

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

PUBLIC HEARING: December 17, 2020 at 10:00 am or shortly thereafter

**Telephonic hearing by the King County Hearing Examiner's Office
Seattle, WA 98104**

December 1, 2020

PETITION TO VACATE: A Portion of S.A. Nelson Road

Transportation File: V-2726

Proposed Ordinance: 2020-0294

A. GENERAL INFORMATION

Petitioner(s): Gary Habenicht, Richard and Wendy Melewski

Location of Road: Portion of S.A. Nelson Rd
Thomas Brothers Page 718
Quarter Section – NE 25-22-06

Adjacent Parcels: 8847400167; 242206918; 8847400085

B. HISTORY AND OVERVIEW

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 May 16, 2019, with the Clerk of the King County Council, seeking the vacation of a portion of S.A. Nelson Road in the Ravensdale area of unincorporated King County.

The petition requests the vacation of a portion of the southern 15 feet of S.A. Nelson Road right-of-way in the NE Quarter of Section 25, Township 22, Range 06 as appearing on Thomas Brothers page 718 adjacent to Petitioner's properties, parcel 8847400085 as owned by Richard and Wendy Melewski and Parcel 8847400167 owned by Gary Habenicht. See Exhibit Map, Exhibit #7.

Exhibit no.	1
Case name	Gary Habenicht and Richard and Wendy Melewski
Case number	V-2726
Date received	12/17/2020
KING COUNTY HEARING EXAMINER	

EXHIBIT 1

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The Department of Local Services, Road Services Division (Roads) reviewed the petition and determined that S.A. Nelson Road is the subject of King County Engineer's Office Survey No. 1885 of November 13, 1922 and Order of the King County Board of Commissioners, Volume 24-233, and Treasurer's Deed 6064. During the course of this review, Roads determined that in addition to the area sought for vacation in the original petition, there is a northern 15 feet of S.A. Nelson road appearing in the original Road Establishment documents and creating an encumbrance or cloud on Petitioner's property and an implication of obligation or responsibility for Roads. Roads further researched the areas covered in the original establishment documents and determined that, from all available information, the northern 15 feet of S.A. Nelson Road, while the subject of the Road Establishment Order, was never deeded to King County. The southern 15 feet was acquired under Treasurer's Deed 6064. However, the northern 15 feet as referenced in the establishment documents appears as County right-of-way on Assessor's maps creating an encumbrance on Petitioner's property.

The County Road Engineer recommends the vacation of both the southern and northern 15 feet of S.A. Nelson Road as fully described in the proposed Ordinance 2020-0294 to remove any clouds on Petitioner's title and any question, conflict or potential obligations of the County for this questionable area.

The subject section of right-of-way is unopened and unmaintained section of right-of-way and does not provide access to any property.

Very near the vacation area is an open and maintained county road, S.E. 256th Street. The area of S.A. Nelson Road and S.E. 256th St. has been the subject of some confusion and historic survey discrepancies. It appears that there two reported section corners and a gap between them. See Exhibit # 8, a Boundary Line Adjustment completed in 2000 for a good depiction of the situation. This same boundary line adjustment created parcel number 2422069118 as owned by Petitioner Gary Habenicht. It also identifies the existing S.E. 256th St. and the established S.A. Nelson Road.

Additionally, in 1985, the eastern most portion of right-of-way was vacated under King County Ordinance 7286, Exhibit #9. In the Ordinance, the right-of-way vacated included an area identified as portions of S.E. 256th St. By vacating both the northern and southern 15 feet of S.A. Nelson Road in this area Roads hopes to eliminate some of the confusion regarding the true and proper location of SE 256th Street, an open and improved county road and the S.A. Nelson right of way as created in the 1922 establishment process.

C. NOTICE

Notice of this hearing was posted at the eastern and western most ends of the proposed vacation area on November 23, 2020, see Exhibit #25, and published in accordance with requirements of RCW 36.87.060.

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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 or utility requested easements or identified a reason why the vacation petition should not be approved.

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 and Water and Land Divisions; 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 #13.

ATTACHMENTS	AGENCY	COMMENT
1.	Puget Sound Energy	Response dated 8/21/2019. It appears that PSE only has secondary electric through the proposed vacation area serving the perspective owners. This vacation presents no concerns to PSE.
2.	Comcast	Response dated 8/13/2019. Comcast does not have any facilities in the V-2726 ROW. We do not object to the vacation request.
3.	Wave	Response dated 8/9/2019. Wave has no facilities within the indicated vicinity.
4.	Covington Water District	Response dated 02/03/2020. Covington Water District does not have a facility inside these parcels of interest. We do not oppose this vacation request.
5.	King County Fire District 43	Response dated 8/8/2019. No issues so long as access to 272 Ave SE from SE 256 th St is maintained. Map received by this office does not reflect a change in access to 272 nd Ave SE, therefore we have no issues with the vacation.
6.	DLS Permitting	Response dated 8/7/2019. No objection.
7.	DNRP- Parks Div.	Response dated 8/6/2019. Parks has no objections to this request. Okay to vacate.
8.	DNRP - Wastewater	Response dated 8/6/2019. There does not appear to be any KC Facilities in the proposed vacation area. Approve Vacation.
9.	DLS ROADS- CIP & Planning Section	Response dated 8/20/2019. We have no long range transportation planning concerns with this road vacation.
10.	DLS ROADS- Roads Maintenance	Response dated 10/23/2019. The subject right-of-way is unopened, unimproved and unmaintained, and King County Road Maintenance has no future plans to open, improve or maintain this right-of-way.

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11.	DLS ROADS-Traffic Engineering	Response dated 8/7/2019. King County Local Services, Road and Traffic Engineering has no objection to this proposed right-of-way vacation.
12.	Metro Transit	Response dated 9/32019. King County Metro has no interest or comments in this proposed road vacation V-2726
13.	DLS ROADS Survey Unit	Response dated 4/1/2020. APN 8847400167 Gary Habenicht, Area 1,350 SF, APN 8847400085, Richard and Wendy Melewski, Area 9,572 SF. These two parcels are within the area described in Treasurer's Deed 6064 as having been conveyed to King County. No county road was ever opened or maintained within this area, as well as I could determine from existing records in the Roads Division Map Vault. Compensation from petitioners is recommended for these two areas according to the applicable class of r/w specified in the county ordinance for deeded, unopened and unmaintained county road. The third 15' wide strip is entirely within Lot L, King County LLA L98L0144, recording no. 20000419900001 owned by Gary Habenicht containing 31,795 feet This area was never deeded to King Count and no County Road was ever opened or maintained within this 15' wide strip. My recommendation is that we simply vacate this area and that no compensation be required from the petitioner.
14.	DLS ROADS Drainage	Responses dated 8/22/2019. No drainage issues.

E. OTHER COMMENTS

None.

F. COUNTY ROAD ENGINEER RECOMMENDATION

The County Road Engineer has determined that the subject portions of right-of-way are useless to the county transportation system and recommends approving the petition vacating the subject portion of right-of-way and vacating the addition northern 15 feet of S.A. Nelson Road. The full report of the County Road Engineer is included as Exhibit #21.

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 Petitioners. See Exhibit #16.

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Petitioner Richard and Wendy Melewski

Parcel 884740-0085 is owned by Richard and Wendy Melewski. Upon approval of this road vacation, the property will receive approximately 9,572 square feet. The addition of the 9,572 square feet would result in a \$3,000 increase in value. The valuation as applied to the compensation model results in no charge to Petitioners Melewski should the 9,572 square feet be vacated and added to their property.

The full PSB model spreadsheet as applied to this parcel is attached at Exhibit #17.

Petitioner Gary Habenicht

Parcel 884740-0167 is owned by Gary Habenicht. Upon approval of this road vacation, the property will receive approximately 1,350 square feet. The addition of the 1,350 square feet would result in a \$1,000 increase in value. The valuation as applied to the compensation model results in no charge to Petitioner Habenicht should the 1,350 square feet be vacated and added to his property.

The full PSB model spreadsheet as applied to this parcel is attached at Exhibit #18.

Parcel 242206-9118 is also owned by Gary Habenicht. Vacating the originally requested southern 15 feet of S.A. Nelson Road would not result in any area being added to this property. However, vacating the northern 15 feet as recommended by the County Road Engineer and Road Services Division would result in 21,795 square feet being added to this property. The addition of the 21,795 square feet to the property would result in a \$8,000 increase in value. The valuation as applied to the compensation model results in a charge of \$3,747 to Petitioner Habenicht should the 21,795 square feet be vacated and added to his property.

The full PSB model spreadsheet as applied to this parcel is attached at Exhibit #19.

It is the recommendation of the County Road Engineer and the Director of Road Services that the compensation calculation resulting from the application of the PSB compensation model apply for each of the properties for which Petitioners sought this vacation; parcels 884740-0085 and 884740-0167.

Petitioners did not seek the vacation of northern 15 feet of right-of-way to property 242206-9118. This additional area was added to this vacation by Road Services Division. The northern 15 feet of S.A. Nelson Road appears as County held right-of-way on some documents, including Assessor's maps, and creates an apparent encumbrance on Petitioner's property. However, from all available research, there are questions as to whether the right of way was fully established over the northern 15 feet and the County's interest may be more of a shadow than a fully established right-of-way for this portion S.A. Nelson Road.

If no deed was obtained by the County for the northern 15 feet of S.A. Nelson Road and the right-of-way never opened for public use, then RCW 36.87.090 may apply. Research by Roads staff has not located a deed or other conveyance for the northern 15 feet. Under this statute, if no deed

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conveyed this interest to the County and the road was never opened for use, then the northern 15 feet would be vacated and the authority for the County to construct a road barred by lapse of time.

Additionally, surveyors for Road Services have identified apparent errors in historic surveys that have caused confusion on the true and proper location of the right-of-way for SE 256th St., an open and improved County Road lying north of the subject vacation area. The vacation of the northern 15 feet running all along parcel 242206-9118 may eliminate future conflict or confusion regarding the location of SE 256th St. Therefore, it is the recommendation of the County Road Engineer and Director of Road Services that this additional area, 21,795 along parcel 242206-9118 be vacated without the requirement of additional compensation from Petitioner Habenicht.

H. EXHIBITS

Exhibit #	DESCRIPTION
1.	DLS Roads Report to the Hearing Examiner December 1, 2020 with 14 attachments and 26 exhibits.
2.	Petition transmittal letter dated May 16, 2019 to the County Road Engineer from the Clerk of Council.
3.	Petition for Vacation of a County Road. Received May 16, 2019.
4.	Letter to Petitioners dated May 22, 2019 acknowledging receipt of Petition.
5.	Email of June 20, 2019 regarding revised petition.
6.	Revised petition signed by Petitioners
7.	Exhibit map depicting vacation area.
8.	Boundary Line Adjustment L98L0144 creating Lot L King County Recording No. 20000419900001
9.	King County Ordinance 07286
10.	King County Assessor's information for Petitioner Habenicht's properties APN 242206-9118 and 8847400167
11.	King County Assessor's information for Petitioner Richard and Wendy Melewski's property APN 884740-0085
12.	Portion of Assessor's Map for quarter section NE 25-22-06
13.	Copy of final notice sent to stakeholders on October 9, 2019 with vicinity map and site map showing vacation area
14.	Email to Petitioner of May 4, 2020 regarding adding Northern 15 feet of S.A. Nelson Road to vacation
15.	Roads Survey prepared legal description and exhibit of vacation area.
16.	Email exchange with Assessor's Office regarding valuation of vacation area.
17.	Compensation calculation model spreadsheet for Petitioner Richard and Wendy Melewski property APN 884740-0085.
18.	Compensation calculation model spreadsheet for Petitioner Gary Habenicht property APN 884740-0167.

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19.	Compensation calculation model spreadsheet for Petitioner Gary Habenicht property APN 242206-9118.
20.	Letter to Petitioners dated May 14, 2020, with a copy of the County Road Engineer's report.
21.	County Road Engineer's Report
22.	Ordinance transmittal letter dated August 27, 2020 from King County Executive to Councilmember Claudia Balducci
23.	Proposed Ordinance
24.	Fiscal Note.
25.	Declaration of Posting
26.	Affidavit of Publication for date of hearing – to be supplied by Clerk of the Council.

G. ISSUES:

Exhibit #26, 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.

Mailing List Road Vacation File V-2726

PROPOSED RIGHT-OF-WAY VACATION V-2726





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4/13/2020

IMAGE_Ortho2019KCNAT

Vacation File: V-2726
 S.A. Nelson Rd
 NE 25-22-06
ROW Area (Approximate):
 Primary - 10,922 FT2 or 0.25 Acres
 Secondary - 21,795 FT2 or 0.50 Acres
 Total: 32,717 FT2 or 0.75 Acres



-  Primary Road Vacation
-  Secondary Vacation Area
-  Petitioner Parcel
-  Parcels
-  Roadlog - Unincorporated, Maintained Streets
-  King County Right of Way

