

ORDINANCE No. 185174 As Amended

Vacate a portion of SW 46th Ave and a portion of SW Florida St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10070)

The City of Portland ordains:

Section 1. The Council finds:

1. On March 19, 2010, the Office of the City Auditor certified a petition for the vacation of a portion of SW 46th Avenue and a portion of SW Florida Street, with the petition initiated by St. Luke Lutheran Church, the owner of adjoining property.
2. The petition states that the reason for the vacation is to consolidate property for the future development of church buildings.
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 January 11, 2012 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 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:

A portion of SW 46th Avenue and SW Florida Street, in the City of Portland, Multnomah County, Oregon, as shown on the attached Street Vacation map, being that portion of said SW 46th Avenue lying between the westerly extension of the north line of Lot 5, Block 1, Bella Vista and the westerly extension of the north line of Lot 10, Block 3, Bella Vista.

Containing 19,992 square feet, more or less.

AND

That portion of said SW Florida Street lying between the southerly extension of the west line of Lot 6, Block 1, Bella Vista and 1.00 foot west of the southerly extension of the east line of Lot 7, Block 1, Bella Vista.

Containing 5,100 square feet, more or less.

- b. The vacation of the above-described street area is granted subject to the following conditions and reservations:
1. The street vacation must be recorded prior to issuance of building permits. Development of additional church facilities must be completed within 2 years of issuance of building permits or as determined by the Bureau of Transportation's City Engineer or as outlined in a future Master Plan. If development is not completed within this time, property owner shall dedicate the vacated street to restore public right-of-way.
 2. The Petitioner will consolidate any historically platted lots that will lose legal street frontage through the Title 33 Lot Consolidation Review process.
 3. The City of Portland owns one street light near the intersection of SW 46th Avenue and SW California Street that is within the street area to be vacated. The street light is to either be removed by Portland General Electric (PGE) at the expense of the Petitioner and returned to the City of Portland or the street light can remain and the Petitioner will be responsible for paying the monthly maintenance fee charged by PGE.
 4. The Petitioner will pay the City's costs to relocate the water facilities in SW 46th Avenue at SW California Street out of the vacation area. Portland Water Bureau will complete the work within a reasonable period of time after receiving payment from the Petitioner. The Petitioner, and Petitioner's successors and assigns, will agree to accept ownership of any abandoned facilities in the vacated street area and will waive any claims of any nature that may arise in connection with the existence of such facilities or the City's prior use of those facilities.
 5. The Petitioner will pay the City's costs to install a fire hydrant within the public right-of-way at the corner of SW 46th Avenue and SW California Street and/or install a sprinkler system to the existing church building address as 6835 SW 46th Avenue upon the determination of the Portland Fire Bureau.
 6. The Petitioner will have the property located at 6812 SW 46th Avenue readdressed to have a SW California Street address.
 7. A permanent 16 foot wide pedestrian access easement is hereby reserved abutting the north right-of-way line of SW Florida Street to accommodate a future 10 foot wide pedestrian connection and stormwater facilities. Said easement is depicted on Exhibit 2 attached hereto.
 8. A temporary pedestrian access easement is hereby reserved over the entire area of

SW 46th Avenue to be vacated and is depicted on Exhibit 2 attached hereto. This easement will remain until such time the new north/south public right-of-way has been dedicated and recorded, and the improvements have been built and are open for public use. At such time, the City will quitclaim the temporary pedestrian access easement upon the written request of the property owner. The Petitioner will pay all costs associated with preparing, processing, and recording the Quitclaim Deed.

9. At the time of the Conditional Use review or building permit, the Petitioner will meet with the Neighborhood Associations and SW Trails PDX to explore an east-west pedestrian connection in compliance with the SW and Far SE Portland Master Street Plan, incorporated into Chapter 2 of the Transportation System Plan.
10. 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 PGE, Northwest Natural, and Comcast. 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.
11. Notwithstanding b10, 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.
12. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
13. 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.

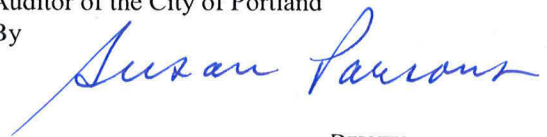
Section 4. After the prerequisites to recording the Ordinance have been met, the City Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Bureau of Transportation, which shall, at the expense of the Petitioner, file with the recorder, 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, FEB 29 2012

Mayor Sam Adams
Prepared by: Lance D. Lindahl:slg
February 10, 2012
RWA # 7191

LAVONNE GRIFFIN-VALADE
Auditor of the City of Portland

By



DEPUTY

~~178~~

203

✓140

Agenda No.
ORDINANCE NO. 185174 As Amended
Title

Vacate a portion of SW 46th Ave and a portion of SW Florida St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10070)

<p>INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS</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>Prepared by: Lance D. Lindahl:slg Date Prepared: January 30, 2012</p> <p>Financial Impact & Public Involvement Statement</p> <p>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 February 22, 2012</p> <p>City Attorney Approval</p>	<p>CLERK USE: DATE FILED <u>FEB 16 2012</u></p> <p><i>LaVonne Griffin-Valade</i> LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p> <p>ACTION TAKEN: FEB 22 2012 PASSED TO SECOND READING As Amended FEB 29 2012 9:30 A.M.</p>
---	---

AGENDA

TIME CERTAIN
Start time: _____

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

CONSENT

REGULAR
Total amount of time needed: 10 Minutes
(for presentation, testimony and discussion)

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