

CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: September 12, 2022

AGENDA ITEM:	
A Resolution scheduling a Public Hearing for October 10, 2022, for consideration of vacating the northerly 10 feet of that 40 foot portion of right-of-way per the plat of KANIKEBERG HOMESITES, recorded under AFN 1111391, lying adjacent to and contiguous with Lot 8 of said Plat, comprising approximately 851 square feet.	
PREPARED BY:	DIRECTOR APPROVAL:
Ken McIntyre, Assistant City Engineer	
DEPARTMENT:	
Public Works/Engineering	
ATTACHMENTS:	
<ol style="list-style-type: none"> 1. Petition for Vacation of Street 2. Chapter 12.32 MMC, Vacation of Streets and Alleys 3. AFN 1111391 4. Resolution <ul style="list-style-type: none"> Exhibit A – Legal description of right-of-way vacation area Exhibit B – Assessors map showing vacation area Exhibit C – Aerial photo showing vacation area 	
BUDGET CODE:	AMOUNT:
N/A	N/A
SUMMARY:	
<p>City staff received a petition for vacation of street right-of-way from Linda White, owner of property located at 5229 74th Pl NE. The property owner desires to construct an addition to the front of the existing house of approximately 8 feet to provide for a garage extension. The current right-of-way (ROW) width will not allow for this to be done. By vacating 10 feet of the 40 foot portion of ROW adjacent to the south property line, this will create the necessary 20 foot building setback required for the improvement. The area of the proposed vacation is approximately 851 square feet.</p> <p>Refer to Exhibit C showing the historical and current aerial photo. The plat of Kanikeberg Homesites was recorded September 7, 1954, under AFN:1111391. At that time, 74th Place NE (platted as Myrtle Street) ended at the east line of said plat. The ROW of the street was, and still is, 60 feet, being 30 feet on each side of the centerline except for that portion fronting Lot 7 and Lot 8 (5229 74th Pl NE). That ROW width is 80 feet, being 40 feet on each side of the centerline. The reason for the additional width was to provide a temporary cul-de-sac since the road did not continue beyond the east line of this plat.</p> <p>On April 1, 1963 the plat of Normtown Addition was recorded under AFN:1602272. This plat created what is now known as 75th Street NE. Also, 75th Street NE was connected to the east end of 74th Place NE as mentioned above. By making this connection, there was no further need for a cul- de-sac at the east end of 74th Place NE. Since then, the property owner has utilized the ROW as an extension of their property for their own benefit.</p> <p>As this unutilized portion of ROW is not needed for city operations, and reducing the ROW width will not conflict with existing roadway standards, city staff recommends vacating the proposed 10-foot of ROW as allowed for by MMC 12.32.</p>	

Furthermore, staff recommends that Council waive all compensation for the vacation of the portion of right-of-way as it has been determined it was once a historical remnant of a temporary cul-de-sac, when at which point the roadway was extended and the abutting property owner has maintained said right-of-way, and the City has no use for the right-of-way.

Per MMC 12.32, a public hearing is required to consider the vacation of the existing public right-of-way. Staff recommends that the Council consider adopting the Resolution by setting a public hearing date of October 10, 2022 to consider the vacation of the unutilized portion of ROW that was dedicated by the plat recorded under AFN 1111391 and waiving all compensation pursuant to staff's recommendation.

RECOMMENDED MOTION:

I move to authorize the Mayor to sign and execute Resolution No. _____.



PETITION FOR VACATION OF STREET

Community Development Department ♦ 80 Columbia Avenue ♦ Marysville, WA 98270
(360) 363-8100 ♦ (360) 651-5099 FAX ♦ Office Hours: Mon - Fri 7:30 AM - 4:00 PM

FOR AGENCY USE	Date:	Permit Number:	Fee: \$500.00
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TO: The City Council of the City of Marysville, Washington

Linda White hereby petitions the City of Marysville for the vacation of a street pursuant to RCW 35.79 and Chapter 12.32 MMC, *Vacation of Streets and Alleys*, and in support of said petition states as follows:

1. Said vacation is a portion of 74th Place NE as described in Exhibit A and shown in Exhibit B, both attached hereto.
2. Linda White is the owner of 100% of all property abutting 74th Place NE.
3. Vacation of a portion of 74th Place NE will meet the following criteria:
 - a. It will provide a public benefit
 - b. It will not adversely affect the street pattern or circulation of the immediate area or of the community as a whole.
 - c. The public need will not be adversely affected.
 - d. The street is not contemplated or needed for future public use.
 - e. No abutting owner will become landlocked or have his access substantially impaired.
4. Linda White hereby agrees to pay all fees and charges required by Chapter 12.32 MMC relating to vacation of streets.

DATED this 28th day of July, 2022.

By Linda White

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).

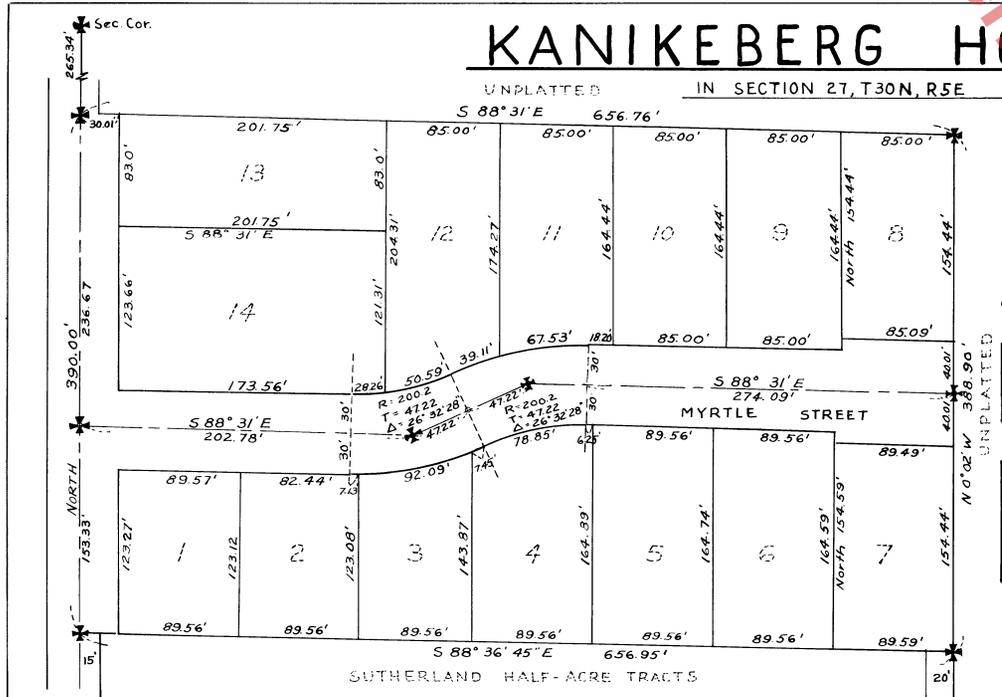
The Marysville Municipal Code is current through Ordinance 3221, passed June 27, 2022.

Disclaimer: The city clerk's office has the official version of the Marysville Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.marysvillewa.gov/>

City Telephone: (360) 363-8000

[Code Publishing Company](#)



DESCRIPTION
 This plat of KANIKEBERG HOMESITES embraces the following described tract of land; The NW 1/4 NW 1/4 NW 1/4 of Section 27, T.30N. R.5E, W.M.; except the North 4 acres thereof; less roads.

DEDICATION
 KNOW ALL MEN BY THESE PRESENTS that MELVIN L KANIKEBERG and MARY EVELYN KANIKEBERG, husband and wife, owners in fee, and Everett Federal Savings and Loan Association, a Washington Corporation as Mortgagee of the above described tract of land hereby declare this plat and dedicate to the public for the use of the public forever all roads, drives and lanes as shown thereon, with the right to make all necessary slopes for cuts and fills upon the tracts of land shown on this plat, in the original reasonable grading of all roads shown hereon. The county, or its successors, shall have the right to drain all roads and streets over and across any lot or lots, where water might take a natural course after the roads and streets are graded. No land drainage shall be diverted to public road rights of way, nor shall it be blocked from draining along its normal course. Any enclosing of drainage waters in culverts or drains, or re-routing across lots, shall be at the expense of the land owner.

EVERETT FEDERAL SAV. & LOAN ASSOC. OWNERS IN FEE
 by: *[Signature]* PRESIDENT
[Signature] Mervin L. Kanikeberg
 by: *[Signature]* SEC. TREASURER
[Signature] Mary Evelyn Kanikeberg

TREASURER'S CERTIFICATE

I, Verne Sievers, Treasurer of Snohomish County, Wash, do hereby certify that all taxes have been fully paid up to and including the year 1955.
 by: *[Signature]* COUNTY TREASURER
[Signature] DEPUTY TREASURER

RECORDING # 1111391

Filed for record at the request of SIEVERS & DUECY on this 7 day of SEPT 1954 at 12 minutes past 3 o'clock P.M. and recorded in Volume 14 of plats on page 116 records of Snohomish County, Washington.
 by: *[Signature]* COUNTY AUDITOR
[Signature] DEPUTY AUDITOR

APPROVALS

Examined and approved this 7 day of SEPT 1954.
[Signature] COUNTY ROAD ENGINEER
 Examined and approved this 7 day of SEPT 1954.
[Signature] DIRECTOR SNOHOMISH COUNTY PLANNING COMM.
 Examined and approved this 7 day of SEPT 1954.
[Signature] CHAIRMAN, BOARD OF COUNTY COMMISSIONERS

ACKNOWLEDGMENT

STATE OF WASHINGTON }
 COUNTY OF SNOHOMISH } SS
 This is to certify that on this 3rd day of SEPTEMBER 1954, personally appeared before me, a Notary Public, MELVIN L. KANIKEBERG and MARY EVELYN KANIKEBERG, husband and wife, and G. D. REEVES and O. W. SCHELDT, President and Sec. Treasurer respectively of Everett Federal Savings and Loan Association a Washington Corporation, to me known to be individuals and the officers of the afore mentioned corporation who executed the within and foregoing instrument and acknowledged to me that they signed and sealed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.
 In witness whereof, I have set my hand and official seal the day and year first above mentioned.

ENGINEER'S CERTIFICATE

I, HOWARD F. SIEVERS, Partner of Sievers and Duecy, Reg. Prof. Engineer and Land Surveyor, do hereby certify this plat of KANIKEBERG HOMESITES is based on an actual survey and subdivision of Sec. 27, T30N, R5E. that courses and distances are correct and lot stakes have been set and monuments set as shown.
[Signature] PROFESSIONAL ENGINEER

CITY OF MARYSVILLE
Marysville, Washington

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, ESTABLISHING OCTOBER 10, 2022 AS THE DATE UPON WHICH A PUBLIC HEARING SHALL BE HELD BEFORE THE MARYSVILLE CITY COUNCIL TO CONSIDER THE VACATION OF THE NORTHERLY 10 FEET OF THAT 40 FOOT PORTION OF RIGHT-OF-WAY PER THE PLAT OF KANIKEBERG HOMESITES, RECORDED UNDER AFN 1111391, LYING ADJACENT TO AND CONTIGUOUS WITH LOT 8 OF SAID PLAT, AND CONSIDERING COMPENSATION FOR SAID VACATION.

WHEREAS, a petition for a right-of-way vacation was submitted August 5, 2022 on behalf of Linda White, owner of Snohomish County Assessor Parcel Number 00484100000800, also known as Lot 8 of the plat of Kanikeberg Homesites, and commonly known as 5229 74th Pl NE; and

WHEREAS, the right-of-way contained within 74th Pl NE, fronting Lot 7 and Lot 8 of Kanikeberg Homesites, was established with a width is 80 feet (40 feet on each side of the centerline); and

WHEREAS, the right-of-way for all other lots of Kanikeberg Homesites fronting 74th Pl NE was, and still is, 60 feet (30 feet on each side of the centerline, except for that portion fronting Lot 7 and Lot 8 noted above); and

WHEREAS, it appears that the extra 20 feet of dedicated right-of-way adjacent to Lots 7 and 8 was intended to accommodate a temporary cul-de-sac as the area was under development. It would furthermore appear that the road was subsequently extended beyond Lots 7 and 8, allowing the cul-de-sac to be removed; and

WHEREAS, this unutilized 20-foot portion of right-of-way is not needed for city operations, and reducing the right-of-way width to that which is consistent with the remaining right-of-way for 74th Pl NE, within the plat of Kanikeberg Homesites, will not conflict with existing roadway standards; and

WHEREAS, MMC 12.32.010 and RCW 35.79.010 allow 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, to petition the City Council for the vacation of such street or alley, or any part thereof; and

WHEREAS, MMC 12.32.020 provides that, when vacation of right-of-way 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 compensation for such vacation of right-of-way; and

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

WHEREAS, the City Engineer and Community Development Director have recommended that the Council waive all compensation for the vacation of the portion of right-of-way contemplated by this resolution, based on the following factors:

- (a) The portion of right-of-way contemplated by this resolution appears to have been originally dedicated to allow for a temporary cul-de-sac to be utilized, which temporary cul-de-sac was removed when the road was subsequently extended.
- (b) The reasons/purposes underlying the original dedication of the right-of-way contemplated by this resolution (a temporary cul-de-sac) no longer exist, and the City has no intention of utilizing this portion of right-of-way.
- (c) The City has no underlying utilities within the portion of right-of-way contemplated by this resolution.
- (d) Vacating the right-of-way contemplated by this resolution will reduce the City's maintenance obligations.
- (e) Vacating the right-of-way contemplated by this resolution will allow for the utilization of property that is otherwise not being put to use.

WHEREAS, the Council desires to initiate vacation procedures for the unutilized portion of right-of-way fronting Lot 8, and contained within 74th Pl NE, of Kanikeberg Homesites;

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

Section 1. Pursuant to MMC 12.32.020, October 10, 2022 at 7:00 PM is established as the time at which the City Council of the City of Marysville will hold a public hearing to consider the vacation of the existing public right-of-way which is legally described in **Exhibit A**, and depicted in **Exhibit B** and **Exhibit C**, attached hereto.

Section 2. The Council, having considered the recommendation of the City Engineer and the Community Development Director, waives all compensation for the vacation of the portion of right-of-way that is legally described in **Exhibit A** and depicted in **Exhibit B** and **Exhibit C**, attached hereto.

Section 3. The Council has determined that vacation of the right-of-way as contemplated herein would satisfy the criteria contained in MMC 12.32.060, specifically:

- (a) The vacation will provide a public benefit, by allowing for utilization of property that is currently unused for right-of-way purposes;
- (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 right-of-way intended to be vacated is not contemplated or needed for future public use; and
- (e) No abutting owner will become landlocked or have their access substantially impaired.

ADOPTED by the City Council at an open public meeting this _____ day of _____, 20____.

CITY OF MARYSVILLE

By _____
JON NEHRING, MAYOR

Attest:

By _____
_____, DEPUTY CITY CLERK

Approved as to form:

By _____
JON WALKER, CITY ATTORNEY

EXHIBIT A PROPOSED RIGHT-OF-WAY VACATION

LEGAL DESCRIPTION

The northerly 10.00 feet of that 40.00 foot portion of right-of-way per the plat of **KANIKEBERG HOMESITES**, recorded under Auditor's File Number 1111391, records of Snohomish County, Washington, lying adjacent to and contiguous with Lot 8, said Plat, described as follows:

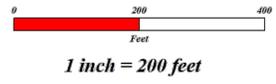
Beginning at the southeast corner of Lot 8, said Plat; thence North 88 degrees 31 minutes 00 seconds West, along the south line of said Lot 8, a distance of 85.09 feet to the southwest corner of said Lot 8; thence South, along the southerly projection of the west line of said Lot 8, a distance of 10.00 feet; thence South 88 degrees 31 minutes 00 seconds East, parallel with the south line of said Lot 8, a distance of 85.10 feet to a line that bears South 0 degrees 02 minutes 00 seconds East from the point of beginning, thence North 0 degrees 02 minutes 00 seconds West, along the southerly projection of the east line of said Lot 8, a distance of 10.00 feet to the southeast corner of said Lot 8 being the point of beginning.

Containing 851 S.F.



7/15/2022

SECTION	TOWNSHIP N.W.B.L.	RANGE E.W.M.	ALL MAPS, DATA, AND INFORMATION SET FORTH HEREIN ("DATA"), ARE FOR ILLUSTRATIVE PURPOSES ONLY, OR REPRESENTATION OF, THE SINGHOMISH COUNTY CODE. AMENDMENTS AND UPDATES TO THE I PROVISIONS, MAY APPLY WHICH ARE NOT DEPICTED HEREIN. SINGHOMISH COUNTY MAKES NO REPRESENTATION AS TO THE ACCURACY, CURRENCY, COMPLETENESS OR QUALITY OF THE DATA CONTAINED HEREIN AND EXPRESS FOR ANY PARTICULAR PURPOSE. ALL PERSONS ACCESSING OR OTHERWISE USING THIS DATA ASSUME SINGHOMISH COUNTY HARMLESS FROM AND AGAINST ANY DAMAGES, LOSS, CLAIM OR LIABILITY ARISING WITHIN SAID DATA. WASHINGTON STATE LAW, CH. 42.56 RCW, PROHIBITS STATE AND LOCAL AGENCIES FOR USE FOR COMMERCIAL PURPOSES AND, THUS, NO COMMERCIAL USE MAY BE MADE OF ANY DATA
27	30	5	
Lot	Block	Section	City Limits
Subdiv	ROW	Quarter	Tax Acct
Other Lot	Vac ROW	16th	Easement
Other Subdiv	Vac Lot		



Map produced on July 12, 2021

A, Sn



