

## IMPACT STATEMENT

**Legislation title:** Vacate a portion of NW 101<sup>ST</sup> Ave south of NW Thompson Rd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10104)

**Contact name:** Lance D. Lindahl, PBOT Right-of-Way Acquisition

**Contact phone:** 503-823-7465

**Presenter name:** Lance D. Lindahl

### **Purpose of proposed legislation and background information:**

The purpose of this legislation is to vacate a portion of NW 101<sup>ST</sup> Avenue south of NW Thompson Road as recommended in the City Engineer's Report.

A petition to vacate the easterly 25 feet of a portion of NW 101<sup>ST</sup> Avenue was initiated by Elizabeth J. Denney (the "Petitioner"). The Petitioner owns the adjacent property to the west of the vacation area and is represented by Joseph E. McDowell.

The Forest Heights Homeowners' Association owns the abutting property to the east of the vacation area in the street vacation ordinance. All of the vacation area will revert to them and they have stated support for the vacation as proposed.

NW 101<sup>ST</sup> Avenue has a total width of 50 feet. The westerly 25 feet of the street is located outside of the City of Portland limits and is under the jurisdiction of Multnomah County. This portion of street is currently being vacated through the Road Vacation process under Multnomah County Code Section 5.10.225. The westerly 25 feet of the street will revert back to the Petitioner upon approval of the vacation by City Council.

NW 101<sup>ST</sup> Avenue south of NW Thompson Road provides local access to area residents and does not connect to any other public rights-of-way. The street area is not improved to current City standards and is therefore not maintained by the City. Most of the area proposed for vacation is not open to vehicle traffic due to the presence of a steep slope, poor stormwater drainage, and vegetation.

The street vacation is proposed in order to consolidate property and for the Petitioner to better restrict trespassing onto their property.

The Planning and Sustainability Commission ("PSC") reviewed and approved the proposed street vacation on February 23, 2016. An Engineer's Report was completed on March 8, 2016, recommending approval of the street vacation subject to certain conditions and reservations. The Report, inclusive of the PSC's recommendation, is attached.

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 below the low end of the range and is estimated (with moderate confidence) to be approximately \$6,200.

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 9TR000002217. The revenue and expenses are occurring in FY 2015-16.

This legislation does not affect staffing levels nor result in a new or modified financial obligation or benefit now or in the future.

If City Council does not approve the ordinance, the area proposed for vacation will remain as public right-of-way and the Petitioner will continue to have limited options for restricting trespassing onto their property.

**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 in the area proposed for vacation.

Comments were solicited from City Bureaus, government agencies, public utilities and affected neighborhood associations in Northwest Portland. The University Park Neighborhood Association submitted a letter of support for the vacation. No substantive objections were received.

The Planning and Sustainability Commission ("PSC") advertised and then held a public hearing on February 23, 2016. No one from the public came forward to testify in support or opposition of the vacation and the PSC ultimately approved the vacation request.

There do not appear to be any other impacts to the community from vacating this right-of-way. 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](mailto:toni.anderson@portlandoregon.gov).

**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 4-20-16

# 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](http://www.portlandoregon.gov/transportation)

Steve Novick Commissioner Leah Treat Director

BACKGROUND INFORMATION

\*\*\*ONLY\*\*\*

ADDITIONAL DOCUMENT

187750

March 8, 2016

## CITY ENGINEER'S REPORT TO CITY COUNCIL ON THE PROPOSED VACATION OF NW 101<sup>ST</sup> AVENUE SOUTH OF NW THOMPSON ROAD. (R/W #8040)

### Background

1. **Proposed Street Vacation Area.** A portion of NW 101<sup>st</sup> Avenue south of NW Thompson Road, said area being approximately 262 feet long by 25 feet wide, containing approximately 6,550 square feet. The area is currently unimproved.

The proposed vacation area is more specifically described on Exhibit A and depicted on Exhibit B attached hereto.

NW 101<sup>st</sup> Avenue is currently 50 feet wide in total. The westerly 25 feet of the street is located outside of the City of Portland's jurisdiction. This portion of street is under the jurisdiction of Multnomah County and is currently being vacated through their Road Vacation process under County Code Section 5.10.225.

Multnomah County's Department of Community Services is supportive of the vacation of NW 101<sup>st</sup> Avenue. Final approval by the County will occur after a public hearing is held and a vote of support is taken by the County Commission. Dates for these actions will be scheduled once the City votes to support the vacation of that portion of NW 101<sup>st</sup> Avenue under its jurisdiction.

2. **Petitioner.** Elizabeth J. Denney (the "Petitioner") is serving as the Petitioner on this vacation request. The Elizabeth J. Denney Trust dated March 18, 2011 is the owner of the property to the west of the proposed street vacation area. The property abutting the vacation area to the east is owned by the Forest Heights Homeowners' Association and the proposed area to be vacated by the City of Portland will revert entirely to said association.
3. **Purpose.** The street vacation is proposed in order to consolidate property and to restrict trespassing on the Petitioner's property. No redevelopment of the adjacent properties is planned at this time.



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.



4. **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 November 2, 2015.
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 C hereto.
6. **Planning and Sustainability Commission Review.** The Planning and Sustainability Commission reviewed and approved the proposed street vacation on February 23, 2016, with its Report and Recommendation attached as Exhibit D hereto.
7. **Costs.** The Petitioner has paid \$5,000 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 and estimated cost forward to bring the project through City Council, total \$5,575. The Petitioner will be expected to submit sufficient funds to complete the vacation process as stated in the attached letter.

#### **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 A and depicted on Exhibit B attached hereto and by this reference made a part hereof.

Contains 6,550 square feet, more or less.

#### **Conditions, Reservations and Releases**

1. **Conditions.** The following condition must be satisfied by the Petitioner prior to the Ordinance being recorded by the City and thereby considered effective:

- A. **Costs.** In accordance with Item 7 in the Background section above, the estimated administrative cost for completing the street vacation process is \$5,575, of which \$5,000 has been paid to date. Petitioner will remit \$575 to the City prior to the scheduled City Council hearing. 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 Ordinance being recorded.

## 2. Reservations and Release

- A. 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 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 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 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,

Commissioner Steve Novick

**Attachments:**

Exhibit A, Legal Description of Proposed Vacation Area

Exhibit B, Map of Proposed Vacation Area

Exhibit C, Comments Summary

Exhibit D, Planning & Sustainability Commission Recommendation

187750

# CASWELL / HERTEL SURVEYORS, INC.

Professional Land Surveyors  
[info@chsurveyinc.com](mailto:info@chsurveyinc.com)

• 6150 S.W. 124<sup>th</sup> Avenue •  
Beaverton, Oregon 97008-4724

Telephone 503/644-3179  
Fax 503/644-3190

## EXHIBIT "A"

### LEGAL DESCRIPTION FOR EAST HALF NW 101st AVE STREET VACATION

A TRACT OF LAND, BEING A PORTION OF NW 101ST AVE, IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 1 NORTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, MULTNOMAH COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST NORTHERLY CORNER OF THAT PROPERTY CONVEYED TO THE ELIZABETH J. DENNEY TRUST AS DESCRIBED IN DEED RECORDED IN DOCUMENT NO. 2011-034916; THENCE S17°46'30"E ALONG THE CENTERLINE OF SAID ROAD 19.07 FEET TO THE TRUE POINT OF BEGINNING; THENCE N59°03'45"E 25.67 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF SAID ROAD; THENCE S17°46'30"E ALONG SAID RIGHT-OF-WAY LINE 49.98 FEET TO AN ANGLE POINT IN SAID RIGHT-OF-WAY; THENCE S13°05'30"E ALONG SAID RIGHT-OF-WAY 215.96 FEET TO THE TERMINUS OF SAID RIGHT-OF-WAY; THENCE S76°54'30"W ALONG SAID TERMINUS 25.00 FEET TO THE CENTERLINE OF SAID ROAD; THENCE N13°05'30"W 214.94 FEET TO AN ANGLE POINT IN SAID CENTERLINE; THENCE N17°46'30"W ALONG SAID CENTERLINE 43.11 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 6550 SQUARE FEET. REFERENCE IS MADE TO COUNTY SURVEY NUMBER 34854 AND BY THIS REFERENCE IS MADE A PART HEREOF.

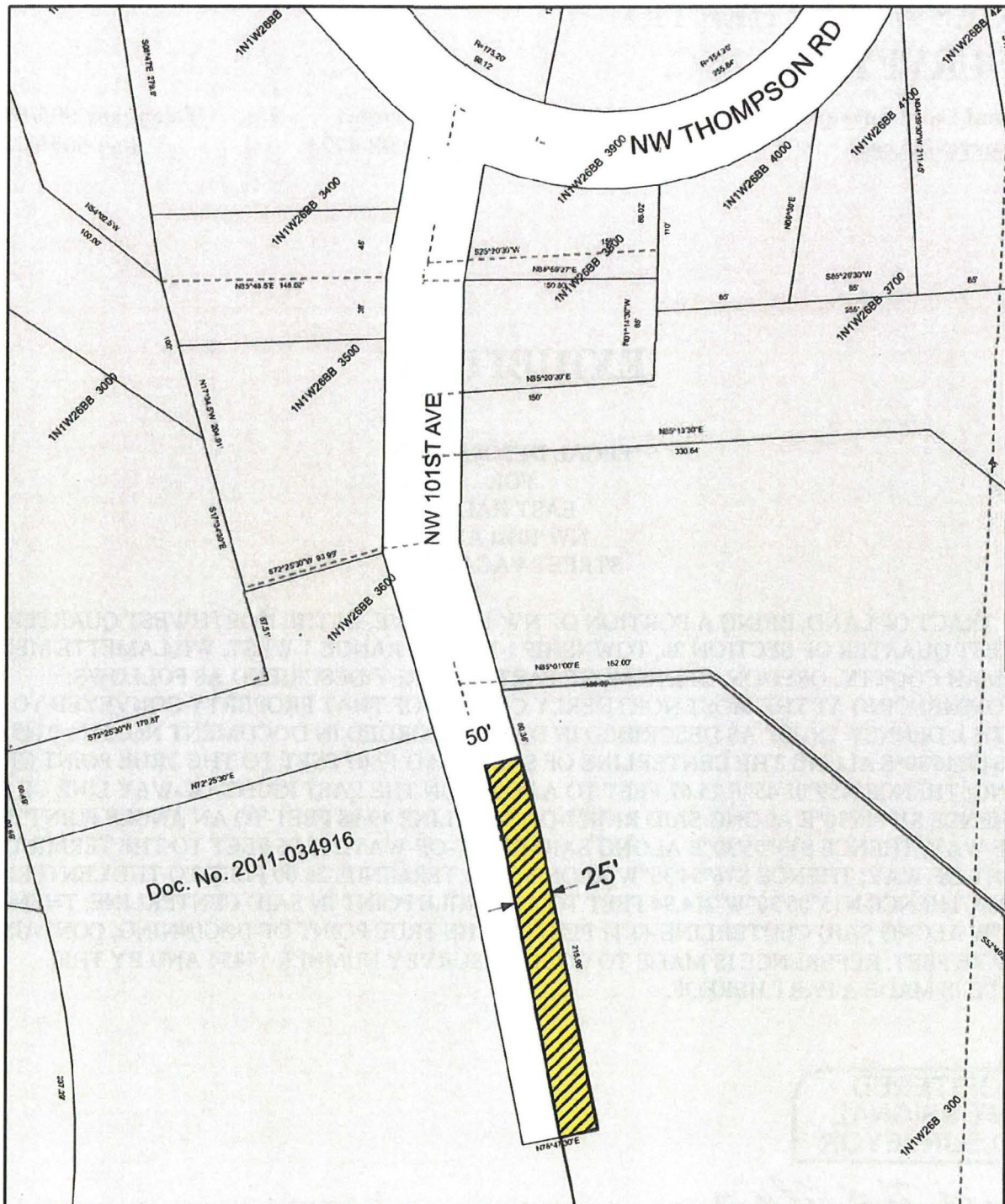
REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Albert Hertel 8-7-14*

OREGON  
JULY 18, 1980  
ALBERT HERTEL  
1896

RENEWAL DATE: 6/30/2015





## NW 101st Avenue south of NW Thompson Street

Petitioner: Elizabeth J. Denney

 Area Proposed for Vacation

R/W: 8040    1/4 Section: 2719    Section: 1N1W26B



1 inch = 100 feet

EXHIBIT C  
Comments Summary

187759

<b>R/W #8040</b> <b>NW 101ST Avenue south of</b> <b>NW Thompson Road</b>	<b>RWA Project</b> <b>Manager:</b> <b>Lance Lindahl</b>	<b>Petitioner/Applicant: Elizabeth J. Denney</b>
<b>SAP Cost Object No.:</b> <b>9TR000002217</b>		<b>Contact: Joseph E. McDowell</b>
<b>VAC-10104</b>		<b>3131 NW 101ST Avenue</b>
<b>IQ # 10-152516</b>		<b>Portland, OR 97229</b>
		<b>Phone : 503-730-5636</b>
<b>Commenting Party</b>	<b>Response Date</b>	<b>Comments / Conditions</b>
<b>City Bureaus / Depts. Notified:</b>		
City Auditor Toni Anderson	11/2/15	Petition Certified
PBOT Development Review Bob Haley	1/7/16	No objection.
Transportation Planning Grant Morehead	12/21/15	No objection.
PBOT Permit Engineering Chon Wong	1/7/16	No objection.
PBOT Trans Systems Mgmt Carl Snyder	12/30/15	No objection.
PBOT Bridges and Structures David O'Longaigh	1/6/16	No objection.
Development Services Brandon Rogers	12/28/15	No objection.
Development Services David Kuhnhausen	12/1/15	No objection.
Environmental Services Melanie Gualotunia/Sue Williams	12/23/15	No objection.
Water Bureau Rick Nelson	12/29/15	No objection.
Fire Bureau Kari Schmiel	12/1/15	No objection.
Tualatin Valley Fire & Rescue Drew S. DeBois	6/6/14	No objection.
Parks & Recreation Ryan Sablan	12/28/15	No objection.

## Comments Summary

Commenting Party	Response Date	Comments / Conditions
Urban Forestry Division Luke Miller	12/30/15	No objection.
BTS Mapping Paul Cone	12/1/15	No objection.
PBOT Street Lighting Dan Spoelstra	12/10/15	No objection.
Planning & Sustainability Commission	2/23/16	Approved.
<b>Neigh Assoc Notified:</b>		
Northwest Heights Patrick Jones, Chair		No response.
Neighbors West/Northwest Peter Stark, Chair		No response.
<b>Local Agencies Notified:</b>		
ODOT Region 1 Jon Makler	12/2/15	No objection.
Port of Portland Phil Healy	12/1/15	No objection.
TriMet Nick Stewart	12/1/15	No objection.
<b>Public Utilities Notified:</b>		
PGE Jennifer Stephens	12/3/15	No facilities in street area.
Pacific Power Right-of-Way Manager	12/1/15	No facilities in street area.
CenturyLink Tommy Sassone	12/16/15	No objection.
Northwest Natural Richard Hawkes	12/3/15	No facilities in street area.
Comcast Cable Walter Banks	12/1/15	No facilities in street area.

# 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](http://www.portlandoregon.gov/transportation)

Steve Novick Commissioner Leah Treat Director

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

CONSENT AGENDA ITEM HEARD FEBRUARY 23, 2016

FILE NUMBER: R/W #8040

### I. GENERAL INFORMATION

**Street Vacation Request:** R/W #8040, NW 101<sup>st</sup> Ave south of NW Thompson Road

**Petitioner:** Elizabeth Denney, represented by Joseph McDowell. Mr. McDowell can be reached at 503-730-5636.

**Purpose:** The purpose of the vacation is to consolidate the street area with her abutting property and to eliminate an attractive nuisance.

**Neighborhood:** Northwest Heights; contact is Patrick Jones ([pandsjones@comcast.net](mailto:pandsjones@comcast.net))

**Quarter Sections:** 2719

**Designation/Zone:** R10 (Residential 10,000). The site is within the Northwest Hills Plan District – Skyline Subdistrict.



*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) 822-6868, or use Oregon Relay Service: 711.*



## **II. EXECUTIVE SUMMARY AND RECOMMENDATION**

The purpose of the vacation is to consolidate the street area with her abutting property and to eliminate an attractive nuisance. The Planning and Sustainability Commission recommends **APPROVAL** of the street vacation request.

## **III. FACTS**

### **A. History and Background**

This portion of NW 101st Avenue is unmaintained right-of-way that does not contribute to the larger transportation network. It provides access only to the two abutting properties owners. The area is steeply graded, has no boundary markers, and is unsuitable for vehicle traffic.

The jurisdiction of NW 101st Avenue is split between Multnomah County and the City of Portland. The west half will be vacated by the County concurrently with the City's process of vacating the east half.

### **B. Concurrent Land Use Actions**

There are no land use actions that are concurrent with this street vacation request.

### **C. The Transportation Element**

NW 101<sup>st</sup> is not classified in the transportation element of the Comprehensive Plan.

### **D. Neighborhood Plan**

There is no Neighborhood Plan.

## **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: NW 101<sup>st</sup> at this location is an unimproved street that dead-ends at the Petitioner's residential property. It does not provide a connectivity function.*

**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: NW 101<sup>st</sup> at this location is an unimproved street that dead-ends at the Petitioner's residential property. The proposed vacation will not affect the function of nearby streets.*

**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, E and N 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.

N. Preserve street connectivity in areas of the City that meet the standards of this policy and its objective as shown on Maps 11.11.9 through 11.11.16.

*Comment: Per Objectives D and E, topography makes development of an interconnected street network at this location unfeasible.*

*Per Objective N, the area of the proposed vacation is shown on Northwest District Map 11.11.15 as not meeting the street spacing standard. The property is on the edge of the City boundary and due to topography will not support a street network.*

**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: The right-of-way provides local access only. There are no existing or potential pedestrian routes at this location.*

**B. Neighborhood Plan Considerations**

*Comment: There are no neighborhood plan considerations.*

**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.*

**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 objection.

#### **F. Improvement and Utility Considerations**

The street vacation request was reviewed by Portland Bureau of Transportation (PBOT) for conformance with standards for street improvements. No objections to the proposed vacation were raised.

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

- The Bureau of Environmental Services responded with no objection.
- The Portland Water Bureau responded with no objection.
- Portland Fire and Rescue responded with no objection.
- Tualatin Valley 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.
- ODOT responded with no objection.
- The Port of Portland responded with no objection.
- TriMet responded with no objection.
- PGE responded with no objection.
- Pacific Power responded with no objection.
- CenturyLink responded with no objection.
- Northwest Natural responded with no objection.
- Comcast responded with no objection.

#### **G. Neighborhood Issues**

Notice of this street vacation request was provided to the Northwest Heights Neighborhood Association and Neighbors West/Northwest. No responses were received.

#### **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 COMMISSISON RECOMMENDATION**

As a consent agenda item on February 23, 2016, the Planning and Sustainability Commission recommended **APPROVAL** of the vacation of the area as shown on Exhibit 1.

**VII. EXHIBITS**

1. Area proposed for vacation
2. South-facing view of area proposed for vacation.

Bureau of Transportation Staff Planner  
Grant Morehead, AICP  
503/823-9707  
Grant.Morehead@portlandoregon.gov

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

EXHIBIT 1

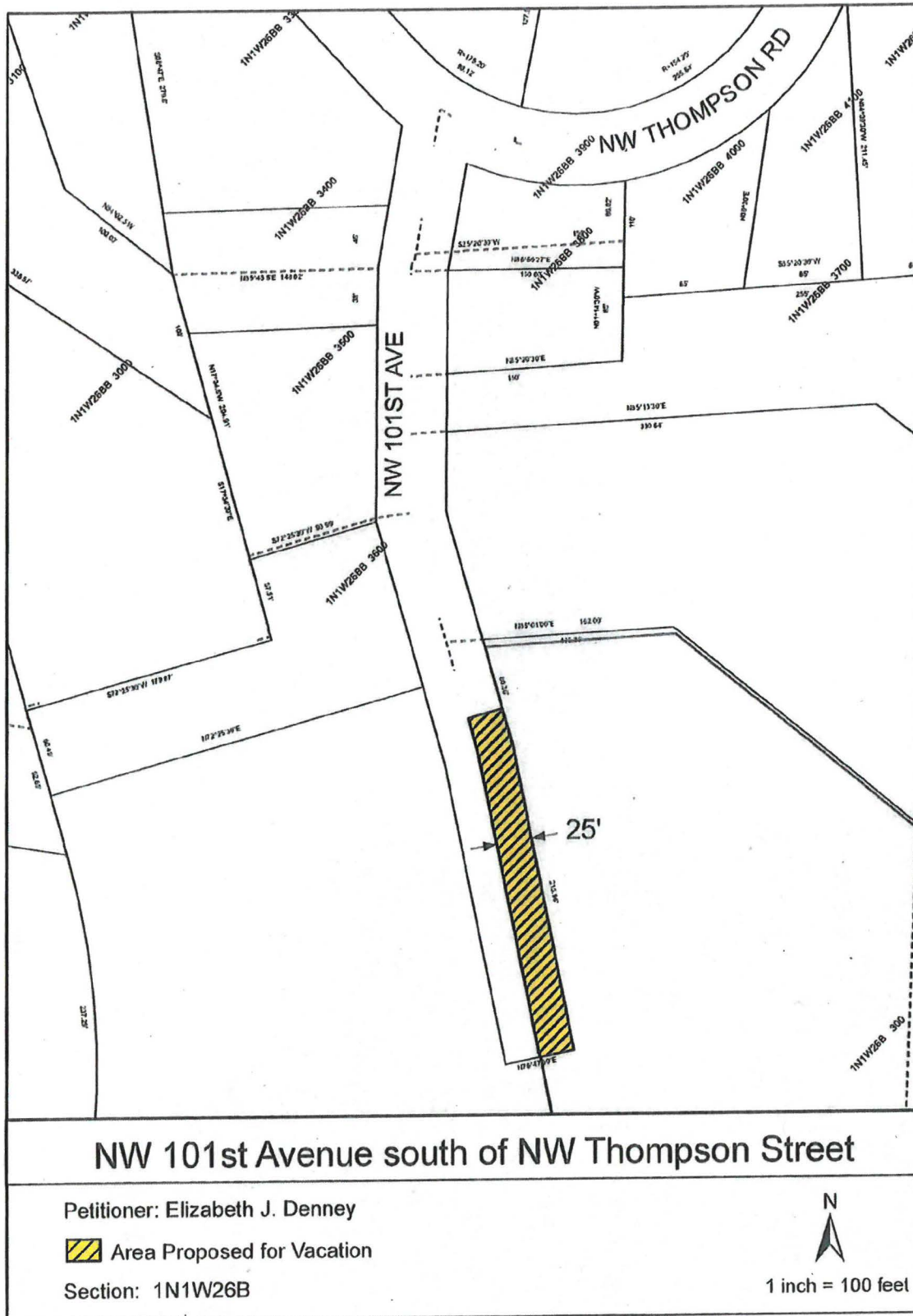


Exhibit 2



187750