



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**June 7, 2010**

**Ordinance 16851**

**Proposed No. 2010-0199.2**

**Sponsors Ferguson**

1                   AN ORDINANCE authorizing the vacation of a portion of  
2                   SE 352nd Street, File V-2640, Petitioner: Dianne Peterson.

3                   STATEMENT OF FACTS:

- 4                   1. A petition has been filed requesting vacation of a portion of the SE  
5                   352nd Street right-of-way, also known as Section Street, hereinafter  
6                   described.
- 7                   2. The department of transportation notified the various utility companies  
8                   serving the area and has been advised that easements are not required  
9                   within the vacation area.
- 10                  3. The department of transportation records indicate that King County has  
11                  not been maintaining this portion of the SE 352nd Street right-of-way and  
12                  public funds have not been expended for its acquisition.
- 13                  4. The department of transportation considers the subject portion of right-  
14                  of-way useless as part of the county road system and believes the public  
15                  would benefit by the return of this unused area to the public tax rolls.
- 16                  5. The right-of-way is classified as "C-Class" and, in accordance with  
17                  K.C.C. 14.40.020, the compensation due King County is based on fifty  
18                  percent of the assessed value of the subject right-of-way, which was

19 determined from records of the department of assessments. King County  
20 is in receipt of \$1,567.50 from the petitioner.

21 Due notice was given in the manner provided by law and a hearing was  
22 held by the hearing examiner on the 5th day of May 2010.

23 In consideration of the benefits to be derived from the subject vacation,  
24 the council has determined it is in the best interest of the citizens of King  
25 County to grant said petition.

26 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

27 SECTION 1. The council, on the effective date of this ordinance, hereby vacates  
28 and abandons that portion of the SE 352nd Street right-of-way, also known as Section  
29 Street, as conveyed to King County by the recording of the Plat of Cumberland, recorded  
30 in Volume 19 of Plats, on Page 52, records of King County, Washington, as described  
31 below:

32 That portion of the Northwest quarter of Section 28, Township 21 North,  
33 Range 7 East, Willamette Meridian, King County, Washington, being  
34 further described as:

35 That portion of the thirty-foot wide SE 352nd Street right-  
36 of-way, also known as Section Street, abutting and adjacent  
37 to the north line of Lot 13, Block 7, in the Plat of

38 Cumberland, recorded in Volume 19 of Plats, on Page 52,  
39 records of King County, Washington.  
40

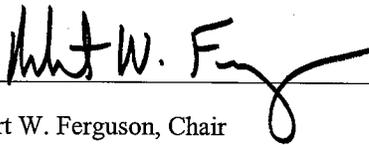
Ordinance 16851 was introduced on 3/29/2010 and passed by the Metropolitan King County Council on 6/7/2010, by the following vote:

Yes: 7 - Ms. Drago, Mr. Phillips, Mr. Gossett, Ms. Hague, Ms. Patterson, Ms. Lambert and Mr. Ferguson

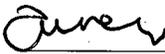
No: 0

Excused: 2 - Mr. von Reichbauer and Mr. Dunn

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

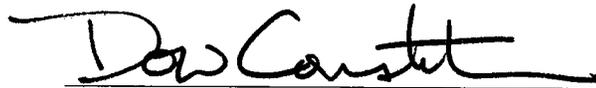
  
Robert W. Ferguson, Chair

ATTEST:

  
Anne Noris, Clerk of the Council

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CLERK  
KING COUNTY COUNCIL

APPROVED this 16 day of JUNE, 2010.

  
Dow Constantine, County Executive

Attachments: A. Hearing Examiner Report Dated May 14, 2010

May 14, 2010

**OFFICE OF THE HEARING EXAMINER**  
**KING COUNTY, WASHINGTON**  
 400 Yesler Way, Room 404  
 Seattle, Washington 98104  
 Telephone (206) 296-4660  
 Facsimile (206) 296-1654  
 Email [hearingexaminer@kingcounty.gov](mailto:hearingexaminer@kingcounty.gov)

**REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL**

**SUBJECT:** Department of Transportation file no. V-2640  
 Proposed Ordinance no. **2010-0199**  
 Adjacent parcel no. **187140-0575**

**DIANNE PETERSON**  
 Road Vacation Petition

**Location:** Portion of SE 352nd Street (aka Section Street),  
 unincorporated Cumberland area northeast of Enumclaw

**Petitioner:** **Dianne Peterson**  
 1935 Lowell Avenue  
 Enumclaw, Washington 98022  
 Telephone: (253) 740-1816

**King County:** Department of Transportation Road Services Division (DOT)  
*represented by Nicole Keller*  
 201 S Jackson Street  
 Seattle, Washington 98104-3856  
 Telephone: (206) 296-3731  
 Facsimile: (206) 296-0567

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary:	Approve road vacation
Department's Final:	Approve road vacation
Examiner's:	Approve road vacation

**DEPARTMENT'S REPORT:**

The King County Department of Transportation's (DOT) written report to the Hearing Examiner for the road vacation petition of Dianne Peterson, DOT file no. V-2640, was received by the Examiner on April 14, 2010.

## PUBLIC HEARING:

After reviewing the Department's report and accompanying attachments and exhibits, the Examiner conducted a public hearing on the petition and report as follows:

The hearing was opened by the Examiner on Wednesday, May 5, 2010, in the Hearing Examiner's Conference Room, 400 Yesler Way, Seattle, Washington 98104. 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 office of the Hearing Examiner.

**FINDINGS, CONCLUSIONS & RECOMMENDATION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

## FINDINGS:

## 1. General Information:

Road name and location:	Portion of SE 352nd Street (dedicated as Section Street)
Right of way classification:	C-Class
Area:	1,500 square feet
Compensation:	\$1,567.50

2. Notice of hearing on the Department's report was given as required by law, and a hearing on the report was conducted by the Examiner on behalf of the Metropolitan King County Council.
3. Except as provided herein, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department's report and the statements of fact contained in Proposed Ordinance No. 2010-0199. The Department's report will be attached to those copies of this report and recommendation that are submitted to the County Council.
4. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are in the hearing record as exhibit nos. 7, 8 and 13.
5. The vacation area lies wholly within and on the north perimeter of the *Plat of Cumberland*. The adjacent Peterson property is the only parcel within that subdivision which directly abuts the vacation area.<sup>1</sup> KCDOT is accordingly correct in its conclusion that the entirety of the vacation area would revert to the abutting Peterson property upon vacation.<sup>2</sup>

<sup>1</sup> The total abutting property frontage consists of Petitioner Peterson's property on the entirety of the south frontage and King County and Segale ownerships on the north side, each constituting approximately half of the northside frontage.

<sup>2</sup> A fundamental principle of reversion upon road vacation is that in general the land area reverts equally to the abutting parcels *within the bounds of the pertinent land and road creation area*. In other words, it is presumed under such principle that the road creation by dedication or other conveyance arises out of the particular formal land division within which the road lies and upon vacation goes back (reverts) to such land area exclusively.

However, the above reversion principle has no transferable applicability to the majority frontage concurrence requirement of RCW 36.87.020, that a petition for vacation must be agreed upon by the ownership of more than 50 percent of the fronting lands. (See Finding 6.) Provenance (origin) is not frontage (location); the issues of provenance and frontage majority are wholly separate and independent. The frontage majority rule is not in any way subordinate to or preempted by the origin of the right-of-way and resultant reversion protocol for determining receivership. The statutory language requiring majority petition approval is clear: it speaks of majority of frontage, plain and simple. Regardless of their origin and that of the right-of-way, the properties opposite the Petitioner's directly abut the road's north side and are therefore as equally fronting in nature as the Petitioner's, and thus their frontage length must be included in any calculation of majority. In other words, merely because a property is

6. For the Peterson vacation petition to be eligible for consideration of approval, it must be formally supported by the ownership of more than 50 percent of the fronting land. [RCW 36.87.020]<sup>3</sup> Although Peterson is the only formal signatory to the petition, representing just 50 percent of the frontage (see footnote 2, par. 2), the Examiner concludes that because all of the commenting King County agencies are supportive of vacation (or at the very least express no opposition) and, importantly, action to vacate by the County Council would constitute the ultimate expression of County support of the petition, the County's property frontage on the north side (constituting roughly half of the north side frontage, and therefore when combined with Peterson's 50% constituting roughly 75% of the frontage) is deemed to join the petition, and thus the petition has majority support.
7. The subject right-of-way segment is not currently opened, constructed or maintained for public use.
8. Vacation of the right-of-way would have no adverse effect on the provision of access and fire and emergency services to the abutting properties and surrounding area.
9. The right-of-way is not necessary for the present or future public road system for travel or utilities purposes.
10. No easements are necessary to be retained for construction, repair and maintenance of public utilities and services.
11. The compensation required by law to be paid as a condition precedent to vacation of this road has been deposited with King County.

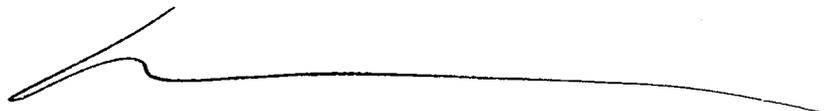
CONCLUSION:

1. The right-of-way segment subject to this petition is not useful as part of the King County road system, and the public will be benefited by its vacation.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2010-0199 to vacate the subject road right-of-way.

RECOMMENDED May 14, 2010.



Peter T. Donahue  
King County Hearing Examiner

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disqualified from receivership does not void its frontage status, in general and in particular here for purposes of frontage majority calculation for petition qualification.

<sup>3</sup> "Owners of the majority of the frontage on any county road or portion thereof may petition the county legislative authority to vacate and abandon the same or any portion thereof." [RCW 36.87.020]

**NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED**

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before May 28, 2010*. If a notice of appeal is filed, the original and two copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before June 4, 2010*.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1039, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within 21 days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE MAY 5, 2010, PUBLIC HEARING ON THE ROAD VACATION PETITION OF DIANNE PETERSON, DEPARTMENT OF TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2640.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing was Nicole Keller representing the Department.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 Report to the Hearing Examiner for the May 5, 2010 hearing, with 15 attachments.
- Exhibit No. 2 Letter from Clerk of the Council to King County Department of Transportation (KCDOT) transmitting petition, dated July 1, 2009
- Exhibit No. 3 Cover letter to petition, received July 1, 2009
- Exhibit No. 4 Petition for Vacation of a County Road including legal descriptions of petitioners' properties, received July 1, 2009
- Exhibit No. 5 Copy of filing fee: check no. 5375, in the amount of \$100
- Exhibit No. 6 Receipt no. 00918 for filing fee
- Exhibit No. 7 Vicinity map
- Exhibit No. 8 Cumberland Plat Map
- Exhibit No. 9 Map depicting vacation areas
- Exhibit No. 10 Letter from KCDOT to petitioner explaining vacation process and indicating preliminary compensation estimate, dated July 30, 2009

- Exhibit No. 11 Final Agency Notice sent September 16, 2009
- Exhibit No. 12 Revised Petition for Vacation of a County Road
- Exhibit No. 13 Map depicting revised vacation area
- Exhibit No. 14 Letter from KCDOT to Petitioners recommending petition approval and requesting compensation, dated December 29, 2009
- Exhibit No. 15 Compensation Worksheet
- Exhibit No. 16 Copy of compensation payment, check no. 53696 in the amount of \$1567.50
- Exhibit No. 17 Receipt no. 540852 for compensation payment
- Exhibit No. 18 letter from KCDOT to KC Council recommending xx of petition, dated December 31, 2009
- Exhibit No. 19 Letter from KCDOT to KC Council transmitting proposed ordinance, dated March 19, 2010
- Exhibit No. 20 Proposed Ordinance 2010-0199
- Exhibit No. 21 Fiscal Note
- Exhibit No. 22 Affidavit of Posting, noting posting date of April 12, 2010
- Exhibit No. 23 Affidavit of Publication, noting April 21, 2010, and April 28, 2010, publication dates
- Exhibit No. 24 Aerial photograph of subject vacation area and surrounding properties and roadways

PTD:vsm  
V-2640 RPT