

**ORDINANCE No.** 188778

Vacate a portion of NW Roosevelt St between NW 29<sup>th</sup> and NW 30<sup>th</sup> Aves subject to certain conditions and reservations (Ordinance; VAC-10115)

The City of Portland ordains:

Section 1. The Council finds:

1. On February 27, 2017, the Office of the City Auditor certified a petition for the vacation of NW Roosevelt Street between NW 29<sup>th</sup> and NW 30<sup>th</sup> Avenues (the "Street Area"), with the petition initiated by Cairn Pacific Properties 7, LLC, the owner of the adjoining property to the south of the vacation area (the "Petitioner").
2. The property to the north of the vacation area is currently owned by the Bill Naito Company. Negotiations are currently underway to transfer ownership of this parcel to the Petitioner.
3. The petition states that the reason for the vacation is to consolidate the adjacent properties for redevelopment. The Petitioner plans to construct three separate mixed-use buildings, a standalone retail building, and fifteen townhouse units. Two of the mixed-use buildings will be built over the Street Area. Construction is expected to begin in the last half of 2018 .
4. The vacation is in conformance with the City of Portland's Comprehensive Plan and is consistent with recommendations made by the Director of the Bureau of Transportation and Planning and Sustainability Commission, as provided in the Bureau Director's Report, dated October 30, 2017 and on file with the Office of the City Auditor (the "Auditor") and the Bureau of Transportation ("PBOT").
5. In accordance with ORS 271.100, Portland City Council (the "Council") fixed a time and place for public hearing before the Council; the Auditor published notice thereof, and posted notice in the areas proposed for vacation.
6. 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.
7. Other procedural requirements of ORS 271 have been complied with, and the Council having held a public hearing, finds no objections were made or filed hereto, and it is in the public interest to vacate the Street Area.

NOW, THEREFORE, the Council directs:

- a. The following described Street Area, as depicted on Exhibit A attached and incorporated by reference, is hereby vacated:

That portion of NW Roosevelt Street situated in the southeast one-quarter of Section 29, T1N, R1E, W.M., City of Portland, County of Multnomah, State of Oregon, lying between the west right-of-way line of NW 29<sup>th</sup> Avenue, being 60.00 feet wide, and the east right-of-way line of NW 30<sup>th</sup> Avenue, being 60.00 feet wide containing 18,000 square feet, more or less.

- b. The vacation of the above-described Street Area is granted subject to the following conditions and reservations:

1. The Petitioner will provide legal descriptions and exhibit maps and dedicate the following areas as public right-of-way to the satisfaction of PBOT Right-of-Way Acquisition:
  - i) A portion of parcel referenced as 1N1E29DB tax lot 4300 A abutting NW Nicolai Street; and
  - ii) portion of parcel referenced as 1N1E29DB tax lot 3300 (3030 NW Nicolai Street) along NW 30th Avenue.

These Dedications will be recorded prior to or concurrently with the recording of this ordinance (this "Ordinance").

2. The Petitioner will permanently close NW Roosevelt Street where it intersects with NW 29<sup>th</sup> Avenue, and pay all costs for constructing a curb and sidewalk or driveway, in accordance with the requirements of the City Engineer. A bond and contract for the public works permit will be in place prior to the recording of this Ordinance.
  - i. To ensure the completion of the required street improvements, the Petitioner shall provide to the City Engineer, a \*Performance Guarantee. 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.

*\*the Petitioner will need to apply for a public works permit in order to provide the City with a Performance Guarantee.*

- i) The Petitioner agrees to authorize the City to complete the required street improvements at the Petitioner's cost, whether by using the Performance Guarantee or by other means of payment, 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.
  - ii) The Petitioner agrees to obtain the necessary permits to complete the required improvements.
3. A Lot Consolidation review will be completed for all lots that will lose legal street frontage as a result of the street vacation. Any Lot Consolidations required by the City will be recorded prior to or concurrently with the recording of this Ordinance.
4. In accordance with ORS 271.120 and City of Portland policy, this 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, CenturyLink, and Northwest Natural**. Subject to Paragraph 6 below, this 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, and over the south 33.00 feet of the vacation area for telecommunications facilities owned by **CenturyLink**, except with the prior written consent of 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.
5. Notwithstanding b4, this Ordinance will serve as a full release of City interests in the Street 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.

6. If any property, encumbered by an easement reserved in this 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.
7. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
8. 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 this Ordinance at its sole discretion.

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

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

Section 4. After the prerequisites to recording this Ordinance have been met, the Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition ("RWA") Section, PBOT, 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 RWA Section shall return the recorded ordinance to the Auditor and retain a copy in RWA File No. 8301.

Passed by the Council, JAN 17 2018

Commissioner Dan Saltzman  
Prepared by: Lance Lindahl: SP  
November 21, 2017

**MARY HULL CABALLERO**  
Auditor of the City of Portland  
By



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Agenda No. **188778**  
**ORDINANCE NO.**  
 Title

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*Hearings*

<b>INTRODUCED BY</b> Commissioner/Auditor: <b>COMMISSIONER DAN SALTZMAN</b>	CLERK USE: DATE FILED <u>JAN 02 2018</u>
<b>COMMISSIONER APPROVAL</b> Mayor—Finance and Administration - Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman <i>Don Saltzman</i> Position 4/Safety – Eudaly	Mary Hull Caballero Auditor of the City of Portland  By: <u><i>Susan Parsons</i></u> Deputy
<b>BUREAU APPROVAL</b> Bureau: <b>Transportation</b> Development Permitting & Transit <i>gh</i> Group Manager: <b>Christine Leon</b> Director: <b>Leah Treat</b> Prepared by: Lance D. Lindahl Date Prepared: November 21, 2017 Supervisor: David McEldowney	<b>ACTION TAKEN:</b>  JAN 10 2018 PASSED TO SECOND READING JAN 17 2018 9:30 A.M.
<b>Impact Statement</b> Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
<b>Portland Policy Document</b> If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>City Auditor Office Approval:</b> required for Code Ordinances	
<b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan charter <i>Walters</i>	
<b>Council Meeting Date</b> <b>January 10, 2018</b>	

<b>AGENDA</b> <b>TIME CERTAIN</b> <input type="checkbox"/> Start time: _____ Total amount of time needed: _____ (for presentation, testimony and discussion)
<b>CONSENT</b> <input type="checkbox"/>
<b>REGULAR</b> <input checked="" type="checkbox"/> Total amount of time needed: <b>10 Minutes</b> (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz ✓	
2. Fish	2. Fish ✓	
3. Saltzman	3. Saltzman ✓	
4. Eudaly	4. Eudaly ✓	
Wheeler	Wheeler ✓	