

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: February 11, 2019

AGENDA ITEM:	
Public Hearing to consider vacation of public rights-of-way for construction of the Civic Campus.	
PREPARED BY:	DIRECTOR APPROVAL:
Chris Holland, Planning Manager	
DEPARTMENT:	
Community Development	
ATTACHMENTS:	
1. MMC Chapter 12.32, <i>Vacation of Streets and Alleys</i> 2. Resolution 2457 3. Vacation Ordinance	
BUDGET CODE:	AMOUNT:
SUMMARY:	

Marysville City Council approved Ordinance 2457 initiating vacation of public rights-of-way, waiving compensation for the vacated rights-of-way in accordance with MMC 12.32.020 and establishing February 11, 2019 at 7:00 PM as the time for a public hearing.

The rights-of-way proposed to be vacated include an alleyway located between 5th & 6th Street, west of Delta Avenue and east of the BNSF railway, 6th Street, west of Delta Avenue and east of the BNSF railway, the alleyway located between 6th Street and 7th Street, west of Delta Avenue and east of the BNSF railway, 7th Street, west of Delta Avenue and east of the BNSF railway and the alleyway located between 7th and 8th Street, west of Delta avenue and east of the BNSF railway,.

The purpose of vacating the rights-of-way is for future construction of a municipal jail, public safety, court and administration building, known as the Civic Campus.

RECOMMENDED ACTION:
Approve the Ordinance vacating the rights-of-way for future construction of the Civic Campus and waive compensation in accordance with MMC 12.32.020.

Chapter 12.32 VACATION OF STREETS AND ALLEYS

Sections:

- [12.32.010](#) Petition – Filing.
- [12.32.020](#) Petition – Scheduling for public hearing – Compensation for vacated area.
- [12.32.030](#) Notice of public hearing.
- [12.32.040](#) Survey requirements.
- [12.32.050](#) Appraisal.
- [12.32.060](#) Criteria for council decision.
- [12.32.070](#) Authorized by ordinance.
- [12.32.080](#) Notice to auditor and assessor.
- [12.32.090](#) Use of proceeds of vacation.

12.32.010 Petition – Filing.

The owners of an interest in any real estate abutting upon any street or alley who may desire to vacate the street or alley, or any part thereof, may petition the city council for the vacation of such street or alley, or any part thereof, in the manner provided in this chapter and pursuant to Chapter [35.79](#) RCW, or the city council may itself initiate, by resolution, such vacation procedure. The petition shall be on such form as may be prescribed by the city and shall contain a full and correct description of the property sought to be vacated. A petition shall be signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated.

The petition shall be filed with the city clerk, and the petitioners shall pay fees as set forth in MMC [14.07.005](#). (Ord. 2106 § 9, 1996; Ord. 1271, 1983; Ord. 948 § 1, 1977).

12.32.020 Petition – Scheduling for public hearing – Compensation for vacated area.

(1) Upon receiving a petition or the vacation of a city street or alley, the city clerk shall place the matter upon the agenda of the city council at a regular meeting to be held not fewer than 10, nor more than 30 days, from the date the petition is filed with the city clerk. The city clerk shall notify the petitioners in writing of the date the matter shall come before the city council. The city clerk shall then notify the city engineer and the compliance officer/planner of the petition and the date when the matter will be before the city council, and said officials shall prepare reports relating to the same.

(2) The city council may require the petitioners to compensate the city of Marysville:

(a) Where the street or alley has been part of a dedicated public right-of-way for 25 years or more, an amount that does not exceed the full appraised value of the area vacated;

(b) Where the street or alley has not been part of a dedicated public right-of-way for 25 years or more an amount which equals one-half of the appraised value of the area vacated.

When the vacation is initiated by the city of Marysville, or the city council deems it in the best interest of the city of Marysville, the council may waive all or any portion of such compensation. At the time the city council initially has the petition before it in order to set the matter for public hearing by resolution, the city council shall consider the reports of the city engineer and/or the city planner shall determine whether or not it will require that the city be compensated as a condition of the vacation.

(3) The city council shall, by resolution, fix the time for the hearing of such petition, which time shall not be more than 60 days, nor fewer than 20 days after the passage of such resolution. (Ord. 2396 § 1, 2001; Ord. 948 § 2, 1977).

12.32.030 Notice of public hearing.

(1) On the passage of the resolution provided for in MMC [12.32.020](#), the city clerk shall give 20 days' notice of the pendency of the petition by a written notice posted in three of the most public places in the city and a like notice in conspicuous place on the street or alley sought to be vacated. The notice shall contain a statement that a petition has been filed to vacate the street or alley described in the notice, together with a statement of the time and place fixed for the hearing of the petition.

(2) In all cases where the proceeding is initiated by resolution of the city without a petition having been signed by the owners of more than two-thirds of the property abutting upon the part of the street or alley sought to be vacated, in addition to notice required in subsection (1) of this section, there shall be given by mail, at least 15 days before the date fixed for the hearing, a similar notice to the owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any street or alley, or any part thereof, sought to be vacated, as shown on the rolls of the county treasurer, directed to the addresses thereon shown. Failure to send notice by mail to any such property owner where the current address of such property owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed street vacation. (Ord. 948 § 3, 1977).

12.32.040 Survey requirements.

It shall be the duty of the city engineer to determine whether or not the location and legal description of the street or alley proposed for vacation are sufficiently known to the city so that an accurate legal description of the proposed vacation can be known with certainty. If the city engineer determines that these matters are not known or are not accurately known, then the city shall notify the petitioners of the necessity of having an accurate, professional survey of the property proposed for vacation within the boundaries of the proposed vacation marked upon the ground with an accurate legal description of the proposed vacation to be furnished to the city. The city shall not proceed further upon the vacation petition until such a survey has been done and legal description has been received. (Ord. 948 § 4, 1977).

12.32.050 Appraisal.

In all cases where the city council requires compensation for the vacated right-of-way, an appraisal of the right-of-way proposed for vacation shall be made by one or more of the following methods:

(1) The assessed value of comparable abutting property shall be obtained from the records of the Snohomish County assessor. The average of said values, on a square foot basis, shall be applied to the right-of-way which is proposed for vacation.

(2) The petitioner shall be required to submit a report of a professional appraiser to the city, stating the fair market value of the right-of-way proposed for vacation.

(3) The city shall obtain a report from one or more professional appraisers stating the fair market value of the right-of-way proposed for vacation. The cost of said report or reports shall be paid by the petitioner prior to the time of the public hearing. (Ord. 2321 § 1, 2000; Ord. 1170, 1981; Ord. 948 § 5, 1977).

12.32.060 Criteria for council decision.

(1) The city council shall not vacate any street, alley or any parts thereof if any portion thereof abuts any body of salt or fresh water unless such vacation is sought to enable the city or state to acquire the property for port purposes, boat moorage or launching sites, park, viewpoint, recreational or educational purposes or other public uses. This provision shall not apply to industrial-zoned property.

(2) The city council shall use the following criteria for deciding upon the petition:

(a) The vacation will provide a public benefit, and/or will be for a public purpose;

- (b) The right-of-way vacation shall not adversely affect the street pattern or circulation of the immediate area or the community as a whole;
 - (c) The public need shall not be adversely affected;
 - (d) The right-of-way is not contemplated or needed for future public use;
 - (e) No abutting owner will become landlocked or his access will not be substantially impaired; i.e., there must be an alternative mode of ingress and egress, even if less convenient; provided that the city council may, at the time of its public hearing, determine that the city may retain an easement or right to exercise and grant easements in respect to the vacated land for the construction, repair, and maintenance of public utilities and services.
- (3) The city council will, at the time of the public hearing, determine the amount of compensation to be paid to the city by the petitioners as a condition of the vacation, which amount shall not exceed one-half of the appraised value of the area to be vacated; except, that in the event the subject property or portions thereof were acquired at public expense, the city may require compensation in an amount equal to the full appraised value of the area to be vacated. (Ord. 1452, 1986; Ord. 948 § 6, 1977).

12.32.070 Authorized by ordinance.

If the city council determines to grant the petition provided for in MMC [12.32.010](#), or any part thereof, the council shall authorize by ordinance the vacation of such street or alley, or any part thereof. Such ordinance may provide for the retention by the city of all easements or rights in respect to the vacated land for the construction or repair and maintenance of public utilities and services. If the city council determines that compensation shall be paid as a condition of the vacation, then the ordinance shall not be published or become effective until the compensation has been paid by the petitioners. (Ord. 948 § 7, 1977).

12.32.080 Notice to auditor and assessor.

A certified copy of the ordinance vacating any street or alley, or part thereof, shall be filed by the city clerk with the Snohomish County auditor's office and with the Snohomish County assessor's office. (Ord. 948 § 8, 1977).

12.32.090 Use of proceeds of vacation.

One-half of the revenue received by the city as compensation for area vacated, under this chapter, shall be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the city. (Ord. 2396 § 2, 2001).

CITY OF MARYSVILLE
Marysville, Washington
RESOLUTION NO. 2457

A RESOLUTION OF THE CITY OF MARYSVILLE ESTABLISHING FEBRUARY 11, 2019 AS THE DATE OF A PUBLIC HEARING BEFORE THE MARYSVILLE CITY COUNCIL TO CONSIDER VACATION OF (1) AN ALLEYWAY LOCATED BETWEEN 5th & 6th STREET, WEST OF DELTA AVENUE AND EAST OF THE BNSF RAILWAY; (2) 6th STREET, WEST OF DELTA AVENUE AND EAST OF THE BNSF RAILWAY; (3) THE ALLEYWAY LOCATED BETWEEN 6th STREET AND 7th STREET, WEST OF DELTA AVENUE AND EAST OF THE BNSF RAILWAY; (4) 7th STREET, WEST OF DELTA AVENUE AND EAST OF THE BNSF RAILWAY; AND (5) THE ALLEYWAY LOCATED BETWEEN 7th AND 8th STREET, WEST OF DELTA AVENUE AND EAST OF THE BNSF RAILWAY; AND TO CONSIDER WAIVING COMPENSATION FOR SAID VACATION.

WHEREAS, the City of Marysville desires to vacate: (1) an alleyway located between 5th & 6th Street, west of Delta Avenue and east of the BNSF railway; (2) 6th Street, west of Delta Avenue and east of the BNSF railway; (3) the alleyway located between 6th Street and 7th Street, west of Delta Avenue and east of the BNSF railway; (4) 7th Street, west of Delta Avenue and east of the BNSF railway; and (5) the alleyway located between 7th and 8th Street, west of Delta Avenue and east of the BNSF railway. These five vacations are legally described in **Exhibit A**, and depicted in **Exhibit B**, attached hereto (collectively, the "Rights-of-Way"); and

WHEREAS, the City of Marysville and BNSF Railway Company are the owners of all the real estate abutting the Rights-of-Way; and

WHEREAS, the purpose of vacation of the Rights-of-Way is for the construction of a municipal jail, public safety, court, and administration building (known as the Civic Campus), which is intended to be located where the Rights-of-Way are located; and

WHEREAS, the vacation of the Rights-of-Way will improve the public health, safety, and welfare of the residents of the City of Marysville by making possible the construction of the Civic Campus; and

WHEREAS, MMC 12.32.010 and RCW 35.79.010 authorize the Council to initiate vacation procedures by resolution; and

WHEREAS, MMC 12.32.020 provides that, when a street/alleyway vacation is initiated by the City, the Council may waive all or any portion of compensation that the City would receive from the vacation; and

WHEREAS, MMC 12.32.020 further provides that the Council will consider the reports of the City Engineer and City Planner in determining whether compensation will be required as a condition of the vacation; and

WHEREAS, the City Engineer and Community Development Director have recommended the Council waive all compensation for the vacation of the Rights-of-Way; and

WHEREAS, the Council has determined that it is in the best interests of the City to waive all compensation for the vacation of the Rights-of-Way; and

WHEREAS, the Council desires to initiate vacation procedures for the Rights-of-Way; NOW, THEREFORE

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

Section 1. February 11, 2019 at 7:00 PM is established as the time for a public hearing before the City Council of the City of Marysville at the Marysville City Hall to consider the vacation of the Rights-of-Way.

Section 2. The City Clerk is instructed to proceed with all proper notice as required by state law and the municipal code of the City of Marysville.

Section 3. The Council, having considered the recommendation of the City Engineer and the Community Development Director, waives all compensation for the vacated Rights-of-Way.

Section 4. The Council has determined that the vacation of the Rights-of-Way would satisfy the criteria contained in MMC 12.32.060, specifically:

- (a) The vacation will provide a public benefit, allowing construction of a municipal jail, public safety, court and administration building, known as the Civic Campus;
- (b) The vacation will not adversely affect the street pattern or circulation of the immediate area of the community as a whole;
- (c) The public need will not be adversely affected;
- (d) The Rights-of-Way are not contemplated or needed for future public use; and
- (e) No abutting owner will become landlocked or have their access substantially impaired.

PASSED by the City Council and APPROVED by the Mayor this 14 day of January, 2019.

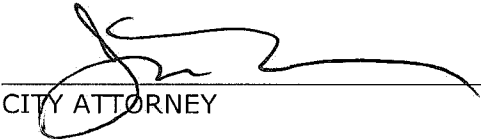
CITY OF MARYSVILLE

By: 
JON NEHRING, MAYOR

Attest:

By: 
TINA BROCK, DEPUTY CITY CLERK

Approved as to form:

By: 
CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)

EXHIBIT A

VACATION OF STREET AND ALLEY RIGHTS-OF-WAY

LEGAL DESCRIPTIONS

VACATION #1

That portion of dedicated ALLEY located in Block 6, S.W. Sisco Addition to Marysville, Washington, according to the plat thereof recorded in Volume 2 of Plats, page 37, as amended by the Corrected Plat of Sisco's Addition to Marysville, Washington, according to the plat thereof recorded in Volume 6 of Plats, page 37, Records of Snohomish County, Washington, lying easterly of the northerly extension of the west line of Lot 3, Block 6, and lying westerly of a line drawn from the southeast corner of Lot 16, Block 6 to the northeast corner of Lot 1, Block 6 of said S.W. Sisco Addition and Correction Plat thereof.

VACATION #2

That portion of dedicated 6TH STREET located between Block 1 and Block 6, S.W. Sisco Addition to Marysville, Washington, according to the plat thereof recorded in Volume 2 of Plats, page 37, as amended by the Corrected Plat of Sisco's Addition to Marysville, Washington, according to the plat thereof recorded in Volume 6 of Plats, page 37, Records of Snohomish County, Washington, lying easterly of a line 25.00 feet easterly of, as measured perpendicular to and parallel with, the centerline of the main track of the Burlington Northern Santa Fe Railroad, and lying westerly of a line drawn from the southeast corner of Lot 1, Block 1 to the northeast corner of Lot 16, Block 6 of said S.W. Sisco Addition and Correction Plat thereof.

VACATION #3

That portion of dedicated ALLEY located between Block 1, S.W. Sisco Addition to Marysville, Washington, according to the plat thereof recorded in Volume 2 of Plats, page 37, as amended by the Corrected Plat of Sisco's Addition to Marysville, Washington, according to the plat thereof recorded in Volume 6 of Plats, page 37, Records of Snohomish County, Washington, and Block 2, The Morgan Addition to Marysville, Washington, according to the plat thereof recorded in Volume 2 of Plats, page 43, Records of Snohomish County, Washington lying easterly of a line 25.00 feet easterly of, as measured perpendicular to and parallel with, the centerline of the main track of the Burlington Northern Santa Fe Railroad, and lying westerly of the northerly extension of the east line of Lot 1, Block 1, said S.W. Sisco Addition and Correction Plat thereof.

EXHIBIT A

VACATION #4

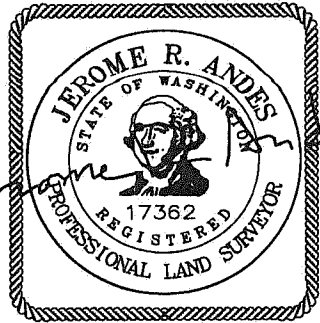
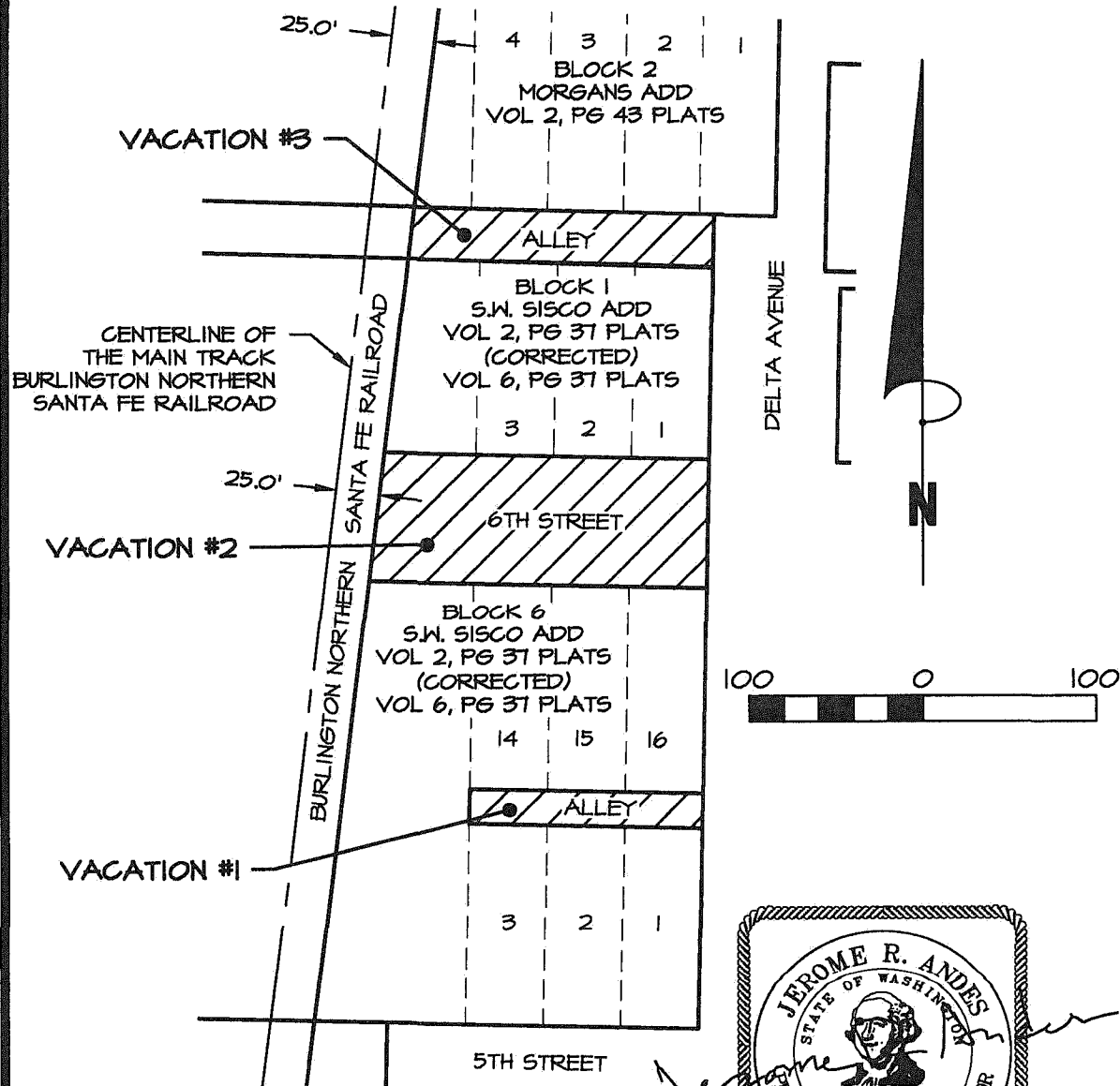
That portion of dedicated 7TH STREET located between Block 1 and Block 2, The Morgan Addition to Marysville, Washington, according to the plat thereof recorded in Volume 2 of Plats, page 43, Records of Snohomish County, Washington, lying easterly of a line 25.00 feet easterly of, as measured perpendicular to and parallel with, the centerline of the main track of the Burlington Northern Santa Fe Railroad, and lying westerly of a line drawn from the southeast corner of Lot 18, Block 1 to the northeast corner of Lot 1, Block 2 of said Morgan Addition.

VACATION #5

That portion of dedicated ALLEY located in Block 1, The Morgan Addition to Marysville, Washington, according to the plat thereof recorded in Volume 2 of Plats, page 43, Records of Snohomish County, Washington, lying easterly of a line 25.00 feet easterly of, as measured perpendicular to and parallel with, the centerline of the main track of the Burlington Northern Santa Fe Railroad, and lying westerly of a line drawn from the southeast corner of Lot 1, Block 1 to the northeast corner of Lot 18, Block 1 of said Morgan Addition.



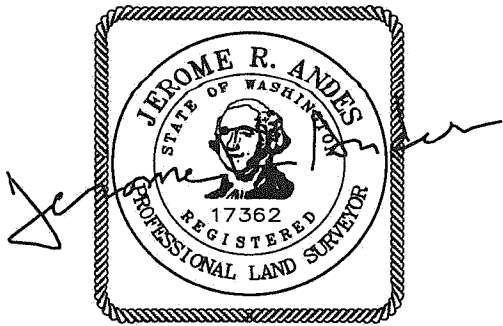
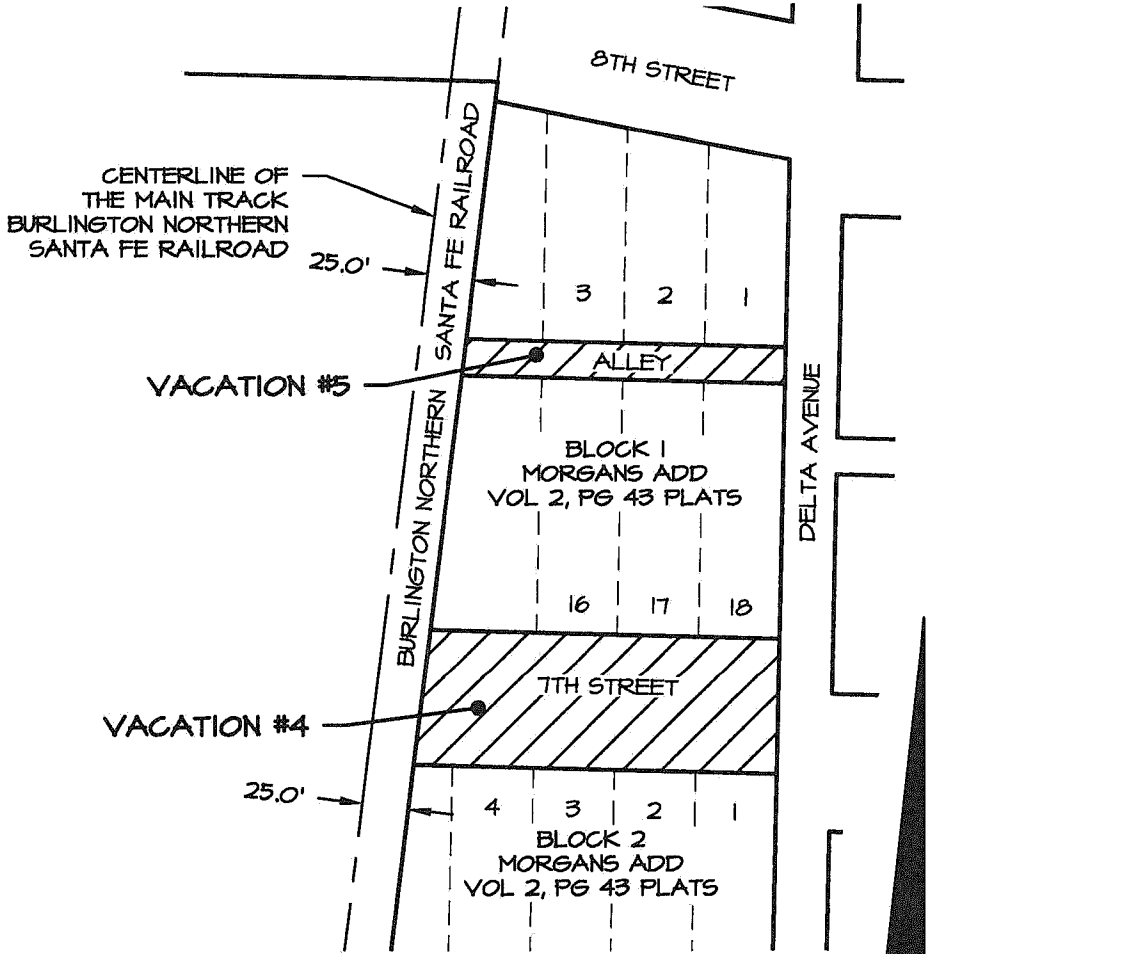
EXHIBIT B



12-27-18

 <p>ANDES LAND SURVEYING, P.S.</p>	<p>1523 TENTH ST, MARYSVILLE, WA 98270 PHONE: 360-659-6639</p>	<p>CITY OF MARYSVILLE VACATION OF STREET & ALLEY RIGHTS-OF-WAY S.W.1/4 SECTION 28, TOWNSHIP 30 NORTH, RANGE 5 EAST, W.M.</p>
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EXHIBIT B



12-27-18



 <p>ANDES LAND SURVEYING, P.S.</p>	<p>1523 TENTH ST, MARYSVILLE, WA 98270 PHONE: 360-659-6639</p>	<p>CITY OF MARYSVILLE VACATION OF STREET & ALLEY RIGHTS-OF-WAY S.W.1/4 SECTION 28, TOWNSHIP 30 NORTH, RANGE 5 EAST, W.M.</p>
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CITY OF MARYSVILLE
Marysville, Washington
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE VACATING (1) AN ALLEYWAY LOCATED BETWEEN 5th & 6th STREET, WEST OF DELTA AVENUE AND EAST OF THE BNSF RAILWAY; (2) 6th STREET, WEST OF DELTA AVENUE AND EAST OF THE BNSF RAILWAY; (3) THE ALLEYWAY LOCATED BETWEEN 6th STREET AND 7th STREET, WEST OF DELTA AVENUE AND EAST OF THE BNSF RAILWAY; (4) 7th STREET, WEST OF DELTA AVENUE AND EAST OF THE BNSF RAILWAY; AND (5) THE ALLEYWAY LOCATED BETWEEN 7th AND 8th STREET, WEST OF DELTA AVENUE AND EAST OF THE BNSF RAILWAY IN THE CITY OF MARYSVILLE, WASHINGTON.

WHEREAS, the Marysville City Council passed Resolution 2457 on January 14, 2019, which initiated vacation procedures for (1) an alleyway located between 5th & 6th Street, west of Delta Avenue and east of the BNSF railway; (2) 6th Street, west of Delta Avenue and east of the BNSF railway; (3) the alleyway located between 6th Street and 7th Street, west of Delta Avenue and east of the BNSF railway; (4) 7th Street, west of Delta Avenue and east of the BNSF railway; and (5) the alleyway located between 7th and 8th Street, west of Delta Avenue and east of the BNSF railway. These five vacations are legally described in **Exhibit A** and depicted in **Exhibit B**, attached hereto, and are collectively referred to as the "Rights-of-Way"; and

WHEREAS, Resolution 2457 set a public hearing date of February 11, 2019 to consider the vacation of the Rights-of-Way, and proper notice was posted and mailed to all required parties pursuant to MMC 12.32.030; and

WHEREAS, a public hearing was held before the Marysville City Council on February 11, 2019 to consider vacation of the Rights-of-Way; and

WHEREAS, the City Engineer and Community Development Director recommended that the Council waive all compensation for the vacation of the Rights-of-Way; and

WHEREAS, the Marysville City Council has determined that it is in the best interests of the City to waive all compensation for the vacation of the Rights-of-Way; and

WHEREAS, the Marysville City Council considered the evidence presented at the public hearing and entered the following findings of fact:

- (a) The vacation will provide a public benefit, allowing construction of a municipal jail, public safety, court and administration building, known as the Civic Campus;
- (b) The vacation will not adversely affect the street pattern or circulation of the immediate area of the community as a whole;
- (c) The public need will not be adversely affected;
- (d) The Rights-of-Way are not contemplated or needed for future public use; and
- (e) No abutting owner will become landlocked or have their access substantially impaired.

NOW, THEREFORE, the City Council of the City of Marysville, Washington do ordain as follows:

Section 1. The Rights-of-Way legally described in **Exhibit A**, and depicted in **Exhibit B**, attached hereto, are hereby vacated and all compensation is waived in accordance with MMC 12.32.020.

Section 2. This ordinance and the vacation of the Rights-of-Way legally described in **Exhibit A**, and depicted in **Exhibit B**, attached hereto, shall become effective five (5) days after publication of this ordinance and recording by the City of a certified copy of the same in the records of the Snohomish County Auditor.

Section 3. Severability. If any section, subsection, sentence, clause, phrase or work of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

PASSED by the City Council and APPROVED by the Mayor this _____ day of _____, 2019.

CITY OF MARYSVILLE

By: _____
JON NEHRING, MAYOR

Attest:

By: _____
TINA BROCK, DEPUTY CITY CLERK

Approved as to form:

By: _____
JON WALKER, CITY ATTORNEY

Date of Publication: _____

Effective Date: _____
(5 days after publication)

EXHIBIT A

VACATION OF STREET AND ALLEY RIGHTS-OF-WAY

LEGAL DESCRIPTIONS

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VACATION #2

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VACATION #3

That portion of dedicated ALLEY located between Block 1, S.W. Sisco Addition to Marysville, Washington, according to the plat thereof recorded in Volume 2 of Plats, page 37, as amended by the Corrected Plat of Sisco's Addition to Marysville, Washington, according to the plat thereof recorded in Volume 6 of Plats, page 37, Records of Snohomish County, Washington, and Block 2, The Morgan Addition to Marysville, Washington, according to the plat thereof recorded in Volume 2 of Plats, page 43, Records of Snohomish County, Washington lying easterly of a line 25.00 feet easterly of, as measured perpendicular to and parallel with, the centerline of the main track of the Burlington Northern Santa Fe Railroad, and lying westerly of the northerly extension of the east line of Lot 1, Block 1, said S.W. Sisco Addition and Correction Plat thereof.

EXHIBIT A

VACATION #4

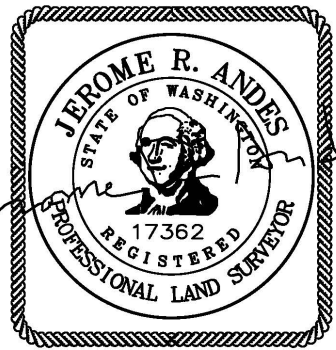
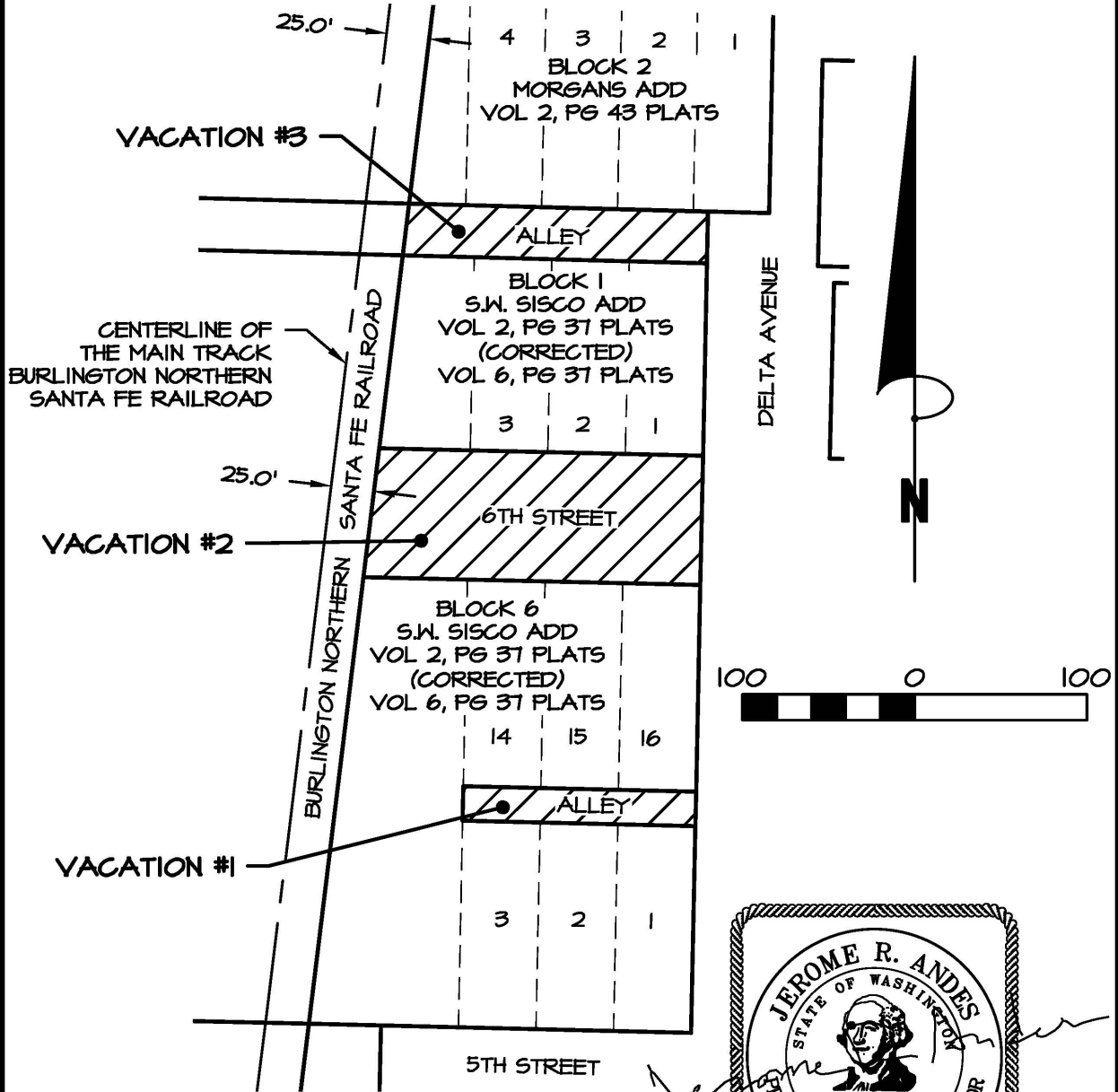
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VACATION #5

That portion of dedicated ALLEY located in Block 1, The Morgan Addition to Marysville, Washington, according to the plat thereof recorded in Volume 2 of Plats, page 43, Records of Snohomish County, Washington, lying easterly of a line 25.00 feet easterly of, as measured perpendicular to and parallel with, the centerline of the main track of the Burlington Northern Santa Fe Railroad, and lying westerly of a line drawn from the southeast corner of Lot 1, Block 1 to the northeast corner of Lot 18, Block 1 of said Morgan Addition.



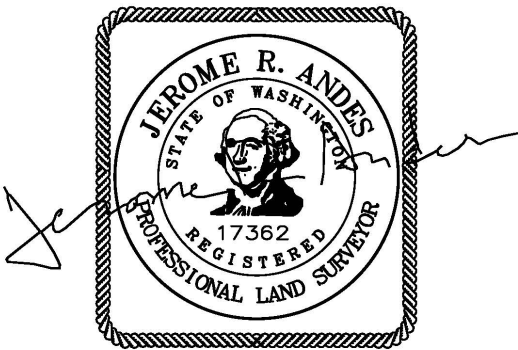
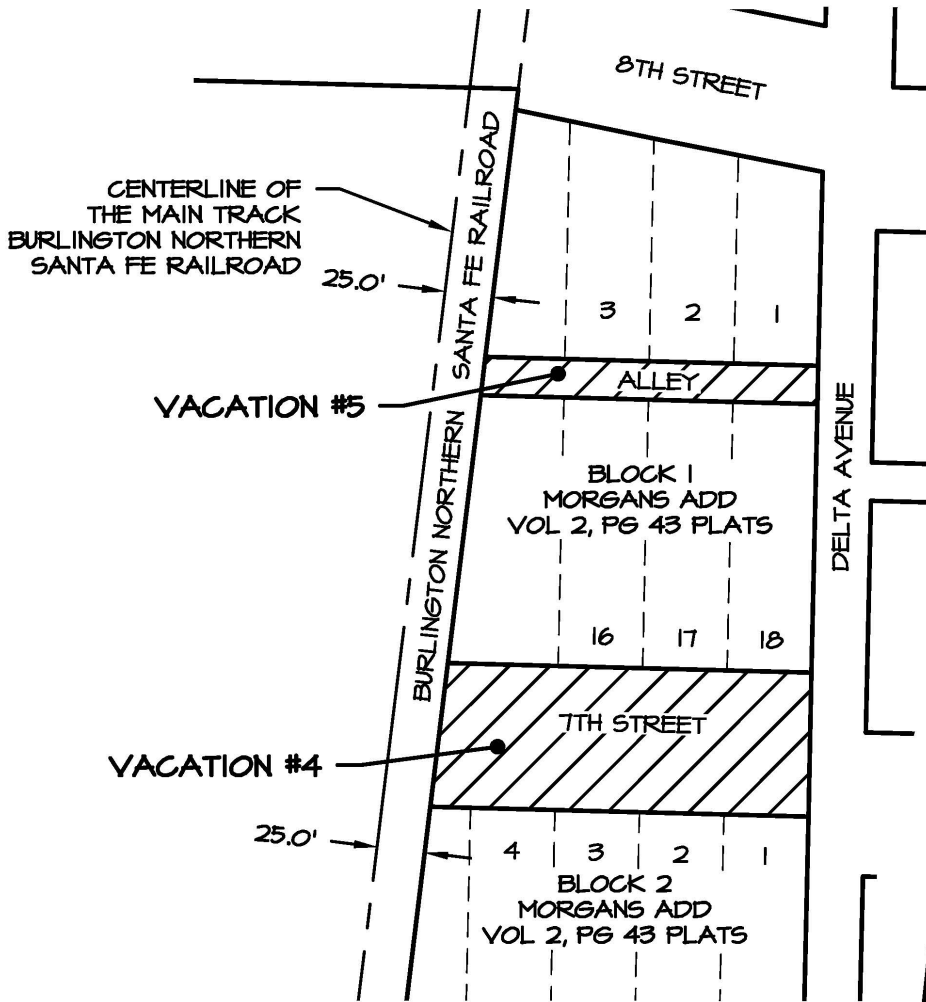
EXHIBIT B



12-27-18

 <p>ANDES LAND SURVEYING, P.S.</p>	<p>1523 TENTH ST, MARYSVILLE, WA 98270 PHONE: 360-659-6639</p>	<p>CITY OF MARYSVILLE VACATION OF STREET & ALLEY RIGHTS-OF-WAY S.W.1/4 SECTION 28, TOWNSHIP 30 NORTH, RANGE 5 EAST, W.M.</p>
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