



COUNTY COMMISSIONERS

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HEARING EXAMINER

Creating Solutions for Our Future

**BEFORE THE HEARING EXAMINER
FOR THURSTON COUNTY**

In the Matter of the Application of)	NO. 2015100868
)	
Hinkle Properties, Inc.)	FINDINGS, CONCLUSIONS,
)	AND RECOMMENDATION
For Vacation of a Portion of a)	
<u>Dedicated Right-of-Way</u>)	

SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends that the request to vacate a portion a Thurston County right-of-way known as unopened 178th Ave SW, lying north of Lots 3 through 24 of Block 11, Wright's Addition to Rochester, Division 2 in Thurston County be **APPROVED**.

SUMMARY OF RECORD

Request

John Hinkle of Hinkle Properties, Inc. (Applicant) seeks to vacate the portion of Thurston County right-of-way described as follows:

That portion of the South half of platted Tenth Street (now known as unopened 178th Ave SW) lying Northerly of and adjacent to Lots 3 through 24 of Block 11, Wright's Addition to Rochester Division No. 2, as recorded in Volume 8 of Plats, at Page 49, records of Thurston County, Olympia, WA.

Hearing Date

The Thurston County Hearing Examiner held an open record public hearing on the request on July 6, 2015.

Testimony

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

Kelli Larson, Thurston County Public Works, Real Estate Section
John Hinkle, Hinkle Properties, Inc., Applicant

Exhibits

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

Exhibit 1 Thurston County Public Works Staff Report, including the following attachments:

- Attachment a Notice of Public Hearing
- Attachment b Application (includes Petition for Vacation of a County Road, Bracy & Thomas land survey, and response to criteria)
- Attachment c Vicinity Map
- Attachment d Section/Township/Range Map
- Attachment e Plat Map
- Attachment f Aerial Photo

Exhibit 2 Appraisal Report by Nadyne Tauscher dated February 1, 2015

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

FINDINGS

1. The Applicant seeks to vacate the portion of Thurston County right-of-way described as follows:
 - a. That portion of the South half of platted Tenth Street (now known as unopened 178th Ave SW) lying Northerly of and adjacent to Lots 3 through 24 of Block 11, Wright's Addition to Rochester Division No. 2, as recorded in Volume 8 of Plats, at Page 49, records of Thurston County, Olympia, WA.

Exhibit 1, Attachment b.

2. The subject right-of-way is 30 feet wide and approximately 550 feet in length.¹ The right-of-way was dedicated on November 26, 1910 with the recording of Wright's Addition to Rochester, Division 2. The platted roadway was 60 feet in width total, but the northern half was never dedicated to the County. *Exhibit 1, Attachments b and e.*
3. The subject right-of-way has never been used by the public and is not developed with road or utility infrastructure. The parcels to the north of the right-of-way are fully built-out and take access from Pendleton Street SW. The parcels to the west of the Applicant's

¹ Both the Petition and the Staff Report state a length of 650 feet. The survey shows a length of 550 feet, which is consistent with the plat map's depiction of the ROW bordering 22 25-foot-wide lots. The appraisal was based on the surveyed distance of 550 feet. These findings assume the survey and appraisal are correct.

- property have access to unopened rights-of-way to the west (continuation of Daryl Lane SW) and south (178th Ave SW). *Exhibit 1, page 1; Exhibit 1, Attachments b and f.*
4. The subject right-of-way is too narrow for future road use. County road standards require a minimum 60-foot right-of-way. *Exhibit 1, page 2.*
 5. Thurston County has not expended any funds to acquire, improve, or maintain the right-of-way. Consequently, the County classifies the right-of-way as "Class B" per Thurston County Code (TCC) 13.36.020. *Exhibit 1, page 2; Larson Testimony..*
 6. The Applicant is in the process of reconfiguring Lots 3 through 24 of Block 11 into three building sites and desires to incorporate the subject right-of-way into the new lots. If access is approved, the Applicant proposes to serve the lots with a private road built within the 178th Way SW right-of-way, which is located to the south of the property. *Exhibit 1, pages 1 and 2.*
 7. As of January 22, 2015, the appraised market value of the subject right-of-way is \$4,800.00. The Real Estate Section of the Thurston County Public Works Department concurs with the submitted appraisal. *Exhibit 1, page 3; Exhibit 2.*
 8. The subject right-of-way does not abut on any body of water. *Exhibit 1, Attachments b, d, and f.*
 9. Public Works Staff identified three public benefits from approving the right-of-way vacation request: the value of the land would increase by the creation of building sites; the County would receive compensation based on the appraised value of the right-of-way; and the County would be relieved of liability for the right-of-way. *Exhibit 1, page 1.*
 10. The Applicant requested that compensation to the County be reduced or waived due to the fees he has already paid in conjunction with the plat application, which according to his testimony is about \$60,000 so far in costs and fees, and because the County would benefit from the higher property tax values that would result from the new building lots. *Hinkle Testimony.*
 11. Pursuant to TCC 13.36.030, compensation may be required for vacating Class A and Class B rights-of-way, including "*all or a percentage of the appraised, fair market value of the vacated road or right-of-way.*" *TCC 13.36.030.* Circumstances under which compensation may *not* be required - including that the County initiated the right-of-way vacation, that the petitioner is the original grantor, that there are environmental constraints, or that the right-of-way is a Class C right-of-way - are not applicable. *Exhibit 1, Attachment b.*
 12. Notice of the open record public hearing on the vacation request was published in The Olympian on June 22, 2015 and June 29, 2015, and posted in the vicinity of the request on June 12, 2015 at least 20 days in advance of the hearing, consistent with RCW

36.87.050. Notice of the public hearing was also mailed to surrounding property owners. *Exhibit 1, page 3; Exhibit 1, Attachment a.* There was no public comment on the application. *Larson Testimony.*

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*

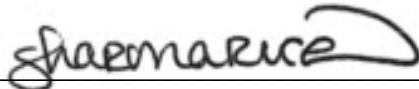
Conclusions Based on Findings

1. The right-of-way is not useful as part of the County road system. It is not currently open for public use, and it is too narrow to be used for road purposes in the future without acquisition of additional property. All parcels in the vicinity have alternate means of access. *Findings 2, 3, and 4.*
2. The public would benefit as a result of vacation in the form of higher tax assessments and reduced liability. The Board has discretion in setting the compensation amount. Because the County has expended no funds to improve and maintain the road and because the Applicant has expended significant funds towards creation of the three building lots, the Board may wish to reduce or waive compensation in the full appraised value of the right-of-way. *Findings 5, 6, 7, 9, 10, and 11.*
3. The right-of-way does not abut on a body of salt or fresh water. *Finding 8.*

RECOMMENDATION

The Hearing Examiner recommends that the request for vacation of a portion of right-of-way known as unopened 178th Ave SW, lying north of Lots 3 through 24 of Block 11, Wright's Addition to Rochester, Division 2 in Thurston County as legally described in Finding No. 1 herein, be **APPROVED**. The Board may wish to reduce or waive compensation for the vacated right-of-way, if approved.

Decided July 15, 2015.



Sharon A. Rice
Thurston County Hearing Examiner