

**CITY OF ST. HELENS PLANNING DEPARTMENT  
STAFF REPORT  
VAC.3.22**

**DATE:** December 6, 2022  
**TO:** Planning Commission  
**FROM:** Jennifer Dimsho, AICP, Associate Planner  
Jacob A. Graichen, AICP, City Planner

**PETITIONER:** Murphy Family Trust & Kylie Bellar

**PROPOSAL:** Vacation of public right-of-way described as follows:

**The east 40' of the North 9<sup>th</sup> Street right-of-way abutting Lots 5, 6, 7 and 8 of Block 76 of the St. Helens Subdivision, City of St. Helens, Columbia County, Oregon.**

The purpose of this vacation is for increased parking area per the petitioner's petition.

**PUBLIC HEARING & NOTICE**

Hearing date: January 4, 2023 before the City Council

Notice of this proposed street vacation was Published in the Chronicle on **December 21, 2022** and **December 28, 2022**. Staff posted a copy of the notice at or near each end of the proposed street vacation areas on **December 21, 2022**.

**APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

**SHMC 2.08.080μ Planning Commission Powers and Duties**

**Discussion:** There are several listed duties and powers that include recommendations to the City Council with regards to property acquisition/disposition, public facility proposals, right-of-way plans, plats or deeds dedicating land to public use, and street design for example. Street vacation proposals can be construed as falling within one or more of these.

As such, at their December 13, 2022 meeting, the Commission considered this request and, based on <<majority or unanimous>> vote, recommends the following to the City Council:

<<**Recommendation will be here**>>

**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 17.136.220μ 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.

#### **Findings:**

- **Have there been any objections or other comments submitted regarding this request?**  
Notice was sent to utilities on November 10, 2022.

City Public Works/Engineering: **Recommendation is to not vacate the public right-of-way because an existing unimproved natural drainageway runs through the center of the proposed area to be vacated.** Contour lines show this to be a natural drainage path for this area. In addition, a waterline easement is required for future extension of the water main coming from N. 8<sup>th</sup> Street. A sanitary sewer easement and a storm drain easement is required for the existing sewer trunk line which runs through the south end of the proposed area to be vacated. **See attached referral staff report and map.**

There have been no comments as of the date of this staff report from the Columbia River PUD, Comcast/Centurylink, or NW Natural.

- **Has the consent of the owners of the requisite area been obtained?**  
Pursuant to ORS 271.080(2), the consent of the owners of all abutting property and not less than two-thirds in area of the real property affected area (i.e. an area 200 feet parallel to and on both sides of the portion of street right-of-way to be vacated and 400 feet along its course beyond each terminus of the portion of street right-of-way to be vacated) is required. **The applicant submitted documentation showing 100% consent of all property owners abutting the portion of street right-of-way to be vacated and 67.8% of the affected area.**
- **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).

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

Streets – This section of N. 9<sup>th</sup> Street is an undeveloped right-of-way at 80' in width. It is classified as a local street according to the City's Transportation Systems Plan (TSP). According to SHMC 17.152.030, local streets have a minimum right-of-way width of 50'. However, there are multiple reasons why it is unlikely that a roadway will ever be built that connect Columbia Boulevard to Wyeth Street.

- Approximately 180' north of the proposed vacation, there is a large basalt cliff of about 25' to 30' in height, which resulted in a similar 40' wide street vacation of N. 9<sup>th</sup> Street (VAC.1.18) on the upper part of N. 9<sup>th</sup> Street.
- Approximately 200' south of the proposed vacation, there is another rock bluff wall of about 40' in height (near Spain's Hill).
- Approximately 40 feet south of the proposed vacation, there is a large locally significant Type I wetland with a 75' upland protection zone.
- The angle that the N. 9<sup>th</sup> Street right-of-way connects to Columbia Blvd. right-of-way is very challenging for intersection configuration and safe sight distance.



*Taken in the N. 9<sup>th</sup> St. right-of-way looking south towards basalt bluff near Spain's Hill/Columbia Blvd.*



*Taken in the N. 9<sup>th</sup> St. right-of-way looking north towards Wyeth St./basalt bluff. Note the small indentation in the grass.*





*Taken looking west from the N. 9<sup>th</sup> St. right-of-way. Pictured is the public storm system/ditch which runs east/west about 130' south from the proposed vacation. Type I wetland with a 75' upland protection zone pictured to the right of the public stormwater ditch.*

Fire Access - The applicants of this street vacation share access from N. 8<sup>th</sup> Street along a 20' wide shared driveway. The area proposed for vacation currently functions as a gravel turnaround for the private driveway, although it is not formally developed. The fire code requires an approved turnaround if the distance from the roadway to the structure is over 150'. There is about 175' from the edge of the developed roadway at N. 8<sup>th</sup> Street to the dwelling at 144 N. 9<sup>th</sup> Street. If this structure were to be built today or if the dwelling is re-built, a fire turnaround or fire sprinkling of the new structure would be considered. See the attached *Page 5 from the Fire Code Application Guidelines*

Fire turnarounds can be built on private property or within public rights-of-way. However, given the large footprint, if a fire turnaround were built entirely on private property in this case, it would require cooperation of both private property owners to draft and record a shared access and maintenance easement. It would also take up a significant portion of both lots, reducing potential building envelopes significantly. This could be a barrier. **By vacating the entire proposed area, it eliminates the flexibility to utilize public right-of-way to provide an adequate fire turnaround in the future.**

There are two potential fire turnaround options (cul-de-sac and hammerhead) staff contemplated as shown on the Aerial & Utilities Map. If fire turnaround option A were retained as public right-of-way, additional right-of-way would need to be retained or a public easement would need to be granted through the shared private driveway to ensure that there would not be an "island" of public right-of-way with no way to access it.



Trees – Tree within rights-of-way are subject to public protection. There are trees within the proposed vacation area that would no longer be subject to public protection.



*Taken looking south from the N. 9<sup>th</sup> St. right-of-way. Some trees pictured would no longer be subject to public protection if vacated.*

Utilities – There is public sanitary sewer and public storm drain which runs through the south end of the area proposed to be vacated which would require a public utility easement of the southern 30' to be vacated. There is also a water line which terminates in the private drive. In addition to ensuring there is public utility easement over the existing water main, a 15' wide waterline easement which runs east/west through the proposed vacation would be required for future extension of the mainline to serve infill lots. There is also an unimproved drainageway which runs north/south through the entire section of proposed right-of-way to be vacated. It is unimproved for the length, except a section where it is piped for about 30-40 feet near the informal gravel turnaround.

*Taken looking north from the N. 9<sup>th</sup> Street right-of-way. Storm outfall (not identified as public) daylight as shown in the background and a ditch runs north/south through the entire proposed right-of-way to be vacated until it reaches the public storm ditch that runs east/west about 130' south of the proposed vacation.*





Engineering's recommendation is denial of the request given that this is a natural drainage path for this area.



*Taken looking south from the N. 9<sup>th</sup> Street right-of-way. The natural drainageway is piped under the informal gravel turnaround for about 30-40' shown above.*

Summary - Retaining the public right-of-way in this area promotes protection of the natural drainageway and allows crews access for maintenance as needed. It is difficult to require an easement to capture the extent of the natural drainageway because it meanders through the entire right-of-way to be vacated (as opposed to parallel with the right-of-way). With the location of this natural drainageway, the need for a public utility easement for the sanitary/sewer at the south end, and a waterline easement for future main line extension, the proposed vacation becomes a mess of easements at various sizes. Vacating this right-of-way would also result in a reduction of options to comply with fire code in the future. For these reasons, staff does not recommend approval of this vacation.

#### **CONCLUSION & RECOMMENDATION**

**Based upon the facts and findings herein, staff and recommends to the City Council denial of the street vacation petition.**

**<< Planning Commission recommendation will also go here. >>**

#### **Attachments**

*Aerial & Utilities Map*

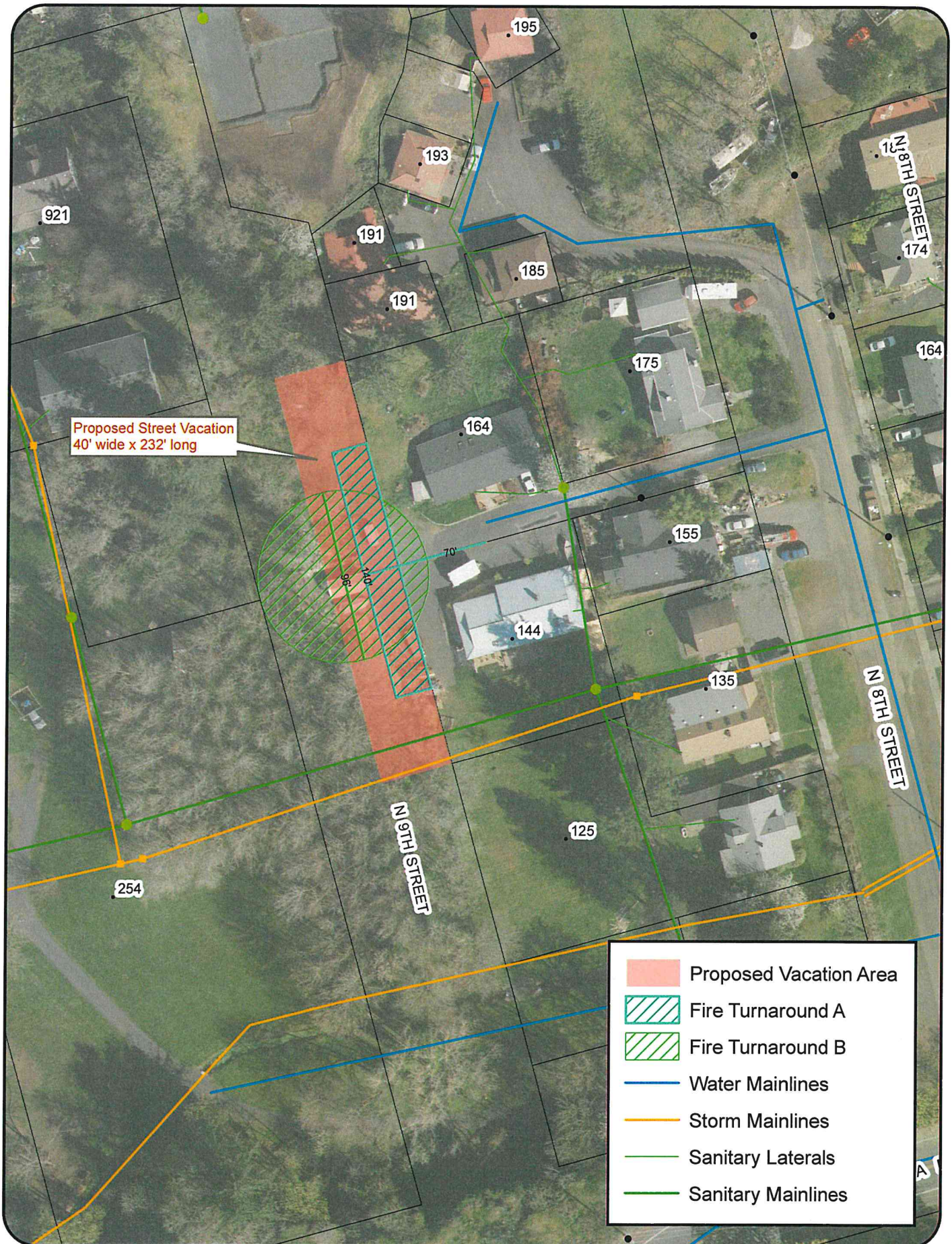
*Consent Map*

*Page 5 from the Fire Code Application Guidelines*

*City Engineering Referral Comment dated December 1, 2022*



# VAC.3.22 Murphy & Bellar November 2022





**FILE: VAC.3.22**  
**November 2022**



Affected Property - Consent  
67.8% of all Affected Properties

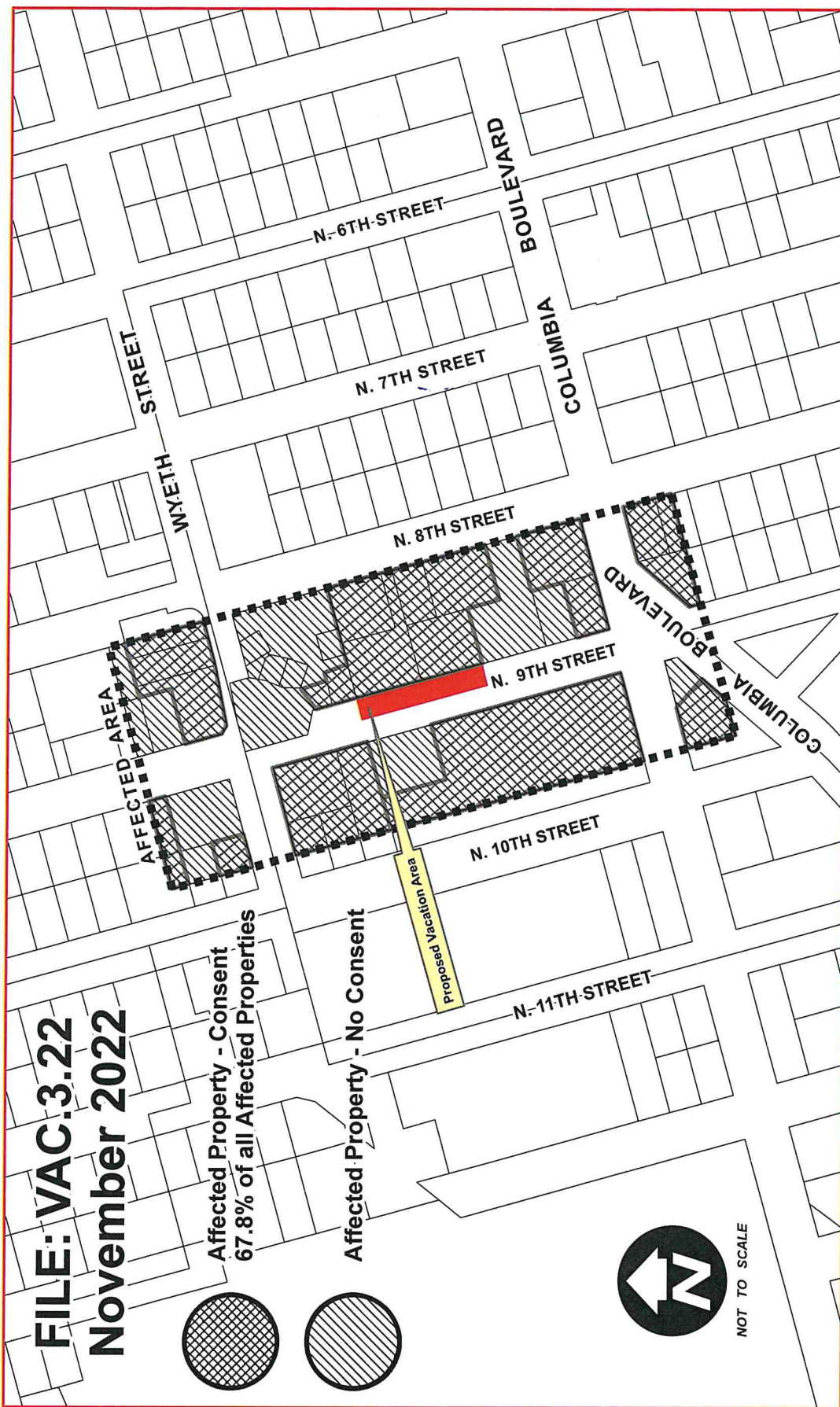


Affected Property - No Consent

Proposed Vacation Area



NOT TO SCALE

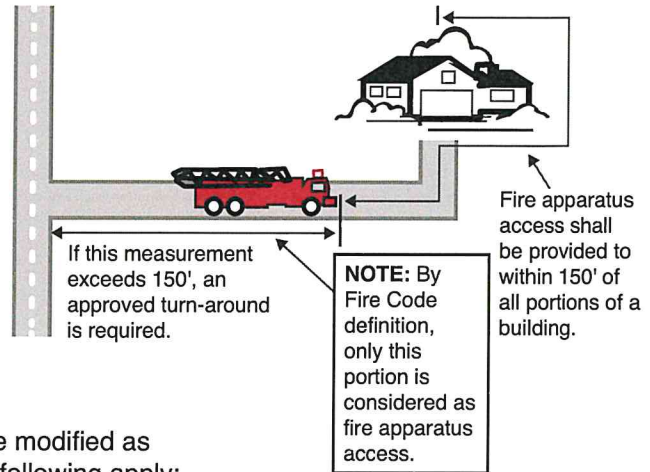




# FIRE DEPARTMENT ACCESS

## FIRE APPARATUS ACCESS ROAD DISTANCE FROM BUILDINGS AND FACILITIES:

Access roads shall be within 150 feet of all portions of the exterior wall of the first story of the building. An approved turnaround is required if the remaining distance to an approved intersecting roadway, as measured along the fire apparatus access road, is greater than 150 feet. (OFC 503.1.1)



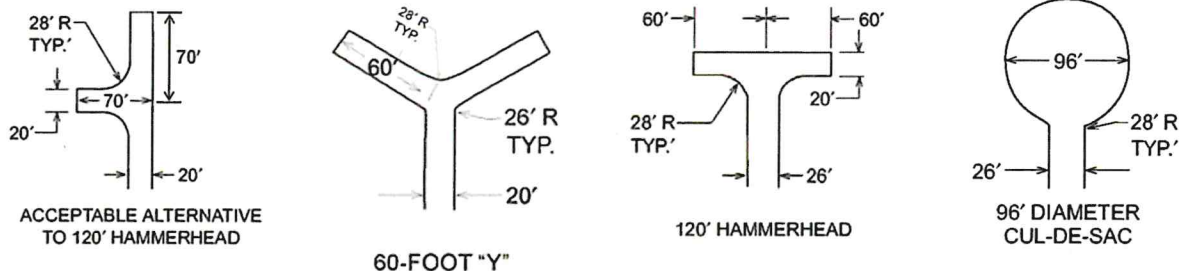
## ACCESS ROAD EXCEPTIONS:

The requirements for fire apparatus access may be modified as approved by the fire code official where any of the following apply: (OFC 503.1.1 Exception)

1. Buildings are equipped throughout with an approved automatic fire sprinkler system (the approval of this alternate method of construction shall be accomplished in accordance with the provisions of ORS 455.610(5)).
2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, non-negotiable grades, or other similar conditions, and an approved alternative means of fire protection is provided.

## DEAD END ROADS AND TURNAROUNDS:

Dead end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved turnaround. Diagrams of approved turnarounds are shown below: (OFC 503.2.5 & Figure D103.1 in the OFC)



## TURNING RADIUS:

The inside turning radius and outside turning radius shall not be less than 28 feet and 48 feet respectively, measured from the same center point. The greatest turning radius that needs to be accommodated for our fire apparatus is 240". That is axle to axle. Angle of approach and departure is to be no greater than less than 9 percent. (OFC 503.2.4 & D103.3)



# ENGINEERING STAFF REPORT

PROJECT/SITE: VACATION OF N 9TH ST SOUTH IF WYETH ST

REPORT DATE	PROJECT NAME	PREPARED BY
12/01/2022	Bellar Murphy N 9th St Vacation	Sharon Darroux Engineering Manager

## EVALUATION

### STREETS

- Minimum ROW width for local streets is 50 feet. Vacation of the ROW would reduce the ROW to 40 feet which may potentially degrade access to public utilities, and to the installation of future utilities.

### WATER

- Waterline easement required for future extension of the water main coming off N 8th St.

### SEWER

- Sanitary sewer easement required for the existing sewer trunk line which runs through south end of the area proposed to be vacated.

### STORM

- Storm drain easement required for the existing storm drain which runs through south end of the area proposed to be vacated.
- A mostly unimproved public drainageway runs through the center of the area proposed to be vacated.





## RECOMMENDATIONS

Recommendation is to not vacate the public right of way because an existing unimproved natural drainageway runs through the center of the proposed area to be vacated as shown on the map. Contour lines show this to be a natural drainage path for this area.

