

PRELIMINARY REPORT

PREPARED FOR THE HEARING EXAMINER BY REAL PROPERTY SERVICES

For the Hearing to be Held
Thursday, April 9, 2015 at 9:00 AM

PETITIONER: CFW, LLC

FILE NO. 124.1342

A. SUMMARY OF REQUEST:

Real Property Services has received a petition of Street Vacation from Carol Magelssen and Ryan Williams of CFW, LLC to vacate the Easterly 35 feet of East "L" Street right-of-way lying between East 52nd and East 54th Street, as depicted on the attached map Exhibits 1 & 1(a). The proposed vacation of East "L" Street is to be incorporated into the preliminary plat of Heritage Gardens a residential plat development, as depicted in attached Exhibit 2. Subsequent to the receipt of this petition CFW, LLC has purchased the property interests of Ms. Magelssen and now constitutes full 100% of adjoining interest in said "L" Street right of way.

B. GENERAL INFORMATION:

1. Legal Description of Vacation:

All that portion of East "L" Street lying between East 52nd Street and East 54th Street described as follows:

The Easterly 35 feet of East "L" Street lying between South right of way margin of East 52nd and the North right of way margin of East 54th Streets, within the Southeast Quarter of the Northwest Quarter of Section 22, Township 20 North, Range 3 East, W.M., within the City of Tacoma, County of Pierce, State of Washington.

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

ORIGINAL

the 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 March 7, 2015 at approximately 12:00 p.m. at locations 1 and 2 described below:

1. Placed yellow public notice sign at the Southeasterly intersection of East 52nd Street and East "L" Street.
2. Placed yellow public notice sign at the Northeasterly intersection of East 54th Street and East "L" Street.
3. Public notice memo placed into the glass display case located on the second floor of the Municipal Building.
4. Public notice memo placed into the glass display case located on the first floor of the Municipal building abutting the Finance Department.
5. Public notice memo advertised on the City of Tacoma web site at address: <http://www.cityoftacoma.org/page.aspx?nid=596>
6. Public Notice advertised in the Daily Index newspaper.
7. Public Notice mailed to all parties of record within the 300 feet of vacation request.
8. Public Notice advertised on Municipal Television Channel 12.

D. PURPOSE OF REQUEST:

The Petitioner plans on acquiring the vacated area and incorporate such into the preliminary plat of Heritage Gardens, a 38 lot residential plat development.

E. HISTORY:

The City acquired the right of way subject to vacation by Quit Claim Deed dated January 22, 1970 and recorded January 27, 1970 under Auditor's File Number 2330542, referenced as City Deed #3815; by Special County Treasurer's Deed dated and recorded November 19, 1971 under Auditor's File Number 2420973, referenced as City Deed #4166 and the remaining westerly 38 feet of East "L" Street was acquired by both the original Plat filing of Tisdale & Hauke's Addition

to Tacoma and again by plat filing of Replat of Tisdale & Hauke's Addition to Tacoma on May 10, 1884 and September 30, 1889 respectively, all records of Pierce County, Washington, as provided herein as Exhibits 3-6.

F. PHYSICAL LAND CHARACTERISTICS:

East "L" Street totals 90 feet wide and is improved with meandering asphalt paving of varying between 20 feet and 32 feet widths.

The Easterly 35 feet of East "L" Street is unimproved, vegetated with tall grasses and has a 5.72% slope.

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 will produce and add increase of residential homes and uses of the land by adding an additional 37 tax parcels to the tax rolls;
 - b. Will provide neighborhood and community development viability to the community; and
 - c. Facilitate economic development.
2. City of Tacoma Traffic Engineering has been consulted regarding this petition and does not object to the vacation.
3. The vacation area is not contemplated or needed for future public use as a right of way.
4. No abutting owner, not contemplated under this development project, becomes landlocked nor will their access be impaired.
5. 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 most current 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 (2) – Exhibit 1 & 1(a)
Heritage Gardens – Exhibit 2
Deed 3815 – Exhibit 3
Deed 4166 – Exhibit 4
Plat of Tisdale & Hauke’s – Exhibit 5
Replat of Tisdale & Hauke’s – Exhibit 6
Tacoma Water – Exhibit 7
Public Works/LID – Exhibit 8

Tacoma Fire – No Objection
PW/Traffic Engineering – No Objection
Solid Waste Management – No Objection
Environmental Services – No Objection
Tacoma Power – No Objection
Click! Network – No Objection
Comcast Communications – No Objection
Planning & Development Services – No Objection
CenturyLink – No Objection
Puget Sound Energy – No Objection
Pierce Transit – No Objection

PW Engineering – No Response
Police – No Response
Community & Economic Development – No Response

J. RECOMMENDED CONDITIONS OF APPROVAL:

Should this street vacation request be approved, the Real Property Services Department of Public Works recommends that the following conditions be made conditions of approval:

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. TACOMA WATER

- a. Please contact Jesse Angel at (253) 502-8280 regarding Tacoma Water's comments.
- b. Tacoma Water has no objection; as an advisory comment however, Tacoma Water provides the following comment:
 - i) Based on the review of preliminary plat of Heritage Gardens, Tacoma Water will require installation of main extension within the remaining East "L" Street between East 52nd and East 54th Streets for future water services.

3. PUBLIC WORKS/LID

- a. Please contact Sue Simpson at (253) 591-5529 regarding LID's comments.
- b. LID has no objection; as an advisory comment however, LID provides the following comment:
 - i) The area to be vacated has not been assessed for sanitary sewer. Upon development of the lots, and their proposed sewer connections will determine if a connection charge in lieu of assessment is applicable.

Note: These are Advisory Comments only and are not conditions of the vacation.

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.



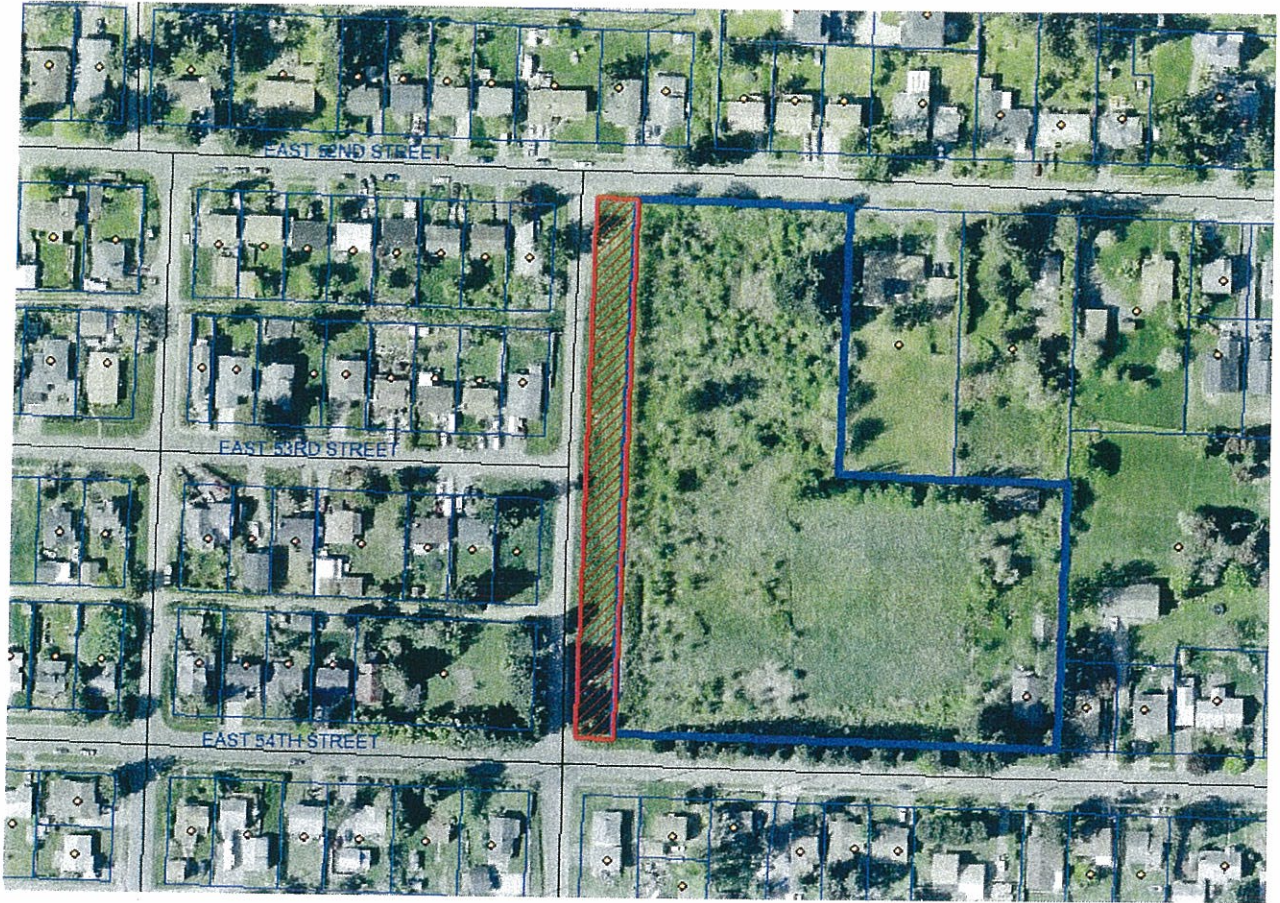
CFW, LLC / RYAN WILLIAMS

STREET VACATION NO. 124.1342

EAST "L" STREET BETWEEN EAST 52ND & EAST 54TH STREETS

NW 1/4 SEC. 26, T20N, R3E

NOT TO SCALE



CFW, LLC / RYAN WILLIAMS

STREET VACATION NO. 124.1342

EAST "L" STREET BETWEEN EAST 52ND & EAST 54TH STREETS

NW 1/4 SEC. 26, T20N, R3E

NOT TO SCALE

QUIT CLAIM DEED

THIS INDENTURE WITNESSETH, That Margaret H. Hendrickson Magelssen as her
Seperate Property and Harold C. Magelssen as his interest may appear,
 parties of the first part, for and in consideration of the sum of _____
One and no/100 Dollars
 lawful money of the United States of America, to them in hand paid by _____
The City of Tacoma, a Municipal Corporation
 party of the second part, do by these presents remise, release, convey and quit claim unto said party of
 the second part, its successors and assigns, all interest of the said part ies of the first part in and to the following
 described real property situated in Pierce County, State of Washington, to-wit:

The West 22 feet of the following described property:
 Commencing at the intersection of the East line of the Northwest Quarter
 of Section 22, Township 20 North, Range 3 East of the Willamette Meridian
 and the North line of East 56th Street in the City of Tacoma, thence
 North 660 feet along said East line, thence West 254 feet to the Point
 of Beginning, thence North 300 feet, thence West 254 feet, thence North
 300 feet, thence West 254 feet, thence South 600 feet, thence East 508
 feet to the Point of beginning. Less East 54 th Street.

EXCISE TAX EXEMPT DATE 1/27/70
 MAURICE RAYMOND, Pierce Co. Treasurer
 By Virginia Kennedy Deputy

TO HAVE AND TO HOLD, The said premises, with all the appurtenances, unto the said party of the second
 part, and its successors and assigns forever.

IN WITNESS WHEREOF, the said part ies of the first part ha ve hereunto set their hands and
 seal s the 22nd day of Jan, 19 70.
 Signed, Sealed and Delivered in the Presence of

 } Margaret H. Hendrickson Magelssen (Seal)
Margaret H. Hendrickson Magelssen
 } Harold C. Magelssen (Seal)
Harold C. Magelssen

STATE OF WASHINGTON,
 County of Pierce

Greg Smith
 Notary Public in and for the said State, do hereby certify that on this 22nd day of Jan, 19 70
 personally appeared before me Margaret H. Hendrickson Magelssen and Harold C. Magelssen
 to be known to be the individual s described in and who executed the within instrument, and acknowledged that they
 signed and sealed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

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

DESCRIPTION APPROVED
R. G. Anderson
 City Engineer

Greg Smith
 Notary Public in and for the State of Washington
 Residing at Tacoma
 in said County.

FORM APPROVED
Garrett C. Cross
 Asst. City Attorney

Filed for record Jan 27 1970 1 32 PM
 Request of City of Tacoma
 Richard A. Greco, Pierce County Auditor

Handwritten notes: Handwritten Fee, OK

Handwritten notes: NW22-20-3, 1117

Handwritten note: 7-5549

Handwritten note: 003815

Handwritten note: 7cm

2330542



QUIT CLAIM DEED

TO
CITY OF TACOMA
ROOM 239

L. McDonald

dated _____, 19____

STATE OF WASHINGTON, } ss

County of _____

Received for record this _____

day of _____, 19____

o'clock _____, and recorded at request

of _____

Page _____

of _____
Deed Records of said County.

County Auditor

Deputy Auditor

L

RECORDED
1932
NOV 10 11 32 AM '32
PIERCE COUNTY WASHINGTON

SPECIAL COUNTY TREASURER'S DEED

STATE OF WASHINGTON)
) SS.
County of Pierce)

THIS INDENTURE, made this 19th day of November, 1971, between MAURICE RAYMOND, as Treasurer of Pierce County, State of Washington, party of the first part, and the CITY OF TACOMA, a municipal corporation of the State of Washington, party of the second part,

W I T N E S S E T H: WHEREAS, by Resolution No. 15387, bearing date of November 16, 1971, the Board of County Commissioners of Pierce County, Washington, deemed it for the best interest of said County to sell that certain property hereinafter described to the City of Tacoma; and

WHEREAS, said property is tax title property and Section 84.64.320 Revised Code of Washington provides for the disposal of Tax Foreclosure property to any governmental agency for public purposes by private negotiation without call for bids, for not less than the principal amount of the unpaid taxes; and

WHEREAS, the principal amount of unpaid taxes on the following described property does not exceed the sum of Seventeen and No/100 (\$17.00) - - - - - Dollars and it has been determined that said amount is a reasonable price for said property; and

WHEREAS, by resolution above mentioned the Board of County Commissioners of Pierce County directed the County Treasurer to issue a Special County Treasurer's deed, conveying to the City of Tacoma the aforementioned tax title property for and in consideration of the sum of Seventeen and No/100 (\$17.00) - - - - - Dollars, in accordance with and as provided for by Section 84.64.320 Revised Code of Washington; now, therefore

KNOW YE that Maurice Raymond, Treasurer of Pierce County, Washington, in consideration of the sum of Seventeen and No/100 (\$17.00) - - - - - Dollars, does by these presents remise, release and quit claim unto the said party of the second part, the following described real estate, situate in the County of Pierce, State of Washington, to-wit:

The West 30 feet of the East 130 feet of the Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section 22, Township 20 North, Range 3 East of the W. M.

EXCISE TAXE EXMPT DATE 11-19-71
MAURICE RAYMOND, Pierce Co. Treasurer

BY R Beckman DEPUTY

(70) D-5937

52-20-3

street

NW 22-20-3

1117

U4166

Hand to the City
Killing Machine
City of ...

3-1

Blomquist

PIERCE COUNTY WASH.
DEPUTY

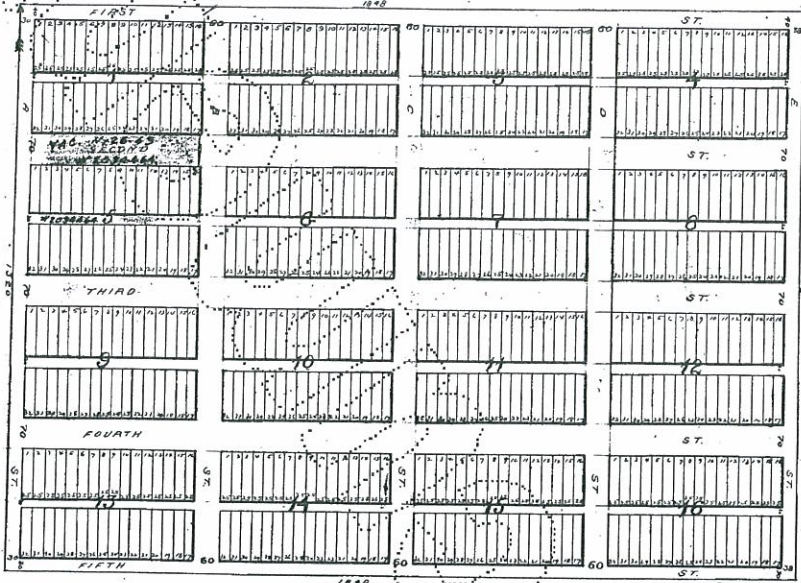
NOV 19 PM 2:53

REQUEST

RECORDED
OF

2420973
DEED
K 2

REPLAT OF TISDALE AND HAUKE'S ADDITION TO THE CITY OF NEW TACOMA.



FIELD NOTES

Commencing at the N.W. Corner of the S.W. 1/4 of the N.W. 1/4 of Sec. 22 T. 20 N. R. 3 E. thence South 1320 ft. to a point, thence East 1890 ft. to a point, thence North 1320 ft. to a point, thence West 1890 ft. to place of beginning containing 56 acres.

Know all men by these presents, that W. H. Tisdale and R. C. Tisdale his wife of the County of Pierce in the Terr. of Wash. and Carrie K. Hauke and Chas. P. Hauke her husband of the County of Pierce Washington Territory have laid off into

seven lots, Streets and Alleys and 16 thirty day off into town lots, streets and Alleys as delineated and shown on this plat the following described tract of land situated and being in the County of Pierce and Territory of Washington viz: The S.W. 1/4 of the N.W. 1/4 and 16 acres off of the west end of the S.E. 1/4 of the N.W. 1/4 of Sec. 22 in Township 20 N. of Range 3 East W.W. This said land, as so laid off to be known as Tisdale and Hauke's Addition to Tacoma. Streets B, C and D are 30 ft. wide, E St. is 38 ft. N. St. is 30 ft. 2nd, 3rd and 4th Sts. are 70 ft. 1st is 40 ft. 5th St. is 30 ft. all alleys are 20 ft. The blocks are 100 x 260 ft. and numbered from 1 to 16 all lots are 25 x 120 ft. and numbered from 1 to 32.

Witness our hands this 28th day of September A. D. 1889

Witness { Mrs. Jewell Calstead
D. P. Murray

W. H. Tisdale
R. C. Tisdale
Carrie K. Hauke
Chas. P. Hauke

Territory of Washington }
County of Pierce } ss. On this 28th day of September A. D. 1889 personally appeared before me a Notary Public in and for Washington Territory, W. H. Tisdale and R. C. Tisdale his wife, and Carrie K. Hauke and Chas. P. Hauke, her husband to me known to be the individuals who signed the above instrument of dedication and acknowledged the same to be their free act and deed

In Witness whereof I have hereunto set my hand and affixed my official seal, the day and year first above written in this certificate

D. P. Murray

Notary Public in and for W. T.



This plat is re-recorded this 30th day of Sept. A. D. 1889 for the sole purpose of correcting an error consisting of an omission of the Notarial Seal. see page 78 of Volume 1. Record of Plat

Filed at the request of W. H. Tisdale this 30th day of September A. D. 1889, at 50 min past 11 o'clock A. M.

Edward Hoeggins
Auditor, Pierce Co. W. T.
By W. H. Hollister

For reference only, not for re-sale.

Cornforth, Ronda

From: Fletcher, Gloria
Sent: Monday, February 09, 2015 11:53 AM
To: Cornforth, Ronda
Cc: Angel, Jesse
Subject: RE: Departmental/Agency Transmittal - PLT2014-40000233559 - Balmelli Engineering - 1239 East 54th Street - Heritage Gardens 38-lot Plat

Hi Ronda,

Based on the preliminary review of the above-referenced plat, and pursuant to the comments below, Tacoma Water will be requesting a water main installation along L Street, between 52nd and 54th. There will be no easement reservation necessary within the proposed vacation area for this infrastructure. Please revise the previous advisory comment accordingly.

Thank You,
-Gloria

From: Cornforth, Ronda
Sent: Monday, February 09, 2015 9:59 AM
To: Fletcher, Gloria
Subject: FW: Departmental/Agency Transmittal - PLT2014-40000233559 - Balmelli Engineering - 1239 East 54th Street - Heritage Gardens 38-lot Plat

Gloria,

Below are the Water comments for the plat of Heritage Gardens – can you amend the Water conditions for the street vacation 124.1342 based on the below comments.

From: Angel, Jesse
Sent: Monday, February 09, 2015 6:40 AM
To: Kinlow, Charla
Subject: RE: Departmental/Agency Transmittal - PLT2014-40000233559 - Balmelli Engineering - 1239 East 54th Street - Heritage Gardens 38-lot Plat

Tacoma Water has reviewed the proposed request and has the following comments:

City ordinance 12.10.045 requires a separate water service and meter for each parcel.

Based on the provided site plan new water mains will need to be installed in the following streets to serve this development by way of the Private Contract process:

- E. 52nd St. from E. L St. to E. M. St.**
- E. L St. from E. 52nd St. E to E. 54th St.**
- E. M St. from E. 52nd St. E to E. 54th St.**

Meters for lots 33-38 will be placed at the north ROW line E. 54th St. and customer will be required to connect to property through private easements.

Extension of a permanent water main may be constructed by private contract. The developer of the privately financed project will be responsible for all costs and expenses incurred by Tacoma Water for preparation of

plans and specifications, construction inspection, testing, flushing, sampling of the mains, and other related work necessary to complete the new water main construction to Tacoma Water standards and specifications. The engineering charge for the preparation of plans and specifications will be estimated by Tacoma Water. The developer will be required to pay a deposit in the amount of the estimated cost. The actual costs for the work will be billed against the developer's deposit. The new mains will be installed by and at the expense of the developer. The developer will be required to provide a 20-foot wide easement over the entire length of the water main, fire hydrant, service laterals and meters. The developers Professional Land Surveyor shall prepare and submit the legal description of the easement to Tacoma Water for review and processing. Prior to construction, a second deposit in the estimated amount for construction inspection, testing, and sampling will be due to Tacoma Water. Upon completion of the project, the developer will either be refunded the unused amount of the deposit or billed the cost overrun. Approximate design time is ten weeks.

Customer is advised to obtain private utility easements for any property-side water pipes leading from the City meter to the building on any portion(s) existing on adjacent parcels.

If fire sprinklering, contact the Tacoma Water Permit Counter at (253) 502-8247 for policies related to combination fire/domestic water service connections.

New water services will be installed by Tacoma Water after payment of the Service Construction Charge and the Water Main Charge. New meters will be installed by Tacoma Water after payment of the System Development Charge.

If a new fire hydrant is required at a location with an existing water main, the hydrant will be installed by Tacoma Water after payment of an installation charge.

If existing water facilities need to be relocated or adjusted due to street improvements for this proposal they will be relocated by Tacoma Water at the owners' expense.

Sanitary sewer mains and sidesewers shall maintain a minimum horizontal separation of ten feet from all water mains and water services. When extraordinary circumstances dictate the minimum horizontal separation is not achievable, the methods of protecting water facilities shall be in accordance with the most current State of Washington, Department of Ecology "Criteria For Sewage Works Design".

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](#)

From: Kinlow, Charla

Sent: Wednesday, February 04, 2015 4:10 PM

To: Angel, Jesse

Subject: FW: Departmental/Agency Transmittal - PLT2014-40000233559 - Balmelli Engineering - 1239 East 54th Street - Heritage Gardens 38-lot Plat

Importance: High

Hi Jesse,

I didn't get any comments from Tacoma Water on this one. It looks like I may have left you off of the original transmittal email. It is associated with the Street Vacation that Ronda is processing. Ronda and Gloria met earlier today to discuss. **Would you be able to send me comments for the Plat by the end of the week?** I am working with Ronda to combine our Hearings for the project. Sorry for missing you in the earlier transmittal, not sure what happened there.

Additionally, they have updated their site plan from their original proposal and are now showing 38 lots (see attached).



TO: ALL CONCERNED AGENCIES & DEPARTMENTS

**FROM: RJ CORNFORTH
PUBLIC WORKS /REAL PROPERTY SERVICES**

SUBJECT: STREET VACATION REQUEST NO. 124.1342

DATE: December 15, 2014

Real Property Services has received a petition to vacate a portion of East "L" Street, lying between East 52nd and East 54th Streets, in connection with future residential development, as shown on the vicinity maps attached to this email.

The Petitioner proposes to add the lands to be vacated to the adjoining lands to the East for the purpose of residential development. **NOTE: Petitioner has requested vacation strip widths ranging between 22-35 feet – actual width has not been decided on. Please review for full extent of 35 feet.**

In order to be considered, your comments must be received by **Real Property Services, TMB, Room 737, by January 12, 2015**. 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

_____ 2-11-2015 _____ Date

_____ *[Signature]* _____ Signature

_____ PW/R E SERVICES _____ Department

The area to be vacated has not been assessed for sanitary sewer. How each lot is sewerd will detemir a connection charge in lieu of assessment is applicab

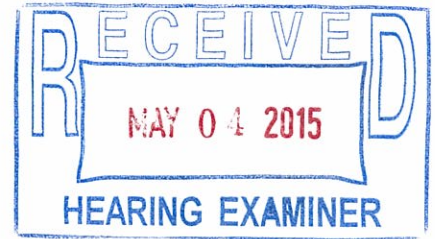


TO: Phyllis Macleod, Hearing Examiner

FROM: Ronda Cornforth, Sr. Real Estate Specialist *RC*

SUBJECT: Street Vacation Petition 124.1342

DATE: May 4, 2015



Background:

At the Public Hearings held on April 9, 2015 for both the Street Vacation Petition and Preliminary Plat of Heritage Gardens the Examiner was presented with conflicting information as the true and accurate right of way width of East "L" Street. As such the Examiner held the record open providing staff an opportunity to research and respond correcting the conflict.

It has been determined that a previously undisclosed 5' strip of land, lying in the center of the East "L" Street right of way had never been conveyed to the City of Tacoma. Westerly of this undisclosed 5' strip lies the Plat of Tisdale & Hauke's Addition, easterly of this undisclosed 5' strip lies the right of way acquired from Pierce County by Special Treasurer's Deed in 1970. There is no record as to whether or not the County intended to include this 5' strip.

The developer had anticipated that the City would take title to this undisclosed 5' strip by prescriptive rights, and as such indicated that East "L" Street was 95' in width. The City however, unable to rely on prescription, only has jurisdiction currently over the 90' of record.

In an effort to remove the cloud on title and proceed with both the Street Vacation Action and the Preliminary Plat with the least amount of revisions, to either report, the applicant has agreed to execute a Deed to the City of Tacoma as to any interest they may hold in the 5' strip in question. Deed is attached hereto in Substantive form and referenced as Exhibit 9.

Pursuant to the above, Real Property Services requests that the below Supplemental be admitted into the record for Examiner consideration as conditions of approval for both the Street Vacation and Preliminary Plat. Further, Real Property Services requests admission into record Deed 7282 referenced as Exhibit 9, and the substitution of the Exhibit List now reflecting such Deed.

Supplemental to Preliminary Staff Report

J. Recommended Conditions of Approval:

4. Public Works

a. Please contact Ronda Cornforth at (253) 591-5052 regarding Public Works' comments.

a. Developer is required to convey any interest they may hold in the 5' undisclosed area within the right of way. Deed provided is substantive form and referenced as D-7282.

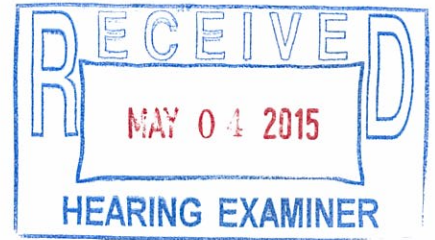
Attachments: Deed 7282
Exhibit List

ORIGINAL

EX.9

WHEN RECORDED RETURN TO:

City of Tacoma
Public Works Department
Real Property Services
747 Market Street, Room 737
Tacoma WA 98402-3701



Document Title:	DEED
Grantor:	CFW, LLC
Grantee:	CITY OF TACOMA
Legal Description:	Northwest Quarter of Section 22, Township 20 North, Range 03 East, W. M.
Additional Legal Description:	SEE PAGE 4, EXHIBIT "A"
Assessor's Tax Parcel Number:	Adjacent 032022-212-6

RIGHT OF WAY DEED NO. 7282

The **GRANTOR, CFW, LLC, a Washington limited liability company**, as owner of the real property legally described herein, for and in consideration of mutual and offsetting benefits, the receipt and sufficiency of which are hereby acknowledged, hereby dedicates to **GRANTEE, the CITY OF TACOMA**, a municipal corporation of the State of Washington, that certain real property legally described in Exhibit "A" attached hereto and by this reference incorporated herein, including any after acquired title that may be relevant to the dedication hereby granted, as and for public right of way, to be used for all lawful right of way purposes including, but not limited to, public roads, streets, surface transportation and associated uses as well as the installation, operation and maintenance of utilities, over, under, and along the herein described real property in the City of Tacoma, County of Pierce, State of Washington:

It is understood and agreed that the delivery of this deed is hereby tendered and it shall not become binding upon the City of Tacoma unless and until accepted by its Public Works Director or his designee.

ORIGINAL

GRANTEE:

CITY OF TACOMA

ACCEPTED:

Jeffrey A. Jenkins
Asst. Public Works Director

APPROVED:

Chris Larson, P.E.
Engineering Division Manager

Justin E. Davis
Facilities Division Manager

Saada Gegoux
Risk Manager

Approved as to Form:

Deputy City Attorney

Legal Description Approved:

Leonard J. Webster, P. L. S.
Chief Surveyor

EXHIBIT "A"

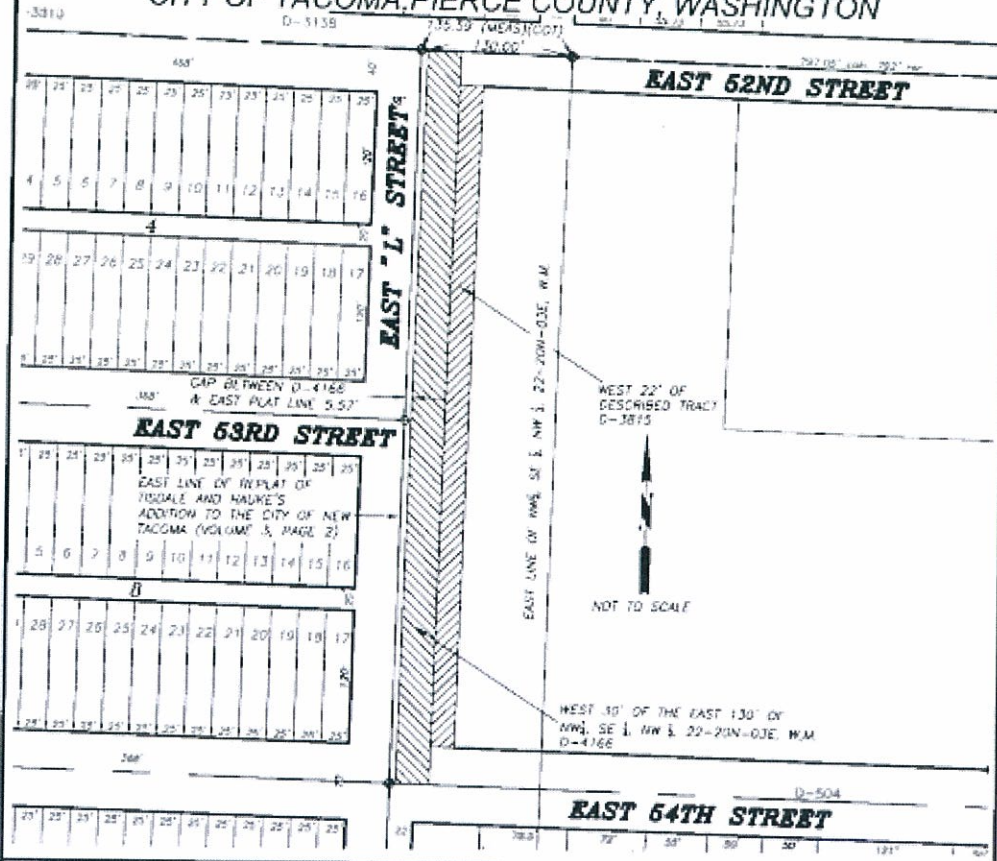
LEGAL DESCRIPTION

That portion of the Northwest quarter of the Southeast quarter of the Northwest quarter of Section 22, Township 20 North, Range 03 East, W.M. more particularly described as follows:

The West 5.57 feet of the East 135.57 feet of the Northwest quarter of the Southeast quarter of the Northwest quarter of Section 22, Township 20 North, Range 03 East, W.M.

Situate in the City of Tacoma, County of Pierce, State of Washington

EXHIBIT B
DEPICTION OF DEED GAP ON EAST L STREET
 NW $\frac{1}{4}$ of SE $\frac{1}{4}$ of NW $\frac{1}{4}$ SECTION 22, TOWNSHIP 20 N, RANGE 03 W.M.
 CITY OF TACOMA, PIERCE COUNTY, WASHINGTON



City of Tacoma
 Department of Public Works
 747 Market Street
 Tacoma, WA 98402-3769
 (253) 591-5772
<http://www.cityoftacoma.org>

File Name:
 DEED 7282 EXHIBIT
 Drawn By: LIW
 Date: 04/30/15
 Page 1 of 1

LEONARD J. WEBSTER
 STATE OF WASHINGTON
 38486
 REGISTERED
 PROFESSIONAL LAND SURVEYOR
 DATE SIGNED: 4/30/15

Legg, Louisa

From: Hearing Examiner
Sent: Wednesday, April 29, 2015 10:52 AM
To: 'Tony Balmelli'; Kinlow, Charla; 'ryanwill100@gmail.com'; 'martin@mburnslaw.com'; Cornforth, Ronda
Cc: Carrara, Deborah
Subject: RE: HEX2014-013 (124.1242) CFW, LLC; HEX2014-037 (PLT2014-40000233559 & SEP2014-40000233880) Balmelli Engineering - HERITAGE GARDENS

Thank you for the quick response and no further information is needed from you. I confirmed with the Examiner that the two week extension is official and ends May 12, 2015.

Best regards,

Louisa Legg

From: Tony Balmelli [mailto:tonybalmelli@comcast.net]
Sent: Wednesday, April 29, 2015 9:20 AM
To: Hearing Examiner; Kinlow, Charla; ryanwill100@gmail.com; martin@mburnslaw.com; Cornforth, Ronda
Subject: Re: HEX2014-013 (124.1242) CFW, LLC; HEX2014-037 (PLT2014-40000233559 & SEP2014-40000233880) Balmelli Engineering - HERITAGE GARDENS

Madam Examiner,

On behalf of the Petitioner/Applicant, I give permission to the 2 week extension request for the evidentiary record to be held open until May 12, 2015. Please let us know if you require any additional information regarding this matter.

Sincerely,

Tony Balmelli

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

From: [Hearing Examiner](#)
To: [Kinlow, Charla](#) ; tonybalmelli@comcast.net ; ryanwill100@gmail.com ; martin@mburnslaw.com ; [Cornforth, Ronda](#)
Sent: Wednesday, April 29, 2015 8:49 AM
Subject: RE: HEX2014-013 (124.1242) CFW, LLC; HEX2014-037 (PLT2014-40000233559 & SEP2014-40000233880) Balmelli Engineering - HERITAGE GARDENS

Thank you Ms. Kinlow. I will give the information to the Hearing Examiner.

Mr. Balmelli: I apologize that you didn't immediately receive yesterday's message from the Hearing Examiner's Office. As you know, it was due to a typographical error in your email address that has since been corrected. Thanks for alerting the Examiner's Office to the problem and it's good to learn you received the original message that I forwarded to the correct email address.) As you know, Real Property Services (RPS) has requested a two week extension of the evidentiary record's closure. As a reminder, the Examiner has conditionally granted RPS' request based upon the Petitioner/Applicant's response to it, therefore, your immediate attention to this matter is appreciated. Thank you.

ORIGINAL

EX.9

Sincerely,

Louisa Legg

Office of the Hearing Examiner

City of Tacoma

P: 253-591-5195

Hearing.examiner@cityoftacoma.org

From: Kinlow, Charla

Sent: Tuesday, April 28, 2015 4:59 PM

To: Hearing Examiner

Subject: RE: HEX2014-013 (124.1242) CFW, LLC; HEX2014-037 (PLT2014-40000233559 & SEP2014-40000233880)
Balmelli Engineering - HERITAGE GARDENS

I am not sure if you've heard back from the applicant or not yet on this one, but wanted to address the other items in writing in case additional time is not granted.

The applicant and the City have both confirmed that the average lot size in the current proposal is **5,529 square feet**.

The Comprehensive Plan locates the outer portions of the site within the "Tier 1" Primary Growth Area and the area in the middle of the City block as "**Tier 2" Secondary Growth Area**."

As indicated by RPS, there is a "deed gap" that resulted in the 5 foot discrepancy that was noted. The City and the applicant are currently working on a remedy to that issue.

Charla Kinlow

Planning and Development Services

253-594-7971

From: Hearing Examiner

Sent: Tuesday, April 28, 2015 2:08 PM

To: Cornforth, Ronda; Hearing Examiner; martin@mburnslaw.com; tonybalmelli@comcaset.net; Kinlow, Charla; ryanwill100@gmail.com

Cc: Carrara, Deborah

Subject: RE: HEX2014-013 (124.1242) CFW, LLC; HEX2014-037 (PLT2014-40000233559 & SEP2014-40000233880)
Balmelli Engineering - HERITAGE GARDENS

Importance: High

To the Parties,

The Hearing Examiner grants Real Property Services' two week extension request on the condition the Petitioner/Applicant is in agreement. The Petitioner/Applicant's written response, whether a confirmation or an objection, must be made promptly and an email is acceptable. If the Petitioner/Applicant is in agreement, the evidentiary record will held open until May 12, 2015, however, if there is an objection raised, the Hearing Examiner will need to advise further.

Sincerely,

Louisa Legg

Office of the Hearing Examiner

City of Tacoma

P: 253-591-5195

From: Cornforth, Ronda
Sent: Monday, April 27, 2015 11:33 AM
To: Hearing Examiner; martin@mburnslaw.com; tonybalmelli@comcaset.net; Kinlow, Charla; ryanwill100@gmail.com
Cc: Carrara, Deborah
Subject: RE: HEX2014-013 (124.1242) CFW, LLC; HEX2014-037 (PLT2014-40000233559 & SEP2014-40000233880) Balmelli Engineering - HERITAGE GARDENS

Madam Examiner,

Real Property Services requests a 2 week extension of the April 28, 2015 submission date as noted below. The City's Legal and Survey review, of information received regarding the 5' discrepancy, was completed this morning; however, Real Property Services has not had opportunity to discuss options of remedy with the applicant as yet.

Your favorable consideration to this requested extension is greatly appreciated.

R. J. Cornforth
City of Tacoma, Public Works
Real Property Services

The meek shall inherit the Earth, but not its mineral rights.

From: Hearing Examiner
Sent: Wednesday, April 15, 2015 9:49 AM
To: martin@mburnslaw.com; tonybalmelli@comcaset.net; Cornforth, Ronda; Kinlow, Charla; ryanwill100@gmail.com
Cc: Carrara, Deborah
Subject: HEX2014-013 (124.1242) CFW, LLC; HEX2014-037 (PLT2014-40000233559 & SEP2014-40000233880) Balmelli Engineering - HERITAGE GARDENS
Importance: High

Good Morning,

I'm sending the following message on behalf of the Hearing Examiner:

To the Parties,

The Hearing Examiner is reopening the evidentiary record in the above referenced matters for clarification from the Applicant/Petitioner, the City's Planning and Development Services Department (PDSD), and Real Property Services on two items: 1) the width of E. L Street; and 2) the accurate figure for the proposed plat's average lot size. The City's Real Property Services' staff report indicates the right-of-way width of E. L Street is 90 feet, however, PSDS's staff report reflects a width of 95 feet. In regards to the average lot size, a discrepancy exists between the preliminary plat's average lot size on the face of the Preliminary Plat Map (Ex. 3) and the size contained in the PSDS's staff report (Ex. 1). Please confer between the parties and prepare a supplement to the record addressing these two issues. The submission should be filed no later than April 28, 2015. After the filing, the evidentiary record will be closed and the decision finalized. Thank you for your attention to this request.

Phyllis Macleod
Hearing Examiner

Sincerely,

Louisa Legg

Office of the Hearing Examiner

City of Tacoma

P: 253-591-5195

Hearing.examiner@cityoftacoma.org