

ORDINANCE No. 189195

Vacate NW Terminal St between NW 17th Ave and NW Upshur St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10119)

The City of Portland ordains:

Section 1. The Council finds:

1. On January 5, 2018 the Office of the City Auditor (the "Auditor") certified a petition for the vacation of NW Terminal Street between NW 17th Avenue and NW Upshur Street (the "Street Area"), with the petition initiated by Park Office LLC, the owner of adjoining property (the "Petitioner").
2. The petition states that the reason for the vacation is to consolidate property in support of the recent development of a multi-story office and retail building.
3. The Street Area is currently improved with pedestrian pathways, landscaping, and stormwater infiltration areas that support the adjacent private development. This project also constructed extensive public sidewalk improvements along both NW Front Avenue and NW 17th Avenue.
4. 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 July 9, 2018 and on file with the Office of the City Auditor (the "Auditor") and 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 the attached **Exhibit 1**, and incorporated by reference, is hereby vacated:

That portion of NW Terminal Street situated in Section 28, T1N, R1E, W.M., City of Portland, County of Multnomah, State of Oregon, lying between the east right-of-way line of NW 17th Avenue, being 60.00 feet wide, and the north right-of-way line of NW Upshur Street, being 60.00 feet wide.

Containing 11,520 square feet, more or less.

- b. The vacation of the above-described Street Area is granted subject to the following conditions:
1. The Bureau of Environmental Services ("BES") owns and maintains certain improvements within the Street Area. As a condition of street vacation approval, the Petitioner will grant a Sewer Tunnel Easement to the City of Portland over the easterly portion of the Street Area. The easement will abut the existing Sewer Tunnel Easement on the parcel to the north and will be of a width that is acceptable to BES. A professional legal description and exhibit map of the easement area will be prepared by the City at the expense of the Petitioner. The Easement document will be in substantially the same form as **Exhibit 2** attached and incorporated by reference and will be recorded concurrently with the recording of the Ordinance.
 2. In accordance with ORS 271.120 and City policy, the street vacation ordinance (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**. Subject to Paragraph b3 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, 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.
 3. Notwithstanding Condition b2, and except for Condition b1, 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.

4. 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.
5. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
6. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting this Ordinance, the 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 a copy of the recorded ordinance to the Auditor and retain the original recorded ordinance in RWA File No. 8528.

Passed by the Council: OCT 03 2018

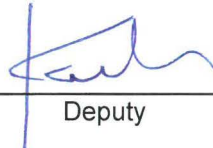
Commissioner Chloe Eudaly
Prepared by: Lance Lindahl: CB
Date Prepared: August 21, 2018

Mary Hull Caballero
Auditor of the City of Portland
By 

Deputy

Agenda No.
Ordinance NO. 189195
Title

Vacate NW Terminal St between NW 17th Ave and NW Upshur St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10119)

<p>INTRODUCED BY Commissioner/Auditor: COMMISSIONER CHLOE EUDALY</p>	<p>CLERK USE: DATE FILED <u>SEP 18 2018</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance & Administration – Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Eudaly <i>OBE</i></p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u></u> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: PBOT Group: Development Permitting & Transit Group Manager: Christine Leon Director: Chris Warner <i>CW</i></p> <p>Prepared by: Lance Lindahl: CB <i>LD</i> Supervisor: Dave McEldowney <i>DMC</i> Date Prepared : August 21, 2018</p>	<p>ACTION TAKEN:</p> <p>SEP 26 2018 PASSED TO SECOND READING OCT 03 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 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, charter, Comp Plan <i>KAM</i></p>	
<p>Council Meeting Date September 26, 2018</p>	

AGENDA	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>	<p>1. Fritz</p> <p>2. Fish</p> <p>3. Saltzman</p> <p>4. Eudaly</p> <p>Wheeler</p>	<p>YEAS</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p> <p>✓</p>	<p>NAYS</p> <p></p> <p></p> <p></p> <p></p>
<p>CONSENT <input type="checkbox"/></p>			
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: 10 Minutes (for presentation, testimony and discussion)</p>			