

**CITY OF MARYSVILLE AGENDA BILL**

**EXECUTIVE SUMMARY FOR ACTION**

**CITY COUNCIL MEETING DATE: March 24, 2014**

<b>AGENDA ITEM:</b> Hearing on Certain LID 71 Assessments Appealed to the Council	
<b>PREPARED BY:</b> Sandy Langdon <b>DEPARTMENT:</b> Finance	<b>DIRECTOR APPROVAL:</b>
<b>ATTACHMENTS:</b> Proposed Ordinance	
<b>BUDGET CODE:</b>	<b>AMOUNT:</b>

**SUMMARY:**

On February 24, 2014, the City Council passed Ordinance No. 2954 approving and confirming the assessments and the assessment roll of LID No. 71, except for those proposed assessment amounts against parcel nos. 31052700300700, 31052700300200, 31052700300400, 31052700400300, 31052700100300, 31052700300900, 31052700300500, 31052700300800 (collectively, the “Appealed Properties”), which were appealed to the City Council pursuant to Marysville Municipal Code Section 3.60.200(3).

The Council set the hearing date for such appeal to occur during the Council’s regular meeting on March 24, 2014. The Council will hear and determine the appeals on the basis of the record before the Hearing Officer (provided by the City Clerk to the Council in an email dated March 17, 2013), the written arguments of the property owner of the Appealed Properties and the City and without oral argument.

This is a quasi-judicial hearing. Upon deliberation (which may include receipt of legal advice in executive session) and ruling on the appeal, the Council is to confirm the assessment roll with respect to the Appealed Properties by ordinance. The proposed ordinance is structured to allow the Council to make any modifications to the proposed assessment amounts against the Appealed Properties deemed by the Council to be necessary or desirable.

**RECOMMENDED ACTION:**

Open the hearing on the Appealed Properties after conflicts and appearance inquiries and inquiries concerning review of the record and deliberate as necessary prior to ruling on the appeal. Separate legal counsel will be available to the City Council. Following ruling on the appeal, consider approval of an ordinance confirming and approving the assessment roll of LID 71 with respect to the Appealed Properties, as modified in accordance with the Council’s ruling on the appeal.

CITY OF MARYSVILLE, WASHINGTON

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE of the City of Marysville, Washington, relating to Local Improvement District No. 71 providing for the construction of an Interstate 5 overpass at 156<sup>th</sup> Street NE, as provided by Ordinance No. 2827; approving and confirming certain assessments appealed to the Council and a portion of the assessment roll of Local Improvement District No. 71; and levying and assessing a part of the cost and expense thereof against several lots, tracts, parcels of land and other property shown on the roll.

THE CITY COUNCIL OF THE CITY OF MARYSVILLE, WASHINGTON, DOES ORDAIN as follows:

Section 1. Findings and Determinations. The City Council of the City of Marysville, Washington (the “City”) makes the following findings and determinations.

(a) The assessment roll levying the special assessments against the property located in Local Improvement District No. 71 (“LID 71”) in the City has been filed with the City Clerk as provided by law.

(b) On December 9, 2013, the City Council approved the professional services agreement appointing Mr. Wayne Tanaka with Ogden Murphy Wallace, PLCC, as LID Hearing Examiner pursuant to RCW 35.44.070 and Marysville City Code 3.60.220 to conduct the hearing on the final assessment roll for LID 71.

(c) By Resolution No. 2352, the City Council fixed the time and place for the hearing on the final assessment roll for January 9, 2014, at 6 p.m., local time, in the Council Chambers in the City Hall, Marysville, Washington, and directed that notice by both mailing and publication should be given as required by law.

(d) Notice of the time and place of hearing on the final assessment roll and making objections and protests to thereon was duly published at and for the time and in the manner provided by law and the Engineering Services Manager of the City caused further notice thereof to be mailed to each property owner shown on the roll.

(e) At the time and place fixed and designated in the notice, the hearing was held before the LID Hearing Examiner, all written protests received were considered and all persons appearing at the hearing who wished to be heard were heard, for the purpose of considering the roll and the special benefits to be received by each lot, parcel and tract of land shown upon such roll, including the increase and enhancement of the fair market value of each such parcel of land by reason of the improvement.

(f) On February 3, 2014, the Hearing Examiner delivered to the City a detailed report for the LID consisting of “Findings and Conclusions and Recommendations of Hearing Examiner Regarding LID 71 City of Marysville, Washington” (the “Hearing Examiner’s Report”), a true and complete copy of which is attached and made a part hereof marked Exhibit A.

(g) Within five days of receiving the Hearing Examiner’s Report, the City Clerk mailed notice that the report had been filed to all persons who filed a request for special notice of the report or written protest at or prior to the public hearing on the assessment roll.

(h) Property owners of parcel nos. 31052700300700, 31052700300200, 31052700300400, 31052700400300, 31052700100300, 31052700300900, 31052700300500, 31052700300800 (the “Appellant Properties”) appealed the assessments against the Appellant Properties as set forth in the Hearing Examiner’s Report to the City Council.

(i) The City Council reviewed the record relating to the Appellant Properties, including all written arguments that were timely submitted, and conducted a hearing on the Appellant Properties appeal during its regular meeting held on March 24, 2014.

Section 2. Approval of Hearing Examiner’s Findings, Conclusions and Recommendations. The City Council hereby accepts and adopts the Hearing Examiner’s Report as set forth in Exhibit A including those sections relating to the proposed assessments against the Appellant Properties, including but not limited to, Section II.B.8 and Section III.B.4. with the following modifications:

- No modifications
- The modifications described below:

Section 3. Confirmation of Assessment. As recommended in the Hearing Examiner’s Report, including the modifications described in the Hearing Examiner’s Report and Section 2, if any, the Appellant Properties are determined and declared by the City Council, sitting and acting as a Board of Equalization, to be specially benefited by this improvement in at least the amount charged against the same, and the assessment appearing against the same is in proportion to the several assessments appearing upon the roll. There is hereby levied, confirmed and assessed against the Appellant Properties appearing upon the Final Assessment Roll for Appellant Properties (defined below) the amount finally charged against the same thereon. The assessments and assessment roll of LID 71 against the Appellant Properties attached hereto as Exhibit B, as modified in accordance with Section 2 and incorporated herein by reference (the “Final Assessment Roll for Appellant Properties”), to provide for the construction of an Interstate 5 overpass at 156<sup>th</sup> Street NE, as provided by Ordinance No. 2827, are hereby approved and confirmed in the total amount of \$[REDACTED].

Section 4. Filing of the Final Assessment Roll for Collection. The Final Assessment Roll for Appellant Properties as approved and confirmed shall be filed with the Finance Director of the City (the "Finance Director") for collection and the Finance Director is authorized and directed to publish notice as required by law stating that the roll is in her hands for collection and that payment of any assessment thereon or any portion of such assessment can be made at any time within thirty days from the date of first publication of such notice without penalty, interest or cost, and that thereafter the sum remaining unpaid may be paid in 20 equal annual installments of principal and interest. The estimated interest rate is stated to be 6.0% per annum, with the exact interest rate to be fixed in the ordinance authorizing the issuance and sale of the local improvement bonds for LID 71. The first installment of assessments on the assessment roll shall become due and payable during the thirty-day period succeeding the date one year after the date of first publication by the Finance Director of notice that the assessment roll is in her hands for collection and annually thereafter each succeeding installment shall become due and payable in like manner. If the whole or any portion of the assessment remains unpaid after the first thirty-day period, interest upon the whole unpaid sum shall be charged at the rate as determined above, and each year thereafter one of the installments of principal and interest shall be collected. Any installment not paid prior to the expiration of the thirty-day period during which such installment is due and payable shall thereupon become delinquent. In accordance with Marysville City Code 3.60.115, each delinquent installment shall be subject, at the time of delinquency, to a charge of 8% penalty levied on both principal and interest due upon that installment, and all delinquent installments also shall be charged interest at the rate as determined above. The collection of such delinquent installments, including any accelerated obligation to pay the entire amount of remaining assessment installments, will be enforced in the manner provided by law.

Section 5. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, after all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

*[Remainder of page intentionally left blank.]*

Section 6.     Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Marysville, Washington, at a regular open public meeting thereof, this 24<sup>th</sup> day of March, 2014.

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Mayor

ATTEST:

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Deputy City Clerk

APPROVED AS TO FORM:

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Bond Counsel

EXHIBIT A  
THE HEARING EXAMINER'S REPORT

**FINDINGS AND CONCLUSIONS AND RECOMMENDATIONS  
OF HEARING EXAMINER REGARDING LID 71  
CITY OF MARYSVILLE, WASHINGTON**

**I. INTRODUCTION**

Pursuant to notice, a hearing was held on January 9, 2014, at the Marysville City Hall in Marysville, Washington, for the purpose of considering protests to the final assessments for LID 71. Wayne Tanaka was the Hearing Examiner, pursuant to appointment by the City Council on December 9, 2013. The City was represented by Mr. Thom Graafstra, City Attorney. The hearing was transcribed by court reporter, Tara L. Cunha. An audio recording of the hearing was also made. A complete list of exhibits is attached to this report as Exhibit A.

**II. FINDINGS OF FACT**

**A. GENERAL FINDINGS.**

1. LID 71 was formed by the City Council on September 20, 2010 by passage of Ordinance 2827. The LID was created to construct an Interstate 5 overpass at 156th Street with road transitions at each end to connect to existing streets (the Project).<sup>1</sup> Approximately 50% of the estimated \$16,000,000 total project cost was to be paid by the owners of property specially benefited.
2. The Project began in July 2011 and was open to the public in November, 2011. The Project was accepted as substantially complete on March 19, 2013.
3. Total construction costs were \$14,902,000. Fifty percent of these costs were allocated to the LID. Adding bond costs, interim interest and other costs, including payments to the LID Guarantee Fund brought the total amount to be assessed to \$8,425,623.<sup>2</sup>
4. The Hearing Examiner took a short tour around the City and LID area to view the properties just prior to the hearing.
5. At the start of the hearing, the Hearing Examiner explained his role and the procedures that would be followed at the public hearing. All who intended to testify were sworn.

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<sup>1</sup> Exhibit 6. Exhibits may be examined at the City Clerk's office.

<sup>2</sup> Exhibit 19.

6. The City presented certain preliminary testimony from Ms. Langdon, the City Finance Director, Mr. Smith, Engineering Services Manager, Mr. Gruenhagen, the Project Manager and Mr. Robert Macaulay, the appraiser. The City also submitted Exhibits 1 through 22. The City witnesses noted that there were three amendments to the final assessment roll and that Amendment 3, Exhibit 18A contains the assessments that the City is asking to be confirmed. The city's testimony and exhibits provided the background for the LID, explained the financing and costs, described the general condition of the area both before and after the project and explained how the cost of the project were in line with estimates. Mr. Macaulay provided an explanation of his methodology and, in general, how he arrived at the recommended special benefits and assessments. He also made some corrections to his Special Benefit Study, Exhibit 15. On page two of the cover letter to Mr. Smith, the Estimated Final Special Benefit is \$17,347,700. The cost/benefit ratio is 0.4857. Each parcel would receive \$1 of special benefit for every \$0.49 of LID assessment.
7. There were 9 written protests filed with the Clerk prior to the hearing. One protest, the Morales property, was received at the hearing. The Hearing Examiner has reviewed each written protest and reviewed the transcript of the hearing, plus his handwritten notes.

**B. FINDINGS AS TO SPECIFIC PROPERTIES.<sup>3</sup>**

1. Dennis and Sandra Quinn, Parcel 352.<sup>4</sup> Neither property owner appeared or testified. In the written protest, the Quinns state they were never notified by the City regarding the LID and believe there needs to be a vote of the property owners before the assessments can be enforced. Examination of Exhibit 3, page 3-28, last column shows that notice of the formation hearing was mailed to the Quinns.
2. Terry Smith, Stephen Miller C. Bonnie Ronan, Parcels 263, 161 and 183. No one appeared or testified. In their written protest, the owner's representatives stated that the property was undeveloped and there are no current plans for redevelopment. The owner's representative stated that the LID only benefited properties to the west of I-5.
3. Dallas Bower, Parcel 131. No one appeared or testified. In the written protest Mr. Bower asserts that the only properties that benefited were on the west side of the freeway. The Project was designed to relieve congestion on the 172nd overpass which is used by people to get to the west side businesses. Mr. Bower

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<sup>3</sup> The findings are not meant to summarize every aspect of the testimony, only that portion that the Hearing Examiner believes is relevant. Thus, for instance, testimony regarding the personal financial situation of the property owner is generally left out. Further, any finding more properly denominated a conclusion should be considered as such.

<sup>4</sup> Each of the properties is addressed in order of protest. The Parcel number refers to the lot number as reflected in the final assessment roll spreadsheet contained in the Final Special Benefit Study, Exhibit 15.



indicates that the assessed value of the property has gone down since 2010 but taxes have increased.

4. Michael Gitschlag and Brenda Geis, Parcel 312. No one appeared or testified. The protest letter indicated that all residents of Marysville should pay for the Project.
5. Kevan "Butch" Kvamme Parcels 71 and 72. Mr. Macaulay indicated that he had recalculated the special benefit and assessment based on the square footage supplied by Mr. Kvamme in his protest letter. These revised assessments are reflected in Amendment 3, Exhibit 18A. Mr. Kvamme accepted these changes. Mr. Kvamme questioned the methodology used by the City's appraiser and believes that a more fair way to apportion the Project's cost would be on frontage basis. Mr. Kvamme's property has a relatively narrow frontage on Smokey Point Boulevard and a longer "frontage" on what would be the extension of 156th east of the present intersection. He thinks that after the first 600 feet east of the intersection, his property should be assessed at 12 cents per square foot, not 61 cents to correspond with property located to the south of his property (Parcel 172). Mr. Macaulay indicated that his benefit analysis did not rely strictly on frontage, but included the total estimated benefits to the property as a whole. Mr. Kvamme also raised an issue with access to Smokey Point Boulevard. He testified that his access onto the Boulevard was within 300 feet of the stoplight at 156th, and that the City would not allow access due to the proximity of the intersection. Rather, he testified, the City would require access off of 156th, which is currently unimproved and which he had previously dedicated to the City. Mr. Smith for the City testified that the City had not looked closely at Mr. Kvamme's situation, but that generally the distance from the intersection to a curb cut might be too close. However, Mr. Smith indicated that access onto the Boulevard might be allowed at a point on the northerly portion of Mr. Kvamme's property.
6. Lona K. Nakken, Parcel 313. No one appeared or testified. In the protest letter, the owner states that it is unfair for property owners to pay for the Project while City owned properties are exempt.
7. Ken Copenhaver. Parcel 137. Mr. Copenhaver has lived at the property for a number of years. He states that the only notice he received was of the petition and this hearing. Exhibit 3, page 20 shows that Mr. Copenhaver was sent notice of the formation hearing. Mr. Copenhaver's protest letter indicated that his property has decreased in valuation since 2011. Other properties nearby have increased in value according to the information that he provided.
8. Mary Steiner. Parcels 58, 73, 76, 92, 93, 314, 315, 317. Mrs. Steiner was present and represented by attorney Matthew Link. The Steiner Property consists of the aforementioned contiguous parcels totaling 183.5 acres. The property is in the extreme north east corner of the LID.

The property was originally acquired by Mary Steiner's parents in 1958. For many years the Steiners operated the property as a dairy farm. The herd was sold in 1987. Use of the property subsequent to 1987 is not clear other than it is currently being farmed for silage and hay by a Mr. Bartleheimer who pays no money consideration to the owner. Mrs. Steiner testified that the property ceased being used as a dairy farm in 2005. She stated that she did not get notice of the LID formation, but that the notice was sent to the contract purchaser. Exhibit 3 appears to confirm that notice was sent to the contract purchaser.

Mr. Link, attorney for the property owner, submitted two valuations of the property done by R. Neil Danard a real estate broker and general contractor. Mr. Danard is not a certified appraiser. The first opinion of value was as of October 13, 2011 and was done for estate purposes. At that time the opinion of value was \$5,000 an acre or \$917,500. This is approximately \$0.11 a square foot. The second opinion was as of January 1, 2014. Mr. Danard's opinion of value was the same as some three years earlier, namely \$917, 500. Mr. Danard opined that "the best use for the property is its current agricultural use," and not some use that would be allowed by the Light Industrial zoning.

Mr. Macaulay testified that in 2006 the property was sold for \$14 million dollars. This would amount to approximately \$1.75 per square foot. Mrs. Steiner confirmed this real estate contract sale. She stated that her parents received \$3.5 million dollars down, the balance to be paid. The buyer soon went into default on the note and the property was reconveyed to her parents' estate. Macaulay's fair market valuation of the property in the before situation is \$1.75 and in the after situation, \$1.80.

Mrs. Steiner contends that the project does not benefit the property because:

- a) Access to I-5 is more direct using 172nd both for agricultural operations and normal vehicle traffic.
- b) The Steiners do not derive monetary compensation from current farming of the property.
- c) The 156th overpass may decrease the property's value if its use results in more traffic around the farm.<sup>5</sup>

Macaulay's Special Benefit Analysis apparently analyzed the property as separate lots and did not deduct the land area on account of any Wetland Buffer Areas.<sup>6</sup> However, Mrs. Steiner presented testimony and evidence that Edgecomb creek flows through the property from north to south. Mr. Danard states that the creek is 4360 feet in length. He states that according to City plans in order to develop the property the existing creek will have to be relocated along the Northern

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<sup>5</sup> Testimony and Item 21, Exhibit H55

<sup>6</sup> See spreadsheet charts on pages 10, 11 and 19 of Exhibit 15.

Pacific railroad bed which runs in a north easterly diagonal along the east boundary of the property.<sup>7</sup> With setbacks, Mr. Danard states that 30 acres of land will not be subject to development.<sup>8</sup>

9. Catherine Morales. Parcel 136. Ms. Morales testified that their property values had decreased over the years. She agreed with the testimony of Mr. Copenhaver, her neighbor.
10. Jesse Allen. Parcel 51. Mr. Allen's property is located at the northwest corner of the LID. It is improved with a residential duplex, but the remainder of the lot is not developed. The residential use is a preexisting non-conforming use. Mr. Allen does not believe the overpass benefits any properties located east of the freeway. He believes the only beneficiaries are those retail and commercial properties located west of the freeway.

### III. CONCLUSIONS

#### A. GENERAL CONCLUSIONS.

1. Any conclusion deemed to be a finding shall be so considered.
2. Special benefits are measurable increases in the value of real property in excess of any enhancement to the general area. It is measured as the difference between the market value of the property without the LID Project and the market value with the LID Project assumed completed at the same date.
3. Initially, the City is favored with certain presumptions: that the improvements are a benefit to the property within the LID, the assessment is no greater than the benefit, the assessment is equal or ratable to the assessments upon other properties similarly situated, and the assessment is fair.<sup>9</sup> The property owner has the burden of producing evidence to rebut these presumptions. If the property owner presents sufficient evidence to rebut the presumptions (generally through appraisal testimony or other evidence of property value with and without the Project improvements), the City has the ultimate burden of showing special benefits.<sup>10</sup>
4. Mr. Macaulay's qualifications and experience are set forth in his study.<sup>11</sup> No evidence was presented to challenge his qualifications. The Hearing Examiner concludes that Mr. Macaulay and his associates qualify as experts in the areas testified.

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<sup>7</sup> Item 21, Exhibit H15. Reference is to the "Smokey Point Master Plan".

<sup>8</sup> Item 21, Exhibit H16

<sup>9</sup> In Re Indian Trail Trunk Sewer, 35 Wash. App. 840 (1983).

<sup>10</sup> Bellevue Plaza v. Bellevue, 121 Wn.2d 397 (1993).

<sup>11</sup> Exhibit 15, beginning at page 61.

5. The special benefit analysis performed by the City more fairly reflects the special benefits to the properties within the LID than the zone and termini or other method.<sup>12</sup>
6. The City Council has delegated certain limited authority to the Hearing Examiner for this hearing. As provided in Chapter Section 3.60.220 MMC, the Hearing Examiner is authorized to conduct the final assessment roll hearing and to make certain recommendations to the Council. The City Council may correct, revise, lower, change or modify the roll or any part thereof, or set aside the roll in order for the assessments to be made de novo, or that the City Council adopt or correct the roll or take other action on the roll as appropriate, including confirmation of the roll without change.
7. The Hearing Examiner does not believe he has the authority to rule on the validity of the creation of the LID or on jurisdictional issues.

**B. CONCLUSIONS AS TO SPECIFIC PROPERTIES.**

1. Certain of the property owners have failed to overcome the presumptions in favor of the City, chiefly by not electing to present relevant testimony to overcome the presumption of validity either at the hearing or in their protest documents or presenting any evidence that would counter the City's appraisal testimony and exhibits. Therefore the protests should be denied. These property owners are:
  - a) Protest 1, Quinn
  - b) Protest 2, Smith, *et al*
  - c) Protest 3, Bower
  - d) Protest 4, Gitschlag
  - e) Protest 6, Nakken
  - f) Protest 9, Morales
2. Kvamme, Protest 5. The City has made adjustments to the assessments based on the revised information on the size of Mr. Kvamme's property. While Mr. Kvamme's concerns about the difference in the amount of assessment based on the frontage of his property versus his neighbors' properties are valid, the City did not choose to evaluate benefit only on a front foot basis. Mr. Macauley's methodology is reasonable and Mr. Kvamme has presented no evidence that the methodology is flawed or based on inaccurate factual assumptions.
3. Copenhaver, Protest 7. The decrease in Mr. Copenhaver's property value does not address the issue of special benefits from the Project. In addition, the valuation of his property as compared with neighboring properties does not address the issue of special benefits.

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<sup>12</sup> See Exhibit 15, page 25.

4. Steiner, Protest 8. While Mr. Danard is qualified to sell real estate and is knowledgeable of the real estate market, he is not a qualified appraiser. His estimate of \$5,000 an acre for the property is not backed up with any sales data or explanation of how he arrived at that figure. Mr. Danard's analysis does not purport to be a special benefit analysis of the before and after values of the property with and without the influence of the Project. Rather, his analysis appears to be an estimate of the fair market value of the property in its current use. Fair market value determinations must consider the "highest and best use" of the property. While Mr. Danard and Mrs. Steiner both indicate that they believe the property will continue to be used as a farm in the future, the test is not the current use, but rather the highest and best use. Mr. Danard explains that there are other "permit ready" properties closer to the freeway that would likely develop first. However, this does not mean that a suitable time value discount could not be given to the property valued not as a farm, but for Light Industrial uses. No information was presented to the Hearing Examiner on this point.

The arguments that the Project does not convey any benefits to the Steiner property do not appear to be well taken. Even if access from the property to the freeway and beyond is by way of 172nd, there is ample testimony that the new overpass will reduce congestion at 172nd thereby increasing mobility and hence property values. People traveling to and from the property do not have to physically use the overpass in order to benefit from it.

In short, the Hearing Examiner concludes that the Macaulay estimate of benefits to the property and the per square foot valuation before and after the Project are more credible than what is asserted by the property owner.

Macaulay's apparent failure to consider the individual parcels as one unit may be at variance with the rule established in the *Doolittle* case<sup>13</sup>. However, this does not appear to be of prejudice to the owner since any consideration of the property as one economic unit would likely lead to a higher valuation as noted in the *Doolittle* case.<sup>14</sup>

Macaulay's valuation did not deduct for wetlands and buffers, which will obviously have an effect on the developable area.<sup>15</sup> The only information about wetlands and buffer areas is provided by Mr. Danard. The 30 acres of undevelopable land should be deducted from the 183.5 acre total area, yielding 153.5 acres of developable area. Reducing the \$193,198 assessment proportionately yields an assessment of \$161,612.

5. Jesse Allen, Protest 10. The assessments levied on properties located west of the freeway are generally higher than those to the east on a proportional basis which accounts for the difference in benefit as determined by the City. Mr. Allen's

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<sup>13</sup> *Doolittle v. Everett*, 114 Wn.2d 88, 786 P.2d 253 (1990)

<sup>14</sup> *Doolittle*, at page 92

<sup>15</sup> Exhibit 15, pages 10, 11 and 19

evidence when weighed against the City's evidence is not sufficient to overturn the proposed final assessment on his property.

#### IV. RECOMMENDATIONS

Based on the Findings and Conclusions set forth above, the Hearing Examiner makes the following recommendations:

1. Other than as set forth in 2, below, the Hearing Examiner recommends DENIAL of all other protests.
2. The Hearing Examiner recommends the Steiner property protest be GRANTED IN PART, and the assessment should be reduced to \$161,612.

#### V. APPEAL

Pursuant to Section 3.60.220 MMC, any person who shall have timely filed objections to their assessments may appeal the recommendations of the Hearing Examiner regarding his/her property to the City Council by filing written notice of such appeal together with a fee of \$100 with the City Clerk no later than 14 calendar days after the date the Hearing Examiner's recommendation report is mailed by the City Clerk.

DATED this 3<sup>rd</sup> day of February, 2014

HEARING EXAMINER

  
Wayne D. Tanaka

Date of Mailing: Feb 3, 2014

EXHIBIT A  
LIST OF EXHIBITS  
ON FILE WITH CITY CLERK

**Exhibit List for City of Marysville LID #71 Hearing – January 9, 2014**

<b>Exhibit</b>	<b>Document</b>	<b>Date</b>
1	Certificate relating to sufficiency of petition	Dated May 12, 2010
2	Intent Resolution and meeting minutes	Resolution No. 2292 dated July 26, 2010
3	Certificate of mailing notice of hearing	Yes, dated August 12, 2010
4	Affidavit of publishing notice of hearing	Published July 10, 2010 and August 4, 2010 Dated August 17, 2010
5	Hearing date and proceedings before hearing officer	Council minutes/hearing minutes from September 20, 2010
6	Formation ordinance	Ordinance No. 2827 dated September 20, 2010
7	Affidavit of publication	Published September 22, 2010 Dated September 27, 2010
8	Receipt of notice filed by City with County assessor re: farm and agricultural land	Receipt dated September 30, 2010
9	Certificate from County assessor or other evidence that assessor mailed notice to farm/ag land property owners	November 8, 2010
10	Certified copy of any waiver of farm/ag land exemption that was filed with the assessor	July 27, 2010 – Record No. 20100727035, 20107270536, 201007270537, 201007270538, 201007270539
11	Resolution or motion setting time for assessment roll hearing	Resolution 2352 dated December 9, 2013
12	Certification that notice of hearing was mailed 15 days prior	Mailed December 11, 2013 Dated December 18, 2013
13	Certification that notice of hearing was mailed 15 days prior – SPPF Properties, LLC	Mailed December 24, 2013 Dated January 3, 2014
14	Affidavit of publication (once a week for two consecutive weeks with the last 15 days before hearing)	Published December 14, 2013 and December 21, 2013 Dated January 8, 2014
15	Summary of Final Special Benefit/Proportionate Assessment Study	December 4, 2013
16	Certified Assessment Roll	December 5, 2013
17	Certified Assessment Roll – Amendment 1	December 24, 2013
18	Certified Assessment Roll – Amendment 2	December 26, 2013
18A	Certified Assessment Roll – Amendment 3	January 9, 2013
19	Certified Final Cost Summary	September 17, 2013
20	Correspondence Log	
21	Protest Log	
22	Lakewood Triangle Assess & Circulation 156 <sup>th</sup> Street/I-5 SPUI Interchange B (Build-out of Interchange)	
23	LID-156 <sup>th</sup> Street Overpass – City of Marysville Hearing Brief	January 3, 2014



EXHIBIT B

THE FINAL ASSESSMENT ROLL FOR THE APPELLANT PROPERTIES

## CERTIFICATION

I, the undersigned, Deputy City Clerk of the City of Marysville, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. \_\_\_\_ (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on March 24, 2014, as that ordinance appears on the minute book of the City.

2. The Ordinance will be in full force and effect five days after publication in the City's official newspaper, which publication date is March 24, 2014.

3. A quorum of the members of the City Council was present throughout the meeting and a majority of the members voted in the proper manner for the passage of the Ordinance.

Dated: March 24, 2014.

CITY OF MARYSVILLE, WASHINGTON

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April O'Brien, Deputy City Clerk