

**Return Address:**  
**Clerk of the Council**  
**Metropolitan King County Council**  
**516 Third Avenue Room 1200**  
**Seattle, WA 98104**

Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

**Document Title(s)** (or transactions contained therein): (all areas applicable to your document **must** be filled in)

**Ordinance 19620 AN ORDINANCE authorizing the vacation of a portion of 49<sup>th</sup> Avenue S / Kansas Street V-2733 Petitioners: Sergey and Vera Kondratyev**

**Reference Number(s) of Documents assigned or released:**

Additional reference #'s on page \_\_\_\_\_ of document

**Grantor(s)** (Last name, first name, initials)

1. **King County, Washington**

Additional names on page \_\_\_\_\_ of document.

**Grantee(s)** (Last name first, then first name and initials)

1. King County, Washington

2. \_\_\_\_\_, \_\_\_\_\_

Additional names on page \_\_\_\_\_ of document.

**Legal description** (abbreviated: i.e. lot, block, plat or section, township, range)

Those portion of 49<sup>th</sup> Ave S./Kansas St. abutting Lots 1 through 6, Block 115 and also...

Additional legal is on page 3 of document.

**Assessor's Property Tax Parcel/Account Number**

Assessor Tax # not yet assigned

**3751605119, 3751605003 and 3751605063**

The Auditor/Recorder will rely on the information provided on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.

I am requesting an emergency nonstandard recording for an additional fee as provided in RCW 36.18.010. I understand that the recording processing requirements may cover up or otherwise obscure some part of the text of the original document.

\_\_\_\_\_  
Signature of Requesting Party

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**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**Ordinance 19620**

**Proposed No. 2022-0447.2**

**Sponsors Balducci and Upthegrove**

1 AN ORDINANCE authorizing the vacation of a portion of  
2 49th Avenue S / Kansas Street, file no. V-2733; Petitioners:  
3 Sergey and Vera Kondratyev.

4 **STATEMENT OF FACTS:**

5 1. A petition was filed requesting vacation of a portion of 49th Avenue South /  
6 Kansas Street in the Jovita Heights Addition Plat, hereinafter described.

7 2. The department of local services notified utility companies serving the area  
8 and King County departments of the proposed vacation Lakehaven Water and  
9 Sewer District was the only utility that required an easement over the vacation  
10 area, and they have since obtained it from petitioners Sergey and Vera  
11 Kondratyev. The vacation shall not extinguish the rights of any utility company  
12 to any existing easements for facilities or equipment within the vacation area.

13 3. The department of local services's records indicate that this segment of right of  
14 way is unopened and unmaintained.

15 5. The department of local services considers the subject portion of right of way  
16 useless as part of the county road system and believes the public would benefit by  
17 the return of this segment of right of way to the public tax rolls and recommended  
18 approval of the vacation.

19 6. The department of local services also recommended that no additional  
20 compensation be due for the vacation of this portion of 49th Avenue

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Ordinance 19620

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21 South/Kansas Street in the Jovita Heights Addition Plat to the property of  
22 petitioners Sergey and Vera Kondratyev, King County Assessor's Parcel Numbers  
23 375160-5119, 375160-5003, and 375160-5063.

24 7. Due notice was given in the manner provided by law. The office of the  
25 hearing examiner held the public hearing on March 28, 2023.

26 8. As detailed in the April 11, 2023, recommendation, the hearing examiner  
27 found that the road segment subject to this petition is not useful as part of the  
28 King County road system, concluded that the vacation of this segment of road will  
29 benefit the public through the transfer of responsibility for management and  
30 return of the property to the public tax roll, and recommended approval of the  
31 vacation petition without the requirement of additional compensation from the  
32 petitioners.

33 9. For the reasons stated in the examiner's report and recommendation, the  
34 council determines that it is in the best interest of the citizens of King County to  
35 grant said petition and vacate the right of way:

36 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

37 SECTION 1. The council, on the effective date of this ordinance, hereby vacates  
38 and abandons a portion of 49th Avenue South/Kansas Street right of way as dedicated to  
39 King County by the recording of the 1911 plat of Jovita Heights Addition, recorded in  
40 Volume 20 of Plats at Page 12, records of King County Washington as described below:

41 Those portions of 49th Ave S./Kansas St. abutting Lots 1  
42 through 6, Block 115 and also abutting Lots 26 through 30,  
43 Block 116, all in the Plat of Jovita Heights Addition

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Ordinance 19620

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44                    according to the plat filed in Vol. 20 of Plats at Page 12,  
45                    records of King County, Washington.  
46                    Situate in the Southeast Quarter of Section 27 Township

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Ordinance 19620


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- 47                    21, Range 4 King County, Washington.  
48                    Containing 13,200 square feet, more or less.

Ordinance 19620 was introduced on 12/6/2022 and passed by the Metropolitan King County Council on 5/23/2023, by the following vote:

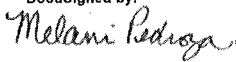
Yes: 9 - Balducci, Dembowski, Dunn, Kohl-Welles, Perry, McDermott, Upthegrove, von Reichbauer and Zahilay

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

DocuSigned by:  
  
E76CE01F07B14EF...


Dave Upthegrove, Chair

ATTEST:

DocuSigned by:  
  
8DE1BB375AD3422...

Melani Pedroza, Clerk of the Council

APPROVED this 23rd day of May, 2023.

DocuSigned by:  
  
4FBCAB8196AE4C6...

Dow Constantine, County Executive

**Attachments:** A. Hearing Examiner Report, dated April 11, 2023

April 11, 2023

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

King County Courthouse  
516 Third Avenue Room 1200  
Seattle, Washington 98104  
Telephone (206) 477-0860  
[hearingexaminer@kingcounty.gov](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**REPORT AND RECOMMENDATION**

SUBJECT: Department of Transportation file no. **V-2733**  
Proposed ordinance no. **2022-0447**  
Adjacent parcel nos. **3751605119, 3751605003, and 3751605063**

**SERGEY AND VERA KONDRATYEV**

Road Vacation Petition

Location: a portion of 49th Avenue S / Kansas Street

Applicants: **Sergey and Vera Kondratyev**  
5306 352nd Street  
Auburn, WA 98001  
Email: [serg\\_kon2002@yahoo.com](mailto:serg_kon2002@yahoo.com); [elenabuzunov@gmail.com](mailto:elenabuzunov@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](mailto:leslie.drake@kingcounty.gov)

**FINDINGS AND CONCLUSIONS:**

Overview

1. Sergey and Vera Kondratyev petition the County to vacate an approximately 13,216 square-foot stretch of public right-of-way at a portion of 49th Avenue S/Kansas Street, just south of S 362nd Street. The Department of Local Services, Road Services Division (Roads), urges vacation and a waiver of all compensation. On March 28, 2023, 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 Council approve vacation and also (although with some hesitancy) waive compensation.**

V-2733—Sergey and Vera Kondratyev

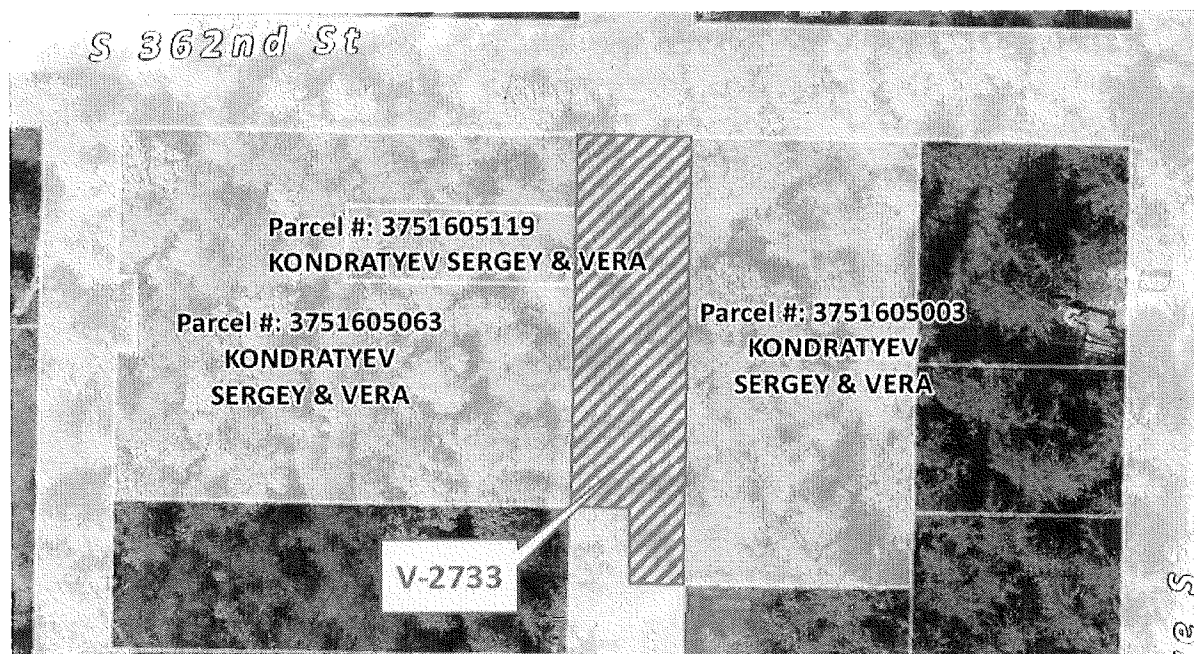
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### Background

2. Except as provided below, we incorporate the facts set forth in Roads' report and in proposed ordinance no. 2022-0447. 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. 1, 12.
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 crosshatched vacation area looks like this:



V-2733—Sergey and Vera Kondratyev

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6. The subject right-of-way segment is a wooded area not currently opened, constructed, or maintained for public use, and it is not known to be used informally for access to any property. Adjacent properties already have sufficient access. The Lakehaven Water and Sewer District requested and obtained an easement for future sewer and water lines through the Kondratyev property. Ex. 13. 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 for travel or utilities purposes.
7. 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. There is no question that vacation is warranted.

#### What Compensation is Due?

8. Compensation is the more complex topic today.
9. 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.
10. Here, the Assessor looked at these on a parcel-by-parcel basis, finding that adding the right-of-way area would add nothing to parcels -5003 and -5063, and \$4,000 to parcel 5119. Ex. 14. Because vacation added less private value than the expected County gains from eliminating management costs, jettisoning maintenance costs, and increasing property taxes on each of the three parcels, applying the model returned findings of zero compensation owed. Exs. 15-17. However, in keeping with our fiduciary duty, we raised a prehearing concern that analyzing each parcel separately might miss the forest through the trees, potentially ignoring the actual “before” and “after” impact of a road vacation.
11. Ours is not the usual scenario where, say, the Kondratyevs own -5119 and -5063 on the west side of the right-of-way, and neighbors own 5003 on the east side. In that standard configuration, the Kondratyevs would be slightly enhancing their lot sizes by adding a linear strip along their eastern boundary, while the neighbors would be doing the same along their western boundary. It would not be surprising that such a minor enhancement would not increase private property values enough to offset the County savings from jettisoning an unused public right-of-way.
12. Yet because in reality the Kondratyevs own all the property on both sides of the to-be-vacated right-of-way, the impact of vacation removing a public area currently bisecting



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V-2733—Sergey and Vera Kondratyev

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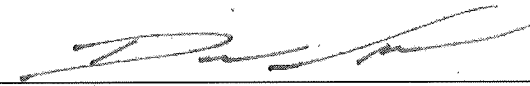
the Kondratyevs' holdings results in a much larger, unencumbered, three-lot, two-acre-plus assemblage in an urban area. Vacation would thus seem to significantly enhance the development potential of the combined parcels. We asked for Local Services to arrange for someone from the Assessor's office to participate in our public hearing, and Local Services and the Assessor obliged.

13. The Assessor's representative explained that they use the mass appraisal model they employ, which is more of a broad brush strokes than a formal, individual appraisal of a particular property. And he noted that because of high water tables and other complexities and uncertainties with these properties, there are real questions about the properties' developability. He felt it would be speculative to assign a highest and best use here as a subdivision or to otherwise upwardly adjust the value added to the parcels from vacation.
14. The Kondratyevs testified that they plan to build one single-family home on their holdings.
15. We have some reticence to waiving compensation here. High water tables can severely diminish development potential, but in an urbanizing area with planned sewer and potable water lines (exhibit 1 at 17), issues like whether a property "percs" pose less of a hurdle. A Local Services environmental unit saw no critical areas or other environmental issues with the property. Ex. 1 at 003 (n.11). Yet the clearest evidence in our record is the Assessor's measured testimony that it would be speculative to apply a higher added value to these parcels. We ultimately agree with Local Services' recommendation to waive compensation.

RECOMMENDATION:

APPROVE proposed ordinance no. 2022-0447 to vacate the subject road right-of-way, without requiring any compensation.

DATED April 11, 2023.



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David Spohr  
Hearing Examiner

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V-2733--Sergey and Vera Kondratyev

5

### NOTICE OF RIGHT TO APPEAL

A person appeals an Examiner recommendation by following the steps described in KCC 20.22.230, including filing with the Clerk of the Council a sufficient appeal statement and a \$250 appeal fee (check payable to the King County FBOD), and providing copies of the appeal statement to the Examiner and to any named parties listed on the front page of the Examiner's recommendation. Please consult KCC 20.22.230 for exact requirements.

Prior to the close of business (4:30 p.m.) on **May 5, 2023**, an electronic copy of the appeal statement must be sent to [Clerk.Council@kingcounty.gov](mailto:Clerk.Council@kingcounty.gov) and a paper copy of the appeal statement must be delivered to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104. Prior mailing is not sufficient if the Clerk does not actually receive the fee and the appeal statement within the applicable time period.

Unless the appeal requirements of KCC 20.22.230 are met, the Clerk of the Council will place on the agenda of the next available Council meeting a proposed ordinance implementing the Examiner's recommended action.

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."

V-2733—Sergey and Vera Kondratyev

6

**MINUTES OF THE MARCH 28, 2023, HEARING ON THE ROAD VACATION  
PETITION OF SERGEY AND VERA KONDRATYEV, DEPARTMENT OF LOCAL  
SERVICES FILE NO. V-2733**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Jeff Darrow, Leslie Drake and Vera Kondratyev.

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

- |                |  |
|----------------|--|
| Exhibit no. 1  | Roads Services report to the Hearing Examiner, sent March 13, 2023   |
| Exhibit no. 2  | Letter from Clerk of the Council to DLSP transmitting petition, dated May 21, 2020   |
| Exhibit no. 3  | Petition for vacation of a county road, transmitted May 21, 2020   |
| Exhibit no. 4  | Letter from DLSP to Petitioner acknowledging receipt of petition, dated May 28, 2020                                       |
| Exhibit no. 5  | Vacation area map  |
| Exhibit no. 6  | Aerial photograph  |
| Exhibit no. 7  | King County Assessor's information for property APN 3751605003   |
| Exhibit no. 8  | King County Assessor's information for property APN 3751605063   |
| Exhibit no. 9  | King County Assessor's information for property APN 3751605119   |
| Exhibit no. 10 | Notification from Petitioners of purchase of APN 3751605119  |
| Exhibit no. 11 | Final stakeholder notification, sent August 6, 2020  |
| Exhibit no. 12 | Revised exhibit map, including ownership of APN 3751605119   |
| Exhibit no. 13 | Easement from Petitioners in favor of Lakehaven Water and Sewer District   |
| Exhibit no. 14 | Email between Assessor's Office on valuation of vacation area  |
| Exhibit no. 15 | Compensation calculation model spreadsheet for APN 3751605003  |
| Exhibit no. 16 | Compensation calculation model spreadsheet for APN 3751605063  |
| Exhibit no. 17 | Compensation calculation model spreadsheet for APN 3751605119  |
| Exhibit no. 18 | Letter from DLSP to Petitioners including Road Engineer report, dated March 3, 2021  |
| Exhibit no. 19 | Road Engineer Report   |
| Exhibit no. 20 | Letter from DLSP to King County Council recommending approval and transmitting proposed ordinance, dated November 28, 2022 |
| Exhibit no. 21 | Proposed ordinance   |
| Exhibit no. 22 | Fiscal note  |
| Exhibit no. 23 | Declaration of posting   |
| Exhibit no. 24 | Affidavit of publication, <i>to be supplied by Clerk of Council</i>  |



### Certificate Of Completion

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Melani Pedroza  
401 5TH AVE  
SEATTLE, WA 98104  
Melani.Pedroza@kingcounty.gov  
IP Address: 198.49.222.20

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### Signer Events

Dave Uphgrove  
dave.upthegrove@kingcounty.gov  
Chair  
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### Signature

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Melani Pedroza  
melani.pedroza@kingcounty.gov  
Clerk of the Council  
King County Council  
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Dow Constantine  
dow.constantine@kingcounty.gov  
King County Executive  
Security Level: Email, Account Authentication (None)

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Signature Adoption: Uploaded Signature Image  
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Signed: 6/8/2023 11:05:39 AM

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Kaitlyn Wiggins k.wiggins@kingcounty.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <b>COPIED</b> </div>	Sent: 6/8/2023 7:43:43 AM
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Cherie Camp cherie.camp@kingcounty.gov Legislative Clerk - Ccl King County Council Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;"> <b>COPIED</b> </div>	Sent: 6/8/2023 11:05:40 AM
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Updated	Security Checked	6/8/2023 7:43:43 AM
Certified Delivered	Security Checked	6/8/2023 10:49:21 AM
Signing Complete	Security Checked	6/8/2023 11:05:39 AM
Completed	Security Checked	6/8/2023 11:05:41 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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Electronic Record and Signature Disclosure created on: 8/24/2020 2:41:23 PM  
Parties agreed to: Dave Uphgrove, Melani Pedroza, Dow Constantine

## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

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### **Getting paper copies**

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### **Withdrawing your consent**

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.

**How to contact King County-Department of 02:**

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:  
To contact us by email send messages to: [cipriano.dacanay@kingcounty.gov](mailto:cipriano.dacanay@kingcounty.gov)

**To advise King County-Department of 02 of your new email address**

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](mailto: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 request paper copies from King County-Department of 02**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [cipriano.dacanay@kingcounty.gov](mailto:cipriano.dacanay@kingcounty.gov) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

**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](mailto: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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## KING COUNTY

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

### Signature Report

#### Ordinance 19620

**Proposed No.** 2022-0447.2

**Sponsors** Balducci and Upthegrove

1 AN ORDINANCE authorizing the vacation of a portion of  
2 49th Avenue S / Kansas Street, file no. V-2733; Petitioners:  
3 Sergey and Vera Kondratyev.

4 **STATEMENT OF FACTS:**

- 5 1. A petition was filed requesting vacation of a portion of 49th Avenue South /  
6 Kansas Street in the Jovita Heights Addition Plat, hereinafter described.
- 7 2. The department of local services notified utility companies serving the area  
8 and King County departments of the proposed vacation Lakehaven Water and  
9 Sewer District was the only utility that required an easement over the vacation  
10 area, and they have since obtained it from petitioners Sergey and Vera  
11 Kondratyev. The vacation shall not extinguish the rights of any utility company  
12 to any existing easements for facilities or equipment within the vacation area.
- 13 3. The department of local services's records indicate that this segment of right of  
14 way is unopened and unmaintained.
- 15 5. The department of local services considers the subject portion of right of way  
16 useless as part of the county road system and believes the public would benefit by  
17 the return of this segment of right of way to the public tax rolls and recommended  
18 approval of the vacation.
- 19 6. The department of local services also recommended that no additional  
20 compensation be due for the vacation of this portion of 49th Avenue

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Ordinance 19620

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21 South/Kansas Street in the Jovita Heights Addition Plat to the property of  
22 petitioners Sergey and Vera Kondratyev, King County Assessor's Parcel Numbers  
23 375160-5119, 375160-5003, and 375160-5063.

24 7. Due notice was given in the manner provided by law. The office of the  
25 hearing examiner held the public hearing on March 28, 2023.

26 8. As detailed in the April 11, 2023, recommendation, the hearing examiner  
27 found that the road segment subject to this petition is not useful as part of the  
28 King County road system, concluded that the vacation of this segment of road will  
29 benefit the public through the transfer of responsibility for management and  
30 return of the property to the public tax roll, and recommended approval of the  
31 vacation petition without the requirement of additional compensation from the  
32 petitioners.

33 9. For the reasons stated in the examiner's report and recommendation, the  
34 council determines that it is in the best interest of the citizens of King County to  
35 grant said petition and vacate the right of way.

36 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

37 SECTION 1. The council, on the effective date of this ordinance, hereby vacates  
38 and abandons a portion of 49th Avenue South/Kansas Street right of way as dedicated to  
39 King County by the recording of the 1911 plat of Jovita Heights Addition, recorded in  
40 Volume 20 of Plats at Page 12, records of King County Washington as described below:

41 Those portions of 49th Ave S./Kansas St. abutting Lots 1  
42 through 6, Block 115 and also abutting Lots 26 through 30,  
43 Block 116, all in the Plat of Jovita Heights Addition

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Ordinance 19620

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44                    according to the plat filed in Vol. 20 of Plats at Page 12,  
45                    records of King County, Washington.  
46                    Situate in the Southeast Quarter of Section 27 Township

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Ordinance 19620

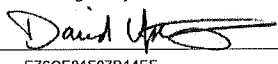
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- 47                    21, Range 4 King County, Washington.  
48                    Containing 13,200 square feet, more or less.

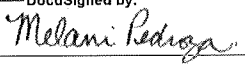
Ordinance 19620 was introduced on 12/6/2022 and passed by the Metropolitan King County Council on 5/23/2023, by the following vote:

Yes: 9 - Balducci, Dembowski, Dunn, Kohl-Welles, Perry,  
McDermott, Upthegrove, von Reichbauer and Zahilay

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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Dave Upthegrove, Chair

ATTEST:

DocuSigned by:  
  
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Melani Pedroza, Clerk of the Council

**Attachments:** A. Hearing Examiner Report, dated April 11, 2023

April 11, 2023

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

King County Courthouse  
516 Third Avenue Room 1200  
Seattle, Washington 98104  
Telephone (206) 477-0860  
[hearingexaminer@kingcounty.gov](mailto:hearingexaminer@kingcounty.gov)  
[www.kingcounty.gov/independent/hearing-examiner](http://www.kingcounty.gov/independent/hearing-examiner)

**REPORT AND RECOMMENDATION**

SUBJECT: Department of Transportation file no. **V-2733**  
Proposed ordinance no. **2022-0447**  
Adjacent parcel nos. **3751605119, 3751605003, and 3751605063**

**SERGEY AND VERA KONDRATYEV**

Road Vacation Petition

Location: a portion of 49th Avenue S / Kansas Street

Applicants: **Sergey and Vera Kondratyev**  
5306 352nd Street  
Auburn, WA 98001  
Email: [serg\\_kon2002@yahoo.com](mailto:serg_kon2002@yahoo.com); [elenabuzunov@gmail.com](mailto:elenabuzunov@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](mailto:leslie.drake@kingcounty.gov)

**FINDINGS AND CONCLUSIONS:**

Overview

1. Sergey and Vera Kondratyev petition the County to vacate an approximately 13,216 square-foot stretch of public right-of-way at a portion of 49th Avenue S/Kansas Street, just south of S 362nd Street. The Department of Local Services, Road Services Division (Roads), urges vacation and a waiver of all compensation. On March 28, 2023, 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 Council approve vacation and also (although with some hesitancy) waive compensation.**

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V-2733–Sergey and Vera Kondratyev

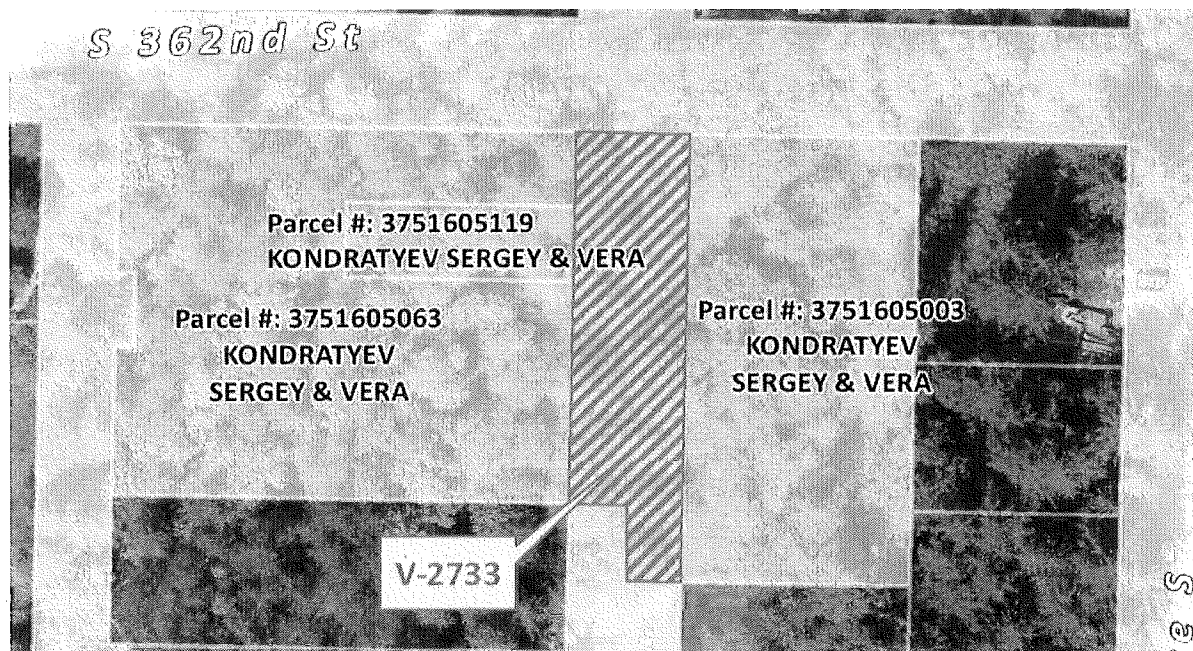
2

### Background

2. Except as provided below, we incorporate the facts set forth in Roads' report and in proposed ordinance no. 2022-0447. 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. 1, 12.
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 crosshatched vacation area looks like this:



V-2733—Sergey and Vera Kondratyev

3

6. The subject right-of-way segment is a wooded area not currently opened, constructed, or maintained for public use, and it is not known to be used informally for access to any property. Adjacent properties already have sufficient access. The Lakehaven Water and Sewer District requested and obtained an easement for future sewer and water lines through the Kondratyev property. Ex. 13. 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 for travel or utilities purposes.
7. 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. There is no question that vacation is warranted.

#### What Compensation is Due?

8. Compensation is the more complex topic today.
9. 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.
10. Here, the Assessor looked at these on a parcel-by-parcel basis, finding that adding the right-of-way area would add nothing to parcels -5003 and -5063, and \$4,000 to parcel 5119. Ex. 14. Because vacation added less private value than the expected County gains from eliminating management costs, jettisoning maintenance costs, and increasing property taxes on each of the three parcels, applying the model returned findings of zero compensation owed. Exs. 15-17. However, in keeping with our fiduciary duty, we raised a prehearing concern that analyzing each parcel separately might miss the forest through the trees, potentially ignoring the actual “before” and “after” impact of a road vacation.
11. Ours is not the usual scenario where, say, the Kondratyevs own -5119 and -5063 on the west side of the right-of-way, and neighbors own 5003 on the east side. In that standard configuration, the Kondratyevs would be slightly enhancing their lot sizes by adding a linear strip along their eastern boundary, while the neighbors would be doing the same along their western boundary. It would not be surprising that such a minor enhancement would not increase private property values enough to offset the County savings from jettisoning an unused public right-of-way.
12. Yet because in reality the Kondratyevs own all the property on both sides of the to-be-vacated right-of-way, the impact of vacation removing a public area currently bisecting

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V-2733--Sergey and Vera Kondratyev

4

the Kondratyevs' holdings results in a much larger, unencumbered, three-lot, two-acre-plus assemblage in an urban area. Vacation would thus seem to significantly enhance the development potential of the combined parcels. We asked for Local Services to arrange for someone from the Assessor's office to participate in our public hearing, and Local Services and the Assessor obliged.

13. The Assessor's representative explained that they use the mass appraisal model they employ, which is more of a broad brush strokes than a formal, individual appraisal of a particular property. And he noted that because of high water tables and other complexities and uncertainties with these properties, there are real questions about the properties' developability. He felt it would be speculative to assign a highest and best use here as a subdivision or to otherwise upwardly adjust the value added to the parcels from vacation.
14. The Kondratyevs testified that they plan to build one single-family home on their holdings.
15. We have some reticence to waiving compensation here. High water tables can severely diminish development potential, but in an urbanizing area with planned sewer and potable water lines (exhibit 1 at 17), issues like whether a property "percs" pose less of a hurdle. A Local Services environmental unit saw no critical areas or other environmental issues with the property. Ex. 1 at 003 (n.11). Yet the clearest evidence in our record is the Assessor's measured testimony that it would be speculative to apply a higher added value to these parcels. We ultimately agree with Local Services' recommendation to waive compensation.

RECOMMENDATION:

APPROVE proposed ordinance no. 2022-0447 to vacate the subject road right-of-way, without requiring any compensation.

DATED April 11, 2023.



David Spohr  
Hearing Examiner



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V-2733–Sergey and Vera Kondratyev

5

### NOTICE OF RIGHT TO APPEAL

A person appeals an Examiner recommendation by following the steps described in KCC 20.22.230, including filing with the Clerk of the Council a sufficient appeal statement and a \$250 appeal fee (check payable to the King County FBOD), and providing copies of the appeal statement to the Examiner and to any named parties listed on the front page of the Examiner's recommendation. Please consult KCC 20.22.230 for exact requirements.

Prior to the close of business (4:30 p.m.) on **May 5, 2023**, an electronic copy of the appeal statement must be sent to [Clerk.Council@kingcounty.gov](mailto:Clerk.Council@kingcounty.gov) and a paper copy of the appeal statement must be delivered to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104. Prior mailing is not sufficient if the Clerk does not actually receive the fee and the appeal statement within the applicable time period.

Unless the appeal requirements of KCC 20.22.230 are met, the Clerk of the Council will place on the agenda of the next available Council meeting a proposed ordinance implementing the Examiner's recommended action.

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."

V-2733—Sergey and Vera Kondratyev

6

**MINUTES OF THE MARCH 28, 2023, HEARING ON THE ROAD VACATION  
PETITION OF SERGEY AND VERA KONDRATYEV, DEPARTMENT OF LOCAL  
SERVICES FILE NO. V-2733**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Jeff Darrow, Leslie Drake and Vera Kondratyev.

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

- |                |  |
|----------------|--|
| Exhibit no. 1  | Roads Services report to the Hearing Examiner, sent March 13, 2023   |
| Exhibit no. 2  | Letter from Clerk of the Council to DLSP transmitting petition, dated May 21, 2020   |
| Exhibit no. 3  | Petition for vacation of a county road, transmitted May 21, 2020   |
| Exhibit no. 4  | Letter from DLSP to Petitioner acknowledging receipt of petition, dated May 28, 2020                                       |
| Exhibit no. 5  | Vacation area map  |
| Exhibit no. 6  | Aerial photograph  |
| Exhibit no. 7  | King County Assessor's information for property APN 3751605003   |
| Exhibit no. 8  | King County Assessor's information for property APN 3751605063   |
| Exhibit no. 9  | King County Assessor's information for property APN 3751605119   |
| Exhibit no. 10 | Notification from Petitioners of purchase of APN 3751605119  |
| Exhibit no. 11 | Final stakeholder notification, sent August 6, 2020  |
| Exhibit no. 12 | Revised exhibit map, including ownership of APN 3751605119   |
| Exhibit no. 13 | Easement from Petitioners in favor of Lakehaven Water and Sewer District   |
| Exhibit no. 14 | Email between Assessor's Office on valuation of vacation area  |
| Exhibit no. 15 | Compensation calculation model spreadsheet for APN 3751605003  |
| Exhibit no. 16 | Compensation calculation model spreadsheet for APN 3751605063  |
| Exhibit no. 17 | Compensation calculation model spreadsheet for APN 3751605119  |
| Exhibit no. 18 | Letter from DLSP to Petitioners including Road Engineer report, dated March 3, 201   |
| Exhibit no. 19 | Road Engineer Report   |
| Exhibit no. 20 | Letter from DLSP to King County Council recommending approval and transmitting proposed ordinance, dated November 28, 2022 |
| Exhibit no. 21 | Proposed ordinance   |
| Exhibit no. 22 | Fiscal note  |
| Exhibit no. 23 | Declaration of posting   |
| Exhibit no. 24 | Affidavit of publication, <i>to be supplied by Clerk of Council</i>  |



### Certificate Of Completion

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dave.upthegrove@kingcounty.gov  
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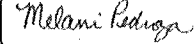
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Signed: 5/25/2023 8:58:27 AM

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Melani Pedroza  
melani.pedroza@kingcounty.gov  
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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
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp

**Envelope Summary Events**

**Status**

**Timestamps**

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Completed	Security Checked	5/25/2023 9:10:17 AM

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**Status**

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Parties agreed to: Dave Upthegrove, Melani Pedroza

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