

## **STREET AND ALLEY VACATIONS**

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### **SUMMARY**

This paper describes the criteria and process Council uses when considering vacation of (i.e. surrender possession of) the City's interests in streets and alleys to the benefit of adjacent property owners.

### **STATE AUTHORITY AND RULES**

According to [well established legal precedent](#), streets and alleys are easements benefitting the City in order to allow for public travel, public assembly and the movement of goods and utilities. Consequently, the City does not own its streets and alleys. Generally, abutting property owners' rights extend to the centerline of the city's streets and alleyways. Therefore, the legislative act of vacating streets and alleys is subject to laws and regulations that differ from other types of property dispositions.

Under Washington State law ([RCW 35.79](#)), any property owner can request the vacation of an abutting right-of-way. Authority to vacate the City's interest in streets and alleys lies solely with the Council. Council delegates analysis of street vacations to the Department of Transportation (SDOT) and the Seattle Design Commission (SDC). SDOT reports the results of their reviews directly to the Council.

The Council bases its decision on whether to vacate a street or alley upon the record in front of it, the recommendations of SDOT and SDC, as well as input gathered during a public hearing.

### **REVIEW CRITERIA FOR VACATION REQUESTS**

There is no right to vacation of a public right-of-way. Council may only approve vacation requests when they are clearly in the public interest.

Council's Street Vacation Policies are contained in Clerk File [310078](#), last amended in 2009. These policies are organized into three topics: (1) the "public trust," (2) land use impacts and (3) public benefits. Council considers these criteria when reviewing benefits that would accrue to property owners and the impacts on the surrounding community.

#### *1. Public Trust*

The City first considers the impact of a proposed vacation upon the "public trust functions" of the right-of-way: circulation, access, utilities, light, air, open space and views. If the vacation would impair these functions, either at the time of the action or in the foreseeable future, or if the impairments to these functions could not be satisfactorily mitigated by the proponent, the Council should not grant the petition.

## *2. Land Use Impacts*

The City then considers the land use impacts of the proposed vacation. In vacating a street or alley, the City typically increases the size of the abutting property. In doing so, additional development rights may accrue to the property owner. This part of the analysis determines whether any such additional development rights are appropriate given the City's plans and the area's zoning. If not appropriate, Council should not grant the petition.

## *3. Public Benefits*

In order to approve a street or alley vacation, Council must find that the public will receive a long-term benefit. According to policy, a vacation petition must provide public benefits in addition to the payment of the fair market value for the right-of-way, and after meeting any requirements arising from applicable regulations, such as the Land Use Code, Right-of-way Improvement Manual, or environmental review. For example, if a project is required to widen sidewalks in order to meet environmental or transportation requirements, those widened sidewalks are not to be considered public benefits.

Council generally only considers public benefits related to the public trust functions of the street or alley: circulation, access, utilities, light, air, open space or views. In response to this public benefit requirement, vacation petitions often propose significant streetscape improvements, public plazas, public art, or mid-block pedestrian passages. Neither economic development considerations nor provision of a public service is deemed a public benefit under the Street Vacation Policies.

Absent petitioner meeting the public long-term benefit requirement, Council should decline the vacation request.

## **VACATION PROCESS**

The vacation process generally begins with a petition submitted by more than half of the abutting property owners. SDOT reviews the petition in coordination with potentially affected agencies, including public and private utilities and the Seattle Department of Construction and Inspections (SDCI). In rare circumstances, the Council may choose to initiate review of a vacation through adoption of a resolution.

A street vacation petition must be accompanied by a development proposal showing the effects of the vacation. City review of a proposal generally takes more than a year. Because a development proposal relies on the outcome of the vacation request, SDCI may not approve the development proposal until Council acts upon the vacation.

Once a complete application for a development proposal is filed, the SDC reviews the proposal. SDC's review occurs in two stages: (1) review of the appropriateness of the vacation and

impacts on the surrounding neighborhood (“urban design merit”) and (2) review of the public benefits proposal. SDC makes a recommendation to Council on both of these items, and may recommend that Council impose conditions on the project.

After SDC approves the vacation, SDOT compiles agency comments and makes a recommendation to the Council. Under state law, each vacation petition must receive a public hearing, and the hearing date must be set by Council resolution. A more detailed outline of this process can be found on the SDOT [website](#).

After a public hearing, Council discusses and votes on the proposed vacation. Because of the complexity of most projects involving a street vacation, Council typically imposes conditions on vacation approvals.

If Council approves the vacation (and all other approvals are granted), the applicant may build the proposed project, but does not yet own the right-of-way. Only after the project and all public benefit features have been completed, and fees equal to the value of the right-of-way have been paid, does SDOT confirm that all conditions have been met and prepare a Council Bill to officially release the City’s claim to the right-of-way. Council’s review of the project at this final stage is generally a formality.