

ORDINANCE No. 188941

Vacate portions of SW Hall St, SW Lincoln St, SW Grant St, and SW Sherman St at SW Naito Pkwy subject to certain conditions and reservations (Hearing; Ordinance; VAC-10089)

The City of Portland ordains:

Section 1. The Council finds:

1. On July 31, 2013 the Bureau of Transportation ("PBOT" or "Petitioner") initiated a request for the vacation of portions of SW Hall Street, SW Lincoln Street, SW Grant Street, and SW Sherman Street (the "Street Area").
2. The City of Portland ("City"), by and through PBOT, and the Oregon Department of Transportation ("ODOT") jointly own the land adjacent to the Street Area (except the blocks abutting SW Hall Street, which are owned solely by ODOT). This land was used for a portion of the SW Harbor Drive / Route 99 Highway from the 1940s until the road was removed in the 1970s for construction of Tom McCall Waterfront Park.
3. PBOT discovered that portions of SW Hall, Lincoln, Grant, and Sherman Streets had not been vacated as previously thought, and since these areas are no longer needed for street purposes, the vacation of these streets will facilitate future projects.
4. In support of the Portland-Milwaukie Light Rail Project ("PMLR"), City Council previously passed Ordinance 184517, agreeing to transfer real property to Trimet, including the City's interest in a portion of SW Lincoln Street. This transfer cannot be completed until the vacation of SW Lincoln is completed.
5. The vacation is in conformance with the City of Portland's Comprehensive Plan and is consistent with recommendations made by the Director of PBOT and the Planning and Sustainability Commission, as provided in the Bureau Director's Report, dated July 10, 2017 and on file with the Office of the City Auditor (the "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, posted notice in the areas proposed for vacation, and provided notice to property owners in the affected area as required by ORS 271.110 and 130.
7. In accordance with ORS 271.190, since the Street Area 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 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 to vacate the Street Area.

NOW, THEREFORE, the Council directs:

- a. The following described Street Area is hereby vacated:

As described on **Exhibits 1A, 1B, and 1C**, and depicted on **Exhibits 2A, 2B, and 2C** attached and incorporated by reference.

All together containing 32,793 square feet, more or less.

- b. The vacation of the above-described Street Area is granted subject to the following conditions and reservations:

1. To satisfy a condition of approval from PBOT Development Review, the Petitioner has recorded a Declaration of Covenant ("PBOT Springing Easement"), which is attached as **Exhibit 3** and incorporated by reference. The PBOT Springing Easement reserves the following two (2) easements upon the City's sale of its interest in the property:

- An easement for a future pedestrian access over SW Grant Street.
- An easement for a future pedestrian access over the portion of SW Lincoln Street not being transferred to TriMet.

- i. The PBOT Springing Easement across SW Lincoln Street and SW Grant Street must be wide enough so that future walkways / facilities can meet ADA requirements.

- ii. Upon transfer of ownership of vacated SW Grant Street, ownership and maintenance of the existing public stairway in SW Grant ROW will be transferred to the buyer/grantee, unless retained in a separate public easement and PBOT agrees to maintain it.

- iii. At the time of development, these easements can be modified, subject to review and satisfaction of the authorizing City bureau(s).

2. To satisfy a condition of street vacation approval from the Bureau of Environmental Services ("BES"), the Petitioner has recorded a Declaration of Covenant ("BES Springing Easement"), which is attached as **Exhibit 4** and incorporated by reference. The BES Springing Easement reserves the following two (2) easements upon the City's sale of its interest in the property:

- A twenty (20) foot wide sewer easement along SW Grant Street for maintenance and reconstruction of an active sewer line. The length runs from SW Naito to the east end of the proposed vacation area.
- A twenty (20) foot wide sewer easement in SW Sherman Street for maintenance and reconstruction of an active sewer line. The length runs from the west end of the proposed vacation area to SW Naito.

At the time of development, these easements can be modified, subject to review and satisfaction of BES.

3. BES has an abandoned sewer line within the SW Lincoln Street vacation area. PBOT and ODOT, their successors and assigns, hereby accept ownership of the abandoned line in said area, and 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. TriMet constructed a drainage facility across SW Lincoln Street to convey storm water under the light rail structure in SW Lincoln Street. The Petitioner will grant TriMet a revocable permit for a twenty (20) foot wide corridor for the drainage facility under Parcel 2 of the vacation area, in substantially the same form as shown on **Exhibit 5** and incorporated by reference. The permit will automatically terminate if and when the facility is replaced by a permanent facility that is designed, permitted and constructed to the satisfaction of the authorizing City bureau(s).
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, including, but not limited to those identified by **Northwest Natural** and **Comcast**. Subject to Paragraph 5 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 Petitioner and owner(s) of the utilities.

6. Notwithstanding b.5 and except for b.1, b.2, b.3 and b.4 this Ordinance will serve as a full release of City interests in the Street 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 or granted separately pursuant to an Ordinance condition, 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 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 Auditor, in a 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 of this Ordinance, 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 Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition ("RWA") 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 RWA Section shall return the recorded Ordinance to the Auditor and retain a copy in RWA File No. 7652.

Passed by the Council, **MAY 16 2018**

Commissioner Dan Saltzman
Prepared by: Karl Arruda :SP
April 6, 2018

MARY HULL CABALLERO
Auditor of the City of Portland
By



DEPUTY

Agenda No. **188941**
ORDINANCE NO. 188941
 Title

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<p><i>Mayor Wheeler and</i> INTRODUCED BY Commissioner/Auditor: COMMISSIONER DAN SALTZMAN</p>	<p>CLERK USE: DATE FILED <u>MAY 01 2018</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Wheeler <i>XC</i></p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman <i>Don Saltzman</i></p> <p>Position 4/Safety - Eudaly</p>	<p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Transportation <i>KNA</i> Development Permitting & Transit Group Manager: Christine Leon Asst. Director: Chris Warner <i>[Signature]</i></p> <p>Prepared by: Karl Arruda Date Prepared: April 6, 2018 Supervisor: David McEldowney <i>[Signature]</i></p>	<p>ACTION TAKEN:</p> <p>MAY 09 2018 PASSED TO SECOND READING MAY 16 2018 9:30 A.M.</p>
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>City Auditor Office Approval: required for Code Ordinances</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>KAM</i></p>	
<p>Council Meeting Date May 9, 2018</p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: 15 mintues (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Eudaly	4. Eudaly	✓	
Wheeler	Wheeler	✓	