



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19745

Proposed No. 2023-0423.2

Sponsors Upthegrove

1 AN ORDINANCE authorizing the vacation of a portion of
2 S. 368th Street/10th Street, file no. V-2730; Petitioners:
3 Brett Sherrod, Christian Denzler, and Jerald Laitila.

4 **STATEMENT OF FACTS:**

- 5 1. A petition has been filed requesting vacation of a portion of S. 368th
- 6 Street/10th Street, hereinafter described.
- 7 2. The department of local services notified utility companies serving the
- 8 area and King County departments of the proposed vacation and has been
- 9 advised that Puget Sound Energy and Comcast require easements over the
- 10 vacation area. The vacation shall not extinguish the rights of any utility
- 11 company to any existing easements for facilities or equipment within the
- 12 vacation area.
- 13 3. The department of local services' records indicate that this segment of
- 14 right of way is unopened and unmaintained.
- 15 4. The department of local services considers the subject portion of right
- 16 of way useless as part of the county road and transportation system and
- 17 believes the public would benefit by the return of this segment of right of
- 18 way to the public tax rolls and recommends approval of the vacation.
- 19 5. Pursuant to K.C.C. 14.40.020 and RCW 36.87.120, the value of the
- 20 vacation area is offset by the costs to King County to manage and

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21 maintain this segment of unopened right of way and the present value of
22 future property tax. This results in a determination of: \$2,758 as
23 compensation for the vacation of 6,964 square feet of S. 368th Street/10th
24 Street right of way to the property of Petitioner Christian Denzler, King
25 County Assessor's Parcel Number 375060-8010; no compensation for the
26 vacation of 4,511 square feet of S. 368th Street/10th Street right of way to
27 the property of Petitioner Jerald Laitila, King County Assessor's Parcel
28 Number 375060-8049; and no compensation for the vacation of 3,194
29 square feet of S. 368th Street/10th Street right of way to the property of
30 Petitioner Jerald Laitila, King County Assessor's Parcel Number 375060-
31 8052.

32 6. Due notice was given in the manner provided by law. The office of the
33 hearing examiner held the public hearing on February 7, 2024.

34 7. As detailed in the February 7, 2024, recommendation, the hearing
35 examiner found that the road segment subject to this petition is not useful
36 as part of the King County road system, concluded that the vacation of this
37 segment of road will benefit the public through the transfer of
38 responsibility for management and return of the property to the public tax
39 roll, and recommended requiring \$2,758 in compensation from Petitioner
40 Christian Denzler as a condition of vacation, and no compensation from
41 Petitioners Jerald Laitila or Brett Sherrod.

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42 8. For the reasons stated in the examiner's report and recommendation,
43 the council determines that it is in the best interest of the citizens of King
44 County to grant said petition and vacate the right of way.

45 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

46 SECTION 1. The council, on the effective date of this ordinance, hereby vacates
47 and abandons a portion of S. 368th Street/10th Street, right of way as dedicated to King
48 County by the recording of the plat of Jovita, recorded in Volume 19 of Plats, Page 14,
49 records of King County Washington as described below:

50 THAT PORTION OF SOUTH 368TH STREET (10TH STREET) IN
51 SECTION 34, TOWNSHIP 21 NORTH, RANGE 4 EAST, W.M., KING
52 COUNTY, WASHINGTON, LYING EASTERLY OF THE WEST 30.00
53 FEET OF SAID SECTION 34 AND WESTERLY OF THE
54 NORTHWESTERLY PROJECTION OF THE WESTERLY RIGHT OF
55 WAY MARGIN OF 34TH AVE S (VIRGINIA AVENUE) TO THE
56 NORTHERLY RIGHT OF WAY MARGIN OF SOUTH 368TH STREET
57 (10TH STREET), ACCORDING TO THE PLAT OF JOVITA,
58 RECORDED IN VOLUME 19 OF PLATS, AT PAGE 14, RECORDS OF
59 KING COUNTY, WASHINGTON.

60 Containing 14,669 square feet, more or less.

61 SECTION 2. There are no contingencies or compensation requirements
62 for vacating the subject road right-of-way abutting the Laitilia parcels (375060-
63 8049 and 375060-8052).


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64 SECTION 3. Vacation of the subject road right-of-way abutting the Denzler
65 parcel (375060-8010), is contingent on petitioner paying \$2758 to King County within
66 ninety days of the date council takes final action on this ordinance. If King County does
67 not receive \$2758 by that date, there is no vacation and the associated right-of-way
68 remains King County's. If payment is timely received, the clerk shall record an ordinance
69 against parcel 375060-8010. Recording an ordinance will signify that payment has been


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70 received, the contingency is satisfied, and the right-of-way associated with parcel
71 375060-8010 is vacated.

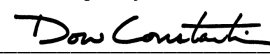
KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

DocuSigned by:

E76CE01F07B14EF...
Dave Upthegrove, Chair

ATTEST:

DocuSigned by:

8DE1BB375AD3422...
Melani Hay, Clerk of the Council

APPROVED this _____ day of 3/14/2024, _____.

DocuSigned by:

4FBCAB8196AE4C6...
Dow Constantine, County Executive

Attachments: A. Hearing Examiner Report dated February 7, 2024

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February 7, 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-2730**
Proposed ordinance no. **2023-0423**
Adjacent parcel no(s). **375060-8010, 375060-8049, and 375060-8052**

BRETT SHERROD, CHRISTIAN DENZLER, JERALD LAITILA
Road Vacation Petition

Location: a portion of S. 368th Street/10th Street

Petitioner: Christian Denzler
36728 32nd Ave S
Auburn, WA 98001
Telephone: (425) 319-0100
Email: denzler@vexicon.com

Petitioner: Jerald Laitila
36803 34th Ave S
Auburn, WA 98001
Email: jerryj17@yahoo.com

Petitioner: Brett Sherrod
36721 34th Ave S
Auburn, WA 98001
Telephone: (253) 266-6211
Email: bsmustangman@gmail.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. Brett Sherrod, Christian Denzler, and Jerald Laitila petition the County to vacate a stretch of public right-of-way at a portion of S. 368th Street/10th Street. The Department of Local Services, Road Services Division (Roads), urges vacation. On February 7, 2024, 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 approve the vacation. As explained below, there is only one property from which compensation should be required as a condition of vacation.

Background

2. Except as provided below, we incorporate the facts set forth in Roads' report and in proposed ordinance no. 2023-0423. 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. Ex. 1 at 001-04; Ex. 14.
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 segment is not currently opened, constructed, or maintained for public use, and it is not 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. Utilities will retain their 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, with the savings in expected, avoided management and

maintenance costs and increased property taxes discussed below. We conclude that vacation here is warranted.

7. Normally, when a stretch of right-of-way is vacated the property abutting one side of the right-of-way takes half of the square footage, and the property abutting other side takes the other half. This case is interesting. Given how the abutting parcels were initially created, the entire right-of-way was carved out from land to the south; thus the vacated right-of-way will return only to the lots to the south. *See* Ex. 4 at 005. The two properties to the north of the right-of-way (the Sherrod lot and one of the Denzler lots) will not add any square footage when vacation is complete. It is only the abutting properties to the south (the other Denzler lot and the two Laitila lots) that add square footage. Ex. 14.

What Compensation is Due?

8. 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. Performance, Strategy, and Budget created a model for calculating these adjustments, updated annually. Roads then applies those figures to a given parcel. This means that the appropriate level of compensation to require is a somewhat individualized inquiry, producing different results for different parcels.
9. Here, the Assessor opines that the smaller of the Laitila lots (375060-8049) will not appreciate at all in value from the additional square footage. Ex. 18. That seems counterintuitive; how can adding 4500 ft.²—which almost doubles the size of the existing 4940 ft.² lot *not* add any value? *Compare* Ex. 18 *with* Ex. 12. However, in past petitions where we required someone from the Assessor's office to appear at our public hearing to explain a similar incongruity, staff satisfactorily described how, due to the mass appraisal model they employ, certain smaller value gains are not captured. Here, the figure would likely be very low anyway, given that the larger Laitila lot (375060-8052, which is thus acquiring more square footage) is only estimated to appreciate by \$3000. Ex. 17. The southerly Denzler lot (375060-8010, which will acquire the most square footage) is expected to appreciate by \$7000.
10. From those gains we then subtract the value the County sees from jettisoning a stretch of right-of-way; the model this year calculates that \$4096 per segment. That completely offsets the gain to the larger Laitila lot. It only partially offsets the gain to the Denzler lot, resulting in compensation due of \$2758. Mr. Denzler is under no compulsion to acquire the right-of-way. If he chooses not to acquire it, the public area will simply continue to bisect his two adjoining properties and he will be no worse off than he was when the petition started.

RECOMMENDATION:

1. We recommend that Council APPROVE proposed ordinance no. 2023-0423 to vacate the subject road right-of-way abutting the Laitilia parcels (375060-8049 and 375060-8052), with no compensation requirement or contingencies.
2. We recommend that Council APPROVE proposed ordinance no. 2023-0423 to vacate the subject road right-of-way abutting the Denzler parcel (375060-8010), CONTINGENT on petitioner paying \$2758 to King County within 90 days of the date Council takes final action on this ordinance. If King County does not receive \$2758 by that date, there is no vacation and the associated right-of-way remains King County's. If payment is timely received, the Clerk shall record an ordinance against parcel 375060-8010. Recording an ordinance will signify that payment has been received, the contingency is satisfied, and the right-of-way associated with parcel 375060-8010 is vacated.

DATED February 7, 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 **March 4, 2024**, 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 FEBRUARY 7, 2024, HEARING ON THE ROAD VACATION
PETITION OF BRETT SHERROD, CHRISTIAN DENZLER, JERALD LAITILA,
DEPARTMENT OF TRANSPORTATION FILE NO. V-2730**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Leslie Drake and Chris Denzler. The following exhibits were offered and entered into the record:

- Exhibit no. 1 Roads Report to the Hearing Examiner, submitted January 22, 2024
- Exhibit no. 2 Petition transmittal letter, to the County Road Engineer from the Clerk of Council, dated January 28, 2020
- Exhibit no. 3 Petition for Vacation of a County Road, received January 27, 2020
- Exhibit no. 4 Letter to petitioners, acknowledging receipt of petition, dated February 10, 2020
- Exhibit no. 5 Letter to Petitioners, regarding revised petition, dated May 28, 2020
- Exhibit no. 6 Petition signature page with all signatures
- Exhibit no. 7 Letter to Petitioners acknowledging receipt of revised petition
- Exhibit no. 8 Plat Jovita
- Exhibit no. 9 King County Assessor’s information for Petitioners’ property, APN 2721049047
- Exhibit no. 10 King County Assessor’s information for Petitioners’ property, APN 2721049059
- Exhibit no. 11 King County Assessor’s information for Petitioners’ property, APN 3750608010
- Exhibit no. 12 King County Assessor’s information for Petitioners’ property, APN 3750608049
- Exhibit no. 13 King County Assessor’s information for Petitioners’ property, APN 3750608052
- Exhibit no. 14 Exhibit map depicting vacation area
- Exhibit no. 15 Final notice sent of review to agencies on October 23, 2020
- Exhibit no. 16 Email exchange with Assessor’s Office regarding valuation of vacation area
- Exhibit no. 17 Compensation calculation model spreadsheet for Petitioners’ property, APN 375060-8052
- Exhibit no. 18 Compensation calculation model spreadsheet for Petitioners’ property, APN 375060-8049
- Exhibit no. 19 Compensation calculation model spreadsheet for Petitioners’ property, APN 375060-8010
- Exhibit no. 20 Cover letter to Petitioners, with a copy of the County Road Engineer’s Report, dated December 29, 2020
- Exhibit no. 21 County Road Engineer’s Report
- Exhibit no. 22 Easement between PSE and Jerald Laitila
- Exhibit no. 23 Easement between PSE and Christian Denzler
- Exhibit no. 24 Emails to Lakehaven Water and Sewer District regarding easements
- Exhibit no. 25 Ordinance transmittal letter, from King County Executive to Councilmember Dave Upthegrove dated November 8, 2023
- Exhibit no. 26 Proposed Ordinance
- Exhibit no. 27 Declaration of Posting
- Exhibit no. 28 Affidavit of Publication for date of hearing – to be supplied by Clerk of the Council

Certificate Of Completion

Envelope Id: E28CF9E141A44071830C3567B046F6FB	Status: Completed
Subject: Complete with DocuSign: Ordinance 19745.docx, Ordinance 19745 Attachment A.pdf	
Source Envelope:	
Document Pages: 5	Signatures: 3
Supplemental Document Pages: 5	Initials: 0
Certificate Pages: 5	Envelope Originator:
AutoNav: Enabled	Cherie Camp
Enveloped Stamping: Enabled	401 5TH AVE
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	SEATTLE, WA 98104
	Cherie.Camp@kingcounty.gov
	IP Address: 198.49.222.20

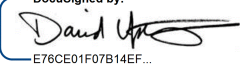
Record Tracking

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Storage Appliance Status: Connected	Pool: King County-Council	Location: DocuSign

Signer Events

Dave Upthegrove
dave.upthegrove@kingcounty.gov
Chair
Security Level: Email, Account Authentication (None)

Signature


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Melani Hay
melani.hay@kingcounty.gov
Clerk of the Council
King County Council
Security Level: Email, Account Authentication (None)

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Dow Constantine
Dow.Constantine@kingcounty.gov
King County Executive
Security Level: Email, Account Authentication (None)

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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp

Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Ames Kessler akessler@kingcounty.gov King County Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div style="border: 2px solid blue; padding: 5px; display: inline-block;">COPIED</div>	Sent: 3/13/2024 8:54:19 AM Viewed: 3/13/2024 10:16:04 AM
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Signing Complete	Security Checked	3/14/2024 9:09:59 AM
Completed	Security Checked	3/14/2024 9:09:59 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

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If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

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You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

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To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at cipriano.dacanay@kingcounty.gov and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

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To withdraw your consent with King County-Department of 02

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to cipriano.dacanay@kingcounty.gov and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

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The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

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- Until or unless you notify King County-Department of 02 as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by King County-Department of 02 during the course of your relationship with King County-Department of 02.