

December 10, 2024

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

REPORT AND RECOMMENDATION

SUBJECT: Department of Transportation file no. **V-2760**
Proposed ordinance no. **2024-0280**
Adjacent parcel no. **356380-0100**

ANDREW TRISTANI
Road Vacation Petition

Location: of a portion of 104th Ave SW/Summit Ave and a portion of
105th Ave SW/Bluff Ave, Vashon Island

Petitioner: **Andrew Tristani**
P.O. Box 933
Vashon, WA 98070
Telephone: (425) 647-6850
Email: amtristani@hotmail.com

King County: Department of Local Services
represented by **Leslie Drake**
201 S Jackson Street
Seattle, WA 98104
Telephone: (206) 477-7764
Email: leslie.drake@kingcounty.gov

FINDINGS AND CONCLUSIONS:

Overview

1. Andrew Tristani petitions the County to vacate two stretch of public right-of-way (one on either end of his property) of what would be (if an actual road was built) 104th Ave SW/Summit Ave and a portion of 105th Ave SW/Bluff Ave, Vashon Island. The Department of Local Services, Road Services Division (Roads), urges vacation and a waiver of compensation. On December 5, we conducted a remote public hearing on behalf of the Council. After hearing witness testimony and observing their demeanor, studying the exhibits entered into evidence, and considering the parties' arguments and the relevant law, we recommend that the Council vacate the right-of-way and not require compensation.

Background

2. Except as provided below, we incorporate the facts set forth in Roads’ report and in proposed ordinance 2024-0280. 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 001-004; 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. The subject right-of-way segments were dedicated in a 1907 plat but never opened. What are identified as 104th Ave SW/Summit Ave and 105th Ave SW/Bluff Ave—as they traverse above, through, and below the Tristani property—are essentially lines on a map; the footprint of the “avenues” are heavily forested. Ex. D7. Neither avenue is currently opened, constructed, or maintained for public use and neither is known to be used informally for access to any property. 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 public road system. There may be a utility easement in the area, but the proposed ordinance is written to expressly not extinguish any existing utility easements.
6. We find that the road is useless to the county road system. We also find that the public will benefit from its vacation, given the savings in expected, avoided management and maintenance costs and increased property taxes discussed below. We conclude that vacation here is warranted.

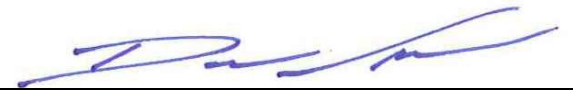
What Compensation is Due?

7. 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. Here, the Assessor determined that vacation would add \$5000 in value to the Tristani property. Ex. D12.
8. 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. Performance, Strategy, and Budget created a model for calculating these adjustments, updated annually. Roads then applies those figures to a given parcel. Here jettisoning the useless right-of-way is expected to benefit the County to the tune of \$6000. Ex. D12. Thus, there is no need for Mr. Tristani to further compensate the County for the vacation.

RECOMMENDATION:

We recommend that Council APPROVE proposed ordinance no. 2024-0280 to vacate the subject road right-of-way abutting parcel 356380-0100, with no compensation requirement or contingencies.

DATED December 10, 2024.



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 *January 3, 2025*, an electronic appeal statement must be sent to Clerk.Council@kingcounty.gov, to 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 DECEMBER 5, 2024, HEARING ON THE ROAD VACATION PETITION OF ANDREW TRISTANI, DEPARTMENT OF TRANSPORTATION FILE NO. V-2760

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Leslie Drake and Andrew Tristani.

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

Exhibit no. D1	Roads Services report to the Hearing Examiner, sent November 20, 2024
Exhibit no. D2	Letter from Clerk of the Council to Road Engineer, transmitting petition, dated September 26, 2022
Exhibit no. D3	Petition for vacation of a county road, received September 26, 2022
Exhibit no. D4	Letter to Petitioner acknowledging receipt of petition and explaining road vacation process, dated November 15, 2022
Exhibit no. D5	Assessor's information for property APN 3563800100
Exhibit no. D6	Imnaha Addition Plat
Exhibit no. D7	Exhibit map
Exhibit no. D8	Second notice sent of review to agencies on April 26, 2023
Exhibit no. D9	Email from Assessor's Office on valuation
Exhibit no. D10	Compensation calculation model for APN 3563800100
Exhibit no. D11	Cover letter to Petitioners with Road Engineer's Report, dated August 1, 2023
Exhibit no. D12	Road Engineer report
Exhibit no. D13	Letter to Chair, recommending approval and transmitting proposed ordinance, dated September 3, 2024
Exhibit no. D14	Proposed ordinance
Exhibit no. D15	Declaration of posting
Exhibit no. D16	Publication