

IMPACT STATEMENT

Legislation title: Vacate a portion of SE Harrison St east of SE 3rd Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10106)

Contact name: Karl Arruda, PBOT Right-of-Way Acquisition

Contact phone: 503-823-7067

Presenter name: Karl Arruda

Purpose of proposed legislation and background information:

The purpose of this legislation is to vacate a portion of SE Harrison Street, as recommended in the City Engineer's Report.

A petition to vacate a portion of SE Harrison Street east of SE 3rd Avenue, was initiated by the City of Portland, Office of Management and Finance ("OMF"), for the purpose of assembling the street area to the OMF's adjoining property. The proposed vacation is depicted on Exhibit 2 of the Ordinance. Comments were solicited from City Bureaus, government agencies, public utilities and affected neighborhood associations. Of particular significance were comments by the Bureau of Environmental Services and the Bureau of Transportation, Permit Engineering, which requested that certain conditions be satisfied prior to the street being vacated.

The Planning and Sustainability Commission ("PSC") reviewed and recommended that City Council not approve the proposed street vacation on December 15, 2015. An Engineer's Report was completed on December 23, 2015, and notwithstanding the PSC's recommendation of denial, the City Engineer recommended approval of the street vacation, subject to certain conditions and reservations. The PBOT Staff Report, documenting supplemental findings and conclusions is attached.

The ordinance complies with state law under ORS 271 and City Code, Chapter 17.84 and will complete the street vacation process.

Financial and budgetary impacts:

The process for vacating streets is a cost recovery program, typically paid for by the Petitioner, and does not have a net impact on PBOT's budget. Expenses for processing a street vacation request typically range between \$8,000 and \$20,000, depending on the complexity. This street vacation falls in the middle part of the range and is estimated (with moderate confidence) to be approximately \$15,000.

Revenue paid by the Petitioner for this street vacation will cover the actual expenditures incurred by City staff for the processing of this request. The SAP Cost Object is 7TRMF0000043. The revenue and expenses are occurring in FY 2015-2016.

This legislation does not affect staffing levels nor result in a new or modified financial obligation or benefit now or in the future.

If City Council does not approve the ordinance, OMF's options for developing its adjacent property will be limited.

Community impacts and community involvement:

Comments were solicited from City Bureaus, government agencies, public utilities and affected neighborhood associations in Southeast Portland. Objections were received from the Central Eastside Industrial Council ("CEIC") and East Side Plating, Inc. ("ESP"). CEIC stated OMF's intended use of the property is incompatible with the City's Comprehensive Plan for Southeast Portland. ESP stated that the street vacation is not a good idea because ESP is using Harrison Street for chemical delivery and as an emergency exit gathering place, and it is needed for employee parking.

The Planning and Sustainability Commission ("PSC") advertised and then held a public hearing on December 15, 2015. Numerous people came forward to testify in support and opposition of the vacation, and the PSC ultimately voted 6-3 to recommend the City Council not approve the vacation request, but that, if the City Council voted to approve the vacation, the PSC requested the Council include certain conditions, primarily regarding the expected impact of OMF's development on ESP's access to the south side of its building.

The City Auditor also published notice of the public hearing in the Daily Journal of Commerce on January 6, 11, and 18, 2016, posted the notice on January 6, 2016 in the area proposed for vacation, and mailed notice on January 6, 2016 to property owners in the affected area, as defined by ORS 271.080 and City Code 17.84.065.

There do not appear to be any other impacts to the community from vacating this right-of-way. Opposition to this street vacation request is expected from CEIC and from ESP. There is no future public involvement anticipated since this ordinance will conclude the street vacation process.

Information regarding the advertising details can be provided by Toni Anderson, City Auditor's Office, 503-823-4022, or toni.anderson@portlandoregon.gov.

Budgetary Impact Worksheet**Does this action change appropriations?**☐ **YES:** Please complete the information below.☒ **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

KK 1-8-16

PBOT

PORTLAND BUREAU OF TRANSPORTATION

1120 SW Fifth Avenue, Suite 800 Portland, OR 97204 503.823.5185

Fax 503.823.7576 TTY 503.823.6868 www.portlandoregon.gov/transportation

Steve Novick Commissioner Leah Treat Director

187591

December 23, 2015

CITY ENGINEER'S REPORT TO CITY COUNCIL ON THE PROPOSED VACATION OF SE HARRISON ST. EAST OF SE 3RD AVE. (R/W #8030)

Background

1. **Proposed Street Vacation Area.** A portion of SE Harrison Street, between SE 3rd Avenue and SE MLK, Jr., Boulevard, said area being approximately 166 feet long on the north end and 137 feet long along the south end, by 60 feet wide, containing approximately 9,229 square feet. The area is currently unimproved and is depicted on Exhibit 2 attached hereto.
2. **Petitioner.** The City of Portland, Office of Management and Finance (OMF) is the owner of the abutting property to the north of the proposed street vacation area.
3. **Purpose.** The street vacation is proposed in order to assemble the street area to the OMF's adjoining property for future development, or to sell as surplus property.
4. **Compliance with Minimum Requirements.** Vacation proceedings have been City initiated without a petition or consent of property owners in accordance with ORS 271.130 (Vacation on council's own motion) and notice shall be given as provided by ORS 271.110 (Notice of hearing).
5. **Other Required Approval.** 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. **Due Diligence Review.** Comments were solicited from City Bureaus, government agencies, public utilities and affected neighborhood associations. A summary of this due diligence effort is attached as Exhibit 3 hereto. Of particular significance were comments by the Bureau of Environmental Services and the Bureau of Transportation, Permit Engineering, which requested that certain conditions be satisfied prior to the street being vacated.
7. **Planning and Sustainability Commission Review.** The Planning and Sustainability Commission reviewed the proposed street vacation on December 15, 2015, and voted to recommend that City Council not approve the street vacation, but stated that, notwithstanding



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their recommendation, if Council approves the vacation, they request certain conditions be required. Their Report and Recommendations are attached as Exhibit 4 hereto.

8. **Costs.** OMF initiated the vacation request. The Representative from OMF has provided an SAP Internal Order Number to bill the bureau directly for staff costs incurred with processing the street vacation request.

Bureau of Transportation Recommendation

Notwithstanding the Planning & Sustainability Commission's recommending denial, the Bureau of Transportation hereby finds the proposed street vacation application to be acceptable, and in the event that no substantive objections are made known to City Council at the upcoming public hearing, recommends approval of the street vacation, subject to the conditions and reservations specified below. The area to be vacated is more specifically described as follows:

As described on Exhibit 1 and depicted on Exhibit 2 attached hereto and by this reference made a part hereof.

Containing 9,229 square feet, more or less.

Conditions, Reservations and Releases

1. **Conditions.** The following conditions must be satisfied by the Petitioner prior to the street vacation ordinance being recorded by the City and thereby considered effective:
 - A. **Bureau of Transportation, Permit Engineering.** The Petitioner will 1) permanently close SE Harrison Street where it intersects with SE 3rd Avenue; 2) pay all costs to remove curb returns (north and south) and concrete gutter; 3) pay for constructing City standard curb and sidewalk corridor (4 foot minimum furnishing zone and 6 foot wide concrete sidewalk), in accordance with the requirements of the City Engineer. Petitioner will also perform other incidental work that may be necessary, such as, but not limited to, tree and brush removal, asphalt paving, sign relocation, and utility / street light pole relocation.
 - i) To ensure the completion of the required street improvements, the Petitioner shall provide to the City Engineer, a Performance Guarantee. The Petitioner acknowledges that the Performance Guarantee indicated is a preliminary estimate subject to change, and agrees to provide additional guarantee and/or fees as required by the City Engineer.
 - ii) The Petitioner agrees to authorize the City to complete the required street improvements at the Petitioner's cost, in the event that the City Engineer, at his sole discretion, determines that the improvements are not being made as required in a reasonable time.
 - iii) The Petitioner agrees to obtain the necessary permits to complete the required improvements.

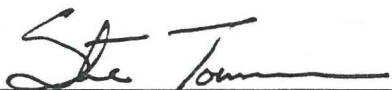
- B. Bureau of Environmental Services.** Petitioner will determine whether the sanitary sewer and lateral line in SE Harrison are active or not. If the lines are not active, Petitioner will accept ownership of the facilities in their current condition and will transfer ownership of the facilities if the property is ever sold. (This would be accomplished in the conveyance document.) If the lines are active, Petitioner will either 1) grant an easement to the abutting property owner, in a form satisfactory to BES, for the existing facilities or 2) relocate the lateral line to a location and in a manner approved by BES.
- C. Costs.** In accordance with Item 8 in the Background section above, the estimated administrative cost for completing the street vacation process is \$15,000, of which \$9,600 has been paid to date. In the event that additional processing requirements exceed current projections, Petitioner may be required to pay additional processing costs to the City prior to the Street Vacation Ordinance (the "Ordinance") being recorded.

2. Reservations and Release

- A. Bureau of Environmental Services.** The Bureau of Environmental Services owns and maintains certain improvements within the street area to be vacated. As a condition of street vacation approval, the Petitioner will agree to the reservation of a public sewer easement to cover the east 35 feet of the vacated street area. This will be accomplished through a "springing easement" to be effective if City sells, transfers, or conveys the property. A Declaration of Covenant to Reserve Future Sewer Easement, in substantially the same format as Exhibit 5, will be executed and recorded concurrently with the vacation Ordinance.
- B. Utilities.** 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 Portland General Electric. 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 and release of easements in the street vacation area will require the necessary conveyance documents and possible written agreements between the Petitioner and owner(s) of the utilities.
- C. City Release.** Notwithstanding 2(B) and except for 2(A), the 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.

3. **Repeal.** In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting the Ordinance, City Council may repeal the Ordinance at its sole discretion.
4. **Effective Date.** The street vacation will not be effective until a certified copy of the Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording the Ordinance are that 30 days have passed after final Council passage of the Ordinance, that all conditions of the Ordinance have been met, and that all vacation costs have been paid.



City Engineer or designee

TO THE COUNCIL:

The Commissioner-in-Charge concurs with the recommendation of the City Engineer and;

RECOMMENDS:

That, notwithstanding the recommendation of the Planning and Sustainability Commission, the City Council accepts the City Engineer's Report, which recommends that the proposed street area be vacated subject to conditions and reservations provided herein.

Respectfully submitted,

Commissioner Steve Novick

Attachments:

Exhibit 1, Legal Description

Exhibit 2, Proposed Map

Exhibit 3, Summary of Comments

Exhibit 4, Planning & Sustainability Commission Recommendation

Exhibit 5, Declaration of Covenant to Reserve Future Sewer Easement



CITY OF
PORTLAND, OREGON
OFFICE OF PUBLIC SAFETY

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Portland, Oregon 97204
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novick@portlandoregon.gov

187591

Date: February 12, 2016

**To: Mayor Charlie Hales
Commissioner Nick Fish
Commissioner Amanda Fritz
Commissioner Dan Saltzman
Auditor Mary Hull Caballero**

From: Commissioner Steve Novick

RE: Amendment request for Council Agenda Item 161

**Vacate a portion of SE Harrison St east of SE 3rd Ave subject to
certain conditions and reservations (Hearing; VAC-10106)**

Due to an oversight, an amendment is proposed to add an emergency clause to Agenda Item 161. The amendment will be presented at the Council meeting on February 18, 2016.

Section 5. The Council declares an emergency exists because any further delay in the vacation of this property no longer needed for street purposes would harm the public welfare. Therefore this ordinance shall be in full force and effect from and after its passage by the Council.



187591

Office of Mayor Charlie Hales
City of Portland

MEMORANDUM

DATE: February 16, 2016

TO: City Council

FROM: Mayor Charlie Hales

SUBJECT: Amend Item 161

This memorandum requests that the Item 161, directive c.2.ii, be amended with the following language:

Petitioner will determine whether the sanitary sewer and lateral line in SE Harrison are active or not. If the lines are not active, Petitioner will accept ownership of the facilities in their current condition and will transfer ownership of the facilities if the property is ever sold. (This would be accomplished in the conveyance document.) If the lines are active, prior to or at the time of any sale, Petitioner will either 1) grant an easement to the abutting property owner, in a form satisfactory to BES, for the existing facilities or 2) relocate the lateral line to a location and in a manner approved by BES.

This language was initially omitted due to a clerical error. The remainder of the ordinance language is correct.

Sincerely,

Charlie Hales
Mayor of Portland

187591

Submitted
by
PBOT
staff
2/18/16



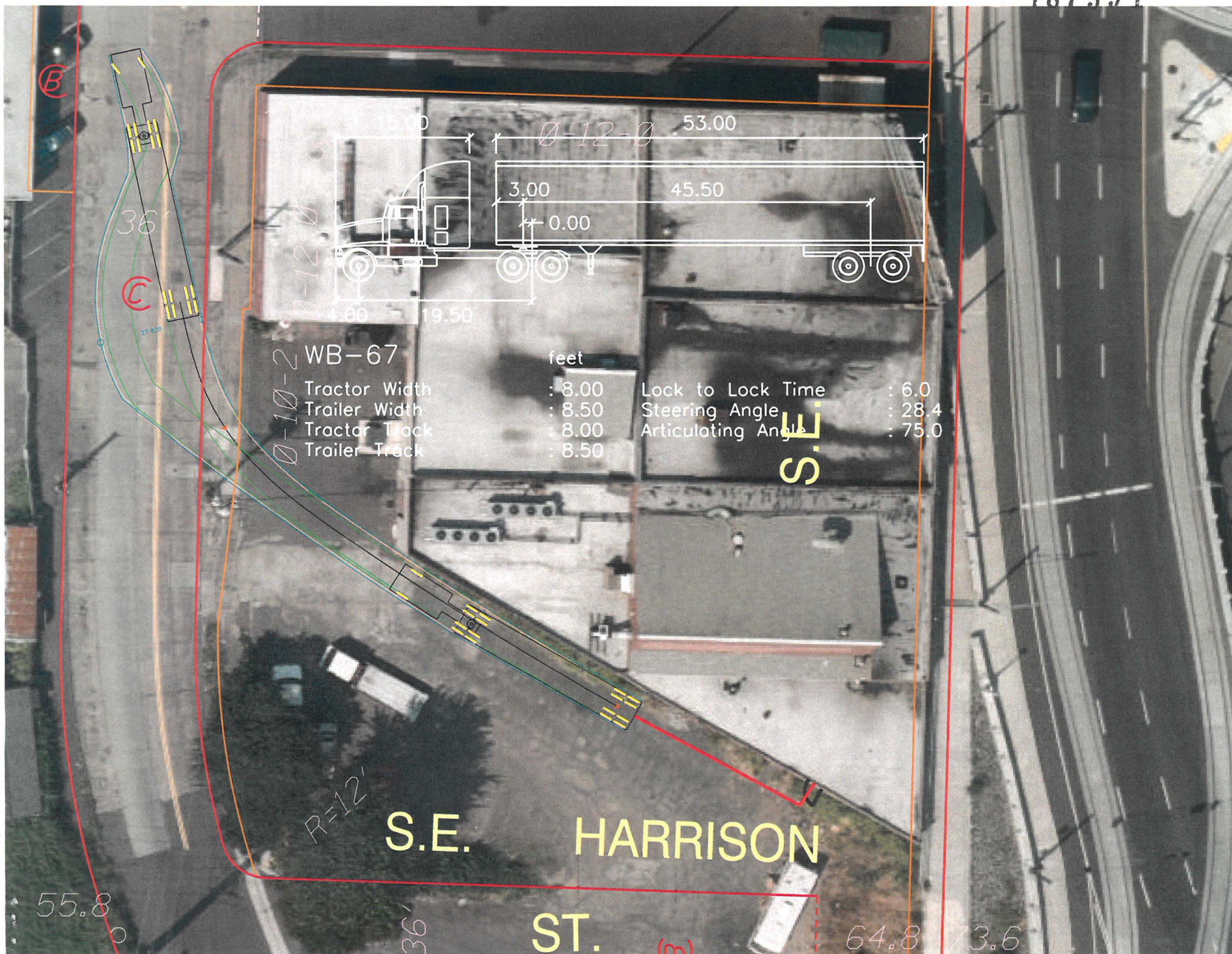


Exhibit Map

187591



SE Harrison St east of SE 3rd Ave

Legal: A portion of SE Harrison St "Stephens Addition to East Portland"
Petitioner: COP OMF
RWA # 8030 Section: 1S1E03DA 1/4 Section:3230

