



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

October 31, 2017

Ordinance 18598

Proposed No. 2017-0320.2

Sponsors McDermott

1 AN ORDINANCE authorizing the vacation of a portion of
2 SE 70th Drive right of way, also known as Geo. Stephan
3 Road and County Road No. 1615, File V-2706; Petitioners:
4 Liway Hsi and Claremont Forest, LLC.

5 STATEMENT OF FACTS:

- 6 1. A petition has been filed requesting vacation of a portion of SE 70th Drive
7 right of way, also known as Geo. Stephan Road and County Road No. 1615,
8 hereinafter described.
- 9 2. The department of transportation notified utility companies serving the area
10 and King County departments of the proposed vacation and has been advised that
11 easements are not required within the vacation area.
- 12 3. The department of transportation records indicate that King County has not
13 expended public funds for the acquisition or maintenance of the subject portions
14 of SE 70th Drive right of way. (The actually-constructed SE 70th Drive was built
15 almost entirely adjacent to the area being vacated today.)
- 16 4. The department of transportation considers the subject portion of right of way
17 useless as part of the county road system and believes the public would benefit by
18 the return of this unused area to the public tax rolls.
- 19 5. Pursuant to K.C.C. 14.40.020, it is determined that it would benefit King

20 County to accept real property of equal or greater value in lieu of cash
21 compensation. King County is in receipt of a Statutory Warranty Deed from
22 Petitioner Claremont Forest, LLC conveying to King County, land of an equal or
23 greater value than the vacation area consisting of;

24 A 40 foot wide road right-of-way over those portions of
25 King County large lot segregation emsc 13-0004, recorded
26 under recording number 20130816900001, lying with the
27 Northeast Quarter of the Southeast Quarter and the
28 Southeast Quarter of the Northeast Quarter of Section 29,
29 Township 24 North, Range 8 East, W.M., and lying 20 feet
30 each side of the following described centerline:

31 Commencing at the East Quarter corner of said Section 29;
32 Thence North $00^{\circ}18'51''$ East along the East line of said
33 Northeast Quarter 437.78 feet to the intersection with the
34 centerline of an existing gravel roadway and the point of
35 beginning;

36 Thence South $82^{\circ}09'32''$ West 441.99 feet to the beginning
37 of a curve to the left having a radius of 60.00 feet;

38 Thence Southwesterly and Southerly along said curve
39 through a central angle of $97^{\circ}05'58''$ an arc distance of
40 101.68 feet;

41 Thence South $14^{\circ}56'26''$ East 217.32 feet to the beginning
42 of a curve to the right having a radius of 276.00 feet;

43 Thence Southerly along said curve to the right through a
44 central angle of 34°20'32" an arc distance of 165.43 feet to
45 the as-built centerline of Southeast 70th drive and the
46 terminus of this right-of-way description.

47 The sidelines of said right-of-way to be extended or
48 shortened to close on the easterly line of said Northeast
49 Quarter of Section 29.

50 Situate in the County of King and State of Washington.

51 Said replacement right of way is the area currently occupied by the improved and
52 open portions of SE 70th Drive. The conveyance of this portion of right of way
53 will perfect the county's ownership interests in the right of way for the actual SE
54 70th Drive.

55 6. Due notice was given in the manner provided by law. The office of the hearing
56 examiner held the public hearing on September 25, 2017. The examiner
57 concluded that the road segment subject to this petition is not useful as part of the
58 King County road system; that the public will benefit from its vacation; that the
59 proposed replacement property provides the public with right of way to a
60 currently improved and open portion of SE 70th Drive; and recommends that the
61 council accept the proposed transfer of real property by Statutory Warranty Deed
62 from Petitioner Claremont Forest, LLC as compensation for the vacation of the
63 subject right of way.

64 7. In consideration of the benefits to be derived from the subject vacation, the
65 council has determined that it is in the best interest of the citizens of King County

66 to grant said petition.

67 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

68 SECTION 1. The council, on the effective date of this ordinance, hereby vacates
69 and abandons a portion of SE 70th Drive right of way, also known as Geo. Stephan Road
70 and County Road No. 1615 being a portion of that conveyed to King County in the Quit
71 Claim Deed from Snoqualmie Falls Lumber Company dated August 30, 1920, recorded
72 under King County Volume 1124 of Deeds, Page 23, Recording Number 1455150, as
73 described below:

74 That portion of Southeast 70th Drive (George Stephan
75 Road) as per King County Road Survey No. 1615 as
76 established August 23, 1920, being a 40 foot wide strip of
77 land in the Northeast Quarter of the Southeast Quarter and
78 the Southeast Quarter of the Northeast Quarter of Section
79 29, Township 24 North, Range 8 East, W.M. the centerline
80 of which is more particularly described as follows:

81 Commencing at the East Quarter corner of said Section 29;
82 Thence North $00^{\circ}18'51''$ East along the East line of said
83 Northeast Quarter 530.95 feet to the intersection with the
84 centerline of said Southeast 70th Drive and the point of
85 beginning;

86 Thence South $66^{\circ}36'06''$ West 208.03 feet to the beginning
87 of a curve to the left having a radius of 190.99 feet;

88 Thence Southwesterly along said curve an arc distance of

89 157.34 feet through a central angle of 47°12'00";
90 Thence South 19°24'06" West 505.86 feet, more or less, to
91 the as-built centerline of Southeast 70th Drive and the
92 terminus of this right of way vacation description;

93 Situate in the County of King and State of Washington.

94 Containing an area of 25,165 square feet, more or less.

95

Ordinance 18598 was introduced on 8/14/2017 and passed by the Metropolitan King County Council on 10/30/2017, by the following vote:

Yes: 9 - Mr. von Reichbauer, Mr. Gossett, Ms. Lambert, Mr. Dunn, Mr. McDermott, Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles and Ms. Balducci
No: 0
Excused: 0

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

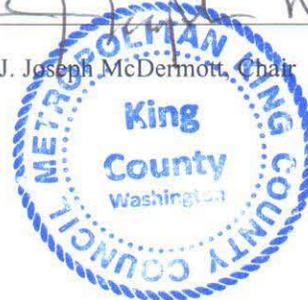


J. Joseph McDermott, Chair

ATTEST:



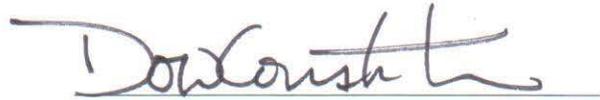
Melani Pedroza, Clerk of the Council



2017 NOV -8 PM 3:48
CLERK
KING COUNTY COUNCIL

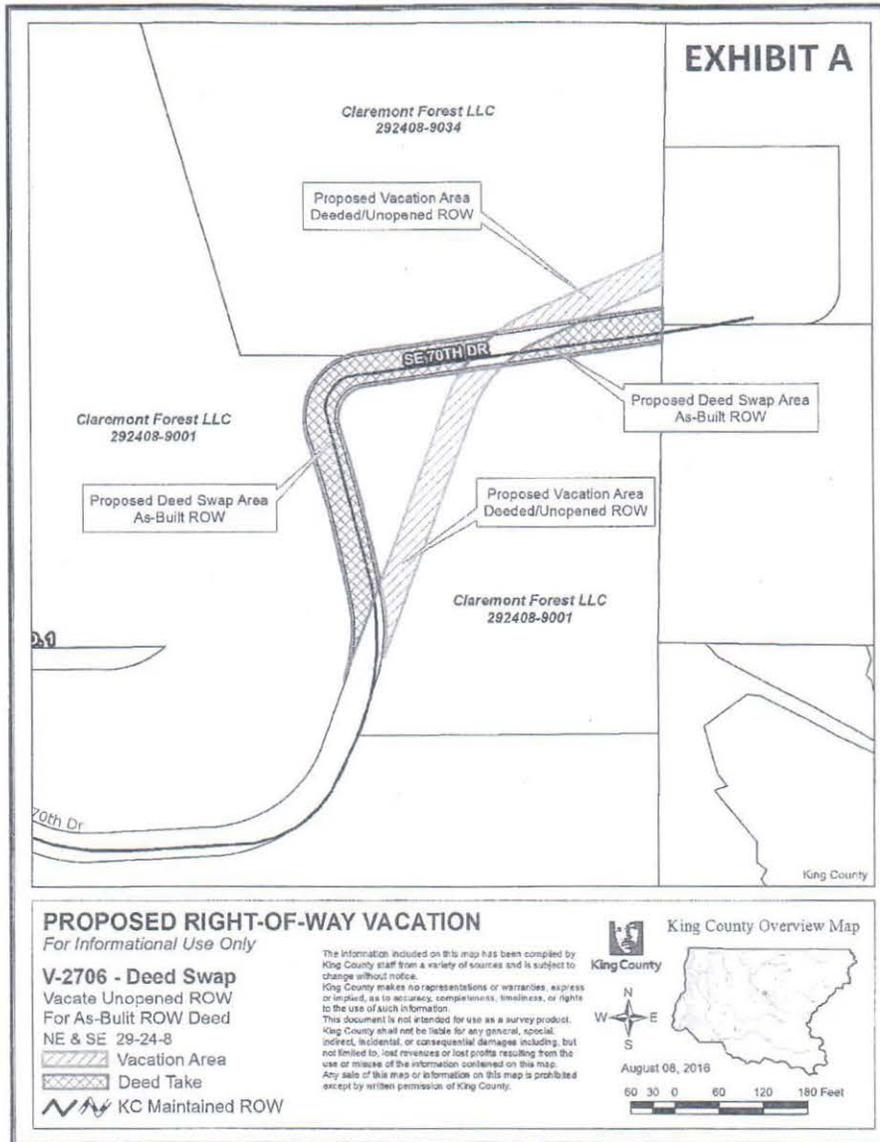
RECEIVED

APPROVED this 28 day of NOVEMBER 2017.



Dow Constantine, County Executive

Attachments: A. V2706 Map, B. Hearing Examiner Report Dated September 29, 2017



September 29, 2017

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

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
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hearingexaminer@kingcounty.gov
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REPORT AND RECOMMENDATION

SUBJECT: Department of Transportation file no. **V-2706**
Proposed ordinance no. **2017-0320**
Adjacent parcel nos. **2924089034, 2924089001**

LIWAY HSI AND CLAREMONT FOREST, LLC
Road Vacation Petition

Location: Portion of SE 70th Drive-Geo. Stephan Road-County Road no. 1615, Snoqualmie

Petitioner: Claremont Forest LLC
represented by Liway Hsi
40404A SE 70th Drive
Snoqualmie, WA 98065
Telephone: (909) 525-8610
Email: ngfy90t@yahoo.com

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

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Approve vacation with transfer in-lieu
Department's Final Recommendation:	Approve vacation with transfer in-lieu
Examiner's Recommendation:	Approve vacation with transfer in-lieu

PUBLIC HEARING:

After reviewing the Department of Transportation (Department) report and accompanying attachments and exhibits, the Examiner conducted a public hearing on the matter on September 25, 2017, in the Fred Conference Room, 12th Floor, King County Courthouse, 516 Third Avenue, Seattle, Washington.

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Hearing Examiner's Office. Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS AND CONCLUSIONS:

1. General information:

Road name and location:	Portion of SE 70th Drive-Geo. Stephan Road- County Road no. 1615, Snoqualmie
Area:	25,165 square feet
Compensation:	Transfer an area of 30,358 square feet within the same parcel to King County

2. Claremont Forest LLC petitioned the County to vacate the above-described public right-of-way. On September 11, 2017, the Examiner received the Department Report recommending approval.
3. The required notice of hearing on the Department's report was provided. The Examiner conducted the public hearing on behalf of the Metropolitan King County Council.
4. Except as provided herein, the Examiner adopts and incorporates the facts set forth in the Department's report and the statements of fact contained in proposed ordinance no. 2017-0320. The Department's report will be attached to those copies of this report and recommendation that are submitted to the County Council.
5. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are in the hearing record as exhibits 7 and 8.
6. Chapter RCW 36.87 sets the general framework for county road vacations, augmented by KCC Chapter 14.40. There are at least two main inquiries in a vacation petition. Is vacation warranted? If so, what compensation is appropriate? We address those in turn.
7. A petitioner has the burden to show that the "road is useless as part of the county road system and 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 where a petitioner fails to meet the standard, approval is discretionary where a petitioner does meet the standard:

If the county road is found useful as a part of the county road system it *shall* not be vacated, but if it is not useful and the public will be benefited by the vacation, the county legislative authority *may* vacate the road or any portion thereof.

RCW 36.87.060(1) (emphasis added).

8. The subject right-of-way was quit-claimed to the County in 1920. And a road (SE 70th Drive) was built in the *vicinity* of where the right-of-way deed said it should go. Yet except for a tiny patch of overlap, the right-of-way was built on adjacent land. Ex. 7. Beyond that tiny overlapping patch, the recorded right-of-way was never opened, constructed, or maintained for public use. It is basically a brambled area in the middle of forest land. Ex. 18 at 004–07. SE 70th Drive as actually constructed provides access for abutting properties and for fire and emergency services, and vacating the right-of-way would have no adverse effect on the provision of any access. The actual SE 70th Drive, and not the legal right-of-way, is what is necessary for the present or future public road system for travel or utilities purposes.
9. As a condition of vacation, the Petitioner has executed and delivered a Statutory Warranty Deed in favor of King County for the proposed conveyance. Acceptance of the Petitioner's conveyance will perfect the county's interest in the as-built SE 70th Drive. KCC 14.40.020.B allows the County to "accept real property of equal or greater value in lieu of cash compensation." The square footage of the area the County will obtain is actually larger than the area being vacated (30,358 versus 25,165 square feet).
10. We observed in our Notice of Hearing that

There is at least a slightly interesting academic issue of whether the County has obtained some sort of prescriptive easement over the right-of-way as actually built and used, and thus this may not truly be an in lieu transfer (i.e. perhaps the County already possesses the right to use the road as constructed plus the deeded, but unopened strip). We say that is an academic issue because, as Designated Forest Land with an average assessed value of \$.029 per square foot, at most an outright transfer of 25,165 square feet would be valued at less than \$730, which is not worth the effort it would take to obtain compensation. Thus, unlike some other road vacations, there is nothing in particular we are looking at KCDOT to address in his application.

KCDOT came back with an even stronger articulation of the benefit: the swap will provide the County with a *perfected* interest in the improved and open SE 70th Drive. That perfection is thus worth significantly more than \$730. So not only will the public decidedly benefit from this vacation, but the normal compensation requirement has been more than adequately satisfied by the transfer in-lieu.

RECOMMENDATION:

Without any hesitation, we recommend APPROVAL of proposed ordinance no. 2017-0320 to vacate the subject road right-of-way.

DATED September 29, 2017.



David Spohr
Hearing Examiner

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 **October 23, 2017**, an electronic copy of the appeal statement must be sent to 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."

**MINUTES OF THE SEPTEMBER 25, 2017, HEARING ON THE ROAD VACATION
PETITION OF LIWAY HSI AND CLAREMONT FOREST, LLC, DEPARTMENT OF
TRANSPORTATION FILE NO. V-2706**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Leslie Drake for King County Department of Transportation, Road Services Division, and Liway Hsi, the Petitioner.

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

- | | |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit no. 1 | Roads Services report to the Hearing Examiner, sent on September 11, 2017 |
| Exhibit no. 2 | Letter from Clerk of the Council to KCDOT transmitting petition, dated August 2, 2016 |
| Exhibit no. 3 | Petition for vacation of a county road, transmitted August 2, 2016 |
| Exhibit no. 4 | Vicinity map |
| Exhibit no. 5 | Map of large lot segregation for Claremont Forest |
| Exhibit no. 6 | Quit claim deed, dated August 30, 1920 |
| Exhibit no. 7 | Map of deed swap |
| Exhibit no. 8 | Assessor's map NE-29-24-08 |
| Exhibit no. 9 | Final agency notice re: comment deadline of November 7, 2016, dated October 6, 2016 |
| Exhibit no. 10 | Letter from KCDOT to Petitioner recommending approval and requesting Statutory Warranty Deed for exchange property in lieu of compensation, dated March 6, 2017 |
| Exhibit no. 11 | Washington Secretary of State registration detail for Claremont Forest |
| Exhibit no. 12 | Road Services County road engineer report, dated March 16, 2017 |
| Exhibit no. 13 | Statutory warranty deed, dated March 9, 2017 |
| Exhibit no. 14 | Letter from KCDOT to KC Council recommending approval, dated March 6, 2017 |
| Exhibit no. 15 | Letter from King County Executive to Councilmember Joe McDermott transmitting proposed ordinance, dated April 26, 2017 |
| Exhibit no. 16 | Proposed ordinance no. 2017-0320 |
| Exhibit no. 17 | Fiscal note, dated March 17, 2017 |
| Exhibit no. 18 | Affidavit of posting, noting posting date of August 29, 2017 |
| Exhibit no. 19 | <i>Reserved for future submission of affidavit of publication</i> |

DS/vsm