SNOHOMISH COUNTY COUNCIL PUBLIC HEARING PACKET

ORDINANCE 21-036 VACATING A PORTION OF 99TH AVE NW

A SNOHOMISH COUNTY ROAD RIGHT-OF-WAY

ECAF: 2021-0415

Date/Time: Wednesday, August 18, 2021, at 10:30 a.m.

Staff Person: Deb Evison Bell

DPA: Justin Kasting

EXHIBIT LIST

Click on Exhibit # to view document.

Exhibit #	Date	Exhibit Description
1	7/12/21	Council Staff Report
2	6/30/21	ECAF Received
3	6/30/21	Ordinance Introduction Sheet Signed
4	6/04/21	County Engineer's Report
5		Vacation Petition

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
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9	In the matter of: 99 th Ave NW
10	In the matter of. 33 7100 1000
11	
12	SNOHOMISH COUNTY COUNCIL
13	Snohomish County, Washington
14	Shoriomish County, Washington
15	ORDINANCE NO. 21-036
16	ONDINANCE NO. 21-030
17	AN ORDINANCE VACATING A PORTION OF 99th Ave NW
18	A SNOHOMISH COUNTY ROAD RIGHT-OF-WAY
19	A SNOTIONIST COUNT FROAD RIGHT-OF-WAT
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 th Ave NW,
23	an unopened Snohomish County road right-of-way; and
24	an unopened Shoriomish County road right-or-way, and
25	WHEREAS, the County Road Engineer, pursuant to RCW 36.87.040 and
	SCC 13.100.040, prepared a report examining the unopened County road right-of-
26 27	
28	way proposed to be vacated and abandoned; and
29	WHEREAS, the County Road Engineer has determined that all criteria to
30	vacate and abandon a portion of 99 th Ave NW exists and recommends that said
31	unopened County road right-of-way be vacated and abandoned; and
32	unopened County Toad right-or-way be vacated and abandoned, and
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
3 4 35	· · · · · · · · · · · · · · · · · · ·
36	Council") held a public hearing to consider the County Road Engineer's report and to
37	hear public testimony;
	NOW, THEREFORE, BE IT ORDAINED:
38	NOW, THEREFORE, BE IT ORDAINED.
39	Section 1. The County Council adopts and incorporates the foregoing
40	
41	recitals as findings as if set forth fully herein.
42	Castian 2. The County Council further finds that the unexpend County road
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	

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

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

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

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

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

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

ORDINANCE NO. 21-036, AN ORDINANCE VACATING A PORTION 99th Ave NW A SNOHOMISH COUNTY ROAD RIGHT-OF-WAY - 2

1			
2 3	Passad this day of	2021	
<i>3</i>	Passed this day of	2021	
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8		SNOHOMISH COUNTY COUNCIL	
9		Snohomish County, Washington	
10			
11		Ctanharia Windst Obaireana	
12 13		Stephanie Wright, Chairperson	
13 14	ATTEST:		
15	ATTEST.		
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18	Assistant Clerk of the Council	_	
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20	() APPROVED		
21	() EMERGENCY	County Free system	
22 2 2	() VETOED	County Executive	Date
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30	ATTEST:		
31	APPROVED AS TO FORM:		
32 33	APPROVED AS TO FORM.		
34	A- W-241-1		
	Deputy Prosecuting Attorney		
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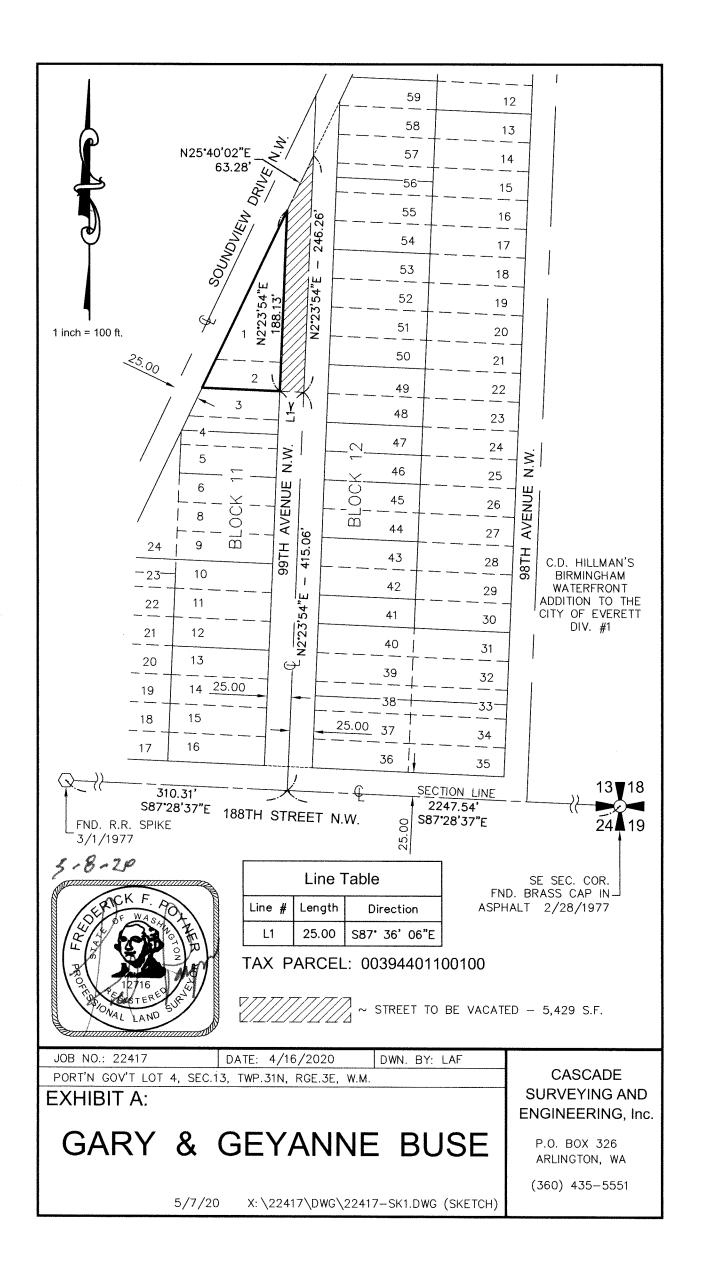


EXHIBIT B:

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;

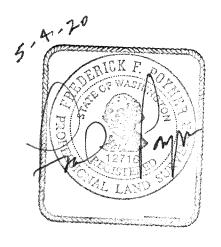
THENCE NORTH 87°28'37" WEST, ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 2247.54 FEET TO A POINT ON THE CENTERLINE OF 99TH AVENUE N.W.:

THENCE NORTH 2°23'54" EAST, ALONG THE CENTERLINE OF 99TH 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 99TH 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 99TH AVENUE N.W.;

THENCE SOUTH 2°23′54" WEST, ALONG THE CENTERLINE OF 99TH AVENUE N.W., A DISTANCE OF 246.26 FEET TO THE TRUE POINT OF BEGINNING;



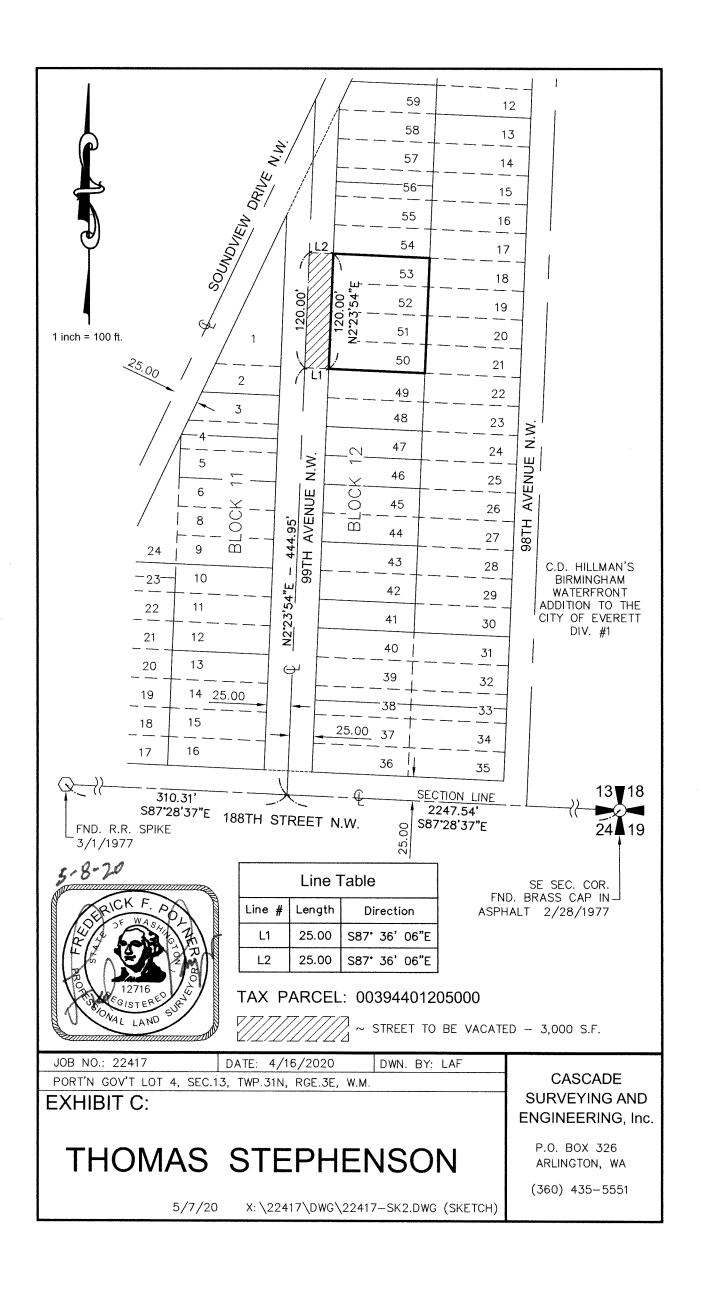


EXHIBIT D:

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;

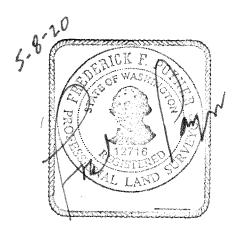
THENCE NORTH 87°28'37" WEST, ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 2247.54 FEET TO A POINT ON THE CENTERLINE OF 99TH AVENUE N.W.;

THENCE NORTH 2°23′54" EAST, ALONG THE CENTERLINE OF 99TH 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 99TH 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 99TH AVENUE N.W.; THENCE SOUTH 2°23′54" WEST, ALONG THE CENTERLINE OF 99TH AVENUE N.W., A DISTANCE OF 120.00 FEET TO THE TRUE POINT OF BEGINNING;



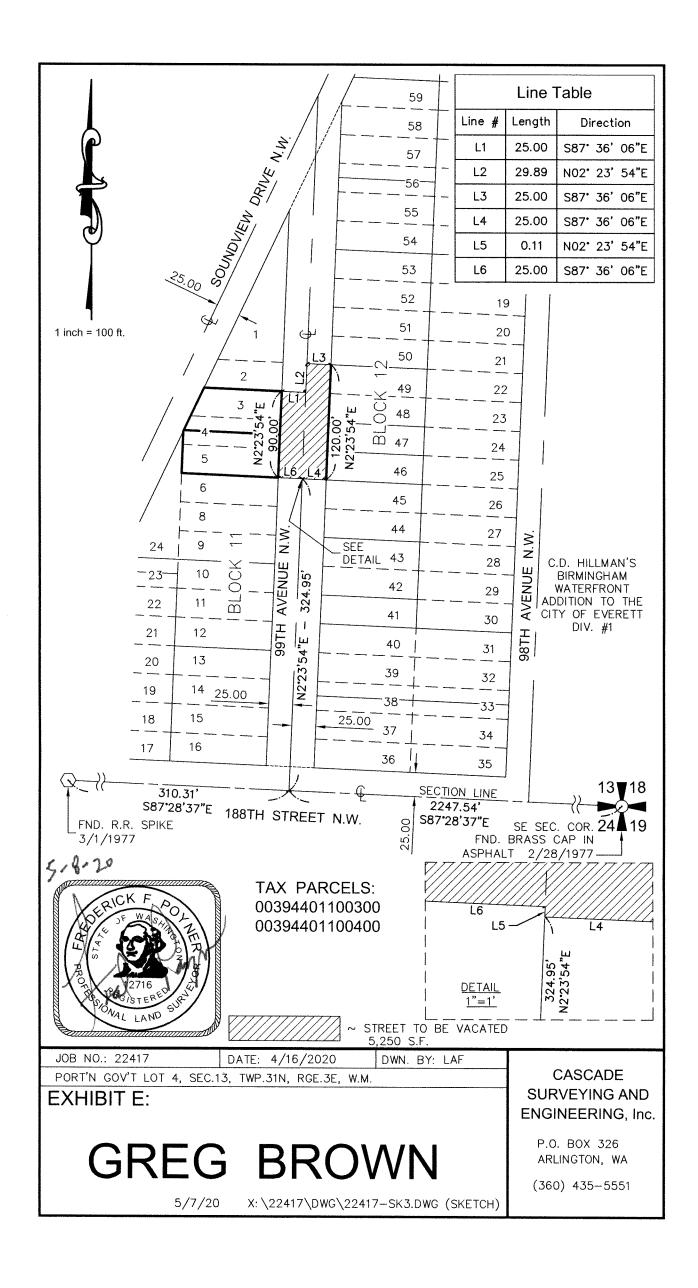


EXHIBIT F:

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 99TH AVENUE N.W.;

THENCE NORTH 2°23′54" EAST, ALONG THE CENTERLINE OF 99TH AVENUE N.W., A DISTANCE OF 324.95 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG THE CENTERLINE OF 99TH 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 99TH 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 99TH AVENUE N.W.; THENCE NORTH 2°23′54″ EAST, ALONG THE CENTERLINE OF 99TH 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 99TH 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^{TH} AVENUE N.W. AND THE TRUE POINT OF BEGINNING;





EXHIBIT # _____1

FILE ____ORD. 21-036___

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 99th 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. Ziply 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.

<u>Attachments:</u> See ECAF packet.

Amendments: NONE.

Request:

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



Snohomish County Council

SNOHOMISH COUNTY COUNCIL

EXHIBIT # ______2

FILE ORD. 21-036

Legislation Text

File #: 2021-0415, Version: 1	
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Executive/Council Action Form (ECAF)

ITEM TITLE:

Ordinance 21-036, vacating a portion of 99th 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 99th Ave NW between Soundview Dr NW and 98th Ave NW. 99th Ave NW formerly known as Second Ave, is a dedicated unopened ROW and is in the SE½ 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 99th 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
TOTAL			
	T	T	T
REVENUE: FUND, AGY, ORG, REV, SOURCE	CURRENT YR	2ND YR	1ST 6 YRS
TOTAL			

DEPARTMENT FISCAL IMPACT NOTES: No fiscal impact.

CONTRACT INFORMATION:

ORIGINAL	CONTRACT#	AMOUNT	
AMENDMENT	CONTRACT#	AMOUNT	
Contract Period			
ORIGINAL	START	END	
AMENDMENT	START	END	
			

LOG NUMBERS			
BGT.	,	CEO	,

EXECUTIVE/COUNCIL APPROVAL FORM

MANAGEMENT R	OUTING:	TO:	COUNCIL CHAIRPERSON:	
EXECUTIVE	Dave Somers		SNOHOMISH COUNTY COU	NCIL
EXEC. DIR.	Ken Klein			
DIRECTOR/ELECTED	Kelly Snyder	KS	EXECUTIVE RECOMMENDA	ATION:
DEPARTMENT	Public Works		Approve No Reco	mmendation
DIV. MGR.	Stephen P. Dickson	SD	Further Processing	
DIVISION	TES		Requested By	
ORIGINATOR	Maria Acuario	ma		
DATE 6/8/21	Ext.	2464		
			Executive Office Signature	
PW Review: Fiscal	Admin 37 Dept	uty Director dwm	CEO Staff Review	
			Received at Council Office	
DOCUMENT TYPI	E:			
BUDGET AC	CTION:		GRANT APPLICATION	N
—— Emer	gency Appropriation	on	X ORDINANCE	
	lemental Appropria		Amendment to Ord	1. #
	et Transfer		PLAN	
CONTRACT		•	OTHER	
New	•		OTTLER	
	ndment			
				
DOCUMENT / AGI	ENDA TITLE:			
Ordinance Vacating a	a Portion of 99 th Av	ve NW a Snohom	ish County Road Right-of-Way	
APPROVAL AUTH	IORITY:		EXECUTIVE	COUNCIL X
			CITE BASIS SCC 13.100.02	20
HANDLING: N	Normal X	EXPEDITE	URGENT D	PEADLINE 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 99th Ave NW between Soundview Dr NW and 98th Ave NW.
- 99th Ave NW formerly known as Second Ave, is a dedicated unopened ROW and is in the SE½ 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 99th Ave NW.
- The proposed ROW vacation is in Council District # 1.
- See Engineer's Report for additional Facts/Backgrounds and Conditions.

FISCAL IMPLICATIONS:

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		TOTAL						
REVENUE: FUN	D, AGY, ORG, REV	, SOURCE	CURRENT	YR	2ND YR	1ST 6 YRS		
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		TOTAL						
DEPARTMENT F	ISCAL IMPACT N	OTES:						
No fiscal impact.								
BUDGET REVIE		A	dministrator		Recomm	nend Approval		
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AMENDMENT		NIKACI #			AMOUNT	-		
CONTRACT PER								
ORIGINAL	Start		End					
AMENDMENT	Start		End					
CONTRACT / PR	OJECT TITLE:							
CONTRACTOR N	AME & ADDRESS	(City/State only	z):					
		(City/State only	,)·					
APPROVED:								
	TA ATA TA							
RISK MANAGI	EMENI:	Yes	No	N/A				
COMMENTS:								
PROSECUTING A	ATTY - AS TO FORM:	Yes	X No					
OTTVED DED 4		WEW / COLO						
OTHER DEPAI	RTMENTAL REV	/IEW / COMI	MENTS:					
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NON-ELECTRONIC ATTACHMENTS:

ECAF NO.: ECAF RECEIVED:

ORDINANCE SNOHOMISH COUNTY COUNCIL INTRODUCTION SLIP

	INTRODUCTION SE	EXHIBI	IT#3
O: Clerk of the Council		FILE	ORD. 21-036
TITLE OF PROPOSED ORDINA	ANCE:		
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	Councilmember		Date
.~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~		~~~~~	~~~~~~
Clerk's Action:	Proposed Ord	inance No	) <b>.</b>
Assigned to:		Date:_	
~~~~~~~~~~~~~~~~~	~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~~	,~~~~~~	.~~~~~~~~~
STANDING O	COMMITTEE RECOMME	NDATIO	N FORM
On, th	he Committee considered the iter	m and by ₋	Consensus /
Yeas and Nays, 1	made the following recommenda	ation:	
Move to Council to se	chedule public hearing		
	te <u>at</u>		
_	mended to schedule public hearing		
	no recommendation	C	
This itemshould/ Consent agenda may be used for	should not be placed on the routine items that do not require p		0
liscussion at General Legislative	e Session)		
	should not be placed on the A may be used for routine action to se		
	Sk.L		r
	S/4.J		

Committee Chair



SNOHOMISH COUNTY COUNCIL

ENGINEER'S REPORT

EXHIBIT #	4	
	-	

PETITION REQUEST # 19-115451 RWE

FILE ORD. 21-036

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 S½ of the SW¼ of Section 18, all of Section 19 except the SW¼ of the NE¼, the W½ of the NW¼ and the SW¼ of Section 20 Township 31N Range 4E W.M. Also lots 3 and 4 and the SE¼ of the SE¼ 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 SE¼ 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.
- 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. Ziply 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).

Douglas W. McCormick Douglas W. McCormick	6/4/2021
Douglas W. McCormick P.E.	Date
Deputy Director/County Engineer	
Prepared By:	
Tropaled By:	
7.4	
Maria Acuario	6/3/2021
Maria Acuario	Date

Approved by:

ROW Investigator III

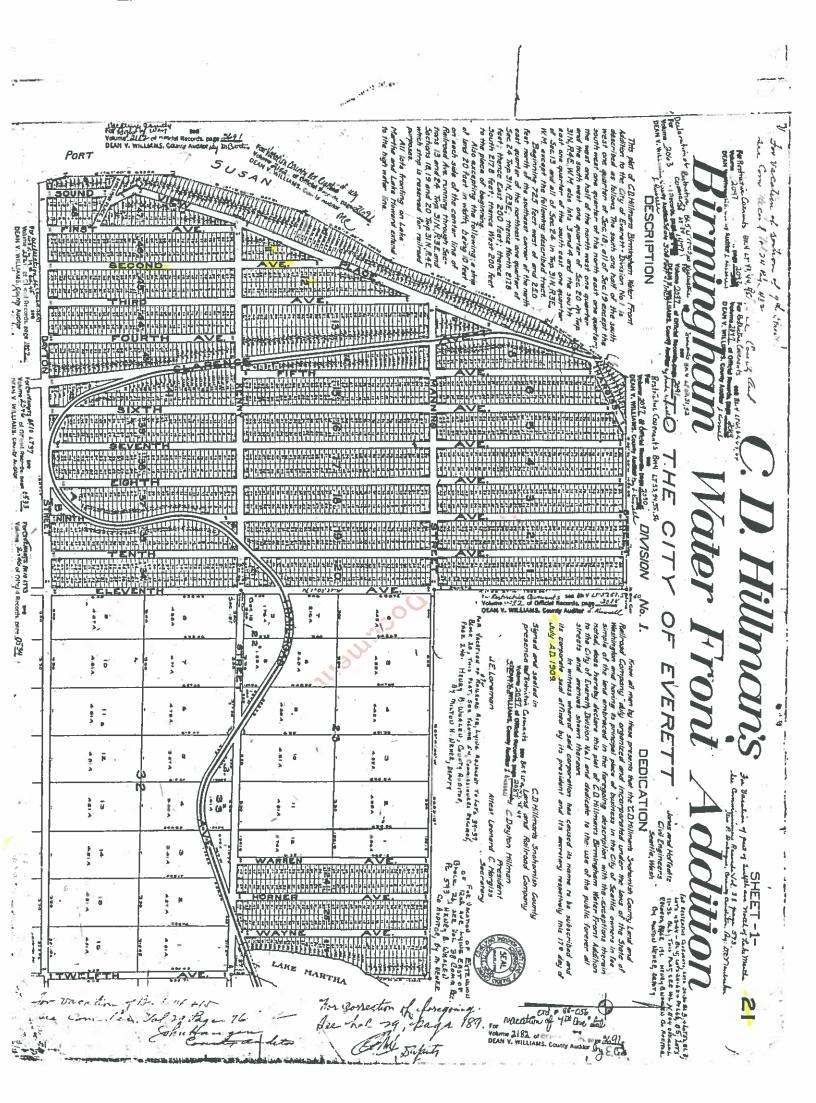


EXHIBIT 1 PAGE 2

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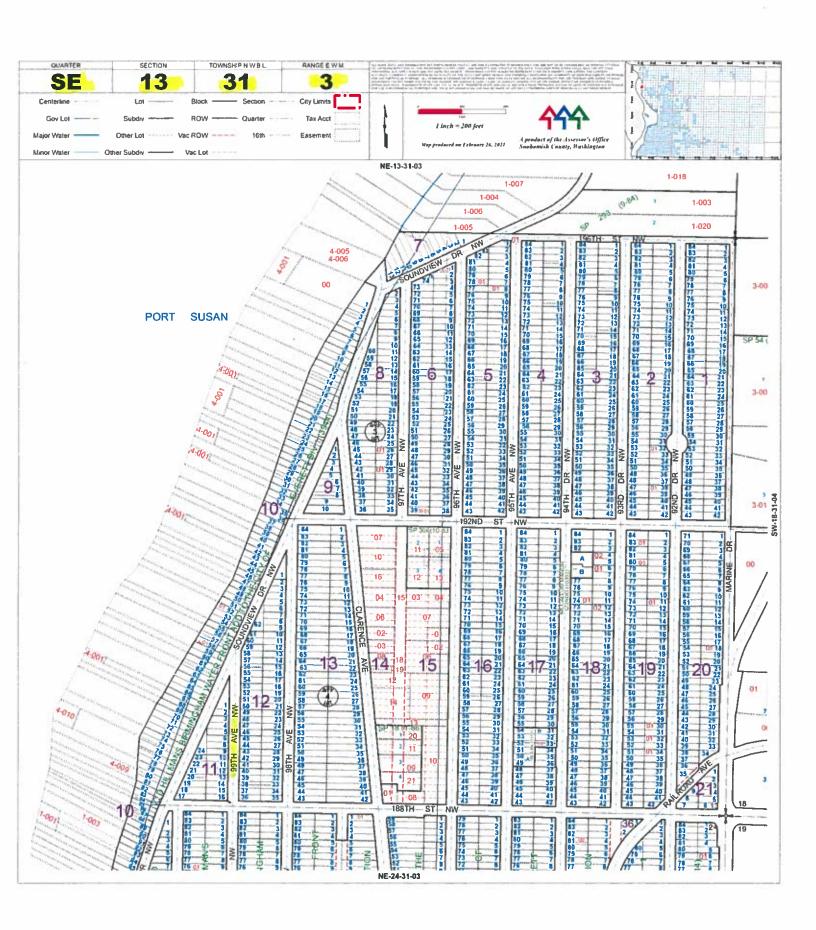


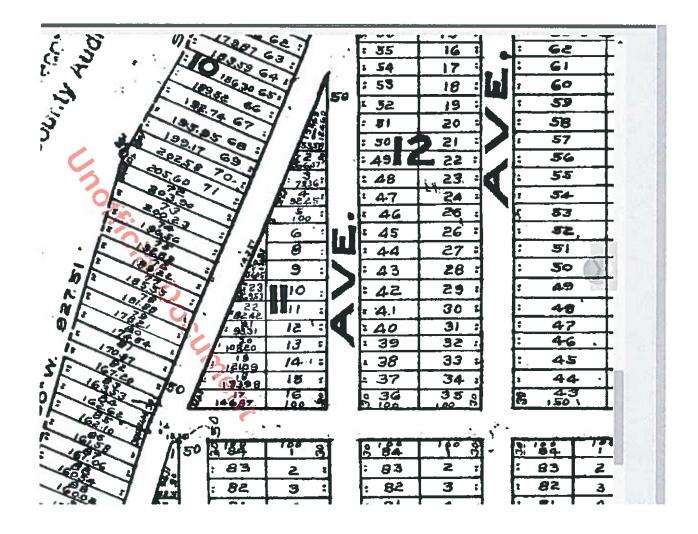
EXHIBIT 2

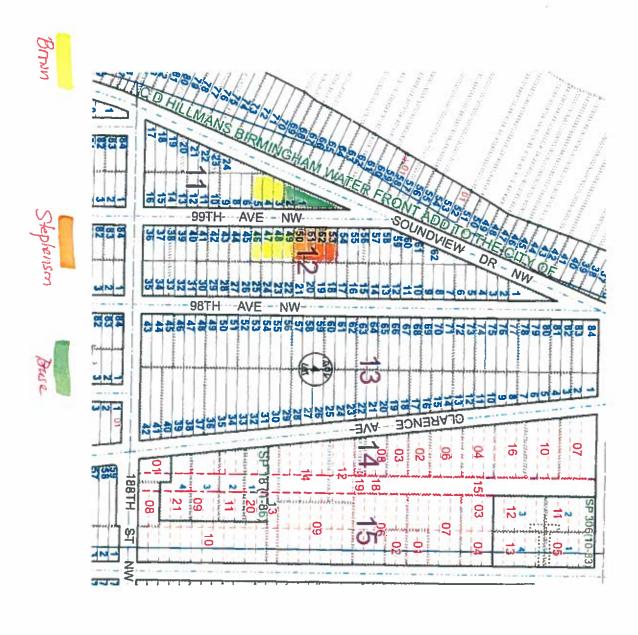
Petition must be signed by the owner of record for a majority of frontage of said road.

Shohomish County policy requires approval and signatures of all adjacent or abutting owners whose property may be affected by this proposed road vacation or benefitted by the vacation as a secondary Petitioner.

Principle Petitioners' Signatures	Prop. Tax Acc't, No.	Print Name	Print Mailing Address	
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Vacation of Road No. PE	Officialization p.	To no	considered useless, the owaces of the majority of the frontige on said county road or portion thereof may petition the Soohomish County Council to varate the same. Such petitions shall show the land owned by each petitioner and shall also set forth that such toad will be uselises as a part of the general road system and that the public will be benefited by its vacation. Such petition shall be accompanied by its vacation. Such petition that he benefit will be a benefit of the County, executed by one or more of such petitioners as principal or practipals with two or more surfices, and conditioned that the petitioners and expenses incurred in the examination, report, and all onther proceedings pertaining to such petition or vacetion or the county.	
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Petition for Vacat	ion of a County Road
THE MATTER OF THE PETITION OF)))
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(Road Name or Number)) }
TO THE SNOHOMISH COUNTY COUNC	CIL OF SNOHOMISH COUNTY, WASHINGTON
We, the undersigned freeholders of Snohor llowing described County Road be vacated:	mish County, State of Washington do petition that the
	N OF PORTION OF ROAD TO BE VACATED) D SURVEYOR OR PROFESSIONAL ENGINEER
EXHIBIT 3 PAGE 2	
	PREPARER'S STAMP & SIGNATURE
he whole distance being about mi	iles andtotal square footage.
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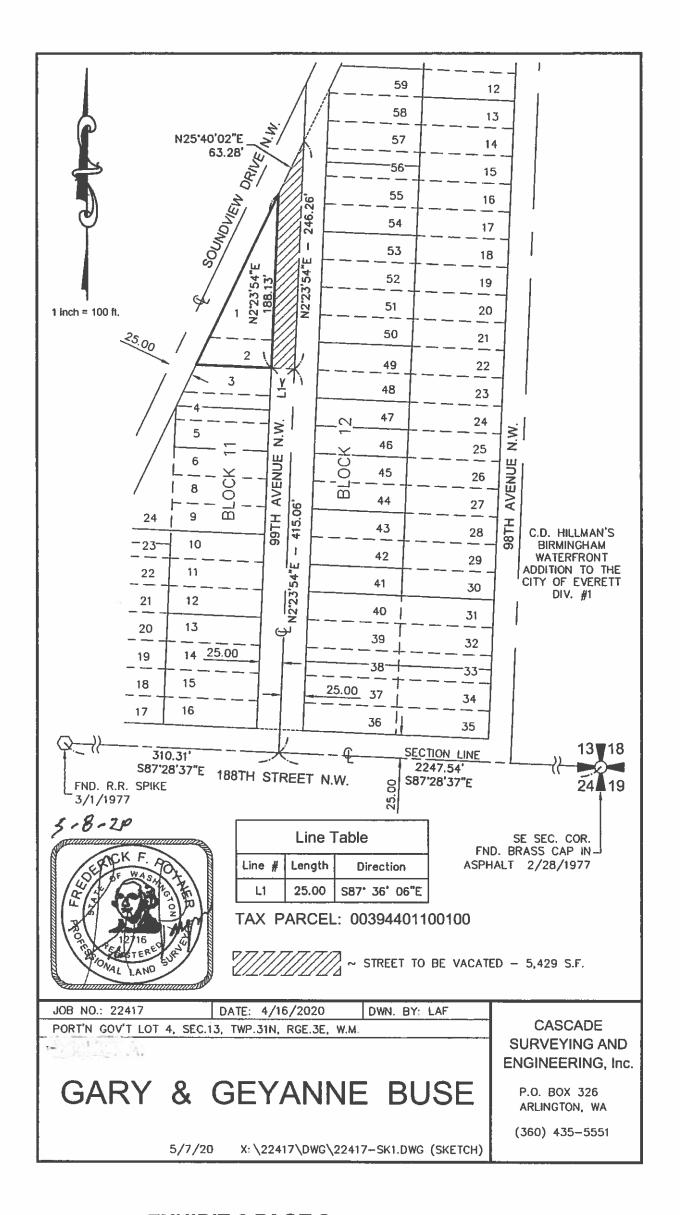


TAX PARCEL 0039441100100

LOTS 1-2 BLOCK 11 PLAT OF CD HILLMANS BIRMINGHAM WATERFORN ADDITIONTO THE CITY OF EVERETT

GARY AND GEYANNE BUSE

EXHIBIT 6 PAGE 1



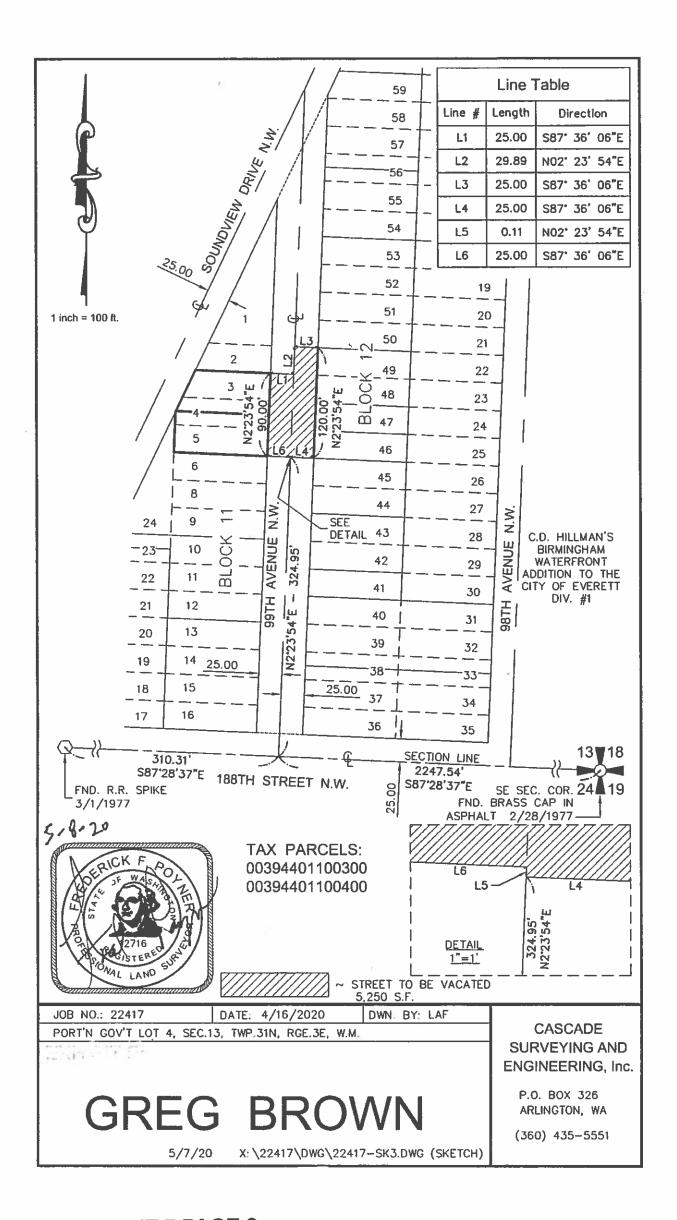


TAX PARCEL 00394401100300

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



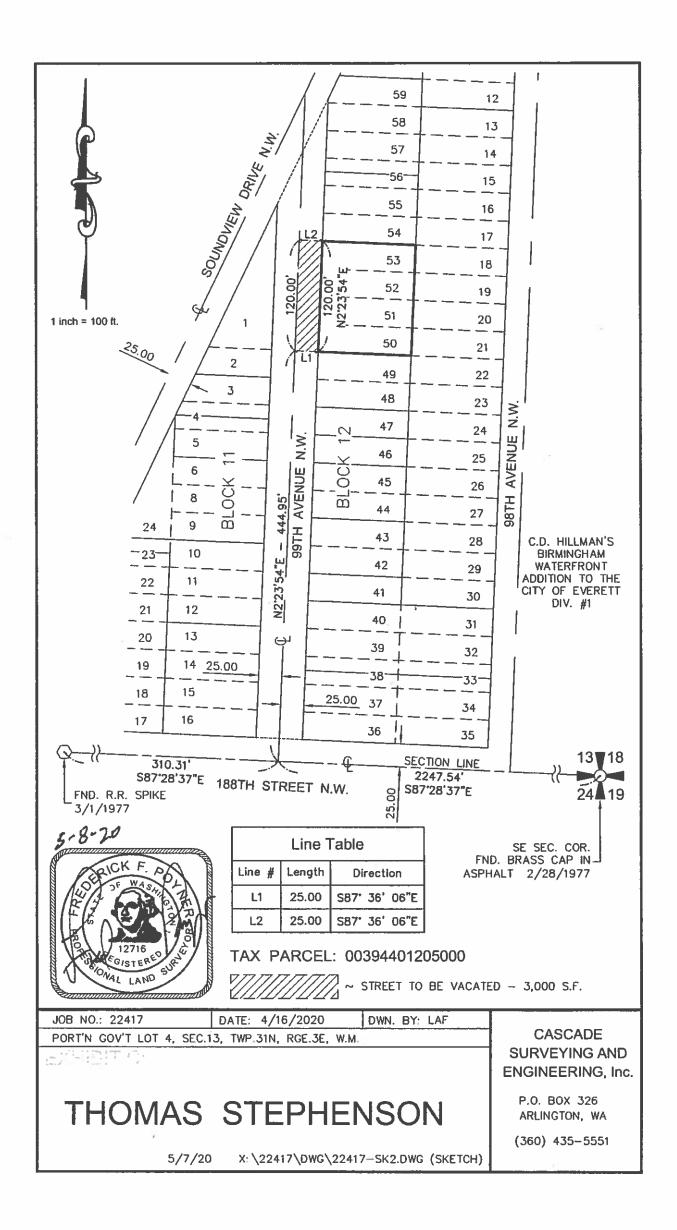


TAX PARCEL 00394401205000

LOTS 50-53 BLOCK 12 PLAT OF C D HILLMANS BIRMINGHAM WATERFRONT ADDITON TO THE CITY OF EVERETT

THOMAS STEPHENSON

EXHIBIT 8 PAGE 1



Standing @ 99th Ave - looking East

SNOHOMISH COUNTY COUNCIL **Petition for Vacation of a County Road** EXHIBIT # 5 IN THE MATTER OF THE PETITION OF FILE ORD. 21-036 and others for the Vacation of PETITION (Road Name or Number) 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 PREPARER'S STAMP & SIGNATURE _total square footage. __ miles and __ the whole distance being about ____ 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 potitioners request the vacation of the road, as provided by law.

Petition for Vacation of a County Road			
IN THE MATTER OF THE PETITION OF			
and others for the Vacation of PETITIC	DN		
99th Ave NW			
(Road Name or Number) TO THE SNOHOMISH COUNTY COUNCIL OF SNOHO	MISH COUNTY, WASHINGTON		
We, the undersigned freeholders of Snohomish County, Sololowing described County Road be vacated:	tate of Washington do petition that the		
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	PREPARER'S STAMP & SIGNATURE		
the whole distance being about miles and Your petitioners respectfully represent and allege that the ro and the public will be benefited by its vacation, and that all of your p in the vicinity of the road; and therefore the petitioners request the	etitioners are freeholders residing in the County		
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Petition must be signed by the owner of record for a majority of frontage of said road.

Shohomish County policy requires approval and signatures of all adjacent or abutting owners whose property may be affected by this proposed road vacation or benefitted by the vacation as a secondary Petitioner.

Principle Petitioners' Signatures	Prop. Tax Acc't. No.	Print Name	Print Mailing Address
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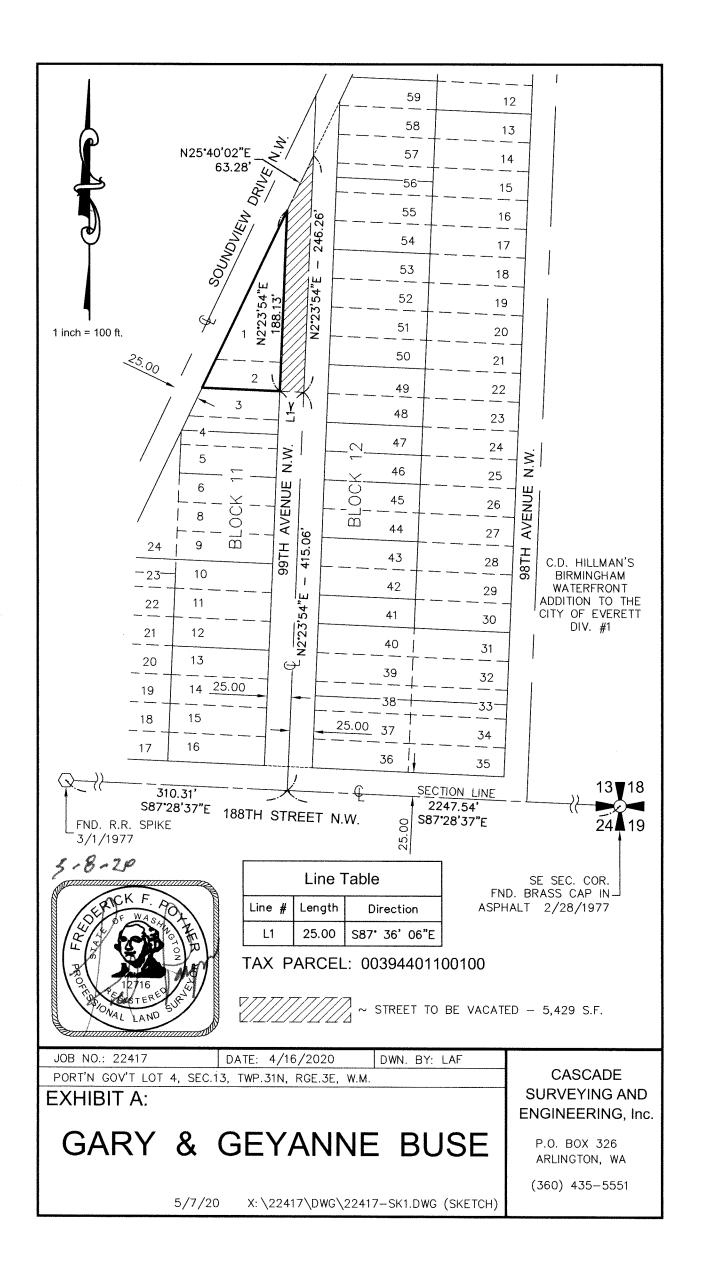


EXHIBIT B:

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;

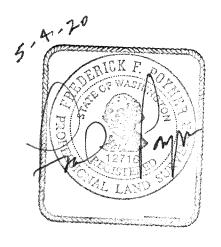
THENCE NORTH 87°28'37" WEST, ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 2247.54 FEET TO A POINT ON THE CENTERLINE OF 99TH AVENUE N.W.;

THENCE NORTH 2°23'54" EAST, ALONG THE CENTERLINE OF 99TH 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 99TH 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 99TH AVENUE N.W.;

THENCE SOUTH 2°23′54" WEST, ALONG THE CENTERLINE OF 99TH AVENUE N.W., A DISTANCE OF 246.26 FEET TO THE TRUE POINT OF BEGINNING;



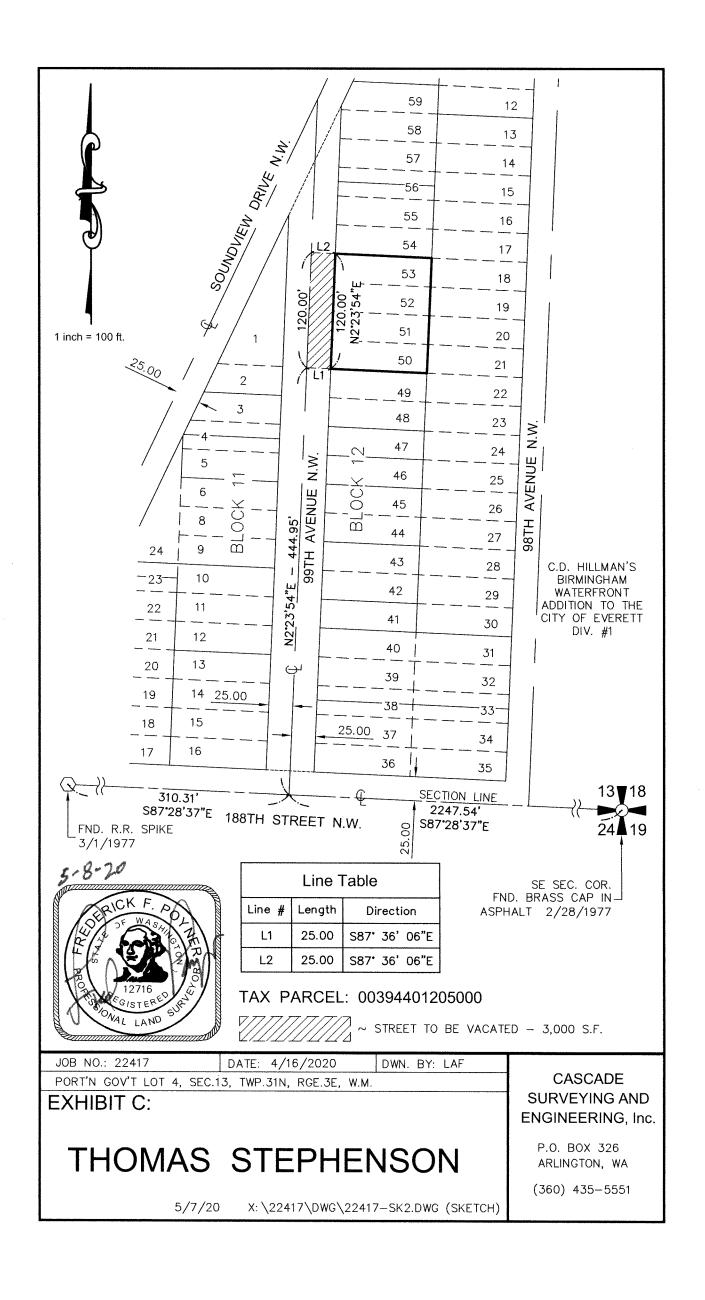


EXHIBIT D:

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;

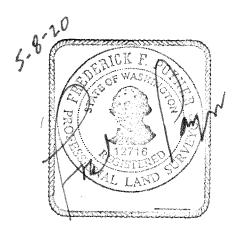
THENCE NORTH 87°28'37" WEST, ALONG THE SOUTH LINE OF SAID SECTION, A DISTANCE OF 2247.54 FEET TO A POINT ON THE CENTERLINE OF 99TH AVENUE N.W.;

THENCE NORTH 2°23′54" EAST, ALONG THE CENTERLINE OF 99TH 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 99TH 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 99TH AVENUE N.W.; THENCE SOUTH 2°23′54" WEST, ALONG THE CENTERLINE OF 99TH AVENUE N.W., A DISTANCE OF 120.00 FEET TO THE TRUE POINT OF BEGINNING;



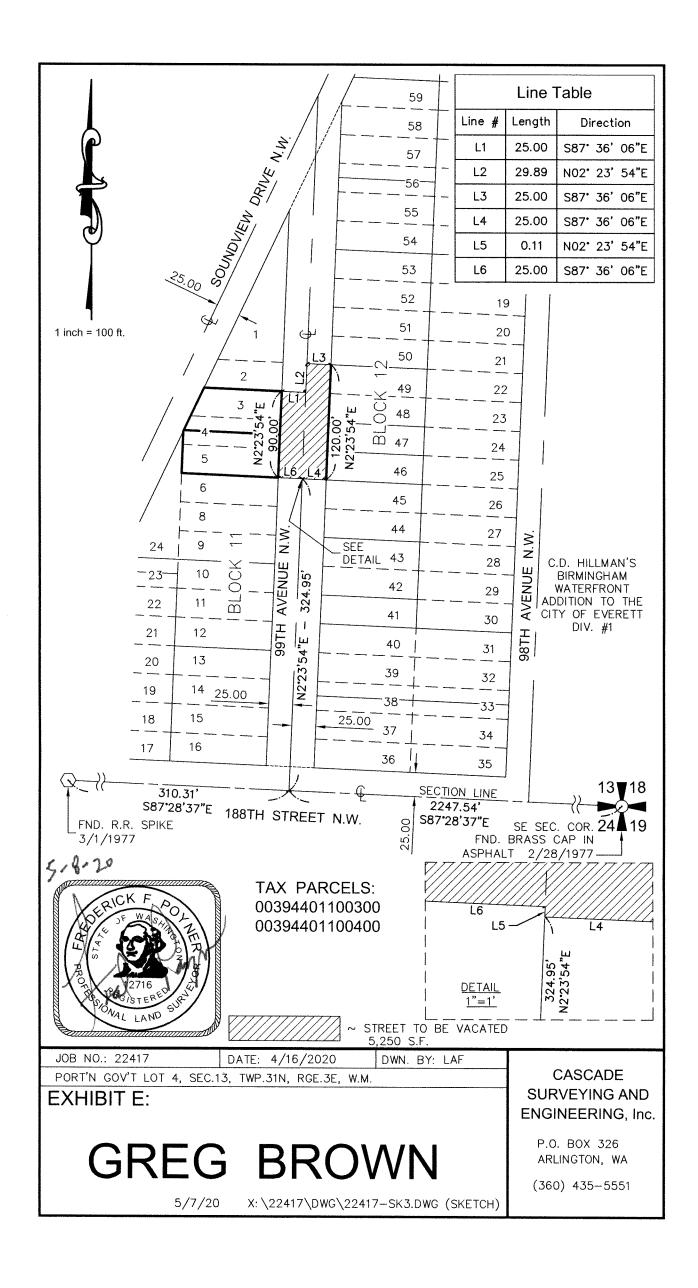


EXHIBIT F:

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 99TH AVENUE N.W.;

THENCE NORTH 2°23′54" EAST, ALONG THE CENTERLINE OF 99TH AVENUE N.W., A DISTANCE OF 324.95 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG THE CENTERLINE OF 99TH 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 99TH 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 99TH AVENUE N.W.; THENCE NORTH 2°23′54″ EAST, ALONG THE CENTERLINE OF 99TH 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 99TH 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^{TH} AVENUE N.W. AND THE TRUE POINT OF BEGINNING;

