



COUNTY COMMISSIONERS

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District Three

HEARING EXAMINER

Creating Solutions for Our Future

BEFORE THE HEARING EXAMINER FOR THURSTON COUNTY

In the Matter of the Application of)	NO. 2018104350
)	
Peter B. Field, et al)	FINDINGS, CONCLUSIONS,
)	AND RECOMMENDATION
)	
For vacation of a road right-of-way)	
_____)	

SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends that the request to vacate the unopened Thurston County right-of-way known as Scenic Lane NE, lying adjacent to tax parcel numbers 21930340134, 21930340128, 21930340130, 21930341300, 21930340501, and 21930340500, be **APPROVED**.

SUMMARY OF RECORD

Request

Peter B. Field, Claire, E. Toynbee, Edward H. Anderson, and Yvonne Stanton (Applicants) seek to vacate the Thurston County right-of-way described as follows:

All that portion of Parcel D of Boundary Line Adjustment BLA 06-103650TC, as recorded on July 18, 2006, under Auditor's File No. 3849340, Thurston County Auditor's Office, Olympia, Washington, shown as Scenic Lane NE, lying Easterly of the Easterly line of that portion shown on said BLA as John Luhr Lane NE. All in Section 30, Township 19 North, Range 1 East, W.M. Adjacent to Assessor's parcel numbers 21930340134, 21930340128, 21930340130, 21930341300, 21930340501, 21930340500.

Hearing Date

The Thurston County Hearing Examiner held an open record public hearing on the request on April 23, 2019.

Testimony

The following individuals submitted testimony under oath at the open record public hearing:

Craig Sisson, Thurston County Public Works Real Estate Services Manager
Peter B. Field, Applicant
Yvonne Stanton
Audrey Kuzniczci

Exhibits

The following exhibits became part of the official record at the open record public hearing:

Exhibit 1 Public Works Staff Report including the following attachments:

- Attachment a Notice of Public Hearing, dated April 2, 2019
- Attachment b Copy of Application, received August 2, 2018
- Attachment c Vicinity Map
- Attachment d Section/Township/Range Map
- Attachment e BLA 06-103650TC (page 1/3) AFN 3849340
- Attachment f Treasurer's Deed AFN 1132572, dated January 5, 1981
- Attachment g Quit Claim Deed AFN 4492299, recorded March 21, 2016
- Attachment h Neighborhood View Map
- Attachment i Neighborhood Aerial View Map

Exhibit 2 Donald Stout letter, dated April 23, 2019

Upon consideration of the testimony and exhibits submitted at the open record hearing, the Hearing Examiner enters the following findings and conclusions:

FINDINGS

1. Peter Field, Claire E. Toynbee, Edward H. Anderson, and Yvonne Stanton (Applicants) seek to vacate the Thurston County right-of-way described as follows:

All that portion of Parcel D of Boundary Line Adjustment BLA 06-103650TC, as recorded on July 18, 2006, under Auditor's File No. 3849340, Thurston County Auditor's Office, Olympia, Washington, shown as Scenic Lane NE, lying Easterly of the Easterly line of that portion shown on said BLA as John Luhr Lane NE. All in Section 30, Township 19 North, Range 1 East, W.M. Adjacent to Assessor's

parcel numbers 21930340134, 21930340128, 21930340130, 21930341300, 21930340501, 21930340500.

Exhibits 1 and 1.B. The named Applicants own residential parcels abutting the right-of-way proposed for vacation. *Exhibit 1.H.*

2. The area proposed for vacation (see orange highlighted area on Exhibit 1.H) was platted as a private road parcel for the surrounding subdivision and retained in the developer's name at time of final plat. When property taxes weren't paid and there was no bid at auction, the tract reverted to the County's possession. Because owners of parcels in the vicinity were requesting access to their properties via portions of this private road tract and the County did not want to issue easements across County-owned property, the tract was converted to right-of-way by Quit Claim Deed recorded at Auditor's File No. 4492299 on March 21, 2016. *Exhibit 1, 1.B, 1.F, 1.G, and 1.H.*
3. As can be seen at Exhibits 1.E and 1.H, the application for right-of-way vacation excluded an approximately 30- by 30-foot area at the east end of the tract adjacent to tax parcel number 21930340500, owned by Don and Susan Stout. Prior to hearing, the County indicated that it did not want to retain this small segment of right-of-way and recommended that it be included in the vacation. At hearing, a letter from Mr. Stout was submitted, indicating that he did not object to vacation of the portion of the tract abutting his parcel. *Exhibits 1, 1.E, 1.H, and 2; Craig Sisson Testimony.*
4. The right-of-way proposed for vacation does not abut or contain any portions of salt or fresh waterbodies, wetlands, or other known regulated critical areas. *Exhibits 1.D, 1.H, and 1.I.*
5. The subject right-of-way has never been opened for or improved for public use. At present it is covered with trees, grass, and native vegetation, and some areas of gravel driveways that access individual lots. *Exhibits 1, 1.B, and 1.I.*
6. All parcels in the vicinity of the area proposed for vacation are fully developed, including legal access. The Public Works Department submitted that it is unnecessary to preserve the tract as a County road right-of-way. *Exhibit 1; Craig Sisson Testimony.*
7. The County Engineer indicated that the public would benefit from approval of the vacation request in two ways: first, because the County would be relieved of all maintenance, administration, and liability for this segment of right-of-way; and second because return of this land area to the tax rolls would increase the tax base by increasing the area of the abutting parcels. *Exhibit 1.*
8. Notice of the open record public hearing on the vacation request was published in The Olympian on April 9 and 16, 2019, and posted in the vicinity of the request on April 2, 2019, at least 20 days in advance of the hearing consistent with RCW 36.87.050. Four adjacent property owners were notified by mail on April 2, 2019. *Exhibit 1 and 1.A; Craig Sisson Testimony.*

9. At hearing, Applicants Peter Field and Yvonne Stanton testified in favor of the proposal, noting that approval would establish defined property lines between adjacent owners, where currently there are none. Adjacent property owner Audrey Kuzniczci requested explanation of whether her existing access to her parcel would be affected. *Testimony of Peter Field, Yvonne Stanton, and Audrey Kuzniczci*. The Public Works representative confirmed that approval of the vacation request, if granted, would not of itself result in any alteration to the existing land, but would simply transfer ownership of the current right-of-way from the County to the abutting parcel owners, typically from the centerline. *Craig Sisson Testimony*.
10. The County Engineer recommended that approval of the right-of-way vacation be conditioned on the Applicants providing compensation to the pursuant to TCC 13.36.030. As no appraisal has yet been conducted, one is recommended should the Commissioners approve the vacation subject to payment of compensation for the value of the vacated right-of-way. *Exhibit 1*.

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear requests for right-of-way vacations, to enter findings on the records and to make recommendations to the Thurston County Board of County Commissioners pursuant to the Revised Code of Washington (RCW) 36.87.060(2) and Thurston County Code (TCC) 13.36.060.

Criteria for Review

Pursuant to TCC 13.36.010, county roads must be vacated in accordance with RCW 36.87. RCW 36.87 provides:

“...The [vacation request] must show the land owned by each [Applicant] and set forth that such county road is useless as part of the county road system and that the public will be benefited by its vacation and abandonment.” *RCW 36.87.020*

“...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)*

“No county shall vacate a county road or part thereof which abuts on a body of salt or fresh water unless the purpose of the vacation is to enable any public authority to acquire the vacated property for port purposes, boat moorage or launching sites, or for park, viewpoint, recreational, educational or other public purposes, or unless the property is zoned for industrial uses.” *RCW 36.87.130*

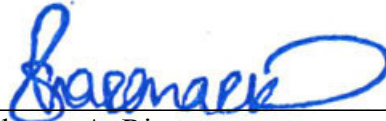
Conclusions Based on Findings

1. The right-of-way is not useful as part of the County road system. *Findings 1, 5, and 6.*
2. The public would benefit from approval of the right-of-way vacation both in terms of reduced County costs from maintenance and liability, and from return of the area to private property, resulting in larger abutting parcels with potentially greater taxable values. Any compensation provided pursuant to TCC 13.36.030 would also be a public benefit. *Findings 6, 7, 9, and 10.*
3. No portion of the right-of-way subject to the vacation request abuts a body of salt or fresh water. *Finding 4.*
4. On the recommendation of Public Works and consistent with the consent of the abutting property owner Don Stout, the eastern-most 30- by 30-foot portion of the underlying right-of-way adjacent to Parcel Number 21930340501 should also be vacated, to prevent any remnant County rights-of-way. *Findings 1 and 3.*

RECOMMENDATION

The Hearing Examiner recommends that the request for vacation of the unopened Thurston County right-of-way known as Scenic Lane NE, lying adjacent to tax parcel numbers 21930340134, 21930340128, 21930340130, 21930341300, 21930340501, and 21930340500, be **APPROVED**. The Board may wish to require compensation for the vacated right-of-way, if approved, following an appraisal.

Decided May 7, 2019.



Sharon A. Rice
Thurston County Hearing Examiner