



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

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:

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

Date

Prepared By:

Maria Acuario

Maria Acuario
ROW Investigator III

6/3/2021

Date