



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: Katy Coleman, Development Engineering Analyst
Rob Jammerman, Development Engineering Manager
Ray Steiger, P.E., Interim Public Works Director

Date: August 16, 2010

Subject: RESOLUTION TO RELINQUISH THE CITY'S INTEREST IN A PORTION OF UNOPENED RIGHT-OF-WAY

RECOMMENDATION:

It is recommended that the City Council adopt the enclosed Resolution relinquishing interest in a portion of unopened right-of-way being identified as the north 8 feet of the east 110 feet of the unopened alley abutting the south boundary of the following described property: Lots 13 through 16, inclusive, Block 170, Town of Kirkland.

BACKGROUND DISCUSSION:

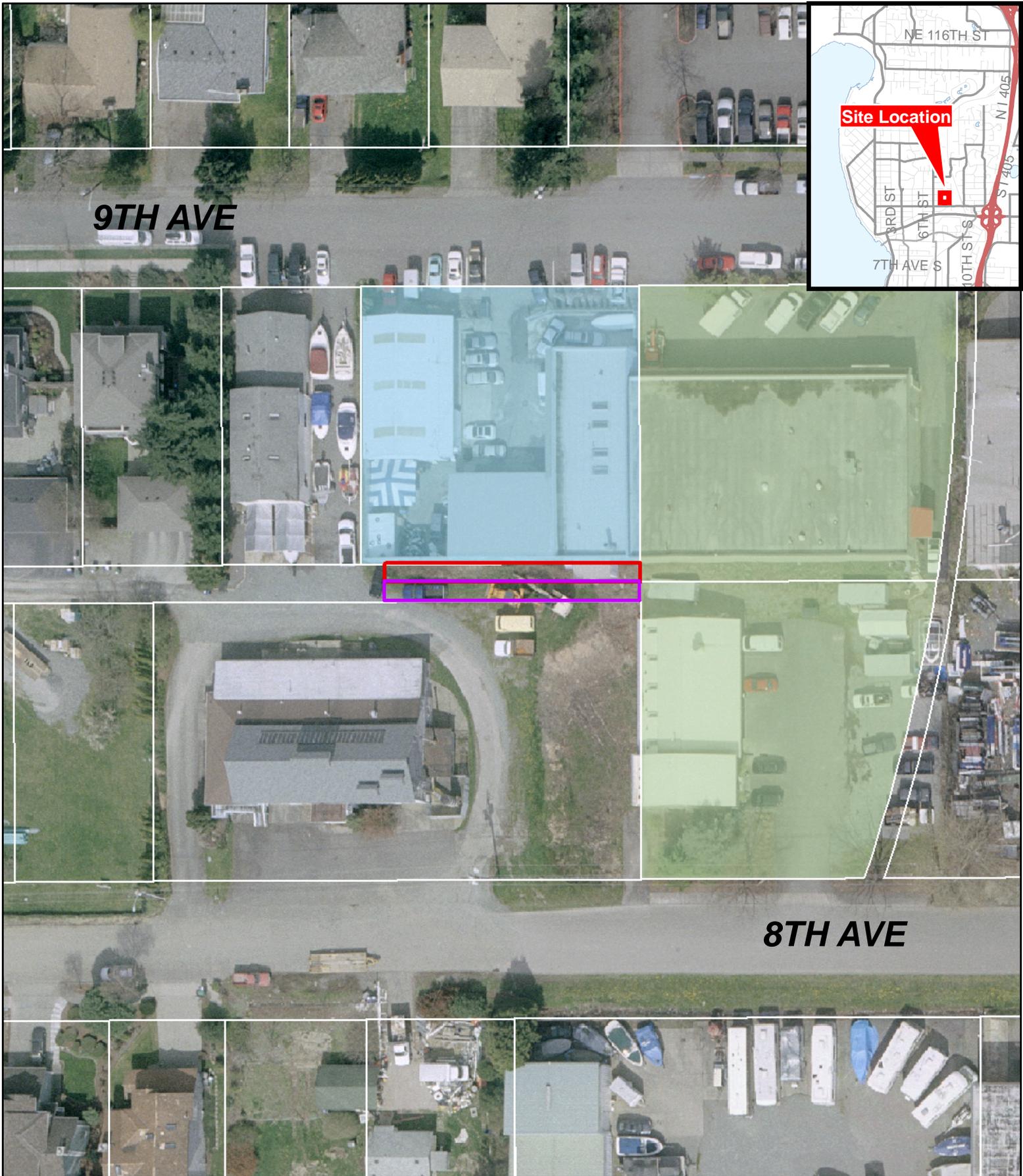
The City processes five to ten non-user street vacations each year. Non-user Street Vacations (Vacation by Operation of Law) Laws of 1889, Chapter 19, Section 32, are vacations that must meet the following criteria:

- The right-of-way was platted, dedicated, or deeded prior to March 12, 1904;
- The right-of-way was outside of the City jurisdiction when it was dedicated; and
- The right-of-way remained unopened or unimproved for five continuous years after it was dedicated.

Because Non-user Street Vacations have occurred by operation of law, they are not subject to the City's Street Vacation process within Chapter 19.16 of the Kirkland Municipal Code. When a resolution to approve a Non-user Street Vacation is brought to the City Council, the resolution is recognizing that the subject right-of way meets the criteria of the Non-user Street Vacation and has been vacated by operation of law.

Bruce Hawes, owner of the property at 639 9th Avenue abutting this subject right-of-way, submitted information to the City claiming the right-of-way was subject to the Five Year Non-User Statute. This right-of-way was originally platted and dedicated in 1890 as Town of Kirkland (name of the plat) and has not been opened or improved. After reviewing this information, the City Attorney believes the approval of the enclosed Resolution is permissible.

Attachments: Vicinity Map
Resolution



9TH AVE

8TH AVE



Hawes Non-User Vacation 639 9th Avenue

-  Other Pending Vacation
-  Proposed Vacation
-  Hawes Property
-  Granted Non-User Vacations



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July 30, 2010
City Hall
123 5th Avenue
Kirkland, WA. 98033

Dear Mayor Joan McBride and City Council Members
Re.: Pending partial alley vacation behind the Kirkland Cannery and Kirkland Autobody properties

Thank you for the opportunity to comment and participate in the process and for your timely consideration of the proposed partial alley vacation.
We are the only owners of private property adjoining the area proposed to be vacated. We have talked with the public works department of the City and it is their opinion that this portion of the alley qualifies for the "non user statute" and we support this action by the City.
The area in question proposed to be vacated has remained unused and unopened for traffic and has at no time in the past 63 years been used in any capacity for access or egress. The Pound Family moved to Kirkland in 1947 and began to operate the cannery. At that time, the alley between 8th and 9th Avenue ended about 15 feet west of the cannery property on what is now 636 8th Avenue. We doubt that the portion of the alley we'd like vacated has ever been open at all. The portion of the alley in the immediate vicinity will continue to serve as a public alleyway and allow access to 9th Avenue and 6th Street and has been so utilized in the past, and presently to a limited extent. This continued use is acceptable, so long as traffic does not unlawfully pass over the private cannery property.

The portion of the alley to be vacated abuts a closed segment that runs from our common eastern property line to 8th Street. The terrain drops significantly (10feet) to the east, and the intervening area is occupied by private businesses. It is clear that the alley could never and will never be opened to 8th Street. The City has no need or use for this area, it does not and cannot benefit traffic flow or emergency access, and its continued ownership and maintenance by the City is not necessary and is of no value to the City. Closure and privatization of this part of the alleyway will eliminate confusion about the nature of the area and allow possible signage and appropriate fencing that will more clearly demarcate the public part of the ROW and the private driveways and boundaries. This will improve security and safety by allowing the adjoining owners to exercise control over this area.

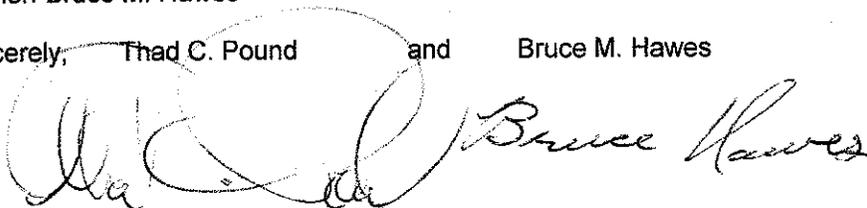
This alley vacation will not interfere with either owners access to their properties. The Hawes Property (auto repair) has a large driveway access off 9th Avenue and the Pound Property (Kirkland Cannery) has direct access off of 8th Avenue via two driveways. This will improve security and safety by allowing the adjoining two owners to exercise control over the area and will help eliminate parking and traffic congestion on 9th Avenue. Cars from the auto repair business or employee cars can now be parked on the vacated alley area.

The vacation of this portion of the alleyway will in no way restrict, disrupt, interfere with, or preclude lawful traffic flows to 6th Street to the west, or to the extent allowed, to 9th Avenue to the north. The adjoining private owners are prepared to work cooperatively in the conversion of the vacated portion of the alley to private ownership and its incorporation into the existing properties. Again, thank you for allowing both of us to comment and participate in the process of the partial alley vacation.

Kirkland Cannery Property is Lot 48 thru 54, block 170, Kirkland Add Code 1700.
The cannery property faces 8th Avenue and is located at 640 8th Avenue.
Owner: Thad C. Pound

The Kirkland Autobody Property is Lot 13 thru 16, block 170, Kirkland Add Code 1700
This property faces 9th Avenue and is located at 639 A&B 9th Avenue.
Owner: Bruce M. Hawes

Sincerely, Thad C. Pound and Bruce M. Hawes

The image shows two handwritten signatures. On the left is the signature of Thad C. Pound, which is a cursive, somewhat stylized name. On the right is the signature of Bruce M. Hawes, which is also in cursive and appears to be written in a more fluid, connected style.

RESOLUTION R-4833

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE IN AN UNOPENED RIGHT-OF-WAY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNER BRUCE M. HAWES

WHEREAS, the City has received a request to recognize that any rights to the land originally dedicated in 1890 as right-of-way abutting a portion of the Town of Kirkland have been vacated by operation of law; and

WHEREAS, the Laws of 1889, Chapter 19, Section 32, provide that any county road which remains unopened for five years after authority is granted for opening the same is vacated by operation of law at that time; and

WHEREAS, the area which is the subject of this request was annexed to the City of Kirkland, with the relevant right-of-way having been unopened; and

WHEREAS, in this context it is in the public interest to resolve this matter by agreement,

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

Section 1. As requested by the property owners Bruce M. Hawes, the City Council of the City of Kirkland hereby recognizes that the following described right-of-way has been vacated by operation of law and relinquishes all interest it may have, if any, in the portion of right-of-way described as follows:

The north 8 feet of the east 110 feet of the unopened alley abutting the south boundary of the following described property: Lots 13 through 16, inclusive, Block 170, Town of Kirkland, according to the plat thereof recorded in Volume 6 of Plats, pages 53-67, records of King County, Washington.

Section 2. This resolution does not affect any third party rights in the property, if any.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2010

Signed in authentication thereof this ____ day of _____, 2010.

MAYOR

Attest:

City Clerk