

Multnomah County Official Records
R Weldon, Deputy Clerk

2017-042271



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Au Stephanie Murphy

CITY OF PORTLAND
Office of the City Auditor
1221 SW Fourth Avenue, Room 130
Portland, OR 97204

I hereby certify this Ordinance No. 187591 to be a complete and exact copy of the original as the same appears on file and of record in my office and in my care and custody on March 31, 2017.

Mary Hull Caballero
Auditor of the City of Portland
By *M. Anderson*
Deputy

ORDINANCE No. 187591 As Amended

*Vacate a portion of SE Harrison St east of SE 3rd Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10106)

The City of Portland ordains:

Section 1. The Council finds:

1. On October 9, 2015, the Bureau of Transportation received a petition from the Office of Management and Finance (“OMF” or “Petitioner”) for the vacation of a portion of SE Harrison St east of SE 3rd Ave. Therefore, pursuant to ORS 271.130 and City Code 17.84.065, the City initiated the vacation proceedings on its own motion.
2. The petition states that the reason for the vacation is to assemble the street area to OMF’s adjoining property.
3. The vacation is in conformance with the City of Portland's Comprehensive Plan and is consistent with recommendations made by the City Engineer, as provided in the City Engineer's Report, dated December 23, 2015 and on file with the Office of the City Auditor and the Bureau of Transportation.
4. Approval of the street vacation will not affect the functional performance of the current street system network.
5. The existing bicycle and pedestrian connection to the south of the vacation area will not be affected by the proposed vacation.
6. In accordance with ORS 271.100, the Council fixed a time and place for public hearing before the Council; the Auditor published notice thereof, and posted notice in the area proposed for vacation.
7. In accordance with ORS 271.190, since the area to be vacated lies within 5,000 feet of the harbor line, approval in writing of the proposed vacation has been secured from the Port of Portland.
8. PSC held a hearing on December 15, 2015 and voted to recommend denial of the proposed vacation due to the City’s policy to retain and support industrial uses in the Central Eastside industrial sanctuary. An existing business uses the right-of-way, in conjunction with a portion of the OMF parcel north of the right-of-way, for the delivery of industrial chemicals and for a secondary emergency egress.

9. Since the PSC hearing additional evidence has come to light that:
 - a. OMF can maintain beneficial use of its property and still provide 15 foot-wide access for trucks along part of the northern edge of its property and 10 feet of buffered emergency egress along the entire northern edge of the property.
 - b. A tractor and trailer with combined length of up to 75 feet will be able use the 15 foot-wide access.
 - c. The 10-foot-wide buffer is sufficient to provide emergency egress.
 - d. The City will retain the existing guard-railed, concrete way between SE 3rd and SE Martin Luther King, referenced above in paragraph 5, which runs just south of the SE Harrison right-of-way, then turning 90 degrees north along the NE MLK right-of-way, and then providing access to the stop for the A Loop Portland Street Car and the 30E Tri-Met Estacada Express Bus.
 - e. No part of the existing guard-railed, concrete way is within the SE Harrison right-of-way to be vacated.
 - f. Because the portion of SE Harrison right-of-way to be vacated is blocked at its east end by topographic constraints and an ODOT viaduct and blocked on its west end by Union Pacific Railways, it cannot be practicably developed as part of the City's circulation system for automobiles, trucks or emergency vehicles; the non-development of such a short stub of right-of-way will not have any significant effect on the functional classification, level of service, travel patterns on the adjoining streets, or total vehicle miles traveled within the City.
 - g. The existing guard-railed, concrete way, south of the SE Harrison right-of-way to be vacated, provides superior pedestrian and bicycle travel, including access to transit. An alternative way confined to the SE Harrison right-of-way would be steeper than the existing way and would abruptly penetrate the rail on the viaduct at a point where there is a curve with limited site distance for motorists.
 - h. In light of this additional evidence, and for the reasons stated in Exhibit 3, the Council concludes:
 - i. There is no longer any existing or future need for the right of way;
 - ii. Established street patterns will not be significantly interrupted by vacation of the right-of-way;
 - iii. The functional classifications of nearby streets will be maintained; and
 - iv. The concerns expressed by the PSC regarding the need to support existing industrial uses are adequately addressed by these additional facts and reasons.
 - v. The requested street vacation is consistent with the City's Comprehensive Plan.
10. Other procedural requirements of ORS 271 and City Code 17.84.065 have been complied with, and the Council having held a public hearing, finds no objections were made or filed hereto pursuant to ORS 271.130, and notwithstanding the PSC's recommendation, it is in the public interest that said street be vacated.

NOW, THEREFORE, the Council directs:

a. The supplemental findings and conclusions contained herein and in Exhibit 3 are hereby adopted and by this reference incorporated as if set out verbatim.

b. The following described street area is hereby vacated:

As described on Exhibit 1 and depicted on Exhibit 2 attached hereto and by this reference made a part hereof.

Contains 9,229 square feet, more or less.

c. The vacation of the above-described street area is granted subject to the following conditions and reservations:

1. **Bureau of Transportation, Permit Engineering.** The Petitioner will a) permanently close SE Harrison Street where it intersects with SE 3rd Avenue; b) pay all costs to remove curb returns (north and south) and concrete gutter; c) pay for constructing City standard curb and sidewalk corridor (4 foot minimum furnishing zone and 6 foot wide concrete sidewalk), in accordance with the requirements of the City Engineer. Petitioner will also perform other incidental work that may be necessary, such as, but not limited to, tree and brush removal, asphalt paving, sign relocation, and utility / street light pole relocation.

i) To ensure the completion of the required street improvements, the Petitioner shall provide to the City Engineer, a Performance Guarantee, in the form of a Memorandum of Understanding. The Petitioner acknowledges that the Performance Guarantee indicated is a preliminary estimate subject to change, and agrees to provide additional guarantee and/or fees as required by the City Engineer.

ii) The Petitioner agrees to authorize the Bureau of Transportation to complete the required street improvements at the Petitioner's cost, in the event that the City Engineer, at his sole discretion, determines that the improvements are not being made as required in a reasonable time.

iii) The Petitioner agrees to obtain the necessary permits to complete the required improvements.

2. **Bureau of Environmental Services.**

i) The Bureau of Environmental Services owns and maintains certain improvements within the street area to be vacated. Subject to Paragraph 5 below, as a condition of street vacation approval, the Petitioner will agree to the reservation of a public sewer easement to cover the east 35 feet of the vacated street area. This will be accomplished through a "springing easement" to be effective if City sells, transfers, or conveys the property. A Declaration of Covenant to Reserve Future Sewer Easement, in substantially the same format as Exhibit 4, will be executed and recorded concurrently with this vacation Ordinance.

- ii) Petitioner will determine whether the sanitary sewer and lateral line in SE Harrison are active or not. If the lines are not active, Petitioner will accept ownership of the facilities in their current condition and will transfer ownership of the facilities if the property is ever sold. (This would be accomplished in the conveyance document.) If the lines are active, prior to or at the time of any sale, Petitioner will either 1) grant an easement to the abutting property owner, in a form satisfactory to BES, for the existing facilities or 2) relocate the lateral line to a location and in a manner approved by BES.
3. In accordance with ORS 271.120 and City of Portland policy, the street vacation ordinance shall not cause or require the removal or abandonment of any sewer, water or gas main, conduit of any kind, wire, pole or thing used, or intended to be used, for any public service, including, but not limited to those identified by Portland General Electric. Subject to Paragraph 5 below, the ordinance will reserve an easement for the owner of any such utility or thing to maintain, continue, repair, reconstruct, renew, replace, rebuild, and/or enlarge any and all such thing; that no building or structure of any kind shall be built or erected within a distance of ten (10) feet from the centerline of any such utility, except with the prior written consent of the City Engineer and the owner of the utility and that any and all contemplated building plans in said vacated area shall be submitted for approval to the City Engineer and to the Director of the Bureau of Development Services, to the end that such construction may be so adjusted with reference to all public utilities in said areas as to cause a minimum of danger or inconvenience to the public and to the owner of such utility and to protect and preserve the same as presently constructed or hereinafter reconstructed, renewed, replaced and/or enlarged. Removal or relocation of existing utilities in the street vacation area will require written agreements between the Petitioner and owner(s) of the utilities.
4. Notwithstanding c(3) and except for c(2), this Ordinance will serve as a full release of City interests in the street vacation area and will provide City Bureaus with the authority necessary to take all other legal actions as may be reasonably necessary (including the issuance of quitclaim deeds acknowledging the release of any interests) to achieve this intent.
5. If any property, encumbered by an easement reserved in this vacation Ordinance, is ever rededicated as public right-of-way, that portion of the easement located in the rededicated right-of-way shall automatically be terminated.
6. City costs associated with processing the street vacation are being directly billed to OMF, SAP IO #7TRMF0000043, FY 2015/16.
7. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting this Ordinance, City Council may repeal the Ordinance at its sole discretion.
8. The City shall work in good faith towards a reasonable engineering design to accommodate the delivery of chemicals to East Side Plating.

Section 2. Petitioner shall file with the City Auditor, in form approved by the City Attorney, a document in writing, accepting the terms and conditions of the Ordinance.

Section 3. Notice is given that the street vacation will not be effective until a certified copy of the vacating Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording the vacating Ordinance are that 30 days have passed after final Council passage of the Ordinance, that all conditions of the vacating Ordinance have been met, and that all vacation costs have been paid.

Section 4. After the prerequisites to recording the Ordinance have been met, the City Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Bureau of Transportation, which shall, at the expense of the Petitioner, file with the recorder, the assessor, and the surveyor of the county in which said property is located, the certified copy of this Ordinance and the acceptance, and any map, plat or other record which may be required by law. The Right-of-Way Acquisition Section shall return the recorded Ordinance to the Auditor and retain a copy in RWA File No. 8030.

Section 5. The Council declares an emergency exists because any further delay in the vacation of this property no longer needed for street purposes would harm the public welfare. Therefore this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, FEB 18 2016

Commissioner Steve Novick
Prepared by: Karl Arruda: ck
Date Prepared: December 28, 2015

Mary Hull Caballero
Auditor of the City of Portland

By



Deputy

S.E. 3RD AVENUE AND S.E. HARRISON STREET
1S1E03DA
STREET VACATION

EXHIBIT 1

A Tract of Land being a portion of S.E. Harrison Street, 60.00 feet in width, situated in the Southeast One-Quarter Of Section 3, Township 1 South, Range 1 East of the Willamette Meridian, City of Portland, County of Multnomah, State of Oregon, Being More Particularly Described As Follows:

Commencing at the Southwest corner of Block 45 of the duly recorded plat of Stephen's Addition To East Portland, Multnomah County Plat Records;

Thence, along the South line of said Block 45, South 88°12'15" East, a distance of 13.19 feet, to the Southeast corner of that tract of land conveyed to the State of Oregon by deed in Book 360, Page 218, signed September 10, 1936, Multnomah County Deed Records, also being the POINT OF BEGINNING;

Thence, continuing along said South line, South 88°12'15" East, a distance of 166.81 feet to the West Right-of-Way line of S.E. Martin Luther King, Jr. Boulevard, 80.00 feet in width;

Thence along said West Right-of-way line, South 01°47'45" West, a distance of 60.00 feet, to the North line of Block 46 of said plat;

Thence, along the North line of said Block 46, North 88°12'15" West, a distance of 137.60 feet, to a point of a non-tangent circular curve;

Thence, Northwesterly, a distance of 66.92 feet along the arc of a non-tangent circular curve to the right of which the radius point lies, North 58°21'50" East, a radius of 256.47 feet, and having a central angle of 14°57'01", (long chord bears, North 24°09'39" West, a distance of 66.73 feet) to a point of non-tangency, to the POINT OF BEGINNING.

Containing 9,229 square feet.

Project 70011
July 8, 2015

REGISTERED
PROFESSIONAL
LAND SURVEYOR

Thomas P. Beinbauer

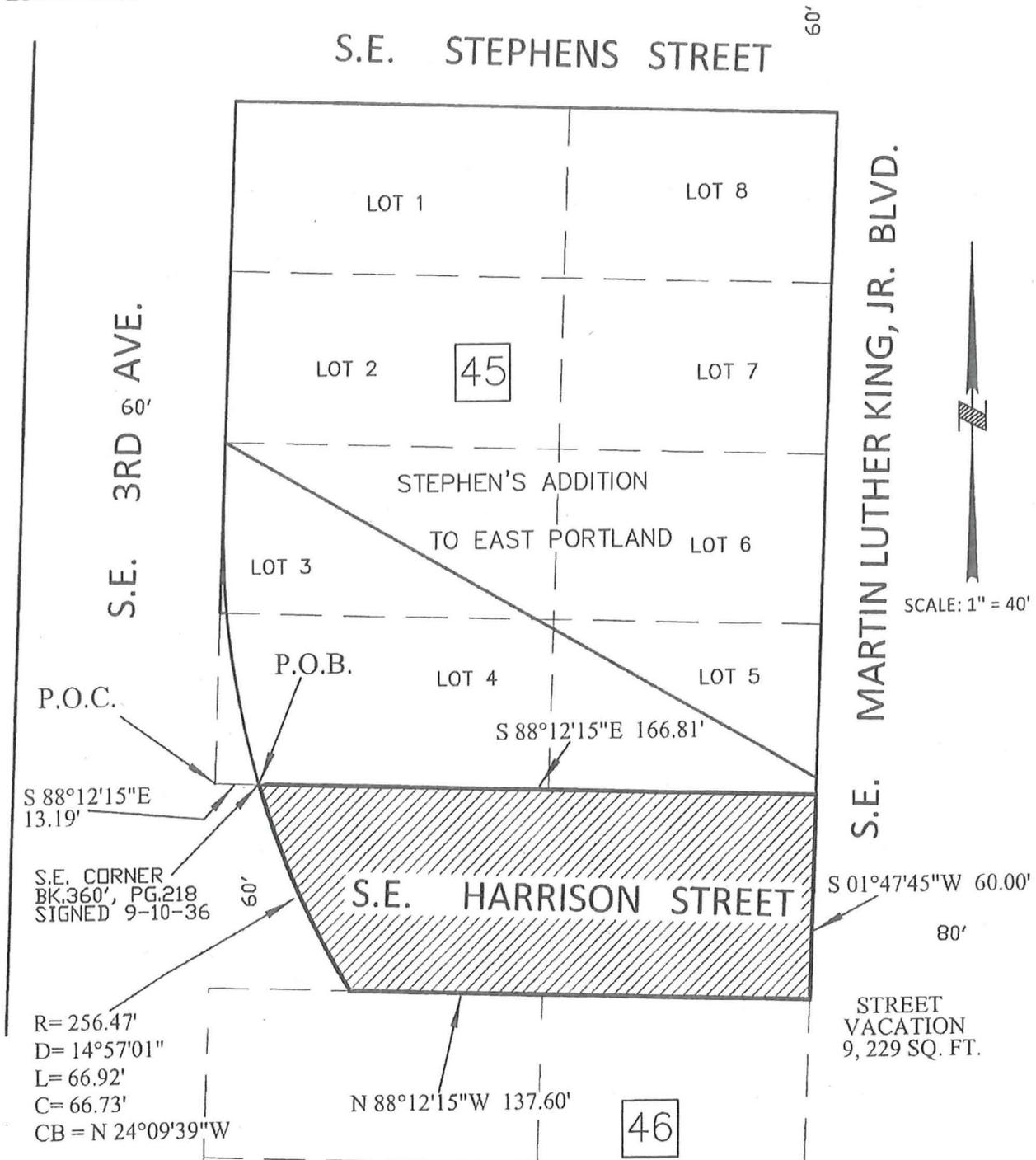
OREGON
JULY 17, 1994
THOMAS P. BEINHAUER
2654

EXPIRES 12-31-2015

187591

EXHIBIT 2

S.E. 3RD AVENUE AND S.E. HARRISON STREET
1S1E03DA



SURVEY DEPARTMENT,
1120 SW 5TH AVE., SUITE 800
PORTLAND, OREGON 97204
PHONE 503-823-7150

JOB #70011
JULY 8, 2015

PBOT

PORTLAND BUREAU OF TRANSPORTATION

1120 SW Fifth Avenue, Suite 800 Portland, OR 97204 503.823.5185
 Fax 503.823.7576 TTY 503.823.6868 www.portlandoregon.gov/transportation

Steve Novick Commissioner Leah Treat Director

Supplemental Findings and Conclusions

FILE NUMBER: R/W #8030

I. GENERAL INFORMATION

Street Vacation Request: R/W #8030, SE Harrison St east of SE 3rd Ave

Petitioner: OMF Facilities, contact is Pauline Goble (503-823-7612)

Purpose: The purpose of the proposed vacation is to assemble the requested street area to the adjoining property owned by the City of Portland.

Neighborhood: Hosford Abernethy Neighborhood District, contact is Susan Pearce (sue@suepearce.biz); SE Uplift, contact is Bob Kellett (bob@seuplift.org)

Quarter Sections: 3230

Designation/Zone: IS/IG1 (Industrial Sanctuary/General Industrial 1). The site is within the Central City Plan District.



The Portland Bureau of Transportation fully complies with Title VI of the Civil Rights Act of 1964, the ADA Title II, and related statutes and regulations in all programs and activities. For accommodations, complaints and information, call (503) 823-5185, City TTY (503) 823-6868, or use Oregon Relay Service: 711.

II. EXECUTIVE SUMMARY AND RECOMMENDATION

The purpose of this action is to vacate right-of-way to maximize the developable area of adjacent parcels.

III. FACTS

A. History and Background

The City of Portland Office of Management and Finance (OMF) started a City-initiated street vacation for the section of SE Harrison St between SE 3rd Ave and SE Martin Luther King, Jr. Blvd pursuant to ORS 271.130(1), which allows city governing bodies to “initiate vacation proceedings...without a petition or consent of property owners.” This section of SE Harrison St is completely surrounded by publicly-owned property (Exhibit A). OMF controls the land north of Harrison, and the Portland Bureau of Transportation (PBOT) controls the land south, east and west of Harrison. If Harrison is vacated, it will revert to City ownership and become part of the adjacent lot to the north.

OMF purchased the parcel north of Harrison (“the parcel”) from the Oregon Department of Transportation (ODOT) as surplus land in 2015. ODOT acquired the parcel in 1963 via eminent domain, to be part of the Mt. Hood Freeway. ODOT canceled the freeway project in 1974, and the parcel has remained undeveloped. Throughout, the parcel has served as a parking and loading area for the adjacent industrial business to the north, East Side Plating (ESP), which owned the parcel prior to condemnation by ODOT. ESP does not have a lease, access agreement, or other legal instrument providing access to or use of the parcel, which they access via SE Harrison St.

PBOT evaluates street vacation requests against Comprehensive Plan policies related to use of the right-of-way. PBOT does not consider potential future uses of right-of-way or adjacent property when evaluating street vacation requests. This PBOT staff report analyzes the role of SE Harrison as a right-of-way serving adjacent properties and the larger transportation system, and determined that there is no current or future need for the right-of-way for transportation facilities. This staff report recommended approval of the street vacation request.

B. Concurrent Land Use Actions

There are no land use actions that are concurrent with this street vacation request.

C. The Transportation Element

SE Harrison is classified as a Local Service Traffic Street, Local Service Transit Street, Local Service Bikeway, Local Service Pedestrian Street, Freight District Street, Minor Emergency Response Street, and Local Design Street in the transportation element of the Comprehensive Plan.

D. Neighborhood Plan

The Central City 2035 Southeast Quadrant Plan (approved by City Council on July 29, 2015 by Resolution 37147) does not contain any policies or action items that are relevant to this street vacation request.

IV. FINDINGS

A. Comprehensive Plan Goals and Policies Consideration

The relevant policies of the Comprehensive Plan are:

Policy 6.20 Connectivity states:

Support development of an interconnected, multimodal transportation system to serve mixed-use areas, residential neighborhoods, and other activity centers.

Comment: The proposed vacation area is within an industrial district. There are no mixed-use or residential areas in the vicinity of the proposed vacation area. SE Harrison does not currently and cannot in the future provide a connectivity function to the larger transportation network. It cannot be extended to the east due to the barrier presented by the McLoughlin viaduct. It cannot be extended to the west beyond the intersection with SE 3rd Ave due to the presence of the Union Pacific railroad.

The only viable transportation use of the right-of-way is for local property access, and all of the surrounding property is wholly owned by the City of Portland. The door on the south end of the East Side Plating (ESP) facility opens onto the OMF property. SE Harrison St does not provide access to the ESP facility.

The adjacent sidewalk leading to the McLoughlin viaduct will remain intact and will provide continued bicycle and pedestrian connectivity.

Policy 6.21 Right-of-Way Opportunities states:

Preserve existing rights-of-way unless there is no existing or future need for them, established street patterns will not be significantly interrupted, and the functional purposes of nearby streets will be maintained.

Comment: SE Harrison does not currently and cannot in the future provide a connectivity function to the larger transportation network. It cannot be extended to the east due to the barrier presented by the McLoughlin viaduct. It cannot be extended to the west beyond the intersection with SE 3rd Ave due to the presence of the Union Pacific railroad. The only viable transportation use of the right-of-way is for local property access, and all of the surrounding property is wholly owned by the City of Portland.

The proposed vacation will have no impact on surrounding street patterns nor the function of existing streets.

Policy 8.14 Natural Resources, Objective I. States:

Consideration of Scenic Resources in Street Vacations. Require the preservation and maintenance of existing and potential view corridors and view points when approving street vacations. Require view easements within or near street vacations where access to viewpoints or view corridors is desired.

Comment: No existing or potential view corridors have been identified in the review of the street vacation request.

Policy 11.11 Street Plans, Objectives D, E and N state:

Policy 11.11: Promote a logical, direct, and connected street system through the development of street plans.

Objective D. Provide full street connections with spacing of no more than 530 feet between connections, except where prevented by barriers such as topography, railroads, freeways, or environmental constraints.

Objective E. Provide bike and pedestrian connections at approximately 330-foot intervals on public easements or rights-of-way when full street connections are

not possible, except where prevented by barriers such as topography, railroads, freeways, or environmental constraints.

Objective N. Preserve street connectivity in areas of the City that meet the standards of this policy and its objective as shown on Maps 11.11.9 through 11.11.16.

Comment: Per Objective D, the McLoughlin viaduct presents a permanent, impassable barrier, which prevents a full street connection on the east end of the proposed vacation area. On the west end of the vacation area, a full street connection is provided approximately 200 feet to the north on SE Stephens St.

Per Objective E, an existing bicycle and pedestrian connection from the viaduct to the east and south of the proposed vacation area will not be affected by the proposed vacation. Bicycle and pedestrian connections are also available on SE Stephens St, approximately 200 feet to the north.

Per Objective N, the area of the proposed vacation is shown on Central City Map 11.11.9 as excluded from the street spacing standard, due to IG1 zoning.

Policy 12.4 Provide for Pedestrians, Objective G. states:

Retain rights for pedestrian access and circulation when considering requests for street vacations. Preserve existing pedestrian routes and protect routes needed by pedestrians in the future. Ensure that street vacations do not reduce access to light and air or the intimate scale that is so much a part of Portland's character.

Comment: Existing pedestrian access to and around the site is provided along SE 3rd Ave to the west, and from the viaduct via a sidewalk to the east and south (see aerial photo on Exhibit 1). This pedestrian access will not be altered by the proposed vacation.

B. Neighborhood Plan Considerations

Comment: There are no neighborhood plan considerations.

C. Other Relevant Comprehensive Plan Policies (and/or Plans)

Comment: There are no other Comprehensive Plan policies or policies from other adopted plans that are relevant to this request.

D. Zoning Code Considerations

Other zoning code designations that could apply and that should be considered during review of a street vacation request include environmental zoning or designation as a recreational greenway trail.

Comment: There are no zoning code considerations.

E. Subdivision Code Considerations

Notice of this street vacation request was provided to the Bureau of Development Services (BDS) to determine if there are any relevant impacts to consider related to future subdivision of property in the area. BDS responded with no objection.

F. Improvement and Utility Considerations

The street vacation request was reviewed by PBOT for conformance with standards for street improvements. The following conditions will be required:

- An 11-foot pedestrian corridor shall be constructed along the SE 3rd Ave frontage of the proposed vacation area
- The intersection with SE 3rd Ave shall be permanently closed with a curb, sidewalk, and/or driveway.

Other public agencies, public and private utilities were notified of this street vacation request.

- The Bureau of Environmental Services requires that 1) the Petitioner shall take ownership of the 6-inch combined sewer in the vacation area in its current condition; 2) the Petitioner shall verify that the lateral connecting to the combined sewer is not active; and 3) the Petitioner shall either grant a 15-foot public sewer easement over existing stormwater facilities, or a 35-foot blanket easement over the eastern portion of the vacation area.
- The Portland Water Bureau responded with no objection.
- Portland Fire and Rescue responded with no objection.
- Urban Forestry responded with no objection.
- Portland Parks and Recreation responded with no objection.

- The Bureau of Technology Services responded with no objection.
- ODOT responded with no objection.
- The Port of Portland responded with no objection.
- TriMet responded with no objection.
- PGE has facilities in the area and requires an easement.
- Pacific Power responded with no objection.
- CenturyLink responded with no objection.
- Northwest Natural was notified of the proposed vacation but did not respond.
- Comcast was notified of the proposed vacation but did not respond.

G. Neighborhood Issues

Notice of this street vacation request was provided to the Hosford-Abernethy Neighborhood District (HAND) and SE Uplift. SE Uplift did not respond. HAND responded that they did not have adequate time to review the proposal and was therefore unable to take an official position .

The Central Eastside Industrial Council (CEIC) submitted a letter indicating that they were not notified of the proposal, and do not support it.

The property owner to the north of the OMF property, East Side Plating, opposes the vacation due to potential impacts the loss of access to the southern portion of their building will have on the operation of their facility . They have been using the OMF parcel for site access and loading since the 1940s. Trucks delivering caustic liquid materials use the OMF property to access their facility. Loss of this access point will require a modification to the both the state and delivery method of these materials, increasing the cost of operations. They will also lose employee parking. ESP's arrangement with ODOT had historically been informal and they do not have an agreement with OMF to access the OMF property. Rights-of-way to the north and west of ESP's property will remain intact and can provide alternative access to the facility.

V. CONCLUSIONS

Based on the above analysis, Portland Bureau of Transportation states that the right-of-way is not needed to provide future facilities. Additionally, approval of

the street vacation will not affect the functional performance of the street system in the area.

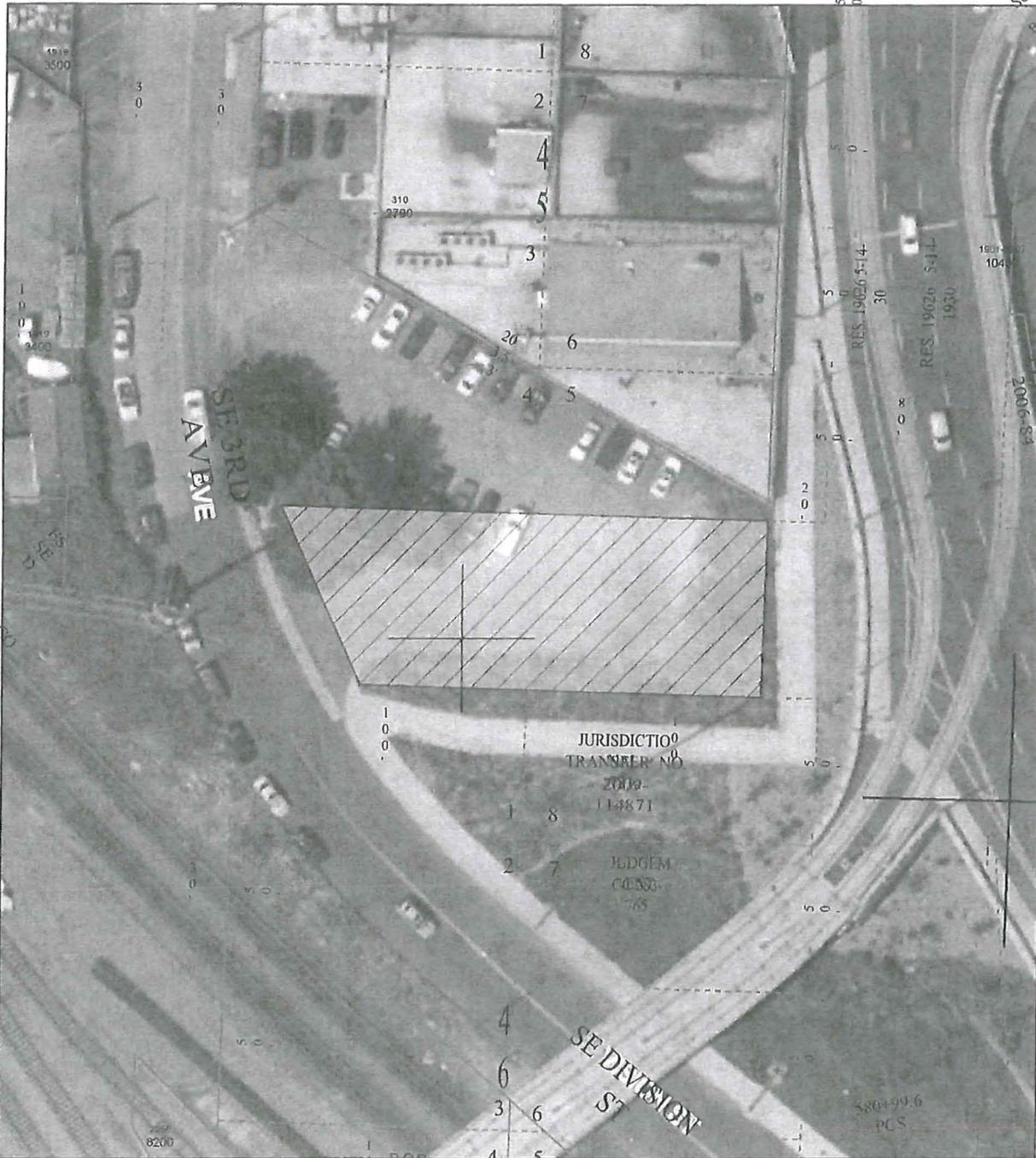
VII. EXHIBITS

- A. Area proposed for vacation
- B. Northeast-facing view of area proposed for vacation.

Bureau of Transportation Staff Planner
Grant Morehead, AICP
503/823-9707
Grant.Morehead@portlandoregon.gov

cc:
Karl Arruda, Right-of-Way Case Manager
Case File

Exhibit A



SE Harrison St east of SE 3rd Ave

Legal: A portion of SE Harrison St "Stephens Addition to East Portland"

Petitioner: Pauline Goble, OMF

Area Proposed to be Vacated



RWA # 8030 Section: 1S1E03DA 1/4 Section: 3230

1 in = 50 ft

187591

Exhibit B

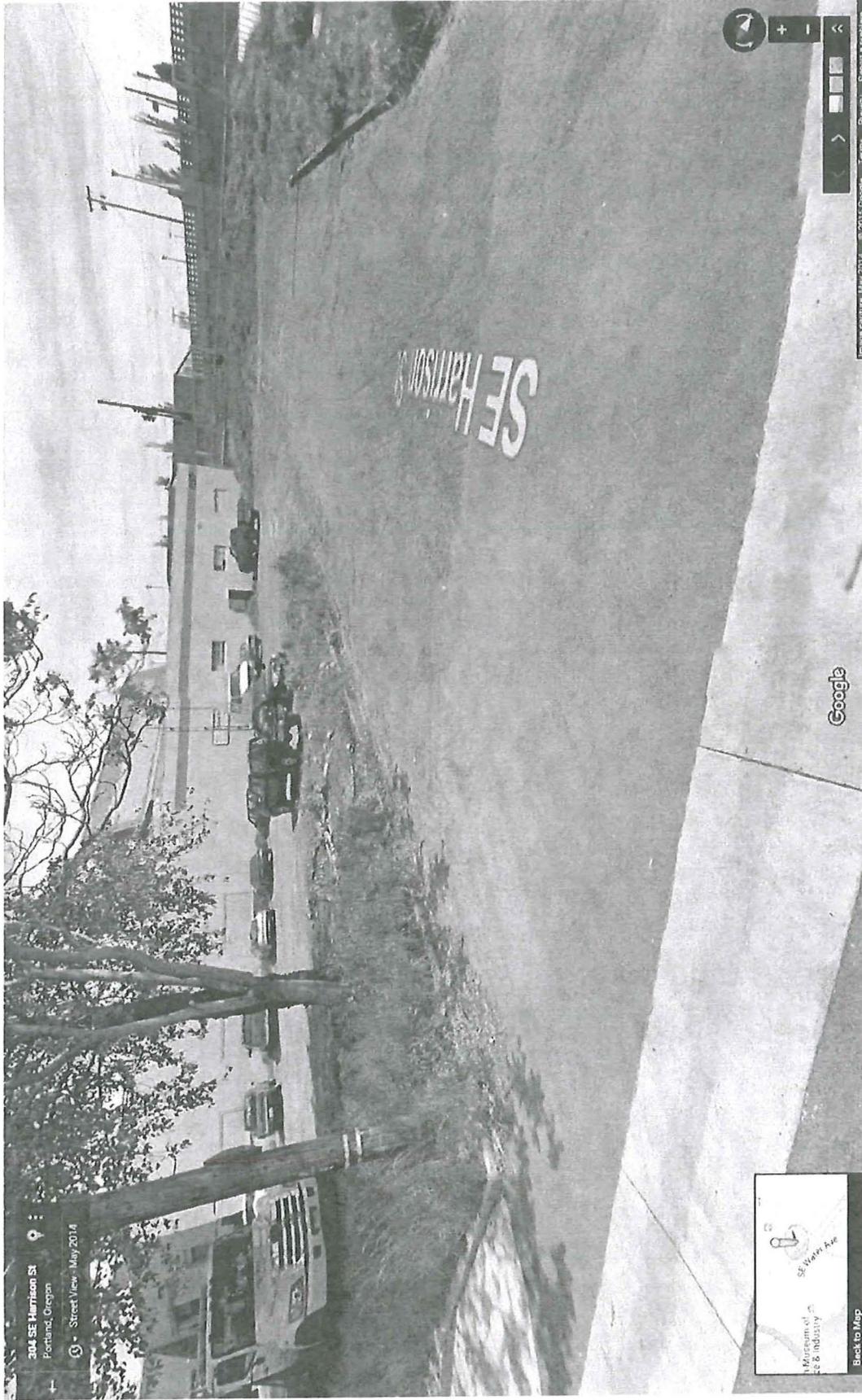


Exhibit 4

DECLARATION OF COVENANT TO RESERVE FUTURE SEWER EASEMENT

RECITALS

WHEREAS, The City of Portland ("City"), a municipal corporation of the State of Oregon ("City"), is the owner of a parcel of land known as SE Harrison Street between SE 3rd Avenue and SE Martin Luther King Jr. Boulevard ("the Property");

WHEREAS, A storm sewer facility (the "Facility") belonging to the City is located on the Property, and City desires to reserve an easement in its favor to protect the Facility if and when City conveys the Property or the portion thereof encompassing all or part of the Facility.

COVENANT

1. The easement area is depicted on Exhibit 3 and is described as follows (the "Easement Area"):

A parcel of land over, under and across a portion of Property in the duly recorded Plat of "Stephen's Addition to East Portland," situated in the southeast one-quarter of Section 3, T1S, R1E, W.M., in the City of Portland, County of Multnomah, State of Oregon, said parcel being the east 35.00 feet of the following described property:

As described on Exhibit 1 and depicted on Exhibit 2 attached hereto and by this reference made a part hereof.

Contains 2,100 square feet, more or less.

2. Upon the conveyance by City of the Property or a portion thereof encompassing all or part of the Easement Area, a perpetual, non-exclusive easement (the "Easement") will arise, in favor of City, over the portion of the Easement Area included in the conveyance.
3. Unless City terminates this covenant as provided herein, the Easement will be subject to the following terms and conditions:
 - a. The Easement continues in perpetuity and binds all subsequent owners and occupants of the Property.
 - b. The Easement gives the City the right to lay down, construct, reconstruct, operate, inspect, and maintain a storm sewer line and to access the Easement Area therefor.
 - c. No utilities, buildings, facilities, easements, material storage, grade changes, or tree planting will be allowed within the Easement Area without prior written consent of the Director of the Bureau of Environmental Services. Landscaping which by its nature is

shallow-rooted and may be easily removed to permit access to the Facilities requires no consent.

4. This covenant may be terminated at the sole discretion of City by written, recorded instrument, but in no case until an easement benefiting City and affecting the Facility (if then extant) has been recorded.

Executed this _____ day of _____, 20__.

By: _____

Printed name: _____

Title: _____

APPROVED AS TO FORM:

City Attorney

STATE OF OREGON)
)ss.
County of Multnomah)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20__,
by _____.

Notary Public for OREGON

My Commission expires: _____

S.E. 3RD AVENUE AND S.E. HARRISON STREET
 1S1E03DA
 STREET VACATION

EXHIBIT I

A Tract of Land being a portion of S.E. Harrison Street, 60.00 feet in width, situated in the Southeast One-Quarter Of Section 3, Township 1 South, Range 1 East of the Willamette Meridian, City of Portland, County of Multnomah, State of Oregon, Being More Particularly Described As Follows:

Commencing at the Southwest corner of Block 45 of the duly recorded plat of Stephen's Addition To East Portland, Multnomah County Plat Records;

Thence, along the South line of said Block 45, South 88°12'15" East, a distance of 13.19 feet, to the Southeast corner of that tract of land conveyed to the State of Oregon by deed in Book 360, Page 218, signed September 10, 1936, Multnomah County Deed Records, also being the POINT OF BEGINNING;

Thence, continuing along said South line, South 88°12'15" East, a distance of 166.81 feet to the West Right-of-Way line of S.E. Martin Luther King, Jr. Boulevard, 80.00 feet in width;

Thence along said West Right-of-way line, South 01°47'45" West, a distance of 60.00 feet, to the North line of Block 46 of said plat;

Thence, along the North line of said Block 46, North 88°12'15" West, a distance of 137.60 feet, to a point of a non-tangent circular curve;

Thence, Northwesterly, a distance of 66.92 feet along the arc of a non-tangent circular curve to the right of which the radius point lies, North 58°21'50" East, a radius of 256.47 feet, and having a central angle of 14°57'01", (long chord bears, North 24°09'39" West, a distance of 66.73 feet) to a point of non-tangency, to the POINT OF BEGINNING.

Containing 9,229 square feet.

Project 70011
 July 8, 2015

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

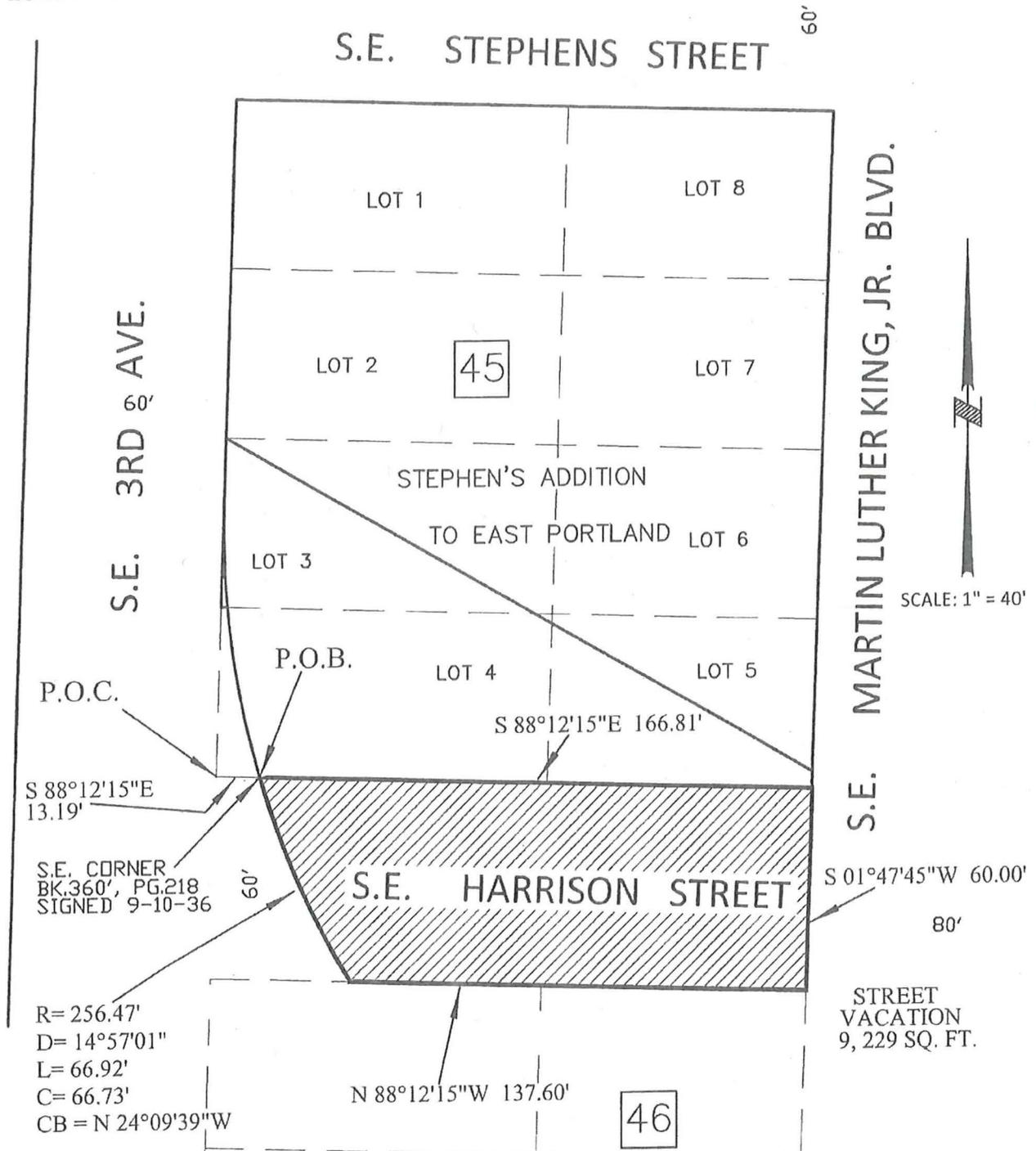
Thomas P. Beinbauer

OREGON
 JULY 17, 1994
 THOMAS P. BEINHAUER
 2654

EXPIRES 12-31-2015

EXHIBIT 2

S.E. 3RD AVENUE AND S.E. HARRISON STREET
1S1E03DA



SURVEY DEPARTMENT,
1120 SW 5TH AVE., SUITE 800
PORTLAND, OREGON 97204
PHONE 503-823-7150

JOB #70011
JULY 8, 2015

ACCEPTANCE

Auditor of the City of Portland
City Hall Room 130
1221 SW 4th Avenue
Portland, Oregon 97204

This is to advise the City of Portland, Oregon that the Office of Management & Finance hereby accepts the terms and provisions of Ordinance No. 187591, passed by the Portland City Council on February 24, 2016, **Vacate a portion of SE Harrison St east of SE 3rd Ave subject to certain conditions and reservations; VAC-10106**, and in consideration of the benefits received thereunder the Office of Management & Finance hereby agrees to abide by and perform each and all of the applicable terms and provisions thereof.

3/3/2016
Date

Bryant Enge
(Signature and Title)

Bryant Enge, Director
Bureau of Internal Business Services
Office of Management & Finance
1120 SW 5th Avenue
Portland, Oregon 97204

Approved as to form:

APPROVED AS TO FORM

[Signature]
City Attorney
CITY ATTORNEY

DECLARATION OF COVENANT TO RESERVE FUTURE SEWER EASEMENT

RECITALS

- A. The City of Portland (“the City”), a municipal corporation of the State of Oregon, is the owner of that certain parcel of land (“the Property”) in the County of Multnomah and State of Oregon described as follows:

As described on Exhibit 1 and depicted on Exhibit 2 attached hereto and by this reference made a part hereof.

Contains 9,229 square feet, more or less.

- B. A storm sewer facility (“the Facility”) belonging to the City is located on the Property.
- C. The City desires to reserve an easement in its favor to protect the Facility if and when the City conveys the Property or a portion thereof encompassing all or part of the Facility.

COVENANT

1. The Easement Area is depicted on Exhibit 3 and is described as follows (the “Easement Area”):

A parcel of land over and across a portion of property in the duly recorded Plat of “Stephen’s Addition to East Portland,” situated in the southeast one-quarter of Section 3, T1S, R1E, W.M., in the City of Portland, County of Multnomah, State of Oregon, said parcel being the east 35.00 feet of vacated SE Harrison Street, as described on Exhibit 1 and depicted on Exhibit 2 attached hereto and by this reference made a part hereof.

Contains 2100 square feet, more or less.

2. Upon the conveyance by the City of the Property or a portion thereof encompassing all or part of the Easement Area, a perpetual, non-exclusive easement (“the Easement”) will arise, in favor of the City, over the portion of the Easement Area included in the conveyance.
3. Unless the City terminates this covenant as provided herein, the Easement will be subject to the following terms:
- The Easement continues in perpetuity and binds all subsequent owners and occupants of the Property.
 - The Easement gives the City the right to lay down, construct, reconstruct, operate, inspect, and maintain a storm sewer line and to access the Easement Area therefor.

- c. No utilities, buildings, facilities, easements, material storage, grade changes, or tree planting will be allowed within the Easement Area without prior written consent of the Director of the Bureau of Environmental Services. Landscaping which by its nature is shallow-rooted and may be easily removed to permit access to the Facilities requires no consent.
4. This covenant may be terminated at the sole discretion of the City by written, recorded instrument, but in no case until an easement benefiting the City and affecting the Facility (if then extant) has been recorded.

Executed this 11th day of March, 2016.

Bryant Enge
Bryant Enge, Director or designee
Bureau of Internal Business Services
Office of Management and Finance

STATE OF OREGON)
) ss.
County of Multnomah)

On this 11th day of March, 2016, personally appeared Bryant Enge, who being duly sworn, did say that he is the Director or designee for the Bureau of Internal Business Services, Office of Management and Finance, of the City of Portland, a municipal corporation, and that said instrument was signed in behalf of said corporation by authority of its City Council, and acknowledged said instrument to be its voluntary act and deed.

Diane L. Seaton
Notary Public for Oregon
My Commission expires June 1, 2016

Approved ~~as to form~~ **AS TO FORM**

[Signature]
City Attorney **CITY ATTORNEY**



Approved:

Michael Ford
Director, Bureau of Environmental Services
or his designee

S.E. 3RD AVENUE AND S.E. HARRISON STREET
1S1E03DA
STREET VACATION

EXHIBIT I

A Tract of Land being a portion of S.E. Harrison Street, 60.00 feet in width, situated in the Southeast One-Quarter Of Section 3, Township 1 South, Range 1 East of the Willamette Meridian, City of Portland, County of Multnomah, State of Oregon, Being More Particularly Described As Follows:

Commencing at the Southwest corner of Block 45 of the duly recorded plat of Stephen's Addition To East Portland, Multnomah County Plat Records;

Thence, along the South line of said Block 45, South 88°12'15" East, a distance of 13.19 feet, to the Southeast corner of that tract of land conveyed to the State of Oregon by deed in Book 360, Page 218, signed September 10, 1936, Multnomah County Deed Records, also being the POINT OF BEGINNING;

Thence, continuing along said South line, South 88°12'15" East, a distance of 166.81 feet to the West Right-of-Way line of S.E. Martin Luther King, Jr. Boulevard, 80.00 feet in width;

Thence along said West Right-of-way line, South 01°47'45" West, a distance of 60.00 feet, to the North line of Block 46 of said plat;

Thence, along the North line of said Block 46, North 88°12'15" West, a distance of 137.60 feet, to a point of a non-tangent circular curve;

Thence, Northwesterly, a distance of 66.92 feet along the arc of a non-tangent circular curve to the right of which the radius point lies, North 58°21'50" East, a radius of 256.47 feet, and having a central angle of 14°57'01", (long chord bears, North 24°09'39" West, a distance of 66.73 feet) to a point of non-tangency, to the POINT OF BEGINNING.

Containing 9,229 square feet.

Project 70011
July 8, 2015

REGISTERED
PROFESSIONAL
LAND SURVEYOR

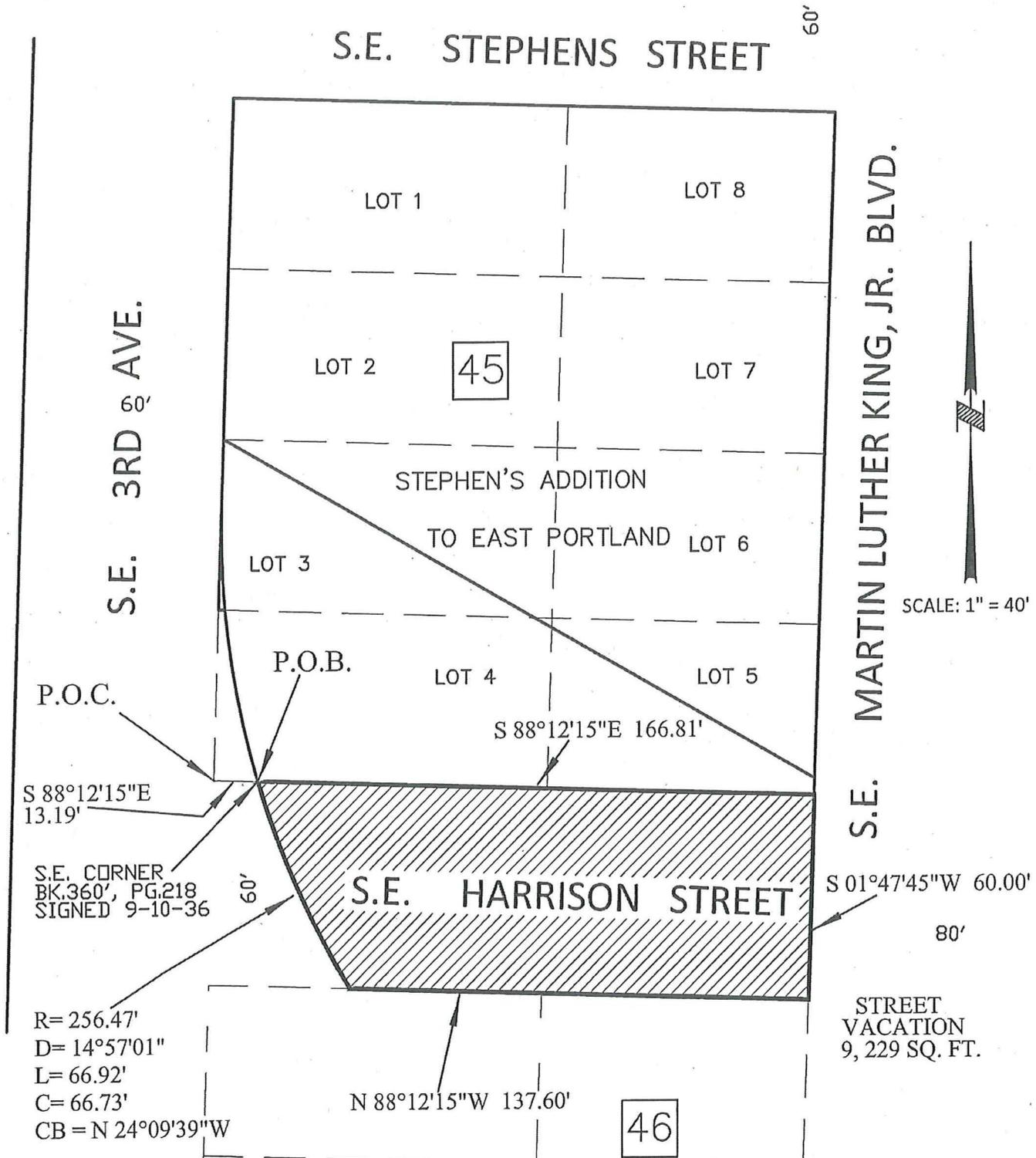
Thomas P. Beinbauer

OREGON
JULY 17, 1994
THOMAS P. BEINHAUER
2654

EXPIRES 12-31-2015

EXHIBIT 2

S.E. 3RD AVENUE AND S.E. HARRISON STREET
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