



COUNTY COMMISSIONERS

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HEARING EXAMINER

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**BEFORE THE HEARING EXAMINER
 FOR THURSTON COUNTY**

In the Matter of the Application of)	NO. 2019102422
)	
PB Lumber, LP)	FINDINGS, CONCLUSIONS,
)	AND RECOMMENDATION
For Vacation of a Road Right-of-Way)	
_____)	

SUMMARY OF RECOMMENDATION

The Hearing Examiner recommends that the request to vacate the Thurston County right-of-way known as Hyatt Road SE, lying adjacent to tax parcel number 11608310000, be **APPROVED**.

SUMMARY OF RECORD

Request

PB Lumber, LP (Applicant) seeks to vacate the Thurston County right-of-way described as follows:

All that portion of Hyatt RD SE road as constructed; and right-of-way as deeded to Thurston County on Dedication Deed recorded in Book 1 of Right-of Ways, at Page 227, records of the Thurston County Auditor, Olympia, WA, on February 3, 1932, lying within the North Half of the Southwest Quarter of Section 8, Township 16 North, Range 1 West, W.M., Thurston County, Olympia, WA and lying adjacent to tax parcel numbers 11608310000.

Hearing Date

The Thurston County Hearing Examiner held an open record public hearing on the request on January 14, 2020.

Testimony

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

Craig Sisson, Real Estate Services Manager, Thurston County Public Works
 Rich Runyon, American Forest Management, Applicant Representative

Exhibits

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

EXHIBIT 1 Public Works Staff 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 Dedication Deed (Book 1 of R/W, Page 227) with associated map
- Attachment F Approximate area of turn-around area to be provided for County maintenance vehicles

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 Thurston County right-of-way described as follows (hereafter referred to as “subject right-of-way”):

All that portion of Hyatt RD SE road as constructed; and right-of-way as deeded to Thurston County on Dedication Deed recorded in Book 1 of Right-of Ways, at Page 227, records of the Thurston County Auditor, Olympia, WA, on February 3, 1932, lying within the North Half of the Southwest Quarter of Section 8, Township 16 North, Range 1 West, W.M., Thurston County, Olympia, WA and lying adjacent to tax parcel numbers 11608310000.

Exhibits 1 and 1.B.

2. The subject right-of-way was dedicated to Thurston County by a deed recorded February 3, 1932 in Book 1 of Right-of-Ways, Page 227, Records of Thurston County Auditor, Olympia, Washington. *Exhibits 1 and 1.E.*
3. The subject right-of-way is classified as a Class A road, for which public expenditures have been made for acquisition, improvement, and/or maintenance. Compensation for the right-of-way would be credited to Thurston County Public Works. *Exhibit 1.*

4. The area of the subject right-of-way, as described in the deed, is approximately 2.92 acres. *Exhibit 1.E.*
5. The subject right-of-way does not abut a body of water. *Testimony of Craig Sisson and Rich Runyon.*
6. The subject right-of-way contains a gravel road, which is currently in use; however, the road leads only to the Applicant's property. The Applicant wishes to fence the area in order to keep out trespassers, who are damaging the Applicant's trees and dumping garbage, as depicted in photos in the record. *Exhibits 1, 1.B, 1.D, and 1.F.*
7. The County Engineer submitted that the subject right-of-way is not suitable for future road connectivity and identified no other use for the right-of-way aside from access to the Applicant's property. Vacating the subject right-of-way would not land lock any parcels. *Exhibit 1; Craig Sisson Testimony.*
8. The County Engineer identified several public benefits that would result from vacation of the subject right-of-way, including relief of liability for the County, reduced road maintenance requirements, and increase in County tax base. *Exhibit 1.*
9. The County Engineer recommended approval of the requested right-of-way vacation, on condition that the Applicant provide compensation to the County pursuant to TCC 13.36.030¹ and provide a turn-around area for County maintenance vehicles at the location generally depicted on Exhibit 1, Attachment F. The proposed turn-around location is just beyond where the road crosses the boundary of the Applicant's parcel (No. 11608310000), where the public road would terminate once the requested right-of-way vacation is complete. *Exhibits 1 and 1.F.*
10. Notice of the open record public hearing on the vacation request was published in The Olympian on December 31, 2019 and January 7, 2020 and posted in the vicinity of the subject right-of-way on December 17, 2019, at least 20 days in advance of the hearing, consistent with RCW 36.87.050. There were no adjacent landowners to notify. *Exhibits 1 and 1.A.* There was no public comment offered at the hearing.

CONCLUSIONS

Jurisdiction

The Hearing Examiner is granted jurisdiction to hear a 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.

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...." *TCC 13.36.030(1).*

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 subject right-of-way is not useful as part of the County road system. *Findings 6 and 7.*
2. Given that a turn-around would be provided for maintenance vehicles near the new road terminus, the public would benefit as a result of the requested right-of-way vacation. *Findings 8 and 9.*
3. The subject right-of-way does not abut a body of water. *Finding 5.*

RECOMMENDATION

The Hearing Examiner recommends that the request for vacation of the Thurston County right-of-way known as Hyatt Road SE lying adjacent to tax parcel number 11608310000 be **APPROVED** on condition that the Applicant pay compensation consistent with TCC 13.36.030 and provide a turn-around for road maintenance vehicles at a location approved by Thurston County Public Works.

Issued January 23, 2020.



Sharon A. Rice
Thurston County Hearing Examiner