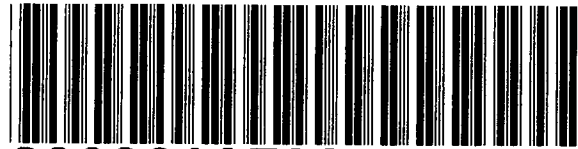


Return Address:
Clerk of the Council
Metropolitan King County Council
Mail stop KCC-CC 1039



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CLERK OF THE C ORD 0.00
PAGE001 OF 009
01/05/2009 08:54
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 <u>must</u> be filled in) 1. Ordinance 16343 AN ORDINANCE authorizing the vacation of a portion of 96th Place SW, File V-2611; Petitioners: Michael E. Gaines and Donna M. Peck-Gaines.	
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.	RECEIVED 2009 FEB -4 AM 9:09 CLERK KING COUNTY COUNCIL.
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 96th Place SW right-of-way, also known as King County Road No. 365, recorded under the Additional legal is on page _____ of document.	
Assessor's Property Tax Parcel/Account Number 202203-9014	<input type="checkbox"/> 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



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

December 16, 2008

Ordinance 16343

Proposed No. 2008-0405.2

Sponsors Patterson

1 AN ORDINANCE authorizing the vacation of a portion of
2 96th Place SW, File V-2611; Petitioners: Michael E.
3 Gaines and Donna M. Peck-Gaines.
4

5 STATEMENT OF FACTS:

- 6 1. A petition has been filed requesting vacation of a portion of the 96th
7 Place SW right-of-way, also known as King County Road No. 365,
8 hereinafter described.
- 9 2. The department of transportation notified the various utility companies
10 serving the area and has been advised that easements are not required
11 within the vacation area.
- 12 3. The department of transportation records indicate that King County has
13 not been maintaining 96th Place SW. The records indicate that no public
14 funds have been expended for its acquisition. A critical areas review will
15 be required prior to any future development, clearing, or other site
16 alteration within the vacation area.

17 4. The department of transportation considers the subject portion of the
18 right-of-way useless as part of the county road system and believes the
19 public would benefit by the return of this unused area to the public tax
20 rolls.

21 5. The right-of-way is classified as "C-Class" and, in accordance with
22 K.C.C. 14.40.020, the compensation due King County is based on fifty
23 percent of the assessed value of the subject right-of-way, which was
24 determined from records of the department of assessments. King County
25 is in receipt of \$19,494.80 from the petitioner.

26 Due notice was given in the manner provided by law and a hearing was
27 held by the office of the hearing examiner on the 17th day of September,
28 2008.

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

32 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

33 SECTION 1. The council, on the effective date of this ordinance, hereby vacates
34 and abandons that portion of the 96th Place SW right-of-way, also known as King
35 County Road No. 365, as conveyed to King County by the recording of the deed recorded
36 in Volume 825 of Deeds, Page 258, records of King County, Washington as described
37 below:

38 That portion of the 96th Place SW right-of-way, also known as King
39 County Road No. 365, recorded under the deed recorded in Volume 825 of

Ordinance 16343

40 Deeds, Page 258, records of King County, Washington, being further
41 described as follows:

42 Beginning at a point 952.32 feet south and 817.64 feet east
43 of the northwest corner of Government Lot 3, Section 20,
44 Township 22 North, Range 3 East, Willamette Meridian,
45 King County, Washington; Thence S 37°41'0" E, a
46 distance of 77.88 feet; Thence N 30°47'47" E, a distance of
47 22.95 feet; Thence N 36°19'31" W, a distance of 69.48
48

Ordinance 16343

49 feet' Thence S 52°19'0"W, a distance of 23.00 feet to the
50 point of beginning.

51

Ordinance 16343 was introduced on 7/28/2008 and passed by the Metropolitan King County Council on 12/15/2008, by the following vote:

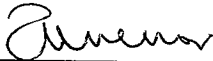
Yes: 6 - Ms. Patterson, Mr. Constantine, Ms. Lambert, Mr. von Reichbauer,
Mr. Gossett and Mr. Phillips
No: 0
Excused: 3 - Mr. Dunn, Mr. Ferguson and Ms. Hague

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



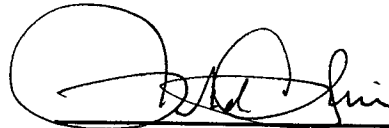
Julia Patterson, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 23 day of December, 2008.



Ron Sims, County Executive

RECEIVED
2008 DEC 24 AM 9:31
KING COUNTY COUNCIL CLERK

Attachments A. Hearing Examiner Report dated November 20, 2008

November 20, 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-2611
Proposed Ordinance no. **2008-0405**
Parcel no. **202203-9014**

E. MICHAEL GAINES and DONNA M. PECK-GAINES

Road Vacation Petition

Location: Portion of 96th Place Southwest (King County Road No. 365),
Vashon Island

Petitioners: **E. Michael Gaines and Donna M. Peck-Gaines**
1531—7th Avenue West
Seattle, Washington 98119
Telephone: (206) 281-4039

King County: Department of Transportation, 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 Preliminary:	Approve road vacation
Department's Final:	Approve road vacation
Examiner's:	Approve road vacation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the Hearing Examiner for Item No. V-2611 was received by the Examiner on September 17, 2008.

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 as follows:

The hearing on Item No. V-2611 was opened by the Examiner on September 17, 2008, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, WA 98104 and closed that day. The hearing was then continued administratively for receipt of an Affidavit of Publication of the required hearing notice, which was received September 19, 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 96th Place Southwest, Vashon
Right of way classification:	C-Class
Area:	1,630 square feet
Compensation:	\$19,494.80
2. Notice of hearing on the Department's report was given as required by law, and a hearing on the report was conducted by the Examiner on behalf of the Metropolitan King County Council.
3. Except as provided herein, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department's report to the Examiner for the September 17, 2008, public hearing and the statement of facts contained in Proposed Ordinance No. 2008-0405. The Department's report will be attached to those copies of this report and recommendation that are submitted to the County Council.
4. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are in the hearing record as exhibit nos. 7 and 9.
5. The subject right-of-way segment has never been opened, constructed or maintained for public use, and is not known to be used informally for access to any other property.
6. The Petitioners had questions in the hearing regarding the adverse effect of Health Department regulations (onsite sewage disposal standards) that have spurred the road vacation request (the land area provided by the vacation being necessary to obtain for septic system use and approval). The Petitioners are concerned about the procedural and financial burdens associated with the road vacation process. The Examiner explained that the Examiner had no jurisdiction over Health Department regulations in the context of the road vacation process, and that disputes with Health regulations and permit approvals would have to be directed to the Health Department, and also could possibly be the subject of requested regulatory policy changes through the legislative process. The Petitioners stated that they desired to proceed with the vacation rather than abandon or delay it and seek alternative remedies.

7. Vacation of the right-of-way would have no adverse effect on the provision of access and fire and emergency services to the abutting properties and surrounding area.
8. The right-of-way is not necessary for the present or future public road system for travel or utilities purposes.
9. No easements are necessary to be retained for the construction, repair and maintenance of public utilities and services.
10. The compensation required by law to be paid as a condition precedent to vacation of this road has been deposited with King County. (The compensation required is established by county code standards. [KCC 14.40.020] There has been no assertion and there is no evidence in the record suggesting that the compensation amount determined and calculated by KCDOT is incorrect.)

CONCLUSION:

1. The right-of-way segment subject to this petition is not useful as part of the King County road system, and the public will be benefited by its vacation.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2008-0405 to vacate the subject road right-of-way.

RECOMMENDED November 20, 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* **December 4, 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* **December 11, 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 17, 2008, PUBLIC HEARING ON DEPARTMENT OF
TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2611.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Nicole Keller, representing the Department; and E. Michael Gaines the Petitioner.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Report to the Hearing Examiner for the September 17, 2008 hearing, with 13 attachments.
- Exhibit No. 2 Petition transmittal letter, dated October 10, 2007 to King County Department of Transportation (KCDOT), from Clerk of the Council
- Exhibit No. 3 Cover letter to petition for vacation of a county road dated October 8, 2007
- Exhibit No. 4 Petition for vacation of a county road including legal descriptions of petitioners' properties received October 10, 2007
- Exhibit No. 5 Copy of filing fee, check no. 11024, in the amount of \$100
- Exhibit No. 6 Receipt no. 00857 for filing fee
- Exhibit No. 7 Vicinity map
- Exhibit No. 8 Copy of deed recorded in Volume 825 page 258 of King County deed records
- Exhibit No. 9 Map depicting vacation area
- Exhibit No. 10 Survey and legal description of vacation area
- Exhibit No. 11 Revised petition with corrected legal description
- Exhibit No. 12 Final Agency Notice sent January 2, 2008 with a January 31, 2008 deadline to respond
- Exhibit No. 13 Letter of explanation dated February 4, 2008
- Exhibit No. 14 Recommendation and request for compensation letter from KCDOT to Petitioners dated May 22, 2008
- Exhibit No. 15 Compensation Worksheet
- Exhibit No. 16 Copy of compensation payment, check no. 41521170 in the amount of \$19,494.80
- Exhibit No. 17 Receipt no. 146699 for compensation payment
- Exhibit No. 18 Recommendation letter from KCDOT to KC Council dated May 12, 2008
- Exhibit No. 19 Proposed Ordinance transmittal letter from KCDOT to KC Council dated July 17, 2008
- Exhibit No. 20 Proposed Ordinance 2008-0405
- Exhibit No. 21 Fiscal Note
- Exhibit No. 22 Affidavit of Posting, received September 17, 2008
- Exhibit No. 23 Affidavit of Publication, received September 19, 2008
- Exhibit No. 24 Email from Petitioners requesting correction of names