

**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

M E M O R A N D U M

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:

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

“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.”

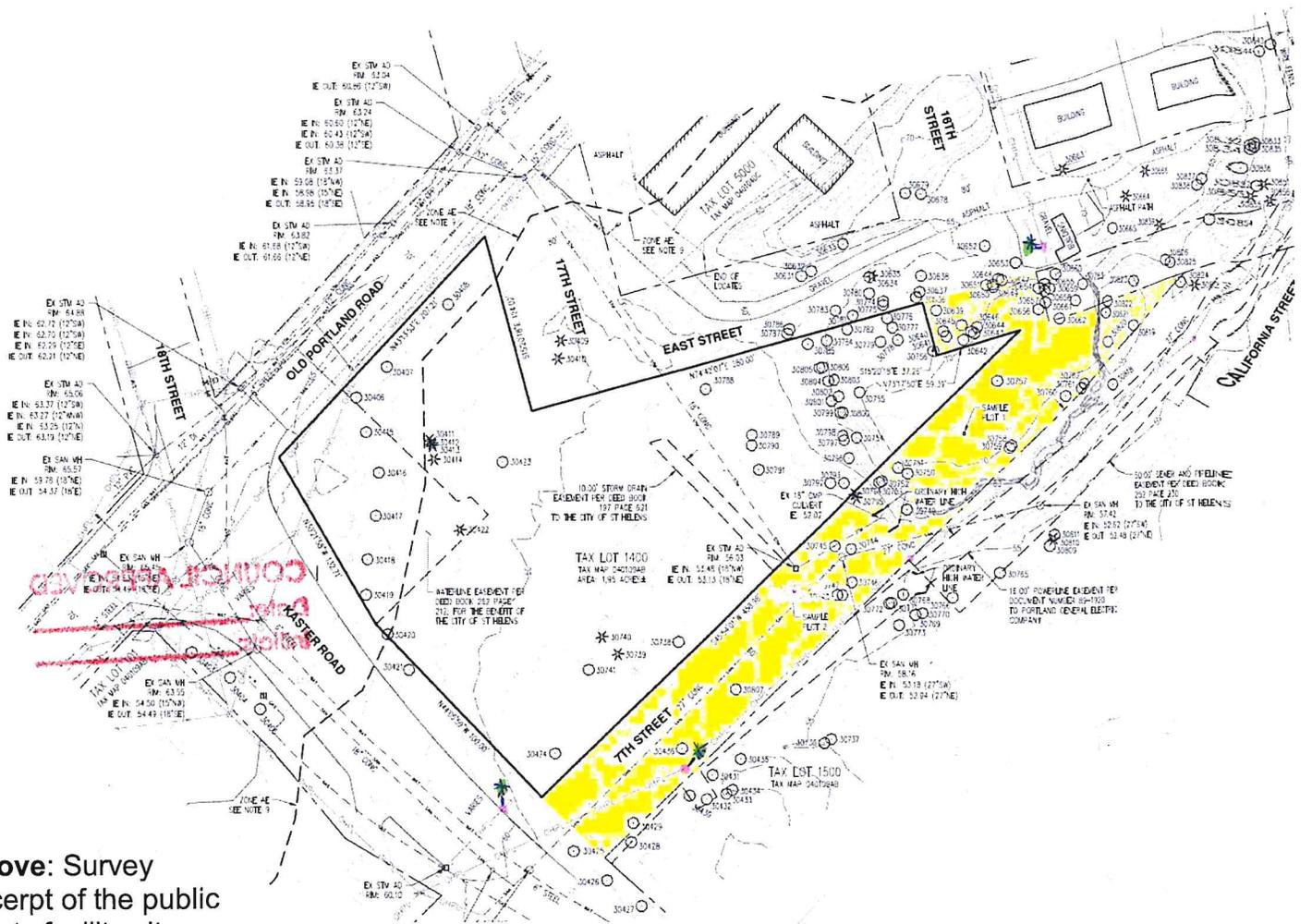
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This does not effectuate the vacation. Rather this is an option a local government has, to initiate a vacation without a petition and consent of property owners (i.e., the normal method) under ORS 271.080. Public notice and a public hearing are still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

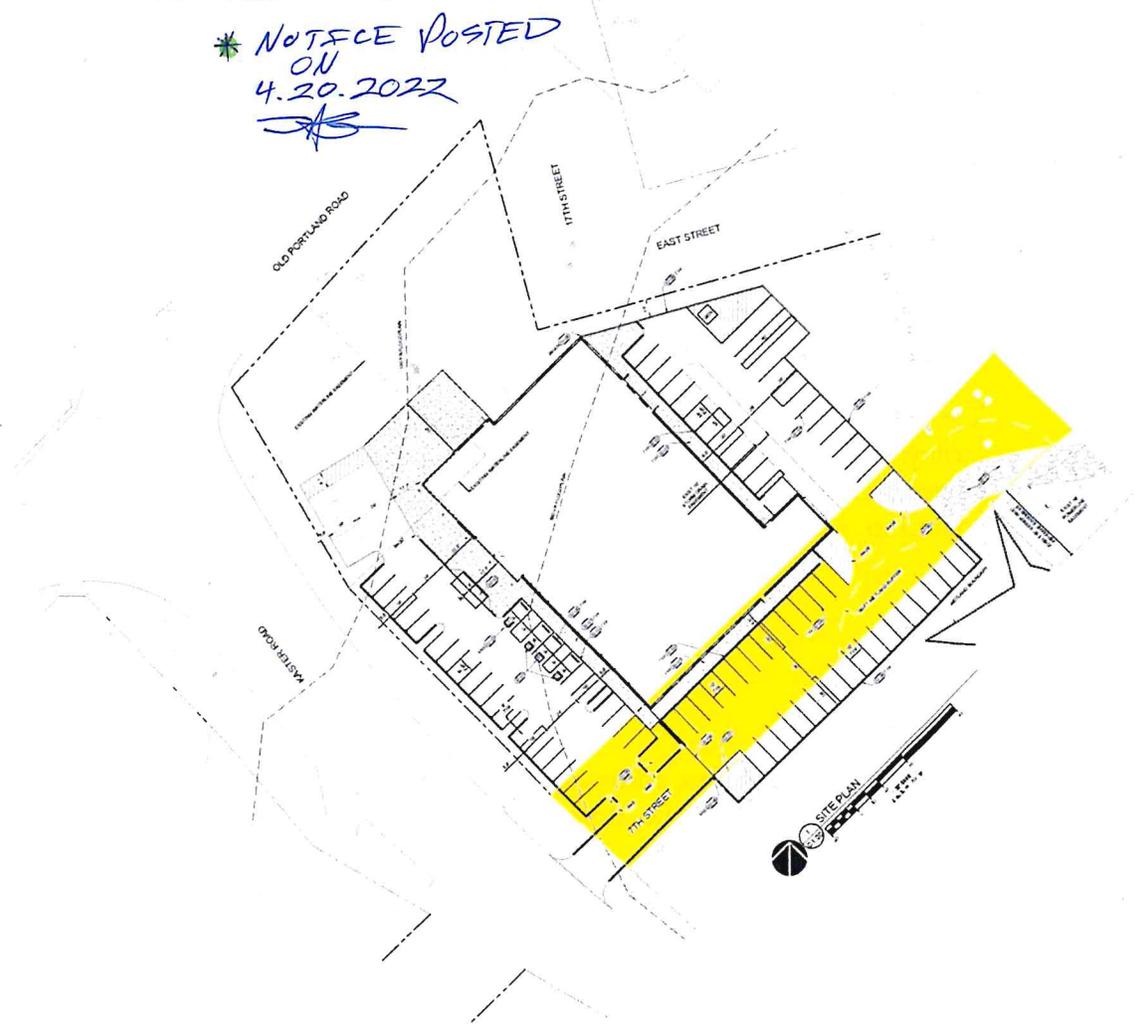
The area proposed to be vacated and a draft of the public facility site plan is on the following page:



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

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

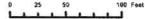
Due to constraints such as the 100-year floodplain, irregular geometry and topography, the public safety facility proposal will need to utilize this underdeveloped right-of-way and abutting lands to the southwest of the right-of-way.



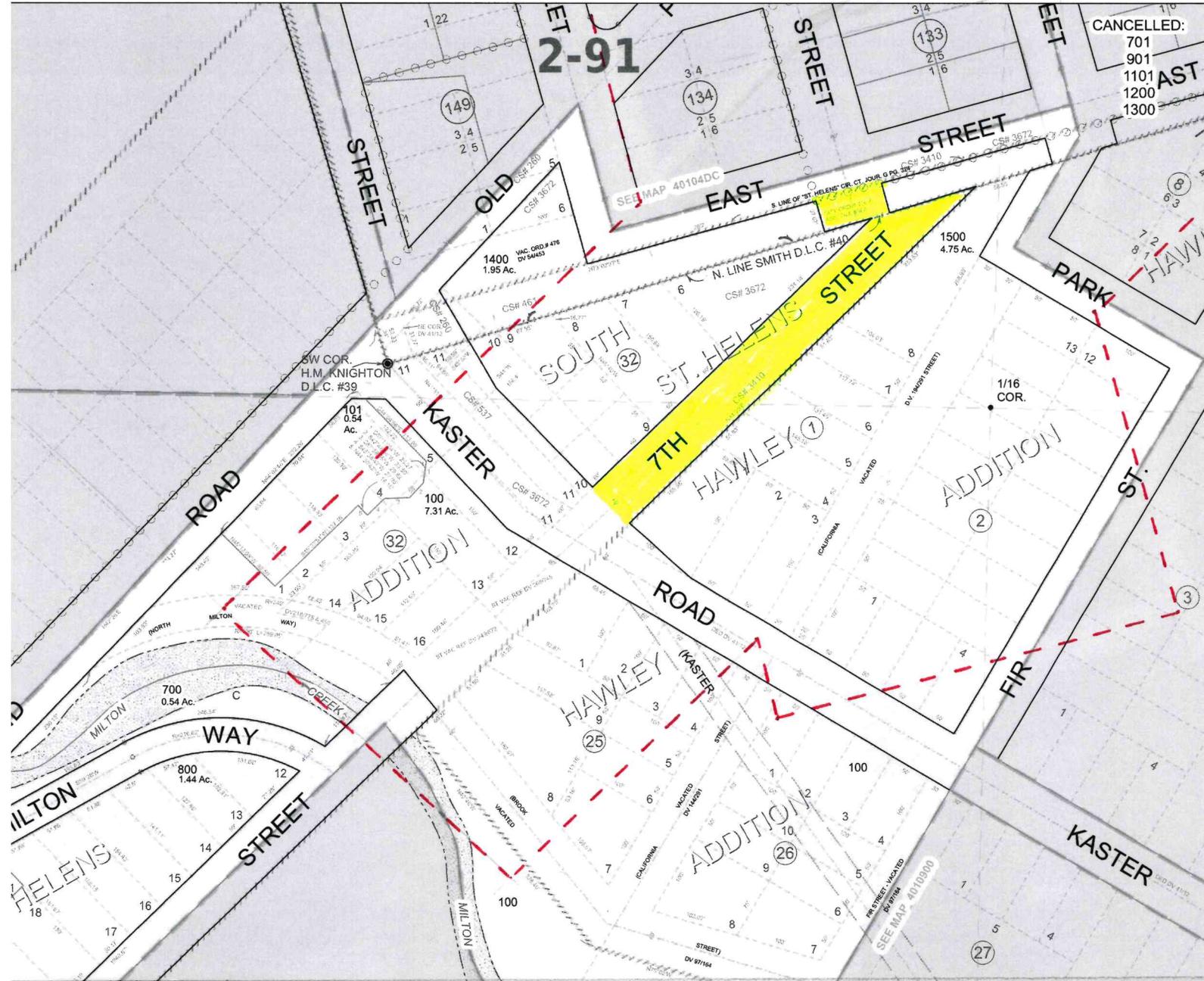
N.W.1/4 N.E.1/4 SEC.9 T.4N. R.1W. W.M.

COLUMBIA COUNTY

1" = 100'



04 01 09 AD
ST. HELENS



NORTH ↑
VAC. 1.22
"AFFECTED AREA"

CANCELLED:
701
901
1101 EAST
1200
1300

2-91

SW COR.
H.M. KNIGHTON
D.L.C. #39

ROAD

ADDITION

HAWLEY

ADDITION

KASTER

SEE MAP 40109000

HELENS

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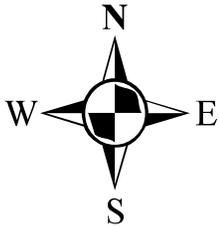
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Yellow shading: proposed ROW to be vacated

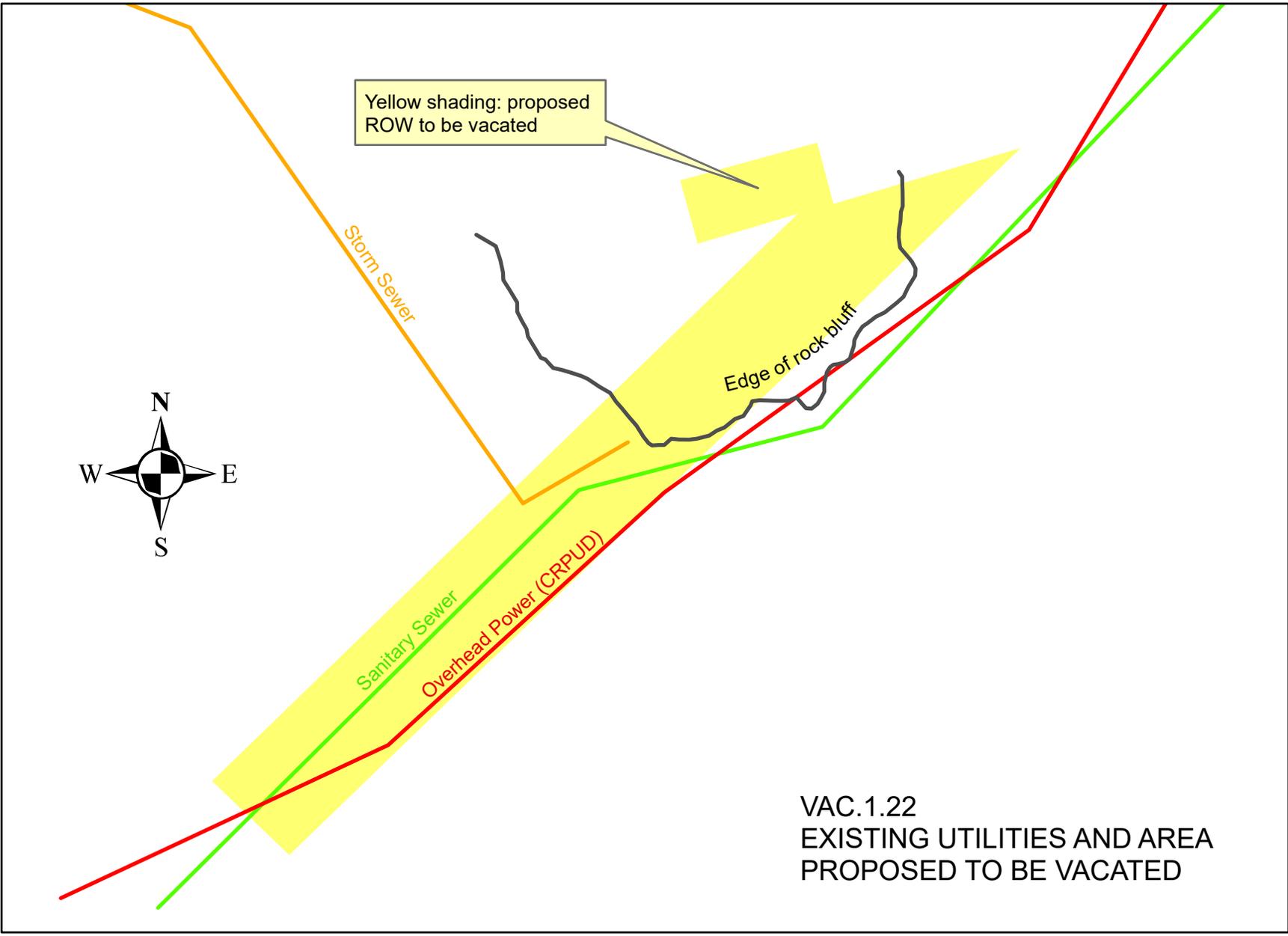
Storm Sewer

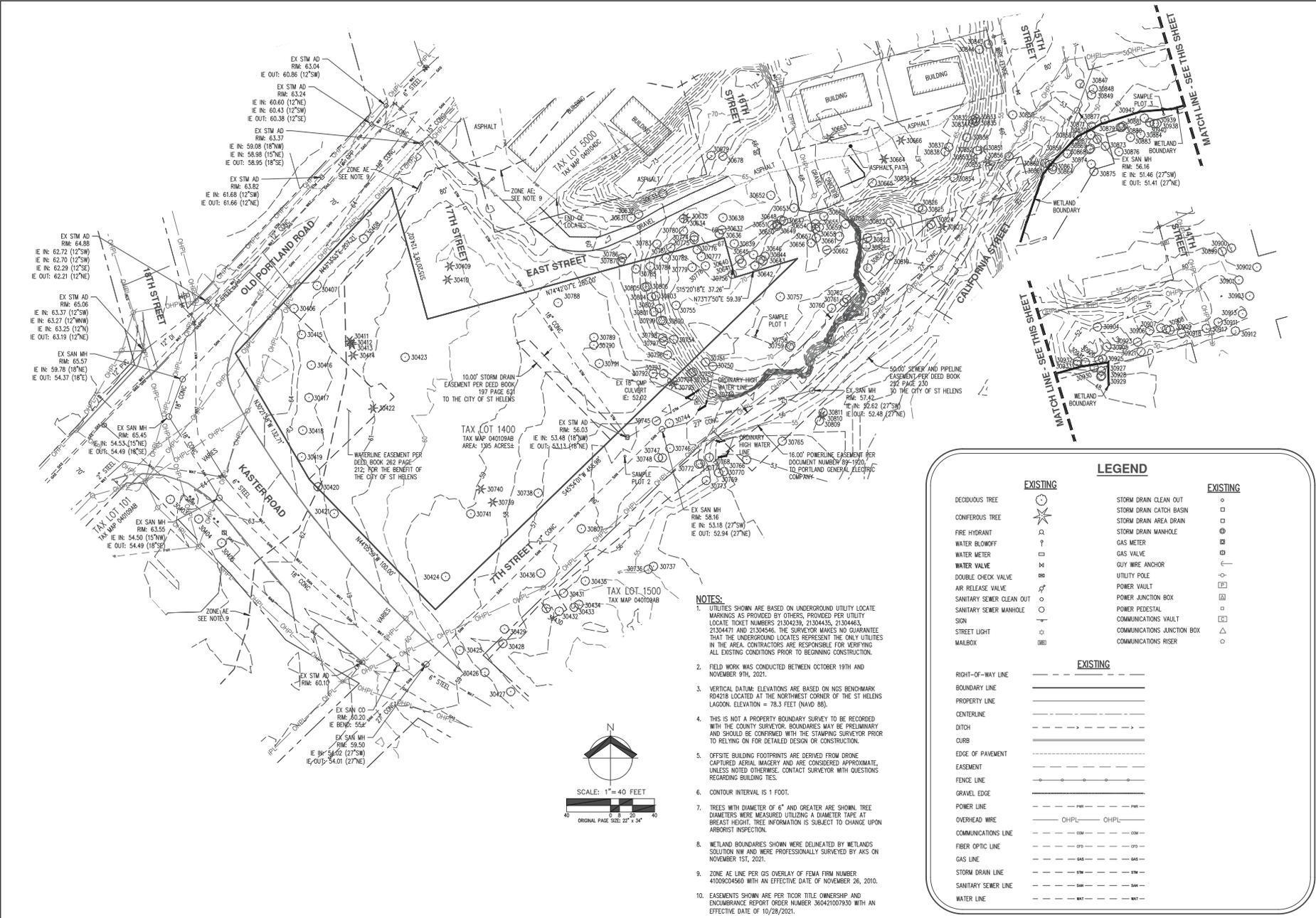
Edge of rock bluff

Sanitary Sewer

Overhead Power (CRPUD)

VAC.1.22
EXISTING UTILITIES AND AREA
PROPOSED TO BE VACATED

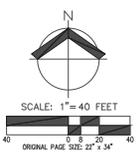




LEGEND

<p>EXISTING</p> <ul style="list-style-type: none"> 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 MALIBOX 	<p>EXISTING</p> <ul style="list-style-type: none"> STORM DRAIN CLEAN OUT STORM DRAIN CATCH BASIN STORM DRAIN AREA DRAIN STORM DRAIN MANHOLE GAS METER GAS VALVE CLY WIRE ANCHOR UTILITY POLE POWER VAULT POWER JUNCTION BOX POWER PEDESTAL COMMUNICATIONS VAULT COMMUNICATIONS JUNCTION BOX COMMUNICATIONS RISER 	<p>EXISTING</p> <ul style="list-style-type: none"> 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
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- NOTES:**
- UTILITIES SHOWN ARE BASED ON UNDERGROUND UTILITY LOCATE MARKINGS AS PROVIDED BY OTHERS, PROVIDED PER UTILITY LOCATE TICKET NUMBERS: 21304239, 21304435, 21304463, 21304471, AND 21304546. 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 15TH, 2021.
 - ZONE AE LINE PER GIS OVERLAY OF FEMA FIRM NUMBER 41009024560 WITH AN EFFECTIVE DATE OF NOVEMBER 26, 2010.
 - EASEMENTS SHOWN ARE PER TICOR TITLE OWNERSHIP AND ENCUMBRANCE REPORT ORDER NUMBER 364241007930 WITH AN EFFECTIVE DATE OF 10/28/2021.



DESIGNED BY: CC
 DRAWN BY: CC
 MANAGED BY: BH
 CHECKED BY: BH
 DATE: 11/12/2021
 REGISTERED PROFESSIONAL LAND SURVEYOR
 Benjamin R. Hoff
 EXPIRES: MARCH 14, 2017
 BENJAMIN R. HOFF
 84758915
 LICENSE: 6730723

