

ORDINANCE No. 190390

Vacate portions of NE 27th Ave and NE Holland St south of NE Columbia Blvd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10131)

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 its Bureau of Transportation ("PBOT" or "Petitioner"), initiated the vacation of portions of NE 27th Avenue and NE Holland Street south of NE Columbia Boulevard described on Exhibit 1 and depicted on Exhibit 2 (the "Street Area"). The Street Area was originally acquired in the duly recorded Plat of Irvington Park, recorded on August 15, 1912, Multnomah County Plat Records.
2. The City initiated this street vacation in connection with PBOT's recent Local Improvement Project ("LID") that improved nearby portions of NE 27th Avenue and NE Holland Street.
3. The purpose of this City initiated vacation is to eliminate portions of public right-of way that are no longer needed for public street purposes. The Street Area is not improved to City standards and was identified as remnants to the LID with potential assemblage to the abutting private properties for expansion and/or development purposes.
4. McInnis Investments LLC ("McInnis") is the current owner of the properties located to the north and south of that portion of NE Holland Street being vacated east of NE 27th Avenue. McInnis is currently working to develop a privately owned and operated solid waste transfer station under permit of the Oregon DEQ at this location.
5. The vacation is in conformance with the City's Comprehensive Plan and is consistent with recommendations made by the Director of PBOT and by the Planning and Sustainability Commission, as provided in the Bureau Director's Report, dated March 17, 2021 and on file with the Office of the City Auditor (the "Auditor") and PBOT.
6. In accordance with ORS 271.100, the Portland City Council (the "Council") fixed a time and place for public hearing before the Council; notice was published in the Daily Journal of Commerce and posted at the site in the areas proposed for vacation.

7. 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.
8. 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.
9. All Exhibits are attached and incorporated by reference.

NOW, THEREFORE, the Council directs:

- a. The Street Area, described on Exhibit 1 and depicted on Exhibit 2, containing 14,491 square feet, more or less, is hereby vacated.
- b. The vacation of the Street Area is granted subject to the following conditions:
 1. A non-exclusive access easement is hereby reserved over a portion of NE Holland Street east of NE 27th Avenue that is being vacated. Said easement is for the benefit of the property addressed as 2946 NE Columbia Boulevard, and currently referenced as property 1N1E13 BA Tax Lot 3700, R279956. Said easement shall match the footprint of the Emergency Vehicle Access Easement as required in Condition b3.
 2. The Land Use Review Section of the Bureau of Development Services ("BDS") has determined that the street vacation as proposed will create loss of legal street frontage for a majority of the abutting properties. Lot consolidations are required for any tax lots, historically platted lots, or lots of record that will be left without legal street frontage as a result of the street vacation. All tax lots abutting the Street Area under the same ownership be consolidated into one or more parcels. However, no more than three parcels may be created per lot consolidation review. Said lot consolidations will be completed prior to or concurrent with the street vacation ordinance being recorded (this "Ordinance").
 3. An Emergency Vehicle Access Easement ("EVAE") will be granted to the City by the fee title owner of the property located to the east of the NE 27th Avenue and NE Holland Street intersection and currently referenced as property R191053, R191056 and R191057 conveyed in Document No. 2003-015649, recorded on January 23, 2003, Multnomah County Deed Records, (the "Property"). The location, width, and length of the EVAE area will be determined by the Portland Fire & Rescue. Any changes to the EVAE will be subject to review by Portland Fire & Rescue. The EVAE will be in substantially the same form as Exhibit 3 and will be recorded concurrently with this Ordinance.

4. A Conservation Easement will be granted to the City by the fee title owner of the Property for the protection of two Douglas Fir trees and two Western Red Cedar trees currently located within the Street Area which will become part of a privately owned parcel with industrial zoning. Said easement will be in substantially the same form as Exhibit 4 and 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, including, but not limited to those identified by CenturyLink. Subject to Paragraph b6 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 Area will require written agreements between applicable property owners and owner(s) of the utilities.
6. Notwithstanding Condition b5, and except for Condition b.3, and 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 above conditions are not met within one year of Council adopting this Ordinance, Council may repeal this Ordinance at its sole discretion.

Section 2. Petitioner and other affected property owner(s) 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 PBOT RWA, 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. PBOT RWA shall return a copy of the recorded ordinance to the Auditor and retain the original recorded ordinance in RWA File No. 8825.

Passed by the Council: May 5, 2021

Commissioner Jo Ann Hardesty
Prepared by: Lance Lindahl
Date Prepared: March 30, 2021

Mary Hull Caballero
Auditor of the City of Portland

By *Christina Thomas*

Deputy

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Agenda No.
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Title

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<p style="text-align: center;">INTRODUCED BY Commissioner/Auditor: Jo Ann Hardesty</p>	<p>CLERK USE: DATE FILED <u>April 20, 2021</u></p>
<p style="text-align: center;">COMMISSIONER APPROVAL</p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>Keelan McClymont</i></u> Deputy</p> <p>ACTION TAKEN: April 28, 2021 Passed to Second Reading May 5, 2021 at 9:30 am</p>
Mayor—Finance & Administration - Wheeler	
Position 1/Utilities - Rubio	
Position 2/Works - Ryan	
Position 3/Affairs - Hardesty <i>Jo Ann Hardesty</i>	
Position 4/Safety - Mapps	
<p style="text-align: center;">BUREAU APPROVAL</p>	
Bureau: PBOT	
Bureau Head: Christopher Warner <small>Digitally signed by Christopher Warner Date: 2021.04.09 14:17:49 -07'00'</small>	
Prepared by: Lance Lindahl Date Prepared: 3/30/2021	
<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: Ken McGair <small>Digitally signed by Ken McGair Date: 2021.03.31 07:45:41 -07'00'</small></p> <p>required for contract, code, easement, franchise, comp plan, charter</p>	
<p>Council Meeting Date</p> <p>April 28, 2021</p>	

<p style="text-align: center;">AGENDA</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 35%;">FOUR-FIFTHS AGENDA</th> <th colspan="2">COMMISSIONERS VOTED AS FOLLOWS:</th> </tr> <tr> <th></th> <th style="width: 20%;">YEAS</th> <th style="width: 20%;">NAYS</th> </tr> <tr> <td>1. Rubio</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>2. Ryan</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>3. Hardesty</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>4. Mapps</td> <td style="text-align: center;">✓</td> <td></td> </tr> <tr> <td>Wheeler</td> <td style="text-align: center;">✓</td> <td></td> </tr> </table>			FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:			YEAS	NAYS	1. Rubio	✓		2. Ryan	✓		3. Hardesty	✓		4. Mapps	✓		Wheeler	✓	
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<p>CONSENT <input type="checkbox"/></p>																								
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: <u>20 Minutes</u> (for presentation, testimony and discussion)</p>																								