

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, VACATING AS A PUBLIC THOROUGHFARE A PORTION OF THE NORTH-SOUTH ALLEY RIGHT-OF-WAY LOCATED AT 1919 HARRISON AVE NW

WHEREAS, the Olympia City Council adopted Resolution No. M-1859 on January 24, 2017, setting a public hearing date for February 28, 2017, at or after 7:00 p.m. to allow public comment for or against vacation of the following described public thoroughfare situated in the City of Olympia, Thurston County, State of Washington, to wit:

That portion of the 12-foot wide alley in Block 37, Woodruff Addition to the City of Olympia, as recorded in Volume 3 of Plats, Page 40, records of Thurston County, Washington lying Northerly of the Easterly extension of the South line of Lot 5 in said Block 37.

WHEREAS, the petitioners are requesting that a portion of the north-south alley in Block 37, Woodruff Addition to the City of Olympia be vacated; and

WHEREAS, notice of this proposed vacation was posted physically on site, and adjoining neighbors were mailed notice of the hearing; and

WHEREAS, a public hearing was held by the City Council of the City of Olympia on said petition on February 28, 2017, at 7:00 p.m. or thereafter in the evening; and

WHEREAS, verbal testimony was heard by the City Council during the public hearing from citizens supporting the petitioners' application for vacation of the public thoroughfare, and no verbal testimony was presented opposing the petitioners' application for vacation; and

WHEREAS, the City Council has also received written comments from the public supporting the petitioners' application for vacation of the north-south alley right-of-way; and

WHEREAS, the City has received comments from utility providers requesting the reservation of easements with regard to this vacation; and

WHEREAS, the Public Works Department has indicated that the property has no known current or foreseeable future use to the City as a right-of-way; and

WHEREAS, the City Council deferred its decision to permit time to weigh the evidence received at the public hearing; and

WHEREAS, the City Council finds this vacation to be in the public interest and serves the public welfare;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. As recommended by the City of Olympia Public Works Department and as requested by the owners of the abutting parcels, the Olympia City Council, pursuant to RCW 35.79.010, hereby vacates as a public thoroughfare the hereinabove described real property and RESERVES an easement over, under, across, and through the above described property for public and private utilities, whether or not covered by a franchise agreement with the City of Olympia, including but not limited to sanitary sewer, stormwater, water, solid waste collection, electrical, cable, fiber optic, telephone, and telecommunications.

Section 2. The vacation meets the criteria set forth in OMC 12.16.100.

Section 3. This Ordinance shall not become effective until the owners of the abutting properties do the following:

(1) pay to the City of Olympia an amount equal to one-half the appraised value as required under OMC 12.16.030, .080, .090 and RCW 35.79.030 for the area so vacated as follows: (a) Tax Parcel No. 85003701901, Parkside Café LLC, the sum of \$4,317.00; (b) Tax Parcel No. 85003701700, Orchard House LLC, the sum of \$2,589.00; (c) Tax Parcel No. 85003701500, Marie B&B LLC, the sum of \$815.22; and (d) Tax Parcel No. 85003700100, Lots 1 through 5, Block 37, Woodruff's Addition, West Central Park Project, a Washington nonprofit corporation, shall execute a covenant that runs with the land for twenty (20) years permitting nondiscriminatory public access to the park property in the form provided in Exhibit A attached to this Ordinance, or pay the sum of \$11,160.00, the method of compensation at petitioner's discretion; and

(2) provide an executed City of Olympia utility easement in the form provided in Exhibit B attached to this Ordinance; and

(3) provide the City of Olympia with a recorded copy of a correction deed vesting title in West Central Park Project, a Washington nonprofit corporation; and

(4) that failure of the abutting property owners to remit the monetary amounts designated in Section 3(1) above, to execute the covenant and easement as provided in the attached Exhibits A and B, and provide a recorded copy exhibiting the recording number of a correction deed vesting title in West Central Park Project, a Washington nonprofit corporation, within ninety (90) days of the passage of this Ordinance, shall automatically void the petition and this Ordinance without it being brought back before the City Council. The City Clerk/Treasurer shall certify on the face of this Ordinance whether or not the payments are received within the time limit referred to above, including the covenant at petitioner's option, and easement.

Section 4. The City Manager is authorized to acknowledge and accept the utility easement and covenant described above.

Section 5. I, City Clerk/Treasurer, hereby certify that the conditions for payment of the property above vacated, as approved by the City Council in Section 3 of this Ordinance and in accordance with OMC 12.16.080, were were not met within ninety (90) days of the passage of this Ordinance.

City Clerk/Treasurer Signature

Date

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

EXHIBIT A
Form of Covenant

AFTER RECORDING MAIL TO:

Legal Department
City of Olympia
P.O. Box 1967
Olympia, WA 98507-1967

Document Title:	Covenant
Grantor:	West Central Park Project, a Washington nonprofit corporation
Grantee:	City of Olympia
Legal Description:	Lots 1-5, Block 37, Woodruff's Addition
Assessor's Tax Parcel Numbers:	85003700100

The Grantor, **WEST CENTRAL PARK PROJECT**, a Washington nonprofit corporation, for and in consideration of the vacation of a public thoroughfare situated in the City of Olympia, Thurston County, State of Washington, and City of Olympia Ordinance No. _____, and other valuable considerations, hereby grants and conveys a Covenant to the Grantee, **CITY OF OLYMPIA**, a Washington municipal corporation, upon the following described real property, situated in the City of Olympia, County of Thurston, in the State of Washington (hereafter referred to as the "Property"), including all after acquired title, together with all rights consistent with said Covenant:

Lots 1-5, Block 37, Woodruff's Addition to the City of Olympia, as recorded in Volume 3 of Plats, Page 40, records of Thurston County, Washington.

COVENANT

As consideration to the Grantee, Grantor declares and Grantee agrees that the Property legally described above shall be held open to the general public for access and use as a private park on a nondiscriminatory basis, to be owned, managed, maintained, and controlled by Grantor. The Property, commonly referred to as West Central Park, shall be open to and used and occupied as a park for the benefit of the public for a period of twenty (20) years from and after the adoption and enactment of City of Olympia Ordinance No. _____.

It is the express intent of the Grantor and Grantee that the provisions of this Covenant shall be deemed to run with the land and shall pass to and be binding upon Grantor's successors in title, including any subsequent purchaser, grantee, owner, assignee, trustee, trustor, or lessee of any portion of the Property and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee, owner, assignee, trustee, trustor, or lessee of any portion of the Property and any other person or entity having any right, title or interest therein.

GRANTOR:

WEST CENTRAL PARK PROJECT, a Washington nonprofit corporation

By: _____
Print Name: _____
Title: _____

STATE OF WASHINGTON)
 : ss.
COUNTY OF THURSTON)

On the _____ day of _____ 2017, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be _____ of **WEST CENTRAL PARK PROJECT**, a Washington nonprofit corporation, who executed the foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said nonprofit corporation for the uses and purposes therein mentioned and on oath states that she/he is authorized to execute the said instrument.

WITNESS my hand and official seal the day and year first above written.

Signature
Print Name: _____
NOTARY PUBLIC in and for the State
of Washington, residing at _____
My commission expires _____

EXHIBIT B
Form of Utility Easement

After recording return document to:
City of Olympia
Attention: Legal Department
P.O. Box 1967
Olympia, WA 98507-1967

Document Title: UTILITY EASEMENT
Grantor(s): Parkside Café LLC, Orchard House LLC, Marie B&B LLC and West Central Park Project, a Washington nonprofit corporation
Grantee(s): City of Olympia
Legal Description: Block 37 Woodruff's Addition
Assessor's Tax Parcel Number: 85003701901, 85003701700, 85003701500, 85003700100

UTILITY EASEMENT

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the undersigned Grantors, **Parkside Café LLC, Orchard House LLC, Marie B&B LLC and West Central Park Project, a Washington nonprofit corporation**, do give and grant to **City of Olympia**, a municipal corporation, hereinafter called Grantee, an easement for the purpose of construction, repair, maintenance and appurtenant structures of public and private utilities, whether or not covered by a franchise agreement with the City of Olympia, including but not limited to, sanitary sewer, stormwater, water, solid waste collection, electrical, cable, fiber optic, telephone, and telecommunications, over, under, across and through the following described real property situated in the City of Olympia, County of Thurston, State of Washington, legally described as follows:

That portion of the 12-foot wide alley in Block 37 of Woodruff's Addition to the City of Olympia, as recorded in Volume 3 of Plats, Page 40, Records of Thurston County, Washington lying northerly of the easterly extension of the south line of Lot 5 in said Block 37.

Said easement shall include the right of ingress and egress to, upon, over, across and under said land at all times, to construct, maintain, operate, repair, and replace said utility; provided, however, that the City of Olympia shall have the right to utilize such additional width as may be necessary temporarily for the placing of excavated materials thereon and for construction and maintenance operations.

**GRANTOR:
ORCHARD HOUSE, LLC**

Granted this _____ day of _____, 2017.

Sign: _____
Print: _____
Title: _____

STATE OF WASHINGTON)
) ss
County of Thurston)

On this ____ day of _____ 2017, before me personally appeared _____ to me known to be the _____ of **ORCHARD HOUSE, L.L.C.**, a Washington Limited Liability Company that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Limited Liability Company, for the uses and purposes therein mentioned, and on oath stated that she/he is authorized to execute said instrument.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

Signature
Print Name: _____
Notary Public in and for the State of
Washington, residing at: _____
My commission expires: _____

GRANTOR:
MARIE B&B, LLC

Granted this _____ day of _____, 2017.

Sign: _____
Print: _____
Title: _____

STATE OF WASHINGTON)
) ss
County of Thurston)

On this _____ day of _____ 2017, before me personally appeared _____ to me known to be the _____ of **MARIE B&B L.L.C.**, a Washington Limited Liability Company, that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said Limited Liability Company, for the uses and purposes therein mentioned, and on oath stated that she/he is authorized to execute said instrument.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

Signature
Print Name: _____
Notary Public in and for the State of
Washington, residing at: _____
My commission expires: _____

GRANTOR:

WEST CENTRAL PARK PROJECT, a Washington nonprofit corporation

Granted this _____ day of _____, 2017.

Sign: _____

Print: _____

Title: _____

STATE OF WASHINGTON)

) ss

County of Thurston)

On this _____ day of _____, 2017, before me personally appeared Alicia Elliott to me known to be the _____ of **WEST CENTRAL PARK PROJECT**, a Washington nonprofit corporation, that executed the foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said nonprofit corporation, for the uses and purposes therein mentioned, and on oath stated that she is authorized to execute said instrument.

GIVEN under my hand and official seal the day and year last above written.

(SEAL)

Signature

Print Name: _____

Notary Public in and for the State of

Washington, residing at: _____

My commission expires: _____

GRANTEE:

CITY OF OLYMPIA, a Washington municipal corporation

Accepted and Approved:

By: _____

Steven R. Hall, City Manager

Date: _____

Approved as to form:

Mark Barber, City Attorney