



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

April 29, 2008

Ordinance 16081

Proposed No. 2007-0371.2

Sponsors Gossett and Patterson

1 AN ORDINANCE authorizing the vacation of a portion of
2 56th Avenue South, File V-2584; Petitioner: Peter J.
3 Christensen.

4
5 **STATEMENT OF FACTS:**

6 1. A petition has been filed requesting vacation of the west thirty feet of
7 the 56th Avenue South right-of-way abutting and adjacent to the
8 petitioner's property.

9 2. The department of transportation notified the various utility companies
10 serving the area, standard stakeholders and the city of Federal Way for
11 comments. There is development potential in the neighborhood and the
12 department of transportation has been advised to retain key north-south
13 rights-of-way until such time as it is determined that they are no longer
14 useful to the public road.

15 3. Through the stakeholder review process, the city of Federal Way has
16 requested that King County not divest public interest in the subject right-
17 of-way.

18 4. For the reasons stated above, the department of transportation could not
19 consider the subject portion of the right-of-way, as petitioned, useless as
20 part of the county road system or that the public would benefit by the
21 return of this unused area to the public tax rolls and recommended that the
22 petition be denied.

23 5. The petitioner filed an appeal with the clerk of the council. The
24 petition was referred to the hearing examiner to conduct a public hearing
25 and to provide a recommendation based on testimony received at the
26 hearing and the department of transportation's report.

27 6. During the public hearing process, the department of transportation
28 agreed to revise their recommendation to allow for a smaller portion of the
29 right-of-way to be vacated, beyond the minimum required right-of-way
30 width for a residential street.

31 7. The subject vacation area is located within the city of Federal Way's
32 Potential Annexation Area. Therefore, the department of transportation
33 was advised to meet the requirements of the city's road standards. The
34 city's engineer recommended approval while retaining a minimum right-
35 of-way width of 52 feet, centered along the dedicated centerline. This
36 would allow for four feet to be vacated on either side of the right-of-way.

37 8. The department of transportation records indicates that King County
38 has not been maintaining the subject portion of 56th Avenue South right-
39 of-way. The records indicate that no public funds have been expended for
40 its acquisition.

41 9. The department of transportation considers the revised portion of the
42 right-of-way useless as part of the county road system and believes the
43 public would benefit by the return of this unused area to the public tax
44 rolls.

45 10. The right-of-way is classified as "C-Class" and, in accordance with
46 K.C.C. 14.40.020, the compensation due King County is based on fifty
47 percent of the assessed value of the subject right-of-way, which was
48 determined from records of the department of assessments. King County
49 is in receipt of \$655.20 from the petitioner.

50 Due notice was given in the manner provided by law and a hearing was
51 held by the office of the hearing examiner on the 26th day of September,
52 2007.

53 In consideration of the benefits to be derived from the subject vacation the
54 council has determined that it is in the best interest of the citizens of King
55 County to grant said petition.

56 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

57 SECTION 1. The council, on the effective date of this ordinance, hereby vacates
58 and abandons that portion of 56th Avenue South as conveyed to King County by the
59 recording of the Plat of Jovita Heights, recorded in Volume 20 of Plats, Page 12, records
60 of King County, Washington as described below:

61 That portion of the westerly 4 feet of 56th Avenue South
62 right-of-way (also known as Pennsylvania Avenue),
63 abutting and adjacent to the east line of Lot 35, in Block 86,

64 in the plat of Jovita Heights, recorded in Volume 20 of

65 Plats, Page 12, records of King County, Washington.

66

Ordinance 16081 was introduced on 7/2/2007 and passed by the Metropolitan King County Council on 4/28/2008, by the following vote:

Yes: 8 - Ms. Patterson, Mr. Dunn, Ms. Lambert, Mr. von Reichbauer, Mr. Ferguson, Mr. Gossett, Mr. Phillips and Ms. Hague

No: 0

Excused: 1 - Mr. Constantine

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



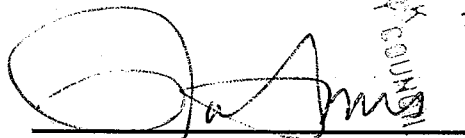
Julia Patterson, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 6 day of May, 2008.



Ron Sims, County Executive

RECEIVED
2008 MAY -7 PM 12:32
KING COUNTY COUNCIL CLERK

Attachments A. Hearing Examiner Report dated April 1, 2008

April 1, 2008

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

400 Yesler Way, Room 404
Seattle, Washington 98104
Telephone (206) 296-4660
Facsimile (206) 296-1654
Email: hearex@metrokc.gov

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Transportation File No. **V-2584**
Proposed Ordinance No. **2007-0371**
Parcel No. 375160-3685

PETER J. CHRISTENSEN
Road Vacation Petition
Appeal from Notice of Denial

Location: Portion of 56th Avenue South

Appellant/
Petitioner: **Peter J. Christensen**
35817 – 56th Avenue South
Auburn, Washington 98001
Telephone: (253) 887-8239

King County: Department of Transportation (KCDOT), Road Services Division
represented by Nicole Keller
201 South Jackson Street
Seattle, Washington 98104-3856
Telephone: (206) 296-3731
Facsimile: (206) 296-0567

SUMMARY OF RECOMMENDATIONS:

Department's Administrative Decision:	Deny entirely (appealed)
Department's Recommendation on Appeal:	Deny in greater part, approve minor part (4 foot width)
Examiner's Recommendation:	Deny in greater part, approve minor part (4 foot width)

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the Hearing Examiner for Item No. V-2584 was received by the Examiner on August 23, 2007.

PUBLIC HEARING:

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

The hearing on Item No. V-2584 was opened by the Examiner on September 5, 2007, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, WA 98104 and continued to September 26, 2007, to allow additional time for public comment (in part due to a claim of insufficient individual notice, which it is noted is not required under the law¹). The hearing closed on September 26, 2007. By October 17, 2007 Examiner Order issuing tentative findings and conclusions, the hearing record was reopened to allow for written documentation of the recalculation of compensation and payment of such, which was completed January 2, 2008. 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 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 56th Avenue South
Right of way classification:	C
Area:	480 square feet
Compensation:	\$655.20

2. The subject right-of-way segment (the westerly 30-foot wide half-street right-of-way of a 120-foot long segment of 56th Avenue South, in the Spider Lake area of Jovita Heights²) is not currently opened and constructed for full public use; it is in places improved in rudimentary gravel surface and used informally for access to the rear of adjacent double-frontage lots, similar to an alley. It is not maintained by the county.
3. KCDOT (Department) on April 18, 2007 issued a notice of administrative denial³ of the entirety of the requested 30 foot wide vacation. Petitioner Christensen appealed, resulting in the Examiner hearing on the petition.⁴
4. The Department based its denial on the recommendations of county agencies⁵ and the City of Federal Way⁶ to retain the right-of-way, and its own analysis of the potential for future infill land development in the area and the future usefulness of the right-of-way for improved north-south access and neighborhood circulation.

¹ The claim is that the county notice requirements for proposed road vacations are insufficient; that is a legislative matter outside of the Examiner's jurisdiction.

² Maps showing the vicinity of the proposed vacation and the specific area requested to be vacated are in the hearing record as exhibit nos. 6 and 8.

³ As provided by KCC 14.40.015.B.

⁴ "Any appeal filed by a petitioner shall be processed by the zoning and subdivision examiner in the same manner as vacations recommended for approval." [KCC 14.40.015.B.3]

⁵ KCDOT and the Department of Development and Environmental Services (DDES).

⁶ The right-of-way lies "within the proposed Federal Way East annexation area." (Exhibit no. 12)

5. After a July 11, 2007 prehearing conference on the appeal, the Department amended its position on the requested road vacation and, again in part based on City of Federal Way and county agency recommendations to retain the majority of the half-street right-of-way, now recommends vacation of only the westerly four (4) feet (the four-foot width abutting the Petitioner's property) of the right-of-way (which would leave the remaining 26 foot width west of centerline intact as public right-of-way). The Department provided a report to that effect for the September 5, 2007 hearing. (As noted above, the City of Federal Way, the city into which the area would likely be annexed if city annexation occurs, had recommended against the requested full width vacation, as did KCDOT and DDES, desiring that existing access options be maintained for the long term. The county agencies and the City have indicated the acceptability of a slightly reduced right-of-way width by the vacation of the westerly four feet, concluding that the reduced width would be sufficient for future road development to applicable construction standards.)
6. Notice of hearing on the petition was given as required by law, and a hearing was conducted by the Examiner on behalf of the Metropolitan King County Council.
7. Nearby property owners also objected to the vacation as proposed, also desiring that the existing right-of-way be retained for long-term use.⁷
8. Except as provided herein, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department report to the Examiner for the September 5, 2007 public hearing on the appeal. The Department's report will be attached to those copies of this report and recommendation that are submitted to the County Council.
9. Vacation of the westerly four-foot width of right-of-way now recommended by KCDOT would have no adverse effect on the provision of access and fire and emergency services to the abutting subject property and surrounding area. Vacation of the full 30 foot width as requested by the Petitioner would have an adverse effect on the future provision of access and traffic circulation in further development of the area.
10. Except for the westerly four (4) feet of its width, the 56th Avenue South right-of-way segment subject to this petition is necessary to retain for the future public road system for travel and utilities purposes. It therefore cannot be found as required by RCW 36.87.060 that, except for the westerly four feet, the right-of-way is useless as part of the King County road system and the public would be benefited by its vacation. The westerly four feet is not necessary to retain, as anticipated future road development has been shown to be able to fit sufficiently within the reduced width right-of-way that would result. It is therefore concluded to be not useful.
11. The Examiner concurs with KCDOT's revised recommendation that the requested vacation of 30 feet of width (half width) of the right-of-way be denied, but that vacation of the westerly four feet be approved.
12. No easements are necessary to be retained for the construction, repair and maintenance of public utilities and services.
13. The compensation required by law to be paid as a condition precedent to vacation of this road segment has been deposited with King County.

⁷ Neighbors also note structural and storage encroachments in the subject right-of-way and desire code enforcement efforts in such regard. Those matters are not directly relevant to the road vacation issue at hand, are not under the Examiner's authority in this petition case and are therefore not addressed here.

CONCLUSIONS:

1. As the majority of the right-of-way width in question (the east 26 feet) is generally found useful, and does not meet the specific tests of a) being expressly found “not useful” as part of the King County road system and b) the public being benefited by its vacation, the petition with respect to that 26 foot portion fails to meet the tests for road vacation established by applicable law, and should not be approved.
2. The right-of-way segment recommended to be vacated (the westerly four-foot width) is not useful as part of the King County road system, and the public will be benefited by its vacation. Vacation of the recommended portion, the westerly four feet, meets the tests for road vacation established by applicable law and should be approved.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2007-0371, **amended to reduce the vacated area to the westerly four (4) feet** of the subject road right-of-way segment of 56th Avenue South.

RECOMMENDED April 1, 2008.

Peter T. Donahue
King County Hearing Examiner

**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 15, 2008**. If a notice of appeal is filed, the original and six (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* **April 22, 2008**.

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 SEPTEMBER 5 and 26, 2007, PUBLIC HEARING ON DEPARTMENT OF TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2584.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Nicole Keller, representing the Department, and Peter J. Christensen, the Petitioner.

The following exhibits were offered and entered into the record on September 5, 2007:

- Exhibit No. 1 Report to the Hearing Examiner for the September 5, 2007 hearing, with 16 attachments
- Exhibit No. 2 Petition transmittal letter, dated November 17, 2006 to KC Department of Transportation, from Clerk of the Council
- Exhibit No. 3 Petition for vacation of a County road including legal descriptions of petitioners' properties
- Exhibit No. 4 Copy of filing fee, check # 27453 from the petitioners
- Exhibit No. 5 Receipt # 00814 from the King County Council for the filing fee dated November 17, 2006
- Exhibit No. 6 Vicinity map from Thomas Bros., page 775, grid F-2
- Exhibit No. 7 King County plat map of Jovita Heights, vacation area on page 5 of 7
- Exhibit No. 8 Map depicting vacation area
- Exhibit No. 9 Letter to Peter J. Christensen from Road Services dated December 15, 2006
- Exhibit No. 10 Unrecorded copy of the signed/notarized easement to Puget Sound Energy for access/maintenance to their existing & future utilities
- Exhibit No. 11 Copy of the final notice sent to different agencies indicating a March 31, 2007 deadline
- Exhibit No. 12 Letter to Peter J. Christensen from Road Services dated April 18, 2007 indicating DOT recommendation to deny the proposed vacation request
- Exhibit No. 13 Transmittal letter to the Clerk of the Council dated April 24, 2007 indicating the recommendation of both KCDOT and the County Road Engineer
- Exhibit No. 14 Memo to Peter Donahue, KC Hearing Examiner from Anne Noris, Clerk of the Council indicating Petitioner's appeal of the vacation denial
- Exhibit No. 15 Letter from Peter J. Christensen to Paulette Norman dated April 26, 2007 indicating reasons for appealing the denial
- Exhibit No. 16 Copy of the appeal fee, check # 27641 from the petitioners
- Exhibit No. 17 Receipt # 00839 from the King County Council for the filing fee dated May 25, 2007
- Exhibit No. 18 Title only ordinance transmittal letter dated June 28, 2007 from the King County Executive to Councilmember Larry Phillips
- Exhibit No. 19 Title only ordinance 2007-0371
- Exhibit No. 20 Fiscal Note
- Exhibit No. 21 Notice of Prehearing Conference from the Office of the Hearing Examiner
- Exhibit No. 22 Notice of Hearing
- Exhibit No. 23 Affidavit of posting for the hearing

- Exhibit No. 24 Email string from DDES recommending reduction of the vacation area to the westerly 10 feet only
- Exhibit No. 25 Email string indicating the City of Federal Way's recommending the reduction of the vacation area to the westerly 4 feet only
- Exhibit No. 26 Affidavit of publication for date of the hearing
- Exhibit No. 27 Email from Linda Forsberg dated September 3, 2007
- Exhibit No. 28 Email from Janet & Dan Clark dated September 3, 2007
- Exhibit No. 29 Email from Linda Forsberg dated September 5, 2007
- Exhibit No. 30 Email from Joanne West dated September 4, 2007
- Exhibit No. 31 Aerial map of vacation right of way
- Exhibit No. 32 Color photographs taken by Julius Tiangson indicating different views
- Exhibit No. 33 Aerial map with cross-hatched area of vacation right-of-way
- Exhibit No. 34 Color photograph of tree house looking south
- Exhibit No. 35 Color photograph showing shed with fir tree looking north
- Exhibit No. 36 Color photograph showing rubbish pile with fir trees
- Exhibit No. 37 Map showing previous vacations by neighbors and the current vacation area

The following exhibits were offered and entered into the record on September 26, 2007:

- Exhibit No. 38 Fax from Pete Christensen dated September 25, 2007
- Exhibit No. 39 Letter from Janet and Daniel Clark with color photographs dated September 10, 2007
- Exhibit No. 40 Packet of materials from Linda Forsberg dated September 17, 2007
- Exhibit No. 41 E-mail string regarding Federal Way's determination on the vacation
- Exhibit No. 42 Road vacation sight photographs
- Exhibit No. 43 Map of previous road vacations and Christensen proposed road vacation

The following exhibits were entered into the record post-hearing:

- Exhibit No. 44 Memorandum regarding compensation calculations from Lydia Reynolds-Jones, Road Services Division, to the Hearing Examiner, dated November 15, 2007.
- Exhibit No. 45 Compensation letter from Paulette Norman, Road Services Division, to Peter J. Christensen, dated November 27, 2007.

Return Address:
Clerk of the Council
Metropolitan King County Council
Mail stop KCC-CC 1039



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KING COUNTY CL ORD 0.00
PAGE 001 OF 011
05/16/2008 13:38
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 16081 AN ORDINANCE authorizing the vacation of portions of 56th Avenue South, File V-2584; Petitioner: Peter J. Christensen.**

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. King County, Washington

2. _____

Additional names on page _____ of document.

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

That portion of the westerly 4 feet of 56th Avenue south right-of-way (also known as Pennsylvania Avenue),

Additional legal is on page _____ of document.

Assessor's Property Tax Parcel/Account Number

375160-3685

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
2008 JUN 16 04 9:07
KING COUNTY CLERK



KING COUNTY

1200 King County Courthouse
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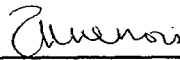
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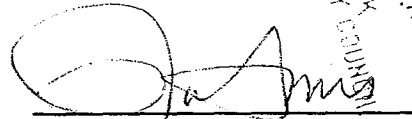
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⁵ KCDOT and the Department of Development and Environmental Services (DDES).

⁶ The right-of-way lies "within the proposed Federal Way East annexation area." (Exhibit no. 12)

5. After a July 11, 2007 prehearing conference on the appeal, the Department amended its position on the requested road vacation and, again in part based on City of Federal Way and county agency recommendations to retain the majority of the half-street right-of-way, now recommends vacation of only the westerly four (4) feet (the four-foot width abutting the Petitioner's property) of the right-of-way (which would leave the remaining 26 foot width west of centerline intact as public right-of-way). The Department provided a report to that effect for the September 5, 2007 hearing. (As noted above, the City of Federal Way, the city into which the area would likely be annexed if city annexation occurs, had recommended against the requested full width vacation, as did KCDOT and DDES, desiring that existing access options be maintained for the long term. The county agencies and the City have indicated the acceptability of a slightly reduced right-of-way width by the vacation of the westerly four feet, concluding that the reduced width would be sufficient for future road development to applicable construction standards.)
6. Notice of hearing on the petition was given as required by law, and a hearing was conducted by the Examiner on behalf of the Metropolitan King County Council.
7. Nearby property owners also objected to the vacation as proposed, also desiring that the existing right-of-way be retained for long-term use.⁷
8. Except as provided herein, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department report to the Examiner for the September 5, 2007 public hearing on the appeal. The Department's report will be attached to those copies of this report and recommendation that are submitted to the County Council.
9. Vacation of the westerly four-foot width of right-of-way now recommended by KCDOT would have no adverse effect on the provision of access and fire and emergency services to the abutting subject property and surrounding area. Vacation of the full 30 foot width as requested by the Petitioner would have an adverse effect on the future provision of access and traffic circulation in further development of the area.
10. Except for the westerly four (4) feet of its width, the 56th Avenue South right-of-way segment subject to this petition is necessary to retain for the future public road system for travel and utilities purposes. It therefore cannot be found as required by RCW 36.87.060 that, except for the westerly four feet, the right-of-way is useless as part of the King County road system and the public would be benefited by its vacation. The westerly four feet is not necessary to retain, as anticipated future road development has been shown to be able to fit sufficiently within the reduced width right-of-way that would result. It is therefore concluded to be not useful.
11. The Examiner concurs with KCDOT's revised recommendation that the requested vacation of 30 feet of width (half width) of the right-of-way be denied, but that vacation of the westerly four feet be approved.
12. No easements are necessary to be retained for the construction, repair and maintenance of public utilities and services.
13. The compensation required by law to be paid as a condition precedent to vacation of this road segment has been deposited with King County.

⁷ Neighbors also note structural and storage encroachments in the subject right-of-way and desire code enforcement efforts in such regard. Those matters are not directly relevant to the road vacation issue at hand, are not under the Examiner's authority in this petition case and are therefore not addressed here.

CONCLUSIONS:

1. As the majority of the right-of-way width in question (the east 26 feet) is generally found useful, and does not meet the specific tests of a) being expressly found "not useful" as part of the King County road system and b) the public being benefited by its vacation, the petition with respect to that 26 foot portion fails to meet the tests for road vacation established by applicable law, and should not be approved.
2. The right-of-way segment recommended to be vacated (the westerly four-foot width) is not useful as part of the King County road system, and the public will be benefited by its vacation. Vacation of the recommended portion, the westerly four feet, meets the tests for road vacation established by applicable law and should be approved.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2007-0371, **amended to reduce the vacated area to the westerly four (4) feet** of the subject road right-of-way segment of 56th Avenue South.

RECOMMENDED April 1, 2008.

Peter T. Donahue
King County Hearing Examiner

**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 15, 2008*. If a notice of appeal is filed, the original and six (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 April 22, 2008*.

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 SEPTEMBER 5 and 26, 2007, PUBLIC HEARING ON DEPARTMENT OF TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2584.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Nicole Keller, representing the Department, and Peter J. Christensen, the Petitioner.

The following exhibits were offered and entered into the record on September 5, 2007:

- Exhibit No. 1 Report to the Hearing Examiner for the September 5, 2007 hearing, with 16 attachments
- Exhibit No. 2 Petition transmittal letter, dated November 17, 2006 to KC Department of Transportation, from Clerk of the Council
- Exhibit No. 3 Petition for vacation of a County road including legal descriptions of petitioners' properties.
- Exhibit No. 4 Copy of filing fee, check # 27453 from the petitioners
- Exhibit No. 5 Receipt # 00814 from the King County Council for the filing fee dated November 17, 2006
- Exhibit No. 6 Vicinity map from Thomas Bros., page 775, grid F-2
- Exhibit No. 7 King County plat map of Jovita Heights, vacation area on page 5 of 7
- Exhibit No. 8 Map depicting vacation area
- Exhibit No. 9 Letter to Peter J. Christensen from Road Services dated December 15, 2006
- Exhibit No. 10 Unrecorded copy of the signed/notarized easement to Puget Sound Energy for access/maintenance to their existing & future utilities
- Exhibit No. 11 Copy of the final notice sent to different agencies indicating a March 31, 2007 deadline
- Exhibit No. 12 Letter to Peter J. Christensen from Road Services dated April 18, 2007 indicating DOT recommendation to deny the proposed vacation request
- Exhibit No. 13 Transmittal letter to the Clerk of the Council dated April 24, 2007 indicating the recommendation of both KCDOT and the County Road Engineer
- Exhibit No. 14 Memo to Peter Donahue, KC Hearing Examiner from Anne Noris, Clerk of the Council indicating Petitioner's appeal of the vacation denial
- Exhibit No. 15 Letter from Peter J. Christensen to Paulette Norman dated April 26, 2007 indicating reasons for appealing the denial
- Exhibit No. 16 Copy of the appeal fee, check # 27641 from the petitioners
- Exhibit No. 17 Receipt # 00839 from the King County Council for the filing fee dated May 25, 2007
- Exhibit No. 18 Title only ordinance transmittal letter dated June 28, 2007 from the King County Executive to Councilmember Larry Phillips
- Exhibit No. 19 Title only ordinance 2007-0371
- Exhibit No. 20 Fiscal Note
- Exhibit No. 21 Notice of Prehearing Conference from the Office of the Hearing Examiner
- Exhibit No. 22 Notice of Hearing
- Exhibit No. 23 Affidavit of posting for the hearing

- Exhibit No. 24 Email string from DDES recommending reduction of the vacation area to the westerly 10 feet only
- Exhibit No. 25 Email string indicating the City of Federal Way's recommending the reduction of the vacation area to the westerly 4 feet only
- Exhibit No. 26 Affidavit of publication for date of the hearing
- Exhibit No. 27 Email from Linda Forsberg dated September 3, 2007
- Exhibit No. 28 Email from Janet & Dan Clark dated September 3, 2007
- Exhibit No. 29 Email from Linda Forsberg dated September 5, 2007
- Exhibit No. 30 Email from Joanne West dated September 4, 2007
- Exhibit No. 31 Aerial map of vacation right of way
- Exhibit No. 32 Color photographs taken by Julius Tiangson indicating different views
- Exhibit No. 33 Aerial map with cross-hatched area of vacation right-of-way
- Exhibit No. 34 Color photograph of tree house looking south
- Exhibit No. 35 Color photograph showing shed with fir tree looking north
- Exhibit No. 36 Color photograph showing rubbish pile with fir trees
- Exhibit No. 37 Map showing previous vacations by neighbors and the current vacation area

The following exhibits were offered and entered into the record on September 26, 2007:

- Exhibit No. 38 Fax from Pete Christensen dated September 25, 2007
- Exhibit No. 39 Letter from Janet and Daniel Clark with color photographs dated September 10, 2007
- Exhibit No. 40 Packet of materials from Linda Forsberg dated September 17, 2007
- Exhibit No. 41 E-mail string regarding Federal Way's determination on the vacation
- Exhibit No. 42 Road vacation sight photographs
- Exhibit No. 43 Map of previous road vacations and Christensen proposed road vacation

The following exhibits were entered into the record post-hearing:

- Exhibit No. 44 Memorandum regarding compensation calculations from Lydia Reynolds-Jones, Road Services Division, to the Hearing Examiner, dated November 15, 2007.
- Exhibit No. 45 Compensation letter from Paulette Norman, Road Services Division, to Peter J. Christensen, dated November 27, 2007.