

Multnomah County Official Records
C Swick, Deputy Clerk

2010-049557



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

plu D. Kuhnhausen 4-20-10

I hereby certify this Ordinance No. 182430 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 April 16, 2010.

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

ORDINANCE No. 182430

Vacate a portion of SE Knight St and SE 38th Ave, subject to certain conditions and reservations.
(Hearing; Ordinance; VAC-10002)

The City of Portland ordains:

Section 1. The Council finds:

1. On August 22, 2001, the Office of the City Auditor certified a petition for the vacation of a portion of SE Knight Street and SE 38th Avenue. The Reed Institute and William Tudor & Christine Mueller are the owners of the abutting property of the proposed street vacation areas.
2. The petition states that the reason for the vacation is to consolidate property under one ownership.
3. The vacation is consistent with recommendations made by the City Engineer and Planning Commission, as provided in the City Engineer's Report, dated October 21, 2008, and on file with the Office of the City Auditor and the Office 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. 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:

That portion of SE Knight Street from its terminus at the northerly extension of the west line of Lot J, Block 1, Subdivision of the Rob Roy Addition to Portland Oregon, to a point which is 12.00 feet west of the southerly extension of the east line of Lot 3, Block 72, Woodstock; and that portion of SE 38th Avenue from the south line of SE Knight Street to the north line of SE Woodstock Boulevard, in Section 13, T1S, R1E, W.M., City of Portland, County of Multnomah, State of Oregon, as depicted on attached Exhibit 1 and by this reference made a part hereof.

- 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 SE 38th Avenue where it intersects with SE Woodstock Boulevard, and pay all costs for constructing a curb and sidewalk or driveway, in accordance with the requirements of the City Engineer. Petitioner will also submit a plan for the location and construction of a 12 foot wide hard surfaced pathway within a 15 foot public pedestrian easement reserved in 2A below in the SE 38th Avenue vacated area. Said pathway shall connect the sidewalk on SE Woodstock to the existing pedestrian pathway within the Reed College Campus.
 - 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.
 - i) The Petitioner will 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.
 - ii) 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.
 - iii) 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 shall submit an addendum to the Reed College Master Plan on file with the City of Portland that includes a revised pedestrian circulation system map and an exhibit documenting the configuration/design of the proposed pedestrian path to be constructed according to standards specified by the Portland Office of Transportation.

3. The Water Bureau owns and maintains certain improvements within the street areas to be vacated. As a condition of street vacation approval, the Petitioner will agree to pay the cost to modify existing water services as follows:
- A 2 inch meter at the point of vacation in SE Knight Street will need to be installed. This meter would be a “master meter” for any development west of the vacated street.
 - All lots west of the point of vacation in SE Knight Street must be consolidated into one tax lot to obtain water from the above referenced master meter.
 - Water service to 3809 SE Knight Street must be relocated to outside of the vacated area, but must remain inside of lot boundaries. Applicant is responsible for all communication to property owners.
 - Water service to 5930 SE 38th Avenue must be relocated to outside of the vacated area, but must remain inside of lot boundaries, or must be permanently removed. Applicant is responsible for all communication to property owners.

The BWB will complete the work above within a reasonable period of time after receiving payment from the Petitioner. The Petitioner 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 15 foot wide public walkway easement is hereby reserved in the vacated area of SE 38th Avenue necessary to connect the pathway required in Condition 1A above to the existing pathway on the Reed College Campus.
5. The Bureau of Environmental Services owns and maintains certain improvements within the street areas to be vacated. As a condition of street vacation approval, the Petitioner will agree to the reservation of a public sewer easement over the entire vacated street area.

This easement is hereby reserved to provide for the maintenance, operation, inspection, repair, reconstruction, replacement and enlargement of the existing public sewer facility and necessary appurtenances, and 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. The Water Bureau owns and maintains certain improvements within the street areas to be vacated. As a condition of street vacation approval, the Petitioner will agree to the reservation of a 20 foot public water easement over an existing 12 inch water main that will remain in SE 38th Avenue.

This easement is hereby reserved to provide for the maintenance, operation, inspection, repair, reconstruction, replacement and enlargement of the existing public water facility and necessary appurtenances, and 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 Chief Engineer of the Grantee, 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 water facility.

7. 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 Northwest Natural. 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.
8. Notwithstanding condition 7 above and except for conditions 4, 5 and 6 above, 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.
9. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
10. 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.

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.

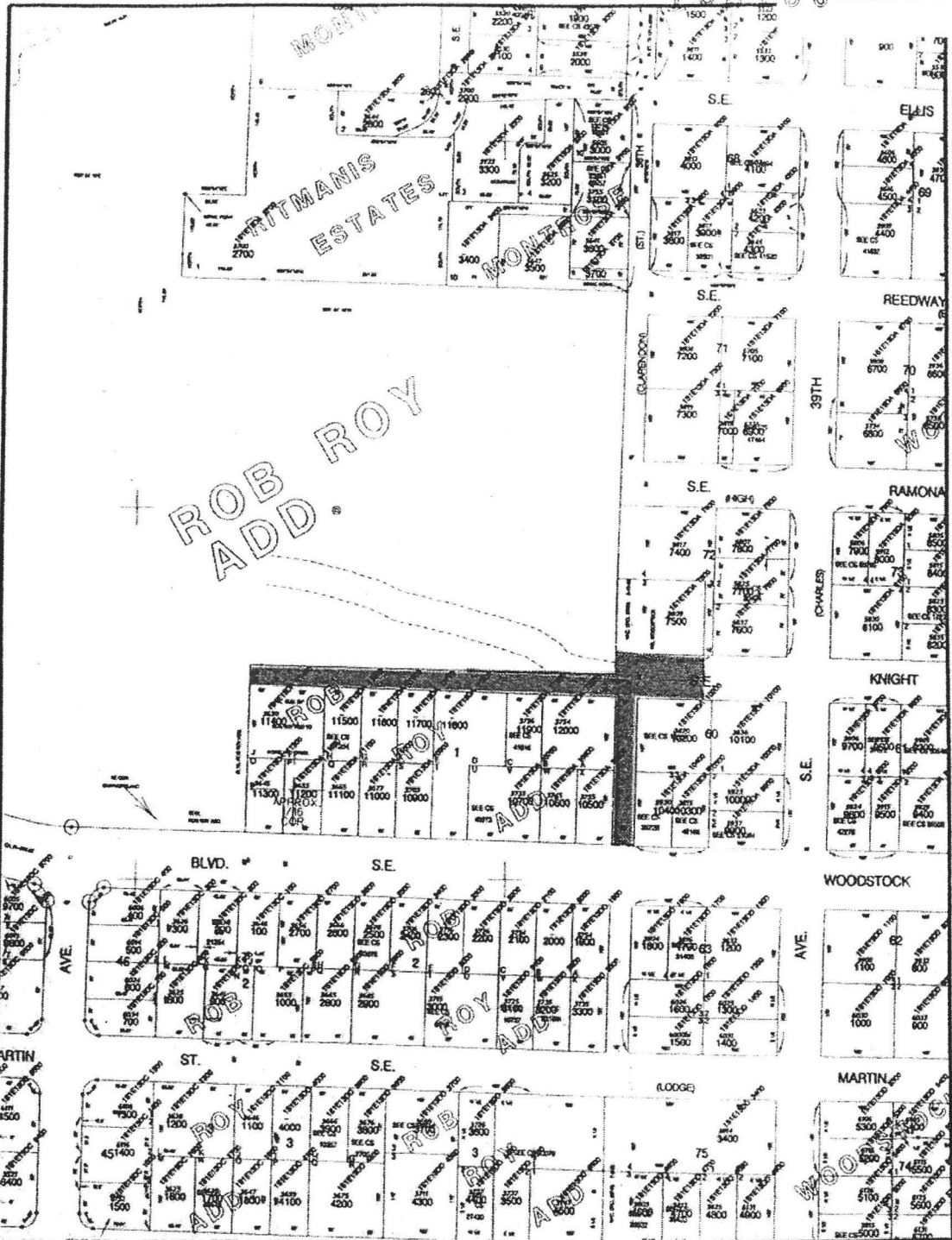
Section 4. After the prerequisites to recording the Ordinance have been met, the City Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Transportation Engineering and Development, which shall, at the expense of the Petitioner, 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, DEC 17 2008

Commissioner Sam Adams
Prepared by: Linda Birth:slg
Date Prepared: November 13, 2008
R/W #6096

GARY BLACKMER
Auditor of the City of Portland

By  Deputy



PORTIONS OF SE KNIGHT STREET AND SE 38TH AVENUE

Petitioner: REED COLLEGE

■ Area Herein Vacated



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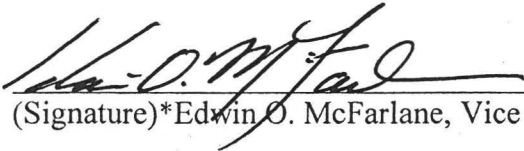
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ACCEPTANCE

March 25, 2010

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

This is to advise the City of Portland, Oregon that The Reed Institute hereby accepts the terms and provisions of Ordinance No. 182430, passed by the Portland City Council on December 17, 2008, **Vacate a portion of SE Knight St and SE 38th Ave, subject to certain conditions and reservations (VAC-10002)** and in consideration of the benefits received thereunder, The Reed Institute hereby agrees to abide by and perform each and all of the applicable terms and provisions thereof.



(Signature)*Edwin O. McFarlane, Vice President/Treasurer

Reed College
c/o Steve Abel
Stoel Rives LLP
900 SW 5th Avenue #2600
Portland OR 97204
email: SWAbel@stoel.com

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



City Attorney **CITY ATTORNEY**

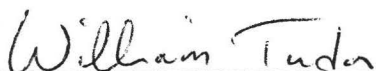
*When an acceptance is signed by an officer of a firm or corporation, his or her official title must be stated.

ACCEPTANCE

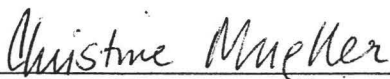
March 25, 2010

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William Tudor



Christine Mueller

William Tudor
Christine Mueller
3809 SE Knight St
Portland OR 97202
email: tudor@reed.edu

Approved as to form:
APPROVED AS TO FORM

City Attorney


CITY ATTORNEY