore,
9 the proposed vacation complies with this criterion.

10 *(G) Notices required by ORS 271.080-271.130 have been duly given;*

11 **FINDING:**

12 Notice of Public Hearing was provided as required by ORS 271.080-271.030. Notice was
13 published in the *Statesman Journal* and posted on the right-of-way for vacation. Therefore, the
14 proposed vacation complies with this criterion.

15 *(H) The public interest would not be prejudiced by the vacation;*

16 **FINDING:**

17 Approval of this vacation with the recommended conditions is compatible and consistent with
18 the intent, goals, and policies of the Salem TSP and the *Salem Revised Code*. In addition, this
19 vacation supports the public interest by releasing property for future improvement and
20 development. Therefore, the proposed vacation complies with this criterion.

21 **Section 2. Assessment of Special Benefit.** In accordance with SRC 255.065(b)(7)(C), the
22 Council may, in its discretion, require the petitioner to pay an assessment of special benefit in an
23 amount deemed by Council to be just and equitable. The Real Property Services Division of the
24 Urban Development Department estimated the value of the property described in Section 1(a) of
25 this Ordinance, excluding the portion previously vacated by Ordinance No. 26-81, to be \$3.00
26 per square foot for Frontage Road NW and \$3.88 per square foot for Paradise Court NW.
27 Applying these values to the area being vacated results in a recommended assessment of
28 \$240,969.16. Notice of the proposed assessment of special benefit was provided to Capital
29 Manor on November 9, 2017.

1 **Section 3. Vacation.** That certain property more particularly described in Section 1(a) of this
2 Ordinance is hereby vacated, subject to the following conditions:

- 3 (a) Final approval of the Capital Manor Partition Plat;
- 4 (b) Easements are provided for the construction, maintenance, repair, and replacement of
5 existing municipal and public utilities within the current right-of-way in a form and location
6 acceptable to the City, excluding that portion previously vacated by Ordinance No. 26-81;
- 7 (c) Petitioner to maintain and pay on-going expenses for the three streetlights on Paradise Court
8 NW; and
- 9 (d) Payment of an assesement of special benefit in the amount of \$240,969.16.

10 **Section 4. Vacation Effective Date.** Pursuant to SRC 255.065(c)(3), this vacation shall not be
11 effective until:

- 12 (a) All fees have been satisfied.
- 13 (b) All required legal documents have been signed, filed, and if required, recorded.
- 14 (c) The petition has complied with all conditions attached to the vacation.
- 15 (d) A certified copy of this ordinance is recorded with the Polk County Clerk.

16 **Section 5. Codification.** In preparing this ordinance for publication and distribution, the City
17 Recorder shall not alter the sense, meeting, effect, or substance of this ordinance, but within such
18 limitations, may:

- 19 (a) Renumber sections and parts of sections of the ordinance;
- 20 (b) Rearrange sections;
- 21 (c) Change reference numbers to agree with renumbered chapters, sections, or other parts;
- 22 (d) Delete references to repealed sections;
- 23 (e) Substitute the property subsection, section, or chapter, or other division numbers;
- 24 (f) Change capitalization and spelling for the purpose of uniformity;
- 25 (g) Add headings for purposes of grouping like sections together for ease of reference; and
- 26 (h) Correct manifext clerical, grammatical, or typographical errors.

27
28 PASSED by the City Council this _____ day of _____, 2017.

29 ATTEST:

30 City Recorder

Approved by City Attorney: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

Checked by: Julie Warncke

PROPOSED VACATION

Frontage Road

A tract of land situated in the Northeast one-quarter of Section 29, Township 7 South, Range 3 West of the Willamette Meridian, Marion County, Oregon, said tract being described as follows:

Beginning at the most easterly corner of LOT 36, THE AMENDED PLAT OF ALLELUIA HEIGHTS SUBDIVISION AND A PORTION OF ALLELUIA HEIGHTS SUBDIVISION - PHASE II, in the City of Salem, Polk County, Oregon (Recorded August 15, 1979 in Volume 8, Page 46, Book of Town Plats for Polk County, Oregon), said point being on the northwesterly right of way line of Frontage Road; and running thence: South 48°47'35" East 60.07 feet to a point on the southeasterly right of way line of said Frontage Road;

thence along said southeasterly right of way line of Frontage Road the following two courses:
thence South 38°22'43" West 232.10 feet;
thence South 38°26'13" West 236.22 feet to the northeasterly right of way line of Rosewood Drive;

thence North 49°42'50" West 60.03 feet to a point on the northeasterly right of way line of Rosewood Drive, which intersects with the northwesterly right of way of Frontage Road;

thence along the northwesterly right of way line of Frontage Road the following two courses:
thence North 38°26'13" East 236.95 feet to the most southerly corner of LOT 2 in the aforementioned plat;

thence North 38°22'43" East 232.34 feet to the Point of Beginning, containing 28,128 square feet of land, more or less;

Paradise Court

A tract of land situated in the Northeast one-quarter of Section 29, Township 7 South, Range 3 West of the Willamette Meridian, Marion County, Oregon, said tract being described as follows:

Beginning at a point on the southeast line of LOT 36, THE AMENDED PLAT OF ALLELUIA HEIGHTS SUBDIVISION AND A PORTION OF ALLELUIA HEIGHTS SUBDIVISION - PHASE II, in the City of Salem, Polk County, Oregon (Recorded August 15, 1979 in Volume 8, Page 46, Book of Town Plats for Polk County, Oregon), said point being South 38°22'43" West 65.11 feet from the most easterly corner of said LOT 36; and running thence:

South 38°22'43" West 100.11 feet to a point on the southeasterly line of LOT 1 in said subdivision and the beginning of a non-tangent curve concave to the west;

thence Northwesterly along the arc of a 20.00-foot radius curve to the left (whose radius point bears North 51°37'17" West and the chord of which bears North 05°18'00" West 27.62 feet) 30.49 feet to a point of tangency on the southwesterly right of way line of Paradise Court;

thence along the right of way of Paradise Court the following six courses:

thence North 48°58'43" West 541.95 feet to a point of curvature;
thence Northwesterly along the arc of a 30.00-foot radius curve to the left (the chord of which bears North 67°24'49" West 18.97 feet) 19.31 feet to a point of reverse curve;
thence Northeasterly along the arc of a 45.00-foot radius curve to the right (the chord of which bears North 41°01'17" East 72.00 feet) 199.29 feet to a point of reverse curve;
thence Southeasterly along the arc of a 30.00-foot radius curve to the left (the chord of which bears South 30°32'37" East 18.97 feet) 19.31 feet to a point of tangency;
thence South 48°58'43" East 537.33 feet to a point of curvature;
thence Northeasterly along the arc of a 20.00-foot radius curve to the left (the chord of which bears North 84°42'00" East 28.93 feet) 32.34 feet to the Point of Beginning, containing 40,357 square feet of land, more or less.

Easement in Vacated Portion of Frontage Road by Ord. No. 26-81

A tract of land situated in the Northeast one-quarter of Section 29, Township 7 South, Range 3 West of the Willamette Meridian, Marion County, Oregon, said tract being described as follows:

Beginning at the most easterly corner of LOT 36, THE AMENDED PLAT OF ALLELUIA HEIGHTS SUBDIVISION AND A PORTION OF ALLELUIA HEIGHTS SUBDIVISION - PHASE II, in the City of Salem, Polk County, Oregon (Recorded August 15, 1979 in Volume 8, Page 46, Book of Town Plats for Polk County, Oregon); and running thence along the bounds of the former right of way of Frontage Road, now having been vacated by Ordinance No. 26-81 (recorded in Book 155, Page 450, Polk County Deed Records), the following four courses:

thence North 38°22'43" East 233.81 feet;
thence South 48°30'01" East 60.09 feet;
thence South 38°22'43" West 233.50 feet;
thence North 48°47'35" West 60.07 feet to the Point of Beginning, containing 14019 square feet of land, more or less.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

PRELIMINARY

OREGON
JULY 19, 1984
GREGORY L. WILSON
2687

EXPIRES: 6-30-18

EXHIBIT MAP

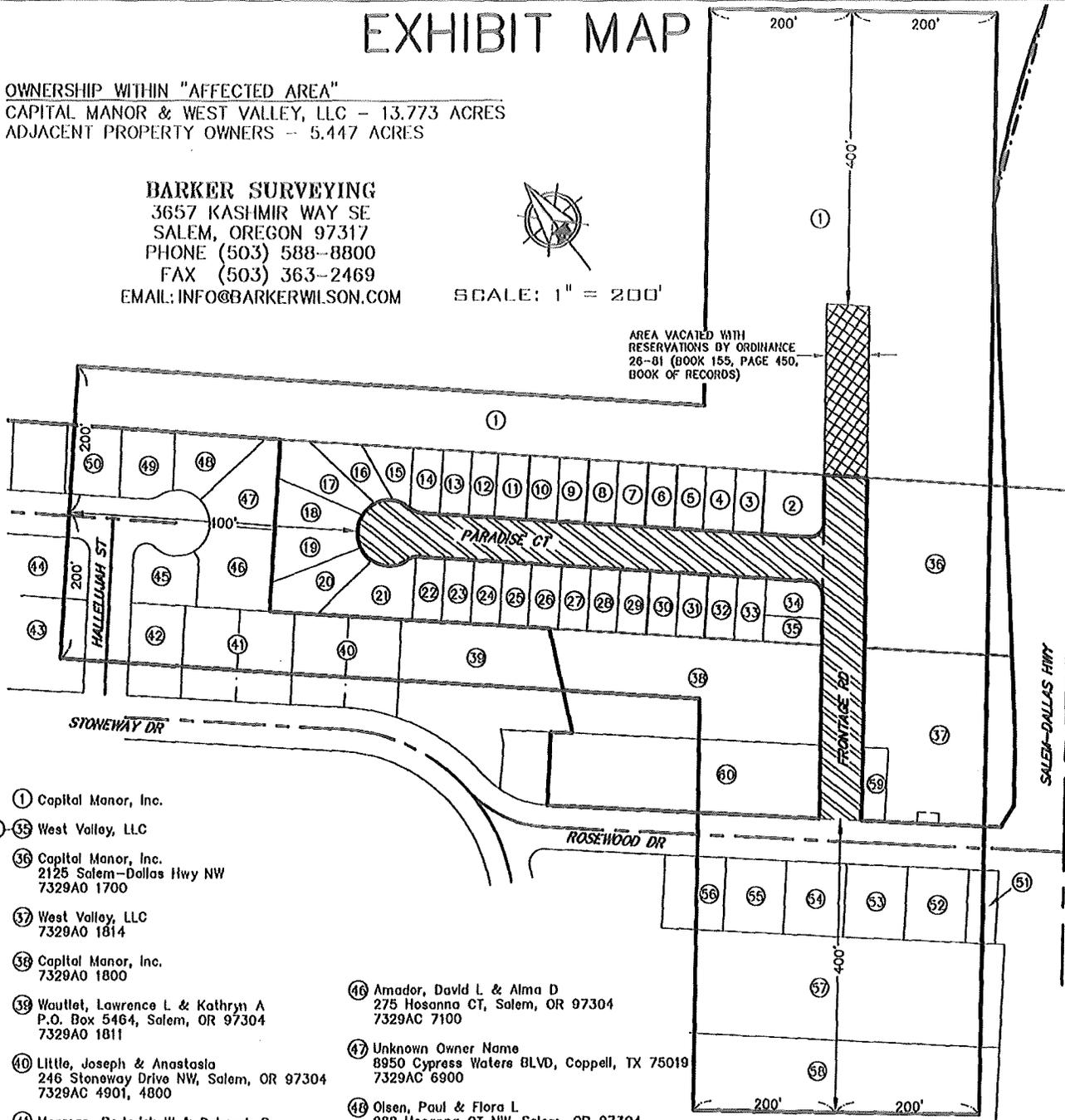
OWNERSHIP WITHIN "AFFECTED AREA"
 CAPITAL MANOR & WEST VALLEY, LLC - 13.773 ACRES
 ADJACENT PROPERTY OWNERS - 5.447 ACRES

BARKER SURVEYING
 3657 KASHMIR WAY SE
 SALEM, OREGON 97317
 PHONE (503) 588-8800
 FAX (503) 363-2469
 EMAIL: INFO@BARKERWILSON.COM



SCALE: 1" = 200'

AREA VACATED WITH
 RESERVATIONS BY ORDINANCE
 26-81 (BOOK 155, PAGE 450,
 BOOK OF RECORDS)



- ① Capital Manor, Inc.
- ②-⑤ West Valley, LLC
- ⑥ Capital Manor, Inc.
2125 Salem-Dallas Hwy NW
7329A0 1700
- ⑦ West Valley, LLC
7329A0 1814
- ⑧ Capital Manor, Inc.
7329A0 1800
- ⑨ Wautlet, Lawrence L & Kathryn A
P.O. Box 5464, Salem, OR 97304
7329A0 1811
- ⑩ Little, Joseph & Anastasia
246 Stoneway Drive NW, Salem, OR 97304
7329AC 4901, 4800
- ⑪ Mosman, Roderick W & Deborah D
288 Stoneway Drive NW, Salem, OR 97304
7329AC 4704, 4703
- ⑫ Bananti, Larry & Phyllis Trust
278 Stoneway Drive NW, Salem, OR 97304
7329AC 4700
- ⑬ Pratt, Lawrence A & Valrie J
288 Stoneway Drive NW, Salem, OR 97304
7329AC 4701
- ⑭ O'Connor, Michael A & Amanda T
317 Hosanna CT NW, Salem, OR 97304
7329AC 5800
- ⑮ Pope, Dawn
2150 Hallelujah Street NW, Salem, OR 97304
7329AC 7200
- ⑯ Amador, David L & Alma D
275 Hosanna CT, Salem, OR 97304
7329AC 7100
- ⑰ Unknown Owner Name
8950 Cypress Waters BLVD, Coppell, TX 75019
7329AC 6900
- ⑱ Olsen, Paul & Flora L
288 Hosanna CT NW, Salem, OR 97304
7329AC 6800
- ⑲ Riltner, Teresa G
288 Hosanna CT NW, Salem, OR 97304
7329AC 6700
- ⑳ Garson, Mark A & Alice L
318 Hosanna CT NW, Salem, OR 97304
7329AC 6600
- ㉑ State Highway Commission
State HWY BLDG, Salem, OR 97302
7329A0 1900
- ㉒ Devore, Mark & Sheryl
123 Rosewood Drive NW, Salem, OR 97304
7329A0 1801
- ㉓ Patnode, Samantha
133 Rosewood Drive NW, Salem, OR 97304
7329A0 1809
- ㉔ Gallegos, Ronda Ann
143 Rosewood Drive NW, Salem, OR 97304
7329A0 1808
- ㉕ Rice, Laurle
2187 Deerwind Ave. NW, Salem, OR 97304
7329A0 1804
- ㉖ Gallela, Hector
163 Rosewood Drive NW, Salem, OR 97304
7329A0 1812
- ㉗ Bridge West Apartments, LLC
6056 HWY 22, Independence, OR 97351
732900 1300
- ㉘ Gordon Mitchell Partnership, LLC
P.O. Box 2314, Sisters, OR 97759
732900 1304
- ㉙ West Valley, LLC
7329A0 1815
- ㉚ Capital Manor, Inc.
7329A0 1803