

**CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON**

AGENDA TITLE: Resolution No. 313 initiating vacation of 256 square feet of Aurora Avenue N, adjacent to 18551 Aurora Avenue North and setting a public hearing on vacation

DEPARTMENT: City Attorney's Office

PRESENTED BY: Ian R. Sievers, City Attorney

PROBLEM/ISSUE STATEMENT:

The existing building at 18551 Aurora Avenue North currently encroaches into Aurora Avenue North right-of-way. As part of the Aurora Corridor Project settlement for the property interests needed from 18551 Aurora Avenue North, staff agreed to proceed with the resolution method for a street vacation for a uniform strip of 256 square feet of unneeded right-of-way to resolve the encroachment.

The City Council is authorized to initiate a street vacation by resolution under Chapter 12.17 of the Shoreline Municipal Code. The first step in the street vacation process is for Council to pass a resolution fixing the time for a public hearing on the street vacation in front of the Shoreline Planning Commission. The Council resolution is before you tonight.

The proposed schedule for the street vacation process is as follows:

- March 7, 2011: City Council action on Resolution No. 313 initiating the street vacation process and fixing the time for a public hearing on vacation of a portion of Aurora Avenue North, adjacent to 18551 Aurora Avenue North.
- April 21, 2011: Shoreline Planning Commission public hearing on the proposed street vacation
- After the Planning Commission hearing and recommendation, the City Council conducts a closed record hearing and either approves or denies the street vacation.

FINANCIAL IMPACT:

A street vacation initiated by the City Council has no financial impact. The property owner has agreed to pay the fair market value of \$7,800 using current valuation for Aurora Project easement acquisitions.

ANALYSIS

It was discovered during survey for the Aurora Project south of 192nd Street that two building buttresses of the building located at 18551 Aurora Avenue North currently encroach into the Aurora Avenue right-of-way by about four inches. The encroachment

does not affect the City's design for the Aurora Corridor Project 185th – 192nd and the City does not need the encroachment area for construction of the Project.

As part of the Aurora Corridor Project N. 185th – N. 192nd, the City is building a high retaining wall adjacent to the property at 18551 Aurora Avenue North. The City is not acquiring a fee take from this property but does need a temporary construction easement, a retaining wall easement and a wall tie back easement. The parties have entered into a settlement agreement for these property interests. As part of the settlement agreement, the parties have agreed to pursue (via the resolution method) vacation of the encroachment area as part of a uniform strip of 256 square feet. The parties have agreed to reserve the \$7,800 vacation payment from the settlement payment for project acquisitions. Excess right-of-way after final project completion is rare but has been vacated before through the resolution method to allow maintenance by the adjacent owner and avoidance of liability for the City.

The 256 square feet subject to the vacation is located behind the City's retaining wall; the City does not need this excess 256 square feet for current or future road improvements and the area is actually inaccessible from the street.

The street vacation resolution method outlined in SMC Chapter 12.17 authorizes the City Council to propose a street vacation by resolution of intent to vacate. Under this street vacation resolution method, the City Council sets a public hearing before the Shoreline Planning Commission. The public hearing must be held no sooner than 20 days but no later than 60 days after the Council resolution is passed. Public notice of the hearing is posted in three conspicuous public places and mailed to each owner of the property within 500 feet of the proposed vacation.

At the conclusion of the public hearing in front of the Planning Commission, the Commission makes a written recommendation to the City Council. The City Council then holds a closed record hearing to determine whether to approve the street vacation.

The resolution before you tonight initiates the street vacation process and sets a public hearing before the Planning Commission on April 21, 2011. Council's actual decision on the street vacation will not take place until the Planning Commission has forwarded its recommendation and the Council holds its closed record hearing.

ALTERNATIVES CONSIDERED

This street vacation recommendation is part of the settlement agreement with this owner as part of Aurora acquisition, because staff wanted the owner's cooperation in resolving the encroachment. It is not a prerequisite of settling Project acquisitions, and the condemnation action has been concluded. If the Council does not ultimately approve the vacation, the vacation payment held in escrow will be paid to the owner and the encroachment will have to be resolved another way, such as: (1) City files a lawsuit to enforce a trespass in the right-of-way, forcing the property owner to remove the encroachment; or (2) City Council would be required to approve a long term lease of the right of way to the owner. The location of part of a principal use structure does not qualify for the administratively issued five-year right-of-way site permit under SMC Chapter 12.15. Since the engineering staff has determined the strip including the encroachment is surplus to the City's needs, the proposed vacation involves less administrative management and a permanent solution for a building with a long useful life. The proposed vacation is also consistent with vacations of right-of-way in mile one of the Aurora Project that were surplus to the needs of the Project and consistent with

the Development Code regulation which allows zero setbacks for buildings on Aurora once the project design is finalized.

RECOMMENDATION



Staff recommends the City Council approve Resolution No. 313 initiating the vacation of 256 square feet of Aurora Avenue North, adjacent to 18551 Aurora Avenue North, as defined in Exhibit A and depicted in Exhibit B.

ATTACHMENTS:

Attachment A: Resolution No. 313

Exhibit A

Exhibit B =

Approved By: City Manager  City Attorney 

RESOLUTION NO. 313

A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON, INITIATING REVIEW OF A STREET VACATION FOR A 256 SQUARE FEET AURORA AVENUE NORTH RIGHT-OF-WAY ADJACENT TO 18551 AURORA AVENUE NORTH; AND FIXING A PUBLIC HEARING DATE FOR THE VACATION

WHEREAS, the City Council may initiate a street vacation review by a resolution of intent under SMC 12.17.040 in lieu of a petition from two-thirds of abutting owners; and

WHEREAS, the City has identified a need to vacate a small portion of Aurora Avenue North adjacent to 18551 Aurora Avenue North to resolve an existing building encroachment in the existing right-of-way and the release of surplus and unusable right-of-way to private use; and

WHEREAS, the Council finds that a public hearing prior to consideration of final action shall be set before the Shoreline Planning Commission; NOW, THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON AS FOLLOWS:

Section 1. Vacation Proposed. The City Council declares its intent to consider the vacation of that portion of Aurora Avenue North adjacent to 18551 Aurora Avenue North described in Attachment A and depicted in Attachment B, following notice to the public and abutting owners as required by law and a public hearing.

Section 2. Hearing Date. A public hearing to take public comment on the vacation described in Section 1 is hereby set before the Shoreline Planning Commission for Thursday, April 21, 2010, to commence at 7:00 p.m., or as soon thereafter as the hearing may be held, in the Council Chambers at 17500 Midvale Avenue North, Shoreline, Washington 98133. Following the public hearing, the City Council shall consider the hearing record and the recommendation of the Planning Commission at a closed record hearing and take such action in regard to the vacation as may be deemed appropriate.

Section 3. Notice of Hearing. The City Clerk shall cause to be posted a notice containing a statement that the vacation has been initiated by the City Council describing the right-of-way proposed to be vacated, and the time and place of the hearing to consider the vacation at the times and locations set forth in SMC 12.17.020. The Notice shall further state that if 50 percent of the abutting property owners file written objection to the proposed vacation with the City Clerk prior to the Planning Commission hearing, the vacation proceeding will terminate.

ADOPTED BY THE CITY COUNCIL ON MARCH 7, 2011.

Mayor Keith McGlashan

ATTEST:

Scott Passey
City Clerk

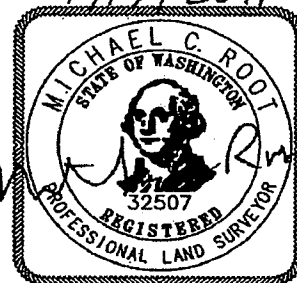
EXHIBIT A

PARCEL 407

PERMANENT RIGHT OF WAY VACATION BEING A PORTION OF THE EXISTING AURORA AVE NORTH RIGHT OF WAY TO BE CONVEYED TO THE OWNERS OF THE HEREINAFTER DESCRIBED TRACT "X" LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 6, TOWNSHIP 26 NORTH, RANGE 4 EAST, W.M., CITY OF SHORELINE, KING COUNTY, WASHINGTON; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF SAID AURORA AVE NORTH RIGHT OF WAY LYING WITHIN THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT ON THE EAST LINE OF SAID TRACT "X" OPPOSITE ENGINEERS STATION 274+20.09 AND 60.00 FEET WESTERLY MEASURED AT RIGHT ANGLES THEREFROM ON THE CENTERLINE OF AURORA AVENUE NORTH AS SHOWN ON THE RECORD OF SURVEY RECORDED UNDER AUDITOR'S FILE NUMBER 20080305900001, RECORDS OF KING COUNTY; THENCE EASTERLY TO A POINT OPPOSITE ENGINEERS STATION 274+20.09 ON SAID CENTERLINE AND 59.59 FEET WESTERLY THEREFROM; THENCE NORTHEASTERLY TO A POINT OPPOSITE ENGINEERS STATION 274+21.99 ON SAID CENTERLINE AND 58.48 FEET WESTERLY THEREFROM; THENCE NORTHERLY TO A POINT OPPOSITE ENGINEERS STATION 275+61, MORE OR LESS, ON SAID CENTERLINE AND 57.87 FEET WESTERLY THEREFROM; THENCE WESTERLY TO THE NORTHEAST CORNER OF SAID TRACT "X" OPPOSITE ENGINEERS STATION 275+61, MORE OR LESS, ON SAID CENTERLINE AND 60.00 FEET WESTERLY THEREFROM; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID TRACT "X" TO THE POINT OF BEGINNING, AND THE TERMINUS OF THIS LINE.

CONTAINING 256 SQUARE FEET MORE OR LESS.

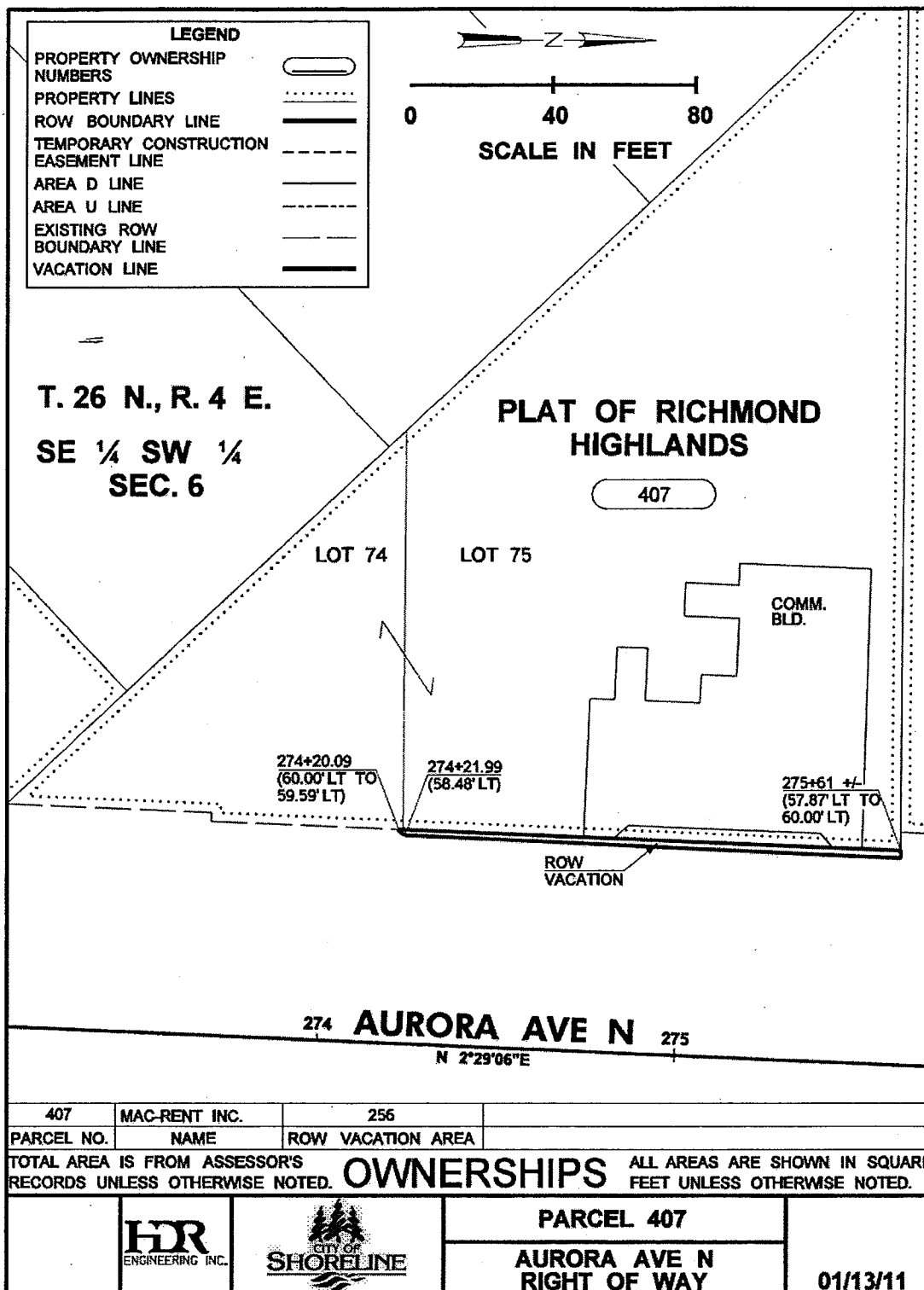


PARCEL 407

AURORA AVE N
RIGHT OF WAY

01/17/11

EXHIBIT B



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