

ORDINANCE No. 187599 As Amended

Vacate a portion of N Lombard St between N Richmond Ave and N Charleston Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10109)

The City of Portland ordains:

Section 1. The Council finds:

1. St. John – 4, LLC (the “Petitioner”) owns property on the north side of N Lombard Street east of Charleston Avenue. Upon submittal of a building permit, Portland Bureau of Transportation (“PBOT”) requested that the N Lombard/N Richmond intersection be realigned and reconstructed as a part of the mixed-use development planned for their property.
2. The Petitioner realizes the public benefit to reconstructing the intersection and therefore is willing to work with the City to design and pay for street, sidewalk, and traffic signal improvements concurrently with their development project. The estimated cost to the Petitioner to complete the realignment is in excess of \$350,000.
3. The reconfiguration of the N Lombard/N Richmond intersection will further the St. Johns/Lombard Plan adopted by City Council on May 26, 2004 in Ordinance No. 178452 and therefore, pursuant to ORS 271.130 and City Code 17.84.065, the City initiated the vacation proceedings on its own motion and the Petitioner has agreed to pay for the costs to process the street vacation.
4. The proposed right-of-way vacation will revert solely to the Petitioner. The proposed area, if approved, will be incorporated into their development. The “Welcome to Historic St. Johns” free-standing community sign will be removed from the proposed vacation area and will be relocated at the time of the Petitioner’s development to a new public plaza that will be constructed within the public right-of-way to the immediate northeast of its current location. The relocation plan was included as a part of Land Use Review 15-213895 DZM and is supported by both PBOT and the Bureau of Development Services.
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 December 23, 2015 and on file with the Office of the City Auditor and PBOT.
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 and City Code 17.84.065 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 area is hereby vacated:

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

Containing 5,005 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 reconstruct and reconfigure N Lombard Street between N Richmond and N Charleston Avenues to remove the "slip-lane" on westbound N Lombard.

A Performance Guarantee will be accepted in lieu of performing these street improvements ahead of recording the vacation ordinance. Petitioner will also complete the design in accordance with the requirements of the City Engineer and with Oregon Department of Transportation ("ODOT") concurrence.

- 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.

**the Petitioner will need to apply for a public works permit in order to provide the City with a Performance Guarantee.*

- ii. The Petitioner agrees to authorize the City to complete the required street improvements at the Petitioner's cost, whether by using the Performance Guarantee or by other means of payment, 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.

2. The Petitioner will pay the costs to make the following changes to the street lighting and traffic signal systems adjacent to the street vacation area: street lighting improvements will meet City standards based on the classification of the street in the City Transportation System Plan; Lighting/photometric analysis will be used to determine type, spacing, and layout of LED cobra head lights; Existing non-standard high pressure sodium lights will be removed from the utility poles (if poles remain); a new lighting service panel is required for the lighting system; new traffic signal pole at the northwest corner of the N Lombard/Richmond intersection due to a change to the lane configuration; a signal operation change is required due to an added pedestrian signal crossing on the north side; the proposed signal modification requires a full signal upgrade that meets current design standards and specification for ODOT and PBOT; signal modifications will require approval from State Engineers at ODOT; and the traffic signal interconnect cable is to be maintained and/or rerouted to the new cabinet in order to keep remote communication to the traffic signal.
3. Petitioner will follow PBOT Public Works Alternative Review process in order to reduce the pedestrian corridor to 12 feet in width on N Lombard Street. This will allow for 50 feet in width being retained for vehicle travel lanes.
4. Prior to recording the street vacation, the applicant will execute a non-exclusive perpetual Public Use Easement for the plaza areas as defined in Land Use Review 15-213895 DZM in a format satisfactory to the Director of the Bureau of Transportation. The easement will contain language that requires City Council approval prior to any modification of, or release of, the Public Use Easement.
5. In accordance with ORS 271.120 and City of Portland policy, the street vacation ordinance (this "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 7 below, this 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.

6. Notwithstanding b5, and except for 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.
7. If any property, encumbered by an easement reserved in this 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.
8. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
9. 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 this 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 this Ordinance.

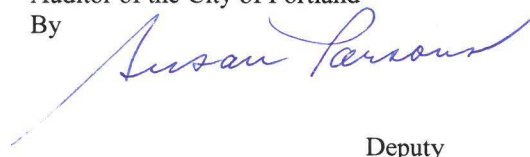
Section 3. Notice is given that the street vacation will not be effective until a certified copy of this Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording this Ordinance are that 30 days have passed after final Council passage, that all conditions of this Ordinance have been met, and that all vacation costs have been paid.

Section 4. After the prerequisites to recording this 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 retain a copy in RWA File No. 7942.

Passed by the Council, FEB 24 2016

Commissioner Steve Novick
 Prepared by: Lance D. Lindahl
 Date Prepared: December 30, 2015
 R/W # 7942

Mary Hull Caballero
 Auditor of the City of Portland
 By


 Deputy

141-150185
 Agenda No. **ORDINANCE NO. 187599** As Amended
 Title

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| INTRODUCED BY Commissioner/Auditor: COMMISSIONER STEVE NOVICK | CLERK USE: DATE FILED <u>FEB 02 2016</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: <u><i>[Signature]</i></u> Deputy |
| BUREAU APPROVAL Bureau: Transportation Development, Permitting & Transit Group Manager: Christine Leon Division Mgr: Alex Bejarano Assistant Director: Maurice Henderson Prepared by: Lance D Lindahl:sld Date Prepared: December 30, 2015 Supervisor: David McEldowney RWA: | ACTION TAKEN: FEB 10 2016 CONTINUED TO FEB 17 2016 10:45AM TIME CERTAIN FEB 17 2016 PASSED TO SECOND READING As Amended FEB 24 2016 9:30 A.M. |
| Impact 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"/> | |
| City Auditor Office Approval: required for Code Ordinances | |
| City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter | |
| Council Meeting Date February 10, 2016 | |

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| AGENDA |
| TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:00 PM Total amount of time needed: 60 minutes (for presentation, testimony and discussion) |
| CONSENT <input type="checkbox"/> |
| REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion) |

| FOUR-FIFTHS AGENDA | COMMISSIONERS VOTED AS FOLLOWS: | |
|--------------------|---|------|
| | YEAS | NAYS |
| 1. Fritz | 1. Fritz <input checked="" type="checkbox"/> | |
| 2. Fish | 2. Fish <input checked="" type="checkbox"/> | |
| 3. Saltzman | 3. Saltzman <input checked="" type="checkbox"/> | |
| 4. Novick | 4. Novick <input checked="" type="checkbox"/> | |
| Hales | Hales <input checked="" type="checkbox"/> | |