



## City Council

### Consideration of a Street Vacation Petition for a Portion of Alley Adjacent to 1919 Harrison Ave NW

**Agenda Date:** 3/28/2017  
**Agenda Item Number:** 4.E  
**File Number:** 17-0020

---

**Type:** ordinance **Version:** 4 **Status:** Passed

---

#### **Title**

Consideration of a Street Vacation Petition for a Portion of Alley Adjacent to 1919 Harrison Ave NW

#### **Recommended Action**

##### **Committee Recommendation:**

Not referred to a committee.

##### **City Manager Recommendation:**

Move to approve on second reading an ordinance to vacate a portion of the Alley adjacent to 1919 Harrison Ave NW. As a condition of alley vacation, reserve a perpetual utility easement to be recorded with a separate easement document over said Alley, and to require payment to the City of one-half the appraised value for all adjacent parcels, with the option for West Central Park, a nonprofit corporation, to provide a covenant in lieu of payment for its parcel that provides for the West Central Park to be held open to the public in a non-discriminatory manner for a period of 20 years. West Central Park, a nonprofit corporation, must also provide a recorded copy of a correction deed curing a scrivener's error in the deed purportedly vesting title to the property in said entity.

#### **Report**

##### **Issue:**

Whether the City Council should pass an Ordinance vacating a portion of the Alley adjacent to 1919 Harrison Ave NW.

##### **Staff Contact:**

Rich Hoey, P.E., Public Works Director, 360.753.8495

Ladd F. Cluff, PLS, City Surveyor, Public Works Engineering, 360.753.8389

##### **Presenter(s):**

Rich Hoey, P.E., Public Works Director

##### **Background and Analysis:**

Background and analysis has not changed from first to second reading.

On December 14, 2016, West Central Park, a Washington nonprofit corporation, ostensible property

owner of 1919 Harrison Ave NW, together with Parkside Café LLC, Orchard House LLC, and Marie B&B LLC, petitioned the City to vacate a twelve (12) foot wide alley right-of-way adjacent to their properties. The petition with exhibits is attached to this staff report, along with additional background shared previously with Council.

City staff reviewed the request using the criteria outlined in Olympia Municipal Code Section 12.16.100. Following this process, City staff and Franchise utilities reviewed and commented on the petition. City Waste ReSources, Water Resources, Puget Sound Energy and CenturyLink request that their rights be preserved for perpetual access for maintenance of overhead and underground utilities. If Council chooses to vacate the alley, staff recommends reserving a perpetual easement to allow both public and private utility right of access.

On February 28, 2017 City Council held a public hearing to receive public comment regarding the request. A total of 11 people testified at the hearing and an additional 9 individuals provided written comment. All of the testimony received by Council was in support of the requested alley vacation. Virtually all commenters requested that the City not charge the West Central Park for the value of the right-of-way. Principal reasons cited include the:

- Value that the West Central Park provides for the community.
- Recognition of the improvements that the West Central Park Project has made to the property for public use.
- High cost of the right-of-way acquisition for a non-profit entity.
- Willingness to retain bicycle and pedestrian access in the alley for the public.

Council chose not to take action on the vacation following the public hearing, and asked staff to look at options that address public concerns.

Upon further review, staff believes that providing an option for an agreement in lieu of payment for West Central Park's portion of the right-of-way is reasonable given the Park's public benefit. To ensure this public benefit continues, staff recommends conditioning the discount of the right-of-way charge on the West Central Park's adoption of the attached covenant. The covenant ensures the park remains publicly accessible in a non-discriminatory manner for a period of 20 years from the date of alley vacation. This option would save the West Central Park, a nonprofit corporation, an estimated \$11,160. The West Central Park would also have the option to forgo the covenant and simply pay the charge for vacation of the public right-of-way.

Staff recommends that the commercial property owners on the east side of the alley (Parkside Café LLC, Orchard House LLC, and Marie B&B LLC) pay the right-of-way acquisition charge per normal City procedure for right-of-way vacations. Unlike the West Central Park, these commercial properties are not providing sufficient public value to warrant a discount of the charge. Staff believes that preservation of bicycle and pedestrian access alone is not sufficient to warrant a discount of the charge. The estimated charges to these commercial properties total \$7,720.98 and are broken down in the attached table.

Staff's investigation into the application for vacation has revealed a scrivener's error in the deed from the original grantor to West Central Park, which calls into question the legal entity actually holding title to the private park property. West Central Park, a nonprofit corporation, must provide the City

with a recorded copy of a correction deed prior to the vacation ordinance becoming effective to insure that West Central Park, as a corporate entity, has the legal right to seek the alley vacation and to execute any covenant in lieu of payment under the terms of the ordinance.

**Neighborhood/Community Interests (if known):**

There is significant public interest in the vacation of the alley, and strong support for a waiver of the right-of-way charge to the West Central Park, a nonprofit corporation.

**Options:**

- Option 1:     Move to approve on first reading and pass on second reading an ordinance to vacate a portion of the Alley adjacent to 1919 Harrison Ave NW. As a condition of alley vacation, (1) reserve a perpetual utility easement to be recorded with a separate easement document over said Alley; (2) require payment to the City of one-half the appraised value for all adjacent parcels;(3) in lieu of payment for the West Central Park parcel, provide West Central Park, a nonprofit corporation, the option to adopt the attached covenant to keep the park publicly accessible in a non-discriminatory manner for a period of 20 years; and (4) require that West Central Park, provide the City with a recorded copy of a correction deed, prior to the vacation ordinance becoming effective, to insure that West Central Park, as a corporate entity, has the legal right to seek the alley vacation and to execute any covenant in lieu of payment under the terms of the ordinance.
- Option 2:     Move to approve the ordinance to vacate a portion of the Alley adjacent to 1919 Harrison Ave NW, with modified conditions.
- Option 3:     Reject the vacation request. This option would leave the alley right-of-way as is. The development of West Central Park and the surrounding Block may require revision.

**Financial Impact:**

The proposed payment in lieu of the right-of-acquisition charge for West Central Park would reduce the estimated charge by \$11,160. The three remaining parcels owned by Parkside Café LLC, Orchard House LLC, and Marie B&B LLC, would pay an estimated total of \$7,720.98 (see attached cost breakdown).

**Attachments:**

Ordinance (Exhibit A Covenant, Exhibit B Utility Easement)  
Petition with Exhibits  
Right-of-way Acquisition Costs  
Vicinity Map