



City Council Agenda Bill

20207

Bill Number

Subject: Consideration of a petition to vacate a portion of G Street between Roeder Avenue and West Maple Street 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 of Bellingham and Sanitary Service Company petition to vacate G Street between Roeder Avenue and W. Chestnut Street within the Waterfront District shown and described on Exhibit A 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 Exhibit D of the 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. Sanitary Service Company abuts the southern one-half of the subject right-of-way and intends to submit payment for said one-half.

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

Committee Actions:

Council Action:

Agenda Bill Contact:

Steven Sundin, Planner II, 778-8359


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



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 #VAC2013-00004

The Port of Bellingham and Sanitary Service Company (SSC) have petitioned for street vacations of G Street between Roeder Avenue and West Maple Street within the Waterfront District. The subject right-of-way is shown on EXHIBIT A of the Ordinance.

Total area of right-of-way petitioned for vacation is 13,318 square feet. The Port would retain the northwest ½ of the subject right-of-way and SSC would retain the southeast ½ of the subject right-of-way. (6,659 square feet to each) Currently the right-of-way is utilized for SSC's employee parking, equipment storage and operational areas.

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

1. This portion of G Street is 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.

Due to #2 and #3 above, the Planning Director determined that an appraisal was not necessary. However, an appraisal was conducted for park dedication purposes. The square footage in the Marine Trades subarea was appraised at \$8.00 per square foot as shown in the table labeled VAC2013-00004. SSC is prepared to pay \$53,272.00 for the southeast ½ of G Street abutting their property. (6,659 square feet x \$8.00 per square foot) A schematic of right-of-ways and park areas intended to be dedicated within the Waterfront District and the VAC2013-00004 table 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:

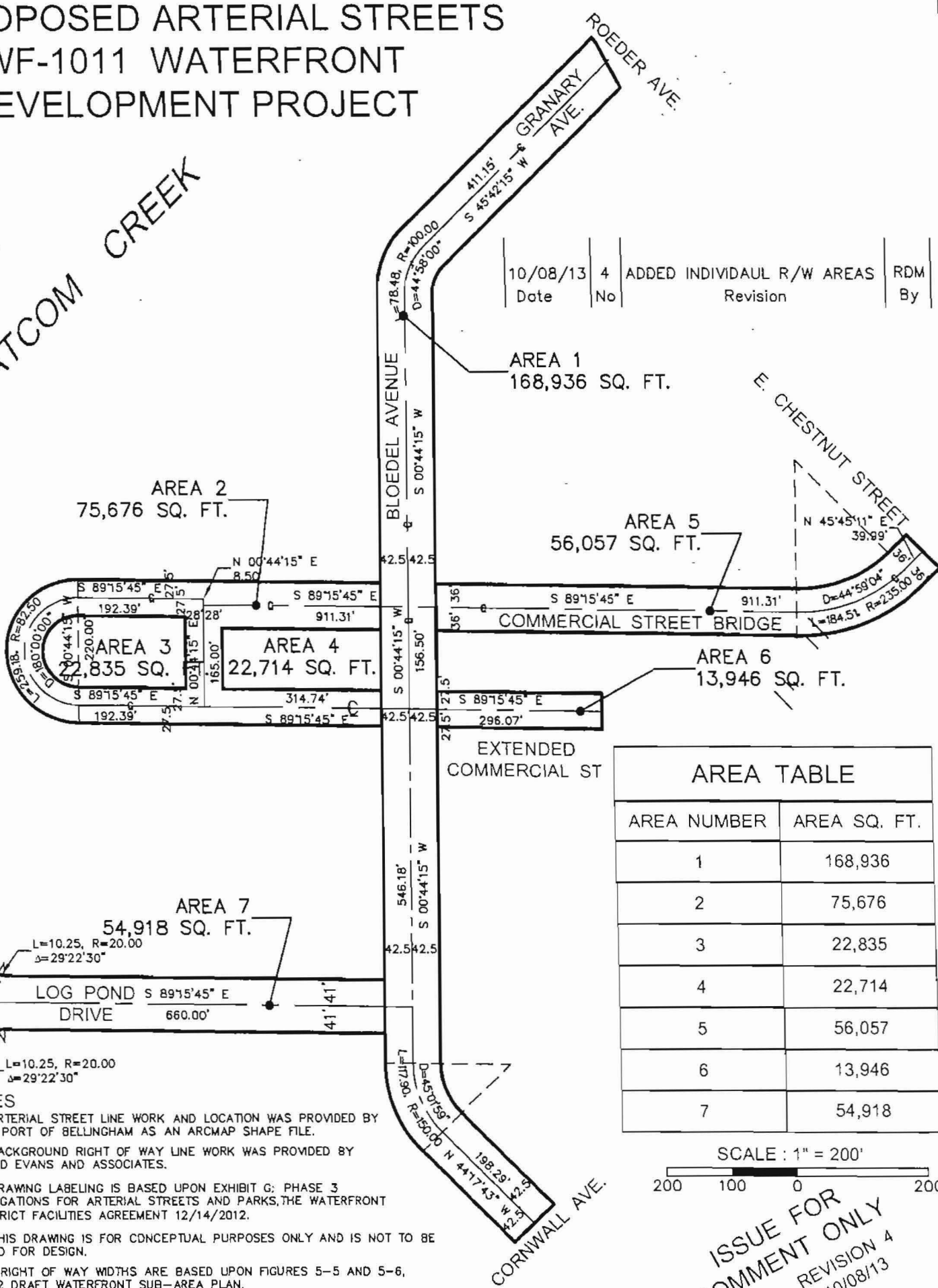
1. Payment for the southeast ½ of G Street (\$53,272.00) shall be submitted to the Finance Director; and
2. Approval of the Waterfront District Subarea Plan and Interlocal Agreement for Facilities that the City Council determines provides improved public access to Bellingham Bay and improved public circulation and that the dedication of land and right-of-way is of a value at least equal to the vacated right-of-way; and
3. Necessary easements for public and private utilities are retained.

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 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

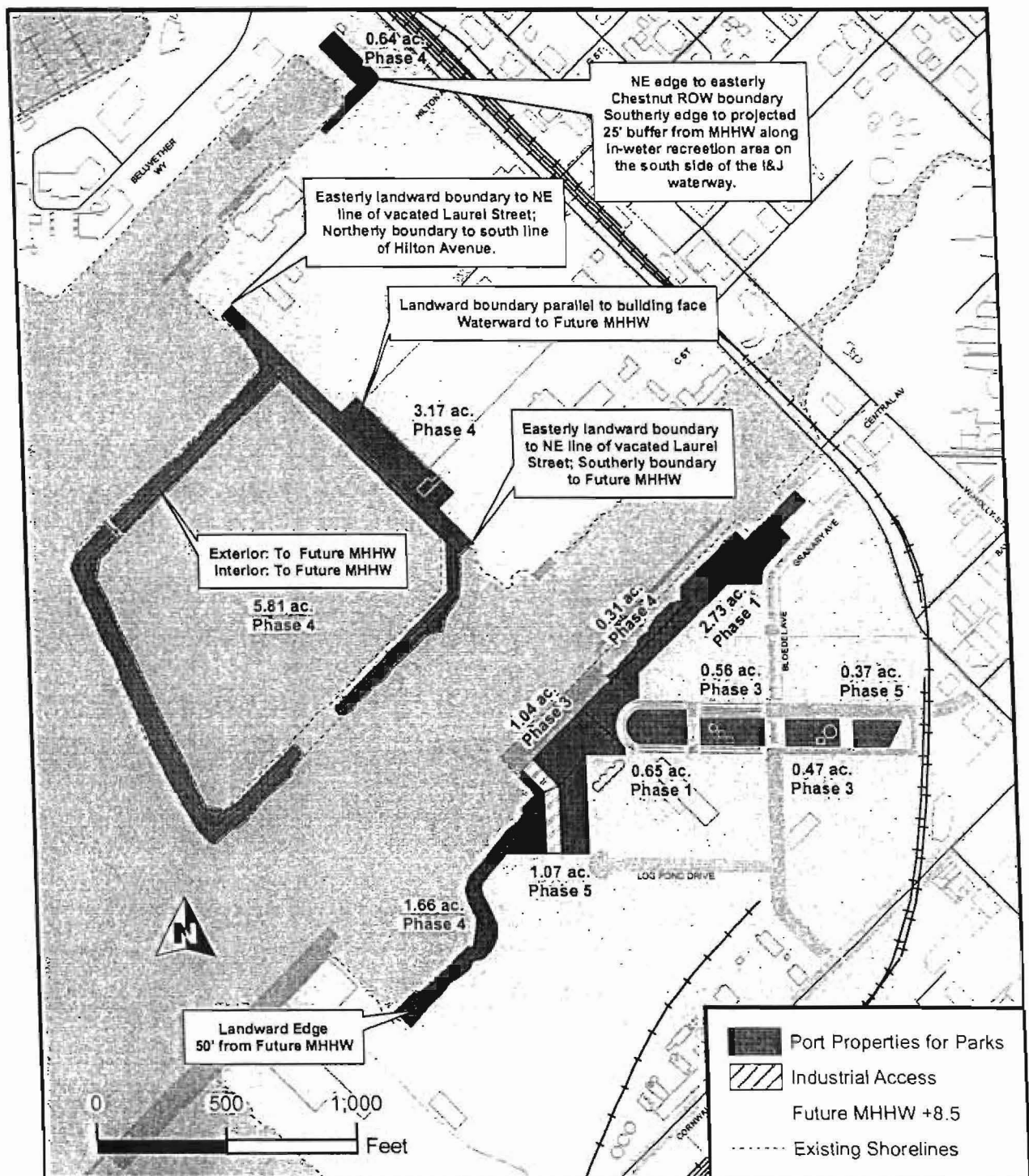
SCALE : 1" = 200'

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 CDNCEPTUAL 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



VAC2013-00004
G STREET

Waterfront District Proposed Street Vacations

Map Item #	Street Name	Deviation	SF	Note	Water Area SF	Lead Locks Present	Private Parcels	Adjacent Waterbody	RCW 35.79.035 Certification	Adjacent to Existing or Proposed Park	Method	Abutting Owner(s)	Island Value @ 2005 Marine Trades/Industrial Areas	Underwater Tidelands Value @ 02	Island Value @ 2005/1 Shoreline Area	Sum of Value
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 southwesterly line of Roeder Avenue and the southwesterly 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 southeasterly 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. Whittling blocks 227 and 229		9,997		0	N	N	NA	N		Normal Street Vacation		\$149,923	\$0		
W. Maple	Between the Southeasterly Line of D Street and the Northwesterly Line of the C Street		13,585		0	N	N	NA	N		Normal Street Vacation		\$108,680	\$0		
Part shares Abutting Ownership with SSC			76,030		38,735								\$468,808	\$77,470		\$546,278
G Street	Between the southwesterly line of Roeder Avenue and the Southwesterly line of vacated W. Chestnut St.		13,318	POB 1/2 SF	0	N	N	NA	N		Normal Street Vacation	SSC	\$106,544	\$0		
Harbor Areas - State Owned Aquatic Land			13,318		0								\$106,544	\$0		
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	\$81,576	\$0		
Central Street	Between the Inner Harbor Line and the Northeasterly line of Pine St.		43,034	90.15% Underwater Tidelands	38,795	N	Y	Y	N		Normal Street Vacation	DNR & Port	\$88,812	\$77,590		\$166,402
Oak St.	Between the northwesterly line of Army, the Inner harbor line and the southeasterly line of Central Ave.		15,579	Upland Characteristics Intersection with Central excluded	0	N	Y	Y	N		Normal Street Vacation	DNR & Port	\$176,632	\$0		
C Street	Between the Inner and Outer Harbor Lines		35,002	82.5% Underwater Tidelands	28,877	N	N	NA	Y		Normal Street Vacation	DNR & Port	\$48,000	\$57,754		\$105,754
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	\$42,048	\$59,582		\$101,630
E Street	Between the Inner and Outer Harbor Lines		35,075	89.27% Underwater Tidelands	31,311	N	N	NA	Y		Normal Street Vacation	DNR & Port	\$30,112	\$62,622		\$92,734
F Street	Between the Inner and Outer Harbor Lines		35,115	88.62% Underwater Tidelands	34,630	N	N	NA	Y		Normal Street Vacation	DNR & Port	\$3,680	\$69,260		\$72,940
Total ROW Vacation Petition Requested			240,288		169,394								\$615,180	\$326,788		\$941,968
			329,687	7.57	202,129								\$1,190,013	\$404,238		\$1,594,251
Phase 1 & 2																
A	Granary/Bloedel Ave.	Between Roeder Ave and Log Pond Area	137,147	3.15	0											\$3,428,675
B	Granary/Bloedel Ave.	Through Log Pond Area	37,280	0.74	0								\$258,140			
C	Commercial Street Green	From Granary/Bloedel to Interim Laurel	58,349	1.34	0											\$1,458,775
Subtotal Phase 1 & 2			227,776	5.23												\$5,145,640
D	Commercial Street Green	From Interim Laurel to life 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	6.63												\$5,732,190



DEDICATED SIZES

\$

\$

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: *VAC2013-00004*

GRANTOR(S): *City of Bellingham*

GRANTEE(S): *Port of Bellingham and Sanitary Service Company*

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

ABBREVIATED LEGAL DESCRIPTION: *Full width of G Street between the southwesterly line of Roeder Avenue and the southwesterly line of West Chestnut Street generally located within the Waterfront District.*

Please see EXHIBIT A for complete legal descriptions.

ORDINANCE NO. _____

AN ORDINANCE RELATING TO THE VACATION OF THE FULL WIDTH OF G STREET BETWEEN THE SOUTHWESTERLY LINE OF ROEDER AVENUE AND THE SOUTHWESTERLY LINE OF WEST CHESTNUT STREET 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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VAC2013-00004

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 delivered when specified square footage of development has been built; and

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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VAC2013-00004

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 is 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 five phase Waterfront District Redevelopment Project, the square footage of new right-of-ways dedicated by the Port will exceed the square footage of the right-of-ways vacated by the City; and

WHEREAS, the Port and Sanitary Service Company are the two abutting property owners; and;

WHEREAS, Sanitary Service Company currently uses the subject right-of-way for access into their site and for a portion of their employee parking; and

WHEREAS, the Port leases property abutting on the north side of the subject right-of-way to Sanitary Service Company for employee parking; and

WHEREAS, Sanitary Service Company desires to acquire the southern one-half of the subject right-of-way for continuance of their operations; and

WHEREAS, the total amount of right-of-way associated with this street vacation petition #VAC2013-00004 is approximately 13,318 square feet and is located within the Marine Trades sub area; and

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VAC2013-00004

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 for the northern one-half (30 feet) of the subject right-of-way that abuts Port property 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, an appraisal was obtained for the southern one-half (30-feet) of the subject right-of-way that abuts Sanitary Service Company's property; 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.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. The northern one-half (30-feet) of the subject right-of-way shown and as legally described on EXHIBIT A is hereby vacated 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 further 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.

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VAC2013-00004

Section 2. The southern one-half (30-feet) of the subject right-of-way shown and as legally described on EXHIBIT A is hereby vacated provided that the sum of \$53,272.00 is deposited to the City of Bellingham Finance Department by the petitioner abutting the southern one-half of the right-of-way (Sanitary Service Company) prior to 3rd and final reading of this ordinance.

Section 3. The Hearing Examiner Findings of Fact, Conclusions of Law and Recommendation shown on EXHIBIT D is hereby incorporated herein and adopted.

Section 4. 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 5. 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-way is the subject of the ILA and not this ordinance, except as provided in Section 2, above.

Section 6. No damage shall result to any person or persons or to any property by reason of the vacation of said right-of-way.

Section 7. Public or private utilities that are necessary to be relocated or repositioned shall be done at the sole expense of the petitioner.

Section 8. An easement for an existing city water main stub shall be retained as follows:

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- An area measuring 400 square feet (20-feet by 20-feet) within the northeasterly corner of the subject right-of-way abutting the southwesterly line of Roeder Avenue and the southeasterly line of G Street.
- Additional easements may be necessary for private utilities and / or facilities.

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

Council President

APPROVED by me this _____ day of _____, 2013.

Mayor

Attest: _____
Finance Director

Approved as to Form:

Office of the City Attorney

Published: _____

VAC2013-00004

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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

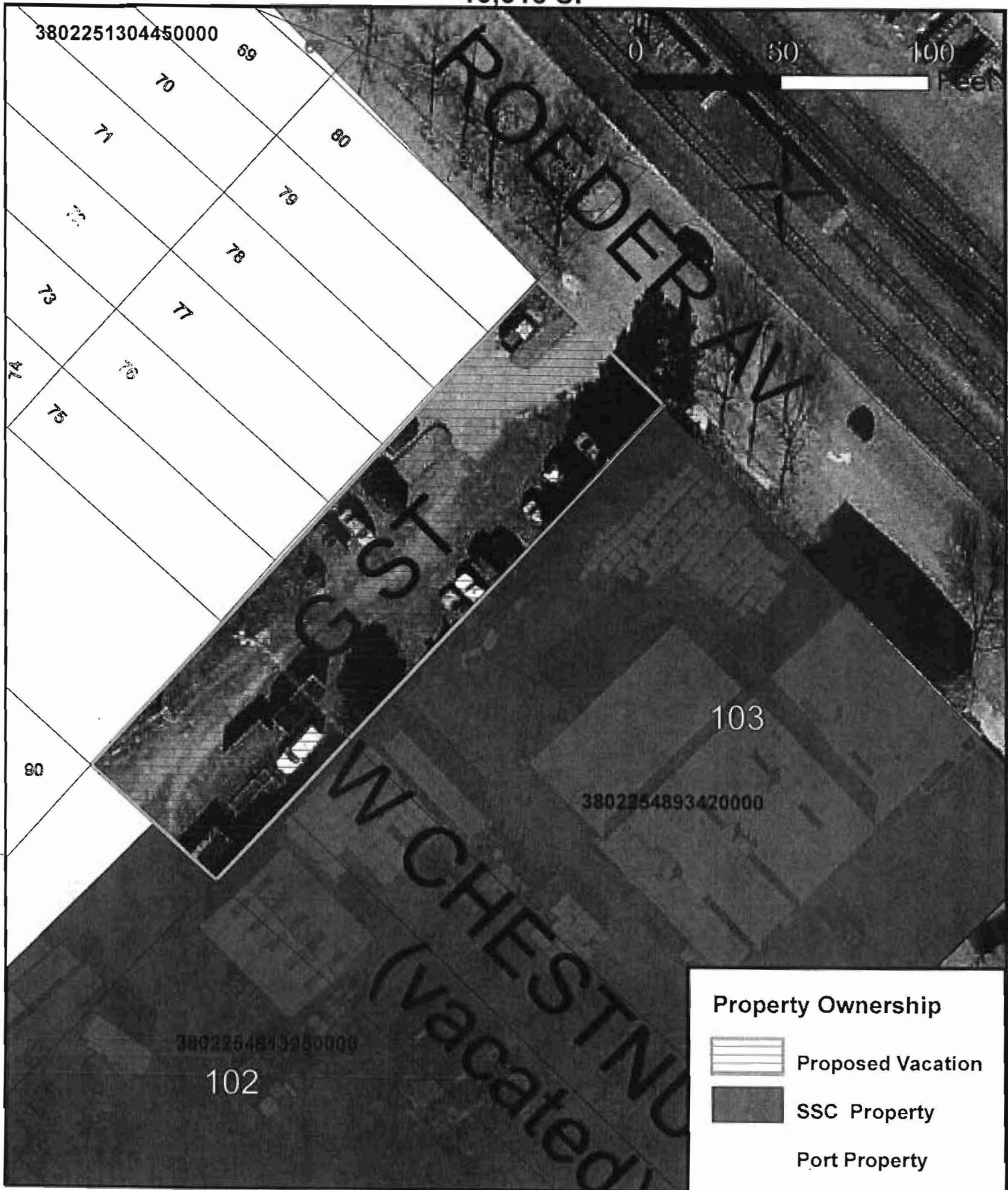
MY APPOINTMENT EXPIRES

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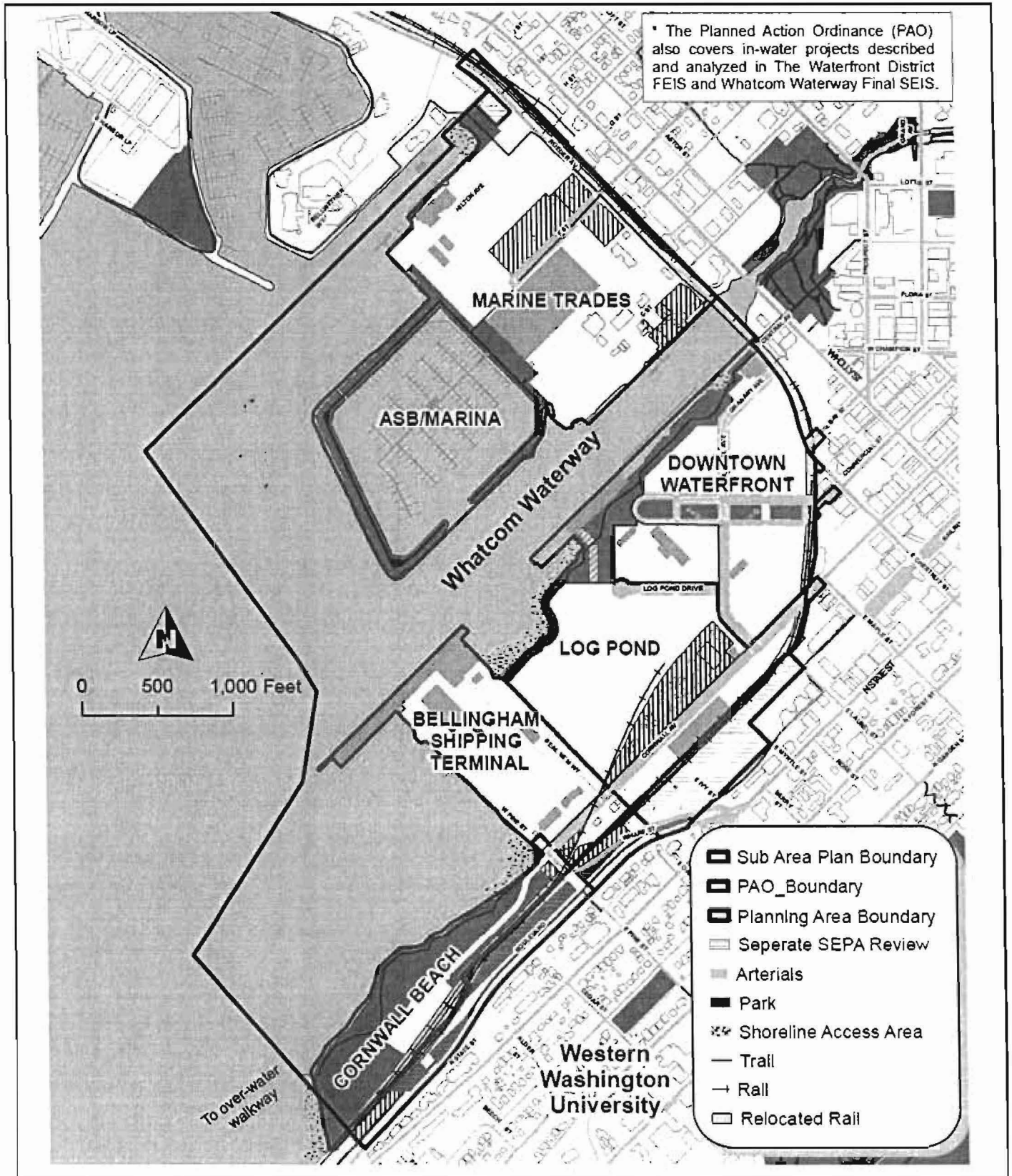
VAC2013-00004

Full Width (60') of G Street Right of Way
Between the southwesterly line of Roeder Avenue
and the southwesterly line of W. Chestnut Street
13,318 SF

EXHIBIT A



The Waterfront District Redevelopment Project 2012 EIS Addendum



Source: Port of Bellingham, 2012

Figure 2-1

**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	90,000	90,000
	Subtotal	1,690,000	1,500,000
Area	Land Use	Building Square Footage at Full Buildout	
		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	87,500	208,000
	Subtotal	2,217,500	2,833,000
Log Pond Area	Office/Industrial	465,000	250,000
	Housing	410,000	0
	Goods and Services	156,900	50,000
	Subtotal	1,031,900	300,000
Shipping Terminal Area	Office/Industrial	530,000	280,000
	Housing	120,000	0
	Goods and Services	33,600	20,000
	Subtotal	693,600	300,000
Cornwall Beach Area	Office/Industrial	10,000	10,000
	Housing	350,000	350,000
	Goods and Services	7,000	7,000
	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 220,500 south 570,500 Total	400,000 north 720,500 south 1,120,500 Total	450,000 north 1,220,500 south 1,670,500 Total	500,000 north 1,820,500 south 2,320,500 Total	700,000 north 2,420,500 south 3,120,500 Total	1,500,000 north 3,800,000 south 5,300,000 Total	1,500,000 north 3,800,000 south 5,300,000 Total

Source: Port of Bellingham, 2012.

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-036
PORT OF BELLINGHAM and SANITARY SERVICE COMPANY, Petitioners G Street between Roeder Avenue and West Chestnut Street	FINDINGS OF FACT CONCLUSIONS OF LAW AND RECOMMENDATION
VAC2013-00004 / Street Vacation	DAWN STURWOLD, HEARING EXAMINER

THIS MATTER came before the Bellingham Hearing Examiner for hearing on the Petition of the Port of Bellingham and Sanitary Service Company for the vacation of G Street between Roeder Avenue and West Chestnut Street.

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 proceeding was consolidated with the Records in VAC2013-00002 and VAC2013-00003. The record was held open until October 31, 2013 for additional written comments. Additional comments were received from Wendy Harris on October 31, 2013.

I. FINDINGS OF FACT

1. The Port of Bellingham and Sanitary Service Company petitioned for the vacation of G Street between Roeder Avenue and West Chestnut Street in Bellingham.

2. The subject right-of-way is located in Area 2B of the Central Business District and is designated Industrial, Heavy.

3. The subject right-of-way contains 13,318 square feet. It is 60 feet in width and is currently used by Sanitary Service Company for parking, access and operational facilities.

4. The proposed vacation is included as a part of the proposed New Whatcom/Waterfront District Redevelopment Project.

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

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

7. The Bellingham Planning Commission issued Findings of Fact, Conclusions and Recommendation for approval of the Waterfront District documents in June 2013. These documents and the Planning Commission Recommendation are currently under review by the Bellingham City Council. The documents are also currently being reviewed by the Bellingham Port Commission.

8. The Proposed Inter-local Agreement allocates responsibility for phased implementation of facility development, defines the timing of property transfers between the Port and the City, and establishes a process for on-going management of

1 the Waterfront District Project. This Agreement would provide for the transfer of land
2 from the Port to the City in exchange for the proposed vacations.

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

5 10. Notice of the proposed vacation was sent to private utility providers on October
6 1, 2013. Puget Sound Energy has notified the City that it has facilities within portions
7 of the right-of-way. Retention of easements for City water and sewer and existing
8 utilities is recommended.

9 11. Notice of Public Hearing on the proposed vacation was issued on October 2,
10 2013.

11 12. The Technical Review Committee (TRC) has reviewed the vacation petition and
12 has determined that the subject right-of-way is not necessary for the future circulation
13 needs of the city because it is not currently used for public transportation circulation and
14 implementation of the proposed Waterfront District Sub Area Plan and Inter-local
15 Agreement will provide for dedication of significant amounts of right-of-ways that will
16 serve the circulation needs for the area.

17 13. BMC 13.48 provides for petitions, hearings, notice, appraisal and payment for
18 street vacations. In this case, the Director of the Planning and Community
19 Development Department determined that an appraisal was not necessary for the north
20 half of the right-of-way which abuts Port property because the Petitioner proposed
21 dedications of right-of-ways in an amount in excess of the proposed vacations in
22 exchange for the vacation. An appraisal was obtained for the south half of the right-of-
23 way abutting Sanitary Service Company property. Sanitary Service Company is
24 prepared to pay fair market value for the vacation.

25 14. RCW 35.79 governs street vacations in cities. It provides procedural
26 requirements and restricts vacations of streets abutting bodies of water and in cases
27 where a majority of abutting property owners object to the vacation.
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29 15. City Vacation Policies are set forth in the Staff Report.
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1 16. Public comment was received from Wendy Harris. She objected to the proposed
2 vacation on several grounds, including the lack of specific information regarding the
3 future dedications intended to compensate for the vacation of the subject right-of-ways,
4 the lack of involvement of the Lummi Nation in the process, that the vacations are
5 premature until the Waterfront District Sub Area Plan is adopted, that there is still
6 controversy regarding several elements of the proposed plan, including public access
7 around the log pond and the Aerated Stabilization Basin (ASB) facility, that the public
8 trust doctrine and State vacation laws prohibit vacation of streets abutting or under
9 water regardless of whether there is current public access to them, that scenic vistas and
10 wildlife habitat should also be considered before vacating streets, and that determining
11 the public benefit to a vacation involves more than just compensation, it requires a
12 broader determination of what the public gets in return for what it is giving up. She also
13 expressed concern that public interests were being lost to private ownership through
14 these vacations.
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16 17. The proposed vacation will not land-lock any parcel. The abutting parcels will
17 maintain access to Hilton Avenue and Roeder Avenue.

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

19 19. Staff indicates that the proposed vacations are part of the proposed Waterfront
20 District Sub Area Plan that the Council will consider concurrently with the vacations.
21 The proposed Inter-local Agreement indicates that the street vacations are anticipated,
22 that the effective date of the vacations will be the date of approval of the Sub Area Plan
23 and related agreements, and that new right-of-ways will be dedicated or transferred
24 consistent with the terms of the Plan and Agreement.

25 20. The subject right-of-way is not adjacent to and does not lead to any park, open
26 space, view, natural area, or any other attraction.

27 21. The subject right-of-way does not currently serve the public good for circulation
28 purposes or for public access to the water. The proposed vacation is for the purpose of
29 implementing a proposed plan which will provide better circulation, connecting to
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1 existing streets and transportation networks, and serving the development expected
2 within the Waterfront District. The proposed Plan also provides for public access,
3 parks, views and habitat. The vacation also allows the abutting property owner to
4 obtain control of the land which is currently used in the operations of the property
5 owner's business. The Port will continue to lease the property to the north, including
6 the north half of the right-of-way, to Sanitary Service Company.

7 22. The proposed vacation will serve the public good.
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10 II. CONCLUSIONS OF LAW

11 1. Procedural requirements for the proposed vacations have been satisfied.

12 2. The proposed vacations are not prohibited by RCW 35.79. All of the abutting
13 property owners have signed the vacation petition. The right-of-way proposed for
14 vacation does not abut a body of water. The vacation is proposed as part of a plan that
15 would provide improved public access to the same shoreline area, Bellingham Bay.

16 The plan would be adopted concurrently with the proposed vacations.

17 3. The proposed vacation is consistent with City Vacation Policies.

18 4. The City Council determines the fair market value of the subject right-of-way
19 and the land/right-of-ways proposed to be dedicated/transferred in exchange, and the
20 amount to be paid for the vacation.

21 5. Public comment raised valid concerns regarding the proposed Waterfront
22 District Sub Area Plan and Inter-local Agreement and their relationship to the proposed
23 vacations and transfers. Some of the points raised are beyond the scope of the hearing
24 on the vacation petition and are more appropriately considered as part of the review and
25 adoption of the plan/agreement itself. For purposes of this vacation petition it is
26 sufficient to determine that the vacation is sought to implement a plan that is adopted by
27 the Council prior to, or concurrent with adoption of the vacation ordinance, that will
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1 provide improved public access to the shoreline, in addition to consistency with the
2 City's adopted vacation policies.

3 6. The subject right-of-way should be vacated subject to payment of the appraised
4 value for the south half of the right-of-way and adoption of the Waterfront District Sub
5 Area Plan and Inter-local Agreement providing for the dedication/transfer of right-of-
6 ways/land that will improve both public access to the shoreline and transportation
7 circulation to and for the district, and a determination by the City Council that the value
8 of land transferred or dedicated in exchange for the vacation is at least equivalent to the
9 vacated right-of-way.
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11 III. RECOMMENDATION

12 The proposed vacation is recommended for approval subject to the following:
13 1) payment for the south half of the right-of-way as determined by appraisal; 2)
14 concurrent approval by the City Council of a Waterfront District Sub Area Plan and
15 Inter-local Agreement which the Council determines provides for improved public
16 access to Bellingham Bay and improved transportation circulation, and
17 transfer/dedication of land/right-of-way of a value at least equivalent to the vacated
18 right-of-way; and 3) retention of utility easements for City utilities and existing private
19 utilities.
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21 ENTERED this 8th day of November 2013.
22

23
24
25 BELLINGHAM HEARING EXAMINER

26 

27
28 Dawn Sturwold
29



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.

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