

March 30, 2018

MEMORANDUM

To: Sustainability and Transportation Committee
From: Lish Whitson, Council Central Staff
Subject: New City of Seattle Street Vacation Policies

On Tuesday, April 4, the Sustainability and Transportation Committee (Committee) will begin review of an overhaul of the City's [Street Vacation Policies](#) (Policies). Attached to this memorandum is a draft of new street vacation policies for the Committee to consider. This work responds to recommendations from Councilmember O'Brien's [Street Vacation Stakeholder Workgroup \(Workgroup\)](#). In response to the recommendations of the Workgroup, I have worked with staff in multiple departments and consulted with the Seattle Design Commission to develop a new draft of the Policies for Council consideration. This memo summarizes: (1) major changes to the policies and (2) two related bills.

The Sustainability and Transportation Committee has recently received two briefings on the street vacation policy update. On [September 8](#), the Committee received a briefing on the Workgroup and its recommendations. On [January 19](#), the Committee was briefed on the work to develop a new set of Policies in response to the Workgroup's recommendations.

Background

The City of Seattle first adopted Policies to guide the street vacation process through Resolution 27527 in 1986. The purpose of the policies is to provide clarity and consistency in decision-making regarding street vacations. They have been amended three times since 1986, most recently in 2009. This is the first comprehensive review of the Policies since they were adopted.

There are four principles that have guided the update to the Street Vacation policies:

- Support and implement the City's goals for race and social equity;
- Improve community engagement;
- Acknowledge a wider range of public trust functions of streets and a wider variety of public benefits; and
- Make the street vacation process more transparent.

In updating these policies, these four principles have resulted in (1) an expanded list of public trust functions; (2) a revised discussion of public benefits; and (3) a new section describing the process for reviewing and assessing street vacation petitions, including new opportunities for community engagement in the street vacation review process. Beyond these changes, the policies have been updated to reflect current terminology and to make the document easier to read. Key changes to the policies are shown in Attachment 1 in red.

Public Trust Functions

Since their original adoption, the Policies have recognized a number of important functions of streets, alleys and other rights-of-way. These functions are the purposes for which the City has streets and are protected by the City for the public trust. The original public trust functions are provision of : circulation and access; utilities; light, air, open space; and views. In addition to these existing public trust functions, the proposed street vacation policies include three new functions of streets that reflect how the Council has more recently considered the function of streets:

1. *Free speech*

Courts have long recognized the important role that streets play in protecting the public's constitutional right to free speech. The proposed street vacation policies include discussion of and require consideration of a street vacation's impact on free speech activities.

2. *Public assembly*

Streets are an important space within which the public assembles. The revised street vacation policies require an analysis of the role of the street or alley as a place for people to come together to participate in civic life.

3. *Land Use and urban form*

Streets and alleys shape the city. The spacing, width and configuration of streets and alleys have significant impacts on how neighborhoods function. For example, the relationship between streets and alleys in Pioneer Square has resulted in a different neighborhood than the relationship between the streets in Northgate or Seward Park. This is outside of streets' roles in providing light, air or open space. The previous versions of the policies have required an examination of land use impacts of street vacations. The new street vacation policies elevate land use and urban form to one of the public trust functions of streets.

Public Benefits

A key theme of the Workgroup and one of Councilmember O'Brien's core goals in updating the street vacation policies was to consider a broader set of public benefit features in weighing whether a street or alley vacation is appropriate. The proposed policies broaden the analysis of public benefits and asks the Council to consider:

- Cumulative impacts of multiple vacations in an area;
- Effects of vacations on vulnerable low-income populations and communities of color;
- Proposals designed to improve race and social equity, improve access to opportunity, and reduce the threat of displacement;
- Ideas proposed by the public; and
- Agreements between petitioners and non-governmental organizations, such as equitable development agreements and labor peace agreements;

The proposed policies collapse two categories of public benefits: on-site and off-site public benefits as “physical public benefits” and add programmatic public benefits as a new category of public benefits that a petitioner could propose. Additional public benefits could include accessible public routes, spaces that support City goals for race and social equity, and implementing an element from an adopted Neighborhood Plan or other City plan, such as the Equitable Development Implementation Plan or a Transportation modal plan.

Process and Community Engagement

A new section describing the process for City review of street vacation petitions is added. This includes a new expectation of early community engagement, which would be modeled on the new engagement requirements for a Design Review project. A new early Council forum or briefing would be added to the process for complex projects; simple projects may be able to skip this phase. More clarity is given regarding the relationship between steps in the City’s review of street vacation projects, untangling the interrelated Design Review, Seattle Design Commission, Landmarks Review Board, zoning, land use, street improvement and environmental reviews of street vacation petitions.

Related bills

Accompanying the street vacation resolution are two bills. The first would amend Title 3 of the Seattle Municipal Code (SMC) to clarify the role of the Seattle Design Commission regarding review of street vacations and other requests for permanent or long-term use of the public right-of-way. The bill creates a “subcommittee” that the Seattle Design Commission can convene to provide advice regarding public benefit features that are not physical improvements. The subcommittee would allow the Commission to tap into expertise in equitable community development, affordable housing and workers’ rights. Finally, the bill updates sections of the SMC related to fees and hiring of consultants to reflect current practice and to allow the Seattle Design Commission to charge applicants for the cost of consultant help when needed.

The second bill would amend the Land Use Code, SMC Title 23, to clarify the timing and sequencing of street vacation petition reviews. This bill would clarify the sequencing of reviews of projects that seek a street vacation and are subject to Design Review. Generally, in each stage of review, the Seattle Design Commission will look at a proposal before it goes to the Design Review Board. The bill also clarifies, consistent with Washington State law, that there is no specific deadline for land use review of projects that seek a street vacation petition.

Next Steps

I am working with the City Attorney’s Office to complete review of the street vacation policies and introduce legislation. I expect that will occur prior to the next Sustainability and Transportation Committee meeting. A required public hearing on the proposed amendments to the Land Use Code is scheduled for the April 17 Sustainability and Transportation Committee meeting. A vote on the proposed street vacation policies could occur as early as May 1.

Attachments:

1. City of Seattle Street Vacation Policies 2018
2. Seattle Design Commission Street Vacations bill
3. Street Vacation Land Use Code amendments

cc: Kirstan Arestad, Central Staff Director
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STREET VACATION POLICIES
of the City of Seattle
2018

March 28, 2018

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
A.	WHAT IS A STREET VACATION?.....	1
B.	FRAMEWORK FOR DECISION-MAKING	2
C.	DISTINCTION BETWEEN STREET VACATIONS AND LAND USE DECISIONS	3
II.	PUBLIC TRUST DOCTRINE.....	5
III.	PUBLIC TRUST ANALYSIS	7
A.	CIRCULATION	8
B.	ACCESS	9
C.	UTILITIES.....	9
D.	FREE SPEECH	10
E.	PUBLIC ASSEMBLY	11
F.	OPEN SPACE	11
G.	LIGHT AND AIR	12
H.	VIEWS.....	12
I.	LAND USE AND URBAN FORM	13
J.	OTHER CONSIDERATIONS IN PUBLIC TRUST ANALYSIS.....	18
IV.	ANALYSIS OF PUBLIC BENEFITS OF THE VACATION	21
A.	PUBLIC BENEFIT REQUIREMENT	21
B.	PUBLIC BENEFITS IDENTIFIED.....	23
V.	PROCESS FOR CITY REVIEW OF STREET VACATION APPLICATIONS	26
A.	GOALS/INTENT OF PROCESS	26
B.	PETITIONERS	26
C.	PRE-PETITION ACTIVITIES.....	26
D.	REQUIRED COMPONENTS OF THE PETITION	27
E.	COMPLEX OR SIMPLE VACATIONS	29
F.	REVIEW PROCESS	30
G.	Costs and Fees.....	35

I. INTRODUCTION

The City's streets, alleys, and other public rights-of-way are valuable public resources. From time to time, property owners seek to acquire the street or alley next to their property from the City. The process to do so is called a "street vacation." It requires that the property owner petition the City under these Street Vacation Policies and applicable City and State law. To grant a street vacation, the City (1) makes sure that the public's interest in streets is protected; (2) approves a public benefits proposal; and (3) in most cases, receives the fair market value of the property.

These Street Vacation Policies guide petitioners, City departments, Boards and Commissions, and members of the public through the City's process to analyze and assess street vacation petitions. They also guide the City's review of public benefit proposals that accompany a petition for a street vacation. They apply to all streets whether improved or unimproved.

The purpose of these comprehensive, city-wide policies is to provide consistency, equity, and predictability in determining if a vacation petition would serve and protect the public interest. These policies also express the City's values related to streets and street vacations. The City's fundamental values of race and social equity, environmental stewardship, community, and economic opportunity and security form the foundation for these policies. The City's default position is that unless there are compelling reasons to vacate a street, the City will keep it for future public purposes.

A. WHAT IS A STREET VACATION?

The term "street vacation" refers to the discretionary legislative act of the City Council formally giving up the right to use a street or alley. In other words, the City gives up or "vacates" the public's right to use a street. Through a street vacation petition, a property owner asks the City to give up the public's right to use a street, alley, or other public right-of-way¹ abutting their property. For the purposes of these policies "street vacation" describes the vacation of any right-of-way, whether a street, alley, boulevard, or other place over which the public has the right of travel. These policies use the term "street" to refer to all types of public right-of-way including streets, alleys, boulevards, paths, stairways, and public places, whether developed or undeveloped.

The Revised Code of Washington (RCW) Chapter [35.79](#) guides the City's review of street vacation petitions. That Chapter assigns responsibility over street vacation decisions to the City Council and requires a public hearing. Under the RCW, only abutting property owners or the City Council may petition for a street vacation. These policies supplement RCW 35.79. They

¹ "Public right-of-way" is any property where the City has a right to use the land for street purposes whether the right-of-way has ever been improved or not.

guide petitioners, City departments, the Seattle Design Commission, members of the public, organizations reviewing a vacation petition, and the City Council.

B. FRAMEWORK FOR DECISION-MAKING

Rights-of-way are different than other property. In most cases, the City does not own streets, alleys, or other rights-of-way. Instead, the City has an easement that allows the public to use the street. When the City grants a street vacation, it is giving up that easement and allowing the neighboring property owners to take over the former street.

The City holds this easement in trust for public use. Removing the easement and restricting public movement through the City is a significant act and is not done lightly. For a street vacation petition to be approved, the City Council must determine that to do so would significantly serve the public interest. It is the obligation of the petitioner to provide a justification for the vacation and to provide information on whether there are feasible alternatives that do not require a vacation. Public input into these decisions is an important part of the Council's review.

Streets are dedicated in perpetuity for use by the residents of Seattle and others for travel and transportation of goods. The dedication carries with it public rights to circulation, access, utilities, light, air, open space, views, free speech, and assembly, and contributes significantly to the form and function of the city. City government acts as the public's trustee in managing streets and alleys. The primary concern of the City in vacation decisions is to safeguard the public's present and future needs and to act in the public's best interest.

The City Council weighs the public trust and land use effects of a vacation, mitigating measures, and the public benefit provided by the vacation to determine if the vacation is in the public interest. In balancing these elements of the public interest, the Council places primary importance upon protecting the public trust it holds in public right-of-way.

In guiding this decision, these policies cover the following topics:

Public Trust Doctrine This section describes the key components of the right-of-way that the City holds in public trust. These components of the public trust form the foundation of the City's review of vacation petitions and public benefit proposals.

Public Trust Analysis This section describes the criteria the City uses to determine whether it is appropriate to vacate a street or alley.

Public Benefit Analysis This section describes the types of public benefits the City expects to see provided in exchange for a street or alley vacation.

Process for City review of street vacation petitions This section describes the process the City takes to review street vacations. Different approaches are taken based on the relative impacts of the vacation petition.

C. DISTINCTION BETWEEN STREET VACATIONS AND LAND USE DECISIONS

There is no right under the Seattle Municipal Code, the Revised Code of Washington or elsewhere to acquire or develop on public right-of-way. To do so, a property owner must petition for and receive the City Council's approval of a street vacation. Under State law, the Council may not approve a street vacation unless it finds that to do so is in the public interest. The City uses a two-part test to determine whether a vacation is in the public interest. First, the City undertakes a "Public Trust Analysis," a determination of whether the street is needed and whether the public interest can be protected if the street is vacated. Second, the City undertakes a "Public Benefit Analysis," assessing the petitioner's proposal to provide benefits to the public.

Established plans, policies and standards guide this review as called for by these policies. The City will not support vacations that conflict with City planning goals, particularly if the vacation would be inconsistent with the desired intensity of development and preferred uses, or if a clear harm will result. But, land use policies and codes do not bind the Council's decision to grant or deny a street vacation petition. The Council may condition or deny vacations as necessary to protect the public interest.

The City Council has delegated most land use decisions to the Seattle Department of Construction and Inspections (SDCI). The Council's role in such administrative land use decisions is to set policy in the form of zoning and land use codes, development standards, and environmental policies and regulations, which SDCI administers. Property owners have the right to develop their property under those standards, policies, and regulations.

Conversely, street vacation decisions are City Council decisions under state law. The Council cannot delegate that decision to a City department. Unless the Council approves a street vacation, property owners do not have the right to build in or otherwise use the right-of-way. The Council typically makes its approval of a vacation conditional on the petitioner meeting a number of requirements.

In addition to review of the vacation petition under these policies, a development proposal that requires a vacation may undergo one or more of the following additional reviews:

- Land use and zoning review, including review of rezones and Major Institution Master Plan applications;
- Design review and other discretionary land use actions;
- State Environmental Policy Act (SEPA) review;
- Street Improvement Permit review;
- Utility major permit review; and

- Historic preservation review.

These reviews may result in conditions in addition to those applied in the street vacation review. Petitioners are required to obtain all necessary land use and building permits before developing the site.

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II. PUBLIC TRUST DOCTRINE

City streets are held in trust for the public. This means that the City is the trustee and guardian of the streets, not the underlying property owner. The Council may approve vacations only when they are in the public interest. Streets will be retained unless it can be shown that they are not needed for a current or foreseeable public use and the Council is convinced that the vacation is in the public interest. This section describes the intended purposes of streets and the public benefits streets provide.

A. CIRCULATION

In addition to access to adjacent property, streets enable the movement of people, goods, and vehicles through the city as part of a network. If a part of the network is removed, there may be rippling effects to the transportation network. The City will only vacate a right-of-way if it will not disrupt the movement of people, goods, and vehicles through the city, and only if it is consistent with the City's transportation plans.

B. ACCESS

A primary purpose of rights-of-way is to provide access. Streets and alleys provide access to abutting property from the surrounding community and to the surrounding community from private property. Streets are designed to provide access via a range of transportation modes, including walking, bicycling, riding transit and driving. The City will only approve vacations if they do not result in negative effects on the current or future needs of the City's vehicular, bicycle, or pedestrian circulation systems, or on access to private property. If the negative impacts can be appropriately mitigated, the City may choose to vacate the street.

C. UTILITIES

As with the transportation system, City and franchise utilities use streets to serve their customers. The City will only vacate a street when all utilities using or potentially using the right-of-way can be adequately protected with an easement, relocation, fee ownership, or agreement satisfactory to the utilities' owners. The Council will require that future potential utilities can be accommodated.

D. FREE SPEECH

From large scale protests to newspaper vendors, the public has traditionally used Seattle's streets to exercise constitutional rights under the first amendment. Streets will only be vacated if publicly-accessible spaces on the site will be kept open for the same speech-related purposes.

E. PUBLIC ASSEMBLY

Streets also act as places for people to gather, to meet their neighbors, for children to play, and for all segments of society to interact. This role of the right-of-way can be particularly important

for people who have the fewest resources. The Council will consider the importance of each street as a place for community activity in considering the street vacation.

F. OPEN SPACE

In addition to providing space for people to gather, interact and travel, streets offer open space benefits. These benefits include space between structures, connections to open spaces, places for trees and vegetation, and contributions to the open space network. While the open space roles of boulevards, green streets, urban trails, shoreline street ends, and future open space are of particular importance, all streets and alleys provide these benefits.

G. LIGHT AND AIR

Streets and alleys maintain access to light and air to their users and to surrounding property. The Council will consider loss of light and air and shadow impacts in considering whether to approve a street vacation. Of particular importance are shadow impacts on nearby public spaces.

H. VIEWS

Streets and alleys provide views to mountains, bodies of water, and the city itself. The City will protect designated view corridors along streets. The City will consider impacts of a street vacation on views of public places and designated landmarks.

I. LAND USE AND URBAN FORM

Streets and alleys also play a significant role in the shape of the city. The Council will consider the relationship between the intended character of the area as described in Seattle's Comprehensive Plan and other adopted neighborhood, subarea or community plans. The width and spacing of streets, the presence and absence of alleys, and the location and path of boulevards and other linear open spaces all have significant impacts on neighborhoods and how they function. The Council will pay attention to vacations that disrupt an existing pattern of development in the neighborhood.

III. PUBLIC TRUST ANALYSIS

This section of the policies describes the components of the City's analysis in reviewing petitions under the public trust doctrine.

In reviewing a vacation petition, the City Council will weigh the impacts of a vacation on the public trust, mitigating measures, and public benefits proposed by the petitioner to determine if the vacation is in the public interest. In balancing these elements of the public interest, the Council will place primary importance on protecting the public trust.

Streets are dedicated in perpetuity for public travel and the movement of goods. The designation of a right-of-way carries with it rights to circulation, access, utilities, public speech, public use, open space, light, air, views, land use and urban form. City government acts as the public's trustee in managing the use of streets and alleys. In particular, the Council has an interest in protecting the rights of those with the least access to other resources and those most likely to be harmed by development. In that endeavor, the primary concern of the City in vacation decisions is to safeguard the public's present and future needs.

Existing and potential future uses of the street, whether improved or unimproved, will be identified during the vacation petition review. These uses include, but are not limited to, vehicular circulation and access; utility corridors; pedestrian space, such as pedestrian access to schools, public facilities, or shorelines; open space; bicycle travel; access to public spaces, parks, or private property; and access to adjacent streets. All or a portion of the right-of-way may be retained for these or other public purposes, including potential future needs that are unknown at the time of review.

The City will consider the impacts of a vacation on the immediately surrounding neighborhood and on the broader city. The larger the project, the more the City's focus will be on broader community impacts, particularly impacts on communities with the least access to opportunity and most likely to experience the negative effects of development. Consequently, the City will consider whether a vacation would facilitate land uses that have an impact on housing affordability or wage and social equity, or would facilitate the displacement of existing land uses that support communities with the greatest need, such as culturally-relevant small businesses, low-income housing, businesses that provide high-paying jobs to workers without higher education, social services, or other similar activities.

When several vacations are proposed for a particular area of the City, as within the boundaries of a major institution, the Council may request that a comprehensive review be undertaken to determine the cumulative effects of the vacations, particularly on circulation, access, and land use and urban form. City reviewers shall consider the impacts on the larger street grid, as well as impacts on the loss of the right-of-way proposed for vacation.

The record for a street vacation petition is not limited to documents prepared for other aspects of the project under review. To fully assess the impacts of a vacation on the public trust, City departments, boards and commissions, and the Council may ask petitioners for additional information regarding those impacts.

A. CIRCULATION

Streets provide necessary space for the movement of people and vehicles. Vacations may be approved only if they do not result in negative effects on the current and future needs for the City's vehicular, bicycle, or pedestrian circulation systems unless the negative effects can be mitigated. When the traffic functions of a street are necessary for the transportation network, the City will not grant the vacation.

Arterial streets, truck routes, and truck streets may be vacated only when an alternative circulation route is substituted and impacts of the loss of the street are mitigated. The City will not accept an agreement for public vehicular travel across private property to offset the impacts of a street vacation. Vacations that would result in diverting truck or commercial traffic to nearby residential streets will not be approved. Vacations that would encourage traffic code violations, such as a vacation that would result in vehicles backing out from an alley onto a street, will not be approved.

Transit facilities will be protected through the street vacation process. Streets that are used by public transit agencies will be considered for vacation only after review and comment by those public transit agencies **and identification of alternative locations or routes for those transit functions.**

Pedestrian circulation will be protected when approving a vacation. Pedestrian routes, including green streets and public stairways, may be vacated only for public purposes, such as parks. Pedestrian circulation functions of the right-of-way may be replaced by a pedestrian route across private property only when: (1) a major public benefit is provided; (2) an agreement for public access across the property is reached; (3) **the public access to be provided is comparable in terms of safety, convenience and directness; and (4) the free speech functions of the right-of-way will be maintained in public spaces.** Alleys that are part of the primary pedestrian circulation system, such as Post Alley, may be vacated only when comparable public pedestrian circulation is provided and the pedestrian environment along the corridor is improved. Similarly, vacations resulting in a reduction of sidewalk width in areas of existing or anticipated heavy pedestrian volume, may be vacated only when provisions are made to otherwise accommodate the pedestrian traffic. Street vacations that include unimproved pedestrian trails may be approved only when the public pedestrian function is protected.

The continuity and integrity of designated bicycle routes, such as bicycle streets, bicycle paths, and bicycle lanes, will be protected. Such streets and off-street pathways may be vacated only

when a comparable or better bicycle right-of-way is provided as part of the vacation. Bicycle access must be comparable in terms of safety, convenience, and directness.

If a vacation is granted, the City Council may impose conditions on the vacation to reduce impacts on vehicular, transit, freight, pedestrian, and bicycle circulation. **Such conditions may be in addition to any conditions resulting from environmental review or land use regulation.**

B. ACCESS

Street vacation petitions may be approved only if access is retained to properties on the block where the right-of-way is located and to properties on neighboring blocks or streets.

While the primary purpose of streets is circulation, the primary purpose of alleys is to provide access to individual properties. Alleys provide space for loading, vehicular access to abutting properties, and space for utility functions such as water, sewer, solid waste, telecommunications, and electricity. In general, alleys in residential, commercial, and mixed-use zones will be retained. Alleys should be retained for their primary purposes and other public purposes and benefits.

Alley vacations associated with institutions may be permitted only when steep topography prevents development and use of an unimproved alley for access or the alley is not needed for service functions.

Alleys will generally only be considered for vacation when loading, service, delivery, and access to parking functions are retained on the petitioner's property. If the number of curb cuts along the street frontage is likely to be increased due to the vacation of the alley, such a vacation will not be approved. If a curb cut authorized as a result of an alley vacation is wider than the alley being vacated or than curb cuts typically permitted in its zone, additional analysis may be required. Such analysis may include mitigation measures to reduce the visual or functional impacts of such curb cuts. **Alleys may also not be vacated if significant vehicular traffic will be displaced onto a green street, boulevard or other public open space.**

If there is public parking on the right-of-way proposed to be vacated, the City will analyze whether that parking is needed. If the parking is needed and cannot be replaced either on site or on nearby streets, the Council may deny the petition.

If a vacation is granted, the City Council may impose conditions on the vacation to reduce impacts on vehicular, freight, pedestrian, and bicycle access. **Such conditions may be in addition to any conditions resulting from environmental review and analysis or land use analysis.**

C. UTILITIES

Streets that contain or are needed for current or future utility lines or facilities may be vacated only when the utility can be adequately protected with an easement, relocation, fee ownership, or similar agreement satisfactory to the utility owner.

Public streets provide utilities with corridors for the efficient transportation and delivery of utility services to the public in the least costly manner possible. Utilities generally assess vacation petitions from an operational perspective to ensure that a vacation will not impair current service reliability and capacity levels, nor limit the ability to expand services in the future. The growth of telecom utilities above and below ground, increased urban densities, and demand for undergrounding of utility facilities all place pressure on the value of public rights-of-way, particularly alleys, for future utility needs.

Utilities will be given an opportunity to review the proposed vacation, to identify existing and future interests in the right-of-way, and to indicate what actions would be necessary to protect their interests **and the interests of their customers**. The petitioner is responsible for working with the various utilities to identify and address any utility issues. The petitioner shall ensure that each utility will be in a similar position as before the vacation without a detriment to current or future utility services. Enhancement of utility services at the petitioner's expense shall not be required.

If utility easement agreements are required to maintain service, the easement agreements should clearly state the rights and responsibilities of each party. Utilities may prohibit construction of buildings, structures, grading and filing, and other uses over or under their easements where such activities would inhibit operation of or prevent access to the utility facilities for maintenance and repair, or would cause extra cost or liability to the utility, or would affect the safety and integrity of those facilities. Any costs for the repair of damages to the improvements placed on or over the utility easement by the property owner due to the utility maintenance repair or installation will be the express responsibility of property owner.

The City Council may impose conditions on vacations to assure continued service to the public in the most efficient, least costly manner possible.

D. FREE SPEECH

Courts have recognized the role of streets as important spaces for public speech and dialogue. The Council will consider the potential loss of free speech activities in its review of street vacations and will not vacate a public place if the public speech function cannot be adequately mitigated.

Streets are dedicated for general public use and enjoyment. Vacations that solely result in the private regulation of access to public property shall not be granted unless the vacation provides a clearly identifiable public benefit. Vacations are not considered a solution to security problems and shall not normally be approved, absent extraordinary circumstances.

The City Council may impose conditions on vacations to preserve the public's right to free speech, particularly within any privately-owned public space proffered as a public benefit in exchange for a street vacation.

E. PUBLIC ASSEMBLY

Streets have always served as a place of public assembly. The Council will consider the importance of each street, alley, or public place as a place for community activity in considering the street vacation. Streets that serve as places of assembly and streets that are adjacent to public uses will be particularly scrutinized to ensure that the public's right to congregate will not be impaired. The City Council may impose conditions on vacations to maintain the public's right to assembly, particularly within any privately-owned public space offered as a public benefit in exchange for a street vacation.

F. OPEN SPACE

The open space opportunities provided by streets are important resources that contribute to quality of life and become more valuable as the City becomes more densely developed. The contribution of this important street function to the existing and future quality of life for Seattle residents will be an important consideration in each proposed vacation. The open space functions provided by the right-of-way will be identified for each proposed vacation and the effects of their loss will be analyzed.

When the Council determines that the open space function provided by a particular street or alley should be retained, the right-of-way may be vacated only if the open space functions can be retained or replaced by dedication to the public of other comparable street right-of-way or other property.

The impact of development associated with street vacations on open space and pedestrian amenities should be limited. The analysis of the open space functions of streets and alleys will consider the impact of the proposed vacation on:

- a. The contribution of the right-of-way to open space areas;
- b. Use of the right-of-way as a space for play and recreation; and
- c. The role of the right-of-way as an area of neighborhood focus and activity.

When undeveloped streets are identified for open space in the Comprehensive Plan, other adopted plans, or the Land Use Code, they may not be vacated to facilitate development that is inconsistent with the intent of the Comprehensive Plan.

The City has designated green streets in a number of neighborhoods to strengthen the pedestrian environment in the area and to provide alternative open spaces. Green streets may be vacated only for public purposes, such as parks. **If a vacation would harm the function of the green street for pedestrian activity, the vacation may be denied.**

Existing and proposed urban trails, public stairways, other rights-of-way connecting parks and open spaces, or streets connecting the community with parks, schools, shorelines, or other public facilities, will not be vacated unless the right-of-way is exchanged for other land that provides better pedestrian or bicycle pathways resulting in improved open space function.

Seattle Initiative 42 requires that land held for park and recreation purposes, shall be preserved for such use and no such land or facility shall be sold transferred or changed from park use to another use unless certain conditions are met. Designated boulevards and portions of boulevards are held by the City for park and recreation purposes and may be vacated only for public purposes such as parks or open space preservation.

The City Council may impose conditions on vacations to mitigate any potential negative effects of the vacation on the open space functions of the right-of-way.

G. LIGHT AND AIR

The light and air opportunities provided by streets are important resources that contribute to quality of life and public health and become more valuable as the City becomes more densely developed. The contribution of this important street function to the existing and future quality of life for Seattle residents will be an important consideration in each proposed vacation.

The analysis of the light and air functions of streets and alleys will consider the impact of the proposed vacation upon the access to sun, light, and air circulation provided to pedestrians, bicyclists, vehicle occupants, and abutting properties. **The privacy of the residents of property abutting the street to be vacated shall also be considered.**

The analysis will include the potential shadow impacts of the increase in development potential directly attributable to the vacation on nearby public parks and open spaces. Any potential impacts of the vacation on light and air will be compared with similar impacts that would result from development without the vacation. Vacations generally shall not be approved if the development proposed as part of the vacation request would result in additional shadowing of parks and other public open spaces.

The Council may impose conditions on a vacation to reduce shadow impacts on parks and other public open spaces.

H. VIEWS

The views provided along streets are important resources that contribute to the quality of life in Seattle and become more valuable as the City becomes more densely developed. They are of particular value to members of the public that do not have private views. The contribution of this important street function to the existing and future quality of life for Seattle residents will be an important consideration in reviews of vacations along designated view corridors or in

areas where development facilitated by the vacation would significantly impact views of Puget Sound, lakes, mountains, or the Downtown skyline.

Protected view rights-of-way identified by the Land Use Code and SEPA policies shall not be vacated for development that would obstruct public views from those rights-of-way. Streets in Downtown that provide views to Elliott Bay, West Seattle, Mount Rainier, the Olympic Mountains, and other significant features are designated as view corridors in the Land Use Code. Downtown streets shall not be vacated except when conditions are placed on the vacation to ensure the preservation of public views from designated view corridors. Streets designated as view corridors shall not be vacated for development overhead to ensure that these streets remain open to the sky and to protect views from uphill public spaces.

For streets not identified as protected view rights-of-way, the Council will determine what public views are worthy of protection. Public views worthy of protection include, but are not limited to views:

1. From public streets, public open spaces, or public places such as designated scenic routes; a substantial number of residences; or properties abutting the right-of-way proposed to be vacated, and
2. Of important natural features, such as mountains, water, and greenery; or designated landmarks and points of cultural or civic interest, including the city skyline.

Potential view impacts from a vacation will be identified and compared with a “no vacation” alternative. The quality of impacted views will be considered in the evaluating each proposal for street or alley vacation. The Council may impose conditions on vacations to mitigate any potential negative effects of the vacation on the view functions of the right-of-way.

I. LAND USE AND URBAN FORM

Vacations affect the land use and development patterns in an area by adding to the developable land base, altering the local pattern of land division, changing vehicular and pedestrian patterns of movement, and increasing the development potential on the vacated and abutting properties. These changes may allow development that is inconsistent with adopted land use policies and have a negative effect on the area of the proposed vacation and other streets.

Most street vacation petitions are intended to facilitate a particular project. Petitioners shall provide the City with information about the expected completed density of the project and the development potential of the property without a vacation. Such information should be provided as the percentage increase in the development potential and the additional square footage added to the project. Petitioners must also provide the City with information as to how the project advances City planning goals, how it relates to City plans such as Transportation

modal plans and the Equitable Development Implementation Plan, and how the project meets the zoning criteria in the area where the project is located.

A vacation petition may be approved only when the increase in development potential that is attributable to the vacation would be consistent with Seattle's Comprehensive Plan. The criteria considered for making individual vacation decisions will vary with the plans, policies, and regulations for the area where the right-of-way is located. The Council may place conditions on a vacation to mitigate negative land use effects.

Alley vacations may be approved only when they would not interrupt an established pattern of block size or alleys in the vicinity. Continuity of alleys through a number of blocks or a grid that is a consistent feature of neighborhood scale shall be maintained.

To ensure compatible scale and character of infill development, and protect the area's historic character, alleys in special review districts or historic districts may be vacated only when a public space with compatible scale and character is provided.

1. Land Use Considerations

To determine if the land use and urban form effects of a vacation are in the public interest, the following factors will be considered:

- a. The long- and short-term effects of the changes in development potential attributable to the vacation on the circulation, access, utility, light, air, open space, and view functions of nearby streets and public places;
- b. The consistency of land use changes with the City's Comprehensive Plan, particularly in the land use, urban village, transportation, and neighborhood elements of the plan;
- c. The compatibility of the size, scale, and character of potential development with the size, scale, and character of existing development in the area and development provided for by the Land Use Code, given typical lot sizes and configurations;
- d. **The compatibility of the size, scale, and character of the blocks formed by the vacation when compared with the size, scale, and character of existing blocks in the area and goals for pedestrian connectivity and circulation; and**
- e. The post-vacation lot size and configuration compared with surrounding properties and with the local pattern of land division and organization. In areas where streets provide an edge or boundary between zones or areas of different scale and character, the right-of-way may be vacated only when a suitable alternative can be achieved with the proposed vacation. Vacations that would result in intrusions of residential development into industrial zones or the converse are discouraged.

In addition to the general street vacation policies and guidelines contained in this document, Comprehensive Plan policies for the area and the relationship between the proposed vacation

to other City plans and policies such as Transportation modal plans and the Equitable Development Implementation Plan will be used to determine if the land use changes of each vacation are in the public interest. These include policies in the growth strategy, land use, and transportation elements, and in the neighborhood plan adopted for the area. The policies in effect at the time of the Council's review will guide that review.

2. Area-specific Review

Guidelines related to specific areas are provided below. They highlight special concerns related to each area. They shall be used to supplement the general provisions and guidelines of the policies and other policies for protecting the public interest.

a) Urban Centers and Urban Villages

In addition to other guidance regarding specific land uses described below, for urban centers and urban villages the policies of adopted neighborhood plans will be considered, as appropriate.

b) Single-family Areas

Streets in single-family areas provide a number public benefits such as providing for consistency in the pattern and scale of development and providing important breathing space in a neighborhood. Except as noted below, streets in single-family areas shall be retained as these areas may be needed in the future to provide for public uses, such as utility corridors that cannot be currently identified or anticipated. Petitions for vacations in single-family areas shall be reviewed by the same criteria as applied to other vacation petitions, including the requirement that the vacation provide a long-term benefit to the general public.

Clustered housing and other planned housing developments or innovative housing initiatives in single-family-zoned areas shall be reviewed based on the criteria established for the review of multifamily areas.

Alley vacations associated with institutions in single-family areas, as provided by the Seattle Municipal Code, will be reviewed for compatibility with the surrounding neighborhood.

c) Multifamily Areas

In general, streets and alleys in multifamily areas will be retained to aid in vehicular, bicycle, and pedestrian circulation and neighborhood access. Petitions will be reviewed for potential impact on neighborhood traffic volumes and noise.

d) Commercial, Mixed Use, and Downtown Areas

In general, streets and alleys in commercial, mixed-use, and downtown areas will be preserved to facilitate moving goods and people and maintain access to property that is separate from pedestrian routes. In general, this right-of-way will be kept unless it can be demonstrated that

the vacation meets another important public purpose without jeopardizing the functioning of the area and its compatibility with surrounding areas. A vacation must preserve access to off-street loading and parking areas and the continuity of street fronts, particularly in areas with pedestrian activity.

e) Major Institutions

For proposed vacations within major institution boundaries, the major institution policies in the Comprehensive Plan and any adopted Major Institution Master Plan (MIMP) will be considered. If, at the time the Council considers a vacation petition, a MIMP involving the vacation right-of-way has been submitted for approval, but not yet approved, the Council's review of the proposed MIMP shall be **conducted before the Council's review of the street vacation.**

f) Shoreline Overlay Districts

Vacation of a street or alley or portion of a street or alley that abuts a waterbody is regulated by Revised Code of Washington (RCW) 35.79.035 and Seattle Municipal Code 15.62.080. Consistent with the Seattle Shoreline Master Program (SSMP), and other applicable policies or codes:

- (1) The City will consider vacating streets that abut a salt or fresh waterbody only if the vacation is sought to enable the City to acquire the property for beach or water access purposes, boat moorage or launching sites, park purposes (including open space preservation), public view, recreational purposes, water-dependent or water-related educational or interpretive purposes, **water quality improvement purposes**, or other water-dependent or water-related public uses; or the vacation is sought to enable the Port of Seattle to acquire the property for water-dependent or water-related port purposes.
- (2) In industrial areas, the City will consider vacations of streets that abut a salt or fresh waterbody only if the area to be vacated will only be used for a water-dependent or water-related industrial use, and the vacation will enable the City to implement a plan adopted by resolution or ordinance that provides comparable or improved public access to the shoreline area abutting the street or alley to be vacated. The Council will condition the vacation to require that the vacated area be maintained in perpetuity for water-dependent or water-related industrial use. The conditions will require that any changes in the use of the property will require Council review and action, with the

possibility of dedication to public access if the industrial use is discontinued or significantly changed.

- (3) Compatibility between use of vacated right-of-way in the Shoreline District and the SSMP will be ensured by use restrictions established by the SSMP and underlying zoning.
- (4) In assessing the impact of increased development potential that would result from a vacation in the Shoreline District, consideration will be given to the area objectives, purposes of each “environment” designation, and the development standards established in the SSMP and underlying zoning. The effect of land consolidation on the usual pattern of view corridors and lot coverage will be considered. Consideration will also be given to the public interest in drainage and related functions of the shoreline area and protection of abutting waters from pollution, excessive flows, or other conditions that would degrade the abutting water.
- (5) To preserve future public access opportunities, the option of leasing street ends, as permitted in RCW 35.23.410 must be explored as an alternative to vacation.
- (6) Vacations of public right-of-way abutting any waterbody may be approved only when comparable or improved public access is provided. Providing new public access shall not be considered a public benefit for the purposes of these policies.
- (7) Right-of-way that provides a portion of the regulated public access required by the SSMP for another site may be vacated or used to provide public access for a new development only when comparable public access is provided for the proposed vacation and the existing access point. Public access provided under the SSMP requirements and these vacation policies may be coordinated as provided by the Duwamish Access Policy Plan.
- (8) Right-of-way that is needed for vehicular access to the water may be vacated only when comparable access will otherwise be provided.
- (9) If upland right-of-way is needed for public access to waterfront right-of-way or other public access to the water, it may be vacated only when comparable or better public access is provided.

g) Environmentally Critical Areas

Streets in geologic hazard areas and steep slope erosion hazard areas, wetlands, flood plains, fish and wildlife habitat conservation areas, or other critical areas shall generally be retained to reduce development intensity in environmentally critical areas and to protect public health, safety, and welfare.

3. Land Use Conditions on Vacations

The Council may place conditions on vacations to guard against the negative land use effects of additional development potential attributable to the vacation and to ensure that policy objectives are met.

- a) Such conditions will be related to the identified negative effects attributable to the vacation. For example, they may limit additional height or density to pre-vacation levels when these increases are not in the public interest. The conditions will ensure that post-vacation development is consistent with the City's Comprehensive Plan and is in the public interest.
- b) Land use conditions will be stated in terms of development parameters, such as floor area maximums or building envelopes that may not be surpassed and will generally run with the land. The conditions will be administered by the Seattle Department of Construction and Inspections through the master use permit process in conjunction with developing the site.
- c) Land use conditions imposed on a vacation do not preclude related project conditions being imposed under SEPA. In some cases, environmental review of a proposed project may reveal the need for SEPA conditioning that reduces the upper limits placed on the vacation.
- d) Land use conditions imposed upon approval of a vacation, in addition to the Land Use Code, SEPA regulations, the Building Code and other City codes will be relied on to regulate post-vacation development.
- e) Approval of a street or alley vacation is not City approval of the development project for the site and shall not relieve the petitioner of obtaining all necessary land use and building permits before developing the site.

J. OTHER CONSIDERATIONS IN PUBLIC TRUST ANALYSIS

1. Undeveloped streets

Vacation of undeveloped street sections will generally be discouraged to:

- o Retain the existing pattern of extra setbacks and open space in residential neighborhoods;
- o Provide opportunities for pedestrian and bicycle amenities and connections;
- o Preserve opportunities for utility connections;
- o Maintain areas of natural scenery along designated protected view streets and boulevards;

- Provide a buffer between land uses and zoning districts; and
- Provide continuity of wildlife habitat corridors.

2. Subsurface Vacations

Subsurface street vacations may be approved only when protection against future impairment of the street's surface is assured, current and future utility functions are provided for, and the City is adequately protected from potential liability from failure of the surface and any other retained segment below grade due to problems with the underlying structure. A subsurface vacation shall maintain or improve all current **and planned** functions of the street and shall not increase traffic impacts on surrounding streets.

Subsurface vacations shall consider future use of the subsurface portions of the street for future utility needs **and future transportation needs, such as a new transit or highway tunnel.**

A subsurface vacation shall, at a minimum, be deep enough to provide space for a utility corridor large enough to accommodate all utilities currently serving the area and potential future utility needs. The Council may require that a project including a subsurface vacation provide such a utility corridor or other mitigation of impacts on potential future utility needs. The subsurface vacation shall be designed so that there will be no impact to the public nature and the surface functions of the street or alley.

3. Aerial Vacations

Aerial vacations will be considered in only the most limited of circumstances. Aerial portions of streets are an important resource providing light, air, open space, and consistency in the development pattern. These aerial portions are an important element of the public functions of the street. Aerial vacations will be considered only as follows:

- a) For the development or expansion of public facilities, public institutions, or non-profit institutions, the petitioner must demonstrate to the satisfaction of the City Council, that no feasible development alternative exists; and
- b) That neither a permit for a skybridge nor a partial or subsurface vacation can adequately meet the needs of the petitioner.

The review of the petition shall include specific review of the impacts of the proposed aerial structure, including addressing such items as the design of the structure and its dimensions, transparency, material quality, the scale of the project including the aerial portion, and the impact on the streetscape below the structure. The public trust functions of light, air, open space, and views will be carefully reviewed for aerial vacations. The Council shall require mitigation specific to the urban design impacts of the aerial structure.

4. Trade or exchange of property

The review of any vacation may consider the opportunity for exchange of property. Any proposed property exchange must identify property that the City is willing to accept. The Petitioner shall be responsible for providing, as needed, title insurance, environmental site assessment or environmental clean-up, deeds in a form acceptable to the City, and filing and recording fees or escrow. Additionally, the petitioner shall be responsible for any taxes resulting from the transfer. Exchanges may be considered when the property:

- a) Would be useful to mitigate or enhance the various aspects identified in the property proposed to be vacated, such as exchanging an alley vacation for a wider street;
- b) Would result in better circulation and access than is provided for by the current street grid, for example by aligning misaligned streets;
- c) Would exchange property identified as open space for property which would create a contiguous open space parcel; or
- d) Would shift development from property identified as open space to a property with less environmental impact.

5. Alternatives to vacation

The Council, when reviewing the petitioner's indicated use of the property, may consider the practicality of issuing street use permits to provide for temporary uses. In circumstances where a street use permit can accommodate the uses indicated by the petitioner, a permit is preferred, and a vacation will generally not be granted. A street use permit as an alternative to a street vacation may be issued under the following conditions:

- a) The private use of an undeveloped street does not hinder the achievement of any identified open space objectives;
- b) Private landscaping or gardening of undeveloped streets may be allowed with a street use permit, provided that public pedestrian access and circulation and access to shoreline areas are retained; and
- c) Street corridor views are not obstructed.

IV. ANALYSIS OF PUBLIC BENEFITS OF THE VACATION

A. PUBLIC BENEFIT REQUIREMENT

A vacation must include a commitment to provide public benefits. The concept of providing a public benefit is derived from the public nature of streets. Streets, whether improved or unimproved, provide important benefits to the general public. Among the various benefits are preserving the street grid that provides for consistency in the development pattern and influences the scale and orientation of buildings. Streets provide for breathing space, open space and views, natural drainage, and wildlife corridors. These benefits are in addition to the public functions provided by streets discussed in earlier sections of these policies, including: moving people and goods in vehicles, on foot, or by bicycle; and providing for current and future utility services, and for street trees and other amenities.

The City acts as a trustee for the public in its administration of rights-of-way. Courts have required that in each vacation there must be an element of public use or benefit, and a vacation cannot be granted solely for a private use or benefit. Therefore, before this public asset can be vacated to a private party, there must be a permanent or long-term benefit to the general public.

The fact that these benefits are provided equally to all members of the public may be most important to those who have the least. To best address the needs of the community, a strong focus on race and social equity is important in assessing the public benefits included as part of a street vacation petition.

Proposed vacations may be approved only when they provide a permanent or long-term public benefit. Because the public permanently loses the street, short-term public benefits or public benefits that solely benefit individuals will not be considered. The following are not considered public benefits:

- Mitigating the vacation's adverse effects;
- Meeting code requirements for development;
- Paying the required vacation fee;
- Facilitating economic activity; or
- Providing a public, governmental, or educational service.

While the nature of the project is a factor in deciding the adequacy of a public benefit proposal, it is not itself a public benefit.

Consequently, the public benefit must exceed elements require by the Seattle Municipal Code or mitigation required under SEPA or other regulations and is in addition to street vacation fees and other obligations. The petitioner's public benefit proposal should recognize the loss of the

benefits provided by the street to the public and the gains received by the petitioner. **The public benefit proposal should also consider the comments, ideas, and concerns voiced by the public in the early community engagement process.**

The public benefit analysis should balance what the public loses through the vacation with what the public will gain from the project. The comparison is intended to be an element of evaluating a public benefit proposal. The public benefit should not merely be compensatory and should provide a benefit to the general public. **In particular, the Council is interested in public benefits that address the needs of those members of the public most vulnerable to the negative impacts of development such as residents with low incomes, people experiencing homelessness, renters most at risk of displacement, immigrants and refugees, and communities of color.**

The proposal to provide a public benefit does not entitle a petitioner to a vacation; the decision whether to grant a vacation is based on a review of all the elements identified in these policies.

It is the obligation of the petitioner to demonstrate that the public benefit proposed is proportional to the benefits gained by the petitioner and to the scale and impacts of the project. The petitioner shall provide information regarding the increase in the development potential from the vacation, the overall project cost, the assessed value of the adjacent property, **and the value of recent property sales near the proposed vacation.** In addition, the petitioner shall provide objective information about the public benefit proposal, such as budget information, dimensions, materials, and other relevant factual information. The public benefit proposal shall include a table or chart that details the public benefit elements, the cost/budget, timing of implementation of the public benefit elements, whether the elements are required by code, and additional information as requested by the City.

A significant public benefit must be provided by major projects. Major projects include those that are large in scale, require a large amount of public right-of-way, have identified impacts, or those where the vacation contributes to a significant increase in the scale of the project. Minor projects are required to provide a more moderate public benefit.

As part of the petition process, the petitioner shall provide information to the City regarding the public benefit proposal. The City will assist the petitioner in refining and developing the public benefit proposal. The Council will make the final determination as to whether the public benefit package is acceptable.

A number of factors will be considered in identifying whether a public benefit package is sufficient, including the:

- Zoning designation, that is. downtown, commercial, industrial, residential;
- Street classification of the street to be vacated, that is arterial, alley, residential;
- Assessed value of adjacent property **and recent nearby property sales, if any;**

- Lease rates in the general vicinity for similar projects, if appropriate;
- Size of project, in square feet;
- Size of the area to be vacated, in square feet;
- Vacated area's contribution to the site's development potential, including the percentage increase of the project and additional square feet;
- Cumulative impacts of vacations in the area; and
- Effects of the vacation on vulnerable low-income populations and communities of color.

The following elements are not defined as public benefits, but are factors that the City will consider in its review of the public benefit package:

- Compliance of the project with City policies and goals, including the Comprehensive Plan;
- Proposals designed to improve race and social equity, improve access to opportunity, and reduce the threat of displacement such as through provision of quality jobs or education to communities with low access to opportunity, or to increase the supply of affordable housing beyond City requirements;
- Provision of affordable or special needs housing, job training, or other human services;
- The public nature of the project (library, governmental purposes, low-income housing);
- Ideas proposed by the public during the early community engagement process;
- Neighborhood support or opposition;
- Broad-based community support or opposition;
- Agreements with non-governmental organizations or community-based organizations, such as labor-peace agreements, equitable development agreements, or community benefits agreements to provide benefits beyond those proposed for the street vacation;
- Protection of designated landmarks and other historic/community resources; and
- Protection of environmentally sensitive lands.

B. PUBLIC BENEFITS IDENTIFIED

Public benefit proposals should consider needs and ideas identified through community engagement. Public benefits may include, but are not limited to:

1. Physical public benefits

The City may accept a commitment to provide and maintain physical benefits that serve the public, including but not limited to:

- Creation of or enhancement to publicly-accessible plazas, open spaces, or other green spaces;
- Streetscape enhancements beyond that required by codes such as widened sidewalks, stairways, additional street trees or landscaping, street furniture, pedestrian lighting, wayfinding, art, or fountains;
- Development or improvement of designated Green Streets;
- Public art;
- Enhancement of the pedestrian or bicycle environment;
- Pedestrian trails, accessible public routes such as elevators and ramps providing access through the site, and improvements to existing public stairs;
- Spaces that support City goals for race and social equity, such as on-site affordable housing or childcare provided in excess of City requirements, or job training centers;
- Bicycle paths, protected bike lanes, or cycle tracks;
- Other improvements to the pedestrian or bicycle environment, such as intersection safety improvements;
- View easements or corridors;
- Preservation of landmark buildings or other community resources; or
- Implementing an element from an adopted Neighborhood Plan or other City plan such as the Equitable Development Implementation Plan or a Transportation modal plan.

2. Programmatic public benefits

The City may accept a long-term or permanent commitment to undertake a program to address systemic inequities as a public benefit. For example, a new program to provide members of communities with limited English proficiency with opportunities to communicate with public decision-makers, or a program to identify and improve locations where people with disabilities have difficulty moving through the City can be considered as public benefits. The City will not accept a short-term proposal or a proposal to fund an existing program. The City will look for a

long-term commitment to the program and may impose conditions on the project to ensure that the long-term nature of the benefit is ensured.

3. Real Property

The City may accept real property as a public benefit. The property proposed to be conveyed must be property that the City is willing to accept. The petitioner is responsible for any costs associated with the conveyance including appraisals, title work, environmental site assessment, deeds or other document production, taxes on the transaction, or other expenses related to the conveyance of real property, including environmental remediation.

4. Payment of Funds

Where it is not practicable to provide or develop public benefits such as those listed above, the City may accept the payment of in-lieu funds dedicated for a specific purpose consistent with these policies as a public benefit. Such payment must be determined to be an acceptable alternative by the City. Such payment to meet public benefit obligations does not substitute for paying the required street vacation fee.

V. PROCESS FOR CITY REVIEW OF STREET VACATION APPLICATIONS

A. GOALS/INTENT OF PROCESS

Because of the importance of the street, the street vacation review process can be a lengthy and complicated process. While the City Council is the ultimate decision-maker, the Council looks to City departments and the Seattle Design Commission to provide a thorough review and analysis of a petition based on these policies and the interests of the public, particularly those most effected by the impacts of development. **Review of a street vacation petition can often take longer than a year, and depends on the complexity of the project and responsiveness of the petitioner to requests for information and comments from City staff and the Seattle Design Commission.**

The purpose of this section of the street vacation policies is to provide for a process that provides transparency and predictability for petitioners, members of the public, City departments and the Design Commission. **The Seattle Design Commission and the Directors of the Seattle Department of Transportation (SDOT) and Seattle Department of Construction and Inspections (SDCI) may adopt rules or publish guidelines to help petitioners and the public understand the process and requirements for filing and reviewing a street vacation petition.**

B. PETITIONERS

The Revised Code of Washington, Chapter 35.79, restricts petitions for street vacations to “owners of an interest in any real estate abutting upon any street or alley.” A petition must be filed with the Seattle City Clerk. If the petition contains all required information and is signed by the owners of two-thirds of the property adjacent to the street to be vacated, the City will proceed with analysis of the petition.

The Council may also initiate a street vacation process through a resolution. The Council will initiate street vacations by resolution, rather than by requiring a street vacation petition, only for a public purpose or when extraordinary circumstances prevent the following of the petition process. If the City Council initiates a petition, all other aspects of these policies, including protection of the public trust and requirements for providing a public benefit still apply.

C. PRE-PETITION ACTIVITIES

The first step in preparing to file a petition for a street vacation is to consult with SDOT staff on the feasibility of the petition. A meeting to discuss feasibility with City staff, including staff from the SDCI, the Seattle Design Commission, the Department of Neighborhoods (DON), and other City agencies with interest or jurisdiction over the project will be held, as appropriate. Each of these departments will provide guidance on steps necessary to file a petition.

Prior to submitting a vacation petition, the petitioner is required to:

- Consult with the DON on preparing a community engagement plan. The Petition must include a community engagement plan and a report on early community engagement;
- Conduct early community engagement pursuant to the community engagement plan;
- Present the vacation to the Seattle Design Commission before any Early Design Guidance (EDG) meeting, so that the Seattle Design Commission can provide input to the Design Review Board;
- If the project is a Capital Improvement Project brought by the City or any other public agency, present an evaluation to the Seattle Design Commission of vacation and no-vacation alternatives at the Commission's pre-design or 15% review of the proposed facility; and
- If the project is subject to design review, receive Early Design Guidance approval of the project.

D. REQUIRED COMPONENTS OF THE PETITION

Petitions must be submitted to SDOT with all supporting documentation outlined below. SDOT may provide additional guidance regarding specific information to be provided. Petitions submitted without the required information will be returned to the petitioner. Once SDOT determines that all parts of the petition are complete, SDOT will file the petition with the Seattle City Clerk, beginning formal review of the petition.

Petitions must, at a minimum, include the following:

1. Site information:

- Identification of the right-of-way proposed for vacation, including a legal description and, if SDOT determines it is necessary, survey and title work;
- Site and topographical maps; and
- Signatures of the owners of more than two-thirds of the property abutting the street proposed for vacation.

2. Project information:

- Information regarding the development team; and
- Location and description of any project proposed for the site, including preliminary project site plans.

3. Land use information:

- Current zoning and Comprehensive Plan Future Land Use Map land use designation;

- A summary of current City plans and policies, including Comprehensive Plan policies, the Equitable Development Implementation Plan and Transportation modal plans;
- Identification of any land use actions required to facilitate the project, such as design review, a rezone, a major institution master plan, approval from the Landmarks Preservation Board, environmental review, and a report on the status of each of those reviews;
- A comparison of development of the site with and without a street vacation;
- An urban design analysis of the area surrounding the project site, that includes at a minimum a nine-block area surrounding the vacation;
- Analysis of the land use and urban design impacts of development;
- If design review is required, any Early Design Guidance proposals, Design Review Board minutes, including a statement that the project has completed Early Design Guidance and Seattle Design Commission's report to the Design Review Board or SDCI Director; and
- For Capital Improvement Projects, a copy of the Seattle Design Commissions' approved minutes of their pre-design meeting.

4. Transportation information:

- Information regarding the street to be vacated, including the current use and design of the street;
- Designation of the street, including street type, if any; and
- Analysis of the transportation impacts of any loss of street, including impacts to transit, freight, pedestrian, and bicycle circulation and access.

5. Utility information:

- Identification of any utilities in the street.

6. Historic sites or buildings:

- If the street vacation is located in a landmark district or a special review district, or if the street vacation would include or would be adjacent to a historic landmark or site, identify any historic resources and provide a determination of completeness for an application for a certificate of approval from the relevant board.

7. Community engagement:

- The community engagement plan and a report on all community engagement completed to date, including a report on comments from the public and how the petition responds to those comments; and
- If the project is located in an urban center, urban village, manufacturing/industrial center, or other area covered by a neighborhood plan, the goals and policies from the neighborhood plan.

8. Street Vacation policies:

- A preliminary statement on how the vacation meets or addresses the street vacation policies; and
- A preliminary public benefit proposal.

9. Environmental review:

- If environmental review is required for the project, an environmental checklist.

10. Previously rejected street vacations:

- If the City Council has previously rejected a street vacation petition for part or all of the street proposed to be vacated, the new petition should explain how circumstances have changed since the previous Council vote.

11. A filing fee must be paid pursuant to SMC 15.62.030.

E. COMPLEX OR SIMPLE VACATIONS

After receiving the Petition, SDOT, in consultation with the chair of the City Council committee with purview over vacations, will determine whether a project is a simple or complex vacation petition.

1. Complex Street Vacations:

Street vacations will generally be classified as a Complex Street Vacation if one or more of the following project elements are present:

- Is located in an urban center or an urban village;
- Would vacate a City street, other than a street in an industrial zone;
- Is intended to facilitate a project where an Environmental Impact Statement will be prepared;
- Is located inside an area identified by the City as an area where expanded or targeted community outreach is required to achieve equitable outcomes;

- Is located within a shoreline area; or
- Is within a Major Institution Overlay but is not included in the Major Institution's Master Plan.

2. Simple Street Vacations:

Street vacations will be classified as a Complex Street Vacation, unless all of the following project elements are present, in which case the project will generally be classified as a Simple Street Vacation:

- The vacation is not in an urban center or an urban village;
- The vacation would vacate an alley or public place, or would vacate a street or alley in an industrial zone;
- The vacation facilitates a project that does not require an Environmental Impact Statement;
- The vacation is not located inside an area identified by the City as an area where expanded or targeted community outreach is required to achieve equitable outcomes; and
- The vacation is outside of a shoreline area.

If significant public interest in the vacation has been voiced during early community engagement, SDOT, in consultation with the chair of the committee with purview over street vacations, may classify the vacation as a Complex Street Vacation.

F. REVIEW PROCESS

There are two stages to the street vacation review: public trust analysis and public benefit analysis. The following steps will provide for a careful and predictable review of a street vacation petition. Each step may be iterative and may take multiple rounds of review depending on the complexity of the project or the quality of the information available. While street and alley vacations are legislative actions that are not subject to the specific timelines for review that apply to land use permits under Seattle Municipal Code section 23.76, City staff will work with the petitioner to make the process as fast and as efficient as possible, assuming all necessary information to support City staff efforts is provided by the applicant in a timely manner.

1. Circulating the petition

After SDOT files a complete petition with the Seattle City Clerk, SDOT will circulate the petition to City departments, the Seattle Design Commission, utilities, transit agencies, and other City departments or organizations as appropriate.

2. Early Council Briefing or Forum

For Complex Street Vacations, the City Council committee with purview over the street vacation process may host a briefing or public forum on the street vacation petition. The purpose of this forum or briefing is to provide the public with an early opportunity to provide input on the vacation to the Council, the petitioner, and City reviewers. The briefing or forum provides an opportunity for the Council to hear about the vacation, and to provide early feedback regarding the process. A Council forum may be held in conjunction with an Environmental Impact Statement scoping meeting.

If a project is likely to involve both a street vacation petition and a quasi-judicial zoning action such as a site-specific rezone, Council will work with SDCI and SDOT to coordinate the timing of this forum or briefing with timing of review of the quasi-judicial action. The Council may elect to hold a Council forum or briefing before the petition is filed or the Council may ask a City department or the Seattle Design Commission to host a community forum.

3. Public Trust Analysis

City departments, utilities, transit agencies, and as relevant, City Boards and Commissions, will review the public trust elements of the petition and provide comments to SDOT on whether the petitioner has fully analyzed the impacts of the proposed vacation along with developing mitigating measures to address any such impacts. SDOT will provide petitioners with any such comments and provide opportunities to respond to comments. This may result in multiple rounds of review, comment, and refinement of the analysis and petition with information that adequately addresses the impacts of the vacation. City departments may request additional information from the petitioner in order to complete their analysis.

The Seattle Design Commission will consult with SDOT and other City departments to schedule meetings to discuss the public trust elements of the street vacation petition and any City department analysis of the petition. If an environmental impact statement is required, the Seattle Design Commission will not schedule a meeting to make a final recommendation on the public trust elements of a street vacation petition until a Final Environmental Impact Statement has been published. If an environmental impact statement is not required, the Seattle Design Commission will consult with SDOT and other City departments and will schedule a meeting to discuss the public trust elements of a street vacation petition only when sufficient information to assess the impacts of the vacation on the public trust functions has been compiled.

If a street vacation is in a landmark district or special review district, or includes a historic landmark, or is adjacent to a historic landmark, the Design Commission shall not act on the public trust analysis until the appropriate board has met to review the proposed project and its impact on the historic resources.

For City Capital Improvement Projects seeking a vacation, the Seattle Design Commission shall also have approved the project concept, or 30% review either before or concurrent to the Commission making any final recommendations on the public trust analysis. Non-city public agencies are encouraged to present and receive a project concept or 30% review by the Seattle Design Commission.

The Commission will consider comments and issues identified by City Departments, utilities, transit agencies, and as relevant, other City Boards and Commissions, and prepare a recommendation to the Council on the public trust elements of the petition. The SDOT Director shall consider the Commission's recommendation on the public trust elements of the petition in compiling the Department's final recommendation to Council.

If a project is required to or opts to go through Design Review, the Design Review Board shall not make a final recommendation until the Seattle Design Commission makes a recommendation on the public trust elements of the vacation.

4. Public Benefit Analysis

The intent of the public benefit analysis phase of the street vacation review is to ensure that adequate public benefits will be provided to offset the loss to the public of the public trust functions. This review will be guided by these policies.

If a project is required to or opts to go through Design Review, the Design Review Board shall make its recommendation before the Seattle Design Commission's review of the public benefit package.

For City of Seattle Capital Improvement Projects seeking a vacation, the Seattle Design Commission shall also have approved the schematic or 60% review either before or concurrent to the Commission making any final recommendations on the public benefit analysis. Non-city public agencies seeking a street vacation are encouraged to present and receive a schematic or 60% review by the Seattle Design Commission.

Considering mitigation of environmental impacts, and any design review, land use, utility, or street improvement conditions, SDOT shall compile information for the Seattle Design Commission regarding the street vacation public benefit package from City departments with expertise in the public benefit elements proposed by the petitioner. For example, if a public benefit package includes a proposal for public art, SDOT shall solicit comments from the Office of Arts and Culture.

For Complex Street Vacations, the Seattle Design Commission may convene a subcommittee consisting of Commissioners, City staff, and individuals with expertise in affordable housing, equitable community development, and workers' rights to take public comment and review public benefit packages.

The Seattle Design Commission will consider the recommendations of the subcommittee, City departments, the Community Advisory Committee, and public testimony in developing a recommendation to the Council on the public benefit package. The Seattle Design Commission may submit its adopted minutes or provide a separate recommendation on the street vacation petition as a whole. The SDOT Director shall consider the Commission's recommendation on the public benefit package of the petition in compiling the Department's final recommendation to Council.

5. Final Recommendation

SDOT will compile all recommendations and comments on the public trust analysis and the public benefit package for the Council. The SDOT Director will make a recommendation on the street vacation and, in consultation with the chair of the Committee, will prepare a resolution setting a public hearing date for the street vacation.

6. Council Review and Conditional Approval

The Council will hold a public hearing on the petition. It will consider public comments, the recommendations of the SDOT Director and City departments, and the recommendations of the Seattle Design Commission. The Council may ask for additional information from the petitioner related to the public trust analysis or public benefit proposal before making a decision on whether to approve the petition.

If a project requires a street vacation and a quasi-judicial action, such as a rezone or Major Institution Master Plan approval, the Council will review and act on all quasi-judicial components of the project before holding the public hearing on the street vacation.

If the Council grants a street vacation, its initial approval will be conditional. The Council grants a street vacation subject to conditions to ensure the project is built as proposed, to mitigate any impacts, to assure the provision of the public benefit, and to guarantee required fees are paid. Following this conditional approval, the City departments may issue a Master Use Permit and other necessary permits and the petitioner may proceed with developing the project. Before beginning work that would alter the street, the petitioner must address any utility and transportation impacts and may need to obtain permits from SDOT.

The petitioner must fulfill the conditions in a manner approved by the City. As the development proceeds and the petitioner works on meeting the conditions, regular reports must be provided to SDOT. The petitioner bears the responsibility for satisfying the conditions and all the costs associated with satisfying the conditions. The conditions imposed on a vacation vary and the means to assure compliance will also vary as follows:

- Time for completion: conditions will be placed on the vacation requiring starting development by a certain date or completing development by a certain date. If work is not started or completed within the time period stated, the petitioner will be required

to receive approval from the Council to extend the conditional approval. If work has not started within the required period and circumstances have changed significantly, the Council may require that a new petition be filed, and review of the vacation begin anew.

- Conditions related to the development: conditions related to developing the project vary and may be imposed to address design or transportation issues, to mitigate impacts, or as related to providing the public benefit. These types of conditions are generally met by completing the project itself. For example, a condition that a signal be installed, a plaza be provided, or a setback be incorporated would be satisfied by completing the project. If necessary, the City may consider a performance bond or other method to ensure the work is completed.
- Utility issues: following the vacation's conditional approval, the petitioner must work with the utilities to resolve any utility issues including those identified in the vacation conditions. All easements, restrictive covenants, and relocation agreements must be executed before the vacation ordinance is passed. If acceptable to the utility, a performance bond may be posted before final vacation approval.
- Transportation Conditions: any conditions imposed to ensure the smooth and safe operation of streets and alleys, including constructing required improvements, must be carried out before the vacation ordinance is passed.
- Conveying real property: if the conditions require the dedication of property, exchange of property, or the dedication of right-of-way, the petitioner must convey the property before the vacation ordinance is passed. The petitioner must convey property acceptable to the City and provide an acceptable deed form, title insurance, environmental site assessment or environmental remediation, perform any other review deemed necessary by the City, and pay any applicable taxes.
- Conditions that extend beyond the development phase of the project: for conditions that will last for the life of the project such as the requirement that a plaza remain undeveloped and accessible to the public, a Property Use and Development Agreement (PUDA), an easement, or some other binding mechanism will be completed and recorded before the vacation ordinance is passed.
- Payment of fees: all fees shall be paid before the vacation ordinance is passed. Any conditions that require the payment of funds such as a contributing to a community project as an element of the public benefit or funding a trail completion shall occur before the vacation ordinance is passed.

In unusual circumstances, the City may consider accountability mechanisms such as performance bonds or escrow accounts where a complex series of transaction needs to occur or where unusual circumstances exist. In no circumstances will the City pass a final vacation

ordinance without certainty about completing all required conditions and paying all required fees.

7. Final Street Vacation

Once all conditions have been met, SDOT will prepare and the Council will consider and pass a final street vacation ordinance granting control of the street to the abutting property owners. Unless otherwise agreed upon by the abutting property owners, when more than one party owns property abutting the street, the street will be divided so that each side of the right-of-way receives the part of the street closest to their property.

G. Costs and Fees

The costs and fees associated with a vacation are established in the Seattle Municipal Code, and currently include filing, post-hearing, appraisal and vacation fees. The vacation fee will be based on the appraised value of the property. The review process includes the cost of providing professionally prepared project drawings and plans, maps and plot plans, traffic analysis, possible SEPA review, and Design Commission review. The project may require review by a Design Review Board, or other special review. The petitioner is responsible for preparing and providing information necessary to respond to City questions or concerns. Additional costs may include required mitigation measures and the costs associated with providing the public benefit.

Petitioners are given the option of concurrently filing for the vacation petition and a Master Use Permit. To protect the integrity of the legislative street vacation review process, a notarized statement must be signed by the petitioner and included in the petition for the proposed vacation. The statement should indicate that the petitioner has been informed the vacation petition may be subsequently denied at the City Council's discretion; and that any financial commitment the petitioner has made before vacation approval is at their own risk and will not be a factor in the Council's decision on the proposed street vacation.

Attachment 2 - Seattle Design Commission Street Vacations Bill

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LEG Seattle Design Commission Street Vacations ORD
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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE related to the Seattle Design Commission amending sections 3.58.010, 3.58.030, 3.58.050, 3.58.080, 3.58.090 and 22.900G.080; and adding a new section 3.58.100; to clarify the role of the Seattle Design Commission in reviewing petitions for long-term or permanent use of the public right-of-way and fees for Design Commission review of such projects.

..body

WHEREAS, the Seattle Design Commission was created through Ordinance 96897 in July 1968;

and

WHEREAS, since 1998, Seattle’s Street Vacation Policies have identified a role for the Seattle

Design Commission in reviewing petitions for vacation of the public right-of-way; and

WHEREAS, the Council intends to clarify the role of the Seattle Design Commission in review

of street vacation petitions and certain term permit applications; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.58.010 of the Seattle Municipal code, last amended by Ordinance 96977, is amended as follows.

3.58.010 Commission established.

There is established, as of October 1, 1968, a Seattle Design Commission to act in a consulting capacity advisory to the City in connection with environmental and design aspects of City capital improvement projects and proposals for the long-term or permanent private use of public rights-of-way. The Seattle Design Commission shall serve functions and carry out duties as provided in this chapter.

Section 2. Section 3.58.030 of the Seattle Municipal code, last amended by Ordinance 121568, is amended as follows.

Attachment 2 - Seattle Design Commission Street Vacations Bill

Lish Whitson
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D5

1 **3.58.030 Membership.**

2 Subject to the provisions of this chapter, the Commission shall act in a consulting
3 capacity, advisory to Mayor, City Council, and appropriate City officials in connection with
4 environmental and design aspects of capital improvement projects of the City and proposals for
5 the long-term or permanent use of public rights-of-way. The Commission shall consist of nine
6 (9) members appointed by the Mayor, subject to confirmation of a majority of the City Council
7 and may be removed by the Mayor, subject to such confirmation. Membership shall include two
8 (2) licensed architects, one (1) professional fine artist, and one (1) lay member; and, at least one
9 (1) and no more than two (2) from each of the following categories, for maximum total of five
10 (5); professional urban planner, professional environmental or urban designer, landscape
11 architect and licensed professional engineer. The Mayor shall solicit recommendations for
12 membership from the American Institute of Architects, Seattle Chapter; the American Planning
13 Association, Puget Sound Section of the Washington State Chapter; the American Society of
14 Landscape Architects; the Consulting Engineers Council of Washington; the American Society
15 of Civil Engineers; the Seattle Arts Commission; and other professional organizations for the
16 nonlay members. The lay member shall be selected because of particular qualifications in matters
17 related to the purpose of the Commission.

18 In addition to the members set forth above, one (1) designated young adult position shall
19 be added to the Seattle Design Commission pursuant to the Get Engaged Program, SMC Chapter
20 3.51. The terms of service related to this young adult position are set forth in SMC Chapter 3.51.

21 Section 3. Section 3.58.030 of the Seattle Municipal code, last amended by Ordinance
22 96897, is amended as follows.

23 **3.58.050 Compensation—Calling in of consultants.**

Attachment 2 - Seattle Design Commission Street Vacations Bill

Lish Whitson
LEG Seattle Design Commission Street Vacations ORD
D5

1 A. Compensation for the professional and skilled services rendered by members of the
2 Commission, while serving in a consultant capacity to the City in meeting sessions, shall be at
3 the rate of Twenty-five Dollars (\$25.00) for each hour, including the time of travel to
4 Commission meetings, provided, however, that the total compensation that shall become due and
5 payable to any member shall not exceed Two Hundred Dollars (\$200) for any one (1) day in
6 meeting sessions of the Commission. Commission members shall be reimbursed for actual costs
7 incurred by them in performance of the duties of the Commission including the cost of travel to
8 Commission meetings. Members of the Commission shall not participate on a design team under
9 consideration for appointment by the Commission, or be recommended for appointment by the
10 Commission for a design contract.

11 B. Subject to prior approval by the City, the Commission may from time to time call in
12 ~~((special))~~ outside consultants. Such consultants shall be chosen by the Commission for their
13 recognized competence and experience in ~~((the planning and design of specific projects, or for~~
14 ~~their overall particular competence in the design of public works.))~~ matters before the
15 Commission. All costs related to engaging any such consultants shall be paid by the applicant or
16 agency whose proposal before the Commission necessitated the need for Consultant services.

17 Section 3. Section 3.58.080 of the Seattle Municipal Code, last amended by Ordinance
18 120479, is amended as follows.

19 **3.58.080 Advisory duties.**

20 The advisory and review function of the Commission shall include:

21 A. Study of capital improvement projects prior to commencement of design and
22 formulation of recommended aesthetic, environmental and design principles and objectives that
23 the Commission believes should be sought in the development of the project. These

Attachment 2 - Seattle Design Commission Street Vacations Bill

Lish Whitson
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D5

1 recommendations should be discussed with the project designers and appropriate City officials
2 prior to commencement of design work.

3 B. Review of capital improvement projects from time to time during the design period
4 and recommendation for approval or changes upon completion of the schematic design phase,
5 the design development phase and the construction document phase. It shall be the function of
6 the Commission to advise and assist the project designer and appropriate City officials in the
7 development of the project. The Commission may recommend changes in the project designer's
8 work or may recommend approval. Commission review of the construction document phase shall
9 mean review relative to compliance with previously determined environmental and aesthetic
10 objectives.

11 C. Assist City officials in selecting project designers. At the request of the City
12 department with responsibility for management of a capital improvement project, individual
13 Commission members shall serve on the selection panel that recommends design services for the
14 execution of such projects.

15 D. Review petitions for long-term or permanent use of city streets, alleys, and other
16 public rights-of-way, such as street or alley vacations pursuant to Chapter 15.62; or skybridge
17 petitions pursuant to Chapter 15.64; or other above-grade significant structure term permit
18 applications pursuant to Chapter 15.65. The Commission shall advise the Council on the
19 appropriateness of such an action and any public benefits associated with the petition.

20 Section 4. Section 3.58.090 of the Seattle Municipal Code, last amended by Ordinance
21 124919, is amended as follows.

22 **3.58.090 Fees and charges for Design Commission review**

Attachment 2 - Seattle Design Commission Street Vacations Bill

Lish Whitson
LEG Seattle Design Commission Street Vacations ORD
D5

1 A. The Commission is authorized to charge fees pursuant to Section ~~((22.900D.170))~~

2 22.900G.080.

3 ~~((B. The Commission in its discretion, with the concurrence of the City Budget Director,~~
4 ~~may waive its fee under subsection 3.58.090.A, in whole or in part, in the following~~
5 ~~circumstances:~~

6 1. ~~Whenever Commission fees, if charged, would be disproportionate to the sums~~
7 ~~available and could cause abandonment for the following types of projects: artworks, projects~~
8 ~~funded by grants and donations, neighborhood self help projects undertaken by volunteers and~~
9 ~~nonprofit organizations, and for small capital improvements.~~

10 2. ~~For Low income and Special Needs Housing Projects Subject to Design~~
11 ~~Commission Review. The Commission may require a deposit of its fee before reviewing a~~
12 ~~project or giving its advice.~~

13 ~~C. The Commission shall charge fees for its review of City departments' capital~~
14 ~~improvement projects as set forth in subsections 22.900G.080.A through 22.900G.080.D.))~~

15 Section 5. A new section 3.58.100 is added to the Seattle Municipal Code as follows:

16 **3.58.100 Public Benefits Subcommittee**

17 A. The Commission may convene a subcommittee to review public benefit proposals
18 related to petitions for vacations of public rights-of-way and make recommendations to the full
19 Commission regarding such proposals. The Public Benefit Subcommittee authorized under this
20 section will be convened to evaluate proposals that include public benefit features that do not
21 require upgrades to the public realm or the creation of open space, such as affordable housing,
22 financial payments to social service agencies, financial payments to City agencies or other
23 similar entities that provide job training programs or other similar activities.

Attachment 2 - Seattle Design Commission Street Vacations Bill

Lish Whitson
LEG Seattle Design Commission Street Vacations ORD
D5

1 B. A subcommittee convened under this section will be comprised of members of the
2 Commission, City staff, and additional members with expertise in community development, low-
3 income housing, workers’ rights, and other areas of relevant expertise not otherwise found on the
4 Commission. The Commission will recruit and appoint the additional members, following
5 Commission rulemaking. The subcommittee will not comprise a quorum of Commission
6 members.

7 C. When appropriate, the subcommittee will hold meetings in the evening as needed and
8 accept public comment on the public benefit proposal prior to making a recommendation to the
9 Commission.

10 Section 4. Section 3.58.090 of the Seattle Municipal Code, last amended by Ordinance
11 125492, is amended as follows.

12 **22.900G.080 Design Commission fees**

13 ~~((A. City Capital Improvement Projects, as Defined in Section 3.58.020. Design~~
14 ~~Commission fees shall be assessed at a rate of 0.3 percent of the construction cost for City capital~~
15 ~~improvement projects for which billing will commence on or before December 31, 1998, except~~
16 ~~as specified in subsections 22.900G.080.B and 22.900G.080.D. Billing will occur at the time of~~
17 ~~contract award by the Department of Finance, who will forward the bills to the Department for~~
18 ~~distribution to appropriate City departments. Payment will be made through a fund transfer to the~~
19 ~~Department Operating Fund.~~

20
21 ~~B. Major City Capital Improvement Projects. Except as specified in subsection~~
22 ~~22.900G.080.D, Design Commission fees shall be assessed at a rate of up to 0.3 percent of the~~
23 ~~construction cost for major City capital improvement projects (greater than \$10,000,000~~

Attachment 2 - Seattle Design Commission Street Vacations Bill

Lish Whitson
LEG Seattle Design Commission Street Vacations ORD
D5

1 ~~construction budget) for which billing will commence on or before December 31, 1998. The fee~~
2 ~~shall be set through negotiations with the City Budget Director and the Design Commission.~~
3 ~~Billing shall occur in accordance with a schedule agreed upon by the City Budget Director and~~
4 ~~the Design Commission.~~

5 C.—1. ~~For City capital improvement projects, as defined in Section 3.58.020, for which~~
6 ~~no billing commenced under subsections 22.900G.080.A or 22.900G.080.B on or before~~
7 ~~December 31, 1998, and that do not fall within an exception in subsection 22.900G.080.D, the~~
8 ~~City Budget Director, the Design Commission, and each affected City department will attempt to~~
9 ~~agree on that department's projects that are expected to be assessed by the Design Commission in~~
10 ~~the following year. If no agreement is reached by a date established by the City Budget Director,~~
11 ~~the City Budget Director will establish the list of such projects. The City Budget Director may~~
12 ~~establish the assessable appropriation of a City capital improvement below the actual~~
13 ~~appropriation in order that the project not be assessed an unduly high fee relative to the cost of~~
14 ~~the anticipated Design Commission review.~~

15 2.—~~The City Budget Director will assess a uniform fee of up to one percent of~~
16 ~~the total of all departments' capital improvement project appropriations for those projects~~
17 ~~assessable for Design Commission fees. Such fee shall be set so as to be sufficient, when~~
18 ~~combined with other funding sources, to support the anticipated costs of the Design Commission~~
19 ~~for the following year, but in no case shall the fee exceed one percent.~~

20 3.—~~The Director of the Seattle Department of Construction and Inspections shall~~
21 ~~bill each department in the amount determined by the City Budget Director, and that amount~~
22 ~~shall be paid by fund transfer to the Department Operating Fund.~~

Attachment 2 - Seattle Design Commission Street Vacations Bill

Lish Whitson
LEG Seattle Design Commission Street Vacations ORD
D5

1 4. ~~If a capital improvement project's appropriation has been included in a fee~~
2 ~~assessed under this section, but Design Commission review of that project is delayed into a~~
3 ~~future year, that appropriation amount shall not be counted again in the calculation of the fee for~~
4 ~~any future year. If review of a project on which a fee has been assessed under this subsection~~
5 ~~22.900G.080.C is canceled, or if review commences on a project that, but for timeliness, would~~
6 ~~have been included but was not included in the calculation of a fee under this subsection~~
7 ~~22.900G.080.C, the City Budget Director shall adjust the department's total assessable~~
8 ~~appropriation downwards or upwards, respectively, when establishing the subsequent year's fee.~~

9 D. Special exceptions.))

10 The Commission will bill non-City projects seeking long-term or permanent use of a
11 right of way including, but not limited to, vacations of a street, alley or public place pursuant to
12 Chapter 15.62, a skybridge term permit pursuant to Chapter 15.64 or a significant structure
13 pursuant to Chapter 15.65 at the hourly rate of \$112 an hour per Commissioner for subcommittee
14 review, or \$791 an hour for full Commission review. Billing will be sent to the Seattle
15 Department of Transportation for inclusion into the plan review costs charged to the applicant, or
16 be billed directly by the Department. For those projects billed through the Seattle Department of
17 Transportation, payment will be made by a fund transfer from the Transportation Fund to the
18 Department Fund from funds paid by the applicant. ((, except that fees)) Fees may be waived, in
19 whole or in part, at the discretion of the Commission with the concurrence of the City Budget
20 Director in the following circumstances:

21 1. Whenever Commission fees, if charged, would be disproportionate to the sums
22 available and could cause abandonment of the project for the following types of projects: art-

Attachment 2 - Seattle Design Commission Street Vacations Bill

Lish Whitson
LEG Seattle Design Commission Street Vacations ORD
D5

1 works, projects funded by grants and donations, neighborhood self-help projects undertaken by
2 volunteers and nonprofit organizations, and small capital improvements;

3 2. For low-income and special needs housing projects subject to Design
4 Commission review.

5 ~~((E. Street use permit reviews. Street use permit reviews, which are required before~~
6 ~~issuance of a street use permit for improvements within the public right of way, will be billed at~~
7 ~~the hourly rate of \$112 an hour per Commissioner for subcommittee review, or \$794 an hour for~~
8 ~~full Commission review. Billing will be sent to the Seattle Department of Transportation for~~
9 ~~inclusion into the plan review costs charged to the applicant, or be billed directly by the~~
10 ~~Department. For those projects billed through the Seattle Department of Transportation, payment~~
11 ~~will be made by a fund transfer from the Transportation Fund to the Department Fund from~~
12 ~~funds paid by the applicant.~~

13 ~~F. Early Master Use Permit stage or projects outside City contract process. For design~~
14 ~~review at an early Master Use Permit stage or for projects outside The City of Seattle contract~~
15 ~~award process, Design Commission fees will be billed by the Department at an hourly rate of~~
16 ~~\$112 an hour per Commissioner for subcommittee review, or \$791 an hour for full Commission~~
17 ~~review/))~~

Attachment 2 - Seattle Design Commission Street Vacations Bill

Lish Whitson

LEG Seattle Design Commission Street Vacations ORD

D5

1 Section 5. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2018,
5 and signed by me in open session in authentication of its passage this _____ day of
6 _____, 2018.

7 _____
8 President _____ of the City Council

9 Approved by me this _____ day of _____, 2018.
10 _____
11 Jenny A. Durkan, Mayor

12 Filed by me this _____ day of _____, 2018.
13 _____
14 Monica Martinez Simmons, City Clerk

15 (Seal)

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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE related to land use and zoning, adding a new Section 23.41.022 to the Seattle Municipal Code (SMC) and amending section 23.76.005 of the SMC to clarify the relationship between design review and review of street vacation petitions.

..body

WHEREAS, the Street Vacation Policies of the City of Seattle were adopted in 1998; and

WHEREAS, the Council intends to clarify the relationship between the street vacation review

process and the Design Review program; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Section 23.41.022 is added to the Seattle Municipal Code as follows:

23.41.022 Coordination of Design Review and Vacations of Right-of-Way

A. Full Design Review. The following requirements apply to projects that seek the vacation of a public right-of-way pursuant to Seattle Municipal Code Chapter 15.62 and are subject to or for which an applicant has elected full design review pursuant to Section 23.41.004.

1. Early Design Guidance. Before submitting any application materials to begin the early design guidance process, an applicant shall consult with the Seattle Design Commission. The purpose of the consultation is to have the Seattle Design Commission provide recommendations to the Design Review Board prior to the board holding any early design guidance meetings under Seattle Municipal Code Section 23.41.014. The Seattle Design Commission recommendations will include any initial concerns about the proposed project and any conceptual design or siting alternatives, including any no-vacation alternatives prepared.

2. Design Review Board recommendation. The Design Review Board shall not hold a final recommendation meeting until the Seattle Design Commission makes a

Attachment 3 - Street Vacation Land Use Code amendments

Lish Whitson
LEG Street Vacation Land Use Code ORD
D4

1 recommendation on the Public Trust Analysis phase of a street vacation review as described in
2 the Street Vacation Policies of the City of Seattle.

3 B. Administrative Design Review. The following requirements apply to projects that seek
4 the vacation of a public right-of-way pursuant to Seattle Municipal Code Chapter 15.62 and are
5 subject to or for which an applicant has elected administrative design review pursuant to Section
6 23.41.004.

7 1. Early Design Guidance. Before the Director makes guideline priorities
8 available, an applicant shall consult with the Seattle Design Commission. The purpose of the
9 consultation is to have the Seattle Design Commission provide recommendations to the Director
10 prior to the Director identifying priorities pursuant to section 23.41.016. The Seattle Design
11 Commission recommendations will include any initial concerns about the proposed project and
12 any conceptual design or siting alternatives, including any no-vacation alternatives prepared.

13 2. Design Review Board recommendation. The Director shall not make a
14 recommendation pursuant to section 23.41.016 until the Seattle Design Commission makes a
15 recommendation on the Public Trust Analysis phase of a street vacation review.

16 Section 2. Section 23.76.005 of the Seattle Municipal Code, last amended by Ordinance
17 123913, is amended as follows:

18 **23.76.005 Time for decisions**

19 A. Except as otherwise provided in this Section 23.76.005 or otherwise agreed to by
20 the applicant, land use decisions on applications shall be made within 120 days after the
21 applicant has been notified that the application is complete. In determining the number of days
22 that have elapsed after the notification that the application is complete, the following periods
23 shall be excluded:

Attachment 3 - Street Vacation Land Use Code amendments

Lish Whitson
LEG Street Vacation Land Use Code ORD
D4

1 1. All periods of time during which the applicant has been requested by the
2 Director to correct plans, perform required studies, or provide additional required information,
3 until the Director determines that the request has been satisfied;

4 2. Any extension of time mutually agreed upon by the Director and the
5 applicant;

6 3. For projects for which an EIS has been required, the EIS process time period
7 established in subsection 23.76.005.B;

8 4. Any time period for filing an appeal of the land use decision to the Hearing
9 Examiner, and the time period to consider and decide the appeal; and

10 5. All periods of time during which the applicant has been requested by the
11 Director to pay past-due permit fees, until the Director determines that the request has been
12 satisfied or until the permit is cancelled for failure to pay fees.

13 B. The time required to prepare an EIS shall be agreed to by the Director and applicant
14 in writing. Unless otherwise agreed to by the applicant, a final environmental impact statement
15 shall be issued by the Director within one year following the issuance of a Determination of
16 Significance for the proposal, unless the EIS consultant advises that a longer time period is
17 necessary. In that case, the additional time shall be that recommended by the consultant, not to
18 exceed an additional year.

19 C. The time limits established by subsections 23.76.005.A and B do not apply if a
20 permit application:

- 21 1. requires an amendment to the Comprehensive Plan or the Land Use Code; or
22 2. requires the siting of an essential public facility; or

Attachment 3 - Street Vacation Land Use Code amendments

Lish Whitson

LEG Street Vacation Land Use Code ORD

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3. is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete((-)); or

4. requires the vacation of public right-of-way.

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