



CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: David Snider, P.E., Interim Capital Projects Manager
Ray Steiger, P.E., Interim Public Works Director

Date: October 21, 2010

Subject: NE 85th Street Corridor Improvements – Project Update

RECOMMENDATION:

It is recommended that City Council review this NE 85th Street Corridor Improvement status update.

BACKGROUND:

The NE 85th Street Corridor Improvement Project combines several capital projects and provides various improvements for this vital business corridor. The Project will provide continuous sidewalks, traffic signal upgrades, new capacity at key locations, storm water quality improvements and the undergrounding of aerial utility lines for a portion of the corridor. As envisioned in the Rose Hill Business District Plan, and developed in partnership with business owners on NE 85th Street together with the North and South Rose Hill Neighborhoods, the improvements seek to address key goals of importance for business vitality and neighborhood quality of life. To ensure a safer pedestrian experience and to revitalize the business environment, the work includes significant new improvements where there currently are none. These improvements include sidewalks, landscape strips and retaining walls where needed, some of which requiring the acquisition of new property and/or property easements.

Staff most recently updated Council in May and June of this year as to the status of the Project, including right-of-way negotiations; at their regular meeting of June 15th Council authorized the use of eminent domain (condemnation) for completing the right-of-way acquisition process.

Right-of-Way Acquisition

Staff has reported to Council on the considerable number of parcels from which property is needed for the first phase of construction activity -- the conversion of aerial utility lines to an underground system along a majority of the corridor. At their June 15th meeting, Council was informed of the status of 32 parcels necessary to have certain property rights secured for the utility conversion phase. At that time, seven property owners had signed and closed their negotiations with the City. Today that number is 20 with twelve properties remaining. For a tabular and graphic representation of this information please refer to Attachments A and B.

Official notification to property owners of Council's approval for the use of eminent domain powers helped spur a flurry of activity with property owners, resulting in bringing many back to the bargaining table. Of the twelve property owners remaining to sign, the challenges facing the City include many issues, such as:

- Differing opinions as to fair and appropriate compensation -- compensation by a public agency is required to be substantiated by prescriptive means and, in many cases, property owners' opinions of value are not being or cannot be substantiated;
- Owner's legal representation negotiating new terms on City legal documents requiring significant examination and consideration of precedence on behalf of City Council;
- Coordinating schedules with property owners -- bringing reluctant property owners to the negotiating "table";
- One property is in receivership (similar to bankruptcy/foreclosure) with multiple partners and multiple lien-holders asserting claim against the title;
- Lease arrangements where the lessee or business owner have conflicting rights to the monetary proceeds from the property acquisition with their legal counsel sorting that out on their behalf;
- Resolving last minute (PSE related) design issues which have property impacts.

Staff and the right-of-way consulting firm of Abeyta & Associates are working extensively on all issues related to the negotiations with individual property owners as expediently as possible. As discussed in the May and June updates to Council, the formal use of eminent domain is likely in order to facilitate the acquisition should negotiations reach an impasse. However, staff is committed to exhausting all possible means of coordination and negotiation work prior to a decision for filing through the courts – to date, no court filings enacting eminent domain have been started. At this time, with the number of parcels and property owners remaining, it is likely that at least one to perhaps several properties will require the condemnation process be undertaken. Should court filings be required for any property which ongoing negotiations are not fruitful, the City would attempt to gain "possession and use" of the needed property while legal proceedings continue. Possession and use would result in funds being placed in escrow allowing construction to proceed while the legal process continues.

Staff anticipates returning in December, 2010, to notify the City Council if court filings will be submitted to initiate eminent domain on specific properties.

114th Avenue NE / NE 85th Street Intersection Improvements

Due to the prolonged right-of-way acquisition process for the main business corridor of 85th Street, staff has separated the 114th Ave NE/NE 85th Street Intersection Improvements from the other corridor improvements and will bid that Project separately in advance of the other improvements. The Intersection Project is not impacted by property acquisition needs and has now been taken to 90% design -- the design will be complete in November. Staff is moving towards Project bidding before the end of the year and will return to Council for a contract award recommendation in January. This Intersection Project will provide new capacity for those leaving the Highlands Neighborhood and experiencing congestion in the southbound direction on 114th Ave NE. This congestion will be alleviated by adding an additional left-turn lane (southbound to eastbound) on the north leg of the intersection; construction is anticipated to take approximately six months.

Project Contract	Design Complete	Construction Start
1. 114 th / 85 th Intersection	November 2010	Jan/Feb 2011

Other Schedule Impacts

The remaining Project schedule is contingent upon the successful conclusion of right-of-way negotiations and the following key timelines are anticipated for the various 85th Street Improvements:

Project Contract	Design Complete	Construction Start
2. Underground Conversion*	End of 2010	Spring 2011
3. Roadway Improvements	Summer 2011	Winter 2011
4. Pavement Overlay	Fall 2011	Summer 2012

* The underground conversion project cannot begin until right-of-way/easements are secured.

Attachments (3)

NE 85TH STREET CORRIDOR IMPROVEMENTS PROJECTS

PHASE 1 PROPERTIES

Tracking Parcel #	Tax Parcel Number	Property Owner	Property Address	Property Rights To Be Acquired	Property Rights Documentation	1st Request for Response	2nd Request for Response	3rd Request for Response	Other Notes
1	1238500132	AMERCO REAL ESTATE CO.	12000 NE 85th Street	Utility Easement (UE), Temporary Construction Easement (TCE)	Administrative Offer Summary (AOS)	3/18/2010	4/14/2010		Signed
4	1233100855	HOK ENTERPRISES LLC	12420 NE 85th Street	UE, TCE	AOS	Field meeting; extensive meetings regarding previous property rights issues. 7/6/2010 - offer letter mailed. Additional meeting 7/19/2010.	8/24/2010	10/20/2010	Sale & Purchase Agreement for old ROW Completed May 2010; Attorneys coordinating; consultant coordinating other acquisition needs.
7	1233100750	GUDAZ LLC	12620 NE 85th Street	TCE, Right-of-Way Improvement Easement (RIE)	AOS	7/2/2010	7/27/2010	8/16/2010, 9/2/2010, 10/13/2010	Consultant coordinating with 'receiving' and owner-LLC.
9	1233100760	STUMPF, DAN & DENISE	12676 NE 85th Street	Right-of-Way Acquisition (ROW), TCE	AOS	3/9/2010			Signed
10	1241900016	ROSE HILL LLC NORTHSTREAM	12804 NE 85th Street	ROW, TCE	Certificate of Appraiser, Certificate of Value	3/22/2010	5/6/2010	6/15/2010; 6/29/2010; 9/7/2010	Consultant coordinating with owner-rep. Six notices sent to owner.
11	1241900014	D.S. EDISON LLC	12822 NE 85th Street	ROW, TCE	AOS	3/22/2010	4/20/2010		Signed
14	1241900015	GOODYEAR TIRE	12856 NE 85th Street	TCE	AOS	3/18/2010	5/6/2010		Signed
16	8635700005	VALORIE E SOLEIBE	13012 NE 85th Street	ROW, Right-of-Way Improvement Easement (RIE), TCE	AOS	3/16/2010	4/2/2010; 4/29/2010 Remaild		Signed
17	8635700010	VJ PROPERTY LLC	13020 NE 85th Street	TCE	AOS	3/15/2010	5/6/2010		Signed
20	8635500025	Merit Homes	13122 NE 85th Street	ROW, RIE, TCE	AOS	3/12/2010	4/19/2010		Signed
21	8635500030	Merit Homes	8505 132nd Avenue NE	UE, ROW, RIE, TCE	AOS	3/12/2010	4/19/2010		Signed
22	1233100216	US Bank, successor in interest to People's Bank of Washington as Trustee under Revocable Trust Agreement of Arthur Munson and Faye Etta Munson, dated December 19, 1979.	12005 NE 85th Street	UE, ROW	Appraisal				Signed
26	1233100400	HOK ENTERPRISES LLC	12345 NE 85th Street	UE, ROW, TCE	Appraisal	Field meeting; extensive meetings regarding previous property rights issues			Coupled with Parcel 4 also owned by Honda. See no. 4.
27	1233100402	Kirkland WG Limited Partnership, a Washington partnership	12405 NE 85th Street	UE, ROW, TCE	Review Appraiser's Certificate #2	3/19/2010	5/7/2010	Extensive Sept & Oct 2010 contacts.	Concurred on value, negotiations between business owner, land owner and lessee. Proposing escrow assignment, gaining consent from all parties.
28	1233100405	SAFEWAY INC STORE (north)	12519 NE 85th Street	ROW, TCE	Appraisal	Rosa communicating with local Safeway rep			Signed

ATTACHMENT A October 2010

31	1233100555	DEVERE CORPORATION	12633 NE 85th Street	ROW, TCE	AOS, Certificate of Appraiser	3/19/2010			Signed
32	1233100680	KAO FAMILY PARTNERSHIP	12637 - 12673 NE 85th Street	UE, TCE, RIE, ROW	Appraisal, Certificate of Appraiser	First offer presented	10/30/2010		Coordinating with owner; late revised impacts on stalls, utility design updated appraisal.
34	1241900036	HERIBERTO M PINA	12821 NE 85th Street	TCE, ROW, Anchor Easement (AE), Utility Overhang Easement (UOE)	Review Appraisal Certificate	3/9/2010	4/19/2010	5/10/2010	attorney for owners had appeared to be stalling; consultant just received counter 10/18; reviewing and preparing a response.
35	1241900035	TIMOTHY J GAY	12841 NE 85th Street	RIE, UOE, ROW	Review Appraisal Certificate	4/19/2010	5/10/2010 Field meeting		Signed
36	1241900034	ROSE HILL BLDG LLC	12845 NE 85th Street	ROW, TCE, UOE	Appraisal, Certificate of Appraiser, Review Appraiser's Certificate No. 2	3/26/2010	5/10/2010		Signed
37	1241900037	ITO & ITO LLC	12857 - 12865 NE 85th Street	ROW, RIE, TCE, UOE	Review Appraisal Certificate	4/20/2010	5/10/2010		Signed
38	1241900045	LENNON J MCADAMS II	13003 NE 85th Street	ROW, RIE, TCE, UOE	Review Appraisal Report	4/16/2010	5/7/2010		Signed
39	1241900049	YOUTH EASTSIDE SERVICES INC	13009 NE 85th Street	ROW, RIE, TCE, UOE	AOS #1, Review Appraisal Certificate No. 3	3/19/2010	4/19/2010	5/10/2010	YES board stalling, awaiting counter from them; extensive coordination with owner reps.
40	1241900048	LAI & LIN CHEN YVAN SHOU-TSU	13015 NE 85th Street	ROW, RIE, TCE, UOE	Appraisal	3/11/2010	5/6/2010	6/17/2010; 8/2/2010	Received latest counter from Chen 8/26; reviewing.
41	1241900051	WILLIAM JOHN WEBER	13021 NE 85th Street	ROW, RIE, TCE, UOE	Review Appraisal Certificate	4/19/2010	5/6/2010	Extensive Sept & Oct 2010 contacts.	Consultant extensively coordinating, awaiting signature or counter. Meeting scheduled for presentation to owner, and signature 10/20/2010.
42	1241900052	LOOKS BY LORI, LLC	13027 NE 85th Street	ROW, RIE, TCE, UOE	Updated Appraisal, Review Appraisal Certificate No. 4, Appraisal	3/22/2010	5/7/2010	8/30/2010 Field Meeting; 9/27/2010; 10/5/2010	Consultant preparing/coordinating latest counter - continued negotiations.
43	1241900046	GRINBERG INVESTMENTS INC	13111 NE 85th Street	ROW, TCE, UOE	Review Appraisal Certificate, Appraisal	3/23/2010	5/7/2010		Signed
44	1241900047	SEAWEST INVESTMENT ASSOCIATES	13131 NE 85th Street	TCE	AOS	3/26/2010			Signed
60	1238500235	MC DONALDS Corp	8515 132nd Avenue NE	TCE	AOS	3/19/2010; 3/26/2010	4/19/2010	Multiple	Attorneys re-editing legal docs. Concurred on value.
90	0325059125	Cities of Kirkland, Redmond SS2	13205 NE 85th Street	ROW, TCE	AOS	3/25/2010			Signed
91	0325059079	WILLIAM C MEYERS	8402 132nd Avenue NE	ROW, RIE, TCE	Certificate of Appraiser, Review Appraiser's Certificate No. 1, Appraisal	03/19/2010 & 04/01/2010			Signed
93	1237500760	Duane A. Gugeler and Kathryn L. Gugeler	8340 132nd Avenue NE	ROW, RIE, TCE	Review Appraisal Certificate No. 1	3/10/2010	5/7/2010		Signed



Vicinity Map
0 3,800 7,600 11,400

Map Legend

- No Property Rights Needed
- 1st Contract Status**
- Info Packets
- Appraisals
- Negotiations
- 2nd Offer
- Rights Secured
- 2nd Contract Status**
- Info Packets
- Appraisals
- Negotiations
- 2nd Offer
- Rights Secured

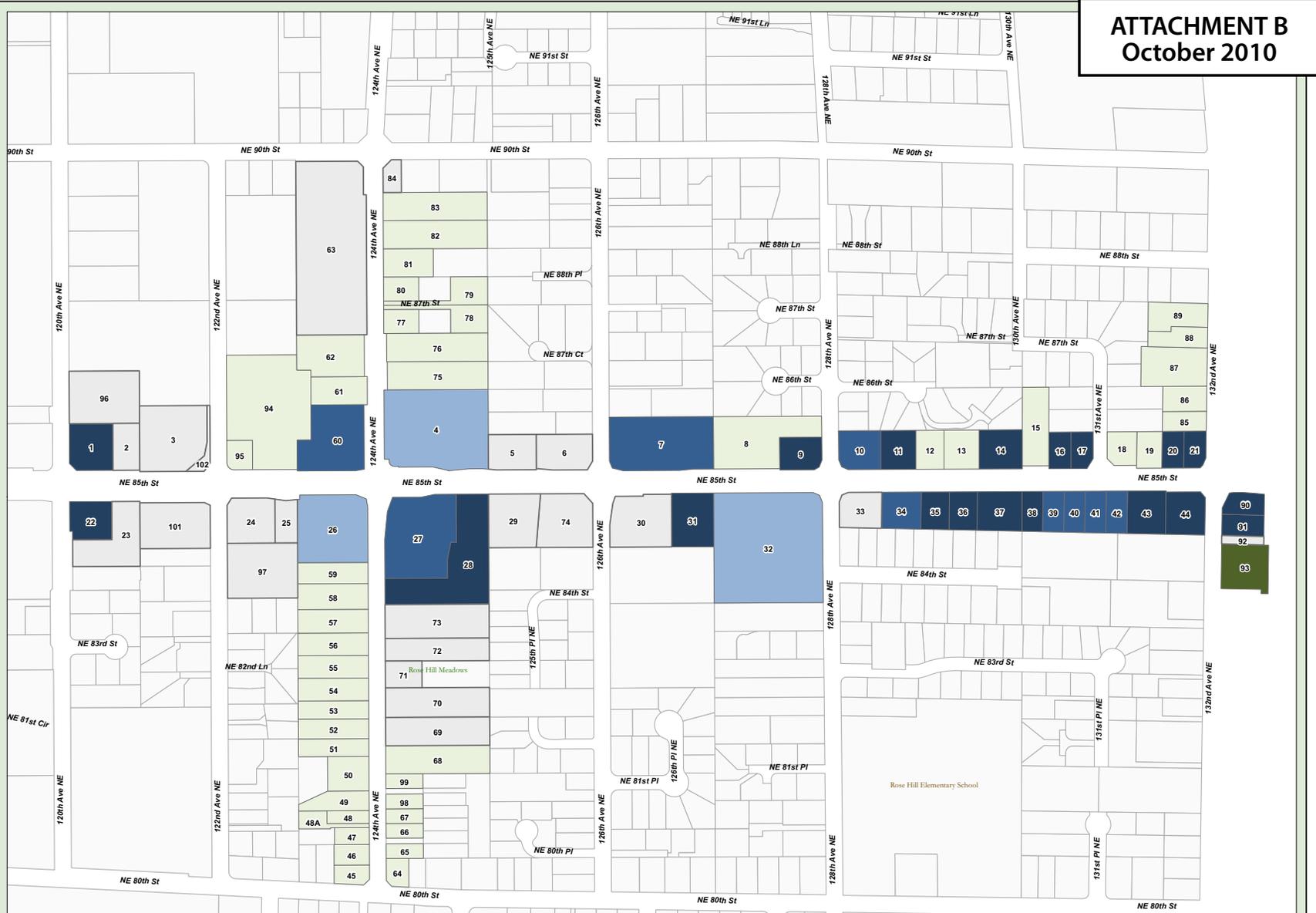
0 150 300 450
Feet



Produced by the City of Kirkland.
© 2009, the City of Kirkland, all rights reserved.
No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.

Map Created - May 15, 2009
Map Revised - May 18, 2009

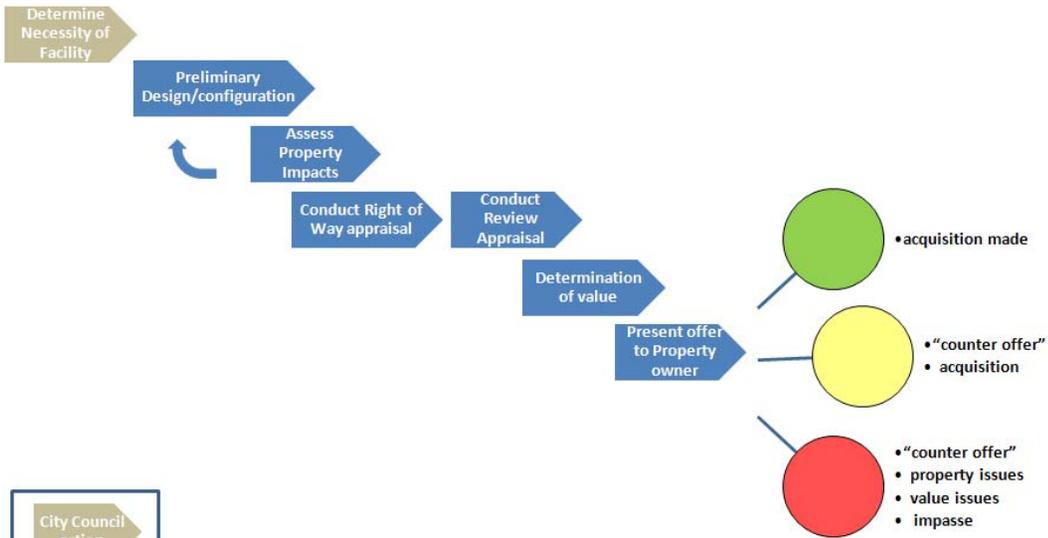
H:\Pw\CLIP\group\Project Files\COMBINED\
NE 85th Street Corridor Improvements\ROW\Status Graphics\
NE_85th_Map_11x17.mxd



NE 85th Street Corridor - Property Rights Status Map

ATTACHMENT C October 2010

Property Acquisition for Public Improvements



Intent to pursue eminent domain (ordinance)

