

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Proposed Ordinance No. 412 Providing for the Use of Eminent Domain to Acquire One Additional Fee Acquisition and Temporary Construction Easement
DEPARTMENT:	City Attorney, Public Works
PRESENTED BY:	Ian Sievers, City Attorney

PROBLEM/ISSUE STATEMENT:

The City Council passed Ordinance No. 350 on April 26, 2004, authorizing acquisition and condemnation of right-of-way and easements for construction of the Aurora Avenue Corridor Project from 145th to 165th. Ordinance No. 350 was amended by Ordinance No. 385. The description of property to be acquired from the Joshua Green Corporation was not included in Ordinance No. 350 or Ordinance No. 385 due to incomplete final design for the pedestrian bridge crossing Aurora from this intersection. Since negotiations with the owner have stalled, the descriptions must be added to the ordinance so the City can proceed with condemnation.

ANALYSIS:

After the City Council passed Ordinance 350, staff proceeded with negotiating with affected property owners, including the Joshua Green Corporation, the owner of the property located at 15565 Aurora Ave. N. ("property"). The Joshua Green Corporation signed a possession and use agreement in July 2005, allowing for the City's immediate possession and use of the property. Since then, negotiations with the property owner for purchase of the property and the associated sign have stalled. The City has provided an appraisal and an offer to the owner, but the owner has not accepted the offer nor supported a counter offer with its own appraisal. No progress is being made, and the City needs to move forward with condemnation which requires including the fee acquisition and the temporary construction easement in a condemnation ordinance.

RECOMMENDATION

Pass proposed Ordinance No. 412 amending Ordinance No. 385 authorizing acquisition of one additional fee acquisition and associated temporary construction easement needed for construction of the Aurora Avenue Corridor Project from 145th to 165th.

Approved By:

City Manager  City Attorney 

ATTACHMENTS

Attachment A – Proposed Ordinance 412

ORDINANCE NO. 412

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON
AMENDING ORDINANCE NO. 385, AUTHORIZING THE
ACQUISITION AND CONDEMNATION OF CERTAIN REAL
PROPERTY AT 15565 AURORA AVENUE NORTH, SHORELINE,
WASHINGTON TO ADD AN ADDITIONAL TEMPORARY
CONSTRUCTION EASEMENT AND A FEE ACQUISITION**

WHEREAS, in December 2002 the Shoreline City Council adopted the Aurora Corridor Project Modified Alternative A as a final design for the Aurora Corridor Project N 145th- N. 165th ("Project") identified in the 2004-2009 Capital Improvement Plan; and

WHEREAS, the purpose of the Project is to improve the safety and mobility of pedestrians, transit users, people with disabilities, and drivers along Aurora Avenue from North 145th Street to North 165th Street; and

WHEREAS, this Project will improve the economic development potential of the corridor, enhance the livability of adjacent communities, and support the City's Comprehensive Plan; and

WHEREAS, Shoreline City Council determined that the property described in Ordinance No. 385 was necessary to complete the Project including the construction of BAT lanes, medians, sidewalks and underground utilities; and;

WHEREAS, Ordinance No. 385 authorizes the condemnation of the property located at 15565 Aurora Avenue North but did not describe the property;

WHEREAS, the property described in Exhibit A-1 and B-2 attached hereto is necessary to complete the Project;

WHEREAS, the City of Shoreline has the power to acquire lands through eminent domain for the establishment, construction, enlargement, improvement, and maintenance of public streets; and

WHEREAS, acquisition of property is categorically exempt from SEPA review under WAC 197-11-800(5)(a); NOW, THEREFORE,

**THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON DO
ORDAIN AS FOLLOWS:**

Section 1. Amendment. Section 1 of Ordinance No. 385 is amended to read as follows:

The City of Shoreline shall acquire by negotiation or by condemnation, the real properties situated in the City of Shoreline, County of King, and State of Washington and legally described in Exhibits A, A-1, B, B-1, B-2 and C attached hereto and by this reference incorporated herein.

The City Manager or his designee, shall adhere to acquisition guidelines of the Aurora Corridor Real Property Acquisition and Relocation Policy, Procedures and Guidelines (“Guidelines”), and is hereby authorized and directed to execute all documents for the acquisition of said properties and bring proceedings in the manner provided for by law to condemn, take, damage, and appropriate the lands and property interests described in this section pursuant to the powers granted to the City of Shoreline including RCW 35A.64.200 and Chapters. 8.12 and 8.25 RCW. Notwithstanding the general applicability of Guidelines 3.1 for temporary construction easements the easements listed in Exhibit B are necessary for the construction of the project and shall be compensated to the extent the value exceeds special benefit to the property owner. In conducting said condemnation proceedings, the City Attorney, and any Special Counsel designated by the City Attorney, is hereby authorized to enter into stipulations for the purpose of minimizing damages, including the reduction in area of land or modification of property interest to be acquired by the Project.

The City Attorney is also authorized to make minor amendments to the legal description or maps of properties described in the attached Exhibits A, A-1, B, B-1, B-2 and C as may become necessary to correct scrivener’s errors or to conform the legal description to the precise boundaries of the property required for the project.

Section 2. Amendment. Section 2 of Ordinance No. 385 is amended to read as follows:

The Shoreline City Council finds that the acquisition of the property listed in Exhibits A, A-1, B, B-1, B-2 and C is for a public use and purpose, to-wit: to provide road and sidewalk improvement and underground utilities on Aurora Ave. N. from N. 145th to N. 165th. The Council further finds the properties listed in Exhibits A, A-1, B, B-1, B-2 and C are necessary for the proposed public use and for the benefit of the public.

Section 3. Amendment. Exhibit A setting forth the fee acquisition legal description and the property legal description is amended to include Exhibit A-1 attached hereto and incorporated by reference herein.

Section 4. Amendment. Exhibit B depicting the temporary construction easements is amended to include Exhibit B-2 attached hereto and incorporated by reference herein.

Section 5. Effective Date and Publication. A summary of this Ordinance consisting of the title shall be published in the official newspaper and the Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON MARCH 20, 2006

Mayor Robert L. Ransom

ATTEST:

APPROVED AS TO FORM:

Scott Passey, CMC
City Clerk

Ian Sievers
City Attorney

Date of Publication: March 23, 2006
Effective Date: March 28, 2006

Parcel No.	Owner Name Address Tax Parcel #	Fee Acquisition Legal Description	Property Legal Description
22	Joshua Green 15565 Aurora Ave N Shoreline, WA 98133 1826049453	A portion of that property as described in Quit Claim Deed, recorded under Auditor's File Number 5752313, lying within the southeast quarter of the northwest quarter of Section 18, Township 26 North, Range 4 East, W.M., City of Shoreline, King County, Washington, described as follows: Beginning at the northeast corner of above said property, being the intersection with the west line of the east 60 feet of said subdivision and the southeasterly margin of Westminster Way; thence along said west line South 01°09'30" East, 119.07 feet, more or less, to the south line of said property; thence along the south line of said property South 38°38'45" West, 37.49 feet; thence parallel with said west line North 01°09'30" West, 62.27 feet; thence South 88°50'31" West, 18.75 feet to a point on said southwesterly margin of Westminster Way, said point being on a non-tangent curve from which the radius point bears North 62°19'06" West; thence along a 1191.27-foot radius curve to the left, with a central angle of 04°36'12", an arc distance of 95.71 feet, more or less, to the Point of Beginning, containing 2,917 square feet, more or less.	That portion of the southeast quarter of the northwest quarter of Section 18, Township 26 North, Range 4 East, W.M., in King County, Washington, more particularly described as follows: Commencing at the center of said Section 18, which is also a point on the centerline of Primary State Highway No. 1, North 115th Street to North 160th Street, as now located and of record in the office of the Director of Highways at Olympia, Washington, at Highway Engineer's Survey Station 185 + 55.9; Thence north 1°09'30" west along said centerline a distance of 88.50 feet to Highway Engineer's Survey Station 186 +44.4; Thence south 88°50'30" west a distance of 160.00 feet to a point which is the southwesterly corner of that certain portion of the abandoned State Road conveyed to Puget Sound Power and Light Company, a corporation, by deed recorded under King County Recording Number 3954784, bearing date of September 29, 1949; Thence north 1°09'30" west parallel with said centerline a distance of 435.60 feet to the point of beginning of this description (which point is northwesterly corner of said deeded tract conveyed to Puget Sound Power and Light Company); Thence north 38°38'50" east, along the northerly line of said deeded tract, a distance of 156.21 feet to a point which is 60 feet distance westerly, when measured at right angles, from said centerline; Thence north 1°09'30" west and parallel with said centerline a distance of 119.06 feet, to an intersection with a line drawn parallel with and 45 feet distance southeasterly, when measured radially, from the centerline of Westminster Way (formerly Holman Road No. 2) as now established, said intersection being on the arc of a curve to the right having a radius of 1191.27 feet, the center point of which bears north 66°55'19" west; Thence southwesterly, parallel with and 45 feet southeasterly of said centerline of Westminster Way, along the arc of said curve, a distance of 272.94 feet, to a point which bears south 53°47'40" east from said center point; Thence south 53°47'40" east a distance of 49.64 feet to a point on the west line of said parcel deeded to Puget Sound Power and Light Company; Thence north 1°09'30" west, along the west line of said deeded parcel, 25.00 feet to the point of beginning.

