

# PRELIMINARY REPORT

## PREPARED FOR THE HEARING EXAMINER BY REAL PROPERTY SERVICES

For the Hearing to be Held  
Thursday, July 16, 2015 at 1:30 AM

**PETITIONER: WATERVIEW POINT, LLC**

**FILE NO. 124.1354**

### **A. SUMMARY OF REQUEST:**

Real Property Services has received a petition to vacate a portion of Waterview Street, North 45<sup>th</sup> Street, North 46<sup>th</sup> Street, Morrison Street, Mason Avenue, Harriott Street and portions of alleyway located between North 45<sup>th</sup> Street and North Cheyenne Street, to create individual residential lots ranging from 10,000 to 14,000 square feet, as shown on the attached vicinity map.

### **B. GENERAL INFORMATION:**

#### **1. Legal Description of Vacation:**

##### **WATERVIEW STREET**

A STRIP OF LAND LYING WITHIN THE SOUTH HALF OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, CITY OF TACOMA, PIERCE COUNTY, WASHINGTON, AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

THE SOUTHWESTERLY 40 FEET OF WATERVIEW STREET LYING SOUTHERLY OF THE NORTHWESTERLY LINE OF LOT 2, BLOCK 4, MASONS SHORELINE ADDITION AS RECORDED IN VOLUME 1 OF PLATS AT PAGE 108, RECORDS OF PIERCE COUNTY, WASHINGTON, EXTENDED NORTHEASTERLY AND LYING NORTHERLY OF THE CENTER LINE OF MORRISON STREET.

##### **ALLEY BLOCKS 10 AND 4 MASON'S SHORELINE ADDITION**

A STRIP OF LAND LYING WITHIN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST, OF THE WILLAMETTE MERIDIAN, CITY OF TACOMA, PIERCE COUNTY, WASHINGTON, AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE ALLEY AS SHOWN ON THE PLAT OF MASON'S SHORELINE ADDITION TO TACOMA, RECORDED IN VOLUME 1 OF PLATS AT PAGE 108, IN PIERCE COUNTY, WASHINGTON.

BEGINNING AT THE MOST EASTERLY CORNER OF LOT 1, BLOCK 10 OF SAID MASON'S SHORELINE ADDITION; THENCE NORTH 49°56'44" WEST, ALONG THE NORTHEASTERLY LINE OF SAID BLOCK, 60.00 FEET TO THE MOST NORTHERLY CORNER OF LOT 2 OF SAID BLOCK 10; THENCE NORTH 40°03'16" EAST, 20.00 FEET TO THE MOST WESTERLY CORNER OF LOT 2 OF BLOCK 4 OF SAID MASON'S SHORELINE ADDITION; THENCE SOUTH 49°56'44" EAST, ALONG THE SOUTHWESTERLY LINE OF SAID BLOCK, 60.00 FEET TO THE MOST SOUTHERLY CORNER OF SAID BLOCK 4; THENCE SOUTH 40°03'16" WEST, TO THE POINT OF BEGINNING.

### **SHERIDAN STREET**

A STRIP OF LAND LYING WITHIN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST, OF THE WILLAMETTE MERIDIAN, CITY OF TACOMA, PIERCE COUNTY, WASHINGTON, AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

THAT PORTION OF SHERIDAN STREET (HERRIOT STREET) AS SHOWN ON THE PLAT OF MASON'S SHORELINE ADDITION TO TACOMA, RECORDED IN VOLUME 1 OF PLATS AT PAGE 108, IN PIERCE COUNTY, WASHINGTON, AS MODIFIED BY CITY OF TACOMA DEED NUMBER 366.

BEGINNING AT THE MOST SOUTHERLY CORNER OF LOT 1, BLOCK 10 OF SAID MASON'S SHORELINE ADDITION; THENCE NORTH 40°03'16" EAST, ALONG THE SOUTHEASTERLY LINE OF BLOCKS 10 AND 4 OF SAID ADDITION 220.00 FEET TO THE MOST EASTERLY CORNER OF SAID BLOCK 4; THENCE SOUTH 49°56'44" EAST, 80.00 FEET TO THE MOST NORTHERLY CORNER OF BLOCK 3 OF SAID MASON'S SHORELINE ADDITION; THENCE SOUTH 40°03'16" WEST, ALONG THE NORTHWESTERLY LINE THEREOF 172.70 FEET TO THE SOUTH LINE OF SAID MASON'S SHORELINE ADDITION; THENCE NORTH 89°46'23" WEST, ALONG THE SOUTH LINE THEREOF, 73.87 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF NORTH 48TH STREET; THENCE NORTH 49°56'44" WEST, ALONG THE EAST LINE THEREOF 23.27 FEET TO THE MOST SOUTHERLY CORNER OF SAID LOT 1, BLOCK 4 AND THE POINT OF BEGINNING.

EXCEPT THOSE PORTIONS VACATED BY ORDINANCE 19939.

### **ALLEY BLOCK 1 HILLS ADDITION**

A STRIP OF LAND LYING WITHIN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, CITY OF TACOMA, PIERCE COUNTY, WASHINGTON, AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE ALLEY AS SHOWN ON THE PLAT OF HILL'S ADDITION, RECORDED IN VOLUME 1 OF PLATS AT PAGE 19, IN PIERCE COUNTY, WASHINGTON, LYING WESTERLY OF THE WEST RIGHT-OF-WAY LINE OF MASON AVENUE AND EAST OF THE FOLLOWING DESCRIBED LINE:  
COMMENCING AT THE SOUTHEAST CORNER OF LOT 1 OF SAID BLOCK 1, SAID CORNER ALSO BEING A POINT ON THE NORTH LINE OF THE AFOREMENTIONED ALLEY; THENCE NORTH 89°35'28" WEST, ALONG SAID NORTH LINE, 118.45 FEET TO THE POINT OF BEGINNING;  
THENCE SOUTH 28°05'13" EAST, 17.95 FEET; THENCE SOUTH 27°35'41" EAST, 0.26 FEET TO THE SOUTH LINE OF SAID ALLEY AND THE TERMINUS OF THIS DESCRIBED LINE.

### **NORTH MASON AVENUE**

A STRIP OF LAND LYING WITHIN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, CITY OF TACOMA, PIERCE COUNTY, WASHINGTON, AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

THAT PORTION OF MASON AVENUE AS SHOWN ON THE PLAT OF HILL'S ADDITION, RECORDED IN VOLUME 1 OF PLATS AT PAGE 19, IN PIERCE COUNTY, WASHINGTON, LYING SOUTHERLY OF THE SOUTH RIGHT-OF-WAY LINE OF NORTH 46TH STREET AND NORTHERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHEAST CORNER OF BLOCK 4, HILL'S ADDITION; THENCE SOUTH ALONG THE EASTERLY LINE OF SAID BLOCK 4, BEING THE WESTERLY LINE OF MASON AVENUE 73.87 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°56'51" EAST, 40.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF MASON AVENUE AND THE TERMINUS OF THIS DESCRIBED LINE.

### **MORRISON STREET**

A STRIP OF LAND LYING WITHIN THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, CITY OF TACOMA, PIERCE COUNTY, WASHINGTON, AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

THAT PORTION OF MORRISON STREET AS SHOWN ON THE PLAT OF MASON'S WATER FRONT ADDITION TO TACOMA, WASHINGTON, ACCORDING TO THE PLAT RECORDED IN BOOK 1 OF PLATS AT PAGE 98, IN PIERCE COUNTY, WASHINGTON, LYING EASTERLY OF THE EAST RIGHT-OF-WAY LINE OF MASON AVENUE AND

WESTERLY OF THE MOST WESTERLY 40.00 FEET OF WATERVIEW STREET, RIGHT-OF-WAY LINE.  
EXCEPT THAT PORTION VACATED PER CITY OF TACOMA ORDINANCE NUMBER 15259.

#### **NORTH 46TH STREET**

A STRIP OF LAND LYING WITHIN THE EAST HALF OF THE SOUTHWEST QUARTER AND A PORTION OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, CITY OF TACOMA, PIERCE COUNTY, WASHINGTON, AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

THAT PORTION OF NORTH 45TH STREET (WATER STREET AND FIRST STREET) AS SHOWN ON THE PLAT OF HILL'S ADDITION RECORDED IN VOLUME 1 OF PLATS AT PAGE 19, IN PIERCE COUNTY, WASHINGTON, AND WOODRUFF'S SECOND ADDITION TO TACOMA, PIERCE COUNTY, WASHINGTON, RECORDED IN VOLUME 3 OF PLATS AT PAGE 61 DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF BLOCK 1 OF SAID HILL'S ADDITION; THENCE NORTH 89°44'25" WEST, ALONG THE NORTH LINE OF SAID BLOCK 1, A DISTANCE OF 193.09 FEET TO A POINT ON A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 455.00 FEET, AND TO WHICH POINT A RADIAL BEARS SOUTH 50°53'19" WEST; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 07°03'11 " , AN ARC LENGTH OF 56.01 FEET; THENCE NORTH 46°09'51" WEST, 56.57 FEET TO THE SOUTH LINE OF BLOCK 7 OF SAID WOODRUFF'S SECOND ADDITION; THENCE SOUTH 89°44'25 EAST, ALONG THE SOUTH LINE OF BLOCKS 7 AND 8, 320.61 FEET TO THE SOUTHEAST CORNER OF BLOCK 8 OF SAID WOODRUFF'S SECOND ADDITION; THENCE SOUTH 38°57'28" EAST, A DISTANCE OF 51.08 FEET TO THE CENTER LINE OF SAID NORTH 46TH STREET; THENCE SOUTH 89°29'30" WEST, ALONG SAID CENTER LINE, A DISTANCE OF 40.78 FEET TO THE EAST RIGHT-OF-WAY LINE OF NORTH MASON AVENUE; THENCE SOUTH 00°03'09" WEST, ALONG SAID RIGHT-OF-WAY 40.00 FEET; THENCE NORTH 89°44'25" WEST, 40.00 FEET TO THE POINT OF BEGINNING.

#### **NORTH 45TH STREET**

A STRIP OF LAND LYING WITHIN THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST OF THE WILLAMETTE MERIDIAN, CITY OF TACOMA, PIERCE COUNTY, WASHINGTON, AND MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

THAT PORTION OF NORTH 45TH STREET (FIRST STREET), AS SHOWN ON THE PLAT OF HILL'S ADDITION, RECORDED IN VOLUME 1 OF PLATS AT PAGE 19, IN PIERCE COUNTY, WASHINGTON, LYING WESTERLY OF THE WEST RIGHT-OF-WAY LINE OF NORTH MASON STREET AND EAST OF THE FOLLOWING DESCRIBED LINE;

COMMENCING AT THE SOUTHEAST CORNER OF BLOCK 1 OF SAID HILL'S ADDITION; THENCE NORTH 89°26'32" WEST, ALONG THE SOUTH LINE OF SAID BLOCK 1, A DISTANCE OF 70.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00°03'09" WEST, 80.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF SAID NORTH 45TH STREET AND THE TERMINUS OF THIS DESCRIBED LINE.

RETAINING AND RESERVING THEREIN AN EASEMENT TO THE CITY OF TACOMA FOR 10 FEET OF THE PROPOSED VACATION AREA, PARALLEL WITH WATERVIEW STREET, FOR POWER POLES, ANCHORS, GUY WIRES, OVERHEAD AND UNDERGROUND POWER AND DATA WIRES, DATA ENCLOSURES AND VAULTS, POWER AND DATA CONDUIT, AND TRANSFORMERS.

RETAINING AND RESERVING THEREIN AN EASEMENT TO THE CITY OF TACOMA FOR A WATER MAIN AND WATER SERVICE WITHIN THE RIGHT-OF-WAY OF WATERVIEW STREET. THE DEVELOPER SHALL RETAIN AN EASEMENT COVER EXISTING TACOMA WATER SERVICE AND METERS FOR OVER THE AREA SOUTHWESTERLY OF THE MONUMENT LINE OF WATERVIEW STREET, TO A DISTANCE OF 40 FEET FROM THE MONUMENT LINE OF WATER STREET.

RETAINING AND RESERVING THEREIN AN EASEMENT TO THE CITY OF TACOMA FOR A 20-FOOT STORM AND SANITARY SEWER EASEMENT CENTERED ON THE NORTH HERRIOT STREET RIGHT-OF-WAY FROM NORTH WATERVIEW STREET, WEST OF THE NORTHERN PROPERTY LINE OF TAX PARCEL 45000-0011 TO THE EAST LINE OF NORTH 43TH STREET.

NO PERMANENT STRUCTURES SHALL BE ERECTED WITHIN THE PUBLIC EASEMENT AREA UNLESS SPECIFICALLY APPROVED IN WRITING BY THE CITY OF TACOMA DIRECTOR OF PUBLIC WORKS. PERMANENT STRUCTURES SHALL MEAN ANY CONCRETE FOUNDATION, CONCRETE SLAB, WALL, ROCKERY, BUILDING, DECK, OVERHANGING STRUCTURES, FILL MATERIAL,

RECREATIONAL SPORTS COURTS, CARPORTS, PORTABLE SHEDS, PRIVATE UTILITIES, FENCES, OR OTHER SITE IMPROVEMENT THAT WILL UNREASONABLY INTERFERE WITH THE NEED TO ACCESS OR CONSTRUCT SANITARY OR STORM SEWER UTILITIES IN SAID EASEMENTS. PERMANENT STRUCTURES SHALL NOT MEAN IMPROVEMENTS SUCH AS NORMAL LANDSCAPING, ASPHALT PAVING, GRAVEL, OR OTHER SIMILAR SITE IMPROVEMENTS THAT DO NOT PREVENT THE ACCESS OF MEN, MATERIALS, AND MACHINERY ACROSS, ALONG, AND WITHIN THE SAID EASEMENT AREA. LAND RESTORATION BY THE CITY WITHIN THE SAID EASEMENT AREA DUE TO THE

CONSTRUCTION, OPERATION, INSPECTION, REPLACEMENT, REPAIR, OR MAINTENANCE OF SANITARY OR STORM SEWER UTILITIES WILL BE STRICTLY LIMITED TO GRASS SEED, GRASS SOD, AND/OR ASPHALT REPLACEMENT UNLESS OTHERWISE DETERMINED BY THE CITY OF TACOMA. WATERVIEW POINTE LEGAL DESCRIPTION OF VACATION.

**2. Notification:**

9.22.060 NOTICE OF PUBLIC HEARING The Public Works Department shall cause a 30-day notice to be given of the pendency of the petition by written notice posted in three of the most public places in the City, a like notice in a conspicuous place on the street or alley sought to be vacated, a like notice in a newspaper of general circulation in the City, and a like notice to the legal property owners of all property abutting the right of way requested for vacation as enumerated on the applicant's vacation petition, and to any other interested parties of record. In addition to posting notices of the hearing, the Public Works Department shall mail a copy of the notice to all owners and occupants of the property which lies within 300 feet of the street or alley to be vacated. The said notice shall contain the statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition. In all cases where the proceeding is initiated by the City Council without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, notice shall be sent as provided above. Failure to send notice by mail to any such property owner where the current address for such property owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed street vacation.

**C. PUBLIC NOTICE:**

Real Property Services in conjunction with the City of Tacoma Clerk's office issued the following public notice:

The Public Hearing Notice was posted June 11, 2015 between 9:30 a.m. and 10:30 a.m. at locations 1, 2, 3 and 4 described below; the remaining notices were posted on June 10, 2015:

1. Placed yellow public notice sign 60 feet north of the northwest corner of the intersection of North 46th and Waterview Street.
2. Placed yellow public notice sign at the northwest corner of the intersection of Waterview Street and Harriott Street.
3. Placed yellow public notice sign 254 feet north of the intersection of North 46th and North Verde Street to the left of the white dead-end street barricade.
4. Placed yellow public notice sign at the northeast corner of the intersection of North 45th Street and North Stevens Street.

5. Public notice memo placed into the glass display case located on the second floor of the Municipal Building.
6. Public notice memo placed into the glass display case located on the first floor of the Municipal building abutting the Finance Department.
7. Public notice memo advertised on the City of Tacoma web site at address: <http://www.cityoftacoma.org/page.aspx?nid=596>
8. Public Notice advertised in the Daily Index newspaper.
9. Public Notice mailed to all parties of record within the 500 feet of vacation request.
10. Public Notice advertised on Municipal Television Channel 12.

**D. PURPOSE OF REQUEST:**

The petitioner plans to combine vacated right of way into adjoining property for the purpose of consolidating ownerships and giving the petitioner greater flexibility to split the property using segregations and boundary line adjustments .

**E. HISTORY:**

The City of Tacoma acquired the rights of way proposed to be vacated within the following plats:

MASON'S WATER FRONT ADDITION TO TACOMA, recorded in Volume 1 of plats at Page 98, on June 21, 1886 in Pierce County, Washington;

MASON'S SHORELINE ADDITION TO TACOMA, recorded in Volume 1 of plats at page 108, on August 8, 1887 in Pierce County, Washington.;

HILL'S ADDITION TO THE CITY OF TACOMA, recorded in Volume 1 of plats at page 19, December 1, 1873 in Pierce County, Washington;

WOODRUFF'S SECOND ADDITION TO TACOMA, recorded in Volume 3 of Plats at Page 61, August 2, 1889 in Pierce County, Washington;

In addition, the City acquired a 40 feet strip for Waterview Street right of way in the above referenced plats under City Deed Number 366, dated June 23, 1910, and recorded under Deed Record 358, page 395.

A previous hearing was held before the Hearing Examiner on February 15, 2007, and the petitioner was James McGranahan (Exhibit 9), but the petition was not completed because of the economic downturn. As part of the 2007 petition, the petitioner proposed to donate land to the City for Open Space. Since then, the Director of Environmental Services (ES) has decided the proposed donation to Open Space is not in the best interest of ES and has declined the offer for the property (Exhibit 10).

In preparing this report, it has also been discovered that Ordinance No. 15259 vacating a portion of Morrison Street easterly of 46<sup>th</sup> Street was repealed by Ordinance No. 15629 in May, 1956 (Exhibit 12). Mr. Trent Wohlfeil executed a Boundary Line Adjustment under City of Tacoma Boundary Line Adjustment No. 40000032853, and recorded it under Pierce County recording number 200410275004 (Exhibit 11) that includes the repealed vacated street. Real Property Services will be coordinating with the petitioner and Ticor Title Insurance, the title insurance company that provided the title report for the boundary line adjustment, to resolve the issue.

**F. PHYSICAL LAND CHARACTERISTICS:**

The proposed vacate areas are located within a steeply sloped area generally lying between Waterview Street and North Stevens Street. The area contains slopes that are greater than 40 percent. The proposed vacate area varies in width: Waterview Street is 120 wide, but only 40 feet will be vacated, North 45<sup>th</sup> and North 46<sup>th</sup> Streets are 80 feet wide, North Mason is 40 feet wide, and Harriott Street is 50 and 80 feet wide depending on the location . The area contains natural vegetation including trees that help to provide slope stability. The applicant is seeking to vacate approximately 95,060 square feet of undeveloped right of way contained within four plats. (Please refer to the Exhibit 2 and 3).

**G. APPLICABLE SECTIONS OF THE OFFICIAL CODE OF THE CITY OF TACOMA:**

**9.22.010 PETITION TO VACATE AUTHORIZED:** The owners of an interest in any real estate abutting on any street or alley who may desire to vacate any street or alley, or any part thereof, shall petition to the City Council to make vacation in the manner hereafter provided in this chapter and pursuant to RCW 35.79 or the City Council may itself initiate by Resolution such vacation procedure. The City Council shall require the petitioners to compensate the City in an amount which equals one-half of the appraisal value of the area vacated; provided that if the street or alley has been a public right of way for 25 years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated; provided that when the vacation is initiated by the City or the City Council deems it to be in the best interest of the City, all or any portion of such compensation may be waived. Except as provided below, one-half of the revenue received hereunder shall be devoted to the acquisition, improvement, and maintenance of public open space land and one-half may be devoted to transportation projects and the management and maintenance of other City owned lands and unimproved rights-of-way.

In the case of vacations of rights-of-way in the tide flats area, defined as easterly of the Thea Foss Waterway (inclusive of the Murray Morgan Bridge), northerly of State Route 509 and westerly of Marine View Drive, the total revenue received hereunder shall be devoted to transportation projects in the tide flats area.

**9.22.040 PUBLIC'S RIGHT TO TRAVEL -- UTILITIES:** Vacation of any portion of a street that is designated as an arterial under Section 11.05.490 of the Municipal Code shall



be of a minor nature only and shall not unreasonably limit the public's right to travel upon said street or interfere with the ancillary right to occupy said street for utility purposes.

**CRITERIA:** Section 9.22.070 of the Official Code of the City of Tacoma. The following criteria have been considered:

1. That the vacation will provide a public benefit and/or will be for a public purpose.
2. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
3. That the public need shall not be adversely affected.
4. That the right-of-way is not contemplated or needed for future public use.
5. That no abutting owner becomes landlocked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
6. That vacation of right-of-way shall not be in violation of RCW 35.79.035

**Regarding the above Criteria, Real Property Services finds the following:**

1. The vacation is a public benefit because:
  - a. It helps facilitate private development by giving the developer more flexibility in designing and marketing the adjoining property;
  - b. Assures excellent stewardship of the natural and built environment; and
  - c. Returns property to the tax rolls.
2. City of Tacoma Traffic Engineering has been consulted regarding this petition and does not object to the vacation.
3. No general public access will be impaired by this vacation action.
4. The vacation area is not contemplated or needed for future public use as a right of way.
5. No abutting owner, not contemplated under this development project, becomes landlocked nor will their access be impaired.
6. The vacation area is not close to a body of water as contemplated under RCW 35.79.035.

**H. ADDITIONAL INFORMATION:**

The area to be vacated has not been assessed for sanitary sewers and is subject to a Connection Charge In-Lieu-of-Assessment per T.M.C. 12.08.350. Should the petitioner wish to clear this item from title, please contact Sue Simpson of the Public Works Department, L.I.D. Section, at 591-5529 for the assessment amount. Please note that the ordinance establishing the rate of assessment

is updated every few years, and the amount quoted may increase in the future. When the petitioner has submitted a development plan, an in lieu of amount will be computed.

**I. PROJECT RECOMMENDATIONS:**

As part of the City's review process for street vacation petitions, notice of this application was mailed to various City departments as well as many outside quasi-governmental agencies. These agencies, as noted below, have provided comments and recommended conditions to the Real Property Services Division. These comments, where appropriate, have been incorporated in the "Recommended Conditions of Approval" section of this preliminary report.

- Aerial Maps – Exhibit 2
- Waterview Pointe – Right of Way Exhibit – Exhibit 3
- Plat –Mason’s Waterfront Addition to Tacoma W.T. – Exhibit 4
- Plat – Masons Shoreline Addition to Tacoma W.T. – Exhibit 5
- Plat – Hill’s Addition to the City of Tacoma, Pierce County, W.T. – Exhibit 6
- Plat – Woodruff’s Second Addition to Tacoma, Pierce County, W.T. – Exhibit 7
- City Deed No. 366 – Exhibit 8
- Hearing Examiner’s Report (2007) – Exhibit 9
- Environmental Services Open Space Donation Letter – Exhibit 10
- City of Tacoma Boundary Line Adjustment 40000032853 – Exhibit 11
- City of Tacoma Ordinance Nos.15259 and 15629 – Exhibit 12
  
- Tacoma Power – Exhibit 13
- Tacoma Water – Exhibit 14
- Environmental Services/Asset Management – Exhibit 15
- Environmental Services, Site Development – Exhibit 16
- PW/Traffic Engineering – Exhibit 17
- Planning and Development Services – Exhibit 18
- Tacoma Fire – Exhibit 19
- Public Works/LID – Exhibit 20
- Comcast Communications – Exhibit 21
  
- Pierce Transit – No objection
- Puget Sound Energy – No objection
- CenturyLink Communications – No objection
- Environmental Services, Source Control – No objection.

**J. RECOMMENDED CONDITIONS OF APPROVAL:**

Should this street vacation request be approved, the Real Property Services Division recommends that the following conditions be made conditions of approval for this street vacation petition.

1. PAYMENT OF FEES

The petitioner shall compensate the City in an amount equal to the full appraised value of the area vacated. One-half of the revenue received shall be devoted to the acquisition, improvement and maintenance of public open space land and one-half may be devoted to transportation projects and /or management and maintenance of other City owned lands and unimproved rights-of-way. *TMC 9.22.010*

2. CITY EASEMENT RESERVATIONS:

Reservation of a utility easement over the entire vacate area for the City of Tacoma for maintenance, repair, construction, and replacement of existing and future above ground and underground utilities:

a. The vacation area will contain Tacoma Power infrastructure in the northeast 10 feet parallel with Waterview Street; and

b. The vacation area southwesterly of the monument line of Waterview Street, will contain a water main and water service and meters to a distance of 40 feet from the monument line of Waterview Street.

3. ENVIRONMENTAL SERVICES/SITE DEVELOPMENT

a. Please contact Bonnie McLeod at 591-5752 regarding Site Development's comments.

b. Site Development has no objection; however, the petitioner must submit a separate request or legal agreement showing access for parcel 556000-0050 (4652 North Waterview St.); and, a Restrictive Covenant agreement is required for parcel 556500-0270 (4415 N. Mason) providing access through parcels 556500-0260 (4407 Forest St.) and 556500-0250 (4403 Forest St.).

**K. ADVISORY COMMENTS:**

1. PW/TRAFFIC ENGINEERING

a. Please contact Jennifer Kammerzell at 502-5511 regarding Traffic's comments.

b. Traffic has reviewed the request for the vacation of right-of-way near Stevens, Waterview, and Herriott Streets. Based on the critical area designations in this area and provided that several of the requested areas are as unimproved ROW, Traffic has no objection. Currently, there aren't any plans to improve those rights-of-way for transportation purposes. Development or platting of the abutting properties may require off-site improvements to provide adequate and appropriate access.

2. PLANNING AND DEVELOPMENT SERVICES (PDS)

a. Please contact Lisa Spadoni at 591-5281 regarding PDS comments.

b. PDS has no objection to the street vacation. At this time, a development proposal has not, and is not, being presented with the vacation. When the petitioner is ready

to submit a development proposal, PDS will review and comment on the proposal at that time.

3. TACOMA FIRE

- a. Please contact Chris Seaman at 591-5503 regarding Tacoma Fire's comments.
- b. Tacoma Fire has no objection to the proposed request; however, Tacoma Fire stipulates future development shall comply with the adopted Fire Code at the time of building permit application. Compliance will include, but will not be limited to, items such as adequate side access and proximity to fire hydrants. Future development may require new fire hydrants and a water main extension.

4. PUBLIC WORKS / CONSTRUCTION/LID

- a. Please contact Sue Simpson at 591-5529 for questions regarding LID's comments.
- b. the proposed area to be vacated has not been assessed for sanitary sewer. A development plan would be required to determine whether or not an assessment in lieu would be due.

5. COMCAST COMMUNICATIONS

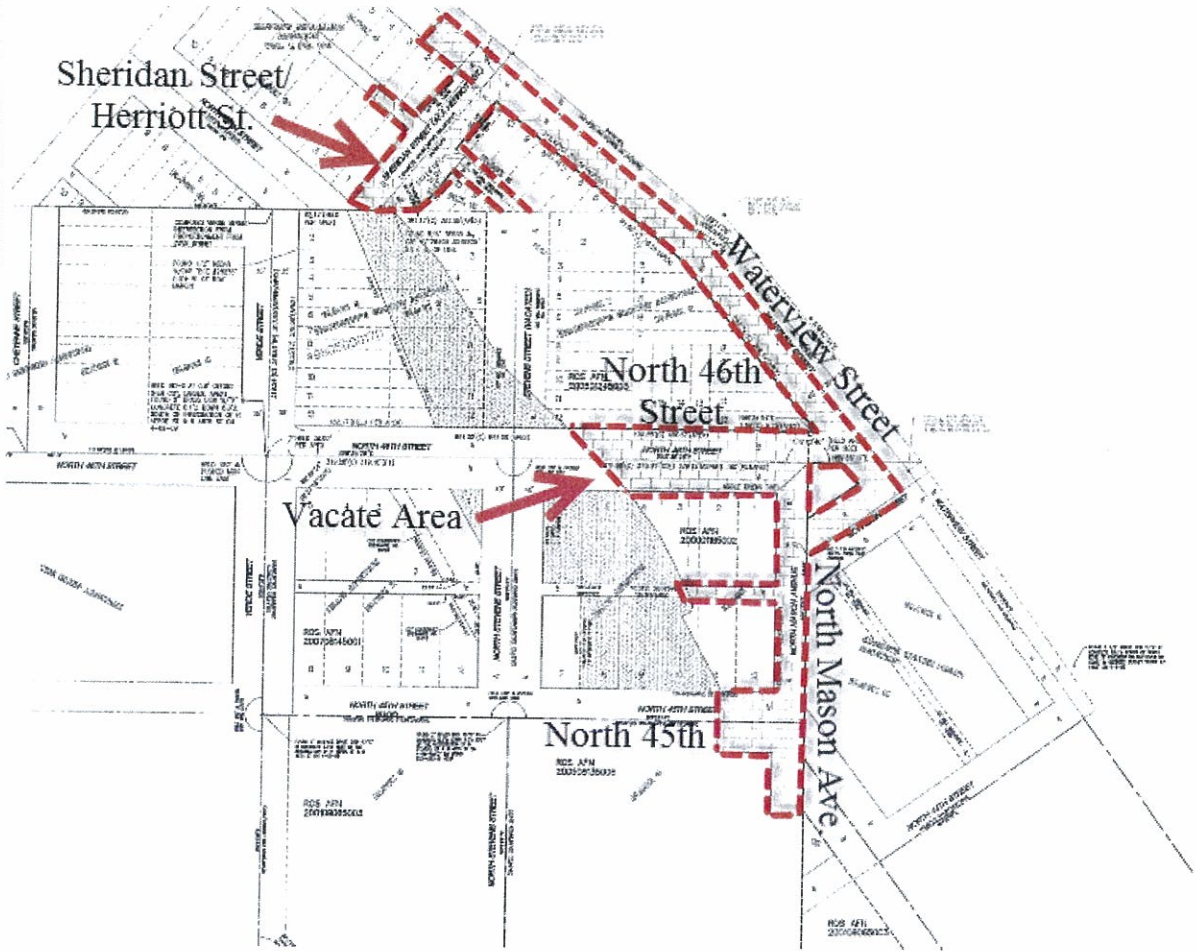
- a. Please contact Aaron Cantrel at 253.864-4200 regarding Comcast Communication's comments.
- b. Comcast has aerial system attached to Tacoma Public Utility (TPU) poles along North Waterview Street. Comcast's easement shall be protected by the Cable Act and the Master Pole Attachment Agreement with TPU.  
(Note: No additional easement will need to be reserved to protect Comcast's infrastructure.)

6. PUBLIC COMMENT

Shortly after notice was posted and sent via U.S. Mail on June 10 and 11, Real Property Services (RPS) received approximately eight (8) calls from residents in the neighborhood. No one voiced opposition to the vacation. Most of the residents were curious about the area to be vacated and requested a map. Trees and slope stability were also a concern.

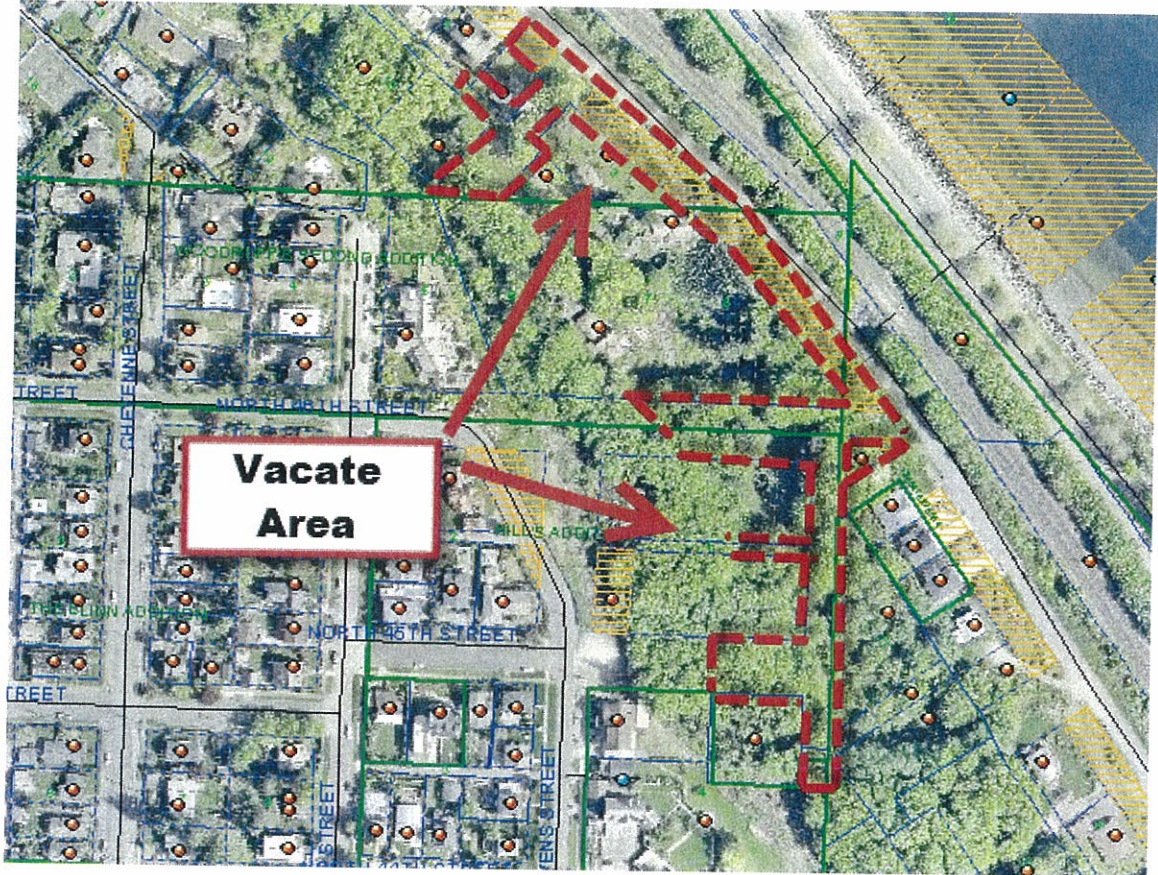
The applicant shall comply with all City regulations for any future use of the subject site.

ATTACHMENT: Vacation Jacket containing all pertinent maps and papers.



WATERVIEW POINT, LLC
STREET VACATION NO. 124.1354
PTN. OF WATERVIEW ST., N. 45 <sup>TH</sup> ST., N. 46 <sup>TH</sup> ST., N. MASON AVE., MORRISON ST., & N. HERRIOTT ST.
SW 1/4 SEC. 24, T21N, R02E
NOT TO SCALE





WATERVIEW POINT, LLC

STREET VACATION NO. 124.1354

PTN. OF WATERVIEW ST., S. 45<sup>TH</sup> ST., S. 46<sup>TH</sup> ST., N. MASON AVE., MORRISON ST., & N. HERRIOTT ST.

SW 1/4 SEC. 24, T21N, R02E

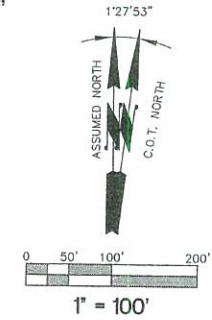
NOT TO SCALE



# WATERVIEW POINTE RIGHT OF WAY EXHIBIT

A PORTION OF THE NE 1/4 OF THE SW 1/4, SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M.,  
CITY OF TACOMA, PIERCE COUNTY, WASHINGTON

EXHIBIT 3



**BASIS OF BEARINGS**  
ASSUMED

**VERTICAL DATUM**

NGVD29, AS DEFINED BY THE CITY OF TACOMA  
DEPARTMENT OF PUBLIC WORKS PUBLISHED ELEVATION  
FOR BENCHMARK #3009, A 2" BRASS DISK W/"X" IN  
CONCRETE 0.1'± DOWN 3.0'± EAST OF THE  
INTERSECTION OF N. STEVENS ST. & N. 45TH ST.  
ELEV=283.48'

**LEGEND**

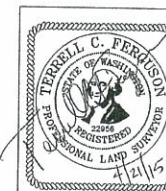
- (M) MEASURED
  - (COT) CITY OF TACOMA
  - (C) CALCULATED
  - (APEX) ROS AFN 200601245003
  - (ASPEN) ROS AFN 200001185002
  - (HCE) ROS AFN 9102220087
  - (LARSON1) ROS AFN 8809230142
  - (LARSON2) ROS AFN 200708145001
  - (P) PLAT OF MASON'S SHORELINE ADDITION
  - (P1) PLAT OF WOODRUFF'S SECOND ADDITION
  - (P2) PLAT OF HILL'S ADDITION
- 
- 1/2" REBAR & CAP "BEI 22956/36819" TO BE SET
  - FOUND AS NOTED
  - n/f NOW OR FORMERLY
  - WOOD FENCE AS NOTED
  - CHAIN LINK FENCE OR WIRE FENCE AS NOTED

RECEIVED

APR 23 2015

CITY OF TACOMA  
FACILITIES MANAGEMENT

PROPOSED PROPERTY DEDICATION  
60,625 SQ. FT. ±  
 PROPOSED RIGHT OF WAY VACATION  
95,060 SQ. FT. ±

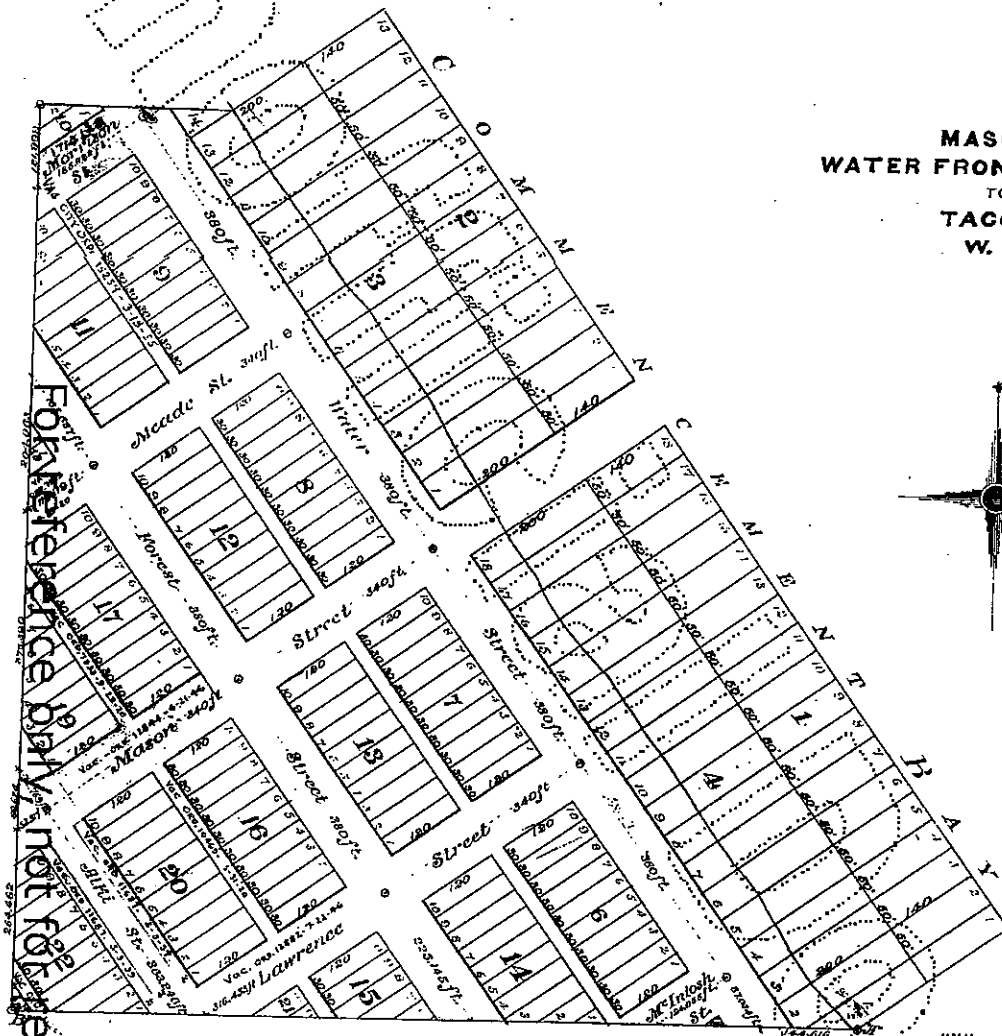
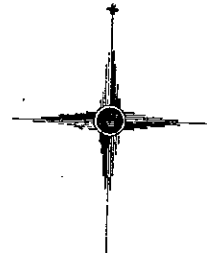


**BASELINE ENGINEERING, INC.**

*Land Development Professional Services*  
(253)565-4491 • Seattle (206)924-1205 • FAX (253)565-8563  
Land Planning & Use • Engineering • Surveying  
1910-64th Avenue West • Tacoma, WA 98466

DRAWN BY	KR/F	DATE	4/21/15	JOB NO.	08-041
CHECKED BY	TCF	SCALE	1"=100'	SHEET	1 OF 1

MASON'S  
WATER FRONT ADDITION  
TO  
TACOMA  
W. T.



Scale 1 inch = 125 feet

For reference only, not for sale.

I hereby certify that I have surveyed the above Addition, that  
 eleven monuments with cross (+) on top have been placed about  
 one-foot beneath the surface of the ground at points indicated  
 by small circles, that the distances marked thereon are correct.  
 C. C. Beard  
 City Engineer, Tacoma, W. T.

All men by these presents, that we, C. Mason and L. H. Mason, his wife  
 lay out and plat into five lots, streets and alleys the following described tract  
 of land, to-wit: (1) in Section Twenty-four (24) Town-ship Twenty-one  
 North of Range Three (3) East of the Willamette Meridian, as the same is described  
 in the Surveyor General's Office at Olympia, Wash., and comprising  
 one (1) square of land, which is hereafter to be known as Mason's Water  
 Addition to Tacoma, Wash. And we do hereby donate and dedicate to  
 the public forever all the streets and alleys in this addition,  
 the streets are eighty (80) feet wide, the alleys are twenty (20) feet wide,  
 of lots are as shown on this plat.  
 The lines of this plat and survey being the line "A-B", "C" being the number  
 of the 1/4 stake on the south line of Section 24 T. 21 N. R. 3 E.  
 from said points "A" and "B" to the intersections of the 1/4 mile with the  
 same as shown on the plat, that said water addition is 51-34-10 with the  
 at line Forest and Meade streets are parallel and the said Lawrence,  
 Meade and Morrison streets are at right angles to Water Street,  
 and therefore have bearings set our hands and seals this 18th day of June  
 1886  
 C. Mason  
 L. H. Mason

Territory of Washington }  
 County of Pierce }  
 This is to certify that on this 18th day of June A.D. 1886  
 before me, C. Mason and L. H. Mason, his wife, personally appeared before me  
 the undersigned, a Notary Public in and for Pierce County, Washington  
 Territory, to me known to be the individuals described in and who  
 executed the foregoing instrument, and acknowledged to me that  
 they executed the same freely and voluntarily for the uses and  
 purposes therein set forth.  
 In Witness Whereof I have hereunto set my hand and  
 official seal the day and year in this certificate above written.  
 C. Brown Lawrence  
 Notary Public in and for  
 Pierce County, Wash.

EXHIBIT 4

Accepted by the City Council of the City of Tacoma  
 this 19th day of June A.D. 1886  
 J. D. Meade

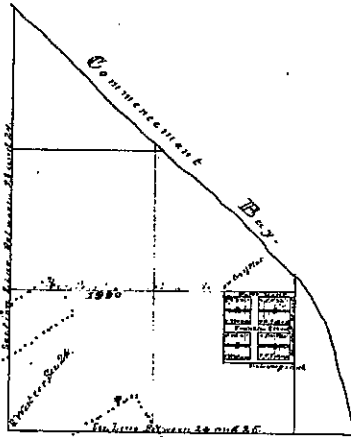
Filed this 21st day of June 1886  
 J. D. Meade



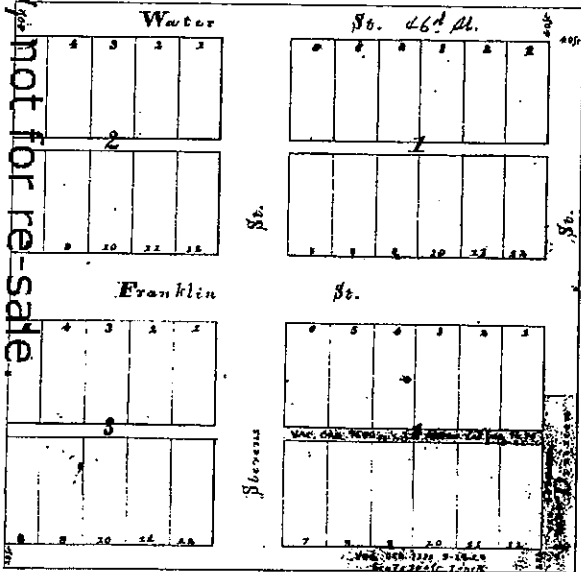


For reference only, not for re-sale.

**HILL'S ADDITION  
TO THE  
CITY OF TACOMA,  
PIERCE COUNTY,  
W. T.**



*This is a plan of the Hill's Addition to the City of Tacoma, Pierce County, W. T., as shown on the map of the City of Tacoma, Pierce County, W. T., filed for record in the office of the Auditor of Pierce County, W. T., on the 13th day of July, 1913.*



**Explanation.**  
 Blocks 1 and 4 256 by 300 ft.  
 Blocks 2 and 3 256 by 240 ft.  
 Lots 50 by 120 except Lots 5-8  
 in Blocks 2 and 3 being 16 ft. wide.  
 Streets 80 ft.  
 Alleys 16 ft. wide.



**Description of Boundary Lines.**  
 Commencing at the southwest corner of Section 24, T. 21, N. R. 2 E., run North on section line 132.0 ft.; thence East 195.0 ft. to the N. W. Cor. of Plot Thence South 66.0 ft.; thence East 66.0 ft.; thence North 66.0 ft.; thence West 66.0 ft. to the place of beginning containing 10 acres.

By **Geo. D. Hill** hereby donate for the use of the public from the street and alleys as depicted on the foregoing Plot of Hill's Addition to the City of Tacoma, Pierce Co., W. T.

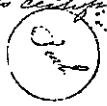
*Signature of Geo. D. Hill (Real)*

**Territory of Washington**  
 County of King

On this 13th day of July, personally appeared before me a Notary Public in and for said Territory Geo. D. Hill, of said Territory, known to be the same person who is entitled to the foregoing Plot and acknowledged that he executed the same for the purposes and purposes therein mentioned.

Witness my hand and official seal this day and year in this certificate first above written

**F. C. Conley**  
 Notary Public, W. T.



Filed Dec 17 A. D. 1913

**Geo. B. Kinsdale**  
 Auditor

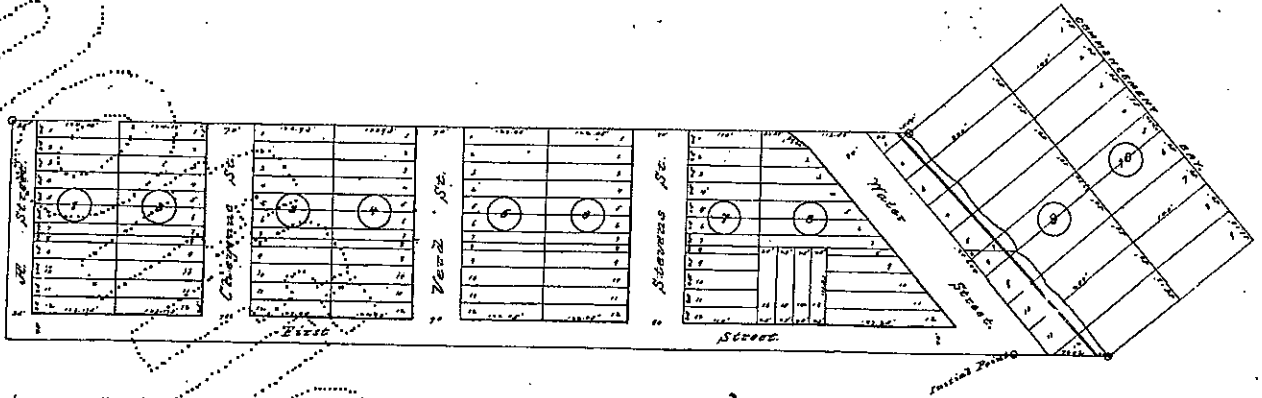
I hereby certify the foregoing to be a true and correct transcript of the original record on file in this office.

**Geo. B. Kinsdale**  
 Auditor, Pierce

...dry line Adjustment  
 lot 3 all of 4-6-7-12  
 K. A. F. # 8506060818

**EXHIBIT 6**

WOODRUFF'S SECOND ADDITION TO TACOMA PIERCE COUNTY W.T.



For reference only, not for re-sale.

Know all men by these presents that on the 14th day of July 1889 William Charles Bantley and Kate M. Bantley his wife and W. Harrison Woodruff and Clara R. Woodruff his wife, under and in pursuance of a duly lay out and plat into lots and streets the following described tract of land, viz: all that certain tract of ten acres of land situated and being in lot No. two in Section twenty-four (24) Township Twenty-one North, Range No. 10 East W. M. more particularly bounded and described as follows, to-wit: Commencing when the line of lots one and three in said Section 24 intersect the meander line of Puget Sound, and running thence to the S.W. corner of said lot No. two and thence North a sufficient distance to a point from which by running on a line due East to the adjacent meander line of Puget Sound and thence along said meander line to the place of beginning there will be ten acres of land enclosed within the said boundary lines so run. The above described tract of land shall hereafter be known as Woodruff's Second Addition to Tacoma, Pierce County, W. T. and we do hereby divide and dedicate to the use of the public forever all the streets as shown on this plat:

Harrison Street and Water Street are each eighty feet wide, and all other streets are each seventy feet wide, and all lots are forty feet wide and all streets are thirty feet wide. The center of all streets and lots are as shown on the plat. The initial point of this survey and plat is a stone monument set at the center of Harrison Street on the subdivisional line between lots two and three above mentioned.

In witness whereof we have hereunto set our hands and seals on the 14th day of July A. D. 1889

Witness of W. Harrison Woodruff }  
 E. S. Steinhilber }  
 Secretary of Washington }  
 County of Pierce }  
 Bantley his wife, and W. Harrison Woodruff and Clara R. Woodruff, his wife, personally appeared before me, the undersigned a Notary Public in and for Pierce County, W. T., to me known to be the instant parties to the foregoing instrument, and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein set forth.

I, E. S. Steinhilber, a Notary Public in and for Pierce County, W. T., do hereby certify that on this 14th day of July 1889, I have seen and executed the foregoing instrument, and acknowledged to me that they executed the same freely and voluntarily for the uses and purposes therein set forth.

We, the undersigned, do hereby certify that we have surveyed the above addition, that stone monuments with iron pins or caps have been placed at points indicated by small circles, and that the distances marked on the plat are correct.

Witness my hand and seal at Tacoma, Pierce County, W. T., August 2nd A.D. 1889 at 4 o'clock P.M.

EXHIBIT 7

WARRANTY DEED.

R.W. 610

2701 - Keen.

#336584

*Y.R.*  
*...*

THE GRANTOR, NORTHWESTERN IMPROVEMENT COMPANY,  
a New Jersey corporation, for and in consideration of One  
Dollar to it in hand paid, conveys and warrants to the  
CITY OF TACOMA, a municipal corporation, of Pierce County,  
State of Washington, the following described real estate  
situated in the County of Pierce, State of Washington,  
to-wit:

All that part of Lot one (1) in Block seven (7),  
as the same is designated upon a certain plat entitled,  
"Woodruff's Second Addition to Tacoma, W.T.", which was  
filed for record in the office of the Auditor of Pierce  
County, Washington, August 2nd, 1889, lying northeasterly  
of a line parallel with and forty (40) feet distant south-  
westerly from, when measured at right angles to, the pres-  
ent southerly line of Water Street, in the City of Tacoma;

*N. Ogden*  
*...*  
*...*

Also the northeasterly forty (40) feet of the fol-  
lowing described real estate:-

Blocks three (3), four (4), five (5) and Lots  
three (3), four (4), five (5), six (6), seven (7) and eight  
(8) in Block six (6); as the same are designated upon a cer-  
tain plat entitled, "Mason's Shore Line Addition to Tacoma,  
W.T.", which was filed for record in the office of the Aud-  
itor of Pierce County, Washington, August 8th, 1887;

Lots one (1), two (2), three (3), four (4), five  
(5), six (6), seven (7), eight (8), nine (9), ten (10),  
eleven (11) and twelve (12) in Block eight (8), as the same  
are designated upon a certain plat entitled, "Woodruff's  
Second Addition to Tacoma, W.T.", which was filed for record  
in the office of the Auditor of Pierce County, Washington,  
August 2nd, 1889;

*Sh...*

426

000366

Lot ten (10) in Block five (5), Blocks six (6), seven (7), eight (8), nine (9) and Lots one (1) and two (2) in Block ten (10), as the same are designated upon a certain plat entitled, "Mason's Water Front Addition to Tacoma, W.T.", which was filed for record in the office of the Auditor of Pierce County, Washington, June 21st, 1886;

That part of the northeast quarter of the northwest quarter of the northeast quarter (NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of NE $\frac{1}{4}$ ) of Section twenty-five (25) in Township twenty-one (21) North of Range two (2) East of the Willamette Meridian, lying southerly of the southerly line of Water Street, in the City of Tacoma;

Lots eight (8), nine (9) and ten (10) in Block three (3), Block four (4), Block seven (7), Lots four (4), five (5), seven (7), eight (8), nine (9) and ten (10) in Block twelve (12) and Lots three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9) and ten (10) in Block seventeen (17), as the same are designated upon a certain plat entitled, "Wallace's Addition to Tacoma, W.T.", which was filed for record in the office of the Auditor of Pierce County, Washington, July 11th, 1885.

Dated this 23<sup>rd</sup> day of June, A.D. 1910.

NORTHWESTERN IMPROVEMENT COMPANY,

By Harold Elliott  
President.

Attest: W. H. Kelly  
Assistant Secretary,

14  
NE 25-21-2  
Wallace's Addition  
to Tacoma

2

STATE OF MINNESOTA,)
: ss
County of Ramsey.)

On this 23 day of June, A.D. 1910,

before me personally appeared HOWARD ELLIOTT and R. H. RELF, to me known to be the President and Assistant Secretary, respectively, of the corporation that executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

426

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

W. F. Von Deyn
County, Notary Public in and for Ramsey
State of Minnesota, residing
at Saint Paul. My Comm. Expires May 11, 1913.

60

95 B

000001  
N. West Lumber Co. M. P. Ry. Co.  
1-12-11 17-Woodruff  
Mason & Plum  
4-10

Fee # 336584

FILED BY *J. F. Meads*

MAR 28 1911

Deed Record 355 Page 35

AT 9:14 a.m.  
W. A. Stewart,  
County Auditor,  
Pierce County, Wash.

BY *Arvid Nelson*  
Deputy

Mail to .....

1527

426

RECORDED BY TELETYPE

750



City of Tacoma  
Hearing Examiner

March 8, 2007

TO THE PARTIES:  
(See attached Transmittal List)

Re: "Waterview Pointe" Re-Plat/Preliminary Plat, Wetland Development Permit & Height Variances  
File Nos.: PLT2005-40000063339, WET2005-40000063361, and MLU-40000063362  
AND  
Street Vacation Petition File No. 124.1269      Petitioner: James McGranahan

Enclosed please find a copy of the Hearing Examiner's Findings of Fact, Conclusions of Law, and Decisions with regard to File Nos. PLT2005-40000063339, WET2005-40000063361, and MLU-40000063362. Also, enclosed is copy of the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation to the Tacoma City Council and attachment, with regard to Street Vacation Petition File No. 124.1269.

LOUISA LEGG  
Administrative Legal Secretary

Enclosures (2)  
Attachment (1)

Transmittal List: See attached list of parties

EXHIBIT 9



TRANSMITTAL LIST:

William T. Lynn, Attorney at Law, Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, LLP  
H-H One, LLC  
Flashover, LLC  
McGranahan Development, LLC, ATTN: James McGranahan  
Apex Engineering, PLLC, ATTN: Jeff Mann  
Apex Engineering, PLLC, ATTN: Bruce Martin, P.E.  
Puget Creek Restoration Society, ATTN: Scott Hansen  
Mark E. Holcomb, Attorney at Law, Morton McGoldrick, Attorneys at Law  
City Clerk  
Legal Department (Civil Division), City of Tacoma (M. Schmidt)  
Department of Public Works, City of Tacoma (Env. Svcs. Eng./R. Meuschke)  
Department of Public Works, City of Tacoma (Env. Svcs. Eng./R. Flynn)  
Department of Public Works, City of Tacoma (Solid Waste Mgmt./R. Coyne)  
Department of Public Works, City of Tacoma (Construction/LID/S. Simpson)  
Department of Public Works, City of Tacoma (LUA/P. Katich)  
Department of Public Works, City of Tacoma (BLUS/C. Haynes-Castro)  
Department of Public Works, City of Tacoma (BLUS/Jennifer Ward)  
Department of Public Works, City of Tacoma (BLUS/K. Kluge)  
Department of Public Works, City of Tacoma (BLUS/S. Coffman)  
Department of Public Works, City of Tacoma (Traffic Engineering/K. Kingsolver)  
Department of Public Works, City of Tacoma (Real Prop. Svcs./R. Price)  
Tacoma Fire Department, City of Tacoma (Carl Anderson)  
Tacoma Power, City of Tacoma (Transmission and Distribution/N. Tomanelli)  
Tacoma Water, City of Tacoma (G. Whitley)  
CEDD, City of Tacoma (L. Wung) Pierce County Assessor-Treasurer (Sally Barnes)  
Comcast, ATTN: Aaron Cantrel  
Tacoma-Pierce County Health Department, ATTN: Nedda S. Turner, R.S.  
WA State Dept. of Ecology, Environmental Review Section, ATTN: Kevin Rochlin,  
James Coker  
Kathy Westlin  
Jack and Lilly Warnick  
Victoria Olson  
Patricia Reed and Richard Dehlinger  
Maryanne Bell  
Marilyn Bridgan  
Gayle McIntosh  
Kathy and Mark Falk  
Julie Barnhard and Paul Harding  
James and Nancy Billingsley  
Paula Kepler  
Debra A.C. Lawandowski  
Jon Scalf and Joanne Christopher  
Gordon Hamilton  
Richard Beuttenmuller  
Katherine Spear and David Leon  
Phyllis Churchill  
Jonathan L. Ritson, M.D.  
C. Zamjahn  
Candyce Anderson  
Dan Guy  
Jim and Judy McAfee  
Anne Roberts  
Rose Lincoln  
Mieke Hoppin  
Hoppin/Tete home  
Susan Doten  
Kym Sonderman  
Mac Ward  
Patricia and George Krick  
Dale Howard  
Sandra Starr  
Joan Best  
Marilyn Bridgan  
William L. Driscoll and Lisa M. Hoffman  
Jan Hale  
Thomas G. Kimpel, M.D. and L. Lee Carlisle, M.D.  
Dina and Diane Herforth

OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

REPORT AND RECOMMENDATION TO THE CITY COUNCIL

PETITIONER: James McGranahan

FILE NO: 124.1269

SUMMARY OF REQUEST:

A petition to vacate portions of Waterview Street, Morrison Street, Mason Avenue, North 46<sup>th</sup> Street, Herriot Street and portions of an alleyway located between 48<sup>th</sup> Street and Waterview Street.

RECOMMENDATION OF THE HEARING EXAMINER:

The request is hereby recommended for approval and waiver of the portion of the compensation required by *TMC* 9.22.010 to be allocated for open space purposes, both subject to conditions.

PUBLIC HEARING:

After reviewing the report of the Department of Public Works, Real Property Services Division, examining available information on file with the application, and visiting the subject site and the surrounding area, the Hearing Examiner conducted a public hearing on the application on February 15, 2007.

"I CERTIFY THAT I MAILED A COPY OF THIS DOCUMENT  
TO THE PERSONS AND ADDRESSES LISTED THEREON,  
POSTAGE PREPAID, IN A RECEPTACLE FOR UNITED  
STATES MAIL AT TACOMA, WASHINGTON  
ON March 8, 2007.

L. Legg

ORIGINAL

## FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

### FINDINGS:

1. James McGranahan (hereinafter "petitioner") is requesting vacation of portions of Waterview Street, Morrison Street, Mason Avenue, North 46<sup>th</sup> Street, Herriot Street and portions of an alleyway located between North 48<sup>th</sup> Street and Waterview Street. The rights-of-way sought to be vacated are more particularly described in Attachment A appended hereto.
2. The purpose of the petitioner seeking the vacation of the rights-of-way is to allow the consolidation of the properties abutting the rights-of-way so that a 16-foot lot single-family residential subdivision, referred to in these proceedings as "Waterview Pointe" could be developed.
3. The vacation petition has been joined in by all owners of properties abutting the rights-of-way petitioned for vacation.
4. The rights-of-way sought to be vacated were dedicated for public street or alley purposes when the plats of MASON'S WATER FRONT ADDITION TO TACOMA, MASON'S SHORELINE ADDITION TO TACOMA, HILL'S ADDITION TO THE CITY OF TACOMA, and WOODRUFF'S SECOND ADDITION TO TACOMA were filed for record between 1873 and 1889.
5. The subject rights-of-way are situated within a steeply sloped vegetated hillside lying southwesterly of Waterview Street and have never been used or developed for public street purposes except in some instances for the ancillary purpose of carrying utilities.
6. The area of right-of-way proposed to be vacated encompasses approximately 98,730 square feet. The developer of the proposed subdivision has offered to dedicate to the public or otherwise restrict approximately 69,146 square feet of steep slope area for open space purposes and asks that such dedication be counted toward the amount of required compensation for the rights-of-way vacated as required by *Tacoma Municipal Code (TMC) 9.22.010*.
7. The vacation of the long unused and undeveloped public rights-of-way would benefit the public to the extent that it would return the properties to the property tax rolls of Pierce County.<sup>1</sup>
8. Since these rights-of-way have not been used or developed as streets or alleys in the over 100 years since their dedication and due to the steep topography in the area which makes it impractical to interconnect the rights-of-way with the City's street system, their vacation would not adversely affect the street pattern in the area and not affect traffic circulation.

---

<sup>1</sup> The term "public benefit" as used in the street vacation context is construed broadly and may include the enrichment of the local economy, the facilitating of the providing goods and services to the community, and increasing property tax revenues. *Banchero v. City Council of Seattle*, 2 Wn. App. 519, 524, 468 P.2d 724 (1970).

9. The rights-of-way are not contemplated for current or future public use and the public need would not be adversely affected by their vacation provided easements are retained for existing utilities located within portions of the rights-of-way.

10. No property would become landlocked or have its access substantially impaired as a result of the vacation of the rights-of-way.

11. Since none of the rights-of-way abut, nor are they proximate to a body of water, the provisions of *RCW 35.79.035* are not implicated.

12. The proposed right-of-way vacations have been reviewed by a number of governmental agencies and utility providers. None object to the vacation of the rights-of-way; however, conditions have been recommended concerning the retention of an easement for existing Tacoma Power facilities or relocation of the facilities at the developer's expense; the retention of easements for Tacoma Water facilities; and the retention of an easement for storm and sanitary sewers. The Department of Public Works (DPW) advises that an in-lieu-of-assessment charge for sanitary sewer services may be owing for the property vacated pursuant to *TMC 12.08.350*.

13. The DPW recommends that, provided the subdivision developer dedicates to the City or otherwise restricts the open space portions of the subdivision for open space purposes in perpetuity, the value of such property be used as an offset against the open space compensation required by *TMC 9.22.010*.

14. The petitioner concurs in the conditions recommended.

15. No one appeared at hearing in opposition to the grant of the vacation petition.

16. Pursuant to *WAC 197-11-800(2)(h)*, the vacation of streets or roads is exempt from the threshold determination and Environmental Impact Statement requirements of *RCW 43.21.C*, the *State Environmental Policy Act (SEPA)*.

17. The Department of Public Works, Real Property Services Division Report, as entered into this record as Exhibit 1, accurately describes the proposed project, general and specific facts about the site and area, and applicable codes. The report is incorporated herein by reference as though fully set forth.

18. All property owners of record and adjacent to the proposed vacation have been notified of the hearing date at least 30 days prior to the hearing, as required by *TMC 9.22.060*.

19. Any conclusion hereinafter stated which may be deemed to be a finding herein is hereby adopted as such.

**CONCLUSIONS:**

1. The Hearing Examiner has jurisdiction over the parties and subject matter in this proceeding. *See TMC 1.23.050.A.5 and TMC 9.22.*

2. Proceedings involved in the consideration of petitions for the vacation of public rights-of-way are quasi judicial in nature. *State v. City of Spokane, 70 Wn.2d 207, 442 P.2d 790 (1967).*

3. Petitions for the vacation of public right-of-way are reviewed for consistency with the following criteria:

1. The vacation will provide a public benefit, and/or will be for public purpose.
2. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
3. That the public need shall not be adversely affected.
4. That the right-of-way is not contemplated or needed for future public use.
5. That no abutting owner becomes land-locked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
6. That the vacation of right-of-way shall not be in violation of RCW 35.79.035.

*TMC 9.22.070.*

The petitioner must demonstrate by a preponderance of the evidence that its vacation request conforms to the foregoing criteria. *See TMC 1.23.070.*

4. Findings entered herein, based upon substantial evidence in the hearing record, support a conclusion that requested vacation conforms to the applicable criteria for vacation of public rights-of-way.

5. In these proceedings the petitioner also seeks to be allowed to offset the amount of compensation under *TMC 9.22.010*<sup>2</sup> allocated to the City's Open Space Fund by the value of the

---

<sup>2</sup> *TMC 9.22.010:*

The owners of an interest in any real estate abutting on any street or alley who may desire to vacate any street or alley, or any part thereof, shall petition to the City Council to make vacation in the manner hereafter provided in this chapter and pursuant to Chapter 35.79 *RCW*, or the City Council may itself initiate by resolution such vacation procedure. The City Council shall require the petitioners to compensate the City in an amount which equals one-

property the developer intends to commit to open space. The language of *TMC 9.22.010* does not expressly authorize such an exchange but it seems reasonable and is consistent with the purposes of the compensation for vacated right-of-way where one-half of the full compensation is to be used for open space purposes. However, since such offset is not expressly provided, the full compensation requirement, in accordance with *TMC 9.22.010* should be waived to the extent of the appraised value of the open space property.

6. Accordingly, the requested vacations should be granted subject to the conditions below:

**A. SPECIAL CONDITIONS:**

1. TACOMA POWER

- a. The developer shall retain the northeasterly 10 feet of the proposed vacation area parallel with Waterview Street as an easement for Tacoma Power poles, anchors, guy wires, overhead and underground power and data wires, power and data enclosures and vaults, power and data conduit, and transformers. Relocation of existing Tacoma Power facilities will be at the developer's expense.

2. DEPARTMENT OF PUBLIC WORKS, ENVIRONMENTAL SERVICES

- a. The developer shall retain a 20-foot storm and sanitary sewer easement centered in the North Herriot Street right-of-way from North Waterview Street west of the northern property line of tax parcel 450000-0011 to the east line of North 48<sup>th</sup> Street.
- b. The "no permanent structures" clause shall be retained and inserted into the easement language.

---

half of the appraised value of the area vacated; provided that if the street or alley has been a public right-of-way for 25 years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated; provided that when the vacation is initiated by the City or the City Council deems it to be in the best interest of the City, all or any portion of such compensation may be waived. Except as provided below, one-half of the revenue received hereunder shall be devoted to the acquisition, improvement, and maintenance of public open space land and one-half may be devoted to transportation projects and the management and maintenance of other City owned lands and unimproved rights-of-way.

In the case of vacations of rights-of-way in the tide flats area, defined as easterly of the Thea Foss Waterway (inclusive of the Murray Morgan Bridge), northerly of State Route 509 and westerly of Marine View Drive, the total of the revenue received hereunder shall be devoted to transportation projects in the tide flats area.

**FINDINGS, CONCLUSIONS,  
AND RECOMMENDATION**

3. TACOMA WATER

- a. Tacoma Water has water main and water service within the right-of-way of Waterview Street. The developer shall retain an easement cover existing Tacoma Water service and meters for over the area southwesterly of the monument line of Waterview Street, to a distance of 40 feet from the monument line of Water Street

4. OPEN SPACE

- a. The waiver of the portion of the compensation required by *TMC 9.22.010* to be allocated for open space purposes shall be granted provided the developer shall either deed the property identified in Exhibit 4, Attachment A-1 as open space to the City or otherwise restrict the use of that portion of the subdivision to open space in perpetuity in a manner approved by the City Attorney.

**B. USUAL CONDITIONS:**

1. THE RECOMMENDATION SET FORTH HEREIN IS BASED UPON REPRESENTATIONS MADE AND EXHIBITS, INCLUDING DEVELOPMENT PLANS AND PROPOSALS, SUBMITTED AT THE HEARING CONDUCTED BY THE HEARING EXAMINER. ANY SUBSTANTIAL CHANGE(S) OR DEVIATION(S) IN SUCH DEVELOPMENT PLANS, PROPOSALS, OR CONDITIONS OF APPROVAL IMPOSED SHALL BE SUBJECT TO THE APPROVAL OF THE HEARING EXAMINER AND MAY REQUIRE FURTHER AND ADDITIONAL HEARINGS.
2. THE AUTHORIZATION GRANTED HEREIN IS SUBJECT TO ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, AND ORDINANCES. COMPLIANCE WITH SUCH LAWS, REGULATIONS, AND ORDINANCES IS A CONDITION PRECEDENT TO THE APPROVALS GRANTED AND IS A CONTINUING REQUIREMENT OF SUCH APPROVALS. BY ACCEPTING THIS/THESE APPROVALS, THE PETITIONER REPRESENTS THAT THE DEVELOPMENT AND ACTIVITIES ALLOWED WILL COMPLY WITH SUCH LAWS, REGULATIONS, AND ORDINANCES. IF, DURING THE TERM OF THE APPROVAL GRANTED, THE DEVELOPMENT AND ACTIVITIES PERMITTED DO NOT COMPLY WITH SUCH LAWS, REGULATIONS, OR ORDINANCES, THE PETITIONER AGREES TO PROMPTLY BRING SUCH DEVELOPMENT OR ACTIVITIES INTO COMPLIANCE.

## NOTICE

### RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION

#### RECONSIDERATION:

Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise provided by law, may file a motion with the office of the Hearing Examiner requesting reconsideration of a decision/recommendation entered by the Examiner. A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend day or a holiday the last day for filing shall be the next working day. The requirements set forth herein regarding the time limits for filing of motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by the Examiner. It shall be within the sole discretion of the Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation. (*Tacoma Municipal Code 1.23.140*)

#### APPEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:

Within 14 days of the issuance of the Hearing Examiner's final recommendation, any aggrieved person or entity having standing under the ordinance governing such application and feeling that the recommendation of the Examiner is based on errors of procedure, fact or law shall have the right to appeal the recommendation of the Examiner by filing written notice of appeal with the City Clerk, stating the reasons the Examiner's recommendation was in error.

**Appeals shall be reviewed and acted upon by the City Council in accordance with *TMC 1.70*.**

#### GENERAL PROCEDURES FOR APPEAL:

The Official Code of the City of Tacoma contains certain procedures for appeal, and while not listing all of these procedures here, you should be aware of the following items which are essential to your appeal. Any answers to questions on the proper procedure for appeal may be found in the City Code sections heretofore cited:

1. The written request for review shall also state where the Examiner's findings or conclusions were in error.
2. Any person who desires a copy of the electronic recording must pay the cost of reproducing the tapes. If a person desires a written transcript, he or she shall arrange for transcription and pay the cost thereof.





7. Any finding hereinbefore stated which may be deemed to be a conclusion herein is hereby adopted as such.

**RECOMMENDATION:**

The vacation request is hereby recommended for approval and waiver of the portion of the compensation required by *TMC* 9.22.010 to be allocated for open space purposes, both subject to conditions as contained in Conclusion 6.

DATED this 8<sup>th</sup> day of March, 2007.

  
\_\_\_\_\_  
RODNEY M. KERSLAKE, Hearing Examiner

# PRELIMINARY REPORT

## PREPARED FOR THE HEARING EXAMINER BY REAL PROPERTY SERVICES

For the Hearing to be Held  
Thursday, February 15, 2007 at 9:30 AM

PETITIONER: JAMES McGRANAHAN

FILE NO. 124.1269

### A. SUMMARY OF REQUEST:

Real Property Services has received a petition to vacate portions of Waterview Street, Morrison Street, Mason Avenue, North 46<sup>th</sup> Street, Herriot Street and portions of an alleyway between 48<sup>th</sup> Street and Waterview Street, as shown on the attached vicinity map.

### B. GENERAL INFORMATION:

#### 1. Legal Description of Vacation:

##### **Waterview Street**

A strip of land lying within the South half of Section 24, Township 21 North, Range 2 East of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

The southwesterly 40 feet of Waterview Street lying southerly of the centerline of Sheridan Street (Herriot Street) and northerly of the following described line:

Commencing at the most northerly corner of Block 9 of MASON'S WATER FRONT ADDITION TO TACOMA, recorded in Volume 1 of plats at Page 98, Pierce County, Washington, and modified by City of Tacoma Deed number 366; thence South 35°46'32" East along the East line of said MASON'S WATER FRONT ADDITION as modified 60.00 feet to the point of beginning; thence North 54°13'28" East 40.00 feet to the terminus of this described line.

##### **Alley Blocks 10 and 4 Mason's Shoreline Addition**

A strip of land lying within the East half of the Southwest quarter of Section 24, Township 21 North, Range 2 East, of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

That portion of the alley as shown on the plat of MASON'S SHORELINE ADDITION TO TACOMA, recorded in Volume 1 of plats at page 108, in Pierce County, Washington.

EXH. 1

# ATTACHMENT "A"

Beginning at the most easterly corner of Lot 1, Block 10 of said MASON'S SHORELINE ADDITION; thence North  $49^{\circ}56'44''$  West along the northeasterly line of said Block, 120.00 feet to the most northerly corner of Lot 4 of said Block 10; thence North  $40^{\circ}03'16''$  East 20.00 feet to the most westerly corner of Lot 4 of Block 4 of said MASON'S SHORELINE ADDITION; thence South  $49^{\circ}56'44''$  East along the southwesterly line of said block, 120.00 feet to the most southerly corner of said Block 4; thence South  $40^{\circ}03'16''$  West to the point of beginning.

#### **Sheridan Street**

A strip of land lying within the East half of the Southwest quarter of Section 24, Township 21 North, Range 2 East, of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

That portion of Sheridan Street (Herriot Street) as shown on the plat of MASON'S SHORELINE ADDITION TO TACOMA, recorded in Volume 1 of plats at page 108, in Pierce County, Washington, as modified by City of Tacoma Deed number 366.

Beginning at the most southerly corner of Lot 1, Block 10 of said MASON'S SHORELINE ADDITION; thence North  $40^{\circ}03'16''$  East along the southeasterly line of Blocks 10 and 4 of said addition 220.00 feet to the most easterly corner of said Block 4; thence South  $49^{\circ}56'44''$  East 80.00 feet to the most northerly corner of Block 3 of said MASON'S SHORELINE ADDITION; thence South  $40^{\circ}03'16''$  West along the northwesterly line thereof 172.70 feet to the South line of said MASON'S SHORELINE ADDITION; thence North  $89^{\circ}46'23''$  West along the South line thereof 73.87 feet to the easterly right-of-way line of North 48th Street; thence North  $49^{\circ}56'44''$  West along the East line thereof 23.27 feet to the most southerly corner of said Lot 1, Block 4 and the point of beginning. Except those portions vacated by Ordinance 19939.

#### **Alley Block 1 Hills Addition**

A strip of land lying within the East half of the Southwest Quarter of Section 24, Township 21 North, Range 2 East of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

That portion of the alley as shown on the plat of HILL'S ADDITION, recorded in Volume 1 of plats at page 19, in Pierce County, Washington, lying westerly of the West right-of-way line of Mason Avenue and East of the following described line:

Commencing at the Southeast corner of Lot 1 of said Block 1, said corner also being a point on the North line of the aforementioned alley; thence North  $89^{\circ}35'28''$  West along said North line 118.45 feet to the point of beginning; thence South  $28^{\circ}05'13''$  East 17.95 feet; thence South  $27^{\circ}35'41''$  East 0.26 feet to the South line of said alley and the terminus of this described line.

#### **Mason Avenue**

A strip of land lying within the East half of the Southwest quarter of Section 24, Township 21 North, Range 2 East of the Willamette Meridian, City of Tacoma, Pierce County,

Washington, and more specifically described as follows:

That portion of Mason Avenue as shown on the plat of HILL'S ADDITION, recorded in Volume 1 of plats at Page 19, in Pierce County, Washington, lying southerly of the South right-of-way line of North 46th Street and northerly of the following described line:

Commencing at the northeast corner of Block 4, HILL'S ADDITION; thence South along the easterly line of said Block 4, being the westerly line of Mason Avenue 73.87 feet to the point of beginning; thence South  $89^{\circ}56'51''$  East 40.00 feet to the easterly right-of-way line of Mason Avenue and the terminus of this described line.

**Morrison Street**

A strip of land lying within the West half of the Southeast quarter of Section 24, Township 21 North, Range 2 East of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

That portion of Morrison Street as shown on the plat of MASON'S WATER FRONT ADDITION TO TACOMA, Washington, according to the plat recorded in Book 1 of plats at Page 98, in Pierce County, Washington, lying easterly of the East right-of-way line of Mason Avenue and westerly of the most westerly 40.00 feet of Waterview Street, right-of-way line. Except that portion vacated per City of Tacoma Ordinance No. 15259.

**North 46th Street**

A strip of land lying within the East half of the Southwest quarter and a portion of the West half of the Southeast quarter of Section 24, Township 21 North, Range 2 East of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

That portion of North 46th Street (Water Street and First Street) as shown on the plat of HILL'S ADDITION recorded in Volume 1 of plats at Page 19, in Pierce County, Washington, and WOODRUFF'S SECOND ADDITION TO TACOMA, Pierce County, Washington, recorded in Volume 3 of Plats at Page 61 described as follows:

Beginning at the Northeast corner of Block 1 of said HILL'S ADDITION; thence North  $89^{\circ}44'25''$  West along the North line of said Block 1, a distance of 193.09 feet to a point on a non-tangent curve to the left, having a radius of 455.00 feet, and to which point a radial bears South  $50^{\circ}53'19''$  West; thence northwesterly along said curve, through a central angle of  $07^{\circ}03'11''$ , an arc length of 56.01 feet; thence North  $46^{\circ}09'51''$  West 56.57 feet to the South line of Block 7 of said WOODRUFF'S SECOND ADDITION; thence South  $89^{\circ}44'25''$  East along the South line of Blocks 7 and 8 320.61 feet to the Southeast corner of Block 8 of said WOODRUFF'S SECOND ADDITION; thence South  $38^{\circ}57'28''$  East a distance of 51.08 feet to the center line of said North 46th Street; thence South  $89^{\circ}29'30''$  West along said center line a distance of 40.78 feet to the East right-of-way line of Mason Avenue; thence South  $00^{\circ}03'09''$  West along said right-of-way 40.00 feet;

thence North 89°44'25" West 40.00 feet to the point of beginning.

**2. Notification:**

9.22.060 NOTICE OF PUBLIC HEARING The Public Works Department shall cause a 30-day notice to be given of the pendency of the petition by written notice posted in three of the most public places in the City, a like notice in a conspicuous place on the street or alley sought to be vacated, a like notice in a newspaper of general circulation in the City, and a like notice to the legal property owners of all property abutting the right of way requested for vacation as enumerated on the applicant's vacation petition, and to any other interested parties of record. In addition to posting notices of the hearing, the Public Works Department shall mail a copy of the notice to all owners and occupants of the property which lies within 300 feet of the street or alley to be vacated. The said notice shall contain the statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition. In all cases where the proceeding is initiated by the City Council without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, notice shall be sent as provided above. Failure to send notice by mail to any such property owner where the current address for such property owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed street vacation.

**C. PURPOSE OF REQUEST:**

The petitioner plans to combine vacated right of way into adjoining property for the purpose of consolidating existing ownerships and to afford the petitioner the opportunity to create the preliminary plat of "Waterview Pointe".

**D. HISTORY:**

The City of Tacoma acquired the rights of way proposed to be vacated within the following plats:

MASON'S WATER FRONT ADDITION TO TACOMA, recorded in Volume 1 of plats at Page 98, on June 21, 1886 in Pierce County, Washington;

MASON'S SHORELINE ADDITION TO TACOMA, recorded in Volume 1 of plats at page 108, on August 8, 1887 in Pierce County, Washington.;

HILL'S ADDITION TO THE CITY OF TACOMA, recorded in Volume 1 of plats at page 19, December 1, 1873 in Pierce County, Washington;

WOODRUFF'S SECOND ADDITION TO TACOMA, recorded in Volume 3 of Plats at Page 61, August 2, 1889 in Pierce County, Washington

# PRELIMINARY REPORT

## PREPARED FOR THE HEARING EXAMINER BY REAL PROPERTY SERVICES

For the Hearing to be Held  
Thursday, February 15, 2007 at 9:30 AM

**PETITIONER: JAMES McGRANAHAN**

**FILE NO. 124.1269**

### A. SUMMARY OF REQUEST:

Real Property Services has received a petition to vacate portions of Waterview Street, Morrison Street, Mason Avenue, North 46<sup>th</sup> Street, Herriot Street and portions of an alleyway between 48<sup>th</sup> Street and Waterview Street, as shown on the attached vicinity map.

### B. GENERAL INFORMATION:

#### 1. Legal Description of Vacation:

##### **Waterview Street**

A strip of land lying within the South half of Section 24, Township 21 North, Range 2 East of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

The southwesterly 40 feet of Waterview Street lying southerly of the centerline of Sheridan Street (Herriot Street) and northerly of the following described line:

Commencing at the most northerly corner of Block 9 of MASON'S WATER FRONT ADDITION TO TACOMA, recorded in Volume 1 of plats at Page 98, Pierce County, Washington, and modified by City of Tacoma Deed number 366; thence South 35°46'32" East along the East line of said MASON'S WATER FRONT ADDITION as modified 60.00 feet to the point of beginning; thence North 54°13'28" East 40.00 feet to the terminus of this described line.

##### **Alley Blocks 10 and 4 Mason's Shoreline Addition**

A strip of land lying within the East half of the Southwest quarter of Section 24, Township 21 North, Range 2 East, of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

That portion of the alley as shown on the plat of MASON'S SHORELINE ADDITION TO TACOMA, recorded in Volume 1 of plats at page 108, in Pierce County, Washington.

Beginning at the most easterly corner of Lot 1, Block 10 of said MASON'S SHORELINE ADDITION; thence North 49°56'44" West along the northeasterly line of said Block, 120.00 feet to the most northerly corner of Lot 4 of said Block 10; thence North 40°03'16" East 20.00 feet to the most westerly corner of Lot 4 of Block 4 of said MASON'S SHORELINE ADDITION; thence South 49°56'44" East along the southwesterly line of said block, 120.00 feet to the most southerly corner of said Block 4; thence South 40°03'16" West to the point of beginning.

#### **Sheridan Street**

A strip of land lying within the East half of the Southwest quarter of Section 24, Township 21 North, Range 2 East, of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

That portion of Sheridan Street (Herriot Street) as shown on the plat of MASON'S SHORELINE ADDITION TO TACOMA, recorded in Volume 1 of plats at page 108, in Pierce County, Washington, as modified by City of Tacoma Deed number 366.

Beginning at the most southerly corner of Lot 1, Block 10 of said MASON'S SHORELINE ADDITION; thence North 40°03'16" East along the southeasterly line of Blocks 10 and 4 of said addition 220.00 feet to the most easterly corner of said Block 4; thence South 49°56'44" East 80.00 feet to the most northerly corner of Block 3 of said MASON'S SHORELINE ADDITION; thence South 40°03'16" West along the northwesterly line thereof 172.70 feet to the South line of said MASON'S SHORELINE ADDITION; thence North 89°46'23" West along the South line thereof 73.87 feet to the easterly right-of-way line of North 48th Street; thence North 49°56'44" West along the East line thereof 23.27 feet to the most southerly corner of said Lot 1, Block 4 and the point of beginning. Except those portions vacated by Ordinance 19939.

#### **Alley Block 1 Hills Addition**

A strip of land lying within the East half of the Southwest Quarter of Section 24, Township 21 North, Range 2 East of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

That portion of the alley as shown on the plat of HILL'S ADDITION, recorded in Volume 1 of plats at page 19, in Pierce County, Washington, lying westerly of the West right-of-way line of Mason Avenue and East of the following described line:

Commencing at the Southeast corner of Lot 1 of said Block 1, said corner also being a point on the North line of the aforementioned alley; thence North 89°35'28" West along said North line 118.45 feet to the point of beginning; thence South 28°05'13" East 17.95 feet; thence South 27°35'41" East 0.26 feet to the South line of said alley and the terminus of this described line.

#### **Mason Avenue**

A strip of land lying within the East half of the Southwest quarter of Section 24, Township 21 North, Range 2 East of the Willamette Meridian, City of Tacoma, Pierce County,



Washington, and more specifically described as follows:

That portion of Mason Avenue as shown on the plat of HILL'S ADDITION, recorded in Volume 1 of plats at Page 19, in Pierce County, Washington, lying southerly of the South right-of-way line of North 46th Street and northerly of the following described line:

Commencing at the northeast corner of Block 4, HILL'S ADDITION; thence South along the easterly line of said Block 4, being the westerly line of Mason Avenue 73.87 feet to the point of beginning; thence South  $89^{\circ}56'51''$  East 40.00 feet to the easterly right-of-way line of Mason Avenue and the terminus of this described line.

#### **Morrison Street**

A strip of land lying within the West half of the Southeast quarter of Section 24, Township 21 North, Range 2 East of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

That portion of Morrison Street as shown on the plat of MASON'S WATER FRONT ADDITION TO TACOMA, Washington, according to the plat recorded in Book 1 of plats at Page 98, in Pierce County, Washington, lying easterly of the East right-of-way line of Mason Avenue and westerly of the most westerly 40.00 feet of Waterview Street, right-of-way line. Except that portion vacated per City of Tacoma Ordinance No. 15259.

#### **North 46th Street**

A strip of land lying within the East half of the Southwest quarter and a portion of the West half of the Southeast quarter of Section 24, Township 21 North, Range 2 East of the Willamette Meridian, City of Tacoma, Pierce County, Washington, and more specifically described as follows:

That portion of North 46th Street (Water Street and First Street) as shown on the plat of HILL'S ADDITION recorded in Volume 1 of plats at Page 19, in Pierce County, Washington, and WOODRUFF'S SECOND ADDITION TO TACOMA, Pierce County, Washington, recorded in Volume 3 of Plats at Page 61 described as follows:

Beginning at the Northeast corner of Block 1 of said HILL'S ADDITION; thence North  $89^{\circ}44'25''$  West along the North line of said Block 1, a distance of 193.09 feet to a point on a non-tangent curve to the left, having a radius of 455.00 feet, and to which point a radial bears South  $50^{\circ}53'19''$  West; thence northwesterly along said curve, through a central angle of  $07^{\circ}03'11''$ , an arc length of 56.01 feet; thence North  $46^{\circ}09'51''$  West 56.57 feet to the South line of Block 7 of said WOODRUFF'S SECOND ADDITION; thence South  $89^{\circ}44'25''$  East along the South line of Blocks 7 and 8 320.61 feet to the Southeast corner of Block 8 of said WOODRUFF'S SECOND ADDITION; thence South  $38^{\circ}57'28''$  East a distance of 51.08 feet to the center line of said North 46th Street; thence South  $89^{\circ}29'30''$  West along said center line a distance of 40.78 feet to the East right-of-way line of Mason Avenue; thence South  $00^{\circ}03'09''$  West along said right-of-way 40.00 feet;

thence North 89°44'25" West 40.00 feet to the point of beginning.

**2. Notification:**

9.22.060 NOTICE OF PUBLIC HEARING The Public Works Department shall cause a 30-day notice to be given of the pendency of the petition by written notice posted in three of the most public places in the City, a like notice in a conspicuous place on the street or alley sought to be vacated, a like notice in a newspaper of general circulation in the City, and a like notice to the legal property owners of all property abutting the right of way requested for vacation as enumerated on the applicant's vacation petition, and to any other interested parties of record. In addition to posting notices of the hearing, the Public Works Department shall mail a copy of the notice to all owners and occupants of the property which lies within 300 feet of the street or alley to be vacated. The said notice shall contain the statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition. In all cases where the proceeding is initiated by the City Council without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, notice shall be sent as provided above. Failure to send notice by mail to any such property owner where the current address for such property owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed street vacation.

**C. PURPOSE OF REQUEST:**

The petitioner plans to combine vacated right of way into adjoining property for the purpose of consolidating existing ownerships and to afford the petitioner the opportunity to create the preliminary plat of "Waterview Pointe".

**D. HISTORY:**

The City of Tacoma acquired the rights of way proposed to be vacated within the following plats:

MASON'S WATER FRONT ADDITION TO TACOMA, recorded in Volume 1 of plats at Page 98, on June 21, 1886 in Pierce County, Washington;

MASON'S SHORELINE ADDITION TO TACOMA, recorded in Volume 1 of plats at page 108, on August 8, 1887 in Pierce County, Washington.;

HILL'S ADDITION TO THE CITY OF TACOMA, recorded in Volume 1 of plats at page 19, December 1, 1873 in Pierce County, Washington;

WOODRUFF'S SECOND ADDITION TO TACOMA, recorded in Volume 3 of Plats at Page 61, August 2, 1889 in Pierce County, Washington

**E. PHYSICAL LAND CHARACTERISTICS:**

The proposed vacation areas are located within the steeply sloped area lying generally between southwesterly of Waterview Street and North Stevens Street. The area contains slopes that are greater than 40 percent. The area contains natural vegetation including trees with help to provide slope stability. The applicant is seeking to vacate approximately 98,730 square feet of undeveloped right of way contained within four plats. The developer has offered to dedicate back to the City of Tacoma approximately 69,146 square feet to create an open space buffer area. Please refer to the site plan attached depicting the dedication areas.

**F. APPLICABLE SECTIONS OF THE OFFICIAL CODE OF THE CITY OF TACOMA:**

**9.22.010 PETITION TO VACATE AUTHORIZED:** The owners of an interest in any real estate abutting on any street or alley who may desire to vacate any street or alley, or any part thereof, shall petition to the City Council to make vacation in the manner hereafter provided in this chapter and pursuant to RCW 35.79 or the City Council may itself initiate by Resolution such vacation procedure. The City Council shall require the petitioners to compensate the City in an amount which equals one-half of the appraisal value of the area vacated; provided that if the street or alley has been a public right of way for 25 years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated; provided that when the vacation is initiated by the City or the City Council deems it to be in the best interest of the City, all or any portion of such compensation may be waived. Except as provided below, one-half of the revenue received hereunder shall be devoted to the acquisition, improvement, and maintenance of public open space land and one-half may be devoted to transportation projects and the management and maintenance of other City owned lands and unimproved rights-of-way.

In the case of vacations of rights-of-way in the tide flats area, defined as easterly of the Thea Foss Waterway (inclusive of the Murray Morgan Bridge), northerly of State Route 509 and westerly of Marine View Drive, the total revenue received hereunder shall be devoted to transportation projects in the tide flats area.

**9.22.040 PUBLIC'S RIGHT TO TRAVEL – UTILITIES:** Vacation of any portion of a street that is designated as an arterial under Section 11.05.490 of the Municipal Code shall be of a minor nature only and shall not unreasonably limit the public's right to travel upon said street or interfere with the ancillary right to occupy said street for utility purposes.

**CRITERIA:** Section 9.22.070 of the Official Code of the City of Tacoma. The following criteria have been considered:

1. That the vacation will provide a public benefit and/or will be for a public purpose.

2. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
3. That the public need shall not be adversely affected.
4. That the right-of-way is not contemplated or needed for future public use.
5. That no abutting owner becomes landlocked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
6. That vacation of right-of-way shall not be in violation of RCW 35.79.035

**G. ADDITIONAL INFORMATION:**

The area to be vacated has not been assessed for sanitary sewers and is subject to a Connection Charge In-Lieu-of-Assessment per T.M.C. 12.08.350. Should the petitioner wish to clear this item from title, please contact Sue Simpson of the Public Works Department, L.I.D. Section, at 591-5529 for the assessment amount. Please note that the ordinance establishing the rate of assessment is updated every few years, and the amount quoted may increase in the future. When the petitioner has submitted a development plan, an in lieu of amount will be computed.

**H. PROJECT RECOMMENDATIONS:**

As part of the City's review process for street vacation petitions, notice of this application was mailed to various City departments as well as many outside quasi-governmental agencies. These agencies, as noted below, have provided comments and recommended conditions to the Real Property Services Division. These comments, where appropriate, have been incorporated in the "Recommended Conditions of Approval" section of this preliminary report.

Public Works / Construction / LID – Exhibit A  
Tacoma Power – Exhibit B  
Comcast Communications – Exhibit C  
Tacoma Water – Exhibit D  
Public Works / Environmental Services – Exhibit E

Pierce Transit – No objection  
Community and Economic Development – No objection  
Puget Sound Energy – No objection  
Qwest Communications – No objection  
Pierce Transit – No objection

I. **RECOMMENDED CONDITIONS OF APPROVAL:**

Should this street vacation request be approved, the Real Property Services Division recommends that the following conditions be made conditions of approval for this street vacation petition.

1. PAYMENT OF FEES

The petitioner shall compensate the City in an amount equal to the full appraised value of the area vacated. One-half of the revenue received shall be devoted to the acquisition, improvement and maintenance of public open space land and one-half may be devoted to transportation projects and /or management and maintenance of other City owned lands and unimproved rights-of-way. *TMC 9.22.010*

The developer has proposed dedication of 69,146 square feet to the City of Tacoma to create an open space buffer zone adjacent to the proposed development of "Waterview Pointe". Since the *Tacoma Municipal Code* is silent on the issue of alternate compensation, Real Property Services seeks permission to enter into an agreement with the developer, for the City to receive title to the dedication areas shown on the attached map. The developer is requesting the dedicated land value be credited against the final cost of the vacated property. The Open Space Acquisition Fund would be receiving a deed in lieu of the one-half cash payment as required under the Municipal Code.

The street vacation area and the proposed property dedication area is currently being appraised by the appraisal firm of Strickland, Heischman & Hoss. The appraisal report is expected to be received within the next couple of weeks outlining the appraisers opinion of market value.

2. PUBLIC WORKS / CONSTRUCTION / LID

- a. Please contact Sue Simpson at 591-5529 for questions regarding LID's comments.
- b. *Advisory Comment* – the proposed area to be vacated has not been assessed for sanitary sewer. A development plan would be required to determine whether or not an assessment in lieu would be due.

3. TACOMA POWER

- a. Please contact Nick Tomanelli at 502-8296 regarding Tacoma Power's comments.
- b. Tacoma Power has no objection to the proposed request; however, Tacoma Power requests the northeasterly 10 feet of the proposed vacation area parallel with Waterview Street as an easement for poles, anchors, guy wires, overhead and underground power and data wires, power and data enclosures and vaults, power and data conduit, and transformers. Relocation of existing Tacoma Power facilities will be at the developer's expense.

4. COMCAST COMMUNICATIONS

- a. Please contact Aaron Cantrel at 253.864-4200 regarding Comcast Communication's comments.

- b. *Advisory Comment* – Comcast is attached to Tacoma Public Utilities poles in the vacation area along Waterview Street.
- c. *Real Property Services Comment*: Comcast Communications is attached to Tacoma Power's poles by a pole attachment agreement. Therefore, no additional easement will need to be reserved to protect Comcast's infrastructure.

5. TACOMA WATER

- a. Please contact Grant Whitley at 597-5282 regarding Tacoma Water's comments.
- b. Tacoma Water has a water main and water service within the right of way of Waterview Street. To cover the existing service and meters, Tacoma Water will request an easement be reserved over the area southwesterly of the monument line of Waterview Street, to a distance of 40 feet from the monument line of Waterview Street.

6. PUBLIC WORKS / ENVIRONMENTAL SERVICES

- a. Please contact Richard Meuschke at 502-2151 regarding Environmental Service's comments.
- b. The department does not object to the vacation of several portions of City streets located within the Waterview Pointe Plat as shown on the request.
- c. The City will need to retain a 20 foot storm and sanitary sewer easement centered in the North Herriot Street right of way from North Waterview Street west the northern property line of tax parcel 450000-0011, then west along the north edge of tax parcel 450000-0011 to the east line of North 48<sup>th</sup> Street.
- d. It is also requested that the no permanent structures clause be retained and inserted into the easement.

The applicant shall comply with all City regulations for any future use of the subject site.

ATTACHMENT: Vacation Jacket containing all pertinent maps and papers.



City of Tacoma

# EXHIBIT A

Memorandum

**TO:** ALL CONCERNED AGENCIES & DEPARTMENTS

**FROM:** RICHARD PRICE  
PUBLIC WORKS /REAL PROPERTY SERVICES

**SUBJECT:** STREET VACATION REQUEST NO. 124.1269

**DATE:** JANUARY 24, 2007

Real Property Services has received a petition to vacate portions of several streets lying northerly of Waterview Street, as shown on the attached vicinity map.

The Petitioner proposes to add the lands to be vacated to the adjoining property for the purpose of consolidating existing ownerships and affording the petitioner the opportunity to create the preliminary plat of "Waterview Pointe".

In order to be considered, your comments must be received by **Real Property Services, TMB, Room 737, FEBRUARY 5, 2007**. If your comments are not received by that date, it will be understood that the office you represent has no interest in this matter.

- Attachment(s)
- AT&T Broadband
  - Pierce Transit
  - Puget Sound Energy
  - Qwest Communications
  - Fire Department
  - Police Department
  - TPU/Power/T&D
  - TPU/Water/LID
  - PW/Director (3)
  - PW/BLUS (2)
  - PW/Construction
  - PW/Engineering
  - PW/Engineering/LID
  - PW/Engineering/Traffic
  - PW/Environmental Services
  - PW/Solid Waste
  - PW/Street & Grounds
  - Tacoma Economic Development
  - Click! Network

### RESPONSE

\_\_\_\_\_ No Objections

\_\_\_\_\_ Comments Attached

1/26/2007 \_\_\_\_\_ Date

*Gene Spay* \_\_\_\_\_ Signature

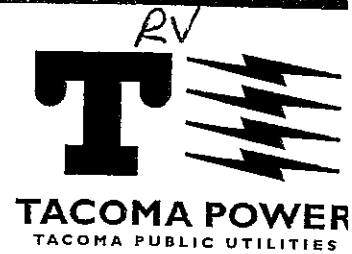
\_\_\_\_\_ Department

PROPOSED AREAS TO BE VACATED HAVE NOT BEEN ASSESSED FOR SANITARY SEWER. A DEVELOPMENTAL PLAN WOULD BE REQUIRED TO DETERMINE WHETHER OR NOT AN ASSESSMENT IN LIEU WOULD BE DUE.

**RECEIVED**  
JAN 29 2007

CITY OF TACOMA  
REAL PROPERTY SERVICES

**EXHIBIT B**



**DATE:** January 26, 2007  
**TO:** Rich Price, General Services Asset Management  
**FROM:** Nick Tomanelli, Transmission & Distribution Supervisor, New Services Engineering  
**SUBJECT:** Street Vacation Request No. 124.1269  
**LOCATION:** Waterview Street

-----  
**RESPONSE DUE BY: WEDNESDAY, JANUARY 31**

- NO COMMENTS
- COMMENTS CONTINUED ON REVERSE SIDE

COMMENTS: ATTACHED

Subject: Steeet Vacation Request No. 124.1269

Location: Waterview Street

Tacoma Power has no objection to the proposed request; however, Tacoma Power requests the north-easterly 10 feet of the proposed vacation area parallel with Waterview Street as an easement for poles, anchors, guy wires, overhead and underground power and data wires, power and data enclosures and vaults, power and data conduit, and transformers. Relocation of existing Tacoma Power facilities will be at the developer's expense.

Rich Price  
 New Services Engineering  
 Transmission & Distribution

1-31-07  
 Date

cc: Ronda Cornforth, TPU/Real Property Services





TITLE  
**WATERVIEW POINTE**  
 RIGHT OF WAY EXHIBIT

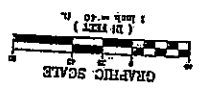
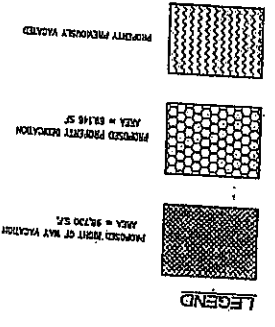
CLIENT/TOWN  
 TOWN OF TACOMA  
 4602 WATERVIEW STREET  
 TACOMA, WA 98402



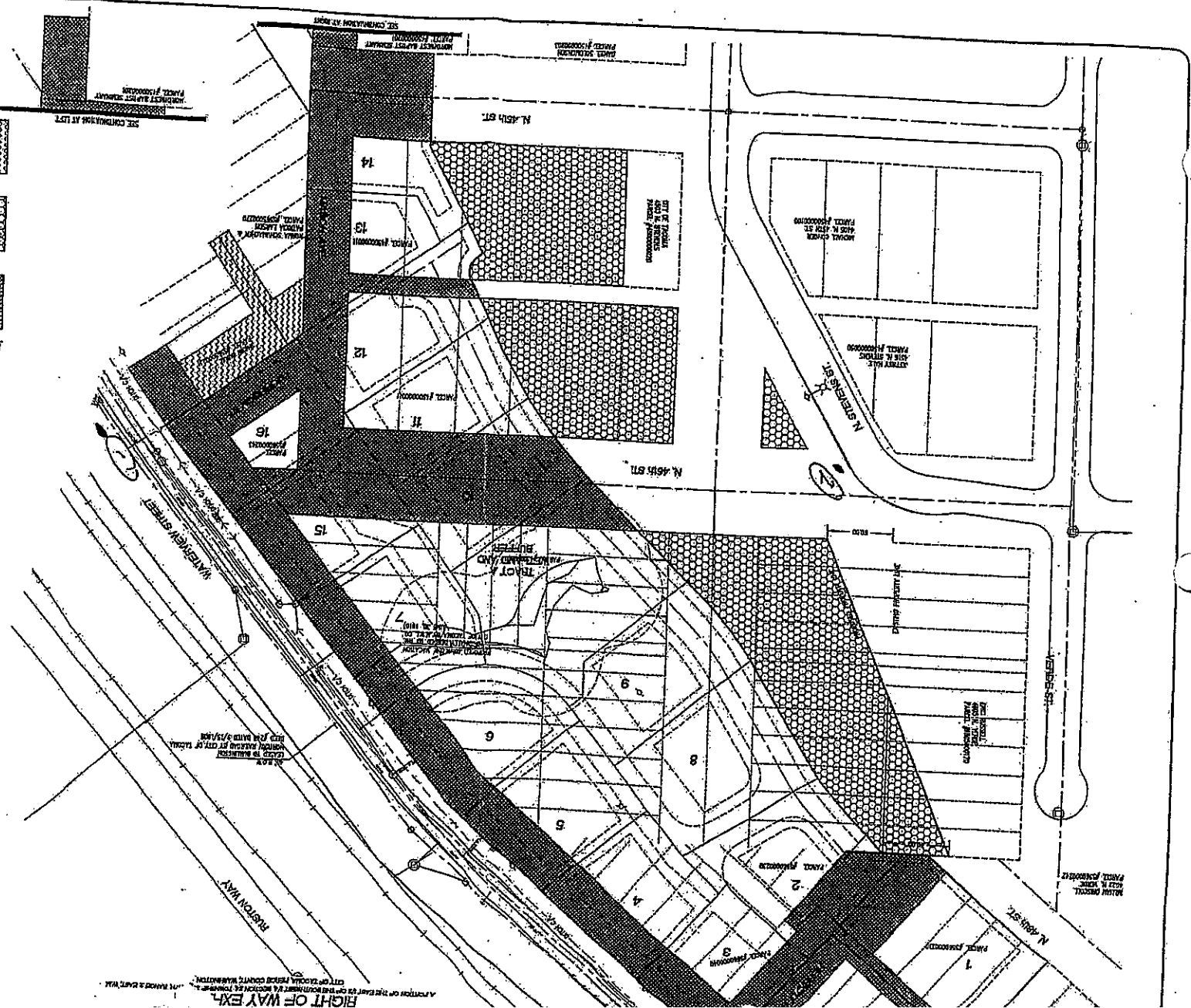
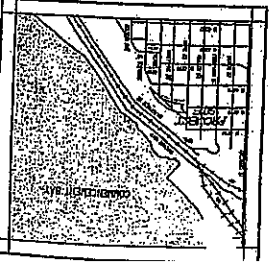
DATE SHEET REVISED  
 02/23/20

NO.	REVISION	DATE

PROJECT MANAGER	DESIGNER	CHECKER	DATE
BRUCE A. MARTIN	KAREN A. HARRIS	DAVID H. HICKEY	02/23/20



**VICINITY MAP**  
 Scaled 1"=40' N.E.



**From:** Cantrel, Aaron R [Aaron\_Cantrel@cable.comcast.com]  
**Sent:** Thursday, January 25, 2007 2:22 PM  
**To:** Price, Richard  
**Subject:** RE: Agency Comments - Street Vacation File No. 124.1269 - Comments due - 2/5/07

Richard,

Comcast is attached to TPU poles in the Vacation Area along Waterview Street.

-----Original Message-----

**From:** Price, Richard [mailto:RPRICE@ci.tacoma.wa.us]  
**Sent:** Thursday, January 25, 2007 12:15 PM  
**To:** Cantrel, Aaron R; Anderson, Carl; Beier, Spencer; Grant Whitley; Hedges, Cheryl; James Howatson; Kingsolver, Kurtis; Marge Bailey; Marilyn Danby; Meuschke, Richard; Monica Adams; Nick Tomanelli; O'Donnal, Kevin; Pearson, Charles (Cap); Peter Huffman; Richard Coyne; Richard Price; Ronda Cornforth; Rutha Mitchell; Ryan Flynn; Sue Simpson; Tanara Reynolds; Veronica Dykas  
**Subject:** Agency Comments - Street Vacation File No. 124.1269 - Comments due - 2/5/07

<<Agency Comments.doc>>

# EXHIBIT D

**Price, Richard**

---

**From:** Whitley, Grant

**Sent:** Friday, February 02, 2007 3:01 PM

**To:** Price, Richard

**Cc:** Cornforth, Ronda; Hedges, Cheryl; Nelson, Corey

**Subject:** RE: Agency Comments - Street Vacation File No. 124.1269 - Comments due - 2/5/07

Richard

Tacoma Water has a water main and water services within the right of way of Waterview Street. The drawing or memo did not state the width of the vacation in Waterview Street. To be sure to cover the existing services and meters, Tacoma Water will request an easement be reserved over the area southwesterly of the monument line of Waterview Street, to a distance of 40 feet from the monument line of Waterview street.

Grant Whitley

Tacoma Water

---

**From:** Price, Richard

**Sent:** Thursday, January 25, 2007 12:15 PM

**To:** Aaron Cantrel; Anderson, Carl; Beier, Spencer; Whitley, Grant; Hedges, Cheryl; Howatson, James; Kingsolver, Kurtis; Marge Bailey; Marilyn Danby; Meuschke, Richard; Monica Adams; Tomanelli, Nick; O'Donnal, Kevin; Pearson, Charles (Cap); Huffman, Peter; Coyne, Richard; Price, Richard; Cornforth, Ronda; Mitchell, Rutha; Flynn, Ryan; Simpson, Sue; Tanara Reynolds; Dykas, Veronica

**Subject:** Agency Comments - Street Vacation File No. 124.1269 - Comments due - 2/5/07

2/7/2007

# EXHIBIT E



City of Tacoma  
Public Works Department

Memorandum

**TO:** Richard Price, Asset Management  
**FROM:** *RAM* Richard Meuschke, Environmental Services Engineering Division  
**SUBJECT:** Street Vacation No. 124-1269  
Several streets within Waterview Pointe Plat  
**DATE:** February 7, 2007

This department does not object to the vacation of several portions of City streets located within Waterview Pointe Plat as shown on the Street Vacation Request No. 124-1269.

However, the City will need to retain a 20-foot storm and sanitary sewer easement centered in the North Herriott Street right-of-way from North Waterview Street west to the north property line of tax parcel 4500000011, then west along the north edge of tax parcel 4500000011 to the east line of North 48<sup>th</sup> Street.

Please include the following condition in the easement language:

*No permanent structures shall be erected within the public storm and/or sanitary sewer easement areas unless specifically approved in writing by the City of Tacoma, Director of Public Works. Permanent structures shall mean any concrete foundation, concrete slab, wall, rockery, building, deck, overhanging structures, fill material, recreational sport courts, carports, portable sheds, private utilities, fences, or other site improvement that will unreasonably interfere with the need to access or construct storm and/or sanitary sewer utilities in said easements. Permanent structures shall not mean improvements such as normal landscaping, asphalt paving, gravel, or other similar site improvements that do not prevent the access of men, materials, and machinery across, along, and within the said easement area. Land restoration by the City within the said easement area due to the construction, operation, inspection, replacement, repair, or maintenance of storm and/or sanitary sewer utilities will be strictly limited to grass seed, grass sod, and/or asphalt replacement unless otherwise determined by the City of Tacoma.*

Thank you.





City of Tacoma  
Environmental Services Department

Trent Wohlfeil  
4606 North Waterview St.  
Tacoma, WA 98407  
Cell: 253.921.4962

Subject: Sale of property for City of Tacoma's Open Space Program

Dear Mr. Wohlfeil:

I understand that as part of Waterview Pointe development you have been working with City of Tacoma Real Property Services/Public Works and the Environmental Services Departments open space program to transfer real property to the City of Tacoma open space program. This property is generally described as the western steepest portion of Pierce County Parcel Number 4500000011 lying Northerly of North 46<sup>th</sup> Street and Easterly of North Verde Street. Unfortunately after review of this property and due to geotechnical, slope, and associated liability issues, the Open Space Program is not interested in pursuing a property purchase for open space use.

However, it is our understanding that an adjacent property owner with slope stability concerns is willing to discuss access and/or the possibility of a property transfer in order to prevent deterioration of the slope. If you desire the City would be available to assist in facilitating a meeting between the parties involved in order to protect slope stability and public safety.

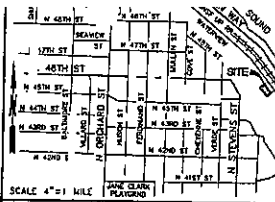
Please feel free to contact me at any time if you have further questions on this issue or wish for the City to facilitate a meeting between the parties. I can be reached at (253) 591-5525.

Sincerely,

Michael P. Slevin III, P.E.  
Environmental Services Director

cc: T.C. Broadnax, City of Tacoma, City Manager  
Mark Lauzier, City of Tacoma, Assistant City Manager  
Kurtis D. Kingsolver, P.E., Public Works Director/City Engineer  
Todd C. Ward, Property Owner Representative, ToddWard LLC

EXHIBIT 10



Notary Seal: Trent Wohlfeil, Notary Public in and for the State of Washington, Residing at Tacoma, WA.

I HEREBY CERTIFY THAT THE ABOVE INDIVIDUAL(S) SIGNED AS A FREE AND VOLUNTARY ACT AND DEED FOR THE USES AND PURPOSES HEREIN MENTIONED.

GIVEN UNDER MY HAND AND SEAL THIS 13<sup>th</sup> DAY OF October 2004

Sarah M. Bolash

BOUNDARY LINE ADJUSTMENT 40000032853

A PORTION OF SW 1/4, SE 1/4, SECTION 24, T. 21N, R. 02E, W.M.

ORIGINAL TRACT:  
ASSESSOR'S PARCEL NO(S)  
556500-0230

LAND USE ADMINISTRATOR  
APPROVED IN COMPLIANCE WITH CHAPTER 13.04 OF THE OFFICIAL CODE OF THE CITY OF TACOMA.  
Tom DeLeon 10/25/04  
LAND USE ADMINISTRATOR

APPROVED FOR RECORDING  
James M. White 10-19-04  
CITY SURVEYOR

CITY TREASURER  
I HEREBY CERTIFY THAT ALL DELINQUENT ASSESSMENTS HERETOFORE LEVIED AGAINST THE PROPERTY DESCRIBED HEREON, ACCORDING TO THE BOOKS AND RECORDS OF MY OFFICE, HAVE BEEN FULLY PAID AND DISCHARGED. EGA  
Yvonne J. Miller for Morgan D. Jacobson  
CITY TREASURER 10-15-04

**ORIGINAL LEGAL DESCRIPTIONS**

(PER TACOMA TITLE COMPANY A.L.T.A. COMMITMENT ORDER NO. 3039970 DATED MAY 20, 2004.)

LOTS 8 TO 10, INCLUSIVE, BLOCK 9, MASON'S WATER FRONT ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN BOOK 1 OF PLATS AT PAGE 98. EXCEPT THEREFROM THOSE PORTIONS OF SAID LOTS LYING NORTHEASTERLY OF A LINE PARALLEL WITH AND DISTANT 40 FEET SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF WATER STREET AS SHOWN ON SAID PLAT, WHICH PORTIONS WERE HERETOFORE CONVEYED TO THE CITY OF TACOMA, BY DEED RECORDED MARCH 28, 1911 UNDER AUDITOR'S FEE NO. 336584.

TOGETHER WITH THE SOUTHWESTERLY ONE-HALF OF MORRISON STREET AND THE NORTHEASTERLY ONE-HALF OF ALLEY ABUTTING THEREON, VACATED BY ORDINANCE NO. 15259 OF THE CITY OF TACOMA.

**NEW LEGAL DESCRIPTIONS**

NEW LOT A:  
THE NORTH 80 FEET OF THE FOLLOWING DESCRIBED PROPERTY:  
LOTS 8 TO 10, INCLUSIVE, BLOCK 9, MASON'S WATER FRONT ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN BOOK 1 OF PLATS AT PAGE 98. EXCEPT THEREFROM THOSE PORTIONS OF SAID LOTS LYING NORTHEASTERLY OF A LINE PARALLEL WITH AND DISTANT 40 FEET SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF WATER STREET AS SHOWN ON SAID PLAT, WHICH PORTIONS WERE HERETOFORE CONVEYED TO THE CITY OF TACOMA, BY DEED RECORDED MARCH 28, 1911 UNDER AUDITOR'S FEE NO. 336584. TOGETHER WITH THE SOUTHWESTERLY ONE-HALF OF MORRISON STREET AND THE NORTHEASTERLY ONE-HALF OF ALLEY ABUTTING THEREON, VACATED BY ORDINANCE NO. 15259 OF THE CITY OF TACOMA.

NEW LOT B:  
THE SOUTH 80 FEET OF THE NORTH 120 FEET OF THE FOLLOWING DESCRIBED PROPERTY:  
LOTS 8 TO 10, INCLUSIVE, BLOCK 9, MASON'S WATER FRONT ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN BOOK 1 OF PLATS AT PAGE 98. EXCEPT THEREFROM THOSE PORTIONS OF SAID LOTS LYING NORTHEASTERLY OF A LINE PARALLEL WITH AND DISTANT 40 FEET SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF WATER STREET AS SHOWN ON SAID PLAT, WHICH PORTIONS WERE HERETOFORE CONVEYED TO THE CITY OF TACOMA, BY DEED RECORDED MARCH 28, 1911 UNDER AUDITOR'S FEE NO. 336584. TOGETHER WITH THE SOUTHWESTERLY ONE-HALF OF MORRISON STREET AND THE NORTHEASTERLY ONE-HALF OF ALLEY ABUTTING THEREON, VACATED BY ORDINANCE NO. 15259 OF THE CITY OF TACOMA.

NEW LOT C:  
LOTS 8 TO 10, INCLUSIVE, BLOCK 9, MASON'S WATER FRONT ADDITION TO TACOMA, W.T., ACCORDING TO PLAT RECORDED IN BOOK 1 OF PLATS AT PAGE 98. EXCEPT THEREFROM THOSE PORTIONS OF SAID LOTS LYING NORTHEASTERLY OF A LINE PARALLEL WITH AND DISTANT 40 FEET SOUTHWESTERLY FROM THE SOUTHWESTERLY LINE OF WATER STREET AS SHOWN ON SAID PLAT, WHICH PORTIONS WERE HERETOFORE CONVEYED TO THE CITY OF TACOMA, BY DEED RECORDED MARCH 28, 1911 UNDER AUDITOR'S FEE NO. 336584. TOGETHER WITH THE SOUTHWESTERLY ONE-HALF OF MORRISON STREET AND THE NORTHEASTERLY ONE-HALF OF ALLEY ABUTTING THEREON, VACATED BY ORDINANCE NO. 15259 OF THE CITY OF TACOMA.

EXCEPT THE NORTH 120 FEET OF THE ABOVE DESCRIBED PROPERTY.

**SURVEYOR'S NOTES**

- (1) THE DRAWING SHOWN HEREON DOES NOT NECESSARILY CONTAIN ALL OF THE INFORMATION OBTAINED BY THE SURVEYOR IN HIS FIELD WORK, OFFICE WORK, OR RESEARCH.
- (2) BASELINE'S FIELD TRAVERSE PROCEDURES MEET OR EXCEED ACCURACY STANDARDS AS PER W.A.C. 332-130-090, PARAGRAPHS (6) AND (6b).
- (3) APPARENT ENCROACHMENTS AS SHOWN HEREON ARE ONLY THOSE ABOVE GROUND, VISIBLE OBJECTS OBSERVED BY THE SURVEYOR. NO CERTIFICATION IS MADE OR IMPLIED THAT THOSE OBJECTS APPEARING TO ENCRoACH ACTUALLY ENCRoACH ON THE OWNERSHIP OF THE SUBJECT OR ADJOINING PROPERTY.
- (4) AN ON THE GROUND SURVEY WAS PERFORMED APRIL 15, 2004, WITH SUBSEQUENT SITE VISITS ON MAY 28 AND JUNE 2, 2004.
- (5) AT THE CLIENT'S DIRECTION, BOUNDARY AND SURVEY CONTROL INFORMATION SHOWN HEREON ARE BASED ENTIRELY ON THE RECORD-OF-SURVEY BY LOT SURVEY COMPANY (GEORGE W. DRYSDALE, PLS. #2228) UNDER PIERCE COUNTY REC. NO. 20040228001, AND ARE GUARANTEED ONLY TO THAT EXTENT. NEITHER BASELINE ENGINEERING, INC. NOR THE SURVEYOR SIGNING THIS DRAWING ASSUMES ANY LIABILITY FOR WORK NOT PERFORMED UNDER HIS DIRECT SUPERVISION. BASELINE ENGINEERING, INC. HAS ROTATED THE BEARINGS OF THE PIERCE COUNTY REC. NO. 20040228001 SURVEY TO THE CITY OF TACOMA PUBLISHED WASHINGTON STATE PLANE COORDINATE SYSTEM.
- (6) C.O.T. ORD. NO. 15259 PURPORTEDLY REPEALED ORD. NO. 15259 VACATING PORTIONS OF MORRISON STREET AND THE ALLEY ADJOINING THIS PROPERTY ON THE WEST. THE C.O.T. HAS GIVEN A LEGAL OPINION STATING THAT THE ORIGINAL VACATION IS STILL IN FORCE AS TO THIS PROPERTY. THIS MAP AND SURVEY ARE BASED ON THAT OPINION (SEE R-0-S 20040228001 FOR COPY OF OPINION).

ASSESSOR/TREASURER  
I HEREBY CERTIFY THAT ALL STATE AND COUNTY TAXES HERETOFORE LEVIED AGAINST THE PROPERTY DESCRIBED HEREON, ACCORDING TO THE BOOKS AND RECORDS OF MY OFFICE, HAVE BEEN FULLY PAID AND DISCHARGED.  
Ken Madson  
ASSESSOR/TREASURER 10/15/04

AUDITOR'S CERTIFICATE  
I do hereby certify that the above described property was filed for record this 13<sup>th</sup> day of October 2004 at 2:22 P.M. IN BOOK 182 OF 182 AT PAGE 182 AT THE REQUEST OF  
Trent Wohlfeil  
COUNTY AUDITOR

SURVEYOR'S CERTIFICATE  
THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME OR UNDER MY DIRECTION IN CONFORMANCE WITH THE REQUIREMENTS OF THE SURVEY RECORDING ACT AT THE REQUEST OF TRENT WOHLFEIL IN APR. & MAY 2004  
NAME GARY C. ALLEN CERTIFICATE NO. 36819

**BASELINE ENGINEERING, INC.**  
Land Development Professional Services  
(253)565-4491 • Seattle (206)924-1205 • FAX (253)545-8563  
Land Planning & Use • Engineering • Surveying  
1910-84th Avenue West • Tacoma, WA 98466

THIS BOUNDARY LINE ADJUSTMENT IS NOT A PLAT, REPLAT, OR SUBDIVISION

ORIGINAL TRACT OWNERS  
TRENT WOHLFEIL PHONE (253) 921-4962  
201 SOUTH BROADWAY - APT. B  
TACOMA, WA 98402

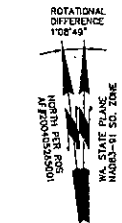
EXISTING ZONING R-2  
SOURCE OF WATER CITY OF TACOMA  
TYPE OF ACCESS 120' PUBLIC R-O-W  
SEWER SYSTEM CITY OF TACOMA  
SCALE NTS NO. OF ADJUSTED PARCELS 3  
DRAWN BY GCA CHECKED BY D.D. JOB NO. 04-051



200410275004

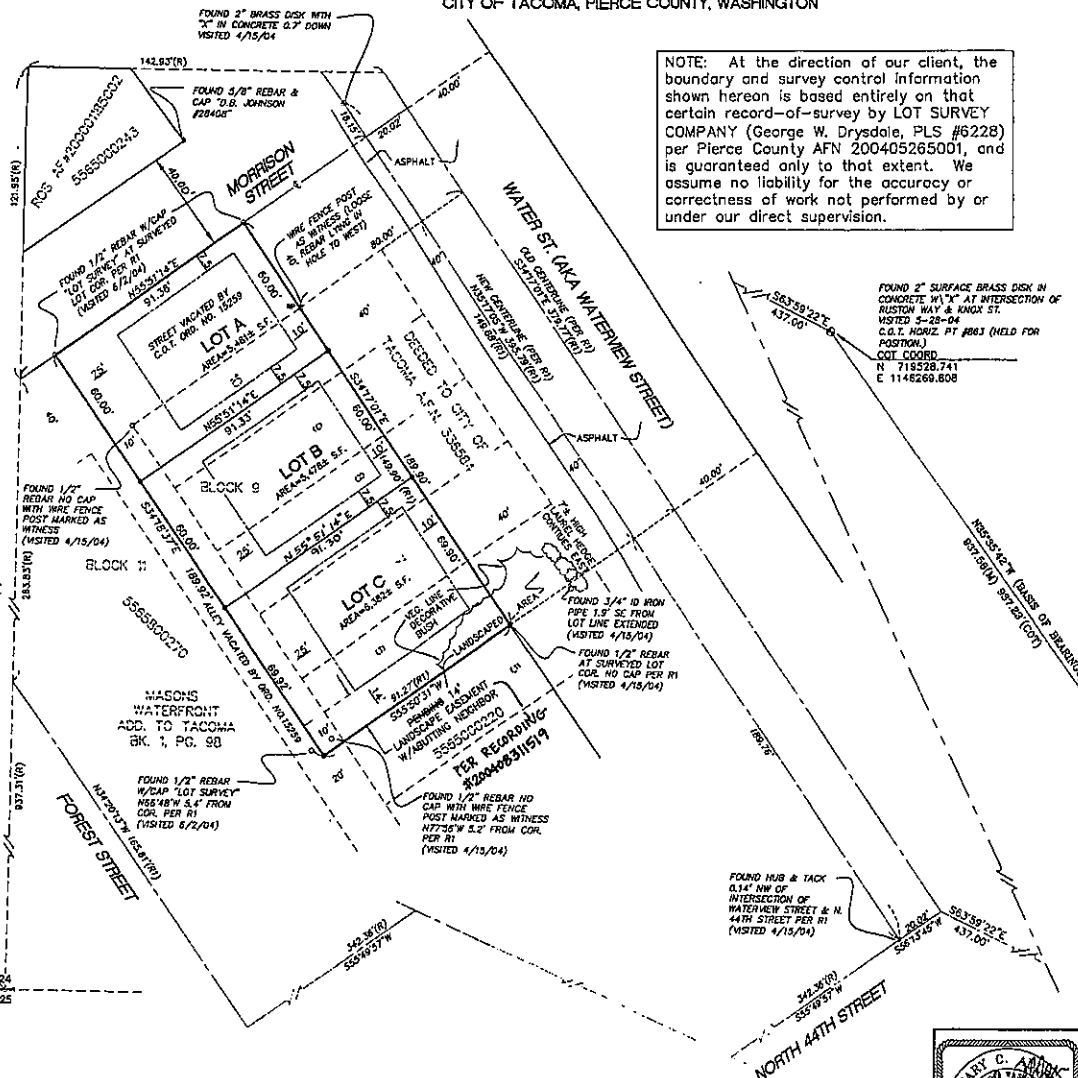
EXHIBIT 11

PORTION OF THE SW 1/4 OF THE SE 1/4, SECTION 24, TOWNSHIP 21 NORTH, RANGE 2 EAST, W.M.  
CITY OF TACOMA, PIERCE COUNTY, WASHINGTON



**SCALE 1"=30'**

**BASIS OF BEARINGS**  
WA STATE PLANE COORDINATE SYSTEM, NAD83-81, SOUTH ZONE, AS DEFINED BY CITY OF TACOMA PUBLIC WORKS DEPT., PUBLISHED COORDINATES FOR MONUMENTS ALONG RUSTON WAY AS SHOWN HEREON BEARING=N135°35'42"W



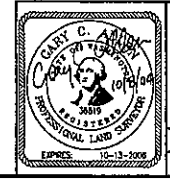
**NOTE:** At the direction of our client, the boundary and survey control information shown hereon is based entirely on that certain record-of-survey by LOT SURVEY COMPANY (George W. Drysdale, PLS #6228) per Pierce County AFN 200405265001, and is guaranteed only to that extent. We assume no liability for the accuracy or correctness of work not performed by or under our direct supervision.

- LEGEND**
- ⊙ MONUMENT FOUND AS DESCRIBED
  - ⊕ MONUMENT NOT VISITED THIS SURVEY (SHOWN PER SURVEY RT)
  - FOUND AS DESCRIBED
  - SURVUS
  - ⊕ WITNESS POST
  - 1/2" REBAR W/CAP L536810 SET
  - (M) MEASURED
  - (COT) CITY OF TACOMA
  - 2.5' BUILDING SETBACK
  - (R) AS DEPICTED ON RDS AF#200405265001
  - (RI) SET FOR RDS AF#200405265001

4/21/04 8:24:14g Plotted by: gerry on October 02, 2004 at 3:41 p.m. Scale: 1"=30' Attached Name: ALLEN,

**EQUIPMENT USED**

TOPCON GTS - 3030 (TOTAL STATION)  
 TOPCON GTS - 2110 (TOTAL STATION)  
 OMNI PRISM W/ -30mm OFFSET  
 TDS-4B DATA COLLECTOR  
 TOPCON HIPER RTK GPS RECEIVER & BASE STATION  
 TDS RANGER DATA COLLECTOR



**BASELINE ENGINEERING, INC.**

*Land Development Professional Services*

(253)565-4491 • Seattle (206)824-1205 • FAX (253)565-8563

Land Planning & Use • Engineering • Surveying

1910-64th Avenue West • Tacoma, WA 98466

DRAWN BY: WEL/JCA    DATE: 8/22/04    JOB NO.: 04-051

CHECKED BY: DUD    SCALE: 1"=30'    SHEET: 2 OF 2

200410275004

ACCEPTED FOR RECORD  
 PIERCE COUNTY CLERK  
 OCT 24 2004



ORDINANCE NO. 15259

BY STOJACK  
(By Request)

Repealed by Ord 15629

AN ORDINANCE vacating Morrison Street from Waterview to North Mason Avenue and the alley extending from Morrison Street to North 44th Street and lying between Blocks 9 and 11, Mason's Water-front Addition.

WHEREAS, the owners of all of the property abutting upon the street and alley hereinafter described did, on the 2nd day of September, 1954, petition the Council of the City of Tacoma to vacate said street and alley, and

WHEREAS, upon the filing and presentation of said petition the Council of said City did, by resolution, fix Monday, the 17th day of January, 1955, at the hour of 7:30 o'clock P.M., as the time, and the Council Chamber in the City Hall in the City of Tacoma, Washington, as the place, when and where said petition would be heard and determined, said time being not less than twenty days nor more than sixty days after the adoption of said resolution, and

WHEREAS, on the adoption of said resolution the City Clerk of said City duly gave twenty (20) days' notice of the pendency of said petition by written notice set up in three of the most public places of said City, and a like notice in a conspicuous place on said street and alley to be vacated, which notice contained a description of the street and alley to be vacated and also contained a statement of the time and place fixed for the hearing of said petition, and

WHEREAS, at the time and place fixed, said petition was duly heard and said Council duly determined to grant said petition to vacate Morrison Street and the alley extending from Morrison Street to North 44th Street hereinafter set forth, subject to provision as to roadway hereinafter set forth, and

WHEREAS, all steps and proceedings required by law and by resolution of the Council to vacate said street and alley have been duly taken and carried out, Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Morrison Street from Waterview to North Mason Avenue and the alley extending from Morrison Street to North 44th Street and lying between Blocks 9 and 11, Mason's Water-front Addition, and the roadway thereon, as shown on the map attached hereto, is hereby vacated and the same is hereby surrendered.

and attached to the lots bordering thereon, respectively, as a part thereof, and all right or title of the City of Tacoma and of the public in and to the portion of said street and alley so vacated shall and do hereby vest in the owners of said property abutting thereon, as provided by law.

The vacation of said street and alley herein authorized is subject to the condition that the owners of Block 11 of Mason's Waterfront Addition shall, within six months from the effective date of this ordinance, dedicate to the City for public use a roadway twenty feet in width extending across said Block 11 of Mason's Waterfront Addition from Mason Avenue in a southeasterly direction along the foot of the hillside, as the same now is or may be changed within said period of time, to North 44th Street; the final location thereof to be determined by the City Engineer within said period or when the contemplated excavation by said property owner has been completed, whichever is the earlier time; and upon the further condition that the owners of said property shall construct and grade a twenty-foot roadway upon a grade to be established by the City Engineer in North 44th Street from Waterview to connect with the termination of the right of way hereinabove described and to be dedicated as hereinabove provided. In the event of the failure of the owners of said Block 11 to perform the conditions hereinabove set forth within said period, then this ordinance shall be null and void and of no force and effect. The acceptance by the City of the right of way hereinabove described and the recording of the instrument of dedication shall be conclusive evidence of the performance of the conditions herein set forth, and thereupon any conditions herein made shall no longer be effective.

Passed

MAR 7 1955

H. M. TOLLEFSON

Mayor

Attest

JOSEPHINE MELTON  
City Clerk

Approved by Director of Public Works  
and Planning Commission

Erased on  
MDP#5

ORDINANCE NO. 15629

BY BATTIN  
(By request)

AN ORDINANCE repealing Ordinance No. 15259 entitled:

"An ordinance vacating Morrison Street from Waterview to North Mason Avenue and the alley extending from Morrison Street to North 44th Street and lying between Blocks 9 and 11, Mason's Waterfront Addition."

appropriating the sum of \$425.00 for the purpose of refunding to the petitioners a portion of the costs and expenses paid to the City in connection with said vacation; and declaring an emergency making necessary the passage of this ordinance and the appropriation herein contained.

WHEREAS, after a petition was duly filed, as by law provided, and a hearing had thereon, Ordinance No. 15259 was duly and regularly passed on March 7, 1955, and published on March 9, 1955, vacating Morrison Street and the alley extending from Morrison Street to North 44th Street and lying between Blocks 9 and 11, Mason's Waterfront Addition, on certain conditions contained therein, and

WHEREAS, the petitioners in said vacation proceedings paid in connection therewith to the City of Tacoma, and which was deposited in the City Street Fund, the sum of \$100.00 filing fee and \$750.00, the appraised value of the property vacated, a total in all of \$850.00, and

WHEREAS, subsequent to the passage of said ordinance, and as a result of a subsequent property survey, it was discovered that the alley and the portion of Morrison Street which were vacated, are of no use to the development of Block 11 of said Addition and that the passage of said vacation ordinance was based on an erroneous survey, and

WHEREAS, it has been determined and recommended by the Director of Public Works and City Planning Engineer, and the City Manager, that said vacation Ordinance No. 15259, should be repealed and the sum of \$425.00 returned to the petitioners, Robert J. Lowery and Vera D. Lowery, who paid the expenses above mentioned to the City, upon securing from them a release of any claim whatever against the City on account of said vacation and the payment by them of the sum of \$850.00 as above mentioned to the City, and

WHEREAS, the said moneys paid in respect to this vacation were paid during the calendar year 1955, and credited to the City Street Fund, and no funds have been budgeted in the 1956 budget for the payment of any refunds, Now, Therefore,



**Stevens, Troy**

---

**From:** Van Allen, Rick  
**Sent:** Monday, April 27, 2015 8:00 AM  
**To:** Stevens, Troy  
**Subject:** FW: Request for Agency Comments - Waterview Point - SV 124.1354/15-054  
**Attachments:** 20150427\_074529.pdf

**Rick Van Allen | Tacoma Power**  
*T&D Electrical Services - New Services Engineering*  
**P: (253) 502-8076 | F: (253) 502-8659**  
<http://www.mytpu.org/tacomapower/permitting>

**From:** Van Allen, Rick  
**Sent:** Monday, April 27, 2015 7:58 AM  
**To:** Fletcher, Gloria; Glassy, Thad; Mounivong, Vinson  
**Cc:** Martinson, John  
**Subject:** RE: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Hi Gloria,

Tacoma Power and Click Network require the northeast 10-foot parallel with N Waterview Street to be reserved as easement (see attached).

Please contact me with any questions.

Thanks, Rick

**Rick Van Allen | Tacoma Power**  
*T&D Electrical Services - New Services Engineering*  
**P: (253) 502-8076 | F: (253) 502-8659**  
<http://www.mytpu.org/tacomapower/permitting>

**From:** Fletcher, Gloria  
**Sent:** Friday, April 17, 2015 9:15 AM  
**To:** Van Allen, Rick; Angel, Jesse; Vaughan, Stuart; Glassy, Thad; Mounivong, Vince  
**Cc:** Martinson, John  
**Subject:** FW: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Hi All,

See below and let me know if you have any comments.

THANKS!

-Gloria

**From:** Stevens, Troy  
**Sent:** Tuesday, April 14, 2015 12:51 PM  
**To:** Bateman, Joy; Ben Han; Boczar, Sue; Boudet, Brian; Cantrel, Aaron; Coffman, James; Coyne, Richard; Danby, Marilynn; Dykas, Veronica; Erickson, Ryan; Fletcher, Gloria; Howatson, James; Jeff Lawrey; Kammerzell, Jennifer;

**EXHIBIT 13**

Kingsolver, Kurtis; Reynolds, Tara ; Seaman, Chris; Simpson, Sue; Trohinch, Merita  
**Subject:** Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Agency Reviewer:

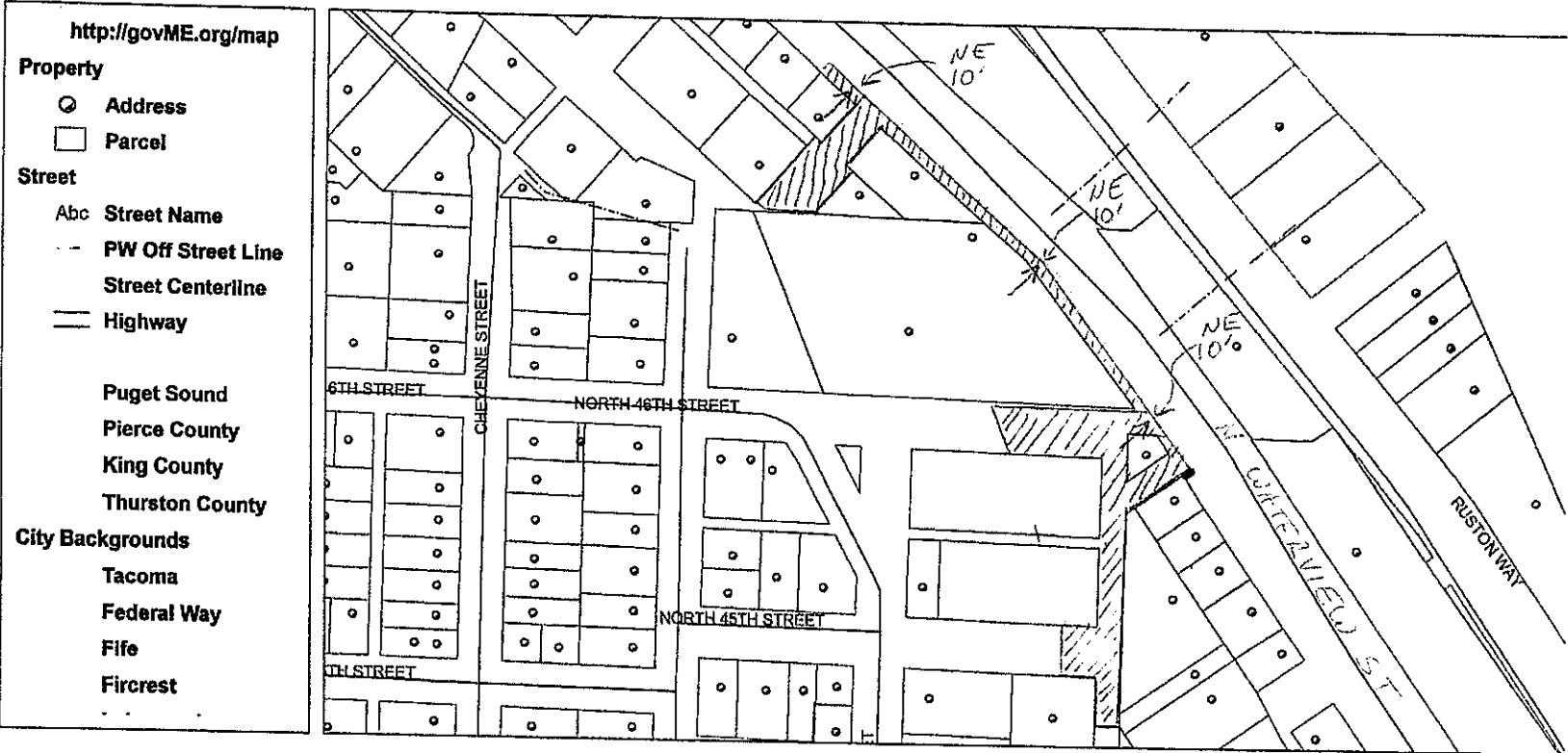
Please review the attached request and map exhibits for Street Vacation Petition 124.1354, as requested by Waterview Point, LLC/Trent Wohlfeil, and provide your written comments or questions **on or before April 24, 2015**. Comments not received on or before April 24, 2015 risk not being used in the evaluation of/or incorporation of conditions thereof.

Thank you,

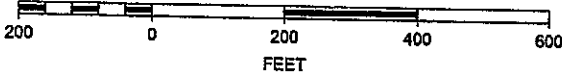
**Troy Stevens**

City of Tacoma, Public Works  
Sr. Real Estate Specialist  
(253) 591-5535  
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)

# City of Tacoma



SCALE 1 : 2,739



**Stevens, Troy**

---

**From:** Fletcher, Gloria  
**Sent:** Monday, May 04, 2015 10:04 AM  
**To:** Stevens, Troy  
**Cc:** Price, Richard  
**Subject:** FW: Request for Agency Comments - Waterview Point - SV 124.1354/15-054  
**Attachments:** SV 124.1269 (HH-One, LLC) - Preliminary Report 2\_15\_2007.pdf

FYI – let me know if you need anything more from me.

-Gloria

**From:** Angel, Jesse  
**Sent:** Monday, May 04, 2015 10:02 AM  
**To:** Fletcher, Gloria  
**Cc:** Vaughan, Stuart  
**Subject:** RE: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Gloria,

Tacoma Water has facilities located with parts of the proposed street vacation and will need to have easements for those to remain (this is consistent with the original comments that were provided back in 2/17/07).

Thanks,

Jesse Angel - Utility Service Specialist  
**Tacoma Water**  
3628 S. 35th St.  
Tacoma, WA 98409-3192  
253-502-8280 OFFICE  
253-380-2614 CELL  
253-502-8694 FAX  
[Tacoma Water Website](#)

EXHIBIT 14



- b. *Advisory Comment* – Comcast is attached to Tacoma Public Utilities poles in the vacation area along Waterview Street.
- c. *Real Property Services Comment*: Comcast Communications is attached to Tacoma Power's poles by a pole attachment agreement. Therefore, no additional easement will need to be reserved to protect Comcast's infrastructure.

5. TACOMA WATER

- a. Please contact Grant Whitley at 597-5282 regarding Tacoma Water's comments.
- b. Tacoma Water has a water main and water service within the right of way of Waterview Street. To cover the existing service and meters, Tacoma Water will request an easement be reserved over the area southwesterly of the monument line of Waterview Street, to a distance of 40 feet from the monument line of Waterview Street.

6. PUBLIC WORKS / ENVIRONMENTAL SERVICES

- a. Please contact Richard Meuschke at 502-2151 regarding Environmental Service's comments.
- b. The department does not object to the vacation of several portions of City streets located within the Waterview Pointe Plat as shown on the request.
- c. The City will need to retain a 20 foot storm and sanitary sewer easement centered in the North Herriot Street right of way from North Waterview Street west the northern property line of tax parcel 450000-0011, then west along the north edge of tax parcel 450000-0011 to the east line of North 48<sup>th</sup> Street.
- d. It is also requested that the no permanent structures clause be retained and inserted into the easement.

The applicant shall comply with all City regulations for any future use of the subject site.

ATTACHMENT: Vacation Jacket containing all pertinent maps and papers.

**Stevens, Troy**

---

**From:** Rossi, Rod  
**Sent:** Wednesday, July 01, 2015 10:11 AM  
**To:** Stevens, Troy  
**Cc:** McLeod, Bonnie  
**Subject:** RE: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Hi Troy,

To answer your question.....ES will need an easement for the entire area being vacated unless it can be shown where wastewater and/or surface water assets will be located. If it is known where these assets will be located we would require the standard easement described in the design manual for system maintenance.

My direct line is (253) 502-2127

Rod Rossi  
City of Tacoma - Environmental Services  
Science & Engineering  
326 East D St  
Tacoma, WA 98421  
(253)502-2127

**From:** Stevens, Troy  
**Sent:** Wednesday, July 01, 2015 9:54 AM  
**To:** Rossi, Rod  
**Cc:** McLeod, Bonnie  
**Subject:** FW: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Rod,

This is what I'm planning on saying:

1. PUBLIC WORKS / ENVIRONMENTAL SERVICES (ES)
  - a. Please contact Rod Rossi at 502-2151 regarding Environmental Service's comments.
  - b. ES has no objection; however, an easement must be reserved over the entire vacate area for wastewater and surface water segments.

Troy

**From:** Stevens, Troy  
**Sent:** Wednesday, July 01, 2015 9:50 AM  
**To:** Rossi, Rod; McLeod, Bonnie  
**Subject:** RE: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Rod,

Just so I'm clear, you would like RPS to reserve an easement over the entire proposed area for SS & SW?

Thank you,

**EXHIBIT 15**

## Troy Stevens

City of Tacoma, Public Works  
Sr. Real Estate Specialist  
(253) 591-5535  
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)

**From:** Rossi, Rod  
**Sent:** Friday, May 15, 2015 10:10 AM  
**To:** McLeod, Bonnie; Stevens, Troy  
**Subject:** FW: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Hi guys,

I am not sure who I was supposed to respond to on this so I included you both.

After looking it over with Karen and Teresa & reading the hearing examiners findings we don't have any objection to the vacation requested. We would need language included in any final documents granting the COT an easement to access and maintain any required wastewater and surface water segments.

Let me know if you have any questions.

Rod Rossi  
City of Tacoma - Environmental Services  
Science & Engineering  
326 East D St  
Tacoma, WA 98421  
(253)502-2127

**From:** Bartlett, Karen  
**Sent:** Wednesday, May 13, 2015 5:06 PM  
**To:** Dressler, Teresa; Rossi, Rod  
**Subject:** FW: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Let's chat tomorrow. SDG has no comments so now it's in our court to determine if we need easements. I have one additional email that I'll forward to you.

**From:** McLeod, Bonnie **On Behalf Of** Site Development  
**Sent:** Wednesday, May 13, 2015 5:02 PM  
**To:** Bartlett, Karen  
**Subject:** FW: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

## Bonnie McLeod

Engineering Technician II - (253) 591-5752  
Site Development Group, Science & Engineering Division  
City of Tacoma, Environmental Services Department

**From:** Stevens, Troy  
**Sent:** Thursday, April 23, 2015 12:21 PM

**To:** Site Development; Angel, Jesse  
**Subject:** RE: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Bonnie and Jesse,

Please see the attached detained plan for Waterview Point.

Thank you,

**Troy Stevens**

City of Tacoma, Public Works  
Sr. Real Estate Specialist  
(253) 591-5535  
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)

---

**From:** McLeod, Bonnie **On Behalf Of** Site Development  
**Sent:** Thursday, April 23, 2015 7:41 AM  
**To:** Stevens, Troy  
**Subject:** FW: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Before Site Development can approve this request for street vacation, some additional information is needed.

- 1) A new site plan or description needs to be submitted, showing how access will be provided to parcels number 5565000270 and 5560000050.
- 2) Partial street vacations are not allowed. A new site plan needs to be submitted showing vacation of full street areas. One possible suggestion for adjustment of vacation area is attached.
- 3) An easement for future storm and sanitary utilities shall be provided in the existing ROW between areas of parcel number 4500000011 at the extension of N 46<sup>th</sup> St. The easement shall be 20 feet in width and centered on the center line of the existing ROW.

Please forward the updated information to Site Development for review.

Thank you,

**Bonnie McLeod**

Engineering Technician II - (253) 591-5752  
Site Development Group, Science & Engineering Division  
City of Tacoma, Environmental Services Department

---

**From:** Trohimovich, Merita  
**Sent:** Tuesday, April 14, 2015 1:49 PM  
**To:** McLeod, Bonnie; Stone, Karina  
**Cc:** Stevens, Troy  
**Subject:** FW: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

I think this needs to go to your group. Merita

Merita Trohimovich, P.E.  
Principal Engineer  
City of Tacoma Surface Water  
Center for Urban Waters

326 East D Street  
Tacoma, WA 98421  
253-502-2103

**From:** Stevens, Troy

**Sent:** Tuesday, April 14, 2015 12:51 PM

**To:** Bateman, Joy; Ben Han; Boczar, Sue; Boudet, Brian; Cantrel, Aaron; Coffman, James; Coyne, Richard; Danby, Marilyn; Dykas, Veronica; Erickson, Ryan; Fletcher, Gloria; Howatson, James; Jeff Lawrey; Kammerzell, Jennifer; Kingsolver, Kurtis; Reynolds, Tanara ; Seaman, Chris; Simpson, Sue; Trohimovich, Merita

**Subject:** Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Agency Reviewer:

Please review the attached request and map exhibits for Street Vacation Petition 124.1354, as requested by Waterview Point, LLC/Trent Wohlfeil, and provide your written comments or questions **on or before April 24, 2015**. Comments not received on or before April 24, 2015 risk not being used in the evaluation of/or incorporation of conditions thereof.

Thank you,

**Troy Stevens**

City of Tacoma, Public Works  
Sr. Real Estate Specialist  
(253) 591-5535  
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)

## Stevens, Troy

---

**From:** McLeod, Bonnie on behalf of Site Development  
**Sent:** Monday, July 06, 2015 11:25 AM  
**To:** Stevens, Troy  
**Subject:** RE: Waterview Point - Post Agency Comment - Site Development request for additional information

Good Morning Troy,

Regarding the access to parcels:

A separate petitioner request or legal agreement is required showing access for parcel 5560000050.  
A Restrictive Covenant agreement is required for parcel 5565000270 providing access through parcels 5565000260 and 5565000250.

Thank you,

## Bonnie McLeod

Engineering Technician II - (253) 591-5752  
Site Development Group, Science & Engineering Division  
City of Tacoma, Environmental Services Department

**From:** Stevens, Troy  
**Sent:** Wednesday, July 01, 2015 9:20 AM  
**To:** Site Development  
**Subject:** RE: Waterview Point - Post Agency Comment - Site Development request for additional information  
**Importance:** High

Bonnie,

Did I ever get final comments from you?

I'm putting together the Preliminary Report for the HEX, and it would be very helpful to have one email with you final comments.

Thank you,

## Troy Stevens

City of Tacoma, Public Works  
Sr. Real Estate Specialist  
(253) 591-5535  
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)

**From:** McLeod, Bonnie **On Behalf Of** Site Development  
**Sent:** Thursday, May 14, 2015 7:53 AM

EXHIBIT 16

**To:** Stevens, Troy

**Subject:** RE: Waterview Point - Post Agency Comment - Site Development request for additional information

Good Morning Troy,

The Asset Management Group will be responding with comments regarding a possible easement.

Regarding the access to parcels:

A separate petitioner request or legal agreement is required showing access for parcel 5560000050.

A Restrictive Covenant agreement is required for parcel 5565000270 providing access through parcels 5565000260 and 5565000250.

Thank you,

**Bonnie McLeod**

Engineering Technician II - (253) 591-5752  
Site Development Group, Science & Engineering Division  
City of Tacoma, Environmental Services Department

---

**From:** Stevens, Troy

**Sent:** Wednesday, May 06, 2015 10:42 AM

**To:** Site Development

**Subject:** FW: Waterview Point - Post Agency Comment - Site Development request for additional information

Bonnie, where would Site Development like to go from here? Will you be sending me revised comments?

The attached HEX report does confirm his position that the HEX approved the proposal; however, we have since found out that ES is not accepting the Open Space. The Director sent a letter says as much. The proposed vacate area, while very similar, has changed slightly.

Thank you,

**Troy Stevens**

City of Tacoma, Public Works  
Sr. Real Estate Specialist  
(253) 591-5535  
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)

---

**From:** Trent Wohlfeil [<mailto:wooffd@hotmail.com>]

**Sent:** Friday, May 01, 2015 3:05 PM

**To:** Stevens, Troy

**Cc:** Angel, Jesse; Site Development

**Subject:** RE: Waterview Point - Post Agency Comment - Site Development request for additional information

Hi Troy, here's the summary of what we discussed regarding item one on the Site Development group's list...

Access for parcel number 5565000210 will be provided through the current driveway now in use. Vacating the ROW was agreed to by the property owner, Mr. J. Snodgrass, and will actually give him ownership of the land where his driveway now sits. (See attachment 1)

Access for parcel number 5565000270 will be provided from portions of previously vacated N.44th, and Forrest street, (V-27498). The property owner, Mrs. Schumaker was granted the above vacation in 2006 by Mr. Kerslake, and also has on file a approval for a access from Waterview st, at N.44th, ( Hearing Examiner File 124.1260). Mrs. schumaker has approved our request to vacate the remaining portion of Morrison St. (See attachment 2)

As to the second item, reviewing the geo, and topo for the area of the vacation requested shows it to be between 45%, to 65% grade. The city would be unable to place any machine or vehicle on the ROW. The total drop in elevation for any future sewer, or storm line would be close to 200', in only 600 " of run. This would have the potential to create over 100PSI of pressure in any line it is connected to. There is no buildable undeveloped land above this slope, all existing lots have been built on, the land already has current connection to city utilities. Waterview st has no storm sewer, there is nothing to connect to. I have spoken with Bonnie McLeod, she was unaware that this vacation request had been previously approved by the hearings examiner, and at that time, ES had determined there was no need for a easement reservation. I suggested a meeting with ES staff involved in the process, so we could go over the information in detail.

---

From: [tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)

To: [wooftfd@hotmail.com](mailto:wooftfd@hotmail.com)

CC: [jangel@ci.tacoma.wa.us](mailto:jangel@ci.tacoma.wa.us); [SiteDevelopment@ci.tacoma.wa.us](mailto:SiteDevelopment@ci.tacoma.wa.us)

Subject: Waterview Point - Post Agency Comment - Site Development request for additional information

Date: Fri, 1 May 2015 19:51:08 +0000

Trent,

The City's Site Development group is asking for the following:

- A new site plan or description needs to be submitted, showing how access will be provided to parcels number 5565000270 and 5560000050; and
- An easement for future storm and sanitary utilities shall be provided in the existing ROW between areas of parcel number 4500000011 at the extension of N 46<sup>th</sup> St. The easement shall be 20 feet in width and centered on the center line of the existing ROW.

I will need item one before we can proceed further. The second item will be reserved in the vacation ordinance.

Please let me know if you have any questions.

Thank you,

**Troy Stevens**

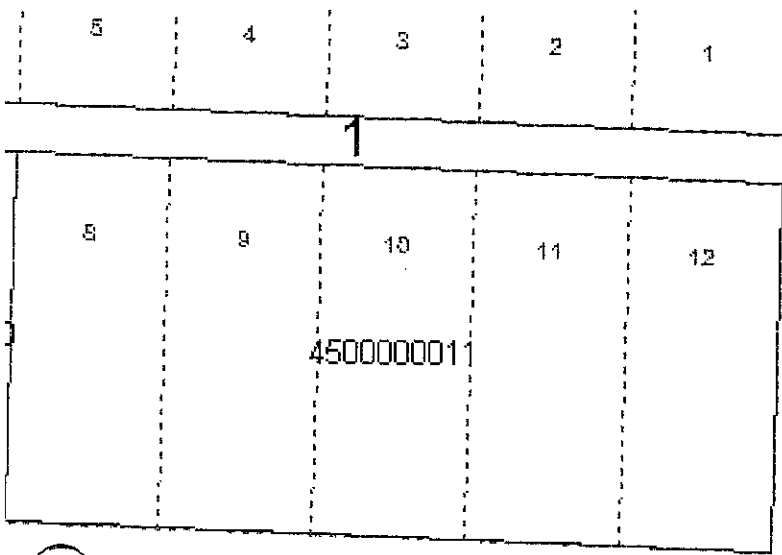
City of Tacoma, Public Works

Sr. Real Estate Specialist

(253) 591-5535

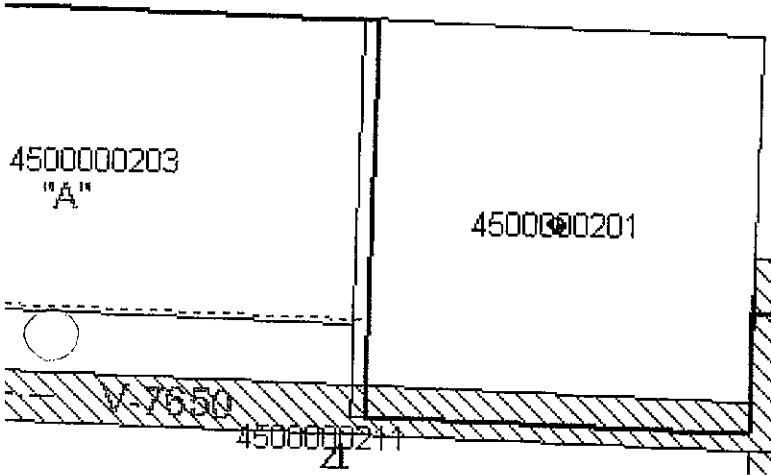
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)





450000011

North 45th Street



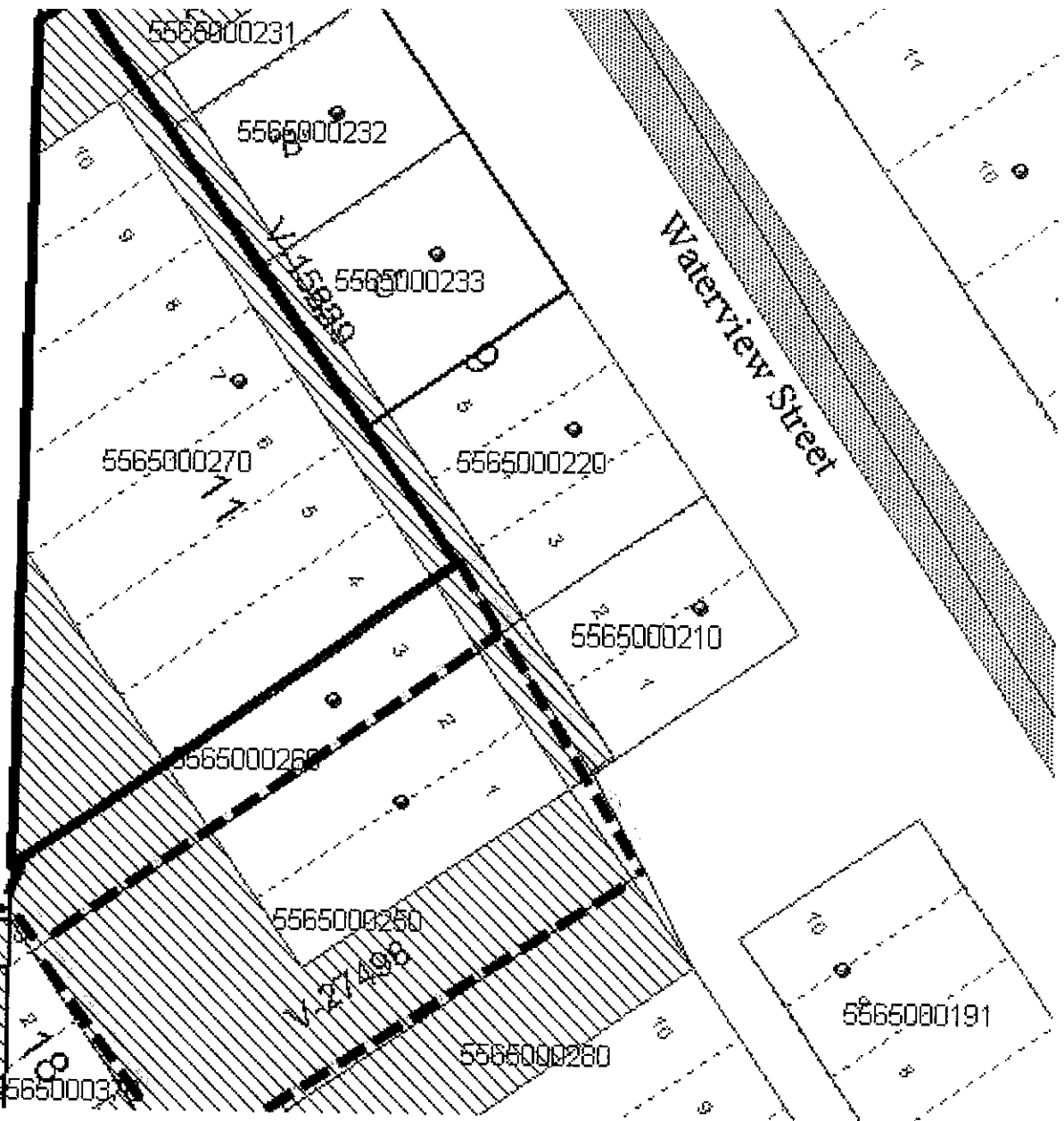
4500000203  
"A"

4500000201

V-7650

4500000211

Mason Avenue



5565000231

5565000232

5565000233

5565000270

5565000220

5565000210

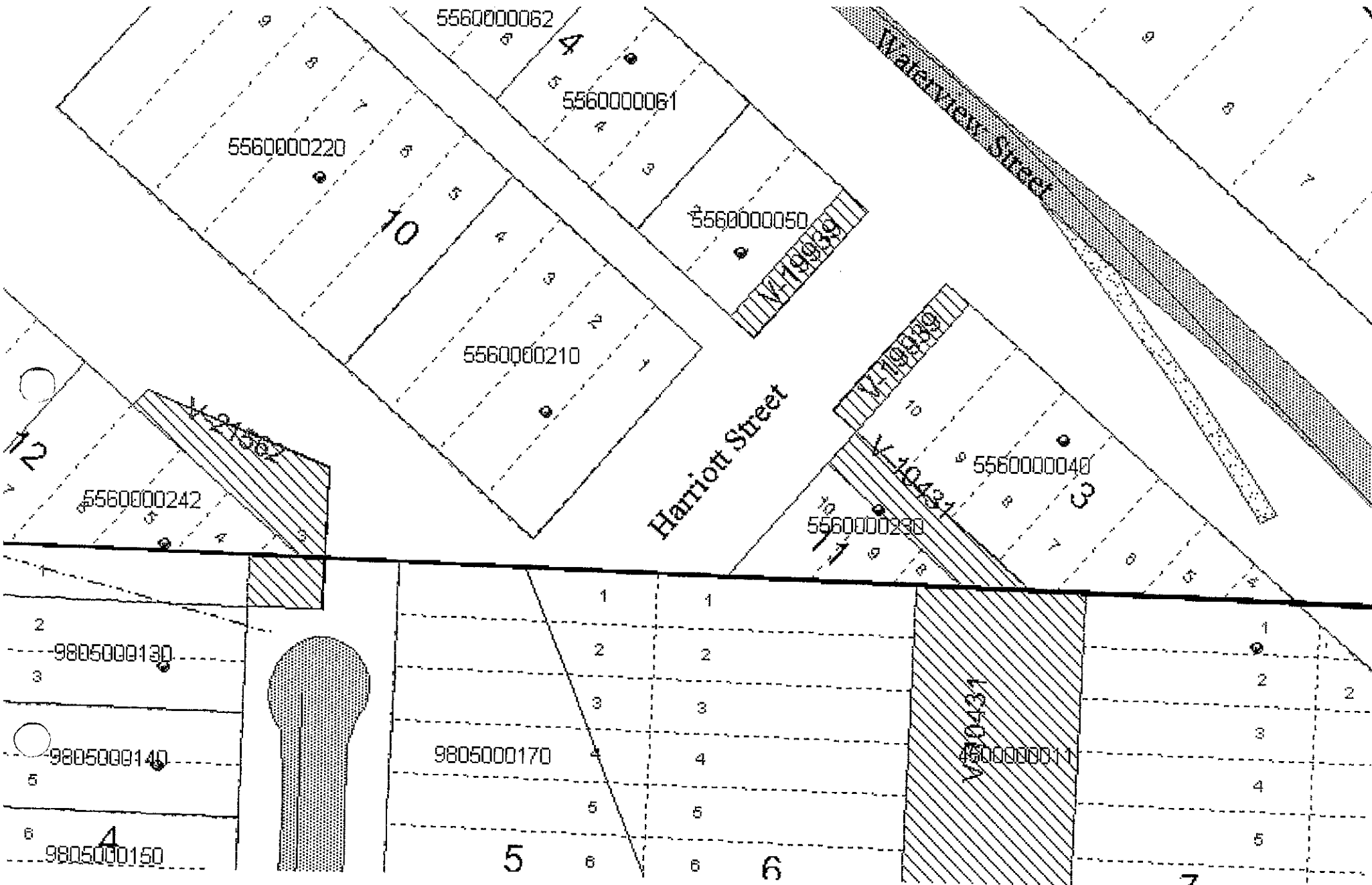
5565000260

5565000250

5565000260

5565000191

55650003



**Stevens, Troy**

---

**From:** Kammerzell, Jennifer  
**Sent:** Thursday, July 02, 2015 4:24 PM  
**To:** Stevens, Troy  
**Cc:** Kidd, Brennan  
**Subject:** RE: Request for Comment - Waterview Point, LLC Street Vacation Proposal 124.1354/15-054

Troy,

Traffic has reviewed the request for the vacation of right-of-way near Stevens, Waterview, and Herriott Streets. Based on the critical area designations in this area and provided that several of the requested areas are as unimproved ROW, Traffic has no objections. Currently, there aren't any plans to improve those rights-of-way for transportation purposes. Development or platting of the abutting properties may require off-site improvements to provide adequate and appropriate access.

If you have any questions, please let me know.

*Jennifer Kammerzell*

Senior Engineer  
City of Tacoma Public Works Engineering

---

**From:** Stevens, Troy  
**Sent:** Monday, April 06, 2015 10:30 AM  
**To:** Angel, Jesse; Aplin, Alan; Barnett, Elliott; Bingham, Debbie; Comstock, Joe; Cornforth, Ronda; Coyne, Richard; Croston, Heather; D'Andrea, Mark; Diekmann, Joshua; Erickson, Ryan; Fengler, Matt; Frantz, Shanta; Fremont, Kurt; Gibbons, Cheri; Griffith, Allyson; Harrington, John; Hart, Shari; Himes, Gail; Hines, Jennifer; Johnson, David (PDS); Kammerzell, Jennifer; Kao, Philip; Kennedy, Mike; Kidd, Brennan; Kinlow, Charla; Kluge, Karla; Kuntz, Craig; Lawrence, Dustin; Magoon, Jana; Martinson, John; Nelson, Corey; Price, Richard; Rambow, Peter; Schultz, Shirley; Seaman, Chris; Shadduck, Lucas; Site Development Group ; Spadoni, Lisa; Stoehr, Barbara; Vasquez, Antonio; Ward, Jennifer; Webster, Jeff; Wiatr, Diane  
**Subject:** Request for Comment - Waterview Point, LLC Street Vacation Proposal 124.1354/15-054

Reviewing Parties:

Waterview Point, LLC has requested the City vacate several right of way between North Stevens Street and Waterview Street southeasterly of Herriott St. – see attachment. Please provide me with your written comments, conditions or questions **on or before April 17, 2015**. There is no guarantee that responses received after this date will be taken into consideration for the evaluation or incorporated into the conditions of the street vacation.

Thank you,

**Troy Stevens**

City of Tacoma, Public Works  
Sr. Real Estate Specialist  
(253) 591-5535  
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)

**EXHIBIT 17**

**Stevens, Troy**

---

**From:** Spadoni, Lisa  
**Sent:** Thursday, July 02, 2015 10:04 AM  
**To:** Stevens, Troy; Kluge, Karla; Schultz, Shirley  
**Cc:** Frantz, Shanta  
**Subject:** RE: Waterview Point - Preliminary Report Comments

I think a statement like that is a good idea.

*Lisa Spadoni*

Principal Planner  
Planning and Development Services  
(253) 591-5281

---

**From:** Stevens, Troy  
**Sent:** Wednesday, July 01, 2015 2:30 PM  
**To:** Spadoni, Lisa; Kluge, Karla; Schultz, Shirley  
**Cc:** Frantz, Shanta  
**Subject:** RE: Waterview Point - Preliminary Report Comments

Thanks, Lisa.

This is just a street vacation. The vacated ROW will attach to the abutting property by operation of law.

I'm thinking we might want to include an advisory comment in my report that states the following:

Advisory Comment: Planning and Development Services (PDS) has no objection to the street vacation. At this time, a development proposal has not, and is not, being presented with the vacation. When the petitioner is ready to submit a development proposal, PDS will review and comment the proposal at that time.

Thoughts?

Thanks,

Troy

---

**From:** Spadoni, Lisa  
**Sent:** Wednesday, July 01, 2015 1:30 PM  
**To:** Stevens, Troy; Kluge, Karla; Schultz, Shirley  
**Cc:** Frantz, Shanta  
**Subject:** Re: Waterview Point - Preliminary Report Comments

**EXHIBIT 18**

Karla and Troy,

I've pasted the email that I sent to everyone below. After sending this email to all the staff involved (including both of you, I hope) and communicating most of this information to the applicant, I turned it over to Barbara

to get Latasha (Baseline engineering) and the owner in for a pre-application meeting for all actions concerning PDS (seg, wetland assessment, BLA, driveways, workorders etc.) so that we can get a handle on the whole project.

So long as the current property lines are not changing, and they are not right now, I believe the right-of-way vacation will just attach right-of-way to the current parcels. TROY: please confirm if this is true. So long as the vacation does not create new parcels, there should be no impact to critical areas simply by turning right-of-way into real property and connecting it to existing parcels.

Troy: Also, if there is any assumed development proposal being presented with the vacation, please make it clear that such proposal has not had any review or conceptual approval from anyone.

The property owner will still have to go through all required critical area permitting for any property division and/or development proposal.

I hope this helps.

Lisa

All,  
Thanks for your patience with the various emails regarding proposed work in this area of N. Waterview. Barbara is going to be the point of contact with the applicant (LaTasha Tisdell from Baseline) and let her know that they need a scoping/pre-application meeting to move forward. Here is the information that I have gathered:

History:

The site, generally including parcel numbers 4500000011, 5560000040, 5560000210, 5560000230 & 5560000243, was granted preliminary plat approval in 2007 for a 16 lot plat. There was a wetland development permit associated with the plat. The preliminary plat and wetland permit were cancelled in 2014 by the applicant and are no longer valid. The property is now for sale.

Items recently submitted to the City:

- 1) There is an active Street Vacation request to vacate quite a bit of right-of-way around the site. Troy is working on the request. The request was recently taken to City Council to set the hearing date. At that time, the applicant represented that the properties would not be platted but would be sold as large lots (10 -20,000 sf)\*. The request goes to the Hearing Examiner for review on July 16<sup>th</sup>. I've attached the maps provided by Troy.  
\*Some sort of land use action will be required to create 'large lots'.
- 2) LaTasha has submitted a property segregation request for parcel 4500000011 to segregate it into 3 lots. There is a known wetland on this parcel (per the previous, expired wetland permit). A new wetland delineation verification permit will have to be obtained before the segregation can be approved. There are also steep slopes that may need review and I would require information on how the segregation and street vacation will work together prior to approval. There may also be an existing accessory building that would have to be torn down. I have attached the segregation request.
- 3) LaTasha has also requested information on how to submit for driveway permits for *proposed lots* that include existing lots 5560000040 and 5560000230 (and maybe 5560000210, but I can't tell) and some of the not-yet vacated right-of-way. Before any permits can be issued and possibly before we can provide meaningful comments, a scoping meeting would be required to determine how they propose to create these lots. AND the

lots could not be created until the street vacation process is complete. I have attached the proposed lot/driveway maps.

I'll send an email to LaTasha to let her know that Barbara will be her point of contact for the scoping meeting and further questions.

If any of you have additional information, please let Barbara and I know.

Thanks!

*Lisa Spadoni*

Principal Planner  
Planning and Development Services  
(253) 591-5281

## Stevens, Troy

---

**From:** Seaman, Chris  
**Sent:** Friday, April 17, 2015 10:24 AM  
**To:** Stevens, Troy  
**Cc:** Erickson, Ryan  
**Subject:** RE: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Troy,

TFD has no objections to the vacation however we do have one advisory comment.

1. Future development shall comply with the adopted Fire Code at the time of building permit application. Compliance will include, but will not be limited to, items such as adequate side access and proximity to fire hydrants. Future development may require new fire hydrants and a water main extension.

Regards,  
**CHRIS SEAMAN, P.E.**  
Senior Engineer  
Tacoma Fire Department | Prevention Division  
901 Fawcett Avenue | Tacoma, WA 98402  
253.591.5503 | [cseaman@cityoftacoma.org](mailto:cseaman@cityoftacoma.org)



---

**From:** Stevens, Troy  
**Sent:** Tuesday, April 14, 2015 12:51 PM  
**To:** Bateman, Joy; Ben Han; Boczar, Sue; Boudet, Brian; Cantrel, Aaron; Coffman, James; Coyne, Richard; Danby, Marilynn; Dykas, Veronica; Erickson, Ryan; Fletcher, Gloria; Howatson, James; Jeff Lawrey; Kammerzell, Jennifer; Kingsolver, Kurtis; Reynolds, Tanara ; Seaman, Chris; Simpson, Sue; Trohimovich, Merita  
**Subject:** Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Agency Reviewer:

Please review the attached request and map exhibits for Street Vacation Petition 124.1354, as requested by Waterview Point, LLC/Trent Wohlfeil, and provide your written comments or questions **on or before April 24, 2015**. Comments not received on or before April 24, 2015 risk not being used in the evaluation of/or incorporation of conditions thereof.

Thank you,

**Troy Stevens**

City of Tacoma, Public Works  
Sr. Real Estate Specialist  
(253) 591-5535  
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)

EXHIBIT 19

## Stevens, Troy

---

**From:** Simpson, Sue  
**Sent:** Wednesday, July 01, 2015 10:33 AM  
**To:** Stevens, Troy  
**Subject:** RE: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Troy;

The proposed vacation area for 124.1354 has not been assessed for sanitary sewer. It contains multiple building sites. Future development will determine if extensions or in lieu of assessments are applicable.

*Sue Simpson*

Real Estate Specialist  
Public Works, Real Property Services  
747 Market Street Suite 737  
(253) 591-5529  
[ssimpson@cityoftacoma.org](mailto:ssimpson@cityoftacoma.org)

---

**From:** Stevens, Troy  
**Sent:** Tuesday, April 14, 2015 12:51 PM  
**To:** Bateman, Joy; Ben Han; Boczar, Sue; Boudet, Brian; Cantrel, Aaron; Coffman, James; Coyne, Richard; Danby, Marilyn; Dykas, Veronica; Erickson, Ryan; Fletcher, Gloria; Howatson, James; Jeff Lawrey; Kammerzell, Jennifer; Kingsolver, Kurtis; Reynolds, Tanara ; Seaman, Chris; Simpson, Sue; Trohimovich, Merita  
**Subject:** Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Agency Reviewer:

Please review the attached request and map exhibits for Street Vacation Petition 124.1354, as requested by Waterview Point, LLC/Trent Wohlfeil, and provide your written comments or questions **on or before April 24, 2015**. Comments not received on or before April 24, 2015 risk not being used in the evaluation of/or incorporation of conditions thereof.

Thank you,

**Troy Stevens**

City of Tacoma, Public Works  
Sr. Real Estate Specialist  
(253) 591-5535  
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)

EXHIBIT 20



## Stevens, Troy

---

**From:** Cantrel, Aaron R <Aaron\_Cantrel@cable.comcast.com>  
**Sent:** Friday, April 17, 2015 7:36 AM  
**To:** Stevens, Troy  
**Subject:** RE: Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Comcast has aerial system attached to TPU poles along N Waterview Street. Comcast's easement shall be protected by the Cable Act and the Master Pole Attachment Agreement with TPU. Any relocation costs will be the responsibility of the developer.

**From:** Stevens, Troy [<mailto:tstevens@ci.tacoma.wa.us>]  
**Sent:** Tuesday, April 14, 2015 12:51 PM  
**To:** Bateman, Joy; Ben Han; Boczar, Sue; Boudet, Brian; Cantrel, Aaron R; Coffman, James; Coyne, Richard; Danby, Marilynn; Dykas, Veronica; Erickson, Ryan; Fletcher, Gloria; Howatson, James; Jeff Lawrey; Kammerzell, Jennifer; Kingsolver, Kurtis; Reynolds, Tanara ; Seaman, Chris; Simpson, Sue; Trohimovich, Merita  
**Subject:** Request for Agency Comments - Waterview Point - SV 124.1354/15-054

Agency Reviewer:

Please review the attached request and map exhibits for Street Vacation Petition 124.1354, as requested by Waterview Point, LLC/Trent Wohlfeil, and provide your written comments or questions **on or before April 24, 2015**. Comments not received on or before April 24, 2015 risk not being used in the evaluation of/or incorporation of conditions thereof.

Thank you,

### **Troy Stevens**

City of Tacoma, Public Works  
Sr. Real Estate Specialist  
(253) 591-5535  
[tstevens@ci.tacoma.wa.us](mailto:tstevens@ci.tacoma.wa.us)



# Waterview Pt. LLC Street Vacation Map

## MAP LEGEND

- Right of Way Lines
- Vacations
- Tax Parcels

Imagery: May 2012 Ortho Photos

**Vacate  
Area**



City of Tacoma  
GIS

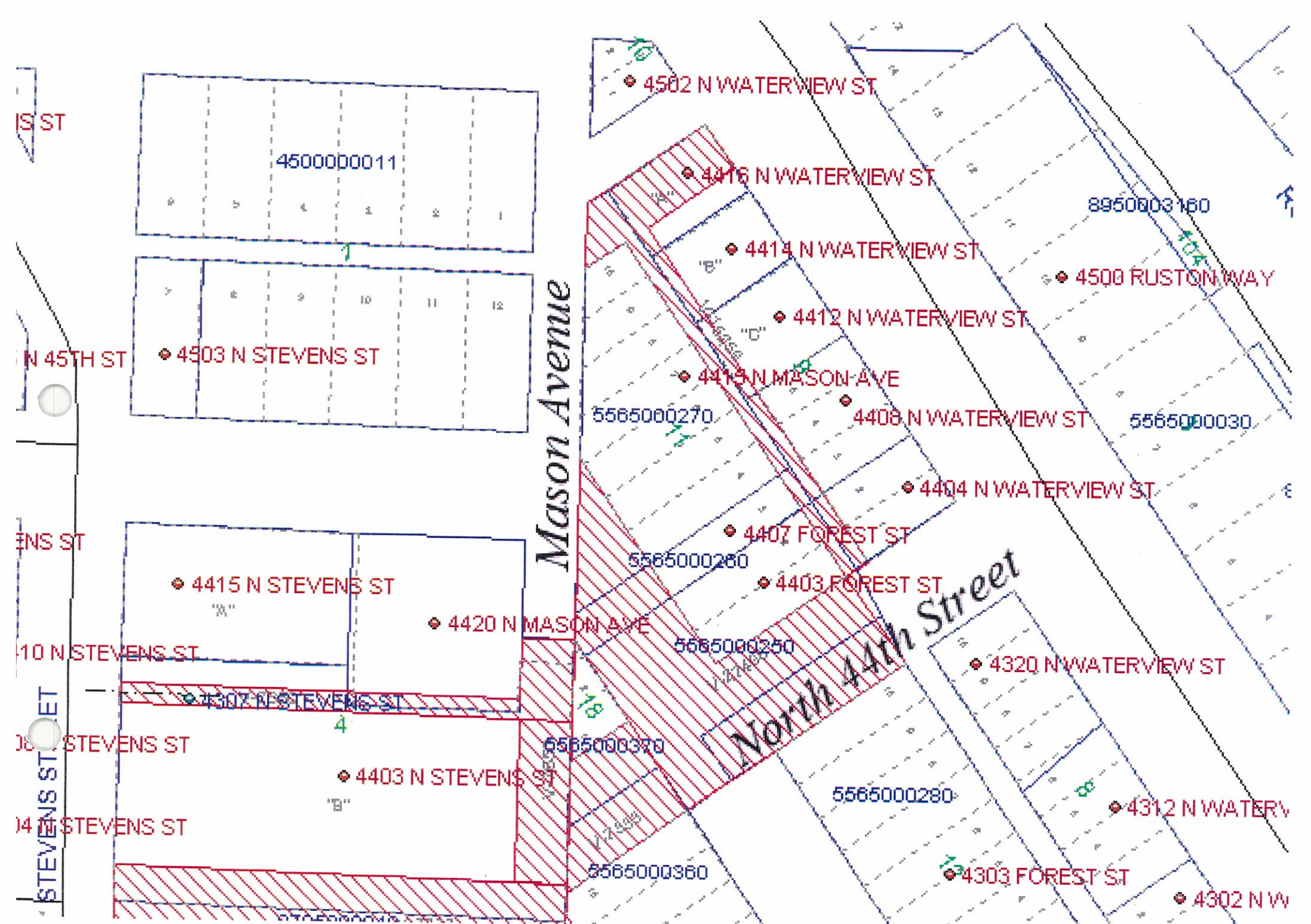
Plot Date: August 17, 2015

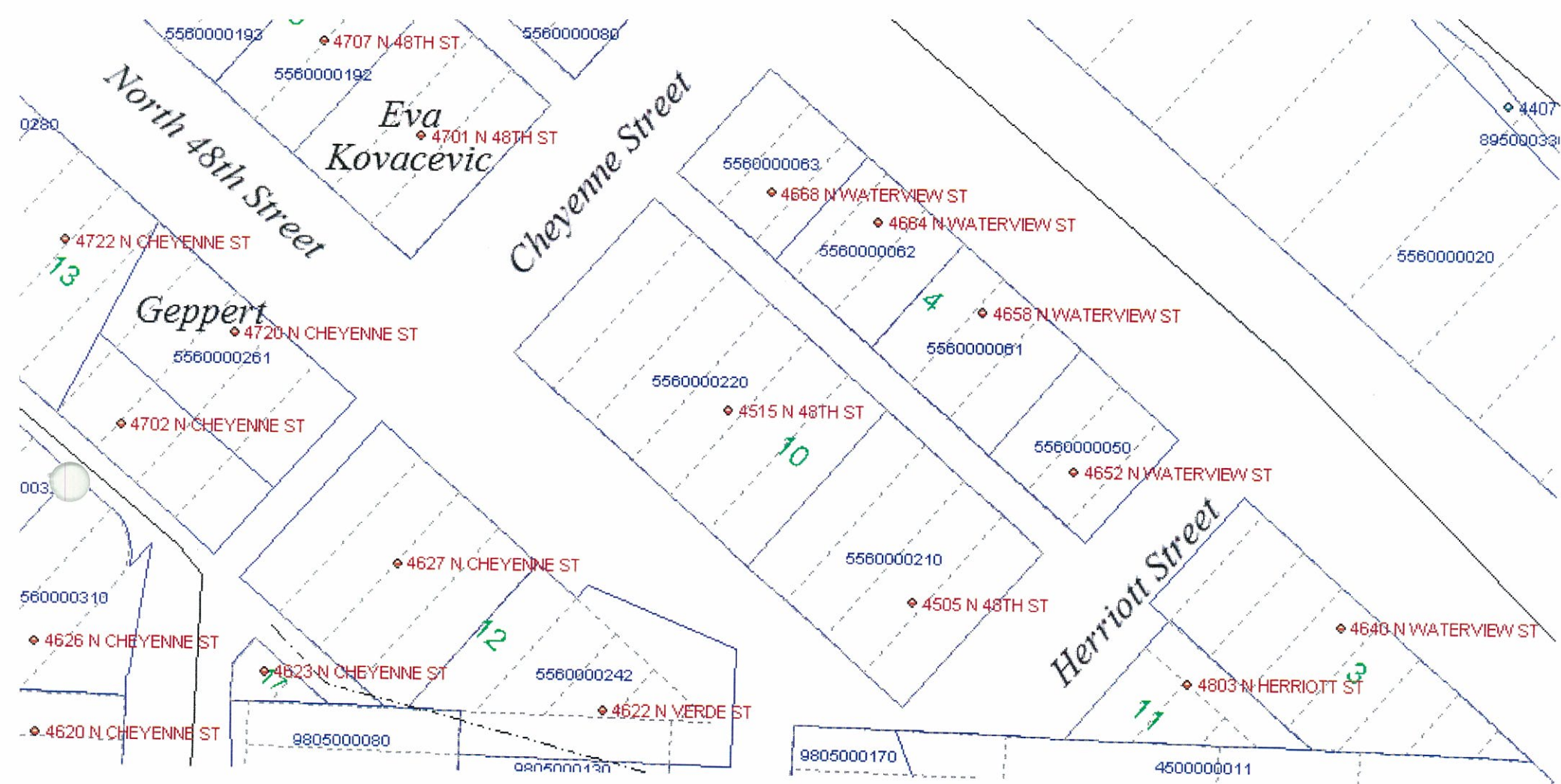
\*This map is to be used for reference purposes only.

ORIGINAL

EX. 22







1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

**RECEIVED  
AT HEARING**

**AUG 20 2015**

**HEARING EXAMINER**

**BEFORE THE HEARING EXAMINER OF  
CITY OF TACOMA, WASHINGTON**

In Re:

WATERVIEW POINT  
petition to vacate

HEARING MEMORANDUM OF APPLICANT  
REGARDING RES JUDICATA

HEARING DATE: August 20, 2015

In 2007, the City of Tacoma Hearing Examiner considered a substantially identical proposal to vacate portions of these same rights of way, and concluded that “[f]indings entered herein, based upon substantial evidence in the hearing record, support a conclusion that requested vacation conforms to the applicable criteria for vacation of public rights-of-way.” Office of the Hearing Examiner, City of Tacoma, Report and Recommendation to the City Council, File No: 124.1269 at 4. (Attached Exhibit A) No one challenged these findings, and there is no basis to relitigate the issue now; any challenge to the outcome of the 2007 case is barred by res judicata and collateral estoppel.

Res judicata, sometimes referred to as claim preclusion, refers to the rule through which a judgment or final decision in one court action will have a binding effect in another. *Hilltop Terrace Homeowners Ass'n v. Island County*, 126 Wn.2d 22, 30, 891

**EX. 24**



1 P.2d 29 (1995). Collateral estoppel, also called issue preclusion, is a closely related  
2 concept.<sup>1</sup> Issue preclusion prevents the relitigation of a previously adjudicated issue.  
3 *Shoemaker v. City of Bremerton*, 109 Wn.2d 504, 507, 745 P.2d 858 (1987). It applies  
4 when there are:

- 5 (1) identical issues,
- 6 (2) a final judgment on the merits,
- 7 (3) privity, and
- 8 (4) the absence of injustice for the party against whom it is applied.

9  
10 *Willapa Grays Harbor Oyster Growers Ass'n v. Moby Dick Corp.*, 115 Wn. App. 417, 423,  
11 62 P.3d 912 (2003). Here, both claim preclusion and issue preclusion bar the Russells'  
12 challenge.

13 The Washington Supreme Court has held that the doctrine of res judicata applies  
14 in the administrative context, since the underlying policies are equally applicable: "These  
15 policies are equally applicable in a quasi-judicial administrative context." *Hilltop*, 126  
16 Wn.2d at 31.

17  
18 Proceedings involved in the consideration of petitions for the vacation of public  
19 rights-of-way are quasi-judicial in nature, and so the doctrine of res judicata applies in this  
20 context. *State v. City of Spokane*, 70 Wn.2d 207, 442 P.2d 790 (1967) ("Under the  
21

22  
23 

---

<sup>1</sup> An occasional source of confusion is the fact that the term res judicata is used to refer to both res  
24 judicata and the doctrine of collateral estoppel. See, e.g., *Haugness v. Pierce Cnty.*, 134 Wn. App. 1035  
25 (2006), as amended on denial of reconsideration (Oct. 10, 2006) ("The term res judicata encompasses  
26 both claim preclusion, referred to as res judicata, and issue preclusion, also known as collateral estoppel.")  
(citing *Shoemaker v. City of Bremerton*, 109 Wn.2d 504, 507, 745 P.2d 858 (1987)).

1 statute, the legislative authority functions in a quasi-judicial capacity in determining the  
2 merits of such petitions and weighing the evidence of the proponents and objectors.”).

3 In order for either claim preclusion or issue preclusion to apply, the subject matter  
4 of the previously adjudicated claim or issue must be “identical” to the precluded one.  
5 *Hilltop*, 126 Wn.2d at 32, 891 P.2d 29 (claim preclusion); *Willapa Grays Harbor Oyster*  
6 *Growers Ass’n v. Moby Dick Corp.*, 115 Wn. App. 417, 423, 62 P.3d 912 (2003) (issue  
7 preclusion). Petitions on a matter previously adjudicated are considered identical unless  
8 there has been a “substantial change” in a later administrative application. *Hilltop*, 126  
9 Wn.2d at 33.

11 *Willapa Grays Harbor Oyster Growers Ass’n v. Moby Dick Corp.*

12 A particularly instructive opinion is *Willapa Grays Harbor Oyster Growers Ass’n v.*  
13 *Moby Dick Corp.*, 115 Wn. App. 417, 62 P.3d 912 (2003). In *Willapa*, Edward and Felice  
14 Cohen had purchased the Moby Dick Hotel, located in Nahcotta, Washington, in the late  
15 1980s. The Moby Dick site experienced a variety of zoning and permitting changes from  
16 the late 1980s to 2000. In 1989, the property was rezoned to an R3 designation, which  
17 contemplates commercial uses such as hotels and restaurants. The rezone was made  
18 subject to a concomitant rezone agreement (“CRA”) that restricted permissible uses  
19 within the zone. In 1990, after obtaining the rezone and executing the CRA, the Cohens  
20 sought and received a Shoreline Substantial Development Permit (“SSDP”) to expand and  
21 modernize the hotel. The Willapa Grays Harbor Oyster Growers Association (the  
22 “Association”) opposed the hotel expansion and redevelopment but did not appeal the  
23 1990 SSDP. *Id.* at 421–23.  
24  
25  
26

1 In January 1996, the Moby Dick applied for a building permit. The County did not  
2 approve the application because the proposed construction was beyond the scope of the  
3 1990 CRA and the 1990 SSDP. The Moby Dick then applied for a new SSDP and to  
4 amend the 1990 CRA. On November 7, 2000, the Pacific County Shoreline Administrator,  
5 issued the SSDP to the Moby Dick. The Board of County Commissioners (BOCC) affirmed  
6 the permit. The Association appealed the 2000 SSDP to the SHB. In an equally divided  
7 decision, the SHB affirmed the BOCC decision granting the 2000 SSDP. The SHB  
8 reasoned that the Moby Dick's proposed expansion fit within the Pacific County Shoreline  
9 Master Program § 8.40's exception for commercial uses.

11 The Association brought suit, contending that the SHB misconstrued the Pacific  
12 County Shoreline Master Program. The *Willapa* court did not reach this contention,  
13 however, because it held that collateral estoppel barred the claims.

14 As the court noted:

15 The requirements for application of collateral estoppel are: (1) identical  
16 issues; (2) a final judgment on the merits; (3) the party against whom the  
17 plea is asserted must have been a party to or in privity with a party to the  
18 prior adjudication; and (4) applying the doctrine must not work an injustice  
19 on the party against whom the doctrine is to be applied.

20 *Id.* at 423 (citing *Malland v. Dep't of Ret. Sys.*, 103 Wn.2d 484, 489, 694 P.2d 16  
(1985)). The court held that these conditions were satisfied, reasoning that:

21 First, the issue presented by the 1990 SSDP was identical to the issue in  
22 2000: whether the Moby Dick can expand and modernize within a Pacific  
23 County "conservancy shorelines" environment. Second, a final judgment  
24 was rendered on the 1990 SSDP when the time for appeal of that permit  
25 expired. That judgment was rendered under the same master program  
26 regulations that existed when the County issued the 2000 SSDP. Third, the  
parties to both SSDPs were identical: the Association, in 1990 and 2000,  
actively opposed the SSDP issued, in both instances, to the Moby Dick.



1 Finally, any injustice would befall the Moby Dick, not the Association, if the  
2 Association is not estopped. . . .

3 In essence, the Association seeks to relitigate an issue asked and  
4 answered in 1990 and not appealed from: whether PCSMP § 8.40, which  
5 applies to commercial developments in the conservancy shoreline, allows  
6 the Moby Dick to expand and modernize. Because the Association is thus  
7 collaterally estopped, its challenge to the 2000 SSDP fails.


8 *Id.* at 423-24.

9 The reasoning of the *Willapa* court is applicable here. The issue presented was  
10 already decided by the hearing examiner: whether the vacation request conforms to the  
11 criteria of TMC 1.23.070. This question was answered in the affirmative in 2007, and  
12 because there has been no substantial change in circumstances this determination  
13 cannot be relitigated under the doctrine of issue preclusion.

14 Dated this 20th day of August, 2015.

15 GORDON THOMAS HONEYWELL LLP

16 By

  
\_\_\_\_\_  
17 William T. Lynn, WSBA No. 07887  
18 wlynn@gth-law.com  
19 Attorneys for Applicant

**OFFICE OF THE HEARING EXAMINER**

**CITY OF TACOMA**

**REPORT AND RECOMMENDATION TO THE CITY COUNCIL**

**PETITIONER:** James McGranahan

**FILE NO:** 124.1269

**SUMMARY OF REQUEST:**

A petition to vacate portions of Waterview Street, Morrison Street, Mason Avenue, North 46<sup>th</sup> Street, Herriot Street and portions of an alleyway located between 48<sup>th</sup> Street and Waterview Street.

**RECOMMENDATION OF THE HEARING EXAMINER:**

The request is hereby recommended for approval and waiver of the portion of the compensation required by *TMC 9.22.010* to be allocated for open space purposes, both subject to conditions.

**PUBLIC HEARING:**

After reviewing the report of the Department of Public Works, Real Property Services Division, examining available information on file with the application, and visiting the subject site and the surrounding area, the Hearing Examiner conducted a public hearing on the application on February 15, 2007.

**EXHIBIT A**

## **FINDINGS, CONCLUSIONS, AND RECOMMENDATION:**

### **FINDINGS:**

1. James McGranahan (hereinafter "petitioner") is requesting vacation of portions of Waterview Street, Morrison Street, Mason Avenue, North 46<sup>th</sup> Street, Herriot Street and portions of an alleyway located between North 48<sup>th</sup> Street and Waterview Street. The rights-of-way sought to be vacated are more particularly described in Attachment A appended hereto.
2. The purpose of the petitioner seeking the vacation of the rights-of-way is to allow the consolidation of the properties abutting the rights-of-way so that a 16-foot lot single-family residential subdivision, referred to in these proceedings as "Waterview Pointe" could be developed.
3. The vacation petition has been joined in by all owners of properties abutting the rights-of-way petitioned for vacation.
4. The rights-of-way sought to be vacated were dedicated for public street or alley purposes when the plats of MASON'S WATER FRONT ADDITION TO TACOMA, MASON'S SHORELINE ADDITION TO TACOMA, HILL'S ADDITION TO THE CITY OF TACOMA, and WOODRUFF'S SECOND ADDITION TO TACOMA were filed for record between 1873 and 1889.
5. The subject rights-of-way are situated within a steeply sloped vegetated hillside lying southwesterly of Waterview Street and have never been used or developed for public street purposes except in some instances for the ancillary purpose of carrying utilities.
6. The area of right-of-way proposed to be vacated encompasses approximately 98,730 square feet. The developer of the proposed subdivision has offered to dedicate to the public or otherwise restrict approximately 69,146 square feet of steep slope area for open space purposes and asks that such dedication be counted toward the amount of required compensation for the rights-of-way vacated as required by *Tacoma Municipal Code (TMC) 9.22.010*.
7. The vacation of the long unused and undeveloped public rights-of-way would benefit the public to the extent that it would return the properties to the property tax rolls of Pierce County.<sup>1</sup>
8. Since these rights-of-way have not been used or developed as streets or alleys in the over 100 years since their dedication and due to the steep topography in the area which makes it impractical to interconnect the rights-of-way with the City's street system, their vacation would not adversely affect the street pattern in the area and not affect traffic circulation.

---

<sup>1</sup> The term "public benefit" as used in the street vacation context is construed broadly and may include the enrichment of the local economy, the facilitating of the providing goods and services to the community, and increasing property tax revenues. *Banchero v. City Council of Seattle*, 2 Wn. App. 519, 524, 468 P.2d 724 (1970).

9. The rights-of-way are not contemplated for current or future public use and the public need would not be adversely affected by their vacation provided easements are retained for existing utilities located within portions of the rights-of-way.

10. No property would become landlocked or have its access substantially impaired as a result of the vacation of the rights-of-way.

11. Since none of the rights-of-way abut, nor are they proximate to a body of water, the provisions of *RCW 35.79.035* are not implicated.

12. The proposed right-of-way vacations have been reviewed by a number of governmental agencies and utility providers. None object to the vacation of the rights-of-way; however, conditions have been recommended concerning the retention of an easement for existing Tacoma Power facilities or relocation of the facilities at the developer's expense; the retention of easements for Tacoma Water facilities; and the retention of an easement for storm and sanitary sewers. The Department of Public Works (DPW) advises that an in-lieu-of-assessment charge for sanitary sewer services may be owing for the property vacated pursuant to *TMC 12.08.350*.

13. The DPW recommends that, provided the subdivision developer dedicates to the City or otherwise restricts the open space portions of the subdivision for open space purposes in perpetuity, the value of such property be used as an offset against the open space compensation required by *TMC 9.22.010*.

14. The petitioner concurs in the conditions recommended.

15. No one appeared at hearing in opposition to the grant of the vacation petition.

16. Pursuant to *WAC 197-11-800(2)(h)*, the vacation of streets or roads is exempt from the threshold determination and Environmental Impact Statement requirements of *RCW 43.21.C*, the *State Environmental Policy Act (SEPA)*.

17. The Department of Public Works, Real Property Services Division Report, as entered into this record as Exhibit 1, accurately describes the proposed project, general and specific facts about the site and area, and applicable codes. The report is incorporated herein by reference as though fully set forth.

18. All property owners of record and adjacent to the proposed vacation have been notified of the hearing date at least 30 days prior to the hearing, as required by *TMC 9.22.060*.

19. Any conclusion hereinafter stated which may be deemed to be a finding herein is hereby adopted as such.

**CONCLUSIONS:**

1. The Hearing Examiner has jurisdiction over the parties and subject matter in this proceeding. *See TMC 1.23.050.A.5 and TMC 9.22.*
2. Proceedings involved in the consideration of petitions for the vacation of public rights-of-way are quasi judicial in nature. *State v. City of Spokane, 70 Wn.2d 207, 442 P.2d 790 (1967).*
3. Petitions for the vacation of public right-of-way are reviewed for consistency with the following criteria:
  1. The vacation will provide a public benefit, and/or will be for public purpose.
  2. That the right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole.
  3. That the public need shall not be adversely affected.
  4. That the right-of-way is not contemplated or needed for future public use.
  5. That no abutting owner becomes land-locked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient.
  6. That the vacation of right-of-way shall not be in violation of RCW 35.79.035.

*TMC 9.22.070.*

The petitioner must demonstrate by a preponderance of the evidence that its vacation request conforms to the foregoing criteria. *See TMC 1.23.070.*

4. Findings entered herein, based upon substantial evidence in the hearing record, support a conclusion that requested vacation conforms to the applicable criteria for vacation of public rights-of-way.

5. In these proceedings the petitioner also seeks to be allowed to offset the amount of compensation under *TMC 9.22.010*<sup>2</sup> allocated to the City's Open Space Fund by the value of the

---

<sup>2</sup> *TMC 9.22.010:*

The owners of an interest in any real estate abutting on any street or alley who may desire to vacate any street or alley, or any part thereof, shall petition to the City Council to make vacation in the manner hereafter provided in this chapter and pursuant to Chapter 35.79 *RCW*, or the City Council may itself initiate by resolution such vacation procedure. The City Council shall require the petitioners to compensate the City in an amount which equals one-

property the developer intends to commit to open space. The language of *TMC 9.22.010* does not expressly authorize such an exchange but it seems reasonable and is consistent with the purposes of the compensation for vacated right-of-way where one-half of the full compensation is to be used for open space purposes. However, since such offset is not expressly provided, the full compensation requirement, in accordance with *TMC 9.22.010* should be waived to the extent of the appraised value of the open space property.

6. Accordingly, the requested vacations should be granted subject to the conditions below:

**A. SPECIAL CONDITIONS:**

**1. TACOMA POWER**

- a. The developer shall retain the northeasterly 10 feet of the proposed vacation area parallel with Waterview Street as an easement for Tacoma Power poles, anchors, guy wires, overhead and underground power and data wires, power and data enclosures and vaults, power and data conduit, and transformers. Relocation of existing Tacoma Power facilities will be at the developer's expense.

**2. DEPARTMENT OF PUBLIC WORKS, ENVIRONMENTAL SERVICES**

- a. The developer shall retain a 20-foot storm and sanitary sewer easement centered in the North Herriot Street right-of-way from North Waterview Street west of the northern property line of tax parcel 450000-0011 to the east line of North 48<sup>th</sup> Street.
- b. The "no permanent structures" clause shall be retained and inserted into the easement language.

---

half of the appraised value of the area vacated; provided that if the street or alley has been a public right-of-way for 25 years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated; provided that when the vacation is initiated by the City or the City Council deems it to be in the best interest of the City, all or any portion of such compensation may be waived. Except as provided below, one-half of the revenue received hereunder shall be devoted to the acquisition, improvement, and maintenance of public open space land and one-half may be devoted to transportation projects and the management and maintenance of other City owned lands and unimproved rights-of-way.

In the case of vacations of rights-of-way in the tide flats area, defined as easterly of the Thea Foss Waterway (inclusive of the Murray Morgan Bridge), northerly of State Route 509 and westerly of Marine View Drive, the total of the revenue received hereunder shall be devoted to transportation projects in the tide flats area.

**FINDINGS, CONCLUSIONS,  
AND RECOMMENDATION**

3. TACOMA WATER

- a. Tacoma Water has water main and water service within the right-of-way of Waterview Street. The developer shall retain an easement cover existing Tacoma Water service and meters for over the area southwesterly of the monument line of Waterview Street, to a distance of 40 feet from the monument line of Water Street

4. OPEN SPACE

- a. The waiver of the portion of the compensation required by *TMC 9.22.010* to be allocated for open space purposes shall be granted provided the developer shall either deed the property identified in Exhibit 4, Attachment A-1 as open space to the City or otherwise restrict the use of that portion of the subdivision to open space in perpetuity in a manner approved by the City Attorney.

**B. USUAL CONDITIONS:**

1. THE RECOMMENDATION SET FORTH HEREIN IS BASED UPON REPRESENTATIONS MADE AND EXHIBITS, INCLUDING DEVELOPMENT PLANS AND PROPOSALS, SUBMITTED AT THE HEARING CONDUCTED BY THE HEARING EXAMINER. ANY SUBSTANTIAL CHANGE(S) OR DEVIATION(S) IN SUCH DEVELOPMENT PLANS, PROPOSALS, OR CONDITIONS OF APPROVAL IMPOSED SHALL BE SUBJECT TO THE APPROVAL OF THE HEARING EXAMINER AND MAY REQUIRE FURTHER AND ADDITIONAL HEARINGS.
2. THE AUTHORIZATION GRANTED HEREIN IS SUBJECT TO ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS, REGULATIONS, AND ORDINANCES. COMPLIANCE WITH SUCH LAWS, REGULATIONS, AND ORDINANCES IS A CONDITION PRECEDENT TO THE APPROVALS GRANTED AND IS A CONTINUING REQUIREMENT OF SUCH APPROVALS. BY ACCEPTING THIS/THESE APPROVALS, THE PETITIONER REPRESENTS THAT THE DEVELOPMENT AND ACTIVITIES ALLOWED WILL COMPLY WITH SUCH LAWS, REGULATIONS, AND ORDINANCES. IF, DURING THE TERM OF THE APPROVAL GRANTED, THE DEVELOPMENT AND ACTIVITIES PERMITTED DO NOT COMPLY WITH SUCH LAWS, REGULATIONS, OR ORDINANCES, THE PETITIONER AGREES TO PROMPTLY BRING SUCH DEVELOPMENT OR ACTIVITIES INTO COMPLIANCE.

7. Any finding hereinbefore stated which may be deemed to be a conclusion herein is hereby adopted as such.

**RECOMMENDATION:**

The vacation request is hereby recommended for approval and waiver of the portion of the compensation required by *TMC* 9.22.010 to be allocated for open space purposes, both subject to conditions as contained in Conclusion 6.

**DATED** this 8<sup>th</sup> day of March, 2007.

  
\_\_\_\_\_  
**RODNEY M. KERSLAKE, Hearing Examiner**



## NOTICE

### **RECONSIDERATION/APPEAL OF EXAMINER'S RECOMMENDATION**

#### **RECONSIDERATION:**

Any aggrieved person or entity having standing under the ordinance governing the matter, or as otherwise provided by law, may file a motion with the office of the Hearing Examiner requesting reconsideration of a decision/recommendation entered by the Examiner. A motion for reconsideration must be in writing and must set forth the alleged errors of procedure, fact, or law and must be filed in the Office of the Hearing Examiner within 14 calendar days of the issuance of the Examiner's decision/recommendation, not counting the day of issuance of the decision/recommendation. If the last day for filing the motion for reconsideration falls on a weekend day or a holiday the last day for filing shall be the next working day. The requirements set forth herein regarding the time limits for filing of motions for reconsideration and contents of such motions are jurisdictional. Accordingly, motions for reconsideration that are not timely filed with the Office of the Hearing Examiner or do not set forth the alleged errors shall be dismissed by the Examiner. It shall be within the sole discretion of the Examiner to determine whether an opportunity shall be given to other parties for response to a motion for reconsideration. The Examiner, after a review of the matter, shall take such further action as he/she deems appropriate, which may include the issuance of a revised decision/recommendation. (*Tacoma Municipal Code 1.23.140*)

#### **APPEALS TO CITY COUNCIL OF EXAMINER'S RECOMMENDATION:**

Within 14 days of the issuance of the Hearing Examiner's final recommendation, any aggrieved person or entity having standing under the ordinance governing such application and feeling that the recommendation of the Examiner is based on errors of procedure, fact or law shall have the right to appeal the recommendation of the Examiner by filing written notice of appeal with the City Clerk, stating the reasons the Examiner's recommendation was in error.

**Appeals shall be reviewed and acted upon by the City Council in accordance with *TMC 1.70*.**

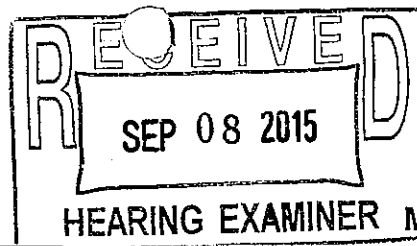
#### **GENERAL PROCEDURES FOR APPEAL:**

The Official Code of the City of Tacoma contains certain procedures for appeal, and while not listing all of these procedures here, you should be aware of the following items which are essential to your appeal. Any answers to questions on the proper procedure for appeal may be found in the City Code sections heretofore cited:

1. The written request for review shall also state where the Examiner's findings or conclusions were in error.
2. Any person who desires a copy of the electronic recording must pay the cost of reproducing the tapes. If a person desires a written transcript, he or she shall arrange for transcription and pay the cost thereof.



City of Tacoma



HEX2015-029

**TO:** The Office of the Hearing Examiner  
**FROM:** Jeff Capell, Deputy City Attorney  
**SUBJECT:** Waterview Point Petition to Vacate; Claims of *Res Judicata*  
**DATE:** September 8, 2015

Legal counsel for the petitioner in the above captioned matter presented a brief to the Hearing Examiner dated August 20, 2015 essentially contending that the Hearing Examiner was bound by findings and conclusions rendered in 2007 on a "substantially identical proposal to vacate portions of the same rights of way..." The City Attorney's Office disagrees with this contention for a number of reasons.

Petitioner's counsel cites to Willapa Grays Harbor Oyster Growers Ass'n v. Moby Dick Corp., 115 Wn. App. 417, 423, 62 P.3d 912 (2003) for the test for applying collateral estoppel. Collateral estoppel applies when:

- (1) there are identical issues,
- (2) there has been a final judgment on the merits,
- (3) privity exists, and
- (4) no injustice will arise for the party against whom it is applied.

Petitioner then cites Hilltop Terrace Homeowners Ass'n v. Island County, 126 Wn.2d 22, 31, 891 P.2d 29 (1995) for the proposition that the "policies" of issue and claim preclusion are "applicable in a quasi-judicial administrative context." The test cited above is conjunctive meaning all four factors must be met in order for the principle to apply. In this case it does not for the reasons that follow.

First, the proceeding before the hearing examiner is not, in and of itself, a quasi-judicial proceeding that would make the Hilltop Terrace holding applicable. Under TMC 9.22.070, "The City Council...delegates the duty of conducting public hearings on street vacation petitions to the Hearing Examiner." Such delegation does not automatically become a quasi-judicial proceeding. After the Hearing Examiner conducts the public hearing, she "render[s] a recommendation to the City Council..." based on the factors set forth in TMC 9.22.070. This is a recommendation only, not a final judgment on the merits. Rendering a final judgment on the merits—the true quasi-judicial administrative decision by the legislative authority in a vacation petition—is the City Council's domain. The City Council never made a final decision on the merits in this vacation petition. First reading was made, but that is not a final determination. Second reading must take place before a vacation ordinance is final.

In this instance, a final determination was never made. As the Hearing Examiner is aware, second reading of a vacation ordinance is more often than not conditioned on, among other things, payment for the vacated interest in conformance with RCW 35.79.030. The petitioner never made that payment, and as a result, no final determination was ever made.

As a result, of the failure of the payment condition and the passage of time, the vacation petition from 2007 should be considered abandoned under TMC 9.22.090 which states as follows:

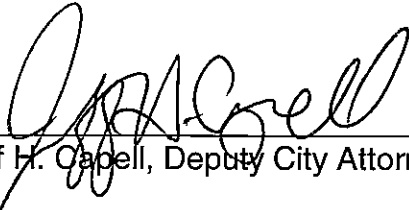
Upon securing the appraisal of the street or alley area to be vacated, the Public Works Department shall notify the petitioner or petitioners of the amount to be paid, and said amount shall be deposited with the City Treasurer within 90 days of said notice. Upon written notice to the Public Works Department that such deposit with the City Treasurer has been made or provided for, and all other conditions of the vacation have been met or provided for, the City Attorney shall prepare the vacation ordinance for presentation to the City Council for final reading. The vacation proceedings shall be abandoned in the event the petitioner or petitioners fail to make any of the payments for appraisal fees or compensation within the time limits as herein provided, or, if any other condition is not met within 90 days of said notice, unless good cause is shown for such delay. For good cause, a delay not to exceed 180 days may be granted. In the event that all conditions are not made within such 180-day extension, the vacation proceedings shall be abandoned.

Far more than 180 days have passed in this matter. The City revived the prior petition at the petitioner's request, but it has been treated as a new matter with a new hearing. Any ordinance for this matter would need to be newly presented to the Council, as well, for both first and second reading.

In addition to the foregoing, petitioner cannot meet the first test for issue/claim preclusion because significant factual issues have changed. In the prior petition, petitioner was platting the property in and around the vacation area. That is not the case now. In the absence of the plat, City requirements for emergency access and utility placement have become much more uncertain making the issues presented by the revived vacation petition anything but identical to the 2007 petition.

The City is more than willing to work with the petitioner to arrive at a reasonable determination in this revived vacation petition, but there is no applicability here for the doctrines of collateral estoppel and/or *res judicata* to bind the City to **recommendations** made in the 2007 proceeding that never reached finality.

Respectfully submitted this 8<sup>th</sup> day of September, 2015,

  
\_\_\_\_\_  
Jeff H. Capell, Deputy City Attorney