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Page: 1 of 9
12/30/2004 9:55 AM
ORD \$27.00
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: East North Street Vacation Ordinance
REFERENCE NUMBER OF RELATED DOCUMENT: VAC2004-00002
GRANTOR(S): City of Bellingham
GRANTEE(S): City of Bellingham
ABBREVIATED LEGAL DESCRIPTION: Portion of East North Street, generally between Xenia and Yew Streets.
ASSESSOR'S TAX/PARCEL NUMBER(S): N/A

ORDINANCE NO. 2004-12-086

AN ORDINANCE VACATING A PORTION OF EAST NORTH STREET ABUTTING PROPERTY LEGALLY DESCRIBED AS LOT 1, G. O'BRIEN SHORT PLAT AND LOT 1, BLOCK 1, WEST EUREKA ADDITION TO WHATCOM, ALL SITUATE WITHIN THE CITY OF BELLINGHAM, SUBJECT TO RESERVATIONS OF RIGHTS OF EASEMENTS BY THE CITY FOR UTILITIES.

EastNorthStreet.ord (1)

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

WHEREAS, the Technical Review Committee has considered the petition of Garrett O'Brien and Debra Olberg (hereafter "petitioners") for the vacation of said portion of East North Street; and

WHEREAS, on August 25, 2004, the Hearing Examiner held the public hearing on the petition. Based on the hearing and the written record, the Hearing Examiner adopted Findings of Fact and Conclusions of Law, and Recommendation (HE-04-PL-050). The recommendation was to vacate that described portion of East North Street with conditions; and

WHEREAS, on October 18, 2004, the City Council held a closed record hearing to consider the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation; and

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. The City adopts the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation, attached as **Exhibit A**, as its final decision. The portion of East North Street abutting properties legally described as Lot 1, G. O'Brien Short Plat and Lot 1, Block 1, West Eureka Addition to

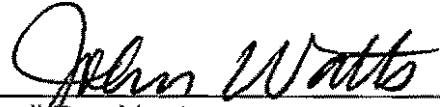
Whatcom is hereby vacated subject to the Hearing Examiner's conditions found in **Exhibit A**.

Section 2. The vacation is hereby subject to reservation of rights to the City of Bellingham and all existing holders of easements, whether or not recorded, for all public and private utilities. Any utility to be moved in the future shall be moved at the expense of the petitioners.

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


Section 4. Petitioners shall pay the City \$19,125.00 (one-half the appraised value of the property) for the street vacation. This amount has already been paid to the City of Bellingham Finance Director.

PASSED by the Council this 6th day of December, 2004.

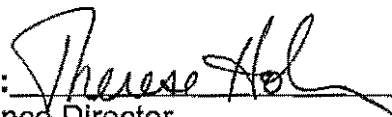


Council President

APPROVED by me this 9th day of December, 2004.

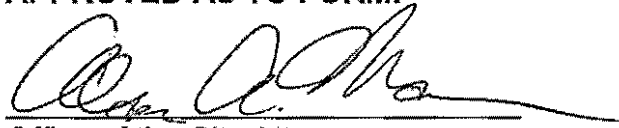


Mayor

ATTEST: 

Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

Published: December 10, 2004

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EXHIBIT A

**THE HEARING EXAMINER OF THE CITY OF BELLINGHAM
WHATCOM COUNTY, WASHINGTON**

IN RE:	HE-04-PL-050
GARRETT O'BRIEN and DEBRA OLBERG, Petitioners East North Street at Yew Street	FINDINGS OF FACT CONCLUSIONS OF LAW AND RECOMMENDATION
VAC2004-00002 / Street Vacation	DAWN STURWOLD, HEARING EXAMINER

THIS MATTER came before the Bellingham Hearing Examiner for hearing on the 25th day of August 2004 on the petition of Garrett O'Brien and Debra Olberg for the vacation of a portion of East North Street between Yew Street and Xenia Street in Bellingham .

Testimony was received from Kathy Bell, Bellingham Planning and Community Development Department; and Garrett O'Brien, petitioner.

In addition to the Bellingham Municipal Code and Comprehensive Plan the following documents were considered as part of the record: See Exhibit List.

I. FINDINGS OF FACT

1. Garrett O'Brien and Debra Olberg petitioned for the vacation of a portion of East North Street located between Yew and Xenia Streets, abutting properties located at 2529 and 2601 Yew Street.

1 2. The subject right-of-way is the boundary between Areas 1 and 6 in the
2 Roosevelt Neighborhood. Area 1 is designated Residential-Multi, Duplex,
3 3,600 square feet per unit, 7,200 square feet minimum detached lot size for
4 single-family. Area 6 is designated Residential-Single, Detached, 7,200 square
5 feet minimum detached lot size.

6 3. Garrett O'Brien owns the property abutting the subject right-of-way to
7 the north, in Area 6. He has filed a short subdivision application to create two
8 lots on this parcel. The proposed vacation would provide adequate land area to
9 achieve the proposed density.

10 4. The subject right-of-way is approximately 60 feet by 127 feet, or 7,620
11 square feet in area. It contains an existing, 12-foot wide gravel driveway that
12 serves the abutting property to the south and public and private utilities.

13 5. East North Street to the west of the subject site, between Xenia and
14 Woburn Streets, was vacated in 1988.

15 6. The Technical Review Committee has reviewed the proposed vacation.
16 It recommends that the vacation of East North Street, between Yew Street and
17 the alley between Yew and Xenia Streets be approved, subject to conditions,
18 including retention of easements for public and private utilities over the entire
19 vacated right-of-way; retention of an easement for the existing driveway; and
20 payment in an amount to be determined by the City Council.

21 7. The subject right-of-way is not needed for current or future circulation
22 purposes. East Connecticut and East Maryland Streets provide adequate east-
23 west circulation alternatives for the immediate area.

24 8. The proposed vacation is consistent with the policies of the
25 Comprehensive Plan and Growth Management Act to provide for infill
26 development and accommodate projected population growth within urban areas.

27 9. The City's Vacation Policy is set forth in the city staff report, Exhibit 1-
28 1.
29
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1 10. No parcels would be land-locked by the proposed vacation.

2 11. The subject right-of-way does not abut or lead to a body of water, park,
3 open space, view, natural area or other attraction.

4 12. All of the abutting property owners have petitioned for the proposed
5 vacation.

6 13. An appraisal of the value of the subject right-of-way was performed by
7 Wm. T. Follis, Jr. He concluded that the value of the subject site is \$38,250,
8 based on a per square foot value of approximately \$6.75 for 5,060 square feet of
9 the site, and 25% of that per square foot value for the remaining 2,540 square
10 feet of area subject to easements.

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13 II. CONCLUSIONS OF LAW

14 1. The proposed vacation is consistent with the city's Vacation Policy, the
15 Bellingham Municipal Code and Comprehensive Plan and state law.

16 2. The City Council determines the value of the right-of-way to be vacated
17 and the amount to be paid for the vacation, up to 100% of the value.

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19 III. RECOMMENDATION

20 The proposed vacation of that portion of East North Street abutting property
21 legally described as Lot 1, G. O'Brien Short Plat and Lot 1, Block 1, West Eureka
22 Addition to Whatcom is recommended for approval, subject to the following conditions:

23 1. Easements for existing and future public and private utilities, including,
24 but not limited to stormwater management, shall be retained in the entire
25 vacated right-of-way.

26 2. An access easement shall be retained over the portion of the right-of-way
27 containing the existing driveway serving the property to the south.

28 3. All easements and a precise description of the right-of-way to be
29 vacated, in conformance with these conditions, shall be submitted for review
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and approval of the Public Works Department prior to final consideration of a vacation ordinance.

4. Payment shall be required in an amount to be determined by the City Council.

ENTERED this 9th day of September 2004.

BELLINGHAM HEARING EXAMINER



Dawn Sturwold

August 25, 2004 Hearing Examiner Agenda Item No. 1

VAC2004-00002

Street Vacation application of Garrett O'Brien and Debra Olberg regarding E. North Street

Exhibit List

- 1-1 Staff Report by Kathy Bell, Planner II
- 1-2 Aerial Photograph
- 1-3 Vacation Proposal (Planning Exhibit A)
- 1-4 - Legal Description (Planning Exhibit B)
- 1-5 Letter from Kathy Bell dated 5/5/04 and Short Subdivision Application (Planning Exhibit C)
- 1-6 Ordinance No. 9767 (Planning Exhibit D)
- 1-7 TRC Recommendations (Planning Exhibit E)
- 1-8 Letter from Wm. T. Follis, Jr. dated 6/15/04
- 1-9 Notice of Public Hearing
- 1-10 Appraisal
- 1-11 Color Photographs and Vicinity Map
- 1-12 Drawing of Proposed Construction
- 1-13 Resolution No. 2004-23