



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. 22-0947 – Street Vacation 124.1433 – September 20, 2022
DATE: August 25, 2022

SUMMARY AND PURPOSE:

An ordinance to vacate a portion of the alley between North L Street and North M Street, lying northwest of North 10th Street, to cure a garage encroachment.

BACKGROUND:

The Hearing Examiner’s recommendation is based on the evidence and testimony presented at a public hearing held on August 18, 2022. The Vacation Area (as defined by the Hearing Examiner’s Report and Recommendation) is a portion of the alley between North L Street and North M Street lying northwest of North 10th Street. Petitioners, Carla Moreno Montgomery and Ana Yesenia Celestino-Valdovinos, requested the vacation to cure an existing, long-standing garage encroachment. The Vacation Area is not contemplated or needed for future public use, except that the Examiner has recommended a “No-Build Restriction” over the additional three-foot width of the Vacation Area that extends beyond the garage footprint to allow continued public use of the alley as it has been for years prior to the vacation petition.

COMMUNITY ENGAGEMENT/ CUSTOMER RESEARCH:

A public hearing was held on this petition on August 18, 2022, at which members of the community could attend and speak to express their concerns with, opposition to, and/or support for the proposed vacation. One member of the public, a property owner of a multi-family housing complex near to the Vacation Area, submitted written comments and had his daughter attend in his place at the public hearing to express concern over the petitioned-for Vacation Area extending beyond the actual garage encroachment by three feet, and how that may affect his tenants access to and from their homes by way of the alley right-of-way. To resolve this concern, the Examiner has recommended a three-foot-wide “No-Build Restriction” to keep traversal in the alley as-is. With this “No-Build Restriction” there are no foreseeable negative effects on the community surrounding the Vacation Area.

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.	Different conditions could require an additional hearing with different findings and conclusions than are present now to support them.
2. The Council could deny the vacation petition.	The most positive impacts come from approving the vacation. Denial simply maintains the status quo of having an existing encroachment.	The most positive impacts come from approving the vacation. Denial simply maintains the status quo preserving the City’s encroached upon right-of-way interest. Denial could also lead to requiring removal of the garage.



EVALUATION AND FOLLOW UP:

The recommended vacation is subject to the conditions listed in the Hearing Examiner's Report and Recommendation, issued on August 22, 2022. All evaluations and follow up should be coordinated between the Petitioners 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:

The potential fiscal impact of this street vacation is not known at this time. If the vacation is approved, a fair market appraisal or a market rate analysis for the area to be vacated will be conducted after first reading of the ordinance. Petitioners will be required to pay the City such market value amount as a condition to the street vacation being finalized. In addition, if the street vacation is finalized, the vacated area will be added to the taxable square footage of the abutting real property, thereby possibly generating additional ongoing property tax income.

ATTACHMENTS:

- The Hearing Examiner's City Council Action Memorandum, dated August 25, 2022.
- The Hearing Examiner's Report and Recommendation to the City Council, issued on August 22, 2022.
- The City Exhibit List and Exhibits C-1 through C-15.
- Public Comment from Robert C. Batie.
- The verbatim electronic recording from the hearing held on August 18, 2022.