



[Home](#) / [Council Documents](#)

# 191315

Ordinance

## Vacate a portion of SW Greenleaf Ct east of SW Greenleaf Dr subject to certain conditions and reservations (VAC-10135)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. The Portland Bureau of Transportation ("PBOT"), Right-of-Way Acquisition ("RWA") received a request from Steve Romero (the "Petitioner") on March 9, 2021, to vacate a portion of SW Greenleaf Court east of SW Greenleaf Drive as described on **Exhibit 1** and depicted on **Exhibit 2** (the "Street Area"). The Street Area was originally acquired in the duly recorded Plat of Green Hills of Portland, recorded on May 25, 1911, Multnomah County Plat Records.
2. The petition has been signed by all abutters and the requisite number of property owners pursuant to ORS 271.080, and all signatures have been verified and certified by PBOT Right-of-Way Acquisition on October 14, 2021.
3. The petition states that the reason for the vacation is to consolidate property to provide a private gated driveway for the Petitioner's residence.
4. The vacation is in conformance with the City's Comprehensive Plan and is consistent with recommendations made by the Director of PBOT and the Director of the Planning and Sustainability Commission, as provided in the Bureau Director Report, dated March 1, 2023, and on file with the Office of the City Auditor (the "Auditor") and PBOT.
5. In accordance with ORS 271.100, the Portland City Council (the "Council") fixed a time and place for public hearing before the Council; notice was published in the Daily Journal of Commerce and notices were physically posted at the site in the area proposed for vacation.
6. Other procedural requirements of ORS 271 have been complied with, and the Council having held a public hearing, finds no objections were

### Introduced by

[Commissioner Mingus Mapps](#)

### Bureau

[Transportation](#)

### Contact

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### Requested Agenda Type

Regular

### Date and Time Information

Requested Council Date  
June 7, 2023

made or filed hereto, and it is in the public interest to vacate the Street Area.

NOW, THEREFORE, the Council directs:

A. The Street Area, more particularly described as follows, is hereby vacated:

As described on **Exhibit 1** and depicted on **Exhibit 2** attached and incorporate by reference.

Containing 8,527 square feet, more or less

B. The vacation of the Street Area is granted subject to the following conditions:

1. Bureau of Development Services (“BDS”) has required the following:

A replat through a Type 1x Land Use Review is required for all lots and lot remnants that will fall out of compliance with City Code 33.610.200E Minimum Front Lot Line requirements as a result of the vacation. The replat will be recorded prior to or concurrently with the Street Vacation Ordinance. A replat will likely result in those parcels located at 4130 and 4167 SW Greenleaf Ct exceeding the Maximum Lot Area standard (Code 33.610.200.C). Therefore, the owners of each property will need to apply for and receive final approval of an Adjustment Review, a Type II Land Use Review, concurrently with the replat process.

2. Bureau of Environmental Services (“BES”) has required the following:

i) The property owner or owners will grant a permanent Sewer Easement to the City for the existing sewer main and maintenance hole located within the vacation area. BES requires a 15-foot-wide easement centered over pipe ABX603-ABX604 (so that it extends 7.5 feet to either side of the centerline of the pipe and extends 7.5 feet from the center of maintenance hole ABX603). Petitioner must provide professionally prepared legal exhibits showing the location of the BES facilities named above, the easement areas, and associated property lines. Said easement will be in substantially the same form as **Exhibit 3** attached and will be recorded concurrently with the Ordinance

AND

ii) Consolidation of 4167 SW Greenleaf Court with the adjacent property to the west is required. Completion of the BDS replat

condition will satisfy this requirement.


3. In accordance with ORS 271.120 and City of Portland policy, the 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. Subject to Paragraph **b.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 the Street 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 and release of easements in the Street Area will require the necessary conveyance documents and possible written agreements between the Petitioner and owner(s) of the utilities.
4. Notwithstanding Condition **b.3.** and except for Condition **b.2.i.**, the 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.
5. If any property, encumbered by an easement reserved in this Ordinance, is ever rededicated as public right-of-way, that portion of the easement located in the rededicated right-of-way shall automatically be terminated.
6. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
7. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting this Ordinance, Council may repeal this Ordinance at its sole discretion.

Section 2. The Property Owner 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 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 PBOT RWA, 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. PBOT RWA shall return a copy of the recorded ordinance to the Auditor and retain the original recorded ordinance in RWA File No. 9234.

## Documents and Exhibits

 [Exhibits 1 - 3 \(https://www.portland.gov/sites/default/files/council-documents/2023/9234-ordinance-exhibits-5-8-23.pdf\)](https://www.portland.gov/sites/default/files/council-documents/2023/9234-ordinance-exhibits-5-8-23.pdf) 1.19 MB

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  
June 7, 2023

Auditor of the City of Portland  
Simone Rede

## Impact Statement

### Purpose of Proposed Legislation and Background Information

- The purpose of this legislation is to vacate a portion of SW Greenleaf Court east of SW Greenleaf Drive (the "Street Area"), as recommended in the Bureau Director Report.
- On October 14, 2021, the Office of the City Auditor certified a petition for the vacation of a portion of SW Greenleaf Court east of SW Greenleaf Drive, with the petition initiated by Steve Romero (the "Petitioner").
- The petition stated that the reason for the vacation is to consolidate property to provide a private gated driveway for the residence.
- Current plans for the Property are for its continued use as a private driveway.

- The Ordinance complies with state law under ORS 271 and City Code, Chapter 17.84.

## Financial and Budgetary Impacts

- The process for vacating streets is a cost recovery program, typically paid for by the Petitioner, and does not have a net impact on PBOT's budget. Expenses for processing a street vacation request typically range between \$8,000 and \$20,000+, depending on the complexity. This street vacation falls above the high end of the range and is estimated with moderate confidence to be approximately \$22,500.00
- Fees paid by the Petitioner for this street vacation will cover the actual expenditures incurred by City staff for the processing of this request. The SAP Cost Object is 9TR000002966. These expenses are occurring in FY 20-21, 21-22 and 22-23.
- This legislation does not affect staffing levels nor will result in a new or modified financial obligation or benefit now or in the future.
- If City Council does not approve the Ordinance, the Street Area will remain as public right-of-way and the Petitioner will not be able to have either a fence or a gate at this location.

## Community Impacts and Community Involvement

- Pursuant to ORS 271.080, the Petitioner obtained the required signatures from surrounding property owners in the 'affected area' as stated in said statute, showing support of the vacation request. As an additional requirement of the state statute, the notice of the public hearing has been published in the Daily Journal of Commerce and signs have been physically posted near the Street Area.
- Comments were also solicited from City Bureaus, government agencies, public utilities and affected neighborhood, and business associations in the area. PBOT did not receive any objections to the vacation request.
- The Planning and Sustainability Commission ("PSC") advertised and then held a public hearing on October 25, 2022. Although not required by State Statute or City Code, letters were mailed to all the surrounding neighbors within an 'affected area' as defined by ORS 271 to notify them of the public hearing thereby giving them an opportunity to be heard. Four public comments in support of the street vacation were received. No one from the public came forward to testify in opposition of the vacation. The PSC ultimately recommended approval of the vacation request to City Council.

- There do not appear to be any other impacts to the community from vacating this right-of-way. No opposition to this street vacation request is expected and no one has expressed their desire to testify at the hearing. There is no future public involvement anticipated since the Ordinance will conclude the street vacation process.

## Budget Office Financial Impact Analysis

PBOT operates street vacation as a cost recovery program, with net zero budget impact.

## Agenda Items

443 Regular Agenda in [May 31-June 1, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/5/31)  
(<https://www.portland.gov/council/agenda/2023/5/31>)

Passed to second reading

Passed to second reading June 7, 2023 at 2:00 p.m.

477 Regular Agenda in [June 7-8, 2023 Council Agenda](https://www.portland.gov/council/agenda/2023/6/7)  
(<https://www.portland.gov/council/agenda/2023/6/7>)

Passed

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Absent

Commissioner Carmen Rubio Yea

Mayor Ted Wheeler Yea