

ORDINANCE No. 188513

Amend the boundary of the SW Dolph Ct – Spring Garden St Local Improvement District to construct additional street, sidewalk and stormwater improvements 111 feet west on SW Spring Garden Street and create a new pending lien record for 3352 SW Spring Garden St (Hearing; Ordinance; C-10053; amend Ordinance No. 187740)

The City of Portland ordains:

Section 1. The Council finds:

1. The Council approved Resolution No. 37200 on April 6, 2016 initiating local improvement district formation proceedings for the SW Dolph Court - Spring Garden Street Local Improvement District (LID).
2. The Council approved Ordinance No. 187740 on May 11, 2016 forming the SW Dolph Court - Spring Garden Street LID, with no remonstrance received from any property owner against formation of the LID. Finding No. 6 of Ordinance No. 187740 established the project limits as follows:

“The improvements will be constructed on the north side of SW Dolph Court from the west right-of-way line of SW 30th Avenue to 311 feet east of the east right-of-way line of SW 35th Avenue and on the south side of SW Spring Garden Street from 655 feet west of the west right-of-way line of SW 30th Avenue to 311 feet east of the east right-of-way line of SW 35th Avenue plus any transition work on abutting street segments, intersections, and/or adjacent properties determined to be necessary by the City Engineer, including but not limited to a stormwater facility at SW 26th Way and Barbur Blvd.”

3. A property at 3352 SW Spring Garden Street transferred ownership on March 31, 2017 and this property is currently outside the LID boundary.
4. 13'-wide additional half street, sidewalk and stormwater improvements will be constructed on the south side of SW Spring Garden Street from 311 feet east of the east right-of-way line of SW 35th Avenue to 200 feet east of the east right-of-way line of SW 35th Avenue.
5. The owner of 3352 SW Spring Garden Street tendered a letter of support to the LID Administrator on May 23, 2017, requesting inclusion of his property in the LID, and extension of planned street, sidewalk and stormwater improvements by 111 feet to the west to serve this property and is attached as Exhibit A. The life of the newly-constructed pavement will be further enhanced by incorporating a sanitary sewer extension into the boundary of work.

6. Council authorized a construction contract with Paul Bros. Inc. on May 24, 2017 to construct the improvements identified in Finding No. 2 of this Ordinance.
7. The estimated LID cost increase to resulting from the work described in Finding No. 3 is \$108,442.26 including a sanitary sewer extension from east of 3352 SW Spring Garden Street. This includes \$78,011.38 for construction; \$12,818.33 for construction engineering; \$4,806.87 for project management; \$9,334.00 for contingency; and \$3,471.68 for Auditor's costs. The owner of 3352 SW Spring Garden Street is privately funding all design costs for the work described in Finding No. 4 of this Ordinance.
8. Final design of the sanitary sewer extension will confirm whether the sanitary sewer extension may instead be from the west of 3352 SW Spring Garden Street.
9. Additional property rights are anticipated to be necessary for the frontage improvements serving 3352 SW Spring Garden Street and the property owner has agreed to donate these property rights in advance of construction and in lieu of compensation in consideration for adding this property to the LID.
10. Special benefit to the Portland Parks & Recreation property adjacent to 3352 SW Spring Garden Street as identified in Finding No. 4 includes but is not limited to additional parking, sidewalk, pavement and stormwater improvements adjacent to Spring Garden Park.
11. This Ordinance does not amend the scope of planned improvements to SW Dolph Court.
12. The Multnomah Neighborhood Association was notified of the proposed boundary change for the SW Dolph Court - Spring Garden Street LID on May 30, 2017.
13. Southwest Neighborhoods Inc. ("SWNI") was notified of the proposed boundary change for the SW Dolph Court - Spring Garden Street LID on May 30, 2017.
14. The LID Administrator mailed notice of the June 7, 2017 LID boundary change hearing on June 21, 2017 to the owner of each benefited property within the SW Dolph Court - Spring Garden Street LID. The owners of properties were notified of the June 7, 2017 hearing based on Multnomah County property tax records as of May 15, 2017. Each property owner was notified of the time and location of the hearing conducted by the Council, the right and manner to object to the boundary change of the SW Dolph Court - Spring Garden Street LID, the deadline and procedure for filing remonstrances against the boundary

change of the SW Dolph Court - Spring Garden Street LID. The remonstrance level is evaluated in Exhibit C. No existing pending lien amounts are proposed to be changed by Ordinance. The deadline to submit written remonstrances was at 5:00 PM on June 21, 2017.

15. Council approval of this Ordinance will increase the LID budget by \$108,442.26 from \$1,272,551.79 to \$1,380,994.05.
16. The LID Administrator published notice of the June 28, 2017 LID boundary change in the Daily Journal of Commerce on June 12 and on June 14, 2017.
17. Notices of the June 28, 2017 LID boundary change hearing were posted within the SW Dolph Court - Spring Garden Street LID on June 13, 2017.
18. Notices of the LID boundary change hearing were posted within the SW Dolph Court - Spring Garden Street LID on June 12, 2017.
19. The LID Administrator published notice of the June 28, 2017 boundary change hearing in the Daily Journal of Commerce on June 12, 2017 and on June 14, 2017.
20. The Local Improvement District Administrator's level of confidence in the cost estimate for this project as of the filing date of this Ordinance is "Moderate" per Exhibit A of Resolution No. 36430 adopted by Council on July 26, 2006 given that unit prices have been established for construction of this project.
21. Tom Sisul of Sisul Engineering is currently designing the improvements identified in Finding No. 4 of this Ordinance, including the sanitary sewer improvements. Owners of properties currently included within the LID boundary are not bearing any portion of these costs. As of May 30, 2017 Sisul Engineering anticipates an initial submittal to PBOT for the work identified in Finding No. 4 of this Ordinance by June 9, 2017.
22. Council passage of this Ordinance does not provide assurance of performance under Section 17.24.055 of City Code for a private north-south street or private north-south driveway connecting to the planned improvements in the public right-of-way of SW Spring Garden Street.
23. Council passage of this Ordinance does not provide assurance of performance under Section 17.24.055 of City Code for 13' half-street, sidewalk and stormwater improvements to any portion of the north side of SW Spring Garden Street from 120 feet east of the east right-of-way line of SW 35th Avenue to 720 feet east of the east right-of-way line of SW 35th Avenue unless property owner(s) voluntarily sign an agreement approved as to form by the City Attorney to pay for their frontage(s) to be improved by this LID.

NOW, THEREFORE, the Council directs:

- a. Directive 6 of Ordinance No. 187740 is changed to the following:

“The improvements will be constructed on the north side of SW Dolph Court from the west right-of-way line of SW 30th Avenue to 311 feet east of the east right-of-way line of SW 35th Avenue and on the south side of SW Spring Garden Street from 655 feet west of the west right-of-way line of SW 30th Avenue to 200 feet east of the east right-of-way line of SW 35th Avenue plus any transition work on abutting street segments, intersections, and/or adjacent properties determined to be necessary by the City Engineer, including but not limited to a stormwater facility at SW 26th Way and Barbur Blvd.; and transition improvements that may be necessary adjacent to 3422 SW Spring Garden Street.”

- b. Exhibit C of Ordinance No. 187740 is replaced with the map attached as Exhibit B of this Ordinance.
- c. PBOT is authorized to use available project contingency identified in Ordinance No. 187740 to construct transition improvements identified in Directive ‘a’ of this Ordinance abutting 3422 SW Spring Garden Street in lieu of adjacent to 3352 SW Spring Garden Street.
- d. Council passage of this Ordinance provides assurance of performance under Section 17.024.055 of City Code for the work identified in Finding No. 6 of this Ordinance, and neither a waiver of remonstrance nor a Local Transportation Infrastructure Charge (LTIC) waiver of remonstrance shall be required as a condition of a building permit for 3352 SW Spring Garden Street, nor shall PBOT require payment of an LTIC fee currently estimated at \$66,600 for 111 abutting linear feet of street without an existing curb.
- e. A change in the sanitary sewer extension identified in Finding No. 8 of this Ordinance to west of 3352 SW Spring Garden St. will not require an additional hearing per Section 17.08.080 of City Code.
- f. The property at 3352 SW Spring Garden Street will not be assessed a proportional share of design costs provided that the planned improvements in the public right-of-way of SW Spring Garden Street are privately designed to the satisfaction of the City Engineer in advance of the contractor beginning excavation work on SW Spring Garden Street. However, a requirement for a hearing under Section 17.08.080 to assess a proportional share of design costs is waived in the event that this timeline is not met and it is necessary for PBOT to design these improvements.

- g. The property at 3352 SW Spring Garden Street will not be assessed a proportional share of right-of-way acquisition costs provided that a 4' dedication for the planned improvements in the public right-of-way of SW Spring Garden Street and a 5' temporary construction easement is donated to the City in advance of the contractor beginning excavation work on SW Spring Garden Street. However, a requirement for a hearing under Section 17.08.080 to assess a proportional share of right-of-way acquisition costs is waived in the event that this timeline is not met and it is necessary for PBOT to seek property rights for 3352 SW Spring Garden Street, including, but not limited to costs of appraisal, negotiation, fair market value compensation and eminent domain.
- h. The City Auditor to create a pending lien record for 3352 SW Spring Garden Street in the amount of \$108,442.26.
- i. Per Finding No. 41 of this Ordinance, the Local Improvement District Administrator is authorized to negotiate Frontage Improvement Agreement(s) with one or more owners of the following properties, provided that the Agreement(s) have been approved as to form by the City Attorney and the work is deemed to be feasible by the City Engineer:
 - 1. The vacant lot west of 3203 SW Spring Garden Street;
 - 2. 3221 SW Spring Garden Street;
 - 3. 3233 SW Spring Garden Street;
 - 4. 3241 SW Spring Garden Street;
 - 5. 3301 SW Spring Garden Street;
 - 6. 3307 SW Spring Garden Street;
 - 7. 3317 SW Spring Garden Street;
 - 8. 3325 SW Spring Garden Street;
 - 9. 3333 SW Spring Garden Street;
 - 10. 3351 SW Spring Garden Street
 - 11. 3415 SW Spring Garden Street; and/or
 - 12. The vacant lot west of 3415 SW Spring Garden Street.

Passed by the Council,

JUL 12 2017

Mayor Ted Wheeler
 Prepared by: Andrew Aebi:smp
 Date Prepared: May 30, 2017

Mary Hull Caballero
 Auditor of the City of Portland
 By *Gayla Jennings*
 Deputy

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Agenda No.
ORDINANCE NO.

188513

Title

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<p>INTRODUCED BY <i>Commissioner Saltzman</i></p> <p>MAYOR APPROVAL Mayor—Finance and Administration - Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety – Eudaly</p> <p>BUREAU APPROVAL Bureau: Transportation Policy, Planning & Projects Group Manager: Art Pearce Director: Leah Treat Prepared by: Andrew Aebi Date Prepared: May 30, 2017 Supervisor: Millicent Williams</p> <p>Impact Statement Completed <input type="checkbox"/> Amends Budget <input checked="" type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>City Auditor Office Approval: required for Code Ordinances</p> <p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter</p> <p>Council Meeting Date June 28, 2017 at 9:30 AM</p>	<p>CLERK USE: DATE FILED <u>JUN 27 2017</u></p> <p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN: JUL 05 2017 PASSED TO SECOND READING JUL 12 2017 9:30 A.M.</p>
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<p style="text-align: center;">AGENDA</p> <p>TIME CERTAIN <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)</p> <p>CONSENT <input type="checkbox"/></p> <p>REGULAR <input checked="" type="checkbox"/> Total amount of time needed: 5 min. (for presentation, testimony and discussion)</p>
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FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman	✓	
4. Eudaly	✓	
Wheeler	✓	