

Stevens, Troy

From: Kuntz, Craig
Sent: Thursday, December 12, 2013 4:26 PM
To: Sully, Dan; Stevens, Troy
Cc: Erickson, Ryan
Subject: RE: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment

TMC 2.02.210 section 3202.3.3, requires the walk way 16.5 feet above grade.

But Troy already knows this.

Craig Kuntz
City of Tacoma
Planning & Development Services
253.594.7820/ Fax 253.591.5433

From: Sully, Dan
Sent: Thursday, December 12, 2013 4:03 PM
To: Stevens, Troy
Cc: Erickson, Ryan; Kuntz, Craig
Subject: RE: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment

Pedestrian walkways are covered by IBC 3104. Need to know more to have specific comments regarding type of construction, sprinklers, and fire barriers between walkway and buildings.

Also probably need seismic joint at one or both ends.

Pedestrian walkways shall not be less than 15 feet above the ROW per IBC 3202.3.4.

Daniel P. Sully, P.E., S.E.
Plan Review Engineer

City of Tacoma
Planning and Development Services Department
Development Services Division
747 Market Street, Room 345
Tacoma, WA 98402-3769
(253) 591-5334 FAX (253) 591-5433
dsully@cityoftacoma.org

From: Erickson, Ryan
Sent: Thursday, December 12, 2013 10:55 AM
To: Stevens, Troy
Cc: Sully, Dan; Kuntz, Craig
Subject: RE: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment

TFD comments does not object to the subject action but does have the following conditions since this structure is being constructed over right of way:

1. The building (sky bridge) constructed over public right of way shall be constructed on non-combustible materials (such as steel, concrete)
2. The interior of the sky bridge shall be equipped with an automatic fire sprinkler system in accordance with NFPA 13.
3. The underside of the sky bridge shall be equipped with an automatic fire sprinkler system in accordance with NFPA 13.
4. The minimum vertical clearance with absolutely no obstructions shall be 13-feet 6-inches. However, I believe the street design requirements will end up requiring a greater clearance.

Regards,

RYAN ERICKSON, P.E.

Fire Code Official

Tacoma Fire Department | Prevention & Preparedness Bureau

901 Fawcett Avenue | Tacoma, WA 98402

253-591-5739 | rerickson@cityoftacoma.org

From: Stevens, Troy

Sent: Thursday, December 12, 2013 9:58 AM

To: Adams, Monica (Pierce Transit); Angel, Jesse; Barnes, Maureen; Bateman, Joy; Bishop, Dori; Boudet, Brian; Cantrel, Aaron; Chris Mantle; Coffman, James; Coyne, Richard; Danby, Marilyn; Dykas, Veronica; Erickson, Ryan; Ferrell, Phil; Fletcher, Gloria; Harrison, Dylan; Howatson, James; Jeff Lawrey; Jeff Rusler; Kammerzell, Jennifer; Kingsolver, Kurtis; Larson, Tracy; Luchini, Melissa; Martinson, John; Reynolds, Tanara ; Simpson, Sue; Smith, Anne; Trohimovich, Merita

Subject: RE: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment

With maps. ☺

From: Stevens, Troy

Sent: Thursday, December 12, 2013 9:56 AM

To: 'Adams, Monica '; Angel, Jesse; Barnes, Maureen; 'Bateman, Joy'; Bishop, Dori; Boudet, Brian; 'Cantrel, Aaron'; 'Chris Mantle'; Coffman, James; Coyne, Richard; 'Danby, Marilyn'; Dykas, Veronica; Erickson, Ryan; 'Ferrell, Phil'; Fletcher, Gloria; Harrison, Dylan; Howatson, James; 'Jeff Lawrey'; 'Jeff Rusler'; Kammerzell, Jennifer; Kingsolver, Kurtis; Larson, Tracy; Luchini, Melissa; Martinson, John; 'Reynolds, Tanara '; Simpson, Sue; Smith, Anne; Trohimovich, Merita

Subject: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment

Hi everyone,

Please see the attached Request for Agency Comments sheet regarding 28 Proctor Holdings proposed alley air rights vacation.

Thank you very much,

Troy Stevens

City of Tacoma, Public Works

Sr. Real Estate Specialist

(253) 591-5535

tstevens@ci.tacoma.wa.us

From: Coffman, Susan
Sent: Monday, October 28, 2013 4:26 PM
To: Stevens, Troy
Subject: RE: 28 Proctor Development; 2720 N. Proctor; PRE2013-40000205187

Troy,
This is the new amendment passed on July 1, 2013. It is the same as before.

Sue

2.02.210 Amendment to IBC Section 3202.3 – Encroachments eight feet or more above grade.

3202.3 Encroachments eight feet or more above grade. Encroachments eight feet (2438 mm) or more above grade shall comply with Sections 3202.3.1 through 3202.3.4.

3202.3.1 Awnings, canopies, marquees, and signs. Awnings, canopies, marquees, and signs shall be constructed so as to support applicable loads as specified in Chapter 16. Awnings, canopies, marquees, and signs with less than 16.5 feet (5029 mm) clearance above the sidewalk shall not extend into or occupy more than two-thirds the distance from the property line to the face of the curb, but in no case shall extend closer than two feet to the curb. All portions of awnings, canopies, marquees, and signs shall be not less than eight feet above any public walkway.

3202.3.2 Windows, balconies, architectural features, and mechanical equipment. Where the vertical clearance above grade to projecting windows, balconies, architectural features, or mechanical equipment is more than eight feet (2438 mm), one inch (25mm) of encroachment is permitted for each additional one inch (25 mm) of clearance above eight feet (2438 mm), but the maximum encroachment shall be four feet (1219 mm). No usable floor space shall be added to the building by such projections unless the air rights for the street where the projection occurs are vacated by City of Tacoma ordinance.

Tacoma Municipal Code

City Clerk's Office 2-51 (Revised 09/2013)

3202.3.3 Encroachments 16.5 feet or more above grade. Upon issuance of a Street Occupancy Permit or upon vacation of the air rights over the street by ordinance and subject to the conditions of the street occupancy permit or vacation, encroachments 16.5 feet (5029 mm) or more above grade shall not be limited. No usable floor space shall be added to the building by such projections unless the air rights for the street where the projection occurs are vacated by City of Tacoma ordinance.

Exception:

Encroachments into street right-of-ways which are also the right-of-way for railroads or light-rail shall be a minimum of 24 feet clear above the elevation of the top of railroad or light-rail rails.

3202.3.4 Pedestrian walkways. The installation of a pedestrian walkway over a public right-of-way shall require that the air rights above the right-of-way be vacated by City of Tacoma ordinance. The vertical clearance from the public right-of-way to the lowest part of the pedestrian walkway shall be subject to the approval of the City of Tacoma, but in no case shall be less than 16.5 feet (5029 mm) minimum.

Exception:

Pedestrian walkways over street right-of-ways which are also the right-of-way for railroads or light-rail shall be a minimum of 24 feet clear above the elevation of the top of railroad or light-rail rails.

(Repealed and reenacted by Ord. 28155 Ex. A; passed Jun. 11, 2013; Repealed and reenacted by Ord. 27890 Ex. A; passed Jun. 15, 2010)

From: Stevens, Troy
Sent: Monday, October 28, 2013 9:30 AM
To: Coffman, Susan
Subject: RE: 28 Proctor Development; 2720 N. Proctor; PRE2013-40000205187

Hi,

Sorry to have to ask, but did we update/codify the 2012 IBC in the TMC? Is the citation still the same?

Thanks,

Troy

From: Coffman, Susan
Sent: Friday, October 25, 2013 3:13 PM
To: Stevens, Troy
Cc: Kathryn Jerkovich (KJerkovich@bcradesign.com)
Subject: RE: 28 Proctor Development; 2720 N. Proctor; PRE2013-40000205187

2.02.210 Amendment to IBC Section 3202.3 – Encroachments eight feet or more above grade.

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(Repealed and reenacted by Ord. 28155 Ex. A; passed Jun. 11, 2013; Repealed and reenacted by Ord. 27890 Ex. A; passed Jun. 15, 2010)

From: Stevens, Troy
Sent: Friday, October 25, 2013 1:55 PM
To: Coffman, Susan
Subject: FW: 28 Proctor Development; 2720 N. Proctor; PRE2013-40000205187

Sue,

Can you help me with this? ☺

Thanks,

Troy

From: Kathryn Jerkovich [<mailto:KJerkovich@bcradesign.com>]
Sent: Friday, October 25, 2013 1:47 PM
To: Stevens, Troy
Subject: FW: 28 Proctor Development; 2720 N. Proctor; PRE2013-40000205187

Troy,

In your notes below regarding the air rights vacation you referenced TMC 2002.50 Section 3202.3.4. I was not able to locate this section in the Tacoma Municipal Code online, where can I find it?

Thanks.

Kathryn Jerkovich

BCRA // PROJECT MANAGER

(253) 627.4367 **Main**
(253) 363.0071 **Cell**
(253) 314.0230 **Direct**

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From: Spadoni, Lisa [<mailto:lspadoni@ci.tacoma.wa.us>]

Sent: Wednesday, October 23, 2013 3:43 PM

To: Randy Gould; Kathryn Jerkovich; Justin Goroch; Lorie Limson Cole; bill evans (wmge@hotmail.com); erlingkuester@gmail.com; cdewald@therushcompanies.com; Stevens, Troy; Glidden, Rick; Kammerzell, Jennifer; Hart, Shari; Garcia, Christina

Subject: 28 Proctor Development; 2720 N. Proctor; PRE2013-40000205187

Randy and Team,

Please find the attached meeting sign-in sheet, Street Vacation Application, and street parking standards. I have also included some written comments from Troy (Real Property Services) and Jennifer (Traffic) based on our meeting discussions.

Real Property Services – Troy Stevens

This is basically what we discussed last Friday:

- 1) The alley vacation process usually takes 9 to 12 months, but that motivated purchasers can speed up the process and it can be done in 6 months.
- 2) Normally, RPS does not process partial street vacations because it is important to protect the integrity/functionality of the ROW; but, given the importance of the air rights to the project, it will probably be okay.
- 3) Per TMC 2002.50, Section 3202.3.4, and the 2012 IBC, a minimum of 16.5 of clearance will be required for the proposed tunnel/alley air rights vacation. However, since the meeting it has been determined that ES might require a minimum of 20 feet of clearance based on street vacation petition 124.1299 (MLKHDA) from 2008 and the HEX minutes and comments from that hearing. I will be following up with ES to see if that minimum clearance is still required to maintain their sewer mains in the alley.
- 4) I explained the process and why it usually takes as long as it does: PW Review Panel, Consent Agenda to set HEX date, HEX hearing, 1st Reading of Ordinance, negotiations over the cost of the property rights, and final reading of the Ordinance (2nd Reading); however, I let them know that the new scheduling program the Clerk's office is using may speed the process up a bit; and

5) I let them know that their spring start date was ambitious given how long the process normally takes; but that they should submit the petition/application ASAP and that I would do my best to expedite it.

6) They need to submit the attached petition and make sure all the abutting property owners to the alley sign it.

7) I said I would also work up a preliminary cost estimate. I haven't done it yet this week, but hope to, time permitting.

Troy Stevens

City of Tacoma, Public Works
Sr. Real Estate Specialist
(253) 591-5535
tstevens@ci.tacoma.wa.us

Traffic – Jennifer Kammerzell

Lisa – here are most of the comments I made at the meeting.

1. North 28th – Angle Parking (not 90 degrees) to match north side of street and to discourage westbound cars from parking on south side.
2. Madison – 90 degree ok
3. Proctor – Angle Parking (not 90 degrees) to match east side of street and to discourage northbound cars from parking on west side.
4. Provide sight distance for eastbound vehicles in alley at Proctor St and/or discourage vehicles eastbound with tools such as a right-out only exit or speed humps in the alley.
5. Angle parking directly off of the alley is discouraged. If proposed, it would have to be completely on private property and cars cannot overhang the alley.
6. Cannot park within 20 ft from crosswalks and 30 ft from stop signs.
7. Cars cannot back out over a crosswalk.
8. If angle parking is proposed on-street, bulbouts would be required for pedestrian safety.
9. Accessible pedestrian pathway must take into consideration bumper overhang, utilities (street lights, sign poles), and tree grates.

Below is a link to the City's Complete Streets Design Guidelines. Main Street appears to apply to this area and provides some additional guidance on sidewalks, amenities, and parking.

Complete Streets Mixed Use Center Guidelines -

http://cms.cityoftacoma.org/Planning/CompleteStreets/MUC_CS_Final.pdf

If you have any questions, please let me know.

Jennifer Kammerzell

Engineer
City of Tacoma Public Works Engineering

My meeting notes indicate that Justin will be providing additional information to Christina Garcia (Environmental Services) in a few weeks, but that at this time, Christina is not seeing any red flags. We will be happy to meet again to go over the next iteration of sidewalks/parking/street trees when you have that drafted. Please just let me know and I'll set something up.

Let me know if you have any additional questions at this point.

Regards,

Lisa Spadoni

Principal Planner



Stevens, Troy

From: Coyne, Richard
Sent: Thursday, December 12, 2013 12:15 PM
To: Stevens, Troy
Subject: RE: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment

Solid Waste Management currently utilizes this alley for the collection of solid waste/recycle containers. Relocating containers to the curb would not be an option.

From: Stevens, Troy
Sent: Thursday, December 12, 2013 9:58 AM
To: Adams, Monica (Pierce Transit); Angel, Jesse; Barnes, Maureen; Bateman, Joy; Bishop, Dori; Boudet, Brian; Cantrel, Aaron; Chris Mantle; Coffman, James; Coyne, Richard; Danby, Marilynn; Dykas, Veronica; Erickson, Ryan; Ferrell, Phil; Fletcher, Gloria; Harrison, Dylan; Howatson, James; Jeff Lawrey; Jeff Rusler; Kammerzell, Jennifer; Kingsolver, Kurtis; Larson, Tracy; Luchini, Melissa; Martinson, John; Reynolds, Tanara ; Simpson, Sue; Smith, Anne; Trohimovich, Merita
Subject: RE: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment

With maps. ☺

From: Stevens, Troy
Sent: Thursday, December 12, 2013 9:56 AM
To: 'Adams, Monica '; Angel, Jesse; Barnes, Maureen; 'Bateman, Joy'; Bishop, Dori; Boudet, Brian; 'Cantrel, Aaron'; 'Chris Mantle'; Coffman, James; Coyne, Richard; 'Danby, Marilynn'; Dykas, Veronica; Erickson, Ryan; 'Ferrell, Phil'; Fletcher, Gloria; Harrison, Dylan; Howatson, James; 'Jeff Lawrey'; 'Jeff Rusler'; Kammerzell, Jennifer; Kingsolver, Kurtis; Larson, Tracy; Luchini, Melissa; Martinson, John; 'Reynolds, Tanara '; Simpson, Sue; Smith, Anne; Trohimovich, Merita
Subject: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment

Hi everyone,

Please see the attached Request for Agency Comments sheet regarding 28 Proctor Holdings proposed alley air rights vacation.

Thank you very much,

Troy Stevens

City of Tacoma, Public Works
Sr. Real Estate Specialist
(253) 591-5535
tstevens@ci.tacoma.wa.us

Stevens, Troy

From: Coyne, Richard
Sent: Monday, October 28, 2013 10:07 AM
To: Stevens, Troy; Van Allen, Rick
Cc: Bishop, Dori
Subject: RE: Minimum clearance - 28 Proctor Development

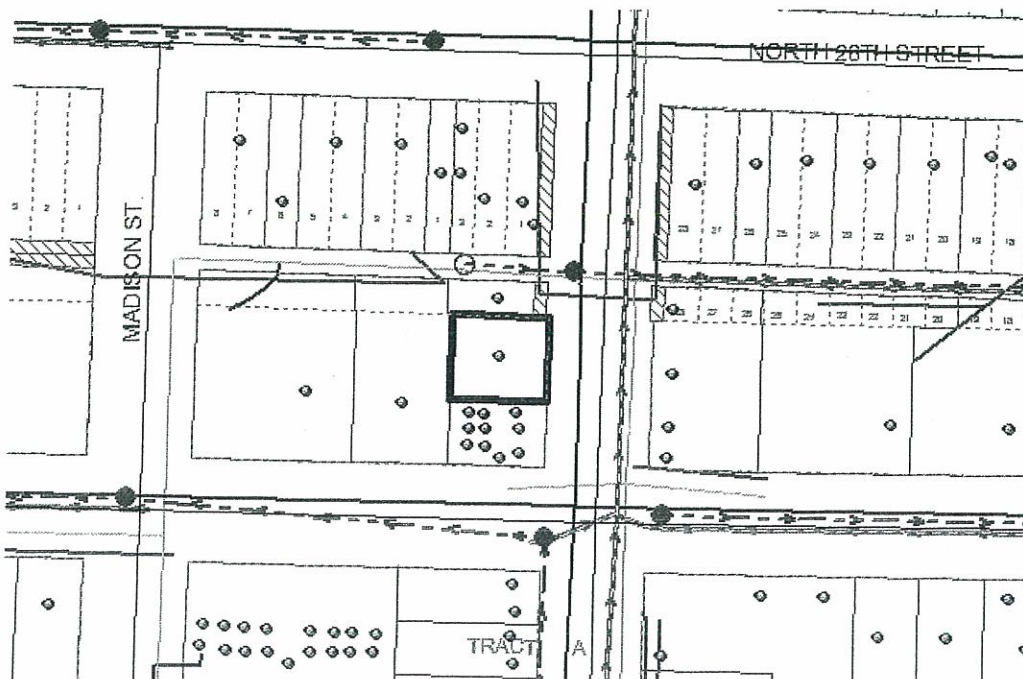
Of course, not knowing what type of service or type(s) of containers they will use at the proposed development, or the locations of the containers, it would be difficult to say. But just off the top of my head, I would say the 16.5' would not be a problem as long as no containers are located directly underneath.

From: Stevens, Troy
Sent: Monday, October 28, 2013 9:39 AM
To: Coyne, Richard; Van Allen, Rick
Cc: Bishop, Dori
Subject: Minimum clearance - 28 Proctor Development
Importance: High

Hi guys,

I have a meeting today about a potential air rights vacation for the alley between North 27th and 28th and Proctor (east 75 feet) with the CED Director at 11:30 a.m. He's calling the meeting because the developer is concerned about the vacation and possible issues.

One of the potential deal killers is the air rights vacation. The IBC has the minimum clearance for the alley of 16.5 feet. Is there any reason TPU and Solid Waste would need more?



Thank you very much,

Troy Stevens

City of Tacoma, Public Works
Sr. Real Estate Specialist
(253) 591-5535
tstevens@ci.tacoma.wa.us

Stevens, Troy

From: Lawrey, Jeff J <R.Lawrey@CenturyLink.com>
Sent: Tuesday, January 07, 2014 11:47 AM
To: Stevens, Troy
Cc: Bateman, Joy
Subject: RE: Proctor 28 - Proposed Street Vacation
Attachments: Objection - South Proctor Street - Tacoma.pdf; St Vacate 28th & Proctor.pdf

Troy, attached is our response for this one. Let me know next steps.

Thanks!

R. Jeff Lawrey
CenturyLink
Right-of-Way Manager
NW Engineering & Construction
1208 NE 64th St. Rm. 401
Seattle, WA 98115-6722
Ofc. 206.345.0333
Cell 206.819.1005
Fax 206.345.1843
r.lawrey@centurylink.com



From: Stevens, Troy [<mailto:tstevens@ci.tacoma.wa.us>]
Sent: Monday, January 06, 2014 4:29 PM
To: Lawrey, Jeff J
Subject: RE: Proctor 28 - Proposed Street Vacation

Jeff,

Did you guys send me comments on this one? I don't see any. ☺

Thanks,

Troy Stevens
City of Tacoma, Public Works
Sr. Real Estate Specialist
(253) 591-5535
tstevens@ci.tacoma.wa.us

From: Lawrey, Jeff J [<mailto:R.Lawrey@CenturyLink.com>]
Sent: Monday, November 04, 2013 2:02 PM
To: Stevens, Troy
Subject: RE: Proctor 28 - Proposed Street Vacation

Exhibit 10

Troy, I have not received anything. Let me know if there is someone I need to reach out to.

Thanks!

R. Jeff Lawrey

CenturyLink

Right-of-Way Manager - Western Washington

NW Engineering & Construction

1208 NE 64th St. Rm. 401

Seattle, WA 98115-6722

Ofc. 206.345.0333

Cell 206.819.1005

Fax 206.345.1843

r.lawrey@centurylink.com



From: Stevens, Troy [<mailto:tstevens@ci.tacoma.wa.us>]
Sent: Monday, November 04, 2013 11:46 AM
To: Lawrey, Jeff J; Jill Cromer (Jill.Cromer@centurylink.com)
Subject: Proctor 28 - Proposed Street Vacation

Jill and Jeff,

Do you know if anyone has contacted Century Link about the proposed 28 Proctor, LLC air rights vacation adjacent to your facility at 2703 North Madison and 3909 North 27th? (Please see attachment)

This isn't my official request for comment, but I would like to know how you guys feel about the proposal.

Thank you,

Troy Stevens

City of Tacoma, Public Works

Sr. Real Estate Specialist

(253) 591-5535

tstevens@ci.tacoma.wa.us



TO: ALL CONCERNED AGENCIES & DEPARTMENTS

**FROM: TROY STEVENS
PUBLIC WORKS /REAL PROPERTY SERVICES**

SUBJECT: STREET VACATION REQUEST NO. 124.1337

DATE: December 12, 2013

Real Property Services has received a petition to vacate a portion of the alley air rights westerly of Proctor Street between North 27th and North 28th Streets, as shown on the attached vicinity map.

The Petitioner proposes to add the lands to be vacated to the adjoining property for the purpose of constructing a five story mixed use development. (Note: The alley will continue to go through. The air rights vacated will begin at 16.6 feet above grade.)

In order to be considered, your comments must be received by **Real Property Services, TMB, Room 737, December 27, 2013**. If your comments are not received by that date, it will be understood that the office you represent has no interest in this matter.

Attachment(s)

- AT&T Broadband
- Pierce Transit
- Puget Sound Energy
- Qwest Communications
- Fire Department
- Police Department
- TPU/Power/T&D
- TPU/Water/LID
- PW/Director (3)
- PW/BLUS (2)
- PW/Construction
- PW/Engineering
- PW/Engineering/LID
- PW/Engineering/Traffic
- PW/Environmental Services
- PW/Solid Waste
- PW/Street & Grounds
- Tacoma Economic Development
- Click! Network

RESPONSE

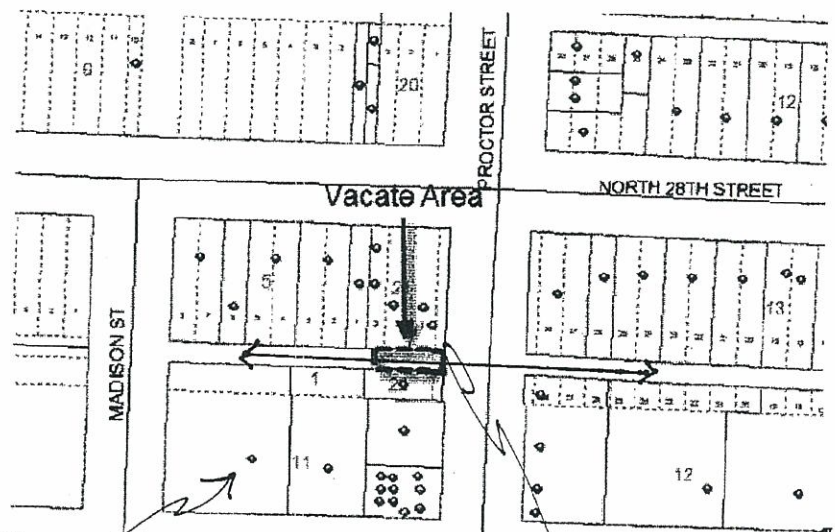
No Objections

Comments Attached

010714 Date

[Signature] Signature

TACOMA ENGINEERING Department



CENTURYLINK
CENTRAL OFFICE

AERIAL & IIR
FACILITIES

* CENTURYLINK OBJECTS TO PROPOSED VACATE.
AN EASEMENT 12' W X LENGTH OF VACATE IS
REQUIRED OR REQUESTOR CAN HAVE FACILITIES
RELOCATED AT THEIR EXPENSE

28 PROCTOR HOLDINGS, LLC
STREET VACATION NO. 124.1337
A PTN. OF THE ALLEY AIR RIGHTS WLY OF PROCTOR ST, BETWEEN N. 27 TH AND 28 TH STREETS
SE1/4 SEC. 25, T21N, R2E
NOT TO SCALE

242

PRELIMINARY REPORT

PREPARED FOR THE HEARING EXAMINER BY REAL PROPERTY SERVICES

For the Hearing to be Held
Thursday, January 16, 2014 at 9:00 AM

PETITIONER: 28 PROCTOR HOLDINGS, LLC

FILE NO. 124.1337

A. SUMMARY OF REQUEST:

Real Property Services has received a petition to vacate a portion of the alleyway air rights west of Proctor Street between North 27th and North 28th Streets, for the development of a mixed use building. The area is shown on the attached map Exhibit 1.

B. GENERAL INFORMATION:

1. Legal Description of Vacation:

That portion of the air rights, being a minimum of 16.50 feet above the finished grade of alleyway, lying east of a line 110.00 feet west of and being parallel to the monumented centerline of Proctor Street, lying between Blocks 21 and 22 of the plat of Lawrence Addition to Tacoma, recorded in Volume 3 of plats, page 40, records of Pierce County, Washington and between those portions of vacated Proctor Street as vacated by City of Tacoma Ordinances 13316 and 10191;

The above described portion lying within the Southwest quarter of Section 25, Township 21 North, Range 2 East, W.M.

2. Notification:

9.22.060 NOTICE OF PUBLIC HEARING The Public Works Department shall cause a 30-day notice to be given of the pendency of the petition by written notice posted in three of the most public places in the City, a like notice in a conspicuous place on the street or alley sought to be vacated, a like notice in a newspaper of general circulation in the City, and a like notice to the legal property owners of all property abutting the right of way requested for vacation as enumerated on the applicant's vacation petition, and to any other interested parties of record. In addition to posting notices of the hearing, the Public Works Department shall mail a copy of the notice to all owners and occupants of the property which lies within 300 feet of the street or alley to be vacated. The said notice shall contain the statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition.

EX. 11

In all cases where the proceeding is initiated by the City Council without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, notice shall be sent as provided above. Failure to send notice by mail to any such property owner where the current address for such property owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed street vacation.

C. PURPOSE OF REQUEST:

The Petitioner plans on acquiring the vacated alleyway air rights for the development of a mixed use building.

D. HISTORY:

The alleyway air rights west of Proctor Street between North 27th and North 28th Streets was dedicated in Lawrence Addition to Tacoma, W.T., according to the plat recorded in Volume 3 of Plats, Page 40, Pierce County, Washington. The alley was extended an additional 10 feet to the east when the west 10 feet of Proctor Street was vacated July 17, 1929, under Ordinance No. 10191 (south of alley) and March 3, 1946, under Ordinance No. 13316 (north of alley).

E. PHYSICAL LAND CHARACTERISTICS:

The easterly 66 feet of the 20 foot wide alley westerly of Proctor Street is level, graveled, and has a concrete driveway approach. It is bordered by a parking lot on the south and local business to the north. The remainder of the alley is graveled and rises slightly before it slopes down to Madison Street. The westerly portion of the alley is bordered by residential homes and a Century link facility.

F. APPLICABLE SECTIONS OF THE OFFICIAL CODE OF THE CITY OF TACOMA:

9.22.010 PETITION TO VACATE AUTHORIZED: The owners of an interest in any real estate abutting on any street or alley who may desire to vacate any street or alley, or any part thereof, shall petition to the City Council to make vacation in the manner hereafter provided in this chapter and pursuant to RCW 35.79 or the City Council may itself initiate by Resolution such vacation procedure. The City Council shall require the petitioners to compensate the City in an amount which equals one-half of the appraisal value of the area vacated; provided that if the street or alley has been a public right of way for 25 years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated; provided that when the vacation is initiated by the City or the City Council deems it to be in the best interest of the City, all or any portion of such compensation may be waived. Except as provided below, one-half of the revenue received hereunder shall be devoted to the acquisition, improvement, and maintenance of public open space land and one-half may be devoted to transportation projects and the management and maintenance of other City owned lands and unimproved rights-of-way.

In the case of vacations of rights-of-way in the tide flats area, defined as easterly of the Thea Foss Waterway (inclusive of the Murray Morgan Bridge), northerly of State Route 509 and westerly of Marine View Drive, the total revenue received hereunder shall be devoted to transportation projects in the tide flats area.

9.22.040 PUBLIC'S RIGHT TO TRAVEL – UTILITIES: Vacation of any portion of a street that is designated as an arterial under Section 11.05.490 of the Municipal Code shall be of a minor nature only and shall not unreasonably limit the public's right to travel upon said street or interfere with the ancillary right to occupy said street for utility purposes.

CRITERIA: Section 9.22.070 of the Official Code of the City of Tacoma. The following criteria have been considered:

1. That the vacation will provide a public benefit and/or will be for a public purpose.
2. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
3. That the public need shall not be adversely affected.
4. That the right-of-way is not contemplated or needed for future public use.
5. That no abutting owner becomes landlocked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
6. That vacation of right-of-way shall not be in violation of RCW 35.79.035

G. ADDITIONAL INFORMATION:

The area to be vacated has not been assessed for sanitary sewers and is subject to a Connection Charge In-Lieu-of-Assessment per T.M.C. 12.08.350. Should the petitioner wish to clear this item from title, please contact Sue Simpson of the Public Works Department, L.I.D. Section, at 591-5529 for the assessment amount. Please note that the ordinance establishing the rate of assessment is updated every few years, and the amount quoted may increase in the future. When the petitioner has submitted a development plan, an in lieu of amount will be computed.

The Tacoma Municipal Code, Section 2.02.210, Section 3202.3.3, requires that encroachments in the right of way be no lower than 16.5 or more above grade, and that no usable floor space shall be added to the building by such projections unless the air rights for the street where the projection occurs are vacated by City of Tacoma ordinance. (Exhibit 3 & 3a)

H. PROJECT RECOMMENDATIONS:

As part of the City's review process for street vacation petitions, notice of this application was mailed to various City departments as well as many outside quasi-governmental agencies. These agencies, as noted below, have provided comments and recommended conditions to the Real Property Services Division. These comments, where appropriate, have been incorporated in the "Recommended Conditions of Approval" section of this preliminary report.

Plat Maps – Exhibit 1
Vacation Ordinance – Exhibit 2
Planning & Development Services – Exhibit 3
Tacoma Fire – Exhibit 4
Environmental Services – Exhibit 5
Tacoma Power – Exhibit 6
Solid Waste Management – Exhibit 7
Public Comment – Chelotti – Exhibit 8
Public Comment – Duggan – Exhibit 9
CenturyLink – Exhibit 10

Comcast Communications – No Objection
Tacoma Water – No objection
Click! Network – No objection
PW/Traffic Engineering – No objection

I. RECOMMENDED CONDITIONS OF APPROVAL:

Should this street vacation request be approved, the Real Property Services Division recommends that the following conditions be made conditions of approval for this street vacation petition.

1. PAYMENT OF FEES

The petitioner shall compensate the City in an amount equal to the full appraised value of the area vacated. One-half of the revenue received shall be devoted to the acquisition, improvement and maintenance of public open space land and one-half may be devoted to transportation projects and /or management and maintenance of other City owned lands and unimproved rights-of-way. *TMC 9.22.010*

2. PLANNING & DEVELOPMENT SERVICES (PDS)

- a. Please contact Craig Kuntz at (253) 594-7820 regarding the Review PDS's comments.
- b. PDS has no objection; however, they do have an *advisory comment*: TMC 2.02.210, Section 3202.3.3 requires the walkway 16.5 feet above grade.

3. TACOMA FIRE DEPARTMENT

- a. Please contact Ryan Erickson at 591-5503 regarding Tacoma Fire's comments.
- b. No objection; however, Tacoma Fire has the following *advisory comments*
 - i. The building (sky bridge) constructed over public right of way shall be constructed on non-combustible materials (such as steel, concrete)
 - ii. The interior of the sky bridge shall be equipped with an automatic fire sprinkler system in accordance with NFPA 13.
 - iii. The underside of the sky bridge shall be equipped with an automatic fire sprinkler system in accordance with NFPA 13.
 - iv. The minimum vertical clearance with absolutely no obstructions shall be 13-feet 6-inches.

4. ENVIRONMENTAL SERVICES (ES)

- a. Please contact Christina Garcia at 253-382-2769 regarding Environmental Service's comments.
- b. No objection; however, ES does have the following *advisory comments*:
 - a) a minimum of 16 vertical feet from grade will be required to access and maintain the existing wastewater main and appurtenances located in the alley.
 - ii. If the 16 feet minimum clearance is not feasible, the applicant can look into the following options:
 - 1) It appears the only buildings that access the portion of the existing wastewater main between manhole 6762635 and lamp manhole 6762626 are proposed to be demolished. The applicant can choose to verify and confirm (through television inspection) that all the existing connections to this portion of the main are connected to buildings that are proposed to be demolished. The existing side sewer laterals shall be plugged or capped at the main. The side sewer laterals shall be abandoned in the presence of the construction permit inspector. Existing manhole 6762625 shall be plugged and the wastewater main between manhole 6762635 and lamp manhole 6762626 shall be abandoned in place and filled with CDF.
 - 2) If the portion of the existing wastewater main between manhole 6762635 and lamp manhole 6762626 has wastewater laterals connected to existing buildings that are proposed to remain, the applicant can propose new wastewater lateral connections to the existing mains in N 27th or N 28th Streets and proceed with the main abandonment (as described) above.

5. TACOMA POWER

- a. Please contact Rich Van Allen at (253) 502-8076 regarding Tacoma Power's comments.
- b. Tacoma Power has no objection; however, they have the following *advisory comments*:
 - a) "Vacation of the alley way air rights will be dependent on the existing overhead power lines being converted to underground. The developer is aware of these requirements and will be responsible for all associated costs."
 - b) If the developer wishes to proceed before he pays for and executes the overhead to underground conversion then we will need to maintain the air rights over the entire area. If he wishes to proceed then we will need to make it contingent on the lines being converted or maintaining an easement over the entire area, please work with Robert on language.

6. ES/SOLID WASTE MANAGEMENT

- a. Please contact Richard Coyne at 593-7707 regarding Solid Waste's comments.
- b. Solid Waste has no objection; however, they do have *advisory comments*:
 - i. Solid Waste Management currently utilizes this alley for the collection of solid waste/recycle containers. Relocating containers to the curb would not be an option.
 - ii. 16.5 will not be a problem as long as no containers are located directly underneath.

7. PUBLIC COMMENT

Please see the attached public comment

- a) Judith Chelotti
- b) Denis Duggan and PDS response.

8. CENTURYLINK

- a) Please contact R. Jeff Lawrey at 206-345-0333 regarding CenturyLink's comments.
- b) **CenturyLink objects to this vacation**; if the vacation goes through, they will require a 12 foot wide easement the length of the vacate area for their underground and aerial facilities. Any relocation will be done at the petitioner's expense.

The applicant shall comply with all City regulations for any future use of the subject site.

ATTACHMENT: Vacation Jacket containing all pertinent maps and papers.

Stevens, Troy

From: Simpson, Sue
Sent: Tuesday, January 14, 2014 4:35 PM
To: Stevens, Troy
Subject: RE: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment
Attachments: 124.1337 Proctor N 28.pdf

Please find attached the collection charge in lieu of assessment letter regarding 124.1337.

Sue Simpson

Real Estate Specialist
253-591-5529
ssimpson@cityoftacoma.org

From: Stevens, Troy
Sent: Tuesday, January 14, 2014 3:54 PM
To: Simpson, Sue
Subject: FW: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment
Importance: High

Sue,

Did you get this? ☺

I've already submitted my report to the HEX for Proctor 28; but your comments should be the same, right, given that this is for air rights? (The Henry comments attached).

Thank you,

Troy Stevens

City of Tacoma, Public Works
Sr. Real Estate Specialist
(253) 591-5535
tstevens@ci.tacoma.wa.us

From: Stevens, Troy
Sent: Thursday, December 12, 2013 9:56 AM
To: 'Adams, Monica'; Angel, Jesse; Barnes, Maureen; 'Bateman, Joy'; Bishop, Dori; Boudet, Brian; 'Cantrel, Aaron'; 'Chris Mantle'; Coffman, James; Coyne, Richard; 'Danby, Marilyn'; Dykas, Veronica; Erickson, Ryan; 'Ferrell, Phil'; Fletcher, Gloria; Harrison, Dylan; Howatson, James; 'Jeff Lawrey'; 'Jeff Rusler'; Kammerzell, Jennifer; Kingsolver, Kurtis; Larson, Tracy; Luchini, Melissa; Martinson, John; 'Reynolds, Tanara'; Simpson, Sue; Smith, Anne; Trohimovich, Merita
Subject: Proctor 28 - Street Vacation 124.1337 - Request for Agency Comment

Hi everyone,

ORIGINAL

Exhibit 12

Please see the attached request for Agency Comments sheet regarding 28 Proctor Holdings proposed alley air rights vacation.

Thank you very much,

Troy Stevens

City of Tacoma, Public Works

Sr. Real Estate Specialist

(253) 591-5535

tstevens@ci.tacoma.wa.us



TO: ALL CONCERNED AGENCIES & DEPARTMENTS

**FROM: TROY STEVENS
PUBLIC WORKS /REAL PROPERTY SERVICES**

SUBJECT: STREET VACATION REQUEST NO. 124.1337

DATE: December 12, 2013

Real Property Services has received a petition to vacate a portion of the alley air rights westerly of Proctor Street between North 27th and North 28th Streets, as shown on the attached vicinity map.

The Petitioner proposes to add the lands to be vacated to the adjoining property for the purpose of constructing a five story mixed use development. (Note: The alley will continue to go through. The air rights vacated will begin at 16.6 feet above grade.)

In order to be considered, your comments must be received by **Real Property Services, TMB, Room 737, December 27, 2013**. If your comments are not received by that date, it will be understood that the office you represent has no interest in this matter.

- Attachment(s)
- AT&T Broadband
- Pierce Transit
- Puget Sound Energy
- Qwest Communications
- Fire Department
- Police Department
- TPU/Power/T&D
- TPU/Water/LID
- PW/Director (3)
- PW/BLUS (2)
- PW/Construction
- PW/Engineering
- PW/Engineering/LID
- PW/Engineering/Traffic
- PW/Environmental Services
- PW/Solid Waste
- PW/Street & Grounds
- Tacoma Economic Development
- Click! Network

RESPONSE

_____ No Objections

_____ Comments Attached

_____ 1/14/14 _____ Date

_____  _____ Signature

_____ PW/Engr/LID _____ Department

No Collection Charge In Lieu of Assessment
On air rights

nonrefundable and shall be considered capital contributions to the Municipal Sewer System and deposited into the Sewer Utility Fund.

H. All ordinances, rules, regulations, and procedures relating to the use, maintenance, and connection to sanitary sewers, as the same are now or may hereafter be adopted by the City, shall apply with equal force to each such sanitary sewer connection and any violation of any such ordinance, rule, regulation, or procedure by the owner of any premises connected to a sanitary sewer may result in the disconnecting of said sewer by the City.

I. The owner of any premises connecting to the sanitary sewers pursuant to the provisions hereof shall permit an inspection of that owner's premises at any and all reasonable times by the City for the purpose of ascertaining whether or not said connection has been properly made and whether or not the use of such sanitary sewers is in accordance with the ordinances, rules, and regulations of the City pertaining thereto.

J. In the event of a change in ownership, or if the premises are rented, the owner or renter shall be invoiced and pay per subsection C of this section. The failure or refusal to make any such payment when due may result in the disconnecting of the sewer by the City. (Ord. 27538 § 18; passed Oct. 24, 2006: Ord. 26888 § 3; passed Dec. 4, 2001: Ord. 26729 § 4; passed Nov. 7, 2000: Ord. 25587 § 27; passed Sept. 20, 1994: Ord. 24962 § 1; passed Aug. 13, 1991: Ord. 24879 § 16; passed May 21, 1991: Ord. 24132 § 1; passed Jul. 12, 1988: Ord. 23309 § 2; passed Dec. 18, 1984: Ord. 23240 § 1; passed Aug. 28, 1984)

12.08.350 Connection Charge-in-lieu-of-Assessment.

Owners of premises within the City adjacent to and abutting upon the sanitary sewer system and which premises have not been previously assessed under a Local Improvement District ("LID") under this chapter, or under former TMC 12.08 for a sanitary sewer improvement, may connect those premises to and discharge sewage into the sanitary sewers upon receipt of a permit issued by the Director.

Such permit shall be issued only upon written application to the Director by the owner of the premises to be served and subject to the following terms and conditions:

A. The owner shall obtain all permits and pay all fees necessary and required by the City and shall construct said connecting sewers in compliance with all requirements and specifications of the City governing the same.

B. Except as provided in paragraph E of this section, the owner, prior to the issuance of any permit herein authorized, shall pay in cash to the City a Connection Charge-in-lieu-of-Assessment. This charge shall be computed at the guaranteed rate per "Assessable Unit of Frontage" in effect at the time of construction of the sanitary sewer line to be used to serve the premises of such owners, unless as otherwise provided below. The rate for computation of such Connection Charge-in-lieu-of-Assessment shall be determined as of the date of completion of construction of the particular sanitary sewer line to be so used, as reflected by the rates shown below in Table I.

Construction Date	Rate Per A.U.F.	
	Two Side Service	One Side Service
Prior to September 30, 1957	\$3.25	\$3.25
October 1, 1957 to September 20, 1960	\$3.25	\$4.75
September 21, 1960 to January 15, 1963	\$3.75	\$4.75
January 16, 1963 to November 19, 1968	\$4.50	\$5.50
November 20, 1968 to July 17, 1973	\$5.75	\$9.00
July 18, 1973 to April 8, 1975	\$7.50	\$11.00
April 9, 1975 to December 5, 1978	\$15.50	\$23.00
December 6, 1978 to December 31, 1982	\$20.00	\$38.00
January 1, 1983 to June 2, 1991	\$24.50	\$46.50
June 3, 1991 to June 30, 1994	\$30.00	\$60.00
July 1, 1994 to December 31, 1998	\$40.00	\$80.00
January 1, 1999, and thereafter	\$50.00	\$100.00

In no case shall the Connection Charge-in-lieu-of-Assessment be less than the rate per "Assessable Unit of Frontage" charged to the original LID participants; therefore, in the event that the rate per "Assessable Unit of Frontage" charged to the original LID participants was higher than the rate set forth in this table, the Connection Charge-in-lieu-of-Assessment shall be equal to the higher rate.

In addition to the "Assessable Unit of Frontage" charge calculated according to Table I above, for each connection to the sanitary sewers there shall be charged by the City a flat-rate charge of \$1,000. However, in no case shall the total charge for the connection exceed the charge that would result from using the prevailing guaranteed maximum rate in effect at the time of the connection, unless as otherwise provided below.

For connections to any sanitary sewer line built with City funds instead of by LID, and constructed after January 1, 1999, the Connection Charge-in-lieu-of Assessment for each adjacent and abutting premises shall be the proportionate share of the actual cost to construct the sanitary sewer line. The proportionate share shall be the ratio of each premises' "Assessable Units of Frontage" to the total units of frontage, multiplied by the actual cost to construct the sanitary sewer line, plus any costs for side sewers. Actual cost to construct the sanitary sewer line shall be defined as the final applicable construction cost plus a 15 percent allowance for engineering, survey, inspection, and administration. In no case shall the Connection Charge exceed the benefit accruing to each premise.

Connecting of premises to an existing sanitary sewer which is not adjacent to or abutting the subject premises shall be subject to a Connection Charge-in-lieu-of-Assessment calculated using the actual rate charged to the original LID participants, or the proportionate share of actual cost if the sewer was built with City funds after January 1, 1999. When such sanitary sewer is extended to be adjacent to or abutting the subject premises, the premises shall be connected to the abutting sanitary sewer line at no additional connection charge, as provided in subsection C of this section.

It is the intent of the City that all premises shall pay their fair share of the cost of construction of abutting and adjacent sanitary sewers. The owner of any premises which connects to an existing sanitary sewer without payment of the applicable charges hereinabove described, owes and shall be required to pay such charges.

The "Assessable Units of Frontage" and the amount to be paid thereon at the rate hereinabove specified shall be computed in the same manner as the procedure set forth for Local Improvement Districts under Chapter 35.44 RCW. In addition to the connection charge hereinabove provided for, the total cost of the construction of all sewers so connected shall be borne by the owner of the premises.

C. The Connection Charge-in-lieu-of-Assessment hereinabove provided for shall be credited to and considered as a benefit to the specific premises served by said connection. Said premises so benefited shall be designated by legal description and posted by the City and recorded as a part of the City's permanent records pertaining thereto. No further sanitary sewer connection charge shall be collected against said premises.

D. Future sanitary sewer connections to premises abutting the sanitary sewer main on which a sanitary sewer connection charge has not been paid, but which

adjoins specific premises for which such charges have been charged or paid, shall be subject to the charges as hereinabove set forth.

E. Septic System Amnesty Program.

1. For residential premises where wastewater service is available, as that term is defined in TMC 12.08.010, and where the residence is not connected to the sanitary sewer main as of June 1, 2001, a financial incentive will be offered if the owner connects to the sanitary sewer main before June 1, 2003, in order to encourage those residences to connect to the sanitary sewer main.

a. Where the Connection Charge-in-lieu-of Assessment is applicable, a financial incentive, consisting of a 50 percent reduction in the charge (incentive program) for the subject residential premises will be available, subject to the availability of funds as described below, and in accordance with policies set forth by the Director. The remaining 50 percent of that charge may be eligible for financial assistance under the Conservation Loan Program as set forth in TMC 12.08.640. The City will allocate up to \$500,000 per fiscal year to fund the incentive program. Owners of residential premises who qualify for the incentive program will be eligible for a 50 percent reduction in their connection charge on a "first-come, first-served" basis until the moneys allocated by the City for the incentive program in a given fiscal year are exhausted.

b. Where a Local Improvement District was/is formed, the financial incentive will consist of a 50 percent reduction to that assessment for the subject residential premises in accordance with policies set forth by the Director, subject to the availability of funds as stated in subsection E. a. above. In the case where all or a part of the assessment has been paid, the appropriate reduction or rebate will be made so that the final cost for the subject premises will be 50 percent of the full assessment amount.

2. For a residential premises where sewer service is not available as of June 1, 2001, but becomes available at a later date, a financial incentive will be offered to the owners if they connect to the sanitary sewer main within 24 months from the date wastewater service becomes available to that residence in order to encourage those residences to connect to the sanitary sewer main. The financial incentive will be the same as subsection 1 above.

3. The financial incentive program is not available to new residences that are constructed after wastewater service is available to that property. Owners not electing to take advantage of this limited program will be subject to the regular charges such as those specified in Section B above.

F. All Connection Charges-in-lieu-of-Assessment received pursuant to the provisions of this section are nonrefundable and shall be considered capital contributions to the Municipal Sewer System and deposited into the Wastewater Management Fund.

G. All ordinances, rules, regulations, and procedures relating to the use, maintenance, and connection to sanitary sewers as the same are now or may hereafter be adopted by the City shall apply with equal force to each such sanitary sewer connection and any violation of any such ordinance, rule, regulation, or procedure by the owner of any premises connected to a sanitary sewer may result in the disconnecting of said sewer by the City. (Ord. 27538 § 19; passed Oct. 24, 2006; Ord. 27503 § 1; passed Jun. 27, 2006; Ord. 27285 § 8; passed Nov. 2, 2004; Ord. 26729 § 5; passed Nov. 7, 2000; Ord. 26338 § 2; passed Dec. 8, 1998; Ord. 25521 § 2; passed Jun. 7, 1994; Ord. 24879 § 17; passed May 21, 1991; Ord. 23968 § 1; passed Nov. 3, 1987; Ord. 23309 § 3; passed Dec. 18, 1984; Ord. 23240 § 1; passed Aug. 28, 1984)

12.08.360 Charges and rates for wastewater service inside the City limits.

As permitted by Chapter 35.67 RCW, charges shall be made for the discharge and for the availability for discharge of all sanitary sewage into sanitary sewers. If the Director requires construction of an extension to the sanitary sewer system prior to issuance of a side sewer permit, the charge for availability for discharge shall not be made until such time as the sanitary sewer extension is completed. Unless otherwise determined by the Director, no allowances will be made for vacancies, remodeling, or other such activities unless the water service for the entire facility, building, or mobile home court (two or more units) is turned off by the Water Utility of the City. Charges shall be as follows:

A. Each single-family residence (including those instances where more than one family residence is served through one water meter, as hereinbefore mentioned in TMC 12.08.010) shall be charged a monthly charge computed as follows:

Effective Date: January 1, 2009:

- (1) A fixed charge of \$15.66 plus
- (2) A flow charge calculated at \$3.08 per hundred cubic feet (ccf) of water consumption.

Effective Date: January 1, 2010:

- (1) A fixed charge of \$16.81 plus
- (2) A flow charge calculated at \$3.25 per hundred cubic feet (ccf) of water consumption.

The water consumption for the flow charge shall be the average monthly use as measured during the most recent months of December, January, February, and March. If the average consumption results in a fractional part of a ccf, the number used for calculating the flow charge shall be rounded to the nearest one-hundredth of a ccf.

B. Multiple-family residences and mobile home courts (two or more units) served through one water meter shall pay a monthly charge per living unit as above, except that the water consumed during the winter months shall be divided by the total number of living units served by the account to determine the per living unit flow volume. If the average consumption per unit results in a fraction, the number used for calculating the flow charge shall be billed to the nearest one-hundredth of a ccf.

It shall be the duty of every person in possession, charge, or control of the entire premises consisting of two or more units, served by the sanitary sewer system, or to which such service is available, to be accountable for payment of each unit.

Where units in multiple-unit residences are separately metered; each unit shall be charged the appropriate single-family residence rate as set forth in subsection A of this section.

C. In all cases other than residential charges hereinabove set forth, the sewer charge shall be computed and paid as follows:

1. **Metered Water Supply.** When charges and fees are based upon the water usage, such charges and fees shall be applied against the total amount of water used from all sources unless, in the opinion of the Director, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters, installed and maintained at the expense of the user in accordance with the Environmental Services Submeter Installation and Testing Guidelines. Such public or private meters shall measure flow in cubic feet (cf). Where more than one commercial/industrial facility is served by one water meter, the user group shall be determined by the activities of the largest water consumption user.

2. **Metered Wastewater Volume and Metered Diversions.** When charges and fees are based upon water usage and where, in the opinion of the Director, a significant portion of the water received from any metered source does not flow into the sanitary sewer because of the principal activity of the user or removal by other means, the charges and fees will be applied against the volume of water discharged from such premises into the sanitary sewer. Any user seeking a reduction in sewer charges and fees based on a diversion of metered

water from the sanitary sewer system shall provide the Director written proof of such diversion for the Director's approval. To establish reduced sewer charges and fees based on such diversion, the user shall, unless clearly demonstrated as impractical, install a submeter of a type and at a location approved by the Director and at the user's expense. A credit adjustment for sanitary sewer overcharges may be granted, upon written application by the user, but only for the three-month period immediately preceding the submeter installation.

Such meters shall measure flow in cubic feet (cf) and shall be maintained at the expense of the user and be tested for accuracy at the expense of the user in accordance with the Environmental Services Submeter Installation and Testing Guidelines. Within 30 days of notification by the Director that meter repair or testing is required, the user shall provide written confirmation that such repair or testing has been accomplished. Failure to provide such confirmation may result in sanitary sewer charges being based upon the metered water source.

3. Users Installing Irrigation Systems. All users installing irrigation systems shall be required to meter the water usage of the irrigation system by installing, at user's expense, either a metered water supply dedicated solely to the irrigation system or a submeter, which the user shall maintain, to calculate the appropriate reduction of sewer charges.

4. Estimated Wastewater Volume.

a. Users Without Source Meters. In cases where, in the opinion of the Director, it is unnecessary or impractical to install meters, the charges and fees may be based upon an estimate of the volume to be discharged, prepared by the Director. A rational method will be used to estimate the quantity of wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

b. Users With Source Meters. In cases where, in the opinion of the Director, users divert a significant portion of their flow from a public sewer, the charges and fees may be based upon an estimate of the flow and volume to be discharged, prepared by the user and approved by the Director. The estimate must include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

c. Where the Director determines that the cost to provide sanitary sewer service to a customer or a group of

customers is abnormally higher than the cost to provide regular sanitary sewer service to City customers, due to unusual circumstances, the Director may establish a surcharge based upon that incremental higher cost. The Director will notify affected customers prior to implementing the surcharge.

d. Residential customers who qualify as low-income elderly or low-income disabled shall be eligible for a 25 percent reduction from the regular residential sanitary sewer charges. The determination of low-income elderly and low-income disabled shall be made as set forth in TMC 12.06.165. Individuals must submit applications for review and acceptance by the Director to qualify for this reduction. The effective date of the reduction shall be the first of the month following acceptance by the Director. (Ord. 27765 Ex. A; passed Dec. 9, 2008; Ord. 27649 Ex. A; passed Oct. 23, 2007; Ord. 27554 § 2; passed Dec. 5, 2006; Ord. 27538 § 20; passed Oct. 24, 2006; Ord. 27285 § 9; passed Nov. 2, 2004; Ord. 27138 § 1; passed Sep. 9, 2003; Ord. 27003 § 13; passed Nov. 19, 2002; Ord. 26888 § 4; passed Dec. 4, 2001; Ord. 26729 § 6; passed Nov. 7, 2000; Ord. 26526 § 2; passed Nov. 30, 1999; Ord. 26338 § 3; passed Dec. 8, 1998; Ord. 25979 § 3; passed Nov. 19, 1996; Ord. 25802 § 11; passed Dec. 5, 1995; Ord. 25659 § 2; passed Jan. 24, 1995; Ord. 25587 § 28; passed Sept. 20, 1994; Ord. 25521 § 3; passed Jun. 7, 1994; Ord. 25317 § 2; passed Jun. 8, 1993; Ord. 24962 § 2; passed Aug. 13, 1991; Ord. 24879 § 18; passed May 21, 1991; Ord. 24307 § 3; passed Mar. 7, 1989; Ord. 24049 § 3; passed Mar. 29, 1988; Ord. 23793 § 2; passed Mar. 3, 1987; Ord. 23574 § 2; passed Mar. 4, 1986; Ord. 23309 § 4; passed Dec. 18, 1984; Ord. 23240 § 1; passed Aug. 28, 1984)

12.08.362 Charges for fixed-term discharges to the sanitary sewer of effluent from groundwater pump-and-treat systems.

The Director may, at his/her discretion, approve discharges to the sanitary sewer of effluent from groundwater pump-and-treat systems for a specified fixed term. The intent of this section is to provide reasonable discharge locations for this type of effluent to encourage prompt cleanup of contaminated groundwater and is limited to sites regulated by the Department of Ecology and/or the Environmental Protection Agency.

All applicable sections of TMC 12.08, except as otherwise provided herein, shall apply to such discharges.

The requirements of TMC 12.08.140, (Industrial Wastewater Discharge Permits), shall be met prior to any such discharge.

Tacoma Municipal Code

Charges for such discharges shall be as prescribed in TMC 12.08.390 of this chapter, with the additional provision that dischargers may make application to the Director for a credit on only the flow component of their sewer charges for effluent from groundwater pump-and-treat systems. The following criteria shall be used in preparing and reviewing such an application:

A. The discharger must document to the Director's satisfaction a reduction of surface water runoff that was discharged to the sanitary sewer from the same site or from another site owned by the discharger within the City limits.

B. To quantify such flow reduction, the peak runoff from a two-year, 24-hour design storm event shall be used.

C. Any such flow reduction must have occurred within five years of the date of application for the discharge of the groundwater pump-and-treat effluent.

D. Any such quantity of flow reduction approved by the Director shall be subtracted from the actual groundwater pump-and-treat flow and the discharger shall be charged the applicable rate for any remaining flow.

E. No credit is allowed under this section for the components of the sewer charge related to constituent strengths and characteristics other than flow. (Ord. 27538 § 21; passed Oct. 24, 2006; Ord. 25802 § 12; passed Dec. 5, 1995; Ord. 25659 § 3; passed Jan. 24, 1995)

12.08.365 Charges for special approved discharges.

A. Discharge to Sanitary Sewer System.

1. The Director may, at his or her discretion, approve discharges to the sanitary sewer system generally for a short-term duration as needed. Application for discharge approval must be accompanied by payment of any fixed administration/application fee(s) and be submitted at least 30 days prior to the requested discharge date.

2. Unless otherwise determined by the Director, the charge for short-term discharges to the sanitary sewer system shall be based on the quantity and strength of the wastewater discharged, according to the rate specified in TMC 12.08.390 of this chapter, in addition to the following fixed administration fee:

Effective Date: February 5, 1995: Fixed Fee	
Under 5,000 gallons	\$200.00
Between 5,000 and 20,000 gallons	\$400.00
Over 20,000 gallons	\$650.00

3. As determined by the Director, representative samples may be required to be taken for suspended solids (SS) and biochemical oxygen demand (BOD). Sampling may also be required for total petroleum hydrocarbons (TPH) and any other pollutants suspected to be present in the wastewater. Additional samples may be required at the Director's discretion.

B. Discharge to Storm Drainage System.

1. The Director may, at his or her discretion, approve discharges to the storm drainage system under TMC 12.08.080, as necessary. Application for discharge approval must be accompanied by payment of any fixed administrative/application fee(s) and be submitted at least 30 days prior to the requested discharge date.

2. The Director, or his or her representative, may require that samples be taken of the proposed discharge to insure compliance with federal, state, and local water quality requirements. Samples will be analyzed based on known and/or suspected pollutants at the site or in the proposed discharge. Sampling and analysis must be completed and reviewed by City staff prior to any discharge to the City's storm drainage system. The Director, or his or her representative, may require additional sampling throughout the duration of the discharge to insure compliance with the above-referenced requirements.

3. Unless otherwise determined by the Director, the charge for discharges of non stormwater to the surface water system under TMC 12.08.080 hereof shall be as set forth herein. This charge will consist of three parts:

Effective Date: January 1, 1997:

- a. An application fee of \$500 per discharge location payable at the time of application of discharge; and
- b. An annual administration fee of \$300 payable no later than January 30 of the year following initiation of discharge and no later than January 30 of each year thereafter if the discharge continues to occur; and
- c. A quantity fee:

Effective Date: January 1, 2009:

\$0.0018276 per gallon discharged.

Effective Date: January 1, 2010:

0.0019674 per gallon discharged.

Payments shall be made in a manner and at the frequency determined by the Director. (Ord. 27765 Ex. A; passed Dec. 9, 2008; Ord. 27554 § 3; passed Dec. 5, 2006; Ord. 27538 § 22; passed Oct. 24, 2006; Ord. 27285 § 10; passed Nov. 2, 2004; Ord. 27003 § 14; passed Nov. 19, 2002; Ord. 26729 § 7; passed Nov. 7, 2000; Ord. 26526 § 3; passed Nov. 30, 1999; Ord. 26338 § 4; passed

Stevens, Troy

From: Chris Dewald <CDewald@therushcompanies.com>
Sent: Tuesday, January 14, 2014 10:15 AM
To: Lawrey, Jeff J; 'Rick Moses'; Dompier, David
Cc: 'Randy Gould'; Stevens, Troy
Subject: RE: Proctor Project

Thanks for the response Jeff. Let me shoot this off to Troy Stevens and see what he thinks. This should be good enough for him to represent your conditional support.

Thank You!

Christopher DeWald

Vice President of Development

The Rush Companies

6622 Wollochet Dr. NW

Gig Harbor, WA 98335

Office: (253) 858-3636

Cell: (253)732-6729

Fax: (253) 858-3188

CDewald@TheRushCompanies.com

www.TheRushCompanies.com

*The **Rush** Companies*

From: Lawrey, Jeff J [<mailto:R.Lawrey@CenturyLink.com>]
Sent: Tuesday, January 14, 2014 10:06 AM
To: 'Rick Moses'; Dompier, David
Cc: 'Randy Gould'; Chris Dewald
Subject: RE: Proctor Project

Rick, I was out of town for a couple of days and wasn't able to respond to your request. I have reviewed this and we are fine w the existing overhead facilities being placed underground so long as we have easement rights to them. What do I need to submit for you to move forward? Let me know.

Thanks!

R. Jeff Lawrey

CenturyLink

Right-of-Way Manager

NW Engineering & Construction

1208 NE 64th St. Rm. 401

Seattle, WA 98115-6722

Ofc. 206.345.0333

Cell 206.819.1005

Fax 206.345.1843

r.lawrey@centurylink.com

 **CenturyLink™**
Stronger Connected™

Exhibit 13

From: Rick Moses [<mailto:rick@rickmosesdevelopment.com>]
Sent: Monday, January 13, 2014 3:23 PM
To: Dompier, David
Cc: Randy Gould; Chris Dewald (CDewald@therushcompanies.com); Lawrey, Jeff J
Subject: Re: Proctor Project

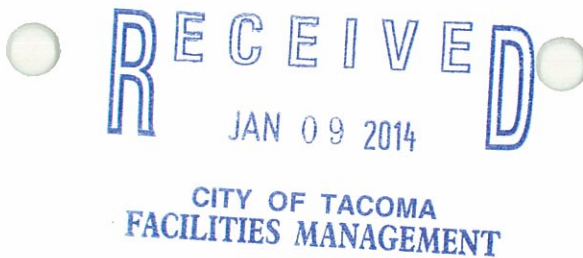
David, one of your co-workers at CenturyLink named Jeff Lawrey has objected to the air rights vacation we discussed at our meeting on-site. Jeff is a right-of-way manager and his objection is about his concern regarding overhead utilities being impacted. We will relocate all overhead utilities underground at our expense and there will be no interruption in service. This should alleviate any concerns. We have a hearing at the City of Tacoma at 9:00 Thursday morning and we would like to have this objection removed prior to that hearing.

Please get back to me as soon as you can.

Thanks.

Rick Moses
RM/d
The Bradbury Building
304 South Broadway, Suite 525
Los Angeles, CA 90013
310-430-1593
rick@rickmosesdevelopment.com

Rick Moses
RM/d
The Bradbury Building
304 South Broadway, Suite 525
Los Angeles, CA 90013
310-430-1593
rick@rickmosesdevelopment.com



January 7th 2014

City of Tacoma Public Works
Real Property Services
Attn: Troy Stevens
747 Market Street, TMB Room 737
Tacoma, Washington 98402

COPY

RE: Vacation of a Portion of Proctor Street;

Clerk File No. 124.1337

Dear Mr Stevens,

This letter is in response to the notice for the above referenced proposal. Please be advised that **Qwest Corporation (d/b/a CenturyLink) currently has facilities in the area addressed by this action and wishes to retain any and all rights to remain in said area and to add facilities in the future as needed.**

At this time, Qwest (d/b/a CenturyLink) has no issues with the proposed vacation **so long as provisions are made to retain our rights by either PUE or private easement(s) to cover our existing & future facilities.**

Please feel free to contact me as needed; I can be reached at 206-345-0333 or R.Lawrey@CenturyLink.com. Thank you for your time.

Sincerely,

Qwest Corporation d/b/a CenturyLink QC

A handwritten signature in blue ink that appears to read "R. Jeff Lawrey". The signature is stylized and includes a long horizontal stroke at the end.

R. Jeff Lawrey
Manager, Right-of-Way
Western Washington
1208 NE 64th St. Rm 401
Seattle, WA 98115



TO: ALL CONCERNED AGENCIES & DEPARTMENTS

**FROM: TROY STEVENS
PUBLIC WORKS /REAL PROPERTY SERVICES**

SUBJECT: STREET VACATION REQUEST NO. 124.1337

DATE: December 12, 2013

Real Property Services has received a petition to vacate a portion of the alley air rights westerly of Proctor Street between North 27th and North 28th Streets, as shown on the attached vicinity map.

The Petitioner proposes to add the lands to be vacated to the adjoining property for the purpose of constructing a five story mixed use development. (Note: The alley will continue to go through. The air rights vacated will begin at 16.6 feet above grade.)

In order to be considered, your comments must be received by **Real Property Services, TMB, Room 737, December 27, 2013**. If your comments are not received by that date, it will be understood that the office you represent has no interest in this matter.

Attachment(s)

AT&T Broadband

Pierce Transit

Puget Sound Energy

Qwest Communications

Fire Department

Police Department

TPU/Power/T&D

TPU/Water/LID

PW/Director (3)

PW/BLUS (2)

PW/Construction

PW/Engineering

PW/Engineering/LID

PW/Engineering/Traffic

PW/Environmental Services

PW/Solid Waste

PW/Street & Grounds

Tacoma Economic Development

Click! Network

RESPONSE

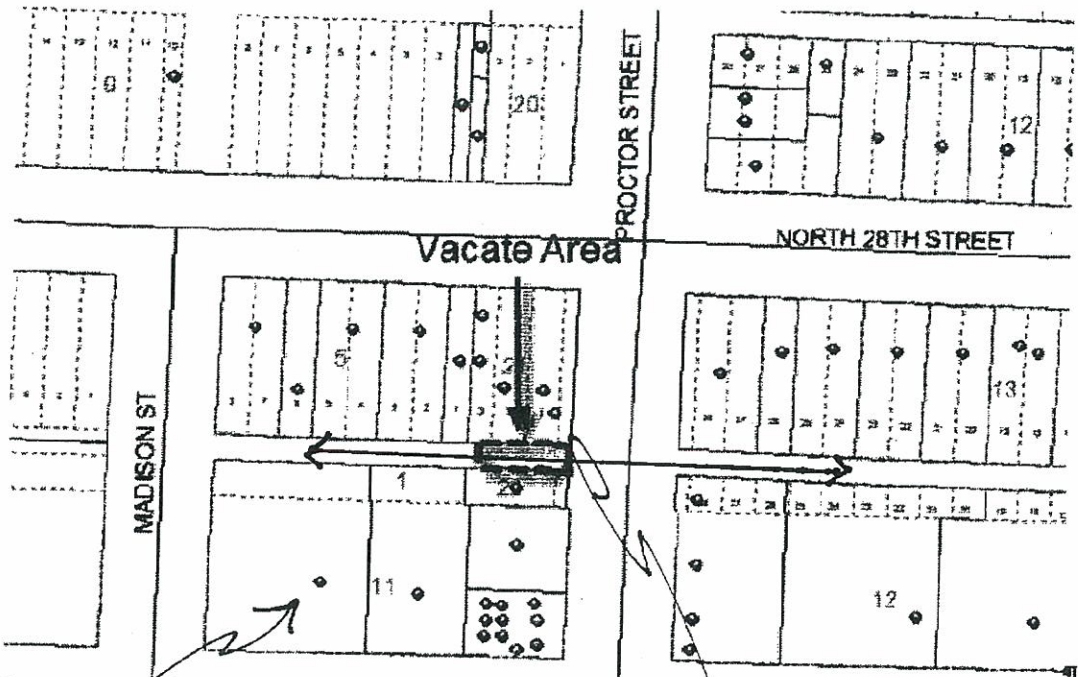
No Objections

Comments Attached

010714 Date

[Signature] Signature

TACOMA ENGINEERING Department



CENTURYLINK
CENTRAL OFFICE

AERIAL & UIC
FACILITIES

* CENTURYLINK OBJECTS TO PROPOSED VACATE.
AN EASEMENT 12' W X LENGTH OF VACATE IS
REQUIRED OR REQUESTOR CAN HAVE FACILITIES
RELOCATED AT THEIR EXPENSE

28 PROCTOR HOLDINGS, LLC

STREET VACATION NO. 124.1337

A PTN. OF THE ALLEY AIR RIGHTS WLY OF PROCTOR ST, BETWEEN N. 27TH AND 28TH STREETS

SE1/4 SEC. 25, T21N, R2E

NOT TO SCALE



13-200
124.1337

PETITION NO.

CITY OF TACOMA
PETITION TO VACATE RIGHT OF WAY
Tacoma Municipal Code 9.22 RCW 35.79

ORIGINAL

Petitioner (Print or Type): 28 Proctor Holdings LLC (Erling Kuester) **Phone:** (253) 606-8789
Address: P.O. Box 2214 **City:** Tacoma, WA **Zip:** 98401
Contact: Randy Gould, BCRA **Parcel No.:** 5200000940
Address: 2106 Pacific Avenue, Suite 300 **Phone:** (253) 627-4367

1. I/We, the undersigned, hereby petition the Tacoma City Council to vacate the following City right of way:
Vacating a ^{70'}60' portion of the air rights over the alleyway between North Proctor Street and North Madison Street bounded by North 27th Street and North 28th Street for the development of a mixed-use building and bridge over the alleyway (See attached EXHIBIT A)

2. Describe the proposed use of right-of-way to be vacated. (Please explain in detail and attach building and/or site plans where applicable.)

The use of the alley right of way will not change below the air rights vacation requested. A "bridge" containing residential units and/or other building spaces will extend from 16'-6" above final grade to no higher than the height limit prescribed by code.

3. By signing this form, the petitioner(s) and abutting owner(s), if applicable, agree(s) to pay to the City of Tacoma:

- A non-refundable filing fee of \$500 shall be deposited with the City Treasurer upon acceptance of the petition by the Public Works Real Property Services Section.
- One-half of the appraised value of the vacated right of way held in inventory for less than (25) twenty-five years. For any right of way held longer than 25 years, the City shall be compensated in an amount equal to the full-appraised value of the vacated property.
- Any additional costs for fee appraisal and/or other charges deemed necessary including, but not limited to, in lieu of sewer assessment fee, traffic studies, and costs to move/replace sidewalks, curbs and gutters.

4. By signing this form, the petitioner(s) acknowledge(s) that final transfer of vacated right of way cannot be executed until all conditions of approval have been met and a vacation ordinance passed by City Council.

Signature of Petitioner Erling Kuester Date 10/30/13
Signature of Co-Petitioner _____ Date _____



**CITY OF TACOMA
 PETITION TO VACATE RIGHT OF WAY
 SIGNATURES OF ABUTTING OWNERS**

We, the undersigned, support this request and represent one hundred percent (100%) of all owners of property abutting the right of way to be vacated:

Signature		Assessor's Parcel No.	5200000940
Name (Print)	Rick Moses for 28 Proctor Holdings LLC	Phone	310-430-1593
Street	PO Box 2214	City	TACOMA, WA Zip 98401

Signature		Assessor's Parcel No.	5200000642
Name (Print)	Erling Kuester for Proctor Partners LLC	Phone	253-606-8789
Street	4022 N 27TH STREET	City	TACOMA, WA Zip 98407

Signature	_____	Assessor's Parcel No.	_____
Name (Print)	_____	Phone	_____
Street	_____	City	_____ Zip _____

Signature	_____	Assessor's Parcel No.	_____
Name (Print)	_____	Phone	_____
Street	_____	City	_____ Zip _____

Signature	_____	Assessor's Parcel No.	_____
Name (Print)	_____	Phone	_____
Street	_____	City	TACOMA, WA Zip _____

Signature	_____	Assessor's Parcel No.	_____
Name (Print)	_____	Phone	_____
Street	_____	City	DENVER, CO Zip _____

October 31, 2013

Mr. Troy Stevens
City of Tacoma, Public Works
Sr. Real Estate Specialist
747 Market Street
Tacoma, WA 98402

RE: Air Rights Vacation for a portion of alleyway between N. Proctor and N. Madison Streets

Dear Troy:

Attached please find an original signed copy of the Petition to Vacate Right of Way for the vacation of a portion of the air rights over the alleyway between N Proctor Street and North Madison Street, bounded by North 27th Street and North 28th Street, for the development of a mixed use building and bridge over the alleyway. A plan (Exhibit A) is attached showing the area over which the air rights vacation is sought. The alleyway would remain open and useable from final grade to 16'-6" above grade. The actual dimensions of the "tunnel" proposed below the building above would be approximately 60'-0" long by 20'-0" wide by 16'-6" high, clear.

This vacation will provide a public benefit to the extent that it will return unused air rights to the tax rolls of Pierce County and the businesses that are a part of the project will provide added tax revenue to the city of Tacoma. The proposed project will provide much needed rental units and retail space in the Proctor district which will benefit local businesses and provide additional housing options for city residents. Improvements proposed within the alleyway, including paving and undergrounding of utilities will reduce dust and visual clutter. We estimate that these improvements will amount to approximately \$120,000 which amount could be used to offset the cost of the air rights sought.

As an air rights vacation only, this project will not adversely affect traffic patterns at the alleyway in question since the alleyway will remain open and useable at grade.

Since the alley will remain in service, the greater public good will not be adversely affected and, to the best of our knowledge, no future public use of the air rights above the alley is contemplated. Additionally, no property abutting the alleyway will become landlocked or its access impaired in any way by the proposed vacation.

Since the alleyway does not abut, nor is it near, a body of water the provisions of RCW 35.79.035 will not apply.





2106 Pacific Avenue, Suite 300
Tacoma, WA 98402
T (253) 627-4367

Please do not hesitate to call me if you have any questions or need further information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Randall Gould'.

Randall Gould, Architect

Enclosures:

Petition to Vacate Right of Way.

Exhibit A - Preliminary Plan showing proposed air rights vacation.

Filing Fee of \$500.00

cc:

Client

File

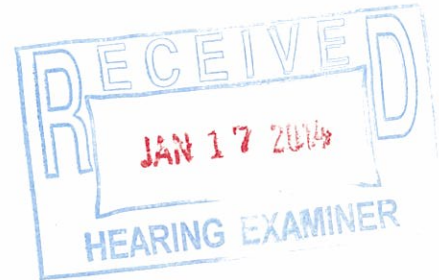


TO: PHYLLIS MACLEOD
Hearing Examiner

FROM: TROY STEVENS *tax*
Sr. Real Estate Specialist
Public Works/Real Property Services

SUBJECT: RIGHT OF WAY VACATION NO. 124.1337
28 PROCTOR HOLDINGS, LLC

DATE: January 17, 2014



At the hearing on January 16, 2014, the Hearing Examiner left the record open for Real Property Services to clarify Tacoma Fire's Comments from the email dated December 12, 2013:

At the time the request for comment was made, Tacoma Fire felt the Petitioner had not decided whether or not they would construct a sky bridge, livable space, or both. As a result, Tacoma Fire wrote comments that apply to either scenario. Therefore, Tacoma Fire's comments apply to both a sky bridge and livable space.

EX. 19

ORIGINAL