

February 7, 2024

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**  
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**REPORT AND RECOMMENDATION**

SUBJECT: Department of Transportation file no. **V-2731**  
Proposed ordinance no. **2023-0441**  
Adjacent parcel no(s). **375160-6320 and 375160-6296**

**MARCUS CURTIS AND JOHN AND SUZANNE SCHREIER**  
Road Vacation Petition

Location: a portion of S. 370th Street (9th Street as platted)

Petitioner: **Marcus Curtis**  
37003 55th Ave S  
Auburn, WA 98001  
Telephone: (206) 619-2070  
Email: [marcusmedia2010@yahoo.com](mailto:marcusmedia2010@yahoo.com)

Petitioners: **John and Suzanne Schreier**  
36841 55th Ave S  
Auburn, WA 98001  
Telephone: (206) 423-4069  
Email: [junkboysinc@aol.com](mailto:junkboysinc@aol.com); [clam80jane1@yahoo.com](mailto:clam80jane1@yahoo.com)

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. Marcus Curtis, along with John and Suzanne Schreier, petition the County to vacate a tiny portion of public right-of-way at a portion of what would S. 370th Street (if it were an actual street) as it abuts 55<sup>th</sup> Ave. S. The Department of Local Services, Road Services Division (Roads), urges vacation without the need for compensation.
2. 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. And because the County benefits more financially from the jettisoning this useless right-of-way than the abutting parcels accrue from acquiring the right-of-way, we recommend against requiring compensation as a condition of vacation.

### Background

3. Except as provided below, we incorporate the facts set forth in Roads' report and in proposed ordinance no. 2023-0441. 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 (001-04); Ex. 8.
4. 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?

5. 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).
6. 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. Vacation will not extinguish easements for any utilities.

7. We find that the road is useless to the county road system. We also find that the public will benefit from its vacation, given the savings in avoided management and maintenance costs and increased property taxes discussed below. We conclude that vacation here is warranted.

#### 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.
9. Here, the Assessor estimates that both the Curtis and the Schreier properties will each increase in value by approximately \$1000. Exs. 11 & 12. That is far less than the approximately \$4000 the model predicts the County will gain from jettisoning each these rights-of-way. Thus, no compensation is due.

#### RECOMMENDATION:

1. We recommend that Council APPROVE proposed ordinance no. 2023-0441 to vacate the subject road right-of-way abutting parcel 375160-6320 (Curtis) with no compensation requirement or contingencies.
2. We recommend that Council APPROVE proposed ordinance no. 2023-0441 to vacate the subject road right-of-way abutting parcel 375160-6296 (Schreier) with no compensation requirement or contingencies.

DATED February 7, 2024.



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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](mailto:Clerk.Council@kingcounty.gov), to [hearingexaminer@kingcounty.gov](mailto: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 MARCUS CURTIS AND JOHN AND SUZANNE SCHREIER, DEPARTMENT OF TRANSPORTATION FILE NO. V-2731**

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

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

Exhibit no. 1	Roads Report to the Hearing Examiner, submitted January 19, 2024
Exhibit no. 2	Petition transmittal letter to the County Road Engineer, from the Clerk of Council, dated April 27, 2020
Exhibit no. 3	Petition for Vacation of a County Road received April 27, 2020
Exhibit no. 4	Letter to Petitioners, acknowledging receipt of petition, dated May 8, 2020
Exhibit no. 5	Plat Jovita Heights
Exhibit no. 6	King County Assessor's information for Petitioners' property, APN 3751606296
Exhibit no. 7	King County Assessor's information for Petitioners' property, APN 3751606320
Exhibit no. 8	Exhibit map depicting vacation area
Exhibit no. 9	Final notice sent of review to agencies on June 1, 2020
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 3751606296
Exhibit no. 12	Compensation calculation model spreadsheet for Petitioners' property, APN 3751606320
Exhibit no. 13	Cover letter to Petitioners with a copy of the County Road Engineer's Report, dated December 29, 2020

- Exhibit no. 14 County Road Engineer’s Report
- Exhibit no. 15 Ordinance transmittal letter from King County Executive to Councilmember Dave Upthegrove, dated December 7, 2023
- Exhibit no. 16 Proposed Ordinance
- Exhibit no. 17 Declaration of Posting
- Exhibit no. 18 Affidavit of Publication for date of hearing – to be supplied by Clerk of the Council