

**ORDINANCE No. 183615**

Vacate a portion of SW 19<sup>th</sup> Ave and SW Seymour St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10035)

The City of Portland ordains:

Section 1. The Council finds:

1. On October 5, 2006, the Office of the City Auditor certified a petition for the vacation of a portion of SW 19<sup>th</sup> Avenue and SW Seymour Street, with the petition initiated by Gray Frierson Haertig, the owner of adjoining property.
2. The petition states that the reason for the vacation is to permanently authorize encroachments in the right-of-way and to construct a new leach field for a failing septic system.
3. The vacation is consistent with recommendations made by the City Engineer and Planning Commission, as provided in the City Engineer's Report, dated August 31, 2009 and revised on January 13, 2010 and is on file with the Office of the City Auditor and the Bureau 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 SW 19<sup>th</sup> Avenue and SW Seymour Street, in the City of Portland, Multnomah County, Oregon, as shown on the attached Exhibit 1, being the east 14.00 feet of SW 19<sup>th</sup> Avenue lying between the centerline of SW Seymour Street and the north right-of-way line of SW Bernard Drive and all that portion of SW Seymour Street lying between the east right-of-way line of SW 19<sup>th</sup> Avenue and the west lot lines of Lot 2, Block 1 and Lot 1, Block 2 both in the duly recorded plat of "Slavins Addition to The Portland City Homestead".

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

1. Prior to recording the street vacation ordinance, the Petitioner must complete a lot consolidation of the historic platted lots under Tax Lot 3100 through the Title 33 Lot Consolidation Review process.
2. 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 Qwest. The 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.
2. Notwithstanding b2, this 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 shall be paid in full before the City records this Ordinance.
4. 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 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. Prerequisites to recording the vacating Ordinance are that 30 days have passed after final Council passage of the Ordinance, that all conditions of the vacating Ordinance have been met, and that all vacation costs have been paid.

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, Bureau of Transportation, 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, MAR 17 2010

Mayor Sam Adams  
Prepared by: Lance D. Lindahl  
Date Prepared: February 12, 2010

**LaVonne Griffin-Valade**

Auditor of the City of Portland

By



Deputy

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<b>INTRODUCED BY.</b> Commissioner/Auditor: <b>MAYOR SAM ADAMS</b> <i>L. Saltzman on behalf of Mayor Adams</i> <b>COMMISSIONER APPROVAL</b>	CLERK USE: DATE FILED <u>MAR 05 2010</u>
Mayor—Finance and Administration - Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland  By:  Deputy
<b>BUREAU APPROVAL</b> Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program Other: <i>Greg Jones</i> Prepared by: Lance D. Lindahl Date Prepared: February 12, 2010	<b>ACTION TAKEN:</b>  <b>MAR 10 2010 PASSED TO SECOND READING</b> <b>MAR 17 2010 9:30 A.M.</b>
<b>Financial Impact Statement</b> Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
<b>Portland Policy Document</b> If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<b>Council Meeting Date</b> <b>March 10, 2010</b>	
<b>City Attorney Approval</b>	

<b>AGENDA</b>
<b>TIME CERTAIN</b> <input type="checkbox"/> <b>Start time:</b> _____  <b>Total amount of time needed:</b> _____ (for presentation, testimony and discussion)
<b>CONSENT</b>
<b>REGULAR</b> <input checked="" type="checkbox"/> <b>Total amount of time needed: 5 minutes</b> (for presentation, testimony and discussion)

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