

ORDINANCE No. 189233

Vacate a portion of an unnamed road east of NE 160th Ave and south of NE Halsey St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10116)

The City of Portland ordains:

Section 1. The Council finds:

1. On May 3, 2017, the Office of the City Auditor (the "Auditor") certified a petition for the vacation of a portion of an unnamed road east of NE 160th Ave and south of NE Halsey St, with the petition initiated by Donald Etter and Valerie Nipper, the owners of the adjoining property (the "Petitioner").
2. The petition states that the reason for the vacation is to consolidate property for development. Petitioner has preliminary plans for partitioning the adjacent parcels.
3. 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 ("PSC"), as provided in the Bureau Director's Report, dated July 1, 2018 and on file with the Auditor and PBOT.
4. In accordance with ORS 271.100, the 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.
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, as defined in Section 1.a below.
6. The PSC recommended that, at the time of development, PBOT require the developer to install signage and to illuminate the pedestrian and bicycle pathway to improve safety. The PSC also asked PBOT to send a request to the City of Gresham to ask for installation of a street pole light at the intersection of the south end of the walkway and NE 161st Avenue.

NOW, THEREFORE, the Council directs:

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

An unnamed road east of NE 160th Avenue, said road lying within the north 50.00 feet

of Lot 24, in the duly recorded Plat of "Subdivision of Lot 9, Block A; Lot 7, Block E; Lot 7, Block F; Lot 7, Block G and Lot 17, Block H, Glendoveer Acres", Multnomah County Plat Records, excepting therefrom the east 16.00 feet, depicted on **Exhibit 1**, attached and incorporated by reference (the "Street Area").

- b. The vacation of the above-described Street Area is granted subject to the following conditions:
1. PBOT, Development Review. Subject to Paragraph 4 below, Petitioner will grant to PBOT the following:
 - i. A 15-foot wide pedestrian walkway easement running east/west along the center of the Street Area, in substantially the same form as attached **Exhibit 2** and incorporated by reference.
 - ii. A 16-foot wide right-of-way dedication extending from the southeast corner of the Street Area to the south property line of 1250 NE 160th Avenue, in substantially the same form as attached **Exhibit 3** and incorporated by reference.
 2. In accordance with ORS 271.120 and City 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. Subject to Paragraph 4 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.
 3. Notwithstanding Condition b.2 and except for Condition b.1, 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.
 4. 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.

5. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
6. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting this Ordinance, 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 send a copy of the recorded ordinance to the Auditor and retain the original in RWA File No. 8351.

Passed by the Council: OCT 31 2018

Commissioner Chloe Eudaly
Prepared by: Karl Arruda: sp
Date Prepared: September 5, 2018

Mary Hull Caballero
Auditor of the City of Portland
By 

Deputy

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INTRODUCED BY Commissioner/Auditor: Chloe Eudaly	CLERK USE: DATE FILED <u>OCT 16 2018</u>
COMMISSIONER APPROVAL Mayor—Finance & Administration – Wheeler Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly <i>for CE</i>	Mary Hull Caballero Auditor of the City of Portland By: <u><i>Susan Larson</i></u> Deputy
BUREAU APPROVAL Bureau: PBOT Development Permitting & Transit Group Manager: Christine Leon Asst. Director: Chris Warner <i>KWA</i> Prepared by: Karl Arruda <i>KWA</i> Supervisor: David McEldowney: CB Date Prepared: September 5, 2018	ACTION TAKEN: OCT 24 2018 PASSED TO SECOND READING OCT 31 2018 9:30 A.M.
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, charter, Comp Plan <i>KWA</i>	
Council Meeting Date: October 24, 2018	

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

Revised 8/2017

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	<input checked="" type="checkbox"/>	
2. Fish	2. Fish	<input checked="" type="checkbox"/>	
3. Saltzman	3. Saltzman	<input checked="" type="checkbox"/>	
4. Eudaly	4. Eudaly	<input checked="" type="checkbox"/>	
Wheeler	Wheeler	<input checked="" type="checkbox"/>	