

**Hearing Examiner Decision
Findings of Fact and Conclusions
Street Vacation Petition
Kalama School District No. 402**

Proposal

Findings: Kalama School District No. 402 has petitioned the City of Kalama to vacate four segments of right-of-way in two concurrent petitions (Staff Report Exhibits A and B). If granted, the petitions would vacate the following segment of public right-of-way.

- Approximately 24,300 square feet of right-of-way developed with a public street, consisting of the entire length and width of 8th Street between SE Date Street and Cedar Street. (Staff Report Exhibit C)
- Approximately 5,689 square feet of unopened 6th Street right-of-way, consisting of the full 80 ft. width between China Garden Road and a previously vacated segment of Date Street (Ordinance 374). This right-of-way presently hosts a gravel yard for the parking of school buses, located between a maintenance building and the bus shed. (Staff Report Exhibit D)
- Approximately 1,028 square feet of alley right-of-way, parallel to and west of 6th Street, located between China Garden Road and a previously vacated segment of Date Street (Ordinance 374). This right-of-way is presently developed with a maintenance building. (Staff Report Exhibit E)
- Approximately 3,170 square feet of unopened right-of way, consisting of 100 linear feet of Date Street, located between previously vacated right-of-way for Date Street (Ordinance 374) to the west, and the existing improved roadway to the east. This right-of- way is presently developed with a bus barn. (Staff Report Exhibit F)

Kalama School District No. 402 owns parcels on both sides of the right-of-way on all affected segments, and the property would revert to their control. The purpose of these street vacations is to enable the improvement and expansion of the existing school campus as described in the concurrent conditional use and critical area permit applications.

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 Hearings Examiner under Chapter 2.34.090(C), Kalama Municipal Code. The Kalama City Council will make the decision to adopt or reject the Hearings Examiner's recommendation.

Site Description

There are four segments of right-of-way proposed for the vacation. One is presently developed as a public street and includes that portion of 8th Street between SE Date Street and Cedar Street (Staff Report Exhibit C). The other three segments are currently located at the southwest corner of China Garden Road and SE Date Street, detailed on a large drawing in Staff Report Exhibit B. These segments are presently occupied by the School District and are developed with a maintenance shed, bus barn and gravel yard for the storage of school buses.

Existing Land Use

All segments proposed for vacation are adjacent to Kalama School District No. 402 property. The segments proposed for vacation contain a fully improved public road (8th Street) and operational structures associated with the school campus (maintenance building and bus barn). Adjoining land uses include outdoor recreation facilities consisting of a baseball diamond and tennis courts.

Proposed Land Use

The Kalama School District has a concurrent request to expand the current school campus, and the vacated right-of-way would be used for the construction of a new public elementary school and campus ballfields. As mitigation for the closure of 8th Street, the petitioner would develop a 20-foot-wide pedestrian pathway in the approximate location of the vacated right-of-way, and develop and open the 9th Street right-of-way, one block east and parallel to the proposed vacation.

Zoning

Findings: The subject property and the immediate properties to the north, south, east and west are zoned R-2, Medium Density Residential.

Conclusion: Vacating the four proposed segments of right-of-way will not adversely impact medium density residential development in this area and will not impact the overall function of the City's street system. The Kalama Public Works Department has no objection to the request and believes the overall functionality of the transportation system will be improved by the project. 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 Medium-Density Residential on the City of Kalama Comprehensive Plan Land Use Plan Map. There are no policies addressing street and alley vacations in the comprehensive plan.

Conclusion: The issue of street vacation is generally outside the scope of a comprehensive plan.

Circulation

Findings: Presently 8th Street provides a primary north-south connection between Date Street and the residential neighborhood south of the school campus, and a utility corridor for the Kalama Phone Company. The remaining segments do not serve the City's overall street system, though two segments (Staff Report Exhibit D, 6th Street and Staff Report Exhibit F, Date Street) serve as public utility corridors.

Conclusion: There is little benefit to the public of retaining the proposed vacated areas since the city has no future plans for the affected right of way segments, and the transportation needs of the area can be served and improved by the proposed mitigation. As explained above, the north-south

connectivity and transportation functionality along 8th Street (Staff Report Exhibit C) would be maintained by developing a 20-foot-wide pedestrian pathway in the approximate location of the vacated 8th Street right-of-way, and developing and opening the 9th Street right-of-way, one block east and parallel to the proposed vacation. Vacating these right-of-way segments will permit Kalama School District No. 402 to improve and expand the public school campus to accommodate recent and future community growth. The proposal is supported by the Kalama Public Works Department.

Utilities

Findings: The City may retain the right to exercise and grant easements with respect to the vacated land for the construction, repair and maintenance of public utilities and services as allowed per KMC 11.18.020(B) and RCW 35.79.030. Kalama Telephone Company has an existing service through the 8th Street right-of-way; no city owned utilities are located within the right of way of 8th Street (Staff Report Exhibit C). The City of Kalama has public water lines in 6th Street and Date Street right-of-way segments (Staff Report Exhibits D and F). No known utilities are located in the alley segment depicted in Staff Report Exhibit E.

Conclusion: If the four right-of-way proposals are vacated, the City of Kalama should retain a utility easement over any 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 City of Kalama is reviewing this request under the jurisdictional standards set forth in KMC Chapter 11.18 and RCW 35.79. Notice was posted on site and mailed to adjoining property owners as part of noticing the concurrent conditional use and critical area permit applications. As set forth in KMC 11.18.020 and RCW 35.79.030, if the street, alley, or portion thereof has been part of a dedicated right-of-way for more than twenty-five years, the abutting property owners shall compensate the City in an amount that does not exceed the full appraised value of the area to be vacated. As the affected right-of-way segments have existed for more than 25 years, and the Kalama School District No. 402 owns all abutting property, the District will be required to compensate the City. RCW 35.79.030 requires compensation based on appraised value.

Conclusion: Staff has requested that the applicant provide appraisals prepared by a qualified and licensed appraiser to aid in the determination of compensation. As of the date of the hearing, the applicant has received the appraisals and they are ready to be submitted to the city.

Correspondence

As of the date of the public hearing, the City of Kalama had not received any correspondence related to the proposed action.

Testimony

Findings: Proper notice of the public hearing was posted on site and mailed to adjoining property owners as part of noticing the concurrent conditional use and critical area permit applications. The Hearings Examiner received oral testimony at a public hearing held January 18, 2019 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 January 11, 2019 are also part of the record and are on file at Kalama City Hall.

Conclusion: All requirements set forth for street right-of-way vacation approval have been met. The Hearings 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 January 11, 2019, the Hearings Examiner **recommends** the Kalama City Council:

A. Vacate approximately 24,300 square feet of City right-of-way along 8th Street between Date Street (Church Street) and Cedar Street (Main Street) to Kalama School District No. 402 as described in the petition, legal description, and exhibit map (Staff Report Exhibits A and C), subject to the following conditions:

1. Prior to final vacation notice, the petitioner shall pay the City an amount equivalent to the full appraised value of the area to be vacated, in accordance with KMC 11.18.020; and
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 maintain, construct, install, repair, and replace public utilities and services within the vacated right-of-way.

B. Vacate approximately 5,689 square feet of City right-of-way along 6th Street to Kalama School District No. 402 as described in the petition, legal description, and exhibit map (Staff Report Exhibits B and D), subject to the following conditions:

1. Prior to final vacation notice, the petitioner shall pay the City an amount equivalent to the full appraised value of the area to be vacated, in accordance with KMC 11.18.020; and
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 maintain, construct, install, repair, and replace public utilities and services within the vacated right-of-way.

C. Vacate approximately 1,028 square feet of City right-of-way along an unnamed Alley to Kalama School District No. 402, as described in the petition, legal description, and exhibit map (Staff Report Exhibits B and E), subject to the following condition:

1. Prior to final vacation notice, the petitioner shall pay the City an amount equivalent to the full appraised value of the area to be vacated, in accordance with KMC 11.18.020.

D. Vacate approximately 3,170 square feet of City right-of-way between SE Date Street and Kalama School District No. 402, as described in the petition, legal description, and exhibit map (Staff Report Exhibits B and F), subject to the following conditions:

1. Prior to final vacation notice, the petitioner shall pay the City an amount equivalent to the full appraised value of the area to be vacated, in accordance with KMC 11.18.020; and

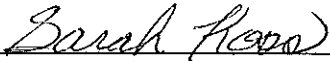
2. In accordance with RCW 35.79.030, the City of Kalama retains the right to exercise and grant easements within the vacated land for the construction, repair and maintenance of public utilities and services and hereby retains an easement to maintain, construct, install, repair, and replace public utilities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

List of Staff Report Exhibits

- A. Petition for 8th Street ROW Vacation (application and legal descriptions)
- B. Petition for 6th Street, Date Street and alley ROW Vacations (application and legal descriptions)
- C. Legal Description and Map – 8th Street Right-of-way
- D. Legal Description and Map – 6th Street Right-of-way Southerly of China Garden Road
- E. Legal Description and Map – Alley in Block 35 of Stones Addition
- F. Legal Description and Map – Date Street (Formerly Known as Church Street)

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 to City Council of APPROVAL subject to the above conditions made this 26th day of January, 2019.



Sarah Koss, Hearings Examiner