

ENGINEER'S REPORT

RIGHT-OF-WAY VACATION PETITION REQUEST # 18-121028 RWE

VACATION OF A PORTION OF AN OPENED COUNTY ROAD RIGHT-OF-WAY
119th Street SW, west of 26th Place W

INTRODUCTION

Under Snohomish County Code (SCC) 13.100.010, road and/or right-of-way vacation procedures may be initiated in response to a County Council request, independently by the County Engineer when he/she determines that the criteria for the road and/or right-of-way vacation exists, or in response to a frontage owners' petition. Here, Solstice Management, LLC, and JERD Investments, LLC, (the Petitioners) jointly submitted a freeholders' petition for the vacation of a portion 119th Street SW, an opened County road, to the Snohomish County Department of Public Works (DPW). The Petitioners are the only property owners whose properties abut that portion of 119th Street SW petitioned to be vacated. The petition was assigned file number #18 121028 RWE.

The County Engineer, having reviewed the petition and determined that the petition and vacation requirements have been met, has prepared an Ordinance to vacate a portion of 119th Street SW, and makes the following supportive findings, recommendations and conditions.

FACTS/BACKGROUND

1. *119th Street SW*, (formerly known as Cooper Road), was dedicated to the County on the Plat of Paine Field No. 3 in 1948. The County road right-of-way (ROW) is 60 feet in width, 30 feet on each side of the centerline. (See Exhibit 1, Plat of Paine Field No 3)
2. The Plat of Paine Field No. 3 is in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 27 Township 28 Range 4. (See Exhibit 2, Assessors Map)
3. Aerial photographs taken from 1955 to 2015 show 119th Street SW as an opened, constructed and paved road (See Exhibit 2, Aerial Photographs). In the past, the county maintained 119th Street SW for 2,017 feet west of Alexander Road to its terminus that abuts the east property line of tax parcels 28042700100801 and 28042700100800. *This vacation request concerns the most westerly 300 feet (approximately) of the County ROW ending at its western terminus.*

4. The portion of the County road ROW petitioned to be vacated abuts Tracts 124, 125, 126 and 127 of the Plat of Paine Field No. 3 and relates to that portion of 119th Street SW to the west of the existing cul-de-sac.
5. Tracts 124 and 125 are owned by Mr. Erlend Millikan, the owner of JERD Investments LLC. (See Exhibit 4, SWD AFN 200903300554 & 200904010288)
6. Tracts 126 and 127 are owned by Mr. Tuan Hoang Hai, owner of Solstice Management LLC. (See Exhibit 5 SWD AFN 201307080003)
7. In 2006, a locked metal gate was installed across 119th Street SW just west of 26th Place West by DPW as a preventative measure to deter illegal and hazardous dumping and to ensure and protect the public's safety. At that time, the County anticipated that removal or relocation of the gate may be necessary to accommodate future development in the area.
8. In 2010, a 45,500 square foot distribution warehouse known as Northshore Sheet Metal Inc., was approved for development by Planning and Development Services (PDS) on Tracts 124 and 125 of said plat. (See Exhibit 6, Aerial Photo)
9. When the Northshore Sheetmetal facility was reviewed, the County Engineer and the County Traffic Engineer approved interim frontage improvements, in place of full frontage improvements, along 119th Street SW.
10. A 2010 Traffic Mitigation and Concurrency Final Comments Memorandum dated December 20, 2010, stated that the portion of 119th Street SW to the west of the cul-de-sac was inaccurately identified as an unopened ROW. DPW 2012 Road Log records show that 119th Street SW is maintained 2,191 feet west from its intersection with Alexander Road, approximately 300 feet past the cul-de-sac. (See Exhibit 7, Road Maintenance Log Record)
11. At the time the Northshore Sheetmetal facility was constructed, the section of asphalt pavement on 119th Street SW between the gate and the west property line had deteriorated significantly due to lack of use and maintenance. That portion of 119th Street SW west of the cul-de-sac was proposed to be paved for access to, and parking for, Northshore Sheetmetal. The proposal was reviewed and approved by the County Engineer and the Traffic Engineer in a meeting held February 5, 2010, with requirements for a Right of Way Use Permit and Maintenance Covenant. The portion of 119th Street SW proposed to be vacated is paved and primarily used for head-in parking for, and access to, the Northshore Sheetmetal facility since it was constructed. (See Exhibit 8)

12. In May 2018, Solstice Management, LLC., submitted an application to PDS to develop a 39,500 square foot manufacturing building on Tracts 126 and 127, known as the Qualitel New Facility. (See Exhibit 9)
13. The Qualitel New Facility proposes to take access from 119th Street SW.
14. A sidewalk was constructed on the southern portion of Tract 126 and is illegally being used for motorists to drive from 119th Street SW onto the adjoining private property to the west. This has created an illegal private connection between 119th Street SW and Beverly Park Road (ER Exhibit 10). This vehicular connection is prohibited under SCC 30.24.020(2).
15. As part of the review of the Qualitel New Facility, the PDS Transportation Development Reviewer determined that the sidewalk being used for the illegal vehicular connection must be removed, and that the existing parking for Northshore Sheetmetal to the west of the cul-de-sac did not comply with the County's Engineering Design and Development Standards (EDDS) and needed to be modified for approval. As an alternative to making these changes, Solstice Management, LLC, and JERD Investments, LLC (the Petitioners), proposed vacating the portion of 119th Street SW ROW to the west of the cul-de-sac.
16. In July 2018, the Petitioners submitted an application proposing to vacate that portion of 119th Street SW, west of the cul-de-sac. (See Exhibit 11, Petition to Vacate)
17. The Petitioners entered into a Property Exchange Agreement for the usage of the property after the vacation is approved. (See Exhibit 12)
18. The Petitioners also own the property west of the proposed vacation, which is commonly known as Bev-Ed Corporate Park. The Petitioners propose to amend the existing Binding Site Plan associated with Bev-Ed Corporate Park to include Tracts 124, 125, 126 and 127 of the Plat of Paine Field No. 3 and rename the entire commercial complex as Bev-Ed Business Park. (See Exhibit 13, Aerial & Proposed BSP Amendment)
19. A Drainage Facility Maintenance Agreement is in place between JERD Investments, LLC, and DPW, recorded under AFN 201106030488. (See Exhibit 14)

FINDINGS

1. The public will be benefited by the vacation of that portion of 119th Street SW located to the west of the constructed cul-de-sac, as it is not needed for the County's current or planned transportation system.
2. The Petitioners' real property taxes will be amended to reflect the value added by the vacation of the County road abutting their property.
3. 119th Street SW is an opened, constructed and paved road which the County maintains for 2,017 feet west of the intersection with Alexander Road. The portion of ROW proposed to be vacated, solely provides parking for, and access to, the Petitioners' properties and is useless for public road purposes. The public will be benefited by no longer being obligated to maintain this portion of 119th Street SW.
4. It is not advisable to preserve any portion of the County ROW proposed to be vacated for the County transportation system of the future, because commercial development immediately to the west prevents any connection to other County roads.
5. 119th Street SW does not abut a body of saltwater or freshwater.
6. The County did not receive any objection from any party opposing the proposed vacation.
7. Inquiries to the local utilities revealed that Alderwood Water and Wastewater Management have an existing water main and sewer line in that section of the proposed ROW vacation, PUD has electrical facilities within the ROW, PSE has gas main and service on the south side of 119th Street SW, and Comcast Cable has potential fiber optic crossing to serve the building to the south. (See Exhibit 15, AWWD, Exhibit 16, PUD, Exhibit 17 PSE and Exhibit 18 Comcast)
8. RCW 36.87.140 and SCC 13.100.100 allow the County to retain an easement in respect to the vacated ROW for the construction, repair, and maintenance of utilities and services. It is recommended that an easement be retained for all utilities within the ROW of 119th Street SW for the construction, repair and maintenance of public utilities and services.
9. JERD Investments, LLC shall provide an access easement to Lot 126 of the Plat of Paine Field No. 3 over the north 20 feet of the south half of the vacated ROW, and Lot 125 PPF3 over the north 20 feet of the south half of the vacated ROW adjacent to Lot 124 PPF3.
10. DPW determined the fair market value of that portion of 119th Street SW petitioned to be vacated at \$58,093.00. The Petitioners have agreed to this valuation.

11. The portion of 119th Street SW petitioned to be vacated is classified as a Class C road under SCC 13.100.040(7) (d). Class C roads and ROW are those in which the County has an easement interest and public expenditures were made. Under SCC 13.100.080(2)(b), Petitioners are required to pay *fifty percent* of the appraised value, as determined by DPW, which equals **\$29,046.50**.

RECOMMENDATIONS

1. Based on the above findings, it has been determined that the public will benefit by the vacation and abandonment of that portion of 119th Street SW petitioned to be vacated and the road ROW should be vacated and abandoned.
2. DPW recommends that Vacation Petition Request # 18 121028 RWE for the vacation of a portion of 119th Street SW, described on Exhibits A, B, C and D to the accompanying ordinance is in the best interest of the general public and should be granted based on the following conditions:

CONDITIONS

1. An easement for utilities shall be granted by JERD Investments, LLC, and Solstice Management, LLC, over the vacated ROW of 119th Street SW for the construction, repair and maintenance of public utilities and services as per RCW 36.87.140 and SCC 13.100.100.
2. An access easement shall be provided by JERD Investments, LLC, to Lot 126 of the Plat of Paine Field No. 3 (PPF3) over the north 20 feet of the south half of the vacated ROW, and Lot 125 PPF3 over the north 20 feet of the south half of the vacated ROW adjacent to Lot 124 PPF3.
3. The Petitioners are required to pay fifty percent of the appraised value of the ROW as determined by DPW which equals \$ 29,046.50 per SCC 13.100.080(2)(b).
4. All associated costs incurred by the county in processing the petition to vacate and the value of the ROW shall be paid by the Petitioners, Solstice Management, LLC, and JERD Investments, LLC, as per SCC 13.100.070 and SCC 13.100.080.
5. Failure to make payments required under SCC13.100.070 and SCC 13.100.080 within one year of the date the ordinance is adopted by the council means the ordinance should not be recorded and the road and/or ROW shall not be considered vacated as per SCC 13.100.080(4).

Approved by:

Douglas W. McCormick P.E.
Deputy Director/County Engineer

Date

Prepared by:

Maria Acuario
ROW Investigator III

Date