

ORDINANCE No. 187117

Vacate a portion of NE Vancouver Way south of NE Gertz Rd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10097)

The City of Portland ordains:

Section 1. The Council finds:

1. On September 24, 2011, the Bureau of Transportation received a request from Roger Vrilakas of Vee Enterprises LLC ("Petitioner") for the City to initiate a Street Vacation of a portion of NE Vancouver Way south of NE Gertz Road.
2. The Petitioner is the owner of the adjoining property to the west and leases the property to a manufacturing company that has been in business for over 40 years and brings out of state dollars into the local economy.
3. The Petitioner's tenant has experienced sustained business growth and has been wanting to expand their facility which will also result in hiring additional employees. This expansion has been stalled for several years due to the inability to meet state requirements for collecting the signatures of neighbors within an affected area per ORS 271.080.
4. Upon the recommendation of Commissioner Randy Leonard in 2011, Kurt Krueger, Transportation Development Review Manager, requested a city initiated street vacation which will allow the Petitioner to consolidate property in order for his tenant's expansion to occur.
5. 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 July 23, 2014 and on file with the Office of the City Auditor and the Bureau of Transportation.
6. 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.
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 that said street be vacated.

NOW, THEREFORE, the Council directs:

- a. The street area, as described on Exhibit 1 and depicted on Exhibit 2 attached hereto, is hereby vacated.

Said vacation area contains 6,306 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 Petitioner will pay the City's costs to relocate the existing water meter out of the street vacation area. Portland Water Bureau will complete the work within a reasonable period of time after receiving payment from the Petitioner. The Petitioner, and its 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.
2. Subject to Paragraph 5 below, a 3.60 foot wide Public Stormwater Facility and Sewer Easement is hereby reserved to provide the right of access for the construction, inspection, maintenance, or other stormwater and sewerage system activities. Said easement is described on Exhibit 3 and depicted on Exhibit 4 attached hereto ("Easement Area").

This is an exclusive easement. No other utilities, facilities, or easements are to be located within the boundaries of the Easement Area without the prior written consent of the Director of the Bureau of Environmental Services.

This easement is reserved on the condition that no building construction, material storage, grade change, or tree planting shall be permitted within the 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 facility. Landscaping which by its nature is shallow-rooted and may be easily removed to permit access to the facilities authorized shall not require consent.

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. Subject to Paragraph 5 below, 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. If any property, encumbered by an easement reserved in this vacation 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.
6. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
7. 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 and retain a copy in RWA File No. 7452.

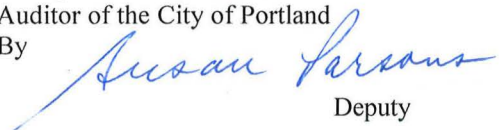
Passed by the Council, MAY 06 2015

Commissioner Steve Novick
Prepared by: Lance D. Lindahl: slg
Date Prepared: March 30, 2015
RW #7452

Mary Hull Caballero

Auditor of the City of Portland

By



Deputy

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Agenda No.
ORDINANCE NO. 187117
Title

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<p>INTRODUCED BY Commissioner/Auditor: COMMISSIONER STEVE NOVICK</p>	<p>CLERK USE: DATE FILED <u>APR 24 2015</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety – Novick <i>[Signature]</i></p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Transportation Development, Permitting & Transit Group Manager: Christine Leon Assistant Director: <i>[Signature]</i> Prepared by: Lance D Lindahl:slg Date Prepared: March 30, 2015</p>	<p>ACTION TAKEN:</p> <p>APR 29 2015 PASSED TO SECOND READING MAY 06 2015 9:30 A.M.</p> <p><i>[Handwritten: JTD for DMC]</i></p>
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <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>City Auditor Office Approval: required for Code Ordinances</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i></p>	
<p>Council Meeting Date APRIL 29, 2015</p>	

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	<input checked="" type="checkbox"/>	
2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	<input checked="" type="checkbox"/>	
4. Novick	<input checked="" type="checkbox"/>	
Hales	<input checked="" type="checkbox"/>	