



Cathy Wolfe  
 District One  
 Diane Oberquell  
 District Two  
 Robert N. Macleod  
 District Three

**HEARING EXAMINER**

**BEFORE THE HEARINGS EXAMINER  
 FOR THURSTON COUNTY**

In the Matter of the Application of	)	NO. <b>RTS-VAC 07-001</b>
	)	
<b>SOUTH THURSTON FAMILY</b>	)	
<b>CHRISTIAN CENTER</b>	)	FINDINGS, CONCLUSIONS
	)	AND RECOMMENDATION
For Approval of a Right-of-Way Vacation.	)	
_____	)	

**SUMMARY OF RECOMMENDATION**

The Hearings Examiner recommends that the Board of Commissioners **GRANT** the request to vacate a portion of four unopened right-of-ways in the Townsite of Maytown, located west of Gunstone Avenue SW, north of Tierney Street SW, and east of Shelly Avenue SW in Thurston County.

**SUMMARY OF RECORD**

**Request:**

South Thurston Family Christian Center (Applicant) requested a vacation of a portion of four unopened right-of-ways in the Townsite of Maytown, located west of Gunstone Avenue SW, north of Tierney Street SW, and east of Shelly Avenue SW in Thurston County.<sup>1</sup>

**Hearing:**

An open record hearing on the request was held before the Hearings Examiner of Thurston County on May 20, 2007.

<sup>1</sup> Four unopened Thurston County right-of-ways within the Townsite of Maytown, as recorded April 24, 1911, in Volume 8 of Plats, page 57, records of the Thurston County Auditor, Olympia, Washington described as follows: The alleys within Block 1 and Block 2 of said plat, Taylor Avenue lying Westerly of Lots 1 through 5 of Block 1, and Easterly of Lots 6 through 10 of Block 2 of said plat, the 30 foot county road beginning at the north side of the westerly right-of-way of the alley in Block 2 running easterly to the westerly right-of-way of Gunstone Avenue, lying northerly of Lot 10 of Block 2 and Lots 1 & 10 of Block 1 of said plat, now known as Beaver Creek Road SW. Situated in the Southwest quarter of Section 4, Township 16 North, Range 1 West, W.M., Thurston County Washington.

**Testimony:**

At the open record hearing the following individuals presented testimony under oath:  
Melanie Rabaglia, Roads and Transportation Department  
Al Warren, Applicant Representative

**Exhibits:**

At the open record hearing the following exhibits were admitted into the record:

EXHIBIT 1 Roads and Transportation Services Report including the following attachments:

- Attachment a Notice of Public Hearing
- Attachment b Copy of Application
- Attachment c Vicinity Map
- Attachment d Section/Township/Range Map
- Attachment e Plat Map

Upon consideration of the testimony and exhibits admitted at the open record hearing the Hearings Examiner enters the following Findings and Conclusions:

**FINDINGS**

1. The Applicants requested a vacation of a portion of four unopened right-of-ways in the Townsite of Maytown, located west of Gunstone Avenue SW, north of Tierney Street SW, and east of Shelly Avenue SW in Thurston County. *Testimony of Ms. Rebalgia; Exhibit 1, Staff Report.* The Applicant desires the right-of-way in order to incorporate the land into the adjacent parcels. *Exhibit 1, Staff Report.*
2. The right-of-way was originally created as part of the Townsite of Maytown, recorded April 24, 1911 in Volume 8 of Plats, Page 57, records of the Thurston County Auditor, Olympia, Washington. One of the requested right-of-ways requested to be vacated, Taylor Avenue, was originally platted to be a 50 foot wide right-of-way, and the alleys that are part of the request were platted to be a 10 foot wide right-of-way. In part of the plat was an unnamed right-of-way on the north portion of the plat and there was no width identified for this specific right-of-way. It is now known as Beaver Creek Road SW. *Exhibit 1, Staff Report; Exhibit 1, attachment f; Testimony of Ms. Rebalgia.*
3. The lengths of the right-of-way that the Applicant seeks to vacate include 250 feet along Taylor Avenue and the two alleys. The length of right-of-way requested to be vacated is 430 feet. All of the width of the four right-of-ways are projected to be vacated. *Exhibit 1, Staff Report; Testimony of Ms. Rebalgia.*
4. The zoning is SR 4/1 Suburban Residential. *Exhibit 1 Staff Report.*
5. According to evidence submitted by the Thurston County Roads and Transportation Department the four right-of-ways that are the subject of the request are not in use by the public and have never been used by the public. *Testimony of Ms. Rebalgia; Exhibit 1, Staff Report*

6. The staff testified that the vacation would result in public benefits. The identified benefits include relief for the County from responsibility for the maintenance and administration/record keepings related to the right-of-way being vacated. *Testimony of Ms. Rebalgia; Exhibit 1, Staff Report.*
7. The four right-of-ways are unopened right-of-way. The Thurston County Transportation Improvement Plan does not mention any of these right-of-ways. *Exhibit 1, Preliminary Report, Testimony of Ms. Rebalgia.*
8. The vacation request was submitted to the Thurston County Road Maintenance Division, Traffic Division and Design/Construction and the Water and Waste Management Department for review. These departments voiced no objection to the vacation. *Exhibit 1, Staff Report*
9. The right-of-way does not abut on a body of salt or fresh water. *Testimony of Ms. Rebalgia.*
10. Notice of the Public Hearing was published in The Olympian on May 10, 2007 and May 17, 2007. The notice was also posted in the vicinity of the requested vacation on May 1, 2007. The notice was posted for at least twenty days. All property owners in the area of the requested vacation were mailed a notification of the hearing date. *Testimony of Ms. Rebalgia; Exhibit 1, Staff Report.*

## **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*

“...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.** The right-of-ways are currently maintained as part of the County right-of-way system. They are not useful as part of the County road system. *Findings of Fact No.4 and 6*
- 2. The public will benefit from the vacation.** The public will benefit from the vacation. The vacation will eliminate the County’s maintenance, administrative, and legal responsibilities of the vacated portion, *Finding of Fact No.5*
- 3. No opposition from the public or the County was voiced against the vacation.**
- 4. The right-of-way does not abut on a body of salt or fresh water.** *Finding of Fact No. 8.*

#### **RECOMMENDATION**

The Hearing Examiner recommends to the Thurston County Board of Commissioners approval of the request to vacate a vacation of a portion of four unopened right-of-ways in the Townsite of Maytown, located west of Gunstone Avenue SW, North of Tierney Street SW, and East of Shelly Avenue SW. Thurston County. No recommendation is made relating to compensation.

DATED THIS 31<sup>st</sup> of May, 2007.

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James Driscoll  
Hearing Examiner for Thurston County