

CITY OF MARYSVILLE

EXECUTIVE SUMMARY FOR ACTION

CITY COUNCIL MEETING DATE: June 25, 2018

AGENDA ITEM: Consider Approval for Mayor’s Signature two Easement Encroachment Agreements for a Garage and a Gazebo between the City of Marysville and Trevor and Julie Trueax	AGENDA SECTION:	
PREPARED BY: John Dorcas, Building Official	AGENDA NUMBER:	
ATTACHMENTS: 1. Garage Easement Encroachment Agreement between Trevor P. Trueax and Julie A. Trueax and the City. 2. Gazebo Easement Encroachment Agreement between Trevor P. Trueax and Julie A. Trueax and the City.	APPROVED BY:	
	MAYOR	CAO
BUDGET CODE:	AMOUNT:	

Two structures were built upon the property of Trevor P. Trueax and Julie A. Trueax, located at 8307 80th Drive NE, Marysville WA 98270. These structures were constructed without first obtaining necessary building permits, do not meet setback requirements, and were constructed over a portion of the City’s sewer easement. The garage is approximately 576 square feet and the gazebo is approximately 512 square feet.

The Trueax’s requested that the City work with them to retain the structures for up to ten (10) years. The proposed Easement Encroachment Agreements set forth the terms and conditions under which the City would allow the structures to remain on the property for this period of time.

RECOMMENDED ACTION: Approve for Mayor’s Signature two Easement Encroachment Agreements for a Garage and a Gazebo between the City of Marysville and Trevor and Julie Trueax

AFTER RECORDING RETURN TO:

City Clerk's Office
City of Marysville
1049 State Avenue
Marysville, WA 98270
360-363-8000

Document Title: **Easement Encroachment Agreement**

Grantor: The City of Marysville

Grantee: Trevor P. Trueax and Julie A. Trueax, husband and wife

Abbreviated Legal Description: LOT 42, THE HILL.

Assessor's Tax/Parcel Number: 00877600004200

Additional Legal Description on page 10

Easement Encroachment Agreement

This Easement Encroachment Agreement is entered into by and between the City of Marysville (the "City") and Trevor P. Trueax and Julie A. Trueax, husband and wife (collectively the "Owner") on the ____ day of _____, 2018.

RECITALS

WHEREAS, the Owner is the owner of the property commonly known as 8307 80th Drive NE, Marysville WA 98270, the legal description of which is attached as **Exhibit A** and incorporated into this Agreement (the "Property");

WHEREAS, the City has a sewer easement affecting the property as shown in the plat recorded under Auditor's File Number 9802275002, the portion of which evidencing the sewer easement is shown in **Exhibit B**, which is attached and incorporated into this Agreement (the "Easement");

WHEREAS, the Owner has constructed a garage of approximately 576 square feet as shown in **Exhibit C**, which is attached and incorporated into this Agreement (the “Encroaching Structure”);

WHEREAS, the Encroaching Structure is located on a portion of the Property as shown in **Exhibit D**, which is attached and incorporated into this Agreement;

WHEREAS, the Encroaching Structure was built over a portion of the Easement and thus encroaches upon the Easement;

WHEREAS, the Encroaching Structure is currently used to house vehicles and for general storage purposes;

WHEREAS, the Encroaching Structure was constructed without necessary building permits and does not meet the requirements of the City’s municipal code, including without limitation property or easement setback requirements;

WHEREAS, the City will allow the Encroaching Structure to remain on the Property and the affected Easement area under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the City and Owner agree as follows:

AGREEMENT

1. Permission Granted. The City, in consideration of the covenants and agreements contained in this Agreement, to be kept and performed by the Owner, hereby grants permission to the Owner to encroach on the Easement for the purposes of using and maintaining the Encroaching Structure. The rights contained in this Agreement shall not apply to any other encroachments into or onto the Easement, existing either now or in the future.

2. Term and Termination.

a. Term. The term of this Agreement will be ten (10) years from the date the Agreement is executed by the City.

b. Termination. This Agreement will terminate on any of the following events:

(i) Expiration of the term of this Agreement;

(ii) Default of the terms of this Agreement and notification of termination as provided in Section 10.

(iii) The Encroaching Structure is removed from the Easement and the affected Easement area is restored to a substantially similar or better condition than it was in prior to the construction of the Encroaching Structure.

3. Use; Maintenance. All use, repairs, and maintenance of the Encroaching Structure will be performed in strict compliance with this Agreement and with all applicable federal, state, and local laws, statutes, ordinances, codes, and regulations, and the City may access and inspect the

Encroaching Structure to ensure compliance with the same. All costs associated with the use, maintenance, and repair of the Encroaching Structure will be exclusively borne and paid for by the Owner.

4. Change in Use Prohibited. The Owner will use the Encroaching Structure solely for the housing of vehicles and for general storage purposes, and will not materially alter the use of the Encroaching Structure. A material change in the use of the Encroaching Structure will constitute a default of this Agreement pursuant to Section 10.

5. Further Construction Prohibited. The Owner will not expand or otherwise cause the Encroaching Structure or any associated appurtenances to further infringe in or on the Easement beyond what is shown in **Exhibit C** and **Exhibit D**. Expansion of the Encroaching Structure in or on the Easement will constitute a default of this Agreement pursuant to Section 10.

6. Right of Access. The City will have the right to access the Easement and all parts of the Encroaching Structure, including without limitation its interior. Upon gaining access the City will have the right to make any alterations to the Encroaching Structure and Easement, including without limitation breaking locks, breaching doors, removing walls, cutting into the foundation, digging into the ground, and fully demolishing the Encroaching Structure. The City will in no way be liable to the Owner for any damage to the Property, Encroaching Structure, or personal property caused by its accessing or altering the Easement or Encroaching Structure. All costs the City incurs in making alterations to the Encroaching Structure will be the responsibility of the Owner, and the Owner will reimburse the City for the same. The City will have the right to access the interior of the Encroaching Structure by providing notice to the Owner according to the following terms:

a. Non-Emergency Access. The City may access the Encroaching Structure for any reason upon seven (7) days' written notice to the Owner.

b. Emergency Access. The City may access the Encroaching Structure in an emergency situation upon twelve (12) hours' notice to the Owner. In the event the City is unable to reach the Owner after attempting to provide notice, or the Owner does not respond to the City within that twelve (12) hour period, the City may enter into the Encroaching Structure without permission from the Owner, and the City may break any locks or breach any doors or walls to gain said access, and pursuant to this Section any resultant damages to the Property, Encroaching Structure, or any personal property shall be borne by the Owner, and the City will in no way have any responsibility to make repairs or reimburse the Owner for resultant damages. For the purposes of this Section, an "emergency situation" is any situation that the City, in its sole discretion, determines to require immediate or timely access to the Encroaching Structure, including without limitation a need to repair pipes or sewer lines.

7. Removal of Encroaching Structure by the Owner.

a. Upon Termination. Upon termination of this Agreement, the Owner will remove the Encroaching Structure and return the Easement to a substantially similar or

better condition than it was in prior to the construction of the Encroaching Structure. The Owner will be responsible for all costs associated with the removal of the Encroaching Structure and subsequent restoration, and the City will not be responsible for any of the costs thereof. All removal and restoration work as contemplated in this Section will be done to the satisfaction of the City.

b. Prior to Conveyance. The Owner will not sell, transfer, lease, or otherwise convey the Property or the Encroaching Structure to any individual, entity, or other party without first removing the Encroaching Structure.

8. Removal of the Encroaching Structure by the City. If the Owner fails to remove the Encroaching Structure when required by this Agreement, or if the Owner fails to restore the Easement to a substantially similar or better condition than it was in prior to the construction of the Encroaching Structure, then the City may enter onto the Property and remove the Encroaching Structure and restore the Easement upon ten (10) days' written notice. All costs borne by the City shall be payable by the Owner.

9. Insurance. The Owner will maintain and keep in force during the term of this Agreement general homeowner's liability insurance that covers the Encroaching Structure, which will name the City as an additional insured. The City may at any time request proof of such insurance by providing notice to the Owner, and the Owner will provide such proof within thirty (30) days of such notice.

10. Default. In the event of any default by the Owner of the terms of this Agreement, the City will notify the Owner of the default, after which time the Owner will have thirty (30) days to cure the default. If the Owner fails to cure the default in that period of time, the City will have the right to terminate this Agreement at any time thereafter by providing written notice to the Owner. The Owner will not have any right to cure a default under subsection "g" below, and the City will have the right to terminate this Agreement at any time thereafter by providing written notice to the Owner. The following events will, without limitation, be deemed to be a default:

- a. Failure to allow the City access to the Easement and Encroaching Structure as prescribed in Section 6.
- b. Failure to maintain the Encroaching Structure as prescribed in Section 3.
- c. Materially altering the use of the Encroaching Structure.
- d. Failure to obtain or maintain insurance coverage, or failure to provide the City proof of such coverage, as prescribed in Section 9.
- e. Constructing, establishing, or otherwise placing new encroachments on the Easement without the express written permission of the City.
- f. Failure to provide any payments or reimbursements to the City as contemplated by this Agreement;

g. Sale, transfer, lease, or any other conveyance of the Property or Encroaching Structure by the Owner to any other person/persons or entity/entities without first removing the Encroaching Structure and restoring the Easement to a substantially similar or better condition than it was in prior to the construction of the Encroaching Structure.

11. Indemnification. The Owner, and Owner's successors and assigns, will indemnify, defend, and hold harmless the City, its officials, officers, employees, agents, contractors, and volunteers (which shall be considered a part of the term "City") from and against any and all claims, demands, liability, loss, cost, damage, or expense of any nature whatsoever, including all reasonable costs and attorneys' fees, made against the City on account of injury, harm, death, or damage to persons or property arising out of or in connection with, the maintenance, occupancy, use, repair, alteration, existence, location, or removal of the Encroaching Structure or the exercise of any other rights granted by this Agreement, and the Owner hereby assumes all liability and responsibility for the same.

12. Notices. Except for notice for emergency access to the Encroaching Structure as described in Section 6, which may be provided in person, telephonically, by electronic mail, or by any other means reasonably calculated to provide notice, any notice or other communication required or permitted under this Agreement will be in writing and will be deemed to have been made either (1) when delivered personally to the party to whom it is directed (or any officer or agent of such party), or (2) upon being deposited in the United States' mail, postage prepaid, return receipt requested, and properly addressed to the party. A communication will be deemed to be properly addressed if sent to the following addresses:

a. Owner: 8307 80th Drive NE,
Marysville WA 98270
Phone:
Email:

b. City: Community Development
City of Marysville
80 Columbia Avenue
Marysville, WA 98270

13. Change in Address. A party may change the address or other contact information that they intend to receive notice at by first providing notice to the other party as described in Section 12.

14. No Additional Rights. The parties acknowledge that this Agreement is solely for the purpose of permitting the Owner to use and maintain the Encroaching Structure on the Easement as prescribed by this Agreement. This Agreement does not convey any right, title, or interest in

or to the Easement nor is it meant to convey any right to use or occupy any other property or interest.

15. Runs with the Land; Successors and Assigns. This Agreement and the rights and obligations contained herein shall run with the land and shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

16. Governing Law; Attorney's Fees. This Agreement will be governed by the laws of the State of Washington, with venue in Snohomish County. In any action brought by the City to enforce the obligations contained herein or to terminate this Agreement, the City shall be entitled to recover reasonable attorney's fees together with costs if it prevails.

17. Amounts Due. All amounts required to be paid by the Owner to the City shall be paid within 30 days after the Owner receives notice from the City of the amount due. Such amounts, along with all expenses borne by the City to collect them, including reasonable attorney's fees, shall become a lien on the Property, and the City will have the right to take any action to enforce such liens.

18. Remedies. In addition to the rights and remedies described herein, the City will have all other rights and remedies available at law or equity.

19. Loss in Value. The Owner will have no right to compensation from the City for any loss in value to the Property if and when the Encroaching Structure is damaged or removed.

20. Survival. The rights and obligations contained in Sections 3, 6, 8, 11, 15, 16, 17, 18, and 19 will survive any termination or expiration of this Agreement.

21. Severability. Any provision of this Agreement which proves to be invalid, void or illegal will in no way affect, impair or invalidate any other provision of this Agreement, and the remaining provisions will nevertheless remain in full force and effect.

22. No Waiver. Failure of either party at any time to require performance of any provision of this Agreement will not limit such party's right to enforce the provision, nor will any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of the provision or a waiver of the provision itself.

23. General. This Agreement (including the attached exhibits): (i) represents the entire understanding of the parties with respect to the subject matter covered; (ii) supersedes all prior and contemporaneous oral understandings with respect to such subject matter; (iii) the captions or headings provided in this Agreement are for convenience only and will not be deemed to be a part of this Agreement; (iv) the recitals are incorporated into and shall be considered a part of this Agreement; (v) the attached Exhibits are incorporated into and shall be considered a part of this Agreement; and (vi) by signing below, each individual signatory certifies that he/she is a person duly qualified and authorized to bind the respective parties to this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the latest date written below.

Approved as to form:

Jon Walker, City Attorney

CITY OF MARYSVILLE:

Jon Nehring, Mayor

Date

OWNER:

Trevor P. Trueax

Date

Julie A. Trueax

Date

STATE OF WASHINGTON)
)
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Mayor Jon Nehring is the person who appeared before me, to me known to be the Mayor of the City of Marysville, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Date: _____

NOTARY PUBLIC in and for the
State of Washington.

Residing at: _____

My commission expires: _____

STATE OF WASHINGTON)
)
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Trevor P. Trueax is the person who appeared before me, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Date: _____

NOTARY PUBLIC in and for the
State of Washington.

Residing at: _____

My commission expires: _____

STATE OF WASHINGTON)
)
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Julie A. Trueax is the person who appeared before me, and she acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

Date: _____

NOTARY PUBLIC in and for the
State of Washington.

Residing at: _____

My commission expires: _____

Exhibit A

Legal Description

LOT 42, THE HILL, ACCORDING TO THE PLAT THEREOF RECORDED UNDER AUDITOR'S FILE NO. 9802275002, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

Exhibit B

Sewer Easement

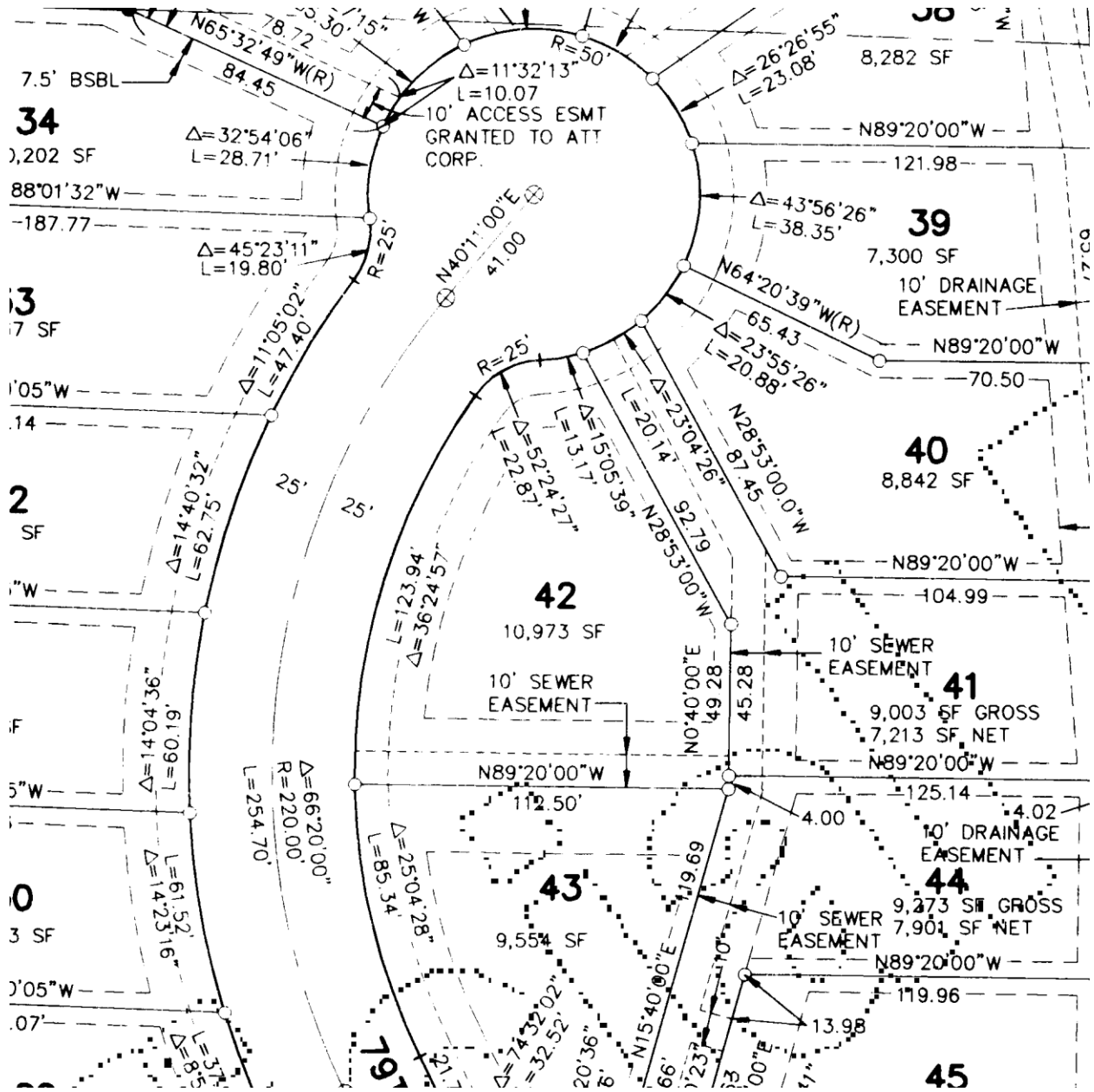


Exhibit C
Encroaching Structure



AFTER RECORDING RETURN TO:

City Clerk's Office
City of Marysville
1049 State Avenue
Marysville, WA 98270
360-363-8000

Document Title: **Easement Encroachment Agreement**

Grantor: The City of Marysville

Grantee: Trevor P. Trueax and Julie A. Trueax, husband and wife

Abbreviated Legal Description: LOT 42, THE HILL.

Assessor's Tax/Parcel Number: 00877600004200

Additional Legal Description on page 10

Easement Encroachment Agreement

This Easement Encroachment Agreement is entered into by and between the City of Marysville (the "City") and Trevor P. Trueax and Julie A. Trueax, husband and wife (collectively the "Owner") on the ____ day of _____, 2018.

RECITALS

WHEREAS, the Owner is the owner of the property commonly known as 8307 80th Drive NE, Marysville WA 98270, the legal description of which is attached as **Exhibit A** and incorporated into this Agreement (the "Property");

WHEREAS, the City has a sewer easement affecting the property as shown in the plat recorded under Auditor's File Number 9802275002, the portion of which evidencing the sewer easement is shown in **Exhibit B**, which is attached and incorporated into this Agreement (the "Easement");

WHEREAS, the Owner has constructed an open-air structure of approximately 512 square feet as shown in **Exhibit C**, which is attached and incorporated into this Agreement (the “Gazebo”);

WHEREAS, the Gazebo is located on a portion of the Property as shown in **Exhibit D**, which is attached and incorporated into this Agreement;

WHEREAS, the Gazebo was built over a portion of the Easement and thus encroaches on the Easement;

WHEREAS, the Gazebo has a solid roof with open walls, similar to a pergola, and is currently used as a covered patio for outdoor recreational purposes and contains outdoor furniture and a fireplace;

WHEREAS, the Gazebo was constructed without necessary building permits and does not meet the requirements of the City’s municipal code, including without limitation property or easement setback requirements;

WHEREAS, the City will allow the Gazebo to remain on the Property and the affected Easement area under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the City and Owner agree as follows:

AGREEMENT

1. Permission Granted. The City, in consideration of the covenants and agreements contained in this Agreement, to be kept and performed by the Owner, hereby grants permission to the Owner to encroach on the Easement for the purposes of using and maintaining the Gazebo. The rights contained in this Agreement shall not apply to any other encroachments into or onto the Easement, existing either now or in the future.

2. Term and Termination.

a. Term. The term of this Agreement will be ten (10) years from the date the Agreement is executed by the City.

b. Termination. This Agreement will terminate on any of the following events:

(i) Expiration of the term of this Agreement;

(ii) Default of the terms of this Agreement and notification of termination as provided in Section 10.

(iii) The Gazebo is removed from the Easement and the affected Easement area is restored to a substantially similar or better condition than it was in prior to the construction of the Gazebo.

3. Use; Maintenance. All use, repairs, and maintenance of the Gazebo will be performed in strict compliance with this Agreement and with all applicable federal, state, and local laws,

statutes, ordinances, codes, and regulations, and the City may access and inspect the Gazebo to ensure compliance with the same. All costs associated with the use, maintenance, and repair of the Gazebo will be exclusively borne and paid for by the Owner.

4. Change in Use Prohibited. The Owner will use the Gazebo solely as a covered patio and for associated outdoor recreational purposes. A material change in the use of the Gazebo will constitute a default of this Agreement pursuant to Section 10.

5. Further Construction Prohibited. The Owner will not expand or otherwise cause the Gazebo or any associated appurtenances to further infringe in or on the Easement beyond what is shown in **Exhibit C** and **Exhibit D**. Expansion of the Gazebo in or on the Easement will constitute a default of this Agreement pursuant to Section 10.

6. Right of Access. The City will have the right to access the Easement and all parts of the Gazebo, including without limitation its interior. Upon gaining access the City will have the right to make any alterations to the Gazebo and Easement, including without limitation breaking locks, breaching doors, removing walls or floorboards, cutting into the foundation, digging into the ground, and fully demolishing the Gazebo. The City will in no way be liable to the Owner for any damage to the Property, Gazebo, or personal property caused by its accessing or altering the Easement or Gazebo. All costs the City incurs in making alterations to the Gazebo will be the responsibility of the Owner, and the Owner will reimburse the City for the same. The City will have the right to access the interior of the Gazebo by providing notice to the Owner according to the following terms:

a. Non-Emergency Access. The City may access the Gazebo for any reason upon seven (7) days' written notice to the Owner.

b. Emergency Access. The City may access the Gazebo in an emergency situation upon twelve (12) hours' notice to the Owner. In the event the City is unable to reach the Owner after attempting to provide notice, or the Owner does not respond to the City within that twelve (12) hour period, the City may enter into the Gazebo without permission from the Owner, and the City may break any locks or breach any doors, walls, or floors to gain said access, and pursuant to this Section any resultant damages to the Property, Gazebo, or any personal property shall be borne by the Owner, and the City will in no way have any responsibility to make repairs or reimburse the Owner for resultant damages. For the purposes of this Section, an "emergency situation" is any situation that the City, in its sole discretion, determines to require immediate or timely access to the Gazebo, including without limitation a need to repair pipes or sewer lines.

7. Removal of Gazebo by the Owner.

a. Upon Termination. Upon termination of this Agreement, the Owner will remove the Gazebo and return the Easement to a substantially similar or better condition than it was in prior to the construction of the Gazebo. The Owner will be responsible for all costs associated with the removal of the Gazebo and subsequent restoration, and the

City will not be responsible for any of the costs thereof. All removal and restoration work as contemplated in this Section will be done to the satisfaction of the City.

b. Prior to Conveyance. The Owner will not sell, transfer, lease, or otherwise convey the Property or the Gazebo to any individual, entity, or other party without first removing the Gazebo.

8. Removal of the Gazebo by the City. If the Owner fails to remove the Gazebo when required by this Agreement, or if the Owner fails to restore the Easement to a substantially similar or better condition than it was in prior to the construction of the Gazebo, then the City may enter onto the Property and remove the Gazebo and restore the Easement upon ten (10) days' written notice. All costs borne by the City shall be payable by the Owner.

9. Insurance. The Owner will maintain and keep in force during the term of this Agreement general homeowner's liability insurance that covers the Gazebo, which will name the City as an additional insured. The City may at any time request proof of such insurance by providing notice to the Owner, and the Owner will provide such proof within thirty (30) days of such notice.

10. Default. In the event of any default by the Owner of the terms of this Agreement, the City will notify the Owner of the default, after which time the Owner will have thirty (30) days to cure the default. If the Owner fails to cure the default in that period of time, the City will have the right to terminate this Agreement at any time thereafter by providing written notice to the Owner. The Owner will not have any right to cure a default under subsection "g" below, and the City will have the right to terminate this Agreement at any time thereafter by providing written notice to the Owner. The following events will, without limitation, be deemed to be a default:

a. Failure to allow the City access to the Easement and Gazebo as prescribed in Section 6.

b. Failure to maintain the Gazebo as prescribed in Section 3.

c. Materially altering the use of the Gazebo.

d. Failure to obtain or maintain insurance coverage, or failure to provide the City proof of such coverage, as prescribed in Section 9.

e. Constructing, establishing, or otherwise placing new encroachments on the Easement without the express written permission of the City.

f. Failure to provide any payments or reimbursements to the City as contemplated by this Agreement;

g. Sale, transfer, lease, or any other conveyance of the Property or Gazebo by the Owner to any other person/persons or entity/entities without first removing the Gazebo and restoring the Easement to a substantially similar or better condition than it was in prior to the construction of the Gazebo.

11. Indemnification. The Owner, and Owner's successors and assigns, will indemnify, defend, and hold harmless the City, its officials, officers, employees, agents, contractors, and volunteers

(which shall be considered a part of the term “City”) from and against any and all claims, demands, liability, loss, cost, damage, or expense of any nature whatsoever, including all reasonable costs and attorneys’ fees, made against the City on account of injury, harm, death, or damage to persons or property arising out of or in connection with, the maintenance, occupancy, use, repair, alteration, existence, location, or removal of the Gazebo or the exercise of any other rights granted by this Agreement, and the Owner hereby assumes all liability and responsibility for the same.

12. Notices. Except for notice for emergency access to the Gazebo as described in Section 6, which may be provided in person, telephonically, by electronic mail, or by any other means reasonably calculated to provide notice, any notice or other communication required or permitted under this Agreement will be in writing and will be deemed to have been made either (1) when delivered personally to the party to whom it is directed (or any officer or agent of such party), or (2) upon being deposited in the United States' mail, postage prepaid, return receipt requested, and properly addressed to the party. A communication will be deemed to be properly addressed if sent to the following addresses:

a. Owner: 8307 80th Drive NE,
Marysville WA 98270
Phone:
Email:

b. City: Community Development
City of Marysville
80 Columbia Avenue
Marysville, WA 98270

13. Change in Address. A party may change the address or other contact information that they intend to receive notice at by first providing notice to the other party as described in Section 12.

14. No Additional Rights. The parties acknowledge that this Agreement is solely for the purpose of permitting the Owner to use and maintain the Gazebo on the Easement as prescribed by this Agreement. This Agreement does not convey any right, title, or interest in or to the Easement nor is it meant to convey any right to use or occupy any other property or interest.

15. Runs with the Land; Successors and Assigns. This Agreement and the rights and obligations contained herein shall run with the land and shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto.

16. Governing Law; Attorney’s Fees. This Agreement will be governed by the laws of the State of Washington, with venue in Snohomish County. In any action brought by the City to enforce the obligations contained herein or to terminate this Agreement, the City shall be entitled to recover reasonable attorney’s fees together with costs if it prevails.

17. Amounts Due. All amounts required to be paid by the Owner to the City shall be paid within 30 days after the Owner receives notice from the City of the amount due. Such amounts, along with all expenses borne by the City to collect them, including reasonable attorney's fees, shall become a lien on the Property, and the City will have the right to take any action to enforce such liens.
18. Remedies. In addition to the rights and remedies described herein, the City will have all other rights and remedies available at law or equity.
19. Loss in Value. The Owner will have no right to compensation from the City for any loss in value to the Property if and when the Gazebo is damaged or removed.
20. Survival. The rights and obligations contained in Sections 3, 6, 8, 11, 15, 16, 17, 18, and 19 will survive any termination or expiration of this Agreement.
21. Severability. Any provision of this Agreement which proves to be invalid, void or illegal will in no way affect, impair or invalidate any other provision of this Agreement, and the remaining provisions will nevertheless remain in full force and effect.
22. No Waiver. Failure of either party at any time to require performance of any provision of this Agreement will not limit such party's right to enforce the provision, nor will any waiver of any breach of any provision of this Agreement constitute a waiver of any succeeding breach of the provision or a waiver of the provision itself.
23. General. This Agreement (including the attached exhibits): (i) represents the entire understanding of the parties with respect to the subject matter covered; (ii) supersedes all prior and contemporaneous oral understandings with respect to such subject matter; (iii) the captions or headings provided in this Agreement are for convenience only and will not be deemed to be a part of this Agreement; (iv) the recitals are incorporated into and shall be considered a part of this Agreement; (v) the attached Exhibits are incorporated into and shall be considered a part of this Agreement; and (vi) by signing below, each individual signatory certifies that he/she is a person duly qualified and authorized to bind the respective parties to this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the latest date written below.

Approved as to form:

Jon Walker, City Attorney

CITY OF MARYSVILLE:

Jon Nehring, Mayor

Date

OWNER:

Trevor P. Trueax

Date

Julie A. Trueax

Date

STATE OF WASHINGTON)
)
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Mayor Jon Nehring is the person who appeared before me, to me known to be the Mayor of the City of Marysville, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Date: _____

NOTARY PUBLIC in and for the
State of Washington.

Residing at: _____

My commission expires: _____

STATE OF WASHINGTON)
)
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Trevor P. Trueax is the person who appeared before me, and he acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in this instrument.

Date: _____

NOTARY PUBLIC in and for the
State of Washington.

Residing at: _____

My commission expires: _____

STATE OF WASHINGTON)
)
COUNTY OF SNOHOMISH)

I certify that I know or have satisfactory evidence that Julie A. Trueax is the person who appeared before me, and she acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

Date: _____

NOTARY PUBLIC in and for the
State of Washington.

Residing at: _____

My commission expires: _____

Exhibit A

Legal Description

LOT 42, THE HILL, ACCORDING TO THE PLAT THEREOF RECORDED UNDER AUDITOR'S FILE NO. 9802275002, RECORDS OF SNOHOMISH COUNTY, WASHINGTON.

Exhibit B

Sewer Easement

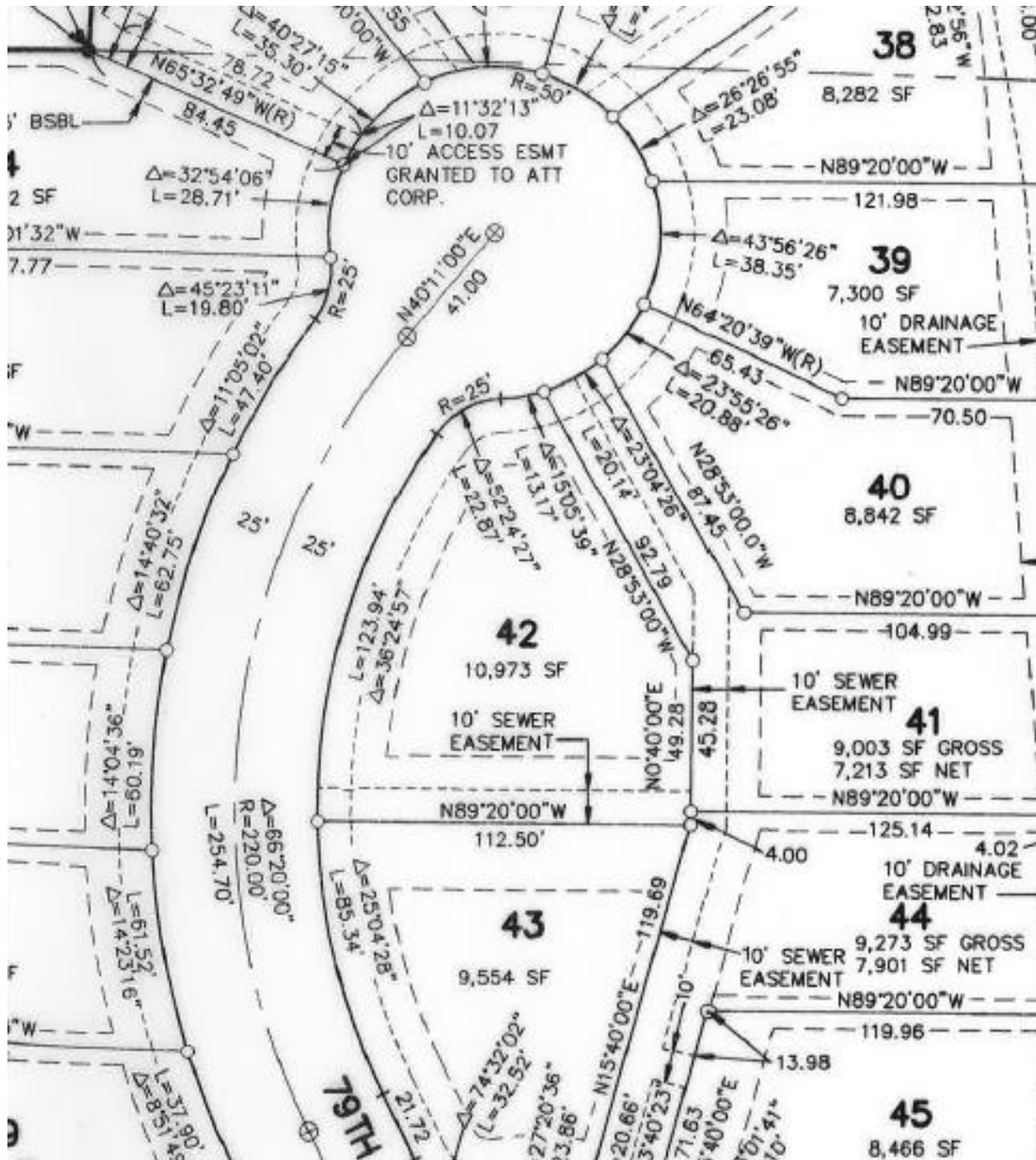


Exhibit C

Gazebo

