

ORDINANCE NO. 2022-

AN ORDINANCE relating to land use; vacating a portion of public right-of-way along S. Front St., in the City of Yakima, Washington.

WHEREAS, by petition dated July 1, 2022 (Petition #22-07), Columbus Cascade Company, LLC., requested to vacate a portion of platted City of Yakima right-of-way more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference; and

WHEREAS, the City of Yakima has no future plans for development of this unpaved, platted right-of-way; and

WHEREAS, Columbus Cascade Company, LLC., the applicant/petitioner for this right-of-way vacation, own all parcels abutting the property subject to this petition for vacation; and

WHEREAS, on September 8, 2022, the Hearing Examiner for the City of Yakima conducted an open-record public hearing regarding the requested right-of-way vacation; and

WHEREAS, on September 22, 2022, the Hearing Examiner issued his Recommendation regarding RWV#002-22, (the "recommendation") recommending that the platted street right-of-way be vacated, and said recommendation is attached hereto and incorporated herein by this reference as Exhibit "B"; and

WHEREAS, at an open-record public hearing held on November 1, 2022, the City Council considered the requested right-of-way vacation, including the documents and other evidence which comprise the record developed before the Hearing Examiner, the Hearing Examiner's Recommendation, and the statements and comments of interested persons; and

WHEREAS, the City Council finds that the considerations of the Hearing Examiner in response to the requirements and criteria of RCW Chapter 35.79, together with the City of Yakima street vacation policy (YMC Ch. 14.21), are correct and appropriate, and that the same should be adopted by the City Council as its findings herein; and

WHEREAS, compensation to the City is not necessary for this right-of-way vacation due to the City having not purchased, maintained, or made any improvements to the public right-of-way, has no plans to do so, and has been a dedicated public right-of-way for at least five years, in accordance with YMC § 14.21.070 (A) (4); and

WHEREAS, the City Council finds that it is in the best interest of the City to enact the following to approve the requested right-of-way vacation; now, therefore:

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. The unimproved portion of street right-of-way under the existing building at 609 S. Front St., abutting parcels 191319-34413 and 191319-34414, more particularly described in Exhibit "A", attached hereto and incorporated herein by this reference, is hereby vacated by the City of Yakima.

Section 2. The findings, conclusions and conditions within the September 22, 2022 Hearing Examiner's Recommendation (RWV#002-22) regarding this right-of-way vacation are hereby adopted by the City Council as its findings, conclusions and conditions in support hereof, pursuant to City vacation policy and RCW Chapter 35.79, and are incorporated herein by this reference as if fully set forth herein.

Section 3. The right-of-way vacation granted by this ordinance is expressly conditioned on Columbus Cascade Company LLC. satisfaction of the following conditions, as stated on page 8 of the Hearing Examiner's Recommendation:

- A) The area within the vacated right-of-way shall be included within the Commercial Mixed Use Comprehensive Plan designation and within the General Commercial (GC) zoning district;
- B) The vacated area shall belong to the abutting property owner Columbus Cascade Company LLC.;
- C) The legal description in the record for the area within the vacated right-of-way which was provided by HLA Engineering & Land Surveying, Inc. is as follows:

That portion of the right-of-way for North Front Street as dedicated on the Plat of North Yakima, now Yakima, as recorded in Volume "A" of Plats, page 10, and rerecorded in Volume "E" of Plats, page 1, records of Yakima County, Washington, described as follows:

The East 10.00 feet of said right-of-way lying adjacent to Lots 9 through 16, Block 17, of said Plat, as measured perpendicular to the west line of said lots.

Section 4. Severability: If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared invalid or unconstitutional for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter, and the vacation approved herein shall be effective upon recording with the Yakima County Auditor. The City Clerk is hereby authorized and directed to file a certified copy of this ordinance with the Yakima County Auditor.

PASSED BY THE CITY COUNCIL, signed and approved this 1st day of November, 2022.

ATTEST:

Janice Deccio, Mayor

Sonya Claar Tee, City Clerk

Publication Date: _____

Effective Date: _____

Exhibit A:

CITY OF YAKIMA CODE ADMIN.DIVISION	
JUL 13 2022	
<input type="checkbox"/> REC'D	FAXED <input type="checkbox"/>
<input type="checkbox"/> PAID	FYI <input type="checkbox"/>

JULY 7, 2022

HLA PROJECT: 22090S

LEGAL DESCRIPTION OF RIGHT OF WAY TO BE VACATED

THAT PORTION OF THE RIGHT OF WAY FOR NORTH FRONT STREET AS DEDICATED ON THE PLAT OF NORTH YAKIMA, NOW YAKIMA, AS RECORDED IN VOLUME "A" OF PLAT, PAGE 10, AND RERECORDED IN VOLUME "E" OF PLATS, PAGE 1, RECORDS OF YAKIMA COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

THE EAST 10.00 FEET OF SAID RIGHT OF WAY LYING ADJACENT TO LOTS 9 THROUGH 16, BLOCK 17, OF SAID PLAT, AS MEASURED PERPENDIULAR TO THE WEST LINE OF SAID LOTS.

RECEIVED

SEP 22 2022

CITY OF YAKIMA
PLANNING DIV.

**City of Yakima, Washington
Hearing Examiner's Recommendation**

September 22, 2022

**In the Matter of an Application and)
Petition for the Vacation of Street)
Right-of-Way Submitted by:)**

Columbus Cascade Company LLC)

RWV#002-22

**For Vacation of a Portion of Unused)
Street Right-of-Way 10 Feet in Width)
That is Located Beneath an Existing)
Building at 609 South Front Street)**

A. Introductory Findings. The Hearing Examiner conducted an open record public hearing on September 8, 2022, pursuant to requisite notice of the date, time and place. The findings relative to the public hearing for this application/petition for street right-of-way vacation may be summarized as follows:

(1) The detailed staff report which was prepared and presented by Assistant Planner Albert Miller recommended approval of this requested right-of-way vacation subject to conditions.

(2) The Petitioner's representative for this matter, Eric Herzog of HLA Engineering & Land Surveying, Inc., testified in favor of approval of this right-of-way vacation and indicated that the right-of-way is the east 10 feet of an 80-foot-wide street right-of-way dedicated in an 1885 plat which is not used for the street and is located beneath a building that is thought to have been built during or before the 1960s.

(3) No other testimony and no written comments were submitted regarding this

RECEIVED

SEP 22 2022

CITY OF YAKIMA
PLANNING DIV

right-of-way vacation request.

(4) This recommendation to the Yakima City Council has been issued within ten business days of the open record public hearing.

B. Recommendation. Based upon the following Findings and Conclusions, the Hearing Examiner recommends that the Yakima City Council approve the requested vacation of unused street right-of-way located at 609 South Front Street.

C. Basis for the Findings, Conclusions and Recommendation. The following Findings, Conclusions and Recommendation are based upon the Hearing Examiner's view of the site with no one else present on September 7, 2022; his consideration of the staff report, exhibits, testimony and other evidence presented at an open record public hearing on September 8, 2022; and his review of the criteria for vacation of street right-of-way in Chapter 14.21 of the Yakima Municipal Code (YMC).

FINDINGS

I. The Applicant, Petitioner and Property Owner. The applicant, petitioner and property owner is Columbus Cascade Company LLC located at 300 Marconi Boulevard, Suite 103, Columbus, Ohio 43215.

II. The Representative of the Applicant, Petitioner and Property Owner. The representative of Columbus Cascade Company LLC for this matter is Eric Herzog of

RECEIVED

SEP 22 2022

CITY OF YAKIMA
PLANNING DIV.

HLA Engineering & Land Surveying, Inc. located at 2803 River Road, Yakima, Washington 98902.

III. Location. The location of the unused 10-foot-wide street right-of-way that is the subject of this application/petition for vacation is along the east side of South Front Street in the 600 block beneath the building at 609 South Front Street. The County Assessor's Tax Parcel Numbers are 191319-34413 and 34414.

IV. Application. The main aspects of this application/petition for vacation of street right-of-way are as follows:

(1) The Right-of-Way Vacation application/petition was received by the City Planning Division on July 13, 2022. It requests vacation of approximately 3,998 square feet of unused and unimproved street right-of-way located in the 600 block of South Front Street beneath the building at 609 South Front Street (*Document Index C-1 of the record*).

(2) This application/petition is being processed under YMC Chapter 14.21 relative to right-of-way vacations. Those provisions require a Hearing Examiner recommendation to the City Council to be based on findings and conclusions pursuant to YMC Chapter 1.43, YMC Chapter 14.21 and RCW Chapter 35.79.

V. Notices. Notices of the September 8, 2022, public hearing were provided as follows:

Mailing of notice to property owners within 300 feet:	August 17, 2022
Publishing of notice in the Yakima Herald-Republic:	August 17, 2022
Posting of notice in three public places:	August 18, 2022
Posting of notice on the only access point – the right-of-way frontage at 609 South Front Street:	August 18, 2022

RECEIVED

SEP 22 2022

CITY OF YAKIMA
PLANNING DIV

VI. Environmental Review. Street right-of-way vacations are categorically exempt from SEPA environmental review.

VII. Right-of-Way Vacation Findings. The Findings relative to the recommendation to the Yakima City Council regarding this application/petition for vacation of a 10-foot-wide strip of unused street right-of-way in the 600 block of South Front Street are as follows:

(1) City Council Resolution: The Yakima City Council by Resolution No. R-2022-103 referred this street right-of-way vacation Petition No. 22-07 to the Hearing Examiner to hold a public hearing on September 8, 2022, at 9:00 a.m. and to make a recommendation to the City Council regarding the petition. The petition was signed by a representative of Columbus Cascade Company LLC which owns 100% of the contiguous private property. This recommendation has been issued and delivered to the City Planning Division within 10 business days of the hearing.

(2) Hearing Examiner Authority: The Hearing Examiner has jurisdiction to conduct public hearings on petitions and resolutions to vacate streets and public right-of-way pursuant to YMC §1.43.080(H) and YMC Chapter 14.21 which provide that the Hearing Examiner shall make a recommendation regarding such petitions to the Yakima City Council.

(3) Urban Area Zoning Ordinance: Street rights-of-way are not technically within any zoning classification. However, upon vacation they acquire the same zoning that is applicable to the contiguous property. In this case, the contiguous property is zoned General Commercial (GC).

(4) Yakima Comprehensive Plan 2040: Street rights-of-way likewise do not have an underlying Comprehensive Plan designation. But upon vacation the vacated area is likewise designated the same as the contiguous property. In this situation, the vacated right-of-way area would have a Comprehensive Plan Future Land Use Map designation of Commercial Mixed Use.

RECEIVED

SEP 22 2022

CITY OF YAKIMA
PLANNING DIV.

(5) Revised Code of Washington (RCW) Chapter 35.79: This chapter of state law prescribes the state's requirements for the process of vacating street right-of-way. All requirements of this chapter that can be accomplished prior to the public hearing have been fulfilled. State law provides that the property within the limits to be vacated shall belong to the owners of the lots abutting each side of the vacated area, one-half to the owners on each side of the vacated area (RCW 35.79.040). This petition presents an exception because one side of the right-of-way area proposed for vacation is right-of-way for South Front Street. The entire area to be vacated in this situation would belong to Columbus Cascade Company LLC because it owns the only property contiguous to the public right-of-way which is not itself public right-of-way.

(6) Public Use of The Right-of-Way: The subject portion of the right-of-way to be vacated is completely unimproved. South Front Street is fully improved in this location and no curb, gutter or asphalt are located on this portion of right-of-way which is beneath an existing building believed to have been constructed in or before the 1960s.

(7) Criteria #1 for Vacation of Right-of-Way (YMC §14.21.050(A)(1)): What is the public benefit, reason for, and limitations of the proposed right-of-way vacation? The right-of-way proposed for vacation is limited to approximately 3,998 square feet. Since it is currently located beneath an existing building on the east side of South Front Street, the City would be relieved of the responsibility to maintain right-of-way that is not needed and cannot as a practical matter be maintained in any event. The property owner would benefit by being relieved of any possible consequences of encroaching upon a public street right-of-way. The requested right-of-way vacation would be limited to a 10-foot-wide strip within the 600 block of South Front Street which consists of about 3,998 square feet. Since the subject area is unimproved and the City has no plans to ever improve or use this area, this portion of right-of-way can best be used as part of the adjacent private property.

(8) Criteria #2 for Vacation of Right-of-Way (YMC §14.21.050(A)(2)): Does the vacation deny any property sole access to a public street? This right-of-way vacation would not deny any property access to a public street.

(9) Criteria #3 for Vacation of Right-of-Way (YMC §14.21.050(A)(3)): Is the proposal consistent with existing plans of the City such as the Six-Year Transportation Improvement Plan, the Urban Area Comprehensive Plan or other official City plans and policies? The City's current Six-Year Transportation Improvement Plan (TIP) does not

RECEIVED

SEP 22 2022

CITY OF YAKIMA
PLANNING DIV

include any planned improvements to the right-of-way that is proposed for vacation. Nor would approval of the right-of-way vacation be inconsistent with the Comprehensive Plan or any other official City plans and policies.

(10) Criteria #4 for Vacation of Right-of-Way (YMC §14.21.050(A)(4)): Is the vacation request appropriate with existing and anticipated development in the area, based on zoning, current use and long range plans? There is no anticipated development that would be adversely affected by approval of this requested right-of-way vacation. To the contrary, the vacated right-of-way area would continue to be used in conjunction with the current commercial use of abutting property in the General Commercial (GC) zone. Use of the vacated area as part of the existing commercial use where it is located would be appropriate based on the current General Commercial (GC) zoning of the property and the lack of any long range plans for public use of the area proposed for vacation.

(11) Criteria #5 for Vacation of Right-of-Way (YMC §14.21.050(A)(5)): Are there any public or franchised utilities in the right-of-way to be vacated and if so, will they be relocated? There are no public utilities within the right-of-way proposed to be vacated. No evidence of private utilities in that area was presented.

(12) Criteria #6 for Vacation of Right-of-Way (YMC §14.21.070(A)(4)): Whether compensation should be required in return for vacation of the right-of-way? YMC §14.21.070(A)(4) provides: "No compensation may be required if the city has not purchased, maintained, or made any improvements to the public right-of-way, there is no planned or anticipated public purpose existing for maintaining the public right-of-way as determined by the planning commission or development services team (DST), and the public right-of-way has been a dedicated right-of-way in the city for at least five years." The City has not purchased, maintained or improved the area proposed for right-of-way vacation. No City divisions in the Development Services Team indicated that improvements are planned for the right-of-way area proposed for vacation or that any anticipated public purposes exist for maintaining that portion of the right-of-way. The area of right-of-way proposed for vacation has been a dedicated right-of-way in the City for longer than five years since it was dedicated to the City by the Plat of the Town of North Yakima recorded on February 4, 1885. Therefore, compensation to the City for the right-of-way area proposed for vacation of this unused 10-foot-wide strip of street right-of-way consisting of about 3,998 square feet is not required by the criteria in YMC §14.21.070(A)(4).

RECEIVED

SEP 22 2022

CITY OF YAKIMA
PLANNING DIV

CONCLUSIONS

The Conclusions relative to the recommendation to the Yakima City Council regarding the requested right-of-way vacation are as follows:

(1) Petition signatures for this requested vacation of right-of-way were obtained from the necessary two-thirds of the property owners fronting this area proposed for right-of-way vacation because the applicant/petitioner/property owner Columbus Cascade Company LLC owns 100% of the property abutting this public right-of-way that is not also public right-of-way on all other sides.

(2) The area of the right-of-way proposed for vacation is a 10-foot-wide contiguous portion of South Front Street.

(3) If this requested vacation of right-of-way is approved, the vacated right-of-way will be zoned the same as the contiguous private property which is General Commercial (GC).

(4) Approval of the requested right-of-way vacation would not cause any properties to be denied sole access to the public street system.

(5) The petition for vacation of this public right-of way does not conflict with any planned street improvement projects or other plans or projects of the City of Yakima.

(6) Approval of the requested right-of-way vacation would benefit the City by relieving it of future maintenance responsibilities for an area which is not needed for any public purpose and is a segment of street right-of-way that cannot in any event as a practical matter be maintained since it is beneath an existing building.

(7) All necessary requirements for the vacation of street right-of-way prescribed by RCW Chapter 35.79 and YMC Chapter 14.21 are satisfied.

(8) YMC §14.21.070(A)(4) provides that compensation to the City is not required for the vacation of this street right-of-way area.

RECEIVED

SEP 22 2022

CITY OF YAKIMA
PLANNING DIV.

RECOMMENDATION

The Hearing Examiner recommends to the Yakima City Council that this petition for vacation of a 10-foot-wide strip of unused street right-of-way in the 600 block of South Front Street which consists of approximately 3,998 square feet of right-of-way adjacent to property owned by Columbus Cascade Company LLC be **APPROVED** subject to the following conditions:

(1) The area within the vacated right-of-way shall be included within the Commercial Mixed Use Comprehensive Plan designation and within the General Commercial (GC) zoning district.

(2) The vacated area shall belong to the abutting property owner Columbus Cascade Company LLC.

(3) The legal description in the record for the area within the vacated right-of way which was provided by HLA Engineering & Land Surveying, Inc. is as follows:

That portion of the right-of-way for North Front Street as dedicated on the Plat of North Yakima, now Yakima, as recorded in Volume "A" of Plats, page 10, and rerecorded in Volume "E" of Plats, page 1, records of Yakima County, Washington, described as follows:

The East 10.00 feet of said right-of-way lying adjacent to Lots 9 through 16, Block 17, of said Plat, as measured perpendicular to the west line of said lots.

DATED this 22nd day of September, 2022.



Gary Cuillier, Hearing Examiner