

DEPARTMENT OF TRANSPORTATION  
ROAD SERVICES DIVISION  
COUNTY ROAD ENGINEER REPORT ON VACATION PETITION V-2710

July 13, 2017

**Petition to Vacate: SE 184th Street**

**Vacation file: V-2710**

**Petitioners: Robbie and Chree Donaldson, Monica and James Runyon, Michel and Duane Schilling and Steve Tran**

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

Petitioners, Robbie and Chree Donaldson, Monica and James Runyon, Michel and Duane Schilling and Steve Tran submitted a petition on January 10, 2017 for the vacation of a portion of SE 184th Street in the Lake Desire area near Renton. 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 the 1944 plat of the Lake Desire Summer Home Tracts, Volume 39 of Plats, page(s) 44-47.

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. All property owners of property abutting the portion of the right-of-way at issue are petitioners on the road vacation petition that is V-2701.

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 by dedication in the plat of the Lake Desire Summer Home Tracts.

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. Petitioners' property and those adjacent all gain access from alternative public and private roads.

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 an absent property owner. Additionally, portions of this unopened right-of-way are adjacent to a Home Owners' Association property improved as a neighborhood park. The use of the adjacent property as a neighborhood park brings additional potential use and associated risk to this unopened right-of-way through the potential for park visitors to be on and using the unopened right-of-way in conjunction with the neighborhood park.

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 R 6. The petitioners' properties range from 19,208 square feet to 77,659 square feet. R6 zoning allows for 6 dwellings per acre within setbacks. Minimum lot size is approximately 7,260 square feet. Under R6 zoning, the petitioners' parcels in their current state could be subdivided. However, with the exception of the Tran parcel, the addition of the vacation area to the parcels may not substantially change the potential subdivision or development of the parcels. Looking only at the zoning and not taking into consideration setbacks or any possible environmental restrictions, the addition of the vacation area to the Tran parcel may allow for one additional resulting lot if the property were to be subdivided.

The total vacation area is 20,622 square feet. Of the total vacation area, 8,348 square feet will attach to the parcel owned by Steve Tran, 4,196 square feet will attach to the property owned by Robbie and Chree Donaldson, 4,202 square feet will attach to the property owned by Monica and James Runyon, and 3,876 square feet will attach to the property owned by Duane and Michel Schilling. The averaged assessed value on a square footage basis for the subject right-of-way is approximately \$4.82 per square foot.

Application of this average assessed value of \$4.82 per square foot to the 20,622 square foot vacation area results in a total value for the vacation area of \$99,398.04. This amount would be apportioned between the parcels as follows: \$40,237.36 for the 8,348 square feet to be vacated to Steve Tran; \$20,224.72 for the 4,196 square feet to be vacated to Robbie and Chree Donaldson; \$20,253.64 for the 4,202 square feet to be vacated to Monica and James Runyon; and \$18,682.32 for the 3,876 square feet to be vacated to Duane and Michel Schilling.

However, as a stand-alone strip of land, the vacation area for each parcel would not be usable as a building lot and, with the exception of the Tran parcel, by adding the vacation area to the Petitioners' properties, the development and subdivision potential is not substantially changed. Therefore, the valuation of \$4.82 per square foot is not 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 and addition of tax income as compensation for the proposed vacation. 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 imposed over an area with no useful connectivity to the County Road system and it is unlikely that it would ever be developed as a road;
- Prior vacation of the eastern most portion of this right-of-way further restricts the connectivity and future usefulness of this right-of-way;
- Upon vacation of this section of unopened, unimproved and unmaintained right-of-way the County shall receive monetary benefit as it is added to the property tax rolls;
- Upon vacation King County Department of Transportation's 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. Each parcel is currently occupied by and used as a single family residence. The subject vacation area is of limited use or function. The vacation of this unopened right-of-way may have some impact on the potential for subdivision of the petitioners' parcel. Otherwise, based upon information available, the mere addition of the vacation area is unlikely to substantially change the use or development potential of the petitioner's parcels.

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.

The subject right-of-way has been the source of several enforcement calls to Roads. Neighboring property owners raise concerns about activity within the right-of-way and potential damage to personal property from trees and tree limbs.

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 and substantially exceed the amounts that could reasonably be charged 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 utility, county agency or division has identified a need to retain the right-of-way or an easement with the vacation area.

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 - All property owners with property abutting the subject right-of-way are petitioners to this vacation petition.

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-2710 to vacate a portion of SE 184th Street in the Lake Desire area near Renton should be approved.

Approved:



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Rick Brater, P.E.  
Count Road Engineer

