

February 14, 2023

MEMORANDUM

To: Transportation Committee
From: Lish Whitson, Analyst
Subject: Clerk File 314530: Petition of The Yew for the vacation of an alley

On February 20, 2024, the Transportation Committee will receive a preliminary briefing on the petition of THE YEW, LLC for the vacation of an alley at the north end of the block bounded by N 87th Street, 1st Avenue NW, Palatine Avenue N, and N 85th Street ([Clerk File \(CF\) 314530](#)). The vacation would facilitate the development of a mixed-use building with 70 residential units. The site is located in the northwest corner of the Greenwood-Phinney Ridge urban village, at the northern edge of Council District 6.

The February 20 briefing is an “early Council briefing” as called for in the City’s [Street Vacation Policies](#). It is intended to provide members of the Council with an opportunity to “hear about the vacation and provide early feedback regarding the process.” It also provides members of the public with an early opportunity to provide input on the vacation to the Council, the petitioner and City reviewers.”

This memorandum describes the proposed project and requested vacation and highlights key provisions from the Street Vacation Policies to be considered in reviewing the petition.

The Yew

The petitioners own a vacant lot on the south side of N 87th Street, which is bisected by a north-south alley. The alley runs the length of the petitioners’ property, and dead ends into the property to the south. The remainder of the alley on the block was previously vacated (see Attachment 1).

The property is in a Neighborhood Commercial 2-75 zone with an M2 mandatory housing affordability (MHA) designation¹ (NC2-75 (M2)) zone, a commercial zone that allows a mix of commercial and residential uses in structures up to seventy-five feet tall. The NC2 zoning extends east and south. To the west across 1st Avenue N is a Neighborhood Commercial 3-75 zone, which allows more intensive commercial uses without maximum size limits on individual businesses. Across N 87th Street to the north, property is zoned Neighborhood Commercial 3 (NC3) a zone that predominantly allows single-family houses and some neighborhood-serving institutional uses.

South of the petitioner’s property is a surface parking lot that serves a three-story mixed-use development, The Sedges at Piper Village. That project includes a surface water detention pond

¹ The M2 designation, combined with the designation of the Greenwood-Phinney Ridge urban village as a “medium” area under MHA, requires a payment of \$26.55 a residential square foot or 10% of the units in the project to be affordable under the current terms of the MHA program. Information about current MHA payment amounts is available here: [www.seattle.gov/sdci/codes/codes-we-enforce-\(a-z\)/mandatory-housing-affordability-\(mha\)-program](http://www.seattle.gov/sdci/codes/codes-we-enforce-(a-z)/mandatory-housing-affordability-(mha)-program).

just west of the Yew's site at the southeast corner of 1st Avenue NW and N 87th Street. Across 1st Avenue NW to the west is the Greenwood Fred Meyer store. Across Palatine Avenue N to the east are single-family homes and a seven-story mixed-use building, The Morrow. On the north side of N 87th Street are single-family houses.

Recent development south of N 87th Street has provided full sidewalks along the abutting streets. However, N 87th Street and the Neighborhood Residential areas north of N 87th street were developed prior to incorporation into the City of Seattle, and generally lack sidewalks. In this area, the Seattle Department of Transportation (SDOT) has designated 1st Avenue NW a "Healthy Street" and as part of the Healthy Streets program has recently made improvements to 1st Avenue NW. In the 2024 Budget, the Council added a proviso of \$150,000 of the SDOT budget for sidewalks, to fund the construction of a sidewalk on the south side N 87th Street between 1st Avenue NW and Palatine Avenue N, abutting the Yew's property.

Vacating the alley that bisects The Yew's property would transfer ownership of the right-of-way to the Yew's owners and allow for the development of a single larger project covering the entire parcel. The Yew's developers intend to build larger units and provide publicly accessible street-level open space at the corner of N 87th Street and Palatine Avenue N as a result of the vacation.

Preliminary public benefits proposed by the petitioners would include:

- Enhancing and completing the sidewalk along N 87th Street;
- Improving the fencing around the detention pond at the corner of 1st Avenue NW;
- A publicly accessible landscaped plaza at the corner of Palatine Avenue N and N 87th Street, built around a mature yew tree; and
- Improvements to the intersection of N 87th Street and Palatine Avenue N.

Street Vacation Policies

In 2018, the City Council updated its Street Vacation Policies to provide greater clarity for petitioners, members of the public, and decision-makers in proposing and reviewing street vacation petitions. The policies identify two related but independent questions that the Council considers in reviewing a street vacation petition: (1) are the "public trust functions" of the right-of-way maintained? and (2) will the public receive a benefit from the vacation sufficient to offset what the public is losing through the vacation?

Public trust functions are the uses of right-of-way. The policies describe the public trust function review as follows:

Streets are dedicated in perpetuity for use by the public for travel, transportation of goods, and locating utilities. 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. 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. (Street Vacation Policies, p. 7)

The policies provide guidance that is particularly relevant to the proposed vacation. The petitioner should address these policies as it proceeds through the review process:

Vacations of alleys:

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 shall be retained for their primary purposes and other public purposes and benefits. (p. 9)

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, these rights-of-way will be retained unless it can be demonstrated that the vacation meets another important public purpose without jeopardizing the area's functioning 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. (p. 16)

Public Benefits:

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 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. (p. 22)

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 public. In particular, 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 should be considered by the petitioner. (p. 23)

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

- Zoning designation, that is, downtown, commercial, industrial, or residential;
- Street classification of the street to be vacated (arterial, residential, or alley);
- Traffic volumes on the street proposed to be vacated;

- Designation of the street in transportation modal plans and functions of the street in modal networks;
- 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; and
- Cumulative impacts of vacations in the area.

The following factors are not public benefits, but may be considered when reviewing the public benefit package:

- Project compliance 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 by for example, providing quality jobs or education to communities with low access to opportunity, or increasing the supply of affordable housing beyond City requirements;
- Addressing the effects of the vacation on vulnerable low-income populations and communities of color;
- Providing affordable or special needs housing, job training, or other human services;
- The public nature of the project (library, governmental purposes, low-income housing);
- Ideas resulting from the early community engagement process;
- Neighborhood support or opposition;
- Broad-based community support or opposition;
- Support or opposition from non-governmental organizations, public development authorities, or other government entities;
- 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;
- Protecting designated landmarks and other historic/community resources; and
- Protecting environmentally sensitive lands. (pp. 23-24)

Next Steps

The Seattle Design Commission, City departments, and other stakeholders are currently reviewing the street vacation petition. Once their review is complete, the SDOT Director will send a recommendation to the Council. Under Washington State Law, the Council will be required to hold a public hearing on the petition prior to acting on it.

Attachment:

1. Vacation Map

cc: Ben Noble, Director
Aly Pennucci, Deputy Director

