



CITY OF ST. HELENS PLANNING DEPARTMENT

MEMORANDUM

TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner
RE: Vacation of right-of-way related to the city's proposed public safety facility
DATE: May 2, 2022

I've been thinking about this vacation for months and wanted to get it done before other permitting for the public safety facility commences later this year. Because of workload, it was difficult to have time to work on it earlier in the year.

Once the smoke cleared some, briefly, I realized time was ticking. I wanted to get this to the Council's second meeting in May, so the Commission could look at it in advance, but there are already too many things on the books for that date. So, the Council's hearing will be May 4, 2022 (and may be past tense by the time you read this).

The Commission packets are due around the same time as the Council meeting, so my intent is to present the issue to you as an FYI-post-Council-hearing item. I don't expect controversy or any tough decisions for the Council where the Commission's recommendations would be of enhanced value for the Council's consideration.

This will be educational and still important since you will be reviewing the Conditional Use Permit for the public safety facility later this year.

**CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
VAC.1.22**

DATE: April 26, 2022
TO: City Council
FROM: Jacob A. Graichen, AICP, City Planner
PETITIONER: City of St. Helens by City Council Motion
PROPOSAL: Vacation of public right-of-way described as follows:

The entire 7th Street right-of-way of the South St. Helens addition to St. Helens, Oregon, lying northeast of the Kaster Road right-of-way; and

The extension of the S. 16th Street right-of-way, lying south of the East Street right-of-way within the St. Helens Subdivision, St. Helens, Columbia County, Oregon, as dedicated by Columbia County Deed Book 272, Page 970.

The purpose of this vacation is to increase the developable area for the city's new public safety facility to avoid constraints such as the 100-year floodplain.

PUBLIC HEARING & NOTICE

Hearing date: May 4, 2022 before the City Council

Notice of this proposed street vacation was Published in the Chronicle on April 20, 2022 and April 27, 2022. Staff posted a copy of the notice at or near each end of the proposed street vacation areas on April 20, 2022.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

SHMC 17.32.030(5): Whenever any street is lawfully vacated, and when the lands within the boundaries thereof attach to and become a part of lands adjoining such street, the lands formerly within the vacated street shall automatically be subject to the same zoning district designation that is applicable to lands to which the street attaches.

SHMC 17.136.220—Vacation of Streets: All street vacations shall comply with the procedures and standards set forth in ORS Chapter 271 and applicable local regulations.

Discussion: The above two excerpts are the only places where vacations are specifically mentioned in the St. Helens Municipal Code. The Municipal Code does not set forth any additional approval criteria other than those per State law below.

Oregon Revised Statutes, ORS 271.120 – Street Vacation Approval Criteria

... the governing body shall hear the petition and objections and shall determine whether the consent of the owners of the requisite area has been obtained, whether notice has been duly given and whether the public interest will be prejudiced by the vacation of such plat or street or parts thereof. If such matters are determined in favor of the petition the governing body shall by ordinance make such determination a matter of record and vacate such plat or street; otherwise it shall deny the petition. The governing body may, upon hearing, grant the petition in part and deny it in part, and make such reservations, or either, as appear to be for the public interest.

When a vacation is based on a council's own motion pursuant to ORS 271.130 instead of a citizen petition, as in this case, some of the approval criteria differ from above.

Oregon Revised Statutes, ORS 271.130(1)

The city governing body may initiate vacation proceedings authorized by ORS 281.080 (Vacation in incorporated cities) and make such vacation without a petition or consent of property owners. Notice shall be given as provided by ORS 271.110 (Notice of hearing), but such vacation shall not be made before the date set for the hearing, nor if the owners of a majority of the area affected, computed on the basis provided in ORS 271.080 (Vacation in incorporated cities), object in writing thereto, nor shall any street area be vacated without the consent of the owners of the abutting property if the vacation will substantially affect the market value of such property, unless the city governing body provides for paying damages. Provisions for paying such damages may be made by a local assessment, or in such other manner as the city charter may provide.

Findings:

- **Have there been any objections or other comments submitted regarding this request?**

No objections received. No comments received.

The city did communicate with Columbia River PUD (CRPUD) since their power lines are within the area to be vacated.

- **Did the city council approve a motion to initiate this request (instead of the petition and consent method)?**

The City Council approved a motion to initiate vacation of right-of-way as described herein at their April 6, 2022 Regular Session.

- **Have the owners of a majority of the area affected, computed on the basis provided in ORS 271.080 (Vacation in incorporated cities), object in writing?**

Pursuant to ORS 271.080(2), the affected area is an area 200 feet parallel to and on both sides of the portion of street r.o.w. to be vacated and 400 feet along its course beyond each terminus of the portion of street r.o.w. to be vacated.

Due to extensive city ownership of the affected area, it is impossible for other owners of the affected area to be a majority.

- **Is there any evidence that the vacation will substantially affect the market value of abutting property, and if so, has consent from abutting property owners been obtained unless the city provides for paying damages?**

All abutting property is owned by the City of St. Helens.

- **Has notice been duly given?**

Notice requirements are set forth by ORS 271.110. This requires published notice to occur once each week for two consecutive weeks prior to the hearing and posted notice within five days after the first date of published notice. The posting and first day of publication notice is required to be at least 14 days before the hearing. The notice requirements have been met (see PUBLIC HEARING & NOTICE above).

Photos of posted notices:



- **Will the public interest be prejudiced by the proposed street vacation?**

Consideration of this vacation now benefits from previous efforts. First, the city adopted a parcelization framework plan (via Resolution No. 1910 in January 2021) to help guide land divisions, and street and utility locations for the St. Helens Industrial Business Park at large. This plan does not show the proposed rights-of-way being needed for street or road purposes.

The city also had an existing conditions survey done that was completed in November 2021. There are no street/road improvements within the ROW proposed to be vacated, but there is public storm, public sanitary sewer and overhead power. Both sanitary sewer and power fall within the 7th Street ROW, but veer southward outside of the ROW due to a rock bluff.

Since the property is to remain in city ownership given the proposed public safety facility, easements are not necessary for the storm or sanitary sewer lines, which the city manages.

The overhead power line belongs to CRPUD. There is a 16' wide easement for the powerline from 1989 (Instrument No. 89-1920) that lies outside the ROW. Per CRPUD, these poles have a primary line that creates a loop to S. 15th Street. Such a line could require larger equipment like bucket trucks for maintenance and CRPUD is requesting a 50' wide easement centered on the line.

The public safety facility will include lands to N. 15th because as a "critical facility" per Chapter 17.46 SHMC, Floodplains and Floodways, it will need to have access outside of the special flood hazard area and the intersection of S. 15th Street and Old Portland Road is the closest intersection accessible by the facility along a major street outside of the floodplain. The 50' easement desired by CRPUD would need to be for the entire utility between Kaster Road and S. 15th Street.

CRPUD notes that the pole locations may need to move because of the site design for the public safety facility. It is logical for the easement to be done as part of the public safety facility efforts (i.e., as a condition of land use approval). However, things can change beyond the scope of the Council's decision pertain to this ROW vacation. So, the requirement should be more general as a condition of development of abutting land.

CONCLUSION & RECOMMENDATION

Based upon the facts and findings herein, staff recommends the City Council grant the street vacation with the provision that a 50' wide easement be granted that follows the power line, as may be relocated due to development plans, between Kaster Road and S. 15th Street as a condition of land use approval to develop property that abuts the vacated right-of-way.

Attachments: Memo to Council RE Initiation of ROW vacation by motion (pg. 1 with council approval stamp and pg. 2 with physical posting notes).

Posted notice
Affected area exhibit
Phase exhibit from SHIBP Parcelization Framework Plan
Existing utilities and area proposed to be vacated map
Existing conditions survey (reduced)



CITY OF ST. HELENS PLANNING DEPARTMENT

MEMORANDUM

TO: City Council
FROM: Jacob A. Graichen, AICP, City Planner
RE: Initiation of public right-of-way vacation by motion for dedication related to the proposed public safety facility
DATE: March 28, 2022

At your April 6, 2022 regular session staff is requesting that the council initiate vacation of certain right-of-way by motion.

The motion would be:

COUNCIL APPROVED
Date: 4/6/22
Initials: KP

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“To initiate public right-of-way vacation proceedings pursuant to ORS 271.130 to vacate two street segments:

The entire 7<sup>th</sup> Street right-of-way of the South St. Helens addition to St. Helens, Oregon, lying northeast of the Kaster Road right-of-way; and

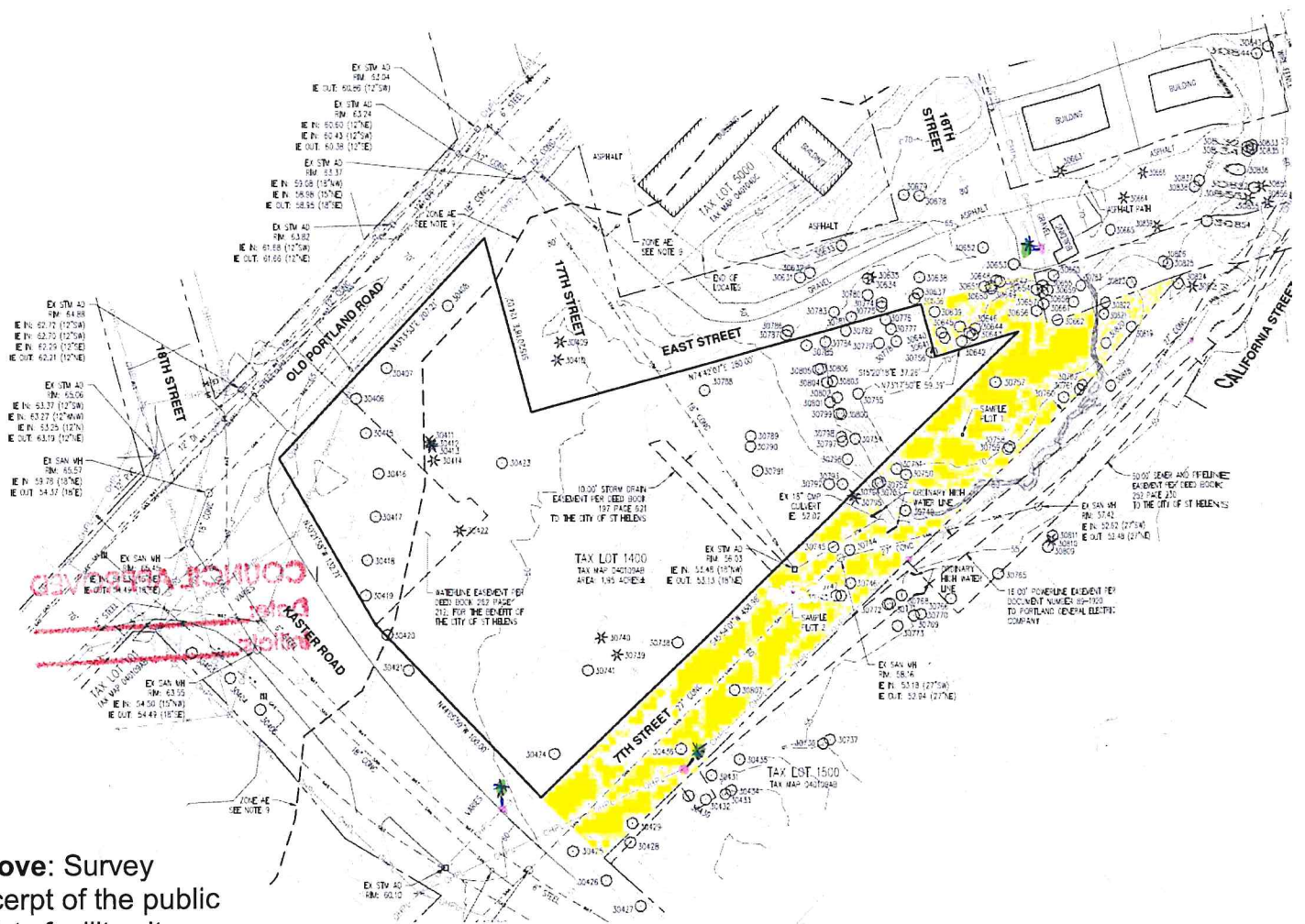
The extension of the S. 16<sup>th</sup> Street right-of-way, lying south of the East Street right-of-way within the St. Helens Subdivision, St. Helens, Columbia County, Oregon, as dedicated by Columbia County Deed Book 272, Page 970.”

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This does not effectuate the vacation. Rather this is an option a local government has, to initiate a vacation without a petition and consent of property owners (i.e., the normal method) under ORS 271.080. Public notice and a public hearing are still required and would be done after an approved motion to initiate. This does not circumvent a public process.

The area is needed for the **public** safety facility proposed at the site, a **public** project for a **public** facility. Moreover, all land abutting the areas proposed to be vacated is owned by the city (**publicly** owned). Given the **public** nature of ownership and the project, this is an appropriate basis for the council to initiate vacation of right-of-way by motion.

At your regular session, someone please make the motion noted above and vote per your normal procedures. If the motion passes, staff can continue this effort.

The area proposed to be vacated and a draft of the public facility site plan is on the following page:

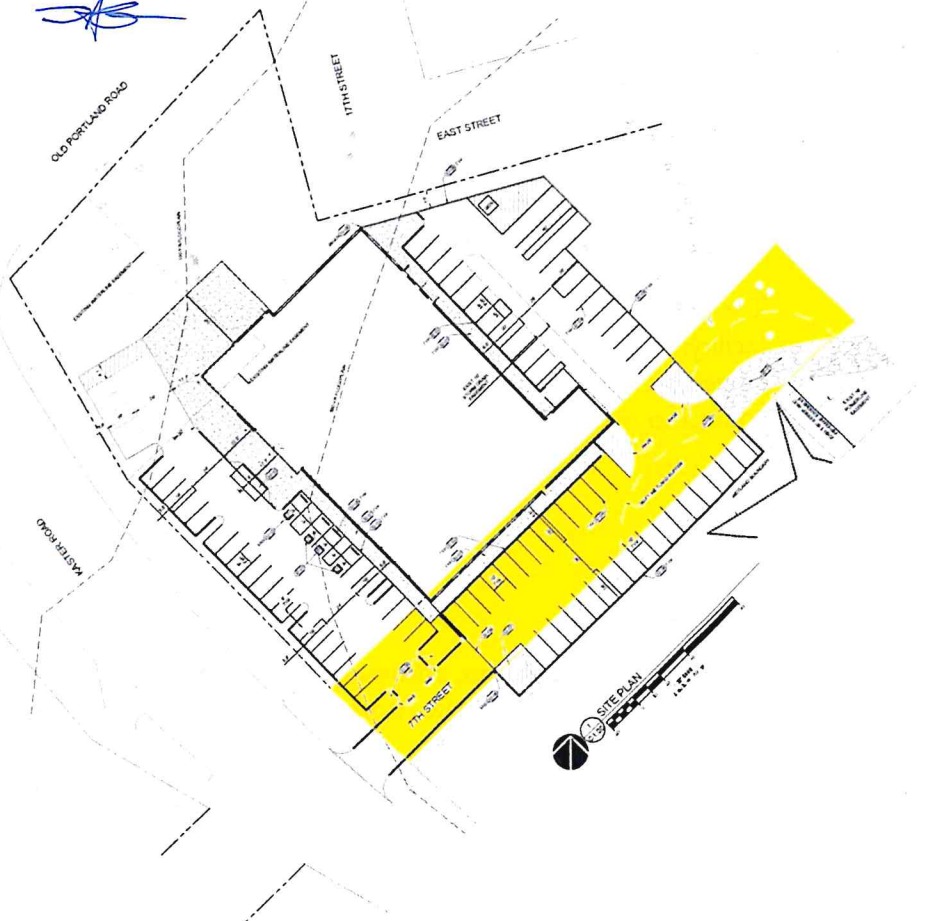


Above: Survey excerpt of the public safety facility site. The public rights-of-way proposed to be vacated are highlighted yellow.

* NOTICE POSTED
ON
4.20.2022
[Signature]

Right: A recent draft site plan excerpt of the public safety facility, with some of the right-of-way proposed to be vacated highlighted.

Due to constraints such as the 100-year floodplain, irregular geometry and topography, the public safety facility proposal will need to utilize this underdeveloped right-of-way and abutting lands to the southwest of the right-of-way.



PUBLIC NOTICE OF A HEARING FOR A STREET VACATION

A public hearing before the St. Helens City Council will be held at **6:15 PM on Wednesday, May 4, 2022** in the St. Helens City Council Chambers in City Hall located at 265 Strand Street, St. Helens, OR 97051. The purpose of this hearing is to receive public input as to the proposed vacation (i.e., giving up a public interest) of the **entire 7th Street right-of-way of the South St. Helens addition to St. Helens, Oregon, lying northeast of the Kaster Road right-of-way; and**

The extension of the S. 16th Street right-of-way, lying south of the East Street right-of-way within the St. Helens Subdivision, St. Helens, Columbia County, Oregon, as dedicated by Columbia County Deed Book 272, Page 970.

The City Council approved a motion to initiate this vacation on April 6, 2022 at their Regular Session. A map of the proposed vacation and affected areas is available for review at City Hall.

All written comments should be submitted to the City at least six (6) days prior to the hearing but can be accepted any time before or at the hearing. Testimony is welcome at the hearing. Zoom will also be available to participate. Virtual access information to join the hearing will be available on the applicable agenda. Agendas and the staff report for this can be found on the City's website: <https://www.sthelsenoregon.gov/meetings> within the week prior to the public hearing.

If any physical or language accommodations are required, please notify City Hall well in advance of the hearing. Questions can be directed to the City Planning Department at 503-397-6272. Or by email: jgraichen@sthelensoregon.gov.

**Area proposed
to be vacated
highlighted yellow**

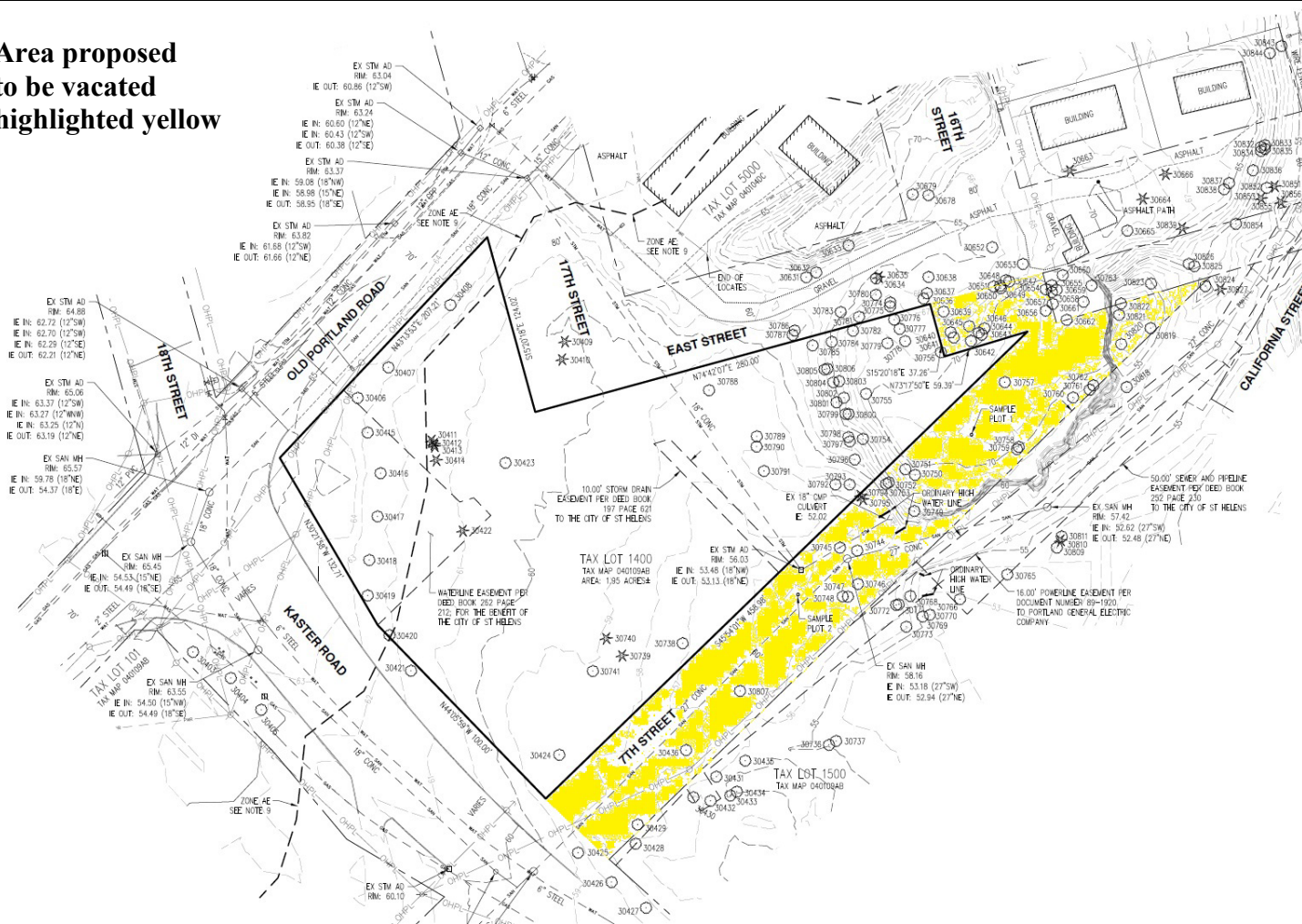
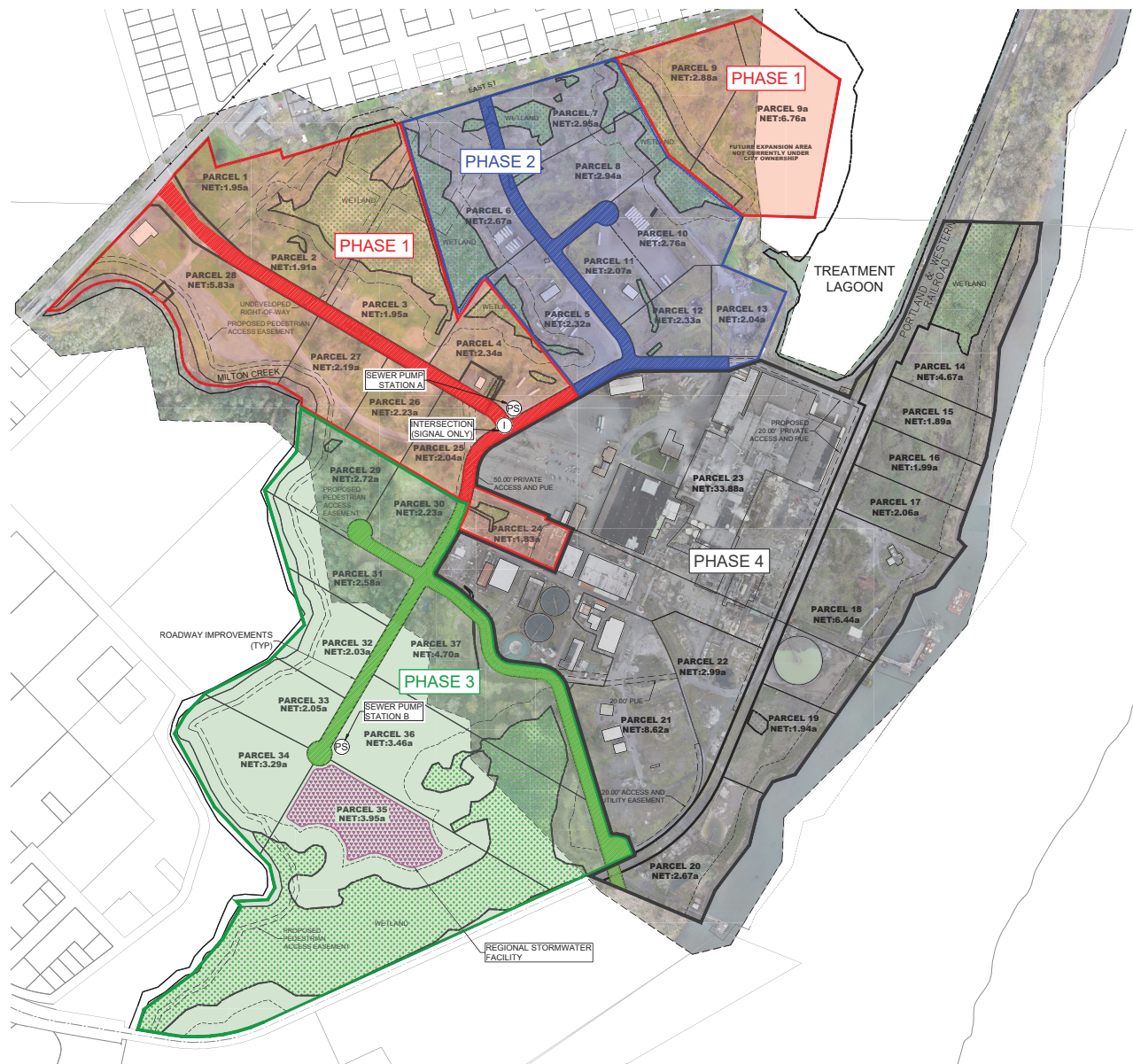
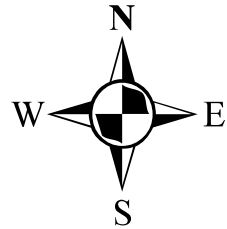


Exhibit 7. Proposed Transportation Network and Phasing Plan in the SHIBP

Source: 3J Consulting, Cost Estimate Map (October 2020).





Yellow shading: proposed
ROW to be vacated

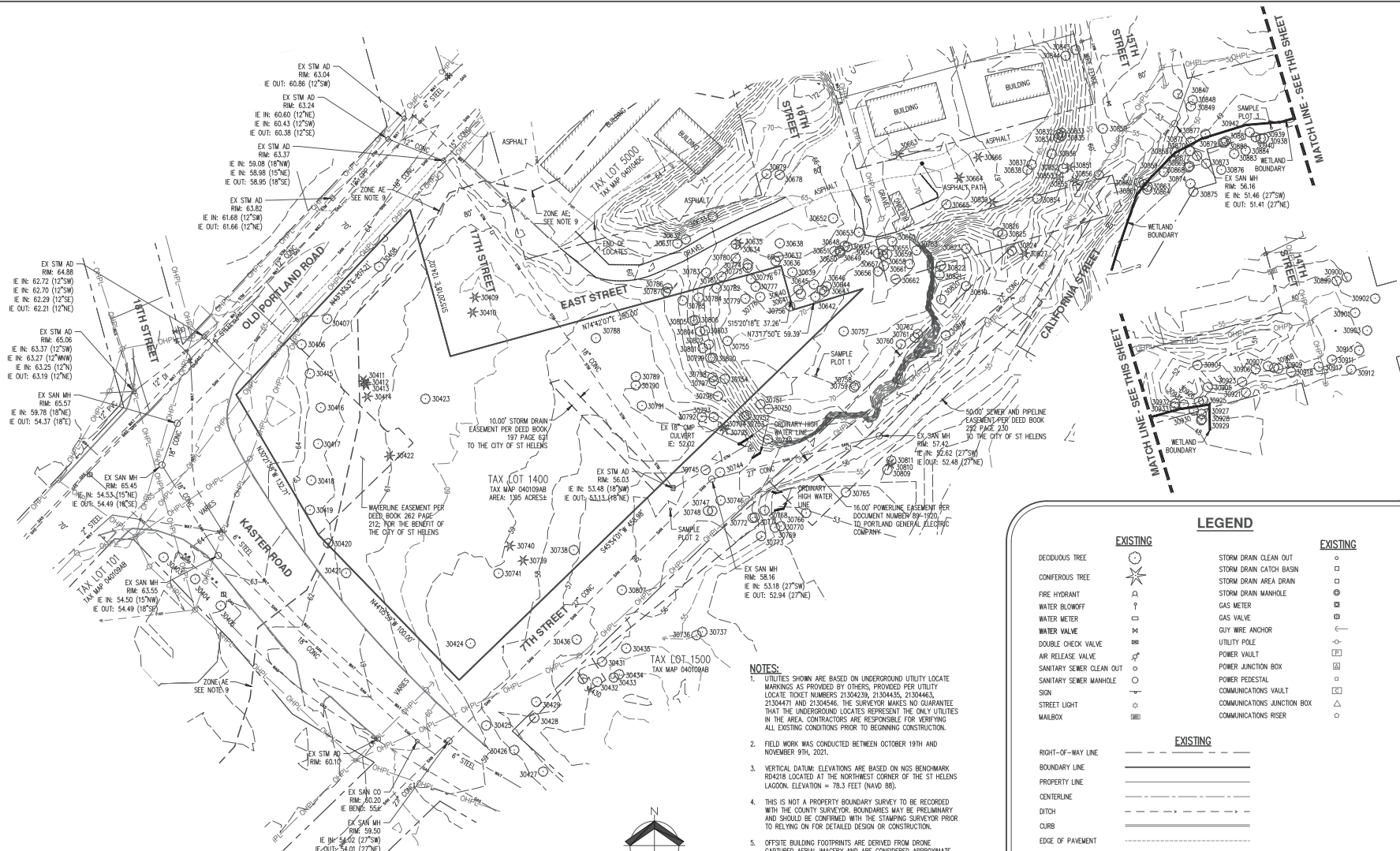
Storm Sewer

Edge of rock bluff

Sanitary Sewer

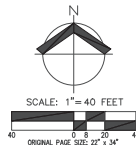
Overhead Power (CRPUD)

VAC.1.22
EXISTING UTILITIES AND AREA
PROPOSED TO BE VACATED



NOTES:

1. UTILITIES SHOWN ARE BASED ON UNDERGROUND UTILITY LOCATOR MARKINGS AS PROVIDED BY OTHERS, PROVIDED PER THE "AS SHOWN" BASIS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING THE LOCATION OF ALL UTILITIES. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND LOCATES REPRESENT THE ONLY UTILITIES. THE CONTRACTORS ARE RESPONSIBLE FOR VERIFYING ALL EXISTING CONDITIONS PRIOR TO BEGINNING CONSTRUCTION.
2. FIELD WORK WAS CONDUCTED BETWEEN OCTOBER 19TH AND NOVEMBER 9TH, 2021.
3. VERTICAL DATUM/ELEVATIONS ARE BASED ON NGS BENCHMARK RD216 LOCATED AT THE NORTHWEST CORNER OF THE ST HELENS LAUGH. ELEVATION = 78.3 FEET (NAVD 88).
4. THIS IS NOT A PROPERTY BOUNDARY SURVEY TO BE RECORDED WITH THE COUNTY SURVEYOR. BOUNDARIES MAY BE PRELIMINARY AND MUST BE CONFIRMED BY THE STAMMING SURVEYOR PRIOR TO RELYING ON FOR DETAILED DESIGN OR CONSTRUCTION.
5. OFFSITE BUILDING FOOTPRINTS ARE DERIVED FROM DRONE CAPTURED AERIAL IMAGERY AND ARE CONSIDERED APPROXIMATE, UNLESS NOTED OTHERWISE. CONTACT SURVEYOR WITH QUESTIONS REGARDING BUILDING TIES.
6. CONTOUR INTERVAL IS 1 FOOT.
7. TREES WITH DIAMETER OF 6" AND GREATER ARE SHOWN. TREE DIAMETERS WERE MEASURED USING A DIAMETER TAPE AT BRUISTOWN. TREE INFORMATION IS SUBJECT TO CHANGE UPON AIRBORNE INSPECTION.
8. WETLAND BOUNDARIES SHOWN WERE DELINEATED BY WETLANDS SOLUTION NWR AND WERE PROFESSIONALLY SURVEYED BY AKS ON NOVEMBER 1ST, 2021.
9. ZONE A LINE PER LOS OFFSHORE OF FEAMA FIRM NUMBER 4100640560 WITH AN EFFECTIVE DATE OF NOVEMBER 26, 2010.
10. EASEMENTS SHOWN ARE PER TICOR TITLE COMPANY AND SHOWN FOR REPORT GENERATION NUMBER 36041070390 WITH AN EFFECTIVE DATE OF 10/28/2021.



<u>EXISTING</u>		<u>EXISTING</u>
DECIDUOUS TREE		STORM DRAIN CATCH OUT
CONIFEROUS TREE		STORM DRAIN CATCH BASIN
FIRE HYDRANT		STORM DRAIN AREA DRAIN
WATER BLOWOFF		STORM DRAIN MANHOLE
WATER METER		GAS METER
WATER VALVE		GAS VALVE
DOUBLE CHECK VALVE		GUY WIRE ANCHOR
AIR RELEASE VALVE		UTILITY POLE
WARRANTY SENER CLEAN OUT		POWER VAULT
SANITARY SENER MANHOLE		POWER JUNCTION BOX
SIGN		POWER PEDESTAL
STREET LIGHT		SANITARY SENER VAULT
MAILBOX		COMMUNICATIONS VAULT
		COMMUNICATIONS JUNCTION BOX
		COMMUNICATIONS RISER

<u>EXISTING</u>
RIGHT-OF-WAY LINE _____
BOUNDARY LINE _____
PROPERTY LINE _____
CENTERLINE _____
DITCH _____
CURB _____
EDGE OF PAVEMENT _____
EASEMENT _____
FENCE LINE _____
GRAVEL EDGE _____
POWER LINE _____ FIBER _____ FIBER _____
OVERHEAD WIRE _____ OHPL _____ OHPL _____
COMMUNICATIONS LINE _____ CSM _____ CSM _____
FIBER OPTIC LINE _____ OFD _____ OFD _____
GAS LINE _____ GAS _____ GAS _____
STORM DRAIN LINE _____ STM _____ STM _____
SANITARY SENER LINE _____ SAN _____ SAN _____
WATER LINE _____ WAT _____ WAT _____

DESIGNED BY:
DRAWN BY:
MANAGED BY:
CHECKED BY:
DATE: 11/12/2021

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Benjamin R Huff
OREGON
MARCH 14, 2017
BENJAMIN R HUFF
84738PLS
RENEWS: 6/30/23

JOB NUMBER
8041-02

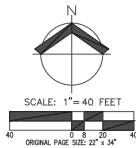
SHEET

01



NOTES:

- UTILITIES SHOWN ARE BASED ON UNDERGROUND UTILITY LOCATE TICKET NUMBERS 21304239, 21304435, 21304463, 21304477, AND 21304545. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND LOCATES REPRESENT THE ONLY UTILITIES IN THE AREA. CONTRACTORS ARE RESPONSIBLE FOR VERIFYING ALL EXISTING CONDITIONS PRIOR TO BEGINNING CONSTRUCTION.
- FIELD WORK WAS CONDUCTED BETWEEN OCTOBER 19TH AND NOVEMBER 9TH, 2021.
- VERTICAL DATUM: ELEVATIONS ARE BASED ON NGS BENCHMARK RD4218 LOCATED AT THE NORTHWEST CORNER OF THE ST HELENS LAGOON. ELEVATION = 78.3 FEET (NAVD 88).
- THIS IS NOT A PROPERTY BOUNDARY SURVEY TO BE RECORDED WITH THE COUNTY SURVEYOR. BOUNDARIES MAY BE PRELIMINARY AND SHOULD BE CONFIRMED WITH THE STAMPING SURVEYOR PRIOR TO RELYING ON FOR DETAILED DESIGN OR CONSTRUCTION.
- OFFSITE BUILDING FOOTPRINTS ARE DERIVED FROM DRONE CAPTURED AERIAL IMAGERY AND ARE CONSIDERED APPROXIMATE, UNLESS NOTED OTHERWISE. CONTACT SURVEYOR WITH QUESTIONS REGARDING BUILDING TIES.
- CONTOUR INTERVAL IS 1 FOOT.
- TREES WITH DIAMETER OF 6" AND GREATER ARE SHOWN. TREE DIAMETERS WERE MEASURED UTILIZING A DIAMETER TAPE AT BREAST HEIGHT. TREE INFORMATION IS SUBJECT TO CHANGE UPON ARBORIST INSPECTION.
- WETLAND BOUNDARIES SHOWN WERE DELINEATED BY WETLANDS SOLUTION NW AND WERE PROFESSIONALLY SURVEYED BY AKS ON NOVEMBER 1ST, 2021.
- ZONE AE LINE PER GIS OVERLAY OF FEMA FIRM NUMBER 41009C04560 WITH AN EFFECTIVE DATE OF NOVEMBER 26, 2010.
- EASEMENTS SHOWN ARE PER TICOR TITLE OWNERSHIP AND ENCUMBRANCE REPORT ORDER NUMBER 360421007930 WITH AN EFFECTIVE DATE OF 10/28/2021.



LEGEND

EXISTING

DECIDUOUS TREE
CONIFEROUS TREE
FIRE HYDRANT
WATER BLOWOFF
WATER METER
WATER VALVE
DOUBLE CHECK VALVE
AIR RELEASE VALVE
SANITARY SEWER CLEAN OUT
SANITARY SEWER MANHOLE
SIGN
STREET LIGHT
MAILBOX

EXISTING

STORM DRAIN CLEAN OUT
STORM DRAIN CATCH BASIN
STORM DRAIN AREA DRAIN
STORM DRAIN MANHOLE
GAS METER
GAS VALVE
CITY WIRE ANCHOR
UTILITY POLE
POWER VAULT
POWER JUNCTION BOX
POWER PEDESTAL
COMMUNICATIONS VAULT
COMMUNICATIONS JUNCTION BOX
COMMUNICATIONS RISER

EXISTING

RIGHT-OF-WAY LINE
BOUNDARY LINE
PROPERTY LINE
CENTERLINE
DITCH
CURB
EDGE OF PAVEMENT
EASEMENT
FENCE LINE
GRAVEL EDGE
POWER LINE
OVERHEAD WIRE
COMMUNICATIONS LINE
FIBER OPTIC LINE
GAS LINE
STORM DRAIN LINE
SANITARY SEWER LINE
WATER LINE

EXISTING CONDITIONS PLAN

DESIGNED BY: CC
DRAWN BY: BH
MANAGED BY: BH
CHECKED BY: BH
DATE: 11/12/2021
REGISTERED
PROFESSIONAL
LAND SURVEYOR
Benjamin R. Hoff
MARCH 14, 2017
BENJAMIN R. HOFF
84758PLS
RENEWED: 6/30/23

JOB NUMBER
8041-02

SHEET

03