



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

August 31, 2009

Ordinance 16635

Proposed No. 2009-0357.2

Sponsors Constantine

1 AN ORDINANCE authorizing the vacation of a portion of
2 274th Avenue NE, also known as J.D. Mercer Road - King
3 County Road No. 892, File V-2596; Petitioner: Janis
4 Hong.

5

6 **STATEMENT OF FACTS:**

7 1. A petition has been filed requesting vacation of a portion of 274th
8 Avenue NE, also known as J.D. Mercer Road, King County Road No. 892,
9 hereinafter described.

10 2. The department of transportation notified the various utility companies
11 serving the area and has been advised that easements are not required
12 within the vacation area.

13 3. The department of transportation records indicate that King County has
14 not been maintaining that portion of the 274th Avenue NE right-of-way.
15 The records indicate that no public funds have been expended for their
16 acquisition.

17 4. The department of transportation considers the subject portion of the
18 right-of-way useless as part of the county road system and believes the
19 public would benefit by the return of this unused area to the public tax
20 rolls.

21 5. The petitioner, Janis Hong, has provided a Public Road Easement
22 across her property, and has coordinated with Puget Sound Energy for an
23 Agreement and Easement across their property for an alternate connection
24 to NE Big Rock Road. The Public Road Easement is recorded under
25 recording number 20090715000874, records of King County, Washington,
26 and the Agreement and Easement with Puget Sound Energy is recorded
27 under recording number 20090720000204, records of King County,
28 Washington.

29 6. The new road alignment provides improved intersection alignment
30 along NE Big Rock Road and better avoids existing environmentally
31 sensitive wetlands located along the previous right-of-way alignment. The
32 new alignment provides a more feasible alignment for possible future
33 public road construction.

34 7. The right-of-way is classified as "C Class" and, in accordance with
35 K.C.C. 14.40.020, the compensation due to King County is based on fifty
36 percent of the assessed value of the subject rights-of-way, which was
37 determined from records of the department of assessments. King County
38 is in receipt of \$9,068.38 from the petitioner. The petitioner shall receive
39 a partial refund from compensation currently being held, to offset the cost

40 of the new right-of-way created by the Public Road Easement and
41 Agreement and Easement with Puget Sound Energy. The refund amount
42 was determined using a per-square-foot basis, assuming the vacated and
43 newly deeded right-of-way area would have the same per unit-area value.
44 The refund amount was determined to be \$8,658.56 for the 41,231.22
45 square feet of new easement area.

46 Due notice was given in the manner provided by law and a hearing was
47 held by the office of the hearing examiner on the 15th day of July, 2008.
48 In consideration of the benefits to be derived from the subject vacation the
49 council has determined that it is in the best interest of the citizens of King
50 County to grant said petition.

51 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

52 SECTION 1. The council, on the effective date of this ordinance, hereby vacates
53 and abandons that portion of the 274th Avenue NE right-of-way, also known as J.D.
54 Mercer Road and King County Road No. 892, as conveyed to King County by the deeds
55 recorded in Volume 672 of Deeds, on Pages 160 and 161, records of King County,
56 Washington, as described below:

57 That portion of the 274th Avenue NE right-of-way, also known as J.D.
58 Mercer Road and King County Road No. 892, as conveyed to King
59 County by the deeds recorded in Volume 672 of Deeds, on Pages 160 and
60 161, records of King County, Washington, located in the north half of the
61 northeast quarter of the southeast quarter of Section 24, Township 26

62 North, Range 6 East, Willamette Meridian, King County, Washington;

63 EXCEPT the southerly 48.00 feet thereof.

64 SECTION 2. The petitioner shall be refunded \$8,658.56 of the compensation
65 paid, which amount is hereby waived in accordance with K.C.C. 14.40.020.C.

66

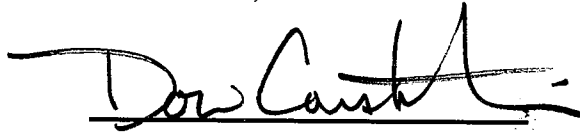
Ordinance 16635 was introduced on 6/8/2009 and passed by the Metropolitan King
County Council on 8/31/2009, by the following vote:

Yes: 8 - Mr. Constantine, Mr. Ferguson, Ms. Hague, Ms. Lambert, Mr. von
Reichbauer, Mr. Gossett, Mr. Phillips and Ms. Patterson

No: 0

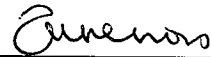
Excused: 1 - Mr. Dunn

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON



Dow Constantine, Chair

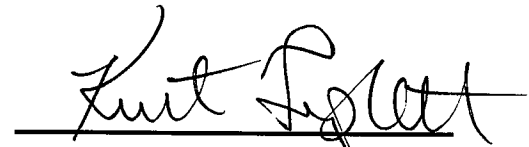
ATTEST:



Anne Noris, Clerk of the Council

RECEIVED
2009 SEP 11 PM 3:56
CLERK
KING COUNTY COUNCIL

APPROVED this 10th day of September, 2009.



Kurt Triplett, County Executive

Attachments A. Hearing Examiner Report dated August 7, 2009

August 7, 2009

**OFFICE OF THE HEARING EXAMINER
 KING COUNTY, WASHINGTON**
 400 Yesler Way, Room 404
 Seattle, Washington 98104
 Telephone (206) 296-4660
 Facsimile (206) 296-1654
 Email hearingexaminer@kingcounty.gov

REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: King County Department of Transportation File No. **V-2596**
 Proposed Ordinance No. **2009-0357**
 Adjacent Parcel Nos. **242606-9088 and 242606-9016**

JANIS HONG
 Road Vacation Petition

Location: Portion of 274th Avenue Northeast (aka J.D. Mercer Road)

Petitioner: **Janis Hong**
 27327 Northeast Big Rock Road
 Duvall, Washington 98019
 Telephone: (425) 788-7520

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
Department's Final:	Approve road vacation
Examiner's:	Approve road vacation and grant partial waiver of compensation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the Hearing Examiner for road vacation petition V-2596 was received by the Examiner on June 23, 2009.

PUBLIC HEARING:

After reviewing the Department's report and accompanying attachments and exhibits, the Examiner conducted a public hearing on the petition and report as follows:

The hearing was opened by the Examiner on July 15, 2009 in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, Washington 98104 and then was left open administratively for receipt of copies of a recorded public road easement in favor of King County and a recorded agreement and easement for roadway between Puget Sound Energy and King County. The easement copies were received August 3, 2009, upon which the hearing record closed. 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 274th Avenue NE (aka J.D. Mercer Road)
Right of way classification:	C Class
Area:	36,912 square feet
Compensation:	\$9,068.38 (pursuant to KCC 14.40.020.A, \$8,658.56 recommended to be waived and refunded as an offset for alternate right-of-way granted by Petitioner)
2. 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 herein, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department's report to the Examiner for the July 15, 2009 public hearing and the statement of facts contained in Proposed Ordinance No. 2009-0357. The Department's report 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 are in the hearing record as exhibit nos. 7 and 12.
5. The subject right-of-way segment is not currently opened, constructed or maintained for public use, and is not known to be used informally for access to any property.
6. An alternative right-of-way has been granted by Petitioner.
7. Given the granting of an alternative right-of-way, 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 properties and surrounding area.
8. Given the alternative right-of-way, the right-of-way is not necessary for the present or future public road system for travel or utilities purposes.

9. Easements necessary for the provision of alternative access have been recorded. No other easements or agreements, such as for the construction, repair and maintenance of public utilities and services, are necessary.
10. The compensation required by law to be paid as a condition precedent to vacation of this road has been deposited with King County. Pursuant to KCC 14.40.020.A, most of the compensation is recommended by the Department to be waived and refunded to Petitioner as consideration for the above-noted provision of an alternative right-of-way.

CONCLUSION:

1. The right-of-way segment subject to this petition is not useful as part of the King County road system, and the public will be benefited by its vacation.
2. The petition merits the partial waiver and refund recommended by the Department. The provision of an alternative right-of-way qualifies the petition for such waiver under KCC 14.40.020.A. The partial waiver and refund are accordingly recommended by the Examiner.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2009-0357 to vacate the subject road right-of-way and waive and refund \$8,658.56 of the calculated compensation amount pursuant to KCC 14.40.020.A.

RECOMMENDED August 7, 2009.

Peter T. Donahue
King County Hearing Examiner

**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 August 21, 2009*. If a notice of appeal is filed, the original and six 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 August 28, 2009*.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 Third 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 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 JULY 15, 2009, PUBLIC HEARING ON DEPARTMENT OF
TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2596

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Nicole Keller and Kelly Whiting representing the Department.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Report to the Hearing Examiner for the July 15, 2009 hearing, with 16 attachments.
- Exhibit No. 2 Letter from Clerk of the King County Council to King County Department of Transportation (KCDOT) transmitting petition, dated March 27, 2007
- Exhibit No. 3 Cover letter for petition, received on March 27, 2007
- Exhibit No. 4 Petition for Vacation of a County Road including legal descriptions of petitioner's property
- Exhibit No. 5 Copy of filing fee: check no. 1597, in the amount of \$100
- Exhibit No. 6 Receipt no. 00828 for filing fee
- Exhibit No. 7 Vicinity map
- Exhibit No. 8 Quit claim deed no. 631231 for property from Mercers to King County, dated August 5, 1909
- Exhibit No. 9 Quit claim deed no. 631232 for property from Mercers to King County, dated August 5, 1909
- Exhibit No. 10 Map depicting area to be deeded from Puget Sound Energy (PSE) to King County
- Exhibit No. 11 Map depicting area to be deeded to King County
- Exhibit No. 12 Map depicting vacation area
- Exhibit No. 13 Final Agency Notice sent August 30, 2007
- Exhibit No. 14 Survey of Hong property, recorded November 23, 2005
- Exhibit No. 15 Letter from KDCOT to Petitioners explaining petition process, dated June 19, 2007
- Exhibit No. 16 Letter from KCDOT to KC Council regarding status of petition, dated October 16, 2007
- Exhibit No. 17 Letter from KCDOT to Petitioner regarding easements, dated October 31, 2007
- Exhibit No. 18 Letter from KCDOT to Petitioner regarding on-hold status of petition, dated May 27, 2008
- Exhibit No. 19 Memorandum from Roads Services to Real Estate Services requesting review of proposed easement from PSE, dated July 9, 2008
- Exhibit No. 20 Memorandum from Roads Services to Real Estate Services requesting review of revised proposed easement from PSE, dated July 31, 2008
- Exhibit No. 21 Public road easement from David and Janis Hong to King County (unrecorded version)
- Exhibit No. 22 Agreement and Easement for Roadway from PSE to King County (unrecorded version)

- Exhibit No. 23 Letter from KCDOT to Petitioner recommending approval of petition and requesting compensation, dated March 3, 2009
- Exhibit No. 24 Revised Petition for Vacation of a County Road
- Exhibit No. 25 Compensation Worksheet
- Exhibit No. 26 Copy of compensation payment, check no. 1720210716 in the amount of \$9,068.38
- Exhibit No. 27 Receipt no. 540815 for compensation payment
- Exhibit No. 28 Letter from KCDOT to KC Council recommending approval of petition, dated March 4, 2009
- Exhibit No. 29 Refund Compensation Worksheet
- Exhibit No. 30 Letter from KCDOT to KC Council transmitting proposed ordinance, dated May 29, 2009
- Exhibit No. 31 Proposed Ordinance 2009-0357
- Exhibit No. 32 Fiscal Note
- Exhibit No. 33 Affidavit of Posting, noting posting date of June 11, 2009
- Exhibit No. 34 Affidavit of Publication, noting July 1 and July 8, 2009 publication dates

The following exhibits were entered into the record administratively on August 3, 2009:

- Exhibit No. 21a Public road easement from David and Janis Hong to King County recording no. 20090715000874
- Exhibit No. 22a Agreement and Easement for Roadway from PSE to King County recording no. 20090720000204

PTD:vsm
V-2596 RPT