



**TO:** Elizabeth A. Pauli, City Manager  
**FROM:** Jeff H. Capell, Hearing Examiner *JHC*  
Troy Stevens, Senior Real Estate Specialist  
**COPY:** City Council and City Clerk  
**SUBJECT:** Ordinance Request No. 22-0427 – Street Vacation 124.1431 – April 26, 2022  
**DATE:** April 7, 2022

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**SUMMARY AND PURPOSE:**

An ordinance to vacate the air rights over a portion of South 15th Street, lying between South Court E and South Fawcett Avenue, and a westerly portion of South Fawcett Avenue, lying south of South 15th Street, to facilitate design variability for a residential building project.

**BACKGROUND:**

The Hearing Examiner’s recommendation is based on the evidence and testimony presented at the public hearing held on March 24, 2022. The Vacation Area (as defined in the Hearing Examiner’s Report and Recommendation) consists of the air rights over a portion of South 15th Street, lying between South Court E and South Fawcett Avenue, and the westerly portion of South Fawcett Avenue, lying south of South 15th Street. Petitioner Fawcett Avenue Owner, LLC requested the vacation to allow for design flexibility on a residential building project, specifically building façade modulation and/or extensions/outcroppings such as small balconies. The Vacation Area is not currently used for any public right-of-way purpose, nor does the City see any need of it for future public use.

**COMMUNITY ENGAGEMENT/ CUSTOMER RESEARCH:**

A public hearing was held on March 24, 2022, at which members of the community could attend and speak to express their concerns with, opposition to, and/or support for the proposed vacation. No members of the public appeared; however, one comment was received via email expressing concern that any improvements built as a result of the air rights vacation may interfere with existing views resulting in the eventual lowering of neighboring property values. In response to this concern, the Petitioner explained the minimal impact that neighboring properties would experience as the planned small balconies will have see-through railings. There are no foreseeable right-of-way-related negative effects on the community surrounding the Vacation Area since it is not currently being used for any public right-of-way purpose, nor is there any need for such use in the future.

**2025 STRATEGIC PRIORITIES:**

**Equity and Accessibility:**

The primary positive impact on equity, equality, diversity or inclusion that could result from approving this street vacation would be the eventual increase to the available housing supply in the Tacoma market, making housing more readily available for all Tacomans.

**Economy/Workforce:** *Equity Index Score:* Moderate Opportunity

Increase the percentage of people relocating to the city and affordability of housing compared to neighboring jurisdictions.

**Education:** *Equity Index Score:* Very Low Opportunity - No correlation here.

**Civic Engagement:** *Equity Index Score:* Very Low Opportunity - No correlation here.



**Livability: Equity Index Score: Moderate Opportunity**

Increase the number of Complete Compact Communities/ 20-Minute Neighborhoods throughout the city.

**Explain how your legislation will affect the selected indicator(s).**

If approved, the vacation will allow the Petitioner to complete the intended development eventually resulting in an increase to the City’s housing supply.

**ALTERNATIVES:**

Alternative(s)	Positive Impact(s)	Negative Impact(s)
1. The Council could approve the vacation request under conditions different than those recommended.	Any positive impacts arising from different conditions would depend on what those conditions are and some nexus would have to be found to impose them.	Any different conditions imposed would have to find justification outside of the City’s current position, i.e., of not needing the Vacation Area for any right-of-way purpose.
2. The Council could deny the vacation petition.	The most positive impacts come from approving the vacation. Denial simply maintains the status quo and hampers design flexibility for the petitioner.	The most positive impacts come from approving the vacation. Denial simply maintains the status quo preserving the City’s unneeded right-of-way air rights interest.

**EVALUATION AND FOLLOW UP:**

The recommended vacation is subject to the condition listed in the Hearing Examiner’s Report and Recommendation, issued on March 28, 2022. All evaluation and follow-up should be coordinated between the Petitioner and the appropriate City departments referenced in the Report and Recommendation.

**STAFF/SPONSOR RECOMMENDATION:**

The Hearing Examiner recommends approval of the requested air rights vacation, subject to the condition contained in Conclusion 8 of the Hearing Examiner’s Report and Recommendation.

**FISCAL IMPACT:**

The potential fiscal impact of this air rights vacation is not known at this time. If the vacation is preliminarily approved, a fair market appraisal or market rate analysis will occur after first reading of the ordinance. When the market information is available, the estimated revenue from the vacation will be communicated to the City Council by the appropriate City department. In addition, the Vacation Area will add value to the property to which it attaches, thereby potentially generating some additional ongoing property tax income.

**ATTACHMENTS:**

List attachments using bullet points.

- The Hearing Examiner’s City Council Action Memorandum, dated April 7, 2022.
- The Hearing Examiner’s Report and Recommendation to the City Council, issued on March 28, 2022.
- The City Exhibit List and Exhibits C-1 through C-16.
- The verbatim electronic recording from the hearing held on March 24, 2022.