

ORDINANCE NO. 457

AN ORDINANCE OF THE CITY OF WOODINVILLE, WASHINGTON, PROVIDING FOR THE CONDEMNATION, APPROPRIATION, TAKING, AND DAMAGING OF ANY INTEREST HELD BY HOLLYWOOD VINEYARDS LIMITED PARTNERSHIP IN THE REAL PROPERTY KNOWN AS TRACT Y OF WOODINVILLE VILLAGE BINDING SITE PLAN RECORDED UNDER RECORDING NO. 20051222002236 WITHIN THE CITY IN ORDER TO CONSTRUCT AN ARTERIAL ROAD IMPROVEMENT AND SUCH OTHER APPURTENANCES AND IMPROVEMENTS ASSOCIATED WITH THE PUBLIC IMPROVEMENT AND PROVIDING THAT THE ENTIRE COST THEREOF SHALL BE PAID FROM AVAILABLE FUNDS; DIRECTING THE CITY ATTORNEYS TO PROSECUTE THE APPROPRIATE ACTION AND PROCEEDINGS IN THE MANNER PROVIDED BY LAW FOR SUCH CONDEMNATION; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, NE 145th Street/The Woodinville Redmond Road NE has been identified on the City's Capital Improvement Plan as a first priority project since 1998 due to high vehicle congestion and safety concerns; and

WHEREAS, improvements to the intersection of NE 145th Street and the Woodinville Redmond Road NE are necessary to accommodate vehicular and pedestrian traffic in the area; and

WHEREAS, the City has been exploring design alternatives since 1999 to address these congestion and safety operations of this intersection; and

WHEREAS, the necessary improvements include the construction of three roundabouts with sidewalks, together with such other necessary appurtenances and improvements to make the same consistent with design practice standards; and

WHEREAS, the City, with input from the public and the owners of effected properties has developed a design for roadway improvements that address the public needs while minimizing impacts to the adjacent private property; and

WHEREAS, the real property described as Tract Y of the Woodinville Village Binding Site Plan recorded under King County Recording Number 20051222002236 is necessary for the roadway improvements, but the real property is the subject of current litigation in King County Superior Court under cause number 07-2-22368-1 SEA. The Plaintiff in the lawsuit is James Gorman IV, as General Partner of Hollywood Vineyards Limited Partnership. The Plaintiff claims that the plaintiff, and plaintiff's tenants, employees, customers and

invitees, since approximately 1984, and in any event for well over ten years, have exclusively used Tract Y for vehicle parking and for purposes related thereto. Based upon these factual allegations, the Plaintiff claims to have adversely possessed Tract Y and that title to Tract Y should be quieted in favor of the plaintiff; and

WHEREAS, the City disputes the claims of the plaintiff and claims pursuant to a dedication from a third party that occurred in December 2005 to have an interest in said Tract Y; and

WHEREAS, the City desires in answering the claims of the plaintiff to include a counterclaim allowing the City to acquire any interest, if any, in Tract Y quieted in favor of the plaintiff by the superior court in the pending litigation,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODINVILLE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Need for Property - Public Use. The public health, safety, and welfare demand that NE 145th Street/The Woodinville Redmond Road NE be improved through the construction of intersection improvements and associated appurtenances and other improvements in order to address congestion conditions, vehicle and pedestrian safety, and address a poor approach alignment, and that a fee interest be condemned, and a permanent easement and temporary construction easements be obtained, appropriated, taken, and damaged in portions of certain real property in the City of Woodinville in order to construct such public use improvements as provided in this ordinance.

Section 2. Declaration of Necessity. The City Council of the City of Woodinville, after hearing the report from the City Manager and Public Works Director and reviewing the planned improvements, hereby declares that Tract Y of Woodinville Village Binding Site Plan recorded under King County Recording No. 20051222002236 is necessary for the construction of the roadway improvements described herein and any interest in the real property quieted by a court of competent jurisdiction in Tract Y must of necessity be acquired by the City.

Section 3. Condemnation. Any interest in said Tract Y quieted in favor of the Plaintiff in the above described litigation, free from any and all liens and encumbrances, is hereby condemned, appropriated, taken, and damaged for the purpose of constructing the improvements described in Section 1 above. Condemnation and taking of the property interests is subject to the making or paying of just compensation to the owners thereof in the manner provided by law.

Section 4. Authority of City Attorneys. The City Attorneys are 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, including a counterclaim for condemnation in King

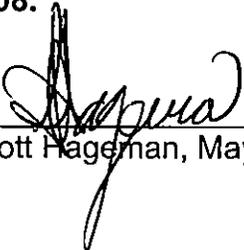
County Cause No. 07-2-22368-1 SEA. For the purpose of minimizing damages, the City Attorneys, in consultation with the Mayor, and Public Works Director, are hereby further authorized to stipulate as to the use of the property hereby authorized to be condemned and appropriated, and as to the reservation of any right of use of the owner or any person entitled to possession of the property, provided that such reservation does not interfere with the use of said property as provided in this ordinance. The attorneys are further authorized, upon such consultation, to adjust the location and/or width of any portion of any of the property so taken in order to minimize damages, provided that said adjustments do not interfere with the use of said property by the City as provided in this ordinance. The attorneys are further authorized to identify and adjust the location and/or width of any temporary construction easements determined necessary by the City and its consultants for the construction of the improvements upon the property taken by condemnation.

Section 5. Source of Funds. The entire cost of the property acquisition authorized by this ordinance, including all costs and expenses of condemnation proceedings, shall be paid from available funds as may be appropriate under the circumstances.

Section 6. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

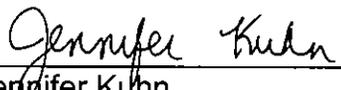
Section 7. Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

ADOPTED BY THE CITY COUNCIL AND SIGNED IN AUTHENTICATION OF ITS PASSAGE THIS 22nd DAY OF JANUARY 2008.



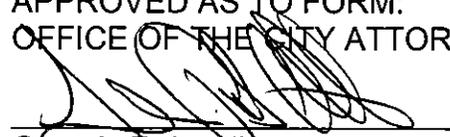
Scott Hageman, Mayor

ATTEST/AUTHENTICATED:



Jennifer Kuhn
City Clerk

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY



Greg A. Rubstello
City Attorney

PASSED BY THE CITY COUNCIL: 1-22-2008
PUBLISHED: 1-28-2008
EFFECTIVE DATE: 2-4-2008
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