



Anacortes City Council
Municipal Building Council Chambers
904 6th Street

March 9, 2026
6:00 PM

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

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Announcements and Committee Reports**
 - a. Information Technology and ACCESS Anacortes Fiber Internet Committee (Report)
 - b. Housing Affordability and Community Services and Planning (Report)
 - c. Public Safety Committee (Report)
4. **Public Comment**
 - a. [Participation Rules and Procedures](#)
 - b. Written Public Comment
5. **Consent Agenda**
 - a. Minutes of March 2, 2026 (Action)
 - b. Approval of claims in the amount of \$550,452.03 (Action)
6. **Public Hearings**
 - a. 2026 Community Development Block Grant Annual Action Plan (Presentation)
7. **Other Business**
 - a. Ordinance 4092: AMC Title 19 Permit Review Time Periods* (Discussion), (First Read)
 - b. Ordinance 5025: Amending AMC 6.16.040 - Dangerous Animals Exemption* (Discussion), (First Read)
 - c. Interlocal Agreement 26-104-EXE-001 with Skagit County for the Skagit STAR Center Funding (Discussion/Action)
 - d. Contract Award: Fire Station 1 Remodel Project #25-035-AFD-002 (Discussion/Action)
8. **Executive Session**
 - a. Potential Litigation or Litigation per [RCW 42.30.110\(1\)\(i\)](#) (20 minutes) (Discussion)
9. **Adjournment**

- Meetings may be viewed on the [City of Anacortes website](#), on the City of Anacortes [YouTube Channel](#), or on [TV Channel 10](#)
- The public may also watch, listen to, or participate in the meeting live by visiting <https://us02web.zoom.us/j/89255646791> or by telephoning 1-253-215-8782 and entering Meeting ID 892 5564 6791.
- The public is encouraged to comment via email to cityclerk@anacorteswa.gov or via written comment addressed to City Clerk, P.O. Box 547, Anacortes, WA 98221. Public comments received by the City Clerk prior to 3:00 p.m. the day of the meeting will become part of the record for the meeting, just as if presented in person.
- Complete guidelines for virtual participation in Anacortes City Council meetings are available [here](#). View the quick video example for connecting to the meeting [here](#).
- 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.



March 9, 2026

City Council Meeting

Conversation with the Mayor

Tuesday, March 10

1:00-2:00pm

Anacortes Senior Activity Center

Join Mayor Walters for an informal conversation – ask questions, hear about City projects, and provide your feedback on what issues matter most to our community.



Parks and Recreation Open House

Tuesday, March 10

6:00pm

Anacortes Senior Activity Center

The community is invited to join Parks and Recreation staff to learn more about projects, ask questions, share your feedback and learn about funding sources



Anacortes Senior Activity Center

St. Patrick's Day Luncheon: Tuesday, March 17, 11AM-1PM.

\$5 suggested donation for 60+. Enjoy St. Patty's Casserole, Irish Soda Muffins, and lively entertainment.

Recreational Ukelele Class for Beginners

Fridays, April 3-June 12, 2:40-3:40PM

\$5 suggested donation—email zuke.uke@gmail.com to register.

Aging Mastery Program

Wednesdays, April 15 – June 3, 4:00 – 5:30. Cost is \$40 (scholarships available). Expert speakers, group discussions, and goal setting combine to help you make small meaningful changes.

For a full list of programs: www.anacorteswa.gov/556



Spring Parks and Recreation

Youth Track and Field starts April 20

Registration now open

Egg Dash at Storvik Park: April 3rd, 6:00pm at Storvik Park

For a full list of programs: www.anacorteswa.gov/490





**want
project
info?**

anacorteswa.gov/projects

State of the City Address

April 6, 2026

All-Department Q1 Update Work Session

April 13, 2026



Committee Reports

- Information Technology and Access Fiber
- Housing Affordability and Community Services
- Planning
- Public Safety





Anacortes City Council

Municipal Building Council Chambers
904 Sixth Street

March 9, 2026
6:00 p.m.

PUBLIC COMMENT SIGN IN SHEET

Per Resolution 3188, citizens wishing to comment on items not on the agenda may do so on any matter specifically pertaining to the City of Anacortes under the Public Comment portion of the agenda. Citizens wishing to comment on agenda items indicated with an asterisk (*) may do so as those items are considered by Council during the course of the meeting. Citizens wishing to speak will please sign in at the back of the Council Chambers prior to the start of the meeting. The Mayor may limit comments to those who have signed in and may limit the time allotted to each speaker to facilitate the orderly progress of the meeting. These rules are intended to promote an orderly system of holding a public hearing or meeting, to give every person who wishes to speak an opportunity to be heard, and to ensure that no individual is embarrassed by exercising his or her right to free speech.

Please print your name legibly so we can recognize you correctly in the minutes. Thank you!

Name

Topic

Susan Hill

Interlocal Agreement. North Star

Continue on back of sheet as needed

From: [Julie Kinder](#)
To: [CityClerk](#)
Subject: Public comment for City Council meeting on March 9, 2026
Date: Sunday, March 8, 2026 8:28:12 PM

**** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. ****

RE. Draft Anacortes Community Forest Lands Plan

For the February 23rd City Council meeting, I provided brief and specific recommendations to clarify and strengthen language in the Plan regarding the use of electric motor-driven motorcycles and e-bikes in the ACFL.

Today at the Little Cranberry Lake parking lot, I had a pleasant conversation with a polite youngster about his use of an e-bike with a throttle on the forest trails. He had passed me earlier as I walked along a trail in the forest. Our conversation emphasized to me the importance of making the Plan clear and comprehensive when it comes to the various kinds of electric-powered cycles that have become common in the ACFL.

It was evident from our conversation that this young trail user had seen and considered the trail signage indicating where bicycles are allowed in the forest. However, he wasn't aware that a Class 2 e-bike (i.e. equipped with a throttle) is subject to the same seasonal restrictions as motorcycles, or that the only e-bikes allowed year-round on trails are Class 1 (i.e. pedal assist only). He wasn't aware of the seasonal restriction, or that it applied to his bicycle. We had a good chat and he understood the rationale behind limiting usage through March -- we all experienced the mud on the trails today, and see how trails get "torn up" (his words). He asked if it was OK to ride his bike home through the forest, and go back the way he had come. My suggestion was that he use pedal-assist only to get home; no throttle. And follow the seasonal restriction through March 31st. He took off towards home with no throttle. (I also suggested he wear a helmet. But that's a different topic.)

I participated in the Forest Advisory Board's public comment opportunities as the Draft Plan was being written, and agree it is a big step forward from the previous version. I generally support the Draft as written, but noticed on re-reading it that a few specific sections related to electric motorcycles and e-bikes need improvement and emphasis to reflect conditions observed this winter. That is why I have submitted additional comments while the Plan is under City Council review.

Respectfully submitted by
Julie Kinder
Anacortes resident

Anacortes City Council Minutes - March 2, 2026

Call to Order

Mayor Ryan Walters called to order the March 2, 2026, Anacortes City Council meeting at 6:02 p.m. Councilmembers Marcia Hunt, Luke Currier, Anthony Young, Christine Cleland-McGrath, Carolyn Moulton, Bruce McDougall and TJ Fantini were present.

Pledge of Allegiance

The assembly joined in the Pledge of Allegiance.

Announcements and Committee Reports

Mayor Walters announced that this Friday, March 6th, is "Dress in Blue Day" in observance of Colorectal Cancer Awareness Month, that there would be a Parks and Recreation Open House at 6pm on March 10th at the Senior Activity Center, and that [project information](#) can be found on the city's website.

Finance Committee

Ms. Hunt reported from the Finance Committee meeting held February 26th. The topics discussed included a preview of the budget and capital facilities amendments coming up on tonight's agenda and possible courses of action the council could take and January revenue figures for retail sales tax, utility tax, and real estate excise tax. The committee also discussed the near-term schedule for the Tyler enterprise resource planning software implementation, enhanced reporting tools to provide departments with intuitive means of monitoring expenditures versus budget, procedures for councilmembers to question individual expenditures on the voucher list, and that the committee would continue to meet the second and fourth Thursday of each month.

Public Works Committee

Mr. Fantini reported from the Public Works Committee meeting held earlier in the evening. The topics discussed included a presentation on the alternatives' analysis for the Wastewater Treatment Plant that will come before the council, after which a form will be provided to the council to provide goals and aspirations for the plant moving forward that would inform a council work session on that topic to be held within the next month.

Mr. Young mentioned that he, Mr. Currier and Mr. Fantini attended the Economic Development Alliance of Skagit County Economic Forum, where they received a presentation on the regional economic outlook.

Mayor Walters added that on April 6th he would provide the State of the City address prior to the regular meeting and on April 13th the council would have a work session where each department director will provide an update on work over the last quarter and plans for the coming year.

Public Comment

Mayor Walters invited the public to comment on any item not on the agenda.

Public comment was given as follows:

Linda Martin of Ward 3 in Anacortes asked about liability related to a homeowners' association making sidewalk repairs independent of the city.

Consent Agenda

Mr. Fantini removed Item 5.f., Contract Award: 2026 Anacortes Community Action Office & Care Specialist #26-096-PLN-001, from the Consent Agenda.

Mr. McDougall moved, seconded by Mr. Young, to approve the following Consent Agenda items. The motion

carried unanimously by voice vote.

a. Minutes of February 23, 2026

b. Approval of claims in the amount of \$364,503.75

The following vouchers/checks were approved for payment:

EFT numbers: 114969 through 115002, total \$245,294.83

Check numbers: 115003 through 115022, total \$118,666.31

Wire transfer numbers: 385026 & 385051, total \$542.61

c. Special Event: Anacortes Waterfront Festival Car Shows

d. Contract Award: Fiber Network Infill Project #26-105-FBR-001

e. Contract Award: Downtown Anacortes Alliance 2026 Downtown Beautification and Main Street Support #26-095-PLN-001

g. Contract Award: EvidenceOnQ - Evidence Management Software Subscription #25-266-APD-001

h. Special Event: Open Streets

i. Special Event: Uncorked

Contract Award: 2026 Anacortes Community Action Office & Care Specialist #26-096-PLN-001

Mr. Fantini asked about the expected duration of funding related to the Office and Care Specialist position.

Mayor Walters responded that it was not intended to be temporary, but that it is only ever a one-year agreement.

Mr. Young added that this funding is related to the organization having an office in Anacortes to better serve the community. Ms. Moulton remarked that the contract requires the Community Action staff to come before the council to report on what un-duplicated services they are providing to the community that increases accessibility and awareness of available programs to the local community. City Attorney Darcy Swetnam added that it was a pilot program that commenced in 2023.

Mr. Fantini moved, seconded by Mr. Young, to approve the 2026 Anacortes Community Action Office & Care Specialist #26-096-PLN-001. The motion carried unanimously by voice vote.

Other Business

Interlocal Agreement 26-092-PRK-001 with Port of Anacortes for the 4th of July Fireworks Display Contribution

Parks and Recreation Director Jonn Lunsford introduced the proposed interlocal agreement 26-092-PRK-001 with the Port of Anacortes for the 4th of July fireworks display, referring to a slide presentation that was added to the packet materials for the meeting. Mayor Walters added that the Parks Foundation will accept donations for the event.

Anthony Young moved, seconded by TJ Fantini, to authorize the mayor to execute interlocal agreement 26-092-PRK-001 with the Port of Anacortes. The motion carried unanimously by voice vote.

Interlocal Agreement 26-109-APD-001 with Port of Anacortes for the Police Vessel Moorage

Police Chief Dave Floyd introduced proposed interlocal agreement 26-109-APD-001 with the Port of Anacortes for police vessel moorage, remarking that the agreement is structured like the Fire Department boat moorage agreement with the port. He added that the port would benefit from increased public safety presence at the marina and consultations between police officers and port staff on how to more safely interact with individuals at the facility. He added that electricity costs are approximately \$15 per month, and that the slip will be available once a derelict boat has been moved within the next week.

Bruce McDougall moved, seconded by Carolyn Moulton, to authorize the mayor to execute interlocal 26-109-APD-001 with the Port of Anacortes. The motion carried unanimously by voice vote.

Ordinance 5023: First Quarter Budget Amendment & Ordinance 5024: Amending the Capital Facilities Plan

Finance Director Steve Hoglund introduced Ordinance 5023 that would enact a first quarter budget amendment and Ordinance 5024 that would add several projects to the 2026 Capital Facilities Plan (CFP) that were started in 2025 and are not yet complete, referring to a slide presentations that were included in the packet materials for the meeting and a real estate excise tax (REET) projection slide that was added to the packet materials for the meeting. The projects included pedestrian crossings on Q Avenue between 11th Street and 13th Street, the Tommy Thompson Trail and T Avenue, 32nd Street at Storvik Park, and D Avenue and 23rd Street. The budget amendment would also provide a separate line item for tracking in-house equipment repairs due to a higher insurance deductible for 2026. He added that there is a two-week comment period requirement with a public hearing scheduled for the regular March 16th meeting for these amendments.

Discussion topics included:

- The components of REET.
- Real estate market conditions and impact on REET revenues.
- Change from real estate excise tax to grant funding for the 32nd Street at Storvik Park crossing project.
- The 2025 REET for these projects was put back into the fund for 2026, and the council must approve the rollover.
- New CFP software will allow staff and the council to plan more effectively for the future.
- The city does not currently have adequate funding for the South Commercial Avenue project even with state grant funding.
- The public can submit comments on the proposed amendment via the [city website](#).
- The CFP can only be amended with a public comment period.
- South Commercial Avenue should be the first project to be considered.
- A need to understand the priorities of the new mayor and public works director at the next public works committee meeting.
- REET budget deficits are a projection and will be adjusted if necessary.
- The budget situation allows the council to reconsider priorities and find innovative ideas for positive change.
- Council options for changing the amended budget amount or the capital facilities plan.
- Grant funds timing and their effect on long term planning and budgeting.

Mayor Walters invited members of the audience to comment on this agenda item. No one present wished to address the Council.

Contract Award: Pedestrian Crossing Improvements #25-087-TRN-002

Public Works Director Logan Lee introduced proposed contract #25-087-TRN-002 with E & E Contracting to perform the new pedestrian crossing improvements project at T Avenue and Tommy Thompson Trail and D Avenue and 23rd Street, referring to a slide presentation that was added to the packet materials for the meeting.

Discussion topics included:

- Example of responsible infrastructure spending.
- Under the engineer's estimate.

Carolyn Moulton moved, seconded by TJ Fantini, to authorize the mayor to sign contract 25-087-TRN-002 with E&E Contracting. The motion carried unanimously by voice vote.

Contract Award: Q Avenue Pedestrian Crossings #24-018-TRN-002

Anacortes City Council Minutes - March 2, 2026

Public Works Director Logan Lee introduced proposed contract #24-018-TRN-002 with Earthwork Solutions, LLC to perform the Q Avenue Pedestrian Crossings, referring to a slide presentation that was added to the packet materials for the meeting.

Discussion topics included:

- There will be a direct connection of the crosswalk at the 12th Street exit from Safeway to the Tommy Thompson trail for bicycles and pedestrians.

TJ Fantini moved, seconded by Luke Currier, to authorize the mayor to execute contract 24-018-TRN-002 with Earthwork Solutions. The motion carried unanimously by voice vote.

Adjournment

There being no further business, at approximately 7:06 pm the Anacortes City Council meeting of March 2, 2026, was adjourned.

The following claims against the City of Anacortes have been preaudited and certified by the Clerk-Treasurer as ready for City Council approval at the March 9, 2026 City Council meeting:
[Download this file in OpenDocument spreadsheet format.](#)

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
385283	10/28/2025	507950843	MIDWEST TAPE, LLC.	DVDS FOR LIBRARY	\$ 162.59	publib
385284	11/4/2025	507981052	MIDWEST TAPE, LLC.	DVDS FOR LIBRARY	\$ 144.96	publib
385495	11/18/2025	3264	CASTUS CORPORATION	CHANNEL 10 ENCODER SUPPORT & HARDWARE MAINTENANCE	\$ 1,305.60	finance
385285	12/1/2025	508107870	MIDWEST TAPE, LLC.	DVDS FOR LIBRARY	\$ 57.96	publib
385521	12/15/2025	RE 41 JZ2374 L015	WASHINGTON STATE DEPARTMENT	REVIEW OF 12TH AND COMMERCIAL PROJECT - SR20 MP51 92	\$ 1,301.04	pw1
385286	12/17/2025	508181544	MIDWEST TAPE, LLC.	DVDS FOR LIBRARY	\$ 8.53	publib
385509	12/31/2025	154-2025-0358	INTEGRA REALTY RESOURCES	CITY ASSET APPRAISAL - DNR LEASE AREAS	\$ 20,000.00	plan
385496	12/31/2025	Pay App 7	FABER CONSTRUCTION CORP	SEWER PUMP STATION NO. 16 UPGRADE	\$ 33,728.00	pw1
385516	1/14/2026	TSSIN00101586	TECHNICAL SAFETY SERVICES LLC	WWTP ANNUAL BALANCE & FUME HOOD CALIBRATION & TESTING 2026	\$ 914.15	dwwtp
385492	1/16/2026	508319643	MIDWEST TAPE, LLC.	DVDS FOR LIBRARY	\$ 58.78	publib
385512	1/20/2026	RE 41 JZ2216 L011	WASHINGTON STATE DEPARTMENT	REVIEW OF COMMERCIAL AVE ENHANCEMENT PROJECT - SR20 MP50 59-51 87	\$ 471.99	pw1
385501	1/20/2026	RE 41 JZ2374 L016	WASHINGTON STATE DEPARTMENT	REVIEW OF 12TH AND COMMERCIAL PROJECT - SR20 MP51 92	\$ 1,019.29	pw1
385491	1/30/2026	508380873	MIDWEST TAPE, LLC.	DVDS FOR LIBRARY	\$ 46.66	publib
385503	2/4/2026	22240	HOW IT WORKS, INC	ACFL TRAIL MAPS FOR RESALE	\$ 1,879.50	parks1
385432	2/4/2026	65022	SKAGIT PUBLISHING LLC	PUBLISH AA-711472	\$ 44.66	finance
385436	2/4/2026	65024	SKAGIT PUBLISHING LLC	PUBLISH AA-713084	\$ 52.78	pw1
385437	2/4/2026	65025	SKAGIT PUBLISHING LLC	PUBLISH AA-713095	\$ 56.84	medic
385502	2/11/2026	8498 30 017 0464628	COMCAST	WA PARK SHOP INTERNET	\$ 113.16	parks1
385507	2/11/2026	ReimbMitchell	MITCHELL, NICHOLA	PARKS STAFF BOOTS-N MITCHELL	\$ 215.00	parks1
385519	2/16/2026	003	SUMMIT CONSTRUCTION GROUP INC	WWTP ADMINISTRATION BUILDING ADDITION - CONSTRUCTION	\$ 57,392.00	pw1
385282	2/18/2026	508458526	MIDWEST TAPE, LLC.	DVDS FOR LIBRARY	\$ 91.25	publib

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
385196	2/19/2026	1-130	QCC QUALITY CONTROLS CORP.	WWTP 2026 ON-CALL TECHNICAL SUPPORT & INTEGRATION SERVICES	\$ 590.00	dwwtp
385421	2/19/2026	135445	VECA ELECTRIC & TECHNOLOGIES	UNIT-PRICED ELECTRICAL SERVICES - WTP SUMP PUMP MOTOR WIRING MODIFICATION	\$ 3,942.11	pw1
385287	2/19/2026	287334328849X0227202	AT&T MOBILITY, LLC	City Cell Phones 1/20-2/19/26	\$ 4,301.53	finance
385289	2/19/2026	287334328875X0227202	AT&T MOBILITY, LLC	City Cell Phones 1/20-2/19/26	\$ 7,015.61	finance
385202	2/20/2026	135470	VECA ELECTRIC & TECHNOLOGIES	UNIT-PRICED ELECTRICAL SERVICES - TROUBLESHOOT HEAT TRACE AT WWTP	\$ 908.93	pw1
385199	2/20/2026	135473	VECA ELECTRIC & TECHNOLOGIES	UNIT-PRICED ELECTRICAL SERVICES - GENERATOR RECEPTACLE INSTALL	\$ 1,784.30	dwtp
385203	2/20/2026	INV00968775	USA BLUE BOOK	DO METER - PROSOLO PLUS PROBE KIT AND	\$ 2,291.41	dwwtp
385513	2/21/2026	00181281	OMEGA MEDICAL MECHTRONICS	2026 WWTP AUTOCLAVE/GLASSWARE WASHER REPAIR	\$ 482.45	dwwtp
385515	2/21/2026	00181282	OMEGA MEDICAL MECHTRONICS	2026 WWTP AUTOCLAVE TROUBLESHOOTING	\$ 475.46	dwwtp
385290	2/23/2026	2004814	POLYDYNE, INC	MAINTENANCE SUPPLIES	\$ 3,753.60	dwwtp
385427	2/23/2026	20417	WILSON ENGINEERING, LLC	WWTP PUMP STATION 16 RECONSTRUCTION - DESIGN - THROUGH 2/20/26	\$ 7,014.00	pw1
385424	2/23/2026	5052	SKAGIT 911	Q4 2025: SPILLMAN/FIRE MOBILE FEES	\$ 978.55	medic
385418	2/23/2026	6560723214	VESTIS SERVICES LLC	LAUNDRY SERVICE FOR WWTP	\$ 41.91	dwwtp
385484	2/23/2026	9816849229	GRAINGER	WASHERS AND HEX NUTS	\$ 120.93	dwwtp
385425	2/24/2026	2071980	LIFE ASSIST, INC	EMERGENCY CRICOTHYROTOMY KIT, 5.5MM	\$ 126.97	medic
385490	2/24/2026	508487267	MIDWEST TAPE, LLC.	DVDS FOR LIBRARY COLLECTION	\$ 57.15	publib
385498	2/24/2026	Pay App 8	FABER CONSTRUCTION CORP	SEWER PUMP STATION NO. 16 UPGRADE	\$ 64,831.88	pw1
385195	2/24/2026	PS-INV116741	PORT OF ANACORTES	EVENT FACILITY PROJECT - DESIGN & CONSTRUCTION	\$ 17,138.88	plan
385197	2/25/2026	1280	BE ENTERPRISES LLC	PUBLIC RESTROOM MAINTENANCE	\$ 1,170.40	plan
385445	2/25/2026	393849b	BAY CITY SUPPLY	STATION SUPPLIES	\$ 257.98	medic
385483	2/25/2026	9820765353	GRAINGER	MAINTENANCE SUPPLIES	\$ 53.29	dwwtp

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
385198	2/25/2026	CDBG-2025-PLN-3-124	ANACORTES FAMILY CENTER	FIRE ALARM SYSTEM REPAIR AFC EMERGENCY SHELTER-CDBG	\$ 8,972.00	plan
385201	2/25/2026	CDBG-2025-PLN-4-122	ANACORTES FAMILY CENTER	PUBLIC SERVICE PROGRAMS BY AFC. 2025 CDBG FUNDING	\$ 16,264.00	plan
385478	2/25/2026	INV00972851	USA BLUE BOOK	LAB SUPPLIES	\$ 105.21	dwwtp
385342	2/25/2026	WAANA166443	FASTENAL COMPANY	WATER MAINTENANCE- FALL PROTECTION	\$ 3,146.45	dwwtp
385518	2/26/2026	00182496	OMEGA MEDICAL MECHTRONICS	TROUBLESHOOT WWTP AUTOCLAVE & GLASSWARE WASHER	\$ 1,092.08	dwwtp
385486	2/26/2026	1100005482	EUROFINS ENVIRONMENT TESTING	LAB TESTING - INFLUENT MONTHLY	\$ 45.00	dwwtp
385487	2/26/2026	1100005483	EUROFINS ENVIRONMENT TESTING	LAB TESTING - EFFLUENT NUTRIENTS MONTHLY	\$ 110.00	dwwtp
385488	2/26/2026	1100005484	EUROFINS ENVIRONMENT TESTING	LAB TESTING - SIDESTREAM MONTHLY	\$ 45.00	dwwtp
385591	2/26/2026	11066978	NAVIA BENEFIT SOLUTIONS, INC	FEBRUARY FLEXIBLE SPENDING PARTICIPANT FEE	\$ 159.10	hr
385467	2/26/2026	18325405	DICK'S TOWING, INC	TOWING; MH APD CASE 26-A00908	\$ 742.56	apd
385430	2/26/2026	2940001	CENTRAL WELDING SUPPLY CO, INC	O2 FOR AMBULANCES	\$ 119.50	medic
385469	2/26/2026	6560725407	VESTIS SERVICES LLC	APD NYLON MATS CLEANED	\$ 16.32	apd
385420	2/26/2026	6560725412	VESTIS SERVICES LLC	OPS & PARKS LAUNDRY SERVICE	\$ 80.46	dshop
385440	2/26/2026	6560725413	VESTIS SERVICES LLC	OPS MAT CLEANING	\$ 62.34	dshop
385341	2/26/2026	90362873	CHEMTRADE CHEMICALS US LLC	ALUMINUM SULFATE PO 26-119	\$ 7,722.65	dwwtp
385511	2/26/2026	ESO-192267	ESO SOLUTIONS, INC	ESO ACTIVITIES MODULE - 5/10/26-5/9/27	\$ 938.33	medic
385505	2/26/2026	IN967664	NOANET	OSP ENGINEERING SUPPORT - FEBRUARY 2026	\$ 405.00	fiber
385435	2/27/2026	2026-08	PRECISION TREE SERVICE, INC	SERVICE FOR STREET DEPT	\$ 2,176.00	dshop
385337	2/27/2026	25-118-WTR-0011	A-1 MOBILE LOCK AND KEY, INC.	RETAINAGE RELEASE	\$ 1,213.00	pw1
385340	2/27/2026	25-164-SEW-0011	TRACY CONSTRUCTION	RETAINAGE RELEASE	\$ 2,215.88	pw1
385433	2/27/2026	385433	ZUMAR INDUSTRIES, INC.	SUPPLIES FOR STREET DEPT	\$ 178.19	dshop
385589	2/27/2026	5321101301	CINTAS CORPORATION	FIRST AID SUPPLIES - VARIOUS DEPTS	\$ 237.91	hr
385508	2/27/2026	GCI0019481	CODE PUBLISHING, LLC	CODIFICATION SERVICES	\$ 4,027.50	legal
385514	2/27/2026	P2381-NT-5	QCC QUALITY CONTROLS CORP.	WWTP DREAM REPORTS SOFTWARE LICENSE & INTEGRATION	\$ 9,861.00	dwwtp

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
385423	2/28/2026	0226	NELSON, BONNIE	AGING MASTERY PROGRAM ADMINISTRATION - FEBRUARY 2026	\$ 465.00	pkrec
385590	2/28/2026	23939	HOME INSTEAD	HOME SERVICES - LEOFF 1 RETIREE. RICHARD COUSINS	\$ 900.00	hr
385472	2/28/2026	360-293-4900-0912865	ZIPLY FIBER	APD BAC LINE 2/28-3/27/26	\$ 107.14	apd
385473	2/28/2026	360-299-0973-1017915	ZIPLY FIBER	LAND LINE FOR WWTP 2/28-3/27/26	\$ 551.69	dwwtp
385464	2/28/2026	360-299-2484-0726025	ZIPLY FIBER	LIBRARY PHONE 2/28-3/27/2026	\$ 75.31	publib
385438	2/28/2026	360-299-3674-0214175	ZIPLY FIBER	OPS PHONE LINE: 2/28-3/27/26	\$ 91.15	dshop
385474	2/28/2026	360-299-6615-0615165	ZIPLY FIBER	APD 911 LINE 2/28/26-3/27/26	\$ 96.99	apd
385593	2/28/2026	47931	ORCA INFORMATION, INC	BACKGROUND INVESTIGATIONS	\$ 57.66	hr
385457	2/28/2026	6020126	UTILITIES UNDERGROUND LOCATION	FEBRUARY LOCATE TICKETS	\$ 179.40	dshop
385449	2/28/2026	CL06285	NELSON-REISNER DISTRIBUTOR INC	VEHICLE FUEL - FEBRUARY	\$ 27,987.53	finance
385504	2/28/2026	IN968007	NOANET	DEDICATED INTERNET ACCESS - FEBRUARY 2026	\$ 4,310.00	fiber
385465	3/1/2026	1287	BE ENTERPRISES LLC	2026 JANITORIAL SERVICES - FEBRUARY 2026	\$ 9,522.25	pw1
385500	3/1/2026	153167	VENTEK INTERNATIONAL	WA PARK PAYSTATION MONITORING	\$ 293.76	parks1
385431	3/1/2026	3791	OAB ENGINEERING, LLC	STA 3 DATA SERVICES: MARCH	\$ 150.00	medic
385387	3/1/2026	5072854304	RICOH USA, INC	S/N C86111493 COURT 12/1-2/28/26	\$ 182.66	finance
385426	3/1/2026	CD_001367830	RINGCENTRAL INC	RINGCENTRAL VOIP SOFTWARE TELEPHONE SYSTEM - 2/28/26 - 3/27/26	\$ 4,510.78	infosys
385444	3/2/2026	360-293-6427-0218975	ZIPLY FIBER	CITY HALL 911 2/28-3/27/26	\$ 99.52	finance
385450	3/2/2026	4245	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 20.00	pubdef
385451	3/2/2026	4246	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 60.00	pubdef
385452	3/2/2026	4247	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 30.00	pubdef
385453	3/2/2026	4248	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 60.00	pubdef
385454	3/2/2026	4249	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 60.00	pubdef
385456	3/2/2026	4250	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 170.00	pubdef
385458	3/2/2026	4251	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 130.00	pubdef
385459	3/2/2026	4252	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 100.00	pubdef
385461	3/2/2026	4253	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 10.00	pubdef

Invoice Doc #	Invoice Date	Invoice #	Vendor Full Name	Description	Total Amount	Approval Queue
385462	3/2/2026	4254	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 90.00	pubdef
385463	3/2/2026	4255	LAW OFFICE OF CARA LORENZO	PUB DEFENSE CONFLICT	\$ 120.00	pubdef
385517	3/2/2026	55272	MT BAKER OVERHEAD DOORS INC	OPS GARAGE DOOR PANEL REPLACEMENT & CABLE REPAIR	\$ 1,071.68	pw1
385442	3/2/2026	98552	APS INC.	POSTBASE INKJET CARTRIDGE & POSTAGE MACHINE LABELS	\$ 710.46	finance
385419	3/2/2026	FEB 26	THE LAW OFFICE OF	PROS ATTY SERVICES- FEB	\$ 12,500.00	attorney
385471	3/2/2026	I2604345	WASHINGTON STATE PATROL	BACKGROUND CHECKS; FEBRUARY 2026	\$ 72.00	apd
385470	3/3/2026	0000012913	ANACORTES SCHOOL DISTRICT #103	JOINT USE AGREEMENT FOR FACILITIES - MARCH/APRIL 2026	\$ 7,000.00	pkrec
385446	3/3/2026	001	PHIPPS, CODY	SRA TRAINING - WRKFCE DEVL P GRANT	\$ 250.00	pkrec
385493	3/3/2026	03188	SKAGIT COUNTY SHERIFF'S OFFICE	FEBRUARY JAIL TAX PAYMENT PER CONTRACT	\$ 105,305.78	finance
385506	3/3/2026	064215	REECE, STORMIE	FEBRUARY 2026 DEPOT JANITORIAL	\$ 1,540.00	parks1
385447	3/3/2026	1078303	BAYSHORE OFFICE PRODUCTS INC	EXECUTIVE SUPPLIES	\$ 29.17	executive
385475	3/3/2026	1580	SKAGIT SHOOTING RANGE, LLC	USE OF CLASSROOM AND TRAINING: FULL DAY RANGE	\$ 625.03	apd
385520	3/3/2026	1874771	WALTON BEVERAGE COMPANY, INC	CITY HALL BREAK ROOM SUPPLIES	\$ 1,065.00	finance
385476	3/3/2026	21-043-FIN-001	ANACORTES FAMILY CENTER	FEBRUARY AFFORDABLE HOUSING TAX PAYMENT	\$ 33,320.60	finance
385477	3/3/2026	21-247-FIN-001	ANACORTES HOUSING AUTHORITY	FEBRUARY AFFORDABLE HOUSING TAX PAYMENT	\$ 33,320.60	finance
385480	3/3/2026	25-163-STM-0011	FISHER CONSTRUCTION GROUP INC	RETAINAGE RELEASE 25-163-STM-001	\$ 648.79	pw1
385482	3/3/2026	25-173-FAC-0011	BLYTHE MECHANICAL, INC	RETAINAGE RELEASE 25-173-FAC-001	\$ 1,231.90	pw1
385494	3/3/2026	55294430	LINDE GAS & EQUIPMENT INC.	CYLINDER RENTAL	\$ 417.39	dwwtp
385455	3/3/2026	8498 30 017 0319913	COMCAST	LIBRARY INTERNET ACCESS 2/9-3/8/26	\$ 185.23	finance
385466	3/4/2026	1286	BE ENTERPRISES LLC	2026 WTP JANITORIAL SERVICES - FEBRUARY 2026	\$ 1,120.00	pw1
385588	3/4/2026	2026-02	GDIXONLAW	PUB DEFENSE CONFLICT	\$ 3,270.00	pubdef
	Total				\$ 550,452.03	



City Council Agenda Bill

March 9, 2026

Action Type: Public Hearing

Item: 6.a.

Title: 2026 Community Development Block Grant Annual Action Plan

Staff Contact(s): Stephanie Snyder, John Coleman

Approved for Submittal to Council by:

Stephanie Snyder
John Coleman

Summary: First of two public hearings. This will include a presentation update of the city's current Community Development Block Grant (CDBG) status, a review of all applications received for the next grant cycle, and staff recommendations of the 2026 Action Plan. The Public Comment period will be held from March 16th until April 23rd. The second and final Public Hearing will be scheduled on April 27th, 2026, with the Council having the option to approve the 2026 Annual Action Plan at that same meeting. The final draft of the 2026 CDBG Annual Action Plan must be Council approved and submitted to HUD on or before May 15, 2026.

Budget Impact:

The city anticipates the CDBG allocation to Anacortes will be approximately \$108,000. Exact amount will be determined by HUD on April 3, 2026.

Previous Action: The [2025 CDBG Grant Action Plan](#) was approved by Council at the [April 21, 2025, regular meeting](#) and later by the US Department of Housing and Urban Development.

Recommended Motion: No motion is required at this presentation.

Alternative Actions: No alternative actions are necessary.

Attachments (listed in order presented):

1. 2026 CDBG Annual Action Planning Presentation
2. Anacortes Family Center 2026 HVAC

3. Anacortes Family Center 2026 PS
4. Anacortes Housing Authority 2026
5. Community Action of Skagit County 2026
6. Salvation Army 2026



CDBG 2026 Update: Annual Action Planning

City of Anacortes

Consolidated Plan 2023-2027 / Action Plan Year 2026

CDBG 2026

Presented by: Stephanie Snyder, Community Development Coordinator

March 9, 2026





Contents:

- What is CDBG?
- Allocations in the USA
- Calendar Timelines
- National Objectives
- Anacortes Goals & Objectives of the 5-Year Consolidated Plan
- Consolidated Plan Halfway Point Update~
- Financial Update/Grant Balances/Projects Completed



Planning the 2026 Program Year

- ✓ Goal Setting from Anacortes Consolidated Plan
- ✓ Applications Received for the 2026 Grant Year
- ✓ Allocation Proposal for the Upcoming 2026 Action Plan
- ✓ Citizen Participation Timeline
- ✓ Next Public Hearing/Council Action
- ✓ Submission to HUD Follows Council Action



What is CDBG?

- The Community Development Block Grant is a federal program administered by the U.S. Department of Housing and Urban Development. (HUD)
- The objectives (goals) of our CDBG program is to support local community development efforts, especially benefiting low- and moderate- income households.
- CDBG was authorized under Title I of the Housing and Community Development Act of 1974; consolidating 8 programs into one.
- The first CDBG Grants were allocated in 1975.

Happy 50th Birthday to CDBG!



National Allocations

- 70% of CDBG funds are distributed to entitlement communities
- 30% of funds are allocated to states for non-entitlement areas
- Entitlement communities must have a population greater than 50,000
- **Anacortes participates in a regional consortium with Skagit County and the City of Mt. Vernon**, allowing our combined populations to qualify for this grant.
- Community Development staff from all three jurisdictions coordinate their CDBG timelines, HUD reporting, and submissions while planning projects independently for their local communities

Fun Fact!

Did you know?

*Anacortes WA
receives the 6th
smallest CDBG grant
in the United States of
America...*



Paradise, CA	CDBG	52474
Marco Island, FL	CDBG	54770
Colonial Heights, VA	CDBG	91001
Moss Point, MS	CDBG	103001
Sebastian, FL	CDBG	105116
Anacortes, WA	CDBG	106279
Vienna, WV	CDBG	107826
Cocoa, FL	CDBG	119567
Norton Shores, MI	CDBG	124988
Yarmouth, MA	CDBG	128173



Calendar Timelines



July 1 - Beginning of the CDBG Grant Year

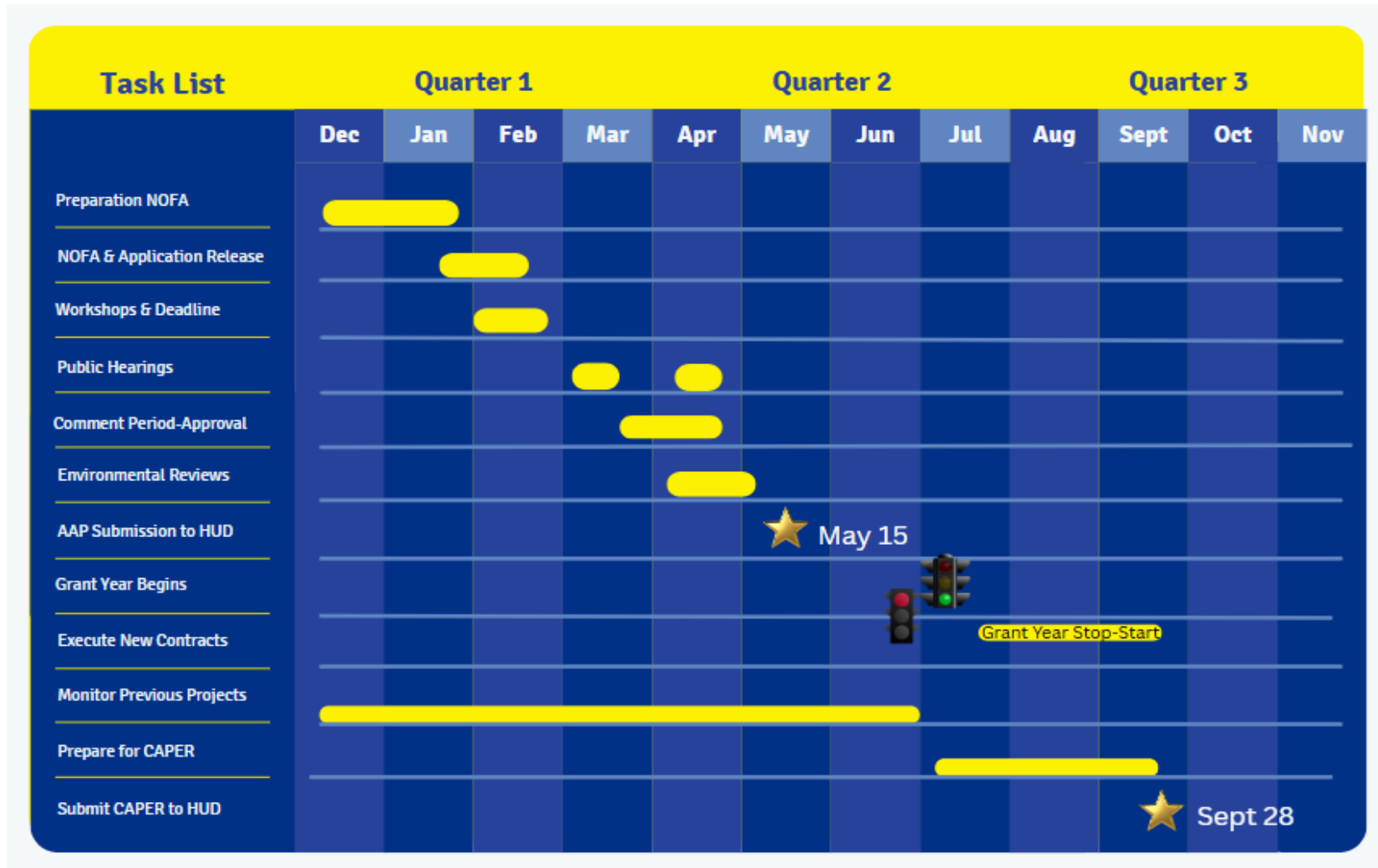
June 30 - End of the CDBG Grant Year

Six other reporting dates to HUD include:

Finance Reporting	Action Plan Due	Finance Reporting	CAPER Due	Finance Reporting	Finance Reporting
Mar 30	May 15	June 30	Sept 30	Sept 30	Dec 30

Did you know...??

HUD's *favorite* training word is:



“Timeliness”



Code of Federal Regulations

A point in time eCFR system



 Title 24

- ⦿ **§ 570.902 Review to determine if CDBG-funded activities are being carried out in a timely manner.**

HUD will review the performance of each entitlement, HUD-administered small cities, and Insular Areas recipient to determine whether each recipient is carrying out its CDBG-assisted activities in a timely manner.



CDBG Provides Local Flexibility

- One of the key features of CDBG is the **flexibility** to specialize in different areas as needed. Quite specific to each community's local objectives and priorities.
- Community Participation is built into the program via public hearings, published plans and comment periods are included with this program. Each comment is indexed and submitted to HUD annually with the Annual Action Plan Submission.
- **LEVERAGE!** CDBG funding can act as a catalyst to attract additional investment from public and private sources. We will see this in action on an upcoming slide – exactly how leverage with CDBG was used. In 2025, Anacortes funded a project with CDBG funds used specifically as a key to unlock bigger state funding.



National Objectives by HUD

EACH ACTIVITY MUST MEET ONE OF THESE 3 OBJECTIVES:

1. Benefit low-and moderate-income (LMI) people.
2. Prevent or eliminate Slums or blight.
3. Respond to urgent community needs posing serious health or safety threats where no other funding is available.

Eligible Activities

- *Acquisition/rehab real property*
- *Public Infrastructure*
- *Community Facilities*
- *Public Services*
- *Economic Development (job creation)*
- *Housing rehabilitation and energy conservation programs*



HUD Preference

- HUD encourages **long-range projects with lasting community impact**
- CDBG funds may be **layered into large, multi-million-dollar projects**

Local Implementation Approach – Anacortes

- The City uses caution when combining CDBG with other funding sources
- Mixing funds can trigger **significant additional federal compliance requirements**
 - Procurement
 - Reporting
 - Monitoring



Why This Matters

- As project size and funding complexity increase, **regulatory burden increases significantly**
- This can create **administrative strain for both the City and project partners**

Anacortes Strategy

- Prioritize **targeted, stand-alone eligible costs**
- Helps **maximize impact while minimizing regulatory complexity**

Example

- Able Housing Initiative:

1 CDBG funded **new appliances**, rather than blending funds into the
4 construction budget.

Able Housing used the small allocation of the awarded 2025 Anacortes CDBG Grant toward their next grant step, as “leverage” to unlock the ability to apply for much larger state funding.

Anacortes CDBG grant is small, but it can be used in mighty ways, as we saw done by Able Housing.





A standing ovation to Able Housing!

‘We want them to thrive’: Anacortes nonprofit awarded \$4.5M to house adults with disabilities

NICHOLAS JOHNSON Anacortes American Jan 27, 2026 0

What a powerful way to utilize CDBG!



Anacortes: The 2023-2027 Consolidated Plan

Anacortes objectives in our current con plan:

1. Increase and preserve affordable housing
2. Provide supportive services to prevent homelessness
3. Support efforts to reduce poverty
4. Support low-income individuals and families with accessible services
5. Support efforts to expand economic opportunities for low-income citizens.
6. Support efforts to expand opportunities for persons with disabilities.

Consolidated Plan 2023-2027 Mid Point Update: Projects Completed with CDBG



2023	2024	2025
Public Service Funds	Public Service Funds	Public Service Funds
Roof Replacement Site 1 Housing Authority	Exterior Repairs Emergency Housing Shelter	Roof Replacement Site 3 Housing Authority
	Resurfacing floors, added shelving to the Food Pantry	Fire Safety Equipment Updated and Replaced Homeless Shelter
	Curb Cuts & Ramps	Able Housing Rental Repair
	Roof Replacement Site 2 Housing Authority	City Administration



CDBG Financial Update

CDBG Grant	2020 (Covid)	2021	2022	Begin Con Plan 2023	2023	2024	2025	Action Plans Funded	2026 Grant Balance
Annual Allocation	\$178,507.00	\$116,081.00	\$105,260.00	★	\$104,537.00	\$106,279.00	\$108,427.00		(TBD)
Balances	\$35,081.17	\$33,819.00	\$17,649.58	\$86,549.75				\$469,861.98	\$1,360.52
Funded	➡	➡	➡	\$86,549.75	\$22,766.66	\$242,700.57	\$117,845.00	\$468,501.46	

Funds must be fully drawn down within 3 years of allocation. If funds are not depleted, we risk losing the funds to be taken back by the Federal Government. The City has been moving funds as quickly and efficiently as possible, together in partnership and alignment with the organizations we have funded.

***Anacortes has completed all the 2025 projects and have a balance in CDBG funds of \$1,360.**





2026 Planning

- For the 2026 Grant Year, The City of Anacortes received 5 applications for funding:

Organization	Activity	Amount Requested
Anacortes Housing Authority	New Roofs	\$100,000
Anacortes Family Center	Public Services	15% of Grant
Community Action of Skagit County	Public Services	15% of Grant
Anacortes Family Center	HVAC for Emergency Shelter	\$44,297
Salvation Army	3 New ADA doors	\$25,000



Financial Summary/Staff Recommended Allocations for 2026

<u>Program</u>	<u>Grant Year</u>	<u>Grant #</u>	<u>Current Authorized Amount</u>	<u>Grant Status</u>	<u>Net Drawn Amount</u>	<u>IDIS Grant Balance</u>
CDBG	2025	B-25-MC-53-0018	\$108,427.00	Active	\$107,066.48	\$1,360.52
CDBG	2024	B-24-MC-53-0018	\$106,279.00	Active	\$106,279.00	\$0.00
CDBG	2023	B-23-MC-53-0018	\$104,537.00	Active	\$104,537.00	\$0.00
CDBG	2022	B-22-MC-53-0018	\$105,260.00	Active	\$105,260.00	\$0.00
CDBG	2021	B-21-MC-53-0018	\$116,081.00	Active	\$116,081.00	\$0.00
CDBG	2020	B-20-MC-53-0018	\$115,889.00	Active	\$115,889.00	\$0.00
		City Contract ID	PAID	Grant Year Draw 1	Grant Year Draw 2	
AFC Fire Equipment	2025	CDBG-2025-PLN-3-124	\$8,972.00	2024 - \$5366.52	2025 - \$3605.48	\$0.00
Able Housing	2025	CDBG-2025-PLN-002-121	\$5,412.00	2023 - \$143.00	2024 - \$5269.00	\$0.00
AFC Public Services 15%	2025	CDBG-2025-PLN-004-122	\$16,264.00	2025 - \$16264.00		\$0.00
AHA Site 3 Roof	2025	CDBG-2025-PLN-001-120	\$65,512.00	2025 - \$65,512		\$0.00
COA Admin Costs 20%	2025		\$21,685.00	2025 - \$21,685.00		\$0.00
						\$1,360.52
New applications	2026		\$108,427.00			
AHA	New roofs		\$ 100,000.00	\$ -		
AFC 15%	Public Services		\$ 16,264.05	\$ -		
CASC 15%	Public Services		\$ 16,264.05	\$ 16,264.05		
AFC	HVAC for Shelter		\$ 44,297.00	\$ 44,297.00		
COA Admin 20%	City Costs		\$ 21,648.40	\$ 21,648.40		
Salvation Army	New ADA doors (3)		\$ 26,000.00	\$ 26,000.00		
			\$224,473.50	\$ 108,209.45		
				\$109,787.52		
				\$1,578.07	bal	



Staff recommends:

- **Funding:**

1. 15% to Community Action of Skagit County

- **Activity**

1. To expand Employment Services in the Anacortes Location

- **Considerations:**

1. Aligns with Economic Development Goals in Con Plan
2. Does not conflict with Anacortes City Contract. Is Eligible
3. Meets new or expanded req. by HUD to use 15% of grant for Public Service activities



Staff recommends:

- **Funding:**

1. Anacortes Family Center
2. \$44,297

- **Activity**

1. To replace HVAC System in Emergency Shelter
(built in 2009)

- **Considerations:**

1. Urgent need
2. Does not conflict with Anacortes City Contract with Police Dept - Is Eligible
3. Meets req. by HUD



Staff recommends:

- **Funding:**

1. Salvation Army
2. \$26,000

- **Activity**

- To add 3 ADA accesses to their Anacortes location.

- **Considerations:**

1. Meets an objective in the Con Plan for assistance to the disabled.
2. Does not conflict with Anacortes City Contract for Cold Weather Shelter. Is Eligible.



Upcoming Steps/Key Dates

- Followed by tonight's public hearing, any recommended changes from this presentation may be updated.
- Revisions will be incorporated into the Draft 2026 Annual Action Plan for submission to HUD.
- The Draft 2026 Anacortes Annual Action Plan will be available for public review beginning **March 16th, 2026.**
- The open public comment period opens on **March 16th, 2026**
- The public comment period closes on **April 23rd, 2026.**
- The second Public Hearing will be held on **April 27th, 2026**
- The Annual Action Plan is scheduled for Council action on **April 27th, 2026.**
- **Once approved by Council, the Anacortes CDBG 2026 Annual Action Plan will be submitted to HUD no later than May 15th, 2026.**

Thank You For Attending This Presentation.



All CDBG Activities, Plans and Reports may be found on our city website:

www.anacorteswa.gov

Government>Planning>CDBG>Plans and Reports

Please contact the Community Development Coordinator to submit comments or ask questions.

Stephanies@anacorteswa.gov



anacorteswa.gov

904 6th Street

Anacortes WA 98221

360-293-1900



CDBG FUNDING APPLICATION

Project Information

Program Year

Funding Type *

☐ Public Service ☐ Planning Capital ☒ Improvement

CDBG Fund Request *

Amount *

☐ % ☒ \$ Amount

\$ 44,297.00

Project Title *

Project Description *

Originally built in 2009, the Anacortes Family Center's Emergency Shelter has had issues with our HVAC system for a number of years. This year, our subcontractor, Ronk Brothers, informed us that it is finally time to replace the furnaces, blowers, heat and cooling pumps, etc. This project is a substantial project

Please attach additional page if necessary, outlining project with specific numbers/goals:

Project Location (physical address) *

City, State ZIP *

Number of Individuals Directly Benefitting from this Project *

Applicant Information

Organization Name *

Organization Mailing Address *

Street Address

2702 Commercial Avenue

Address Line 2

City

Anacortes

State

Washington

Zip Code

98221

Agency Director Name *

Dustin Johnson

Phone Number *

3602932993

Email *

dustin@anacortesfamily.org

Other Approved Staff Contact: Name and Title

Staff Contact Phone Number

Staff Contact Email

Federal Tax ID Number *

20-0775618

DUNS Number *

200775618

Organization Type *

- ☐ Public Agency
- ☒ Private Nonprofit
- ☐ Other

Are you a Certified Housing Development Organization (CHDO) or Certified Community Based Development Organization (CBDO)? *

- ☐ Yes
- ☒ No

Are you planning on becoming a Certified CHDO or CBDO? *

- ☐ Yes
- ☒ No

Acknowledgements

My signature affirms that all information contained herein is true to the best of my knowledge, and I understand that any misstatement of fact or misrepresentation of credentials may result in this application being disqualified from further consideration.

Signature

Dustin Johnson

Date *

2/20/2026

Comments

2000 characters left

Appointed

File Application

Originally built in 2009, the Anacortes Family Center's Emergency Shelter has had issues with our HVAC system for a number of years. This year, our subcontractor, Ronk Brothers, informed us that it is finally time to replace the furnaces, blowers, heat and cooling pumps, etc. This project is a substantial project and our current estimate from RONK is for \$44,297.



CDBG FUNDING APPLICATION

Project Information

Program Year

Funding Type *

☒ Public Service ☐ Planning Capital ☐ Improvement

CDBG Fund Request *

% *

☒ % ☐ \$ Amount

Project Title *

Project Description *

The Anacortes Family Center provides critically needed shelter and intensive individualized support for single women and families with children. With a success rate of 77% last year, AFC operated one of the most successful shelters despite serving the most vulnerable populations in our community. This is

Please attach additional page if necessary, outlining project with specific numbers/goals:

2025 AFC Program Review DRAFT.docx

3.11MB



Project Location (physical address) *

City, State ZIP *

Number of Individuals Directly Benefitting from this Project *

Applicant Information

Organization Name *

Organization Mailing Address *

Street Address

Address Line 2

City

State

Zip Code

Agency Director Name ***Phone Number *****Email *****Other Approved Staff Contact: Name and Title****Staff Contact Phone Number****Staff Contact Email****Federal Tax ID Number *****DUNS Number *****Organization Type ***

- ☐ Public Agency
- ☒ Private Nonprofit
- ☐ Other

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Signature

Dustin Johnson

Date *

2/20/2026

Comments

2000 characters left

Appointed

File Application

The Anacortes Family Center provides critically needed shelter and intensive individualized support for single women and families with children. With a success rate of 77% last year, AFC operated one of the most successful shelters despite serving the most vulnerable populations in our community. This is possible thanks to a critical infrastructure of support from local businesses that support living wage jobs, landlords that have worked with our families for over 15 years and understand that AFC clients are solid bets, and countless community volunteers who support our weekly life skills program, help tutor children in the ASD, and support clients in many ways. AFC is nearly exclusively supported by private contributions, making our CDBG grant a well leveraged investment that generates tremendous return. With local government budgets being cut, AFC relies on this grant to provide much needed support for our emergency shelter program. Please see our annual 2025 white paper attached to this application.



Year-End Evaluation Report 2025

I. Purpose

This evaluation report provides a summary of the programs, services, and partnerships linking the Anacortes Family Center (AFC) to clients and the community.

Initially focused on our Emergency Shelter Program, our report now covers all AFC housing, programs, and services. It includes activities from the Family Transformation Center, The Launch Affordable Apartments, The Landing Affordable Apartments (featuring our Early Learning Center partnership), and our Emergency Shelter that collectively form our Anacortes Campus.

II. Methodology for The Emergency Shelter Program Analysis

The program's effectiveness is measured by how well it fulfills AFC's mission and goals. The Anacortes Family Center Emergency Shelter seeks to support homeless women, children, and families experiencing crisis by providing both shelter and transformative services that promote lasting personal success and independence. The shelter's main objective is to help clients achieve self-sufficiency by the end of their stay.

Heather Rudolph collaborated with the Anacortes Family Center staff to compile this report, drawing data from confidential case files about clients served in 2025. This information was used specifically for review and analysis. Each household's file included additional detailed case management notes that were not considered in this evaluation.

This review covers records of clients who left the Emergency Shelter program during the calendar year 2025. It includes individuals who started services in 2024 but exited in 2025; however, it does not include those who began services in 2025 without exiting by December 31, 2025.

A wide range of data was collected: client demographics; history of homelessness; experience with domestic violence; disabilities and health concerns; criminal background; employment status and income; challenges faced; services received; reasons for leaving; and places clients went after leaving the program.

We also monitored housing outcomes locally in Skagit County and nearby counties. Clients who successfully completed the program sometimes moved into AFC's Family Transformation Center, The Landing Apartments, or The Launch Apartments. Additionally, one family was placed in one of our single-family residences on 31st Street.

These houses were a gift to AFC from **Nancy Chapman**, a generous and community-minded Anacortes resident who passed away in 2020. Deeply aware that many working people struggle to make ends meet, Nancy dedicated herself to helping others. She had a knack for spotting potential in local properties, fixing them up (often with her own hands!), and renting them below market rate. Over the years, these two homes served as safe, affordable places for caregivers and working families.

While AFC continues to rent the homes at affordable rates, we're also developing plans for a future village-style housing project to create more affordable homes while staying in harmony with the neighborhood.

AFC's Emergency Shelter Program Summary

- 39 families comprised of 51 adults and 56 children for a total of 107 clients served.
- 8,836 safe bed nights were provided for our families.
- 77% of all households successfully completed the program.
- 75 days was the Average Length of Stay
- 79% of families remained in Skagit County after exiting AFC's Emergency Shelter
- 57% of families exiting the AFC's Emergency Shelter with a successful outcome received permanent housing at one of AFC's four housing facilities.
- 74% of clients reported being diagnosed with a mental health condition.
- 28% of families were actively fleeing domestic violence, including 27.5% of all children.
- 15% of families had five or more household members. Three single Mom's each had four kids, two two-adult households with three kids, and one two-adult household with four kids.
- 41% of households utilized Emergency Room or ambulance services in the last six months.
- No Veterans or Seniors were served in 2025.

III. Emergency Shelter Program - Summary and Highlights

IV. Detailed Findings

A. Demographics

In 2025, the Anacortes Family center served 102 individual clients from 39 total households.

- 51 adults and 51 children were served.
- Adult clients were made up of 38 women (74.5%) and 13 men (25.5%).
- 50% of all clients were children under 18 years old.
- The average age of all adult clients was 36 years old.
- The average age of children was 6.8 years old.
- Five households had children one 1 year old or younger, 3 women were pregnant during their time at AFC, one woman was pregnant with her first child with a partner who left the program before completion.

- We began collecting sexual identity status in 2024 and this year collected this data on all adults.
 - o 78% Heterosexual
 - o 8% Bi-Sexual
 - o 6% Prefer not to Answer
 - o 6% Did not Answer
 - o 2% Questioning/Unsure

The head of households for the 38 families identified the family race/ethnicity and one family reported they did not know their race/ethnicity.

Race/Ethnicity	
65% White	2.5% Black
15% Hispanic	2.5% Pacific Islander
10% Native American	2.5% Norwegian

The households were comprised of the following family units. Single female clients without children comprised 31% of all households, representing a significant increase in this client population and overall decrease in total clients and safe bed nights.

- Single parent households - 46%
 - o Single females with children – 16 families
 - o Single males with children – 2 families
- Two partner households – 23%
 - o 9 families
- Single adults – 31%
 - o Single females – 12 households
 - o Single male – 0

Seven families, or 18% had contact with Child Protective Services within six months of starting their stay at the Emergency Shelter.

When clients complete the coordinated entry paperwork, a vulnerability score is assigned. This score helps housing programs identify and prioritize those who need help most. In 2025, clients entering the Emergency Shelter program had an average vulnerability score of 14, with scores ranging from two up to 27.

B. Homelessness

All client households were classified as homeless when they applied to the Emergency Shelter program. Of these, 31 families representing 79.5% of our clients were unsheltered at entry, either living outdoors without any shelter or staying in unsuitable places like tents or cars. Families who weren't unsheltered

were in temporary arrangements, such as participating in a motel voucher program and in urgent need of stable, long-term housing.

A significant number of our families have experienced chronic homelessness, defined as being homeless continuously for at least one year or having four or more episodes of homelessness within three years that total over one year. Twenty-six percent of households fit this description, and 38.5% experienced homelessness before turning 18. Additionally, one-third of those who were homeless as minors also report chronic homelessness as adults.

Past evictions present a major hurdle to finding permanent homes, with 13% of our households having gone through eviction. Addressing this and other obstacles is a key focus of our mandatory Rent Ready program.

AFC's Rent Ready program helps clients overcome housing barriers by equipping them with skills and resources needed to secure a home after finishing the program. The curriculum covers budgeting, identifying challenges, completing and tracking applications, understanding lease agreements, moving procedures, and neighborly conduct.

Ninety-two percent of families completed the Rent Ready program. Upon completion, clients receive a housing portfolio containing a rental resume, written explanations for rental issues (such as credit or criminal history), proof of income, reference letters, details about roommates and pets, proof of renter's insurance, and a rent ready certificate. Many are proud to earn their completion certificate!

C. Domestic Violence

Domestic violence affected 63% of our households at some point in their lives, and 27% were fleeing abuse when they entered the program. Fourteen children from 11 families, along with four single women, entered AFC while escaping domestic violence.

D. Mental, Physical, and Substance Use Conditions

Many clients struggle with housing instability due to mental health, disabilities, and substance abuse.

- 80% of families have used or need mental health services and half report an official diagnosis.
- 46% have physical or developmental disabilities, with 67% saying this impacts their housing.
- 33% are recovering from substance use and 30% report they are in treatment.

Below are the reported physical and mental disabilities:

Mental Health Conditions	Physical Conditions
ADD	Arthritis
ADHD	Asthma
Bi-Polar	CAD
Dyslexia	COPD
PTSD	Diabetes Type II
	Heart Attack
	Hypertension
	Partial Deafness
	Sleep Apnea
	Torn Meniscus/Rotator Cuff

Clients reported they were active in these community treatment programs:

Community Treatment Programs	
Didgwalic Wellness Center	LIST
Alcoholics Anonymous	D&A Classes
Methadone Clinic	Suboxone
Cocaine Anonymous	MAT Program

E. Criminal Behavior

Clients with criminal backgrounds often face extra challenges when trying to secure long-term housing, largely because subsidized housing applications require background checks. Certain felonies can make someone ineligible for assistance.

In 2025, the Coordinated Entry Intake forms changed how they ask about criminal history compared to previous years. The new data shows that 18% of families reported having police interaction three or more times within six months, while 5% said they had convictions or warrants that restrict their housing options.

In earlier years, the questions focused on whether anyone in the family had felonies or misdemeanors; for example, in 2024, 47% of families reported having such convictions.

F. Employment, Income, and Budgeting

Clients in the Emergency Shelter receive intensive case management and support to help them find and keep jobs and improve their finances. Weekly Life Skills classes reinforce this assistance.

The AFC program prioritizes employment, as it leads to stable income and secure housing. The table below shows adult employment status and average earnings at enrollment and exit.

	Adult Employment Status	
Contributor	Enrollment	Exit
Primary Head of Household	80%	90%
Partner/Other Adult	58%	50%
Average Weekly Income from all sources	\$1,669	\$2,866
Average Weekly Hours	29 hours/week	35 hours/week

In 2025, families reported income sources beyond earnings: SSDI (4), TANF (4), SSDI and Child Support (3 each), and Social Security (1). Five families had no income at enrollment; three had none at exit.

G. Client Identified Barriers and Learning Opportunities

Upon enrollment in the program, clients were given a list of barriers and topics they would like to learn more about. The following table identifies the options and percentage of families that selected each item. *Note that responses here may vary from those collected on the Vulnerability Survey since the documents are done separately and may lend to different responses.*

Barriers We Face	% of Families	Things to Learn More About	% of Families
Poor or no Credit History	85%	Setting Boundaries	51%
Debts	54%	Stress Management	49%
Insufficient Savings	54%	Confidence Building	44%
Single Parent Household	51%	Decision Making	41%
History of Abuse/Battery	49%	Communication	38%
Sporadic Employment History	36%	Organization	36%
Insufficient/No Income	36%	Emotional Regulation	33%
No Rental History	33%	Parenting	33%
Repeated/Chronic Homelessness	33%	Self-Care	33%
Large Family (3+ Children)	28%	Grief & Loss	31%

No High School Diploma or GED	23%	Relationships	28%
Recent History of Substance Abuse (past 2 years)	23%	Conflict Resolution	26%
Recent/Current Abuse/Battery (currently fleeing)	23%	Problem Solving	26%
Adult/Child w/Mild/Severe Behavioral Health Problems	21%	Anger Management	13%
Evictions	18%	Sobriety	10%
Wage Garnishments	18%	Did Not Answer	18%
Recent (past 7 years) Criminal History	10%		
Head of Household Under 18	2.6%		
Did Not Answer	2.6%		

Upon exit from the Emergency Shelter, clients were asked which services and Life Skills classes best assisted them while participating in the program.

Services Provided to You that were Helpful	% of Families	Life Skills Classes Most Helpful	% of Families
Savings Plan	100%	Rent Ready Curriculum	56%
Budgeting	97%	Health Relationships, Boundaries & Confidence Building	54%
Rent Ready Program	95%	Anacortes Housing Authority	51%
Case Management	95%	Stress Reduction & Management	49%
Letters of Explanation	90%	Overcoming Negative Self Talk	38%
Community Resources	87%	Organizing, Prioritizing, and Time Management	38%
Other	74%	Making Healthy Decisions	33%

Rental Reference	59%	Healthy Cooking on a Budget	28%
Employment Seeking Skills	54%	Employment Related Life Skills	26%
		ACES Affects on your Health	26%
		Parenting with Positive Discipline	26%
		Grief	23%
		Property Management	18%
		Family Health & Wellness (RN)	15%
		Did Not Answer	15%

H. Service Providers

The Emergency Shelter program offers referrals to local service providers. Seventeen households reported using these partner referrals in the following categories:

Chemical Dependency & Mental Health	Housing Resources	Social Services
Didgwalic (7)	Community Action (1)	CPS (8)
Catholic Community Services (5)	Samish Nation (1)	Salvation Army (7)
Tommi Stewart Therapy (2)		DVSAS (3)
Skagit Crisis Center (1)		Work Source (1)
Charlie Health (1)		SCCAA: Community Jobs (1)
Whatcom Detox (1)		Samish Nation (1)
Anacortes Psych & Wellness (1)		Skagit Co Probation (1)
		Brigid Collins (1)

I. Reasons for Leaving Program

When households exit the Emergency Shelter program, case managers record their reason for leaving: completion, non-compliance, unmet needs, disagreement with rules, criminal activity/property destruction, unknown/disappeared, or other. This year, 77% of households completed the program, while 23% left due to non-compliance or unmet needs.

J. Destinations by Outcome

The case manager noted each household's exit destination and reason for leaving. Two families who left early still achieved a positive housing outcome by staying with family or friends.

Positive Outcomes (32 Families)	%	#	Negative Outcomes (7 Families)	%	#
Rental by Client	74%	29	Emergency Shelter, Hotel, or RHY	13%	5
Staying/Living with Friends Permanently	6%	2	Hospital, Crisis Center, or Detox	2.5%	1
Staying/Living with Family Permanently	2.5%	1	Unknown	2.5%	1

K. Destinations for Families

We also tracked the geographic and physical locations of our families' destinations upon exit.

80% of all clients remained in Skagit County while 12.5% departed to other counties in Washington, one family moved out of state and two families left to unknown destinations.

Destination	%	Destination	%
Skagit County	80.0%	Unknown	5.0%
Snohomish County	5.0%	Grays Harbor	2.5%
Whatcom County	5.0%	California	2.5%

With the growth of our AFC housing facilities, we were able to house 42% of the families who successfully completed the Emergency Shelter Program in an AFC facility:

- Family Transformational Center – 17 families
- The Landing Apartments – 4 families
- The Launch Apartments – 1 family
- 31st Street House – 1 family

IV. In Their Own Words...Accolades and Gratitude from our Clients!

1. Rachel & Karen, I just want to say "Thank you" from the bottom of my heart. The support, encouragement and care you both brought to my life in the last month...just thank you. I'm obviously going to keep in touch, stay clean, and without anyone to distract me.
2. Really enjoyed the resilience classes and Cheyenne's class.

3. Can't think of any! Any need I had was resolved in one way or another. Very Supportive!
4. AFC offered me every resource available to me.
5. No AFC staff was very helpful with resources or pointing us in the right direction to find them.
6. I was provided all I needed while here between AFC and Samish (love emoji)
7. No, there were so many great resources that we utilized and that have helped my family tremendously!
8. Great program, very helpful
9. Um, nope, I'd say you guys covered it! I wish you had more TB-2 buildings for more families.
10. I can't thank of any. Thank you for everything! I'm so thankful for everything!
11. The program offered all the resources we needed.
12. I was in shock at how many things AFC could help with. It's an amazing program.
13. So many services were offered to us, we can't mention any that weren't
14. Honestly, everything offered were helpful and if I had questions, I had about things needed asking case management was the biggest help on finding answers and or solutions/suggestions.
15. All resources were very helpful. My full appreciation for AFC and staff!
16. Thank you for being here and thank you for everything!
17. AFC is a wonderful program and have truly helped me at my lowest time in my life.
18. Helpful program, super strict rules that there are pros and cons to.
19. The AFC program helped me get ahead when I most needed the programs and assistance they provided helped me believe in myself and I accomplish what I alone couldn't
20. While I was not able to meet AFC standards, I accomplished many things necessary to my financial and working life due to the space and accommodations provided to me.
21. This program has helped in so many ways with out Rachel's help, I don't think we would have accomplished as much.
22. AFC is amazing and I'm so thankful for Rachel for all the support!
23. The program is wonderful, very helpful, and gives lots of resources for different things. Great at helping to get out of homelessness providing a budget and helping you save!! Big thank you to AFC for helping me and getting on my feet. Thank you, Rachel, for supporting me through everything!
24. I am so grateful for my time here. My daughter has benefited so much from her time here so far. Thank you for everything.
25. There were all very kind, they tried to help me as best as they could and there wasn't anything I needed that wasn't provided.
26. AFC was the best decision we made without it I don't think we would have overcome barriers holding us back from suitable/steady housing.
27. I'll see you guys in 6 months! Ya'll are wonderful. Karen and Rachel, you are both angels and I love ya. Thank you for caring for me. It felt really good.
28. Love AFC, sad to say goodbye, will come back to visit :)

APPENDIX A

Community Partnerships

Community Health Plan of Washington (CHPW)

In 2024, AFC in partnership with CHPW launched a pilot program to attempt to ensure those families that need care the most, but who are least likely to engage with insurance benefits are enrolled and understand the benefits. The last link in this triad was Island Health, who agreed to keep reserved space on their primary care schedule for AFC direct referrals.

As a not-for-profit health plan founded by Washington's Community Health Centers, CHPW believes health care goes far beyond the clinic. It's about housing, education, language access, transportation, and all the essential supports that help people thrive. AFC's work embodies this broader vision of health, and CHPW is proud to support the meaningful impact made by AFC every day.

In 2025, all 22 referrals made to the AFC/CHPW program resulted in successful enrollment, reflecting the strength of the partnership and the effectiveness of the referral process. Many clients are forming a relationship with a trusted medical provider for the first time, and CHPW plays a central role in supporting that connection by serving as a direct liaison to simplify both referral and enrollment.

We are grateful for this extend this partnership into 2026 and are honored to learn we received CHPW's Community Investment Fund grant which donates unrestricted funds to organizations like AFC to help improve the health of communities in Washington.

Skagit Valley College (SVC)

Since 2022, AFC has partnered with SVC to help adult clients consider school as an option. Key benefits include:

- Adults who attend at least 12 AFC life skills classes earn two credits toward an associate's degree at SVC, with credits funded by AFC's Scholarship Program.
- Those without a diploma or GED also get two extra credits for SVC's High School Equivalency Program.

AFC and Anacortes School District (ASD)

A "first-of-its-kind" partnership! In 2024, AFC partnered with our School District to serve as its McKinney-Vento Coordinator, addressing the limited federal funding available for districts of our size. M-V Coordinators support homeless and foster care youth in the district. This unique arrangement allows AFC, a non-ASD entity, to take on these responsibilities.

In 2025, AFC continued this partnership led by **Pat Carlson** supporting all homeless and foster care youth in our district. There are currently 73 students in those categories. These students are ensured immediate and appropriate access to education and transportation, plus any other resources needed to support a successful education experience.

The level of support for these students is far greater than what it could be under ASD alone and has created a very consistent and supportive partnership between the two organizations. The Associate Director for Youth Services meets regularly with school and district administration to review student progress and create support connections with AFC and its volunteers. Due to the strong partnership between AFC and ASD, the Associate Director for Youth Services has been called upon to support the schools during times of crisis.

Street Outreach & The City of Anacortes

In 2025, AFC partnered with Anacortes' Police, Fire, and Parks Departments to continue community outreach. Led by **Peter Strong**, Community Paramedic **Steve Monrad**, and APD representatives, the team focuses on building trust with resource-averse clients. This collaboration has helped many people move off the streets, access food, medical insurance, transportation support, and other essential resources.

A key part of this program is AFC's Motel Voucher Program. Our team fielded over 260 calls and housed 60 households consisting of 66 adults and 53 children.

A Simple Gesture (ASG)

AFC is supported by our dedicated partner ASG, which offers essential services:

- ASG stocks all pantries across 59 apartments and 2 homes on AFC's campus.
- Provides ready-to-eat food boxes for community members without access to a microwave or stove.
- Established Elementary School Snack Closets to meet teachers' requests for student snacks during breaks.

AFC's Community Shower Program

In 2025, AFC provided 144 free showers, representing a 42% increase from 2024. We remain the only local organization offering no-cost shower access for individuals without running water or reliable facilities. Appointments can be scheduled at AFC's Hub located at 27th Street and Commercial.

The Children's Museum of Skagit County

The Children's Museum donated 33 birthday parties in 2025, benefiting 21 children in the Emergency Shelter, nine children in the Family Transformation Center, and one each in the Motel Voucher program, McKinney Vento, and Post-Care programs.

Each party included cake, ice cream, decorations, gifts, and diapers if needed.

Thanks to **Cate Anderson** and **Emily Vander Haak** for assembling the birthday packages!

Other Partnerships

In 2025, AFC used its new Administrative HUB on 27th Street to support partnerships such as **Skagit Legal Aid**, which held client meetings, mediation conferences, and intakes in AFC's conference rooms.

Anacortes Starbucks donates unsold inventory to AFC for distribution to those in need.

APPENDIX B

2025 Outreach Report

- 126 outreach service days
- 490 meetings with clients
- 197 distinct clients served.
- 13 Client Graduations to better living situations
- Female (January 6)
- Male (January 16)
- Female (January 16)
- Male (January 16)
- Female (January 16)
- Female (January 29)
- Female (February 19)
- Male (February 19)
- Female (March 13)
- Male (March 31)
- Female (March 31)
- Male (March 31)
- Female (November 18)

Client Demographics

The statistics below reflect clients' living situations as of our last outreach meeting.

- 1 living in AFC shelter.
- 13 living in a car
- 3 living in Cap Sante Inn
- 9 living in the Fidalgo Inn
- 4 living in Holiday Motel
- 2 living in an RV.
- 4 living on the street
- 1 living in a tent.
- 1 client is a Veteran.

Services Provided

- 3 client resumes prepared.
- 11 job applications prepared.
- 14 clients entered HMIS
- 5 provided a birth certificate.
- 2 COPES application prepared.
- 9 clients supported by Salvation Army
- 18 Client received shower at AFC.
- 9 housing paid under motel voucher

- 4 Client is enrolled in health insurance.
- 2 Client counted for Point in Time Count
- 1 client transported by taxi service
- 1 client is receiving services at Didgwalic clinic.
- 1 Spin Cafe

Supplies Provided

- 7 clients received supplies from the AFC Hub
- 94 provided with a Bus Pass
- 6 laundry voucher(s)
- 4 food boxes given to client.
- 1 Utilized Skagit Animals in Need resources
- 4 Client applied for a free cell phone

Referrals Provided

- 1 referral to professional for mental health treatment
- 1 referral to NW regional
- 4 referred to the ER
- 1 referred to Washington Park
- 24 referred to Anacortes Family Center
- 4 referred to DVSAS
- 1 Referred to Skagit Valley College
- 1 Referred to First Steps
- 22 Referred for Motel Voucher
- 1 Referred to DSHS
- 2 Referred to Rent Ready
- 17 Referred to HMIS
- 1 Referred to Skagit County Court Facilitator
- 3 Client referred to Island Hospital
- 3 Anacortes Family Center Intake
- 3 Client is referred to Family Promise
- 2 St. Vincent de Paul referral made.
- 6 referrals from the School District
- 1 client was referred to North Sound ACH
- 1 Anacortes Fire Department

Other

- 2 have exited the motel voucher program.
- 1 Filed a CPS report.
- 1 Arrested
- 7 Client has a job.
- 2 Client overdosed

APPENDIX C

Emergency Shelter Statistics and Outcome Slides



**The Anacortes
Family Center**

2025 Highlights

2017-2025 Comparative Statistics

**2025
Program Highlights**

Families We Serve

107 Humans

39 Households

51 Adults

51 Children



16 Single Females with Children

12 Single Females without Children

9 Couples with Children

2 Single Males

*Not actual clients
Stock internet photos*

Geographic Destinations



Other Destinations: **Unknown** 5%
2 families

California 2.5%
1 family

Grays Harbor, WA – 2.5%
1 family

AFC Housing

AFC facilities housed 42% of families who successfully completed the program



Family Transformation Center – 17 Families



31st Street House- One Large Family

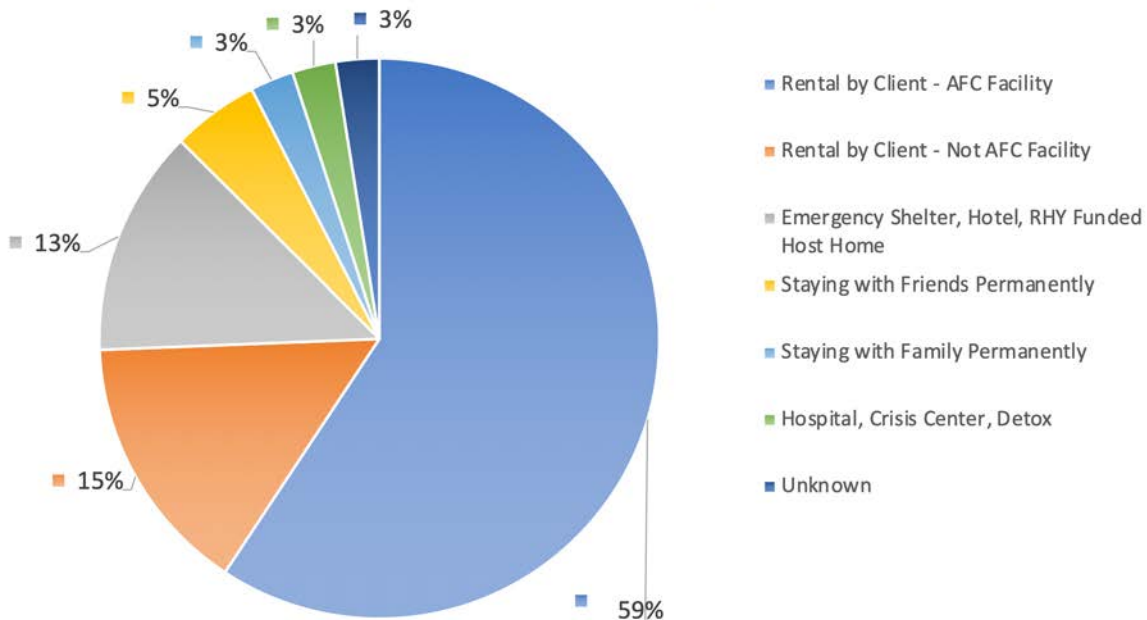


Launch Apartments – 1 Family



The Landing Apartments - 4 Families

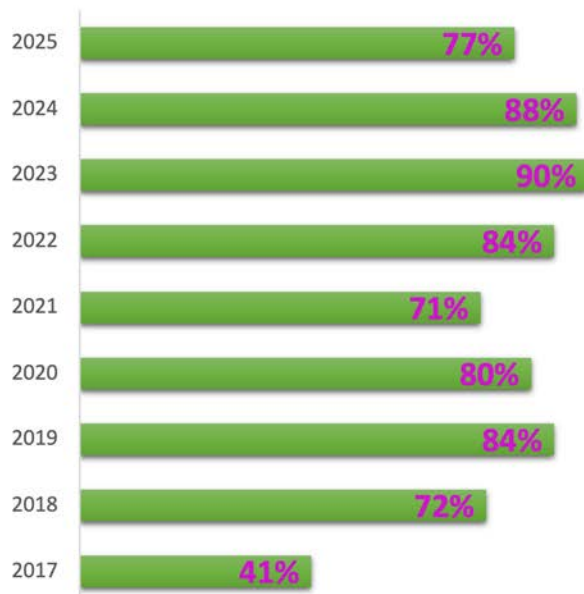
Destination at Program Exit



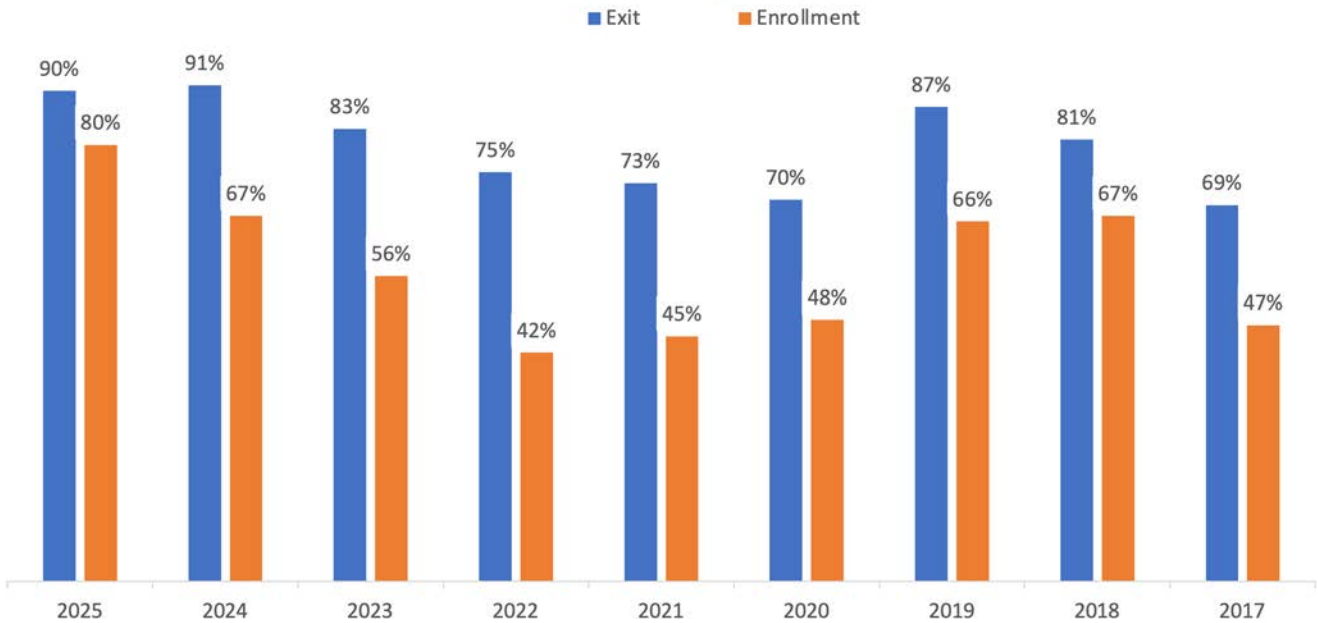
2017 – 2025

Family Statistics

Successful Program Completion

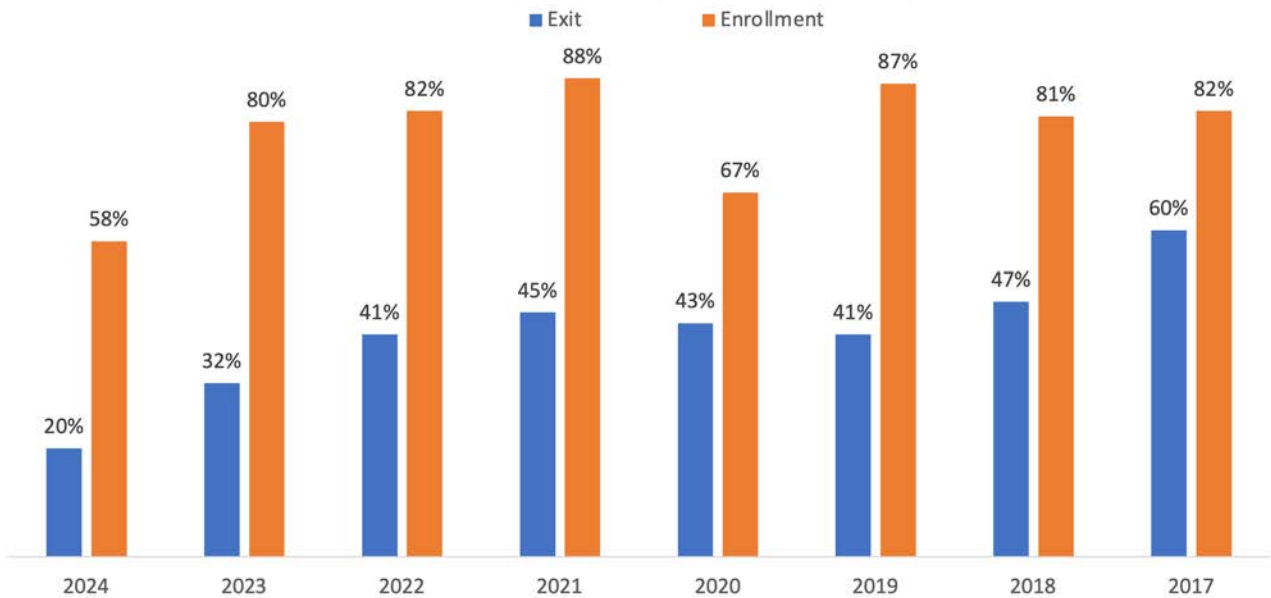


Client Employment

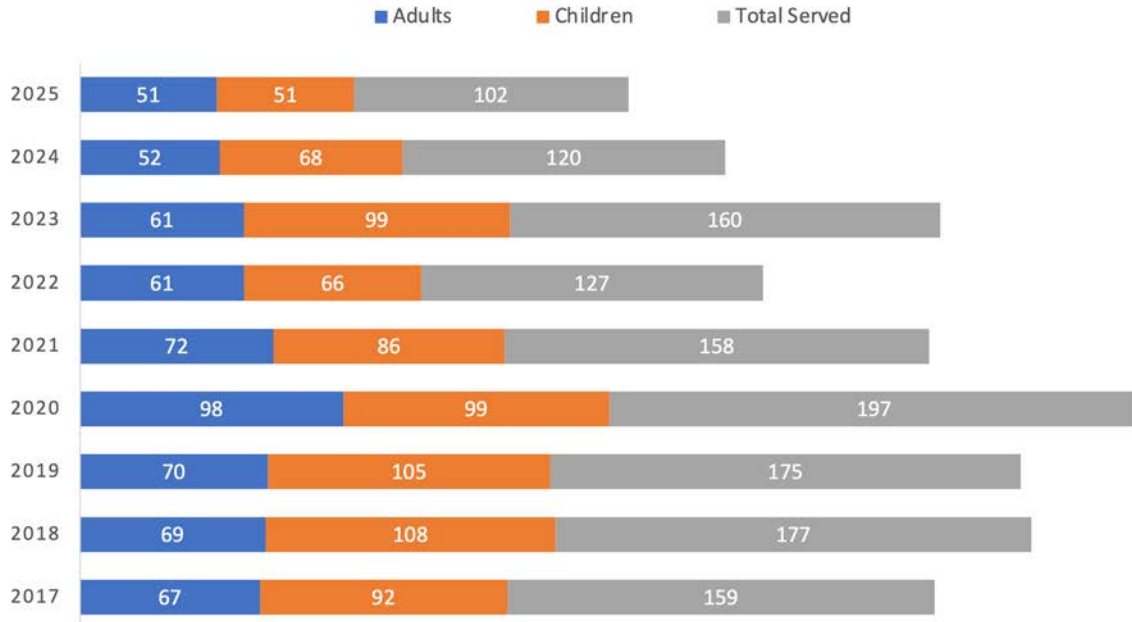


Family Incomes <30% of AMI

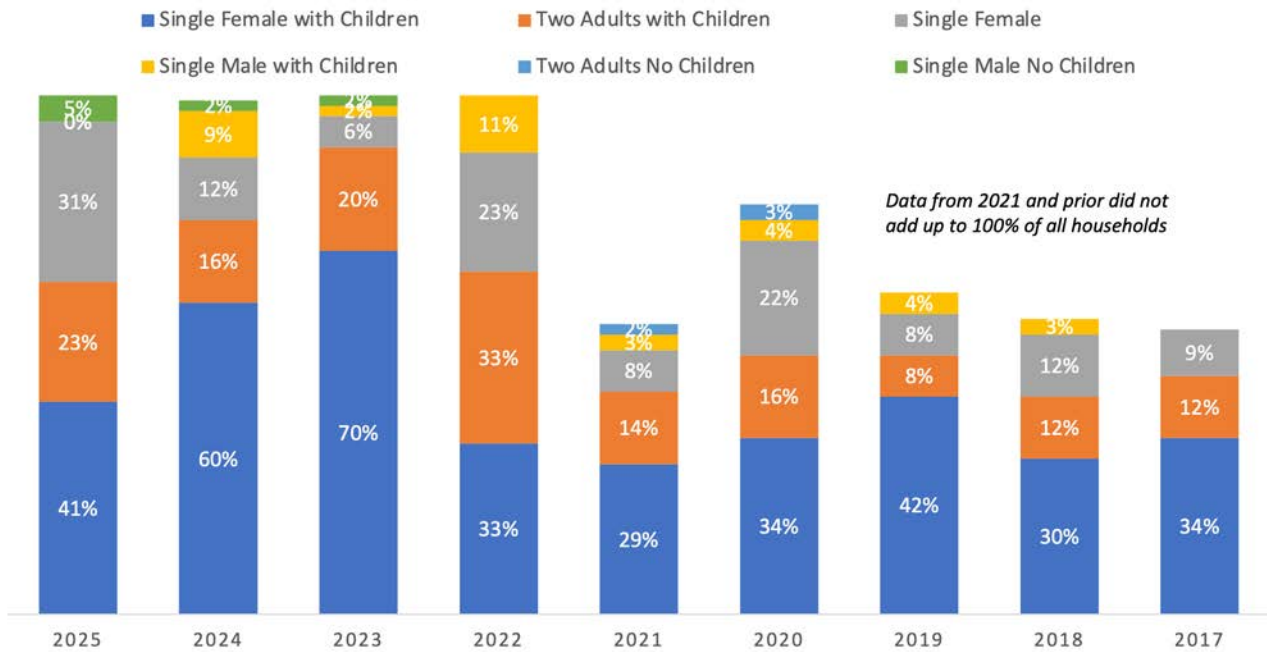
AMI not asked in 2025 but can be derived from family size and income at pre and post if desired data



Family Composition



Type of Family Units

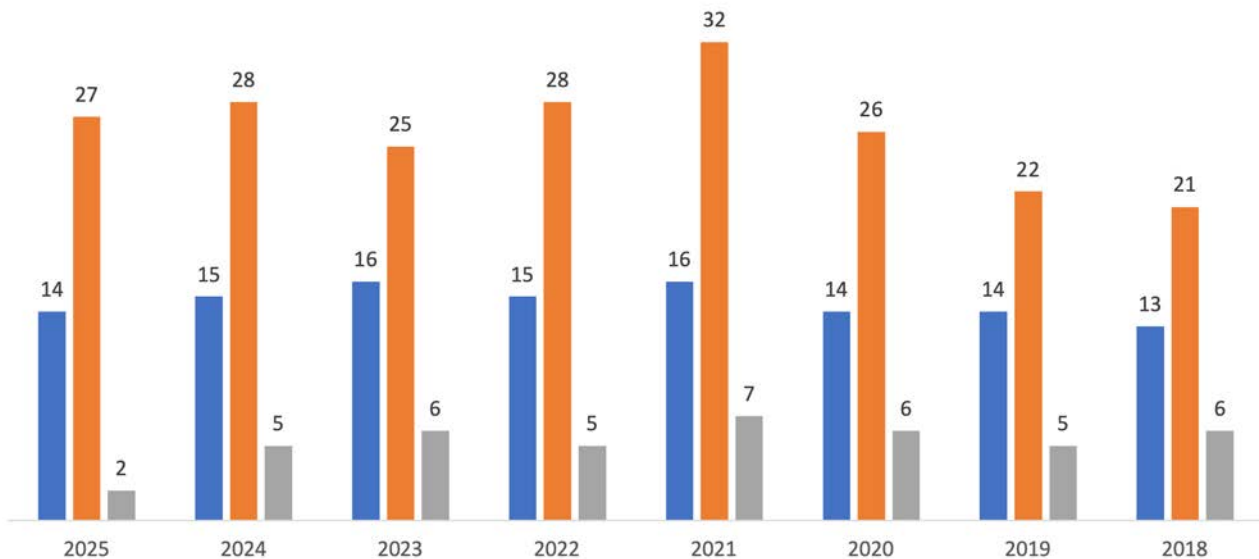


Barriers at Program Entry

Vulnerability Scores

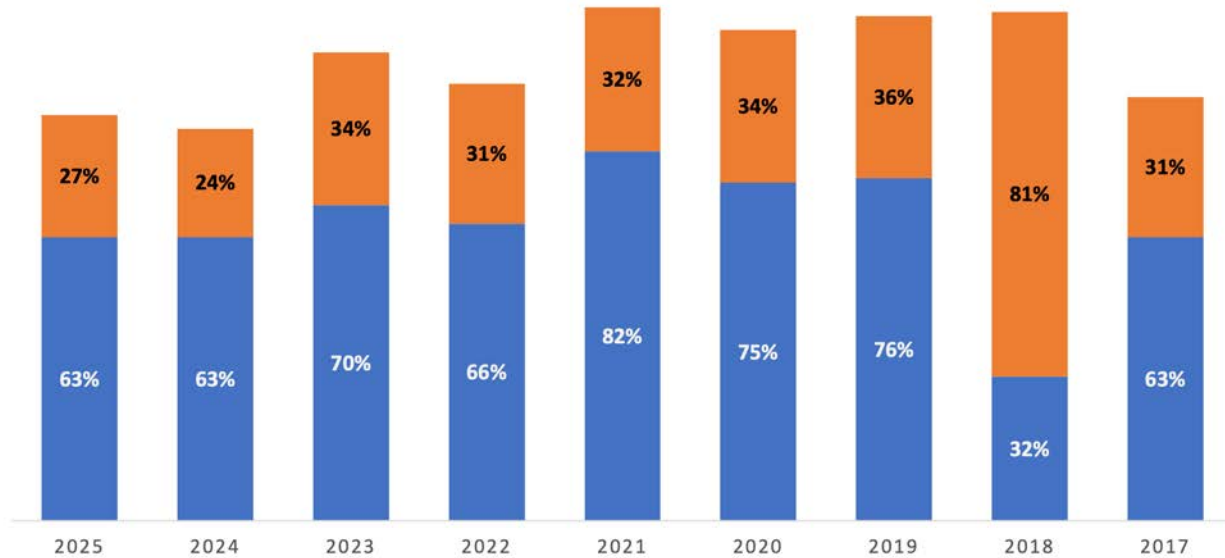
Added score to Post Survey in 2025, resulting in one increase reported

■ Average ■ Highest ■ Lowest



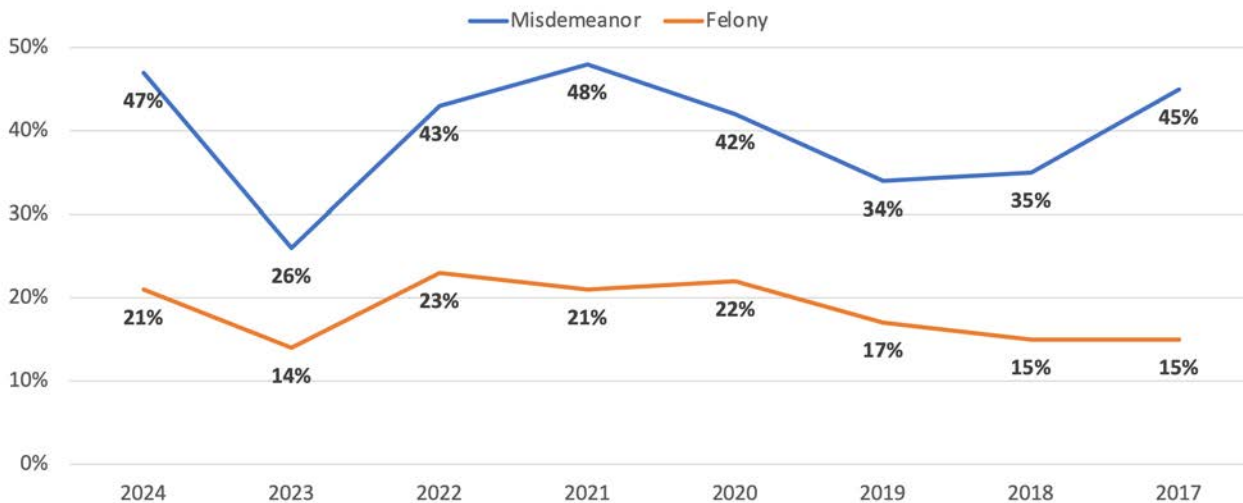
Domestic Violence

■ Life Experience ■ Currently Fleeing



Clients with Criminal Records

Question asked differently in 2025 - 23% of Clients reported 3+ interactions with law enforcement in the past six months, 1+ nights in prison, or active warrants or convictions.



Our Clients' Gratitude

In Their Own Words

- Rachel & Karen, I just want to say "**Thank you**" from the bottom of my heart. The **support, encouragement** and **care** you both brought to my life in the last month...just thank you. I'm obviously going to keep in touch, stay clean, without anyone to distract me.
- Really enjoyed the **resilience** classes and Cheyenne's class.
- Can't think of any! Any need I had was resolved in one way or another. Very **supportive**!
- AFC offered me every **resource** available to me.
- No AFC staff was very **helpful** with resources or pointing us I the right direction to find them.
- I was provided **all I needed** while here between AFC and Samish.

In Their Own Words

- There were so many **great resources** that we utilized and that have helped my family **tremendously!**
- I'm so **thankful** for everything!
- I was in shock at how many things AFC could help with. It's an **amazing** program.
- So many **services** were offered to us, we can't mention any that weren't.
- Honestly, everything offered were helpful and if I had questions, I had about things needed asking **case management** was the biggest help on finding answers and or solutions/suggestions.
- My full **appreciation** for AFC and staff!
- Thank you for being here and **thank you** for everything!
- AFC is a **wonderful** program and have truly helped me at my lowest time in my life.

In Their Own Words

- **Helpful** program, super **strict rules** that there are pros and cons to.
- The AFC program helped me **get ahead** when I most needed the programs and assistance they provided helped me believe in myself and I **accomplish** what I alone couldn't
- This program has helped in so many ways with out **Rachel's help**, I don't think we would have accomplished as much.
- AFC is amazing and I'm so thankful for **Rachel's support!**
- The program is **wonderful**, very helpful, and gives lots of resources for different things. Great at helping to get out of homelessness providing a **budget** and helping you save!! Big thank you to AFC for helping me and getting on my feet. Thank you, Rachel, for supporting me through everything!

In Their Own Words

- I am so **grateful** for my time here. My daughter has **benefited** so much from her time here so far. Thank you for everything.
- AFC was the **best decision** we made without it I don't think we would have **overcome barriers** holding us back from suitable/steady housing.
- **Karen and Rachel**, you are both **angels** and I love ya. Thank you for caring for me. It felt really good.
- **Love AFC, sad to say goodbye**, will come back to visit

AFC Team!





CDBG FUNDING APPLICATION

Project Information

Program Year

Funding Type *

☐ Public Service ☐ Planning Capital ☒ Improvement

CDBG Fund Request *

Amount *

☐ % ☒ \$ Amount

\$

Project Title *

Project Description *

Please attach additional page if necessary, outlining project with specific numbers/goals:

Project Location (physical address) *

City, State ZIP *

Number of Individuals Directly Benefitting from this Project *

Applicant Information

Organization Name *

Organization Mailing Address *

Street Address

719 Q Avenue

Address Line 2

Office Building

City

Anacortes

State

Washington

Zip Code

98221

Agency Director Name *

Sandy Cox Executive Director

Phone Number *

360-293-7831 ext. 205

Email *

sandy@anacorteshousing.com

Other Approved Staff Contact: Name and Title**Staff Contact Phone Number****Staff Contact Email****Federal Tax ID Number ***

91-0863090

DUNS Number *

609135769

Organization Type *

- ☒ Public Agency
- ☐ Private Nonprofit
- ☐ Other

Are you a Certified Housing Development Organization (CHDO) or Certified Community Based Development Organization (CBDO)? *

- ☐ Yes
- ☒ No

Are you planning on becoming a Certified CHDO or CBDO? *

- ☐ Yes
- ☒ No

Acknowledgements

My signature affirms that all information contained herein is true to the best of my knowledge, and I understand that any misstatement of fact or misrepresentation of credentials may result in this application being disqualified from further consideration.

Signature

Sandy Cox

Date *

2/5/2026

Comments

2000 characters left

Appointed

File Application



CDBG FUNDING APPLICATION

Project Information

Program Year

Funding Type *

☒ Public Service ☐ Planning Capital ☐ Improvement

CDBG Fund Request *

% *

☒ % ☐ \$ Amount

Project Title *

Project Description *

Community Action is looking to expand our Employment Services at our Resource Center in Anacortes. Program participants get help with one-on-one job coaching/career planning, job readiness training, job search assistance including resume, cover letter, job application, and interviewing skills, and support with

Please attach additional page if necessary, outlining project with specific numbers/goals:

3015140 City of Anacortes.pdf

241.66KB



Project Location (physical address) *

City, State ZIP *

Number of Individuals Directly Benefitting from this Project *

Applicant Information

Organization Name *

Organization Mailing Address *

Street Address

330 Pacific Place

Address Line 2

City

Mount Vernon

State

Washington

Zip Code

98273

Agency Director Name *

William Henkel

Phone Number *

3604167585

Email *

BillH@communityactionskagit.org

Other Approved Staff Contact: Name and Title

Dulce Vazquez, Resource Center Manager

Staff Contact Phone Number

3605885722

Staff Contact Email

dulcevc@communityactionskagit.org

Federal Tax ID Number *

91-1140086

DUNS Number *

157877564

Organization Type *

- ☐ Public Agency
- ☒ Private Nonprofit
- ☐ Other

Are you a Certified Housing Development Organization (CHDO) or Certified Community Based Development Organization (CBDO)? *

- ☐ Yes
- ☒ No

Are you planning on becoming a Certified CHDO or CBDO? *

- ☐ Yes
- ☒ No

Acknowledgements

My signature affirms that all information contained herein is true to the best of my knowledge, and I understand that any misstatement of fact or misrepresentation of credentials may result in this application being disqualified from further consideration.

Signature

Dulce Vazquez-Cruz

Date *

2/19/2026

Comments

2000 characters left

Appointed

File Application

Community Action is looking to expand our Employment Services at our Resource Center in Anacortes. Program participants get help with one-on-one job coaching/career planning, job readiness training, job search assistance including resume, cover letter, job application, and interviewing skills, and support with job placement and self-advocacy. This is not a duplicated service per our contract with the City of Anacortes as CDBG funds will be allocated to providing and expanding our Employment services in Anacortes, which we currently offer a half day every week. Uploaded you'll find our current contract with the City of Anacortes for your review.



AGREEMENT 26-096-PLN-001
Between
CITY OF ANACORTES
And
COMMUNITY ACTION OF SKAGIT COUNTY

2026 Anacortes Community Action Office & Care Specialist

This Agreement, hereinafter referred to as "Agreement", made and entered into between the City of Anacortes, hereinafter referred to as the "City", and the Community Action of Skagit County, hereinafter referred to as the "Community Action", together referred to as "Parties".

WHEREAS the City and Community Action see value in Community Action services and accessibility in Anacortes community with a Community Action office in Anacortes that is staffed with a Care Specialist; and

WHEREAS Community Action has the capacity to include a care specialist with case management experience in its current services at a facility in Anacortes; and

WHEREAS Community Action has built a strong working relationship with the Anacortes Family Center and Anacortes Housing Authority and seeks way to fill gaps and augment the services available to provide additional services to the community; and

WHEREAS the Parties began a pilot program in 2023 and after evaluating its success in the community the Parties would like to continue the program.

NOW, THEREFORE, the Parties agree as follows:

1. Satellite Office.

- a. Community Action will continue to maintain the Anacortes satellite office to assist people with basic resources, information, and referrals. ("Satellite Office"). Community Action will continue to employ a Care Specialist at the Satellite Office, who will provide information and resources, screen for program and service eligibility, provide care coordination (case management) services, and facilitate online or in-person meetings with other agency programs and other service providers.
- b. The Satellite Office must be open to the public.
- c. Community Action Staff and consultants will be available at least Monday through Friday, 9:00 am - 3:00 pm during the Term of this Agreement, except during observed holidays and staff training days. There will be no after-hours emergency service. However, referrals to the Recovery Navigator Program can be made 24 hours a day to a voicemail or answering service. The management of the satellite office staff and facility will be provided by Community Action's Resource Center Manager, Dulce Vazquez-Cruz, DulceVC@communityactionskagit.org.
- d. Community Action will respond to City requests for assistance with individuals. Community Action staff will provide basic resources, information, and referrals to individuals about ways to extend income,

acquire food support, acquire energy assistance, and acquire transportation assistance ("Services").

- e. Community Action will collaborate with other local agencies to identify and clarify roles and responsibilities in engaging with individuals who are unhoused and/or experiencing substance use disorders.
- f. Community Action will install a sign at the Satellite Office in a conspicuous location that identifies that the Satellite Office staff are funded by the City.
- g. Community Action will engage in marketing its services via the City's A-Town is Our Town publication, the Anacortes American, and other media to ensure city residents know about the location and the agency's available services.

2. **Payment.**

- a. The City will pay Community Action the sum of \$60,000.00 to maintain and staff the Satellite Office and provide Services.
- b. The City will make equal monthly payments, divided evenly with the months left in the year.

3. **Reporting.**

- a. City will identify and prescribe metrics for data collection pursuant to this Agreement and will review and update those metrics throughout the Term of this Agreement based on what data best informs the Parties' assessment of the efficacy of the pilot program.
- b. Community Action will provide the City the data requested in the format prescribed by the City on a quarterly basis and will work cooperatively with the City to prepare quarterly reports to City Council described herein.
- c. The metrics must include at least:
 - i. The number of unduplicated individuals and households served in Anacortes and specifically by the Anacortes office;
 - ii. A breakdown of duplicated and unduplicated services;
 - iii. Demographic breakdown of individuals served.
 - iv. A data-based assessment of the expanded outreach under the pilot program; and
 - v. Pre-pilot program data to allow evaluation of pilot program success.
- d. Community Action will present quarterly reports at regular City Council meetings. Such reports will include spreadsheets of the full sets of data collected pursuant to this Agreement and definitions of services.

4. **Term.** The term of this Agreement will be one calendar year commencing on January 1, 2026 through December 31, 2026.

5. **Indemnification:** The Parties shall defend, indemnify and hold each other and the indemnified party's officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, solely arising out of or solely resulting from the acts, errors or omissions of the indemnifying party in performance of this Agreement.

6. **Insurance:** Community Action shall procure and maintain a comprehensive general liability policy covering all claims for personal injury (including death) and property damage (including all real and personal property) arising out of this Agreement. The limits of liability shall not be less than Two Million Dollars (\$2,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate. The City shall be named as an additional insured under the Commercial General Liability insurance policy with respect to the work performed for the City using an additional insured endorsement at least as broad as ISO CG 20 26. Community Action shall provide the City with certificates of insurance. The policy of insurance required herein shall (i) be written as a primary policy; (ii) contain an express waiver of any right of subrogation by the insurance company against the City and the City's elected officials, employees or agents; and (iii) expressly provide that the insurance proceeds of any loss will be payable notwithstanding any act or negligence of the contractor which might otherwise result in a forfeiture of said insurance.
7. **No Joint Ventures:** The Parties acknowledge that no joint venture or partnership is created by this Agreement. No agent, employee or representative of Community Action shall be deemed to be an agent, employee or representative of the City for any purpose. Community Action shall be solely responsible for all acts of its agents, employees, representatives and subcontractors.
8. **Notices:** All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given and received (a) when personally delivered, or delivered by same-day courier; or (b) on the third business day after mailing by registered or certified mail, postage prepaid, return receipt requested; or (c) upon delivery when sent by prepaid overnight express delivery service (e.g., FedEx, UPS); or (d) when sent by email and upon the receipt by the sending party of written confirmation by the receiving party; provided, however, that an automated email confirmation of delivery or read receipt shall not constitute such confirmation. Notices shall be sent to the following addresses:
- a. To the City:
City of Anacortes
Attn: Darcy Swetnam, City Attorney
PO Box 547, Anacortes, WA 98221
contracts@anacorteswa.gov
 - b. To Community Action:
Community Action of Skagit County
Attn: Bill Henkel, Executive Director
330 Pacific Pl, Mount Vernon, WA 98273
BillH@communityactionskagit.org
9. **Governing Law; Binding Effect:** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington applicable to contracts made and performed in such state without giving

effect to the choice of law principles of such state that would require or permit the application of the laws of another jurisdiction.

10. **Severability:** If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.
11. **Counterparts:** This Agreement may be executed in one or more counterparts, including electronically through DocuSign, each of which shall be deemed to be an original copy of this Agreement, and all of which, when taken together, shall be deemed to constitute one and the same agreement.

IN WITNESS WHEREOF, the City and Community Action have executed this Agreement as of _____.

CITY OF ANACORTES:

By: _____
Ryan Walters, Mayor

Dated: _____

Attest: _____
Steven D. Hoglund, Finance Director

Approved as to form and legality:

Darcy Swetnam, City Attorney

COMMUNITY ACTION OF SKAGIT COUNTY:

By: _____
Bill Henkel, Executive Director

Dated: _____



CDBG FUNDING APPLICATION

Project Information

Program Year

Funding Type *

☐ Public Service ☒ Planning Capital ☐ Improvement

CDBG Fund Request *

☐ % ☒ \$ Amount

Amount *

\$ 26,000.00

Project Title *

Project Description *

The Salvation Army Anacortes is requesting \$26,000 in Community Development Block Grant (CDBG) funding to install three ADA-compliant, handicap-accessible doors at the most heavily used access points of our facility:

Please attach additional page if necessary, outlining project with specific numbers/goals:

Project Location (physical address) *

City, State ZIP *

Number of Individuals Directly Benefitting from this Project *

Applicant Information

Organization Name *

Organization Mailing Address *

Street Address

Address Line 2

City

State

Zip Code

Agency Director Name ***Phone Number *****Email *****Other Approved Staff Contact: Name and Title****Staff Contact Phone Number****Staff Contact Email****Federal Tax ID Number *****DUNS Number *****Organization Type ***

- ☐ Public Agency
- ☒ Private Nonprofit
- ☐ Other

Are you a Certified Housing Development Organization (CHDO) or Certified Community Based Development Organization (CBDO)? *

- ☐ Yes
- ☒ No

Are you planning on becoming a Certified CHDO or CBDO? *

- ☐ Yes
- ☒ No

Acknowledgements

My signature affirms that all information contained herein is true to the best of my knowledge, and I understand that any misstatement of fact or misrepresentation of credentials may result in this application being disqualified from further consideration.

Signature

Brett M Harrison

Date *

2/26/2026

Comments

2000 characters left

Appointed

File Application

The Salvation Army Anacortes is requesting \$26,000 in Community Development Block Grant (CDBG) funding to install three ADA-compliant, handicap-accessible doors at the most heavily used access points of our facility:

Main Office Entrance

Food Pantry Entrance

Food Pantry Exit

Every day, our building serves a diverse population of low- and moderate-income individuals and families, including adults and children with intellectual and developmental disabilities, individuals who use wheelchairs or mobility aids, senior citizens, and others living with physical or cognitive disabilities. Many of the individuals we serve face significant barriers to accessing essential services, and our current manual doors create challenges related to safety, independence, and dignity.

The installation of ADA-compliant automatic door systems will significantly improve accessibility, safety, and ease of entry and exit for all participants. These upgrades will:

Ensure compliance with ADA accessibility standards

Increase independent access for individuals with mobility limitations

Improve safety during high-traffic service hours

Enhance emergency egress from the food pantry

Create a more welcoming and inclusive environment

The food pantry entrance and exit are especially critical, as clients often carry food boxes and bags while navigating mobility challenges. Automatic doors will reduce physical strain and remove barriers that currently limit full and independent participation in our programs.

This project directly aligns with CDBG priorities by improving public facility accessibility and removing barriers for low- and moderate-income individuals, including those with disabilities. By investing in these infrastructure improvements, we will ensure equitable access to essential services and uphold the dignity of every individual who enters our doors.

CDBG funding will allow us to complete this project efficiently and responsibly, creating lasting improvements that will serve our community for years to come.



City Council Agenda Bill

March 9, 2026

Action Type: Ordinance

Item: 7.a.

Title: Ordinance 4092: AMC Title 19 Permit Review Time Periods

Staff Contact(s): John Coleman, Libby Grage

Approved for Submittal to Council by:

Greg Francioch
John Coleman
Steve Hogleund
Darcy Swetnam

Summary: Draft Ordinance 4092 and Exhibit A to the ordinance (attached) present amendments to [Anacortes Municipal Code \(AMC\) Title 19, Unified Development Code](#) to bring Anacortes into compliance with the new state law requirements and to improve predictability and timeliness in permit review processes.

New legislation passed in 2023, 2SSB 5290, made a number of changes to [Chapter 36.70B RCW Local Project Review](#) 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, unless the jurisdiction has adopted at least 3 of 10 optional measures listed in RCW 36.70B.160(1) intended to streamline permit review.

The draft amendments would adopt the default permit review time periods from the statute and 3 optional measures to streamline permit review. Other changes are proposed to improve predictability and timeliness in permit review, including waiver of pre-application neighborhood meeting requirements in some cases and authority to expire applications when an applicant is not timely responding to requests for more information.

Budget Impact:

Under current state law, if the City does not meet adopted permit review timeframes, it must refund a portion of the permit application fees unless specific measures are

adopted to streamline the review process. Ordinance 4092 would adopt 3 measures to streamline permit review, thereby preventing the need to refund permit application fees and avoiding impacts to the budget.

Previous Action: [Planning Commission public hearing and recommendation — December 11, 2024](#)

Recommended Motion: I move adoption of Ordinance 4092 as presented.

Alternative Actions: Adopt Ordinance 4092 with changes.
Do not adopt Ordinance 4092.

Attachments (listed in order presented):

1. 20260309-Item7a-PresentationSlides
2. Draft Ord. 4092 & Att A (Draft Amendments)
3. Planning Commission Recorded Motion
4. 12/11/24 Planning Commission Meeting Materials
5. Written Public Comment - William Turner - Ordinance 4092
6. Written Public Comment - Ian Munce - Ordinance 4092

AMENDING AMC TITLE 19 RE: PERMIT TIMELINES

AMENDMENTS TO COMPLY WITH SB 5290 (2023) AND TO IMPROVE PREDICTABILITY & TIMELINESS IN PERMIT REVIEW

Anacortes City Council

March 9, 2026

Draft Ord. 4092 – 1st Read



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



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:

- Former 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</u> and <u>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 19.20.030-1 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-I: Review classification and process matrix

Types of Review	Type 1	Type 2	Type 3	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 Shoreline Substantial Development Permits	Binding Site Plans, 10+ lots CUPs CA variance Level 2 variance Preliminary Long Subdivision Shoreline CUP and Variances Zone boundary determination	EPFs, Type I Framework Development Plan Site Specific Rezones
Pre-app Conference	At discretion of the director	At discretion of the director	At discretion of the director	Yes
Pre-app neighborhood meeting	No	At discretion of the director	At discretion of the director	Yes
NOA	No	Yes	Yes	Yes
Comment period	None	14 days (30 for shoreline permits)	21 days (30 for shoreline permits)	21 days
Rec. By	None	None	Director	Director
Pre-decision Open record hearing	No	No	Yes, before HE	Yes, before CC
Decision By	Director	Director	HE	CC
Notice of Decision	No	Yes	Yes	Yes
Local Appeal to	Hearing Examiner	Hearing Examiner	City Council	None
Appeal Hearing Type	Open record	Open record	Closed record	None
Review Time Period	65 days	100 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.

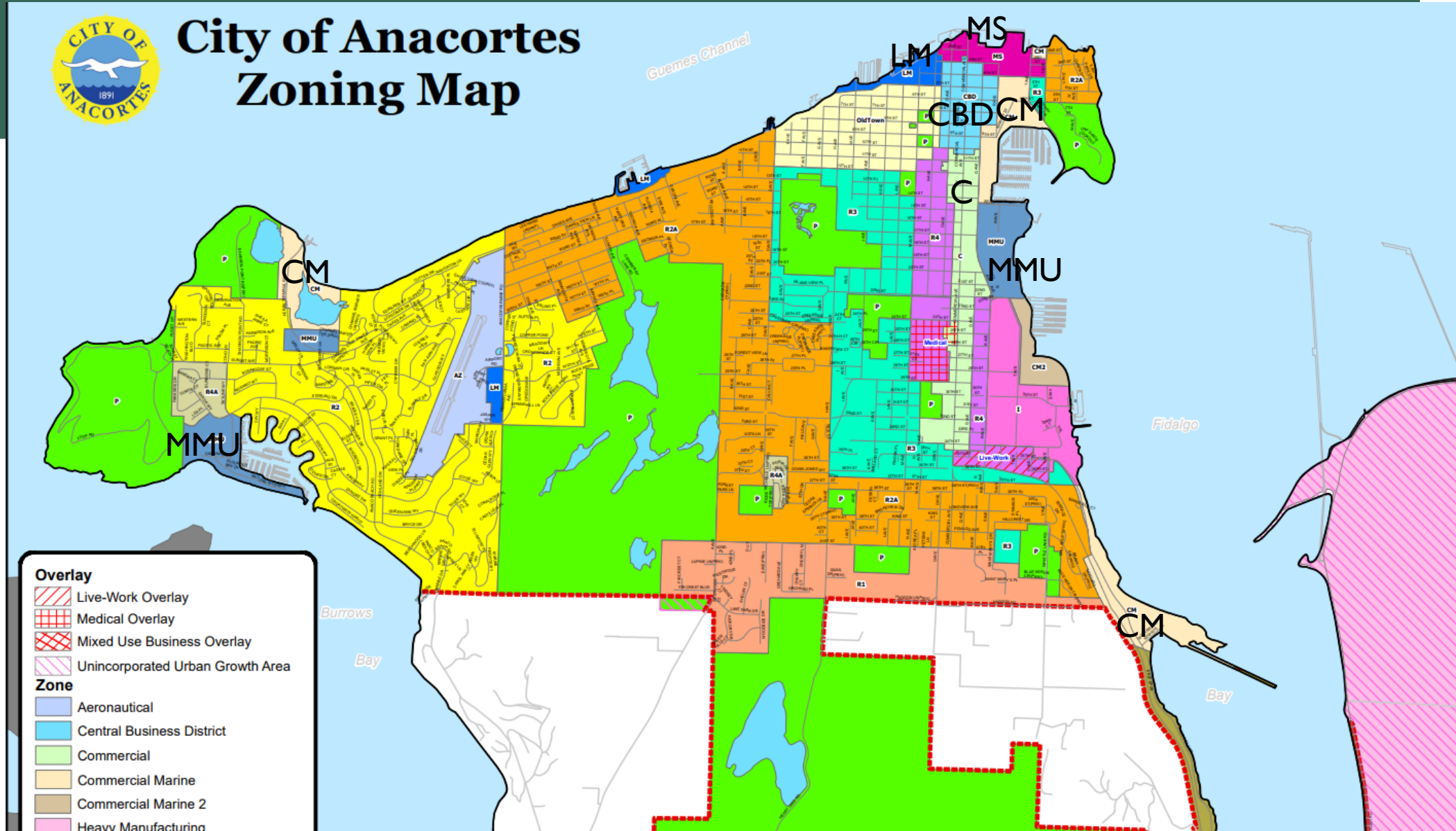
- In the CBD and C zones, no new single-family residences may be constructed. Single-family uses are conditionally permitted in these zones if in an existing building that was a single-family residence at some time in its past.
- In the LM1 zone, single-family uses are permitted only for existing platted 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



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

- PCED sent proposed amendments to Commerce for state review; no comments received
- Planning Commission held a public hearing and recommended approval on 12/11/24
- Director issued a SEPA DNS on 11/13/24
 - DNS threshold determination was appealed; under previous code, appeals were heard by Hearing Examiner – HE denied the appeal on February 18, 2026.
- Next Step: City Council action

THANK YOU.

■ Questions?

City of Anacortes
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 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 November 13, 2024;

Whereas the Planning Commission held a public hearing on the proposal and recommended approval to City Council on December 11, 2024;

Whereas the City issued a SEPA threshold Determination of Nonsignificance (DNS) for the non-project proposal on November 13, 2024 and an appeal was timely filed; the Hearing Examiner heard the appeal on January 30, 2025 and denied it in a written decision dated February 18, 2026.

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 five days after passage, approval, and publication in the manner required by law.

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 _____, 2026.

CITY OF ANACORTES:

Ryan Walters, 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 Hearing Examiner 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 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>

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	—	HM	Reference
[No change to intervening rows]											
Single-family	€ ^(x)	€ ^(x)				€	P ^(x)				AMC 19.43.020(B) ^(x) AMC 19.43.020(B)(2)
[No change to intervening rows]											
Multifamily dwellings, 4 or more units	P	P ^(x)	P ^(x)	€ ^(x) P		€		€ ^(x) P ^(x)			AMC 19.43.080
Live-work	P	P	P					€			AMC 19.43.100
[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]											

AMC 19.43.080 Multifamily

A. – B. [No change.]

C. Zone-Specific Standards

1. MMU Zone East of Q Avenue Standards. [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.

2. ~~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.

3. MS Zone Standards.

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

4. – 5. [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.

A. – 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.

- E. 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
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 City Council adoption of the amendments as recommended by the City Council Planning Committee, and as presented tonight.

This recorded motion was approved December 11, 2024.

Commission Vote	Support	Oppose	Absent	Abstain
Linda Martin, Chair	X			
Paul Ryan	X			
Mike Mills	X			
Frank Jeretzky	X			
Luke Currier	X			
James Stoneman	X			
William McCombs	X			
Total	7	0	0	0

ANACORTES PLANNING COMMISSION
ANACORTES, WASHINGTON

L. Martin

Linda Martin, Planning Commission Chair

12-12-24

Date

- Meetings may be viewed on the [City of Anacortes website](#), on the City of Anacortes [YouTube](#) Channel, or on TV [Channel 10](#).
- To watch, listen to, or participate in the meeting live, visit <https://us02web.zoom.us/j/84685300609> or telephone 1-253-215-8782 and enter Meeting ID 846 8530 0609.
- The public is encouraged to comment via email to pced@cityofanacortes.org, via written comment addressed to PCED, P.O. Box 547, Anacortes, WA 98221. Public comments received prior to 3:00 p.m. the day of the meeting will become part of the record for the meeting, just as if presented in person.
- Complete guidelines for virtual participation in Anacortes Planning Commission meetings are available [here](#) (page 2). View the quick video example for connecting to the meeting [here](#).

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.



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

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 questions](https://ecology.wa.gov/Regulations-Permits/SEPA/Environmental-review/SEPA-guidance/SEPA-checklist-guidance/SEPA-Checklist-Section-A-Background)²

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;~~

~~(v) Variance of actual performance, excluding applications for which mutually agreed time extensions have occurred, to the deadline established under this subsection during the year; and~~

~~(vi) The mean processing time and the number standard deviation from the mean.~~

~~(c) Counties and cities subject to the requirements of this subsection must:~~

~~(i) Provide notice of and access to the annual performance reports through the county's or city's website; and~~

~~(ii) Post electronic facsimiles of the annual performance reports through the county's or city's website. Postings on a county's or city's website indicating that the reports are available by contacting the appropriate county or city department or official do not comply with the requirements of this subsection.~~

~~If a county or city subject to the requirements of this subsection does not maintain a website, notice of the reports must be given by reasonable methods, including but not limited to those methods specified in RCW 36.70B.110(4).~~

~~(3))~~ includes information outlining time periods for certain permit types associated with housing. The report must provide:

(i) Permit time periods for certain permit processes in the county or city in relation to those established under this section, including whether the county or city has established shorter time periods than those provided in this section;

(ii) The total number of decisions issued during the year for the following permit types: Preliminary subdivisions, final subdivisions, binding site plans, permit processes associated with the approval of multifamily housing, and construction plan review for each of these permit types when submitted separately;

(iii) The total number of decisions for each permit type which included consolidated project permit review, such as concurrent review of a rezone or construction plans;

(iv) The average number of days from a submittal to a decision being issued for the project permit types listed in subsection (2)(a)(ii) of this section. This shall be calculated from the day completeness is determined under RCW 36.70B.070 to the date a decision is issued on the application. The number of days shall be calculated by counting every calendar day;

(v) The total number of days each project permit application of a 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 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

Prepared for:

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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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Washington Department of Fish and Wildlife (WDFW). Yellow-billed cuckoo. Accessed 2024 via <https://wdfw.wa.gov/species-habitats/species/coccyzus-americanus#desc-range>

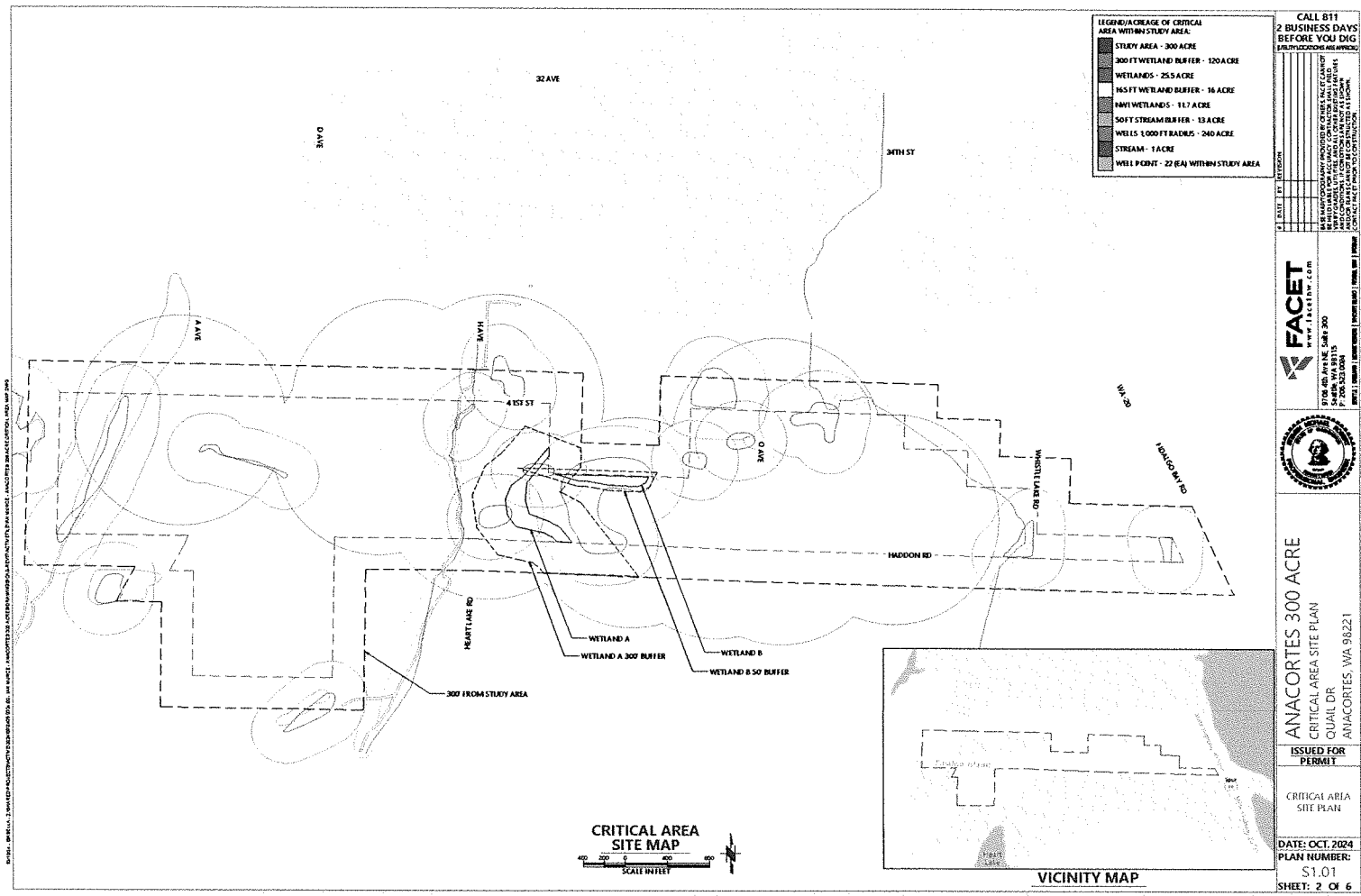
Washington Department of Fish and Wildlife (WDFW). Yelloweye Rockfish (Puget Sound/Georgia Basin DPS) (*Sebastes ruberrimus*). Accessed 2024 via <https://wdfw.wa.gov/species-habitats/species/sebastes-ruberrimus>

Washington State Department of Natural Resources. Puget Sound Seagrass Monitoring. Accessed 2024 via <https://wadnr.maps.arcgis.com/apps/webappviewer/index.html?id=83b8389234454abc8725827b49272a31>

Washington State Department of Natural Resources. WA Wetlands of High Conservation Value Map Viewer. Accessed 2024 via www.dnr.wa.gov/NHPwetlandviewer

Wydoski, R.S. and Whitney, R.R. (1979). Inland fishes of Washington. University of Washington Press. Seattle, Washington

APPENDIX I: Critical Area Map Overlay



CALL 811
2 BUSINESS DAYS
BEFORE YOU DIG

FACET
FACET CONSULTING, LLC
10040 4th Ave NE, Suite 300
Seattle, WA 98115
P: 206.343.0344
F: 206.343.0344
WWW.FACETCONSULTING.COM

ANACORTES 300 ACRE CRITICAL AREA SITE PLAN

ISSUED FOR PERMIT

DATE: OCT. 2024

PLAN NUMBER: S1.01

SHEET: 2 OF 6

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

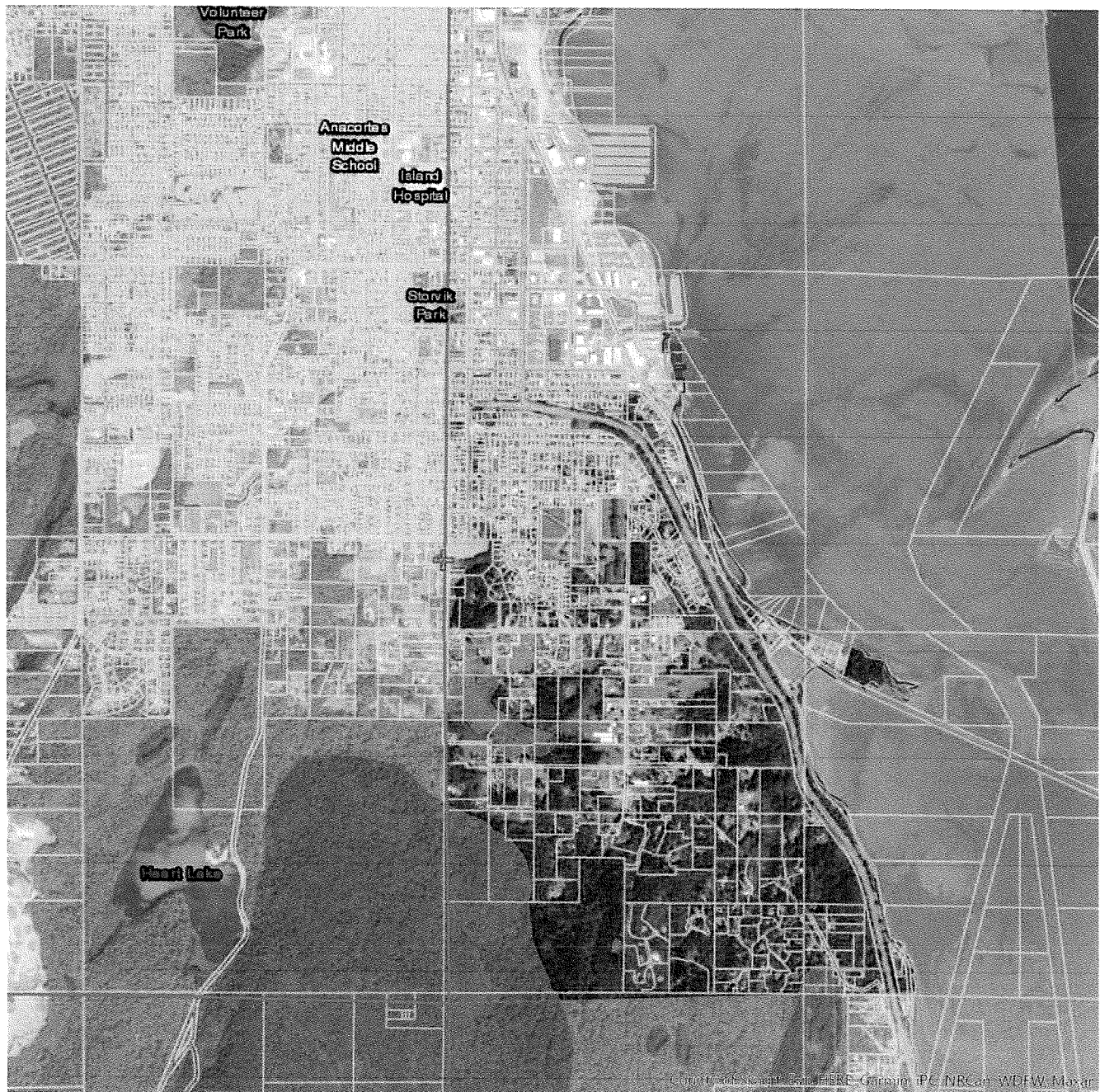
County of Skagit, WA State Parks GIS, Esri Canada, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METINASA, USGS, Bureau of Land

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 /////

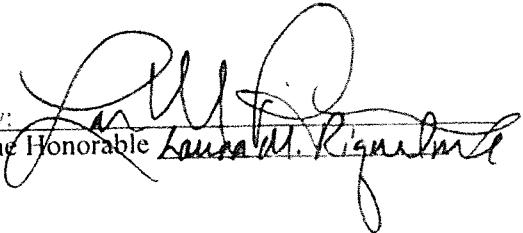
[PROPOSED] ORDER DENYING PETITIONER'S MOTION FOR
SUMMARY JUDGMENT AND GRANTING CITY'S MOTION FOR
SUMMARY JUDGMENT - 2

FOSTER GARVEY PC
1111 THIRD AVENUE, SUITE 3000
SEATTLE, WASHINGTON 98101
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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26
[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 

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](#)

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 Schemmetzker) (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

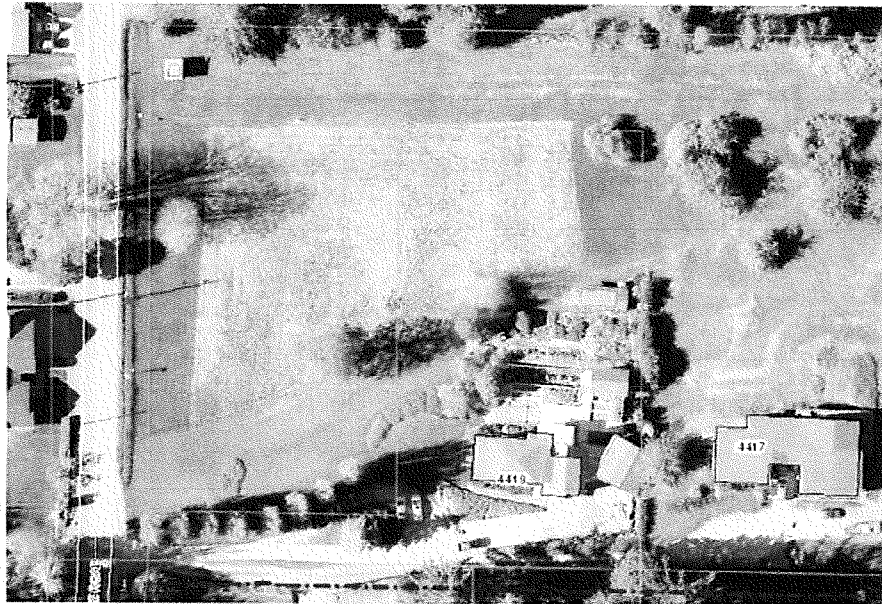
13
14 For the first time, in his Response in opposition to the City's Motion, Petitioner contends that
15 he has standing because mowing might "convert" the Middleton "wetland" and will endanger a well on
16 his property, "most likely requiring a very expensive connection to City water." Petitioner's 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

21 Andrea Bradford, WSBA # 45748

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23 Seattle, WA 98101

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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 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

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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.*

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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

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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. _____

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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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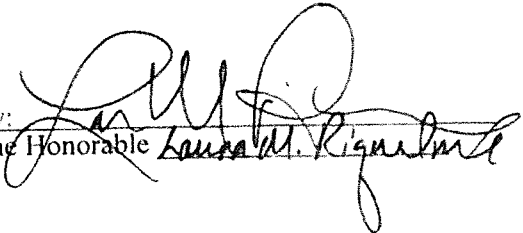
[PROPOSED] ORDER DENYING PETITIONER'S MOTION FOR SUMMARY JUDGMENT AND GRANTING CITY'S MOTION FOR SUMMARY JUDGMENT - 2

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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
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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

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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](#)

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

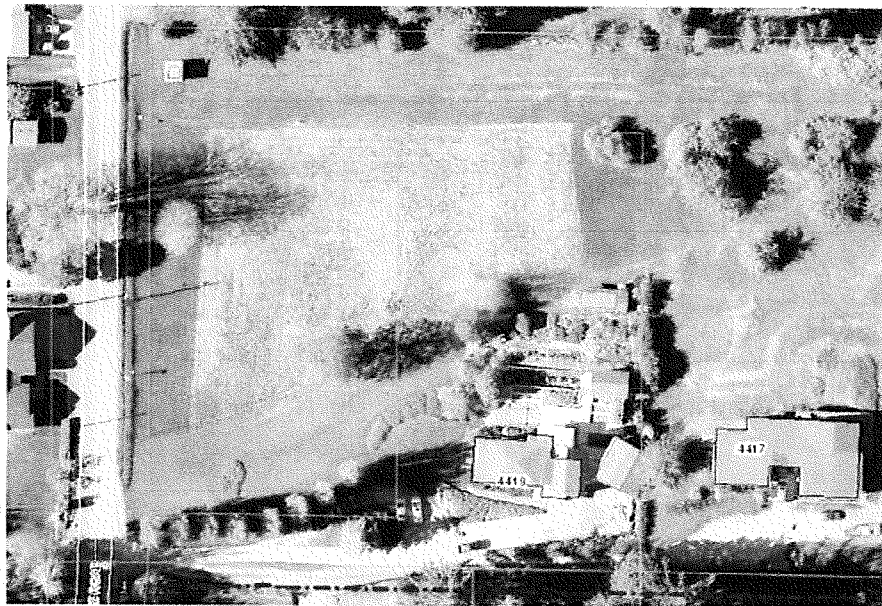
13
14 For the first time, in his Response in opposition to the City's Motion, Petitioner contends that
15 he has standing because mowing might "convert" the Middleton "wetland" and will endanger a well on
16 his property, "most likely requiring a very expensive connection to City water." Petitioner's 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
20 P. Stephen DiJulio, WSBA #7139
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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".

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.

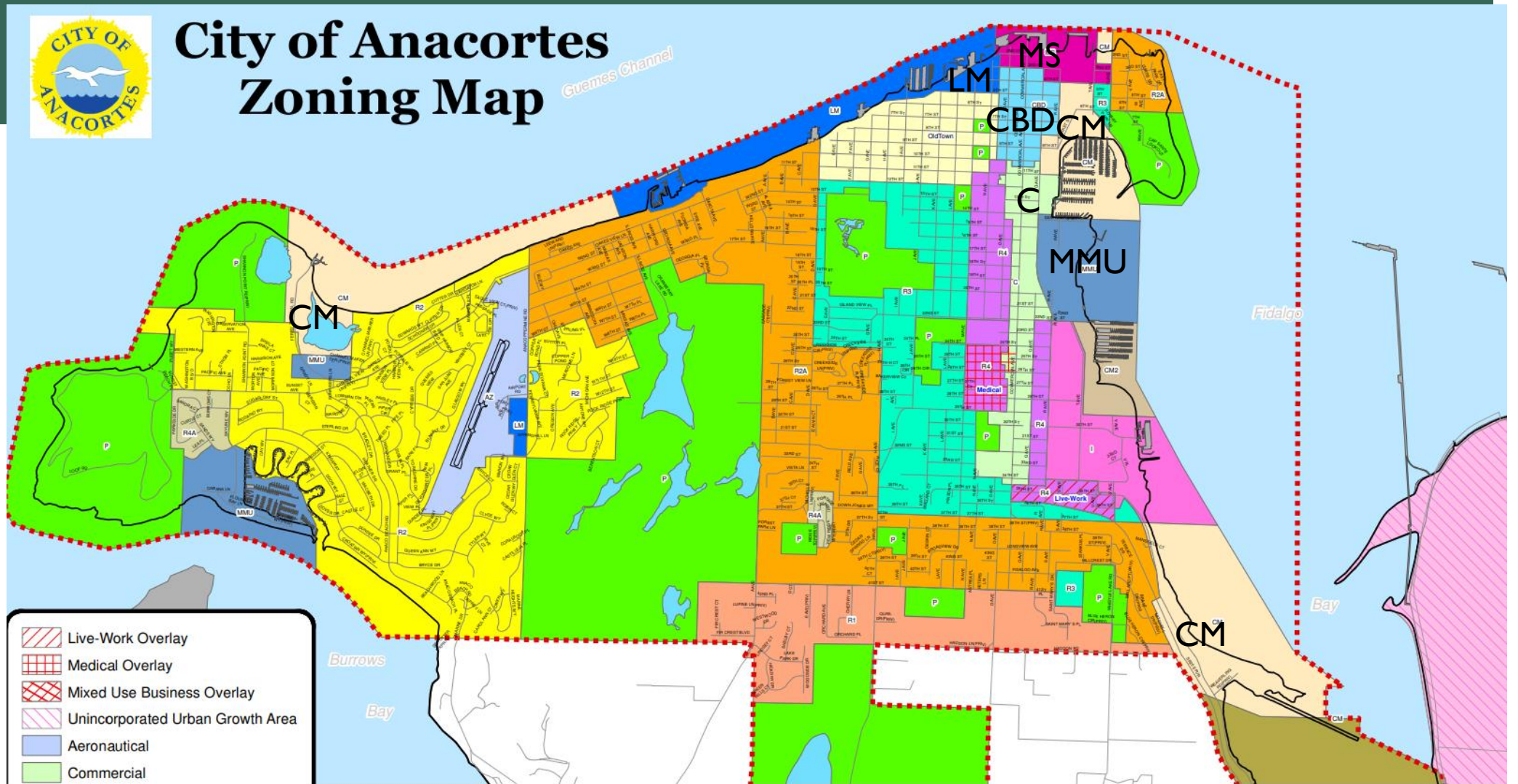
1. In the CBD and C zones, no new single-family residences may be constructed. ~~Single-family uses are conditionally permitted in these zones if in an existing building that was a single-family residence at some time in its past.~~
2. In the LM1 zone, single-family uses are permitted only for existing 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



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

- 
- 
- Questions?
 - Public Hearing
 - Recommendation

From: [William Turner](#)
To: [Ryan Walters](#); [City Council](#); [CityClerk](#)
Cc: [Nicholas Johnson](#); [Mark Robinson](#); [Nihart Mark](#); [Munce Ian](#); [Doyle John](#)
Subject: Complete lack of public participation and violations of OPMA
Date: Sunday, March 8, 2026 10:04:56 AM

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

Dear Mayor and City Council

SMA and just about everyone in town is opposed to your excluding input from neighbors on your proposal to 'streamline' permit review by excluding public input on the siting of duplexes/triplexes/fourplexes, cottage housing, and Accessory Dwelling Units in what are currently pleasant low density residential areas. We have previously asked that you put this 'streamlining' notion up for an advisory vote but, of course, you did not do that. I predict a disapproval vote that would exceed 80%.

Rather, you involved 'stakeholders' comprised of real estate and development interests and excluded homeowners associations, neighborhood interests, and environmental groups. Your City Council Planning Committee conducted proceedings in violation of the State Open Public Meetings Act (OPMA), i.e. no agendas, no list of attendees, no details of testimony received and from whom, no meeting recording, no minutes. You then again violated the OPMA by having this 'streamlining' proposal transmitted directly from the City Council Planning Committee to the Planning Commission and basically directed the Planning Commission to adopt outlawing a conditional use type process as necessary 'housekeeping'. The Planning Commission then went on, just as you intended, to give no further consideration to the use of conditional use permits in their recommendations to you on the 2025 Comprehensive Plan/Development Regulation Periodic Update.

The State Growth Management Hearings Board (GMHB) does not have jurisdiction over the OPMA but will consider whether or not such violations constitute improper public participation procedures. You will, of course, complain when we appeal your development regulation amendment, but such underhanded actions deserve to be called out and simply set-aside for further review. You are bypassing the six other options available to you for true housekeeping and the context and background information set forth in the City Hearing Examiner's record of proceedings. He found your SEPA Declaration of Environmental Non significance not to be 'clearly erroneous' but that does not preclude you reviewing this record and concluding on your own that the SEPA review was inadequate and not up to professional standards.

Our Group will be developing a proposal for a streamlined conditional use process for consideration as part of your 2026 Comprehensive Plan Amendment Process. We will not be paying your \$3,000 application fee, as charging such a fee is not only insulting to your constituents but another GMA public participation violation.

Thank you for considering these comments.

Bill Turner, President
Smart Growth Anacortes

From: [Ian Munce](#)
To: [CityClerk](#)
Cc: [Bill Turner](#)
Subject: Comments on Agenda Item 7 March 9 City Council Meeting
Date: Sunday, March 8, 2026 1:38:18 PM
Attachments: [Extracts from GMHB 21-2-0002c.pdf](#)

***** This email is from outside the City of Anacortes network. Please use caution when clicking on links, opening attachments, or replying. *****

Dear Mayor and City Council

BACKGROUND

In Growth Management Hearings Board (GMHB) Case No. 0002c, [Ian Munce and Evergreen Islands v. City of Anacortes](#), the Board addressed my issue as to the need to add standards controlling ongoing, pre-existing critical area destruction in my immediate neighborhood by pointing out that AMC 19.70.040, as newly adopted, simply prohibits such ongoing destruction. Pages 7 and 8 are attached for review and consideration. Yet, these activities continue not just in my neighborhood and across the City.

My next step was to seek a court order directing the City to enforce AMC 19.70.040. I failed to demonstrate the “exceptional circumstances” threshold to the Court’s satisfaction but, remarkably, the City argued that I had no right to bring this case at all and that the property owners involved were an indispensable party. The Court rejected these arguments along with the City argument that the City did not have a **real duty** to administer and enforce its development regulations but the City could use its judgement as to which regulations to apply to which properties and which applicants. A difficult argument to make given that AMC 19.10.030 says explicitly that the City has a duty to administer and enforce its development regulations. Yet, the City ignores the plain result and declares success because no Court Order was issued.

The duty has now been established to be a **real duty** but the City continues its practice of claiming that it has the discretion to pick and chose which regulations to which properties and to which applicants. Under this regime, conditional uses, with notice and opportunity to comment are an absolutely necessity for transparency and accountability. Further, the City acknowledges that its critical area mapping is just an approximation and not to be relied upon without site specific research. But, again the City asserts the right not to require accurate information from applicants and neighbors will often only know about a project after a building permit has been issued (when no remedy is readily available) and clearly that is the intention.

This is not theoretical. At 4219 H Avenue a large wetland buffer that the applicant and City have delineated is being mowed on an ongoing basis when the AMC 19.70.040 explicitly prohibits this, and this is one of the provisions that the GMHB based it’s Order upholding the new City Critical Area Ordinance on. The AMC prohibits a short plat being processed under this circumstance, yet the application proceeds to be processed. The application is also being processed without the mandatory SEPA Checklist. Again, the City is exercising a discretion that it is simply not entitled to. Going further, the City asserted in the Superior Court case cited above that it was my responsibility going forward to determine whether there is in fact a three acre wetland at 4417/4419 H Avenue or not. This despite the fact that AMC 19.70 states

that the burden is on the property owner and the City.

I am of the opinion that the City's refusal to comply with the GMHB's FDO will be a controlling factor not just to the GMHB in upcoming proceedings but also to the State Shorelines Hearings Board and the State Department of Ecology (when the city moves forward with its Shoreline Master Plan Update).

**CONDITIONAL USES ARE AN ESSENTIAL TOOL TO GUARD AGAINST STAFF
OVERREACH AND ADVERSE ENVIRONMENTAL IMPACTS**

My outreach efforts have led me to believe that there is close to consensus in town that not just in my neighborhood but across town your constituents want cottage housing, duplexes/triplexes/fourplexes, and cottage housing to be subject to a conditional use type process in low density neighborhoods, i.e. notice and an opportunity to comment. This may be 'inefficient' but there we are. We are entitled to know in advance which land use regulations are being applied by staff to which projects and which applicants, together with an opportunity to comment on whether or not proposed migrations are adequate or not. You are all aware that this is how you build community and not just housing units, e.g. "careful and thoughtful" should be your guiding principle.

Sincerely

Ian S. Munce

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
WESTERN REGION
STATE OF WASHINGTON

IAN MUNCE,

and

EVERGREEN ISLANDS,

Petitioners,

v.

CITY OF ANACORTES,

Respondent.

Case No. 21-2-0002c

FINAL DECISION AND ORDER

SYNOPSIS

Petitioners, Ian Munce (Munce) and Evergreen Islands, challenged the City of Anacortes's (City) adoption of its updated Critical Areas Ordinance (CAO), asserting that the action violated the State Environmental Policy Act (SEPA) and did not reflect best available science (BAS) in protecting wetlands and streams.

The Growth Management Hearings Board (Board) determined that Petitioner Munce has failed to carry his burden of proof and has failed to demonstrate a lack of compliance with the Growth Management Act (GMA) in relation to the regulation of activities on wetlands or in adjacent buffers, or the public participation mandates regarding a specific wetland map set out in AMC 19.70.220.

Regarding the issues brought by Petitioner Evergreen Islands the Board found that the City departed from BAS without reasoned justification and adopted undersized buffers that violate the GMA requirement to protect all functions and values of critical areas.

1 by-case basis. Further, as the City acknowledges, this is not a change from the previous
2 version of the CAO.¹⁴

3 Petitioner Munce takes exception to AMC Table 19.70.040(A)'s exemption for "Yard
4 and Garden Activities" pointing out that the prohibition in RCW 36.70A.060 against
5 interference with existing uses apply only to resource lands and not to critical areas.¹⁵ He
6 notes that this Board earlier held that "a blanket exemption for activities which could result in
7 significant impacts to a critical area, without any consideration of the quality of a wetland,
8 and which does not include steps to avoid, minimize or mitigate, fails to protect critical
9 areas".¹⁶

11 Petitioner Munce notes that AMC Table 19.70.040(A) grants essentially unrestricted
12 landscaping rights to property owners without any City review or permit and does not have a
13 requirement that these rights only extend to pre-1990 landscaping that was demonstrably
14 continued every year thereafter. He further notes that there is no limitation as to how many
15 acres or square feet of wetlands and wetland buffers can be landscaped nor City review or
16 permit requirements to ensure that BAS standards are actually met. In reply, the City
17 argues this recognition of legal nonconforming uses is important for the City to avoid
18 regulatory takings, which is also a goal of the GMA.¹⁷

20 The Board notes that Section 19.70.040, as adopted, specifically includes protections
21 for critical areas and buffers. It includes language that clarifies that activities are exempt
22 under that section *only* if they meet the specific terms of the section. The exemption does
23 not allow such activity in a critical area, only in buffers. In buffers, the section allows for
24 maintenance or repair activities only for legally existing landscaping improvements provided
25 they "do not further expand into critical areas or associated buffers, do not alter topography,
26
27
28
29

30 ¹⁴ City Brief at 20.

31 ¹⁵ Munce Opening Brief at 6.

32 ¹⁶ *Friends of the San Juans v. San Juan County*, GMHB No. 13-2-0012c (FDO, 9-6-2013) at 71.

¹⁷ City Brief at 20.

1 do not destroy or clear native vegetation, do not remove non-hazard trees in the buffer or
2 critical area, and do not diminish water quality or quantity”.¹⁸

3 In addition, the City argues, and the Board agrees that Munce is incorrect where he
4 asserts that these exemptions have no permit process. The exemption states, “No review
5 Required,” but also states that the Applicant “must strictly meet standards.” The standards
6 list several low impact equipment types and landscaping methods. The burden of proof is on
7 the applicant to bring forth evidence that the activity meet the precise exemption.¹⁹ Further,
8 Section 19.70.040(C) reads that “[a]ny incidental damage to, or alteration of, a critical area
9 or buffer that is not a necessary outcome of the exempted activity must be restored,
10 rehabilitated, or replaced at the responsible party’s expense.”²⁰

11 With regard to certain other provisions concerning the City’s critical area review
12 provisions, Munce takes exception to provisions of AMC 19.70.010, .015, .020, .035, .040,
13 and .050.²¹ However, these arguments are not supported by citations to the GMA nor is
14 argument as to how they violate the Act, and the Board finds that Munce has not carried his
15 burden of proving that the City committed clear error in adopting those sections.

16 The Board **finds and concludes** that the Petitioner Munce has not met his burden of
17 proof that the adopted Ordinance violates any requirement of the GMA is addressing
18 regulation of activities on wetlands or in adjacent buffers.

22 **Munce Issue No. 2A.**

23 Did the City act in a manner inconsistent with RCW 30.70A.172, WAC 365-190-
24 090(2), 365-196-500(3), 365-196-650, and 365-196-800, the City Comprehensive
25 Plan (Vision Statement, Values Statements, Goal LU-4, EC Goal EC-1, EC Policy
26 EC1.2, 1.8, 3.3, EC Goal EC-4, EC Policy 4.1, 4.8, 4.9, EC Goal EC-6, and EC
27 Policy 6.2 and 6.5), and the City’s own new CAO General Provisions set forth in
28 19.70.010 when in the wetland provisions it:

29
30 ¹⁸ Index Item 2, p. 12. (Table AMC 19.70.040(A)).

31 ¹⁹ Munce Opening Brief at 24.

32 ²⁰ City Brief at 21.

²¹ Munce Opening Brief at 7.



City Council Agenda Bill

March 9, 2026

Action Type: Ordinance

Item: 7.b.

Title: Ordinance 5025: Amending AMC 6.16.040 - Dangerous Animals Exemption

Staff Contact(s): Darcy Swetnam, Dave Floyd

Approved for Submittal to Council by:

Greg Francioch
Darcy Swetnam
Dave Floyd
Steve Hoglund

Summary: This ordinance would update AMC 6.16.040, regarding exemptions from the potentially dangerous wild animals chapter. Upon recent review of the chapter, staff identified that there is not currently an exemption in the chapter to allow the use of falcons for seagull control within the City. The proposed changes would incorporate one of the exceptions in RCW 16.30.020, which allows institutions authorized by the Washington department of fish and wildlife to have potentially dangerous wild animals in the City.

Budget Impact:

None

Previous Action: None

Recommended Motion: I move we adopt Ordinance 5025 amending AMC 6.16.040 regarding exemptions from the potentially dangerous wild animals chapter. This is a first read of the ordinance, but Council could waive the two-read rule to take immediate action.

Alternative Actions: Decline to adopt Ordinance 5025

Attachments (listed in order presented):

1. 260309 Ord 5025 Re Potentially Dangerous Wild Animal Exemptions

2. 260309 Ord 5025 - Presentation

Ordinance 5025

An Ordinance amending AMC 6.16.040 regarding Exemptions from the Potentially Dangerous Wild Animals Regulations

Whereas AMC Chapter 6.16 governs potentially dangerous wild animals in the City;

Whereas City Council wishes to expand the exemptions to the chapter to allow institutions authorized by the Washington department of fish and wildlife to have wild animals within the City;

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

Section 1. AMC 6.16.040 is hereby amended as shown in Exhibit A.

Section 2. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 3. Severability. The various parts, sections, and clauses of this ordinance are hereby declared to be severable. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision must not affect the validity of the remaining parts of this ordinance.

Section 4. Consistent with RCW 35A.12.130, this ordinance takes effect five days after passage, approval, and publication.

ADOPTED by the City Council of the City of Anacortes this ____ day of _____, 2026.

CITY OF ANACORTES:

Ryan Walters, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy Swetnam, City Attorney

Exhibit A AMC 6.16.040 Exemptions.

6.1416.040 Exemptions.

~~The provisions of this ordinance shall~~ This chapter does not apply to:

- ~~1. Institutions authorized by the Washington department of fish and wildlife to hold, possess, and propagate potentially dangerous wild animals;~~
- ~~1.2.~~ 2. Institutions accredited by the American Zoo and Aquarium Association (AZA) or under mentorship through the AZA;
- ~~2.3.~~ 3. Duly incorporated non-profit animal protection organizations housing a potentially dangerous wild animal at the written request of the police department;
- ~~3.4.~~ 4. Animal control or law enforcement agencies or officers acting under the authority of this chapter;
- ~~4.5.~~ 5. Licensed veterinary hospitals or clinics;
- ~~6.~~ 6. Any lawfully operated circus or rodeo;
- ~~5.7.~~ 7. A person transporting potentially dangerous wild animals when such animals are safely and continuously contained during uninterrupted transport through the city or to a veterinary clinic within the city.

~~The provisions of this chapter shall not apply to potentially dangerous wild animals as defined in this chapter when such animals are safely and continuously contained during uninterrupted transport through the city or to a veterinary clinic within the city.~~

ORDINANCE 5025

MARCH 9, 2026

BACKGROUND



- AMC Chapter 6.16 prohibits potentially dangerous wild animals within the City of Anacortes
- Section 6.16.040 includes exemptions from the prohibition
- Does not currently include an exemption for institutions authorized by WDFW to have potentially dangerous wild animals
- Updating Code would allow WDFW authorized institutions to have potentially dangerous wild animals in the City

Exhibit A AMC 6.16.040 Exemptions.

1 ~~6.14~~6.040 Exemptions.

~~The provisions of this ordinance shall~~ This chapter does not apply to:

- ~~1. Institutions authorized by the Washington department of fish and wildlife to hold, possess, and propagate potentially dangerous wild animals;~~
- ~~1-2.~~ 2. Institutions accredited by the American Zoo and Aquarium Association (AZA) or under mentorship through the AZA;
- ~~2-3.~~ 3. Duly incorporated non-profit animal protection organizations housing a potentially dangerous wild animal at the written request of the police department;
- ~~3-4.~~ 4. Animal control or law enforcement agencies or officers acting under the authority of this chapter;
- ~~4-5.~~ 5. Licensed veterinary hospitals or clinics;
- ~~6.~~ 6. Any lawfully operated circus or rodeo;
- ~~5-7.~~ 7. A person transporting potentially dangerous wild animals when such animals are safely and continuously contained during uninterrupted transport through the city or to a veterinary clinic within the city.

~~The provisions of this chapter shall not apply to potentially dangerous wild animals as defined in this chapter when such animals are safely and continuously contained during uninterrupted transport through the city or to a veterinary clinic within the city.~~

PROPOSED CHANGES



City Council Agenda Bill

March 9, 2026

Action Type: Contract Award

Item: 7.c.

Title: Interlocal Agreement 26-104-EXE-001 with Skagit County for the Skagit STAR Center Funding

Staff Contact(s): Darcy Swetnam

Approved for Submittal to Council by:

Tiffany Matson
Darcy Swetnam

Summary: City staff seeks approval to execute Interlocal Cooperative Agreement 26-104-EXE-001 with Skagit County, under which the City will provide funding in the amount of \$250,000.000 for the start-up and initial operations for the first year of the Skagit STAR Center.

Key Terms:

- The City will pay the County a one-time payment of \$250,000.00.
- The County will administer the funding, college usage and outcome data, and provide quarterly reports.
- The term of this Agreement shall be from execution through June 30, 2028.

Budget Impact:

Public Entity	Skagit County
Agreement Amount	\$250,000.00
Funding Source	Opioid settlement funds
BARS #	001.151.18.00.00
Start Date	Execution
End Date	6/30/2026

Previous Action:

Recommended Motion: I move that City Council authorize the Mayor to execute Interlocal Cooperative Agreement 26-104-EXE-001 between the City of Anacortes and Skagit County.

Alternative Actions: Not approve the interlocal.

Attachments (listed in order presented):

1. 26-104-EXE-001

**INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
SKAGIT COUNTY AND THE CITY OF ANACORTES**

This Agreement is entered into between Skagit County ("County") and the City of Anacortes ("City"), collectively "Parties," pursuant to the authority granted by Chapter 39.34 RCW, Interlocal Cooperation Act, to address the use of opioid settlement funds.

RECITALS

WHEREAS the City of Anacortes and Skagit County have separately entered into settlement agreements with entities responsible for the pharmaceutical supply chain of prescription opioids to hold these entities responsible for the damage they have caused in our communities; and

WHEREAS these settlement funds are intended to abate and alleviate the impacts of harms caused by the opioid epidemic; and

WHEREAS to abate and alleviate such harm the Parties have executed a separate Interlocal to create and be part of a multi-jurisdictional work group, the Northstar Initiative; and

WHEREAS, as part of the North Star Initiative, the cities of Anacortes, Burlington, Mount Vernon, and Sedro-Woolley, and Skagit County have collaborated to better understand opportunities and needs caused by the opioid epidemic; and

WHEREAS, through joint advocacy efforts from city and county governments, Skagit County was able to secure capital funding for a new 48-bed behavioral health facility called the Skagit STAR Center that will provide substance use disorder treatment, including withdrawal management, crisis stabilization, and inpatient co-occurring treatment services; and

WHEREAS the City of Anacortes wishes to allocate a portion of its opiate settlement funding to support the new Skagit STAR Center.

AGREEMENT

NOW THEREFORE, in consideration of the mutual behavioral health treatment benefits for Skagit County residents, the above partners agree as follows.

1. Upon receipt of an invoice from the County the City of Anacortes shall pay to Skagit County \$250,000.00 of its opiate settlement funding for the purpose of supporting start-up and initial operation costs for the Skagit STAR Center as described in this Agreement.
2. Skagit County shall:
 - 2.1 Administer the funding from the City of Anacortes to fund start-up and initial operations for the first year of the Skagit STAR Center.
 - 2.2 Collect usage and outcome data on the STAR Center and provide quarterly reports to the City of Anacortes during the term of this agreement to include:
 - 2.2.1 Number of unduplicated people served by each unit (withdrawal management, co-occurring treatment and crisis stabilization).
 - 2.2.2 Demographic information of people served, including by funding source (Medicaid, private insurance, etc.)
 - 2.2.3 Unduplicated identification of referral source for each program (self, EMS, law enforcement, hospital, etc.)

3. TERM OF AGREEMENT: The term of this Agreement shall be from the date of execution through June 30, 2028.
4. ADMINISTRATION: The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.
 - 4.1 The County's representative shall be George Kosovich
 - 4.2 The City of Anacortes's representative shall be Ryan Walters, Mayor
5. No Partnership or Joint Venture: No partnership and/or joint venture exists between the Parties, and no partnership and/or joint venture is created by and between the Parties by virtue of this Agreement. No agent, employee, contractor, subcontractor, consultant, volunteer, and/or other representative of the parties shall be deemed an agent, employee, contractor, subcontractor, consultant, volunteer, or other representative of the other Party.
6. TREATMENT OF ASSETS AND PROPERTY: No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.
7. INDEMNIFICATION: Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to either party by reason of entering into this contract except as expressly provided herein.
8. TERMINATION: Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.
9. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS: The Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.
10. SEVERABILITY: In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.
11. ENTIRE AGREEMENT: This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

City of Anacortes

Ryan Walters, Mayor

Date: _____

Mailing Address:

904 6th Street
PO BOX 547
Anacortes, WA 98221

DATED this _____ day of _____, 2026.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Ron Wesen, Chair

Peter Browning, Commissioner

Attest:

Joe Burns, Commissioner

Clerk of the Board

For contracts under \$5,000:
Authorization per Resolution R20030146

Recommended:

County Administrator

Department Head

Approved as to form:

Civil Deputy Prosecuting Attorney

Approved as to indemnification:

Risk Manager

Approved as to budget:

Budget & Finance Director



City Council Agenda Bill

March 9, 2026

Action Type: Contract Award

Item: 7.d.

Title: Contract Award: Fire Station 1 Remodel Project #25-035-AFD-002

Staff Contact(s): Bill Harris

Approved for Submittal to Council by:

Tiffany Matson

Bill Harris

Summary: City staff seeks City Council consent to award a contract in the amount of \$260,704.82 to Lazer Construction LLC to perform the Fire Station 1 Remodel Project. This project consists of a selective interior remodel of the existing Fire Station No. 1. The scope of work includes interior renovations within the existing building footprint, focused on kitchen and dining areas, administrative offices, training and meeting rooms, and other support spaces as indicated in the construction documents. Interior improvements include updated finishes, cabinetry, lighting, and interior layouts to support operational efficiency and daily station use. Mechanical, electrical, and plumbing work is limited to modifications shown in the design documents, including kitchen-related ventilation improvements associated with cooking equipment, lighting updates utilizing energy-efficient LED fixtures, and new or upgraded plumbing fixtures and associated piping. An add alternate includes construction of a new exterior deck to improve functionality and outdoor access for station personnel and is not included in the base bid scope.

Background:

1. **History:** The final project is to complete some additional kitchen and living space that is needed at Fire Station #1 to properly accommodate the personnel assigned to the 2nd staffed unit. The kitchen will be enlarged and additional office space will be created as well as a replacement of flooring and paint.
2. **Key Terms:**
 - Contract is for a fixed price of \$260,704.82. This includes a cost of \$231,872.82 for the based bid under Schedule A, and \$28,832.00 for the additive alternative under Schedule B.

- Work shall start on the date specified in the Notice to Proceed, and Physical completion shall be achieved within 80 Working days after work commences.
3. Competitive Bidding: On February 4, 2026 the City [solicited bids](#) for the subject project and on February 19, 2026 a bid opening was conducted and 10 bids were received. Lazer Construction LLC was determined to be the lowest responsible bidder. The Engineer's Estimate for this project was \$240,000. Bid results are provided as an attachment hereto.

Budget Impact:

Contractor	Lazer Construction LLC
Contract Amount	\$260,704.82
Funding Source	90% Impact fees/10% General Fund
In CFP?	Yes
Earmarked Funds	\$234,634 (impact fees)
BARS #	001.320.594.22.62
Budget Amendment Required?	No
Start Date	Notice to Proceed
End Date	80 working days

Previous Action: On 1/15/25 the City executed contract [25-035-AFD-001](#) with Underwood & Associates, LLC to perform the project design. At the [6/9/25](#) meeting Council approved [Modification 01](#) to the design contract.

Recommended Motion: I move that City Council authorize the Mayor to sign contract 25-035-AFD-002 with Lazer Construction LLC in the amount of \$260,704.82 to perform the Fire Station 1 Remodel Project.

Alternative Actions: Not award the contract. Award only Schedule A.

Attachments (listed in order presented):

1. 25-035-AFD-002 - Bid Tabulation
2. 25-035-AFD-002



City of Anacortes

Anacortes Fire Station 1 Remodel

#25-035-AFD-002

BID TABULATION - BID DATE 2/19/2026

SCHEDULE A - BASE BID LUMP SUM		Lazer Construction		Hi Mark Construction		Highline Construction		Tiger Construction		Valdez Construction	
Line	DESCRIPTION	BID AMOUNT		BID AMOUNT		BID AMOUNT		BID AMOUNT		BID AMOUNT	
1	Anacortes Fire Station 1 Remodel Project	\$213,118.40		\$248,000.00		\$252,253.62		\$263,021.00		\$276,618.74	
		Subtotal:	\$213,118.40	Subtotal:	\$248,000.00	Subtotal:	\$252,253.62	Subtotal:	\$263,021.00	Subtotal:	\$276,618.74
		8.8% Sales Tax:	\$18,754.42	8.8% Sales Tax:	\$21,824.00	8.8% Sales Tax:	\$22,198.32	8.8% Sales Tax:	\$23,145.85	8.8% Sales Tax:	\$24,342.45
		Schedule A Total:	\$231,872.82	Schedule A Total:	\$269,824.00	Schedule A Total:	\$274,451.94	Schedule A Total:	\$286,166.85	Schedule A Total:	\$300,961.19
SCHEDULE B - ADDITIVE ALTERNATE 1 - EXTERIOR DECK											
Line	DESCRIPTION	BID AMOUNT		BID AMOUNT		BID AMOUNT		BID AMOUNT		BID AMOUNT	
1	Construction of a new exterior deck	\$26,500.00		\$15,000.00		\$21,177.48		\$19,875.00		\$24,999.71	
		Subtotal:	\$26,500.00	Subtotal:	\$15,000.00	Subtotal:	\$21,177.48	Subtotal:	\$19,875.00	Subtotal:	\$24,999.71
		8.8% Sales Tax:	\$2,332.00	8.8% Sales Tax:	\$1,320.00	8.8% Sales Tax:	\$1,863.62	8.8% Sales Tax:	\$1,749.00	8.8% Sales Tax:	\$2,199.97
		Schedule B Total:	\$28,832.00	Schedule B Total:	\$16,320.00	Schedule B Total:	\$23,041.10	Schedule B Total:	\$21,624.00	Schedule B Total:	\$27,199.68
		Total Bid: \$260,704.82		Total Bid: \$286,144.00		Total Bid: \$297,493.04		Total Bid: \$307,790.85		Total Bid: \$328,160.87	

Denotes bid price correction based on unit prices



City of Anacortes

Anacortes Fire Station 1 Remodel

#25-035-AFD-002

BID TABULATION - BID DATE 2/19/2026

SCHEDULE A - BASE BID LUMP SUM		Summit Construction		TRICO		Janicki Construction		Chad Fisher Construction		Fisher Construction	
Line	DESCRIPTION	BID AMOUNT		BID AMOUNT		BID AMOUNT		BID AMOUNT		BID AMOUNT	
1	Anacortes Fire Station 1 Remodel Project	\$279,000.00		\$294,036.00		\$306,691.00		\$299,372.70		\$334,786.15	
		Subtotal:	\$279,000.00	Subtotal:	\$294,036.00	Subtotal:	\$306,691.00	Subtotal:	\$299,372.70	Subtotal:	\$334,786.15
		8.8% Sales Tax:	\$24,552.00	8.8% Sales Tax:	\$25,875.17	8.8% Sales Tax:	\$26,988.81	8.8% Sales Tax:	\$26,344.80	8.8% Sales Tax:	\$29,461.18
		Schedule A Total:	\$303,552.00	Schedule A Total:	\$319,911.17	Schedule A Total:	\$333,679.81	Schedule A Total:	\$325,717.50	Schedule A Total:	\$364,247.33
SCHEDULE B - ADDITIVE ALTERNATE 1 - EXTERIOR DECK		BID AMOUNT		BID AMOUNT		BID AMOUNT		BID AMOUNT		BID AMOUNT	
1	Construction of a new exterior deck	\$35,000.00		\$25,187.09		\$20,647.00		\$42,878.00		\$25,507.87	
		Subtotal:	\$35,000.00	Subtotal:	\$25,187.09	Subtotal:	\$20,647.00	Subtotal:	\$42,878.00	Subtotal:	\$25,507.87
		8.8% Sales Tax:	\$3,080.00	8.8% Sales Tax:	\$2,216.46	8.8% Sales Tax:	\$1,816.94	8.8% Sales Tax:	\$3,773.26	8.8% Sales Tax:	\$2,244.69
		Schedule B Total:	\$38,080.00	Schedule B Total:	\$27,403.55	Schedule B Total:	\$22,463.94	Schedule B Total:	\$46,651.26	Schedule B Total:	\$27,752.56
		Total Bid:	\$341,632.00	Total Bid:	\$347,314.72	Total Bid:	\$356,143.74	Total Bid:	\$372,368.76	Total Bid:	\$391,999.89

Denotes bid price correction based on unit prices



CONTRACT #25-035-AFD-002

**Between
THE CITY OF ANACORTES
AND
LAZER CONSTRUCTION LLC**

FIRE STATION 1 REMODEL PROJECT

This Contract is between the City of Anacortes, Washington, a Municipal Corporation (herein after referred to as "City") and Lazer Construction LLC, a private company at 1698 Harksell Rd, Ferndale, WA 98248 (herein after referred to as "Contractor").

1. **Scope of Work**. Contractor shall furnish all materials, equipment and labor perform both Schedule A and Schedule B of the Fire Station 1 Remodel Project, in accordance with and as described in the City of Anacortes Invitation to Bid entitled "Fire Station 1 Remodel Project #25-035-AFD-002", which is hereby incorporated by reference and made a part hereof.

2. **Price and Payment Terms**. The Total Contract Price is **Two Hundred Sixty Thousand Seven Hundred Four Dollars and Eighty-Two Cents (\$260,704.82)**. The Contractor's bid schedule is incorporated by reference and attached hereto as Exhibit A.

3. **Time of Completion**. All physical construction activities shall reach Physical Completion within Eighty (80) Working days from the date work begins, in accordance with the Notice to Proceed.

4. **Project Management**. Coordination and scheduling of the work, materials, and equipment shall be made with the Project Manager Bill Harris, 360-299-1979.

5. **Contract Requirements**: As detailed in the General Provisions, Contractor must have a valid contractor license number, insurance, and City of Anacortes business license. **Prevailing Wage Law Applies**. Forms Needed: 1) Proof of Insurance with **Additional Insured Endorsements**; 2) Intent to Pay Prevailing Wage; 3) Affidavit of Wages Paid; 4) Performance Bond; 5) Payment Bond; 6) Certification of Compliance with Wage Payment Statutes.

6. **Contract Documents**: The attached General Provisions, referenced Invitation to Bid, and Exhibit A are included in this Contract Agreement.

The parties acknowledge that there has been an opportunity to negotiate the terms and conditions of this Agreement and agree to each bind itself, its partners, successors, assigns, and legal representatives to the other party hereto, in respect of all covenants, agreements, and obligations contained in the Contract Documents. Each of the persons signing below on behalf of any party hereby represents and warrants that they are signing with full and complete authority to bind the party on whose behalf of whom they are signing, to each and every term of this Agreement.

Owner:

City of Anacortes

Title

Date

Contractor:

Lazer Construction LLC

Title

Date

Contractor License #

1. WASHINGTON STATE PREVAILING WAGES: Washington State Prevailing Wages apply to all Work. The Contractor and any of its Subcontractors are required to pay their laborers and mechanics minimum wage in compliance with Washington State Prevailing Wage Laws. Before any payment is made by the City of Anacortes of any sums under this contract, the contractor and each subcontractor must provide the City with a copy of the statement of Intent to Pay Prevailing Wages approved by the Washington State Department of Labor and Industries (L&I) (ONE filed per contractor and each subcontractor per contract). Following contract completion, the City will not release any funds retained, according to the provisions of RCW 60.28.010, until the contractor and each subcontractor has provided the City a copy of the Affidavit of Wages Paid approved by L&I (ONE filed per contractor and each subcontractor per contract). L&I provides the wage forms. All costs associated with such fees shall be included in the Contract price as part of the fixed costs of overhead for this Contract, including any anticipated subcontractor filing fees. Any change in the fee by L&I will not be grounds for revision in the Contract Price.

For contracts in excess of \$10,000, the contractor must post in a conspicuous place at the job site, a copy of the statement of *Intent to Pay Prevailing Wages* approved by L&I and the address and phone number of the Industrial Statistician where complaints or inquiries may be made. The City will refer any dispute regarding the prevailing rate of wage to L&I for arbitration.

The State of Washington prevailing wage rates applicable for this public works project, which is located in Skagit County, may be found at the following website address of the Department of Labor and Industries: <https://lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>. The prevailing wage schedule in effect for the work under the contract is February 19, 2026. A copy of the applicable prevailing wage rates are also available for viewing at the office of the City, located at 904 6th Street, Anacortes, WA. Upon request, the City will mail a hard copy of the applicable prevailing wages for this project.

At least once a month Contractor must file weekly certified payroll reports online with the Washington Department of Labor and Industries as required by RCW 39.12.120.

2. Performance and Payment Bonds. The City is required by RCW 39.08.010, with limited exceptions, to obtain both a Performance and a Payment bond for each public works project. The City requires separate Performance and Payment bonds for 100% of the contract amount furnished on bond forms standardized by the City Attorney's office. The bonds must meet the following provisions:

- Be for the full amount of the project, including tax.
- Name City of Anacortes as the obligee.
- List the correct Project Name and Project Number.
- Be signed by both the surety (the Attorney in Fact) and the Contractor.
- Be issued by a surety authorized to do business in the State of Washington (listed on the Insurance Commissioners website) and which meets the AM Best Rating required in the Contract Documents. If no requirement exists, a minimum of AM Best Rating A-7 or better will be required.

Release of Bonds - Bonds will not be released until the project has been completed and finally accepted.

Performance Bonds – Performance Bonds will be released at the end of the warranty period or twelve months after the date of final acceptance, whichever is later. The City may at its option release the bond once all the conditions of RCW 39.08.010-1a have been discharged.

Payment Bonds – Payment Bonds will be released either 45 days after final acceptance of the project or upon receipt of releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries, whichever is later. Release is contingent on the fact that no claims against the bond have been filed prior to the 45 day mark. If claims have been filed against the bond, it will not be released until the claims have been resolved.

Exceptions – On projects \$150,000 and under, the Contractor can, in lieu of providing a performance and payment bond, request to have the City withhold 10% of monies earned on the project for a period of 30 days after final acceptance of the completed work or until receipt of all necessary releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries and settlement of any liens filed under Chapter 60.28 RCW, whichever is later. This exception is dependent on pre-approval by the City Attorney, and the City reserves the right to reject requests to waive the bond requirements.

3. Retainage. Pursuant to RCW Chapter 60.28, a sum of five percent (5%) of the monies earned by the Contractor will be retained. The Contractor may elect to execute a Retainage Bond. The bond must be furnished on a bond form standardized by the City Attorney's office and issued by a surety currently authorized by the State Insurance Commissioner to do business in Washington State. Retainage will be released 45 days after Final Acceptance, provided that the following has occurred:

- a) Statements of Intent to Pay Prevailing Wages and Affidavits of Wages paid for the final correct contract amount are approved and on file with L&I for the Contractor and any subcontractors.
- b) All liens placed against the project have been released.
- c) For projects over \$35,000, releases from the Washington Department of Revenue, Washington Employment Security Department, and the Washington Department of Labor and Industries have been received.

Note: If the City has approved the Contractor's request to waive the bond requirements, the City will withhold a total of 10% of the monies earned for a period of 30 days after Final Acceptance of the completed work, or until receipt of all necessary releases from the Washington Department of Revenue, Washington Employment Securities Department, and the Washington Department of Labor and Industries, and settlement of any liens filed under Chapter 60.28 RCW, whichever is later.

4. Final Acceptance. Final Acceptance is defined as the date on which the City accepts the Work as complete, as indicated by notice issued by the City. For the purposes of the retainage statute (RCW 60.28.011), "completion of all contract work" is the same as the date of Final Acceptance. The following events must occur before the City will issue Final Acceptance:

- a. The physical Work on the project must be complete and accepted by the Project Manager; and
- b. The Contractor must submit to the City, and secure City approval of, all documentation required by the Contract and required by law, including but not limited to:
 - i. Invoices for all Work;
 - ii. Copies of the Statements of Intent to Pay Prevailing Wages and Affidavits of Prevailing Wages Paid as approved by L&I for the Contractor and all Subcontractors; and
 - iii. Any additional documentation required by the Contract.

5. Penalties for Noncompliance. If Contractor does not provide "Affidavit of Prevailing Wages Paid" to the City, the City may withhold any or all payments until required documentation is received. In addition, failure to provide "Intent to Pay Prevailing Wage" or "Affidavit of Wages Paid" may result in other sanctions as provided by State laws (RCW 39.12.050) and/or Federal regulations (29 CFR 5.12).

6. Subcontracts. The Contractor shall not subcontract the Scope of Work ("Work") unless the Project Manager approves in writing. If the Project Manager requests, the Contractor shall provide proof that the Subcontractor has the experience, ability, and equipment the Work requires. "Subcontractor" means an individual, partnership, firm, corporation, or joint venture who is sublet part of the Contract by the Contractor. Each request to subcontract shall include the following information (i) a description of the supplies or services to be subcontracted, (ii) identification of the type of subcontract to be used (iii) identification of the proposed subcontractor, (iv) proposed subcontract price, (v) identification of the percentage of work to be performed by subcontract. Approval of subcontract shall not:

- a. Relieve the Contractor of any responsibility to carry out the Contract,
- b. Relieve the Contractor of any obligations or liability under the Contract and the Contractor's bond,
- c. Create any contract between the City and the Subcontractor, or
- d. Convey to the Subcontractor any rights against the City.

As required by RCW 39.06.020, the Contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification is to include that, at the time of subcontract execution, each subcontractor meets the responsibility criteria listed in RCW 39.04.350(1) and additionally - if applicable - possesses an electrical contractor license or an elevator contractor license. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier. Contractor remains fully responsible for obligations, services, and functions performed by its subcontractors to the same extent as if such obligations, services, and functions were performed by Contractor's employees, and for purposes of the Agreement such work will be deemed work performed by Contractor. The Contractor shall give immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the City.

If dissatisfied with any part of the subcontracted Work, the Project Manager may request in writing that the Subcontractor be removed. The Contractor shall comply with this request at once and shall not employ the Subcontractor for any further Work under the Contract.

7. Job Safety Requirements Compliance. The Contractor, and its subcontractors of any tier, shall comply with all applicable federal, State, local laws, ordinances, and regulations, as may be amended, for the safety of persons or property while performing any work under the Contract and for the handling and disposal of all hazardous wastes. Industry standards and applicable laws and regulations of authorities having jurisdiction include, but are not limited to: the Washington Industrial Safety and Health Act of 1973 (WISHA); the federal Occupational Safety and Health Acts of 1970 (OSHA); the Resource Conservation and Recovery Act; the Washington Hazardous Waste Management Act; the Department of Labor & Industries; Washington Administrative Code (WAC); the Environmental Protection Agency; and the Department of Ecology governing the generation, storage, treatment, transportation or disposal of hazardous wastes. The Contractor and its subcontractors of any tier shall also comply with all current and future executive proclamations, regulations, requirements and/or related guidance issued by the Office of the Governor of Washington State and Office of the Mayor of the City of Anacortes as it may relate to City of Anacortes projects. Contractor further agrees to indemnify and hold harmless City from damages assessed against City because of Contractor's failure to comply with the Acts and the standards issued thereunder.

8. Chemical Hazard Safety

- a. **Employer Chemical Hazard Communication Rule:** WAC 296-800-170 requires all employers in Washington State to inform and train their employees on the hazards of chemicals in the workplace or in foreseeable emergencies. For

purposes of performance under this Contract, any toxic substance that may be harmful to the end user while being used or stored on City property must:

- i. Be properly labeled with the: (1) identity of the hazardous material; (2) appropriate hazardous warnings; and (3) name and address of the chemical manufacturer, importer or responsible party.
 - ii. Be accompanied by a Safety Data Sheet (SDS) which shall be provided to the City Project Manager, or designee. Copies of the Contractor's SDS inventory shall also be located where chemicals are stored.
- b. Contractor shall not introduce or use any new product without the express written permission of the City Project Manager. Contractor shall request permission to use new substances by providing an SDS sheet or label data for all proposed chemicals, and an explanation as to the purpose of the chemical application, method of application, and intended schedule of application. If new products are approved for use, then they shall be:
- i. Restricted in their applications so as to meet current and local law;
 - ii. Mixed and otherwise handled where an accidental spill will not enter surface or ground water and will not contaminate the soil.
- c. In any emergency affecting the safety of persons or property, Contractor shall act, at their discretion, to prevent threatened injury, damage, or loss. The City's Project Manager has full authority to stop work they deem a safety risk.

9. Taxes. The City will pay sales and use taxes imposed on goods or services acquired hereunder as required by law. The Contractor must pay all other taxes including, but not limited to: Business and Occupation Tax, taxes based on the Contractor's gross or net income, or personal property to which the City does not hold title. The City is exempt from Federal Excise Tax. Where applicable the City shall furnish a Federal Excise Tax Exemption certificate.

10. Invoicing. All invoices shall at a minimum include: Company Name, Invoice Date, Due Date (30 days), Invoice Number, Agreement Number, and Price. The Contractor must allow 30 calendar days from receipt of the invoice for payment. ***If requested by the City the Contractor shall provide a cost breakdown of charges.*** Invoices may be sent by US mail to City of Anacortes, Accounts Payable, PO Box 547, Anacortes, WA 98221, or by email to accountspayable@anacorteswa.gov. Contractors may complete a City furnished ACH/EFT form to receive electronic payments directly to their financial institution. The City shall notify the Contractor within fifteen (15) calendar days from receipt of invoice if there are any objections or disputes with the invoice. The Contractor shall then resubmit a new invoice less the disputed amount and payment shall be made within 30 calendar days. Any disputed amounts may be submitted under the Disputes clause contained herein.

11. Withholding Payment. In the event the City determines that the Contractor has failed to perform any obligation under this Contract within the times set forth in this Contract, then the City may withhold from amounts otherwise due and payable to Contractor the amount determined by the City as necessary to cure the default, until the Contracting Officer determines that such failure to perform has been cured. Withholding under this clause shall not be deemed a breach entitling Contractor to terminate or damages, provided that the City promptly gives notice in writing to the Contractor of the nature of the default or failure to perform, and in no case more than 8 days after it determines to withhold amounts otherwise due. A determination of the City Attorney set forth in such notice to the Contractor of the action required and/or the amount required to cure any alleged failure to perform shall be deemed conclusive, except to the extent that the Contractor acts within the times and in strict accord with the provisions of the Disputes clause of this Contract. The City may act in accordance with any determination of the City Attorney which has become conclusive under this clause, without prejudice to any other remedy under the Contract, to take all or any of the following actions: (1) cure any failure or default, (2) to pay any amount so required to be paid and to charge the same to the account of the Contractor, (3) to set off any amount so paid or incurred from amounts due to become due the Contractor. In the event the Contractor obtains relief upon a claim under the Disputes clause, no penalty or damages shall accrue to Contractor by reason of good faith withholding by the City under this clause.

12. Final Payment: Waiver of Claim. The contractor's acceptance of final payment (excluding withheld retainage) shall constitute a waiver of claims, except those previously and properly made and identified by the contractor as unsettled at the time request for final payment is made.

13. Required Use of Finished Compost Product. If the project includes the use of a product created with "composted material" as defined in RCW 70A.205.015(3) the Contractor must purchase finished compost products from entities that: 1) produce compost locally within Skagit County; 2) are certified by a nationally recognized organization; 3) are permitted by the local health jurisdiction; and 4) produce finished compost products derived from municipal solid waste compost programs while meeting quality standards adopted by the Department of Transportation or adopted by rule by the Department of Ecology. The Contractor will obtain pre-approval from the PM of the proposed compost material vendor and will submit receipts with their invoice(s).

14. Inspection.

A. Of the Work: All materials furnished and work done shall be subject to inspection. The City Project Manager administering the Contract shall at all times have access to the work wherever it is in progress or being performed, and the Contractor shall provide proper facilities for such access and inspection. Such inspection shall not relieve the Contractor of the responsibility of performing the work correctly, utilizing the best labor and materials in strict accordance with the Specifications of the Contract. All material or work approved and later found to be defective shall be replaced without cost to the City.

B. Project Manager's Authority: The Project Manager shall have power to reject materials or workmanship which do not fulfill

the requirements of these Specifications, but in case of dispute the Contractor may appeal to the City Attorney whose decision shall be final. The Contract shall be carried out under the general control of the representative of the City administering the Contract, who may exercise such control over the conduct of the work as may be necessary, in their opinion, to safeguard the interest of the City. The Contractor shall comply with any and all orders and instructions given by the representative of the particular Department administering the Contract in accordance with the terms of the Contract. Nothing herein contained, however, shall be taken to relieve the Contractor of their obligations or responsibilities under the Contract.

15. New and Unused. All units, equipment, parts and material shall be new, unused, manufacturer's current model year and in current production and shall meet any current applicable regulations and/or codes. All materials shall have physical and chemical properties to withstand the intended purpose. Equipment design shall have sufficient excess capacity for durability and safety.

16. Warranty. The Contractor shall return to the project and repair or replace all defects in workmanship and material discovered within one year after Final Acceptance of the Work, including any necessary labor and materials. The Contractor shall start work to remedy any such defects within 7 calendar days of receiving City's written notice of a defect, and shall complete such work within the time stated in the City's notice. In case of an emergency, where damage may result from delay or where loss of services may result, such corrections may be made by the City's own forces or another contractor, in which case the cost of corrections shall be paid by the Contractor. In the event the Contractor does not accomplish corrections within the time specified, the work will be otherwise accomplished and the cost of same shall be paid by the Contractor. For one year after acceptance of any corrections by the City the Contractor shall be responsible for correcting all defects in workmanship and materials in the corrected work. In addition, the Contractor shall obtain and submit to the City any necessary documentation to secure any extended manufacturer's warranty and warranty terms. This guarantee is supplemental to and does not limit or affect the requirements that the Contractor's work comply with the requirements of the Contract or impact any other legal rights or remedies of the City.

17. Indemnification / Hold Harmless. The Contractor shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City. However, should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Contractor and the City, its officers, officials, employees, and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence. It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.

18. Insurance.

A. Insurance Term: The Contractor shall procure and maintain insurance, as required in this Section, without interruption from commencement of the Contractor's work through the term of the contract and for thirty (30) days after the Physical Completion date, unless otherwise indicated herein.

B. No Limitation: The Contractor's maintenance of insurance, its scope of coverage and limits as required herein shall not be construed to limit the liability of the Contractor to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. Minimum Scope of Insurance: The Contractor's required insurance shall be of the types and coverage as stated below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.
2. Commercial General Liability insurance shall be as least as broad as ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, products-completed operations, stop gap liability, personal injury and advertising injury, and liability assumed under an insured contract. The Commercial General Liability insurance shall be endorsed to provide a per project general aggregate limit using ISO form CG 25 03 05 09 or an equivalent endorsement. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. **The City of Anacortes and its officers, elected officials, employees, agents, and volunteers shall be named as an additional insured** under the Contractor's Commercial General Liability insurance policy with respect to the work performed for the City using ISO Additional Insured endorsement CG 20 10 10 01 and Additional Insured-Completed Operations endorsement CG 20 37 10 01 or substitute endorsements providing at least as broad coverage.
3. Worker's Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

D. Minimum Amounts of Insurance: The Contractor shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products-completed operations aggregate limit.

E. City Full Availability of Contractor Limits: If the Contractor maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Contractor, irrespective of whether such limits maintained by the Contractor are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Contractor.

F. Other Insurance Provision: The Contractor's Automobile Liability and Commercial General Liability insurance policies are to contain, or be endorsed to contain, that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

G. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

H. Verification of Coverage: The Contractor shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsements, evidencing the insurance requirements of the Contractor **within 10 days of contract execution and before scheduling of the work**. Upon request by the City, the Contractor shall furnish certified copies of all required insurance policies, including endorsements, required in this contract and evidence of all subcontractors' coverage. Failure of the City to demand such verification of coverage with these insurance requirements or failure of the City to identify a deficiency from the insurance documentation provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Verification of coverage shall include:

1. An ACORD certificate or a form determined by the City to be equivalent.
2. Copies of all endorsements naming the City as additional insured, showing the policy number. The Contractor may submit a copy of any blanket additional insured clause from its policies instead of a separate endorsement.
3. Any other amendatory endorsements to show the coverage required herein.
4. **A notation of coverage enhancements on the Certificate of Insurance shall not satisfy these requirements – actual endorsements must be submitted.**

I. Subcontractors' Insurance: The Contractor shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Contractor-provided insurance as set forth herein, except the Contractor shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Contractor shall ensure that the City is an additional insured on each and every Subcontractor's Commercial General liability insurance policy using an endorsement at least as broad as ISO CG 20 10 10 01 for ongoing operations and CG 20 37 10 01 for completed operations.

J. Notice of Cancellation: The Contractor shall provide the City and all Additional Insureds for this work with written notice of any policy cancellation within two (2) business days of their receipt of such notice.

K. Failure to Maintain Insurance: Failure on the part of the Contractor to maintain the insurance as required shall constitute a material breach of contract, upon which the City may, after giving five business days notice to the Contractor to correct the breach, immediately terminate the contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the City on demand, or at the sole discretion of the City, offset against funds due the Contractor from the City.

19. Acceptance. Contractor acknowledges and agrees that these General Provisions are incorporated in, and are a part of, each purchase order or other agreement relating to the provision of goods and/or related services by Contractor. These General Provisions supersede all conflicting or additional terms on any purchase order, quote, invoice, Contractor's website, or otherwise set forth on any release, acknowledgement, confirmation, requisition, work order, shipping instruction, specification and similar document or communication.

20. Registered or Licensed Contractor. The City is prohibited by RCW 39.06.010 from executing an Agreement with a Contractor who is not registered or licensed as required by the laws of the state. In addition, Anacortes Municipal Code requires that every person engaging in business within the city limits of Anacortes register their business with the state and include a City of Anacortes Endorsement. Businesses from outside city limits with a gross annual income of \$4,000 or more in Anacortes are also required to obtain a city endorsement. Business licenses and city endorsements can be obtained through the State of Washington Department of Revenue (DOR) Business Licensing Service (BLS) at bls.dor.wa.gov.

21. Standard Title VI / Non-Discrimination Assurances. During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest agrees to the clauses in "Appendix A" and "Appendix E" of the Standard Title VI Assurances (USDOT1050.2A), which are hereby incorporated by reference and made a part hereof.

22. Contractor is an Independent Contractor. The parties intend that an independent Contractor relationship will be created by this Agreement. No agent, employee or representative of the Contractor shall be deemed to be an agent, employee or representative of the City for any purpose. Contractor shall be solely responsible for all acts of its agents, employees, representatives and Subcontractors during the performance of this Agreement.

23. No Third-Party Beneficiary Rights. This Agreement is not intended to and shall not be construed to give any Third Party any interest or rights (including, without limitation, any Third-Party beneficiary rights) with respect to or in connection with any agreement or provision contained herein or contemplated hereby, except as otherwise expressly provided for in this Agreement.

24. The City's Right to Terminate Agreement.

A. Termination for Default: If the Contractor defaults by failing to perform any of the obligations of the Agreement or becomes insolvent or is declared bankrupt or commits any act of bankruptcy or insolvency or makes an assignment for the benefit of creditors, the City may, by depositing written notice to the Contractor in the U.S. mail, postage prepaid, terminate the Agreement, and at the City's option, obtain performance of the work elsewhere. If the Agreement is terminated for default, the Contractor shall not be entitled to receive any further payments under the Agreement until the Scope of Services under this Agreement has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Contractor. The Contractor shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default. If a notice of termination for default has been issued and it is later determined for any reason that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Termination for Public Convenience paragraph hereof.

B. Termination for Public Convenience: The City may terminate the Agreement in whole or in part whenever the City determines, in its sole discretion that such termination is in the best interests of the City. Whenever the Agreement is terminated in accordance with this paragraph, the Contractor shall be entitled to payment for actual work performed at unit Agreement prices for completed items of work through the date of termination. If the City exercises its option under this Paragraph, the City shall not be responsible for payment for loss of anticipated profit on deleted or uncompleted work. Termination of this Agreement by the City at any time during the term, whether for default or convenience, shall not constitute a breach of Agreement by the City.

25. Changes/Additional Work. The City may engage Contractor to perform services in addition to those listed in this Agreement, and Contractor will be entitled to additional compensation for authorized additional services or materials. The City shall not be liable for additional compensation until and unless any and all additional work and compensation is approved in advance in writing and signed by both parties to this Agreement. If conditions are encountered which are not anticipated in the Scope of Services, the City understands that a revision to the Scope of Services and fees may be required. Provided, however, that nothing in this paragraph shall be interpreted to obligate the Contractor to render or the City to pay for services rendered in excess of the Scope of Services unless or until a modification to this Agreement is approved in writing by both parties.

26. Non-waiver. Waiver by the City of any provision of this Agreement or any time limitation provided for in this Agreement shall not constitute a waiver of any other provision.

27. Non-assignable. The services or work to be provided by the Contractor shall not be assigned or subcontracted without the express written consent of the City.

28. Covenant Against Contingent Fees. The Contractor warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that they have not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts, or any other consideration contingent upon or resulting from the award of making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

29. Disputes

A. General: Differences between the Contractor and the City, arising under and by virtue of this Agreement shall be brought to the attention of the City at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. The provisions of this Clause shall survive the expiration or termination of this Agreement.

B. Notice of Potential Claims: The Contractor shall not be entitled to additional compensation which otherwise may be payable, or to extension of time for (1) any act or failure to act by the City, or (2) the happening of any event or occurrence, unless the Contractor has given the City a written Notice of Potential Claim within 10 days of the commencement of the act, failure, or event giving rise to the claim, and before final payment by the City. The written Notice of Potential Claim shall set forth the reasons for which the Contractor believes additional compensation or extension of time is due, the nature of the cost involved, and insofar as possible, the amount of the potential claim. Contractor shall keep full and complete daily records of the Work performed, labor and all costs and additional time claimed to be additional.

C. Detailed Claim: The Contractor shall not be entitled to claim any such additional compensation, or extension of time, unless within 30 days of the accomplishment of the portion of the work from which the claim arose, and before final payment by the City, the Contractor has given the City a detailed written statement of each element of cost or other compensation requested

and of all elements of additional time required, and copies of any supporting documents evidencing the amount or the extension of time claimed to be due.

D. Dispute Resolution: In the event of a dispute between the City and the Contractor arising out of this Agreement, or any obligation hereunder the dispute shall first be referred to the representatives designated by the City and the Contractor to have oversight over the administration of this Agreement. Said representatives shall meet within thirty (30) calendar days of receipt of detailed claim, and the parties shall make a good faith effort to achieve a resolution of the dispute. In the event the parties are unable to resolve the dispute under the procedure set forth above, then the parties hereby agree that the matter shall be referred to mediation. The parties shall mutually agree upon a mediator to assist them in resolving their differences. Any expenses incidental to mediation shall be borne equally by the parties. If either party is dissatisfied with the outcome of the mediation, that party may then pursue any available judicial remedies.

30. Force Majeure. Neither party shall be liable to the other or deemed in breach or default for any failure or delay in performance under this Agreement during the time and to the extent its performance is prevented by reasons of Force Majeure. For the purposes of this Agreement, Force Majeure means an occurrence that is beyond the reasonable control of and without fault or negligence of the party claiming force majeure and which, by exercise of due diligence of such party, could not have been prevented or overcome. Force Majeure shall include natural disasters, including fire, flood, earthquake, windstorm, avalanche, mudslide, and other similar events; acts of war or civil unrest when an emergency has been declared by appropriate governmental officials; acts of civil or military authority; freight embargoes; epidemics; pandemics; quarantine restrictions; labor strikes; boycotts; terrorist acts; riots; insurrections; explosions; and nuclear accidents. A party claiming suspension or termination of its obligations due to force majeure shall give the other party prompt written notice of the impediment and its effect on the ability to perform, with such notice to be provided no more than two (2) working days after the force majeure event or reasonable discovery of the event's impact on performance. Failure to provide such notice shall preclude recovery under this provision. Such delay shall cease as soon as practicable and written notification of same shall be provided. The time of completion shall be extended by Agreement modification for a period of time equal to the time that the results or effects of such delay prevented the delayed party from performing in accordance with this Agreement. Rights Reserved: The City reserves the right to cancel the Agreement and/or purchase materials, equipment or services from the best available source during the time of force majeure, and Contractor shall have no recourse against the City.

31. Governing Law. This Agreement shall be governed by and construed under the laws of the State of Washington. Any action brought under the Agreement or relating to the Project shall be brought in the Superior Court of the State of Washington in Skagit County Washington.

32. Compliance with Laws. The Contractor in the performance of this Agreement shall comply with all applicable Federal, State or local laws and ordinances, including regulations for licensing, certification and operation of facilities, programs and accreditation, and licensing of individuals, and any other standards or criteria as described in the Agreement to assure quality of services. Contractor will follow all applicable laws and requirements for excavation and disposal of material.

33. Severability. If any term or condition of this Agreement or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications which can be given effect without the invalid term, condition or application. To this end, the terms and conditions of this Agreement are declared severable.

34. Survival of Contract Termination. The provisions of the following paragraphs, the provisions of the non collusion affidavit, and the liability of the Contractor for default during the term of the Contract shall survive, notwithstanding the termination or invalidity of this Contract for any reason: Taxes; Warranty; The City's Right to Terminate Contract; Governing Law; Indemnification / Hold Harmless; Disputes.

35. Notices. All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given and received (a) when personally delivered, or delivered by same-day courier; or (b) on the third business day after mailing by registered or certified mail, postage prepaid, return receipt requested; or (c) upon delivery when sent by prepaid overnight express delivery service (e.g., FedEx, UPS); or (d) when sent by email and upon the receipt by the sending party of written confirmation by the receiving party; provided, however, that an automated email confirmation of delivery or read receipt shall not constitute such confirmation. Notices shall be sent to the following addresses:

CITY:

City of Anacortes
Tiffany Matson
904 6th Street
PO Box 547
Anacortes, WA 98221
contracts@anacorteswa.gov

CONTRACTOR:

Lazer Construction LLC
Mike Quinn
1698 Harksell Rd
Ferndale, WA 98248
info@lazerconstructionllc.com

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Washington State Department of Transportation, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Washington State Department of Transportation to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Washington State Department of Transportation, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Washington State Department of Transportation may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Washington State Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures Non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

TO: City of Anacortes
(City or Owner):

FROM: Bidder: Lazer Construction LLC:

PROJECT: 25-035-AFD-002

The undersigned, hereinafter called the bidder, declares that the only persons or parties interested in this proposal are those named herein; that this proposal is in all respects fair and without fraud; that it is made without collusion with any official of the City of Anacortes; and that the proposal is made without any connection or collusion with any person making another proposal of this contract. Moreover, the Bidder declares by signing the signature page of this Proposal that the following statement is true and correct:

My firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the project for which this proposal is submitted.

The bidder declares that they have carefully examined the contract documents for the construction of the project; that they have personally inspected the site; that they have satisfied themselves as to the quantities involved, including materials and equipment and conditions of work involved, including the fact that the description of the quantities of work and materials, as included herein, is brief and is intended only to indicate the general nature of the work and to identify the said quantities with the detailed requirements of the contract documents and that this proposal is made according to the provisions and under the terms of the contract documents, which documents are hereby made a part of this proposal.

The bidder declares that they have exercised their own judgment regarding the interpretation of subsurface information and has utilized all data, which they believe pertinent from the Engineer, Owner and other sources in arriving at their conclusions.

The bidder agrees that if this proposal is accepted, they will, within Ten (10) Calendar days after Notification of Award, execute the contract with the City of Anacortes in the form of contract included in the contract documents, and will, prior to the time of execution of the contract, deliver to the City of Anacortes the Performance and Payment Bond, all Certificates of Insurance and related endorsement forms, and proof of a City of Anacortes Business License required therein and will, to the extent of their proposals, furnish all necessary labor, tools, materials, equipment, and services required to do the work in the manner, in the time, and according to the methods as specified in the contract documents and required by the Engineer or other designated project representative there under.

The bidder further agrees, if awarded the contract, to begin work on the date specified on the Notice to Proceed and to achieve Physical Completion within Eighty (80) Working days from the date work begins, in accordance with the Notice to Proceed. The bidder understands the work will be done within an operating fire station that must remain in continuous operation throughout construction.

The bidder proposes to accept as full payment for the work proposed herein the amount computed under the provisions of the contract documents and based upon the lump sum price, it being expressly understood that the lump sum price is independent of the exact quantities involved. Bidder agrees that any prices shown represent a true measure of the labor and materials required to perform the work, including all allowances for overhead and profit for each type of work called for in these contract documents.

The undersigned bids for complete construction of the following described project:

The work provided for the **base bid** (Schedule A) will include interior renovations within the existing building footprint, focused on kitchen and dining areas, administrative offices, training and meeting rooms, and other support spaces as indicated in the construction documents. Interior improvements include updated finishes, cabinetry, lighting, and interior layouts to support operational efficiency and daily station use. Mechanical, electrical, and plumbing work is limited to modifications shown in the design documents, including kitchen-related ventilation improvements associated with cooking equipment, lighting updates utilizing energy-efficient LED fixtures, and new or upgraded plumbing fixtures and associated piping.

The work provided for **additive alternate** (Schedule B) includes construction of a new exterior deck to improve functionality and outdoor access for station personnel.

The bid price shall include everything necessary for the prosecution and completion of the services as detailed in the specifications including but not limited to furnishing all materials, equipment, supplies, tools, plant and other facilities and all management, supervision, labor and service, except as may be provided otherwise in this bid.

The total base bid amounts plus all options will be used for evaluation purposes in the determination of the lowest responsive and responsible bidder. To be considered responsive the Bidder shall submit a price on each and every Bid item included in the Base Bids and all Alternate(s.) The City has funding available for the base project. The City may, at their discretion, award a Contract for the Base Bid without any additional Alternates.

SCHEDULE A – BASE BID LUMP SUM		
Line	Description	Cost
1	Anacortes Fire Station 1 Remodel Project	\$ 213,118.40
	8.8% Sales Tax:	\$ 18,754.42
	Schedule A Total:	\$ 231,872.82

SCHEDULE B: ADDITIVE ALTERNATE 1 – EXTERIOR DECK		
Line	Description	Cost
1	Construction of a new exterior deck	\$ 26,560
	8.8% Sales Tax:	\$ 2,332
	Schedule B Total:	\$ 28,832

BID TOTALS

BID SCHEDULE A TOTAL \$ 231,872.82

BID SCHEDULE B TOTAL \$ 28,832.00

TOTAL BID PRICE: \$ 260,704.82

ACKNOWLEDGEMENT OF ADDENDA:

Bidder acknowledges review of all Addenda No. 1 through No. 3

NOTE: Failure to acknowledge any issued Addenda may render proposal non-responsive and therefore void. It is the sole responsibility of the Bidder to learn of Addendum, if any. Such information may be obtained from the Builders Exchange website at www.bxwa.com.

BID DEPOSIT: A proposal deposit in an amount of five percent (5%) of the total bid is attached here in the form indicated below:

☒ Bid Bond ☐ Cashier's Check ☐ Postal Money Order

NOTICE TO ALL BIDDERS: To report bid rigging activities call: 1-800-424-9071. The U.S. Department of Transportation (USDOT) operates the above toll-free "hotline" Monday through Friday, 8:00 a.m. to 5:00 p.m., Eastern time. Anyone with knowledge of possible bid rigging, Bidder collusion, or other fraudulent activities should use the "hotline" to report activities. The "hotline" is part of USDOT's continuing effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the USDOT Inspector General. All information will be treated confidentially, and caller anonymity will be respected.

BIDDER CERTIFIES

- They have examined the work site and all existing conditions;
- They fully understand the manner in which payment is proposed;
- They propose to furnish all labor, equipment, and materials required to perform and complete specified work within the time fixed, and for the price proposed;
- They will observe the national, Washington State, and local codes; and
- They have the insurance coverage required for this Contract, which includes: Commercial General Liability Insurance, Business Auto Liability, Worker's Comp

Name of Bidder: Lazer Construction LLC

Contact Name: Mike Quian

Mailing Address: 1698 Harkell Road

City, State, Zip: Ferndale, WA 98248

Business Telephone: 360-410- Cell Phone: _____

Email Address: Info@LazerConstructionLLC.com

Contractor's State License No: Lazer 839 PO

UBI Number: 604-180-029

By signing this proposal, the bidder agrees to all requirements contained in the contract documents.

(Corporate Seal)

Lane Construction LLC owner
Name of Bidder Title

2/19/2026
Date

Mike Quinn
Signature of Bidder

Mike Quinn
Print Name