

## Ordinance No. 658

An ordinance vacating an undeveloped easement/right of way for ingress, egress and utilities across Lots 2, 3, and 4 of the Polk Short Plat, filed at Pg. 96, Vol. 15 of Short Plats under Clallam Auditor's File No. 1985-0573244 located within SW 1/4 of the NE 1/4 of Section 17, T 28 N, R 13 W, Clallam, W.M.

Generally located in the vicinity of 1770 South Forks Avenue

Clallam County Parcel Nos:

132817139010, 132817139020, 132817139030, 132817139040

### Section 1. Recitals

- A. Whereas, Kerstin and Paul Hampton, via letter requested that the above described undeveloped easement/right of way for ingress, egress and utilities that run between and across Lots 2, 3, and 4 of the Polk Short Plat (hereinafter 'short plat') be vacated in part or in whole as they are the owners of Lot 3; and
- B. Whereas, the short plat utilized the word "easement" and the phrase "right of way" interchangeably in the document possibly conveying different legal interests in the same designated and identified sixty-foot-wide portion of the property centered on the shared two-hundred-sixty one plus foot shared property line between the lots identified above; and
- C. Whereas, pursuant to RCW 35.79.010 the City Council passed Resolution No. 499 scheduling a public hearing on 9 August 2021 regarding the Hampton request due to the utilization of the phrase "right of way" to describe the designated property; and
- E. Whereas, copies of Resolution No. 499 were posted, published and mailed to neighboring property owners; and
- F. Whereas, the Council held a public hearing on the Hampton request, and did not receive any petition opposing the requested vacation of the undeveloped easement; and
- G. Whereas, there was additional research required to understand the nature of the legal interests created in the ambiguous language used to describe the designated property subject to this ordinance; and
- H. Whereas, the City is the owner of record of two of the four lots in the short plat, including one of the three lots associated with the designated property's "easement"/"right-of-way" and review of the City's ownership raised the idea of consolidating the two City owned lots into one lot; and

- I. Whereas, it was recommended by the City Attorney that approaching the designated property as both an “easement” and “right-of-way” would remove any potential confusion in the future regarding the designated property.

## **Section 2. Findings**

Based upon the above information, and the information before the City Council, the following findings are made:

- A. The undeveloped designated property, be it an easement or an actual right of way, would require significant financial expenditures to develop public access to City-owned property that is limited in its use pursuant to airport funding restrictions placed on the property associated with the Forks Airport;
- B. At present, there is no current or expected near term need for this City and the public in the designated property as the City can access its two lots in the short plat from SR 101, or Lot 2 could be accessed from the City’s Lot 1, or, from property owned by the City north of Lot 2;
- C. The designated property in question does not border a body of salt or fresh water and therefore would not serve as a means of providing public access to such types of water;
- D. The designated property was created in the platting process at no cost to the City for the acquisition of the rights created in the ambiguous terms used in the plat; and,
- E. The adoption of this ordinance would resolve the issue associated with the rights conveyed in the “right of way.” However, the rights as an owner of one of the lots in the short plat to which an easement was conveyed would require amending the short plat to vacate said easement. Such a vacation, benefitting all owners in the plat, would require the consent of all owners of record of the lots in said plat.

## **Section 3. Vacation of right of way**

Finding no public need or purpose for the easement created for the purpose of ingress, egress and utilities, the City Council hereby vacates the City’s and the public’s interest in this right of way pursuant to RCW 35.79 *et al.*

## **Section 4. Approval of the Removal of the Easement by Dedication**

Realizing that the ambiguous language used in the plat may also require an amendment to the plat, the Council further authorizes and approves;

- a. Amending of the plat to remove the easement associated with Lots 2, 3, and 4 in the Polk Short Plat;
- b. Amending the Polk Short Plat to combine via zoning lot covenant Lots 1 and 2 of the Polk Short Plat;

Further, the Council authorizes the Mayor and the Attorney/Planner to sign on behalf of the City any amendment, as well as zoning lot covenant, needed to enact the wishes of the Council. Further, any filing fees for the vacation of the right of way, the short plat amendment and the zoning lot covenant are to be paid for by the party requesting this action.

**Section 5. Effective Date**

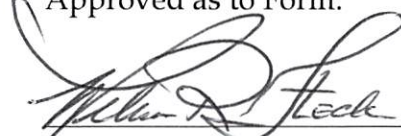
This ordinance shall be published in the City's journal of record and five days thereafter shall be effective upon the proper filing of the ordinance with the Clallam County Auditor pursuant to RCW 35.79 *et al.*

Passed this 27<sup>th</sup> December 2021.

  
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Tim Fletcher, Mayor

Attested to:

  
\_\_\_\_\_  
Audrey Grafstrom, Clerk/Treasurer

Approved as to Form:  
  
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William R. Fleck, Attorney/Planner