

Multnomah County Official Records  
R Weldon, Deputy Clerk

2012-078058



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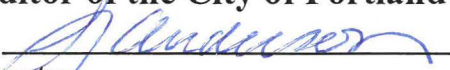
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plu.  
**CITY OF PORTLAND**  
**Office of the City Auditor**  
**1221 SW Fourth Avenue, Room 140**  
**Portland, OR 97204-1900**

I hereby certify this Ordinance No. 179872 to be a complete and exact copy of the original as the same appears on file and of record in my office and in my care and custody on June 18, 2012.

**LaVonne Griffin-Valade**  
**Auditor of the City of Portland**  
By   
Deputy

# ORDINANCE No. 179872

Vacate a portion of SW Freeman Street east of SW 19<sup>th</sup> Avenue subject to certain conditions and reservations (Hearing; Ordinance; VAC-10021)

The City of Portland ordains:

Section 1. The Council finds:

1. On June 22, 2004, the Office of the City Auditor certified a petition for the vacation of a portion of SW Freeman Street east of SW 19<sup>th</sup> Avenue, with the petition initiated by The Roman Catholic Archbishop of Portland in Oregon, the owner of adjoining property.
2. The petition states that the reason for the vacation is to consolidate property for future development.
3. The vacation is consistent with recommendations made by the City Engineer and Planning Commission, as provided in the City Engineer's Report, dated August 26, 2005 and on file with the Office of the City Auditor.
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. 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 area, as depicted on the attached Exhibit 1, is hereby vacated:

R/W #6390

That portion of SW Freeman Street, located in the southwest quarter of Section 21, T1S, R1E, W.M., in the City of Portland, County of Multnomah, State of Oregon, lying between the west line of Lot 10, Block 44, Capitol Hill Addition, extended northerly, and the west line of Lot 8, Block 44, Capitol Hill Addition, extended northerly, containing 5,000 square feet, more or less.

- b. The vacation of the above-described street area is granted subject to the following conditions, reservations and understandings:

1. The Petitioner will permanently close SW Freeman Street where it intersects with SW 19<sup>th</sup> Avenue, and pay all costs for constructing a curb and sidewalk or driveway, in accordance with the requirements of the City Engineer.
  - i) To ensure the completion of the required street improvements, the Petitioner shall provide to the City Engineer, Street Systems Management Section, a performance guarantee in the form of a surety bond, letter of credit, set-aside account, cash, or other form of surety, subject to approval by the City Attorney. 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 will authorize the City to complete the required street improvements 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) Upon completion of the required improvements by the Petitioner, and acceptance by the City Engineer, the Petitioner shall guarantee maintenance of the improvements for two (2) years following the date of project acceptance. The maintenance guarantee may be satisfied by the performance guarantee, or by substitution of other surety acceptable to the City Attorney and equal to 20% of the performance guarantee. Upon acceptance by the City of a 20% maintenance guarantee, the street improvements performance guarantee will be released.
  - iv) Prior to the issuance of a Certificate of Completion by the City Engineer, fees collected by the City in association with street closure work will be reconciled with actual City costs, with Petitioner to receive from or pay to the City the net difference. In the event of non-payment by the Petitioner, the street improvement performance bond will be used to reimburse City costs. Use of the performance bond by the City will not preclude the City from billing to and collecting from the Petitioner those costs incurred by the City that were in excess of the performance bond.
2. The Petitioner will pay the costs to remove two existing luminaires and mast arms in the previously vacated area and relocate the existing luminaire from the northeast corner of SW 19<sup>th</sup> and Freeman to the west side of 19<sup>th</sup> Avenue. The work will be completed within a reasonable period of time after receiving payment from the Petitioner.
3. The Petitioner will pay the City's costs to cut and plug an existing 4-inch water main in SW Freeman Street at its connection in SW 19<sup>th</sup> Avenue. The Bureau of Water Works will complete the work within a reasonable period of time after receiving payment from the Petitioner. The Petitioner, and petitioner's 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.

4. A 12 foot wide walkway easement is hereby reserved along the south side of the vacated street area.
5. A 20 foot wide public sewer easement is hereby reserved to provide for the maintenance, operation, repair, reconstruction, replacement and enlargement of the existing public sewer facility. The 20 foot easement shall be offset on the existing sewer facility with 15 feet south of the pipe centerline and 5 feet north of the pipe centerline, along the entire length of the vacated street area.

This easement is reserved on the condition that no building construction, material storage, filling, grade change or tree planting will be permitted within said 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.

6. 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, Qwest and Comcast Cable. The ordinance will reserve 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.
7. Notwithstanding Condition 6 above and except for Condition 5 above, 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.

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 Conditions 1-8 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.

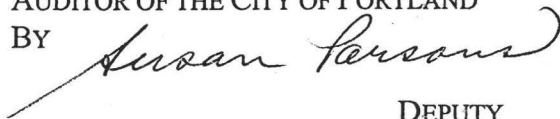
Section 3. Notice is given that the street vacation will not be effective until a certified copy of the vacating Ordinance has been recorded by the City in Multnomah County Deed Records, which will not be done until after all conditions required by the City have been fully satisfied.

Section 4. After the prerequisites to recording the Ordinance have been met, upon request, the Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Transportation Engineering and Development, 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.

Passed by the Council, JAN 11 2006

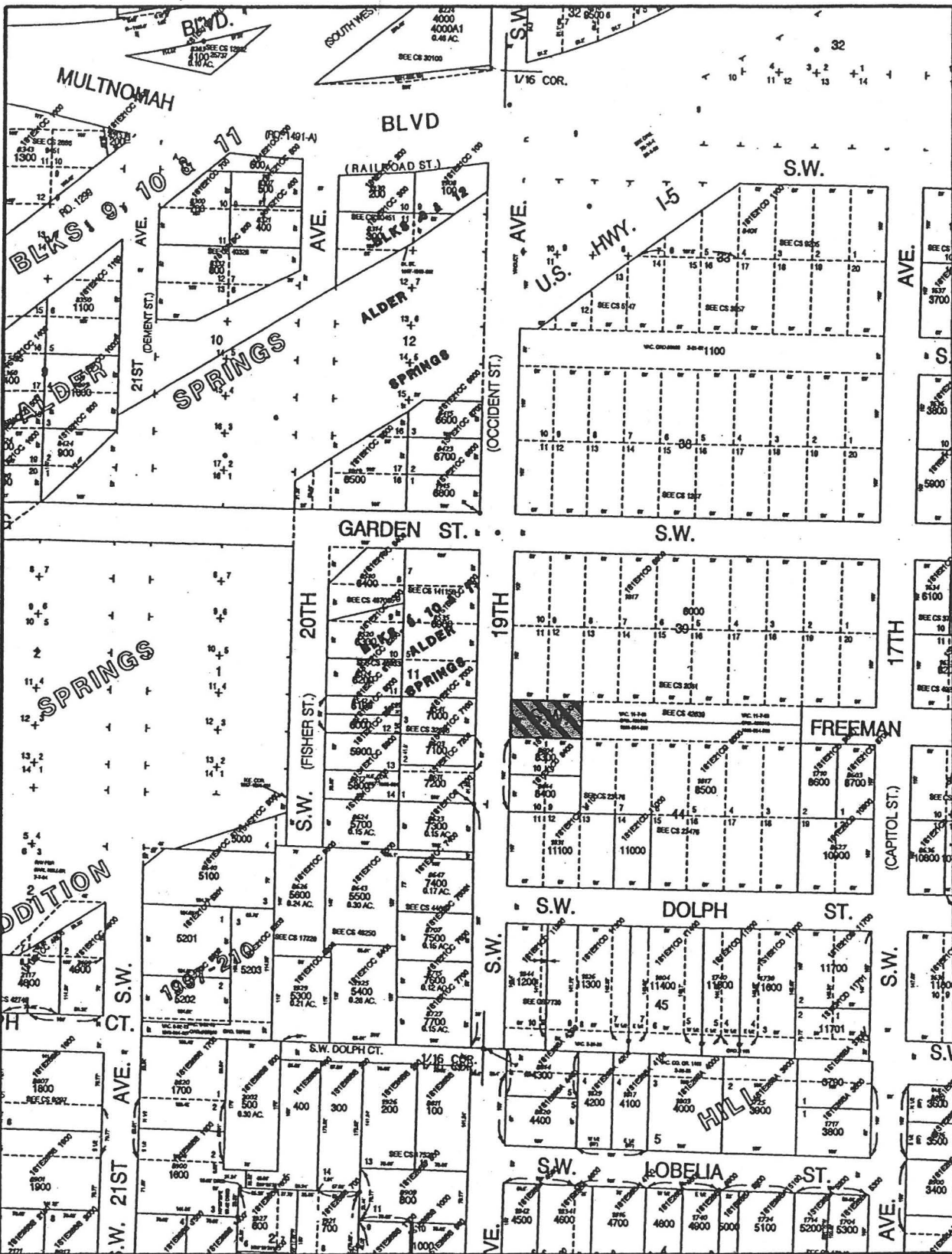
Commissioner Sam Adams  
Linda Birth:slg  
December 22, 2005

GARY BLACKMER  
AUDITOR OF THE CITY OF PORTLAND  
BY



DEPUTY

179872



SW FREEMAN STREET EAST OF SW 19TH AVENUE

Petitioner: ST. CLARE CHURCH

1/4 Section: 3827 Section: 1S1E21CD



Area Herein Vacated

R/W #6390



Scale: 1" to 200'

ACCEPTANCE

January 17, 2006

Auditor of the City of Portland  
City Hall Room 140  
1221 SW 4<sup>th</sup> Avenue  
Portland, Oregon 97204

This is to advise the City of Portland, Oregon that I hereby accept the terms and provisions of Ordinance No. 179872, passed by the Portland City Council on January 11, 2006, **Vacate a portion of SW Freeman Street east of SW 19th Avenue subject to certain conditions and reservations (VAC-10021)**, and in consideration of the benefits received thereunder by me I hereby agree to abide by and perform each and all of the terms and provisions thereof applicable to me.

*Fr. Tom Farley - PASTOR*  
(Signature - Title)\*

St. Clare Church  
c/o Robert D. Greaves  
Smith & Greaves  
2121 SW Broadway, Suite 100  
Portland OR 97201

Approved as to form:  
**APPROVED AS TO FORM**

*Linda Neugebauer*  
City Attorney  
**CITY ATTORNEY**

\*When an acceptance is signed by an officer of a firm or corporation, his or her official title must be stated.

RECEIVED  
MAR 22 2006