

ORDINANCE No. 183392

Vacate a portion of N Leavitt Ave north of N Decatur St subject to certain conditions and reservation (Hearing; Ordinance; VAC-10059)

The City of Portland ordains:

Section 1. The Council finds:

1. On July 23, 2008, the Office of the City Auditor certified a petition for the vacation of a portion of N Leavitt Avenue north of N Decatur Street, with the petition initiated by Dayna McErlean, the representative for Bullshead Management LLC, the owner of the adjoining property.
2. The petition states that the reason for the vacation is to consolidate property. The properties are referenced as 1N1W12BD tax lots 3700 and 3800, are both owned by Bullshead Management LLC, and will soon be redeveloped. Vacating the street will allow for the two sites to be connected with a continuous landscaped zone.
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 31, 2009 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. 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 N Leavitt Avenue, in the City of Portland, Multnomah County, Oregon, as shown on the attached Exhibit 1, being all that portion of said N Leavitt Avenue lying between the north line of Lot 8, Block 13, in the duly recorded plat of "James Johns 2ND Addition" extended easterly to the northwest corner of Lot 5, Block 14, of said plat, said line also being the south right-of-way line of N Edison Street, and the south line of Lot 1, Block 13, of said plat extended easterly to the southwest corner of Lot 4, Block 14, of said plat, said line also being along the north right-of-way line of N Decatur Street. Vacation area contains 12,000 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 public walkway easement is hereby reserved over the east 20 feet of the vacated street area.
2. A 20 foot wide public sewer easement is hereby reserved to provide for the maintenance, operation, repair, reconstruction, replacement and enlargement of the existing public sewer facility. The 20 foot easement shall be located over an existing 10 inch pipe through the north side of the vacated street area, as depicted on Exhibit 2, attached hereto.

This easement is reserved on the condition that no building construction, material storage, filling, grade change or tree planting will be permitted within said easement area without the prior written consent of the Director of the Bureau of Environmental Services, and further that the City or its contractors will not be responsible for damage to any improvements, including landscaping existing on the easement area, if such things are damaged or destroyed by the City or its contractors in the course of reconstruction or maintenance of the existing public sewer facility.

3. 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 Portland General Electric. 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.

4. Notwithstanding b3 and except for b1 and b2, 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.
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, 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. 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.

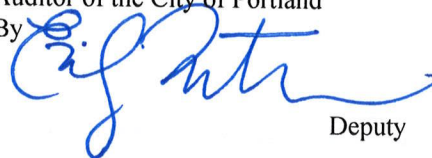
Section 4. After the prerequisites to recording the Ordinance have been met, the City Auditor shall return a certified copy of this Ordinance and the acceptance thereof, to the Right-of-Way Acquisition Section, Bureau of Transportation, which shall, at the expense of the Petitioner, file with the recorder, 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.

Passed by the Council, **DEC 09 2009**

Mayor Sam Adams
Prepared by: Lance D. Lindahl:slg
Date Prepared: November 9, 2009
RW # 7021

LaVonne Griffin-Valade
Auditor of the City of Portland

By



Deputy

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Agenda No.
ORDINANCE NO. 183392
Title

Vacate N Levitt Ave north of N Decatur St subject to certain conditions and reservations (Hearing; Ordinance; VAC-10059)

INTRODUCED BY Commissioner/Auditor: MAYOR SAM ADAMS	CLERK USE: DATE FILED <u>NOV 27 2009</u>
COMMISSIONER APPROVAL <i>Charles for Mayor Adams</i> Mayor—Finance and Administration - Adams	LaVonne Griffin-Valade Auditor of the City of Portland
Position 1/Utilities - Fritz	By: <i>Susan Parsons</i> Deputy
Position 2/Works - Fish	ACTION TAKEN:
Position 3/Affairs - Saltzman	DEC 02 2009 PASSED TO SECOND READING DEC 09 2009 9:30 A.M.
Position 4/Safety - Leonard	
BUREAU APPROVAL Bureau: Bureau of Transportation Group Manager: Greg Jones Development & Capital Program Other: <i>[Signature]</i>	
Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date December 2, 2009	
City Attorney Approval	

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: 5 Minutes (for presentation, testimony and discussion)

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