

April 26, 2023

MEMORANDUM

To: Transportation and Seattle Public Utilities Committee
From: Lish Whitson, Analyst
Subject: CF 314517: Request for the extension of approval for an alley vacation

On Tuesday, May 2, 2023, the Transportation and Seattle Public Utilities Committee (Committee) will discuss and may vote on a request from City Investors IV, LLC (City Investors) to extend the term of a subterranean alley vacation. In 2015, City Investors received conditional approval for a below-grade alley vacation on the block bounded by Westlake Avenue N, Denny Way, 9th Avenue N and John Street in South Lake Union, Council District 7. The vacation would facilitate the development of an office building, a residential tower and two retail buildings sharing a common underground parking garage.

Conditional approval of the vacation was granted for five years on December 7, 2015, through [Clerk File \(CF\) 313894](#). Construction of the project has been delayed.

On March 7, City Investors requested that approval of the vacation be extended. [CF 314517](#) includes the request from City Investors and if the Council agrees to extend approval, updated conditions of approval for the vacation would be added to the CF.

This memorandum describes the proposed project and discusses the approval process if the Council agrees to extend the previous approval.

Block 89 Development

City Investors plans a full-block, mixed-use development of approximately 910,000 square feet on the northwest corner of Denny Way and Westlake Avenue N, one block east of Denny Park. The proposal includes four buildings:

- On the northwest corner of the block, a 40-story, 460,000 square foot residential tower with ground floor retail.
- On the southeast corner of the block, an 18-story, 422,000 square foot office building with ground floor retail.
- The entire block would include 30,000 square feet of street-level retail space, with some located in a three-story structure on the northeast corner of the block and some located in a one- or two-story retail structure on the southwest corner of the block.

The buildings would be separated by interconnected pedestrian plazas and walkways. A mid-block pedestrian connector would provide at-grade, east-west access through the center of the block. The alley, which would remain public right-of-way at grade, would be reserved for pedestrian access north-south through the site and enhanced with lighting, landscaping and street furniture.

Parking for the entire development would be provided below-grade in a four- to six-level parking garage. The 848-stall garage would provide 421 vehicle spaces for the residential units and 427 spaces for commercial/retail tenants. Access to the parking would be provided from John Street. All services and loading functions for the block, such as delivery, garbage/recycling, and maintenance vehicles would be from John Street.

The subterranean vacation would allow all service and loading functions for the block to be consolidated. Without the vacation, each half of the block would need its own separate garage which would be accessed from the alley. Separate service and loading functions would be provided for each of the four buildings from surface loading areas that would be accessed from the alley. A vehicle turnaround would also be provided in the southwest building.

Alley Vacation (CF 313894)

On December 7, 2015, the Council provided conditional approval to City Investors for the subterranean vacation of the alley on Block 89 to facilitate the project described above.

Conditions placed on the vacation included the following public benefits:

	Public Benefit Item	Description
1	Alley right-of-way improvements	Special paving, landscaping, pedestrian-scaled lighting, wayfinding, seating, and furnishings in the alley right-of-way between John St and Denny Way, which remains in public ownership. <ul style="list-style-type: none"> • Approximately 7,444 sf of alley improvements.
2	Improvements to the triangular portion of right-of-way at the corner of 9 th Ave and Denny Way	Paving based on 2'x2' City of Seattle standard sidewalk module, landscaping, lighting, and seating. <ul style="list-style-type: none"> • Approximately 4,506 sf of improvements.
3	Green Street improvements on John St	Relocation of existing curb between 9 and 16 feet to the north to expand pedestrian streetscape, including new paving, landscaping, lighting, and seating. <ul style="list-style-type: none"> • Approximately 6,968 sf of improvements.
4	Voluntary setback and streetscape improvements on Denny Way	Expanded street-level building setback, seating, landscaping, and lighting to implement some of the recommendations in the Denny Way Streetscape Concept Plan. <ul style="list-style-type: none"> • Approximately 3,933 sf of improvements.
5	Streetscape improvements on 9th Ave N and Westlake Ave N	Relocation of existing curb to widen sidewalk, including new paving and additional landscaping. <ul style="list-style-type: none"> • Approximately 906 sf of improvements on Westlake and • 2,237 sf of improvements on 9th Avenue N.

Because the proposed project includes a mix of publicly-owned spaces that would be improved, such as the alley right-of-way and the corner of 9th Avenue N and Denny Way, and privately-owned spaces such as the through-block connection and a public plaza, the Council also added conditions requiring distinct paving treatment for the publicly owned portions of the block.

Regarding the span of its approval, the Council stated:

4. It is expected that development activity will commence within 18 months of this approval and that development activity will be completed within five years. In order to insure timely compliance with the conditions imposed by the City Council, the Petitioner shall provide the Seattle Department of Transportation with Quarterly Reports, following Council approval of the vacation, providing an update on the development activity, schedule, and progress on meeting the conditions. The Petitioner shall not request or be issued a Final Certificate of Occupancy (C of O) for the project until SDOT Street Vacations has determined that all conditions have been satisfied and all fees have been paid.

It has been more than five years since approval was initially granted, and City Investors has not yet started development activity for the reasons included in their letter. Consequently, they have returned to Council to seek an extension of the vacation approval.

If the Council agrees to extend the approval, it should grant an extension to the vacation approval with conditions.

A proposed set of updated conditions are attached as Attachment 1. The updated conditions state that "The City Council extends its grant of approval of the City Investors petition contained in Clerk File 313894 and approved December 7, 2015, to December 7, 2030. Conditional approval of the vacation ends on December 7, 2030." A statement is added to Condition 4 that "Approval of the vacation shall expire on December 7, 2030." If the Committee agrees with the request to extend approval, it should direct staff to add these updated conditions to CF 314517 for action at the City Council.

Next Steps

If the Committee votes to recommend approval of Clerk File 314517 at its May 2 meeting, it could be considered by the City Council as early as May 9.

Attachments:

1. Proposed updated conditional approval for Clerk File 314517

cc: Esther Handy, Director
Aly Pennucci, Deputy Director
Yolanda Ho, Supervising Analyst

IN THE MATTER OF THE REQUEST BY CITY INVESTORS IV, LLC TO EXTEND APPROVAL OF THE VACATION OF A SUBTERRANEAN PORTION OF THE ALLEY IN BLOCK 89 LYING BETWEEN JOHN STREET AND DENNY WAY IN THE SOUTH LAKE UNION URBAN CENTER NEIGHBOHROOD OF SEATTLE

CLERK FILE 313984

CLERK FILE 314517

The City Council amends its grant of approval of the petition from City Investors IV, LLC (City Investors or Petitioner) for the vacation of a subterranean portion of the Alley in Block 89 lying between John Street and Denny Way in the South Lake Union Urban Center neighborhood of Seattle, described as:

That portion of the alley bisecting Block 89, D.T. Denny's 5th Addition to North Seattle, according to the plat thereof, recorded in Volume 1 of plats, page 202, Records of King County, Washington, lying below an inclined plane situated 6.00 feet below, and parallel with, the finished grade elevation of said alley, said inclined plane being more particularly described as follows:

Beginning at a point on the south right-of-way line of John Street at the north end of said alley, said point having an elevation of 57.8 feet;

Thence south along the course of the alley a distance of 100.00 feet to a point having an elevation of 62.4 feet;

Thence continuing south along the course of the alley a distance of 130.5 feet to a point having an elevation of 63.7 feet;

Thence continuing along the course of the alley a distance of 130.5 feet, more or less, to a point on the north right-of-way line of Denny Way and the terminus of said inclined plane, said point having an elevation of 61.4 feet.

The inclined plane herein described spans the full alley and is bounded on the north by the south right-of-way line of John Street, on the south by the north right-of-way line of Denny Way, on the east by the west line of Lots 1 through 6 and on the west by the east line of Lots 7 through 12, all of said Block 89.

The elevations described herein are expressed in terms of North American Vertical Datum of 1988 (NAVD 88) and are based upon City of Seattle Benchmark No. SNV-5007, a 2 inch surface brass disk in the concrete walk, vicinity of the Northwest corner of Westlake Avenue and 9th Avenue, elevation 79.14 feet.

The street proposed for vacation includes approximately 5,776 square feet of right-of-way.

The City Council extends its grant of approval of the City Investors petition contained in Clerk File 313894 and approved on December 7, 2015, to December 7, 2030. Conditional approval of the vacation ends on December 7, 2030.

The vacation is granted upon the Petitioner meeting the following conditions. The Petitioner shall demonstrate that all conditions imposed on the vacation by the City Council have been

satisfied: all utility work relating to the vacation including easements or other agreements is completed; all public benefit elements have been provided; any other agreements or easements have been completed and recorded as necessary; and all fees paid, prior to the passage of the street vacation ordinance.

1. The vacation is granted to allow the Petitioner to build a project substantially in conformity with the project presented to the City Council and for no other purpose. The project must be substantially in conformity with the proposal reviewed by the Transportation Committee in September of 2015.
2. 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 the Seattle Department of Transportation; nonstandard elements will require a Street Use Permit and indemnification agreement; elements of the street improvement plan and required street improvements to be reviewed include:
 - Street improvement plan showing sidewalks, street trees, bike racks, street furniture, lighting, art or artist-made elements, signage or wayfinding, and landscaping around the site.
 - Permitted encroachments in the public alley such as treatments to the surface of the alley and other elements as noted above.
 - Elements that distinguish public right-of-way from private property, including clear signage, property demarcation, and changes in paving treatment, street furniture and landscaping.
3. The utility issues shall be resolved to the full satisfaction of the affected utility prior to the approval of the final vacation ordinance. Prior to the commencement of any development activity on the site, the Petitioner shall work with the affected utilities and provide for the protection of the utility facilities. The City shall require indemnification for the private structure below the public alley. This may include easements, restrictive covenants, relocation agreements, or acquisition of the utilities, which shall be at the sole expense of the Petitioner. Utilities impacted include:
 - Seattle Public Utilities, and
 - CenturyLink Communications.
4. ~~It is expected that development activity will commence within 18 months of this approval and that development activity will be completed within five years.~~ Approval of this vacation shall expire on December 7, 2030. In order to insure timely compliance with the conditions imposed by the City Council, the Petitioner shall provide the Seattle Department of Transportation with Quarterly Reports, following Council approval of the vacation, providing an update on the development activity, schedule, and progress on meeting the conditions. The Petitioner shall not request or be issued a Final Certificate of

Occupancy (C of O) for the project until SDOT Street Vacations has determined that all conditions have been satisfied and all fees have been paid.

5. In addition to the conditions imposed through the vacation process, the project, as it proceeds through the permitting process, is subject to SEPA review and to conditioning pursuant to various City codes and through regulatory review processes including SEPA.
6. The Petitioner 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. The final design of the public benefit elements shall require the review and approval of SDOT Street Vacations. SDOT may request additional review by the Design Commission of the implementation of public benefit elements or the pedestrian enhancements in the alley, as necessary. Public benefit elements in the right-of-way require additional street use permits and indemnification, public and private areas must be distinguished and markers in the sidewalk shall be required. Signage clearly marking public access areas must be reviewed by SDOT and shall be provided. The public benefit requirement includes the following features as well as corresponding development standards, including specific dimensions, which shall be outlined in the PUDA:

Block 89 Subterranean Alley Vacation Public Benefits		
	Public Benefit Item	Description
1	Alley right-of-way improvements	Special paving, landscaping, pedestrian-scaled lighting, wayfinding, seating, and furnishings in the alley right-of-way between John St and Denny Way, which remains in public ownership. <ul style="list-style-type: none"> • Approximately 7,444 sf of alley improvements.
2	Improvements to the triangular portion of right-of-way at the corner of 9 th Ave and Denny Way	Paving based on 2'x2' City of Seattle standard sidewalk module, landscaping, lighting, and seating. <ul style="list-style-type: none"> • Approximately 4,506 sf of improvements.
3	Green Street improvements on John St	Relocation of existing curb between 9 and 16 feet to the north to expand pedestrian streetscape, including new paving, landscaping, lighting, and seating. <ul style="list-style-type: none"> • Approximately 6,968 sf of improvements.
4	Voluntary setback and streetscape improvements on Denny Way	Expanded street-level building setback, seating, landscaping, and lighting to implement some of the recommendations in the Denny Way Streetscape Concept Plan. <ul style="list-style-type: none"> • Approximately 3,933 sf of improvements.

5	Streetscape improvements on 9 th Ave N and Westlake Ave N	Relocation of existing curb to widen sidewalk, including new paving and additional landscaping. <ul style="list-style-type: none"> • Approximately 906 sf of improvements on Westlake and • 2,237 sf of improvements on 9th Avenue N.
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7. Incorporate clear and obvious design cues to delineate between the public property and the private property. The design approach should clearly indicate, including to people with vision impairment, that the alley and the triangular portion of right-of-way at the corner of 9th Ave and Denny Way are public places. This could include (but is not limited to):

- the use of curbs, rolled curbs or other design approaches to obviously demarcate the public right-of-way from private property;
- modifying the proposed special paving proposed for the alley to more clearly and obviously differentiate it from the paving proposed on private property OR alter the proposed paving plan to use standard sidewalk paving design for all public right-of-way spaces (including the alley, sidewalks, etc.) and use a different paving scheme for the private property;
- additional wayfinding to ease navigation through and within the site; and
- additional elements such as landscaping; furniture including benches, planters, and seating; pedestrian lighting; signage; and art elements.

The petitioner shall present the proposed design strategy to address this condition to the Design Commission for review. The petitioner should also consult with the Commission for People with Disabilities on changes that include curbing or other physical elements to address any potential disability access issues. The final design shall require the review and approval of SDOT.

Signed by me in open session this _____ day of _____, 2023.

President _____ of the City Council

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The petitioner shall present the proposed design strategy to address this condition to the Design Commission for review. The petitioner should also consult with the Commission for People with Disabilities on changes that include curbing or other physical elements to address any potential disability access issues. The final design shall require the review and approval of SDOT.

Signed by me in open session this _____ day of _____, 2023.

President _____ of the City Council