



August 15, 2023

Honorable Alex Pedersen, Chair
Transportation & Seattle Public Utilities Committee
Seattle City Council
600 Fourth Avenue
Seattle, Washington 98104

Subject: Petition of Central Puget Sound Regional Transit Authority for the vacation of a portion of the Alley in Block 3, Shelton's Addition to the City of Seattle in the University District within City Council District 4 Clerk File 314496

Dear Chair Pedersen and Honorable Members of the Committee:

We are returning the petition from the Central Puget Sound Regional Transit Authority ("Sound Transit" or "ST") for the vacation of the southern portion of the Alley in Block 3, Shelton's Addition to the City being the alley in the block bounded by NE 47th Street to the north, 11th Avenue NE to the east, NE 45th Street to the south, and Roosevelt Way NE to the west, described as:

South 115.78' portion of the alley on the block bounded by NE 45th Street, Roosevelt Way NE, NE 47th Street, and 11th Avenue NE, where the alley splits parcel 7733600155. The parcel is legally described as:

THAT PORTION OF THE SOUTHEAST QUARTER IN SECTION 8,
TOWNSHIP 25 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, IN
KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF
NORTHEAST 45TH STREET AS SHOWN ON SHELTON'S ADDITION TO THE
CITY OF SEATTLE, ACCORDING TO THE PLAT THEREOF RECORDED IN
VOLUME 12 OF PLATS, PAGE(S) 2, IN KING COUNTY, WASHINGTON,
WITH THE EAST LINE OF ROOSEVELT WAY NORTHEAST, FORMERLY
10TH AVENUE NORTHEAST AS CONVEYED TO THE CITY OF SEATTLE BY
DEED RECORDED UNDER AUDITOR'S FILE NUMBER 684632; THENCE
NORTHERLY ALONG SAID EAST LINE 128 FEET; THENCE EASTERLY
PARALLEL WITH SAID NORTH LINE 92 FEET TO THE WEST LINE OF
THE ALLEY CONVEYED BY SAID DEED; THENCE SOUTHERLY ALONG
SAID WEST LINE 128 FEET TO THE NORTH LINE OF SAID NORTHEAST
45TH STREET; THENCE WESTERLY ALONG SAID NORTH LINE 92 FEET
TO THE POINT OF BEGINNING; AND

LOT 1 AND THE SOUTH 50 FEET OF LOT 2, BLOCK 3,
SHELTON'S ADDITION TO THE CITY OF SEATTLE, ACCORDING
TO THE PLAT THEREOF RECORDED IN VOLUME 12 OF PLATS,
PAGE(S) 2, IN KING COUNTY, WASHINGTON

The area proposed for vacation is the southern portion of the alley, approximately 116 feet in length by 10 feet in width for a total of approximately 1,160 square feet of right-of-way. The legal description provides a precise dimension but as the rectangle of right-of-way (“ROW”) to be vacated has a slightly different measurement on the east and the west side the general description is approximated.

Seattle Department of Transportation (SDOT) recommends the vacation be granted subject to conditions and procedural obligations included in this recommendation.

I. CITY COUNCIL DISTRICT

The proposed street vacation is in City Council District 4.

II. BACKGROUND

Sound Transit owns a parcel at the southern edge of the block bounded by Roosevelt Way NE on the west, NE 47th Street to the north, 11th Avenue NE on the east and NE 45th Street on the south. The block has an alley running north/south between NE 47th Street and NE 45th Street that is opened for the full length and improved at the northern portion. The Sound Transit parcel is on NE 45th Street and is split by the existing alley. Other property owners occupy the rest of the block north of the Sound Transit property. The eastern side of the block is developed with a mixed-use apartment building that uses the alley for access and services and has a private driveway connecting to 11th Avenue NE. The western side of the block is currently in use by an auto dealership but will be developed with two high-rise mixed-use buildings of approximately 400 units in total which will use the alley for services and access.

The block is in the University District neighborhood and within the University Community neighborhood planning area. The site is zoned Seattle Mixed-University 95-320 with an M1 Mandatory Housing Affordability designation (SM-U 95-320 (M1)). This zone allows a range of uses and has a mandatory affordable housing requirement. Projects on sites larger than 12,000 square feet in this zone may build up 320 feet, depending on tower spacing rules. Smaller parcels are limited to 95 feet.

The Sound Transit property is split into two parcels that are each less than 12,000 square feet in size that limits the development potential of the sites. With an alley vacation the combined parcel would be over 19,000 square feet and it may be possible to develop a high-rise residential tower on the combined site.

Sound Transit acquired the property to support the Link Light Rail project and the expansion to Northgate. This site was used for construction offices for the University District Station, which is just to the south of NE 45th Street. After the University District Station opened Sound Transit agreed to lease the property to the City at no cost to establish a temporary Tiny House Village. Sound Transit has been considering options for disposing the surplus property and plans to offer the

site for developing permanent affordable housing. Sound Transit is working with the City's Office of Housing ("OH") to open a Request for Proposals ("RFP") to solicit bids for acquiring the property for the purpose of developing affordable housing. Sound Transit will not develop the site but will select a developer for the housing based on the RFP criteria in development with OH. Sound Transit is working in partnership with OH who will guide the process and will provide funding for the affordable housing.

The Sound Transit Board has established policies to support equitable transit-oriented development ("TOD") and guide the use of property that remains as surplus after completing a Sound Transit transportation project. In 2015, the state legislature adopted legislation directing the agency to advance equitable TOD goals through prioritizing affordable housing when Sound Transit is proceeding with a surplus property disposition. In November 2022, the Sound Transit Board adopted a resolution supporting disposing the University district property for affordable housing.

The policy supports larger regional plans as well, including the Puget Sound Regional Council Growing Transit Communities Strategy, adopted in 2013. Sound Transit is a part of that agreement.

Sound Transit is proceeding to implement those goals and has asked the City Council to consider the vacation petition in advance of the RFP process to support the greatest interest in the site.

III. NONSTANDARD REVIEW PROCESS

The Street Vacation review is intended to be a rigorous examination of the impacts from the loss of a portion of public right-of-way ("ROW") and the impacts from the development that occurs following the vacation. The review process follows the guidance provided in the adopted Street Vacation Policies and in state law. It is also shaped by previous City Council vacation decisions and conditions and guidance from the Early Council Review. The depth of the review necessitates a specific development proposal to understand all the impacts from the proposed vacation and how the public interest is served by the vacation. Historically, the proposal must be for a current project that is ready to secure permits and begin construction immediately should the City Council grant the vacation.

Sound Transit has asked the City Council to consider the petition to vacate the southern portion of the alley absent a specific development proposal. Sound Transit intends to offer the property for developing affordable housing and the purpose of the request for an early vacation approval is to reduce uncertainty about the ability of a purchaser to secure a vacation. Sound Transit and its partner on the site, the Office of Housing, believe that an early vacation approval could facilitate the RFP process and encourage the greatest number of bids.

The City Council has expressed its willingness to consider the vacation absent a development and this leads to some changes in the review steps. The Council will initially review the proposed alley vacation without a developer or a project and may act to grant the vacation with conditions to address defined impacts from the loss of the alley segment and guidance and conditions around the

future public benefit and community engagement work. The community engagement supplemental work and the public benefit proposal are to be deferred until a developer has been selected by Sound Transit and OH. The Sound Transit RFP process shall contain the conditions, recommendations, and procedural obligations included in this recommendation.

Once Sound Transit and OH select an affordable housing provider, the work on the design and development of the site may proceed. As this work moves forward the purchaser will need to conduct additional community engagement and develop a public benefit proposal and provide this information to SDOT. Because the City Council will have already acted on Clerk File 314496, SDOT will create a new Clerk File to contain the additional information. SDOT, the Seattle Design Commission (“SDC”), and other City staff will review the material and provide a recommendation to the City Council.

The City Council will then review and act on this second Clerk File containing the public benefit proposal and the supplemental community work. Constructing housing on the site may then proceed. In the usual fashion, the final Vacation Ordinance will be forwarded to the City Council only when the project has completed all the obligations contained in the two Clerk Files.

IV. ACTIVITIES PRIOR TO FORMAL VACATION APPLICATION

The Street Vacation Policies outline several procedural obligations that a developer must address before SDOT may accept a vacation petition. This includes meeting with SDOT about the vacation process, policies, and obligations; submitting a 0 to 30% Street Improvement Plan (“SIP”); meeting with SDOT and SDCI staff about regulatory and code requirements, completing Seattle Department of Construction and Inspections (“SDCI”) Early Design Guidance (“EDG”) for projects subject to design review; working with Department of Neighborhoods (“DON”) on a Community Engagement Plan; and having an early briefing at the SDC.

Since this proposal does not include a specific project, the activities were more limited and involved a number of meetings. Sound Transit has met and worked with City staff at SDCI, SDOT, Seattle Public Utilities (“SPU”), Seattle City Light (“SCL”), SDC, and DON. Sound Transit also had an early meeting with the SDC before submitting a vacation petition. These multiple meetings helped to shape the vacation petition submitted to the City Council and outlined information needed by City agencies to review the concept of the partial alley vacation.

V. COMMUNITY ENGAGEMENT PLAN

Before a Petitioner can begin the formal vacation review, the Petitioner must work with DON on developing a Community Engagement Plan. The City first expanded the obligation to develop Community Engagement Plans in Ordinance 125429. This legislation added requirements to Seattle Municipal Code (“SMC”) Chapter 23.41 that all projects going through Streamlined, Administrative, or the Full Design Review program administered by SDCI must prepare a

community outreach plan before scheduling the EDG meeting. SDCI Director's Rule 4-2018 and DON Director's Rule 1-2018 provide more guidance about the components of the plan.

The vacation review follows the guidance provided by the SMC and the Director's Rule so the Community Engagement Plan may be accepted by SDCI and SDOT.

Since Sound Transit will seek an affordable housing developer for the site under current regulations, the development will not require any level of review SDCI's Design Review program. Because of the alley vacation, future development will still be subject to review by the Seattle Design Commission and to the obligation to work with DON to develop a Community Engagement Plan.

Sound Transit did conduct community engagement work in 2021 to explore the community's preference for the future development of the site and provided this work to DON. Sound Transit met with community stakeholders, conducted surveys in four languages, mailed over 10,500 postcards to residents, visited over 70 businesses in the area and distributed information at the University District Farmer's Market.

Through this work Sound Transit found that affordable housing was the top priority for the site. The community work also identified an interest in maximizing the housing units and accommodating a range of household sizes. Respondents also supported "reconfiguring" the alley to further enhance the development potential of the site.

While Sound Transit did a lot of work to provide information to the community and solicit input in a variety of ways, the work did not make a clear statement that the alley was proposed for a partial vacation. Nor was there a specific request for public benefit ideas related to the alley vacation. The City has asked that Sound Transit follow up on the community work previously done to specifically address the alley vacation and provide the opportunity for input on the public benefit proposal.

Sound Transit proposes to defer the additional community engagement and the work to develop a public benefit proposal. This work would be completed after the initial approval of the partial alley vacation and would be done by the purchaser of the site as the specific development is planned. Deferring this supplemental community engagement will provide an opportunity for community input on the public benefit proposal.

VI. EARLY CITY COUNCIL REVIEW

The Vacation Policies provide that the Council may host a briefing on a new vacation petition. The purpose of the briefing is to provide the public with an early opportunity to give input on the vacation to the City Council, the Petitioner, and City reviewers. The briefing provides an opportunity for the Council to hear about the vacation, and to provide early feedback regarding the process.

The briefings are held after a petition has been accepted and introduced at City Council and early in the review process. The goal is for the Petitioner to present the vacation to the City Council and the community before the elements of the formal review process such as SDC, Design Review Board (“DRB”) meetings, Street Improvement Permit (“SIP”) review, or other City procedures have begun to identify issues and refine the proposal.

An early Council briefing was held on July 19, 2022, at the Sustainability & Transportation Committee. During that briefing, the Committee expressed support for the nonstandard review process to support developing affordable housing on the Sound Transit property.

VII. REASON FOR VACATION

The vacation is sought to support developing affordable housing on two Sound Transit’s surplus property. The alley vacation allows for consolidating the site so that one building can be developed. This consolidation eliminates the duplication of service and access points and supports a more efficient development. Developing two buildings on the site could require redundant services in each building such as elevators and stairs, lobbies and building entries, mail and package pickup, and trash/recycling service.

In addition, the consolidated site can accommodate more units of housing. Sound Transit has estimated that it is possible that two to three times the number of units could be developed on a consolidated site. The reduction in development costs of the single building plan may reduce the cost per unit of each unit of housing. Without redundant services such as elevators and loading or service bays a consolidated site will likely support constructing the maximum number of units on the site.

VIII. NO-VACATION ALTERNATIVE

Without a vacation of the alley splitting the Sound Transit property it would be possible to develop the property individually for affordable housing. While an alley vacation would consolidate the property into a larger contiguous site, the two individual parcels do have the potential to be developed for housing. However, retaining the alley and developing the two smaller sites would likely yield far fewer affordable units than would the vacation alternative. The height of the buildings would likely be limited as the lot size is too small to maximize the height provided for in the zoning code. The alley would require widening through a dedication of five feet on each side to meet current development standards.

Because of the small lot size and the need for redundant services it is not clear that a project would be financially feasible for affordable housing without the alley vacation, or the project might require a greater subsidy to be viable.

The feasibility assessment provided by Sound Transit suggests a reasonable development scenario of the site without an alley vacation would be a mid-rise building on each side of the alley with 6 to 7 stories and a potential of 77 units of housing and approximately 6,000 square feet of retail in total.

The no-vacation alternative would not require any public benefits or any additional Community Engagement work.

IX. PROJECT DESCRIPTION

Sound Transit does not have a purchaser or developer for the site, so no project description is available. A speculative look at the development potential of the site is based on a feasibility assessment provided by Sound Transit. SDCI has been very engaged in looking at the regulatory obligations at this location and in reviewing the feasibility assessment provided by Sound Transit. It is not anticipated that parking would be required or provided by the housing development, but any scale of development would need to include the space for a reconfigured alley and provide for services and access to the new building.

Sound Transit has presented three possible outcomes for development of the consolidated site. One possibility is a mid-rise project of 7 stories with about 94 units and approximately 6,000 square feet of retail. A second outcome could be a high-rise building of 18 stories with 218 units and 6,000 square feet of retail. A third outcome could be a high-rise building of 28 stories with 260 units and 6,000 square feet of retail.

SDCI has looked at the complexity of the development site and tower spacing requirements with a planned adjacent building. The SMC requires an 8-foot setback from property lines abutting on NE 45th Street and a 4-foot setback is required on Roosevelt Way NE and 11th Avenue NE. In addition, the project would need to dedicate the space needed for a new alley segment to replace the vacated portion. SDCI has also considered requirements that might affect the cost of development if the project were to be developed as a high-rise. A taller tower may require additional elevator banks which are costly and may not be feasible for an affordable housing proposal. High-rise towers have increased costs related to construction methods and materials.

SDCI also noted that at-grade neighborhood open space would be required to exceed the site's maximum Floor Area Ratio ("FAR") which would be required for high-rise development.

A high-rise building with more units could be developed but the costs and complexities of the site make this a more challenging direction.

A realistic outcome on this site is a project that provides somewhere around 200 units of housing and is probably not higher than 16 to 18 stories with ground floor retail of 6,000 square feet. While there is no certainty as to the number of units that might be provided it is likely possible to obtain around 200 units of housing. This scale of project could also accommodate the space

needed to dedicate the new alley segment to 11th Avenue NE. The development of a new alley segment is a mandatory element of the proposal. The development of around 200 units of housing seems realistic but the number of units should be considered as possible and not assumed as an outcome or required as a condition.

What cannot be known now is whether a provider might be selected who proposes larger units or proposes a lower affordability level, which means a greater subsidy to develop the units both of which could result in fewer units. There could be other factors that may be considered in selecting a winning bid on the site that might impact the number of units that are ultimately built.

X. CIRCULATION/REGULATORY REVIEW/ISSUE IDENTIFICATION

In the absence of a specific development proposal the review was limited, and the information reviewed by city staff was based on regulatory obligations and feasibility analysis by Sound Transit. SDOT, SPU, SCL, and SDCI reviewed the concept of the alley vacation. The SDC held a regular Commission meeting to formally review the vacation and provide comments and a recommendation.

XI. DESIGN COMMISSION REVIEW

The SDC reviews all vacation proposals and provides advice to the City Council and City departments on specific elements of the proposal. The SDC focuses their review on two areas established by the City Council in Resolution 31809: how the loss of the right-of-way impacts the functions of the remaining rights-of-way near the project, the public trust functions and how improvements to the public realm offset the loss of the right-of-way, and the public benefit obligation. To evaluate the implications of the loss of the right-of-way, the SDC considers elements such as the community context, how project features such as building orientation and scale are affected, how utilities are modified as a result of the loss of the right-of-way, and how the project engages with the public realm around the development site. The SDC is particularly interested in the community engagement plan and how the goals of the community are reflected in the development and public benefit features.

Following the review of how the elements of the right-of-way are modified as a result of the vacation, the SDC then considers the proposed public benefit package. This includes a review of whether the proposed features are of value to the public and rise to the level of a public benefit. The review considers whether the public benefit elements are public in nature and how the elements exceed any project-related improvements that benefit the project more than the public. Finally, the SDC review considers whether the public benefit proposal is adequate considering the scale of the project, the loss of the public right-of-way, and the impacts of the vacation.

The SDC reviewed the Sound Transit proposal at a subcommittee prior to the vacation petition submittal on June 9, 2022, and at its regular Commission meeting on July 6, 2023, and made the following comments and recommendations.

At the June 9, 2022, meeting, the Commissioners focused their comments on 5 topics:

1. Alley access for city service vehicles, circulation of pedestrian and vehicular traffic
2. Public benefit – goals and restrictions
3. Pedestrian experience of NE 45th Street – massing and setback
4. RFP-embedded expectations for developers
5. Transportation – all modes of access around the site

At the July 6, 2023, Commission meeting the Commission focused their discussions and deliberations following categories outlined in the Council policies for Public Trust analysis. Public Trust policies address the implications of the alley vacation proposal on the role and purpose of rights-of-way and how the project proponent has addressed the loss of the street or alley on the remaining functions of right-of-way abutting or near the site.

The Commission organized their discussion in three groups:

- Circulation and Access, Utilities
- Free Speech, Public Assembly
- Open Space, Light and Air, Views, Land Use, and Urban Form

As Sound Transit has not developed a public benefit package, the Commission did not provide any analysis or direction on that part of the vacation process.

Circulation, Access, and Utilities

Commissioners focused their comments on how vehicles and pedestrian circulation will occur in a safe manner from the new alley configuration. Commissioners also focused their comments on where the location of “back of house” functions (trash, drop offs, deliveries, move-ins) from the vacation. Commissioners raised concerns about the potential impact to Protected Bike Lanes (“PBL”) planned for the west side of 11th Avenue NE and how those conflicts will be mitigated when a development is selected in the RFP process.

Free Speech and Public Assembly

Commissioners had no specific comments on these policies.

Open Space, Light and Air, Views, Land Use, and Urban Form

Commissioners focused their deliberations on how the loss of the alley segment and consolidation of the two parcels affect urban form. Commissioners also discussed the benefits of the vacation in consolidating two parcels that are relatively small. Commissioners also discussed whether a high-rise development appeared feasible due to the site and its constraints. Commissioners also discussed the benefits of having a continuous structure along NE 45th Street due to the vacation. Commissioners expressed concern about the residual space at the NE corner of the site abutting 11th Avenue NE and its role in providing open space.

Commissioners also discussed and expressed concern about Sound Transit stated goals for the project. Sound Transit has indicated that the project was intended to have 100% affordable units. However, there is no explicit goal (number of units, levels of affordability, etc.) and how that goal can be realized if a structure up to or meeting the base height limit is the only feasible option due to site constraints.

Commissioners also expressed concern about the nature of this vacation. The lack of a concurrent development proposal with the vacation petition raises many unanswered questions about its implications on the public realm and abutting development. Commissioners understood that the shared Council and Sound Transit commitment to affordable housing was the basis for this abbreviated process, as both City and Sound Transit believe the RFP process will be strengthened with the vacation in place. Commissioners expressed that any allowance for future vacations without a concurrent development should be highly selective and based on similar strong City priorities. They did understand that future development was intended to meet Sound Transit policies on transit supportive development.

Commission Action

The Commission recommends that the City Council approve the proposed partial alley vacation. The Commission also recommends that the Council require Sound Transit to embed the following conditions in their RFP for future development at this site:

Condition 1 - Public Benefit

Prior to applying for a Master Use Permit to construct affordable housing over the vacated alley segment bounded by NE 45th Street to the south, NE 47th Street to the north, Roosevelt Way NE to the west, and 11th Avenue NE to the east, the Seattle Design Commission will review and approve a public benefit package that meets Council policies in Council Resolution 31809, addresses community expectations detailed in the June 2013 University District Urban Design Framework, Section 3.7 for incentive zoning development; and additional community engagement. A proposed public benefit package should include elements in Council Resolution 31809, a plan to implement potential public benefits that will be complete before issuing a Certificate of Occupancy.

Condition 2 – Public Trust – Circulation and Access

Prior to applying for a Master Use Permit, present to the SDC the design of the access point of the alley to 11th Ave NE. The Commission will evaluate how the proposal minimizes functional impacts to circulation and access from moving vehicular access to 11th Avenue NE. The Commission will also evaluate how potential conflicts with pedestrians and cyclists on 11th Avenue NE are addressed through planning and design solutions that improve safety such as:

- Increasing structure setbacks as necessary to improve sight angles;
- Limiting the width of any opening to that of the minimum needed to accommodate vehicles; and
- Landscaping areas, bollards, and other elements in the right-of-way, on the site, or integrated with the building.

Condition 3 – Public Trust – Urban Form, Light, Air, Open Space

To address the impacts of a structure on NE 45th Street that will be longer due to the loss of the alley, the pedestrian experience along NE 45th Street should be enhanced. Options to enhance the pedestrian experience along 45th Street could include:

- Installing ground floor windows that maximize visibility and transparency, with operable windows when appropriate for uses within the building;
- Providing increased building setbacks along NE 45th Street;
- Planting areas on site and in the right-of-way designed for urban areas with elevated levels of pedestrian movement;
- Designing and applying building materials that are high quality and varied;
- Installing street furniture that is designed for active movement along the street and as places of rest;
- Designing and installing lighting for pedestrian movement and to enhance building architecture; and
- Design any residual space north of the new alley segment to 11th Avenue NE as open space in any public benefit package.

Condition 4 – Public Trust – Urban Form, Light, Air, Open Space

If any future structure is not subject to the City's Design Review program, any new development should consider designs and features that implement guiding principles, urban design recommendations, and environmental sustainability goals in the 2013 University District Urban Design Framework applicable to this site could include:

- Providing site or structure design features that enhance the corner of NE 45th Street and Roosevelt Way NE;
- Distinguishing between the upper and lower floors of any structure over the base zoning height of 95 feet;
- Providing street level uses that activate NE 45th Street, along with structure or design features that accentuate any such uses; and
- Designing any tower features above 95 feet that reflect the existing and planned context of abutting or adjacent high-rise structures.

The conditions recommended by the SDC are included as conditions in this recommendation with an edit related to the timing. As the project may not need a Master Use Permit (“MUP”) the timing obligation to provide information prior to a MUP application may not work. The edit provides that the additional work shall be provided to the City prior to the MUP or according to a schedule established with SDOT.

XII. POLICY FRAMEWORK

Street vacation decisions are City Council decisions as provided by state statute and have not been delegated to any City department. There is no right under the zoning code or elsewhere to vacate or to develop public right-of-way. Vacating public right-of-way requires discretionary legislative approval that must be obtained from the City Council, and the Council may not vacate public right-of-way unless it determines 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 general public.

Established plans, policies, and standards guide this review as called for by the Vacation 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 would 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’s Street Vacation Policies provide that vacation requests may be approved only when they significantly serve the public interest. The Street Vacation Policies provide for a two-step review of any vacation petition to determine if the vacation is in the public interest. The Policies define the components of public interest as protecting the public trust and providing public benefit.

The Street Vacation Policies provide that during its review of the petition, the Council will weigh the public trust and land use effects of a vacation, the mitigating measures, and the public benefits 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 rights-of-way.

This petition has been reviewed for its consistency with the vacation policies to the extent possible without a specific development proposal, a public benefit proposal, and an updated Community Engagement Plan.

XIII. PUBLIC TRUST ANALYSIS

City streets are held in trust for the public and City acts as a guardian for the public in reviewing vacations. 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 the vacation is in the public interest. The policies define the public trust functions of rights-of-way as being circulation, access, utilities, free speech, public assembly, open space, light and air, and views.

Vacations affect the land use and development patterns in an area by adding to the developable land base, altering the local land division pattern, changing vehicular and pedestrian movement patterns, and increasing the development potential on the vacated and abutting streets. A vacation petition may be approved only when the increase in development potential that is attributable to the vacation would be consistent with the Comprehensive Plan.

Circulation: Streets provide for 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 impacts to the transportation network. The City will only vacate 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.

The main purpose of alleys is to provide for access to the individual parcels on a block and to provide for services and utilities. Alleys generally are not considered part of the larger circulation system and do not provide for the circulation of vehicles around a site or a community. Since the alley segment proposed for vacation will be replaced with a new alley segment the use and function of the alley remains in a different form.

Alleys connecting to major arterials can pose some challenges for merging traffic. Both the existing alley access to NE 45th Street and the proposed new alley alignment to 11th Avenue NE would have alley traffic entering the street system on an arterial. This area is busy with buses and vehicles and has high volumes of traffic heading towards Interstate 5. The new access proposed on 11th Avenue NE has the additional complication of heavy use by pedestrians and bicycles which can increase conflicts.

The new alley segment connecting to 11th Avenue NE can adequately provide for continued access and services on the block. Through a Street Improvement Permit ("SIP") or other permit, SDOT will work with the developer on the design of the new alley segment and will require design strategies to mitigate any conflicts with pedestrians and bicycles.

Access: Streets and alleys provide access to individual parcels and provide access around and through the surrounding and larger community. Streets are designed to provide for the range of transportation modes, including walking, bicycling, 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.

The main function of alleys is to provide for access to individual parcels and to provide for utility vehicles and services such as solid waste pickup and utility infrastructure such as SCL poles or SPU catch basins. When the vacation or partial vacation of an alley is proposed the review looks at the impact to the surrounding parcels and whether the service and access uses that should be contained within the parcel are pushed out to the surrounding streets.

This block is long, over 600 linear feet, extending from NE 47th Street to NE 45th Street; the alley in the block is open and has been improved north of the Sound Transit parcels. The alley is currently used by the other property owners for typical alley functions such as access to garages, and for service use such as SPU garbage/recycling pick-ups. These alley functions need to continue on the block, so before a vacation can be approved there must be a replacement of the alley functions.

SDOT, SDCI, and Sound Transit discussed the options for continuing alley functions on the block. The options considered:

- 11th Avenue NE alley connection: this concept eliminates the existing alley connection at NE 45th Street and provides reconfigured alley access through a dogleg to 11th Avenue NE;
- Roosevelt Avenue NE alley connection: this concept eliminates the existing alley access and provides reconfigured alley access through a dogleg to Roosevelt; and
- Hammer head and cul-de-sac alternatives: this concept eliminates the existing alley access and considered various concepts that confined the vehicle movement to the interior of the alley with vehicles entering, turning within the interior of the site and then exiting at the alley entrance on NE 47th Street.

An alley exit on Roosevelt Avenue NE was eliminated as a viable alternative because of its proximity to the I-5 freeway. The high volume of traffic there would mean that alley traffic would need to wind through heavy traffic near a major intersection.

SDOT and SDCI initially identified an interior hammer head or turnaround as a preferred alternative. This alternative was preferred by the City as a way to minimize impacts to Roosevelt Way NE which contends with traffic heading to I-5 or 11th Avenue NE which has high pedestrian and bicycle use currently which is expected to increase in the future. The City requested that Sound Transit provide additional analysis of the alternatives.

Sound Transit had KPFF review the alley alternatives and it provided its analysis to the City on May 16, 2023. KPFF identified that the City's preferred alternative would likely have the greatest impact on development of the site for affordable housing. The creation of a turnaround in the center of the site would take considerably more space than accommodating a dogleg alternative. This would limit the property available for housing

and creates an awkward development site around the alley hammer head. Both the reduction in parcel size and the need to develop around a turnaround would limit the development potential of the site.

KPFF estimated that the interior turnaround could reduce the housing development by perhaps 30 to 35 units.

After a review of the additional analysis provided by KPFF, SDOT can move forward with the “L” shaped alley dogleg configuration proposed by KPFF with an alley connection to 11th Avenue NE. The alley connection needs to be consistent with the Streets Illustrated Street Improvement Manual and the proposal provided to SDOT. The design details shall be established through the SIP review.

In addition, since the alley will connect onto a busy pedestrian and bicycle route, SDOT will require that the proposed alley reconfiguration include design features such as signage and clear sight lines consistent with best practices to minimize potential conflicts between exiting vehicles and the bikes and pedestrians on 11th Avenue NE.

Utilities: City and private 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 similar agreement satisfactory to the utility owner. The Council will require that future potential utilities can be accommodated.

The alley will be realigned following the vacation and shall be designed to accommodate SPU service vehicles where its large-scale vehicles will be needed to provide services to the multi-family buildings on the block and the new affordable housing.

The alley also has Puget Sound Energy, SCL, SPU storm/sewer lines, and some telecommunication facilities. These facilities will need to be accommodated or relocated as determined by the impacted utility.

Free Speech: The public has traditionally used Seattle’s streets to exercise constitutional rights under the First Amendment ranging from large scale protests to newspaper vendors. Streets will only be vacated if publicly accessible spaces on the site will be kept open for the same speech-related purposes.

Alleys traditionally provide for access to the adjacent parcels, parking access, service access such as deliveries and solid waste pickup. Alleys also provide space for utility infrastructure such as City Light vaults and drainage catch basins. The alley proposed for the partial vacation is open and available for public use and provides for the service and access needs for the other parcels on the block.

While it is possible for the public to use the alley and to exercise free speech rights in the alley it does not appear to have much value for those purposes absent some adjacent buildings with public access or public purpose. The alley does not appear to be a neighborhood short cut or a route to public space although it should be noted that the University neighborhood is always busy with pedestrian and bicycle activity.

The vacation is only for the southern portion of the alley. The northern segment of the alley would remain, and the development would create a new alley segment connecting to 11th Avenue NE. The block will continue to have a public alley even after the vacation and new alley segment. While it seems unlikely that the alley will become a place used by the public for the exercise of free speech rights the free speech opportunities are similar before and after a vacation.

Without a proposal for the development of the site it is unknown whether new public space might be included with the new project.

Public Assembly: Streets also act as places for people to gather, to meet others in the community, space for children to play, and for all segments of society to interact. The 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 or alley as a place for community activity in considering any vacation.

As noted, alleys generally function as the back door of a block and provide important space for services and access to property but generally don't provide adequate space for the public to gather. This alley extends from NE 47th Street to NE 45th Street and the southern portion of the approximately 116 linear feet is proposed for vacation. While the alley is long it is narrow and will remain in regular use for services and garage access for the other properties along the alley.

After the vacation, the alley functions will all remain with the new proposed connection to 11th Avenue NE. The width of the alley would make it an awkward and likely insufficient space for a community event or public gathering especially with ongoing service and access uses. The alley does not currently serve as a place of public assembly nor is it adjacent to a public or community space. The narrow width of this alley and its continued need for access to loading, parking, and services make it an unlikely space for public assembly.

Without a development proposal it is unknown whether any new space would be provided on site that might be suitable as public gathering space.

Open Space: Streets provide spaces for people to gather, interact, and travel, and offer open space benefits. These benefits include space between structures, connection to open spaces, places for trees and vegetation, and contributions to the open space network. The open space roles of boulevards, green streets, urban trails, shoreline street ends, and future open space are of heightened importance; all streets and alleys provide these benefits.

This proposed vacation is for the southern portion of the alley and includes about 1,160 square feet of right-of-way that is approximately 10 feet in width and 116 feet in length. While the alley is open and available to the public. However, the continued use of the vacated and reconfigured alley for traditional alley purposes, such as utility services, limits its value as public open space. As noted, this alley space functions to provide for property access and services and does not appear to have value for valuable public open space.

Without a specific development proposal, it is unknown whether any public open space will be provided with the new housing.

Light and Air: Streets and alleys maintain access to light and air to their users and to surrounding property. The Council will consider the loss of light and air, and shadow impacts in considering whether to approve a street vacation. Shadow impacts on public spaces will be given importance.

The street grid provides for consistency in the development pattern. Streets provide for open, undeveloped space, and breathing room and access to sunlight between buildings. Streets provide for light and air onto buildings and public spaces. The alley proposed for vacation is the southern portion of the alley and the service and access functions of the alley will be realigned with a new alley segment proposed to connect to 11th Avenue NE. The functions of the alley will remain in the reconfigured version but there will not be continuous visual access north and south through the alley. The development of a building over the vacation portion of the alley will create a longer continuous building frontage not relieved by the intervening alley.

There are not any public spaces that will be shadowed by development at this location. There will be a modest diminution in light and air, but the vacation supports the development of an affordable housing project reflecting one of the highest goals for the City.

Without a specific proposal it is not possible to know the height and how the block might be utilized but the vacation will support development that is consistent with the anticipated development pattern and will not have significant impacts on light and air, or shadow impacts on any public spaces.

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

The portion of alley right-of-way proposed for vacation does not provide views of any natural feature or community landmark. Should the vacation be approved, the alley will be developed but there is not a loss or diminution of any public views. While the alley is open and does provide the ability to look up and down the alley the scale of development around

the site does not provide for any significant views. There are no views of importance that will be lost by vacating this alley.

Land Use and Urban Form: Streets and alleys also play a significant role in the shape of the city. The City 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 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. The Council may place conditions on a vacation to mitigate negative land use effects.

This project is consistent with the zoning for the area and would be consistent with the scale of a number of planned and permitted future developments. The scale of any building likely to be developed on the consolidated site would be consistent with the zoning and with the goals to support housing and particularly affordable housing in the area. Given the size of the property, even combined through the alley vacation, development here will likely be smaller than the building proposed north of this site and many other developments in the pipeline for the University District. Currently in permitting is a project on Roosevelt north of the Sound Transit property that will be 240 feet in height, a 320-foot hotel/residential building across 11th Avenue NE, a 265-foot residential tower just south on NE 45th Street, and a 320-foot residential tower southeast on NE 45th Street. In addition to these projects in permitting a number of developments are planned or in review in the neighborhood.

SDCI noted that this site is prominent at the entry to district and is very visible. The site fronts on NE 45th Street which can feel hostile to pedestrians and the volume of cars can feel overwhelming. SDCI suggests that any open space provided on site be welcoming and serve as a respite for pedestrians. The street edge should be developed with setbacks that provide relief to pedestrians, create usable space, and have an engaging edge at street-level.

This area is well served by existing transit including the new University District Light Rail Station within two blocks of the site. The neighborhood is rich with educational and cultural opportunities and has a wide variety of retail and services. The location provides for much needed affordable housing in an area with excellent transit, amenities, and services.

XIV. PUBLIC BENEFIT ANALYSIS

The Street Vacation Policies note that a vacation shall 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 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 urban wildlife corridors. These benefits are in

addition to the public functions provided by streets including moving people and goods in vehicles, on foot, or by bicycle; and providing for current and future utility services, for street trees, and for other amenities.

Vacations cannot be granted for a purely private benefit. Before this public asset can be vacated for private purposes, there shall be a permanent or long-term benefit to the public. 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 a part of vacation petition. The Vacation Policies stress the importance of the public benefit proposal responding to the needs of those most vulnerable to the negative impacts of development.

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 Vacation Policies specify that the following are not public benefits:

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

In Section IV, A the policies note, in part, that the following factors are not public benefits, but may be considered when reviewing the public benefit package:

- Project compliance with City policies and goals;
- Proposals designed to improve race and social equity, improve access to opportunity, and reduce the threat of displacement by ...increasing the supply of affordable housing beyond City requirements;
- Providing affordable housing...; and
- Neighborhood support or opposition.

The Vacation Policies go on to state that 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. This has been interpreted as a need to provide a public benefit that serves the general public and not merely a benefit to those who reside in the building or access the services. When no significant impacts have been identified projects may proposed more moderate public benefit packages that implicitly recognize the public benefit in supporting the proposal.

The consistent direction from the City Council has been that every project, even those providing for important public services, must provide a proportional public benefit.

Public benefit elements must also exceed elements required by the Seattle Municipal Code or mitigation required under the State Environmental Policy Act ("SEPA") or other regulations and is in addition to vacation fees and other obligations. The 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 reflect the comments, ideas, and concerns voiced by the public during the early community engagement work. The public benefit must be more than just compensatory and should provide something of benefit to the public.

The SDOT recommendation includes the background from the Vacation Policies to provide the values as expressed in the policies and the criteria that are used to evaluate a public benefit proposal. In the absence of a development plan and a public benefit proposal the information is included here to provide guidance for low-income housing providers who will review the Council recommendation when developing a bid for the property.

In addition to the summary in this recommendation and the expanded information provided in the Vacation Policies potential bidders and the selected bidder should work with SDOT to understand the obligations of the vacation process. SDOT and other City staff, including the expertise of the SDC, will assist in the development of a meaningful public benefit plan that is proportional to the benefits that will be provided by the affordable housing.

SDOT is ready to assist Sound Transit through the RFP process. Once a bid is selected SDOT can facilitate meetings to outline a schedule and process to move this uncommon process forward.

XV. RECOMMENDATION

It is recommended that the vacation be granted upon Sound Transit and any future developer chosen by Sound Transit to acquire the property and develop an affordable housing project on the site (collectively called “the Petitioners”) meeting the following conditions. Once all of Sound Transit’s interests in the property have been conveyed, the purchaser shall assume all responsibilities for meeting the following conditions. The Petitioners shall demonstrate that all conditions imposed by the City Council in this Clerk File and in the second Clerk File which shall contain the Community Engagement Plan and the public benefit proposal have been satisfied, any easements or other agreements are completed and recorded as necessary, any utility relocations are completed, and any fees paid before the street vacation ordinance is passed.

1. The vacation is granted to allow the development of an affordable housing project substantially in conformity with the concept presented to the City Council and for no other purpose. This approval constitutes the substantive Council approval of the vacation, and the Petitioners may proceed with the RFP process for the development of the site, consistent with the conditions of this approval.
2. The Petitioners shall develop a public benefit proposal consistent with the obligations in the Street Vacation Policies and guidance provided in these conditions. The Petitioners shall supplement the Community Engagement plan with a specific discussion of the vacation and provide the opportunity for community input on the public benefits

proposal. Such information shall be provided to SDOT for inclusion in a second Clerk File for review by City departments, the SDC, and the City Council. The Petitioners shall not seek final approval of land use or building permits until the City Council grants approval to the public benefit package.

3. Upon selecting a housing developer, the Petitioners shall begin work with SDOT to establish a review schedule and outline the obligations and expectations of the vacation approval and remaining review.
4. All street improvements shall be designed to City standards, as modified by these conditions to implement the Public Benefit requirements, and be reviewed and approved by SDOT through a SIP or other permit including:
 - Establishing the design of the reconfigured alley segment at 11th Avenue NE, including dimensions, turning radius, site lines, and materials;
 - Proposed measures to reduce potential pedestrian and bicycle conflicts using best practices;
 - Locating any utility facilities, including SCL poles and SPU solid waste bins;
 - Any landscaping; and
 - Material use, signage, art elements and any public benefit features in the right-of-way.
5. The utility issues shall be resolved to the full satisfaction of the affected utility before the final vacation ordinance is approved. Before starting any development activity on the site, the Petitioners shall work with the affected utilities and provide protection for the utility facilities. This may include easements, restrictive covenants, relocation agreements, or acquisition of the utilities, which shall be at the sole expense of the Petitioners. The utilities that may be impacted include SCL, SPU, Puget Sound Energy, and telecommunications.
6. It is expected that development activity will commence by the end of 2026 and that development activity will be substantially completed within 7 years. To ensure timely compliance with the conditions imposed by the City Council, the Petitioners shall provide SDOT with regular reports, following City Council vacation approval, providing an update on the development activity, schedule, and progress on meeting the conditions and anticipated date of project completion and opening. This report shall include an update on other elements of the development review. The Petitioners shall not request or be issued a Final Certificate of Occupancy until SDOT determines that all conditions have been satisfied and all fees have been paid as applicable. If development activity has not commenced within 7 years, the Petitioners must seek an extension of the vacation approval from the City Council.

7. In addition to the conditions imposed through the vacation process, the project as it proceeds through the permitting process may be subject to SEPA review and to conditioning pursuant to City codes through any applicable regulatory review processes.
8. The Petitioners should consider the pedestrian experience and consider street frontage setbacks, the possibility of usable open space, or an engaging edge at street-level to create a more inviting pedestrian experience.
9. Free speech activities such as hand billing, signature gathering, and holding signs, all without obstructing access to the space, the building, or other adjacent amenity features, and without unreasonably interfering with the enjoyment of the space by others, shall be allowed within the on-site vacation public benefit features. While engaged in allowed activities, members of the public shall not be asked to leave for any reason other than conduct that unreasonably interferes with the enjoyment of the space by others. Signage clearly identifying public access and allowed free speech activities shall be required at the public open space elements and shall require the review and approval of SDOT Street Vacations. Signage shall be consistent with signage provided for public amenity spaces. Any violation of this condition by the Petitioners or its successors will be enforced through Chapter 15.90 of the Seattle Municipal Code.
10. Seattle Design Commission review. The following design and public benefit conditions shall require Seattle Design Commission review:

Public Benefit:

Prior to applying for a MUP, or on a schedule established with the City, to construct affordable housing over the vacated alley segment bounded by NE 45th Street to the south, NE 47th Street to the north, Roosevelt Way NE to the west, and 11th Avenue NE to the east, the SDC will review and approve a public benefit package that meets Council policies in Council Resolution 31809, addresses community expectations detailed in the June 2013 University District Urban Design Framework, Section 3.7 for incentive zoning development; and additional community engagement. A proposed public benefit package should include elements in Council Resolution 31809, a plan to implement potential public benefits that will be complete before SDCI issues a Temporary or Final Certificate of Occupancy.

Public Trust: Circulation and Access

Prior to applying for a Master Use Permit, or on a schedule established with the City, present to the SDC the design of the access point of the alley to 11th Avenue NE. The Commission will evaluate how the proposal minimizes functional impacts to circulation and access from moving vehicular access to 11th Avenue NE. The Commission will also evaluate how potential conflicts with pedestrians and cyclists on 11th Avenue NE are addressed through planning and design solutions that improve safety such as:

- Increasing structure setbacks as necessary to improve sight angles;
- Limiting the width of any opening to that of the minimum needed to accommodate vehicles; and
- Landscaping areas, bollards, and other elements in the right-of-way, on the site, or integrated with the building.

Public Trust: Urban Form, Light, Air, Open Space

To address the impacts of a structure on NE 45th Street that will be longer due to the loss of the alley, the pedestrian experience along NE 45th Street should be enhanced. Options to enhance the pedestrian experience along 45th Street could include:

- Installing ground floor windows that maximize visibility and transparency, with operable windows when appropriate for uses within the building;
- Providing increased building setbacks along NE 45th Street;
- Planting areas on site and in the right-of-way designed for urban areas with elevated levels of pedestrian movement;
- Designing and applying building materials that are high quality and varied;
- Installing street furniture that is designed for active movement along the street and as places of rest;
- Designing and installing lighting for pedestrian movement and to enhance building architecture; and
- Design any residual space north of the new alley segment to 11th Avenue NE as open space in any public benefit package.

Public Trust: Urban Form, Light, Air, Open Space

If any future structure is not subject to the City's Design Review program, any new development should consider designs and features that implement guiding principles, urban design recommendations, and environmental sustainability goals in the 2013 University District Urban Design Framework applicable to this site could include:

- Providing site or structure design features that enhance the corner of NE 45th Street and Roosevelt Way NE;
- Distinguishing between the upper and lower floors of any structure over the base zoning height of 95 feet;
- Providing street level uses that activate NE 45th Street, along with structure or design features that accentuate any such uses; and
- Designing any tower features above 95 feet that reflect the existing and planned context of abutting or adjacent high-rise structures.

11. The Petitioners shall develop and maintain the public benefit elements as defined by the City Council. A Property Use and Development Agreement (“PUDA”) or other binding mechanism shall be required to ensure that the public benefit elements remain open and accessible to the public and to outline future maintenance obligations of the improvements.
12. Public amenities and nonstandard elements in the right-of-way shall require a binding mechanism to ensure that the features remain open and accessible and to outline future maintenance and insurance provisions. This may, as determined by SDOT, include a City Council Term Permit, a long-term permit from SDOT, a maintenance agreement, provisions in the SIP, or inclusion in the vacation PUDA.
13. Signage clearly identifying public access shall be required at any public open space elements provided and shall require the review of SDOT Street Vacations. The final design of the public benefit elements shall require the review and approval of SDOT Street Vacations, the SDC, and the City Council. Changes to the proposed public benefits require SDOT review and may necessitate additional SDC or City Council review.

Sincerely,


Greg Spotts (Aug 9, 2023 14:22 PDT)

Greg Spotts, Director
City of Seattle, Department of Transportation

Enclosures