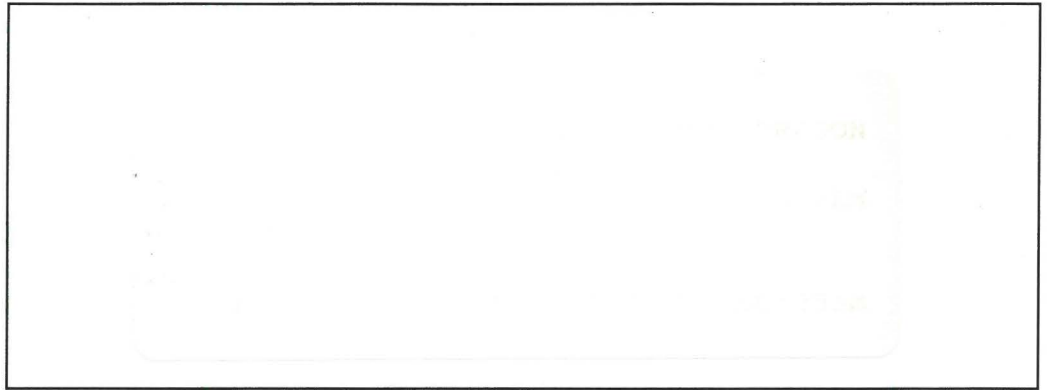


**CITY OF PORTLAND**  
**Office of the City Auditor**  
**1221 SW Fourth Avenue, Room 140**  
**Portland, OR 97204-1987**

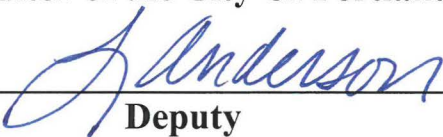
File 12-6-06  
PPO



**I hereby certify this Ordinance No. 180471 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 December 4, 2006.**

**GARY BLACKMER**  
**Auditor of the City Of Portland**

By

  
Deputy

## ORDINANCE No. 180471

Vacate a portion of SE 39<sup>th</sup> Avenue at SE Holgate Boulevard, subject to certain conditions and reservations. (Hearing; Ordinance VAC #10030).

The City of Portland ordains:

### Section 1. The Council finds:

1. On March 30, 2005, the Portland Office of Transportation received a street vacation request from Dana Krawczuk with Ball Janik LLP, representing Peter Perrin and Kupieco, LLC, the owner of adjoining property, for the vacation of a portion of SE 39<sup>th</sup> Avenue at SE Holgate Boulevard. The property has since been sold to Sopris Mountain, LLC who currently owns the property.
2. That on July 22, 2005 and amended on June 14, 2006, the City of Portland and Kupieco, LLC entered into an agreement through a Memorandum of Understanding in order to facilitate the street vacation process for a portion of SE 39<sup>th</sup> Avenue north of SE Holgate Boulevard and subsequent surplus property sale in order for redevelopment of the site.
3. The vacation is consistent with recommendations made by the City Engineer and Planning Commission, as provided in the City Engineer's Report, dated June 27, 2006 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 # 6508

That portion of SE 39<sup>th</sup> Avenue north of SE Holgate Street, in Section 12, T1S, R1E, W.M., City of Portland, County of Multnomah, State of Oregon, described as follows:

The west 5 feet of Lot 9, Block 14, "Williams Addition", except the south 5 feet thereof,

as depicted on attached Exhibit 1 and by this reference made a part hereof. Said vacation area contains 500 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. 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. 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 the vacated area, 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.
  2. Notwithstanding 2A 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.
  3. City costs associated with processing the street vacation petition has been negotiated in the purchase price of the property and is stated in the Memorandum of Understanding dated July 22, 2005 and amended on June 14, 2005 and will be paid in full upon sale of the surplus property.
  4. In the event the abutting landowner (co-petitioner) does not accept the street vacation Ordinance 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.

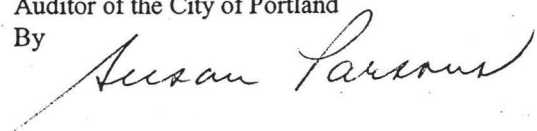
Section 3. Notice is given that the street vacation will not be effective until a certified copy of the vacating Ordinance has been recorded by the City in Multnomah County Deed Records, which will not be done until after all conditions required by the City have been fully satisfied.

Section 4. After the prerequisites to recording the Ordinance have been met, 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.

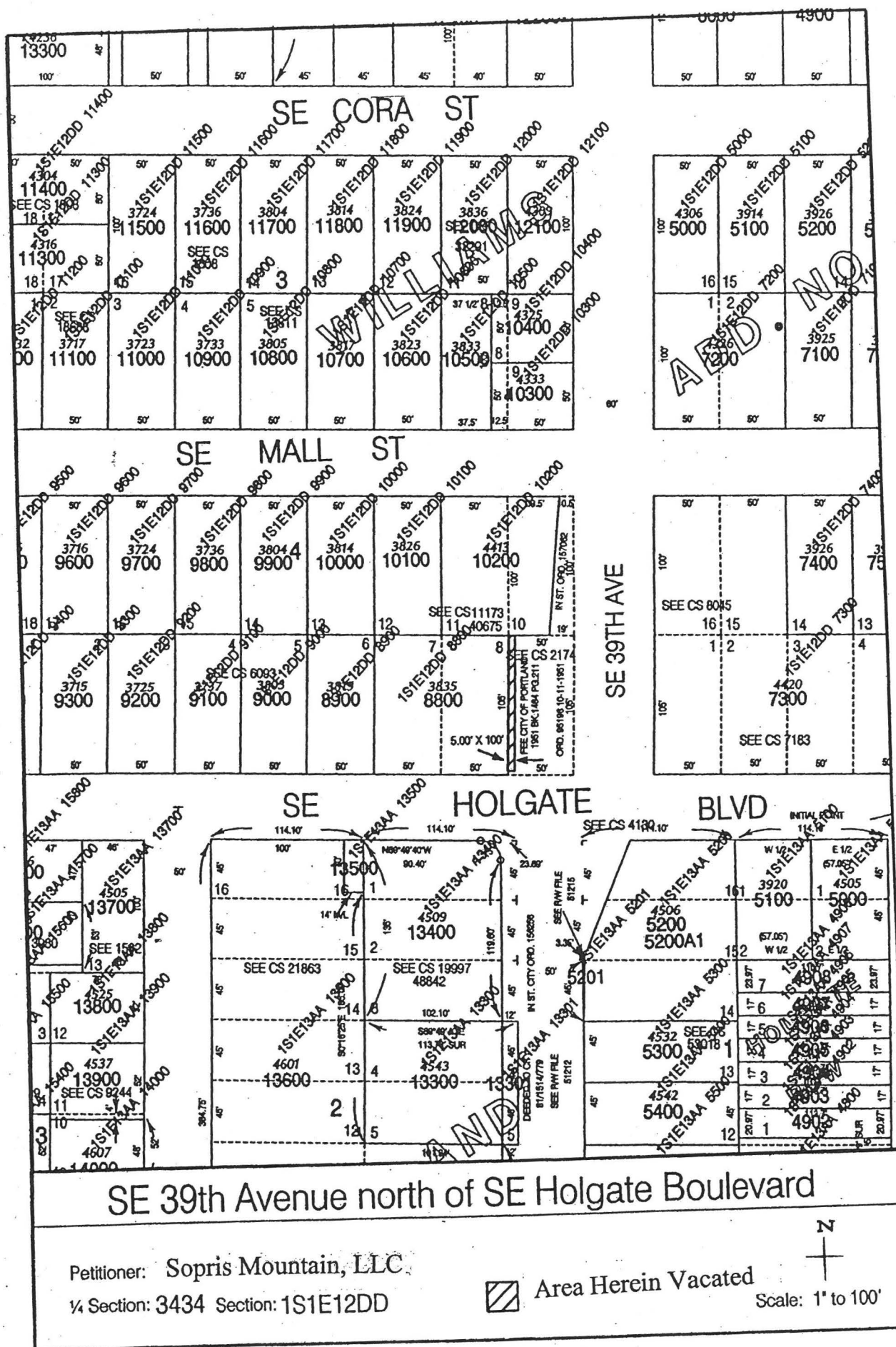
Passed by the Council, OCT 04 2006

Commissioner Sam Adams  
Prepared by: Dee A. Walker:slg  
September 15, 2006

**GARY BLACKMER**  
Auditor of the City of Portland  
By



DEPUTY



## ACCEPTANCE

November 16, 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 180471, passed by the Portland City Council on October 4, 2006, **Vacate a portion of SE 39<sup>th</sup> Avenue at SE Holgate Boulevard, subject to certain conditions and reservations (VAC-10030)**, 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.

SOPRIS MOUNTAIN, LLC

By: 

Finlay M. Anderson, Manager

Sopris Mountain, LLC  
c/o Samuels Yoelin Kantor Seymour & Spinrad, LLC  
4640 SW Macadam Ave  
Portland OR 97239-4232

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.

RECEIVED

NOV 27 2006