

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
inator: Ed Henken			<b>RECEIVED</b>  <b>JUN 05 1996</b>  <b>WHATCOM COUNTY COUNCIL</b>	6/11/96	Council - Intro
Division Head:				<del>7/23/96</del> 25	Council - Hearing
Dept. Head: Jeff Monsen	YM	6/3/96			
Prosecutor: Randy Watts	Retw	6-3-96			
Purchasing/Budget:					
Executive:	PX	6-3-96			

**SUBJECT:**

Resolution in the matter of Vacating County Roads at Cherry Point/Point Whitehorn.

**ATTACHMENTS:**

Cover memorandum  
Resolution with Exhibit 'A'

**SUMMARY STATEMENT:**

*Please complete sections of box as appropriate & explain the item below.*

Related County contract #: N/A	Should Clerk schedule a hearing? NO / / YES / <input checked="" type="checkbox"/> / Requested date:
Amount budgeted for this item/project:	Is it (or will it be) within budget? YES / / NO / / (Please explain below)
Net line item number(s):	

The Trillium Corporation is hereby petitioning for the vacation of approximately five miles of County Road right-of-ways in the Cherry Point/Point Whitehorn area. Three of the roads are improved and maintained, and three of the roads are unimproved. The resolution as attached incorporates engineering recommendations.

**ORIGINATOR'S RECOMMENDED ACTION:**

Engineering recommends approval of the petitioned roads, except for a portion of the Brown Road.

**COMMITTEE ACTION TAKEN:**

**COUNCIL ACTION TAKEN:**

1996 - 231 6/11/96: Introduction  
7/25/96: Approved 5 - 2, Brenner & Brown opposed. Res. #96-042

ance or Resolution Number (this item only):

Res. 96-042

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Petitioners / Engineering			June 5, 1996	June 11, 1996	Council - Intro
Division Head:				July 23, 1996	Council - Hearing
Dept. Head:					
Prosecutor:					
Purchasing/Budget:					
Executive:					

**SUBJECT:**

Resolution regarding the petition for the vacation of a portion of various county roads at Cherry Point, filed by Roberta Balarezo for Trillium Corporation

**ATTACHMENTS:**

- Resolution
- Petition
- Various documents, on file

**SUMMARY STATEMENT:**

*Please complete sections of box as appropriate & explain the item below.*

Related County contract #: N/A	Should Clerk schedule a hearing? NO / / YES /XX/ (see date above)
Amount budgeted for this item/project: \$ N/A	Is it (or will it be) within budget? YES / / NO / / (Please explain below)
Budget line item number(s): N/A	

A. The road proposed to be vacated is described as follows: "A. An unnamed County right-of-way (ROW), being a 60-foot wide strip of land acquired under Whatcom County Auditor's File No. 746326, lying in Sections 11 and 12, Township 39 North, Range 1 West of W.M., Whatcom County, WA. Further described as: Beginning at the southeast corner of the northeast quarter of the northeast quarter of said Section 12. Thence westerly 1.5 miles, more or less, to the southwest corner of the northwest one quarter of the northeast one quarter of said Section 11. Except any portion of Jackson, Koehn, or Point Whitehorn Roads. Together with and Subject to any and all reservations or easements of record.

B. County Road No. 698 and 741, aka Brown Road, as established May 20, 1932 and August 6, 1940, respectively, lying in Sections 11 and 12, Township 39 North, Range 1 West of W.M., Whatcom county, WA. Further described as follows: A 40-foot strip of land beginning at the east one quarter corner of said Section 12 and running westerly one half mile, more or less, to the center of said Section, AND being a 60-foot wide strip of land beginning at the East one quarter corner of said Section 11 and running westerly one half mile, more or less, to the center of said Section AND being a 60-foot wide strip of land acquired by deeds under Whatcom County Auditor's File Numbers 796184, 796183 and 746326 beginning at the center of said Section 12 and running westerly one half mile, more or less, to the west one quarter corner of Section 12, EXCEPT, the 40-foot strip lying in the easterly 1,617-feet of Section 12 AND EXCEPT any portion of Jackson and Point Whitehorn, and Koehn Roads. Together with and Subject to any and all reservations or easements of record.

C. An unnamed 30-foot wide strip of land acquired under Whatcom County Auditor's File No. 746326 and being the east 30-feet of the north one half of the west 15-acres of the northeast one quarter of the southeast one quarter of Section 11, Township 39 North, Range 1 West of W.M., Whatcom County, WA, EXCEPT any portion of Brown Road. Together with and Subject to any and all reservations or easements of record.

D. County Road No. 736, aka Point Whitehorn Road, as established November 9, 1937, being a 60-foot wide strip of land beginning at the corner common to Sections 11, 12, 13 and 14, Township 39 North, Range 1 West of W.M., thence northerly one mile, more or less, to its intersection with Grandview Road near the corner common to Sections 1, 2, 11 and 12, Township 39 North, Range 1 West of W.M., Whatcom County, WA EXCEPT any portion of Aldergrove and Grandview Roads. Together with and Subject to any and all reservations or easements of record.

E. County Road No. 414, aka Aldergrove Road, as established July 6, 1906, being a 40-foot wide strip of land beginning at the corner common to Sections 12 and 13, Township 39 North, Range 1 West of W.M. and Sections 7 and 18, Township 39 North, Range 1 East. Thence westerly along the Section line, 1-mile, more or less, to the corner common to Sections 11, 12, 13 and 14, Township 39 North, Range 1 West. Together with a deed for widening, as recorded under Whatcom county Auditor's File No. 484671, in the southwest corner of said Section 12, Whatcom County, WA EXCEPT any portion of Jackson and Point Whitehorn Roads. Together with and Subject to any and all reservations or easements of record.

F. County Road No. 606, aka Lonseth Road, as established April 5, 1921, being a 40-foot strip of land beginning at the east one quarter

corner of Section 13, Township 39 North, Range 1 West of W.M. and running westerly for one quarter mile, more or less to the northwest corner  
vernment Lot 4, said Section 13. As described under Whatcom County Auditor's File No. 240733, EXCEPT any portion of Jackson Road.  
together with and subject to any and all reservations or easements of record. ". The petitioner offers the following pertinent facts in support of the  
petition: "The Trillium Corporation acquired all the property surrounding these roads in 1995. There is no further need for these roads.  
Additionally, the roads subject to the vacation petition have caused health, safety and security issues as well as physical property damage to  
petitioner and to petitioners tenants of the property."

***ORIGINATOR'S RECOMMENDED ACTION:***

See Engineer's report (due prior to the hearing date)

***COUNCIL ACTION TAKEN:***

*Related File Numbers:*

*Ordinance or Resolution Number (this item only):*

1  
2 SPONSORED BY: Public Works  
3 PROPOSED BY: County Engineer  
4 INTRODUCTION DATE: June 11, 1996  
5

6 RESOLUTION NO. 96-042  
7

8 IN THE MATTER OF VACATING COUNTY ROADS  
9 AT CHERRY POINT/POINT WHITEHORN  
10

11 WHEREAS, the Trillium Corporation, 4350 Cordata Parkway, Bellingham, WA  
12 98226, on November 7, 1995 filed a petition with the Dept. of Public Works for the vacation  
13 of six roads within their Cherry Point ownership, and  
14

15 WHEREAS, the application and report fees have been paid; the roads petitioned to be  
16 vacated are:  
17

- 18 ROAD A. An unnamed road through the north half of Sections 11 and 12, Township 39  
19 North, Range 1 West, extending from the Jackson Road, westerly to the Koehn  
20 Road.  
21  
22 ROAD B. Brown Road, beginning at a point 1,617 feet west of the east quarter corner of  
23 Section 12 and continuing west, westerly in Section 11 to the Koehn Road.  
24  
25 ROAD C. An unnamed road south off the Brown Road, approximately 630-feet in the  
26 southeast quarter of Section 11.  
27  
28 ROAD D. The Point Whitehorn Road from the Grandview Road to the Aldergrove Road.  
29  
30 ROAD E. The Aldergrove Road from the Point Whitehorn Road to the Jackson Road.  
31  
32 ROAD F. The Lonseth Road, westerly 1,300-feet from the Jackson Road.  
33

34 WHEREAS, the legal descriptions for the above roads are as follows:  
35

- 36 A. An unnamed County right-of-way (ROW), being a 60-foot wide strip of land acquired  
37 under Whatcom County Auditor's File No. 746326, lying in Sections 11 and 12,  
38 Township 39 North, Range 1 West of W.M., Whatcom County, WA. Further  
39 described as: Beginning at the southeast corner of the northeast quarter of the  
40 northeast quarter of said Section 12. Thence westerly 1.5 miles, more or less, to the  
41 southwest corner of the northwest one quarter of the northeast one quarter of said  
42 Section 11. Except any portion of Jackson, Koehn, or Point Whitehorn Roads.  
43 Together with and Subject to any and all reservations or easements of record.  
44  
45 B. County Road No. 698 and 741, aka Brown Road, as established May 20, 1932 and  
46 August 6, 1940, respectively, lying in Sections 11 and 12, Township 39 North, Range  
47 1 West of W.M., Whatcom county, WA. Further described as follows: A 40-foot

1 strip of land beginning at the east one quarter corner of said Section 12 and running  
2 westerly one half mile, more or less, to the center of said Section, AND being a 60-  
3 foot wide strip of land beginning at the East one quarter corner of said Section 11 and  
4 running westerly one half mile, more or less, to the center of said Section AND being a  
5 60-foot wide strip of land acquired by deeds under Whatcom County Auditor's File  
6 Numbers 796184, 796183 and 746326 beginning at the center of said Section 12 and  
7 running westerly one half mile, more or less, to the west one quarter corner of Section  
8 12, EXCEPT, the 40-foot strip lying in the easterly 1,617-feet of Section 12 AND  
9 EXCEPT any portion of Jackson and Point Whitehorn, and Koehn Roads. Together  
10 with and Subject to any and all reservations or easements of record.  
11

12 C. An unnamed 30-foot wide strip of land acquired under Whatcom County Auditor's File  
13 No. 746326 and being the east 30-feet of the north one half of the west 15-acres of the  
14 northeast one quarter of the southeast one quarter of Section 11, Township 39 North,  
15 Range 1 West of W.M., Whatcom County, WA, EXCEPT any portion of Brown  
16 Road. Together with and Subject to any and all reservations or easements of record.  
17

18 D. County Road No. 736, aka Point Whitehorn Road, as established November 9, 1937,  
19 being a 60-foot wide strip of land beginning at the corner common to Sections 11, 12,  
20 13 and 14, Township 39 North, Range 1 West of W.M., thence northerly one mile,  
21 more or less, to its intersection with Grandview Road near the corner common to  
22 Sections 1, 2, 11 and 12, Township 39 North, Range 1 West of W.M., Whatcom  
23 County, WA EXCEPT any portion of Aldergrove and Grandview Roads. Together  
24 with and Subject to any and all reservations or easements of record.  
25

26 E. County Road No. 414, aka Aldergrove Road, as established July 6, 1906, being a 40-  
27 foot wide strip of land beginning at the corner common to Sections 12 and 13,  
28 Township 39 North, Range 1 West of W.M. and Sections 7 and 18, Township 39  
29 North, Range 1 East. Thence westerly along the Section line, 1-mile, more or less, to  
30 the corner common to Sections 11, 12, 13 and 14, Township 39 North, Range 1 West.  
31 Together with a deed for widening, as recorded under Whatcom county Auditor's File  
32 No. 484671, in the southwest corner of said Section 12, Whatcom County, WA  
33 EXCEPT any portion of Jackson and Point Whitehorn Roads. Together with and  
34 Subject to any and all reservations or easements of record.  
35

36 F. County Road No. 606, aka Lonseth Road, as established April 5, 1921, being a 40-foot  
37 strip of land beginning at the east one quarter corner of Section 13, Township 39  
38 North, Range 1 West of W.M. and running westerly for one quarter mile, more or less  
39 to the northwest corner of Government Lot 4, said Section 13. As described under  
40 Whatcom County Auditor's File No. 240733, EXCEPT any portion of Jackson Road.  
41 Together with and subject to any and all reservations or easements of record.  
42

43 WHEREAS, the petitioner has met all of the petition requirements as set forth by  
44 W.C.C. 12.20 and R.C.W. 36.87, and  
45

1 WHEREAS, the fair market value of the area sought to be vacated has been determined  
2 by appraisal together current County policy as to determining the value of existing  
3 improvements, and  
4

5 WHEREAS, if the vacation is granted, the petitioner will have six calendar months  
6 from the date of passage of this Resolution to pay any remaining fees and established value to  
7 the Whatcom County Council office prior to the vacation becoming effective, and  
8

9 WHEREAS, the Engineer has a detailed staff report, designated Exhibit "A", and made  
10 a part hereto by reference, and  
11

12 WHEREAS, the classification of the road area and the nature of the County's interest  
13 therein, in accordance with W.C.C. 12.20.060 is as follows:  
14

- 15 1. Class A - Roads with public expenditures made are roads D, E and F.
- 16
- 17 2. Class B - No expenditures made or non-ascertainable from records are roads A, B & C.  
18 These roads are exempted from automatic vacation under RCW 36.87.090 in that the  
19 County has obtained the land by deed conveyance.  
20
- 21 3. Class 1 - No part thereof lies in any plat. All roads A, B, C, D, E, & F fall into this  
22 class.  
23
- 24 4. Class 3 - Did not remain unopened for public use for a period of five years after the  
25 authority was granted for opening. Roads D, E, & F were opened and used within five  
26 years.  
27
- 28 5. Class 4 - Remained unopened for public use for five or more years after the order made  
29 or authority granted for opening. Road A, B, & C remain unopened for public use for  
30 five or more years.  
31

32 NOW, THEREFORE, BE IT RESOLVED, that based on the information provided by the  
33 petitioner, the Engineer, and at the Public Hearing, that:  
34

35 ROAD A. Unnamed road, east half of Section 11 & Section 12, shall be VACATED in  
36 that the road is not necessary for the County Road System and the public will be  
37 benefitted by said vacation.  
38

39 ROAD B. Brown Road shall be VACATED as petitioned except for the westerly 301 feet  
40 for which vacation shall be DENIED, as all but the westerly 301 feet of said  
41 Brown Road is not necessary for the County Road System and the public will be  
42 benefitted by said vacation, except for the westerly 301 feet for which vacation  
43 shall be denied.  
44

45 ROAD C. Unnamed road, south off Brown Road, Section 11, shall be VACATED in that

1  
2  
3 the road is not necessary for the County Road System and the public will be  
4 benefitted by said vacation.  
5

6 ROAD D. Point Whitehorn, Grandview to Aldergrove vacation petition shall be  
7 VACATED as the road location is necessary for the industrial development of  
8 property in the vicinity, and such development will be of benefit to the public  
9 and the road is not necessary for the County Road System.  
10

11 ROAD E. Aldergrove, from Point Whitehorn to Jackson Road, vacation petition shall be  
12 VACATED as the road location is necessary for the industrial development of  
13 property in the vicinity, such development will be of benefit to the public and  
14 the road is not necessary for the County Road System.  
15

16 ROAD F. Lonseth, westerly of Jackson, shall be VACATED in that the road is not  
17 necessary for the County Road System and the public will be benefitted by  
18 said vacation.  
19

20 BE IT FURTHER RESOLVED, that the value for the roads being vacated be established at  
21 \$168,000.00 for the land plus \$108,000.00 for the existing roadway improvements, totaling  
22 \$276,000.00, as described in Exhibit "A". Said vacation shall become effective providing  
23 the sum of \$276,000 is paid within six calendar months after the passage of this Resolution.  
24 The petitioner may at their option retain the Jersey curb barricade at the Pt. Whitehorn-  
25 Aldergrove intersection upon the payment of an additional \$4,000.00.  
26

27 BE IT FURTHER RESOLVED, upon payment of the above appraised value, the Clerk of  
28 the Council shall prepare an Order of Vacation and have it along with this Resolution  
29 recorded by the County Auditor.  
30

31 APPROVED this 23 day of July, 1996.  
32

33  
34 ATTEST:

35  
36  
37  
38 Dana Brown-Davis, Council Clerk  
39  
40

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

41  
42  
43  
44  
45  
  
Ward Nelson, Council Chair

APPROVED AS TO FORM AND CONTENT:

\_\_\_\_\_  
Civil Deputy Prosecuting Atty.

## PRELIMINARY ORDER OF VACATION

IN THE MATTER OF THE PETITION for the vacation of various county roads at Cherry Point, filed by Trillium Corporation, c/o Roberta Balarezo, et. al., the Whatcom County Council finds as follows:

THAT THE PETITION for vacation was filed on June 5, 1996, along with a deposit of \$682, and contained the following statement of facts by the petitioner pertinent to the desired vacation: "The Trillium Corporation acquired all the property surrounding these roads in 1995. There is no further need for these roads. Additionally, the roads subject to the vacation petition have caused health, safety and security issues as well as physical property damage to petitioner and to petitioners tenants of the property"; and

THAT A PUBLIC HEARING on the Engineer's report in this matter took place before the Whatcom County Council on July 23, 1996 and having heard and construed all testimony and documentary evidence produced, the Council was satisfied that said road(s) or portion thereof is useless as part of the County road system and that the public will be benefitted by its vacation and abandonment;

IT IS THEREFORE ORDERED by the Whatcom County Council that said road(s) or portion(s) thereof shall be vacated subject to the following conditions:

PROVIDED that by January 23, 1997 the petitioner has paid in full all costs and expenses incurred in the proceedings, and payment of the fair market value of the property by the petitioner(s) involved (in this case the amount due is \$281,023.58);

BE IT FURTHER ORDERED that the road or portion thereof to be vacated is legally described as follows:

"A. An unnamed County right-of-way (ROW), being a 60-foot wide strip of land acquired under Whatcom County Auditor's File No. 746326, lying in Sections 11 and 12, Township 39 North, Range 1 West of W.M., Whatcom County, WA. Further described as: Beginning at the southeast corner of the northeast quarter of the northeast quarter of said Section 12. Thence westerly 1.5 miles, more or less, to the southwest corner of the northwest one quarter of the northeast one quarter of said Section 11. Except any portion of Jackson, Koehn, or Point Whitehorn Roads. Together with and Subject to any and all reservations or easements of record.

B. County Road No. 698 and 741, aka Brown Road, as established May 20, 1932 and August 6, 1940, respectively, lying in Sections 11 and 12, Township 39 North, Range 1 West of W.M., Whatcom county, WA. Further described as follows: A 40-foot strip of land beginning at the east one quarter corner of said Section 12 and running westerly one half mile, more or less, to the center of said Section, AND being a 60-foot wide strip of land beginning at the East one quarter corner of said Section 11 and running westerly one half mile, more or less, to the center of said Section AND being a 60-foot wide strip of land acquired by deeds under Whatcom County Auditor's File Numbers 796184, 796183 and 746326 beginning at the center of said Section 12 and running westerly one half mile, more or less, to the west one quarter corner of Section 12,

WHATCOM COUNTY  
BELLINGHAM, WA  
07/25/96 12:15 PM  
REQUEST OF: WHATCOM C  
Shirley Forslof, AUDITOR  
BY: LR, DEPUTY  
\$.00 VACAT  
Vol: 510 Page: 383  
File No: 960725064

EXCEPT, the 40-foot strip lying in the easterly 1,617-feet of Section 12 AND EXCEPT any portion of Jackson and Point Whitehorn, and Koehn Roads. Together with and Subject to any and all reservations or easements of record.

C. An unnamed 30-foot wide strip of land acquired under Whatcom County Auditor's File No. 746326 and being the east 30-feet of the north one half of the west 15-acres of the northeast one quarter of the southeast one quarter of Section 11, Township 39 North, Range 1 West of W.M., Whatcom County, WA, EXCEPT any portion of Brown Road. Together with and Subject to any and all reservations or easements of record.

D. County Road No. 736, aka Point Whitehorn Road, as established November 9, 1937, being a 60-foot wide strip of land beginning at the corner common to Sections 11, 12, 13 and 14, Township 39 North, Range 1 West of W.M., thence northerly one mile, more or less, to its intersection with Grandview Road near the corner common to Sections 1, 2, 11 and 12, Township 39 North, Range 1 West of W.M., Whatcom County, WA EXCEPT any portion of Aldergrove and Grandview Roads. Together with and Subject to any and all reservations or easements of record.

E. County Road No. 414, aka Aldergrove Road, as established July 6, 1906, being a 40-foot wide strip of land beginning at the corner common to Sections 12 and 13, Township 39 North, Range 1 West of W.M. and Sections 7 and 18, Township 39 North, Range 1 East. Thence westerly along the Section line, 1-mile, more or less, to the corner common to Sections 11, 12, 13 and 14, Township 39 North, Range 1 West. Together with a deed for widening, as recorded under Whatcom county Auditor's File No. 484671, in the southwest corner of said Section 12, Whatcom County, WA EXCEPT any portion of Jackson and Point Whitehorn Roads. Together with and Subject to any and all reservations or easements of record.

F. County Road No. 606, aka Lonseth Road, as established April 5, 1921, being a 40-foot strip of land beginning at the east one quarter corner of Section 13, Township 39 North, Range 1 West of W.M. and running westerly for one quarter mile, more or less to the northwest corner of Government Lot 4, said Section 13. As described under Whatcom County Auditor's File No. 240733, EXCEPT any portion of Jackson Road. Together with and subject to any and all reservations or easements of record. ”

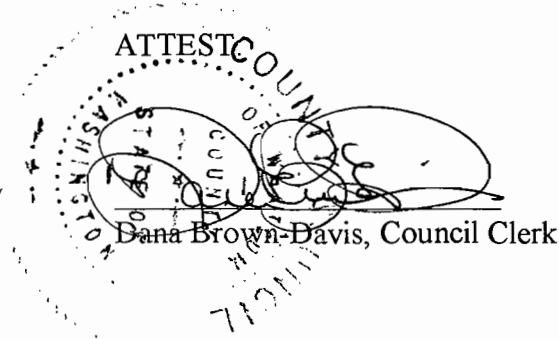
BE IT FINALLY ORDERED that the following conditions are placed upon the vacation of this road: The County reserves and retains an easement for construction, repair and maintenance of public utilities and services authorized or physically located therein; such vacation shall not prejudice private rights, private easements, prescriptive rights, rights of access, ingress, egress or passage; and .

Approved by the Council on July 23, 1996 and dated July 24, 1996.

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON



L. Ward Nelson, Council Chair



ATTEST  
Dana Brown-Davis, Council Clerk