



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

July 7, 2003

Ordinance 14705

Proposed No. 2003-0182.2

Sponsors Sullivan

1 AN ORDINANCE authorizing the vacation of a portion of
2 SW 261st Street, File V-2454. Petitioners: Lise Ellner and
3 Tamalyn Nigretto.

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STATEMENT OF FACTS:

7

1. A petition has been filed requesting vacation of that portion of SW
8 261st Street hereinafter described.

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2. The department of transportation notified the various utility companies
10 serving the area and has been advised that utility easements were not
11 required within the vacation area.

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3. The department of transportation records indicates that King County
13 has not been maintaining SW 261st Street. The records indicate that no
14 public funds have been expended for its acquisition.

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4. The department of transportation considers the subject portion of the
16 right-of-way useless as part of the county road system and believes the

16

17 public would benefit by the return of this unused area to the public tax
18 rolls provided a drainage easement is reserved.

19 5. A drainage easement for stormwater facilities in the SW 261st Street
20 right-of-way was acquired by King County and filed under recording
21 20030109002041 as described in Attachment A to this ordinance.

22 6. An access easement across the petitioner's property for access to
23 stormwater drainage facilities for maintenance purposes was acquired by
24 King County and filed under recording 20030109002042 as described in
25 Attachment B to this ordinance

26 7. The right-of-way is classified as "C-Class" and, in accordance with
27 K.C.C. 14.40.020, the compensation due King County is based on percent
28 of the assessed value of the subject right-of-way which was determined
29 from records of the department of assessments. King County has agreed
30 to waive the compensation in exchange for the access and drainage
31 easements.

32 Due notice was given in the manner provided by law and a hearing was
33 held by the office of the hearing examiner on the 4 day of June, 2003.

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

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

38 SECTION 1. The council, on the 7th day of July, 2003, hereby vacates and
39 abandons that portion of SW 261st Street as conveyed to King County in the Martinolich

40 Martinolich Addition to Dockton as recorded in Volume 22 of Plats, Page 74, records of
41 King County, Washington described as follows:

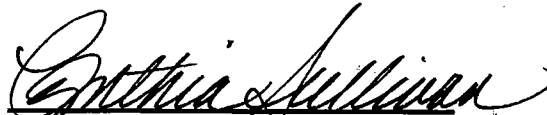
42 A portion of Government Lot 2 in Section 30, Township 22
43 North, Range 3 East, W.M., King County Washington,
44 described as follows: That portion of the 30 foot wide SW
45 261st Street right-of-way adjacent to Lots 13, 14, 15 and 16

46 of Martinolich Addition to Dockton as recorded in Volume
47 22 of Plats, Page 74, records of King County, Washington.
48

Ordinance 14705 was introduced on 4/28/2003 and passed by the Metropolitan King County Council on 7/7/2003, by the following vote:

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

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Cynthia Sullivan, Chair

ATTEST:



Anne Noris, Clerk of the Council

APPROVED this 17 day of July, 2003.


Ron Sims, County Executive

RECEIVED
2003 JUL 17 PM 3:49
KING COUNTY COUNCIL CLERK

Attachments A. Drainage Access Easement, B. Drainage Easement, C. Hearing Examiner Report dated June 11, 2003

14705

Attachment "A"

2003.182

FILE FOR RECORD AT THE REQUEST OF

Riley James Evans

CONFORMED COPY

After Recording Return To:
ADM-ES-0500
King County Property Services Division
500 Fourth Avenue, Room 500A
Seattle, WA 98104

20030109002042

KING COUNTY EAS 0.00
PAGE 001 OF 002
01/09/2003 13:12
KING COUNTY, WA

DRAINAGE ACCESS EASEMENT

Reference No:
Grantor: Lise Ellner and Tamalyn A. Nigretto
Grantee: King County
Legal Des: Lots 13 through 16 of Martinolich Addition to Dockton
Tax Act: 517920006502

This easement made this 23rd day of December, 2002, between
LISE ELLNER, a single person and TAMALYN A. NIGRETTO, a single person, hereinafter called the Grantor,
to **KING COUNTY, a political subdivision of the State of Washington, hereinafter called the Grantee.**

WITNESSETH

That Grantor(s), in consideration of MUTUAL BENEFITS, do hereby remise, release, and forever quit claim unto the Grantee, its successors and assigns, an easement described below for the purposes hereinafter stated over, through, under, along, and across that certain parcel of land, portions acquired through King County Road Vacation File V-2454, situated in King County, Washington, described as follows:

The South 15 feet of the West 215 feet of Lots 13 through 16 of Martinolich Addition to Dockton, Volume 22 of Plats, Page 74, records of King County, Washington;
TOGETHER WITH that portion of the 30 foot wide SW 261st Street right-of-way adjacent to Lots 13 through 16 of said Martinolich Addition North of the following described area:

A 15 foot wide strip of land being 7.5 feet on either side of the following described centerline:
Beginning at the intersection of the southern extension of the west line of Lot 13 of said Martinolich Addition with the north line of the south 10 feet of the SW 261st Street right-of-way,
Thence N 87° 35' E for a distance of 215 feet, more or less to a point 10 feet south of the north line of the SW 261st Street right-of-way,
Thence S 89° 45' E 45 feet, more or less, to the extension of the east line of Lot 16 of said Martinolich Addition.

14705

IT IS MUTUALLY AGREED AND UNDERSTOOD that this Easement has been conveyed and accepted for ingress and egress for the purposes of inspecting, operating, maintaining, repairing and improving the drainage facilities located in the following described Easement:

A 15 foot wide strip of land being 7.5 feet on either side of the following described centerline:
Beginning at the intersection of the southern extension of the west line of Lot 13 of Martinolich Addition to Dockton as recorded in Volume 22 of Plats, Page 74, records of King County, Washington with the north line of the south 10 feet of the SW 261st Street right-of-way;
Thence N 87° 35' E for a distance of 215 feet, more or less to a point 10 feet south of the north line of the SW 261st Street right-of-way,
Thence S 89° 45' E 45 feet, more or less, to the extension of the east line of Lot 16 of said Martinolich Addition.

Note that except for facilities which have been formally accepted for maintenance by King County, maintenance of drainage facilities on private property is the responsibility of the property owner.

This easement is intended to facilitate reasonable access to said drainage facilities. Grantee shall have unlimited access for emergency situations where private property is threatened as determined by Grantee, and shall have access for routine maintenance and construction contingent on providing Grantor forty-eight (48) hours advance notice of its intent to enter premises. Grantee may remove vegetation as deemed necessary by the Grantee for the purposes of accessing drainage facilities.

It is binding upon the GRANTOR(s), its heirs, successors and assigns.

IN WITNESS WHEREOF, the said Grantor, has hereunto set his hand and seal the day and year first above written.

GRANTOR:

LISE

GRANTOR:

TAMALYN

STATE OF WASHINGTON)

COUNTY OF KING)

)ss

On this day 23rd of December, 2002, before me personally appeared

LISE ELLNER & TAMALYN ANGRETT

to me known to be the individual(s) described in and who executed the foregoing instrument, and acknowledged that SHE / THEY signed and sealed the same as REV / THEIR free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.

Mary P. Kelimarin
NOTARY PUBLIC in and for the State of Washington, residing at:

Bellevue, WA

My appointment expires:

11/03/04

14705

2003.182

Filed For Record At Request Of

Riley Anne Edmons

CONFORMED COPY

AFTER RECORDING RETURN TO:

ADM-ES-0500

King County Property Services Division

500 Fourth Avenue, Room 500A

Seattle, WA 98104

20030109002041

KING COUNTY EAS
PAGE 001 OF 002
01/09/2003 13:12
KING COUNTY, WA

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DRAINAGE EASEMENT

Reference:

Grantor: Lise Ellner and Tamalyn A. Nigretto

Grantee: King County

Legal Des: Lots 13 through 16 of Martinolich Addition to Dockton

Tax Account: 517920006502

THIS EASEMENT granted by LISE ELLNER, a single person and TAMALYN A. NIGRETTO, a single person, hereinafter called the Grantor, to KING COUNTY, a political subdivision of the State of Washington, hereinafter called the Grantee.

WITNESSETH:

WHEREAS, the Grantor herein is the owner of that certain parcel of land, acquired through King County Road Vacation File V-2454, described as follows:

A portion of Government Lot 2 in Section 30, Township 22 North, Range 3 East, W.M., King County Washington, described as follows: That portion of the 30 foot wide SW 261st Street right-of-way adjacent to Lots 13, 14, 15, 16 Martinolich Addition to Dockton as recorded in Volume 22 of Plats, Page 74, records of King County, Washington.

WHEREAS, it has been found necessary in the vacating of this roadway to reserve unto King County certain access rights to drainage facilities on said property of Grantor,

The said Grantor, for and in consideration MUTUAL BENEFITS do by these presents grant, bargain, sell, convey, and confirm unto the said Grantee, its successors and assigns, a perpetual easement to construct, reconstruct, operate, and maintain drainage facilities, situated in King County, Washington, being more particularly described as follows:

A 15 foot wide strip of land being 7.5 feet on either side of the following described centerline:
Beginning at the intersection of the southern extension of the west line of Lot 13 of Martinolich Addition to Dockton as recorded in Volume 22 of Plats, Page 74, records of King County, Washington with the north line of the south 10 feet of the SW 261st Street right-of-way;
Thence N 87° 35' E for a distance of 215 feet, more or less to a point 10 feet south of the north line of the SW 261st Street right-of-way,
Thence S 89° 45' E 45 feet, more or less, to the extension of the east line of Lot 16 of said Martinolich Addition.

Contains an area of 3900 square feet, more or less.

14705

NOW THEREFORE, said Grantee, its successors and assigns, shall have the right at such time as may be necessary to enter upon said property for the purposes of constructing, reconstructing, maintaining, and repairing said drainage facility. Grantee shall have unlimited access for emergency situations where private property is threatened as determined by Grantee, and shall have access for routine maintenance and construction contingent on providing Grantor forty-eight (48) hours advance notice of its intent to enter premises. The rights, conditions, and provisions of this agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties, and is conveyed as to the same extent and purposes as if the rights herein granted had been acquired by condemnation proceedings under Eminent Domain statutes of the State of Washington.

IN WITNESS WHEREOF, the Grantor has hereunto signed his name this 23rd day of December 2002.

GRANTOR: [Signature] GRANTOR: [Signature]

STATE OF WASHINGTON)
COUNTY OF KING)s

On this day 23rd of December, 2002, before me personally appeared

Lise Ellner & TAMALYN A. NIGRETTO

to me known to be the individual(s) described in and who executed the foregoing instrument, and acknowledged that she/they signed and sealed the same as her/their free and voluntary act and deed, for the uses and purposes therein mentioned.

Dated December 23, 2002 Mary P. Kilman

NOTARY PUBLIC in and for the State of Washington
residing at Bellevue, WA
My appointment expires 11/02/04

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
850 Union Bank of California Building
900 Fourth Avenue
Seattle, Washington 98164
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-2454**
Proposed Ordinance No. **2003-0182**

LISE ELLNER AND TAMALYN NIGRETTO
Road Vacation Petition

Location: Portion of SW 261st St. east of 101st Place SW

Applicant: **Lise Ellner and Tamalyn Nigretto**
26014 – 101st Place West
Vashon Island, WA 98070
Telephone: (206) 463-6758

King County: Department of Transportation,
Road Services Division, *represented by*
Jodi Simmons
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-2454 was received by the Examiner on May 5, 2003.

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-2454 was opened by the Examiner at 1:31 p.m. on June 4, 2003, in the Union Bank of California fifth-floor conference room, 900 4th Avenue, Seattle, Washington, and closed at 2:30 p.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 SW 261 st St. east of 101 st Place SW Thomas Bros. pg. 713, F3
Right of way classification:	“C”
Area:	7800 square feet
Compensation:	\$0.00 (\$10,247.86 waived)

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 June 4, 2003, public hearing and the statement of facts contained in Proposed Ordinance no. 2003-0182. 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. Lise Ellner and Tamalyn Nigretto have petitioned to vacate a 30 by 260 foot section of Southwest 261st Street which lies along the southern boundary of their property. The roadway has never been opened or constructed. A County drainage facility, however, was constructed in 1993 along the eastern portion of the right-of-way to resolve a regional flooding problem. Since construction this facility no serious drainage problems have been encountered in this location.
5. Except for the drainage facility, the right-of-way for Southwest 261st Street is undeveloped. Photographs show that it is heavily vegetated, mostly with alder, blackberry and a variety of ferns and other shrubs. Through an informal agreement, access to the drainage facility has been provided to King County by the Petitioners via their driveway that runs parallel to the north side of the Southwest 261st Street right-of-way. As part of their application, the Petitioners have granted easements to the County for the drainage facility within the right-of-way and for continued access over their private driveway. Since the value of these easements exceeds the compensation required under the ordinance for the vacation, staff has recommended that all compensation be waived. The Petitioners have no plan for the vacation area except to maintain it in native vegetation.
6. This petition has encountered some spirited opposition from neighborhood residents, particularly Mr. Allen Watts who resides adjacent to the Petitioners to their north. Mr. Watts' first objection to the petition was that he did not receive a mailed notice of hearing and the posted notices at the

road termini were in obscure locations. While there can be little doubt that the eastern terminus posting is in an obscure location due to the lack of development in the immediate vicinity, the western terminus notice appears from the photographs submitted to be clearly visible from 101st Place Southwest. The notices meet the legal requirements stated at RCW 36.87.050, and Mr. Watts received actual notice of the hearing.

7. Mr. Watts' second objection was that vacation of this section of Southwest 261st Street would deprive the neighborhood of potential future parking spaces. A great deal of energy was expended by both Mr. Watts and the Petitioners in describing the present parking situation on 101st Place Southwest and around the corner to the north on Southwest 260th Place. Each party pointed the finger of blame at the other for eliminating parking spaces by encroaching on the public right-of-way. There was no evidence, however, that Southwest 261st Street itself was ever used for public parking or, given its topography and primary use as a drainage corridor, that paving the roadway for parking would be a viable option. Moreover, there was no suggestion that parking availability in the neighborhood becomes a serious issue except on a few summer weekends when two or three waterfront parcels to the west host large parties.
8. Without speculating on the ultimate merits of this neighborhood dispute, it is clear that elimination of future parking potential is not a relevant review standard within a road vacation proceeding. Pursuant to RCW 36.87.060, a County road is to be vacated if it is no longer "useful as a part of the County road system." This standard relates to the roadway's public use as a transportation corridor, not as a parking lot. No property owners use Southwest 261st Street for access to their parcels. Its development is not necessary for neighborhood circulation, and no one has suggested that any properties will be landlocked by the vacation of the petition area.
9. Finally, Mr. Watts argued that the vacation should be denied in order not to preclude members of the public from maintaining the drainage facilities within the right-of-way during an emergency. This argument also appears to be without merit. First, due to the heavy vegetation growth, there is no practical access to the drainage facilities now via the Southwest 261st Street right-of-way. Since the 1993 improvements were installed, all maintenance access has been off-site over the Petitioners' driveway. Second, the drainage facilities are owned and maintained by King County, and there is no general public right to access them. Adequate access has been provided by the Petitioners to the County, which should be regarded as satisfying any maintenance requirement. Further, since 1993 emergency maintenance of the facilities has not been an actual necessity.

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 normally required for vacation of the right-of-way should be waived in this instance due to the substantial public benefit that King County will receive in the form of the easements granted by the Petitioners.

RECOMMENDATION:

APPROVE proposed Ordinance no. 2003-0182 to vacate the subject road.

RECOMMENDED this 11th day of June, 2003.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 11th day of June, 2003, to the following parties and interested persons:

CenturyTel	Allen & Muriel Watts	Kristen Langley
Terry Davis	Greg Borba	Roderick E. Matsuno
Dockton Water Association	Curt Crawford	Paulette Norman
Gail Dunham	Neil DeGoojer	Robert Nunnenkamp
Gary Kawasaki	Pam Elardo	Lydia Reynolds-Jones
Lise Ellner & Tamalyn	Nancy Gordon	Gary Samek
Nigretto	Dennis Gorley	Charlie Sundberg
Kitty Ogg	David Gualtieri	Caroline Thompson
Jodi Simmons		

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 June 25, 2003*. 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 July 2, 2003*.

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.

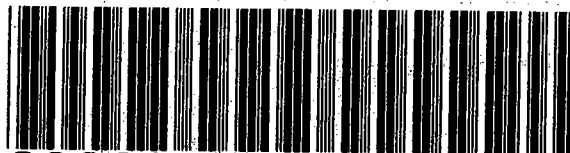
MINUTES OF THE JUNE 4, 2003 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. V-2454

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Jodi Simmons and Lydia Reynolds-Jones, representing the Department; and Lise Ellner, Petitioner; and Allen Watts and Gail Dunham.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DOT Report to the Hearing Examiner dated June 4, 2003, with 17 attachments
- Exhibit No. 2 Petition transmittal letter dated 05/06/02 to Transportation Dept. from Clerk of the Council
- Exhibit No. 3 Letter of explanation dated 6/04/02 and Petition for Vacation of a County Road including legal description of Petitioner's property
- Exhibit No. 4 06/19/02 letter to Petitioner explaining road vacation process
- Exhibit No. 5 Copy of Filing Fee - Check #156 from Law Offices of Lise Ellner
- Exhibit No. 6 Vicinity Map
- Exhibit No. 7 Map depicting vacation area
- Exhibit No. 8 Drainage Easement – Recording #20030109002041
- Exhibit No. 9 Drainage Access Easement – Recording #20030109002042
- Exhibit No. 10 01/17/03 transmittal letter to Council providing recommendation of KCDOT and County Road Engineer to waive the required compensation
- Exhibit No. 11 Letter dated 01/17/03 to petitioners providing recommendation to vacate the subject right-of-way and waive the required compensation
- Exhibit No. 12 Ordinance transmittal letter dated 4/14/03 from King County Executive to Councilmember Cynthia Sullivan
- Exhibit No. 13 Proposed Ordinance 2003-0182 with attachments (easements)
- Exhibit No. 14 Notice of hearing from the Council Clerk dated 5/02/03
- Exhibit No. 15 Affidavit of May 2, 2003, posting for hearing
- Exhibit No. 16 Affidavit of Publication for date of hearing (*to be submitted post-hearing, upon receipt*)
- Exhibit No. 17 Memo from Allen J. Watts, faxed on 5/30/03
- Exhibit No. 18 Letter from Gary Kawasaki, faxed on 6/03/03
- Exhibit No. 19 Letter from Lise Ellner and Jim Moore, faxed on 6/03/03
- Exhibit No. 20A-S Photos (19) of subject area provided by Lise Ellner
- Exhibit No. 21 Polaroid photos (8) taken by Allen Watts with attached map and 6/4/03 letter to the Hearing Examiner
- Exhibit No. 22 Map of area subject property vicinity with handwritten notes and color-coding

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



20030723000008

KING COUNTY CORD 0.00
PAGE 001 OF 014
07/23/2003 08:58
KING COUNTY, WA
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 14705 AN ORDINANCE authorizing the vacation of SW 261st Street - File V-2454. Petitioners: Lise Ellner and Tamalyn Nigretto.**

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)

A portion of Government Lot 2 in Section 30, Township 22 North, Range 3 East, W.M., King County

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
2003 SEP 10 PM 12:51
CLERK
KING COUNTY COUNCIL



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

July 7, 2003

Ordinance 14705

Proposed No. 2003-0182.2

Sponsors Sullivan

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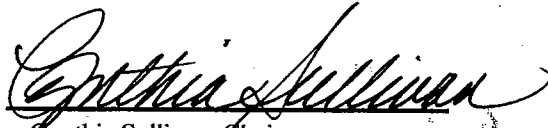
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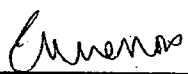
Ordinance 14705 was introduced on 4/28/2003 and passed by the Metropolitan King County Council on 7/7/2003, by the following vote:

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

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON


Cynthia Sullivan, Chair


ATTEST:



Anne Noris, Clerk of the Council

RECEIVED
2003 JUL 17 PM 3:49
KING COUNTY COUNCIL CLERK

APPROVED this 17 day of July, 2003.



Ron Sims, County Executive

Attachments A. Drainage Access Easement, B. Drainage Easement, C. Hearing Examiner Report dated June 11, 2003

14705

Attachment "A"

2003.182

FILE FOR RECORD AT THE REQUEST OF

Riley Ann Evans

CONFORMED COPY

After Recording Return To:
ADM-ES-0500
King County Property Services Division
500 Fourth Avenue, Room 500A
Seattle, WA 98104

20030109002042

KING COUNTY EAS 0.00
PAGE 001 OF 002
01/09/2003 13:12
KING COUNTY, WA

DRAINAGE ACCESS EASEMENT

Reference No:

Grantor: Lise Ellner and Tamalyn A. Nigretto
Grantee: King County
Legal Des: Lots 13 through 16 of Martinolich Addition to Dockton
Tax Act: 517920006502

This easement made this 23rd day of December, 2002, between
LISE ELLNER, a single person and TAMALYN A. NIGRETTO, a single person, hereinafter called the Grantor,
to **KING COUNTY, a political subdivision of the State of Washington**, hereinafter called the Grantee.

WITNESSETH

That Grantor(s), in consideration of MUTUAL BENEFITS, do hereby remise, release, and forever quit claim unto the Grantee, its successors and assigns, an easement described below for the purposes hereinafter stated over, through, under, along, and across that certain parcel of land, portions acquired through King County Road Vacation File V-2454, situated in King County, Washington, described as follows:

The South 15 feet of the West 215 feet of Lots 13 through 16 of Martinolich Addition to Dockton, Volume 22 of Plats, Page 74, records of King County, Washington;
TOGETHER WITH that portion of the 30 foot wide SW 261st Street right-of-way adjacent to Lots 13 through 16 of said Martinolich Addition North of the following described area:

A 15 foot wide strip of land being 7.5 feet on either side of the following described centerline:
Beginning at the intersection of the southern extension of the west line of Lot 13 of said Martinolich Addition with the north line of the south 10 feet of the SW 261st Street right-of-way,
Thence N 87° 35' E for a distance of 215 feet, more or less to a point 10 feet south of the north line of the SW 261st Street right-of-way,
Thence S 89° 45' E 45 feet, more or less, to the extension of the east line of Lot 16 of said Martinolich Addition.

14705

IT IS MUTUALLY AGREED AND UNDERSTOOD that this Easement has been conveyed and accepted for ingress and egress for the purposes of inspecting, operating, maintaining, repairing and improving the drainage facilities located in the following described Easement:

A 15 foot wide strip of land being 7.5 feet on either side of the following described centerline:
Beginning at the intersection of the southern extension of the west line of Lot 13 of Martinolich Addition to Dockton as recorded in Volume 22 of Plats, Page 74, records of King County, Washington with the north line of the south 10 feet of the SW 261st Street right-of-way;
Thence N 87° 35' E for a distance of 215 feet, more or less to a point 10 feet south of the north line of the SW 261st Street right-of-way;
Thence S 89° 45' E 45 feet, more or less, to the extension of the east line of Lot 16 of said Martinolich Addition.

Note that except for facilities which have been formally accepted for maintenance by King County, maintenance of drainage facilities on private property is the responsibility of the property owner.

This easement is intended to facilitate reasonable access to said drainage facilities. Grantee shall have unlimited access for emergency situations where private property is threatened as determined by Grantee, and shall have access for routine maintenance and construction contingent on providing Grantor forty-eight (48) hours advance notice of its intent to enter premises. Grantee may remove vegetation as deemed necessary by the Grantee for the purposes of accessing drainage facilities.

It is binding upon the GRANTOR(s), its heirs, successors and assigns.

IN WITNESS WHEREOF, the said Grantor, has hereunto set his hand and seal the day and year first above written.

GRANTOR: Lise Ellner

GRANTOR: Tamalyne Negretto

STATE OF WASHINGTON)
COUNTY OF KING)

On this day 23rd of December, 2002, before me personally appeared

Lise ELLNER & TAMALYN A NEGRETTO

to me known to be the individual(s) described in and who executed the foregoing instrument, and acknowledged that she / they signed and sealed the same as her / their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year last above written.

Mary L. Kelmar
NOTARY PUBLIC in and for the State of Washington, residing at:
Bellevue, WA

My appointment expires: 11/03/04

14705

2003.182

Filed For Record At Request Of

Riley Anne Edmons

CONFORMED COPY

AFTER RECORDING RETURN TO:

ADM-ES-0500

King County Property Services Division
500 Fourth Avenue, Room 500A
Seattle, WA 98104

20030109002041

KING COUNTY EAS
PAGE 001 OF 002
01/09/2003 13:12
KING COUNTY, WA

REC'D

DRAINAGE EASEMENT

Reference:

Grantor: Lise Ellner and Tamalyn A. Nigretto
Grantee: King County
Legal Des: Lots 13 through 16 of Martinolich Addition to Dockton
Tax Account: 517920006502

THIS EASEMENT granted by LISE ELLNER, a single person and TAMALYN A. NIGRETTO, a single person, hereinafter called the Grantor, to KING COUNTY, a political subdivision of the State of Washington, hereinafter called the Grantee.

WITNESSETH:

WHEREAS, the Grantor herein is the owner of that certain parcel of land, acquired through King County Road Vacation File V-2454, described as follows:

A portion of Government Lot 2 in Section 30, Township 22 North, Range 3 East, W.M., King County Washington, described as follows: That portion of the 30 foot wide SW 261st Street right-of-way adjacent to Lots 13, 14, 15, 16 Martinolich Addition to Dockton as recorded in Volume 22 of Plats, Page 74, records of King County, Washington.

WHEREAS, it has been found necessary in the vacating of this roadway to reserve unto King County certain access rights to drainage facilities on said property of Grantor,

The said Grantor, for and in consideration MUTUAL BENEFITS do by these presents grant, bargain, sell, convey, and confirm unto the said Grantee, its successors and assigns, a perpetual easement to construct, reconstruct, operate, and maintain drainage facilities, situated in King County, Washington, being more particularly described as follows:

A 15 foot wide strip of land being 7.5 feet on either side of the following described centerline:
Beginning at the intersection of the southern extension of the west line of Lot 13 of Martinolich Addition to Dockton as recorded in Volume 22 of Plats, Page 74, records of King County, Washington with the north line of the south 10 feet of the SW 261st Street right-of-way;
Thence N 87° 35' E for a distance of 215 feet, more or less to a point 10 feet south of the north line of the SW 261st Street right-of-way;
Thence S 89° 45' E 45 feet, more or less, to the extension of the east line of Lot 16 of said Martinolich Addition.

Contains an area of 3900 square feet, more or less.

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NOW THEREFORE, said Grantee, its successors and assigns, shall have the right at such time as may be necessary to enter upon said property for the purposes of constructing, reconstructing, maintaining, and repairing said drainage facility. Grantee shall have unlimited access for emergency situations where private property is threatened as determined by Grantee, and shall have access for routine maintenance and construction contingent on providing Grantor forty-eight (48) hours advance notice of its intent to enter premises. The rights, conditions, and provisions of this agreement shall inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties, and is conveyed as to the same extent and purposes as if the rights herein granted had been acquired by condemnation proceedings under Eminent Domain statutes of the State of Washington.

IN WITNESS WHEREOF, the Grantor has hereunto signed his name this 23rd day of December 2002.

GRANTOR: [Signature] GRANTOR: [Signature]

STATE OF WASHINGTON)
COUNTY OF KING)^s

On this day 23rd of December, 2002, before me personally appeared Lise Ellner & TAMALYN A. NIGRETTO to me known to be the individual(s) described in and who executed the foregoing instrument, and acknowledged that she/they signed and sealed the same as her/their free and voluntary act and deed, for the uses and purposes therein mentioned.

Dated December 23, 2002 Mary P. Klemann
NOTARY PUBLIC in and for the State of Washington
residing at Bellevue, WA
My appointment expires 11/02/04

14705
June 11, 2003

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
850 Union Bank of California Building
900 Fourth Avenue
Seattle, Washington 98164
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-2454
Proposed Ordinance No. 2003-0182

**LISE ELLNER AND TAMALYN NIGRETTO
Road Vacation Petition**

Location: Portion of SW 261st St. east of 101st Place SW

Applicant: **Lise Ellner and Tamalyn Nigretto**
26014 – 101st Place West
Vashon Island, WA 98070
Telephone: (206) 463-6758

King County: Department of Transportation,
Road Services Division, *represented by*
Jodi Simmons
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-2454 was received by the Examiner on May 5, 2003.

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-2454 was opened by the Examiner at 1:31 p.m. on June 4, 2003, in the Union Bank of California fifth-floor conference room, 900 4th Avenue, Seattle, Washington, and closed at 2:30 p.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 SW 261 st St. east of 101 st Place SW Thomas Bros. pg. 713, F3
Right of way classification:	“C”
Area:	7800 square feet
Compensation:	\$0.00 (\$10,247.86 waived)
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 June 4, 2003, public hearing and the statement of facts contained in Proposed Ordinance no. 2003-0182. 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. Lise Ellner and Tamalyn Nigretto have petitioned to vacate a 30 by 260 foot section of Southwest 261st Street which lies along the southern boundary of their property. The roadway has never been opened or constructed. A County drainage facility, however, was constructed in 1993 along the eastern portion of the right-of-way to resolve a regional flooding problem. Since construction this facility no serious drainage problems have been encountered in this location.
5. Except for the drainage facility, the right-of-way for Southwest 261st Street is undeveloped. Photographs show that it is heavily vegetated, mostly with alder, blackberry and a variety of ferns and other shrubs. Through an informal agreement, access to the drainage facility has been provided to King County by the Petitioners via their driveway that runs parallel to the north side of the Southwest 261st Street right-of-way. As part of their application, the Petitioners have granted easements to the County for the drainage facility within the right-of-way and for continued access over their private driveway. Since the value of these easements exceeds the compensation required under the ordinance for the vacation, staff has recommended that all compensation be waived. The Petitioners have no plan for the vacation area except to maintain it in native vegetation.
6. This petition has encountered some spirited opposition from neighborhood residents, particularly Mr. Allen Watts who resides adjacent to the Petitioners to their north. Mr. Watts' first objection to the petition was that he did not receive a mailed notice of hearing and the posted notices at the

road termini were in obscure locations. While there can be little doubt that the eastern terminus posting is in an obscure location due to the lack of development in the immediate vicinity, the western terminus notice appears from the photographs submitted to be clearly visible from 101st Place Southwest. The notices meet the legal requirements stated at RCW 36.87.050, and Mr. Watts received actual notice of the hearing.

7. Mr. Watts' second objection was that vacation of this section of Southwest 261st Street would deprive the neighborhood of potential future parking spaces. A great deal of energy was expended by both Mr. Watts and the Petitioners in describing the present parking situation on 101st Place Southwest and around the corner to the north on Southwest 260th Place. Each party pointed the finger of blame at the other for eliminating parking spaces by encroaching on the public right-of-way. There was no evidence, however, that Southwest 261st Street itself was ever used for public parking or, given its topography and primary use as a drainage corridor, that paving the roadway for parking would be a viable option. Moreover, there was no suggestion that parking availability in the neighborhood becomes a serious issue except on a few summer weekends when two or three waterfront parcels to the west host large parties.
8. Without speculating on the ultimate merits of this neighborhood dispute, it is clear that elimination of future parking potential is not a relevant review standard within a road vacation proceeding. Pursuant to RCW 36.87.060, a County road is to be vacated if it is no longer "useful as a part of the County road system." This standard relates to the roadway's public use as a transportation corridor, not as a parking lot. No property owners use Southwest 261st Street for access to their parcels. Its development is not necessary for neighborhood circulation, and no one has suggested that any properties will be landlocked by the vacation of the petition area.
9. Finally, Mr. Watts argued that the vacation should be denied in order not to preclude members of the public from maintaining the drainage facilities within the right-of-way during an emergency. This argument also appears to be without merit. First, due to the heavy vegetation growth, there is no practical access to the drainage facilities now via the Southwest 261st Street right-of-way. Since the 1993 improvements were installed, all maintenance access has been off-site over the Petitioners' driveway. Second, the drainage facilities are owned and maintained by King County, and there is no general public right to access them. Adequate access has been provided by the Petitioners to the County, which should be regarded as satisfying any maintenance requirement. Further, since 1993 emergency maintenance of the facilities has not been an actual necessity.

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 normally required for vacation of the right-of-way should be waived in this instance due to the substantial public benefit that King County will receive in the form of the easements granted by the Petitioners.

RECOMMENDATION:

APPROVE proposed Ordinance no. 2003-0182 to vacate the subject road.

RECOMMENDED this 11th day of June, 2003.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 11th day of June, 2003, to the following parties and interested persons:

CenturyTel	Allen & Muriel Watts	Kristen Langley
Terry Davis	Greg Borba	Roderick E. Matsuno
Dockton Water Association	Curt Crawford	Paulette Norman
Gail Dunham	Neil DeGoojer	Robert Nunnenkamp
Gary Kawasaki	Pam Elardo	Lydia Reynolds-Jones
Lise Ellner & Tamalyn	Nancy Gordon	Gary Samek
Nigretto	Dennis Gorley	Charlie Sundberg
Kitty Ogg	David Gualtieri	Caroline Thompson
Jodi Simmons		

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 June 25, 2003*. 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 July 2, 2003*.

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 JUNE 4, 2003 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. V-2454

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Jodi Simmons and Lydia Reynolds-Jones, representing the Department; and Lise Ellner, Petitioner; and Allen Watts and Gail Dunham.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DOT Report to the Hearing Examiner dated June 4, 2003, with 17 attachments
- Exhibit No. 2 Petition transmittal letter dated 05/06/02 to Transportation Dept. from Clerk of the Council
- Exhibit No. 3 Letter of explanation dated 6/04/02 and Petition for Vacation of a County Road including legal description of Petitioner's property
- Exhibit No. 4 06/19/02 letter to Petitioner explaining road vacation process
- Exhibit No. 5 Copy of Filing Fee - Check #156 from Law Offices of Lise Ellner
- Exhibit No. 6 Vicinity Map
- Exhibit No. 7 Map depicting vacation area
- Exhibit No. 8 Drainage Easement - Recording #20030109002041
- Exhibit No. 9 Drainage Access Easement - Recording #20030109002042
- Exhibit No. 10 01/17/03 transmittal letter to Council providing recommendation of KCDOT and County Road Engineer to waive the required compensation
- Exhibit No. 11 Letter dated 01/17/03 to petitioners providing recommendation to vacate the subject right-of-way and waive the required compensation
- Exhibit No. 12 Ordinance transmittal letter dated 4/14/03 from King County Executive to Councilmember Cynthia Sullivan
- Exhibit No. 13 Proposed Ordinance 2003-0182 with attachments (easements)
- Exhibit No. 14 Notice of hearing from the Council Clerk dated 5/02/03
- Exhibit No. 15 Affidavit of May 2, 2003, posting for hearing
- Exhibit No. 16 Affidavit of Publication for date of hearing (*to be submitted post-hearing, upon receipt*)
- Exhibit No. 17 Memo from Allen J. Watts, faxed on 5/30/03
- Exhibit No. 18 Letter from Gary Kawasaki, faxed on 6/03/03
- Exhibit No. 19 Letter from Lise Ellner and Jim Moore, faxed on 6/03/03
- Exhibit No. 20A-S Photos (19) of subject area provided by Lise Ellner
- Exhibit No. 21 Polaroid photos (8) taken by Allen Watts with attached map and 6/4/03 letter to the Hearing Examiner
- Exhibit No. 22 Map of area subject property vicinity with handwritten notes and color-coding