



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. 2015107852
)	
Confederated Tribes of the Chehalis Reservation)	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 of a portion of right-of-way known as unopened Anderson Road SW, lying in the South half of the Northwest quarter of Section 2, Township 15 North, Range 4 West, W.M., situated within the boundaries of the Chehalis Indian Reservation in Thurston County be **APPROVED**.

SUMMARY OF RECORD

Request

Keith Kramer on behalf of Confederated Tribes of the Chehalis Reservation (Applicant) seeks to vacate the portion of Thurston County right-of-way described as follows:

A portion of Anderson Road SW right-of-way in the South half of the Northwest quarter of the Northwest quarter of Section 2, Township 15 North, Range 4 West, W.M., described as follows: Commencing at the Southwest corner of said Subdivision; Thence S86°46'02"E along the South line of said subdivision a distance of 31.20 feet to the True Point of Beginning; Thence Northerly along a 0°05'26" degree curve to the right, having a radius of 63366.60 feet, an Arc distance of 247.14; Thence N00°59'57"E a distance of 196.24 feet to a point opposite Centerline Sta. 93+96.24; Thence S89°00'03"E a distance of 177.00 Feet; Thence S00°59'57'W a distance of 460.22 feet to the South line of said subdivision; Thence N86°46'02"W along said South line a distance of 176.61 Feet to the True Point of Beginning. All situated within the boundaries of the Chehalis Indian Reservation, Thurston County, Washington; adjacent to Tax Parcel No. 14502220000.

Hearing Date

The Thurston County Hearing Examiner held an open record public hearing on the request on February 16, 2016.

Testimony

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

Kelli Larson, Thurston County Public Works, Real Estate Section
Keith Kramer, Realty Officer, Applicant Representative
Charlotte Lopez

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 and Petition
 - Attachment c Vicinity Map
 - Attachment d Section/Township/Range Map
 - Attachment e Statutory Warranty Deed, warrant and receipt from CRP #61141

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 a 1.85-acre portion of the Anderson Road SW right-of-way so that it may become part of petitioner’s adjacent parcel. The portion of right-of-way is described that portion of right-of-way known as unopened Anderson Road SW, lying in the South half of the Northwest quarter of Section 2, Township 15 North, Range 4 West, W.M., situated within the boundaries of the Chehalis Indian Reservation in Thurston County. *Exhibit 1.*

2. In 2002, the Confederated Tribes of the Chehalis Reservation (CTCR) and Thurston County coordinated efforts to improve Anderson Road SW, a County road within the boundaries of the Reservation. Because the right-of-way is a public county road, Thurston County facilitated the purchase of additional right-of-way from non-tribal adjacent parcels as part of County Road Project #61141. Improvements constructed included widening the road, changes in grade, and removal and replacement of a small bridge with concrete box culverts. *Exhibits 1 and 1.E.*

3. The portion of right-of-way subject to the instant request (subject property) was used as a borrow site and temporary construction easement during the County's road project. The site is rectangular, somewhat hilly, and vegetated with grass. It measures approximately 177 by 460 feet. It is adjacent to the east side of Anderson Road. Initially, after County Road Project #61141 was completed, the County mowed the subject property once or twice a year; however, that maintenance ceased at an unknown time in the past and the County has not performed any other maintenance activities in the site. For the last several years, CTCR has performed all maintenance of this area. Once construction of the Anderson Road improvements was completed, there was no further use of the site as part of the County road system or public right-of-way. *Exhibit 1; Kramer Testimony; Larson Testimony.*
4. The subject right-of-way is unopened and has not been used by the travelling public. It is outside of the Anderson Road SW road width and is not needed for future road expansion. *Exhibit 1; Larson Testimony.*
5. The subject right-of-way does not abut on any body of water. *Exhibit 1.D.*
6. Public Works Staff identified two public benefits from approving the vacation request, which are relieving the public of liability and maintenance obligations. *Exhibit 1.*
7. Pursuant to Thurston County Code (TCC) Chapter 13.36, the subject right-of-way is considered as a Class "A" road because County funds were used to maintain the area at one time and the County in fact owned the right-of-way.¹ The County Code calls for payment of compensation for Class A road vacations by the requesting parties. However, in the instant case, although the Applicant did not own the land at the time the County acquired it, they reimbursed the County \$15,700 at the time of acquisition for the expenditure to acquire the right-of-way. Further, the Applicant has subsequently purchased the parcel from which the subject right-of-way was acquired. Public Works finds that this situation is equivalent to CTCR being the original grantor and therefore recommends against compensation at this time. *Exhibit 1; Larson Testimony.*

¹ Pursuant to TCC 13.36.030: (1) Thurston County may require as a condition precedent to the vacation of Class A and Class B roads and rights-of-way the receipt of compensation from the person or persons benefiting from said vacation. The compensation shall include, but not be limited to, all or a percentage of the appraised, fair market value of the vacated road or right-of-way as of the effective date of the vacation. Appraisals required pursuant to this section are to be conducted by certified general real estate appraisers on file with the Washington State Department of Licensing at the time of the petition. The costs of any and all appraisals deemed necessary by the board of county commissioners shall be the responsibility of the petitioner. (2) Compensation shall not be required if: (a) the vacation is initiated by the county; (b) the petitioner is the original grantor and no public expenditure was made; (c) environmental or topographical conditions exist; or (d) the vacation is of Class C roads and rights-of-way. (3) Alternate compensation may be provided in lieu of the monetary amounts defined above when the county road engineer has recommended in the engineer's report that the proposed "in kind" or alternate compensation has value that equals or exceeds the dollar amount due and owing the county for the proposed vacation. The board of county commissioners may choose to accept or reject this written recommendation of the county road engineer. Alternate compensation may include, but not be limited to, the exchange of property and/or improvements provided by the petitioner(s).

8. Notice of the open record public hearing on the vacation request was published in The Olympian on February 5, 2016 and February 12, 2016, and posted in the vicinity of the request on January 25, 2016 at least 20 days in advance of the hearing, consistent with RCW 36.87.050. Notice of the public hearing was also mailed to the one surrounding property owner. The Applicant owns the remaining surrounding properties. *Exhibit 1; 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

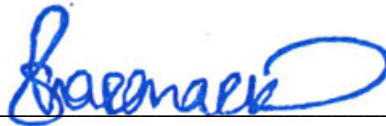
1. The right-of-way is not useful as part of the County road system. It has never been open for public use. It is not needed for future right-of-way purposes in the future. Approval would not affect access to any surrounding parcel. *Findings.*
2. The public would benefit as a result of vacation in the form of reduced liability and maintenance obligations. Because the County has already been reimbursed for the cost of the right-of-way by the Applicant, the undersigned concurs with the recommendation of Public Works that the Board consider the Applicant to have the same position as if CTCR had been the original grantor. *Findings.*

3. The right-of-way does not abut on a body of salt or fresh water. *Finding.*

RECOMMENDATION

The Hearing Examiner recommends that the request for vacation of a portion of right-of-way known as unopened Anderson Road SW, lying in the South half of the Northwest quarter of Section 2, Township 15 North, Range 4 West, W.M., situated within the boundaries of the Chehalis Indian Reservation in Thurston County as legally described in the Summary of Record on page 1, be **APPROVED**. The Board may wish to reduce or waive compensation for the vacated right-of-way, if approved.

Decided March 2, 2016.



Sharon A. Rice
Thurston County Hearing Examiner