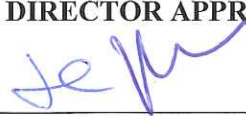


CITY OF MARYSVILLE AGENDA BILL

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: December 9, 2013

AGENDA ITEM: 88 th St NE and 55 th Ave NE Intersection Improvements Project – Condemnation Ordinance	
PREPARED BY: Jeff Laycock, Project Manager	DIRECTOR APPROVAL: 
DEPARTMENT: Public Works, Engineering	
ATTACHMENTS: Ordinance and Exhibit "A" Legal Descriptions	
BUDGET CODE: 305000030.563000	AMOUNT: N/A

SUMMARY:

The City of Marysville has initiated the property acquisition phase for the 88th St NE and 55th Ave NE Intersection Improvements Project. The project includes the construction of a signalized intersection with left turn pockets, illumination, curb, gutter and sidewalk and roadway widening.

While City staff have reached agreement with all but one property owner, clearing title on a majority of the transactions is proving to be difficult. In order to clear title, the City has to obtain consent on the partial release from each of the lien holders. Several of the properties involved have multiple mortgages and/or other liens that are stalling the process. At the current rate, clearing title may be unachievable by the time the project is ready for construction. It should be noted that the one property owner that has yet to sign has just moved into the property. This property owner was made fully aware of the project as part of the sale so staff expect the owner to execute the agreement.

By approving the enclosed ordinance, the City will be able to exercise eminent domain for the acquisition of property through condemnation proceedings. This process will establish timelines with a predictable outcome. Through condemnation, staff will be able to deal directly with a lien holder's legal department rather than the partial release department. This is generally a lot easier since the legal department understands the process. Once a decision has been made about compensation, the City can deposit funds to a registry of the court, and the City is done. The City will also be granted possession and use. Purchase under this framework is also a benefit to property owners, as the compensation from the sale of the property would not be subject to real estate excise tax.

RECOMMENDED ACTION:

Staff recommends that Council authorize the Mayor to approve the Ordinance authorizing the condemnation, appropriation, taking and damage of land and other property for the construction of the 88th St NE and 55th Ave NE Intersection Improvements project.

CITY OF MARYSVILLE
Marysville, Washington

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MARYSVILLE, WASHINGTON, AUTHORIZING THE CONDEMNATION, APPROPRIATION, TAKING AND DAMAGING OF LAND AND OTHER PROPERTY FOR PURPOSES OF IMPROVING THE INTERSECTION AT 88th STREET N.E. AND 55th AVENUE N.E.

WHEREAS, the City Council of the City of Marysville (hereinafter the "City") finds as follows:

1. Public safety, convenience, use and necessity demand the improvement of the intersection at 88th Street N.E. and 55th Avenue N.E. by widening it and the addition of a traffic signal.

2. The City has determined that it will be necessary to acquire property for widening and/or improving the street in the location of the intersection as more specifically described in **EXHIBIT A** attached hereto and incorporated herein by this reference. In addition temporary construction easements will be required to construct the project as described in **EXHIBIT A**.

3. The entire cost of the acquisitions provided by this ordinance shall be paid by the following funds of the City:

Fund No. 305 – Arterial Streets

or such other funds as may be provided by law.

4. The City may be unable to agree with certain property owners upon the compensation to be paid for said properties or may be unable to clear title to the property to be acquired.

5. The City has authority pursuant to RCW Chapter 8.12 to acquire, if necessary, title to real property for public purposes. Improvement of the intersection at 88th Street N.E. and 55th Avenue N.E. is a public purpose.

6. Notice of the planned final action authorizing the condemnation of the property described in **Exhibit A** has been given to the owners of said property and published in the Everett Herald and Marysville Globe in accordance with the provisions of RCW 8.25.290.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DO ORDAIN AS FOLLOWS:

1. The City is hereby authorized to condemn, appropriate, take and damage the real property described in **EXHIBIT A** hereto, together with all rights appurtenant thereto, including access where applicable. The City is further authorized to amend the legal descriptions contained in **EXHIBIT A** as may be necessary and appropriate to meet requirements of the project.

2. The use of the property described in **EXHIBIT A** is for improvement of the intersection at 88th Street N.E. and 55th Avenue N.E., which is a permanent public use and is reasonably necessary for the purposes for which it is sought.

3. All lands, rights, privileges and other property lying within the limits of the land described in **EXHIBIT A**, together with all rights appurtenant thereto, including access where applicable, are hereby authorized to be condemned, appropriated, taken and damaged for the purpose of improving the intersection at 88th Street N.E. and 55th Avenue N.E. All lands, rights, privileges and other properties are to be taken, damaged and appropriated only after just compensation has been made, or paid into the court for the owners thereof in the manner provided by law.

4. The cost of the acquisition provided for by this ordinance shall be paid by the following funds of the City:

Fund No. 305 – Arterial Streets

or such other funds as may be provided by law.

5. The City's attorneys should be and hereby are authorized and directed to begin and prosecute the actions and proceedings in a manner provided by law to carry out the provisions of this ordinance, and to enter into settlements to mitigate damages.

PASSED by the City Council and APPROVED by the Mayor this 9th day of December, 2013.

CITY OF MARYSVILLE

By _____
JON NEHRING, Mayor

ATTEST:

By _____
SANDY LANGDON, Finance Director/City Clerk

Approved as to form:

By _____
GRANT K. WEED, City Attorney

Date of Publication: _____

Effective Date (5 days after publication): _____

EXHIBIT A

**RIGHT - OF - WAY
FOR
PARCEL NO. 30052200205300
Kyle M. Lehn and Lauren R. Shockley Lehn
LEGAL DESCRIPTION**

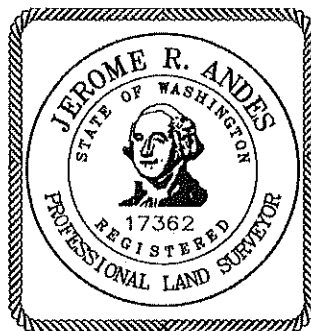
The North 5.00 feet, as measured perpendicular to and parallel with the north line, AND the West 20.00 feet, as measured perpendicular to and parallel with the west line, of Parcel 'X', described below;

TOGETHER with that portion of said Parcel 'X' lying southerly of the south line of said North 5.00 feet, easterly of the east line of said West 20.00 feet and northwesterly of a 10.00 foot radius curve concave to the southeast, being tangent to the south line of said North 5.00 feet and tangent to the east line of said West 20.00 feet of said Parcel 'X';

Parcel 'X'

The West Half of the Northwest Quarter of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of Section 22, Township 30 North, Range 5 East, W.M., Snohomish County, Washington;

EXCEPT the South 194.58 feet thereof, as measured along the east line;
AND EXCEPT the North 20 feet for Road (88th Street N.E.)
AND EXCEPT the West 20 feet for Road (55th Avenue N.E.).



5/09/2013

**TEMPORARY CONSTRUCTION EASEMENT
FOR
PARCEL NO. 30052200205300**

LEGAL DESCRIPTION

The South 5.00 feet of the North 10.00 feet, as measured perpendicular to and parallel with the north line, AND the East 5.00 feet of the West 25.00 feet, as measured perpendicular to and parallel with the west line, of Parcel 'X', described below;

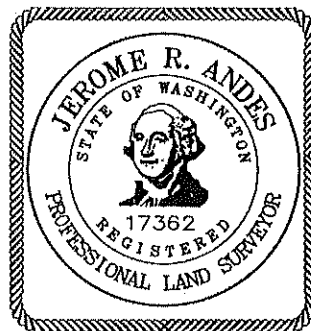
EXCEPT that portion lying northwesterly of a 10.00 foot radius curve concave to the southeast, being tangent to the south line of the North 5.00 feet and tangent to the east line of the West 20.00 feet of said Parcel 'X';

TOGETHER with that portion of said Parcel 'X' lying northwesterly of a 5.00 foot radius curve concave to the southeast, being tangent to the south line of said North 10.00 feet and tangent to the east line of said West 25.00 feet, of Parcel 'X',

Parcel 'X'

The West Half of the Northwest Quarter of the Northwest Quarter of the Southeast Quarter of the Northwest Quarter of Section 22, Township 30 North, Range 5 East, W.M., Snohomish County, Washington;

EXCEPT the South 194.58 feet thereof, as measured along the east line;
AND EXCEPT the North 20 feet for Road (88th Street N.E.)
AND EXCEPT the West 20 feet for Road (55th Avenue N.E.).



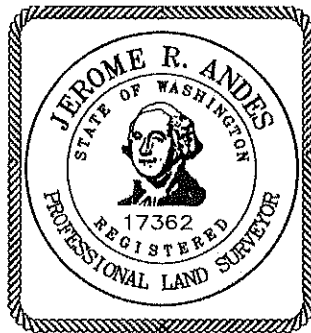
5/09/2013

**RIGHT - OF - WAY
FOR
PARCEL NO. 30052200201200
Terry L. and Barbara J. Keys
LEGAL DESCRIPTION**

The South 5.00 feet, as measured perpendicular to and parallel with the south line, of the following described property:

Commencing at the southwest corner of the Northeast Quarter of the Northwest Quarter of Section 22, Township 30 North, Range 5 East, W.M., Snohomish County, Washington; thence South 88 degrees 25 minutes 42 seconds East, along the south line of said Northeast Quarter of the Northwest Quarter, a distance of 177.03 feet to the true point of beginning; thence South 88 degrees 25 minutes 42 seconds East a distance of 90 feet; thence North 1 degrees 05 minutes 00 seconds West a distance of 165 feet; thence North 88 degrees 25 minutes 42 seconds West a distance of 90 feet; thence South 1 degree 05 minutes 00 seconds East a distance of 165 feet to the true point of beginning;

Except the South 20.00 feet for Road (88th Street N.E.).



4/22/2013

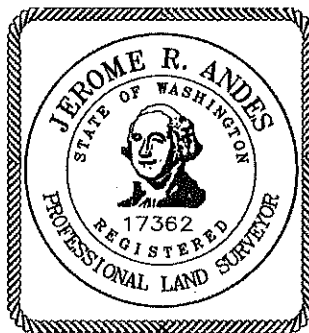
**TEMPORARY CONSTRUCTION EASEMENT
FOR
PARCEL NO. 30052200201200**

LEGAL DESCRIPTION

The North 5.00 feet of the South 10.00 feet, as measured perpendicular to and parallel with the south line, of the following described property:

Commencing at the southwest corner of the Northeast Quarter of the Northwest Quarter of Section 22, Township 30 North, Range 5 East, W.M., Snohomish County, Washington; thence South 88 degrees 25 minutes 42 seconds East, along the south line of said Northeast Quarter of the Northwest Quarter, a distance of 177.03 feet to the true point of beginning; thence South 88 degrees 25 minutes 42 seconds East a distance of 90 feet; thence North 1 degrees 05 minutes 00 seconds West a distance of 165 feet; thence North 88 degrees 25 minutes 42 seconds West a distance of 90 feet; thence South 1 degree 05 minutes 00 seconds East a distance of 165 feet to the true point of beginning;

Except the South 20.00 feet for Road (88th Street N.E.).



4/22/2013

**RIGHT - OF - WAY DEED
FOR
PARCEL NO. 30052200201300**

Debra K. Godby

LEGAL DESCRIPTION

That portion of the Parcel 'X', described below, lying southwesterly of the following described line, hereinafter referred to as LINE 'A':

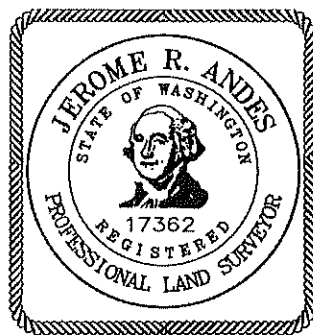
Commencing at the southwest corner of said Parcel 'X'; thence northerly, along the west line of said Parcel 'X', a distance of 35.00 feet to the true point of beginning of LINE 'A'; thence southeasterly to a point in the south line of said Parcel 'X' that is 35.00 feet easterly, as measured along said south line, from said southwest corner and said LINE 'A' there terminating;

TOGETHER with that portion of the South 5.00 feet, as measured perpendicular to and parallel with the south line, of said Parcel 'X', lying easterly of said LINE 'A'.

Parcel 'X'

Beginning at the southwest corner of the Northeast Quarter of the Northwest Quarter of Section 22, Township 30 North, Range 5 East, W.M., Snohomish County, Washington; thence North 1 degrees 49 minutes 14 seconds West, along the west line of said Northeast Quarter of the Northwest Quarter, a distance of 165 feet; thence South 88 degrees 25 minutes 42 seconds East, parallel with the south line of said Northeast Quarter of the Northwest Quarter, a distance of 179.15 feet; thence South 1 degree 05 minutes 00 seconds East a distance of 165 feet to said south line; thence North 88 degrees 25 minutes 42 seconds West a distance of 177.03 feet to the point of beginning;

EXCEPT the South 20 feet for Road (88th Street N.E.)
AND EXCEPT the West 20 feet for Road (55th Avenue N.E.).



4/22/2013

**TEMPORARY CONSTRUCTION EASEMENT
FOR
PARCEL NO. 30052200201300
LEGAL DESCRIPTION**

That portion of the Parcel 'X', described below, lying northeasterly of the following described line, hereinafter referred to as LINE 'A', lying southwesterly of a line 5.00 feet northeasterly from, as measured perpendicular to and parallel with, said LINE 'A', and lying northerly of the north line of the South 10.00 feet, as measured perpendicular to and parallel with the south line, of said Parcel 'X';

Commencing at the southwest corner of said Parcel 'X'; thence northerly, along the west line of said Parcel 'X', a distance of 35.00 feet to the true point of beginning of LINE 'A'; thence southeasterly to a point in the south line of said Parcel 'X' that is 35.00 feet easterly, as measured along said south line, from said southwest corner and said LINE 'A' there terminating;

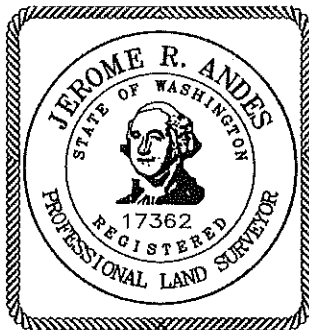
TOGETHER with that portion of the North 5.00 feet of the South 10.00 feet, as measured perpendicular to and parallel with the south line, of said Parcel 'X', lying easterly of said LINE 'A'.

NOTE: The side lines of said easement shall be lengthened or shortened to intersect at angle points and property lines.

Parcel 'X'

Beginning at the southwest corner of the Northeast Quarter of the Northwest Quarter of Section 22, Township 30 North, Range 5 East, W.M., Snohomish County, Washington; thence North 1 degrees 49 minutes 14 seconds West, along the west line of said Northeast Quarter of the Northwest Quarter, a distance of 165 feet; thence South 88 degrees 25 minutes 42 seconds East, parallel with the south line of said Northeast Quarter of the Northwest Quarter, a distance of 179.15 feet; thence South 1 degree 05 minutes 00 seconds East a distance of 165 feet to said south line; thence North 88 degrees 25 minutes 42 seconds West a distance of 177.03 feet to the point of beginning;

EXCEPT the South 20 feet for Road (88th Street N.E.)
AND EXCEPT the West 20 feet for Road (55th Avenue N.E.).



4/22/2013

**RIGHT - OF - WAY DEED
FOR
PARCEL NO. 30052200203600**

Matt Ryan

LEGAL DESCRIPTION

That portion of the Parcel 'X', described below, lying northeasterly of the following described line, hereinafter referred to as LINE 'A':

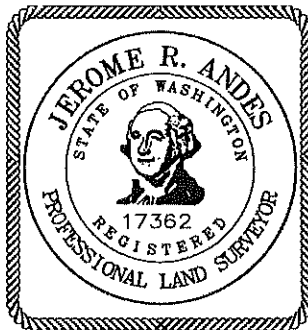
Commencing at the northeast corner of said Parcel 'X'; thence southerly, along the east line of said Parcel 'X', a distance of 35.00 feet to the true point of beginning of LINE 'A'; thence northwesterly to a point in the north line of said Parcel 'X' that is 35.00 feet westerly, as measured along said north line, from said northeast corner and said LINE 'A' there terminating;

TOGETHER with that portion of the North 5.00 feet, as measured perpendicular to and parallel with the north line, of said Parcel 'X', lying westerly of said LINE 'A'.

Parcel 'X'

The North 134 feet of the East 110.00 feet of the North Half of the Northeast Quarter of the Southwest Quarter of the Northwest Quarter of Section 22, Township 30 North, Range 5 East, W.M., Snohomish County, Washington;

EXCEPT the North 20 feet for Road (88th Street N.E.)
AND EXCEPT the East 20 feet for Road (55th Avenue N.E.).



4/22/2013

**TEMPORARY CONSTRUCTION EASEMENT
FOR
PARCEL NO. 30052200203600**

LEGAL DESCRIPTION

That portion of the Parcel 'X', described below, lying southwesterly of the following described line, hereinafter referred to as LINE 'A', lying northeasterly of a line 5.00 feet southwesterly from, as measured perpendicular to and parallel with, said LINE 'A', and lying southerly of the south line of the North 10.00 feet, as measured perpendicular to and parallel with the north line, of said Parcel 'X'

Commencing at the northeast corner of said Parcel 'X'; thence southerly, along the east line of said Parcel 'X', a distance of 35.00 feet to the true point of beginning of LINE 'A'; thence northwesterly to a point in the north line of said Parcel 'X' that is 35.00 feet westerly, as measured along said north line, from said northeast corner and said LINE 'A' there terminating;

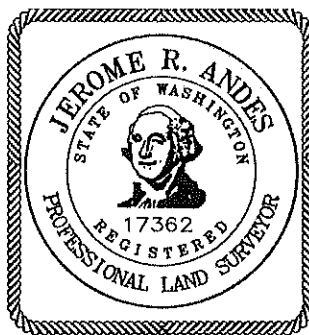
TOGETHER with that portion of the South 5.00 feet of the North 10.00 feet, as measured perpendicular to and parallel with the north line, of said Parcel 'X', lying westerly of said LINE 'A'.

NOTE: The side lines of said easement shall be lengthened or shortened to intersect at angle points and property lines.

Parcel 'X'

The North 134 feet of the East 110.00 feet of the North Half of the Northeast Quarter of the Southwest Quarter of the Northwest Quarter of Section 22, Township 30 North, Range 5 East, W.M., Snohomish County, Washington;

EXCEPT the North 20 feet for Road (88th Street N.E.)
AND EXCEPT the East 20 feet for Road (55th Avenue N.E.).



4/22/2013