

#6
OB 17090

ORDINANCE _____

AN ORDINANCE vacating the alley in Block 9, Waddel's Madrona Park Addition, on the petition of Epiphany School; and accepting a Property Use and Development Agreement related herein (Clerk File 309199).

WHEREAS, Epiphany School has filed a petition to vacate the alley in Block 9, Waddel's Madrona Park Addition, which is the block bordered by East Denny Way, 38th Avenue, East Howell Street, and 36th Avenue in the Madrona neighborhood of Seattle as herein fully described; and

WHEREAS, following a public hearing on the petition, held on March 3, 2009, the petition was conditionally granted; and

WHEREAS, the City Council approved the petition pursuant to certain conditions which have been met; and

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

WHEREAS, pursuant to RCW 35.79.030 and Seattle Municipal Code Chapter 15.62, the petitioner has paid the City a vacation fee of \$80,000, which amount is the full appraised value of the property approved for vacation, according to an appraisal obtained by the Director of Transportation; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. That

The alley in Block 9, Waddel's Madrona Park Addition, as recorded in Volume 11 of Plats, Page 2, Records of King County, Washington; which is the "C" shaped alley beginning at 36th Avenue East and extending east approximately 118 feet and then extending south approximately 107 feet to its terminus at East Howell Street.

Be and the same is hereby vacated;

OR in the alternative, to vacate any portion of said right-of-way so particularly described;



1 RESERVING to the City of Seattle the right to make all necessary slopes for cuts or fills
2
3 upon the above described property in the reasonable original grading of any right-of-way abutting
4 upon said property after said vacation; and further,

5 RESERVING to the City of Seattle the right to reconstruct, maintain and operate any
6 existing overhead or underground utilities in said rights-of-way until the beneficiaries of said
7 vacation arrange with the owner or owners thereof for their removal.

8 Section 2. The Property Use and Development Agreement, Recording Number
9 20100816001124, attached hereto as Attachment A, is hereby accepted.
10

11 Section 3. This ordinance shall take effect and be in force 30 days from and after its
12 approval by the Mayor, but if not approved and returned by the Mayor within ten days after
13 presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.
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1 Passed by the City Council the ___ day of _____, 2011, and
2 signed by me in open session in authentication of its passage this
3 ___ day of _____, 2011.

4
5
6 _____
7 President _____ of the City Council

8 Approved by me this ___ day of _____, 2011.

9
10
11 _____
12 Michael McGinn, Mayor

13 Filed by me this ___ day of _____, 2011.

14
15 _____
16 City Clerk

17 (Seal)

18
19 Attachment A: Property Use and Development Agreement
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27
28



CONFORMED COPY

Return Address:

JOHN McCULLOUGH
 McCULLOUGH HILL P.S.
 701 FIFTH AVE, #7220
 SEATTLE, WA 98104

20100816001124
 WARREN CO AG
 PAGE-001 OF 007
 03/16/2010 14:06 68.00

Please print or type information WASHINGTON STATE RECORDER'S Cover Sheet (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document <u>must</u> be filled in) 1. <u>PROPERTY USE AND DEVELOPMENT AGREEMENT</u> 3. _____ 4. _____	
Reference Number(s) of Documents assigned or released: Additional reference #'s on page _____ of document	
Grantor(s) Exactly as name(s) appear on document 1. <u>EPIPHANY SCHOOL</u> 2. _____ Additional names on page _____ of document.	
Grantee(s) Exactly as name(s) appear on document 1. <u>CITY OF SEATTLE</u> 2. _____ Additional names on page _____ of document.	
Legal description (abbreviated: i.e. lot, block, plat or section, township, range) <u>LOTS 3-5, BLOCK 9, WADDELL'S MADRONA PARK ADD.</u> <u>VOLUME 11 OF PLATS, PG 2, IN KING CO, WASHINGTON</u> Additional legal is on page _____ of document.	
Assessor's Property Tax Parcel/Account Number <input type="checkbox"/> Assessor Tax # not yet assigned <u>9103000615, 9103000620, 9103000625</u>	
The Auditor/Recorder will rely on the information provided on this form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.	

"I am signing below and paying an additional \$50 recording fee (as provided in RCW 36.18.010 and referred to as an emergency nonstandard document), because this document does not meet margin and formatting requirements. Furthermore, I hereby understand that the recording process may cover up or otherwise obscure some part of the text of the original document as a result of this request."

Signature of Requesting Party

Note to submitter: Do not sign above nor pay additional \$50 fee if the document meets margin/formatting requirements



AFTER RECORDING RETURN DOCUMENT TO:

John C. McCullough
McCullough Hill, PS
701 Fifth Avenue, Suite 7220
Seattle, WA 98104

Reference Number of Related Document: N/A

Grantor(s): EPIPHANY SCHOOL

Grantee(s): CITY OF SEATTLE

Abbreviated Legal Description: Lots _ through _, Block 9, Waddel's Madrona
Park Addition, Vol. 11 of Plats, p. 2, King County, WA.

Additional Legal Description is on pages 1 and 2 of Document

Assessor's Property Tax Parcel or Account No.: #9103000615, 9103000620,
#9103000625.

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 EPIPHANY SCHOOL, a Washington non-profit corporation, owners of the within described property (herein, the "Owner").

WITNESSETH:

WHEREAS, 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"):

Lots 3 through 5 inclusive, Block 9, Waddel's Madrona Park Addition, according to the Plat thereof, recorded in Volume 11 of Plats, page 2, in King County, Washington;



and

WHEREAS, the Owner is redeveloping the Property with new school buildings (the "Development"); and

WHEREAS, in connection with the Development, a petition was filed in 200 (C.F. No. 309199) pursuant to RCW Ch. 35.79 and Seattle Municipal Code Ch. 15.62, by the Owner to vacate the alley in Block 9, Waddel's Madrona Park Addition; and

WHEREAS, the Seattle City Council granted preliminary approval of the vacation subject to conditions, including the conditions that the pocket park area of the Development (the "Pocket Park"), which is depicted on Exhibit A hereto, be accessible to the public; and

WHEREAS, the Owner now seeks final vacation of the alley in Block 9, Waddel's Madrona Park Addition;

NOW, THEREFORE, the Owner hereby covenants, bargains and agrees on behalf of itself, its successors and assigns as follows:

Section 1. The Pocket Park shall be developed with landscaping, seating, special paving and an art element, all as approved by the Seattle Design Commission. The Pocket Park shall be open to the public 24 hours per day, subject to the conditions set forth herein. As used herein, "Pocket Park" does not include below-grade or subsurface areas (which areas are occupied by the subsurface parking garage for the Development) or portions of the Property outside the boundaries depicted on Exhibit A. All landscaping and other amenities shall be maintained and kept in good repair. Landscaping and other amenities may be replaced as necessary but must be replaced with similar landscaping or amenities. Significant changes to the amenities provided in the Pocket Park shall require the prior approval of Seattle Department of Transportation.

Section 2. The Owner shall have the right from time to time to temporarily close or obstruct the Pocket Park for construction, required maintenance and repair or because of circumstances beyond the Owner's control. The Owner shall also have the right from time to time to temporarily close or obstruct the Pocket Park as necessary to maintain the safety and security of the Development or the persons associated therewith. The Owner may adopt such reasonable rules and regulations regarding the use of and access to the Pocket Park as are necessary to ensure the safety or security of the users of the Pocket Park or the Development.



Section 3. This Agreement shall be recorded in the records of King County and the covenants hereof shall be deemed to attach to and run with the Property and shall be binding upon the Owner, its heirs, successors and assigns.

Section 4. 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 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. 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 \$1,000,000 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 7. 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 the Pocket Park. 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 8. The Owner reserves the right to use the Pocket Park for any purpose which does not interfere with the public's use of the Pocket Park, including but not limited to the right to use the Pocket Park as described herein and the right to grant easements within the Pocket Park.

Section 9. Notwithstanding the covenants contained herein, nothing in this Agreement shall constitute a public dedication of any portion of the Property.

Section 10. 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 affect any other covenant, condition or restriction herein contained.



Beverly Barnett, SDOT, Property Use and Development Agreement ATT A
SDOT Epiphany School Vacation ORD
December 15, 2010
Version #1

Dated this 16 day of August, 2010.

OWNER:

EPIPHANY SCHOOL,
a Washington non-profit corporation

By: Matt Neely
Its: Head of school

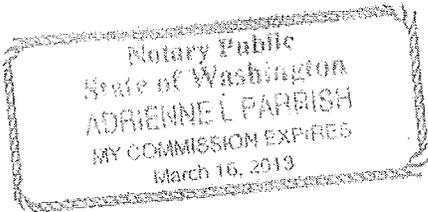


Beverly Barnett, SDOT, Property Use and Development Agreement ATT A
SDOT Epiphany School Vacation ORD
December 15, 2010
Version #1

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this day personally appeared before me Matt Neely, to me known to be the Head of School of EPIPHANY SCHOOL, a Washington non-profit corporation, the corporation that executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was duly authorized to execute said instrument on behalf of said corporation.

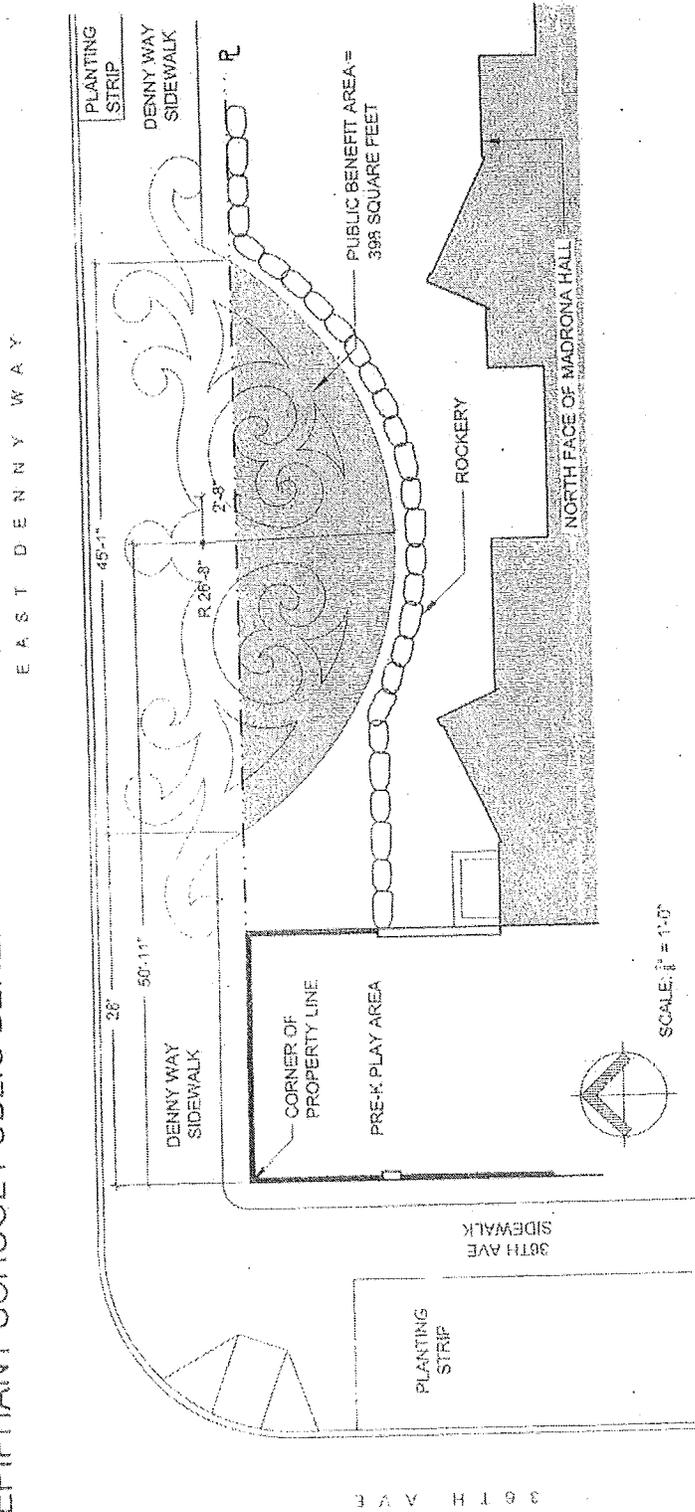
IN WITNESS WHEREOF, I have hereunto set my hand and seal this 16 day of July, 2010.
August



Adrienne L Parrish
(print or type name)
NOTARY PUBLIC in and for the State of Washington, residing at Seattle, WA
My Commission expires: March 16, 2013



EXHIBIT A
 EPIPHANY SCHOOL PUBLIC BENEFIT AREA



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Seattle Department of Transportation	Beverly Barnett/684-7564	Stephen Barham/733-9084

Legislation Title:

AN ORDINANCE vacating the alley in Block 9, Waddel's Madrona Park Addition, on the petition of Epiphany School; and accepting a Property Use and Development Agreement related herein (Clerk File 309199).

Summary of the Legislation:

This Council Bill completes the vacation process for the alley in Block 9, Waddel's Madrona Park Addition, on the petition of Epiphany School and accepts a Property Use and Development Agreement (the "PUDA") in connection with this alley vacation. The right-of-way being vacated is the "C" shaped alley in the block bordered by East Denny Way, 38th Avenue, East Howell Street, and 36th Avenue in the Madrona neighborhood of Seattle.

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

On March 9, 2009, the City Council voted to conditionally grant Epiphany School's petition to vacate the alley. The petitioner subsequently constructed a 17,500 square foot, 2-story building containing 10 new classrooms, a library, school administrative offices and below grade parking for about 31 cars, a new pre-kindergarten playground, a teaching garden, a pocket park, a new parking garage, and landscaping throughout the school campus.

Epiphany School sought vacation of the alley to expand and redevelop the school by adding a new classroom building and amenities, and upgrading the school's existing campus. The alley vacation completes the consolidation of the two sides of the school's campus previously separated by the alley and integrates them with path ways and open space. The public benefit area of the redeveloped school campus includes a pocket park developed with landscaping, seating, special paving and an art element.

The PUDA requires that the petitioner maintain the public benefit feature of the alley vacation, identified in the agreement as the Pocket Park area, and that it remains open and available at all times for public use and enjoyment during the operation of the project.

Please check one of the following:



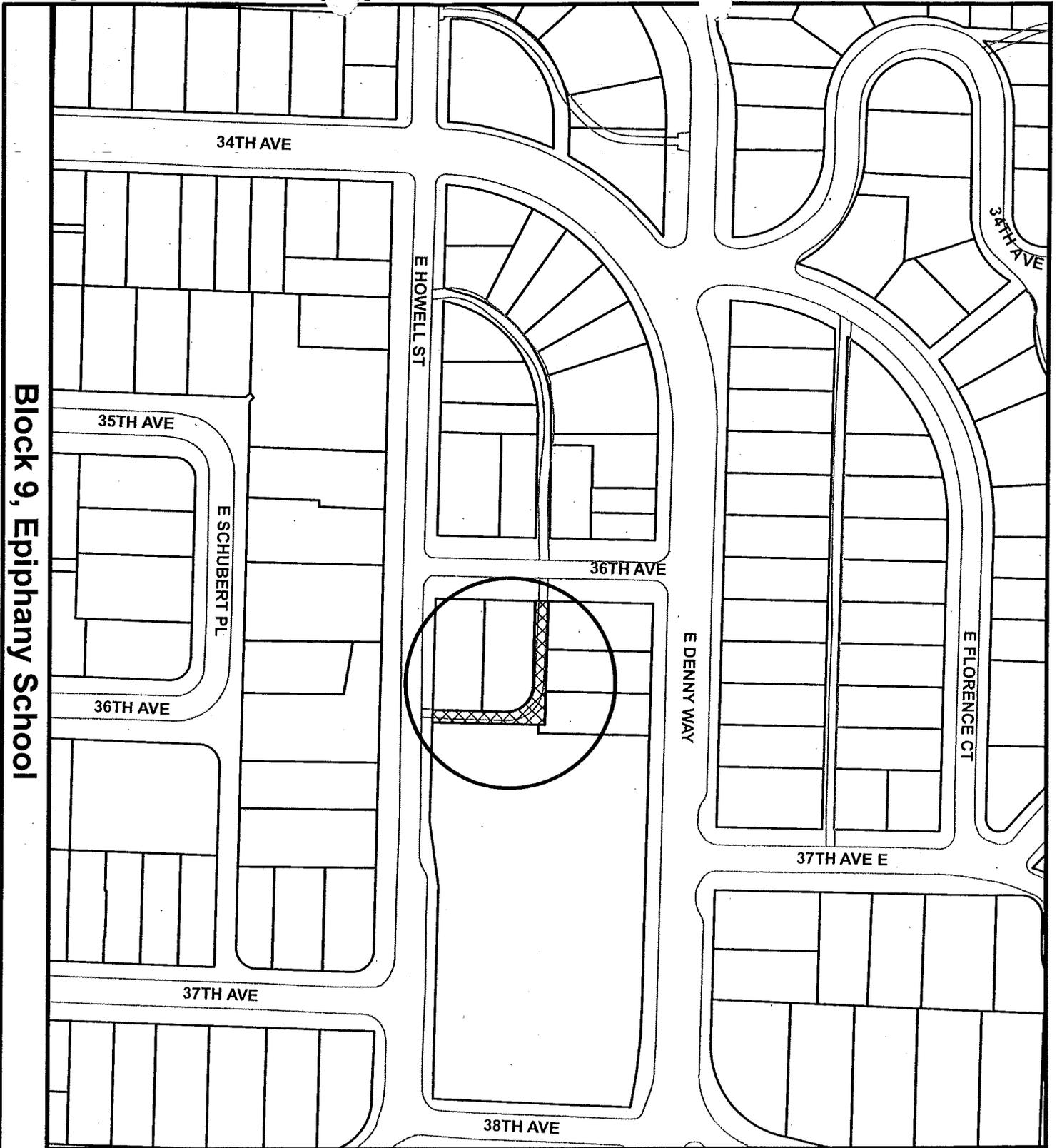
X **This legislation does not have any financial implications.**
(Stop here and delete the remainder of this document prior to saving and printing.)

Although this legislation does not accept or appropriate funds, the Seattle Department of Transportation received a vacation fee of \$80,000 in 2010 of which 50 percent was deposited in the CRS Unrestricted Subaccount and 50 Percent in the CRS Street Vacation Subaccount at that time.

Attachment A: Street Vacation Map.



Block 9, Epiphany School



Alley Vacation
Petition

Block 9
Waddell's Madrona
Park Add.
CF 309199

Petitioner:
Epiphany School


Proposed
Vacation:
2,702 sq ft



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THE CITY OF SEATTLE
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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
Orthographic Spheroid:
Pictometry Z007
PLOT DATE: 12/15/10
AUTHOR: St.Vacations



City of Seattle
Office of the Mayor

January 11, 2011

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill that completes the vacation process for Epiphany School, which facilitate the expansion of its existing school campus. The right-of-way being vacated is the "C" shaped alley bordered by East Denny Way, 38th Avenue, East Howell Street, and 36th Avenue in the Madrona neighborhood.

On March 9, 2009, the City Council voted to conditionally grant Epiphany School's petition to vacate the alley. The petitioner subsequently constructed a 17,500 square foot, 2-story building containing 10 new classrooms, a library, school administrative offices and below grade parking for 31 cars, a new pre-kindergarten playground, a teaching garden, a pocket park, a new parking garage, and landscaping throughout the school campus.

Epiphany School sought vacation of the alley to add a new classroom building and amenities and upgrade the school's existing campus. The alley vacation completes the consolidation of the two sides of the school's campus previously separated by the alley and integrates them with path ways and open space. The public benefit area of the redeveloped school campus includes a pocket park developed with landscaping, seating, special paving and an art element.

Thank you for your support of this legislation. If you have any questions please feel free to contact Beverly Barnett at (206) 684-7564.

Sincerely,

Michael McGinn
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

