

**ORDINANCE No. 187568 As Amended**

Vacate NE Sandy Blvd bound by NE Couch St, E Burnside St, NE 12<sup>th</sup> Ave, and NE 14<sup>th</sup> Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10100)

The City of Portland ordains:

Section 1. The Council finds:

- 1. On June 9, 2015 the Office of the City Auditor certified a petition for the vacation of NE Sandy Boulevard bound by NE Couch Street, E Burnside Street, NE 12<sup>th</sup> Avenue, and NE 14<sup>th</sup> Avenue, with the petition initiated by Weston Investment Co., LLC, (the "Petitioner").
- 2. The petition states that the reason for the vacation is to consolidate both parcels with the abutting properties to the north and south for future development. These properties are owned by the Petitioner and by John F. Potts (the "Property Owners"). The properties to the north of the vacation area are owned by the Petitioner. John F. Potts owns the properties to the south of the vacation area and he supports this vacation proposal.
- 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 November 13, 2015 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. 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.
- 6. 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 following described street areas are hereby vacated:

As described on Exhibit A and depicted on Exhibit B attached hereto and by this reference made a part hereof.

All together containing 22,563 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 following two City of Portland owned utility poles and associated overhead circuit wires are located within the vacation area: A1135C-555 and A1135C-1515. The Property Owners will accept ownership of these two poles as well as the associated overhead circuit wires. Quitclaim Deeds transferring ownership in substantially the same form as Exhibit C attached hereto will be recorded concurrently and delivered with the street vacation ordinance. Poles A1135C-555 and A1135C-1515 both have existing streetlights that will be removed and returned to the City for future use. All costs associated with the removal of the streetlights are the responsibility of the Petitioner. All work must be done by a qualified contractor and will be coordinated with City of Portland, Street Lighting.
  2. The Petitioner will accept ownership of the stormwater facilities located north of the sidewalk on E Burnside Street between NE 12<sup>th</sup> and 13<sup>th</sup> Avenues. Said facilities to be transferred by the City includes: storm manhole APH 570, storm channel APH 570-APH 569, storm inlet APH 569, and that portion of the 10 inch wide storm sewer line APH 569-APH 579 located within the vacation area. These facilities will become private and will no longer function as public sewer facilities. A Quitclaim Deed transferring ownership in substantially the same form as Exhibit D attached hereto will be recorded concurrently and delivered with the street vacation ordinance.

The Petitioner will remove or abandon the 10 inch wide storm sewer line between storm sewer inlet APH 569 and storm sewer inlet APH 579 located within E Burnside Street between NE 12<sup>th</sup> and 13<sup>th</sup> Avenues and will be coordinated with City of Portland, Bureau of Environmental Services.
  3. Adjacent properties between NE 12<sup>th</sup> and NE 14<sup>th</sup> Avenues that are using NE Sandy Boulevard addresses will be re-addressed as determined by appropriate City staff responsible for re-addressing.
  4. 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 6 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 Property Owners and the owner(s) of the utilities.

5. Notwithstanding b4 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.
6. 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.
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 one year of Council adopting this Ordinance, City Council may repeal the ordinance at its sole discretion.

Section 2. The Property Owners 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. 7961.

187568

Passed by the Council, JAN 27 2016

Commissioner Steve Novick  
Prepared by: Lance D. Lindahl  
Date Prepared: December 14, 2015  
R/W # 7961

**Mary Hull Caballero**  
Auditor of the City of Portland  
By



Deputy

Agenda No. **187568** As Amended  
**ORDINANCE NO.**  
 Title

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<p style="text-align: center;"><b>INTRODUCED BY</b> Commissioner/Auditor: <b>COMMISSIONER STEVE NOVICK</b></p>	<p>CLERK USE: DATE FILED <u>JAN 12 2016</u></p>
<p style="text-align: center;"><b>COMMISSIONER APPROVAL</b></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>CS</i></p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p style="text-align: center;"><b>BUREAU APPROVAL</b></p> <p>Bureau: <b>Transportation</b> Development, Permitting &amp; Transit Group Manager: Christine Leon <i>CSH</i> Division Mgr: Alex Bejarano <i>[Signature]</i> Assistant Director: Maurice Henderson <i>[Signature]</i></p> <p>Prepared by: Lance D Lindahl; CK <i>[Signature]</i> Date Prepared: December 14, 2015 <i>[Signature]</i> Supervisor: David McEldowney <i>[Signature]</i> RWA: <i>John B. Day for DM</i></p>	<p><b>ACTION TAKEN:</b></p> <p>JAN 20 2016 <b>PASSED TO SECOND READING</b> As Amended JAN 27 2016 9:30 A.M.</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><b>City Auditor Office Approval:</b> required for Code Ordinances</p>	
<p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter</p>	
<p><b>Council Meeting Date</b> January 20, 2016</p>	

**AGENDA**

**TIME CERTAIN**   
 Start time: \_\_\_\_\_  
 Total amount of time needed: \_\_\_\_\_  
 (for presentation, testimony and discussion)

**CONSENT**

**REGULAR**   
 Total amount of time needed: 5 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	✓	