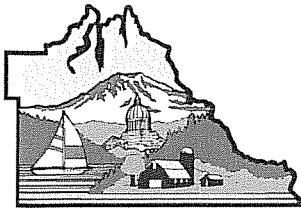


Cathy Wolfe
District One

Sandra Romero
District Two

Karen Valenzuela
District Three

HEARING EXAMINER



THURSTON COUNTY
WASHINGTON
SINCE 1852

Creating Solutions for Our Future

**BEFORE THE HEARING EXAMINER
FOR THURSTON COUNTY**

In the Matter of the Application of)	NO. RTS-VAC 10-003
)	
Thurston County)	FINDINGS, CONCLUSIONS,
)	AND RECOMMENDATION
For Vacation of a Portion of a Right-of-Way)	
_____)	

SUMMARY OF RECOMMENDATION

The request to vacate a portion of right-of-way lying between Lots 120 and 121 in the plat of Wilderness Division 9, as recorded under Auditor's File No. 944300 in Volume 19 of Plats at Page 17, in Thurston County, should be **APPROVED**.

SUMMARY OF RECORD

Request

Thurston County (Applicant) seeks to vacate a portion of right-of-way lying between Lots 120 and 121 in the plat of Wilderness Division 9, as recorded under Auditor's File No. 944300 in Volume 19 of Plats at Page 17, in Thurston County, Washington.

Hearing Date

The Thurston County Hearing Examiner held an open record public hearing on the request on October 4, 2010.

Testimony

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

- Kelly Larson, Thurston County Public Works
- Dale Rancour, Thurston County Engineer
- David Smith, PE, City of Olympia Public Works Department
- Lou Guethlein
- Dennis O'Hare
- Jane Stavish
- Emily Case
- Cheryl Steadman

John Cusick
Patrick Babimeau
Marjarie Mitchell
Judith Broverman
John Van Eenwyk
Christiana Figueroa
John Ancock

Exhibits

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

EXHIBIT 1 Thurston County Public Works Department Report to the Examiner including the following attachments:

Attachment a Notice of Public Hearing
Attachment b Resolution No. 14403 (2 pages)
Attachment c Vicinity Map
Attachment d Section/Township/Range Map
Attachment e Plat Map
Attachment f Aerial map of Section/Township/Range Map

EXHIBIT 2 Written public comments:

2a Hastings comment
2b Pegg comment
2c Winter comment
2d Pat Ancock comment
2e John Ancock comment

EXHIBIT 3 Correspondence from Darren Nienaber, City of Olympia Deputy City Attorney, dated October 4, 2010, with attachments:

Attachment a Ordinance No. 6594, passed December 16, 2008
Attachment b City of Olympia Hearing Examiner Staff Report on the Trillium Master Plan, Preliminary Plat and SEPA, dated June 14, 2010
Attachment c Hearing Examiner Decision in No. 07-0076 (Bentridge), City of Olympia Hearing Examiner Findings, Conclusions, and Decision
Attachment d Excerpt from City of Olympia Engineering Design and Development Standards, Chapter 4, Transportation, pages 4-37 through 4-29 and Drawing 4-2L

EXHIBIT 4 Memorandum From Fran Eide, PE, City Engineer, City of Olympia, dated October 1, 2010, with attachment:

Attachment a City of Olympia Comprehensive Plan Transportation 2025 map

EXHIBIT 5 Cusick comments, dated October 4, 2010

EXHIBIT 6 Four color photographs of Chambers Ditch submitted by Emily Case:

- a. Photo "8-A", "Chambers Ditch N.", 2009, taken by Emily Case
- b. Photo "9-A", "Chambers Ditch Culvert on Fuller Lane" taken in January 2009 by Emily Case
- c. Photo "7-A", "Chambers Ditch S.", taken by Emily Case
- d. Photo "10-A", "Chambers Ditch Culvert on Fuller Lane" taken in January 2009 by Emily Case

EXHIBIT 7 Memorandum from Dale Rancour, County Engineer, dated October 4, 2010

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

FINDINGS

1. Thurston County seeks vacation of a portion of previously unopened right-of-way lying between Lots 120 and 121 in the plat of Wilderness Division 9, as recorded under Auditor's File No. 944300 in Volume 19 of Plats at Page 17, in Thurston County, Washington.¹ The portion of right-of-way that the County seeks to vacate measures approximately 60 feet by approximately 24 feet. The Wilderness Division 9 Homeowners' Association would assume control of the property. *Exhibit 1, pages 1-3; Rancour Testimony; Exhibit 1, Attachment e, Plat Map.*
2. Consistent with Revised Code of Washington (RCW) 36.87.010, the Board of Commissioners of Thurston County (the Board) passed Resolution No. 14403 declaring the intention of the Board to vacate the identified portion of right-of-way. Resolution No. 14403 directed the County Engineer to examine the portion of right-of-way pursuant to the requirements established in state law at RCW 36.87.040: [whether] the [road] is in use or has been in use; the condition of the road; whether it will be advisable to preserve it for the county road system in the future; whether the public will be benefited by the vacation and abandonment; and all other facts, matters, and things which will be of importance to the Board. *Exhibit 1, Attachment b.*
3. The County Engineer reports that the right-of-way in question was dedicated to the County on August 14, 1975 when the Wilderness Division 9 subdivision was recorded with the County Auditor. It is the north-most segment of a road stub connected to the horseshoe-shaped intersection of Highline Drive SE and Frontier Drive SE. *Exhibit 1, pages 1-2; Exhibit 1, Attachments d and e.*

¹ The legal description of the requested area of vacation is That portion of unnamed, platted, unopened right-of-way lying between Lots 120 and 121 in the plat of Wilderness Division 9, as recorded under Auditor's File No. 944200 in Volume 19 of Plats at Page 17, records of Thurston County, Olympia, Washington. Being situated in Section 31, Township 18 North, Range 1 West, W.M.. Adjacent to Tax Parcel Nos. 83680012000 and 83680012100. *Exhibit 1, page 1.*

4. The right-of-way has never been opened. It contains dense vegetation and trees. The unopened road stub and Highline and Frontier Drives all slope to the south. *Exhibit 1, page 2; Exhibit 1, Attachment e; Rancour Testimony; Testimony of Guethlein, O'Hare, and Stebbin; Exhibit 2b, Pegg comment.*
5. Wilderness Division 9 is within Olympia's southeast urban growth area (UGA). *Smith Testimony; Exhibit 3, page 2.* The undeveloped property that abuts the stub road proposed for vacation has Neighborhood Village (NV) zoning and Comprehensive Plan land use designation. The NV zone allows up to 24 units per acre. *Thurston County Code (TCC) 23.05, Table 5.05.*
6. In June 2010, the City of Olympia Hearing Examiner heard a request for master plan approval and preliminary plat application, together with a related SEPA appeal, for the Trillium Master Plan and Preliminary Plat (Trillium).² If approved, the project would subdivide the 80-acre site into approximately 300 single-family residences, 200 multifamily residences, 1.36 acres of commercial development, and 19.23 acres of open space including tree tracts, pond areas, a village, green, and landscaped tracts.³ *Exhibit 3, Attachment b, Olympia Staff Report to Hearing Examiner on the Trillium Master Plan, Preliminary Plat, and SEPA Appeal.*
7. The Trillium applicant proposed a connection to the 60-foot-wide road stub in the Wilderness Division 9 plat, including road improvements within the Wilderness plat connecting the Trillium road to existing Highline Drive SE. Improvements would include street section, curb, sidewalk, planter strip, and street trees in a 55-foot right-of-way. *Exhibit 3, Attachment b, page 19; Exhibit 4, page 1.* The proposed connection would be built at an unidentified future time. The City Engineer submitted comments indicating as follows:

While a full transit/auto connection between Wilderness and the future Trillium subdivisions is not being proposed at this time, the City testified in a recent appeal hearing to preserve the 55-foot ROW for future transportation options and require a bicycle, pedestrian, and emergency vehicle access.

Exhibit 4, page 1.

² The portion of the City's staff report on the master plan, preliminary plat, and SEPA appeal pertaining to the SEPA appeal was not offered in the record of the instant matter. *Exhibit 3, Attachment b.*

³ The materials offered by the City alternately say that Trillium would create "31 residential lots for single-family, townhomes, duplex units, and multifamily units" (*Exhibit 3, Attachment b, page 1*); that Trillium would create "300 single-family residential lots, 200 multiple family residences [and] 1.36 acres of commercial development..." (*Exhibit 3, Attachment b, page 14*); and that Trillium would create "228 single-family lots, 96 townhomes, 212 apartments, and 10,000 square feet of retail" (*Exhibit 4 page 1*). The record is not clear what level of development Trillium would create, if approved. For the purpose of the instant request, the Examiner assumes that the number of single-family residences would be closer to 300 than to 31 and that the total number of residences would likely be close to 500.

8. Wilderness Division 9 is a large, older development that has a number of existing vehicle and pedestrian circulation and safety concerns due to topography, roadway alignment, lack of sidewalks, and on-street parking. *Exhibit 1, page 2; Rancour Testimony.*
9. In completing the required examination of the proposed vacation, the County Engineer determined that the use of the right-of-way for a roadway built to current standards (including sidewalks) would not be able to provide desirable driver's sight distance at the Highline/Frontier Drive intersection. The County Engineer concluded that, in this case, a vehicle connection would offer limited circulation benefits that would be outweighed by increased safety concerns. *Exhibit 1, page 2; Rancour Testimony.*
10. The County Engineer concluded that vacation of the identified right-of-way would result in minor cost savings to the County in eliminating maintenance and administration/record keeping relating to the dedicated right-of-way, and that vacation would eliminate the potential for future liability incurred by the County in the event that road construction resulted in any claims for damages. *Exhibit 1, page 2; Rancour Testimony.*
11. The County Engineer recommended the requested vacation be approved subject to the reservation of an easement for utilities and for a public trail. The recommendation put forth in the staff report was replaced at hearing based on additional testimony. The County Engineer submitted an amended recommended condition of approval after the hearing, at the request of the Examiner, stating as follows:

The Department of Public Works recommends that the vacation request of Thurston County be APPROVED conditioned on retaining a twenty-five-foot wide easement centered on the old right-of-way for future combination multiuse path/emergency access and retaining the entire old right of way width of sixty feet for existing and future public and private utilities.

Exhibit 7; Rancour Testimony.

12. The City of Olympia opposed the requested vacation, arguing that vacation would be inconsistent with the transportation plan of the Olympia Comprehensive Plan for the Olympia urban growth area (the Olympia/Thurston County joint Plan) Map 6-3 and policy T3.20*, and specifically with the criteria established for determining whether new right-of-way should be required to connect with existing right-of-way at T3.20*(f). *Exhibit 4, pages 1-2; Smith Testimony.*
13. The cited policy is from the Thurston County/Olympia Joint Plan, Chapter 6, Transportation, and it states:

T 3.20* Establish residential local access street patterns which will:

...

- f. Require that streets and trails connect with other streets and trails whenever practical; dead-ends and cul-de-sacs should be avoided. Use "stubbed out" streets and trails to provide linkages with future

neighborhoods. In determining where it is practical to connect new streets with existing ones, the City or County, as appropriate, will determine whether the merits outweigh the demerits of the whole package, and whether the connection would be in the best interests of both the community at large and the neighborhood. In discussions with the existing neighborhood, the following will be considered:

- (1) Neighborhood development plans,
- (2) Pedestrian safety,
- (3) Availability or feasibility of sidewalks,
- (4) Width of roadway,
- (5) Topography and environmental constraints,
- (6) Sight distance,
- (7) Likelihood of diverting significant cross-town arterial traffic onto local neighborhood streets,
- (8) Whether pedestrian/ bicycle connections, rather than streets, would accomplish the desired goals, and
- (9) Effectiveness of proposed traffic-calming measures.

City of Olympia Comprehensive Plan, Chapter 6, Transportation, pages 21-23.

14. Regarding the items to be considered pursuant to T3.20*(f), City Engineering Staff argued as follows:

f.1 - neighborhood development plans: the street connection would capture local trips, reducing traffic increases on nearby Major Collectors Wiggins and Boulevard Roads, and increase social interaction between the two neighborhoods; the connection would reduce travel distances and times to nearby intersections up to 70% (without citation to supporting documentation); and that the new street connection is not expected to add significant traffic to either the Wilderness or the Trillium neighborhood. City Staff stated: "new traffic flows will displace each neighborhood's new trip pattern, so that a net new increase in traffic will not be significant to change the character or volumes on the surrounding Local Access street network. Therefore, no additional impact to pedestrians or children at play will be measurable beyond the current conditions." *Quotation at Exhibit 4, pages 3-4; Smith Testimony.*

f-2 - pedestrian safety: that the proposed stop sign-controlled T intersection and the existing curvilinear street design within Wilderness would prevent cars from speeding. *Exhibit 4, page 3; Smith Testimony.*

f-3 - availability/feasibility of sidewalks: that the sidewalks within the proposed Trillium project would be available to the Wilderness residents, providing safe walking routes separate from traffic, and that the full street improvements would provide sidewalks within Wilderness along the proposed street connection. *Exhibit 4, page 3; Smith Testimony.*

f-4 - emergency vehicle alternate access: that the proposed street connection would improve emergency vehicle access in the event that either development's connection to Boulevard Road becomes unavailable due to emergency. *Exhibit 4, page 3; Smith Testimony.*

f-5 - width of roadway: that the connection would be made via a Standard Neighborhood Collector with a 27-foot street width. *Exhibit 4, page 4.*

f-6 - topography and environmental constraints: that "no significant topography or environmental constraints exist." *Exhibit 4, page 4.*

f-7 - sight distance: "With the development of Trillium, the City agreed this ROW be utilized for bicycle, pedestrian, and emergency vehicle access. Beyond this type of bicycle and pedestrian connection, the City acknowledges that the existing Wilderness Plat street alignment may not meet "desirable" intersection sight [distance] criteria for a new street/intersection alignment. Typically, desirable conditions are used for a new subdivision where street alignment can be re-aligned and changed. Given that the County approved the existing Wilderness Subdivision with the plans for a future street connection, a future intersection design can accommodate acceptable standards to allow safe stopping sight distances." *Exhibit 4, page 4.*

f-8 - Likelihood of diverting significant cross-town arterial traffic onto local neighborhood streets: that it is not likely the connection would attract significant cross-town connection and that Wilderness residents would receive the most benefit from the street connection, as it would reduce travel times to employment and retail centers to the north. *Exhibit 4, page 4; Smith Testimony.*

f-9 - whether pedestrian and bicycle connections, rather than streets, would accomplish the desired goals: that disallowing the street connection would increase bicycle- and pedestrian-vehicle conflicts because it would increase the length of travel routes. *Exhibit 4, page 4.*

f-10 - effectiveness of proposed traffic calming measures: that the proposed T intersection with stop sign and traffic calming midblock would maintain proper vehicle speeds. *Exhibit 4, page 4.*

15. No traffic impact analysis or other documentation was offered to support the trip times, efficiencies, and trip distributions asserted, and no evidence as to traffic volumes from build out of the proposed Trillium project was provided.
16. In response to the City's arguments, the County Engineer noted that policy T3.20*(f) requires connections of new streets with existing streets "where practical" and gave his professional opinion that in this case, it would not be practical. The County Engineer commented that very little traffic from Wilderness would travel north via a road connection, such that the benefit would accrue primarily to the urban level development

to the north. He also noted that the Wilderness plat has east-west connectors that serves as connections for its residents and no new north-south connection is necessary to access the neighborhood. The County Engineer agreed that little to no traffic from outside the immediate vicinity would use the road connection, and that as such, there is limited advantage in establishing the road connection. *Rancour Testimony.*

17. Regarding pedestrian safety, the County Engineer noted that even though existing traffic volumes are low, the roads in the Wilderness development are substandard in that they have no sidewalks because they are older. He stated that the primary area of concern with pedestrian safety is sight distance, which is complicated by existing vertical grades, horizontal curves, and significant vegetation along Highline and Frontier Drives. He gave his professional opinion that it would be a struggle to design the proposed T-intersection such that it could satisfy stopping sight distance criteria. *Rancour Testimony.*
18. The Olympia City Attorney submitted a letter arguing against the vacation as follows (paraphrased):
 - That the right-of-way was dedicated to the public, rather than to the County at the time the plat was recorded, and that the City is a public entity with an interest in the right-of-way;
 - That "the City has sufficient annexation commitments to annex the entire southeast urban growth area, so the area could become part of the City when and if the City Council choose to annex;"
 - That the County should defer to the City as to how infrastructure should be planned in an area that "will likely become part of the city in the future";
 - That the potential for future traffic from Trillium to the north is in itself evidence that the right-of-way is "useful" as contemplated in RCW 36.86.060(1) and that it cannot therefore be vacated consistent with the statute;
 - That the existing road stub is evidence of an intention from the time of plat creation to provide some sort of road connection;
 - That the road has not been designed and that the County Engineer has prematurely determined that desirable sight distance cannot be achieved; and
 - That the proposed connection would provide more efficient delivery of public services such as garbage truck, school bus, and emergency vehicle access, and that connection could allow the City to bring sewer to the existing Wilderness plat after future potential annexation.

Exhibit 3, pages 1-3.

19. The Olympia Hearing Examiner has not yet issued a decision and recommendation on the Trillium plat and master plan, respectively, which means the City Council has not yet decided the master plan application. *Exhibit 3, page 3.* The City urged that the instant vacation be stayed until the City's hearing examiner decisions and recommendation are issued. *Exhibit 3, pages 3-4.*

20. The County Engineer didn't take a position as to whether the instant matter should be stayed pending the outcome of the City of Olympia proceedings on the Trillium project applications. *Rancour Testimony*. However, several members of the public urged that the instant matter not be stayed, as the issue of whether a road connection will be allowed has been "hanging over [their] heads" for several years already. *Broverman Testimony*; *Babineau Testimony*;
21. Notice of the open record public hearing on the vacation request was published in The Nisqually Valley Times on September 24, 2010 and October 1, 2010, and posted in the vicinity of the request on September 14, consistent with RCW 36.87.050. Notice of the public hearing was mailed to surrounding property owners. *Exhibit 1, page 2; Exhibit 1, Attachment a.*
22. Eleven residents of the Wilderness plat testified about current conditions in the Wilderness neighborhood. Concerns included:
- Existing slopes on Highline and Frontier Drives, and on the stub road. *Testimony of Guethlein and Stebbin.*
 - Existing stormwater runoff already fills the existing Chambers Ditch, and Wilderness residents are concerned that the proposed full street connection would result in additional runoff to Highline and Frontier Drives and the ditch; several neighbors complained of current flooding of their driveways. *Testimony of Guethlein, O'Hare, Stavish, Case, Cusick, and Ancock; Exhibit 6, Chambers Ditch photos; Exhibit 5, Cusick comments.*
 - The addition of new traffic from urban density development would further endanger walkers, cyclists, children at play, and children waiting for school buses in the Wilderness plat above and beyond existing safety concerns resulting from topography, vegetation to the edge of pavement, lack of sidewalks, parked cars, speeding cars, and inadequate street lighting. *Testimony of O'Hare, Stavish, Case, Stebbin, Cusick, Babineau, Mitchell, Broverman, van Eenwyk, and Ancock.*
 - The impacts on water quality, water volume, and wildlife in Chambers Creek and Chambers Lake. *Testimony of O'Hare and Case, and also of non-Wilderness resident Figueroa.*
 - The lack of foreseeable benefits to Wilderness residents of the proposed connection because: two neighborhoods not served by the same fire, police, or public school agencies; Trillium's commercial development would result in few employment opportunities for Wilderness residents; and the fact that social interaction between the new neighborhoods is not promoted by vehicular access. *Testimony of Stebbin, Cusick, Babineau, Broverman, and van Eenwyk.*

23. Neighbors also submitted concerns that the volume of traffic from urban density development to the north would not be consistent with the character and capacity of the existing substandard streets further into the Wilderness project. Concerns focused especially on the intersection of Highline and Wilderness Drive, which is located on a hill with limited sight distance in either direction. *Exhibit 5, Cusick comments; Exhibit 2b, Pegg comment; Exhibit 2c, Winter comment; Exhibit 2d, Pat Ancock comment; Exhibit 2e, John Ancock comment; Testimony of Guethlein, O'Hare, Stavish, Case, Stebbin, Cusick, Babineau, Mitchell, van Eenwyk, and Ancock.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear this request for a vacation of a right-of-way and to make a recommendation 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.*

"...The County road engineer shall examine the road and report his or her opinion as to whether... the road has been in use, the condition of the road, whether it will be advisable to preserve it for the County road system in the future, whether the public will be benefited by the vacation and abandonment, and all other facts, matters, and things which will be of importance to the Board... ." *RCW 36.87.040.*

"...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).*

"Whenever a county road or any portion thereof is vacated the legislative body may include in the resolution authorizing the vacation a provision that the county retain an easement in respect to the vacated land for the construction, repair, and maintenance of public utilities and services which at the time the resolution is adopted are authorized or are physically located on a portion of the land being vacated: PROVIDED, That the legislative body shall not convey such easement to any public utility or other entity or person but may convey a permit or franchise to a public utility to effectuate the intent of this section. ..." *RCW 36.87.140.*

Conclusions Based on Findings

1. Because increased safety concerns would outweigh the limited circulation efficiencies provided by a future connection, the right-of-way is not useful as part of the county road system. The right-of-way was dedicated in 1975 and has never been opened. It sits on a north-south slope and is densely vegetated with trees and undergrowth. For 35 years, there has been no abutting development to the north in the area currently zoned Neighborhood Village, which allows up to 24 dwelling units per acre. In the event that the land to the north is developed, the right-of-way in question could be used as a connection, but based on the record in the instant application, such a connection would not be advisable or practical.

Comprehensive Plan policy T3.20*(f) authorizes either the City or the County to make a determination whether to allow new streets to connect with existing streets in the Olympia UGA. The policy states: "In determining where it is practical to connect new streets with existing ones, the City or County, as appropriate, will determine whether the merits outweigh the demerits of the whole package, and whether the connection would be in the best interests of both the community at large and the neighborhood."

Existing roads in the Wilderness plat are not developed to current County or City standards; they present a number of vehicle and pedestrian safety concerns due to lack of sidewalks/curbs gutters/street lights, vertical grades, and horizontal curves. These conditions would make it impossible to provide desirable stopping sight distance at the necessary intersection with Highline Drive/Frontier Drive. Because it would not be likely to attract traffic from outside the immediate vicinity, a street connection would not benefit the community at large. Weighing the testimony and arguments of the City and the County, the Examiner concludes that increased safety concerns (the demerits) would outweigh the value of the limited circulation benefits (the merits) a connection would provide. A street connection would not be in the best interests of the neighborhood.

Findings 3, 4, 5, 8, 9, 13, 15, 16, 17, 22, and 23.

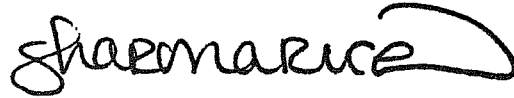
2. The public would benefit from the vacation. Approval of the vacation request would eliminate the County's maintenance, administrative, and legal responsibilities for the vacated portion of the roadway. Foreseeable increases in safety concerns for residents of the 'Wilderness Division 9' plat would be avoided. *Findings 9 and 10.*
3. Although vehicular connection is not practical or advisable, an easement within the right-of-way should be retained as a shared use trail to provide pedestrian/recreational and emergency vehicle access, and the entire right-of-way width should be reserved as an easement for existing and future utilities. *Finding 11.*

RECOMMENDATION

The request to vacate a portion of right-of-way lying between Lots 120 and 121 in the plat of Wilderness Division 9, as recorded under Auditor's File No. 944300 in Volume 19 of Plats at Page 17, in Thurston County, Washington, **SHOULD BE APPROVED** subject to the following conditions:

1. A twenty-five-foot wide easement centered on the old right-of-way shall be retained for a future combination multiuse path/emergency access.
2. The entire 60-foot-wide right-of-way width shall be retained in an easement for existing and future public and private utilities.

Recommended this 18th day of October 2010.



Sharon A. Rice
Thurston County Hearing Examiner, pro tem



Project No. <u>PW-VAC 10-003</u> Appeal Sequence No. _____

RECONSIDERATION OF HEARING EXAMINER RECOMMENDATION

THE REQUESTOR, after review of the terms and conditions of the Hearing Examiner's recommendation hereby requests that the Hearing Examiner take the following information into consideration and further review under the provisions of Chapter 13.36.090 of the Thurston County Code.

(If more space is required, please attach additional sheet.)

REQUEST FOR CONSIDERATION BY THE BOARD

TO THE BOARD OF THURSTON COUNTY COMMISSIONERS COMES NOW:

_____ on this _____ day of _____ 200____,
 as an AGGRIEVED PARTY in the matter of a Hearing Examiner's recommendation rendered on
 _____, by _____ relating to _____.

THE AGGRIEVED PARTY, after review and consideration of the reasons given by the Hearing Examiner for his recommendation, does now, under the provisions of Chapter 13.36.100 of the Thurston County Code, give written notice of REQUEST OF CONSIDERATION by the Board of Thurston County Commissioners of said recommendation and alleges the following errors in said Hearing Examiner's recommendation:

Specific section, paragraph and page of law:
 Road and Bridges--Vacation, RCW Chapter 36.87

(If more space is required, please attach additional sheet)

AND FURTHERMORE, requests that the Board of Thurston County Commissioners, having responsibility for final review of such recommendations will upon review of the record of the matters and the allegations contained in this request, find in favor of the aggrieved party and reverse the Hearing Examiner's recommendation.

Signature required for both Reconsideration and Board Consideration Requests

_____ AGGRIEVED PARTY NAME PRINTED

_____ SIGNATURE OF AGGRIEVED PARTY
 Address _____

_____ Phone _____

Please do not write below - for Staff Use Only:

Fee of \$595.00 for Reconsideration or \$820 for Board Consideration Received (check box): Initial _____ Receipt No. _____
 Filed with the Development Services Department this _____ day of _____, 20____.

THURSTON COUNTY

PROCEDURES FOR RECONSIDERATION OF HEARING EXAMINER RECOMMENDATION AND REQUEST FOR CONSIDERATION BY THE BOARD

- ROAD VACATION -

NOTE: THERE MAY BE NO EX PARTE (ONE-SIDED) CONTACT OUTSIDE A PUBLIC HEARING WITH EITHER THE HEARING EXAMINER OR WITH THE BOARD OF THURSTON COUNTY COMMISSIONERS ON APPEALS (Thurston County Code, Section 2.06.030).

If you do not agree with the recommendation of the Hearing Examiner, there are two (2) ways to seek review of the recommendation. They are described in A and B below and can also be found in Chapter 13.36 of the Thurston County Code (TCC).

A. RECONSIDERATION BY THE HEARING EXAMINER

1. Any aggrieved party who disagrees with the recommendation of the Examiner may request reconsideration.
2. Written request for reconsideration and the appropriate fee must be filed with the Permit Assistance Center of the Thurston County Development Services Department within twenty (20) days of the date of the written decision. The form to file such a request is provided on the opposite side of this notification.

B. CONSIDERATION BY THE BOARD OF THURSTON COUNTY COMMISSIONERS

1. Any aggrieved party may file a request for consideration of the Examiner's recommendation with the Board of Thurston County Commissioners. The form to file such a request is provided on the opposite side of this notification.
2. A written request for consideration and the appropriate fee must be filed with the Permit Assistance Center of the Thurston County Development Services Department within twenty (20) days of the date of the Examiner's written recommendation. If the Examiner was requested to reconsider the recommendation, the written request to the Board for consideration must be filed within ten (10) days of the date of the Examiner's decision on the reconsideration request.
3. The request for consideration shall specify the error or issue which the Board is asked to consider, and shall cite by reference to section, paragraph and page, the provisions of law which are alleged to have been violated. Issues which are not so identified need not be considered by the Board. The request shall be accompanied by any written memorandum which the requesting party may wish considered by the Board. The request shall not include the presentation of any new evidence and shall be based only upon facts presented to the Examiner.
4. The Thurston County Roads and Transportation Services Department shall notify parties of record pursuant to TCC 13.36.100(a)(2) that a request has been filed and that copies of the request may be obtained from the Clerk of the Board.

- C. **FILING FEES AND DEADLINE.** If you wish to request a reconsideration or consideration by the Board of the Examiner recommendation, please do so in writing on the back of this form, accompanied by a nonrefundable fee of **\$595.00** for a request for reconsideration or **\$820.00** for consideration by the Board. Any request for reconsideration or consideration by the Board must be **received** in the Permit Assistance Center of the Thurston County Development Services Department on the second floor of Building #1 in the Thurston County Courthouse complex no later than **4:00 p.m.** per the requirements specified in A2 and B2 above. **Postmarks are not acceptable.** If your application fee as well as completed application form is not filed by this time, you will be unable to request reconsideration or a consideration by the Board of the Examiner recommendation. This deadline may not be extended.