

2010303138

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ORD \$15.00

Whatcom County, WA

Request of: BELLINGHAM CITY OF

AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham – Planning and Community Development
210 Lottie Street
Bellingham, WA 98225

Reserved for Recording Purposes Only

DOCUMENT TITLE: *Adams Street Vacation - Ordinance*

GRANTOR: *City of Bellingham*

GRANTEE: *William Hansen*

ABBREVIATED LEGAL DESCRIPTION: *A portion of Adams Avenue abutting Cook's Add To Fairhaven, Block 4, Lots 1 – 10, less and except the northerly sixty (60) feet lying east of the east line of 40th Street and west of the west line of the 40th Street/41st Street alley.*

ASSESSOR'S TAX/PARCEL NUMBER: 370305 007424

ORDINANCE NO. 2001-02-005

AN ORDINANCE RELATING TO THE VACATION OF A PORTION OF ADAMS AVENUE ABUTTING COOK'S ADD TO FAIRHAVEN, BLOCK 4, LOTS 1 – 10, LESS AND EXCEPT THE NORTHERLY SIXTY (60) FEET LYING EAST OF THE EAST LINE OF 40TH STREET AND WEST OF THE WEST LINE OF THE 40TH STREET/41ST STREET ALLEY, AS SHOWN IN EXHIBIT A, ALL SITUATED WITHIN THE CITY OF BELLINGHAM; FINDING AND ADJUDGING THAT NO DAMAGE ACCRUE TO ANY PERSON OR PROPERTY BY REASON THEREOF, SUBJECT TO RESERVATION OF RIGHTS FOR EASEMENTS, AND UTILITIES MOVED SHALL BE MOVED AT THE EXPENSE OF THE PETITIONER.

WHEREAS, the Technical Review Committee has considered the petition of William Hansen for the vacation of Adams Avenue, less and except the northerly sixty (60) feet lying east of the east line of 40th Street and west of the west line of the 40th Street/41st Street alley.

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 676-6903

WHEREAS, the Hearing Examiner has heard this petition and recommends granting this vacation with the findings of fact and conclusions of law as attached as Exhibit B and that the City Council adopts these findings of fact and conclusions of law,

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. That a portion of Adams Avenue abutting Cook's Add To Fairhaven, Block 4, Lots 1 – 10, less and except the northerly sixty (60) feet lying east of the east line of 40th Street and west of the west line of the 40th Street/41st Street alley, as shown in Exhibit A, attached, is hereby vacated.

Section 2. That said vacation is subject to reservation of rights to the City of Bellingham for easements. Any utility to be moved shall be moved at the expense of the petitioner.

Section 3. That no damage will result to any person or persons or to any property by reason of the vacation of said property.

Section 4. That the Petitioner has paid \$2,392.20, which is one half of the adjacent assessed valuation.

Section 5. If the provisions of Title 18 (as amended) involving the subdivision of land which is substandard in size are invoked for the property, then the applicant shall pay the difference between the value of the vacated City right of way as established by this Ordinance and the value of the new lots as determined by an appraisal paid for by the applicant and commissioned by the City of Bellingham.

PASSED by the Council this 5th day of February, 2001.


Council President

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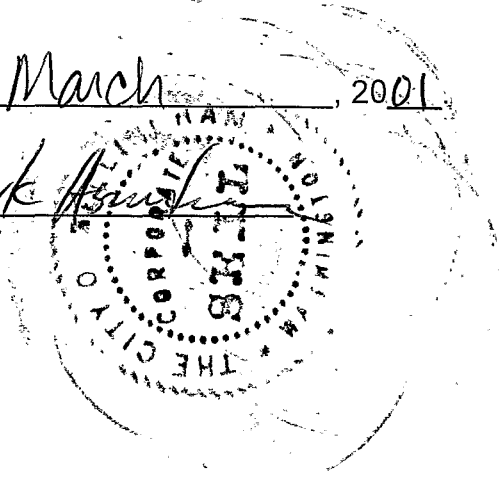
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Request of: BELLINGHAM CITY OF

APPROVED by me this 16th day of March, 2001

Mark Adams
Mayor



ATTEST: Therese Holm
Finance Director

APPROVED AS TO FORM:

Joan Hoisington
Office of the City Attorney

Published: 2/9/2001

I, **THERESE HOLM, Director, Finance Department** of the City of Bellingham, do hereby certify that the payment of \$2,392.20, discussed in Section 4, above, has been made.

Therese Holm
THERESE HOLM, Director, Finance Department

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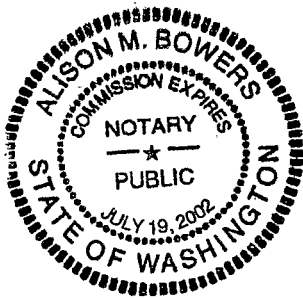
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STATE OF WASHINGTON)
) ss
COUNTY OF WHATCOM)

I CERTIFY that I know or have satisfactory evidence that Mark Asmundson, Mayor, signed this instrument, on oath stated that he is authorized to execute the instrument and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

March 16, 2001
DATED



A. M. Bowers
SIGNATURE OF NOTARY PUBLIC

ALISON M. BOWERS
Name Printed

Notary Public
TITLE

7/19/2002
MY APPOINTMENT EXPIRES

Exhibit A
Exhibit B

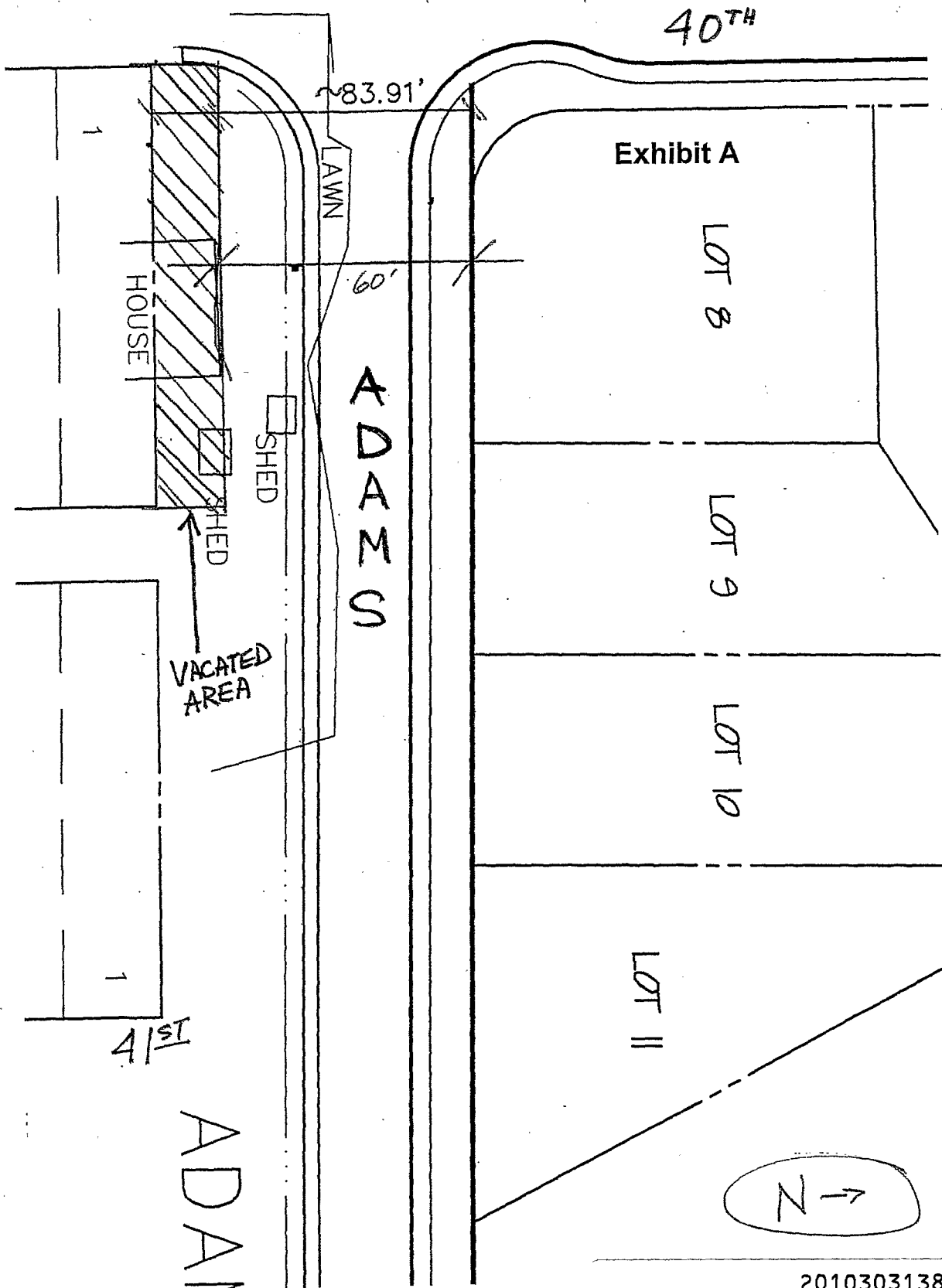
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BEFORE THE BELLINGHAM HEARING EXAMINER

Exhibit B

IN RE
VAC2000-00003
WILLIAM HANSEN
ADAMS AVE. AT 40TH ST.
STREET VACATION

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND RECOMMENDATION

This matter came before the Bellingham Hearing Examiner for hearing on the 1st day of November, 2000 on the application of William Hansen for the vacation of the southerly 23.91 feet of Adams Avenue east of the east line of 40th Street and west of the west line of the 40th Street/41st Street alley.

Testimony was received from Jackie Lynch, Bellingham Planning Department, and Cape Powers, Bellingham Public Works Department.

Documents considered include: Staff report dated November 1, 2000 and attachments, vicinity maps, aerial photograph, 2 letters from Jackie Lynch to William Hansen dated September 27, 2000, valuation calculations, street vacation petition dated September 6, 2000, memorandum from Bellingham Public Works—Parcel Report, Fax from AT&T Cable Services to Jackie Lynch, plat map, July 17, 2000 letter from Puget Sound Energy to Jackie Lynch, Treasurer's Deed dated November 25, 1965, Warranty Deeds dated August 2, 1946, 2000 Property Tax Statement, Appraisal from David C. Berry dated September 1, 2000, and Memorandum from Chuck Robinson to Jackie Lynch dated September 22, 2000.

FINDINGS OF FACT

1. William Hansen is the owner of property located at 601 40th Street in Bellingham. This property abuts Adams Avenue on its north side, 40th Street on its west side and the alley between 40th and 41st Streets on its east side. The property is legally described as lots 1-10, Block 4, Cook's Addition to Fairhaven and is approximately 28,750 square feet in area.
2. The Hansen property is located in the Samish Neighborhood, Area 5. This area is designated Residential-Single, detached, cluster, 20,000 square feet minimum lot size. Special conditions include clearing, view, minimize impervious surfaces and traffic. A prerequisite consideration is development of a comprehensive water drainage plan for the area.
3. Land to the north and east of the Hansen property is heavily wooded, but is currently experiencing new development. Adams Avenue is being constructed adjacent to and east of this property.
4. In the course of surveying and constructing Adams Avenue for the Lazy E development located immediately to the north it was discovered that all or a portion of the house and outbuildings for the Hansen residence were located within the southerly portion of the Adams Avenue right-of-way.

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5. Adams Avenue is approximately 83.91 feet in width adjacent to the Hansen property. Only 60 feet is needed for traffic circulation and utility purposes. There are no known utilities in the area proposed for vacation.
6. This property is located at the top of the drainage basin, so it is unlikely that additional right-of-way will be needed in this location for water quality purposes.
7. Vacation of the southerly 23.91 feet of Adams Avenue will not necessarily result in the creation of any additional lots. However, with the vacation of approximately 2750 square feet of right-of-way the total parcel will include approximately 31,500 square feet and could allow for discretionary approval of a one and one-half rule subdivision to create an additional lot, pursuant to Bellingham Municipal Code 18.36.020(A)(4)(c). These discretionary determinations are now made by the Hearing Examiner, upon short plat application, subject to appeal to the City Council. The potential to create an additional lot increases the value of vacated right-of-way.
8. The City will require a slope easement over the portion of Adams Avenue right-of-way requested for vacation.
9. Staff calculated the value of the proposed street vacation based on the assessed valuation of the abutting property at \$1.74 per square foot for a total value of the approximately 2749.65 square feet of proposed vacation of \$4,781.64. One-half of this value is \$2,392.20. This amount has been deposited by the applicant.
10. An appraisal of the 23.91 x 115 foot strip of right-of-way performed by David C. Berry of Wm. T. Follis Realtors, dated September 1, 2000 determined a market value for this strip of \$2.00 per square foot, or \$5500. One-half of that amount is \$2750. This appraisal does not include valuation for potential lot creation.
11. The City Vacation Policy adopted by the City Council is set forth on pages 2 and 3 of the Staff Report.
12. This right-of-way does not abut on a body of fresh or salt water. It does not currently lead to a park, open space, view, natural area or attraction which is not equally accessible from the remaining portion of the Adams Avenue right-of-way.
13. One hundred percent of the owners abutting the portion of right-of-way sought to be vacated have requested the vacation. No person has protested the vacation. No public comment or testimony was received regarding this application.
14. City staff has recommended that the vacation be approved provided a minimum of sixty feet of right-of-way remains, that a slope easement be maintained on the northerly 10 feet of the vacated area, and that the northerly line of the vacation be established as the line which is 60 feet south of the northerly line of Adams Avenue.

CONCLUSIONS OF LAW

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1. The portion of the Adams Avenue right-of-way south of a line sixty feet south of the north line of Adams Avenue, adjacent to the Hansen property is not needed now or in the future for vehicular, pedestrian or visual access and is not needed for the circulation plan of the city in the foreseeable future.
2. No parcel would be landlocked by the requested vacation.
3. The vacation is not prohibited by state law.
4. The proposed vacation is necessary to the public good in that it conveys ownership of the land under the applicant's residence to the applicant and the right-of-way is not needed for city street or utility purposes. The vacation will result in a better situation in property ownership patterns and disposes of unnecessary excess right-of-way.
5. Easements for utilities are retained as a matter of procedure unless the easements are specifically requested by the petitioner and approved by the City Engineer.
6. The Bellingham Municipal Code provides that the petitioner for a street vacation should pay one-half of the appraised value of the vacated right-of-way. Because an appraisal was performed and submitted for the proposed vacation, even though it was not required or ordered by staff, and the valuation established by the appraisal is recent and consistent with the assessed valuation, but slightly higher, the value of the vacated street should be established by the appraisal.
7. The vacation should be granted subject to the reservation of easements, retention of a slope easement on the northerly 10 feet of the vacated area, establishment of the legal description of the street vacation such that a minimum of sixty feet of right-of-way remains and the payment of one-half of the appraised value for the vacated area.

RECOMMENDATION

The vacation of Adams Avenue east of the east line of 40th Street, west of the west line of the 40th/41st Streets alley and south of the line sixty feet south of the north line of Adams Avenue, abutting the petitioner's property, should be granted, subject to utility easements, the retention of a slope easement on the northerly ten feet of the vacated area in a form acceptable to the City Attorney and Public Works Director, and the payment of one-half of the appraised value of \$2.00 per square foot for the vacated area. If the Council wishes to exclude consideration of additional lot creation utilizing the density in the vacated right-of-way that exclusion should be made a specific condition of the street vacation.

ENTERED THIS 29TH DAY OF NOVEMBER, 2000.

BELLINGHAM HEARING EXAMINER


Dawn Sturwold

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