

TOWN OF EATONVILLE

Agenda Staff Report

Agenda Item No.:	_____	Meeting Date:	<u>January 11, 2021</u>
Subject:	<u>Ordinance 2021-1 Vacating a</u>	Prepared by:	<u>Gregory A. Jacoby</u>
	<u>Portion of Town Right-of-Way Adjacent</u>		<u>Town Attorney</u>
	<u>to Adams Avenue South</u>	Atty Routing No:	<u>035-20</u>
	_____	Atty Review Date:	<u>December 30, 2020</u>

Summary: Earlier this evening, the Council held a public hearing to consider the request of Mill Haus, LLC to vacate a portion of the alley adjacent to Adams Avenue South. Petitioner is the sole owner of the property abutting the area to be vacated.

The proposed ordinance is presented for first reading. Before the vacation will become effective, the Petitioner is required to tender a check in the amount of \$11,700, which represents the full appraised value of the property. A copy of the property appraisal is included in the meeting packet.

The area to be vacated is 1,307.9 square feet. A figure illustrating the location of the area to be vacated and the location of Petitioners' abutting property is attached as Exhibit A to the Ordinance.

Recommendation: Staff recommends approval of the first reading of Ordinance 2021-1

Motion for consideration: I move to approve the first reading of Ordinance 2021-1 vacating a portion of the alley adjacent to Adams Avenue South.

Fiscal Impact: The Town will receive \$11,700. Pursuant to RCW 35.79.030 and EMC 12.06.040, one-half of the revenue must be dedicated to the acquisition, improvement, development, and related maintenance of public open space or transportation capital projects. The balance of the revenue is unrestricted.

Attachments: Ordinance 2021-1 and Exhibit A.

ORDINANCE 2021-1

**AN ORDINANCE OF THE TOWN OF EATONVILLE, WASHINGTON,
VACATING A PORTION OF TOWN RIGHT-OF-WAY
ADJACENT TO ADAMS AVENUE SOUTH**

Legal Description: That portion of the Southwest Quarter of the Southeast Quarter of Section 14, Township 16 North, Range 4 East of the Willamette Meridian, described as follows:

Commencing at a point on the easterly margin of Adams Avenue South, North 1'07'16" East 738.79 feet from the South line and said Southwest Quarter of the Southeast Quarter of Section 14;

Thence South 64'44'31" East 36.68 feet to the **Point of Beginning**;

Thence continuing South 64'44'31" East 78.32 feet;

Thence North 1'07'16" East, parallel with Adams Avenue South, 20.00 feet;

Thence North 64'44'31" West 65 feet;

Thence South 40'59'19" West 18.96 feet to the **Point of Beginning**

Containing 1,307.9 square feet

Adjacent Parcel No.: 0416144099

WHEREAS, the Town has received a petition from Mill Haus LLC as the sole owner of the property abutting upon the part of such alley sought to be vacated; and

WHEREAS, the alley is adjacent to Adams Avenue South and the portion to be vacated contains 1,307.9 square feet, as illustrated and described in the attached Exhibit A; and

WHEREAS, petitioner has requested that proceedings be held for the vacation of said right-of-way in the manner prescribed by Chapter 35.79 RCW and Chapter 12.06 EMC; and

WHEREAS, in accordance with Resolution 2020-V and RCW 35.79.030, the Town Council held a duly noticed public hearing regarding the proposed alley vacation on January 11, 2021; and

WHEREAS, the petitions have paid the required application fee and have agreed to pay the full appraised value of the land of \$11,700 to compensate the Town, in accordance with state law and the Town's municipal code; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF EATONVILLE AS FOLLOWS:

Section 1. Based on the testimony and documents presented at the public hearing, the

Town Council finds as follows:

- a) The property described above has been part of a dedicated public right-of-way for twenty-five years or more;
- b) No portion of the right-of-way abuts a body of water;
- c) The property described above is not useful as a part of the Town's road system and the public will be benefited by vacation of the Town's interest;
- d) No land will be "locked" from access to public roadways by the vacation;
- e) The vacation will not adversely affect utilities;
- f) The enlarging of the adjacent parcels by virtue of the vacation does not create potential or actual land uses that are inconsistent or conflict with the Town's growth plans or goals; and
- g) The Town has been compensated in an amount authorized by state law and municipal code.

Section 2. The property described in the above legal description and shown on the map attached as Exhibit A, which is incorporated herein by reference, is hereby vacated upon satisfaction of the conditions set forth in Section 3 below.

Section 3. This vacation shall not be effective until the owners of the property abutting the right-of-way so vacated pay the Town the sum of \$11,700, which amount is the full appraised value of the land to be vacated.

Section 4. Pursuant to RCW 35.79.030 and EMC 12.06.040, the Town reserves and retains a perpetual easement under, on, or over the above-described vacated land for the construction, repair, and maintenance of existing or future public utilities and services located on the land or a portion of the land hereby vacated.

Section 5. Upon petitioner's satisfaction of the conditions set forth in Section 3 above, The Town Clerk is authorized and directed to record a certified copy of this ordinance with the Pierce County Auditor.

Section 6. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 7. This ordinance shall take effect after publication of a summary, consisting of the title, pursuant to RCW 35.27.300.

1ST READING: 01/11/2021
2ND READING: 01/25/2021

PASSED by the Town Council of the Town of Eatonville and attested by the Clerk in authentication of such passage this ____ day of January 2021.

Mike Schaub
Mayor

ATTEST:

Miranda Doll
Town Clerk

APPROVED AS TO FORM:

Gregory A. Jacoby
Town Attorney

IN THE TOWN OF EATONVILLE RIGHT-OF-WAY VACATION MAP

IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER
SECTION 14 TOWNSHIP 16 NORTH RANGE 4 EAST WILLAMETTE MERIDIAN
PIERCE COUNTY WASHINGTON

PROPERTY INFORMATION:
PIERCE COUNTY PARCEL Nos.: 041614-4099
PROPERTY OWNER: MILL HAUS, LLC
SITE ADDRESSES: 303 CENTER ST E
EATONVILLE WA 98328
ZONING: C2 (COMMERCIAL DISTRICT)
WATER PURVEYOR: TOWN OF EATONVILLE
SEWER: TOWN OF EATONVILLE
ACCESS: PUBLIC STREET

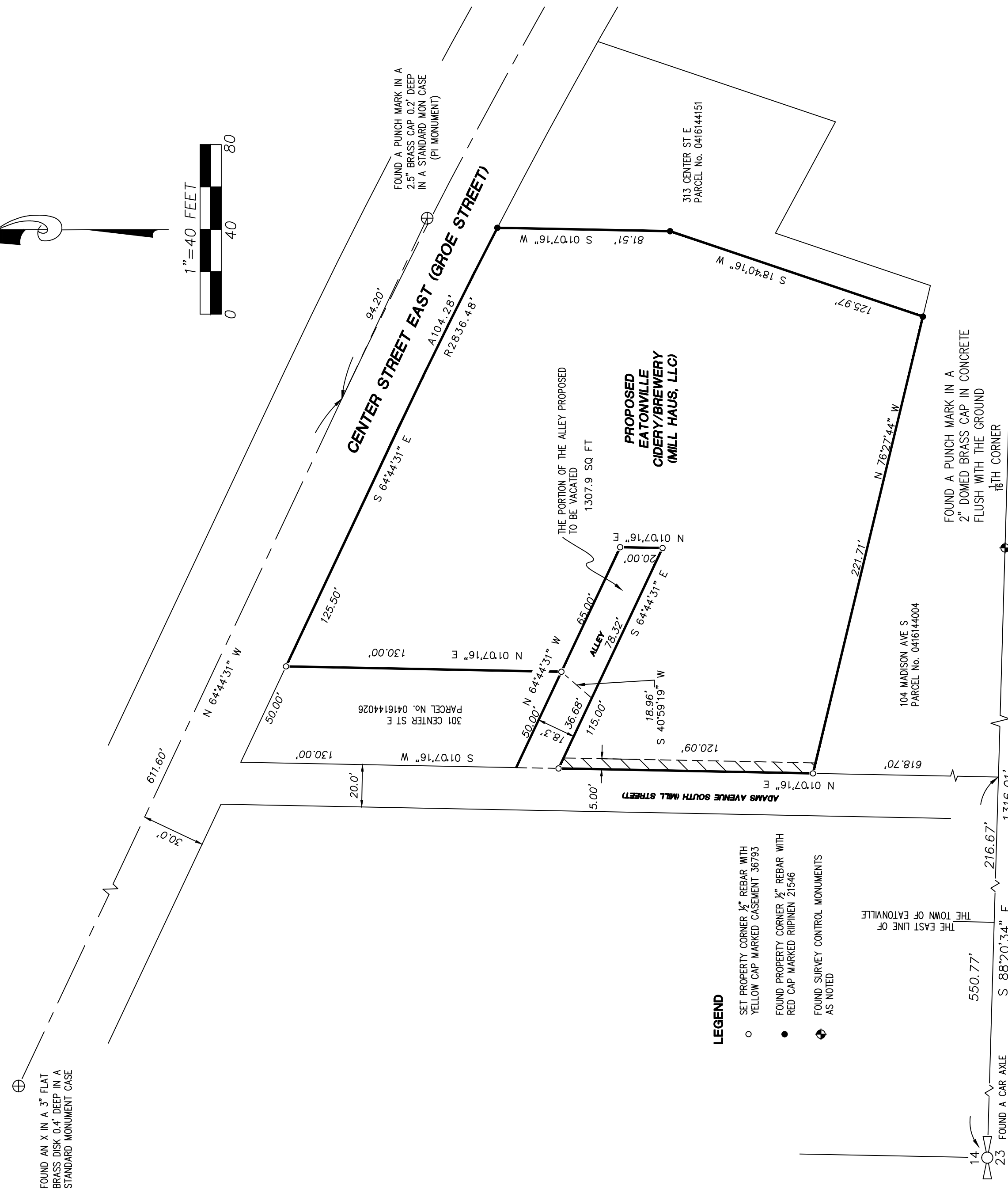
BASIS OF DATUM:
THE HORIZONTAL DATUM IS NAD83/2011 BASED ON GPS DERIVED POSITIONS.
THE COMBINED SCALE FACTOR IS 0.99989181964 FOR THIS PROJECT.
DIMENSIONS SHOWN ARE GROUND DIMENSIONS.

COMBINED USAGE OF GPS EQUIPMENT (LEICA SMARTROVER AND THE
WASHINGTON STATE REFERENCE NETWORK) AND CONVENTIONAL SURVEY
METHOD, MEETS OR EXCEEDS THE STANDARDS WAC 332-130-090

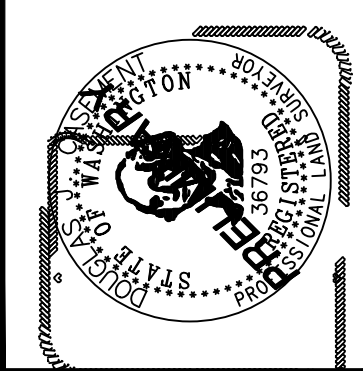
ALLEY DESCRIPTION:
THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF
SECTION 14, TOWNSHIP 16 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN,
DESCRIBED AS FOLLOWS:
COMMENCING AT A POINT ON THE EASTERLY MARGIN OF ADAMS AVENUE SOUTH,
NORTH 1°07'16" EAST 738.79 FEET FROM THE SOUTH LINE SAID SOUTHWEST QUARTER
OF THE SOUTHEAST QUARTER OF SECTION 14;
THENCE SOUTH 64°44'31" EAST 36.68 FEET TO THE **POINT OF BEGINNING**;
THENCE CONTINUING SOUTH 64°44'31" EAST 78.32 FEET;
THENCE NORTH 1°07'16" EAST, PARALLEL WITH ADAMS AVENUE SOUTH, 20.00 FEET;
THENCE NORTH 64°44'31" WEST 65 FEET;
THENCE SOUTH 40°59'19" WEST 18.96 FEET TO THE **POINT OF BEGINNING**

MILL HAUS LLC PROPERTY DESCRIPTION:
THAT PORTION OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF
SECTION 14, TOWNSHIP 16 NORTH, RANGE 4 EAST OF THE WILLAMETTE MERIDIAN
DESCRIBED AS FOLLOWS:
COMMENCING AT A POINT ON THE SOUTH LINE OF SAID SECTION 14, SOUTH 88°
20' 34" EAST, 216.67 FEET FROM THE INTERSECTION OF THE EAST LINE OF THE
TOWN OF EATONVILLE, AS PER THE PLAT RECORDED IN VOLUME 7 OF PLATS, PAGE
41, RECORDS OF THE PIERCE COUNTY AUDITOR AND SAID SOUTH LINE OF SECTION
14;
THENCE ALONG THE EAST LINE OF ADAMS AVENUE SOUTH, SHOWN AS MILL
STREET ON THE UNRECORDED PLAT OF THE MARTI TRACTS DATED FEBRUARY 1922,
NORTH 1° 7' 16" EAST, 618.70 FEET TO THE **POINT OF BEGINNING**;
THENCE SOUTH 76° 27' 44" EAST, 221.71 FEET ALONG THE NORTHERLY LINE OF A
TRACT OF LAND DESCRIBED IN A DEED TO GUGLIELMO BUTI, RECORDED FEBRUARY
27, 1942 UNDER AUDITOR'S FILE No. 1294488, TO THE WESTERLY LINE OF A 15
FOOT WIDE ALLEY, SAID ALLEY BEING SHOWN ON UNRECORDED PLAT OF THE MARTI
TRACTS DATED FEBRUARY, 1922;
THENCE ALONG SAID WESTERLY LINE OF ALLEY, NORTH 18° 40' 16" EAST 125.97
FEET TO THE WESTERLY LINE OF LOT 17, UNRECORDED PLAT OF THE MARTI
TRACTS;
THENCE ALONG SAID WESTERLY LINE OF LOT 17, NORTH 1° 7' 16" EAST 81.51
FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF CENTER STREET EAST, AKA
GROE STREET, AS SHOWN ON THE PIERCE COUNTY ENGINEER PLAN FOR ALDER
CUTOFF ROAD, DATED SEPTEMBER 1932;
THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY, ALONG THE ARC OF A 2,836.48
FOOT RADIUS CURVE TO THE LEFT, THE RADIUS POINT OF WHICH BEARS SOUTH
27° 21' 52" WEST, AN ARC DISTANCE OF 104.28 FEET;
THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, NORTH 64° 44'
31" WEST 123.50 FEET;
THENCE SOUTH 1° 7' 16" WEST 130.00 FEET TO THE NORTHERLY LINE OF AN
ALLEY;
THENCE ALONG SAID NORTHERLY LINE OF AN ALLEY, SOUTH 64° 44' 31" EAST
65.00 FEET TO THE END OF SAID ALLEY;
THENCE ALONG THE EASTERLY END OF SAID ALLEY,
THENCE ALONG THE SOUTHERLY LINE OF SAID ALLEY, NORTH 64° 44' 31" WEST
115.00 FEET TO THE EASTERLY LINE OF SAID ADAMS AVENUE SOUTH;
THENCE SOUTH 1° 7' 16" WEST 120.09 FEET ALONG SAID EASTERLY LINE OF
ADAMS STREET, TO THE **POINT OF BEGINNING**.

SUBJECT TO EASEMENTS, RESTRICTIONS, COVENANTS AND CONDITIONS OF RECORD,
IF ANY.



- LEGEND**
- SET PROPERTY CORNER 1/2" REBAR WITH YELLOW CAP MARKED CASEMENT 36793
 - FOUND PROPERTY CORNER 1/2" REBAR WITH RED CAP MARKED RIPINEN 21546
 - ◆ FOUND SURVEY CONTROL MONUMENTS AS NOTED



CASEMENT LAND SURVEYORS
2606 EAST MAIN AVE.
PUYALLUP, WA 98372
(253) 576-7328

PREPARED FOR:
MILL HAUS LLC
44077 161ST AVE E
EATONVILLE, WA 98328-9468

DWN. BY	DATE	JOB NO.
DJC	1/29/2020	18-1352-001
CHKD. BY	SCALE	SHEET
DJC	AS SHOWN	1 OF 1