

September 24, 2024

**OFFICE OF THE HEARING EXAMINER  
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**REPORT AND RECOMMENDATION**

SUBJECT: Department of Transportation file no. **V-2751**  
Proposed ordinance no. **2024-0233**  
Adjacent parcel nos. **182206-9152 and 182206-9155**

**DENIS MONTEIRO AND MICHELLE PEDERSEN**  
Road Vacation Petition

Location: a portion of 190th Avenue SE/Gioranni Vitarelli Rd/Rd No.1592,  
Renton

Petitioners: **Denis Monteiro and Michelle Pedersen**  
19006 SE 227th Pl  
Renton, WA 98058  
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Email: michped84@hotmail.com; [denis.monteiro@gmail.com](mailto:denis.monteiro@gmail.com)

King County: Department of Local Services  
*represented by* **Leslie Drake**  
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FINDINGS AND CONCLUSIONS:

Overview

1. Denis Monteiro and Michelle Pedersen (Petitioners) seek to vacate a portion of public right-of-way at (190th Avenue SE/Gioranni Vitarelli Rd/Rd No.1592) near Renton. The Department of Local Services, Road Services Division (Roads), urges vacation and a waiver of compensation. On September 10, 2024, we conducted a public hearing on Council's behalf. After hearing witness testimony and observing demeanor, studying the exhibits, and considering the parties' arguments and the relevant law, we recommend that Council vacate the right-of-way, conditioned on Petitioners providing minor compensation and executing easements for the neighbors and local water district.

### Background

2. Except as provided below, we incorporate the facts set forth in Roads’ report and in proposed ordinance no. 2024-0233. That report, and a map showing the area to be vacated and the vicinity of the proposed vacation, are in the hearing record and will be attached to the copies of our recommendation submitted to Council. Exs. D1 at 001–05; D7.
3. Chapter RCW 36.87 sets the general framework for county road vacations, augmented by KCC chapter 14.40. There are at least four somewhat interrelated inquiries. The first two relate to whether vacation is warranted: is the [1] road useless to the road system and [2] would vacation benefit the public? If the answers to these are both yes, the third and fourth relate to compensation: [3] what is the appraised (or perhaps assessed) value of the right-of-way, and [4] how should this number be adjusted to capture avoided County costs? We analyze each of those below.

### Is Vacation Warranted?

4. A petitioner has the burden to show that the “road is [1] useless as part of the county road system and [2] that the public will be benefitted by its vacation and abandonment.” RCW 36.87.020. “A county right of way may be considered useless if it is not necessary to serve an essential role in the public road network or if it would better serve the public interest in private ownership.” KCC 14.40.0102.B. While denial is mandatory (“*shall* not” vacate) where a petitioner fails to make that showing, approval is discretionary where a petitioner shows uselessness and public benefit (“*may* vacate”). RCW 36.87.060(1) (emphasis added).
5. None of the north-south running right-of-way has been opened, constructed, or maintained for *public* use. At the northern end, the map lines run into the neighbor’s trees. Most of the right-of-way descends south through Petitioners’ garden/landscape area. However, the southern base of the right-of-way segment is different. There is currently a east-west, *private* access road connecting five parcels to the west of Petitioners’ properties with Peter Grubb Road SE to the east. The private access route crosses the very southern tip of the public right-of-way.
6. The other wrinkle is that the Cedar River Water and Sewer District has a north-south running line running under the public right-of-way.
7. Neither of those are problematic from a vacation standpoint.
8. There is already an *existing* easement across the southern end of Petitioners’ properties for the benefit of the five private parcels to the west. During Roads’ review process, Petitioners submitted a draft access easement confirming the existing easement and ensuring continued access. Ex. D16. The only issue we spotted in our review is that the draft access easement covers “the southern 30 feet of that portion of 190th Ave SE immediately **west** of parcel number 1822069152” (**bold** emphasis is ours). Looking at

the map, it should either read “west of parcel number 1822069155” or “east of parcel number 1822069152.”

9. Similarly, the Cedar River Water and Sewer District appeared at our hearing and described their water main underlying the public right-of-way. The District has no issue with vacation, so long as they receive an easement protecting their water line. The District explained the terms they typically require for such easements, like no structures on top, no trees on or nearby the line, maintenance access, etc. Petitioners noted that they had been aware of the water line and had already been avoiding doing anything in the area that might disturb the line (such as planting deep-rooted vegetation, opting instead for a flower/vegetable garden).
10. Provided those easements are executed before the vacation is finalized, the road is useless to the county road system and vacation would have no adverse effect on the provision of access and fire and emergency services to the abutting properties and surrounding area. The right-of-way is not necessary for the present or future transportation system. The public will benefit from its vacation, with the savings in expected, avoided management and maintenance costs and increased property taxes discussed below. Vacation is warranted.

#### What Compensation is Due?

11. Where vacation is appropriate, we calculate compensation by [3] starting with the increase in property values the receiving parcel will garner from the extra square footage the (formerly) public right-of-way area adds to the parcel; this figure is generated by the Assessor. However, that is only the starting point, because [4] State and County law allow local legislative branches to adjust the appraised value to reflect the expected value to the public from avoided liability risk, eliminated management costs, and jettisoned maintenance costs, along with increased property taxes. RCW 36.87.070; KCC 14.40.020.A.1.
12. Performance, Strategy, and Budget created a model for calculating these adjustments, updated annually. Roads then applies those figures to a given parcel. The Assessor estimates that parcel -9152 would increase \$1,000 in value, which is more than offset by the estimated \$4,177 in public benefit from vacating that portion of the right-of-way. The Assessor estimates that parcel -9155 would increase \$10,000 in value; offsetting the \$4,177 in public benefit from vacating that portion of the right-of-way pegs the appropriate compensation for -9155 at \$5,637. Exs. D14 & D15.

#### RECOMMENDATION:

13. We recommend that Council APPROVE proposed ordinance no. 2024-0233 to vacate the subject road right-of-way abutting parcel 182206-9155, CONTINGENT on Petitioners, within 90 days of the date Council takes final action on this ordinance:

- A. Paying \$5,637 to King County;
- B. Delivering a signed easement in favor of the five properties using the private access road; and
- C. Delivering a signed easement in favor of the Cedar River Water and Sewer District.

If King County does not receive each of those three items by that date, there is no vacation and the associated right-of-way remains King County's. If those three items are timely met, the Clerk shall record an ordinance against parcel 182206-9155. Recording an ordinance signifies that all three contingencies are satisfied and that the right-of-way associated with parcel 182206-9155 is vacated.

14. We recommend that Council APPROVE proposed ordinance no. 2024-0233 to vacate the subject road right-of-way abutting parcel 182206-9152, CONTINGENT on Petitioners, within 90 days of the date Council takes final action on this ordinance:
- A. Delivering a signed easement in favor of the five properties using the private road; and
  - B. Delivering a signed easement in favor of the Cedar River Water and Sewer District.

If King County does not receive both of those items by that date, there is no vacation and the associated right-of-way remains King County's. If those two items are timely met, the Clerk shall record an ordinance against parcel 182206-9152. Recording an ordinance signifies that both contingencies are satisfied and that the right-of-way associated with parcel 182206-9152 is vacated.

DATED September 24, 2024.



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David Spohr  
Hearing Examiner

### **NOTICE OF RIGHT TO APPEAL**

A party may appeal an Examiner report and recommendation by following the steps described in KCC 20.22.230. By **4:30 p.m.** on **October 18, 2024**, an electronic appeal statement must be sent to [Clerk.Council@kingcounty.gov](mailto:Clerk.Council@kingcounty.gov), to [hearingexaminer@kingcounty.gov](mailto:hearingexaminer@kingcounty.gov), and to the party email addresses on the front page of this report and recommendation. Please consult KCC 20.22.230 for the exact filing requirements.

If a party fails to timely file an appeal, the Council does not have jurisdiction to consider that appeal. Conversely, if the appeal requirements of KCC 20.22.230 are met, the Examiner will notify parties and interested persons and will provide information about next steps in the appeal process.

**MINUTES OF THE SEPTEMBER 10, 2024, HEARING ON THE ROAD  
VACATION PETITION OF DENIS MONTEIRO AND MICHELLE PEDERSEN,  
DEPARTMENT OF TRANSPORTATION FILE NO. V-2751**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Sean Bauer, Leslie Drake, Michelle Pedersen, and Denis Monteiro.

The following exhibits were offered and entered into the hearing record:

Exhibit no. D1	Roads Services report to the Hearing Examiner, sent August 11, 2024
Exhibit no. D2	Letter from Clerk of the Council to Road Engineer, transmitting petition, dated September 11, 2021
Exhibit no. D3	Petition for vacation of a county road, received September 17, 2021
Exhibit no. D4	Letter to Petitioner acknowledging receipt of petition and explaining road vacation process, dated September 27, 2021
Exhibit no. D5	Assessor's information for property APN 1822069152
Exhibit no. D6	Assessor's information for property APN 1822069155
Exhibit no. D7	Vacation area map
Exhibit no. D8	Boundary line adjustment recorded 199504179008
Exhibit no. D9	Boundary line adjustment recorded 20040518900027
Exhibit no. D10	Final notice sent of review to agencies, dated April 21, 2022
Exhibit no. D11	Email from Assessor's Office on valuation
Exhibit no. D12	Compensation calculation model for APN 1822069152
Exhibit no. D13	Compensation calculation model for APN 1822069155
Exhibit no. D14	Letter to Petitioner recommending approval, with the Road Engineer Report, dated December 22, 2022
Exhibit no. D15	Road Engineer Report
Exhibit no. D16	Proposed access easement
Exhibit no. D17	Letter to Chair, recommending approval and transmitting proposed ordinance, dated July 23, 2024
Exhibit no. D18	Proposed ordinance
Exhibit no. D19	Declaration of posting
Exhibit no. D20	Affidavit of publication – to be supplied by Clerk of Council
Exhibit no. D21	Email, Cedar River Water and Sewer District, submitted September 10, 2024