

**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 Local Services file no. **V-2735**
Proposed ordinance no. **2025-0368**

WHISPERING WOODS ESTATES, LLC

Road Vacation Petition

Location: a portion of 52nd Avenue South/Indiana Ave in the West King
County Community Service Area of unincorporated King County

Applicant: Whispering Woods Estates, LLC (ATTN: Scott Horan)
represented by **Vicki Orrico**
600 University St., Suite 2430
Seattle, WA 98101
Telephone: (206) 676-7500
Email: vorrico@gth-law.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. Whispering Woods Estates, LLC, petitions the King County Council (Council) to vacate an approximately 0.54-acre (22,965 sq. ft) section of public right-of-way on 52nd Avenue South/Indiana Ave between S. 368th St and the unopened right-of-way for S. 370th St in unincorporated King County. The Department of Local Services, Road Services Division (Roads), endorses vacation and proposes waiver of compensation.
2. On February 3, 2026, we conducted a remote public hearing on behalf of the Council. After hearing witness testimony, studying the exhibits entered into evidence, and applying the relevant law, **we recommend that the Council vacate the right-of-way, contingent on obtaining necessary easements, and not require compensation.**
3. We incorporate the facts set forth in Roads' January 20, 2026, Report to the Hearing Examiner ("Report") and in proposed ordinance no. 2025-0368. Exs. D1, D31. Roads' Report, and a map showing the area to be vacated and the vicinity of the proposed vacation, are in the hearing record and are attached to the copies of our recommendation submitted to Council. Exs. D1, D14-0007, D15.

Legal Background

4. Chapter 36.87 RCW sets the legal framework for county road vacations, augmented by Ch. 14.40 KCC which establishes the road vacation procedures in King County. To vacate a county road, state law requires factual findings that: (1) the road is useless to the county road system, and (2) the public will be benefited by the vacation. If those two conditions are met, then the Council has the discretion to vacate the road.
5. If the Council concludes that vacation of the right-of-way is warranted, 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.
6. The legal description of the property proposed to be vacated is: All of 52nd Ave S. (Indiana Avenue) lying between Block 135 and Block 136, Plat of Jovita Heights according to the plat filed in Vol. 12 at page 20 of Plats, records of the King County Recorder. Situate in the Northwest Quarter of the Northwest Quarter of Section 35, Twp. 21 N., Rge. 4 E., Willamette Meridian, King County, Washington. Ex. D33.

Is Vacation Warranted?

7. 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. Petition denial is mandatory where a petitioner fails to meet their burden, and approval is discretionary where a petitioner establishes uselessness and public benefit. RCW 36.87.060(1).
8. The subject right-of-way segment was originally dedicated to the County in the Jovita Heights Addition Plat recorded in 1911. There is no record of the area being opened, used, improved or maintained by King County as part of the county road system. Ex. D29-001; Drake Testimony.
9. However, unlike many road vacations, the right-of-way segment is currently constructed and used as a road to access multiple parcels along 52nd Ave. Petitioner improved the right-of-way in 2019, and those improvements were permitted by King County DLS-Permitting. Horan Testimony. The intended use for the right-of-way going forward will be a private road that will continue to serve the lots on 52nd Ave. *Id.*
10. Petitioner owns the majority of the lineal footage of the frontage of the right-of-way proposed for vacation. KCC 14.40.0104.B; Ex. D29-001. There are 10 parcels abutting the proposed vacation segment, nine of which are owned by Petitioner. Ex. D29-014.
11. The Fred Walden Trust property, Parcel # 3751606134, (hereinafter “Trust Property”) is the only parcel along the segment that is not owned by Petitioner. If the vacation is approved, the parcel would gain approximately 1,686 square feet from the portion of the property abutting the right-of-way to the centerline. Exs. D17-004; D29-007. This area would be privately owned by the Trust.
12. The Stoltey Property, Parcel #s 375160-6407 and -6503 (under common ownership), at the south end of the proposed road vacation also uses the privately improved road for access. The right-of-way appears to be their only means of accessing the two lots.
13. Puget Sound Energy (PSE), Comcast, Lakehaven Water and Sewer District (Lakehaven), and King County DNRP - Water and Land Resources Division (WLRD) all identified the need for easements over portions of the proposed vacation area to preserve existing and/or future infrastructure. Ex. D1-002.
14. Notice was properly given of the public hearing and there were no comments submitted or public testimony at the hearing. Ex. D1-002; Ex. D16. In addition to the notice posted on site and mailed, the Petitioner testified that they tried to reach the owner of the Trust Property numerous times, unsuccessfully. Horan Testimony. Petitioner also represented that he has spoken with multiple people at the Stoltey property, they are aware of the proposed road vacation, and they have no objections based on the assurance that easements would be provided for their continued property access. *Id.*

15. In assessing uselessness and public benefit of the subject right-of-way, the Examiner's primary concern with this petition is ensuring continued access for the non-petitioning property owners and agencies needing retained utility access.
16. It is relatively straight-forward to conclude that the right-of-way is useless as part of the county road system. The right-of-way has never been opened as part of the county road system and, to the extent it is needed as a road, the private development and maintenance of the subject area is a benefit that would not be provided by the County.
17. However, the decision as to whether the public would benefit, on the whole, from the vacation is complicated by the non-participation of the Trust Property and the need for access easements along the right of way.
18. A fundamental principle of reversion upon road vacation is that the vacated land area reverts equally to adjacent parcels within the bounds of the right-of-way. *See* V-2588 Hansen; V-2640 Peterson. The relevance of that principle here is that the portion of the right-of-way abutting the Trust Property, to the center line of the road, would revert in fee to the Trust as private property.
19. Roads has recommended that, to ensure continued access for the identified agencies and the Trust and Stoltey properties, Petitioner should provide access easements in favor of PSE, Comcast, Lakehaven, WLRD and Parcels 375160-6134, 375160-6407 and 375160-6503. But Petitioner is not the only entity that will have a property interest in the right-of-way if the vacation is approved.
20. The Council has authority to vacate the property without involvement or agreement of all abutting landowners. *Thayer v. King Cnty.*, 46 Wn. App. 734, 737 (1987). It cannot, however, require a property owner to then encumber the property that reverts to them with easements and covenants in favor of utility companies and private property owners. For access easements to be granted for the full area proposed to be vacated, a Trust Property representative must be involved and affirmatively grant those easements.
21. The Proposed Ordinance states that "The vacation shall not extinguish the rights of any utility company to any existing easements for facilities or equipment within the vacation area." Ex. D31-01. But it is unclear how this assurance can be made without engagement with the Trust Property. The expectation that "owners" of the vacated property enter into the needed access agreements is reflected in the draft Declaration of Covenant provided by WLRD and it is not evident whether their needs would be met if only the Petitioner was the grantor for that covenant. Ex. D1-43.
22. There are two logical solutions to this problem. First, it is possible that adequate access for the Stoltey property and PSE, Comcast, Lakehaven, WLRD can be provided without use of the property that will revert to the Trust. Although this was not discussed at the hearing, a reasonable outcome here would be for the agencies and property owners who need access to agree that their needs are met without reliance on the property abutting Parcel 375160-6134 to the centerline of the existing right-of-way.

23. Alternatively, the trustee or legal representative for the Trust Property could be contacted and included as a grantor in the access easements needed for PSE, Comcast, Lakehaven, WLRD and the Stoltey Property. Testimony reflected that there have been multiple efforts to contact the trustee without success, so this may not be a viable option.
24. There may be more creative solutions that the Petitioner could suggest that would satisfy the same access needs and assurances, but for purposes of the recommendation here, I am limiting the options to the two solutions offered above. Specifically, the Trust Property, the Stoltey Property, PSE, Comcast, Lakehaven, and WLRD need to be assured adequate access through easements. Those easements need to:
 - A. Include recognition by the Stoltey property, PSE, Comcast, Lakehaven, and WLRD that the Petitioner is only providing access to the extent it owns the property underlying the vacation area, and agreement by these entities that their needs are met without access to the 1,686 square feet fronting the Trust property;

- OR -
 - B. Include the Trust property as a grantor of the access easements for these entities.
25. An access easement benefiting the Trust Property can be granted by Petitioner alone. Roads suggests that, as an alternative to providing easements to the Trust and Stoltey Properties, Petitioners could provide a “statement from the owners of the parcels declining such easements.” Ex. D29-002; Ex. D31-001. This is not recommended. The easements for ingress and egress should be secured as a condition of vacation irrespective of the current owners’ interest to ensure future access to these parcels. I would recommend the Council strike language in the Ordinance suggesting that the property owners could decline access easements. See Ex. D31-001, ln 19-20.
26. If these access easements are in place prior to recording of the vacation, the public will benefit from approval of this petition, with the savings expected from avoided management and maintenance costs and increased property taxes, as discussed below. Moreover, with the improvements already permitted and undertaken by the Petitioner, the road will better serve the public interest in private ownership. K.C.C. 14.40.0102.B.

What Compensation is Due?

27. Where vacation is appropriate, the county may require compensation up to the appraised value of the vacated road. The King County Assessor determines the increase in value due to the vacation for each abutting parcel separately.
28. Compensation is calculated by considering the increase in property values the receiving parcel will garner from the extra square footage from the area vacated. This amount, determined by the Assessor, is then adjusted by the county to reflect the expected value to the public from avoided liability risk, eliminated management and maintenance costs, along with increased property taxes. RCW 36.87.070; KCC 14.40.020.A.1. The King County Office of Performance, Strategy, and Budget (PSB) created a model for

calculating these adjustments, updated annually. Roads then applies those figures to each impacted parcel. Ex. D22. This means that the appropriate level of compensation to require is an individualized inquiry, producing different results for different parcels.

29. There are 10 parcels that will have area added if the right-of-way is vacated. One of the parcels that would have area added is a non-petitioning party – the Fred Walden Trust parcel. The details of the additional areas to be transferred, impact to assessed value, and expected savings to the County are detailed for each parcel in Exhibit 29. The model estimates that for each of the parcels affected, the increase value to each parcel is less than the benefit to the County in reduced management and maintenance costs. As a result, Roads recommends waiving any required compensation.
30. The Examiner agrees with the valuation calculated for the 10 parcels at issue and supports Roads’ recommendation to waive compensation to the County should the vacation be approved.

RECOMMENDATION:

1. The Examiner recommends that Council APPROVE proposed ordinance no. 2025-0368 to vacate the subject right-of-way, with contingencies (and amendments to the ordinance reflecting these contingencies) and with no compensation requirement.
2. Any approval should be CONTINGENT upon assuring adequate access to the Trust Property, Stoltey property, PSE, Comcast, Lakehaven, and WLRD through provision of access easements. The easements must either include the Trust Property as a grantor, or include acknowledgement from the agencies and Stolteys that the easements from Petitioners do not include the area abutting the Trust Property to the right-of-way centerline and that their access needs will nevertheless be met.
3. Petitioners must deliver signed easements in favor of the Stoltey property, PSE, Comcast, Lakehaven, and WLRD within 90 days of the date Council takes final action on this ordinance. If King County does not receive the signed easements by that date, there is no vacation and the associated right-of-way remains King County’s. If the signed easements are timely received, the Clerk shall record the ordinance which will signify that all contingencies are satisfied and that the right-of-way is vacated.

DATED February 11, 2026.



Devon Shannon
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 9, 2026**, 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 3, 2026, HEARING ON THE ROAD VACATION PETITION OF WHISPERING WOODS ESTATES, LLC, LOCAL SERVICES, ROADS FILE NO. V-2735

Devon Shannon was the Hearing Examiner in this matter. A verbatim recording of the hearing is available in the Hearing Examiner’s Office.

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

| | |
|-----------------|--|
| Exhibit no. D1 | Roads Services’ staff report to the Hearing Examiner |
| Exhibit no. D2 | Petition transmittal letter dated July 6, 2020, to the County Road Engineer. |
| Exhibit no. D3 | Petition for Vacation of a County Road received July 6, 2020. |
| Exhibit no. D4 | King County Assessor’s information for Non-Petitioner Fred Omer Walden Trust property, APN 375160-6134 |
| Exhibit no. D5 | King County Assessor’s information for Petitioner Whispering Woods Estates LLC property, APN 375160-6137 |
| Exhibit no. D6 | King County Assessor’s information for Petitioner Whispering Woods Estates LLC property, APN 375160-6139 |
| Exhibit no. D7 | King County Assessor’s information for Petitioner Whispering Woods Estates LLC property, APN 375160-6140 |
| Exhibit no. D8 | King County Assessor’s information for Petitioner Whispering Woods Estates LLC property, APN 375160-6155 |
| Exhibit no. D9 | King County Assessor’s information for Petitioner Whispering Woods Estates LLC property, APN 375160-6160 |
| Exhibit no. D10 | King County Assessor’s information for Petitioner Whispering Woods Estates LLC property, APN 375160-6165 |
| Exhibit no. D11 | King County Assessor’s information for Petitioner Whispering Woods Estates LLC property, APN 375160-6175 |

| | |
|-----------------|--|
| Exhibit no. D12 | King County Assessor’s information for Petitioner Whispering Woods Estates LLC property, APN 375160-6180 |
| Exhibit no. D13 | King County Assessor’s information for Petitioner Whispering Woods Estates LLC property, APN 375160-6185 |
| Exhibit no. D14 | Plat of Jovita Heights |
| Exhibit no. D15 | Exhibit map depicting vacation area |
| Exhibit no. D16 | Copy of final notice sent of review to agencies on 12/07/2020 |
| Exhibit no. D17 | Email exchange with Assessor’s Office regarding valuation of vacation area and copy of table indicating additional assessment for vacated areas. |
| Exhibit no. D18 | Compensation calculation model spreadsheet for Non-Petitioner’s property, APN 375160-6134 |
| Exhibit no. D19 | Compensation calculation model spreadsheet for Petitioner’s property, APN 375160-6137 |
| Exhibit no. D20 | Compensation calculation model spreadsheet for Petitioner’s property, APN 375160-6139 |
| Exhibit no. D21 | Compensation calculation model spreadsheet for Petitioner’s property, APN 375160-6140 |
| Exhibit no. D22 | Compensation calculation model spreadsheet for Petitioner’s property, APN 375160-6155 |
| Exhibit no. D23 | Compensation calculation model spreadsheet for Petitioner’s property, APN 375160-6160 |
| Exhibit no. D24 | Compensation calculation model spreadsheet for Petitioner’s property, APN 375160-6165 |
| Exhibit no. D25 | Compensation calculation model spreadsheet for Petitioner’s property, APN 375160-6175 |
| Exhibit no. D26 | Compensation calculation model spreadsheet for Petitioner’s property, APN 375160-6180 |
| Exhibit no. D27 | Compensation calculation model spreadsheet for Petitioner’s property, APN 375160-6185 |
| Exhibit no. D28 | Cover letter to Petitioners dated July 23, 2025, with a copy of the County Road Engineer’s Report |
| Exhibit no. D29 | County Road Engineer’s Report |
| Exhibit no. D30 | Ordinance transmittal letter dated November 21, 2025, from King County Executive to Councilmember Girmay Zahilay, Chair, King County Council |
| Exhibit no. D31 | Proposed Ordinance |
| Exhibit no. D32 | Declaration of Posting |
| Exhibit no. D33 | Request for publication by Clerk of the Council |

February 11, 2026

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

Telephone (206) 477-0860

hearingexaminer@kingcounty.gov

www.kingcounty.gov/independent/hearing-examiner

CERTIFICATE OF SERVICE

SUBJECT: Local Services, Roads file no. **V-2735**
Proposed ordinance no. **2025-0368**

WHISPERING WOODS ESTATES, LLC

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 February 11, 2026.



Jessica Oscoy
Administrator