

1 **BEFORE THE HEARING EXAMINER FOR THE CITY**
2 **OF PORT TOWNSEND**

3 Phil Olbrechts, Hearing Examiner

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RE: Vince'sVillage	
Partial Plat Vacation and McClellan Street Right-of-Way Vacation	FINDINGS OF FACT, CONCLUSIONS OF LAW AND FINAL DECISION
File No. LUP26-013	

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8 **I. INTRODUCTION**

9 Bayside Housing & Services submitted an application for a partial plat vacation of
10 property located at 1777 10th Street together with the vacation of an undeveloped
11 portion of the McClellan Street right-of-way located between 9th Street and 10th
12 Street to consolidate several platted lots to facilitate development of a multi-family
housing development. The application is approved subject to conditions.

13 **II. ORAL TESTIMONY**

14 A computer-generated transcript of the hearing has been prepared to provide an
15 overview of the hearing testimony. The transcript is not intended to provide a
16 precisely accurate rendition of testimony but generally identifies the subjects
17 addressed during the hearing. The transcript is provided for informational purposes
only as Appendix A.

18 **III. EXHIBITS**

19 Exhibits 1-12 listed on page 13 of the staff report dated May 26, 2026, were admitted
20 into the record at the June 3rd, 2026, virtual public hearing. Additionally, Exhibit 6.7,
21 a comment letter from Mr. Tilly which was received by staff after the staff report and
exhibits had been distributed was entered into the record by staff.

22 **IV. FINDINGS OF FACT**

23 **Procedural:**

24 1. Applicants. Bayside Housing & Services c/o Bill Rucker, Director of
25 Sites & Projects 310 Hadlock Bay Rd.

1 2. Hearing. A virtual hearing was held on the applications at 9:00 am on
June 3rd, 2026.

2 **Substantive:**

3 3. Project Description. Bayside Housing & Services submitted an
4 application for a partial plat vacation of property located at 1777 10th Street together
5 with the vacation of an undeveloped portion of the McClellan Street right-of-way
6 located between 9th Street and 10th Street to consolidate several platted lots to
7 facilitate development of a three-story, 32-unit multifamily residential development
8 for permanent supportive housing.

9 The proposal includes full-width vacation of the McClellan Street right-of-way along
10 segments that abut property under the applicant's ownership within Blocks 198 and
11 199. The application further proposes a partial (half-width) vacation along the
12 western portion of the right-of-way where adjacent parcels are not under applicant
13 ownership. The distinction between full-width and partial-width street vacation is
14 intended to ensure that adjacent properties not controlled by the applicant retain the
15 ability to utilize the remaining portion of the right-of-way if needed for future access,
16 utilities, or connectivity.

17 The subject property consists of multiple narrow lots created by historic platting
18 within the Eisenbeis Addition (Exhibit 10), a subdivision platted in the late nineteenth
19 century (1888). Several interior lot lines and dedicated rights-of-way, including
20 McClellan Street, were platted but never fully developed. The segment of McClellan
21 Street proposed for vacation is unimproved and not part of the City's Sustainable
22 Streets Plan or Active Transportation Plan.

23 4. Surrounding Uses: Surrounding development reflects a mix of single-
24 family residential, multifamily residential, and institutional uses typical of the Castle
25 Hill area. Vehicular, pedestrian, bicycle, and emergency access to the site is provided
via improved public streets at 9th Street and 10th Street.

5. Adverse Impacts. No significant adverse impacts are associated with the
proposal. The subject property has no mapped Critical Areas as regulated by the Port
Townsend Municipal Code (PTMC) and none have been observed. The proposal
retains portions of the McClellan Street right of way as necessary to ensure that no
lots will become landlocked. The partial plat vacation does not impair access,
eliminate utilities, or remove public facilities. City staff have determined that
retention of the proposed vacated right of way would not advance transportation
objectives or system functionality. Reservation of perpetual public utility easements
within the vacated right-of-way is feasible and sufficient to preserve current and
future public service needs. City staff have determined that the proposed areas for
right of way vacation not are not required for present or future public use

Written comments were received expressing concern about the future multi-family
development of the project site. Concerns included traffic and parking, neighborhood

1 character and future use of McClellan Street. Most of these comments are not
2 pertinent to this review because the planned multi-family development is subject to
3 separate permits. This permit review is limited to the impacts of removing lot lines
4 and right of way. Approval of this permit does not commit the Applicant to build any
5 specific type of development. The only public comments pertinent to this review are
6 the future use of McClelland. City staff have found that the right of way to be
7 eliminated will not result in any landlocked parcels or undermine the City's
8 transportation planning efforts. Consequently, the future

9 IV. CONCLUSIONS OF LAW

10 **Procedural:**

11 1. Authority of Hearing Examiner. PTMC 20.01.040, Table 1, designates plat
12 vacations as subject to a Type III process. PTMC 20.01.040, Table 2, provides that
13 the hearing examiner shall hold hearings and issue final decisions on Type III
14 applications.

15 2. The PTMC doesn't provide any directly referenced criteria for approval of plat
16 vacations. Rather, PTMC 18.04.040D requires that plat vacations shall comply with
17 the criteria imposed by RCW 58.17.212. As pertinent, RCW 58.17.212 is quoted
18 below and applied via corresponding conclusions of law.

19 **RCW 58.17.212:** *The legislative authority of the city ... may approve or deny the application
20 for vacation of the subdivision after determining the public use and interest to be served by the
21 vacation of the subdivision.*

22 3. Criteria Met. The criteria is met. The public use and interest is served by the
23 vacation since it will not create any adverse impacts as determined in Finding of Fact
24 No. 5 while at the same time facilitating the development of the property.

25 One comment letter asserted that the proposed right of way doesn't conform to right
of way vacation statutes, specifically those in Chapter 35.79 RCW. Those statutes do
not apply to plat vacations that combine lot vacations along with right of way
vacations. RCW 58.17.212 provides that "[w]hen the application is for the vacation
of the plat together with the roads and/or streets, the procedure for vacation in this
section shall be used..." At hearing, staff assured that right of way vacations do not
include any right of way abutting property owners who have not participated in this
vacation application.

V. DECISION

As conditioned below, the proposed partial vacation of the Eisenbeis Addition
subdivision plat affecting Blocks 198 and 199, together with the vacation of an
undeveloped portion of the McClellan Street right-of-way located between 9th Street
and 10th Street conforms to all required criteria for approval for the reasons detailed

1 in the Conclusions of Law above. The conditions necessary to assure compliance and
2 required by this Decision are as follows:

- 3 1. No Authorization of Development. Approval of the partial plat vacation and the
4 recommendation for vacation of the McClellan Street right-of-way are limited
5 solely to the legal actions requested and do not authorize construction, grading,
6 land disturbance, installation of utilities, or any physical development of the
7 subject property. This approval does not approve site design, building placement,
8 height, massing, density, parking configuration, traffic impacts, utility capacity,
9 stormwater management, environmental impacts, or neighborhood compatibility.
10 Authority: Chapter 19.27 RCW; PTMC 20.01.130.
- 11 2. No Approval by Implication. Nothing in this approval shall be construed as a
12 commitment by the City to approve any future development proposal on the
13 subject property, nor as a prejudgment of issues reserved for subsequent permit
14 review. Authority: PTMC 20.01.130.
- 15 3. Recordation of Partial Plat Vacation. The partial plat vacation shall be recorded
16 with the Jefferson County Auditor prior to issuance of any permit or approval that
17 relies upon the revised plat configuration, including but not limited to civil,
18 building, or land use permits. Authority: RCW 58.17.212; PTMC 20.01.140.
- 19 4. Prior to recording anything, the Applicant shall submit a survey exhibit prepared,
20 stamped, and signed by a Washington State licensed land surveyor that clearly
21 depicts the portion of the recorded plat proposed for vacation. The survey shall:
- 22 a. Delineate the area proposed for vacation relative to the original recorded plat,
23 referencing the plat name, recording number, and lot/block layout.
 - 24 b. Show all adjacent lots and tracts, including current ownership as reflected in
25 the most recent title report.
 - c. Identify and depict all existing easements, rights-of-way, streets, utilities, and
other encumbrances within or adjacent to the area proposed for vacation.
 - d. Provide dimensions and boundaries for the right-of-way or street width
proposed for vacation.
 - e. Be consistent with the legal description contained in the vacation approval and
suitable for recording with the Jefferson County Auditor.
 - f. The Applicant shall provide a mylar or other city-accepted reproduction of the
Plat Vacation to PCD for review and approval (5 paper copies and one
electronic .pdf version) as part of the final Plat/Plat Alteration approval
process. Said mylar shall contain the acknowledged signatures of all parties
having an ownership interest in the subject property as evidenced by an
A.L.T.A. plat certificate prepared by a local title company. Said plat
certificate, or any update provided, shall be less than 30 days old. The
approved Plat Vacation shall not become effective until the mylars required
for recording have been filed with the Jefferson County Auditor. While the
City will assist in recording the Plat Vacation mylar, the Applicant is

1 responsible for all fees associated with recording. All property taxes due and
2 owing on the subject property must be paid in full prior to obtaining the
signature of the Jefferson County Treasurer.

- 3 g. Final plat vacation documents and legal descriptions shall be prepared by a
4 Washington-licensed land surveyor at the time of final recording. The City
5 shall coordinate document routing for required agency signatures, including
6 Assessor and Treasurer review.
- 7 h. The survey exhibit shall be subject to review and approval by the City of Port
Townsend Planning and Community Development Director and Public Works
8 Director (or their designees) for consistency with the approved vacation and
9 applicable municipal code provisions.
- i. Following approval, the City shall coordinate preparation and routing of final
documents for recording with the Jefferson County Auditor. The applicant
shall be responsible for associated fees, but document routing will occur
through City processes to ensure all required signatures, including those of the
Assessor and Treasurer, are obtained.

10 5. City Council Legislative Action Required. The vacation of the undeveloped
11 portion of McClellan Street right-of-way shall not take effect unless and until the
12 Port Townsend City Council adopts a street vacation ordinance in accordance
with Chapter 35. 79 RCW. Authority: RCW 35.79.010; PTMC 12.20.080.

13 6. Determination of Compensation. Any compensation for the vacated right-of-way
14 shall be determined by the City Council in accordance with RCW 35.79.030,
15 unless expressly waived by City Council action. City Council may waive the
16 requirement to obtain an appraisal provided that qualified city personnel provide a
17 written determination that the value of property received will be equal to or
18 greater than the value of the right-of-way vacated. City codes specify that “value
19 received” may include intangible values or benefits through implementation of
Comprehensive Plan goals and policies. The provision of permanent supportive
housing at the site constitutes adequate value received in exchange for the vacated
right-of-way consistent with the 2025 Comprehensive Plan’s affordable housing
goals. Authority: RCW 35.79.030, Chapter. 12.20.090 PTMC.

20 7. Reservation of Public Utility Easements. The City shall reserve and record
21 perpetual public utility easements within the vacated right-of-way as necessary to
22 preserve present or future water, sewer, stormwater, power, communications, or
other public services. Authority: RCW 35.79.030; PTMC 12.20.060(D) and (E).

23 8. Pedestrian or Trail Easements. If the City determines that future non-motorized
24 connectivity is necessary to serve the public interest, a pedestrian or trail
25 easement shall be reserved within the vacated right-of-way, consistent with
PTMC 12.20.060(F) and the Comprehensive Plan Transportation Element.
Authority: PTMC 12.20.060(F); Comprehensive Plan.

- 1 9. Recordation of Street Vacation Ordinance. The street vacation ordinance shall be
2 recorded with the Jefferson County Auditor prior to vesting of title to the vacated
3 right-of-way in the abutting property owner(s). Authority: RCW 35.79.040;
4 PTMC 12.20.110.
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6 10. Compliance with Utility and Infrastructure Standards. All future development
7 shall comply with Title 13 PTMC and the City of Port Townsend Engineering
8 Design Standards, including but not limited to requirements related to utility
9 service, stormwater management, frontage improvements, and infrastructure
10 capacity. Nothing in this approval limits the City's authority to require
11 infrastructure improvements or mitigation at subsequent permit stages. Authority:
12 Title 13 PTMC; Engineering Design Standards.
- 13 11. Conditions Run with the Land. These conditions shall run with the land and shall
14 be binding upon the Applicant and all successors in interest. Authority: PTMC
15 20.01.140.
- 16 12. Severability. If any condition of approval is found to be invalid or unenforceable,
17 such invalidity shall not affect the validity or enforceability of the remaining
18 conditions. Authority: PTMC 20.01.330.

19 Dated this 18th day of June 2026.

20 *Phil Olbrechts*

21 _____
22 Phil Olbrechts,
23 City of Port Townsend Hearing Examiner

24 **Appeal Right and Valuation Notices**

25 This land use decision is final and subject to appeal to superior court as governed by
Chapter 36.70C RCW. Appeal deadlines are short and procedures strictly construed.
Anyone wishing to file a judicial appeal of this decision should consult with an attorney
to ensure that all procedural requirements are satisfied.

Affected property owners may request a change in valuation for property tax purposes
notwithstanding any program of revaluation.