
CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance 657, Vacating Unused Portion of Right-of-Way North of Intersection of NE 149 th St. and 30 th Ave. NE		
DEPARTMENT:	Planning & Community Development; City Attorney's Office		
PRESENTED BY:	Miranda Redinger, Senior Planner Ian Sievers, City Attorney		
ACTION:	<u> X </u> Ordinance	<u> </u> Resolution	<u> </u> Motion
	<u> </u> Discussion	<u> </u> Public Hearing	

BACKGROUND:

On July 23, 2012, staff presented to Council a private property owner petition for street vacation of a 3,788 square foot portion of unused right-of-way north of intersection of NE 149th St. and 30th Ave. NE. The Council passed Resolution 330 to initiate the street vacation process and fix a public hearing date before the Hearing Examiner. Materials from that meeting are available at [July 23 Street Vacation Staff Report](#).

The Hearing Examiner held a public hearing on September 5, 2012. No public comments were submitted. The Hearing Examiner submitted her recommendation to "Approve the proposed street vacation with no conditions" on September 7, 2012 (Attachment A).

The process for reviewing street vacations is described in Chapter 12.17 of the Shoreline Municipal Code and through State law (Chapter 35.79 RCW). After Council sets the hearing date, the Hearing Examiner holds an open record hearing, enters findings, and makes a recommendation based on the merits of the proposal and the decision criteria. The Council then holds a closed record meeting. No new testimony on the merits of the proposal will be taken by the Council in evaluation of the proposal.

RESOURCE/FINANCIAL IMPACT:

The petitioner has agreed to pay the fair market value of \$39,312 for the 3,788 sq.ft. of vacated right of way, subject to a Seattle City Light 631.3 sq. ft. utility easement to operate and maintain an existing overhead power line and one power pole and a 1515.12 sq. ft. Ronald Sewer District Easement for a sewer line within the vacation area. Fair market value for the proposed vacated right-of-way was determined using the valuation in the appraisal of real property after relocation of a power pole (\$5,430) which will allow the line to be located in the less obstructive easement. The owner will be required to make payment for the pole relocation directly to Seattle City Light. The easement forms have been approved by both utilities.

RECOMMENDATION:

Staff recommends that Council approve Ordinance No. 657 vacating unused right-of-way north of intersection of NE 149th St. and 30th Ave. NE., with the conditions of granting access easements to Ronald Sewer District and Seattle City Light.

Approved By: City Manager ***JU*** City Attorney ***IS***

DISCUSSION:

The petitioner, David Wagner, submitted a complete Street Vacation Petition and Affidavit on July 6, 2012. The initial application he submitted on December 13, 2011 was deemed incomplete by the City Attorney's Office because it contained signatures of two of the three property owners abutting the right of way, but these two owners did not own two-thirds of the total square footage of property abutting the right of way. In the intervening time, Mr. Wagner worked with the Church of Jesus Christ of Latter Day Saints to obtain their support for the proposal.

The process for reviewing street vacations is described in the Shoreline Municipal Code 12.17 and RCW Chapter 35.79. Per Section 197-11-800(2)(h) of the Washington Administrative Code (WAC), SEPA review is not required as part of this proposal. WAC Section 197-11-800(2)(h) specifically indicates that the vacation of streets or roads is exempt.

Staff notified utilities of the proposal to vacate and requested information regarding infrastructure that may require easements. Ronald Wastewater District responded that they would require an easement prior to the Hearing Examiner public hearing. Seattle City Light failed to notify the City of their need for an easement until December 2012. Both easements are reflected in the assessed fair market value of \$39,312. If the street vacation is approved, these necessary utility easements to be retained would be recorded concurrently with the vacation.

A street vacation transfers ownership and control of the right-of-way to those adjacent properties that originally dedicated the street. In this instance, the property adjacent to the western boundary of the proposed vacation, the Church of Jesus Christ of Latter Day Saints, did not dedicate property to the right-of-way when it was established, and therefore has no claim to vacated property. Attachment C of the September 5, 2012 Hearing Examiner staff report includes platting documents from the original dedication.

The Church had a chain-link fence, a paved drive, a gate, and a post, which encroached onto the right-of-way that is the subject of the proposed vacation. The Church sent Mr. Wagner a letter on July 5, 2012 stating their intention to remove these items; this work has been done.

CRITERIA FOR STREET VACATION APPROVAL

The criteria for approving Street Vacations are described in Shoreline Municipal Code 12.17.050, and Council may approve the Street Vacation if the following criteria are met:

(Petitioner responses are included below; when applicable, additional staff comment follows in *italics*.)

CRITERIA 1

The vacation will benefit the public interest.

A new structure (House) would be built on the property. This would stop people from crossing the property and climbing the fence to cut through the Cemetery.

Taxes would go up on the property from the development which in turn would benefit the Shoreline residents by means of added dollars for Fire, Police, Parks, Schools, etc.

CRITERIA 2

The proposed vacation will not be detrimental to traffic circulation, access, emergency services, utility facilities, or other similar right-of-way purposes.

This will be a single family residence so it will not increase public traffic. I am building a house for myself to live in so my elderly parents can live in the existing rambler style home that I currently live in (3004 NE 149th St., Shoreline, WA 98155).

The right-of-way (street) was never opened or used as a right-of-way. No emergency vehicles ever use this property of area.

Staff confirmed with the Shoreline Fire Department that emergency services have no need for this right-of-way and no objection to the proposed vacation. Staff also received a memo from the Public Works Department (Attachment E ~~of 7/23/12~~ stating that they also have no objection to the proposed vacation.

A letter was sent to all utility providers requesting comments and conditions necessary to ensure that the proposed street vacation would not be detrimental to their facilities. Requisite utility easements are recommended as a condition of approval of the vacation.

CRITERIA 3

The street or alley is not a necessary part of a long-range circulation plan or pedestrian/bicycle plan.

There is no plan for Pedestrians or bicycle paths.

CRITERIA 4

The subject vacation is consistent with the adopted comprehensive plan and adopted street standards.

In reference to the adopted comprehensive plan, I feel this would add to the neighborhood in a positive way as far as growth as it would not create an "overgrowth" to the area. This is going to be a single family home not a multi family home.

As far as street standards go, there will be a driveway to the home off of the existing street.

There are no policies in the Comprehensive Plan that specifically address street vacations. However, a Subarea Plan was adopted (as part of the Comprehensive Plan) in May 2010, and this property falls within its boundaries and purview. The following policies from the Southeast Neighborhoods Subarea Plan have some applicability to the proposed vacation. A common theme is that the neighborhood has expressed strong preference for single-family development, like the kind proposed by the petitioner, as opposed to more dense housing options.

LU10: Quality of life for current residents in the subarea should be considered in decision-making processes that involve new development in the community, even though decisions must also take into account overall land use goals and the economic needs of the City as a whole.

H2: New housing development that is added in the center of established neighborhoods of the SE Subarea should be consistent with neighborhood character. Lot size to structure ratios and the scale of building are important.

CD2: Development & Land Use designs and patterns should contribute to the vitality of the area as a whole, serving the broader community and immediately adjacent neighbors, using compatibility criteria and incentives to be determined.

RECOMMENDATION

Staff recommends that Council approve Ordinance No. 657 vacating unused right-of-way north of intersection of NE 149th St. and 30th Ave. NE., with the conditions of granting access easements to Ronald Sewer District and Seattle City Light.

ATTACHMENTS

Attachment A: Hearing Examiner Recommendation

Attachment B: Ordinance No. 657

**CITY OF SHORELINE HEARING EXAMINER
FINDINGS, CONCLUSIONS AND RECOMMENDATION**

PROPOSAL INFORMATION SUMMARY

Project: Vacation of a 3,810 square foot unused portion of 30th Avenue NE north of NE 149th Street

File Number: 201880

Petitioner: David J. Wagner

Recommendations: Department: Approve without conditions
Hearing Examiner Approve without conditions

Public Hearing: September 5, 2012

Introduction

David J. Wagner, a private property owner, filed a petition to vacate a 3,810 square foot portion of unused right-of-way north of the intersection of NE 149th Street and 30th Avenue NE. The City Council passed Resolution 330 to initiate the street vacation process and fix the date for the Hearing Examiner's public hearing on the proposed vacation. The hearing was held on September 5, 2012, and the Hearing Examiner inspected the site on the same date. Mr. Wagner represented himself, and the Department was represented by Miranda Redinger, Associate Planner.

For purposes of this recommendation, all section numbers refer to the Shoreline Municipal Code (SMC or Code) unless otherwise indicated. After considering the evidence in the record, the Examiner enters the following findings of fact, conclusions and recommendation on the petition.

Findings of Fact

1. The street vacation process is controlled by Chapter 35.79 RCW and Chapter 12.17 SMC, which largely duplicates certain provisions of the state law.
2. The petitioner currently lives in a one-story residence adjacent to the property proposed for vacation. He intends to move his elderly parents into his current residence and construct a two-story single family residence for his own family on the vacated parcel.
3. The Acacia Memorial Park and Funeral Home, which owns the abutting property to the north, has joined in the application for the vacation.

4. The other abutting owner, the Church of Jesus Christ of Latter Day Saints (Church), did not dedicate land to the right-of-way and thus, has no claim to the vacated property.

5. The Church's chain-link fence, paved drive, gate, and a post encroached into the right-of-way. By e-mail of July 5, 2012, the Church agreed to remove the encroachments, and by the time of the hearing, they had all been removed.

6. The Department notified utility providers with facilities in or near the subject right-of-way of the vacation petition. Ronald Wastewater District responded, indicating that it has facilities in the right-of-way and will require an easement to access and maintain them.

7. The Department confirmed with the Shoreline Fire Department that the Fire Department has no need for the right-of-way for provision of emergency services and no objection to the proposed vacation.

8. The City's Public Works Department stated in a memorandum dated November 18, 2011 that it has no objection to the proposed vacation.

9. The Department posted a public hearing notice and request for written comments on the property on August 15, 2012 and mailed notice to property owners within 500 feet of the proposed vacation area on August 17, 2012. No written comments were received, and no members of the public appeared at the hearing.

10. The City's Comprehensive Plan does not specifically address street vacations. However, several policies in the Southeast Neighborhood Subarea Plan are relevant to the proposed vacation, including the following:

LU10: Quality of life for current residents in the subarea should be considered in decision-making processes that involve new development in the community, even though decisions must also take into account overall land use goals and economic needs of the City as a whole.

H2: New housing development that is added in the center of established neighborhoods of the SE Subarea should be consistent with neighborhood character. Lot size to structure ratios and the scale of building are important.

H5: Because existing housing tends to be more affordable than new construction, remodeling and refurbishing current stock should be encouraged over demolition and redevelopment.

11. The City's SEPA official determined that the proposed street vacation is categorically exempt from SEPA as provided in WAC 197-11-800.

12. The Department recommended approval of the vacation without conditions.

Conclusions

1. The criteria for approval of a street vacation are set forth in SMC 12.17.050. Each of the following criteria must be met:

- A. The vacation will benefit the public interest;
- B. The proposed vacation will not be detrimental to traffic, circulation, access, emergency services, utility facilities, or other similar right-of-way purposes;
- C. The street or alley is not a necessary part of a long-range circulation plan or pedestrian/bicycle plan; and
- D. The subject vacation is consistent with the adopted comprehensive plan and adopted street standards.

2. The proposed vacation of the subject property would benefit the public interest in that the property would generate tax revenue that is not collected under public ownership.

3. There is no evidence that the proposed vacation would be detrimental to traffic circulation, access, emergency services, utility facilities or other similar right-of-way purposes. Utility providers, as well as the Shoreline Fire Department and Public Works Department have indicated that they have no objection to the vacation.


4. There is no evidence that the parcel is a necessary part of the long-range circulation plan or pedestrian/bicycle plan. Again, the Public Works Department indicated no objection to the vacation, and the Department of Planning and Community Development recommends approval of the vacation.

5. The proposed vacation is consistent with applicable Comprehensive Plan policies that indicate a strong preference for consistency of development in residential areas and retention of existing housing stock. The petitioner's retention of his existing single-family residence, and construction of a new single-family residence on the subject property, would be compatible with these policies. Since the Public Works Department has no objection to the vacation, it can be inferred that the vacation is consistent with adopted street standards.

Recommendation

The Hearing Examiner recommends that the City Council **APPROVE** the proposed street vacation without conditions.

Entered this 7th day of September, 2012.


Sue A. Tanner
Hearing Examiner

ORDINANCE NO. 657

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON,
STREET VACATING 3,788 SQUARE FEET OF 30TH AVENUE
NORTHEAST RIGHT-OF-WAY NORTH OF ITS INTERSECTION WITH
NORTHEAST 149TH STREET**

WHEREAS, the City Council adopted Resolution No. 330 on July 23, 2012 initiating a street vacation for 3,788 square feet 30TH Ave Northeast right-of-way north of NE 149th St.; and

WHEREAS, on September 5, 2012 the Hearing Examiner held a public hearing on the proposed street vacation and recommended approval of the vacation; and

WHEREAS, the City Council held a closed record hearing on April 15, 2013 to consider the recommendation of the Hearing Examiner to approve the vacation; and

WHEREAS, the City Council has determined that the public interest is served by this vacation as the right-of-way subject to this vacation is not part of the long range circulation plan or pedestrian/bicycle plan; the subject right-of-way is surplus to the present and future transportation needs of the City and adequate easements have been reserved for existing utilities; now therefore

**THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO
ORDAIN AS FOLLOWS:**

Section 1. Findings. The City Council concurs in the findings and conclusions by the Hearing Examiner on September 5, 2012 and adopts the same by reference herein as the Council's findings and conclusions.

Section 2. Vacation. The right-of-way described and depicted in Exhibit A attached hereto consisting of approximately 3,788 square feet is hereby vacated subject to easements for sewer and aerial power lines as approved by Ronald Sewer District and Seattle City Light respectively.

Section 3. Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force 5 days from publication, and a Declaration of Street Vacation shall be filed with the King County Office of Records and Elections.

PASSED BY THE CITY COUNCIL ON APRIL 15, 2013.

Mayor Keith McGlashan

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

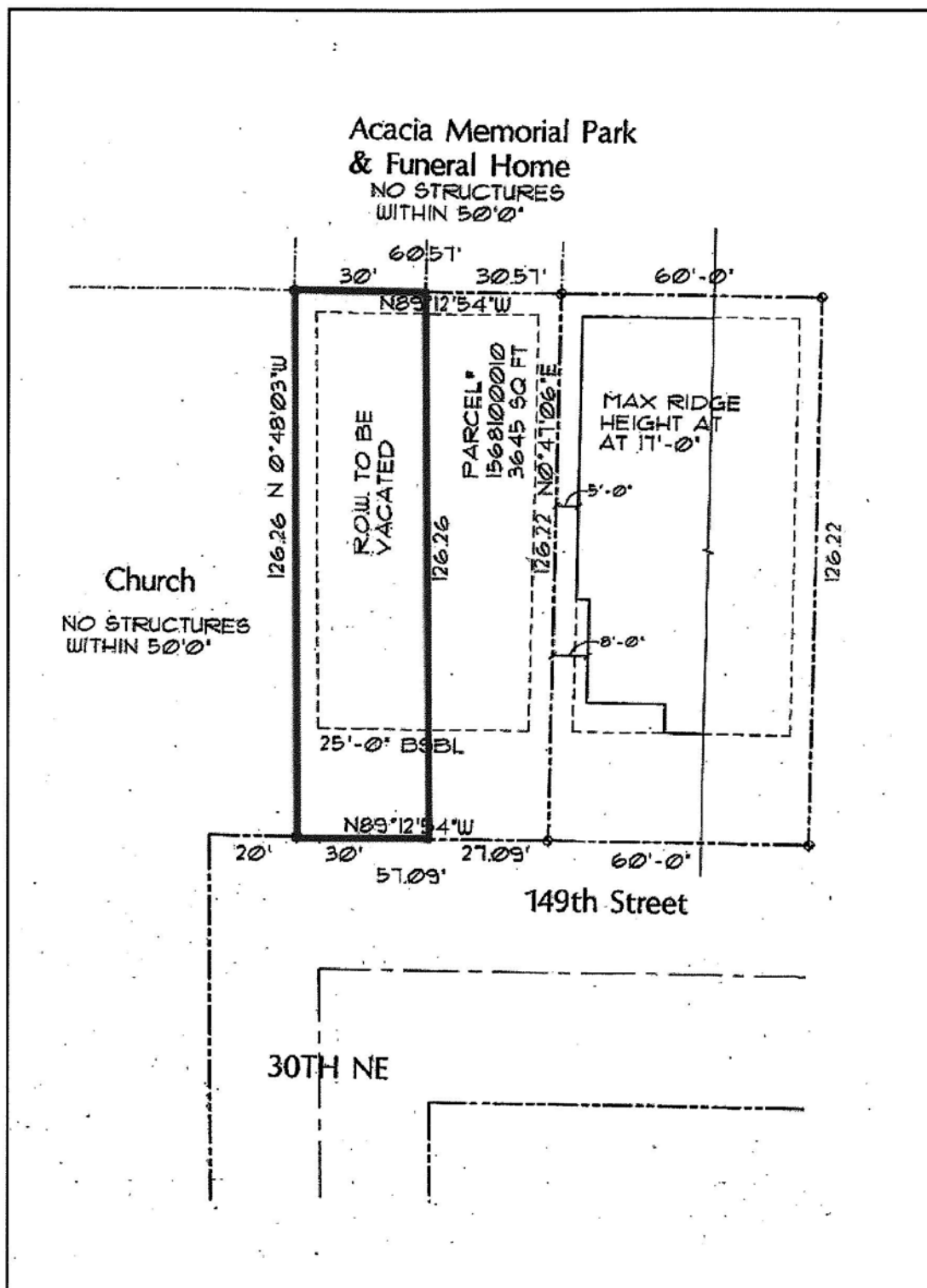
Ian Sievers
City Attorney

Date of Publication:

Effective Date:

Legal Description

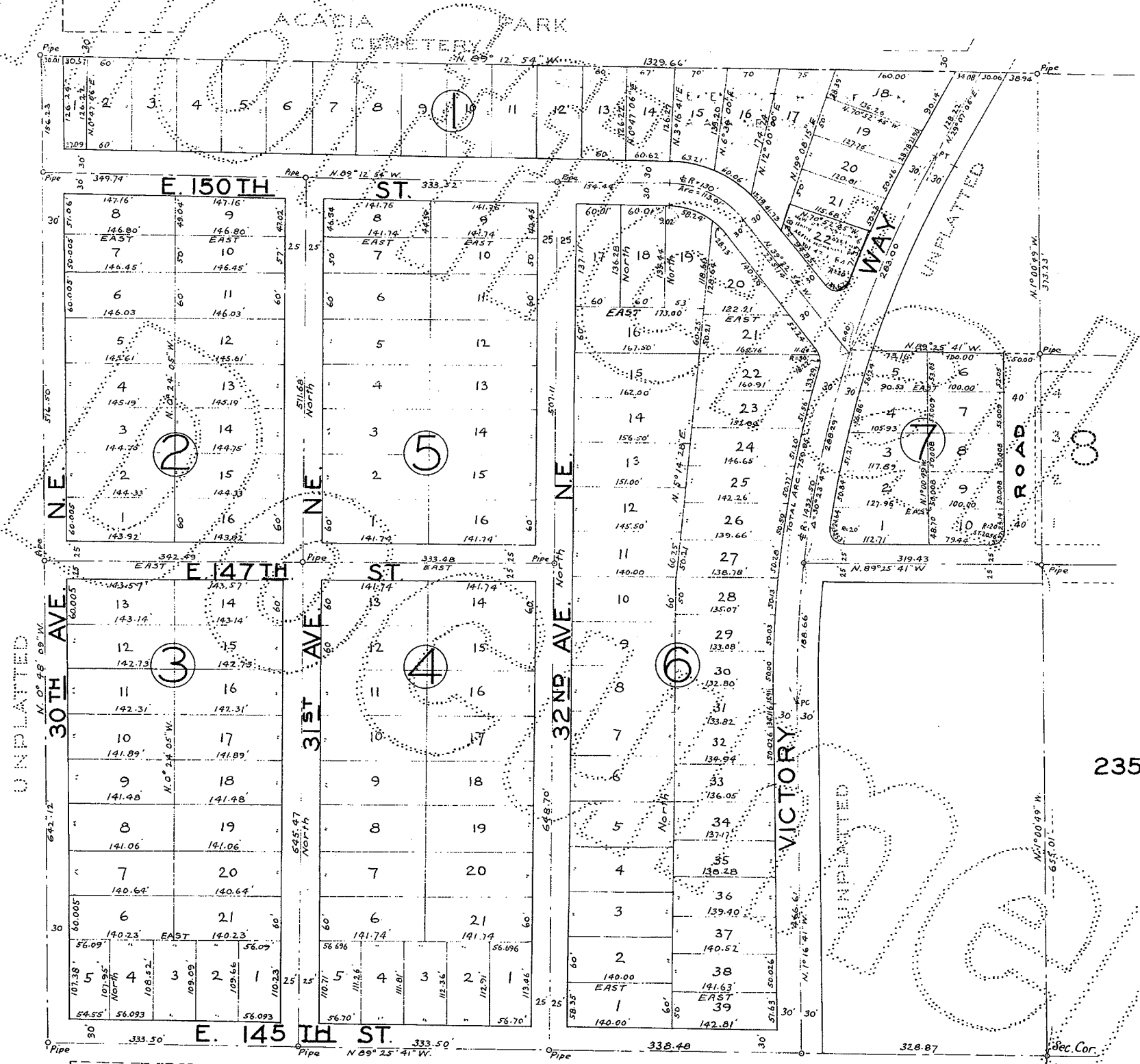
Consisting of approximately 3,788 square feet of 30th Avenue NE north of NE 149th St., Chittenden's Terrace Park, according to the plat thereof recorded in Volume 30 pages 37 and 38 in King County, Washington.



"CHITTENDEN'S" "TERRACE PARK" AN ADDITION TO KING COUNTY. WASH.

Morford & Mowry, Civil Engineers.

Scale 1 inch = 100 feet.



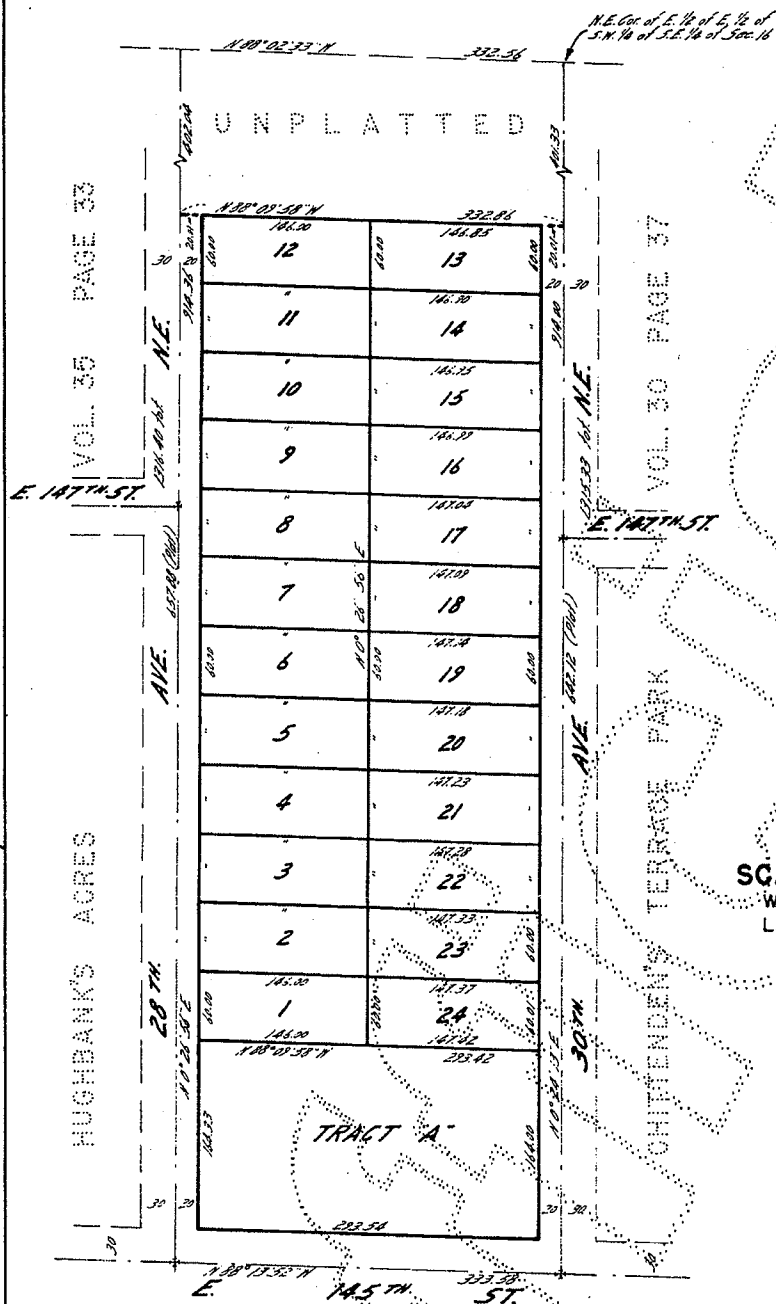
2352523

SEATTLE SUBURBAN

HOME 000065 TRACTS

VOL 7 PAGE 53

PARK ROYAL
SECTION 16, TWP. 26N, R4E, W.M.
KING COUNTY, WASHINGTON



DESCRIPTION

This plot of PARK ROYAL embraces the East half of the East half of the S.W. 1/4 of the S.E. 1/4 of Section 16, Twp 23 N, R. 4 E, N.W. 1/2, King County, Washington, EAST of the south 30.00 ft. thereof for road, AND EXCEPT the following:

Beginning at the N.E. corner of said subdivision; thence S 0° 04' 12" N along the east line of said subdivision 442.33 ft., thence N 80° 58' 58" W 332.81 ft. to the west line of said subdivision; thence N 0° 28' 36" E along said west line 442.04 ft. to the N.W. corner of said subdivision; thence S 80° 02' 39" E along the north line of said subdivision 332.56 ft. to the point of beginning.

RESTRICTIONS

No lot or portion of a lot in this plot shall be divided and sold or resold or ownership changed or transferred whereby the ownership of any portion of this plot shall be less than the area required for the use district in which located.

DEDICATION

KNOW ALL MEN BY THESE PRESENTS that we the undersigned owners in fee simple of the land hereby plotted, hereby declare this plot and dedicate to the use of the public forever, all streets and avenues shown thereon and the use thereof for all public purposes not inconsistent with the use thereof for public highway purposes, also the right to make all necessary slopes for cuts and fills upon the lots and blocks shown on this plot in the original reasonable grading of the streets and avenues shown hereon. Easements for drainage facilities are reserved over a 25 ft. wide strip along each side of interior lot lines and over the rear 30 ft. of each lot.

IN WITNESS WHEREOF we have set our hands and seals.

PRYDE HOMES, INC.

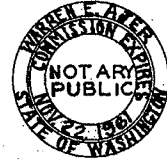


ACKNOWLEDGMENT

STATE OF WASHINGTON 55
COUNTY OF KING

This is to certify that on the 27th day of July 1961 before me the undersigned, a Notary Public, personally appeared Harry A. PRIDE, President of PRIDE HOMES INC., a Washington Corporation to me known to be the individual who executed the within dedication and acknowledged to me that he signed and sealed the same as his voluntary act and deed for the uses and purposes therein mentioned; and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation. WITNESS my hand and official seal the day and year first above written.

Walter E. Cline
Notary Public in and for the State of Washington
Residing at LYNNWOOD



LAND SURVEYORS CERTIFICATE

I hereby certify that this plot of PARK ROAD is based upon an actual survey and subdivision of Section 14, Twp. 26 N. R. 4 E. N.M., that the distances and courses are shown correctly thereon; that the monuments have been set and the lot and block corners started correctly on the ground and that I have fully complied with provisions of the platting regulations.

Richard Fisher
R. Richard Fisher, Jr. John Surroja
Certificate No. 2077
Renewal No. 515,000-4220
July, 1961



TREASURER'S CERTIFICATE

I certify that all property taxes are paid, that there are no delinquent special assessments certified to this office for collection and that all special assessments certified to this office for collection, on any of the property herein submitted, dedicated as streets, alleys, or for other public use are paid in full. This 18 day of August, 1961.

A. A. TREMPER
King County Treasurer



ILLEGIBILITY DUE TO DAMAGE OF ORIGINAL

APPROVALS

I hereby certify that this plot complies with the conditions set forth by the King County Planning Commission and is duly approved this 17th day of AUGUST 1961

Edward B. Sand
Planning Officer

Examined and approved this 21st day of August 1961.

Howard Odell
Chairman, Board of County Commissioners

Examined and approved this 15TH day of August --- 1961.

H. F. Hunter
Ring County Road Engineer

5321287

RECORDING CERTIFICATE

Filed for record at the request of the Board of County Commissioners this 23RD day of AUGUST 1961 at 29 minutes past 11:00 AM, and recorded in Volume 67 of Plots, Page 19 Records of King County, Washington.

Robert A. Morris
County Auditor

M. R. Williams
Deputy County Auditor



Memorandum

DATE: 11.18.11
TO: Miranda Redinger
FROM: Danielle Angiono DA
RE: 3004 North East 149th Street

The Public Works department has no issues with granting the street vacation of the non used section of property just north of 149th and 30th avenue north east.