

ORDINANCE No. 186264

Vacate a portion of SW Fairview Blvd at SW Champlain Dr subject to certain conditions and reservations (Hearing; Ordinance; VAC-10081)

The City of Portland ordains:

Section 1. The Council finds:

1. In early 2011, the City identified a portion of a retaining wall on the northwesterly side of SW Fairview Boulevard as needing to be replaced due to the unstable slope which the wall, at one time, was supporting. The City and the adjacent property owner entered into a public-private partnership in which the property owner agreed to replace the entire failing wall with a new engineered structure with the understanding that the property owners would take ownership and maintain the wall. In exchange, the City would 1) initiate a street vacation for a portion of SW Fairview Boulevard in order for the property owners to consolidate property; 2) cover the cost for the processing of the vacation; and 3) replace the adjoining sidewalk which was severely damaged by movement of the wall and slope.
2. Pursuant to this agreement, on September 7, 2011 the Bureau of Transportation (PBOT) initiated the vacation of a portion of SW Fairview Blvd at SW Champlain Drive as requested by the property owners.
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 June 20, 2013 and on file with the Office of the City Auditor and PBOT.
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 street area as described on the attached Exhibit 1 and depicted on the attached Exhibit 2, is hereby vacated.
- b. The vacation of the above-described street area is granted subject to the following conditions and reservations:

1. The street vacation area may not include existing roadway or pedestrian corridor patterns.
 - i) The remaining right-of-way on Fairview Boulevard must be a minimum of 25 feet from Fairview's centerline, and must include a minimum 10 feet of pedestrian corridor (from existing curb), except that portion of the retaining wall built in the existing right-of-way, which is subject to Encroachment Permit No 2012-145499, and satisfies this condition.
 - ii) The remaining right-of-way on Champlain Drive must be a minimum of 12 feet from the centerline of the road, and the existing curb must be retained.
2. 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 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.
3. Notwithstanding b(2), 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.
4. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
5. 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, 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 Right-of-Way Acquisition Section shall return the recorded Ordinance to the Auditor and keep a copy in R/W File No. 7371.

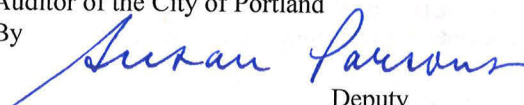
Passed by the Council, SEP 25 2013

Commissioner Steve Novick
Prepared by: Karl Arruda:slg
Date Prepared: July 24, 2013
RW #7371

LaVonne Griffin-Valade

Auditor of the City of Portland

By

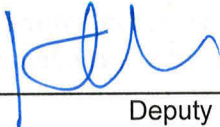


Deputy

~~888~~ 918

✓140

Agenda No.
ORDINANCE NO. 186264
Title

Vacate a portion of SW Fairview Blvd at SW Champlain Dr subject to certain conditions and reservations (Hearing; Ordinance; VAC-10081)

INTRODUCED BY Commissioner/Auditor: COMMISSIONER STEVE NOVICK	CLERK USE: DATE FILED <u>SEP 13 2013</u>
COMMISSIONER APPROVAL	LaVonne Griffin-Valade Auditor of the City of Portland
Mayor—Finance and Administration - Hales	By:  Deputy
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Novick 	
BUREAU APPROVAL	ACTION TAKEN:
Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program	SEP 18 2013 PASSED TO SECOND READING SEP 25 2013 9:30 A.M.
Prepared by: Karl Arruda: slg Date Prepared: July 24, 2013	
Financial Impact & Public Involvement 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"/>	
Council Meeting Date September 18, 2013	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter	

AGENDA
TIME CERTAIN <input type="checkbox"/> Start time: _____
Total amount of time needed: _____ (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input checked="" type="checkbox"/> 1 of 2 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. Novick	4. Novick	✓	
Hales	Hales	✓	