

LEGAL DESCRIPTION
RIGHT-OF-WAY VACATION
N.W. VAUGHN STREET (MAP 1N-1E-29CA)
PAUL AND CHRISTYNE MARTEN

JOB NO. 4377
4-28-10DH

A STRIP OF LAND LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 1 EAST, WILLAMETTE MERIDIAN, CITY OF PORTLAND, MULTNOMAH COUNTY, OREGON, WITH SAID STRIP BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN WARRANTY DEED TO PAUL AND CHRISTYNE MARTEN, RECORDED JULY 25, 2008 AS DOCUMENT NUMBER 2008-109683, MULTNOMAH COUNTY DEED RECORDS, SAID NORTHWEST CORNER BEING ON THE WEST LINE OF LOT 19, BLOCK 30, "WILLAMETTE HEIGHTS ADDITION TO THE CITY OF PORTLAND" A PLAT OF RECORD IN SAID MULTNOMAH COUNTY; THENCE ALONG SAID WEST LINE, S.00°00'00"W., 43.44 FEET; THENCE N.90°00'00"W., 22.03 FEET; THENCE N.00°00'00"E., 40.43 FEET TO THE SOUTHERLY LINE OF "BEA'S WOODS", A PLAT OF RECORD IN SAID MULTNOMAH COUNTY; THENCE ALONG SAID SOUTHERLY LINE, N.82°12'37"E., 22.24 FEET TO THE POINT OF BEGINNING..

THIS STRIP CONTAINS 924 SQUARE FEET, MORE OR LESS

BASIS OF BEARINGS: PRIVATE SURVEY NUMBER 47516 MULTNOMAH COUNTY SURVEY RECORDS



DATE OF SIGNATURE: 6-29-10

EXPIRES: 12/31/2010



Sam
Adams
Mayor

Tom
Miller
Director

May 8, 2012

**CITY ENGINEER'S REPORT TO CITY COUNCIL ON THE PROPOSED VACATION
OF NW VAUGHN ST. WEST OF NW 33rd AVE. (R/W #7321)**

Background

1. **Proposed Street Vacation Area.** NW Vaughn Street west of NW 33rd Avenue, said area varying in length from 40 to 43 feet long, more or less, by 22 feet wide, containing approximately 924 square feet. The area is currently improved and is more specifically depicted on Exhibit 1B attached hereto.
2. **Petitioner.** Paul and Christyne Marten are the owners of the abutting property to the east of the proposed street vacation area.
3. **Purpose.** The street vacation is proposed in order to consolidate property for future development.
4. **Compliance with Minimum Requirements.** The Petitioner has secured necessary signatures of property owners in the area, as required under ORS 271.080 (Vacation in incorporated cities; petition; consent of property owners). The Office of the City Auditor approved the required petition on May 2, 2011.
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 the Water Bureau and the Permit Engineering group of the Bureau of Transportation which requested that certain conditions be satisfied prior to the street being vacated. Additionally, PGE has requested that the street vacation ordinance reserve an easement for its existing facilities.
6. **Planning and Sustainability Commission Review.** The Planning and Sustainability Commission reviewed and approved the proposed street vacation on February 14, 2012, with its Report and Recommendation attached as Exhibit 3 hereto.
7. **Costs.** The Petitioner has paid \$8,850 to date to reimburse the City for staff costs incurred processing the street vacation request. The amount paid appears sufficient to complete the process.

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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 follows:

As described on Exhibit 1A and depicted on Exhibit 1B attached hereto and by this reference made a part hereof.

Contains 924 square feet, more or less.

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 portion of NW Vaughn Street to be vacated as shown on Exhibit 1B, and pay all costs to delineate the vacation area by constructing a curb and sidewalk or driveway, 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. Water Bureau. The Water Bureau owns and maintains certain improvements within the street area to be vacated. As a condition of street vacation approval, the Petitioner will pay the costs to relocate the public water facilities (main, meter, blow-off, etc.) out of the vacation area. The Petitioner will also provide a utility plan that indicates the location and point of connection of the private irrigation in the street median area. The point of connection must be behind the water meter (on the property side of the meter) with a backflow device and control box on private property to conform to City code. The Water Bureau will complete the work within a reasonable period of time after receiving payment from the Petitioner. 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.

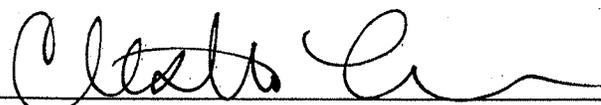
C. Costs. In the event that additional processing requirements exceed current projections, Petitioner may be required to pay additional processing costs to the City prior to the Street Vacation Ordinance being recorded.

2. Reservations and Release

A. 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. 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.

- B. **City Release.** Notwithstanding 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 the Planning and Sustainability Commission and;

RECOMMENDS:

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

Respectfully submitted,

Mayor Sam Adams

Attachments:

- Exhibit 1A, Legal Description
- Exhibit 1B, Proposed Map
- Exhibit 2, Summary of Comments
- Exhibit 3, Planning & Sustainability Commission Recommendation

EXHIBIT 1 A

LEGAL DESCRIPTION
RIGHT-OF-WAY VACATION
N.W. VAUGHN STREET (MAP 1N-1E-29CA)
PAUL AND CHRISTYNE MARTEN

JOB NO. 4377
4-28-10DH

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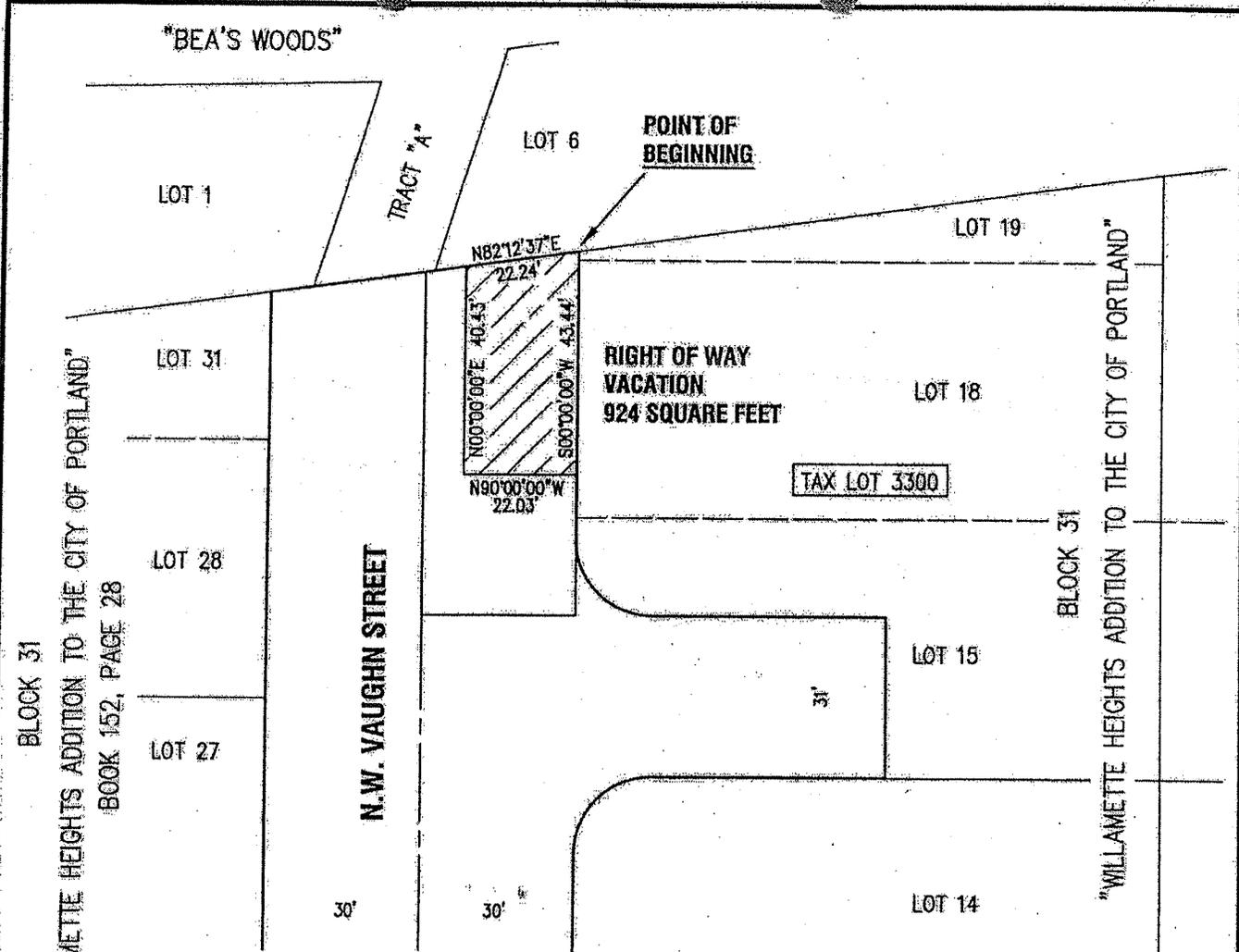
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BASIS OF BEARINGS: PRIVATE SURVEY NUMBER 47516 MULTNOMAH COUNTY
SURVEY RECORDS

REGISTERED PROFESSIONAL LAND SURVEYOR
<i>[Handwritten Signature]</i>
OREGON JULY 16, 1987 MICHAEL A. RADEMACHER 2303

DATE OF SIGNATURE: 6-29-10
EXPIRES: 12/31/2010

EXHIBIT 1 B



REGISTERED
PROFESSIONAL
LAND SURVEYOR

Michael A. Rademacher

OREGON
JULY 16, 1987
MICHAEL A. RADEMACHER
2303



Scale: 1" = 30'

DATE OF SIGNATURE: 6-29-10
EXPIRES: 12/31/2010

4377 Exp.dwg



COMPASS ENGINEERING
ENGINEERING SURVEYING PLANNING
4105 S.E. INTERNATIONAL WAY, SUITE 501
MILWAUKIE, OREGON 97131-3909

TAX LOT 3300, SW 1/4 OF SECTION 29, T.1N.,
R.1E., W.M., MULTNOMAH COUNTY, OREGON

Comments Summary

Commenting Party	Response Date	Comments / Conditions
R/W #7321 NW Vaughn St west of NW 33rd Ave RWA Project Manager: Karl Arruda Petitioner/Applicant: Paul Marten & Christine Marten Contact: Dave Galletti and Jenny Landsberg		
SAP Cost Object No: 9TR000001606		
VAC-10076		
IQ #08-165025		
City Bureaus / Depts. Notified:		
City Auditor Toni Anderson	5/2/11	Petition Certified.
PBOT Development Review Kurt Krueger	9/20/11	No objections.
Transportation Planning Stuart Gwin	9/1/11	No objections.
PBOT Permit Engineering Chon Wong 503-823-7050	8/15/11	No objection subject to the following condition: Vacation area must be delineated by curb or driveway or other marker approved by City Engineer.
PBOT Trans Systems Mgmt Carl Snyder	5/27/11	No objections.
PBOT Street Lighting Tod Rosinbum	5/31/11	No objections.
PBOT Project Management Kathryn Levine	6/8/11	No objections.
PBOT Bridges and Structures David Olongaigh	8/29/11	No objections.
Development Services Sean Williams	7/26/11	No objections.
Environmental Services Nicole Hittle	7/13/11	No objections.

Comments Summary

185523

Commenting Party	Response Date	Comments / Conditions
Water Bureau Rick Nelson 503-823-7475	9/12/11	No objections subject to the following conditions: The applicant will be required to pay for relocation of public water facilities (main, meter, blow-off, etc.) out of the vacation area. Also, if the applicant owns the irrigation in the street median, a utility plan needs to indicate it's location and point of connection. The point of connection must be behind the water meter (on the property side of meter) with a backflow device and control box on private property to conform to city code.
Fire Bureau Rick Aragon	7/5/11	No objections.
Park Bureau Robi Potter	6/27/11	No objections.
Urban Forestry Division Luke Miller	5/31/11	No objections.
Planning & Sustainability Commission	2/14/12	No objections.
Neigh Assoc Notified:		
NW District Assoc. John Bradley, Land Use/Planning (503) 313-7574	9/14/11	Mr. Bradley called 6/1/2011 to ask why the proposal was for only 1/2 the street. I explained the proposal and emailed a photo. I followed up to see if he had further questions. He did not.
Neighbors West / NorthWest Mark Sieber, Exec Dir.		No response.
Local Agencies Notified:		
ODOT Region 1 Tamara Patrick		No response.
Port of Portland Brian Shelden		No response.
TriMet John Baker		No response.

Comments Summary

185523

Commenting Party	Response Date	Comments/ Conditions
Public Utilities Notified:		
PGE Ted Powell 503-464-8120	6/9/11	Have facilities in street area; reserve easement.
Pacific Power Tom Kikes		No response.
Qwest Lynn M. Smith	6/20/11	No facilities in street area.
Northwest Natural Robin VanDeurzen, GIS Tech	6/2/11	No facilities in street area.
Comcast Cable Coax & Fiber Design		No response.



Sam
Adams
Mayor

Tom
Miller
Director

PLANNING COMMISSION REPORT AND RECOMMENDATION TO THE CITY COUNCIL

FILE NUMBER: R/W #7321

Commission Meeting to be held 12:30 PM, February 14, 2012

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

I. GENERAL INFORMATION

Street Vacation Request: NW Vaughn St. west of NW 33rd Ave.

Petitioner: Street vacation initiated by Paul and Christyne Marten. The Petitioner's representative is Dave Giulietti, Giulietti/Schouten AIA architects PC, 2800 NW Thurman St., Portland, OR 97210, 503-223-0325, daveg@gsarchitects.net

Purpose: Purpose of the vacation is to consolidate property for future development

Neighborhood: Northwest District Association
John Bradley, Land Use/Planning Chairperson
c/o Neighbors West/NorthWest
2257 NW Raleigh St.
Portland, OR 97210
503-313-7574
bradleyj@ohsu.edu

Neighbors West/Northwest
Mark Sieber, Executive Director
2257 NW Raleigh St.
Portland, OR 97210
503-823-4288
mark@nwnw.org

Quarter Section: 2825

II. FACTS

A. History and Background

Applicant would like to consolidate property for future development

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B. Concurrent land use actions

There are no concurrent land use actions.

C. The Transportation Element

The Transportation Element is silent on cases involving local streets or alleys.

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.

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 with the following conditions.

PDOT Engineering: Vacation area must be delineated by curb or driveway or other marker approved by the City Engineer.

Water Bureau: The applicant will be required to pay for relocation of public water facilities (main, meter, blow-off, etc.) out of the vacation area. Also if the applicant owns the irrigation in the street median, a utility plan needs to indicate its location and point of connection. The point of connection must be behind the water meter (on the property side of the meter) with a backflow device and control box on private property to conform to city code.

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.

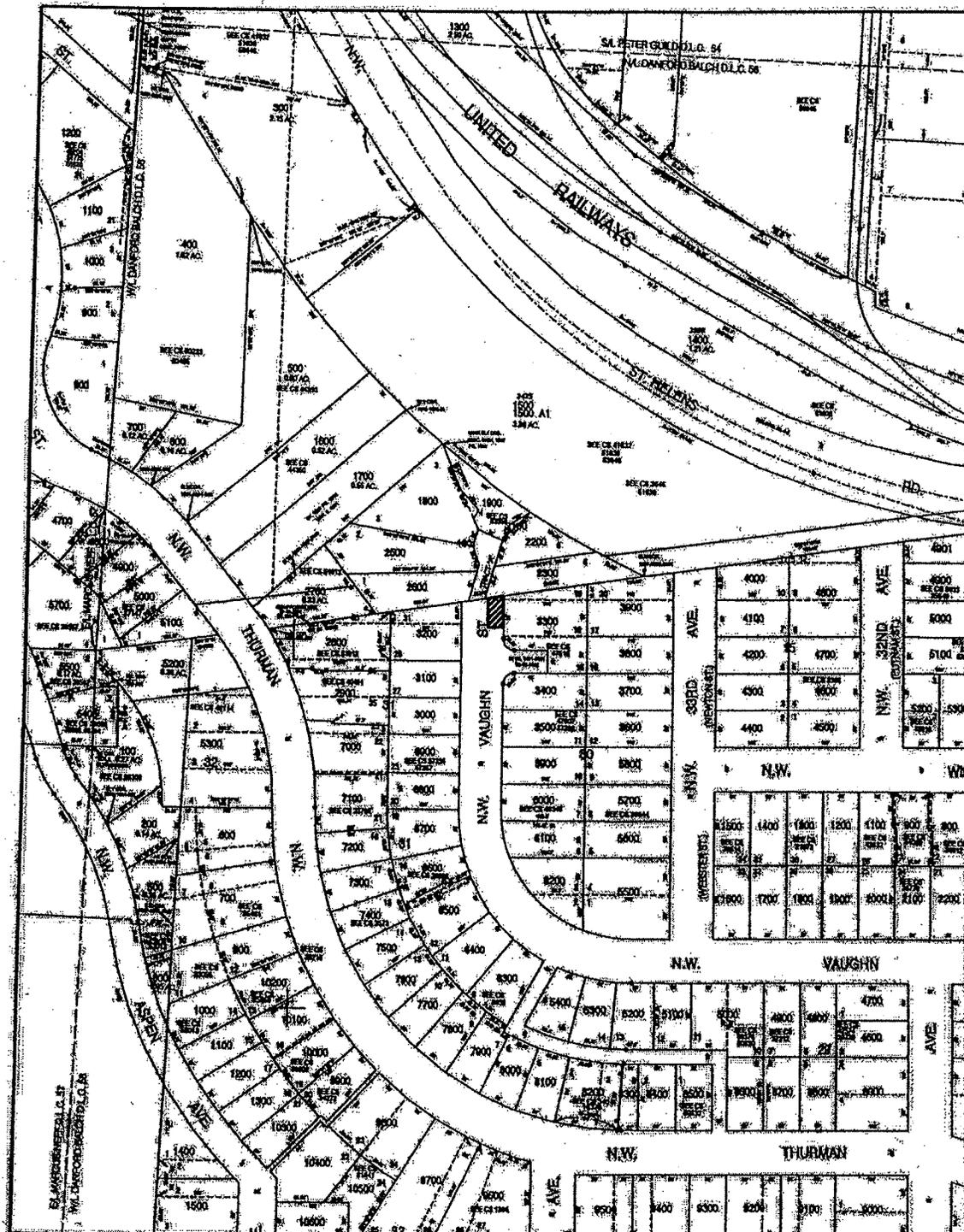
VI. EXHIBITS

Exhibit 1: Area Proposed for Vacation

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

cc: Karl Arruda, Right-of-Way Case Manager
John Bradley, Land Use/Planning, Chairperson, Neighbors West/Northwest
Mark Sieber, Executive Director, Neighbors West/Northwest
Case File

Exhibit 1: Shown on following page



NW VAUGHN STREET

Petitioners: Paul and Christy Marten

 Area Proposed for Vacation

1/4 Section: 2825 Section: 1N1E29CA


 Scale: 1" = 200'