

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Hearing: An Ordinance Vacating West 12th Avenue, Located between Olive Street and Willamette Street, and Willamette Alley, Located between West 12th Avenue and West 13th Avenue (VRI 12-1)

Meeting Date: April 23, 2012
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 3
Staff Contact: Becky Taylor
Contact Telephone Number: 541/682-5437

ISSUE STATEMENT

The City Council will hold a public hearing on a right-of-way vacation request submitted by Capstone Collegiate Communities, LLC (herein referred to as “Capstone”). The property affected by this proposed action is the segment of West 12th Avenue (which functions as an alley) between Olive Street and Willamette Street and the northern portion of the segment of Willamette Alley, between West 12th Avenue and West 13th Avenue. Aerial context and area of request maps are included as Attachments A and B. Attachment C shows the applicant’s proposed right-of-way dedication.

BACKGROUND

The public hearing date for the vacation request has been set for April 23, 2012. As noted above and shown on the attached maps, Capstone is requesting the City of Eugene to vacate the segment of West 12th Avenue, between Olive Street and Willamette Street, and the northern portion of Willamette Alley, between West 12th Avenue and West 13th Avenue. The area of the request is 13,478 square feet (0.31 acres). Capstone is proposing to develop the adjacent lands, currently owned by Peace Health, with multi-family housing. Capstone is also in the process of purchasing an adjacent parcel (Tax Lot 900 of Assessor’s Map 17-03-31-42) owned by David R. Lyons Trust to include in the development site.

The vacation is requested to facilitate construction of development over the existing right-of-way, at the ground level on West 12th Avenue and above ground (building stories three through five) over Willamette Alley. The proposed redevelopment of the site with student housing would implement the City’s vision for an active and vibrant downtown. The development enabled by the proposed vacation request would also facilitate improved pedestrian and bicycle safety by separating the current vehicle access from the proposed pedestrian and bicycle environment, and realigning the east-west bicycle and pedestrian connection through the site for a more direct connection between Olive and Willamette Streets. If the vacation request is approved, the proposed realignment of the pedestrian and bicycle way through the site is expected to operate more safely and efficiently than the existing irregular alignment that is also open to vehicles.

The vacation request process serves as a means to evaluate the need for public-ways as land develops and uses change over time. This request for vacation is being considered in accordance with Sections 9.8700-9.8725 of the Eugene Code (EC) and Oregon Revised Statutes (ORS) 271.080-271.230, and processed pursuant to EC 9.7445–9.7455. The public hearing is being conducted consistent with quasi-judicial procedures in State law and as set forth in EC 9.7065 through EC 9.7095.

A complete copy of the application along with other documents and information related to the vacation request including a written statement, consent forms and written testimony are contained in a binder that has been placed in the Council Office for reference.

Public Hearing Notice

Notice of public hearing for the requested alley vacation has been provided in the following manner: On March 29, 2012, notice was mailed to property owners, interested parties, the officially recognized neighborhood group, the Downtown Neighborhood Association, as well as the adjacent neighborhood groups, the Jefferson Westside Neighbors and the West University Neighbors; on April 9, 2012, the property was posted in the immediate vicinity of the requested alley vacation; and on April 9, 2012, and April 16, 2012, legal notice was published in *The Register-Guard* newspaper.

Public comments received in response to the public notice are included in the council binder, which at this time consists of the following: an email dated April 14, 2012, from Jozef Siekiel-Zdzienicki; a letter dated April 15, 2012, from Hugh Prichard; and five emails dated April 16, 2012, from Paul Conte with attachments that include his testimony and copies of the applicant's application materials for the subject vacation, Traffic Impact Analysis and MUPTE applications, copies of documents from LUBA No. 2011-112, the Metro Plan, and the Downtown Plan.

Mr. Zdzienicki's testimony requests that the new alley be 24 feet in width to provide wheelchair, pedestrian, and bicycle facilities with landscaping on both sides. The City Engineer has evaluated the proposed bicycle/pedestrian connection through the site and recommends specific improvements to enhance safety, but otherwise finds the proposed 20-foot width to be sufficient; the staff recommendation is provided in Exhibit C (findings) to the draft Ordinance, included as Attachment D.

Mr. Prichard's testimony is in support of Capstone's application. Mr. Prichard is a 35-year property owner in the "affected area," and is the former Executive Director of the Eugene Clinic which was located on the subject site. Mr. Prichard's testimony notes that, as a regular user of the subject right-of-way, he has witnessed many near misses due to the misalignment of West 12th Avenue. Staff agrees that the proposed realignment of the east-west bicycle/pedestrian connection will be a significant improvement, as further discussed in the findings provided in Exhibit C to the draft ordinance, included as Attachment D.

Mr. Conte's testimony identifies several issues including an allegation that the public notice should have explained that participants may request that the City continue the hearing or keep the record open. In response to this allegation, the City Attorney's office has explained that any potential procedural error in the City's notice is remedied by the facts that Mr. Conte has made such a request in his testimony and that the record will therefore be held open for a minimum of seven days following close of the public hearing. Mr. Conte also alleges deficiencies with respect to the required payment of a deposit for the assessment of special benefit and the consent from surrounding property owners. As the record demonstrates, the various application requirements noted in Mr. Conte's testimony have been addressed. The required consent from surrounding property owners, and the applicant's payment of an assessment for the vacated area, are further addressed below. It is also noted that the initial filing fees are waived for all land use applications in the downtown area, as set by the City's adopted fee schedule, although the applicant has been charged for publication of the vacation notice. The approval criterion for the vacation is also further addressed below, and in the findings attached to the draft ordinance. That sole approval criterion requires that the council find that approval will be in the public interest, which allows

relatively broad discretion in determining compliance. While the various Metro Plan policies and Statewide Planning Goals cited in Mr. Conte's testimony are not applicable as approval criteria for the vacation, to the extent they are relevant and help the council to form an opinion, they can be considered.

Any additional written testimony received prior to close of the public record will be forwarded to the City Council for consideration.

Consent of Abutting and Affected Property Owners

In accordance with ORS 271.080, the applicant has provided evidence of consent to the alley vacation from owners of at least two-thirds of the property within the affected area. ORS 271.080 also requires the applicant to obtain concurrence from all abutting property owners. The abutting lands are primarily owned by Peace Health, which has consented to the vacation request, with the expectation that the applicant will purchase the property. The proposed ordinance includes an effective date provision that will ensure the vacation only occurs if (and when) the City issues permits for construction of the Capstone project. The other abutting land owner is David Lyons, who owns the property located at 1210 Willamette Street (Tax Lot 900 of Assessor's Map 17-03-31-42). As shown on the applicant's map of the subject request, Mr. Lyon's property is excluded from the proposed development boundary; however, the applicant intends to purchase and include Mr. Lyon's property in the proposed development. Mr. Lyon's consent is conditioned on Capstone purchasing his property. The proposed ordinance includes a provision that makes the proposed vacation contingent upon the applicant's acquisition of Mr. Lyon's property.

The affected area per ORS is an area that is 200 feet on either side of the right-of-way and 400 feet beyond each end of the right-of-way to be vacated. Included in the application materials is a map showing the affected area and identifying properties with signed consent forms for the vacation request.

Applicable Criteria

The Eugene City Council must determine whether the consent of the owners of the requisite area has been obtained and whether notice has been duly given, and must address the relevant approval criterion from EC 9.8725 in making a decision on the proposed street vacation, as listed below:

The city council shall approve, or approve with conditions and reservations of easements, the vacation of improved public right-of-way, public ways acquired with public funds, or undeveloped subdivision and partition plats, or portions thereof, including public right-of-way and improved public easements located therein, only if the council finds that approval of the vacation is in the public interest.

As noted above, consent of the required area must be provided before council action, which is now scheduled for May 9, 2012. Public notice has been given in accordance with statutory and local code requirements. The vacation request was referred to affected City departments and public utility service providers; referral responses indicate the following public interests:

- West 12th Avenue contains public utilities including wastewater, stormwater, and gas, and provides a heavily-used bicycle and pedestrian connection between Olive and Willamette Streets
- Willamette Alley contains public utilities including wastewater, cable, electric, and steam

To maintain the bicycle and pedestrian connection through the development site between Olive and Willamette Streets, as part of the redevelopment project and MUPTE package, the applicant proposes to dedicate a new right-of-way. The new right-of-way will be located just south of the existing West 12th Avenue right-of-way that is proposed for vacation. The new right-of-way will be a consistent width of 20 feet, whereas the existing right-of-way width varies through the site. The alignment of the new right-of-way is an improvement over existing conditions, as it will align more directly with the existing public access way east of Willamette Street. The applicant will be constructing related public improvements to facilitate the realigned public bicycle and pedestrian facility, which will include the following: 1) a 10-foot-wide, two-way bicycle facility that is clear of obstructions and separated from pedestrians, within the new 20-foot right-of-way; 2) a bicycle crossing island at the intersection of West 12th Avenue and Olive Street that prohibits left turns for automobiles; and 3) a replacement crosswalk within Willamette Street that aligns the proposed bicycle connection through the site with the existing bicycle way east of Willamette Street. The applicant has agreed to provide these improvements at their expense. The design of the improvements will be subject to approval by the City Engineer and the costs of the improvements will be required to be bonded, as part of the Privately-Engineered Public Improvement (PEPI) permit process. The replacement right-of-way dedication and public improvements are conditions of the MUPTE approval and the construction of the proposed housing development. As such, the public interest in the bicycle and pedestrian connection through the site will be addressed and the existing right-of-way can be vacated.

To address the need for maintenance access to the existing utilities within the rights-of-way to be vacated, City staff and other utility providers, including Century Link, Comcast, Eugene Water & Electric Board (EWEB), and Northwest Natural Gas, recommend that the City reserve a public utility easement (PUE) over the entire right-of-way area proposed for vacation. Reservation of a PUE will ensure that the utility companies can access their utilities and will prohibit construction within the PUE until the utilities are properly relocated and abandoned. As part of the development project, the applicant intends to relocate the utilities located in the existing West 12th Avenue right-of-way. Once that has occurred, the applicant intends to request that the City vacate the PUE over that area. The applicant proposes to move the necessary utilities within the new public right-of-way to be dedicated as part of the MUPTE. The PUE to be reserved over the existing Willamette Alley to be vacated will likely remain in perpetuity, as the applicant proposed to rededicate this area back to the public in the same configuration but without the automobile use. Staff believes that the vacation (with a PUE reservation) addresses the public interest in the Willamette Alley right-of-way because this segment of alley is not a critical bicycle/pedestrian connection, as through access is prevented by existing development to the north, but is needed for underground utilities. The PUE reservation will exclude air rights so that the development can construct the proposed third through fifth stories of the building over this area. The applicant has proposed to dedicate a new, more southerly alley to provide a vehicular connection between Willamette Street and Willamette Alley. City staff does not believe there is a compelling public need for such a connection and recommends against accepting such a dedication as part of this vacation application. Instead, the applicant could consider providing this connection as a private alley. The applicant's proposed right-of-way dedication is shown in Attachment C.

Exhibit C to the Ordinance (Attachment D to this AIS) provides findings to show how the vacation request is consistent with the above approval criterion. It remains within the council's purview to determine whether the proposed vacation is in the public interest and, if not, to deny the vacation or to identify additional requirements necessary to make the request support the public interest.

Determination of Assessment

Pursuant to EC 9.8710(4), the applicant is required to pay a deposit equal to the assessment of special benefit resulting from the vacation. The amount of money to be deposited is to be determined by the City Manager. Pursuant to the City Code, the City provided a notice of the assessment 20 days prior to the public hearing. At that time, the assessment was determined to be \$314,278.00; however, a more accurate valuation was then conducted that considered the value of the easements to be reserved by the City and of the replacement right-of-way to be improved and dedicated to the City as part of the development. This resulted in a revised assessed value of \$136,000, as detailed in the attached Assessment Memorandum (Attachment E). The applicant is required to deposit that sum with the City. If the application is approved and the vacation becomes effective, the deposit will be retained by the City; if the application is denied or the vacation fails to take effect for another reason, the money will be returned.

RELATED CITY POLICIES

Approval criteria for vacation requests (the full text is included above) are located at EC 9.8725 which requires the council to find that approval of the vacation request is in the public interest.

COUNCIL OPTIONS

This item is scheduled for public hearing only, however, council action is required within 30 days of the close of the record following the public hearing to:

1. Approve the vacation request by ordinance;
2. Modify and approve the vacation request by ordinance; or,
3. Deny the vacation request by ordinance.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that the City Council hold and close the public hearing on the vacation request, and take action within 30 days of close of record in order to comply with statutory and local code requirements. Following the City's receipt of all testimony, the City Manager will make a recommendation on the merits of the vacation request to be included in the council packet for action.

SUGGESTED MOTION

I move to hold the record open for any written evidence, argument or testimony until 5:00 p.m. on April 30, then open for an additional seven-day period until 5:00 p.m. on May 7 for any party to submit written *argument* (but not new evidence) to respond to issues already raised, then, unless the applicant waives its right, to allow the applicant seven additional days, until May 14 at 5:00 p.m., to submit final written argument.

ATTACHMENTS

- A. Aerial Context Map of Alley Vacation Request
- B. Map of Alley Vacation Request
- C. Map of Proposed Right-of-Way Dedication
- D. Draft Ordinance (with Exhibits A – C) for Alley Vacation
- E. Alley Vacation Assessment Memorandum

FOR MORE INFORMATION

Staff Contact: Becky Taylor, Associate Planner
Telephone: 541/682-5437
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Attachment A: Aerial Context Map



Subject Property Boundary

Area of Request Alley Vacation/Redication

W 12TH AVE

OLIVE ST

WILLAMETTE ST

OAKALY

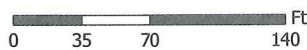
W 13TH AVE

E 13TH AVE



Legend

- Streets
- Taxlots
- Water Bodies

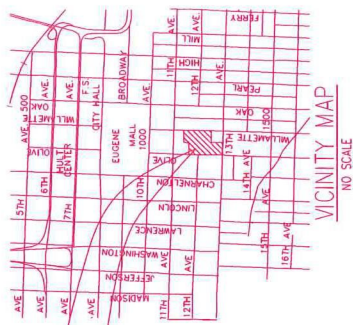


Caution:
This map is based on imprecise source data, subject to change, and for general reference only.

March 13, 2012

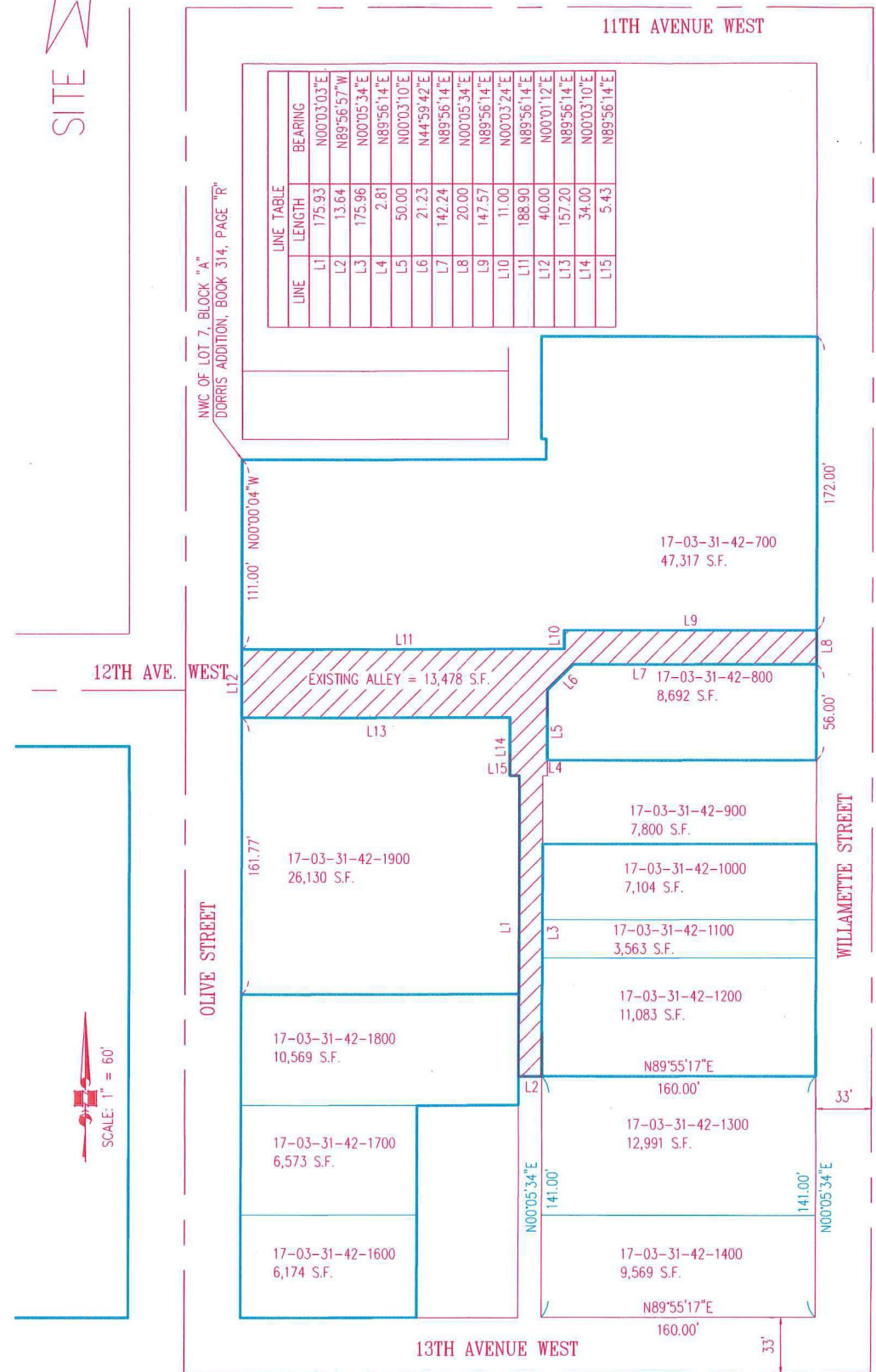


EXISTING ALLEY TO BE VACATED BETWEEN OLIVE ST. AND WILLAMETTE ST.



Attachment B: Area of Request

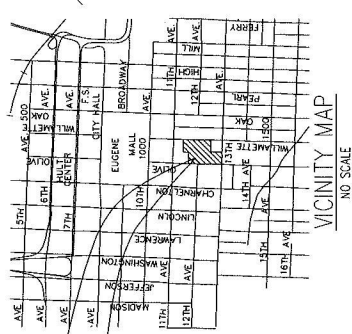
DATE 2-02-12
SHEET 1 OF 2



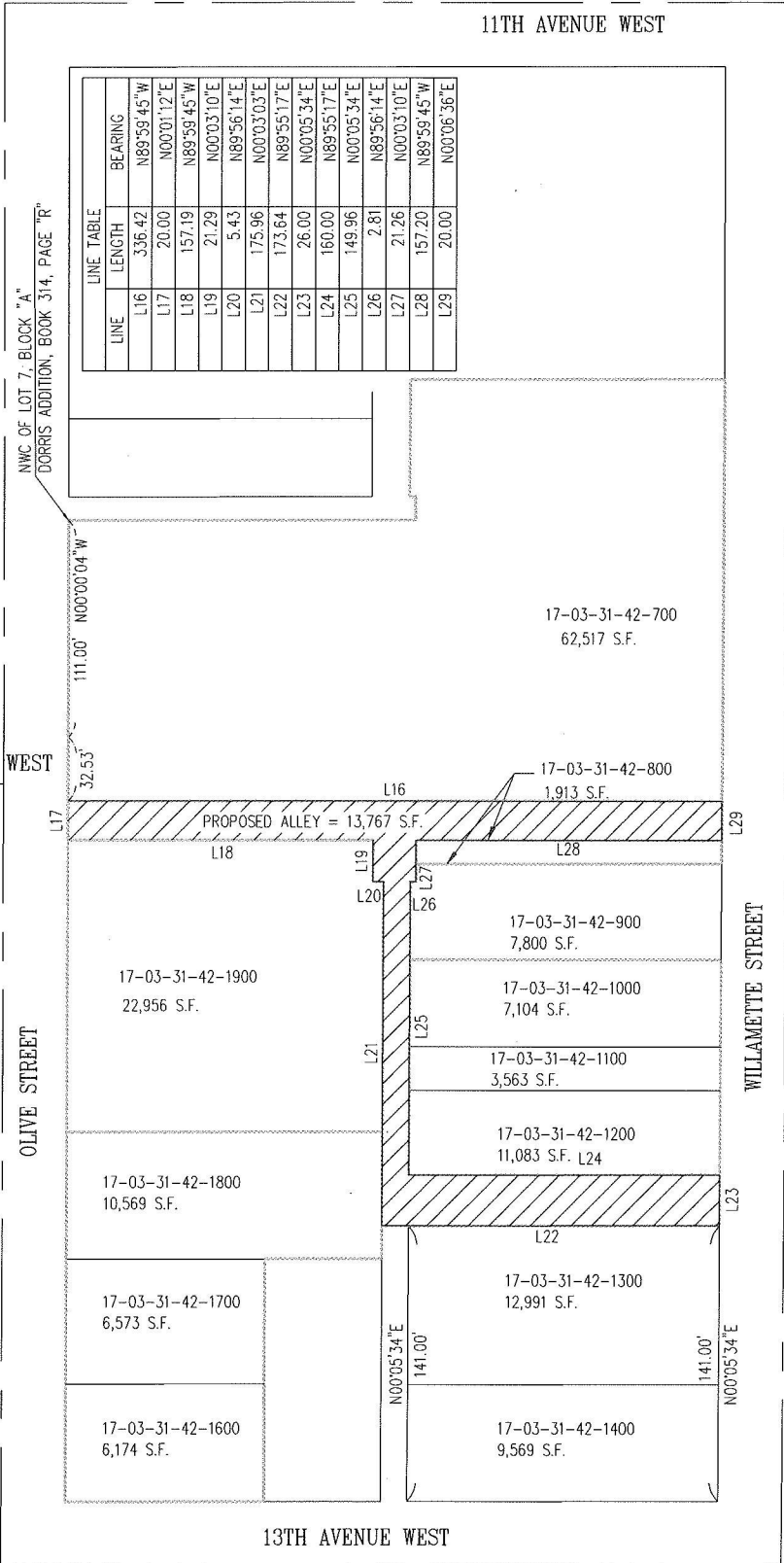
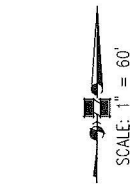
Attachment C: Proposed Dedication

DATE 4-16-12
SHEET 3 OF 3

PROPOSED ALLEY REDEDICATION BETWEEN OLIVE ST. AND WILLAMETTE ST.



SITE



ORDINANCE NO. _____

AN ORDINANCE VACATING THE WEST 12th AVENUE RIGHT-OF-WAY LOCATED BETWEEN WILLAMETTE STREET AND OLIVE STREET; AND VACATING A PORTION OF THE WILLAMETTE ALLEY RIGHT-OF-WAY LOCATED BETWEEN 12TH AVENUE AND 13TH AVENUE; AND PROVIDING AN EFFECTIVE DATE.

The City Council of the City of Eugene finds that:

A. The City Council of the City of Eugene has approved an agenda setting a public hearing to be held at 7:30 p.m. on April 23, 2012, in Council Chambers, for the purpose of hearing protests and remonstrances to the proposed vacation of the following described right-of-way:

The West 12th Avenue right-of-way located between Willamette Street and Olive Street and a portion of the Willamette Alley right-of-way located between 12th Avenue and 13th Avenue, as more particularly described in Exhibit A and depicted on the map attached as Exhibit B to this Ordinance, reserving a public utility easement under and across that entire right-of-way otherwise vacated, including a reservation of the right to enter thereon for purposes of construction, reconstruction, maintenance and repair, but not reserving rights pertaining to the air space above the right-of-way.

B. The applicant will be dedicating a new West 12th Avenue right-of way having a consistent width of 20 feet, located more directly with the existing public access way east of Willamette Street just south of the West 12th Avenue right-of-way being vacated. The applicant will improve this replacement right-of-way to accommodate a bicycle and pedestrian connection through the site.

C. Notice was duly and regularly given of the public hearing, and on April 23, 2012, the City Council held a public hearing and heard all objections to the proposed vacation.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Eugene finds that notice of the hearing was published and posted as required by law, that the consent of the owner(s) of the abutting property has been filed in the proceedings, and that the vacation of the right-of-way is in the public interest, as described in the Findings attached as Exhibit C to this Ordinance.

Section 2. The right-of-way described and depicted on Exhibits A and B attached to this Ordinance is vacated subject to the easement described in Finding A, above, and shall revert pursuant to the statutes of the State of Oregon.

Section 3. The City Recorder is directed to file a certified copy of this Ordinance with the Recorder of Lane County, Oregon, together with a map or plat of said property, and a certified copy of this Ordinance shall be filed with the Lane County Assessor and another certified copy shall be filed with the Lane County Surveyor.

Section 4. Notwithstanding the effective date of Ordinances as provided in the Eugene Charter of 2002, this Ordinance and the vacation described herein shall become effective on the date the City issues a building permit for construction of the structural shell of a multi-story residential building proposed by Capstone Collegiate Communities LLC, located north of the West 12th Avenue right-of-way to be vacated, so long as by that date, Capstone Collegiate Communities LLC (or its affiliate) has acquired fee title to Tax Lot 17-03-31-42-900.

Passed by the City Council this

_____ day of _____, 2012.

Approved by the Mayor this

_____ day of _____, 2012.

City Recorder

Mayor

Exhibit A: Legal Description

Beginning at the northwest corner of Lot 7, Block A of Dorris Addition to Eugene City, as platted and recorded in Book R, Page 314, Lane County Oregon Deed Records, in Lane County Oregon; thence along the west line of said Lot 7, also being the East line of Olive Street, South $00^{\circ}00'04''$ East 111.00 feet to the True Point of Beginning; thence North $89^{\circ}56'14''$ East a distance of 188.90 feet; thence North $00^{\circ}03'24''$ East a distance of 11.00 feet; thence North $89^{\circ}56'14''$ East a distance of 147.57 feet to West line of Willamette Street; thence South along said West line South $00^{\circ}05'34''$ West a distance of 20.00 feet; thence South $89^{\circ}56'14''$ West a distance of 142.24 feet; thence South $44^{\circ}59'42''$ West a distance of 21.23 feet; thence South $00^{\circ}03'10''$ West a distance of 50.00 feet; thence South $89^{\circ}56'14''$ West a distance of 2.81 feet; thence South $00^{\circ}05'34''$ West a distance of 175.96 feet; thence North $89^{\circ}56'57''$ West a distance of 13.64 feet; thence North $00^{\circ}03'03''$ East a distance of 175.93 feet; thence South $89^{\circ}56'14''$ West a distance of 5.43 feet; thence North $00^{\circ}03'10''$ East a distance of 34.00 feet; thence South $89^{\circ}56'14''$ West a distance of 157.20 feet to East line of Olive Street; thence North along said East line North $00^{\circ}01'12''$ East a distance of 40.00 feet to the True Point of Beginning. 13,478 square feet.

EXISTING ALLEY TO BE VACATED BETWEEN OLIVE ST. AND WILLAMETTE ST.

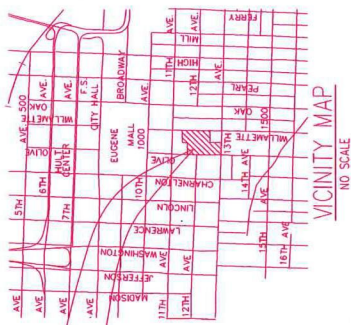


Exhibit B-1: Area of Request Map

DATE 2-02-12
SHEET 1 OF 2

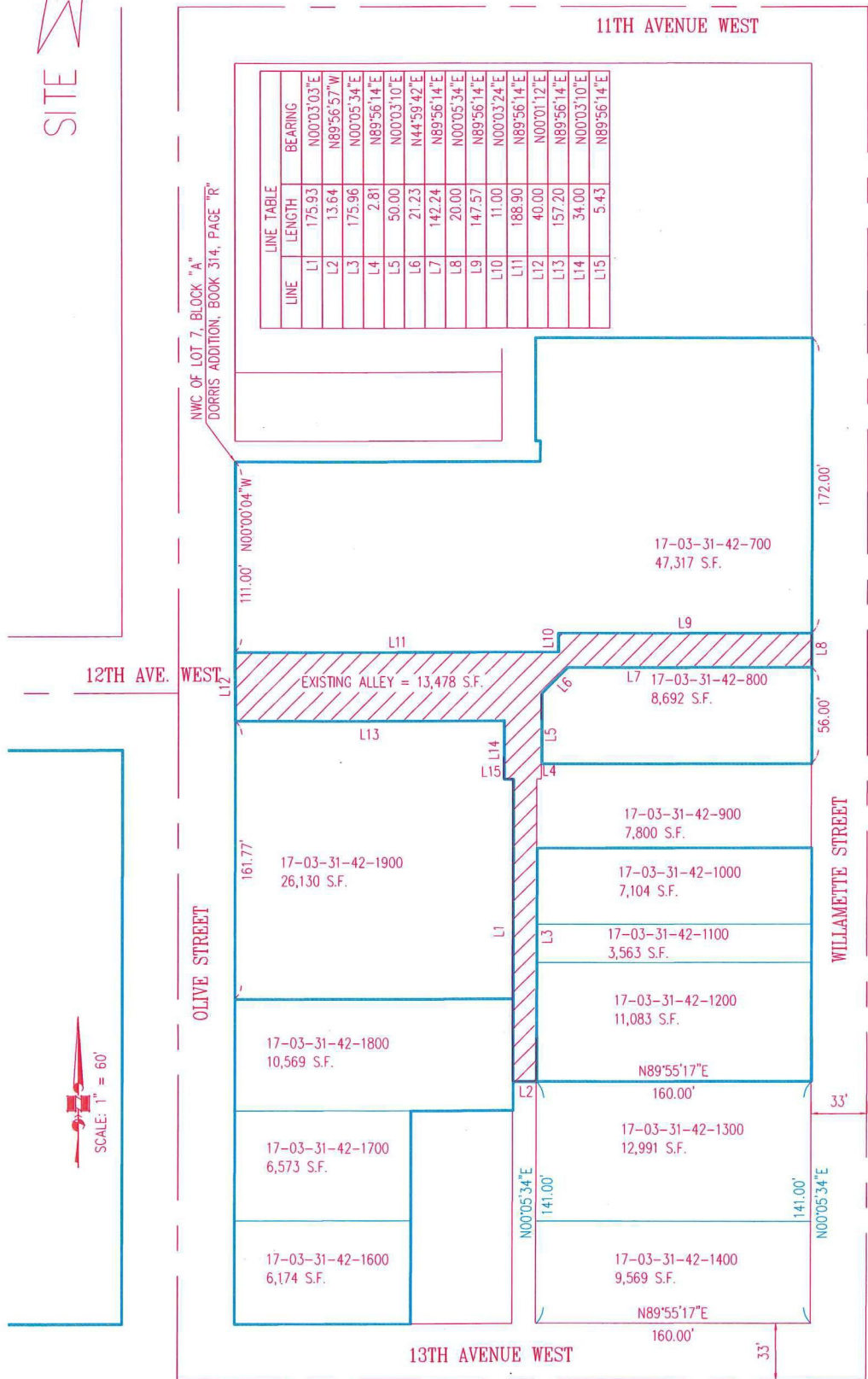
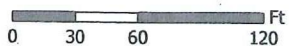


Exhibit B-2: Aerial Context Map (VRI 12-1)



Caution:
This map is based on imprecise
source data, subject to change,
and for general reference only.



March 29, 2012



Exhibit C: DRAFT Findings

Background:

Capstone Collegiate Communities, LLC (Applicant) has requested the vacation of 13,478 square feet of public right-of-way, which includes the segment of West 12th Avenue right-of-way located between Willamette Street and Olive Street (which functions as an alley) and the northerly portion of the segment of Willamette Alley located between West 12th Alley and West 13th Avenue. Both “alleys” are open to vehicular, bicycle, and pedestrian use and contain public utilities. The applicant proposes to provide replacement public ways that will not allow vehicles but that will maintain bicycle and pedestrian access through the site. The applicant also proposed to dedicate a new public alley for vehicle use, to provide a connection between the north terminus of the existing alley to remain north of West 13th Avenue and Willamette Street, just north of the Florence Apartments; however, the City does not accept that right-of-way because there is no compelling public need. The right-of-way vacation reserves for the City a public utility easement to continue accommodate existing utilities; those utilities will be relocated at a later time. The applicant proposes to redevelop the site with multiple-family dwellings, in a manner that is expected to: offer economic opportunities to the community; provide a safe and efficient transportation system; and implement the City’s vision for an active and vibrant downtown.

The vacation request process provides a means to evaluate the need for public ways as land develops and uses change over time, and to address the manner in which the City may dispense with public ways. Requests for the vacation of public streets and alleys are considered in accordance with Eugene Code (EC) 9.8700-9.8725 and Oregon Revised Statutes (ORS) 271.080-271.230. These requests are also subject to procedural requirements at EC 9.7445-9.7455.

Compliance with Approval Criteria:

The sole approval criterion at EC 9.8725 requires the City Council to find that approval of the requested right-of-way vacation is in the public interest. The full text of the approval criterion is provided below, with findings demonstrating compliance:

The city council shall approve, or approve with conditions and reservations of easements, the vacation of improved public right-of-way, public ways acquired with public funds, or undeveloped subdivision and partition plats, or portions thereof, including public right-of-way and improved public easements located therein, only if the council finds that approval of the vacation is in the public interest.

The required public notice and hearing have occurred on the vacation request in accordance with applicable statutory and local code requirements. Consent for the vacation request from abutting and affected owners, and payment of a special assessment for the area of vacated

right-of-way, are required by statutes and local code. The vacation request was referred to affected City Departments and public utility service providers; referral responses indicate the following public interests:

- West 12th Avenue contains public utilities, including wastewater, stormwater, and gas, and provides a heavily-used bicycle and pedestrian connection between Olive and Willamette Streets.
- Willamette Alley contains public utilities, including wastewater, cable, electric, and steam.

The following findings demonstrate that the vacation request is in the public interest. This determination is based on the facts that the vacation, by the terms of the ordinance, will only take effect if the applicant's development project proceeds to permitting and that, through other City actions, the applicant's development project will include replacement of public infrastructure and enhancement of the bicycle and pedestrian connection through the site as more specifically described below. The transportation system will be further improved given that future development of this site will be subject to current Eugene Code standards for commercial zones, which require bicycle and pedestrian amenities such as bicycle parking and pedestrian connections. The Eugene Code will also require the developer to obtain Traffic Impact Analysis approval, which evaluates the developments impact on the transportation system and requires the developer to mitigate those impacts at its expense.

West 12th Avenue

The applicant proposes to vacate the current right-of-way, which has an angled alignment and an uneven width, and rededicate a new alley that would be a uniform 20 feet between Olive and Willamette Streets. The new alley would be just south of the existing alley, in a more direct alignment with the existing public access way on the east side of Willamette Street. The applicant proposes to relocate public infrastructure within the new public way, including wastewater, stormwater, bicycle and pedestrian improvements.

The existing public alley between Olive Street and Willamette Street is heavily used by bicycles and pedestrians. Redevelopment of the site will include dedication of a new 20 foot wide public alley for bicycles and pedestrians to continue to address this public interest. The new alley will include a 10-foot wide clear zone for bicyclists, free from obstructions and designed in a manner that minimizes potential conflicts. The future alley alignment benefits bicycles and pedestrians by providing a straight alley and without conflicts with automobiles, as vehicular movement will not be allowed in the rededicated alley location. To accommodate the new alley alignment, the developer will install related amenities in the adjacent Olive and Willamette Streets, as follows: 1) a bicycle crossing island at the intersection of West 12th Avenue and Olive Street that prohibits left turns for automobiles; and 2) a replacement crosswalk within Willamette Street that aligns the proposed bicycle connection through the site with the existing bicycle way east of Willamette Street. All improvements will be subject to a more detailed

review for design elements during the Privately-Engineered Public Improvement (PEPI) permit process, in which the applicant pays for all associated engineering, construction, and inspection costs. The new right-of-way dedication and related public improvements for the realigned public bicycle and pedestrian connection through the site, between Olive and Willamette Streets, is a condition of MUPTE approval, which is essential to the applicant's development of the site.

The existing West 12th Avenue right-of-way also contains public utilities, including wastewater and stormwater facilities. Referral comments from other utility providers confirm the presence of additional utilities, including a gas line. As such, a public utility easement (PUE) will be reserved under and through the existing public right-of-way to maintain access to the existing underground infrastructure. The PUE may later be vacated when the utilities are properly abandoned or relocated. The applicant proposes to relocate the infrastructure within the new public right-of-way dedication. The applicant proposes construction above the new public right-of-way, from the third to fourth stories of the proposed building.

Willamette Alley

The portion of Willamette Alley being vacated by this ordinance is not a critical bicycle/pedestrian or vehicular connection. The applicant has proposed to later rededicate the area back to the public for bicycle, pedestrian, and utility purposes, but the City has concluded that a public utility easement to retain and maintain the existing underground public wastewater, cable, electric, and steam systems is the only reservation needed to address the public interest. The applicant will retain air rights in order to build the third through fifth stories of the building over the public utility easement.

The Public Interest

The public interest in the area was examined in the City's recent compilation of the Eugene Downtown Plan (EDP). The City's aspirational vision as reflected in the EDP is to establish the downtown area as a strong regional, community, and cultural center. To achieve this vision, the City plays a proactive role in promoting the desired high-density and high-quality development investment downtown. Without the vacation of the alley rights-of-way, the applicant will be unable to move forward with its development proposal for the site. That development proposal is to locate a large, privately-funded, residential development for student housing in the downtown area, within a block of the downtown transit center. This development will provide the opportunity for dense, urban, downtown living, consistent with the City's vision of providing compact urban development with easy access to a variety of transportation options. The addition of a student housing development consisting of approximately 230 apartments with 725 bedrooms on the site will add both density and vitality to the downtown, consistent with City goals, and allow hundreds of new downtown residents to live, shop, eat and enjoy cultural amenities downtown.

In addition to jobs the development will provide in the construction industry, the additional residents within walking distance of businesses will strengthen downtown's position as a service center and central business district. The use and location of the proposed development will promote the efficient use of existing public facilities and encourage alternative modes of transportation, as residents will have access to services downtown and to the University of Oregon, by walking, bicycling, or transit. The downtown transit station is located within a block to the north, which provides transit service to the Eugene-Springfield area, including a Bus Rapid Transit system that connects to Springfield and the Riverbend Hospital. This convenience promotes and supports the use of alternative transportation.

The development site is surrounded on all sides by commercially-zoned lands. With regard to nearby residential development, a residential facility for seniors abuts the north boundary of the proposed development; otherwise, residential neighborhoods are located a block to the south and about three blocks to the east and west. The development plan responds to potential impacts to these developments by providing substantial parking spaces (for both vehicles and bicycles) within the development, as overflow parking onto the streets and into the neighborhoods is a frequent concern of residents. With regard to traffic, residents will have easy access to alternative modes of transportation, as discussed above. Further, the traffic generated by the proposed development will be more precisely evaluated as part of a required Traffic Impact Analysis review, which studies the development's impact on the transportation system and results in the developer providing necessary mitigation measures at their expense.

To further protect the livability of both downtown and nearby residential neighborhoods, the development will be required to comply with all applicable commercial code standards, based on the C-3/TD (Major Commercial with Transit Oriented Development Overlay) zoning of the property. These standards are in place to ensure that development occurs in a manner that is complementary with the community by increasing opportunities for alternative modes of transportation, promoting safe pedestrian systems, and preventing crime through design. These standards address elements such as bicycle parking, landscaping, garbage screening, delivery and loading facilities. The City also enforces noise regulations, which apply beyond the construction of the proposed development to the on-going activities of the development and its residents.

Conclusion:

The ability to redevelop this property in a consolidated manner enhances the economic viability of the site. The vacation will result in a safe and efficient transportation system, an improved bicycle and pedestrian connection through the site, and a redevelopment project that provides compact urban growth and adds density and vitality to the downtown area. The proposal is consistent with the City's vision for this area as reflected in the Eugene Downtown Plan and related policy documents. The project will result in substantial economic opportunities for the construction trade and downtown businesses, and the additional employment opportunities will benefit the entire community. The City will continue to work with the downtown and nearby neighborhoods to address livability concerns through appropriate programs.

Based on the above findings, substantial evidence and testimony received, the City finds that the requested right-of-way vacation will be in the public interest.



**Planning & Development
Planning**

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April 11, 2012

John Acken
Capstone Collegiate Communities, LLC
431 Office Park Drive
Birmingham, AL 35223

RE: Notice of Revised Assessment of Benefits for Right-of-Way Vacation Request

Dear John,

Attached is a revised memorandum describing the assessment of special benefit for the vacation request of 12th Alley between Olive and Willamette streets (City File VRI 12-1). My previous letter, dated March 30, 2012, indicated an assessment of \$314,278.00. After further consideration of the easement rights to be retained by the City and the new right-of-way proposed for dedication, staff has determined the assessment to be \$136,000.00. The public hearing date for the request is set for Monday, April 23, 2012, at 7:30 p.m. The public hearing will be held in the Council Chamber located at 777 Pearl Street.

Eugene City Code requires the applicant to deposit this amount with the City, at least 5 working days prior to the public hearing. Please deposit the amount noted above on, or prior to, April 16, 2012. If the vacation is approved, this deposit will be retained by the City. If the vacation application is denied, the deposit will be returned.

The deposit shall be made at the Permit Information Center located in the Atrium building at 99 West 10th Avenue. Please give me a call at (541) 682-5437 or email becky.g.taylor@ci.eugene.or.us and I can help answer questions and coordinate the deposit.

Sincerely,

Becky Taylor
Associate Planner

cc: Philip Farrington, Peace Health
Enclosure: Assessment of Benefits



Public Works
Engineering

MEMORANDUM

City of Eugene
99 E. Broadway, Suite 400
Eugene, Oregon 97401
(541) 682-5291
(541) 682-5032 FAX

Date: April 10, 2012

To: Lisa Gardner, Planning Director

Cc: Becky Taylor, Associate Planner

From: Russ Royer, Senior Real Property Officer

Subject: 12th Avenue Alley Vacation Assessment

Per a previous March 29, 2012 memorandum I had prepared a vacation assessment consistent with Eugene Code 9.8710 pertaining to the vacation of segments of both an east/west right of way extending from Olive Street to Willamette Street along with a segment of an adjacent north/south alley to the south. The areas are legally described and illustrated on attached Exhibit's A and B.

Purpose of Report: The purpose of this report is to assist city staff to establish and recommend an amended assessment of the special benefit of the proposed vacation to the underlying adjacent fee owner. The previous March 29, 2012 estimated assessment was approximately \$314,278 but did not include a credit for the rededicated east/west public access way from Olive to Willamette Streets, or the discount for the public utility easement that will be reserved by the city upon the entire proposed vacation area. The subject area is an improved public right of way and Eugene Code 9.8710 describes the vacation process including the assessment of special benefits in Eugene Code 9.8710(5)(a). The Code states "the assessed value of special benefits shall include: 1. The value of the real property; and 2. The costs incurred by the city in the construction of public improvements." There are no known improvements that were constructed at city expense so this assessment of value is limited to the value of the real property rights.

As illustrated on the attached exhibit the city shall vacate the proposed area with reservations for future public utilities. This pertains to the entire 13,478 square feet proposed to be vacated. The city will be reserving the rights for public utilities but the owner will benefit from the rights for surface and aerial uses. The public utility easement areas are presently improved with public utilities. The public utility easement will limit the owner from constructing structures or other improvements at ground level or below ground surface unless said improvements would be compatible with the city's existing and proposed usage of the easement area. For instance in most cases while buildings would not be allowed, driveways, sidewalks, landscaping, and other such improvements would be considered compatible uses. The market value of the real property interests being assessed will be reduced by 25% in recognition of the limitation in these areas. It is further recognized the owners will be able to construct structures and improvements above ground level providing the improvements would not be constructed below the 3rd floor above ground level. This will result in a clear zone of approximately twenty feet above ground level for future maintenance, access, and reconstruction of public utilities.

As a condition of the vacation and basis of this assessment the adjacent owner shall dedicate a 20 foot wide public bicycle/pedestrian access and public utilities easement running east/west to connect Willamette Street with Olive Street. This 20 foot wide proposed dedicated segment will lie just south of the existing West 12th right of way proposed for vacation. It connects Willamette Street right of way to Olive Street right of way a distance of about 336 lineal feet and encumbering a total of 6,729 (336.47' x 20') square feet. The area of dedication shall provide for public pedestrian and bicycle access and public utilities. The owner shall reserve the rights to construct improvements at or above the 3rd floor above ground level or about twenty feet above ground level. Any such proposed improvements remain subject to all standard city review and permitting processes for improvements to be constructed in this area.

The benefitting owner of the vacation shall receive a partial credit for this proposed 20' x 336' public access way and public utility easement dedication. The credit is to be applied towards the assessment for the value of special benefits resulting from the proposed vacation. The city will be receiving surface and subsurface rights to this area as described above. The owner will be reserving the aerial rights at or above the 3rd floor above ground level as well as benefitting from the general public access rights. It is estimated the reserved rights to be approximately 15% of the market value of the entire property rights in this area.

Zoning and Highest and Best Use: The subject adjacent benefitting property is presently zoned C-3 or major commercial. The proposed development is for apartments which would be a permitted use subject to zone verification and special development standards.

Comparable Sales Analysis: A diligent search of the local real property sales market resulted in a number of similarly zoned property sales over the past few years. The sales ranged in value from approximately \$20 per square foot to as much as \$75 per square foot for much smaller lots with existing improvements, although the improvements on these were being razed for redevelopment of apartments. Some of the higher value sales activity was experienced during the more active market which peaked about 4 years ago. Current sales data has been limited as a result of the slow economy. However there were three comparable sales in the general area which offered similar utility that closed in late 2011. Their sales indicated \$36, \$42, and \$75 per square foot. The lot sizes were 5,345 sq. ft., 32,362 sq. ft., and 3,520 sq. ft., respectively. The parcel sizes of these sales were much smaller than the subject benefitting parcel and smaller lots typically demand a higher per square foot value. The combined subject tax lots total approximately 4.88 acres.

Some of the similarly zoned comparable sales were in west Eugene several blocks to the north and west of the subject property. Other comparable sales included the commercial areas along Coburg Road as well as in the University of Oregon area in east Eugene. The university sites tended to demand the upper end of the range of values for the development of student housing projects which were sometimes combined with a mix of commercial use on the ground floor level.

In addition to the location of the comparable sale sites considerable attention is given to the zoning and the highest and best use of the comparable sales. The comparable sales all had similar zoning with similar allowed uses.

Sale of subject property: It has been reported from reliable sources that the subject benefitting property is under a pending purchase agreement for \$6.6 million for the combined total area of 4.88 acres. Thus, indicating a unit value of approximately \$31 per square foot (\$6.6 million/4.88 acres/43,560 feet per acre). The pending sale appears to be an arm's length sale and representative of the current market and further supported by numerous other market sales data. As such a value of \$31 is considered to be a reasonable estimate of the unencumbered portion of the proposed vacation area. The city will reserve a public utility easement over the entire vacation area as described above resulting in a reduction of 25% of the fee value. Thus the value of the vacation area is estimated to be \$23.25 per square foot after reduction for the reserved public utility easement.

Reconciliation of Value: The assessment of the 13,478 square feet of right of way being vacated subject to the city's reservation for a public utility easement yields a net value of \$23.25 (75% of \$31) per square foot or \$313,363.00 ($\$23.25 \times 13,478$ sq ft) for the total vacation area.

The credit for the rededication of the 20' by 336.47' public access way including public utilities is valued at 85% of fee value after deducting 15% of the value for aerial rights reserved for the owner as described above. This results in a per square foot unit value for the area being dedicated of \$26.35 (85% x \$31). The area of dedication of the public access way is 6,729 square feet times \$26.35 per square foot to yield a total credit of \$177,309.

The **Adjusted Assessment of Net Special Benefits for the 13,478 square feet** of total area to be vacated after the credit for the dedication of the new 6,729 square feet of public access way and public utility easement is estimated to be **\$136,000** ($\$313,363 - \$177,309$), rounded.

The above assessment is based upon the provided square footages of the proposed areas of vacation and areas of rededication. If the areas change the corresponding assessments would also be subject to further change.

It is further noted an earlier proposed dedication map included an additional alley right of way connecting the remaining section of the north/south alley to Willamette Street. That area will not be dedicated as additional public right of way and therefore that 4,160 square feet (160' x 26') area will not be encumbered by public right of way or included in this assessment valuation.

This is a summary report. Comparable sales data and other supporting documentation are retained in the assessment work file.

Exhibit A

EXISTING ALLEY

Beginning at the northwest corner of Lot 7, Block A of Dorris Addition to Eugene City, as platted and recorded in Book R, Page 314, Lane County Oregon Deed Records, in Lane County Oregon; thence along the west line of said Lot 7, also being the East line of Olive Street, South $00^{\circ}00'04''$ East 111.00 feet to the True Point of Beginning; thence North $89^{\circ}56'14''$ East a distance of 188.90 feet; thence North $00^{\circ}03'24''$ East a distance of 11.00 feet; thence North $89^{\circ}56'14''$ East a distance of 147.57 feet to West line of Willamette Street; thence South along said West line South $00^{\circ}05'34''$ West a distance of 20.00 feet; thence South $89^{\circ}56'14''$ West a distance of 142.24 feet; thence South $44^{\circ}59'42''$ West a distance of 21.23 feet; thence South $00^{\circ}03'10''$ West a distance of 50.00 feet; thence South $89^{\circ}56'14''$ West a distance of 2.81 feet; thence South $00^{\circ}05'34''$ West a distance of 175.96 feet; thence North $89^{\circ}56'57''$ West a distance of 13.64 feet; thence North $00^{\circ}03'03''$ East a distance of 175.93 feet; thence South $89^{\circ}56'14''$ West a distance of 5.43 feet; thence North $00^{\circ}03'10''$ East a distance of 34.00 feet; thence South $89^{\circ}56'14''$ West a distance of 157.20 feet to East line of Olive Street; thence North along said East line North $00^{\circ}01'12''$ East a distance of 40.00 feet to the True Point of Beginning. 13,478 square feet.

