City of Seattle
Seattle Department of Transportation
Peter Hahn, Director

February 14, 2012

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

Subject: **Petition of the Department of Parks and Recreation for the vacation of a portion of Westlake Avenue between Pine Street and Fourth Avenue Clerk File 311670**

Dear Councilmember Rasmussen and Honorable Members of the Transportation Committee:

We are returning the petition of the Department of Parks and Recreation ("Parks" or the "Petitioner") for the vacation of a portion of Westlake Avenue between Pine Street and Fourth Avenue. The vacation area is bounded by the south margin of Pine street, a line 20 feet west of and parallel to the east margin of Westlake Avenue, the east margin of Fourth Avenue, and the south margin of Westlake Park; in the block bounded by Pine Street, Fifth Avenue, Pike Street, and Fourth Avenue in downtown Seattle, described as:

A portion of Westlake Avenue between Pine Street and 4th Avenue described as follows:

The westerly 70 feet of Westlake Avenue as established by City of Seattle Condemnation Ordinance 7733, between the southerly margin of Pine Street and the easterly margin of 4th Avenue, all in Block 19, Addition to the Town of Seattle, as laid out by A.A. Denny (commonly known as A.A. Denny's 3rd Addition to the City of Seattle), as per plat recorded in Volume 1 of Plats, page 33, Records of King County, Washington;

Reserving within said vacation area all rights for subsurface utilities as may be allowed within street right-of-way; and

Reserving an easement for vehicular ingress and egress, 16 feet wide lying 8 feet on either side of the following described line:

Beginning at a point on the northerly line of Block 19, A.A. Denny's 3rd Addition, as recorded in Volume 1 of Plats, page 33, said point being N59°18'59" E and 102.01 feet distant from the northwesterly corner of said Block 19; thence S 30°37'05" E a distance of 80.01 feet to a point on the easterly line of the westerly 70 feet of Westlake Avenue as established by City of Seattle Ordinance 7733 and the southerly terminus of this described centerline. Said terminus point being S 6°46'05" E and 87.52 feet distant from the intersection of the northerly line of said Block 19 and the easterly line of the westerly 70 feet of Westlake Avenue. The margins of said easement to be extended or trimmed to the intersecting end lines.

The area proposed for vacation includes approximately 17,150 square feet of right-of-way.

BACKGROUND

Westlake Park has a very long history. As early as 1968, the Central Association of Seattle (now known as the Downtown Seattle Association or DSA) proposed that a downtown park and mall be created to provide Seattle with its own version of New York's Central Park. It took the City nearly twenty years to resolve all of the financing, property acquisition, and legal challenges before Seattle's downtown urban park was ready to open.

In 1975, Ordinance 104797 directed the preparation of a plan "to provide an aesthetically satisfying urban park of appropriate scale to strengthen the retail core of the City's Central Business District and of a size approximately equal to the existing right-of-way of Westlake Avenue between 4th and 5th Avenues." A portion of the property was condemned in 1983 and the property was finally acquired in 1987. Westlake Park was improved and opened to the public in 1988.

REASON FOR VACATION

The area commonly known as Westlake Park actually includes both Park property and street right-of-way. The Park-owned property is an approximately 4,000 square foot triangle located at the corner of the Park at 4th Avenue and Pine Street. This property was condemned by the City in 1983 "for a public park" and the property acquisition was completed in 1987. After the acquisition of the property, the Park-owned triangle and the adjacent street right-of-way were improved as a public park and urban plaza. A majority of what is improved and utilized as Westlake Park is an approximately 17,150 square foot portion of Westlake Avenue lying at an angle between Pine Street and 4th Avenue.

North of the Park, across Pine Street is a park-like plaza on private property in front of Westlake Center, this was intended to provide a visual extension of the downtown public space. The private Westlake plaza, Pine Street, the public sidewalks, and Westlake Park (both the Park property and the street right-of-way) are improved with special pavers in a basket weave design. The use and continuity of the pavers was intended to expand and unite the area as a public gathering space.

Since Westlake Park was developed, Seattle Department of Transportation (SDOT) and Parks have had an agreement that Parks would maintain the space and manage it as a consolidated public park. Increasingly, Parks has identified that Westlake Park has not lived up to its potential as a social gathering spot for downtown residents and workers, as an attraction for visitors to Seattle, or as a magnet for area businesses. Parks has identified problems with negative uses and undesirable activity. Groups of youth have regularly dominated the space, exhibiting rough behavior, possible illegal drug activity, leaving excessive amounts of litter and creating an atmosphere where others feel unwelcome or unsafe. Rather than an asset, Westlake Park has sometimes been seen as a deterrent to a vibrant downtown. As Parks has worked in recent years to program the Park more actively and develop programming to serve community interests, the fact that most of the Park is street right-of-way has limited the options available to Parks.

While the informal maintenance and management agreement between Parks and SDOT has worked adequately in the past, the underlying character of much of the space as street right-of-way limits how Parks can use the space and what activities can be accommodated. Streets and Parks have different regulations regarding programming and commercial activity, including vending, and the differing regulations have impacted Park's ability to develop positive programming and community activities to change the pattern of use of Westlake Park. Street right-of-way is more restrictive regarding commercial activity so it is more difficult for Parks to permit a broader range of vendors and other activities. An example is that street vending is limited to food carts, so Parks is unable to implement such activities as regular sales by local artists of their work.

In addition, the Parks Exclusion Ordinance offers an additional tool to Parks to help manage and limit undesirable activity in the Park. This allows Parks to both remove people from the Park and keep them from the Park if engaged in undesirable activity. It makes one more enforcement option available to Parks in a challenging urban environment.

Parks has identified three reasons for the vacation:

First, increased options for programs and activities: the larger park area will provide adequate space for a variety of uses in different locations within the Park. Non-food vending is not allowed in street rights-of-way but the Park could feature carts or kiosks selling local crafts or original art. Non-food vendors can help activate the Park beyond the normal lunch hour activity. An increase in the options available for vending can support more use of the Park by community or non-profit organizations for events.

Second, increased tools for safety and enforcement: Ordinance 118607, the Exclusion Ordinance, gives the Superintendent of Parks an additional method to enforce the Parks Code by "authorizing suspension of park use by individuals who violate laws and rules in the parks; authorizing hearings on those suspensions; redefining the crime of trespass in parks; [and] establishing the punishment therefore", SMC 18.12. The Exclusion Ordinance means that chronic violators or problem makers can be excluded from the Park for specific lengths of time. The exclusion is determined by Parks and does not require that an offender be charged or convicted of any crime. This is a powerful tool for the police and Park Rangers and it is applicable in parks and not in street right-of-way.

Third, protect permanent park space: while street right-of-way cannot be sold, streets do provide for a range of public uses in addition to plaza and pedestrian use. The vacation will provide that the public open space provided at Westlake Park will be available to the public permanently. Parks property is afforded special protection under Ordinance 118477, commonly referred to as Initiative 42. This ordinance provides "all lands and facilities held now or in the future by The City of Seattle for park and recreation purposes, whether designated as park, park boulevard, or open space, shall be preserved for such use; and no such land or facility shall be sold, transferred, or changed from park use to another usage…" This provides that Westlake Park will be permanent downtown open space.

PROJECT DESCRIPTION

This vacation petition is unusual as there is no new project or development proposed. As noted, the vacation is for the purpose of clarifying the ownership and management of the area known as Westlake Park. At the present time, Parks has no plans to modify or renovate Westlake Park. The area will remain physically the same; however, Parks hopes to increase the variety of programming and community events and positive public use of the site.

CIRCULATION/ISSUE IDENTIFICATION (NOT ISSUE RESOLUTION)

The first phase of review of any vacation includes providing information about the proposed vacation to a wide variety of City reviewers, other government agencies, utility representatives, and community and business groups in the area where a project is located. This circulation is intended to help determine the feasibility of the proposal and to identify issues that need to be addressed through design modifications, mitigation measures or public benefit elements. The comments identify issues but do not necessarily reflect the resolution of the issues.

The proposed vacation was circulated to various City departments, outside agencies and community groups for comment. As noted, 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 or updates**. All the comments received are a part of the record and are not revised or amended by the SDOT.

The comment section does not reflect the resolution of the issue or subsequent design changes or mitigation. However, a response from the Petitioner on comments that identify concerns or issues is included in *Italics* following the comment. The analysis section will focus on the resolution of any issues, recommended project changes, or conditions to address any issues or concerns.

The response provided by Parks is in *Italics* following the comment.

The following comments were received:

City Departments

Seattle Police Department (SPD): the area of Westlake Avenue proposed for vacation would have no negative effect on traffic flow. Therefore, from traffic perspective there is no objection to the vacation. Additionally, as noted, the vacation would allow increased enforcement options in the vacated area, which provides the police department more flexibility in handling activities within the area.

Seattle Fire Department (SFD): has no comments.

Seattle Department of Transportation (SDOT) Policy and Planning Division and Traffic Management Division: staff from Policy and Planning and Traffic Management have reviewed the petition for the vacation of the portion of Westlake Avenue between Pine Street and Fourth Avenue and have the following comments:

- Because no changes to traffic circulation or vehicle access are proposed, we do not expect any transportation impacts.
- We encourage Parks to continue to accommodate a variety of organizations and events at the park.

Parks responds: the street vacation will place the much larger park area under management of Parks, allowing a wider range of programming options to activate the space.

SDOT Capital Projects and Roadway Structures (CPRS): has the following comment:

- If the vacation would allow a wider range of programming that is on the right-of-way, it is assumed that vendors will submit the permits for City review.
- Based on the plan as shown, there are existing "areaways" in use and presumably under the pedestrian sidewalk which will be in the City's right-of-way. If the programming activity is on the sidewalk there could be impacts on the SDOT infrastructure from certain kinds of activities.

SDOT Street Use Division: street use is supportive of the vacation. The current property lines and the fact that the area is mostly ROW do not match with how the space is programmed to function as a Park. The vacation will clear up jurisdictional issues and allow Parks to manage the activity in the majority of the area under Parks rules and not as ROW.

SDOT Signal and Lighting Design: takes no exception to the requested vacation. Further, no mitigation measure will be required from Signal and Lighting Design group related to this vacation.

Department of Planning and Development (DPD) Planning Division: the proposed action to vacate the street right-of-way to consolidate the adjacent public open space areas into one contiguous park maintains the overall positive characteristic of the area in terms of access to light, air, views, and pedestrian access and circulation, as promoted under existing policies.

Seattle City Light (SCL): has the following comments:

1. There is a service impact to Waterfall vault with conduits and energized service cables crossing Westlake Avenue into Westlake Park. This service would only be affected if new development is to take place in the vicinity of the vacation petition.
2. There are three SCL Network Vaults along Westlake Avenue/4th Alley that are inside the proposed vacation plans. These facilities are still on our map but should have been abandoned. There's still indication that the conduits that adjoin these SCL Network

vaults crosses Westlake Avenue to adjacent SCL vaults. However, they DO NOT contain any energized Network Cable in their adjoining ductbanks.

3. There is an energized Network Ductbank that runs parallel to 4th Avenue that appears to be outside the area of the proposed vacation by approximately 3 feet. In case your Petitioner plans to raise a structure, please be aware a minimum separation of 5 feet must be maintained between building footing and SCL Network conduit.
4. There is an underground vault to the northeast of 4th Ave and Pike Street that feeds the Seaboard Building. It will be approximately 2-3 feet outside of the proposed vacation petition boundary. Please be aware to maintain a 3 feet separation from any building footprints to SCL Network vaults.

Although it does not seem to apply to the present time petition, for an alley vacation petition where any of our cables need to be rerouted and new facilities need to be installed, the timeline could be 18 months. If Parks is not planning for new development projects associated with the vacation, there would be minimal impacts to Seattle City Light network systems.

Parks responds: Parks has contacted SCL and is working with them to determine if its facilities are located within the right-of-way and, if they are, what their needs are for operation and management of those facilities.

Seattle Public Utilities (SPU): can recommend that the vacation be granted, subject to the following conditions:

- SPU sanitary sewer and drainage lines: provide a TJO (easement for SPU) 20 feet wide centered over all the existing sewer pipes (20 feet deep). Allow no buildovers. The property shall not be sold to any private entity.
- Parks is responsible for ownership and maintenance for all the drainage system within the park, the proposed vacation area and the 20 foot alley. SPU will be responsible for maintaining the drainage system in the streets only on 4th Avenue and Pine Street. Parks shall allow all drainage to flow onto the existing drainage system already in place for the 20 feet alley right-of-way.
- Water facilities: SPU operates a 12" water main, hydrant lateral, and possibly other appurtenances within the proposed vacation area. SPU will need to have a TJO (easement for SPU) for the access to these facilities. The jurisdiction should include all the rights SPU has currently.

Parks responds: Parks has contacted SPU and is working with them to determine which of its facilities are in the right-of-way and what their needs are for operation and management of those facilities.

Seattle Design Commission: reviewed this project at its regular meeting of September 15, 2011 and took the following action:

The Design Commission thanked Parks for its presentation of its request for a street vacation at Westlake Park. The Commission believed that vacating the street right-of-way did not affect the

area's urban design. By a vote of 7-0 the Commission approved the urban design merit portion of the street vacation.

By a vote of 7-0, the Commission recommended that SDOT approve the street vacation and the public benefit package which included the existing Westlake Park and opportunities for additional programming, increased safety and enforcement of the park, and an assurance that the street vacated will be permanent park space. The Commission has the following conditions:

- Make a commitment to fund, enhance and broaden the programming of the park. Keep the activities and types of uses as broad in content as possible to make sure it remains a valuable civic, public space.
- While giving over the right-of-way to Parks allows some additional ways to restrict illegal and disruptive behavior, which can be very useful, continue to be very prudent in the use of these enforcement mechanisms. Emphasize the programming of the space and not enforcement to shape the behavior of park visitors.

Parks responds: the street vacation will place the much larger park area under management of Parks, allowing a wider range of programming options. These options could feature carts or kiosks selling local crafts or original art, for example, to provide a draw beyond just the lunch hour activity to activate the space.

While Parks will have additional enforcement options available to increase safety within Westlake Park, the emphasis will be on the increased programming as a means to activate the space.

Outside Agencies:

Qwest Communications: please be advised that Qwest Corporation currently has NO facilities in the area addressed by this action, and has no objections to this proposal.

Puget Sound Energy (PSE): has completed its review and has determined that any gas main/services located within the subject area of Westlake have been deactivated and PSE is no longer occupying the right-of-way with gas.

King County Wastewater Treatment Division (WTD): has reviewed the petition and found that this street vacation will not impact WTD's facilities.

King County Transportation, Metro Transit: there should be no impact on transit as long as Pine Street between 4th and 5th Avenues would still be available as a transit corridor. If the intent of this vacation is to close Pine Street where it crosses the Westlake right-of-way, then Transit would object since that action would cut off access by several trolley routes as well as diesel routes westbound into the downtown core.

Community Comments in Support:

Kent Kammerer: responding as an individual, the request for the vacation by the Parks Department seems reasonable. I would be surprised if anyone but Parks and SDOT know where the boundaries are, especially the people who might not comply with park regulations. Parks security or cops should not require a measuring tape to enforce the rules. Unless it costs thousands of precious dollars to rearrange the paper work, why not?

Community Comments in Opposition:

None received.

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 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: This vacation is unusual because the proposal does not involve any changes to the existing transportation network. Most vacations are associated with new development proposals, often projects that are significant in scale. However, the vacation proposal from Parks merely changes the "ownership" of public property that is already in use by the public as a pedestrian plaza and urban park. This portion of Westlake Avenue has been closed to vehicular traffic and improved as a public plaza since Westlake Park opened in 1988. The vacation is intended to address any lack of clarity relating to the management and maintenance of this public space as between SDOT and Parks.

As there are no changes to the use or design of the area and no changes to the existing transportation network, no transportation impacts were identified. There are two transportation issues that need to be addressed. First, the larger block containing this segment of Westlake Avenue, the block bounded by Pine Street, 5th Avenue, Pike Street and 4th Avenue, contains an existing alley running north and south between Pike Street and Pine Street. This existing alley serves private property owners on 5th Avenue and the private property owners that abut the east edge of Westlake Park. This existing alley provides for the traditional alley purposes such as access to parking, services and loading functions. The alley is not proposed for vacation and will remain open and available for all its current uses.

The northern end of the alley connects to the portion of Westlake Avenue proposed for vacation and this link provides the access to Pine Street for users of the alley. Parks has proposed an easement across the park to continue to provide for alley access across the former Westlake Avenue to connect to Pine Street. This easement is consistent with how the alley has been used since the park was improved and opened. This easement provides the protection necessary to make sure that the private property owners who need to use the alley can continue to have functional alley access in the future. The vacation should be conditioned on the completion of this easement, subject to SDOT review and approval of the easement.

A second issue relates to the private property along the east edge of the park. Following the vacation, these property owners could have found their doors opening directly onto park property. These property owners need a more traditional sidewalk at their front doors to provide for retail entries, and to provide space for normal business activities such as routine maintenance. The vacation petition from Parks does not include the easterly 20 feet of right-of-way. Retaining this easterly 20 feet will provide a traditional public sidewalk in front of the adjacent businesses and a consistent public sidewalk all the way around the edge of the park. The entirety of Westlake Park will be framed by traditional public sidewalks in public right-of-way.

No transportation impacts were identified that require mitigation but the vacation should be conditioned to require the completion of the alley easement. The vacation should remain, as proposed by Parks, with the easterly 20 feet of right-of-way not included in the area to be vacated.

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, the vacation is not feasible unless it is possible for the utility to access their facilities for repair, maintenance, and utility upgrades or to relocate or terminate those facilities. 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.

During the initial review of the petition, both City Light and SPU identified that there is some utility infrastructure located in the right-of-way that would require protection. In the comments section City Light and SPU have outlined in more detail the type of utility infrastructure they have located within the new boundary of the park and the needs for access and protection of the facilities. This utility infrastructure is proposed to remain in place but following the vacation the facilities will be located in Park property rather than in street right-of-way where utilities have certain rights to be located. In order to protect City Light and SPU and their access to facilities for repair, maintenance, and utility upgrades Parks will need to negotiate agreements, to the satisfaction of each utility, that define the terms for repair, maintenance and service upgrades. These agreements should be specific enough to address issues such as required notice for work, how to address utility repair concerns during programmed events, and the cost of replacement of unique items such as special pavers following utility work.

Parks has already begun this work with both City Light and SPU and conversations are continuing to define all the terms of the utility agreements. The vacation should be conditioned to require that the Petitioner complete these agreements to the satisfaction of the impacted utility and record the completed agreements.

Light, air, open space and views: Because street right-of-way is open and undeveloped land, streets and alleys can have value as open space and can be important view corridors. Streets can also provide important breathing space in dense urban areas. This site already functions as some of the most significant public open space in the downtown area. The vacation will not alter or

diminish the open space and in fact will ensure that Westlake Park remains as accessible public open space and cannot be altered to be used for a more intensive transportation purpose. This vacation serves to protect and secure the existing public open space.

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.

As noted, this vacation petition is unusual because it does not relate to a new development proposal. There is no development or construction associated with the vacation petition as the vacated right-of-way will all accrue to Parks. There is no change in the development potential of the site and no change to the existing street grid or development pattern.

Another consideration in the review of the project is its compliance with the adopted Neighborhood Plan or goals set by the Comprehensive Plan. The Downtown Urban Center Neighborhood Plan supports increasing downtown open space and providing open space that is part of a comprehensive network to:

1. Promote an orderly, visually pleasing and active environment for workers, residents and visitors;
2. Reinforce desired land use patterns;
3. Provide links among areas within and surrounding downtown; and
4. Improve pedestrian circulation.

Westlake Park has always functioned as the cornerstone of downtown open space and provides for pedestrian circulation around the city. In addition, Westlake Park is an important public space providing light, air and open space in a dense urban environment.

The Downtown Neighborhood Plan specifically references Westlake Park specifying:

- Westlake Mall: this open space shall be integrated with the Westlake mall project, provide a gathering place for day to day activities and special events, serve as a focus for surrounding development, and enhance the shopping activity of the retail core.

The proposal by Parks for the vacation is consistent with the policies addressing the value of public open space downtown. After a review of the zoning designation for the area and the Comprehensive Plan, SDOT does not find adverse land use impacts associated with the vacation.

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. Policy 5 B also specifies that for projects that provide a public or governmental function, the nature of the project is a factor in determining the adequacy of a public benefit proposal, the nature of the public project does not in and of itself constitute an adequate public benefit. This means that even for a public project some public amenities must be included in the proposal.

The City Council has historically set a high standard for public benefit and engages Petitioners in rigorous review of any proposed public benefit package. City Council has been consistent in requiring a physical, tangible public benefit that serves the general public even for City projects or for projects that provide some sort of public or government service, including hospitals, fire stations, libraries, public schools, Metro and Sound Transit facilities. While the City Council has been clear that the public benefit is an additive element that must be beyond mitigation and code requirements, it is also true that the amenities provided by the public benefit package can help a larger project fit more gracefully in a neighborhood.

While requiring a public benefit package from City departments and other public service agencies is consistent with the Street Vacation Policies, Parks is in a unique position with its proposals. Everything that Parks is proposing with this vacation would normally be considered a public benefit. While it would be possible to draw an imaginary line and say this portion of the Park is the "project" and this portion of the park is the "public benefit" such a contrivance is unnecessary. A review of the Street Vacation Policies clearly acknowledges that the provision of a public plaza is a public benefit and there is no need for additional justification for the vacation.

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 Petitioner achieves from the vacation and what is provided to the general public.

Public Benefit Matrix

Zoning designation	DRC 85-150 feet
Street classification	Not identified on the Street Classification Map
Assessed value of Park property	Not established
Assessed value of adjacent property	$300/sq ft
Size of existing site, in square feet	Park portion is 4,136 square feet
Size of area to be vacated, in square feet	17,157 square feet
Contribution of vacated area to development potential	17,157 square feet of park space

The Park's proposal to provide for public open space in the heart of downtown with an emphasis on positive programming meets the criteria established by the City Council for the provision of public benefit and can be supported. SDOT would support the recommendation from the Design Commission that Parks continue to emphasize a variety of positive programming in the Park.

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, all utility work including easements is completed, all public benefit elements have been developed, and any other easement or agreements have been recorded, and all fees paid, prior to the passage of the street vacation ordinance.

1. The vacation is granted to allow the Petitioner to provide for park use and public plaza and open space as presented to the City Council and for no other purpose.

2. Any necessary street improvements shall be designed to City standards and be reviewed and approved by the Seattle Department of Transportation. SDOT shall review and approve the proposed access easement proposed to connect the alley to Pine Street.

3. The utility issues shall be resolved to the full satisfaction of the affected utility prior to the approval of the final vacation ordinance. 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 City Light: will require a recorded agreement providing for repair, maintenance, and upgrades to its facilities; and
    - SPU: will require a recorded agreement providing for repair, maintenance, and upgrades to its facilities.

4. It is expected that project activity will commence within 18 months of this approval and 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. These elements include the provision of a public plaza and public open space as well as the proposal to provide a variety of programmed community events and activities.

Sincerely,

Peter E. Hahn, Director
Seattle Department of Transportation
PH:bb

Enclosures