

DEPARTMENT OF TRANSPORTATION  
ROAD SERVICES DIVISION  
COUNTY ROAD ENGINEER REPORT ON VACATION PETITION V-2701

June 13, 2017

**Petition to Vacate: 327th Ave NE, John McGee No. 2 Road**

**Vacation file: V-2701**

**Petitioners: Matthew Benson, Tom and Janet Duvall, Warner Smith and Roxana Andone**

**Recommendation: The County Road engineer has determined and does recommend that the subject right-of-way should be vacated.**

Petitioners, Matthew Benson, Tom and Janet Duvall, Warner Smith and Roxana Andone submitted a petition for the vacation of a portion of 327th Ave NE, John McGee No. 2 Road as bisects their properties in the Carnation area of King County. The subject right-of-way is unopened unimproved right of way. See site map attached as Exhibit A.

King County acquired the right-of-way by quit claim deed and the establishment of John McGee No. 2 Road in Volume 27 of Commissioners' Records, Page 66.

Pursuant to King County Code section 14.40.0104 B, the following report is submitted.

KCC 14.40.0104 B. - The petition has been reviewed and determined to be valid. All property owners of property abutting the portion of the right-of-way at issue are petitioners on the road vacation petition that is V-2701.

B.1 - The right of way proposed to be vacated has been examined and it is recommended that it should be vacated and abandoned.

B.2 - The right of way proposed to be vacated has been examined and it has been determined that the subject right of way is not in use and has not been in use as a county road. The right-of-way was acquired the right-of-way by quit claim deed and the establishment of John McGee No. 2 Road in Volume 27 of Commissioners' Records, Page 66.

B.3 - The subject right-of-way is not currently opened, constructed or maintained for public use and it is not known to be used informally for access.

B.4 - The subject right-of-way is not needed as part of the county transportation system of the future and it is not advisable to preserve any portion of the right-of-way for future transportation use. Petitioners' property and those adjacent all gain access from alternative public and private roads.

B.5 - The public will benefit from the vacation of the right-of-way. The subject vacation area is not necessary or useful to the county road system. The public will benefit from the return of the subject vacation area to the tax rolls and the county is saved potential costs, general liability and risk associated with being a property owner of unmaintained and unutilized property.

B.6 - Pursuant to KCC 14.40.020, the assessed land value of parcels adjacent to the county right-of-way proposed for vacation may be properly considered for valuation of the subject right-of-way.

The petitioners' properties are zoned A35 and RA 10. The petitioners' properties range from 28 to 18 acres. The addition of the vacation area to the parcels will not change the potential subdivision or development of the parcels.

The total vacation area is 127,921 square feet. Of the total vacation area, 40,959 square feet will attach to the property owned by Matthew Benson, 47,778 will attach to the property owned by Warner Smith and Roxana Andone, and 39,184 square feet will attach to the property owned by Tom and Janet Duvall.

The averaged assessed value on a square footage basis for the subject right-of-way is approximately \$0.22 per square foot.

Application of this average assessed value of \$0.22 per square foot to the 127,921 square foot vacation area results in a total value for the vacation area of \$28,142.62. This amount would be apportioned between the parcels as 4,505 for the \$40,959 square feet to be vacated to Mr. Benson; \$5,255.85 for the 47,778 square feet to be vacated to Mr. and Mrs. Duvall; and \$4,310.24 for the 39,184 square feet to be vacated to Mr. Smith and Ms. Andone.

However, as a stand-alone strip of land, the vacation area for each parcel would not be usable as a building lot and by adding the vacation area to the Petitioners' properties, the development and subdivision potential is not changed. Therefore, the valuation of \$0.22 per square foot is not directly applicable to the vacation area.

RCW 36.87.120 allows the County to adjust the appraised value of proposed vacation area "to reflect the value of the transfer of liability or risk, the increased value to the public in property taxes, the avoided costs for management or maintenance, and any limits on development or future public benefit."

The County Road Engineer recommends that the County accept the non-monetary benefits of reduction of liability and obligation and addition of tax income as compensation for the proposed vacation. In reaching this recommendation, the following factors have been considered:

- No public funds were used for the acquisition of this right-of-way;
- The right-of-way is unopened and unimproved and no public funds have been expended to date for its maintenance or repair;
- The right of way is imposed over an area with no useful connectivity to the Count Road system and it is unlikely that it would ever be developed as a road;

- Upon vacation of this section of unopened, unimproved and unmaintained right-of-way the County shall receive monetary benefit as it is added to the property tax rolls;
- Upon vacation, King County Department of Transportation's Road Services Division (Roads) is relieved of obligation and liability associated with maintenance, improvement, enforcement, monitoring and management of the right of way;
- Upon vacation, King County Department of Transportation's Road Services Division (Roads) is relieved of liability that can arise as an owner of vacant and unattended land; and
- Retention of this right of way provides no other benefit to the County.

Roads cost to maintain roadway, drainage, roadside and traffic has ranged from approximately \$16,000 per road mile in 2008 to \$17,000 in 2010, and is currently budgeted at \$18,486 for 2017.

Roads maintains approximately 1500 miles of roadway within unincorporated King County. Roads staff also respond to complaints regarding use of opened and unopened right-of-way including; damage to personal property from trees within the right-of-way; illegal placement of obstructions, gates, fences and rockeries; structures and other construction within the right-of-way; dumping; and abandonment of junk vehicles. Every maintenance or improvement activity, enforcement action or investigation that Roads must respond to, regardless of whether it involves opened or unopened, improved or unimproved right-of-way, is an opportunity cost and loss to Roads.

Furthermore, Roads is at risk of a liability claim for every section of open and unopened right-of-way. Vacation of this right-of-way reduces Roads exposure to liability claims. King County Office of Risk Management Services informed Roads that as of March 2017 it had closed 428 claims on behalf of Roads for the five year period of January 1, 2012 through December 31, 2016. Of the 428 claims closed, 152 (64%) were closed with payments. In 2016, the Office of Risk Management Services paid \$3,022,232 to resolve 21 claims on behalf of Roads and closed 2016 with 42 additional open claims remaining.

In addition to the liability potential arising from the public use of roads and right-of-way, Roads has the liability risks associated with being an owner of vacant land. Illegal dumping, physical injury associated with unmaintained and unmonitored conditions, damage from fallen trees, and creation of attractive nuisance situations are just some examples of the type of life safety, liability, environmental, compliance and reputational risks to which Roads is exposed arising out of the unattended use and mere ownership of vacant, unopened right-of-way.

For every mile of roadway and every piece of unopened right-of-way held by Roads, Roads faces costs of management, maintenance and/or enforcement, and the potential liability for injuries to persons and property. The cost of just one claim can far surpass the straight calculated compensation for the vacation of this road.

Roads seeks to reduce potential obligations, opportunity costs, and liability risk while benefiting the citizens of King County through the vacation of this portion of right-of-way. The dollars

Roads might obtain from the petitioners through the vacation of this portion of right-of-way is insignificant in comparison to the County's potential liability from its mere retention.

The other factors included in RCW 36.87.120 to offset monetary compensation, limits on development and future public benefit are briefly highlighted here. Vacation of this useless right-of-way will not change the limits or increase the likelihood of development of the abutting properties. The addition of the vacation area to the Petitioner's property does not change the potential division of the property. Each parcel is currently occupied by and used as a single family residence. The subject vacation area is of limited use or function. The public is benefited by reducing the cost and exposure associated with Roads retaining this right-of-way and the private property owners assuming full responsibility of this area and payment of the associated property taxes and assessments.

It is the recommendation of the County Road Engineer and the Director of Road Services that this right-of-way be vacated and any associated monetary compensation be waived. The reduction in liability and obligations for maintenance and enforcement are valuable consideration for the vacation of this right-of-way.

B.7 - The subject right-of-way does not serve as access to abutting property.

B.8 – Puget Sound Energy has indicated a need for easements to serve facilities in the area of the vacation. PSE will obtain their easements directly from the property owners. No County agency or division has identified a need to retain the right-of-way or an easement with the vacation area.

B.9 - No fees have been charged nor costs incurred for this vacation beyond the \$100 filing fee.

B.10 - The subject right-of-way does not abut a body of salt or fresh water.

B.11 – All property owners with property abutting the subject right-of-way are petitioners to this vacation petition.

B.12 – Under KCC 14.40.0106, discretion was exercised and petitioner is not charged any fees or costs in association with this Petition beyond the filing fee. As no additional fees were assessed under 14.40.0106 B, there are no costs to be waived under 14.40.0106C and no costs incurred to list.

In conclusion, the subject right-of-way is useless to the county transportation system and petition V-2701 to vacate a portion of 327th Ave NE, John McGee No. 2 Road as bisects the Petitioners' properties in the Carnation area of King County should be approved.

Approved:



Rick Brater, P.E.  
Count Road Engineer

# King County iMap



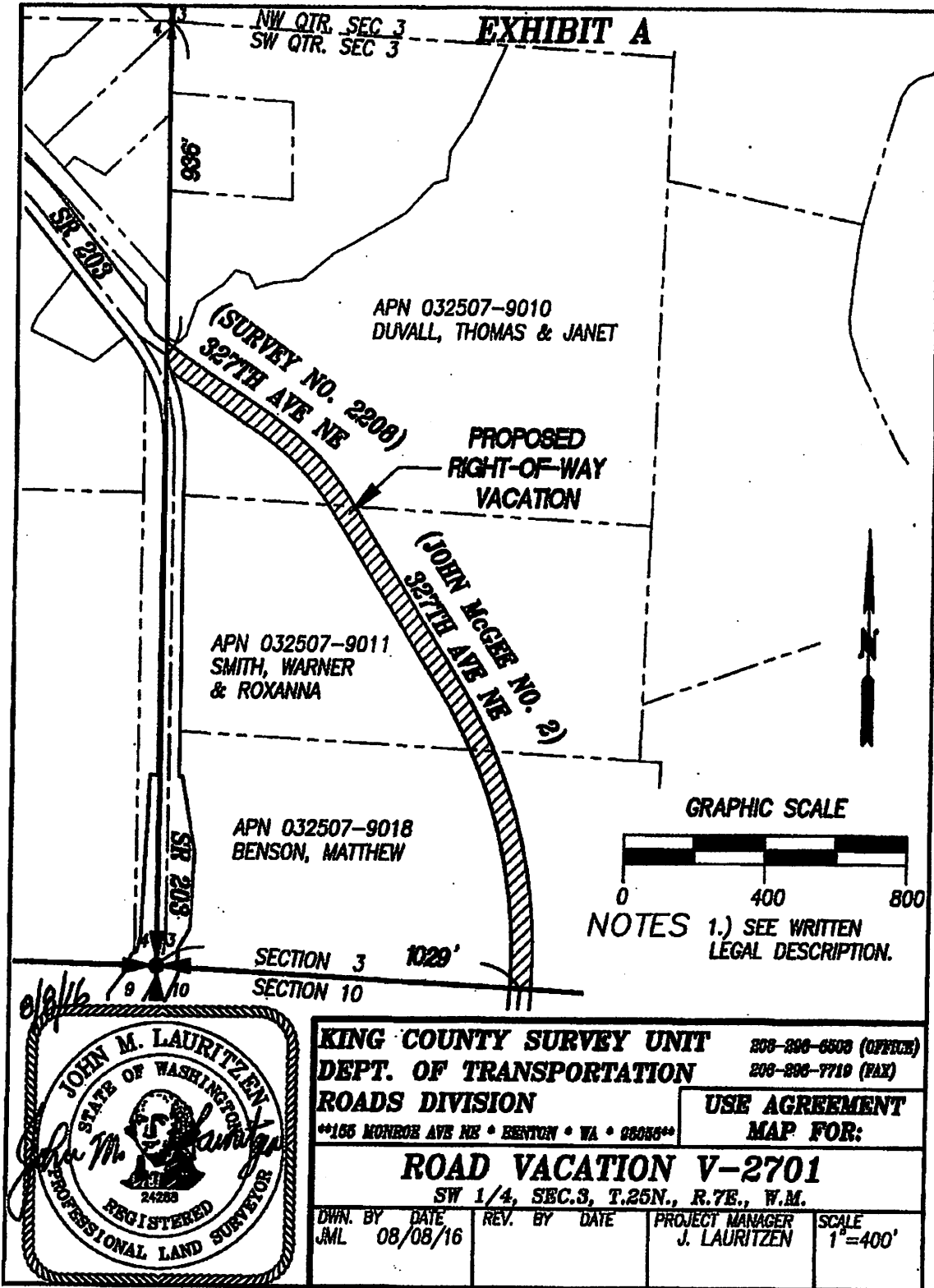
King County, Pictometry International Corp., King County

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Date: 7/7/2016

Notes:

 **King County**  
**GIS CENTER**



<b>KING COUNTY SURVEY UNIT</b>		206-296-6500 (OFFICE)
<b>DEPT. OF TRANSPORTATION</b>		206-296-7710 (FAX)
<b>ROADS DIVISION</b>		
**165 MONROE AVE NE • BENTON • WA • 99005**		
<b>USE AGREEMENT</b>		
<b>MAP FOR:</b>		
<b>ROAD VACATION V-2701</b>		
SW 1/4, SEC.3, T.25N., R.7E., W.M.		
DWN. BY	DATE	REV. BY
JML	08/08/16	
PROJECT MANAGER	SCALE	
J. LAURITZEN	1"=400'	