

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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www.kingcounty.gov/independent/hearing-examiner

REPORT AND RECOMMENDATION

SUBJECT: Department of Transportation file no. **V-2749**
Proposed ordinance no. **2025-0226**

TODD AND JANET GILLIES

Road Vacation Petition

Location: a portion of 40th Ave S/Nevada Ave, Auburn

Petitioners: **Todd and Janet Gillies**

36811 Military Rd S

Auburn, WA 98001

Telephone: (253) 797-4816

Email: Yellowhouse4@comcast.net

King County: Department of Local Services

represented by **Leslie Drake**

201 S Jackson Street

Seattle, WA 98104

Telephone: (206) 477-7764

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FINDINGS AND CONCLUSIONS:

Overview

1. Janet and Todd Gillies petition the County to vacate an approximately 13,176 square-foot stretch of public right-of-way labeled as a portion of 40th Avenue S (originally Nevada Avenue), at the intersection of Military Road S and S 368th Street in the Lakeland South unincorporated area near Auburn. The Department of Local Services, Road Services Division (Roads), recommends vacation with a compensation requirement of \$1,780. On September 18, 2025, we conducted a remote public hearing on behalf of the King County Council. After hearing witness testimony, 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 contingent on a payment of \$1,780 in compensation.

Background

2. Except as provided below, we incorporate the facts set forth in Roads' report and in proposed ordinance no. 2025-0226. 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.¹
3. Chapter 36.87 RCW governs the vacation of county roads, and King County Code (K.C.C.) chapter 14.40 establishes the procedures for a road vacation in King County. To vacate a county road, state law requires (1) a finding that the road is useless to the county road system, and (2) a finding that the public will be benefited by the vacation. If those two conditions are met, then the Council has the discretion to vacate the road.² State law allows the Council to require those benefiting from the vacation to compensate the county, up to the appraised value of the vacated road. The Council may reduce the compensation amount to account for the value of the transfer of liability or risk, the increased value to the public in property taxes, the avoided costs for management or maintenance, and any limits on development or future public benefit.³

Is Vacation Warranted?

4. 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.⁴
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 County Road Engineer's report states that the right-of-way is not necessary for the present or future public road system.
6. The Gillies worked with Roads to ensure any nearby drainage facilities were outside the vacation area. Therefore, no easement was necessary for the county to operate, access, or maintain its facilities. Lumen/CenturyLink noted that it has a local copper aerial route that cuts perpendicularly across the vacation area, as well as across both of the Gillies' abutting parcels. Roads instructed Lumen/CenturyLink to work with the Gillies if any additional easements were necessary, but the proposed ordinance language specifically states that the vacation does not extinguish any rights of any utility to any existing easements or facilities in the vacation area. No other utility or agency identified facilities within the right-of-way or a need to retain an easement.

¹ See Exhibit 1 at 001-005 and Exhibit 8.

² See RCW 36.87.060.

³ See RCW 36.87.120.

⁴ See K.C.C. 14.40.0102.B.

7. We find that the subject right-of-way is useless to the county road system. We also find that the public will benefit from its vacation, since its inclusion in the public tax rolls will reduce property taxes for all others in the same taxing districts. In addition, vacation will likely reduce expected costs to the county associated with management and maintenance, discussed below. We conclude that vacation here is warranted.

What Compensation is Due?

8. The county may require compensation up to the appraised value of the vacated road. In this case, the Gillies own both parcels on either side of the right-of-way. Vacation will allow them to effectively combine their two properties together into a larger and more useful space, unencumbered by a public right-of-way running down the middle. However, the King County Assessor determines the increase in value due to the vacation for each abutting parcel separately. The Assessor determined in 2024 that the vacation would increase the value of parcel 375060-1038 by \$8,000 and the value of parcel 375060-1050 by \$11,000.
9. State law allows the Council to reduce the compensation amount to reflect the expected value to the public from avoided liability risk, increased property taxes, and eliminated management or maintenance costs. The Office of Performance, Strategy, and Budget (PSB) created a model for calculating these adjustments, updated annually. Roads then applies those figures to each parcel separately. The model estimates that the county will receive an additional \$134 in property taxes from parcel 375060-1038 and reduced management and maintenance costs of \$9,036 for the area attaching to that parcel. Since this combined total is more than the \$8,000 value determined by the Assessor, the model recommends that the Gillies owe no compensation to the county for the vacation attaching to parcel 375060-1038.⁵ Conversely, the model estimates that the county will receive an additional \$184 in property taxes from parcel 375060-1050 and the same reduced management and maintenance costs of \$9,036 for the larger area attaching to that parcel. Since this combined total is less than the \$11,000 value determined by the Assessor, the model recommends that the Gillies owe the difference of \$1,780 in compensation to the county.⁶

Model Methodology Concerns

10. The PSB model uses a flat amount per abutting parcel to estimate reduced management and maintenance costs each year.⁷ This means the estimated savings for the county does not vary based on the size or nature of the vacated road, but instead on how many parcels abut the vacation area and which year those abutting landowners happened to file their petition.

⁵ See Exhibit 11.

⁶ See Exhibit 12.

⁷ This is only true for unopened and undeveloped land. For opened roads or frequently traversed public areas, PSB's estimate of costs scales based on the length of the vacation area.

11. For example, the estimated amount of management and maintenance costs per parcel in 2024 was \$9,036, but it was only \$6,526 in 2023 and only \$6,880 in 2025. This means that if the Gillies had submitted their petition a year later or a year earlier, they would now owe over \$3,000 more in compensation for the same vacation under the PSB model.
12. Additionally, if the Gillies' property had been one larger parcel rather than two parcels, then the PSB model would have halved the estimate of maintenance costs, even though the vacation area itself had not changed. The PSB model would have estimated that the same road vacation would save the county \$9,036 in total (rather than both parcels receiving credit for saving \$9,036 in costs each). This means the Gillies would have owed almost \$8,000 more in compensation if their two properties had been considered the same parcel.
13. Conversely, the flat amount ignores the size of the vacation; the area attaching to the Gillies' property is over two and a half times larger than the average area attaching to other parcels in road vacation petitions that had hearings on the same day. There were four road vacation hearings on September 18, including the Gillies' petition. Across these four petitions there were 14 parcels where PSB had calculated a flat amount of reduced maintenance costs. The area attaching to the Gillies' property was over 16 times larger than the smallest parcel's vacation area (800 square feet compared to 13,176 square feet), yet PSB's model would have estimated the same amount of reduced management and maintenance costs for both.
14. Furthermore, PSB intended the flat amount to equal to two percent of total expenditures over five years for clean-up, research, enforcement, and administrative actions associated with unopened rights-of-way. In other words, the PSB model estimates that each abutting parcel of a vacated, unopened right-of-way saves the county 10% of these annual costs. This means that the PSB model would estimate that a single vacated roadway could save an entire year's worth of these costs if it had 10 abutting parcels.
15. Finally, the total amount PSB estimates the county will save from the vacation is not reflected in the total amount of compensation PSB calculates is owed. For example, the PSB model considers the cost impact of the two Gillies parcels separately; this table shows those separate calculations as well as if the calculations were combined:

	Smaller Parcel	Larger Parcel	Combined
Assessor Value	\$8,000	\$11,000	\$19,000
County Savings	\$9,170	\$9,220	\$18,390
Value – Savings	-\$1,170	\$1,780	\$610
Compensation	\$0	\$1,780	\$1,780

For the smaller parcel, the cost savings for the county exceed the value of the vacation area, so no compensation is due. For the larger parcel, the savings are less than the value, and the difference is owed in compensation. When combined, however, the difference

between the total assessed value and the total county savings is substantially less. By only considering the parcels separately, the excess county savings for the smaller parcel are ignored when determining overall compensation. This is especially noticeable in a case like this one, where both parcels are owned by the same people. It is not clear why the county should require more compensation than is actually required to offset the net value of the vacation as a whole.

16. Taken together, all these methodological choices make it difficult to reliably and consistently estimate what compensation is due for any given road vacation. There are a variety of different ways to address each concern above, and each way would come with its own assumptions and judgment calls. Until PSB refines its methodology, it seems equity would demand that we use the same PSB model that has been applied to past road vacation petitions.⁸ Therefore, the Gillies owe \$1,780 in compensation to the county for attaching almost a third of an acre to their property and essentially allowing them to combine their existing parcels.

RECOMMENDATION:

1. We recommend that Council APPROVE proposed ordinance no. 2025-0226 to vacate the subject road right-of-way abutting parcel 375060-1038 with no compensation requirement or contingencies.
2. We recommend that Council APPROVE proposed ordinance no. 2025-0226 to vacate the subject road right-of-way abutting parcel 375060-1050, CONTINGENT on petitioner paying \$1,780 to King County within 90 days of the date Council takes final action on this ordinance. If King County does not receive \$1,780 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 375060-1050. Recording an ordinance will signify that payment has been received, the contingency is satisfied, and the right-of-way associated with parcel 375060-1050 is vacated.

DATED October 2, 2025.



Peter Heineccius
Hearing Examiner pro tem

⁸ See, for example, V-2754-Baraja, Kim, Anderson (October 25, 2024), where a prior hearing examiner expressed misgivings about the Assessor's methodology for determining the values of road vacations to abutting properties. The hearing examiner explained why the Assessor is likely undervaluing the benefit to petitioners but ultimately concluded the petitioners could take advantage of the same terms offered to past petitioners.

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 27, 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 SEPTEMBER 18, 2025, HEARING ON THE ROAD VACATION PETITION OF TODD AND JANET GILLIES, DEPARTMENT OF TRANSPORTATION FILE NO. V-2749

Peter Heineccius was the Hearing Examiner in this matter. Participating in the hearing were Leslie Drake and Todd and Janet Gillies.

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

Exhibit no. 1	Roads Services report to the Hearing Examiner, sent September 1, 2025, with 13 attachments and 18 exhibits
Exhibit no. 2	Petition transmittal letter dated September 9, 2021, to the County Road Engineer
Exhibit no. 3	Petition for Vacation of a County Road received September 9, 2021
Exhibit no. 4	Letter to Petitioners dated September 14, 2021, acknowledging receipt of Petition
Exhibit no. 5	King County Assessor's information for Petitioners Todd and Janet Gillies' property, APN 3750601038
Exhibit no. 6	King County Assessor's information for Petitioners Todd and Janet Gillies' property, APN 3750601050
Exhibit no. 7	Plat Jovita Addition
Exhibit no. 8	Exhibit map depicting vacation area
Exhibit no. 9	Copy of final notice sent of review to agencies on 04/04/2022
Exhibit no. 10	Email exchange with Assessor's Office regarding valuation of vacation area.

- Exhibit no. 11 Compensation calculation model spreadsheet for Petitioners' property, APN 3750601038
- Exhibit no. 12 Compensation calculation model spreadsheet for Petitioners' property, APN 3750601050
- Exhibit no. 13 Cover letter to Petitioners dated May 23, 2024, with a copy of the County Road Engineer's Report
- Exhibit no. 14 County Road Engineer's Report
- Exhibit no. 15 Ordinance transmittal letter dated July 21, 2025, from King County Executive to Councilmember Girmay Zahilay, Chair, King County Council
- Exhibit no. 16 Proposed Ordinance
- Exhibit no. 17 Declaration of Posting
- Exhibit no. 18 Request for publication by Clerk of the Council

October 2, 2025

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CERTIFICATE OF SERVICE

SUBJECT: Department of Transportation file no. **V-2749**
Proposed ordinance no. **2025-0226**

TODD AND JANET GILLIES

Road Vacation Petition

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND RECOMMENDATION** to those listed on the attached page as follows:

- ☒ EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.
- ☒ placed with the United States Postal Service, through Quadient-Impress, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED October 2, 2025.



Jessica Oscoy
Administrator

Brown, Keith
Department of Local Services

Carr, Trevor
Department of Natural Resources and Parks

Carrasquero, Jose
Department of Local Services

Claussen, Kimberly
Department of Natural Resources and Parks

Drake, Leslie
Department of Local Services

Evick, Brent
Lumen

Gillies, Todd/Janet
Hardcopy

Hay, Melani
Metropolitan King County Council

Ishimaru, Jim
Department of Local Services

Jackson, Robert
Department of Natural Resources and Parks

Kosai-Eng, JoAnn
Department of Local Services

Kulish, Michael
Facilities Management Division

Lee, Brian
Department of Local Services

Martin, James
Comcast Cable

McDonald, Andrew
Department of Natural Resources and Parks

Miles, Dawn
Metro Transit Division

Minichillo, Tom
Department of Local Services

Murphy, Diane
Lumen

Nichols, Sean
South King Fire and Rescue

Robinson, Jeff
Department of Local Services

Shular, Ryan
Department of Local Services

Sung, Huey-yi
Department of Local Services

Tamayo, Peyton
Puget Sound Energy

Todd, Scott
Department of Natural Resources and Parks

Torkelson, Cindy
Department of Local Services