

ORDINANCE No. 184576

Vacate portions of SW Hillsdale Ct and SW 43rd Ave south of SW Beaverton Hillsdale Hwy subject to certain conditions and reservations (Hearing; Ordinance; VAC-10011)

The City of Portland ordains:

Section 1. The Council finds:

1. On January 15, 2002, the Office of the City Auditor certified a petition for the vacation of portions of SW Hillsdale Court and SW 43rd Avenue south of SW Beaverton Hillsdale Highway, with the petition initiated by Barbara Sedlin, the owner of some adjoining property.
2. The petition states that the reason for the vacation is to consolidate property for redevelopment.
3. The proposed vacation of the right-of-way is a compromise to the two prior opposing recommendations as provided for in the City Engineer's Reports dated August 1, 2007 and September 20, 2010. The 2007 report found the proposed street vacation to be acceptable subject to no substantive objections and the 2010 report recommended denial of the street vacation request due to substantive objections received from the neighboring property owners.
4. A compromise was reached between the petitioner and neighboring property owners during the March 16, 2011 City Council session. The compromise resulted in a proposed street vacation that would generally reduce the width of the existing right-of-way, yet still allow for through traffic.
5. 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.
6. Other procedural requirements of ORS 271 have been complied with, and the Council having held a public hearing finds no substantive objections were made or filed hereto concerning the proposed vacation and it is in the public interest that said portions of the street be vacated.

NOW, THEREFORE, the Council directs:

- a. The following described street area, as described in attached Exhibits A & B and as depicted on attached Exhibit C, is hereby vacated:

A portion of SW Hillsdale Court and a portion of SW 43rd Avenue, in a portion of the plat of Glen Cullen, situated in the northwest quarter of Section 17, T1S, R1E, W.M., City of Portland, County of Multnomah, State of Oregon, as described in attached Exhibits A & B and as depicted on attached Exhibit C, and by this reference made a part hereof. Said vacation area contains 9,391 square feet, more or less.

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

1. At the time of redevelopment or at the direction of the City Engineer, the intersection of SW 43rd Avenue with SW Beaverton Hillsdale Highway shall be permanently closed with curb and sidewalk. Any street improvements will also require storm improvements that meet the City of Portland Stormwater Management Manual (2002).
2. The Portland Water Bureau (PWB) owns and maintains certain improvements within the street area to be vacated. As a condition of street vacation approval, all abutting property owners receiving property through this vacation will individually pay PWB's costs to relocate their water meters as required as a result of the partial vacation:

4310 SW Hillsdale Court (Glenhill Associates LLC)

4322 SW Beaverton Hillsdale Highway (Beaverhill Associates LLC)

4334 SW Beaverton Hillsdale Highway (Bradley & Laura Johnsen)

4342 SW Beaverton Hillsdale Highway (Jack Stanley)

3. The PWB owns and maintains certain improvements within the street area to be vacated. As a condition of street vacation approval, the Petitioner will agree to the reservation of a public water easement over the width of the 10 foot strip of right-of-way being vacated, centered on the existing fire hydrant and extending a distance of 10 feet to the east and west of that fire hydrant, for a total easement area of 200 square feet, more or less. The existing fire hydrant is located near the northern end of the dividing line between Lots 3 and 4, Block 4, of the duly recorded Plat of Glen Cullen.

This easement is reserved on the condition that no substantial physical changes will occur within the easement area without the prior written consent of the Chief Engineer of the PWB. The easement area will remain free and clear of all obstructions that would prohibit access to the existing fire hydrant.

4. The Bureau of Environmental Services (BES) owns and maintains certain improvements within the street area to be vacated. As a condition of street vacation approval, the Petitioner will agree to the reservation of a public sewer easement over the entire length and width of the partially vacated street area.

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 landscaping existing on 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 facilities.

In the event that Petitioner elects to provide alternative sewer connections, BES will not unreasonably object to said relocation, subject to approval of relocation plans by BES and payment of all relocation costs by Petitioner. If alternative sewer connections are provided in compliance with City requirements, BES will release the sewer easement.

5. 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, including, but not limited to those identified by Portland General Electric, and Northwest Natural Gas. The ordinance will reserve 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 Conditions 3 & 4, the 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.
7. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
8. In the event the Petitioner fails to fully comply with the above conditions within two years of Council adopting the Ordinance, and no application has been submitted to the City for redevelopment of the property including the construction of the improvements described in those conditions, 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, Transportation Engineering and Development, 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.

RECORDED AND INDEXED MAY 11 2011

Passed by the Council, **MAY 11 2011**

Mayor Sam Adams
Prepared by: Linda Birth:slg
Date Prepared: April 11, 2011
R/W #6238

LaVonne Griffin-Valade
Auditor of the City of Portland

By *Emily Matasan*
Deputy

Agenda No.
ORDINANCE NO. 184576
Title

Vacate portions of SW Hillsdale Ct and SW 43rd Ave south of SW Beaverton Hillsdale Hwy
(Hearing; Ordinance; VAC-10011)

INTRODUCED BY
Commissioner/Auditor:
MAYOR SAM ADAMS
W. Adams on behalf of Mayor Adams
COMMISSIONER APPROVAL

Mayor—Finance and Administration - Adams

Position 1/Utilities - Fritz

Position 2/Works - Fish

Position 3/Affairs - Saltzman

Position 4/Safety - Leonard

BUREAU APPROVAL

Bureau: Bureau of Transportation
Group Manager: Greg Jones
Development & Capital Program

Other: R/W Acquisition *Greg Jones*

Prepared by: Linda Birth:slg
Date Prepared: April 11, 2011 *LB*

Financial Impact Statement
Completed Amends Budget
Not Required

Portland Policy Document
If "Yes" requires City Policy paragraph stated in document.
Yes No

Council Meeting Date:
May 4, 2011

City Attorney Approval

CLERK USE: DATE FILED APR 29 2011

By: *[Signature]* Deputy
LaVonne Griffin-Valade
Auditor of the City of Portland

ACTION TAKEN:
MAY 04 2011 PASSED TO SECOND READING MAY 11 2011 9:30 A.M.

AGENDA

TIME CERTAIN
Start time: 9:30

Total amount of time needed: 20 minutes
(for presentation, testimony and discussion)

CONSENT

REGULAR
Total amount of time needed: _____
(for presentation, testimony and discussion)

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