

September 23, 2021

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

King County Courthouse
516 Third Avenue Room 1200
Seattle, Washington 98104
Telephone (206) 477-0860
hearingexaminer@kingcounty.gov
www.kingcounty.gov/independent/hearing-examiner

REPORT AND RECOMMENDATION

SUBJECT: Department of Transportation file no. **V-2732**
Proposed ordinance no. **2021-0277**
Adjacent parcel no(s). **2586800160 and 2586800065**

ROSLYN HYDE AND GENE VIJARRO

Road Vacation Petition

Location: a portion of the Alley in Block 2, Florentine Tracts

Applicant: **Roslyn Hyde**
[REDACTED]
Seattle, WA 98146

Telephone: [REDACTED]
Email: [REDACTED]

Applicants: **Gene and Monica Vjarro**
[REDACTED]
Seattle, WA 98146

Telephone: [REDACTED]
Email: [REDACTED]

King County: Department of Local Services
represented by **Leslie Drake**
201 S Jackson Street
Seattle, WA 98104
Telephone: (206) 477-7764
Email: leslie.drake@kingcounty.gov

FINDINGS AND CONCLUSIONS:

Overview

1. This is a straightforward application. Roslyn Hyde and Gene Vizarro petition the County to vacate an approximately 960 square foot stretch of public right-of-way—an unopened alley on which part of a public street-facing a garage currently sits. The Department of Local Services, Road Services Division, urges vacation and a waiver of all compensation. We conducted the public hearing on behalf of the Council. After hearing witness testimony and observing their demeanor, studying the exhibits entered into evidence, and considering the parties’ arguments and the relevant law, **we recommend that Council approve the vacation and waive compensation.**

Background

2. Except as provided herein, we adopt and incorporate the facts set forth in Roads’ report and in proposed ordinance no. 2021-0277. That report, and maps showing the specific area to be vacated and the vicinity of the proposed vacation, are in the hearing record and will be attached to the copies of our recommendation submitted to Council. Ex. 1 at 001-04 & 011; Ex. 5.
3. Chapter RCW 36.87 sets the general framework for county road vacations, augmented by KCC chapter 14.40. There are at least four somewhat interrelated inquiries. The first two relate to whether vacation is warranted: is the road useless to the road system and would vacation benefit the public? If the answers to these are both yes, the third and fourth relate to compensation: what is the appraised (or perhaps assessed) value of the right-of-way, and how should this number be adjusted to capture County benefits?
4. A petitioner has the burden to show that the “road is useless as part of the county road system and that the public will be benefitted by its vacation and abandonment.” RCW 36.87.020. “A county right of way may be considered useless if it is not necessary to serve an essential role in the public road network or if it would better serve the public interest in private ownership.” KCC 14.40.0102.B. While denial is mandatory (“*shall not*” vacate) where a petitioner fails to make that showing, approval is discretionary where a petitioner shows uselessness and public benefit (“*may vacate*”). RCW 36.87.060(1) (emphasis added).

Is Vacation Warranted?

5. The subject right-of-way segment is not currently opened, constructed, or maintained for public use, and it is not known to be used informally for access to any property. Though dedicated as an alley, not only was it never used as such for the adjoining properties, the rockery and slope would make it, if not impossible, at least extremely difficult and expensive to ever convert it into a functioning alley. Vacation would have no adverse effect on the provision of access and fire and emergency services to the abutting

properties and surrounding area. The right-of-way is not necessary for the present or future public road system for travel or utilities purposes.

6. We find that the road is useless to the county road system, that the public will benefit from its vacation in the form of eliminated expected management and maintenance costs and added tax benefits (see below), and that vacation is warranted.

What Compensation is Due?

7. Typically, the petitioner pays the value the acquired right-of-way square footage adds to their property. Here, both the Hyde and the Vijarro properties will benefit to the tune of \$3000 each. Exs. 11-12. However, state law allows compensation to be adjusted to reflect avoided public management and maintenance costs and added property taxes (from moving public property onto the tax rolls). RCW 36.87.120. Here, the financial benefits to the County are over \$5000 for each parcel, exceeding the \$3000 private value increases. Exs. 11-12. In such circumstances, it is appropriate to waive compensation.

RECOMMENDATION:

APPROVE proposed ordinance no. 2021-0277 to vacate the subject road right-of-way.

DATED September 23, 2021.



David Spohr
Hearing Examiner

NOTICE OF RIGHT TO APPEAL

A person appeals an Examiner recommendation by following the steps described in KCC 20.22.230, including filing with the Clerk of the Council a sufficient appeal statement and a \$250 appeal fee (check payable to the King County FBOD), and providing copies of the appeal statement to the Examiner and to any named parties listed on the front page of the Examiner's recommendation. Please consult KCC 20.22.230 for exact requirements.

Prior to the close of business (4:30 p.m.) on **October 18, 2021**, an electronic copy of the appeal statement must be sent to Clerk.Council@kingcounty.gov and a paper copy of the appeal statement must be delivered to the Clerk of the Council's Office, Room 1200, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104. Prior mailing is not sufficient if the Clerk does not actually receive the fee and the appeal statement within the applicable time period.

Unless the appeal requirements of KCC 20.22.230 are met, the Clerk of the Council will place on the agenda of the next available Council meeting a proposed ordinance implementing the Examiner’s recommended action.

If the appeal requirements of KCC 20.22.230 are met, the Examiner will notify parties and interested persons and will provide information about “next steps.”

**MINUTES OF THE SEPTEMBER 9, 2021, HEARING ON THE ROAD VACATION
PETITION OF ROSLYN HYDE AND GENE VIJARRO, DEPARTMENT OF
TRANSPORTATION FILE NO. V-2732**

David Spohr was the Hearing Examiner in this matter. Participating in the hearing were Leslie Drake, Roslyn Hyde, and Gene and Monica Vijarro.

The following exhibits were offered and entered into the hearing record:

- | | |
|----------------|---|
| Exhibit no. 1 | Roads Services report to the Hearing Examiner, sent August 26, 2021 |
| Exhibit no. 2 | Letter from Clerk of the Council to KCDOT transmitting petition, dated May 21, 2020 |
| Exhibit no. 3 | Petition for vacation of a county road, transmitted May 21, 2020 |
| Exhibit no. 4 | Letter to Petitioner acknowledging receipt of petition and explaining road vacation process, dated May 28, 2020 |
| Exhibit no. 5 | Vacation area map |
| Exhibit no. 6 | Plat Florentine Tracts |
| Exhibit no. 7 | King County Assessor’s information for Petitioner Hyde property, APN 2586800160 |
| Exhibit no. 8 | King County Assessor’s information for Petitioner Vijarro property, APN 2586800065 |
| Exhibit no. 9 | Final stakeholder notification, sent October 23, 2020, with comment deadline of November 23, 2020 |
| Exhibit no. 10 | Email from Assessor’s Office regarding valuation |
| Exhibit no. 11 | Compensation calculation model spreadsheet for Petitioner Hyde property, APN 2586800160 |
| Exhibit no. 12 | Compensation calculation model spreadsheet for Petitioner Hyde property, APN 2586800065 |
| Exhibit no. 13 | Letter to Petitioner recommending approval and conveying County Road Engineer report, dated December 29, 2020 |
| Exhibit no. 14 | Road Engineer report |
| Exhibit no. 15 | Letter to KC Council recommending approval and transmitting proposed ordinance, dated July 13, 2021 |
| Exhibit no. 16 | Proposed ordinance |
| Exhibit no. 17 | Fiscal note |

- Exhibit no. 18 Affidavit of posting, noting posting date of August 13, 2021
- Exhibit no. 19 *Reserved for future submission of* Affidavit of publication
- Exhibit no. 20 Letter with CRE Report and Notice of Hearing to property at 10808 11th
Avenue SW
- Exhibit no. 21 Letter with CRE Report and Notice of Hearing to property at 10809 10th
Avenue SW

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CERTIFICATE OF SERVICE

SUBJECT: Department of Transportation file no. **V-2732**
Proposed ordinance no. **2021-0277**
Adjacent parcel no(s). **2586800160 and 2586800065**

ROSLYN HYDE AND GENE VIJARRO

Road Vacation Petition

I, Jessica Oscoy, certify under penalty of perjury under the laws of the State of Washington that I transmitted the **REPORT AND RECOMMENDATION** to those listed on the attached page as follows:

EMAILED to all County staff listed as parties/interested persons and parties with e-mail addresses on record.

placed with the United States Postal Service, with sufficient postage, as FIRST CLASS MAIL in an envelope addressed to the non-County employee parties/interested persons to addresses on record.

DATED September 23, 2021.



Jessica Oscoy
Office Manager

Carr, Trevor
Department of Natural Resources and Parks

Carrasquero, Jose
Department of Local Services

Cassidy, Jon
Department of Local Services

CenturyLink
Hardcopy

Claussen, Kimberly
Department of Local Services

Comcast Cable

Drake, Leslie
Department of Local Services

Eichelsdoerfer, Robert
Department of Local Services

Hyde, Roslyn
Hardcopy

Ishimaru, Jim
Department of Local Services

Jackson, Robert
Department of Natural Resources and Parks

Kosai-Eng, JoAnn
Department of Local Services

Kulish, Michael
Facilities Management Division

Ledbetter, Tony
Department of Local Services

McDonald, Andrew
Department of Natural Resources and Parks

Miles, Dawn
Department of Local Services

Minichillo, Tom
Department of Local Services

Nunnenkamp, Robert
Department of Natural Resources and Parks

Pedroza, Melani
Metropolitan King County Council

Puget Sound Energy
Hardcopy

Seattle Public Utilities

Southwest Suburban Sewer District

Todd, Scott
Department of Natural Resources and Parks

Torkelson, Cindy
Department of Local Services

Vijarro, Gene/Monica
Hardcopy

Wave Broadband