

**CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
VAC.1.23**

DATE: February 8, 2023
TO: Planning Commission
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:

See attached legal description of vacation area.

The purpose of this vacation is to eliminate of swath of right-of-way more-or-less centered within a bluff topographic feature to unify the developable area of the bluff.

PUBLIC HEARING & NOTICE

Hearing date: March 15, 2023 before the City Council

Notice of this proposed street vacation was Published in the Chronicle on March 1, 2023 and March 8, 2023. Staff posted a copy of the notice at or near each end of the proposed street vacation areas on March 1, 2023.

****this is a draft report – the above dates are preliminary****

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

SHMC 2.08.080—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 February 16, 2023 meeting, the Commission considered this request and, based on <<majority or unanimous>> vote, recommends the following to the City Council:

The Planning Commission recommends that the City Council...

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?**

...draft report, no comments yet...
- **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 January 18, 2023 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.

...draft report, no comments yet...

- **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?**

No portion of the proposed right-of-way to be vacated abuts, touches or is adjacent to property not 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).

****this is a draft report – the above notice dates are preliminary****

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

As of the date of this report, there is no evidence the public interest will be prejudiced.

This vacation will help unify the property that makes up the bluff, thus promoting its use as a bluff as opposed to removal of the bluff. This is consistent with the city's zoning rules pertaining to the following use, which is only allowed in the Heavy Industrial, HI zoning district:

Natural mineral resources development including necessary building, apparatus and appurtenances for rock, sand, gravel and mineral extraction and dredging, processing and stockpiling and all types of mineral recovery or mining, excluding smelters and ore reduction.

The subject property is zoned both General Residential, R5 and Apartment Residential, AR and not Heavy Industrial, HI, and thus "Natural mineral resources development et. al." is a prohibited use. The state of Oregon upheld the city's findings that entire removal of the bluff constituted this unlawful use for this area upon hearing the appeal of Sensitive Lands Permit SL.2.13. Both the Oregon Land Use Board of Appeals (see S. St. Helens, LLC v. City of St.

Helens, LUBA No. 2014-067) and the Court of Appeals (CA No. A1587420) affirmed the Planning Commission's 2014 findings. In 2016, the City Council amended its Development Code to clarify definitions and use in the HI zone as it applies to excavation, mining and natural mineral resources development, based on lessons learned from this case (Ord. No 3203). In a city largely sitting atop basalt, the 2014 decision of the planning commission as upheld by two higher courts and the City Council's 2016 code amendment actions, demonstrates the importance of this matter to the community.

There are no public improvements existing or proposed within the area to be vacated.

Below: the bluff as viewed from N 11th Street looking south. Approximate right-of-way location shown. This is the north side of the bluff.





Top: This photo taken from the south side of the bluff more-or-less within the right-of-way proposed to be vacated looking west. N. 12th Street is visible in the background.



Middle: This photo taken from the south side of the bluff more-or-less within the right-of-way proposed to be vacated looking east.

Bottom: This photo taken from the south side of the bluff standing within the right-of-way proposed to be vacated looking north within said right-of-way.

Note the absence of any improvements and solid rock (i.e., no underground utilities here).



CONCLUSION & RECOMMENDATION

Based upon the facts and findings herein, staff recommends the Planning Commission recommend approval to the City Council of this proposed the street vacation.

Other things for Planning Commission discussion:

- 1. Proposed right-of-way dedication (as depicted on the attached)**
- 2. PD overlay. Leave it alone, expand it, or eliminate it?**
- 3. Zoning. Rezone so bluff has one zone? AR or R5?**

Attached: Legal Descriptions
Maps (x5)

ROW dedication

A parcel of land located in the NW ¼ of the NE ¼ of Section 4, Township 4 N., Range 1 W., Willamette Meridian, Columbia County, Oregon, more specifically described as follows:

Beginning at a point, which is the Southwest corner of Lot 7, Block 95 of the St. Helens Subdivision, St. Helens, Columbia County, Oregon, also the **True Point of Beginning**;

Thence, Northwesterly to a point on the North line of said Lot 7 that is 12 feet from the Northwest corner of said Lot 7;

Thence, Northeasterly to a point on the North line of Lot 8, Block 95 of said St. Helens Subdivision that is 31 feet from the Northwest corner of said Lot 8;

Thence, Northeasterly to a point on the North line of Lot 9, Block 95 of said St. Helens Subdivision that is 58 feet from the Northwest corner of said Lot 9;

Thence, Northeasterly to a point on the South line of Lot 12, Block 95 of said St. Helens Subdivision that is 13 feet from the Southwest corner of said Lot 12;

Thence, Northeasterly to a point on the North line of said Lot 12 that is 17 feet from the Northeast corner of said Lot 12;

Thence, Southwesterly to a point on the North line of Lot 11, Block 95 of said St. Helens Subdivision that is 76.39 feet from the Northwest corner of said Lot 11;

Thence, Southwesterly to a point on the West line of said Lot 11 that is 56.66 feet from the Northwest corner of said Lot 11;

Thence, Southeasterly along the West line of said Lot 11 and continuing along the West line of Lots 10, 9, 8 and 7, Block 95 of said St. Helens Subdivision to the **True Point of Beginning**.

* * * * *

Vacation area

A parcel of land located in the N ½ of the NE ¼ of Section 4, Township 4 N., Range 1 W., Willamette Meridian, Columbia County, Oregon, more specifically described as follows:

Beginning at a point, which is the Southeast corner of Lot 19, Block 95 of the St. Helens Subdivision, St. Helens, Columbia County, Oregon;

Thence, Northwesterly along the East line of said Lot 19 to a point that is 1 foot from the Southeast corner of said Lot 19 and the **True Point of Beginning**;

Thence, Northwesterly along the East line of said Lot 19 and continuing along the East line of Lots 18, 17, 16, 15, 14, 13, and 12, Block 95 of said St. Helens Subdivision to the Northeast corner of said Lot 12;

Thence, Southwesterly along the North line of said Lot 12 to a point that is 17 feet from the Northeast corner of said Lot 12;

Thence, Northeasterly to a point along the right-of-way centerline of N. 11th Street (Franklin Street) that is 1 foot Southeast from where the original right-of-way centerlines of Wyeth Street and N. 11th Street (Franklin Street) intersect;

Thence, Northeasterly and parallel to the original right-of-way centerline of Wyeth Street to a point on the East line of the N. 11th Street (Franklin Street) right-of-way, said East right-of-way line resulting from the vacation of a portion of Wyeth Street by City of St. Helens Ordinance No. 2839, as recorded June 8, 2001 under Columbia County Clerk Fee No. 01-06033, Records of Columbia County, Oregon;

Thence, Southeasterly along the West line of the vacated portion of the Wyeth Street right-of-way vacated by City of St. Helens Ordinance No. 2839, as recorded June 8, 2001 under Columbia County Clerk Fee No. 01-06033, Records of Columbia County, Oregon, and continuing along the West line of Lots 11, 10, 9, 8, 7, 6, 5, and 4, Block 92 of said St. Helens Subdivision to a point that is 25 feet Southeast from the Northwest corner of said Lot 4;

Thence, Southwesterly to the **True Point of Beginning**.



N. 11th/12th Street Bluff Property

General Location



Source: City of St. Helens. Aerial photo April 2022. jag/Jan. '22



NOT TO SCALE



N. 11th/12th Street Bluff Property

City Ownership

N. 11TH STREET

N. 12TH STREET

St. Helens
Middle School

Source: City of St. Helens, Aerial photo April 2022, jag/Jan. '22



NOT TO SCALE



N. 11th/12th Street Bluff Property

Zoning

R5

N. 11TH STREET

AR

PD Overlay

PD Overlay

R5

R5

AR

AR

N. 12TH STREET

MU

St. Helens
Middle School

PL



NOT TO SCALE

Source: City of St. Helens. Aerial photo April 2022. jag/Jan. '22



N. 11th/12th Street Bluff Property

ROW Dedication
ROW Vacation
& City Utilities

Blue: Water
Green: Sanitary
Orange: Storm

Red: Proposed ROW Dedication

Purple: Proposed ROW Vacation

St. Helens
Middle School

N. 11TH STREET

N. 12TH STREET



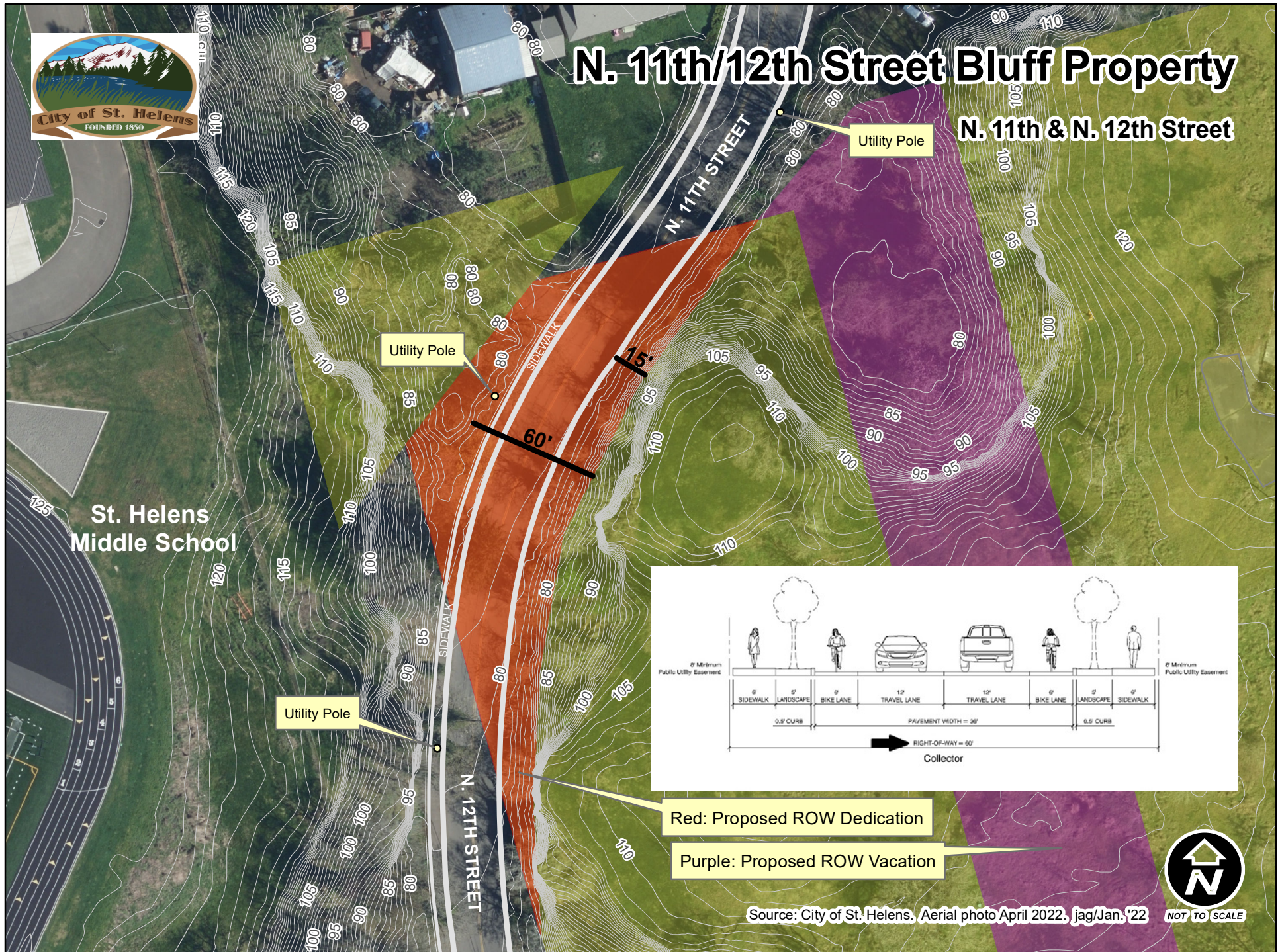
Source: City of St. Helens, Aerial photo April 2022, jag/Jan. '22

NOT TO SCALE



N. 11th/12th Street Bluff Property

N. 11th & N. 12th Street



Source: City of St. Helens. Aerial photo April 2022. jag/Jan. '22



NOT TO SCALE