



COUNTY COMMISSIONERS

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 District One
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 District Three

HEARING EXAMINER

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**BEFORE THE HEARING EXAMINER
 FOR THURSTON COUNTY**

In the Matter of the Applications of)	NO. PW-VAC-12-003
)	
)	
Gary B. Parker and Connie D. Fraser)	FINDINGS, CONCLUSIONS,
)	AND RECOMMENDATION
)	
For Request for Road Vacation)	
_____)	

SUMMARY OF REQUEST:

Petitioners Gary B. Parker and Connie D. Fraser request vacation of the County’s interest in the entire width of Harriman Avenue NE and the alley adjacent to their properties in Blocks 25 and 265 of Boston Harbor.

LOCATION OF THE PROPOSAL:

The subject right-of-way lies adjacent to and abutting the properties of 547 73rd Way Northeast, Olympia, Washington 98506 and 601 73rd Way Northeast, Olympia, Washington 98506.

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 December 3, 2012. The following exhibits are admitted as part of the record:

Exhibit 1: Staff Report by Thurston County Public Works Department for Case No. PW-VAC-12-003, prepared by Dale R. Rancour, P.E., County Engineer and dated December 3, 2012. This Exhibit includes the four page staff report and Attachments a through f, which are listed on page four of the Staff Report.

At the hearing, the following individuals testified under oath:

- Kelly Larson, Thurston County Public Works.

- Gary Parker, 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. Harriman Avenue NE, in the location of the request for vacation, is an unopened county right-of-way that never has been improved or opened for public use. Exhibit 1, p. 2.

2. The parcel is described as follows:

That portion of platted Harriman Avenue NE lying between Lot 40, Block 25 and Lot 23, Block 26 in the plat of Boston Harbor as recorded in Volume 8 of Plats at Page 31, records of Thurston County, Olympia, Washington;

Together with that portion of Harriman Ave NE lying between the east/west running alley in blocks 25 and 26 (excepting any portion previously vacated);

Together with that portion of the alley lying between Lots 1 & 2 and 39 & 40 in Block 25 of said plat records of Thurston County Auditor, Olympia, Washington;

Being located in Section 14, Township 19 North, Range 2 West, W.M. and adjacent to Tax Parcel Nos. 35902503900 & 35902602000. Ex. 1, p.1- 2.

3. The Petitioners, Gary B. Parker and Connie D. Fraser, own property abutting Harriman Avenue NE, with the subject right-of-way abutting Petitioners' property, which is located at 547 73rd Way Northeast, Olympia, Washington 98506 and 601 73rd Way Northeast, Olympia, Washington 98506. Ex. 1, p. 2.
4. A small portion of the Harriman Avenue NE right-of-way has been used by one of the petitioners to access their property. The majority of the requested area remains in its native state and is populated with trees and underbrush. Ex. 1, p. 2.
5. The county has not used this right-of-way since it was acquired in 1907 and there is no future need for this area. Furthermore, the portion of Harriman Ave NE lying southerly of this request area has already been vacated. Ex. 1, p. 2.
6. The public benefits of the vacation are that the county will eliminate its responsibility for the maintenance, administration and record keeping, along with any potential litigation/liability of this roadway; and the vacated right-of-way will increase the County tax base when returned to the county tax rolls. Ex. 1, p. 2.
7. Petitioner's parcel is zoned Rural Residential Resource 1/5 (RRR 1/5), surrounding parcels are either the same, or RL1/1 (Residential Limited Areas of More Intense Residential Development). Ex. 1, p. 2.

8. Harrison Avenue NE is a Class B road, as defined by TCC 13.36.020, wherein no public expenditures have been made for acquisition, improvement or maintenance of the right-of-way. In compliance with T.C.C. 13.36.030, if petition is recommended by the Hearing Examiner and approved by the Board of County Commissioners, petitioner will be required to obtain a fair market appraisal of the area being vacated, by a certified general real estate appraiser on file with the Washington State Department of Licensing. Petitioners would be required to present the appraisal to the Public Works Real Estate Services section for review. Providing the appraisal is found to be acceptable to both the petitioner and the County, petitioner would be required to pay compensation in the amount of one hundred percent of said fair market appraisal value prior to a final vacation resolution being presented to the Board of County Commissioners. Ex. 1, p. 3.

CONCLUSIONS OF LAW

1. RCW 36.87.060 allows a hearing officer to conduct a public hearing to consider the report of the road engineer for the proposed road vacation, to prepare a record of the proceedings, and to make a recommendation to the Board of Commissioners on the proposed vacation.
2. This procedure is implemented, under Thurston County Code (TCC) 13.36.060, which provides that “Except where the board specifically retains jurisdiction, a hearing examiner will be used to conduct a public hearing and make a recommendation to the board of county commissioners in all cases. Hearings shall be scheduled and conducted pursuant to Chapter 36.87 RCW. On the day fixed for the public hearing, the hearing examiner shall consider the report of the county road engineer, and take testimony and evidence relating to the proposed vacation.” 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 through 8, 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 Harriman Avenue NE right-of-way that is adjacent to Petitioners' property, which is located at 547 73rd Way Northeast, Olympia, Washington 98506 and 601 73rd Way Northeast, Olympia, Washington 98506 under file number PW-VAC-12-003.

Dated this date of December 17, 2012.



Jacqueline Brown Miller
Thurston County Hearing Examiner *pro tem*