

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

PUBLIC HEARING: Tuesday, February 27, 2018 at 10:30 am or shortly thereafter

**King County Hearing Examiner's Office
516 Third Avenue, Fred Conference Room, 12th Floor
Seattle, WA 98104**

February 9, 2018

PETITION TO VACATE: Portions of SE 184th Street

Transportation File: V-2710

Proposed Ordinance: 2018-0013

A. GENERAL INFORMATION

Petitioner(s): Robbie and Chree Donaldson
18321 W. Lake Desire Drive SE
Renton, WA 98058
TheTwenty3rdpsalm@yahoo.com

Steve K. Tran
3008 227th St. SW
Brier, WA 98036

James and Monica Runyon
18331 W. Lake Desire Dr. SE
Renton, WA 98058

Duane and Michelle Schilling
18341 W. Lake Desire Dr. SE
Renton, WA 98058

Location of Road: Portions of SE 184th Street
Thomas Brothers Page 687
Zoning – R6

Adjacent Parcels: 4008400175, 4008400185, 4008400190, and 4008400191

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B. HISTORY

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 January 10, 2017 with the Clerk of the King County Council and subsequently revised to clarify the vacation area. The Department of Transportation, Road Services Division (Roads) circulated the request for vacation, soliciting comments from the agencies listed below. The petition requests vacation of portions of SE 184th Street located in the Lake Desire area east of Renton in the NE quarter of Section 36, Township 23 N, Range 5 E, W.M. and Thomas Brothers Page 687.

A search of records by staff found that King County acquired the subject right-of-way by plat in the plat of Lake Desire Summer Home Tracts according to the plat recorded in Volume 39 of Plats, pages 44-47, records of King County Washington.

Petitioners own all parcels with the plat abutting the subject right-of-way. The properties to the south of the subject right-of-way are part of a different plat and will not acquire any portion of this right-of-way upon vacation. Upon vacation, the right-of-way interest is eliminated and the full rights to the underlying property revert to their historical origin. In most instances, the vacated area attaches to the abutting property. When the right-of-way is created by plat, upon vacation the interests in the right-of-way revert to the adjoining parcels within the plat.

The subject portion of the right-of-way is not currently opened, constructed, or maintained for public use and is not known to be used for access to any parcel. No record has been located reflecting expenditure of public funds for improvement or maintenance of the right-of-way. The development to the south of the right-of-way may have improvements associated with a common area encroaching on the subject right-of-way.

C. NOTICE

Notice of this hearing was posted at the termini of the proposed vacation area on January 25, 2018 and published in accordance with requirements of RCW 36.87.060.

Pursuant to KCC 14.40.015(C), not less than fourteen days prior to the scheduled hearing for this matter, a copy of the County Road Engineer's Report was sent to all petitioners and persons who are not petitioners but whose property abuts the county road right-of-way or portion of county right-of-way to be vacated under the subject petition. A list of persons to whom the report was sent appears at the end of this report.

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D. REVIEWING AGENCIES AND COMMENTS

Roads did not receive responses from Comcast, Frontier Communications, King County Fire District #40, or the following King County agencies: Department of Natural Resources and Parks, Open Space and Wastewater divisions. A copy of the Final Notice is included as Exhibit # 11.

ATTACHMENTS	AGENCY	COMMENT
1.	Puget Sound Energy	Responses dated 05/17/2017. No easements desired. No utilities in the right-of-way. Ok to proceed with vacation.
2.	Century Link	Response dated 02/03/2017. Centurylink does not have facilities in the vacation area and no vested interest or conflict with the proposed vacation.
3.	Wave Broadband	Response dated 02/07/2017. Wave has no plant at this location. No impacts to our facilities.
4.	Soos Creek Water & Sewer Dist.	Response dated 02/07/2017. No water or sanitary sewer in right-of-way. No easements needed. No impact on water or sanitary sewer. Proceed with road vacation.
5.	DPER	Response dated 03/10/2017. No objection.
6.	DES – Property Services	Response dated 04/20/2017. Reserve a vehicular access, if needed, for emergency vehicles and thefor the maintenance of the adjoin storm pond.
7.	DNRP- Parks Div.	Response dated 02/03/2017. Parks has no objections to this request. Okay to vacate.
8.	DNRP-WLRD	Response dated 04/25/2017. There are no structures within the proposed vacation of the Right-of-way. During the development of Cambridge at the Parks Phase II there was nothing pertaining to this roadway that made use of it for access or drainage. We appreciate Ingrid’s comments and observations but in this instance there is nothing there drainage wise that would preclude them from getting the vacation. Our access to the site is via West Lake Desire DR SE and the area that is proposed vacation would not be able to provide us with any feasible access that is not already provided at West Lake Desire DR SE. So WLRD has no interests impacted by the proposed vacation. V-2710, Thank you for the opportunity to comment.
9.	DOT- CIP & Planning Section	Response dated 03/02/2017. No long range transportation planning concerns with this road vacation.

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10.	DOT- Roads Maintenance	Response dated 03/10/2017. Roads Maintenance section has no comments/concerns regarding this proposal.
11.	DOT- Traffic Engineering	Response dated 02/07/2017. No objection to this proposed road vacation.
12.	DOT- Transit	Response dated 02/10/2017. No comments or objection to the vacation.
13.	DOT – Roads Survey	Response dated 03/16/2017. Recommend approval of vacation.
14.	DOT-Enviro Unit	Response dated 02/03/2017. No comments regarding this road vacation.
15.	DOT – Roads Drainage	Response dated 02/03/2017. No known drainage system within the proposed vacation. Some improvements have been made on the west end, probably as part of development. May be some encroachments by adjacent development. DNRP has a regional RD pond at the east end of the right of way but the ROW is not used to access the pond.
16.	EXEC- Landmarks & Heritage	Response dated 02/28/2017. Reviewed data and files for the location and the adjacent parcels and find no indications of historical resources that would be affected by this road vacation. No concerns and no conditions to request.

E. OTHER COMMENTS:

To the south of the subject vacation area is a development known as The Parks. The Parks Home Owners Association has a common area immediately adjacent to a portion of the vacation area. The common area is improved with an entrance sign, playground equipment, fencing and landscaping. Some portions of the sign, fencing and landscaping are likely within the vacation area. Roads staff has alerted the Petitioners of the situation and encouraged the parties to work towards resolution of the property issues. Roads supports the resolution of the matter by and between the property owners. Vacation of this segment of right-of-way will remove the county's interest in the property and allow the private parties to reach resolution directly.

The vacation portion of right-of-way, has been the subject of numerous contacts with Roads staff. Maintenance staff and management, enforcement staff and administrative personnel have responded to many calls and emails over a period of several years regarding this right-of-way. Roads staff have been called to intervene in private party disputes regarding vegetation, landscaping and activity within the right-of-way, and requests for maintenance and enforcement activity on this unopened and unmaintained section of right-of-way.

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F. COUNTY ROAD ENGINEER RECOMMENDATION

The Department of Transportation recommends vacating the right-of-way. The subject right-of-way is useless to the County Road System. The full report of the County Road Engineer is included as Exhibit #13.

G. COMPENSATION

The County Road Engineer recommends that the County accept the non-monetary benefits of reduction of liability and obligation, the avoided costs of management and the additional tax revenue that will result from vacating this segment of useless right-of-way as full compensation for the proposed vacation and waiver of any payment by Petitioners.

Road vacations are a unique activity created and governed specifically by statute and county code. The circumstances, methodology and purpose of road vacations are limited to the statutes and codes from which they arise. RCW 36.87 and King County Code section 14.40 govern this action.

Under KCC 14.40.020, compensation may be required as a condition of a road vacation. The requirement is discretionary, not mandatory. If the county council chooses to require compensation for a road vacation, it "may consider as a factor the assessed land value of the parcels adjacent to the county right-of-way proposed for vacation in addition to the factors listed in RCW 36.87.120."

The compensation analysis begins with the assessed value of the properties adjacent to the subject right-of-way. KCC 14.40.020. The Petitioners' property and those in the immediate area are currently zoned R6. The petitioners' properties range from 19,208 square feet to 77,659 square feet. R6 zoning allows for 6 dwellings per acre within setbacks. Minimum lot size is approximately 7,260 square feet. Under R6 zoning, the petitioners' parcels in their current state could be subdivided. However, with the exception of the Tran parcel, the addition of the vacation area to the parcels may not substantially change the potential subdivision or development of the parcels. Looking only at the zoning and not taking into consideration setbacks, possible environmental restrictions, or development restrictions for access, the addition of the vacation area to the Tran parcel may allow for one additional resulting lot if the property were to be subdivided.

The total vacation area is 20,622 square feet. Of the total vacation area, 8,348 square feet will attach to the parcel owned by Steve Tran, 4,196 square feet will attach to the property will attach to the property owned by Robbie and Chree Donaldson, 4,202 square feet will attach to the property owned by Monica and James Runyon, and 3,876 square feet will attach to the property owned by Duane and Michel Schilling. The averaged assessed value on a square footage basis for the subject right-of-way is approximately \$4.82 per square foot.

Application of this average assessed value of \$4.82 per square foot to the 20,622 square foot vacation area results in a total value for the vacation area of \$99,398.04. This amount would be apportioned between the parcels as follows: \$40,237.36 for the 8,348 square feet to be vacated to

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Steve Tran; \$20,224.72 for the 4,196 square feet to be vacated to Robbie and Chree Donaldson; \$20,253.64 for the 4,202 square feet to be vacated to Monica and James Runyon; and \$18,682.32 for the 3,876 square feet to be vacated to Duane and Michel Schilling.

However, as a stand-alone strip of land, the vacation area for each parcel would not be usable as a building lot and, with the possible exception of the Tran parcel, by adding the vacation area to the Petitioners' properties, the development and subdivision potential is not substantially changed. Therefore, the valuation of \$4.82 per square foot is not directly applicable to the vacation area.

Unlike tax title parcels or other property owned by the county, sections of right-of-way do not have a readily open market. Vacation, pursuant to RCW 36.87, 58.17 and KCC 14.40, is the only method to eliminate the county's interest in useless county right-of-way and the only method by which the county may divest itself of the duty and liability of maintaining county roads. *See Attorney General Opinion 57-58 No.3, March 13, 1957.* Except in the very limited circumstance of vacating right-of-way abutting bodies of water (RCW 36.87.130), the county is not free to transfer the vacated right-of-way to anyone other than the abutting property. Therefore, the area to be vacated does not have a ready market for its sale. The only party that can acquire the vacated area from the county in this instance are the petitioners, the abutting property owners within the plat of Lake Desire Summer Home Tracts. The county cannot sell the vacation area on the open market.

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, the avoided obligations of enforcement and management, plus the addition of tax income as compensation for the proposed vacation. In reaching this recommendation, the following factors have been considered:

- The right-of-way is imposed over an area with no useful connectivity to the County Road system and it is unlikely that it would ever be developed as a road;
- Prior vacation of the eastern most portion of this right-of-way further restricts the connectivity and future usefulness of this right-of-way;
- 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 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 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.

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Roads maintains approximately 1500 miles of roadway within unincorporated King County. The total amount of unopened unimproved road right-of-way in the County is not known.

Roads has limited staff hours available; diverting Roads staff to respond to calls associated with unopened right-of-way prevents Roads staff from addressing critical daily work on the County's contiguous road system. Roads supports the vacation of unopened unimproved road right-of-way that is useless to the county road system in order to allow the Department to focus on its core responsibility of maintaining improved county roads.

Furthermore, the County's ownership of open and unopened right-of-way can give rise to tort liability for the County. Vacation of this particular unopened road right-of-way reduces the County's exposure to liability claims. Portions of this unopened right-of-way are adjacent to a Home Owners' Association property improved as a neighborhood park. The use of the adjacent property as a neighborhood park brings the potential for unauthorized use of this unopened right-of-way by park visitors. Unauthorized use of the unopened right-of-way that is the subject of this vacation petition brings with it potential tort liability for the County.

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.

Risk Management Services also reports that the County routinely pays out in excess of \$50,000 for a simple pedestrian trip and fall occurring in maintained county areas such as park and rides and sidewalks. The county has crews to maintain and service such improved areas and the general public will report hazards within an improved area. Whereas, not only does the county not know of all unopened and unimproved road right-of-way, it does not regularly patrol or monitor unopened right-of-way. A sink hole could open or a skateboard jump could be constructed in unopened right-of-way and the county wouldn't know until a claim is filed.

The County has the liability risks associated with simply being an owner of vacant land: hazardous materials dumped on unopened road right-of-way can migrate to adjacent properties exposing the County to potential trespass claims; hazard trees on unopened road right-of-way can fall on adjacent property damaging structures or harming residents; and attractive nuisances can be erected resulting in claims for personal injury.

Every piece of unopened right-of-way held by Roads carries with it the real 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

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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 retention.

This particular segment of unopened right-of-way has been the subject of numerous calls and emails to county staff, site visits by staff and management and disputes between neighboring property owners. Staff from Roads, DPER, the Sheriff's Office and DNRP Community Services have been involved in the issues between neighboring property owners over this particular segment of right-of-way. Adjacent property owners have made multiple requests upon the county for the removal of vegetation from the right-of-way, enforcement actions against other property owners who have either planted vegetation or removed vegetation, and direct involvement in neighbor disputes. Significant staff hours have been expended regarding this unopened right-of-way. Additionally, such on going private disputes and use of some portions of the right-of-way by the neighboring homeowners' association increases Roads potential exposure to a liability claim. This right-of-way provides no benefit to the county road system and is better in private ownership where the property owners can work directly to resolve their disputes, possible encroachments and property use.

The other factors included in RCW 36.87.120 to offset monetary compensation, limits on development and future public benefit are briefly highlighted here. Each parcel is currently occupied by and used as a single family residence. The subject vacation area is of limited use or function. The vacation of this unopened right-of-way may have some impact on the potential for subdivision of one petitioner's parcel but not the other three. Otherwise, based upon information available, the mere addition of the vacation area is unlikely to substantially change the use or development potential of the petitioner's parcels. The vacation will add the portion of right-of-way to the county property tax rolls.

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 and substantially exceed the amounts that could reasonably be charged for the vacation of this right-of-way.

H. EXHIBITS

Exhibit #	DESCRIPTION
1.	DOT Report to the Hearing Examiner February 9, 2018, with 16 attachments.
2.	Petition transmittal letter dated January 10, 2017 to the Department of Transportation from the Clerk of Council.
3.	Petition for Vacation of a County Road. Received January 10, 2017.
4.	Amended transmittal letter from Clerk of the Council dated January 17, 2017.
5.	Revised petition received February 2, 2017.
6.	February 6, 2017 letter to Petitioners acknowledging receipt of petition and explaining process.

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7.	Site map depicting vacation area.
8.	Aerial Map showing vacation area
9.	Vicinity Map
10.	Plat of Lake Desire Summer Home Tracts
11.	Copy of final agency notice sent to stakeholders on March 9, 2017, including comment sheet, vicinity map, and maps of vacation area.
12.	Letter dated July 13, 2017 to Petitioners with a copy of the County Road Engineer's Report.
13.	County Road Engineer's Report
14.	Letter dated January 25, 2018 to Lori Brooks with a copy of the County Road Engineer's Report
15.	Letter dated January 25, 2018 to Paul Brown and Karen Holeman with a copy of the County Road Engineer's Report
16.	Letter dated January 25, 2018 to Robert and Susanne Wick with a copy of the County Road Engineer's Report
17.	Letter dated January 25, 2018 to Parks Homeowners Association with a copy of the County Road Engineer's Report
18.	Ordinance transmittal Letter dated October 18, 2017 from King County Executive to Councilmember Joe McDermott. (note: signed copy unavailable).
19.	Proposed Ordinance 2017-xxxx
20.	Revised Proposed Ordinance 2018-0013
21.	Fiscal Note.
22.	Affidavit of posting for hearing & notice of hearing.
23.	Affidavit of Publication for date of hearing – to be supplied by Clerk of the Council.

G. ISSUES:

Exhibit #23 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.

In preparing the staff Report to the Hearing Examiner, it was determined that there is a typographical error in the legal description within the proposed Ordinance as transmitted from Council. A revised proposed ordinance 2018-0013 is attached as Exhibit #20.

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

PUBLIC HEARING: Tuesday, August 27, 2019 at 9:30 am or shortly thereafter

**King County Hearing Examiner's Office
516 Third Avenue, Fred Conference Room, 12th Floor
Seattle, WA 98104**

August 13, 2019

PETITION TO VACATE: Portions of SE 184th Street

Transportation File: V-2710

Proposed Ordinance: 2018-0013

A. GENERAL INFORMATION

Petitioner(s): Robbie and Chree Donaldson
18321 W. Lake Desire Drive SE
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Location of Road: Portions of SE 184th Street
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Adjacent Parcels: 4008400175, 4008400185, 4008400190, and 4008400191

Initial Hearing: February 27, 2018

B. HISTORY

The petition was filed on January 10, 2017 with the Clerk of the King County Council and subsequently revised to clarify the vacation area. The Department of Local Services, Road Services Division (Roads) circulated the request for vacation, soliciting comments from stakeholders. The petition requests vacation of portions of SE 184th Street located in the Lake Desire area east of Renton in the NE quarter of Section 36, Township 23 N, Range 5 E, W.M. and Thomas Brothers Page 687.

A hearing on the petition was conducted by the County Hearing Examiner on February 27, 2018. An Interlocutory Order in his matter was issued by the Hearing Examiner on March 13, 2018 holding the matter open until the County Office of Performance Strategy and Budget (PSB) prepared a model for calculating compensation in road vacation petitions. Such model has been created and was presented to the County Council.

C. NOTICE

Notice of this hearing was posted at the termini of the proposed vacation area on July 31, 2019 and published in accordance with requirements of RCW 36.87.060.

D. REVIEWING AGENCIES AND COMMENTS

After the February 27, 2018 hearing, Roads did not solicit or receive new comments or responses from stakeholders regarding this petition.

E. COUNTY ROAD ENGINEER RECOMMENDATION

The County Road Engineer recommends vacating the right-of-way. The subject right-of-way is useless to the County Road System. The full report of the County Road Engineer was submitted with Roads' initial Staff Report to the Hearing Examiner as Exhibit #13.

F. OTHER ISSUES

As noted in the Hearing Examiner's Notice of Hearing dated July 30, 2019, during the first hearing on this matter, Mr. Tran indicated that he did not wish to continue his participation in the vacation petition. Roads has not received a written notice of withdrawal from Mr. Tran. Roads prefers that if this subject right-of-way is vacated, that the entire portion as described in the revised petition and prepared Ordinance, Exhibit#20 previously submitted. Removing one property from the vacation

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area will leave Roads with a small segment of useless right-of-way and a potential enforcement action to removed structures, plantings and sprinkler systems from the right-of-way.

This petition may proceed, and the entire segment of right-of-way vacated. A valid road vacation petition requires the participation of the owners of a majority of the frontage on any county right of way or portion of right of way they seek to vacate. RCW 36.87.020, KCC 14.40.0102. Regardless of whether Mr. Tran formally withdraws his participation in the petition, the remaining petitioners constitute the ownership of a majority of the frontage of the subject right-of-way including that abutting Mr. Tran's property. Proceeding with this petition absent Mr. Tran's participation is supported by statute, County Code and court ruling in the case of *Thayer v. King County*, 46 Wn.App. 734, 731 P.2d 1167 (1987).

In *Thayer*, the petitioners sought vacation of only a portion of a road lying north of Bear Creek. The County Road Engineer reviewed the vacation area and recommended the area be expanded to include a culvert serving the creek. The County Council, acting on the report of the County Road Engineer, vacated the expanded area as opposed to merely the area stated in the petition. Appellants purchased their property while the road vacation petition was in process; just six months prior to the passage of the vacation ordinance. Upon passage of the ordinance, the Appellants became owners of not only the roadway the petitioners had originally sought to vacate, but also the creek bed. As a result, they became responsible for the upkeep of the culvert through which the creek flows.

The Appellants objected to the expansion of the vacation area. The Court found that the County acted in accordance with the statutes governing road vacations. Specifically, the Court upheld the vacation on the grounds that the County Road Engineer has the power to modify the portion of road to be vacated, the hearing for a road vacation is held on the engineer's report, not the petition, and, moreover, the County Council "has the statutory authority to vacate any portion of the road on its own motion". *Thayer*, 46 Wn.App. at 737, 738. The vacation of the road and culvert, with the transfer of obligation for maintenance of the creek and culvert, was held to be valid and proper.

Should Mr. Tran choose to withdraw his participation, this road vacation may continue with the vacation of the full portion of SE 184th Street right-of-way extending along the properties of the Schillings, Runyons, Donaldsons, and Mr. Tran. The issue then becomes, what if any compensation the petitioners will be required to pay in order to complete this road vacation.

G. COMPENSATION

Utilizing the model prepared by PSB, Roads solicited from the Assessor's Office a determination of the value of the approximately 20,622 square feet of right-of-way to be vacated under this petition as apportioned to each of the Petitioners' properties abutting the subject section of right-of-way. See Exhibit #25. The full model spreadsheets as applied to the Petitioners' properties for this road vacation appear in Exhibits #26-29.

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Property 400840-0175 is owned by Steve Tran and will receive approximately 8,348 square feet under this road vacation.

The Assessor's Office provided the following information:

Parcel 400840-0175 is improved with a residence.

The pre-vacation value is \$211,000.

The post-vacation value is \$218,000.

Difference in value after the vacation area of 8,348 square feet added to the parcel is \$7,000.

The category of this section of right-of-way is Undeveloped and Unopened ROW under the PSB model.

From the \$7,000 valuation:

\$ 138 is deducted for the present value of anticipated property tax revenue

\$ 2,000 is deducted for the maintenance and management costs equal to 2% of the total Roads annual expenditures for the last five years associated with unopened right-of- way.

Result is a charge of \$4,862.00

Under the calculation set forth in the County Road Engineer's Report and the Roads Staff Report submitted prior to the initial hearing, the compensation for Parcel 400840-0175 was \$40,237.36 for the 8,348 square feet to be vacated. However, Roads had recommended that compensation be waived.

Property 400840-0185 is owned by Robbie and Chree Donaldson and will receive approximately 4,196 square feet under this road vacation.

The Assessor's Office provided the following information:

Parcel 400840-0185 is improved with a residence.

The pre-vacation value is \$151,000.

The post-vacation value is \$162,000.

Difference in value after the vacation area of 4,196 square feet added to the parcel is \$11,000.

The category of this section of right-of-way is Undeveloped and Unopened ROW under the PSB model.

From the \$11,000 valuation:

\$ 216 is deducted for the present value of anticipated property tax revenue

\$ 2,000 is deducted for the maintenance and management costs equal to 2% of the total Roads annual expenditures for the last five years associated with unopened right-of- way.

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Result is a charge of \$8,784.00

Under the calculation set forth in the County Road Engineer's Report and the Roads Staff Report submitted prior to the initial hearing, the compensation for Parcel 400840-0185 was \$20,224.72 for the 4,196 square feet to be vacated. However, Roads had recommended that compensation be waived.

Property 400840-0190 is owned by Monica and James Runyon and will receive approximately 4,202 square feet under this road vacation.

The Assessor's Office provided the following information:

Parcel 400840-0190 is improved with a residence.

The pre-vacation value is \$133,000.

The post-vacation value is \$143,000.

Difference in value after the vacation area of 4,202 square feet added to the parcel is \$10,000.

The category of this section of right-of-way is Undeveloped and Unopened ROW under the PSB model.

From the \$10,000 valuation:

\$ 197 is deducted for the present value of anticipated property tax revenue

\$ 2,000 is deducted for the maintenance and management costs equal to 2% of the total Roads annual expenditures for the last five years associated with unopened right-of- way.

Result is a charge of \$7,803.00

Under the calculation set forth in the County Road Engineer's Report and the Roads Staff Report submitted prior to the initial hearing, the compensation for Parcel 400840-0190 was \$20,253.64 for the 4,202 square feet to be vacated. However, Roads had recommended that compensation be waived.

Property 400840-0191 is owned by Duane and Michel Schilling and will receive approximately 3,876 square feet under this road vacation.

The Assessor's Office provided the following information:

Parcel 400840-0191 is improved with a residence.

The pre-vacation value is \$132,000.

The post-vacation value is \$138,000.

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Difference in value after the vacation area of 3,876 square feet added to the parcel is \$6,000.

The category of this section of right-of-way is Undeveloped and Unopened ROW under the PSB model.

From the \$6,000 valuation:

- \$ 118 is deducted for the present value of anticipated property tax revenue
- \$ 2,000 is deducted for the maintenance and management costs equal to 2% of the total Roads annual expenditures for the last five years associated with unopened right-of- way.

Result is a charge of \$3,882.00

Under the calculation set forth in the County Road Engineer's Report and the Roads Staff Report submitted prior to the initial hearing, the compensation for Parcel 400840-0191 was \$18,682.32 for the 3,876 square feet to be vacated. However, Roads had recommended that compensation be waived.

This section of right-of-way has been the subject of numerous contacts with Roads staff. Maintenance staff and management, enforcement staff, and administrative personnel have responded to numerous calls and emails over a period of several years regarding this right-of-way. Roads staff have been called to intervene in private party disputes regarding vegetation, landscaping and activity within the right-of-way, and requests for maintenance and enforcement activity on this unopened and unmaintained section of right-of-way. However, Roads does not track time spent responding to calls or engaged in enforcement actions by specific right-of-way or party. Therefore, Roads is not able to provide a direct accounting of the costs it has incurred for this right-of-way.

Roads' intention in its approach to road vacation compensation under the County Code was to reduce its inventory of right-of-way useless to the County Road system and reduce costs, obligations and liability exposure. 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 or the costs Roads has incurred responding to citizen complaints and concerns. Roads reiterates that under the County Code, a requirement of compensation for a road vacation is discretionary with the County Council. KCC 14.40.020 specifically provides that compensation may be required as a condition of a road vacation. Roads understands the concerns that gave rise to the request for a compensation model and will follow the directions of the County Council in applying such model. However, Roads remains very concerned that requiring compensation, particularly to vacate unopened right-of-way, will present barriers to eliminating these useless and often problematic sections of right-of-way leaving the county to continue to carry full responsibility for these random pieces of property.

Supplemental Report to the Hearing Examiner

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H. EXHIBITS

Exhibit #	DESCRIPTION
24.	Roads Supplemental Report to the Hearing Examiner August 13, 2019.
25.	Email exchange with Assessor's Office for valuation calculation.
26.	Compensation calculation model spreadsheet Parcel 400840-0175
27.	Compensation calculation model spreadsheet Parcel 400840-0185
28.	Compensation calculation model spreadsheet Parcel 400840-0190
29.	Compensation calculation model spreadsheet Parcel 400840-0191
30.	Affidavit of Posting
31.	Affidavit of Publication for date of hearing – to be supplied by Clerk of the Council.

G. ISSUES:

Exhibit #31 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.

In preparing the initial staff Report to the Hearing Examiner, it was determined that there is a typographical error in the legal description within the proposed Ordinance as transmitted from Council. A revised proposed ordinance 2018-0013 was attached as Exhibit #20 to the initial report.