



# 191156

Ordinance

## Declare as surplus City-owned property located at the corner of SW Council Crest Dr and SW McDonnell Terrace and authorize the Director of the Bureau of Environmental Services to proceed with a public sale of the property

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. Property located at the corner of **SW Council Crest Dr. and SW McDonnell Terrace**, and legally described below, was acquired by the City in 2006 as part of a negotiated settlement of a lawsuit by the previous property owner against the City. See location on the Map in Exhibit A.
2. On April 8, 2022, Commissioner Mapps declared this property as "Excess" (see Exhibit B).
3. Ordinance 180278 (Exhibit C) resolved the former property owners' claim against the City by authorizing payment of \$450,000 to George and Marietta Spada and, in return, BES accepted title to the property on behalf of the City. The ordinance also authorized BES to re-sell the property.
4. Since acquisition, this property has been vacant and has not been used to support BES goals in the area. As a vacant property, this site is currently a liability to BES with deferred maintenance needs and nuisance risks.
5. BES has offered this property to other City Bureaus, but no interest in current or future use for this property was expressed.
6. In accordance with Binding City Policy ADM-13.02, "Disposition of City Real Property," on August 15, 2022 BES completed the public comment period that began June 16, 2022. A summary of the public comments received can be found in the Impact Statement. Letters and emails from the public are attached as Exhibit D.

### Introduced by

[Commissioner Mingus Mapps](#)

### Bureau

[Environmental Services](#)

### Contact

Virginia Bowers

Coordinator II

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### Requested Agenda Type

Regular

### Date and Time Information

Requested Council Date

January 25, 2023

NOW, THEREFORE, the Council directs:

- A. That the following described property is hereby declared surplus:  
HEALY HEIGHTS & RPLT, BLOCK 9, LOT 9
- B. That the Director of BES, or their designee, is hereby instructed to dispose of the above-described property through sale of the property for terms and conditions determined to be reasonable by BES real property staff; and is hereby authorized to execute on behalf of the City any and all documents approved by the City Attorney required for the conveyance of the title of the property.
- C. That two thirds of the net proceeds from the sale of the property be returned to BES's Sewer System Operating Fund and one third of the net proceeds be returned to Risk Management.

## Documents and Exhibits

 [Exhibit A](#) 322.25 KB

 [Exhibit B](#) 263.98 KB

 [Exhibit C](#) 709.81 KB

 [Exhibit D](#) 346.65 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council  
January 25, 2023

Auditor of the City of Portland  
Simone Rede

## Impact Statement

### Purpose of Proposed Legislation and Background Information

In 1996, a landslide impacted this steep corner lot. The cause appeared to have been a combination of several factors including heavier-than-normal rainfall and unconsolidated fill on the site deposited over many years. The landslide sent soil and debris all the way to SW Fairmont Blvd. It also damaged one of the pilings of the house on the adjacent lot.

In 1999, a Multnomah County jury determined that the City was 65% responsible and the neighbors 37% responsible and awarded the Spadas \$98K in damages. Because the court did not hear several other claims, the Spadas appealed. The City decided at that point to settle with the Spadas. In

2006, the City paid the Spadas \$450K to settle the case and, as part of that settlement, the Bureau of Environmental Services acquired the property. The plan was to sell the property and recoup some of the money spent.

Since then, the property was graded, benched, and had a 30-foot-wide rock stabilization mass installed below Council Crest Drive. The adjacent residence was repaired in 1997, building a large gabion retaining structure to support its repaired foundation. The site has been stable for the last 25 years. The City has not made any official determination as to whether the property is buildable.

This area is mapped by the City of Portland as being within a steep slope hazard with slopes equal to or greater than 20%, within a potential landslide and rapidly moving landslide hazard and within a high earthquake hazard zone along with wildfire hazard zone. Currently the property is covered in blackberries, with some trees along the northeastern border.

### **Financial and Budgetary Impacts**

Sale of this property will provide a positive impact to the BES budget by eliminating the normal costs of ownership and maintenance while providing income from the sale of the property. However, the sale of the property is not expected to bring in more than about \$60K total, of which BES will only receive two thirds. The property is priced low as it is likely to be expensive to develop. A contract realtor will be paid commission from the sale of the property.

### **Community Impacts and Community Involvement**

The property has gone through the City Disposition process per ADM-13.02. Healy Heights Neighborhood Association and neighbors within 200 feet of the property were notified of this disposition on June 16. A comment period of 60 days was provided, which ended August 15, 2022. Notice of this property's disposition was included on the City's surplus website and a sign was posted at the site.

Eleven citizens called, emailed, or sent letters with comments. All of the comments requested that the property remain as "open space" as it serves as a viewpoint for the neighbors. Neighbors commented that the property provides wildlife habitat and green space. Other comments raised concerns about the construction impacts to the street and adjacent properties if the property was built on. Another concern is that building on this lot could destabilize the bedrock, threatening the stability of nearby homes.

Based on many of the comments, it is apparent that there is considerable misinformation circulating about this lot.

- Most commentators are under the impression that the property was deemed "unbuildable" by the City, but no evidence of that has been provided.

- A neighboring property owner thought that a home had been located on this lot and had been destroyed by a landslide. No home has ever been built there. BES eCouncil Document – Spada 4
- Another commented that the Spadas were told that a permit would never be given to build on the property, but no permit application was submitted to allow the City to make that determination.
- The ordinance allowing for the settlement and initial acquisition of the property by BES clearly states that the City intended to sell the property.

### **100% Renewable Goal**

Not applicable.

### **Agenda Items**

#### **42 Time Certain in January 18-19, 2023 Council Agenda**

Passed to second reading

Passed to second reading January 25, 2023 at 9:30 a.m.

#### **85 Regular Agenda in January 25, 2023 Council Agenda**

Passed

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Mayor Ted Wheeler Yea