

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Type L - Legislative Public Hearing on the N. 188th Street Vacation DEPARTMENT: Planning & Development Services PRESENTED BY: Tim Stewart, Director Andrea Spencer, Planner II
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PROBLEM/ISSUE STATEMENT:

On December 21, 2001, Mr. Ron Landry, owner of Sky Nursery submitted a Petition of Street Vacation to the Planning and Development Services Department. The right-of-way to be vacated is located at N 188th Street between Midvale Avenue N and Seattle City Light property on the eastern side of Aurora Avenue N (see Attachment A1: Vicinity Map). Mr. Landry owns the abutting property to the north and south of the proposed vacation. City staff has coordinated with affected utilities and analyzed future City plans for the area in question, and is recommending moving forward with this request.

The process for reviewing street vacations is described in Section 20.30.070 of the Shoreline Development Code and through State law (Chapter 35.79 RCW). State law requires Council to pass a resolution fixing the time for a public hearing (which was completed on April 14, 2003) and final Council action on the proposed vacation. The Shoreline Development Code also requires the Planning Commission to hold a public hearing on the proposal. The schedule for this process is:

- May 15, 2003: Planning Commission conducted a public hearing on the proposed street vacation. Planning Commission recommended approval of the proposal with the conditions stipulated by staff under "Option 2" for property remuneration discussed in the staff report (see complete staff analysis report for this hearing in **Attachment A**). Please note that during the production of the proposed Ordinance 327 Staff slightly modified "condition 4" (regarding right-of-way encroachments) after the Planning Commission recommendation to allow greater flexibility; and
- May 27, 2003: City Council public hearing and action on an ordinance of street vacation (Planning Commission and Staff recommended Ordinance No. 327 is located in **Attachment B**).

FINANCIAL IMPACT:

Approval of the street vacation ordinance by City Council would entitle the City to monetary or other consideration for the vacation. Planning Commission and Staff recommends a combination of right-of-way Vacation with Petitioner Dedication payment.

RECOMMENDATION

Planning Commission and Staff recommends that City Council adopt Ordinance No. 327 thereby approving the vacation of N. 188th Street generally located between Midvale Avenue N and the Seattle City Light right-of-way subject to conditions.

ATTACHMENTS:

Attachment A: Planning Commission Staff Report 5-15-03
Attachment B: Recommended Ordinance No. 327
Exhibit A: Vacation / Dedication Area Map

Approved By:

City Manager  City Attorney 

**ATTACHMENT A:
PLANNING COMMISSION
STAFF REPORT – MAY 15, 2003
N 188TH STREET VACATION**

Planning Commission Meeting Date: May 15, 2003

Agenda Item: 6.1

PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Type L - Legislative Public Hearing to Formulate a
Recommendation on the N. 188th Street Vacation

DEPARTMENT: Planning & Development Services

PRESENTED BY: Andrea L. Spencer, Planner II

SUMMARY

On December 21, 2001, Mr. Ron Landry, owner of Sky Nursery submitted a Petition of Street Vacation to the Planning and Development Services Department. The right-of-way to be vacated is located at N 188th Street between Midvale Avenue N and Seattle City Light property on the eastern side of Aurora Avenue N (see Attachment I: Vicinity Map). Mr. Landry owns the abutting properties to the north and south of the proposed vacation (currently single-family homes). City staff has coordinated with affected utilities and analyzed future City plans for the area in question, and is recommending moving forward with this request. Street vacations are a "Type L – Legislative Action" and Planning Commission is required to conduct a public hearing on such actions and formulate recommendation on the proposal. The City Council will then utilize your recommendation when they take final action on the application.

RECOMMENDATION

Staff suggests that Planning Commission recommend approval for the N. 188th ST vacation request as long as the conditions contained within this report are met.

DISCUSSION

The City of Shoreline has received a petition to vacate a portion of right-of-way adjacent to properties owned by Sky Nursery. The right-of-way is N 188th Street between Midvale Ave N and the Seattle City Light right-of-way (ROW) (see vicinity map in Attachment I). A Street Vacation is a process for the City to vacate, or abandon, a portion of its ROW and return it to adjacent landowner(s). The subject land may be sold for an amount up to 50% to 100% of the assessed value, depending on the length of time the land in question has been owned by the City. Either the City Council or the adjacent landowner(s) may initiate the process. When an adjacent landowner initiates the process, the application is a "Petitioned Vacation." A Street Vacation is a land transaction, and other permits may or may not be related (and in this case no other permits are under consideration). The vacation of this right-of-way will connect the existing parcels under the common ownership by Sky Nursery, and will allow for future redevelopment of the site, which will include additional parking.

The process for reviewing Street Vacations is described in the Shoreline Development code and through state law Chapter 35.79 RCW, and part of the process includes a public hearing conducted by the Planning Commission. The next steps for this project review is:

May 15, 2003: Planning Commission public hearing on the proposed Street Vacation. Planning Commission develops a recommendation for City Council consideration; and
May 27, 2003: City Council public hearing and action on an Ordinance of Street Vacation

SEPA review is not required as part of this proposal because per Section 197-11-800(2)(h) of the Washington Administrative Code (WAC) it specifically indicates that the vacation of streets or roads is exempt.

CRITERIA FOR STREET VACATION APPROVAL

The criteria for approving Street Vacations is described in Section 20.40.530.B of the Shoreline Development Code, and the Planning Commission may recommend approval of the Street Vacation if the following criteria are met:

CRITERIA 1

The proposed vacation will not be materially detrimental to other properties in the vicinity, nor will it endanger public health, safety or welfare.

The properties that will be affected by this property transaction are those sites immediately adjacent to the street being vacated. The existing right-of-way is a dead end. The existing use of North 188th Street is for the current five residences and the Sky Nursery storage building. The road vacation will not change this access. Future redevelopment of the Sky Nursery site will require a traffic report, street improvements, and traffic mitigation.

CRITERIA 2

The subject street or alley is not needed for general access, emergency services, utility facilities, or other similar purposes, nor is it a necessary part of a long range circulation plan, pedestrian/bicycle plan, and/or street improvement plan.

The street vacation is occurring prior to development of the property. Based upon a preliminary proposed design, the redevelopment will include the creation of a new parking area and new nursery buildings. Because most of the parking for Sky Nursery is currently located on Seattle City Light property, the redevelopment will allow for parking to be placed on their property. The proposed development will need to provide a traffic report and street improvement plans at the time of application.

Research indicates that this portion of the North 188th Street right-of-way is not needed for public circulation. To provide for adequate public circulation additional right-of-way will be needed on Midvale Avenue North and Aurora Avenue North. Street improvements will be required at the time of the future redevelopment.

Future Plans

Aurora Avenue

The access to the site will be modified with the Aurora Corridor Project. A preliminary preferred alternative plan, prepared by CH2MHill shows potential changes to the site's access. The Aurora Corridor preferred alternative plan shows that left turns to the property will be allowed with the installation of a left turn lane to the south bound lane on Aurora. Right turns in and out of the site will be allowed to the north bound lane only.

Central Shoreline Plan

The Central Shoreline Plan is currently under review. The preliminary plan shows that the Aurora right-of-way will require between 112 and 124 feet of right-of-way with the width dependant on the location to the intersection and alignment issues.

Utility Facilities

Seattle City Light

Seattle City Light owns a strip of land which runs between the right-of-way of Aurora Avenue North and the Sky Nursery property. Seattle City Light primarily uses this property for the location to place power transmission lines. Seattle City Light allows for other uses to be permitted through their real property department. Sky Nursery currently has a permit to use the property. Seattle City Light has also granted to Sky Nursery a permanent 40 feet wide access easement crossing Seattle City Light property.

The City of Shoreline has a franchise agreement with Seattle City Light, which allows for the City of Shoreline use of SCL property. Based upon this franchise agreement, the City of Shoreline is pursuing the development of a bike trail facility on the Seattle City Light right-of-way.

The City of Shoreline has adopted requirements that electrical utilities be placed underground. The right-of-way of North 188th Street includes a power distribution line, which serves the adjacent properties as well as two properties on the eastside of Aurora Avenue North. Power lines serving properties along Aurora and located within the regional business zone will need to be placed underground. See SMC 20.70.460

Seattle Water Department

The water main which serves this area is a 2" water main. Improvements to the water main will need to be done prior to any development or construction in this area. The water main along Aurora Avenue North, north of North 188th Street is 4" in diameter.

City of Shoreline Storm Water Utility

There is not a storm drainage system in North 188th Street. The existing conditions include storm water runoff from Midvale and adjacent property to sheet flowing through the right-of-way to be vacated. Any development of the site and/or the vacated right-of-way will require on-site storm water flow control, water quality, and conveyance of off-site storm drainage. Storm drainage improvements will be required along the property frontage of Midvale Avenue North. The owner will need to work with Seattle City Light to obtain a permit to install the required storm water conveyance in the Seattle City Light right-of-way.

Sanitary Sewer

The existing North 188th Street includes a sanitary sewer. This needs to remain to serve the adjacent properties and appropriate easements recorded.

CRITERIA 3

The subject vacation is consistent with the adopted Comprehensive Plan and other related regulations and policies.

The zoning and land use in the immediate vicinity is regional business. The Comprehensive Plan designates this property and the surrounding property as mixed use.

The existing land use includes single family houses. Based upon the Comprehensive Plan, a wide range of mixed-use residential and commercial developments could occur. The vacation of this ROW would facilitate redevelopment of the Sky Nursery property and therefore allow the Comprehensive Plan goal of mixed use in the area to be achieved.

CRITERIA 4

The subject vacation shall not directly or indirectly result in adverse impact on historical or cultural resources, the natural environment, and/or otherwise negatively affect critical areas as defined in the critical areas overlay district.

There are no known historical or cultural resources in the area. Furthermore, the site is relatively flat and there are no identified critical areas in the immediate vicinity of this section of the N 188th Street ROW.

APPROVAL CONDITIONS

The affected utilities and city departments have reviewed the proposal and have suggested the following conditions for approval of the vacation request.

City Conditions

The City Departments of Public Works, Police, Fire, and Planning & Development Services have reviewed the petition for vacation and have no objections if the following conditions are met:

1. A total of 31 feet of right-of-way as measured from centerline of Midvale Avenue North is required for future circulation needs.
2. To accommodate future right-of-way needs for Aurora Avenue North, the 900 square feet parcel adjacent to the Aurora right-of-way should be dedicated to the City of Shoreline.
3. The dedications of the required right-of-way shall be done at the same time as the vacation of the surplus right-of-way.
4. All existing encroachments in City of Shoreline right-of-way shall be removed.
5. Usage of Seattle City Light right-of-way shall be discontinued for truck access to North 192nd Street, or obtain license from SCL to allow use and to provide storm water management of this area to meet current codes.
6. All properties using this right-of-way for access must either be merged to create one property, or record access easements over the vacated street property.
7. Easements for each utility need to be recorded. Utility easements must allow for extension of mains and allow for underground service.
8. Provide easement for storm water conveyance across vacated right-of-way. This easement will require the property owner to continue to convey storm surface water across the vacated property.

Staff is suggesting that two different payment options could be used for the vacated property

Option 1:

The City Council may require payment for the vacation, up to the full appraised value of the land to be dedicated (unless the petitioner can show the land in question has been part of the public right-of-way for less than 25 years), adjusted for any easements to be recorded on the property.

OPTION 1 SUMMARY

Area of North 188th Street to be vacated by the City of Shoreline

Portion of N 188th Street

Square Feet
10528.40

Option 2:

The City Council may request the petitioner to dedicate the eastern 10 feet of the following parcels to become part of Midvale Avenue N: 164350-0170; 164350-0175; 164350-0176; 164350-0114; and 164350-0120 (except the north 120' that was previously dedicated); and dedicate the full parcel 164350-0205 to become part of Aurora Avenue.

The following table summarizes the square footage exchange proposed:

Based upon the needs for right-of-way along Midvale Avenue North and Aurora Avenue North the following table shows the land to be dedicated to City of Shoreline and the area of street right-of-way to be vacated.

OPTION 2 SUMMARY

Area of North 188th Street to be vacated by the City of Shoreline

Portion of N 188 th Street	Square Feet 10528.40
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Area to be dedicated to City of Shoreline by the Applicant

Abbreviated Legal description	Square Feet
Por Lt 3 and 4 Blk 3 Clive Add to Echo Lake	2442.62
Por Lt 2 Blk 3 Clive Add to Echo Lake	119.63
Por Lt 1 Blk 3 Clive Add to Echo Lake	1315.93
Por Lt 2 and 3 Blk 4 Clive Add to Echo Lake	3300.00
Por of tract A Clives Add To Echo lake	<u>925.00</u>
	8103.18

Utility Conditions

All utilities have stated that any facility relocation or changes to service will be done at the cost of the applicant.

Seattle City Light

Seattle City Light requests that the vacation ordinance include language granting and reserving rights to Seattle City Light for the perpetual use, operation, and maintenance of its overhead and underground electrical system within the subject property.

Verizon

Verizon has indicated that a reroute of their facilities would be required if the poles in the subject property were to be removed.

Ronald Wastewater

Ronal Wastewater has indicated that a sewer line is located in the subject property, and it is typical to require that a sewer easement be established prior to the street vacation.

Seattle Public Utilities – Water

SPU has indicated that a water line is located in the subject property, and an easement agreement will be needed.

Puget Sound Energy

PSE has no objections to vacation, subject to the following conditions:
There is an existing 2-inch gas line 11 feet south of the centerline of N 188th Street, extending 190 feet west of Midvale Avenue N. This main currently serves three natural gas customers at 1122, 1137, and 1139 N 188th Street. If these homes are demolished, PSE would need to be notified prior to the work in order to remove the gas meters to the existing homes and to cut and cap the 2" gas main at Midvale to clear the proposed development area. If new gas service is needed, the applicant should contact PSE.

AT&T Broadband

AT&T Broadband would require a minimum four weeks, after payment is received, to remove and relocated any facilities.

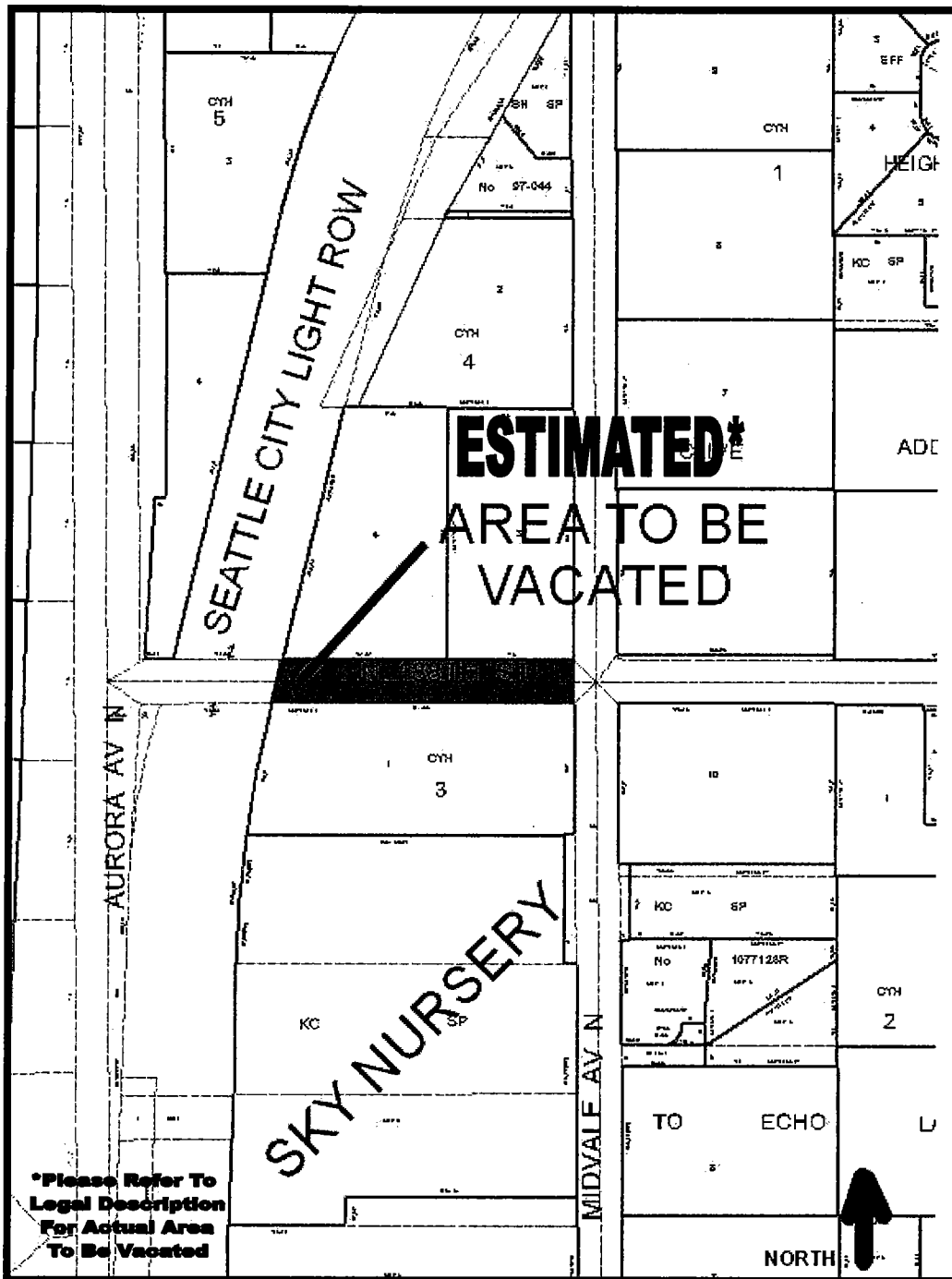
RECOMMENDATION

Staff suggests that Planning Commission recommend approval for the N. 188th ST vacation request as long as the conditions contained within this report are met.

ATTACHMENTS

Attachment I: Vicinity Map

Attachment I: Vicinity Map



LEGAL DESCRIPTION OF AREA TO BE VACATED

THAT PORTION OF NORTH 188TH STREET RIGHT-OF-WAY BEGINNING AT A POINT; AT THE CENTERLINE OF NORTH 188TH STREET AND 31 FEET WEST OF CENTERLINE OF MIDVALE AVENUE NORTH AND EXTENDING APPROXIMATELY 264 FEET WEST TO THE EASTERLY MARGIN OF THE SEATTLE CITY LIGHT RIGHT-OF-WAY, ALL LOCATED IN CLIVE ADDITION TO ECHO LAKE ACCORDING TO THE PLAT RECORDED IN VOLUME 15 OF PLATS, PAGE 5, RECORDS OF KING COUNTY, WASHINGTON.

**ATTACHMENT B:
ORDINANCE NO. 327
N 188TH STREET VACATION**

ORDINANCE NO. 327

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON,
VACATING N. 188TH STREET BETWEEN MIDVALE AVE AND THE
SEATTLE CITY LIGHT TRANSMISSION RIGHT-OF-WAY**

WHEREAS, Mr. Ron Landry, owner of Sky Nursery, submitted a Petition for Street Vacation to the Planning and Development Services Department to vacate N. 188th Street between Midvale Avenue N and Seattle City Light property on the eastern side of Aurora Avenue N; and

WHEREAS, on May 15, 2003 the Planning Commission held a public hearing on the proposed Street Vacation and recommended approval of the vacation subject to conditions; and

WHEREAS, the City Council held a public hearing on May 27, 2003 to consider the recommendation of the Planning Commission to approve vacation; and

WHEREAS, the City Council has determined, following an engineering study, that the right-of-way subject to this Petition is surplus to the present and future transportation needs of the City; vacation will relieve the City of liability and maintenance responsibility; vacation will return the property to the tax roles; and the public interest is best served by the vacation of the right-of way subject to payment of compensation and reservation of necessary utility easements; 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 proposed in the Planning Commission Staff Report and approved by the Planning Commission on May 15, 2003.

Section 2. Vacation. The right-of-way described below and depicted in Exhibit A attached hereto consisting of approximately 10,528.40 square feet is hereby vacated subject to conditions set forth in Section 3:

LEGAL DESCRIPTION OF RIGHT-OF-WAY TO BE VACATED
THAT PORTION OF NORTH 188th STREET RIGHT-OF-WAY BEGINNING AT A POINT; AT THE CENTERLINE OF NORTH 188TH STREET AND 31 FEET WEST OF CENTERLINE OF MIDVALE AVENUE NORTH AND EXTENDING APPROXIMATELY 264 FEET WEST TO THE EASTERLY MARGIN OF THE

SEATTLE CITY LIGHT RIGHT-OF-WAY, ALL LOCATED IN CLIVE ADDITION TO ECHO LAKE ACCORDING TO THE PLAT RECORDED IN VOLUME 15 OF PLATS, PAGE 5, RECORDS OF KING COUNTY, WASHINGTON.

Section 3. Conditions. The vacation of the right-of-way described above shall be subject to the following conditions:

1. A total 8103.18 square feet owned by Petitioner adjacent to the Aurora Ave. right-of-way and Midvale Ave. N. is required for future circulation needs and shall be dedicated by Petitioner as partial compensation of the vacation. These portions of property to be dedicated are depicted in Exhibit A and described as:

Portion Lt 3 and 4 Blk 3 Clive Add to Echo Lake	2442.62
Portion Lt 2 Blk Blk 3 Clive Add to Echo Lake	1315.93
Portion Lt 1 Blk 3 Clive Add to Echo Lake	119.63
Portion Lt 2 and 3 Blk 4 Clive Add to Echo Lake	3300.00
Portion Tract A Clives Add To Echo lake	925.00
2. All existing encroachments of the Petitioners property into City of Shoreline right-of-way shall be removed upon redevelopment of Petitioner's property or request of the City whichever is earlier.
3. Usage of Seattle City Light right-of-way shall be discontinued for truck access to North 192nd Street, or a license obtained from SCL to allow use and to provide storm water management of this area to meet current codes.
4. All Petitioner's properties using this right-of-way for access must either be merged to create one property, or access easements must be recorded over the vacated street property in a form acceptable to the City Attorney.
5. Easements for each utility currently using the vacated right-of-way, including the City of Shoreline stormwater utility, shall be recorded in a form acceptable to the utility providers. Utility easements must allow for extension of mains and allow for underground service.
6. Petitioner shall pay the sum of \$48,504 to the City Clerk consisting of the fair market value of 2425.22 square feet of property consisting of the net right-of-way vacated after offsetting additional right-of-way required to be dedicated under condition 1.

The conditions of vacation listed in this section, except condition number 2, shall be satisfied prior to recording of this ordinance with the King County Department of Records and Elections by the City Clerk. If conditions are not satisfied and the ordinance is not recorded by the City Clerk within ninety (90) days of passage, this ordinance shall become null and void.

Section 4. 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.

PASSED BY THE CITY COUNCIL ON MAY 27, 2003.

Mayor Scott Jepsen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli
City Clerk

Ian Sievers
City Attorney

Exhibits:

A. Vacation/Dedication area map

Date of Publication: _____, 2003

Effective Date: _____, 2003



AREA OF VACATION



AREA OF DEDICATION

ORDINANCE 327
EXHIBIT A

