



City Council Agenda Bill

20206

Bill Number

Subject: Consideration of a petition from the Port of Bellingham to vacate portions of Army Street, Central Avenue, Oak Street and portions of C, D, E and F Streets within the Waterfront District.

Summary Statement: City Council is concurrently considering the Interlocal Agreement for Facilities Within the Waterfront District ("Interlocal"). Along with other agreements to exchange or use property, Section D.6 of the Interlocal recognizes the Port's petition to vacate portions of Army Street, Central Avenue, Oak Street and portions of C, D, E and F Streets as shown and described on Exhibit A of this 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 Exhibit D of this Ordinance.

Previous Council Action: Committee of the Whole recommended approval of the Interlocal on November 7, 2013.

Fiscal Impact: The City's transfer of property to the Port outlined in section D.6 of the Interlocal and the Port's transfer of property to the City outlined in Section D.7, are of equitable values.

Funding Source: N/A

Attachments: Memorandum with Exhibits.
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	02-Dec-2013	Pass Ordinance	Steven Sundin, Planner II	5 min

Council Committee:
Committee of the Whole
Seth Fleetwood, Chair

Agenda Bill Contact:
Steven Sundin, Planner II, 778-8359

Committee Actions:

Reviewed By	Initials	Date
Jeff Thomas, Director, PCD	<i>[Signature]</i>	11-25-2013
Tara Sundin, Mayor's Office	<i>[Signature]</i>	11.25.13
Alan Marriner, Legal	<i>[Signature]</i>	11/25/13
Mayor	<i>[Signature]</i>	11.25.13


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 #VAC2013-00003

The Port of Bellingham has petitioned for street vacations of certain portions of Army Street, Central Avenue, Oak Street and C, D, E and F Street lying between the inner and outer harbor line within the Waterfront District. The subject right-of-ways are shown on EXHIBIT A of the Ordinance.

Total area of right-of-way petitioned for vacation is approximately 239,290 square feet. Approximately 140,250 square feet of right-of-way (segments D-G) are underwater and within "harbor areas."

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

1. This subject right-of-ways are not necessary for future circulation needs of the City; and
2. The amount of land area proposed to be dedicated by the Port to the City for new right-of-way's within the Waterfront District exceeds the right of way petitioned for vacation; and
3. The value of land area proposed to be dedicated by the Port to the City for new right-of-way within the Waterfront District exceeds the value of the right-of-way petitioned for vacation.
4. Certain land areas proposed to be dedicated by the Port to the City provide public access to the shorelines of Bellingham Bay where it currently does not exist.

Due to #2 and #3 above, the Planning Director determined that an appraisal was not necessary and therefore payment for the subject right-of-ways was not recommended.

A schematic of right-of-ways and park areas intended to be dedicated within the Waterfront District and a table of right-of-way square footages and values is provided on the following pages.

The Hearing Examiner held a Public Hearing on October 23, 2013. On November 8, 2013 the Hearing Examiner provided Findings of Fact, Conclusions of Law and Recommendation. These are provided on EXHIBIT D of the Ordinance.

In summary, the Hearing Examiner recommended approval of the proposed vacation petition subject to:

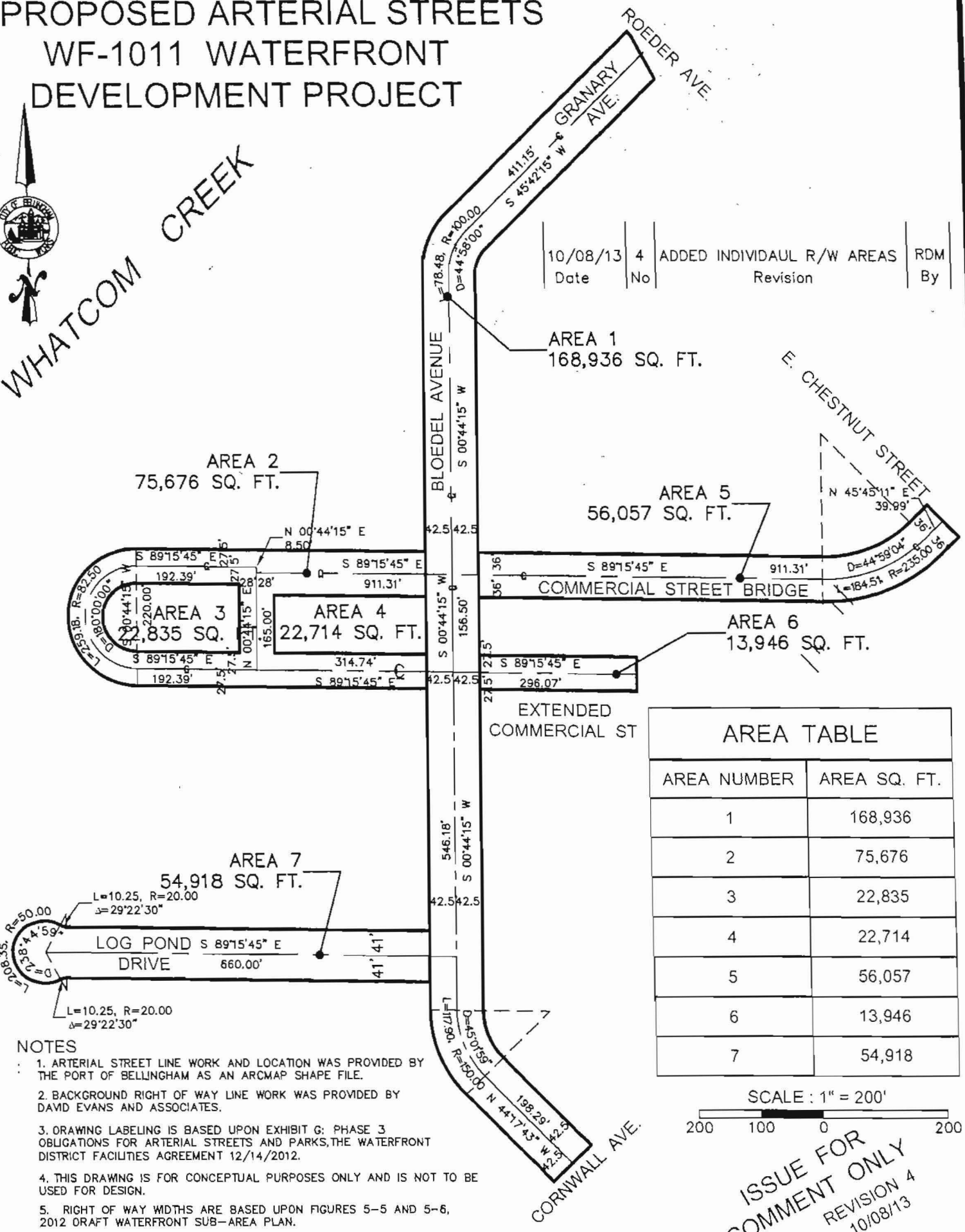
1. Approval of the Waterfront District Subarea Plan and Interlocal Agreement for Facilities that the City Council determines provides improved public access to Bellingham Bay and improved public circulation and that the dedication of land and right-of-way is of a value at least equal to the vacated right-of-way; and
2. Necessary easements for public and private utilities are retained; and
3. Final vacation of segments D-G is subject to approval by the Washington State Department of Natural Resources.

PROPOSED ARTERIAL STREETS WF-1011 WATERFRONT DEVELOPMENT PROJECT



WHATCOM CREEK

10/08/13	4	ADDED INDIVIDUAL R/W AREAS	RDM
Date	No	Revision	By



AREA 2
75,676 SQ. FT.

AREA 1
168,936 SQ. FT.

AREA 5
56,057 SQ. FT.

AREA 3
22,835 SQ. FT.

AREA 4
22,714 SQ. FT.

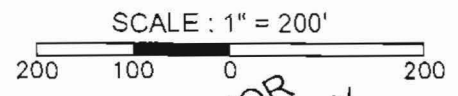
AREA 6
13,946 SQ. FT.

AREA 7
54,918 SQ. FT.

AREA NUMBER	AREA SQ. FT.
1	168,936
2	75,676
3	22,835
4	22,714
5	56,057
6	13,946
7	54,918

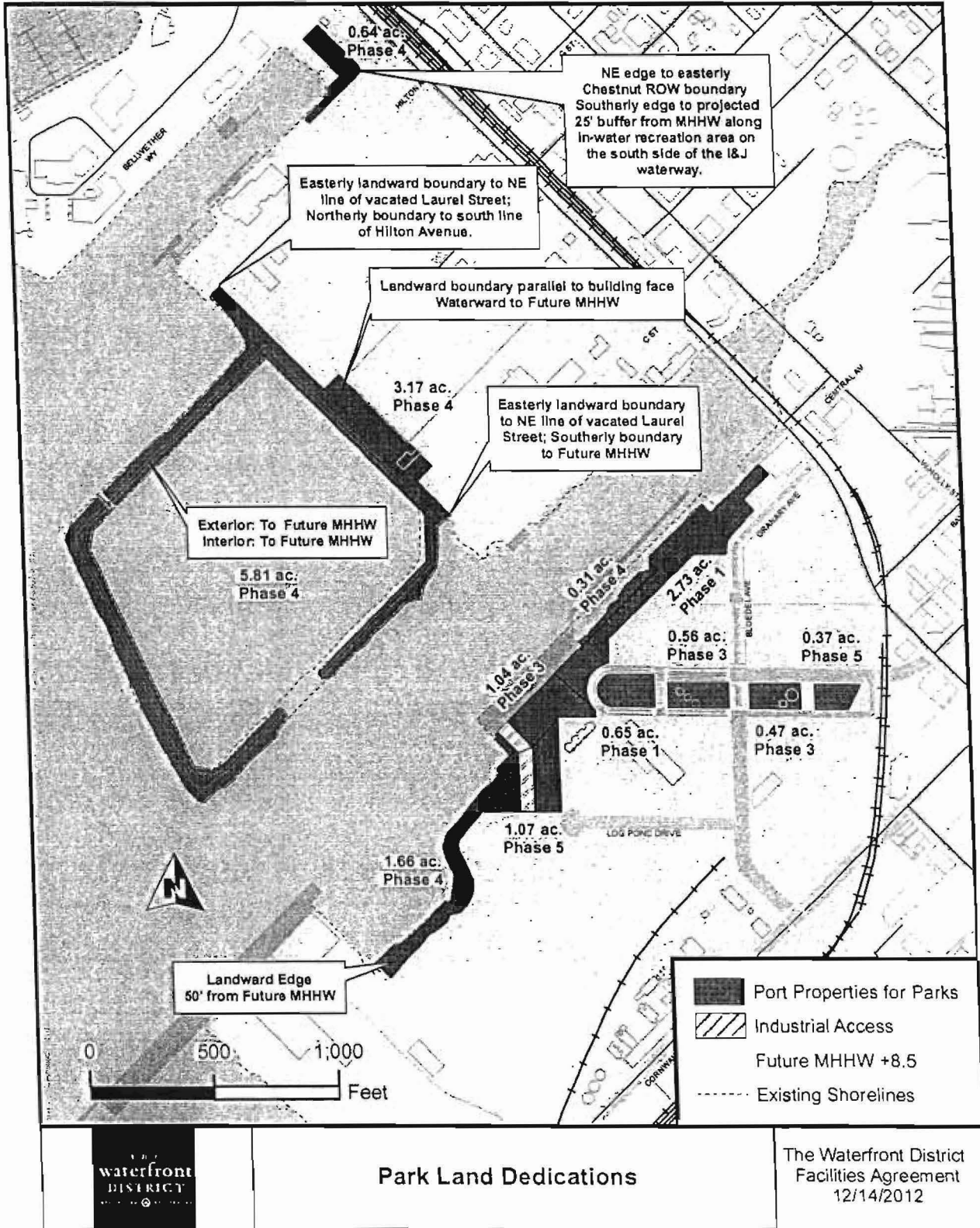
NOTES

1. ARTERIAL STREET LINE WORK AND LOCATION WAS PROVIDED BY THE PORT OF BELLINGHAM AS AN ARCMAP SHAPE FILE.
2. BACKGROUND RIGHT OF WAY LINE WORK WAS PROVIDED BY DAVID EVANS AND ASSOCIATES.
3. DRAWING LABELING IS BASED UPON EXHIBIT G: PHASE 3 OBLIGATIONS FOR ARTERIAL STREETS AND PARKS, THE WATERFRONT DISTRICT FACILITIES AGREEMENT 12/14/2012.
4. THIS DRAWING IS FOR CONCEPTUAL PURPOSES ONLY AND IS NOT TO BE USED FOR DESIGN.
5. RIGHT OF WAY WIDTHS ARE BASED UPON FIGURES 5-5 AND 5-6, 2012 DRAFT WATERFRONT SUB-AREA PLAN.



ISSUE FOR
COMMENT ONLY
REVISION 4
10/08/13

Exhibit H: Park Land Dedications



VAC2013-00003
SEGMENTS A-G

Waterfront District Proposed Street Vacations

Map Item #	Street Name	Description	SF	Note	Water Area SF	Land Use/ Private Parcel/ About Waterbody	ICW 31-79.035 Justification	Adjacent to Embankment or Proposed Park	Method	Abutting Owner(s)	Unlanded Value @ \$400/Market Transmittal Areas	Underwater Tideland Value @ \$2	Unlanded Value @ \$25/Market Downtown Area	Sum of Value
Port Sale Abutting Property Owner														
I	W. Ivy	Between the southeasterly line of vacated I Street and the northwesterly line of G Street.	32,335	100% Underwater Tidelands	32,335	N N	NA	N	Normal Street Vacation		\$0	\$64,670		
	H Street	Between the southwestery line of Roeder Avenue and the southwestery line of W. Chestnut St.	13,713		0	N N	NA	N	Normal Street Vacation		\$109,704	\$0		
	Central	Between the northeasterly line of vacated Ivy St. and the southwestery line of vacated Ivy Street	6,400	100% Underwater Tidelands	6,400	N Y	Y	N	Normal Street Vacation		\$0	\$12,800		
	Laurel St.	Full width of Laurel St. abutting blocks 217 and 229	9,997		0	N N	NA	N	Normal Street Vacation		\$249,825	\$0		
	W. Maple	Between the southeasterly line of D Street and the Northwesterly Line of the C Street.	13,583		0	N N	NA	N	Normal Street Vacation		\$208,880	\$0		
Port shares Abutting Ownership with SSC														
	G Street	Between the southwestery line of Roeder Avenue and the southwestery line of vacated W. Chestnut St.	13,318	PCB 1/4 SF	0	N N	NA	N	Normal Street Vacation	SSC	\$306,544	\$0		
Harbor Areas - State Owned Aquatic Land														
A	Army St.	Between the Northeasterly line of vacated Oak St. and the Northeasterly line of Pine St.	41,447		0	N N	NA	N	Normal Street Vacation	DNR & Port	\$81,878	\$0		
B	Central Street	Between the Inner Harbor Line and the Northeasterly line of Pine St.	48,034	90.15% Underwater Tidelands	38,795	N Y	Y	N	Normal Street Vacation	DNR & Port	\$83,813	\$77,590		\$161,403
C	Oak St.	Between the northwesterly line of Army, the Inner Harbor line and the southeasterly line of Central Ave.	15,579	Upland Characteristic Intersection with Central excluded	0	N Y	Y	N	Normal Street Vacation	DNR & Port	\$134,633	\$0		
D	C Street	Between the Inner and Outer Harbor Lines	35,002	81.5% Underwater Tidelands	28,877	N N	NA	Y	Normal Street Vacation	DNR & Port	\$49,000	\$57,754		\$106,754
E	D Street	Between the Inner and Outer Harbor Lines	35,037	85% Underwater Tidelands	29,781	N N	NA	Y	Normal Street Vacation	DNR & Port	\$43,048	\$59,562		\$102,610
F	E Street	Between the Inner and Outer Harbor Lines	35,075	89.27% Underwater Tidelands	31,313	N N	NA	Y	Normal Street Vacation	DNR & Port	\$30,112	\$62,612		\$92,724
G	F Street	Between the Inner and Outer Harbor Lines	35,115	98.62% Underwater Tidelands	34,810	N N	NA	Y	Normal Street Vacation	DNR & Port	\$3,880	\$69,280		\$73,160
Total ROW Vacation Petition Requested			240,289	7.57	163,394						\$615,100	\$328,788		\$943,888
			\$29,617		202,129						\$1,190,018	\$404,258		\$1,594,276
Phase 1 & 2														
A	Granary/Bloedel Ave	Between Roeder Ave and Log Pond Area	137,147	5.15	0							\$3,428,675		
B	Granary/Bloedel Ave	Through Log Pond Area	37,280	0.74	0						\$258,240			
C	Commercial Street Green	From Granary/Bloedel to Interim Laurel	58,349	1.34	0							\$1,458,723		
Subtotal Phase 1 & 2			227,776	5.23								\$3,145,638		
Phase 3														
D	Commercial Street Green	From Interim Laurel to the tanks	23,462	0.54								\$586,550		
E	Commercial Street Green	From Port Property near Chestnut & Commercial St. to Granary/Bloedel	37,330	0.86										
Subtotal Phase 3			60,792	1.40								\$586,550		
Grand Total			288,568	6.62								\$3,732,188		

DEDICATIONS

← \$

← \$

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: *VAC2013-00003*

GRANTOR(S): *City of Bellingham*

GRANTEE(S): *Port of Bellingham*

ASSESSOR'S TAX/PARCEL NUMBER(S): *Multiple*

ABBREVIATED LEGAL DESCRIPTION: *Certain portions of Army Street, Central Avenue, Oak Street and C through F Streets all within the Waterfront District.*

Please see EXHIBIT A for complete legal descriptions.

ORDINANCE NO. _____

AN ORDINANCE RELATING TO THE VACATION OF CERTAIN PORTIONS OF ARMY STREET, CENTRAL AVENUE, OAK STREET AND C, D, E, F STREETS ALL GENERALLY LOCATED WITHIN THE WATERFRONT DISTRICT ALL WITHIN THE CITY OF BELLINGHAM.

WHEREAS, the Port of Bellingham's SEPA Official released the following documents related to the New Whatcom / Waterfront District Redevelopment Project:

- Draft Environmental Impact Statement including Technical Appendices, January, 2008
- Supplemental Draft Environmental Impact Statement, October 2008
- Final Environmental Impact Statement, July 2010
- Addendum to the Final Environmental Impact Statement, February 2010

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- Environmental Impact Statement Addendum, December 2012

WHEREAS, the December 2012 EIS Addendum (Addendum) for the Waterfront District Redevelopment Project included an updated preferred alternative “intended to be a medium density, sustainable development that features a diversity of uses that are complementary to the Downtown Bellingham Central Business District, Old Town, and surrounding neighborhoods; an infrastructure network that integrates with and connects the waterfront to the surrounding area’ and, a system of parks, trails and open space that opens up the waterfront to the community;” and

WHEREAS, the Addendum identifies five sub areas (provided in EXHIBIT B) within the Waterfront District which are; Marine Trades, Downtown Waterfront, Log Pond, Shipping Terminal and Cornwall Beach; and

WHEREAS, table 2-3 of the Addendum (also included in EXHIBIT B) specifies three broad use categories which include office/industrial, housing, and goods and services as well as associated building square footage amounts at full build out through a five phase period; and

WHEREAS, table 2-4 of the Addendum (also included in EXHIBIT B) specifies building square footages for each of the three use types within each sub area through the five phase period; and

WHEREAS, in December 2012, the City of Bellingham (City) and the Port of Bellingham (Port) released drafts of the following documents for public review; Sub-Area Plan, Development Regulations, Design Standards, Planned Action Ordinance, Development Agreement and an Interlocal Agreement for Facilities within the Waterfront District; and

WHEREAS, during the months of March through June, 2013, the City’s Planning and Development Commission held public hearings and conducted work sessions in order to review and consider drafts of the Sub-Area Plan, Development Regulations, Design Standards, and Planned Action Ordinance; and

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WHEREAS, on June 6, 2013, the City's Planning and Development Commission forwarded Findings of Fact, Conclusions and Recommendations (including recommended revisions) for approval of the documents specified above by a vote of 7-0; and

WHEREAS, during the months of July through November, 2013 the Bellingham City Council held a public hearing and conducted work sessions in order to review and consider the Planning Commission's Findings of Fact, Conclusions and Recommendations (including recommended revisions) for the documents specified above and also reviewed and considered the Development Agreement and Interlocal Agreement for Facilities (ILA); and

WHEREAS, on (DATE) the Bellingham City Council approved the Waterfront District Sub-Area Plan, the Development Regulations, Design Standards, Planned Action Ordinance, Development Agreement and ILA by Ordinance #'s _____; and

WHEREAS, on (DATE) the Port Commission held a public hearing and adopted the Waterfront District Sub-Area Plan by Port Resolution # _____ as part of the Port's Comprehensive Scheme of Harbor Improvements; and

WHEREAS, the development of the Waterfront District will be accomplished in phases during which infrastructure will be constructed when specified square footage of development has been built;

WHEREAS, the ILA, which is attached hereto as EXHIBIT C and incorporated herein, has been entered into pursuant to Chapter 39.34 RCW in order to: 1) allocate obligations for phased implementation of Facilities (as defined in the ILA) for the first three phases of development; 2) define the timing of property transfers between the City and the Port; and 3) establish a process for the City's and Port's ongoing management of the Waterfront District Project; and

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WHEREAS, "SECTION C" of the ILA specifies the Port and City obligations for phased implementation of Facilities in the Waterfront District, including "facility triggers" for when certain Facilities, such as arterial streets and public parks will be developed including associated supporting and mitigating elements; and

WHEREAS, "SECTION D" of the ILA describes the "property transfers" necessary to develop arterial streets and parks; and

WHEREAS, pursuant to the ILA, an equitable exchange of rights-of-way will occur as the City vacates rights of way no longer required to implement the Sub-Area Plan and the Port dedicates new rights of way necessary to implement the Sub-Area Plan. Upon completion of the first three phases of the Waterfront District Redevelopment Project, the value of the square footage of new right-of-ways dedicated by the Port will exceed the value of the square footage of the right-of-ways vacated by the City; and

WHEREAS, the total amount of right-of-way associated with this street vacation petition #VAC2013-00003 is approximately 240,289 square feet of which approximately 163,394 square feet (segments D-G) are underwater tidelands and not accessible to the public from abutting uplands; and

WHEREAS, segments A-C are located in the Bellingham Shipping Terminal sub area and are utilized currently as Bellingham Shipping Terminal operational area; and

WHEREAS, the Port of Bellingham and the Washington State Department of Natural Resources are the sole abutting property owners of segments A-C; and

WHEREAS, segment B abuts the Whatcom Waterway, a first class tideland as defined in RCW 79.105.060; and

WHEREAS, segments D-G are located in the Marine Trades sub area but are located between the inner harbor line and out harbor line of 1913; and

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WHEREAS, the City of Bellingham owns C Street in fee between the southwesterly line of Laurel Street and the inner harbor line and therefore is an abutting property owner to segment D (C Street); and

WHEREAS, segments D-G are within a harbor area as defined in RCW 79.105.060 and the underlying bedlands are owned by the Washington State Department of Natural Resources (DNR) ; and

WHEREAS, vacation of right-of-ways within harbor areas (segments D-G) are not final until the Department of Natural Resources Board of Natural Resources issues final approval pursuant to procedures specified in RCW 79.125; and

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

WHEREAS, an appraisal was not required because there is an equitable exchange of vacated right-of-way and the new right-of-way to be dedicated by the Port; and

WHEREAS, the Hearing Examiner has heard this petition and recommends approval of the subject vacation petition with the Findings of Fact, Conclusions of Law and Recommendation as attached hereto and incorporated herein as EXHIBIT D and that the City Council adopts these findings of fact and conclusions of law and recommendation and;

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

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VAC2013-00003

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The subject right-of-ways shown and as legally described on EXHIBIT A are hereby vacated – except as provided in Section 8 below – provided that the Bellingham City Council approves the following documents and any and all appeals pertaining to these documents have been finalized; Waterfront District Sub Area Plan and accompanying Development Regulations and Design Standards, Planned Action Ordinance, Development Agreement and Interlocal Agreement for Facilities within the Waterfront District and provided that the Bellingham Port Commission also approves the following documents and any and all appeals pertaining to these documents have been finalized; Waterfront District Sub Area Plan, Development Agreement and Interlocal Agreement for Facilities within the Waterfront District.

Section 2. The Hearing Examiner Findings of Fact, Conclusions of Law and Recommendation shown on EXHIBIT D are hereby incorporated herein and adopted.

Section 3. Dedication of land area for right-of-ways necessary to develop the arterial streets in phases one through three (SECTION C of the ILA) shall occur within the timeframes specified in SECTION D – 7.1 of the ILA (EXHIBIT C).

Section 4. Pursuant to the ILA, an equitable exchange of rights-of-way will occur as the City vacates rights-of-way no longer required to implement the Sub-Area Plan and the Port dedicates new rights-of-way necessary to implement the Sub-Area Plan. The value of the square footage of new rights-of-way dedicated by the Port during the first three phases of the Waterfront District Redevelopment Project will exceed the value of the square footage of the rights-of-way vacated by the City. Compensation for the vacation of the right-of-ways are the subject of the ILA and not this ordinance.

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VAC2013-00003

Section 5. No damage shall result to any person or persons or to any property by reason of the vacation of said right-of-way.

Section 6. Public or private utilities that are necessary to be relocated or repositioned shall be done at the sole expense of the petitioner(s) abutting the subject public or private utility.

Section 7. Easements for city water and / or sewer mains shall be retained as follows:

- Within segment A: 60-feet of the full of width of Army Street lying centered over existing city water and sewer mains generally located south of the southwesterly line of Oak Street.
- Within segment B: 30-feet of the southeasterly portion of Central Avenue between the northeasterly line of West Pine Street and the inner harbor line for an existing water service line and meter box.
- Additional easements may be necessary for private utilities and / or facilities.

Section 8. Segments D-G (C, D, E and F Streets between the inner harbor line and outer harbor line of 1913) require approval by the Washington State Department of Natural Resource's Board of Natural Resources and therefore are not officially vacated until such approval is granted and forwarded to the City provided the applicable sections above have been met.

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

VAC2013-00003

Attest: _____
Finance Director

Approved as to Form:

Office of the City Attorney

Published: _____

VAC2013-00003

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
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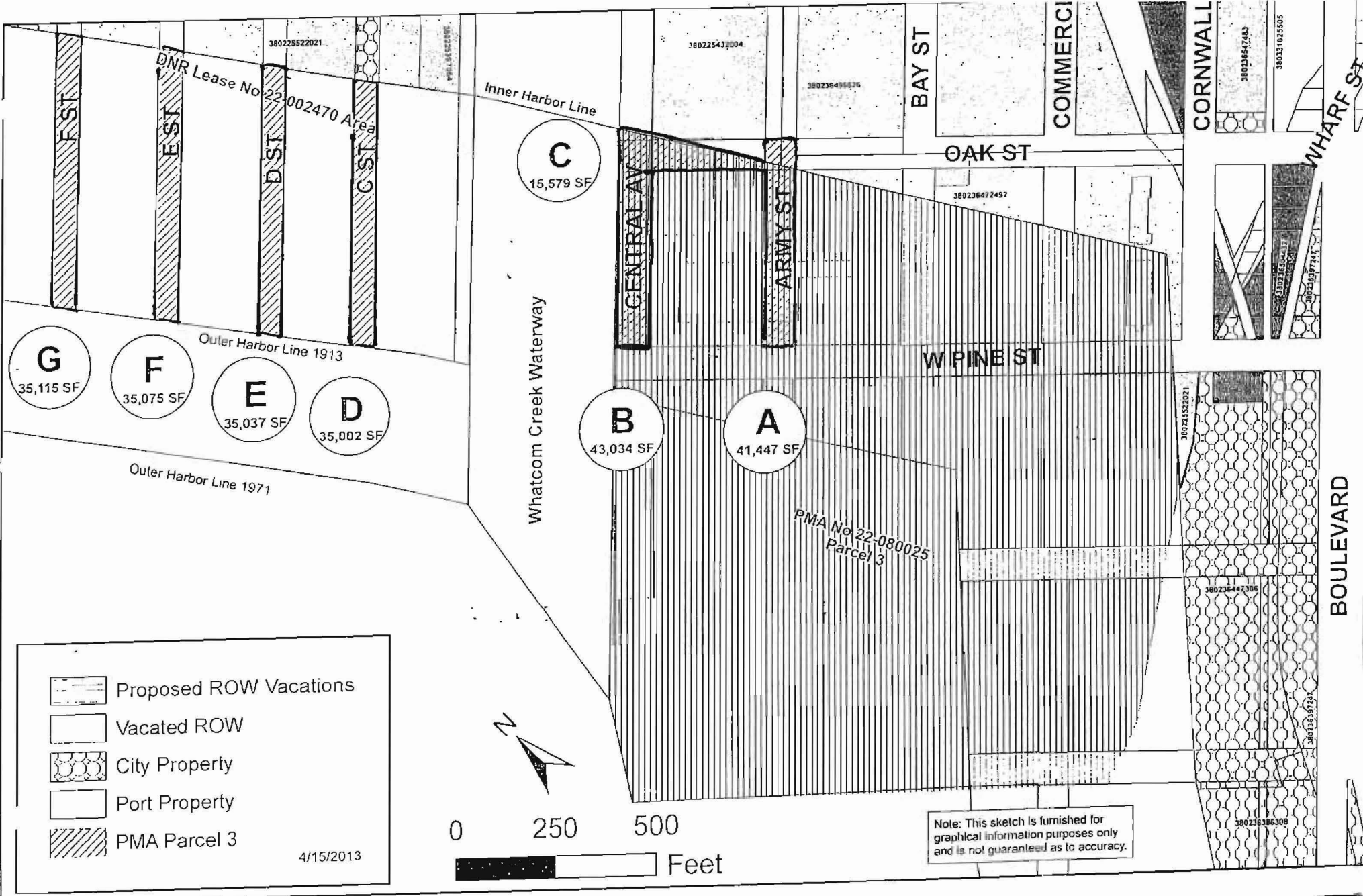


EXHIBIT A

VAC2013-00003: Legal descriptions of right-of-ways petitioned for vacation

SEGMENT A: Full width of Army Street between the northeasterly line of vacated Oak Street and the northeasterly line of Pine Street.

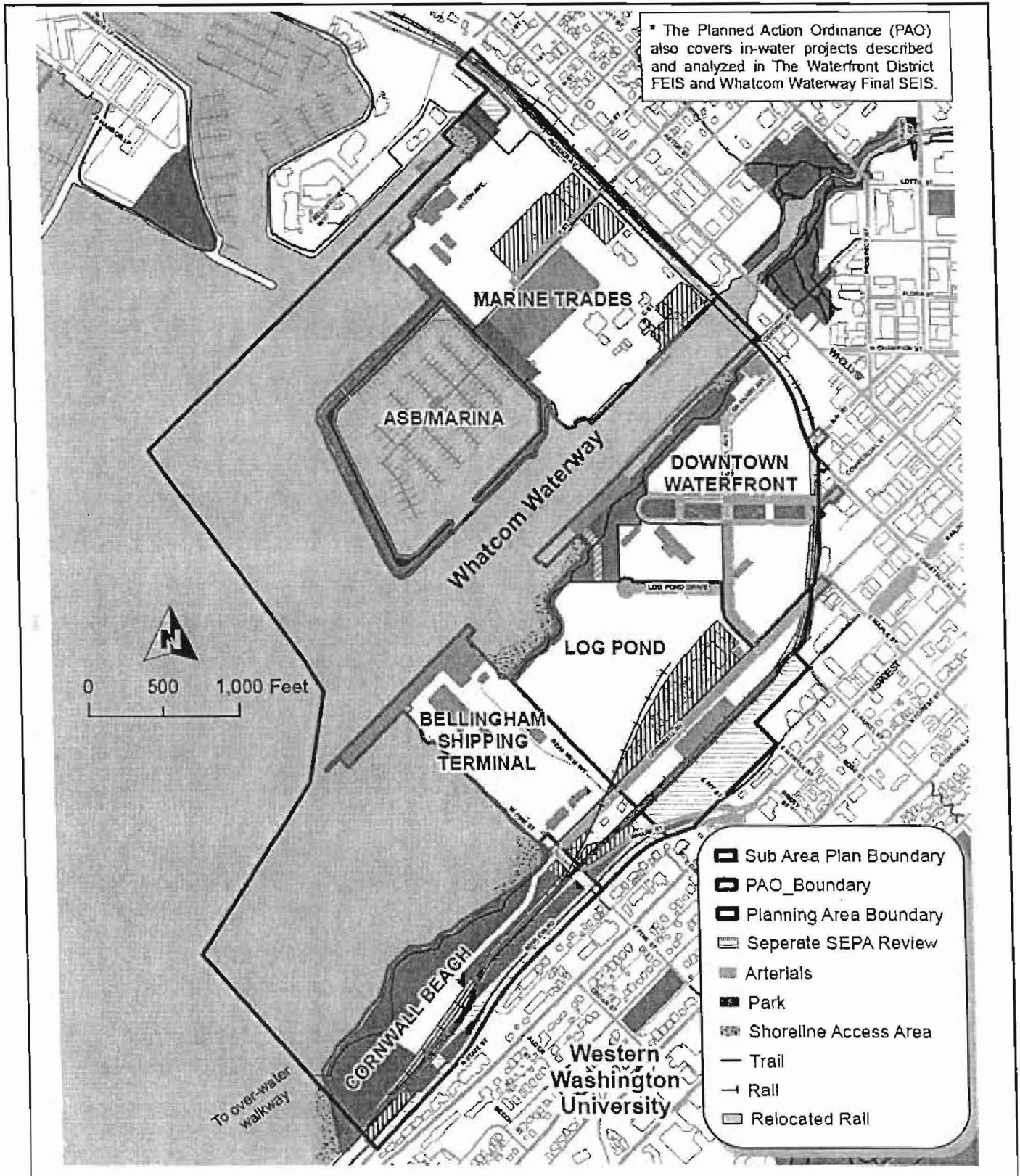
SEGMENT B: Full width of Central Avenue between the Inner Harbor Line and the northeasterly line of Pine Street.

SEGMENT C: Oak Street between the southeasterly line of Central, the northwesterly line of Army Street and the Inner Harbor Line.

SEGMENTS D-G: Full width of C, D, E and F Streets between the Inner Harbor Line and the Outer Harbor Line of 1913.

The Waterfront District Redevelopment Project 2012 EIS Addendum

* The Planned Action Ordinance (PAO) also covers in-water projects described and analyzed in The Waterfront District FEIS and Whatcom Waterway Final SEIS.



Source: Port of Bellingham, 2012

Figure 2-1

Waterfront District Boundaries

**Table 2-3
PROPOSED BUILDING REDEVELOPMENT – 2010 PREFERRED ALTERNATIVE &
2012 UPDATED PREFERRED ALTERNATIVE**

Area	Land Use	Building Square Footage at Full Buildout	
		2010 Preferred Alternative	2012 Updated Preferred Alternative
Marine Trades Area	Office/Industrial	1,150,000	1,410,000
	Housing	450,000	0
	Goods and Services	<u>90,000</u>	<u>90,000</u>
	Subtotal	1,690,000	1,500,000
Area	Land Use	2010 Preferred Alternative	2012 Updated Preferred Alternative
Downtown Waterfront Area	Office/Industrial	1,200,000	1,000,000
	Housing	930,000	1,625,000
	Goods and Services	<u>87,500</u>	<u>208,000</u>
	Subtotal	2,217,500	2,833,000
Log Pond Area	Office/Industrial	465,000	250,000
	Housing	410,000	0
	Goods and Services	<u>156,900</u>	<u>50,000</u>
	Subtotal	1,031,900	300,000
Shipping Terminal Area	Office/Industrial	530,000	280,000
	Housing	120,000	0
	Goods and Services	<u>33,600</u>	<u>20,000</u>
	Subtotal	693,600	300,000
Cornwall Beach Area	Office/Industrial	10,000	10,000
	Housing	350,000	350,000
	Goods and Services	<u>7,000</u>	<u>7,000</u>
	Subtotal	367,000	367,000
Waterfront District Total Building Square Footage	Office/Industrial	(56%) 3,355,000	(57%) 2,950,000
	Housing	(38%) 2,270,000	(37%) 1,975,000
	Goods and Services	(6%) 375,000	(6%) 375,000
	Total	6.0 Million	5.3 Million

Source: Port of Bellingham, 2012.

**Table 2-4
2012 UPDATED PREFERRED ALTERNATIVE REDEVELOPMENT BY PHASE**

Development Area	2012 Existing Development	Phase 1 (2012-2017) Building Sq Ft	Phase 2 (2018-2022) Building Sq Ft	Phase 3 (2023-2028) Building Sq Ft	Phase 4 (2029-2032) Building Sq Ft	Phase 5 (Beyond 2032) Building Sq Ft	Phase 1-5 Total Building Sq Ft
Marine Trades Area (N of Waterway)	350,000 Ind.	50,000 Ind.	50,000 Ind.	50,000 Ind.	50,000 Ind. 100,000 Office <u>50,000 Retail</u> 200,000 Total	450,000 Ind. 310,000 Office <u>40,000 Retail</u> 800,000 Total	1,000,000 Industrial 410,000 Office <u>90,000 Retail</u> 1,500,000 Total
Downtown Waterfront Area		180,000 Office 300,000 Res. <u>20,000 Retail</u> 500,000 Total	110,000 Office 300,000 Res. <u>40,000 Retail</u> 450,000 Total	100,000 Office 360,000 Res. <u>40,000 Retail</u> 500,000 Total	100,000 Office 350,000 Res. <u>50,000 Retail</u> 500,000 Total	510,000 Office 315,000 Res. <u>58,000 Retail</u> 883,000 Total	1,000,000 Office 1,625,000 Res. <u>208,000 Retail</u> 2,833,000 Total
Cornwall Beach Area	7,000 Office			43,000 Res. <u>7,000 Retail</u> 50,000 Total	50,000 Res.	3,000 Office 257,000 Res. <u> </u> 260,000 Total	10,000 Office 350,000 Res. <u>7,000 Retail</u> 367,000 Total
Log Pond Area	108,300 Ind.		50,000 Ind.		50,000 Ind.	41,700 Ind. <u>50,000 Retail</u> 91,700 Total	250,000 Industrial <u>50,000 Retail</u> 300,000 Total
Shipping Terminal Area	105,200 Ind.			50,000 Ind.		124,800 Ind. <u>20,000 Retail</u> 144,800 Total	280,000 Industrial <u>20,000 Retail</u> 300,000 Total
Cumulative N Cumulative S Combined Cumulative	350,000 north <u>220,500 south</u> 570,500 Total	400,000 north <u>720,500 south</u> 1,120,500 Total	450,000 north <u>1,220,500 south</u> 1,670,500 Total	500,000 north <u>1,820,500 south</u> 2,320,500 Total	700,000 north <u>2,420,500 south</u> 3,120,500 Total	1,500,000 north <u>3,800,000 south</u> 5,300,000 Total	1,500,000 north <u>3,800,000 south</u> 5,300,000 Total

Source: Port of Bellingham, 2012.

EXHIBIT C

In order to save paper for this packet – please refer to EXHIBIT C of the prior street vacation ordinance #VAC2013-00002.

The complete EXHIBIT C will be attached to EACH of the three street vacation ordinances for right-of-ways within the Waterfront District at the time the third and final reading of the ordinance occurs.

EXHIBIT D

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

IN RE:	HE-13-PL-035
PORT OF BELLINGHAM, Petitioner Portions of Army Street, Central Avenue, Oak Street and C -- F Streets	FINDINGS OF FACT CONCLUSIONS OF LAW AND RECOMMENDATION
VAC2013-00003 / 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 the Port of Bellingham for vacation of portions of Army Street, Central Avenue, Oak Street, and C, D, E, and F Streets between the Inner Harbor Line and the Outer Harbor Line of Bellingham Bay.

Testimony was received from Steve Sundin, Planning and Community Development Department; Sylvia Goodwin, Port of Bellingham; Jon Sitkin, Petitioner's attorney; and Wendy Harris, 3925 E. Connecticut Street.

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

The record in this matter was consolidated with the records for VAC2013-00002 and VAC2013-00004. The record was held open for additional written comments until October 31, 2013. Additional comments were received from Wendy Harris on October 31, 2013 and are included in the Record.

1 I. FINDINGS OF FACT

2 1. The Port of Bellingham and the City of Bellingham petitioned for the vacation
3 of portions of Army Street, Central Avenue, Oak Street, and C, D, E, and F Streets
4 between the Inner Harbor Line and the Outer Harbor Line of Bellingham Bay. The
5 Washington Department of Natural Resources signed the petition affirming that it is the
6 manager of State-owned property in the harbor area.

7 2. The subject rights-of-way consist of seven segments, all located within the
8 harbor area, east and west of the Whatcom Creek Waterway. The Port of Bellingham is
9 the abutting property owner of each segment. The City of Bellingham owns a parcel
10 abutting the C Street segment. The Department of Natural Resources is the manager of
11 State owned tidelands and harbor areas abutting each segment.

12 3. The subject portions of Army Street, Central Avenue, and Oak Street are located
13 in the Central Business District, Area 11 which is designated Industrial, Marine. The C,
14 D, E and F Street segments are located in Area 2B of the Central Business District and
15 are designated Industrial, Heavy.

16 4. The proposed vacations are included as a part of the proposed New
17 Whatcom/Waterfront District Redevelopment Project.

18 5. The Port of Bellingham's SEPA (State Environmental Policy Act) Official
19 released the Draft Environmental Impact Statement, including Technical Appendices
20 for the Waterfront Redevelopment Project in January 2008. A Supplemental Draft
21 Environmental Impact Statement was issued in October 2008. A Final Environmental
22 Impact Statement (FEIS) was issued in July 2010 with Addendums issued in February
23 2010, and December 2012.

24 6. Drafts of a Waterfront District Sub-Area Plan, Development Regulations,
25 Design Standards, Planned Action Ordinance, Development Agreement and an Inter-
26 local Agreement for Facilities were issued in December 2012.

27 7. The Bellingham Planning Commission issued Findings of Fact, Conclusions and
28 Recommendation for approval of the Waterfront District documents in June 2013.
29

1 These documents and the Planning Commission Recommendation are currently under
2 review by the Bellingham City Council. The documents are also currently being
3 reviewed by the Bellingham Port Commission.

4 8. The Proposed Inter-Local Agreement allocates responsibility for phased
5 implementation of facility development, defines the timing of property transfers
6 between the Port and the City, and establishes a process for on-going management of
7 the Waterfront District Project. This Agreement would provide for the transfer of land
8 from the Port to the City in exchange for the proposed vacations.

9 9. The Bellingham City Council set the hearing in this matter by Resolution on
10 September 30, 2013.

11 10. Notice of the proposed vacations was sent to private utility providers on October
12 1, 2013. Puget Sound Energy has notified the City that it has private utility facilities
13 within some of the subject rights-of-way. The City has water and sewer mains within
14 Army Street and Central Avenue. Retention of easements for existing utilities is
15 recommended.

16 11. Notice of Public Hearing on these proposed vacations was issued on October 2,
17 2013.

18 12. Segment A contains 41,447 square feet of the Army Street right-of-way between
19 Oak Street and West Pine Street.

20 13. Segment B consists of 43,034 square feet of Central Ave. between Oak St. and
21 W. Pine Street.

22 14. Segment C is 15,579 square feet of Oak Street between Army Street and Central
23 Avenue within the Inner Harbor Line.

24 15. Segment D is 35,002 square feet of C Street between the Inner and Outer Harbor
25 Lines.

26 16. Segment E contains 35,037 square feet of D Street between the Inner and Outer
27 Harbor Lines.
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1 17. Segment F contains 35,075 square feet of E Street between the Inner and Outer
2 Harbor Lines.

3 18. Segment G consists of 35,115 square feet of F Street between the Inner and
4 Outer Harbor Lines.

5 19. These segments are shown and legally described on *Attachment 1*.

6 20. The Technical Review Committee determined that the subject rights-of-way are
7 not necessary for the circulation needs of the city as they are not currently used for
8 transportation circulation and the proposed Waterfront District Sub Area Plan and Inter-
9 local Agreement provide for the dedication of significant amounts of right-of-ways
10 within the same area.

11 21. Segments A, B and C are located within the Bellingham Shipping Terminal.
12 Portions of large warehouses are located on Segments A and C. Segment B contains a
13 wharf between the Log Pond and the shipping terminal pier. These right-of-ways are
14 not currently accessible to the public.

15 22. Segments D, E, F, and G contain portions of the Aerated Stabilization Basin
16 (ASB) breakwater. The upland portions of these right-of-ways were previously
17 vacated.
18

19 23. BMC 13.48 provides for petitions, hearings, notice, appraisal and payment for
20 street vacations. In this case the Director of the Planning and Community Development
21 Department determined that an appraisal was not necessary because the Petitioner
22 proposed dedications of rights-of-way in an amount in excess of the proposed vacations
23 in exchange for the vacations.

24 24. RCW 35.79 governs street vacations in cities. It provides procedural
25 requirements and restricts vacations of streets abutting bodies of water and in cases
26 where a majority of abutting property owners object to the vacation.

27 25. City Vacation Policies are set forth in the Staff Report.

28 26. Public comment was received from Wendy Harris. She objected to the proposed
29 vacations on several grounds, including the lack of specific information regarding the
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1 future dedications intended to compensate for the vacation of the subject right-of-ways,
2 the lack of involvement of the Lummi Nation in the process, that the vacations are
3 premature until the Waterfront District Sub Area Plan is adopted, that there is still
4 controversy regarding several elements of the proposed plan, including public access
5 around the log pond and the ASB facility, that the public trust doctrine and State
6 vacation laws prohibit vacation of streets abutting or under water regardless of whether
7 there is current public access to them, that scenic vistas and wildlife habitat should also
8 be considered before vacating streets, and that determining the public benefit to a
9 vacation involves more than just compensation, it requires a broader determination of
10 what the public gets in return for what it is giving up.

11 27. Vacation of right-of-ways within the harbor areas requires approval of the
12 Department of Natural Resources, Board of Natural Resources prior to final approval of
13 the vacation ordinance. The State's process is intended to assure that the public purpose
14 and interest is served. The Department of Natural Resources has specific terms
15 applicable to harbor areas it manages that provide for navigation and public access.

16 28. The proposed vacation would not land-lock any parcels. All abutting parcels,
17 except for bedlands which currently have no access, would maintain access from other
18 rights-of-way. West Pine Street, which runs between Cornwall Avenue and the
19 Whatcom Creek Waterway within the harbor area, will remain a public right-of-way.

20 29. RCW 35.79.035 provides that a city may not vacate a street that abuts a body of
21 water unless the vacation is sought to enable the city to acquire the property for port
22 purposes, beach or water access purposes, boat moorage or launching sites, park, public
23 view, recreation, or educational purposes, or other public uses; the city declares that the
24 street is not presently being used as a street and the street is not suitable for any of the
25 following purposes: Port, beach or water access, boat moorage, launching sites, park,
26 public view, recreation, or education; or the vacation is sought to enable a city to
27 implement a plan, adopted by resolution or ordinance, that provides comparable or
28 improved public access to the same shoreline area to which the streets sought to be
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1 vacated abut, had the properties included in the plan not been vacated. This section also
2 provides that fair market value shall be paid for the vacation and that moneys received
3 from the vacation may only be used by the City to acquire additional beach or water
4 access, acquiring additional public view sites to a body of water, or acquiring additional
5 moorage or launching sites.

6 30. Staff indicates that the proposed vacations are part of the proposed Waterfront
7 District Sub Area Plan that the Council will consider concurrently with the vacations.
8 The proposed Inter-local Agreement indicates that the street vacations are anticipated,
9 that the effective date of the vacations will be the date of approval of the Sub Area Plan
10 and related agreements, and that new right-of-ways will be dedicated or transferred
11 consistent with the terms of the Plan and Agreement.

12 31. The proposed plan includes the dedication of approximately 3.77 acres of
13 parkland which will provide public access to Bellingham Bay. This proposed
14 dedication will provide improved public access. The subject right-of-ways currently
15 provide no functional public access to the shoreline.

16 32. Vacation of the subject right-of-ways allows for the consolidation of Port
17 property, elimination of potential conflicts with existing and future uses, and
18 implementation of a plan that will provide for improved public access to the shoreline.
19 New right-of-ways would be dedicated that will connect to upland transportation
20 facilities. The proposed vacations will serve the public good.

21 33. All abutting property owners have signed the vacation petition.
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24 II. CONCLUSIONS OF LAW

25 1. Procedural requirements for the proposed vacations have been satisfied.
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27 2. The proposed vacations are not prohibited by RCW 35.79. All of the abutting
28 property owners have signed the vacation petition. Although the segments proposed for
29 vacation abut a body of water the vacations are proposed as part of a plan that would
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1 provide improved public access to the same shoreline area, Bellingham Bay. The plan
2 would be adopted concurrently with the proposed vacations. The proposed vacations
3 satisfy the requirements of RCW 35.79.035(1)(c).

4 3. The City Council determines the fair market value of the subject right-of-ways
5 and the land/rights-of-way proposed to be dedicated/transferred in exchange. RCW
6 35.79.035(3) requires that the city receive at least fair market value, in money or
7 property, for the vacations. Any monies received may only be used to acquire beach or
8 water access, public view sites to a body of water or moorage or launching sites.

9 4. Public comment raised valid concerns regarding the proposed Waterfront
10 District Sub Area Plan and Inter-local Agreement and their relationship to the proposed
11 vacations and transfers. Some of the points raised are beyond the scope of the hearing
12 on the vacation petition and are more appropriately considered as part of the review and
13 adoption of the plan/agreement itself. For purposes of this vacation petition it is
14 sufficient to determine that the vacations are sought to implement a plan that is adopted
15 by the Council prior to, or concurrent with adoption of the vacation ordinance, that will
16 provide improved public access to the shoreline, in addition to consistency with the
17 City's adopted vacation policies.

18 5. The subject right-of-ways should be vacated subject to adoption of the
19 Waterfront District Sub Area Plan and Inter-local Agreement providing for the
20 dedication/transfer of right-of-ways/land that will improve both public access to the
21 shoreline and transportation circulation to and for the district, and a determination by
22 the City Council that the value of land transferred or dedicated in exchange for the
23 vacations is at least equivalent to the vacated right-of-ways.
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25 26 27 III. RECOMMENDATION

28 The proposed vacations are recommended for approval subject to concurrent
29 approval by the City Council of a Waterfront District Sub Area Plan and Inter-local
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1 Agreement which the Council determines provides for improved public access to
2 Bellingham Bay and improved transportation circulation, and transfer/dedication of
3 land/right-of-way of a value at least equivalent to the vacated right-of-ways, and
4 retention of utility easements for existing utilities. Vacations within the First Class
5 Tidelands and Harbor Areas are subject to approval of the Department of Natural
6 Resources.

7
8 ENTERED this 8th day of November 2013.
9

10 **BELLINGHAM HEARING EXAMINER**

11 

12
13
14 Dawn Sturwold
15



BELLINGHAM CITY COUNCIL

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BELLINGHAM CITY COUNCIL NOTICE OF CLOSED RECORD HEARINGS

Notice is hereby given that the **Bellingham City Council** will hold 3 closed record hearings on **Monday, December 2, 2013**, during the meeting of the **Committee Of The Whole**, in the **Council Chambers, City Hall, 210 Lottie Street, Bellingham, Washington**, for the consideration of the following:

VAC2013-00002: VACATION OF CERTAIN PORTIONS OF WEST IVY STREET, H STREET, CENTRAL AVENUE, LAUREL STREET AND WEST MAPLE STREET ALL LOCATED WITHIN THE "WATERFRONT DISTRICT."

VAC2013-00003: VACATION OF CERTAIN PORTIONS OF ARMY STREET, OAK STREET, CENTRAL AVENUE AND C-F STREETS ALL LOCATED WITHIN THE "WATERFRONT DISTRICT."

VAC2013-00004: VACATION OF G STREET BETWEEN ROEDER AVENUE AND WEST CHESTNUT STREET LOCATED WITHIN THE "WATERFRONT DISTRICT."

A "closed record" hearing means that Council cannot take any new testimony or accept any new information for the record. Copies of the record are available for review in the Council Office. An electronic copy will be provided upon request.

The time of the hearing will be available on the City Council's Meeting Agenda for December 2, posted on the City's website @ <http://www.cob.org/web/council.nsf/webmaterials> on Wednesday, November 27, by 5:00 PM. Copies of the Agenda will also be available at City Hall and at the Central Library.

For additional information, please contact: Steve Sundin, 778-8359, or by email at ssundin@cob.org.

FOR OUR CITIZENS WITH SPECIAL NEEDS, the Council Chambers is fully accessible. Elevator access to the second floor is available at City Hall's west entrance. Hearing assistance is available in the Council Chambers and a receiver may be checked out through the clerk prior to the evening session. For additional accommodations, please contact J. Lynne Walker at 778-8200 in advance of the meeting. Thank you.

Publication date: Friday, November 22, 2013

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