

## ORDINANCE No. 187293

\*Create a local improvement district to construct street, sidewalk, and stormwater improvements in the SE 86th Ct and Steele St Local Improvement District (Hearing; Ordinance; C-10051)

The City of Portland ordains:

Section 1. The Council finds:

1. The Council adopted Resolution No. 37140 on July 1, 2015 with 83.6% petition support, declaring its intent to initiate local improvement district formation proceedings and establishing the name of the local improvement district as the SE 86th Court and Steele Street Local Improvement District. In the event of any finding, directive or exhibit within this Ordinance conflicting with Resolution No. 37140 involving this local improvement district, the finding, directive or exhibit within this Ordinance shall prevail.
2. The record related to the adoption of Resolution No. 37140 is incorporated into the record of this Ordinance except that no part of the record of Resolution No. 37140 nor of Exhibit I of this Ordinance shall be considered a remonstrance for purposes of Section 17.08.070 of City Code nor for purposes of Section 9-403 of the City Charter.
3. The City Auditor mailed notice of the August 19, 2015 local improvement district formation hearing on July 29, 2015 to the owners of the benefited properties within the proposed SE 86th Court and Steele Street Local Improvement District with estimated assessment amounts greater than zero. The Local Improvement District Administrator mailed notice of the August 19, 2015 local improvement district formation hearing on July 29, 2015 to the owner of the 5145 SE 85th Avenue property within the proposed SE 86th Court and Steele Street Local Improvement District with an estimated assessment amount of zero. The property owners were notified of the time and location of the hearing conducted by Council, the total estimated project costs, the right and manner to object to the formation of the SE 86th Court and Steele Street Local Improvement District, the deadline and procedure for filing a remonstrance against the formation of the SE 86th Court and Steele Street Local Improvement District, and the amount of the estimated future assessment on benefited properties as set forth in Exhibit A (attached to the original only). The deadline to submit a written remonstrance was at 5:00 PM on August 12, 2015.
4. Notices of the local improvement district formation hearing were posted within the SE 86th Court and Steele Street Local Improvement District on July 31, 2015.
5. The Local Improvement District Administrator published notice of the August 19, 2015 local improvement district formation hearing in the Daily Journal of Commerce on August 3 and August 5, 2015.

6. The street improvements will be constructed on a SE Steele Street from the west right-of-way line of SE 85th Avenue to the west right-of-way line of SE 86th Court, and on SE 86th Court from the south right-of-way line of SE Steele Street to the north right-of-way line of SE Insley Street plus any transition work on abutting street segments, intersections, and/or adjacent properties determined to be necessary by the City Engineer.
7. The general character and scope of the improvement to SE Steele Street and to SE 86th Court from SE Steele Street to 150 feet north of SE Insley Street is to remove the existing dirt, gravel and/or hard surface; grade streets to their proper subgrade; construct asphaltic concrete streets with an aggregate base; construct stormwater drainage facilities consisting of curb extensions with water quality treatment facilities and roadside swales; construct sidewalk on one side of the street; and plant street trees in most locations as shown in Exhibit B.
8. The general character and scope of the improvement to SE 86th Court from 150 feet north of SE Insley Street to SE Insley Street is to remove the existing dirt, gravel and/or hard surface and construct an asphalt multiuse path as shown in Exhibit B.
9. Widths, alignments and lengths of the project may be modified during the preparation of plans and specifications by the City Engineer.
10. The boundaries of the SE 86th Court and Steele Street Local Improvement District shall include the properties as shown in Exhibit C.
11. The Local Improvement District Administrator's estimated cost of designing, constructing and financing the improvements is \$788,490.24 as shown in Exhibit D. The Local Improvement District Administrator's estimate is based on the Engineer's Estimate as contained in Exhibit E for SE 86th Court and Exhibit F for SE Steele Street. The Local Improvement District Administrator's level of confidence in the cost estimate for this project as of the filing date of this Ordinance is "Low" per Exhibit A of Resolution No. 36430 adopted by Council on July 26, 2006 given that project specifications are preliminary. The estimated amount of the future assessment for the SE 86th Court and Steele Street Local Improvement District is \$729,476.28. The Portland Bureau of Transportation will contribute overhead costs currently estimated at \$59,013.96.
12. The Local Improvement District Administrator has analyzed the financial feasibility of the SE 86th Court and Steele Street Local Improvement District and has made a finding that the collective bonding capacity of benefiting properties is sufficient so as to minimize the City of Portland's financial risk associated with this project.

13. The remonstrance level is evaluated in Exhibit G. Council retains jurisdiction over the formation of the SE 86th Court and Steele Street Local Improvement District because the total remonstrance level is less than the 60% threshold established by Section 9-403 of the City Charter.
14. The parcels of land within the SE 86th Court and Steele Street Local Improvement District will receive special benefit from the project in the greater of the amounts set forth in Exhibits A and G or after the voluntary reallocation of assessments not reflected in Exhibits A and G. Special benefit will accrue to Garden Villas Apartments even absent the voluntary reallocation of assessments for reasons including but not limited to:
  - i. Improved fire access to northernmost buildings on the site, especially to the extent that the existing buildings may not have fire sprinklers; and
  - ii. Establishing a three-way intersection for the future extension of SE Steele Street west to SE 82nd Avenue at such time that the current or future owner of the property wishes to partially or fully redevelop the Garden Villas site, avoiding the need to reconstruct this intersection and the potential need to acquire temporary property rights from neighboring property or properties for reconstruction of this intersection.
15. The Council has considered the remonstrances made by owners of properties to be benefited by the SE 86th Court and Steele Street Local Improvement District project, and adopts the summary of remonstrances and findings as set forth in Exhibit H.
16. An e-mail was received from residents of SE 85th Avenue south of SE Raymond Court and north of the proposed new SE Steele Street on July 26, 2015 as contained in Exhibit I suggesting that the new SE Steele Street not be connected to the existing SE 85th Avenue.
17. A "T" type turnaround in the public right-of-way or in a private easement at the southern terminus of SE 85th Avenue consistent with Condition No. 3 of Ordinance No. 133468 approved by Council on October 6, 1971 was not provided by Pay N' Pak nor by its successors or assigns including but not limited to Garden Villas Apartments. This "T" type turnaround would be beneficial both for routine access to SE 85th Avenue properties south of SE Raymond Court excluding Garden Villas Apartments, and for emergency access to all SE 85th Avenue properties south of SE Raymond Court including Garden Villas Apartments. Additional delay on resolving whether SE Steele Street will connect to SE 85th Avenue in lieu of this "T" type turnaround will have adverse cost and schedule impacts resulting from potential redesign of site plans for the Generations Project on Portland Public Schools' property and its interface with the planned right-of-way improvements contemplated by this LID. This in turn would adversely affect Native American and other historically underserved populations which would benefit from safe and affordable housing, early childhood education and nutrition services per the timeline anticipated in Exhibit J.

18. It is advisable to form the SE 86th Court and Steele Street LID concurrent with the passage of an ordinance authorizing acquisition of property rights by the Portland Bureau of Transportation, as it is not possible to build the proposed LID project without acquisition of property rights, and such property rights should not be acquired in the absence of formation of the LID, including Council approval of the western terminus of SE Steele Street being at SE 85th Avenue.
19. Assessments for local improvement districts are not subject to the property tax limitation established by Article XI, Section 11b of the Oregon Constitution.
20. Matt Brown, representative of Garden Villas Apartments, e-mailed the Local Improvement District Administrator electronic copies of signed documents providing the Portland Bureau of Transportation with certain permanent and temporary easements for construction of the SE 86th Court & Steele Street LID. Mr. Brown verbally notified the Local Improvement District Administrator on July 28, 2015 that physical copies of signed property rights documents will be delivered to the Portland Bureau of Transportation on or after Council passage of this Ordinance with terms consistent with his March 19, 2015 letter to the Local Improvement District Administrator. PBOT must also have evidence of signatory authority by Garden Villas Apartments to record the receipt of these property rights. The two (2) parties to the voluntary reallocation of assessments are Garden Villas Apartments and Portland Public Schools, and as indicated in the record of Resolution No. 31740 passed by Council on July 1, 2015, have mutually agreed to this voluntary reallocation of assessments.
21. Pursuant to City Code, assessment for the SE 86th Court and Steele Street Local Improvement District will be imposed by a separate and subsequent ordinance.

NOW, THEREFORE, the Council directs:

- a. The SE 86th Court and Steele Street Local Improvement District (LID) is hereby created as shown in Exhibit C and the SE 86th Court and Steele Street Local Improvement District includes the properties identified in Exhibits A and G.
- b. The properties owners' estimated share of costs is as shown in Exhibit D. Costs for any necessary utility relocation shall be allocated per Subsection 17.16.100 of City Code as well as per the Final Procedures for Allocation of Utility Relocation Costs adopted on June 5, 2002.

- c. The properties shall be assessed on a square footage split rate basis, with the Portland Public Schools property abutting both SE 86th Court and SE Steele Street apportioned the costs of both these streets, but with the Garden Villas property abutting only the proposed SE Steele Street being apportioned costs only of SE Steele Street prior to reallocation of assessments. Existing single family residential properties and vacant lots abutting SE 86th Court and SE Steele Street will be exempted from assessment in recognition of additional sidewalk and right-of-way dedication requirements upon redevelopment of these currently single family properties.
- d. The City Engineer shall prepare plans and specifications for the improvement.
- e. The City Engineer shall arrange for construction of the local improvement project.
- f. Procurement Services within the Bureau of Internal Business Services shall advertise for bids, prepare a contract, and award the contract through a competitive bid process. The improvements may be constructed in whole or in part by the City of Portland, or the City of Portland may seek bids for any portion of the SE 86th Court and Steele Street Local Improvement District project. The manner in which the improvements are constructed is at the sole discretion of the City Engineer.
- g. The City Auditor shall obtain interim financing to pay for SE 86th Court and Steele Street Local Improvement District project costs prior to bonding.
- h. The Bureau of Transportation is authorized to incur expenditures for this project and the City Auditor is authorized to reimburse such expenditures from the Local Improvement District Fund.
- i. Section 17.08.080 of City Code is waived in the event that the Portland Bureau of Transportation deems it necessary and appropriate to pursue condemnation, and the City Attorney files for condemnation proceedings to acquire certain permanent and temporary easements from Portland Public Schools as a pending requirement of development after reasonable attempts to negotiate and acquire such easements at fair market value; and/or if consultant design of plans are not completed in a form acceptable for City Engineer approval by December 31, 2015 unless this date is extended at the discretion of the City Engineer.

- j. Section 17.08.080 of City Code is waived in the event that the Portland Bureau of Transportation deems it necessary and appropriate to pursue condemnation, and the City Attorney files for condemnation proceedings to acquire certain permanent and temporary easements from Garden Villas Apartments after reasonable attempts to negotiate and acquire such easements at fair market value from this property per Finding No. 17. Finding No. 17 will be moot if the anticipated conveyance of property rights and evidence of signatory authority by Garden Villas Apartments per Finding No. 20 of this Ordinance is made in a timely manner as proposed by Garden Villas' representative Matt Brown on March 19, 2015.
- k. The City Auditor is directed to reduce the amount of the pending lien for the Garden Villas property from \$119,684.51 to zero upon the Portland Bureau of Transportation's receipt of the property rights documents and evidence of signatory authority by Garden Villas Apartments referenced in Finding No. 20 of this Ordinance provided that such documents are delivered to the Local Improvement District Administrator within seven (7) calendar days of Council passage of this Ordinance.
- l. The City Auditor is directed to increase the amount of the pending lien for the Portland Public Schools property from \$609,791.77 to \$729,476.28 upon the Portland Bureau of Transportation's receipt of the property rights documents and evidence of signatory authority by Garden Villas Apartments referenced in Finding No. 20 of this Ordinance provided that such documents are delivered to the Local Improvement District Administrator within seven (7) calendar days of Council passage of this Ordinance.
- m. Section 17.08.080 of City Code is waived in the event that it is necessary to acquire temporary construction easement(s) from properties not currently within the LID boundary as shown in Exhibit C of this Ordinance provided that the LID boundary is amended in or concurrent with the Final Assessment Ordinance. Section 17.08.080 of City Code is not waived in the event that additional permanent easement(s) are needed from properties currently within the LID boundary as shown in Exhibit C of this Ordinance.
- n. Speed bumps may be installed within the LID boundary at the sole discretion of the City Engineer in which case a hearing will not be required under Section 17.08.080 of City Code.

Section 2. The Council declares that an emergency exists per Findings No. 17 and 18 of this Ordinance and to meet the desired schedule for redevelopment of the Foster School site attached as Exhibit J of this Ordinance; therefore this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, AUG 19 2015

Commissioner Steve Novick  
Prepared by: Andrew Aebi:slg  
Date Prepared: August 3, 2015

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

By



Deputy

Agenda No.  
**ORDINANCE NO. 187293**  
Title

**\*Create a local improvement district to construct street, sidewalk, and stormwater improvements in the SE 86th Ct and Steele St Local Improvement District (Hearing; Ordinance; C-10051)**

<p><b>INTRODUCED BY</b> Commissioner/Auditor: <b>COMMISSIONER STEVE NOVICK</b></p> <p><b>COMMISSIONER APPROVAL</b></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>ON</i></p> <p><b>BUREAU APPROVAL</b></p> <p>Bureau: <b>Transportation</b> Policy, Planning and Projects <i>Amf</i> <b>Manager: Art Pearce</b> <b>Director: <i>MARIE</i></b></p> <p>Prepared by: Andrew Aebi:slg <i>AA 8/03/15</i> Date Prepared: July 30, 2015 <i>DL 8/13/15</i> Supervisor:</p> <p>Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/></p> <p>Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p><b>City Auditor Office Approval:</b> required for Code Ordinances</p> <p><b>City Attorney Approval:</b> required for contract, code, easement, franchise, comp plan, charter</p> <p><b>Council Meeting Date</b> <b>August 19, 2015</b></p>	<p>CLERK USE: DATE FILED <u><b>AUG 14 2015</b></u></p> <p style="text-align: center;">Mary Hull Caballero Auditor of the City of Portland</p> <p>By: <u><i>[Signature]</i></u> Deputy</p> <p><b>ACTION TAKEN:</b></p>
---	---

<b>AGENDA</b>
<p><b>TIME CERTAIN</b> <input checked="" type="checkbox"/></p> <p><b>Start time: 10:15</b></p> <p><b>Total amount of time needed: 15 MIN</b> (for presentation, testimony and discussion)</p>
<p><b>CONSENT</b> <input type="checkbox"/></p>
<p><b>REGULAR</b> <input type="checkbox"/></p> <p><b>Total amount of time needed: _____</b> (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	✓	