

RESOLUTION NO. R- 3462

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELATING TO A PROPOSED VACATION OF PORTIONS OF PUBLIC RIGHT-OF-WAY REQUESTED BY DON CARLSON, AGENT FOR LARRY'S MARKET, FILE NO. VC-88-24 AND AMENDING SECTIONS 2 AND 3 OF RESOLUTION R-3455 ADOPTED APRIL 19, 1988.

WHEREAS, Don Carlson applied to the City for vacation of public rights--of-way described in file number VC-88-24; and

WHEREAS, thereafter following a public hearing the City Council adopted resolution number R-3455 entitled: "A resolution of the City of Kirkland expressing an intent to vacate a portion of a right-of-way filed by Don Carlson, Agent for Larry's Market, File No. VC-88-24; and

WHEREAS, Don Carlson has requested additional time to meet conditions established in Sections 2 and 3 of said resolutions; and

WHEREAS, it appears to the City Council that such request is reasonable.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Kirkland as follows:

Section 1: Sections 2 and 3 of Resolution No. R-3455 adopted April 19, 1988 be and they hereby are amended to read as follows:

Section 2: Except as stated in Section 3 of this resolution (Resolution No. R-3455) the City will, by appropriate ordinance, vacate the portion of the right-of-way described in Section 4 of this resolution (Resolution No. R-3455) if within 90 ~~180~~ days of the date of passage of this resolution (Resolution No. R-3455) the applicant or other person: 1) pay to the City \$220,848.75 as compensation for vacating this portion of the right-of-way; 2) dedicates the following described property as public right-of-way to substitute for the vacated right-of-way:

That portion of the Northeast quarter of the Southwest quarter of Section 28, Township 26 North, Range 5 East, W.M., described as follows:

Beginning at the Southeast corner of said Southwest quarter;

Thence N 01°43'38" E along the East line of said subdivision a distance of 1,779.20 feet;

Thence N 89°20'06" W along the original centerline of NE 124th Street as shown on the survey recorded in Volume 38 of Surveys, page 146, records of King County, Washington, a distance of 545.67 feet;

Thence S 00°39'54" W a distance of 30.00 feet to the Northeast corner of the surveyed parcel of land as shown on said Record of Survey and the Northeast corner of Lot 4, Kirkland Short Subdivision I-85-66 as recorded under Recording Number 8509069001 and The True Point of Beginning;

Thence S 00°39'54" W along the East line of said lot a distance of 200.00 feet;

Thence S 89°20'06" E continuing along the boundary of said lot a distance of 26.36 feet;

Thence S 41°37'49" W along the Southeasterly line of said lot and along the Southeasterly line of Lot 3 of said Short Subdivision a distance of 267.14 to a point on the south line of said northeast quarter of the Southwest quarter;

Thence N 89°18'59" W along said South line a distance of 51.11 feet;
 Thence N 00°41'01" E a distance of 66.95 feet;
 Thence S 89°18'59" E a distance of 43.00 feet;
 Thence N 41°37'49" E a distance of 163.00 feet;
 Thence N 00°39'54" E a distance of 211.69 feet to the North line of said
 Lot 4;
 Thence S 89°20'06" E along said North line a distance of 50.00 feet to
 the TRUE POINT OF BEGINNING

Situate in the City of Kirkland, King County, Washington
 Contains 24,350 square feet.

3) The conveyance making this dedication shall include a grant by the grantor of a reversionary interest to the Washington State Department of Transportation in the event the property ceases to be used for public right-of-way; 4) the grantor of the alternative right-of-way must execute a document satisfactory to the Washington State Department of Transportation holding the Department of Transportation and the City of Kirkland harmless from any claims that may arise asserting a loss of access resulting from the vacation of the public right-of-way; 5) the grantor shall grant to the City of Kirkland, for the benefit of the public, a temporary right-of-way easement over the property herein to be vacated until such time as the property to be dedicated has been dedicated, improved, and accepted by the City as improved right-of-way; 6) the grantor shall grant, upon the request of the Washington State Department of Transportation, construction access easements across the western half of 120th Place NE for use in connection with improvements scheduled to be made to the SR-405/NE 124th Street interchange by the Washington State Department of Transportation.

7) The grantor shall convey to Motel 6 operating L.P. the following described property as easement to connect the public right-of-way to be dedicated with the Motel 6 site:

That portion of the Northeast quarter of the Southwest quarter of Section 28, Township 26 North, Range 5 East, W.M., described as follows:

Beginning at the Southeast corner of said Southwest quarter;
 Thence N 01°43'38" E along the East line of said subdivision a distance of 1,779.20 feet;

Thence N 89°20'06" W along the original centerline of NE 124th Street as shown on the survey recorded in Volume 38 of Surveys, page 146, records of King County, Washington, a distance of 545.67 feet;

Thence S 00°39'54" W a distance of 30.00 feet to the Northeast corner of the surveyed parcel of land as shown on said Record of Survey and the Northeast corner of Lot 4, Kirkland Short Subdivision I-85-66, as recorded under Recording Number 8509069001;

Thence S 00°39'54" W along the East line of said lot a distance of 200.00 feet;

Thence S 89°20'06" E continuing along the boundary of said lot a distance of 26.36 feet;

Thence S 41°37'49" W along the Southeasterly line of said lot and along the Southeasterly line of Lot 3 of said Short Subdivision a distance of 267.14 to a point on the south line of said northeast quarter of the Southwest quarter;

Thence N 89°18'59" W along said South line a distance of 51.11 feet;
 Thence N 00°41'01" E a distance of 31.00 feet to the TRUE POINT OF BEGINNING of the herein described easement;
 Thence N 89°18'59" W a distance of 43.33 feet to the East line of Parcel "A," City of Kirkland Lot Line Adjustment as recorded under Recording Number 8608110523;
 Thence N 00°41'01" E along said East line a distance of 24.00 feet to a point designated as Point "A" for the purpose of this description;
 Thence S 89°18'59" E a distance of 43.33 feet;
 Thence S 00°41'01" W a distance of 24.00 feet to the TRUE POINT OF BEGINNING; TOGETHER WITH
 Beginning at the above described Point "A";
 Thence N 00°41'01" E along the East line of Parcel "A" City of Kirkland Lot Line Adjustment as recorded under Recording Number 8608110523 a distance of 105.00 feet to the TRUE POINT OF BEGINNING OF THE herein described easement:
 Thence continuing N 00°41'01" E along said East line a distance of 24.00 feet;
 Thence S 89°18'59" E a distance of 149.80 feet;
 Thence S 48°22'11" E a distance of 28.77 feet;
 Thence S 41°37'49" W a distance of 24.00 feet;
 Thence N 48°22'11" W a distance of 19.81 feet;
 Thence N 89°18'59" W a distance of 140.84 feet to the TRUE POINT OF BEGINNING.

Situate in City of Kirkland, King County, Washington.
 Contains 5,110 square feet.

8) The grantor shall install, to City standards, the improvements required for the to-be-dedicated right-of-way and easement or deposit with the City a performance bond, issued by a surety company licensed to do business in the State of Washington, to guarantee installation of said improvements within 12 months of the date of this resolution (Conditions 2 and 7).

Section 3. If the portion of the right-of-way described in Section 4 of this resolution is vacated, the City will require the petitioner to submit to the City within ~~90~~ 180 days of the date of passage of this resolution, a recorded easement in favor of the public utility franchise holders and the Kirkland Public Works Department, together with the right to exercise and grant easements along, over, under and across an adequate location, either within the area described in Section 4 or an acceptable alternative location, for the installation, construction, repair and maintenance of public utilities and services.

Section 4. Conformed copies of this amendatory resolution shall be delivered to the following:

- (a) Applicant
- (b) Department of Planning and Community Development of the City of Kirkland
- (c) Fire and Building Departments of the City of Kirkland
- (d) Public Works Department of the City of Kirkland
- (e) The Office of the Director of Administration and Finance for the City of Kirkland.

PASSED by majority vote of the Kirkland City Council in regular, open meeting on the 5th day of July, 1988.

SIGNED in authentication thereof on the 5th day of July, 1988.

Doris Cooper
Mayor

Attest:

Jenice Perry
City Clerk

1069D/296A:JLB:dc

CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 (206) 828-1257

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM

To: Janice Perry, City Clerk

From: Deborah Munkberg DM

Date: September 23, 1988

Subject: Larry's Market Street Vacation - File No. VC-88-24

Resolution Nos. 3455 and 3462 established the intent of the City Council to vacate 120th Place NE and portions of NE 124th Street subject to certain conditions.

One condition was that the applicant compensate the City for the vacated rights-of-way. By the resolutions, the amount of compensation was established at \$220,848.75 (based on a net vacation area of 39,262 square feet). Subsequently, negotiations with the City and adjoining property owners reduced the net vacation area to 37,397 square feet. Therefore, the amount to be paid in compensation was reduced to \$210,358.12.

By memo dated August 26, 1988 (attached) and prior to adoption of Ordinance 3122, the City Council was advised of this change. The legal description found in Ordinance 3122 reflects the revisions.

Attachment

file

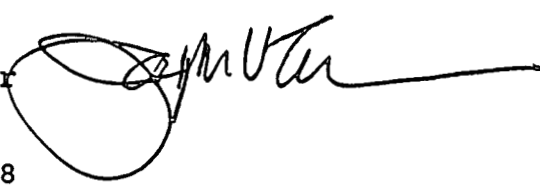
CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 (206) 828-1257

**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT
MEMORANDUM**

To: Terry Ellis

From: Joseph W. Tovar



Date: August 26, 1988

Subject: LARRY'S MARKET STREET VACATION, FILE NO. VC-88-24

I. RECOMMENDATION:

- A. Staff recommends that the City Council adopt the proposed ordinance, which will vacate 120th Place NE and portions of NE 124th Street adjacent to the proposed Larry's Market site (see Attachment 1).

II. POLICY IMPLICATIONS:

- A. Pursuant to the resolutions adopted by the City Council, the applicant is required to satisfy certain conditions prior to vacation of the rights-of-way. These conditions are summarized below, together with comments regarding each. Except where noted, the condition has been satisfied as required by the resolutions.

- 1. Provide compensation to the City for the vacated rights-of-way - By the adopted resolutions, this amount was originally established at \$220,848.75. This amount was determined based on a net vacation area of 39,262 square feet. Subsequently, negotiations with adjacent property owners and with the City has increased the area to be dedicated, so that the net area of the vacation is reduced to 37,397 square feet. Consequently, the revised amount to be paid in compensation to the City is \$210,358.12.

The applicant has proposed to make this payment through an assignment of construction loan proceeds. The City Attorney has consulted with the applicant's representative and determined that payment will be made to the City upon presentation of the adopted ordinance to the

lender. Therefore, staff recommends that the City Council accept this method of payment.

2. Install or provide a security for the improvements to the newly dedicated right-of-way and related easements - The applicant has provided an assignment of account in the amount of \$ 67,648.75 to secure these improvements.
3. Grant access easements from the new newly dedicated right-of-way to Motel 6 - These easements will provide access across the Larry's Market Site to the newly dedicated 120th Place NE.
4. Grant temporary access easements across the vacated rights-of-way - These access easements are to be effective until the new right-of-way is dedicated, improved and accepted by the City.
5. Dedication of new right-of-way - Originally, dedication of the new right-of-way was to be to the City, with reversionary interest to WSDOT. Subsequently, WSDOT proposed that the new right-of-way be granted to the State. The State would then convey the right-of-way to the City, and retain a reversionary interest. The City Attorney agreed that this was an acceptable procedure. Therefore, the applicant has conveyed ownership of the newly dedicated right-of-way to the State.
6. Construction access easements to State - This provides the State with an easement for construction related to the I-405/NE 124th Street interchange.
7. Indemnification of City of Kirkland and the State - These agreements hold the City and the State harmless from any claims asserting a loss of access resulting from the vacation of the public right-of-way.
8. Temporary Utility Easements - These easements are for utility placement in the vacated rights-of-way and will terminate when utilities have been placed in permanent easements established.

III. BACKGROUND:

- A. On April 19, 1988, the City Council held a public hearing on the proposed vacation of 120th Place NE and a portion of NE 124th Street. Following the public hearing, the Council adopted Resolution 3455. This resolution established the

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Thence S 89°20'06" E continuing along the boundary of said lot a distance of 26.36 feet;

Thence S 41°37'49" W along the Southeasterly line of said lot and along the Southeasterly line of Lot 3 of said Short Subdivision a distance of 267.14 to a point on the south line of said northeast quarter of the Southwest quarter;

Thence N 89°18'59" W along said South line a distance of 51.11 feet;
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Thence N 89°18'59" W along said South line a distance of 51.11 feet;
 Thence N 00°41'01" E a distance of 31.00 feet to the TRUE POINT OF BEGINNING of the herein described easement;
 Thence N 89°18'59" W a distance of 43.33 feet to the East line of Parcel "A," City of Kirkland Lot Line Adjustment as recorded under Recording Number 8608110523;
 Thence N 00°41'01" E along said East line a distance of 24.00 feet to a point designated as Point "A" for the purpose of this description;
 Thence S 89°18'59" E a distance of 43.33 feet;
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 Beginning at the above described Point "A";
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Section 3. If the portion of the right-of-way described in Section 4 of this resolution is vacated, the City will require the petitioner to submit to the City within 90 180 days of the date of passage of this resolution, a recorded easement in favor of the public utility franchise holders and the Kirkland Public Works Department, together with the right to exercise and grant easements along, over, under and across an adequate location, either within the area described in Section 4 or an acceptable alternative location, for the installation, construction, repair and maintenance of public utilities and services.

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- (a) Applicant
- (b) Department of Planning and Community Development of the City of Kirkland
- (c) Fire and Building Departments of the City of Kirkland
- (d) Public Works Department of the City of Kirkland
- (e) The Office of the Director of Administration and Finance for the City of Kirkland.

PASSED by majority vote of the Kirkland City Council in regular, open meeting on the 5th day of July, 1988.

SIGNED in authentication thereof on the 5th day of July, 1988.

Loris Cooper
Mayor

Attest:

Janice Perry
(City Clerk)

10690/296A:JLB:dc