



September 1, 2010

Honorable Tom Rasmussen, Chair
Transportation Committee
Seattle City Council
600 Fourth Avenue
Seattle, Washington 98104

Subject: Petition of Burkheimer Family LLC for the vacation of that portion of the Alley in Block 33, Denny's D.T. Home Addition to the City of Seattle adjacent to Lots 4-11 Clerk File 309868

Dear Councilmember Rasmussen and Honorable Members of the Transportation Committee:

We are returning the petition of the Burkheimer Family LLC (hereafter Burkheimer or Petitioner) for the vacation of the portion of the alley adjacent to its property in the block bounded by First Avenue N, Mercer Street, Warren Avenue N, and Republican Street, described as:

That portion of the Alley in Block 33, Denny's D.T. Home Addition to the City of Seattle, Volume 3 of Plats, Page 115, King County Washington, adjacent to Lots 4-11, being the southerly 240 feet of the alley between Mercer Street, First Avenue N, Warren Avenue N, and Republican Street.

The area proposed for vacation includes approximately 3,840 square feet of right-of-way.

BACKGROUND

The address of the project is 100 Republican Street. The project is located on the block between First Avenue N, Mercer Street, Warren Avenue N, and Republican Street in the Queen Anne Neighborhood. The existing alley is 16 feet in width and runs north/south between Mercer Street and Republican Street. The southern portion of the alley is used to provide service access to the adjacent properties but at its northernmost end, the alley has not been opened to provide access to Mercer Street and is unimproved. There are currently four property owners on the block. The Petitioner owns the majority of the property, approximately 2/3 of the block, with parcels on First Avenue N, Republican Street, and Warren Avenue N. There are two other property owners who own the parcels fronting on Mercer Street on either side of the existing but unopened alley and a third property owner who owns a parcel fronting on First Avenue N; this property owner currently uses the alley for service access.



The Petitioner proposes to vacate the portion of the alley that lies between the Petitioner's properties; this includes the southerly 240 feet of the alley. The Petitioner also proposes to provide a new alley segment; this new alley segment would provide a connection from the existing alley to Warren Avenue N. This new alley segment would provide for alley use for the new development as well as the other property owners on the block. The new alley segment to be provided by easement or dedication includes about 3,840 square feet

The site is located in the Uptown Urban Center neighborhood planning area, a subarea of the Queen Anne neighborhood planning area. The property is often known as the site of the former QFC grocery store. It is located directly across the street from the Northwest Rooms of the Seattle Center. The site was previously zoned as Neighborhood Commercial 3 with a 40 foot height limit (NC3-40) with a pedestrian overlay on the portion of the site lying west of the alley. In April 2010, in Ordinance 123279, the City Council approved a rezone of the site to Neighborhood Commercial 3 with a 65-foot height limit (NC3-65) and to Neighborhood Commercial 3 with a 65-foot height limit and a Pedestrian Zone designation (NC3P-65).

REASON FOR VACATION

The existing alley bisects the parcels owned by the Petitioner. The intervening alley makes it impossible to develop the site with a consolidated proposal and two separate structures would need to be developed. Combining the two parcels with the proposed vacation will allow for a single development over the site and a more efficient shared below-grade parking structure. The consolidated development of the combined parcels allows for the various elements of the project to share utilities and services such as elevators, stairs, and mechanical, electrical, and fire suppression systems that would need to be duplicated in separate structures. The proposed vacation would add about 3,840 square feet to the project site. However, with the new alley dedication also being approximately 3,840 square feet there is no overall increase in the square footage of the property.

A consolidated development on the site means that access and services to the site can be coordinated in order to limit curb cuts, increase retail frontage, and enhance the pedestrian character around the block.

PROJECT DESCRIPTION

The proposal is to construct a six-story mixed-use building with residential units, including ground level townhomes, 17,580 square feet of retail space at ground level, parking for 279 vehicles with one level of parking below grade. The building will include approximately 360,000 square feet. The ground floor spaces along First Avenue N and Republican Street are anticipated to be occupied by retail uses, all upper levels of the building will be developed with residential uses. It is anticipated that approximately 275 multi-family units will be developed. Along the Warren Avenue N side of the project, 10 ground-related townhouses will be developed. Approximately 279 parking stalls will be provided below-grade, and in a surface lot in the interior of the project that is not visible from the street. Approximately 222 parking spaces would be designated for residential units and 57 would be designated for retail use.

Alley access to the parking on the new project and to the remaining properties on the block will be provided by a new alley connection at Warren Avenue N. The new alley connection will create a "T" or hammerhead configuration. The new alley segment will provide a connection from Warren Avenue N to the center of the block to connect with the remaining portion of the original alley. Turn around space is provided for vehicles and service and delivery trucks to enter and exit the alley. To the north, the alley remains but is unopened to Mercer Street. To the south, the alley would be vacated to support the new development.

The building will be set back an additional three feet beyond code requirements from the street along both the Republican Street and First Avenue N facades and will be set back an additional ten feet beyond code requirements from Warren Avenue N to provide space for widened sidewalks, overhead weather protection, and landscaping which exceeds code requirements. An additional voluntary setback at the southeast corner of the site will provide space to develop a pedestrian plaza including art and other amenities. These streetscape enhancements and the pedestrian plaza are the main elements of the proposed public benefit.

CIRCULATION/ISSUE IDENTIFICATION (NOT ISSUE RESOLUTION)

The proposed vacation was circulated to various City departments, outside agencies and community groups for comment. The purpose of the broad review of the petition is to identify issues that need to be addressed. The comments, closely reproduced below, reflect the statements made by the reviewers and any issues identified during the initial portion of the review process. The comments reflect a "snapshot in time" when the comments were received and do not reflect any project revisions, updates or responses to comments. All the comments received are a part of the record and are not revised or amended by Seattle Department of Transportation.

The comment section does not reflect the resolution of the issue or subsequent design changes or mitigation. The analysis section will focus on the resolution of any issues, recommended project changes, or conditions to address any issues or concerns.

The following comments were received:

City Departments

Seattle Police Department (SPD): has determined that the vacation or partial vacation would not hinder public safety efforts provided by the Seattle Police Department.

Seattle Fire Department (SFD): has no a comment or concerns.

Seattle Department of Parks and Recreation (Parks): has reviewed the petition and has no issue or concerns about this alley vacation request.

Seattle Department of Transportation (SDOT) Capital Projects and Roadway Structures (CPRS): it appears there will be no effects to the traffic signal or street lighting system that would cause SDOT to have concerns about the vacation. However, there is a utility pole at the

northeast end of the alley that has a flood light and other utilities attached. In order to remove the poles and any assets, the developer would be required to coordinate with Seattle City Light.

SDOT Street Use: notes some grade and drainage issues in the “L” part of the alley. Currently the proposal shows the alley drainage flowing into private detention. The Petitioner will need to modify the alley grades to insure the right-of-way drainage stays in the right-of-way. The grade changes may or may not impact the alley configuration.

SDOT Policy and Planning Division and Traffic Management Division: have reviewed the proposal and would like to see more detailed plans. We do agree it is necessary to dedicate a new alley to ensure access to the adjacent parcel. The new alley dedication will allow the City to maintain access to the non-vacated portion of the alley. We would like to see:

- A tree preservation plan, to understand which street trees will remain. It is also necessary to create larger tree pits when widening the sidewalks. This should be reflected in the plans.
- The proposed building setback along Warren Avenue N should allow for the same sidewalk width that currently exists along the northern segment of Warren Avenue N (leading to Mercer).
- Looking at the building mass, it appears there is access from First Avenue N. Will this exist?
- We would like details about the pedestrian plaza. The Petitioner says that part of the public benefit includes “activation of the pedestrian environment through development of a pedestrian plaza”. Need more information to determine how the plaza will integrate or relate to the Seattle Center, how accessible it will be for the public to utilize, or the features that will be included. Is there an opportunity to relocate the plaza closer to Republican and First Avenue N? It would be great to have the plaza closer to existing pedestrian activity.
- Can the pedestrian entrances be oriented towards the street corners to encourage pedestrians to cross at street corners rather than mid-block locations?
- On Warren Avenue N is it possible to consolidate vehicle/parking entrances to minimize driveways?

The Petitioner should be aware of the work that SDOT and King County Metro are doing on Bus Rapid Transit (BRT) in the area. There may be a BRT stop across the street from the project on First Avenue N.

Department of Planning and Development (DPD) Planning Division: has the following observation.

The City’s Comprehensive Plan does not contain specific policies dealing with the vacation of rights-of-way. The proposed street vacation is located within the Uptown Urban Center, and subject to the Queen Anne goals and policies within the Comp Plan’s Urban Neighborhood Planning Element.

The Queen Anne neighborhood plan identifies this area as the Uptown Park Neighborhood and envisions a “unique high-quality residential neighborhood... [that] will provide a safe and pleasant residential environment in the middle of the city.” A Landscaped Streets Element called for in the Queen Anne Plan was prepared in 2000 and subsequently incorporated into the Uptown Neighborhood Design Guidelines.

The site through which the subject right-of-way passes is zoned NC3-40, a mixed-use zone largely characterized by single-purpose commercial structures, office buildings, and multi-story mixed-use and residential buildings, with nonresidential uses typically occupying the ground floor. The western half of the site is within a pedestrian-designated zone intended to preserve and encourage an intensely pedestrian-oriented retail shopping district.

Petitioner’s public benefit proposal includes the following elements:

- Development of a mixed-use building, bringing new residents and commercial activity to the neighborhood.
- Activation of the pedestrian environment through development of a pedestrian plaza.
- Voluntary setback of the building at its southeast corner, which is angled toward the Seattle Center and stepped down to enhance the relationship of the project to Seattle Center.
- Enhancement of the pedestrian environment through voluntary setbacks from the property line at all retail storefronts, increasing the width of adjacent sidewalks.
- Voluntary setbacks from the property line at the street-level townhouses.
- Pedestrian improvements including overhead weather protection, landscaping, lighting, seating, and public art.

While it is true that not all of these features are required by the Land Use Code, it is not clear that they constitute a significant public benefit. Given the site’s Neighborhood commercial zoning, a mixed-use building offers no particular benefit over a similar project that does not vacate the public right-of-way. The pedestrian plaza will make the street-level retail spaces more attractive to prospective tenants and customers. The southeast corner setback is the type of feature appropriate to its relationship to the Seattle Center’s Northwest Rooms, and could reasonably be imposed through design review on a building that does not vacate the public’s right-of-way. Setbacks in front of street level retail spaces and residential facades and pedestrian improvements such as overhead weather projection, landscaping, lighting, seating and public art are attractive amenities that will make the Petitioner’s project more valuable and more attractive to tenants and customers. Again, whether these features of the project would amount to a reasonable public benefit depends on the scale and quality of the pedestrian experience they offer.

Because of its proximity to Seattle Center, the site and its vicinity accommodate a high volume of pedestrian activity associated with Seattle Center events. The development site and the alley to be vacated currently provide a route for pedestrians moving north/south between the Seattle Center and Mercer Street. The proposed development plan, with the vacated alley, will

significantly reduce the opportunity for pedestrian movement. A more appropriate benefit would be to continue a clear north/south pedestrian route across the site, in place of the proposed plaza that appears to be a pedestrian cul-de-sac.

The Petitioner may wish to reconsider use of the street-level space within the interior courtyard and move retail parking, if underground parking can be made available. Enclosing the courtyard and using it for vehicle parking reduces the amount of land available for pedestrian use that is open to the public. However the plaza is configured, the City will need firm assurance that the space remains accessible to the public. While it appears to integrate well with the adjacent Seattle Center features, Petitioner's proposed setback at the southeast corner is located outside of the pedestrian-designated zone. A setback that extends along the entire southern edge of the site could complement the new Northwest Rooms by opening up Republican Street to more light and more opportunity to attract pedestrian and strengthen the pedestrian-designated zone.

Seattle City Light (SCL): has facilities in that alley that feed other buildings. Any removal/reconstruction will be billed to the project. The project may not interfere with access to remaining facilities. SCL will need reservations if required to feed existing services.

Seattle Public Utilities (SPU): had the following comments:

- Water Distribution System Impacts: none.
- Sewer System Impacts: the hammerhead creates a closed contour (trapping water on the south end of the proposed alley). It is not desirable for SPU to own and maintain; 1) a catch basin at the south end of the hammerhead with a pipe through the project site and connected to the approved discharge point with an easement, or 2) a catch basin at the south end of the hammerhead with along length of pipe within the proposed alley right-of-way to an approved discharge point.

It is assumed that all utilities on the property are to be privately owned and maintained and that no SPU property rights are required.

SPU requires the Petitioner to look at: 1) regarding the south part of the alley for positive drainage out to Warren Ave and/or Mercer Street via standard alley catch basin location and connection to an approved discharge point; and 2) allowing the drainage from the south part of the alley to flow onto the project site via private drain system and enter into a hold harmless agreement with the City of Seattle.

SPU Sewer & Drainage Engineering requests the vacation be denied at this time.

Seattle Design Commission: reviewed this project at its regular meetings of April 2, 2009 and May 21, 2009 and took the following actions:

April 2, 2009: The Commission thanks the project team for an exceptionally clear and concise presentation of the 100 Republican alley vacation project, and unanimously approves the urban design merit phase with the following comments:

- The Commission applauds the design team for thinking of the project in the context of the entrance to August Wilson Way in the Seattle Center.
- It thanks the team for the effort at reaching beyond the bounds of the project site to tie into the Century 21 Theater Commons plans nearby.
- Commissioners applaud the team for coordinating with neighboring businesses on the reconfiguration of the alley.
- The project supports pedestrian vitality, strengthens the neighborhood character and causes no internal circulation problems in the area of the alley.

For the upcoming presentation on the public benefit package the Commission recommends:

- Explore traffic calming on Republican Avenue in response to additional traffic resulting from the consolidating of driveways that access the site.
- Consider building on public space potential on the southeast corner of the site to provide a prominent ending or beginning to August Wilson Way, by, for example, extending the public plaza more toward the east or possibly by carving the building mass back at this location to create a stronger connection with August Wilson Way.
- Explore moving the residential curb cut on Warren Avenue to the south, possibly locating this between the proposed commercial and residential uses. This will consolidate all the townhouses in group, separate driveways and differentiate areas for pedestrian circulation and vehicle entrances.
- Lend more attention to the art component of the project, including consideration for how an artist will be selected.
- Extend the thoughtful and dynamic landscaping along Warren Avenue to the plazas and other street frontages.
- Explore the idea of increasing the setback along First Avenue N, or shifting the project eastward to allow for more landscaping along First Avenue N.

May 21, 2009: the Commission approves the public benefit package of the 100 Republican alley vacation project, except that if the setback to the townhouses along Warren Avenue N is necessary to meet code it shall not be considered a public benefit. The Commission thanks the design team for yet another very clear and concise presentation. The following recommendations were made:

- Coordinate with SDOT on marking the pedestrian crossings at Republican and Warren either with striping or by raising the paving at this intersection.
- Extend the curb bulb that is proposed at Republican and Warren further west on Republican to the west edge of the plaza.
- Better integrate the art piece into the site, considering its relation to other objects in the plaza and right-of-way. Optimally it might be placed in the right-of-way as a finale to the axis of August Wilson Way.
- Reconsider plans for rotating the art pieces in the plaza. Compensation of the artist, and the decision-making on the art are of concern.
- Be diligent in how the stairs are integrated, paying attention to avoiding edges that appear “gnawed out;”

- The bike racks that are provided should be simple and functional, and not compete with the art piece.

Seattle Center Redevelopment Office: the public benefit seems to respect the Seattle Center campus edge to the south and east. Stepping down the building envelope on the southeast corner of the block and siting the plaza there to enhance the size and feel of the streetscape are both good gestures that respond well to the Seattle Center campus entries and pedestrian circulation routes across Warren and Republican. Two concerns are:

1. The large expanse of streetwall along Warren needs to respect the pedestrian experience on both sides of Warren and respect the lower walls of Seattle Repertory Theater across the street.
2. Traffic impacts on Warren with the rededicated alley need to be considered and mitigated in some way. Proponents should consider in particular how they might hamper event traffic coming to and leaving from Seattle Center theaters and campus, and have multiple entry and egress routes for their tenants.

Outside Agencies:

King County Department of Transportation/Transit Services: has reviewed the request and has no objection to the vacation.

Qwest Communications: Qwest has aerial and buried facilities running from the north to the south along this alley. There are working services to the buildings that are proposed to be demolished. If the following items are completed, Qwest will have no issues with the vacation:

1. Service orders must be submitted to disconnect all working circuits with the Qwest Business Office, prior to demolition.
2. Qwest requires reimbursement for all costs for the work required to remove the cables and prepare for demolition.

We will work to help the developer with all the details and work out the service for the new building as well.

Puget Sound Energy (PSE): has found that there is an existing gas main that extends within the alley area. The Petitioner will need to obtain a gas easement (10' as-built) to cover the existing gas main in this portion of the alley. SCL provides electric to this area, so no electric rights will be needed from PSE. Please work with this office for the necessary easement documents.

Community Comments:

David Swissa: as the owner of the property at 528 1st Avenue N, I am very concerned about the plans to vacate the public alley that I have been using for the past 35 years for customer parking and truck deliver to my property. I strongly oppose the plans for alternative private access from Warren to my property. The proposed area for the alternative access is often very congested with truck and trailers that service merchants for delivery of goods to the Seattle Center events.

Currently the alley north of our property is blocked with dirt and should be cleaned up and connected to Mercer Street like it used to be so it continues to serve the public benefits including pedestrians and bicycle riders. The developer proposal for a private alley is inadequate in its nature and function and will not serve the property rights of the public.

Seattle Neighborhood Coalition: Kent Kammerer noted: there is no problem with the proposed alley vacation for this project.

While your department is not the place to comment, the contract rezone from 40 to 65 feet along with the proposed building plan results in a major and massive increase in bulk. The rezone could be granted contingent upon both the 5th and 6th floors using step backs on all four sides of the building. The open roof space could be used to enhance the environmental or green aspect of the building where trees and other plantings could be utilized. That additional space could in fact add to the value of the upper two floors of residential units.

Mercer Apartments: Owner Carolyn Conklin stated: I am in favor of the alley vacation and have no objections as proposed!

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. Vacation of 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 decisions must assure that potential development and use of the vacated right-of-way is in the public interest. The Council may be guided by adopted land use policies, but the Council is not limited by land use policies and codes in making street vacation decisions and may condition or deny vacation as necessary to protect the public interest.

Rights-of-way are dedicated in perpetuity for use by the residents of Seattle for purposes of public travel and transportation of goods. The dedication carries with it certain public rights to circulation, access, utilities, light, air, open space, and views. City government acts as the public's trustee in administering streets and alleys. The City Council first adopted Street Vacation Policies in 1986 in Resolution 27527. A few sections of the policies were revised in 1991 in Resolution 28387, 1993 in Resolution 28605 and in again in 2001 in Resolution 30297. Significant revisions were made to the Vacation Policies in 2004 in Resolution 30702. The Policies were again amended in 2009 in Resolution 31142 and the Policies are currently contained in Clerk File 310078.

ANALYSIS

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 three-step review of any vacation petition in order to determine if the vacation is in the public interest.

The Policies define the components of public interest as:

1. Protection of the public trust;
2. Protection from adverse land use impacts; and
3. Provision of public benefit.

The Street Vacation Policies provide that during the review of the petition, the public trust and land use effects of a vacation should be weighed against the mitigating measures and the public benefits provided by the vacation to determine whether the vacation is in the public interest. In balancing these elements of the public interest, primary importance should be placed upon protecting the public trust in rights-of-way.

Protection of Public Trust: The Policies define the public trust functions of rights-of-way as being circulation, access, utilities, light, air, open space, and views. Policy 1 of the Street Vacation Policies addresses the basic purpose of streets. Streets are created to provide for the free movement of people and goods throughout the City, to provide access to individual properties, and to provide space for utility services.

Through the vacation process, an adjacent property owner acquires public street right-of-way for private use or development purposes. Since the vacation is generally about the loss of some portion of a street, the review process must evaluate the loss of that street segment. The review normally looks at the impact on the grid pattern in the area, the impact on the provision of utility services, how the circulation pattern is altered and how that impacts pedestrians, bicyclists, vehicular movements, emergency services, and commercial activity.

Transportation Impacts:

The alley currently runs north/south in the block and is 16 feet in width. The north portion of the alley (approximately $\frac{1}{4}$ of the alley) at Mercer Street is unopened and unimproved. The alley right-of-way has dirt berms that appear to provide some support to the adjacent brick apartment building. Vehicles cannot access or use this portion of the alley but there is a narrow, dirt path that does allow for some pedestrian use. The remaining, approximately $\frac{3}{4}$, of the alley is open and is in use to provide for access and services to the Petitioner's property and to other property owners on the block. This vacation petition is for the southernmost 240 feet of the alley which lies between the Petitioner's parcels. The Petitioner proposes to vacate the southernmost portion of the alley and create a new alley connection to Warren Avenue N. This would create a "T" or "hammerhead" alley. The new connection would extend from Warren Avenue N to the remaining existing alley in the center of the block. The new alley connection would provide extra width in order to provide adequate turn-around space for delivery or service vehicles that need to use the alley.

After redevelopment the new alley configuration would be:

- Northern ¼ of the alley remains as public right-of-way but remains unopened to vehicular traffic and unimproved.
- The middle portion of the existing alley remains and is now connected to a new alley segment at Warren Avenue N. The new hammerhead alley is extra wide to provide for turning movements for delivery and service trucks.
- The southern 240 feet of the alley is vacated and incorporated into the project.

Whenever a vacation is proposed that might impact other property owners it is important that the needs of all adjacent property owners are considered equally. During the initial review of the vacation proposal one of the adjacent property owners objected. The property owner did not believe that the original proposal would provide adequately for deliveries and services to this property. The architect for the concerned property owner worked with SDOT and the petitioner to find a way to protect his access and service needs. The revised hammerhead proposal has widened the “hammerhead” to provide space for service and delivery trucks to make turns in the alley. This revised plan has satisfied the concerns of the adjacent property owner and is supported by SDOT. The vacation should be conditioned to make sure that the final alley design meets SDOT standards and provides adequately for the needs of the other property owners.

Another important element of the review of an alley vacation petition is to review how access to the property and services will be provided if the alley is vacated. The goal is to make sure that no alley functions are pushed out onto the street. With this design proposal, access to the alley for the other property owners is from Warren Avenue N at the new connection. The new alley also provides for access to the parking garage and services for the new development. There is one additional drive way on Warren Avenue N that provides access to the retail surface parking on the interior of the site. No alley function will be pushed onto the surrounding streets.

After a review of the revised proposal, and the Street Vacation Policies, SDOT does not find transportation impacts related to the vacation. The conditions on the street vacation require that SDOT review the plans for the alley design and other elements of the street improvements.

Utility Impacts: In addition to the transportation purposes, street rights-of-way provide space for utility lines and facilities. The vacation review must consider the impact on any public utilities; both current and future impacts must be assessed. If any utilities are located in the right-of-way, it must be possible for the utility to relocate or terminate those facilities or the vacation is not feasible. The utility should not be negatively impacted in its ability to deliver services, now or in the future, to access its facilities for repair or maintenance, or to update or expand services. Any proposal to relocate or alter utility services must be satisfactory to the utility provider and the costs to accommodate the utility needs are the obligation of the Petitioner.

Utilities, including City Light, Qwest Communications, and Puget Sound Energy have facilities in the alley that will need to be addressed. The Petitioner can work with the utility and relocate the infrastructure or provide easement agreements.

The issues identified by Seattle Public Utility (SPU) are more complicated. During the initial review of the project SPU expressed concerns that the hammerhead design of the new alley and the grading proposed would create what SPU labeled as a “closed contour” alley. This creates a situation where drainage cannot flow naturally to a public catch basin and instead, water will pond in the alley creating the potential for leaks into the garage and minor flooding. The Petitioner has worked with SPU on the structural elevations and the alley design. The Petitioner has now modified the grades for the alley to provide positive drainage for the entire alley. Water now flows to a catch basin at the entry to the new alley segment. The discharge is then conducted into a Rain Garden to be developed along Warren Avenue N. SPU is now satisfied with the drainage system proposed for the project. The vacation should be conditioned to require the Petitioner to develop the drainage system consistent with the agreement reached with SPU.

Light, air, open space and views: Because street right-of-way is open and undeveloped, streets and alleys can have value as open space and can be important view corridors. Streets can provide important breathing space in dense urban areas. This particular alley is only 16 feet wide and the alley does not continue in the blocks to the north or to the south so any light and air benefits are negligible. To the north is a commercial development with a grocery and other retail and to the south is the Northwest Rooms of the Seattle Center. It does not appear that there is much pedestrian use of the alley as the connection to Mercer Street is a narrow and overgrown dirt path. While the alley is undeveloped space, it is not useable for any public purpose other than as access to the adjacent properties. This alley does not provide for public views and does not provide for important open space on the block.

Protection from adverse land use impacts: The second step in the review process is to evaluate the land use impacts of the proposed vacation and subsequent development. The land use portion of the Policies, Policy 4, is concerned mainly with ensuring that post-vacation development is consistent with the land use pattern in the area and with City policies and codes. The Policies specifically state that proposed vacations may be approved only when the development potential that is attributable to the vacation would be consistent with the land use policies adopted by the City Council. The vacation decision will be based on the policies applicable for the type of area where the development is proposed.

The project site is within the Uptown Urban Center neighborhood planning area, a subarea of the Queen Anne neighborhood planning area. The adopted plan includes policies that seek to:

- Create and maintain attractive pedestrian-oriented streetscapes and enhance Queen Anne’s community character with open space, street trees, and other vegetation. QA-P1
- Create a unique urban identity in Queen Anne’s Urban Center. QA-P6
- Enhance the unique character of each business district. QA-P9
- Promote a human scale and character within the heart of the Urban Center. QA-P31
- Provide urban character-enhancing improvements to Queen Anne’s streets. QA-P40
- Alleviate parking problems in the Queen Anne planning area. QA-P41
- Ensure adequate facilities, such as lighting, for safety of pedestrian and parking areas in Queen Anne’s business districts. QA-P42

It is also important to assess whether the loss of the alley creates a building site that allows for a project that is out of scale with the area. As a part of its redevelopment proposal, 100 Republican applied for a contract rezone. The main purpose of the rezone was to allow for additional height to develop more residential units. As a part of the review of the rezone, the project was reviewed for its consistency with the proposed zoning designation and the zoning history of the site to determine if there was a match between the zone criteria and the area characteristics. The project was also reviewed for its consistency with the Comprehensive Plan and the adopted Queen Anne Neighborhood Plan. The rezone was recommended by DPD but the Hearing Examiner recommended denial of the rezone. The rezone was approved by the City Council in April of 2010. The City Council required a Property Use and Development Agreement (PUDA) for the project.

While a vacation could alter the scale of a project significantly, that is not the case with this alley vacation. A functional alley will be included in the new development even though the proposed "hammerhead" design is nonstandard. The development of the block following the alley vacation is not significantly larger than what could be developed without the alley vacation. The vacation provides for flexibility in the siting of the project and allows for more retail to be located on the street edge to provide the opportunity for a more active and pedestrian friendly design.

After a review of the Seattle Comprehensive Plan, the neighborhood plan, and the rezone approved in Clerk File 309848, SDOT does not find adverse land use impacts that were not mitigated through the rezone process.

Provision of Public Benefit: The Street Vacation Policies note that vacations must provide a long-term public benefit. Vacations will not be approved to achieve short-term public benefits or for the sole benefit of individuals. It is anticipated that the public benefit will include specific and tangible physical elements as the Policies provide that facilitating economic development, meeting code requirements for development or mitigating defined impacts is not a sufficient public benefit.

The Policies provide that there should be a balance between what the public gives up and what the Petitioner acquires through the vacation process. The review should consider the scale of the vacation, the scale of the project, and the identified impacts. If a project is significant in scale, if the vacation is large in size or if the project has significant impacts, then the Policies anticipate that the public benefit proposal must also be significant. This vacation petition includes both a vacation and the dedication of a new alley segment so public access to the various properties is maintained, if in a nonstandard configuration. The City Council recently approved a rezone of the site and this review addressed issues of height and scale. While significant issues were not identified during the review, it is recognized that the vacation is a necessary element of the proposed development. While the public benefit here need not be significant, it still must be clearly defined as exceeding regulatory standards and be something that is of use and value to the general public and not just to the tenants of the project.

Streetscape enhancements are proposed around the project site. The enhancements recognize the high pedestrian activity in the area and are designed to make the area inviting and interesting to pedestrians. Sidewalks will be widened around the new buildings, overhead weather protection will be added, landscaping will be provided beyond code requirements, and additional pedestrian lighting will be added. A plaza with art and street furniture will also be included. The plaza is proposed at the corner of the site adjacent to August Wilson Way at the Seattle Center and the setback is designed to support pedestrian activity between the neighborhood and the Seattle Center. The plaza also provides pedestrian access to the interior surface parking and to other elements of the project. It will be important as the project proceeds further in the design to make sure that the plaza creates a space for the general public to relax and enjoy the space. If the plaza is truly to function as a public benefit it must be more than a pass through for the project or visitors to the Seattle Center. The Petitioner should continue to work with SDOT on the public benefit features and make sure that design elements, such as the seat wall, that encourage lingering will be included in the final project.

The public benefit proposal includes:

- A pedestrian plaza, of approximately 2,080 square feet will be developed at the corner of Warren Avenue N and Republican Street. The plaza will include features designed to welcome and engage the public and may include art, special paving treatment, street furniture or seat walls, way finding signage, or pedestrian level lighting.
- Voluntary setback of the building at its southeast corner, which is angled toward the Seattle Center and stepped down to enhance the relationship of the project to Seattle Center.
- Enhancement of the pedestrian environment through voluntary setbacks from the property line at all retail storefronts, increasing the width of adjacent sidewalks by three feet, increasing the width of the sidewalks to fifteen feet.
- Voluntary setbacks from the property line of an additional ten feet at the street-level townhouses on Warren Avenue N.
- Pedestrian improvements including overhead weather protection, landscaping, lighting, seating, and art.
- Supporting sustainable stormwater controls by creating a rain garden for natural drainage along Warren Avenue N.

The Policies require that the Petitioner provide some factual information about the project site to assist in the review of the public benefit proposal. The goal of including this information is to help in determining if there is an appropriate balance between what the developer achieves from the vacation and what is provided to the general public.

Public Benefit Matrix

Zoning designation	Neighborhood Commercial 3 with a 65 foot height limit (NC-65)
Street classification	Alley
Assessed value of adjacent property	The land and building is assessed at \$7,062,000.
Lease rates in the vicinity for similar projects	Retail lease rates are approximately \$30 per square foot and residential lease rates are approximately \$2.50 per square foot.
Size of project, in square feet	Approximately 360,000 square feet.
Size of area to be vacated, in square feet	Approximately 3,840 square feet
Contribution of vacated area to development potential	The vacated area will allow the development of approximately 6,986 additional square feet beyond a no-vacation alternative. The vacation allow for a square footage increase of less than 2 percent.

The revised public benefit package was thoughtfully prepared. The proposal to focus on the public street environment and character seems appropriate given the location of the project adjacent to the Seattle Center and in a pedestrian-oriented commercial area. The elements proposed in the public benefit package can enhance the pedestrian environment around the development and encourage use by the general public, those accessing the Seattle Center, and customers and tenants of the new project. The public benefit proposal meets the criteria established by the City Council and can be supported.

RECOMMENDATION

It is recommended that the vacation be granted upon the Petitioner meeting the following conditions. The Petitioner shall demonstrate that all conditions imposed by the City Council have been satisfied 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 2010.
2. All street improvements shall be designed to City standards and be reviewed and approved by the Seattle Department of Transportation; 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 and landscaping around the site;
 - Design of the new alley connection at Warren Avenue N; and

- Enhancements in the sidewalks, and any crosswalk treatments.
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. 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;
 - Seattle City Light;
 - Puget Sound Energy; and
 - Qwest Communications.
 4. It is expected that development activity will commence within 18 months of this approval and the development activity will be completed within five years. If the vacation cannot be completed within five years, the Petitioner must request an extension of time from the Transportation Committee. 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 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 and SDOT may request additional review by the Design Commission, if necessary. The public benefit requirement includes the following features as well as corresponding development standards, including specific dimensions, which shall be outlined in the PUDA:
 - A pedestrian plaza, of approximately 2, 080 square feet will be developed at the corner of Warren Avenue N and Republican Street. The plaza will include features designed to welcome and engage the public and may include art, special paving treatment, street furniture or seat walls, way finding signage, or pedestrian level lighting.

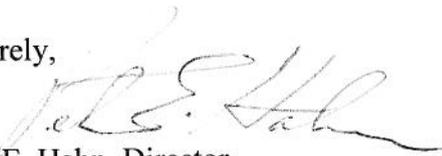
Honorable Tom Rasmussen

09/01/10

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Sincerely,



Peter E. Hahn, Director
Seattle Department of Transportation

PH:bb

Enclosures

