

ORDINANCE No. 118064

COUNCIL BILL No. 111155

AN ORDINANCE vacating a portion of Ward Street, on the petition of Interest Enterprises, L.L.C., a Washington Limited Liability Company, and accepting a Property Use and Development Agreement, King County Recording No. 9602150331 (Clerk File No. 297661).

COMPTROLLER FILE No. _____

Introduced: <u>MAR 1 1 1996</u>	By: <u>MANNING</u>
Referred: <u>MAR 1 1 1996</u>	To: <u>TRANSPORTATION</u>
Referred:	To:
Referred:	To:
Reported: <u>MAR 2 5 1996</u>	Second Reading: <u>MAR 2 5 1996</u>
Third Reading: <u>MAR 2 5 1996</u>	Signed: <u>MAR 2 5 1996</u>
Presented to Mayor: <u>MAR 2 6 1996</u>	Approved: <u>APR 3 1996</u>
Returned to City Clerk:	Published: <u>Full</u>
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained: <u>OK</u>

WC

Law Department

The City of Seattle - Leg

INDEXED

REPORT OF COM

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____ report that we have considered the same and respectfully re

passed 3-19-96

Full Council vote

[Signature]
Committee Chair

Law Department

The City of Seattle--Legislative Department

INDEXED

Date Reported
and Adopted

REPORT OF COMMITTEE

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____
report that we have considered the same and respectfully recommend at the same:

passed 3-19-96

Full Council vote 9-0

[Signature]
Committee Chair

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ANNING
RIATION
AR 2 5 1996
AR 2 5 1996
3 1996
<i>ll</i>
<i>(OK)</i>

ORDINANCE 118064

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2 AN ORDINANCE vacating a portion of Ward Street, on the petition of
3 Intervest Enterprises, L.L.C., a Washington Limited Liability
4 Company, and accepting a Property Use and Development
Agreement, King County Recording No. 9602150331 (Clerk File No.
297661).

5 WHEREAS, there has been filed with the City Council the petition of
6 1000 Aurora Avenue North Associates II (Clerk File No. 297661)
7 for the vacation of a portion of Ward Street, as therein fully
described; and

8 WHEREAS, following a public hearing on said petition, which
9 commenced on December 18, 1990, said petition was granted by
the City Council; and

10 WHEREAS, the Council granted the vacation petition subject to
11 certain conditions including the execution and recording of a
Property Use and Development Agreement (PUDA) in order to
ameliorate adverse impacts of the vacation; and

12 WHEREAS, Intervest Enterprises, L.L.C, a Washington Limited
13 Liability Company, subsequently acquired the project; and

14 WHEREAS, Intervest Enterprises, L.L.C, has satisfied all conditions
of the vacation including the execution and recording of a
Property Use and Development Agreement; and

15 WHEREAS, pursuant to Section 35.79.030 and Seattle Municipal Code
16 Chapter 15.62, the petitioner has paid to the City \$110,000.00,
17 which amount is one-half the appraised value of the property
approved for vacation according to an appraisal obtained by the
18 Director of Engineering; and Now, Therefore;

19 BE IT ORDAIN' , BY THE CITY OF SEATTLE AS FOLLOWS:

20 Section 1. That

21 Ward Street from the east margin of Aurora
22 Avenue North, as established by City of Seattle
Ordinance 59719, to the production north of the
23 west line of Lot 4, Block 13, Eden Addition No.
2, as recorded in Volume 1 of Plats, page 67½,
Records of King County, Washington

24 be and the same is hereby vacated; RESERVING to the City of Seattle
25 the right to make all necessary slopes for cuts or fills upon the
26 above-described property in the reasonable original grading of any
27 rights-of-way abutting upon said property after said vacation.

28 Section 2. That the Property Use and Development Agreement
29 executed by Intervest Enterprises, L.L.C, on the 9th day of
30 February, 1996 and recorded on the 15th day of February, 1996 (King
31 County Recording No. 9602150331) requiring the petitioner to ensure
32 that the development would be in accordance with the conditions
33 imposed by the Council, a copy of which is attached hereto as

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE
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1 Exhibit "A", is hereby accepted. The City Clerk is authorized and
2 directed to deliver copies of said agreement to the Director of the
3 Department of Construction and Land Use and the Director of
4 Engineering.

5 Section 3. This ordinance shall take effect and be in force
6 thirty (30) days from and after its approval by the Mayor, but if
7 not approved and returned by the Mayor within ten (10) days after
8 presentation, it shall take effect as provided by Municipal Code
9 Section 1.04.020.

10 Passed by the City Council the 25 day of _____
11 March, 1996, and signed by me in open session in
12 authentication of its passage this 25 day of _____
13 March, 1996.

14 _____
15 President _____ of the City Council.

16 Approved by me this 3 day of April, 1996.
17 _____
18 Mayor.

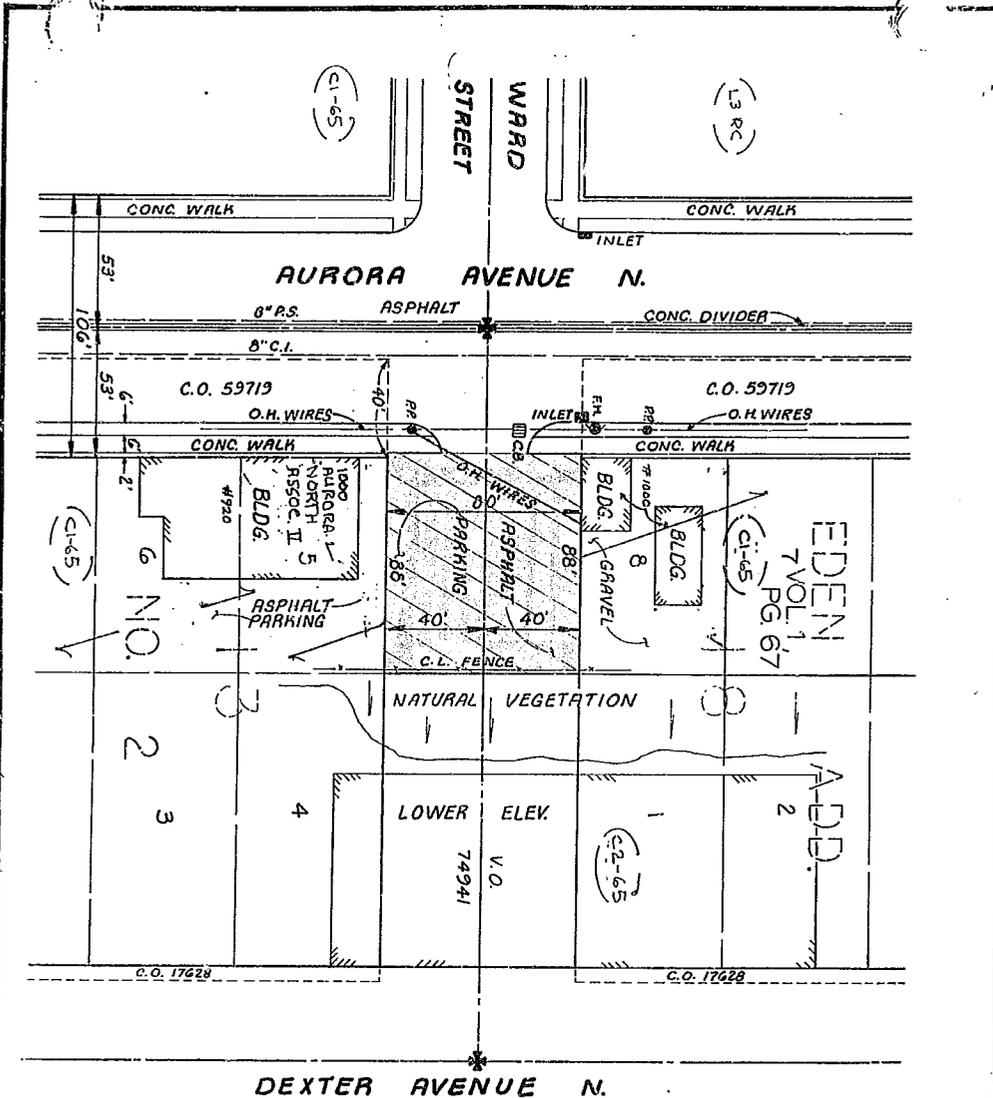
19 Filed by me this 3 day of April, 1996.
20 _____
21 _____
22 City Clerk.

23 (SEAL)

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2553



SCALE: 1" = 50' HROLL R3 35E NE 1/4 30-25-2
MAP OF PROPERTY COVERED BY
 VACATION PETITION NO. 297661
 VALID SIGNATURES SHOWN
 INVALID SIGNATURES SHOWN
 PETITION DENIED ON FILE
 VACATED BY ORDINANCE NO. _____
 MISCELLANEOUS ORDINANCES VOL. _____
 UTILITY RIGHTS _____
 MADE BY I.R. CHECKED BY LMC DATE 4/11/80

PROPERTY USE AND DEVELOPMENT AGREEMENT

THIS AGREEMENT is made this date in favor of the City of Seattle, a municipal corporation of the State of Washington (herein, the "City") by Intervest Enterprises, L.L.C., a Washington Limited Liability Company, owner of the within described property (herein, the "Owner").

WITNESSETH:

WHEREAS, the Owner is vested in fee simple title and/or has a substantial beneficial interest in the real property situated in King County, Washington, described as follows (herein called the "Property"):

The south half of Lot 7 and all of Lot 8, Block 18, Eden's Addition No. 2 to The City of Seattle, according to the plat thereof recorded in Volume 1 of Plats, page 67A, in King County, Washington; EXCEPT the west 40 feet thereof as condemned in King County Superior Court, Cause Number 59719 of the City of Seattle,

and

Lots 5 through 8, inclusive, Block 13, Eden's Addition No. 2, to The City of Seattle, according to the plat thereof recorded in Volume 1 of Plats, page 67A, in King County, Washington; EXCEPT the west 40 feet thereof, heretofore condemned in King County Superior Court, Cause Number 59719 of The City of Seattle.

and

WHEREAS, a petition was filed in 1990 (C.F. 297661) pursuant to RCW ch. 35.79 and Seattle Municipal Code ch. 15.62 by the Owner to vacate that portion of Ward Street, described as follows;

Ward Street from the east margin of Aurora Avenue North, as established by Ordinance 59719, to the production north of the west line of Lot 4, Block 13, Eden Addition No. 2, as recorded in Volume 1 of Plats, page 67 1/2, as recorded in the Records of King County, Washington.

and

WHEREAS, the Board of Public works made a recommendation on or

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90253-0331 09:17:00 AM KING COUNTY RECORDS 004 810 10.00

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about November 2, 1990 to the Seattle City Council that the petition be granted subject to certain conditions, and

WHEREAS, the Transportation Committee of the City Council held a public hearing on December 18, 1990, and thereafter recommended to the full Council that the petition be granted subject to certain conditions, including the execution and recording of an agreement with the City pertaining to the use and development of the portion of the street to be vacated, in order to ameliorate adverse impacts of the vacation;

NOW, THEREFORE, the Owner hereby covenants, bargains and agrees on behalf of itself, its successors and assigns that the Property and vacated right-of-way shall be developed in accordance with the following conditions:

Section 1. Development of the Property and vacated right-of-way shall be in basic conformity with Master Use Permit No. 98060297 on file with the Department of Construction and Land Use and shall include the following specific items:

A. A view corridor shall be maintained across the vacated portion of Ward Street and no above grade structure or other view obstructions shall be constructed within the vacated right-of-way;

B. Public access to the vacated portion of Ward Street and to the view point shall be maintained at all times. Three parking spaces shall be provided to accommodate public access to the view point, the three spaces shall be signed and restricted for that purpose;

C. No truck loading facilities may be located on Aurora Avenue North. All access to the project shall be from Aloha Street through the proposed parking structure. Access from Aurora Avenue North may be provided, this shall be limited to 11 short term parking spaces, including the three parking spaces restricted for public use;

D. The calculation for development or redevelopment of the property shall exclude the square footage added by the vacation, approximately 7,040 square feet. The purpose of this covenant is to limit future density to that which existed prior to the vacation.

E. In the event the proposed project is not constructed within five years from the date of the vacation ordinance, the vacated property is to be conveyed back to the City.

Section 2. This Property Use and Development Agreement (herein called "Agreement") shall be recorded in the records of King County and the covenants hereof shall be deemed to attach to

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and run with the Property and shall be binding upon the Owner, its heirs, successors, and assigns, and shall apply to after-acquired title of the Owner of the Property.

Section 3. This agreement may be amended or modified by agreement between the Owner and the City; provided such amended agreement shall be approved by the legislative authority of the City by ordinance. Nothing in the Agreement shall be construed as a surrender of the City's governmental powers.

Section 4. 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 5. Upon the effective date of the vacation ordinance, Owner shall provide and thereafter maintain in full force and effect, commercial general liability insurance providing for a limit of not less than One Million Dollars per occurrence for all damages arising out of bodily injuries or death. The insurance policies obtained shall be approved as to form by the City Risk Manager, and shall name the City as an additional insured.

Section 6. Owner shall indemnify and hold the City harmless from any and all claims, losses, liabilities, liens, costs, or expenses resulting from or arising out of public use of those parts of the Property and the vacated parcel covenanted to be preserved for public use. If any claim covered by this paragraph is asserted against the City, Owner, upon notice thereof from the City, shall defend the same at its sole cost and expense, and shall pay any final judgment rendered upon such claim.

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

Section 8. It is further expressly agreed that in the event any covenant or condition hereinabove contained or any portion thereof is invalid or void, such invalidity or voidness shall in no way effect any other covenant, condition, or restriction hereinabove contained.

DATED this 9 day of January, 1996.

OWNER:

Intervest Enterprises, L.L.C.

By: William L. Roberts

Its: Manager

STATE OF WASHINGTON)

9602150331

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COUNTY OF KING

) ss.

On this day personally appeared before me J. William
Robert, to me known to be the President of
INTERVEST ENTERPRISES, L.L.C., the Washington Limited Liability
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 the company.

9 IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND SEAL THIS
DAY OF February, 1996.

J. William Williams
Signature

J. WILLIAM WILLIAMS
Type or Print Name

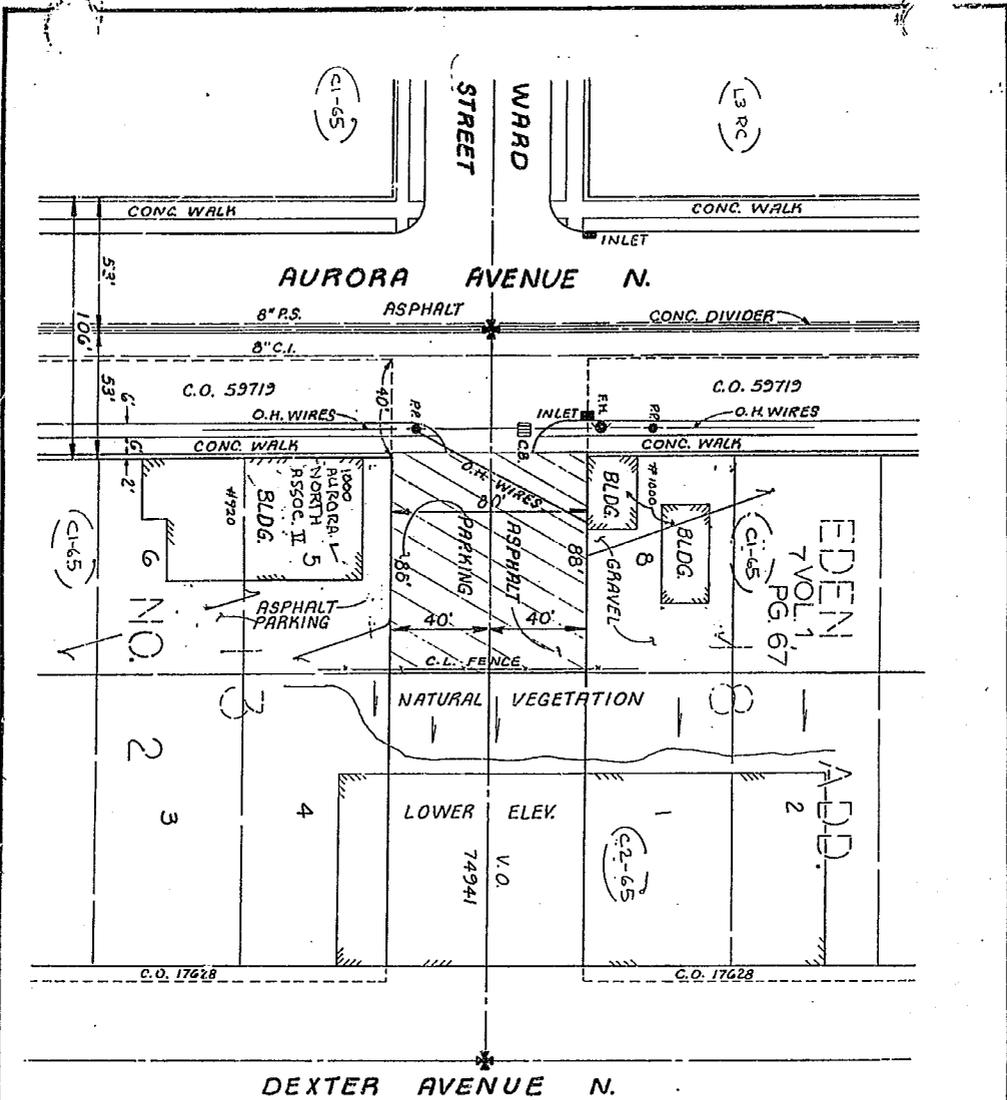
NOTARY PUBLIC in and for the
State of Washington, residing
at Seattle

My commission expires: 11-13-98

9602150331

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2573



SCALE: 1" = 50' HROLL R3.35E NE 1/4 30-25-4
MAP OF PROPERTY COVERED BY
 VACATION PETITION NO. 297661
 VALID SIGNATURES SHOWN
 INVALID SIGNATURES SHOWN
 PETITION DENIED ON FILE
 VACATED BY ORDINANCE NO. _____
 MISCELLANEOUS ORDINANCES VOL. _____
 UTILITY RIGHTS _____
 MADE BY I.R. CHECKED BY L.R.C. DATE 4/11/90

ORDINANCE 118064

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96042-1297 09:15:00 PM KING COUNTY RECORDS 003 RFD

AN ORDINANCE vacating a portion of Ward Street, on the petition of Intervest Enterprises, L.L.C., a Washington Limited Liability Company, and accepting a Property Use and Development Agreement, King County Recording No. 9602150331 (Clerk File No. 297661).

WHEREAS, there has been filed with the City Council the petition of 1000 Aurora Avenue North Associates II (Clerk File No. 297661) for the vacation of a portion of Ward Street, as therein fully described; and

WHEREAS, following a public hearing on said petition, which commenced on December 18, 1990, said petition was granted by the City Council; and

WHEREAS, the Council granted the vacation petition subject to certain conditions including the execution and recording of a Property Use and Development Agreement (PUDA) in order to ameliorate adverse impacts of the vacation; and

WHEREAS, Intervest Enterprises, L.L.C, a Washington Limited Liability Company, subsequently acquired the project; and

WHEREAS, Intervest Enterprises, L.L.C, has satisfied all conditions of the vacation including the execution and recording of a Property Use and Development Agreement; and

WHEREAS, pursuant to Section 35.79.030 and Seattle Municipal Code Chapter 15.62, the petitioner has paid to the City \$110,000.00, which amount is one-half the appraised value of the property approved for vacation according to an appraisal obtained by the Director of Engineering; and Now, Therefore;

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That

Ward Street from the east margin of Aurora Avenue North, as established by City of Seattle Ordinance 59719, to the production north of the west line of Lot 4, Block 13, Eden Addition No. 2, as recorded in Volume 1 of Plats, page 67½, Records of King County, Washington

be and the same is hereby vacated; RESERVING to the City of Seattle the right to make all necessary slopes for cuts or fills upon the above-described property in the reasonable original grading of any rights-of-way abutting upon said property after said vacation.

Section 2. That the Property Use and Development Agreement

executed by Intervest Enterprises, L.L.C, on the 9th day of February, 1996 and recorded on the 15th day of February, 1996 (King County Recording No. 9602150331) requiring the petitioner to ensure that the development would be in accordance with the conditions imposed by the Council, a copy of which is attached hereto as

NOTICE: IF THE DOCUMENT IN THIS FRAME IS LESS CLEAR THAN THIS NOTICE IT IS DUE TO THE QUALITY OF THE DOCUMENT.

1 Exhibit "A", is hereby accepted. The City Clerk is authorized and
2 directed to deliver copies of said agreement to the Director of the
3 Department of Construction and Land Use and the Director of
4 Engineering.

5 Section 3. This ordinance shall take effect and be in force
6 thirty (30) days from and after its approval by the Mayor, but if
7 not approved and returned by the Mayor within ten (10) days after
8 presentation, it shall take effect as provided by Municipal Code
9 Section 1.04.020.

10 Passed by the City Council the 25 day of _____
11 March, 1996, and signed by me in open session in
12 authentication of its passage this 25 day of _____
13 March, 1996.

14 _____
15 President _____ of the City Council.

16 Approved by me this 3 day of April, 1996.
17 _____
18 Mayor.

19 Filed by me this 3 day of April, 1996.
20 _____
21 _____
22 City Clerk.

9604121297

(SEAL)

STATE OF WASHINGTON
COUNTY OF KING
CITY OF SEATTLE

} ss

I, JUDITH E. PIPPIN, CITY CLERK OF THE CITY OF SEATTLE, DO HEREBY
CERTIFY THAT THE WITHIN AND FOREGOING IS A TRUE AND CORRECT
COPY OF ORD. 118064

A. the Same APPEALS CAN FILE, AND OF RECORD IN THIS DEPARTMENT.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED
THE SEAL TO THE CITY OF SEATTLE, THIS 9th day of April, 1996

JUDITH E. PIPPIN
CITY CLERK
By: Marquid Carter
SEAL

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Seattle
Engineering Department

John D. Okamoto, Director
Norman B. Rice, Mayor

February 22, 1996

Honorable Norman B. Rice
Mayor of the City of Seattle
1200 Municipal Building
600 Fourth Avenue
Seattle, Washington 98104

ATTENTION: Tom Tierney, Director
Office of Management and Planning

SUBJECT: Vacation of a portion of Ward Street
Clerk File No. 297661

Honorable Mayor Rice:

Enclosed is the Council Bill to vacate a portion of Ward Street from the east margin of Aurora Avenue North to a line 88.08 feet east thereof (Clerk File No. 297661). The petition was filed by 1000 Aurora Avenue North Associates II to allow for the development of access to the entire project from Aloha Street through a consolidated parking structure. Intervest Enterprises, L.L.C, a Washington Limited Liability Company acquired the project in 1994.

Background

The petitioner, Intervest Enterprises, L.L.C, proposes to construct a mixed use project of two structures connected by a subsurface parking garage which is accessed from Aloha Street. The parking garage will be located under the Ward Street right-of-way with the two structures, containing 10,414 square feet of retail space and 57,126 square feet of residential apartments, constructed on the adjacent property.

Following a public hearing held on December 18, 1990, the City Council granted the vacation subject to the execution of a Property Use and Development Agreement (PUDA) which ensured that the development would be in accordance with conditions imposed by the Council. The PUDA includes the following specific items:

- A view corridor shall be maintained across the vacated portion of Ward Street and no above grade structure or other view obstructions shall be constructed within the right-of-way;
- Public access to the vacated portion of Ward Street and to the view point shall be maintained at all times;

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An equal opportunity - affirmative action employer. Accommodations for people with disabilities provided on request.
Seattle Engineering Department, Room 400, Seattle Municipal Building, 600 Fourth Avenue, Seattle, Washington 98104-1879 (206) 684-5000 VTDD (206) 233-1088



RECEIVED OMP
FEB 26 1996

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Honorable Mayor Rice
February 22, 1996
Page 2

- All access to the project shall be from Aloha Street through the proposed parking structure. Short term parking spaces, including spaces for public use, shall be accessed from Aurora Avenue North. No truck loading facilities may be located on Aurora Avenue North;
- Future density shall be limited to that which existed prior to the vacation;
- The vacated right-of-way will be conveyed back to the City in the event the proposed project is not constructed within five years from the date of the vacation ordinance.

Recommendation

Intervest Enterprises, L.L.C., has satisfied all the conditions of the street vacation which include the following:

- Executed and recorded a Property Use and Development Agreement to ensure that the development would be in accordance with the conditions imposed by the Council;
- Paid a fee of \$110,000.00, which is one-half the appraised value of the property according to an appraisal obtained by the Director of Engineering.

I recommend approval of this Council Bill.

Sincerely,



John D. Okamoto, Director
Seattle Engineering Department

JDO/MLS:mls

cc: Joe Jainga, Washington Natural Gas Company
Christine Price, U.S. West Communications
Susan Solberg, Metro Property Management
Lionel Sun, Water Department
James Young, Seattle Steam Company

Enclosure

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TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

[Handwritten Signature]

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

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City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor

96-045



February 27, 1996

The Honorable Mark Sidran
City Attorney
City of Seattle

*C/K
City
2-4-96*

COPY RECEIVED
FEB 28 11 38 AM '96
FILE CITY ATTORNEY

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING DEPARTMENT: Engineering

SUBJECT: AN ORDINANCE vacating a portion of Ward Street, on the petition of Invest Enterprises, L.L.C., a Washington Limited Liability Company, and accepting a Property Use and Development Agreement, King County Recording No. 9602150331 (Clerk File No. 297661).

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Kwan Wong at 4-8083.

Sincerely,

Norman B. Rice
Mayor

by

Tom Tierney
Tom Tierney

Enclosure

legis:wong

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STATE OF WASHINGTON - KING COUNTY

66683
City of Seattle, City Clerk

—ss.

No. ORDINANCE; I

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORD 118064

was published on

04/11/96

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

Subscribed and sworn to before me on

04/11/96

Notary Public for the State of Washington,
residing in Seattle

Affidavit of Publication

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