

ORDINANCE No. 189030

Vacate a portion of SW Falcon St east of SW Barbur Blvd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10098)

The City of Portland ordains:

Section 1. The Council finds:

1. On February 2, 2015, the Office of the City Auditor (the "Auditor") certified a petition for the vacation of a portion of SW Falcon Street east of SW Barbur Boulevard (the "Street Area"), with the petition initiated by Gary Garyfallou, the owner of adjoining property (the "Petitioner").
2. The petition states that the reason for the vacation is to consolidate property for development and to create uninterrupted frontage along SW Barbur Boulevard consistent with the Barbur Concept Plan. Petitioner has preliminary development plans for the Street Area and adjacent property owned by Petitioner and related entities.
3. The vacation is in conformance with the City's Comprehensive Plan and is consistent with recommendations made by the Director of the Bureau of Transportation ("PBOT") and Planning and Sustainability Commission, as provided in the Bureau Director's Report, dated April 17, 2018 and on file with the Auditor and the Bureau of Transportation ("PBOT").
4. In accordance with ORS 271.100, the 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.
5. 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 is hereby vacated:

As described on **Exhibit 1** and depicted on **Exhibit 2** attached and incorporated by reference.

Contains 5,592 square feet, more or less.

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

1. **Bureau of Transportation: Development Review and Right-of-Way Acquisition.**
 - i. The owner of 1725 SW Multnomah Boulevard (Tax Parcel R126898) will execute a Deed for Right of Way Purposes (the "Dedication") for a portion of the parcel, in substantially the same form as **Exhibit 3** attached and incorporated by reference. The Petitioner will provide legal descriptions and exhibit maps to include sufficient area for development of a turn-around in SW Falcon Street, as determined by PBOT Development Review (unless a Public Works Alternative Review approves an alternate plan).
 - ii. In connection with the Dedication, the owner will execute an Ownership Confirmation and Agreement to Perform, in substantially the same form as **Exhibit 4** attached and incorporated by reference.
 - iii. The Dedication will be recorded immediately after demolition of the parcel's existing structure, in accordance with a demolition permit, or upon recording this ordinance (this "Ordinance"), whichever occurs later.

2. **Bureau of Transportation: Planning.** Petitioner will reserve a portion of the westerly end of the SW Falcon Street right-of-way sufficient for future SW Corridor transit improvements. *This condition has been satisfied.*

3. **Bureau of Development Services.** The Petitioner will apply for a Lot Consolidation of 8124 SW Barbur Boulevard (Tax Parcel R126899).

4. **Bureau of Environmental Services ("BES").** The Street Area currently functions as a natural drainageway for storm water. Subject to Paragraph b.7 below, the Petitioner will grant BES a Sewer Easement over the entire Street Area, in substantially the same form as **Exhibit 5** attached and incorporated by reference. The Sewer Easement will be recorded concurrently with this Ordinance.

At time of development, Petitioner intends to construct a new public storm sewer line in the Street Area, in accordance with BES requirements. Petitioner will grant BES a new sewer easement to replace the easement granted with this Ordinance.

5. In accordance with ORS 271.120 and City 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 **Comcast** and **PGE**. Subject to Paragraph b.7 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 things; 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.

6. Notwithstanding **Condition b.5** and except for **Condition b.4**, 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.
7. 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.
8. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
9. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting this Ordinance, 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

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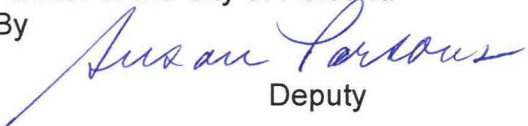
other record which may be required by law. The RWA Section shall return a copy of the recorded ordinance to the Auditor and retain the original in RWA File No. 7890.

Passed by the Council, JUN 20 2018

Commissioner Dan Saltzman
Prepared by: Karl Arruda: IR
Date Prepared: May 11, 2018

Mary Hull Caballero
Auditor of the City of Portland

By


Deputy

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Agenda No. **189030**
ORDINANCE NO.

Vacate a portion of SW Falcon St east of SW Barbur Blvd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10098)

<p><i>Mayor Wheeler and</i></p> <p>INTRODUCED BY Commissioner/Auditor: COMMISSIONER DAN SALTZMAN</p>	<p>CLERK USE: DATE FILED <u>JUN 06 2018</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman <i>Don 9/5</i></p> <p>Position 4/Safety - Eudaly</p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: PBOT</p> <p>Development Permitting & Transit <i>cw</i></p> <p>Group Manager: Christine Leon <i>CLW</i></p> <p>Asst. Director: Chris Warner</p> <p>Prepared by: Karl Arruda <i>KNA</i></p> <p>Date Prepared: May 11, 2018</p> <p>Supervisor: David McEldowney <i>DM</i></p>	<p>ACTION TAKEN:</p> <p>JUN 13 2018 PASSED TO SECOND READING JUN 20 2018 9:30 A.M.</p>
<p>Impact Statement</p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document</p> <p>If "Yes" requires City Policy paragraph stated in document.</p> <p>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 <i>KAM</i></p>	
<p>Council Meeting Date June 13, 2018</p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: 15 minutes (for presentation, testimony and discussion)</p>

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	✓	