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May 21, 2018

E-MAIL & FEDERAL EXPRESS

City of Camas SEPA Official
Community Development Department
616 NE Fourth Avenue
Camas, WA 98607

Joe Turner
Hearing Examiner

E-mail: rmaul@cityofcamas.us
jcoppola@cityofcamas.us

**Re: REPLY MEMORANDUM IN SUPPORT OF APPEAL 18-02
SEPA 18-05 Larkspur / Camas Meadows Drive Street Improvements**

Dear SEPA Official and Mr. Examiner:

This memorandum is filed on behalf of Jay Ponce, the appellant in Appeal 18-02; and in reply to a *Memorandum* dated May 16, 2018, from James Carothers, City Engineer and SEPA Applicant.

Mr. Carothers argues that “[t]he city is . . . not in a position to meaningfully address” “soils, topography, unique physical features, erosion, scenic resources and aesthetics,” “but believes that the application is supportable by the plans and reports which were submitted.” This argument is factually incorrect, and misconstrues the City’s obligations under SEPA, which require evaluation of probable significant, adverse environmental impacts.¹

[Under SEPA,] the term ‘significantly’ has been defined to include the examination of At least two relevant factors: (1) the extent to which the action will cause adverse environmental effects in excess of those created by existing uses in the area, and (2) the absolute quantitative adverse environmental effects of the action itself, including the cumulative harm that results from its contribution to existing adverse conditions or uses in the affected area.. [2]

In the present case, the City failed to disclose and analyze impacts to appellant’s property located outside of the fee acquisition sought for the right-of-way.

¹RCW 43.21C.031.

²*Norway Hill v. King County*, 87 Wash.2d 267, 277, 552 P.2d 674 (1976), superseded by statute on other grounds as recognized in *Moss v. City of Bellingham*, 109 Wash.App. 6, 21, 31 P.3d 703 (2001).

The City seeks fee acquisition for a right-of-way, and “an easement for a cut on appellant’s property.”³ Cuts are fee acquisitions, while temporary easements must be restored to the grade that existed prior to the take.⁴ That issue will be resolved in a separate forum.

In the present proceeding, the SEPA Checklist directs the applicant to: “[d]escribe the purpose, type, total area, and approximate quantities and **total affected area of any filling, excavation, and grading proposed.**” The City answered as follows:

. . . **Approximately 1.06 acres will be disturbed** to build the road.

Estimated cut and fill quantities:

- **Cut = 3,700 Cu. Yd. . . .** [⁵]

The record includes a cross-section of appellant’s property showing existing and proposed surface profiles outside of the proposed right-of-way.⁶ Otak’s drawing of the *Temporary Construction Easement and Fee Right-of-Way Acquisition* depicts 15,660 square feet labeled “Temporary Construction Easement” outside of fee acquisition for the right-of way.⁷ The cut to establish the proposed surface profile is approximately 10 feet in elevation at the proposed right of way, and daylights “approximately 65 feet from right-of-way [centerline].”⁸ Dividing by two to accommodate the triangular cross-section of the cut, we interpolate an average four-foot cut over 15,660 square feet of appellant’s property for a total of 78,300 cubic feet, or 8,700 cubic yards. Hence, there is more excavation within the “Temporary Construction Easement” on appellant’s property than the 3,700 cubic yards noted in the SEPA Checklist for the entire project.

Road improvements are depicted at just over 50 feet in width, and the project is specified as being “.25 miles long.”⁹ Multiplying 50 feet in width by 1,320 feet in length (one quarter mile) yields 66,000 square feet, or 1.52 acres. Perhaps the existing roadway will not be disturbed along its entire length, but the reported 1.06 acres of disturbance does not include excavation of over one-third acre of “Temporary Construction Easement” on appellant’s property, let alone “[e]asements for similar reasons . . . needed on the appellant’s neighbor to the north and south.”¹⁰

³HEE 3 at 1.

⁴RCW 8.12.030; *Ghione v. State*, 26 Wash.2d 635, 654, 175 P.2d 955 (1946).

⁵Hearing Examiner Exhibit (HEE) 6; *SEPA Checklist* dated January 23, 2018, at 4, paragraph B(1)(a), emphasis added.

⁶HEE 4 at 2.

⁷HEE 5.

⁸HEE 4 at 2.

⁹HEE 6 at 3; *State Environmental Policy Act Determination of Non-Significance* at 1.

¹⁰HEE 3 at 1.

The SEPA Checklist inquires “[a]bout what percent of the site will be covered with impervious surfaces after project construction . . . ,” to which the City answered as follows:

Approximately 94 percent of the site will be covered with an asphalt road and concrete sidewalks. ^[11]

As noted above, the project comprises approximately 66,000 square feet and the unpaved “Temporary Construction Easement” on appellant’s property alone comprises 15,660 square feet. Hence, grading activity on appellant’s property alone comprises 19 percent of the total; hence, the entire project cannot be included in the SEPA Checklist if 94 percent of the site is covered with asphalt and concrete after completion.

Issuance of a Determination of Nonsignificance (DNS) constituted error in the present case because probable significant, adverse impacts from cuts on the appellant’s property and the property of their neighbors were not even included in the SEPA Checklist. The area of so-called “Temporary Construction Easement” was excluded from the Checklist. The requirement to disclose and evaluate probable significant, adverse impacts before a DNS is issued includes, at minimum, all cuts and excavation needed for the project:

We hold that RCW 43.21C.030(2)(c) necessarily requires the Consideration of environmental factors by the appropriate governing body in the course of all state and local government actions before it may be determined whether or not an Environmental Impact Statement must be prepared. ^[12]

Whether or not property owners . . . specifically raise a SEPA challenge, the record of a government agency’s negative threshold determination must demonstrate that environmental factors were considered in a manner sufficient to amount to a prima facie compliance with the procedural requirements of SEPA. ^[13]

Although not required in order to reverse the DNS, we note that the SEPA Checklist requests: “[p]roposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any,” to which the City answered:

. . . The landscape plan will feature plant species native to the NW in addition to specimen plants and lawn areas. ^[14]

¹¹SEPA Checklist at 5, paragraph 1(g).

¹²*Juanita Bay v. Kirkland*, 9 Wash.App. 59, 73, 510 P.2d 1140, *review denied*, 83 Wash.2d 1002 (1973).

¹³*Gardner v. Pierce County*, 27 Wash.App. 241, 245, 617 P.2d 743 (1980).

¹⁴SEPA Checklist at 8, paragraph 4(d).

Because this action contemplates condemnation, SEPA is our only opportunity to review and comment upon landscape plans; hence, generic reference to future plans is insufficient, and the City should be required to submit the final landscape plan in answer to the foregoing question.

The SEPA Checklist inquires: “[w]hat types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other),” to which the City responds as follows:

. . . No long-term noise impacts are anticipated. [¹⁵]

City Ordinance No. 18-008, authorizing condemnation, notes that “NW Larkspur Street is currently an under improved arterial consisting of two lanes and no improved shoulders,” and estimates “[a]t full buildout of the City Street, Larkspur is projected to carry over 10,000 vehicles per day.”¹⁶ Traffic and noise are defined elements of the environment,¹⁷ and “traffic noise” is an “‘element[] of the environment’ that can be addressed in Environmental Impact Statements under SEPA rules.”¹⁸ In *Maranatha Mining*, the denial of a permit without applying “specific standards and criteria” was arbitrary and capricious.¹⁹ In the present case, the issuance of a DNS without applying standards explicitly provided under SEPA is likewise arbitrary and capricious.

The SEPA Checklist inquires: “[w]ill the proposal affect current land uses on nearby or adjacent properties,” to which the City replies:

The current use of the site is to provide access to single family residences on NW Larkspur Street. . . . The proposal will not affect the current land uses on nearby or adjacent properties. [²⁰]

If the City had properly described the project to include all of the property required, it would have discovered that the so-called “Temporary Construction Easements” will displace a water well and landscape watering system. The Summary of Appraisal conclusions does not include the cost of well drilling nor system replacement.²¹ Hence, it is evident that the City did not investigate and disclose impacts of the present proposal.

¹⁵SEPA Checklist at 10, paragraph 7(b)(2).

¹⁶Ordinance No. 18-008 at 1 (certified copy annexed hereto at Exhibit 1).

¹⁷WAC 197-11-444(2)(a)(i) and (2)(c)(ii).

¹⁸*Maranatha Mining v. Pierce County*, 59 Wash.App. 795, 803 fn 9, 801 P.2d 985 (1990).

¹⁹*Maranatha Mining*, 59 Wash.App. at 804-05.

²⁰SEPA Checklist at 11, paragraph 8(a).

²¹WSDOT Narrative Appraisal Report dated February 21, 2018, at 19 (excerpts annexed hereto in Exhibit 2 — page four).

The SEPA Checklist requests “[p]roposed measures to ensure the proposal is compatible with existing and projected land uses and plans,” to which the City responded “[n]one.”²² This answer contradicts admissions in the May 16, 2018 Memorandum that “neither the City of Camas Staff, Otak nor any other representatives of the City produced” a drawing showing a retaining wall alternative interlineated on Otak drawings by the appellants’ engineer.²³ The City’s May 16, 2018 Memorandum and answers to the SEPA Checklist provide conclusive evidence that the City rejected the retaining wall alternative prior to issuance of the final DNS, in violation of SEPA:

Until the responsible official issues a final determination of nonsignificance or final environmental impact statement, no action concerning the proposal shall be taken by a governmental agency that would: . . .

(b) Limit the choice of reasonable alternatives. [²⁴]

The term reasonable alternative is defined as follows:

“Reasonable alternative” means an action that could feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation. Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts, either directly, or indirectly through requirement of mitigation measures. “Reasonable alternative” means an action that could feasibly attain or approximate a proposal’s objectives, but at a lower environmental cost or decreased level of environmental degradation. Reasonable alternatives may be those over which an agency with jurisdiction has authority to control impacts, either directly, or indirectly through requirement of mitigation measures. [²⁵]

By analogy, the Washington Supreme Court ruled, recently, that a decision to lease property under Port control “is independently subject to SEPA and must await the lead agency’s analysis of environmental impacts and reasonable alternatives.”²⁶

The SEPA Checklist inquires: “[h]ow many vehicular trips per day would be generated by the completed project or proposal,” to which the City provided estimates of peak traffic hours and the percentage of truck traffic, but completely omitted the 10,000-trip ADT projection mentioned in Ordinance 18-008. [²⁷]

²²SEPA Checklist at 12, paragraph 8(l).

²³Copy of drawing at HEE 1, Exhibit 6 of 8.

²⁴WAC 197-11-070(1).

²⁵WAC 198-11-786.

²⁶*Columbia Riverkeeper v. Port of Vancouver USA*, 188 Wash.2d 80, 100, 392 P.3d 1025 (2017).

²⁷SEPA Checklist at 15, paragraph 14(f).

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Finally, the City's May 18, 2018 Memorandum complains that we used a prior calculation which estimates only 9,939 square feet for the so-called "Temporary Easement" on respondents' property, rather than the current calculation of 15,660 square feet.²⁸ We used the revision for calculations throughout this memorandum.

In conclusion, the DNS must be reversed because it did not include the entire property affected by the present proposal and, therefore, failed to disclose and analyze probable significant, adverse impacts to landscaping, noise, adjacent properties, existing uses, and traffic. Moreover, the DNS must be reversed because it rejected a reasonable alternative prior to the environmental determination.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Erikson', written over a horizontal line.

Mark A. Erikson
Attorney at Law

MAE/ke
PONJ0101.L04.wpd
Enclosures

cc: Client

²⁸HEE 5.

ORDINANCE NO. 18-008

AN ORDINANCE condemning for public street purposes
certain land lying within the City of Camas for the purpose of
constructing NW Larkspur Street;

THE COUNCIL OF THE CITY OF CAMAS DO ORDAIN AS FOLLOWS:

Section I

The City Council of the City of Camas hereby makes the following findings:

- A. The City desires to undertake a street improvement project of NW Larkspur Street from NW Camas Meadows Drive to NW Lake Road ("the street improvement project").
- B. NW Camas Meadows Drive and NW Larkspur Street are classified as arterial streets whose function is to serve as a primary route to and from the commercially, industrially, and residentially zoned properties in Northwest Camas.
- C. At full buildout of the City Street, Larkspur is projected to carry over 10,000 vehicles per day.
- D. NW Larkspur Street is currently an under improved arterial consisting of two lanes and no improved shoulders or other related facilities.
- E. The street improvement project proposes to widen NW Larkspur Street to three lanes between NW Camas Meadows Drive and NW Lake Road.
- F. The street improvement project further includes construction of curbs, gutters, bike lane, sidewalks, street lighting, traffic signal upgrade, and storm water collection and treatment.
- G. The street improvement project is consistent with the City of Camas 20-Year Growth Management Plans.
- H. The properties described in Exhibits "A", "B", and "C" attached hereto and by this reference incorporated herein abut the street improvement project ("the subject real properties").

I. The City has been unsuccessful in its attempts to acquire the subject real properties by negotiation.

J. The street improvement project constitutes a public use under the provisions of RCW 8.12.030.

K. The subject real properties are necessary for completion of the street improvement project.

L. Pursuant to RCW 8.25.290, the City published and mailed notice to the property owners of the subject real properties this ordinance authorizes to be condemned, advising such owners that a final decision condemning the required properties would be made at the April 16, 2018, Camas City Council meeting.

M. Any and all interested parties had the opportunity to address the Camas City Council on this subject at the April 16, 2018, meeting.

Section II

The City of Camas hereby is authorized to condemn the property and property interests for public improvements under RCW 8.12.030. Nothing in this Ordinance limits the City in its acquisition of property and property rights necessary for the purposes outlined in this Ordinance. The City reserves the right to acquire other or different properties for the street improvement project.

Section III

The City of Camas hereby condemns for public street purposes the properties described in Exhibits "A", "B", and "C" attached hereto and by this reference incorporated herein. Condemnation of the properties is subject to the making or paying of just compensation to the owners in the manner provided by law.

Section IV

Compensation for the subject real properties shall be paid from the NW Larkspur Street Project Fund of the City, and not by special assessment upon properties benefitted by such acquisition.

Section V

The City Attorney is hereby authorized and directed to begin and prosecute the proceedings provided by law to condemn, take, and appropriate the interests necessary to carry out the provisions of this ordinance, and is further authorized in conducting said condemnation proceedings, and for the purpose of minimizing damages, to stipulate as to the use of the properties hereby authorized to be condemned and appropriated, and as to the reservation of any right of use of the owner or any person entitled to possession of the properties, provided that such reservation does not interfere with the use of said properties as provided in this ordinance.

Section VI

The City Council hereby finds and declares that an emergency exists, and this is a matter of urgency which necessitates that this ordinance become effective immediately, in order to preserve the public health, safety, and welfare. This ordinance shall become effective immediately upon its passage.

PASSED by the Council and APPROVED by the Mayor this 16th day of April, 2018.

SIGNED: _____

Mayor

ATTEST: _____

Clerk

APPROVED as to form:

City Attorney

EXHIBIT A
LEGAL DESCRIPTION
RIGHT OF WAY - FEE ACQUISITION
NW LARKSPUR STREET
CITY OF CAMAS
PROJECT NUMBER S-604
TUPIKOV (SOUTH)

A parcel of land lying in the Southeast Quarter of the Southwest Quarter of Section 28, Township 2 North, Range 3 East, Willamette Meridian, City of Camas, Clark County, Washington and being a portion of that property described in that Bargain and Sale Deed to Sergey Tupikov and Svetlana Tupikova, recorded October 05, 2001, under Auditor's File Number 3376682, Clark County deed records; said parcel being that portion of said property included in a strip of land 40.00 feet in width, lying on the Westerly side of the center line of NW Larkspur Street, which center line is described as follows:

Beginning at Engineer's center line station 10+00.00, said point being 266.01 feet South and 1.14 feet West of the Southwest corner of Tract C, Larkspur Estates Phase 1, recorded in Book 311 of plats, Page 358; thence North $01^{\circ}04'16''$ East a distance of 97.59 feet; thence on a 150.00 foot radius curve to the left, through a central angle of $27^{\circ}32'34''$, an arc distance of 72.11 feet to a point of reverse curvature; thence on a 150.00 foot radius curve to the right, through central angle of $27^{\circ}52'11''$, an arc distance of 72.96 feet; thence North $01^{\circ}23'52''$ West a distance of 436.45 feet to an angle point in the most Westerly line of said Larkspur Estates Phase 1; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 1 a distance of 336.66 feet to an angle point in said line, said point being common with an angle point in the most Westerly line of Larkspur Estates Phase 2, recorded in Book 311 of plats at Page 401; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 2 a distance of 351.87 feet to Engineer's center line station 23+67.64.

Bearings are based upon the Washington State Coordinate System 1983(2011) epoch 2010.0, south zone.

This parcel of land contains 1,553 square feet, more or less.

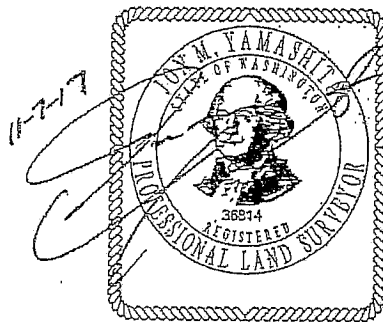


EXHIBIT A
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
NW LARKSPUR STREET
CITY OF CAMAS
PROJECT NUMBER S-604
TUPIKOV (SOUTH)

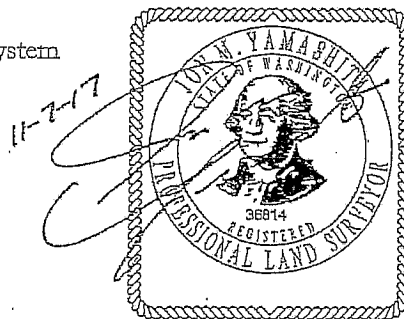
A parcel of land lying in the Southeast Quarter of the Southwest Quarter of Section 28, Township 2 North, Range 3 East, Willamette Meridian, City of Camas, Clark County, Washington and being a portion of that property described in that Bargain and Sale Deed to Sergey Tupikov and Svetlana Tupikova, recorded October 05, 2001, under Auditor's File Number 3376682, Clark County deed records; said parcel being that portion of said property lying northerly of a line at right angles to the center line of NW Larkspur Street at Engineer's center line station 12+50.00, and included in a strip of land 62.00 feet in width, lying on the Westerly side of said center line of NW Larkspur Street, which center line is described as follows:

Beginning at Engineer's center line station 10+00.00, said point being 266.01 feet South and 1.14 feet West of the Southwest corner of Tract C, Larkspur Estates Phase 1, recorded in Book 311 of plats, Page 358; thence North $01^{\circ}04'16''$ East a distance of 97.59 feet; thence on a 150.00 foot radius curve to the left, through a central angle of $27^{\circ}32'34''$, an arc distance of 72.11 feet to a point of reverse curvature; thence on a 150.00 foot radius curve to the right, through central angle of $27^{\circ}52'11''$, an arc distance of 72.96 feet; thence North $01^{\circ}23'52''$ West a distance of 436.45 feet to an angle point in the most Westerly line of said Larkspur Estates Phase 1; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 1 a distance of 336.66 feet to an angle point in said line, said point being common with an angle point in the most Westerly line of Larkspur Estates Phase 2, recorded in Book 311 of plats at Page 401; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 2 a distance of 351.87 feet to Engineer's center line station 23+67.64.

EXCEPT therefrom that portion of said property included in a strip of land 40.00 feet in width, lying on the Westerly side of the center line of NW Larkspur Street, which center line is described above.

Bearings are based upon the Washington State Coordinate System 1983(2011) epoch 2010.0, south zone.

This parcel of land contains 2,625 square feet, more or less.



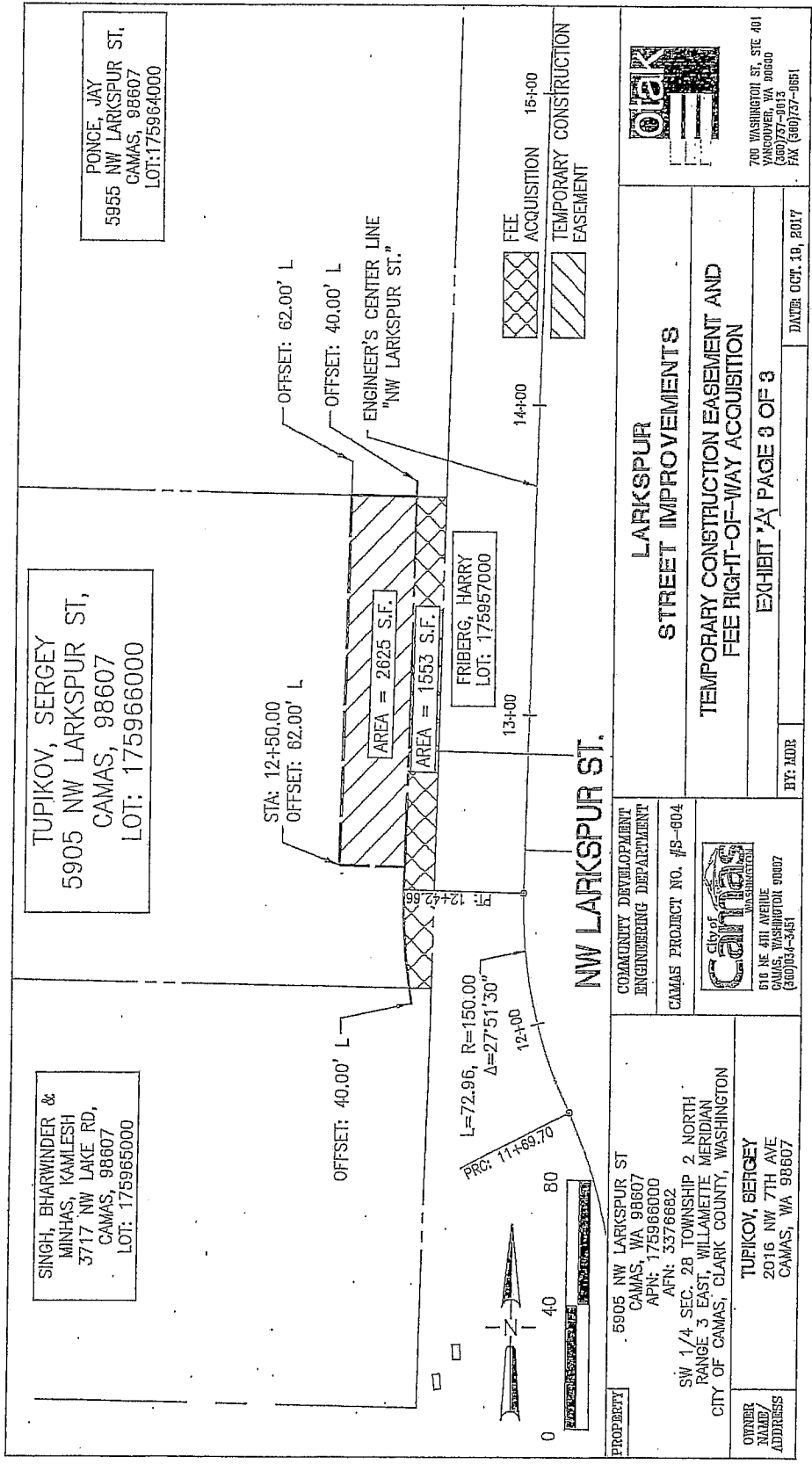


EXHIBIT B
LEGAL DESCRIPTION
RIGHT OF WAY - FEE ACQUISITION
NW LARKSPUR STREET
CITY OF CAMAS
PROJECT NUMBER S-604
PONCE

A parcel of land lying in the Southeast Quarter of the Southwest Quarter of Section 28, Township 2 North, Range 3 East, Willamette Meridian, City of Camas, Clark County, Washington and being a portion of that property described in that Bargain and Sale Deed to Jay and Vicki Ponce recorded September 12, 2003 under Auditor's File Number 3715574, Clark County deed records; the said parcel being that portion of said property included in a strip of land 40.00 feet in width, lying on the Westerly side of the center line of NW Larkspur Street, which center line is described as follows:

Beginning at Engineer's center line station 10+00.00, said point being 266.01 feet South and 1.14 feet West of the Southwest corner of Tract C, Larkspur Estates Phase 1, recorded in Book 311 of plats, Page 358; thence North $01^{\circ}04'16''$ East a distance of 97.59 feet; thence on a 150.00 foot radius curve to the left, through a central angle of $27^{\circ}32'34''$, an arc distance of 72.11 feet to a point of reverse curvature; thence on a 150.00 foot radius curve to the right, through central angle of $27^{\circ}52'11''$, an arc distance of 72.96 feet; thence North $01^{\circ}23'52''$ West a distance of 436.45 feet to an angle point in the most Westerly line of said Larkspur Estates Phase 1; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 1 a distance of 336.66 feet to an angle point in said line, said point being common with an angle point in the most Westerly line of Larkspur Estates Phase 2, recorded in Book 311 of plats at Page 401; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 2 a distance of 351.87 feet to Engineer's center line station 23+67.64.

Bearings are based upon the Washington State Coordinate System 1983(2011) epoch 2010.0, south zone.

This parcel of land contains 3,113 square feet, more or less.

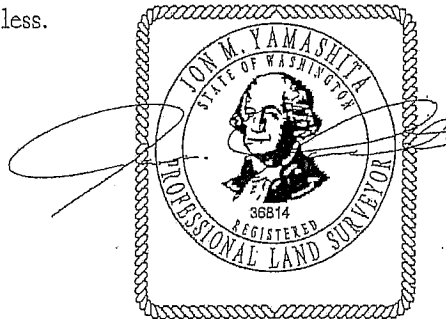


EXHIBIT B
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
NW LARKSPUR STREET
CITY OF CAMAS
PROJECT NUMBER S-604
PONCE

A parcel of land lying in the Southeast Quarter of the Southwest Quarter of Section 28, Township 2 North, Range 3 East, Willamette Meridian, City of Camas, Clark County, Washington and being a portion of that property described in that Bargain and Sale Deed to Jay and Vicki Ponce recorded September 12, 2003 under Auditor's File Number 3715574, Clark County deed records; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Westerly side of the center line of NW Larkspur Street, which center line is described as follows:

Beginning at Engineer's center line station 10+00.00, said point being 266.01 feet South and 1.14 feet West of the Southwest corner of Tract C, Larkspur Estates Phase 1, recorded in Book 311 of plats, Page 358; thence North $01^{\circ}04'16''$ East a distance of 97.59 feet; thence on a 150.00 foot radius curve to the left, through a central angle of $27^{\circ}32'34''$, an arc distance of 72.11 feet to a point of reverse curvature; thence on a 150.00 foot radius curve to the right, through central angle of $27^{\circ}52'11''$, an arc distance of 72.96 feet; thence North $01^{\circ}23'52''$ West a distance of 436.45 feet to an angle point in the most Westerly line of said Larkspur Estates Phase 1; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 1 a distance of 336.66 feet to an angle point in said line, said point being common with an angle point in the most Westerly line of Larkspur Estates Phase 2, recorded in Book 311 of plats at Page 401; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 2 a distance of 351.87 feet to Engineer's center line station 23+67.64.

The width in feet of said strip of land is as follows:

Station	to	Station	Width on Westerly Side of Center Line
13+60.00		14+50.00	145.00
14+50.00		14+90.00	120.00
14+90.00		15+75.00	70.00
15+75.00		16+05.03	56.80
16+05.03		16+55.13	56.80 in a straight line to 50.00
15+55.13		16+90.00	50.00



EXCEPT therefrom that portion of said property included in a strip of land 40.00 feet in width, lying on the Westerly side of the center line of NW Larkspur Street, which center line is described above.

Bearings are based upon the Washington State Coordinate System 1983(2011) epoch 2010.0, south zone.

This parcel of land contains 15,660 square feet, more or less.

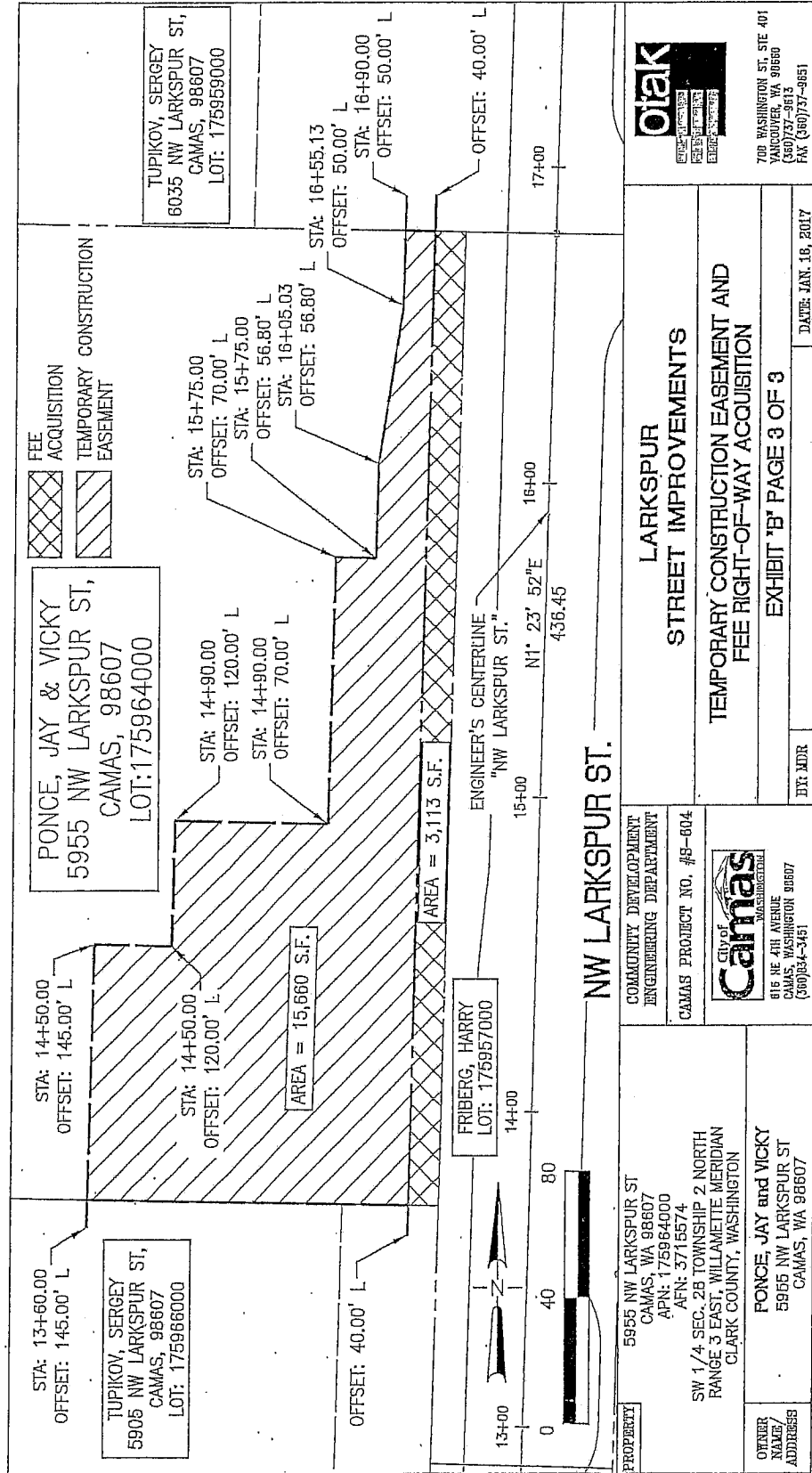


EXHIBIT C
LEGAL DESCRIPTION
RIGHT OF WAY - FEE ACQUISITION
NW LARKSPUR STREET
CITY OF CAMAS
PROJECT NUMBER S-604
TUPIKOV NORTH

A parcel of land lying in the Southeast Quarter of the Southwest Quarter of Section 28, Township 2 North, Range 3 East, Willamette Meridian, City of Camas, Clark County, Washington and being a portion of that property described in that Statutory Warranty Deed to Sergey Tupikov and Svetlana Tupikova recorded July 16, 2004, under Auditor's File Number 3856279, Clark County deed records; the said parcel being that portion of said property included in a strip of land 40.00 feet in width, lying on the Westerly side of the center line of NW Larkspur Street, which center line is described as follows:

Beginning at Engineer's center line station 10+00.00, said point being 266.01 feet South and 1.14 feet West of the Southwest corner of Tract C, Larkspur Estates Phase 1, recorded in Book 311 of plats, Page 358; thence North $01^{\circ}04'16''$ East a distance of 97.59 feet; thence on a 150.00 foot radius curve to the left, through a central angle of $27^{\circ}32'34''$, an arc distance of 72.11 feet to a point of reverse curvature; thence on a 150.00 foot radius curve to the right, through central angle of $27^{\circ}52'11''$, an arc distance of 72.96 feet; thence North $01^{\circ}23'52''$ West a distance of 436.45 feet to an angle point in the most Westerly line of said Larkspur Estates Phase 1; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 1 a distance of 336.66 feet to an angle point in said line, said point being common with an angle point in the most Westerly line of Larkspur Estates Phase 2, recorded in Book 311 of plats at Page 401; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 2 a distance of 351.87 feet to Engineer's center line station 23+67.64.

Bearings are based upon the Washington State Coordinate System 1983(2011) epoch 2010.0, south zone.

This parcel of land contains 13,441 square feet, more or less.

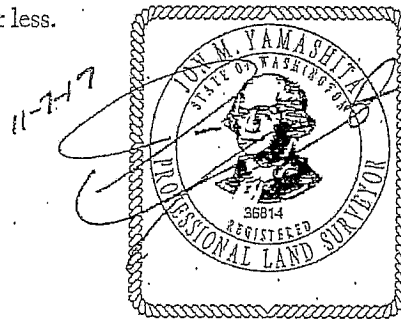


EXHIBIT C
LEGAL DESCRIPTION
TEMPORARY CONSTRUCTION EASEMENT
NW LARKSPUR STREET
CITY OF CAMAS
PROJECT NUMBER S-604
TUPIKOV NORTH

A parcel of land lying in the Southeast Quarter of the Southwest Quarter of Section 28, Township 2 North, Range 3 East, Willamette Meridian, City of Camas, Clark County, Washington and being a portion of that property described in that Statutory Warranty Deed to Sergey Tupikov and Svetlana Tupikova recorded July 16, 2004, under Auditor's File Number 3856279, Clark County deed records; the said parcel being that portion of said property included in a strip of land variable in width, lying on the Westerly side of the center line of NW Larkspur Street, which center line is described as follows:

Beginning at Engineer's center line station 10+00.00, said point being 266.01 feet South and 1.14 feet West of the Southwest corner of Tract C, Larkspur Estates Phase 1, recorded in Book 311 of plats, Page 358; thence North $01^{\circ}04'16''$ East a distance of 97.59 feet; thence on a 150.00 foot radius curve to the left, through a central angle of $27^{\circ}32'34''$, an arc distance of 72.11 feet to a point of reverse curvature; thence on a 150.00 foot radius curve to the right, through central angle of $27^{\circ}52'11''$, an arc distance of 72.96 feet; thence North $01^{\circ}23'52''$ West a distance of 436.45 feet to an angle point in the most Westerly line of said Larkspur Estates Phase 1; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 1 a distance of 336.66 feet to an angle point in said line, said point being common with an angle point in the most Westerly line of Larkspur Estates Phase 2, recorded in Book 311 of plats at Page 401; thence North $01^{\circ}22'44''$ West along said line of Larkspur Estates Phase 2 a distance of 351.87 feet to Engineer's center line station 23+67.64.

The width in feet of said strip of land is as follows:

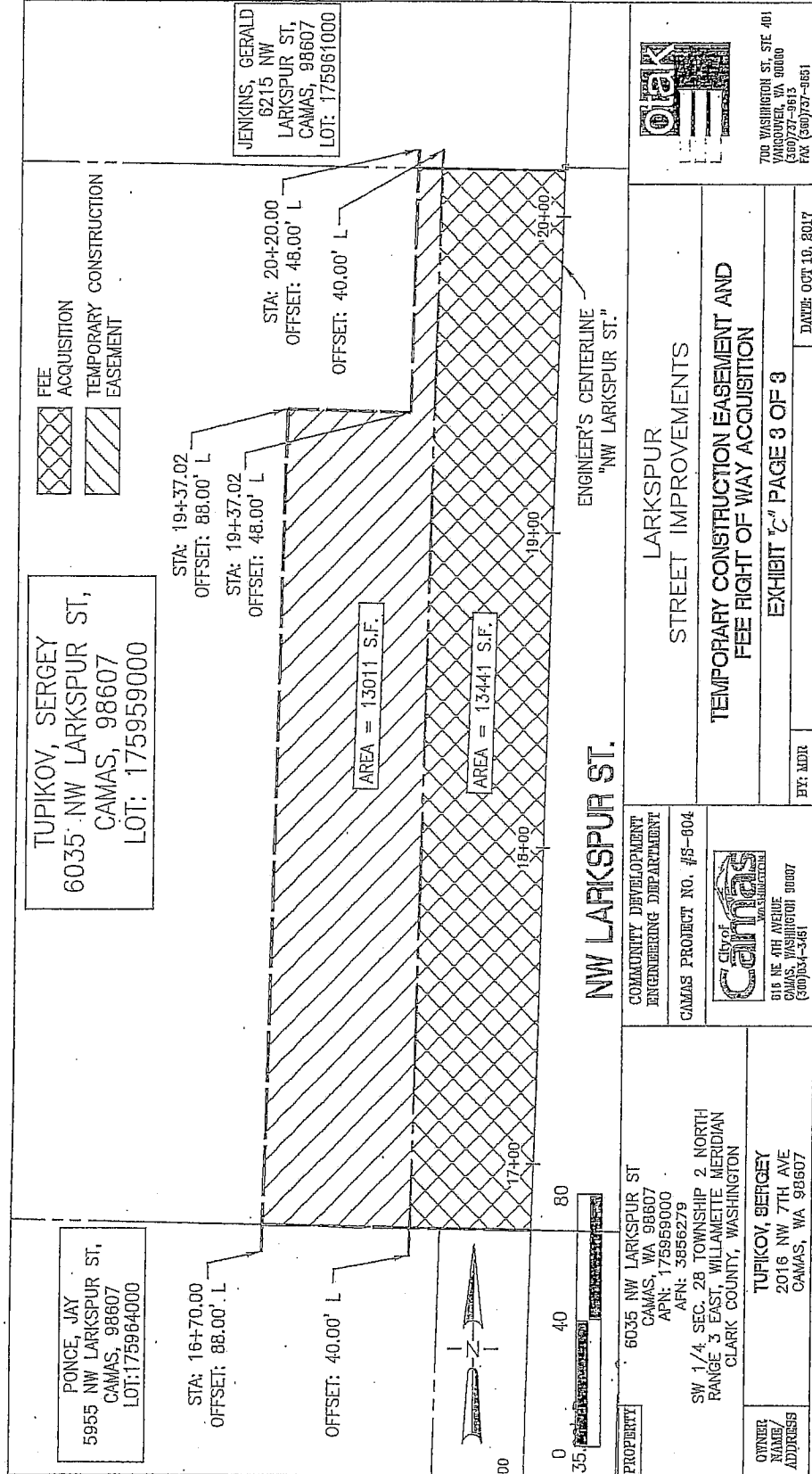
Station	to	Station	Width on Westerly Side of Center Line
16+70.00		19+37.02	88.00
19+37.02		20+20.00	48.00

EXCEPT therefrom that portion of said property included in a strip of land 40.00 feet in width, lying on the Westerly side of the center line of NW Larkspur Street, which center line is described above.

Bearings are based upon the Washington State Coordinate System 1983(2011), south zone.

This parcel of land contains 13,011 square feet, more or less.





Certified as a true and correct copy as maintained in the records and files of the City of Camas.

CITY OF CAMAS

By: 

Jennifer Gorsuch

Title: City Clerk

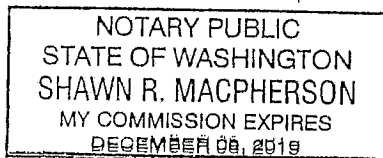
STATE OF WASHINGTON)

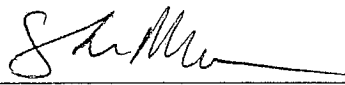
) ss:

COUNTY OF CLARK)

On this 7th day of MAY, 2018, personally appeared Jennifer Gorsuch, to me known to be the City Clerk of the City of Camas, a municipal corporation, who executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed, of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that she was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.




Notary Public in and for the State of
Washington, Residing at CAMAS

My appointment expires: 12-8-19

EXHIBIT 1

Page 13 of 13

WSDOT NARRATIVE APPRAISAL REPORT

Washington State
Department of Transportation

Parcel No.: 175964-000
Owner: Jay & Vikki Ponce
Federal Aid No.: N/A
Project: Larkspur Street Improvements
R/W Plan Title: Larkspur Street Improvements
Plan Sheet: 1 of 1
Plan Approval Date: 10/19/2017
Date of Last Map Revision: N/A

CERTIFICATE OF APPRAISER

I certify that, to the best of my knowledge and belief:

- ♦ the statements of fact contained in this appraisal are true and correct;
- ♦ the reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conclusions, and are my personal, unbiased professional analyses, opinions, and conclusions;
- ♦ I have performed no (or the specified) services, as an appraiser or in any other capacity, regarding the property that is the subject of this report within the three year period immediately preceding acceptance of this assignment;
- ♦ I have no present or prospective interest in the property that is the subject of this appraisal, and I have no personal interest or bias with respect to the parties involved;
- ♦ my compensation is not contingent upon the reporting of a predetermined value or direction that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event;
- ♦ my analyses, opinions, and conclusions were developed, and this appraisal has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice and the Uniform Appraisal Standards for Federal Land Acquisitions;
- ♦ I have made a personal inspection of the property that is the subject of this report. I have made a personal inspection of the comparable sales contained in the report addenda;
- ♦ I have afforded the owner or a designated representative of the property that is the subject of this appraisal the opportunity to accompany me on the inspection of the property;
- ♦ no one provided significant professional assistance to the person signing this report. (If there are exceptions, the name of each individual providing significant professional assistance must be stated);
- ♦ I have disregarded any increase in Fair Market Value caused by the proposed public improvement or its likelihood prior to the date of valuation. I have disregarded any decrease in Fair Market Value caused by the proposed public improvement or its likelihood prior to the date of valuation, except physical deterioration within the reasonable control of the owner;
- ♦ this appraisal has been made in conformity with the appropriate State and Federal laws and requirements, and complies with the contract between the agency and the appraiser.

The property has been appraised for its fair market value as though owned in fee simple, or as encumbered only by the existing easements as described in the title report dated N/A. I made a personal inspection of the property that is the subject of this report on February 9, 2018.

The Date of Value for the property that is the subject of this appraisal is February 9, 2018.

Per the FAIR MARKET VALUE definition herein, the value conclusions for the property that is the subject of this appraisal are on a cash basis and are:

FAIR MARKET VALUE BEFORE ACQUISITION: \$ 358,155

FAIR MARKET VALUE AFTER ACQUISITION: \$ 321,375

DIFFERENCE: \$36,780

Date of Assignment or Contract: 11-20-17

Name: James E. Lingeman, SR/WA, IFAS

Date Signed: 02-21-2018

Signature: _____

Washington State - Certified General Real Estate Appraiser Certification Number: 1101965

DO NOT WRITE BELOW THIS LINE

Headquarters Service Center Date Stamp

Region Date Stamp

Appraiser: James E. Lingeman, SR/WA, IFAS
2017-137F - Ponce
RES-208
Rev 09-09

Page 2

EXHIBIT 2
Page 1 of 5

SUBJECT PLOT PLAN

Before Area: 75,794 SF	After Area: 72,681 SF	Fee Acquisition: 3,113 SF
Permanent Easement Acquisition: N/A	Temporary Construction Easement: 15,660	
Limited Access/Access Notes: N/A		

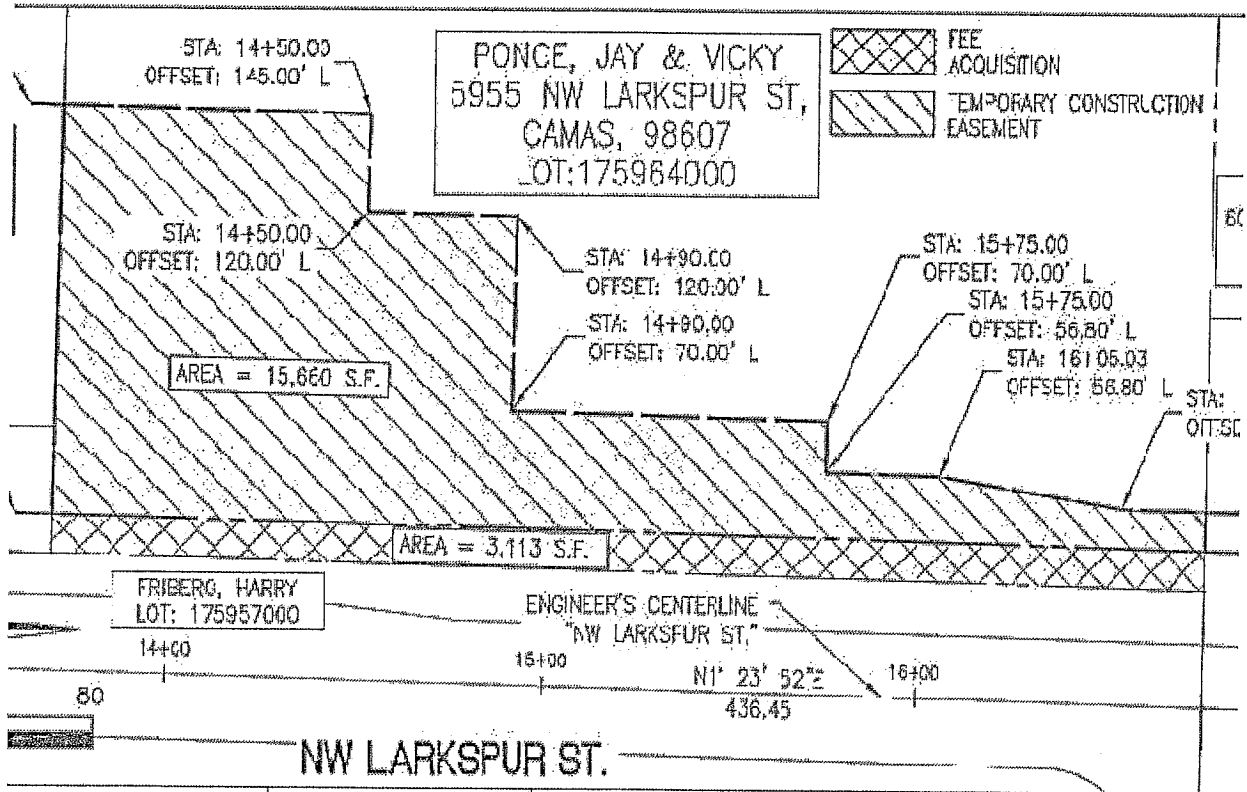


EXHIBIT 2

Page 2 of 5

Site Valuation in the After Condition:

Right of Way Acquisition Area (ROW):

This area is ±3,113 square feet and is described and displayed on the following legal description and exhibit map. The previously concluded land value of \$4.60/SF is applied to this area.

$$\pm 3,113 \text{ SF} \times \$4.60/\text{SF} = \$14,320, \text{ rounded}$$

Temporary Easement:

The common method in estimating the value impact due to a temporary construction easement is similar to a land lease whereby a reasonable annual rate of return is applied to the fee simple land value to be encumbered over the term of the lease. Rates of return for land leases vary depending upon the market conditions but typically fall in the range of 8 to 15 percent based on the following lease rates, the intended use and period of two years a lease rate of 9 percent is considered reasonable.

Based on the ±15,660 square feet to encumbered, the indicated value of the land to be encumbered is (±15,660 SF x \$4.60/SF) \$72,000, rounded. Based on an annual rate of return of approximately 9 percent and a two year term, the value of the proposed TCE is;

$$(\$72,000 \times 9\% \times 2 \text{ years}) = \$12,960$$

AFTER CONDITION VALUE:

Accordingly, the After value of the subject property can be summarized as follows:

Land:	72,681 SF x \$4.60/SF =	\$334,335
Diminution in Value due to the Temporary Construction Easement:		(\$ 12,960)
Landscaping within the Acquisition Area:		\$ 0
Total After Value		\$321,375

Recapitulation

A.	Value of property 'before' acquisition	<u>\$358,155</u>
B.	Value of property 'after' acquisition	<u>\$321,375</u>
C.	Difference between 'before' and 'after' values	<u>\$ 36,780</u>

EXPLANATION, MEASUREMENT, SUPPORTING DATA AND ALLOCATION OF DAMAGES, COSTS-TO-CURE, AND SPECIAL BENEFITS.

There are no damages to the remainder.

There are no special benefits to the remainder.

SUMMARY OF APPRAISAL CONCLUSIONS:

(Accounting tabulation - NOT indicative of appraisal method employed)

Indicated Subject Value 'Before' Project		
Highest and Best Use 'Before' Residential		
Land Value 'Before' \$4.60/SF x 75,794 SF	\$348,655	
Site Improvements 'Before' Project	\$9,500	
TOTAL SUBJECT VALUE 'BEFORE' PROJECT:		\$358,155
Indicated Subject Value 'After' Project		
Highest and Best Use 'After' – Residential		
Land Value 'After' – \$4.60/SF x 72,681	\$334,335	
Site Improvements 'After' Project	\$0	
Temporary Construction Easement (2 years)	(\$12,960)	
Less Cost-to-Cure (if any)	\$0	
TOTAL SUBJECT VALUE 'AFTER' PROJECT:		\$321,375
Estimated Value Allocation of Rights Acquired		
Land=		
Fee Purchase – 3,113 SF	\$14,320	
Temporary Construction Easement – 15,660 SF	\$12,960	
Total Land		\$27,280
Total Improvements –		
Landscaping, grass, cedar fencing and graded gravel		\$9,500
Total Acquisition		\$36,780
Plus Damages and Cost-to-Cure		-0-
Cost-to-Cure		
Loss in Value 'After'	\$	
Total Damages and Cost-to-Cure		-0-
Less Special Benefits (if any)	\$	-0-
Total Estimated Owner Compensation		\$36,780

Note: Totals should be rounded to nearest significant market number. Total Subject value 'before' Less Total Subject value 'after' must equal Estimated Owner Compensation

