



AFTER RECORDING RETURN DOCUMENT TO:

City of Bellingham - Planning Department
210 Lottie Street
Bellingham, WA 98225

DOCUMENT TITLE: *Street Vacation Ordinance*

REFERENCE NUMBER OF RELATED DOCUMENT: VAC2021-0002

GRANTOR(S): *City of Bellingham*

GRANTEE(S): *City of Bellingham*

ASSESSOR'S TAX/PARCEL NUMBER(S): *The subject right-of-way abuts parcel numbers 380211-165469-0000, 380211-231475-0000 and 380211-200375-0000.*

ABBREVIATED LEGAL DESCRIPTION: PTN STUART RD DED BAKERVIEW BELLINGHAM ADD CITY BELLINGHAM 2/1938 VOL 7 PGS 40 THRU 45 MORE PARTICULARLY DESCRIBED AS FOLLOWS: PORT STUART RD. LY BTWN W LN BLK 37 AND 40 EXT AND CL BAKERVIEW ADD AND CL BENNETT RD. (Complete legal description on Exhibit A)

ORDINANCE NO. 2021-09-034

AN ORDINANCE RELATING TO THE VACATION OF THE FULL WIDTH OF STUART ROAD ABUTTING PARCEL NUMBERS 380211-165469-0000, 380211-231475-0000 and 380211-200375-0000 IN BELLINGHAM.

WHEREAS, on February 24, 2021 the City's Technical Review Committee considered and recommended approval of the petition to vacate the subject right-of-way as described on EXHIBIT A and shown on EXHIBIT B, which are attached hereto and incorporated herein;
and

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 778-8270

WHEREAS, the Hearing Examiner held a virtual public hearing on the subject petition on June 9, 2021 at 6:00 PM; and

WHEREAS, the Hearing Examiner recommended approval of the subject vacation petition with the findings of fact and conclusions of law as attached hereto and incorporated herein as EXHIBIT C, and the City Council adopts these findings of fact and conclusions of law, and;

WHEREAS, an appraisal was not conducted to determine the amount of compensation necessary to vacate the subject right-of-way because the City is the petitioner and owner in fee of the three abutting parcels, 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 subject right-of-way as described on EXHIBIT A and shown on EXHIBIT B is hereby vacated and the Hearing Examiner's Findings of Fact, Conclusions of Law and Recommendation as provided on EXHIBIT C, is hereby incorporated herein and adopted.

Section 2. Easements for public and private utilities such as water, sewer and stormwater shall not be retained within the subject right-of-way.

Section 3. No damage shall result to any person or persons or to any property by reason of the vacation of said right-of-way.

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VAC2021-0002


Section 4. No compensation shall be required for the vacated right-of-way, as the City is the petitioner and abutting property owner of the vacated right-of-way.

PASSED by the Council this 13th day of September, 2021.



Hannah Stone, Council President

APPROVED by me this 24 day of September, 2021.

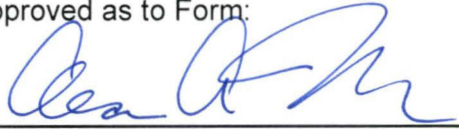


Seth Fleetwood, Mayor

Attest: 

Andy Asbjornsen, Finance Director

Approved as to Form:



Office of the City Attorney

Published: September 17, 2021

VAC2021-0002

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I CERTIFY that I know or have satisfactory evidence that **SETH FLEETWOOD** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Mayor** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



September 24, 2021
DATED

[Signature]
SIGNATURE OF NOTARY PUBLIC

S. Brooksana Raney
NAME PRINTED

Notary
TITLE

7/29/24
MY APPOINTMENT EXPIRES

I CERTIFY that I know or have satisfactory evidence that **ANDY ASBJORNSON** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the **Finance Director** of the **CITY OF BELLINGHAM** to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



September 27, 2021
DATED

Elisabeth A. Oakes
SIGNATURE OF NOTARY PUBLIC

Elisabeth A. Oakes
Name Printed

Deputy City Clerk
TITLE

6/19/2023
MY APPOINTMENT EXPIRES

City of Bellingham
CITY ATTORNEY
210 Lottie Street
Bellingham, Washington 98225
Telephone (360) 778-8270

1 Steve Sundin, Senior Planner, Planning and Community Development Department
2 Analiese Burns, Public Works Department Natural Resource Division, Habitat and
3 Restoration Manager
4 Matt Gossett, Public Works Department Real Property Manager

5 **Exhibits:**

6 At the open record hearing, the following exhibits were admitted in evidence:

7 Exhibit 1 Staff Report to the Examiner with the following attachments:

- 8 A. Vacation Area on Aerial Photograph
- 9 B. Utility / Zoning Map
- 10 C. Technical Review Committee letter to Applicant
- 11 D. Vacation Petition
- 12 E. Notice of Public Hearing / Hearing Notice / Email List
- 13 F. Public Comments:
 - 14 a. Alex McLean, three emails with City responses by Analiese
 - 15 Burns and Nicole Oliver, dated May 11, 13, and 24, 2021
 - 16 b. Rande and Debra Warner (owners of 4346 Pacific Highway),
 - 17 dated June 1, 2021
- 18 G. Draft Ordinance

19 After considering the testimony and exhibits submitted, the Hearing Examiner enters
20 the following findings and conclusions:

21
22 **FINDINGS**

- 23 1. The City of Bellingham (Petitioner) requested vacation of the full width of
24 Stuart Road generally located between Pacific Highway and Northwest Road,
25 abutting City-owned parcel numbers 380211-200375, 380211-165469 and
26 380211-231475, in Bellingham. The north edge of unimproved Stuart Road is
27 the northerly City limits in this area. Two of the subject City-owned parcels are
28 north of Stuart Road in the City's urban growth area in Whatcom County; the
29 third parcel borders the south side of the right-of-way within City limits. The
affected segment of Stuart Road is not improved and is encumbered by streams,
wetlands, and associated buffers regulated pursuant to the City's critical area

1 ordinance. The total area proposed to be vacated is approximately 76,200
2 square feet or 1.75 acres. *Exhibits I and I.D.*

3 2. The subject right-of-way is in Area 20 of the Cordata Neighborhood. It is zoned
4 Residential Single, Detached: cluster, cluster attached, and cluster detached;
5 Mixed: limited duplex and multifamily. *Exhibit I.*

6 3. The City began the Bellingham Mitigation Bank in 2012 as a means of
7 providing mitigation opportunities for unavoidable wetland and stream impacts
8 resulting from development in the City in an ecologically sound way. The goals
9 of the Bank are to: improve the success of mitigation projects; achieve regional
10 restoration goals; address the mitigation needs for public and private entities;
11 reduce costs associated with mitigation; coordinate mitigation efforts; and
12 streamline the mitigation process. *Exhibit I.*

13 4. The Lummi Nation wetland habitat mitigation bank has not been available since
14 approximately April 2018. Lack of an authorized and functioning bank has
15 slowed and stalled development projects within City limits. *Exhibit I; Steve
16 Sundin Testimony.*

17 5. The three City-owned parcels abutting the Stuart Road right-of-way comprise
18 the Bear Creek Corridor Mitigation (BCCM) Site, currently in the process of
19 being established. The portion of Stuart Road right-of-way proposed for
20 vacation segregates the overall Bear Creek Corridor Mitigation Site into two
21 pieces. Even though the City is the underlying owner, State and Federal
22 agencies will not accept the right-of-way as included in the mitigation bank
23 unless all potential future development activity has been eliminated. Once
24 finally approved, the BCCM will be one of four mitigation sites in the City of
25 Bellingham's mitigation bank. As part of the ongoing agency review and
26 approval process, the City is adjusting the site's boundaries to maximize
27 ecological benefits and best leverage the public investment. As stated by the
28 Public Works Department Natural Resource Division Habitat and Restoration
29 Manager, including the area proposed to be vacated in the mitigation bank
30 would legally join the existing bank properties into a more protective and
ecologically valuable contiguous corridor, and would also add acreage to the
mitigation bank, increasing available credit. *Exhibits I and I.E (Analiese Burns
responses to Alex McLean's comments); Analiese Burns Testimony.*

6. The proposed vacation would not land lock any parcels. The three City-owned
parcels and other privately owned parcels abutting Stuart Road between Pacific
Highway and Northwest Road retain access via Stuart Road to the west and east

1 of the petitioned right-of-way. Mahogany Avenue to the south provides an east
2 west connection alternative between Northwest Road and Pacific Highway. The
3 two privately owned parcels north of Stuart Road between the BCCM site and
4 Northwest Road have existing access via a private county road called Trout
Lake Road. *Exhibits 1 and 1.A; Steve Sundin Testimony.*

5 7. The affected right-of-way segment does not abut waterbodies that can be used
6 for commerce or navigation. There are no parks, open space, view, natural area,
7 or any other natural or man-made attraction in the vicinity to which the right-of-
8 way provides access. *Exhibits 1 and 1.A.* There are no existing or planned
9 public utilities within the subject right-of-way in order to facilitate future City
growth needs. *Exhibits 1 and 1.B.*

10 8. Vacation of the proposed right-of-way segment would improve the effectiveness
11 and size of the BCCM mitigation site, which once approved would be made
12 available for purchase by the public for the purpose of mitigating unavoidable
13 wetland impacts of proposed development elsewhere in the City. This would be
14 a substantial public benefit because it would enable growth within City limits
15 consistent with established growth management goals in the City's
16 Comprehensive Plan. Further, preservation of the whole BCCM site in
17 perpetuity would preserve ecological function in this upper basin of the Silver
18 Creek watershed, which supports a variety of species including listed
anadromous salmonids (Puget Sound Chinook and steelhead). Restoring these
species helps maintain the ecosystem in watershed and in the Salish Sea, to the
benefit of the broader public. *Exhibit 1; Analiese Burns Testimony.*

19 9. The instant request for right-of-way vacation does not require State
20 Environmental Policy Act (SEPA) review pursuant to WAC 197-11-800(6)(b).

21 10. The instant vacation petition was submitted by the Public Works Department on
22 February 11, 2021. *Exhibits 1 and 1.D.*

23 11. The City Council passed Resolution 2021-11 on May 10, 2021, setting the
24 instant vacation request for virtual public hearing. *Exhibits 1 and 1.G.*

25 12. The City's Planning Department issued electronic notice of public hearing to the
26 representatives of the Mayor's Neighborhood Advisory Committee (MNAC)
27 and the Neighborhood Associations on May 11, 2021. Planning also posted
28 notice of public hearing in the most conspicuous possible location along
29 Northwest Road approximately 800 feet east of the subject right-of-way. On the
same date, the Hearing Examiner's office sent out the notice of public hearing to

1 property owners within 500 feet of the affected right-of-way segment. *Exhibits*
2 *1 and 1.E.*

3 13. On May 18, 2021, Planning Staff sent private utility providers notice of the
4 vacation petition, asking them to respond by May 28, 2021 to inform the City
5 whether any private utilities were located within the affected right-of-way
6 segment. As of the hearing, no private utilities had responded to the City's
7 notice. At hearing Planning Staff submitted that if private utilities are not
8 present in the subject right-of-way, no utility easements would be retained
9 following vacation of the subject right-of-way. *Exhibit 1; Steve Sundin*
10 *Testimony.*

11 14. On May 28, 2021, the Planning Department issued the Technical Review
12 Committee (TRC) letter indicating the subject right-of-way segment was not
13 needed for circulation or utility purposes and recommending approval of the
14 subject vacation petition. The TRC recommended that easements not be
15 retained and that no appraisal is necessary because the City owns the abutting
16 parcels outright and would not be required to compensate itself. *Exhibits 1 and*
17 *1.C.*

18 15. The City received public comments from two parties during the pre-hearing
19 comment period following notice of hearing. Three comments submitted by Mr.
20 McLean address questions of funding for the BCCM and are not specifically
21 related to the merits of the vacation petition. The City Public Works
22 Department Natural Resource Division Habitat and Restoration Manager and the
23 City Parks & Recreation Director responded to Mr. McLean's comments by
24 email prior to the hearing. *Exhibit 1.F(a)*. Mr. McLean did not comment again
25 prior to or at hearing.

26 16. Owners of the adjacent parcel addressed as 4346 Pacific Highway (directly west
27 of the BCCM site north of Stuart Road right-of-way) Rande and Debra Warner
28 submitted comments opposing the requested vacation expressing concerns that it
29 would limit access options for their parcel. They also expressed concerns about
30 a neighboring property's drainage system, which they reported isn't working
and is sending flows onto their land which are in turn draining into the three
acres of wetlands on the east side of their property. *Exhibit 1.F(b)*. Planning
Staff communicated by telephone with the Warners, clarifying that vacation of
the subject right-of-way would not prevent future improvement of Stuart Road
to serve the Warner property. At hearing, Staff noted that the Warner parcel has
approximately 20 feet of frontage on Pacific Highway by a pipestem that could
be utilized if it were to develop. Staff noted that improving the approximately

1 950 feet of Stuart Road west of the Warner parcel to connect to Pacific Highway
2 would require approximately one-third acre of direct wetland fill and a stream
3 crossing. The existing pipestem is approximately 15 feet wide and is graveled;
4 it is capable of providing access to light industrial or commercial uses consistent
5 with the underlying zoning. *Exhibits 1 and 1.A; Steve Sundin Testimony.* The
6 Warners were included in the notice of hearing mailing list. *Exhibit 1.E(2).*
7 They submitted no further comment prior to or at hearing.

8 CONCLUSIONS

9 Jurisdiction:

10 The Hearing Examiner is granted authority to hold hearings and make recommendations
11 to City Council on right-of-way vacation requests pursuant to RCW 35.79.030.

12 Criteria for Review:

13 City Vacation Regulations

14 *BMC 13.48.010 - Hearing - Application fee.*

15 As a condition precedent to the city's consideration of a resolution setting a date for
16 a public hearing on the question of whether a city street should be vacated, the
17 petitioner therefor shall submit an application accompanied by a fee in the amount
18 set by city council resolution and the petitioner shall pay to the city an amount equal
19 to the cost of preparation of an appraisal of the area proposed to be vacated and the
20 city shall order such appraisal. An appraisal, and payment therefor, may not be
21 required when, in the judgment of the director of planning and community
22 development, it is not needed to determine the fair market value of the area to be
23 vacated.

24 *BMC 13.48.020 - Payment for vacation.*

25 Unless otherwise specifically provided by the city council in the street vacation
26 ordinance, such ordinance shall provide for the payment of compensation by the
27 petitioner of an amount equal to one-half the appraised value of the area proposed
28 for vacation. The city council shall have final authority to determine the appraised
29 value.

30 In no event shall such vacation request come before the city council for final
consideration until such amount has been computed, incorporated into the
ordinance, and deposited with the finance director. In the event that final passage
of the ordinance is not granted, the deposited amount (exclusive of the application
fee and appraisal fee) shall be refunded to the petitioner.

Adopted Bellingham City Council Vacation Policies

1 It is the policy of the City of Bellingham to grant vacation of street right of ways
2 when it is determined that such right of way is not needed presently or in the future
3 for public access including vehicular, pedestrian, and visual access.

- 4 1. The right of way must be determined to be of no value to the circulation
5 plan of the City either now or in the foreseeable future. The circulation plan
6 is assumed to include vehicular, pedestrian, or other modes of
7 transportation.
- 8 2. No vacation will be allowed if such action land locks any existing parcel, lot
9 of record, or tract. Access to a right of way of less than 30 feet in width
10 does not constitute adequate access. One ownership of all the lots on a right
11 of way does not circumvent this policy and in this it will be necessary to
12 vacate lots prior or together with the vacation action.
- 13 3. State law (R.C.W. 35.79). "No city or town shall be authorized to have
14 authority to vacate such street, or alley, or any parts thereof if any portion
15 thereof abuts on a body of salt or fresh water unless such vacation be sought
16 to enable the city, town, port district, or state to acquire the property for port
17 purposes, boat moorage, or launching sites, park, viewpoint, recreational, or
18 educational purposes, or other public uses. This provision shall not apply to
19 industrial zoned property".
- 20 4. Right-of-way adjacent or leading to any park, open space, view, natural
21 area, or any other natural or man-made attraction should not be vacated.
- 22 5. The proposed vacation should be determined to be necessary to the public
23 good either in terms of needed development or when such vacation will
24 result in a better or more desirable situation. In some instances a more
25 desirable situation may be a better road pattern in terms of safety, or when
26 an exorbitant amount of land is devoted to unneeded right of way.
- 27 6. Notification of street vacation requests will be sent to the Hearing Examiner.
28 The Examiner will schedule review. The Examiner will hold a public
29 hearing and make recommendations to the City Council. The City Council
30 makes the final decision.
7. The petition should contain the approval of all the abutting property owners
and proof of ownership must accompany the petition.
8. Vacation is not mandatory even though 100% of the abutting owners request
the vacation. (100% submittal)
9. Proposed or possible use of the vacated right of way is not relevant to City
action (court opinion).

1 10. Easements for utilities will be retained as a matter of procedure unless such
2 easement is specifically requested by the petitioners and approved by the
3 City Engineer.

4 State Vacation Requirements

5 *RCW 35.79.010 - Petition by owners - Fixing time for hearing.*

6 The owners of an interest in any real estate abutting upon any street or alley who
7 may desire to vacate the street or alley, or any part thereof, may petition the
8 legislative authority to make vacation, giving a description of the property to be
9 vacated, or the legislative authority may itself initiate by resolution such vacation
10 procedure. The petition or resolution shall be filed with the city or town clerk, and,
11 if the petition is signed by the owners of more than two-thirds of the property
12 abutting upon the part of such street or alley sought to be vacated, legislative
13 authority by resolution shall fix a time when the petition will be heard and
14 determined by such authority or a committee thereof, which time shall not be more
15 than sixty days nor less than twenty days after the date of the passage of such
16 resolution.

17 *RCW 35.79.020 - Notice of hearing - Objections prior to hearing.*

18 Upon the passage of the resolution the city or town clerk shall give twenty days'
19 notice of the pendency of the petition by a written notice posted in three of the most
20 public places in the city or town and a like notice in a conspicuous place on the
21 street or alley sought to be vacated. The said notice shall contain a statement that a
22 petition has been filed to vacate the street or alley described in the notice, together
23 with a statement of the time and place fixed for the hearing of the petition. In all
24 cases where the proceeding is initiated by resolution of the city or town council or
25 similar legislative authority without a petition having been signed by the owners of
26 more than two-thirds of the property abutting upon the part of the street or alley
27 sought to be vacated, in addition to the notice hereinabove required, there shall be
28 given by mail at least fifteen days before the date fixed for the hearing, a similar
29 notice to the owners or reputed owners of all lots, tracts or parcels of land or other
30 property abutting upon any street or alley or any part thereof sought to be vacated,
as shown on the rolls of the county treasurer, directed to the address thereon shown:
PROVIDED, That if fifty percent of the abutting property owners file written
objection to the proposed vacation with the clerk, prior to the time of hearing, the
city shall be prohibited from proceeding with the resolution.

RCW 35.79.030 - Hearing - Ordinance of vacation.

The hearing on such petition may be held before the legislative authority, before a
committee thereof, or before a hearing examiner, upon the date fixed by resolution
or at the time the hearing may be adjourned to. If the hearing is before a committee
the same shall, following the hearing, report its recommendation on the petition to

Findings, Conclusions, and Recommendation

Page 8

M:/HE/DATA/DECISIONS/Stuart Road Street Vacation

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CITY OF BELLINGHAM
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1 the legislative authority which may adopt or reject the recommendation. If the
2 hearing is held before a committee, it shall not be necessary to hold a hearing on the
3 petition before the legislative authority. If the hearing is before a hearing examiner,
4 the hearing examiner shall, following the hearing, report its recommendation on the
5 petition to the legislative authority, which may adopt or reject the recommendation:
6 PROVIDED, That the hearing examiner must include in its report to the legislative
7 authority an explanation of the facts and reasoning underlying a recommendation to
8 deny a petition. If a hearing is held before a hearing examiner, it shall not be
9 necessary to hold a hearing on the petition before the legislative authority (*emphasis*
10 *added*).

11 If the legislative authority determines to grant the petition or any part thereof, such
12 city or town shall be authorized and have authority by ordinance to vacate such
13 street, or alley, or any part thereof, and the ordinance may provide that it shall not
14 become effective until the owners of property abutting upon the street or alley, or
15 part thereof so vacated, shall compensate such city or town in an amount which
16 does not exceed one-half the appraised value of the area so vacated. If the street or
17 alley has been part of a dedicated public right of way for twenty-five years or more,
18 or if the subject property or portions thereof were acquired at public expense, the
19 city or town may require the owners of the property abutting the street or alley to
20 compensate the city or town in an amount that does not exceed the full appraised
21 value of the area vacated. The ordinance may provide that the city retains an
22 easement or the right to exercise and grant easements in respect to the vacated land
23 for the construction, repair, and maintenance of public utilities and services. A
24 certified copy of such ordinance shall be recorded by the clerk of the legislative
25 authority and in the office of the auditor of the county in which the vacated land is
26 located. One-half of the revenue received by the city or town as compensation for
27 the area vacated must be dedicated to the acquisition, improvement, development,
28 and related maintenance of public open space or transportation capital projects
29 within the city or town.

30 *RCW 35.79.035 - Limitations on vacations of streets abutting bodies of water -
Procedure.*

1. A city or town shall not vacate a street or alley if any portion of the street or
alley abuts a body of fresh or saltwater unless:
 - a. The vacation is sought to enable the city or town to acquire the property
for port purposes, beach or water access purposes, boat moorage or
launching sites, park, public view, recreation, or educational purposes,
or other public uses;
 - b. The city or town, by resolution of its legislative authority, declares that
the street or alley is not presently being used as a street or alley and that

1 the street or alley is not suitable for any of the following purposes: Port,
2 beach or water access, boat moorage, launching sites, park, public view,
recreation, or education; or

3 c. The vacation is sought to enable a city or town to implement a plan,
4 adopted by resolution or ordinance, that provides comparable or
5 improved public access to the same shoreline area to which the streets or
6 alleys sought to be vacated abut, had the properties included in the plan
not been vacated.

7 2. Before adopting a resolution vacating a street or alley under subsection
8 (1)(b) of this section, the city or town shall:

9 a. Compile an inventory of all rights-of-way within the city or town that
10 abut the same body of water that is abutted by the street or alley sought
to be vacated;

11 b. Conduct a study to determine if the street or alley to be vacated is
12 suitable for use by the city or town for any of the following purposes:
13 Port, boat moorage, launching sites, beach or water access, park, public
view, recreation, or education;

14 c. Hold a public hearing on the proposed vacation in the manner required
15 by this chapter, where in addition to the normal requirements for
16 publishing notice, notice of the public hearing is posted conspicuously
17 on the street or alley sought to be vacated, which posted notice indicates
18 that the area is public access, it is proposed to be vacated, and that
19 anyone objecting to the proposed vacation should attend the public
hearing or send a letter to a particular official indicating his or her
objection; and

20 d. Make a finding that the street or alley sought to be vacated is not
21 suitable for any of the purposes listed under (b) of this subsection, and
22 that the vacation is in the public interest.

23 3. No vacation shall be effective until the fair market value has been paid for
24 the street or alley that is vacated. Moneys received from the vacation may
25 be used by the city or town only for acquiring additional beach or water
26 access, acquiring additional public view sites to a body of water, or
acquiring additional moorage or launching sites.

27 *RCW 35.79.040 - Title to vacated street or alley.*

28 If any street or alley in any city or town is vacated by the city or town council, the
29 property within the limits so vacated shall belong to the abutting property owners,
one-half to each.

30 *Findings, Conclusions, and Recommendation*

Page 10

M:/HE/DATA/DECISIONS/Stuart Road Street Vacation

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1 *RCW 35.79.050 - Vested rights not affected.*

2 No vested rights shall be affected by the provisions of this chapter.

3
4 **Conclusions Based on Findings:**

5 1. The City's TRC determined that the subject right-of-way is not necessary for
6 existing or future multi-modal circulation or utility needs to support future
7 development in the vicinity. No evidence in the record contradicts this.
8 *Findings 1, 5, and 14.*

9 2. All surrounding parcels appear to have access via other routes, such that
10 approval of the vacation request would not landlock any parcel. The two
11 smaller parcels east of the City's northeast most parcel have access by a private
12 road called Trout Lake Road. The adjacent parcel to the west addressed as 4346
13 Pacific Highway has access to that frontage by a pipestem obviously created for
14 the purpose of providing access to that acreage. There is no evidence in the
15 record of any parcel that would be landlocked if the vacation were approved.
16 *Findings 5, 6, 14, and 16.*

17 3. The affected right-of-way segment does not abut any fresh or salt waterbody
18 capable of providing public access to a waterfront or navigation, moorage, or
19 any other water-dependent use. *Finding 7.*

20 4. The segment of Stuart Road requested to be vacated does not abut or provide
21 access to any park, open space, view, natural area, or any other natural or
22 man-made attraction. *Finding 7.*

23 5. Approval of the vacation would allow consolidation of and would add
24 approximately 1.75 acres of land area to, the Bear Creek Corridor Mitigation
25 site, the creation of which benefits the City and the greater region in two direct
26 ways. First, it preserves an important, large contiguous section of highly
27 encumbered land within the Silver Creek watershed, benefitting the habitat of
28 multiple Endangered Species Act-listed species in the watershed and in the
29 Salish Sea to which the watershed drains. Second, creating available wetland
30 mitigation bank credits would promote the development of land within City
limits in keeping with Comprehensive Plan goals and policies promoting infill
and avoiding sprawl. *Findings 3, 5, and 8.*

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- 6. Council passed Resolution 2021-11 on May 10, 2021, setting the instant fact-finding hearing, leading to establishment of the record upon which the instant findings, conclusions, and recommendation are based.
- 7. The City owns all abutting property and supports this vacation petition. *Findings 1 and 5.*
- 8. The Examiner concurs with the TRC recommendation to retain no utility easements in the vacated right-of-way segment and to forego the normally required appraisal, since the City would not undertake to compensate itself for the value of the vacated area. *Finding 14.*

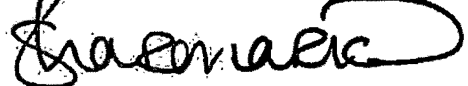
RECOMMENDATION

Based on the preceding findings and conclusions, the City's Hearing Examiner recommends that the requested vacation of the full width of Stuart Road generally located between Pacific Highway and Northwest Road, abutting parcel numbers 380211-200375, 380211-165469 and 380211-231475, Bellingham, Washington **SHOULD BE APPROVED** subject to the following condition:

- 1. Easements for public or private utilities shall not be retained.

RECOMMENDED June 16, 2021.

BELLINGHAM HEARING EXAMINER



Sharon A. Rice



Pacific Surveying & Engineering, Inc

land surveying • civil engineering • consulting • environmental
909 Squalicum Way #111, Bellingham, WA 98225
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EXHIBIT 'A'

STUART ROAD VACATION

ALL THAT PORTION OF STUART ROAD AS DEDICATED ON BAKERVIEW ADDITION TO THE CITY OF BELLINGHAM, FILED FOR RECORD FEBRUARY 26, 1938, AND RECORDED IN VOLUME 7 OF PLATS, PAGES 40 THROUGH 45, RECORDS OF WHATCOM COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

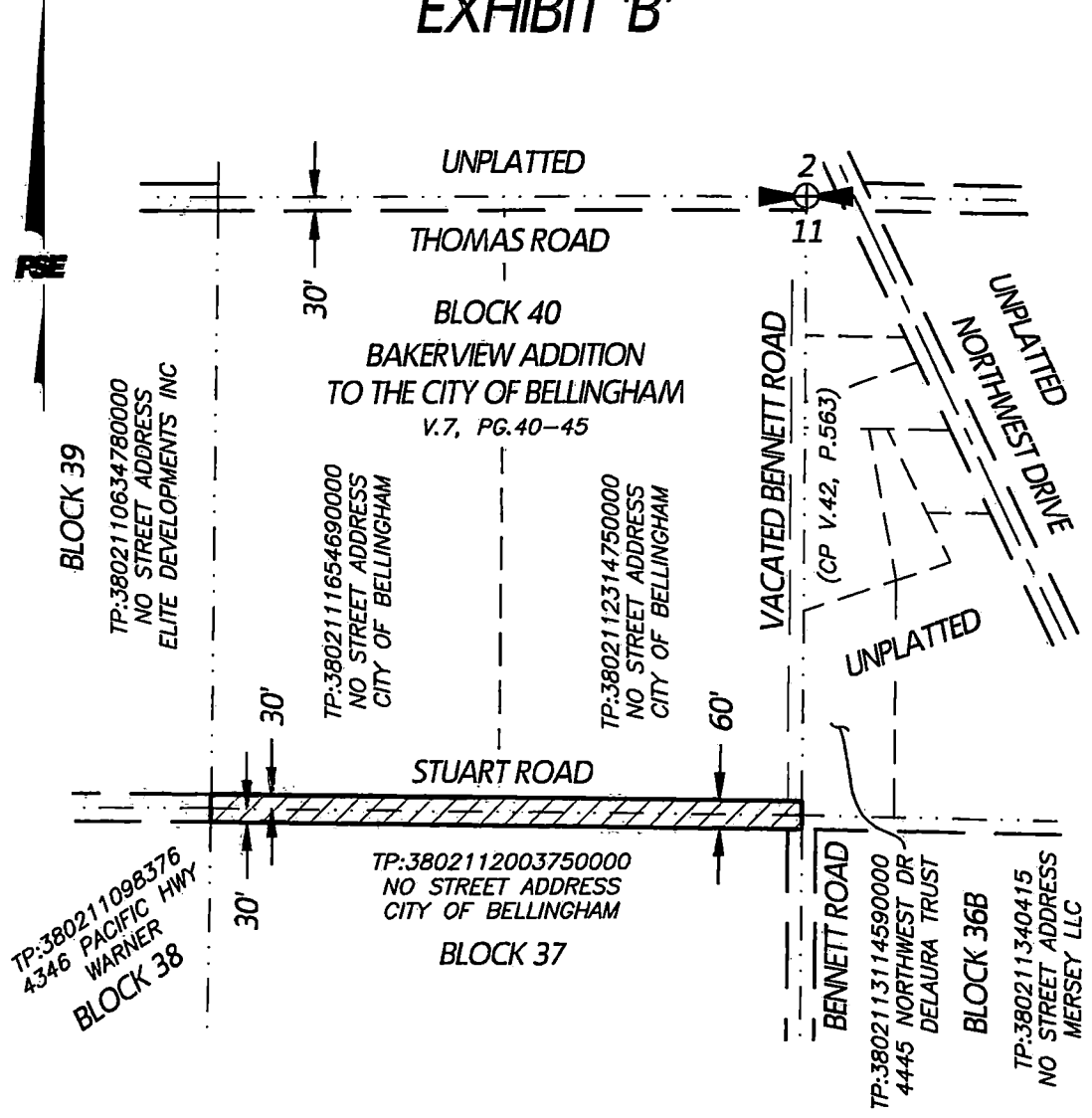
ALL THAT PORTION OF SAID STUART ROAD LYING BETWEEN THE WEST LINE OF BLOCKS 37 AND 40 EXTENDED, OF SAID BAKERVIEW ADDITION PLAT AND THE CENTERLINE OF BENNETT ROAD, AS DEDICATED ON SAID BAKERVIEW ADDITION PLAT.

SITUATE IN THE CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.

CONTAINING 1.76 ACRES, MORE OR LESS.



EXHIBIT 'B'



SITUATE IN A PORTION OF THE NE 1/4 OF THE NW 1/4 AND THE SE 1/4
OF THE NW 1/4 OF SECTION 11, TOWNSHIP 38 NORTH, RANGE 2 EAST, W.M.,
WHATCOM COUNTY, WASHINGTON



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& ENGINEERING, INC.**

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Exhibit C

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

IN RE:	HE-21-PL-007
CITY OF BELLINGHAM, Petitioner	FINDINGS, CONCLUSIONS, AND RECOMMENDATION
Full width of Stuart Road between Pacific Highway and Northwest Road	
VAC2021-0002 / Street Vacation	SHARON RICE, HEARING EXAMINER

SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends to the City Council that the requested vacation of the full width of Stuart Road abutting City property generally located between Pacific Highway and Northwest Road, Bellingham, should be **GRANTED**.

SUMMARY OF RECORD

Request:

Matt Gossett, Public Works Department Real Property Manager, on behalf of the City of Bellingham (Petitioner) requested vacation of the full width of Stuart Road abutting three City-owned parcels (numbers 380211-200375, 380211-165469 and 380211-231475) generally located between Pacific Highway and Northwest Road, Bellingham, Washington.

Hearing Date:

The Bellingham Hearing Examiner conducted a virtual open record hearing on the request on June 9, 2021. The record was held open two business days to allow for public comment, with additional days for responses by the parties. No post-hearing public comment was submitted, and the record closed on June 11, 2021.

Testimony:

At the hearing, the following individuals presented testimony under oath: