

Petition for Vacation of a County Road

IN THE MATTER OF THE PETITION OF _____)

and others for the Vacation of _____)

99th Ave NW)

(Road Name or Number))

PETITION)

TO THE SNOHOMISH COUNTY COUNCIL OF SNOHOMISH COUNTY, WASHINGTON

We, the undersigned freeholders of Snohomish County, State of Washington do petition that the following described County Road be vacated:

(FILL IN EXACT LEGAL DESCRIPTION OF PORTION OF ROAD TO BE VACATED)
 PREPARED BY A PROFESSIONAL LAND SURVEYOR OR PROFESSIONAL ENGINEER

<h1 style="margin: 0;">Exhibit 1 Page 1</h1>	<p>PREPARER'S STAMP & SIGNATURE</p>
--	--

the whole distance being about _____ miles and _____ total square footage.

Your petitioners respectfully represent and allege that the road is useless as a part of the general road system and the public will be benefited by its vacation, and that all of your petitioners are freeholders residing in the County in the vicinity of the road; and therefore the petitioners request the vacation of the road, as provided by law.

Petition must be signed by the owner of record for a majority of frontage of said road.
Snohomish County policy requires approval and signatures of all adjacent or abutting owners whose property may be affected by this proposed road vacation or benefited by the vacation as a secondary Petitioner.

Principle Petitioners' Signatures	Prop. Tax Acc't. No.	Print Name	Print Mailing Address
<i>Greg Brown</i>	00394401100 300	Greg Brown	18907 Soundview Dr NW
	00394401100 400		
	00394401204 601		5 Tanwood, WA
	00394401204 700		98292
	00394401204 800		
<i>Gayle Buse</i>	00394401100 100		18911
<i>Thomas D. Stephenson</i>	00394401205 000		18921

Exhibit 1 Page 2

IF ADDITIONAL SPACE IS REQUIRED, USE SUPPLEMENTARY SHEET.

Vacation of Road No. _____

PETITION

In the Matter of the Petition of _____

and others for the vacation of a _____

COUNTY ROAD _____

Section 1. When a county road or part thereof is considered useless, the owners of the majority of the frontage on said county road or portion thereof may petition the Snohomish County Council to vacate the same. Such petition shall show the land owned by each petitioner and shall also set forth that such road will be useless as a part of the general road system and that the public will be benefited by its vacation. Such petition shall be accompanied by a bond in the penal sum of five hundred dollars, payable to the County, executed by one or more sureties, and conditioned that the petitioners will pay into the County Treasury the amount of all costs and expenses incurred in the examination, report, and all other proceedings pertaining to such petition or vacation.



Snohomish County

Dave Somers
County Executive

3000 Rockefeller Ave., MS 407
Everett, WA 98201-4046
(425) 388-3480
www.snoco.org

May 18, 2020

Frontier Communications
1800 41st St M/C WA01040S
Everett, WA 98201
Attn: Shelly Haugstad

Dear Ms. Haugstad:

Snohomish County has been asked to vacate a certain right-of-way (ROW) as shown on the attached maps. Please review and comment on any impact this request, if granted, would have on any existing or planned utility facilities you may have located within the ROW.

Should a current or planned necessity for the use of the subject ROW exist, an easement will be retained for the construction, repair and maintenance for the specific utility and service per RCW 36.87.140 and SCC13.100.100.

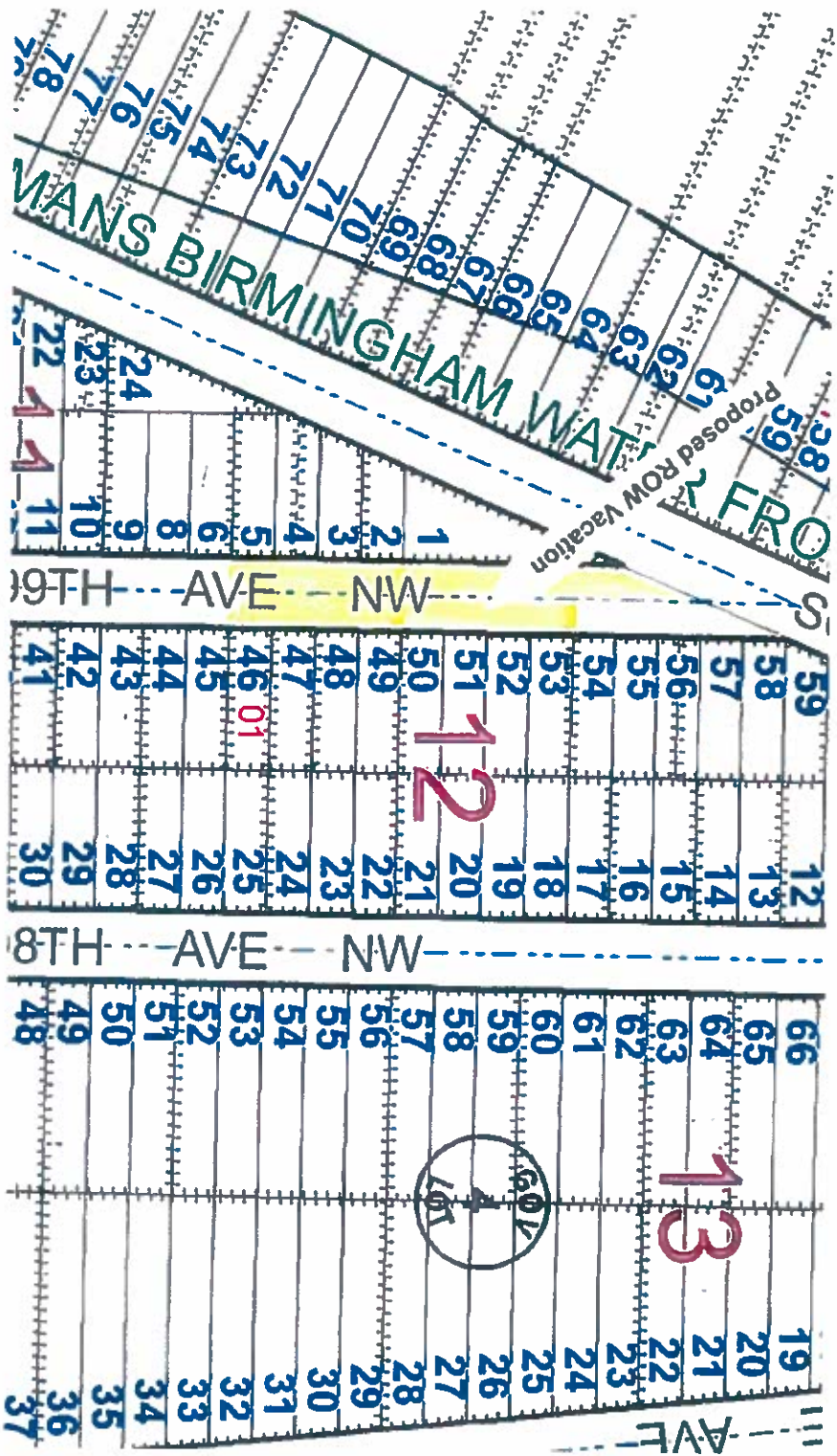
Please describe the utility, if any, by locating it on the attached map and sending your comments to my attention. If Public Works has not received a reply by May 29, 2020, either by email or postal service, we will assume you have no interest in the ROW.

Thank you for your timely review and prompt response.

Sincerely,

Maria Palma-De Guzman
Right of Way Investigator III
Snohomish County Public Works
Transportation & Environmental Services
425-262-2464
Maria.Palma-DeGuzman@snoco.org

EXHIBIT 2 PAGE 1



Palma-De Guzman, Maria

From: Rennick, Tim <timothy.rennick@ziply.com>
Sent: Wednesday, May 27, 2020 2:28 PM
To: Roberts, Chuck
Cc: Palma-De Guzman, Maria
Subject: RE: 99th AVE NW ROW VACATION REQUEST - STANWOOD AREA

CAUTION : This email originated from outside of this organization. Please exercise caution with links and attachments.
Maria, I heard back from my locaters.
ZiPLY does in fact have buried service lines in this area. So if the ROW is going to be vacated ZiPLY will need and easement for each of the address that front the vacated portion.

Tim Rennick
OSP Engineering
Washington Division
425.263.4025
425.210.0333



From: Roberts, Chuck
Sent: Monday, May 18, 2020 12:07 PM
To: Rennick, Tim <timothy.rennick@ziply.com>
Cc: Palma-De Guzman, Maria <Maria.Palma-DeGuzman@snoco.org>
Subject: FW: 99th AVE NW ROW VACATION REQUEST - STANWOOD AREA

Tim,

See below. I assume that Ziplly has at least service drop in this ROW if not buried cable. Please review and comment.

Thank you,

Chuck Roberts
Manager- OSP Engineering
1800 41st Street, Everett WA 98203
chuck.roberts@ziply.com
Office; 425-261-8888
Cell; 425-999-0182



Exhibit 2 Page 3



ENGINEER'S REPORT

PETITION REQUEST # 19-115451 RWE

FOR THE VACATION AND ABANDONEMENT OF A PORTION
OF AN UNOPENED COUNTY ROAD RIGHT-OF-WAY IDENTIFIED AS

99TH Ave Northwest

INTRODUCTION

Chapter 36.87 Revised Code of Washington (RCW) gives the county legislative authorities broad authority to vacate and abandon land that was acquired for county road purposes. Chapter 13.100 Snohomish County Code (SCC) provides that Snohomish County (the County) also has the authority to vacate and abandon public road right-of-way (ROW) independent of the statutory establishment provisions of Chapter 36.87 RCW. The County's legislative authorities use of this broad authority must be made under the advice and supervision of the County Engineer.

SCC 13.100.010, provides that the road or ROW vacation and abandonment procedures may be initiated either in response to Council request, by the County Engineer when he/she determines that the criteria for the road or ROW vacation and abandonment exists, or in response to a frontage owner's petition.

FACTS/BACKGROUND

1. The Plat of C.D. Hillman's Birmingham Waterfront Addition to the City of Everett has 69 blocks and is located in the S $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 18, all of Section 19 except the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, the W $\frac{1}{2}$ of the NW $\frac{1}{4}$ and the SW $\frac{1}{4}$ of Section 20 Township 31N Range 4E W.M. Also lots 3 and 4 and the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 13 and all of Section 24 Township 31N Range 3E W.M. The plat was recorded in 1909, Volume 8 of Plats Pages 21 through 23, records of Snohomish County. (See Exhibit 1, Plat Map)
2. 99th Ave NW, formerly known as Second Ave, is a dedicated unopened ROW, and is in the SE $\frac{1}{4}$ of Section 13 Township 31 North Range 3 East W.M. (See Exhibit 2, Assessor Map)
3. On October 17, 2019, Greg Brown, Gary and Geyanne Buse and Thomas Stephenson, (the Petitioners) submitted an application to the Snohomish County Department of Public

VACATION REQUEST 19-115451 RWE
ENGINEER'S REPORT - 99th Ave NW
A SNOHOMISH COUNTY ROAD RIGHT-OF-WAY

Works (DPW), proposing to vacate a portion of unopened dedicated ROW of 99th Ave NW between Soundview Dr NW and 98th Ave NW. (See Exhibit 3 Petition)

4. The proposed ROW Vacation is a strip of land 50 feet in width, 25 feet on each side of the centerline of 99th Ave NW. (See Exhibit 4)
5. The proposed ROW vacation abuts Lots 1 through 5 Block 11 and Lots 46 through 53 Block 12 of the Plat of C.D. Hillman's Birmingham Waterfront Addition to the City of Everett. (See Exhibit 5, Aerial and Assessor Maps)
6. Gary and Geyanne Buse are the owners of tax parcel 00394401100100 (Lots 1-2, Block 11). (See Exhibit 6)
7. Greg Brown is the owner of tax parcel 00394401100300 (Lots 3-5, Block 11 and lots 46-49, Block 12). (See Exhibit 7)
8. Thomas Stephenson is the owner of tax parcel 00394401205000 (Lots 50-53, Block 12). (See Exhibit 8)

FINDINGS

1. All of the lots within this portion of C. D. Hillman's Birmingham Waterfront Addition to the City of Everett are legal substandard lots.
2. The proposed ROW has never been opened in the vicinity or used as a public road.
3. The ROW does not abut a body of saltwater or freshwater as per RCW 36.87.130 and SCC 13.100.085.
4. Greg Brown, owner of tax parcel 00394401100300, is reconstructing the old house located on the west side of the proposed vacation. Lots 3-5, Block 11 on which the house sits do not meet current zoning requirements nor Snohomish Health District standards for a drain field. The drain field will be placed on Lots 46 and 47 and the new house will be extended out into the current ROW. (See Exhibit 9)
5. Gary and Geyanne Buse, owners of tax parcel 00394401100100, on the west side of the proposed vacation, plan to add garage space and parking to the adjacent ROW.
6. Thomas Stephenson, owner of tax parcel 00394401205000, located on the east side of the proposed vacation, will add additional square footage to their lot through the proposed vacation.
7. The proposed vacation will eliminate access from the public road to Lots 50-53, Block 12, Thomas Stephenson's property and to Lot's 46-49, Block 12, Greg Brown's property. An

access easement will therefore be required over Lots 1-2, Block 11, the Buse's property so that access is provided.

8. Thomas Stephenson's driveway is encroaching on the Buse's proposed portion to vacate. The Petitioners agreed to the following:
 - Thomas Stephenson will relocate his driveway on that portion of Buse's proposed vacation and within the boundaries of the required access easement.
9. The public will be benefitted by the vacation because the vacated ROW becomes an appendage to the Petitioner's properties and taxes will be amended accordingly.
10. DPW determines that it is not advisable to preserve for the future, all or any of the subject ROW, for county transportation system because the skewed connection of Soundview Drive and 99th Ave NW is not practical connection and there is no future benefit to the county.
11. The ROW is classified as Class D under SCC 13.100.040 (7) (d) Road and/or ROW in which the county has an easement interest and no public expenditures were made.
12. DPW has determined the compensation for the county's easement interest in that portion of unopened dedicated ROW of 99th Ave NW, petitioned under this vacation request shall be 0% of the appraised value as per SCC 13.100.080 (2)(c) and as determined under SCC 13.100.085.
13. Inquiries to the local utilities revealed existing utilities are located within the ROW proposed for vacation and abandonment. Ziplly Fiber, FKA Frontier Communications, have buried service lines within the proposed vacation.
14. 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 vacated portion of 99th Ave NW for the construction, repair and maintenance of public utilities and services.
15. The County did not receive any objection from any party opposing the proposed vacation.

RECOMMENDATIONS

1. Based on the above findings, Public Works has determined that the public will benefit by the vacation and abandonment of this ROW and the ROW should be vacated and abandoned.
2. DPW recommends that Vacation Petition Request 19-115451 RWE, for the vacation of ROW for a portion of 99th Ave NW described on the attached Exhibits to the accompanying Ordinance, is in the best interest of the general public and should be granted based on the following conditions:

CONDITIONS

1. Gary and Geyanne Buse shall grant an access easement benefitting Lots 50-53, Block 12, Thomas Stephenson's property over the vacated portion of 99th Ave NW abutting Lots 1-2, Block 11, the Buse's property, and Lots 46-49, Block 12, Greg Brown's property, and this easement shall be recorded with the Snohomish County Auditor.
2. The Petitioners shall grant and record with the Snohomish County Auditor an easement to the County over the vacated ROW for the construction, repair and maintenance of public utilities and services within the vacated ROW as provided in RCW 36.87.140 and SCC 13.100.100.
3. All associated costs incurred by the county in processing the petition to vacate shall be paid by the Petitioners, Greg Brown, Gary and Geyanne Buse and Thomas Stephenson, per SCC 13.100.070 and SCC 13.100.080. These expenses are estimated as follows:

Estimated Public Works Administrative Charges	\$ 5,000.00
Estimated Advertising Cost for Ordinance Notice	\$ 300.00
Estimated Recording Fee	\$ 110.00
Total Estimated Cost	\$ 5,410.00
Application Credit Fee (500)	<500.00>
Estimated Balance	\$ 4,910.00

4. Failure to make payments of the compensation required under SCC 13.100.070 and SCC 13.100.080 within one year of the date the ordinance or motion is adopted by the Council, means the ordinance or motion should not be recorded and the road and/or ROW shall not be considered vacated as per SCC 13.100.080 (4).

Approved by:

Digitally signed by Douglas W. McCormick
DN: cn=Douglas W. McCormick, o=Snohomish
County, ou=Public Works, email=Douglas.W.McCormick@snoco.org, serial=2021.06.04.14.49.25-67307
Douglas W. McCormick P.E.
Deputy Director/County Engineer

6/4/2021

Date

Prepared By:

Maria Acuario
Maria Acuario
ROW Investigator III

6/3/2021

Date



OSP Engineering
595 Pease Road, Burlington WA
98233
April 4/5/2020

Maria D. Palma-De Guzman | *Right of Way Investigator III*
Snohomish County Public Works
3000 Rockefeller Ave, M/S 607 | Everett, WA 98201
425-262-2464 | maria.palma-deguzman@snoco.org

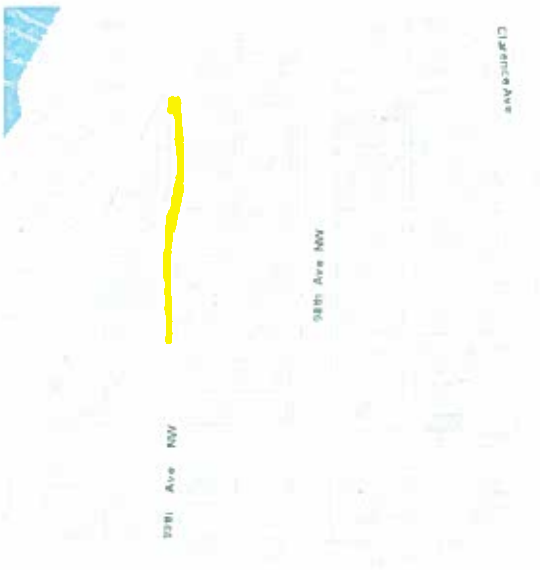
RE: 99th AVE NW ROW VACATION REQUEST - STANWOOD AREA

Dear Ms Palma-De Guzman,

After reviewing the request to vacate a portion of 99th Ave NW, Ziplly will not need an easement nor will use the portion of 99th as highlighted below. The Ziplly engineer who originally responded to this request was in error and did not know the area.

I have personal knowledge of this area and Ziplly does not have lines in this part of the right of way and no plan to install any new lines.

I apologize for any additional work this has caused you or your team.



Best Regards,

Dennis Keller OSP Manager

Dennis Keller
Ziplly Fiber
Engineering Manager
Dennis.Keller@Ziplly.com
C: 425-238-1078

Exhibit 4

April 27, 2022

Snohomish County Department of Public Works

3000 Rockefeller Ave; MS 607

Everett, WA 98201

RE: REQUEST TO AMEND ORDINANCE 21-036 – VACATING A PORTION OF 99TH
AVE NW

PERMIT # 19-115451 RWE

To whom it may concern,

I, Greg Brown, along with Gary and Geyanne Buse and Thomas Stephenson, on Sept 19, 2019, petitioned the county to vacate a portion of 99th Ave NW located in the SE ¼ of Section 13 Township 31 North Range 3 East W.M

Below are the property owners and their corresponding lots of the Plat of C D Hillman's Addition to Everett.

- Lots 1-2 Blk 11, – Gary and Geyanne Buse
- Lots 3-5 Blk 11 and Lots 46-49 Blk 12 - Greg Brown
- Lots 50-53 Blk 12 – Thomas Stephenson

The vacation of that portion of 99th Ave NW was granted via Ordinance 21-036 with the following conditions stated on the Engineer's Report.


- Condition #1- Petitioners Gary and Geyanne Buse shall grant and record with the Snohomish County Auditor an access easement benefitting Lots 50-53, Block 12, Lots 1-2, Block 11 and Lots 46-49 Block 12.
- Condition # 2 - The petitioners shall grant and record with the Snohomish County Auditor an easement to the County over the vacated right of way for the construction, repair and maintenance of public utilities and services.

I, Greg Brown, am requesting to amend Ordinance 21-036 and remove the Conditions due to the following reasons.

- I will not need an access via the vacated portion of 99th Ave NW as my access will be off Soundview Drive. (See house plan attached to this letter)
- On January 14, 2022, I contacted Ziplly Communications as I do not believe there to be any buried lines on 99th Ave NW. The request to retain an easement for utilities provided by Tim Rennick from Ziplly Communications via email dated May 27, 2020, to Maria Palma-De Guzman was an error per Dennis Keller, OSP Manager. A letter is provided to correct this error. (See attached letter send via email dated April 18, 2022).

I thank you in advance in considering my request.

Respectfully,

 4/27/2022

Greg Brown

Exhibit 5

Return after filing:
Greg Brown
18907 Soundview Drive NW
Stanwood, WA 98292-7893

**COVENANT AND AGREEMENT RELATED TO THE VACATION OF A PORTION OF
99th AVENUE NW, AN UNOPENED SNOHOMISH COUNTY RIGHT-OF-WAY**

GRANTOR: Greg Brown, a private individual

GRANTEE: Snohomish County, a political subdivision of the State of Washington

ABBREVIATED LEGAL DESCRIPTION: Section 13 Township 31 Range 3 Quarter SE C. D. HILLMAN'S BIRMINGHAM WF ADD TO COE DIV 1 BLK 011 D-00 COMB FOR TAX PURPOSES ONLY LOTS 3 THRU 5 TGW LOTS 46 THRU 49 BLK 12

TAX PARCEL: 00394401100300

This Covenant and Agreement is entered into by Greg Brown ("Brown"), a private individual owning property in unincorporated Snohomish County and Snohomish County (the "County"), a political subdivision of the State of Washington.

WHEREAS, Gary and Gayeann Buse, Thomas Stephenson, and Brown jointly petitioned Snohomish County to vacate a portion of an unopened Snohomish County right-of-way for 99th Avenue NW which abuts each of the petitioners' properties in the Warm Beach area of unincorporated Snohomish County; and

WHEREAS, on August 18, 2021, the Snohomish County Council adopted Ordinance No. 21-036 relating to the vacation of a portion of an unopened Snohomish County right-of-way for 99th Avenue NW; and

WHEREAS, Brown is the owner of Snohomish County Tax Parcel No. 00394401100300 which is bisected by a portion of the unopened Snohomish County right-of-way vacated by Ordinance No. 21-036; and

WHEREAS, the Brown parcel is described as: Section 13 Township 31 Range 3 Quarter SE C. D. HILLMAN'S BIRMINGHAM WF ADD TO COE DIV 1 BLK 011 D-00 COMB FOR TAX PURPOSES ONLY LOTS 3 THRU 5 TGW LOTS 46 THRU 49 BLK 12; and

Page 1 of 3

**COVENANT AND AGREEMENT RELATED TO THE VACATION OF A PORTION OF
99th AVENUE NW, AN UNOPENED SNOHOMISH COUNTY RIGHT-OF-WAY**

Exhibit 6 Page 1

WHEREAS, Snohomish County Tax Parcel No. 00394401100300 is composed of seven historic, substandard lots and; and

WHEREAS, lots 3 through 5 of Block 11 of C.D. Hillman's Birmingham Waterfront Addition (the "Western Portion") and lots 46 through 49 of Block 12 of C.D. Hillman's Birmingham Waterfront Addition (the "Eastern Portion") are separated by a portion of 99th Avenue NW vacated by Ordinance No. 21-036; and

WHEREAS, Ordinance No. 21-036 included a condition that the Buses grant and record with the Snohomish County Auditor an access easement benefitting the Eastern Portion of Brown's property; and

WHEREAS, Brown has informed Snohomish County Department of Public Works that he no longer needs the access easement as required by Ordinance No. 21-036; and

WHEREAS, Snohomish County wishes to avoid the possibility of the Eastern Portion ever becoming a landlocked parcel without adequate vehicular access; and

WHEREAS, in consideration of the County amending Ordinance No. 21-036 to remove the condition that the Buses grant Brown an access easement Brown executes and records this Covenant and Agreement;

NOW THEREFORE, Greg Brown, a private individual owning real property in unincorporated Snohomish County covenants and agrees as follows:

Greg Brown owns real property described as: Section 13 Township 31 Range 3 Quarter SE C. D. HILLMAN'S BIRMINGHAM WF ADD TO COE DIV 1 BLK 011 D-00 COMB FOR TAX PURPOSES ONLY LOTS 3 THRU 5 TGW LOTS 46 THRU 49 BLK 12.

Brown's real property identified by Snohomish County Tax Parcel No. 00394401100300 is depicted in Exhibit A, attached and incorporated into this covenant and agreement.

For the purposes of this Covenant and Agreement, Section 13 Township 31 Range 3 Quarter SE C. D. HILLMAN'S BIRMINGHAM WF ADD TO COE DIV 1 BLK 011 D-00 LOTS 3 THRU 5 shall be known as the Western Portion and Section 13 Township 31 Range 3 Quarter SE C. D. HILLMAN'S BIRMINGHAM WF ADD TO COE DIV 1 BLK 12 LOTS 46 THRU 49 shall be known as the Eastern Portion.

Greg Brown covenants and agrees that should any or all of the Western Portion or any or all of the Eastern Portion be sold, transferred, conveyed, or otherwise disposed of independently of the other portion that Brown, or his successors or assigns, shall provide an access easement benefitting the Eastern Portion and burdening the Western Portion in sufficient in width and location to satisfy applicable Snohomish County Code access requirements as adopted at the time of the sale, transfer, conveyance, or other disposal of the property.

This covenant is intended to be a running covenant, burdening the parties' successors and assigns.

///

///

///

I, Greg Brown, accept this COVENANT AND AGREEMENT ASSOCIATED WITH THE VACATION OF A PORTION OF 99th AVENUE NW, AN UNOPENED SNOHOMISH COUNTY RIGHT-OF-WAY.

Greg Brown
Greg Brown
Property Owner
18907 Soundview Drive NW
Stanwood, WA 98292-7893

STATE OF WASHINGTON)
)
COUNTY OF Snohomish)

On this day, personally appeared before me Greg Brown, to me known to be the individual described herein and who executed the within and foregoing instrument and acknowledged to me that he (he/she) signed the same as himself (himself/herself) a free and voluntary act and deed for the uses and purposes therein mentioned.
GIVEN under my hand and official seal this 3 day of February, 2023.

Diana L. Mix
Notary
Residing at Snohomish County

