

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

HYBRID HEARING

WEDNESDAY, FEBRUARY 26, 2025 6:00 P.M. CITY COUNCIL CHAMBERS & ZOOM

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

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

1. VAC2024-0001: A public hearing to consider a Street Vacation Petition for Army Street between W. Holly Street and Roeder Avenue, except that portion abutting the Burlington Northern Santa Fe (BNSF) owned property. The subject right-of-way is generally 80 feet wide and 278 feet long (except for the portion abutting BNSF property) for a total area of 19,320 square feet and is in the Old Town Urban Village. The Petitioner intends to combine the right-of-way with the abutting property at 315 W. Holly Street and develop the property with surface parking in conjunction with a climbing gym and housing. Gabe Rogel, Petitioner. Commercial land use designation. City Center Neighborhood, Area 5.

Hearing Examiner – Calls to order the land use calendar. She is an attorney who works as a Hearing Examiner for 9 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 recommendation to City Council 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/petitioner 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 petitioner, then the City's presentation, then the public comment, at the conclusion of comment, staff, then the petitioner will respond. Please state and spell your name for the record 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 recommendation to City Council in 10 business days from the close of the record. She will go over the post-hearing schedule at the conclusion of the hearing.

The Planning Staff report is labeled as Exhibit 1, along with Attachments A – M. Those are admitted into the record.

STAFF CONTEXT STATEMENT:

Lindsay Kershner, Planner II (sworn in) – The request is to vacate most of the Army Street right-of-way between W. Holly Street and Roeder Avenue. It is in Area 5 of the City Center Neighborhood and has a commercial zoning designation. There are existing City and private utilities in the right-of-way that will have to be retained if the vacation is approved. Vehicle access is through Central Avenue via a private access easement that benefits the abutting properties, including the Petitioner's property at 315 W. Holly Street (Attachment L).

PETITIONER PRESENTATION:

Gabe Rogel (sworn in) – First time doing this. He has been planning a good-sized climbing gym with 36 lofts on top for five years. The Old Town Subarea Plan supports the vacation. This will be used for surface parking and maintain the water views. All the utility easements will be maintained and stay in place.

Hearing Examiner – Discuss the Condition to obtain a boundary line adjustment?

Gabe Rogel – The halves adjacent to each property go to each respective owner. He has relationships with each of them to purchase their parcels. After the vacation would happen, the boundary line will show his ownership.

Hearing Examiner – Do you anticipate moving the natural gas line or sewer private utility easements?

Gabe Rogel – No plans to move any of the utilities. He has been in communication with Cascade Natural Gas to move their box over 15' or so.

Hearing Examiner – Any questions or concerns about the recommended conditions?

Gabe Rogel – Nothing further for now.

STAFF PRESENTATION:

Lindsay Kershner, Planner II (already sworn in) – The City’s TRC recommended approval with conditions. It meets the City’s street vacation criteria in BMC 13.5. It is supported by the Subarea Plan for the Old Town Urban Village. It is consistent with the Comprehensive Plan.

If approved, the new property line would be down the center of the Army Street right-of-way, so Mr. Rogel would have to apply to adjust the lot line to retain control over the whole parcel. That would be a Type I application process that is approved administratively. Mr. Rogel has submitted documents from the abutting owners (Martha Bray and Holly Street LLC owners) showing their approval.

Hearing Examiner – Discussion of the appraisal, at Attachment F?

Lindsay Kershner – She did not intend for the full appraisal to be in the record, just the executive summary.

Hearing Examiner – Attachment L, has three checks at the end?

Lindsay Kershner – They are part of the easement document. Confirmation that they were paid.

PUBLIC HEARING OPENED

PUBLIC TESTIMONY:

Alex McLean, 1009 32nd Street (sworn in) – He has fixated on right-of-ways for about the last five years. He has been engaged with Public Works to inventory every unimproved right-of-way in Bellingham to see if there were any multimodal opportunities. With the mention of the view corridor. He would like to see language to preserve that view corridor in case the property would ever change hands. Is there a way to preserve some of the greenery or trees at the top part of this parcel? It would be super cool if there was a 20 – 30’ setback for stormwater, aesthetics or a future public plaza. The project looks super cool. This endeavor has been long anticipated as part of the Old Town rejuvenation. He would like to see a zip line from the top of the building to the parking lot!

PUBLIC HEARING CLOSED

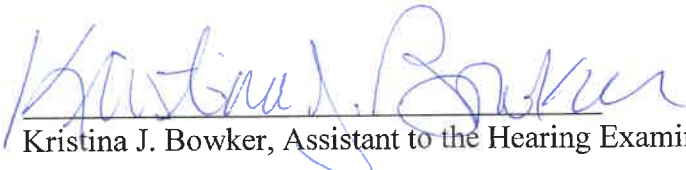
Lindsay Kershner – The Old Town Subarea Plan talks about maintaining the view over the Army Street right-of-way to the Bay to the west. That has been incorporated into the street vacation. A view easement will be at the elevation of W. Holly Street looking west. There are quite a few mature trees on the steep slope. That is considered a land slide hazard area, so any removal of those trees would have to go through a critical area permit, BMC 16.55. The development right now should not require removal of all of the trees. The City cannot require a zip line, although that would be fun addition.

Gabe Rogel – Right now the proposal is for a parking lot. They would have to move the sewer line in order to build a parking garage below W. Holly Street. That’s not in the

current plans. They don't have tree removal plans at this point in the development. If there were any tree removal it would go through the City's process.

Hearing Examiner – She will take the full record under advisement and issue a recommendation to the City Council. The post-hearing schedule is as follows: The record is held open two business days through Friday, February 28th for post-hearing written public comment from people who were not able to testify at hearing due to technology or access issues, and Applicant's response to materials that came in today. If no post-hearing comment, the 10-business day decision deadline is March 14th. If yes, we get post hearing comment, responses by Staff and Applicant are due by March 4th, and the 10-business day decision issuance deadline would be March 18th. Ms. Bowker will email those details to all the participants. No further documents.

ADJOURN: 6:40 PM

Prepared by: 
Kristina J. Bowker, Assistant to the Hearing Examiner

Reviewed by: 
Lindsay Kershner, Planner II