



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

Ordinance 19746

Proposed No. 2023-0441.2

Sponsors Upthegrove

1 AN ORDINANCE authorizing the vacation of a portion of
 2 S. 370th Street (9th Street as platted), file no. V-2731;
 3 Petitioners: Marcus E. Curtis and John S. and Suzanne
 4 Schreier.

5 **STATEMENT OF FACTS:**

- 6 1. A petition has been filed requesting vacation of a portion of South.
 7 370th Street/9th Street, hereinafter described.
- 8 2. The department of local services notified utility companies serving the
 9 area and King County departments of the proposed vacation and has been
 10 advised that Lakehaven Water and Sewer District requires an easement
 11 over the vacation area. The vacation shall not extinguish the rights of any
 12 utility company to any existing easements for facilities or equipment
 13 within the vacation area.
- 14 3. The department of local services' records indicate that this segment of
 15 right of way is unopened and unmaintained.
- 16 4. The department of local services considers the subject portion of right
 17 of way useless as part of the county road and transportation system and
 18 believes the public would benefit by the return of this segment of right of
 19 way to the public tax rolls and recommends approval of the vacation.

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20 5. Pursuant to K.C.C. 14.40.020 and RCW 36.87.120, the value of the
21 vacation area is offset by the costs to King County to manage and
22 maintain this segment of unopened right of way and the present value of
23 future property tax. This results in a determination of no compensation
24 required for the vacation of both the 1,700 square feet of South 370th
25 Street/9th Street right of way to the property of Petitioner Marcus E.
26 Curtis, King County Assessor's Parcel Number 375160-6320, and the
27 1,673 square feet of South. 370th Street/9th Street right of way to the
28 property of Petitioners John S. and Suzanne Schreier, King County
29 Assessor's Parcel Number 375160-6296.

30 6. Due notice was given in the manner provided by law. The office of the
31 hearing examiner held the public hearing on February 7, 2024.

32 7. As detailed in the February 7, 2024, recommendation, the hearing
33 examiner found that the road segment subject to this petition is not useful
34 as part of the King County road system, concluded that the vacation of this
35 segment of road will benefit the public through the transfer of
36 responsibility for management and return of the property to the public tax
37 roll, and determined that no further compensation is required from
38 Petitioners to complete the vacation.

39 8. For the reasons stated in the examiner's report and recommendation,
40 the council determines that it is in the best interest of the citizens of King
41 County to grant said petition and vacate the right of way.

42 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

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43 SECTION 1. The council, on the effective date of this ordinance, hereby vacates
44 and abandons a portion of South. 370th Street/9th Street right of way as dedicated to
45 King County by the recording of the Jovita Heights plat, recorded in Volume 20 of Plats,
46 Page 12, records of King County Washington as described below:

47 THAT PORTION OF SOUTH 370TH STREET LYING WEST OF 55TH
48 AVENUE SOUTH AND EAST OF 54TH AVENUE SOUTH,
49 ABUTTING LOT 13, BLK 138 TO THE NORTH AND LOT 1, BLOCK
50 139 TO THE SOUTH; ALL WITHIN THE PLAT OF JOVITA
51 HEIGHTS, ACCORDING TO THE PLAT RECORDED IN VOLUME 20
52 OF PLATS AT PAGE 12, RECORDS OF THE KING COUNTY


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- 53 RECORDER.
- 54 Containing 3,373 square feet, more or less.


Ordinance 19746 was introduced on 1/9/2024 and passed by the Metropolitan King County Council on 3/12/2024, by the following vote:

Yes: 8 - Balducci, Barón, Dembowski, Dunn, Perry, Upthegrove, von Reichbauer and Zahilay
Excused: 1 - Mosqueda


KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

DocuSigned by:

E76CE01F07B14EF...
Dave Upthegrove, Chair

ATTEST:

DocuSigned by:

8DE1BB375AD3422...
Melani Hay, Clerk of the Council

APPROVED this ____ day of 3/14/2024, _____.

DocuSigned by:

4FBCAB8196AE4C6...
Dow Constantine, County Executive

Attachments: A. Hearing Examiner Report dated 2-7-2024

Ordinance 19746

February 7, 2024

**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 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

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



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, 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 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

Certificate Of Completion

Envelope Id: 7C0277E1699D475C99D6D36964218211	Status: Completed
Subject: Complete with DocuSign: Ordinance 19746.docx, Ordinance 19746 Attachment A.pdf	
Source Envelope:	
Document Pages: 4	Signatures: 3
Supplemental Document Pages: 5	Initials: 0
Certificate Pages: 5	Envelope Originator:
AutoNav: Enabled	Cherie Camp
Envelopeld Stamping: Enabled	401 5TH AVE
Time Zone: (UTC-08:00) Pacific Time (US & Canada)	SEATTLE, WA 98104
	Cherie.Camp@kingcounty.gov
	IP Address: 198.49.222.20

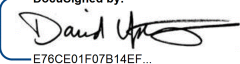
Record Tracking

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3/12/2024 5:57:50 PM	Cherie.Camp@kingcounty.gov	
Security Appliance Status: Connected	Pool: FedRamp	
Storage Appliance Status: Connected	Pool: King County-Council	Location: DocuSign

Signer Events

Dave Upthegrove
dave.upthegrove@kingcounty.gov
Chair
Security Level: Email, Account Authentication (None)

Signature


DocuSigned by:

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Signature Adoption: Uploaded Signature Image
Using IP Address: 198.49.222.20

Timestamp

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Signed: 3/13/2024 8:47:54 AM

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Melani Hay
melani.hay@kingcounty.gov
Clerk of the Council
King County Council
Security Level: Email, Account Authentication (None)

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Using IP Address: 198.49.222.20

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Dow Constantine
Dow.Constantine@kingcounty.gov
King County Executive
Security Level: Email, Account Authentication (None)

DocuSigned by:

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Using IP Address: 146.129.84.117

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Signed: 3/14/2024 9:09:24 AM

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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
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Ames Kessler akessler@kingcounty.gov King County Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	<div style="border: 2px solid blue; padding: 5px; display: inline-block;">COPIED</div>	Sent: 3/13/2024 8:54:52 AM Viewed: 3/13/2024 9:18:13 AM
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Signing Complete	Security Checked	3/14/2024 9:09:24 AM
Completed	Security Checked	3/14/2024 9:09:24 AM

Payment Events	Status	Timestamps
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Electronic Record and Signature Disclosure
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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.

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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

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 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 withdraw your consent with King County-Department of 02

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- ii. send us an email to 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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To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

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- Until or unless you notify King County-Department of 02 as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by King County-Department of 02 during the course of your relationship with King County-Department of 02.