

August 31, 1998

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**  
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Seattle, Washington 98164  
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**REPORT AND RECOMMENDATION TO THE KING COUNTY COUNCIL**

SUBJECT: King County Department of Transportation File No. **V-2354**  
Proposed Ordinance No. **98-467**

**NED KINGHORN**  
PETITION FOR ROAD VACATION

Road: That portion of Northeast 104<sup>th</sup> Street in the Novelty Hill area, in the vicinity of Farrel McWhirter Park.

Petitioner: **Ned Kinghorn**, 19603 Redmond Road, Redmond, WA 98053

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	APPROVE Road Vacation
Department's Final:	APPROVE Road Vacation
Examiner:	APPROVE Road Vacation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for Item No. V-2354 was received by the Examiner on August 12, 1998.

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2354 was opened by the Examiner at 11:45 a.m., August 26, 1998, in the Union Bank of California Fifth Floor Conference Room, 900 Fourth Avenue, Seattle, Washington, and closed at 11:50 a.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Road name and location:	That portion of Northeast 104 <sup>th</sup> Street in the Novelty Hill area, in the vicinity of Farrel McWhirter Park.
Right of way classification:	C
Area:	30,458 square feet
Compensation:	\$18,016.86

- 2. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the August 26, 1998, public hearing and the statement of facts contained in Proposed Ordinance No. 98-467, July 21, 1998 draft. The said reports will be attached to the copies of this report and recommendation submitted to the King County Council.
- 3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.
- 4. Vacation of the subject right-of-way would have no adverse effect on the provision of fire and emergency services to the subject property or surrounding area.

CONCLUSIONS:

- 1. The road subject to this petition is useless as part of the King County road system, and the public will be benefited by its vacation.
- 2. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the Metropolitan King County Council.
- 3. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County, and the easements, if any, necessary for the construction, repair and maintenance of public utilities and services have been provided in a form satisfactory to the affected public utilities.

RECOMMENDATION:

APPROVE proposed Ordinance No. 98-467 to vacate the subject road.

RECOMMENDED this 31<sup>st</sup> day of August, 1998.

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Stafford L. Smith, Deputy

## King County Hearing Examiner

TRANSMITTED this 31<sup>st</sup> day of August, 1998, to the parties and interested persons shown on the attached list.

NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before September 14, 1998. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before September 21, 1998. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty (20) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE AUGUST, 1997, PUBLIC HEARING ON DEPARTMENT OF  
TRANSPORTATION FILE NO. V-2354 - KINGHORN PETITION FOR ROAD VACATION.

Stafford L. Smith was the Hearing Examiner in this matter. Participating in the hearing were Tommy Burdette, Ned Kinghorn and Nyle Kinghorn.

The following exhibits were offered and entered into the record:

Exhibit No. 1 Department of Transportation Report to the Hearing Examiner for the August 26, 1998 public hearing

- Exhibit No. 2 Petition transmittal letter dated May 13, 1997 to Transportation from the Clerk of the Council
- Exhibit No. 3 Letter of explanation from Ned Kinghorn and Others dated May 8, 1997
- Exhibit No. 4 Petition for Vacation of a County Road including legal descriptions of petitioners' properties
- Exhibit No. 5 Copy of filing fee - Check #0681 for the amount of \$100
- Exhibit No. 6 Letter dated May 20, 1997 from Road Services Division to petitioners explaining the road vacation process
- Exhibit No. 7 Petition for Vacation of a County Road with modified legal description of the proposed vacation area
- Exhibit No. 8 Power of Attorney for D. Nyle Kinghorn, appointing Ned Kinghorn as Attorney-in-Fact
- Exhibit No. 9 Dedication page for the Plat of Burke & Farrar's Kirkland Addition to the City of Seattle
- Exhibit No. 10 Map of the Plat of Burke & Farrar's Kirkland Addition to the City of Seattle
- Exhibit No. 11 Survey map of the proposed vacation area recorded in Volume 106 of Survey Maps, page 213, records of King County, Washington
- Exhibit No. 12 Map depicting vacation area
- Exhibit No. 13 Vicinity map
- Exhibit No. 14 Letter dated October 31, 1997 from Road Services Division to petitioners regarding legal description and Power of Attorney
- Exhibit No. 15 Letter dated November 4, 1997 from Department of Transportation, Road Services Division, to the Clerk of the King County Council
- Exhibit No. 16 Letter dated December 4, 1997 to Ned Kinghorn from Road Services Division identifying amount of compensation
- Exhibit No. 17 Road Vacation Worksheet V-2354.XLS dated October 24, 1997
- Exhibit No. 18 Copies of compensation checks #5801 in the amount of \$8,687.25 and #5578 in the amount of \$8,319.61
- Exhibit No. 19 Copy of compensation check #776 in the amount of \$10.00
- Exhibit No. 20 King County Cash Transmittal and Receipt for check #5801 and #5578
- Exhibit No. 21 Copy of Easement granting access to petitioners over proposed vacation area, Recording Number 9804141857
- Exhibit No. 22 Copy of Easement granting access to petitioners over proposed vacation area, Recording Number 9804141859
- Exhibit No. 23 Copy of Easement granting access to petitioners over proposed vacation area, Recording Number 9804141860
- Exhibit No. 24 Letter dated July 21, 1998 from King County Executive to Councilmember Louise Miller
- Exhibit No. 25 Proposed Ordinance No. 98-467
- Exhibit No. 26 Notice of Hearing
- Exhibit No. 27 Affidavit of Posting
- Exhibit No. 28 Copy of Publication of Hearing Notice, Seattle Times, August 12, 1998
- Exhibit No. 29 Memo dated August 12, 1998 from Tommy Burdette to Kris Colt
- Exhibit No. 30 Letter dated August 20, 1998 from Kris Colt to Tommy Burdette

**V-2354/Kinghorn**

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