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ORDINANCE NO. 27421

AN ORDINANCE vacating a portion of the alleyway between East 50th and East 51st Streets, and a portion of East 51st Street, more fully described as follows:

That portion of the alleyway lying between Block 2 and Block 3, together with the northerly 29.95 feet of East 51st Street abutting Block 3, all lands contained within the plat of THE CENTRAL PARK ADDITION TO TACOMA, filed for record on January 31, 1889, in Volume 2, Page 111, records of Pierce County, Washington.

All lands contained within the Northeast Quarter of Section 22, Township 20 North, Range 3 East, W.M.

WHEREAS all steps and proceedings required by law and by resolution of the City Council to vacate the portion of the street hereinafter named have been duly taken and performed; Now, Therefore,

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BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the City Council hereby adopts the Hearing Examiner's Findings, Conclusions, and Recommendations as contained in the Hearing Examiner's Report and Recommendation to the City Council bearing File No. 124.1249, and dated August 31, 2005, which Report is on file in the office of the City Clerk.

Section 2. That a portion of the alleyway between East 50th and East 51st Streets, and a portion of East 51st Street, more fully described as follows:

That portion of the alleyway lying between Block 2 and Block 3, together with the northerly 29.95 feet of East 51st Street abutting Block 3, all lands contained within the plat of THE CENTRAL PARK ADDITION TO TACOMA, filed for record on January 31, 1889, in Volume 2, Page 111, records of Pierce County, Washington.

All lands contained within the Northeast Quarter of Section 22, Township 20 North, Range 3 East, W.M. is hereby vacated, and the land so vacated is hereby surrendered and attached to the property bordering thereon, respectively, as a part thereof, and all right or title of the City in and to the portion of

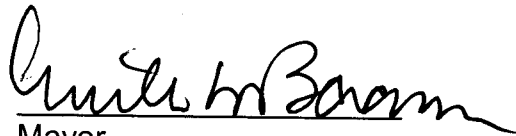
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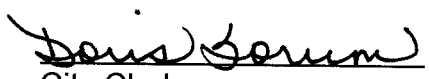
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the streets so vacated does hereby vest in the owners of the property abutting thereon, all in the manner provided by law.

Passed ~~JAN 10 2006~~


Mayor

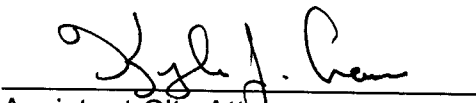
Attest:


City Clerk

Location: 1327 East 51st Street and 1329 East 51st Street
Petitioner: Unique Construction, Inc.
Vacation Request No. 124.1249

Approved as to form and legality:

Property description approved:


Assistant City Attorney


Acting Chief Surveyor
Public Works Department

210



REQUEST FOR ORDINANCE OR RESOLUTION RECEIVED

CITY CLERK USE

Request #:
Ordinance #:
Resolution #:

10678
27421

2005 SEP 22 AM 9: 31

CITY CLERK'S
OFFICE

1. DATE: September 22, 2005

2. REQUESTING DEPARTMENT/DIVISION/PROGRAM Hearing Examiner	3. CONTACT PERSON (for questions): Louisa Legg	PHONE/EXTENSION 5195
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4. PREPARATION OF AN ORDINANCE IS REQUESTED FOR THE CITY COUNCIL MEETING OF TUESDAY, OCTOBER 18, 2005.

5. SUMMARY TITLE/RECOMMENDATION: (A concise sentence, as it will appear on the Council agenda.)

Petitioner: Unique Construction File No: 124.1249

The petitioner is seeking to vacate that portion of the alleyway between East 50th and East 51st Street, and a portion of East 51st Street in Tacoma.

LOCATION: 1327 East 51st Street and 1329 East 51st Street

6. BACKGROUND INFORMATION/GENERAL DISCUSSION: (Why is this request necessary? Are there legal requirements? What are the viable alternatives? Who has been involved in the process?)

7. FINANCIAL IMPACT:

- A. NO
- B. YES OVER \$100,000, Fiscal Note Attached
- C. YES, UNDER \$100,000, Provide funding source information below

FUNDING SOURCE: (Enter amount of funding from each source)

Fund Number & Name:	State \$	City \$	Other \$	Total Amount
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If an expenditure, is it budgeted? Yes No Where? Cost Center:
Acct #:

8. LIST ALL MATERIAL AVAILABLE AS BACKUP INFORMATION FOR THE REQUEST AND INDICATE WHERE FILED:

Source Documents/Backup Material	Location of Document
▪ Hearing Examiner Report and Recommendation	▪ Attached
▪ Departmental (Asset Management) Preliminary Report	▪ Attached

9. ATTORNEY CONTACT: (Enter name of attorney with whom you've been working.)

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10. Department Director/Utility Division Approval	OMBA/Finance Director Approval	City Manager/Director Utilities Approval
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27421



City of Tacoma
Hearing Examiner

August 31, 2005

Mr. Bill Rehe
Unique Construction, Inc.
2316 89th Street Ct. SW
Gig Harbor WA 98332

Re: Unique Construction
File No.: 124.1249 Street Vacation Petition
File Nos.: 40000046586 ("Rehe Plat" Preliminary Plat) and 40000047426 (Variance)

Enclosed please find a copy of the Hearing Examiner's Findings of Fact, Conclusions of Law, and Recommendation (124.1249) and Decisions (40000046586 and 40000047426) with regard to the above-referenced matters as a result of a public hearing held August 16, 2005.

RODNEY M. KERSLAKE
Hearing Examiner

/lal

Enclosures (2)

Cc: See attached mailing list

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MAILING LIST: BILL REHE, UNIQUE CONSTRUCTION
FILE NOS. 124.1249; 40000046586; AND 40000047426

Cc: David Schroedel, AHB, Inc., 2215 North 30th Street, STE 300, Tacoma WA 98403
Robert Denomy, Attorney at Law, 950 Pacific Avenue, STE 630, Tacoma WA 98402
Lloyd and Dolores Hamilton, 1315 E. 52nd Street, Tacoma WA 98404-2712
Charlene Hill, 5011 E. "L" Street, Tacoma WA 98404-3627
Scott Hansen, President, Puget Creek Restoration Society, 702 Broadway, Suite 101,
Tacoma, WA 98402
Sandra Collins, 1214 E. 50th Street, Tacoma WA 98406-3633
James Conlin, 1307 E. 52nd Street, Tacoma WA 98404-2712
Ann Crawford, 1401 E. 52nd Street, Tacoma WA 98404-2739
Rose Jones, 1216 E 50th Street, Tacoma WA 98404-3633
City Clerk (Clerk's Jacket 124.1249), City of Tacoma
Legal Department (Civil Division), City of Tacoma (Molly Schmidt)
Department of Public Works, City of Tacoma (Env. Svcs. Eng./Ryan 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/T. Dolan)
Department of Public Works, City of Tacoma (BLUS/Jennifer Hansen)
Department of Public Works, City of Tacoma (BLUS/Susan Coffman)
Department of Public Works, City of Tacoma (BLUS/Andrea Gates)
Department of Public Works, City of Tacoma (Traffic Engineering/Kurtis Kingsolver)
General Services Department, Asset Management, City of Tacoma (Rich Price)
Tacoma Fire Department, City of Tacoma (Carl Anderson)
Tacoma Power, City of Tacoma (New Svcs. Eng./Nick Tomanelli)
Tacoma Water, City of Tacoma (Grant Whitley)
TEDD, City of Tacoma (L. Wung)
Pierce County Assessor-Treasurer, ATTN: Sally Barnes, 2401 South 35th St.,
Room 142, Tacoma, WA 98409
Tacoma-Pierce County Health Department, ATTN: Nedda S. Turner, R.S.,
Env. Source Protection Liason, 3629 South D Street, Tacoma, WA 98418-6813

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C

OFFICE OF THE HEARING EXAMINER

CITY OF TACOMA

REPORT AND RECOMMENDATION TO THE CITY COUNCIL

PETITIONER: Bill Rehe, Unique Construction

FILE NO: 124.1249

SUMMARY OF REQUEST:

A petition to vacate a portion of the alleyway between East 50th and East 51st Streets and a portion of East 51st Street, in Tacoma

RECOMMENDATION OF THE HEARING EXAMINER:

The request is hereby recommended for approval, subject to conditions.

PUBLIC HEARING:

After reviewing the report of the General Services Department, Asset Management 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 August 16, 2005.

FINDINGS, CONCLUSIONS, AND RECOMMENDATION:

FINDINGS:

1. Bill Rehe, Unique Construction (hereinafter "petitioner") is requesting the vacation of the alley right-of-way lying westerly of East "N" Street and situated between East 50th and East 51st Streets and terminating at the west boundary of THE CENTRAL PARK ADDITION TO TACOMA. Also being requested for vacation is the northerly 29.95 feet of East 51st Street lying westerly of East "N" Street and terminating at the west boundary of the earlier referred-to plat. The rights-of-way here sought to be vacated are more particularly described below:

That portion of the alleyway lying between Block 2 and Block 3; together with the northerly 29.95 feet of East 51st Street abutting Block 3, all lands contained within the plat of THE CENTRAL PARK ADDITION TO TACOMA, filed for record on January 31, 1889 in Volume 2 Page 111, records of Pierce County, Washington.

All lands contained within the Northeast Quarter of Section 22, Township 20 North, Range 3 East, W.M.

2. The petitioner is proposing to subdivide 6.35 acres of property lying westerly of the subject rights-of-way into 34 single-family building lots. The rights-of-way, if vacated, would be incorporated into the subdivision site.
3. The rights-of-way were dedicated for public street and alley purposes when the plat of THE CENTRAL PARK ADDITION TO TACOMA was filed for record on January 31, 1889.
4. Both of the rights-of-way in question are undeveloped and have not been used for street or alley purposes in spite of being dedicated for public use for over 115 years.
5. The subject alleyway is 20 feet in width and extends approximately 80 feet west of East "N" Street and terminates at the west boundary of THE CENTRAL PARK ADDITION TO TACOMA. East 51st Street is a 70-foot wide right-of-way and also extends east of East "N" Street approximately 80 feet and ends at the west line of the referred-to plat boundary. If the vacation of the north 29.95 feet East 51st Street granted, slightly over 40 feet of right-of-way width would remain.
6. All owners of property abutting the subject rights-of-way have joined in the petition seeking their vacation.
7. The vacation petition has been reviewed by a number of governmental agencies and utility providers. None objects to their vacation; however, the Department of Public Works advises that an "In-Lieu-of-Assessment Charge" is owing for the rights-of-way, if vacated, and Asset Management advises that the petitioner is required to compensate the City in the amount of the appraised value of the rights-of-way.

15. Since the rights-of-way are not proximate to a body of water, the provisions of *RCW* 35.79.035 are not implicated.

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 Asset Management Preliminary Report, as entered into this record as Exhibit 6, 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.

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, subject to conditions contained in Conclusion 6.

DATED this 31st day of August, 2005.


RODNEY M. KERSLAKE, Hearing Examiner

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PRELIMINARY REPORT

PREPARED FOR THE HEARING EXAMINER BY ASSET MANAGEMENT

For the Hearing to be Held
Tuesday, August 16, 2005 at 1:30 PM

PETITIONER: UNIQUE CONSTRUCTION, INC

FILE NO. 124.1249

A. SUMMARY OF REQUEST:

Asset Management has received a petition to vacate that portion of the alleyway between East 50th and East 51st Streets, and a portion of East 51st Street, as shown on the attached vicinity map.

B. GENERAL INFORMATION:

1. Legal Description of Vacation:

That portion of the alleyway lying between Block 2 and Block 3; together with the northerly 29.95 feet of East 51st Street abutting Block 3, all lands contained within the plat of THE CENTRAL PARK ADDITION TO TACOMA, filed for record on January 31, 1889 in Volume 2, Page 111, records of Pierce County, Washington.

All lands contained within the Northeast Quarter of Section 22, Township 20 North, Range 3 East, W.M.

2. Notification:

9.22.060 NOTICE OF PUBLIC HEARING The General Services 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 General Services 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 vacated 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

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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 creating additional residential units under a preliminary plat "Rehe Plat".

D. HISTORY:

The City of Tacoma acquired the rights of way proposed to be vacated when the plat of THE CENTRAL PARK ADDITION TO TACOMA, filed for record on January 31, 1889 in Volume 2, Page 111, records of Pierce County, Washington.

E. PHYSICAL LAND CHARACTERISTICS:

The vacation area is unimproved and largely overground with trees and shrubs. This area has not been improved with street improvements the right of way width of East N Street is 60 feet in width. East 50th Street and East 51st Streets are 70 feet in width.

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.

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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 Asset Management Division. These comments, where appropriate, have been incorporated in the "Recommended Conditions of Approval" section of this preliminary report.

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PW/Construction/LID – No objections
Tacoma Water – No objections
Environmental Services – No objections
Puget Sound Energy – No objections
TEDD – No objections
Tacoma Fire Department– No objection
Comcast Communications – No objections
Traffic Engineering – No objections
Pierce Transit – No objections
Solid Wast Mgt. – No objections

I. **RECOMMENDED CONDITIONS OF APPROVAL:**

Should this street vacation request be approved, the Asset Management 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*

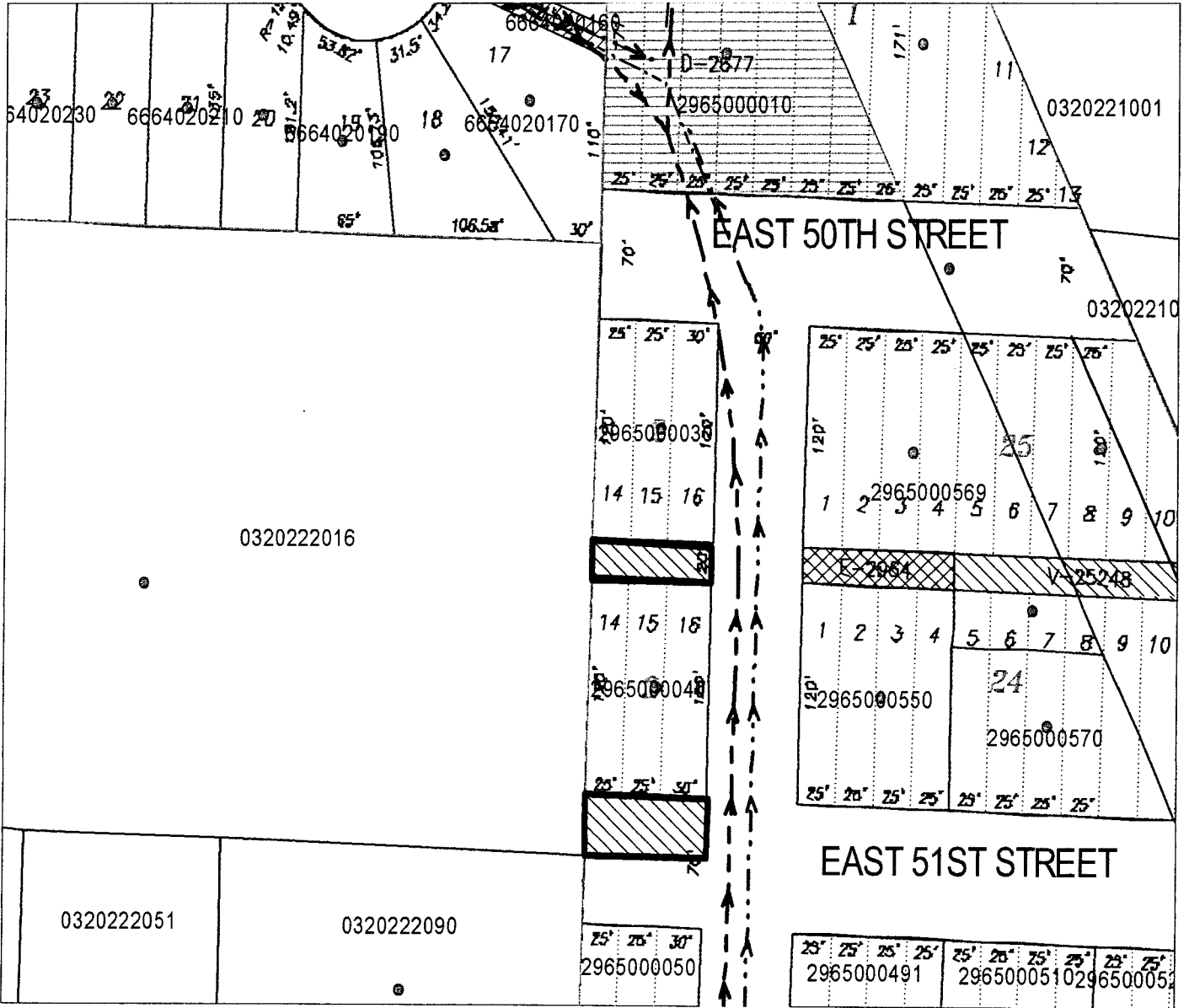
2. BUILDING AND LAND USE SERVICES

No objections subject to the following condition:

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.

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UNIQUE CONSTRUCTION, INC

STREET VACATION NO. 124.1249

EAST 51ST STREET / EAST N STREET

NE1/4 SEC.22, T20N, R3E

NOT TO SCALE

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CITY OF TACOMA
INTER-DEPARTMENTAL COMMUNICATION

RECEIVED

2005 DEC 22 AM 9:34

CITY CLERK'S
OFFICE

TO: Doris Sorum, City Clerk
✓ Mary Shirley, Office Assistant/Amy Stevenson-Ness

FROM: Kyle J. Crews, Assistant City Attorney

DATE: December 20, 2005

SUBJECT: Street Vacation File No. 124.1249
Applicant: Unique Construction

Please place Ordinance No. 27421 on the Council agenda of January 10, 2006, for second reading.

Asset Management will cover the second reading. As of the date of this memo, the jacket is located in the Legal Department.

/mds

cc: Louisa Legg, Hearing Examiner's Office
Jodi Marshall, Hearing Examiner's Office
Rich Price, General Services, Asset Management

CITY OF TACOMA

INTER-DEPARTMENTAL COMMUNICATION

TO: Doris Sorum, City Clerk
Mary Shirley, Office Assistant/Amy Stevenson-Ness

FROM: Kyle J. Crews, Assistant City Attorney

DATE: December 20, 2005

SUBJECT: Street Vacation File No. 124.1249
Applicant: Unique Construction

Please place Ordinance No. 27421 on the Council agenda of January 10, 2006, for second reading.

Asset Management will cover the second reading. As of the date of this memo, the jacket is located in the Legal Department.

/mds

cc: Louisa Legg, Hearing Examiner's Office
Jodi Marshall, Hearing Examiner's Office
Rich Price, General Services, Asset Management



City of Tacoma

Memorandum

RECEIVED

DEC 13 2005

TACOMA CITY ATTORNEY
CIVIL DIVISION

**TO: KYLE CREWS
ASSISTANT CITY ATTORNEY**

**FROM: RICHARD PRICE
Asset Management Division
General Services Department**

**SUBJECT: RIGHT OF WAY VACATION NO. 124.1249
ORDINANCE NO. 27421**

DATE: DECEMBER 13, 2005

All conditions for the referenced right of way vacation have been met. This ordinance may be placed on the Council Agenda for final reading.

Please schedule the 2nd Reading for January 10, 2006. Asset Management will cover the reading.

Ordinance No. 27421

First Reading of Ordinance: OCT 18 2005

Final Reading of Ordinance: JAN 10 2006

Passed: JAN 10 2006

Roll Call Vote:

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Ms. Anderson	/			
Mr. Evans	/			
Ms. Ladenburg	/			
Mr. Lonergan	/			
Mr. Manthou	/			
Mr. Phillips Fey	/			
Mr. Stenger	/			
Mr. Talbert	/			
Mayor Baarsma	/			

MEMBERS	AYES	NAYS	ABSTAIN	ABSENT
Ms. Anderson				
Mr. Evans				
Mr. Ladenburg				
Mr. Lonergan				
Mr. Manthou				
Mr. Stenger				
Mr. Talbert				
Mayor Baarsma				