

DEPARTMENT OF TRANSPORTATION
ROAD SERVICES DIVISION
COUNTY ROAD ENGINEER REPORT ON VACATION PETITION V-2700

July 13, 2017

Petition to Vacate: 156th Ave SE and SE 300th Street, Plat of Soos Creek Five Acre Tracts

Vacation file: V-2700

Petitioners: Robert and Valerie Wyman

Recommendation: The County Road engineer has determined and does recommend that the subject right-of-way should be vacated.

Petitioners, Robert and Valerie Wyman submitted a petition for the vacation of a portion of 156th Ave SE and SE 300th Street dedicated in the Plat of Soos Creek Five Acre Tracts as abuts their property in the Kent area of unincorporated King County. The subject right-of-way is unopened unimproved right-of-way. See site map attached as Exhibit A.

King County acquired the right-of-way by dedication in the Plat of Soos Creek Five Acre Tracts, recorded 1906 in Volume 13, of Plats, on Page 59, records of King County Washington.

Pursuant to King County Code section 14.40.0104 B, the following report is submitted.

KCC 14.40.0104 B. - The petition has been reviewed and determined to be valid. Petitioner owns the majority of the lineal footage of the frontage of the right-of-way proposed for vacation.

B.1 - The right-of-way proposed to be vacated has been examined and it is recommended that it should be vacated and abandoned.

B.2 - The right-of-way proposed to be vacated has been examined and it has been determined that the subject right-of-way is not in use and has not been in use as a county road. The right-of-way was acquired and established by dedication in the Plat of Soos Creek Five Acre Tracts, recorded 1906 in Volume 13, of Plats, on Page 59, records of King County, and has remained as an unopened unmaintained right-of-way.

B.3 - The subject right-of-way is not currently opened, constructed or maintained for public use and it is not known to be used informally for access.

B.4 - The subject right-of-way is not needed as part of the county transportation system of the future and it is not advisable to preserve any portion of the right-of-way for future transportation use. Petitioner's property and those adjacent all gain access from alternative public and private roads. The right-of-way is bisected in two places by Big Soos Creek.

B.5 - The public will benefit from the vacation of the right-of-way. The subject vacation area is not necessary or useful to the county road system. The public will benefit from the return of the

subject vacation area to the tax rolls and the county is saved potential costs, general liability and risk associated with being a property owner of unmaintained and unutilized property.

B.6 - Pursuant to KCC 14.40.020, the assessed land value of parcels adjacent to the county right-of-way proposed for vacation may be properly considered for valuation of the subject right-of-way.

The petitioners' properties are zoned RA 5. Petitioner's two lots are 2.29 and 4.53 acres in size.

The averaged assessed value on a square footage basis for the subject right-of-way is approximately \$0.73 per square foot.

Application of this average assessed value of \$0.73 per square foot to the 26,362 square feet of vacation area results in a value of \$19,244.26.

However, when looking at the average assessed values for parcels, consideration should be given to the fact that as a stand-alone strip of land containing approximately 26,362 square feet in an area zoned RA5, the vacation area would not be usable as a building lot.

The Petitioner owns the two parcels abutting this section of right-of-way. One parcel is undeveloped and the other is improved with a single family residence. Combined, the total acreage of Petitioner's property is approximately 6.82 acres. If the vacation is approved and the vacation area added to the parcels, the zoning would not allow the properties to be divided beyond the current two parcels. Additionally, there are significant environmental restrictions that would likely limit development, subdivision or improvement of the parcels. The unimproved parcel, 786100-0050, is bisected by Big Soos Creek. The parcel with the residence, 022105-9057, has a pond and a Sensitive Area Notice on title. Setbacks and other environmental considerations will impose limitation on development, improvement and use of the parcels. Therefore, the vacation would have little to no impact on development possibilities for the parcels. For these reasons, the valuation of \$0.73 per square foot is not considered directly applicable to the vacation area.

RCW 36.87.120 allows the County to adjust the appraised value of proposed vacation area "to reflect 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."

The County Road Engineer recommends that the County accept the non-monetary benefits of reduction of liability and obligation, the avoided obligation of enforcement and the additional tax revenue as full compensation for the proposed vacation and waive any payment by Petitioners. In reaching this recommendation, the following factors have been considered:

- No public funds were used for the acquisition of this right-of-way;
- The right-of-way is unopened and unimproved and no public funds have been expended to date for its maintenance or repair;
- The right-of-way is in an area with environmentally sensitive areas including a creek, a wetland or pond, steep slopes and erosion risk making it less suitable for use as a road;

- Upon vacation of this section of unopened, unimproved and unmaintained right-of-way, the County shall receive monetary benefit as the 26,362 square feet of vacation area is added to the property tax rolls;
- Upon vacation King County Department of Transportation Road Services Division (Roads) is relieved of obligation and liability associated with maintenance, improvement, enforcement, monitoring and management of the right-of-way;
- Upon vacation King County Department of Transportation Road Services Division (Roads) is relieved of liability that can arise as an owner of vacant and unattended land; and
- Retention of this right-of-way provides no other benefit to the County.

Roads cost to maintain roadway, drainage, roadside and traffic has ranged from approximately \$16,000 per road mile in 2008 to \$17,000 in 2010, and is currently budgeted at \$18,486 for 2017.

Roads maintains approximately 1500 miles of roadway within unincorporated King County. Roads staff also respond to complaints regarding use of opened and unopened right-of-way including; damage to personal property from trees within the right-of-way; illegal placement of obstructions, gates, fences and rockeries; structures and other construction within the right-of-way; dumping; and abandonment of junk vehicles. Every maintenance or improvement activity, enforcement action or investigation that Roads must respond to, regardless of whether it involves opened or unopened, improved or unimproved right-of-way, is an opportunity cost and loss to Roads.

Furthermore, Roads is at risk of a liability claim for every section of open and unopened right-of-way. Vacation of this right-of-way reduces Roads exposure to liability claims. King County Office of Risk Management Services informed Roads that as of March 2017 it had closed 428 claims on behalf of Roads for the five year period of January 1, 2012 through December 31, 2016. Of the 428 claims closed, 152 (64%) were closed with payments. In 2016, the Office of Risk Management Services paid \$3,022,232 to resolve 21 claims on behalf of Roads and closed 2016 with 42 additional open claims remaining.

In addition to the liability potential arising from the public use of roads and right-of-way, Roads has the liability risks associated with being an owner of vacant land. Illegal dumping, physical injury associated with unmaintained and unmonitored conditions, damage from fallen trees, and creation of attractive nuisance situations are just some examples of the type of life safety, liability, environmental, compliance and reputational risks to which Roads is exposed arising out of the unattended use and mere ownership of vacant, unopened right-of-way.

For every mile of roadway and every piece of unopened right-of-way held by Roads, Roads faces costs of management, maintenance and/or enforcement, and the potential liability for injuries to persons and property. The cost of just one claim can far surpass the straight calculated compensation for the vacation of this road.

Roads seeks to reduce potential obligations, opportunity costs, and liability risk while benefiting the citizens of King County through the vacation of this portion of right-of-way. The dollars

Roads might obtain from the petitioners through the vacation of this portion of right-of-way is insignificant in comparison to the County's potential liability from its mere retention.

The other factors included in RCW 36.87.120 to offset monetary compensation, limits on development and future public benefit, are briefly highlighted here. Vacation of this useless right-of-way will not change the limits or increase the likelihood of development of the abutting properties. The addition of the vacation area to the Petitioner's property does not change the use or potential division of the property. Only one parcel is currently occupied by and used as a single family residence and both are heavily impacted by environmentally sensitive areas. The subject area is of limited use or function. The public is benefited by reducing the cost and exposure associated with Roads retaining this right-of-way and the private property owners assuming full responsibility of this area and payment of the associated property taxes and assessments.

It is the recommendation of the County Road Engineer and the Director of Road Services that this right-of-way be vacated and any associated monetary compensation be waived. The reduction in liability and obligations for maintenance and enforcement are valuable consideration for the vacation of this right-of-way.

B.7 - The subject right-of-way does not serve as access to abutting property.

B.8 - No utilities have been identified within the subject right-of-way and no access or utility easements are required or requested in conjunction with this vacation.

B.9 - No fees have been charged nor costs incurred for this vacation beyond the \$100 filing fee.

B.10 - The subject right-of-way does not abut a body of salt or fresh water.

B.11 - No property owners abut the portion of right-of-way proposed to be vacated who are not petitioners to this vacation.

B.12 - Under KCC 14.40.0106, discretion was exercised and petitioner is not charged any fees or costs in association with this Petition beyond the filing fee. As no additional fees were assessed under 14.40.0106 B, there are no costs to be waived under 14.40.0106C and no costs incurred to list.

In conclusion, the subject right-of-way is useless to the county transportation system and petition V-2700 to vacate a portion of 156th Ave SE and SE 300th Street as abuts petitioners' property should be approved.

Approved:



Rick Brater, P.E.
Count Road Engineer



PROPOSED RIGHT-OF-WAY VACATION

For Informational Use Only
 2015 - Aerial Map

**156th Avenue SE,
 SE 300th Street**
 29920 154th Ave SE
 Vacation File V-2700
 SW & SE 2-21-5

Vacation Area

KC Maintained ROW

The information included on this map has been compiled by King County staff from a variety of sources and is subject to change without notice.
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