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May 31, 2021

City of Moro
City Council
104 1st Street
Moro, Oregon 97039

Reference: Alley Vacation
Staff Report

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| Report Prepared by: | Kirk Fatland, Contract Planner |
| Applicant: | Laterre Partners Holdings, LLC. |
| Procedure Type: | Quasi-Judicial |
| Decision Date: | June 7, 2022 |
| Legal Description: | The mid-block alley bisecting Block G of the Barnum Addition to the City of Moro. |
| Address: | None assigned |
| Comprehensive Plan Designation: | Agricultural |
| Zoning District: | Agricultural |

Request and Background Information: The applicant proposes the vacation of a mid-block alley located off 1st Street and immediately adjacent to Lone Rock Road. The public right-of-way proposed to be vacated is more accurately described as the mid-block alley bisecting Block G of the Barnum Addition to the City of Moro. The application has been submitted on behalf of Laterre Partners Holdings, LLC, the owner of the surrounding property.

The alley in question is platted but has never been used for vehicle traffic. All land directly surrounding the alley proposed to be vacated is currently agricultural land. Beyond this, the surrounding properties range from agricultural and residential use to commercial and government use. The applicant intends to submit plans in conjunction with this application for a conditional use permit and replat of the surrounding properties for development and construction of a USDA office building, which will not need the alley. Vacating the alley will likely have no impact on the surrounding areas, properties, or uses.

Notice: The requisite notices were mailed to adjacent property owners, published in the Times-Journal as well as posted at the subject site.

Comments Received: No public comments were received by the writing of this report.

271.080 Vacation in incorporated cities; petition; consent of property owners.

- (1) Whenever any person interested in any real property in an incorporated city in this state desires to vacate all or part of any street, avenue, boulevard, alley, plat, public square or other public place, such person may file a petition therefor setting forth a description of the ground proposed to be vacated, the purpose for which the ground is proposed to be used and the reason for such vacation.

FINDING: The applicant has submitted a petition signed by the sole adjacent landowner.

- (2) There shall be appended to such petition, as a part thereof and as a basis for granting the same, the consent of the owners of all abutting property and of not less than two-thirds in area of the real property affected thereby. The real property affected thereby shall be deemed to be the land lying on either side of the street or portion thereof 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 the 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. Where a street is proposed to be vacated to its termini, the land embraced in an extension of the street for a distance of 400 feet beyond each terminus shall also be counted. In the vacation of any plat or part thereof the consent of the owner or owners of two-thirds in area of the property embraced within such plat or part thereof proposed to be vacated shall be sufficient, except where such vacation embraces street area, when, as to such street area the above requirements shall also apply. The consent of the owners of the required amount of property shall be in writing. [Amended by 1999 c.866 §2]

FINDING: The “affected property” as defined in this criterion are under the ownership of two entities: Mid-Columbia Producers and the City of Moro. Attached to the application is a petition signed by a representative of Mid-Columbia Producers as well as the Mayor of Moro acting on behalf of the City.

271.090 Filing of petition; notice.

The petition shall be presented to the city recorder or other recording officer of the city. If found by the recorder to be sufficient, the recorder shall file it and inform at least one of the petitioners when the petition will come before the city governing body. A failure to give such information shall not be in any respect a lack of jurisdiction for the governing body to proceed on the petition.

FINDING: The petition has been filed with the City Recorder. City staff have determined that all necessary information has been included to proceed to a hearing before the Council regarding the petition.

271.100 Action by city governing body.

The city governing body may deny the petition after notice to the petitioners of such proposed action, but if there appears to be no reason why the petition should not be allowed in whole or in part, the governing body shall fix a time for a formal hearing upon the petition.

271.110 Notice of hearing.

- (1) The city recorder or other recording officer of the city shall give notice of the petition and hearing by publishing a notice in the city official newspaper once each week for two consecutive weeks prior to the hearing. If no newspaper is published in such city, written notice of the petition and hearing shall be posted in three of the most public places in the city. The notices shall describe the ground covered by the petition, give the date it was filed, the name of at least one of the petitioners and the date when the petition, and any objection or remonstrance, which may be made in writing and filed with the recording officer of the city prior to the time of hearing, will be heard and considered.
- (2) Within five days after the first day of publication of the notice, the city recording officer shall cause to be posted at or near each end of the proposed vacation a copy of the notice, which shall be headed, "Notice of Street Vacation," "Notice of Plat Vacation" or "Notice of Plat and Street Vacation," as the case may be. The notice shall be posted in at least two conspicuous places in the proposed vacation area. The posting and first day of publication of such notice shall be at least 14 days before the hearing.
- (3) The city recording officer shall, before publishing such notice, obtain from the petitioners a sum sufficient to cover the cost of publication, posting and other anticipated expenses. The city recording officer shall hold the sum so obtained until the actual cost has been ascertained, when the amount of the cost shall be paid into the city treasury and any surplus refunded to the depositor. [Amended by 1991 c.629 §1; 2005 c.22 §196]

FINDING: All notice requirements of this section have been met. A hearing has been noticed and scheduled for June 7, 2022.

271.120 Hearing; determination.

At the time fixed by the governing body for hearing the petition and any objections filed thereto or at any postponement or continuance of such matter, the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

FINDING: The City Council will follow the above procedure at the public hearing scheduled for June 7, 2022.

271.190 Consent of owners of adjoining property; other required approval. No vacation of all or part of a street, alley, common or public place shall take place under ORS 271.180 unless the consent of the persons owning the property immediately adjoining that part of the street or alley to be vacated is obtained thereto in writing and filed with the auditor or clerk of the city or town. No vacation shall be made of any street, alley, public place or part thereof, if within 5,000 feet of the harbor or pierhead line of the port, unless the port commission, or other bodies having jurisdiction over docks and wharves in the port district involved, approves the proposed vacation in writing.

FINDING: Mid-Columbia Producers are the sole owners of property immediately adjacent to the area proposed to be vacated. Attached to the application is a petition signed by a representative of Mid-Columbia Producers.

271.200 Petition; notice.

- (1) Before any street, alley, common or public place or any part thereof is vacated, or other right granted by any city governing body under ORS 271.180 to 271.210 the applicant must petition the governing body of the city or town involved, setting forth the particular circumstances of the case, giving a definite description of the property sought to be vacated, or of the right, use or occupancy sought to be obtained, and the names of the persons to be particularly affected thereby. The petition shall be filed with the auditor or clerk of the city or town involved 30 days previous to the taking of any action thereon by the city governing body.
- (2) Notice of the pendency of the petition, containing a description of the area sought to be vacated or right, use or occupancy sought to be obtained, shall be published at least once each week for three successive weeks prior to expiration of such 30-day period in a newspaper of general circulation in the county wherein the city or town is located.

FINDING: The proposed area to be vacated is described as the mid-block alley bisecting Block G of the Barnum Addition to the City of Moro. A petition of affected property owners has been submitted with the application. The City of Moro is a property owner within the affected area, the Council has previously moved to authorize the Mayor to sign the petition on behalf of the City.

271.210 Hearing; grant of petition. Hearing upon the petition shall be had by the city governing body at its next regular meeting following the expiration of 30 days from the filing of the petition. At that time objections to the granting of the whole or any part of the petition shall be duly heard and considered by the governing body, which shall thereupon, or at any later time to which the hearing is postponed or adjourned, pass by a majority vote an ordinance setting forth the property to be vacated, or other rights, occupancy or use to be thereby granted. Upon the expiration of 30 days from the passage of the ordinance and the approval thereof by the mayor of the city or town, the ordinance shall be in full force and effect.

FINDING: The City Council will hold a public hearing as required on June 7, 2022.