

DEPARTMENT OF TRANSPORTATION
ROAD SERVICES DIVISION
COUNTY ROAD ENGINEER REPORT ON VACATION PETITION V-2684

June 12, 2017

Petition to Vacate: 166th Avenue SE (Kendall Avenue)

Vacation File: V-2684

Petitioner: Michael L. Creighton and Valerie J. Creighton

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

Petitioner, Michael L. Creighton and Valerie J. Creighton submitted a petition for the vacation of a portion of 166th Avenue SE (Kendall Avenue) as abuts their property in the May Valley/Coalfield 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 through plat dedication with the recording of the May Valley Division No. 1 Plat as recorded in Volume 21 of Plats, page 6, records of King County, Washington.

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. In addition to the petitioners, Michael and Valerie Creighton, the petition is signed by three property owners. Together the signing property owners own a majority of the frontage of the right-of-way to be vacated.

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 dedicated to the County as part of the 1913 May Valley Division No. 1 Plat as recorded in Volume 21 of Plats, page 6, records of King County and has remained as an unopened unmaintained right-of-way.

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. Petitioner's property and those adjacent all gain access from alternative public and private roads. The northern portion of this unopened right-of-way was vacated in 1987, King County Ordinance 8237, Vacation file V-1396.

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 - The petitioner's property and that immediately surrounding the subject right-of-way is currently zoned RA 5. 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 averaged assessed value on a square footage basis for the properties surrounding the subject right-of-way of similar size and use is approximately \$1.23 per square foot. Nearby properties currently utilized as a mobile home park, a church or residential use but of a much smaller lot size were not used in comparison or calculation of the average assessed value. Application of this average assessed value of \$1.23 per square foot to the 13,089 square feet of vacation area results in a value of \$16,099.47.

However, when looking at the average assessed values for parcels, consideration should be given to the fact that as a stand-alone strip of land containing approximately 13,089 square feet in an area zoned RA5, the vacation area would not be usable as a building lot. Additionally, by adding the vacation area to the petitioners' 3.35 acre property, the petitioners do not gain sufficient land to make their lot divisible. Furthermore, the topography of the area is such that the right-of-way is along steep slopes with risk of erosion. Therefore, the valuation of \$1.23 per square foot is not considered 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 the additional tax revenue as full compensation for the proposed vacation and waiver of any payment by Petitioners. In reaching this recommendation, the following factors have been considered:

- This right-of-way was acquired by plat and no public funds were used for its acquisition;
- 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 steep slopes and erosion risk making it less suitable for use as a road;
- Upon vacation of this section of unopened, unimproved and unmaintained right-of-way the County shall receive monetary benefit as the 13,089 square feet of vacation area taxed is added to the property tax rolls¹;

¹ For 2016 the Petitioners' land was taxed at approximately \$.0155 per square foot. Applied to the vacation area of 13,089 square feet, the Petitioners' could have been assessed an additional \$203 in property taxes and assessments for 2016 if the vacation area were included in the taxed parcel.

- 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 remaining open claims.

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/or 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 Petitioners' 3.35 acre RA 5 zoned property does not change the use or potential division of the property. The property is currently occupied by and used as a single family residence. The subject area is rather steeply sloped and 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 - No utilities have been identified within the subject right-of-way and no access or utility easements are required or requested in conjunction with this vacation.

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 - The following are owners of property abutting the county right-of-way and portion thereof proposed for vacation and are not petitioners to this vacation petition:

William Briere
1944 Duvall Ave NE
Renton, WA 98059

Todd Williamson
16704 SE 120th St
Renton, WA 98059

William R. Schaefer
11829 166th Ave SE
Renton, WA 98059

Gurdip Kaur and Gursewak Brar
11706 164th Ave SE
Renton, WA 98059

Bart and Paula Crane
16519 SE 116th PL
Renton, WA 98059

Rosemary and David Moore
16520 SE 116th PL
Renton, WA 98059

May Valley Alliance Church
16435 SE Renton-Issaquah Rd
Renton, WA 98059

Low Income Housing Institute
11414 164th Ave SE
Renton, WA 98059

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-2684 to vacate a portion of 166th Avenue SE (Kendall Avenue) as abuts petitioners' property should be approved.

Approved:

A handwritten signature in blue ink, appearing to read "Rick Brater", is written over a horizontal line.

Rick Brater, P.E.
County Road Engineer



PROPOSED RIGHT-OF-WAY VACATION

For Informational Use Only


2012 Aerial

166th Ave SE (Kendall Ave)

16613 SE Renton-Issaquah Rd

Vacation File V-2684

NW 12-23-05

 Vacation Area

 KC Maintained ROW

The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice.

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King County Overview Map



March 31, 2014

