

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: HEX2025-068 (124.1458)

SUMMARY OF REQUEST:

A petition requesting the vacation of a segment of Court C lying between South 17th Street and 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 testified along with Brennan Kidd of the City's Public Works Engineering Division. Sylvia James, Vice Chancellor (UWT), and Joe Lawless (UWT), Chief Strategy Officer appeared on behalf of the Petitioner. Testimony was taken, exhibits were admitted, and the record closed on July 24, 2025.²

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

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

² At the conclusion of the hearing, the evidentiary record was held open to allow the City to submit a corrected page to its Exhibit C-1. The City submitted instead a separate page calling out the correction(s), which page has been marked as Exhibit C-19, and was received by close of business on July 24, 2025, thereby closing the hearing record. *Ex. C-19*.

1. The Petitioner, the Board of Regents of the University of Washington (the “Petitioner” or “UWT”) has requested the vacation of a segment of the Court C right-of-way³ lying between South 17th Street and Jefferson Avenue (the “Vacation Area”). The Vacation Area is legally described as follows:

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 COURT C, LYING BETWEEN THE SOUTHERLY MARGIN OF SOUTH 17th STREET AND THE NORTHWESTERLY MARGIN OF JEFFERSON AVENUE, LYING BETWEEN BLOCKS 1706 AND 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. *Exs. C-1~C-4.*

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. *Ex. C-1, Ex. C-19.*

3. Court C is a 40-foot-wide court/street ROW with a mostly brick surface, but with some asphalt in places. There is sidewalk, curb and gutter on the west side of the Court and curb and gutter on the east side. The Court has City-metered parallel parking on the west side, and a combination of perpendicular non-permit parking (public/private) and grass over the easterly side of the Court. If this petition is approved, the City will lose the parking revenue from metered parking along the Vacation Area, but acknowledged that such revenue is not substantial in the City’s overall parking budget. *Kidd Testimony; Ex. C-1, Ex. C-2, Ex. C-4.*

4. The City acquired the Court C ROW in the plat Map of New Tacoma, W.T., according to its record filing on February 3, 1875, in the Office of the (Pierce) County Auditor *Ex. C-1, Ex. C-3.*

5. The requested vacation has been reviewed by outside quasi-governmental agencies, City departments/divisions, and utility providers. *Ex. C-1, Exs. C-7~C-19.*

6. None of the reviewing agencies indicated opposition to the vacation; however, they did register concerns regarding improvements to or relocation of facilities, and the need for reservation of easements for utility line(s) and City infrastructure currently located in the Easement Area, as further addressed below. *Id.*

7. 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. *Stevens Testimony, James Testimony; Ex. C-1, Ex. C-19, Ex. P-2.*

8. The Petitioner also testified regarding the Vacation Area’s decommissioning as ROW adding to the safety of the UWT campus given that Court C intersects with Jefferson Avenue and South

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

19th Street irregularly, together with the fact that there have been several accidents in the area in recent memory. *James Testimony, Lawless Testimony; Ex. P-1, Ex. P-3.*

9. 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, Ex. C-7.*

10. 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 and Petitioner will preserve access into its building(s) through the privatized Vacation Area of its own accord. *James Testimony, Lawless Testimony; Ex. C-1.*

11. 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.*

12. No members of the public appeared at the hearing to offer testimony either in-person or over the internet.

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 UWT's public education mission. 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 are budgetary constraints to the waiver. The City's internal assessment of the vacation compensation otherwise required (if waiver is not approved) was determined to be approximately \$2.2 million dollars. 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 southeast corner of South 17th Street and Court C.
- b. A yellow public notice sign was posted approximately 106 feet northeasterly of the northwesterly corner of South 19th Street and Court C.
- 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. *Ex. C-1.*

16. RPS's Preliminary Report, as entered into the hearing record as Exhibit C-1 (as amended by Ex. C-19, the "Report"), accurately describes the requested vacation, general and specific facts about the abutting properties, and the Vacation Area and applicable codes. 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 ROW 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.

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.

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 requested ROW 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 ROW set forth at Conclusion 5 above, provided the conditions recommended below are met. The public would experience benefit to another public institution in the advancement of its (UWT's) master plan, and the City's ROW maintenance burden is lessened slightly. 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 regardless of intersection design issues. They are not grounds for justifying vacation anywhere and everywhere they occur. The requested vacation would not impair traffic circulation, landlock any abutting owner, or adversely affect the public need, because the Vacation Area is not an indispensably integral part of the City's overall ROW system.

8. 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 to opine on whether waiving what RPS projects as approximately \$2.2 million dollars of revenue⁶ is in the "best interest of the City."

⁶ See Finding of Fact 14.

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.

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

A. RECOMMENDED CONDITIONS:

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. As just addressed above, Petitioner here has requested that this compensation be waived. *Ex. P-3*. 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. PUBLIC WORKS/TRAFFIC

- a. An easement shall be reserved for the City to maintain existing streetlight infrastructure and equipment. Any existing streetlight (crossing) that can be abandoned does not require an easement. Exhibit C-7 shows the easement location.
- b. Traffic signs and parking kiosks shall be returned to the City and/or coordinated for removal and return of equipment.
- c. Permanent signage, channelization and signal equipment changes that are located in the ROW or in a public easement shall be inspected and approved by the City for acceptance of operations and maintenance will be incorporated into the City's pavement, signage and signal inventory. Temporary measures such as the traffic barriers will not be maintained, nor shall they be the responsibility of the City. If the permanent sidewalk configuration is installed to close South 19th Street along Market and Jefferson is completed, then those sidewalks would be incorporated into the City's pavement inventory.
- d. All costs of the proposed changes from the City for the acceptance of this street vacation shall be at the University's expense. This will include an engineer if needed to draw up their plans, the permit process for construction, and hiring of a contractor.

3. ENVIRONMENTAL SERVICES (ES ENGINEERING)

- a. A 20-foot-wide easement shall be reserved from the vacation over the existing wastewater main, or the main will need to be re-routed down South 17th Street, abandoned, or Petitioner will need to take ownership of the main in the street and make sure all of the properties abutting the street have wastewater service.
- b. The Petitioner is required to take ownership of and maintenance responsibility for the storm system in the Vacation Area.

4. TACOMA POWER

An easement must be reserved over the west 12 feet of the north 310 feet of the Vacation Area for power facilities/infrastructure.

5. COMCAST

Comcast has facilities in the Vacation Area. The City will monitor resolution of any issues relevant to this private easement before vacation finalization.

6. LUMEN/CENTURYLINK

Lumen has a vault and conduit system along the west side of Court C that serves the building at 1717 Market Street and 1708 Broadway. The City will monitor resolution of any issues relevant to this private easement before vacation finalization.

7. ENVIRONMENTAL SERVICES (SOLID WASTE)

At this time, an easement will be required for ES/Solid Waste vehicles. In the future, if the Petitioner chooses to close off the Vacation Area, or a portion thereof to Solid Waste vehicles, a turnaround or an alternative pick-up location may be required. If a turnaround is required, ES/Solid Waste must review and approve the turnaround for its Solid Waste vehicles.

B. ADVISORY COMMENTS:

1. PDS/LAND USE AND ZONING

Please note that the proposed vacation will create a large, super block. The City will continue to review future development permit applications using the City's South Downtown Subarea Plan and the Pedestrian and Bicycle Support Standards under TMC 13.06.090.F. (or as amended) to provide safe,

efficient alternative modes of travel (e.g., pedestrian, bicycles, etc.) through the UWT campus and around the Downtown Tacoma neighborhood.

2. PDS/HISTORIC PRESERVATION

- a. The Petitioner is directed to see the Union Depot Historic District design guidelines at <https://cms.cityoftacoma.org/Planning/Historic-Preservation/Districts/union-depot-guidelines-2018.pdf>
- b. Historic Preservation notes the existing brick street surface should be preserved, and that alterations of historic street configuration should be avoided if possible. It is noted that in Historic Preservation's opinion the proposal would just close the southern portion to vehicular traffic, but not alter the grid.
- c. Changes either to the street pattern or surface will need to be reviewed by the Landmarks Commission.

C. 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.

10. Accordingly, the petition is recommended for approval, subject to the condition set forth in Conclusion 9 above.

11. 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 conditions contained in Conclusion 9 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*.