



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**June 5, 2007**

**Ordinance 15822**

**Proposed No.** 2007-0018.2

**Sponsors** Phillips

1 AN ORDINANCE authorizing the vacation of a portion of  
2 SE Tanner Road, File V-2498; Petitioner: North Bend  
3 Industrial Park LLC.  
4

5 **STATEMENT OF FACTS:**

6 1. A petition has been filed requesting vacation of a portion of SE Tanner  
7 Road hereinafter described.

8 2. The department of transportation notified the various utility companies  
9 serving the area and has been advised that easements are not required at  
10 this time, and that Puget Sound Energy and Comcast will retain easements  
11 as needed.

12 3. The department of transportation records indicates that King County  
13 has been maintaining SE Tanner Road. The records indicate that no  
14 public funds have been expended for its acquisition.

15 4. The petitioner, North Bend Industrial Park LLC, has proposed to  
16 construct a new public access from SE Tanner Road to SE North Bend

17 Way near the western terminus of the subject vacation area, via tax parcel  
18 #1423089182.

19 5. SE North Bend Way, in this vicinity, has been classified as a bike route  
20 on a moderate traffic street without a wide curb lane or shoulder. Due to  
21 the close proximity of Tanner Road, the subject vacation area currently  
22 serves as an alternate bicycle route. The department of transportation  
23 maintains that equivalent provisions should be retained for this  
24 nonmotorized public use of the subject vacation area. The department of  
25 transportation has offered two alternatives that if implemented could be  
26 supported in conjunction with an approval recommendation for the  
27 proposed vacation. Ideally, frontage improvements to North Bend Way  
28 would be done now and would incorporate a standard bicycle lane.

29 Alternatively, the petitioner may choose to temporarily retain a minimum  
30 six-foot wide paved access route along, and within, the subject vacation  
31 area. The petitioner is encouraged to provide signage authorizing this  
32 limited public use of the vacation area. Neither the department of  
33 transportation, nor the department of natural resources and parks are able  
34 to expend public funds for maintenance or to accept liability for the  
35 temporary nonmotorized route, largely in that the need is resulting from  
36 this private road vacation proposal. At which time that the frontage  
37 improvements, including bicycle lane, are completed along North Bend  
38 Way, the petitioner may close off public access and remove the temporary  
39 trail.

40           6. The existing intersection at the eastern terminus of the subject vacation  
41           area will not be vacated. This road segment will become a short cul-de-  
42           sac road serving the existing gravel parking area for the nearby public trail  
43           and potentially serving the eastern portion of the petitioner's property,  
44           subject to permit review.

45           7. Once the new public road connection between Tanner Road and North  
46           Bend Way has been constructed and accepted into the county road system,  
47           the department of transportation will consider the subject portion of the  
48           right-of-way useless as part of the King County road system and believes  
49           the public would benefit by the return of this unused area to the public tax  
50           rolls.

51           8. The right-of-way is classified as "B-Class" and, in accordance with  
52           K.C.C. 14.40.020, the compensation due King County is based on  
53           seventy-five percent of the assessed value of the subject right-of-way  
54           which was determined from records of the department of assessments.  
55           King County is in receipt of \$69,691.13 from the petitioners.

56           Due notice was given in the manner provided by law and a hearing was  
57           held by the office of the hearing examiner on the 7th and 21st day of  
58           March, 2007.

59           In consideration of the benefits to be derived from the subject vacation the  
60           council has determined that it is in the best interest of the citizens of King  
61           County to grant said petition.

62           BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

63            SECTION 1. The vacation approved by this ordinance is subject to the following  
64 conditions:

65            A. Vacation of the right-of-way authorized by this ordinance shall not become  
66 effective until the following events have occurred:

67            1. The construction of the proposed new public road connection between Tanner  
68 Road and North Bend Way has been completed and accepted into the county public road  
69 system by the department of transportation.

70            2. A public road deed is recorded providing for the proposed connection  
71 between Tanner Road and North Bend Way.

72            3. All utilities located within the subject vacation area are either relocated  
73 outside the subject vacation area, or copies of recorded utility easements provided to the  
74 affected agencies.

75            4. That provisions are provided for the current nonmotorized public use of the  
76 subject vacation area. This may include either:

77            a. frontage improvements be constructed along North Bend Way, which  
78 include a standard bicycle lane; or

79            b. that six feet of asphalt be retained across the subject vacation area as an  
80 interim bicycle route, with appropriate signage. This interim route shall be maintained by  
81 the petitioner as an open public nonmotorized route until such time that frontage  
82 improvements, including a bicycle lane, have been constructed along North Bend Way.

83            B. Upon recording of the public road deed for the proposed new public road  
84 connection, the petitioner shall be partially refunded from compensation currently held,  
85 to offset the land costs of the newly deeded ROW. This will be determined on a per

86 square-foot basis, assuming the vacated and newly deeded right-of-way areas would have  
87 the same value.

88 C. If any of the four pre-effective contingencies stated in Condition A have not  
89 been satisfied by September 30, 2009, the approval conferred hereunder shall expire and  
90 the subject vacation shall become null and void. The petitioner has the option of  
91 requesting an administrative extension of this date from the county road engineer not to  
92 exceed one additional year, pending submittal of evidence of active project design and/or  
93 construction.

94 SECTION 2. The council, on the effective date of this ordinance, hereby vacates  
95 and abandons that portion of SE Tanner Road as established and ordered built on  
96 February 16, 1891 as County Road No. 301, A.J. Foster Road, and obtained by King  
97 County through prescriptive rights, as described below:

98 That portion of SE Tanner Road abutting the south lines of the Burlington

99 Northern Railroad rights-of-way, in the south half of Section 14,  
100 Township 23 North, Range 8 East, W.M., King County.  
101


Ordinance 15822 was introduced on 1/8/2007 and passed by the Metropolitan King County Council on 6/4/2007, by the following vote:


Yes: 8 - Mr. Gossett, Ms. Lambert, Mr. von Reichbauer, Mr. Dunn, Mr. Ferguson, Mr. Phillips, Ms. Hague and Mr. Constantine  
No: 0  
Excused: 1 - Ms. Patterson

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

  
Larry Gossett, Chair

ATTEST:

  
Anne Noris, Clerk of the Council

APPROVED this 8 day of June, 2007.   
Ron Sims, County Executive

Attachments A. Hearing Examiner Report dated May 22, 2007

RECEIVED  
2007 JUN 11 PM 4:06  
CLERK  
KING COUNTY COUNCIL

May 22, 2007

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404  
Seattle, Washington 98104  
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Email: hearex@metrokc.gov

**CORRECTED REPORT AND RECOMMENDATION TO THE METROPOLITAN  
KING COUNTY COUNCIL**

**SUBJECT:** King County Department of Transportation File No. **V-2498**  
Proposed Ordinance No. **2007-0018**  
Parcel Nos. **142308-9184, 142308-9183, 142308-9185, 142308-9073**

**NORTH BEND INDUSTRIAL PARK, LLC**  
Road Vacation Petition

**Location:** Southeast Tanner Road

**Petitioner:** **North Bend Industrial Park LLC**  
c/o Bill Moffet  
1911 Southwest Campus Drive, #733  
Federal Way, Washington 98023  
Telephone: (253) 232-0562

**King County:** Department of Transportation,  
Road Services Division, *represented by*  
**Nicole Keller**  
201 S. Jackson St.  
Seattle, Washington 98104-3856  
Telephone: (206) 296-3731  
Facsimile: (206) 296-0567

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary:	Approve road vacation, subject to conditions
Department's Final:	Approve road vacation, subject to conditions
Examiner's:	Approve road vacation, subject to conditions set forth in proposed ordinance

**DEPARTMENT'S REPORT:**

The Department of Transportation's written report to the King County Hearing Examiner for Item No. V-2498 was received by the Examiner on February 15, 2007.

PUBLIC HEARING:

After reviewing the Department'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-2498 was opened by the Examiner on March 7, 2007, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, WA 98104 and was continued to March 21, 2007. The hearing was then continued administratively for receipt of revised ordinance language, which was received March 22, 2007. 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 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 SE Tanner Road
Right of way classification:	B
Area:	47,621 square feet
Compensation:	\$69,691.13
2. The Notice of Hearing on the Department's report was given as required by law, and a hearing on the report was conducted by the Examiner on behalf of the Metropolitan King County Council.
3. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department's report to the Examiner for the March 7 and 21, 2007, public hearing sessions and the statement of facts contained in Proposed Ordinance No. 2007-0018. The Department's report and the proposed road vacation ordinance will be attached to those copies of this report and recommendation that are submitted to the County Council.
4. Maps showing the vicinity of the proposed vacation and the specific area to be vacated appear in the hearing record as exhibit nos. 9 and 10.
5. The subject right-of-way portion is currently maintained for public use, but its function will be adequately replaced by a proposed alternative public access road connecting Southeast Tanner Road and Southeast North Bend Way. Dedication and improvement of such replacement road are recommended as conditions precedent to the effectiveness of the recommended vacation, as provided in the proposed ordinance.<sup>1</sup>
6. Upon such replacement, vacation of the subject right-of-way would have no adverse effect on the provision of access and fire and emergency services to the abutting subject property and surrounding area.

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<sup>1</sup> Other recommended conditions would require relocation of utilities or retention of utility easements in the proposed vacation area, and continuance of temporary provisions for non-motorized public use pending improvements on Southeast North Bend Way. Also see Finding 8.



7. Upon such replacement, the right-of-way would no longer be necessary for the present or future public road system for travel or utilities purposes (subject to the establishment of utility easements as necessary; see following Finding).
8. Easements are necessary to be retained for the construction, repair and maintenance of existing public utilities and services, unless they are relocated outside of the right-of-way to be vacated. The proposed ordinance requires such relocation or the recording of pertinent easements.
9. The compensation required by law to be paid as a condition precedent to vacation of this road has been deposited with King County.

CONCLUSION:

1. Upon the aforementioned road replacement, the right-of-way segment subject to this petition will be useless as part of the King County road system, and the public will be benefited by its vacation.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2007-0018 to vacate the subject road right-of-way.

RECOMMENDED May 22, 2007.

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Peter T. Donahue  
King County Hearing Examiner

TRANSMITTED May 22, 2007, to the following parties and interested persons:

Cori Berhold  
21203 SE 29th St.  
Sammamish WA 98075

Merlin Berhold  
21203 SE 29th St.  
Sammamish WA 98075

Comcast  
Attn: Jim Nies  
4020 Auburn Way N.  
Auburn WA 98002

Bill Moffett  
North Bend Industrial Park LLC  
1911 SW Campus Dr., #733  
Federal Way WA 98023

Puget Sound Energy  
Attn: Judy McCollum  
P.O. Box 97034  
Bellevue WA 98009

Qwest  
Attn: Don Dauphiny  
1550 Newport Way NW  
Issaquah WA 98027

Sallal Water Association  
Attn: Paul Tredway  
PO Box 378  
North Bend WA 98045

Verizon Communications  
Attn: Debbie Condron  
P.O. Box 1003  
Everett WA 98206

Kim Claussen  
DDES/LUSD  
MS OAK-DE-0100

Neil DeGoojer  
DNRP/WLRD  
MS KSC-NR-0600

Sarah Gagnon  
DNRP - Wastewater Trtmt.  
MS KSC-NR-0503

Nancy Gordon  
KCDOT/D&C  
MS KSC-TR-0431

David Gualtieri  
KCDOT/CIP & Planning Sec.  
MS KSC-TR-0317

Denise Hauck  
KC Dept. of Exec. Svcs.  
MS ADM-ES-0500

Bill Hintz  
KC DOT, Rd. Maint.  
MS RSD-TR-0100

Nicole Keller  
KC DOT, Rd. Svcs. Div.  
MS KSC-TR-0231

Kristen Langley  
KC-DOT/RSD  
MS KSC-TR-0222

Tom Lew  
KC DNRP/WLRD  
MS KSC-NR-0600

Paulette Norman  
KCDOT/RD SERV.  
MS KSC-TR-0231

Robert Nunnenkamp  
KC DNRP/Prog Dev.  
MS KSC-NR-0700

Lydia Reynolds-Jones  
KC DOT/RD SERV.  
MS KSC-TR-0231

Charlie Sundberg  
Bus. Rel. & Economic Dev.  
MS BOA-EX-2000

Kelly Whiting  
KC DOT, Rd. Svcs. Div.  
MS KSC-TR-0231

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 May 29, 2007*. If a notice of appeal is filed, the original and six (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 June 5, 2007*.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3<sup>rd</sup> 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 MARCH 7 AND 21, 2007, PUBLIC HEARING SESSIONS ON DEPARTMENT OF TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2498.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Nicole Keller, and Kelly White, representing the Department, and Merlin Berhold and Cori Berhold.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Report to the Hearing Examiner for the March 7, 2007 hearing, with 15 attachments
- Exhibit No. 2 Petition transmittal letter, dated January 14, 2004 to KC Department of Transportation, from Clerk of the Council
- Exhibit No. 3 Petitioner's cover letter stating reason for the request, dated January 12, 2004
- Exhibit No. 4 Letter to Tony Phillips from Bill Moffet of B.N.S.F. Railroad dated October 8, 2003 stating that they will not take a position on this
- Exhibit No. 5 Petition for vacation of a County road including legal descriptions of petitioner's properties
- Exhibit No. 6 Map that was included with the petition
- Exhibit No. 7 Copy of filing fee – check #2369 from the petitioner
- Exhibit No. 8 Receipt #00652 from the King County Council for the filing fee
- Exhibit No. 9 Vicinity map from Thomas Brothers, page 661, grid A-4
- Exhibit No. 10 Map depicting vacation area, proposed new access via tax parcel #142308-9182 and current access that will remain
- Exhibit No. 11 Letter to Bill Moffett of B.N.R. from Road Services dated February 2, 2004 indicating that King County has no rights/interest in releasing right-of-ways used for road purposes within the B.N.R. right-of-way
- Exhibit No. 12 Letter to Bill Moffett of B.N.R. from Road Services dated September 22, 2005 identifying DOT recommendation and request for compensation
- Exhibit No. 13 Compensation worksheet
- Exhibit No. 14 Copy of compensation check in the amount of \$54,048.77 from North Bend Industrial Park along with King County receipt no. 05726
- Exhibit No. 15 Deposit receipt for \$54,048.77 dated November 29, 2006
- Exhibit No. 16 Letter to Paulette Norman from PugetWestern, Inc. dated December 13, 2005 stating that tax parcel #1423089073 will need to retain access to North Bend Way as shown on enclosed map
- Exhibit No. 17 Copy of compensation check in the amount of \$15,642.36 dated November 28, 2005
- Exhibit No. 18 Deposit receipt for \$15,642.36 dated December 15, 2005
- Exhibit No. 19 Refund worksheet
- Exhibit No. 20 Transmittal letter to the Clerk of the Council providing recommendation of KC DOT and county road engineer
- Exhibit No. 21 Letter to Bill Moffett of North Bend Industrial, LLC from Road Services dated May 19, 2006 identifying DOT's requirements for the alternate access onto North Bend Way and the bicycle lane
- Exhibit No. 22 Copy of plans submitted by the petitioner for the alternate access onto North Bend Way and the bicycle lane
- Exhibit No. 23 Ordinance transmittal letter dated December 19, 2006 from the King County Executive to Councilmember Larry Phillips
- Exhibit No. 24 Proposed Ordinance 2007-0018
- Exhibit No. 25 Fiscal Note
- Exhibit No. 26 Notice of hearing
- Exhibit No. 27 Affidavit of posting for the hearing
- Exhibit No. 28 Affidavit of publication for the hearing