

ORDINANCE No. 186895

Vacate a portion of E Burnside St west of NE Martin Luther King, Jr Blvd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10095)

The City of Portland ordains:

Section 1. The Council finds:

1. On December 11, 2013, the Portland Bureau of Transportation received a request for the vacation of a portion of E Burnside Street, from Portland Development Commission (PDC), the owner of adjoining property.
2. The reason for the vacation is to consolidate property to make the adjacent lot to the north more developable. PDC is currently working with Guerrilla Development to pursue redevelopment of the adjacent property referenced as State ID # 1N1E34DA tax lot 3500.
3. The vacation is in conformance with the City of Portland's Comprehensive Plan and is consistent with recommendations made by the City Engineer and Planning and Sustainability Commission, as provided in the City Engineer's Report, dated July 24, 2014 and on file with the Office of the City Auditor and the Bureau of Transportation.
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. In accordance with ORS 271.190, since the area to be vacated lies within 5,000 feet of the harbor line, approval in writing of the proposed vacation has been secured from the Port of Portland.
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 that said street be vacated.

NOW, THEREFORE, the Council directs:

- a. The following described street area is hereby vacated:

That portion of E Burnside Street situated in the southeast one-quarter of Section 34, T1N, R1E, W.M., City of Portland, County of Multnomah, State of Oregon, as described on Exhibit 1 and depicted on Exhibit 2 attached hereto and by this reference made a part hereof.

Contains 1,453 square feet, more or less.

- b. The vacation of the above-described street area is granted subject to the following conditions and reservations:
1. A minimum of 15 feet of public right-of-way will be retained between the property line and the face of the curb on E Burnside Street.
 2. The Petitioner will reconstruct the sidewalk along E Burnside Street so that the cross slope flows towards the gutter in the street. The existing stormwater planter is only to be removed in conjunction with reconstruction of the sidewalk. The sidewalk corner is to be reconstructed if there is an insufficient accessible path (4 ft. minimum) between the proposed building and the Americans with Disabilities Act ramp throats. A performance guarantee will be accepted in lieu of performing these street improvements ahead of recording the vacation ordinance.
 3. The Bureau of Environmental Services owns and maintains certain improvements within the street area to be vacated. As a condition of the street vacation approval, the Petitioner will remove Stormwater Planter 'A', remove the atrium inlet located inside said planter, and abandon the stormwater facility lead pipe between Planter 'A' and Planter 'GG' per City specification 00490. (Refer to Project E08585 As-Built Sheet D-05 attached as Exhibit 3 hereto for location of the elements identified to be removed and/or abandoned prior to recording the vacation.)
 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, including, but not limited to those identified by CenturyLink. Subject to Paragraph 6 below, 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 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 b4, 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. If any property, encumbered by an easement reserved in this vacation 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.
7. City costs associated with processing the street vacation petition shall be paid in full before the City records this Ordinance.
8. In the event the Petitioner fails to fully comply with the above conditions within one year of Council adopting this Ordinance, City Council may repeal the Ordinance at its sole discretion.

Section 2. Multnomah County 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. Prerequisites to recording the vacating Ordinance are that 30 days have passed after final Council passage of the Ordinance, that all conditions of the vacating Ordinance have been met, and that all vacation costs have been paid.

Section 4. After the prerequisites to recording the Ordinance have been met, the City Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Bureau of Transportation, 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 and retain a copy in RWA File No. 7712.

Passed by the Council,

NOV 19 2014

Commissioner Steve Novick
Prepared by: Lance D. Lindahl:slg
Date Prepared: October 15, 2014
RW # 7712

LAVONNE GRIFFIN-VALADE

Auditor of the City of Portland

By

DEPUTY

1187 1206

✓140

Agenda No.
ORDINANCE NO. 186895
 Title

Vacate a portion of E Burnside St west of NE Martin Luther King, JR Blvd subject to certain conditions and reservations (Hearing; Ordinance; VAC-10095)

<p>INTRODUCED BY Commissioner/Auditor: COMMISSIONER STEVE NOVICK</p>	<p>CLERK USE: DATE FILED <u>NOV 07 2014</u></p>
<p>COMMISSIONER APPROVAL</p> <p>Mayor—Finance and Administration - Hales</p> <p>Position 1/Utilities - Fritz</p> <p>Position 2/Works - Fish</p> <p>Position 3/Affairs - Saltzman</p> <p>Position 4/Safety - Novick <i>OW</i></p>	<p style="text-align: center;">LaVonne Griffin-Valade Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p>
<p>BUREAU APPROVAL</p> <p>Bureau: Bureau of Transportation Interim Group Mgr.: Christine Leon Development Permitting & Transit Group</p> <p>Other: Greg Jones <i>[Signature]</i></p> <p>Prepared by: Lance D. Lindahl: slg Date Prepared: October 15, 2014</p>	<p>ACTION TAKEN:</p> <p><i>NOV 12 2014</i> PASSED TO SECOND READING <i>NOV 19 2014 9:30 A.M.</i></p>
<p>Financial Impact & Public Involvement Statement</p> <p>Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p>	
<p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document.</p> <p>Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
<p>Council Meeting Date November 12, 2014</p>	
<p>City Attorney Approval:</p>	

<p>AGENDA</p>
<p>TIME CERTAIN <input type="checkbox"/></p> <p>Start time: _____</p> <p>Total amount of time needed: _____ (for presentation, testimony and discussion)</p>
<p>CONSENT <input type="checkbox"/></p>
<p>REGULAR <input checked="" type="checkbox"/></p> <p>Total amount of time needed: 5 minutes (for presentation, testimony and discussion)</p>

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Novick	4. Novick	✓	
Hales	Hales	✓	