

ORDINANCE NO. 2020-07-017

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF PROPERTY FOR THE PURPOSE OF EXTENDING BIRCHWOOD AVENUE AND AUTHORIZING PAYMENT THEREOF FROM THE CITY'S STREET FUND OR FROM SUCH OTHER MONIES THAT THE CITY MAY HAVE AVAILABLE OR ATTAIN FOR THE ACQUISITION; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City of Bellingham is a charter city, incorporated under the laws of the State of Washington, and authorized to acquire title to real property for public purposes pursuant to RCW Chapter 8.12; and

WHEREAS, in the interest of providing the public adequate street and roadways within the City, the City of Bellingham identified a street project known as "Orchard Drive Extension (Birchwood Avenue)" (the "**Project**") in compliance with goals announced in the City's Comprehensive Plan; and

WHEREAS, the Project involves the extension of Orchard/Birchwood Avenue from Birchwood/Squalicum to James Street, including a multimodal grade-separated crossing underneath Interstate 5; and

WHEREAS, the Project is identified in the City's Comprehensive Plan as an arterial street improvement that is "necessary to accommodate planned growth and development" inside City limits; and

WHEREAS, the Project has been on the City's adopted Six-Year Transportation Improvement Program since 2011 and is scheduled for construction in 2020 and 2021; and

WHEREAS, the City determined that it must acquire certain property and/or property rights for the Project; and

WHEREAS, for this Project, the City determined that the acquisition of certain rights and interests from the real property identified as portions of Whatcom County Tax Parcel Nos. 380318-482132, 380318-422175, 380318-533149 and 380318-497187 and legally described in Exhibit A and depicted in Exhibit B, attached hereto and incorporated by reference ("**Parcels**"), are necessary to accomplish and construct the Project, and those rights and interests are hereinafter referred to as the "**Real Property Take**"; and

WHEREAS, the City appraised the fair market value of the Real Property Take; and

WHEREAS, the City negotiated in good faith with the owner of the Parcels for the voluntary acquisition of the Real Property Take; and

WHEREAS, the City has been unable to reach a negotiated voluntary resolution with said owner, and

WHEREAS, the City complied with the notice requirements set forth in RCW 8.25.290 by providing notice to the owner(s) of the parcels of the planned final action adopting this Ordinance, and through publication once per week for two weeks, prior to the passage of this Ordinance; and

WHEREAS, payment of just compensation and costs of litigation should be made from the City's Street fund or from such other monies that the City may have available or attain for the acquisition.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLINGHAM, WASHINGTON DOES ORDAIN as follows:

Section 1. Incorporation of Recitals. The recitals set forth above are hereby adopted and incorporated herein as if set forth in full.

Section 2. Public Use and Necessity Declared. The City Council of the City of Bellingham finds and declares that: i) the Orchard Drive Extension (Birchwood Avenue) Project is for a public use; ii) the acquisition of the rights and interests in the Real Property Take legally described in Exhibit A and depicted in Exhibit B hereto is necessary for the construction of the Project; and iii) the acquisition of the Real Property Take and the construction of the Project are in the best interests of the citizens residing within the City of Bellingham.

Section 3. Acquisition. The City Council of the City of Bellingham authorizes the acquisition, condemnation and taking of the Real Property Take as legally described in Exhibit A and depicted in Exhibit B hereto. The City Council authorizes the acquisition of the Real Property Take under threat of condemnation or by initiation of legal action for condemnation to acquire the Real Property Take as necessary for the commencement and completion of the Project, subject to the making or paying of just compensation to the owner thereof in the manner provided by law.

Section 4. Reservation of Rights. Nothing in this ordinance limits the City in its identification and acquisition of property and property rights necessary for this public purpose. The City reserves the right to acquire additional or different properties as needed for the Project.

Section 5. Authority of Mayor. The Mayor, by and through his designees, is authorized and directed to continue negotiations for the acquisition of property and property rights and prosecute actions and proceedings in the manner provided by law to condemn, take, damage and appropriate the Real Property Take necessary to carry out the provisions of this ordinance. In conducting said negotiations and condemnation proceedings, the Bellingham City Attorney, by and through his designee, is hereby authorized to enter into stipulations for the Real Property Take. Settlement of any actions by the Mayor shall be made only upon the recommendation of legal counsel.

Section 6. Compensation. The compensation to be paid to the owners of the Real Property Take acquired through this condemnation action shall be paid from the City's Street Fund or from such other monies that the City may have available or attain for the acquisition.

Section 7. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of this Ordinance or the application of the provision to other persons or circumstances shall not be affected.

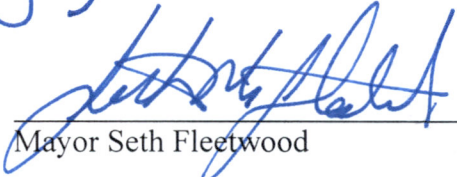
Section 8. Effective Date. This Ordinance shall be in full force and effect fifteen days after its final passage, except as otherwise provided in the Bellingham City Charter.

PASSED by City Council this _____ day of _____, 2020



Gene Knutson, Council President

APPROVED by me this 23 day of July, 2020




Mayor Seth Fleetwood

ATTEST:



Andy Asbjornsen, Finance Director / City Clerk

APPROVED AS TO FORM:



Office of the City Attorney

Published:

July 10, 2020

EXHIBIT A

**LEGAL DESCRIPTION
OF THE REAL PROPERTY TAKE**

Parcel #: 380318-482132-0000

THOSE PORTIONS OF THE SOUTH 30 FEET OF THE NORTH HALF OF THE SOUTHEAST QUARTER AND OF THE NORTH 30 FEET OF THE SOUTH HALF OF SAID SOUTHEAST QUARTER, ALL IN SECTION 18, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M., WHATCOM COUNTY, WASHINGTON, LYING NORTHEASTERLY OF INTERSTATE HIGHWAY NO. 5 AND LYING WESTERLY OF JAMES STREET.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

Parcel #: 380318-422175-0000

THAT PORTION OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M., ALSO BEING A PORTION OF LOT 3, "MEADOW RIDGE PARK LOT LINE ADJUSTMENT," RECORDED ON JANUARY 30, 2015, UNDER AUDITOR'S FILE NO. 2150103115, RECORDS OF WHATCOM COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 2 OF "MEADOW RIDGE PARK LOT LINE ADJUSTMENT," CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, AS PER THE MAP THEREOF, RECORDED UNDER AUDITOR'S FILE NUMBER 2150103115 OF SAID COUNTY AND STATE; THENCE NORTH 87°59'41" WEST ALONG THE SOUTH LINE OF SAID LOT 2 AND LOT 3 OF SAID "MEADOW RIDGE PARK LOT LINE ADJUSTMENT," 634.65 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 87°59'41" WEST ALONG THE SOUTH LINE OF SAID LOT 3, 965.02 FEET TO INTERSECT THE NORTHEASTERLY RIGHT OF WAY MARGIN OF INTERSTATE 5 AND SOUTHWESTERLY LINE OF SAID LOT 3; THENCE NORTH 36°12'42" WEST ALONG SAID MARGIN, 88.54 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT THE CENTER OF WHICH BEARS SOUTH 53°47'18" WEST HAVING A RADIUS OF 2,990.00 FEET; THENCE CONTINUING THROUGH A CENTRAL ANGLE OF 16°31'52" FOR ARC DISTANCE OF 862.69 FEET; THENCE SOUTH 87°48'33" EAST ALONG THE SOUTH LINE OF LOT 4 OF THE "AMENDED PRIMROSE LANE SHORT PLAT," CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, AS PER THE MAP THEREOF, RECORDED UNDER AUDITOR'S FILE NUMBER 910226036 OF SAID COUNTY AND STATE, 300.08 FEET; THENCE NORTH 01°17'27" EAST ALONG THE EAST LINE OF SAID LOT 4, 301.58 FEET TO ITS NORTHEAST CORNER, COMMON WITH THE NORTHWEST CORNER OF SAID LOT 3 OF "MEADOW RIDGE PARK LOT LINE ADJUSTMENT;" THENCE SOUTH 87°48'33" EAST ALONG THE NORTH LINE OF

SAID LOT 3, 384.50 FEET; THENCE SOUTH 02°11'28" WEST, 348.56 FEET; THENCE NORTH 86°15'15" EAST, 354.12 FEET; THENCE NORTH 81°14'55" EAST, 408.38 FEET; THENCE SOUTH 02°00'19" WEST, 448.04 FEET; THENCE SOUTH 87°59'41" EAST, 210.00 FEET; THENCE SOUTH 02°00'19" WEST, 275.98 FEET TO THE POINT OF BEGINNING.

SITUATE IN WHATCOM COUNTY, WASHINGTON

Parcel #: 380318-497187-0000

THAT PORTION OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M., MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 3, MEADOW RIDGE PARK LOT LINE ADJUSTMENT, CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON, ACCORDING TO THE PLAT THEREOF, RECORDED UNDER WHATCOM COUNTY AUDITOR'S FILE NO. 2150103115; THENCE NORTH 87°48'33" WEST ALONG THE NORTH LINE OF SAID LOT 3, A DISTANCE OF 1592.00 FEET; THENCE SOUTH 02°11'28" WEST, 348.50 FEET; THENCE NORTH 86°15'15" EAST, 354.12 FEET; THENCE NORTH 81°14'55" EAST, 408.38 FEET; THENCE SOUTH 02°00'19" WEST, 448.04 FEET; THENCE SOUTH 87°59'41" EAST, 210.00 FEET; THENCE SOUTH 02°01'19" WEST, 275.98 FEET TO INTERSECT THE SOUTH LINE OF SAID LOT 3; THENCE SOUTH 87°59'41" EAST ALONG SAID SOUTH LINE, 364.61 FEET TO THE SOUTHWEST CORNER OF LOT 2 OF SAID MEADOW RIDGE PARK LOT LINE ADJUSTMENT; THENCE NORTH 01°46'35" EAST 105.83 FEET TO A POINT OF CURVATURE; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 250.00 FEET THROUGH A CENTRAL ANGLE OF 21°57'21" FOR AN ARC DISTANCE OF 95.80 FEET TO A POINT OF COMPOUND REVERSE CURVATURE; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS 320.00 FEET THROUGH A CENTRAL ANGLE OF 13°58'47" FOR AN ARC DISTANCE OF 78.08 FEET; THENCE SOUTH 88°17'53" EAST, 307.92 FEET TO INTERSECT THE WESTERLY RIGHT OF WAY MARGIN OF JAMES STREET ROAD; THENCE NORTH 01°42'07" EAST ALONG SAID MARGIN, 338.99 FEET TO THE SOUTHEAST CORNER OF LOT 1 OF SAID MEADOW RIDGE PARK LOT LINE ADJUSTMENT; THENCE NORTH 88°17'53" WEST, 175.00 FEET; THENCE NORTH 01°42'07" EAST, 142.86 FEET; THENCE SOUTH 88°17'53" EAST, 175.00 FEET TO INTERSECT SAID MARGIN; THENCE NORTH 01°42'07" EAST ALONG SAID MARGIN, 197.85 FEET TO THE POINT OF BEGINNING;

EXCEPT TRACTS 1 AND 2 DESCRIBED AS FOLLOWS:

TRACT 1:

A TRACT OF LAND IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 3 EAST OF W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF JAMES STREET, 620 FEET SOUTH OF THE EAST-WEST SECTION CENTER LINE; THENCE SOUTHERLY ALONG SAID WESTERLY LINE, 155 FEET; THENCE WESTERLY AT RIGHT ANGLES, 500 FEET; THENCE NORTHERLY AT RIGHT ANGLES, 155 FEET; THENCE EASTERLY 500 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

TRACT 2:

LOT A, AS DELINEATED ON FITZGERALD SHORT PLAT, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 1 OF SHORT PLATS, PAGE 165, UNDER AUDITOR'S FILE NO. 1214732. RECORDS OF WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

Parcel #: 380318-533149-0000

LOT 2, MEADOW RIDGE LOT LINE ADJUSTMENT, ACCORDING TO THE PLAT THEREOF, RECORDED ON JANUARY 30, 2015, UNDER AUDITOR'S FILE NO. 2150103115, RECORDS OF WHATCOM COUNTY, WASHINGTON.

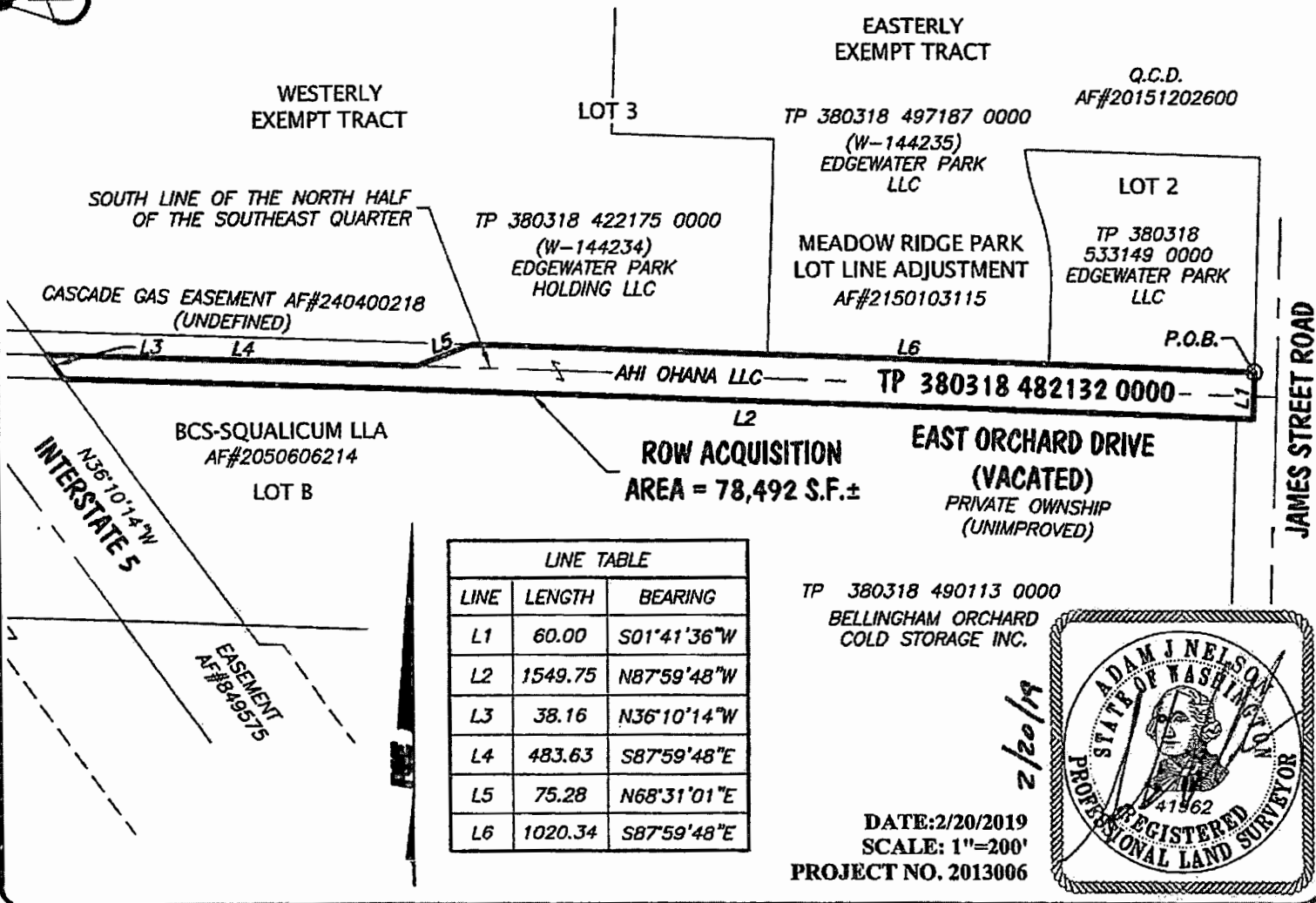
SITUATE IN WHATCOM COUNTY, WASHINGTON



EXHIBIT B

SITUATE IN A PORTION OF THE NE 1/4 & SE 1/4 OF THE SE 1/4 OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 3 EAST, W.M., CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.

PACIFIC SURVEY & ENGINEERING INC
909 SQUALICUM WAY, SUITE 111, BELLINGHAM, WA 98225 PHONE:360.671.7367 FAX:360.671.4685
EMAIL: info@pasesurvey.com WWW.pasesurvey.com



LINE TABLE		
LINE	LENGTH	BEARING
L1	60.00	S01°41'36"W
L2	1549.75	N87°59'48"W
L3	38.16	N36°10'14"W
L4	483.63	S87°59'48"E
L5	75.28	N68°31'01"E
L6	1020.34	S87°59'48"E



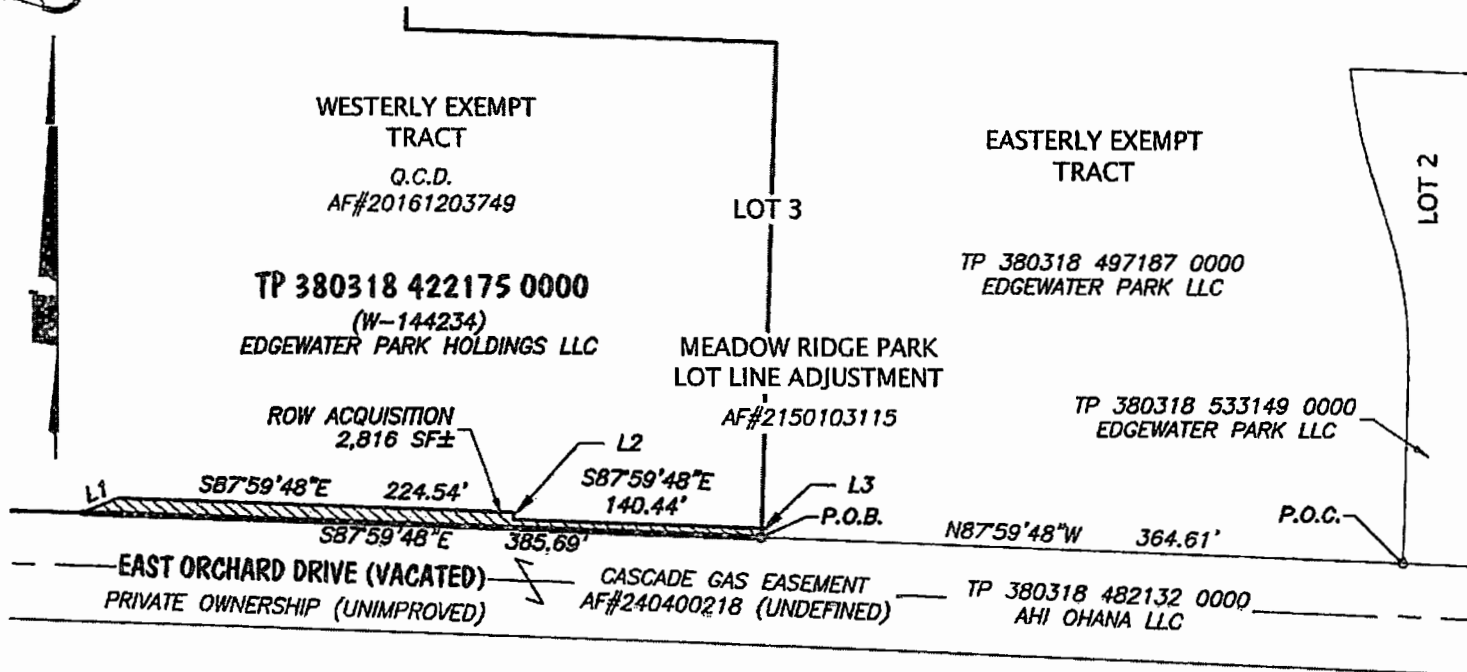
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SCALE: 1"=200'
PROJECT NO. 2013006



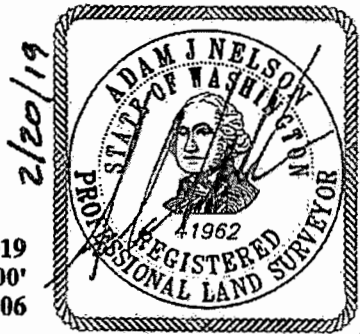
PACIFIC SURVEY & ENGINEERING INC
 909 SQUALICUM WAY, SUITE 111, BELLINGHAM, WA 98225
 PHONE: 360.671.7387 FAX: 360.671.4685
 EMAIL: info@pseurvey.com WWW.PSESURVEY.COM

EXHIBIT B

SITUATE IN A PORTION OF THE NE 1/4 OF THE SE 1/4 OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 3 EAST, W.M., CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.



LINE TABLE		
LINE	BEARING	LENGTH
L1	N68°31'01"E	22.58
L2	S02°00'12"W	4.00
L3	S02°00'12"W	5.00



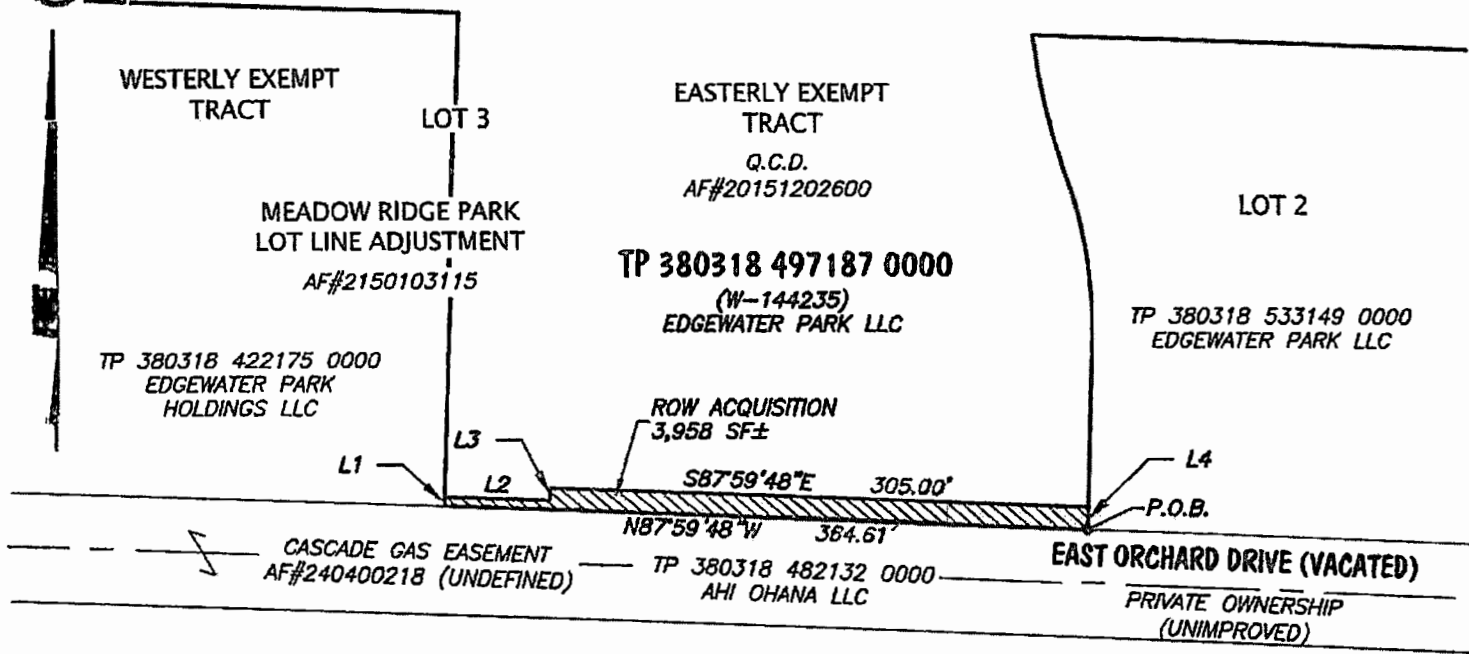
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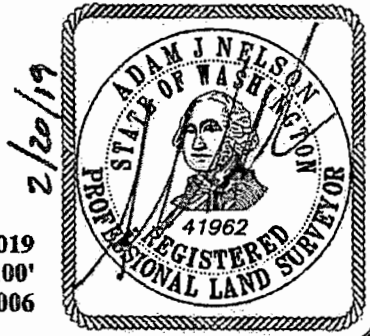
EXHIBIT B-1

SITUATE IN A PORTION OF THE NE 1/4 OF THE SE 1/4 OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 3 EAST, W.M., CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.

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LINE TABLE		
LINE	BEARING	LENGTH
L1	N02°00'12"E	5.00
L2	S87°59'48"E	59.56
L3	N02°00'12"E	7.00
L4	S01°46'05"W	12.00



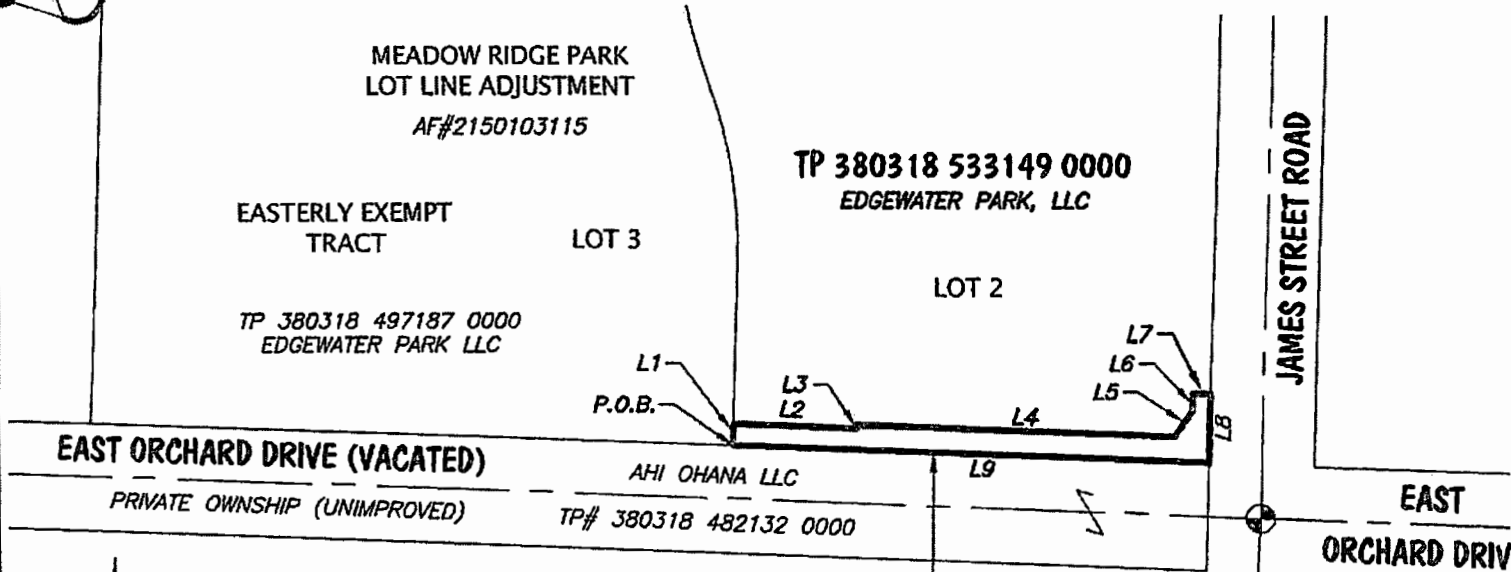
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 PHONE: 360.671.7382 FAX: 360.671.4685
 EMAIL: info@pseurvey.com WWW.pseurvey.com

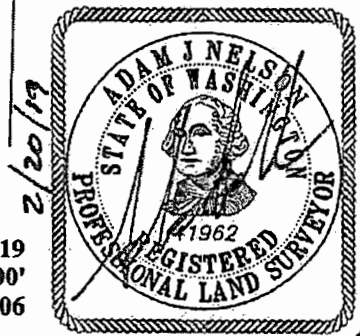
EXHIBIT B-a

SITUATE IN A PORTION OF THE NE 1/4 OF THE SE 1/4 OF SECTION 18, TOWNSHIP 38 NORTH, RANGE 3 EAST, W.M., CITY OF BELLINGHAM, WHATCOM COUNTY, WASHINGTON.



ROW ACQUISITION AREA = 3,964 S.F.±

LINE TABLE					
LINE	LENGTH	BEARING	LINE	LENGTH	BEARING
L1	12.00	N01°46'05"E	L6	10.00	N01°41'36"E
L2	70.00	S87°59'48"E	L7	10.00	S87°59'48"E
L3	2.00	N01°46'05"E	L8	39.00	S01°41'36"W
L4	180.00	S87°59'48"E	L9	270.04	N87°59'48"W
L5	17.99	N35°32'14"E			



DATE: 2/20/2019
 SCALE: 1"=100'
 PROJECT NO. 2013006