



## COUNCIL PUBLIC HEARING

Wednesday, December 16, 2020 at 6:15 PM

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### COUNCIL MEMBERS:

Mayor Rick Scholl  
Council President Doug Morten  
Councilor Keith Locke  
Councilor Ginny Carlson  
Councilor Stephen R. Topaz

<https://zoom.us/j/95133275009?pwd=M2Nwb1IERG9yN09HVGJWV1Q2NTUzQT09>

### LOCATION & CONTACT:

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## AGENDA

### OPEN PUBLIC HEARING

#### TOPIC

- [1.](#) Street Vacation - Part of S. 2nd Street Right-of-Way (Zender)

### CLOSE PUBLIC HEARING

### VIRTUAL MEETING DETAILS

Join Zoom Meeting:

<https://zoom.us/j/95133275009?pwd=M2Nwb1IERG9yN09HVGJWV1Q2NTUzQT09>

Meeting ID: 951 3327 5009

Passcode: 502621

Dial by your location: 1 346 248 7799

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**CITY OF ST. HELENS PLANNING DEPARTMENT  
STAFF REPORT  
Street Vacation VAC.2.20**

**DATE:** December 9, 2020  
**TO:** City Council  
**FROM:** Jacob A. Graichen, AICP, City Planner  
 Jennifer Dimsho, AICP, Associate Planner

**PETITIONER:** Equity Trust Company Custodian, Brian Zender

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

**The west half of the S. 2<sup>nd</sup> Street right-of-way abutting Lots 21 and 22, Block 24 (not previously vacated) of the St. Helens Subdivision, City of St. Helens, Columbia County, Oregon.**

Per the petition's petition, the purpose of this vacation is to have more open front yard space, and to allow for the portions of Lot 21 and 22 east of the right-of-way to be united to the main body of the lots located west of the right-of-way.

**PUBLIC HEARING & NOTICE**

Hearing date: December 16, 2020 before the City Council

Notice of this proposed street vacation was published in the Chronicle on December 9, 2020 and December 16, 2020. Staff posted a copy of the notice near each end of the proposed street vacation areas on December 2, 2020.

**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.

### Discussion:

- **Have there been any objections or other comments submitted regarding this request?**

At their December 8, 2020 meeting, the **St. Helens Planning Commission** recommended approval **with the condition that the western 15' along the entire adjusted portion of Lot 21 shall remain public right-of-way. as discussed below.** At the time of the Planning Commission meeting, this was also staff's recommendation. However, following the meeting, staff considered the discussion of the PC and public views further and recommends approving only the portion abutting Lot 22.

**Public Works** – If the right-of-way immediately adjacent to the east property line of Lot 21 of Block 24 is to be vacated, a minimum 15-foot wide public utility easement should be reserved across the frontage of the lot, or the applicant can verify the location of any public utility, such as water and/or sanitary sewer, and have a formal easement written describing the actual location of any such utility.

**Comcast** – We have no issues with the proposed vacation.

- **Has the consent of the owners of the requisite area been obtained?**

Pursuant to ORS 271.080(2), the consent of the owners of all abutting property and not less than two-thirds in area of the real property affected area (i.e. an area 200 feet parallel to and on both sides of the portion of street right-of-way to be vacated and 400 feet along its course beyond each terminus of the portion of street right-of-way to be vacated) is required. **The applicant submitted documentation showing 100% consent of all property owners abutting the portion of street right-of-way to be vacated and 74.6% of the affected area.** Note that the City of St. Helens own a significant portion of the affected area (4N1W-300-100 & 4N1W-3BD-990). At their October 7, 2020 City Council meeting, the City Council authorized the Mayor to sign off as the property owner. They also requested that this request go to the Planning Commission for their recommendation, which was discussed above.

- **Has notice been duly given?**

Notice requirements are set forth by ORS 271.110. This requires published notice to occur once each week for two consecutive weeks prior to the hearing and posted notice within five days after the first date of published notice. The posting and first day of publication notice is required

to be at least 14 days before the hearing. The notice requirements have been met (see “Public Hearing & Notice” above).

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

### Streets

The applicant applied for and received approval for two Variances (V.15.20 & V.16.20) and a Lot Line Adjustment (LLA.2.20) which showed a development scheme for two attached single-family dwellings where both lots utilize a shared access easement from S. 2<sup>nd</sup> Street. The approved variance site plan showing the lot line adjustment is attached. The LLA has not yet been recorded.

The partially developed 80-foot S. 2<sup>nd</sup> Street right-of-way includes an older sidewalk along the west side of the right-of-way, but it ends about 60 feet before the subject properties. The paved portion of the street also terminates to all gravel about 25 feet before reaching the subject property. The right-of-way proposed to be vacated slopes steeply along the eastern half to be vacated.



Taken from the S. 2<sup>nd</sup> Street right-of-way looking south. Shed structure pictured is located on the northeastern edge of Lot 22. Illegal fence and gate in the foreground are to be removed prior to issuance of any permit for development.

S. 2<sup>nd</sup> Street is classified as a local street according to the City's Transportation System Plan (TSP). There are two standards for local classified streets: 50' normal width and 40' skinny street widths. Neither is met as the existing ROW is triangular in form. Due to a previous street vacation (Ord. No. 1526) which was granted in 1959, a triangular section of the eastern portion of the S. 2<sup>nd</sup> Street right-of-way abutting Lots 21 and 22 was vacated. This section of S. 2<sup>nd</sup> Street right-of-way was likely vacated due to its dead end and its steep topography along the bluff. The previously vacated portion of ROW reduced the 80' right-of-way down to 40' wide at the north end of Lot 21, which tapers down to 16' wide at the south end of Lot 21. Along Lot 22, it tapers from 16' wide to 0' wide.

The applicant is proposing to vacate the triangular portion of the right-of-way (approximately 2,080 square feet) that separates the main portions of Lot 21 and Lot 22 from the non-contiguous part of the lot (the triangle). As a result of this proposed street vacation, Lot 21's new property boundary would block direct access from the right-of-way for Lot 22. The sole legal access would be from the proposed access easement in the rear of Lot 21, which is a detriment to the future property owner. Staff and the Planning Commission recommended retaining at least a portion of this ROW to provide informal access to Lot 22. Further retainage is discussed below.

In addition, retaining additional ROW will allow CRFR flexibility for fire access to both lots.

### **Sidewalks**

The S. 2<sup>nd</sup> Street ROW is not identified as a bikeway or trail in the City's adopted plans. North of the subject properties, there is an older sidewalk along the west side of the right-of-way, but it ends about 60 feet before the subject properties. If staff determines sidewalks are required during the development of these lots, they would be 5' wide for local streets.

### **Utilities**

There are no public stormwater facilities near or within the proposed vacation. There is a sanitary sewer main that appears to terminate in S. 2<sup>nd</sup> Street about 40 feet from the Lot 21. It appears to be outside of the proposed vacation, but the location public water line is unclear. Therefore, Public Works requested to retain a 15' public utility easement (PUE) along the proposed right-of-way abutting Lot 21. Alternatively, the applicant can verify the location of any public utility and have a formal easement written and recorded describing the actual location of any such utility. If at least 15' of ROW abutting Lot 21 is retained, a PUE is not needed.

### **Trees**

There may be trees located in the right-of-way proposed to be vacated along the steep slope that separates the City-owned property from the private property. Most of the trees in the vicinity are located on the triangular property that was vacated back in 1959.

### **Views & Other**

The S. 2<sup>nd</sup> Street ROW abutting Lot 21 is the remaining relatively flat and usable portion of the ROW that remains. The permanency of a street vacation is something staff needs to consider when deciding whether to grant a vacation. The access to the Columbia River view from the public ROW is a public benefit to consider. In addition, the proximity to the City's waterfront redevelopment area may warrant retaining the remainder of usable S. 2<sup>nd</sup> Street ROW. Vacation of this ROW is not necessary for the applicant to develop the lots. Therefore, staff recommends

retaining the ROW abutting Lot 21 to retain public access to the natural views and to provide flexibility to the redevelopment effort of the waterfront site at the bottom of the bluff.

**Finding:** Given the conditions recommended below, the public interest will not be prejudiced with approval of the street vacation.

#### **CONCLUSION & RECOMMENDATION**

**Based upon the facts and findings herein, staff recommends the City Council only grant the street vacation petition along the adjust Lot 22 with the provisions that:**

1. The S. 2<sup>nd</sup> Street ROW abutting the adjusted Lot 21 shall remain public right-of-way.
2. The legal description and exhibit from a private surveyor be provided within one year from the date Council approves the vacation request.
3. Lot Line Adjustment (LLA.2.20) shall be recorded within one year from the date Council approved the vacation request.
4. Conditions 2 and 3 are required prior to the ordinance that completes this right-of-way vacation.

#### **Attachments**

*Vacation Consent Map*

*Utilities & Topography Map*

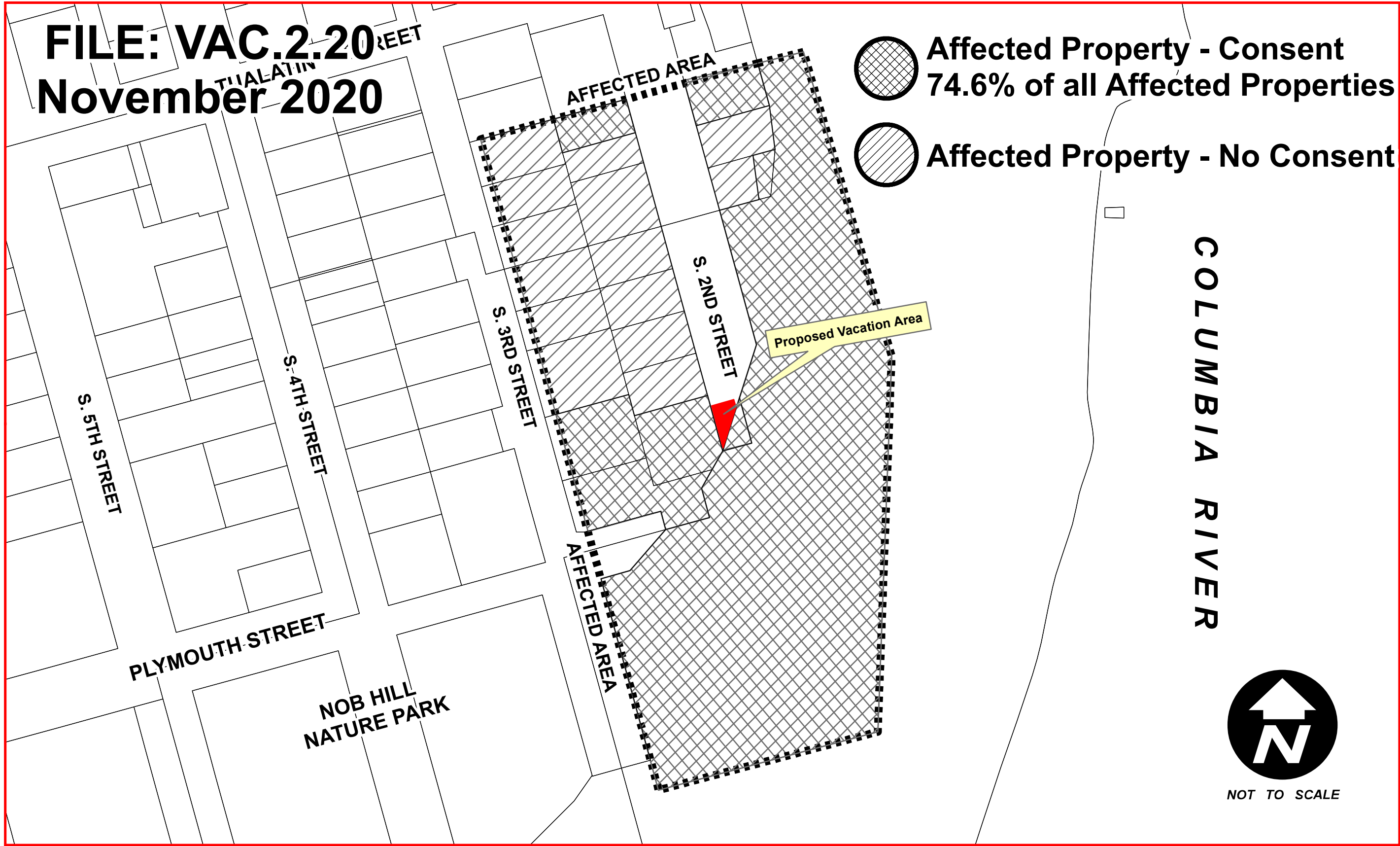
*Approved Variances/Access Easement Site Plan*

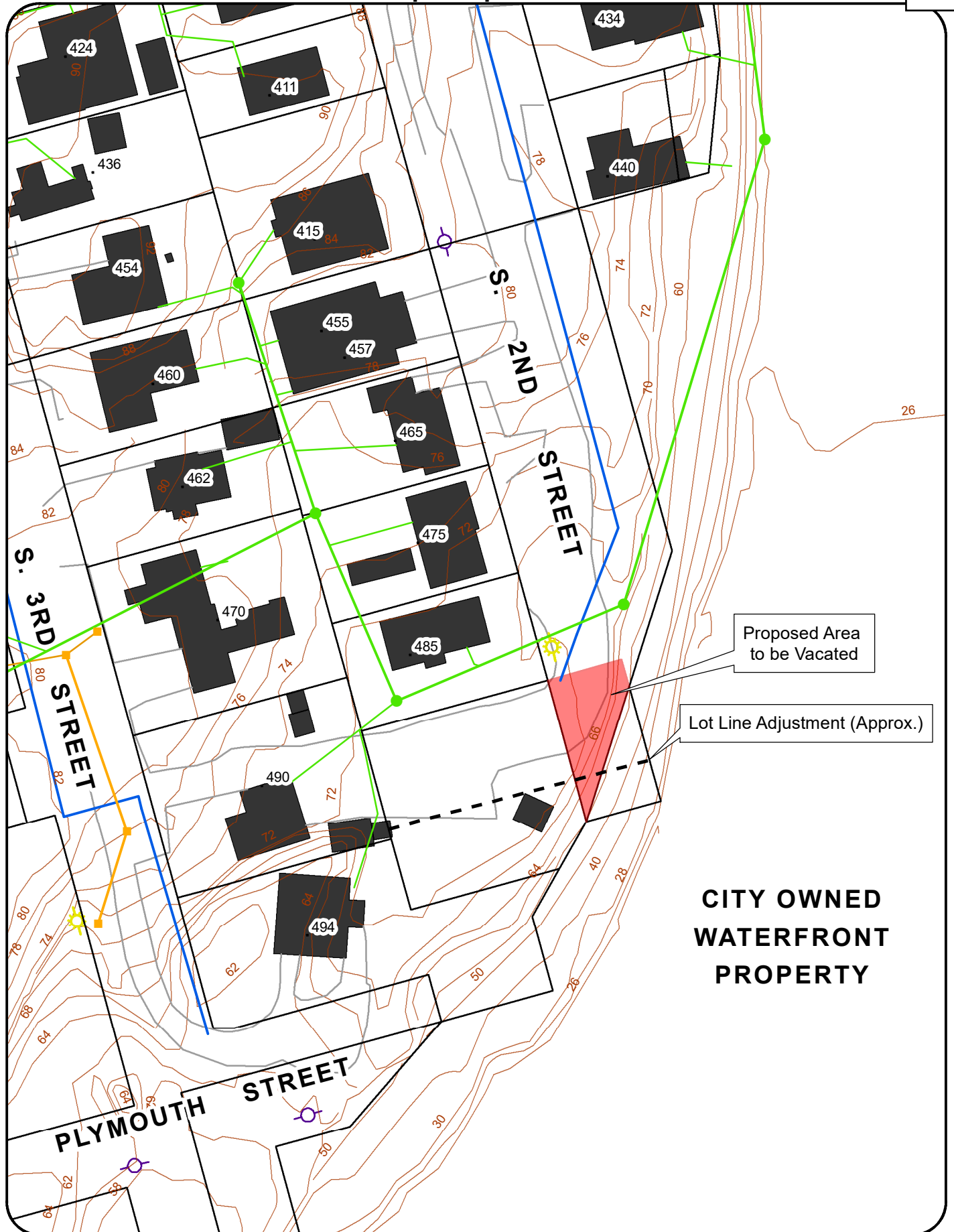
*Approved Lot Line Adjustment / Staff Recommendation*

*Applicant Narrative (2)*

*Applicant Diagrams (2)*









VAC. 2.20

Staff

## Recommendation





SITE PLAN KEYNOTES

1. RAISED WOOD DECK( < 30" ABOVE, FIN. GR.)

2. LINE OF SECOND FLOOR ABOVE

3. CONC. DRIVEWAY APRON

4. WOOD STEPS

5. PLANTER W/ DRY STACK STONES

6. PEDESTRIAN SITE ENTRANCE - PATHWAY WIDTH : 4'-0". - CONC. SLABS W/ 4" GRASS JOINTS BETWEEN SLABS

7. CONC. DRIVEWAY STRIP

8. CONC. SLAB

9. CONC. SLABS - 3'-0" X 4'-0" W/ 6" GRASS JOINTS TYPICAL

10. SEPARATE LOT UNDER SAME OWNERSHIP - PROPOSED TO BE PART OF LOT 21 W/ PROPOSED LOT LINE ADJUSTMENT- 436 S.F.

11. SEPARATE LOT UNDER SAME OWNERSHIP - PROPOSED TO BE PART OF LOT 22 W/ PROPOSED LOT LINE ADJUSTMENT - 808 S.F.
12. LANDSCAPING OR LAWN AREA - TYPICAL

13. LINE OF GARAGE

14. CONCRETE WALKWAY

15. EXISTING ROADWAY IMPROVEMENT

16. UNIMPROVED PORTION OF RIGHT OF WAY

17. EXISTING TREE

18. LINE OF MASTER BEDRM. BAY WINDOW AT LEVEL 2

19. SHED STRUCTURE TO BE REMOVED

20. LINE OF LEVEL 2 BEDROOM'S CANTILEVERED PORTION INTO ACCESS EASEMENT - SEE EXTERIOR ELEVATIONS

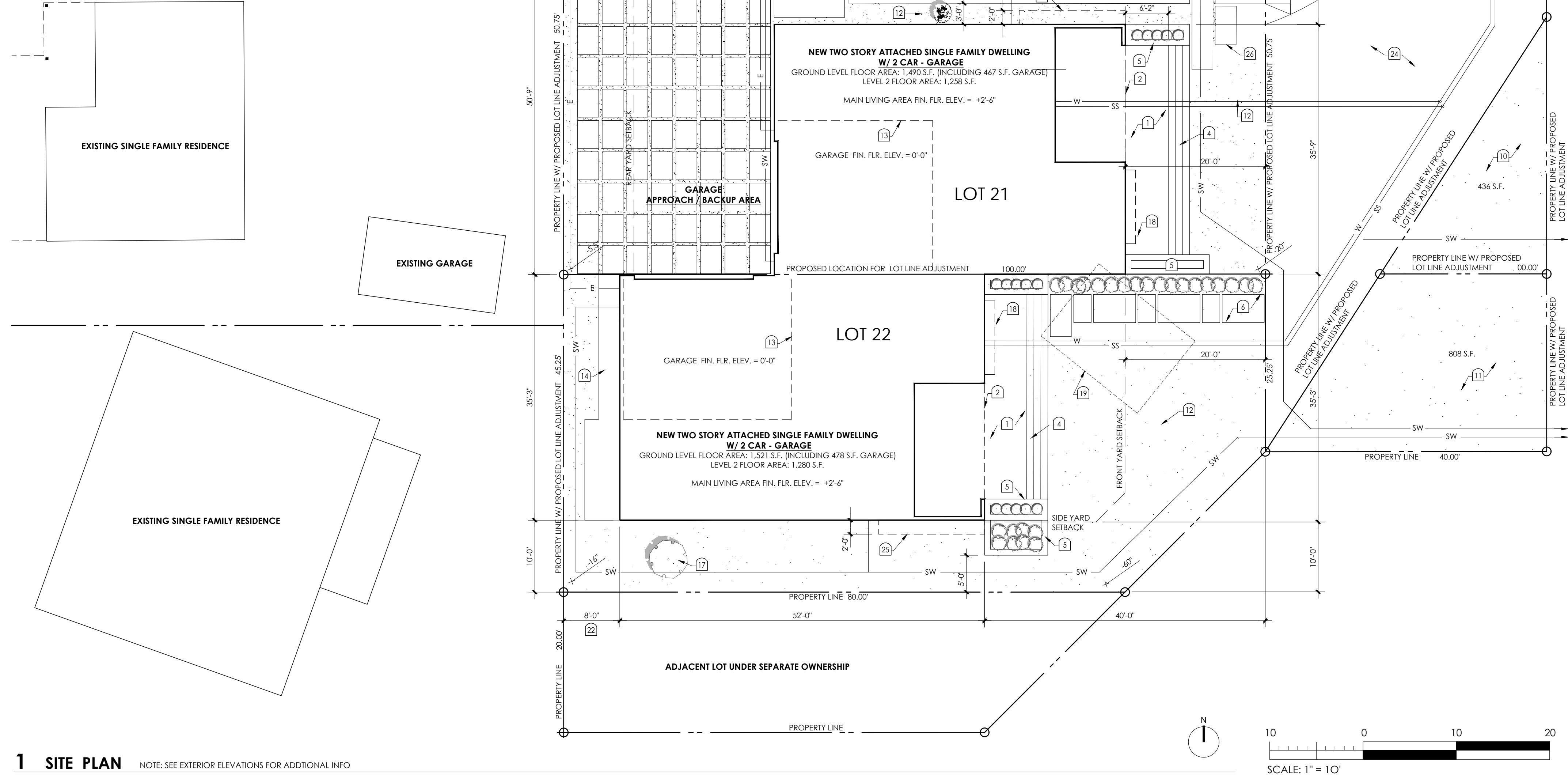
21. ACCESS EASEMENT - 15'-0" WIDE W/ 10'-0" DRIVEWAY PAVEMENT

22. 2 FT. ENCROACHMENT AT GROUND LEVEL & LEVEL 2 INTO SETBACK - VARIATIONS UP TO 20% ALLOWED INTO REQUIRED YARDS W/ ADMINISTRATIVE APPROVAL
23. PORTION OF EXISTING COMPACTED GRAVEL DRIVEWAY TO REMAIN

24. PORTION OF EXISTING VEGETATED RIGHT OF WAY TO REMAIN

25. PORTION OF BEDROOM AT LEVEL 2 CANTILVERED INTO SETBACK - VARIATIONS UP TO 20% ALLOWED INTO REQUIRED YARDS W/ ADMINISTRATIVE APPROVAL

26. PEDESTRIAN SITE ENTRANCE - PATHWAY WIDTH : 3'-0". CONC. SLABS W/ 4" GRASS JOINTS BETWEEN SLABS



1 SITE PLAN NOTE: SEE EXTERIOR ELEVATIONS FOR ADDITIONAL INFO

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BRIAN ZENDER 3050 Sundown Lane, Bellingham, WA 98226  
brian.zender@live.com

Knob Hill Townhouses

495 & 497 S. Second Street  
St. Helens , OR 97051

Variance Request

September 29, 2020

Re:  
495 and 497 S. 2<sup>nd</sup> St.,  
St. Helens, OR 97051  
4N1W03-CA-00500

Request for portion of public way to be vacated to property owner

Property zoning:  
Apartment residential AR

Although the subject lots are indicated as tax lot 500, the land parcel is 2 separate lots with an established common boundary line (see drawing sheet A0.1)

The north and south lots were purchased together with the aim of developing two single family residences with scenic river views while minimally impacting the surrounding existing residences. A design strategy of utilizing shallow sloping roofs and generously sized open spaces at the side and rear yards are intended for the new building structure to fit into the existing neighborhood context with a “good neighborly” height and three dimensional bulk. Traditional steeply pitched roof forms built to the maximum allowable building height and maximizing the site’s allowable floor areas with habitable space have been foregone in consideration of the site plan and building’s effect on its neighbors’ views and access to natural light and the relationship between the new construction’s scale and the existing neighborhood context.

The south lot cannot be developed separately from the north lot. Vehicular access from the front of the south lot is precluded by a narrowly truncated public right of way with steeply sloping topography. A public street cannot be developed to serve the frontage of the south lot. The only available option for vehicular access to the south lot is by a site plan and building design configuration with a vehicular access easement and a shared driveway over the north lot along its northern property line and a shared garage approach/ backup area adjacent to the west property line of the north lot. (see attached site plan drawing and aerial photograph – sheet A0.1).

A design of two townhomes (each of 2 stories and approx. 2,100 s.f.) have been developed to overcome the disadvantages of the site’s particular features.

A previous vacation of public way to private ownership created 2 small triangular lots of 436 s.f. and 808 s.f. for the owner of tax lot 500. The 2 triangular lots are basically islands without contiguous boundaries to the main property’s boundaries.

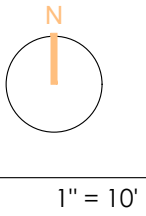
A vacation of the public way adjacent to the subject property is requested for the following reasons:

- The incapacity of the public right of way to serve the frontage the south lot with vehicular access creates a physical and economic disadvantage with a resulting site and building design configuration that requires either an additional fifteen or twenty more feet of lot width dedicated to non-buildable lot width (by satisfying the planning code's requirement for the necessary vehicular access easement) than if the two lots were able to be developed in a standard fashion with vehicular access at their frontages.
- Granting the request will allow for high quality project that can fully take advantage of its river view and achieve a market value that will contribute more to the city's tax revenues than if the lots are developed without the requested vacation of the public way.
- The vacated public way portion will allow for the isolated 436 s.f and 808 s.f. lot portions to be joined with main lot portions for continuous lots with better efficiency and utilization of the land.
- Granting the request will relieve the city of responsibility for maintaining this small portion of land of uneven topography and large amounts of vegetation.





1 PROPOSED SITE PLAN W/ REQUESTED VACATED PORTION OF PUBLIC WAY INDICATED



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1332 SE 44th Ave.  
Portland, OR 97215  
503.320.8090  
www.c2design.biz

project

**Knob Hill  
Townhouses**

495 & 497 S. Second Street  
St. Helens, OR 97051

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client

Brian Zender  
3050 Sundown Lane  
Bellingham, WA 98226

9/29/2020

issue/revisions	

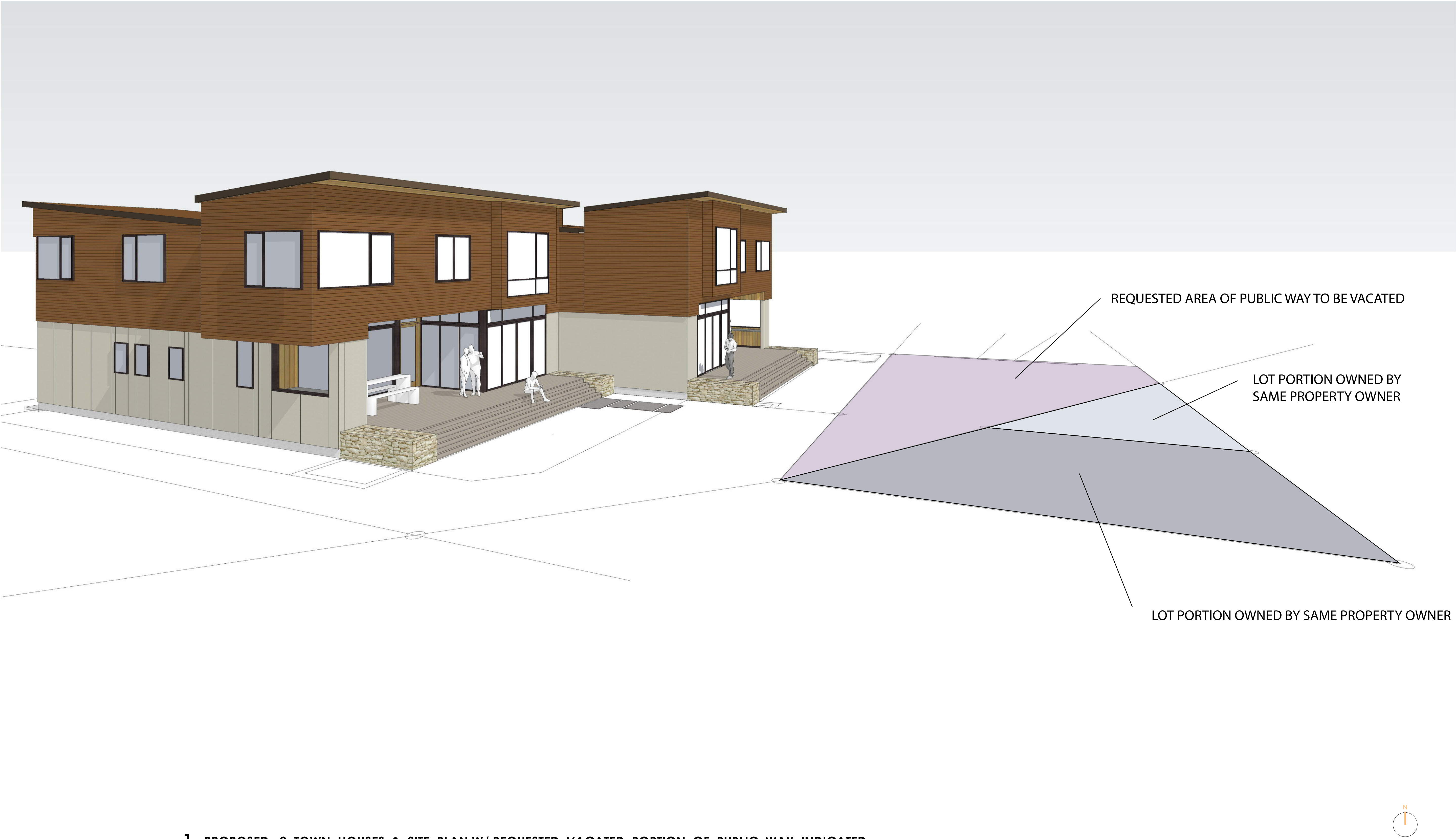
project no. 1120 issue date

sheet title  
Site Plan

sheet number

**A0.1**





1 PROPOSED 2 TOWN HOUSES & SITE PLAN W/ REQUESTED VACATED PORTION OF PUBLIC WAY INDICATED

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A0.2