

OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

REPORT AND RECOMMENDATION

TO THE CITY COUNCIL

PETITIONER: The Board of Regents of the University of Washington

FILE NO: HEX2025-069 (124.1459)

SUMMARY OF REQUEST:

A petition requesting the vacation of the segment of South 19th Street from Market Street to Jefferson Avenue, to allow for future growth and development of the University of Washington Tacoma (UWT) campus.

RECOMMENDATION OF THE HEARING EXAMINER:

The vacation petition is hereby recommended for approval, subject to the conditions and reservations set forth herein.

PUBLIC HEARING:

After reviewing Real Property Services' Preliminary Report (the "Report"—Exhibit C-1), and examining available information on file with the petition, the Hearing Examiner conducted a public hearing on the petition on July 24, 2025.¹ Senior Real Estate Specialist, Troy Stevens, of Real Property Services ("RPS") represented the City of Tacoma (the "City") and offered testimony along with Brennan Kidd of the City's Public Works Engineering Division. Sylvia Derrick James, Vice-Chancellor, Finance and Administration (UWT), and Joseph Lawless, Chief Strategy Office (UWT), appeared and testified on behalf of the Petitioner. Testimony was taken, exhibits were admitted, and the record closed on July 24, 2025.²

¹ This hearing was conducted with in-person participation available in the City Council Chambers of the Tacoma Municipal Building, together with participation over Zoom at no cost with video, internet audio, and telephonic access all provided. Petitioner's representatives and the City's representative were both present remotely over Zoom. No members of the public were present in person in the Council Chambers or over Zoom.

² At the conclusion of the hearing, the evidentiary record was held open to allow the City to submit a corrected replacement page in its Exhibit C-1. Instead, the City submitted a separate page that referenced the error needing correction and this separate page was marked as Exhibit C-19.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

1. The Petitioner, the Board of Regents of the University of Washington (the “Petitioner” or “UWT”) has requested the vacation of the segment of South 19th Street between Market Street and Jefferson Avenue (the “Vacation Area”). The Vacation Area is legally described as follows:

THAT PORTION OF RIGHT OF WAY OF SOUTH 19TH STREET LYING WITHIN THE SOUTHWEST QUARTER OF SECTION 4, TOWNSHIP 20 NORTH, RANGE 3 EAST, W.M., IN PIERCE COUNTY, WASHINGTON.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT PORTION OF SOUTH 19TH STREET EASTERLY OF THE WEST MARGIN OF BLOCK 1707, MAP OF NEW TACOMA, WASHINGTON TERRITORY, ACCORDING TO PLAT FILED FOR RECORD FEBRUARY 3, 1875 IN THE OFFICE OF THE COUNTY AUDITOR, IN PIERCE COUNTY, WASHINGTON, EXTENDED SOUTHERLY TO THE CENTERLINE OF SAID SOUTH 19TH STREET, AND THE WEST MARGIN OF BLOCK 1907 OF SAID PLAT EXTENDED NORTHERLY TO SAID CENTERLINE, AND SOUTH 19TH STREET LYING WESTERLY OF A LINE BETWEEN THE SOUTHEAST CORNER OF SAID BLOCK 1707 AND THE NORTHEAST CORNER OF SAID BLOCK 1907.

SITUATE IN THE CITY OF TACOMA, PIERCE COUNTY, STATE OF WASHINGTON. *Exs. C-1~C-3.*

2. The Petitioner’s stated intention in requesting the vacation is to allow for future growth and development of the University of Washington Tacoma campus. *James Testimony, Lawless Testimony; Ex. C-1, Ex. C-5.*

3. South 19th Street is an 80-foot-wide sloped street right-of-way³ with sidewalk, curb and gutter, and 90-minute parallel, metered parking on both the north and south sides of the ROW. If this petition is approved, the City will lose the parking revenue from the metered parking along the Vacation Area, but acknowledged that such revenue is not substantial in the City’s overall parking budget. *Stevens Testimony, Kidd Testimony; Ex. C-1.*

4. The City acquired the South 19th Street ROW in the plat Map of New Tacoma, W.T., which was filed of record February 3, 1875, in the Office of the (Pierce) County Auditor. *Ex. C-1.*

5. Petitioner’s stated intention for the Vacation Area is to create a campus “commons” greenspace that would serve as a natural center point for the campus and provide green space both for student and faculty, and Tacomans in general. *James Testimony, Lawless Testimony; Ex. P-2.*

6. The Petitioner also testified regarding the Vacation Area’s decommissioning as ROW adding to the safety of the campus given the steep nature of the Vacation Area, the fact that it dead ends

³ The collocation “right-of-way” may be abbreviated hereafter as “ROW.”

after its steep descent into campus property, and the fact that there have been several accidents at this location in recent memory. *James Testimony, Lawless Testimony; Exs. P-1~P-6.*

7. The requested vacation has been reviewed by outside quasi-governmental agencies, City departments/divisions, and utility providers. None of the reviewing agencies indicated that they oppose the proposed vacation; however, some did express concerns and requested either improvements to or relocation of facilities, and reservation of easements for existing utility line(s) currently located in the Easement Area, as further addressed below. *Exs. C-7~C18.*

8. No members of the public appeared at the hearing to offer testimony.

9. City staff determined that the public would benefit from the proposed vacation because it facilitates the growth and development of the UWT campus, a public educational institution, and reduces ROW maintenance costs. The Petitioner offered that vacation helps increase traffic safety in the area as well. *Stevens Testimony, James Testimony; Ex. C-1, Ex. C-19, Exs. P-1~P-5.*

10. City of Tacoma Public Works Traffic Engineering division determined that, as conditioned herein, the Vacation Area could be vacated without any material adverse effect on the City's ROW system, and therefore the Vacation Area is not needed for future public use. As such the "public need" is not adversely affected by the vacation. *Ex. C-1.*

11. No abutting owner becomes landlocked nor will their access be substantially impaired by the vacation. Petitioner is the sole property owner of all real property abutting the Vacation Area. *James Testimony.*

12. The Vacation Area does not abut, nor is it proximate to a body of water and, therefore, the provisions of RCW 35.79.035 are not implicated. *Ex. C-1.*

13. No environmental review of the proposed vacation was conducted. *See Conclusion 3, below.*

14. At the hearing, the Petitioner requested that the City waive any compensation for the vacation arguing that UWT is a key economic driver in the Tacoma economy, the vacation will increase traffic safety, and the vacation will facilitate publicly accessible green space. The City countered that all public ROW is dangerous to a certain degree, that the City cannot and does not waive vacation compensation for every petitioner and that there is no guarantee, that stems from the vacation, that the Vacation Area will be used for public green space at all, if minds change, much less in perpetuity even if the current UWT development plan is followed. The City's internal assessment of the vacation compensation otherwise required (if waiver is not approved) was determined to be approximately \$733,562. City staff opposes the waiver here. *James Testimony, Lawless Testimony, Stevens Testimony, Kidd Testimony; Exs. P-6~P-7.*

15. Public hearing notices were posted/published at the various locations and on the dates indicated below as follows:

On June 18, 2025-

- a. A yellow public notice sign was posted at the northeast corner of South 19th Street and Market Street.
- b. A yellow public notice sign was posted at the southwest corner of South 19th and Court C. *Ex. C-1*.
- c. A public notice memo was placed into the glass display case located on the First Floor of the Tacoma Municipal Building next to the Finance Department.
- d. A public notice memo was advertised on the City of Tacoma web site at address: <http://www.cityoftacoma.org/cms/one.aspx?objectId=2283>.
- e. Public notice was advertised in the Daily Index newspaper.
- f. A public notice mailing was sent to all owners of record within a 300-foot radius of the Vacation Area.
- g. Public Notice was advertised on Municipal Television Channel 12.

16. RPS's Preliminary Report, as entered into the hearing record as Exhibit C-1 (with the correction in Exhibit C-19) (the "Report"), accurately describes the requested vacation, general and specific facts about the abutting properties, the Vacation Area, and applicable laws and regulations. The Report is incorporated herein by this reference as though fully set forth. Any conflict between this Recommendation and the Report should be resolved in favor of this Recommendation, however.

17. Any conclusion hereinafter stated which may be more properly deemed a finding is hereby adopted as such.

CONCLUSIONS:

1. The Hearing Examiner has jurisdiction over the parties and subject matter in this proceeding to conduct a hearing and make a recommendation to the City Council. *See Tacoma Municipal Code (TMC) 1.23.050.A.5, TMC 9.22.070, RCW 35.79.030.*

2. The Hearing Examiner's role in street vacation proceedings is quasi-judicial in nature (making findings and conclusions based on evidence presented, but without a final decision), leading to a legislative determination by the City Council that is enacted by ordinance. *State ex rel. Myhre v. City of Spokane*, 70 Wn.2d 207, 218, 442 P.2d 790 (1967); *TMC 9.22.070*.

3. Pursuant to WAC 197-11-800(2)(i), the vacation of right-of-way is exempt from the threshold determination and Environmental Impact Statement requirements of RCW 43.21.C, the State Environmental Policy Act (SEPA).

4. “RCW 35.79.010 gives the legislative authority [of a municipality] -- the city council -- sole discretion as to whether a petition to vacate shall be granted or denied.”⁴

5. If they are to be approved, petitions for the vacation of public right-of-way must be consistent with the following criteria:⁵

1. The vacation will provide a public benefit, and/or will be for a public purpose.
2. The [petitioned-for] right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
3. The public need shall not be adversely affected.
4. The petitioned-for right-of-way is not contemplated or needed for future public use.
5. No abutting owner becomes landlocked or access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
6. The petitioned-for vacation of right-of-way shall not be in violation of RCW 35.79.035. *TMC* 9.22.070.

6. The Petitioner must demonstrate, by a preponderance of the evidence, that its vacation petition meets the foregoing criteria. *See TMC 1.23.070*. The Petitioner is entitled to rely on all evidence made part of the record, whatever the source of that evidence.

7. Findings entered herein, based upon substantial evidence in the hearing record, support a conclusion that the requested vacation conforms to the criteria for the vacation of right-of-way set forth at Conclusion 5 above, provided the conditions recommended below are met. The requested vacation would not (a) impair traffic circulation in any material way, (b) landlock any abutting owner, or (c) adversely affect the public need, because the street right-of-way is not an indispensable part of the City’s ROW system. The conditions and reservations below will adequately mitigate against any other consequences

8. Public benefit accrues despite the relinquishment of the City’s ROW interest through the Vacation Area facilitating the growth and development of the UWT campus, which is a public educational institution, together with the reduction of ROW maintenance costs that the City bears. Traffic safety concerns cannot be considered to satisfy the public benefit criterion, however, because as the City pointed out at the hearing, accidents of the type the Petitioner referenced happen all over the City.

⁴ *Puget Sound Alumni of Kappa Sigma v. Seattle*, 70 Wn.2d 222, 238-239, 422 P.2d 799, 808-809 (1967).

⁵ For consistency, outline numbering of the criteria is kept the same as in the original TMC text.

9. TMC 9.22.010 states in part: “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.**” [Emphasis added.] The Petitioner addressed its waiver request letter to the Hearing Examiner. Although under the authority cited in Conclusion 1 above the Hearing Examiner conducts the required public hearing for street vacations, the Examiner is not the decision maker for street vacations—he only makes a recommendation—and under the express language just cited from TMC 9.22.010, the Examiner does not have the authority to approve or deny waiver requests. Per the ordinance, the City Council must deem the waiver in the best interest of the City in order to approve a requested waiver of vacation compensation. Although the Examiner could presumably weigh in on the waiver request with a recommendation, the fact that City staff opposes the waiver, joined with (a) the Office of the Hearing Examiner’s relative isolation within the City’s overall structure, and (b) the fact that the Hearing Examiner is not empowered to make fiscal decisions for the City, militate against the Examiner’s qualifications at present to opine in whether waiving what RPS projects as approximately \$733,562 of revenue⁶ is in the “best interest of the City.”

Therefore, the Examiner can only recommend here that the City Council will have to make a determination, presumably by attendant vote to the consideration of the vacation generally, whether the City Council will approve the waiver as in the best interest of the City.

10. Given the foregoing, the Hearing Examiner recommends that the requested vacation be approved subject to the following conditions:

A. RECOMMENDED CONDITIONS OF APPROVAL

1. PAYMENT OF FEES

Normally it would be recommended that the Petitioner compensate the City in an amount equal to the full appraised value of the area vacated. Petitioner here has requested that this compensation be waived. *Ex. P-7*. If the City Council rejects the Petitioner’s waiver request, one-half of any compensation received for the vacation should 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 right-of-way areas. *TMC 9.22.010*.

2. PW/TRAFFIC ENGINEERING/TRANSPORTATION DIVISION

- a. As outlined in *Ex. C-7*, the City will require street improvements and easements related to the City infrastructure existing in the Vacation Area.
- b. Petitioner will be responsible for initiating and completing the work under a Work Order and/or SDEV permit with a UWT contractor. The City will not complete the work and will not reimburse, nor will the City reimburse UWT

⁶ See *Finding of Fact 14*.

for any work already completed, since any of those improvements were not City requested or authorized. Public Works has stated that any phased closure of the Vacation Area will impact “travel and public right-of-way, which will necessitate permit requirements from the City and be subject to City review and approval.” Any existing or future responsibility for the ongoing maintenance of the Vacation Area will rest solely with UWT.

3. ENVIRONMENTAL SERVICES(ES)

- a. A 40-foot stormwater easement must be reserved for the 48-inch storm pipe (shown in Exhibit C-4) running easterly down South 19th Street.
- b. A 20-foot easement must also be reserved for the existing catch basin lead.

4. TACOMA WATER

Tacoma Water requires the reservation of an easement over the north half of S. 19th Street proposed for vacation, with the following conditions:

- No permanent structures, retaining walls, fences, trees are permitted within easement. Light landscaping with grass and/or small shrubbery is permitted. Tacoma Water facilities must remain accessible at all times.
- If existing water facilities need to be relocated or adjusted, they will be relocated by Tacoma Water at the developer’s expense.
- Any damage to Tacoma Water facilities will be repaired by Tacoma Water crews at the expense of the developer.

5. LUMEN/CENTURYLINK

The City will monitor resolution of any issues related to these private entities’ infrastructure in the Vacation Area.

B. USUAL CONDITIONS:

1. The recommendation set forth herein is based upon representations made and exhibits, including any development representations, plans and proposals, submitted at the hearing conducted by the Hearing Examiner. Any material change(s) in any such development plans, proposals, or conditions of approval imposed may potentially be subject to the review of the Hearing Examiner and may require additional review and hearings.

2. The approval recommended herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition precedent to the recommendation herein made and is a continuing requirement of any resulting approvals. By accepting any resulting approvals, the Petitioner represents that any development or other activities facilitated by the vacation will comply with such laws, regulations, and ordinances. If, during the term of any approval granted, any development or other activities permitted do not comply with such laws, regulations, or ordinances, the Petitioner agrees to promptly bring such development or activities into compliance.

11. Accordingly, the petition is recommended for approval, subject to the condition set forth in Conclusion 10 above.

12 Any above stated conclusion, which may be more properly deemed or considered a finding, is hereby adopted as such.

RECOMMENDATION:

The vacation petition is hereby recommended for approval, subject the condition contained in Conclusion 10 above.

DATED this 31st day of July, 2025.



JEFF H. CAPELL, Hearing Examiner

NOTICE

RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION

RECONSIDERATION:

Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise provided by law, may file a motion with the office of the Hearing Examiner requesting reconsideration of a decision/recommendation issued by the Examiner. A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend day or a holiday the last day for filing shall be the next working day. The requirements set forth herein regarding the time limits for filing of motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with the Office of the Hearing Examiner, or that do not set forth the alleged errors shall be dismissed by the Examiner. It shall be within the sole discretion of the Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation. (*Tacoma Municipal Code 1.23.140*)

APPEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:

Within 14 days of the issuance of the Hearing Examiner's final recommendation, any aggrieved person or entity having standing under the ordinance governing such application and feeling that the recommendation of the Examiner is based on errors of procedure, fact or law may have the right to appeal the recommendation of the Examiner by filing written notice of appeal with the City Clerk, stating the reasons the Examiner's recommendation was in error.

Appeals shall be reviewed and acted upon by the City Council in accordance with *TMC 1.70*.