

**RECORD OF PROCEEDINGS OF
THE HEARING EXAMINER
CITY OF BELLINGHAM**

HYBRID HEARING

WEDNESDAY, JULY 12, 2023

6:00 P.M.

CITY COUNCIL CHAMBERS

CALL TO ORDER: The hybrid hearing of the Hearing Examiner was called to order.

ROLL CALL: Staff Members Present: Anya Gedrath, Planner II
Steve Sundin, Senior Planner
Recording Secretary: Kristina J. Bowker

1. **VAC2023-0001: A public hearing to consider a Street Vacation Petition for the platted alley traversing the Columbia Elementary school north to south within Block 299 of the Supplemental Map of the Town of Whatcom. Public, School zoning designation. Brian Smart, Capital Projects Manager, petitioner; Bellingham School District 501, owner. Columbia Neighborhood, Area 5.**

Hearing Examiner – Calls to order the land use calendar. She is an attorney who works as a Hearing Examiner for 10 jurisdictions up and down the I-5 corridor. Appointed by the City Council as the presiding official. This hearing is being conducted both virtually on Zoom and in-person in the City Council Chambers. All staff and applicants are panelists and members of the public are invited to attend as they choose. All members of the public are Zoom attendees, until the public comment period. City staff prepared participation instructions for this virtual hearing. This is the one fact-finding hearing to determine the evidence that the decision will be based upon. The hearing is being video and audio recorded in the Zoom platform. Zoom participants will keep their audio muted, until they are called upon to testify. Please silence your phones, speak slowly and clearly, and make verbal references to any exhibits (ie: the exhibit number and description). If there are any disruptions, the audio will be muted and/or removed from the meeting if necessary. The chat function has been disabled. It will not be part of the legal record, but it is part of the public record and subject to disclosure. If we become disconnected for any reason, try to reconnect to the original meeting invite, and then check your email for a new email. If we are unable to reconnect, then we will notify everyone of a new hearing as soon as possible.

Land use hearings are required to appear be fair and be fair. She is an impartial decision maker with no personal or professional interests in Bellingham. She is not a City of Bellingham employee. The applicant bears the burden of proof and must demonstrate that the criteria have been met. If anyone has grounds to challenge her impartiality, you must bring it up at tonight’s hearing at your earliest opportunity. Permits are not approved by consensus or popularity, but by demonstration of evidence that the permit criteria can be satisfied. Try to focus your testimony on the approval criteria. Testimony tonight will be in the following order: the applicant, then the City’s presentation, then the

public comment, at the conclusion of comment, staff/applicant will respond. Please state and spell your name prior to testifying. She will swear in staff and those wishing to comment individually. If you are listening by phone and want to testify, then you will need to do so during the public comment period. She will issue a written decision in 10 business days from the close of the record. She will go over the post-hearing schedule at the conclusion of the hearing.

We are holding this hearing on behalf of the City Council. She will issue a recommendation to them and they will make the final decision.

The Planning Staff report is labeled as Exhibit 1 with Attachments A – J. They are admitted in the record.

STAFF OPENING STATEMENT:

Anya Gedrath, Planner II (sworn in) – Tonight’s request is to vacate an approximately 4,000 square-foot platted alley which traverses Columbia Elementary School north to south. The school’s address is 2508 Utter Street. The school is currently encumbered by the alleyway and so the Petitioner is requesting to clear titles on the underlying parcels. The subject property is in area 5 of the Columbia Neighborhood, which has a Public zoning and School use qualifier. The subject right-of way fully abuts the school property. There are no other abutting property owners. There’s no public or private utilities within the right-of-way.

APPLICANT PRESENTATION:

Brian Smart, Capital Projects Manager, Bellingham School District, (sworn in) – Columbia Elementary was built a very long time ago. They are trying to do advanced planning for remodeling the school in the future. The vacation will allow them to have open design possibilities for a new school. In the last bond, voters approved design dollars for three new elementary schools and Columbia is one of them. They want to clean up the site of any old easements. When we are ready to build, they want to be clear of anything that would impact a clean design process. They are grateful that the City Council has agreed that the school district won’t have to pay the full market value because of the services that they provide to the community. They have reviewed the staff report, all the public comments and agree to all the recommended conditions. City staff have been very helpful in this process.

STAFF PRESENTATION:

Anya Gedrath, Planner II (sworn in) – They received eight public comments in response to the notice, two of which were from utility providers. The other comments seemed to have confusion of what a street vacation is, that it would impact abutting property owners, or allow a change of use from a school. We are transferring this alley from public to private property for future school planning. The vacation does not abut any private property. TRC recommended approval for the vacation because the alley isn’t needed for any purpose by the City, and determined that an appraisal was required but the school will not be required to pay due to their public benefit. Staff also reviewed the proposal for compliance with the City’s street vacation policies. She recommends approval with three conditions.

Hearing Examiner – Condition No. 3 reads that compensation shall be provided for the right-of-way as established by City Council. Does that suggest that they might have to pay?

Anya Gedrath – It is up to City Council to determine compensation and that’s why it is included as a condition.

PUBLIC HEARING OPENED

PUBLIC TESTIMONY:

No public comments.

PUBLIC HEARING CLOSED

Anya Gedrath – Nothing further.

Brian Smart – The public seems satisfied with the answers provided in the presentation. Perhaps we could provide a site plan on the public notice so folks could better understand the location.

Hearing Examiner – Anyone else for the School District want to say anything?

Curtis Lawyer, Director of Capital Projects, Bellingham School District (sworn in) – Just wanted to add a bit of timeline information. The school was originally built in 1925 but not on the alley in question here. Additions in 1946, 1957 and 1980 are over-top of this alley.

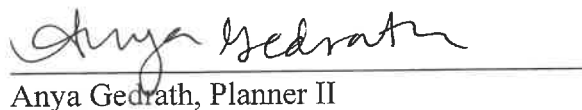
Hearing Examiner – She will take the full record under advisement and issue a recommendation to the City Council for their final decision. The post-hearing schedule is as follows: the record will be held open until the end of business on the 14th, two business days for public comments due to technical/access issues. If no public comments, then the decision will issue on July 28th. If there are post-hearing comments, then the record will close on July 18th and decision on August 1st.

ADJOURN: 6:45 PM

Prepared by:


Kristina J. Bowker, Assistant to the Hearing Examiner

Reviewed by:


Anya Gedrath, Planner II