

ORDINANCE 786

AN ORDINANCE VACATING THE NORTH PORTION OF PEACH AVENUE IN STAYTON,
MARION COUNTY, OREGON.

WHEREAS, ORS 271.080(1) provides that whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, such person may file a petition setting forth a description of the ground to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation; and

WHEREAS, ORS 271.080(2) provides that appended to such petition, and as a basis for granting the same, must be the written and authorized consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected; and

WHEREAS, Greg B. Schons and Joseph F. Markunas have filed a petition requesting that the portion of Peach Avenue running through the petitioner's property at 575 Peach Avenue be vacated; and

WHEREAS, the purpose and reason of the street vacation is to revert ownership of the vacated street portion back to Greg B. Schons and Joseph F. Markunas, so that they can develop the property per the existing Stayton Municipal Code Section 17.16.730 Light Industrial Zone (IL) District as one contiguous piece; and

WHEREAS, appended to such petition was the written and authorized consent of the owners of all abutting property and of over two-thirds in area of the real property affected; and

WHEREAS, on 18 May 1998, the Stayton City Council did conduct a public hearing concerning the proposed vacation at which public testimony and the written record were received and considered; and

WHEREAS, at the conclusion of the public hearing the Stayton City Council determined that it was in the public interest to vacate the north portion of Peach Avenue;

WHEREAS, the public interest will be prejudiced if the vacation of Peach Avenue is allowed without access to the property being limited to Wilco Road only;

NOW, THEREFORE the Stayton City Council hereby ordains as follows:

SECTION 1: That the north portion of Peach Avenue in Stayton, Marion County, Oregon, specifically the street portion hereafter described, is hereby vacated subject to easements of record:

PARCEL 1:

Beginning at an iron pipe which is 1094.90 feet South of the center of and 147 feet East of the

North-South centerline of Section 9, Township 9 South, Range 1 West of the Willamette Meridian, Marion County, Oregon; thence South 50 feet along the East line of a 40 foot roadway to an iron pipe; thence East 150 feet to an iron pipe on the East line of said Tharp property; thence North 50 feet along said East line to an iron pipe; thence West 150 feet to the place of beginning.

PARCEL II:

Beginning at an iron pipe which is 1194.90 feet South of the center of and 147 feet East of the North-South center line of Section 9, Township 9 South; Range 1 West of the Willamette Meridian in Marion County, Oregon; thence South 50 feet along the East line of a 40 foot roadway to an iron pipe; thence East 150 feet along said East line to an iron pipe; thence West 150 feet to the place of beginning.

PARCEL III:

Beginning at an iron pipe which is 1144.90 feet South of the center of and 147 feet East of the North-South centerline of Section 9, Township 9 South, Range 1 West of the Willamette Meridian, Marion County, Oregon; thence South 50 feet along the East line of a 40 foot roadway to an iron pipe; thence East 150 feet to an iron pipe on the East line of said Tharp property; thence North 50 feet along said East line to an iron pipe; thence West 150 feet to the place of beginning.

PARCEL IV:

Commencing at a point 837.13 feet South of the middle of Section 9 in Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon; and running East 147 feet, more or less, to the true point of beginning; thence South 261.92 feet to a point which is also the Northwest corner of that certain parcel sold to Mary E. Terrill by contract recorded in Volume 29, Page 406, Marion County Miscellaneous Records; thence East 150 feet to a point which is the Northeast corner of said Volume 29, Page 406; thence North 261.92 feet to a point which is 150 feet East of the true point of beginning; thence West 150 feet to the point of beginning.

SAVE AND EXCEPT that portion of the above described premises lying within the Salem water Ditch.

PARCEL V:

Commencing at a point 837.13 feet South of the middle of Section 9 in Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon, and East 147 feet, more or less, and South 411.92 feet to a point which is also the Southwest corner of that certain parcel sold to Mary E. Terrill by contract recorded in Volume 29, Page 409, Marion County Miscellaneous Records, which is the true point of beginning; thence South 250 feet, more or less, to a point which is known as the Southwest corner of Lot "J"; thence East 150 feet, more or less, to a point which is the Southeast corner of Lot "J"; thence North 250 feet to a point which is 150 feet East of the true point of beginning; thence West 150 feet to the true point of beginning.

SAVE AND EXCEPT that portion conveyed to Thomas E. Hamlin and Rachel J. Hamlin by Deed, recorded October 4, 1994, in Reel 1196, Page 454, Film Records for Marion County, Oregon as follows:

SAVE AND EXCEPT Commencing at a point 837.13 feet South of the middle of Section 9 in

Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon, and East 147 feet, more or less, and South 461.92 feet to a point which is also the Northwest corner of said Lot "N", which is the true point of beginning; thence South 200 feet, more or less, to a point which is known as the Southwest corner of Lot "J"; thence East 150 feet, more or less, to a point which is the Southeast corner of Lot "J"; thence North 200 feet to a point which is 150 feet East of the true point of beginning; thence West 150 feet to the true point of beginning.

PARCEL VI:

Beginning at an iron pipe which is 1244.90 feet South of the center of and on the North-South centerline of Section 9, Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon; thence South along said centerline 50 feet to an iron pipe; thence East 107.00 feet to an iron pipe on the West edge of a 40 foot roadway; thence North 50 feet along said roadway to an iron pipe; thence West 107 feet to the point of beginning.

ALSO

Beginning at an iron pipe which is 1194.90 feet South of the center of, and on the North-South centerline of Section 9, Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon; thence South along said centerline 50 feet to an iron pipe; thence East 107.00 feet to an iron pipe on the West edge of a 40 foot roadway; thence North 50 feet along said roadway to an iron pipe; thence West 107 feet to the point of beginning.

Excepting therefrom any portion lying within Peach Street.

PARCEL VII:

Beginning at a point 858.23 feet South of the middle of Section 9 in Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon; and running thence East 64.02 feet; thence North 23.10 feet, more or less, to the North line of a tract of land conveyed to Gerald and Edna Tharp by deed recorded in Volume 578, Page 191, Marion County Deed Records; thence East 42.98 feet, more or less, to the Northeast corner of Lot "Z-5"; thence South 361.40 feet to the Southeast corner of Lot "Y"; thence West 107.00 feet to a point which is 1194.90 feet South of the center of and on the North-South centerline of Section 9, Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon; thence North 337.77 feet to the point of beginning.

SAVE AND EXCEPT: Beginning at an iron pipe which is 1004.90 feet South of the center of and on the North-South centerline of Section 9, Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon; thence South 40.00 feet along said centerline to an iron pipe; thence East 107.00 feet to an iron pipe on the West line of a 40 foot roadway; thence North 40.0 feet along the West line of said roadway to an iron pipe; thence West 107.00 feet to the point of beginning.

SAVE AND EXCEPT that portion of the above described premises lying within the Salem Water Ditch.

PARCEL VIII:

Beginning at an iron pipe which is 1004.90 feet South of the center of, and on the North-South

center line of Section 9, Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon; thence South along said centerline, 40.00 feet to an iron pipe; thence East 107.00 feet to an iron pipe on the West line of a 40 foot roadway; thence North 40.00 feet along the West line of said roadway to an iron pipe; thence West 107.00 feet to the point of beginning.

PARCEL IX:

Beginning at a point 858.23 feet South of the middle of Section 9, in Township 9 South, Range 1 West of the Willamette Meridian in Marion County, Oregon; and running thence East 64.02 feet; thence North 23.10 feet, more or less to the North line of a tract of land conveyed to Gerald and Edna Tharp by deed recorded in Volume 578, Page 191, Marion County Deed Records and the true point of beginning of the herein described tract; thence East 42.98 feet more or less to the South line of the Salem Water Ditch, thence Northwesterly along the South line of the Salem Water Ditch to the East line of the tract of land conveyed to Frances A. Mertz by instrument recorded July 29, 1969, in Book 668, Page 818, Deed Records, thence South to the point of beginning.

PARCEL X:

That portion of the following described property lying South of the Salem Ditch, as follows: Commencing at the Northwest corner of the Southeast quarter of Section 9; thence South 52 rods; thence East 3 rods and 22 links; thence North 52 rods; thence West 3 rods and 22 links to the place of beginning, in Township 9 South, Range 1 West of the Willamette Meridian, Marion County, Oregon.

SAVE AND EXCEPT that portion conveyed to Marion County, recorded September 16, 1968, in Book 653, Page 613.

SECTION 2: It is in the public interest that the street vacation, acted upon by this ordinance, is conditioned by the access to the property from Wilco Road and not from Peach Avenue.

SECTION 3: This ordinance shall take effect and shall be recorded in the Marion County Deed Records.

PASSED BY THE STAYTON CITY COUNCIL this 15th day of June, 1998.

Date: 6-19-98 By: Daphne E. Girod
DAPHNE E. GIROD, Mayor

Date: 6-19-98 Attest: Thomas L. Barthel
THOMAS L. BARTHEL, City Administrator

APPROVED AS TO FORM

Date: JUN 22 1998 David A. Rhoten
DAVID A. RHOTEN, City Attorney