

ORDINANCE No. 184538

Vacate a portion of SE 94th Ave north of SE Henry St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10074)

The City of Portland ordains:

Section 1. The Council finds:

1. On August 30, 2007, the Bureau of Transportation received a request for the vacation of a portion of SE 94th Avenue north of SE Henry Street.
2. The petition states that the reason for the vacation is for TriMet and Oregon Department of Transportation (ODOT) to have control over the portions of the property improved with Light Rail tracks and the I-205 multi-use path, respectively, for operation and maintenance of their facilities.
3. The vacation is in conformance with the City of Portland's Comprehensive Plan and is consistent with recommendations made by the City Engineer and Planning and Sustainability Commission, as provided in the City Engineer's Report, dated November 29, 2010 and on file with the Office of the City Auditor and the Bureau of Transportation.
4. In accordance with ORS 271.100, 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 that said street be vacated.

NOW, THEREFORE, the Council directs:

- a. The following described street area, as depicted on the attached Exhibit 1, is hereby vacated:

That portion of SE 94th Avenue situated in Section 16, T1S, R2E, W.M., City of Portland, County of Multnomah, State of Oregon, between the southeast corner of Lot 5, Block 5, in the duly recorded plat of "Town of Lent" extended easterly to the southwest corner of Lot 10, Block 6 of said plat and 81.00 feet north of the north line of SE Henry Street extended easterly to the east right-of-way line of said SE 94th, as depicted on attached Exhibit 1 and by this reference made a part hereof. Said vacation area contains 15,870 square feet, more or less.

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

1. TriMet will complete a lot consolidation of 1S2E16DC Tax Lots 11500, 11600, 11700 and 11701 through the Title 33 Lot Consolidation Review process if said lots have not been transferred to ODOT prior to the City recording the street vacation ordinance.
2. A 15 foot wide public sewer easement is hereby reserved to provide for the maintenance, operation, repair, reconstruction, replacement and enlargement of the existing public sewer facility. The 15 foot easement shall be located over an existing 8 inch pipe as described on Exhibit 2 and shown on Exhibit 3, attached hereto.

This easement is reserved on the condition that no building construction, material storage, filling, grade change or tree planting will be permitted within said easement area without the prior written consent of the Director of the Bureau of Environmental Services, and further that the City or its contractors will not be responsible for damage to any improvements, including existing landscaping within the easement area if such things are damaged or destroyed by the City or its contractors in the course of reconstruction or maintenance of the existing public sewer facility.

3. In accordance with ORS 271.120 and City of Portland policy, the street vacation 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. The 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.

4. Notwithstanding b3 and except for b2, this Ordinance will serve as a full release of City interests in the street vacation 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.
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, City Council may repeal the Ordinance at its sole discretion.

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

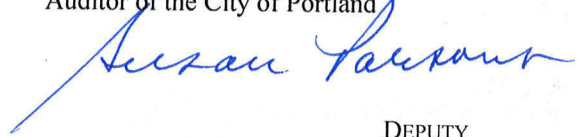
Section 3. Notice is given that the street vacation will not be effective until a certified copy of the vacating Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording the vacating Ordinance are that 30 days have passed after final Council passage of the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

Section 4. After the prerequisites to recording the Ordinance have been met, the City Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Bureau of Transportation, 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 Right-of-Way Acquisition Section shall return the recorded Ordinance to the Auditor.

Passed by the Council, **APR 20 2011**

Mayor Sam Adams
Prepared by: Lance D. Lindahl:slg
March 21, 2011
RW # 7200

LAVONNE GRIFFIN-VALADE
Auditor of the City of Portland


DEPUTY

-353-385-

Agenda No.
ORDINANCE NO. 184538
Title

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<p>INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS <i>K. Griffith on behalf of Mayor Adams</i></p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Adams</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Leonard</p> <p>BUREAU APPROVAL</p> <p>Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program</p> <p>Other: <i>[Signature]</i></p> <p>Prepared by: Lance D. Lindahl:slg Date Prepared: March 21, 2011</p> <p>Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <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>Council Meeting Date April 13, 2011</p> <p>City Attorney Approval</p>	<p align="right">APR 08 2011</p> <p>CLERK USE: DATE FILED _____</p> <p align="center">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN:</p> <p>APR 13 2011 PASSED TO SECOND READING APR 20 2011 9:30 A.M.</p>
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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: 5 Minutes (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	1. Fritz <input checked="" type="checkbox"/>	
2. Fish	2. Fish <input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman <input checked="" type="checkbox"/>	
4. Leonard	4. Leonard <input checked="" type="checkbox"/>	
Adams	Adams <input checked="" type="checkbox"/>	