

ORDINANCE NO. 6823

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN WASHINGTON, AMENDING THE DEADLINE TO COMPLETE CONDITIONS ASSOCIATED WITH VACATING RIGHT-OF-WAY OF A PORTION OF THE ALLEY NORTH OF 3RD STREET NE BETWEEN B STREET NE AND AUBURN AVENUE WITHIN THE CITY OF AUBURN, WASHINGTON

WHEREAS, the City of Auburn, Washington ("City"), approved Ordinance No. 6759 on March 16, 2020, a copy of which is attached as Exhibit A, vacating right-of-way located within a portion of the alley north of 3rd Street NE, between B Street NE and Auburn Avenue, within the City, subject to conditions outlined in Ordinance No. 6759; and,

WHEREAS, Section 1, Paragraph G of Ordinance No. 6759 required that all conditions of the vacation be completed by September 16, 2021 or the vacation and Ordinance will be null and void; and,

WHEREAS, the applicant has requested additional time to complete those provisions set forth in Section 1, Paragraphs E, F and G of Ordinance No. 6759; and,

WHEREAS, the City has determined that the applicant's request to have until September 16, 2022, is reasonable in light of unforeseeable circumstances and in the public interest to continue the deadline; and,

WHEREAS, the City Council has considered the request for extension.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON DO ORDAIN as a non-codified ordinance as follows:

Section 1. Extension. The deadline for completion in Section 1, Paragraph G of Ordinance No. 6759 is continued to September 16, 2022.

Section 2. Constitutionality or Invalidity. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provisions to other persons or circumstances shall not be affected.

Section 3. Implementation. The mayor is authorized to implement such administrative procedures as may be necessary to carry out the directives of this location.

Section 4. Effective Date. This Ordinance shall take effect and be in force five (5) days from and after passage, approval, and publication as provided by law.

Section 5. Recordation. The City Clerk is directed to record this Ordinance together with Ordinance No. 6759 with the office of the King County Auditor only upon completion of those provisions set forth in Ordinance No. 6759, at which time the vacation pursuant to Ordinance No. 6759 shall be effective under Auburn City Code 12.48.080.

INTRODUCED: JUN 2 1 2021

PASSED: JUN 2 1 2021


APPROVED: JUN 2 1 2021


NANCY BACKUS, MAYOR

ATTEST:

APPROVED AS TO FORM:


Shawn Campbell, MMC, City Clerk


Kendra Comeau, City Attorney

PUBLISHED: June 24, 2021 in The Gazette Times

Exhibit A

ORDINANCE NO. 6759

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN WASHINGTON, VACATING RIGHT-OF-WAY OF A PORTION OF THE ALLEY NORTH OF 3RD STREET NE BETWEEN B STREET NE AND AUBURN AVENUE WITHIN THE CITY OF AUBURN, WASHINGTON

WHEREAS, the City of Auburn, Washington ("City"), has received a petition signed by at least two-thirds (2/3) of the owners of property abutting to right-of-way located within a portion of the alley north of 3rd Street NE, between B Street NE and Auburn Avenue, within the City, requesting vacation of the right-of-way; and,

WHEREAS, as required by Chapter 12.48 of the Auburn City Code, a public hearing was held in connection with the possible vacation, with notice having been provided pursuant to statute; and,

WHEREAS, the City Council has considered all matters presented at the public hearing on the proposed vacation, held on the 16th day of March, 2020, at the Auburn City Council Chambers in Auburn, Washington.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON DO ORDAIN as a non-codified ordinance as follows:

Section 1. Vacation. That the right of way located at a portion of the Alley north of 3rd Street NE, between B Street NE and Auburn Avenue located within the City of Auburn, Washington, legally described as follows:

THAT PORTION OF THE ALLEY, BEING 10 FEET IN WIDTH, ADJACENT TO AND COINCIDENT WITH THE EAST LINE OF LOTS 3 THROUGH 6, BLOCK 2 OF THE PLAN OF MEADOW ADDITION TO AUBURN, ACCORDING TO THE PLAT

THEREOF RECORDED IN VOLUME 18 OF PLATS, PAGE 68,
IN KING COUNTY, WASHINGTON, DESCRIBED AS
FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 6
OF SAID BLOCK 2 OF SAID PLAT;
THENCE SOUTH 89°17'20" EAST, 57.00 FEET ALONG THE
SOUTH LINE OF SAID LOT 6 TO THE SOUTHWEST
CORNER OF THAT PORTION CONVEYED TO THE CITY OF
AUBURN FOR STREET PURPOSES BY DEED RECORDED
UNDER RECORDING NO. 7807170275;
THENCE NORTH 76°21'00" EAST, 44.37 FEET ALONG THE
NORTH LINE, TO THE NORTHEAST CORNER OF SAID
PORTION CONVEYED TO THE CITY OF AUBURN, BEING
THE WEST MARGIN OF SAID ALLEY AND THE TRUE POINT
OF BEGINNING;
THENCE NORTH 00°38'08" EAST, 169.00 FEET ALONG
SAID WEST MARGIN TO THE NORTHEAST CORNER OF
LOT 3 OF SAID PLAN OF MEADOW ADDITION TO AUBURN;
THENCE ALONG THE NORTHERLY PROLONGATION OF
SAID LOT 3, SOUTH 89°17'30" EAST, 10.00 FEET TO THE
EAST MARGIN OF SAID ALLEY;
THENCE SOUTH 00°38'08" WEST, 165.00 FEET ALONG
SAID EAST MARGIN TO THE MOST WESTERLY
NORTHWEST CORNER OF THAT PORTION CONVEYED
TO THE CITY OF AUBURN FOR STREET PURPOSES BY
DEED RECORDED UNDER RECORDING NO. 7807170274;
THENCE SOUTH 68°53'49" WEST, 10.77 FEET TO SAID
NORTHEAST CORNER OF THAT PORTION CONVEYED TO
THE CITY OF AUBURN FOR STREET PURPOSES BY DEED
RECORDED UNDER RECORDING NO. 7807170275 AND
THE WEST MARGIN OF SAID ALLEY AND THE POINT OF
BEGINNING.

CONTAINS 1,670 SQUARE FEET, MORE OR LESS. (0.038
ACRES +/-)

[Also identified as Exhibit "A".]

and as shown on the survey, a copy of which is attached, marked Exhibit "B" is vacated and
the property lying in the right-of-way described, shall inure and belong to those persons

entitled to receive the property in accordance with RCW 35.79.040, conditioned upon the following:

A. Reservation in favor of the City of a perpetual Nonexclusive Easement under, over, through and across the vacated right-of-way as described above for the purpose of laying, maintaining, and installing future and existing sanitary sewer facilities and including a reservation in favor of the City of the right to grant easements for utilities over, under and on all portions of the vacated right-of-way as described above.

The City shall have the absolute right, at times as may be necessary for immediate entry upon said Easement Area for the purpose of maintenance, inspection, construction, repair or reconstruction of the above improvements without incurring any legal obligation or liability.

The City shall have the absolute right to place any type of driving surface within said Easement Area deemed necessary by the City.

The owners of the adjacent properties agree and shall not in any way block, restrict or impede access and egress to or from said Easement Area, and /or in any way block, restrict or impede full use of the real property within the Easement Area by the City for the above described purposes. No building, wall, rockery, fence, trees, or structure of any kind shall be erected or planted, nor shall any fill material be placed within the boundaries of said Easement Area, without the express written consent of the City. No excavation shall be made within three feet of said facilities and the surface level of the ground within the Easement Area shall be maintained at the elevation as currently

existing.

This easement shall be a covenant running with the adjacent property parcels and burden said real estate, and shall be binding on the successors, heirs and assigns of all parties.

B. Under the terms of the reservation set out in Paragraph A above and in accordance with RCW 35.79.030, the City grants a private utility easement to Puget Sound Energy over, under, and upon the vacated right-of-way as described above for the construction, operation, maintenance, repair, replacement, improvement and removal of electric distribution facilities. The owners of the adjacent property shall not erect any structures on the easement and shall not place trees or other obstructions on the easement that would interfere with the exercise of Grantees' rights.

C. Under the terms of the reservation set out in Paragraph A above and in accordance with RCW 35.79.030, the City grants a private utility easement to CenturyLink over, under and upon the vacated right-of-way as described above for the construction, operation, maintenance, repair, replacement, improvement and removal of wireline telecommunications facilities. The owners of the adjacent properties shall not erect any structures on the easement and shall not place trees or other obstructions on the easement that would interfere with the exercise of Grantees' rights.

D. It is provided, however that such reserved or granted utility and access easements as set out in Paragraphs A, B and C above may be modified to accommodate a removal, relocation and sitting of the affected utility lines if the City and the property

owners on whose property the utility lines are located agree to the removal relocations and sitting being paid by said property owners and with the removal relocation and sitting being done in conformity with applicable standards.

E. The property owners of Parcel Nos. 5405100015 and 5405100025 shall reserve and grant a public access easement across those parcels from the southern terminus of the existing public alley (following vacation) to B Street NE and shall construct such public access easement to City standards for the purposes of allowing vehicular, pedestrian and emergency access to and from the southern terminus of the existing public alley (following vacation) to and from B Street NE.

F. Direct access from the vacation area to 3rd Street NE and from Parcel No. 0492000480 to Auburn Avenue shall be permanently closed. The Developer will be required to remove curb cuts and driveways and replace with sidewalks in accordance with City Standards upon reservation and construction of such access easement in paragraph E, above.

G. This vacation shall be effective upon completion of the provisions in paragraph E and F, above. The above described provisions must be completed by September 16, 2021 or the vacation and Ordinance will be null and void.

Section 2. Constitutionality or Invalidity. If any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provisions to other persons or circumstances shall not be affected.

Section 3. Implementation. The mayor is authorized to implement such

administrative procedures as may be necessary to carry out the directives of this location.

Section 4. Effective Date. This Ordinance shall take effect and be in force five (5) days from and after passage, approval, and publication as provided by law.

Section 5. Recordation. The City Clerk is directed to record this Ordinance with the office of the King County Auditor only upon completion of those provisions set forth in Section 1, Paragraphs E, F, and G, above, at which time the vacation pursuant to this Ordinance shall be effective under Auburn City Code 12.48.080.

INTRODUCED: MAR 16 2020

PASSED: MAR 16 2020

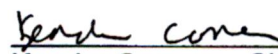
APPROVED: MAR 16 2020


NANCY BACKUS, MAYOR

ATTEST:


Shawn Campbell, MMC, City Clerk

APPROVED AS TO FORM:


Kendra Comeau, City Attorney

PUBLISHED: March 19th 2021 in The Seattle Times

EXHIBIT "A"

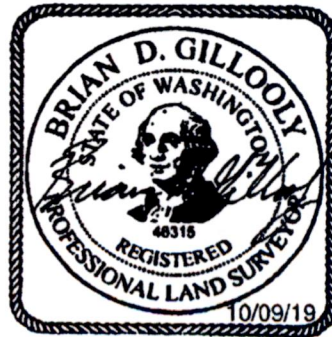
LEGAL DESCRIPTION

RIGHT-OF-WAY VACATION

THAT PORTION OF THE ALLEY, BEING 10 FEET IN WIDTH, ADJACENT TO AND COINCIDENT WITH THE EAST LINE OF LOTS 3 THROUGH 6, BLOCK 2 OF THE PLAN OF MEADOW ADDITION TO AUBURN, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 18 OF PLATS, PAGE 68, IN KING COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 6 OF SAID BLOCK 2 OF SAID PLAT;
THENCE SOUTH 89°17'20" EAST, 57.00 FEET ALONG THE SOUTH LINE OF SAID LOT 6 TO THE SOUTHWEST CORNER OF THAT PORTION CONVEYED TO THE CITY OF AUBURN FOR STREET PURPOSES BY DEED RECORDED UNDER RECORDING NO. 7807170275;
THENCE NORTH 76°21'00" EAST, 44.37 FEET ALONG THE NORTH LINE, TO THE NORTHEAST CORNER OF SAID PORTION CONVEYED TO THE CITY OF AUBURN, BEING THE WEST MARGIN OF SAID ALLEY AND THE TRUE POINT OF BEGINNING;
THENCE NORTH 00°38'08" EAST, 169.00 FEET ALONG SAID WEST MARGIN TO THE NORTHEAST CORNER OF LOT 3 OF SAID PLAN OF MEADOW ADDITION TO AUBURN;
THENCE ALONG THE NORTHERLY PROLONGATION OF SAID LOT 3, SOUTH 89°17'30" EAST, 10.00 FEET TO THE EAST MARGIN OF SAID ALLEY;
THENCE SOUTH 00°38'08" WEST, 165.00 FEET ALONG SAID EAST MARGIN TO THE MOST WESTERLY NORTHWEST CORNER OF THAT PORTION CONVEYED TO THE CITY OF AUBURN FOR STREET PURPOSES BY DEED RECORDED UNDER RECORDING NO. 7807170274;
THENCE SOUTH 68°53'49" WEST, 10.77 FEET TO SAID NORTHEAST CORNER OF THAT PORTION CONVEYED TO THE CITY OF AUBURN FOR STREET PURPOSES BY DEED RECORDED UNDER RECORDING NO. 7807170275 AND THE WEST MARGIN OF SAID ALLEY AND THE POINT OF BEGINNING.

CONTAINS 1,670 SQUARE FEET, MORE OR LESS. (0.038 ACRES +/-)



Project Name: Merritt Building
March 13, 2019
Revised September 19, 2019
Job No. 20449

BDG / JSE
20449L.001.doc

[illegible]

File:P:\2000s\20449\survey\20449exh02--row_vacation.dwg Date/Time:10/2/2019 12:59 PM JUSTIN EMERY

CIVIL ENGINEERING, LAND
PLANNING, SURVEYING,
ENVIRONMENTAL SERVICES

**CITY OF
AUBURN**

RIGHT OF WAY VACATION

20449

SHEET

1 of 1

DESIGNED XXX DRAWN JSE CHECKED DJS APPROVED BDG DATE 09/19/19