

IMPACT STATEMENT

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

Contact name: Lance Lindahl, PBOT Right-of-Way Acquisition

Contact phone: 503-823-7465

Presenter name: Lance Lindahl

Purpose of proposed legislation and background information: 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").

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.

PP&R plans to construct a driveway, landscaping, a gift shop, and administrative offices in the Street Area. A new network of sidewalks and pedestrian paths will be built nearby.

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. The Street Area is depicted on **Exhibit A** of the Ordinance.

The Planning and Sustainability Commission ("PSC") reviewed and recommended approval of the street vacation request on January 9, 2018.

The attached Bureau Director's Report was completed on February 16, 2018, reflecting PSC's recommendation subject to certain conditions and reservations.

The ordinance complies with state law under ORS 271 and City Code, Chapter 17.84.

Financial and budgetary impacts: The process for vacating streets is a cost recovery program, typically paid for by the Petitioner, and does not have a net impact on PBOT's budget. Expenses for processing a street vacation request typically range between \$8,000 and \$20,000, depending on the complexity. The cost of this street vacation falls below the low end of the range and is estimated (with moderate confidence) to be approximately \$6,500.

PP&R has provided a billing number for actual expenditures incurred by City staff for the processing of this request. The SAP Cost Object is 7TRPK0000095. Expenses are occurring in FY 2016-17 and FY 2017-18.

This legislation does not affect staffing levels nor will result in a new or modified financial obligation or benefit now or in the future.

If City Council does not approve the ordinance, the Street Area will remain as public right-of-way. PP&R will be limited in their use of this area and will need to revise their development plans.

Community impacts and community involvement: Vacation proceedings have been City initiated without a petition or consent of property owners in accordance with ORS 271.130 (Vacation on council's own motion) and notice shall be given as provided by ORS 271.110 (Notice of hearing).

Comments were solicited from City Bureaus, government agencies, public utilities and affected neighborhood and business associations in Southwest Portland. PBOT did not receive any objections to the vacation request.

The PSC advertised and then held a public hearing on January 9, 2018. No one from the public came forward to testify in support or opposition of the vacation, and the PSC ultimately recommended approval of the proposed vacation.

There do not appear to be any other impacts to the community from vacating this right-of-way. No opposition to this street vacation request is expected. There is no future public involvement anticipated since the ordinance will conclude the street vacation process.

Information regarding the advertising details can be provided by Toni Anderson, City Auditor's Office, 503-823-4022, or toni.anderson@portlandoregon.gov.

Budgetary Impact Worksheet

Does this action change appropriations?

- ☐ **YES:** Please complete the information below.
☒ **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

PBOT

PORTLAND BUREAU OF TRANSPORTATION

BACKGROUND INFORMATION

*** ONLY ***

ADDITIONAL DOCUMENT

1120 SW Fifth Avenue, Suite 800 Portland, OR 97204 503.823.5185
Fax 503.823.7576 TTY 503.823.6868 www.portlandoregon.gov/transportation

Dan Saltzman Commissioner Leah Treat Director

February 16, 2018

FINDINGS & RECOMENDATIONS REPORT FROM THE BUREAU DIRECTOR TO CITY COUNCIL ON THE PROPOSED VACATION OF SE CLAYBOURNE STREET EAST OF SE 122ND AVENUE. (R/W #8250)

1. Background

- A. **Proposed Street Vacation Area.** SE Claybourne Street east of SE 122nd Avenue, said area being approximately 269 feet long by 20 feet wide, containing approximately 5,380 square feet (the "Vacation Area"). The Vacation 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.
- B. **Petitioner.** The vacation request has been initiated by the City of Portland thru the Bureau of Parks and Recreation ("PP&R"), who controls the property that abuts the Vacation Area.
- C. **Purpose.** The street vacation is proposed in order to consolidate property as a part of the first phase of Leach Botanical Garden's 25-year master plan.
- D. **Compliance with Minimum Requirements.** Vacation proceedings have been City initiated without a petition or consent of property owners in accordance with ORS 271.130 (Vacation on council's own motion) and notice shall be given as provided by ORS 271.110 (Notice of hearing).
- E. **Due Diligence Review.** Comments were solicited from City Bureaus, government agencies, public utilities and affected neighborhood associations. A summary of this due diligence effort is attached as **Exhibit B** and incorporated by reference. Of particular significance were comments by the Bureau of Development Services and the Water Bureau which requested that certain conditions be satisfied prior to the street being vacated.
- F. **Planning and Sustainability Commission Review.** The Planning and Sustainability Commission reviewed and recommended approval of the Vacation Area on January 9,



The Portland Bureau of Transportation fully complies with Title VI of the Civil Rights Act of 1964, the ADA Title II, and related statutes and regulations in all programs and activities. For accommodations, complaints and information, call (503) 823-5185, City TTY (503) 823-6868, or use Oregon Relay Service: 711.

2018, with its Report and Recommendation attached as **Exhibit C** and incorporated by reference.

- G. Costs.** The vacation request was initiated by the City's Bureau of Parks and Recreation. The Representative has provided an Internal Order No. to bill the bureau directly to reimburse the department for staff costs incurred for processing the street vacation request.

2. Bureau of Transportation Recommendation

The Bureau of Transportation hereby finds the proposed street vacation application to be acceptable, and in the event that no substantive objections are made known to City Council at the upcoming public hearing, recommends approval of the street vacation, subject to the conditions and reservations specified below. The Vacation Area is more specifically described as follows:

A certain portion of SE Claybourne Street situated in Section 23, T1S, R2E, W.M., City of Portland, County of Multnomah, State of Oregon, being all 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 that is 100.00 feet west of the southeast corner of Lot 5 of the said plat of "LENTONA", as depicted on attached **Exhibit A** and incorporated by reference.

Containing 5,380 square feet, more or less.

3. Conditions

The following conditions must be satisfied by the Petitioner prior to the street vacation ordinance (the "Ordinance") being recorded by the City and thereby considered effective:

- A. Bureau of Development Services.** Lot consolidations will be recorded for 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. Said lot consolidation process will be completed prior to the Ordinance being recorded.
- B. Water Bureau.** PP&R will complete a Tax Lot Account Consolidation with Multnomah County for tax lots R206248, R336887, R336916, and R336926;

AND EITHER:

1) 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** 2) Relocate the portion of the backside service line for 12323 SE Claybourne Street out of the SE Claybourne right-of-way that remains;

OR

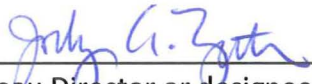
1) PP&R will pay for a water main extension in the remaining portion of SE Claybourne Street and the relocation of water services for 12326 and 12323 SE Claybourne Street; **and** 2) Cut and plug the existing 1" water main located on private property that provides water to the above listed services.

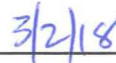
C. **Utilities.** In accordance with ORS 271.120 and City of Portland policy, the Ordinance shall not cause or require the removal or abandonment of any sewer, water or gas main, conduit of any kind, wire, pole or thing used, or intended to be used, for any public service, including, but not limited to those identified by **Northwest Natural**. 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 the Vacation 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 and release of easements in the Vacation Area will require the necessary conveyance documents and possible written agreements between the Petitioner and owner(s) of the utilities.

D. **City Release.** Notwithstanding Condition 3D, the Ordinance will serve as a full release of City interests in the 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.

4. **Repeal.** In the event the above conditions are not met within one year of Council adopting the Ordinance, City Council may repeal the Ordinance at its sole discretion.

5. **Effective Date.** The street vacation will not be effective until a certified copy of the Ordinance has been recorded by the City in Multnomah County Deed Records. Prerequisites to recording the Ordinance are that 30 days have passed after final Council passage of the Ordinance, that all conditions of the Ordinance have been met, and that all vacation costs have been paid.


Bureau Director or designee


Date

TO THE COUNCIL:

The Commissioner-in-Charge concurs with the recommendation of the Bureau Director and the Planning and Sustainability Commission and;

RECOMMENDS:

That the City Council accepts the Bureau Director and Planning and Sustainability Commission Reports, which recommend that the proposed street area be vacated subject to conditions and reservations provided herein.

Respectfully submitted,

Commissioner Dan Saltzman

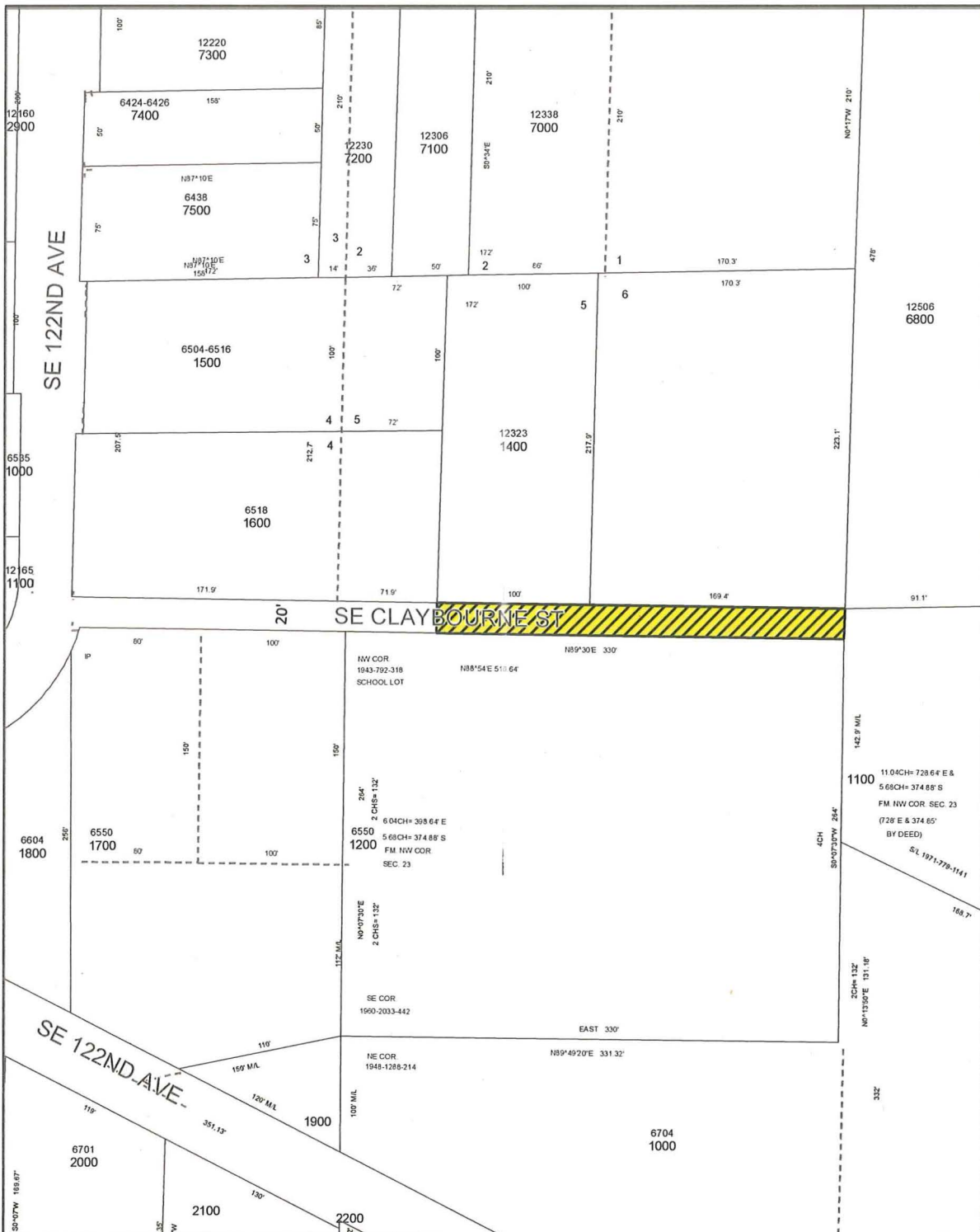
Attachments:

Exhibit A, Proposed Map

Exhibit B, Summary of Comments

Exhibit C, Planning & Sustainability Commission Recommendation

EXHIBIT A



SE Claybourne St east of SE 122nd Ave

Petitioner: City of Portland/Bureau of Parks and Recreation



Area proposed for vacation

R/W: 8250 1/4 Section: 3743 Section: 1S2E23BB



1 inch = 100 feet

EXHIBIT B

Comments Summary

R/W #8250 SE Claybourne Street east of SE 122nd Avenue	RWA Project Manager: Lance D. Lindahl	Petitioner/Applicant: City of Portland, Bureau of Parks and Recreation
7TRPK0000095		Contact: Ross Swanson
VAC-Pending		Phone: 503-823-3577
IQ # 16-283405		Email: ross.swanson@portlandoregon.gov
Commenting Party	Response Date	Comments / Conditions
City Bureaus / Depts. Notified:		
City Auditor Toni Anderson	8/10/16	City initiated.
PBOT Development Review Bob Haley	1/6/17	No objection.
Transportation Planning Courtney Duke 503-823-7265	2/1/17	No objection subject to conditions: Same requirement as Development Services.
PBOT Permit Engineering Chris Wier	1/10/17	No objection.
PBOT Trans Systems Mgmt Carl Snyder	12/14/16	No objection.
PBOT Bridges and Structures Cameron Glasgow	12/29/16	No objection.
Development Services Diane Hale 503-823-7705	2/1/17	No objection subject to conditions: Lot consolidations are required in order for three lots owned by PP&R to not become landlocked. Split zoning currently exists between the affected parcels. PP&R will reconcile these zoning differences prior to the lot consolidation process being completed. Said lot consolidation process will be completed prior to the street vacation ordinance being recorded.
Development Services Lisa Baumgartner	12/14/16	No objection.
Environmental Services Melanie Gualotunia	1/6/17	No objection.

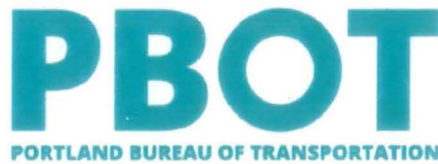
Comments Summary

Commenting Party	Response Date	Comments / Conditions
Water Bureau Terry Wenz 503-823-7171	1/13/17	<p>No objection subject to conditions: PP&R will complete a <u>Tax Lot Account Consolidation</u> of tax lots R206248, R336887, R336916, and R336926;</p> <p><u>AND EITHER</u></p> <p>1) 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 2) Relocate the portion of the backside service line for 12323 SE Claybourne Street out of the SE Claybourne right-of-way that remains;</p> <p><u>OR</u></p> <p>1) 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 2) Cut and plug the existing 1" water main located on private property that provides water to the above listed services.</p>
Fire Bureau Kari Schimel	12/13/16	No objection.
Park Bureau Robi Potter	1/24/17	No objection.
Urban Forestry Division Joel Smith	1/12/17	No objection.
BTS Corporate GIS Paul Cone	1/9/17	No objection.
PBOT Street Lighting Dan Spoelstra	12/12/16	No objection.
PBOT Parking Control Kelly Sills	12/16/16	No objection.
Planning & Sustainability Commission	1/9/18	Approved.
Neigh Assoc Notified:		
Pleasant Valley NA Steve Montgomery, Land Use Chair		No response.

Comments Summary

Commenting Party	Response Date	Comments / Conditions
East Portland (EPNO) Richard Bixby, Executive Director		No response.
Local Agencies Notified:		
ODOT Region 1 Tamara Patrick		No response.
Port of Portland Phil Healy		No response.
TriMet Nick Stewart	12/13/16	No objection.
Public Utilities Notified:		
PGE Jennifer Stephens		No response.
Pacific Power Scott Mease	12/13/16	No facilities in street area.
CenturyLink Lynn M. Smith		No response.
Northwest Natural Richard Hawkes 503-226-4211 Ext. 4321	12/20/16	Have facilities in street area; reserve easement.
Comcast Matt Parris	12/12/16	No facilities in street area.

EXHIBIT C



1120 SW Fifth Avenue, Suite 800 Portland, OR 97204 503.823.5185
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Dan Saltzman Commissioner Leah Treat Director

CITY OF PORTLAND PLANNING AND SUSTAINABILITY COMMISSION REPORT AND RECOMMENDATION TO THE PORTLAND CITY COUNCIL

CONSENT AGENDA HEARD ON JANUARY 9, 2018

FILE NUMBER: R/W #8250

I. GENERAL INFORMATION

Street Vacation Request: R/W #8250, SE Claybourne Street east of SE 122nd Avenue

Petitioner: City of Portland, Bureau of Parks and Recreation. The representative is Ross Swanson, ross.swanson@portlandoregon.gov & (503) 823-3577

Purpose: The purpose of the proposed vacation is to consolidate abutting property as part of phase 1 of Leach Botanical Garden's 25-year master plan.

Neighborhood: Pleasant Valley Neighborhood Association

Quarter Sections: 3743

Designation/Zone: OS (Open Space)/R5a (Residential 5,000 Alternative Design Density overlay)



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II. EXECUTIVE SUMMARY AND RECOMMENDATION

The purpose of this action is to vacate right-of-way that is not used for a transportation purpose to consolidate abutting property as part of phase 1 of Leach Botanical Garden's 25-year master plan. The Planning and Sustainability Commission recommends **APPROVAL** of the street vacation request, with conditions.

III. FACTS

A. History and Background

The petitioner has requested the proposed vacation to consolidate abutting property. The proposed street vacation is part of Phase 1 of Leach Botanical Garden's 25-year master plan. Vacating the right-of-way would allow Portland Parks and Recreation (PP&R) to connect the fee-owned properties to the north, east, and south of SE Claybourne Street. Portland Parks and Recreation intends to use the vacated street for maintenance and administrative purposes, in addition to fencing off the area for security.

B. Concurrent Land Use Actions

There are no concurrent land use actions at this time. A Conditional Use review (LU 17-143151) for the Leach Botanical Gardens was approved at a Type III hearing and became effective on November 27, 2017.

C. The Transportation Element

SE Claybourne Street is classified as a Local Service Traffic Street, Local Service Transit Street, Local Service Bikeway, Local Service Pedestrian Street, Local Freight Street, Minor Emergency Response Street, and Local Design Street in the transportation element of the Comprehensive Plan.

D. Neighborhood Plan

The Pleasant Valley Neighborhood Plan (1996) includes Policy 5 which aims to "Continue the unique livability of the Pleasant Valley Neighborhood by ensuring that our current and future parks, green spaces, open spaces, and recreational opportunities meet the needs of metropolitan residents for recreational uses." The proposed street vacation and future Leach Botanical Gardens master plan development are consistent with these land use and transportation visions.

IV. FINDINGS

A. Comprehensive Plan Goals and Policies Consideration

The relevant policies of the Comprehensive Plan are:



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Policy 6.20 Connectivity states:

Support development of an interconnected, multimodal transportation system to serve mixed-use areas, residential neighborhoods, and other activity centers.

Comment: SE Claybourne Street at this location is a gravel roadway that does not connect to another roadway east of SE 122nd Ave. The right of way does not serve the larger transportation network.

Policy 6.21 Right-of-Way Opportunities states:

Preserve existing rights-of-way unless there is no existing or future need for them, established street patterns will not be significantly interrupted, and the functional purposes of nearby streets will be maintained.

Comment: SE Claybourne Street at this location does not provide connectivity. If vacated, it will be used by Portland Parks and Recreation for maintenance and administrative purposes. The established street patterns will not be interrupted by the proposed street vacation.

Policy 8.14 Natural Resources, Objective I. States:

Consideration of Scenic Resources in Street Vacations. Require the preservation and maintenance of existing and potential view corridors and view points when approving street vacations. Require view easements within or near street vacations where access to viewpoints or view corridors is desired.

Comment: No existing or potential view corridors have been identified in the review of the street vacation request.

Policy 11.11 Street Plans, Objectives D and E state:

D. Provide full street connections with spacing of no more than 530 feet between connections, except where prevented by barriers such as topography, railroads, freeways, or environmental constraints.

E. Provide bike and pedestrian connections at approximately 330-foot intervals on public easements or rights-of-way when full street connections are not possible, except where prevented by barriers such as topography, railroads, freeways, or environmental constraints.

Comment: Per Objective D, the proposed street vacation does not impact full street connections spacing.

Per Objective E, the proposed street vacation does not impact bicycle and pedestrian connectivity and access.



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Policy 12.4 Provide for Pedestrians, Objective G. states:

Retain rights for pedestrian access and circulation when considering requests for street vacations. Preserve existing pedestrian routes and protect routes needed by pedestrians in the future. Ensure that street vacations do not reduce access to light and air or the intimate scale that is so much a part of Portland's character.

Comment: Existing pedestrian access will not be impacted if this vacation request is approved.

B. Neighborhood Plan Considerations

Comment: The proposed vacation is intended to support future expansion of Leach Botanical Gardens, which is consistent with the adopted Pleasant Valley Neighborhood Plan.

C. Other Relevant Comprehensive Plan Policies (and/or Plans)

Comment: There are no other Comprehensive Plan policies or policies from other adopted plans that are relevant to this request.

D. Zoning Code Considerations

Other zoning code designations that could apply and that should be considered during review of a street vacation request include environmental zoning or designation as a recreational greenway trail.

Comment: There are no zoning code considerations.

E. Subdivision Code Considerations

Notice of this street vacation request was provided to the Bureau of Development Services (BDS) to determine if there are any relevant impacts to consider related to future subdivision of property in the area. BDS responded with the following condition for approval:

- The Bureau of Development Services have required that lot consolidations in order for three lots owned by PP&R to not become landlocked. Split zoning currently exists between the affected parcels. PP&R will reconcile these zoning differences prior to the lot consolidation process being completed. Said lot consolidation will be completed prior to the street vacation ordinance being recorded

F. Improvement and Utility Considerations

The street vacation request was reviewed by PBOT for conformance with standards for street improvements. The following conditions will be required:



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- PBOT Transportation Planning requires the lot consolidations detailed above in section IV.E.

Other public agencies, public and private utilities were notified of this street vacation request.

- The Portland Water Bureau responded with the following condition for approval:
 - The Water Bureau has required that PP&R complete a Tax Lot Account Consolidation of tax lots R206248, R336916, and R336926. Also, PP&R will either: 1) 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 2) Relocate the portion of the backside service line for 12323 SE Claybourne Street out of the SE Claybourne right-of-way that remains; OR 1) 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 2) Cut and plug the existing 1" water main located on private property that provides water to the above listed services.
- Bureau of Environmental Services responded with no objection.
- Portland Fire and Rescue responded with no objection.
- Urban Forestry responded with no objection.
- Portland Parks and Recreation responded with no objection.
- The Bureau of Technology Services responded with no objection.
- TriMet responded with no objection.
- Pacific Power responded that it does not have facilities in the street area.
- Comcast responded that it does not have facilities in the street area.
- ODOT did not respond.
- The Port of Portland did not respond.
- PGE did not respond.
- CenturyLink did not respond.
- Northwest Natural responded that it has facilities in the street area and an easement needs to be reserved.

G. Neighborhood Issues

Notice of this street vacation request was provided to the Pleasant Valley Neighborhood Association and East Portland Neighborhood Organization. Neither provided a response.



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V. CONCLUSIONS

Based on the above analysis, Portland Bureau of Transportation states that the right-of-way is not needed to provide future facilities. Additionally, approval of the street vacation will not affect the functional performance of the street system in the area.

VI. PLANNING AND SUSTAINABILITY COMMISSION RECOMMENDATION

As a consent agenda item on the January 9, 2018 meeting, the Planning and Sustainability Commission recommended **approval** of the vacation of the area as shown on Exhibit 1, **with conditions**:

- Prior to recording the street vacation ordinance, the Petitioner shall comply with all conditions set forth in Section IV.E and IV.F above.

VII. EXHIBITS

1. Area proposed for vacation

Bureau of Transportation Staff Planner
Bob Kellett
503/823-6127
Bob.Kellett@portlandoregon.gov

cc: Lance Lindahl, Right-of-Way Case Manager



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[illegible]

Petitioner: City of Portland/Bureau of Parks and Recreation



R/W: 8250 1/4 Section: 3743 Section: 1S2E23BB



1 inch = 100 feet