

EXHIBIT 1

ORDINANCE No. 179873

Vacate a portion of N Baldwin Street east of N Delaware Avenue, subject to certain conditions and reservations. [Report; Hearing; Ordinance (VAC-10022)]

The City of Portland ordains:

Section 1. The Council finds:

1. On August 20, 2004, the Office of the City Auditor certified a petition for the vacation of a portion of N Baldwin Street east of N Delaware Avenue, with the petition initiated by The Roman Catholic Archbishop of Portland in Oregon, the owner of adjoining property (the "Petitioner").
2. The petition states that the reason for the vacation is to expand the high school to accommodate a total of 300 students.
3. The vacation is consistent with recommendations made by the City Engineer and Planning Commission, as provided in the City Engineer's Report, dated August 26, 2005 and on file with the Office of the City Auditor.
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 that said street be vacated.

NOW, THEREFORE, the Council directs:

- a. The following described street area, as depicted on the attached Exhibit 4 2, is hereby vacated:

R/W #6317

A portion of N Baldwin Street situated in the southeast one-quarter of Section 9, T1N, R1E, W.M., in the City of Portland, County of Multnomah, State of Oregon, being more particularly described as follows:

All that portion of N Baldwin Street lying between the east line of N Delaware Avenue and a line drawn 199.00 feet east of and parallel with said east line, said portion being the north 10.00 feet of the southerly 24.00 feet thereof, as platted in the duly recorded plat of Mulark Addition.

- b. The vacation of the above-described street area is granted subject to the following conditions, reservations and understandings:
1. The Petitioner will 1) construct a sidewalk along the north side of N Russet Street between N Delaware Avenue and N Omaha Avenue; 2) if it is not to be used, the Petitioner will also permanently close the existing driveway access at the east end of the previously vacated portion of N Baldwin Street with curb and sidewalk; and 3) Close the southernmost driveway curb cut on N Delaware Avenue. The Petitioner will pay all costs for said street improvements, 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, Street Systems Management Section, a performance guarantee in the form of a surety bond, letter of credit, set-aside account, cash, or other form of surety, subject to approval by the City Attorney. 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.
 - ii) The Petitioner will authorize the City to complete the required street improvements 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) Upon completion of the required improvements by the Petitioner, and acceptance by the City Engineer, the Petitioner shall guarantee maintenance of the improvements for two (2) years following the date of project acceptance. The maintenance guarantee may be satisfied by the performance guarantee, or by substitution of other surety acceptable to the City Attorney and equal to 25% of the performance guarantee. Upon acceptance by the City of a 25% maintenance guarantee, the street improvements performance guarantee will be released.
 - iv) Prior to the issuance of a Certificate of Completion by the City Engineer, fees collected by the City in association with street closure work will be reconciled with actual City costs, with Petitioner to receive from or pay to the City the net difference. In the event of non-payment by the Petitioner, the street improvement performance bond will be used to reimburse City costs. Use of the performance bond by the City will not preclude the City from billing to and collecting from the Petitioner those costs incurred by the City that were in excess of the performance bond.

2. The Bureau of Environmental Services (BES) ~~will hereby~~ requires the ~~p~~Petitioner to construct a new maintenance hole (MH) over the 8-inch combined sewer in the Baldwin Street cul-de-sac (Currently being reviewed under BESinstitute a Public Works Permit project #EP526) to install a manhole in the Baldwin Street cul-de-sac. BES will then quitclaim the 8-inch ~~combination~~ combined sewer pipe within the vacated area and up to the manhole to the ~~p~~Petitioner. The Petitioner, and petitioner's successors and assigns, will agree to accept ownership of any abandoned facilities in the vacated street area and will waive any claims of any nature that may arise in connection with the existence of such facilities or the city's prior use of those facilities.

3. ~~The Petitioner will pay Bureau of Water Works (BWW) costs to cut and plug an existing 6-inch water main in N Baldwin Street at its connection in N Delaware Avenue to the west and just west of the water service to 2408 N Baldwin Street to the east; In addition, the Petitioner will pay BWW costs to install a new 6-inch water main in N Omaha Avenue between N Farragut Street and N Baldwin Street. The BWW will complete the work within a reasonable period of time after receiving payment from the Petitioner. Portland Water Bureau (Water) has completed a capital project (W02612) coinciding with the street vacation request and therefore all of the previous Water conditions for the street vacation, including abandoning a section of water main in the vacated street, have been met or eliminated.~~ The Petitioner, and petitioner's successors and assigns, will agree to accept ownership of any abandoned facilities in the vacated street area and will waive any claims of any nature that may arise in connection with the existence of such facilities or the city's prior use of those facilities.

4. In accordance with ORS 271.120 and City of Portland policy, the street vacation 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. The ordinance will reserve 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 Condition 4 above, 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. 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 Conditions 1-6 within one year of Council adopting this Ordinance, City Council may repeal the Ordinance at its sole discretion.

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

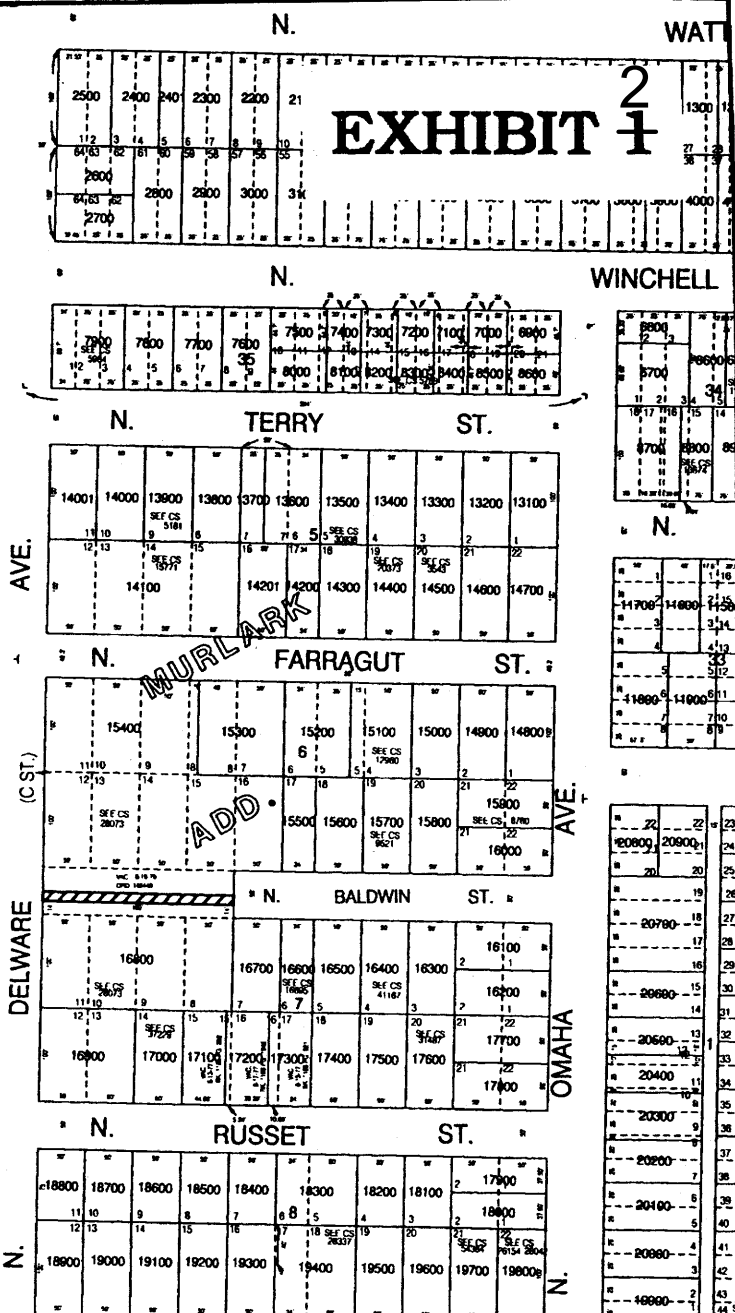
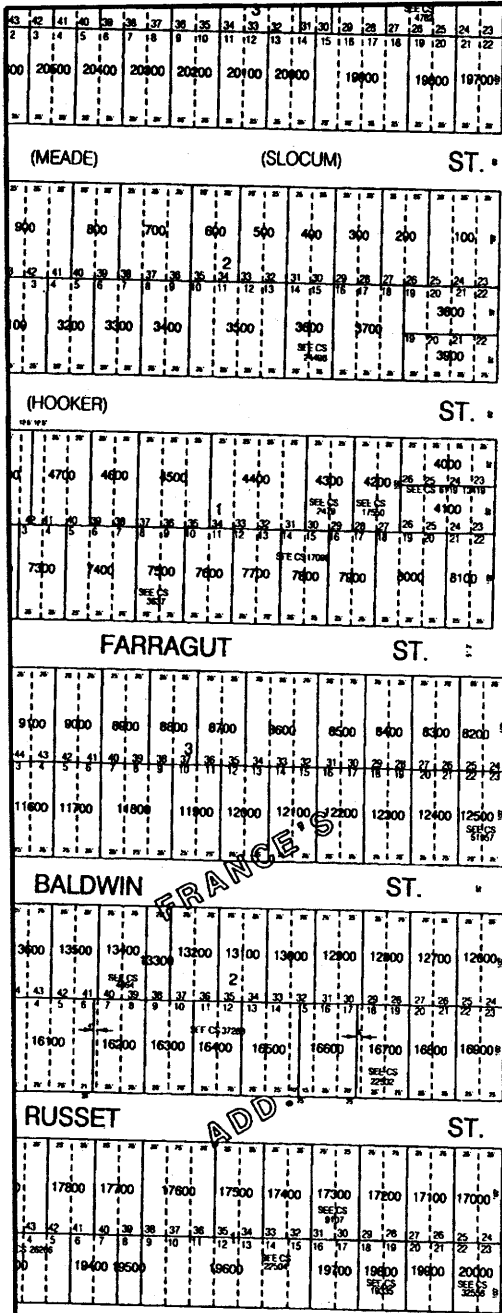
Section 3. Notice is given that the street vacation will not be effective until a certified copy of the vacating Ordinance has been recorded by the City in Multnomah County Deed Records, which will not be done until after all conditions required by the City have been fully satisfied.

Section 4. After the prerequisites to recording the Ordinance have been met, upon request, the Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Transportation Engineering and Development, 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 Right-of-Way Acquisition Section shall return the recorded Ordinance to the Auditor.

Passed by the Council,

Commissioner Sam Adams
John Deyo:
December 22, 2005

GARY BLACKMER
AUDITOR OF THE CITY OF PORTLAND
BY
DEPUTY



N BALDWIN STREET EAST OF N DELAWARE AVENUE

Petitioner: DE LA SALLE NORTH CATHOLIC HIGH SCHOOL
 1/4 Section: 2228 Section: 1N1E09DC



Area Herein Vacated

R/W # 6317

Scale: 1" to 200'

