

**MEMORANDUM**  
**For Meeting of December 9, 2008**

**TO:** Mayor and Councilmembers  
**THROUGH:** Steve Worthington, City Manager  
**FROM:** Russ Blount, Public Works Director

**SUBJECT:** **Ordinance No. 1692** – An emergency ordinance authorizing the condemnation of a slope easement on a portion of Tax Parcel No. 0420172032; and a portion of Tax Parcel No. 0420172042 for right of way and utilities, a slope easement, and temporary construction easement.

**REPORT IN BRIEF:** Ordinance 1692 authorizes the condemnation of a slope easement on a portion of Tax Parcel No. 0420172032, and a portion of Tax Parcel No. 0420172042 for right of way and utilities, a slope easement, and temporary construction easement, all necessary for the reconstruction of Valley Avenue East, as part of the 70th Avenue East and Valley Avenue East Road Improvement Project. Both parcels are owned by Robert Cerqui.

**BACKGROUND:** Priority No. 1 on the City's Transportation Improvement Plan is the reconstruction of Valley Avenue East from 70<sup>th</sup> Avenue East to Freeman Road. In order to construct the project the City needs to acquire certain real property and property interests owned by Robert Cerqui.

**ATTACHMENTS:** Ordinance No. 1692 with attached map and legal description of area to be acquired.

**DISCUSSION:** In order to construct the project the City needs to acquire a slope easement on a portion of Tax Parcel No. 0420172032, and a portion of Tax Parcel No. 0420172042, for right of way and utilities, a slope easement, and temporary construction easement. Both parcels are owned by Robert Cerqui. Every reasonable effort was made to acquire the property by negotiation. The City's appraiser valued the fee acquisition for right of way on parcel 0420172042 at \$15.00/s.f., and slope easement at 50% of the fee value. The City's appraiser valued the slope easement on parcel no. 0420172032 at 50% of the fee value of \$10.00/s.f. The ordinance condemns the described property and property rights for public road, transportation and utility purposes and authorizes the City Attorney to commence condemnation proceedings in Pierce County Superior Court.

**FISCAL IMPACT:** Approximately \$19,200 for the slope easement on parcel no. 0420172032 and \$100,200 for the right of way, slope easement, and temporary construction easement on parcel no. 0420172042 (based on the City's appraised values), plus attorneys fees and expenses of eminent domain action.

**ALTERNATIVE COURSES OF ACTION:**

1. Adopt Ordinance 1692.
2. Amend Ordinance 1692 and then adopt Ordinance 1692.
3. Decline to adopt Ordinance 1692.

**RECOMMENDATIONS:** Adopt Ordinance 1692 as drafted.

**SUGGESTED MOTION:** Move to adopt Ordinance 1692.

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Russ Blount  
 Public Works Director  
 Printed 2:46 PM December 2, 2008

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 Approved for Agenda:  
 Steve Worthington, City Manager

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1692

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, WASHINGTON, AUTHORIZING THE CONDEMNATION AND ACQUISITION OF REAL PROPERTY FOR TRANSPORTATION AND UTILITY IMPROVEMENTS TO 70TH AVENUE EAST AND VALLEY AVENUE EAST; PROVIDING FOR PAYMENT OF THE COST AND EXPENSE OF ACQUIRING THE PROPERTY; DIRECTING THE INITIATION OF APPROPRIATE CONDEMNATION PROCEEDINGS IN THE MANNER PROVIDED BY LAW; AND DECLARING THIS A PUBLIC EMERGENCY ORDINANCE AND THUS EFFECTIVE IMMEDIATELY**

WHEREAS, on June 24, 2008, the City Council passed Resolution No. 1197, adopting the Six Year Transportation Improvement Program (2009 to 2014) (“TIP”); and

WHEREAS priority number 1 on the TIP is reconstruction of Valley Avenue East from 70<sup>th</sup> Avenue East to Freeman Road (the “Project”); and

WHEREAS the City Council finds that the public health, safety, necessity and convenience demand that the Project be undertaken and that in order to carry out the Project it is necessary for the City to acquire the property and property rights described in Exhibit A attached hereto (the “Property”), being a portion of tax parcel nos. 0420172032 and 0420172042; and

WHEREAS, every reasonable effort was made to acquire the Property by negotiation; now therefore,

THE CITY COUNCIL OF THE CITY OF FIFE, WASHINGTON  
DO ORDAIN AS FOLLOWS:

Section 1. The City Council finds and declares that the public necessity and convenience demand that the real property and property interests described in Exhibit A be condemned, appropriated, and taken for public road, transportation and utility purposes.

Section 2. The land and property rights described in the attached Exhibit A are hereby condemned, appropriated, taken, and damaged for public road, transportation

and utility purposes, subject to the payment of just compensation to the owners, or payment into court for the owners, in the manner provided by law.

Section 3. The cost and expense of acquiring the Property shall be paid in part by Transportation Improvement Board funds, federal funds, the City's general fund, and from other monies the City may have available or obtain. No part shall be paid by special assessment.

Section 4. The City Attorney is hereby authorized and directed to commence condemnation proceedings in Pierce County Superior Court against the owners or reputed owners of the Property, as provided by law.

Section 5. This Ordinance is hereby designated as a Public Emergency Ordinance necessary for the protection of public health, safety, public property or the public peace and shall be effective upon adoption.

Passed by at least a majority of the City Council plus one on the \_\_\_\_\_ day of December, 2008.

\_\_\_\_\_  
Steve Worthington, City Manager

ATTEST:

\_\_\_\_\_  
Steve Marcotte, Clerk-Treasurer

APPROVED AS TO FORM:

\_\_\_\_\_  
Loren D. Combs, City Attorney

Published: \_\_\_\_\_

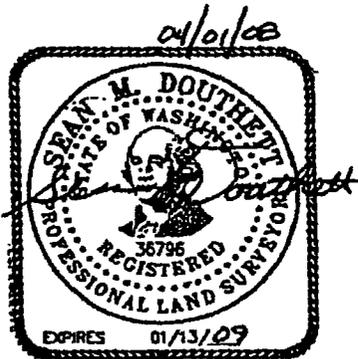
Effective Date: \_\_\_\_\_

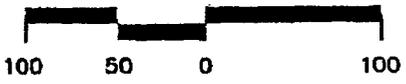
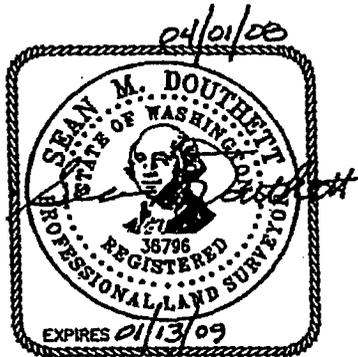
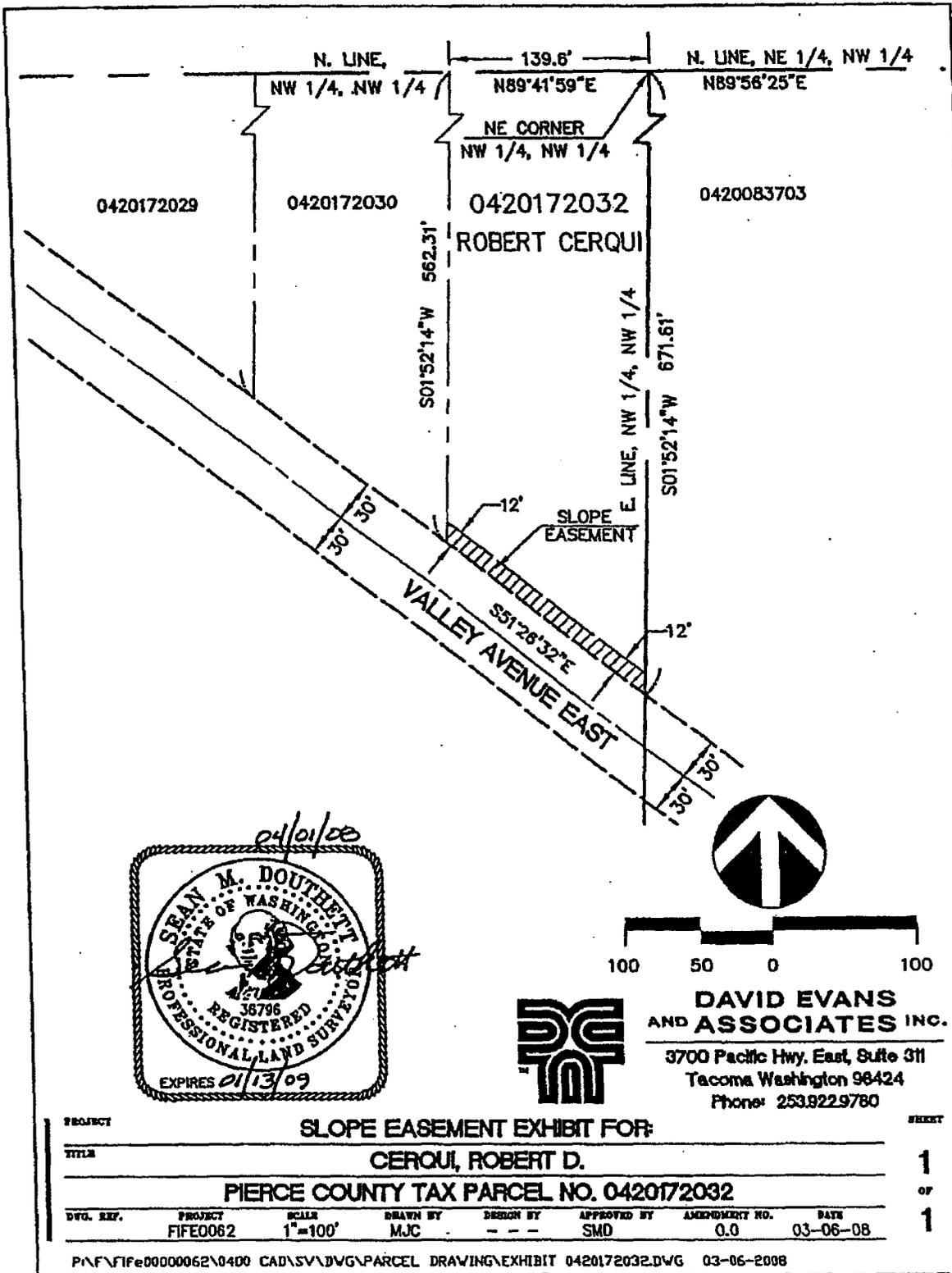
EXHIBIT 'A'  
SLOPE EASEMENT  
PIERCE COUNTY TAX PARCEL NUMBER 0420172032

THE SOUTHERLY 12.00 FEET, LYING PARALLEL TO THE CENTERLINE OF VALLEY AVENUE EAST, OF THE FOLLOWING DESCRIBED PROPERTY:

THE EAST 139.6 FEET (AS MEASURED ON THE NORTH LINE) OF THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE W.M., CITY OF FIFE, PIERCE COUNTY, WASHINGTON, LYING NORTHERLY OF VALLEY AVENUE (PACIFIC HIGHWAY) (KINCAID-GILLIAM ROAD).

CONTAINING 2,089 SQUARE FEET OR 0.05 ACRES, MORE OR LESS.





**DAVID EVANS AND ASSOCIATES INC.**  
 3700 Pacific Hwy, East, Suite 311  
 Tacoma Washington 98424  
 Phone: 253.822.9780

PROJECT	SLOPE EASEMENT EXHIBIT FOR:						SHEET
TITLE	CERQUI, ROBERT D.						1
	PIERCE COUNTY TAX PARCEL NO. 0420172032						OF
DWG. REF.	PROJECT	SCALE	DRAWN BY	DESIGN BY	APPROVED BY	AMENDMENT NO.	DATE
	FIFE0062	1"=100'	MJC	---	SMD	0.0	03-06-08

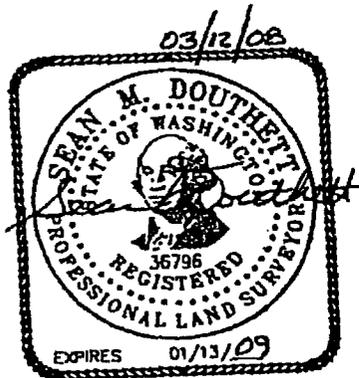
P:\F\F\Fe00000062\0400 CAD\SV\BVG\PARCEL DRAWING\EXHIBIT 0420172032.DWG 03-06-2008

RIGHT-OF-WAY ACQUISITION  
PIERCE COUNTY TAX PARCEL NUMBER 0420172042

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE W.M., CITY OF FIFE, PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 17;  
THENCE NORTH 89° 41' 59" EAST ALONG THE NORTH LINE OF SAID SECTION 422.83 FEET ;  
THENCE SOUTH 01° 53' 04" WEST 47.47 FEET TO THE SOUTHERLY RIGHT-OF-WAY MARGIN OF VALLEY AVENUE EAST AND THE EAST LINE OF THE WEST 13 ACRES OF SAID SECTION SUBDIVISION AND THE POINT OF BEGINNING;  
THENCE CONTINUING SOUTH 01° 53' 04" WEST ALONG SAID EAST LINE 48.92 TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST FROM WHENCE THE RADIAL CENTER BEARS SOUTH 23° 31' 17" WEST 456.00 FEET DISTANT;  
THENCE SOUTHEASTERLY 111.45 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14° 00' 13";  
THENCE SOUTH 53° 30' 15" EAST 44.84 FEET TO A LINE PARALLEL WITH AND 134.48 EASTERLY OF SAID EAST LINE OF THE WEST 13 ACRES;  
THENCE NORTH 01° 53' 04" EAST ALONG SAID PARALLEL LINE 27.53 FEET TO THE SOUTHERLY RIGHT-OF-WAY MARGIN OF VALLEY AVENUE EAST;  
THENCE NORTH 51° 26' 32" WEST ALONG SAID SOUTHERLY MARGIN 167.67 FEET TO THE POINT OF BEGINNING.

CONTAINING 4,629 SQUARE FEET OR 0.11 ACRES, MORE OR LESS.

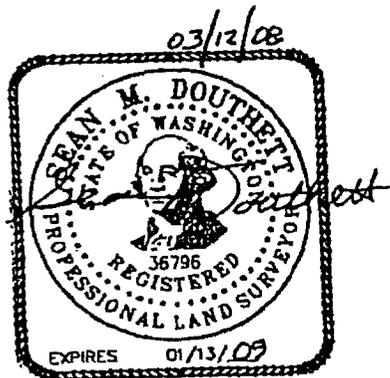


SLOPE EASEMENT  
PIERCE COUNTY TAX PARCEL NUMBER 0420172042

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE W.M., CITY OF FIFE, PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 17;  
THENCE NORTH 89° 41' 59" EAST ALONG THE NORTH LINE OF SAID SECTION 422.83 FEET;  
THENCE SOUTH 01° 53' 04" WEST 47.47 FEET TO THE SOUTHERLY RIGHT-OF-WAY MARGIN OF VALLEY AVENUE EAST AND THE EAST LINE OF THE WEST 13 ACRES OF SAID SECTION SUBDIVISION;  
THENCE CONTINUING SOUTH 01° 53' 04" WEST ALONG SAID EAST LINE 48.92 TO THE POINT OF BEGINNING AND THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST FROM WHENCE THE RADIAL CENTER BEARS SOUTH 23° 31' 17" WEST 456.00 FEET DISTANT;  
THENCE SOUTHEASTERLY 111.45 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 14° 00' 13";  
THENCE SOUTH 53° 30' 15" EAST 44.84 FEET TO A LINE PARALLEL WITH AND 134.48 EASTERLY OF SAID EAST LINE OF THE WEST 13 ACRES;  
THENCE SOUTH 01° 53' 04" WEST ALONG SAID PARALLEL LINE 13.37 FEET;  
THENCE NORTH 53° 30' 15" WEST 52.44 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST FROM WENCE THE RADIAL CENTER BEARS SOUTH 37° 31' 30" WEST 445.00 FEET DISTANT;  
THENCE NORTHWESTERLY 104.39 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13° 26' 27" TO SAID EAST LINE OF THE WEST 13 ACRES;  
THENCE NORTH 01° 53' 04" EAST ALONG SAID EAST LINE 11.86 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,723 SQUARE FEET OR 0.04 ACRES, MORE OR LESS.

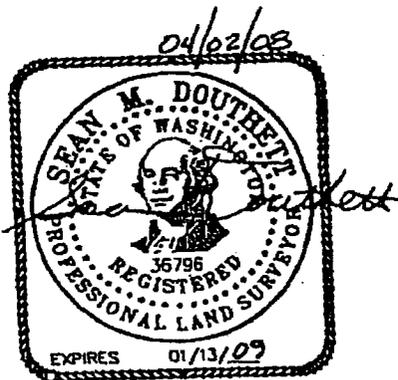


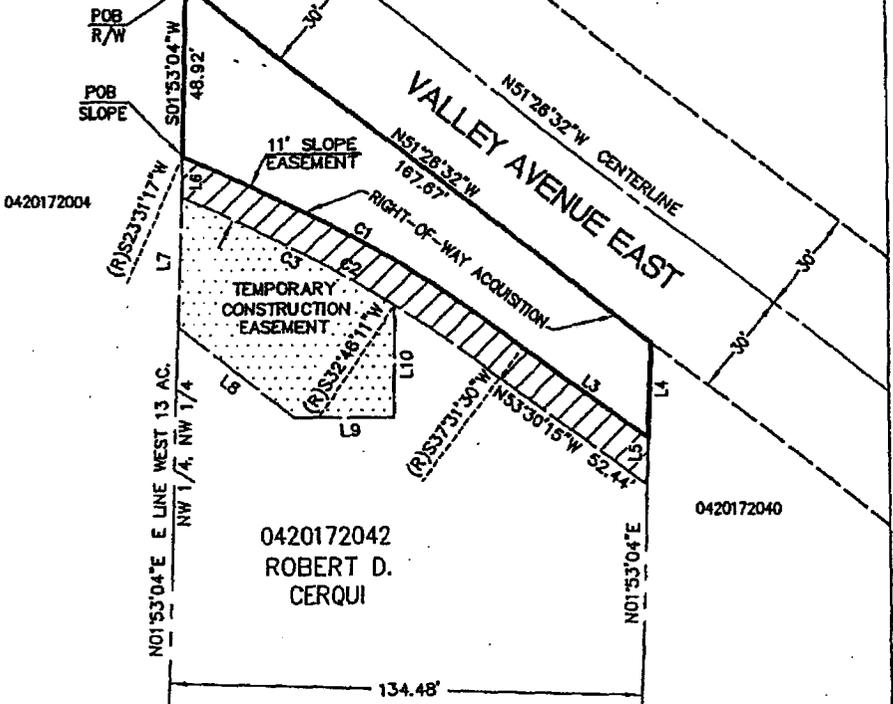
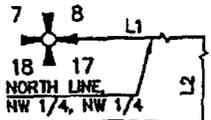
TEMPORARY CONSTRUCTION EASEMENT  
PIERCE COUNTY TAX PARCEL NUMBER 0420172042

THAT PORTION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 20 NORTH, RANGE 4 EAST OF THE W.M., CITY OF FIFE, PIERCE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 17;  
THENCE NORTH 89° 41' 59" EAST ALONG THE NORTH LINE OF SAID SECTION 422.83 FEET;  
THENCE SOUTH 01° 53' 04" WEST 47.47 FEET TO THE SOUTHERLY RIGHT-OF-WAY MARGIN OF VALLEY AVENUE EAST AND THE EAST LINE OF THE WEST 13 ACRES OF SAID SECTION SUBDIVISION;  
THENCE CONTINUING SOUTH 01° 53' 04" WEST ALONG SAID EAST LINE 60.78 FEET TO THE POINT OF BEGINNING;  
THENCE CONTINUING SOUTH 01° 53' 04" WEST ALONG SAID EAST LINE 38.08 FEET;  
THENCE SOUTH 51° 26' 32" EAST 42.35 FEET;  
THENCE SOUTH 89° 34' 03" EAST 27.16 FEET;  
THENCE NORTH 00° 25' 57" EAST 32.58 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST FROM WHENCE THE RADIAL CENTER BEARS SOUTH 32° 46' 11" WEST 445.00 FEET DISTANT;  
THENCE NORTHWESTERLY 67.46 FEET ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 08° 41' 08" TO SAID EAST LINE OF THE WEST 13 ACRES AND THE POINT OF BEGINNING.

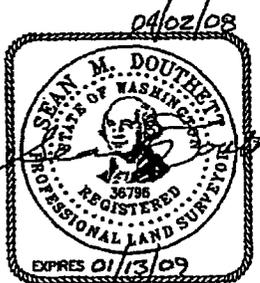
CONTAINING 2,542 SQUARE FEET OR 0.06 ACRES, MORE OR LESS.





LINE TABLE		
LINE	BEARING	LENGTH
L1	N89°41'59"E	422.83'
L2	S01°53'04"W	47.47'
L3	S53°30'15"E	44.84'
L4	N01°53'04"E	27.53'
L5	S01°53'04"W	13.37'
L6	N01°53'04"E	11.86'
L7	S01°53'04"W	38.08'
L8	S51°28'32"E	42.35'
L9	S89°34'03"E	27.16'
L10	N00°25'57"E	32.58'

CURVE TABLE			
CURVE	DELTA	RADIUS	LENGTH
C1	14°00'13"	456.00'	111.45'
C2	13°26'27"	445.00'	104.39'
C3	8°41'08"	445.00'	67.46'



0 2 3 4

**DAVID EVANS AND ASSOCIATES INC.**

3700 Pacific Hwy. East, Suite 311  
Tacoma Washington 98424  
Phone: 253.922.9780

PROJECT: **R/W ACQUISITION, SLOPE AND TEMP. CONST. EASEMENT EXHIBIT FOR:**

TITLE: **ROBERT D. CERQUI**

**PIERCE COUNTY TAX PARCEL NO. 0420172042**

DWG. NO. PROJECT SCALE DRAWN BY DESIGN BY APPROVED BY ACQUISITION NO. DATE

FIFE0062 1" = 40' MJC SMD 0.0 04-01-08

mjc 04/02/08 8:15am - P:\V\F\0000062\0400 CAD\SV\DWG\PARCEL DRAWING\ED088T MAPS\COURT 0420172042.dwg