



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

August 18, 2009

Ordinance 16619

Proposed No. 2009-0227.2

Sponsors Constantine

1 AN ORDINANCE authorizing the vacation of a portion of
2 51st Avenue South, File V-2608; Petitioners: Dale Fite and
3 Lonnie Scott.
4

5 **STATEMENT OF FACTS:**

- 6 1. A petition has been filed requesting vacation of a portion of 51st
7 Avenue South hereinafter described.
8 2. The department of transportation notified the various utility companies
9 serving the area and has been advised that easements are not required
10 within the vacation area.
11 3. The department of transportation records indicate that King County has
12 not been maintaining 51st Avenue South. The records indicate that no
13 public funds have been expended for its acquisition.
14 4. The department of transportation considers the subject portion of the
15 right-of-way useless as part of the King County road system and believes
16 the public would benefit by the return of this unused area to the public tax
17 rolls.

18 5. The right-of-way is classified as "C-Class" and, in accordance with
19 K.C.C. 14.40.020, the compensation due King County is based on fifty
20 percent of the assessed value of the subject right-of-way, which was
21 determined from records of the department of assessments. King County
22 is in receipt of \$1,530.40 from the petitioners.

23 Due notice was given in the manner provided by law and hearings were
24 held by the office of the hearing examiner on the 20th day of May 2009
25 and the 8th day of July 2009.

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

29 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

30 SECTION 1. The King County council, on the effective date of this ordinance,
31 hereby vacates and abandons that portion of the 51st Avenue South right-of-way as
32 conveyed to King County by the recording of Plat of Jovita Heights recorded in Volume
33 20 of Plats, on page 12, records of King County, Washington as described below:

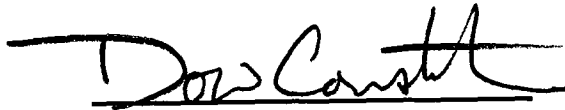
34 That portion of the west 4 feet of 51st Avenue South (dedicated as Illinois
35 Avenue) as conveyed to King County by the plat of Jovita Heights,
36 recorded in Volume 20 of Plats, on Page 12, records of King County,
37 Washington, abutting and adjacent to the east line of Lots 15 through 21,
38 of Block 62, of said Plat. Together with the east 4 feet of 51st Avenue
39 South (dedicated as Illinois Avenue) as conveyed to King County by said

40 plat, abutting and adjacent to the west line of Lots 6 through 9, of Block
41 61, in said plat.
42

Ordinance 16619 was introduced on 3/30/2009 and passed by the Metropolitan King County Council on 8/17/2009, by the following vote:

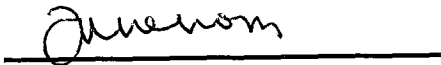
Yes: 7 - Mr. Constantine, Mr. Ferguson, Ms. Hague, Ms. Lambert, Mr. von Reichbauer, Mr. Gossett and Ms. Patterson
No: 0
Excused: 2 - Mr. Phillips and Mr. Dunn

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



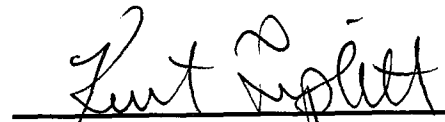
Dow Constantine, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 27 day of August, 2009.



Kurt Triplett, County Executive

Attachments

A. Hearing Examiner Report dated July 27, 2009

RECEIVED
2009 AUG 28 PM 4:13
CLERK
KING COUNTY COUNCIL

July 27, 2009

**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 hearingexaminer@kingcounty.gov

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Transportation file no. **V-2608**
 Proposed Ordinance no. **2009-0227**
 Adjacent parcel nos. **375160-2643, 375160-2645, 375160-2600**

DALE FITE AND LONNIE W. SCOTT
 Road Vacation Petition

Location: Portions of 51st Avenue S (dedicated as Illinois Avenue)

Petitioners: **Dale Fite**
 35420 Military Road S
 Auburn, Washington 98001
 Telephone: (253) 797-3857

and

Lonnie W. Scott
 35428 Military Road S
 Auburn, Washington 98001
 Telephone: (253) 835-0530

King County: Department of Transportation (DOT), 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 Petition No. V-2608 was received by the Examiner on April 23, 2009.

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 right-of-way as follows:

The hearing on Petition No. V-2608 was conducted by the Examiner on May 20, 2009, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, Washington 98104 and then reopened on July 8, 2009 to cure a public notice defect. The hearing was then continued administratively for receipt of the affidavit of re-publication. The affidavit was received on July 13, 2009, at which time the record closed. 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:	Portions of 51st Avenue South
Right of way classification:	C Class
Area:	1,760 square feet
Compensation:	\$1,530.40
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 hearing and the statement of facts contained in Proposed Ordinance No. 2009-0227. 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 17.
5. The subject right-of-way segments, which are four (4) foot wide edge strips along the Petitioners' frontages, are not currently opened or maintained for public use.
6. 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.
7. The right-of-way is not necessary for the present or future public road system for travel or utilities purposes.

8. No easements are necessary to be retained for the construction, repair and maintenance of public utilities and services.
9. The compensation required by law to be paid as a condition precedent to vacation of this right-of-way has been deposited with King County.

CONCLUSION:

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

RECOMMENDATION:

APPROVE proposed Ordinance No. 2009-0227 to vacate the subject road right-of-way.

RECOMMENDED July 27, 2009.

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 August 10, 2009*. If a notice of appeal is filed, the original and six 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 August 17, 2009*.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 Third 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 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 MAY 20, 2009 and JULY 7, 2009, PUBLIC HEARINGS ON DEPARTMENT OF TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2608.

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

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Report to the Hearing Examiner for the hearing on May 20, 2009, with 16 attachments.
- Exhibit No. 2 Petition transmittal letter to King County Department of Transportation (KCDOT) from the Clerk of the Council, dated September 24, 2007
- Exhibit No. 3 Cover letter to vacation petition, submitted September 24, 2007
- Exhibit No. 4 Petition for Vacation of a County Road including legal descriptions, submitted September 24, 2007
- Exhibit No. 5 Copy of filing fee: check no. 7825 in the amount of \$100
- Exhibit No. 6 Receipt no. 00855 for filing fee
- Exhibit No. 7 Vicinity map
- Exhibit No. 8 Jovita Heights plat map
- Exhibit No. 9 Map depicting vacation area
- Exhibit No. 10 Letter of explanation from KCDOT to Petitioner, dated October 31, 2007
- Exhibit No. 11 Letter from KCDOT to Petitioner requesting revisions to petition, dated December 24, 2007
- Exhibit No. 12 Revised Petition for Vacation of a County Road
- Exhibit No. 13 Revised map depicting vacation area
- Exhibit No. 14 Letter from KCDOT to Petitioner requesting revisions to petition, dated May 22, 2008
- Exhibit No. 15 Follow-up letter from KCDOT to Petitioner, dated August 5, 2008
- Exhibit No. 16 Revised Petition for Vacation of a County Road, received October 22, 2008
- Exhibit No. 17 Revised map depicting vacation area
- Exhibit No. 18 Letter from KCDOT to Petitioners recommending approval of petition and requesting compensation, dated December 11, 2008
- Exhibit No. 19 Compensation Worksheet
- Exhibit No. 20 Copy of compensation payment: check no. 4630432095 in the amount of \$1,530.40
- Exhibit No. 21 Receipt no. 540812 for compensation payment
- Exhibit No. 22 Letter from KCDOT to KC Council recommending approval of petition, dated December 15, 2008
- Exhibit No. 23 Letter from KCDOT to KC Council regarding the proposed ordinance, dated March 23, 2009
- Exhibit No. 24 Proposed Ordinance 2009-0227
- Exhibit No. 25 Fiscal Note
- Exhibit No. 26 Affidavit of Posting (at intersections of S. 354th Street and 51st Avenue S. and S. 356th Street and 51st Avenue S.), noting posting date of April 15, 2009
- Exhibit No. 27 Affidavit of Posting (at north and south of 51st Avenue S. right-of-way), noting posting date of April 15, 2009
- Exhibit No. 28 Affidavit of Publication of May 20, 2009 hearing, noting May 6, 2009 publication date
- Exhibit No. 29 Affidavit of Publication of July 8, 2009 hearing, noting June 24, 2009 and July 1, 2009 publication dates