



# 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
Third and Final Ordinance	02-Dec-2013	Pass Ordinance		

**Council Committee:**

**Committee of the Whole**

Seth Fleetwood, Chair

**Agenda Bill Contact:**

Steven Sundin, Planner II, 778-8359

**Reviewed By**  
Jeff Thomas, Director, PCD

**Initials**  
*JT*

**Date**  
11-12-2013

**Committee Actions:**

GK/JW MOVED APPROVAL OF THE STREET VACATION WITH NO ADDITIONAL COMPENSATION. The motion carried 7-0.

GK/SS MOVED TO RECOMMEND APPROVAL OF THE ORDINANCE. The motion carried 7-0.

Alan Marriner, Legal Mayor

**Initials**  
*AM RL*

**Date**  
11/12/13  
11-12-13

COUNCIL ACTION: See page 2 attached.

**COUNCIL ACTIONS:**

Council President Fleetwood reported that council voted unanimously during the Closed Record Hearing to accept the Findings of Fact, Conclusions and Recommendations of the Hearing Examiner and approve the vacation of an unnamed right-of-way north of West Bakerview Road between Pacific Highway and Dover Street subject to the dedication of new right-of-way. Payment for the vacation of the subject right-of-way is not required. MOTION CARRIED 7-0.

Peter Ruffatto, City Attorney read an amendment to the ordinance, after "Now Therefore, The City of Bellingham Does Ordain":

"Section 1.

The vacation is approved, subject to the dedication of the new rights-of-way for Arctic Avenue between the subject right-of-way and Division Street/Mahogany Avenue and additional width of Dover Street between West Bakerview Road and the subject right-of-way, as proposed and shown in Attachment 2."

LILLQUIST / KNUTSON moved approval for first and second reading as amended. MOTION CARRIED 7-0.

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. # 0

NOT FOUND

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

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

200 0 200  
SCALE IN FEET

REMAINDER OF S1  
LOT 12 BLOCK  
BAKERVUE ADDITION  
(VOL. 7, P. 40-46)

TRACT A  
LOT 13  
LOT 14  
LOT 15  
GARLAND LANE  
LOT 16  
LOT 17  
NORTHWEST ROAD  
PLAT (AFN  
2030802237)

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

BLOCK 31  
BAKERVUE ADDITION  
(VOL. 7, P. 40-46)

LOT 8 LOT 5

DOVER STREET

W. BAKERVUE  
ROAD

FOUND 2" SURFACE BRASS  
DISK, ID # 1388

FOUND 6/8" REBAR  
W/CAP, LS # 13138  
IN 2.5" IRON PIPE  
ID # 1719

G:\13437 01\ACAD\13437 01\dwg\SC12-vp-rw-vaca-13437-01.dwg PLOT DATE: 2013-07-19 13:41 SAVED DATE: 2013-07-19 13:41 USER: Iburton

SCANNED  
Into Tidemark



**DOWL HKM**  
8420 154th Avenue NE Redmond, Washington 98052  
425-886-2800 www.dowlhkm.com

BAKERVUE 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  $89^{\circ}15'38''$  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  $00^{\circ}44'36''$  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  $89^{\circ}59'38''$ ;

THENCE NORTH  $89^{\circ}15'02''$  WEST, ALONG SAID SOUTHERLY RIGHT OF WAY LINE, 599.15 FEET;

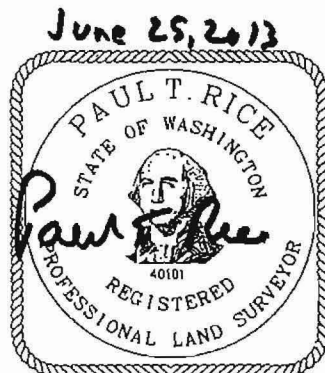
THENCE NORTH  $00^{\circ}38'16''$  EAST, ALONG THE WESTERLY RIGHT OF WAY LINE OF SAID UN-NAMED ROAD, 60.00 FEET;

THENCE SOUTH  $89^{\circ}15'02''$  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  $90^{\circ}00'22''$  TO ITS INTERSECTION WITH SAID WESTERLY RIGHT OF WAY LINE OF DOVER STREET;

THENCE SOUTH  $00^{\circ}44'36''$  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.



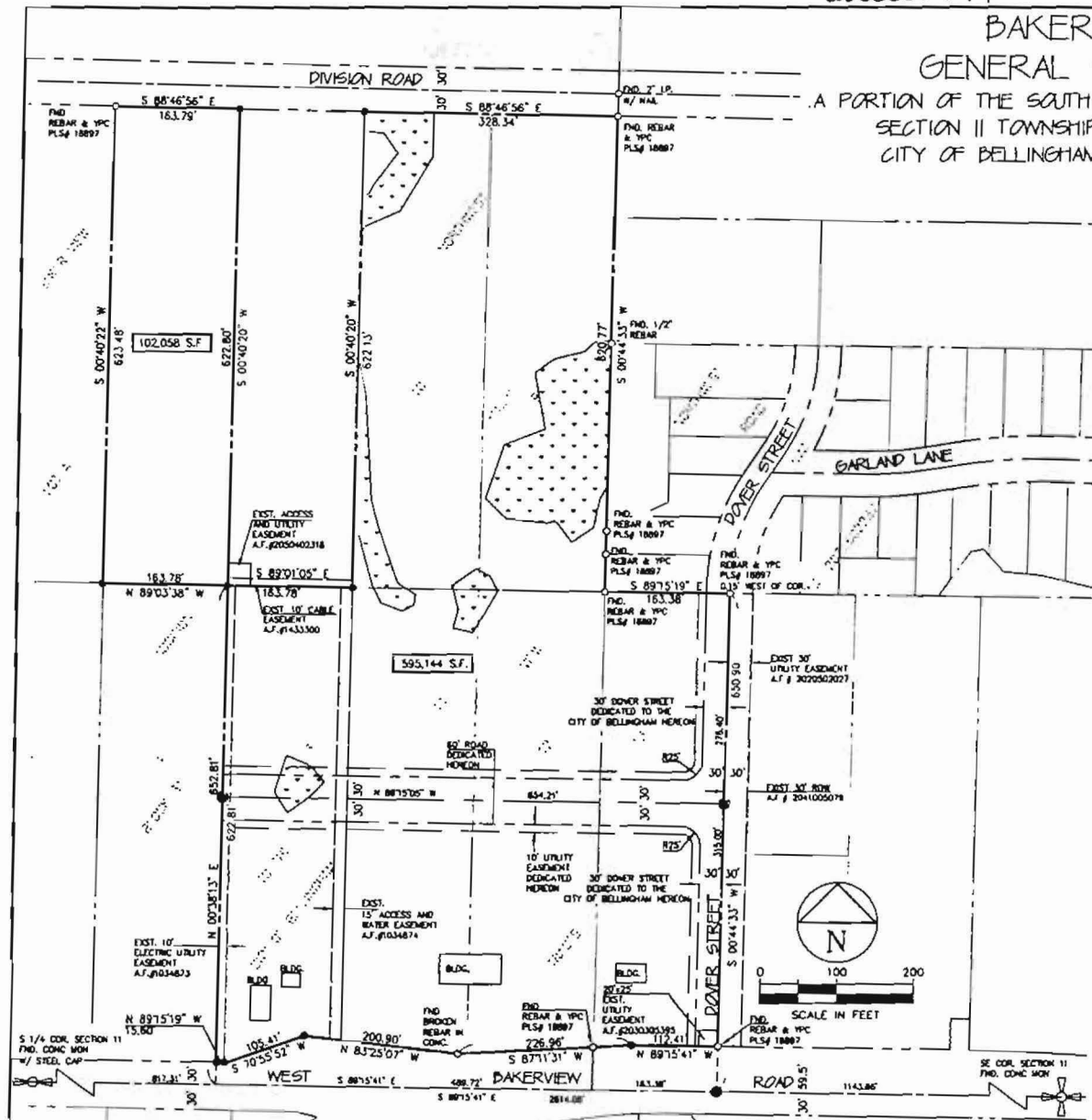


2050502777

# BAKerview GATEWAY GENERAL BINDING SITE PLAN

BSP1003-00008

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 0  
Bellingham Washington 98225  
Phone: 360.647.7151

BAKerview GATEWAY  
GENERAL BINDING SITE  
SITE PLAN-TRACT

DATE: 3/10/05	JOB NO.: BAC00001
DRAWN BY: G.L.	SHEET 2 OF 2
CHECKED BY:	SCALE: 1"=100'

2050502777

BSP2003-00008

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 HEREON 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  
*Dixie A. Pottle*  
DIXIE 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

PARCEL B:

LOTS 9, 10, 11, AND 12, NORTHWEST BAKERVIEW TRACTS, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 59, RECORDS OF WHATCOM COUNTY, WASHINGTON, EXCEPT THAT PORTION CONVEYED TO THE STATE OF WASHINGTON BY DEED RECORDED UNDER AUDITOR'S FILE NO. 1106346, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

PARCEL C:

LOT 3, BLOCK 31, PLAT OF BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGES 40 THRU 45, INCLUSIVE, RECORDS OF WHATCOM COUNTY, WASHINGTON, EXCEPT THAT PORTION DEEDED FOR HIGHWAY UNDER AUDITOR'S FILE NOS. 1105777 AND 1105778.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

PARCEL D:

THE WEST 163.87 FEET OF THE EAST 327.74 FEET OF LOT A, BLOCK 31, PLAT OF BAKERVIEW, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGES 40 THRU 45, INCLUSIVE, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

PARCEL E:

LOT 13, PLAT OF NORTHWEST BAKERVIEW TRACTS, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 7 OF PLATS, PAGE 56, RECORDS OF WHATCOM COUNTY, WASHINGTON, EXCEPT THAT PORTION CONVEYED TO STATE OF WASHINGTON FOR HIGHWAY PURPOSES UNDER AUDITOR'S FILE NO. 1105240 AND EXCEPT THAT PORTION DEED UNDER AUDITOR'S FILE NO. 960522031.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

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 27th DAY OF APRIL, 2005.

*Frank*  
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR TITLE

DEPARTMENT OF PUBLIC WORKS:

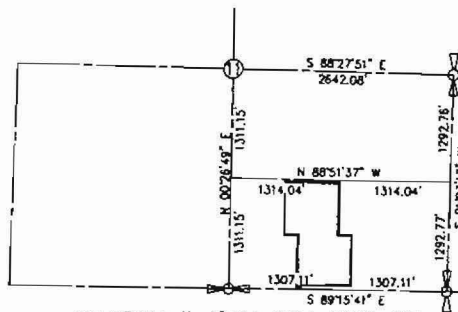
I HEREBY CERTIFY THAT THIS BINDING SITE PLAN HAS BEEN EXAMINED AND THAT ALL OF THE REQUIREMENTS AND CONDITIONS OF THE TECHNICAL REVIEW COMMITTEE HAVE BEEN PROVIDED FOR AND IS HEREBY APPROVED BY THE DEPARTMENT OF PUBLIC WORKS THIS 27th DAY OF MAY, 2005.

*Jim Shultz*  
PUBLIC WORKS, BELLINGHAM PROJECT ENGINEER

COUNTY TREASURER'S CERTIFICATE

I, DAVID BEED, COUNTY 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 PLAT AND ALL THE DELINQUENT ASSESSMENTS HAVE BEEN FULLY PAID AS SHOWN IN THE RECORDS OF MY OFFICE.

*David Beed Deputy*  
WHATCOM COUNTY TREASURER DATE 5-16-05



SECTION 11, TWN 38N, RNG 2E  
NTS

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 NOV, 2004

*Charles P. Smay*  
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON RESIDING AT BELLINGHAM, WA  
MY APPOINTMENT EXPIRES SEPT 27, 2009



ACKNOWLEDGEMENT:

STATE OF WASHINGTON } SS  
COUNTY OF WHATCOM

I CERTIFY THAT JANIS BARSETTI GRAY APPEARED BEFORE ME AND SAID PERSON ACKNOWLEDGED THAT HE 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.

27th DAY OF DECEMBER, 2004

*Charles 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 DIXIE 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*  
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 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*  
NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON RESIDING AT BELLINGHAM, WA  
MY APPOINTMENT EXPIRES SEPT 27, 2005



AUDITOR'S CERTIFICATE

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

*Shirley Foster*  
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  
in May, 2004  
*Charles P. Smay*  
CHARLES P. SMAY  
CERTIFICATE NO. 24223



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

BAKerview GATEWAY  
GENERAL BINDING  
SITE PLAN-TRACT

DATE: 11/02/04	FOR INFO: 8ACD0001
DRAWN BY: G-JL	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 23<sup>rd</sup> 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

1. 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 I* 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

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).

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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.  
15

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*.  
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23 ENTERED this 6<sup>th</sup> day of November 2013.  
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26 **BELLINGHAM HEARING EXAMINER**

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Dawn Sturwold