

ORDINANCE No. 187368

*Amend ordinance to modify the conditions of approval for the vacation of a portion of SW Moody Ave north of Ross Island Bridge subject to certain conditions and reservations (Ordinance; amend Ordinance 187032, VAC-10085)

The City of Portland ordains:

Section 1. The Council finds:

1. On September 5, 2012, the City Auditor certified a petition for the vacation of a portion of SW Moody Avenue north of Ross Island Bridge as petitioned by ZRZ Realty Company (ZRZ) in order to eliminate excess right-of-way that existed after the realignment of SW Moody Avenue, and to incorporate this land into current and future development along the frontage of parcels owned by ZRZ and 3030 Property LLC (Property Owners).
2. With the support of the Planning & Sustainability Commission, Ordinance No. 187032 passed City Council on February 25, 2015 approving the street vacation request subject to certain conditions and reservations. (Previous Ordinance).
3. The first paragraph of directive b2 of the Previous Ordinance required a 20 foot wide sewer easement centered over an existing 42 inch combined sewer pipe to be granted to the City. The actual width of this pipe is 72 inches. Since the sewer pipe is located in close proximity to a portion of SW Moody Avenue that will remain as public right-of-way, it was not possible to meet that requirement. Instead, a variable width easement should have been required and is necessary.
4. The second paragraph of directive b2 of the Previous Ordinance included an incomplete and inaccurate list of sewer facilities that are to be transferred from the City to the Property Owners. Bureau of Transportation staff worked with the Bureau of Environmental Services (BES) to develop a revised list of the facilities to be transferred. It is proposed that this complete and accurate list of the facilities replace the previous list.
5. Directive b4 of the Previous Ordinance reserves a blanket utility easement over the street vacation area for any existing utilities. Language excluding the sewer facilities to be transferred was omitted from this directive and therefore it is necessary to revise the directive.

NOW, THEREFORE, the Council directs:

- a. That Ordinance No. 187032, Conditions b2 and b4 of the Council directives are hereby replaced with the following:
 - b2. The Property Owners will grant sewer easements over an existing 72 inch combined sewer pipe to the City as described and depicted on Exhibits 1 and 2

attached hereto and hereby replaces Exhibits 3 and 4 of the Previous Ordinance. The sewer easements will be recorded concurrently and delivered with the street vacation ordinance.

Ownership of all abandoned sewers will be transferred to the Property Owners. Ownership of all inlets and other related storm sewers will be transferred to the Property Owners. The 12 inch storm sewer line within the vacation area flowing into facility ANR 263, the 6 inch storm sewer line between facilities AQE 392 and AQE 386, the 10 inch storm sewer line between facilities AQE 386 and APW 437, the 6 inch sewer line connected to facility AQE 403, and the 6 inch sewer line within the vacation area between facilities AQE 402 and APU 058 will become private service laterals and will no longer function as public sewer lines. Quitclaim deeds releasing these interests are described and depicted on Exhibits 3 and 4 attached hereto.

- b4. In accordance with ORS 271.120 and City of Portland policy, and except as set forth in paragraph b2 above, 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 Pacific Power, CenturyLink, Northwest Natural, and Comcast Cable. Subject to Paragraph 8 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.
- b. All other terms and provision of Ordinance No. 187032 remain in full force and effect and are not affected by this amendment.

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 this 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 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 RWA File No. 7511.

Section 5. The Council declares that an emergency exists because a delay in recording the street vacation ordinance will delay redevelopment therefore this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council,

OCT 07 2015

Commissioner Steve Novick
Prepared by: Lance D. Lindahl;slg
Date Prepared: September 8, 2015
R/W # 7511

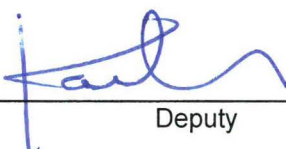
Mary Hull Caballero
Auditor of the City of Portland
By



DEPUTY

Agenda No. **187368**
ORDINANCE NO.
 Title

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INTRODUCED BY Commissioner/Auditor: COMMISSIONER STEVE NOVICK	CLERK USE: DATE FILED <u>OCT 02 2015</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Hales Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Novick	Mary Hull Caballero Auditor of the City of Portland By:  Deputy
BUREAU APPROVAL Bureau: Transportation Development, Permitting & Transit Group Manager: Christine Leon Division Mgr: Alex Bejarano Assistant Director: M. Hales 9/23/15 Prepared by: Lance D Lindahl:slg Date Prepared: September 8, 2015 Supervisor: David McEldowney	ACTION TAKEN:
Impact Statement Completed <input 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 type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date October 7, 2015	

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"/> Total amount of time needed: <u>5 minutes</u> (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	✓	