

#3

CITY OF SEATTLE
ORDINANCE _____

COUNCIL BILL 118039

AN ORDINANCE vacating the south 115.07 feet of the alley abutting Lots 5, 6, 19, and 20 and portions of Lots 4 and 21, Block 20, Gilman's Addition to the City of Seattle; accepting a deed for street/alley purposes and placing the real property conveyed by the deed under the jurisdiction of the Seattle Department of Transportation; laying off, opening, widening, extending, and establishing that portion of Block 20, Gilman's Addition to the City of Seattle; and accepting a Property Use and Development Agreement as reflected in Clerk File 311420.

WHEREAS, Block 20, LLC, a Washington limited liability company (the "Petitioner") filed a petition to vacate the south 115.07 feet of the alley abutting Lots 5, 6, 19, and 20 and portions of Lots 4 and 21, Block 20, Gilman's Addition to the City of Seattle (the "Property"); and

WHEREAS, the Petitioner is a member of Interbay Apartments, LLC, a Delaware limited liability company (the "Developer"); and

WHEREAS, the Developer is the successor in title to the Property; and

WHEREAS, to appropriately compensate the City of Seattle for the vacated Property, the Developer conveyed to the City a deed for street/alley purposes recorded under King County Recording Number 20130729001612 that permits the portion of the remaining alley to connect to a public street after the alley vacation; and

WHEREAS, the alley dedication is being accepted in this ordinance; and

WHEREAS, following a July 26, 2011 public hearing on the petition, the Seattle City Council ("City Council") conditionally granted the petition subject to conditions that have now been met; and

WHEREAS, a Property Use and Development Agreement recorded with the King County Recorder's Office commits the Developer and their successors to fulfill ongoing public-benefit obligations required as a result of the alley vacation; and

WHEREAS, consistent with Section 35.79.030 RCW and Seattle Municipal Code (SMC) Chapter 15.62, the Developer compensated the City for the full appraised value of the property by granting to the City the deed for street/alley purposes as allowed by SMC 15.62.090 B; NOW, THEREFORE,



BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The real Property described below is vacated:

A portion of the public alley which lies within Block 20 of Gilman's Addition to the City of Seattle, Volume 5, Page 93, and in the Southeast Quarter of Section 14, Township 25 North, Range 3 East, W.M., more particularly described as follows:

The South 115.07 feet to the North 300.17 feet thereof, bound to the North by a line which is 115.07 feet North of the North margin of W. Barrett St. as described in Acceptance Ordinance No. 92393 and bound to the South by the North margin of said W. Barrett St.

Containing an area of 1,841 square feet or 0.0423 acres, more or less that is located in the City of Seattle, King County, Washington.

Section 2. Immediately preceding the vacation referenced in Section 1, the deed for street/alley purposes, King County Recording No. 20130729001612 that is dated July 17, 2013 and executed by Interbay Apartments, LLC, a Delaware limited liability company; shall convey to the City of Seattle, a municipal corporation of the State of Washington, for street/alley purposes, the following described real property located in the City of Seattle, King County, Washington (a portion of tax parcel number 277060-2720):

That portion of Lot 4, Block 20 of Gilman's Addition to the City of Seattle, according to the plat thereof recorded in Volume 5 of Plats, Page 93, also being a portion of Parcel B of City of Seattle Lot Boundary Adjustment No. 3012284, recorded under King County Recording No. 20120618900006, Records of King County, Washington, more particularly described as follows:

The North 35.00 feet of that portion of said Lot 4, lying East of the East line of the West 64.10 feet of said Lot 4;

Together with the North 26.00 feet of the East 11.90 feet of the West 64.10 feet of said Lot 4;

And together with the North 20.00 feet of the West 52.20 feet of said Lot 4;



1 The above described parcel contains 3,315 square feet (0.0761 acres), more or
less; and is located in the City of Seattle, County of King, State of Washington.

2 This deed is accepted and the alley in Block 20, Gilman's Addition to the City of Seattle, the
3 block being bounded on the north by West Dravus Street, on the south by West Barrett Street, on
4 the east by 16th Avenue West, and on the west by 17th Avenue West, is laid off, opened, widened,
5 extended, and established upon the land described in this section.

6 Section 3. The real property conveyed by the deed in Section 2 is placed under the
7 jurisdiction of the Seattle Department of Transportation.

8 Section 4. The Property Use and Development Agreement, King County Recording
9 Number 20121204001295, attached as Attachment A, is accepted.

10 Section 5. This ordinance shall take effect and be in force 30 days after its approval by
11 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
12 shall take effect as provided by Seattle Municipal Code Section 1.04.020.



1 Passed by the City Council the ____ day of _____, 2014, and
2 signed by me in open session in authentication of its passage this
3 ____ day of _____, 2014.

4
5 _____
6 President _____ of the City Council

7
8 Approved by me this ____ day of _____, 2014.

9
10 _____
11 Edward B. Murray, Mayor

12
13 Filed by me this ____ day of _____, 2014.

14
15 _____
16 Monica Martinez Simmons, City Clerk

17 (Seal)

18
19 Attachment A: Property Use and Development Agreement
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576902 NLS First Am

7/18/79

Electronically Recorded
20121204001295

SIMPLIFILE

AG

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Page 001 of 007

12/04/2012 12:02

King County, WA

AFTER RECORDING RETURN DOCUMENT TO:

Jessica M. Clawson
McCullough Hill Leary, PS
701 Fifth Avenue, Suite 7220
Seattle, Washington 98104

Reference Number of Related Document: N/A

Grantor(s): INTERBAY APARTMENTS, LLC

Grantee(s): CITY OF SEATTLE

Abbreviated Legal Description: Lots 4, 5 and 20; and Ptns. of Lots 6, 19, 21, 22, 23 and 24,
Gilman's Add., Vol. 5, P. 93, King County, Washington.

Additional Legal Description is on Exhibit B of Document

Assessor's Property Tax Parcel or Account Nos: 277060-2740-02; 277060-2720-06; 277060-
2725-01; 277060-2730-04; 277060-2765-02; 277060-2750-09; 277060-2755-04; 277060-
2760-072

PROPERTY USE AND DEVELOPMENT AGREEMENT

THIS AGREEMENT ("Agreement") is made this date in favor of the CITY OF SEATTLE, a Washington charter city ("City") by INTERBAY APARTMENTS, LLC, a Delaware limited liability company, owner of the within described property ("Owner").

WITNESSETH:

WHEREAS, the Owner is vested in fee simple title and has a substantial beneficial interest in the property located in King County, Washington, described in Exhibit B attached hereto and incorporated herein by this reference ("Property"); and

WHEREAS, the Owner applied for and received approval of a Master Use Permit (Project No. 3010370) to develop a multifamily development (the "Development") on the above-described Property, and thereafter developed the Project; and

WHEREAS, the Project necessitated the partial vacation of an alley in Block 20, Gilman's Addition to the City of Seattle; and

DWT 19899965v2 0088423-000019



WHEREAS, the Owner filed a petition in 2011 (C.F. No. 311420) pursuant to RCW Ch. 35.79 and Seattle Municipal Code Ch. 15.62, by the Owner to partially vacate the alley in Block 20, Gilman's Addition to the City of Seattle; and

WHEREAS, the Transportation Committee of the Seattle City Council held a public hearing on the vacation petition and recommended approval of the petition, subject to conditions; and

WHEREAS, the City Council granted preliminary approval of the vacation subject to conditions on August 1, 2011; and

WHEREAS, execution of a Property Use and Development Agreement is necessary to ensure compliance with any conditions of alley vacation approval that will not be fully satisfied prior to passage of the ordinance vacating the above-referenced alley;

NOW, THEREFORE, the Owner covenants, bargains, and agrees on behalf of itself, its successors, and assigns that if the ordinance vacating the above-referenced alley is passed by the City Council and approved by the Mayor, the Owner shall operate and maintain the Project in accordance with this Property Use and Development Agreement:

Section 1. The legal description of the alley to be partially vacated is incorporated by reference and attached to this Agreement as Exhibit A.

Section 2. Addressed below are those conditions of the alley vacation approval that require ongoing effort during the operation of the Project, and could not, therefore, be met prior to passage of the ordinance vacating the above-referenced alley.

The Project is required to maintain the public benefits as specifically depicted in the presentation given to the Seattle City Council's Transportation Committee on July 26, 2011, as later modified, constructed, and specified as follows:

Building setbacks along alley	659 s.f.
Building setbacks at street level	502 s.f.
Upper level building setbacks	8822 s.f.
Public bike racks	8 spaces
Canopy lighting at 16 th & Dravus at building lobby	10 fixtures
Pedestrian street lights on Barrett	3 fixtures
Upgrade stadium light fixtures at sidewalk level along Barrett	4 fixtures
Building mounted alley light fixtures	4 fixtures
Pave alley north of property line	
Dog bag dispenser on Barrett	1 dispenser
Weather protection over sidewalk at Dravus	600 s.f.

and 16 th	
Greenscreen/landscape enhancement at alley	500 s.f.
Street trees	31
Street tree size	3" d.b.a. caliper minimum
Planting improvement in the right-of-way	3100 s.f.
Pedestrian wayfinding elements at Dravus	2 signs
Waste receptacles at each building lobby entry	2 receptacles
Seating elements at Dravus	72 linear feet
Seating elements at 17 th	10 seats
Street trees on 17 th north of alley (off property)	5 trees
Sidewalk replacement on 17 th north of alley	800 s.f.
Planting improvements on 17 th north of alley	1800 s.f.
Daylit raingardens and enhanced plantings on 16 th and 17 th	3400 s.f.
Increase continuous pedestrian frontage by reducing number of curbcuts on site	Reduce by 1 curbcut beyond predevelopment condition
Screen parking garage from street with commercial and residential uses, above 30% code requirement	618 linear feet

The public benefits stated above, shall be maintained in good condition and replaced if necessary, and any replacement shall be in like quality and quantity as previously approved.

Section 2. The legal description of the Property is incorporated by reference and attached to this Agreement as Exhibit B. An executed copy of this Property Use and Development Agreement shall be recorded in the records of King County and the terms of this Agreement shall be deemed to be covenants attaching to and running with the Property. Notwithstanding the foregoing, the description of the Property shall hereafter change without the need for any amendment signed by the parties to: (i) exclude that portion of the real property described in Exhibit A that is hereafter dedicated to the City in connection with Development, and (ii) include that portion of the existing alley bisecting the real property described in Exhibit A that is hereafter vacated by the City in connection with the Development.

Section 3. The Owner shall indemnify, hold harmless, and defend the City and its officers, agents, and employees, from any and all claims, losses, liabilities, liens, costs, or expenses including attorneys' fees, resulting from or arising out of public use of the at-grade setback areas or public use of the public benefit improvements identified in Section 1 that are located on the Property, except to the extent resulting from the sole negligence or intentional acts of the City. If any claim covered by this paragraph is asserted against the City, Owner, upon notice from the City, shall defend the City at its sole cost and expense, and shall pay any final judgment rendered upon any claim.

Section 4. This Property Use and Development Agreement may be amended or modified by mutual agreement between the City and Interbay Apartments, LLC, or its successors and assigns, according to the following procedure: minor changes to this Agreement may be approved by the Seattle Department of Transportation, or its successor, if the proposed change is consistent with the purpose and intent of the conditions of alley vacation approval. Any changes deemed to be major by the sole determination of the Seattle Department of Transportation, shall require approval by the City Council by resolution or ordinance. Prior to making its determination of whether a change shall be considered major or minor, the Seattle Department of Transportation shall provide Interbay Apartments, LLC, or its successors and assigns, with notice and the opportunity to comment on the determination. Nothing in this Property Use and Development Agreement shall be construed as surrendering the City's governmental powers.

Section 5. This Agreement is made for the benefit of the City and the public, and the City may institute and prosecute any proceeding at law or in equity to enforce this Agreement.

Section 6. The Owner agrees that the terms of this Property Use and Development Agreement shall be binding on the Owner and its successors, heirs, and assigns.

Section 7. Notwithstanding the covenants contained in this Agreement, nothing in this Agreement shall constitute a public dedication of any portion of the Property.

Section 8. In the event any covenant or condition or any portion thereof in this Agreement is judicially determined to be invalid or void, such invalidity or voidness shall in no way affect any other covenant, condition or restriction contained in this Agreement.



Dated this 30 day of November, 2012.

OWNER:
INTERBAY APARTMENTS, LLC,
a Delaware limited liability company

By: Block 20, LLC,
a Washington limited liability company,
Managing Member

By: Interbay Investors, LLC,
a Delaware limited liability company,
Manager

By: Unico Investment Group LLC,
a Delaware limited liability company,
Manager

By: 

Quentin W. Kuhrau
President and CEO



STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me Quentin W. Kuhrau, to me known to be the President and CEO of Unico Investment Group LLC, a Washington limited liability company, Manager of Interbay Investors, LLC, a Delaware limited liability company, Manager of Block 20, LLC, a Washington limited liability company, Managing Member of INTERBAY APARTMENTS, LLC, a Delaware liability company, the company that executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of said company for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute said instrument on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 30 day of November, 2012.

Amber Gibson
Amber Gibson

(print of type name)

NOTARY PUBLIC in and for the State of
Washington, residing at Auburn, WA
My Commission expires: 10-19-2016

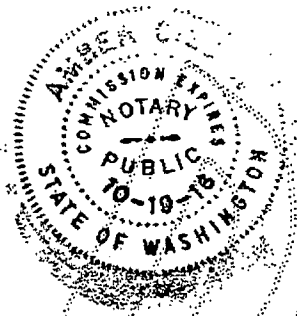


EXHIBIT A

**LEGAL DESCRIPTION OF PARTIALLY VACATED ALLEY
EXHIBIT B**

Legal Description of PROPERTY

LOTS 4 THROUGH 6 AND 19 THROUGH 24, BLOCK 20, GILMAN'S
ADDITION TO THE CITY OF SEATTLE, ACCORDING TO THE PLAT
THEREOF, RECORDED IN VOLUME 5 OF THE PLATS, PAGE 93, IN
KING COUNTY, WASHINGTON.

EXCEPT THAT PORTION OF LOT 24 LYING WEST OF THE
FOLLOWING DESCRIBED LINE:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 24;

SAID POINT OF COMMENCEMENT LYING SOUTHERLY OF AND 50.00
DISTANT AT RIGHT ANGLES TO THE CENTERLINE OF RIGHT OF
WAY OF WEST DRAVUS STREET AND ALSO LYING WESTERLY OF
AND 33.00 FEET DISTANT AT RIGHT ANGLES TO THE CENTERLINE
OF RIGHT OF WAY OF 16TH AVENUE WEST.

THENCE NORTH 89°01'16" WEST ALONG THE NORTH LINE OF SAID
LOT 24, A DISTANCE OF 81.42 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 00°59'20" WEST 50.11 FEET TO THE SOUTH LINE OF
SAID LOT 24 AND THE TERMINUS OF THIS DESCRIBED LINE.

AND EXCEPT THE SOUTH 9.50 FEET OF LOTS 6 AND 19 AS
CONVEYED TO THE CITY OF SEATTLE BY DEED RECORDED UNDER
RECORDING NO. 20110829000930;

AND EXCEPT THE WEST 2.00 FEET OF LOTS 22, 23 AND THE WEST
TWO FEET OF THE NORTH 35 FEET OF LOT 21 AS CONVEYED TO
THE CITY OF SEATTLE BY DEED RECORDED UNDER RECORDING
NO. 20110829000931.

SITUATE IN THE CITY OF SEATTLE, KING COUNTY, WASHINGTON



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Department of Transportation	Beverly Barnett/684-7564	Christie Parker/684-5211

Legislation Title:

AN ORDINANCE vacating the south 115.07 feet of the alley abutting Lots 5, 6, 19, and 20 and portions of Lots 4 and 21, Block 20, Gilman's Addition to the City of Seattle; accepting a deed for street/alley purposes and placing the real property conveyed by the deed under the jurisdiction of the Seattle Department of Transportation; laying off, opening, widening, extending, and establishing that portion of Block 20, Gilman's Addition to the City of Seattle; and accepting a Property Use and Development Agreement as reflected in Clerk File 311420.

Summary of the Legislation:

This Council bill completes the vacation process for a portion of the alley in Block 20, Gilman's Addition to the City of Seattle on the petition of Block 20, LLC, a Washington limited liability company (the "Petitioner") to facilitate a development project that provides affordable workforce housing close to transit. This legislation also accepts an alley dedication to fully compensate the City for the alley vacation, places the property under the jurisdiction of the Seattle Department of Transportation, and accepts a Property Use and Development Agreement.

Background:

(Include a brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable.)

The Petitioner sought to vacate a portion of the alley in Block 20, Gilman's Addition to the City of Seattle, bordered by West Dravus Street, West Barrett Street, 16th Avenue West, and 17th Avenue West in the valley separating Magnolia from the Queen Anne Hill neighborhood. This area has historically been used as a freight and rail corridor.

On August 1, 2011, the City Council voted to conditionally grant the petition to vacate a portion of this 16-foot-wide alley. To compensate the City for this alley vacation and replace the portion of the vacated alley, Interbay Apartments, LLC, the Petitioner's successor in interest (the "Developer"), dedicated a portion of this block to the City in-lieu of the vacation fee as allowed by SMC 15.62.090 B. The dedicated property allows the City to reconfigure a portion of the block to create a new alley connection to 17th Avenue West.

The Developer subsequently constructed a single approximately 283,000 square-foot L-shaped building varying in height up to eight stories that includes 236 residential units, 204 parking stalls, and approximately 5,500 square feet of retail space. To meet its public benefit requirement, the Developer focused on enhancing the pedestrian environment by providing

setbacks, street trees, bicycle racks, public seating walls and seating blocks, street plantings and rain gardens, pedestrian-level street lights, overhead weather protection, a green screen, and pedestrian lighting in the alley. In addition, the Developer provided the City with a Parks improvement allowance of \$7,000 to make improvements to the Park adjacent to the development project.

Please check one of the following:

 X **This legislation does not have any financial implications.**

 This legislation has financial implications.

Other Implications:

a) Does the legislation have indirect financial implications, or long-term implications?

This legislation does not accept or appropriate funds. The Petitioner dedicated property to the City in lieu of paying the vacation fee as allowed by SMC 15.62.090 B.

b) What is the financial cost of not implementing the legislation?

The vacation petition, already approved by the Seattle City Council, obligates the City to complete the vacation process, provided the Petitioner meets all the conditions imposed by the Council and the vacation fee is paid or otherwise satisfied. The Petitioner has met all the conditions and deeded the in-lieu parcel to the City.

c) Does this legislation affect any departments besides the originating department?

No. As part of the initial vacation review process, all interested departments were notified of the vacation petition and asked to comment. Any identified issues were resolved prior to the approval of this final legislation.

d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?

None. This legislation completes the vacation process.

e) Is a public hearing required for this legislation?

No.

f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?

No.

g) Does this legislation affect a piece of property?

Yes. It completes the vacation of right-of-way.

h) Other Issues:

None.

List attachments to the fiscal note below:

Attachment A: Alley Vacation Map





Block 20 Gilman's Addition Partial Alley Vacation

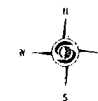
Block 20 Gilman's
Addition

CF 311420

Petitioner:
Block 20 LLC

 Vacation
Area:
1,841 sq ft

 Dedication
Area:
3,315 sq ft



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Produced by the Seattle
Department of Transportation
No warranties of any sort,
including accuracy, fitness or
merchantability, accompany
this product.

Coordinate System:
State Plane, NAD83-91,
Washington, North Zone
Orthophoto Source:
Pictometry

PLOT DATE : 9/19/13
SDOT Street Vacation Map
Vacation Ordinance





City of Seattle
Edward B. Murray
Mayor

February 11, 2014

Honorable Tim Burgess
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Burgess:

I am pleased to transmit the attached proposed Council bill that completes the vacation process for Block 20, LLC (the "Petitioner"). The Petitioner sought to vacate the south 115 feet of the alley between West Dravus Street and West Barrett Street to facilitate a development project in coordination with Interbay Apartments, LLC (the "Developer") that provides affordable workforce housing close to existing mass transit and bicycle commute options. This legislation also accepts a dedication to fully compensate the City for the alley vacation and a Property Use and Development Agreement that commits the Developer to fulfill ongoing public benefit obligations in connection with this project.

On August 1, 2011, the City Council voted to conditionally grant the petition to vacate a portion of this 16-foot-wide alley. To compensate the City for this alley vacation and replace the portion of the vacated alley, the Developer dedicated a portion of this block to the City in-lieu of the vacation fee as allowed by SMC 15.62.090 B. The dedicated property allows the City to reconfigure a portion of the block to create a new alley connection to 17th Avenue West.

The Developer subsequently constructed a single L-shaped building that includes 236 residential units, 204 parking stalls, and approximately 5,500 square feet of retail space. To meet its public benefit requirement, the Developer focused on enhancing the pedestrian environment by providing enlarged setbacks, street trees, bicycle racks, public seating, street plantings and rain gardens, pedestrian-level street lights, overhead weather protection, a green screen, and pedestrian lighting in the alley. In addition, the Developer provided the City with a parks improvement allowance of \$7,000 to make improvements to the park adjacent to the development project.

Thank you for your support of this legislation that facilitates the redevelopment of this block and encourages economic growth in the area. If you have any questions please contact Beverly Barnett at (206) 684-7564.

Sincerely,

Edward B. Murray
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

Office of the Mayor
Seattle City Hall, 7th Floor
600 Fourth Avenue
PO Box 94749
Seattle, Washington 98124-4749

Tel (206) 684-4000
Fax: (206) 684-5360
Hearing Impaired use the Washington Relay Service (7-1-1)
www.seattle.gov/mayor

