

ORDINANCE No. 188928

Vacate a portion of SE Claybourne St East of SE 122nd Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10120)

The City of Portland ordains:

Section 1. The Council finds:

1. On August 10, 2016 and in accordance with ORS 271.130, the City of Portland (“City”), through its Bureau of Parks and Recreation (“PP&R” or “Petitioner”), the controlling bureau of adjoining property, initiated the vacation of a portion of SE Claybourne Street east of SE 122nd Avenue (the “Street Area”).
2. The purpose of the vacation is to consolidate property as a part of the first phase of Leach Botanical Garden’s 25-year master plan. This plan underwent a Conditional Use review (LU 17-143151) through a Type III hearing, was approved, and became effective on November 27, 2017.
3. The Street Area is not currently improved to City standards and only a small portion on the western end is open to motor vehicle traffic. SE Claybourne Street east of SE 122nd Avenue does not connect to any other public rights-of-way.
4. The vacation is in conformance with the City's Comprehensive Plan and is consistent with recommendations made by the Director of the Bureau of Transportation (“PBOT”) and Planning and Sustainability Commission, as provided in the Bureau Director's Report, dated February 16, 2018 and on file with the Office of the City Auditor (the “Auditor”) and PBOT.
5. In accordance with ORS 271.100, Portland City Council (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, and provided notice to property owners in the affected area as required by ORS 271.110 and 130.
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 to vacate the Street Area.

NOW, THEREFORE, the Council directs:

- a. The following described Street Area, as depicted on the attached **Exhibit A**, and incorporated by reference, is hereby vacated:

A portion of SE Claybourne Street situated in Section 23, T1S, R2E, W.M., City of Portland, County of Multnomah, State of Oregon, being that portion of said SE Claybourne Street, (being 20.00 feet wide), lying between the southerly extension of the east line of Lot 6 in the duly recorded plat of "LENTONA" and a line extended southerly from a point located on the north right-of-way line of said SE Claybourne Street, said point being 100.00 feet west of the southeast corner of Lot 5 of said Plat.

Containing 5,380 square feet, more or less.

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

1. PP&R will consolidate all lots that will lose legal street frontage as a result of the street vacation. Split zoning currently exists between the affected parcels. PP&R will reconcile these zoning differences prior to the lot consolidation process being completed. The lot consolidation will be completed and recorded concurrently with the recording of this street vacation ordinance (this "Ordinance").
2. PP&R will complete a Tax Lot Account Consolidation with Multnomah County for tax lots R206248, R336887, R336916, and R336926;

AND EITHER:

a) Pay for a new water main to be installed in SE 122nd Avenue for connection to the 1" water line that feeds the metered services for 12326 and 12323 SE Claybourne Street; **and** b) Relocate the portion of the backside service line for 12323 SE Claybourne Street out of the SE Claybourne right-of-way that remains;

OR

a) PP&R will pay for a water main extension in the remaining portion of SE Claybourne Street and the relocation of water services for 12326 and 12323 SE Claybourne Street; **and** b) Cut and plug the existing 1" water main located on private property that provides water to the above listed services.

3. In accordance with ORS 271.120 and City policy, 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 **Northwest Natural**. Subject to Paragraph 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 the Street Area 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 Area will require written agreements between the Petitioner and owner(s) of the utilities.

4. Notwithstanding Condition b3, this 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, the 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 a copy of the recorded ordinance to the Auditor and retain the original in RWA File No. 8250.

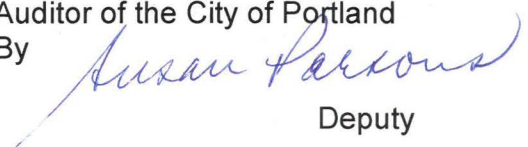
188928

Passed by the Council: MAY 09 2018

Commissioner Dan Saltzman
Prepared by: Lance Lindahl: SP
Date Prepared: March 27, 2018

Mary Hull Caballero
Auditor of the City of Portland

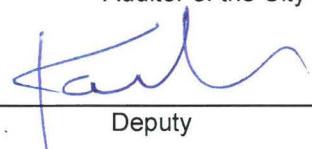
By

A handwritten signature in blue ink that reads "Susan Parsons". The signature is written in a cursive style and is positioned to the right of the word "By".

Deputy

Agenda No. **188928**
ORDINANCE NO.
 Title

Vacate a portion of SE Claybourne St east of SE 122nd Ave subject to certain conditions and reservations (Hearing; Ordinance; VAC-10120)

<p>INTRODUCED BY Commissioner/Auditor: COMMISSIONER DAN SALTZMAN</p> <p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Wheeler</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety – Eudaly</p> <p>BUREAU APPROVAL</p> <p>Bureau: Transportation Development Permitting & Transit Group Manager: Christine Leon Asst. Director: Chris Warner</p> <p>Prepared by: Lance Lindahl Date Prepared: March 27, 2018 Supervisor: Dave McEldowney</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</p> <p>Council Meeting Date May 2, 2018</p>	<p>CLERK USE: DATE FILED <u>APR 24 2018</u></p> <p>Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u></u> Deputy</p> <p>ACTION TAKEN:</p> <p>MAY 02 2018 PASSED TO SECOND READING MAY 09 2018 9:30 A.M.</p>
---	--

AGENDA

TIME CERTAIN
 Start time: _____
 Total amount of time needed: _____
 (for presentation, testimony and discussion)

CONSENT

REGULAR
 Total amount of time needed: **10 Minutes**
 (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. Eudaly	4. Eudaly ✓	
Wheeler	Wheeler ✓	