

IMPACT STATEMENT

Legislation title: Vacate a portion of an unnamed alley between N Midway Ave and N Columbia Blvd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10107)
Contact name: Karl Arruda, PBOT Right-of-Way Acquisition
Contact phone: 503-823-7067
Presenter name: Karl Arruda

Purpose of proposed legislation and background information:

The purpose of this legislation is to vacate a portion of an unnamed alley between N Midway Avenue and N Columbia Boulevard (the "Street Area"), as recommended in the City Engineer's Report.

The petition was initiated by Frankie Maduzia (the "Petitioner"), for the purpose of joining the unused alley to the Petitioner's lot to use as yard space, thereby addressing the neglected land and safety concerns. The Petitioner's property abuts the south side of the alley where it intersects with N. Midway Avenue.

The petition was certified by the City Auditor's Office on December 2, 2015. The Street Area is depicted on Exhibit 1 of the ordinance.

The Planning and Sustainability Commission ("PSC") reviewed and approved the street vacation request on June 14, 2016. An Engineer's Report was completed on August 18, 2016, recommending approval of the street vacation, subject to certain conditions and reservations. The Report, inclusive of the PSC's recommendation, is attached.

The ordinance complies with state law under ORS 271 and City Code, Chapter 17.84 and will complete the street vacation process.

Financial and budgetary impacts:

The process for vacating streets is a cost recovery program, typically paid for by the Petitioner, and does not have a net impact on PBOT's budget. Expenses for processing a street vacation request typically range between \$8,000 and \$20,000+, depending on the complexity. This street vacation falls in the lower part of the range and is estimated (with moderate confidence) to be approximately \$8,500.

Revenue paid by the Petitioner for this street vacation will cover the actual expenditures incurred by City staff for the processing of this request. The SAP Cost Object is 9TR000002227. The revenue and expenses are occurring in FY 2015-2016 and 2016-2017.

This legislation does not affect staffing levels nor result in a new or modified financial obligation or benefit now or in the future.

If City Council does not approve the ordinance, Petitioner will not be able to add part of the alley to his lot, and the alley will remain neglected and a possible source for unsafe conditions such as rodents.

Community impacts and community involvement:

Pursuant to ORS 271.080, the Petitioner obtained the required signatures from surrounding property owners in the 'affected area' as stated in said statute, showing support of the vacation request. As an additional requirement of the state statute, the City Auditor also published notice of the public hearing in the Daily Journal of Commerce and has posted the notice near the Street Area.

Comments were also solicited from City Bureaus, government agencies, public utilities and affected neighborhood and business associations in the area. No objections were received, however PBOT and BDS conditioned their approval on various conditions. PBOT requires construction of curbs along N. Midway and N. Columbia to close off the alley. BDS requires that the ordinance prohibit curb cuts from the adjacent Lot 25 (6945 N. Olympia St.) to N. Columbia Blvd. to prevent new access to an arterial street.

The PSC advertised and then held a public hearing on June 14, 2016. No one from the public came forward to testify in support or opposition of the vacation, and the PSC ultimately approved the vacation request.

There do not appear to be any other impacts to the community from vacating this right-of-way. No opposition to this street vacation request is expected. There is no future public involvement anticipated since this ordinance will conclude the street vacation process.

Information regarding the advertising details can be provided by Toni Anderson, City Auditor's Office, 503-823-4022, or toni.anderson@portlandoregon.gov.

Budgetary Impact Worksheet

Does this action change appropriations?

☐ **YES:** Please complete the information below.

☒ **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

PBOT

PORTLAND BUREAU OF TRANSPORTATION

BACKGROUND INFORMATION

*** **ONLY** ***

ADDITIONAL DOCUMENT

1120 SW Fifth Avenue, Suite 800 Portland, OR 97204 503.823.5185
Fax 503.823.7576 TTY 503.823.6868 www.portlandoregon.gov/transportation

Steve Novick Commissioner Leah Treat Director

August 18, 2016

CITY ENGINEER'S REPORT TO CITY COUNCIL ON THE PROPOSED VACATION OF Unnamed Alley between N. Midway Ave. and N. Columbia Blvd. (R/W #8051)

Background

1. **Proposed Street Vacation Area.** An unnamed alley between N. Midway Avenue and N. Columbia Boulevard, said area being approximately 62 feet long along the north side and 82 feet long along the south side by 16 feet wide, containing approximately 1,150 square feet. The area is currently unimproved and is depicted on Exhibit 1 attached hereto.
2. **Petitioner.** Frankie Maduzia is the owner of the abutting property to the southwest of the proposed street vacation area.
3. **Purpose.** The street vacation is proposed in order to join the unused alley to the Petitioner's lot and use as yard space, thereby addressing the neglected land and safety concerns.
4. **Compliance with Minimum Requirements.** The Petitioner has secured necessary signatures of property owners in the affected area, as required under ORS 271.080 (Vacation in incorporated cities; petition; consent of property owners). The Office of the City Auditor certified the required petition on December 2, 2015.
5. **Due Diligence Review.** Comments were solicited from City Bureaus, government agencies, public utilities and affected neighborhood and business associations. A summary of this due diligence effort is attached as Exhibit 2 hereto. Of particular significance were comments by the Bureau of Development Services and PBOT which requested that certain conditions be satisfied prior to the street being vacated.
6. **Planning and Sustainability Commission Review.** The Planning and Sustainability Commission reviewed and approved the proposed street vacation on June 14, 2016, with its Report and Recommendation attached as Exhibit 3 hereto.
7. **Costs.** The Petitioner has paid \$7,000 to date to reimburse the City for staff costs incurred



PBOT is an equal opportunity employer. The Portland Bureau of Transportation (PBOT) is the steward of the City's transportation system, and a community partner in shaping a livable city. We plan, build, manage and maintain an effective and safe transportation system that provides access and mobility.

processing the street vacation request. Based on a review of the case file, processing costs to date and estimated cost forward to bring the project through City Council, total \$8,500. The Petitioner will be expected to submit sufficient funds to complete the vacation process as stated in the attached letter.

Bureau of Transportation Recommendation

The Bureau of Transportation hereby finds the proposed street vacation application to be acceptable, and in the event that no substantive objections are made known to City Council at the upcoming public hearing, recommends approval of the street vacation, subject to the conditions and reservations specified below. The area to be vacated is more specifically described as follows (the "Street Area"):

A parcel of land in the Plat of East St. Johns, City of Portland, Multnomah County, Oregon, consisting of that portion of the alley in Block 34 of said Plat, lying between the east right-of-way line of N. Midway Avenue (being 60 feet wide) and a line parallel with, and 4 feet west of, the westerly right-of-way line of N. Columbia Boulevard (being 80 feet wide).

Conditions, Reservations and Releases

1. Conditions. The following conditions must be satisfied by the Petitioner prior to the street vacation ordinance (the "Ordinance") being recorded by the City and thereby considered effective:

A. Bureau of Transportation, Permit Engineering. The Petitioner will permanently close the unnamed alley where it intersects with N. Midway Street and N. Columbia Boulevard, and pay all costs to re-establish full curb height, in accordance with the requirements of the City Engineer.

- i) To ensure the completion of the required street improvements, the Petitioner shall provide to the City Engineer, a *Performance Guarantee. The Petitioner acknowledges that the Performance Guarantee indicated is a preliminary estimate subject to change, and agrees to provide additional guarantee and/or fees as required by the City Engineer.
**the Petitioner will need to apply for a public works permit in order to provide the City with a Performance Guarantee.*
- ii) The Petitioner agrees to authorize the City to complete the required street improvements at the Petitioner's cost, whether by using the Performance Guarantee or by other means of payment, in the event that the City Engineer, at his sole discretion, determines that the improvements are not being made as required in a reasonable time.
- iii) The Petitioner agrees to obtain the necessary permits to complete the required improvements.

- B. Bureau of Transportation, Development Review.** The Petitioner will 1) permanently close the alley approaches where they intersect with N. Midway Street and N. Columbia Boulevard; 2) maintain 12 feet of right-of-way from the face of curb at each intersection; 3) pay all costs to construct a curb across the N. Columbia alley approach; and 4) pay all costs to extend the sidewalk across the N. Midway alley approach, in accordance with the requirements of the City Engineer.
- C.** In accordance with Item 7 in the Background section above, the estimated administrative cost for completing the street vacation process is \$8,500, of which \$7,000 has been paid to date. Petitioner will remit \$1,500 to the City prior to the scheduled City Council hearing. In the event that additional processing requirements exceed current projections, Petitioner may be required to pay additional processing costs to the City prior to the Ordinance being recorded.

2. Reservations and Release

- A. Bureau of Development Services.** The Bureau of Development Services requires that the Ordinance restrict secondary street access for Lot 25, Block 34, East St. Johns (aka 6945 N. Olympia) through the Street Area. Therefore, no curb cuts will be allowed from Lot 25 to N. Columbia Boulevard.
 - B. Utilities.** In accordance with ORS 271.120 and City of Portland policy, the Ordinance shall not cause or require the removal or abandonment of any sewer, water or gas main, conduit of any kind, wire, pole or thing used, or intended to be used, for any public service, including, but not limited to those identified by **Portland General Electric**. The Ordinance will reserve an easement for the owner of any such utility or thing to maintain, continue, repair, reconstruct, renew, replace, rebuild, and/or enlarge any and all such thing; that no building or structure of any kind shall be built or erected within a distance of ten (10) feet from the centerline of any such utility, except with the prior written consent of the City Engineer and the owner of the utility and that any and all contemplated building plans in the Street Area shall be submitted for approval to the City Engineer and to the Director of the Bureau of Development Services, to the end that such construction may be so adjusted with reference to all public utilities in said areas as to cause a minimum of danger or inconvenience to the public and to the owner of such utility and to protect and preserve the same as presently constructed or hereinafter reconstructed, renewed, replaced and/or enlarged. Removal or relocation of existing utilities and release of easements in the Street Area will require the necessary conveyance documents and possible written agreements between the Petitioner and owner(s) of the utilities.
 - D. City Release.** Notwithstanding 2(B) and except for 2(A), the Ordinance will serve as a full release of City interests in the Street Area and will provide City Bureaus with the authority necessary to take all other legal actions as may be reasonably necessary (including the issuance of quitclaim deeds acknowledging the release of any interests) to achieve this intent.
- 3. Repeal.** In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting the Ordinance, City Council may repeal the Ordinance at its sole discretion.

4. **Effective Date.** The street vacation will not be effective until a certified copy of the Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording the Ordinance are that 30 days have passed after final Council passage of the Ordinance, that all conditions of the vacating Ordinance have been met, and that all vacation costs have been paid.



City Engineer or designee

TO THE COUNCIL:

The Mayor concurs with the recommendation of the City Engineer and the Planning and Sustainability Commission and;

RECOMMENDS:

That the City Council accepts the City Engineer and Planning and Sustainability Commission Reports, which recommend that the proposed street area be vacated subject to conditions and reservations provided herein.

Respectfully submitted,

Commissioner Steve Novick

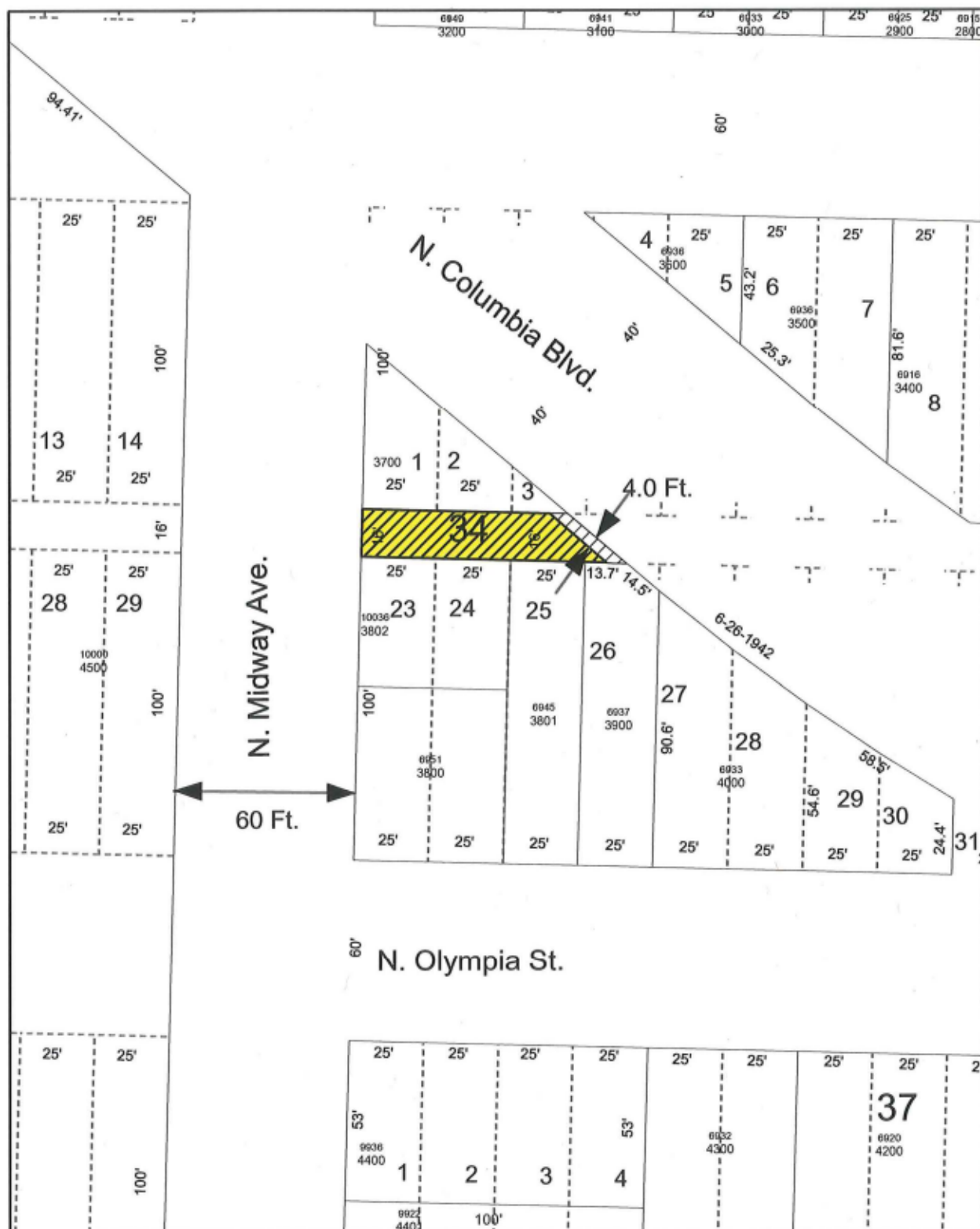
Attachments:

Exhibit 1, Proposed Map

Exhibit 2, Summary of Comments


Exhibit 3, Planning & Sustainability Commission Recommendation

Exhibit 1



Unnamed Alley between N. Midway Ave. & N. Columbia Blvd.

Petitioner: Frankie Maduzia

 Area Proposed for Vacation

Qtr. Section: 2023 Section: 1N1E06CA

1 in = 50 ft



Area Proposed for Vacation

EXHIBIT 2
Comments Summary

R/W # 8051 Unnamed alley between N. Midway Ave. and N. Columbia Blvd.	RWA Project Manager: Karl Arruda	Petitioner/Applicant: Francis Maduzia 360-789-5627 10036 N. Midway Avenue Portland, OR 97203
SAP Cost Object No.: 9TR000002227		
VAC-10107		
IQ #14-24239		
Commenting Party	Response Date	Comments / Conditions
City Bureaus / Depts. Notified:		
City Auditor Toni Anderson	12/2/2015	Petition Certified.
PBOT Development Review Bob Haley/ Kurt Krueger 503-823-5171	4/25/2016	No objection subject to the following condition: Close alley approaches on N. Midway St. and N. Columbia Blvd. Keep 12 feet of ROW (from face of curb) along Midway and Columbia. On Midway, extend sidewalk across alley approach. On Columbia, construct curb across alley approach.
Transportation Planning Grant Morehead	1/26/2016	No objection.
PBOT Permit Engineering Chon Wong	2/10/2016	No objection subject to the following condition: Close driveway access on both Midway and Columbia and re-establish full curb height.
PBOT Trans Systems Mgmt Carl Snyder	12/31/2015	No objection.
PBOT Street Lighting Dan Spoelstra	1/15/2016	No objection.
PBOT Bridges and Structures David OLongaigh	2/24/2016	No objection.
Development Services Sean Williams	2/23/2016	No objection.
Development Services Shawn Burgett	2/23/2016	No objection subject to the following condition: Owner of 6945 N. Olympia St. to be restricted from secondary street access where property will abut new frontage along N. Columbia Blvd.
Environmental Services Bret Winkler	2/11/2016	No objection.

Comments Summary

Commenting Party	Response Date	Comments / Conditions
Water Bureau Rick Nelson	2/5/2016	No objection.
Fire Bureau Kari Schimel	2/9/2016	No objection.
Park Bureau Ryan Sablan	1/22/2016	No objection.
Urban Forestry Division Rich Faber	12/31/2015	No objection.
BTS Corporate GIS Paul Cone	1/5/2016	No objection.
Parking Control Kelly Sills	2/13/2016	No objection.
Planning & Sustainability Commission		Pending PSC Hearing
Neigh Assoc Notified:		
St. John N.A. Josh Leslie, Land Use Chair		No response.
North Portland Neighborhood Services Tom Griffin-Valade, Exec. Director		No response.
Local Agencies Notified:		
ODOT Region 1 Jon Makler	1/28/2016	No objection.
Port of Portland Phil Healy	12/30/2015	No objection.
TriMet Nick Stewart	12/30/2015	No objection

Comments Summary

Commenting Party	Response Date	Comments / Conditions
Public Utilities Notified:		
PGE Tina Tippin	1/8/2016	Have facilities in area; reserve easement.
Pacific Power Richard Birch	12/30/2015	No objection.
CenturyLink Alan Meins		No response.
Northwest Natural Richard H. Hawkes, GIS Tech	12/31/2015	No objection.
Comcast Cable Walter Banks		No response.

EXHIBIT 3
PBOT
PORTLAND BUREAU OF TRANSPORTATION

188038

1120 SW Fifth Avenue, Suite 800 Portland, OR 97204 503.823.5185
Fax 503.823.7576 TTY 503.823.6868 www.portlandoregon.gov/transportation
Steve Novick Commissioner Leah Treat Director

**CITY OF PORTLAND PLANNING AND SUSTAINABILITY COMMISSION
REPORT AND RECOMMENDATION TO THE PORTLAND CITY COUNCIL**

CONSENT AGENDA ITEM HEARD JUNE 14, 2016

FILE NUMBER: R/W #8051

I. GENERAL INFORMATION

Street Vacation Request: R/W #8051, Unnamed Alley between N Midway Ave. and N Columbia Blvd

Petitioner: Frank Maduzia, 360-789-5627 or f.maduzia@gmail.com.

Purpose: The purpose of the vacation is to consolidate the street area with the abutting property.

Neighborhood: St. Johns; contact is Josh Leslie (ddminifanAgmail.com)

Quarter Sections: 2023

Designation/Zone: R5 (Residential 5,000)



The Portland Bureau of Transportation fully complies with Title VI of the Civil Rights Act of 1964, the ADA Title II, and related statutes and regulations in all programs and activities. For accommodations, complaints and information, call (503) 823-5185, City TTY (503) 823-6868, or use Oregon Relay Service: 711.

II. EXECUTIVE SUMMARY AND RECOMMENDATION

The purpose of the vacation is to consolidate the street area with the abutting property. The Planning and Sustainability Commission recommends **APPROVAL** of the street vacation request, with conditions.

III. FACTS

A. History and Background

This unnamed alley is unmaintained right-of-way that does not contribute to the larger transportation network. It provides access only to the abutting property owner.

B. Concurrent Land Use Actions

There are no land use actions that are concurrent with this street vacation request.

C. The Transportation Element

This alley is classified as Local Service for all modes in the transportation element of the Comprehensive Plan.

D. Neighborhood Plan

There is no Neighborhood Plan.

IV. FINDINGS

A. Comprehensive Plan Goals and Policies Consideration

The relevant policies of the Comprehensive Plan are:

Policy 6.20 Connectivity states:

Support development of an interconnected, multimodal transportation system to serve mixed-use areas, residential neighborhoods, and other activity centers.

Comment: This alley is unimproved and provides only local access to adjacent properties. It does not provide a connectivity function.

Policy 6.21 Right-of-Way Opportunities states:

Preserve existing rights-of-way unless there is no existing or future need for them, established street patterns will not be significantly interrupted, and the functional purposes of nearby streets will be maintained.

Comment: This alley is unimproved and provides only local access to adjacent properties. The proposed vacation will not affect the function of nearby streets.

Policy 8.14 Natural Resources, Objective I. States:

Consideration of Scenic Resources in Street Vacations. Require the preservation and maintenance of existing and potential view corridors and view points when approving street vacations. Require view easements within or near street vacations where access to viewpoints or view corridors is desired.

Comment: No existing or potential view corridors have been identified in the review of the street vacation request.

Policy 11.11 Street Plans, Objectives D, E and N state:

D. Provide full street connections with spacing of no more than 530 feet between connections, except where prevented by barriers such as topography, railroads, freeways, or environmental constraints.

E. Provide bike and pedestrian connections at approximately 330-foot intervals on public easements or rights-of-way when full street connections are not possible, except where prevented by barriers such as topography, railroads, freeways, or environmental constraints.

N. Preserve street connectivity in areas of the City that meet the standards of this policy and its objective as shown on Maps 11.11.9 through 11.11.16.

Comment: Per Objectives D and E, full street connections at N Columbia Blvd (to the north) and N Olympia St (to the south) are approximately 250 feet apart.

Per Objective N, the area of the proposed vacation is shown on North District Map 11.11.10 as meeting the street spacing standard.

Policy 12.4 Provide for Pedestrians, Objective G. states:

Retain rights for pedestrian access and circulation when considering requests for street vacations. Preserve existing pedestrian routes and protect routes

needed by pedestrians in the future. Ensure that street vacations do not reduce access to light and air or the intimate scale that is so much a part of Portland's character.

Comment: The right-of-way provides local access only. There are no existing or potential pedestrian routes at this location.

B. Neighborhood Plan Considerations

Comment: There are no neighborhood plan considerations.

C. Other Relevant Comprehensive Plan Policies (and/or Plans)

Comment: There are no other Comprehensive Plan policies or policies from other adopted plans that are relevant to this request.

D. Zoning Code Considerations

Other zoning code designations that could apply and that should be considered during review of a street vacation request include environmental zoning or designation as a recreational greenway trail.

Comment: There are no zoning code considerations.

E. Subdivision Code Considerations

Notice of this street vacation request was provided to the Bureau of Development Services (BDS) to determine if there are any relevant impacts to consider related to future subdivision of property in the area. BDS responded that the owner of 6945 N. Olympia St. shall be restricted from secondary street access where property will abut new frontage along N. Columbia Blvd.

F. Improvement and Utility Considerations

The street vacation request was reviewed by Portland Bureau of Transportation (PBOT) for conformance with standards for street improvements. PBOT has the following conditions:

- Close the alley approaches on N. Midway St. and N. Columbia Blvd.
- Keep 12 feet of right-of-way (from face of curb) along Midway and Columbia as a pedestrian corridor.
- On Midway, extend sidewalk across alley approach.

- On Columbia, construct curb across alley approach.

Other public agencies, public and private utilities were notified of this street vacation request.

- The Bureau of Environmental Services responded with no objection.
- The Portland Water Bureau responded with no objection.
- Portland Fire and Rescue responded with no objection.
- Urban Forestry responded with no objection.
- Portland Parks and Recreation responded with no objection.
- The Bureau of Technology Services responded with no objection.
- ODOT responded with no objection.
- The Port of Portland responded with no objection.
- TriMet responded with no objection.
- PGE has facilities in the area and will require an easement.
- Pacific Power responded with no objection.
- CenturyLink was notified and did not respond.
- Northwest Natural responded with no objection.
- Comcast was notified and did not respond.

G. Neighborhood Issues

Notice of this street vacation request was provided to the St Johns Neighborhood Association and North Portland Neighborhood Services. No responses were received.

V. CONCLUSIONS

Based on the above analysis, Portland Bureau of Transportation states that the right-of-way is not needed to provide future facilities. Additionally, approval of the street vacation will not affect the functional performance of the street system in the area.

VI. PLANNING AND SUSTAINABILITY COMMISSION RECOMMENDATION

As a consent agenda item on June 14, 2016, the Planning and Sustainability Commission recommended **APPROVAL** of the vacation of the area as shown on Exhibit A, *with conditions*:

1. Prior to recording the street vacation ordinance, the Petitioner shall comply with all conditions detailed in Section IV E and F above.

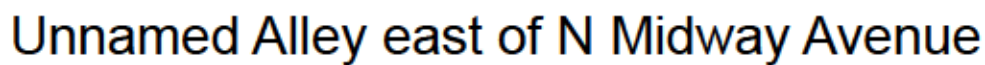
VII. EXHIBITS

A. Area proposed for vacation

B. Northeast-facing view of area proposed for vacation.

Bureau of Transportation Staff Planner
Grant Morehead, AICP
503/823-9707
Grant.Morehead@portlandoregon.gov

cc:
Karl Arruda, Right-of-Way Case Manager
Case File

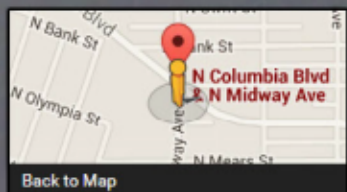


1 inch = 50 feet

Exhibit B

N Midway Ave
Portland, Oregon

Street View - Jun 2012



Google