



City Council Agenda Bill

20196

Bill Number

Subject: Consideration of a petition to vacate an unnamed right-of-way north of West Bakerview Road between Pacific Highway and Dover Street.

Summary Statement: Multiple property owners have submitted a petition on behalf of Costco Wholesale to vacate an unnamed right-of-way generally located north of West Bakerview Road between Pacific Highway and unimproved Dover Street shown and described on Attachment 1 of the Ordinance.

The Hearing Examiner held a public hearing on October 23, 2013. The Hearing Examiner's Findings of Fact, Conclusions and Recommendation are provided in Attachment 2 of the Ordinance.

Previous Council Action: None

Fiscal Impact: None. Square footage of new right-of-way to be dedicated to the City exceeds the square footage of right-of-way petitioned for vacation.

Funding Source:

Attachments: Memorandum with Exhibit

Ordinance with Exhibits

The Record from the proceedings before the Hearing Examiner is available in the City Council office upon request. Please contact J. Lynne Walker at 778-8202.

Meeting Activity	Meeting Date	Staff Recommendation	Presented By	Time
Closed Record Hearing	18-Nov-2013	Pass Ordinance	Steven Sundin, Planner II	2 min

Council Committee:

Committee of the Whole

Seth Fleetwood, Chair

Committee Actions:

Agenda Bill Contact:

Steven Sundin, Planner II, 778-8359

Reviewed By
Jeff Thomas, Director, PCD

Initials
JBT

Date
11-12-2013

Alan Marriner, Legal
Mayor

Initials
AM
KL
Date
11/12/13
11.12.13


Council Action:



PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT

210 Lottie Street, Bellingham, WA 98225
Telephone: (360) 778-8300 Fax: (360) 778-8302 TTY: (360) 778-8382

MEMORANDUM

TO: City Council Members
FROM: Steven Sundin, Planning Department 
DATE: November 12, 2013
SUBJECT: Street Vacation #VAC2013-00001

Costco Wholesale has petitioned for a street vacation of an unnamed right-of-way on behalf of multiple property owners. The subject right-of-way is shown on Attachment 1 of the Ordinance.

The right-of-way is being petitioned for vacation in order to develop the site with retail facilities and associated parking, interior drive lanes and landscaping.

The Technical Review Committee recommended approval of the street vacation petition because:

1. The unnamed right-of-way is not necessary for future circulation needs of the City; and
2. The applicant shall dedicate land area for a new right-of-way called Arctic Avenue and then subsequently will construct Arctic Avenue between West Bakerview Road and unimproved Mahogany Avenue (a.k.a. Division Road); and
3. The amount of land area proposed for dedication of new right-of-way exceeds the amount of land area petitioned for vacation by approximately 20,000 square feet.

Due to #3 above, the Planning Director determined that an appraisal was not necessary and therefore payment for the proposed vacation was not recommended.

The Hearing Examiner held a Public Hearing on October 23, 2013. On November 6, 2013 the Hearing Examiner provided Findings of Fact, Conclusions of Law and Recommendation. These are provided on Attachment 2 of the Ordinance.

The Hearing Examiner recommended approval of the proposed vacation subject to the dedication of new right-of-way for Arctic Avenue.

Dedication of Arctic Avenue will be required in order to acquire land use approvals for the proposed development. Third and final reading of the attached Ordinance will occur after that dedication has occurred.

RECORD LOCATION
IRON PIPE PLAT
MON. PER REF.
DOC. # 8

NOT FOUND



200 0 200
SCALE IN FEET

PROPOSED NEW STREET
TO BE DEDICATED
(APPROX. 57,237 SQ. FT.)

LOT 8
NORTHWEST BAKER
VIEW TRACTS
(VOL. 7, P. 89)
LOT 7

DEDICATION →

REMAINDER OF
LOT A, BLOCK 81
BAKERVIEW ADDITION
(VOL. 7, P. 40-46)

TRACT A
LOT 13
LOT 14
LOT 15
GARLAND
LANE
LOT 16
LOT 17
NORTHWEST ROAD
PLAT (AFN
2030602237)

UNNAMED ROADWAY
DEDICATED BY BSP
TO BE VACATED
(APPROX. 37,720 SQ. FT.)

VACATION ↓

BLOCK 81
BAKERVIEW ADDITION
(VOL. 7, P. 40-46)

LOT 8 LOT 5

DOVER STREET

FOUND 6/8" REBAR
W/CAP, LS # 13136
D 2.5" IRON PIPE
1718

FOUND 2"
SURFACE BRASS
DISK, D # 1368

W. BAKERVIEW
ROAD

O:\13437 D1\ACAD\13437.D1.dwg\SC12-VP--RW--VACA--13437-01.dwg PLOT DATE: 2013-07-19 13:41 SAVED DATE: 2013-07-19 13:41 USER: lburton



DOWL HKM
8420 164th Avenue NE Redmond, Washington 98052
425-869-2670 www.dowlhkm.com

BAKERVIEW COSTCO STREET VACATION & DEDICATION EXHIBIT

PROJECT 13437.01
DATE 07/19/2013

FIGURE 2

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham - Planning Department
210 Lottie Street
Bellingham, WA 98225

Reserved for Recording Purposes Only

DOCUMENT TITLE: *Street Vacation Ordinance*

REFERENCE NUMBER OF RELATED DOCUMENT: *VAC2013-00001*

GRANTOR(S): *City of Bellingham*

GRANTEE(S): *Harvey and Dixie Pottle, Richard Gray and Janis Barsetti, Jack and Myrtle Webster, Merrick Estate, Alfred and Elma Brown*

ASSESSOR'S TAX/PARCEL NUMBER(S):

ABBREVIATED LEGAL DESCRIPTION: *Entire portion of an unnamed east west right-of-way lying west of the west line of Dover Street all within the Bakerview Gateway General Binding Site Plan recorded under Whatcom County Auditor File #2050502777.*

ORDINANCE NO. _____

AN ORDINANCE RELATING TO THE VACATION OF AN UNNAMED EAST WEST RIGHT-OF-WAY GENERALLY LOCATED NORTH OF WEST BAKERVIEW ROAD BETWEEN ARCTIC AVENUE AND PACIFIC HIGHWAY ALL WITHIN THE CITY OF BELLINGHAM

WHEREAS, the City's Technical Review Committee considered and recommended approval of the petition to vacate the subject right-of-way as shown and described on Attachment 1, which is attached hereto and incorporated herein; and

WHEREAS, the Hearing Examiner has heard this petition and recommends approval of the subject vacation petition with the findings of fact and conclusions of law as attached hereto and incorporated herein as Attachment 2 and that the City Council adopts these findings of fact and conclusions of law, and;

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 778-8270

WHEREAS, an appraisal was not required because there is an equitable exchange of right-of-way with the total square footage of new right-of-way to be dedicated as Arctic Avenue exceeding the square footage of right-of-way petitioned for vacation.

WHEREAS, all the jurisdictional steps preliminary to the vacation have been taken as provided by law.

NOW THEREFORE,

THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Upon dedication of new right-of-way (Arctic Avenue) the subject right-of-way as shown and described on Attachment 1 is hereby vacated and the Hearing Examiner Findings of Fact, Conclusions of Law and Recommendation shown on Attachment 2 are hereby incorporated herein and adopted.

Section 2. No damage shall result to any person or persons or to any property by reason of the vacation of said right-of-way.

Section 3. Payment for the vacation of the subject right-of-way is not required.

PASSED by the Council this _____ day of _____, 2013.

Council President

APPROVED by me this _____ day of _____, 2013.

Mayor

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 778-8270

VAC2013-00001

Attest: _____
Finance Director

Approved as to Form:

Office of the City Attorney

Published: _____

VAC2013-00001

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 778-8270

I CERTIFY that I know or have satisfactory evidence that **KELLI LINVILLE** is the person who appeared before me, and said person acknowledged that she signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED

SIGNATURE OF NOTARY PUBLIC

NAME PRINTED

TITLE

MY APPOINTMENT EXPIRES

STATE OF WASHINGTON)
COUNTY OF WHATCOM)ss

I CERTIFY that I know or have satisfactory evidence that **BRIAN HENSHAW** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Finance Director** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED

SIGNATURE OF NOTARY PUBLIC

Name Printed

TITLE

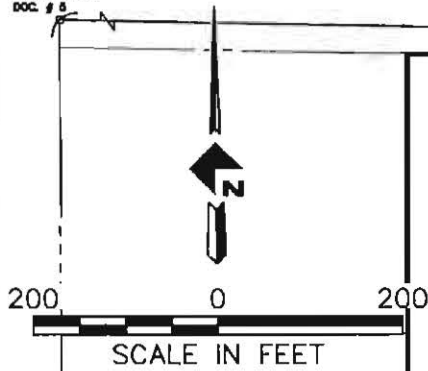
MY APPOINTMENT EXPIRES

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 778-8270

VAC2013-00001

RECORD LOCATION
IRON PIPE PLAT
MON. PER REF.
DOC. # 8

NOT FOUND



SCALE IN FEET

PROPOSED NEW STREET
TO BE DEDICATED
(APPROX. 57,237 SQ. FT.)

LOT 8
NORTHWEST BAKER
VIEW TRACTS
(VOL. 7, P. 69)
LOT 7

REMAINDER OF
LOT A, BLOCK S1
BAKERVIEV ADDITION
(VOL. 7, P. 40-45)

TRACT A
LOT 13
LOT 14
LOT 15
LOT 16
LOT 17

GARLAND
LANE

NORTHWEST ROAD
PLAT (AFN
2030602237)

UNNAMED ROADWAY
DEDICATED BY BSP
TO BE VACATED
(APPROX. 37,720 SQ. FT.)

BLOCK S1
BAKERVIEV ADDITION
(VOL. 7, P. 40-45)

LOT 6 LOT 5

DOVER STREET

W. BAKERVIEV
ROAD

FOUND 2" SURFACE BRASS
DISK, ID # 1368

FOUND 6/8" REBAR
W/CAP, LS # 13138
IN 2.5" IRON PIPE
ID # 1716

SCANNED
Into Tidemark

D:\13437\DWG\CAD\13437.dwg SC12-VP-RW-VAICA-13437-01.dwg PLOT DATE 2013-07-19 13:41 SAVED DATE 2013-07-19 13:41 USER: lburien



DOWL HKM

8420 154th Avenue NE Redmond, Washington 98052
425-886-2670 www.dowlhkm.com

**BAKERVIEV COSTCO
STREET VACATION & DEDICATION
EXHIBIT**

PROJECT 13437.01
DATE 07/19/2013

FIGURE 2

**LEGAL DESCRIPTION
STREET VACATION**

THAT PORTION OF AN UN-NAMED DEDICATED ROAD, AS DEPICTED ON THE BAKERVIEW GATEWAY GENERAL BINDING SITE PLAN - TRACT, RECORDED MAY 16, 2005 UNDER AUDITOR'S FILE NO. 205050277, RECORDS OF WHATCOM COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 2 EAST, WILLAMETTE MERIDIAN, WHATCOM COUNTY, WASHINGTON;

THENCE NORTH 89°15'38" WEST, ALONG THE SOUTH LINE OF SAID SECTION 11, A DISTANCE OF 1173.66 FEET TO ITS INTERSECTION WITH THE SOUTHERLY EXTENSION OF THE WESTERLY RIGHT OF WAY LINE OF DOVER STREET, AS DEDICATED ON THE FACE OF SAID BAKERVIEW GATEWAY GENERAL BINDING SITE PLAN - TRACT, ESTABLISHED AS 30.00 FEET IN WIDTH;

THENCE NORTH 00°44'36" EAST, ALONG SAID SOUTHERLY EXTENSION AND SAID WESTERLY RIGHT OF WAY LINE, 319.51 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET, SAID POINT BEING ON THE SOUTHERLY RIGHT OF WAY LINE OF AN UN-NAMED DEDICATED ROAD, AS DEPICTED ON SAID BAKERVIEW GATEWAY GENERAL BINDING SITE PLAN - TRACT, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING;

THENCE NORTHWESTERLY ALONG SAID CURVE AND SAID SOUTHERLY RIGHT OF WAY LINE, AN ARC LENGTH OF 39.27 FEET THROUGH A CENTRAL ANGLE OF 89°59'38";

THENCE NORTH 89°15'02" WEST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 599.15 FEET;

THENCE NORTH 00°38'16" EAST, ALONG THE WESTERLY RIGHT OF WAY LINE OF SAID UN-NAMED ROAD, 60.00 FEET;

THENCE SOUTH 89°15'02" EAST, ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID UN-NAMED ROAD, 599.25 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 25.00 FEET;

THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID NORTHERLY RIGHT OF WAY LINE, AN ARC LENGTH OF 39.27 FEET THROUGH A CENTRAL ANGLE OF 90°00'22" TO ITS INTERSECTION WITH SAID WESTERLY RIGHT OF WAY LINE OF DOVER STREET;

THENCE SOUTH 00°44'36" WEST, ALONG SAID WESTERLY RIGHT OF WAY LINE OF DOVER STREET, 110.00 FEET TO THE TRUE POINT OF BEGINNING.

SAID PORTION CONTAINS 37,720 SQUARE FEET, OR 0.8659 ACRES OF LAND, MORE OR LESS.

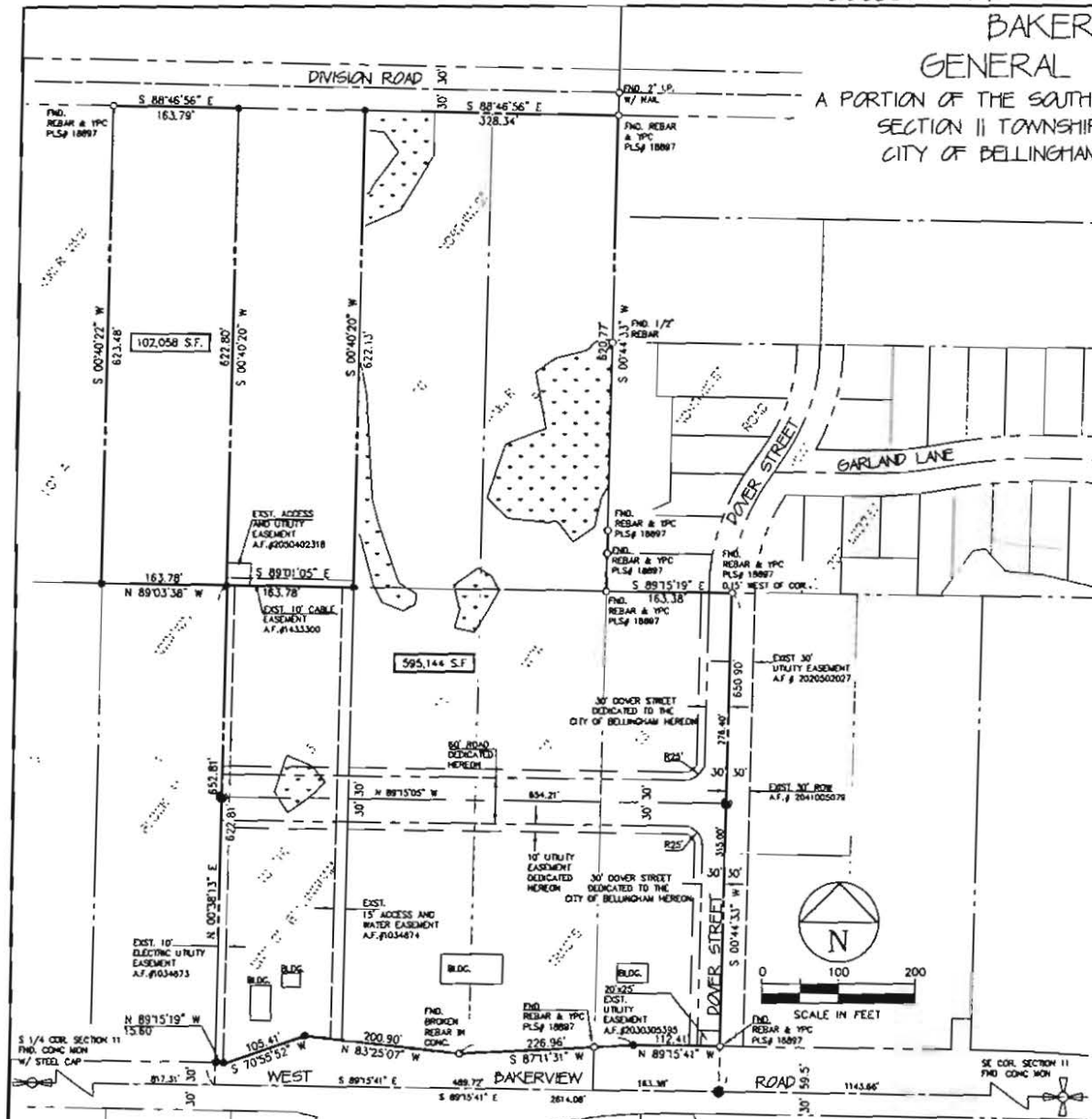


2050502777

BAKERVIEW GATEWAY GENERAL BINDING SITE PLAN

BSP2003-00008

A PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF
SECTION 11 TOWNSHIP 38 NORTH, RANGE 2 EAST W.M.,
CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON



NOTES:

1. THIS SURVEY COMPLIES WITH MINIMUM REQUIRED SURVEY PRECISION FOR FIELD TRAVERSES AS SET FORTH IN W.A.C. 332-130-090.
2. A ONE-SECOND THEODOLITE AND ELECTRONIC DISTANCE METER WERE USED TO SURVEY THIS BOUNDARY.

BASIS OF BEARINGS:

CITY OF BELLINGHAM COMPREHENSIVE SURVEY SYSTEM

TOTAL AREA: 697,202 S.F.
ROAD DEDICATION: 49,203 S.F.

LEGEND:

- SET REBAR AND CAP. PLS #24225
- SET BRASS CAP
- SET NAIL AND FLASHER
- FND CASED MONUMENT
- FND BRASS CAP
- FND REBAR AND CAP
- FND CONCRETE MONUMENT
- WETLAND



**DAVID EVANS
AND ASSOCIATES, INC.**
119 Grand Avenue, Suite D
Bellingham Washington 98225
Phone: 360.647.7151

- BAKERVIEW GATEWAY
GENERAL BINDING SITE
SITE PLAN-TRACT

S.C. 05/20/05 2:30pm - P:\BAC0001-0001\eng\Shaw\BAC001482.dwg		JOB NO.: BAC0001	
DRAWN BY: GJE	DATE: 3/10/05		
CHECKED BY:	SCALE: 1"=100'	SHEET 2 OF 2	

LEGAL DESCRIPTION:

Whatcom Land Title Order No. W-68569

BAKerview GATEWAY
GENERAL BINDING SITE PLAN-TRACT

A PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF
SECTION 11 TOWNSHIP 38 NORTH, RANGE 2 EAST W.M.,
CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.

DECLARATION AND DEDICATION:

WE, THE UNDERSIGNED, BEING OWNER(S) OF RECORD OF THE LAND HEREIN PLATTED, HEREBY DECLARE THIS GENERAL BINDING SITE PLAN AND DEDICATE THOSE ROADS, RIGHTS-OF-WAY, AND EASEMENTS SHOWN AS PUBLIC DEDICATIONS HERETO TO THE USE OF THE PUBLIC; ALSO THE RIGHT TO MAKE ALL NECESSARY SLOPES FOR CUTS AND FILLS UPON LOTS, AND TRACTS IN ANY REASONABLE GRADING OF SAID ROADS, RIGHTS-OF-WAY, AND EASEMENTS; AND HEREBY WAIVER ALL CLAIMS FOR DAMAGES AGAINST ANY GOVERNMENTAL AUTHORITY WHICH MAY BE OCCASIONED TO ADJACENT LAND BY ESTABLISHED CONSTRUCTION, DRAINAGE AND MAINTENANCE OF SAID DEDICATED ROADS, RIGHTS-OF-WAY, AND EASEMENTS.

Harvey E. Pottle
HARVEY E. POTTLE
Dore A. Pottle
DORE A. POTTLE

Jack Webster
JACK WEBSTER
Myrtle Webster
MYRTLE WEBSTER
Richard A. Gray
RICHARD A. GRAY AS TRUSTEE OF
THE GRAY REVOKABLE TRUST

Janis Barsetti Gray
JANIS BARSETTI GRAY AS TRUSTEE OF
THE GRAY REVOKABLE TRUST

ACKNOWLEDGEMENT:

STATE OF WASHINGTON | SS
COUNTY OF WHATCOM

I CERTIFY THAT RICHARD A. GRAY APPEARED BEFORE ME AND SAID PERSON ACKNOWLEDGED THAT HE SIGNED THIS INSTRUMENT, ON OATH STATED THAT HE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS TRUSTEE OF GRAY REVOKABLE TRUST TO BE A VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THIS INSTRUMENT.

5 DAY OF May 2004

Charles P. Smay
CHARLES P. SMAY
NOTARY PUBLIC IN AND FOR THE STATE OF
WASHINGTON RESIDING AT Bellingham, WA
MY APPOINTMENT EXPIRES SEPT 27, 2005



ACKNOWLEDGEMENT:

STATE OF WASHINGTON | SS
COUNTY OF WHATCOM

I CERTIFY THAT JANIS BARSETTI GRAY APPEARED BEFORE ME AND SAID PERSON ACKNOWLEDGED THAT SHE SIGNED THIS INSTRUMENT, ON OATH STATED THAT SHE WAS AUTHORIZED TO EXECUTE THE INSTRUMENT AND ACKNOWLEDGED IT AS TRUSTEE OF GRAY REVOKABLE TRUST TO BE A VOLUNTARY ACT OF SUCH PARTY FOR THE USES AND PURPOSES MENTIONED IN THIS INSTRUMENT.

28th DAY OF December 2004

Charm Sinclair
CHARM SINCLAIR
NOTARY PUBLIC IN AND FOR THE STATE OF
WASHINGTON RESIDING AT Bellingham
MY APPOINTMENT EXPIRES 3-9-07

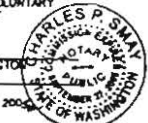


ACKNOWLEDGEMENT:

STATE OF WASHINGTON | SS
COUNTY OF WHATCOM

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT HARVEY E. AND DORE A. POTTLE HUSBAND AND WIFE SIGNED THIS INSTRUMENT AND ACKNOWLEDGED IT TO BE FREE AND VOLUNTARY ACT FOR THE PURPOSES MENTIONED IN THIS INSTRUMENT.

Charles P. Smay
CHARLES P. SMAY
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RESIDING AT Bellingham, WA
MY APPOINTMENT EXPIRES SEPT 27, 2005



ACKNOWLEDGEMENT:

STATE OF WASHINGTON | SS
COUNTY OF WHATCOM

I CERTIFY THAT I KNOW OR HAVE SATISFACTORY EVIDENCE THAT JACK AND MYRTLE WEBSTER, HUSBAND AND WIFE SIGNED THIS INSTRUMENT AND ACKNOWLEDGED IT TO BE FREE AND VOLUNTARY ACT FOR THE PURPOSES MENTIONED IN THIS INSTRUMENT.

Charles P. Smay
CHARLES P. SMAY
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON
RESIDING AT Bellingham, WA
MY APPOINTMENT EXPIRES SEPT 27, 2005



PLANNING AND COMMUNITY DEVELOPMENT
DEPARTMENT:

I HEREBY CERTIFY THAT THIS BINDING SITE PLAN HAS BEEN EXAMINED FOR CONFORMANCE WITH APPLICABLE STATE STATUTES AND CITY ORDINANCES TOGETHER WITH A REVIEW OF THE TECHNICAL INFORMATION SHOWN THEREON AND IS HEREBY APPROVED BY THE PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT THIS 31st DAY OF MAY 2004.

Paul
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR TITLE

DEPARTMENT OF PUBLIC WORKS:

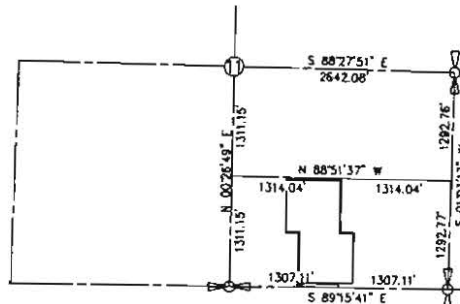
I HEREBY CERTIFY THAT THIS BINDING SITE PLAN HAS BEEN EXAMINED AND THAT ALL OF THE REQUIREMENTS AND CONDITIONS OF THE TECHNICAL REVIEW COMMITTEE HAVE BEEN PROVIDED FOR AND IS HEREBY APPROVED BY THE DEPARTMENT OF PUBLIC WORKS THIS 31st DAY OF MAY 2004.

Tom Skelton
TOM SKELTON
PUBLIC WORKS, BELLINGHAM

COUNTY TREASURER'S CERTIFICATE

I, Barbara J. Coe, TREASURER OF WHATCOM COUNTY, WASHINGTON, DO HEREBY CERTIFY THAT ALL TAXES REQUIRED BY LAW TO BE PAID UPON THAT PORTION OF THE REAL ESTATE EMBRACED WITHIN THIS PLAN AND ALL THE DELINQUENT ASSESSMENTS HAVE BEEN FULLY PAID AS SHOWN IN THE RECORDS OF MY OFFICE.

Barbara J. Coe
BARBARA J. COE
WHATCOM COUNTY TREASURER
DATE 5-16-05



SECTION 11, TWN 38N, RNG 2E

NTS

AUDITOR'S CERTIFICATE

Filed for record this 16th day of MAY 2005 at 2:32 PM under Auditor's File Number 2050502777 at the request of David Evans & Associates

Shirley Bruster
SHIRLEY BRUSTER
Whatcom County Auditor

SURVEYOR'S CERTIFICATE

This map correctly represents a binding site plan made by me or under my direction in conformance with the requirement of the Survey Recording act at the request of

Richard A. Gray
RICHARD A. GRAY
Charles P. Smay
CHARLES P. SMAY
CERTIFICATE NO. 24225



DAVID EVANS AND ASSOCIATES INC.
118 Grand Avenue, Suite D
Bellingham, Washington 98225
Phone: 360.847.7151

BAKerview GATEWAY
GENERAL BINDING
SITE PLAN-TRACT

FILE: 11/02/04 - 23pm - P:\ACCORDS\005\proj\Bakerview Gateway\BACD0001.dwg	DATE: 11/02/04	JOB NO: BACD0001
DRAWN BY: GJL	SCALE: NTS	SHEET: 1 OF 2
CHECKED BY:		



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**THE HEARING EXAMINER OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON**

IN RE:	HE-13-PL-033
POTTLE, GRAY, BARSETTI, WEBSTER, MERRICK and BROWN, Petitioners Unnamed Right-of-Way, North of West Bakerview Road, between Arctic Avenue and Pacific Highway	FINDINGS OF FACT CONCLUSIONS OF LAW AND RECOMMENDATION
VAC2013-00001 / Street Vacation	DAWN STURWOLD, HEARING EXAMINER

THIS MATTER came before the Bellingham Hearing Examiner for hearing on the 23rd day of October, 2013 on the Petition of Harvey and Dixie Pottle; Richard Gray and Janis Barsetti; Jack and Myrtle Webster; the Merrick Estate; and Alfred and Elma Brown for the vacation of an unnamed right-of-way located north of West Bakerview Road between Dover Street (Arctic Avenue) and Pacific Highway.

Testimony was received from Steve Sundin, Planning and Community Development Department; and David Rogers, Costco Wholesale, Inc. representative.

In addition to the Bellingham Municipal Code and Comprehensive Plan, the following documents were considered as part of the record: See *Exhibit List*.

I. FINDINGS OF FACT

- The owners of property abutting the un-named right-of-way north of West Bakerview Road between Dover Street (to be named Arctic Avenue) and Pacific

1 Highway, Harvey and Dixie Pottle, Richard Gray and Janis Barsetti, Jack and Myrtle
2 Webster, the Merrick Estate, and Alfred and Elma Brown, have petitioned for the
3 vacation of the right-of-way.

4 2. The subject right-of-way is located within the Bakerview Gateway General
5 Binding Site Plan #BSP2003-00008, Recorded May 16, 2005 under Auditor's File No.
6 205050277, and is legally described as shown in *Attachment 1* to the Staff Report.

7 3. The subject right-of-way is located in Areas 3 and 5 of the Cordata
8 Neighborhood. These areas are designated Commercial and Industrial.

9 4. The right-of-way proposed for vacation is 60 feet in width and approximately
10 630 feet in length. It contains approximately 37,720 square feet in area. It is currently
11 undeveloped. It begins at the intersection with Dover Street and runs to the west,
12 terminating at the boundary of the Binding Site Plan.

13 5. The subject right-of-way was required to be dedicated as a condition of approval
14 of the Bakerview Gateway General Binding Site Plan, BSP2003-00008. It was intended
15 to eventually connect Dover Street and Pacific Highway. Additional dedications would
16 be required to connect to Pacific Highway to the west.

17 6. During review of an annexation proposal in the area, the City's Six-year
18 Transportation Improvement Program (TIP) and potential future development other
19 transportation linkages and alignments were identified that would provide better service
20 and function.

21 7. Development of Arctic Avenue is listed as Project #13 on the City's TIP for
22 2014-2019.

23 8. Development of Mahogany Avenue (Division Road) connecting Pacific
24 Highway and Northwest Road is listed as Project #17 in the TIP. Mahogany
25 Avenue/Division Road is located to the north of the subject right-of-way.

26 9. Costco Wholesale, Inc. has submitted land use applications for the development
27 of a new membership warehouse on the abutting properties. As part of the proposed
28 development Costco Wholesale, Inc. would be required to dedicate and improve Arctic
29

30

1 Avenue/Dover Street from West Bakerview Road north to Division Street/Mahogany
2 Avenue. The Binding Site Plan would also be extinguished as part of the development
3 process.

4 10. The new right-of-way to be dedicated between the existing intersection of Dover
5 Street and the subject right-of-way north to Division Street/Mahogany Avenue, and
6 additional width of Dover Street south to West Bakerview Road, would contain
7 approximately 57,237 square feet in area.

8 11. The Technical Review Committee has considered the Petition for Vacation of
9 the subject right-of-way and has determined that the right-of-way is not needed for
10 current or future circulation purposes of the city.

11 12. Private utility providers were given notice of the vacation petition on October 1,
12 2013. No private utilities have notified the City of any facilities located within the
13 subject right-of-way. The City has no public utilities located within this right-of-way.

14 13. Notice of Public Hearing for the proposed vacation was issued on October 2,
15 2013.

16 14. BMC 13.48 provides for street vacation petitions, appraisals, hearings and
17 payment. The hearing in this matter was set by the City Council by Resolution on
18 September 30, 2013. The Planning and Community Development Department Director
19 determined that an appraisal was not needed to determine fair market value of the right-
20 of-way proposed for vacation because a new right-of-way with greater area, in the
21 immediate vicinity of the subject right-of-way would be dedicated in exchange for the
22 vacation.
23

24 15. RCW 35.79 governs vacations of streets by cities. It establishes procedures for
25 street vacation petitions, hearings, and payment and restricts vacations in cases where a
26 majority of abutting property owners object or where the subject street abuts a body of
27 water.

28 16. City Vacation Policies are set forth in the Staff Report.
29
30

1 17. The proposed vacation will not land-lock any parcel. All abutting parcels also
2 abut another right-of-way.

3 18. The subject right-of-way does not abut a body of water.

4 19. The right-of-way does not lead to a park, open space, view, natural area or
5 attraction. It abuts private property which is currently forested or developed with
6 single-family residences. The abutting property is intended for Commercial or
7 Industrial development. A small, isolated, depressional wetland, Wetland K, is located
8 on the western edge of the subject right-of-way. This wetland is an abandoned
9 agricultural pond approximately 3,000 square feet in area. It is a Category III wetland
10 with a low habitat rating of 12.

11 20. Vacation of the right-of-way will facilitate development of the abutting
12 property. The right-of-way bisects large parcels of land. Vacation facilitates full
13 utilization of these parcels. The City's circulation needs will be better served by other
14 alignments, including the proposed dedication and improvement of Arctic Avenue
15 between West Bakerview Road and Division Street/Mahogany Avenue. The proposed
16 vacation and dedication/street improvement offered in exchange for the vacation will
17 serve the public good.

18 21. The vacation petition was signed by all abutting property owners.

19 22. No utilities are located within the right-of-way. Retention of utility easements is
20 not necessary. Utilities and street improvements will be extended within the new
21 Arctic Avenue right-of-way.

22 23. City staff recommends that no payment be required for the vacation other than
23 the dedication/improvement of the new rights-of-way (Dover Street/Arctic Avenue).
24
25
26

27 II. CONCLUSIONS OF LAW

28 1. All procedural requirements for signatures, notices, Technical Review
29 Committee review and recommendation, and hearing for the proposed vacation have
30

1 been satisfied. The appraisal requirement has been waived in accordance with BMC
2 13.48.

3 2. The proposed vacation is not prohibited by RCW 35.79. It does not abut a body
4 of water and it is supported by all of the abutting property owners.

5 3. The proposed vacation is consistent with the City's Vacation Policies. It will
6 provide a public benefit by facilitating development of the abutting property consistent
7 with the zoning designation of the property and the new right-of-way proposed for
8 dedication and improvement will better serve the circulation needs of the city.

9 4. The City Council determines whether, and what amount of, monetary
10 compensation is required for a street vacation. The proposed compensation is
11 dedication/improvement of a new right-of-way. The area of the new dedication greatly
12 exceeds the area of the proposed vacation.

13 5. The proposed vacation should be approved, subject to the dedication of the new
14 rights-of-way, as proposed.
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16
17 III. RECOMMENDATION

18 The proposed vacation is recommended for approval, subject to the dedication
19 of the new rights-of-way for Arctic Avenue between the subject right-of-way and
20 Division Street/Mahogany Avenue and additional width of Dover Street between West
21 Bakerview Road and the subject right-of-way, as proposed and shown in *Attachment 1*.
22

23 ENTERED this 6th day of November 2013.
24

25
26 BELLINGHAM HEARING EXAMINER

27 

28
29 Dawn Sturwold
30