

## DIVISION 8. - RIGHT-OF-WAY VACATIONS

### Sec. 30-3.41. - Right-of-way vacations.

#### A. *Review procedures.*

1. *Application.* An application to vacate a public right-of-way may be submitted by either the city commission or by all the owners of land abutting the subject right-of-way.
2. *Board review.* Applications to vacate a public right-of-way shall be reviewed by the city plan board and the city commission according to the criteria provided in this section, with notice of the board hearings provided in accordance with law and this article. The city plan board's review shall be a recommendation to the city commission. Prior to the public hearing before the city plan board, the application shall be reviewed by city staff in accordance with the development plan review process as stated in this article.

#### B. *Review criteria.* Rights-of-way may only be vacated by the city commission upon its finding that the criteria in both 1. And 2. as provided below have been met:

1. The public right-of-way no longer serves a public purpose and the vacation of the public right-of-way is in the public interest, which shall be based on a consideration of the following:
  - a. Whether the public benefits from the use of the subject right-of-way as part of the city street system;
  - b. Whether the proposed action is consistent with the Comprehensive Plan;
  - c. Whether the proposed vacation is consistent with the minimum block size requirements and other applicable street connectivity standards;
  - d. Whether the proposed action would deny access to private property;
  - e. The effect of the proposed action upon public safety;
  - f. The effect of the proposed action upon the safety of pedestrians and vehicular traffic;
  - g. The effect of the proposed action upon the provision of municipal services including, but not limited to, emergency service and waste removal;
  - h. The necessity to relocate utilities both public and private; and
  - i. The effect of the proposed action on the design and character of the area.
2. If the public right-of-way is ~~a~~ an improved street, the city shall not vacate the right-of-way except if the following additional criteria are met:
  - a. The loss of the street will not foreclose reasonably foreseeable future bicycle/pedestrian use;
  - b. The loss of the street will not foreclose non-motorized access to adjacent land uses or transit stops;
  - c. For right-of-way abutting properties located within a Transect or Mixed-Use District, the loss of the street is necessary for ~~the development consisting of the~~ construction of a high density, mixed-use project compatible with the surrounding area and containing both residential and non-residential uses or creating close proximity of residential and non-residential uses;
  - d. There is no reasonably foreseeable need for any type of transportation corridor for the area.

#### C. When rights-of-way are vacated, the applicant shall be required (unless the applicant is the City), as a condition to the vacation, to pay the cost of relocating all public facilities required by the vacation, and shall also pay to the City any cost which the City and or utility agency has incurred in order to acquire the land or easement to be vacated or in improving the land or pay fair market value, whichever is greater.