

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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Action: An Ordinance Vacating West 12<sup>th</sup> Avenue, located between Olive Street and Willamette Street, (VRI 12-1)

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Meeting Date: May 9, 2012  
Department: Planning and Development  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item Number: A2  
Staff Contact: Becky Taylor  
Contact Telephone Number: 541/682-5437

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## ISSUE STATEMENT

The City Council is scheduled to deliberate and possibly take action on an ordinance for the right-of-way vacation request submitted by Capstone Collegiate Communities, LLC (herein referred to as “Capstone”). The right-of-way proposed for vacation is now just the segment of West 12<sup>th</sup> Avenue (which functions as an east/west alley) between Olive Street and Willamette Street. The applicant no longer seeks vacation of Willamette Alley. The area of the request is 10,294 square feet (0.24 acres). Capstone is proposing to develop the adjacent lands, currently owned by PeaceHealth, with student housing. The effective date of the attached ordinance is contingent upon Capstone constructing the proposed development. Aerial context and area of request maps are included as Attachments A and B.

## BACKGROUND

On April 23, 2012, the City Council held a public hearing to consider Capstone’s request for vacation of two segments of right-of-way: (1) West 12<sup>th</sup> Avenue right-of-way located between Olive Street and Willamette Street; and (2) the northern portion of Willamette Alley located between West 12<sup>th</sup> Avenue and West 13<sup>th</sup> Avenue. Following the hearing, the Council announced that it would hold the record open to accept any additional testimony until 5:00 on April 30<sup>th</sup>, then open for an additional 7-day period until 5:00 on May 7<sup>th</sup> for any party to submit written *argument* (but not new evidence). On May 1, Capstone withdrew its request that the City vacate Willamette Alley. Therefore, the Council is now only considering the request to vacate West 12<sup>th</sup> Avenue right-of-way located between Olive Street and Willamette Street.

Unless the applicant waives its right, it is allowed seven additional days, until May 14<sup>th</sup> at 5:00, to submit final written argument. If the applicant has waived all or a portion of this rebuttal time, the Council may be able to take action on May 9<sup>th</sup>. On May 8<sup>th</sup>, staff will provide the Council with an update, including a non-evidentiary analysis of all of the public testimony received. Copies of all written testimony and other vacation-related materials have been placed before the City Council in a binder in the Council Office.

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 was conducted consistent with quasi-judicial procedures in State law and as set forth in EC 9.7065 through EC 9.7095.

If the council approves the vacation, the ordinance to be acted on is included as Attachment C.

### **COUNCIL OPTIONS**

The council may:

1. Adopt the ordinance as attached.
2. Adopt the ordinance with specific amendments.
3. Deny the application.

### **CITY MANAGER'S RECOMMENDATION**

The City Manager recommends that the City Council approve the vacation request and adopt the ordinance as attached.

### **SUGGESTED MOTION**

Move to adopt Council Bill No. 5070, an ordinance vacating West 12th Avenue, located between Olive Street and Willamette Street.

### **ATTACHMENTS**

- A. Aerial Context Map of Alley Vacation Request
- B. Map of Alley Vacation Request
- C. Draft Ordinance (with Exhibits A – C) for Alley Vacation

### **FOR MORE INFORMATION**

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# Attachment A: Aerial Context Map



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

May 01, 2012







ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE VACATING THE WEST 12<sup>th</sup> AVENUE RIGHT-OF-WAY LOCATED BETWEEN WILLAMETTE STREET AND OLIVE STREET; AND PROVIDING AN EFFECTIVE DATE.**

**The City Council of the City of Eugene finds that:**

**A.** The City Council of the City of Eugene 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: (1) the West 12<sup>th</sup> Avenue right-of-way located between Willamette Street and Olive Street; and (2) a portion of the Willamette Alley right-of-way located between 12<sup>th</sup> Avenue and 13<sup>th</sup> Avenue. For both segments of right of way, the proposed vacation included City reservation of a public utility easement under and across that 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.** Capstone Collegiate Communities LLC (“the applicant”) will be dedicating a new West 12<sup>th</sup> 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 12<sup>th</sup> 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 accepted testimony supporting and objecting to the proposed vacation.

**D.** Following the public hearing, the applicant withdrew its request for vacation of the portion of the Willamette Alley right-of-way located between 12<sup>th</sup> Avenue and 13<sup>th</sup> Avenue but maintained its request for vacation of the following described right of way:

The West 12<sup>th</sup> Avenue right-of-way located between Willamette Street and Olive Street 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.

**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 12<sup>th</sup> Avenue right-of-way to be vacated.

**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°00'04" East 111.00 feet to the True Point of Beginning; thence North 89°56'14" East a distance of 188.90 feet; thence North 00°03'24" East a distance of 11 feet; thence North 89°56'14" East a distance of 147.57 feet to West line of Willamette Street; thence South along said West line South 00°05'34" a distance of 20.00 feet; thence South 89°56'14" West a distance of 142.24 feet; thence South 44°59'42" West a distance of 21.23 feet; thence South 00°03'10" West a distance of 16.00 feet; thence South 89°56'14" West a distance of 176.32 feet to East line of Olive Street; thence North along said East line North 00°01'12" East a distance of 40.00 feet to the True Point of Beginning. 10,294 square feet.

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

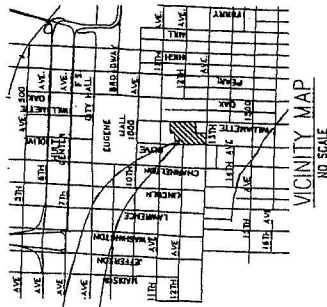
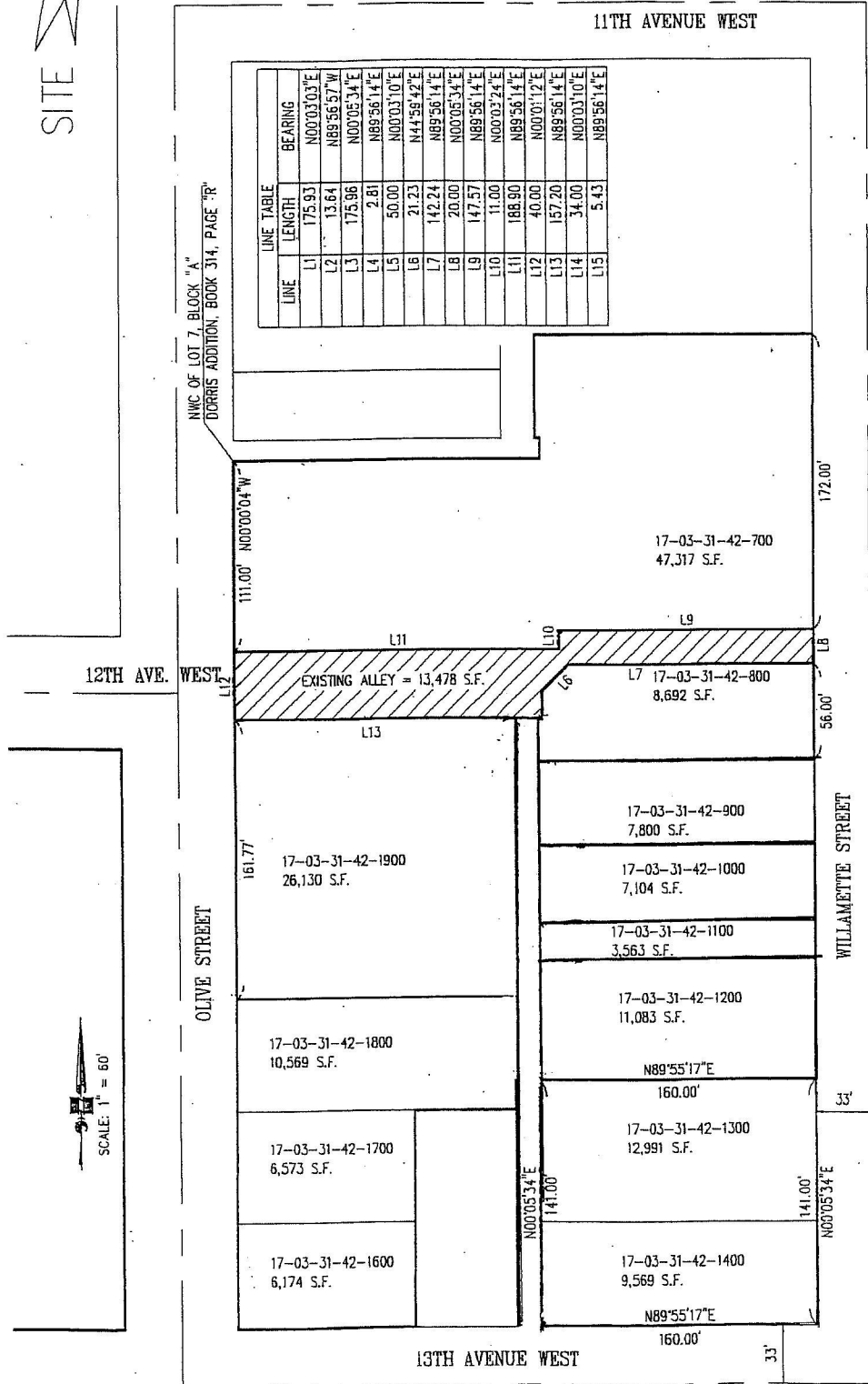


Exhibit B: Area of Request

DATE 2-02-12  
SHEET 1 OF 2





## **Exhibit C: DRAFT Findings**

### **Background:**

Capstone Collegiate Communities, LLC (Applicant) originally requested the vacation of two rights-of-way, totaling 13,478 square feet. These were: (1) the segment of West 12<sup>th</sup> Avenue right-of-way located between Willamette Street and Olive Street (which functions as an alley); and (2) the northerly portion of the segment of Willamette Alley located between West 12<sup>th</sup> Avenue and West 13<sup>th</sup> Avenue. After the public hearing, the applicant withdrew its request to vacate Willamette Alley; as such, Willamette Alley will continue to function as a public alley that is open to vehicular, bicycle, and pedestrian use and contains public utilities. The applicant's request to vacate the West 12<sup>th</sup> Avenue right-of-way is addressed in these updated findings. Staff will provide a response to all of the public testimony received during the public record period (from the April 23 public hearing to the close of the rebuttal period on May 7) to the City Council on May 8, prior to the Council's action on May 9.

The West 12<sup>th</sup> Avenue right-of-way will be vacated in its current configuration, but (via delayed effective date contingent upon development and a condition of approval imposed in the related MUPTE resolution) it will later be replaced with new right-of-way just south of its current alignment. The replacement right-of-way for West 12<sup>th</sup> Avenue will not allow vehicles but that will maintain bicycle and pedestrian access through the site. 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 dwelling units, 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 12<sup>th</sup> Avenue contains public utilities, including wastewater, stormwater, and gas, and provides a heavily-used bicycle and pedestrian connection between Olive and Willamette Streets.

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.

The current West 12<sup>th</sup> Avenue right-of-way has an angled alignment and an uneven width. The rededicated right of way will be a uniform 20-foot width located 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 12<sup>th</sup> 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.

#### 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 12<sup>th</sup> Avenue right-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.