



Snohomish County Council

Committee: Public Works and Conservation

Analyst: Deb Evison Bell

ECAF: 2023-0622

Proposal: Ord. 22-058

Date: June 20, 2023

Consideration:

The proposal is to amend Ordinance No. 21-036, under SCC 13.100.020.

Background:

On August 18, 2021, Snohomish County adopted Ordinance [21-036](#), which vacated a portion of unopened Snohomish County right-of-way of 99th Ave NW. The original Ordinance conditioned the vacation to grant access easements for utilities and neighboring properties based on utility responses.

Since the adoption of Ordinance 21-036 by Council, it has been determined that the unopened right-of-way does not contain any utilities as had been previously identified, and that an access easement is no longer necessary, as a covenant and agreement related to the vacation of right-of-way will be executed and recorded with the Snohomish County Auditor within three (3) months of the proposed ordinance.

Current Proposal:

Petitioner Greg Brown has approached the Snohomish County Department of Public Works to propose amending Ordinance No. 21-036 to remove the requirement that the County retain a utility easement and to modify the requirement for an access easement. In accordance with RCW 36.87 and SCC 13.100, the county engineer has prepared a report examining the proposed request to amend that includes the following findings:

1. Ziplly Fiber has determined that its initial response to DPW was incorrect and that they do not have any utilities in or planned for the vacated ROW, as confirmed in their April 18, 2022, letter to DPW (see Exhibit 4 of Engineer's Report). Therefore, the need to retain a utility easement as required under Ordinance 21-036 is no longer necessary.
2. Petitioner Brown informed DPW that he no longer needs an access easement from Petitioners Gary and Gayeann Buse and instead will execute and record a covenant and agreement related to the vacation of ROW (see Exhibit 5 of Engineer's Report). This covenant and agreement will ensure that vehicular access will be provided to DPW's satisfaction to all of Brown's real property if his property were to be partitioned and sold independently in the future. (See Exhibit 6 of the Engineer's Report).

Based on the above findings, DPW recommends that Ordinance No. 21-036 be amended as proposed by Petitioner Brown based on the following conditions.

CONDITIONS

1. Section 6 of Ordinance No. 21-036 adopted on August 18, 2021, is deleted in its entirety, and replaced with:

Within three (3) months of the effective date of Ordinance No. 23-058, Petitioners Gary and Gayeane Buse shall grant and record with the Snohomish County Auditor an access easement over the vacation portion of 99th Avenue NW abutting Lots 1-2, Block 11 of C.D. Hillman's Birmingham Waterfront Addition to the City of Everett benefitting Lots 50-53, Block 12 of C.D. Hillman's Birmingham Waterfront Addition to the City of Everett, Petitioner Thomas Stephenson's property.

2. A new section is added to Ordinance 21-036 to read:

Within three (3) months of the effective date of Ordinance No. 23-058, Petitioner Greg Brown shall execute and record with the Snohomish County Auditor the "Covenant and Agreement Related to the Vacation of a Portion of 99th Avenue NW, an Unopened Snohomish County Right-of-Way" attached to Ordinance No. 23-058 as Exhibit A to ensure that no portion of his real property becomes land-locked in the future due to the potential independent sale of portions of his real property.

3. Section 7 of the Ordinance No. 21-036 is deleted in its entirety.

Duration: Under Chapter 36.87 RCW and Chapter 13.100 SCC, vacation of the opened county ROW shall not take effect unless the Petitioner pays the itemized costs and expenses of the proceedings and completes the conditions.

Fiscal Implications: Actual costs will be billed to applicant, final amount unknown at this time.

2023 Budget: NA

Future Budget Impacts: NA

Handling: Normal

Approved-as-to-form: YES

Risk Management: APPROVE.

Executive Recommendation: APPROVE.

Attachments: See ECAF packet/Engineers Report.

Amendments: NONE.

Request: The requested action is for Council to move this to GLS on June 21, 2023, to set a time and date for a Public Hearing (July 12, 2023, at 10:30 am is suggested).