



# Attachment G

*Superintendent*

Greg Baker

*Board of Directors*

Kelly M. Bashaw

Douglas W. Benjamin

Camille Diaz Hackler

Jenn Mason

Katie Rose

November 18, 2022

Bellingham City Council  
210 Lottie St.  
Bellingham, WA 98225

To the Members of the Bellingham City Council,

The Bellingham School District is initiating this formal petition to vacate an alley currently bisecting the Columbia Elementary School property. This is for preparation for design and site planning for future construction of a new elementary school. The design portion of this project utilizes money allocated by a bond passed by the City of Bellingham voters in 2022.

The alley in question is located between Lots 1-8 and Lots 9-16, Block 299, Supplemental Map of Whatcom, in the Columbia Neighborhood. The current Columbia Elementary School, built in 1925, sits over a portion of this unvacated alley. The alley is not used for any public access or utilities (the school grounds are fenced off at the property lines).

The intent of the Bellingham School District to work with City staff to clear title prior to the redesign of Columbia Elementary School. Vacation of the remaining alley will unencumber the entire site allowing greater design options for the future school.

District staff and legal counsel have reviewed the City's currently adopted Street Vacation Policy document (attached) and prepared responses to each of the policies for consideration during review. These are provided in the attached pages. We also request Council consider this right of way vacation petition without the need for financial compensation due to the nature of the existing condition, the historical use by the district, and the current and future use of the property as an elementary school. Furthermore, the alley is not needed nor is it currently used for the city's road or utility infrastructure.

Thank you for your consideration and continued support of our School District's modernization efforts.

Sincerely,

Brian Smart, Capital Projects Manager  
Bellingham School District No. 501

## CITY COUNCIL ADOPTED STREET VACATION POLICIES

### Bellingham School District Responses

It is the policy of the City of Bellingham to grant vacation of a street right of way when it is determined both that such right of way is not needed presently or in the future for public access (including vehicular, pedestrian, and visual access) and that such vacation advances the public good. All of the following policies should be met prior to the vacation of a right of way.

1. The proposed vacation should be determined to be necessary to the public good either in terms of needed development or when such vacation will result in a better or more desirable situation. In some instances, a more desirable situation may be a better road pattern in terms of safety, or when an exorbitant amount of land is devoted to unneeded right of way.

***District response: The vacation of the alley is necessary to the public good in terms of needed development as it would allow for a non-portioned development parcel for a future elementary school rebuild. When Columbia Elementary School was built in 1925 the alley was, for reasons unknown, never vacated and the current building built on top of a portion of the City's alley way. Both Jefferson Street and the southern portion of the alley were vacated. This petition includes vacation of that portion of the alley north of Jefferson Street, and all easements associated with it, in preparation for design and construction of a new Columbia Elementary School in accordance with the District Bond approved by Bellingham voters in 2022.***

2. The right of way must be determined to be of no value to the circulation plan of the City either now or in the foreseeable future. The circulation plan is assumed to include vehicular, pedestrian, or other modes of transportation.

***District response: The alley way has no value to the circulation plan of the city as it has been within the Columbia Elementary School site for nearly 100 years. The surrounding streets are all improved with curbs, gutter, and sidewalk. Alleys in the surround area are all improved for use by neighborhood homes. There is no access, pedestrian, bicycle, or vehicular, to school grounds taken from this alley.***

3. No vacation will be allowed if such action land locks any existing parcel, lot of record, or tract. Access to a right of way of less than 30 feet in width does not constitute adequate access. One ownership of all the lots on a right of way does not circumvent this policy and in this it will be necessary to vacate lots prior or together with vacation action.

***District response: Lots 1-16 of Block 299 of the Supplemental Map of Whatcom were bound together by a Covenant to Bind document dated July 3, 1990, under Whatcom County Auditor's File No. 900709011. The District property is bound on all sides by fully improved public right of ways.***

4. State law (R.C.W. 35.79.035) "(1) A city or town shall not vacate a street or alley if any portion of the street or alley abuts a body of fresh or salt water unless: (a) The vacation is sought to enable the city or town to acquire the property for port purposes, beach or water

access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses; (b) The city or town, by resolution of its legislative authority, declares that the street or alley is not presently being used as a street or alley and that the street or alley is not suitable for any of the following purposes: Port, beach or water access, boat moorage, launching sites, park public view, recreation, or education; or (c) The vacation is sought to enable a city or town to implement a plan, adopted by resolution or ordinance, that provides comparable or improved public access to the same shoreline to which the street or alleys sought to be vacated abut, had the properties included in the plan not been vacated. ...".

***District response: The site does not abut any fresh or salt waterbody, the alley is not suitable for any port, beach or water access, boat moorage, launching site, park public view, recreation, or education.***

5. Right of way adjacent or leading to any park, open space, view, natural area, or any other natural or man-made attraction should not be vacated.

***District response: The requested alley way does not lead to any park, open space, view, natural area, or any other natural or man-made attraction.***

6. Notification of street vacation requests will be sent to the Planning Commission. The Commission may choose to schedule review of street vacations that have significant issues related to land use and the implementation of the Comprehensive Plan. The Commission will hold a public meeting and make a recommendation to the City Council on these vacations.

***District response: The District would be happy to present its case to the Planning Commission if such a public meeting is determined to be warranted.***

7. The petition should contain the approval of all the abutting property owners and proof of ownership must accompany the petition.

***District response: Bellingham School District abuts all sides of the alley as the legal owner, see Covenant to Bind document dated July 3, 1990, under Whatcom County Auditor's File No. 900709011.***

8. Vacation is not mandatory even though 100% of the abutting owners request the vacation.

***District response: Understood.***

9. Proposed or possible use of the vacated right of way is not relevant to City action (court opinion).

***District response: In this case the right of way petition is to clear up an existing use. However, it is highly likely due to space constraints that the future school will also be located on and over the alley. The current and future use as an elementary school is not relevant to a City action.***

10. Easements for utilities will be retained as a matter of procedure unless vacation of such easement is specifically requested by the petitioners and approved by the City Engineer.

***District response: Vacation of all such easements is specifically requested by the petitioner to allow for clear title over the existing District facilities and for any future elementary school construction.***

11. The following may be accepted by the City Council as appropriate trade for a Street Vacation: Payment, land, or major improvements to public facilities. In all cases, fair market value of the right of way and of the item to be traded shall be established. Proposed public improvements shall be reviewed and recommended by the affected City Department(s), and shall exceed the established value of the right of way proposed for vacation. Provision of such compensation or departmental approval of proposed improvements does not mandate street vacation approval by the City Council or Mayor.

***District response: The District intends to design a new, replacement Elementary School on this property in accordance with the recently approved bond passed by City of Bellingham voters. This school is a major public facility and neighborhood improvement, and as such, easily offsets the value of the underlying land.***