

# ORDINANCE No. 189319

Vacate N Hunt St east of N Argyle Wy subject to certain conditions and reservations (Hearing; Ordinance; VAC-10121)

The City of Portland ordains:

Section 1. The Council finds:

1. In accordance with ORS 271.130 (Vacation on Council's own motion), the City of Portland ("City") through Portland Development Commission, also known as Prosper Portland, initiated the vacation of N Hunt Street east of N Argyle Way (the "Street Area") on November 17, 2017. For purposes of this street vacation ordinance (this "Ordinance"), the Petitioner is defined as Prosper Portland or its successors and assigns.
2. City, by and through Prosper Portland, owns property abutting the southerly side of Street Area and is planning to sell the property to Transition Projects, Inc. ("TPI") at the end of the year. Once funding has been secured, an affordable housing project (the "Project") is expected to be constructed and the Street Area will be needed for the Project.
3. Ferguson Enterprises, Inc. ("Ferguson") owns property abutting the Street Area to the north. In anticipation of the Project, Ferguson has conveyed its underlying fee interest in the Street Area to TPI in Document No. 2018-024568 recorded March 6, 2018, Multnomah County Deed Records.
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 August 13, 2018 and on file with the Office of the City Auditor (the "Auditor") and PBOT.
5. 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.
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 Street Area, more particularly described in Book 1831, Page 1301, recorded June 19, 1985, and Book 642, Page 1342, recorded September 30, 1968, Multnomah County Deed Records and depicted on **Exhibit A** as attached and incorporated by reference, is hereby vacated.
- b. The vacation of the above-described Street Area is granted subject to the following conditions:
  1. The Petitioner will permanently close the intersection of N Hunt Street and pay all costs for constructing a curb and sidewalk or driveway, in accordance with the requirements of the City Engineer.
    - 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.*
    - ii) 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.
    - iii) The Petitioner agrees to obtain the necessary permits to complete the required improvements.
  2. The Petitioner is required to complete the 30% Concept Review phase of the Publics Works process. Bonding or contract must be completed prior to recording of this Ordinance.
  3. The Petitioner will complete a Type 1x Lot Consolidation for all platted lots losing street frontage as a result of the vacation as required by the Bureau of Development Services.
  4. TPI is the underlying fee owner of a portion of Street Area. A sewer easement is needed for future storm water facilities within said portion; therefore, TPI will grant a Sewer Easement to the City, in substantially the same form as attached **Exhibit B** and incorporated by reference. Said easement will be recorded concurrently 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. Subject to Paragraph 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 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.

6. Notwithstanding Condition 5 and except for Condition 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 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. 8471.

Passed by the Council, DEC 19 2018

Commissioner Chloe Eudaly  
Prepared by: Dee A. Walker:CB  
Date Prepared: 11/9/2018

**Mary Hull Caballero**  
Auditor of the City of Portland

By

  
Deputy

Agenda No.  
**Ordinance NO. 189319**  
Title

Vacate N Hunt St east of N Argyle Wy subject to certain conditions and reservations (Hearing; Ordinance; VAC-10121

<b>INTRODUCED BY</b> Commissioner/Auditor: <b>Chloe Eudaly</b>	CLERK USE: DATE FILED <u>DEC 04 2018</u>
<b>COMMISSIONER APPROVAL</b>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p style="text-align: center;"><i>Mary Hull Caballero</i> By: _____ Deputy</p> <p><b>ACTION TAKEN:</b></p> <p>DEC 12 2018 PASSED TO SECOND READING DEC 19 2018 9:30 A.M.</p>
Mayor—Finance & Administration – Wheeler	
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Eudaly <i>CE</i>	
<b>BUREAU APPROVAL</b>	
Bureau: PBOT Group: Development Permitting & Transit Group Manager: Christine Leon <i>CL</i> Director: Chris Warner <i>CW</i>	
Prepared by: Dee A. Walker; CB Supervisor: Dave McEldowney <i>DM</i> Date Prepared: November 9, 2018	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document 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, charter, Comp Plan <i>KAM</i>	
Council Meeting Date <b>December 12, 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>15 minutes</b> (for presentation, testimony and discussion)

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