

Ordinance No. 2021-001

AN ORDINANCE VACATING A PORTION OF CITY RIGHT-OF-WAY AND PUBLIC UTILITY EASEMENTS LOCATED IN THE GENERAL AREA OF 293 NORTH GATEWAY DRIVE

WHEREAS UCA § 10-3-701 states, "except as otherwise specifically provided, the governing body of each municipality shall exercise its legislative power through ordinances." And

WHEREAS Providence City desires to provide for the health, safety, and welfare, and promote the prosperity, peace and good order, comfort, convenience, and aesthetics of each municipality and its present and future inhabitants and businesses, to protect the tax base, to secure economy in governmental expenditures, to foster the state's agricultural and other industries, to protect both urban and nonurban development, to protect and ensure access to sunlight for solar energy devices, to provide fundamental fairness in land use regulation, and to protect property values in areas that may be considered sensitive, including but not limited to fire danger, slope, soil content.

- On January 5, 2021, Providence City received a petition to vacate a portion of city right-of-way and public utility easements located in the general area of 293 North Gateway Drive.
- On January 27, 2021, the Providence Planning Commission reviewed the request and made the following recommendation:

*Motion to make a recommendation to the City Council regarding the request to vacate a portion of the city right-of-way located in the general area of 293 North Gateway Drive, the little bulb, with the good cause being that it will make the development better and it is a part that the city is not using, so it will be to the benefit of the city if this occurs: — R Cecil, second — R Perry*

*Vote:*

*Yea: K Alder, L Banda, R Cecil, M Fortune, R Perry*

*Nay:*

*Abstained:*

*Excused:*

- The City Council considered the following:

Findings of Fact:

- 10-9a-609.5(4) states the legislative body may adopt an ordinance granting a petition to vacation some or all of a public street or municipal utility easement if the legislative body finds that: (a) good cause exists for the vacation; and (b) neither the public interest nor any person will be materially injured by the vacation.

Conclusions of Law:

- The City Council is the legislative body for Providence City.
- On March 17, 2021, pursuant to UCA 10-9a-609.5 the City Council held a public hearing to determine whether good cause exists for the vacation; and the public interest or any person will be materially injured by the proposed vacation.
- Good cause exists for the vacation:
  - the petitioner would like to develop a mixed use development;
  - after the extension of Gateway Drive in 2011, the City has not improved or utilized this area;
  - neither the Park, Trails, and Recreation Master Plan nor the Transportation Master Plan indicate this area will be improved or utilized;
  - vacating the circular portion of right-of-way shown on the illustration below, will allow retail buildings planned for the area to locate nearer to Gateway Drive.



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- Neither the public interest nor any person will be materially injured by the vacation.
  - At the present time, traffic does not use the circular portion of the right-of-way.

Conditions:

- The petitioner will continue to meet all applicable federal, state, county, and local codes, rules, laws, policies, etc.

THEREFORE be it ordained by the Providence City Council

- The petition to vacate the circular portion of right-of-way and public utility easement (does not include the public utility easement adjacent to Gateway Drive) as show in the above illustration shall be granted; and
- This ordinance shall become effective immediately upon passage and posting or 30 days after final passage, whichever is closer to the date of final passage.

Passed by vote of the Providence City Council this 17th day of March 2021.

Council Vote:

Eck, Kristina	(X) Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
Kirk, Carrie	(X) Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
Paulsen, Joshua	(X) Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
Sealy, Jeanell	(X) Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent
Speth, Brent	(X) Yes	( ) No	( ) Excused	( ) Abstained	( ) Absent

Signed by Mayor John Drew this 19th day of March 2021.

Providence City

John Drew, Mayor

Attest:



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Vacating a portion of city right-of-way and public utility easements located in the general area of 293 North Gateway Drive

1 Skarlet Bankhead, Recorder  
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