

PETITION FOR REFERENDUM - PRESERVE PUBLIC PROPERTY RIGHTS ~ SAVE THE TRAILS

We, the undersigned registered voters of Bellingham, hereby petition the City, under rights reserved in Article 10.08 of the Bellingham City Charter, to refer the ordinance (Agenda Bill #22834) approving the vacation of the Douglas Avenue Right-of-way (VAC2020-0001) to a vote of the people in order to preserve our public property rights on the existing public trail. I have personally signed this petition, I am a legal voter of the City of Bellingham, Whatcom County, State of Washington, and my address is correctly stated on this petition and I have knowingly signed this petition only once. A complete copy of the ordinance and a required warning are printed on the opposite side of this page pursuant to requirements of Bellingham Municipal Code 1.02.030.

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WARNING: Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking election when he or she is not a legal voter, or signs a petition when he or she is not otherwise qualified to sign, or makes herein any false statement, shall be guilty of a misdemeanor.

ORDINANCE NO. 2021- (Number unavailable at time of writing. Agenda Bill and Vacation Petition references on front. Please see <https://bit.ly/2WFEbgg> for more information and links to documents.)
AN ORDINANCE RELATING TO THE VACATION OF THE FULL WIDTH OF DOUGLAS AVENUE ABUTTING LOT 19, BLOCK 8, LYSLE'S 1ST ADD TO FAIRHAVEN AND LOT 2, BLOCK 101, FAIRHAVEN LAND COMPANY'S 1ST ADD TO FAIRHAVEN, WITHIN THE CITY OF BELLINGHAM.

WHEREAS, on November 6, 2019 the City's Technical Review Committee considered and recommended approval of the petition to vacate the subject right-of-way as described on EXHIBIT A and shown on EXHIBIT B, which are attached hereto and incorporated herein; and

WHEREAS, the petitioner for this proposed vacation of the subject right-of-way ("Petitioner") is the owner of the parcels abutting the subject right-of-way to the north as described and depicted in Exhibit D ("Property"); and

WHEREAS, the Hearing Examiner held a virtual public hearing on the subject petition on July 8, 2020 at 6:00 PM; and

WHEREAS, on July 27, 2020 the Hearing Examiner recommended approval of the subject vacation petition with the findings of fact, conclusions of law and recommendation as provided in the record of proceedings; and

WHEREAS, an appraisal was conducted to determine the amount of compensation necessary to vacate the subject right-of-way; and

WHEREAS, said appraisal concluded that \$18,000 is the fair-market value of the subject right-of-way; and

WHEREAS, \$18,000 was remitted to the City of Bellingham for the subject right-of-way on June 30, 2020; and

WHEREAS, the City Council held a closed record hearing on the subject vacation petition on December 7, 2020 where the Hearing Examiner's record of proceedings were considered; and

WHEREAS, leading up to the closed record hearing the City Council received a large volume of comments from interested citizens asking the Council to deny the vacation petition; and

WHEREAS, in order to supplement the existing Hearing Examiner record and by a vote of 6-1 the City Council remanded the vacation petition back to the Hearing Examiner so that the issues raised in the public comments could be addressed; and

WHEREAS, the Hearing Examiner held the remand public hearing on March 10, 2021 and

WHEREAS, on March 30, 2021 the Hearing Examiner recommended neither approval nor denial of the subject street vacation petition as provided in the findings of fact and conclusions of law attached hereto and incorporated herein as EXHIBIT C, and:

WHEREAS, within the recommendation in EXHIBIT C the Hearing Examiner did request that Council enter the necessary conclusions and reach the appropriate final outcome, and;

WHEREAS, all the jurisdictional steps preliminary to the vacation have been taken as provided by law.

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Following the execution and recording of the restrictive covenant described in Section 8 below, the subject right-of-way described on EXHIBIT A and shown on EXHIBIT B is hereby vacated.

Section 2. In the Hearing Examiner's Findings of Fact, Conclusions, and Recommendation, the Hearing Examiner concludes that City Council Street Vacation Policies 3, 4, 6, 7, 8, and 10 are satisfied by the street vacation proposal. The Hearing Examiner states that the record as

a whole tends to show compliance with City Council Street Vacation Policies 1, 2, 5, 9, and 11, but defers to City Council make the policy determination that the proposal meets these policies. For the reasons stated in the Hearing Examiner's Findings of Fact, Conclusions, and Recommendation, City Council concludes that the street vacation proposal meets all of City Council's Street Vacation Policies, including Policies 1, 2, 5, 9, and 11. The Hearing Examiner's Findings of Fact, Conclusions, and Recommendation as provided in EXHIBIT C are hereby incorporated herein and adopted.

Section 3. The full width of the subject right-of-way shall be reserved for public utility easements. Private easements between private utility provider(s) and the petitioner shall be fully executed and recorded prior to the passage of this ordinance.

Section 4. A 30-foot-wide non-exclusive easement for public access shall be retained across the southern portion of the subject right-of-way to be vacated for trail improvements to the existing non-vehicular public-access connection between 21st Street and the alley lying between 20th and 21st Streets.

Section 5. No damage shall result to any person or persons or to any property by reason of the vacation of said right-of-way. If reconfiguration of existing utilities is necessary, it shall be at the sole expense of the petitioner.

Section 6. Payment of the appraised fair market value of \$18,000 was remitted to the City of Bellingham's Finance Department on June 30, 2020 to compensate the City for the vacated right-of-way.

Section 7. Any portion of the Douglas Avenue right-of-way that is not developed with public access improvements may be utilized by the Petitioner or any subsequent owner of the Property for any combination of multi-modal access, utility connections, usable and open space

or vegetation restoration, or any other non-building element associated with a future land use action that is consistent with the easements reserved by the City.

Section 8. Prior to third and final reading of this Ordinance, Petitioner shall execute and record a restrictive covenant approved by the City that includes the following conditions:

As part of any future land use action by the Petitioner or any subsequent owner of the Property, the Petitioner shall improve the existing trail to a standard approved by the Parks Department including width, surfacing and stairways where necessary to accommodate grades and alignment, all of which may be eligible for park impact fee credit.

- Future land use action(s) by Petitioner or any subsequent owner of the Property that include removal of mature cedar trees in the subject right-of-way for any purpose shall require the cedar trees be replaced at a ratio of 2:1.

- Future land use action(s) by Petitioner or any subsequent owner of the Property may request a 25% parking reduction to minimize vehicular presence and revegetation of the northeastern quadrant of the subject right-of-way and to increase tree canopy coverage in Area 1A of the Happy Valley Neighborhood.

- The restrictive covenant shall be effective upon the recording of this Ordinance.

- The restrictive covenant shall run with the land and shall be binding upon and inure to the benefit of the Petitioner and successor owners of the Property.

Section 9. The recitals of this Ordinance are true and accurate statements of fact and are included as terms of this Ordinance.