



# MEDINA, WASHINGTON

## AGENDA BILL

Monday, December 13, 2021

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**Subject:** Ordinance Approving Upland Road Street Vacation Adjacent to Liang Property

**Category:** Consent/Ordinance

**Staff Contacts:** Stephanie Keyser, Planning Manager; Scott Missall, City Attorney

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### **Summary**

On August 23, 2021, the City received a petition to vacate 510 square feet of right-of-way in front of 442 Upland Road. In accordance with MMC 12.44 and RCW Chapter 35.79, the City Council initiated vacation procedures and held a public hearing on November 8, 2021. After hearing and considering the Staff Analysis and City Presentation, and the Liang Objection and Petitioners Presentation, the Council deliberated on the facts and merits of the Liang Petition. A majority of the Council then approved a motion to grant the requested vacation subject to payment by the Petitioners of \$63,750 and directed the City Attorney to prepare an ordinance to that effect with such terms and other papers as needed to specify and carry out the Council's intent and the requirements of MMC Chapter 12.44.

The City Attorney prepared the attached Ordinance carrying out the Council's direction. Staff recommends adoption of the Ordinance.

### **Attachment**

Ordinance granting the Liang Street Vacation Petition and establishing conditions thereon.

**Budget/Fiscal Impact:** Payment to the City of \$63,750.

**Recommendation:** Adopt Ordinance No. 1007

**City Manager Approval:** 

**Proposed Council Motion:** "I move to adopt Ordinance No. 1007 as presented."

Ordinance No. 1007

MEDINA CITY COUNCIL

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, VACATING AN UNOPENED 510 SQ. FOOT PORTION OF UPLAND ROAD PUBLIC RIGHT-OF-WAY ADJACENT TO PROPERTY ADDRESSED AS 442-438 UPLAND ROAD AND REQUIRING COMPENSATION TO BE PAID TO THE CITY OF MEDINA IN THE AMOUNT OF \$63,750, ALL IN ACCORDANCE WITH MMC CHAPTER 12.44 (STREET VACATIONS); AND ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, a Street Vacation Petition containing the petitioner's street vacation materials and those required by Medina City Code (collectively **Liang Petition**) was filed with the City of Medina (**City**) on August 23, 2021, by and on behalf of Kenneth and Laura Liang (**Petitioners**), seeking to vacate a portion unopened public right-of-way in Upland Road belonging to the City and abutting property addressed as 442-438 Upland Road, Medina (also known as 442 87<sup>th</sup> Ave. NE; Tax Parcel 383550-2385; and as Parcel M of Medina Lot Line Adjustment 20-003 filed under Recording No. 20210610900049; all collectively comprising the **Liang Property**) for the purpose of converting said public right-of-way to private fee ownership and incorporating it into the Liang Property; and

**WHEREAS**, the specific area of the requested public right-of-way vacation totals 510 sq. ft. in the shape of a 10 ft. x 51 ft. rectangle, as legally described in attached **Exhibit A** and depicted in attached **Exhibit B** to this Ordinance (**Vacation ROW**), which exhibits are incorporated herein by this reference; and

**WHEREAS**, the vacation of public right-of-way in the City is subject to the requirements and conditions of Medina Municipal Code (MMC) Chapter 12.44 (Street Vacations) which implements RCW Chapter 35.79 (Streets—Vacation), and is exempt from the requirements of RCW Chapter 43.21C (State Environmental Policy Act); and

**WHEREAS**, on September 13, 2021 the City Council adopted Resolution No. 419 setting a legislative hearing on the Liang Petition at the Council's November 8, 2021 regular meeting. Notice of said hearing was timely published in The Seattle Times on September 16, 2021; posted to the City website on September 16, 2021; sent to the public via GovDelivery on September 16, 2021; and posted at City Hall, the Medina Post Office, and Medina Park on September 16, 2021; all in accordance with MMC Chapter 12.44; and

**WHEREAS**, the Council duly held a legislative hearing on November 8, 2021, wherein the Council reviewed, heard from, questioned, considered and evaluated the following: (i) the City Staff Analysis and Recommendation on the Liang Street Vacation with all its attachments including the City's Market Value Appraisal, the City's power point presentation, maps and diagrams and other materials (collectively **Staff Analysis**), and Staff comments, testimony and responses to questions and comments, all as prepared and presented at the hearing by the City Staff (collectively **City Presentation**); (ii) the Liang Petition, the Petitioners October 25, 2021 Formal Objection to City of Medina Appraisal and its attachments (**Liang Objection**), and comments, testimony and responses to questions and comments, all as presented at the hearing by the Petitioners and their representatives (collectively **Petitioners Presentation**); and (iii) comments and testimony from the public; and

**WHEREAS**, the Staff Analysis and City Presentation, and the Liang Objection and Petitioners Presentation, as described and referenced in the preceding paragraph are incorporated in full by this reference; and

**WHEREAS**, the Staff Analysis and City Presentation contained a thorough analysis and review of the Liang Petition, its vacation request, applicable zoning and land use information, market valuation of Petitioners' desired fee simple vacation of public right-of-way, assessment of information pertinent to Council's legislative determination to grant or deny the vacation, and related issues, all as required by MMC Chapter 12.44; and

**WHEREAS**, the Liang Objection and Petitioners Presentation addressed issues and arguments of concern to the Petitioners, primarily the valuation of the Vacation ROW and its intended use and function if vacated; and

**WHEREAS**, MMC 12.44.070 requires that fair market value of the Vacation ROW be determined by appraisal at the direction of the City Manager, and such an appraisal was obtained; and

**WHEREAS**, Upland Road has been in existence far longer than 25 years, thus enabling the Council to require payment of compensation up to the full fair market appraised value of the Vacation ROW in accordance with MMC 12.44.180; and

**WHEREAS**, the City Council duly deliberated on the facts and merits of the Liang Petition in light of the information presented at the hearing, and determined that approval of the Liang Petition and requested vacation would not harm the public's travel interests in Upland Road; that access to and the utility of the Liang Property would be improved as a result of the vacation; that the addition of taxable real property to the City's tax rolls would perpetually benefit the public interest; that the fee simple fair market value appraisal of the Vacation ROW accounts for the full value of the rights to be released by the public upon granting the requested vacation; that the payment of compensation from the Petitioners to the City in the amount of \$63,750, being one-half of the fee simple fair market value appraisal of the requested vacation, would be in the public interest and address the Petitioners valuation concerns; that the public interest would be further served because not less than one-half of the \$63,750 compensation amount would be used for the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects within the City; that no objections to the vacation were raised by neighboring land owners; and that the Liang Petition was properly handled, evaluated, considered, and a final decision rendered in accordance with MMC Chapter 12.44; and

**WHEREAS**, a majority of the Council approved a motion to grant the requested vacation subject to payment by the Petitioners of \$63,750 and directed the City Attorney to prepare an ordinance to that effect with such terms and other papers as needed to specify and carry out the Council's intent and the requirements of MMC Chapter 12.44, all for Council's review, consideration and action; and

**WHEREAS**, the Council finds that this Ordinance and its terms and conditions carry out the legislative intent of the Council concerning the vacation of the unopened public right-of-way which is the subject of the Liang Petition and the requirements of MMC Chapter 12.44;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MEDINA, WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1. Findings Adopted.** The foregoing recitals are adopted as findings and legislative determinations of the City Council in support of its decision concerning the subject matter of this Ordinance.

**Section 2. Vacation Granted; Description; Conditions.** The City Council hereby vacates 510 sq. ft. of unopened Upland Road right-of-way abutting property addressed as 442-438 Upland Road (referenced herein as the Liang Property) located within the City of Medina, Washington, as such area is legally described and depicted in **Exhibit A** and **Exhibit B** of this Ordinance, each attached and incorporated herein by this reference (hereinafter **Vacated Area**), subject to Petitioner's timely compliance with the terms, conditions and requirements set forth in Section 3 through Section 11 of this Ordinance. In the event that such conditions are not timely performed, the City Clerk shall notify the Council, and the Council may take action to vacate, rescind or modify this Ordinance as it deems appropriate.

**Section 3. Title to Vacated Area.** Fee simple title to the Vacated Area shall be consolidated with title of the adjacent private property addressed as 442-438 Upland Road, Medina, Washington, and shall vest in the current owner thereof, being Petitioners Kenneth Liang and Laura Liang, and their successors and assigns. The word "Owner" hereafter used in this Ordinance shall mean Kenneth Liang and Laura Liang and their successors and assigns.

**Section 4. Right-of-Way Compensation to City.** Owner shall pay to City, and City shall accept, the sum of Sixty-Three Thousand, Seven Hundred Fifty Dollars (US \$63,750.00) as full and fair compensation for the rights in the Vacation Area granted and transferred to Petitioners and described in this Ordinance, which sum comprises one-half of the fee simple fair market value of the Vacated Area. Said payment shall be made to the City Clerk by cashier's check or wire transfer not later than 4:00 p.m. three business days following the passage of this Ordinance by the City Council. Contemporaneous therewith, Owner shall pay or shall have paid to the City Clerk all other sums due under MMC Chapter 12.44.

**Section 5. Confirmation of Payment.** The City Clerk shall promptly confirm in writing to the Mayor, Deputy Mayor, City Manager and City Attorney the Clerk's receipt of all sums due and payable by Owner in connection with the vacation approved by this Ordinance.

**Section 6. Authentication and Publication of Ordinance.** Upon receiving the notice of payment in Section 5 above, the Mayor, City Clerk and City Attorney are authorized to authenticate this Ordinance by signing their names in the places set forth below. The Clerk may then proceed with publication of this Ordinance.

**Section 7. Recording of Ordinance.** Following the completion of the steps in Section 6 above and the payment described below, the City Clerk and City Attorney are directed to record a certified copy this Ordinance in the land title records of King County, Washington and provide a conformed copy thereof to the Owner. Owner shall promptly reimburse City's costs and expenses thereof (e.g., final document preparation and cover sheet, processing, recording fees, attorney's costs, etc.) upon presentation of a City invoice.

**Section 8. Effective Date of Vacation and Title Transfer.** The vacation of public right-of-way and transfer of title granted and described in this Ordinance shall be effective as of the date of recording the Ordinance pursuant to Section 7 above.

**Section 9. Corrections.** The City Clerk and codifiers of City ordinances are authorized to make necessary corrections to this Ordinance including but not limited to the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 10. Severability.** If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

**Section 11. Effective Date.** This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after such publication.

**PASSED BY THE CITY COUNCIL OF THE CITY OF MEDINA ON THE 13TH DAY OF DECEMBER 2021 BY A VOTE OF  FOR,  AGAINST, AND  ABSTAINING, AND IS SIGNED IN AUTHENTICATION OF ITS PASSAGE THE 13TH DAY OF DECEMBER 2021.**

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Jessica Rossman, Mayor

Approved as to form:  
Ogden Murphy Wallace, PLLC

Attest:

\_\_\_\_\_  
Scott M. Missall, City Attorney

\_\_\_\_\_  
Aimee Kellerman, City Clerk

PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO.: / AB

**Exhibit A**

To City of Medina Ordinance No. 1007

**Legal Description of Vacated Right-of-Way at 442-438 Upland Road  
(Liang Property)**

A PORTION OF HARMON AVE PER PLAT OF KENWOOD PARK AS RECORDED IN BOOK 8 OF PLATS ON PAGE 26, IN KING COUNTY WASHINGTON, DESCRIBED AS FOLLOWS:

ALL THAT PORTION OF SAID HARMON AVE LYING IN FRONT OF LOTS 4 AND 5, BLOCK 15 OF SAID KENWOOD PARK; EXCEPT THE SOUTHWESTERLY 15 FEET ADJOINING LOT 5; AND EXCEPT THAT PORTION OF HARMON AVE VACATED UNDER THE CITY OF MEDINA ORDINANCE NO. 804, RECORDED NOVEMBER 2, 2007, UNDER RECORDING NO. 20071102000049.

**Exhibit B**

To City of Medina Ordinance No. 1007

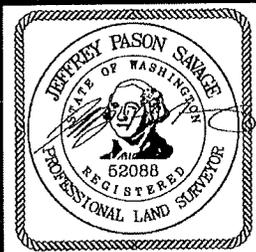
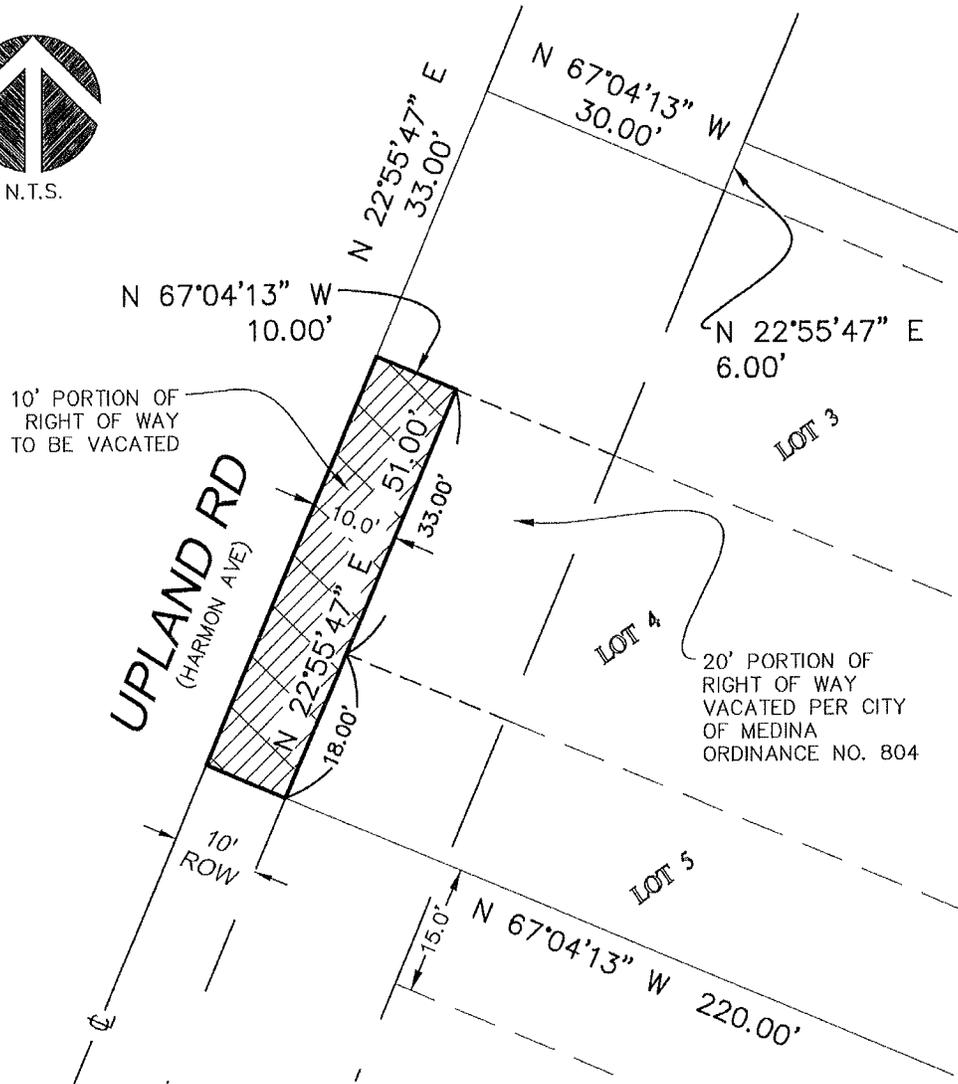
**Depiction of Vacated Right-of-Way at 442-438 Upland Road  
(Liang Property)**

[see attached]

# EXHIBIT B



N.T.S.



## VACATION EXHIBIT

438 UPLAND RD  
MEDINA, WA 98039

JOB NO. 191875  
DATE: 08/20/2021



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