

**ORDINANCE No. 187032**

Vacate a portion of SW Moody Ave north of Ross Island Bridge subject to certain conditions and reservations (Hearing; Ordinance; VAC-10085)

The City of Portland ordains:

Section 1. The Council finds:

1. On September 5, 2012, the Office of the City Auditor certified a petition for the vacation of a portion of SW Moody Avenue north of Ross Island Bridge, with the petition initiated by ZRZ Realty Company, the owner of one of the adjoining properties.
2. The petition states that the reason for the vacation is to eliminate excess right-of-way that existed after the realignment of SW Moody Avenue, and to incorporate this land into current and future development along the frontage of parcels owned by ZRZ and 3030 Property LLC (the "Property Owners").
3. The vacation is in conformance with the City of Portland's Comprehensive Plan and is consistent with recommendations made by the City Engineer and Planning and Sustainability Commission, as provided in the City Engineer's Report, dated April 8, 2014 and 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. In accordance with ORS 271.190, since the area to be vacated lies within 5,000 feet of the harbor line, approval in writing of the proposed vacation has been secured from the Port of Portland.
6. 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 street area, as described on Exhibits 1A and 2A and depicted on Exhibits 1B and 2B attached hereto, is hereby vacated.
- b. The vacation of the above-described street area is granted subject to the following conditions and reservations:
  1. The City of Portland owns one wood pole with a streetlight (D11-010A/103) within the vacation area. Portland General Electric will remove the existing street light at the expense of the Petitioner and return it to the City of Portland.

2. The Property Owners will grant a 20 foot wide sewer easement centered over an existing 42 inch combined sewer pipe to the City. Said easement will be in substantially the same form as Exhibits 3 and 4 attached hereto and will be recorded concurrently and delivered with the street vacation ordinance.

Ownership of all abandoned sewers will be transferred to the Property Owners. Ownership of all inlets and other related storm sewers will be transferred to the Property Owners. The 12 inch storm sewer out of facility MH APX 988 will become a private service lateral and will no longer function as a public sewer main. Storm connections to facility MH API 058 will be a private service lateral in the public right-of-way.

3. The Petitioner will grant a Retaining Wall Access and Maintenance Easement over the westerly 8.00 feet of the street vacation areas. Said easement will be in substantially the same form as Exhibits 5 and 6 attached hereto and will be recorded concurrently and delivered with the street vacation ordinance. In the event that the property within the easement area is redeveloped, Grantor may request release of the easement area from the Director of the Bureau of Transportation, City of Portland. Grantor shall pay all costs associated with the release of the easement area.
4. 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 Pacific Power, CenturyLink, Northwest Natural, and Comcast Cable. Subject to Paragraph 8 below, 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.
5. Notwithstanding b4, and except for b2 and b3, 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.

6. If any property, encumbered by an easement reserved in this vacation 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.
7. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
8. 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.

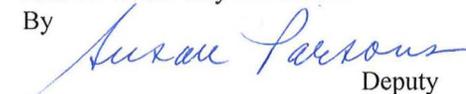
Section 4. After the prerequisites to recording the Ordinance have been met, the City Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Bureau of Transportation, which shall, at the expense of the Petitioner, file with the recorder, 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 and retain a copy in RWA File No. 7511.

Passed by the Council,

FEB 25 2015

Commissioner Steve Novick  
Prepared by: Lance D. Lindahl: slg  
Date Prepared: January 20, 2015

**Mary Hull Caballero**  
Auditor of the City of Portland  
By

  
Deputy

Agenda No.  
**ORDINANCE NO. 187032**  
Title

**Vacate a portion of SW Moody Ave north of Ross Island Bridge subject to certain conditions and reservations (Hearing; Ordinance; VAC-10085)**

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| <p align="center"><b>INTRODUCED BY</b><br/>Commissioner/Auditor:<br/><b>COMMISSIONER STEVE NOVICK</b></p> <hr/> <p align="center"><b>COMMISSIONER APPROVAL</b></p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety – Novick <i>aw</i></p> <hr/> <p align="center"><b>BUREAU APPROVAL</b></p> <p>Bureau: Bureau of Transportation<br/>Interim Group Mgr.: Christine Leon <i>HL</i><br/>Development Permitting &amp; Transit Group<br/>Assistant Director: <i>ON</i></p> <p>Prepared by: Lance D. Lindahl: slg <i>HL</i><br/>Date Prepared: January 20, 2015</p> <hr/> <p>Financial Impact &amp; Public<br/>Involvement Statement<br/>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <hr/> <p>Portland Policy Document<br/>If "Yes" requires City Policy paragraph stated<br/>in document.<br/>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <hr/> <p><b>City Auditor Office Approval:</b><br/>required for Code Ordinances</p> <hr/> <p><b>City Attorney Approval:</b><br/>required for contract, code, easement,<br/>franchise, comp plan, charter <i>of</i></p> <hr/> <p><b>Council Meeting Date</b><br/><b>February 18, 2015</b></p> | <p align="right"><b>FEB 13 2015</b></p> <p>CLERK USE: DATE FILED _____</p><br><p align="center">Mary Hull Caballero<br/>Auditor of the City of Portland</p> <p>By: <i>[Signature]</i> _____<br/>Deputy</p> <p><b>ACTION TAKEN:</b></p> <p><b>FEB 18 2015 PASSED TO SECOND READING FEB 25 2015 9:30 A.M.</b></p> |
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| <b>AGENDA</b>   |
| <p><b>TIME CERTAIN</b> <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____<br/>(for presentation, testimony and discussion)</p> |
| <p><b>CONSENT</b> <input type="checkbox"/></p>  |
| <p><b>REGULAR</b> <input checked="" type="checkbox"/></p> <p>Total amount of time needed: <b>5 minutes</b><br/>(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. Novick          | 4. Novick ✓                     |      |
| Hales              | Hales ✓                         |      |