

**DEPARTMENT OF LOCAL SERVICES
ROAD SERVICES DIVISION
REPORT TO THE HEARING EXAMINER**

PUBLIC HEARING: February 11, 2021 at 10:00 am or shortly thereafter

**Telephonic hearing by the King County Hearing Examiner’s Office
Seattle, WA 98104**

January 27, 2021

PETITION TO VACATE: Unnamed Road Right-of-Way in the Plat of Rosehilla Beach

Transportation File: V-2728

Proposed Ordinance: 2020-0293

A. GENERAL INFORMATION

Petitioner(s): John Franzel

Location of Road: Unnamed Road Right-of-Way in the Plat of Rosehilla Beach
Maury Island
Thomas Brothers Page 713
Quarter Section – SW-31-22-3

Adjacent Parcels: 7427600190

B. HISTORY AND OVERVIEW

R.C.W. 36.87 establishes the right of property owners to petition a county legislative body for the vacation of road rights-of-way. K.C.C. 14.40 establishes King County policies and procedures for accomplishing same.

The petition was filed on May 26, 2019, with the Clerk of the King County Council, seeking the vacation of a portion of Unnamed Road Right-of-Way in the Plat of Rosehilla Beach on Maury Island, unincorporated King County.

The petition requests the vacation of a portion of platted right-of-way as shown on the plat of Rosehilla, as per plat recorded in Volume 20 of Plats on page 9, Records of King County, Washington described as follows: Beginning at the southeast corner of Lot 2, Block 2 of said plat, thence S 55 25'55" W along the southeasterly line of said Lot 2, 137.22 feet to the west line of said

Exhibit no.	1
Case name	John Franzel
Case number	V-2728
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platted right-of-way; thence N 00 28'25" W along said west line 244.79 feet to a point on a projection of the southwesterly line of Piner Road as shown on said Plat; thence S 34 34'05" E along said southwesterly line 202.72 feet to the true point of beginning, EXCEPT Lots 1 and 2, Block 2 of said plat of Rosehilla. King County, Washington. See Exhibit 3.

The subject area appears on Thomas Brothers page 713 adjacent to Petitioner's property, parcel 7427600190. See Exhibit Map, Exhibit 5.

The Department of Local Services, Road Services Division (Roads) reviewed the petition and determined that the subject right-of-way is unopened and unmaintained right-of-way dedicated in the 1911 Plat of Rosehilla Beach. As platted, the right-of-way runs from Manzanita Beach Road to the Puget Sound.

A house and deck are constructed within a portion of the platted right-of-way within Petitioner's property. See Exhibits 17 and 18. However, the vacation of this right-of-way is prohibited under RCW 36.87.130.

RCW 36.87.130 provides in full:

No county shall vacate a county road or part thereof which abuts on a body of salt or freshwater unless:

(1) The purpose of the vacation is to enable any public authority to acquire the vacated property for port purposes, boat moorage or launching sites, or for park, viewpoint, recreational, educational, or other public purposes;

(2) The property is zoned for industrial uses; or

(3) In a county west of the crest of the Cascade mountains and bordered by the Columbia river with a population over four hundred fifty thousand, the county determines that:

(a) The road has been used as an access point to trespass onto private property;

(b) Such trespass has caused loss of human life, and that public use of the county road creates an ongoing risk to public safety; and

(c) Public access to the same body of water abutting the county road is available at not less than three public access sites within two miles in any direction of the terminus of the road subject to vacation.

The subject platted right-of-way abuts on the Puget Sound. A county road abuts on a body of salt or fresh water if it touches or encroaches upon the line of ordinary high tide or high water. AGO 1970 No. 26. The Petitioner's property, as legally described, extends to the line of ordinary high water. See Exhibits 17, 18 and 19. As shown in the surveys of this area, the subject platted right-of-way touches upon the line of high tide or line of high water. As Petitioner's property does not meet any of the statutory exceptions, this right-of-way cannot be vacated.

The County Road Engineer concludes that the subject portion of right-of-way is useless to the county transportation system, however the subject right-of-way abuts on a body of saltwater and cannot be vacated pursuant to RCW 36.87.130. Therefore, it is the recommendation of the County

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Road Engineer and Director of Road Services that petition V-2728 seeking to vacate a portion of the Unnamed road of Rosehilla Beach Plat be denied. See County Road Engineer's Report, Exhibit 12.

C. NOTICE

Notice of this hearing was posted at both ends of the proposed vacation area on January 20, 2021, see Exhibit #16, and published in accordance with requirements of RCW 36.87.060. Additionally, as required under KCC 14.40.015.C, copies of the County Road Engineer's Report and a notice of hearing were sent to the two abutting property owners, Gretchen Van Dyke and Michael Hanson and Patricia VanDerBroek. Exhibits 20 and 21.

D. REVIEWING AGENCIES AND COMMENTS

Roads circulated the request for vacation, soliciting comments from agencies within King County and utilities serving the area. The responses received are listed below. If the vacation is approved, King County Road Services Division will need to preserve an easement for existing drainage infrastructure within the subject right-of-way. No other county division or utility requested easements or identified a reason why the vacation petition should not be approved.

Roads did not receive responses from Vashon Island Fire and Rescue, Comcast or Frontier or the following King County agencies: Department of Executive Services, Real Estate Services Division; Department of Natural Resources and Parks, Open Space and Water and Land Divisions; Department of Local Services Road Services Division Environmental Engineering Section; and Executive Services, Historical Preservation. A copy of the Final Notice is included as Exhibit #8.

ATTACHMENTS	AGENCY	COMMENT
1.	Puget Sound Energy	Response dated 7/16/2019. Puget Sound Energy has no facilities in the proposed vacation area. No objection to vacation.
2.	Wave	Response dated 8/6/2019. Wave has no facilities within the indicated vicinity.
3.	DLS Permitting	Response dated 9/14/2019. No objection, provided access maintained to adjacent parcels.
4.	DNRP- Parks Div.	Response dated 6/20/2019. Parks has no objections to this request.
5.	DNRP - Wastewater	Response dated 6/20/2019. There does not appear to be any WTD facilities in this area. Proceed with vacation.
6.	DLS ROADS- CIP & Planning Section	Response dated 6/20/2019. We have no long range transportation planning concerns with this road vacation.

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7.	DLS ROADS- Roads Maintenance	Response dated 6/21/2019. The subject right-of-way is unopened and unimproved and, the Road Maintenance section has no plans to open/improve/maintain it in the future. Additionally, the petitioner’s house appears to be in the middle of the ROW, rendering it “unopen” for public access. Therefore, Road Maintenance has no concerns regarding this request.
8.	DLS ROADS- Traffic Engineering	Response dated 6/21/2019. KCDLS, Roads Division, Road and Traffic Engineering would have no objection to this road vacation.
9.	Metro Transit	Response dated 8/12/2019. Metro has comment or interest in this vacation.
10.	DLS ROADS Survey Unit	Response dated 7/2/2019. R/W is unbuildable due to steep slope 50’ high. R/W should be retained for public access to beach – maybe with stairway. The petition must be denied on statutory basis.
11.	DLS ROADS Drainage	Responses dated 7/5/2019. Drainage system currently uses this right of way to carry runoff from Manzanita Beach Road to the Sound. Easements needed if the vacation is approved. Recommend the County does not vacate.

E. OTHER COMMENTS

Roads has received comment from members of the public. The emails received are attached as Exhibits 22 and 23.

F. COMPENSATION

Utilizing the model prepared by King County Office of Performance, Strategy and Budget (PSB), Roads obtained from the Assessor’s Office a determination of value for the vacation area that will attach to the property owned by Petitioner. See Exhibit #9.

Should the petition be approved, Petitioner’s parcel 7427600190 will receive approximately 9,512 square feet. The Assessor’s Office determined that the addition of the 9,512 square feet would result in a \$12,000 increase in value. The result under the PSB model for this section of unopened and unmaintained County right-of-way is a charge of \$7,668.

The full PSB model spreadsheet as applied to this parcel is attached at Exhibit #10.

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G. COUNTY ROAD ENGINEER RECOMMENDATION

The County Road Engineer has determined that the subject portion of right-of-way is useless to the county transportation system but, recommends that the petition be denied pursuant to RCW 36.87.130 prohibiting vacation of right-of-way abutting bodies of water.

Further, should the vacation be approved, it is the recommendation of the County Road Engineer and the Director of Road Services that the compensation of \$7,668 as calculated under the PSB compensation model be required as a condition of final approval of this vacation petition as well as an easement for drainage in favor of King County. The full County Road Engineer's Report is attached as Exhibit 12.

H. EXHIBITS

Exhibit #	DESCRIPTION
1.	DLS Roads Report to the Hearing Examiner January 21, 202 with 11 Attachments and 24 Exhibits.
2.	Petition transmittal letter dated May 28, 2019 to the County Road Engineer from the Clerk of Council.
3.	Petition for Vacation of a County Road. Received May 28, 2019.
4.	Letter to Petitioners dated June 4, 2019 acknowledging receipt of Petition.
5.	Exhibit map depicting vacation area.
6.	King County Assessor's information for Petitioner's property, APN 7427600190
7.	Plat of Rosehilla Beach
8.	Copy of final notice sent to stakeholders on August 6, 2019 with vicinity map and site map showing vacation area
9.	Email exchange with Assessor's Office regarding valuation of vacation area.
10.	Compensation calculation model spreadsheet for Petitioner's property, APN 742760-0190.
11.	Letter to Petitioners dated March 13, 2020, with a copy of the County Road Engineer's report.
12.	County Road Engineer's Report
13.	Ordinance transmittal letter dated August 27, 2020 from King County Executive to Councilmember Claudia Balducci
14.	Proposed Ordinance
15.	Fiscal Note.
16.	Declaration of Posting
17.	Survey recorded in 1981 showing property and plated Unnamed Road Plat of Rosehilla Beach
18.	Survey of Petitioner's property recorded in 2006
19.	Deed vesting ownership in Petitioner John Franzel

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20.	Letter to abutting property owner Patricia VanDenBroek sent with a copy of the Notice of Hearing and County Road Engineer's Report
21.	Letter to abutting property owners Gretchen Van Dyke and Michael Hanson sent with a copy of the with Notice of Hearing and County Road Engineer's Report
22.	Email comment from neighboring property owner Michael Hanson
23.	Email comment from neighboring property owner Patricia VanDenBroek
24.	Affidavit of Publication for date of hearing – to be supplied by Clerk of the Council.

I. ISSUES:

Exhibit #24, Affidavit of Publication, is typically received either on the day of the hearing or shortly thereafter. The Clerk of Council will forward a copy of the affidavit to both the Examiner's Office and Road Services Division when they receive it.

Mailing List Road Vacation File V-2728

Petitioner

John R. Franzel
7524 SW Maury Park Rd
Vashon Island, WA 98070
(425) 628-3260

Site address

28501 Manzanita Beach Rd
Vashon Island, WA 98070
APN: 7427600190

Stakeholders

Puget Sound Energy
P.O. Box 97034
MS : EST-06W (AEM)
Bellevue, WA 98009
Rightofway@pse.com
(425) 462-3436

Wave Broadband
Jim Biggs
JBiggs@wavebraodband.com

Clerk of the Council
MS - KCC-CC-1200

King County DLS - Road Services Division
MS – KSC-LS-0313
Attn: JoAnn Kosai-Eng, P. E., County
Road Engineer
(206) 477-2609
Joann.Kosai-Eng@kingcounty.gov

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King County DNRP - Parks and Recreation
Division - MS - KSC-NR-0700
Attn: Robert Nunnenkamp, Property Agent
III
Capital Planning and Land Management
Phone: (206) 477-4581
Robert.Nunnenkamp@kingcounty.gov

King County DES – Facilities
Management Division
MS - ADM-ES-0830
Attn: Michael Kulish, Supervisor
Real Estate Services Section
(206) 477-9375
Michael.Kulish@kingcounty.gov

King County DNRP - Wastewater
Treatment Division - MS - KSC-NR-0512
Attn: Trevor Carr, Real Property Agent III
Environmental and Community Services
Regulatory Compliance & Land
Acquisition Services
(206) 477-5452
Trevor.Carr@kingcounty.gov

King County DNRP - Water & Land
Resources Division - MS - KSC-NR-0600
Attn: Robert Jackson, Title & Escrow
Officer
Rural and Regional Services Section
Open Space Acquisitions
(206) 477-4604
Robert.Jackson@kingcounty.gov

King County DLS - Road Services
Division - MS – RSD-LS-0100
Attn.: Tony Ledbetter
Operations Manager
(206) 477-2411
Tony.Ledbetter@kingcounty.gov

King County DLS - Road Services Division
MS – KSC-LS-0313
Attn: Leslie Drake, Road Property Program
Manager
(206) 477-7764
Leslie.Drake@kingcounty.gov

King County DLS - Road Services Division
MS – KSC-LS-0313
Attn: Cindy Torkelson, Program Manager
II
Strategic Business Operations Section
(206) 477-3638
Cindy.Torkelson@kingcounty.gov

King County DNRP - Water & Land
Resources Division - MS - KSC-NR-0600
Attn: Andrew McDonald, Engineer III
Storm Water Services
Asset Management Unit
(206) 477-4768
Andrew.Mcdonald@kingcounty.gov

King County DLS - Road Services
Division MS - KSC-LS-0313
Attn.: Jose Carrasquero, Environmental
Scientist
Environmental Unit
(206) 477-4538
jcarrasquero@kingcounty.gov

King County DLS - Road Services
Division -MS - KSC-LS-0313
Attn.: Jim Ishimaru, Transportation
Planner III
Policy, Planning & Grant Administration
(206) 477-3623
Jim.Ishimaru@kingcounty.gov

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King County Metro Transit
MS - KSC-TR-0431
Attn: Dawn Miles, Real Property Agent II
Real Estate/Land Use/ Environmental
Planning
Phone: (206) 477-5925
dmiles@kingcounty.gov

King County DLS - Road Services
Division - MS – KSC-LS-0313
Attn: Robert Eichelsdoerfer, Engineer III
Engineering Services Section
Road Design & Traffic Engineering
(206) 477-3652
Robert.Eichelsdoerfer@kingcounty.gov

King County DLS-Permitting
MS – SNO-DP-0210
Attn: Kim Claussen, Program Manager III
Current Planning Section
(206) 477-0329
Kim.Claussen@kingcounty.gov

King County DNRP
MS – KSC-NR-0700
Attn: Scott Todd, Preservation Planner
Historic Preservation Program
(206) 477-4545
Todd.scott@kingcounty.gov

King County DLS - Road Services
Division - MS – KSC-LS-0313
Attn: Jon Cassidy
Maintenance Engineering Manager
(206) 477-2588
Jon.Cassidy@kingcounty.gov

King County DLS - Road Services
Division - MS – KSC-LS-0313
Attn: Tom Minichillo, PPM IV
Engineering Services Section
(206) 477-3550
Tom.Minichillo@kingcounty.gov

Neighboring Property Owners

Gretchen Van Dyke
Michael Hanson
zonogua@gmail.com
snihanpa@gmail.com

Patricia VanDenBroek
PattyVashon@gmail.com

END OF MAILING LIST

End of Report to the Hearing Examiner

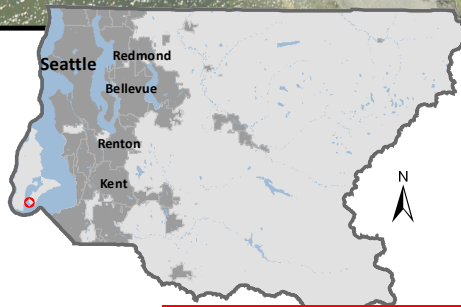
PROPOSED RIGHT-OF-WAY VACATION V-2728






Vacation File: V-2728

Manzanita Beach Rd SW
SW 31-22-03

ROW Area: Approx. 9512 SF
or 0.22 Acres



-  Road Vacation Approved
-  Road Vacation Pending
-  Petitioner Parcel
-  Parcels
-  Roadlog - Unincorporated, Maintained Streets
-  King County Right of Way

0 60 120 Feet

EXHIBIT 5



Exhibit no.	5
Case name	John Franzel
Case number	V-2728
Date received	2/11/2021
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FOR INFO