

ORDINANCE NO. 189535

\*Waive application of Title 33 Buffer Overlay Zone requirement to 2025 SE 82<sup>nd</sup> Ave to facilitate the relocation and alignment of an existing driveway in conjunction with construction of the SE 80<sup>th</sup> Avenue and Mill Street Local Improvement District (Ordinance; waive application of Code Section 33.410.040 C; C-10060)

The City of Portland ordains:

Section 1. The Council finds:

1. The City Council adopted Ordinance No. 188786 on January 24, 2018, forming the SE 80<sup>th</sup> Avenue & Mill Street Local Improvement District (LID).
2. The scope of the LID includes right-of-way improvements on SE 80<sup>th</sup> Avenue from 100 feet north of SE Grant Street to SE Market Street and on SE Mill Street from SE 80<sup>th</sup> Avenue to SE 82<sup>nd</sup> Avenue. The project also includes sanitary sewer improvements to SE Mill Street from SE 80<sup>th</sup> Avenue to SE 82<sup>nd</sup> Avenue.
3. The right-of-way improvements on SE 80<sup>th</sup> Avenue includes improvements to the entire frontage of Slavic Church Emmanuel, addressed as 2025 SE 82<sup>nd</sup> Avenue. The church has an existing driveway connecting to SE 80<sup>th</sup> Avenue. The church also has driveway access to SE 82<sup>nd</sup> Avenue which is not affected by this Ordinance.
4. The Slavic Church Emmanuel site is zoned EG1b (General Employment 1 with a Buffer Overlay Zone). The Buffer Overlay Zone covers the western 100 feet of the site.
5. The Slavic Church Emmanuel driveway connecting to SE 80<sup>th</sup> Avenue needs to be relocated for safety reasons and to correct its alignment with the right-of-way in conjunction with construction of the LID project. Relocating the driveway and imposing limitations on when the driveway is open for access will also reduce the potential for cut-through traffic between SE 80<sup>th</sup> Avenue and SE 82<sup>nd</sup> Avenue.
6. Vehicle access through the Buffer Overlay Zone to non-residential uses is normally prohibited by Code section 33.410.040 C.3.
7. The need to relocate and redesign the driveway is a result of the Council's approval of the LID formation and was not the result of a permit or land use action initiated by Slavic Church Emmanuel.

NOW THEREFORE, the Council directs:

- a. A driveway will be constructed at a location deemed suitable by the City Engineer, as will be shown on the final plans. The application of Code section 33.410.040 C.3, which prohibits driveways serving non-residential uses in the Buffer Overlay Zone, is waived for the property at 2025 SE 82<sup>nd</sup> Avenue for this purpose.

- b. The existing nonconforming driveway will be relocated subject to the discretion and authority of the City Engineer per directive 'e' of Ordinance No. 188786. This will likely require a 90-degree angled connection with SE 80<sup>th</sup> Avenue and an offset of the driveway away from existing intersections abutting Slavic Church Emmanuel to discourage use of the driveway for cut-through traffic.
- c. That Slavic Church Emmanuel may not allow its relocated driveway connecting to SE 80<sup>th</sup> Avenue to be open for more than 24 continuous hours in any continuous 7-day period. Slavic Church Emmanuel will install a gate or other barrier at its own expense within 30 days of written direction by the City Engineer to do so following completion of LID construction. The gate or other barrier will be installed on private property and not within the public right-of-way.
- d. That, in the event of a change of occupancy or redevelopment of 2025 SE 82<sup>nd</sup> Avenue, the then-current Buffer Overlay Zone requirements will be applied and the driveway must be closed according to the specifications of the City Engineer and at the expense of the then-owner of 2025 SE 82<sup>nd</sup> Avenue.
- e. That Slavic Church Emmanuel must execute a temporary construction easement allowing the City to perform the work needed to close the current driveway connecting 2025 SE 82<sup>nd</sup> Avenue to SE 80<sup>th</sup> Avenue.
- f. That, if Slavic Church Emmanuel fails to perform any necessary work on private property to effect directives 'b' and 'c', the Buffer Overlay Zone requirements will be applied and the City will close the current driveway.
- g. That Slavic Church Emmanuel must provide an executed temporary construction easement allowing the City to close the relocated driveway if directives 'c' or 'd' of this Ordinance are not met or if there is a change of land use at the site. The location of the relocated driveway will be shown on the final plans to be approved by the City Engineer.

Section 2. The Council declares that an emergency exists because final City Engineer approval of the plans for this project must be subsequent to approval of this Ordinance, and the adjacency of the LID to Bridger Elementary School underscores the importance of completing construction to the extent possible in advance of the start of the 2019-20 school year; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: JUN 05 2019

Mayor Ted Wheeler

Prepared by: Matt Wickstrom, BDS  
Date Prepared: May 29, 2019

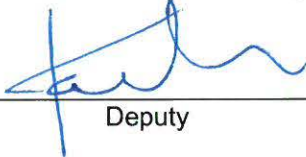


**Mary Hull Caballero**  
Auditor of the City of Portland  
By

Deputy

Agenda No.  
**ORDINANCE NO. 189535**

Title

\*Waive application of Title 33 Buffer Overlay Zone requirement to 2025 SE 82<sup>nd</sup> Avenue to facilitate the relocation and alignment of an existing driveway in conjunction with construction of the SE 80<sup>th</sup> Avenue and Mill Street Local Improvement District (Ordinance; waive application of Code section 33.410.040 C; C-10060)

<b>INTRODUCED BY</b> Commissioner/Auditor: <b>Mayor Ted Wheeler</b>	CLERK USE: DATE FILED <u>MAY 28 2019</u>
<b>COMMISSIONER APPROVAL</b>	Mary Hull Caballero Auditor of the City of Portland  By:  Deputy
Mayor—Finance & Administration - Wheeler	
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Hardesty	<b>ACTION TAKEN:</b>
Position 4/Safety - Eudaly	
<b>BUREAU APPROVAL</b>	
Bureau of Development Services  Rebecca Esau, Director	
Prepared by: Leanne Torgerson Date Prepared: May 9, 2019	
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"/>	
<b>City Auditor Office Approval:</b> required for Code Ordinances	
<input checked="" type="checkbox"/> <b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter 	
Council Meeting Date <del>May 29, 2019</del> <u>June 5th 2019</u>	

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

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Hardesty	✓	
4. Eudaly	✓	
Wheeler	✓	