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CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 5609

AN ORDINANCE determining the public advantage in vacating the plat known as the Fox Addition Plat located in the City of Bellevue, Washington and vacating the same subject to certain conditions.

WHEREAS, on May 10, 2005, Wasatch Management & Development LLC (hereafter referred to as Wasatch) applied for approvals necessary to vacate the Fox Addition Plat; and

WHEREAS, on May 19, 2005, the Director of the Department of Planning and Community Development issued a notice fixing the time and place for a hearing to consider the vacation of the Fox Addition plat, legally described as "FOX ADDITION TO BELLEVUE, according to the Plat thereof recorded in Volume 49 of Plats, Page 39, record of King County Washington" located in Bellevue, King County Washington and gave notice of said hearing in the manner required by law; and

WHEREAS, investigation was made as to the use of said plat and the public interests served or damaged by the change in such use by the vacation thereof; and

WHEREAS, a hearing was held upon the said petition on the 20th day of June, 2005 at the time and place fixed in said notice; and

WHEREAS, the Council heard testimony at the hearing regarding the petition to vacate the plat; and

WHEREAS, following said hearing, the City Council found the WASATCH Superblock master plan layout is designed to facilitate cross-block pedestrian movement from the Ashwood area northeast of the block to the downtown retail core southwest of the block; and

WHEREAS, retaining the NE 9th Street cul-de-sac could be a barrier to implementation of this proposed circulation pattern; and

WHEREAS, the proposed plat vacation is also consistent with the decision criteria as set forth in RCW 58.17.212; and

WHEREAS, the proposed vacation and subsequent removal of NE 9th Street would allow the Wasatch Superblock master plan to be implemented as currently envisioned, with pedestrian and vehicular access through the block in a circulation pattern that is the most suitable to the proposed building layout, the uses inside the buildings, and the open spaces outside the buildings; and

WHEREAS, the benefit of improved pedestrian and vehicular access serves public health, safety and welfare purposes; and provides open spaces, streets, sidewalks, and other public ways; and

WHEREAS, the proposed project is consistent with the Comprehensive Plan/Urban Design Element goals & policies, the Downtown Subarea goals & policies, and the Land Use Code; and

WHEREAS, vacating the plat would serve the public use and interest because it is a critical step in allowing the Wasatch Superblock redevelopment master plan to be implemented; and

WHEREAS, the public use would not be served in retaining title to the NE 9th Street right-of-way because the public benefits associated with the Wasatch Superblock development, in the form of better vehicular and pedestrian access and circulation as highlighted in the updated Downtown Implementation Plan, outweigh the benefit of retaining title; and

WHEREAS, the public benefit to vehicular circulation is access to retail and community functions from the perimeter streets without impacting 108th Avenue NE or 106th Avenue NE; and

WHEREAS, the public benefit to pedestrian circulation is public access to the shops, streets, plazas, and open spaces within the development, as well as providing mid-block pedestrian through-ways to and from other areas of downtown; and

WHEREAS, the pedestrian and vehicular access proposed with the master plan is superior to that currently in existence, and that the removal of NE 9th Street is fairly compensated with the project elements providing public benefit; and

WHEREAS, the benefit to the public includes a dedication of an access easement to the City that will provide a mid block vehicular and pedestrian connection between 106th and 108th Avenues NE, landscaping along NE 10th Street that exceeds the Land Use Code requirement, and widened sidewalks along 106th Avenue NE that exceed the Land Use Code requirement; and

WHEREAS, NE 9th Street contained in the plat was dedicated to the public for public use or benefit, and the Council must determine whether such public use or benefit would continue to be served by retaining title to those lands; and

WHEREAS, after determining the public use and interest to be served by the vacation of the plat the City Council, by motion, found that the vacation of the plat to the extent described in the petition; therefore, would serve the public good, adopted an ordinance vacating such plat together with that portion of NE 9th Street that lies within the plat; and

WHEREAS, said vacation also will be subject to the reservation of necessary public utility, ingress and egress easements; and

WHEREAS, upon the fulfillment of all other conditions established herein for such vacation, such plat thereof shall be vacated and the City Clerk is directed to have this ordinance recorded with the King County Office of Elections and Records and the City Manager or his designee, is directed to take any action necessary to vacate such plat thereof once these conditions are fulfilled; now, therefore,

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THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The Fox Addition plat, legally described as "FOX ADDITION TO BELLEVUE, according to the Plat thereof recorded in Volume 49 of Plats, Page 39, record of King County Washington" located in Bellevue, King County Washington is hereby vacated subject to the fulfillment of all following conditions:

1. **Mid-Block Connection. 106th Avenue NE to 108th Avenue NE.** Wasatch shall record a Road Easement Agreement with King County Records and the Bellevue City Clerk for public access that will provide a mid-block vehicular and pedestrian connection between 106th Avenue NE and 108th Avenue NE as depicted on the Road Plan. Wasatch shall execute the Covenant Regarding Public Access Easement within 30 days of the effective date of the Plat Vacation Ordinance. The easement for the connector road shall be no less than 36 feet wide throughout its length, but the final alignment and corridor design (such as roadway width, street lighting, sidewalk width and sidewalk materials) will be determined during the Design Review process. In addition, the applicant shall agree to grant to the City a public, non-exclusive ingress and egress easement on and above the connector road. The road easement may be granted in phases concurrent with development of the superblock. If the development does not proceed, the obligation to complete the connector road and provide the road easement still remains and shall run with the land. Finally, the construction of the connector road and execution of a road easement agreement for its entire length shall be recorded prior to issuance of the first building permit and no later than the date of the 10th anniversary of the effective date of the plat vacation.
2. **Landscaping.** Wasatch shall provide enhanced landscaping along NE 10th Street as shown on the plans submitted for Design Review, dated December 22, 2004. The "enhanced" landscaping shall consist of additional landscape area beyond the 4 foot wide landscape strip already required for Design Review approval, and is illustrated on the Design Review plans as an additional 4 foot to 10 foot wide landscape strip between the public sidewalk and the patio walls for the townhouse units facing onto NE 10th Street.
3. **106th Ave NE Sidewalk.** Wasatch shall provide a widened sidewalk along 106th Avenue NE as shown on the plans submitted for Design Review, dated December 22, 2004. The "widened" sidewalk shall consist of additional width beyond the 12 foot walk (plus a minimum 4 foot wide landscape strip) already required for Design Review approval, and is illustrated on the Design Review plans as expanding to an average of 26 feet as it continues south to the corner of 106th NE and NE 9th Place.
4. **Utilities.** The City of Bellevue reserves and shall retain a minimum 15 foot-wide water easement or abandon the 4" AC water main under the planned development back to the 8" tee on 108th Avenue NE, and retain a minimum 15 foot-wide sewer easement or abandon the 8" concrete sewer main under the planned development back to the 8" manhole on 108th Avenue NE. Any easements that are retained shall be approved by the Utilities Department then recorded with the King County Recorder's Office and the Bellevue City Clerk.

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Section 2. The City Clerk is directed to record a certified copy of this ordinance with the King County Department of Records and Elections. The City Manager or his designee is directed to take any other action necessary to vacate the plat known as the Fox Addition plat upon evidence of satisfactory completion of all conditions of vacation as required in Section 1 of this ordinance including, but not limited to, the reservation of the necessary public utility easements, ingress and egress easements, and payment of all costs of acquisition services needed to convey title including the costs of final survey, appraisals, recording fees, escrow, title insurance, processing fees and any other costs related to the vacation of the property, except as otherwise agreed by the parties.

Section 3. This ordinance shall take effect and be in force five (5) days after passage and legal publication.

Passed by the City Council this 20th day of June, 2005, and signed in authentication of its passage this 20th day of June, 2005.

(SEAL)

Connie B. Marshall
Connie B. Marshall, Mayor

Approved as to form:

Lori M. Riordan, City Attorney

Jerome Y. Roaché
Jerome Y. Roaché, Assistant City Attorney

Attest:

Myrna L. Basich
Myrna L. Basich, City Clerk

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