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Anacortes Planning Commission
Municipal Building - Council Chambers
904 6th Street

December 11, 2024
6:00 PM

PRELIMINARY AGENDA
[Packet Materials](#) / [Watch Meeting](#)

1. **Roll Call**
2. **Pledge of Allegiance**
3. **Minutes**
 - a. Minutes of 09/11/2024, 09/25/2024 and 10/02/2024 were submitted for approval.
4. **Public Comment**
5. **Public Hearings**
 - a. Open Record Pre-Decision Public Hearing CUP-2024-0001 Dog Grooming Salon
 - b. Proposed amendments to Anacortes Municipal Code (AMC) Title 19 to comply with new state requirements and improve predictability and timeliness in project permit review (Draft Ord. 4092)
6. **Other Business**
7. **Planning Department Update**
8. **Adjournment**

**Citizens wishing to comment on items not on the agenda may do so under Public Comment. Citizens wishing to comment during a public hearing may do so as those items are considered by the Planning Commission during the course of the meeting.*

The City of Anacortes is committed to making public meetings available and accessible to all members of the community. For assistance with special needs, please contact the City Clerk at 360-299-1960 in advance of the meeting.

Anacortes Planning Commission Minutes - September 11, 2024

Roll Call

Chairperson Linda Martin called to order the Anacortes Planning Commission meeting of September 11, 2024 at 6:00 p.m. Commissioners Jim Stoneman, Frank Jeretzky, Paul Ryan, Luke Currier, and Mike Mills were present.

Commissioner William McCombs attended the meeting via Zoom.

Minutes

There were no minutes submitted for approval.

Public Comment

Bill Turner, 2012 I Ave, Anacortes, referred to page 6 of the Housing Action Plan (HAP) regarding priority levels and timelines. He reviewed the goals from the HAP that were supposed to have already happened. Hiring a Housing Coordinator was another item that is past due. He feels we need to hire this person so that citizens have someone to talk to and provide information. All of these items are past their due date. He would like to see some action. He recommends looking at neighborhoods or zoning areas one at a time and gathering public input.

Ian Munce, 1711 Quail Dr, Anacortes, thanked staff for getting the packet out earlier. The Planning Department has been ridiculously underfunded for years. They don't have the resources they deserve. This is not a criticism of staff, but of city leadership underfunding exercises and still expecting an outcome. The HAP is a great example. We love it, but there's no real action. In the 1990's Anacortes decided it wanted to continue to be a small community. We need to focus on that. We also need to focus on neighborhood character and not change those. The idea of densifying the city is not what people want. He suggests staff meet with HOA's, stakeholders, neighbors, etc to determine what they want and bring that information back to the Planning Commission.

Public Hearings

Other Business

2025 Comprehensive Plan Update: Land Use and Housing Regulatory Concepts presentation and discussion

Libby Grage reviewed the Comprehensive Plan timeline and stated we are in the "shaping the plan" phase. This includes information gathering and analyzing that information. Staff is also working on the land use analysis. There will be Planning Commission worksessions on all the elements individually. The state's deadline for completing the Comprehensive Plan update is December 31, 2025. She reviewed the next steps, including releasing the draft policy revisions for each element separately. Once those are released, we will make sure that the public is notified and given time to provide comment. Then, in spring 2025, staff anticipates releasing the draft of the integrated plan. The Planning Commission will review that. Then, in summer/fall 2025 there will be public hearings and recommendations to City Council. As policy revisions are released, they will be in a spreadsheet or table with the current policies, then the proposed amendments, and lastly a description of the reason for the proposed changes. She reviewed the Planning Commission upcoming meeting dates and topics.

Jim Stoneman asked if the Commissioners ever review the submitted comments during the meeting.

Ms. Grage stated that has been done in the past. We chose to summarize them and provide recommendations. Since this is an ongoing process, we receive comments all the time, so that would be a difficult process.

Markus Johnson (Makers) pointed out that tonight's discussion is the remaining Housing Action Plan (HAP) recommendations and strategies. HAP 2.4.2 recommends updating maximum lot coverage in R4 and R4A zones. We are not suggesting changing the minimum landscape area, but proposing changing the lot coverage. This can be impactful for smaller sites. The proposal is to increase lot coverage to 60% for R4 and R4A. Regarding HAP 2.4.4, updating density standards, there is currently no minimum density standard in the zoning code. The proposed update is to dissuade under-building in this zone. This would not apply to all of R4 and R4A; rather it would apply to lots that have 12000-15000 sq feet. Most lots in this area are 6000-7500 sq ft so the proposal is in essence for 2 lots combined. HAP 2.4.4 also looks at updating maximum density in all residential zones. The current maximum densities prevent middle housing developments. The next strategy, HAP 2.4.5, is updating setbacks, which looks mainly the street setback for R2A and R3 and recommends reducing to 15 feet instead of the 20 feet currently. This smaller setback compliments the middle housing types while still providing usable open space and landscaping. Garages would still be set back at 20 feet. Also, in HAP 2.4.5 is the interior side upper-floor setbacks. Due to construction methods and construction costs, developers do not want the step back. The intention is to clarify & simplify this aspect of the code. The proposal is to remove the upper floor side setbacks in R3, R4, & R4A zones. The height bonus program in HAP 2.4.6 currently allows for a height bonus in R4, CBD and C zones if they meet the conditions. The proposal is to increase the small unit size to 650sf, which increases livability. They also recommend considering other criteria that the height bonus could apply to, such as day care, senior housing, etc. He moved on to HAP 2.4.7 for elevator penthouse. The proposal is to increase from 15 to 17 feet so that new developments can provide shared roof access while also having space for the elevator.

Mr. Johnson reviewed RCW 35A.63.300 for density bonuses for religious organizations if affordable housing for low income households is being developed. Due to societal changes, religious organizations are looking at re-purposing their spaces. The proposal is to set the density bonus standards based on zoning areas so that if they decide to develop affordable housing there are bonus opportunities. He reviewed the zoning areas and possible changes. The intent is to make it easier to develop affordable housing for these religious organizations. For example, religious space on the ground floor and housing above. HAP strategy 2.5.1 recommends amending the definition of family to comply with state law. The intent of HAP recommendation 2.5.2 for design standards of town-homes is to clarify what can and can't be done. Then HAP 2.5.3 clarifies that multifamily (MF) and town-home developments are subject to the landscape block frontage provisions. The recommendations in HAP 2.5.4 fine tunes the usable open space for residential development. Also in HAP 2.5.4, regarding shared open space on roof decks, they provided 3 options to choose from: (1) keep language the same, (2) allow them to count for up to 50% of required space for all developments with MF uses or (3) use current language and allow MF building incorporated into a horizontal mixed use development to also count shared roof decks as 100% of required open space. The commissioners will have to determine which to bring forward. HAP 2.5.5 is more fine-tuning for open space for town homes. The recommendation in HAP 2.5.6 for landscaping design standards is to allow for more efficient use of land with a reduction of 2.5 feet to the minimum planting widths. Then HAP strategy 2.5.7 clarifies the applicability of service areas by adjusting design standards. There are minor revisions suggested in HAP 2.5.8 for the articulation standards. HAP 2.5.9 suggests updating the building material standards. The recommendations in HAP 2.5.10 include new language to ensure that there are no new blank walls.

Markus Johnson moved on to HAP 2.6.1, the parking standards. The recommendations are to provide more certainty and clarity. One recommendation is to have a new standard for middle housing, such as moving away from bedroom counts to a fixed amount. These changes would make development of middle housing, affordable housing and senior housing easier and in line with other communities in Washington state. They recommend a fee-in-lieu payment for retail uses in a mixed-use building in any location. For guest parking, currently only the CBD waives guest parking requirements. They recommend extending that to R4, C and MMU zones. Another option is to remove the guest parking requirement all together. Lastly, HAP 4.3.2 recommends reexamining the purpose, priorities and development regulations for the R1 zone. This zone has benefits regarding open space and wildlife corridors that may need to be considered. Minor zoning changes in this area would help to create a few more developable lots. Tax Increment Financing could be a tool to

help finance the infrastructure needed as development happens.

Public Comment Opened

Ian Munce recommends neighborhood input for these. One size will not fit all. This may be your last chance to provide input for infill in your neighborhoods. People will be up in arms once these start to be developed. Cottage developments are not currently permitted in R1 and may not be well received by neighbors. He reminded the Commissioners that the topography and critical areas in R1 will hinder development.

Bill Turner reiterated the City needs to hire a housing coordinator! He listed organizations this person could meet with and provide information. He's concerned that there has not been enough input from citizens.

Public Comment Closed

Commissioner Discussion

Paul Ryan said that limiting parking and increasing density don't go together. The convenience of transit is not the same in our community as in other surrounding communities. He expressed concern at limiting parking to 0.5 for MF housing because those individuals may need 1-2 vehicles to travel to work outside our community as we don't have a wide range of employment opportunities across all income levels.

Mike Mills pointed out that in the first few slides, we talked about lot coverage and setbacks, which usually result in larger and more expensive housing units. This is counter to the objective of encouraging lower cost housing. The only way to make that work is to increase the minimum number of housing units.

Markus Johnson clarified that the lot coverage conversation was for the R4 zone. The proposed change allows for more units to be built on the lot which in turn lowers the rent and provides more housing. In relation to setbacks, those were for the R2A and R3 medium density zones. The suggestions looked at providing more flexibility on the lot for duplexes and triplexes.

John Coleman understands the concerns that the proposed changes to lot coverage and setbacks would encourage larger single family residences if they choose not to develop as MF. The intent is to make duplexes and triplexes easier to develop if there is enough space on the parcel.

Mike Mills commented that larger housing units result in higher priced units. He wants to ensure a minimum number of housing units to avoid the larger SFR.

Mr. Coleman said that is not in this section. We want to encourage development to a specific density where possible. He's not sure if the city can require a minimum density of 2 units for this area. He suggested language to clarify that these development standards apply when more than one dwelling unit is proposed.

Frank Jeretzky referenced page 7 asking why this is 60% instead of 55% lot coverage.

Markus Johnson commented that in those zones, you normally see 6 units. We expect a higher number of units in the R4 zones. Sixty percent lot coverage is high for middle housing, but works for Anacortes in R4 zones.

Commissioner Jeretzky moved on to page 9 referencing the 32nd & R building. There's no parking allowed on R Ave and 32nd has commercial developments, there's no onsite parking, no parking provided for guests. He recommended that the Commissioners consider the impact on the neighborhood for the excess parking above the one vehicle the tenants are allowed to have. He moved on to page 12, asking how the 15 foot setback is measured. He pointed out that the front steps will encroach into that setback.

John Coleman clarified that the steps can be in the setback, unless they are covered. If the Commission recommends decreasing the front setback, you may want to include something about parking in the front because 15 feet is not long enough for most vehicles. Garages may need to be set back further or be backloaded.

Frank Jeretzky referenced page 32. He's trying to understand how affordable housing requires a 1/2 parking space, but senior housing requires one spot. This is not what is really happening in town. He expressed concern that 1/2 is too low, especially taking into account the overflow that happens in the street.

Luke Currier asked for examples of successes from other communities of religious organizations that are involved in affordable housing.

Mr. Johnson said in the Central District of Seattle, there's a group that encourages religious organizations to

have representation on the ground level and affordable housing above. Some organizations use that ground floor space for community activities as well.

Frank Jeretzky pointed out that the Lutheran Church on LaVenture has senior housing. That is a great development.

Markus Johnson reminded the Planning Commissioners that they can hold off on this recommendation.

John Coleman said the recommendation in R4 is 65 ft maximum height. Currently, the maximum height is 50 feet, and there was pushback on that. He asked Markus if there is a requirement for this increase.

Mr. Johnson said there is not. There are other forms of bonuses that can take place. He recommends making sure that the bonuses are "real bonuses" and not too close to the current zoning.

Paul Ryan asked if the city can have other codes that restrict occupancy based on room size. He pointed out that you cannot have 3 people in a 70 square foot room under the property codes.

Markus Johnson agreed and said he is not sure, but will look into it.

Mike Mills asked if there is a definition for 'religiously owned property' in our code.

Mr. Johnson commented that is covered in state law. Any proposed change will comply with the State. If there isn't a definition, we can define it.

Mike Mills said the 'impervious lot coverage' bothers me. Anacortes likes its parks and forest lands.

Regarding bonuses for religious organizations, he wondered if we should give considerations if they provide parking for neighboring commercial uses. The religious organization use the parking at specific times.

Markus Johnson stated that kind of bonus could be very complex and difficult to administer. He suggested this be handled in a private agreement.

William McCombs asked if there is a definition of affordable housing.

Mr. Johnson clarified that in this context, affordable housing applies to 80% AMI for ownership units and 60% for rentals. State law usually mandates that the units remain affordable for 50 years.

William McCombs asked for a description of fee in lieu parking.

Markus Johnson said that instead of developer doing on-site parking, they will pay into a bucket to contribute to a larger parking facility or other city benefit.

William McCombs wondered if the environmental aspects were taken into consideration when determining the lot coverage recommendation.

Mr. Johnson agreed. He commented that is one reason we chose 60% lot coverage. This allows the developer to work around environmental aspects. The intent is to have landscaping capture rain water.

William McCombs asked if the HAP recommendations were going to be part of a survey.

John Coleman pointed out that the HAP was part of a survey. There were 1100 people that responded when we did that which shaped the HAP. We cannot survey everyone on these topics. We are trying to get the word out that we are discussing this. We have another open house scheduled; there will be more meetings, public hearings, etc. Staff feels that adding one more survey will not capture these individual items.

Regarding the 65 foot height limit, we understand that there are other options and requested that Makers provide those.

Linda Martin reminded us of the bigger picture: the Planning Commission is reviewing the HAP. The whole point of the HAP is to find ways to increase density and provide different housing types. Currently, 80.5% of all dwelling units are SFR's. Based on the allocation from Commerce, the change is to move towards 65% for SFR's. Approximately 5000 people are projected to come and we want to plan for those people. There is a need for middle housing and we need to determine how to make that happen while still maintaining the feel of Anacortes. She recommends considering all of the proposals, and become experts in each section. She passed out a chart to the commissioners, stating it would be helpful to have recommendations from the planning staff and then the Commissioners can make recommendations. Makers has already provided some great language that we could draw from.

Paul Ryan stated he likes how this is broken down into sections.

Linda Martin commented that doing it this way allows the Planning Commission to forward our recommendation to City Council.

Mike Mills agreed that breaking these into digestible chunks makes sense. He recommends being mindful of

how many Commission members will review each topic.
The Commissioners divided up the sections.

Planning Department Update

John Coleman said that hopefully in October or early November there will be a survey for guiding the Economic Development Strategic Plan. We are working with WWU consultants who are putting the survey together. We hope to have it out for review for 3 weeks. After that we will schedule some listening sessions where citizens can provide feedback. This will inform the Economic Development element of the Comprehensive Plan update. Regarding the Housing Coordinator, we already have one. This is a part-time position.

Linda Martin reminded everyone that the Department of Commerce offers a short course on local planning. It's online, 2.5 hours on September 26th and it's free.

Adjournment

Linda Martin adjourned the meeting at 8:10 p.m.

Anacortes Planning Commission Minutes - September 25, 2024

Roll Call

Chairperson Linda Martin called to order the Anacortes Planning Commission meeting of September 25, 2024 at 6:00 p.m. Commissioners Jim Stoneman, Frank Jeretzky, Paul Ryan, and Mike Mills were present. Commissioners William McCombs and Luke Currier were absent.

Minutes

There were no minutes submitted for approval.

Public Comment

Ron Pederson, Fidalgo Pool representative, asked for the Planning Commission to support of their proposed land use change.

Kathleen Lawrence Flanagan, Anacortes, asked for staff to review tonight's process.

Mr. Coleman said he will address that soon.

Public Hearings

Other Business

2025 Comprehensive Plan Update - Preliminary amendment proposals for the Land Use and Housing Elements

John Coleman clarified that tonight's presentation is for the 2025 Comprehensive Plan Land Use and Housing elements. He reviewed the Comprehensive Plan process. Staff is going to bring digestible sections of the Comprehensive Plan to the Planning Commission. This will include background information and proposed changes to the various elements. We aren't yet at the public hearing phase, although the public can comment along the entire process. We intend to update the policies and goals for each element, which is different from updating the development regulations. He pointed out that these work together but are not contained in the same document. First we intend to have the Planning Commission review the changes to the elements, then come back later to review the development regulations and make updates at that time. Staff will try to differentiate them during the presentations. When we get to the public hearings, we will not be asking for final recommendations from the Planning Commission. Instead, since they all work together, staff will bring it back as one document for your comprehensive review and make a recommendation to Council. Public comments will be accepted throughout the process.

Mr. Coleman clarified that tonight's meeting will include a presentation on the Land Use and Housing elements along with the Future Land Use Map (FLUM). Part of the FLUM changes are the requests from public to change zoning on their property. The applicants will not be presenting tonight as this is an introduction. The goal is to provide information and give the Commissioners the opportunity to ask questions. He reviewed the updated schedule and staff suggestions for special meetings.

Linda Martin said she really appreciated the background and all the information in the packet. There's specific language and recommendations in the packet. She asked if the Planning Commission is supposed to comment on that.

John Coleman stated this is for information gathering. Recommendations should be made when this is brought back to the Planning Commission for a public hearing.

Markus Johnson, Makers. said this is the first review of the Land Use element. There will be more opportunities for public comment. There may be additional updates to the Land Use element as it is influenced by other elements. He reviewed the proposed land use map changes. FLUM update #1 is proposed to support HAP 1.7, to provide for development of multi-family housing in areas close to the neighborhood grocery/commercial concept. The goal is walkability to small commercial uses. The eastern

portion of this area is close to a stream, which will be taken into account.

John Coleman clarified that RLD (residential low density) in the FLUM corresponds to R1, R2 and R2A on our zoning map.

Markus Johnson moved on to FLUM update #2 references the neighborhood commercial options. This is trying to implement HAP 6.5 and there are 2 options proposed. Option 1 correlates to the map and adds commercial overlays. In option 2, the changes would happen in the zoning code, not the map. The rest of the FLUM updates were requested by property owners. Update #3 is the Port of Anacortes asking for change from aeronautical to light manufacturing; update #4 is Fidalgo Pool's request; update #5 is a request from industrial to RMD (residential medium density); update #6 is the Port of Anacortes change from light manufacturing to manufacturing & shipping to maintain continuity for this area; update #7 is Port of Anacortes request from commercial and MMU to Commercial Marine to match the zoning in that area; update #8 is to add all unincorporated ACFL parcels to the UGA; and update #9 is to expand the UGA to include the Signal Hill properties.

John Coleman pointed out that updates 8 & 9 are UGA expansion requests. We cannot just change the FLUM to expand the UGA. We have to go through a process with Skagit County to incorporate these areas. We need to accelerate the process for these to coordinate with Skagit County. Staff needs a formal recommendation from the Planning Commission and City Council to submit to Skagit County so that they can work on the UGA map and changes. We anticipate the Commission completing review in November and then it will go to Council.

Mike Mills wondered who the applicant is for update #8.

John Coleman stated the City of Anacortes is the applicant. These parcels are city-owned properties that we want included in the City limits. Most of this area was acquired to be added to the ACFL.

Mr. Johnson moved on to the Land Use updated goals & policies. The general themes include: minor verbiage updates to goals and policies language to use "maintain" since many of the goals have been met; policies that are suggested to be removed; addition of new policies; and policies that might be too similar to one another (highlighted as a possible duplicate that needs to be combined). He reviewed some examples of all of these general themes. He moved on to the general themes in the Housing element goals and policies: language revisions to reference HAP work; updates responding to racially disparate impacts analysis and other HB1220 requirements; and addition of new policies. He gave examples of these housing general themes. These look at providing more options in housing.

John Coleman said these will have an impact when we review the land use and zoning changes. We are trying to reassure the community that large scale changes to neighborhoods are not what we want; rather incremental changes are preferred. In the past, the zoning regulations were not specific enough to guide development, so often owners would have to go through the conditional use process for each and every proposal that is not outright allowed. This change is to make development easier to understand what is allowed. The City Council stated they want development to be clear.

Linda Martin said she understands that we have been doing this on a case-by-case basis, so having more procedures for development is a positive change. She expressed concern that one minus is things that are allowed by right have less public input. She also sees taking away planned unit development as a negative. This may also limit creativity in development. She moved on to policy H-2, but wonders how it will be operationalized.

John Coleman stated that as the zoning code is developed and changed, we would not allow for large apartment buildings in single-family neighborhoods. We prefer to look at incremental changes to neighborhoods. He reminded the Commissioners that conditions would be specified in code. Regarding PUD, our subdivision standards were designed with flexibility to act similarly to a PUD. That is the feedback we received from Council when they removed that in 2017. For larger projects, conditions are still a possibility. This is intended to make smaller middle housing easier to build by removing the conditional use process.

Mike Mills commented that we need to be careful as we put more into "by right". If we open this too wide, we lose control of the review.

Frank Jeretzky said these could create dispute. He gave the example of "allow changes over time", stating that his idea of "over time" may be different from other people's. There's a degree of vagueness that could be disputed.

John Coleman reminded the Commissioners that they can recommend changes to any and all of these suggested policies.

Markus Johnson read the proposed new policy for short-term rentals.

Planning Commission Discussion

Linda Martin asked if the Planning Commission needs to discuss each of the docketed proposals.

John Coleman clarified that the applicants will present those at a future Planning Commission meeting, so hold off for now.

Mike Mills recommends using firm definitions. He gave the example of "bicycling" stating that we need to understand the definition of a bicycle. He asked if e-bikes are considered to be a bicycle for allowed uses. Others that need definitions include "over time" and "affordable housing", but there may be others.

Markus Johnson said the Comprehensive Plan is a 20-year range, so "over time" could be halfway through that.

John Coleman said affordable housing is defined in the GMA, so we could use that language. He's not sure "bicycle" needs to be defined in this broader document. This is not talking about the uses, rather this talks about where land could be set aside for areas that "could be used for" bicycling.

Planning Department Update

John Coleman said staff would like to add a special meeting on October 2nd to review the updated population projections from Skagit County. The county was unable to handle the 0-50 AMI so they made changes to the numbers and distributed the lower AMI's across the cities in Skagit County. Skagit Council of Governments (SCOG) steering committee reviewed these figures too. We'd also like you discuss the land use and housing elements at that meeting. This will not include the annexation petitions. You should also have time to discuss the housing action plan committee reports. The October 9th meeting will be about the transportation element. The second Open House is scheduled for October 23rd where the consultant will give presentations and opportunities for public participation.

Linda Martin recommended a charrette type of process so the public can feel heard in this process.

John Coleman commented that staff would like to add another Planning Commission meeting in late October to talk about land use and housing unless the PC completes that at an earlier meeting. We would still like to have an additional meeting because we have a shoreline permit that needs to be reviewed and a hearing held. The Commissioner's determined that October 30th works best. We will see if the annexation petitions can be included in that meeting as well. Then November 6th, the Transportation element will be continued. November 13th is a regular meeting and we anticipate a public hearing on land use, housing, and transportation. There may be an additional shoreline permit to review.

John Coleman moved on to department updates stating the Transportation survey is available for people to take. There's also information online for the Climate Team meeting. These meetings are open to the public to view, but no public comment will be taken. Mike Mills is the Planning Commission representative.

Mike Mills provided the mission statement of the Climate Team. He likes the cross-section of members on the team as it's very diverse! We reviewed the asset inventory, and the potential impacts and hazards that the climate projections say we need to prepare for. We also got a high level review of greenhouse gasses and closed with next steps. We discussed additional meetings so that we could provide more feedback.

John Coleman said the City was awarded a \$197K grant to improve the online permit software (SmartGov); to work with consultants to create SOP's for development review; and for digitization of older paper files.

Mike Mills pointed out that the Anacortes Senior Center is holding sessions on the GMA. He wondered if the Commissioners need to "excuse" the Commissioners that could not make tonight's meeting. John Coleman reviewed the new procedures and determined they should.

Jim Stoneman moved to move to excuse the absences of Luke Currier and William McCombs. Mike Mills

seconded.

Vote: All Ayes.

Linda Martin reminded everyone that the Short Course on Planning is free and occurring tomorrow night.

Adjournment

Linda Martin adjourned the meeting at 7:47 p.m.

Anacortes Planning Commission Minutes - October 2, 2024

Roll Call

Chairperson Linda Martin called to order the Anacortes Planning Commission meeting of October 2, 2024 at 6:00 p.m. Commissioners Jim Stoneman, William McCombs, Frank Jeretzky, Mike Mills and Luke Currier were present.

Commissioner Paul Ryan was absent.

Jim Stoneman moved to excuse Paul Ryan from meeting. William McCombs seconded. All Ayes.

Minutes

Minutes of 06/26/2024 were submitted for approval.

Jim Stoneman moved to approve the minutes of June 26, 2024 as submitted; Will McCombs seconded. All Ayes

Public Comment

There was no public comment taken.

Public Hearings

Other Business

Revised Skagit County 2045 Allocations of Population, Housing and Employment and Anacortes Land Capacity Analysis (2025 Comprehensive Plan Update)

John Coleman reviewed the upcoming Planning Commission meetings and topics that will be discussed. On October 30th, you'll hear from applicants that have requested Future Land Use Map (FLUM) amendments. Then there will be a public hearing for the Comprehensive Plan elements that have already come before the Planning Commission, which are the land use, housing and transportation goals and policies. We will also be looking for the Commission to make recommendations on the UGA annexation projects/FLUM.

Mr. Coleman moved on to the revised Skagit County population allocations. The numbers were updated due to the county being unable to accommodate the lower AMI growth projections. The overall population and employment projection numbers have not changed. The specific allocations in the various AMI ranges have changed. The 0-50% allocations are almost entirely accommodated in multifamily (MF) housing due to Department of Commerce updated language. Per the Growth Management Act, MF housing cannot be developed outside UGA's, so they have to be accounted for in the cities instead of the rural areas. Skagit Council of Governments (SCOG) decided to eliminate the original housing allocations for Bayview Ridge and the Swinomish Tribe, so those figures were redistributed to the county and cities. This results in an additional 19 units needed in the 0-30% AMI and an additional 12 units in the 31-50% AMI; which resulted in decreasing the 120%+ AMI figures.

Frank Jeretzky wondered how accurate the figures were when we did the last Comprehensive Plan update 2 decades ago.

John Coleman clarified that the population projections from 2016 were projected to 2036. We are on target for those figures. The county has been consistently using the median figures.

Linda Martin said the population growth is based on solid data and methodology. The population is projected to grow by more than 27% and jobs are projected to grow by 33% in the next 20 years.

Mr. Coleman said now that we have the final population allocations, we can move on to the land capacity analysis. We had a presentation on May 22nd. The consultants double-checked some figures and measured them against land capacity and current zoning designations and determined that the 31 additional units did not change our ability to accommodate that growth. At the current zoning standards, we need to be able to accommodate 2942 units, and we have the capacity for 3589 new units. We have enough land without

changing zoning or increasing the UGA to accommodate the projected growth. There were some questions about developable and partially developable land, especially in the Skyline area, that were shown as re-developable, but those were all recently built-out with single family homes. Staff did not agree that these are truly re-developable, so that was updated.

Linda Martin said she reviewed version 3 from May 28th. The previous capacity showed more units available. There are 780 less units available. She wondered if that was all because of Skyline.

John Coleman agreed. If these are removed from being listed as re-developable, they will remain SFR and the figures reflect that. Staff understands this is a huge change.

Linda Martin referenced page 6, regarding the net new housing units needed. Even though the 31 units doesn't seem like much, it added 19 units to 0-30% AMI, not the 0-50% AMI range. She asked for clarification between permanent supported housing and non-permanent supported housing.

Mr. Coleman gave the example of the Anacortes Family Center as permanent supported housing that comes with support staff for those residents. Non-permanent supported housing is just the housing provided by an agency, but does not include services. An example of this is Anacortes Housing Authority. Emergency housing is not considered permanent housing.

Linda Martin asked if the reference to Port Orchard on page 22, table 17 should reference Anacortes.

Jim Stoneman pointed out that the staff report says Anacortes is already zoned to meet the goals. He wonders if there's a need to change anything.

Mr. Coleman stated that depends on the goals of the Planning Commission and City Council. Technically, we don't need to do anything. There's nothing stopping us from having more land in certain areas so that we have a "surplus". He reminded everyone that we can't go below those figures.

Mike Mills referenced page 6, a list of County use codes that are excluded from our analysis. He asked why #150 is excluded. He understands the others as they are not useful for housing. Whereas #150 is suitable for housing.

John Coleman said he is not sure if we have mobile home parks in Anacortes.

Mike Mills commented that if these don't exist in Anacortes, there's none to exclude.

John Coleman said staff will review this.

Mike Mills moved on to page 7 referencing "common areas of condominiums". He thinks this should also include Homeowners Associations.

Libby Grage clarified that we excluded common areas of condos and other developments that have shared open spaces, native growth protection easements, etc. We can make sure they are correct.

Mike Mills pointed out on page 10, the MJB property should be purple and that is not on the map.

John Coleman said staff will correct that.

Mike Mills mentioned that "figure 15" on page 20 is repeated and needs to be removed.

Linda Martin stated that figure 18 includes the old housing needs figures and should be updated.

Mike Mills wondered if staff should add total figures to the various tables.

Mr. Coleman said that can be added.

Land Use & Housing Element Goals & Policies - continued discussion (2025 Comprehensive Plan Update)

Libby Grage said she will be reviewing the land use goals and policies.

Linda Martin referenced page 44 in the packet as the starting point. In LU 2.1 D, "character" was not removed. She commented that "character" is being removed in the rest of the document. She understands that this is different, so she wonders if there's better language to use for maritime character.

Libby Grage pointed out that "qualities" could be used.

Commissioner Martin said she loves the new language in LU 2.2 B.

John Coleman pointed out that Housing Affordability Community Services (HACS) had a presentation from a group that is requesting continued support of disabled persons in our Comprehensive Plan.

Ms. Grage clarified that language was moved from LU 4.5 which is proposed to be removed as it's being consolidated in other policies.

Linda Martin moved on to LU 3.2, stating it seems to come to an abrupt end. She recommends adding something to the effect of "historic and cultural resources". She also asked for clarification on "air rights swap".

Libby Grage stated she will need to check.

Mr. Coleman commented that this is in reference to air rights related to airports and aerial navigation. He reviewed RCW 14.12.

Libby Grage agreed that applies to areas around the airport. This section is aimed at historic resources and structures, so it may be recommending purchasing the air rights over one building so those are preserved and then get an additional benefit on another development. She will check into this and report back.

Linda Martin said LU 4.5 is proposed to be removed, but those items seem to be covered in LU 4.2.

Commissioner Mills asked why the recommendation is to extend LU 5.1 instead of making the goal to complete it.

Linda Martin stated that "extend" is practical as there are many steps that need to happen to complete it.

John Coleman pointed out that the additional language in 5.1 talks about completing the trail.

Jim Stoneman referenced LU 6.1 A stating he prefers the original language. In his opinion, the new language makes this confusing.

Mr. Coleman said the "all residential districts" language implies only residential zoning designations. This change allows for expansion of the definition beyond just residential zones. This comes from State language when the ADU codes were updated.

Libby Grage clarified that currently code allows for an ADU on any lot that contains a SFR, so it's not restricted by zoning.

Commissioner Martin moved on to LU 6.1 B, C & D suggesting that these need their own conversations.

John Coleman said that regarding A & B, the specificity stands out. Comprehensive Plans are supposed to be broad, instead of calling out specific lot sizes and zones.

Linda Martin stated that medium density is equivalent to R3 and Old Town.

Ms. Grage said Old Town is it's own designation.

Mike Mills asked if the metrics for Old Town are consistent with medium density.

Libby Grage said they are similar. She reviewed the density requirements for Old Town and the medium density areas. Staff will clarify this.

Commissioner Mills recommends clarifying which zones are included and which are not.

John Coleman pointed out there are definitions. The broader categories are residential low density 1, which just includes the R1 zone. Then there is residential low density 2, which includes the R2 and R2A zones.

Residential medium density includes R3 and R3A (although this is not currently mapped) and lastly, residential high density. Attachment B shows land use designation and implementing zoning designations.

Linda Martin said she would like to come back to LU 6.1 and discuss those at a later time. She moved on to LU 6.3 which proposes to remove floor area ratio.

Libby Grage pointed out that in the past the Planning Commission decided not to move forward with the concept of floor area ratio due to complexity. The proposed change cleans up the policy.

Commissioner Martin referenced the new policy at the end of LU 7.1 asking what "partial pedestrianization" would look like.

Libby Grage clarified it could look like closing certain streets to vehicular traffic. For example, closing 4th or 5th Streets West of Commercial Ave so it's more of a pedestrian area where people could gather.

Frank Jeretzky asked how strengthening the visual appearance would work. He wonders if this only applies to remodels or redevelopment of those buildings. He asked how to motivate people to do that.

Libby Grage said this may look at codes that can affect how new development and redevelopment occurs. Having more of a pedestrian streetscape is the intent.

Mike Mills asked if this applies to signage as well.

Ms. Grage agreed. The last update removed "pole signs" as an option as they look cluttered and get in the way of street trees.

Will McCombs pointed out that LU 8.1 is redundant to LU 5.1 in regard to Guemes channel.

Linda Martin stated that the example given in LU 9.4 is not helpful.

John Coleman clarified that this adds indoor recreation. Staff wants to change industrial standards to allow for small indoor gyms. This language helps to support that idea. This language promotes smaller scale indoor recreation.

Commissioner McCombs said he likes this. This could include other services that are convenient for people in this area.

John Coleman asked if the Commissioners want to change LU 10.1 to multi-modal transportation.

Mike Mills commented that multi-modal includes more than just non-motorized. He recommended changing that.

Will McCombs asked what the intent is for LU 10.4.

Mr. Coleman stated they tried to clarify the existing policy. The Commissioners can suggest additional language to clarify.

Will McCombs pointed out that we have fantastic recreational amenities (trails, open space, water access, etc). There are hardly any places to go when the weather is inclement. He wonders if the policy is to create those spaces.

John Coleman clarified this is under the goal of promoting healthy communities which encourages healthy living & good connectivity between compatible uses.

Will McCombs expressed concern with the word "access". He asked if this is vehicle access or the opportunity for recreational amenities.

Linda Martin said there is a difference between increasing access and integrating public recreational amenities. She gave the example of the Pars course on Lopez Island that is open to the entire community, which shows integration.

Frank Jeretzky suggested changing it to "integrate and increase".

Will McCombs expressed concern that he's not sure what we are integrating or increasing.

Libby Grage commented that the change gives specificity to who is doing the integrating or increasing access. The original language doesn't specify if that is provided by private development or public.

Will McCombs said people want a place for kids to go when the weather is bad.

John Coleman reminded the Commissioners that they can change the language to "provide recreational opportunities for people during inclement weather".

Commissioner McCombs said he will draft new language.

Linda Martin referenced the Climate element, stating cities have the option to (1) have it stand on it's own or (2) integrate it with other elements.

Libby Grage said staff is not sure what that will look like, but it's coming back for your review. There will be a way to cross-reference.

John Coleman clarified that we are creating a separate Climate element. The policies and intent of that is integrated into the rest of the elements of the Comprehensive Plan.

Ms. Grage moved on to attachment B, the Future Land Use Map. The applicants will give presentations on October 30th regarding the proposed FLUM changes. She wondered if the Planning Commission would like to talk about this along with the land use section you tabled earlier.

Linda Martin suggested going through it quickly, but understanding that the Commission may want to review it at a later date.

Libby Grage said there are no changes proposed for residential low density designation.

Commissioner Martin suggested tweaking the language "under certain circumstances" since ADU's are allowed in all residential zones. She expressed concern that there are more hoops to go through for ADU's in this area.

Libby Grage stated that the Department Commerce put out new language regarding ADU's having to meet the critical areas regulations.

John Coleman pointed out that all development has to meet critical areas regulations in all zones. He understands this is redundant.

Will McCombs recommended removing the reference to ADU's since they are allowed per the new state law

in all residential zones. He doesn't think we need to call them out.

Linda Martin said it should either be included in all or removed. She moved on to residential low density 2, stating she understands removing "the established character of the area", but recommends saying "character" another way. The character of the area does matter.

Frank Jeretzky recommended using "equivalent curb appeal to the existing homes in the area".

Linda Martin suggested using "established qualities".

Will McCombs said "similar qualities and style" could be used instead of character.

John Coleman stated what they are trying to achieve is describing the area. It's not about what should or shouldn't be there. He recommended "existing lower density land uses" for the stricken language.

Commissioner Martin said she prefers "similar quality and style" just because this is about mostly established neighborhoods and their flavor.

Libby Grage said staff can bring back some ideas for this one.

Linda Martin referenced page 2 for residential low density 2. The permitted density that's listed in each area don't match up to the land use summary document.

Libby Grage clarified that this states a range of densities and then each specific zone has a maximum density within that range. The land use analysis used an assumed density for each zone to determine the capacity for housing. Part of how the land capacity analysis was developed was to look at past trends and what density was actually built, which could account for the disparity.

Linda Martin moved on to Old Town. This section has the language about "certain circumstances".

Ms. Grage stated this is to provide room for adding specific design standards for these housing types to be compatible in these zoning designations. It was left as a broad placeholder for that reason.

Linda Martin pointed out it's "by right" in the other designations, but Old Town and L1 seem like they are special places. She moved on to residential high density. The proposal adds permitted densities.

Libby Grage clarified this proposes a minimum density for new development in the high density areas for lots that are 6000 sq ft or more.

Linda Martin said there are no proposed changes to CBD, Commercial, Marine Mixed Use; and one minor change to Commercial Marine to remove a designation that doesn't exist. There's no change to Light Manufacturing, Manufacturing & Shipping, and Industrial.

John Coleman pointed out that in Industrial we need to determine if we want to allow for the broad uses you discussed in the goals and policies section; such as indoor recreation. Staff will review this to make sure that goal is supported.

Linda Martin said Heavy Manufacturing had no proposed changes. She reviewed the changes to Public Use.

Libby Grage clarified these changes are a requirement from HB1181. The public green space needs to be added in along with a definition. This is for properties that are less than one acre in size. She referenced the note, which requires jurisdictions to designate lands that are urban and community forests. We are looking to see if they need their own land use designation or if they can be incorporated into an existing designation. Staff will bring additional information to the Planning Commission.

Commissioner Martin moved on to Aeronautical zone. There were no concerns from the Commissioners.

Libby Grage said the last thing to review are the housing goals and policies.

Mike Mills asked what is included in the H1.3, medium density residential. He wonders if this includes Old Town.

Mr. Coleman stated technically it is not because Old Town is its own designation.

Linda Martin wondered if this allows duplexes and townhomes in R1.

Libby Grage said staff will look at that.

John Coleman clarified the HAP recommendations included cottages in R1, but not duplexes or townhomes.

Mike Mills expressed concern at incorporating more and more "by right" while avoiding conditional uses.

That's a broad statement.

John Coleman pointed out that City Council recommended this and it was docketed.

Linda Martin brought up H1.4 regarding tiny houses. The recommendation from the City Council planning

committee was to eliminate tiny houses from the discussion.

John Coleman said he is unsure if we are required by the state to include tiny houses. If not, he recommends removing it.

Commissioner McCombs asked if tiny homes are a bad idea.

Libby Grage expressed her understanding that Council is not saying they don't want to consider them, but given the limited capacity to complete the update, they provided a list that they consider priorities.

Will McCombs commented that if we are increasing density, this is one way to do it. If we are considering cottages, we should also look at tiny homes.

Frank Jeretzky asked what the difference is between them.

Ms. Grage clarified we have a definition for cottages in our code, but don't have one for tiny homes.

Linda Martin said we have the capacity for the density we are required to have and growth we are projecting. Affordable housing is always the question. She wonders if tiny homes are the way to get to affordability.

Luke Currier referenced page 23 in HAP, which has the definition of tiny homes.

John Coleman reminded the Commissioners that tiny homes are also used as a form of permanent supported housing in other jurisdictions, so he recommends being cautious if recommending removal.

Jim Stoneman said it should be kept, especially since it only says to considered them.

Linda Martin commented that in H1.7 and other places, "high opportunity areas" is used. If we are keeping this language it needs to be defined. In H1.8, she recommends striking only "character" instead of striking "enhance neighborhood character". She moved on to H1.9 asking if the Commissioners like the existing or proposed language.

Mr. Coleman clarified that we have a few projects that fit into this, so we are no longer demonstrating the projects. This is to encourage innovative housing.

Linda Martin circled back to the new policy regarding allowing by right versus CUP. Conditional uses allow the community to provide input as compared to permitted by right.

Libby Grage clarified that the CUP process has specific criteria in code. If the applicant meets those criteria, they are approved.

John Coleman said the CUP process can be misleading to the community. They come out in droves when they don't like a proposal, but it ends up being allowed because it meets the criteria. This leads to frustration because people don't feel like they were heard.

Commissioner Mills stated he is not advocating that nothing is allowed by right, but there needs to be a balance. Public input is essential on some projects.

John Coleman said CUP's require a lot of staff time coordinating public meetings, several staff meetings, hearings, etc. This can be an extensive process.

Linda Martin expressed concern that it feels like this is either / or. She wonders if there is a way to allow the public to feel heard without the CUP process.

Will McCombs agreed that the public wants a voice. People don't like surprises in their neighborhoods. He wonders if the CUP process can be streamlined.

Libby Grage pointed out that other jurisdictions have administrative decisions for CUP's.

Mike Mills is concerned about moving the line too far. He understands the need to make some of this easier for the applicant by changing to by right. He's concerned about making it all by right.

John Coleman said there is a new policy that supports incremental changes. These could go hand in hand.

Linda Martin recommended stopping at "new policy" and discussing the rest at the next meeting. The Commissioners agreed.

Housing Action Plan (HAP) Recommended Development Regulation Changes - continued discussion (2025 Comprehensive Plan Update)

This item was tabled to a future meeting.

Planning Department Update

John Coleman stated that there is nothing new to report since the last meeting.

Adjournment

Linda Martin adjourned the meeting at 8:53 p.m.



Planning Commission Agenda Bill

Meeting Date: December 11, 2024

Agenda Item: 5.a.

Subject: Open Record Pre-Decision Public Hearing CUP-2024-0001 Dog Grooming Salon

Staff Contact: Grace Pollard

Approved for Submittal to Commission by

Grace Pollard
John Coleman

Action Type

Public Hearing

Summary Statement: The Applicant is seeking approval of a conditional use permit to establish a dog grooming salon in an existing building in downtown Anacortes.

Background: See attached staff report.

Previous Action: None

Competing Viewpoints Considered: To be heard at the open-record public hearing.

Recommended Motion: I move that the Planning Commission recommend approval to City Council concerning Conditional Use Permit CUP-2024-0001 subject to conditions of approval 1-3 as they were written in the staff report dated December 5, 2024.

Alternative Actions: Approve the permit with additional or revised conditions, or deny the permit.

Attachments (listed in order presented):

1. EXHIBIT A - Staff Report
2. EXHIBIT B - Application Materials_combined
3. EXHIBIT C - Project Notices_combined
4. CUP-2024-0001_DRAFT_ PC Findings, Conclusions, and Recommendations



CITY OF ANACORTES
PLANNING, COMMUNITY & ECONOMIC
DEVELOPMENT DEPARTMENT

CONDITIONAL USE PERMIT: STAFF REPORT

A. PROJECT SUMMARY DATA			
PROJECT INFORMATION:			
File Number	CUP-2024-0001	Date of Report	Dec. 5, 2024
Project Title	Pawplemousse Dog Grooming & Salon		
Project Address	915 5 th Street	APN(s)	P55005
Request	The Applicant is seeking approval of a conditional use permit to establish a dog grooming salon in an existing building in downtown Anacortes.		
Applicant	Stephanie Monteverde	Property Owner	Daniel Douglas
Application Date	October 4, 2024	Complete Application Date	October 17, 2024
Pre-Decision Open-Record Public Hearing	December 11, 2024	Closed Record Decision Hearing	Dec. 16, 2024
Zoning	CBD (Commercial Business District)	Comp Plan Designation	Commercial Business District
Water Supply	City	Sewer Supply	City
STAFF RECOMMENDATION: Approve, with conditions			
CITY STAFF CONTACTS:			
Name:	Title:	Phone:	E-mail:
Anna Dewey	Associate Planner	360-588-8376	annad@anacorteswa.gov
Grace Pollard	Senior Planner	360-588-8231	gracep@anacorteswa.gov



PROJECT LOCATION & SURROUNDING AREA



SITE & SURROUNDING USES:

	Comprehensive Plan	Zoning	Land Use
North	Central Business District	CBD	Hotel
East	Central Business District	CBD	Civic & Quasi-Public
South	Central Business District	CBD	Retail / Civic & Quasi-Public
West	Central Business District	CBD	Retail

B. PROCEDURAL

1. **Type of Review.** The proposed dog grooming use is classified in the Unified Development Code (AMC 19) as Personal Service: Animal Care – Indoor. Per AMC Table 19.41.050 – *Principal Uses Permitted in Mixed Use and Industrial Zones*, Animal Care – Indoor use in the CBD requires a conditional use permit (CUP).

The review classification for a non-administrative Conditional Use Permit per Table 19.20.030-1 is a Type 4 City Council Decision, requiring a preapplication meeting with city staff, a preapplication neighborhood meeting, a 21-day public comment period, an open-record pre-decision public hearing before Planning Commission, and a closed record decision hearing before City Council.

2. **Project history.** Per AMC 19.20.090(B)(2) The PCED Director may waive the pre-application conference *if the proposal has few development-related issues, involves subsequent phases of an approved development, or is substantially similar to a prior proposal affecting substantially the same property.* Due to the proposal having little to no development-related issues the Director waived the preapplication conference requirement. The mandatory neighborhood meeting was held on November 19, 2024.
3. **Public notice and reviewing departments/agencies.** On November 20, 2024 a joint notice of application and public hearing with a 21-day public comment period was published in the Anacortes American, posted at City Hall and the City Library, posted on the subject site, and mailed to property owners within 300-feet. The project application was routed for review to applicable agencies and City departments. No comments of concern were received by agencies or City departments.
4. **Consideration of written comments and applicant responses.** The public 21-day comment period concludes at 5:00pm on December 11th. As the time of writing this staff report no written comments have yet been received. Providing comment will continue to be made available to the public until the closing of the public hearing.
5. **Environmental review.** The proposed development is exempt from SEPA pursuant to WAC 197-11-800 and AMC 18.04.120.
6. **Public Hearing.** A pre-decision open record public hearing before the Planning Commission is to be held on December 11, 2024, at 6:00 PM. The City Council Closed Record Decision Hearing is scheduled for December 16, 2024, at 6:00 PM.

C. DEPARTMENT REVIEW – Findings of Fact

1. PROPOSED USE DETAILS.

- 1.1. **Total use area:** Approximately 470 square feet of indoor space.
- 1.2. **Number of dogs on-site at one time:** Approximately three (3) to four (4) maximum, typically no more than two (2).
- 1.3. **Number of staff:** Approximately 1 to 2.
- 1.4. **Hours and days of operation:** Approximately 8am – 6pm, Monday through Sunday.

2. AMC 19.44.080(B) – ANIMAL CARE - INDOOR.

- 2.1. *Definition. Any building or land used, designed, or arranged for the care of animals without outdoor activity. Includes animal grooming, animal hospital, veterinary clinic, pet clinic, animal boarding, animal shelter, cattery, kennel, and animal day care.*

Staff Comments: The proposed use meets the definition of Animal Care - Indoor.

2.2. *Use Standards. No outdoor activity associated with the care of animals is allowed. Also see AMC 6.06.090, Commercial kennels, catteries, pet shops, and animal shelters—General conditions, for applicable standards.*

Staff Comments: No outdoor activities associated with this use are proposed. See below for conditions and applicable standards under AMC 6.06.090.

3. AMC 6.06.090 – COMMERCIAL KENNELS, CATTERIES, PET SHOPS AND ANIMAL SHELTERS-GENERAL CONDITIONS.

3.1. Definitions. Per AMC 6.06.090 the proposal does not meet the definition of commercial kennel, commercial cattery, pet shop, or animal shelter.

Staff Comments: The conditions and standards under AMC 6.06.090 do not apply to this proposal.

4. AMC 19.36.040 - CONDITIONAL USE PERMIT REVIEW CRITERIA.

A. In order to grant a conditional use permit, the decision maker must find that the use would be consistent with the following criteria. Below are the criteria, along with staff comments.

4.1. ***The use would comply with any specific requirements for the conditional use specified elsewhere in this code;***

Staff Comments: Animal Care – Indoor does not have specific conditional use requirements outside of what is already detailed in this staff report.

4.2. ***Access to the site is appropriate considering the anticipated volume of traffic resulting from the use;***

Staff Comments: The subject site is located on a fully developed public street with available street parking and sidewalks. Existing access to the site is appropriate for the proposed use.

4.3. ***Off-street parking and loading facilities are adequate in terms of location, amount, and design to service the use;***

Staff Comments: AMC 19.64.060(B) states ground floor commercial uses in the CBD zone are exempt from the minimum parking requirements. The subject site is located on the south side of 5th Street, approximately 60-feet east of Commercial Avenue. There is on-street parking available on both sides of 5th Street as well as two (2) loading spaces available in front of the entrance to the proposal's leased suite. No comments of concern were provided by the City's Engineering Division or Streets Division. Off-street parking and loading facilities are adequate.

4.4. ***The amount and location of open space and the provision of screening is such that buffering of incompatible uses is achieved;***

Staff Comments: The proposed use does not include any outdoor areas and will be conducted completely within the existing structure. No screening is required by code.

- 4.5. ***The location and intensity of outdoor lighting is such that it does not cast light on adjacent, adjoining, or neighboring properties;***

Staff Comments: There is currently no proposal to install, exchange, or alter any outdoor lighting. As the subject site is located in historic downtown Anacortes any future proposals of outdoor lighting, including illuminated signs, must comply with applicable Anacortes Municipal Code standards.

- 4.6. ***Hours and manner of operation of the proposed use, including anticipated noise generation, are not inconsistent with the adjacent or nearby uses;***

Staff Comments: Per the Applicant's provided application materials, the anticipated hours of operation will be 8am – 6pm. The anticipated noise level generated from this use will not exceed that which is established under AMC 6.04.120 – Animal Noise Control.

- 4.7. ***Public facilities and utilities are capable of adequately serving the proposed use;***

Staff Comments: All utilities are currently on-site and the proposed use is not anticipated to impact Fire or Police levels of service. Per review comments provided by Public Works' Water Distribution Supervisor, a dog wash facility may require a backflow prevention device be installed on any new qualifying plumbing fixture to ensure the protection of the City's water distribution system. Existing public facilities and utilities are capable of adequately serving the proposed use.

- 4.8. ***The physical conditions of the site, including size, shape, topography, and drainage, are suitable for the proposed development;***

Staff Comments: The subject site is fully developed and there are no proposed changes to the exterior of the building. No known issues exist regarding the site's stormwater drainage system.

- 4.9. ***Any other factors deemed relevant to the decision-maker.***

Staff Comments: N/A

D. CONCLUSIONS

1. The proposed development was processed consistent with AMC Table 19.20.030-1 for Type 4, City Council review.
2. The proposed development has been reviewed for consistency with the criteria outlined in AMC 19.36 Conditional Use Permits.
3. The proposed development has been reviewed for consistency with the requirements outlined in AMC 19.44.080(B) Animal Care - Indoor.
4. In making its recommendation, the Department considered timely received written comments and the applicant's responses, if any, as required in AMC 19.20.130(C). As of writing this staff report no written comments have been received. Comments and

the applicant's responses can continue to be provided during the open-record public hearing.

E. RECOMMENDATION

Based upon the submitted application materials, Findings of Fact, and Conclusions of the staff report, staff recommends that the Planning Commission recommend approval of the conditional use permit with the following conditions:

1. The operation of the dog grooming salon at this location shall be permitted under this Conditional Use Permit #CUP-2024-0001 provided:
 - a. The business continues to operate under the Animal Care – Indoor use standard listed in AMC 19.44.080(B)(2) which states: “No outdoor activity associated with the care of animals is allowed.”
 - b. The business does not exceed the area of use as was submitted in the application materials via the provided floorplan. A slight increase to the area of use (not to exceed 10%) may be administratively approved by submitting a request for a Minor Permit Revision (See AMC 19.28.010).
2. The applicant must obtain a City of Anacortes business license prior to operation.
3. The applicant must obtain a sign permit for the new Pawplemousse Salon window sign prior to operation.

Staff reserves the right to supplement the record of the case to respond to matters and information raised after the writing of this report.

INFORMATION FOR OWNER/APPLICANT

1. Per AMC 19.28.010 PERMIT REVISION.
 - a. *Type of Review.* A major revision to an approved permit requires a new application. A minor revision to an approved permit may be approved by the Director. The Director may condition approval to ensure compliance with this section.
 - b. *Types of Revisions.*
 - i. A major revision is any revision other than a minor revision, or a revision that does not qualify as a minor revision when considered cumulatively with other minor revisions since initial issuance of the permit.
 - ii. A minor revision is a revision that does not:
 - iii. Increase the area of the use by more than 10 percent;
 - iv. Increase the intensity of the use in a way that significantly affects the surrounding area in terms of traffic, noise, hours of operation, parking, or other impacts;
 - v. Increase the number of lots, dwelling units, or density;
 - vi. Decrease the quality or amount of open space;
 - vii. Result in any significant environmental impact not adequately reviewed or mitigated by previous documents;
 - viii. Expand onto property not included in the original proposal.
2. AMC 6.04.120 – ANIMAL NOISE CONTROL. It is unlawful for any person to cause or allow to originate from the property frequent, repetitive, or continuous howling, barking, or other noises made by any animal covered by this chapter which disturbs the peace and quiet of the surrounding area. Sounds made in pet shops, veterinary clinics, grooming parlors, animal shelters, commercial kennels and catteries licensed under this chapter and in compliance with AMC Title [17](#), shall be exempt under this subsection; provided, however, that it is an affirmative defense under this subsection that the animal was intentionally provoked to bark or make any other noise by any person; provided, that the enactment of this provision shall in no way nullify any other provision of the municipal code concerning animal noise.
3. A [reduced pressure backflow assembly](#) may be required to be installed. Upon submitting a plumbing permit a water quality tech will review your proposal to determine if this device is required. If a backflow device is required there will be a requirement of annual testing. These annual tests are to be arranged and paid for by the owner/applicant and provided to the city.



PLANNING, COMMUNITY, and ECONOMIC DEVELOPMENT DEPARTMENT

Conditional Use Permit

Project Narrative

Staff have added additional information to supplement the applicant's responses. Applicant's original responses are in **blue**, staff comments are in **orange**.

1. Describe the current use of the site and any existing improvements. Specify what, if any, structures are to be removed or retained.

Pop-up art store. The suite has been used as cafés and small retail businesses for the last 15+ years. Before that as a small general-service use for boat engine repairs and sales.

2. Describe the proposed use of the site per AMC [Table 19.41.040](#) or [19.41.050](#) and any special use provisions that apply per [AMC 19.43 – 19.48](#).

Dog grooming salon. Personal Service: Animal Care – Indoor.
Definition. Any building or land used, designed, or arranged for the care of animals without outdoor activity. Includes animal grooming, animal hospital, veterinary clinic, pet clinic, animal boarding, animal shelter, cattery, kennel, and animal day care.

3. Describe the site's physical characteristics, including special features such as wetlands, water bodies, steep slopes, etc.

Existing commercial building. Site is part of the historic downtown area of Anacortes and is fully developed.

4. List current uses and special site features of surrounding properties.

Commercial use CBD. Commercial businesses surrounding. A café, art studio, and a gift shop are located within the same building. A hotel with restaurant and a small fitness studio is located across 5th Street. To the east are parking lots for the USPS and the City Municipal Building.

5. Description of the proposed form and intensity of the proposed development (height, setbacks, lot coverage, etc.) (See [AMC 19.42](#))

Changing use to dog grooming. Not changing any structural components of the building or external work. The existing building conforms with the CBD form and intensity standards under Table 19.42.030 (e.g. zero-foot



setbacks and building height under 50-feet) except for the minimum landscape area requirement of 10%.

6. Identification of the site's block frontage designation(s) and description of project conformance. (See [AMC 19.61](#))

[Adding store front sign to the façade.](#) [Mixed block frontage designation.](#) The building was built in 1900 (according to Skagit County Assessor), the subject suite is aligned with "storefront" block frontage standards (e.g. large picture windows, entry facing street, building placement along sidewalk edge, etc.). No exterior building modifications are proposed.

7. Description of the proposed building design, including a description of conformance with building massing and articulation, building details, building materials, and blank wall treatment requirements. (See [AMC 19.63](#)) Note: If you are proposing any departures, you must submit a Request for Administrative Decision application.

[N/A.](#) According to County records the existing building was building in 1900. No changes to the exterior of the building are proposed. The existing suite's building façade has two large picture windows on either side of the full glass door entrance.

8. Description of proposed parking for vehicles and bicycles, including provisions for guests, shared parking, fleet parking, loading areas. (See [AMC 19.64](#))

~~[Use existing parking lot on site.](#)~~ All parking is existing. There are two angle on-street parking spaces and two angled load/unload spaces immediately adjacent to the storefront. The block contains a total of twenty (20) on-street parking spaces including one (1) designated ADA parking space.

9. Describe existing and proposed site access from public streets and any proposed street and/or pedestrian improvements.

[Existing sidewalks.](#) The property fronts on 5th Street between Commercial Avenue and Q Avenue. The street is fully constructed, no public ROW improvements are proposed.

10. Estimated quantities and type of materials involved if any fill or excavation is proposed.

[N/A](#) The site is fully developed.

11. Number, type, and size of trees to be removed.

~~N/A~~ There are no trees present on-site.

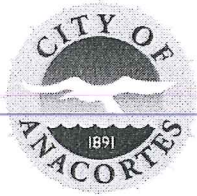
12. Description of existing site utilities and proposed utilities, including extensions, upgrades, relocations, etc.

~~n/a~~ All utilities are existing; no changes proposed.

13. If a pre-application neighborhood meeting was held, provide the date held, general items of discussion at the meeting, and how the project proposal has been modified since the meeting, if applicable.

~~No~~ November 19, 2024





CITY OF ANACORTES

PLANNING, COMMUNITY, and

ECONOMIC DEVELOPMENT DEPARTMENT

PAWPLE MOUSSE SALON
STEPHANIE MONTEVERDE
PERMIT #-CUP-2024-0001

Conditional Use Permit

Responses to Criteria



A conditional use requires a permit. In order to grant a conditional use permit, the decision maker must find that the use would be consistent with the following criteria (AMC 19.36.040):

1. The use would comply with any specific requirements for the conditional use specified elsewhere in the code.

Click or tap here to enter text.

YES. ALL SPECIFIC CONDITIONS WILL BE MET. (CODE 6.06.120)

2. Access to the site is appropriate considering the anticipated volume of traffic resulting from the use.

Click or tap here to enter text.

YES. 2-3 PARKING SPOTS PROVIDED IN FRONT OF BUSINESS. ESTIMATED 1-2 CLIENTS PARKED AT A TIME. 1 EMPLOYEE SPOT

3. Off-street parking and loading facilities are adequate in terms of location, amount, and design to service the use.

Click or tap here to enter text.

YES. 2 SPOT LOADING ZONE LOCATED IN FRONT OF BUILDING.

4. The amount and location of open space and the provision of screening is such that buffering of incompatible uses is achieved.

Click or tap here to enter text.

THE SCREENING BUFFER IS NOT NEEDED, ALL ADJACENT USES ARE COMMERCIAL.

5. The location and intensity of outdoor lighting is such that it does not cast light on adjacent, adjoining, or neighboring properties.

Click or tap here to enter text.

LED BUSINESS SIGN OUT FRONT IS ADJUSTABLE. ANY ADDITIONAL LIGHTS WILL BE DIM NOT CAST LIGHT ON ADJOINING PROPERTIES.

6. Hours and manner of operation of the proposed use, including anticipated noise generation, are not inconsistent with the adjacent or nearby uses.

Click or tap here to enter text.

HOURS WILL BE DAYTIME CONSISTENT WITH OTHER BUSINESSES - (8-6PM) NOISE GENERATION WILL NOT EXCEED WHAT'S OUTLINED IN THE CODE (6.04.120)

7. Public facilities and utilities are capable of adequately serving the proposed use.

Click or tap here to enter text.

YES. PUBLIC FACILITIES (BATHROOM) AND UTILITIES ARE AVAILABLE. AND ADAQUATE FOR BUSINESS.



8. The physical conditions of the site, including size, shape, topography, and drainage, are suitable for the proposed development.

Click or tap here to enter text.

YES. USING EXISTING BUILDING

9. Any other factors deemed relevant to the decision-maker.

Click or tap here to enter text.

- NO KENNELS OR BOARDING

- ABOUT 5-10 DOGS/CLIENTS A DAY WITH POTENTIAL WALK-INS (NAIL-TRIMS)

- WILL BE AN OPEN PLAY/WAITING AREA FOR 1-2 PETS TO BE PICKED UP.

- NO CAGES AND QUICK PICK-UPS SO NO DOGS ARE WAITING

- DAILY AND WEEKLY CLEANING SCHEDULE TO KEEP THINGS SANITIZED.

- DO NOT WANT MORE THAN A COUPLE DOGS AT A TIME TO REDUCE BARKING AND NOISE.

- NO TREATMENTS OR (MEDICAL) MEDICATIONS WILL BE GIVEN OR HANDLED.

- WILL PROVIDE ALL NECESSARY SAFETY EQUIPMENT AND PRECAUTIONS TO HANDLE DOGS SAFELY.

- WILL NOT LEAVE DOGS UNATTENDED DURING GROOMING OR DRYING.

- ALL EQUIPMENT WILL BE SANITIZED

AFTER EACH ANIMAL HAS BEEN GROOMED

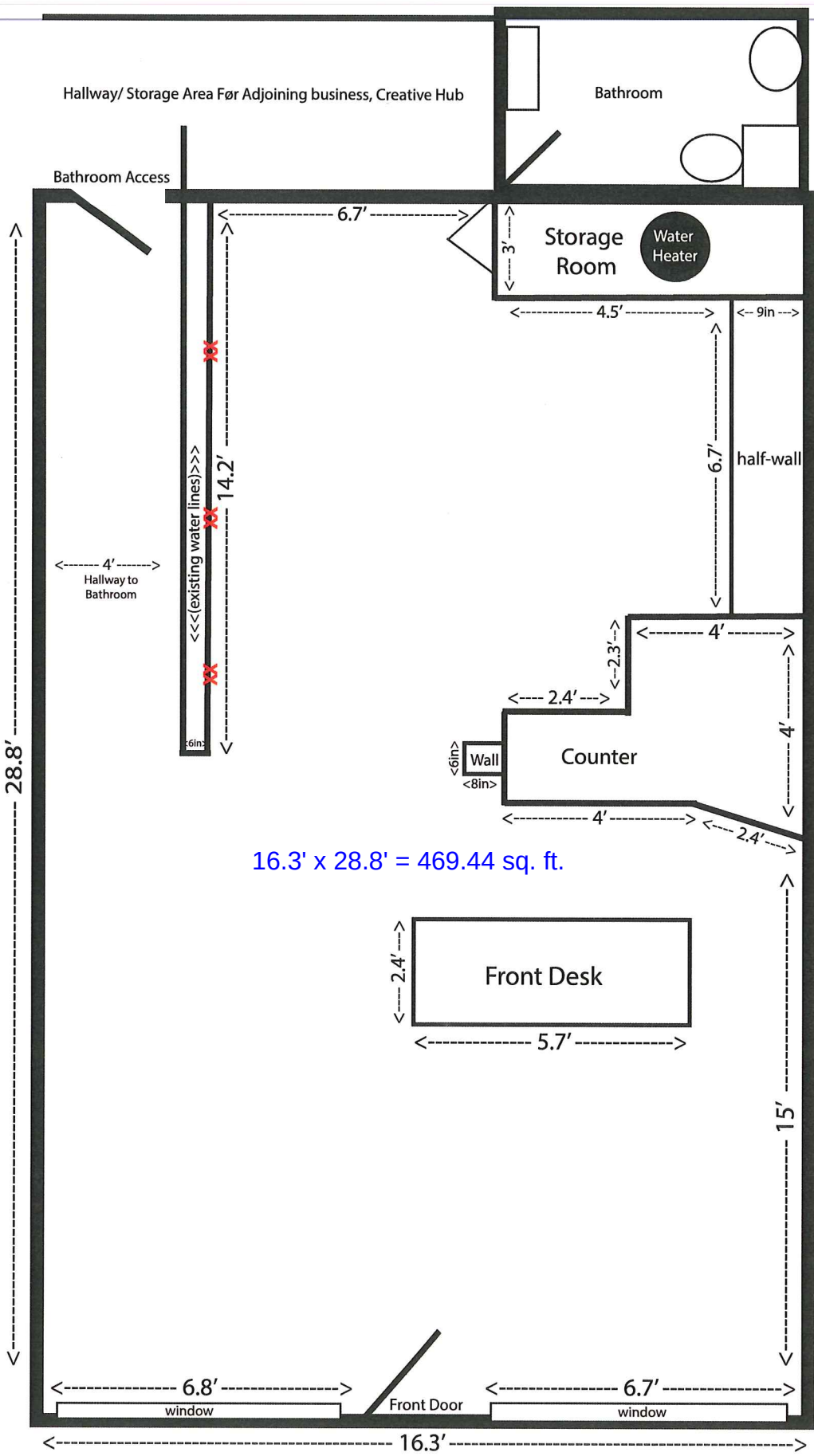
- TAKE ALL REASONABLE PRECAUTIONS TO PREVENT INJURY FROM OCCURRING TO ANY ANIMAL WHILE IN CUSTODY.

- ANIMALS WILL BE SEPERATED AND HAVE NO CONTACT WITH OTHER ANIMALS KEPT FOR THE PURPOSE OF GROOMING.



Existing

Pawplemousse Salon Floor Plan:



16.3' x 28.8' = 469.44 sq. ft.



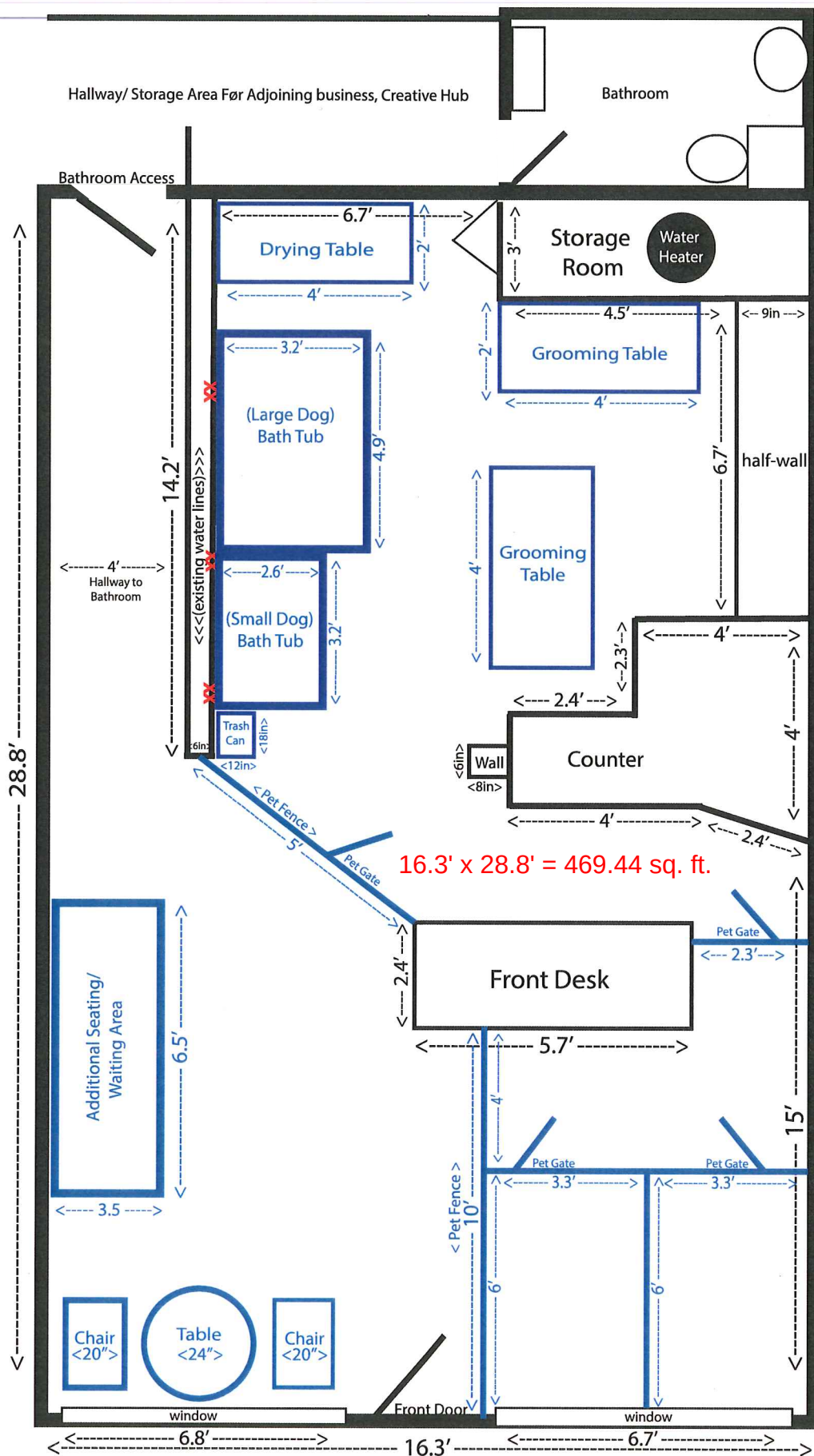
proposed

Oct. 10th, 2024

Pawplemousse Salon Floor Plan:

*Blue is
what's
proposed

*Black is
existing





NOTICE OF NEIGHBORHOOD MEETING

A pre-application neighborhood meeting has been scheduled to introduce a potential project described below. The purpose of the meeting is to inform neighbors and interested parties about the potential project at an early stage and to foster communication between the applicant and the public regarding potential project issues and opportunities for solutions.

PROJECT DESCRIPTION: The applicant is seeking approval of a Conditional Use Permit (CUP-2024-0001) to establish a dog grooming salon in downtown Anacortes.

PROJECT LOCATION: 915 5th Street

MEETING LOCATION, DATE & TIME: November 19th @ 6pm via Teams

HOW TO JOIN THE VIRTUAL MEETING: Scan the QR code below or go to anacorteswa.gov/1499/Community-Neighborhood-Meetings. You can also call in (audio only): +1 (323) 486-3157 (Phone Conference ID: 570 173 68#)

PROJECT APPLICANT

Name **Stephanie Monteverde**
Address **2315 12th Street, Anacortes,**
WA 98221
Email / Phone # **239-450-2589**
smferrantino@gmail.com

PROPERTY OWNER

Name **Daniel Douglas**
Address **4368 Sharpe Rd, Anacortes,**
WA 98221
Email / Phone #

WHO CAN ATTEND A NEIGHBORHOOD MEETING?

Neighborhood meeting notices are posted on the project site, published in the Anacortes American Newspaper, and mailed to neighboring landowners located within 300-feet of the subject property. Anyone however is welcome to attend a neighborhood meeting whether a neighbor of the project or not.

CAN I SUBMIT COMMENTS?

Following a neighborhood meeting, if an applicant proceeds with the submittal of a land use permit application, public notice will be provided consistent with AMC requirements and a public hearing will be held, if applicable. Comments should be submitted during this phase of the project so that they become part of the record and taken into consideration by the decision maker.





CITY OF ANACORTES

PLANNING, COMMUNITY, and ECONOMIC DEVELOPMENT DEPARTMENT

DETERMINATION OF APPLICATION STATUS

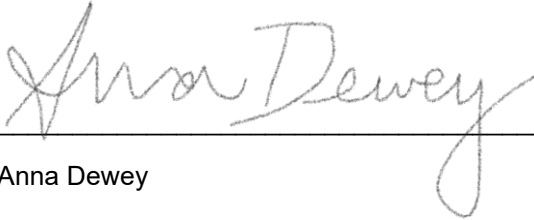
Project Description	Dog Grooming Salon
File Number	CUP-2024-0001
Related File(s)	N/A
Property Location	915 5 th Street
Property Owner	Daniel Douglas
Applicant/Agent	Stephanie Monteverde
Date Submitted	10/4/2024
Date Complete	10/17/2024

Upon initial review, the above referenced application is found to be: **COMPLETE**

Your application has been determined to be complete as of the date of this letter.

Review Authority: Anna Dewey, Associate Environmental Planner
Planning, Community & Economic Development
Email: annad@anacorteswa.gov
Phone: (360) 588-8376

Sincerely,

 10/17/2024

Anna Dewey Date



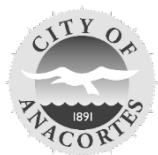
904 6th Street
Anacortes, WA 98221
P.O. Box 547



360.299.1984
pced@cityofanacortes.org



anacorteswa.gov/161
anacorteswa.gov



NOTICE OF APPLICATION including written comment period & NOTICE OF PUBLIC HEARING

Project Name: Pawplemousse Dog Grooming & Salon

File Number: CUP-2024-0001

Applicant: Stephanie Monteverde

Date of Application: October 4, 2024

Date of Completeness: October 17, 2024

Project Location: 915 5th Street (P55005)



NOTICE IS HEREBY GIVEN THAT AN APPLICATION WAS MADE FOR THE FOLLOWING PROPOSAL:

The applicant is seeking approval of a Conditional Use Permit to establish a dog grooming salon in an existing building in the CBD district of downtown Anacortes. The interior of the building will be remodeled with all necessary dog grooming equipment. There will not be any structural changes to the building or any external work.

State Environment Policy Act (SEPA) Review: Categorically Exempt per WAC 197-11-800(3). Neither a SEPA threshold determination nor any environmental document is required for a categorically exempt action.

Environmental Documents on File: None

Required Project Permits/Approval: City of Anacortes Building Permit for plumbing work and City of Anacortes Building Permit for the business sign with Building and Planning review.

Public Comment Period: The joint Notice of Application and Notice of Public Hearing was published on November 20, 2024. Written comments to be considered prior to the public hearing must be submitted to the contact person listed below by **5:00 PM on December 11, 2024**. Additional comments and verbal testimony will be accepted at the Planning Commission open-record pre-decision public hearing. These will be your only opportunities to comment on this project before the City Council closed-record decision meeting.

Hearing Body: Planning Commission. An open-record pre-decision hearing will be held by the Planning Commission on **Wednesday, December 11, 2024, at 6:00 pm** in Council Chambers (904 6th Street), and via Zoom video conferencing. City Council will hold a closed-record decision meeting on **Monday, December 16, 2024**.

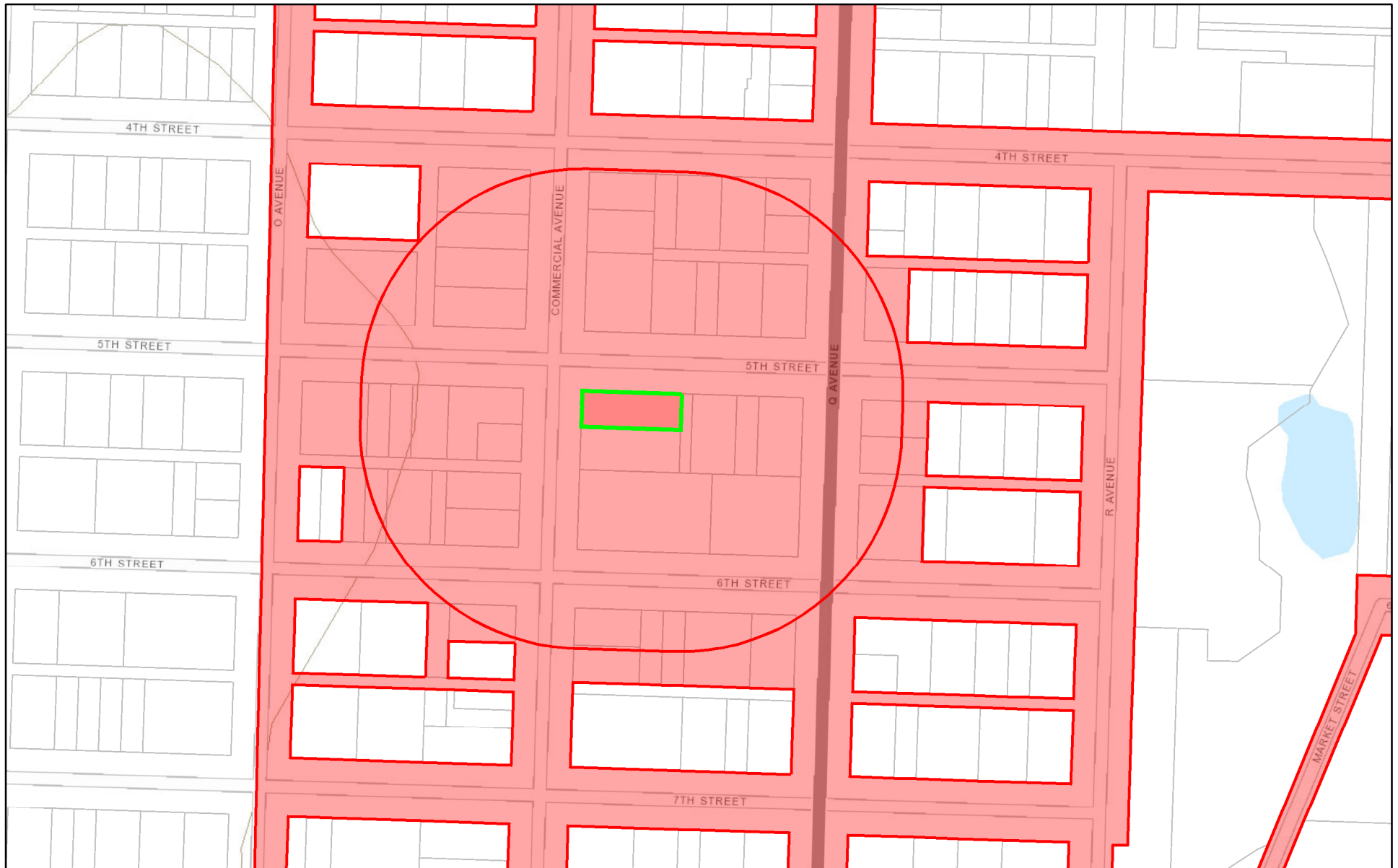
- Virtual meeting participation instructions and connection information can be accessed at anacorteswa.gov/700. Hearings will be conducted in accordance with the rules of procedure adopted by the hearing body.
- Members of the public who require special assistance to participate in or access the public hearing may contact the City Clerk at 360-299-1960 24-hours before the hearing to make special arrangements.

ANY PERSON HAS THE RIGHT TO RECEIVE NOTICE, PARTICIPATE IN ANY HEARINGS, AND REQUEST A COPY OF THE FINAL DECISION.

Document Availability: Application documents may be reviewed by scanning the above QR Code or by going to <https://ci-anacortes-wa.smartgovcommunity.com/Public/Home> and clicking *Public Notices* then selecting file no. **CUP-2024-0001**. The staff report will be available at 2pm Thursday December 5th, one week before the scheduled open-record pre-decision hearing.

Appeal: Per AMC Table 19.20.030-1 Land Use decisions made by City Council do not have a local appeal process.

City Contact: Anna Dewey, Associate Planner; Email: annad@anacorteswa.gov; Phone: (360) 588-8376
Mail: City of Anacortes Planning Dept., P.O. Box 547, Anacortes, WA 98221
Written comments must be substantive and include the name and address of the commentor.

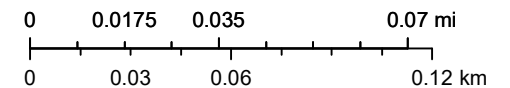


November 4, 2024

Legend

-  County Boundary
-  Tax Parcels
-  Pre Tax Account Property

1:2,257



Data Accuracy Warning: All GIS data was created from available public records and existing map sources. Map features have been adjusted to achieve a best-fit registration. While great care was taken in this process, maps from different sources rarely agree as to the precise location of geographic features. Map discrepancies can be as great as 300 feet.

PNumber	OwnerName	OwnerAdd1	OwnerAdd2	OwnerAdd3	OwnerCity	OwnerState	OwnerZip	SitusStNo	SitusStName	SitusCSZ	
P120805	CENTER FOR SPIRITUAL LIVING ANACORTES	1013 5TH ST #1			ANACORTES	WA	98221	1013	5TH ST	ANACORTES	WA 98221
P127913	MAJESTIC INN LLC		13635 NW CORNELL RD STE 100		PORTLAND	OR	97229				
P129724	RADIUS ANACORTES PROPERTIES LLC	ATTN: NANCY SAUNDERS	PO BOX 1205		MILTON	WA	98354	415	O AVENUE	ANACORTES	WA 98221
P54939	MORRISON J KEN	MORRISON JENNI R		419 Q AVENUE	ANACORTES	WA	98221	419	Q AV	ANACORTES	WA 98221
P54942	CITY OF ANACORTES		PO BOX 547		ANACORTES	WA	98221	501	Q AV	ANACORTES	WA 98221
P54943	CITY OF ANACORTES		PO BOX 547		ANACORTES	WA	98221	6	Q AV	ANACORTES	WA 98221
P54992	APG REAL ESTATE INVESTMENTS LLC	ATTN ROBERT WALLACE CFO		29088 AIRPARK DR	EASTON	MD	21601	901	6TH ST	ANACORTES	WA 98221
P54993	6TH STREET HAIR CO LLC		907 6TH STREET		ANACORTES	WA	98221	907	6TH ST	ANACORTES	WA 98221
P54994	911 6TH STREET WA LLC	911 6TH STREET			ANACORTES	WA	98221	911	6TH ST	ANACORTES	WA 98221
P54995	MOEN JOAN		608 COMMERCIAL AVE		ANACORTES	WA	98221	913	6TH ST	ANACORTES	WA 98221
P54996	BAYSHORE HOLDINGS LLC	603 COMMERCIAL AVE			ANACORTES	WA	98221	603	COMMERCIAL AV	ANACORTES	WA 98221
P54997	BAYSHORE HOLDINGS LLC	603 COMMERCIAL AVE			ANACORTES	WA	98221				
P55002	CITY OF ANACORTES		PO BOX 547		ANACORTES	WA	98221		5TH & Q AV	ANACORTES	WA 98221
P55003	CITY OF ANACORTES		PO BOX 547		ANACORTES	WA	98221		5TH & Q AV	ANACORTES	WA 98221
P55004	U.S.A.										
P55005	DOUGLAS DANIEL L			4368 SHARPE ROAD	ANACORTES	WA	98221	501	COMMERCIAL	ANACORTES	WA 98221
P55006	CORTEZ SIMON	CORTEZ MARIA ELENA		509 COMMERCIAL AVE	ANACORTES	WA	98221	509	COMMERCIAL AV	ANACORTES	WA 98221
P55007	US POST OFFICE & ANACORTES	519 COMMERCIAL AVE			ANACORTES	WA	98221		6TH & COMMERCIAL	ANACORTES	WA 98221
P55008	CITY OF ANACORTES		PO BOX 547		ANACORTES	WA	98221	904	6TH STREET	ANACORTES	WA 98221
P55009	DAKOTA CREEK INDUSTRIES INC		PO BOX 218		ANACORTES	WA	98221	903	4TH ST	ANACORTES	WA 98221
P55010	MAJESTIC INN LLC			13635 NW CORNELL ROAD	PORTLAND	OR	97229	408	Q AVENUE	ANACORTES	WA 98221
P55011	MAJESTIC INN LLC			419 COMMERCIAL AVENUE	ANACORTES	WA	98221	905	4TH ST	ANACORTES	WA 98221
P55012	MAJESTIC INN LLC			419 COMMERCIAL AVENUE	ANACORTES	WA	98221	909	4TH ST	ANACORTES	WA 98221
P55013	MAJESTIC INN LLC		13635 NW CORNELL ROAD STE 100		PORTLAND	OR	97229	401	COMMERCIAL AVE	ANACORTES	WA 98221
P55014	MAJESTIC INN LLC		13635 NW CORNELL RD STE 100		PORTLAND	OR	97229				
P55015	MAJESTIC INN LLC		13635 NW CORNELL RD STE 100		PORTLAND	OR	97229	419	COMMERCIAL	ANACORTES	WA 98221
P55016	MAJESTIC INN LLC		13635 NW CORNELL RD STE 100		PORTLAND	OR	97229		5TH ST	ANACORTES	WA 98221
P55017	MAJESTIC INN LLC		13635 NW CORNELL RD STE 100		PORTLAND	OR	97229				
P55018	MAJESTIC INN LLC		13635 NW CORNELL RD STE 100		PORTLAND	OR	97229	908	5TH ST	ANACORTES	WA 98221
P55019	DAKOTA CREEK INDUSTRIES INC		820 FOURTH ST		ANACORTES	WA	98221	902	5TH ST	ANACORTES	WA 98221
P55047	RUTHERFORD ENTERPRISES LLC		4308 NAVIGATOR LANE		ANACORTES	WA	98221	408-412	COMMERCIAL AVE	ANACORTES	WA 98221
P55048	NETTLE LANE THE PLATT LLC			6875 WEST SHORE DRIVE	ANACORTES	WA	98221	402	COMMERCIAL AVE	ANACORTES	WA 98221
P55051	CITY OF ANACORTES		PO BOX 547		ANACORTES	WA	98221	411	O AV	ANACORTES	WA 98221
P55053	CRABPOT ENTERPRISES LLC	420 COMMERCIAL AVE			ANACORTES	WA	98221	420	COMMERCIAL AVENUE	ANACORTES	WA 98221
P55054	HISTORIC HARBOR DISTRICT LLC		401 E PARK DR		ANACORTES	WA	98221	414-416	COMMERCIAL AV	ANACORTES	WA 98221
P55055	WMD LLC		PO BOX 341		ANACORTES	WA	98221	506	COMMERCIAL AV	ANACORTES	WA 98221
P55056	GERE LAURIE M		2019 41ST ST		ANACORTES	WA	98221	502	COMMERCIAL AVE	ANACORTES	WA 98221
P55057	GERE LAURIE M		2019 41ST ST		ANACORTES	WA	98221	1005	5TH ST	ANACORTES	WA 98221
P55058	GERE LAURIE M		2019 41ST ST		ANACORTES	WA	98221	1011	5TH STREET	ANACORTES	WA 98221
P55059	CENTER FOR SPIRITUAL LIVING ANACORTES	1013 5TH ST #1			ANACORTES	WA	98221	1013	5TH ST	ANACORTES	WA 98221
P55064	SWEET 16 INVESTMENTS LLC		13540 ROSARIO RD		ANACORTES	WA	98221	1016	6TH ST	ANACORTES	WA 98221
P55065	WOODING WILLIAM W		13540 ROSARIO RD		ANACORTES	WA	98221	1014	6TH ST	ANACORTES	WA 98221
P55066	THE ANTELOPE LLC			1809 COMMERCIAL AVENUE	ANACORTES	WA	98221	1010	6TH ST	ANACORTES	WA 98221
P55067	THE ANTELOPE LLC			1809 COMMERCIAL AVENUE	ANACORTES	WA	98221				
P55068	MCCALLUM JUCKETT LLC		3119 OAKES AVE		EVERETT	WA	98201	516	COMMERCIAL AV	ANACORTES	WA 98221
P55069	ANTELOPE LLC			1809 COMMERCIAL AVE STE 100	ANACORTES	WA	98221	520	COMMERCIAL AVE	ANACORTES	WA 98221
P55070	RED CARTIER LLC	ATTN CORINNA BRADLEY		PO BOX 99	ANACORTES	WA	98221	602	COMMERCIAL AV	ANACORTES	WA 98221
P55072	RED CARTIER LLC	ATTN CORINNA BRADLEY		PO BOX 99	ANACORTES	WA	98221		6TH STREET	ANACORTES	WA 98221
P82038	ASH MICHAEL T	ASH SUSAN D		501 O AVENUE	ANACORTES	WA	98221	501	O AV	ANACORTES	WA 98221
P82040	ANACORTES ARTS FESTIVAL CORP		505 O AVE		ANACORTES	WA	98221	505	O AV	ANACORTES	WA 98221

ADVERTISING PROOF



STANWOOD CAMANO NEWS

1215 Anderson Rd,
Mount Vernon, WA 98274
Ph. 360-424-4567

BILLING DATE:	ACCOUNT NO:
11/21/24	45993



NOTICE OF APPLICATION including written comment period & NOTICE OF PUBLIC HEARING

CITY OF ANACORTES
PO BOX 547
ANACORTES, WA 98221

AD #	DESCRIPTION	START	STOP	TIMES	AMOUNT
584070	AA-584070 File # CUP	11/27/24	11/27/24	2	\$178.64

Project Name: Pawple-mousse Dog Grooming & Salon
File Number: CUP-2024-0001
Applicant: Stephanie Monteverde
Date of Application: October 4, 2024
Date of Completeness: October 17, 2024
Project Location: 915 5th Street (P55005)



NOTICE IS HEREBY GIVEN THAT AN APPLICATION WAS MADE FOR THE FOLLOWING PROPOSAL:

The applicant is seeking approval of a Conditional Use Permit to establish a dog grooming salon in an existing building in the CBD district of downtown Anacortes. The interior of the building will be remodeled with all necessary dog grooming equipment. There will not be any structural changes to the building or any external work.

State Environment Policy Act (SEPA) Review: Categorically Exempt per WAC 197-11-800(3). Neither a SEPA threshold determination nor any environmental document is required for a categorically exempt action.

Environmental Documents on File: None

Required Project Permits/Approvals: City of

Payments:

Date	Method	Card Type	Last 4 Digits	Check	Amount
------	--------	-----------	---------------	-------	--------

Discount: \$0.00
Surcharge: \$0.00
Credits: \$0.00

Gross: \$178.64
Paid Amount: \$0.00

Amount Due: \$178.64

We Appreciate Your Business!

AD# 584070

mits/Approval: City of Anacortes Building Permit for plumbing work and City of Anacortes Building Permit for the business sign with Building and Planning review.

Public Comment Period: The joint Notice of Application and Notice of Public Hearing was published on November 20, 2024. Written comments to be considered prior to the public hearing must be submitted to the contact person listed below by **5:00 PM on December 11, 2024**. Additional comments and verbal testimony will be accepted at the Planning Commission open-record pre-decision public hearing. These will be your only opportunities to comment on this project before the City Council closed-record decision meeting.

Hearing Body: Planning Commission. An open-record pre-decision hearing will be held by the Planning Commission on **Wednesday, December 11, 2024, at 6:00 pm** in Council Chambers (904 6th Street), and via Zoom video conferencing. City Council will hold a closed-record decision meeting on **Monday, December 16, 2024**.

* Virtual meeting participation instructions and connection information can be accessed at anacorteswa.gov/700. Hearings will be conducted in accordance with the rules of procedure adopted by the hearing body.

* Members of the public who require special assistance to participate in or access the public hearing may contact the City Clerk at 360-299-1960 24-hours before the hearing to make special arrangements.

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Document Availability: Application documents may be reviewed by scanning the above QR Code or by going to <https://ci-anacortes-wa.smartgovcommunity.com/Public/Home> and clicking Public Notices then selecting file no. **CUP-2024-0001**. The staff report will be available at 2pm Thursday December 11, 2024.

5pm, one week before the scheduled open-record pre-decision hearing.

Appeal: Per AMC Table 19.20.030-1 Land Use decisions made by City Council do not have a local appeal process.

City Contact: Anna Dewey, Associate Planner; Email: annad@anacorteswa.gov; Phone: (360) 588-8376 Mail: City of Anacortes Planning Dept., P.O. Box 547, Anacortes, WA 98221
Written comments must be substantive and include the name and address of the commentor.

**Published
November 27, 2024
AA-584070**



CITY OF ANACORTES PLANNING COMMISSION

DRAFT Findings of Fact, Conclusions of Law & Recommendation

PROJECT FILE NUMBER	CUP-2024-0001
PROJECT NAME	Pawplemousse Dog Grooming & Salon
PROJECT LOCATION	915 5 th Street, Anacortes WA 98221 (APN: P55005)
PROJECT DESCRIPTION	The Applicant is seeking approval of a conditional use permit to establish a dog grooming salon in an existing building in downtown Anacortes.
APPLICANT	Stephanie Monteverde / smferrantino@gmail.com
PUBLIC HEARING BODY	Anacortes Planning Commission / December 11, 2024
PC DELIBERATION	Approve with Conditions / Wednesday, December 11, 2024
DECISION BODY	Anacortes City Council
CLOSED RECORD HEARING DATE	Monday, December 16, 2024
EXHIBITS	Exhibit A – Staff Report Exhibit B – Application Materials Exhibit C – Noticing Materials

Application documents may be accessed via the online permit portal: <https://ci-anacortes-wa.smartgovcommunity.com/PublicNotice/PublicNoticeHome>

After considering the written and spoken comments and considering the record before it, the Planning Commission enters the following findings of fact, conclusions of law, and recommendation:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The staff report dated December 5, 2024, accurately describes the project proposal and is hereby incorporated by reference. (EXHIBIT 1).
2. The following members of the public provided testimony during the public hearing:
 - a.
3. The following additional exhibits were entered into the record at the public hearing:
 - a.



904 6th Street
Anacortes, WA 98221
P.O. Box 547



360.299.1984
pced@anacorteswa.gov



anacorteswa.gov/161
anacorteswa.gov

4. The following additional Findings of Fact and/or Conclusions of Law are entered:
a.

RECOMMENDATION

Based upon the foregoing findings and conclusions of law, and review of the City's regulatory authority to implement the policies, standards, and regulations of the Anacortes Municipal Code and the Anacortes Shoreline Master Program the Planning Commission hereby makes the following recommendation regarding the subject Conditional Use Permit (CUP) application:

- ☒ Approve with Conditions
☐ Approve
☐ Deny

Subject to staff's recommended conditions in the Staff Report dated December 5, 2024, and any additional Commissioner conditions of approval as listed below:

1.

Commission Vote	Support	Oppose	Absent	Abstain
Frank Jeretsky				
James Stoneman				
Linda Martin, Chair				
Luke Currier				
Michael Mills				
Paul Ryan				
William McCombs				
Total				

ANACORTES PLANNING COMMISSION
ANACORTES, WASHINGTON

Linda Martin, Planning Commission Chair

Date



Planning Commission Agenda Bill

Meeting Date: December 11, 2024

Agenda Item: 5.b.

Subject: Proposed amendments to Anacortes Municipal Code (AMC) Title 19 to comply with new state requirements and improve predictability and timeliness in project permit review (Draft Ord. 4092)

Staff Contact: Libby Grage

Approved for Submittal to Commission by

Libby Grage
John Coleman

Action Type

Public Hearing

Summary Statement: Draft Ordinance 4092 and Exhibit A to the ordinance (attached) present amendments to Anacortes Municipal Code (AMC) Title 19, *Unified Development Code*, recommended by the City Council Planning Committee, to bring Anacortes into compliance with the new state law requirements and to improve predictability and timeliness in permit review processes. A public hearing on Draft Ord. 4092 is scheduled for tonight, December 11, 2024. At the close of the public hearing, the Planning Commission may deliberate and make a recommendation on the proposed amendments to City Council.

Amendments to development regulations are processed pursuant to the procedures outlined in [AMC 19.16 Legislative Actions](#). The PCED Department published notice of the proposal, written comment period, and public hearing consistent with AMC 19.16.070. The PCED Department conducted environmental review of the proposal pursuant to the State Environmental Policy Act (SEPA) and determined that the proposal will not have a probable significant adverse impact on the environment. The PCED Director issued a SEPA threshold determination of nonsignificance (DNS) on November 13, 2024. One of the public comments in the packet has an attached appeal of the SEPA threshold determination. Administrative appeals of SEPA threshold determinations are heard by the Hearing Examiner per AMC Table 19.20.030-1. Per AMC 19.20.180(G), SEPA appeals do not stay the Planning Commission's recommendation on the proposal. The fact that the city has received an appeal of the SEPA determination does not affect the Planning Commission's ability to hold a public hearing and make a recommendation on the proposed ordinance. City staff is working with the City Attorney to process the appeal in accordance with applicable procedures.

Background: New legislation passed in 2023, 2SSB 5290, made a number of changes to Chapter 36.70B RCW that affect how local governments process applications for project permits, including changes affecting the amount of time allowed to process applications and imposing new requirements to refund application fees when those timelines are not met. Key requirements for local governments include:

- Clarify determination of completeness procedural requirements - the determination must be based solely on the procedural requirements as outlined on the project permit application.
- Revise the existing 120-day time period for project review from the date an application is determined complete. The default time periods to issue a decision in RCW 36.70B.080 apply automatically if the local government does not adopt an ordinance setting or changing the time periods. Draft Ord. 4092 proposes adopting the default time periods provided in SB 5290 as follows: Type 1 (no notice required) - 65 days to issue a decision; Type 2 (public notice required) - 100 days; Type 3 (public notice and public hearing required) - 170 days; Type 4 (public notice and public hearing required) - 170 days.
- Refund 10-20% of permit fees if the new time periods described in the above bullet are not met, unless the jurisdiction has adopted at least 3 of the 10 optional measures listed in RCW 36.70B.160(1) intended to streamline permit review (Effective January 1, 2025). Draft Ord. 4092 proposes adoption of the following measures from RCW 36.70B.160(1): (d) Maintaining and budgeting for on-call permitting assistance for when permit volumes or staffing levels change rapidly; (h) Adopting development regulations which make housing types an outright permitted use in all zones where the housing type is permitted; (j) Meeting with the applicant to attempt to resolve outstanding issues during the review process... If the meeting cannot resolve the issues and a local government proceeds with a third request for additional information or corrections, the local government must approve or deny the application upon receiving the additional information or corrections.
- Modifies the existing annual performance report requirement for jurisdictions to include data on compliance with the new permit time periods. Applies to counties and cities subject to RCW 36.70A.215 and cities/towns greater than 20,000 population within those counties. (Effective March 1, 2025)
- Adopt some of the 10 listed measures to expedite permit review by the next comprehensive plan update under certain circumstances. (At the next comprehensive plan update after January 1, 2026)
- Adopt additional measures to expedite permit review if the local government had adopted at least 3 project review and code measures more than five years earlier, and the local government is not meeting the permit deadlines at least 50% of the time since its most recent comprehensive plan update (at the next comprehensive plan update after January 1, 2026).

Other changes proposed to improve predictability and timeliness in permit review:

- Allow the PCED Director to waive the pre-application neighborhood meeting requirement for certain application types under certain circumstances.
- Provide the PCED Department authority to expire applications when an applicant is not timely responding to requests for more information, and provide an

opportunity to appeal that determination.

- Add a requirement for the Department to track and report to council compliance with review time periods.

For more background on SB 5290:

[2SSB 5290 \(2023\) Bill Information Page](#)

[RCW 36.70B Local Project Review](#)

[MRSC - 2023 Legislative Updates to Modernize and Streamline Local Project Review](#)

Previous Action: The City Council Planning Committee drafted and recommended the amendments proposed in draft Ordinance 4092.

Competing Viewpoints Considered: See attached public comments received.

Recommended Motion: I move to recommend to the City Council adoption of the amendments as presented.

Alternative Actions: Do not recommend adoption or recommend adoption with changes.

Attachments (listed in order presented):

1. DRAFT Ordinance 4092 & Exhibit A (proposed amendments)
2. DRAFT PC Recorded Motion
3. Public Notice of Availability
4. Issued DNS and SEPA checklist
5. SB 5290 (2023)
6. Public Comment
7. 2024.12.11 COA Letter of Support Ord. 4092
8. Presentation Slides

City of Anacortes
DRAFT Ordinance No. 4092

An Ordinance Amending AMC Title 19 Regarding Permit Review Time Periods and Permitted Housing Types in Mixed-Use and Industrial Zones

Whereas existing state law requires the review of permit applications within 120 days;

Whereas the State Legislature through 2SSB 5290 (2023) amended portions of RCW Chapter 36.70B, Local Project Review, to expedite permit application processing by local governments;

Whereas, effective January 1, 2025, RCW 36.70B.080 requires the City to establish new time periods for review of permit applications;

Whereas, effective January 1, 2025, RCW 36.70B.080(1)(l)(i) requires the City to refund a portion of permit application fees for an application that it does not review within its adopted review time period;

Whereas permit fees provide critical funding for the work of the Planning, Community, and Economic Department to review applications to ensure compliance with health, safety, zoning, and environmental requirements;

Whereas RCW 36.70B.080(1)(l)(ii) exempts the City from the fee refund requirement if it adopts three process improvement measures from the list in RCW 36.70B.160;

Whereas the City Council Planning Committee has recommended this ordinance to comply with state law and ensure applicants receive timely processing of their applications;

Whereas the City advertised a public comment period on the proposal starting on _____, 2024;

Whereas the Planning Commission held a public hearing on the proposal on _____, 2024;

Whereas the Planning Commission issued its recommendation on _____, 2024;

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

Section 1. The City Council finds that timely processing of permit applications is an important function of city government and immediate action is required to expedite the City's review of permit applications.

Section 2. The Anacortes Municipal Code is amended as shown in Exhibit A.

Section 3. Superseding the provisions of Ordinance 2992 that adopted the Unified Development Code, an application for a development permit that was submitted but not yet approved on the effective date of this ordinance, whether or not it has been deemed or determined complete, will be processed pursuant to the procedures as amended by this ordinance.

Section 4. Per RCW 36.70B.080(1)(k), this ordinance is not subject to appeal under RCW Chapter 36.70A.

Section 5. The City Council finds it has adopted three of the options in RCW 36.70B.160(1) as follows:

- (1) The City has budgeted, and will continue to budget, for on-call permitting assistance for when permit volumes or staffing levels change rapidly, consistent with RCW 36.70B.160(1)(d);
- (2) The City has, through adoption of this ordinance, adopted development regulations that make housing types an outright permitted use in all zones where the housing type is permitted, consistent with RCW 36.70B.160(1)(h);
- (3) The City has, through adoption this ordinance, adopted a procedure to offer a meeting with the applicant to attempt to resolve outstanding issues during the review process, consistent with RCW 36.70B.160(1)(j).

Section 7. Per RCW 35A.12.130, this ordinance takes effect January 1, 2025, or five days after passage, approval, and publication in the manner required by law, whichever is later.

Section 8. Severability. The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is determined unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance must remain in effect.

PASSED and APPROVED this ____ day of _____, 2024.

CITY OF ANACORTES:

Matt Miller, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy Swetnam, City Attorney

Exhibit A

19.12.020 Definitions

[The following definitions are amended or added to this section:]

“Development permit” means a permit or approval for a development, and includes project permits per RCW 36.70B.020 and permits issued pursuant to AMC Chapter 19.14.

“Expiration of application” means a decision to expire an application per AMC 19.20.110.

“Review Time Period” means the time period set by AMC 19.20.030 for review of an application for a development permit, as applied by AMC 19.20.160.

19.20.030 Types of review.

i RCW 36.70B.080, effective January 1, 2025, requires the City to establish and implement time periods for review of permit applications. The review time periods added to the type of review table below are the default time periods set by statute.

A. – C. [No change.]

Table 19.20.030-1
Review classification and process matrix.

Types of Review	Type 1 Administrative Ministerial Actions	Type 2 Administrative Decisions	Type 3-HE Hearing Examiner Decisions	Type 3-PC Planning Commission Decisions	Type 4 City Council Decisions
Types of Applications	[add “ <u>Expiration of Application</u> ”; no change to remainder of table cell]	[no change]	[no change]	[no change]	[no change]
[no change to remainder of table]					
<u>Review Time Period</u>	<u>65 days</u>	<u>100 days</u>	<u>170 days</u>	<u>170 days</u>	<u>170 days</u>

19.20.100 Pre-application neighborhood meeting.

A. [No change]

B. When Required.

1. A pre-application neighborhood meeting is required when shown in AMC 19.20.030.
2. The applicant must hold a neighborhood meeting before submitting an application and after any required pre-application conference.
3. The Director may require the applicant to hold another neighborhood meeting if the applicant’s plans change significantly from those described at the neighborhood meeting.

i The next paragraph is added to correspond to the same exemption that exists in section 19.20.090 for a pre-application conference.

4. Exception. The Director may waive the pre-application neighborhood meeting if the proposal has few development-related issues, involves subsequent phases of an approved development, or is substantially similar to a prior proposal affecting substantially the same property.

C. -E. No change.

19.20.110 Application—Contents and completeness—Revisions—Expiration.

i This section is updated to comply with revisions to RCW 36.70B.070.

A. Contents of Applications. [No change.]

B. Complete Applications. [No change.]

C. Timing.

1. Initial Receipt of Application. Upon initial receipt of an application, the Director must provide the applicant a determination of completeness within 28 days. If the Director does not provide a written determination within 28 days, the application is deemed complete ~~at the end of the twenty-eighth on the 29th day.~~
2. Receipt of Additional Information. When the applicant submits the requested information, the Director must evaluate the application for completeness within 14 days. If the Director does not provide a written determination within 14 days, the application is deemed complete ~~at the end of the fourteenth day on the 15th day.~~
3. Incomplete Applications.
 - a. The applicant may submit a written request for extension of the deadline to submit the requested information for an additional 90 days. The Director may grant up to two such extensions.
 - b. If the applicant has not provided the requested information by the deadline, the Director must reject and return the application along with any unspent application fees.

D. [No change.]

i Current code does not provide authority to expire applications. Alongside requirements for the Department to timely process applications, the city ought to expire applications when an applicant is not doing their part and timely responding to requests for more information.

E. Expiration.

1. Unless review is suspended under AMC 19.20.160.A.3.b, if the Department requests more information from the applicant about the application, the applicant has 90 days to respond with the requested information.
2. If the applicant does not respond within the required period, the Director may expire the application for failure to timely submit requested information by providing the applicant with written notice of expiration.
3. If the Director expires an application, the applicant must submit a new application, including any applicable fees, to restart the review process.
4. The Director may grant one or more 90-day extensions (not to exceed three extensions) if:

- a. a written request for extension is submitted prior to expiration of the application;
- b. based on information in the request, the Director concludes that the applicant is making reasonable progress toward submitting the required information.

19.20.130 Application—Department review.

A. – C. [No change.]

i The new subsection below is based on RCW 36.70B.160(1)(j), which creates the process described.

- D. Requests for additional information or corrections.
 - 1. If the Department twice requests additional information or corrections during application review, the Department must offer the applicant a meeting with Department staff to resolve outstanding issues. The meeting must be scheduled within 14 days of the second request for corrections.
 - 2. If the meeting cannot resolve the issues and the Department requests additional information or corrections a third time, upon receiving the additional information or corrections the Department must forward the application to the next step in the review process, i.e., the recommending body or decisionmaker for decision on the application.
 - 3. Nothing in this section affects the timelines for application expiration in AMC 19.20.110.E.

19.20.160 Decision—Timing.

A. Time Limits.

- 1. The decision-maker may not issue its decision on an application until the expiration of the public comment period on the notice of application.
- 2. The final decision on an application for a development permit must be made within the ~~time limits from determination of completeness listed in Table 19.20.160~~ Review Time Period shown in Table 19.20.030-1 for the applicable type of review, as measured from the date the application is determined complete. Review Time Periods for preliminary and final subdivisions are set by RCW 58.17.140.

~~Table 19.20.160 Decision timing.~~ [table deleted]

i This subsection is updated to match revisions to RCW 36.70B.080.

- 3. Consistent with RCW 36.70B.080(1)(g), the following time periods are excluded from the calculation of the time limits:
 - a. ~~Any time required to correct plans, perform studies, or provide additional information. Any period between the day that the city has notified the applicant, in writing, that additional information is required to further process the application and the day when responsive information is resubmitted by the applicant;~~
 - b. ~~Any time during which substantial project revisions are made or requested by an applicant, in which case the 120 days will be calculated from the time that the city determines the revised application to be complete. Any period after an applicant informs the department, in writing, that they would like to temporarily suspend review of the project permit application until the time that the applicant notifies the department, in writing, that they would like to resume the application, up to 12 months;~~
 - c. Any time required for the preparation and review of an environmental impact statement;
 - d. Any time required to complete the process for the siting of an essential public facility;

- e. Any time required to obtain any necessary variance;
 - f. ~~Any time required for any administrative appeals. Any period after an administrative appeal is filed until the administrative appeal is resolved and any additional time period provided by the administrative appeal has expired;~~
 - g. Any time required for any administrative appeal of SEPA threshold determination, if applicable;
 - h. Any time required for any remand to the hearing body;
 - i. Any extension of time mutually agreed upon by the city and the applicant.
 - j. ~~Any specific amount of additional time that the city determines is necessary for the processing of a specific complete project permit application.~~
4. The Review Time Period starts over if an applicant proposes a change in use that adds or removes commercial or residential elements from the original application that would make the application fail to meet the determination of procedural completeness under AMC 19.20.110 for the new use.
 5. Failure to Complete Review within the Time Period ~~Extension of Time~~. If the city is unable to issue its final decision on an application within the time periods ~~limits~~ provided for in this section, it must provide written notice to the applicant. The notice must include a statement of the reasons why the time limits cannot be met and an estimated date for issuance of the notice of decision.

i RCW 36.70B.160 now requires the City to carefully track compliance with the new Review Time Periods.

6. Consistent with the requirements in RCW 36.70B.160(2), the Department must:
 - a. starting January 1, 2025, track its compliance with the Review Time Periods in AMC 19.20.030-1; and
 - b. starting January 1, 2026, report compliance to the City Council for the previous year each February 1.

B. [No change.]

19.41.050 Principal uses permitted in mixed-use and industrial zones.

i The change in this section makes the city compliant with RCW 36.70B.160(1)(h).

Table 19.41.050 below provides the list of permitted principal uses in mixed-use and industrial zones.

Table 19.41.050

Principal uses permitted in mixed-use and industrial zones.

Principle Use	CBD	C	MMU	CM	CM2	LM	LM1	MS	I	HM	Reference
[No change to intervening rows]											
Single-family	e ^(*)	e ^(*)				e	p ^(x)				AMC 19.43.010(B) (*) AMC 19.43.010(B)(2)
[No change to intervening rows]											
Multifamily dwellings, 4 or more units	P	P ^(x)	P ^(x)	e ^(*) P		e		e ^(*) P ^(x)			AMC 19.43.080
Live-work	P	P	P					e			
[No change to intervening rows]											
Adult family home	P ^(*)	P ^(*)	P	P		P ^(*)	P				AMC 19.43.120
[No change to remainder of table]											

AMC 19.43.080 Multifamily

A. – C. [No change.]

i The CM Zone is mostly within shoreline jurisdiction, and shoreline regulations DR-5.10.3 and DR-5.10.4 already address the paragraph below.

D. ~~CM Zone Standards. Multifamily uses are conditionally permitted, provided it can be demonstrated that the use will not weaken the zone's tourist or marine-oriented purpose, nor diminish the marine values inherent in the zone, such as physical and visual access to waterways and shoreline. Multifamily units that are part of a mixed-use development incorporating commercial marine uses are permitted and single-purpose multifamily developments require a conditional use permit. Reserved.~~

i The only project the next section is expected to apply to is the Olson Building renovation project.

E. MS Zone Standards.

1. Multifamily dwellings are ~~conditionally permitted~~ only west of Commercial Avenue and south of 2nd Street on sites historically used for multifamily residential uses.
2. Residential units must be no larger than 800 square feet each and constructed within a mixed-use development.

F. – G. [No change.]

19.43.120 Adult Family Home

- A. [No change.]
- B. Standards
 - 1. [No change]

i The constraints in the next section are not necessary after amendment of the table above, and inconsistent with state law prohibiting discrimination against these uses,

~~2.—Use Permissions in the CBD and C Zones:~~

- ~~a.—An adult family home is a permitted use when in an existing single-family dwelling.~~
- ~~b.—An adult family home is conditionally permitted when within an existing building that was a single-family residence at some time in its past.~~
- ~~c.—An adult family home within a newly constructed single-family dwelling is not allowed.~~

~~3.—Use Permissions in the LM Zone:~~

- ~~a.—An adult family home is a permitted use when in an existing single-family dwelling.~~

i The next subsection is inconsistent with the change to the table.

- ~~b.—An adult family home within a newly constructed single-family dwelling is conditionally permitted.~~

19.49.040 Enlargement, alteration, reconstruction of nonconforming buildings and structures.

- C. – D. [No change.]

i The change below allows existing residential in the LM zone, of which there are many in the area around 4th and M/N, functionally conforming uses without the typical constraints of a non-conforming use. This is consistent with existing code that in the Lot of Record section, hence the cross-reference.

- D. Residential buildings in the LM zone. Nothing in this chapter prevents the alteration, addition to, repair, restoration, or reconstruction of an existing residential building or residential accessory building in the LM zone. See also AMC 19.20.060.C.



Anacortes Planning Commission

DRAFT Recorded Motion

Amendments to AMC Title 19 Regarding Permit Review Time Periods and Permitted Housing Types in Mixed-Use and Industrial Zones

Proposal name:	Draft Ord. 4092 - Amendments to AMC Title 19 Regarding Permit Review Time Periods and Permitted Housing Types in Mixed-Use and Industrial Zones
File Number:	LEG-2024-30
Documents available at:	https://www.anacorteswa.gov/1547/Legislative-Planning-Updates
Public hearing body:	Anacortes Planning Commission
Public hearing date:	December 11, 2024
PC deliberations & recommendation:	December 11, 2024

After considering the written and spoken comments and the record before it, the Planning Commission enters the following findings of fact, reasons for action, and recommendations to the Anacortes City Council.

Findings of Fact and Reasons for Action

1. The city must amend its regulations to comply with the new requirements of Chapter 36.70B RCW, Local Project Review, as amended by SB 5290 (2023).
2. The City Council Planning Committee recommended proposed amendments to Anacortes Municipal Code (AMC) Title 19 to bring the City's permit review procedures into compliance with 36.70B RCW, and to otherwise improve predictability and timeliness in permit review processes.
3. The Planning, Community & Economic Development (PCED) Department conducted environmental review for the proposal pursuant to the State Environmental Policy Act (SEPA) and determined that the proposed amendments will not have a probable adverse impact on the environment. The PCED Director issued a SEPA threshold determination of non-significance (DNS) on November 13, 2024.
4. Public notice of the proposal, comment period, and the public hearing was provided consistent with the requirements of AMC 19.16.070.

5. The Planning Commission held a public hearing to take oral comments on the proposed amendments at their December 11, 2024 meeting.
6. The amendments are consistent with requirements of RCW 36.70B, as amended by SB 5290.
7. The amendments are consistent with the Anacortes Comprehensive Plan, including goals and policies supporting adoption of user-friendly and coordinated development regulations that integrate an appropriate balance of predictability and flexibility and provide an efficient, clear and economical permitting process (LU-11, ED-7).
8. The Planning Commission deliberated and considered all relevant matters including public hearing testimony and written comments, staff recommendations and analysis, legal advice, and consistency with the Anacortes Comprehensive Plan.

Recommendation

The Planning Commission recommends that the City Council adopt the amendments as presented.

This recorded motion approved December 11, 2024.

Commission Vote	Support	Oppose	Absent	Abstain
Linda Martin, Chair				
Paul Ryan				
Mike Mills				
Frank Jeretzky				
Luke Currier				
James Stoneman				
William McCombs				
Total				

ANACORTES PLANNING COMMISSION
ANACORTES, WASHINGTON

Linda Martin, Planning Commission Chair

Date



Notice of Availability

Including written comment period, public hearing date, and environmental determination

Notice Issued Date:	November 13, 2024
Proposal Name:	The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) Sections 19.12.020, 19.20.100, 19.20.110, 19.20.130, 19.20.160, 19.41.050, 19.43.120, and 19.49.040 to create consistency with SB 5290 and RCW 36.70B related to project permit procedures and timelines.
City File Number:	LEG-2024-30
Documents Available At:	https://www.anacorteswa.gov/1547/Legislative-Planning-Updates
Lead Agency:	City of Anacortes, Planning, Community & Economic Development Department
SEPA Responsible Official:	John Coleman, AICP, Director
Written Comment Period:	November 13 – December 4, 2024 at 5:00 PM
Public Hearing Date:	Wednesday, December 11, 2024 at 6:00 PM
Public Hearing Body:	Anacortes Planning Commission City Hall Council Chambers 904 6 th Street, Anacortes, WA 98221
Contact Person:	Libby Grage, Planning Manager libbyb@cityofanacortes.org ; 360-299-1986

Proposal Description:

The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) to comply with 2SSB 5290 (2023), which amended portions of Chapter 36.70B, Local Project Review Act. SB 5290 intends to increase the timeliness and predictability of local project review by establishing new permit review timelines and a requirement for a local government to refund permit application fees if the timelines are not met, unless at least three optional measures intended to streamline permit review (set forth in RCW 36.70B.160(1)) are implemented.

The proposed amendments to AMC Title 19 include:

- Amend the permit review procedures and timelines in AMC Title 19 to be consistent with 2SSB 5290 (2023).
- Amend the development regulations in AMC Title 19 to implement process improvement measures from the list in RCW 36.70B.160, including:

- Making housing types an outright permitted use in all zones where the housing type is permitted, consistent with RCW 36.70B.160(1)(h).
- Adopting a procedure to offer a meeting with an applicant to attempt to resolve outstanding issues during the review process, consistent with RCW 36.70B.160(1)(j).

SEPA Threshold Determination

The City of Anacortes, as lead agency for this proposal, determined that the proposed amendments will not have a probable adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

The threshold determination is issued under a separate cover, available on the website and the address above. The City of Anacortes will not act on this proposal during the comment period. Written comments regarding the Determination of Nonsignificance must be submitted by November 27, 2024 at 5:00PM. Appeals of this environmental determination may be made per the procedures outlined in AMC Ch. 18.04 and Ch. 19.20 by December 11, 2024, at 5:00 PM. Additional information regarding the appeal process may be obtained from the City of Anacortes PCED Department, 360-299-1984.

How to Comment

Comments are accepted via email, paper, or verbally.

Email comments are preferred and must be sent to libbyb@anacorteswa.gov.

Paper comments may be mailed or delivered to:

City of Anacortes
Planning, Community & Economic Development Department
ATTN: Libby Grage
P.O. Box 547 / 904 6th St.
Anacortes, WA 98221

Verbal comments may be made at the Public Hearing. The public hearing will be held as hybrid meeting, with virtual and in-person attendance options. Virtual meeting access and participation information can be found here:

<https://www.anacorteswa.gov/700/Meeting-Documents-and-Video>



SEPA

Determination of Non-Significance (DNS)

DESCRIPTION OF PROPOSAL: The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) Sections 19.12.020, 19.20.100, 19.20.110, 19.20.130, 19.20.160, 19.41.050, 19.43.120, and 19.49.040 to create consistency with SB 5290 and RCW 36.70B related to project permit procedures and timelines.

LOCATION: Citywide

PROPONENT & LEAD AGENCY: City of Anacortes, Planning, Community and Economic Development (PCED) Department.

CONTACT PERSON: Libby Grage, Planning Manager; libbyb@anacorteswa.gov; 360-299-1986; PO Box 547, Anacortes, WA 98221

DETERMINATION: The City of Anacortes, as lead agency for this proposal, determined that the proposed amendments will not have a probable adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

This Determination of Non-Significance (DNS) is issued under WAC [197-11-340](#); the lead agency will not act on this proposal for 14 days from the date of issuance.

Comments on the environmental determination must be received in writing on or before 5:00 PM **November 27, 2024** (14 days from the date of issuance).

Appeal: You may appeal this determination to the City of Anacortes Clerk's Office at 904 6th St., Anacortes, WA, no later than December 11, 2024 at 5:00 pm in accordance with AMC 19.20.180 and AMC Title 18. Appeals shall be submitted in writing, and must include the content required in AMC 19.20.180, and applicable fee, as established by resolution of the city council. Full appeal procedures can be reviewed under AMC 19.20.180 and AMC Ch. 18.04.

Responsible Official: John Coleman, AICP
Position and Title: Director of Planning, Community & Economic Development
Phone/Email: 360-299-1942; johnc@cityofanacortes.org
Address: P.O. Box 547, Anacortes, WA 98221

Date: November 13, 2024

Signature _____

SEPA¹ Environmental Checklist

Purpose of checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use “not applicable” or “does not apply” only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for lead agencies

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the Supplemental Sheet for Nonproject Actions (Part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in “Part B: Environmental Elements” that do not contribute meaningfully to the analysis of the proposal.

¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/Checklist-guidance>

A. Background

[Find help answering background questions²](https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background)

1. Name of proposed project, if applicable:

Anacortes Permit Review Time Periods

2. Name of applicant:

City of Anacortes Planning, Community & Economic Development Department

3. Address and phone number of applicant and contact person:

Libby Grage, Planning Manager, 360-299-1986; libbyb@cityofanacortes.org; P.O. Box 547;
Anacortes, WA 98221

4. Date checklist prepared:

October 30, 2024

5. Agency requesting checklist:

City of Anacortes Planning, Community & Economic Development Department

6. Proposed timing of schedule (including phasing, if applicable):

Planning Commission review, public hearing, and recommendation – November/December 2024

City Council review and adoption – December 2024

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

None

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

This is a non-project action affecting all property in the city limits of the City of Anacortes. We are aware of one application pending for governmental approvals for a proposal consisting of multifamily development in the Commercial Marine (CM) zone.

10. List any government approvals or permits that will be needed for your proposal, if known.

The City of Anacortes City Council would need to approve the proposed amendments and adopt them by ordinance.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe

² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background>

certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) to comply with 2SSB 5290 (2023), which amended portions of Chapter 36.70B, Local Project Review Act. SB 5290 intends to increase the timeliness and predictability of local project review by establishing new permit review timelines and a requirement for a local government to refund permit application fees if the timelines are not met, unless at least three optional measures intended to streamline permit review (set forth in RCW 36.70B.160(1)) are implemented.

The proposed amendments to AMC Title 19 include:

- Amend the permit review procedures and timelines in AMC Title 19 to be consistent with 2SSB 5290 (2023).
- Amend the development regulations in AMC Title 19 to implement process improvement measures from the list in RCW 36.70B.160, including:
 - Making housing types an outright permitted use in all zones where the housing type is permitted, consistent with RCW 36.70B.160(1)(h).
 - Adopting a procedure to offer a meeting with an applicant to attempt to resolve outstanding issues during the review process, consistent with RCW 36.70B.160(1)(j)

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The changes to permit review time periods would apply to all permit application types for projects throughout the city. The permissions (permitted outright, conditional use, prohibited) for certain housing types in Mixed-Use and Industrial zones are proposed to be changed for consistency with RCW 36.70B.160(1)(h) and RCW 70.125.140 (relating to adult family homes).

B.Environmental Elements

1. Earth

[Find help answering earth questions³](https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-earth)

a. General description of the site:

The City of Anacortes includes a variety of terrain, including flat, rolling, hilly, and steep slopes.

Circle or highlight one: Flat, rolling, hilly, steep slopes, mountainous, other:

³ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-earth>

b. What is the steepest slope on the site (approximate percent slope)?

Anacortes includes a variety of slopes throughout the city, including certain areas with up to 100% slope. The steepest slopes are primarily located along the marine shoreline and Mount Erie.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them, and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

Soils within the city include Bellingham silt loam, Bow gravelly loam, Bow-Urban land complex, Catla gravelly fine sandy loam, Clallam gravelly loam, Coveland gravelly loam, Coveland-Bow complex, Dystric Xerochrepts, Fidalgo-Lithic Xerochrepts Rock outcrop complex, Guemes very stony loam, Guemes very gravelly loam, sandy substratum, Hydraquents, tidal, Keystone loamy sand, Laconner very gravelly loamy sand, Lithic Haploxerolls – Rock outcrop complex, Mukilteo muck, Norma silt loam, Pits, Swinomish gravelly loam, Swinomish-Fidalgo Rock outcrop complex, Tacoma silt, Tacoma silt loam, Terric Medisaprists, Whistle-Fidalgo-Rock outcrop complex, and Xerorthents.

There are no known agricultural lands of long-term commercial significance.

Because this proposal is non-project in nature, it will not directly result in any soil removal.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Geologically hazardous areas within the City include steep slopes, landslide and erosion hazards, and seismic hazards (liquefaction prone areas). These hazard areas are concentrated along the northern portion of Anacortes near Guemes Channel and Burrows Bay near Washington Park. Liquefaction prone areas are located in areas of modified shorelines near Skyline and the eastern part of the city along Fidalgo Bay.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

This non-project proposal will not directly result in any filling, excavation, or grading.

f. Could erosion occur because of clearing, construction, or use? If so, generally describe.

Because this proposal is non-project in nature, it will not directly result in any erosion.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

This non-project proposal will not directly result in the addition of any impervious surface.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any.

This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements relating to impacts to the earth.

2. Air

[Find help answering air questions](#)⁴

- a. **What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.**

This non-project proposal will not directly result in any emissions to the air.

- b. **Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

This non-project proposal will not be affected by emissions or odor.

- c. **Proposed measures to reduce or control emissions or other impacts to air, if any:**

- d. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements relating to emissions that are in place at that time.

3. Water

[Find help answering water questions](#)⁵

- a. **Surface:**

[Find help answering surface water questions](#)⁶

1. **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

Anacortes is surrounded on three sides by marine shorelines including Guemes Channel, Burrows Bay, Fidalgo Bay, and a portion of Padilla Bay, with lakes including Little Cranberry, Heart, Whistle, and a portion of Lake Erie.

There are multiple streams located within city limits including Whistle Creek, Happy Valley Stream, Ace of Hearts Creek, Beaver Brook, Cranberry Creek, Clyde Creek, Anaco Bourn,

⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-Air>

⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water>

⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Surface-water>

Morrison Run, Cedar Springs, Weaverling Rill, Miller Creek, Aqua Creek, Howard Creek, Summit Creek, and March's Run.

- 2. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**

No, this is a non-project action.

- 3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

This non-project proposal will not directly result in any fill or dredging of surface waters or wetlands.

- a. Will the proposal require surface water withdrawals or diversions? Give a general description, purpose, and approximate quantities if known.**

This non-project proposal will not directly result in surface water withdrawals or diversions.

- 4. Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

Parts of Anacortes are located within the 100-year floodplain as mapped by the Federal Emergency Management Agency (FEMA) flood insurance rate maps (FIRMs). Some areas within the zones affected may be located within the 100-year flood plain.

- 5. Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

This non-project proposal will not directly result in any discharges of waste materials to surface waters.

b. Ground:

[Find help answering ground water questions](https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Groundwater)⁷

- 1. Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give a general description, purpose, and approximate quantities if known.**

This non-project proposal will not directly result in withdrawal of groundwater from a well for drinking water or any other purpose, nor will it involve discharges to groundwater.

- 2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

⁷ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Groundwater>

This non-project proposal will not directly result in discharge of waste into the ground.

c. Water Runoff (including stormwater):

1. **Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

This non-project proposal will not generate stormwater.

2. **Could waste materials enter ground or surface waters? If so, generally describe.**

This non-project proposal will not involve waste materials entering the ground or surface waters.

3. **Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**

This non-project proposal will not affect drainage patterns.

- e. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to surface and ground water, and water run-off.

4. Plants

[Find help answering plants questions](#)

- a. Check the types of vegetation found on the site:**

- ☒ **deciduous tree: alder, maple, aspen, other**
- ☒ **evergreen tree: fir, cedar, pine, other**
- ☒ **shrubs**
- ☒ **grass**
- ☒ **pasture**
- ☐ **crop or grain**
- ☒ **orchards, vineyards, or other permanent crops.**
- ☒ **wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other**
- ☒ **water plants: water lily, eelgrass, milfoil, other**
- ☒ **other types of vegetation**

- b. What kind and amount of vegetation will be removed or altered?**

This non-project proposal will not result in vegetation removal or alteration.

c. List threatened and endangered species known to be on or near the site.

Various species of rare plants, listed by the Washington Natural Heritage Program, may occur within the city.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any.

None. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to landscaping and plants.

e. List all noxious weeds and invasive species known to be on or near the site.

Various species of noxious weeds and invasive species are known to occur throughout Anacortes.

5. Animals

[Find help answering animal questions](#)⁸

a. List any birds and other animals that have been observed on or near the site or are known to be on or near the site.

Examples include:

- **Birds:** hawk, heron, eagle, songbirds, other:
- **Mammals:** deer, bear, elk, beaver, other:
- **Fish:** bass, salmon, trout, herring, shellfish, other:

Many species of birds, mammals, and fish are known to occur throughout Anacortes.

b. List any threatened and endangered species known to be on or near the site.

Bull trout, Puget Sound Chinook, Puget Sound Steelhead, Southern Resident Killer Whale, Yelloweye Rockfish, Bocaccio Rockfish and Marbled Murrelet are known to occur along the marine shoreline of Anacortes.

c. Is the site part of a migration route? If so, explain.

Anacortes is within located within the Pacific Flyway migration route utilized by waterfowl migrating north into Alaska and northern Canada.

d. Proposed measures to preserve or enhance wildlife, if any.

- e. None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to wildlife protection.

f. List any invasive animal species known to be on or near the site.

⁸ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-5-Animals>

None known. There are likely invasive animal species occurring within the city limits; however, this is a non-project action that applies city-wide and not affecting any one site.

6. Energy and natural resources

[Find help answering energy and natural resource questions](#)⁹

- a. **What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

This non-project proposal will not result in any energy use.

- b. **Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

This non-project proposal will not affect the potential use of solar energy by adjacent properties.

- c. **What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to energy.

7. Environmental health

[Health Find help with answering environmental health questions](#)¹⁰

- a. **Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.**

This non-project proposal will not result in any environmental health hazards.

1. **Describe any known or possible contamination at the site from present or past uses.**

Anacortes has various sites that have known or possible contamination from present or past uses.

2. **Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

This non-project proposal is not expected to be affected by hazardous chemicals/conditions.

⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-6-Energy-natural-resou>

¹⁰ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-7-Environmental-health>

- 3. Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

This non-project proposal will not result in storage, use or production of hazardous chemicals.

- 4. Describe special emergency services that might be required.**

This non-project proposal will not result in the need for any special emergency services.

- 5. Proposed measures to reduce or control environmental health hazards, if any.**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to reduction or control of environmental health hazards.

b. Noise

- 1. What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

This non-project proposal will not be affected by noise in the area.

- 2. What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site)?**

This non-project proposal would not create any noise.

- 3. Proposed measures to reduce or control noise impacts, if any:**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to noise.

8. Land and shoreline use

[Find help answering land and shoreline use questions](https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-8-Land-shoreline-use)¹¹

- a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.**

Land uses throughout the city include residential, recreational, industrial, multi-family, public and institutional uses, and vacant land. Because the proposal is non-project in nature, it will not affect current land uses on properties in the city.

- b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses because of the proposal, if any? If resource lands have not been designated,**

¹¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-8-Land-shoreline-use>

how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

There are no known working farmlands or working forest lands within the Anacortes city limits.

- 1. Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how?**

No.

- c. Describe any structures on the site.**

There are a variety of structures located throughout city limits.

- d. Will any structures be demolished? If so, what?**

This non-project proposal will not result in the demolition of any structures.

- e. What is the current zoning classification of the site?**

Anacortes includes a variety of zoning designations city-wide.

- f. What is the current comprehensive plan designation of the site?**

Anacortes includes a variety of comprehensive plan designations.

- g. If applicable, what is the current shoreline master program designation of the site?**

Anacortes includes a variety of shoreline master program designations along its marine shoreline and freshwater lakes.

- h. Has any part of the site been classified as a critical area by the city or county? If so, specify.**

A variety of classified critical areas are known to be located within the city, including wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas.

- i. Approximately how many people would reside or work in the completed project?**

Because this is a non-project proposal, this question is not applicable.

- j. Approximately how many people would the completed project displace?**

Because this proposal is non-project in nature, zero people would be displaced as part of the project.

- k. Proposed measures to avoid or reduce displacement impacts, if any.**

None.

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.**

This non-project proposal is not anticipated to result in any incompatibility issues.

- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:**

None.

9. Housing

[Find help answering housing questions](#)¹²

- a. **Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

Because this is a non-project proposal, no new housing units would be provided.

- b. **Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

Because this is a non-project proposal, no housing units would be eliminated.

- c. **Proposed measures to reduce or control housing impacts, if any:**

The primary purpose of the proposal is to comply with 2SSB 5290 (2023), which aims to expedite housing permit application processing by local jurisdictions.

10. Aesthetics

[Find help answering aesthetics questions](#)¹³

- a. **What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

This non-project proposal will not directly result in any structures being built.

- b. **What views in the immediate vicinity would be altered or obstructed?**

None – this is a non-project proposal.

- c. **Proposed measures to reduce or control aesthetic impacts, if any:**

Future project actions that are proposed under the adopted regulations will be required to comply with the Anacortes Municipal Code and any other standards related to aesthetics that are in place at that time.

11. Light and glare

[Find help answering light and glare questions](#)¹⁴

- b. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**

This non-project proposal would not produce any light or glare.

- c. **Could light or glare from the finished project be a safety hazard or interfere with views?**

¹² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-9-Housing>

¹³ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-10-Aesthetics>

¹⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-11-Light-glare>

No.

d. What existing off-site sources of light or glare may affect your proposal?

None.

e. Proposed measures to reduce or control light and glare impacts, if any:

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to light and glare.

12. Recreation

[Find help answering recreation questions](#)

a. What designated and informal recreational opportunities are in the immediate vicinity?

Anacortes contains many designated and informal recreational opportunities, including city parks, the Anacortes Community Forest Lands, beaches, trails, boating, and more.

b. Would the proposed project displace any existing recreational uses? If so, describe.

No.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related recreation.

13. Historic and cultural preservation

[Find help answering historic and cultural preservation questions](#)¹⁵

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

There are many buildings in Anacortes that are over 45 years old. Some of them are eligible for listing, or are listed, in national, state, or local preservation registers.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

There are landmarks, features, or other evidence of Indian or historic use or occupation in various locations throughout Anacortes.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

¹⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-13-Historic-cultural-p>

Staff referred to the department of archaeology and historic preservation and the Anacortes register of historic places, but because the proposal is non-project in nature, it will not have a direct impact on any cultural or historic resources.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

Future project actions that are proposed under the adopted regulations will be required to comply with the Anacortes Municipal Code and any other standards related to historic and cultural resources protection that are in place at that time.

14. Transportation

[Find help with answering transportation questions](#)¹⁶

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

There are a variety of public streets and highways in Anacortes.

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**

Skagit Transit provides public transit service throughout Anacortes.

- c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).**

Because this proposal is non-project in nature, it will not require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities.

- d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

This non-project proposal will not use water, rail or air transportation.

- e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?**

This non-project proposal will not generate any vehicular trips.

- f. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.**

This non-project proposal will not affect or be affected by movement of agricultural and forest products on roads or streets.

- g. Proposed measures to reduce or control transportation impacts, if any:**

¹⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-14-Transportation>

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to transportation.

15. Public services

[Find help answering public service questions¹⁷](#)

- a. **Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.**

This non-project proposal will not result in an increased need for public services.

- b. **Proposed measures to reduce or control direct impacts on public services, if any.**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to public services.

16. Utilities

[Find help answering utilities questions¹⁸](#)

- a. **Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:**

All of the above utilities are available within the Anacortes city limits.

- b. **Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.**

This non-project proposal will not result in the need for any utility services.

C.Signature

[Find help about who should sign¹⁹](#)

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.



Type name of signee: Libby Grage

Position and agency/organization: Planning Manager, PCED Department, City of Anacortes

¹⁷ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-15-public-services>

¹⁸ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-16-utilities>

¹⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-C-Signature>

Date submitted: October 30, 2024

D. Supplemental sheet for nonproject actions

[Find help for the nonproject actions worksheet²⁰](#)

Do not use this section for project actions.

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

The proposal is not anticipated to result in an increase in discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise as compared to existing land use plans.

The proposed amendments only affect permit review procedures, and which housing types are permitted in certain zones. The changes to housing type permissions in certain zones are not likely to increase housing development beyond what is already anticipated in existing land use plans.

• Proposed measures to avoid or reduce such increases are:

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to hazardous substances. Project-specific environmental review will be required for projects exceeding certain thresholds.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The proposed amendments are not likely to affect plants, animals, fish, or marine life.

• Proposed measures to protect or conserve plants, animals, fish, or marine life are:

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to plants, animals, fish, or marine life. Project-specific environmental review will be required for projects exceeding certain thresholds.

3. How would the proposal be likely to deplete energy or natural resources?

The proposed amendments are not likely to deplete energy or natural resources.

• Proposed measures to protect or conserve energy and natural resources are:

²⁰ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-d-non-project-actions>

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to energy and natural resources. Project-specific environmental review will be required for projects exceeding certain thresholds.

- 4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

The proposed amendments are not likely to affect environmentally sensitive areas or areas designated for governmental protection.

• **Proposed measures to protect such resources or to avoid or reduce impacts are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to environmentally sensitive areas. Project-specific environmental review will be required for projects exceeding certain thresholds.

- 5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

The proposed amendments are intended to promote compatibility with existing city goals and policies related to housing and land use.

• **Proposed measures to avoid or reduce shoreline and land use impacts are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to shoreline and land use. Project-specific environmental review will be required for projects exceeding certain thresholds.

- 6. How would the proposal be likely to increase demands on transportation or public services and utilities?**

The proposed amendments are not likely to increase demands on transportation or public services and utilities.

• **Proposed measures to reduce or respond to such demand(s) are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to transportation, public services and utilities. Project-specific environmental review will be required for projects exceeding certain thresholds.

- 7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

The proposed amendments are not anticipated to conflict with local, state, or federal laws, or requirements for protection of the environment. They are intended to bring Anacortes' code into compliance with state law.

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5290

Chapter 338, Laws of 2023

68th Legislature
2023 Regular Session

PROJECT PERMITS—LOCAL PROJECT REVIEW—VARIOUS PROVISIONS

EFFECTIVE DATE: July 23, 2023—Except for section 7, which takes
effect January 1, 2025.

Passed by the Senate April 17, 2023
Yeas 47 Nays 0

DENNY HECK

President of the Senate

Passed by the House April 10, 2023
Yeas 98 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Approved May 8, 2023 1:17 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SECOND SUBSTITUTE
SENATE BILL 5290** as passed by the
Senate and the House of
Representatives on the dates hereon
set forth.

SARAH BANNISTER

Secretary

FILED

May 10, 2023

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5290

AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By Senate Ways & Means (originally sponsored by Senators Mullet, Kuderer, Fortunato, Llias, Nobles, Saldaña, and C. Wilson; by request of Office of the Governor)

READ FIRST TIME 02/24/23.

1 AN ACT Relating to consolidating local permit review processes;
2 amending RCW 36.70B.140, 36.70B.020, 36.70B.070, 36.70B.080, and
3 36.70B.160; reenacting and amending RCW 36.70B.110; adding new
4 sections to chapter 36.70B RCW; creating new sections; and providing
5 an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 36.70B.140 and 1995 c 347 s 418 are each amended to
8 read as follows:

9 (1) A local government by ordinance or resolution may exclude the
10 following project permits from the provisions of RCW 36.70B.060
11 through 36.70B.090 and 36.70B.110 through 36.70B.130: Landmark
12 designations, street vacations, or other approvals relating to the
13 use of public areas or facilities, or other project permits, whether
14 administrative or quasi-judicial, that the local government by
15 ordinance or resolution has determined present special circumstances
16 that warrant a review process or time periods for approval which are
17 different from that provided in RCW 36.70B.060 through 36.70B.090 and
18 36.70B.110 through 36.70B.130.

19 (2) A local government by ordinance or resolution also may
20 exclude the following project permits from the provisions of RCW
21 36.70B.060 and 36.70B.110 through 36.70B.130: Lot line or boundary

adjustments and building and other construction permits, or similar administrative approvals, categorically exempt from environmental review under chapter 43.21C RCW, or for which environmental review has been completed in connection with other project permits.

(3) A local government must exclude project permits for interior alterations from site plan review, provided that the interior alterations do not result in the following:

(a) Additional sleeping quarters or bedrooms;

(b) Nonconformity with federal emergency management agency substantial improvement thresholds; or

(c) Increase the total square footage or valuation of the structure thereby requiring upgraded fire access or fire suppression systems.

(4) Nothing in this section exempts interior alterations from otherwise applicable building, plumbing, mechanical, or electrical codes.

(5) For purposes of this section, "interior alterations" include construction activities that do not modify the existing site layout or its current use and involve no exterior work adding to the building footprint.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.70B RCW to read as follows:

(1) Subject to the availability of funds appropriated for this specific purpose, the department of commerce must establish a consolidated permit review grant program. The department may award grants to any local government that provides, by ordinance, resolution, or other action, a commitment to the following building permit review consolidation requirements:

(a) Issuing final decisions on residential permit applications within 45 business days or 90 calendar days.

(i) To achieve permit review within the stated time periods, a local government must provide consolidated review for building permit applications. This may include an initial technical peer review of the application for conformity with the requirements of RCW 36.70B.070 by all departments, divisions, and sections of the local government with jurisdiction over the project.

(ii) A local government may contract with a third-party business to conduct the consolidated permit review or as additional inspection

1 staff. Any funds expended for such a contract may be eligible for
2 reimbursement under this act.

3 (iii) Local governments are authorized to use grant funds to
4 contract outside assistance to audit their development regulations to
5 identify and correct barriers to housing development.

6 (b) Establishing an application fee structure that would allow
7 the jurisdiction to continue providing consolidated permit review
8 within 45 business days or 90 calendar days.

9 (i) A local government may consult with local building
10 associations to develop a reasonable fee system.

11 (ii) A local government must determine, no later than July 1,
12 2024, the specific fee structure needed to provide permit review
13 within the time periods specified in this subsection (1)(b).

14 (2) A jurisdiction that is awarded a grant under this section
15 must provide a quarterly report to the department of commerce. The
16 report must include the average and maximum time for permit review
17 during the jurisdiction's participation in the grant program.

18 (3) If a jurisdiction is unable to successfully meet the terms
19 and conditions of the grant, the jurisdiction must enter a 90-day
20 probationary period. If the jurisdiction is not able to meet the
21 requirements of this section by the end of the probationary period,
22 the jurisdiction is no longer eligible to receive grants under this
23 section.

24 (4) For the purposes of this section, "residential permit" means
25 a permit issued by a city or county that satisfies the conditions of
26 RCW 19.27.015(5) and is within the scope of the international
27 residential code, as adopted in accordance with chapter 19.27 RCW.

28 NEW SECTION. **Sec. 3.** A new section is added to chapter 36.70B
29 RCW to read as follows:

30 (1) Subject to the availability of funds appropriated for this
31 specific purpose, the department of commerce must establish a grant
32 program for local governments to update their permit review process
33 from paper filing systems to software systems capable of processing
34 digital permit applications, virtual inspections, electronic review,
35 and with capacity for video storage.

36 (2) The department of commerce may only provide a grant under
37 this section to a city if the city allows for the development of at
38 least two units per lot on all lots zoned predominantly for
39 residential use within its jurisdiction.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 36.70B
2 RCW to read as follows:

3 (1) Subject to the availability of amounts appropriated for this
4 specific purpose, the department of commerce must convene a digital
5 permitting process work group to examine potential license and
6 permitting software for local governments to encourage streamlined
7 and efficient permit review.

8 (2) The department of commerce, in consultation with the
9 association of Washington cities and Washington state association of
10 counties, shall appoint members to the work group representing groups
11 including but not limited to:

12 (a) Cities and counties;

13 (b) Building industries; and

14 (c) Building officials.

15 (3) The department of commerce must convene the first meeting of
16 the work group by August 1, 2023. The department must submit a final
17 report to the governor and the appropriate committees of the
18 legislature by August 1, 2024. The final report must:

19 (a) Evaluate the existing need for digital permitting systems,
20 including impacts on existing digital permitting systems that are
21 already in place;

22 (b) Review barriers preventing local jurisdictions from accessing
23 or adopting digital permitting systems;

24 (c) Evaluate the benefits and costs associated with a statewide
25 permitting software system; and

26 (d) Provide budgetary, administrative policy, and legislative
27 recommendations to increase the adoption of or establish a statewide
28 system of digital permit review.

29 **Sec. 5.** RCW 36.70B.020 and 1995 c 347 s 402 are each amended to
30 read as follows:

31 Unless the context clearly requires otherwise, the definitions in
32 this section apply throughout this chapter.

33 (1) "Closed record appeal" means an administrative appeal on the
34 record to a local government body or officer, including the
35 legislative body, following an open record hearing on a project
36 permit application when the appeal is on the record with no or
37 limited new evidence or information allowed to be submitted and only
38 appeal argument allowed.

39 (2) "Local government" means a county, city, or town.

1 (3) "Open record hearing" means a hearing, conducted by a single
2 hearing body or officer authorized by the local government to conduct
3 such hearings, that creates the local government's record through
4 testimony and submission of evidence and information, under
5 procedures prescribed by the local government by ordinance or
6 resolution. An open record hearing may be held prior to a local
7 government's decision on a project permit to be known as an "open
8 record predecision hearing." An open record hearing may be held on an
9 appeal, to be known as an "open record appeal hearing," if no open
10 record predecision hearing has been held on the project permit.

11 (4) "Project permit" or "project permit application" means any
12 land use or environmental permit or license required from a local
13 government for a project action, including but not limited to
14 ~~((building permits,))~~ subdivisions, binding site plans, planned unit
15 developments, conditional uses, shoreline substantial development
16 permits, site plan review, permits or approvals required by critical
17 area ordinances, site-specific rezones ~~((authorized by a
18 comprehensive plan or subarea plan))~~ which do not require a
19 comprehensive plan amendment, but excluding the adoption or amendment
20 of a comprehensive plan, subarea plan, or development regulations
21 except as otherwise specifically included in this subsection.

22 (5) "Public meeting" means an informal meeting, hearing,
23 workshop, or other public gathering of people to obtain comments from
24 the public or other agencies on a proposed project permit prior to
25 the local government's decision. A public meeting may include, but is
26 not limited to, a design review or architectural control board
27 meeting, a special review district or community council meeting, or a
28 scoping meeting on a draft environmental impact statement. A public
29 meeting does not include an open record hearing. The proceedings at a
30 public meeting may be recorded and a report or recommendation may be
31 included in the local government's project permit application file.

32 **Sec. 6.** RCW 36.70B.070 and 1995 c 347 s 408 are each amended to
33 read as follows:

34 (1) (a) Within ~~((twenty-eight))~~ 28 days after receiving a project
35 permit application, a local government planning pursuant to RCW
36 36.70A.040 shall ~~((mail or))~~ provide ~~((in person))~~ a written
37 determination to the applicant ~~((, stating))~~.

38 (b) The written determination must state either:

39 ~~((a))~~ (i) That the application is complete; or

1 ~~((b))~~ (ii) That the application is incomplete and that the
2 procedural submission requirements of the local government have not
3 been met. The determination shall outline what is necessary to make
4 the application procedurally complete.

5 (c) The number of days shall be calculated by counting every
6 calendar day.

7 (d) To the extent known by the local government, the local
8 government shall identify other agencies of local, state, or federal
9 governments that may have jurisdiction over some aspect of the
10 application.

11 (2) A project permit application is complete for purposes of this
12 section when it meets the procedural submission requirements of the
13 local government ~~((and is sufficient for continued processing even~~
14 ~~though additional information may be required or project~~
15 ~~modifications may be undertaken subsequently))~~, as outlined on the
16 project permit application. Additional information or studies may be
17 required or project modifications may be undertaken subsequent to the
18 procedural review of the application by the local government. The
19 determination of completeness shall not preclude the local government
20 from requesting additional information or studies either at the time
21 of the notice of completeness or subsequently if new information is
22 required or substantial changes in the proposed action occur.
23 However, if the procedural submission requirements, as outlined on
24 the project permit application have been provided, the need for
25 additional information or studies may not preclude a completeness
26 determination.

27 (3) The determination of completeness may include or be combined
28 with the following ~~((as optional information))~~:

29 (a) A preliminary determination of those development regulations
30 that will be used for project mitigation;

31 (b) A preliminary determination of consistency, as provided under
32 RCW 36.70B.040; ~~((or))~~

33 (c) Other information the local government chooses to include; or

34 (d) The notice of application pursuant to the requirements in RCW
35 36.70B.110.

36 (4)(a) An application shall be deemed procedurally complete on
37 the 29th day after receiving a project permit application under this
38 section if the local government does not provide a written
39 determination to the applicant that the application is procedurally
40 incomplete as provided in subsection (1)(b) (ii) of this section. When

1 the local government does not provide a written determination, they
2 may still seek additional information or studies as provided for in
3 subsection (2) of this section.

4 (b) Within ~~((fourteen))~~ 14 days after an applicant has submitted
5 to a local government additional information identified by the local
6 government as being necessary for a complete application, the local
7 government shall notify the applicant whether the application is
8 complete or what additional information is necessary.

9 (c) The notice of application shall be provided within 14 days
10 after the determination of completeness pursuant to RCW 36.70B.110.

11 **Sec. 7.** RCW 36.70B.080 and 2004 c 191 s 2 are each amended to
12 read as follows:

13 (1)(a) Development regulations adopted pursuant to RCW 36.70A.040
14 must establish and implement time periods for local government
15 actions for each type of project permit application and provide
16 timely and predictable procedures to determine whether a completed
17 project permit application meets the requirements of those
18 development regulations. The time periods for local government
19 actions for each type of complete project permit application or
20 project type should not exceed ~~((one hundred twenty days, unless the~~
21 ~~local government makes written findings that a specified amount of~~
22 ~~additional time is needed to process specific complete project permit~~
23 ~~applications or project types))~~ those specified in this section.

24 ~~((The))~~ (b) For project permits submitted after January 1, 2025,
25 the development regulations must, for each type of permit
26 application, specify the contents of a completed project permit
27 application necessary for the complete compliance with the time
28 periods and procedures.

29 ~~((+2))~~ (c) A jurisdiction may exclude certain permit types and
30 timelines for processing project permit applications as provided for
31 in RCW 36.70B.140.

32 (d) The time periods for local government action to issue a final
33 decision for each type of complete project permit application or
34 project type subject to this chapter should not exceed the following
35 time periods unless modified by the local government pursuant to this
36 section or RCW 36.70B.140:

37 (i) For project permits which do not require public notice under
38 RCW 36.70B.110, a local government must issue a final decision within
39 65 days of the determination of completeness under RCW 36.70B.070;

1 (ii) For project permits which require public notice under RCW
2 36.70B.110, a local government must issue a final decision within 100
3 days of the determination of completeness under RCW 36.70B.070; and

4 (iii) For project permits which require public notice under RCW
5 36.70B.110 and a public hearing, a local government must issue a
6 final decision within 170 days of the determination of completeness
7 under RCW 36.70B.070.

8 (e) A jurisdiction may modify the provisions in (d) of this
9 subsection to add permit types not identified, change the permit
10 names or types in each category, address how consolidated review time
11 periods may be different than permits submitted individually, and
12 provide for how projects of a certain size or type may be
13 differentiated, including by differentiating between residential and
14 nonresidential permits. Unless otherwise provided for the
15 consolidated review of more than one permit, the time period for a
16 final decision shall be the longest of the permit time periods
17 identified in (d) of this subsection or as amended by a local
18 government.

19 (f) If a local government does not adopt an ordinance or
20 resolution modifying the provisions in (d) of this subsection, the
21 time periods in (d) of this subsection apply.

22 (g) The number of days an application is in review with the
23 county or city shall be calculated from the day completeness is
24 determined under RCW 36.70B.070 to the date a final decision is
25 issued on the project permit application. The number of days shall be
26 calculated by counting every calendar day and excluding the following
27 time periods:

28 (i) Any period between the day that the county or city has
29 notified the applicant, in writing, that additional information is
30 required to further process the application and the day when
31 responsive information is resubmitted by the applicant;

32 (ii) Any period after an applicant informs the local government,
33 in writing, that they would like to temporarily suspend review of the
34 project permit application until the time that the applicant notifies
35 the local government, in writing, that they would like to resume the
36 application. A local government may set conditions for the temporary
37 suspension of a permit application; and

38 (iii) Any period after an administrative appeal is filed until
39 the administrative appeal is resolved and any additional time period
40 provided by the administrative appeal has expired.

1 (h) The time periods for a local government to process a permit
2 shall start over if an applicant proposes a change in use that adds
3 or removes commercial or residential elements from the original
4 application that would make the application fail to meet the
5 determination of procedural completeness for the new use, as required
6 by the local government under RCW 36.70B.070.

7 (i) If, at any time, an applicant informs the local government,
8 in writing, that the applicant would like to temporarily suspend the
9 review of the project for more than 60 days, or if an applicant is
10 not responsive for more than 60 consecutive days after the county or
11 city has notified the applicant, in writing, that additional
12 information is required to further process the application, an
13 additional 30 days may be added to the time periods for local
14 government action to issue a final decision for each type of project
15 permit that is subject to this chapter. Any written notice from the
16 local government to the applicant that additional information is
17 required to further process the application must include a notice
18 that nonresponsiveness for 60 consecutive days may result in 30 days
19 being added to the time for review. For the purposes of this
20 subsection, "nonresponsiveness" means that an applicant is not making
21 demonstrable progress on providing additional requested information
22 to the local government, or that there is no ongoing communication
23 from the applicant to the local government on the applicant's ability
24 or willingness to provide the additional information.

25 (j) Annual amendments to the comprehensive plan are not subject
26 to the requirements of this section.

27 (k) A county's or city's adoption of a resolution or ordinance to
28 implement this subsection shall not be subject to appeal under
29 chapter 36.70A RCW unless the resolution or ordinance modifies the
30 time periods provided in (d) of this subsection by providing for a
31 review period of more than 170 days for any project permit.

32 (l)(i) When permit time periods provided for in (d) of this
33 subsection, as may be amended by a local government, and as may be
34 extended as provided for in (i) of this subsection, are not met, a
35 portion of the permit fee must be refunded to the applicant as
36 provided in this subsection. A local government may provide for the
37 collection of only 80 percent of a permit fee initially, and for the
38 collection of the remaining balance if the permitting time periods
39 are met. The portion of the fee refunded for missing time periods
40 shall be:

1 (A) 10 percent if the final decision of the project permit
2 application was made after the applicable deadline but the period
3 from the passage of the deadline to the time of issuance of the final
4 decision did not exceed 20 percent of the original time period; or

5 (B) 20 percent if the period from the passage of the deadline to
6 the time of the issuance of the final decision exceeded 20 percent of
7 the original time period.

8 (ii) Except as provided in RCW 36.70B.160, the provisions in
9 subsection (1)(i) of this section are not applicable to cities and
10 counties which have implemented at least three of the options in RCW
11 36.70B.160(1) (a) through (j) at the time an application is deemed
12 procedurally complete.

13 (2)(a) Counties subject to the requirements of RCW 36.70A.215 and
14 the cities within those counties that have populations of at least
15 ((twenty thousand)) 20,000 must, for each type of permit application,
16 identify the total number of project permit applications for which
17 decisions are issued according to the provisions of this chapter. For
18 each type of project permit application identified, these counties
19 and cities must establish and implement a deadline for issuing a
20 notice of final decision as required by subsection (1) of this
21 section and minimum requirements for applications to be deemed
22 complete under RCW 36.70B.070 as required by subsection (1) of this
23 section.

24 (b) Counties and cities subject to the requirements of this
25 subsection also must prepare an annual performance report((s)) that
26 ((include, at a minimum, the following information for each type of
27 project permit application identified in accordance with the
28 requirements of (a) of this subsection:

29 (i) Total number of complete applications received during the
30 year;

31 (ii) Number of complete applications received during the year for
32 which a notice of final decision was issued before the deadline
33 established under this subsection;

34 (iii) Number of applications received during the year for which a
35 notice of final decision was issued after the deadline established
36 under this subsection;

37 (iv) Number of applications received during the year for which an
38 extension of time was mutually agreed upon by the applicant and the
39 county or city;

1 ~~(v) Variance of actual performance, excluding applications for~~
2 ~~which mutually agreed time extensions have occurred, to the deadline~~
3 ~~established under this subsection during the year; and~~

4 ~~(vi) The mean processing time and the number standard deviation~~
5 ~~from the mean.~~

6 ~~(c) Counties and cities subject to the requirements of this~~
7 ~~subsection must:~~

8 ~~(i) Provide notice of and access to the annual performance~~
9 ~~reports through the county's or city's website; and~~

10 ~~(ii) Post electronic facsimiles of the annual performance reports~~
11 ~~through the county's or city's website. Postings on a county's or~~
12 ~~city's website indicating that the reports are available by~~
13 ~~contacting the appropriate county or city department or official do~~
14 ~~not comply with the requirements of this subsection.~~

15 ~~If a county or city subject to the requirements of this~~
16 ~~subsection does not maintain a website, notice of the reports must be~~
17 ~~given by reasonable methods, including but not limited to those~~
18 ~~methods specified in RCW 36.70B.110(4).~~

19 ~~(3))~~ includes information outlining time periods for certain
20 permit types associated with housing. The report must provide:

21 (i) Permit time periods for certain permit processes in the
22 county or city in relation to those established under this section,
23 including whether the county or city has established shorter time
24 periods than those provided in this section;

25 (ii) The total number of decisions issued during the year for the
26 following permit types: Preliminary subdivisions, final subdivisions,
27 binding site plans, permit processes associated with the approval of
28 multifamily housing, and construction plan review for each of these
29 permit types when submitted separately;

30 (iii) The total number of decisions for each permit type which
31 included consolidated project permit review, such as concurrent
32 review of a rezone or construction plans;

33 (iv) The average number of days from a submittal to a decision
34 being issued for the project permit types listed in subsection
35 (2)(a)(ii) of this section. This shall be calculated from the day
36 completeness is determined under RCW 36.70B.070 to the date a
37 decision is issued on the application. The number of days shall be
38 calculated by counting every calendar day;

39 (v) The total number of days each project permit application of a
40 type listed in subsection (2)(a)(ii) of this section was in review

1 with the county or city. This shall be calculated from the day
2 completeness is determined under RCW 36.70B.070 to the date a final
3 decision is issued on the application. The number of days shall be
4 calculated by counting every calendar day. The days the application
5 is in review with the county or city does not include the time
6 periods in subsection (1)(g)(i)-(iii) of this section;

7 (vi) The total number of days that were excluded from the time
8 period calculation under subsection (1)(g)(i)-(iii) of this section
9 for each project permit application of a type listed in subsection
10 (2)(a)(ii) of this section.

11 (c) Counties and cities subject to the requirements of this
12 subsection must:

13 (i) Post the annual performance report through the county's or
14 city's website; and

15 (ii) Submit the annual performance report to the department of
16 commerce by March 1st each year.

17 (d) No later than July 1st each year, the department of commerce
18 shall publish a report which includes the annual performance report
19 data for each county and city subject to the requirements of this
20 subsection and a list of those counties and cities whose time periods
21 are shorter than those provided for in this section.

22 The annual report must also include key metrics and findings from
23 the information collected.

24 (e) The initial annual report required under this subsection must
25 be submitted to the department of commerce by March 1, 2025, and must
26 include information from permitting in 2024.

27 (3) Nothing in this section prohibits a county or city from
28 extending a deadline for issuing a decision for a specific project
29 permit application for any reasonable period of time mutually agreed
30 upon by the applicant and the local government.

31 ~~((4) The department of community, trade, and economic~~
32 ~~development shall work with the counties and cities to review the~~
33 ~~potential implementation costs of the requirements of subsection (2)~~
34 ~~of this section. The department, in cooperation with the local~~
35 ~~governments, shall prepare a report summarizing the projected costs,~~
36 ~~together with recommendations for state funding assistance for~~
37 ~~implementation costs, and provide the report to the governor and~~
38 ~~appropriate committees of the senate and house of representatives by~~
39 ~~January 1, 2005.))~~

1 **Sec. 8.** RCW 36.70B.160 and 1995 c 347 s 420 are each amended to
2 read as follows:

3 (1) Each local government is encouraged to adopt further project
4 review and code provisions to provide prompt, coordinated review and
5 ensure accountability to applicants and the public(~~(, including~~
6 ~~expedited review for project permit applications for projects that~~
7 ~~are consistent with adopted development regulations and within the~~
8 ~~capacity of systemwide infrastructure improvements)) by:~~

9 (a) Expediting review for project permit applications for
10 projects that are consistent with adopted development regulations;

11 (b) Imposing reasonable fees, consistent with RCW 82.02.020, on
12 applicants for permits or other governmental approvals to cover the
13 cost to the city, town, county, or other municipal corporation of
14 processing applications, inspecting and reviewing plans, or preparing
15 detailed statements required by chapter 43.21C RCW. The fees imposed
16 may not include a fee for the cost of processing administrative
17 appeals. Nothing in this subsection limits the ability of a county or
18 city to impose a fee for the processing of administrative appeals as
19 otherwise authorized by law;

20 (c) Entering into an interlocal agreement with another
21 jurisdiction to share permitting staff and resources;

22 (d) Maintaining and budgeting for on-call permitting assistance
23 for when permit volumes or staffing levels change rapidly;

24 (e) Having new positions budgeted that are contingent on
25 increased permit revenue;

26 (f) Adopting development regulations which only require public
27 hearings for permit applications that are required to have a public
28 hearing by statute;

29 (g) Adopting development regulations which make preapplication
30 meetings optional rather than a requirement of permit application
31 submittal;

32 (h) Adopting development regulations which make housing types an
33 outright permitted use in all zones where the housing type is
34 permitted;

35 (i) Adopting a program to allow for outside professionals with
36 appropriate professional licenses to certify components of
37 applications consistent with their license; or

38 (j) Meeting with the applicant to attempt to resolve outstanding
39 issues during the review process. The meeting must be scheduled
40 within 14 days of a second request for corrections during permit

1 review. If the meeting cannot resolve the issues and a local
2 government proceeds with a third request for additional information
3 or corrections, the local government must approve or deny the
4 application upon receiving the additional information or corrections.

5 (2) (a) After January 1, 2026, a county or city must adopt
6 additional measures under subsection (1) of this section at the time
7 of its next comprehensive plan update under RCW 36.70A.130 if it
8 meets the following conditions:

9 (i) The county or city has adopted at least three project review
10 and code provisions under subsection (1) of this section more than
11 five years prior; and

12 (ii) The county or city is not meeting the permitting deadlines
13 established in RCW 36.70B.080 at least half of the time over the
14 period since its most recent comprehensive plan update under RCW
15 36.70A.130.

16 (b) A city or county that is required to adopt new measures under
17 (a) of this subsection but fails to do so becomes subject to the
18 provisions of RCW 36.70B.080(1)(1), notwithstanding RCW
19 36.70B.080(1)(1)(ii).

20 ~~((+2))~~ (3) Nothing in this chapter is intended or shall be
21 construed to prevent a local government from requiring a
22 preapplication conference or a public meeting by rule, ordinance, or
23 resolution.

24 ~~((+3))~~ (4) Each local government shall adopt procedures to
25 monitor and enforce permit decisions and conditions.

26 ~~((+4))~~ (5) Nothing in this chapter modifies any independent
27 statutory authority for a government agency to appeal a project
28 permit issued by a local government.

29 NEW SECTION. Sec. 9. A new section is added to chapter 36.70B
30 RCW to read as follows:

31 (1) The department of commerce shall develop and provide
32 technical assistance and guidance to counties and cities in setting
33 fee structures under RCW 36.70B.160(1) to ensure that the fees are
34 reasonable and sufficient to recover true costs. The guidance must
35 include information on how to utilize growth factors or other
36 measures to reflect cost increases over time.

37 (2) When providing technical assistance under subsection (1) of
38 this section, the department of commerce must prioritize local

governments that have implemented at least three of the options in RCW 36.70B.160(1).

Sec. 10. RCW 36.70B.110 and 1997 c 429 s 48 and 1997 c 396 s 1 are each reenacted and amended to read as follows:

(1) Not later than April 1, 1996, a local government planning under RCW 36.70A.040 shall provide a notice of application to the public and the departments and agencies with jurisdiction as provided in this section. If a local government has made a threshold determination under chapter 43.21C RCW concurrently with the notice of application, the notice of application may be combined with the threshold determination and the scoping notice for a determination of significance. Nothing in this section prevents a determination of significance and scoping notice from being issued prior to the notice of application. Nothing in this section or this chapter prevents a lead agency, when it is a project proponent or is funding a project, from conducting its review under chapter 43.21C RCW or from allowing appeals of procedural determinations prior to submitting a project permit ((application)).

(2) The notice of application shall be provided within ((fourteen)) 14 days after the determination of completeness as provided in RCW 36.70B.070 and, except as limited by the provisions of subsection (4)(b) of this section, ((shall)) must include the following in whatever sequence or format the local government deems appropriate:

(a) The date of application, the date of the notice of completion for the application, and the date of the notice of application;

(b) A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any studies requested under RCW 36.70B.070 ((or 36.70B.090));

(c) The identification of other permits not included in the application to the extent known by the local government;

(d) The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing the notice of application, such as a city land use bulletin, the location where the application and any studies can be reviewed;

(e) A statement of the public comment period, which shall be not less than fourteen nor more than thirty days following the date of notice of application, and statements of the right of any person to

comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights. A local government may accept public comments at any time prior to the closing of the record of an open record predecision hearing, if any, or, if no open record predecision hearing is provided, prior to the decision on the project permit;

(f) The date, time, place, and type of hearing, if applicable and scheduled at the date of notice of the application;

(g) A statement of the preliminary determination, if one has been made at the time of notice, of those development regulations that will be used for project mitigation and of consistency as provided in RCW 36.70B.030(2) and 36.70B.040; and

(h) Any other information determined appropriate by the local government.

(3) If an open record predecision hearing is required for the requested project permits, the notice of application shall be provided at least fifteen days prior to the open record hearing.

(4) A local government shall use reasonable methods to give the notice of application to the public and agencies with jurisdiction and may use its existing notice procedures. A local government may use different types of notice for different categories of project permits or types of project actions. If a local government by resolution or ordinance does not specify its method of public notice, the local government shall use the methods provided for in (a) and (b) of this subsection. Examples of reasonable methods to inform the public are:

(a) Posting the property for site-specific proposals;

(b) Publishing notice, including at least the project location, description, type of permit(s) required, comment period dates, and location where the notice of application required by subsection (2) of this section and the complete application may be reviewed, in the newspaper of general circulation in the general area where the proposal is located or in a local land use newsletter published by the local government;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Notifying the news media;

(e) Placing notices in appropriate regional or neighborhood newspapers or trade journals;

1 (f) Publishing notice in agency newsletters or sending notice to
2 agency mailing lists, either general lists or lists for specific
3 proposals or subject areas; and

4 (g) Mailing to neighboring property owners.

5 (5) A notice of application shall not be required for project
6 permits that are categorically exempt under chapter 43.21C RCW,
7 unless an open record predecision hearing is required or an open
8 record appeal hearing is allowed on the project permit decision.

9 (6) A local government shall integrate the permit procedures in
10 this section with ~~((its))~~ environmental review under chapter 43.21C
11 RCW as follows:

12 (a) Except for a threshold determination and except as otherwise
13 expressly allowed in this section, the local government may not issue
14 a decision or a recommendation on a project permit until the
15 expiration of the public comment period on the notice of application.

16 (b) If an open record predecision hearing is required, the local
17 government shall issue its threshold determination at least fifteen
18 days prior to the open record predecision hearing.

19 (c) Comments shall be as specific as possible.

20 (d) A local government is not required to provide for
21 administrative appeals of its threshold determination. If provided,
22 an administrative appeal ~~((shall))~~ must be filed within fourteen days
23 after notice that the determination has been made and is appealable.
24 Except as otherwise expressly provided in this section, the appeal
25 hearing on a threshold determination ~~((of nonsignificance shall))~~
26 must be consolidated with any open record hearing on the project
27 permit.

28 (7) At the request of the applicant, a local government may
29 combine any hearing on a project permit with any hearing that may be
30 held by another local, state, regional, federal, or other agency, if:

31 (a) The hearing is held within the geographic boundary of the
32 local government; and

33 (b) ~~((The joint hearing can be held within the time periods
34 specified in RCW 36.70B.090 or the))~~ The applicant agrees to the
35 schedule in the event that additional time is needed in order to
36 combine the hearings. All agencies of the state of Washington,
37 including municipal corporations and counties participating in a
38 combined hearing, are hereby authorized to issue joint hearing
39 notices and develop a joint format, select a mutually acceptable
40 hearing body or officer, and take such other actions as may be

1 necessary to hold joint hearings consistent with each of their
2 respective statutory obligations.

3 (8) All state and local agencies shall cooperate to the fullest
4 extent possible with the local government in holding a joint hearing
5 if requested to do so, as long as:

6 (a) The agency is not expressly prohibited by statute from doing
7 so;

8 (b) Sufficient notice of the hearing is given to meet each of the
9 agencies' adopted notice requirements as set forth in statute,
10 ordinance, or rule; and

11 (c) The agency has received the necessary information about the
12 proposed project from the applicant to hold its hearing at the same
13 time as the local government hearing.

14 (9) A local government is not required to provide for
15 administrative appeals. If provided, an administrative appeal of the
16 project decision and of any environmental determination issued at the
17 same time as the project decision, shall be filed within fourteen
18 days after the notice of the decision or after other notice that the
19 decision has been made and is appealable. The local government shall
20 extend the appeal period for an additional seven days, if state or
21 local rules adopted pursuant to chapter 43.21C RCW allow public
22 comment on a determination of nonsignificance issued as part of the
23 appealable project permit decision.

24 (10) The applicant for a project permit is deemed to be a
25 participant in any comment period, open record hearing, or closed
26 record appeal.

27 (11) Each local government planning under RCW 36.70A.040 shall
28 adopt procedures for administrative interpretation of its development
29 regulations.

30 NEW SECTION. **Sec. 11.** The department of commerce shall develop
31 a template for counties and cities subject to the requirements in RCW
32 36.70B.080, which will be utilized for reporting data.

33 NEW SECTION. **Sec. 12.** The department of commerce shall develop
34 a plan to provide local governments with appropriately trained staff
35 to provide temporary support or hard to find expertise for timely
36 processing of residential housing permit applications. The plan shall
37 include consideration of how local governments can be provided with
38 staff that have experience with providing substitute staff support or

1 that possess expertise in permitting policies and regulations in the
2 local government's geographic area or with jurisdictions of the local
3 government's size or population. The plan and a proposal for
4 implementation shall be presented to the legislature by December 1,
5 2023.

6 NEW SECTION. **Sec. 13.** Section 7 of this act takes effect
7 January 1, 2025.

Passed by the Senate April 17, 2023.

Passed by the House April 10, 2023.

Approved by the Governor May 8, 2023.

Filed in Office of Secretary of State May 10, 2023.

--- END ---

Public Comments
Received as of 12/6/24; 1:02pm

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Libby Grage

From: Ian Munce <ianmunce@gmail.com>
Sent: Tuesday, November 26, 2024 12:39 PM
To: Libby Grage
Subject: Munce Comments regarding the City Council's Planning Committee Proposal regarding 'Permit Timeframes'-December 11 Planning Commission Public Hearing
Attachments: SEPA.pdf

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

Exhibit 1

Hello, Libby

Will you please forward this to the Planning Commission for their December 11 Public Hearing and file it, together with its Exhibit 1, in the Comment Section of the 2025 Periodic Update. Thank you.

Dear Planning Commissioners

1. I support the part of the proposal that would bring the City into compliance with the new timeframes enacted by the State for permit processing but with the associated penalties to be imposed if the City fails to meet these deadlines.

Developers expect, and must have, speedy and readily understandable timeframes. Achieving these deadlines is one of the most significant means of increasing housing supply in the City. Sidestepping this basic responsibility by adopting what seem to some to be three feel-good notions will introduce delay, create unnecessary market uncertainty, and just discourage housing investments.

2. Given that the City is just beginning the 2025 Periodic Update, it is simply premature to conclude that conditional uses will not have some role going forward, e.g. in order to address neighborhood concerns administrative conditional use might be determined to be a very appropriate and essential process for some categories of structures, uses, and activities (such as ADUs).

3. The draft ordinance recitals do not provide any detail as to why anything other than the permit timeframes need to be addressed, e.g. would the City have failed just once over the past few years to meet these timeframes, 50% of the time, or every time? If it is the former, the penalties are insignificant under the current fee structure. If it is the latter, then untimely service should not be allowed to continue.

4. I oppose any reduction in neighborhood meetings based on someone's guesstimate of neighborhood interest and oppose inappropriately accommodating developers' interests with an extra meeting with no equivalent meeting with affected neighbors and other stakeholders.

5. I have separately appealed and documented the SEPA Checklist/DNS's over-reliance on critical area regulations that are regarded, administered, and enforced as optional by current City leadership and the failure to prepare a Non-Project SEPA Checklist that meets the State Supreme Court's standards set in "*Friends of Sammamish Valley (2024)*". For instance, this Court has held that there needs to be 'meaningful engagement' as to the impacts of a Non-Project SEPA action. For instance, in order to reach the conclusion that going forward conditional uses are prohibited there must be a detailed analysis of the impacts to the environment. My appeal, together with its attachments is Exhibit 1 to this submittal.

Thank you for this opportunity to comment.

Ian Munce
1711 Quail Drive



PLANNING, COMMUNITY, & ECONOMIC DEVELOPMENT DEPARTMENT

Mailing Address: P.O. Box 547, Anacortes, WA 98221 Office

Location: 904 6th Street, Anacortes WA 98221 Phone: (360)

299-1984

(Also, Attachment C to Munce November 12, 2024

Submission to Planning Commission)

APPEAL OF ADMINISTRATIVE DECISION

An appeal of a Type 1 or Type 2 decision must be filed using this form. Attach any additional pages that are needed.

DECISION BEING APPEALED	
CITY FILE NUMBER:	PERMIT/ACTION TYPE:
SITE ADDRESS: Citywide	DNS
DECISION/DETERMINATION: DNS on 'Permit Timeframes'	DATE OF DECISION/ACTION: 11/13/2024
APPELLANT INFORMATION	
NAME: Ian Munce	MAILING ADDRESS: 1711 Quail Drive
CITY, STATE, ZIP: 1711 Quail Drive, Anacortes, WA 98221	PHONE #: 360-333-1646
Describe your STANDING to appeal: Munce is a property owner and long-time resident of the City of Anacortes, located in a neighborhood that is almost entirely comprised of protected wetlands and streams and their buffers and aquifer recharge areas. Attachment A. The City's proposed order in Superior Court Case #24-2-00221-29 asked the Court to rule that Munce lacked standing to seek to have the Court order the City to comply with the plain terms of its Critical Area Ordinance (CAO). However, the judge determined otherwise and struck the following sentence from the Court Order that the City proposed to the Court: "Petitioner lacks standing, has failed to show he lacks an adequate remedy at law, that he has a beneficial interest, and fails to identify a clear duty to act as defined by case law". Attachment B. In this final order, though, the Court concluded that Munce had not made a sufficient case for the Court to resort to the extraordinary remedy of issuing a Writ of Mandamus. Neither the City or Munce appealed the court order, leading Appellant to conclude that he does not only have standing and a beneficial interest in working to ensure that the City Critical Area Ordinance is applied in a reasonable and good faith manner, but also that the City has a clear duty to act to protect and restore critical areas.	

APPEAL INFORMATION

A. Appellant's statement of grounds for appeal and the facts upon which the appeal is based, with specific references to the facts in the record.

Appellant Munce asserts that the SEPA Checklist and Declaration of Non-Significance in this case (Attachment C) must be overturned, and an Environmental Impact Statement be required. As will be detailed in this appeal and appeal proceedings, the City has forgone the right to rely on reasonable and good faith administration and enforcement of its critical area ordinance as mitigation for new initiatives.

Simply put, the City has recently asserted in Skagit County Superior Court, Case #24-2-00221-29 (Case) that it has unbridled discretion to simply waive its critical area regulations and to make political choices as to enforcement. Attachment D. This radical proposition places new initiatives such as this in SEPA limbo and posits that negative environmental impacts will most likely and probably follow if the City does not revert to diligently administering and enforcing its critical area regulations.

For the record, I attach the entirety of the City's Reply to Munce's Response to the City's Motion for Summary Judgement (Reply). Attachment D. In this Reply, the City asserts that it has unbridled discretion to simply waive items critical area regulations and make political choices as to enforcement or not. The Court did not agree. Attachment B.

The City asserted in its Case briefing that it should not be held to have a 'duty' to correctly administer and enforce its critical area regulations. Attachment D. This assertion stands in stark contrast to Anacortes Municipal Code (AMC) 19.10.030: "The Director has the duty to administer and enforce Titles 16, 17, 18, and 19". The City's outright denial of such a duty prevents it from asserting the following in the proposal's Non-Project SEPA Checklist (Checklist):

"Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to plants, animals, fish, or marine life. Project-specific environmental review will be required for projects exceeding certain thresholds". Checklist D(2). *See also,*

Checklist D(3) as to “energy and natural resources”, D(4) as to “environmentally sensitive areas”, D(5) as to “shoreline and land use”, and D(6) as to “transportation or public services and utilities”.

Checklist D(7), “protection of the environment”, claim that the amendments “...are intended to bring Anacortes code into compliance with State law” is plain error. The proposal goes far beyond this, ostensibly to avoid permit fee refunds if the new statutory timeframes are not met but is really just an attempt to foreclose the use of a conditional use process in the 2025 Periodic Review.

Appeal: Administrative Decision

Updated November 2021

Page 1 of 2

B. Describe the specific relief sought.

Appellant Munce asserts that the SEPA Checklist and Declaration of Non-Significance in this case (Attachment C) must be overturned, and an Environmental Impact Statement be required.

SIGNATURE

I have read the appeal and believe the contents to be true.

Signature: Ian S. Munce Date: 11/26/2024

Printed Name: Ian S. Munce, J.D., AICP



Formerly DCG/Watershed

Online Reconnaissance

ANACORTES, WA

NOVEMBER 2024

Prepared for:

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Appendix III – Author Qualifications

ACRONYMS AND ABBREVIATIONS

AMC	Anacortes Municipal Code
BMP	Best Management Practices
City	Anacortes
DNR	Washington Department of Natural Resources
ESA	Endangered Species Act
FWHCA	Fish and Wildlife Habitat Conservation Area
NHP	Natural Heritage Program
NMFS	National Marine Fisheries Service
NRCS	Natural Resources Conservation Service
NWI	National Wetlands Inventory
OHWM	Ordinary High Water Mark
PHS	Priority Habitats and Species
PS	Puget Sound
RMZ	Riparian Management Zone
SMP	Shoreline Master Program
SWIFD	Statewide Washington Integrated Fish Distribution
USFWS	U.S. Fish and Wildlife Service
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife

1. INTRODUCTION

The purpose of this report is to present the best available science and findings of an online reconnaissance conducted for a study area located in Anacortes, Washington. The study area is located in the southern portion of the city and is approximately 297 acres (Figure 1). The investigation, performed by Facet, was limited to the study area in question and the immediate surrounding area.



Figure 1. Site Map

1.1 Project Description

The study area consists of approximately 297 acres along the southerly edge of the city of Anacortes urban area located on Fidalgo Island. The entirety of the study area is zoned as R1- residential low density. It is bordered by large lot public use sectors to the south and east that are considered habitats of local importance. To the north of the study area is the R2A- residential low-density zoning.

The R1-residential low-density zone provides the City of Anacortes with low density residential development in the southern end of the city that is inappropriate for more intensive urban development due to topography, the frequent presence of wetlands, the high cost and difficulty in extending public facilities, and the desire to create a lower intensity transitional area between the city and the surrounding forest and hillsides. Under Anacortes Municipal Code (AMC) 19.70, any critical areas within the R1 zone are protected in order to maintain and restore healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including, but not limited to, ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species.

2. CRITICAL AREA REVIEW

Facet staff conducted background research using a variety of online sources, literature, and maps to identify wetlands, streams, and site characteristics indicative of critical area features in the study area (Appendix II). Key sources of information included the following:

- Department of Ecology Water Quality Atlas
- Department of Natural Resources (DNR) Natural Heritage Program (NHP) Mapper
- City of Anacortes Critical Areas Map
- National Wetlands Inventory (NWI) Mapper
- Natural Resources Conservation Service (NRCS) Web Soil Survey
- Washington Department of Fish and Wildlife's (WDFW) Priority Habitats and Species (PHS) Mapper
- WDFW Statewide Washington Integrated Fish Distribution (SWIFD) Mapper
- Stream Buffer Best Available Science Review and Buffer Recommendations Report
- Bachman Environmental 2019 Critical Area Report

2.1 Level of Development

The level of development in Anacortes, Washington, reflects a balance between urban growth and the preservation of its natural environment. Specifically, within the R1 zone, homes are on large lots with a maximum density of two units per acre. The R1 zone fosters a sense of an intimate residential sector that preserves the area's open space for its well-known natural habitats.

2.2 Fish and Wildlife Habitat Conservation Areas

There are two streams mapped within the study area that are considered Fish and Wildlife Conservation Areas (FWHCA) per AMC 19.70.330. Ace of Hearts Creek is mapped as a Type F (fish-bearing) stream. It passes north to south through the center of the R1 zone. The second stream, Happy Valley Stream, is a non-classified stream that also runs north to south through the west side of the study area. Happy Valley Stream is not classified by the City of Anacortes or the DNR. FWHCAs require a fifty-foot buffer, on each side of the creek, measured from the top of the bank per AMC SMP A-5.1(7)(b).

Alternatively, AMC 19.70.330 requires a riparian management zone (RMZ) to be utilized to protect the watercourses and riparian ecosystem function. The RMZ width is to be equivalent to the height of the tallest 200-year-old site-potential tree or 100 feet, whichever is greater, measured horizontally from the ordinary high water mark (OHWM). An existing report (Bachman Environmental, 2024) notes Ace of Hearts Creek as having a RMZ of 165 feet based on the height of the tallest 200-year-old site-potential tree. Therefore, it is reasonable to assume that both streams within the study area may have a required buffer width of 165-feet or greater. A field study would be required to accurately assess the applicable RMZ for each stream channel.

According to the Stream Buffer Best Available Science Review and Buffer Recommendations Report conducted by GeoEngineers for the City of Anacortes in 2019, FWHCA's serve as critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may

include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors, and areas with high relative population density or species richness.

Priority Habitats and Species (PHS) Mapper (2024) depicts the study area to potentially contain freshwater emergent wetlands and the bat species, Yuma myotis. There are no known habitats or species of local importance per AMC 19.70.315(A)(9) within the study area. The DNR Natural Heritage Mapper (2024) does not depict any critical habitats within the study area.

2.3 Wetlands

Wetland maps prepared by NWI (2024), depict the presence of one 0.26-acre freshwater emergent wetland, located in the central region of the study area. Anacortes Critical Area Map (2024) depicts nine wetlands within the study area. Two additional wetlands were identified in the 2019 Bachman Environmental Report. A summary of these wetlands is provided in Table 1 and demonstrated on the map included in Appendix A. Wetland buffers were based on wetland category and a high intensity land use as the study area is residential (AMC 19.70.235).

Table 1. Wetland Overview

#	ID	Location	Category/Type*	Buffer (ft)		
				Habitat Score 8 or 9	Habitat Score 6 or 7	Habitat Score ≤5
1	WET-044	Westwood/Forest Ridge Lowland	III	300	150	80
2	WET-075	41st ST & H Ave SW side	Palustrine Emergent	50 – 300		
3	WET-010	Quail Drive South	III	300	150	80
4	WET-011	Quail Drive North	III	300	150	80
5	WET-012	Quail Drive East	III	300	150	80
6	Wetland A	Quail Drive & H Ave	III	300	N/A	N/A
7	Wetland B	Quail Drive & H Ave	IV	50	50	50
8	WET-014	41st Street	III	300	150	80
9	WET-013	SW Corner of 41st St & O Ave	IV	50	50	50
10	WET-015	West of R Ave. & 41st Place	III	300	150	80
11	WET-042	4820 Whistle Lake Rd	Palustrine Emergent	50 – 300		
12	WET-043	Fir Crest West Wetland	III	300	150	80

*Category or type of wetland is based on data provided by the City.

Buildings, structures, paving, and other hard surfacing must be set back a minimum distance of 10 feet from the edge of the wetland buffer, or edge of the wetland if no buffer is required, per AMC 19.70.235. This setback is to avoid conflicts with tree branches and/or critical root zones of trees that are in the buffer or will be planted in the buffer. Landscaping, uncovered decks, roof eaves and overhangs may be allowed in the building setback from the buffer if they do not cause damage to the critical root zone of trees in the buffer. Landscaping can be defined as areas that consist of grade level or elevated planting beds featuring trees, shrubs, flowers, ferns, groundcover, lawn grass, and other vegetation.

2.3.1 Soils

The NRCS soil survey map identifies 17 soil types within the study area. 15 of which are listed as hydric per the Skagit County Hydric Soils List. A summary of the map unit is provided in Table 2. The DNR Washington Natural Heritage Program Data Explorer does identify the center section of the study area as containing hydric soils.

Table 2. Soil Unit Hydric Ratings

Map Unit Symbol	Map Unit Name	Unit Considered Hydric in Skagit County
10	Bellingham silt loam	Yes
11	Bellingham mucky silt loam	Yes
17	Bow gravelly loam, 3 to 8 percent slopes	Yes
18	Bow gravelly loam, dry, 0 to 3 percent slopes	Yes
19	Bow gravelly loam, dry, 3 to 8 percent slopes	Yes
20	Bow-Urban land complex, 0 to 8 percent slopes	Yes
26	Catla gravelly fine sandy loam, 8 to 15 percent slopes	Yes
29	Clallam gravelly loam, 0 to 8 percent slopes	Yes
30	Clallam gravelly loam, 8 to 15 percent slopes	Yes
35	Coveland gravelly loam, 0 to 3 percent slopes	Yes
55	Fidalgo-Lithic Xerochrepts-Rock outcrop complex, 3 to 30 percent slopes	No
78	Keystone loamy sand, 0 to 8 percent slopes	Yes
79	Keystone loamy sand, 8 to 30 percent slopes	Yes
102	Norma silt loam	Yes
106	Pits	No
140	Swinomish-Fidalgo-Rock outcrop complex, 3 to 30 percent slopes	Yes
156	Whistle-Fidalgo-Rock outcrop complex, 30 to 65 percent slopes	Yes

2.4 Geologically Hazardous Areas

The Anacortes Critical Areas Map (2024) does not identify any geologically hazardous areas per AMC 19.70.410. The most easterly portion of the study area is along the shoreline and identified as stable.

2.5 Critical Aquifer Recharge Areas

Per AMC 19.70.535, areas with soils that have moderate to rapid permeability (greater than two inches per hour) and sources for identifying drinking water supply wells identified by agencies such as Washington Department of Ecology and Skagit County Health Department are considered critical aquifer recharge areas.

The Anacortes Critical Areas Map (2024) identifies the easterly half of the study area as containing soils with high permeability. These areas have a critical recharging effect on aquifers used for potable water,

including areas where an aquifer that is a source of drinking water, like a well, is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

Per AMC 19.70.520, areas designated as “wellhead protection areas” are groundwater contribution areas pursuant to WAC 246-291-125(3)(d)(iii). These areas include a 1,000-foot radius for individual private drinking water supply wells. The Anacortes Critical Areas Map (2024) identifies the majority of the study area as being located within 1,000 feet of a well.

Regulated activities/facilities may be permitted in a critical aquifer recharge area only if the applicant can demonstrate that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer per AMC 19.70.530.

2.6 Frequently Flooded Areas

Flood maps prepared by FEMA do not identify any frequently flooded areas within the study area.

3. SPECIES INFORMATION

The following species listed under the federal Endangered Species Act may occur in the vicinity of the study area:

1. Puget Sound Steelhead Trout (*Oncorhynchus mykiss*)
2. Puget Sound Chinook (*Oncorhynchus tshawytscha*)
3. Hood Canal Summer Chum Salmon (*Oncorhynchus keta*)
4. Puget Sound/Georgia Basin Yelloweye Rockfish (*Sebastes ruberrimus*)
5. Puget Sound/Georgia Basin Bocaccio (*Sebastes paucispinis*)
6. Coastal Puget Sound Bull Trout (*Salvelinus confluentus*)
7. Marbled Murrelet (*Brachyramphus marmoratus*)
8. Yellow-billed Cuckoo (*Coccyzus americanus*)
9. Dolly Varden (*Salvelinus malma*)

3.1 Puget Sound Chinook and Steelhead Trout

Most Chinook in the Puget Sound are “ocean-type” and migrate to the marine environment during their first year (Myers et al. 1998). They may enter estuaries immediately after emergence as fry from March to May or they may enter the estuaries as fingerling smolts during May and June of their first year (Healey, 1982). Chinook use estuaries as rearing areas and are the most dependent of all salmon species on estuaries for survival. There are estuaries present in the action areas. As they grow and move into neritic habitats, they feed on decapod larvae, larval and juvenile fish, drift insects, and euphausiids (Simenstad et al., 1982).

Steelhead trout exhibits perhaps the most complex suite of life-history traits of any of the Pacific salmon. Steelhead can be anadromous or freshwater residents and, in some circumstances, yield offspring of the opposite life-history form. The anadromous form can spend up to seven years in freshwater prior to smoltification, although two years is most common, and then spend up to four years in saltwater prior to first spawning. Unlike the Pacific salmon species, steelhead are iteroparous (individuals can spawn more than once). The adult winter steelhead run is generally from December to February, and spawning occurs from March through June (Wydoski and Whitney, 1979). Juvenile steelhead out-migrate from April through June and are not anticipated in the nearshore in large numbers because the majority of steelhead smolts migrate directly to the open ocean (i.e., they are not nearshore dependent) and do not rear extensively in the estuarine or coastal environments (Burgner et al., 1992).

Critical habitat was designated for Puget Sound Chinook salmon on February 16, 2000, and Puget Sound steelhead on March 25, 2016 (Federal Register / Vol. 65, No. 32 / 2000; Federal Register / Vol. 81, No. 36 / 2016). Critical habitat is designated for areas containing the physical and biological habitat features, or PCEs (Primary Constituent Elements) essential for the conservation of the species or which require special management considerations. PCEs include sites that are essential to supporting one or more life stages of the species and that contain physical or biological features essential to the conservation of the species.

3.2 Hood Canal Summer Chum Salmon

Chum Salmon may historically have been the most abundant of all Pacific Salmonids. They are an anadromous fish, which means they can live in both fresh and saltwater. Chum Salmon typically weighs on average 8-15 pounds and are up to 3.6 feet long with a lifespan of about 4 years (NOAA, 2024). Chum salmon have a relatively complex life history that includes spawning and juvenile rearing in rivers followed by migrating to saltwater to feed, grow, and mature before returning to freshwater to spawn (NOAA, 2024). Chum can be found in virtually every small coastal stream. In the fall, large numbers of Chum can often be seen in the lower reaches of these streams. Chum fry do not rear in freshwater for more than a few days. Shortly after they emerge, Chum fry move downstream to the estuary and rear there for several months before heading out to the open ocean (WDFW, 2024).

3.3 Coastal Puget Sound Bull Trout

The Coastal Puget Sound bull trout population is thought to contain the only anadromous forms of bull trout in the contiguous United States (Federal Register / Vol. 64, No. 210 / 1999). Spawning occurs typically from August to November in streams and migration to the open sea (for anadromous populations) takes place in the spring. Following this season, Bull Trout migrate to freshwater river systems to overwinter. Bull trout prefer colder water temperatures than most salmonids, and clean water substrates for spawning and rearing. They require complex habitats such as streams with riffles, deep pools, and undercut banks.

Critical habitat was designated for the bull trout was designated on November 17, 2010 (Federal Register / Vol. 75 No. 200 / 2010). Critical habitat is designated for areas containing the physical and biological habitat features, or PCEs essential for the conservation of the species or which require special management considerations. PCEs include sites that are essential to supporting one or more life stages

of the species and that contain physical or biological features essential to the conservation of the species.

3.4 Marbled Murrelet

Marbled murrelets are small marine birds in the Alcidae family that nest in the coastal old-growth forests of the Pacific Northwest. The breeding season of the marbled murrelet generally begins in April, with most egg laying occurring in late May and early June. By the end of August, chicks have fledged and dispersed from nesting areas. Marbled murrelets differ from other seabirds in that their primary nesting habitat is old-growth coniferous forest within 50 to 75 miles of the coast. The nest typically consists of a depression on a moss-covered branch where a single egg is laid. When not nesting, the birds live at sea, spending their days feeding and then moving several miles offshore at night (Marks and Bishop, 1999).

3.5 Yellow-Billed Cuckoo

The yellow-billed cuckoo is a relatively large riparian bird that is distributed throughout the U.S., however, due to reductions in habitat, are very rare in Washington State (WDFW, 2024). Breeding season typically occurs in late spring to early summer. During this period, they tend to move around and have large home ranges but are mostly found in areas with more than 200 acres of deciduous forests (USFWS, 2024). Nesting habitat usually occurs at lower elevation riparian woodlands that contain willow trees, alders, or cottonwoods that are close to streams or rivers. Though there are no recent documents of yellow-billed cuckoo nesting in Washington, it can occur anywhere in the state as much would be considered generally good habitat for nesting.

4. CRITICAL AREA FINDINGS

The study area provides unique and critical area ecological functions the R1 – low density residential area, including two streams, 12 wetlands, and 16 well-head protection areas. These areas serve as essential habitats for various species, including fish, birds, and other wildlife. They provide nesting, breeding, and foraging grounds that support local biodiversity and ecosystem health. Wetlands and stream riparian zones act as natural filters, absorbing pollutants and sediment from runoff before it enters the major water bodies surrounding Anacortes. This helps improve the overall water quality of the area. Buffers should not be encroached on unless the action is unavoidable or has been determined to have no impact on the function of the critical area. Based on the analysis of this document, further and more condensed project development within the R1 zone may have a significant impact on the identified critical areas, species, or vegetation. It is recommended that the R1 zone is thoughtfully and carefully developed at the current density of two units per acre.

Within the limitations of schedule, scope of work, and seasonal constraints, Facet warrants that this study was conducted in accordance with generally accepted investigation practices, including the technical guidelines and criteria in effect at the time this study was performed.

**Disclaimer – Additional critical areas may be present if the area were to be fully delineated by a qualified professional.*

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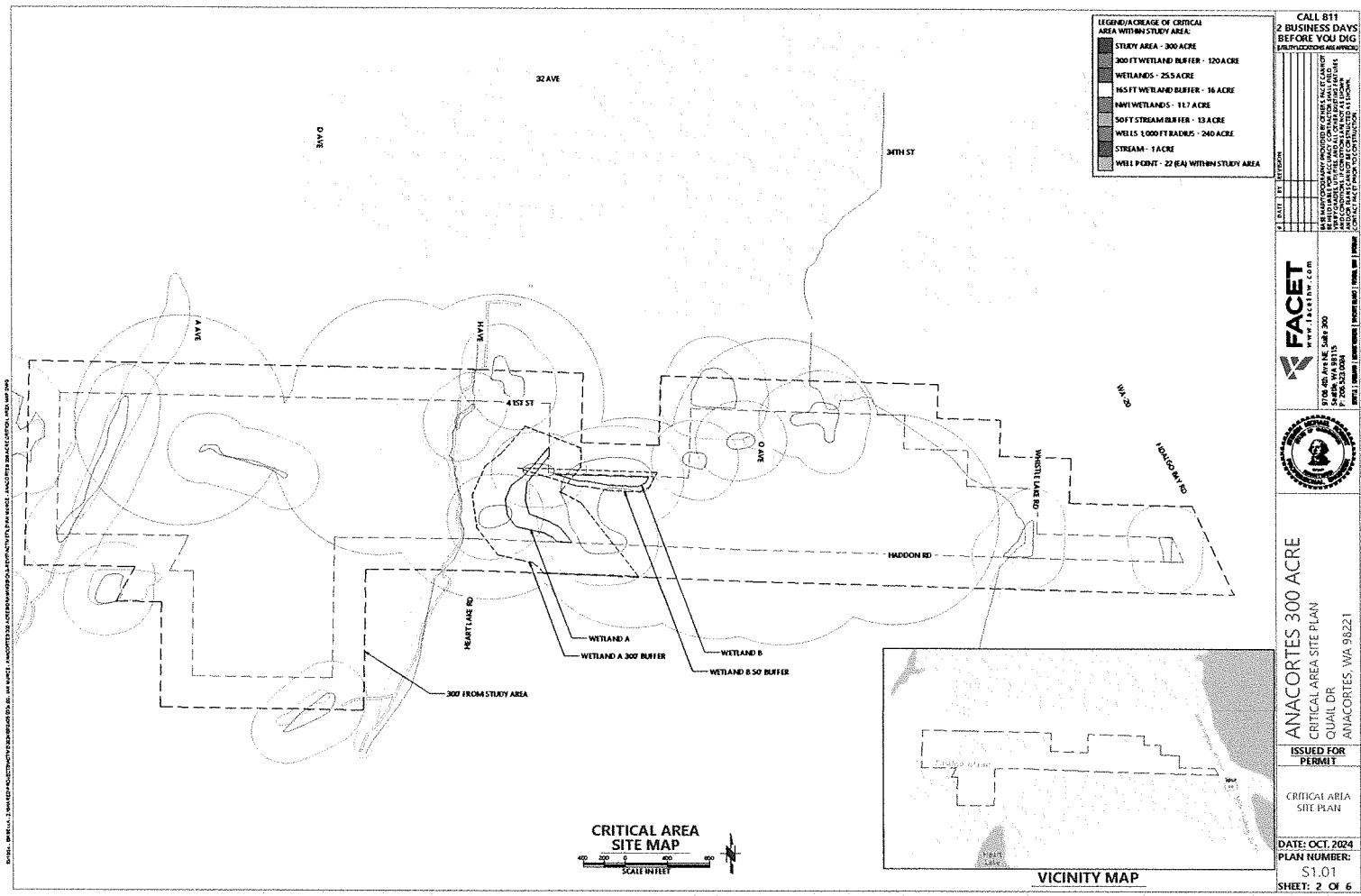
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APPENDIX I: Critical Area Map Overlay



APPENDIX II: Critical Area Review

WNHP Rare Plant and Ecosystem Locations



10/1/2024, 1:42:09 PM

Known Rare Plants and Rare & High-quality Ecosystems

- Rare Plant
- Rare and/or High Quality Ecosystem
- Public Land Survey Sections
- Public Land Survey Townships
- State Boundary
- County Boundaries

1:44,131

0 0.25 0.5 1 mi

0 0.4 0.8 1.6 km

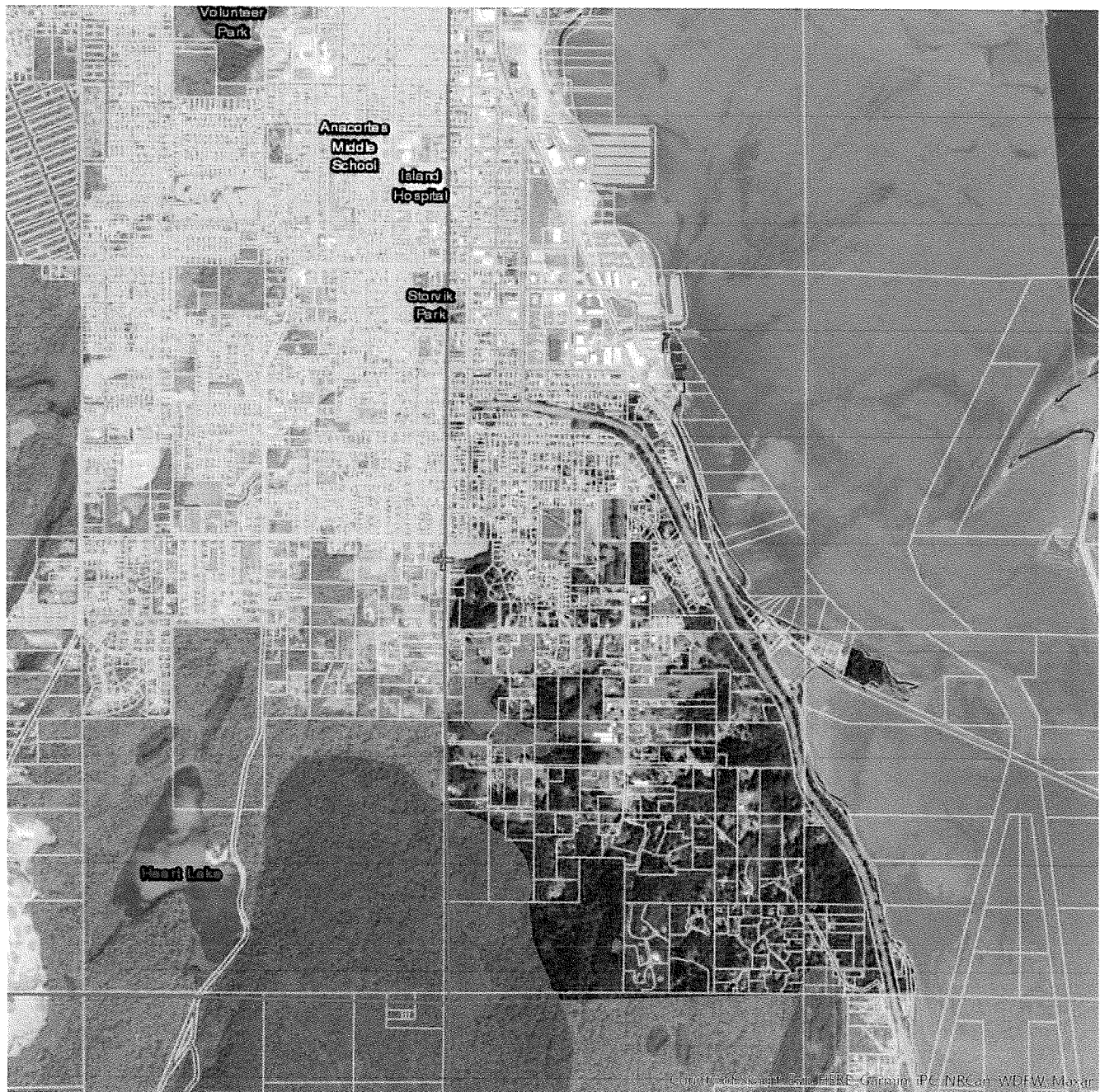
County of Skagit, WA State Parks GIS, Esri Canada, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METINASA, USGS, Bureau of Land

WNHP Plant & Ecosystem Map Viewer

KNOWN PLANT AND ECOSYSTEM LOCATIONS REFLECT KNOWN OCCURRENCE LOCATIONS BUT MAY NOT REFLECT ALL OCCURRENCES OF RARE PLANTS OR ECOSYSTEMS.



Priority Habitats and Species on the Web



Report Date: 10/01/2024

PHS Species/Habitats Overview:

Occurrence Name	Federal Status	State Status	Sensitive Location
Freshwater Emergent Wetland	N/A	N/A	No
Yuma myotis			Yes

PHS Species/Habitats Details:

Freshwater Emergent Wetland	
Priority Area	Aquatic Habitat
Site Name	N/A
Accuracy	NA
Notes	Wetland System: Freshwater Emergent Wetland - NWI Code: PEM1C
Source Dataset	NWIWetlands
Source Name	Not Given
Source Entity	US Fish and Wildlife Service
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS Listed Occurrence
Sensitive	N
SGCN	N
Display Resolution	AS MAPPED
ManagementRecommendations	http://www.ecy.wa.gov/programs/sea/wetlands/bas/index.html
Geometry Type	Polygons

Yuma myotis	
Scientific Name	<i>Myotis yumanensis</i>
Notes	This polygon mask represents one or more records of the above species or habitat occurrence. Contact PHS Data Release at phsproducts@dfw.wa.gov for obtaining information about masked sensitive species and habitats.
PHS Listing Status	PHS Listed Occurrence
Sensitive	Y
Display Resolution	TOWNSHIP
ManagementRecommendations	http://wdfw.wa.gov/publications/pub.php?id=00605

DISCLAIMER. This report includes information that the Washington Department of Fish and Wildlife (WDFW) maintains in a central computer database. It is not an attempt to provide you with an official agency response as to the impacts of your project on fish and wildlife. This information only documents the location of fish and wildlife resources to the best of our knowledge. It is not a complete inventory and it is important to note that fish and wildlife resources may occur in areas not currently known to WDFW biologists, or in areas for which comprehensive surveys have not been conducted. Site specific surveys are frequently necessary to rule out the presence of priority resources. Locations of fish and wildlife resources are subject to variation caused by disturbance, changes in season and weather, and other factors. WDFW does not recommend using reports more than six months old.

APPENDIX V: Author Qualifications

Statement of Qualifications

ALLISON (MARTIN) LISI, ECOLOGIST

Professional Experience: 9 years

Allison Lisi is an Ecologist for Facet. Allison provides a wide range of consulting experience in environmental compliance, permitting, planning, restoration, and management. She has worked on a variety of habitat restoration projects throughout the Midwest, Tennessee, and Washington.

Allison earned a Bachelor of Science degree in Biology and Environmental Studies from the University of Cincinnati. She holds credentials as an ISA Certified Arborist and a Qualified Hydrologic Professional In-Training. Allison has also completed her certification in wetland delineations and watershed management.

HILARY HAHN, ENVIRONMENTAL COORDINATOR

Hilary Hahn is an Environmental Coordinator for Facet with ten years of experience in the engineering, development, and surveying sector. Hilary is currently pursuing a bachelor's degree in environmental science, where she has demonstrated an understanding of key environmental principles, such as biodiversity conservation, ecological systems, and environmental policy. Her studies have also exposed her to various scientific research techniques and methodologies, further fueling her drive to find innovative solutions to pressing environmental challenges.

Hilary is currently a certified wetland delineator and is looking forward to continuing her education by obtaining advanced credentials and professional certifications in the environmental field.

JAY DALLY, ECOLOGIST

Jay Dally is an Ecologist for Facet who recently graduated from Western Washington University with a Bachelor of Science degree in Environmental Science with a Freshwater and Terrestrial Ecology emphasis. His degree included a wide range of exposure to ecological principles and skills such as Pacific salmon habitat assessment, watershed delineation, soil science, aquatic toxicology, and wetland plant identification. Being in the early stages of his career as an ecologist, Jay is excited to build his skillset by participating in training to gain relevant credentials and by putting his education to use to provide excellent services to the Facet client base.

ATTACHMENT B

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2024 JUN 27 PM 12:03

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR COUNTY OF SKAGIT

IAN MUNCE,

Petitioner,

v.

CITY OF ANACORTES,

Respondent.

NO. 24-2-00221-29

[Signature]
~~PROPOSED~~ ORDER DENYING
PETITIONER'S MOTION FOR
SUMMARY JUDGMENT AND
GRANTING CITY OF ANACORTES'S
MOTION FOR SUMMARY JUDGMENT

3
THIS MATTER having come before the undersigned judge on Petitioner's Motion for Summary Judgment ("Petitioner's Motion") and Respondent City of Anacortes's Motion for Summary Judgment ("City's Motion"). The Court has reviewed the following:

1. Application for Writ of Mandamus and the exhibits thereto (March 1, 2024);
2. Declaration of Ian Munce (March 1, 2024);
3. City's Motion for Reconsideration and for Denial of Application for Writ (March 25, 2024);
4. Declaration of Andrea Bradford in Support of City's Motion for Reconsideration and for Denial of Application for Writ and exhibits thereto (March 25, 2024);
5. Opposition to Motion for Reconsideration or Denial of Application (Apr. 4, 2024);
6. Declaration of Ian Munce in Opposition to Motion for Reconsideration or Denial of Application and exhibits thereto (Apr. 4, 2024);
7. City's Motion for Summary Judgment (May 30, 2024);
8. Declaration of Bob Sterbank in Support of City's Motion for Summary Judgment and exhibits thereto (May 30, 2024);

~~PROPOSED~~ ORDER DENYING PETITIONER'S MOTION FOR
SUMMARY JUDGMENT AND GRANTING CITY'S MOTION FOR
SUMMARY JUDGMENT - 1

FOSTER GARVEY PC
1111 THIRD AVENUE, SUITE 3000
SEATTLE, WASHINGTON 98101
PHONE (206) 447-4400

FG: 102756629.1

1 9. Declaration of Libby Grage in Support of City's Motion for Summary Judgment and
2 exhibits thereto (May 30, 2024);

3 10. Petitioner's Motion for Summary Judgment (May 30, 2024);

4 11. Declaration of Ian Munce in Support of Petitioner's Motion for Summary Judgment (May
5 30, 2024);

6 12. City's Opposition to Petitioner's Motion for Summary Judgment (June 17, 2024);

7 13. Declaration of Libby Grage in Support of City's Opposition to Petitioner's Motion for
8 Summary Judgment (June 17, 2024);

9 14. Declaration of Andrea Bradford in Support of City's Opposition to Petitioner's Motion for
10 Summary Judgment (June 17, 2024);

11 15. _____

12 16. _____

13 17. _____

14 18. _____

15 19. _____

16 20. _____

17 NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED that:

18 1. Petitioner's Motion for Summary Judgment is **DENIED**;

19 2. Respondent City of Anacortes's Motion for Summary Judgment is **GRANTED**; and

20 3. It is hereby **ORDERED** that Petitioner's Application for Writ of Mandamus is
21 dismissed. The Court lacks jurisdiction because Petitioner failed to timely appeal a land use decision
22 under the Land Use Petition Act, Chapter 36.70C RCW. ~~Petitioner also failed to join indispensable~~
23 ~~parties, Brooks J. and Kelly Donovan Middleton.~~ Further, the requirements for an extraordinary writ
24 are not met. ~~Petitioner lacks standing, has failed to show he lacks an adequate remedy at law, that he~~
25 ~~has a beneficial interest, and fails to identify a clear duty to act as defined by case law.~~

26 /////

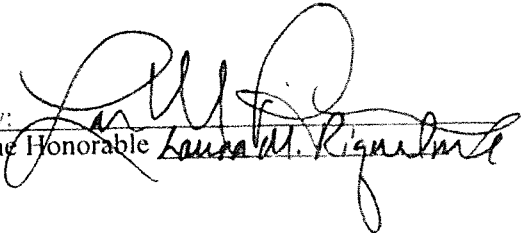
[PROPOSED] ORDER DENYING PETITIONER'S MOTION FOR
SUMMARY JUDGMENT AND GRANTING CITY'S MOTION FOR
SUMMARY JUDGMENT - 2

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FG: 102756629.1

1 DATED this 27th day of June, 2024.

2 SKAGIT COUNTY SUPERIOR COURT

3
4
5 By: 
The Honorable Laura M. Riquelme

6 Presented by:

7 FOSTER GARVEY PC

8
9 Bob C. Sterbank
10 Bob C. Sterbank, WSBA #19514
11 P. Stephen DiJulio, WSBA #7139
12 Andrea Bradford, WSBA #45748
13 1111 Third Avenue, Suite 3000
Seattle, WA 98101
Bob.sterbank@foster.com
Steve.dijulio@foster.com
Andrea.bradford@foster.com

14 *Attorneys for Respondent City of Anacortes*

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[PROPOSED] ORDER DENYING PETITIONER'S MOTION FOR
SUMMARY JUDGMENT AND GRANTING CITY'S MOTION FOR
SUMMARY JUDGMENT - 3

FOSTER GARVEY PC
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PHONE (206) 447-4400



SEPA

Determination of Non-Significance (DNS)

DESCRIPTION OF PROPOSAL: The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) Sections 19.12.020, 19.20.100, 19.20.110, 19.20.130, 19.20.160, 19.41.050, 19.43.120, and 19.49.040 to create consistency with SB 5290 and RCW 36.70B related to project permit procedures and timelines.

LOCATION: Citywide

PROPONENT & LEAD AGENCY: City of Anacortes, Planning, Community and Economic Development (PCED) Department.

CONTACT PERSON: Libby Grage, Planning Manager; libbyb@anacorteswa.gov; 360-299-1986; PO Box 547, Anacortes, WA 98221

DETERMINATION: The City of Anacortes, as lead agency for this proposal, determined that the proposed amendments will not have a probable adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

This Determination of Non-Significance (DNS) is issued under WAC 197-11-340; the lead agency will not act on this proposal for 14 days from the date of issuance.

Comments on the environmental determination must be received in writing on or before 5:00 PM **November 27, 2024** (14 days from the date of issuance).

Appeal: You may appeal this determination to the City of Anacortes Clerk's Office at 904 6th St., Anacortes, WA, no later than December 11, 2024 at 5:00 pm in accordance with AMC 19.20.180 and AMC Title 18. Appeals shall be submitted in writing, and must include the content required in AMC 19.20.180, and applicable fee, as established by resolution of the city council. Full appeal procedures can be reviewed under AMC 19.20.180 and AMC Ch. 18.04.

Responsible Official: John Coleman, AICP
Position and Title: Director of Planning, Community & Economic Development
Phone/Email: 360-299-1942; johnc@cityofanacortes.org
Address: P.O. Box 547, Anacortes, WA 98221

Date: November 13, 2024

Signature _____

A handwritten signature in black ink, appearing to read "John Coleman", written over a horizontal line.

SEPA¹ Environmental Checklist

Purpose of checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use “not applicable” or “does not apply” only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for lead agencies

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the Supplemental Sheet for Nonproject Actions (Part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in “Part B: Environmental Elements” that do not contribute meaningfully to the analysis of the proposal.

¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/Checklist-guidance>

A. Background

[Find help answering background questions²](https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background)

1. Name of proposed project, if applicable:

Anacortes Permit Review Time Periods

2. Name of applicant:

City of Anacortes Planning, Community & Economic Development Department

3. Address and phone number of applicant and contact person:

Libby Grage, Planning Manager, 360-299-1986; libbyb@cityofanacortes.org; P.O. Box 547;
Anacortes, WA 98221

4. Date checklist prepared:

October 30, 2024

5. Agency requesting checklist:

City of Anacortes Planning, Community & Economic Development Department

6. Proposed timing of schedule (including phasing, if applicable):

Planning Commission review, public hearing, and recommendation – November/December 2024

City Council review and adoption – December 2024

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

None

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

This is a non-project action affecting all property in the city limits of the City of Anacortes. We are aware of one application pending for governmental approvals for a proposal consisting of multifamily development in the Commercial Marine (CM) zone.

10. List any government approvals or permits that will be needed for your proposal, if known.

The City of Anacortes City Council would need to approve the proposed amendments and adopt them by ordinance.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe

² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background>

certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) to comply with 2SSB 5290 (2023), which amended portions of Chapter 36.70B, Local Project Review Act. SB 5290 intends to increase the timeliness and predictability of local project review by establishing new permit review timelines and a requirement for a local government to refund permit application fees if the timelines are not met, unless at least three optional measures intended to streamline permit review (set forth in RCW 36.70B.160(1)) are implemented.

The proposed amendments to AMC Title 19 include:

- Amend the permit review procedures and timelines in AMC Title 19 to be consistent with 2SSB 5290 (2023).
- Amend the development regulations in AMC Title 19 to implement process improvement measures from the list in RCW 36.70B.160, including:
 - Making housing types an outright permitted use in all zones where the housing type is permitted, consistent with RCW 36.70B.160(1)(h).
 - Adopting a procedure to offer a meeting with an applicant to attempt to resolve outstanding issues during the review process, consistent with RCW 36.70B.160(1)(j)

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The changes to permit review time periods would apply to all permit application types for projects throughout the city. The permissions (permitted outright, conditional use, prohibited) for certain housing types in Mixed-Use and Industrial zones are proposed to be changed for consistency with RCW 36.70B.160(1)(h) and RCW 70.125.140 (relating to adult family homes).

B.Environmental Elements

1. Earth

Find help answering earth questions³

a. General description of the site:

The City of Anacortes includes a variety of terrain, including flat, rolling, hilly, and steep slopes.

Circle or highlight one: Flat, rolling, hilly, steep slopes, mountainous, other:

³ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-earth>

b. What is the steepest slope on the site (approximate percent slope)?

Anacortes includes a variety of slopes throughout the city, including certain areas with up to 100% slope. The steepest slopes are primarily located along the marine shoreline and Mount Erie.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them, and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

Soils within the city include Bellingham silt loam, Bow gravelly loam, Bow-Urban land complex, Catla gravelly fine sandy loam, Clallam gravelly loam, Coveland gravelly loam, Coveland-Bow complex, Dystric Xerochrepts, Fidalgo-Lithic Xerochrepts Rock outcrop complex, Guemes very stony loam, Guemes very gravelly loam, sandy substratum, Hydraquents, tidal, Keystone loamy sand, Laconner very gravelly loamy sand, Lithic Haploxerolls – Rock outcrop complex, Mukilteo muck, Norma silt loam, Pits, Swinomish gravelly loam, Swinomish-Fidalgo Rock outcrop complex, Tacoma silt, Tacoma silt loam, Terric Medisaprists, Whistle-Fidalgo-Rock outcrop complex, and Xerorthents.

There are no known agricultural lands of long-term commercial significance.

Because this proposal is non-project in nature, it will not directly result in any soil removal.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Geologically hazardous areas within the City include steep slopes, landslide and erosion hazards, and seismic hazards (liquefaction prone areas). These hazard areas are concentrated along the northern portion of Anacortes near Guemes Channel and Burrows Bay near Washington Park. Liquefaction prone areas are located in areas of modified shorelines near Skyline and the eastern part of the city along Fidalgo Bay.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

This non-project proposal will not directly result in any filling, excavation, or grading.

f. Could erosion occur because of clearing, construction, or use? If so, generally describe.

Because this proposal is non-project in nature, it will not directly result in any erosion.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

This non-project proposal will not directly result in the addition of any impervious surface.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any.

This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements relating to impacts to the earth.

2. Air

Find help answering air questions⁴

- a. **What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.**

This non-project proposal will not directly result in any emissions to the air.

- b. **Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

This non-project proposal will not be affected by emissions or odor.

- c. **Proposed measures to reduce or control emissions or other impacts to air, if any:**

- d. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements relating to emissions that are in place at that time.

3. Water

Find help answering water questions⁵

- a. **Surface:**

Find help answering surface water questions⁶

1. **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

Anacortes is surrounded on three sides by marine shorelines including Guemes Channel, Burrows Bay, Fidalgo Bay, and a portion of Padilla Bay, with lakes including Little Cranberry, Heart, Whistle, and a portion of Lake Erie.

There are multiple streams located within city limits including Whistle Creek, Happy Valley Stream, Ace of Hearts Creek, Beaver Brook, Cranberry Creek, Clyde Creek, Anaco Bourn,

⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-Air>

⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water>

⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Surface-water>

Morrison Run, Cedar Springs, Weaverling Rill, Miller Creek, Aqua Creek, Howard Creek, Summit Creek, and March's Run.

- 2. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**

No, this is a non-project action.

- 3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

This non-project proposal will not directly result in any fill or dredging of surface waters or wetlands.

- a. Will the proposal require surface water withdrawals or diversions? Give a general description, purpose, and approximate quantities if known.**

This non-project proposal will not directly result in surface water withdrawals or diversions.

- 4. Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

Parts of Anacortes are located within the 100-year floodplain as mapped by the Federal Emergency Management Agency (FEMA) flood insurance rate maps (FIRMs). Some areas within the zones affected may be located within the 100-year flood plain.

- 5. Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

This non-project proposal will not directly result in any discharges of waste materials to surface waters.

b. Ground:

[Find help answering ground water questions⁷](#)

- 1. Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give a general description, purpose, and approximate quantities if known.**

This non-project proposal will not directly result in withdrawal of groundwater from a well for drinking water or any other purpose, nor will it involve discharges to groundwater.

- 2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

⁷ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Groundwater>

This non-project proposal will not directly result in discharge of waste into the ground.

c. Water Runoff (including stormwater):

- 1. Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

This non-project proposal will not generate stormwater.

- 2. Could waste materials enter ground or surface waters? If so, generally describe.**

This non-project proposal will not involve waste materials entering the ground or surface waters.

- 3. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**

This non-project proposal will not affect drainage patterns.

e. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to surface and ground water, and water run-off.

4. Plants

Find help answering plants questions

a. Check the types of vegetation found on the site:

- ☒ **deciduous tree: alder, maple, aspen, other**
- ☒ **evergreen tree: fir, cedar, pine, other**
- ☒ **shrubs**
- ☒ **grass**
- ☒ **pasture**
- ☐ **crop or grain**
- ☒ **orchards, vineyards, or other permanent crops.**
- ☒ **wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other**
- ☒ **water plants: water lily, eelgrass, milfoil, other**
- ☒ **other types of vegetation**

b. What kind and amount of vegetation will be removed or altered?

This non-project proposal will not result in vegetation removal or alteration.

c. List threatened and endangered species known to be on or near the site.

Various species of rare plants, listed by the Washington Natural Heritage Program, may occur within the city.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any.

None. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to landscaping and plants.

e. List all noxious weeds and invasive species known to be on or near the site.

Various species of noxious weeds and invasive species are known to occur throughout Anacortes.

5. Animals

Find help answering animal questions⁸

a. List any birds and other animals that have been observed on or near the site or are known to be on or near the site.

Examples include:

- **Birds:** hawk, heron, eagle, songbirds, other:
- **Mammals:** deer, bear, elk, beaver, other:
- **Fish:** bass, salmon, trout, herring, shellfish, other:

Many species of birds, mammals, and fish are known to occur throughout Anacortes.

b. List any threatened and endangered species known to be on or near the site.

Bull trout, Puget Sound Chinook, Puget Sound Steelhead, Southern Resident Killer Whale, Yelloweye Rockfish, Bocaccio Rockfish and Marbled Murrelet are known to occur along the marine shoreline of Anacortes.

c. Is the site part of a migration route? If so, explain.

Anacortes is within located within the Pacific Flyway migration route utilized by waterfowl migrating north into Alaska and northern Canada.

d. Proposed measures to preserve or enhance wildlife, if any.

- e. None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to wildlife protection.

f. List any invasive animal species known to be on or near the site.

⁸ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-5-Animals>

None known. There are likely invasive animal species occurring within the city limits; however, this is a non-project action that applies city-wide and not affecting any one site.

6. Energy and natural resources

Find help answering energy and natural resource questions⁹

- a. **What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

This non-project proposal will not result in any energy use.

- b. **Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

This non-project proposal will not affect the potential use of solar energy by adjacent properties.

- c. **What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to energy.

7. Environmental health

Health Find help with answering environmental health questions¹⁰

- a. **Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.**

This non-project proposal will not result in any environmental health hazards.

1. **Describe any known or possible contamination at the site from present or past uses.**

Anacortes has various sites that have known or possible contamination from present or past uses.

2. **Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

This non-project proposal is not expected to be affected by hazardous chemicals/conditions.

⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-6-Energy-natural-resou>

¹⁰ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-7-Environmental-health>

3. **Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

This non-project proposal will not result in storage, use or production of hazardous chemicals.

4. **Describe special emergency services that might be required.**

This non-project proposal will not result in the need for any special emergency services.

5. **Proposed measures to reduce or control environmental health hazards, if any.**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to reduction or control of environmental health hazards.

b. **Noise**

1. **What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

This non-project proposal will not be affected by noise in the area.

2. **What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site)?**

This non-project proposal would not create any noise.

3. **Proposed measures to reduce or control noise impacts, if any:**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to noise.

8. Land and shoreline use

[Find help answering land and shoreline use questions¹¹](#)

- a. **What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.**

Land uses throughout the city include residential, recreational, industrial, multi-family, public and institutional uses, and vacant land. Because the proposal is non-project in nature, it will not affect current land uses on properties in the city.

- b. **Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses because of the proposal, if any? If resource lands have not been designated,**

¹¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-8-Land-shoreline-use>

how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

There are no known working farmlands or working forest lands within the Anacortes city limits.

- 1. Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how?**

No.

- c. Describe any structures on the site.**

There are a variety of structures located throughout city limits.

- d. Will any structures be demolished? If so, what?**

This non-project proposal will not result in the demolition of any structures.

- e. What is the current zoning classification of the site?**

Anacortes includes a variety of zoning designations city-wide.

- f. What is the current comprehensive plan designation of the site?**

Anacortes includes a variety of comprehensive plan designations.

- g. If applicable, what is the current shoreline master program designation of the site?**

Anacortes includes a variety of shoreline master program designations along its marine shoreline and freshwater lakes.

- h. Has any part of the site been classified as a critical area by the city or county? If so, specify.**

A variety of classified critical areas are known to be located within the city, including wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas.

- i. Approximately how many people would reside or work in the completed project?**

Because this is a non-project proposal, this question is not applicable.

- j. Approximately how many people would the completed project displace?**

Because this proposal is non-project in nature, zero people would be displaced as part of the project.

- k. Proposed measures to avoid or reduce displacement impacts, if any.**

None.

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.**

This non-project proposal is not anticipated to result in any incompatibility issues.

- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:**

None.

9. Housing

Find help answering housing questions¹²

- a. **Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

Because this is a non-project proposal, no new housing units would be provided.

- b. **Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

Because this is a non-project proposal, no housing units would be eliminated.

- c. **Proposed measures to reduce or control housing impacts, if any:**

The primary purpose of the proposal is to comply with 2SSB 5290 (2023), which aims to expedite housing permit application processing by local jurisdictions.

10. Aesthetics

Find help answering aesthetics questions¹³

- a. **What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

This non-project proposal will not directly result in any structures being built.

- b. **What views in the immediate vicinity would be altered or obstructed?**

None – this is a non-project proposal.

- c. **Proposed measures to reduce or control aesthetic impacts, if any:**

Future project actions that are proposed under the adopted regulations will be required to comply with the Anacortes Municipal Code and any other standards related to aesthetics that are in place at that time.

11. Light and glare

Find help answering light and glare questions¹⁴

- b. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**

This non-project proposal would not produce any light or glare.

- c. **Could light or glare from the finished project be a safety hazard or interfere with views?**

¹² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-9-Housing>

¹³ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-10-Aesthetics>

¹⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-11-Light-glare>

No.

d. What existing off-site sources of light or glare may affect your proposal?

None.

e. Proposed measures to reduce or control light and glare impacts, if any:

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to light and glare.

12. Recreation

Find help answering recreation questions

a. What designated and informal recreational opportunities are in the immediate vicinity?

Anacortes contains many designated and informal recreational opportunities, including city parks, the Anacortes Community Forest Lands, beaches, trails, boating, and more.

b. Would the proposed project displace any existing recreational uses? If so, describe.

No.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related recreation.

13. Historic and cultural preservation

Find help answering historic and cultural preservation questions¹⁵

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

There are many buildings in Anacortes that are over 45 years old. Some of them are eligible for listing, or are listed, in national, state, or local preservation registers.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

There are landmarks, features, or other evidence of Indian or historic use or occupation in various locations throughout Anacortes.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

¹⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-13-Historic-cultural-p>

Staff referred to the department of archaeology and historic preservation and the Anacortes register of historic places, but because the proposal is non-project in nature, it will not have a direct impact on any cultural or historic resources.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

Future project actions that are proposed under the adopted regulations will be required to comply with the Anacortes Municipal Code and any other standards related to historic and cultural resources protection that are in place at that time.

14. Transportation

Find help with answering transportation questions¹⁶

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

There are a variety of public streets and highways in Anacortes.

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**

Skagit Transit provides public transit service throughout Anacortes.

- c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).**

Because this proposal is non-project in nature, it will not require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities.

- d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

This non-project proposal will not use water, rail or air transportation.

- e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?**

This non-project proposal will not generate any vehicular trips.

- f. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.**

This non-project proposal will not affect or be affected by movement of agricultural and forest products on roads or streets.

- g. Proposed measures to reduce or control transportation impacts, if any:**

¹⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-14-Transportation>

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to transportation.

15. Public services

Find help answering public service questions¹⁷

- a. **Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.**

This non-project proposal will not result in an increased need for public services.

- b. **Proposed measures to reduce or control direct impacts on public services, if any.**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to public services.

16. Utilities

Find help answering utilities questions¹⁸

- a. **Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:**

All of the above utilities are available within the Anacortes city limits.

- b. **Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.**

This non-project proposal will not result in the need for any utility services.

C. Signature

Find help about who should sign¹⁹

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.



Type name of signee: Libby Grage

Position and agency/organization: Planning Manager, PCED Department, City of Anacortes

¹⁷ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-15-public-services>

¹⁸ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-16-utilities>

¹⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-C-Signature>

Date submitted: October 30, 2024

D. Supplemental sheet for nonproject actions

Find help for the nonproject actions worksheet²⁰

Do not use this section for project actions.

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

The proposal is not anticipated to result in an increase in discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise as compared to existing land use plans.

The proposed amendments only affect permit review procedures, and which housing types are permitted in certain zones. The changes to housing type permissions in certain zones are not likely to increase housing development beyond what is already anticipated in existing land use plans.

- **Proposed measures to avoid or reduce such increases are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to hazardous substances. Project-specific environmental review will be required for projects exceeding certain thresholds.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The proposed amendments are not likely to affect plants, animals, fish, or marine life.

- **Proposed measures to protect or conserve plants, animals, fish, or marine life are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to plants, animals, fish, or marine life. Project-specific environmental review will be required for projects exceeding certain thresholds.

3. How would the proposal be likely to deplete energy or natural resources?

The proposed amendments are not likely to deplete energy or natural resources.

- **Proposed measures to protect or conserve energy and natural resources are:**

²⁰ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-d-non-project-actions>

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to energy and natural resources. Project-specific environmental review will be required for projects exceeding certain thresholds.

4. **How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

The proposed amendments are not likely to affect environmentally sensitive areas or areas designated for governmental protection.

• **Proposed measures to protect such resources or to avoid or reduce impacts are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to environmentally sensitive areas. Project-specific environmental review will be required for projects exceeding certain thresholds.

5. **How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

The proposed amendments are intended to promote compatibility with existing city goals and policies related to housing and land use.

• **Proposed measures to avoid or reduce shoreline and land use impacts are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to shoreline and land use. Project-specific environmental review will be required for projects exceeding certain thresholds.

6. **How would the proposal be likely to increase demands on transportation or public services and utilities?**

The proposed amendments are not likely to increase demands on transportation or public services and utilities.

• **Proposed measures to reduce or respond to such demand(s) are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to transportation, public services and utilities. Project-specific environmental review will be required for projects exceeding certain thresholds.

7. **Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

The proposed amendments are not anticipated to conflict with local, state, or federal laws, or requirements for protection of the environment. They are intended to bring Anacortes' code into compliance with state law.



Notice of Availability

Including written comment period, public hearing date, and environmental determination

Notice Issued Date:	November 13, 2024
Proposal Name:	The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) Sections 19.12.020, 19.20.100, 19.20.110, 19.20.130, 19.20.160, 19.41.050, 19.43.120, and 19.49.040 to create consistency with SB 5290 and RCW 36.70B related to project permit procedures and timelines.
City File Number:	LEG-2024-30
Documents Available At:	https://www.anacorteswa.gov/1547/Legislative-Planning-Updates
Lead Agency:	City of Anacortes, Planning, Community & Economic Development Department
SEPA Responsible Official:	John Coleman, AICP, Director
Written Comment Period:	November 13 – December 4, 2024 at 5:00 PM
Public Hearing Date:	Wednesday, December 11, 2024 at 6:00 PM
Public Hearing Body:	Anacortes Planning Commission City Hall Council Chambers 904 6 th Street, Anacortes, WA 98221
Contact Person:	Libby Grage, Planning Manager libbyb@cityofanacortes.org ; 360-299-1986

Proposal Description:

The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) to comply with 2SSB 5290 (2023), which amended portions of Chapter 36.70B, Local Project Review Act. SB 5290 intends to increase the timeliness and predictability of local project review by establishing new permit review timelines and a requirement for a local government to refund permit application fees if the timelines are not met, unless at least three optional measures intended to streamline permit review (set forth in RCW 36.70B.160(1)) are implemented.

The proposed amendments to AMC Title 19 include:

- Amend the permit review procedures and timelines in AMC Title 19 to be consistent with 2SSB 5290 (2023).
- Amend the development regulations in AMC Title 19 to implement process improvement measures from the list in RCW 36.70B.160, including:

- Making housing types an outright permitted use in all zones where the housing type is permitted, consistent with RCW 36.70B.160(1)(h).
- Adopting a procedure to offer a meeting with an applicant to attempt to resolve outstanding issues during the review process, consistent with RCW 36.70B.160(1)(j).

SEPA Threshold Determination

The City of Anacortes, as lead agency for this proposal, determined that the proposed amendments will not have a probable adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

The threshold determination is issued under a separate cover, available on the website and the address above. The City of Anacortes will not act on this proposal during the comment period. Written comments regarding the Determination of Nonsignificance must be submitted by November 27, 2024 at 5:00PM. Appeals of this environmental determination may be made per the procedures outlined in AMC Ch. 18.04 and Ch. 19.20 by December 11, 2024, at 5:00 PM. Additional information regarding the appeal process may be obtained from the City of Anacortes PCED Department, 360-299-1984.

How to Comment

Comments are accepted via email, paper, or verbally.

Email comments are preferred and must be sent to libbyb@anacorteswa.gov.

Paper comments may be mailed or delivered to:

City of Anacortes
Planning, Community & Economic Development Department
ATTN: Libby Grage
P.O. Box 547 / 904 6th St.
Anacortes, WA 98221

Verbal comments may be made at the Public Hearing. The public hearing will be held as hybrid meeting, with virtual and in-person attendance options. Virtual meeting access and participation information can be found here:

<https://www.anacorteswa.gov/700/Meeting-Documents-and-Video>

ATTACHMENT D

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR COUNTY OF SKAGIT

IAN MUNCE,

Petitioner,

v.

CITY OF ANACORTES,

Respondent.

NO. 24-2-00221-29

CITY'S REPLY IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

The City of Anacortes ("City" or "Respondent") submits this Reply in support of its Motion for Summary Judgment, addressing the contentions in Petitioner Ian Munce's ("Petitioner" or "Munce") Response to the City's Motion.

Long on righteous indignation and rhetoric, but short on substantive legal analysis or authority, Petitioner's Response fails to demonstrate he is entitled to the extraordinary remedy of mandamus. Although the underlying basis of his lawsuit is that the City is allowing continued, unlawful lawn mowing by Munce's neighbors, Brooks and Kelly Middleton, Petitioner cannot demonstrate that his neighbors' property is actually a formally delineated wetland under the City's current critical areas ordinance, nor can he establish that his neighbors are not necessary parties. Petitioner Response raises a brand-new argument regarding critical aquifer recharge areas, but his assertions are not supported by the City's code and are insufficient to provide him legal standing or the "beneficial interest" required to support a writ of mandamus.

CITY'S REPLY IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT- 1

FOSTER GARVEY PC
1111 THIRD AVENUE, SUITE 3000
SEATTLE, WASHINGTON 98101
PHONE (206) 447-4400

1 More fundamentally, Petitioner fails to rebut that established Washington law bars an action for
2 mandamus when, like here, the Petitioner could have but failed to file a land use petition under the Land
3 Use Petition Act, Ch. 36.70C RCW (“LUPA”). And, Petitioner cannot as a matter of law establish the
4 three elements required for mandamus: the City’s enforcement decisions are discretionary not
5 mandatory; Petitioner lacks a beneficial interest; and Petitioner had (but failed to pursue) and adequate
6 remedy at law.

7 The Court should grant the City’s Motion for Summary Judgment, and dismiss the Application
8 for Writ of Mandamus with prejudice.

9 II. AUTHORITY AND ARGUMENT

10 A. Munce Cannot Establish the Factual Predicate for His Writ Action: There is No 11 Delineated Wetland on the Middleton Property.

12 Petitioner’s Response labels the City’s “questioning the existence of a wetland” as “outlandish.”
13 Petitioner’s Response at 5. But the underlying documentary record flatly contradicts Petitioner’s
14 unsupported assertion that there is a delineated wetland on the Middleton property.

15 Throughout this matter, Petitioner’s personal declarations and pleadings have been based on the
16 premise that a designated wetland has existed on the Middleton property since the City’s 1990 critical
17 areas ordinance. *See, e.g.*, Declaration of Ian Munce in Opposition to Motion for Reconsideration or
18 Denial of Application at ¶ 3 (“The wetland at 4417 /4419 H Avenue, commonly and inaccurately
19 described as ‘the Middleton wetland’, was first delineated, mapped and protected in 1990 by Ordinance
20 No. 2131 and the accompanying map”); Petitioner’s Motion for Summary Judgment at 2 (arguing
21 “Middleton wetland” was “delineated, mapped, and protected in 1990 by Ordinance No. 2131 and the
22 accompanying map.”). As the City’s pleadings on summary judgment have demonstrated, this is plainly
23 wrong: the 1990 critical areas ordinance (“CAO”), Ordinance 2131, did not designate wetlands or adopt
24 a map, nor did subsequent City CAO enactments. *See, e.g.*, City’s Motion for Summary Judgment
25 (“City MSJ”) at 4; *see also* City’s Opposition to Petitioner’s Motion for Summary Judgment (“City
26 Opp.”) at 3–4 & 7–9. To the contrary, the City’s review of the history of critical areas maps shows the

1 1994 Stormwater Quality Management Plan, adopted by the City in 2005 and through additional
2 ordinances up through the 2021 code amendments, show the Middleton property as “Grasslands.”
3 Declaration of Libby Grage in Support of City’s Response to Petitioner’s Motion for Summary
4 Judgment (“Second Grage Decl.”) ¶¶ 6–8. An early adopted map, the Jones & Stokes 1991 Sensitive
5 Areas Inventory, also does not show a wetland on or near the Middleton property. Second Grage Decl.
6 ¶ 8. Plentiful uncontradicted photographic evidence supports the “Grasslands” designation. *See, e.g.,*
7 Sterbank Decl. in Support of City Opposition to Motion for Summary Judgment at Ex. I, also *infra.* at
8 9; Declaration of Libby Grage in Support of City Motion for Summary Judgment at Ex. A; Sterbank
9 Decl. in Support of Motion for Summary Judgment at Ex. E.

10 Petitioner’s Response, however, completely ignores that the City’s Motion disproved his
11 contention that the City’s 1990 Ordinance did not adopt designate wetlands or adopt any map, and that
12 the underlying premise of Petitioner’s Writ Application and Motion for Summary Judgment—that a
13 delineated wetland existed on the Middleton property since 1990—is not correct. Petitioner’s Response
14 never mentions the 1990 ordinance (Ord. 2131) or any other ordinance. Instead, it points to what he
15 contends, without explanation or verification, is a “wetland/wetland buffer designation map.”
16 Petitioner’s Response at 2. In fact, this is only a screen shot of the City’s Interactive GIS map, which
17 shows both delineated wetlands and potential wetlands; the wetland shown in the area of the Middleton
18 property is a “potential” wetland only. Declaration of Libby Grage in Support of City’s Reply ¶ 4. That
19 is because, under the current Critical Areas Ordinance, Chapter 19.70 AMC, the City’s maps are not
20 determinative or legally binding as to the presence of a particular critical area. AMC 19.70.020(A)
21 (“The general locations of many critical areas in Anacortes are displayed on the city of Anacortes’
22 critical areas maps. The maps are used to alert the public of the potential location of critical areas in
23 Anacortes.”); AMC 19.70.220(B) (maps and resources are for reference only and “do not provide a
24 final critical area designation). *See also* Second Grage Decl. ¶ 9. Under the code, “[r]egardless of
25 whether a critical area is shown on the critical areas map, the actual presence or absence of the features
26 defined in this code as critical areas will govern. Prior to acting on any development permit the city

1 may require an applicant to submit technical information to indicate whether critical areas actually exist
2 on or adjacent to the applicant's site based on the definitions of critical areas in this code." AMC
3 19.70.020(B). Identification of wetlands and delineation of wetlands boundaries must be done
4 consistent with federal standards, through a field investigation by a qualified professional. AMC
5 19.70.220(C). Petitioner does not identify any wetland delineation for the Middleton property meeting
6 these standards – because there isn't one.

7 Implicitly acknowledging this, Petitioner turns to on a 2019 GeoEngineers report to contend a
8 wetland has been formally delineated. Petitioner's Response at 6. But that report primarily concerned
9 the neighboring Rice property, which was the subject of a short plat application opposed by Mr. Munce,
10 and that report concluded only that a wetland "likely" existed on the Middleton property and
11 recommended an additional site visit and follow-up report the following spring. Declaration of Ian
12 Munce in Support of Petitioner's Motion for Summary Judgment ("Munce MSJ Decl.") Ex. I at 26.
13 The GeoEngineers report did not delineate a wetland on the Middleton property, nor delineate its
14 boundaries, and noted that a wetland (if one existed) was of "unknown size," and that "the boundaries
15 of any wetland(s) identified on the Middleton property should be delineated. . . ." *Id.* The
16 GeoEngineers report does not constitute a wetlands delineation for the Middleton property under the
17 City's critical areas code. AMC 19.70.220(C). Munce's Response expressly admits—twice—that the
18 GeoEngineers report notes that a follow up site visit would be required, and that no such follow up
19 occurred. Petitioner's Response at 5, 7 ("additional wetland reports were not completed and city staff
20 had been denied access to the property."). The GeoEngineers' report does not delineate a wetland on
21 the Middleton property.

22 Finally, Petitioner attempts to rely on the City's May 2021 cease and desist order issued to the
23 Middletons to contend a delineated wetland exists. Petitioner's Response at 5. But that order was
24 appealed by the Middletons. In response, the City fully rescinded it, and it is no longer in effect.
25
26

1 Declaration of Bob Sterbank in Support of City's Motion for Summary Judgment at Exs. D & E.¹ The
2 record demonstrates that no wetland has been delineated on the Middleton property. Therefore, as a
3 matter of law, the factual predicate for Mr. Munce's claimed writ of mandamus is lacking.

4 **B. LUPA Bars Munce's Application for Writ of Mandamus, and Munce's Argument**
5 **that LUPA is Irrelevant Due to the 2021 Code Amendment is Wrong.**

6 As discussed in the City's Motion for Summary Judgment at pages 12-16, LUPA bars Munce's
7 Application for Writ of Mandamus, because Munce could have (but failed to) file a land use petition
8 challenging the City's decision to rescind its administrative "cease and desist" order issued to the
9 Middletons. *See* Sterbank Decl. in Support of City MSJ at Ex. E. Munce's Response to the City's
10 Motion fails to even acknowledge, let alone rebut, the well-established Washington appellate precedent
11 discussed in the City's Motion.
12

13 Instead, Petitioner contends that his failure to appeal the City's 2021 nonconforming use
14 determination and administrative order rescission is irrelevant, because a "LUPA determination under
15 the old CAO has been rendered moot by section 19.70.040 of the new CAO." Petitioner's Response at
16 11. Without citation to any legal authority, Mr. Munce contends that the nonconforming use
17 determination is meaningless, and that AMC 19.70.040 of the new critical areas ordinance trumps AMC
18 19.49, the City's code provisions on nonconforming uses. *See* Writ Application at 1; Petitioner's
19 Response at 12, 14. According to Mr. Munce, "pre-existing wetland destruction activities [were]
20 terminated by new CAO," and that "the City did not have to adopt AMC 19.70.040 but it did and the
21 GMHB relied on this new code language to uphold the City's new CAO." *Id.* at 10. Munce's argument
22 badly misreads the City's CAO.
23

24
25 ¹ Munce argues that the "Director's determination approving a non-conforming use only rescinded as to the pre-existing use
26 issue, not as to the wetland determination." Petitioner's Response to MSJ at 12. But, the City's rescission of the prior
Administrative Order was unqualified: "We. . . *rescind the Administrative Order dated May 25, 2021.*" Sterbank Declaration,
Ex. E (June 29, 2021 letter from Don Measamer to Timothy Schermetzker) (emphasis added).

1 Mr. Munce's argument is off-base because the City's current CAO *expressly incorporates* rather
2 than "trumps" the City code's provisions regarding nonconforming uses. In fact, the current CAO
3 provides that nonconforming uses "may continue in accordance with AMC 19.49," the AMC's broader
4 provision governing "Nonconforming uses and Structures" of all types, citywide:

5
6 *Modifications to Existing Nonconforming Structures and Uses.* In these provisions
7 the burden of proof is on the applicant to bring evidence in support of their position.
8 *Existing structures, activities, and uses that were established legally but do not*
9 *meet the current critical area, buffer, or buffer setback requirements may*
10 *continue in accordance with AMC 19.49, Nonconforming Uses and Structures,*
11 *and may be modified as follows . . .*

12 AMC 19.70.035(C) (emphasis added). Petitioner fails to acknowledge, let alone address, this City code
13 provision in his Writ Application, his Motion, or his Response. He is clearly aware of it, however,
14 because he challenged this specific section of the code in his appeal to the Growth Management
15 Hearings Board. Munce Declaration in Opposition to Motion for Reconsideration (Apr. 4, 2024), at
16 Ex. A (GMHB decision), p. 8. As with his other claims, the Board rejected his attack on this section.
17 *Id.* The City's June 29, 2021 decision that a nonconforming use existed per Ch. 19.49 AMC continues
18 in full force and effect under the current CAO, to the same effect as when issued on June 29, 2021. It
19 was not "rendered moot" as Mr. Munce contends.

20 Trying to escape this, Petitioner points to a prior City Planning Director statement that applicants
21 will not "vest" to older versions of the CAO, but this discussion of the vested rights doctrine is
22 irrelevant. Petitioner argues that Middleton cannot "vest" to the old critical areas code, and that the
23 2021 nonconforming use determination is irrelevant because it has been superseded by the 2021 critical
24 areas code amendments. Petitioner's Response at 10. This argument is incorrect. First, as discussed
25 above, the current critical areas ordinance authorizes existing uses established legally to continue, in
26

1 accordance with AMC 19.49. AMC 19.70.035(C). Second, Munce's argument confuses the vested
2 rights doctrine with the doctrine allowing nonconforming uses. In general, under the vested rights
3 doctrine, a person has a right to have a *development application* processed under the regulations in
4 effect at the time a permit application is filed. *Potala Vill. Kirkland, LLC v. City of Kirkland*, 183 Wn.
5 App. 191, 197, 334 P.3d 1143 (2014). By contrast, "[a] nonconforming use is a use which lawfully
6 existed prior to the enactment of a zoning ordinance, and which is maintained after the effective date of
7 the ordinance." *Seven Hills, LLC v. Chelan County*, 198 Wn.2d 371, 398, 495 P.3d 778 (2021) (quoting
8 *Rhod-A-Zalea & 35th, Inc. v. Snohomish County*, 136 Wn.2d 1, 6, 959 P.2d 1024 (1998)). "The right
9 to continue a nonconforming use despite a zoning ordinance ... is sometimes referred to as a 'protected'
10 or 'vested' right." *Id.* (quoting *Rhod-A-Zalea*, 136 Wn.2d at 16). "However, this right refers only to
11 'the right not to have the use immediately terminated in the face of a zoning ordinance which prohibits
12 the use' and does not 'change, alter, extend, or enlarge the existing use.'" *Id.* at 398 (quoting *Rhod-A-*
13 *Zalea*, 136 Wn.2d at 6-7). "The vested rights doctrine specifically does not concern usage because 'the
14 doctrine applies only to permit applications.'" *Id.* at 389 (quoting *Rhod-A-Zalea*, 136 Wn.2d at 16).
15 "Once usage has been established and is able to continue, 'this doctrine has no bearing.'" *Id.* at 389
16 (quoting *Rhod-A-Zalea*, 136 Wn.2d at 16).

17
18
19 Petitioner does not point to any development application by Middleton or concerning the
20 Middleton property to which the vested rights doctrine could apply. The discussion of the vested rights
21 doctrine is a complete red herring. Instead, for the reasons discussed above, the City determined
22 Middleton's mowing was a legal nonconforming use that preceded adoption of any critical areas
23 ordinances; thus, the mowing could continue regardless of any arguments about whether a wetland
24 existed. The City's 2021 determination and rescission of the Administrative Order was a land use
25
26

1 decision, that Munce could have (but failed to) challenge under LUPA. It was not “rendered moot” by
2 the 2021 CAO amendment, because that amended CAO preserved the City’s use of its standard, Ch.
3 19.49 nonconforming use process to address potential nonconforming uses under the CAO. Munce’s
4 failure to file a LUPA petition bars his application for writ of mandamus. *See, e.g., Samuel’s Furniture,*
5 *Inc. v. State, Dept. of Ecology*, 147 Wn.2d 440, 462, 463–64, 54 P.3d 1194 (2002); *State v. City of*
6 *Spokane*, 92 Wash. 667, 669, 159 P. 805 (1916); *Lange v. Clallam County*, 182 Wn. App. 1023, 2014
7 WL 4219561 at *4 (Div. II 2014) (unpublished, cited pursuant to GR 14.1) (mandamus unavailable for
8 five of complaint’s six claims that challenged county land use decisions County’s land use decisions
9 related to storage building construction or bulkhead repairs); *Verjee Van v. Pierce County*, 1 Wn. App.
10 2d 1057, 2017 WL 6603662 at *5 (Div. II 2017) (unpublished, cited pursuant to GR 14.1) (prior County
11 shoreline dock and fence decisions not challenged under LUPA could not be challenged by writ of
12 mandamus).

13
14
15 **C. Mandamus is Barred Because Munce Failed to Join the Middletons, Who Are**
16 **Necessary Parties.**

17 Petitioner contends the Middletons are not a necessary party because “the June 2021
18 determination is no longer allowed by the current CAO.” Petitioner’s Response at 12. This is also
19 incorrect: as discussed above, the code says that uses legally established “may continue in accordance
20 with AMC 19.49.” AMC 19.70.035(C). Further, while Petitioner faults the Middletons for not appealing
21 the Planning Director’s May 21, 2021 cease and desist order, Petitioner’s Response at 12, that order
22 was rescinded, and the Middletons had no reason to appeal. Sterbank Decl. Ex. E.

23 **D. Munce Fails to Identify Non-Discretionary Duty**

24 Petitioner contends that the City has a duty to enforce the provisions of its critical areas code.
25 Petitioner’s Resp. at 11. But as discussed in the City’s Motion, and its response to Petitioner’s Motion,
26

1 the adopted City code expressly provides the City and its Planning Director with discretion in
2 enforcement actions. City's Motion at 17–20; City's Opposition at 9–11.

3 Petitioner contends that the Planning Director has a “ministerial duty” to enforce the code.
4 Petitioner's Response at 13. Code enforcement decisions are not ministerial; they require the exercise
5 of discretion and judgment and balancing enforcement priorities across the City. “Agencies have
6 significant discretion to decline to pursue enforcement actions and the exercise of that discretion cannot
7 be compelled through a writ of mandamus.” *Leishman v. Reynolds*, 2023 WL 8895391 at *6 (Wn. App.
8 Dec. 26, 2023) (unpublished, cited pursuant to GR 14.1). *See also SEIU Healthcare 775NW v.*
9 *Gregoire*, 168 Wn.2d 593, 600, 229 P.3d 774 (2010) (mandamus not appropriate to compel governor
10 to balance budget; although statutorily required, action necessarily involved exercise of discretion,
11 balancing competing priorities); *Burg v. City of Seattle*, 32 Wn. App. 286, 293, 647 P.2d 517 (1982)
12 (repair of road involved exercise of discretion). *Cf. Matter of Recall of Snaza*, 197 Wn.2d 104, 113, 480
13 P.3d 404 (2021) (recall case noting that although sheriff is bound to enforce the law, “Law enforcement
14 officers generally enjoy significant discretion in deciding how, when, and against whom to enforce the
15 law”).
16
17

18 Petitioner cannot identify a non-discretionary duty as a matter of law, thereby failing to establish
19 one of the required showings for mandamus.
20

21 **E. Munce Fails to Show Standing or A Beneficial Interest**

22 To the extent Petitioner relies on his “citywide interest” in enforcing the law, Petitioner does not
23 establish standing or the necessary “beneficial interest” required for issuance of mandamus. *Retired*
24 *Pub. Emps. Council of Washington v. Charles*, 148 Wn.2d 602, 616, 62 P.3d 470 (2003) (“An individual
25 has standing to bring an action for mandamus, and is therefore considered to be beneficially interested,
26

1 if he has an interest in the action *beyond that shared in common with other citizens*"). Petitioner
2 contends he has standing because he previously had standing to pursue a petition before the Growth
3 Management Hearings Board. Petitioner's Response at 14. But the requirement to show standing before
4 the Growth Board is relaxed, and requires only that Petitioner have participated in the legislative process
5 for the challenged code provisions. RCW 36.70A.280(2)(b) (petition for review may be filed by "a
6 person who has participated orally or in writing before the county or city regarding the matter on which
7 a review is being requested"); *see also Stevens Cnty. v. E. Washington Growth Mgmt. Hearings Bd.*,
8 163 Wn. App. 680, 687, 262 P.3d 507 (2011) (noting individual "gained standing before the Board by
9 participating in the legislative process for the challenged county code sections."). The standard for
10 standing in mandamus action is more much demanding, requiring that an applicant meet common legal
11 tests for standing, and demonstrate a "beneficial interest."
12

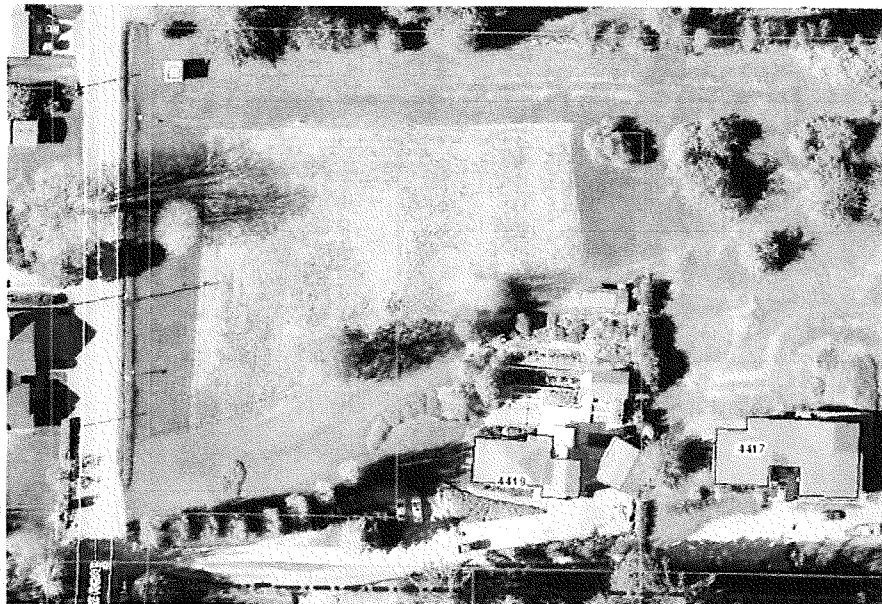
13
14 For the first time, in his Response in opposition to the City's Motion, Petitioner contends that
15 he has standing because mowing might "convert" the Middleton "wetland" and will endanger a well on
16 his property, "most likely requiring a very expensive connection to City water." Petitioner's Response
17 at 10 & 14. But the record demonstrates that the Middleton property has been a mown field for the past
18 50 years. Sterbank Decl. Exs. D & E. For example, the record contains:

- 19 • **Late 1960s:** Letter from neighbor Helen Loesch stating property was hayed or mowed,
20 and had always been maintained, beginning in late 1960s;
- 21 • **1968–79:** Email from former neighbor Julie Wollam stating property was "occasionally
22 mowed even bailed" from 1968–79 and 1982–1989, when she lived across the street.
- 23 • **1969:** An aerial image from County records showing maintained field;
- 24
- 25
- 26

- **1973:** Letter from neighbor Elizabeth Stout stating property has “maintained by either haying or mowing” since 1973;
- **1977:** Photograph showing maintained field;
- **1981:** Aerial image showing maintained field;
- **1976–80 and 1988:** Email from neighbor Michael Fox stating field was mown during this time period;
- **2004–Present:** Brooks and Kelly Middleton assert they mowed the property during their ownership;²and
- **2011.** Photograph showing mown field.³



PLANNING, COMMUNITY & ECONOMIC DEVELOPMENT



² Sterbank Decl. Exs. D & E.

³ Sterbank Decl. Ex. I.

1 In light of this decades-long history, Munce can hardly contend that his water supply is at risk from
2 mowing. And, in any event, Munce now claims that “This dispute has nothing to do with mowing per
3 se. . .” Response at 8, lines 17–18. Munce cannot argue on the one hand that the case has nothing to
4 do with mowing, but argue at the same time that mowing puts his well at risk in way that would provide
5 a “beneficial interest.”
6

7 Munce also contends he has “an individual well protected by a 1,000 buffer (Attachment M)
8 under AMC 19.70.520(1)b(iv), a designated critical aquifer recharge area.” Petitioner’s Response at 9.
9 The City’s code does protect critical aquifer recharge areas (CARAs) “from degradation or
10 depletion . . . by mitigating or precluding future discharges of contaminants from new development
11 activities and redevelopment activities.” AMC 19.70.510. But the provisions of the code on critical
12 aquifer recharge areas “apply to regulated facilities that are within or adjacent to those portions of the
13 city designated as critical aquifer recharge areas” and “regulated facilities” are defined as those that
14 “process or handle hazardous materials in regulated quantities” or “treat or store regulated quantities of
15 hazardous materials.” AMC 19.70.515. Mowing is not a “regulated facility” or activity, and is not
16 addressed by the CARA regulations in any way. Future residential development would also not trigger
17 the code provisions, unless it involved a “regulated facility,” which is highly unlikely.
18

19 Munce has failed to establish standing or a beneficial interest to support his application for a
20 writ of mandamus.
21

22 **F. Petitioner Had An Adequate Remedy Under LUPA**

23 Petitioner had an adequate remedy under LUPA, and failed to pursue it. City’s MSJ at 12–15,
24 21–22. Petitioner fails to address the City’s argument that the code provides a remedy of asking the
25 Planning Director for a code interpretation. City’s MSJ at 22.
26

1 Petitioner contends that he has no adequate remedy because the City refuses to enforce its code.
2 Petitioner's Response at 11. But as discussed above, the City has discretion in enforcement actions,
3 and as Petitioner concedes, mandamus may not be used to compel discretionary actions. Petitioner's
4 MSJ at 5. Petitioner contends "[T]ime is of the essence" and that development pressures "spurred by
5 the City's abrogation of its duty to administer and enforce inter alia AMC 19.70.040 are increasing
6 exponentially." Petitioner's Response at 15. Petitioner offers no factual support for this argument, and
7 the court must disregard it at summary judgment. *Green v. Am. Pharm. Co.*, 136 Wn.2d 87, 100, 960
8 P.2d 912 (1998) (in summary judgment ruling, argument of counsel does not constitute evidence).
9

10 III. CONCLUSION

11 Petitioner's application for writ of mandamus fails as a matter of law. It is barred by LUPA,
12 and he lacks standing and failed to join indispensable parties. Petitioner also cannot satisfy any of the
13 stringent criteria for the extraordinary remedy of mandamus. This Court should deny his motion for
14 summary judgment, grant the City's cross motion for summary judgment, and dismiss this case.
15

16 DATED this 21st day of June, 2024.

17 FOSTER GARVEY PC

18 By Bob C. Sterbank

19 Bob C. Sterbank, WSBA #19514

20 P. Stephen DiJulio, WSBA #7139

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Attorneys for Respondent City of Anacortes

Libby Grage

From: Ian Munce <ianmunce@gmail.com>
Sent: Tuesday, November 26, 2024 1:05 PM
To: Libby Grage
Subject: Attachment C to my November 9, 2024 submission to the Planning Commission-
'Permit Timelines'
Attachments: SEPA.pdf

**** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. ****

Good day, Libby

Will you please:

1. Enter this into the SEPA record for the 'Permit Timelines' comments.
2. Enter this into the record for the Planning Commission's Public Hearing for December 11, 2024, transmit it to the Planning Commission's for this public hearing, and post it under the Comment Section of your 2025 Periodic Update.

Thank you.

Ian Munce



PLANNING, COMMUNITY, & ECONOMIC DEVELOPMENT DEPARTMENT

Mailing Address: P.O. Box 547, Anacortes, WA 98221 Office

Location: 904 6th Street, Anacortes WA 98821 Phone: (360)

299-1984

(Also, Attachment C to Munce November 12, 2024

Submission to Planning Commission)

APPEAL OF ADMINISTRATIVE DECISION

An appeal of a Type 1 or Type 2 decision must be filed using this form. Attach any additional pages that are needed.

DECISION BEING APPEALED	
CITY FILE NUMBER:	PERMIT/ACTION TYPE:
SITE ADDRESS: Citywide	DNS
DECISION/DETERMINATION: DNS on 'Permit Timeframes'	DATE OF DECISION/ACTION: 11/13/2024
APPELLANT INFORMATION	
NAME: Ian Munce	MAILING ADDRESS: 1711 Quail Drive
CITY, STATE, ZIP: 1711 Quail Drive, Anacortes, WA 98221	PHONE #: 360-333-1646
Describe your STANDING to appeal: Munce is a property owner and long-time resident of the City of Anacortes, located in a neighborhood that is almost entirely comprised of protected wetlands and streams and their buffers and aquifer recharge areas. Attachment A. The City's proposed order in Superior Court Case #24-2-00221-29 asked the Court to rule that Munce lacked standing to seek to have the Court order the City to comply with the plain terms of its Critical Area Ordinance (CAO). However, the judge determined otherwise and struck the following sentence from the Court Order that the City proposed to the Court: "Petitioner lacks standing, has failed to show he lacks an adequate remedy at law, that he has a beneficial interest, and fails to identify a clear duty to act as defined by case law". Attachment B. In this final order, though, the Court concluded that Munce had not made a sufficient case for the Court to resort to the extraordinary remedy of issuing a Writ of Mandamus. Neither the City or Munce appealed the court order, leading Appellant to conclude that he does not only have standing and a beneficial interest in working to ensure that the City Critical Area Ordinance is applied in a reasonable and good faith manner, but also that the City has a clear duty to act to protect and restore critical areas.	

APPEAL INFORMATION

A. Appellant's statement of grounds for appeal and the facts upon which the appeal is based, with specific references to the facts in the record.

Appellant Munce asserts that the SEPA Checklist and Declaration of Non-Significance in this case (Attachment C) must be overturned, and an Environmental Impact Statement be required. As will be detailed in this appeal and appeal proceedings, the City has forgone the right to rely on reasonable and good faith administration and enforcement of its critical area ordinance as mitigation for new initiatives.

Simply put, the City has recently asserted in Skagit County Superior Court, Case #24-2-00221-29 (Case) that it has unbridled discretion to simply waive its critical area regulations and to make political choices as to enforcement. Attachment D. This radical proposition places new initiatives such as this in SEPA limbo and posits that negative environmental impacts will most likely and probably follow if the City does not revert to diligently administering and enforcing its critical area regulations.

For the record, I attach the entirety of the City's Reply to Munce's Response to the City's Motion for Summary Judgement (Reply). Attachment D. In this Reply, the City asserts that it has unbridled discretion to simply waive items critical area regulations and make political choices as to enforcement or not. The Court did not agree. Attachment B.

The City asserted in its Case briefing that it should not be held to have a 'duty' to correctly administer and enforce its critical area regulations. Attachment D. This assertion stands in stark contrast to Anacortes Municipal Code (AMC) 19.10.030: "The Director has the duty to administer and enforce Titles 16, 17, 18, and 19". The City's outright denial of such a duty prevents it from asserting the following in the proposal's Non-Project SEPA Checklist (Checklist):

"Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to plants, animals, fish, or marine life. Project-specific environmental review will be required for projects exceeding certain thresholds". Checklist D(2). *See also,*

Checklist D(3) as to “energy and natural resources”, D(4) as to “environmentally sensitive areas”, D(5) as to “shoreline and land use”, and D(6) as to “transportation or public services and utilities”.

Checklist D(7), “protection of the environment”, claim that the amendments “...are intended to bring Anacortes code into compliance with State law” is plain error. The proposal goes far beyond this, ostensibly to avoid permit fee refunds if the new statutory timeframes are not met but is really just an attempt to foreclose the use of a conditional use process in the 2025 Periodic Review.

Appeal: Administrative Decision

Updated November 2021

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B. Describe the specific relief sought.

Appellant Munce asserts that the SEPA Checklist and Declaration of Non-Significance in this case (Attachment C) must be overturned, and an Environmental Impact Statement be required.

SIGNATURE

I have read the appeal and believe the contents to be true.

Signature: Ian S. Munce Date: 11/26/2024

Printed Name: Ian S. Munce, J.D., AICP



Formerly DCG/Watershed

Online Reconnaissance

ANACORTES, WA

NOVEMBER 2024

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Appendix I – Critical Area Map Overlay

Appendix II – Critical Area Review

Appendix III – Author Qualifications

ACRONYMS AND ABBREVIATIONS

AMC	Anacortes Municipal Code
BMP	Best Management Practices
City	Anacortes
DNR	Washington Department of Natural Resources
ESA	Endangered Species Act
FWHCA	Fish and Wildlife Habitat Conservation Area
NHP	Natural Heritage Program
NMFS	National Marine Fisheries Service
NRCS	Natural Resources Conservation Service
NWI	National Wetlands Inventory
OHWM	Ordinary High Water Mark
PHS	Priority Habitats and Species
PS	Puget Sound
RMZ	Riparian Management Zone
SMP	Shoreline Master Program
SWIFD	Statewide Washington Integrated Fish Distribution
USFWS	U.S. Fish and Wildlife Service
WAC	Washington Administrative Code
WDFW	Washington Department of Fish and Wildlife

1. INTRODUCTION

The purpose of this report is to present the best available science and findings of an online reconnaissance conducted for a study area located in Anacortes, Washington. The study area is located in the southern portion of the city and is approximately 297 acres (Figure 1). The investigation, performed by Facet, was limited to the study area in question and the immediate surrounding area.



Figure 1. Site Map

1.1 Project Description

The study area consists of approximately 297 acres along the southerly edge of the city of Anacortes urban area located on Fidalgo Island. The entirety of the study area is zoned as R1- residential low density. It is bordered by large lot public use sectors to the south and east that are considered habitats of local importance. To the north of the study area is the R2A- residential low-density zoning.

The R1-residential low-density zone provides the City of Anacortes with low density residential development in the southern end of the city that is inappropriate for more intensive urban development due to topography, the frequent presence of wetlands, the high cost and difficulty in extending public facilities, and the desire to create a lower intensity transitional area between the city and the surrounding forest and hillsides. Under Anacortes Municipal Code (AMC) 19.70, any critical areas within the R1 zone are protected in order to maintain and restore healthy, functioning ecosystems through the protection of unique, fragile, and valuable elements of the environment, including, but not limited to, ground and surface waters, wetlands, and fish and wildlife and their habitats, and to conserve the biodiversity of plant and animal species.

2. CRITICAL AREA REVIEW

Facet staff conducted background research using a variety of online sources, literature, and maps to identify wetlands, streams, and site characteristics indicative of critical area features in the study area (Appendix II). Key sources of information included the following:

- Department of Ecology Water Quality Atlas
- Department of Natural Resources (DNR) Natural Heritage Program (NHP) Mapper
- City of Anacortes Critical Areas Map
- National Wetlands Inventory (NWI) Mapper
- Natural Resources Conservation Service (NRCS) Web Soil Survey
- Washington Department of Fish and Wildlife's (WDFW) Priority Habitats and Species (PHS) Mapper
- WDFW Statewide Washington Integrated Fish Distribution (SWIFD) Mapper
- Stream Buffer Best Available Science Review and Buffer Recommendations Report
- Bachman Environmental 2019 Critical Area Report

2.1 Level of Development

The level of development in Anacortes, Washington, reflects a balance between urban growth and the preservation of its natural environment. Specifically, within the R1 zone, homes are on large lots with a maximum density of two units per acre. The R1 zone fosters a sense of an intimate residential sector that preserves the area's open space for its well-known natural habitats.

2.2 Fish and Wildlife Habitat Conservation Areas

There are two streams mapped within the study area that are considered Fish and Wildlife Conservation Areas (FWHCA) per AMC 19.70.330. Ace of Hearts Creek is mapped as a Type F (fish-bearing) stream. It passes north to south through the center of the R1 zone. The second stream, Happy Valley Stream, is a non-classified stream that also runs north to south through the west side of the study area. Happy Valley Stream is not classified by the City of Anacortes or the DNR. FWHCAs require a fifty-foot buffer, on each side of the creek, measured from the top of the bank per AMC SMP A-5.1(7)(b).

Alternatively, AMC 19.70.330 requires a riparian management zone (RMZ) to be utilized to protect the watercourses and riparian ecosystem function. The RMZ width is to be equivalent to the height of the tallest 200-year-old site-potential tree or 100 feet, whichever is greater, measured horizontally from the ordinary high water mark (OHWM). An existing report (Bachman Environmental, 2024) notes Ace of Hearts Creek as having a RMZ of 165 feet based on the height of the tallest 200-year-old site-potential tree. Therefore, it is reasonable to assume that both streams within the study area may have a required buffer width of 165-feet or greater. A field study would be required to accurately assess the applicable RMZ for each stream channel.

According to the Stream Buffer Best Available Science Review and Buffer Recommendations Report conducted by GeoEngineers for the City of Anacortes in 2019, FWHCA's serve as critical role in sustaining needed habitats and species for the functional integrity of the ecosystem, and which, if altered, may reduce the likelihood that the species will persist over the long term. These areas may

include, but are not limited to, rare or vulnerable ecological systems, communities, and habitat or habitat elements including seasonal ranges, breeding habitat, winter range, and movement corridors, and areas with high relative population density or species richness.

Priority Habitats and Species (PHS) Mapper (2024) depicts the study area to potentially contain freshwater emergent wetlands and the bat species, Yuma myotis. There are no known habitats or species of local importance per AMC 19.70.315(A)(9) within the study area. The DNR Natural Heritage Mapper (2024) does not depict any critical habitats within the study area.

2.3 Wetlands

Wetland maps prepared by NWI (2024), depict the presence of one 0.26-acre freshwater emergent wetland, located in the central region of the study area. Anacortes Critical Area Map (2024) depicts nine wetlands within the study area. Two additional wetlands were identified in the 2019 Bachman Environmental Report. A summary of these wetlands is provided in Table 1 and demonstrated on the map included in Appendix A. Wetland buffers were based on wetland category and a high intensity land use as the study area is residential (AMC 19.70.235).

Table 1. Wetland Overview

#	ID	Location	Category/Type*	Buffer (ft)		
				Habitat Score 8 or 9	Habitat Score 6 or 7	Habitat Score ≤5
1	WET-044	Westwood/Forest Ridge Lowland	III	300	150	80
2	WET-075	41st ST & H Ave SW side	Palustrine Emergent	50 – 300		
3	WET-010	Quail Drive South	III	300	150	80
4	WET-011	Quail Drive North	III	300	150	80
5	WET-012	Quail Drive East	III	300	150	80
6	Wetland A	Quail Drive & H Ave	III	300	N/A	N/A
7	Wetland B	Quail Drive & H Ave	IV	50	50	50
8	WET-014	41st Street	III	300	150	80
9	WET-013	SW Corner of 41st St & O Ave	IV	50	50	50
10	WET-015	West of R Ave. & 41st Place	III	300	150	80
11	WET-042	4820 Whistle Lake Rd	Palustrine Emergent	50 – 300		
12	WET-043	Fir Crest West Wetland	III	300	150	80

*Category or type of wetland is based on data provided by the City.

Buildings, structures, paving, and other hard surfacing must be set back a minimum distance of 10 feet from the edge of the wetland buffer, or edge of the wetland if no buffer is required, per AMC 19.70.235. This setback is to avoid conflicts with tree branches and/or critical root zones of trees that are in the buffer or will be planted in the buffer. Landscaping, uncovered decks, roof eaves and overhangs may be allowed in the building setback from the buffer if they do not cause damage to the critical root zone of trees in the buffer. Landscaping can be defined as areas that consist of grade level or elevated planting beds featuring trees, shrubs, flowers, ferns, groundcover, lawn grass, and other vegetation.

2.3.1 Soils

The NRCS soil survey map identifies 17 soil types within the study area. 15 of which are listed as hydric per the Skagit County Hydric Soils List. A summary of the map unit is provided in Table 2. The DNR Washington Natural Heritage Program Data Explorer does identify the center section of the study area as containing hydric soils.

Table 2. Soil Unit Hydric Ratings

Map Unit Symbol	Map Unit Name	Unit Considered Hydric in Skagit County
10	Bellingham silt loam	Yes
11	Bellingham mucky silt loam	Yes
17	Bow gravelly loam, 3 to 8 percent slopes	Yes
18	Bow gravelly loam, dry, 0 to 3 percent slopes	Yes
19	Bow gravelly loam, dry, 3 to 8 percent slopes	Yes
20	Bow-Urban land complex, 0 to 8 percent slopes	Yes
26	Catla gravelly fine sandy loam, 8 to 15 percent slopes	Yes
29	Clallam gravelly loam, 0 to 8 percent slopes	Yes
30	Clallam gravelly loam, 8 to 15 percent slopes	Yes
35	Coveland gravelly loam, 0 to 3 percent slopes	Yes
55	Fidalgo-Lithic Xerochrepts-Rock outcrop complex, 3 to 30 percent slopes	No
78	Keystone loamy sand, 0 to 8 percent slopes	Yes
79	Keystone loamy sand, 8 to 30 percent slopes	Yes
102	Norma silt loam	Yes
106	Pits	No
140	Swinomish-Fidalgo-Rock outcrop complex, 3 to 30 percent slopes	Yes
156	Whistle-Fidalgo-Rock outcrop complex, 30 to 65 percent slopes	Yes

2.4 Geologically Hazardous Areas

The Anacortes Critical Areas Map (2024) does not identify any geologically hazardous areas per AMC 19.70.410. The most easterly portion of the study area is along the shoreline and identified as stable.

2.5 Critical Aquifer Recharge Areas

Per AMC 19.70.535, areas with soils that have moderate to rapid permeability (greater than two inches per hour) and sources for identifying drinking water supply wells identified by agencies such as Washington Department of Ecology and Skagit County Health Department are considered critical aquifer recharge areas.

The Anacortes Critical Areas Map (2024) identifies the easterly half of the study area as containing soils with high permeability. These areas have a critical recharging effect on aquifers used for potable water,

including areas where an aquifer that is a source of drinking water, like a well, is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

Per AMC 19.70.520, areas designated as “wellhead protection areas” are groundwater contribution areas pursuant to WAC 246-291-125(3)(d)(iii). These areas include a 1,000-foot radius for individual private drinking water supply wells. The Anacortes Critical Areas Map (2024) identifies the majority of the study area as being located within 1,000 feet of a well.

Regulated activities/facilities may be permitted in a critical aquifer recharge area only if the applicant can demonstrate that the proposed activity will not cause contaminants to enter the aquifer and that the proposed activity will not adversely affect the recharging of the aquifer per AMC 19.70.530.

2.6 Frequently Flooded Areas

Flood maps prepared by FEMA do not identify any frequently flooded areas within the study area.

3. SPECIES INFORMATION

The following species listed under the federal Endangered Species Act may occur in the vicinity of the study area:

1. Puget Sound Steelhead Trout (*Oncorhynchus mykiss*)
2. Puget Sound Chinook (*Oncorhynchus tshawytscha*)
3. Hood Canal Summer Chum Salmon (*Oncorhynchus keta*)
4. Puget Sound/Georgia Basin Yelloweye Rockfish (*Sebastes ruberrimus*)
5. Puget Sound/Georgia Basin Bocaccio (*Sebastes paucispinis*)
6. Coastal Puget Sound Bull Trout (*Salvelinus confluentus*)
7. Marbled Murrelet (*Brachyramphus marmoratus*)
8. Yellow-billed Cuckoo (*Coccyzus americanus*)
9. Dolly Varden (*Salvelinus malma*)

3.1 Puget Sound Chinook and Steelhead Trout

Most Chinook in the Puget Sound are “ocean-type” and migrate to the marine environment during their first year (Myers et al. 1998). They may enter estuaries immediately after emergence as fry from March to May or they may enter the estuaries as fingerling smolts during May and June of their first year (Healey, 1982). Chinook use estuaries as rearing areas and are the most dependent of all salmon species on estuaries for survival. There are estuaries present in the action areas. As they grow and move into neritic habitats, they feed on decapod larvae, larval and juvenile fish, drift insects, and euphausiids (Simenstad et al., 1982).

Steelhead trout exhibits perhaps the most complex suite of life-history traits of any of the Pacific salmon. Steelhead can be anadromous or freshwater residents and, in some circumstances, yield offspring of the opposite life-history form. The anadromous form can spend up to seven years in freshwater prior to smoltification, although two years is most common, and then spend up to four years in saltwater prior to first spawning. Unlike the Pacific salmon species, steelhead are iteroparous (individuals can spawn more than once). The adult winter steelhead run is generally from December to February, and spawning occurs from March through June (Wydoski and Whitney, 1979). Juvenile steelhead out-migrate from April through June and are not anticipated in the nearshore in large numbers because the majority of steelhead smolts migrate directly to the open ocean (i.e., they are not nearshore dependent) and do not rear extensively in the estuarine or coastal environments (Burgner et al., 1992).

Critical habitat was designated for Puget Sound Chinook salmon on February 16, 2000, and Puget Sound steelhead on March 25, 2016 (Federal Register / Vol. 65, No. 32 / 2000; Federal Register / Vol. 81, No. 36 / 2016). Critical habitat is designated for areas containing the physical and biological habitat features, or PCEs (Primary Constituent Elements) essential for the conservation of the species or which require special management considerations. PCEs include sites that are essential to supporting one or more life stages of the species and that contain physical or biological features essential to the conservation of the species.

3.2 Hood Canal Summer Chum Salmon

Chum Salmon may historically have been the most abundant of all Pacific Salmonids. They are an anadromous fish, which means they can live in both fresh and saltwater. Chum Salmon typically weighs on average 8-15 pounds and are up to 3.6 feet long with a lifespan of about 4 years (NOAA, 2024). Chum salmon have a relatively complex life history that includes spawning and juvenile rearing in rivers followed by migrating to saltwater to feed, grow, and mature before returning to freshwater to spawn (NOAA, 2024). Chum can be found in virtually every small coastal stream. In the fall, large numbers of Chum can often be seen in the lower reaches of these streams. Chum fry do not rear in freshwater for more than a few days. Shortly after they emerge, Chum fry move downstream to the estuary and rear there for several months before heading out to the open ocean (WDFW, 2024).

3.3 Coastal Puget Sound Bull Trout

The Coastal Puget Sound bull trout population is thought to contain the only anadromous forms of bull trout in the contiguous United States (Federal Register / Vol. 64, No. 210 / 1999). Spawning occurs typically from August to November in streams and migration to the open sea (for anadromous populations) takes place in the spring. Following this season, Bull Trout migrate to freshwater river systems to overwinter. Bull trout prefer colder water temperatures than most salmonids, and clean water substrates for spawning and rearing. They require complex habitats such as streams with riffles, deep pools, and undercut banks.

Critical habitat was designated for the bull trout was designated on November 17, 2010 (Federal Register / Vol. 75 No. 200 / 2010). Critical habitat is designated for areas containing the physical and biological habitat features, or PCEs essential for the conservation of the species or which require special management considerations. PCEs include sites that are essential to supporting one or more life stages

of the species and that contain physical or biological features essential to the conservation of the species.

3.4 Marbled Murrelet

Marbled murrelets are small marine birds in the Alcidae family that nest in the coastal old-growth forests of the Pacific Northwest. The breeding season of the marbled murrelet generally begins in April, with most egg laying occurring in late May and early June. By the end of August, chicks have fledged and dispersed from nesting areas. Marbled murrelets differ from other seabirds in that their primary nesting habitat is old-growth coniferous forest within 50 to 75 miles of the coast. The nest typically consists of a depression on a moss-covered branch where a single egg is laid. When not nesting, the birds live at sea, spending their days feeding and then moving several miles offshore at night (Marks and Bishop, 1999).

3.5 Yellow-Billed Cuckoo

The yellow-billed cuckoo is a relatively large riparian bird that is distributed throughout the U.S., however, due to reductions in habitat, are very rare in Washington State (WDFW, 2024). Breeding season typically occurs in late spring to early summer. During this period, they tend to move around and have large home ranges but are mostly found in areas with more than 200 acres of deciduous forests (USFWS, 2024). Nesting habitat usually occurs at lower elevation riparian woodlands that contain willow trees, alders, or cottonwoods that are close to streams or rivers. Though there are no recent documents of yellow-billed cuckoo nesting in Washington, it can occur anywhere in the state as much would be considered generally good habitat for nesting.

4. CRITICAL AREA FINDINGS

The study area provides unique and critical area ecological functions the R1 – low density residential area, including two streams, 12 wetlands, and 16 well-head protection areas. These areas serve as essential habitats for various species, including fish, birds, and other wildlife. They provide nesting, breeding, and foraging grounds that support local biodiversity and ecosystem health. Wetlands and stream riparian zones act as natural filters, absorbing pollutants and sediment from runoff before it enters the major water bodies surrounding Anacortes. This helps improve the overall water quality of the area. Buffers should not be encroached on unless the action is unavoidable or has been determined to have no impact on the function of the critical area. Based on the analysis of this document, further and more condensed project development within the R1 zone may have a significant impact on the identified critical areas, species, or vegetation. It is recommended that the R1 zone is thoughtfully and carefully developed at the current density of two units per acre.

Within the limitations of schedule, scope of work, and seasonal constraints, Facet warrants that this study was conducted in accordance with generally accepted investigation practices, including the technical guidelines and criteria in effect at the time this study was performed.

**Disclaimer – Additional critical areas may be present if the area were to be fully delineated by a qualified professional.*

REFERENCES

- Alaska Department of Fish and Game (ADFG). Accessed 2024 via <https://www.adfg.alaska.gov/index.cfm?adfg=eulachon.main>
- Bachman Environmental, LLC. (2019). Critical Areas Investigation for Parcels P32306, P32319, and P32320.
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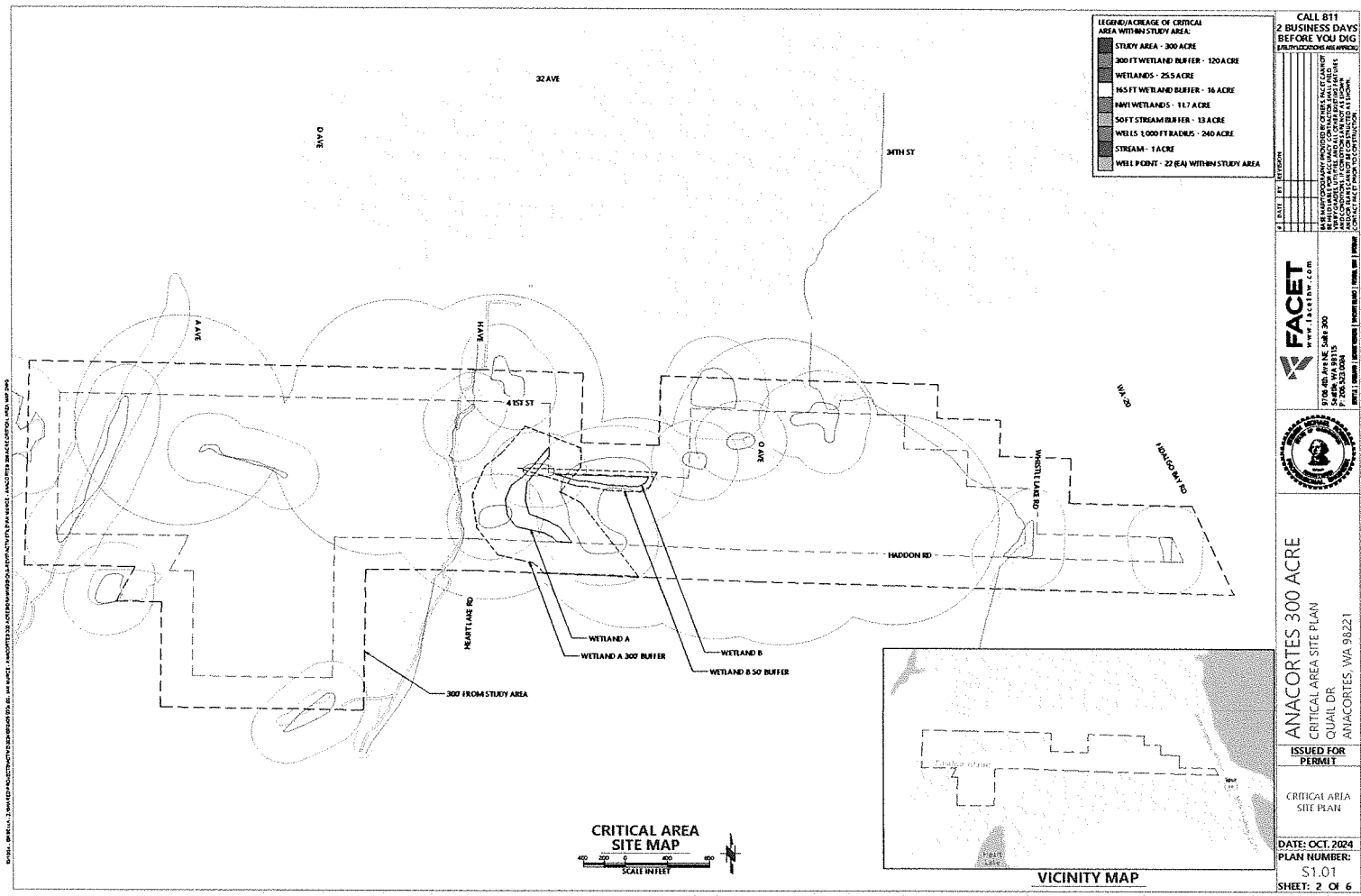
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APPENDIX I: Critical Area Map Overlay



APPENDIX II: Critical Area Review

WNHP Rare Plant and Ecosystem Locations



10/1/2024, 1:42:09 PM

Known Rare Plants and Rare & High-quality Ecosystems

- Rare Plant
- Rare and/or High Quality Ecosystem
- Public Land Survey Sections
- Public Land Survey Townships
- State Boundary
- County Boundaries

1:44,131

0 0.25 0.5 1 mi

0 0.4 0.8 1.6 km

County of Skagit, WA State Parks GIS, Esri Canada, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METINASA, USGS, Bureau of Land

WNHP Plant & Ecosystem Map Viewer

KNOWN PLANT AND ECOSYSTEM LOCATIONS REFLECT KNOWN OCCURRENCE LOCATIONS BUT MAY NOT REFLECT ALL OCCURRENCES OF RARE PLANTS OR ECOSYSTEMS.



Priority Habitats and Species on the Web



Report Date: 10/01/2024

PHS Species/Habitats Overview:

Occurrence Name	Federal Status	State Status	Sensitive Location
Freshwater Emergent Wetland	N/A	N/A	No
Yuma myotis			Yes

PHS Species/Habitats Details:

Freshwater Emergent Wetland	
Priority Area	Aquatic Habitat
Site Name	N/A
Accuracy	NA
Notes	Wetland System: Freshwater Emergent Wetland - NWI Code: PEM1C
Source Dataset	NWIWetlands
Source Name	Not Given
Source Entity	US Fish and Wildlife Service
Federal Status	N/A
State Status	N/A
PHS Listing Status	PHS Listed Occurrence
Sensitive	N
SGCN	N
Display Resolution	AS MAPPED
ManagementRecommendations	http://www.ecy.wa.gov/programs/sea/wetlands/bas/index.html
Geometry Type	Polygons

Yuma myotis	
Scientific Name	<i>Myotis yumanensis</i>
Notes	This polygon mask represents one or more records of the above species or habitat occurrence. Contact PHS Data Release at phsproducts@dfw.wa.gov for obtaining information about masked sensitive species and habitats.
PHS Listing Status	PHS Listed Occurrence
Sensitive	Y
Display Resolution	TOWNSHIP
ManagementRecommendations	http://wdfw.wa.gov/publications/pub.php?id=00605

DISCLAIMER. This report includes information that the Washington Department of Fish and Wildlife (WDFW) maintains in a central computer database. It is not an attempt to provide you with an official agency response as to the impacts of your project on fish and wildlife. This information only documents the location of fish and wildlife resources to the best of our knowledge. It is not a complete inventory and it is important to note that fish and wildlife resources may occur in areas not currently known to WDFW biologists, or in areas for which comprehensive surveys have not been conducted. Site specific surveys are frequently necessary to rule out the presence of priority resources. Locations of fish and wildlife resources are subject to variation caused by disturbance, changes in season and weather, and other factors. WDFW does not recommend using reports more than six months old.

APPENDIX V: Author Qualifications

Statement of Qualifications

ALLISON (MARTIN) LISI, ECOLOGIST

Professional Experience: 9 years

Allison Lisi is an Ecologist for Facet. Allison provides a wide range of consulting experience in environmental compliance, permitting, planning, restoration, and management. She has worked on a variety of habitat restoration projects throughout the Midwest, Tennessee, and Washington.

Allison earned a Bachelor of Science degree in Biology and Environmental Studies from the University of Cincinnati. She holds credentials as an ISA Certified Arborist and a Qualified Hydrologic Professional In-Training. Allison has also completed her certification in wetland delineations and watershed management.

HILARY HAHN, ENVIRONMENTAL COORDINATOR

Hilary Hahn is an Environmental Coordinator for Facet with ten years of experience in the engineering, development, and surveying sector. Hilary is currently pursuing a bachelor's degree in environmental science, where she has demonstrated an understanding of key environmental principles, such as biodiversity conservation, ecological systems, and environmental policy. Her studies have also exposed her to various scientific research techniques and methodologies, further fueling her drive to find innovative solutions to pressing environmental challenges.

Hilary is currently a certified wetland delineator and is looking forward to continuing her education by obtaining advanced credentials and professional certifications in the environmental field.

JAY DALLY, ECOLOGIST

Jay Dally is an Ecologist for Facet who recently graduated from Western Washington University with a Bachelor of Science degree in Environmental Science with a Freshwater and Terrestrial Ecology emphasis. His degree included a wide range of exposure to ecological principles and skills such as Pacific salmon habitat assessment, watershed delineation, soil science, aquatic toxicology, and wetland plant identification. Being in the early stages of his career as an ecologist, Jay is excited to build his skillset by participating in training to gain relevant credentials and by putting his education to use to provide excellent services to the Facet client base.

ATTACHMENT B

FILED
SKAGIT COUNTY CLERK
SKAGIT COUNTY, WA

2024 JUN 27 PM 12: 03

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR COUNTY OF SKAGIT

IAN MUNCE,

Petitioner,

v.

CITY OF ANACORTES,

Respondent.

NO. 24-2-00221-29

[Signature]
~~PROPOSED~~ ORDER DENYING
PETITIONER'S MOTION FOR
SUMMARY JUDGMENT AND
GRANTING CITY OF ANACORTES'S
MOTION FOR SUMMARY JUDGMENT

3
THIS MATTER having come before the undersigned judge on Petitioner's Motion for Summary Judgment ("Petitioner's Motion") and Respondent City of Anacortes's Motion for Summary Judgment ("City's Motion"). The Court has reviewed the following:

1. Application for Writ of Mandamus and the exhibits thereto (March 1, 2024);
2. Declaration of Ian Munce (March 1, 2024);
3. City's Motion for Reconsideration and for Denial of Application for Writ (March 25, 2024);
4. Declaration of Andrea Bradford in Support of City's Motion for Reconsideration and for Denial of Application for Writ and exhibits thereto (March 25, 2024);
5. Opposition to Motion for Reconsideration or Denial of Application (Apr. 4, 2024);
6. Declaration of Ian Munce in Opposition to Motion for Reconsideration or Denial of Application and exhibits thereto (Apr. 4, 2024);
7. City's Motion for Summary Judgment (May 30, 2024);
8. Declaration of Bob Sterbank in Support of City's Motion for Summary Judgment and exhibits thereto (May 30, 2024);

~~PROPOSED~~ ORDER DENYING PETITIONER'S MOTION FOR
SUMMARY JUDGMENT AND GRANTING CITY'S MOTION FOR
SUMMARY JUDGMENT - 1

FOSTER GARVEY PC
1111 THIRD AVENUE, SUITE 3000
SEATTLE, WASHINGTON 98101
PHONE (206) 447-4400

FG: 102756629.1

9. Declaration of Libby Grage in Support of City's Motion for Summary Judgment and exhibits thereto (May 30, 2024);

10. Petitioner's Motion for Summary Judgment (May 30, 2024);

11. Declaration of Ian Munce in Support of Petitioner's Motion for Summary Judgment (May 30, 2024);

12. City's Opposition to Petitioner's Motion for Summary Judgment (June 17, 2024);

13. Declaration of Libby Grage in Support of City's Opposition to Petitioner's Motion for Summary Judgment (June 17, 2024);

14. Declaration of Andrea Bradford in Support of City's Opposition to Petitioner's Motion for Summary Judgment (June 17, 2024);

15. _____

16. _____

17. _____

18. _____

19. _____

20. _____

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED that:

1. Petitioner's Motion for Summary Judgment is **DENIED**;

2. Respondent City of Anacortes's Motion for Summary Judgment is **GRANTED**; and

3. It is hereby **ORDERED** that Petitioner's Application for Writ of Mandamus is dismissed. The Court lacks jurisdiction because Petitioner failed to timely appeal a land use decision under the Land Use Petition Act, Chapter 36.70C RCW. ~~Petitioner also failed to join indispensable parties, Brooks J. and Kelly Donovan Middleton. Further, the requirements for an extraordinary writ are not met. Petitioner lacks standing, has failed to show he lacks an adequate remedy at law, that he has a beneficial interest, and fails to identify a clear duty to act as defined by case law.~~

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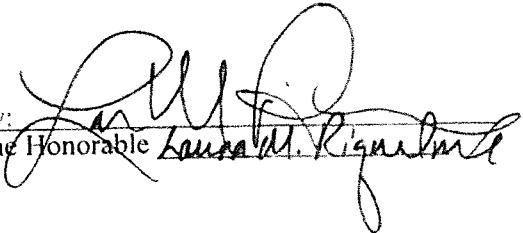
[PROPOSED] ORDER DENYING PETITIONER'S MOTION FOR SUMMARY JUDGMENT AND GRANTING CITY'S MOTION FOR SUMMARY JUDGMENT - 2

FOSTER GARVEY PC
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PHONE (206) 447-4400

FG: 102756629.1

1 DATED this 27th day of June, 2024.

2 SKAGIT COUNTY SUPERIOR COURT

3
4
5 By: 
The Honorable Laura M. Riquelme

6 Presented by:

7 FOSTER GARVEY PC

8
9 Bob C. Sterbank
10 Bob C. Sterbank, WSBA #19514
11 P. Stephen DiJulio, WSBA #7139
12 Andrea Bradford, WSBA #45748
13 1111 Third Avenue, Suite 3000
Seattle, WA 98101
Bob.sterbank@foster.com
Steve.dijulio@foster.com
Andrea.bradford@foster.com

14 *Attorneys for Respondent City of Anacortes*

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[PROPOSED] ORDER DENYING PETITIONER'S MOTION FOR
SUMMARY JUDGMENT AND GRANTING CITY'S MOTION FOR
SUMMARY JUDGMENT - 3

FOSTER GARVEY PC
1111 THIRD AVENUE, SUITE 3000
SEATTLE, WASHINGTON 98101
PHONE (206) 447-4400



SEPA

Determination of Non-Significance (DNS)

DESCRIPTION OF PROPOSAL: The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) Sections 19.12.020, 19.20.100, 19.20.110, 19.20.130, 19.20.160, 19.41.050, 19.43.120, and 19.49.040 to create consistency with SB 5290 and RCW 36.70B related to project permit procedures and timelines.

LOCATION: Citywide

PROPONENT & LEAD AGENCY: City of Anacortes, Planning, Community and Economic Development (PCED) Department.

CONTACT PERSON: Libby Grage, Planning Manager; libbyb@anacorteswa.gov; 360-299-1986; PO Box 547, Anacortes, WA 98221

DETERMINATION: The City of Anacortes, as lead agency for this proposal, determined that the proposed amendments will not have a probable adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

This Determination of Non-Significance (DNS) is issued under WAC 197-11-340; the lead agency will not act on this proposal for 14 days from the date of issuance.

Comments on the environmental determination must be received in writing on or before 5:00 PM **November 27, 2024** (14 days from the date of issuance).

Appeal: You may appeal this determination to the City of Anacortes Clerk's Office at 904 6th St., Anacortes, WA, no later than December 11, 2024 at 5:00 pm in accordance with AMC 19.20.180 and AMC Title 18. Appeals shall be submitted in writing, and must include the content required in AMC 19.20.180, and applicable fee, as established by resolution of the city council. Full appeal procedures can be reviewed under AMC 19.20.180 and AMC Ch. 18.04.

Responsible Official: John Coleman, AICP
Position and Title: Director of Planning, Community & Economic Development
Phone/Email: 360-299-1942; johnc@cityofanacortes.org
Address: P.O. Box 547, Anacortes, WA 98221

Date: November 13, 2024

Signature _____

A handwritten signature in black ink, appearing to read "John Coleman", written over a horizontal line.

SEPA¹ Environmental Checklist

Purpose of checklist

Governmental agencies use this checklist to help determine whether the environmental impacts of your proposal are significant. This information is also helpful to determine if available avoidance, minimization, or compensatory mitigation measures will address the probable significant impacts or if an environmental impact statement will be prepared to further analyze the proposal.

Instructions for applicants

This environmental checklist asks you to describe some basic information about your proposal. Please answer each question accurately and carefully, to the best of your knowledge. You may need to consult with an agency specialist or private consultant for some questions. **You may use “not applicable” or “does not apply” only when you can explain why it does not apply and not when the answer is unknown.** You may also attach or incorporate by reference additional studies reports. Complete and accurate answers to these questions often avoid delays with the SEPA process as well as later in the decision-making process.

The checklist questions apply to **all parts of your proposal**, even if you plan to do them over a period of time or on different parcels of land. Attach any additional information that will help describe your proposal or its environmental effects. The agency to which you submit this checklist may ask you to explain your answers or provide additional information reasonably related to determining if there may be significant adverse impact.

Instructions for lead agencies

Please adjust the format of this template as needed. Additional information may be necessary to evaluate the existing environment, all interrelated aspects of the proposal and an analysis of adverse impacts. The checklist is considered the first but not necessarily the only source of information needed to make an adequate threshold determination. Once a threshold determination is made, the lead agency is responsible for the completeness and accuracy of the checklist and other supporting documents.

Use of checklist for nonproject proposals

For nonproject proposals (such as ordinances, regulations, plans and programs), complete the applicable parts of sections A and B, plus the Supplemental Sheet for Nonproject Actions (Part D). Please completely answer all questions that apply and note that the words "project," "applicant," and "property or site" should be read as "proposal," "proponent," and "affected geographic area," respectively. The lead agency may exclude (for non-projects) questions in “Part B: Environmental Elements” that do not contribute meaningfully to the analysis of the proposal.

¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/Checklist-guidance>

A. Background

[Find help answering background questions²](https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background)

1. Name of proposed project, if applicable:

Anacortes Permit Review Time Periods

2. Name of applicant:

City of Anacortes Planning, Community & Economic Development Department

3. Address and phone number of applicant and contact person:

Libby Grage, Planning Manager, 360-299-1986; libbyb@cityofanacortes.org; P.O. Box 547;
Anacortes, WA 98221

4. Date checklist prepared:

October 30, 2024

5. Agency requesting checklist:

City of Anacortes Planning, Community & Economic Development Department

6. Proposed timing of schedule (including phasing, if applicable):

Planning Commission review, public hearing, and recommendation – November/December 2024

City Council review and adoption – December 2024

7. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain.

No

8. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal.

None

9. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain.

This is a non-project action affecting all property in the city limits of the City of Anacortes. We are aware of one application pending for governmental approvals for a proposal consisting of multifamily development in the Commercial Marine (CM) zone.

10. List any government approvals or permits that will be needed for your proposal, if known.

The City of Anacortes City Council would need to approve the proposed amendments and adopt them by ordinance.

11. Give brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe

² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background>

certain aspects of your proposal. You do not need to repeat those answers on this page. (Lead agencies may modify this form to include additional specific information on project description.)

The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) to comply with 2SSB 5290 (2023), which amended portions of Chapter 36.70B, Local Project Review Act. SB 5290 intends to increase the timeliness and predictability of local project review by establishing new permit review timelines and a requirement for a local government to refund permit application fees if the timelines are not met, unless at least three optional measures intended to streamline permit review (set forth in RCW 36.70B.160(1)) are implemented.

The proposed amendments to AMC Title 19 include:

- Amend the permit review procedures and timelines in AMC Title 19 to be consistent with 2SSB 5290 (2023).
- Amend the development regulations in AMC Title 19 to implement process improvement measures from the list in RCW 36.70B.160, including:
 - Making housing types an outright permitted use in all zones where the housing type is permitted, consistent with RCW 36.70B.160(1)(h).
 - Adopting a procedure to offer a meeting with an applicant to attempt to resolve outstanding issues during the review process, consistent with RCW 36.70B.160(1)(j)

12. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

The changes to permit review time periods would apply to all permit application types for projects throughout the city. The permissions (permitted outright, conditional use, prohibited) for certain housing types in Mixed-Use and Industrial zones are proposed to be changed for consistency with RCW 36.70B.160(1)(h) and RCW 70.125.140 (relating to adult family homes).

B.Environmental Elements

1. Earth

Find help answering earth questions³

a. General description of the site:

The City of Anacortes includes a variety of terrain, including flat, rolling, hilly, and steep slopes.

Circle or highlight one: Flat, rolling, hilly, steep slopes, mountainous, other:

³ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-earth>

b. What is the steepest slope on the site (approximate percent slope)?

Anacortes includes a variety of slopes throughout the city, including certain areas with up to 100% slope. The steepest slopes are primarily located along the marine shoreline and Mount Erie.

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them, and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

Soils within the city include Bellingham silt loam, Bow gravelly loam, Bow-Urban land complex, Catla gravelly fine sandy loam, Clallam gravelly loam, Coveland gravelly loam, Coveland-Bow complex, Dystric Xerochrepts, Fidalgo-Lithic Xerochrepts Rock outcrop complex, Guemes very stony loam, Guemes very gravelly loam, sandy substratum, Hydraquents, tidal, Keystone loamy sand, Laconner very gravelly loamy sand, Lithic Haploxerolls – Rock outcrop complex, Mukilteo muck, Norma silt loam, Pits, Swinomish gravelly loam, Swinomish-Fidalgo Rock outcrop complex, Tacoma silt, Tacoma silt loam, Terric Medisaprists, Whistle-Fidalgo-Rock outcrop complex, and Xerorthents.

There are no known agricultural lands of long-term commercial significance.

Because this proposal is non-project in nature, it will not directly result in any soil removal.

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

Geologically hazardous areas within the City include steep slopes, landslide and erosion hazards, and seismic hazards (liquefaction prone areas). These hazard areas are concentrated along the northern portion of Anacortes near Guemes Channel and Burrows Bay near Washington Park. Liquefaction prone areas are located in areas of modified shorelines near Skyline and the eastern part of the city along Fidalgo Bay.

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill.

This non-project proposal will not directly result in any filling, excavation, or grading.

f. Could erosion occur because of clearing, construction, or use? If so, generally describe.

Because this proposal is non-project in nature, it will not directly result in any erosion.

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)?

This non-project proposal will not directly result in the addition of any impervious surface.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any.

This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements relating to impacts to the earth.

2. Air

Find help answering air questions⁴

- a. **What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known.**

This non-project proposal will not directly result in any emissions to the air.

- b. **Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe.**

This non-project proposal will not be affected by emissions or odor.

- c. **Proposed measures to reduce or control emissions or other impacts to air, if any:**

- d. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements relating to emissions that are in place at that time.

3. Water

Find help answering water questions⁵

- a. **Surface:**

Find help answering surface water questions⁶

1. **Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into.**

Anacortes is surrounded on three sides by marine shorelines including Guemes Channel, Burrows Bay, Fidalgo Bay, and a portion of Padilla Bay, with lakes including Little Cranberry, Heart, Whistle, and a portion of Lake Erie.

There are multiple streams located within city limits including Whistle Creek, Happy Valley Stream, Ace of Hearts Creek, Beaver Brook, Cranberry Creek, Clyde Creek, Anaco Bourn,

⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-Air>

⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water>

⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Surface-water>

Morrison Run, Cedar Springs, Weaverling Rill, Miller Creek, Aqua Creek, Howard Creek, Summit Creek, and March's Run.

- 2. Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans.**

No, this is a non-project action.

- 3. Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material.**

This non-project proposal will not directly result in any fill or dredging of surface waters or wetlands.

- a. Will the proposal require surface water withdrawals or diversions? Give a general description, purpose, and approximate quantities if known.**

This non-project proposal will not directly result in surface water withdrawals or diversions.

- 4. Does the proposal lie within a 100-year floodplain? If so, note location on the site plan.**

Parts of Anacortes are located within the 100-year floodplain as mapped by the Federal Emergency Management Agency (FEMA) flood insurance rate maps (FIRMs). Some areas within the zones affected may be located within the 100-year flood plain.

- 5. Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge.**

This non-project proposal will not directly result in any discharges of waste materials to surface waters.

b. Ground:

[Find help answering ground water questions⁷](#)

- 1. Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give a general description, purpose, and approximate quantities if known.**

This non-project proposal will not directly result in withdrawal of groundwater from a well for drinking water or any other purpose, nor will it involve discharges to groundwater.

- 2. Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals or humans the system(s) are expected to serve.**

⁷ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-3-Water/Environmental-elements-Groundwater>

This non-project proposal will not directly result in discharge of waste into the ground.

c. Water Runoff (including stormwater):

- 1. Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe.**

This non-project proposal will not generate stormwater.

- 2. Could waste materials enter ground or surface waters? If so, generally describe.**

This non-project proposal will not involve waste materials entering the ground or surface waters.

- 3. Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe.**

This non-project proposal will not affect drainage patterns.

e. Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any:

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to surface and ground water, and water run-off.

4. Plants

Find help answering plants questions

a. Check the types of vegetation found on the site:

- ☒ **deciduous tree: alder, maple, aspen, other**
- ☒ **evergreen tree: fir, cedar, pine, other**
- ☒ **shrubs**
- ☒ **grass**
- ☒ **pasture**
- ☐ **crop or grain**
- ☒ **orchards, vineyards, or other permanent crops.**
- ☒ **wet soil plants: cattail, buttercup, bullrush, skunk cabbage, other**
- ☒ **water plants: water lily, eelgrass, milfoil, other**
- ☒ **other types of vegetation**

b. What kind and amount of vegetation will be removed or altered?

This non-project proposal will not result in vegetation removal or alteration.

c. List threatened and endangered species known to be on or near the site.

Various species of rare plants, listed by the Washington Natural Heritage Program, may occur within the city.

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any.

None. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to landscaping and plants.

e. List all noxious weeds and invasive species known to be on or near the site.

Various species of noxious weeds and invasive species are known to occur throughout Anacortes.

5. Animals

Find help answering animal questions⁸

a. List any birds and other animals that have been observed on or near the site or are known to be on or near the site.

Examples include:

- **Birds:** hawk, heron, eagle, songbirds, other:
- **Mammals:** deer, bear, elk, beaver, other:
- **Fish:** bass, salmon, trout, herring, shellfish, other:

Many species of birds, mammals, and fish are known to occur throughout Anacortes.

b. List any threatened and endangered species known to be on or near the site.

Bull trout, Puget Sound Chinook, Puget Sound Steelhead, Southern Resident Killer Whale, Yelloweye Rockfish, Bocaccio Rockfish and Marbled Murrelet are known to occur along the marine shoreline of Anacortes.

c. Is the site part of a migration route? If so, explain.

Anacortes is within located within the Pacific Flyway migration route utilized by waterfowl migrating north into Alaska and northern Canada.

d. Proposed measures to preserve or enhance wildlife, if any.

- e. None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to wildlife protection.

f. List any invasive animal species known to be on or near the site.

⁸ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-5-Animals>

None known. There are likely invasive animal species occurring within the city limits; however, this is a non-project action that applies city-wide and not affecting any one site.

6. Energy and natural resources

Find help answering energy and natural resource questions⁹

- a. **What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc.**

This non-project proposal will not result in any energy use.

- b. **Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe.**

This non-project proposal will not affect the potential use of solar energy by adjacent properties.

- c. **What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any.**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to energy.

7. Environmental health

Health Find help with answering environmental health questions¹⁰

- a. **Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur because of this proposal? If so, describe.**

This non-project proposal will not result in any environmental health hazards.

1. **Describe any known or possible contamination at the site from present or past uses.**

Anacortes has various sites that have known or possible contamination from present or past uses.

2. **Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity.**

This non-project proposal is not expected to be affected by hazardous chemicals/conditions.

⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-6-Energy-natural-resou>

¹⁰ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-7-Environmental-health>

3. **Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.**

This non-project proposal will not result in storage, use or production of hazardous chemicals.

4. **Describe special emergency services that might be required.**

This non-project proposal will not result in the need for any special emergency services.

5. **Proposed measures to reduce or control environmental health hazards, if any.**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to reduction or control of environmental health hazards.

b. **Noise**

1. **What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)?**

This non-project proposal will not be affected by noise in the area.

2. **What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site)?**

This non-project proposal would not create any noise.

3. **Proposed measures to reduce or control noise impacts, if any:**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to noise.

8. Land and shoreline use

Find help answering land and shoreline use questions¹¹

- a. **What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe.**

Land uses throughout the city include residential, recreational, industrial, multi-family, public and institutional uses, and vacant land. Because the proposal is non-project in nature, it will not affect current land uses on properties in the city.

- b. **Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses because of the proposal, if any? If resource lands have not been designated,**

¹¹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-8-Land-shoreline-use>

how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use?

There are no known working farmlands or working forest lands within the Anacortes city limits.

- 1. Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how?**

No.

- c. Describe any structures on the site.**

There are a variety of structures located throughout city limits.

- d. Will any structures be demolished? If so, what?**

This non-project proposal will not result in the demolition of any structures.

- e. What is the current zoning classification of the site?**

Anacortes includes a variety of zoning designations city-wide.

- f. What is the current comprehensive plan designation of the site?**

Anacortes includes a variety of comprehensive plan designations.

- g. If applicable, what is the current shoreline master program designation of the site?**

Anacortes includes a variety of shoreline master program designations along its marine shoreline and freshwater lakes.

- h. Has any part of the site been classified as a critical area by the city or county? If so, specify.**

A variety of classified critical areas are known to be located within the city, including wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas, critical aquifer recharge areas, and frequently flooded areas.

- i. Approximately how many people would reside or work in the completed project?**

Because this is a non-project proposal, this question is not applicable.

- j. Approximately how many people would the completed project displace?**

Because this proposal is non-project in nature, zero people would be displaced as part of the project.

- k. Proposed measures to avoid or reduce displacement impacts, if any.**

None.

- l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any.**

This non-project proposal is not anticipated to result in any incompatibility issues.

- m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any:**

None.

9. Housing

Find help answering housing questions¹²

- a. **Approximately how many units would be provided, if any? Indicate whether high, middle, or low-income housing.**

Because this is a non-project proposal, no new housing units would be provided.

- b. **Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low-income housing.**

Because this is a non-project proposal, no housing units would be eliminated.

- c. **Proposed measures to reduce or control housing impacts, if any:**

The primary purpose of the proposal is to comply with 2SSB 5290 (2023), which aims to expedite housing permit application processing by local jurisdictions.

10. Aesthetics

Find help answering aesthetics questions¹³

- a. **What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed?**

This non-project proposal will not directly result in any structures being built.

- b. **What views in the immediate vicinity would be altered or obstructed?**

None – this is a non-project proposal.

- c. **Proposed measures to reduce or control aesthetic impacts, if any:**

Future project actions that are proposed under the adopted regulations will be required to comply with the Anacortes Municipal Code and any other standards related to aesthetics that are in place at that time.

11. Light and glare

Find help answering light and glare questions¹⁴

- b. **What type of light or glare will the proposal produce? What time of day would it mainly occur?**

This non-project proposal would not produce any light or glare.

- c. **Could light or glare from the finished project be a safety hazard or interfere with views?**

¹² <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-9-Housing>

¹³ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-10-Aesthetics>

¹⁴ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-11-Light-glare>

No.

d. What existing off-site sources of light or glare may affect your proposal?

None.

e. Proposed measures to reduce or control light and glare impacts, if any:

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to light and glare.

12. Recreation

Find help answering recreation questions

a. What designated and informal recreational opportunities are in the immediate vicinity?

Anacortes contains many designated and informal recreational opportunities, including city parks, the Anacortes Community Forest Lands, beaches, trails, boating, and more.

b. Would the proposed project displace any existing recreational uses? If so, describe.

No.

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any:

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related recreation.

13. Historic and cultural preservation

Find help answering historic and cultural preservation questions¹⁵

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers? If so, specifically describe.

There are many buildings in Anacortes that are over 45 years old. Some of them are eligible for listing, or are listed, in national, state, or local preservation registers.

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

There are landmarks, features, or other evidence of Indian or historic use or occupation in various locations throughout Anacortes.

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

¹⁵ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-13-Historic-cultural-p>

Staff referred to the department of archaeology and historic preservation and the Anacortes register of historic places, but because the proposal is non-project in nature, it will not have a direct impact on any cultural or historic resources.

- d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.**

Future project actions that are proposed under the adopted regulations will be required to comply with the Anacortes Municipal Code and any other standards related to historic and cultural resources protection that are in place at that time.

14. Transportation

Find help with answering transportation questions¹⁶

- a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.**

There are a variety of public streets and highways in Anacortes.

- b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?**

Skagit Transit provides public transit service throughout Anacortes.

- c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).**

Because this proposal is non-project in nature, it will not require any new or improvements to existing roads, streets, pedestrian, bicycle, or state transportation facilities.

- d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe.**

This non-project proposal will not use water, rail or air transportation.

- e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?**

This non-project proposal will not generate any vehicular trips.

- f. Will the proposal interfere with, affect, or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.**

This non-project proposal will not affect or be affected by movement of agricultural and forest products on roads or streets.

- g. Proposed measures to reduce or control transportation impacts, if any:**

¹⁶ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-B-Environmental-elements/Environmental-elements-14-Transportation>

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to transportation.

15. Public services

Find help answering public service questions¹⁷

- a. **Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.**

This non-project proposal will not result in an increased need for public services.

- b. **Proposed measures to reduce or control direct impacts on public services, if any.**

None. This is a non-project action. Development that is authorized consistent with the City's development regulations following the adoption of the amendments will be required to comply with City, State, and Federal requirements related to public services.

16. Utilities

Find help answering utilities questions¹⁸

- a. **Circle utilities currently available at the site: electricity, natural gas, water, refuse service, telephone, sanitary sewer, septic system, other:**

All of the above utilities are available within the Anacortes city limits.

- b. **Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.**

This non-project proposal will not result in the need for any utility services.

C. Signature

Find help about who should sign¹⁹

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.



Type name of signee: Libby Grage

Position and agency/organization: Planning Manager, PCED Department, City of Anacortes

¹⁷ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-15-public-services>

¹⁸ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-b-environmental-elements/environmental-elements-16-utilities>

¹⁹ <https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-C-Signature>

Date submitted: October 30, 2024

D. Supplemental sheet for nonproject actions

Find help for the nonproject actions worksheet²⁰

Do not use this section for project actions.

Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.

When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

The proposal is not anticipated to result in an increase in discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise as compared to existing land use plans.

The proposed amendments only affect permit review procedures, and which housing types are permitted in certain zones. The changes to housing type permissions in certain zones are not likely to increase housing development beyond what is already anticipated in existing land use plans.

- **Proposed measures to avoid or reduce such increases are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to hazardous substances. Project-specific environmental review will be required for projects exceeding certain thresholds.

2. How would the proposal be likely to affect plants, animals, fish, or marine life?

The proposed amendments are not likely to affect plants, animals, fish, or marine life.

- **Proposed measures to protect or conserve plants, animals, fish, or marine life are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to plants, animals, fish, or marine life. Project-specific environmental review will be required for projects exceeding certain thresholds.

3. How would the proposal be likely to deplete energy or natural resources?

The proposed amendments are not likely to deplete energy or natural resources.

- **Proposed measures to protect or conserve energy and natural resources are:**

²⁰ <https://ecology.wa.gov/regulations-permits/sepa/environmental-review/sepa-guidance/sepa-checklist-guidance/sepa-checklist-section-d-non-project-actions>

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to energy and natural resources. Project-specific environmental review will be required for projects exceeding certain thresholds.

4. **How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection, such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?**

The proposed amendments are not likely to affect environmentally sensitive areas or areas designated for governmental protection.

• **Proposed measures to protect such resources or to avoid or reduce impacts are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to environmentally sensitive areas. Project-specific environmental review will be required for projects exceeding certain thresholds.

5. **How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?**

The proposed amendments are intended to promote compatibility with existing city goals and policies related to housing and land use.

• **Proposed measures to avoid or reduce shoreline and land use impacts are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to shoreline and land use. Project-specific environmental review will be required for projects exceeding certain thresholds.

6. **How would the proposal be likely to increase demands on transportation or public services and utilities?**

The proposed amendments are not likely to increase demands on transportation or public services and utilities.

• **Proposed measures to reduce or respond to such demand(s) are:**

Development that is authorized consistent with the City's development regulations following adoption of the amendments will be required to comply with all applicable City, State, and Federal requirements related to transportation, public services and utilities. Project-specific environmental review will be required for projects exceeding certain thresholds.

7. **Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.**

The proposed amendments are not anticipated to conflict with local, state, or federal laws, or requirements for protection of the environment. They are intended to bring Anacortes' code into compliance with state law.



Notice of Availability

Including written comment period, public hearing date, and environmental determination

Notice Issued Date:	November 13, 2024
Proposal Name:	The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) Sections 19.12.020, 19.20.100, 19.20.110, 19.20.130, 19.20.160, 19.41.050, 19.43.120, and 19.49.040 to create consistency with SB 5290 and RCW 36.70B related to project permit procedures and timelines.
City File Number:	LEG-2024-30
Documents Available At:	https://www.anacorteswa.gov/1547/Legislative-Planning-Updates
Lead Agency:	City of Anacortes, Planning, Community & Economic Development Department
SEPA Responsible Official:	John Coleman, AICP, Director
Written Comment Period:	November 13 – December 4, 2024 at 5:00 PM
Public Hearing Date:	Wednesday, December 11, 2024 at 6:00 PM
Public Hearing Body:	Anacortes Planning Commission City Hall Council Chambers 904 6 th Street, Anacortes, WA 98221
Contact Person:	Libby Grage, Planning Manager libbyb@cityofanacortes.org ; 360-299-1986

Proposal Description:

The City of Anacortes is considering adoption of amendments to the Anacortes Municipal Code (AMC) to comply with 2SSB 5290 (2023), which amended portions of Chapter 36.70B, Local Project Review Act. SB 5290 intends to increase the timeliness and predictability of local project review by establishing new permit review timelines and a requirement for a local government to refund permit application fees if the timelines are not met, unless at least three optional measures intended to streamline permit review (set forth in RCW 36.70B.160(1)) are implemented.

The proposed amendments to AMC Title 19 include:

- Amend the permit review procedures and timelines in AMC Title 19 to be consistent with 2SSB 5290 (2023).
- Amend the development regulations in AMC Title 19 to implement process improvement measures from the list in RCW 36.70B.160, including:

- Making housing types an outright permitted use in all zones where the housing type is permitted, consistent with RCW 36.70B.160(1)(h).
- Adopting a procedure to offer a meeting with an applicant to attempt to resolve outstanding issues during the review process, consistent with RCW 36.70B.160(1)(j).

SEPA Threshold Determination

The City of Anacortes, as lead agency for this proposal, determined that the proposed amendments will not have a probable adverse impact on the environment. An environmental impact statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public upon request.

The threshold determination is issued under a separate cover, available on the website and the address above. The City of Anacortes will not act on this proposal during the comment period. Written comments regarding the Determination of Nonsignificance must be submitted by November 27, 2024 at 5:00PM. Appeals of this environmental determination may be made per the procedures outlined in AMC Ch. 18.04 and Ch. 19.20 by December 11, 2024, at 5:00 PM. Additional information regarding the appeal process may be obtained from the City of Anacortes PCED Department, 360-299-1984.

How to Comment

Comments are accepted via email, paper, or verbally.

Email comments are preferred and must be sent to libbyb@anacorteswa.gov.

Paper comments may be mailed or delivered to:

City of Anacortes
Planning, Community & Economic Development Department
ATTN: Libby Grage
P.O. Box 547 / 904 6th St.
Anacortes, WA 98221

Verbal comments may be made at the Public Hearing. The public hearing will be held as hybrid meeting, with virtual and in-person attendance options. Virtual meeting access and participation information can be found here:

<https://www.anacorteswa.gov/700/Meeting-Documents-and-Video>

ATTACHMENT D

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR COUNTY OF SKAGIT

IAN MUNCE,

Petitioner,

v.

CITY OF ANACORTES,

Respondent.

NO. 24-2-00221-29

CITY'S REPLY IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

The City of Anacortes ("City" or "Respondent") submits this Reply in support of its Motion for Summary Judgment, addressing the contentions in Petitioner Ian Munce's ("Petitioner" or "Munce") Response to the City's Motion.

Long on righteous indignation and rhetoric, but short on substantive legal analysis or authority, Petitioner's Response fails to demonstrate he is entitled to the extraordinary remedy of mandamus. Although the underlying basis of his lawsuit is that the City is allowing continued, unlawful lawn mowing by Munce's neighbors, Brooks and Kelly Middleton, Petitioner cannot demonstrate that his neighbors' property is actually a formally delineated wetland under the City's current critical areas ordinance, nor can he establish that his neighbors are not necessary parties. Petitioner Response raises a brand-new argument regarding critical aquifer recharge areas, but his assertions are not supported by the City's code and are insufficient to provide him legal standing or the "beneficial interest" required to support a writ of mandamus.

CITY'S REPLY IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT- 1

FOSTER GARVEY PC
1111 THIRD AVENUE, SUITE 3000
SEATTLE, WASHINGTON 98101
PHONE (206) 447-4400

1 More fundamentally, Petitioner fails to rebut that established Washington law bars an action for
2 mandamus when, like here, the Petitioner could have but failed to file a land use petition under the Land
3 Use Petition Act, Ch. 36.70C RCW (“LUPA”). And, Petitioner cannot as a matter of law establish the
4 three elements required for mandamus: the City’s enforcement decisions are discretionary not
5 mandatory; Petitioner lacks a beneficial interest; and Petitioner had (but failed to pursue) and adequate
6 remedy at law.

7 The Court should grant the City’s Motion for Summary Judgment, and dismiss the Application
8 for Writ of Mandamus with prejudice.

9 II. AUTHORITY AND ARGUMENT

10 A. Munce Cannot Establish the Factual Predicate for His Writ Action: There is No 11 Delineated Wetland on the Middleton Property.

12 Petitioner’s Response labels the City’s “questioning the existence of a wetland” as “outlandish.”
13 Petitioner’s Response at 5. But the underlying documentary record flatly contradicts Petitioner’s
14 unsupported assertion that there is a delineated wetland on the Middleton property.

15 Throughout this matter, Petitioner’s personal declarations and pleadings have been based on the
16 premise that a designated wetland has existed on the Middleton property since the City’s 1990 critical
17 areas ordinance. *See, e.g.*, Declaration of Ian Munce in Opposition to Motion for Reconsideration or
18 Denial of Application at ¶ 3 (“The wetland at 4417 /4419 H Avenue, commonly and inaccurately
19 described as ‘the Middleton wetland’, was first delineated, mapped and protected in 1990 by Ordinance
20 No. 2131 and the accompanying map”); Petitioner’s Motion for Summary Judgment at 2 (arguing
21 “Middleton wetland” was “delineated, mapped, and protected in 1990 by Ordinance No. 2131 and the
22 accompanying map.”). As the City’s pleadings on summary judgment have demonstrated, this is plainly
23 wrong: the 1990 critical areas ordinance (“CAO”), Ordinance 2131, did not designate wetlands or adopt
24 a map, nor did subsequent City CAO enactments. *See, e.g.*, City’s Motion for Summary Judgment
25 (“City MSJ”) at 4; *see also* City’s Opposition to Petitioner’s Motion for Summary Judgment (“City
26 Opp.”) at 3–4 & 7–9. To the contrary, the City’s review of the history of critical areas maps shows the

1 1994 Stormwater Quality Management Plan, adopted by the City in 2005 and through additional
2 ordinances up through the 2021 code amendments, show the Middleton property as “Grasslands.”
3 Declaration of Libby Grage in Support of City’s Response to Petitioner’s Motion for Summary
4 Judgment (“Second Grage Decl.”) ¶¶ 6–8. An early adopted map, the Jones & Stokes 1991 Sensitive
5 Areas Inventory, also does not show a wetland on or near the Middleton property. Second Grage Decl.
6 ¶ 8. Plentiful uncontradicted photographic evidence supports the “Grasslands” designation. *See, e.g.,*
7 Sterbank Decl. in Support of City Opposition to Motion for Summary Judgment at Ex. I, also *infra.* at
8 9; Declaration of Libby Grage in Support of City Motion for Summary Judgment at Ex. A; Sterbank
9 Decl. in Support of Motion for Summary Judgment at Ex. E.

10 Petitioner’s Response, however, completely ignores that the City’s Motion disproved his
11 contention that the City’s 1990 Ordinance did not adopt designate wetlands or adopt any map, and that
12 the underlying premise of Petitioner’s Writ Application and Motion for Summary Judgment—that a
13 delineated wetland existed on the Middleton property since 1990—is not correct. Petitioner’s Response
14 never mentions the 1990 ordinance (Ord. 2131) or any other ordinance. Instead, it points to what he
15 contends, without explanation or verification, is a “wetland/wetland buffer designation map.”
16 Petitioner’s Response at 2. In fact, this is only a screen shot of the City’s Interactive GIS map, which
17 shows both delineated wetlands and potential wetlands; the wetland shown in the area of the Middleton
18 property is a “potential” wetland only. Declaration of Libby Grage in Support of City’s Reply ¶ 4. That
19 is because, under the current Critical Areas Ordinance, Chapter 19.70 AMC, the City’s maps are not
20 determinative or legally binding as to the presence of a particular critical area. AMC 19.70.020(A)
21 (“The general locations of many critical areas in Anacortes are displayed on the city of Anacortes’
22 critical areas maps. The maps are used to alert the public of the potential location of critical areas in
23 Anacortes.”); AMC 19.70.220(B) (maps and resources are for reference only and “do not provide a
24 final critical area designation). *See also* Second Grage Decl. ¶ 9. Under the code, “[r]egardless of
25 whether a critical area is shown on the critical areas map, the actual presence or absence of the features
26 defined in this code as critical areas will govern. Prior to acting on any development permit the city

1 may require an applicant to submit technical information to indicate whether critical areas actually exist
2 on or adjacent to the applicant's site based on the definitions of critical areas in this code." AMC
3 19.70.020(B). Identification of wetlands and delineation of wetlands boundaries must be done
4 consistent with federal standards, through a field investigation by a qualified professional. AMC
5 19.70.220(C). Petitioner does not identify any wetland delineation for the Middleton property meeting
6 these standards – because there isn't one.

7 Implicitly acknowledging this, Petitioner turns to on a 2019 GeoEngineers report to contend a
8 wetland has been formally delineated. Petitioner's Response at 6. But that report primarily concerned
9 the neighboring Rice property, which was the subject of a short plat application opposed by Mr. Munce,
10 and that report concluded only that a wetland "likely" existed on the Middleton property and
11 recommended an additional site visit and follow-up report the following spring. Declaration of Ian
12 Munce in Support of Petitioner's Motion for Summary Judgment ("Munce MSJ Decl.") Ex. I at 26.
13 The GeoEngineers report did not delineate a wetland on the Middleton property, nor delineate its
14 boundaries, and noted that a wetland (if one existed) was of "unknown size," and that "the boundaries
15 of any wetland(s) identified on the Middleton property should be delineated. . . ." *Id.* The
16 GeoEngineers report does not constitute a wetlands delineation for the Middleton property under the
17 City's critical areas code. AMC 19.70.220(C). Munce's Response expressly admits—twice—that the
18 GeoEngineers report notes that a follow up site visit would be required, and that no such follow up
19 occurred. Petitioner's Response at 5, 7 ("additional wetland reports were not completed and city staff
20 had been denied access to the property."). The GeoEngineers' report does not delineate a wetland on
21 the Middleton property.

22 Finally, Petitioner attempts to rely on the City's May 2021 cease and desist order issued to the
23 Middletons to contend a delineated wetland exists. Petitioner's Response at 5. But that order was
24 appealed by the Middletons. In response, the City fully rescinded it, and it is no longer in effect.
25
26

1 Declaration of Bob Sterbank in Support of City's Motion for Summary Judgment at Exs. D & E.¹ The
2 record demonstrates that no wetland has been delineated on the Middleton property. Therefore, as a
3 matter of law, the factual predicate for Mr. Munce's claimed writ of mandamus is lacking.

4 **B. LUPA Bars Munce's Application for Writ of Mandamus, and Munce's Argument**
5 **that LUPA is Irrelevant Due to the 2021 Code Amendment is Wrong.**

6 As discussed in the City's Motion for Summary Judgment at pages 12-16, LUPA bars Munce's
7 Application for Writ of Mandamus, because Munce could have (but failed to) file a land use petition
8 challenging the City's decision to rescind its administrative "cease and desist" order issued to the
9 Middletons. *See* Sterbank Decl. in Support of City MSJ at Ex. E. Munce's Response to the City's
10 Motion fails to even acknowledge, let alone rebut, the well-established Washington appellate precedent
11 discussed in the City's Motion.
12

13 Instead, Petitioner contends that his failure to appeal the City's 2021 nonconforming use
14 determination and administrative order rescission is irrelevant, because a "LUPA determination under
15 the old CAO has been rendered moot by section 19.70.040 of the new CAO." Petitioner's Response at
16 11. Without citation to any legal authority, Mr. Munce contends that the nonconforming use
17 determination is meaningless, and that AMC 19.70.040 of the new critical areas ordinance trumps AMC
18 19.49, the City's code provisions on nonconforming uses. *See* Writ Application at 1; Petitioner's
19 Response at 12, 14. According to Mr. Munce, "pre-existing wetland destruction activities [were]
20 terminated by new CAO," and that "the City did not have to adopt AMC 19.70.040 but it did and the
21 GMHB relied on this new code language to uphold the City's new CAO." *Id.* at 10. Munce's argument
22 badly misreads the City's CAO.
23
24

25 ¹ Munce argues that the "Director's determination approving a non-conforming use only rescinded as to the pre-existing use
26 issue, not as to the wetland determination." Petitioner's Response to MSJ at 12. But, the City's rescission of the prior
Administrative Order was unqualified: "We. . . *rescind the Administrative Order dated May 25, 2021.*" Sterbank Declaration,
Ex. E (June 29, 2021 letter from Don Measamer to Timothy Schermetzker) (emphasis added).

1 Mr. Munce's argument is off-base because the City's current CAO *expressly incorporates* rather
2 than "trumps" the City code's provisions regarding nonconforming uses. In fact, the current CAO
3 provides that nonconforming uses "may continue in accordance with AMC 19.49," the AMC's broader
4 provision governing "Nonconforming uses and Structures" of all types, citywide:
5

6 *Modifications to Existing Nonconforming Structures and Uses.* In these provisions
7 the burden of proof is on the applicant to bring evidence in support of their position.
8 *Existing structures, activities, and uses that were established legally but do not*
9 *meet the current critical area, buffer, or buffer setback requirements may*
10 *continue in accordance with AMC 19.49, Nonconforming Uses and Structures,*
11 *and may be modified as follows . . .*

12 AMC 19.70.035(C) (emphasis added). Petitioner fails to acknowledge, let alone address, this City code
13 provision in his Writ Application, his Motion, or his Response. He is clearly aware of it, however,
14 because he challenged this specific section of the code in his appeal to the Growth Management
15 Hearings Board. Munce Declaration in Opposition to Motion for Reconsideration (Apr. 4, 2024), at
16 Ex. A (GMHB decision), p. 8. As with his other claims, the Board rejected his attack on this section.
17 *Id.* The City's June 29, 2021 decision that a nonconforming use existed per Ch. 19.49 AMC continues
18 in full force and effect under the current CAO, to the same effect as when issued on June 29, 2021. It
19 was not "rendered moot" as Mr. Munce contends.

20 Trying to escape this, Petitioner points to a prior City Planning Director statement that applicants
21 will not "vest" to older versions of the CAO, but this discussion of the vested rights doctrine is
22 irrelevant. Petitioner argues that Middleton cannot "vest" to the old critical areas code, and that the
23 2021 nonconforming use determination is irrelevant because it has been superseded by the 2021 critical
24 areas code amendments. Petitioner's Response at 10. This argument is incorrect. First, as discussed
25 above, the current critical areas ordinance authorizes existing uses established legally to continue, in
26

1 accordance with AMC 19.49. AMC 19.70.035(C). Second, Munce's argument confuses the vested
2 rights doctrine with the doctrine allowing nonconforming uses. In general, under the vested rights
3 doctrine, a person has a right to have a *development application* processed under the regulations in
4 effect at the time a permit application is filed. *Potala Vill. Kirkland, LLC v. City of Kirkland*, 183 Wn.
5 App. 191, 197, 334 P.3d 1143 (2014). By contrast, "[a] nonconforming use is a use which lawfully
6 existed prior to the enactment of a zoning ordinance, and which is maintained after the effective date of
7 the ordinance." *Seven Hills, LLC v. Chelan County*, 198 Wn.2d 371, 398, 495 P.3d 778 (2021) (quoting
8 *Rhod-A-Zalea & 35th, Inc. v. Snohomish County*, 136 Wn.2d 1, 6, 959 P.2d 1024 (1998)). "The right
9 to continue a nonconforming use despite a zoning ordinance ... is sometimes referred to as a 'protected'
10 or 'vested' right." *Id.* (quoting *Rhod-A-Zalea*, 136 Wn.2d at 16). "However, this right refers only to
11 'the right not to have the use immediately terminated in the face of a zoning ordinance which prohibits
12 the use' and does not 'change, alter, extend, or enlarge the existing use.'" *Id.* at 398 (quoting *Rhod-A-*
13 *Zalea*, 136 Wn.2d at 6–7). "The vested rights doctrine specifically does not concern usage because 'the
14 doctrine applies only to permit applications.'" *Id.* at 389 (quoting *Rhod-A-Zalea*, 136 Wn.2d at 16).
15 "Once usage has been established and is able to continue, 'this doctrine has no bearing.'" *Id.* at 389
16 (quoting *Rhod-A-Zalea*, 136 Wn.2d at 16).

17
18
19 Petitioner does not point to any development application by Middleton or concerning the
20 Middleton property to which the vested rights doctrine could apply. The discussion of the vested rights
21 doctrine is a complete red herring. Instead, for the reasons discussed above, the City determined
22 Middleton's mowing was a legal nonconforming use that preceded adoption of any critical areas
23 ordinances; thus, the mowing could continue regardless of any arguments about whether a wetland
24 existed. The City's 2021 determination and rescission of the Administrative Order was a land use
25
26

1 decision, that Munce could have (but failed to) challenge under LUPA. It was not “rendered moot” by
2 the 2021 CAO amendment, because that amended CAO preserved the City’s use of its standard, Ch.
3 19.49 nonconforming use process to address potential nonconforming uses under the CAO. Munce’s
4 failure to file a LUPA petition bars his application for writ of mandamus. *See, e.g., Samuel’s Furniture,*
5 *Inc. v. State, Dept. of Ecology*, 147 Wn.2d 440, 462, 463–64, 54 P.3d 1194 (2002); *State v. City of*
6 *Spokane*, 92 Wash. 667, 669, 159 P. 805 (1916); *Lange v. Clallam County*, 182 Wn. App. 1023, 2014
7 WL 4219561 at *4 (Div. II 2014) (unpublished, cited pursuant to GR 14.1) (mandamus unavailable for
8 five of complaint’s six claims that challenged county land use decisions County’s land use decisions
9 related to storage building construction or bulkhead repairs); *Verjee Van v. Pierce County*, 1 Wn. App.
10 2d 1057, 2017 WL 6603662 at *5 (Div. II 2017) (unpublished, cited pursuant to GR 14.1) (prior County
11 shoreline dock and fence decisions not challenged under LUPA could not be challenged by writ of
12 mandamus).

13
14
15 **C. Mandamus is Barred Because Munce Failed to Join the Middletons, Who Are**
16 **Necessary Parties.**

17 Petitioner contends the Middletons are not a necessary party because “the June 2021
18 determination is no longer allowed by the current CAO.” Petitioner’s Response at 12. This is also
19 incorrect: as discussed above, the code says that uses legally established “may continue in accordance
20 with AMC 19.49.” AMC 19.70.035(C). Further, while Petitioner faults the Middletons for not appealing
21 the Planning Director’s May 21, 2021 cease and desist order, Petitioner’s Response at 12, that order
22 was rescinded, and the Middletons had no reason to appeal. Sterbank Decl. Ex. E.

23 **D. Munce Fails to Identify Non-Discretionary Duty**

24 Petitioner contends that the City has a duty to enforce the provisions of its critical areas code.
25 Petitioner’s Resp. at 11. But as discussed in the City’s Motion, and its response to Petitioner’s Motion,
26

1 the adopted City code expressly provides the City and its Planning Director with discretion in
2 enforcement actions. City's Motion at 17–20; City's Opposition at 9–11.

3 Petitioner contends that the Planning Director has a “ministerial duty” to enforce the code.
4 Petitioner's Response at 13. Code enforcement decisions are not ministerial; they require the exercise
5 of discretion and judgment and balancing enforcement priorities across the City. “Agencies have
6 significant discretion to decline to pursue enforcement actions and the exercise of that discretion cannot
7 be compelled through a writ of mandamus.” *Leishman v. Reynolds*, 2023 WL 8895391 at *6 (Wn. App.
8 Dec. 26, 2023) (unpublished, cited pursuant to GR 14.1). *See also SEIU Healthcare 775NW v.*
9 *Gregoire*, 168 Wn.2d 593, 600, 229 P.3d 774 (2010) (mandamus not appropriate to compel governor
10 to balance budget; although statutorily required, action necessarily involved exercise of discretion,
11 balancing competing priorities); *Burg v. City of Seattle*, 32 Wn. App. 286, 293, 647 P.2d 517 (1982)
12 (repair of road involved exercise of discretion). *Cf. Matter of Recall of Snaza*, 197 Wn.2d 104, 113, 480
13 P.3d 404 (2021) (recall case noting that although sheriff is bound to enforce the law, “Law enforcement
14 officers generally enjoy significant discretion in deciding how, when, and against whom to enforce the
15 law”).
16
17

18 Petitioner cannot identify a non-discretionary duty as a matter of law, thereby failing to establish
19 one of the required showings for mandamus.
20

21 **E. Munce Fails to Show Standing or A Beneficial Interest**

22 To the extent Petitioner relies on his “citywide interest” in enforcing the law, Petitioner does not
23 establish standing or the necessary “beneficial interest” required for issuance of mandamus. *Retired*
24 *Pub. Emps. Council of Washington v. Charles*, 148 Wn.2d 602, 616, 62 P.3d 470 (2003) (“An individual
25 has standing to bring an action for mandamus, and is therefore considered to be beneficially interested,
26

1 if he has an interest in the action *beyond that shared in common with other citizens*"). Petitioner
2 contends he has standing because he previously had standing to pursue a petition before the Growth
3 Management Hearings Board. Petitioner's Response at 14. But the requirement to show standing before
4 the Growth Board is relaxed, and requires only that Petitioner have participated in the legislative process
5 for the challenged code provisions. RCW 36.70A.280(2)(b) (petition for review may be filed by "a
6 person who has participated orally or in writing before the county or city regarding the matter on which
7 a review is being requested"); *see also Stevens Cnty. v. E. Washington Growth Mgmt. Hearings Bd.*,
8 163 Wn. App. 680, 687, 262 P.3d 507 (2011) (noting individual "gained standing before the Board by
9 participating in the legislative process for the challenged county code sections."). The standard for
10 standing in mandamus action is more much demanding, requiring that an applicant meet common legal
11 tests for standing, and demonstrate a "beneficial interest."
12

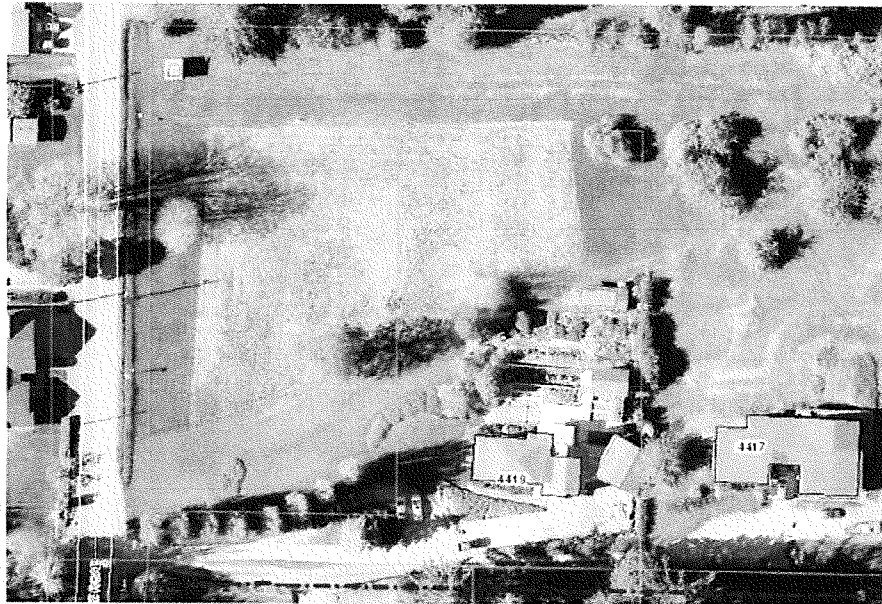
13
14 For the first time, in his Response in opposition to the City's Motion, Petitioner contends that
15 he has standing because mowing might "convert" the Middleton "wetland" and will endanger a well on
16 his property, "most likely requiring a very expensive connection to City water." Petitioner's Response
17 at 10 & 14. But the record demonstrates that the Middleton property has been a mown field for the past
18 50 years. Sterbank Decl. Exs. D & E. For example, the record contains:

- 19 • **Late 1960s:** Letter from neighbor Helen Loesch stating property was hayed or mowed,
20 and had always been maintained, beginning in late 1960s;
- 21 • **1968–79:** Email from former neighbor Julie Wollam stating property was "occasionally
22 mowed even bailed" from 1968–79 and 1982–1989, when she lived across the street.
- 23 • **1969:** An aerial image from County records showing maintained field;
- 24
- 25
- 26

- **1973:** Letter from neighbor Elizabeth Stout stating property has “maintained by either haying or mowing” since 1973;
- **1977:** Photograph showing maintained field;
- **1981:** Aerial image showing maintained field;
- **1976–80 and 1988:** Email from neighbor Michael Fox stating field was mown during this time period;
- **2004–Present:** Brooks and Kelly Middleton assert they mowed the property during their ownership;²and
- **2011.** Photograph showing mown field.³



PLANNING, COMMUNITY & ECONOMIC DEVELOPMENT



² Sterbank Decl. Exs. D & E.

³ Sterbank Decl. Ex. I.

1 In light of this decades-long history, Munce can hardly contend that his water supply is at risk from
2 mowing. And, in any event, Munce now claims that “This dispute has nothing to do with mowing per
3 se. . .” Response at 8, lines 17–18. Munce cannot argue on the one hand that the case has nothing to
4 do with mowing, but argue at the same time that mowing puts his well at risk in way that would provide
5 a “beneficial interest.”
6

7 Munce also contends he has “an individual well protected by a 1,000 buffer (Attachment M)
8 under AMC 19.70.520(1)b(iv), a designated critical aquifer recharge area.” Petitioner’s Response at 9.
9 The City’s code does protect critical aquifer recharge areas (CARAs) “from degradation or
10 depletion . . . by mitigating or precluding future discharges of contaminants from new development
11 activities and redevelopment activities.” AMC 19.70.510. But the provisions of the code on critical
12 aquifer recharge areas “apply to regulated facilities that are within or adjacent to those portions of the
13 city designated as critical aquifer recharge areas” and “regulated facilities” are defined as those that
14 “process or handle hazardous materials in regulated quantities” or “treat or store regulated quantities of
15 hazardous materials.” AMC 19.70.515. Mowing is not a “regulated facility” or activity, and is not
16 addressed by the CARA regulations in any way. Future residential development would also not trigger
17 the code provisions, unless it involved a “regulated facility,” which is highly unlikely.
18

19 Munce has failed to establish standing or a beneficial interest to support his application for a
20 writ of mandamus.
21

22 **F. Petitioner Had An Adequate Remedy Under LUPA**

23 Petitioner had an adequate remedy under LUPA, and failed to pursue it. City’s MSJ at 12–15,
24 21–22. Petitioner fails to address the City’s argument that the code provides a remedy of asking the
25 Planning Director for a code interpretation. City’s MSJ at 22.
26

1 Petitioner contends that he has no adequate remedy because the City refuses to enforce its code.
2 Petitioner's Response at 11. But as discussed above, the City has discretion in enforcement actions,
3 and as Petitioner concedes, mandamus may not be used to compel discretionary actions. Petitioner's
4 MSJ at 5. Petitioner contends "[T]ime is of the essence" and that development pressures "spurred by
5 the City's abrogation of its duty to administer and enforce inter alia AMC 19.70.040 are increasing
6 exponentially." Petitioner's Response at 15. Petitioner offers no factual support for this argument, and
7 the court must disregard it at summary judgment. *Green v. Am. Pharm. Co.*, 136 Wn.2d 87, 100, 960
8 P.2d 912 (1998) (in summary judgment ruling, argument of counsel does not constitute evidence).
9

10 III. CONCLUSION

11 Petitioner's application for writ of mandamus fails as a matter of law. It is barred by LUPA,
12 and he lacks standing and failed to join indispensable parties. Petitioner also cannot satisfy any of the
13 stringent criteria for the extraordinary remedy of mandamus. This Court should deny his motion for
14 summary judgment, grant the City's cross motion for summary judgment, and dismiss this case.
15

16 DATED this 21st day of June, 2024.

FOSTER GARVEY PC

17
18 By Bob C. Sterbank

19 Bob C. Sterbank, WSBA #19514
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Attorneys for Respondent City of Anacortes



December 11, 2024

Linda Martin, Chair
Anacortes Planning Commission
City of Anacortes

RE: Letter in Support of Draft Ordinance No. 4092

Dear Anacortes Planning Commission,

In the spirit of municipal partnership, the Port of Anacortes (Port) is submitting this letter in support of the Draft Ordinance no. 4092. The Port fully supports the City of Anacortes (City) efforts to provide enhanced timely review of permit applications. As an owner and operator of infrastructure in Anacortes, the Port frequently seeks City permits for the range of work in our operations. The Port requires City permits for important safety updates to facilities, upgrades in piers and docks, and for job-creating and community enhancing redevelopments.

Frequently, the Port has multiple permits in review with the Planning, Community, and Economic Development Department (PCED); currently we have seven applications in review with the City and several more in preparation for submittal. Having clarity on the timelines for the review is essential for planning, funding, and delivering projects. We understand the depth and complexity of review required for permit review; however, we also have an expectation that our permit submissions will be reviewed in a timely manner.

We view the steps outlined in Draft Ordinance 4092 as important measures to ensure sensible and swift review of permit applications. The proposed review periods in Exhibit A (19.20.030) will provide surety to applicants that their projects are given a speedy and complete review by PCED staff. Having a knowledge of when a decision is expected allows for better project planning and implantation. Having set periods for permit review is a welcome change and not unknown for regulatory agencies. For instance, the Washington State Department of Fish and Wildlife has a 45-day period to review and approve or deny a Hydraulic Project Approval. The City's proposed addition of permit review timelines (Table 1 below) improves the ability for applicants build realistic project timelines and reduce costly delays in review.

Table 1: Excerpted Table 19.20.030-1: Review Classification and Process Matrix

Types of Review	Type 1 Administrative Ministerial Actions	Type 2 Administrative Decisions	Type 3 Hearing Examiner Decisions	Type 3 Planning Commission Decisions	Type 4 City Council Decisions
Review Time Period	65 Days	100 Days	170 Days	170 Days	170 Days

Allowing the City to maintain and budget for on-call permitting assistance is another step forward. Permit volumes and staffing levels can change rapidly. Instead of having submitted permits languish because of a lack of staff capacity, passing permit review (or portions thereof) to an on-call permit specialist is a sensible measure. In recent years, the Port has noted that permit review can lag from the historic review periods we've experienced. While we expect timely review, we also understand the breadth of analysis and specialized knowledge required to provide reviews that enable projects to meet code requirements, maintain the health and safety of the citizens of Anacortes, and protect the environment. When there are large volumes of permit applications, it makes sense to seek additional resources to provide the timely and complete review that applicants expect.

The provision in the draft ordinance to allow the PCED Director to waive the requirement for a neighborhood meeting is also welcome. The Port must hold neighborhood meetings for permit applications in cases where the meeting generates no public comment, does not materially benefit the project, and wastes both Port and City staff hours. For instance, in a recent neighborhood meeting for a shoreline substantial development permit (SSDP-2022-0001), the only members in attendance were Port and City staff. In fact, all parcels within 300 feet of the subject parcel were owned by the Port and therefore the neighborhood meeting notice only went to our office. The need for a transparent and open permit review process is apparent but we maintain the opinion that for shoreline substantial development permits the neighborhood meeting requirement can be relaxed as are opportunities for additional public comments to be received in the open public hearing and SEPA processes. The Port also supports the ability of the director to waive this requirement for subsequent phases of a previously approved development.

Finally, along with these sensible measures, the requirement for tracking permit review times is a needed addition. Without tracking permit review times, the City won't be able to assess whether these efforts are effective at increasing the speed of review from the City and reducing the costly delays to both applicant and the City.

Thank you for reviewing these comments and striving to streamline and improve the City's permit review processes. We hope we can work together to improve our community and support private jobs growth in our town.

Best regards,

A handwritten signature in blue ink, appearing to read "Michael B. Greenwood". The signature is fluid and cursive, with the first name "Michael" and last name "Greenwood" clearly legible.

Michael Brett Greenwood
Executive Director
Port of Anacortes

AMENDING AMC TITLE 19 RE: PERMIT TIMELINES

AMENDMENTS TO COMPLY WITH SB 5290 (2023) AND TO IMPROVE PREDICTABILITY & TIMELINESS IN PERMIT REVIEW

Anacortes Planning Commission
December 11, 2024
Public Hearing



2SSB 5290 - BACKGROUND

- Bill passed in spring of 2023
- Purpose is to consolidate, streamline and improve local permit review processes for residential permits
- Amends Chapter 36.70B RCW – Local Project Review
- SB 5292 includes:
 - Changes jurisdictions are responsible for implementing
 - Changes Department of Commerce is responsible for implementing



2SSB 5290 – KEY REQUIREMENTS FOR LOCAL GOVERNMENTS

- Revise the current 120-day time period for project review (effective 1/1/25)
- Refund 10-20% of permit fees if time periods are not met, unless at least 3 listed optional measures adopted
- Modified existing annual performance report requirement (20,000+ population cities)

TIME PERIODS FOR PERMIT REVIEW

SB 5290 Requirements:

- Existing 120-day review time is now 65-170 days (or local govt can adopt its own time periods)
- Effective January 1, 2025

Type of Permit	Default Review Time Period
No public notice	65 days
Public notice (but no hearing)	100 days
Public notice + hearing	170 days

TIME PERIODS FOR PERMIT REVIEW, CONT.

Existing code

19.20.160 Decision—Timing.

A. Time Limits.

1. The decision-maker may not issue its decision on an application until the expiration of the public comment period on the notice of application.
2. The final decision on an application for a development permit must be made within the time limits from determination of completeness listed in Table 19.20.160.

Table 19.20.160
Decision timing.

Type of Application	Time Limit
Preliminary <u>subdivisions and binding site plans</u> (RCW 58.17.140)	90 <u>days</u>
Final <u>subdivisions</u> (RCW 58.17.140)	30 <u>days</u>
All other <u>development permits</u> (RCW 36.70B.080)	120 <u>days</u>

Proposed amendment

19.20.160 Decision—Timing.

A. Time Limits.

1. The decision-maker may not issue its decision on an application until the expiration of the public comment period on the notice of application.
2. The final decision on an application for a development permit must be made within the ~~time limits from determination of completeness listed in Table 19.20.160~~ Review Time Period shown in Table 19.20.030-1 for the applicable type of review, as measured from the date the application is determined complete. Review Time Periods for preliminary and final subdivisions are set by RCW 58.17.140.

Table 19.20.160 Decision timing. [table deleted]

AMC Table 19.20.030-1: Review classification and process matrix

Types of Review	Type 1	Type 2	Type 3-HE	Type 3-PC	Type 4
Type of Application (not all types are listed to fit chart on slide)	BLA Building Permits Clearing/Grading Permits Critical area exemption Site plan Expiration of Application	Home Occ. Binding site plans (<10 lots) CA permitted alteration Level I variances Prelim. Short subdivision Site Plan Review	CA variance Level 2 variance Zone boundary determination	Shoreline CUP, variance Shoreline substantial development permit (<\$1 million on sites <3 acres)	BSPs (10+ lots) CUPs EPFs Framework Development Plan Preliminary long subdivisions, SSDPs (>\$1 million, 3+ acres)
Pre-app Conference	At discretion of the director	At discretion of the director	Yes	Yes	Yes
Pre-app neighborhood meeting	At discretion of the director	No, except certain types at the discretion of the director	Yes	Yes	Yes
NOA	No	Yes	Yes	Yes	Yes
Comment period	None	14 days	21 days	21 days (30 for SSDP)	21 days (30 for SSDP)
Rec. By	None	None	Director	Director	Planning Commission
Pre-decision Open record hearing	No	No	Yes, before HE	Yes, before PC	Yes, before PC
Closed Record Decision Hearing	No	No	No	No	Yes, before CC
Decision By	Director	Director	HE	PC	CC
Notice of Decision	No	Yes	Yes	Yes	Yes
Local Appeal to	Hearing Examiner	Hearing Examiner	City Council	City Council	None
Appeal Hearing Type	Open Record				
Review Time Period	65 days	100 days	170 days	170 days	170 days

FEE REFUNDS & EXEMPTION MEASURES

SB 5920 Requirements:

- If city does not achieve time period for review of a permit, it must refund 10-20% of permit fee
- City is exempt from refund requirement if we adopt 3 of 10 process improvement measures from the menu in 36.70B.160 RCW.
- May have to adopt more measures in the future

Proposed measures for adoption (RCW 36.70B.160(1)):

- (d) Budget and continue to budget for on-call permitting assistance when permit volumes or staffing levels change rapidly
- (h) Adopt development regulations that make housing types an outright permitted use in all zones where the housing type is permitted
- (j) Adopt a procedure to offer a meeting with the applicant to attempt to resolve outstanding issues during the review process

FEE REFUNDS & EXEMPTION MEASURES, CONT.

Measure #1 from RCW 36.70B.160 list

- (1)(d) Budget and continue to budget for on-call permitting assistance when permit volumes or staffing levels change rapidly

DRAFT Ordinance 4092

Now, therefore, the City Council of the City of Anacortes does ordain as follows:

- Section 1. The City Council finds that timely processing of permit applications is an important function of city government and immediate action is required to expedite the City's review of permit applications.
- Section 2. The Anacortes Municipal Code is amended as shown in Exhibit A.
- Section 3. Superseding the provisions of Ordinance 2992 that adopted the Unified Development Code, an application for a development permit that was submitted but not yet approved on the effective date of this ordinance, whether or not it has been deemed or determined complete, will be processed pursuant to the procedures as amended by this ordinance.
- Section 4. Per RCW 36.70B.080(1)(k), this ordinance is not subject to appeal under RCW Chapter 36.70A.
- Section 5. The City Council finds it has adopted three of the options in RCW 36.70B.160(1) as follows:
- (1) The City has budgeted, and will continue to budget, for on-call permitting assistance for when permit volumes or staffing levels change rapidly, consistent with RCW 36.70B.160(1)(d);
 - (2) The City has, through adoption of this ordinance, adopted development regulations that make housing types an outright permitted use in all zones where the housing type is permitted, consistent with RCW 36.70B.160(1)(h);
 - (3) The City has, through adoption this ordinance, adopted a procedure to offer a meeting with the applicant to attempt to resolve outstanding issues during the review process, consistent with RCW 36.70B.160(1)(j).

FEE REFUNDS & EXEMPTION MEASURES, CONT.

Measure #2 from RCW 36.70B.160 list

- (l)(h) Adopt development regulations that make housing types an outright permitted use in all zones where the housing type is permitted

19.43.020 Single-family.

This section was recently renumbered by Ordinance 4086, codified in September 2024.

A. *Definition.* A detached dwelling that is entirely surrounded by open space on the same lot, and which is designed for and occupied exclusively by one family and the household employees of the family, if any.

B. District-Specific Standards.

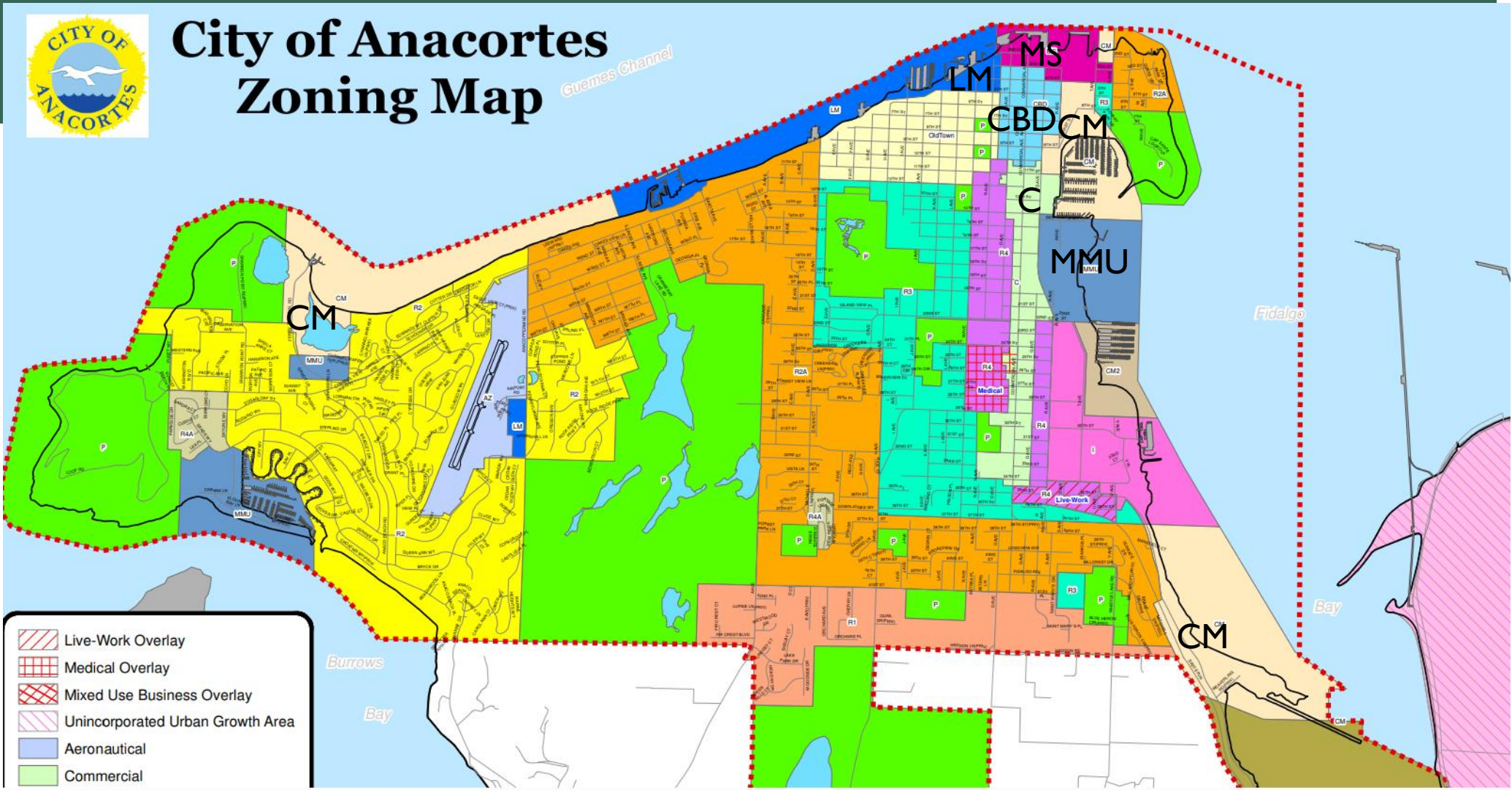
- In the CBD and C zones, no new single-family residences may be constructed. ~~Single-family uses are conditionally permitted in these zones if in an existing building that was a single-family residence at some time in its past.~~
- In the LM1 zone, single-family uses are permitted only for existing platted lots. In no event will this allow a residential subdivision.

Table 19.41.050

Principal uses permitted in mixed-use and industrial zones.

Principle Use	CBD	C	MMU	CM	CM2	LM	LM1	MS	I	HM	Reference
[No change to intervening rows]											
Single-family	e ^(x)	e ^(x)				e	p ^(x)				AMC 19.43.010(B) 020 ^(x) AMC 19.43.010(B)(2)
[No change to intervening rows]											
Multifamily dwellings, 4 or more units	P	P ^(x)	P ^(x)	e ^(x) P		e		e ^(x) P ^(x)			AMC 19.43.080
Live-work	P	P	P					e			
[No change to intervening rows]											
Adult family home	P ^(x)	P ^(x)	P	P		P ^(x)	P				AMC 19.43.120
[No change to remainder of table]											

ZONES City of Anacortes Zoning Map



FEE REFUNDS & EXEMPTION MEASURES, CONT.

Measure #3 from RCW 36.70B.160 list

- (l)(j) Adopt a procedure to offer a meeting with the applicant to attempt to resolve outstanding issues during the review process

19.20.130 Application—Department review.

A. – C. [No change.]

i The new subsection below is based on RCW 36.70B.160(1)(j), which creates the process described.

D. Requests for additional information or corrections.

1. If the Department twice requests additional information or corrections during application review, the Department must offer the applicant a meeting with Department staff to resolve outstanding issues. The meeting must be scheduled within 14 days of the second request for corrections.
2. If the meeting cannot resolve the issues and the Department requests additional information or corrections a third time, upon receiving the additional information or corrections the Department must forward the application to the next step in the review process, i.e., the recommending body or decisionmaker for decision on the application.
3. Nothing in this section affects the timelines for application expiration in AMC 19.20.110.E.

PERFORMANCE REPORTS

SB 5290 Requires Reporting On:

- Number of decisions for certain permit types
- Counts and average performance metrics for review of those permit types
- Applies only to buildable lands counties and their cities over 20,000 population

Proposed amendments require the PCED Department to:

- Starting Jan. 1, 2025, track compliance with review time periods
- Starting January 1, 2026, report compliance to City Council

OTHER NOTABLE CHANGES

- Allow the Director to waive preapplication neighborhood meeting requirement (under certain circumstances)
- Provide authority to expire permit applications
 - Applicant has 90 days to respond to request for additional information
 - No response = Director may expire the application
 - One or more 90-day extensions (not to exceed 3)
- Changes necessary to comply with state law on adult family homes



REVIEW PROCESS

- The Council Planning Committee drafted the recommended amendments
- PCED sent proposed amendments to Commerce for state review; no comments received
- Director issued a SEPA DNS on 11/13/24
 - Amendments will not have a probable significant adverse impact on the environment; EIS is not required
 - DNS threshold determination was appealed; appeals are heard by Hearing Examiner through a separate process
 - Appeal does not interfere with PC holding a public hearing or making a recommendation to City Council
- AMC 19.16 provides process for PC review and consideration of legislative actions
 - Public hearing
 - Deliberations
 - Recommendation to city council

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- Questions?
 - Public Hearing
 - Recommendation