



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 18, 2004

Ordinance 14912

Proposed No. 2004-0120.2

Sponsors Phillips

1 AN ORDINANCE authorizing the vacation of a portion of
2 104th Avenue SE, File V-2429. Petitioner: William
3 Goodwin.

4

5

6

STATEMENT OF FACTS:

7

1. A petition has been filed requesting vacation of those portions of 104th Avenue SE hereinafter described.

8

9

2. The department of transportation notified the various utility companies serving the area and has been advised that easements have been secured within the vacation area.

10

11

12

3. The department of transportation records indicate that King County has been maintaining 104th Avenue SE. The records indicate that no public funds have been expended for its acquisition.

13

14

15

4. A portion of the subject vacation area was deeded to King County by quit claim deed under recording number 1023734, records of King

16

17

County, Washington.

18 5. The Washington state Department of Transportation conveyed a
19 portion of the subject right-of-way to King County by quitclaim deed
20 under recording number 20010809001147, records of King County,
21 Washington.

22 6. The department of transportation considers the subject portion of the
23 right-of-way useless as part of the county road system and believes the
24 public would benefit by the return of this unused area to the public tax
25 rolls.

26 7. The right-of-way is classified as "B-Class" and, in accordance with
27 K.C.C. 14.40.020, the compensation due King County is based on
28 seventy-five percent of the assessed value of the subject right-of-way,
29 which was determined from records of the department of assessments.
30 King County is in receipt of \$5,242.03 from the petitioner.

31 Due notice was given in the manner provided by law and a hearing was
32 held by the office of the hearing examiner on the 14th day of April, 2004.

33 In consideration of the benefits to be derived from the subject vacation,
34 the council has determined that it is in the best interest of the citizens of
35 King County to grant said petition.

36 **BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:**

37 SECTION 1. The council, on the 17th day of May, 2004, hereby vacates and
38 abandons those portions of 104th Avenue SE as conveyed to King County by quitclaim
39 deeds under recording numbers 1023734 and 20010809001147, records of King County,
40 Washington as described as follows:

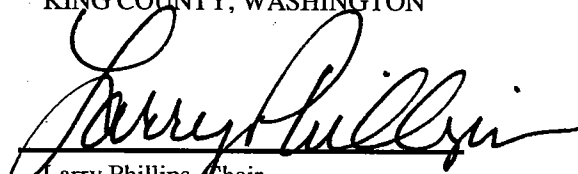
41 The north 97.00 feet of the south 197.00 feet of the east 30
42 feet of the south half of the northeast quarter of the
43 northwest quarter of the northwest quarter of section 17,
44 Township 22 North, Range 5 east, W.M. King County
45 Washington;
46 Together with any portion condemned by the state of
47 Washington for a cul-de-sac under decree of appropriation
48 entered October 13, 1992, under King County Superior
49 Court Cause No. 91-2-28115-7, which was relinquished to
50 King County within the following, described parcel;
51 The south half of the northeast quarter of the northwest
52 quarter of the northwest quarter of Section 17, Township 22
53 North, Range 5 East, W.M.;
54 EXCEPT the south 100 feet thereof;
55 and EXCEPT the east 30 feet conveyed to King County for
56 road purposes, by deed recorded under King County
57 recording number 1023734.

58 Said vacation area being known as westerly portion of
59 104th Avenue SE.
60

Ordinance 14912 was introduced on 3/8/2004 and passed by the Metropolitan King County Council on 5/17/2004, by the following vote:

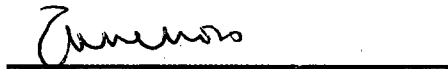
Yes: 10 - Mr. Phillips, Ms. Edmonds, Ms. Lambert, Mr. Pelz, Mr. McKenna,
Mr. Ferguson, Mr. Hammond, Mr. Irons, Ms. Patterson and Mr. Constantine
No: 0
Excused: 3 - Mr. von Reichbauer, Mr. Gossett and Ms. Hague

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



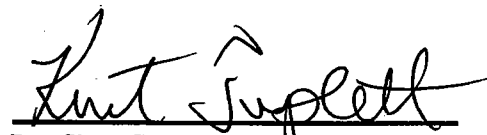
Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 27th day of May, 2004.



Ron Sims, County Executive

Attachments A. Hearing Examiner Report dated April 15, 2004

RECEIVED
2004 MAY 27 PM 4: 10
KING COUNTY COUNCIL
CLERK

14912

April 15, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: King County Department of Transportation File No. V-2429
Proposed Ordinance No. 2004-0120

WILLIAM GOODWIN

Road Vacation Petition

Location: Portion of 104th Avenue Southeast, Kent

Petitioner: **William Goodwin**
25115 Southeast 367th Way
Enumclaw, WA 98022
Telephone: (206) 979-7172

King County: Department of Transportation,
Road Services Division, *represented by*
Tommy Burdette
201 S. Jackson St.
Seattle, WA 98104-3856
Telephone: (206) 296-3731
Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:
Department's Final:
Examiner:

Approve road vacation
Approve road vacation
Approve road vacation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for item no. V-2429 was received by the Examiner on April 2, 2004.

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on item no. V-2429 was opened by the Examiner at 9:33 a.m., April 14, 2004, in the Hearing Examiner's conference room, 400 Yesler Way, Room 404, Seattle, Washington, and closed at 9:50 a.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	Portion of 104th Avenue Southeast, Kent
Right of way classification:	B
Area:	4,957 square feet
Compensation:	\$5,242.03

2. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the April 14, 2004, public hearing and the statement of facts contained in Proposed Ordinance No. 2004-0120. The Department's report will be attached to those copies of this report and recommendation that are submitted to the Metropolitan King County Council.
3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.
4. Vacation of the subject right-of-way would have no adverse effect on the provision of fire and emergency services to the subject property or surrounding area.
5. The cul-de-sac portion of the proposed vacation area was acquired in fee by the Washington Department of Transportation in 1992 at a cost of \$11,400 and quitclaimed to King County in 2000 at no cost.

CONCLUSIONS:

1. The road subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.
2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.
3. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County, and the easements, if any, necessary for the construction, repair and maintenance of public utilities and services have been provided in form satisfactory to the affected public utilities.

4. There is a conflict between the Road Services Division's report and the proposed ordinance prepared by staff for this proceeding. The proposed ordinance designates the entire vacation area as "B-class" with \$5244.03 compensation due based on 75% of assessed value. The staff report, on the other hand, describes the portion of the vacation area comprising the cul-de-sac relinquished by the Washington Department of Transportation as "A-class" based on the fact that the State expended public funds to condemn this part of the right-of-way. If the staff report analysis is correct, the compensation due would rise to nearly \$6000 as a result of the Petitioner's obligation to pay the full appraised property value for the cul-de-sac.
5. KCC 14.40.060 defines road classes for vacation purposes as follows:
 - A. A Class. All King County roads or other real property interests conveyed to or held by King County for road purposes for which public funds have been expended in the acquisition of said road or property interests are classified A-class roads.
 - B. B Class. All King County roads or other real property interests conveyed to or held by King County for road purposes acquired at no monetary cost to the county and for which expenditures of funds have been made in the improvement or maintenance of same are classified B-class roads.
 - C. C Class. All King County roads or other real property interests conveyed to or held by King County for road purposes for which no public funds have been expended in the acquisition, improvement or maintenance of same, excluding roads subject to vacation as a matter of law, are classified C-class roads.
 - D. D Class. All King County roads or other real property interests originally conveyed to King County by the present petitioner for the vacation of said road or property interests for which no public expenditures have been made in the acquisition, improvement or maintenance of same, or any other road not included within classes A, B or C are classified D-class roads. (Ord. 2759 § 1, 1976).
6. There is an apparent inconsistency between KCC 14.40.060.A and B to the extent that the term "public funds" potentially includes expenditures involving "no monetary cost to the County." Such is the case here. The State paid for the cul-de-sac property but deeded it to the County at no cost. It is our view that the definition stated at KCC 14.40.060.B both is more precise and more consistent with the intent of the ordinance. Therefore it should control the disposition of the petition. The purpose of the compensation requirement is to recover the County's costs, not those of other agencies that have not been passed through. The other references to expenditure of public funds in the subsections above should be read as including only the County's expenditures. Thus, the designation of the entire vacation area as a "B-Class" as set forth in the proposed ordinance is the correct determination.
7. The Road Services Division has also decided that the County's fee ownership of the cul-de-sac property needs to be conveyed to the Petitioner pursuant to procedures for disposing of surplus property. There is a \$320 administrative fee attached to this process which will be the responsibility of the Petitioner to pay.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2004-0120 to vacate the subject road.

RECOMMENDED this 15th day of April, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 15th day of April, 2004, to the following parties and interested persons:

Baima & Holmberg, Inc
ATTN: James R. Bergsma
100 Front Street South
Issaquah WA 98027

Don Dauphiny
Qwest Communications
1200 12th Ave. NW
Issaquah WA 98027

Terry Davis
Comcast, Inc.
410 Valley Ave. NW
Puyallup WA 98371

Bill Goodwin
25115 SE 367th Way
Enumclaw WA 98022

Mary Lamping
Puget Sound Energy
411 - 108th Ave. NE
Bellevue WA 98009-9734

Soos Creek Water and Sewer District
PO Box 58039
Renton WA 98058-1039

Tommy Burdette
King County DOT
Rd. Services Div.
MS KSC-TR-0231

Neil DeGoojer
DNRP/WLRD
MS KSC-NR-0600

Sarah Gagnon
DNRP - Wastewater Trtmt.
MS KSC-NR-0503

Larry Gettle
DNRP
Storm Water Services
MS KSC-NR-0600

Nancy Gordon
King County DOT
Transit/D&C
MS KSC-TR-0431

Dennis Gorley
Dept of Transportation
Road Services Division
MS KSC-TR-0231

David Gualtieri
KCDOT
Comp Long Range Planning
MS KSC-TR-0813

Denise Hauck
KC Dept. of Exec. Svcs.
MS ADM-ES-0500

Rich Hudson
DDES/LUSD
Current Planning
S OAK-DE-0100

Fatin Kara
KC DOT/Rd. Svcs. Div.
MS KSC-TR-0222

Roderick E. Matsuno
KC DOT
Road Maint. Section
MS RSD-TR-0100

Paulette Norman
KCDOT
Roads Division
MS-KSC-TR-0231

Robert Nunnenkamp
 KC Parks and Recreation
 MS KSC-NR-0700

Lydia Reynolds-Jones
 KC DOT
 Project Support Serv.
 MS KSC-TR-0231

Charlie Sundberg
 Office of Cultural Res.
 Landmarks & Heritage Prog.
 MS STR-CR-0200

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before April 29, 2004*. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before May 6, 2004*.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE APRIL 14, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. V-2429.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing was Tommy Burdette, representing the Department of Transportation.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DOT Report to the Hearing Examiner dated April 14, 2004, with 15 attachments.
- Exhibit No. 2 Petition transmittal letter dated 4/13/2001 to the Department of Transportation from the Clerk of Council.
- Exhibit No. 3 Letter dated 03-21-01 of explanation and Petition for Vacation of a County Road including legal descriptions of Petitioner's properties.

- Exhibit No. 4 Copy of filing fee - check 00462 from Petitioners dated 04-13-01
- Exhibit No. 5 Letter dated April 24, 2001, to Petitioner explaining process and identifying error in legal description and providing corrected Petition for Vacation of a County Road Vicinity map.
- Exhibit No. 6 Vicinity map.
- Exhibit No. 7 Map depicting vacation area.
- Exhibit No. 8 Copy of Quit Claim Deed number 1023734
- Exhibit No. 9 Copy of Decree of Appropriation in Superior Court Cause No. 91-2-28115-7
- Exhibit No. 10 Letter dated June 1, 2001 from the City of Kent reporting no objections to this street vacation request.
- Exhibit No. 11 Letter dated 06-18-01 from WSDOT transmitting Quit Claim Deed 20000428001691
- Exhibit No. 12 Letter dated 07-10-01 from WSDOT transmitting Quit Claim Deed for signatures.
- Exhibit No. 13 Copy of letter 07-25-01 returning signed Quit Claim Deed
- Exhibit No. 14 Letter dated 01-09-02 from Baima & Holmberg Inc., transmitting a copy of Quit Claim Deed 20010809001147
- Exhibit No. 15 Copy of letter dated 10-01-02 from RSD to WSDOT regarding Turnback language, with Hearing Examiner decision and site plan for Copper Hill subdivision,
- Exhibit No. 16 Letter dated 10-29-02 from WSDOT to RSD declining approval.
- Exhibit No. 17 Copy of letter dated 11-19-02 from DDES to WSDOT responding to WSDOT's denial letter.
- Exhibit No. 18 Letter dated 07-16-03 from WSDOT to KCDOT approving the road vacation.
- Exhibit No. 19 Letter dated 09-16-03 to petitioner identifying DOT recommendation and requesting compensation. Compensation calculations detailed in compensation worksheet.
- Exhibit No. 20 Transmittal letter dated 03-25-04 to Council providing recommendation of KCDOT and County Road Engineer.
- Exhibit No. 21 Copy of compensation check no. 2301 and deposit receipt no. 59358.
- Exhibit No. 22 Ordinance transmittal letter dated 02-24-04 from King County Executive to Council member Larry Phillips
- Exhibit No. 23 Proposed Ordinance 2004-0120
- Exhibit No. 24 Copy of memo to Property Services Division with attachments, dated 03-18-04.
- Exhibit No. 25 Property Services email response dated 03-30-04.
- Exhibit No. 26 Notice of hearing, dated 03-24-04.
- Exhibit No. 27 Affidavit of posting for hearing.
- Exhibit No. 28 Affidavit of Publication for date of hearing (*to be submitted upon receipt*)
- Exhibit No. 29 Letter to James Bergsma dated 04-05-04 re: hearing date/time & enclosed staff report
- Exhibit No. 30 Letter to Petitioner dated 04-05-04 re: hearing date/time & enclosed staff report

SLS:ms
V-2429 RPT

Attachments

Return Address:
Clerk of the Council
Metropolitan King County Council
Mail stop KCC-CC 1025



20040607000399

KING COUNTY ORD 0.00
PAGE 001 OF 011
06/07/2004 10:13
KING COUNTY, WA

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 must be filled in)

1. **Ordinance 14912 AN ORDINANCE authorizing the vacation of a portion of 104th Avenue SE File V-2429. Petitioner: William Goodwin**

Reference Number(s) of Documents assigned or released:

Additional reference #'s on page _____ of document

Grantor(s) (Last name, first name, initials)

1. **King County, Washington**

Additional names on page _____ of document.

Grantee(s) (Last name first, then first name and initials)

1. _____
2. _____

Additional names on page _____ of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

The north 97.00 feet of the south 197.00 feet of the east 30 feet of the south half of the northeast quarter...

Additional legal is on page _____ of document.

Assessor's Property Tax Parcel/Account Number

Assessor Tax # not yet assigned

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

Signature of Requesting Party

RECEIVED
2004 JUL -6 AM 9:04
KING COUNTY COUNCIL
CLERK



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

May 18, 2004

Ordinance 14912

Proposed No. 2004-0120.2

Sponsors Phillips

1 AN ORDINANCE authorizing the vacation of a portion of
2 104th Avenue SE, File V-2429. Petitioner: William
3 Goodwin.
4
5

6 **STATEMENT OF FACTS:**

- 7 1. A petition has been filed requesting vacation of those portions of 104th
8 Avenue SE hereinafter described.
9 2. The department of transportation notified the various utility companies
10 serving the area and has been advised that easements have been secured
11 within the vacation area.
12 3. The department of transportation records indicate that King County has
13 been maintaining 104th Avenue SE. The records indicate that no public
14 funds have been expended for its acquisition.
15 4. A portion of the subject vacation area was deeded to King County by
16 quit claim deed under recording number 1023734, records of King
17 County, Washington.

18 5. The Washington state Department of Transportation conveyed a
19 portion of the subject right-of-way to King County by quitclaim deed
20 under recording number 20010809001147, records of King County,
21 Washington.

22 6. The department of transportation considers the subject portion of the
23 right-of-way useless as part of the county road system and believes the
24 public would benefit by the return of this unused area to the public tax
25 rolls.

26 7. The right-of-way is classified as "B-Class" and, in accordance with
27 K.C.C. 14.40.020, the compensation due King County is based on
28 seventy-five percent of the assessed value of the subject right-of-way,
29 which was determined from records of the department of assessments.
30 King County is in receipt of \$5,242.03 from the petitioner.

31 Due notice was given in the manner provided by law and a hearing was
32 held by the office of the hearing examiner on the 14th day of April, 2004.

33 In consideration of the benefits to be derived from the subject vacation,
34 the council has determined that it is in the best interest of the citizens of
35 King County to grant said petition.

36 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

37 SECTION 1. The council, on the 17th day of May, 2004, hereby vacates and
38 abandons those portions of 104th Avenue SE as conveyed to King County by quitclaim
39 deeds under recording numbers 1023734 and 20010809001147, records of King County,
40 Washington as described as follows:

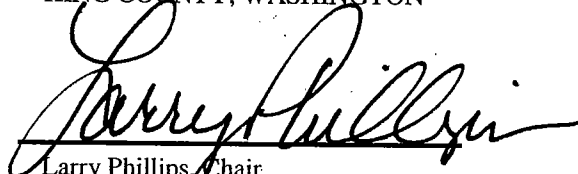
41 The north 97.00 feet of the south 197.00 feet of the east 30
42 feet of the south half of the northeast quarter of the
43 northwest quarter of the northwest quarter of section 17,
44 Township 22 North, Range 5 east, W.M. King County
45 Washington;
46 Together with any portion condemned by the state of
47 Washington for a cul-de-sac under decree of appropriation
48 entered October 13, 1992, under King County Superior
49 Court Cause No. 91-2-28115-7, which was relinquished to
50 King County within the following, described parcel;
51 The south half of the northeast quarter of the northwest
52 quarter of the northwest quarter of Section 17, Township 22
53 North, Range 5 East, W.M.;
54 EXCEPT the south 100 feet thereof;
55 and EXCEPT the east 30 feet conveyed to King County for
56 road purposes, by deed recorded under King County
57 recording number 1023734.

58 Said vacation area being known as westerly portion of
59 104th Avenue SE.
60

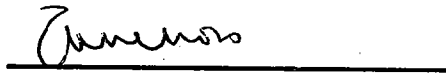
Ordinance 14912 was introduced on 3/8/2004 and passed by the Metropolitan King County Council on 5/17/2004, by the following vote:

Yes: 10 - Mr. Phillips, Ms. Edmonds, Ms. Lambert, Mr. Pelz, Mr. McKenna,
Mr. Ferguson, Mr. Hammond, Mr. Irons, Ms. Patterson and Mr. Constantine
No: 0
Excused: 3 - Mr. von Reichbauer, Mr. Gossett and Ms. Hague

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

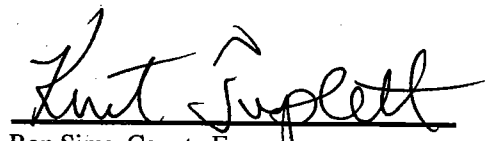

Larry Phillips, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 21st day of May, 2004.


Ron Sims, County Executive

Attachments A. Hearing Examiner Report dated April 15, 2004

RECEIVED
2004 MAY 27 PM 4: 10
CLERK
KING COUNTY COUNCIL

14912

April 15, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: King County Department of Transportation File No. V-2429
Proposed Ordinance No. 2004-0120

WILLIAM GOODWIN
Road Vacation Petition

Location: Portion of 104th Avenue Southeast, Kent

Petitioner: **William Goodwin**
25115 Southeast 367th Way
Enumclaw, WA 98022
Telephone: (206) 979-7172

King County: Department of Transportation,
Road Services Division, *represented by*
Tommy Burdette
201 S. Jackson St.
Seattle, WA 98104-3856
Telephone: (206) 296-3731
Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve road vacation
Department's Final:	Approve road vacation
Examiner:	Approve road vacation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for item no. V-2429 was received by the Examiner on April 2, 2004.

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on item no. V-2429 was opened by the Examiner at 9:33 a.m., April 14, 2004, in the Hearing Examiner's conference room, 400 Yesler Way, Room 404, Seattle, Washington, and closed at 9:50 a.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	Portion of 104th Avenue Southeast, Kent
Right of way classification:	B
Area:	4,957 square feet
Compensation:	\$5,242.03

2. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the April 14, 2004, public hearing and the statement of facts contained in Proposed Ordinance No. 2004-0120. The Department's report will be attached to those copies of this report and recommendation that are submitted to the Metropolitan King County Council.
3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.
4. Vacation of the subject right-of-way would have no adverse effect on the provision of fire and emergency services to the subject property or surrounding area.
5. The cul-de-sac portion of the proposed vacation area was acquired in fee by the Washington Department of Transportation in 1992 at a cost of \$11,400 and quitclaimed to King County in 2000 at no cost.

CONCLUSIONS:

1. The road subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.
2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.
3. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County, and the easements, if any, necessary for the construction, repair and maintenance of public utilities and services have been provided in form satisfactory to the affected public utilities.

4. There is a conflict between the Road Services Division's report and the proposed ordinance prepared by staff for this proceeding. The proposed ordinance designates the entire vacation area as "B-class" with \$5244.03 compensation due based on 75% of assessed value. The staff report, on the other hand, describes the portion of the vacation area comprising the cul-de-sac relinquished by the Washington Department of Transportation as "A-class" based on the fact that the State expended public funds to condemn this part of the right-of-way. If the staff report analysis is correct, the compensation due would rise to nearly \$6000 as a result of the Petitioner's obligation to pay the full appraised property value for the cul-de-sac.
5. KCC 14.40.060 defines road classes for vacation purposes as follows:
 - A. A Class. All King County roads or other real property interests conveyed to or held by King County for road purposes for which public funds have been expended in the acquisition of said road or property interests are classified A-class roads.
 - B. B Class. All King County roads or other real property interests conveyed to or held by King County for road purposes acquired at no monetary cost to the county and for which expenditures of funds have been made in the improvement or maintenance of same are classified B-class roads.
 - C. C Class. All King County roads or other real property interests conveyed to or held by King County for road purposes for which no public funds have been expended in the acquisition, improvement or maintenance of same, excluding roads subject to vacation as a matter of law, are classified C-class roads.
 - D. D Class. All King County roads or other real property interests originally conveyed to King County by the present petitioner for the vacation of said road or property interests for which no public expenditures have been made in the acquisition, improvement or maintenance of same, or any other road not included within classes A, B or C are classified D-class roads. (Ord. 2759 § 1, 1976).
6. There is an apparent inconsistency between KCC 14.40.060.A and B to the extent that the term "public funds" potentially includes expenditures involving "no monetary cost to the County." Such is the case here. The State paid for the cul-de-sac property but deeded it to the County at no cost. It is our view that the definition stated at KCC 14.40.060.B both is more precise and more consistent with the intent of the ordinance. Therefore it should control the disposition of the petition. The purpose of the compensation requirement is to recover the County's costs, not those of other agencies that have not been passed through. The other references to expenditure of public funds in the subsections above should be read as including only the County's expenditures. Thus, the designation of the entire vacation area as a "B-Class" as set forth in the proposed ordinance is the correct determination.
7. The Road Services Division has also decided that the County's fee ownership of the cul-de-sac property needs to be conveyed to the Petitioner pursuant to procedures for disposing of surplus property. There is a \$320 administrative fee attached to this process which will be the responsibility of the Petitioner to pay.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2004-0120 to vacate the subject road.

RECOMMENDED this 15th day of April, 2004.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 15th day of April, 2004, to the following parties and interested persons:

Baima & Holmberg, Inc
ATTN: James R. Bergsma
100 Front Street South
Issaquah WA 98027

Don Dauphiny
Qwest Communications
1200 12th Ave. NW
Issaquah WA 98027

Terry Davis
Comcast, Inc.
410 Valley Ave. NW
Puyallup WA 98371

Bill Goodwin
25115 SE 367th Way
Enumclaw WA 98022

Mary Lamping
Puget Sound Energy
411 - 108th Ave. NE
Bellevue WA 98009-9734

Soos Creek Water and Sewer District
PO Box 58039
Renton WA 98058-1039

Tommy Burdette
King County DOT
Rd. Services Div.
MS KSC-TR-0231

Neil DeGoojer
DNRP/WLRD
MS KSC-NR-0600

Sarah Gagnon
DNRP - Wastewater Trtmt.
MS KSC-NR-0503

Larry Gettle
DNRP
Storm Water Services
MS KSC-NR-0600

Nancy Gordon
King County DOT
Transit/D&C
MS KSC-TR-0431

Dennis Gorley
Dept of Transportation
Road Services Division
MS KSC-TR-0231

David Gualtieri
KCDOT
Comp Long Range Planning
MS KSC-TR-0813

Denise Hauck
KC Dept. of Exec. Svcs.
MS ADM-ES-0500

Rich Hudson
DDES/LUSD
Current Planning
S OAK-DE-0100

Fatin Kara
KC DOT/Rd. Svcs. Div.
MS KSC-TR-0222

Roderick E. Matsuno
KC DOT
Road Maint. Section
MS RSD-TR-0100

Paulette Norman
KCDOT
Roads Division
MS-KSC-TR-0231

Robert Nunnenkamp
 KC Parks and Recreation
 MS KSC-NR-0700

Lydia Reynolds-Jones
 KC DOT
 Project Support Serv.
 MS KSC-TR-0231

Charlie Sundberg
 Office of Cultural Res.
 Landmarks & Heritage Prog.
 MS STR-CR-0200

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before April 29, 2004*. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before May 6, 2004*.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE APRIL 14, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. V-2429.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing was Tommy Burdette, representing the Department of Transportation.

The following exhibits were offered and entered into the record:

- | | |
|---------------|------------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit No. 1 | DOT Report to the Hearing Examiner dated April 14, 2004, with 15 attachments. |
| Exhibit No. 2 | Petition transmittal letter dated 4/13/2001 to the Department of Transportation from the Clerk of Council. |
| Exhibit No. 3 | Letter dated 03-21-01 of explanation and Petition for Vacation of a County Road including legal descriptions of Petitioner's properties. |

- Exhibit No. 4 Copy of filing fee - check 00462 from Petitioners dated 04-13-01
- Exhibit No. 5 Letter dated April 24, 2001, to Petitioner explaining process and identifying error in legal description and providing corrected Petition for Vacation of a County Road Vicinity map.
- Exhibit No. 6 Vicinity map.
- Exhibit No. 7 Map depicting vacation area.
- Exhibit No. 8 Copy of Quit Claim Deed number 1023734
- Exhibit No. 9 Copy of Decree of Appropriation in Superior Court Cause No. 91-2-28115-7
- Exhibit No. 10 Letter dated June 1, 2001 from the City of Kent reporting no objections to this street vacation request.
- Exhibit No. 11 Letter dated 06-18-01 from WSDOT transmitting Quit Claim Deed 20000428001691
- Exhibit No. 12 Letter dated 07-10-01 from WSDOT transmitting Quit Claim Deed for signatures.
- Exhibit No. 13 Copy of letter 07-25-01 returning signed Quit Claim Deed
- Exhibit No. 14 Letter dated 01-09-02 from Baima & Holmberg Inc., transmitting a copy of Quit Claim Deed 20010809001147
- Exhibit No. 15 Copy of letter dated 10-01-02 from RSD to WSDOT regarding Turnback language, with Hearing Examiner decision and site plan for Copper Hill subdivision,
- Exhibit No. 16 Letter dated 10-29-02 from WSDOT to RSD declining approval.
- Exhibit No. 17 Copy of letter dated 11-19-02 from DDES to WSDOT responding to WSDOT's denial letter.
- Exhibit No. 18 Letter dated 07-16-03 from WSDOT to KCDOT approving the road vacation.
- Exhibit No. 19 Letter dated 09-16-03 to petitioner identifying DOT recommendation and requesting compensation. Compensation calculations detailed in compensation worksheet.
- Exhibit No. 20 Transmittal letter dated 03-25-04 to Council providing recommendation of KCDOT and County Road Engineer.
- Exhibit No. 21 Copy of compensation check no. 2301 and deposit receipt no. 59358.
- Exhibit No. 22 Ordinance transmittal letter dated 02-24-04 from King County Executive to Council member Larry Phillips
- Exhibit No. 23 Proposed Ordinance 2004-0120
- Exhibit No. 24 Copy of memo to Property Services Division with attachments, dated 03-18-04.
- Exhibit No. 25 Property Services email response dated 03-30-04.
- Exhibit No. 26 Notice of hearing, dated 03-24-04.
- Exhibit No. 27 Affidavit of posting for hearing.
- Exhibit No. 28 Affidavit of Publication for date of hearing (*to be submitted upon receipt*)
- Exhibit No. 29 Letter to James Bergsma dated 04-05-04 re: hearing date/time & enclosed staff report
- Exhibit No. 30 Letter to Petitioner dated 04-05-04 re: hearing date/time & enclosed staff report

SLS:ms
V-2429 RPT

Attachments