

November 16, 2023

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

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REPORT AND RECOMMENDATION

SUBJECT: Department of Transportation file no. **V-2745**
Proposed ordinance no. **2023-0299**
Adjacent parcel no. **1463400035**

MICAH AND FLORINE PALMER

Road Vacation Petition

Location: a portion of 152nd Ave SE, Renton

Applicants: **Micah and Florine Palmer**
15205 SE 142nd Street
Renton, WA 98059
Telephone: (206) 697-8092
Email: fopalmer3@comcast.net

King County: Department of Local Services
represented by **Leslie Drake**
Department of Local Services, Road Services Division
201 S Jackson Street
Seattle, WA 98104
Telephone: (206) 477-7764
Email: leslie.drake@kingcounty.gov

FINDINGS AND CONCLUSIONS:

Overview

1. Micah and Florine Palmer petition the County to vacate a public right-of-way. Road Services Division (Roads) urges vacation. On November 15, 2023, we conducted the Council's public hearing. After hearing witness testimony and observing demeanor, studying the exhibits, and considering the parties' arguments and the relevant law, we recommend that Council vacate the right-of-way, contingent on payment of \$10,600.

Background

2. Except as provided below, we incorporate the facts set forth in Roads’ report and in proposed ordinance no. 2023-0299. 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. D1 at 1-5; D9.
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 transportation system (including trails) or for utility purposes.
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.

What Compensation is Due?

7. 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. Here, adding the 6,250 square-foot stretch to be vacated increases the value of the Palmer property by approximately \$15,000. Ex. D12.
8. 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. Here, jettisoning the right-of-way would be expected to benefit the County to the tune of \$4087. That means the amount the Palmer owe is \$10,600. Ex. D12.

RECOMMENDATION:

1. We recommend that Council APPROVE proposed ordinance no. 2023-0299 to vacate the subject road right-of-way abutting parcel 146340-0035, CONTINGENT on petitioner paying \$10,600 to King County within 90 days of the date Council takes final action on this ordinance.
2. If King County does not receive \$10,600 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 146340-0035. Recording an ordinance will signify that payment has been received, the contingency is satisfied, and the right-of-way associated with parcel 146340-0035 is vacated.

DATED November 16, 2023.



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 **December 11, 2023**, 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 NOVEMBER 15, 2023, HEARING ON THE ROAD VACATION
PETITION OF MICAH AND FLORINE PALMER, DEPARTMENT OF
TRANSPORTATION FILE NO. V-2745**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Jeri Breazeal, Leslie Drake, Micah and Florine Palmer, and Vlad Sirbu.

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

Exhibit no. D1	Roads Services report to the Hearing Examiner, sent October 30, 2023
Exhibit no. D2	Letter from Clerk of the Council to Road Engineer, transmitting petition, dated April 1, 2021
Exhibit no. D3	Petition for vacation of a county road, received April 1, 2021
Exhibit no. D4	Email, King County FMD joins petition, dated April 14, 2021
Exhibit no. D5	Letter to Petitioner acknowledging receipt of petition and explaining road vacation process, dated April 20, 2021
Exhibit no. D6	Plat map
Exhibit no. D7	Assessor's information for property APN 1463400035
Exhibit no. D8	BLA L09L0017 recorded 2009624900005
Exhibit no. D9	Vacation area map
Exhibit no. D10	Final stakeholder notification, sent July 20, 2021, with comment deadline of August 25, 2021
Exhibit no. D11	Email from Assessor's Office on valuation
Exhibit no. D12	Compensation calculation model for APN 1463400035
Exhibit no. D13	Letter to Petitioner recommending approval, dated November 18, 2021
Exhibit no. D14	Road Engineer report
Exhibit no. D15	Letter to Chair, recommending approval and transmitting proposed ordinance, dated August 23, 2023
Exhibit no. D16	Proposed ordinance
Exhibit no. D17	Declaration of posting, noting posting date of October 23, 2023
Exhibit no. D18	Publication
Exhibit no. D19	Affidavit of publication – to be supplied by Clerk of Council