

PBOT

PORTLAND BUREAU OF TRANSPORTATION

1120 SW Fifth Ave, Suite 1331, Portland OR 97204

Phone: 503-823-4000 Portland.gov/Transportation

Mingus Mapps Commissioner **Millicent Williams** Director

STAFF REPORT AND RECOMMENDATION TO THE PLANNING COMMISSION

FILE NUMBER: R/W #9481

COMMISSION MEETING TO BE HELD: 06/11/2024

I. GENERAL INFORMATION

Street Vacation Request: SE Oak St, east of SE 37th Ave

Petitioner: Portland Parks and Recreation (PP&R)
Ross Swanson, ross.swanson@portlandoregon.gov

Purpose: The stated purpose for the vacation is to allow PP&R to activate the Oak Street ROW for public park and recreation use.

Neighborhood: Laurelhurst

State ID: 1N1E36DD

Designation/Zones: 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

Portland Parks & Recreation (PP&R) is applying to vacate a portion of the right-of-way (ROW) on **SE Oak Street east of SE 37th Avenue**. PP&R and the Portland Bureau of Transportation (PBOT) entered into an agreement for the use of the SE Oak Street ROW in October of 2022 which would allow PP&R to activate the Oak Street ROW for public park and recreation use.

This section of SE Oak Street is adjacent to Laurelhurst Park. Planned additions include two to four pickleball courts, a skate ramp, bicycle skill features course, and pump track, along with miscellaneous amenities such as benches, garbage cans, and bike racks.

PP&R has assumed operational jurisdiction and control of the Oak Street ROW during this interim period prior to the City Council hearing which will finalize the street vacation. During this period, PBOT will assume responsibility for any necessary repairs to ensure a smooth road surface and initiate closure of the Oak Street ROW to motor vehicle traffic. Once street repairs are made, PP&R will be responsible for the maintenance, repair, and replacement of any pavement as needed and per PBOT standards. PP&R is also responsible for the issuance of any permits for activities held in the Oak Street ROW.

The site is located in the Laurelhurst Neighborhood and the zoning is designated as Open Space (OS). **Open Space (OS)** zones are intended to preserve and enhance public and private open, natural, and improved park and recreational areas.

B. Concurrent Land Use Actions

Not applicable for this site.

C. The Transportation Element

In the 2035 Transportation System Plan (TSP), the right-of-way proposed for street vacation on SE Oak St is classified as a local service street—Local Service Traffic Street, Local Service Transit Street, Local Service Bikeway, Neighborhood Walkway, Local Service Truck Street, Minor Emergency Response, and Local Street Design. The following describe the TSP classifications for the other adjacent and parallel streets.

	<i>Adjacent Street 1</i>	<i>Adjacent Street 2</i>	<i>Parallel E-W Street (one block south)</i>
Street Name	<i>SE 37th Ave</i>	<i>SE Cesar E. Chavez</i>	<i>SE Stark St</i>
Traffic	Local Service Traffic Street	Major City Traffic Street	Neighborhood Collector
Transit	Local Service Transit Street	Major Transit Priority	Local Service Transit Street
Bicycle	Local Service Bikeway	Local Service Bikeway	Local Service Bikeway
Pedestrian	Local Service Walkway	Major City Walkway	City Walkway
Freight	Local Service Truck Street	Truck Access Street	Local Service Truck Street
Emergency	Minor Emergency Response	Major Emergency Response	Secondary Emergency Response
Design	Local Street	Civic Corridor	Community Corridor

D. Neighborhood Plan

The area proposed for vacation is not explicitly identified in a neighborhood plan.

III. APPROVAL CRITERIA FINDINGS

1. *City Code 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:

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 was used for through traffic until recently but is currently closed on a trial basis. The site has not been identified in any adopted plans for public services, transportation functions, utility functions, view corridors or viewpoints, pedestrian amenities, or community or commercial uses. **The right-of-way proposed for street vacation is not needed presently.**

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 viewpoints.*

Comment: The proposed vacation does not prevent the extension of, or retention of, public services, transportation functions, utility functions, subject to the conditions identified in Section IV below. The vacated area is not identified as a view corridor or viewpoint. The vacation is supportive of present and future stormwater functions. **The right-of-way proposed for vacation should meet the criteria of approval outlined by commenting parties in Section IV. 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 should meet the criteria of approval outlined by commenting parties in Section IV. This criterion is met.**

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

Comment: The right-of-way proposed for vacation does not provide access points for abutting properties. **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 area proposed for vacation is currently closed to motor vehicles, but open to bicycle and pedestrian movement. SE Oak St is used as a low-traffic bicycle route for east-west bicycle travel

and is a useful connection within the bike network, given the 13-block gap in bikeways between NE Couch-Everett/SE Ankeny and SE Taylor. Further, the route avoids busy SE Stark St to the south, which lacks bike infrastructure, and hilly SE Ankeny St to the north. Despite SE Ankeny's designation as a Neighborhood Greenway (a low-traffic and low-speed street that prioritizes people walking, bicycling, and rolling), given its undulating terrain, many cyclists tend to avoid it, opting for flatter routes, such as SE Oak St. **This criterion is not met but could be met subject to conditions noted in the following section.**

IV. IMPROVEMENT AND UTILITY CONSIDERATIONS

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

Commenting Party	Response Date	Comments / Conditions
City Bureaus / Departments Notified:		
CITY INITIATED: Portland Parks & Recreation	9/26/23	City Initiated. No Petition Process.
PBOT Development Review Tammy Boren-King	10/17/23	<p>No objection subject to the following conditions: The right-of-way to be vacated is currently operated by Portland Parks under a Memorandum of Understanding (MOU) signed by both PBOT and Parks in October 2022. Condition D.6 of that MOU reads, “During Park hours, Parks will allow public rights of access and movement to include walking, rolling, bicycling, skateboarding, scooting, or accessing transit in the existing sidewalk corridor.” PBOT development review staff recommend a condition of approval for the street vacation that reads as follows: During Park hours, Parks will allow public rights of access and movement to include walking, rolling, bicycling, skateboarding, scooting, or accessing transit in the existing sidewalk corridor. Should the existing sidewalk corridor be redeveloped in the future, an alternative paved path through the park from SE 37th Ave. to SE Cesar Chavez Blvd. must be provided and granted the same access rights.</p>
PBOT Transportation Planning Mel Hogg	1/9/24	<p>No objection subject to the following conditions: PBOT Planning is generally supportive of the SE Oak St street vacation. The proposed design for the SE Oak St right-of-way (ROW) aligns with PBOT’s citywide Street Plaza program that reclaims city ROWs for pedestrians by closing streets to vehicular traffic and opening them to public use—providing space for outdoor seating, events, and community programming.</p> <p>PBOT Planning requires the following as conditions of approval for the proposed street vacation on SE Oak St:</p> <ol style="list-style-type: none"> 1. Direct and seamless bicycle and pedestrian connections on SE Oak St between SE 37th Ave and SE Cesar E. Chavez Blvd. 2. Designated and separate space for people walking. 3. Designated and separate space for people bicycling. 4. 24-hour access to transportation facilities running through the site.

Commenting Party	Response Date	Comments / Conditions
		<p>5. Allowance for electric bicycles and scooters, and other emergent micromobility vehicles, as appropriate, on designated bicycle facilities.</p> <p>Note: Following these comments, an agreement was reached on an alternative path and 24/7 access that satisfies these concerns.</p>
PBOT Permit Engineering Chris Wier	10/24/23	No objection.
PBOT Trans Systems Management Rick Nys	9/26/23	<p>No objection subject to the following conditions:</p> <p>I request that the applicant be required replace the existing pavement and curb returns with curb and sidewalk that matches Cesar Chavez Boulevard to fully and permanently close Oak at Cesar Chavez. Cesar Chavez carries approximately 20,000 vehicles per day. This would mitigate any confusion or safety issue that may remain with retaining the existing pavement and curb returns where users may think there is a street when there actually isn't. This would be a safety benefit for pedestrians who would no longer have to deal with conflicting traffic. Signage and barricades have been installed in support of the existing closure that could also be removed with a proper closure. Addressing this will reduce maintenance burden on PBOT. Some consideration should be given to whether bikes could continue to utilize this route. Regardless of that decision, the signing and pavement markings will need to be evaluated and modified in light of this potential change. While less important than the Cesar Chavez intersection due the lower traffic volume/conflicts at Oak/37th, it is requested that this intersection also be considered for a permanent, physical closure as described above. Regardless of that decision, the signing and pavement markings will need to be evaluated and modified in light of this potential change.</p>
PBOT Active Transportation Roger Geller	4/24/24	<p>No objection subject to the following conditions:</p> <p>Vacation ordinance to include language identifying that people biking may use the pathway in the park, just north of SE Oak Street, to travel between SE 37th and SE Cesar Chavez. Path to be identified in ordinance as being accessible to people biking at all hours of all days. Path to be modified with available funding to provide easier accessibility to people biking.</p>

Commenting Party	Response Date	Comments / Conditions
PBOT Bridges and Structures John Cameron Glasgow	10/4/23	No objection.
PBOT MO Street Systems Michael Magee	12/13/23	No objection subject to the following conditions: Any barriers paced to restrict vehicular movements thru the vacated ROW should be: <ul style="list-style-type: none"> • Placed entirely within the vacated ROW, and not within the public ROW • Placed so they do not interfere with the public normal use of the adjacent road, sidewalk, or ROW • Removable, such that the City vector trucks and other maintenance vehicles can access and maintain the storm system and any related public features
PBOT Street Lighting Charles Radosta	10/25/23	No objection subject to the following conditions: SSL owns two street lights along the block of SE Oak (poles, fixtures, aerial wiring). Please reserve \$5k for either SSL to remove and decommission those two lights or for Parks to accept ownership and connect them to a Parks electrical panel.
PBOT Parking Control Peter Wojcicki	10/3/23	No objection.
BDS Land Use Services Stephanie Beckman	10/5/23	No objection.
BDS Addressing Viktor Palchey	9/26/23	No objection.
Bureau of Environmental Services Ella Ruth	10/31/23	No objection subject to the following conditions: BES requests an agreement between BES and Parks that allows BES to review future development over or adjacent to the sewer infrastructure in SE Oak St to ensure that the infrastructure will not be negatively impacted by future development.

Commenting Party	Response Date	Comments / Conditions
Portland Water Bureau Kris Calvert	10/24/23	No objection.
Portland Fire & Rescue Dawn Krantz	11/17/23	No objection.
PP&R Urban Forestry Daniel Gleason	10/27/23	No objection.
Planning Commission	Pending	Response pending review by the Planning Commission.
Neighborhood Associations Notified:		
Laurelhurst Neighborhood Association Kayleen Kusterer	10/11/23	No objection.
East Portland Chamber of Commerce Jocelyn Jester	9/26/23	No objection.
Local Agencies Notified:		
ODOT Region 1 Neelam Dorman, PE, TE	9/28/23	No objection.
TriMet Nick Stewart	9/27/23	No objection.
Public Utilities Notified:		
Pacific Power Scott Mease	9/27/23	Outside of service area.
Northwest Natural Marlyse McKenzie	9/26/23	No facilities in vacation area.
Comcast Cable Peter Calo	9/27/23	No objection subject to the following conditions: As long as the parameter pole line lead is staying, we have no conflict.

V. NEIGHBORHOOD RESPONSE

Notice of this street vacation request was provided to the Laurelhurst Neighborhood Association.

The LNA enthusiastically supports vacating this portion of SE Oak Street and adding it to Laurelhurst Park. The eastside of Portland needs space for outdoor recreation activities and this addition to Laurelhurst park will serve the city in a positive way. The LNA has worked collaboratively with representatives from PBOT, Parks and The Public Environment Management Office (PEMO) to bring additional recreational facilities to Laurelhurst Park. Transportation needs in the area are not impacted, as SE Stark and SE Ankeny provide access for through traffic.

VI. CONCLUSIONS

Based on the above analysis, Portland Bureau of Transportation states that the right-of-way is not needed to provide future facilities *if* an alternative path can be provided with 24-hour access guaranteed. Doing so is not anticipated to affect the functional performance of the street system in the Laurelhurst area.

VII. TENTATIVE STAFF RECOMMENDATION

The staff recommendation is **approval** of the vacation of the area shown on Exhibit 2, with conditions:

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

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

VIII. EXHIBITS

1. [MOU Between PBOT & Parks](#)
2. [Vicinity Maps](#)
3. [Area Proposed for Vacation](#)
4. [Project Overview](#)
5. [Site Detail](#)
6. [Site Photos](#)

Report prepared by:

Portland Bureau of Transportation Staff Planner

Ari Del Rosario

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cc: Lance Lindahl, Right-of-Way Case Manager

Exhibit 1: MOU Between PBOT & Parks

PBOT

PORTLAND BUREAU OF TRANSPORTATION

1120 SW Fifth Ave, Suite 1331, Portland OR 97204

Main: 503-823-5185 TTY: 503-823-6868 Fax: 503-823-7576 Portland.gov/Transportation

Jo Ann Hardesty Commissioner Chris Warner Director

Agreement for Use, Management, & Maintenance Responsibilities and Memorandum of Understanding

October 20, 2022

Re: SE Oak Street Right-of-Way between SE Cesar E. Chavez Blvd. and SE 37th Avenue.

A. Background

The City of Portland (the "City"), a municipal corporation of the State of Oregon, is the owner of two parcels of land known as Laurelhurst Park, also identified as 1N1E36D 100 and 1N1E36DD 11800, currently under the control and management of Portland Parks and Recreation ("Parks").

The Portland Bureau of Transportation ("PBOT") is the road authority for that certain portion of Right-of-Way named SE Oak Street, located between SE Cesar E. Chavez Blvd. and SE 37th Ave. ("Oak St. R/W"), as depicted on Exhibit A, attached and incorporated by reference.

The City intends to initiate vacation proceedings of the Oak St. R/W as provided for in ORS 271.130. During the interim period before the Council hearing and recording of the street vacation, Parks as the underlying fee title owner of the Oak St. R/W wishes to activate the Oak St. R/W for public park and recreation use beginning October 25, 2022, and PBOT is agreeable to such use under certain conditions identified below.

Parks and PBOT are entering into this Agreement for Use, Management, & Maintenance Responsibilities, via a Memorandum of Understanding (the "MOU") to clarify Parks' and PBOT's authority and limitations during the term of this MOU.

B. Assignment

- 1) The Director of PBOT hereby transfers, assigns, and delegates operational jurisdiction and control of the Oak St. R/W to the Director of Parks. Said Agreement being over and across the Property, described as follows:

As depicted on Exhibit A attached and incorporated by reference.

Contains 37,644 square feet, more or less.

Page 1 of 2

- 2) Except as noted in Section C (1), Parks is responsible for issuing permits for activities associated with the Oak St. R/W, including inspection and enforcement of permits issued by Parks. All permits must be revocable in nature.
- 3) Except as noted in Section C (4), Parks may design, permit, construct, reconstruct, maintain, regulate, and inspect any parks facilities within the Oak St. R/W.
- 4) PBOT will make necessary repairs to provide a smooth surface, suitable for safe pickleball play, on at least the western half of the Oak St. R/W where the pickleball courts will be installed. The location of the pickleball courts is depicted in Exhibit B, attached and incorporated by reference. PBOT repair work will be coordinated with the Traffic Control Plan (TCP). Once repairs are made, Parks is responsible for maintenance, repair, and replacement of any existing pavement as needed and per PBOT standards.
- 5) PBOT is responsible for implementing physical measures to initiate closure of the Oak St. R/W to vehicle traffic. Implementation of the TCP will be performed by PBOT with either their own forces and materials or contracting for such service.
- 6) PBOT transfers the Oak St. R/W to Parks for public park and recreation uses on an interim basis until street vacation is official and ownership of the property is with Parks.
- 7) Any public media inquiries will be directed to the Mayor's Office.
- 8) Community Engagement with the Laurelhurst Neighborhood Association will be handled by the Public Environmental Management Office.
- 9) It is acknowledged that this project will expend up to \$500,000 in budgeted resources.

C. Exclusions and Limitations. This MOU excludes the following authorities for Parks:

- 1) Issuing of permits to public or private utilities, including, but not limited to, water, sewer, electric, gas, cable, telephone, and internet service providers.
- 2) Conveyance of permanent or temporary easements, whether for surface, subsurface, or aerial property rights.
- 3) Initiating a surplus property sale.
- 4) Removal or destruction of the existing surface or subsurface features without the prior approval of PBOT's Director.
- 5) Change of use to any other use that isn't consistent with either a park, recreation, or transportation use.

D. Conditions and Requirements.

Parks agrees to the following conditions:

- 1) Parks acknowledges that the Bureau of Environmental Services ("BES") currently owns and maintains facilities within the Property as noted below in Section 1a:
 - a. Sanitary Sewer System with an 8-inch sewer pipe beginning at upstream manhole ABM192 and extending westerly to manholes ABM191, ABM190, ABM200, and ending at manhole ABM188.

- 2) Parks, its permittees, invitees, contractors, and agents will not obstruct access to the sewer manholes, or any cleanouts or inlets within the Oak St. R/W. Parks agrees to provide 24-hour emergency access to the sewer pipe, manholes, inlets, and cleanouts for BES at no additional cost to BES.
- 3) Parks will provide similar emergency and non-emergency access to any entity having existing utilities within the Oak St. R/W.
- 4) Parks, its permittees, invitees, contractors, and agents will not allow dumping onto the Oak St. R/W, or into the sewer inlets, of any garbage, recycling, compost, sewage, petroleum products or hazardous materials as defined under Federal, State, or local laws and regulations.
- 5) Parks, or its permittees, invitees, contractors, and agents will maintain the area within the Oak St. R/W, including trash removal and graffiti abatement.
- 6) During Park hours, Parks will allow public rights of access and movement to include walking, rolling, bicycling, skateboarding, scooting, or accessing transit in the existing sidewalk corridor.
- 7) No building shall be erected with the Oak St. R/W without prior written consent of PBOT's Director.
- 8) Parks will be installing footings and piers into existing asphalt, up to 24" in depth, in order to secure recreational features. All proposed installations within the Oak St. R/W which require excavation must follow all requirements as detailed within Oregon Administrative Rule Chapter 952.
- 9) This MOU does not convey any right, title, or interest to the Oak St. R/W, except as stated herein.
- 10) It is understood and agreed that PBOT, by accepting this MOU, is not accepting any liability for taxes, assessments, or other governmental charges related to the Oak St. R/W due to Parks' use.
- 11) Parks herein assumes responsibility for temporary encroachments placed in the Oak St. R/W by Parks, together with any construction, reconstruction, maintenance, and/or repair of said encroachments, or the existing improvements within the Oak St. R/W.
- 12) Parks reserves all other rights not conveyed herein but will not exercise those rights in any manner that would be inconsistent with or affect rights herein granted, provided that the rights granted hereunder are subject to matters of public record.

E. Duration.

- 1) This MOU shall be effective until either the street vacation has been recorded with Multnomah County or unless sooner terminated or modified in writing by PBOT or Parks. The MOU will become effective upon the date the document has been signed by both bureaus.
- 2) Either bureau may terminate this MOU with ninety (90) day written notice.

F. End of MOU. Upon termination of this MOU without a successful street vacation:

- 1) Parks will return to PBOT, the operational jurisdiction and control of the Oak St. R/W.
- 2) Parks will remove all encroachments from the Oak St. R/W and return the area to a condition substantially similar as to what existed prior to this MOU.
- 3) In the event this MOU is terminated for any reason, Parks, and all users of the Oak St. R/W hereby acknowledge, understand, agree and waive all benefits, if any, under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended, or any other benefits under similar applicable acts.
- 4) If the termination of this MOU triggers any 4(f) or 6(f) requirements, Parks will be responsible for addressing those issues, to include any financial implications.

G. Notices. All notices or other communications concerning this MOU, shall be in writing by either mail, electronic mail, or other delivery method and sent to the following:

PBOT
1120 SW 5th Ave, Suite 1331
Portland, OR 97204
Attn: Right-of-Way Acquisition Supervisor
RWAlleases@portlandoregon.gov

Parks
1120 SW 5th Ave, Suite 858
Portland, OR 97204
Attn: Property Manager
e-mail Parks-Property@portlandoregon.gov

AGREED:

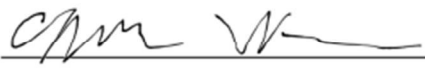
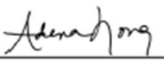
<p>PBOT</p>  <hr/> <p>Name: <u>Chris Warner</u></p> <p>Title: <u>Director</u></p> <p>Date: <u>10/20/2022 11:00 AM PDT</u></p>	<p>Portland Parks and Recreation</p>  <hr/> <p>Name: <u>Adena Long</u></p> <p>Title: <u>Director</u></p> <p>Date: <u>10/25/2022 11:19 AM PDT</u></p>
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Exhibit 2: Vicinity Maps

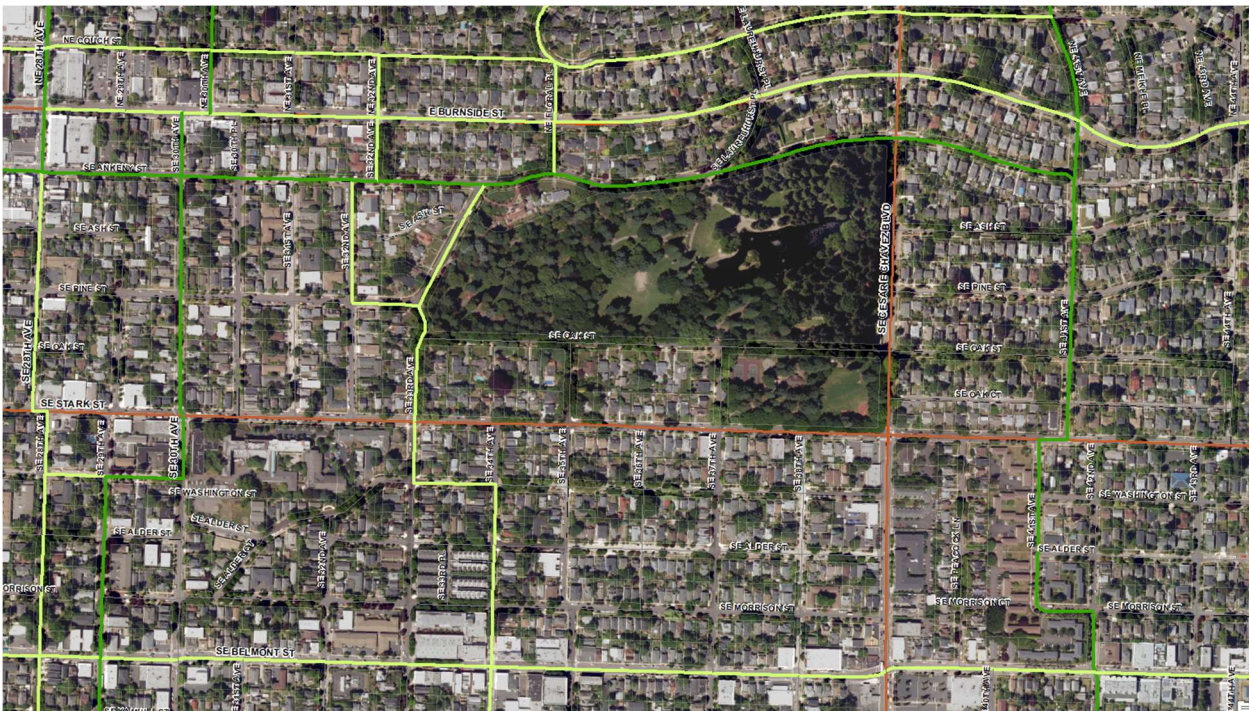
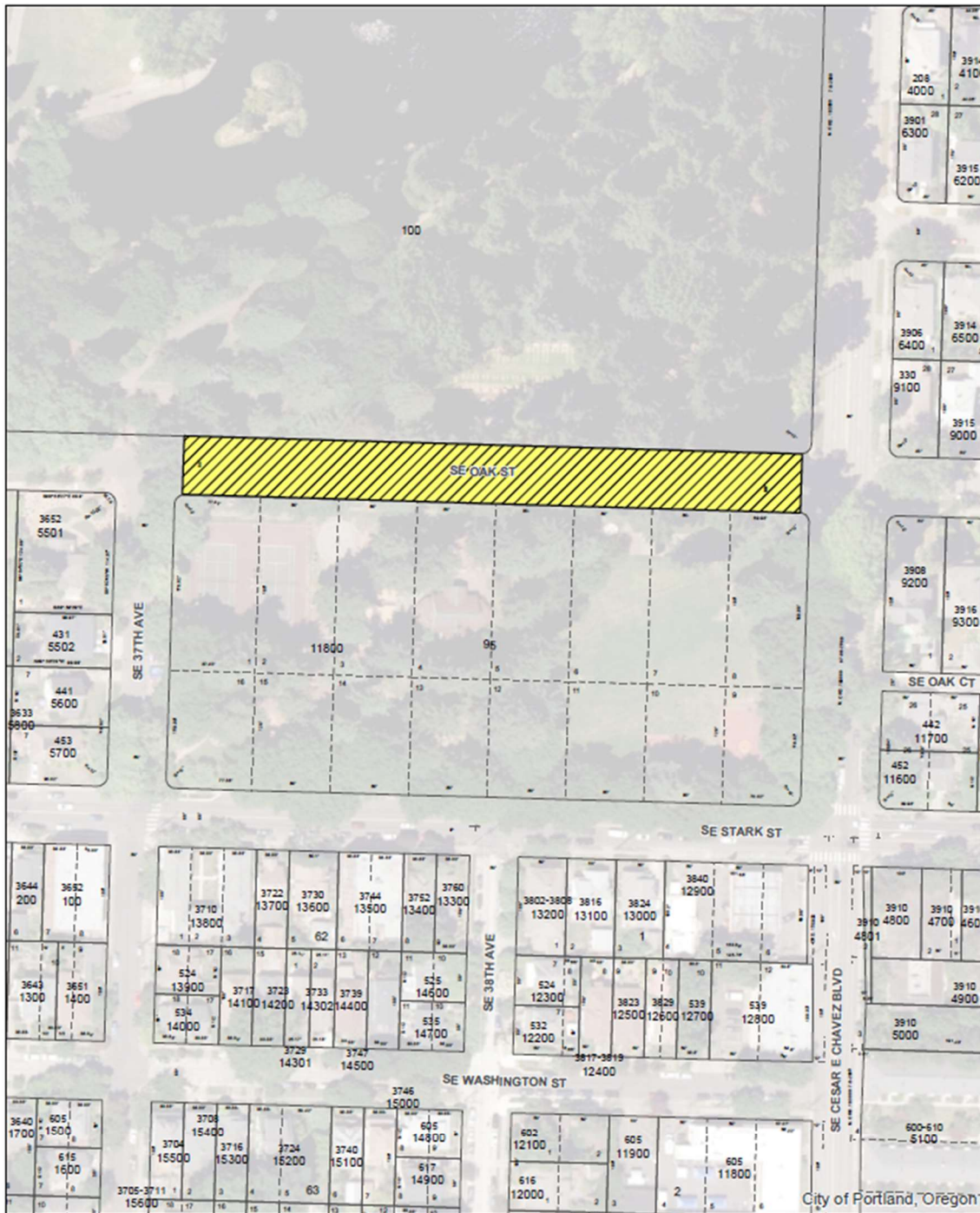


Exhibit 3: Area Proposed for Vacation

Site Map



SE Oak Street east of SE 37th Avenue

Section: 1N1E36DD

 Area Proposed for Vacation



 1 in = 150 ft

Zone Map

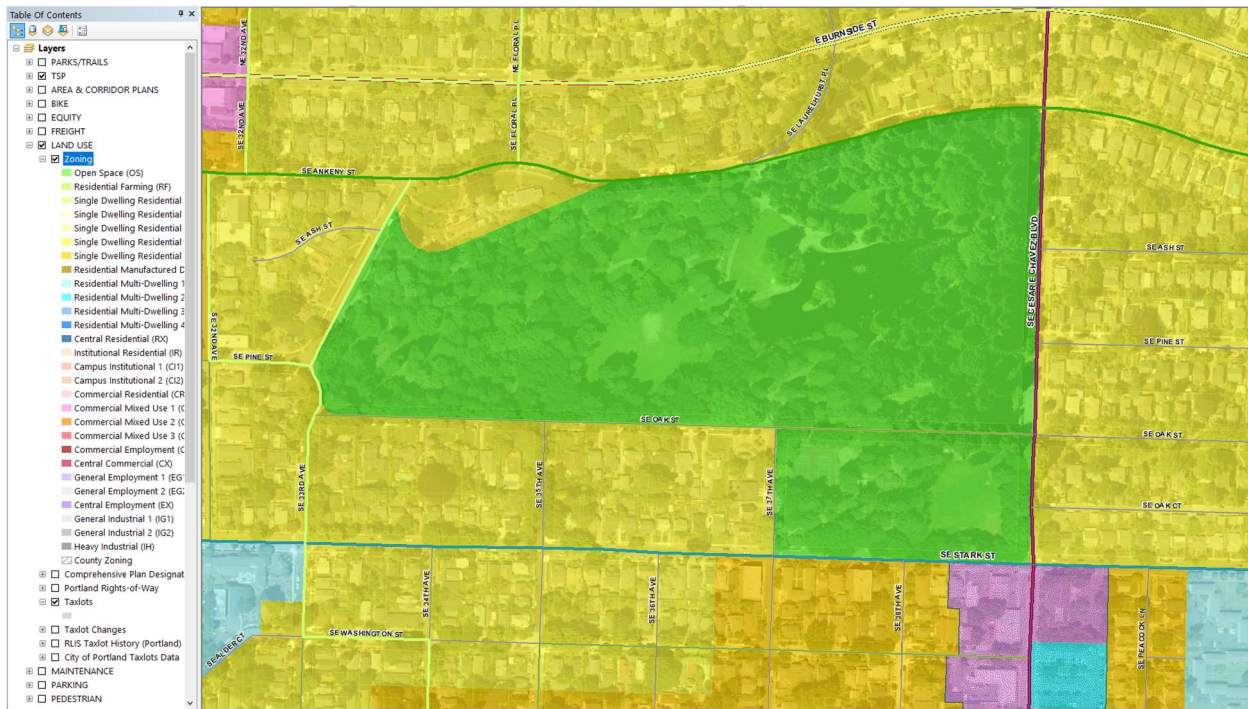


Exhibit 4: Project Overview

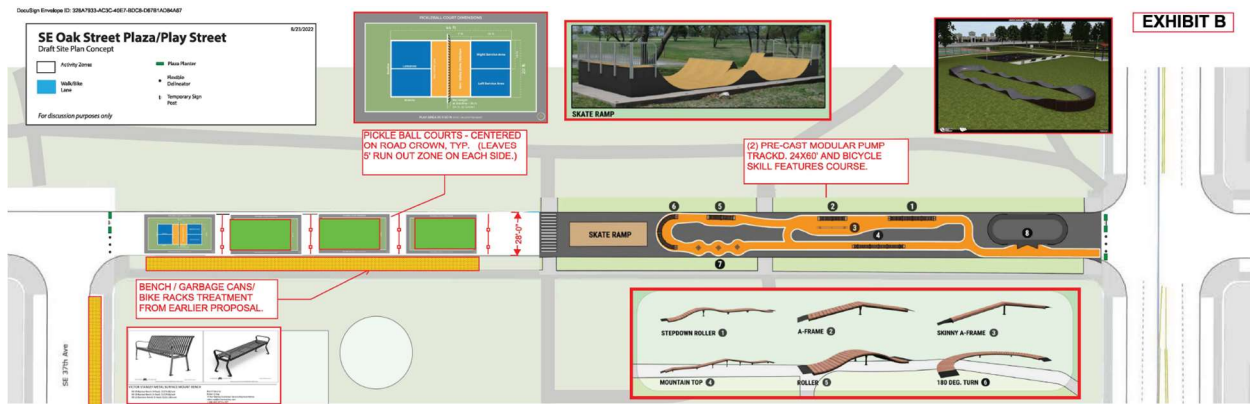


EXHIBIT B

8/23/2022

SE Oak Street Plaza/Play Street

Draft Site Plan Concept

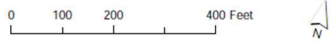
- Activity Zones
- Walk/Bike Lane

- Plaza Planter
- Flexible Delineator
- Temporary Sign Post

For discussion purposes only

Exhibit 5: Site Detail

Aerial photo showing study area



Study Area
Johnson Creek

Figure 5
Study Area
West Lents Floodplain Restoration
Portland, Oregon

Source: City of Portland BES
EA 22-117597 APPT

Aerial photo showing State ID parcel numbers



Figure 2
Tax Lots
West Lents Floodplain Restoration
Portland, Oregon


Source: City of Portland BE5
EA 22-117507 APPT

Aerial Photo showing surrounding wetlands



- Study Area
- Riverine
- Forested/Shrub Wetland
- Emergent Wetland

Figure 3
National Wetland Inventory
West Lents Floodplain Restoration
Portland, Oregon


Source: U.S. Fish and Wildlife Service
EA 22-117597 APPT

Aerial photo showing surrounding soil types

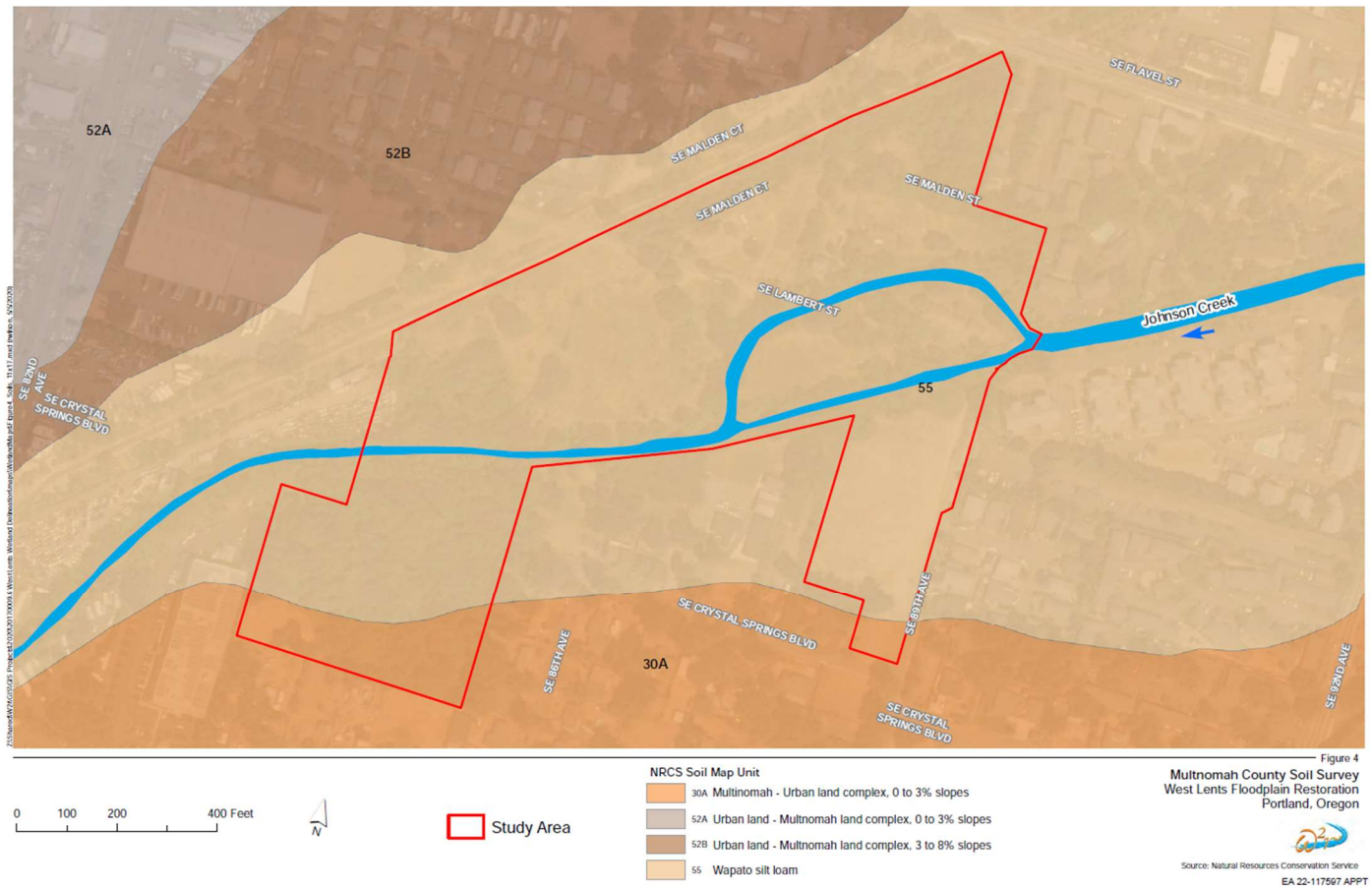


Exhibit 6: Site Photos

Intersection of SE Cesar Chavez and SE Oak



SE Oak looking west from intersection near SE Cesar Chavez



Laurelhurst Park midblock access point on Oak St between SE Cesar Chavez and 37th Ave



Intersection and Laurelhurst Park access point at SE Oak St and SE 37th Ave



SE 37th and SE Oak St (looking north from SE 37th)

