

184419

1. Name of Initiator Lance D. Lindahl		2. Telephone No. 503-823-7465	3. Bureau/Office/Dept. PBOT/RWA
5a. To be filed (hearing date): February 9, 2011	5b. Calendar (Check One) Regular <input checked="" type="checkbox"/> Consent <input type="checkbox"/> 4/5ths <input type="checkbox"/>		4. Date Submitted to Commissioner's office and FPD Budget Analyst: January 28, 2011

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Amount

APPROPRIATION UNIT HEAD SUSAN D. KEIL, Director, Bureau of Transportation

Sam
Adams
Mayor

Susan D.
Keil
Director

DATE: January 28, 2011

TO: Mayor Sam Adams

FROM: David McEldowney, Right-of-Way Acquisition Manager

RE: Vacate SE Bush St and SE 100th Ave – Staff Supplemental Report

184419

1. **Ordinance Title:** Vacate a portion of SE Bush St and a portion of SE 100th Ave subject to certain conditions and reservations and designate a portion of Portland Parks & Recreation property for Water Facility Purposes and assign it to the Portland Water Bureau (Hearing; Ordinance; VAC-10073)
2. **Contact Name, Department, & Phone Number:**
✓ Lance Lindahl, Right-of-Way Acquisition, 503-823-7465
3. **Requested Council Date:** February 9, 2011

Consent Agenda Item: _____ **or** **Regular Agenda Item:** X
Explain why this does or does not require a presentation or Council discussion:
Public testimony will be taken at the public hearing.

EMERGENCY ITEM (answer below): _____ **or** **NON-EMERGENCY ITEM:** X
If emergency, why does this need to take effect immediately:

4. History of Agenda Item/Background:

A request to vacate a portion of SE Bush Street and a portion of SE 100th Avenue was received by the Bureau of Transportation on September 16, 2009. The street vacation is proposed in order to consolidate property for expansion of the existing communications facility into an Emergency Coordination Center. The proposed vacation is depicted on Exhibit 1 attached hereto.

Comments were solicited from City Bureaus, government agencies, public utilities and affected neighborhood associations. No substantive objections were received.

The Planning Commission reviewed and approved the proposed street vacation on August 24, 2010.

An Engineer's Report was completed on November 22, 2010, recommending approval of the street vacation, subject to certain conditions and reservations. The Report, inclusive of the Planning Commission recommendation, is attached.

1120 S.W. 5th Avenue, Suite 800 • Portland, Oregon, 97204-1914 • 503-823-5185
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5. Purpose of Agenda Item:

The purpose of this legislation is to vacate a portion of SE Bush Street and a portion of SE 100th Avenue, as recommended in the City Engineer's Report.

6. Legal Issues:

None

7. What Individuals or Groups Are or Would Be Opposed to This Ordinance? Supportive?

None

8. How Does This Relate to Current City Policies?

This action is consistent with current City policies (City Code Chapter 17.84).

9. Community Participation:

The City Auditor has published notice of the public hearing in the Daily Journal of Commerce, has posted notice in the area proposed for vacation, and has sent notification to surrounding property owners.

10. Other Government Participation:

Comments were solicited from City Bureaus and government agencies, public utilities and affected neighborhood associations. No substantive objections were received.

11. Financial Impact:

How much money is involved? Approximately \$13,400

Where are these funds coming from? Petitioner, Portland Water Bureau



184419



Sam
Adams
Mayor

November 22, 2010

CITY ENGINEER'S REPORT TO CITY COUNCIL ON THE PROPOSED VACATION OF SE
BUSH STREET AND SE 100TH AVENUE (R/W # 7151)

Susan D.
Keil
Director

Background

1. **Proposed Street Vacation Area.** SE Bush Street between SE 99th and SE 100th Avenues being approximately 233 feet long by 50 feet wide and a portion of SE 100th Avenue being approximately 100 feet long by 50 feet wide, said areas containing approximately 16,650 square feet. The areas are currently improved and are more specifically depicted on Exhibit 1 attached hereto.
2. **Petitioner.** The City of Portland is the owner of property abutting the areas to be vacated.
3. **Purpose.** The street vacation is proposed in order to consolidate property for redevelopment of the City of Portland Emergency Communication Center.
4. **Compliance with Minimum Requirements.** Vacation proceedings have been city initiated without a petition or consent of property owners in accordance with ORS 271.130 (Vacation on council's own motion) and notice shall be given as provided by ORS 271.110 (Notice of Hearing).
5. **Due Diligence Review.** Comments were solicited from City Bureaus, government agencies, public utilities and affected neighborhood associations. A summary of this due diligence effort is attached as Exhibit 2 hereto. Of particular significance were comments by Development Review, Permit Engineering, Bureau of Environmental Services (BES) and the Portland Water Bureau (PWB) which requested that certain conditions be satisfied prior to the street being vacated. Additionally, Qwest, Northwest Natural, and PGE have requested that the street vacation ordinance reserve easements for their existing facilities and BES and PWB requested that the ordinance requires that existing facilities be relocated to the new Bush Street.
6. **Planning Commission Review.** The Planning Commission reviewed and approved the proposed street vacation on August 24, 2010 with its Report and Recommendation attached as Exhibit 3 hereto.
7. **Costs.** The Petitioner is being directly billed and a project number has been provided to reimburse the City for staff costs incurred for processing the street vacation request.

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To ensure equal access, the Portland Bureau of Transportation will make accommodations in full compliance 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 and additional information, and complaints, contact the Title II and Title VI Coordinator at Room 1204, 1120 SW 5th Ave. Portland, OR 97204, or by telephone 503-823-5185, City TTY 503-823-6868, or use Oregon Relay Service: 711.

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:

All that portion of SE Bush street lying between the east line of SE 99th Avenue and the west line of SE 100th Avenue as described in the Correction Deed filed for recording on November 26, 1985 in Book 1867, Page 647, Multnomah County Deed Records **AND** that portion of SE 100th Avenue lying between the south line of said SE 100th Avenue vacated in Ordinance No. 166169 passed by Portland City Council January 20, 1993 and the easterly extension of the south line of the north half of Lot 7, Block 1, of the duly recorded Plat of "Betts Park".

Conditions, Reservations and Releases

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

A. Bureau of Transportation, Permit Engineering. The Petitioner will permanently close the intersections of SE Bush and 99th with curbs and sidewalks, ADA ramps and street pavement 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, Street Systems Management Section, a performance guarantee in the form of a surety bond, letter of credit, set-aside account, cash, or other form of surety, subject to approval by the City Attorney. 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.
- ii) The Petitioner will authorize the City to complete the required street improvements at the Petitioner's cost, 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) Upon completion of the required improvements by the Petitioner, and acceptance by the City Engineer, the Petitioner shall guarantee maintenance of the improvements for two (2) years following the date of project acceptance. The maintenance guarantee may be satisfied by the performance guarantee, or by substitution of other surety acceptable to the City Attorney and equal to 20% of the performance guarantee. Upon acceptance by the City of a 20% maintenance guarantee, the street improvements performance guarantee will be released.

- iv) Prior to the issuance of a Certificate of Completion by the City Engineer, fees collected by the City in association with street closure work will be reconciled with actual City costs, with Petitioner to receive from or pay to the City the net difference. In the event of non-payment by the Petitioner, the street improvement performance bond will be used to reimburse City costs. Use of the performance bond by the City will not preclude the City from billing to and collecting from the Petitioner those costs incurred by the City that were in excess of the performance bond.

B. Bureau of Transportation, Development Review. Petitioner will construct improvements in existing Bush Street under a street improvement permit; dedicate a minimum of 50 feet of right-of-way at the south end of property for the construction of new SE Bush Street with sidewalks to city standards; reconstruct existing SE 100th Ave connection at SE Bush as an 11' sidewalk corridor; provide a construction schedule and bond for the construction of new SE Bush Street; and provide assurance that the construction of Bush Street will be completed prior to closing Bush. The ordinance will be recorded prior to issuance of building permits and the development shall be completed within two years or the property owner shall dedicate the vacated street to restore public right-of-way.

C. Bureau of Environmental Services. The Bureau of Environmental Services owns and maintains certain improvements within the street area to be vacated. Petitioner will provide the following: Sump ADT375 located at the intersection of Bush Street and SE 100th Ave will be abandoned in accordance with a public works permit; manhole ACE 546 will be relocated into ROW sanitary service to property 3733 SE 100th via work permit; stormwater run off from east side of 99th Ave will be redirected to sed sump system ADT 389 on 99th Ave.

D. Water Bureau. The Water Bureau owns and maintains certain improvements within the street area of SE Bush to be vacated. As a condition of street vacation approval, the Petitioner will pay the costs to relocate the water main currently located in SE Bush to the new alignment, two fire hydrants will be located at the new intersections of 99th and 100th and Bush Street. The Water Bureau will complete the work within a reasonable period of time. The Petitioner, and Petitioner's successors and assigns, will agree to accept ownership of any abandoned facilities in the vacated street area and will waive any claims of any nature that may arise in connection with the existence of such facilities or the city's prior use of those facilities.

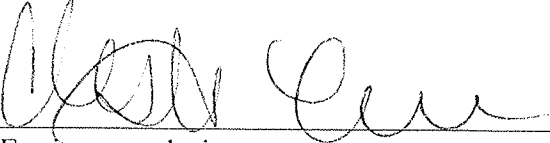
E. Costs. In the event that additional processing requirements exceed current projections, the Petitioner may be required to pay additional processing costs to the City prior to the street vacation ordinance being recorded.

2. Reservations and Release

A. Water Bureau. The Water Bureau owns and maintains certain improvements within the street area of SE 100th Avenue to be vacated. As a condition of street vacation approval, the Petitioner will agree to the reservation of a public water easement over the entire area

of SE 100th Avenue to be vacated to operate the existing water main. This easement is reserved to provide for the maintenance, operation, inspection, repair, reconstruction, replacement and enlargement of the existing public water facility and necessary appurtenances and is in substantially the same form as attached Exhibit 4.

- B. Utilities.** In accordance with ORS 271.120 and City of Portland policy, the street vacation 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 PGE, Qwest, and Northwest Natural. 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 said vacated 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 vacation area will require the necessary conveyance documents and possible written agreements between the Petitioner and owner(s) of the utilities.
- C. City Release.** Notwithstanding 2B and except for 2A, the Ordinance will serve as a full release of City interests in the street vacation 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 vacating Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording the vacating 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 Planning Commission and

RECOMMENDS:

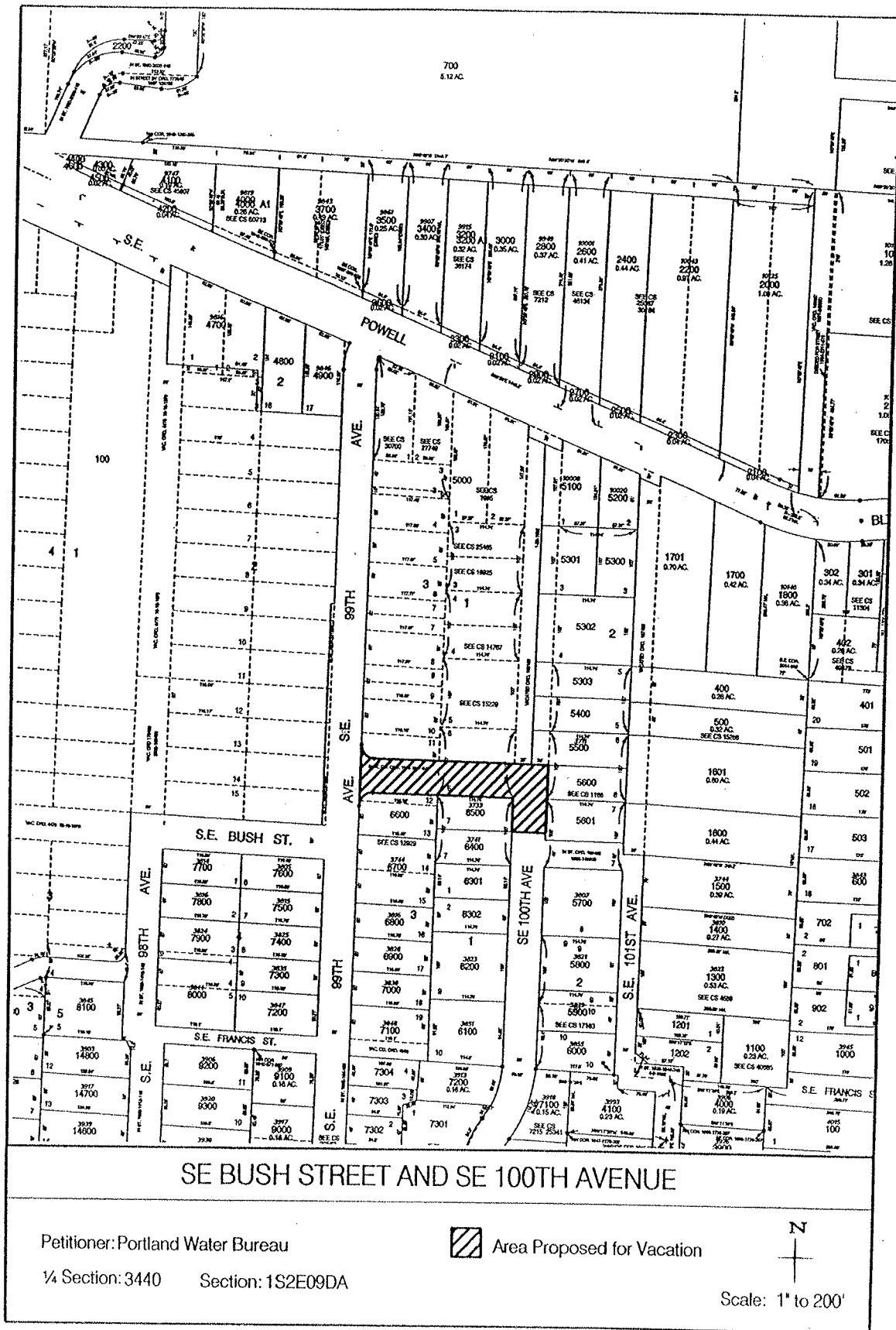
That the City Council accepts the City Engineer and Planning Commission Reports, which recommend that the proposed street area be vacated subject to conditions and reservations provided herein.

Respectfully submitted,

Mayor Sam Adams

Attachments:

- Exhibit 1, Proposed Map
- Exhibit 2, Summary of Comments
- Exhibit 3, Planning Commission Recommendation
- Exhibit 4, Public Water Easement



Comments Summary

R/W# 7151 SE Bush Street between SE 99th Avenue and SE 100th Avenue	RWA Project Manager: Lance D. Lindahl	Petitioner/Applicant: Portland Water Bureau Contact: Dave Gray, 1120 SW 5th Ave, Suite 600 Portland, OR 97204 Phone: 503-823-7988 david.gray@portlandoregon.gov
SAP No.: 7TRWA0000261		
Commenting Party	Response Date	Comments / Conditions
City Bureaus / Depts. Notified:		
Memo to PBOT	9/10/2009	
PBOT Development Review Wendy Cawley 503-823-4396	4/7/2010	No objection subject to the following conditions: Improvements in existing Bush Street must be constructed under a street improvement permit; applicant must dedicate a minimum of 50 feet of right-of-way at the south end of property for the construction of new SE Bush Street with sidewalks to city standards; reconstruct existing SE 100th Ave connection at SE Bush as an 11' sidewalk corridor; provide a construction schedule and bond for the construction of new SE Bush Street; provide assurance that the construction of Bush Street will be completed prior to closing Bush; vacation recorded prior to issuance building permits; the development shall be completed within two years or the property owner shall dedicate the vacated street to restore public right-of-way.
Transportation Planning Stuart Gwin	4/22/10	No objection.
PBOT Permit Engineering Jennifer Kammerer 503-823-7045	4/29/10	No objection subject to the following conditions: Permanently close the intersection of SE Bush and 99th with curbs, sidewalks, ADA ramps and street pavement.
PBOT Trans Systems Mgmt Carl Snyder	4/5/10	No objection.
PBOT Street Lighting Dad Rosinbum	4/6/10	No objection.

Comments Summary

Commenting Party	Response Date	Comments / Conditions
PBOT Project Management Andrew Aebi 503-823-5648	4/7/10	No objections subject to the following conditions: PWB relocates and constructs new SE Bush street; improves SE 100th Ave., which is currently in substandard condition.
Development Services Sue Donaldson 503-823-7618	4/14/10	No objections subject to the following conditions: consolidate lots R116001 and R206872.
Environmental Services Nicole Hittle 503-823-7126	4/26/10	No objection subject to the following condition: Sump ADT375 located at the intersection of Bush Street and SE 100th Ave will be abandoned by applicant in accordance with a public works permit; manhole ACE 546 will be relocated into ROW by applicant; provide sanitary service to property 3733 SE 100th via work permit; stormwater run off from east side of 99th Ave will be redirected to sed sump system ADT 389 on 99th Ave.
Water Bureau Rick Nelson 503-823-7475	4/20/10	No objection subject to the following conditions: The Existing water main in SE Bush be relocated to new Bush alignment; two fire hydrants be located at the new intersections of 99th and 100th and Bush street; a full width easement for 100th Ave must be provided to operate the existing water mains.
Fire Bureau Jerry Randall	4/7/10	No objection.
Park Bureau Tod Lofgren	4/27/10	No objection.
Urban Forestry Division Joe Hintz	4/28//10	No objection.
Planning Commission Stuart Gwin	8/24/10	Approved
Neigh Assoc Notified:		
Powellhurst-Gilbert Neighborhood Association John McDonald, Planning Chair		No response.
East Portland Neighborhood Office Richard Bixby, Director		No response.

Comments Summary

Commenting Party	Response Date	Comments / Conditions
Local Agencies Notified:		
ODOT Region 1 Tamara Patrick		No response.
Port of Portland Brian Shelden		No response.
TriMet John Baker		No response.
Public Utilities Notified:		
PGE Jenny Mulalley	4/21/10	Have facilities in street area; reserve easement.
Pacific Power Tom Kikes		No response.
Qwest Lynn M. Smith	4/12/10	Have facilities in street area; reserve easement.
Northwest Natural Robin Van Deurzen	4/13/10	Have facilities in street area; reserve easement.
Comcast Cable WalterBanks	4/30/10	No facilities in street area.



CITY OF
PORTLAND
OFFICE OF
TRANSPORTATION

184419



Sam
Adams
Commissioner

Susan D.
Keil
Director

**PLANNING COMMISSION REPORT AND RECOMMENDATION
TO THE CITY COUNCIL**

FILE NUMBER: R/W #7151

COMMISSION MEETING TO BE HELD 12:30 PM, AUGUST 24, 2010

1900 SW 4TH BUILDING, 2ND FLOOR, ROOM 2500 A

I. GENERAL INFORMATION

Street Vacation Request: SE Bush St. between SE 99th and SE 100th

Petitioner: Street vacation initiated by City of Portland's Water Bureau. The petitioner's representative is David Gray. He can be reached at 1120 SW 5th Ave., Rm 600, Portland, OR 97204. Ph. 503-823-7988

Purpose: Purpose of vacation is to consolidate property in order to accommodate new development

Neighborhood: Powellhurst-Gilbert Neighborhood Association
John McDonald, Planning Chair
13626 SE Cora St.
Portland, OR 97236
503-788-2296
jamed100@gmail.com

East Portland Neighborhood Office
Richard Bixby, Director
1017 NE 117th Ave.
Portland, OR 97220
503-823-4550
rbixby@portlandoregon.gov

Quarter Section: 3440

II. FACTS

- A. History and Background**
No history on this parcel.
- B. Concurrent land use actions**
There are no concurrent land use actions.
- C. The Transportation Element**

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The Transportation Element is silent on cases involving moving a right of way on lot width to accommodate new development.

III. FINDINGS

A. Comprehensive Plan Goals and Policies Consideration

The relevant policies of the Transportation Element 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.

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.

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.

Findings for Policies 6.20, 6.21 and 12.4

This vacation is in conformance with above referenced Comprehensive Plan Goals and Policies.

B. Neighborhood Plan considerations

There are no neighborhood issues with this vacation

C. Zoning Code considerations

There are no zoning issues.

D. Subdivision code considerations

There are no sub-division issues.

E. The Portland Office of Transportation Responses/Improvement considerations

PBOT Development Review- Approval subject to the following conditions: Improvements in existing Bush Street be related to the Emergency Coordination Center and must be constructed under a street improvement permit; applicant must dedicate a minimum of 50 feet of right-of-way at the south end of property for the construction of new SE Bush Street with sidewalks to city standards; reconstruct existing SE 100th Ave. connection at SE Bush as an 11' sidewalk corridor; provide a construction schedule and bond for the construction of new SE Bush Street; provide assurance that the construction of Bush Street will be completed prior to closing Bush; vacation recorded prior to issuance of building permits; the development shall be completed within two years or the property owner shall dedicate the vacated street to restore public right-of-way

PBOT Permit Engineering-Approval subject to the following conditions: Permanently close the intersection of SE Bush and SE 99th with curbs, sidewalks, ADA ramps and street pavement.

PBOT Project Management-Approval subject to following conditions: PWB relocate and construct new SE Bush; improves SE 100th, which is currently in substandard condition.

F. Other Considerations

BES-Approval subject to following conditions: Sump ADT375 located at the intersection of Bush St. and SE 100th Ave. will be abandoned by applicant in accordance with a public works permit; manhole ACE 546 will be relocated in RO@ by applicant; provide sanitary service to property 3733 sE 100th via work permit; stormwater run off from east side of 99th Ave. will be redirected to sed sump system ADT 389 on 99th Ave.

PWB-Approval subject to the following conditions: The existing water main in SE Bush be relocated to new Bush alignment; two fire hydrants be located at the new intersections of 99th and 100th and Bush Street; a full width easement for 100 Ave. must be provided to operate the existing water main

IV. CONCLUSIONS

Based on the above analysis, Portland Office 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.

V. STAFF RECOMMENDATION

It is recommended that the street vacation be approved as submitted.

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

VI. EXHIBITS

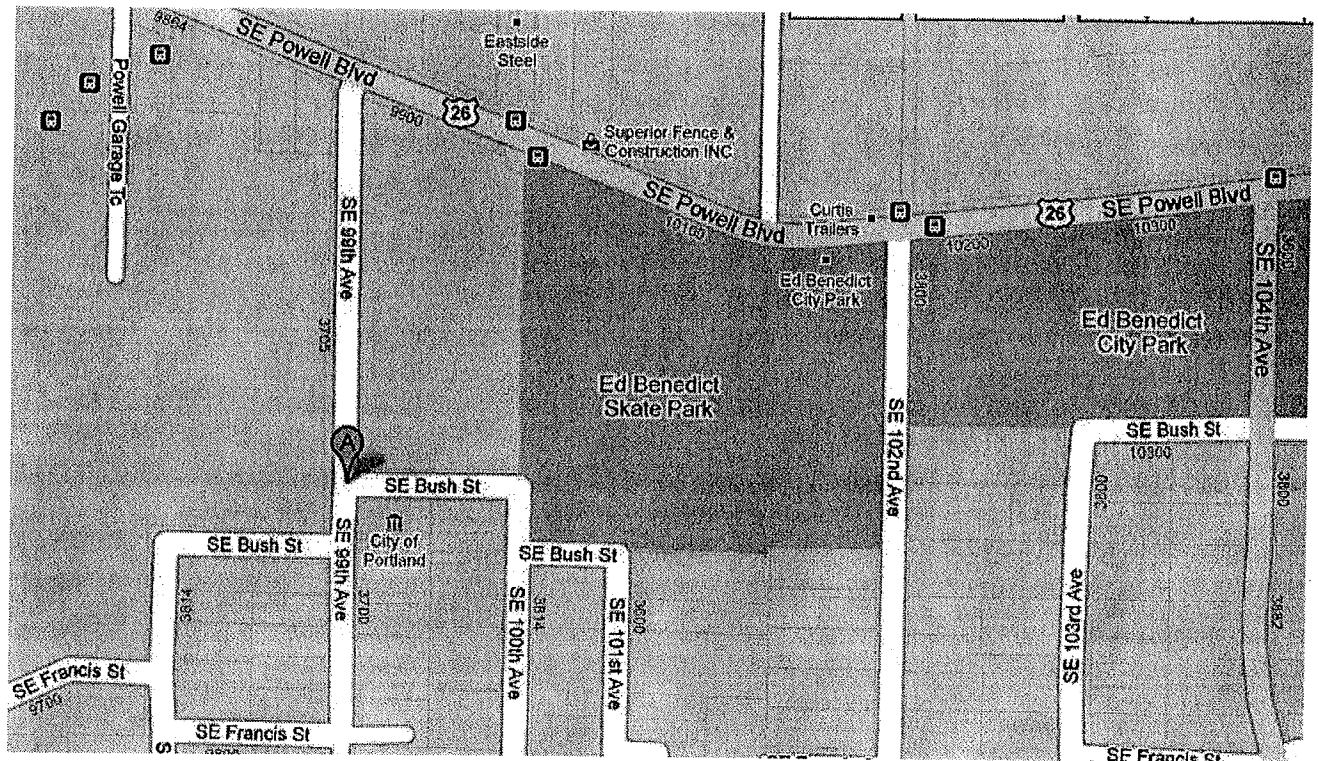
A. Area Proposed for Vacation

Staff Planner – Stuart Gwin, Phone: 503-823-7788

cc: Shoshanah Oppenheim, Right-of-Way Case Manager
John McDonald, Planning Chair, Powellhurst-Gilbert NA
Richard Bixby, Director, East Portland Neighborhood Office
Case File

Exhibit A:

Map of area surrounding the proposed vacation



In the Water Bureau's site plan shown on the next page it can be seen that the existing alignment of SE Bush St. (above) is vacated and a new SE Bush St. is constructed further to the south to allow for the expansion City's Emergency Services Center (911 call center)

