

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

PUBLIC HEARING: April 3, 2020 at 10:00 am or shortly thereafter

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

March 19, 2020

PETITION TO VACATE: A Portion of SE 104th Street

Transportation File: V-2721

Proposed Ordinance: 2020-0065

A. GENERAL INFORMATION

Petitioner(s): Troy and Kathleen Solly

Location of Road: Portion of SE 104th Street
Thomas Brothers Page 626
Zoning – R4

Adjacent Parcels: 523000-0230

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 July 2, 2018, with the Clerk of the King County Council, seeking the vacation of a portion of SE 104th Street in the Renton area of unincorporated King County. The Department of Local Services, Road Services Division (Roads) reviewed the petition and determined that the subject right-of-way was dedicated to the County in 1961 as part of the Plat of May Valley Co-Op Community.

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The petition requests vacation of a portion of SE 104th Street in the NE Quarter of Section 3, Township 23, Range 5, W.M. as appearing on Thomas Brothers Page 626. See Exhibit Map, Exhibits # 10 and 11.

The subject section of right-of-way is a short, unopened and unmaintained section of right-of-way. A section of SE 104th Street lying east of the subject area, was vacated in 1987 by King County Ordinance number 8023 under Road Vacation file number V-1895.

The petitioners, Troy and Kathleen Solly own the property within the Plat of May Valley Co-Op Community that abuts the subject section of right-of-way. The subject section of right-of-way is not improved in any way and does not provide access to any property.

C. NOTICE

Notice of this hearing was posted at the termini of the proposed vacation area on March 12, 2020, published in accordance with requirements of RCW 36.87.060 and mailed to neighboring property owners on March 19, 2020.

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. No county division requested easements or identified a reason why the vacation petition should not be approved. Comcast identified a need for an easement to cover its facilities and did obtain an easement from the Petitioners.

Roads did not receive responses from the following King County agencies: Department of Executive Services, Real Estate Services Division; Department of Natural Resources and Parks, Open Space; Department of Natural Resources and Parks, Water and Land Division; Metro Transit Division; 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 #4.

| ATTACHMENTS | AGENCY | COMMENT |
|-------------|---------------------------|--|
| 1. | Puget Sound Energy | Response dated 8/15/2018. PSE has no objections to this Street vacate. Thank you for notifying us. |
| 2. | Comcast | Response dated 9/11/2018. Comcast will need an easement. Sent a request to a firm to obtain an easement. Easement signed by Petitioners 11/26/2018 and recorded on 12/05/2018 under King County Recording number 20181205001286 See Exhibit #12. |

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| 3. | Wave Broadband | Response dated 8/2/2018. Wave has no facilities within the scope of this vacation. |
| 4. | Frontier Communications | Response dated 9/27/2018. Frontier does not have any facilities in this area. |
| 5. | Eastside Fire and Rescue | Response dated 07/31/2018. We have no comments or concerns. |
| 6. | DPER | Response dated 10/29/2018. No objection. |
| 7. | DNRP- Parks Div. | Response dated 7/31/2018. Parks has no objections to this request. Okay to vacate. |
| 8. | DNRP - Wastewater | Response dated 10/01/2018. No facilities in the right-of-way. Recommendation is approve vacation. |
| 9. | DLS ROADS- CIP & Planning Section | Response dated 8/1/2018. We have no long range transportation planning concerns with this road vacation. |
| 10. | DLS ROADS- Roads Maintenance | Response dated 8/17/2018. I field-checked the ROW on 8/14/18, and found that the site is forested with native deciduous and coniferous trees, with native and non-native vegetative understory. There is a 42" diameter culvert under the driveway to the south of/adjacent to the subject ROW (installed by DNRP in 2002, under Clearing and Grading Permit L02CG362), and a stream bed does exist on the ROW and the property adjacent to the north, owned by the applicants for the ROW vacation. The stream is dry now, but appears to flow to the north during the winter months. Road Maintenance Section has no concerns with the ROW vacation application. |
| 11. | DLS ROADS- Traffic Engineering | Response dated 8/3/2018. Traffic has no objection to this vacation. It is unopened right-of-way that dead ends to the west at the property line of a residential lot that is one of many clustered around a cul-de-sac. To the east of 147 th Avenue SE is right-of-way that was previously vacated (V-1895). There is no need for this existing right-of-way "strip". |
| 12. | DLS ROADS Survey Unit | Response dated 8/15/2018. Recommend approval with revisions to the legal description and easements granted to any utilities that require them. Legal description is redundant and should read "adjoining Lot 23, Block 2" rather than "adjacent to and coincident with"-otherwise description is okay. Area calculates to be 5,508 s.f. not "5,279 s.f." based on record information. " |

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| 13. | DLS ROADS Drainage | Response dated 8/6/2018. Currently there is a 12” drainage system in the right of way that has not been maintained by the County. This needs to be maintained by the property owners to properly drain runoff from adjacent parcels. A private drainage easement may be needed to be shared by the adjacent parcels if it does not currently exist. There are approximately 8 properties that may drain to this system. |
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E. OTHER COMMENTS None.

F. COUNTY ROAD ENGINEER RECOMMENDATION

The County Road Engineer recommends approving the petition vacating the subject portion of right-of-way with the provision for an easement to Comcast Cable Communications Management. The subject right-of-way is useless to the county road system. The full report of the County Road Engineer is included as Exhibit #9.

G. COMPENSATION

Utilizing the model prepared by King County Office of Performance, Strategy and Budget (PSB), Roads solicited from the Assessor’s Office a determination of value for the vacation area that will attach to the property owned by Petitioner. See Exhibit #14.

The total vacation area is 5,279 square feet. Per the Assessor’s Office, the additional area would add no value to the property. The property is identified in the Assessor’s records as unbuildable. See Exhibit # 13. The full PSB model spreadsheet as applied to this parcel is attached as Exhibit #15.

The subject right-of-way is undeveloped and unopened. Under the model, with no additional value resulting from the vacation of 5,279 square feet, the result is no charge of compensation to the petitioner.

H. EXHIBITS

| Exhibit # | DESCRIPTION |
|-----------|--|
| 1. | DLS Roads Report to the Hearing Examiner March 19, 2020 with 14 attachments and 21 exhibits. |
| 2. | Petition transmittal letter dated July 3, 2018 to the Department of Transportation from the Clerk of Council. |
| 3. | Letter and Petition for Vacation of a County Road. Received July 2, 2018. |
| 4. | Copy of final notice sent to stakeholders on September 27, 2018 with vicinity map and site map showing vacation area |

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| 5. | Letter to Petitioner dated July 12, 2018 acknowledging receipt of Petition. |
| 6. | Plat Map May Valley CO-Op Community |
| 7. | Ordinance 8023 vacating eastern portion SE 104 th Street under road vacation file V-1895, Enacted April 1987. |
| 8. | Letter to Petitioner dated October 23, 2019, with a copy of the County Road Engineer's report, and providing an estimate of required compensation and setting out the requirements of an easement to be granted to Comcast. |
| 9. | County Road Engineer Report on Vacation Petition V-2721, October 23, 2019 |
| 10. | Site map depicting vacation area. |
| 11. | Vicinity Map with vacation area identified |
| 12. | Recorded Easement from Petitioners to Comcast |
| 13. | King County Assessor's information for Petitioner's Property, APN 523000-0230 |
| 14. | Email from Sheila Frawley, King County Department of Assessments dated July 15, 2019 with valuation information. |
| 15. | Compensation calculation model spreadsheet for V-2721 |
| 16. | Ordinance transmittal letter dated January 28, 2020 from King County Executive to Councilmember Rod Dembowski. (note: signed copy unavailable) |
| 17. | Proposed Ordinance |
| 18. | Fiscal Note. |
| 19. | Photos of SE 104 th Street - August 2018 |
| 20. | Declaration of Posting and Mailing |
| 21. | Affidavit of Publication for date of hearing – to be supplied by Clerk of the Council. |

G. ISSUES:

Exhibit #21, 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.