



Valueless Property

How a Remainder Converts to a Remnant

BY RICHARD E. WELCH, SRPA, SRA, R/W-AC

Most right of way professionals understand that a remainder is the land that is left after a partial taking that still has its own highest and best use. So what happens when the portion of land remaining is so small or poorly shaped that it has practically no value whatsoever? According to the Real Estate Dictionary (7th Edition), it is then considered a remnant.

In the vast majority of cases, remainders remain useful properties. While a minor portion of a site may have been taken due to roadway expansion or other public project, the remaining land can still be utilized much in the same way as in the before condition. Fortunately, only a small percentage of partial takings of properties result in remnants that leave the remaining property virtually worthless.

Value of the Remnant

It may be difficult to imagine how a portion of land could have no value whatsoever. But the fact is, the remnant does not have its own highest and best use as a buildable site. As a result, it is usually sold to a neighboring property owner or acquired by the condemning authority pursuant to the applicable uneconomic remainder legislation of the jurisdiction.

To demonstrate how land that was once valuable can become a remnant, let's look at two examples.

Imagine two sites that are zoned for commercial use and located on adjacent corners. Both corners are surrounded by land that is zoned for agricultural purposes.

Remainder becomes a Remnant – Example #1

This example contains two parcels– a north and south lot. The north lot consist of 14,032 sq. ft. and contains a restaurant, septic system and limited parking in front of the building. The south lot measures 18,025 sq. ft. and contains the main parking lot. Both parcels are zoned for rural business by the county and permit small-scale commercial retail businesses and personal services. Combined, the two lots comprised 32,057 sq. ft. The maximum building height is 30 feet, and the setback requirement from the roadway is 30 feet with 50% maximum lot coverage.



Satellite imaging shows the restaurant to the left (example #1) and the residence to the right (example #2). State Route 20 travels east/west and Avon Road travels north/south.



On the northern lot sits the restaurant, septic system with drain field and small parking area.

This example is the result of a partial acquisition by the Washington State Department of Transportation (WDOT). The larger parcel consisted of two lots located at the southwest corner of State Route 20 and Avon Allen Road in Mount Vernon, Washington. The two lots are dissected by Railroad Street and have frontage on both SR 20 and Avon Allen Road.

Restaurant in the After Condition

The WDOT acquired the entire northern lot of 14,032 sq. ft. and a portion of the southern lot measuring 726 square feet. In essence, the bulk of usable land was acquired, including the restaurant, septic system, drain field, and a portion of the adjacent parking lot. All that remained was a section of the southern parking lot, which had restricted access on one side (along SR 20) and only 50 feet of street access on the other side (along Avon Allen Road).

While the take area in this situation was almost half of the larger parcel, the size of the remaining land is not the determining factor when classifying land as a remnant. The deciding factor is the usability of the remaining land. Since the land remaining was an irregularly shaped lot with restricted access, there was not enough lot area to construct a feasible commercial enterprise.

Feasibility Study

Typically, the highest and best use analysis would determine whether the remaining property could serve the same purpose as in the original use, which in this case, was a restaurant. To determine whether a restaurant on the remaining property was viable, a feasibility study was conducted.



The southern lot served as the main parking lot for the adjacent restaurant.

It was estimated that the building would require at least 2,000 sq. ft. and 28 parking spaces per code. That would leave about 7,700 sq. ft. of land remaining, and the county planners were doubtful that the septic system and drain field could be accommodated in that small space. Therefore, to achieve the original commercial usage, additional land would need to be acquired. Unfortunately, the surrounding land was zoned for agricultural use, not commercial use. As a result, acquiring additional commercial land was not feasible.

In addition, there were sign and access restrictions, and limited visibility for the potential commercial use due to setback requirements. The remainder appeared to be a misplaced commercial zoned parcel adjacent to agricultural land. The only possible use would be as assemblage to adjacent agricultural land. The feasibility study concluded that the remaining land could not be used for commercial purposes. With no highest and best use for the remaining property, the result was a remnant.



In this case, the remnant became nothing more than an empty lot that ended up being used for parking!



Front of the residence before the taking.



Front of the residence after the taking.

When a Remainder Retains Value – Example #2

When a remainder retains its own highest and best use after the taking, it is still considered to be a remainder. In this example, a historical residence with adequate lot size in the before condition remained a viable residential property in the after condition.

On the same street as the first example, these two parcels were part of a separate partial acquisition by the WDOT. The site was zoned for a rural reserve, which permits residential, seasonal roadside stands and low-density development.

The larger property consisted of two tax parcels located on the southeast corner of State Route 20 and Avon Allen Road in Mount Vernon, Washington. The two combined lots contained approximately 3.5 acres (152,381 sq. ft.). The western parcel fronts to Avon Allen Road and consists of about $\frac{3}{4}$ of an acre and the eastern parcel fronts to SR 20 and Avon Allen Road and contains about 2.75 acres.

The historic residence, which was constructed in 1901, was comprised of 1,595 sq. ft. of livable area within a two-story residence. The residence contained about $\frac{3}{4}$ of an acre, or 32,670 sq. ft., and the commercial retail portion was on $2\frac{3}{4}$ acres zoned for produce, parking, retail buildings and seasonal roadside stands. For simplification, we will address just the residential portion to demonstrate why this remainder did not revert to a remnant.

Residence in the After Condition

The WDOT acquired about 14,670 sq. ft. of the residential lot. This taking included approximately 90 feet

of frontage along SR 20 from Avon Allen Road plus a strip along Avon Allen Road of about 25 feet. The septic system would require reconstruction.

It was determined that the residence in the after condition would not be critically impacted. The first floor area of 1,000 sq. ft. left approximately 17,000 sq. ft. for the septic system and yard area. This is what typically happens in a partial taking when the existing improvements remain functional in the after condition with a smaller lot size and usable improvements.

CONCLUSION

A remnant or leftover parcel is not buildable and has limited utility. In essence, it does not have its own highest and best use. A possible use for a remnant could be storage, however, in many cases, this may not be a feasible alternative for the property remaining. Following discussions with the property owner, the state agency must determine if the remainder has real value or utility. Ultimately, the final decision will be a judgment call.



Richard E. Welch, SRPA, SRA, R/W-AC

With more than 30 years of experience, Rick is a Certified General, Senior Real Property Appraiser and President of Rick Welch Appraisal, Inc.