



1 After Recording Return To:  
2 Clerk of the Council  
3 Snohomish County Council  
4 3000 Rockefeller Avenue – M/S 609  
5 Everett, WA 98201  
6  
7  
8

9 *In the matter of: 99<sup>th</sup> Ave NW*

10  
11  
12 SNOHOMISH COUNTY COUNCIL  
13 Snohomish County, Washington  
14

15 ORDINANCE NO. 21-036

16  
17 AN ORDINANCE VACATING A PORTION OF 99<sup>th</sup> Ave NW  
18 A SNOHOMISH COUNTY ROAD RIGHT-OF-WAY  
19

20 WHEREAS, on October 17, 2019, Greg Brown, Gary and Geyanne Buse and  
21 Thomas Stephenson, (the “Petitioners”) submitted a petition pursuant to RCW  
22 36.87.020 and SCC 13.100.030, to vacate and abandon a portion of 99<sup>th</sup> Ave NW,  
23 an unopened Snohomish County road right-of-way; and  
24

25 WHEREAS, the County Road Engineer, pursuant to RCW 36.87.040 and  
26 SCC 13.100.040, prepared a report examining the unopened County road right-of-  
27 way proposed to be vacated and abandoned; and  
28

29 WHEREAS, the County Road Engineer has determined that all criteria to  
30 vacate and abandon a portion of 99<sup>th</sup> Ave NW exists and recommends that said  
31 unopened County road right-of-way be vacated and abandoned; and  
32

33 WHEREAS, on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, pursuant to RCW  
34 36.87.060 and SCC 13.100.060, the Snohomish County Council (the “County  
35 Council”) held a public hearing to consider the County Road Engineer’s report and to  
36 hear public testimony;  
37

38 NOW, THEREFORE, BE IT ORDAINED:  
39

40 **Section 1.** The County Council adopts and incorporates the foregoing  
41 recitals as findings as if set forth fully herein.  
42

43 **Section 2.** The County Council further finds that the unopened County road  
44 right-of-way described in Exhibits A, C and E and depicted in Exhibits B, D and F, all  
45 attached to this ordinance and incorporated herein by reference, is useless for  
46 County road purposes and the public will be benefited by its vacation.  
47

1           **Section 3.** The County Council finds that the portion of the unopened County  
2 road right-of-way described and depicted in the attached exhibits are vacated upon  
3 satisfaction of the terms and conditions contained in this ordinance.  
4

5           **Section 4.** Under Chapter 36.87 RCW and Chapter 13.100 SCC, the  
6 vacation of the unopened County road right-of-way granted herein shall not take  
7 effect unless, within one year of the date this ordinance is passed by the County  
8 Council, the Petitioners have paid all itemized costs and expenses of the  
9 proceedings enumerated by the Snohomish County Department of Public Works  
10 (DPW) under SCC 13.100.070.  
11

12           **Section 5.** Generally, under Chapter 36.87 RCW and Chapter 13.100 SCC,  
13 the vacation of a County road right-of-way shall not take effect unless, within one  
14 year of the date this ordinance is passed by the County Council, the Petitioners have  
15 paid the County for the value of the road right-of-way vacated according to the  
16 schedule set forth in SCC 13.100.080. Here, the unopened County road right-of-way  
17 is classified as Class D under SCC13.100.040(7)(d), in which the County has an  
18 easement interest and no public expenditures were made and therefore under SCC  
19 13.100.085 the Petitioners are not required to compensate the County for the value  
20 of the vacated road right-of-way.  
21

22           **Section 6.** Petitioners Gary and Geyanne Buse shall grant and record with  
23 the Snohomish County Auditor an access easement benefitting Lots 50-53, Block  
24 12, Thomas Stephenson's property, and to Lots 46-49, Block 12, Greg Brown's  
25 property over the vacated portion of 99<sup>th</sup> Ave NW abutting Lots 1-2, Block 11, the  
26 Buse's property.  
27

28           **Section 7.** The Petitioners shall grant and record with the Snohomish County  
29 Auditor an easement to the County over the vacated right-of-way for utilities and for  
30 the benefit of the County for the construction, repair and maintenance of public  
31 utilities and services within the vacated right-of-way as provided in RCW 36.87.140  
32 and SCC 13.100.100.  
33

34           **Section 8.** Upon the Clerk of the County Council receiving confirmation from  
35 the DPW that the Petitioners have made timely and full payment of costs and  
36 expenses incurred by the County in the examination and proceedings related to the  
37 petitioned right-of-way vacation as required by Chapter 36.87 RCW and Chapter  
38 13.100 SCC and identified in the supporting County Road Engineer's report, this  
39 Ordinance shall be recorded and become effective. In the event the Petitioners fail  
40 to make payment of the compensation required within one year of the date this  
41 ordinance is passed by the County Council, this Ordinance shall automatically  
42 become void and have no further force or effect.  
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Passed this day \_\_\_\_\_ of \_\_\_\_\_ 2021

SNOHOMISH COUNTY COUNCIL  
Snohomish County, Washington

\_\_\_\_\_  
Stephanie Wright, Chairperson

ATTEST:

\_\_\_\_\_  
Assistant Clerk of the Council

- APPROVED
- EMERGENCY
- VETOED

\_\_\_\_\_  
County Executive

\_\_\_\_\_  
Date

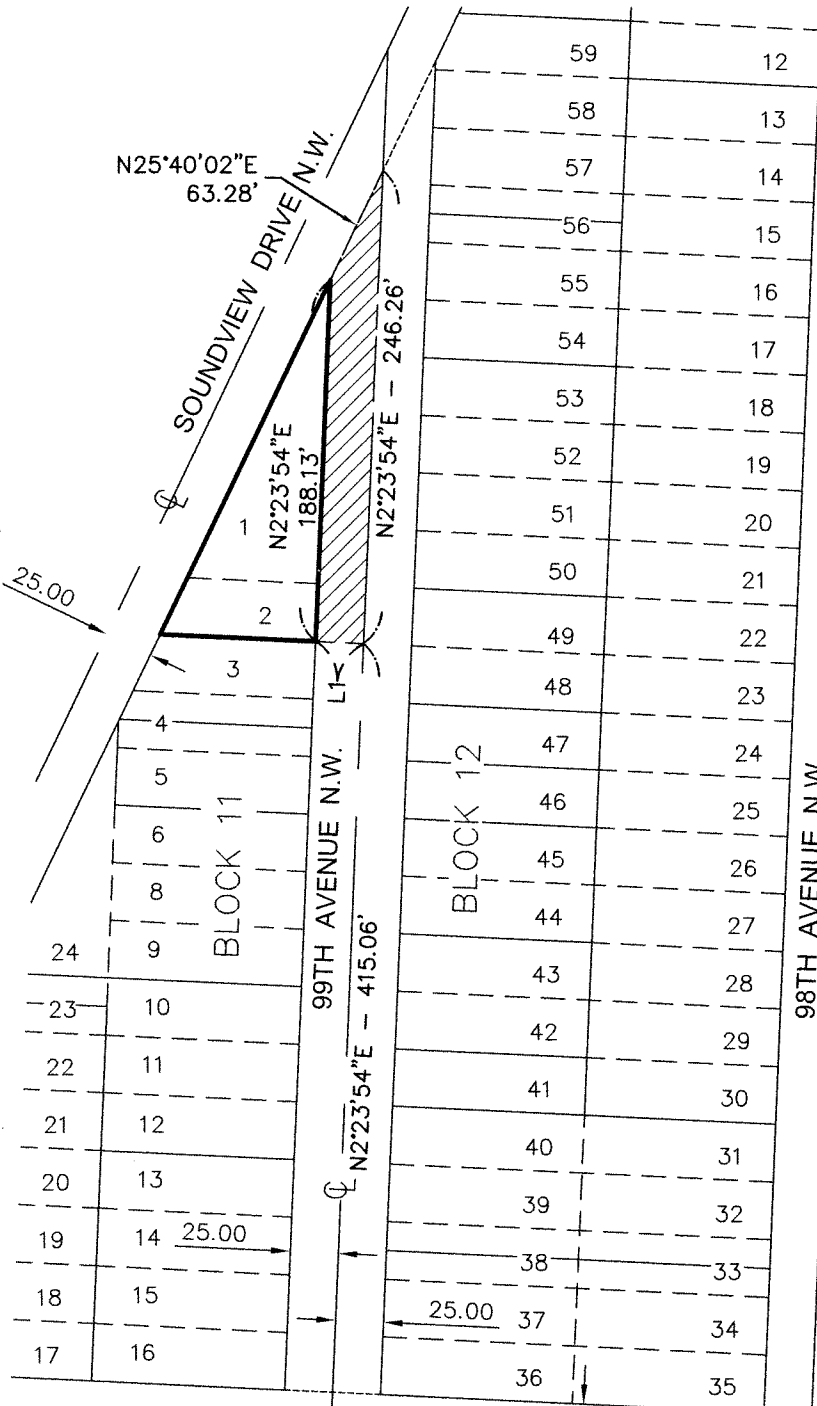
ATTEST:

\_\_\_\_\_  
APPROVED AS TO FORM:

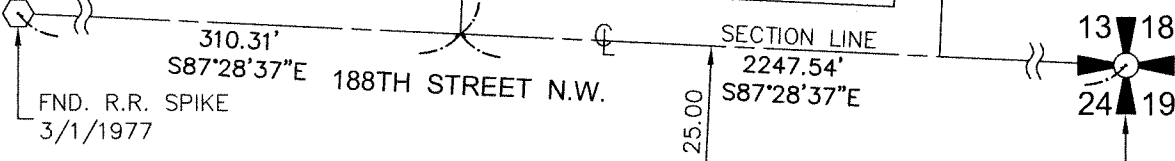
 4/21/21  
\_\_\_\_\_  
Deputy Prosecuting Attorney



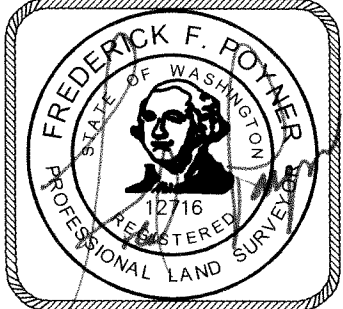
1 inch = 100 ft.



C.D. HILLMAN'S  
BIRMINGHAM  
WATERFRONT  
ADDITION TO THE  
CITY OF EVERETT  
DIV. #1



3-8-20



Line Table		
Line #	Length	Direction
L1	25.00	S87° 36' 06"E

TAX PARCEL: 00394401100100

~ STREET TO BE VACATED - 5,429 S.F.

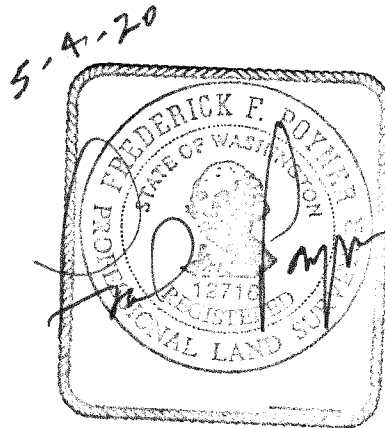
JOB NO.: 22417	DATE: 4/16/2020	DWN. BY: LAF	<b>CASCADE SURVEYING AND ENGINEERING, Inc.</b>  P.O. BOX 326 ARLINGTON, WA  (360) 435-5551
PORT'N GOV'T LOT 4, SEC.13, TWP.31N, RGE.3E, W.M.			
<b>EXHIBIT A:</b>  <h1>GARY &amp; GEYANNE BUSE</h1>			
5/7/20 X:\22417\DWG\22417-SK1.DWG (SKETCH)			

**EXHIBIT B:**

ALL THAT PORTION OF GOVERNMENT LOT 4, SECTION 13, TOWNSHIP 31 NORTH, RANGE 3 EAST, W.M. DESCRIBED AS FOLLOWS;

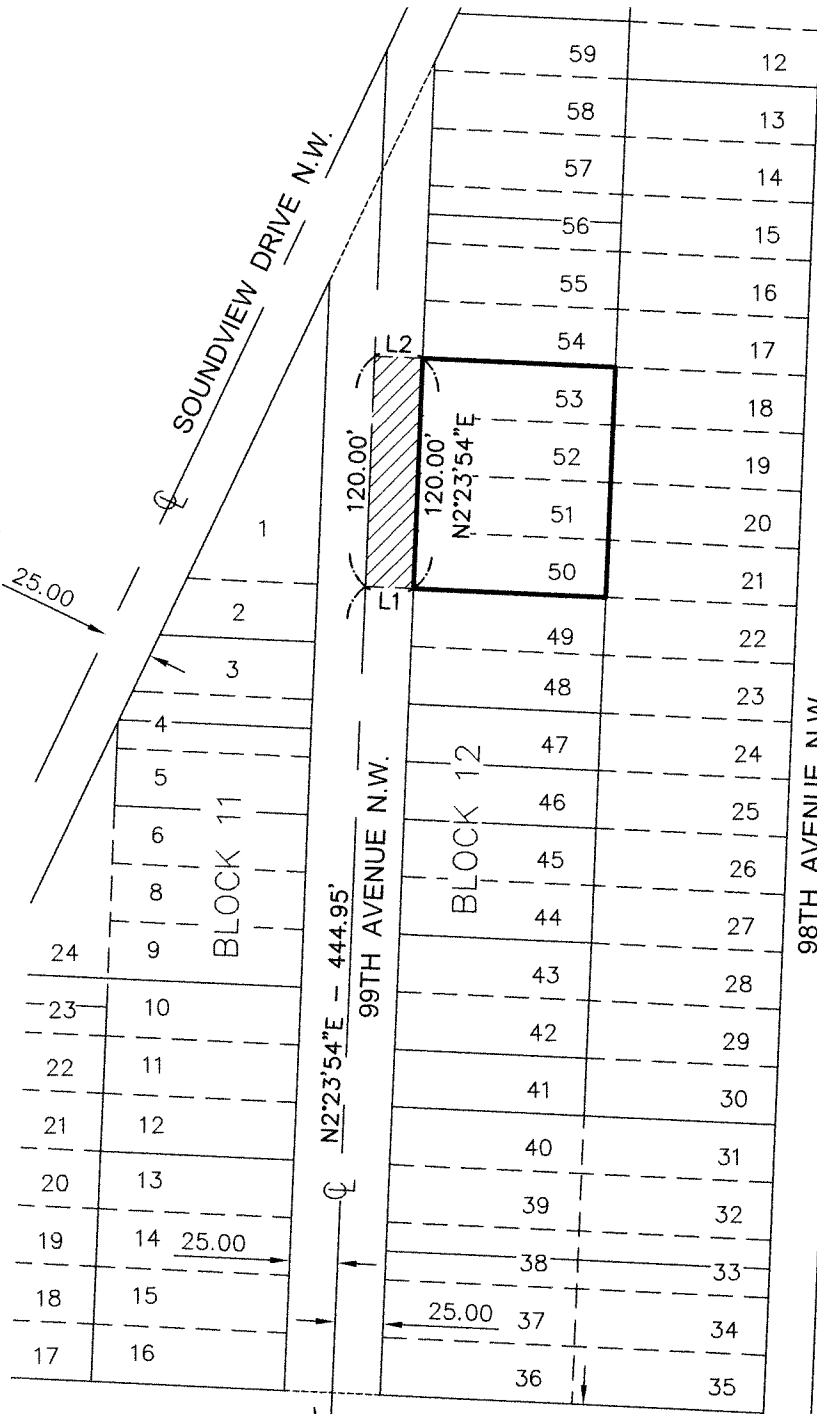
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 13 ;  
THENCE NORTH 87°28'37" WEST, ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 2247.54 FEET TO A POINT ON THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE NORTH 2°23'54" EAST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 415.06 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 87°36'06" WEST A DISTANCE OF 25.00 FEET TO THE WESTERLY MARGIN OF 99<sup>TH</sup> AVENUE N.W. AND THE SOUTHEAST CORNER OF LOT 2, BLOCK 11, C.D. HILLMAN'S BIRMINGHAM WATER FRONT ADDITION TO THE CITY OF EVERETT, DIVISION NO. 1, AS PER PLAT RECORDED IN VOLUME 8 OF PLATS ON PAGES 21 TO 23, RECORDS OF SNOHOMISH COUNTY WASHINGTON;  
THENCE NORTH 2°23'54" EAST, ALONG THE EASTERLY LINE OF SAID BLOCK 11, A DISTANCE OF 188.13 FEET, TO THE SOUTHEASTERLY MARGIN OF SOUNDVIEW DRIVE N.W.;  
THENCE NORTH 25°40'02" EAST, ALONG THE SOUTHEASTERLY MARGIN OF SOUNDVIEW DRIVE N.W., A DISTANCE OF 63.28 FEET, TO THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE SOUTH 2°23'54" WEST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 246.26 FEET TO THE TRUE POINT OF BEGINNING;

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

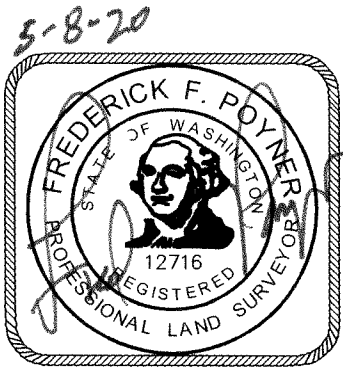
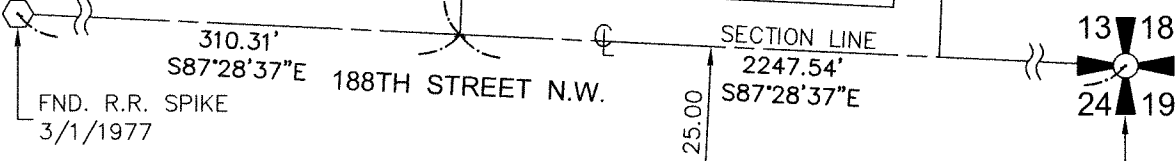




1 inch = 100 ft.



C.D. HILLMAN'S  
BIRMINGHAM  
WATERFRONT  
ADDITION TO THE  
CITY OF EVERETT  
DIV. #1



Line Table		
Line #	Length	Direction
L1	25.00	S87° 36' 06"E
L2	25.00	S87° 36' 06"E

SE SEC. COR.  
FND. BRASS CAP IN  
ASPHALT 2/28/1977

TAX PARCEL: 00394401205000

~ STREET TO BE VACATED - 3,000 S.F.

JOB NO.: 22417      DATE: 4/16/2020      DWN. BY: LAF  
PORT'N GOV'T LOT 4, SEC.13, TWP.31N, RGE.3E, W.M.

EXHIBIT C:

**THOMAS STEPHENSON**

**CASCADE  
SURVEYING AND  
ENGINEERING, Inc.**

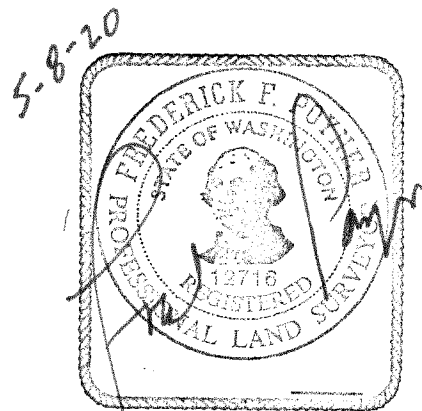
P.O. BOX 326  
ARLINGTON, WA  
(360) 435-5551

**EXHIBIT D:**

ALL THAT PORTION OF GOVERNMENT LOT 4, SECTION 13, TOWNSHIP 31 NORTH, RANGE 3 EAST, W.M. DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 13 ;  
THENCE NORTH 87°28'37" WEST, ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 2247.54 FEET TO A POINT ON THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE NORTH 2°23'54" EAST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 444.95 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE SOUTH 87°36'06" EAST A DISTANCE OF 25.00 FEET TO THE EASTERLY MARGIN OF 99<sup>TH</sup> AVENUE N.W. AND THE SOUTHWEST CORNER OF LOT 50, BLOCK 12, C.D. HILLMAN'S BIRMINGHAM WATER FRONT ADDITION TO THE CITY OF EVERETT, DIVISION NO. 1, AS PER PLAT RECORDED IN VOLUME 8 OF PLATS ON PAGES 21 TO 23, RECORDS OF SNOHOMISH COUNTY WASHINGTON;  
THENCE NORTH 2°23'54" EAST, ALONG THE WEST LINE OF SAID BLOCK 12, A DISTANCE OF 120.00 FEET TO THE NORTHWEST CORNER OF LOT 53 OF SAID BLOCK 12;  
THENCE NORTH 87°36'06" WEST A DISTANCE OF 25.00 FEET, TO THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE SOUTH 2°23'54" WEST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 120.00 FEET TO THE TRUE POINT OF BEGINNING;

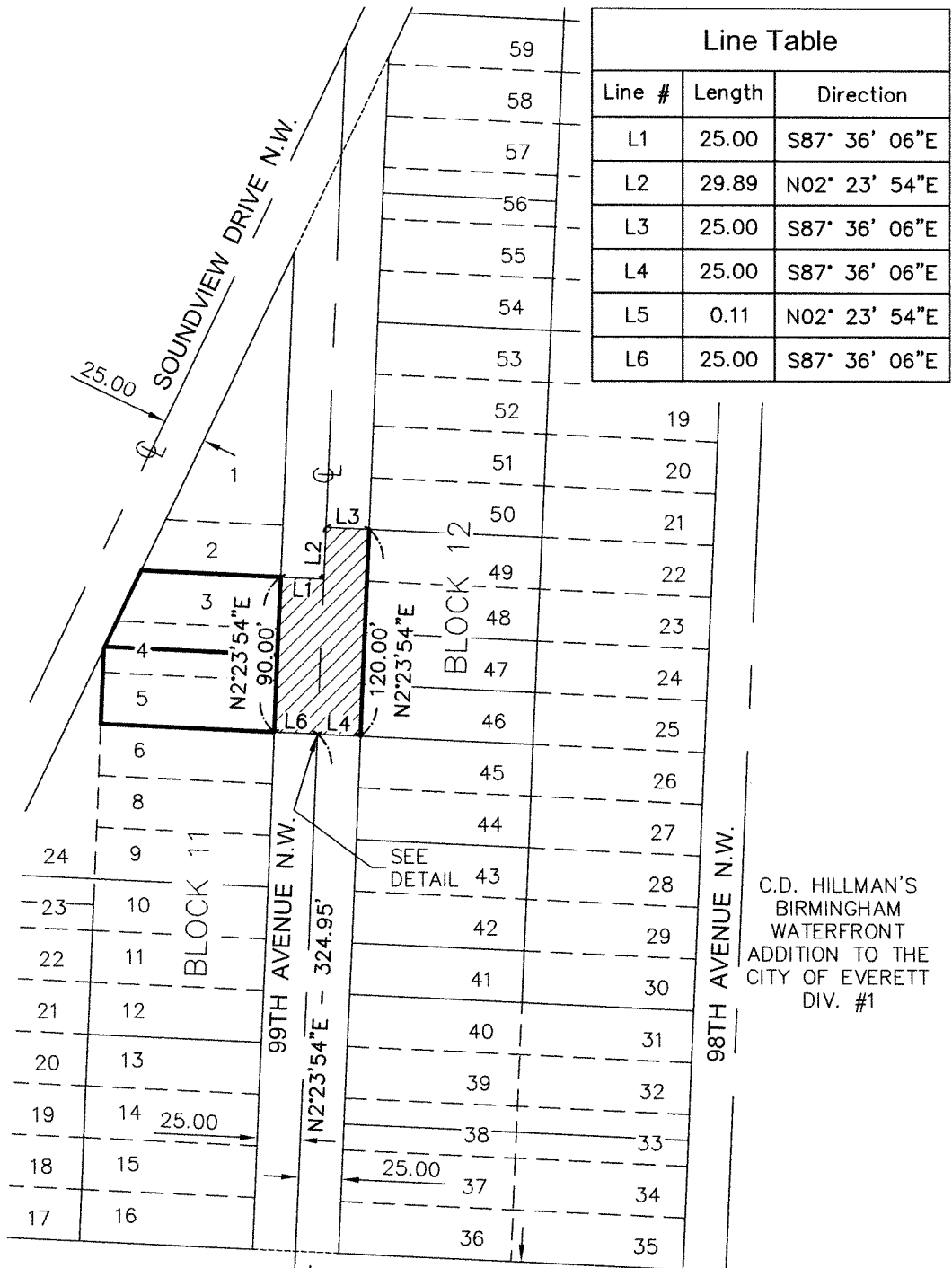
SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.





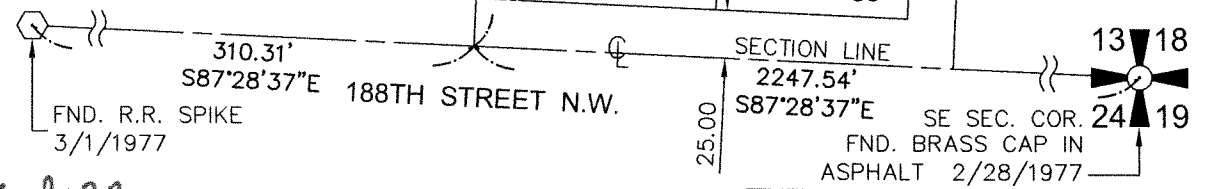


1 inch = 100 ft.

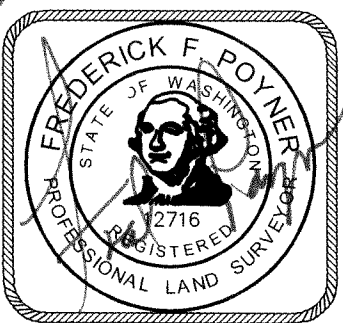


Line Table		
Line #	Length	Direction
L1	25.00	S87° 36' 06"E
L2	29.89	N02° 23' 54"E
L3	25.00	S87° 36' 06"E
L4	25.00	S87° 36' 06"E
L5	0.11	N02° 23' 54"E
L6	25.00	S87° 36' 06"E

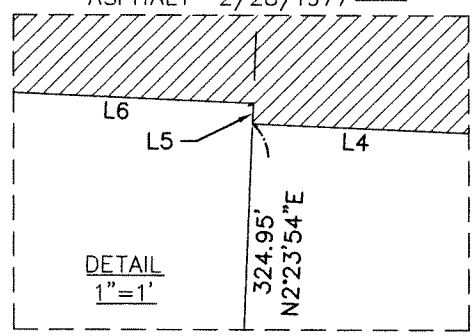
C.D. HILLMAN'S  
BIRMINGHAM  
WATERFRONT  
ADDITION TO THE  
CITY OF EVERETT  
DIV. #1



5-8-20



TAX PARCELS:  
00394401100300  
00394401100400



~ STREET TO BE VACATED  
5,250 S.F.

JOB NO.: 22417      DATE: 4/16/2020      DWN. BY: LAF  
PORT'N GOV'T LOT 4, SEC.13, TWP.31N, RGE.3E, W.M.

EXHIBIT E:  
  
**GREG BROWN**  
  
5/7/20      X: \\22417\DWG\22417-SK3.DWG (SKETCH)

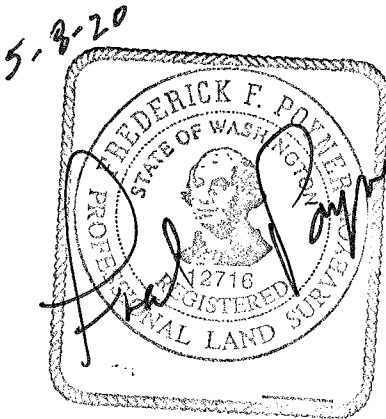
**CASCADE  
SURVEYING AND  
ENGINEERING, Inc.**  
  
P.O. BOX 326  
ARLINGTON, WA  
  
(360) 435-5551

**EXHIBIT F:**

ALL THAT PORTION OF GOVERNMENT LOT 4, SECTION 13, TOWNSHIP 31 NORTH, RANGE 3 EAST, W.M. DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 13 ;  
THENCE NORTH 87°28'37" WEST, ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 2247.54 FEET TO A POINT ON THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE NORTH 2°23'54" EAST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 324.95 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., NORTH 2°23'54" EAST A DISTANCE OF 0.11 FEET;  
THENCE NORTH 87°36'06" WEST A DISTANCE OF 25.00 FEET TO THE WESTERLY MARGIN OF 99<sup>TH</sup> AVENUE N.W. AND THE SOUTHEAST CORNER OF LOT 5, BLOCK 11, C.D. HILLMAN'S BIRMINGHAM WATER FRONT ADDITION TO THE CITY OF EVERETT, DIVISION NO. 1, AS PER PLAT RECORDED IN VOLUME 8 OF PLATS ON PAGES 21 TO 23, RECORDS OF SNOHOMISH COUNTY WASHINGTON;  
THENCE NORTH 2°23'54" EAST, ALONG THE EAST LINE OF SAID BLOCK 11, A DISTANCE OF 90.00 FEET TO THE NORTHEAST CORNER OF LOT 3 OF SAID BLOCK 11;  
THENCE SOUTH 87°36'06" EAST A DISTANCE OF 25.00 FEET, TO THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE NORTH 2°23'54" EAST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 29.89 FEET;  
THENCE SOUTH 87°36'06" EAST A DISTANCE OF 25.00 FEET, TO THE EASTERLY MARGIN OF 99<sup>TH</sup> AVENUE N.W. AND THE NORTHWEST CORNER OF LOT 49, BLOCK 12 OF SAID PLAT;  
THENCE SOUTH 2°23'54" WEST, ALONG THE WEST LINE OF SAID BLOCK 12, A DISTANCE OF 120.00 FEET TO THE SOUTHWEST CORNER OF LOT 46 OF SAID BLOCK 12;  
THENCE NORTH 87°36'06" WEST A DISTANCE OF 25.00 FEET TO THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W. AND THE TRUE POINT OF BEGINNING;

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.





**Snohomish County Council**

**Committee:** Public Works

**Analyst:** Deb Evison Bell

**ECAF:** 2021- 0415

**Proposal:** Ord. 21-036

**Date:** 06/22/21

**Consideration:**

The proposal is to follow Snohomish County Code 13.100.010 to vacate a portion of county right of way.

**Background:**

On October 17, 2019, Greg Brown, Gary and Geyanne Buse and Thomas Stephenson, submitted an application proposing to vacate a portion of unopened dedicated ROW of 99th Ave NW between Soundview Dr NW and 98th Ave NW, located in the SE¼ of Section 13 Township 31 North Range 3 East W.M. The proposed vacation is a strip of land 50 feet in width, and 25 feet on each side of the centerline of 99<sup>th</sup> Ave NW.

**Current Proposal:**

The County Engineer has determined that it is in the best interest of the general public and recommends the vacation and abandonment of the subject ROW. Approval by ordinance is sought from council to authorize the ROW vacation. In accordance with RCW 36.87.040 and SCC 13.100.040, the county engineer prepared a report examining the petitioned ROW that includes the following 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.
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 VACATION REQUEST 19-115451 RWE ENGINEER’S REPORT – 99th Ave NW A SNOHOMISH COUNTY ROAD RIGHT-OF-WAY 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.

*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 identified in the engineer's report.

*Fiscal Implications:* 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. All associated costs incurred by the county in processing the petition to vacate shall be paid by the Petitioners, per SCC 13.100.070 and SCC 13.100.080; estimated costs: **\$4,910.00**.

**2021 Budget:** NA

**Future Budget Impacts:** NA

**Handling:** NORMAL

**Approved-as-to-form:** YES

**Risk Management:** APPROVE.

**Executive Recommendation:** APPROVE.

**Attachments:** See ECAF packet.

**Amendments:** NONE.

**Request:**

Move to GLS on July 14, 2021 to set a time and date for a Public Hearing.



Legislation Text

File #: 2021-0415, Version: 1

**Executive/Council Action Form (ECAF)**

**ITEM TITLE:**

Ordinance 21-036, vacating a portion of 99<sup>th</sup> Ave NW a Snohomish County road right-of-way

**DEPARTMENT:** Public Works

**ORIGINATOR:** Maria Acuario

**EXECUTIVE RECOMMENDATION:** Approve

**PURPOSE:** Council approval of an Ordinance to grant vacation of public road right-of-way.

**BACKGROUND:** 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 proposing to vacate a portion of unopened dedicated right-of-way (ROW) of 99<sup>th</sup> Ave NW between Soundview Dr NW and 98<sup>th</sup> Ave NW. 99<sup>th</sup> Ave NW formerly known as Second Ave, is a dedicated unopened ROW and is in the SE¼ of Section 13 Township 31 North Range 3 East W.M. The proposed vacation is a strip of land 50 feet in width, and 25 feet on each side of the centerline of 99<sup>th</sup> Ave NW. The proposed ROW vacation is in Council District # 1. See Engineer’s Report for additional Facts/Backgrounds and Conditions.

**FISCAL IMPLICATIONS:**

EXPEND: FUND, AGY, ORG, ACTY, OBJ, AU	CURRENT YR	2ND YR	1ST 6 YRS
<b>TOTAL</b>			

REVENUE: FUND, AGY, ORG, REV, SOURCE	CURRENT YR	2ND YR	1ST 6 YRS
<b>TOTAL</b>			

**DEPARTMENT FISCAL IMPACT NOTES:** No fiscal impact.

**CONTRACT INFORMATION:**

ORIGINAL	CONTRACT#	AMOUNT
AMENDMENT	CONTRACT#	AMOUNT

**Contract Period**

ORIGINAL	START	END
AMENDMENT	START	END

**OTHER DEPARTMENTAL REVIEW/COMMENTS:** Approved as to form by PA (Justin Kasting)  
Approved/Reviewed by Finance & Risk

LOG NUMBERS

BGT. \_\_\_\_\_ , \_\_\_\_\_

CEO \_\_\_\_\_ , \_\_\_\_\_

**EXECUTIVE/COUNCIL APPROVAL FORM**

**MANAGEMENT ROUTING:**

EXECUTIVE

Dave Somers \_\_\_\_\_

EXEC. DIR.

Ken Klein \_\_\_\_\_

DIRECTOR/ELECTED

Kelly Snyder \_\_\_\_\_ *KS*

DEPARTMENT

Public Works \_\_\_\_\_

DIV. MGR.

Stephen P. Dickson \_\_\_\_\_ *SD*

DIVISION

TES \_\_\_\_\_

ORIGINATOR

Maria Acuario \_\_\_\_\_ *ma*

DATE 6/8/21 \_\_\_\_\_

Ext. 2464 \_\_\_\_\_

**TO:**

**COUNCIL CHAIRPERSON:**

**SNOHOMISH COUNTY COUNCIL**

**EXECUTIVE RECOMMENDATION:**

\_\_\_\_\_ Approve \_\_\_\_\_ No Recommendation

\_\_\_\_\_ Further Processing

\_\_\_\_\_ Requested By \_\_\_\_\_

PW Review: Fiscal  *AGH* Admin  *BT* Deputy Director  *dwm*

Executive Office Signature \_\_\_\_\_

CEO Staff Review \_\_\_\_\_

Received at Council Office \_\_\_\_\_

**DOCUMENT TYPE:**

\_\_\_\_\_ BUDGET ACTION:

\_\_\_\_\_ Emergency Appropriation

\_\_\_\_\_ Supplemental Appropriation

\_\_\_\_\_ Budget Transfer

\_\_\_\_\_ CONTRACT:

\_\_\_\_\_ New

\_\_\_\_\_ Amendment

\_\_\_\_\_ GRANT APPLICATION

\_\_\_\_\_ ORDINANCE

\_\_\_\_\_ Amendment to Ord. # \_\_\_\_\_

\_\_\_\_\_ PLAN

\_\_\_\_\_ OTHER

**DOCUMENT / AGENDA TITLE:**

Ordinance Vacating a Portion of 99<sup>th</sup> Ave NW a Snohomish County Road Right-of-Way

**APPROVAL AUTHORITY:**

EXECUTIVE \_\_\_\_\_

COUNCIL \_\_\_\_\_

CITE BASIS **SCC 13.100.020**

**HANDLING:**

NORMAL

EXPEDITE \_\_\_\_\_

URGENT \_\_\_\_\_

DEADLINE DATE \_\_\_\_\_

**PURPOSE:**

Council approval of an Ordinance to grant vacation of public road right-of-way.

**BACKGROUND:**

- 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 proposing to vacate a portion of unopened dedicated right-of-way (ROW) of 99<sup>th</sup> Ave NW between Soundview Dr NW and 98<sup>th</sup> Ave NW.
- 99<sup>th</sup> Ave NW formerly known as Second Ave, is a dedicated unopened ROW and is in the SE¼ of Section 13 Township 31 North Range 3 East W.M.
- The proposed vacation is a strip of land 50 feet in width, and 25 feet on each side of the centerline of 99<sup>th</sup> Ave NW.
- The proposed ROW vacation is in Council District # 1.
- See Engineer’s Report for additional Facts/Backgrounds and Conditions.





ECAF NO.:  
ECAF RECEIVED:

**ORDINANCE  
INTRODUCTION SLIP**

**SNOHOMISH COUNTY COUNCIL**

**EXHIBIT # 3**

TO: Clerk of the Council

**FILE ORD. 21-036**

TITLE OF PROPOSED ORDINANCE:

~~~~~  
  
\_\_\_\_\_  
Councilmember Date

Clerk's Action: Proposed Ordinance No. \_\_\_\_\_

Assigned to: \_\_\_\_\_ Date: \_\_\_\_\_

~~~~~  
**STANDING COMMITTEE RECOMMENDATION FORM**

On \_\_\_\_\_, the Committee considered the item and by \_\_\_\_ Consensus /  
\_\_\_\_ Yeas and \_\_\_\_ Nays, made the following recommendation:

\_\_\_\_\_ Move to Council to schedule public hearing \_\_\_\_\_

**Public Hearing Date \_\_\_\_\_ at \_\_\_\_\_**

\_\_\_\_\_ Move to Council as amended to schedule public hearing


\_\_\_\_\_ Move to Council with no recommendation

**This item \_\_\_\_ should/ \_\_\_\_ should not be placed on the Consent Agenda.**

(Consent agenda may be used for routine items that do not require public hearing and do not need discussion at General Legislative Session)

**This item \_\_\_\_ should/ \_\_\_\_ should not be placed on the Administrative Matters Agenda**

(Administrative Matters agenda may be used for routine action to set time and date for public hearings)

  
\_\_\_\_\_  
Committee Chair



**SNOHOMISH COUNTY COUNCIL**

**EXHIBIT #** 4

**FILE** ORD. 21-036

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

***99<sup>TH</sup> 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. 99<sup>th</sup> 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 99<sup>th</sup> Ave NW between Soundview Dr NW and 98<sup>th</sup> 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 99<sup>th</sup> 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 99<sup>th</sup> 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 99<sup>th</sup> 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 99<sup>th</sup> 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 99<sup>th</sup> 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 99<sup>th</sup> 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

Digitally signed by Douglas W. McCormick  
DN: C=US, E=dmcormick@snoco.org, O=Snohomish  
County, OU=Public Works, CN=Douglas W. McCormick  
Date: 2021.06.04 14:49:25-0700

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

6/4/2021

Date

Prepared By:

*Maria Acuario*

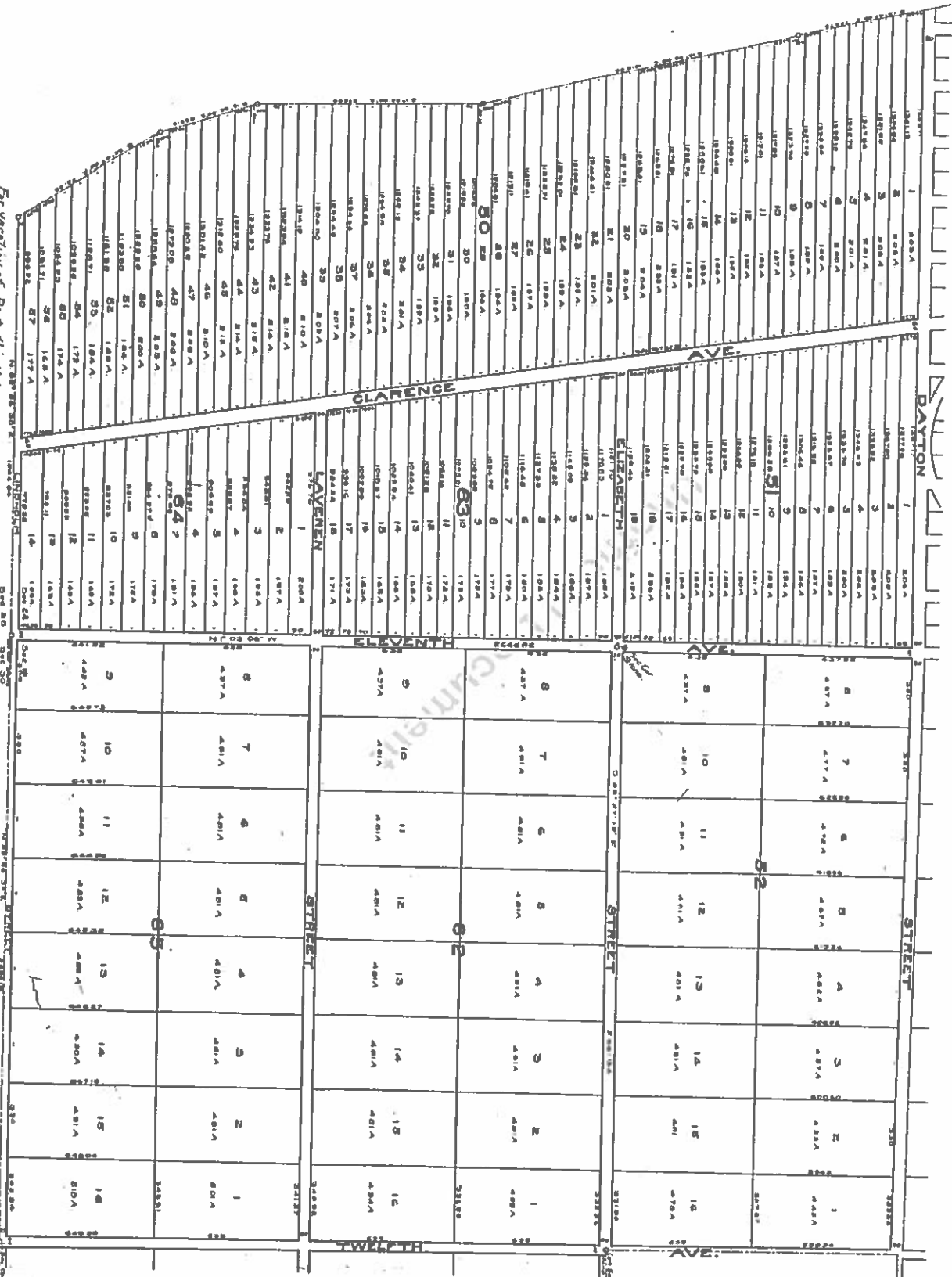
Maria Acuario  
ROW Investigator III

6/3/2021

Date



For Vacant of Part of Lincoln Ave.  
 West of Clarence Ave. See Comm.  
 Records, Vol. 99 Page 32.  
 Gen. & Dubuque County Public  
 By D.C. Webster, Deputy.







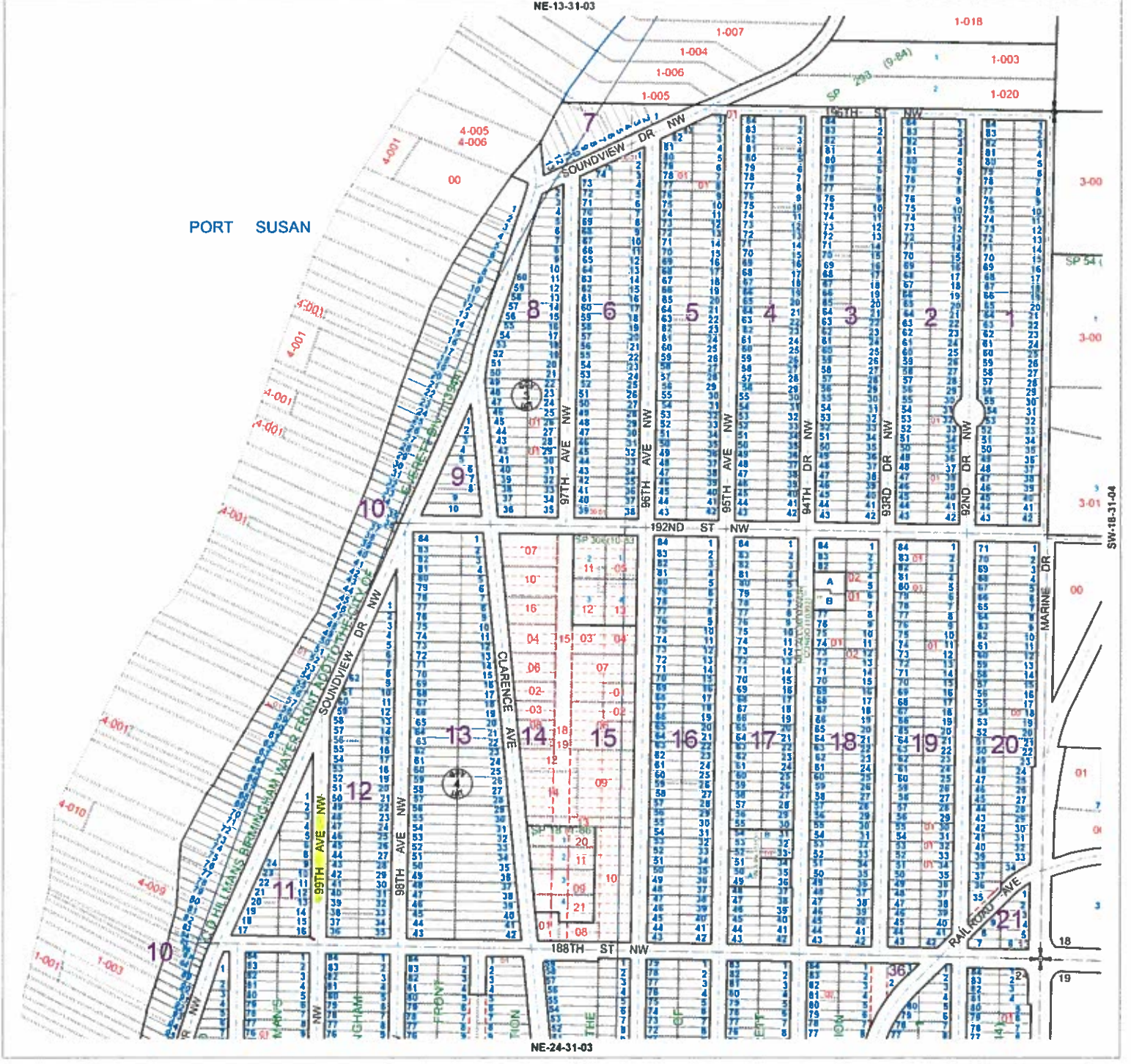
<b>QUARTER</b> <b>SE</b>	<b>SECTION</b> <b>13</b>	<b>TOWNSHIP N W B L</b> <b>31</b>	<b>RANGE E W M</b> <b>3</b>
-----------------------------	-----------------------------	--------------------------------------	--------------------------------

Centerline --- Lot --- Block --- Section --- City Limits [Red Box] ---  
 Gov Lot --- Subdrv --- ROW --- Quarter --- Tax Acct ---  
 Major Water --- Other Lot --- Vac ROW --- 16th --- Easement ---  
 Minor Water --- Other Subdrv --- Vac Lot ---

1 inch = 200 feet

A product of the Assessor's Office  
 Snohomish County, Washington

Map produced on February 16, 2017



**EXHIBIT 2**











EXHIBIT 5 PAGE 2



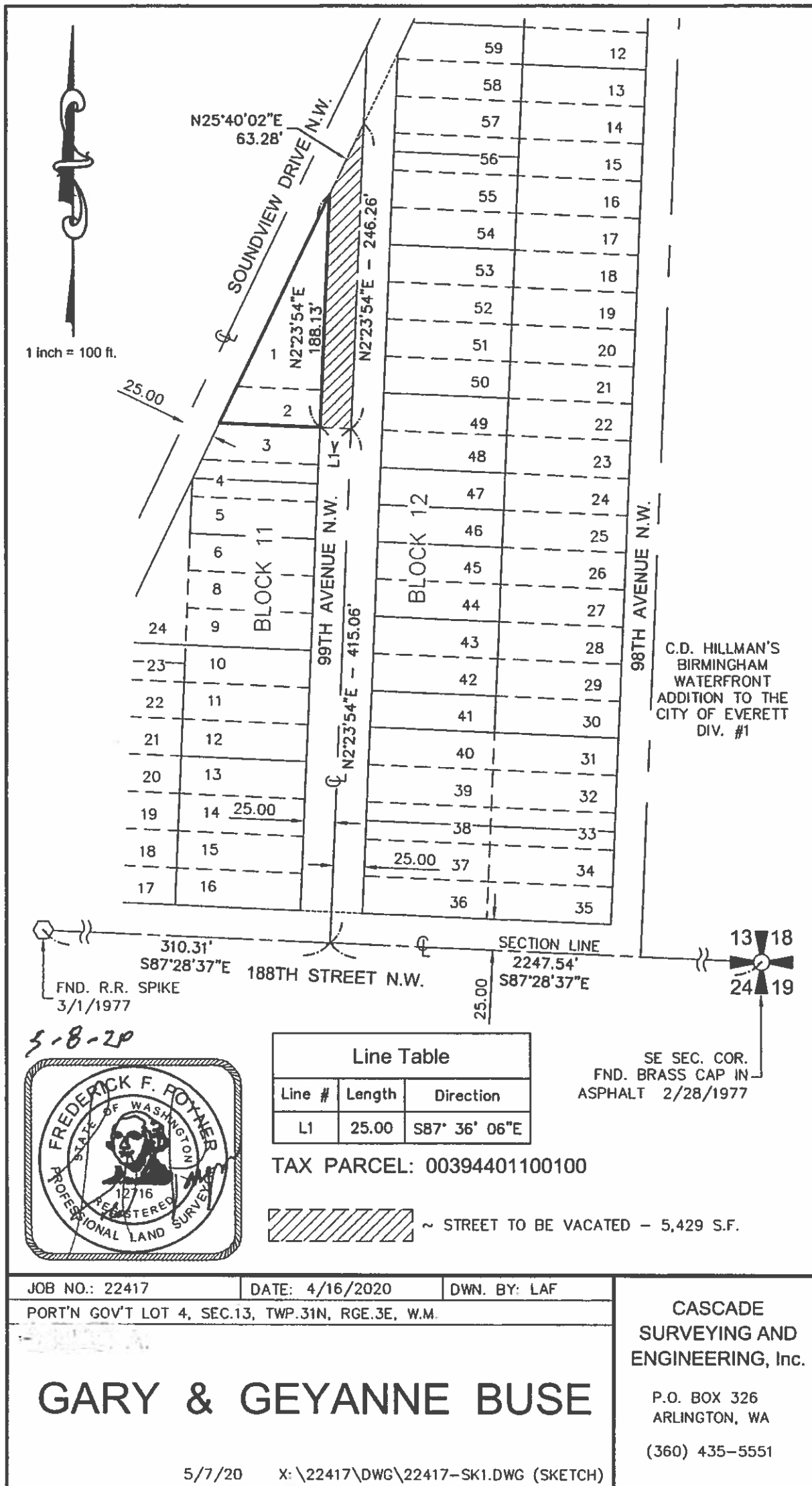
TAX PARCEL 0039441100100

LOTS 1-2 BLOCK 11 PLAT OF CD HILLMANS BIRMINGHAM WATERFORM ADDITION TO THE CITY OF  
EVERETT

GARY AND GEYANNE BUSE

**EXHIBIT 6 PAGE 1**







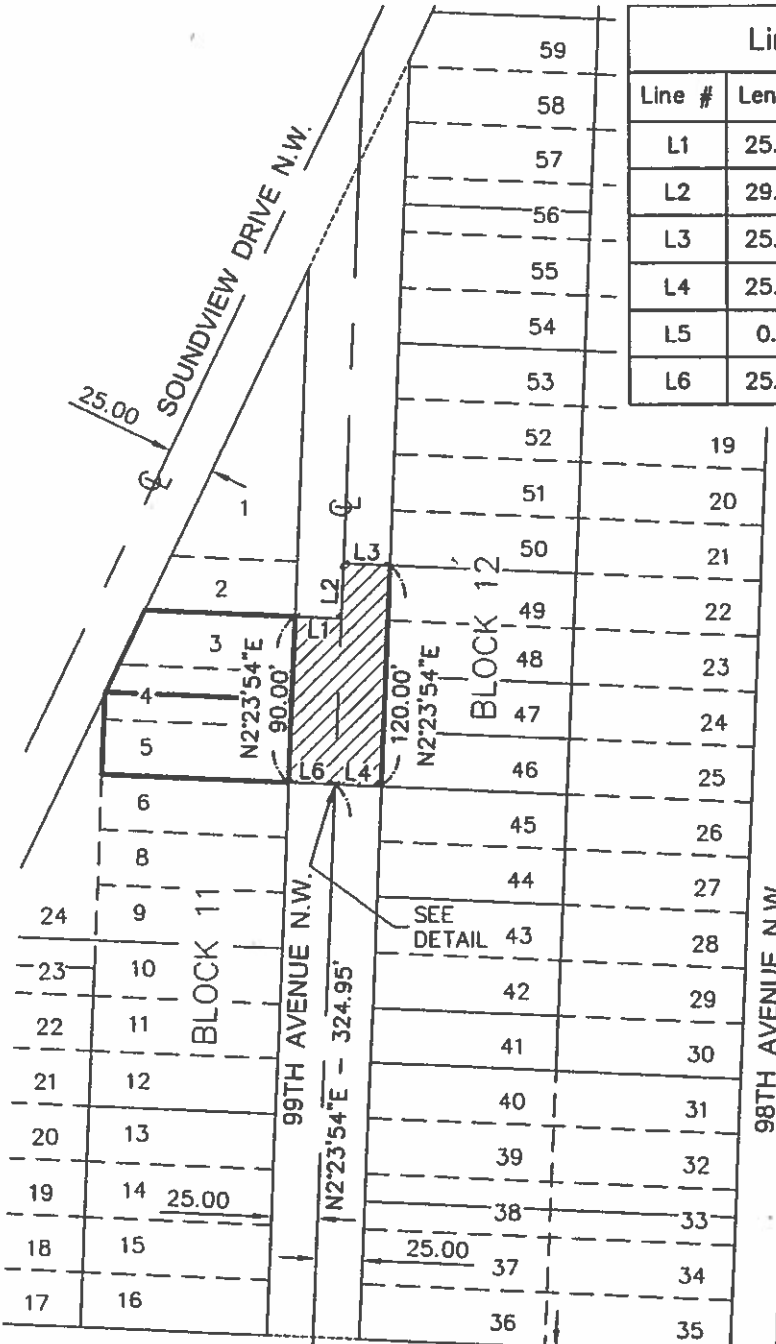
TAX PARCEL 00394401100300

LOTS 3-5 BLOCK 11 AND LOTS 46-49 BLOCK 12 PLAT OF CD HILLMANS WATERFRONT ADDITION TO THE  
CITY OF EVERETT

GREG BROWN

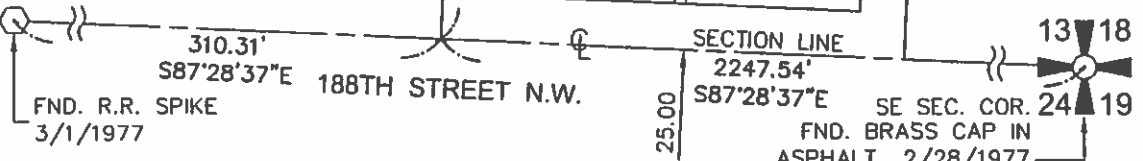
**EXHIBIT 7 PAGE 1**

1 inch = 100 ft.

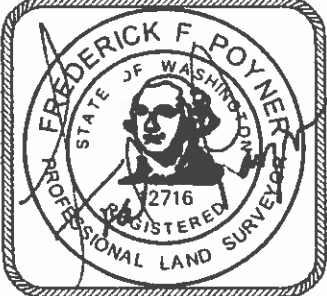


Line Table		
Line #	Length	Direction
L1	25.00	S87° 36' 06"E
L2	29.89	N02° 23' 54"E
L3	25.00	S87° 36' 06"E
L4	25.00	S87° 36' 06"E
L5	0.11	N02° 23' 54"E
L6	25.00	S87° 36' 06"E

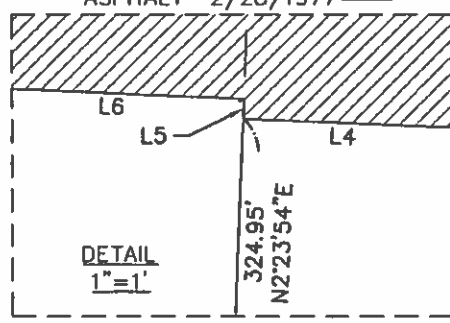
C.D. HILLMAN'S  
BIRMINGHAM  
WATERFRONT  
ADDITION TO THE  
CITY OF EVERETT  
DIV. #1



5-8-20



TAX PARCELS:  
00394401100300  
00394401100400



~ STREET TO BE VACATED  
5,250 S.F.

JOB NO.: 22417      DATE: 4/16/2020      DWN. BY: LAF  
PORT'N GOV'T LOT 4, SEC.13, TWP.31N, RGE.3E, W.M.

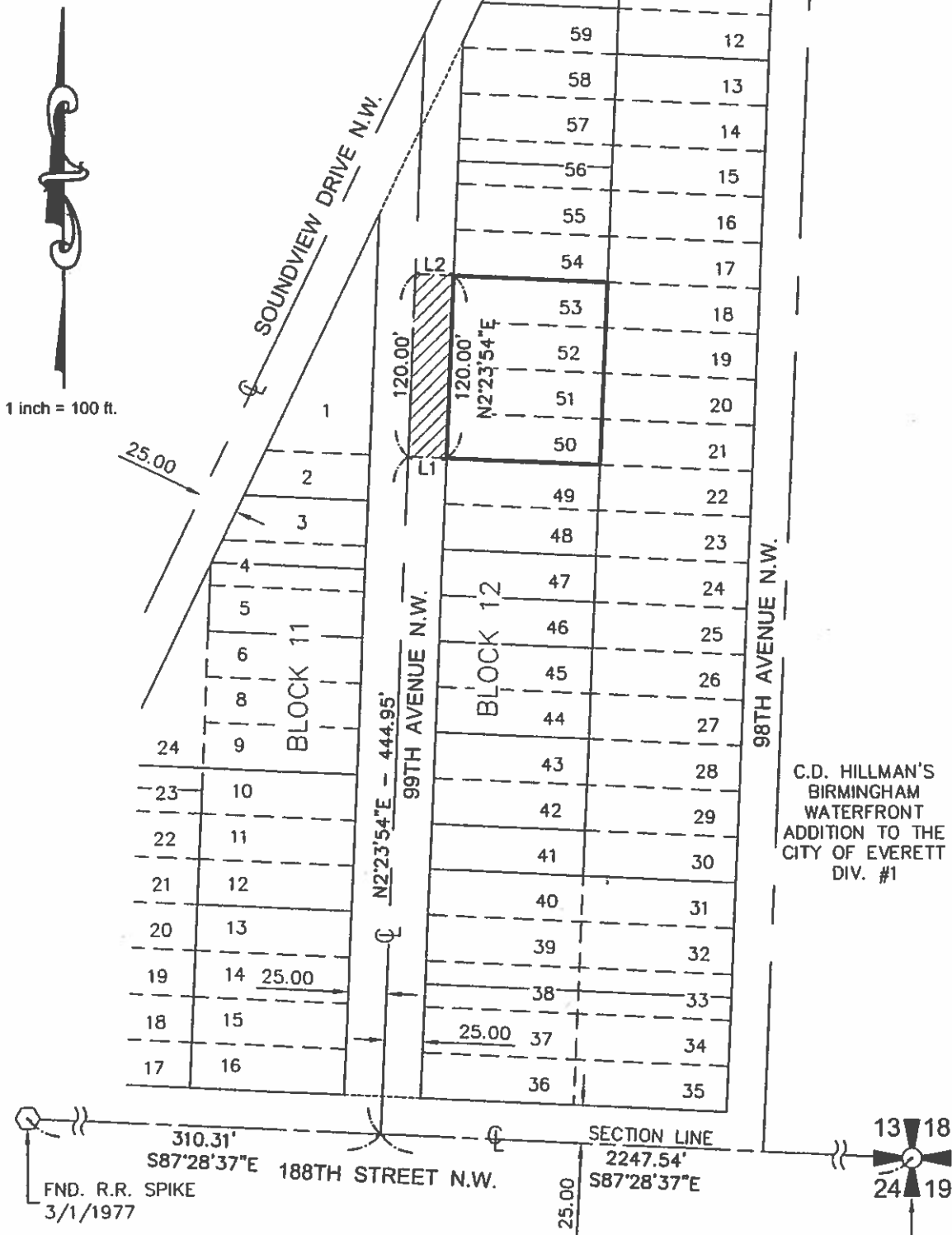
CASCADE  
SURVEYING AND  
ENGINEERING, Inc.

**GREG BROWN**

P.O. BOX 326  
ARLINGTON, WA  
(360) 435-5551

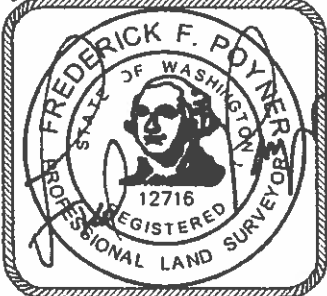
5/7/20      X:\22417\DWG\22417-SK3.DWG (SKETCH)





C.D. HILLMAN'S  
BIRMINGHAM  
WATERFRONT  
ADDITION TO THE  
CITY OF EVERETT  
DIV. #1

5-8-20



Line Table		
Line #	Length	Direction
L1	25.00	S87° 36' 06\"E
L2	25.00	S87° 36' 06\"E

SE SEC. COR.  
FND. BRASS CAP IN  
ASPHALT 2/28/1977

TAX PARCEL: 00394401205000

~ STREET TO BE VACATED - 3,000 S.F.

JOB NO.: 22417	DATE: 4/16/2020	DWN. BY: LAF
PORT'N GOV'T LOT 4, SEC.13, TWP.31N, RGE.3E, W.M.		
<h1 style="margin: 0;">THOMAS STEPHENSON</h1>		<b>CASCADE SURVEYING AND ENGINEERING, Inc.</b>  P.O. BOX 326 ARLINGTON, WA  (360) 435-5551
5/7/20 X:\22417\DWG\22417-SK2.DWG (SKETCH)		



Standing @ 99th Ave – looking East

**EXHIBIT 9**



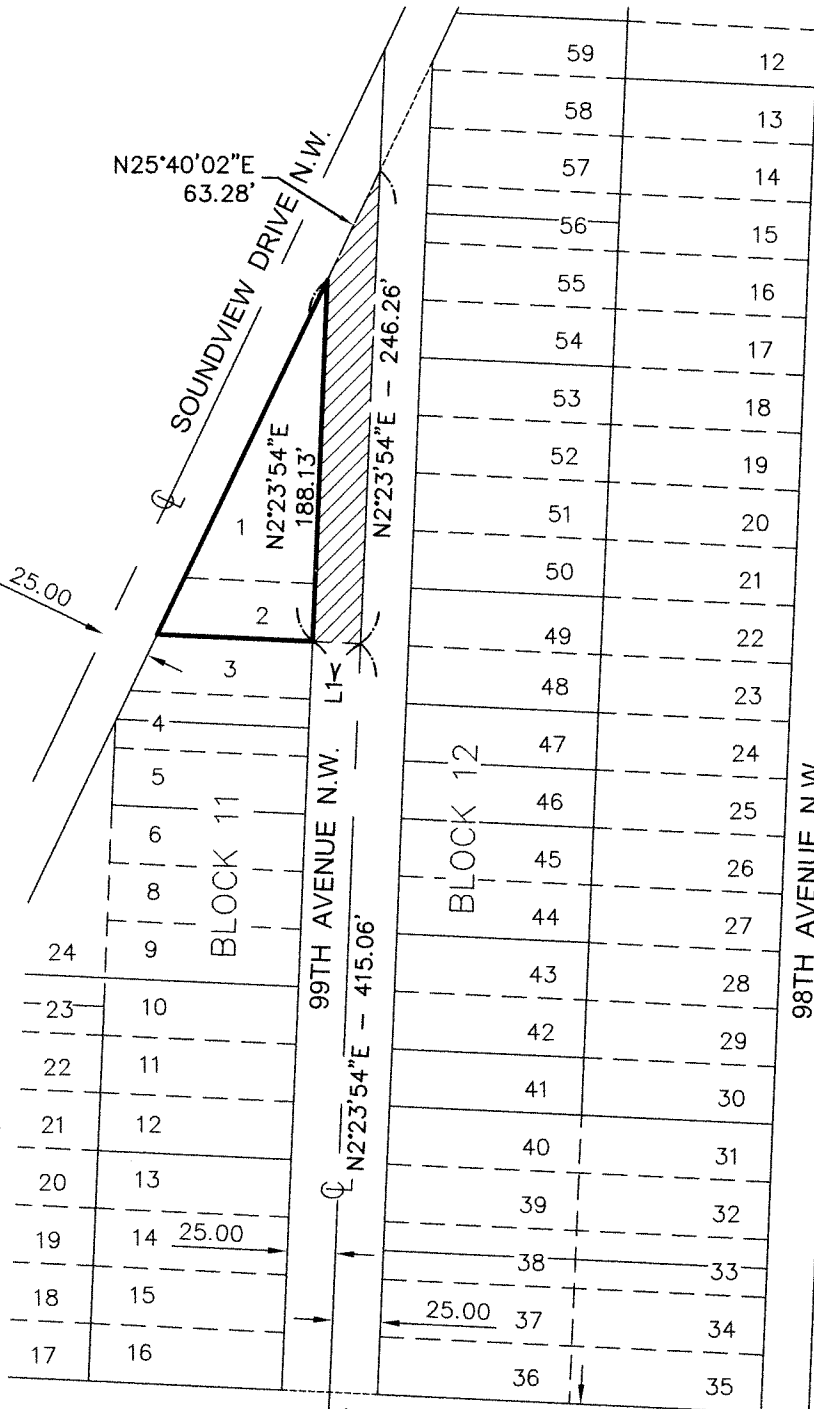




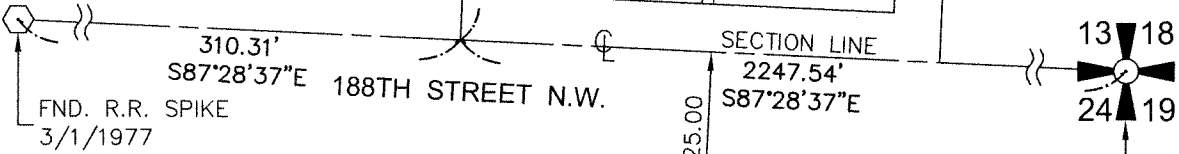




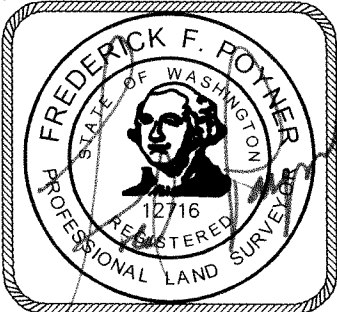
1 inch = 100 ft.



C.D. HILLMAN'S  
BIRMINGHAM  
WATERFRONT  
ADDITION TO THE  
CITY OF EVERETT  
DIV. #1



3-8-20



Line Table		
Line #	Length	Direction
L1	25.00	S87° 36' 06"E

TAX PARCEL: 00394401100100

~ STREET TO BE VACATED - 5,429 S.F.

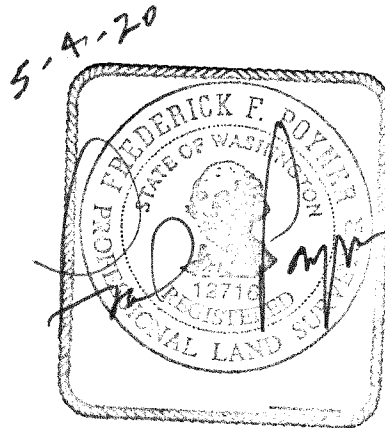
JOB NO.: 22417	DATE: 4/16/2020	DWN. BY: LAF	<b>CASCADE SURVEYING AND ENGINEERING, Inc.</b>  P.O. BOX 326 ARLINGTON, WA  (360) 435-5551
PORT'N GOV'T LOT 4, SEC.13, TWP.31N, RGE.3E, W.M.			
<b>EXHIBIT A:</b>  <h1 style="text-align: center;">GARY &amp; GEYANNE BUSE</h1>			
5/7/20 X:\22417\DWG\22417-SK1.DWG (SKETCH)			

**EXHIBIT B:**

ALL THAT PORTION OF GOVERNMENT LOT 4, SECTION 13, TOWNSHIP 31 NORTH, RANGE 3 EAST, W.M. DESCRIBED AS FOLLOWS;

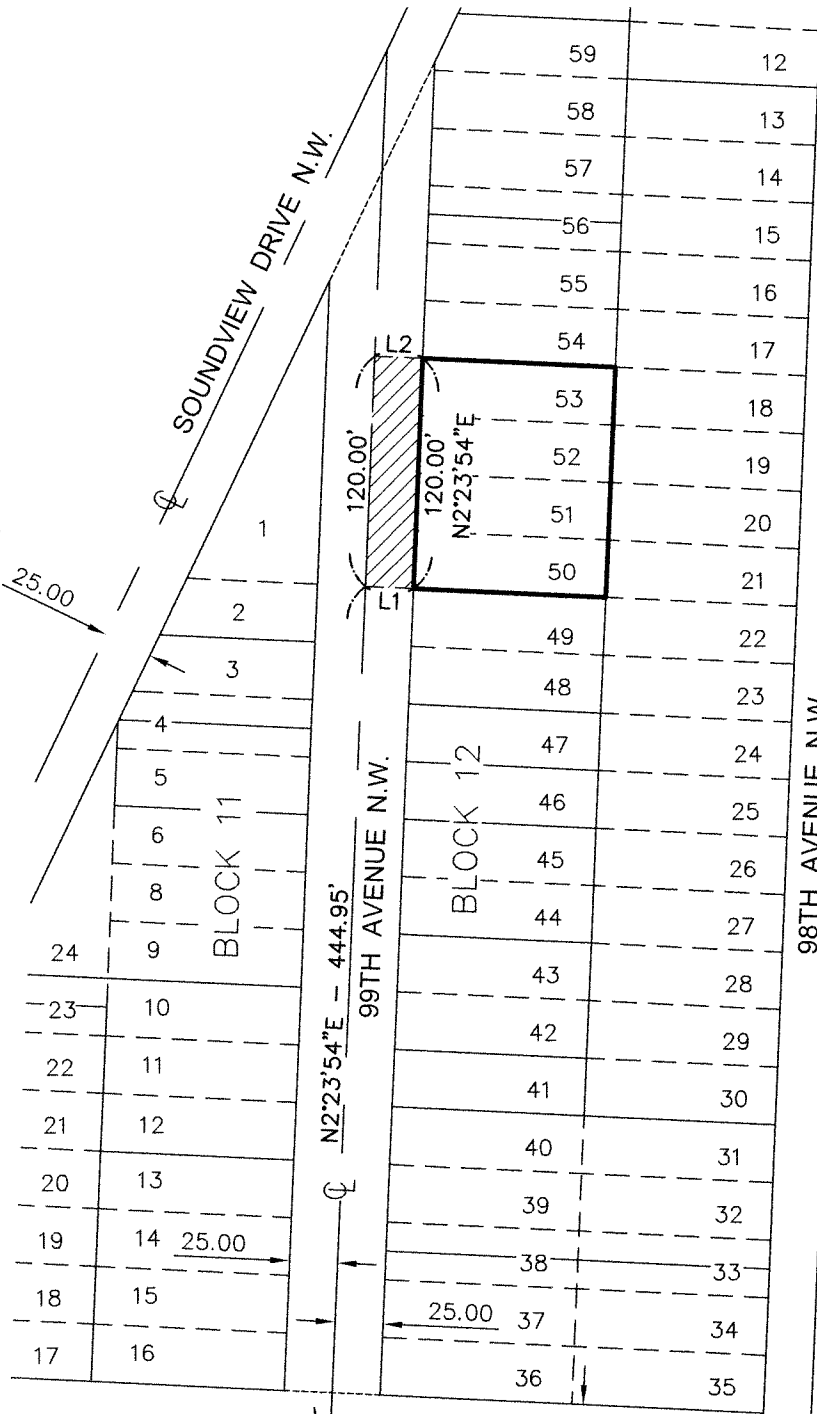
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 13 ;  
THENCE NORTH 87°28'37" WEST, ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 2247.54 FEET TO A POINT ON THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE NORTH 2°23'54" EAST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 415.06 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE NORTH 87°36'06" WEST A DISTANCE OF 25.00 FEET TO THE WESTERLY MARGIN OF 99<sup>TH</sup> AVENUE N.W. AND THE SOUTHEAST CORNER OF LOT 2, BLOCK 11, C.D. HILLMAN'S BIRMINGHAM WATER FRONT ADDITION TO THE CITY OF EVERETT, DIVISION NO. 1, AS PER PLAT RECORDED IN VOLUME 8 OF PLATS ON PAGES 21 TO 23, RECORDS OF SNOHOMISH COUNTY WASHINGTON;  
THENCE NORTH 2°23'54" EAST, ALONG THE EASTERLY LINE OF SAID BLOCK 11, A DISTANCE OF 188.13 FEET, TO THE SOUTHEASTERLY MARGIN OF SOUNDVIEW DRIVE N.W.;  
THENCE NORTH 25°40'02" EAST, ALONG THE SOUTHEASTERLY MARGIN OF SOUNDVIEW DRIVE N.W., A DISTANCE OF 63.28 FEET, TO THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE SOUTH 2°23'54" WEST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 246.26 FEET TO THE TRUE POINT OF BEGINNING;

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

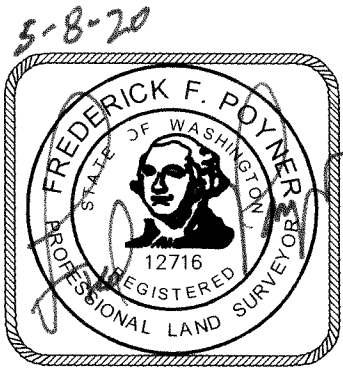
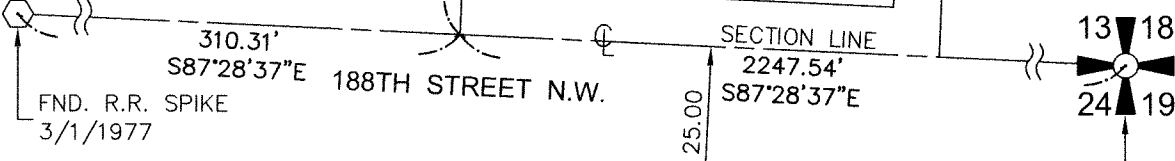




1 inch = 100 ft.



C.D. HILLMAN'S  
BIRMINGHAM  
WATERFRONT  
ADDITION TO THE  
CITY OF EVERETT  
DIV. #1



Line Table		
Line #	Length	Direction
L1	25.00	S87° 36' 06"E
L2	25.00	S87° 36' 06"E

TAX PARCEL: 00394401205000

~ STREET TO BE VACATED - 3,000 S.F.

JOB NO.: 22417      DATE: 4/16/2020      DWN. BY: LAF  
 PORT'N GOV'T LOT 4, SEC.13, TWP.31N, RGE.3E, W.M.

**EXHIBIT C:**

**THOMAS STEPHENSON**

5/7/20      X: \22417\DWG\22417-SK2.DWG (SKETCH)

**CASCADE  
SURVEYING AND  
ENGINEERING, Inc.**

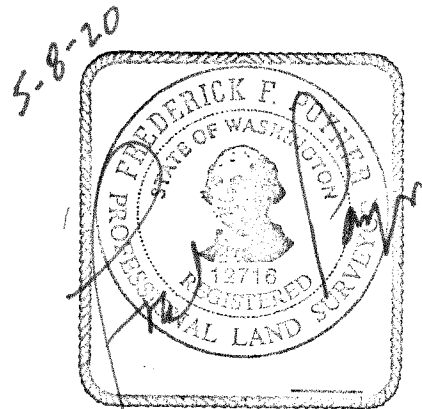
P.O. BOX 326  
ARLINGTON, WA  
(360) 435-5551

**EXHIBIT D:**

ALL THAT PORTION OF GOVERNMENT LOT 4, SECTION 13, TOWNSHIP 31 NORTH, RANGE 3 EAST, W.M. DESCRIBED AS FOLLOWS;

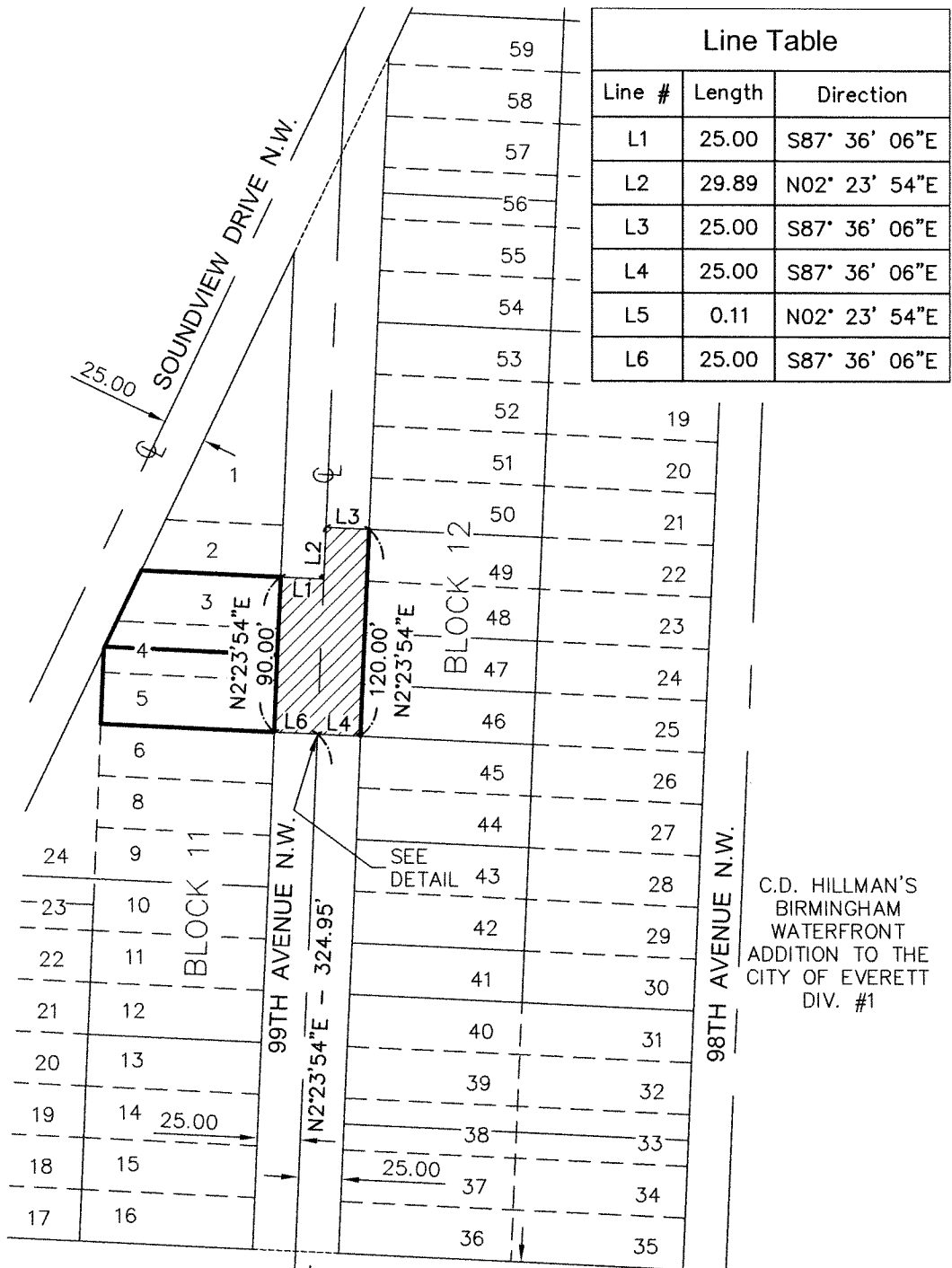
COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 13 ;  
THENCE NORTH 87°28'37" WEST, ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 2247.54 FEET TO A POINT ON THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE NORTH 2°23'54" EAST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 444.95 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE SOUTH 87°36'06" EAST A DISTANCE OF 25.00 FEET TO THE EASTERLY MARGIN OF 99<sup>TH</sup> AVENUE N.W. AND THE SOUTHWEST CORNER OF LOT 50, BLOCK 12, C.D. HILLMAN'S BIRMINGHAM WATER FRONT ADDITION TO THE CITY OF EVERETT, DIVISION NO. 1, AS PER PLAT RECORDED IN VOLUME 8 OF PLATS ON PAGES 21 TO 23, RECORDS OF SNOHOMISH COUNTY WASHINGTON;  
THENCE NORTH 2°23'54" EAST, ALONG THE WEST LINE OF SAID BLOCK 12, A DISTANCE OF 120.00 FEET TO THE NORTHWEST CORNER OF LOT 53 OF SAID BLOCK 12;  
THENCE NORTH 87°36'06" WEST A DISTANCE OF 25.00 FEET, TO THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE SOUTH 2°23'54" WEST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 120.00 FEET TO THE TRUE POINT OF BEGINNING;

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.





1 inch = 100 ft.



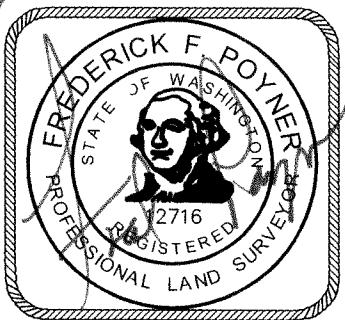
Line Table		
Line #	Length	Direction
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L2	29.89	N02° 23' 54"E
L3	25.00	S87° 36' 06"E
L4	25.00	S87° 36' 06"E
L5	0.11	N02° 23' 54"E
L6	25.00	S87° 36' 06"E

C.D. HILLMAN'S  
BIRMINGHAM  
WATERFRONT  
ADDITION TO THE  
CITY OF EVERETT  
DIV. #1

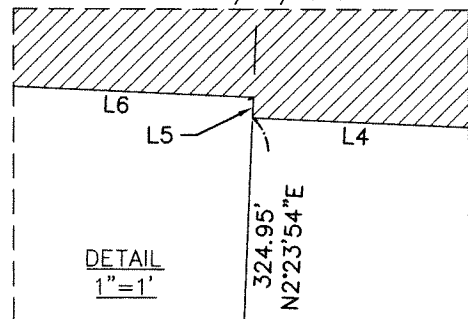
310.31' S87°28'37"E 188TH STREET N.W.  
FND. R.R. SPIKE  
3/1/1977

2247.54' S87°28'37"E SE SEC. COR.  
25.00' FND. BRASS CAP IN ASPHALT 2/28/1977

5-8-20



TAX PARCELS:  
00394401100300  
00394401100400



~ STREET TO BE VACATED  
5,250 S.F.

JOB NO.: 22417      DATE: 4/16/2020      DWN. BY: LAF  
PORT'N GOV'T LOT 4, SEC.13, TWP.31N, RGE.3E, W.M.

EXHIBIT E:  
  
**GREG BROWN**  
  
5/7/20      X: \22417\DWG\22417-SK3.DWG (SKETCH)

**CASCADE  
SURVEYING AND  
ENGINEERING, Inc.**  
  
P.O. BOX 326  
ARLINGTON, WA  
  
(360) 435-5551

**EXHIBIT F:**

ALL THAT PORTION OF GOVERNMENT LOT 4, SECTION 13, TOWNSHIP 31 NORTH, RANGE 3 EAST, W.M. DESCRIBED AS FOLLOWS;

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 13 ;  
THENCE NORTH 87°28'37" WEST, ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 2247.54 FEET TO A POINT ON THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE NORTH 2°23'54" EAST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 324.95 FEET TO THE TRUE POINT OF BEGINNING;  
THENCE CONTINUING ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., NORTH 2°23'54" EAST A DISTANCE OF 0.11 FEET;  
THENCE NORTH 87°36'06" WEST A DISTANCE OF 25.00 FEET TO THE WESTERLY MARGIN OF 99<sup>TH</sup> AVENUE N.W. AND THE SOUTHEAST CORNER OF LOT 5, BLOCK 11, C.D. HILLMAN'S BIRMINGHAM WATER FRONT ADDITION TO THE CITY OF EVERETT, DIVISION NO. 1, AS PER PLAT RECORDED IN VOLUME 8 OF PLATS ON PAGES 21 TO 23, RECORDS OF SNOHOMISH COUNTY WASHINGTON;  
THENCE NORTH 2°23'54" EAST, ALONG THE EAST LINE OF SAID BLOCK 11, A DISTANCE OF 90.00 FEET TO THE NORTHEAST CORNER OF LOT 3 OF SAID BLOCK 11;  
THENCE SOUTH 87°36'06" EAST A DISTANCE OF 25.00 FEET, TO THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W.;  
THENCE NORTH 2°23'54" EAST, ALONG THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W., A DISTANCE OF 29.89 FEET;  
THENCE SOUTH 87°36'06" EAST A DISTANCE OF 25.00 FEET, TO THE EASTERLY MARGIN OF 99<sup>TH</sup> AVENUE N.W. AND THE NORTHWEST CORNER OF LOT 49, BLOCK 12 OF SAID PLAT;  
THENCE SOUTH 2°23'54" WEST, ALONG THE WEST LINE OF SAID BLOCK 12, A DISTANCE OF 120.00 FEET TO THE SOUTHWEST CORNER OF LOT 46 OF SAID BLOCK 12;  
THENCE NORTH 87°36'06" WEST A DISTANCE OF 25.00 FEET TO THE CENTERLINE OF 99<sup>TH</sup> AVENUE N.W. AND THE TRUE POINT OF BEGINNING;

SITUATE IN THE COUNTY OF SNOHOMISH, STATE OF WASHINGTON.

