

IMPACT STATEMENT

Legislation title: Vacate a portion of an unnamed road east of NE 160th Ave and south of NE Halsey St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10116)

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 road east of NE 160th Avenue and south of NE Halsey Street (the "Street Area"), as recommended in the Bureau Director's Report.

The petition was initiated by Donald Etter and Valerie Nipper (the "Petitioner" or "Petitioners"), for the purpose of consolidating property for development. Petitioners own the adjacent property to the north and south of the Street Area, and they have preliminary plans for partitioning the adjacent parcels and Street Area into multiple residential lots.

The petition was certified by the City Auditor's Office on May 3, 2017. The Street Area is depicted on Exhibit 1 of the ordinance.

The Planning and Sustainability Commission ("PSC") reviewed and recommended approval of the street vacation request on February 27, 2018. The attached Bureau Director's Report was completed on July 1, 2018, reflecting PSC's recommendation subject to certain conditions and reservations.

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 middle part of the range and is estimated (with moderate confidence) to be approximately \$12,000.

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 9TR000002436. The revenue and expenses are occurring in FY 17-18 and 18-19.

This legislation does not affect staffing levels nor will result in a new or modified financial obligation or benefit now or in the future, except the new dedicated ROW (which will serve as a pedestrian and bike path) may slightly increase PBOT's long-term maintenance obligations.'

If City Council does not approve the ordinance, the Petitioner will need to modify its lot partition plans to include developing a full City street with a turn-around at the east end of the right-of-way, which would have significant implications to their project. The connection to NE 161st Avenue will likely not occur.

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. PBOT did not receive any objections to the vacation request.

The PSC advertised and then held a public hearing on February 27, 2018. No one from the public came forward to testify in support or opposition of the vacation, and the PSC ultimately recommended approval of the vacation request, with several recommendations to PBOT. These recommendations included requiring the developer to install signage and lighting along the future pedestrian and bicycle pathway, and asking the City of Gresham to install a street pole light where the pathway will meet the existing portion of NE 161st Ave.

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 and no one has expressed their desire to testify at the hearing. There is no future public involvement anticipated since the 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.

100% Renewable Goal:
Not Applicable.

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

KK 9-12-18

PBOT

PORTLAND BUREAU OF TRANSPORTATION

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

Dan Saltzman Commissioner Leah Treat Director

July 1, 2018

FINDINGS & RECOMENDATIONS REPORT FROM THE BUREAU DIRECTOR TO CITY COUNCIL ON THE PROPOSED VACATION OF AN UNNAMED ROAD EAST OF NE 160TH AVENUE SOUTH OF NE HALSEY STREET (R/W #8351)

1. Background

A. Proposed Street Vacation Area.

An unnamed road east of NE 160th Avenue, said road lying within the north 50.00 feet of Lot 24, in the duly recorded Plat of "Subdivision of Lot 9, Block A; Lot 7, Block E; Lot 7, Block F; Lot 7, Block G and Lot 17, Block H, Glendoveer Acres", excepting therefrom the east 16.00 feet, Multnomah County Plat Records, depicted on **Exhibit 1**, attached and incorporated by reference (the "Street Area").

The area is currently unimproved, containing grass and gravel.

- B. Petitioner.** On April 17, 2017, Donald Etter and Valerie Nipper, (collectively, the "Petitioner") being represented by James Shikany, petitioned the City to vacate the Street Area. The Petitioner owns the property to the north and south of the Street Area.
- C. Purpose.** The street vacation is proposed in order to consolidate property for development. Petitioner has preliminary plans for partitioning the adjacent parcels.
- D. 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 May 3, 2017.
- E. 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** and incorporated by reference. Of particular significance were comments by PBOT Development Review which requested that certain conditions be satisfied prior to the street being vacated.
- F. Costs.** The Petitioner has paid \$7,500 to date to reimburse the City for staff costs incurred processing the street vacation request. Based on a review of the case file, processing costs to date



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.

total \$10,550 and an additional estimated cost to bring the vacation request through City Council and to close the project, total \$5,000. The Petitioner will be expected to submit the necessary funds to complete the vacation process as stated in the attached letter.

2. Bureau of Transportation Recommendation

The Bureau of Transportation ("PBOT") 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 specified below:

3. 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, Development Review.** Petitioner will grant to PBOT the following:
- i. A 15 foot wide pedestrian walkway easement running east/west along the center of the Street Area, in substantially the same form as attached as **Exhibit 3**, incorporated by reference.
 - ii. A 16 foot wide right-of-way dedication extending from the southeast corner of the Street Area to the south property line of 1250 NE 160th Avenue, in substantially the same form as attached as **Exhibit 4**, incorporated by reference.
- B. Costs.** In accordance with Item 1.F in the Background section above, \$7,500 has been paid for administrative costs to date. Petitioner will remit \$5,000 to the City prior to the scheduled City Council hearing. In the event that additional processing requirements exceed current projections, Petitioner will be required to pay additional processing costs to the City prior to the Ordinance being recorded.
- C. 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. 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 Condition 3.C and except for Condition 3.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.

4. **Planning and Sustainability Commission ("PSC").** On February 27, 2018, the PSC reviewed and recommended approval of the street vacation, and its Letter and "Report and Recommendation" are attached as **Exhibit 5** and incorporated by reference. As part of its recommendation for approval, the PSC endorsed PBOT Development Review's conditions in Section 3.A, and strongly encouraged PBOT to require, at the time of development, that the developer install signage and illuminate the pedestrian and bicycle pathway to improve safety. The PSC also asked PBOT to request the City of Gresham to install a street pole light at their intersection of the trail and NE 161st Avenue.
5. **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.
6. **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 Ordinance have been met, and that all vacation costs have been paid.



Bureau Director or designee

TO THE COUNCIL:

The Commissioner-in-Charge concurs with the recommendation of the Bureau Director and the Planning and Sustainability Commission and;

RECOMMENDS:

That the City Council accepts the Bureau Director 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 Dan Saltzman

Attachments:

Exhibit 1, Proposed Exhibit Map

Exhibit 2, Summary of Comments

Exhibit 3, Public Walkway Easement

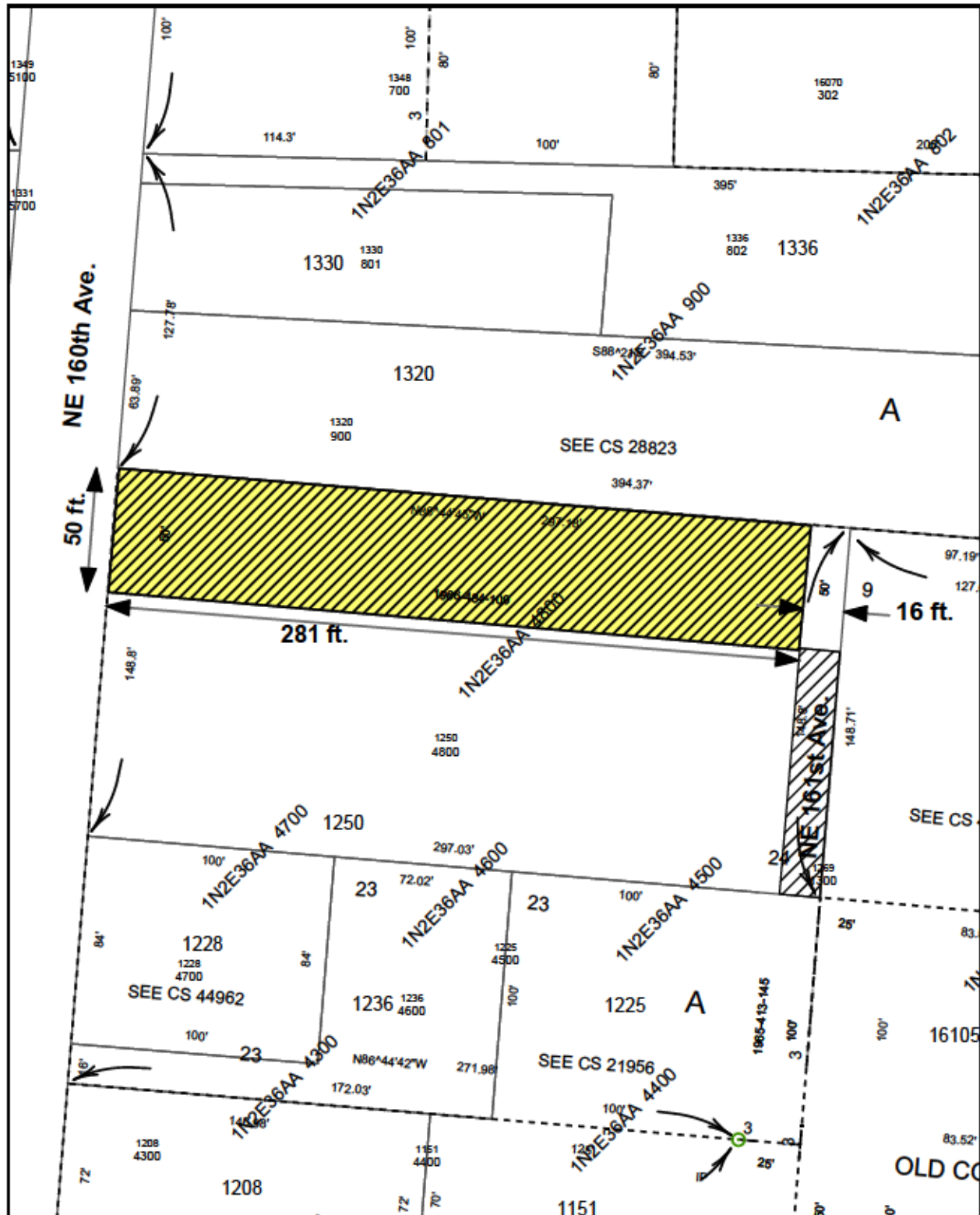
Exhibit 4, Right-of-Way Dedication

Exhibit 5, Planning & Sustainability Commission Letter and Report

1 inch = 60 feet

Area Proposed for Vacation


Exhibit 1



Unnamed Road east of NE 160th Avenue

Petitioner: Valerie J. Nipper and Donald W. Etter

Qtr. Section: 2946 Section: 1N2E36AA

 Area Here-In Vacated



1 inch = 60 feet

Area Proposed for Vacation

EXHBIT 2
Comments Summary

R/W # 8351 Unnamed Road east of NE 160th Ave.	RWA Project Manager: Karl Arruda	Petitioner/Applicant:
SAP Cost Object No. 9TR000002436		
VAC-10116		
IQ #17-170517		
Commenting Party	Response Date	Comments / Conditions
City Bureaus / Depts. Notified:		
City Auditor Toni Anderson	5/3/2017	
PBOT Development Review Bob Haley 503-823-5171	8/11/2017 & rev. 8/23/2017	No objections, subject to the following conditions: 1) Provide a 15-foot wide east/west pedestrian easement in the vacated ROW. 2) Provide a 15-foot wide north/south pedestrian dedication along the eastern property line over the abutting property to the south, thereby connecting to NE 161st Ave. Comment: No improvements at this time. The pedestrian easement may be altered at the time of additional future development on the site, which is when pedestrian improvements will be required.
Transportation Planning Courtney Duke / Bob Kellett	7/24/2017	No objections.
PBOT Permit Engineering Chris Wier 503-823-7227	6/19/2017 & rev. 8/2/2017	No objections. Comment only: Improvements to frontage and ped/bike connection will come with future land division.
PBOT Trans Systems Mgmt Carl Snyder	7/3/2017	No objections
PBOT Street Lighting Dan Spoelstra	5/26/2017	No objections
PBOT Bridges and Structures Cameron Glasgow	6/5/2017	No objections

Comments Summary

Commenting Party	Response Date	Comments / Conditions
Development Services Sean Williams 503-823-7612	8/3/2017	No objections. Comment only: 1) If public ROW is vacated for future land division, ROW criteria will likely require new ROW dedication for new lots. 2) Work w/PBOT to develop alternative street design to serve new lots.
Development Services Jeanette Sillick	8/8/2017	No objections.
Environmental Services Bret Winkler 503-823-6170	5/23/2017	No objections. Comment only: At time of development, property will have requirements from the Stormwater Management Manual.
Rockwood Water District	7/10/2017	No objections
Fire Bureau Kari Schimel	5/30/2017	No objections
Park Bureau Stephen Bouffard	7/24/2017	No objections
Urban Forestry Division Joel Smith	6/29/2017	No objections
BTS Corporate GIS Paul Cone	5/26/2017	No objections
Parking Control Kelly Sills	5/26/2017	No objection.
Planning & Sustainability Commission	2/27/2018	PSC recommended approval with walkway easement and ROW dedication for ped/bike connection from NE 160th to NE 161st. PSC also requested lighting and signage for path at time of development.

Comments Summary

Commenting Party	Response Date	Comments / Conditions
Neigh Assoc Notified:		
East Portland Neighborhood Association		No response.
Wilkes Community Group		No response.
Gateway Area Business Association		No response.
Local Agencies Notified:		
ODOT Region 1 Jon Makler	5/26/2017	No objection.
Port of Portland Phil Healy	5/26/2017	No objection.
TriMet Nick Stewart	5/26/2017	No objection.
Public Utilities Notified:		
PGE Julie Goodrich	6/20/2017	No objection.
Pacific Power Scott Mease	5/26/2017	No objection.
CenturyLink Alan Meins		No response.
Northwest Natural Richard H. Hawkes, GIS Tech		No response.
Comcast Cable Walter Banks		No response.

EXHIBIT 3

Grantor's Name & Address:

Valerie J. Nipper and Donald W. Etter
1320 NE 160th Ave.
Portland, OR 97230



WALKWAY EASEMENT

Valerie J. Nipper and Donald W. Etter, Grantor, for good and valuable non-monetary consideration, the receipt whereof is hereby acknowledged, hereby grants unto the City of Portland, a municipal corporation of the State of Oregon, ("City" or "Grantee"), which acquires pursuant to its eminent domain power and authority, an easement for construction and perpetual use by the public of a walkway (this "Easement") over, and across real property described as follows (the "Easement Area"):

A strip of land across a portion of Lot 24, in the duly recorded Plat of "Subdivision of Lot 9, Block A; Lot 7, Block E; Lot 7, Block F; Lot 7, Block G and Lot 17, Block H, Glendoveer Acres," situated in the northeast one-quarter of Section 36, T1N, R2E, W.M., in the City of Portland, County of Multnomah, State of Oregon, said strip being the south 15.00 feet of the north 30.00 feet of said Lot 24, excepting therefrom the east 16.00 feet thereof, as depicted on Exhibit A attached and incorporated by reference.

Contains 4,215 square feet, more or less.

- A. Grantor represents and warrants that they have the authority to grant this Easement and that the Easement Area is free from all liens and encumbrances that would materially affect the easement grant, and that Grantor will defend the City against the lawful claims and demands of all persons whomsoever with respect to any liens or encumbrances that would materially affect the easement grant, except as set forth herein.

R/W # 8351

1N2E36AA TL 4800

After Recording Return to:

Karl Arruda, City of Portland

1120 SW 5th Avenue, 8th Floor

Tax Statement shall be sent to: No Change

- B. The Grantor, their successors and assigns, agree to defend, indemnify and hold harmless the Grantee, its officers, agents, and employees against all liabilities, damages, losses, claims, demands, actions, and suits (including attorney fees and costs) resulting from the presence or release of hazardous substances onto or from the Easement Area. This provision shall not apply to a release of hazardous substances onto or from the Easement Area caused by the officers, agents or employees of the Grantee. Any action taken pursuant to this provision shall not constitute an admission of liability or waiver of any defenses to liability.
- C. Grantor shall be responsible for constructing, reconstructing, maintaining and repairing the walkway as though said walkway existed within a public street right-of-way. Said Grantor shall be liable for any and all damages to any person who is injured or otherwise suffers damage resulting from the defective condition of any walkway adjacent to said property, or by reason of Grantor's failure to keep such walkway in safe condition and good repair. Grantor shall defend, indemnify, and hold the City, its officers, agents and employees harmless from any and all liability or claims for damages to persons or property which may arise or result from Grantor's failure to maintain, construct, reconstruct and repair the walkway.
- D. Grantor permits public rights of access and movement within this walkway easement as though said walkway existed within a public right-of-way.
- E. Grantor agrees that the consideration recited herein is just compensation for the property or property rights conveyed, which includes damage to the property remainder, if any, resulting from the acquisition or use of said property or property rights.
- F. The Easement herein granted does not convey and right or interest to title to the Easement Area, except as stated herein.
- G. The Easement herein granted is not a dedication of public right-of-way and it is understood and agreed that the City, by accepting this Easement, is not accepting any liability for taxes, assessments, or other governmental charges relating to the Easement Area.
- I. The right of repurchase has been waived pursuant to ORS 35.385(1)(b).
- K. The Easement herein shall bind the heirs and assigns of Grantor and shall inure to the benefit of the successors in title of the City.

TO HAVE AND TO HOLD, the above described and granted premises unto said City of Portland for the uses and purposes aforesaid forever.

IN WITNESS WHEREOF, the Grantor above named has hereunto set their hands this ____
____ day of _____, 20____.

Valerie J. Nipper

Donald W. Etter

STATE OF _____

County of _____

This instrument was acknowledged before me on _____, 20____, by Valerie J. Nipper and Donald W. Etter.

Notary Public for (state)_____
My Commission expires _____

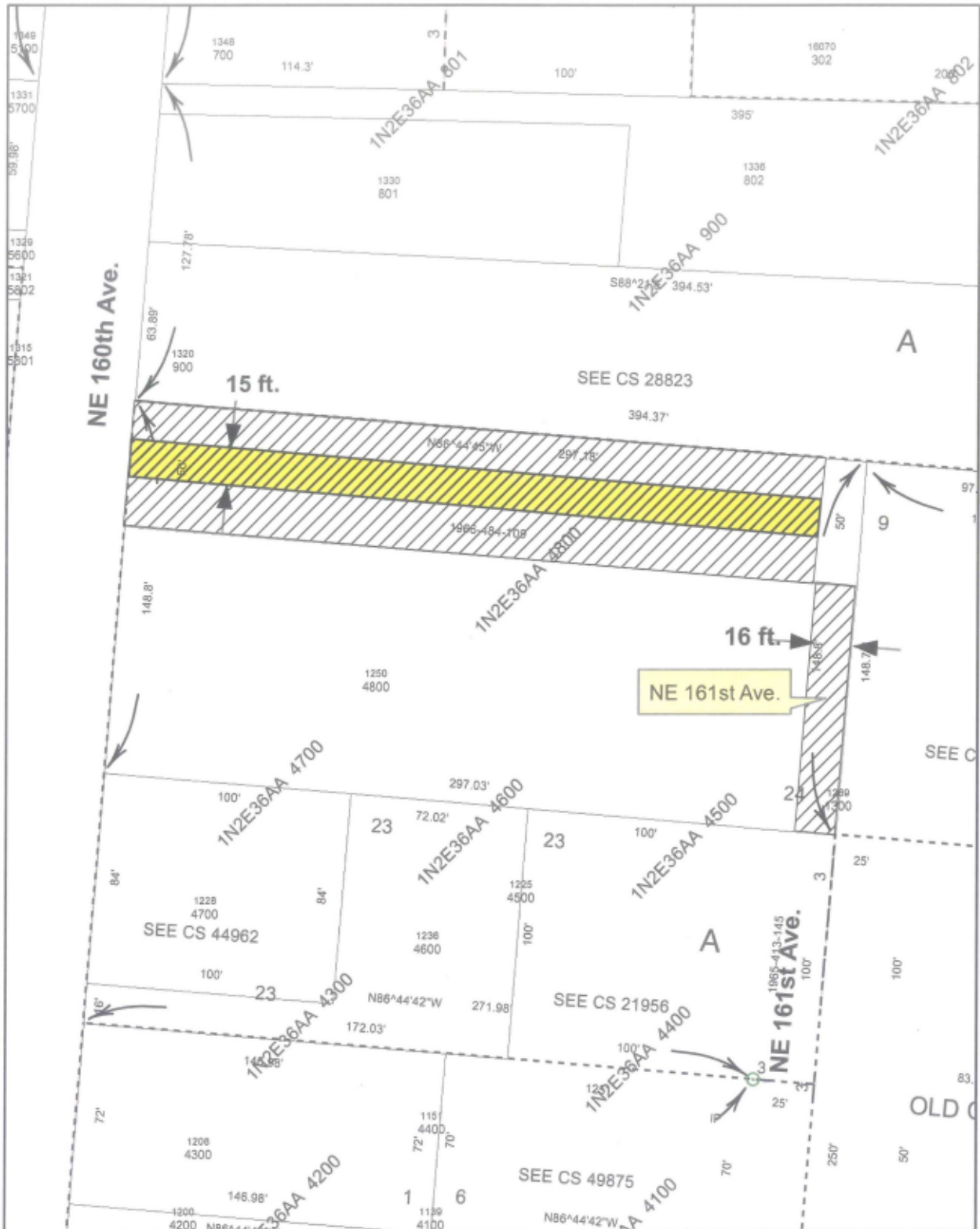
Approved as to form:

City Attorney

Approved:

Bureau Director or designee

Exhibit A



NE 161st Avenue south of NE Halsey Street

Legal: A Portion of Lot 24, Block A, Glendoveer Acres

Grantor: Valerie J. Nipper and Donald W. Etter

R/W: 8351 1/4 Section:2946 Section: 1N2E36AA

 Easement Area



1 inch = 60 feet

EXHIBIT 4

Grantor's Name and Address:

Valerie J. Nipper and Donald W. Etter
1320 NE 160th Ave.
Portland, OR 97230



EASEMENT FOR RIGHT-OF-WAY PURPOSES

Valerie J. Nipper and Donald W. Etter, ("Grantor"), for good and valuable non-monetary consideration, the receipt whereof is hereby acknowledged, hereby grants unto the City of Portland, a municipal corporation of the State of Oregon, ("Grantee"), which acquires pursuant to its eminent domain power and authority, an easement for public street and right-of-way purposes in the real property, being particularly described as follows ("Subject Property"):

A strip of land over and across a portion of Lot 24, in the duly recorded Plat of "Subdivision of Lot 9, Block A; Lot 7, Block E; Lot 7, Block F; Lot 7, Block G and Lot 17, Block H, Glendoveer Acres," situated in the northeast one-quarter of Section 36, T1N, R2E, W.M., in the City of Portland, County of Multnomah, State of Oregon, said strip being the east 16.00 feet of said Lot 24, except the north 50.00 feet thereof, as depicted on Exhibit A attached and incorporated by reference.

Contains 1580.80 square feet, more or less.

TO HAVE AND TO HOLD, the same easement to the City of Portland for the uses and purposes aforesaid forever.

- A. Grantor represents that to the best of Grantor's knowledge after appropriate inquiry under the circumstances, the Subject Property is in compliance with all local, State and Federal environmental laws and regulations.
- B. Grantor represents that Grantor has disclosed all knowledge of any release of hazardous substances onto or from the Subject Property, and disclosed any known

R/W # 8351

1N2E36AA TL 4800

After Recording Return to:

Karl Arruda, City of Portland

1120 SW 5th Avenue, 8th Floor

Portland, OR 97204

Tax Statement shall be sent to: No Change

report, investigation, survey, or environmental assessment regarding the Subject Property. "Release" and "hazardous substance" shall have the meaning as defined under Oregon law.

- C. Grantor warrants that there are no underground storage tanks, as defined under Oregon law, presently on or under the Subject Property.
- D. It is understood and agreed that the Grantee, by accepting this dedication, is not accepting any liability for any release of hazardous substances onto or from the Subject Property, and that the Grantor is not attempting to convey any such liability.
- E. The Grantor, Grantor's successors and assigns, agree to defend, indemnify and hold harmless the Grantee, its officers, agents, and employees against all liabilities, damages, losses, claims, demands, actions, and suits (including attorney fees and costs) resulting from the presence or release of hazardous substances onto or from the Subject Property. This provision shall not apply to a release of hazardous substances onto or from the Subject Property caused by the officers, agents or employees of the Grantee. Any action taken pursuant to this provision shall not constitute an admission of liability or waiver of any defenses to liability.
- F. Grantor represents and warrants that Grantor has the authority to grant this easement, that the Subject Property is free from all liens and encumbrances that would materially affect the easement grant, and that Grantor and Grantor's successors will defend the same to the Grantee against all claims and demands of all persons whomsoever.
- G. Grantor agrees that the consideration recited herein is just compensation for the Subject Property or property rights conveyed, which includes damage to the property remainder, if any, resulting from the acquisition or use of said Subject Property or property rights.
- H. Grantor understands and agrees that if Grantor terminates the development for any reason, Grantor is not entitled to the return of the property rights granted.

This section is intentionally left blank

IN WITNESS WHEREOF, the Grantor above named has hereunto set their hands this ____
____ day of _____, 20____.

Valerie J. Nipper

Donald W. Etter

STATE OF _____

County of _____

This instrument was acknowledged before me on _____, 20____, by Valerie J. Nipper and Donald W. Etter.

Notary Public for (state) _____
My Commission expires _____

APPROVED AND ACCEPTED:

Bureau Director or designee

Date

Pursuant to City Code 17.92 and Administrative Rule TRN-10.25, the property described above is hereby designated as "NE 161st Avenue".

APPROVED:

By: _____
City Engineer or designee

APPROVED AS TO FORM:

City Attorney

Legal: A Portion of Lot 24, Block A, Glendoveer Acres
Grantor: Valerie J. Nipper and Donald W. Etter
R/W: 8351 1/4 Section:2946 Section: **1N2E36AA**

Street Dedication

EXHIBIT 5



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

Portland Planning and Sustainability Commission

Katherine Schultz, Chair

André Baugh, Vice Chair

Jeff Bachrach

Ben Bortolazzo

Mike Houck

Katie Larsell

Chris Smith, Vice Chair

Andrés Oswill

Michelle Rudd

Eli Spevak

Teresa St Martin

April 12, 2018

Mayor Ted Wheeler and Members of Portland City Council
Portland City Hall
1221 SW Fourth Ave
Portland, OR 97204

Dear Mayor and Commissioners:

The Portland Planning and Sustainability Commission (PSC) is pleased to forward our recommendations and report on the proposed vacation of an unnamed road east of NE 160th Avenue south of NE Halsey Street (RW #8351) for your consideration.

The PSC held a public hearing on the street vacation on February 27, 2018. The PSC voted 10-0 to recommend approval of the proposed street vacation, with one recommended condition and a general comment regarding connectivity in East Portland.

While the PSC agreed with PBOT staff that the current unnamed road does not serve a useful transportation purpose for vehicles, it approved of the concept of creating a pedestrian / bicycle path to connect NE 160th Avenue to the existing stub of NE 161st Avenue, which falls within the City of Gresham. Additionally, the PSC discussed the benefits of requiring lighting for the planned walkway / bike path.

The PSC considered an amendment (to the motion approving the vacation request) proposed by *Commissioner Baugh*, summarized as follows:

PSC recommends approval of the vacation with the 15-foot-wide east-west pedestrian easement in the center of the road to be vacated, and with the 16-foot-wide north-south connection to NE 161st Avenue. In addition, PSC recommends a requirement for appropriate lighting and signage (at the time of development) for a safe environment for pedestrians and cyclists. The City should also ask the City of Gresham to install a pole light at their intersection of the trail and NE 161st Avenue.

The PSC approved this amendment 8-2.

PSC members noted that this street vacation highlights the difficulty of creating connectivity across large blocks in East Portland. The PSC asked PBOT staff if the City had any programs to allow the City to acquire property where street connections would be desirable from a transportation planning perspective. PBOT staff were not aware of any such programs, and



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portlandoregon.gov/bps
1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

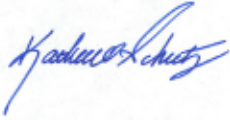
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that in some areas, pedestrian and bicycle paths are the best that can be achieved with a limited budget and with limited authority to set conditions for developments.

The PSC discussed the idea that the City should consider the creation of a program for acquiring property in areas the City has identified as priorities for vehicular connectivity. At a minimum, the PSC wanted to express its frustration with the lack of options for improving connectivity in areas where there is general agreement that an improved street grid is desirable.

Thank you for the opportunity to participate in the review of this project and for considering our recommendations.

Sincerely,



Katherine Schultz
Chair





PORTLAND BUREAU OF TRANSPORTATION

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

Dan Saltzman Commissioner Leah Treat Director

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

HEARING HEARD ON FEBRUARY 27, 2018

FILE NUMBER: R/W #8351

I. GENERAL INFORMATION

Street Vacation Request: R/W #8351, Unnamed Road east of NE 160th Ave.

Petitioner: Don Etter and Valerie Nipper. The Petitioner's representative is James Shikany, shikanylaw@hotmail.com, (503) 348-4722.

Purpose: The purpose of the proposed vacation is to consolidate adjacent properties for development

Neighborhood: Wilkes Community Group

Quarter Sections: 2946

Designation/Zone: R10h (Residential 10,000, Aircraft Landing Overlay)



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 this action is to vacate right-of-way to consolidate adjacent properties for development. The Planning and Sustainability Commission recommends **APPROVAL** of the street vacation request, with conditions.

III. FACTS

A. History and Background

The petitioner has requested the proposed vacation to consolidate abutting properties to the north (1320 NE 160th Ave.) and south (1250 NE 160th Ave.) of the right of way. The unnamed right of way is unimproved.

c

B. Concurrent Land Use Actions

There are no concurrent land use actions at this time.

C. The Transportation Element

The unnamed road is classified as a Local Service Traffic Street, Local Service Transit Street, Local Service Bikeway, Local Service Pedestrian Street, Local Freight Street, Minor Emergency Response Street, and Local Design Street in the transportation element of the Comprehensive Plan.

D. Neighborhood Plan

The Wilkes Community and Rockwood Corridor Plan (1987) includes Policy 9: Transportation System. The policy encourages the efficient use of the transportation network while mitigating adverse traffic impacts on the community's residential livability and business climate. The proposed vacation of the unnamed right of way does not negatively impact this policy.

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: The unnamed right of way proposed for vacation is currently unimproved and does not currently serve a functional transportation purpose for the residential neighborhood. The existing development pattern east of the unnamed right of way makes a through street connection that goes to NE 162nd Avenue unlikely. The properties immediately adjacent to the east of the area proposed for vacation are developed with single family homes and fall outside the City of Portland's jurisdiction. Without a through connection to NE 162nd Avenue, the unnamed right of way would need to be developed as a dead-end



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cul-de-sac. Dead end public roads provide little public benefit and do not support the development of an interconnected, multimodal transportation system.

As a condition for the street vacation of the unnamed right of way (see III. F below), PBOT Development Review has required a 15-foot pedestrian easement in the vacated right of way, as well as a 16-foot north/south pedestrian dedication along the eastern property line of 1250 NE 160th Ave connecting the east/west pedestrian easement southerly to the NE 161st Ave. right of way. These conditions provide a greater opportunity than the status quo or a dead-end cul-de-sac to obtain a public pedestrian connection between NE 160th and NE 161st and to better support the multimodal connectivity objectives of Policy 6.20.

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: The unnamed right of way proposed for vacation is currently unimproved and does not serve a functional purpose for the transportation system. The existing land use development to the east – single family homes which fall outside the City of Portland’s jurisdiction - makes it is unlikely that it could be developed into a through street to NE 162nd Avenue. The established street patterns will not be interrupted by the proposed right of way vacation. The functional purposes of nearby streets will not be impacted by the proposed right of way vacation.

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 and E 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.



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Comment: Per Objective D, the proposed right of way vacation does not impact full street connections spacing. NE Halsey Street is a full street connection approximately 430 feet to the north of the area proposed for vacation. NE Holladay Street provides a full street connection approximately 880 feet south of the area proposed for vacation. Given the constraints of the existing development to the east, which falls outside the City of Portland's jurisdiction, a full street connection in the area proposed for vacation is unlikely.

Per Objective E, the proposed street vacation does not impact bicycle and pedestrian connectivity and access. Pedestrian access is maintained through the condition of a 15-foot wide pedestrian easement in the proposed vacated right of way. It does provide an opportunity to obtain a more direct bicycle and pedestrian connection along the eastern end of the property at 1250 NE 160th Avenue to the existing right of way on NE 161st Avenue.

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: Pedestrian access will be maintained through a 15-foot wide pedestrian easement in the proposed vacated right of way, as well as a 16-foot north/south pedestrian dedication along the eastern property line of 1250 NE 160th Ave connecting the east/west pedestrian easement southerly to the NE 161st Ave. right of way.

B. Neighborhood Plan Considerations

Comment: The proposed vacation is intended to support more cohesive residential development pattern. The condition for a 15-foot wide pedestrian easement in the proposed vacated right of way and the condition for a 16-foot wide north/south dedication along the eastern property line connecting the east/west pedestrian easement southerly to NE 161st Ave is intended to maintain and improve pedestrian connectivity. These are consistent with the Wilkes Community and Rockwood Corridor Plan, as well as the East Portland Action Plan.

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.



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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 with no objections.

F. Improvement and Utility Considerations

The street vacation request was reviewed by PBOT for conformance with standards for street improvements. The following conditions will be required:

- PBOT Development Review requires an east/west 15-foot wide pedestrian easement in the vacated right of way. The Petitioner must also provide a 16-foot north/south pedestrian dedication along the eastern property line connecting the east/west pedestrian easement southerly to the NE 161st Ave. right-of-way.

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

- The Rockwood Water District responded with no objection.
- Bureau of Environmental Services 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.
- TriMet responded with no objection.
- Pacific Power responded with no objection.
- ODOT responded with no objection.
- The Port of Portland responded with no objection.
- PGE responded with no objection.
- CenturyLink did not respond.
- Northwest Natural did not respond.
- Comcast did not respond.

G. Neighborhood Issues

Notice of this proposed street vacation request was provided to the Wilkes Community Group, Gateway Area Business Association, and East Portland Neighborhood Organization. No responses were received.



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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

At a hearing on February 27, 2018, the Planning and Sustainability Commission recommended **approval** of the vacation of the area as shown on Exhibit 1, **with conditions**:

- Prior to recording the street vacation ordinance, the Petitioner shall comply with all conditions set forth in Section IV.F above.
- At the time of future development, the petitioner work with PBOT to include appropriate lighting and signage for the north/south pedestrian dedication.

The Planning and Sustainability Commission has also asked PBOT to work with the City of Gresham to address lighting where the north/south pedestrian dedication meets NE 161st Ave right-of-way.

VII. EXHIBITS

1. Area proposed for vacation & dedication
2. Zoning Map
3. East facing photo of area proposed for vacation

Bureau of Transportation Staff Planner
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cc: Karl Arruda, Right-of-Way Case Manager




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1



16 ft. wide
dedication.

Unnamed Street east of NE 160th Ave south of NE Halsey St

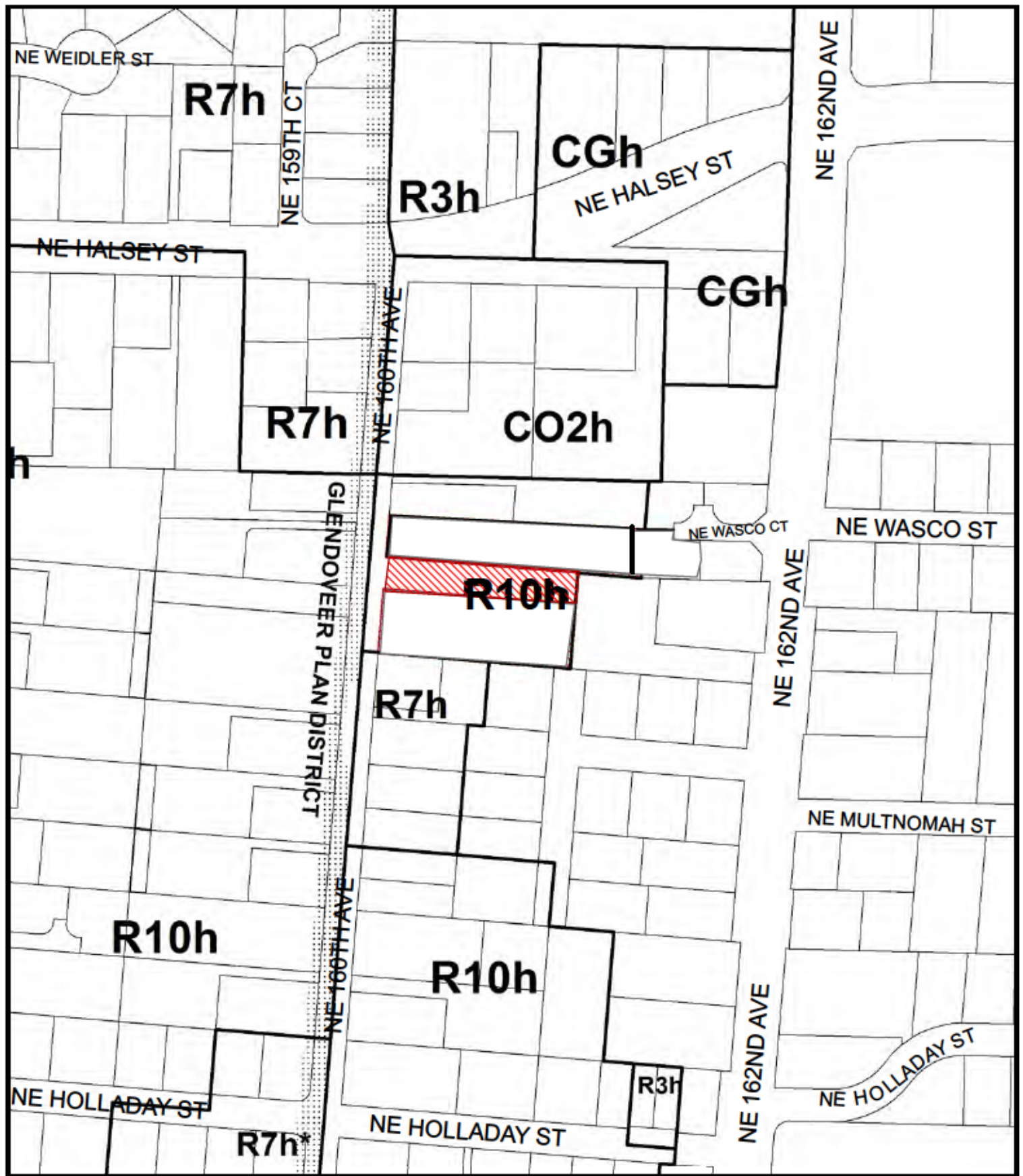
 Area Proposed for Vacation

 Area Proposed for Dedication




1 inch = 50 feet

Area Proposed for Vacation



ZONING

 Site



File No.	<u>EA 16-142558 APPT</u>
1/4 Section	<u>2946</u>
Scale	<u>1 inch = 200 feet</u>
State_Id	<u>1N2E36AA 4800</u>
Exhibit	<u>B (Apr 01, 2016)</u>

