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Chloe Eudaly Commissioner **Chris Warner** Interim Director

STAFF REPORT AND RECOMMENDATION TO THE PLANNING AND SUSTAINABILITY COMMISSION

FILE NUMBER: R/W #8529

**COMMISSION MEETING TO BE HELD: TUESDAY, NOVEMBER 13, 2018, 12:30 PM,
1900 SW 4TH AVE, SUITE 2500**

I. GENERAL INFORMATION

Street Vacation Request: SE 106th, 108th, 110th Avenues, SE Bybee Boulevard, and SE Duke Street south of SE Foster Road.

Petitioner: City of Portland, Bureau of Environmental Services. Representative is Eli Callison, 503.823.5756, eli.callison@portlandoregon.gov

Purpose: The stated purpose for the proposed street vacation is to eliminate portions of public right-of-way that are no longer needed for street purposes in order to consolidate BES' control of the Foster Floodplain project area.

Neighborhood: Lents

State ID: 1S2E22BB

Designation/Zone: OS (Open Space)



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. FACTS

A. History and Background

The public right-of-way proposed for vacation is located within the city-owned Foster Floodplain Natural Area. As part of a 63-acre restoration project completed by the Bureau of Environmental Services in 2012, SE 106th, SE 108th, and SE 110th were removed from the Floodplain area to allow flood waters to access the restored floodplain. The project also added an ADA-accessible paved trail and pedestrian bridge to allow for connectivity and access to the Natural Area, as well as new sidewalks along SE Foster and SE 112th. With the 2035 Comprehensive Plan update, the Foster Floodplain Natural Area was rezoned to Open Space.

B. Concurrent Land Use Actions

There are no concurrent land use actions at this time.

C. The Transportation Element

In the 2035 Transportation System Plan, all of the streets proposed for vacation are classified as local streets for bicycle, pedestrian, traffic, emergency response, freight, design, and transit.

D. Neighborhood Plan

The Lents Neighborhood Plan (1996) includes Policy 3 to “Promote recreational opportunities in and around Lents while preserving and protecting the environment.” The plan includes a number of action items to protect and improve the natural environment of the Johnson Creek Watershed. The proposed street vacation is consistent with the goals, objectives, and actions in the neighborhood plan.

The Lents Town Center Urban Renewal Plan (1998) includes the goal to: “Protect and enhance the natural environment within the Area. Promote development that respects the value of the environment. Help ensure that development minimizes impacts on flooding of Johnson Creek and in turn, is reasonably protected from flood dangers.” The proposed street vacation is consistent with the goals, objectives, and actions in the urban renewal plan.

III. APPROVAL CRITERIA FINDINGS

Title 17.84.025 Approval Criteria for Vacating Streets

A. In consideration whether the vacation will prejudice the public interest, the Council will consider the following factors, as relevant:

- 1. The area proposed to be vacated is not needed presently, and is not identified in any adopted plan, for public services, transportation functions, utility functions, stormwater functions, view corridors and or viewpoints, tree planting/retention, pedestrian amenities, or community or commercial uses.*

Comment: The right-of-way proposed to be vacated has not been identified in any plan for public services, transportation functions, utility functions, view corridors or viewpoints, pedestrian amenities, or community or commercial uses. The right-of-way is identified in the Johnson Creek Watershed Council’s Watershed Action Plan (2002) and the Portland Development Commission Lents 2040 Urban Renewal Plan (1998) as part of an overall effort to store Johnson Creek floodwaters. The proposed vacation is consistent with this effort. The criterion is met.

2. *The vacation does not prevent the extension of, or the retention of public services, transportation functions, utility functions, stormwater functions, view corridors and/or view points.*

Comment: The proposed vacation does not prevent the extension of, or retention of, public services, transportation and utility functions. The vacated area is not identified as a view corridor or view point. It is supportive of present and future stormwater functions. This criterion is met.

3. *Public services, transportation functions, or utilities can be extended in an orderly and efficient manner in an alternate location.*

Comment: The existing land use and transportation pattern in the area around the proposed street vacation supports the orderly and efficient manner of potential future extension of public services, transportation functions, and utilities. The right-of-way proposed for vacation is within an Open Space (OS) zone is not required for these purposes. This criterion is met.

4. *The vacation does not impede the future best use, development of, or access to abutting property.*

Comment: The Foster Floodplain Natural Area has been identified as the best use of the right-of-way proposed for vacation. The area vacated for vacation is within an Open Space zone, which limits the potential for future development. Additionally, the natural area serves a function of both mitigating floodwaters and as a public natural amenity that includes public access. The proposed vacation does not impede access to abutting property. This criterion is met.

5. *The area of vacation is not presently, or will not in the future be, needed as part of an interconnected system of public streets that is generally consistent with the street connection and bicycle/pedestrian spacing requirements in section 17.88.040 Through Streets.*

Comment: The right-of-way proposed for vacation is presently unimproved and does not serve an interconnected system of public streets. While the area proposed for vacation does not meet street spacing standards, Title 17.88.040 allows for exceptions when “exceptional habitat quality or length of crossing prevents full street connection.” The ADA-accessible paved path presently and in the future provides a bicycle/pedestrian connection. This criterion is met.

IV. IMPROVEMENT AND UTILITY CONSIDERATIONS

The proposed street vacation request was reviewed by the following bureaus and agencies and is subject to the identified conditions:

PBOT Development Review	No objection
PBOT Transportation Planning	No objection
PBOT Permit Engineering	No objection
PBOT Signals & Street Lighting	No objection
PBOT Transportation Systems Management	No objection
PBOT Active Transportation	No objection

PBOT Bridges and Structures	No objection
Bureau of Development Services	<p>No Objection subject to the following condition: One of the following two options be met prior to the recording of the Street Vacation Ordinance:</p> <p>Option #1: A zone change is required for any tax lots that will be left without a legal street frontage as a result of the street vacation. Said lots should be changed from R10 Residential to Open Space (OS) as adopted under the 2035 Comprehensive Plan Update. Land Use Review Section of BDS supports this option since lots in the OS zone have no minimum lot dimension and no minimum street frontage (33.605). Said zone change will be completed prior to the street vacation ordinance being recorded. If for some reason the zone change does not occur, then Option #2 is required.</p> <p>OR</p> <p>Option #2: Lot Consolidations are required for any tax lots, historically platted lots, or lots of record that will be left without a legal street frontage as a result of the street vacation. It is recommended that all tax lots abutting the street vacation area under the same ownership be consolidated into one or more parcels. However, no more than three parcels may be created per lot consolidation review. Said Lot Consolidations will be completed prior to the street vacation ordinance being recorded.</p>
Portland Water Bureau	No objection
Bureau of Environmental Services	<p>No objection. Comment only: A Springing Easement is not necessary at this time. An easement may be needed if ownership of the vacated area and/or the adjacent parcels is transferred outside of the City. If another bureau accepts management responsibility of these properties, that bureau will consult with BES prior to any sale.</p>
Portland Fire and Rescue.	No objection
Urban Forestry	No objection
Portland Parks and Recreation	No objection
Bureau of Technology Services Corporate GIS	No objection
PBOT Parking Control	No objection
TriMet	No objection
Pacific Power	No facilities in the street area
Comcast	No response received
ODOT	No response received
Port of Portland	No objection
PGE	No response received

CenturyLink	Have facilities in street area. Reserve easement
Northwest Natural	No facilities in the street area

V. NEIGHBORHOOD RESPONSE

Notice of this street vacation request was provided to the Lents Neighborhood Association, East Portland Neighborhood Office, and Lents Grown Business Association. No responses were received. Notice of the Planning and Sustainability Commission meeting were sent to the affected area.

VI. 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.

VII. TENTATIVE STAFF RECOMMENDATION

The staff recommendation is **approval** of the vacation of the area shown on Exhibit 1, with conditions:

- Prior to recording the street vacation ordinance, the Petitioner shall comply with all conditions set forth in IV. above.

The Portland Bureau of Transportation staff may revise this recommendation upon receipt of new information at any time prior to the Planning and Sustainability Commission's recommendation.

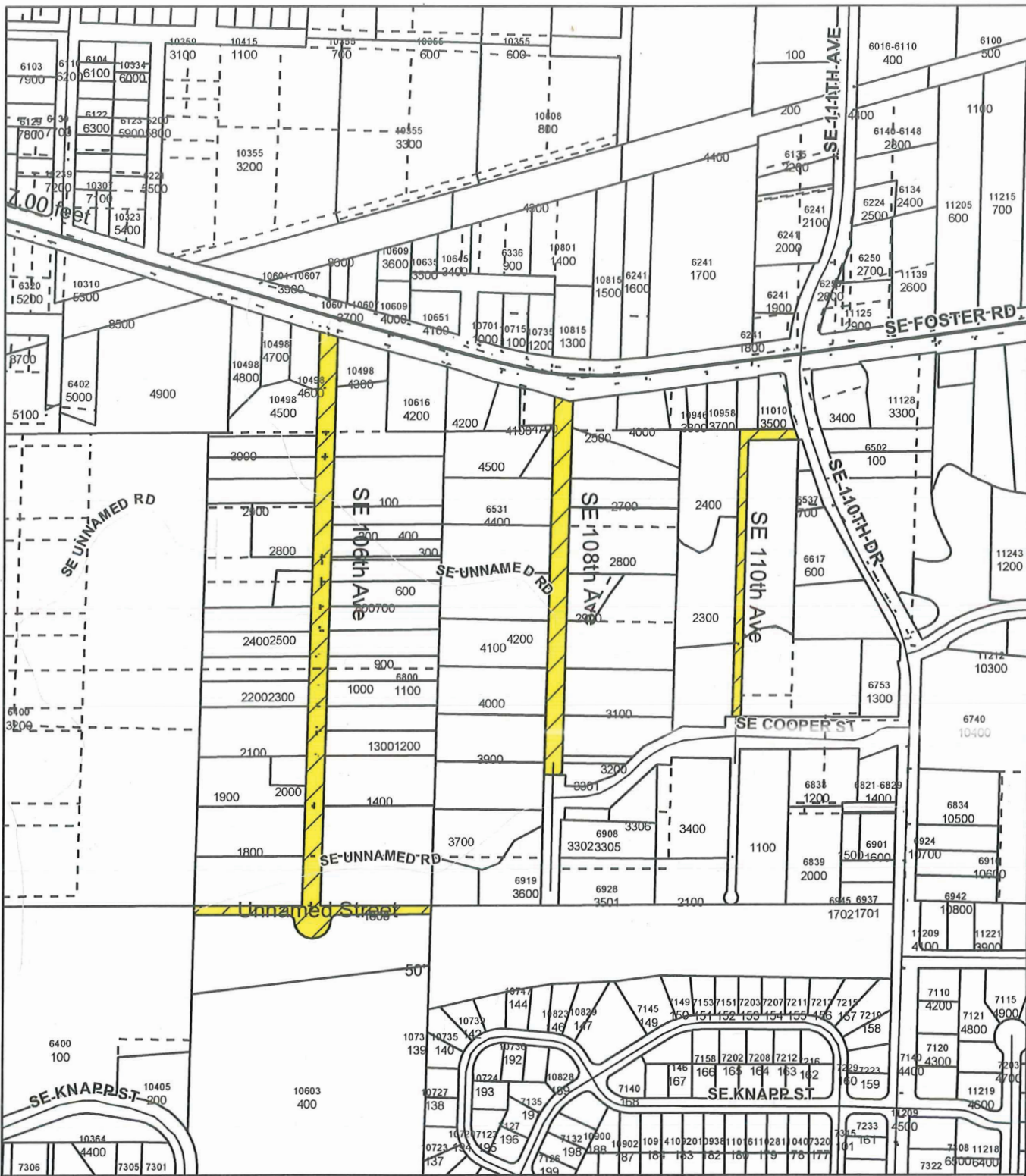
VIII. EXHIBITS

1. Area proposed for vacation
2. Photo: Foster Floodplain aerial

Bureau of Transportation Staff Planner
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cc: Lance Lindahl, Right-of-Way Case Manager

Exhibit 1



SE 106TH, 108TH, 110TH AVENUES AND UNNAMED RIGHT-OF-WAY SOUTH OF SE FOSTER ROAD

City of Portland

State ID: 1S2E22BB



Area proposed for vacation



1 in = 400 ft

Exhibit 2: Foster Floodplain Aerial

