

**VAC2024-0001: List of Exhibits**

EXHIBIT 1	Planning and Community Development Department Staff Report including the following Attachments:
Attachment A	Aerial photo of Vacation Area and Abutting Properties owners
Attachment B	Vacation Petition
Attachment C	Zoning Map
Attachment D	Utilities Map
Attachment E	TRC Letter to Applicant
Attachment F	Appraisal Summary
Attachment G	Old Town Subarea Plan
Attachment H	Cascade Natural Gas response letter
Attachment I	Resolution approving hearing date
Attachment J	Notice of Public Hearing, mailing list and affidavit of mailing
Attachment K	Photos of posted notice and affidavit of posting
Attachment L	Access easement
Attachment M	Draft Ordinance

**CITY OF BELLINGHAM  
HEARING EXAMINER STAFF REPORT  
February 26, 2025**

**PROJECT NO.: VAC2024-0001**

**PETITIONER: GABE ROGEL**

**OWNER: City of Bellingham, 210 Lottie Street, Bellingham, WA 98225**

**REQUEST**

The petitioner has petitioned the City of Bellingham to vacate Army Street right-of-way between W. Holly Street and Roeder Ave., abutting their property 315 W. Holly Street, 401 W. Holly Street and Assessor's parcel number 3803300751940000, except that portion of the Army Street right-of-way abutting the Burlington Northern Santa Fe owned property, as shown in **Attachment A**.

The petitioner intends to combine the vacated street, hereafter "right-of-way," with their abutting property at 315 W. Holly Street and then complete a lot line adjustment with the owners of 401 W. Holly Street (Holly Street Bi LLC) and Assessor's parcel number 3803300751940000 (Martha Bray) to develop the right-of-way with a surface parking lot in conjunction with the development of a recreation facility and residential units at 315 W. Holly St. The other abutting property owners signed the street vacation petition application and submitted a letter stating their willingness to complete a lot line adjustment with the petitioner pending City Council's approval of the vacation (**Attachment B**).

**GENERAL INFORMATION**

- A. General location: The right-of-way is between W. Holly St. and Roeder Ave. and abuts properties addressed 315 W. Holly St., 401 W. Holly St., parcel numbers 3803300751940000 and 3803300661940000, and Railroad right-of-way (**Attachment A**). The right-of-way is in Area 5 of the City Center Neighborhood, Old Town urban village (overlay district), with a commercial zoning designation (**Attachment C**).
- B. Vacation Area: Approximately 15,000 square feet.
- C. Right-of-Way Description: The right-of-way is partially improved with gravel and a steep slope abutting W. Holly Street that is vegetated with shrubs and trees. There are public sewer and stormwater mains in the right-of-way, as well as a Cascade Natural Gas pipeline and facilities, that generally extend from W. Holly St. (northeast) to Roeder Ave. (southwest) and the sewer main also extends southeast across 315 W. Holly St. Vehicle access to the right-of-way is from Central Ave. via a private access easement. See **Attachment D**.
- D. Abbreviated legal description: Platted Army Street Abutting Blocks 6 and 8, Town of New Whatcom, Except Those Portions Abutting the Railroad Right-of-way and Lot 175, New Whatcom Tidelands, Whatcom County, Washington.

**STAFF / TRC RECOMMENDATION**

**City Staff and the Technical Review Committee (TRC) recommend approval of the vacation petition with conditions. The TRC letter is provided in Attachment E.**

1. The petitioner paid the street vacation petition fee on September 18, 2024, and provided responses to the applicable criteria Section 13.50.110 BMC. The petition and responses are in **Attachment B**.
2. An appraisal has been conducted and fair market value for the right-of-way has been established (**Attachment F**).
3. The petitioner is required to deposit the appraised value of the subject right-of-way prior to the public hearing before the hearing examiner. In the event city council does not approve the vacation, the deposited amount (exclusive of the application, public hearing, and appraisal fees) shall be refunded to the petitioner.
4. Easements for the public stormwater and sewer main, and private Cascade Natural Gas main and facilities in the subject right-of-way will be retained. The petitioner may elect to relocate and/or reconfigure the mains in coordination with the Public Works Department and/or Cascade Natural Gas and necessary easements would be similarly retained. (Relocation and/or reconfiguration would be the sole responsibility of the petitioner.)
5. In accordance with the Old Town Subarea Plan (**Attachment G**), and to comply with Section 13.50.110(A)(5) Bellingham Municipal Code (BMC), the petitioner shall dedicate a view easement over the right-of-way to maintain a view to the waterfront from W. Holly St.

**CHRONOLOGY**

On March 13, 2024, the TRC reviewed the subject vacation petition and recommended approval of the vacation with conditions. On June 25, 2024, the TRC letter was provided to the petitioner.

On August 19, 2024, the petitioner submitted a complete street vacation petition, in accordance with Section 13.50.040 BMC and on September 18, 2024, paid the street vacation petition fee of \$4,131.00.

On September 26, 2024, the Planning and Community Development Department (PCDD) provided notification to private utility providers regarding the subject petition. Private utility companies were given at least ten days to respond. The PCDD received a response from Cascade Natural Gas Corporation (CNG) stating that they have facilities in the right-of-way, and they require a minimum 20-foot easement for the pipeline (10' on either side of the pipeline, as surveyed) and potentially additional easements for other facilities in the right-of-way (**Attachment H**). The city assured CNG and notified the applicant that easements for their facilities would be a condition of the street vacation.

On January 13, 2025, the City Council approved Resolution No. 2025-03 via the consent agenda setting the Hearing Examiner public hearing date of February 26, 2025, at 6:00 PM. (**Attachment I**).

On January 21, 2025, the office of the hearing examiner sent notice of the public hearing to city staff, the petitioner, property owners within 500' of the subject property, the Cascadia Daily, the Mayor's Neighborhood Advisory Committee members and Neighborhood Association Representatives (**Exhibit J**). It was also posted in City Hall, Downtown branch of the city library and at the Whatcom County Courthouse. This meets the minimum requirement of at least twenty days prior to the hearing.

On January 22, 2025, PCDD staff posted two public notice signs on the site. A copy of the public notice, photographs of the posted site and affidavit of posting are provided in **Attachment K**.

## **PUBLIC COMMENT**

At the time of this staff report, no public comments were submitted in response to the notice of the public hearing.

## **CRITERIA FOR GRANTING A STREET VACATION**

Refer to the applicant's narrative for their justification of the vacation in **Attachment B**.

In accordance with Section 13.50.110 BMC, "The decision on a vacation petition is a legislative determination by city council based upon the complete record from the public hearing before the hearing examiner including the hearing examiner's findings of fact, conclusions of law, and recommendation. The city council may, in its discretion, vacate a street or alley governed by this chapter if," the following criteria are determined to be met:

1. The vacation is in the public interest; and

**STAFF RESPONSE:** The proposed vacation provides an opportunity for the petitioner to include vehicle parking for new housing and commercial recreation in the Old Town urban village. The vacation is supported by the city's Old Town Subarea Plan which states, "This (*Army Street*) right-of-way could be vacated in order to develop parking as long as the view corridor to the waterfront area remains." The city conditioned the TRC recommendation on the applicant maintaining a public view easement over the right-of-way.

2. The subject right-of-way is not currently necessary for transportation or other right-of-way purposes, nor likely to be in the future. Transportation purposes are assumed to include vehicular, pedestrian, and other forms of transportation; and

**STAFF RESPONSE:** The TRC determined that the unimproved subject right-of-way is not necessary for existing or future vehicular or pedestrian circulation needs within the immediate vicinity. The lower portion of the right-of-way is used as informal vehicle parking, and the abutting property owners that use the right-of-way are in support of the proposed vacation. The Old Town Subarea Plan has a recommendation that the city support a vacation petition for Army Street, pending that a view easement is maintained from the W. Holly St. grade over the right-of-way to preserve potential future views to Bellingham Bay.

There are existing mature trees in the right-of-way, mostly on the steep slope abutting W. Holly St. Any request to remove or prune the subject trees will be reviewed by the city for compliance with the Critical Areas Ordinance, Chapter 16.55 BMC.

3. No existing parcel, lot of record, or tract will be denied all access as a result of the vacation of the subject right-of-way; and

**STAFF RESPONSE:** No portion of the right-of-way is used for access to any of the abutting lots and no parcel, lot of record or tract will be denied all access as a result of the vacation. In addition, all properties abutting the right-of-way are party to an access easement agreement from Central Ave. to the right of way (**Attachment L**).

4. If any portion of the street or alley abuts a body of fresh or salt water, the requirements of BMC [13.50.120](#) are met; and

**STAFF RESPONSE:** No portion of the subject right-of-way abuts a body of fresh or salt water.

5. The street or alley is not adjacent or leading to any park, open space, view, natural area, or other natural or artificial attraction.

**STAFF RESPONSE:** With the recommended view easement condition, that is consistent with the Old Town Plan, the vacation petition is consistent with this criterion.

In accordance with Section 13.50.110(B) BMC, “The city council may consider any other fact or issue that is part of the record from the public hearing it deems relevant when deciding whether to vacate a street or alley, including, but not limited to, the street or alley’s proposed use after vacation.”

**STAFF RESPONSE:** The applicant’s proposed use of the right-of-way for formalized surface parking for the proposed development of 315 W. Holly St., is like the existing use of the right-of-way and the vacation is recommended in the Old Town Subarea Plan (**Attachment G**). See the petitioner’s application for more information about the intended use of the right-of-way to support the proposed development of housing and commercial recreation uses at 315 W. Holly St. (**Attachment B**).

## **ENVIRONMENTAL EVALUATION**

The subject vacation does not require SEPA review pursuant to WAC 197-11-800 (2) (i).

## **APPLICABLE SECTIONS OF THE BELLINGHAM MUNICIPAL CODE**

Chapter 13.50 BMC: Street Vacations, except Section 13.50.120

The TRC determined that an appraisal was required. An appraisal was conducted by Gustafson and Associates on November 24, 2024. The appraisal concluded that the fair market value of the subject right-of-way is \$83,000. The petitioner is the sole benefactor of the subject right-of-way and therefore is required to pay the full amount of the appraised fair market value. The appraisal summary is provided in **Attachment F**.

## **STAFF CONCLUSION & RECOMMENDATION:**

Staff conclude that the subject vacation petition is consistent with the vacation criteria in Section 13.50.110 BMC and recommends approval of the proposed vacation with the following conditions being satisfied:

1. Prior to setting a date for the closed record hearing before the City Council, a legal description of the proposed vacation area and exhibits necessary for the street vacation ordinance shall be completed by a licensed surveyor and submitted to the city for review and approval.
2. Easements for the public sewer and stormwater mains within the right-of-way shall be retained in coordination with the Public Works Department. If said public utilities are to be relocated and/or reconfigured, they shall be done so solely at the petitioner’s expense.

3. A view easement within the right-of-way shall be established in coordination with the PCDD.
4. Prior to setting a date for the closed record hearing before the City Council, an easement(s) for Cascade Natural Gas within the right-of-way shall be fully executed.
5. Compensation shall be provided for the subject right-of-way as established by the City Council.

Prepared by:



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Lindsay Kershner, Planner II  
PCDD

Approved by:



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Steve Sundin, Senior Planner  
PCDD