

**Hearing Examiner Decision
Findings of Fact and Conclusions
Street Vacation Petition
Craig & Carolyn Frkovich**

Proposal

Findings: Craig and Carolyn Frkovich have petitioned the City of Kalama to vacate 6,600 square feet of undeveloped right-of-way associated with Ivy Street as allowed in Kalama Municipal Code (KMC) Chapter 11.18 and Revised Code of Washington (RCW) 35.79. The request would vacate existing right-of-way starting at Taylor Street on the east extending a distance of 100 feet to the west. The right-of-way in question is located south of Parcel 4064201 and north of Parcel 40639. Craig and Carolyn Frkovich own the parcels on both sides of the right-of-way.

Conclusion: Conducting public hearings on street vacation petitions as set out by RCW 35.79, providing a record of the proceedings and making recommendations for approval or denial back to the Kalama City Council for final action is within the authority of the Hearing Examiner under Chapter 2.34.090(C), Kalama Municipal Code. The Kalama City Council will make the decision to adopt or reject the Hearing Examiner's recommendation.

Site Description

The right-of-way in question is an undeveloped portion of Ivy Street (see Exhibit A in staff report for map). The Ivy Street right-of-way is 66 feet wide x 100 feet long (6,600 square feet) and abuts the Frkovich property to the north and south, Ivy Street to the west and Taylor Road to the east.

Existing Land Use

The proposed street vacation area is located between two parcels. West of the right-of-way proposed for vacation is the extension of the Ivy right-of-way. East of the right-of-way is the Taylor Road right-of-way. North and south of the right-of-way proposed for vacation are parcels owned by the petitioners.

Proposed Land Use

Craig and Carolyn Frkovich are pursuing a full width right-of-way vacation between their two parcels. Staff indicated in their report they are not aware of specific uses proposed for the vacated area. At the public hearing held on this petition, the applicants indicated a desire to protect the trees and put in raised garden beds. Pursuant to RCW 35.79.040, "If any street or alley in any city or town is vacated by the city or town council, the property within the limits so vacated shall belong to the abutting property owners, one-half to each." The north 33 feet will be incorporated into Parcel 4064201 and the south 33 feet will be incorporated into Parcel 40639.

Zoning

Findings: The subject property and the immediate properties to the north, south, east and west are zoned R-1, Low Density Residential.

Conclusion: Vacating the undeveloped Ivy Street right-of-way in question will not adversely impact low density residential development in this area. Views will not be impacted any differently than under the current lot configuration and all future development will be subject to City building and zoning standards.

Comprehensive Plan

Findings: The subject property is classified as Low-Density Residential on the City of Kalama Comprehensive Plan Land Use Plan Map. Transportation goals (page 6-1) include planning and developing a transportation system that contributes to community livability, recognizes and respects the features of the natural environment and minimizes the negative effects on adjoining land uses.

Conclusion: There are no specific policies addressing street and alley vacations in the Comprehensive Plan. The City of Kalama has no plans to extend Ivy Street through the right-of-way in question or use the property in any other way. Vacating the street right-of-way as proposed will not impact the overall function of the City's street system. The Public Works Department has no objection to the request. Vacating this stretch of undeveloped right-of-way will not negatively impact community livability or adjoining land uses. The proposal meets the goals and policies of the Kalama Comprehensive Plan.

Utilities

Findings: Per KMC 11.18.020(B) and RCW 35.79.030, the City may retain the right to exercise and grant easements in respect to the vacated land for the construction, repair and maintenance of public utilities and services. Kalama Telephone Company has an existing service line through this right-of-way, although the line can be re-routed in multiple ways. Additionally, the Frkovich's sewer lateral is within the area to be vacated. Maintenance of the sewer lateral is the responsibility of the homeowner.

Conclusion: If the right-of-way is vacated, the City of Kalama should retain a utility easement over these services as well as the right to exercise and grant easements in respect to the vacated land for the construction, repair and maintenance of public utilities and services.

Jurisdiction/Requirements

Findings: The Hearing Examiner for the City of Kalama is reviewing this request under the jurisdictional standards set forth in Chapter 11.18 KMC and the Chapter 35.79 RCW. The primary requirement of the Municipal Code and RCW 35.79.030 is that the City be compensated in an amount of at least one-half the appraised value of the area to be vacated. If the street or alley has been part of a dedicated public right-of way for twenty-five years or more, the City may require the owners of the property abutting upon the street or alley to compensate the City in an amount that does not exceed the full appraised value of the area vacated. According to the Kalama Public Works Department and the Cowlitz County Auditor's Office, the street right-of-way in question is greater than 25 years old.

Conclusion: In keeping with the above requirement, staff has calculated the appraised value of the land using assessment figures from the Cowlitz County Assessor. The adjacent parcel (Parcel # 4064201) to the north owned by Craig and Carolyn Frkovich is assessed at \$2.77 a square foot. The adjacent parcel to the south owned by Craig and Carolyn Frkovich is assessed at \$3.42 a square foot. The average of the two abutting parcels is \$3.10 a square foot. RCW 35.79.030 requires compensation based on appraised value. The right-of-way proposed for vacation (and that intervenes between the two parcels) is assumed to have a value consistent with the neighboring parcels because of its similar characteristics (terrain, slope, etc.). In this case, the Vacated Area = 6,600 square feet x \$3.10 = \$20,460. The applicants may have the proposed vacated area appraised by a licensed appraiser, in which case, the city may reassess fees upon review of the report. Vacating the proposed Ivy Street undeveloped right-of-way will provide income to the City (payment for right-of-way and increased tax assessment), allowing for additional funds to be spent on transportation projects or public open space throughout the City. There is little benefit to the public of retaining the proposed vacated area since it will never be improved and will not serve the transportation needs of the area. The proposal is supported by the Kalama Public Works Department.

Correspondence

Findings: The City of Kalama has not received any correspondence related to this street vacation request.

Conclusion: All requirements set forth for street right-of-way vacation approval have been met.

Testimony

Findings: Proper notice of the public hearing was published in the Daily News and posted on the property. The Hearing Examiner received oral testimony at a public hearing held August 23, 2017 on this request. A part of the testimony can be found in Exhibit "A", Parties of Record, and Exhibit "B", Taped Proceedings, all on file at Kalama City Hall. In addition, the staff report and the attached exhibits from the City Planner dated August 7, 2017 are also part of the record and are on file at Kalama City Hall.

Conclusion: The Hearing Examiner has considered all of the testimony and material on record while making the recommendation to the Kalama City Council on this request.

Decision


In recognition of the findings of fact and conclusions contained herein and also incorporated in the staff report from the City Planner dated August 7, 2017, the Hearing Examiner **recommends** to the Kalama City Council that the street vacation petition to vacate 6,600 square feet of City right-of-way along Ivy Street per Exhibit A of the staff report and shown on the survey map included with the Petition for Street Vacation submitted by Craig and Carolyn Frkovich be **approved** subject to the following conditions.

1. All fees and monies due the City shall be paid in advance of final vacation notice. Fees shall be paid in accordance with KMC 11.18.020.

2. In accordance with RCW 35.79.030, the City of Kalama retains the right to exercise and grant easements within the vacated land for the construction, repair and maintenance of public utilities and services and hereby retains an easement to construct, install, repair, replace and maintain public utilities and services within the vacated right-of-way.

Notice: Pursuant to KMC 11.18.030, in the event any of the fees, costs or appraised value of the vacated property is not paid to the City within sixty days following demand for payment thereof by the clerk-treasurer, such petition for vacation shall thereupon be deemed void, canceled and of no further force and effect.

Recommendation of Approval made this 25th day of August, 2017.



Sarah L. Koss, Hearing Examiner