



COUNTY COMMISSIONERS

Cathy Wolfe
District One
Sandra Romero
District Two
Karen Valenzuela
District Three

HEARING EXAMINER

Creating Solutions for Our Future

CASE NO: RTS-VAC 10-005

PETITIONER: Roald Corporation, Todd A Hansen, President

SUMMARY OF REQUEST:

The Petitioners request vacation of the westerly ten feet of that portion of platted, unopened Marie Street that is adjacent to eastern portion of the property located at 4521 90th Way SE, Olympia, Washington.

LOCATION OF THE PROPOSAL:

The subject right-of-way lies adjacent to and abutting Lot 37, as dedicated and shown on the plat of Riverwood, recorded July 17, 2007, at the Auditor's File, Number 3943381, records of Thurston County Auditor's Office, Olympia, Washington and being located in Section 17, township 17 North, Range 1 West, W.M., and adjacent to tax parcel No. 70910003700.

SUMMARY OF DECISION:

The petition for road vacation is recommended to be granted.

HEARING AND RECORD:

The hearing on this request was held before the undersigned Hearing Examiner on November 1, 2010. The following exhibits are admitted as part of the record:

Exhibit 1: Staff Report by Thurston County Public Works Department for Case No. RTS-VAC 10-005, prepared by Dale R. Rancour, P.E., County Engineer and dated October 19, 2010. This Exhibit includes the four page staff report and Attachments a through g, which are listed on page three of the Staff Report.

Exhibit 2: Four pictures depicting a partially constructed home on Lot 37, adjacent to the subject right-o- way, submitted by the Petitioner to show the distance of the home and the septic tank to the subject right-of-way.

Exhibit 3: A picture of Latigo Street Southeast, a picture of Marie Street Southeast, a Vicinity Map of the subject area, and an aerial photograph-map of the subject area, supplied by the County to show that the parcels adjacent to and east of the subject right-of-way have legal and sufficient access without regard to unopened Marie Street.

At the hearing, the following individuals testified under oath:

- Pam Dittloff, Public Works, Thurston County Real Estate Services Section.
- Heather Burgess, legal counsel to the Petitioner.
- Todd Hansen, the Petitioner.

After considering the testimony and exhibits described above, the Hearing Examiner makes the following findings of fact, conclusions of law, and decision.

FINDINGS OF FACT

1. Marie Street is an unopened County right-of-way that never has been improved or opened for public use.
2. The Petitioner, Roald Corporation, Todd A. Hansen, owns property abutting Marie Street, with the subject right-of-way abutting the east end of the Petitioner's property, which is located at 9545 178th Way, Southwest in Rochester, Washington.
3. The Marie Street right-of-way is currently sixty feet wide. Vacating a ten-foot portion of the right-of-way at the Petitioner's request would leave a remaining fifty-foot right-of-way. Based on the credible testimony of Pam Dittloff, it is found that that the remaining fifty-foot right-of-way would provide sufficiently room to construct of any future Marie Street extension.
4. The parcel to the south of the subject right-of-way and Lot 37 can be served by existing rights-of-way, in particular Rich Road Southeast and 93rd Avenue Southeast. Exhibit 3.
5. The parcels to the east of the subject right-of-way and Lot 37 can be served by existing rights-of-way, in particular Latigo Street Southeast and 93rd Avenue Southeast. Exhibit 3.
6. The Petitioner would like the County to vacate the right-of-way so the land will be incorporated in the adjacent parcel, Lot 37. The petitioner did not receive accurate information regarding the width of Lot 37 and believed it was 100 feet wide, not the actual 90 feet wide. Exhibit 1e and 1g. In reliance on this mis-information, the Petitioner constructed a home and septic system on Lot 37 in a manner that they encroach upon the subject right-of-way.
7. The Petitioner is aware of the compensation requirement associated with the County's vacation of the subject right-of-way and is prepared to meet this requirement, as it is set forth in RCW TCC 13.36.030 and TCC 13.36.040.

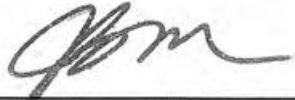
CONCLUSIONS OF LAW

1. RCW 36.87.060 allows a hearing officer to conduct a public hearing to consider a proposed road vacation, to prepare a record of the proceedings, and to make a recommendation to the Board of County Commissioners on the proposed vacation.
2. This procedure is implemented, under Thurston County Code (TCC) 13.36.060, which provides that “[e]xcept where the board specifically retains jurisdiction, a hearing examiner will be used to conduct a hearing and make a recommendation to the board in all cases.” Thus, both State and County law require the Hearing Examiner’s decision to be in the form of a recommendation to the Board of County Commissioners.
3. A road may be vacated by the County only if (1) the road is useless as part of the county road system and (2) that the public will be benefitted by its vacation and abandonment. RCW 36.87.020. If the county road is found to be useful as part of the county road system, it shall not be vacated. But if it is not useful and the public will be benefitted by the vacation, thereof, the county may vacate the road, or any portion thereof. RCW 36.87.060(1).
4. Based on finding of fact Nos. 1, 3, 4, and 5 above, it is concluded that the area proposed to be vacated is not needed as part of the Thurston County road or right-of-way system and is not useful for those purposes. The public will be benefitted by the requested vacation.
5. For these reasons, the proposed road vacation meets the standards of RCW 36.87.020 and RCW 36.87.060 and should be granted.

RECOMMENATION

The Hearing Examiner recommends that the Board of Commissioners should approve the vacation of a segment of the unimproved Marie Street right-of-way that is adjacent to the Petitioner’s property, which is located at 4521 90th Way SE, Olympia, Washington and is under file number RTS-VAC 10-005.

Dated this 10th day of November, 2010



Jacqueline Brown Miller
Thurston County Hearing Examiner *pro tem*

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