

ORDINANCE No. 188038

Vacate a portion of an unnamed alley between N Midway Ave and N Columbia Blvd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10107)

The City of Portland ordains:

Section 1. The Council finds:

1. On December 2, 2015, the Office of the City Auditor certified a petition for the vacation of a portion of an unnamed alley between N Midway Ave and N Columbia Blvd (the "Street Area"), with the petition initiated by Frankie Maduzia, the owner of adjoining property (the "Petitioner").
2. The petition states that the reason for the vacation is to join the unused alley to the Petitioner's lot and use as yard space, thereby addressing the neglected land and safety concerns.
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 August 18, 2016 and on file with the Office of the City Auditor (the "Auditor") and the Bureau of Transportation ("PBOT").
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 to vacate the Street Area.

NOW, THEREFORE, the Council directs:

- a. The following described Street Area, as depicted on the attached Exhibit 1, is hereby vacated:

A parcel of land in the Plat of East St. Johns, City of Portland, Multnomah County, Oregon, consisting of that portion of the alley in Block 34 of said Plat, lying between the east right-of-way line of N. Midway Avenue (being 60 feet wide) and a line parallel with, and 4 feet west of, the westerly right-of-way line of N. Columbia Boulevard (being 80 feet wide).

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

1. **Bureau of Transportation, Permit Engineering.** The Petitioner will permanently close the unnamed alley where it intersects with N. Midway Street and N. Columbia Boulevard, and pay all costs to re-establish full curb height, in accordance with the requirements of the City Engineer.
 - i) To ensure the completion of the required street improvements, the Petitioner shall provide to the City Engineer, a *Performance Guarantee. The Petitioner acknowledges that the Performance Guarantee indicated is a preliminary estimate subject to change, and agrees to provide additional guarantee and/or fees as required by the City Engineer.
**the Petitioner will need to apply for a public works permit in order to provide the City with a Performance Guarantee.*
 - ii) The Petitioner agrees to authorize the City to complete the required street improvements at the Petitioner's cost, whether by using the Performance Guarantee or by other means of payment, in the event that the City Engineer, at his sole discretion, determines that the improvements are not being made as required in a reasonable time.
 - iii) The Petitioner agrees to obtain the necessary permits to complete the required improvements.
2. **Bureau of Transportation, Development Review.** The Petitioner will 1) permanently close the alley approaches where they intersect with N. Midway Street and N. Columbia Boulevard; 2) maintain 12 feet of right-of-way from the face of curb at each intersection; 3) pay all costs to construct a curb across the N. Columbia alley approach; and 4) pay all costs to extend the sidewalk across the N. Midway alley approach, in accordance with the requirements of the City Engineer.
3. **Bureau of Development Services.** The Bureau of Development Services requires that the Ordinance restrict secondary street access. No curb cuts will be allowed from Lot 25, Block 34, East St. Johns (aka 6945 N. Olympia) through the Street Area to N. Columbia Boulevard.
4. In accordance with ORS 271.120 and City of Portland policy, the street vacation ordinance (this "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 Portland General Electric. Subject to Paragraph 8 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 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 b(4), 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 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 this Ordinance at its sole discretion.

Section 2. Petitioner shall file with the Auditor, in form approved by the City Attorney, a document in writing, accepting the terms and conditions of this Ordinance.

Section 3. Notice is given that the street vacation will not be effective until a certified copy of this 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 the Right-of-Way Acquisition ("RWA") Section, PBOT, 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 RWA Section shall return the recorded Ordinance to the Auditor and retain a copy in RWA File No. 8051.

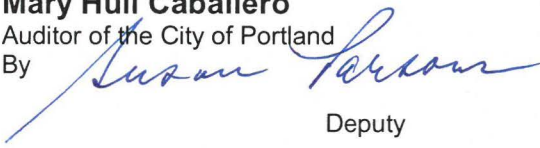
188038

Passed by the Council,

OCT 12 2016

Commissioner Steve Novick
Prepared by: Karl Arruda:CK
Date Prepared: 8/29/16

Mary Hull Caballero

Auditor of the City of Portland
By 

Deputy

1110 1144

v140

Agenda No.
ORDINANCE NO. 188038
Title

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<p>INTRODUCED BY Commissioner/Auditor: COMMISSIONER STEVE NOVICK</p>	<p>CLERK USE: DATE FILED <u>SEP 27 2016</u></p>
<p>COMMISSIONER APPROVAL</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>CW</i></p>	<p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Transportation Development, Permitting & Transit Group Manager: Christine Leon <i>[Signature]</i> Division Mgr: Assistant Director: Maurice Henderson <i>[Signature]</i></p> <p>Prepared by: Karl Arruda: ck <i>KNA</i> Date Prepared: August 29, 2016 Supervisor: Dave McEldowney <i>DM</i></p>	<p>ACTION TAKEN:</p> <p>OCT 06 2016 PASSED TO SECOND READING OCT 12 2016 9:30 A.M.</p>
<p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>City Auditor Office Approval: required for Code Ordinances</p>	
<p>City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i></p>	
<p>Council Meeting Date October 5, 2016</p>	

AGENDA
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: 10 minutes (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	✓	