

**CITY OF SAMMAMISH
MEMORANDUM**

TO: Steven Chen, Associate Engineer

FROM: Steve King, Assistant City Attorney

DATE: 5-9-2003

RE: Removal of the NE 42nd Street Barricade

Currently, NE 42nd Street, which provides access to SR 202 via 192nd Avenue NE, is blocked by a barricade near its intersection with 192nd Avenue NE. This barricade was placed on 42nd Street as a condition of preliminary plat approval for the Chrysalis Estates, Webers Ridge, and Old Mill Point subdivisions. NE 42nd runs through these three contiguous subdivisions.

You have asked me to review the preliminary plat conditions for those subdivisions to determine whether the City is under a legal obligation to either remove or retain the barricade. You also asked me to review your plat condition flow chart and September 24, 2002 memo, in which you set out the plat conditions pertaining to the barricade and established which of those conditions must be satisfied prior to barricade removal.

After reviewing the plat conditions, and the associated documents that you provided, it is my opinion that the City is under no legal obligation to either retain the barricade or to remove it. However, if the barricade remains in place after the state makes improvements to SR 202, the plat condition requiring signalization of the intersection at 192nd Avenue NE and SR 202 may be called into question.

I have also concluded that your memo and flow chart accurately describe all of the conditions placed on the subdivisions and correctly identified those conditions that must be satisfied prior to barricade removal.

The King County Hearing Examiner conducted a consolidated review of the Chrysalis Estates, Webers Ridge, and Old Mill Point subdivisions, and on March 12, 1996, issued one set of recommended conditions to be applied to all three subdivisions. The King County Council accepted these recommended conditions, with one modification that does not pertain to the barricade, and on July 26, 1996, passed Ordinances Nos. 12400, 12401, and 12402, approving the preliminary plats for the Chrysalis Estates, Webers Ridge, and Old Mill Point subdivisions respectively.

The Hearing Examiner's report addressed placing the barricade across NE 42nd in Finding No. 22, Conclusion No. 6, and Recommended Condition No. 19, but did not specifically address the issue of whether the barricade must be removed or whether it must be retained.

Finding No. 22 addressed the barricade in a discussion of the signalization of the 192nd Avenue and SR 202 intersection. It stated that "it is sufficient to require that the signal shall be installed prior to completion of the road connection through Webers Ridge, which is the necessary link to complete the neighborhood collector route."

Conclusion No. 6 stated that several groups would prefer that "a temporary barrier be provided at the eastern boundary of Chrysalis Estates which would prevent normal traffic passage (but allow emergency vehicle access) until SR 202 capacity improvements are made." The Examiner found that leaving the barricade in place until the SR 202 capacity improvements were completed "would mean that the signal warrants would not be met at the SR202/192nd Place Northeast intersection, resulting in the elimination of a needed traffic mitigation from the project."

Recommended Condition No. 19 stated that the traffic studies and other actions set forth in the condition "are not required until either Chrysalis Estates is recorded, or a public road connection is made between 192nd Avenue NE and NE 42nd Street."

Based on these sections of the Examiner's report, it is my opinion that, once the conditions that you have identified have been met, the City may remove the barricade at any time. The City may also choose to leave the barricade in place, but if it remains in place after completion of the SR 202 capacity improvements, the developers of the three subdivisions may have a claim against the City for the costs of the traffic signal at the SR202/192nd intersection.

Please let me know if you have any questions or if you require additional research on this issue.