



**TO:** Elizabeth A. Pauli, City Manager  
**FROM:** Jeff H. Capell, Hearing Examiner *JHC*  
Troy Stevens, Senior Real Estate Specialist, Public Works Real Property Services *tas*  
**COPY:** City Council and City Clerk  
**SUBJECT:** Ordinance Request No. 21-0251 – Street Vacation 124.1422 – March 30, 2021  
**DATE:** March 9, 2021

---

**SUMMARY AND PURPOSE:**

An ordinance to vacate a five-foot wide strip of air rights over a westerly portion of Tacoma Avenue South, lying southerly of South 14th Street.

**BACKGROUND:**

The Hearing Examiner’s recommendation is based on the evidence and testimony presented at a public hearing held on February 18, 2021. The Vacation Area (as defined in the Hearing Examiner’s Report and Recommendation) is a five-foot wide strip of the air rights over a westerly portion of Tacoma Avenue South, lying southerly of South 14th Street. The Petitioner, 1402 TACOMA LLC, requested the air rights vacation to facilitate design options for a residential apartment building that is proposed to consist of 171 units. The Vacation Area is not being currently used for right-of-way purposes, nor does the City see any future need for it as right-of-way. Approving the vacation will not landlock any abutting property nor will it otherwise affect any existing access. Approving the vacation will be beneficial to the Petitioner by allowing use of the Vacation Area to enhance its intended development free of the City’s inchoate, and unneeded right-of-way interest.

**COMMUNITY ENGAGEMENT/ CUSTOMER RESEARCH:**

A public hearing was held on this petition on February 18, 2021, at which members of the community could attend and speak to express their concerns with, and/or support for the proposed vacation. One member of the public asked questions via Zoom chat. General sentiment seemed more concerned with the Petitioner’s intended development rather than about the vacation *per se*. If approved, the vacation itself will have nominal benefit in facilitating the overall development project. There are no negative effects on the community surrounding the area because the Vacation Area is not used for any right-of-way purpose presently, nor is there any need for it in the future.

**2025 STRATEGIC PRIORITIES: NA**



**ALTERNATIVES:**

Alternative(s)	Positive Impact(s)	Negative Impact(s)
1. The Council could approve the vacation request under conditions different than those recommended.	Any positive impacts arising from different conditions would depend on what those conditions are.	Any different conditions imposed would have to find justification outside of the City's current position, i.e., of not needing the Vacation Area for any public right-of-way purpose.
2. The Council could deny the vacation petition.	The most positive impacts come from approving the vacation. Denial simply maintains the status quo.	Denial maintains the status quo, and potentially requires the Petitioner to redesign its development.

**EVALUATION AND FOLLOW UP:**

The recommended air rights vacation is subject to the conditions listed in the Hearing Examiner's Report and Recommendation, issued on February 23, 2021. All evaluations and follow up should be coordinated between the Petitioner and the appropriate City Departments referenced in the Report and Recommendation.

**STAFF/SPONSOR RECOMMENDATION:**

The Hearing Examiner recommends approval of the requested vacation, subject to the conditions contained in Conclusion 8 of the Hearing Examiner's Report and Recommendation.

**FISCAL IMPACT:**

There is no apparent fiscal impact with this air rights vacation other than minimal income to be collected as the cost to the Petitioner for releasing the City's right-of-way interests. This amount will be determined by Real Property Services after first reading of the Vacation Ordinance.

**ATTACHMENTS:**

The following attachments can be found in Legistar:

- The Hearing Examiner's City Council Action Memorandum, dated March 9, 2021.
- The Hearing Examiner's Report and Recommendation to the City Council, issued on February 23, 2021.
- The City's Exhibit List and City Exhibits C-1 through C-14.
- Verbatim electronic recording from the hearing held on February 18, 2021.