

ANACORTES PLANNING COMMISSION



September 13, 2017

Municipal Building Council Chambers

6th Street and "Q" Avenue

AGENDA

6 P.M.

1. **Roll Call**
2. **Minutes of August 23 will be provided at a later date**
3. **Correspondence**
4. **Old Business**
Discussion: Critical Areas Regulations Update – Review of public comments and direction for moving forward
5. **New Business**
Final Plat Approval, Phase IV of Rock Ridge South Subdivision

If reasonable accommodation of a disability is needed please contact Cherri Kahns at 299-1950 at least 48 hours prior to this meeting.



Planning Commission Agenda Bill

Meeting Date: 9/13/2017 **Agenda Item:** 4

Subject: Anacortes Critical Areas Regulations Update

Staff Contact: Libby Grage, Planning Manager

Approved for Submittal to Council by	
	Laurie Gere, Mayor
x	Don Measamer, PCED Director

Action Type	
	Ordinance No.
	Resolution No.
	Public Hearing
	Staff Report
x	Discussion

Summary Statement: At the 9/13/17 meeting, staff will review a summary of the public comments received to date on the 1st draft proposed CAO update language (dated 7/20/17). Based on this feedback and direction from PC at the meeting, staff will prepare a 2nd draft of the proposed regulations for public review and comment.

Background: As part of meeting GMA periodic update requirements, the Planning Department staff developed a 1st draft of proposed changes to the City's critical areas regulations based on recommendations from qualified professional consultants, review of best practices and other documents from other jurisdictions, and guidance documents from WA State Department of Ecology, Department of Commerce, and Department of Fish & Wildlife.

Additional project information can be found on the project webpage:

<http://www.cityofanacortes.org/CARupdate.php>.

Previous PC Action: The Planning Commission discussed proposed updates to the critical areas regulations at the 7/26/17, 8/9/17, and 8/23/17 PC meetings.

Competing Viewpoints Considered: Public input is welcomed and will be accepted in writing or verbally at relevant Planning Commission meetings. Public comments can be viewed on the project webpage.

Recommended Motion: None. This is a discussion item only.

Attachments (listed in order presented):

Critical Areas Regulations Update Public Comment Summary, dated 9/7/17

Public comments received from 8/24/17 to 9/7/17

Critical Areas Regulations Update

Public Comment Summary

Updated 9/7/17

Below is a brief summary of public comments received up until September 6, 2017, and staff responses. Comments have been grouped by theme/ issue. Complete written public comment letters can be viewed [here](http://www.cityofanacortes.org/CARupdate.php) (<http://www.cityofanacortes.org/CARupdate.php>) and should be consulted for full details and context.

Issue / Key Words	Comments summary	Version V1 reference	Staff Comments
General Comments not associated with a specific section			
Update timing and deadline	Multiple commenters requested additional time to submit comments on the 1 st draft of the proposed updated CAO language.	n/a	Comments continue to be accepted and the proposed project schedule has been extended to include additional Planning Commission meetings and opportunities for public input. The updated project schedule has been published on the project webpage. Staff anticipates releasing a 2 nd draft of the proposed CAO update by the end of September. The public is requested to submit comments of the 1 st draft no later than September 15.
Shoreline critical areas	A commenter suggested that the regulations for critical areas within shoreline jurisdiction be updated as part of this GMA CAO update process.	n/a	Staff considered this option and consulted with Department of Ecology staff regarding the possibility of a limited amendment to the Shoreline Master Program (SMP) concurrent with the GMA CAO update. Due to differing procedural requirements, timing considerations, the imminent required periodic update of the City's Shoreline Master Program, and to facilitate coordinated consideration of the SMP goals, policies, and development regulations, staff continues to recommend that the shoreline-specific critical areas regulations be updated concurrent with the SMP update. Staff anticipates that the majority of the critical areas regulations will be able to be incorporated into the SMP (less certain items not applicable to shoreline areas), with potential additions to the frequently flooded areas section to address climate change issues, such as sea level rise. DOE shoreline staff has reviewed the 1 st draft of the CAO language and indicated support for this approach.
Monitoring and Adaptive Management	Commenters felt it was important for the City to monitor critical areas over time to ensure that the regulations are protecting the critical areas as intended.	n/a	The CAO currently has adaptive management provisions for wetlands and streams, in AMC 17.70.530 and 17.70.540(A)(7), respectively. While relatively few projects subject to the provisions have been permitted over the past 10 years, funding, record tracking, lack of clear goals and benchmarks, and other technical issues have made administering the program challenging. Recently, the Department of Commerce circulated new draft guidance on monitoring and adaptive management. Staff recommends that a monitoring and adaptive management program with specific goals and benchmarks be developed as part of the SMP update process. The program could cover both shoreline and non-shoreline critical areas.
Anacortes Airport Agreement	Commenter suggests that the agreement be amended to incorporate some of the proposed updated CAO requirements and identifies concerns with how the	n/a	City staff will work with the Port of Anacortes to review the agreement and make any needed updates as part of a separate process.

Issue / Key Words	Comments summary	Version V1 reference	Staff Comments
	agreement has been implemented in terms of off-site mitigation and public involvement in the mitigation planning.		
Review Procedures and Director discretion	Commenter requested clarification of the role, scope and qualification of the director to make decisions related to critical areas	Various	Per AMC 19.10.030, the Director has the duty to administer and enforce AMC Titles 16, 17, 18 and 19, including the critical areas regulations. Under the proposed regulations in AMC 19.70 the Director would have the responsibility to make multiple determinations, including whether a critical areas report is required for a particular proposal, what level of detail and elements may be necessary for a project report, when third-party review is required if not specifically identified within the regulations, and more. The Director has many resources available to assist in administration of the CAO, including mapping and inventories, site specific reports prepared by qualified professionals, state natural resource agencies assistance, and the ability to require third party review of proposals.
No feasible alternative, not feasible, etc.	Some commenters were concerned about the phrase "no feasible alternative", and how it could be interpreted.	19.70.340(B)(5)(b)	Staff will research options for potential clarifying language where similar phrases are used within the proposed regulations and bring forward suggestions for PC consideration.
Variances and exceptions	Some commenters expressed concern that there are too many "vague references" to variances, exceptions, and application of "reasonable use" and are concerned that if protections can be overruled for whatever reason, it makes the ordinance ineffective.	Various	Variances and exceptions, including reasonable use, include detailed and stringent criteria that must be demonstrated by an applicant, though a critical areas report prepared by a qualified professional, prior to being granted approval. Variances and exceptions are proposed as a Type 3 HE or Type 3 PC review process, which ensures the public's ability to participate in the decision making process. The decision-maker also has the ability to add conditions of approval to ensure that all impacts are mitigated to the maximum extent feasible. Finally, AMC 19.70.125(B) specifically requires third-party review of critical areas reports for variance, reasonable use, and critical areas special use permits.
Hearing Examiner role	Several commenters stated that they felt certain types of actions should be subject to Hearing Examiner review, such as reasonable use exceptions.	Various	Currently, special use, reasonable use permits, and any other applications identified as "conditional uses" in AMC Title 17 are categorized as a Type 3-PC review process, requiring a public hearing and decision by the Planning Commission. Staff support moving these types of applications to a Type 3-HE review process in AMC 19.20.030 if the Planning Commission decides to make that recommendation to City Council.
Publicly-owned areas	Commenter feels there should be increased emphasis on planning and protection for publicly owned areas (ACFL, Smiley's, SHIP, etc.)	n/a	Noted. There are various planning documents that provide guidance for certain publicly owned areas, including the Anacortes Forest Lands Comprehensive Plan and the Parks and Recreation Comprehensive Plan. Staff is researching the possibility of developing management plans for additional areas through a public planning process(es).
Third party review	Concerns have been expressed about the cost of third party review and suggestions have been made to provide exceptions from third party review. One suggestion was for an applicant to allow the City to choose an independent qualified professional to do the review as directed by the city thus mitigating the need for a third party review.	Various	Project applicants and their professional consultants are responsible for project design that complies with applicable regulations. While some cities do have lists of "qualified consultants" that have been pre-determined to meet the minimum "qualified professional" requirements of their code, staff recommends retaining in the code the ability to require third-party review regardless of who prepares a report on behalf of an applicant. As identified in the proposed code language, third-party review would be limited to certain circumstances involving proposed alteration of a critical area or buffer (through a variance, reasonable use, or special use permit process), when buffers are proposed to be

Issue / Key Words	Comments summary	Version V1 reference	Staff Comments
			reduced or averaged, or when the director determines it is needed to demonstrate compliance with the standards.
Section: General Provisions			
Reasonable Use Exception	Commenter states that laws governing regulatory taking are beyond the capacity of staff and planning commissioners and suggests that an applicant making a claim of regulatory taking address it to the Hearing Examiner along with a request for a variance. Some commenters agreed with making provisions for a reasonable use exception.		Staff supports moving these types of applications to a Type 3-HE review process in AMC 19.20.030 if the Planning Commission decides to make that recommendation to City Council.
Exemptions – Passive Recreation	Commenters felt the term “passive recreation” needed more definition and clarity.	19.70.250(F)	Currently, per AMC 17.70.340(F)(7), “passive recreation” facilities designed in accordance with an approved critical areas report are permitted within a wetland buffer provided they are conducted in a manner so as to minimize impacts to the buffer and adjacent wetland. The current definition of passive recreation (AMC 17.06.723) includes trails, interpretive trails and other similar structures or development, among other activities and uses: <i>“Recreation, passive.</i> <i>A “passive recreation area” refers to a mix of uses on undeveloped land (including wetland buffers) or minimally improved lands which includes the following: naturally landscaped areas, non-landscaped greenspaces, picnic areas, water bodies, trails, interpretive trails and other similar structures or development.</i> <i>Passive recreation may be defined as a non-motorized activity that:</i> <i>A. Offers constructive, restorative, and pleasurable human benefits and fosters appreciation and understanding of open space and its purpose;</i> <i>B. Is compatible with other passive recreation uses;</i> <i>C. Does not significantly impact natural, cultural, scientific, or agricultural values; and</i> <i>D. Requires only minimal visitor facilities and services directly related to safety and minimizes passive recreation impacts.”</i> Staff will research other jurisdiction’s definitions and provide the information at the upcoming PC meeting. The proposed language in AMC 19.70.250 includes as an allowed use in wetland buffers passive recreation facilities (including walkways and trails) meeting certain standards. The proposed standards are generally consistent with the DOE’s Wetlands Guidance for CAO Updates, including orientation, location within outer 25% of the wetland buffer area and to avoid removal of significant trees, use of pervious surfaces and maximum width.
Hazard trees	Commenter proposes identifying that a report for removal of “hazard trees” be prepared by a qualified arborist.	19.70.020(C)(6)(b)	Staff agrees and also proposes adding a definition for “hazard tree”.

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BMPs in critical areas review	Commenter asks whether there should be language defining who sets the standard for restoration and who can sign off that a proper level of restoration, rehabilitation, and replacement has been achieved. Also recommends making it clear that the responsible party's expense includes reimbursement for the City's cost of enforcement.	19.70.035(B)	The Director would determine standards for restoration of damaged resources consistent with the standards in AMC 19.70.170, which requires a restoration plan and contains minimum performance standards for unauthorized critical area alterations. The Director may obtain expert advice from a third party qualified professional at the responsible party's expense.
Section: Critical Areas Review Procedures			
Preapplication meeting	Commenter does not believe a preapplication meeting should be required for smaller projects like fences, sewer repair, decks or a house	19.70.110(A)	While sometimes seen as an additional hurdle, a preapplication meeting can be quite beneficial to an applicant by identifying various requirements and potential issues prior to an applicant having spent significant money on the design of a project only to find out that it has to be revised. AMC 19.70.110(A) provides the Director the ability to waive the preapplication requirement if it can be determined there will be no impacts to critical areas based on available info.
Final decision & appeal	Commenter believes it is unnecessary and repetitive to include language about appeals of critical areas determinations following the appeal procedure for the underlying permit.		Staff believes it is beneficial to applicant, the public and city staff to retain this language for clarity.
Mitigation	Commenter believes there must be a way to allow public comment on all mitigation plans before a project is approved.		The public is notified of land use applications consistent with the public notice requirements in AMC 19.20.030. Generally, proposals to alter wetlands or streams require SEPA review, which includes a public notice component. A proposal's project mitigation plan is available for public review and comment along with the other required application materials. Proposed language in AMC 19.70.135, Mitigation plan requirements, outlines specifically what must be included as part of a mitigation plan. This language will help staff and an applicant know what the minimum standards for reports are, and ensure that the public has the information they need to provide useful input.
Violations	Commenter believes the section regarding violations needs to be stronger, with higher fines, and a moratorium on future building permits for that individual or business.	19.70.170	AMC 19.70.170(E) proposes monetary penalties based on square footage of impacted critical area or buffer, and/or per tree removed, as part of the City's enforcement actions. The City is not legally able to deny an individual or a business a future building permit for a site that is not involved in the enforcement action.
Signs	Commenter thinks requiring permanent signs 50' along a critical area buffer is too much and proposes every 300' or 500'.	19.70.155(B)(1)	50' is from the DOE wetlands guidance for CAO updates and staff believes it is reasonable given the size of most lots in Anacortes.
Survey	Section requires a survey. In the comments, staff asked if there might be situations where a survey would/should not be required, such as for restoration or enhancement projects. Commenter was concerned this could create a large loophole and opportunity for conflict.	19.70.125(D)(6)(b)	After further review and consideration, staff recommends that a survey be required for all projects involving critical areas.

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Title Notice	Commenter recommends updating these sections to identify required language for long-term ownership and maintenance responsibility.	19.70.150 & 19.70.155	Language could be added to clarify this.
Section: Wetlands			
Exemptions – Isolated Wetlands	Commenter states the proposed language regarding exemptions for certain categories and sizes of wetlands is confusing and that Category II & III wetlands less than 1,000 sq. ft. and meeting other certain criteria should continue to be exempt from CAO regulation. Commenter would like an exemption for Category IV wetlands up to 4,000 sq. ft.	19.70.240	In developing the proposed exemptions, staff consulted the 2016 DOE Wetlands Guidance for CAO Updates, which represents the best available science for protection of wetland functions. Staff will review this section to see if changes can be made to make it less confusing.
Exemptions – Isolated Wetlands	Commenter agrees that certain isolated wetlands of low functional value should be exempted especially where they significantly reduce the use of a small city lot.	19.70.240	Wetlands meeting certain criteria are proposed to be exempt from the requirement to avoid impacts and buffer provisions, but consistent with DOE guidance, mitigation of impacts would still be required.
Standard buffer widths	Commenter states that buffers should not be made any smaller. Commenter states that it would be useful to have more in between steps between buffer widths since a difference of 1 point can result in double the buffer (from 60' to 110').	19.70.250-1	Ecology staff recently notified City staff that information on the Ecology website utilized by staff for the proposed buffers in AMC Table 19.70.250-1 was out of date. The buffer table in the 2016 DOE Wetlands Guidance for CAO Updates is what Ecology staff recommends be used. This would result in an additional line/buffer width for wetlands scoring between 5 & 7 points for habitat (105' for 5 points, 165' for 6-7 points). Additionally, Ecology recommends that bogs, wetlands of high conservation value, coastal lagoons, estuarine and forested wetlands be separately broken out in the buffer table with appropriate buffers.
Increase to standard buffer widths	Commenter objects to proposal to require an increase in buffer widths by 33% in certain circumstances and requests examples with drawings of proposed buffer widths and setbacks to illustrate the proposal.	19.70.250(A)(2)	The 33% increase would only apply in cases where an applicant proposes not to provide all of the applicable required measures to minimize impacts to wetlands in AMC Table 19.70.250-2. Currently there is not a clear alternative when an applicant proposes not implementing all of the measures.
Setbacks from buffers	Commenter proposes a 3' setback required from a buffer instead of the proposed 5' or 10'. Another commenter states that if 5' is sufficient setback from an adjacent property line, it should be sufficient from a buffer, especially if it is fenced. Another commenter states that a setback from a buffer is important because a lack of setback from the buffer effectively reduces the buffer width should a structure be placed at the buffer line due to encroachment into the buffer or adverse impacts to roots, etc.	19.70.250(G)	The purpose of a buffer and a setback are different. A setback is a minimum distance between a structure or other feature and a property line intended to provide sufficient light, air, privacy, etc. A buffer is intended to protect a critical area and provide for the continued maintenance, functioning, and/or structural stability of a critical area. In most cases where a critical area and buffer is placed in a separate tract (as part of a subdivision, etc.) a minimum setback would apply from that property line between the tract and the lot being developed. Where no tract is created, an NGPE (easement) would be established, but because there is no new property line/tract being created there is no minimum setback identified. This creates situations where structures can technically be constructed right up to the buffer, leaving no space maintenance or other activities without potential impacts to the buffer.

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Averaging buffer widths	Commenter recommends adding “reasonably” feasible to 19.70.250(A)(7), which is part of the criteria for allowance of buffer width averaging.	19.70.250(A)(7)	Staff will review of options for clarifying language and provide recommendations in V2.
Off-site wetlands	Commenter states that if access to nearby off-site wetlands is denied, a critical areas report should estimate the characteristics insofar as they can be observed.	19.70.260(D)(5)	Yes, this is currently required.
Type & location of compensatory mitigation	Commenter agrees that there should be flexibility in location for mitigation and asks if the city could develop a list of wetlands that could benefit from enhancement so that if off-site mitigation is necessary it could be applied where most beneficial.	19.70.270(D)	Yes, staff is reviewing potential concepts for developing an in-lieu fee program for mitigating unavoidable impacts based on a watershed approach.
Buffer width averaging criteria	Commenter states that language in (a) is nebulous (regarding there being no feasible alternative to site design that could be accomplished without buffer averaging). Who determines that there is no alternative?	19.70.250(A)(7)	Continued staff review of options for clarifying language.
Section: Fish & Wildlife Habitat Conservation Areas			
Stream buffers	Commenter believes that a 50’ buffer from streams is adequate if used with a split rail fence, and is concerned that a proposal to increase the buffer to 100’ on some streams would leave some existing platted city lots unbuildable. Other commenters felt that the proposed change to use the DNR typing system in assigning buffers would provide a consistent system for ensuring protection of the City’s waterways.	19.70.340(B)	WDFW staff recommended that the City review whether the existing code’s approach of a 50’ stream buffer for all streams sufficiently protects the functions and values of streams with potential fish habitat. One way to provide differing levels of protection based on functions is to categorize the streams using the DNR stream typing system and assigning buffers based on the type. According to DNR mapping, many streams in Anacortes are a Type F (meaning potential fish habitat), which typically need larger buffers to protect functions and habitat. A 100’ buffer is proposed for Type F streams, while a 50’ buffer for Type Np and Ns streams is proposed to be retained. Without stream reach specific analysis, it is difficult to know for sure which streams may be subject to 100’ buffers, if this approach is taken. It is also possible that one stream may have segments that have different type designations.
Great Blue Herons	Commenter would like strengthened protections for herons throughout Skagit County, including adequate buffers around nesting and feeding areas, and to continue application of the CAO protection for abandoned heron nesting sites for at least 10 years.	19.70.350(C)(2)	Based on review of the WDFW management recommendations and review of other jurisdiction regulations, staff recommends the 10-year protection for abandoned colonies be added to the CAO.
Subdivisions	Commenter agrees that a reduction in lot size through subdivision should be allowed to transfer the density onto the non-critical portion of the site; states that there should be some limits on the size of the reduction (e.g. 60% of the standard lot size, or no less than 3,000 sq. ft., etc.)	19.70.340(F)	Staff will investigate whether this language should be in the CAO, subdivision standards, or both, and make a proposal in V2.

Issue / Key Words	Comments summary	Version V1 reference	Staff Comments
Stream buffer allowed uses	Commenter suggests allowing a maximum trail width of 8 feet for ADA trails, to allow someone to pass or walk beside a wheelchair	19.70.340(B)(5)	As proposed, a trail wider than the width specified under the allowed uses would require application of a public agency exception or a variance.
Setback from buffer	Commenter states that 5' may be adequate for a setback to a buffer.	19.70.340(B)(7)	Staff recommends a 5' setback.
Piped stream segments	Commenter agrees with the clarification provided in Table 19.70.xxx-1 regarding definition of a piped stream segment.	19.340(B)	Noted. To avoid conflicts based on the proposed definition of "buffer", staff recommends that piped stream segments be separated from the rest of the DNR water type table and the separation distance from the pipe be referred to as a setback, rather than a buffer.
ROW vacation adjacent to ACFL	Commenter asks where language regarding vacation of adjacent ROW to ACFL should be located if not within the CAO.	19.70.350(C)	Staff will make a recommendation after further review.
Section: Geologically Hazardous Areas			
Designation of landslide hazard areas	Commenter asks how anyone would know whether areas have shown movement during the Holocene epoch (10,000 years ago to present).	19.70.240(A)(2)(e)	This is a standard designation criteria and can be determined by qualified professionals for geologically hazardous areas.
Subdivisions in landslide hazard areas	Commenter suggests changes to confusing wording regarding clearing of individual lots in a subdivision.	19.70.440(A)(10)	Staff will propose revisions in V2.
Seismic hazard areas	Commenter asks whether the entire Puget Sound region is a seismic hazard area.	19.70.410(A)(3)	All of the Puget Sound region may be subject to impacts from earthquakes; however the AMC 19.70.410(A)(3) specifically designates only certain areas for regulation under the CAO that have the highest risk of damage based on specific site characteristics.
Exemptions	Commissioner Opel requested to allow exemptions for certain accessory structures in seismic hazard areas	19.70.430(B); 19.70.020	Staff will propose updates in V2 to exempt certain unoccupied accessory structures within seismic hazard areas from the requirement to submit a critical area report. Based on recommendations from the City's qualified professional, occupied structures are not proposed for exemption. The Director does have the ability to waive certain report requirements so as to only require information applicable to a particular proposal to minimize the burden on project applicants.
Avalanche, mine and volcanic hazard areas	Commenter recommends omitting these from the code.	17.70.410	Staff will review and propose revisions in V2.
Section: Critical Aquifer Recharge Areas			
General	Commenter notes that even though most don't rely on wells for drinking water, underground aquifers feed wetlands, lakes and streams and supply forest vegetation with water; and that the city sewer system reduces natural recharge.	19.70.500	Noted. There are numerous state and federal regulations regarding groundwater impacting activities and several local regulations in place that help protect groundwater quality and quantity.

Issue / Key Words	Comments summary	Version V1 reference	Staff Comments
Section: Frequently Flooded Areas			
Sea level rise	Commenter states that if sea level rise can potentially effect a development the applicant should be required to address that potential in the critical areas report. Language needs to be strengthened.	19.70.610(C)	Noted. It is recommended that potential specific standards for considering sea level rise impacts be reviewed as part of the impending Shoreline Master Program update.
Section: Definitions			
Hazard tree	Commenter recommends adding a definition for hazard tree.		Staff will review and propose revisions in V2.
Piped stream	Commenter recommends adding a definition for piped stream.		Staff will review and propose revisions in V2.
Artificial ditch/channel	Commenter recommends adding a definition for artificial ditch/channel.		Staff will review and propose revisions in V2.
Volcanic hazard area	Commenter proposes removing this definition.		Staff will review and propose revisions in V2.

Received by PCED
8/24/17



TO: Anacortes Planning Commission; Libby Grage, Planner for the City of Anacortes
FROM: Michael Kirshenbaum, Conservation Director, Skagit Land Trust
DATE: 8/24/17

Skagit Land Trust is very interested in strengthening the City's Critical Areas Ordinances and would like to draw the Planning Commission's attention to Great Blue Herons and the colony at March Point, immediately adjacent to the City and within the City's UGA. The Commission is probably aware that the Samish Island heronry was abandoned this summer. That heronry is only a little smaller than March Point and has been documented on site since the 1930s. No one knows exactly what happened but there are a host of possible recent disturbances near the colony that could have caused the abandonment. Some naturally occurring disturbances – such as eagle predation – cannot be prevented through CAOs, but others, such as clearing, construction and other forms of development, can be limited adjacent to heron colonies. Thus Skagit Land Trust is interested in advocating for strengthened protections for herons throughout Skagit County.

Along with following state guidelines for adequate buffers around heron nesting and feeding areas, another key element we'd like to draw your attention to during this first round of public comments is to continue application of the CAO for abandoned heron nesting sites for at least 10 years. This follows WDFW's management recommendations. This is a critical policy as herons can return to former nesting sites. Given the limited amount of intact coastal forest along Puget Sound, maintaining protection for former nesting sites for at least 10 years is a key component of any CAO attempting to protect herons such as at the March Point heronry.

WDFW's recommendations for former nesting colonies recommendation is on page 11 of WDFW's *Management Recommendations for Washington's Priority Habitats and Species: Great Blue Herons* (March 2012).

The City of Seattle sites the 10-year rule in their heron nesting ordinance:

"If a nesting colony has been abandoned by a great blue heron colony the great blue heron management core zone for this colony shall be protected for a period of 10 years from the last known active nesting season
(<http://www.seattle.gov/dpd/LUIB/AttachmentProjectID8291DDR2017-8.pdf>)."

Bellevue doesn't specifically call out the 10-year rule but does say that WDFW's management recommendations should be followed:

20.25H.160 Performance standards.

If habitat associated with species of local importance will be impacted by a proposal, the proposal shall implement the wildlife management plan developed by the Department of Fish and Wildlife

for such species. Where the habitat does not include any other critical area or critical area buffer, compliance with the wildlife management plan shall constitute compliance with this part.

<http://www.codepublishing.com/WA/Bellevue/#!/LUC/BellevueLUC2025H.html#20.25H.160>

The City of Olympia has the 10-year language:

“If a nesting colony has been abandoned by a great blue heron colony, the great blue heron core zone for this colony shall be protected for a period of 10 years from the last known active nesting season.”

Further guidance from WDFW recommends protection for even small heron colonies:

The following guidelines will help you identify, map, and manage an entire HMA. We suggest you use the guidelines to protect any colony, no matter its size or status. Although you should not underestimate the value of smaller colonies, larger colonies generally merit highest priority. Give colonies with at least 20 nests close to coastal and estuarine habitat or along large rivers that drain into an estuary high priority (30). Since colonies inland tend to be smaller, regard all inland nesting aggregations as high priority. *Management Recommendations for Washington's Priority Habitats and Species: Great Blue Herons (March 2012).*

Thank you for your consideration of our initial comments. Skagit Land Trust looks forward to submitting more complete comments during the second round of public input.

Sincerely,

Michael Kirshenbaum
Conservation Director
Skagit Land Trust

August 24, 2017

Anacortes Planning Department
Anacortes City Hall
6th and Q. Avenue
Anacortes, WA 98221

Dear Director Measamer,

Below are my comments re: the Anacortes Critical Areas Regulation Update.

#3—Variances: The use of “variances” has been more than contentious in the past. Careful thought must be given to “adjustments” to this section. Staff mentions that “More information will be provided at a later date”. How will the public be alerted to changes in this portion?

#4—“Reasonable Use”: The Attorney General’s definitions should come into play here as the authority for defining points in possible takings cases.

#8---Third -party reports: I see great value in this regulation. I agree wholeheartedly with Mr. O’Hearn’s comment from the PC meeting of August 23, 2017.

#16—Paying attention to the function of the wetland, according to the DOE guidance cited in the “Discussion” comments, rather than just the size, has science behind it. The “Proposed” language of the City says, “exempts small (less than 1,000 sq. ft) etc, ...”under certain circumstances”. No examples are set forth for what those “certain circumstances” might be. When can the public expect to see the “adjustments to draft language” which may be proposed?

#19—Wetland buffer uses: Proposed language mentions “passive recreation”. I believe the subject of “passive recreation” carries some problems if not defined by area and situation; for instance, areas along the bluffs in Washington Park where there are wild flowers and thin soils suffered from “passive recreation” such as walking and standing. Erosion and compaction damage by enough users can easily occur in wetland areas as well.

The following are questions of a more general nature:

#1—Will there be provision for the role of Hearing Examiner in the Critical Areas regulations updates?

#2—From reading of the proposals of regulation change, it appears the Director will be in charge of important decisions involving Best Available Science for assessing wetland mitigation and geologically hazardous areas, among others. The person assigned this big responsibility should have a scientific background in order to competently fulfill the assessment tasks assigned him/her. Clarification of the role and scope and qualification of the Director needs to be spelled out clearly.

#3—I strongly urge the Planning Department to adopt the definitions of “takings” used by the Attorney General’s Office. This would provide a legal safeguard in cases where items such as “reasonable use” come in to play.

I may well have more comments later. August has been a difficult month to find time to give the much-needed attention these crucial aspects of Anacortes Planning deserve. It is well that the time for public input has been extended. It will offer the opportunity for a more thoughtful perusing of the material offered and may well result in more useful comments.

Sincerely,

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Grage, Libby

From: Sara Holahan <skholahan@yahoo.com>
Sent: Friday, August 25, 2017 5:18 AM
To: Grage, Libby
Subject: CAO comments

To Anacortes Planning Commission, Don Measamer and Libby Grage,

There are several areas of the Critical Areas Ordinance that need more work.

There seem to be too many vague references to variances, exceptions and application of "reasonable use". If all the protections can be overruled for whatever reason, it makes the ordinance basically ineffective. Any such considerations should be difficult to permit and should be under the jurisdiction of the Hearing Examiner. Our few remaining critical areas are just too precious to lose.

The section on violations needs to be a lot stronger. It has been too easy for builders to ignore the conditions of their permits and mitigate afterwards. This does not protect our habitat. For example significant trees can be cut down, and just a modest fine paid with some small trees planted. That is not enough disincentive. Fines should be higher and a moratorium on any future building permits for that individual or business should be added.

Buffers along wetlands should be adhered too and not be made any smaller.

Finally, this is a complicated document and many citizens are interested in this issue. We need more time to be able to read closely and comment on the draft. Thank you for all your work so far. Let's do a really excellent job by extending the deadlines.

Sara Holahan
1511 38th St.
Anacortes, WA

Grage, Libby

From: Cynthia Richardson <richrson@cnw.com>
Sent: Thursday, August 24, 2017 10:36 PM
To: Grage, Libby
Subject: Critical Areas Regulations Update
Attachments: cirtcal areas draft comments Richardson.docx

Libby,

Here are my comments. Much easier to edit directly from Word. Please let me know if you have any questions.

Cynthia Richardson

315 V Ave.
Anacortes, WA 98221
360-299-9081
richrson@cnw.com

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

Received by PCED
8/25/17
Comments from Cynthia
Richardson

DRAFT Ordinance No. ____

An Ordinance adopting, repealing, and amending AMC Chapter 19.70 and Chapter 17.70 relating to critical areas regulations.

Whereas _____;

Whereas _____;

Whereas _____;

Whereas _____;

Whereas RCW 36.70A.170 and RCW 36.70A.172 provide that the City must designate critical areas and include the best available science in developing policies and development regulations to protect the functions and values of critical areas;

Whereas RCW 36.70A.130 requires continuing review, evaluation and periodic update of development regulations, including critical areas regulations,

Whereas

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

Section 1. The Anacortes Municipal Code is amended as shown in Attachment A.

Section 2. Consistent with RCW 35A.12.130, this ordinance takes effect five days after passage and publication.

PASSED and APPROVED this ____ day of _____, 2017.

CITY OF ANACORTES:

Laurie Gere, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy Swetnam, City Attorney

Attachment A

Amendments to the Anacortes Municipal Code

Chapter 17.70 Critical Areas Regulations are repealed except that

Recodify Article II. – Frequently Flooded Areas (FEMA Approved), AMC 17.70.020 through AMC 17.70.070 to Chapter 19.____ and retitle “Floodplain Management”.

Chapter 19.70 Critical Areas Regulations

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DIVISION 7 – ENVIRONMENT

CHAPTER 19.70 CRITICAL AREAS

GENERAL PROVISIONS

19.70.010 Purpose.

- A. The purpose of this chapter is to designate critical areas and to establish standards for the protection of their functions and values, in compliance with the provisions of the Washington State Growth Management Act of 1990 (Ch. 36.70A RCW), and consistent with the goals and policies of the Anacortes Comprehensive Plan.
- B. By identifying and regulating development and alterations to critical areas and their buffers, this chapter seeks to accomplish the following goals:
 - 1. Protect members of the public and public resources and facilities from injury, loss of life, or property damage due to landslides and steep slope failures, erosion, seismic events, or flooding;
 - 2. Protect, 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;
 - 3. Direct activities not dependent on critical area resources to less environmentally sensitive sites and mitigate unavoidable impacts to critical areas by regulating alterations in and adjacent to critical areas;
 - 4. Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas;
 - 5. Alert owners, potential purchasers, real estate agents, appraisers, lenders, builders, developers and other members of the public to natural conditions that pose a hazard or may otherwise limit development;
 - 6. Serve as the basis for exercise of the City's substantive authority under the State Environmental Policy Act (SEPA).
- C. The regulations of this Chapter are intended to protect critical areas in accordance with the Growth Management Act and through the application of best available science, as determined according to [WAC 365-195-900](#) through [365-195-925](#), and in consultation with state and federal agencies and other qualified professionals.

Commented [GL1]: The section provides general purpose, interpretation, jurisdiction, and other information that is applicable to all critical area types.

- D. This Chapter is intended to be administered with flexibility and attention to site-specific characteristics. It is not the intent of this Chapter to make a parcel of property unusable by denying its owner reasonable economic use of the property, or to prevent the provision of public facilities and services necessary to support existing development and that planned for by the community without decreasing current service levels below minimum standards.
- E. The City's enactment or enforcement of this Chapter must not be construed for the benefit of any individual person or group of persons other than the general public.

19.70.015- Applicability.

- A. Unless explicitly exempted, the provisions of this chapter apply to all land uses, development activity, and all structures and facilities within the City of Anacortes that are within, adjacent to, within the maximum buffer distance of, or likely to affect, one or more critical areas.
- B. Relationship to other regulations.
 - 1. Shorelines of the state and shorelands as defined in [RCW 90.58.030](#), and other critical areas occurring within the jurisdiction of shorelines of the state and shorelands, are regulated by AMC 18.16, Shoreline Master Program, and the Anacortes Shoreline Master Program, including Appendix A - Shoreline Critical Areas Regulations.
 - 2. These critical areas regulations apply in addition to zoning and other regulations adopted by the City. In the event of any conflict between these regulations and any other regulations of the City, the regulations apply that provide greater protection to the critical areas, as determined by the Director.
 - 3. When any provision of this chapter or any existing easement, covenant, or deed restriction conflicts with this chapter, that which provides more protection to the critical areas will apply.
 - 4. Compliance with the provisions of this Chapter does not constitute compliance with other federal, state, or local regulations and permit requirements that may be required. The applicant is responsible for complying with other agency requirements, apart from the process established in this Chapter.

Commented [GL2]: For consistency, amend 19.12.040(E) to coincide with this language, or say "Notwithstanding 19.12.040(E)....." in this section.

Commented [GL3]: For example: shoreline permits, HPAs, USACE Section 404, etc.

19.70.020 Exemptions.

- A. **General requirements for all exempt activities.** Activities listed in this section are exempt from the rest of the provisions of this chapter only if they meet the specific terms of this section.
 - 1. To be exempt from this chapter does not give permission to degrade a critical area or ignore risk from natural hazards. All exempt activities must use reasonable methods to avoid potential impacts to critical areas.

Commented [GL4]: "Exempt" typically means that the regulations do not apply and no review is required, provided the activity meets the terms of the exemption. The proposed exemption language here is crafted to minimize the potential for adverse impacts.

2. Any incidental damage to, or alteration of, a critical area that is not a necessary outcome of the exempted activity must be restored, rehabilitated, or replaced at the responsible party's expense.
- B. **Exempt Activities that do not require prior notification.** The following developments, activities, and associated uses are exempt from the provisions of this Chapter and do not require prior notification to the Department, only if they are otherwise consistent with the provisions of this section and other local, state and federal laws and requirements:
1. **Emergencies.**
 - a. Alterations in response to emergencies which threaten the public health, safety and welfare or which pose an imminent risk of damage to private property, as long as any alteration undertaken pursuant to this subsection is reported to the Director no later than 30 days after the alteration.
 - b. Only the minimum intervention necessary to reduce the risk to public health, safety, or welfare and/or the imminent risk of damage to private property may be authorized by this exemption.
 - c. Once notified, the Director must confirm that an emergency existed and determine what, if any, additional applications and/or measures are required of the property owner to protect the critical area(s) consistent with the provisions of this chapter, and to repair any damage to a pre-existing resource.
 - d. If the Director determines that the action taken, or any part of the action taken, was beyond the scope of an allowed emergency action, the Director may take action to enforce this chapter.
 - e. After the emergency, the person or agency undertaking the action must fully fund and conduct necessary restoration and other mitigation for any impacts to the critical area and buffers resulting from the emergency action in accordance with an approved critical area report and restoration/mitigation plan. The person or agency undertaking the action must apply for review; and the alteration, critical area report, and mitigation plan must be reviewed by the City in accordance with the review procedures contained herein. Mitigation activities must be initiated within one year of the date of the emergency.
 2. **Landscaping Maintenance.** Maintenance of lawfully established vegetation, landscaping, and gardens, including, but not limited to cutting, mowing lawns, weeding, removal or noxious and invasive species, pruning, and planting of noninvasive ornamental vegetation to maintain the general condition and extent of such areas; except that Native Growth Protection Areas, or other areas protected via conservation easements or similar restrictive covenants are not covered by this exemption.

3. **Site Investigation.** Site investigative work and studies necessary for preparing land use applications, including, but not limited to, soils tests, water quality studies, wildlife studies, and similar tests and investigations; provided, that any disturbance of the critical area must be the minimum necessary to carry out the work or studies;
 4. **Passive Outdoor Activities.** When it can be demonstrated that there will be no undue adverse effect, the following activities are allowed within critical areas and their buffers: educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, public beach access including water-related activities, bicycling, and hiking.
- C. **Exempt Activities that Require Prior Notification.** The following developments, activities, and associated uses are exempt from the provisions of this Chapter, but require prior notification of the Department, and must otherwise be consistent with the provisions of this section and other applicable local, state, and federal laws and requirements:
1. **Utility Operation, Maintenance, Repair, or Replacement.** Public water, electric and natural gas distribution, public sewer collection, cable communications, telephone, utility and related activities undertaken pursuant to City-approved best management practices, and best available science with regard to protection of threatened and endangered species, as follows:
 - a. Normal and routine maintenance or repair of existing utility structures or rights-of-way;
 - b. Relocation of electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less, only when required by the City of Anacortes, which approves the new location of the facilities;
 - c. Replacement, operation, repair, modification, installation or construction in an improved City road right-of-way or City authorized private roadway of all electric facilities, lines, equipment or appurtenances, not including substations, with an associated voltage of 55,000 volts or less;
 - d. Relocation of public sewer local collection, public water local distribution, natural gas, cable communication or telephone facilities, lines, pipes, mains, equipment or appurtenances, only when required by the City of Anacortes, which approves the new location of the facilities;
 - e. Replacement, operation, repair, modification, relocation, installation or construction of public sewer local collection, public water local distribution, natural gas, cable communication, or telephone facilities, lines, pipes, mains, equipment or appurtenances when such facilities are located within an improved public right-of-way or City-authorized private roadway;
 - f. Repair and maintenance of existing private connections to public utilities and private stormwater management facilities;

Commented [LBG5]: Define replacement to mean not more impact than the existing facility has.

Commented [GL6]: Relocation of electric facilities 55,000 volts or less when required by other governmental bodies is categorically exempt from SEPA review per WAC 197-11-800.

Commented [GL7]: See comment for b. above.

- g. Vegetation management activities that are a part of a regular and ongoing maintenance program.
- 2. **Roadway Operation, Maintenance, Repair, or Replacement.** Maintenance, operation, repair, modification, or replacement of publicly improved roadways or City-authorized private roadways, and associated stormwater drainage systems; as long as any such alteration does not involve expansion of roadways or related improvements into previously unimproved rights-of-way or portions of rights-of-way, and does not alter a wetland or watercourse, such as culverts or bridges, or result in the transport of sediment or increased stormwater. Retention and replanting of native vegetation must occur whenever possible along the right-of-way improvement and resulting disturbance.
- 3. **Recreation Areas Operation, Maintenance, Repair, or Replacement.** Maintenance, operation, repair, modification, or replacement of existing facilities within publicly improved recreation areas, such as the Anacortes Community Forest Lands and public parks, may be performed subject to the following:
 - a. The activity does not involve the expansion of facilities or improvements into a previously unimproved portion of critical areas or required buffers;
 - b. Work is conducted using best management practices;
 - c. Flow and circulation patterns and biological characteristics are not impaired and adverse impacts are minimized;
 - d. Limited excavating and filling necessary for the repair and maintenance of piers, walkways, observation decks, wildlife management shelters, boathouses, and other similar water-related structures, provided they are built on pilings to allow unobstructed flow of water and preserve the natural contour of the wetland;
 - e. Retention and replanting of native vegetation must occur wherever possible in areas of land disturbance.
- 4. **Minor Conservation and Enhancement.** Minor conservation and enhancement of critical areas and buffers that does not alter the location, dimensions, or size of the critical area or buffer, and results in improvement of the critical area functions and values, including the following removal activities:
 - a. Removal of noxious weeds or invasive vegetation, as identified by the Washington State or Skagit County Noxious Weed Control Board, in a wetland buffer, stream buffer, other fish and wildlife habitat conservation areas and buffers, is allowed when:

Commented [GL8]: Proposed language here attempts to incorporate current code – 17.70.380(E).

Commented [LBG9]: “Non-compensatory restoration and enhancement” See section 8.3.3.13 in [Volume 2 – Protecting and Managing Wetlands](#).

- i. Undertaken with hand labor, including handheld mechanical tools;
 - ii. Plants that appear on the Washington State or Skagit County Noxious Weed Control Board lists must be handled and disposed of in accordance with the best management practices appropriate to that species and approved by the City when permit review is applicable;
 - iii. Areas cleared by removal of noxious and/or invasive plant species must be revegetated with site-appropriate native species at natural densities and the site must be stabilized against erosion in accordance with the stormwater manual adopted by the City;
 - iv. All work performed is above the ordinary high water mark and above the top of a stream bank; and
 - v. The following limits may not be exceeded: Within City-owned property, no more than 3,000 square feet of soil may be exposed at any one time; and within private property, not more than 500 square feet of area may be cleared, as calculated cumulatively, over one year, without a permit and critical area report prepared by a qualified professional.
5. Vegetation management consistent with a previously approved critical area mitigation, restoration, remediation, or enhancement plan that requires ongoing maintenance and vegetation management beyond final inspection and the required monitoring period for the permitted project.
6. **Hazard Trees.**
- a. The felling of hazard trees may be permitted when necessary to:
 - i. Control fire; or
 - ii. Halt the spread of disease or damaging insects consistent with 76.09 RCW; or
 - iii. Avoid a threat to existing structures, above ground utility lines or other facilities.
 - b. Unless there is an emergency pursuant to 19.70.020(B)(1), the landowner must first obtain prior written approval from the Department. A tree risk assessment prepared by a qualified professional must be submitted by the applicant to the Department that includes the following information:

Commented [LBG10]: Currently there is no official process for considering these situations and inquiries are relatively common. Balancing public safety exemptions with critical area protection is important.

Commented [GL11]: Define – ISA certified arborist? DOE recommends a "qualified arborist"

- i. Identification of the tree(s) proposed to be removed;
- ii. A recommendation that the condition constitutes an actual threat to life or property;
- iii. An assessment of whether a portion of the tree suitable for a snag for wildlife habitat may be safely retained.
- iv. If a tree to be removed provides priority habitat, such as an eagle perch or occupied nest, a description of timing and methods of removal that will minimize and mitigate impacts.
- v. If a tree to be removed is located within a geologically hazardous area, an evaluation of impacts.....

- c. All work must be done using handheld implements only, unless the property owner requests and the Director approves otherwise in writing.
- d. -Any removed tree or vegetation must be replaced with appropriate native species in appropriate size and location consistent with accepted restoration standards within 1 calendar year.

7. **Fish habitat enhancement projects.** Fish, wildlife, and wetland restoration or enhancement activities not required as project mitigation that have been approved by the U.S. Fish and Wildlife Service, the Washington State Department of Ecology, Washington State Department of Fish and Wildlife, or other appropriate local, state, federal, or tribal jurisdiction and/or that meet the criteria of [RCW 77.55.181\(1\)](#) and that are reviewed and approved according to the provisions of [RCW 77.55.181](#).

8. **Chemical applications.** The application of herbicides, pesticides, organic or mineral-derived fertilizers, or other hazardous substances, if necessary; except that their use will be restricted in accordance with State Department of Fish and Wildlife Management recommendations, regulations of the State Department of Agriculture and the U.S. Environmental Protection Agency;

9. **Minor Activities.** Minor activities not mentioned above and determined by the Director to have minimal impacts to a critical area

10. **OTHER**

19.70.025 Identification, classification, and rating of critical areas.

- A. **Critical Areas Maps.** The general locations of many critical areas in Anacortes are displayed on the City of Anacortes' Critical Areas Maps, which are hereby adopted by reference. The maps are used to alert the public of the potential location of critical areas in Anacortes. As new

Commented [LBG12]: Imminent?

Commented [LBG13]: Consider requirement for an assessment by a geotech engineer if located in a geohazard (landslide hazard) area?

Commented [GL14]: WDFW recommends restricting the use of pesticides and herbicides in many types of habitat. THE WA State Dept. of Agriculture and/or US EPA have regulations specific to the use of pesticides, fertilizers, and other chemicals that must be adhered to under federal law, and generally appear on the packaging.

Commented [LBG15]: Should there be a specific exemption for public projects where the purpose for activities within a critical area or buffer are for the benefit of the public's passive enjoyment of the environmentally critical area, like walking trails under certain circumstances?

See [Seattle SMC 25.09.042](#)

Commented [GL16]: Maps are being updated. Still TBD if just one map could work, or if multiple are needed.

environmental information related to critical areas becomes available, the Director is authorized to make changes as necessary to the Critical Areas Maps.

- B. **Actual site conditions.** Regardless of whether a critical area is shown on the Critical Areas Map, the actual presence or absence of the features defined in this code as critical areas will govern. The Director may require an applicant to submit technical information to indicate whether critical areas actually exist on or adjacent to the applicant's site based on the definitions of critical areas in this code.
- C. **Classification and rating.** To promote consistent application of the standards and requirements of this chapter, critical areas within the City will be rated or classified according to their characteristics, function and value, and/or their sensitivity to disturbance.
 - 1. Classification of critical areas will be determined by the City using the following tools:
 - a. Application of the criteria contained in these regulations;
 - b. Consideration of the critical area reports submitted by qualified professionals in connection with applications subject to these regulations; and
 - c. Review of maps adopted pursuant to this chapter.

19.70.030 Protection of critical areas.

- A. Critical areas and their required buffers may not be altered except as allowed by this Chapter.
- B. Any action taken pursuant to this chapter must result in equivalent or greater functions and value of the critical areas associated with the proposed action, as determined by the best available science.
- C. All actions and development must be designed and constructed in accordance with mitigation sequencing per AMC 19.70.xxx to achieve no net loss of critical area functions and values.
- D. Applicants must first demonstrate an inability to avoid or reduce impacts, before restoration and compensation of impacts will be allowed.
- E. No activity or use may be allowed that results in a net loss of the functions or value of critical areas.
- F. Any individual critical area adjoined by another type of critical area must have the buffer and meet the requirements that provide the most protection to the critical areas involved.

19.70.035 Critical Areas Review.

- A. **When required.** Except for those activities identified below, all uses, modifications, and activities subject to this Chapter require Critical Areas Review per AMC 19.70.110-.185.
- B. **Best Management Practices.** All activities, including those allowed without critical areas review, must be conducted using the best management practices that result in the least amount of impact to the critical areas. Best management practices must be used for tree and vegetation

Commented [LBG17]: Clarify source of BMPs.

protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The use of best management practices is required to ensure that the activity does not result in degradation to the critical area. Any incidental damage to, or alteration of, a critical area and/or buffer shall be restored, rehabilitated, or replaced at the responsible party's expense.

- C. **Activities Allowed Without Critical Areas Review.** The following activities must be reviewed and permitted or approved by the City and any other agency with jurisdiction, but do not require submittal of a separate critical area report, unless such submittal was required previously for the underlying permit. The Director may apply conditions to the underlying permit or approval to ensure that the activity is consistent with the provisions of this chapter to protect the critical areas.

1. **Permit Requests Subsequent to a Previous Critical Area Review.** A permit or approval sought as part of a development proposal for which multiple permits are required is exempt from the provisions of this chapter, except for the title notice provisions, as applicable, if:
 - a. The City of Anacortes has previously reviewed all critical areas on the site; and
 - b. There is no material change in the development proposal since the prior review; and
 - c. There is no new information available which may alter previous critical area review of the site or a particular critical area; and
 - d. The permit approval under which the prior review was conducted has not expired, or if no expiration date is specified, no more than five years have lapsed since the issuance of that permit or approval; and
 - e. The prior permit or approval, including any conditions, has been complied with.
2. **Modifications to Existing Nonconforming Structures.** Structures that do not meet the critical area, buffer, or buffer setback requirements may be modified as follows:
 - a. Routine maintenance and repairs;
 - b. Structural modifications or additions that ~~to do~~ not increase the existing footprint of the structure or area of hardscape lying within the critical area or buffer; except that the Director may require an updated critical areas report to confirm location of buffers and that the addition is located entirely outside the critical area or buffer.
 - c. Restoration or replacement of a structure that is damaged by fire, natural disaster or other calamity when:

Commented [GL18]: This section recognizes that an applicant should not need to complete a new critical area review for a project that has just had a previous review completed. For example, if CA review were addressed during the plat review process, it should not need to be readdressed during construction of individual homes as long as it is consistent with the original approval. If previous codes did not adequately include BAS, it may be appropriate to limit this. See subsection (d).

Commented [LBG19]: Note – Existing CAO, AMC 17.70.500 states that: "final plat approvals, conditional use permits, and building permits issued after the date of adoption of the city's first wetland ordinance (Ord. #2131, adopted January 2, 1990) but before the effective date of the ordinance codified in this chapter amendment will continue to be controlled by the version of this chapter in effect at the time of their final approval/permit issuance."

Commented [LBG20]: ...and height? This could be important for geohazard areas...

- i. A complete application for reconstruction or replacement is submitted within one year of the damage; and
 - ii. The restoration or replacement is made to conform to the current critical areas regulations, or if such regulations cannot be physically met without reducing the size of the building, the restoration or replacement may not extend any nonconformity that existed prior to the damage.
- 3. **Demolition.** Demolition of structures located within critical areas or their buffers, excluding demolition of structures necessary to support or stabilize landslide hazard areas, and subject to approval of a stormwater pollution prevention plan consistent with the adopted stormwater management manual and clearing limits that will adequately protect the critical area.

19.70.040 Variances.

- A. If strict application of this Chapter is found to deprive the subject property of rights and privileges enjoyed by other properties in the vicinity, due to special circumstances applicable to the subject property, including size, shape, and topography, a critical areas variance to minimum buffer standards may be authorized as provided in AMC Chapter 19.38 Variances. Surrounding properties that have been developed under regulations in effect prior to the effective date of this Chapter may not be the basis for granting a variance.
- B. The City must ensure the opportunity for public comment, including that from appropriate Federal, State, and Tribal natural resource agencies, to ensure the use of best available science before deciding on variance request and must develop and maintain a public record on each variance request.
- C. Variances to buffer requirements of this Chapter may only be issued if the applicant meets all of the following requirements:
 - 1. The applicant has demonstrated that the criteria in AMC Section 19.38.040 (variance criteria) are met;
 - 2. The issuance of a variance to zoning requirements (setback, height, coverage, etc.) by itself will not provide sufficient relief to avoid the need for a variance to the buffer and other requirements for the critical areas regulated by this Chapter;
 - 3. A critical areas report and mitigation plan prepared by a qualified professional pursuant to the requirements of this chapter is submitted that demonstrates the following:
 - a. The proposed variance of the dimensional requirements of this chapter is supported by best available science; and
 - b. The proposed variance allows for development of the subject parcel with the least impact on critical areas while providing a reasonable use of the property.

Commented [GL21]: Skagit County has similar provisions. Staff is continuing to review best practices in other jurisdictions to determine whether this approach would be appropriate for Anacortes. Specifics still need to be worked out.

Commented [LBG22]: Need to update 19.38 to make consistent with this section, if it retained.

Commented [LBG23]: Surrounding properties may be been developed under older, less restrictive regulations, when smaller buffers were required. This sentence is saying that cannot be a basis for arguing deprivation of rights and privileges enjoyed by adjacent properties.

- D. **Conditions may be required.** In granting any variance, conditions and safeguards may be prescribed as are necessary to secure adequate protection of critical areas from adverse impacts, and to ensure conformity with this chapter.
- E. **Burden of proof.** The burden of proof shall be on the applicant to bring forth evidence in support of the application and upon which any decision has to be made on the application.

19.70.045 Reasonable use exception.

- A. Reasonable use is a legal concept articulated by federal and state courts in regulatory takings cases. Within the context of these cases and for the purposes of this title, reasonable use means uses allowed by the underlying zoning designation and does not mean the subdivision or property.
- B. If the application of this Chapter would result in denial of all reasonable and economically viable use of a property, and if such reasonable and economically viable use of the property cannot be obtained by consideration of a variance pursuant to AMC 19.70.040, then a landowner may seek a reasonable use exception from the standards of this Chapter.
- C. Reasonable use exceptions are intended as a last resort when no plan for mitigation and/or a variance can meet the requirements of this Chapter and allow the applicant a reasonable and economically viable use of property.
- D. **Review process.** A Critical Area Reasonable Use permit is required.
- E. **Decision criteria.** A reasonable use permit may be granted only if the applicant demonstrates that:
 1. The application of this chapter would deny all reasonable economic use of the property and that there is no reasonable economically viable use with a lesser impact on the critical area than that proposed; and
 2. The proposed development does not pose a threat to the public health and safety; and
 3. Any proposed modification to a critical area will be evaluated through consideration of a critical areas report and mitigation plan prepared by a qualified professional pursuant to the requirements of this Chapter, and will be the minimum necessary to allow reasonable and economically viable use of the property. The critical areas report and mitigation plan must be prepared utilizing best available science; and
 4. The inability of the applicant to derive reasonable use of the property is not the result of actions by the current or previous owner in subdividing the property or adjusting a boundary line, thereby creating the undevelopable condition, after the effective date of the ordinance codified in this Chapter; and
 5. The applicant has requested and been denied a variance under the provisions of AMC 19.70.040.

Commented [GL24]: The City must allow a minimum "reasonable use" of property even if such a use would otherwise be denied by the CA regs. The Fifth Amendment and Fourteenth Amendment of the U.S. Constitution provide individuals with protection from being deprived of the use one's property without due process or just compensation.

Unlike variances, the purpose of a reasonable use exception permit is not to allow general development within critical areas, but to allow the minimal "reasonable" use of the property so as to avoid a constitutional taking.

Commented [GL25]: According to the process identified in AMC 19.20.030- currently a Type 3 PC decision.

Commented [GL26]: Should an applicant with a property that is completely encumbered by critical areas and buffers be required to go through the variance process first? That might be onerous.

Commented [C27]: Yes, a property that is completely encumbered should go through the variance process to ensure that what they are proposing does a reasonable job of protecting the critical area while allowing for reasonable development and mitigating impacts. There's always a question of what is "reasonable". For example, suppose the owner wishes to build a 5,000 sf house, but a 2,000 sf house would cause less impact to the critical area. Many people would consider the smaller house quite reasonable, but that's not what the owner wants. How to decide?

- F. **Conditions.** Conditions of approval may be included as part of the decision, including modifications to the size and placement of structures and facilities to minimize impacts to critical areas and associated buffers and mitigation requirements that ensure that all impacts are mitigated to the maximum extent feasible utilizing best available science.

19.70.050 Public Agency Exception.

- A. **Purpose.** The purpose of this exception is to allow development by a public agency when the strict application of the standards in this Chapter would otherwise unreasonably prohibit the provision of public services. This type of permit does not apply to special flood hazard areas.
- B. **Public agency defined.** For the purposes of this subsection, "public agency" means any agency, political subdivision, or unit of local government, or private utility regulated by the Washington Utilities and Transportation Commission, including, but not limited to, municipal corporations, special purpose districts and local service districts, private regulated utilities, any agency of the state of Washington, the United States or any state thereof or any Indian tribe recognized as such by the federal government.
- C. **Review process.** A Critical Area Special Use Permit is required. An application must include a critical area report, including a mitigation plan, if necessary, in addition to other project related documents.
- D. **Decision criteria.** A critical areas special use permit may be granted only if the applicant demonstrates all of the following:
1. The application of the critical areas regulations would unreasonably restrict the ability of the public agency to provide services to the public;
 2. There is no other practical alternative to the proposed development with less impact on the critical area;
 3. The proposed development does not create a health or safety hazard on or off the development site, and will not be detrimental to the property or improvements in the vicinity;
 4. The special use permit process must not allow the use of the following critical areas for regional retention/detention facilities except where a finding is made that the facility is necessary to protect the public health and safety or repair damaged natural resources:
 - a. Type S or Type F anadromous streams or buffers;
 - b. Category I wetlands or buffers with plant associations of infrequent occurrence; or
 - c. Category I or II wetlands or buffers which provide critical or outstanding habitat for herons, raptors or State or Federal designated endangered or threatened species unless clearly demonstrated, using best available science, that there will be no impact on such habitat;

Commented [GL28]: This language is based on Shoreline's code..... See SMC 20.30.333.

Commented [GL29]: Table 19.20.030 references "Special Use Permit per AMC Ch. 17.70". Will need to amend the existing table to reference new location in 19.

5. Any alterations permitted to the critical area are mitigated in accordance with AMC 19.70.130 and relevant mitigation standards for the impacted critical areas(s) type;
 6. The proposal attempts to protect the existing critical area functions and values consistent with the best available science and attempts to mitigate adversely impacted critical area functions and values to the fullest extent possible; and
 7. The proposal is consistent with other applicable regulations.
- E. **Conditions authorized.** Conditions may be established as necessary to mitigate impacts to critical areas and to conform to the standards required in this Chapter.

CRITICAL AREAS REVIEW PROCEDURES

19.70.110 Critical areas preapplication meeting and determination.

- A. **Preapplication meeting required.** A preapplication meeting is required prior to submitting an application for development or use of land that may be regulated by the provisions of this chapter, unless specifically exempted in AMC 19.70.020, an allowed activity in AMC 19.70.035, or if waived by the Director.
- B. **Determination.** A determination may be provided through the preapplication meeting regarding whether critical area reports are required, and if so, what level of detail and what elements may be necessary for the proposed project. A summary of this analysis and the findings will be included in the preapplication meeting summary letter and any staff report or decision on the underlying permit. The determination does not preclude the Director from requiring additional critical area report information during the review of the project. After initial review, the Director may determine:
 1. **No Critical Areas Present.** If the Director's analysis indicates that the project area is not within or adjacent to a critical area or buffer and that the proposed activity is unlikely to degrade the functions or values of a critical area, then the Director shall determine that the critical area review is complete and note in the preapplication meeting summary letter the reasons that no further review is required.
 2. **Critical Areas Present, But No Impact.** If the Director determines that there are critical areas within or adjacent to the project area, but that the best available science shows that the proposed activity is unlikely to degrade the functions or values of the critical area, the Director may waive the requirement for a critical area report if there is substantial evidence of the all of the following:
 - a. There will be no alteration of the critical area or buffer;
 - b. The development proposal will not impact the critical area in a manner contrary to the purpose, intent, and requirements of this chapter; and
 - c. The proposal is consistent with other applicable regulations and standards.

Commented [GL30]: Provides a process for how and when potential presence of critical areas will be determined and what types of reports may be required with a formal permit application.

3. **Critical Areas Present, May be Affected.** If the Director determines that a critical area or areas may be affected by the proposal, then the Director must notify the applicant that a critical area report(s) must be submitted prior to further review of the project, and indicate each of the critical area types that should be addressed in the report. The Director may indicate the sections or report types that must be included in the critical area report(s) consistent with AMC 19.70.xxx.
- C. **Effect of Determination.** A prior determination by the Director of the apparent absence of one or more critical areas does not preclude the Director from determining, at a later date, that a critical areas report is required for a proposed project.

19.70.115 Critical area identification form.

Prior to the City's consideration of any proposed activity found not to be exempt under Exemptions or allowed pursuant to Allowed Activities, the applicant must submit to the Department a completed form identifying critical areas on, and within the vicinity, of the site.

19.70.120 Public Notice of Initial Determination.

The City will notify the public of initial determinations for applications that require public notice in accordance with AMC 19.20.030 Types of Review and 19.20.140, Application – Notice.

19.70.125 Critical area report – Requirements.

- A. **Report required.** If required by the Director, the applicant must obtain and submit a critical area report that has been prepared by a qualified professional. This provision is not intended to expand or limit an applicant's other obligations under [WAC 197-11-100](#).
- B. **Third Party Review of Critical Area Reports.** The Director may require, at the applicant's expense, a third-party review of a critical area report by a qualified professional under contract with or employed by the City in any of the following circumstances:
 1. The project requires a critical area variance, reasonable use permit, or critical areas special use permit; or
 2. Third party review is specifically required by the provisions of this chapter for the critical area(s) or critical area buffer(s) potentially being impacted; or
 3. When the Director determines that such services are necessary to demonstrate compliance with the standards and guidelines of this chapter.
- C. **Critical Area Report Types or Sections.** Critical area report requirements may be met in stages through multiple reports or combined in one report. A critical area report must include one or more of the following sections or report types unless exempted by the Director based on the extent of the potential critical area impacts. The scope and location of the proposed project will determine which report(s) alone or combined are sufficient to meet the critical area report

Commented [GL31]: For consideration – This would be a tool to be used by the applicant to assist in identifying areas of potential critical areas. It would ask questions that property owners could answer without the help of a scientist or professional consultant. This form could be attached to a preapplication application form.

Commented [GL32]: 19.20.140 could be updated to include identification in the NOA of the Director's initial determination about whether a critical area report is necessary.

Commented [GL33]: This section is intended to add clarity and predictability to the CA review and permitting process and to reduce the need for correction letters and revisions that add time and cost to the permit.

The report requirements outlined here apply to reports for all critical area types so that these requirements don't have to be listed again under each specific CA type. There are additional specific requirements for each type of critical area listed within those specific sections.

requirements for impacted critical area type(s). The typical sequence of required sections or reports that will fulfill the requirements of this section include:

1. **Reconnaissance.** The existence, general location, and type of critical areas on and/or adjacent to a project site. Determination of whether the project will adversely impact or be at risk from the potential critical areas based on maximum potential buffers for the particular critical area type. Possible application of exemptions should also be addressed;
 2. **Delineation.** The extent, boundaries, rating or classification, and applicable standard buffers of critical areas where the project area could potentially impact the critical area or its buffer including an assessment of the characteristics of or functions and values of the critical area and buffers identified;
 3. **Analysis.** The proposal and impact assessment report documenting the potential project impacts to the critical area and buffers including a discussion of the efforts taken to avoid, minimize, and reduce potential impacts to those areas per AMC 19.70.130(A);
 4. **Mitigation.** The measures that prevent or compensate for the potential impacts of the project designed to meet the requirements of this chapter, AMC 19.70.135, Mitigation Plan Requirements, and the standards for the specific critical areas impacted. Mitigation includes, but is not limited to, adjustments to required buffer sizes, best practices to minimize impacts, and critical area or buffer enhancement, restoration, or preservation plans. Mitigation plans include habitat management plans, revegetation, or replanting plans, and restoration plans;
 5. **Maintenance and Monitoring.** The goals of the mitigation proposed, performance standards for success, monitoring methods and reporting schedule, and contingency actions. Maintenance and monitoring plans must be consistent with the mitigation performance standards and requirements of this chapter, including the specific mitigation plan requirements outlined in each critical area type section.
- D. **Minimum written report contents.** At minimum, all critical area reports must contain the following information:
1. The name and contact information of the applicant;
 2. Adequate information to determine compliance with the requirements of the critical area regulations, including a critical area report, impact and hazard assessment, and mitigation requirements specific to each critical area type, as indicated in the corresponding sections of this chapter;
 3. The names and qualifications of the persons preparing the report and documentation of any fieldwork performed on the site;
 4. A description of the proposal, proposal location including address and parcel number(s), and a vicinity map for the project;

5. Identification of the development permit(s) requested and all other local, State, and/or Federal critical area-related permits required for the project;
 6. A copy of the site plan for the development proposal including:
 - a. Property and project site boundaries.
 - b. Surveyed critical areas and buffers on-site, and buffers for off-site critical areas that extend onto the project site.
 - c. The development proposal, including grading and clearing limits and areas of proposed impacts to critical areas and/or buffers (include square footage estimates).
 - d. A scaled depiction and description of the proposed stormwater pollution prevention plan consistent with the adopted stormwater manual, for the development and consideration of impacts to critical areas due to drainage alterations;
 7. Identification and characterization of all critical areas, water bodies, shorelines, and buffers on and adjacent to the proposed project area;
 8. A statement specifying the accuracy of the report and all assumptions made and relied upon;
 9. A description of methodologies used to conduct the critical areas investigation, including references;
 10. An assessment of probable impacts to the critical areas resulting from the proposed development of the site based upon identified findings;
 11. A description of reasonable efforts made to apply mitigation sequencing pursuant to AMC 19.70.130, Mitigation requirements, to avoid, minimize, and mitigate impacts to critical areas; and
 12. Plans for mitigation required to offset any critical areas impacts, in accordance with AMC 19.70.135, Mitigation plan requirements, and the corresponding mitigation performance standards sections of this chapter, including a discussion of the applicable development standards and cost estimates for determination financial guarantee requirements.
- E. **Existing reports.** Unless otherwise provided, a critical areas report may incorporate, be supplemented by, or composed of any reports or studies required by other laws and regulations or previously prepared for and applicable to the development proposal site, as approved by the Director. At the discretion of the Director, reports previously compiled or submitted as part of a proposal for a development may be used as a critical areas report to the extent that the requirements of this section and the requirements for each specific critical area type are met. Supplemental critical area report(s) may be required to provide information or analysis to address changes to the project scope, potential impacts or to changes to applicable regulations that have been made subsequent to existing, valid critical area reports, or other circumstances.

Commented [GL34]: Is it necessary to have surveys for all project types? Should there be a waiver to that requirement for certain enhancement projects, minor permits that wouldn't otherwise require a survey, or other types of projects that the City wants to encourage? Could use the term "accurately depicted", or similar.

Commented [GL35]: This will ensure documentation in the record that the applicant looked at less impactful alternatives.

F. Modifications to Report Requirements.

1. Limitations to study area. The Director may limit the required geographic area of the critical areas report as appropriate if:
 - a. The applicant, with assistance from the City of Anacortes, cannot obtain permission to access properties adjacent to the project area; or
 - b. The proposed activity will affect only a limited part of the project site.

G. Modifications to Required Contents. The applicant may consult with the Director prior to or during preparation of the critical areas report to obtain approval of modifications to the required contents of the report where, in the ~~judgement~~ judgment of a qualified professional, more or less information is required to adequately address the potential critical area impacts and required mitigation. In some cases, such as when it is determined that no geologically hazardous area is present, a full report may not be necessary to determine compliance with the critical area regulations, and in those cases a letter or reconnaissance only report may be required.

H. Additional Information Requirements. The Director may require additional information to be included in the critical areas report when determined to be necessary to the review of the proposed activity in accordance with this chapter. Additional information that may be required includes, but is not limited to:

1. Historical data, including original and subsequent mapping, aerial photographs, data compilations and summaries, and available reports and records relating to the site or past operations at the site;
2. Grading and drainage plans; and
3. Information specific to the type, location, and nature of the critical area.

19.70.130 Mitigation requirements.

Mitigation must be sufficient to maintain or compensate for the impacted functions and values of the critical area and to prevent risk from a hazard posed by a critical area. Mitigation must not be implemented until after the Director has provided approval of a critical areas report that includes a mitigation plan.

A. Mitigation sequencing. This section applies to mitigation required with all critical areas reviews, approvals, and enforcement pursuant to this chapter. This section is supplemented with specific measures under subchapters for particular critical area types. Mitigation for specific development proposals may include a combination of the measures below and must be designed and constructed in accordance with the provisions of this section. Before impacting any critical areas, an applicant must demonstrate that the following actions have been taken in the following sequential order of preference:

1. Avoiding the impact altogether by not taking a certain action or parts of actions;

Commented [LBG36]: Compensatory

Commented [LBG37]: Mitigation is a series of actions that requires addressing each action, or step, in a particular order. This sequence of steps is used to reduce the severity of negative impacts from activities that potentially affect critical areas and to determine what types of impacts may be permitted and what types of compensatory mitigation may be appropriate. According to the rules implementing SEPA, mitigation involves the following..... (WAC 197.11.768).

Commented [LBG38]: The primary decision to be made with respect to avoidance is one of risk management. For example, using the state's system for wetland rating, impacts to Category I wetlands (which are rare, sensitive to disturbance, irreplaceable, or perform a high level of functions) are higher risk and should have to pass a higher avoidance threshold than impacts to a Category IV wetland. Cat. IV wetlands are usually significantly degraded, provide a low level of functions, and may be more successfully replaced. If the goal is to protect the existing functions, it make sense to apply a more stringent protection to those wetlands that have a higher rating. (DOE/WDFW guidance).

2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology, or by taking affirmative steps, such as project redesign, relocation, or timing, to avoid or reduce impacts;
 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected environment or by restoring or stabilizing the hazard area through natural, engineering, or other methods;
 4. Reducing or eliminating the impacts or hazard over time by preservation and maintenance operations during the life of the action;
 5. Compensating for the impact by replacing, enhancing, or providing substitute resources or environments; and/or
 6. Monitoring, measuring and reporting the impact to the Director and taking appropriate corrective measures.
- B. Applicants must first demonstrate an inability to avoid or reduce impacts before the use of actions to mitigate potential impacts will be allowed. No activity or use may be allowed that results in a net loss of the functions or values of a critical area.
- C. **Type, Location and Timing of Mitigation.** Unless it is demonstrated that higher level of ecological functioning or greater reduction of hazard risk would result from an alternative approach or as otherwise allowed in this chapter, mitigation for adverse impacts shall be based on best available science and shall be in-kind, on-site, and prior to the activities that will disturb the critical area. Mitigation measures that cannot be implemented prior to the critical area impacts must be completed immediately following disturbance and prior to use or occupancy of the action or development. Construction of mitigation projects must be timed to reduce impacts to existing fisheries, wildlife, and flora.
1. The Director may authorize a one-time temporary delay in completing construction or installation of the mitigation when the applicant provides a written explanation from a qualified professional as to the rationale for the delay. An appropriate rationale would include identification of the environmental conditions that could produce a high probability of failure or significant construction difficulties (e.g. project delay lapses past a fisheries window, or installing plants should be delayed until the dormant season to ensure greater survival of installed materials). The delay shall not create or perpetuate hazardous conditions or environmental damage or degradation, and the delay shall not be injurious to the health, safety, or general welfare of the public.

19.70.135 Mitigation plan requirements

When mitigation is required, the applicant must submit for approval by the City a mitigation plan as part of the critical area report. The mitigation plan must include:

- A. **Environmental Goals and Objectives.** The mitigation plan must include a written report identifying environmental goals and objectives of the mitigation proposed and including:

Commented [LBG39]: Generally, if mitigation is conducted in advance of the impacts, then the risk and temporal loss are reduced and the ratio should be reduced commensurately. If mitigation is conducted well after the impact, the ratio should be increased. (DOE/WDFW)

Commented [GL40]: This section is intended to very clearly lay out requirements for mitigation plans; the current code lacks clarity in this area. The report requirements outlined here apply to reports for all critical area types so that these requirements don't have to be listed again under each specific CA type.

The language is based on the Commerce example

1. A description of the anticipated impacts to the critical areas, the mitigating actions proposed, and the purposes of the compensation measures, including the site selection criteria; identification of compensation goals; identification of resource functions; and dates for beginning and completion of site compensation construction activities. The goals and objectives must be related to the functions and values of the impacted critical area; and
 2. A review of the best available science supporting the proposed mitigation and a description of the report author's experience to date in restoring or creating the type of critical area proposed.
- B. **Performance Standards.** The mitigation plan must include measurable specific criteria for evaluating whether or not the goals and objectives of the mitigation project have been successfully attained at the end of the required monitoring period and whether or not the requirements of this chapter have been met.
- C. **Detailed Construction Plans.** In order to convey proposed construction techniques and anticipated final outcome, the mitigation plan must include written specifications, descriptions, and drawings of the mitigation propose, including:
1. The proposed construction sequence, timing, and duration;
 2. Best management practices to be implemented;
 3. Site plans showing grading and excavation details, slope parentage and final grade elevations, with minimum two-foot contour intervals;
 4. Cross-sectional drawings;
 5. Erosion and sediment control features;
 6. A planting plan specifying plant species, quantities, locations, size, spacing, and density; and
 7. Measures to protect and maintain plants until established.
- D. **Monitoring Program and Contingency Plan.** A monitoring and contingency plan is required for all projects requiring mitigation.
1. The mitigation plan must include a monitoring program to be implemented by the applicant to determine the success of the mitigation project and any necessary corrective actions. This program must determine if the original goals and objectives of the mitigation plan are being met.
 2. A contingency plan must be established for indemnity in the event that the mitigation project is inadequate or fails. Contingency plans include identification of potential courses of action, and any corrective measures to be taken if monitoring or evaluation indicates project performance standards are not being met. Corrective measures must be taken when the qualified professional indicates, in a monitoring report, that the contingency actions are needed to ensure project success by the end of the monitoring period. A performance and

maintenance bond, or other acceptable financial guarantee, is required to ensure the applicant's compliance with the terms of the mitigation agreement consistent with AMC 19.70.175, Financial guarantee requirements.

3. Monitoring programs prepared to comply with this section must include the following requirements:
 - a. Best available scientific procedures must be used to establish the success or failure of the project. A protocol outlining the schedule for site monitoring (for example, monitoring shall occur in years zero (as-built), one, three, and five after site construction), and how the monitoring data will be evaluated to determine if the performance standards are being met.
 - b. For vegetation determinations, permanent sampling points must be established.
 - c. Vegetative success must, at a minimum, equal 80 percent survival of planted trees and shrubs and 80 percent cover of desirable understory or emergent plant species at the end of the required monitoring period. Alternative standards for vegetative success, including (but not limited to) minimum survival standards following the first growing season, may be required after consideration of recommendations provided in a critical area report or as otherwise required by the provisions of this chapter.
 - d. A monitoring report must be submitted as needed to document milestones, successes, problems, and contingency actions of the mitigation project. Monitoring reports on the current status of the mitigation project shall be submitted, consistent with Subsection (e) of this section, to the City on the schedule identified in the monitoring plan, but not less than every other year. The reports are to be prepared by a qualified professional and reviewed by the City, or a qualified professional retained by the City, and should include monitoring information on wildlife, vegetation, water quality, water flow, stormwater storage and conveyance, and existing or potential degradation, as applicable.
 - e. Monitoring programs must be established for a period necessary to establish that performance standards have been met, but not for less than a minimum of five years without approval from the Director.
 - f. If necessary, failures in the mitigation project must be corrected.
 - g. Dead or undesirable vegetation must be replaced with appropriate plantings.
 - h. Damage caused by erosion, settling, or other geomorphological processes must be repaired.
 - i. The mitigation project shall be redesigned (if necessary) and the new design shall be implemented and monitored, as in subsection (D)(3)(d) of this section.
 - j. Correction procedures must be approved by a qualified professional and the Director.

- k. If the mitigation goals are not obtained within the initial monitoring period, the applicant remains responsible for restoration of the impacted values and functions or hazard risk reduction until the mitigation goals agreed to in the mitigation plan are achieved.
- E. **Monitoring Reports.** Monitoring reports must be submitted to the City consistent with the approved monitoring plan.
- 1. The as-built report, required prior to final inspection, must, at a minimum, include documentation of the following:
 - a. Departures from the original approved plans;
 - b. Construction supervision provided by the qualified professional;
 - c. Approved project goals and performance standards;
 - d. Baseline data for monitoring per the approved monitoring methods;
 - e. Photos from established photo points; and
 - f. A site plan showing final mitigation as constructed or installed, monitoring points, and photo points.
 - 2. Subsequent monitoring reports must, at a minimum, include:
 - a. Monitoring visit observations, documentation, and analysis of monitoring data collected;
 - b. Photos from photo points;
 - c. Determination whether performance standards are being met; and
 - d. Maintenance and/or contingency action recommendations to ensure success of the project at the end of the monitoring period.
 - 3. The applicant is responsible for the cost (at the current hourly rate) of review of monitoring reports and site inspections during the monitoring period, which are completed by the City or a qualified professional under contract with or employed by the City.
- F. **Cost Estimates.** The mitigation plan must include cost estimates that will be used by the City to calculate the amounts of financial guarantees, if necessary, to ensure that the mitigation plan is fully implemented. Financial guarantees ensuring fulfillment of the compensation project, monitoring program, and any contingency measures shall be posted in accordance with AMC 19.70.175, Financial guarantee requirements.
- G. **Approved Mitigation Projects – Signature.** On completion of construction, an as-built report for any approved mitigation project must be prepared and signed off by the applicant's qualified professional and approved by the City. Signature of the qualified professional on the required

as-built report and approval by the Director indicates that the construction has been completed as planned.

19.70.145 General Requirements for Buffers.

The purpose of a critical area buffer is to protect the integrity, function, value and resource of the subject critical area, and/or to protect life, property, and resources from risks associated with development on unstable or critical lands.

- A. The establishment of buffer areas, consistent with the requirements of this Chapter, is required for all development proposals and activities in or adjacent to critical areas.
- B. In all cases, the standard buffer applies unless the Director determines that additional buffer width is necessary or reduced buffer is sufficient to protect the functions and values consistent with the provisions of this chapter and the recommendations of a qualified professional.
- C. Buffers must consist of an undisturbed area of native vegetation established to achieve the purpose of the buffer, unless modified as part of an approved alteration according to the standards for the specific critical area type. If the buffer area has previously been disturbed, it must be revegetated pursuant to an approved mitigation or restoration plan.

19.70.150 Title Notice.

- A. **Generally.** A critical area notice to title is required, as a condition of permit issuance or project approval, when a permit or development application is submitted for development on any property containing a critical area or buffer. The purpose is to inform subsequent purchasers of real property of the existence of critical areas. This requirement can be met through recording of a title notice on forms prepared by the City, establishment of a critical area tract, or recording of native growth protection area easement consistent with the following provisions:
- B. **Title Notice.** The title notice applicable to the property must be approved by the Director and City Attorney for compliance with this provision and be filed by the property owner, at their expense, with the Skagit County Auditor's Office. The title holder will have the right to challenge this notice and to have it extinguished if the critical area designation no longer applies. However, the titleholder is responsible for completing a critical area report, subject to approval by the Director, before the notice on title can be extinguished. The notice must state that critical areas or buffers have been identified on the property and that limitations on actions in or affecting the critical area or buffer may exist. The title notice runs with the land.
- C. **Critical Area Tract.** Subdivisions, short subdivisions, and binding site plans must establish a separate critical areas tract as a permanent protective measure for wetlands, fish and wildlife habitat conservation areas, and landslide hazard areas and their buffers. The plat or binding site plan for the project must clearly depict the critical areas tract, and include all of the subject critical area, any required buffer, and any additional lands included voluntarily by the applicant. Restrictions to development within the critical area tract must be clearly noted on the plat or

plan. Restrictions must be consistent with this chapter for the entire critical area tract. Should the critical area tract include several types of critical areas, the applicant may establish separate critical areas tracts.

- D. **Native Growth Protection Area (NGPA).** NGPA easements are required on a property where no subdivision, short subdivision, or binding site plan is proposed or required. Unless otherwise required in this chapter, NGPA easements must be recorded on title for all affected parcels prior to approval of a development agreement, issuance of a master development plan permit, or issuance of a site development or building permit, when two or more dwelling units and/or nonresidential development are proposed on one parcel, to delineate and protect critical areas and their buffers. The easement to be recorded must clearly depict the critical area(s), required buffer(s) and the limits of the NGPA easement. Restrictions to development within the NGPA easement must be clearly noted in the easement and include the following:
1. That native vegetation will be preserved for the purpose of preventing harm to property and the environment, including, but not limited to, controlling surface water runoff and erosion, limiting chemical applications of hazardous substances (pesticides, herbicides, fertilizers), maintaining slope stability, buffering, and protecting plants, fish, and animal habitat; and
 2. The right of the City to enforce the terms of the restriction.

19.70.155 Field marking.

- A. **Temporary field marking during construction.** The outer perimeter of the critical area buffer and the clearing limits identified by an approved permit or authorization must be marked in the field with temporary "clearing limits" fencing in such a way as to ensure that no unauthorized intrusion will occur. The marking is subject to inspection by the Director prior to the commencement of permitted activities. This temporary marking and fencing must be maintained throughout construction and may not be removed until permanent fencing and/or signs, if required, are in place.
- B. **Permanent field marking.** The Director may require installation of permanent signs, markers, and fencing along the outer perimeter of a critical area or its buffer when it is determined necessary to protect the critical areas' functions and values. Permanent markings must be installed prior to final project approval or occupancy, as determined by the Director.
1. **Signs.** All critical areas tracts, easements, and dedications, should be clearly marked on the site using permanent markings, placed at least every 50 feet, which includes the following text, or similar, as approved by the Director:

City of Anacortes Designated Critical Area. Activities, including clearing and grading, removal of vegetation, pruning, cutting of trees or shrubs, planting of nonnative species, and other alterations may be prohibited. Help protect and care for this area. Please contact the City of Anacortes with questions or concerns.

Commented [C41]: 50 ft??? How about every 300 or 500 ft. with at least one sign on each side of the property and facing each public right of way? Every 50 ft. is too much and will result in sign pollution around the whole natural area. Can you visualize signs every 50 ft. around the forestlands?

2. **Fencing.** Permanent fencing must be designed so as to not interfere with species migration or wildlife movement and be constructed in a manner that minimizes impacts to the critical areas and buffers. Proposed fencing type and materials must be approved by the Director prior to installation.

- C. **Maintenance and replacement.** It is the responsibility of the landowner, successors, or assigns to maintain in perpetuity and replace, if necessary, all permanent fencing and field markings.

19.70.160 Construction plan review, monitoring, and inspection.

- A. The Director may require project building and construction plans be reviewed by a qualified professional for confirmation of consistency with the critical areas report and recommendations prior to approval of construction plans.
- B. The Director may require monitoring by a qualified professional during site alteration activities within, or adjacent to, critical areas or buffers, and/or a final inspection report by the qualified professional stating that construction has or has not implemented the design recommendations provided in the project critical areas report, and evaluation of any deviation from the recommendations.

19.70.165 Financial guarantee requirements.

Bonds, and other financial guarantees, and associated performance agreements or maintenance/defect/monitoring agreements are required for projects with required mitigation or restoration of impacts to critical areas or critical area buffers consistent with the following:

- A. A performance agreement and bond, or other acceptable financial guarantee, are required from the applicant when mitigation required pursuant to a development proposal is not completed prior to final permit approval, such as final plat approval or final building inspection. The amount of the performance bond(s) must equal 125 percent of the cost of the mitigation project (after City mobilization is calculated).
- B. A performance agreement and bond, or other acceptable financial guarantee, are required from the applicant when restoration is required for remediation of a critical area violation. The amount of the performance bond(s) must equal 125 percent of the cost of the mitigation project (after City mobilization is calculated).
- C. A maintenance/defect/monitoring agreement and bond, or other acceptable financial guarantee, are required to ensure the applicant's compliance with the conditions of the approved mitigation plan pursuant to a development proposal or restoration plan for remediation of a violation. The amount of the maintenance bond(s) must equal 25 percent of the cost of the mitigation project (after City mobilization is calculated) in addition to the cost for monitoring for a minimum of five years. The monitoring portion of the financial guarantee may be reduced in proportion to work successfully completed over the period of the bond. The bonding period must coincide with the monitoring period.

Commented [LBG42]: Split-rail fencing is intended to not interfere with wildlife movement and in most cases this is appropriate. However, one of the measures for mitigating Pets and Human disturbances under Table 19.70.250-2 is to install privacy fencing, which is typically solid 6' tall fencing.

Commented [GL43]: Financial guarantee / bonding requirements are currently included in some of the CA-specific chapters in the existing code. This language would standardize this requirement for all CA types and make it clear when a financial guarantee is required.

19.70.170 Unauthorized critical area alterations.

- A. When a critical area or its buffer has been altered in violation of this chapter, all development work must stop and the critical area must be restored. The Director may issue a stop work order to cease all development, and order restoration measures at the owner's or other responsible party's expense to remediate the impacts of the violation of the provisions of this chapter.
- B. **Requirement for Restoration Plan.**
 1. All development must remain stopped until a restoration plan is prepared by the responsible party and an approved permit is issued by the City. Such a plan must be prepared by a qualified professional using the best available science and must describe how the actions proposed meet the minimum requirements described in subsection C of this section.
 2. The Director may, at the responsible party's expense, seek expert advice, including but not limited to third party review by a qualified professional under contract with or employed by the City, in determining if the plan meets the minimum performance standards for restoration. Submittal, review, and approval of required restoration plans for remediation of violations of this chapter must be completed through a site development permit application process.
- C. **Minimum Performance Standards for Restoration.**
 1. For alterations to critical aquifer recharge areas, wetlands, and fish and wildlife habitat conservation areas, the following minimum performance standards must be met for the restoration; provided, that if the violator can demonstrate that greater functional and habitat values can be obtained, these standards may be modified:
 - a. The pre-violation function and values of the affected critical areas and buffers must be restored, including water quality and habitat functions;
 - b. The pre-violation soil types and configuration must be replicated;
 - c. The critical area and buffers must be replanted with native vegetation that replicates the vegetation historically, or pre-violation, found on the site in species types, sizes, and densities. The pre-violation functions and values should be replicated at the location of the alteration; and
 - d. Information demonstrating compliance with the requirements in SMC 19.70.082, Mitigation plan requirements, and the applicable mitigation sections for the affected type(s) of critical area(s) and their buffer(s) must be submitted to the Director with a complete site development permit application.
 2. For alterations to flood hazard and geologically hazardous areas, the following minimum performance standards must be met for the restoration of a critical area; provided, that if

Commented [GL44]: Compare to AMC 17.70.470, which only applies to wetlands.

the violator can demonstrate that greater safety can be obtained, these standards may be modified:

- a. The hazard must be reduced to a level equal to, or less than, the pre-violation hazard;
 - b. Any risk of personal injury resulting from the alteration must be eliminated or minimized; and
 - c. The hazard area and buffers must be replanted with native vegetation sufficient to minimize the hazard.
- D. **Site Investigation.** The Director is authorized to take such actions as are necessary to enforce this chapter. The Director shall present proper credentials and obtain permission before entering onto private property.
- E. **Penalties.** Any responsible party violating of any of the provisions of this chapter may be subject to any applicable penalties per AMC 20.____, plus the following:
1. A square footage cost of \$3.00 per square foot of impacted critical area buffer; and a square footage cost of \$15.00 per square foot of impacted critical area; and
 2. A per tree penalty in the amount of \$3,000 per nonsignificant tree and \$9,000 per significant tree, for trees removed from a critical area or critical area buffer in violation of the provisions of this chapter.

19.70.175 Final Decision and Appeals.

- A. **Completion of the critical area review.** The city's determination regarding critical areas pursuant to this chapter is final concurrent with the final decision to approve, condition, or deny the underlying permit for the development proposal or other activity involved.
- B. **Appeals.** Any decision to approve, condition, or deny a development activity proposal or other activity based on the requirements of this chapter may be appealed according to, and as part of, the appeal procedure for the underlying permit or approval involved.

WETLANDS

19.70.200 Wetlands – Description and Purpose.

It is the purpose of this Chapter to protect the functions and values of wetlands, which serve many important ecological and environmental functions and help to protect public health, safety, and welfare by providing flood storage and conveyance and erosion control, while also providing fish and wildlife habitat, recreation, water quality protection, water storage, education, scientific research opportunities and other public benefits..

Commented [LBG45]: This implements Comprehensive Plan Policy EC-7.2, Develop regulations which encourage tree retention and provide regulatory penalties for unauthorized tree removal.

Commented [GL46]: As part of levying a penalty, consider developing a program and fund for restoration of CAs altered illegally or alternate replacement of functions and values that cannot be restored, perhaps for use in a project off-site in the same basin or nearby basin.

Commented [GL47]: From Shoreline:
A penalty range of \$3.00/square foot up to \$15.00/square foot of area impacted is proposed. The lower amount is for violations in critical area buffers and is at the low end of the range of what it currently costs to restore native vegetation in critical areas. For violations in critical areas themselves \$15.00/square foot is proposed based on the upper end of restoration costs estimates, when restoration also requires grading. These amounts are based on information from Environmental Science Associates. Whether or not the penalty should be applied is discretionary and can take specific circumstances into consideration.

Commented [GL48]: Would need to define if this penalty concept is retained.

Commented [LBG49]: ...or otherwise adversely impacted....? (If not removed, but topped, or damaged, etc.)

19.70.210 Wetlands - Designation and Rating.

- A. **Designation.** All areas meeting the definition of a wetland and the wetland identification criteria pursuant to this chapter, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.
- B. **Rating.** Wetlands must be rated by a qualified professional according to the Washington State Department of Ecology Wetland Rating System for Western Washington - 2014 Update (Ecology Publication #14-06-029, October 2014), or as revised. Wetland rating categories will be applied as the wetland exists on the date of adoption of the rating system by the City, as the wetland naturally changes in accordance with permitted activities.
1. **Category I.** Category I wetlands are those that represent unique or rare wetland types, are more sensitive to disturbance than most wetlands, are relatively undisturbed and contain ecological attributes that are impossible to replace within a human lifetime, or provide a high level of functions. The following types of wetlands are Category I:
 - a. Relatively undisturbed estuarine wetlands larger than one acre;
 - b. Wetlands of high conservation value identified by scientists of the Washington Natural Heritage Program/Department of Natural Resources (DNR);
 - c. Bogs;
 - d. Mature forested wetlands larger than one acre;
 - e. Wetlands in coastal lagoons; and
 - f. Wetlands that perform many functions well and score 23 points or more in the wetland rating.
 2. **Category II.** Category II wetlands are those wetlands that are difficult, though not impossible, to replace, and provide high levels of some functions. The following types of wetlands are Category II:
 - a. Estuarine wetlands smaller than 1 acre or disturbed estuarine wetlands larger than 1 acre;
 - b. Wetlands with a moderately high level of functions (scoring 20 to 22 points in the wetland rating).
 3. **Category III.** Category III wetlands are those with a moderate level of functions, generally have been disturbed in some ways, can often be adequately replaced with a well-planned mitigation project, and are often less diverse or more isolated from other natural resources in the landscape than Category II wetlands. The following types of wetlands are Category III:
 - a. Wetlands with a moderate level of functions (scoring between 16 and 19 points in the wetland rating).

Commented [GL50]: Use of Ecology's revised rating allows for standardization in rating wetlands when permits are needed from various permitting agencies.

The Categories descriptions have been updated according to the [most recent Ecology guidance](#), which was updated in 2016.

Commented [GL51]: These Categories descriptions have been updated according to the [most recent Ecology guidance](#), which was updated in 2016 and references the 2014 wetland rating system.

Commented [LBG52]: Cannery Pond is identified as a wetland of high conservation value per DNR, as are areas around Heart Lake and Whistle Lake.

Commented [LBG53]: Recent rating for Ship Harbor wetlands resulted in a score of 23 points.

4. **Category IV.** Category IV wetlands are with the lowest levels of functions (scoring below 16 points) and are often heavily disturbed. These are wetlands which should be able to be replaced, or in some cases improved.
- C. **Illegal Modifications.** Wetland rating categories do not change due to illegal modifications or alterations. A wetland's category must be based on the pre-modification/alteration analysis of the wetland.

19.70.220 Wetlands – Mapping and delineation.

- A. **Mapping.** The approximate location and extent of wetlands are shown in the wetland data layer maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and inventories are hereby adopted by reference as amended:
 1. Soils maps produced by the U.S. Department of Agriculture, National Resources Conservation Service; and
 2. The National Wetlands Inventory, produced by the U.S. Fish and Wildlife Service.
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.
- C. **Identification and Delineation.** Identification of wetlands and delineation of their boundaries pursuant to this chapter must be done in accordance with the adopted Federal wetland delineation manual and applicable regional supplements per WAC [173-22-035](#). The exact location of a wetland's boundary must be determined through the performance of a field investigation by a qualified professional. Evidence documenting the results of the boundary survey must be submitted to the City.

Commented [GL54]: This is also stated in the General Provisions section. Might not be needed here.

Commented [GL55]: [RCW 36.70A.175](#)

Commented [GL56]: See definitions.

19.70.230 Wetlands – General Development Standards.

- A. **Activities and uses** are prohibited in wetlands and wetland buffers, except as provided for in this chapter, and only when it is demonstrated that the activity will not degrade the functions and values of the wetland.
- B. **Exemptions and allowed activities.** Exemptions are listed in the provisions established in (AMC 19.70.020 Exemptions).
- C. **Subdivisions.** The subdivision and/or short subdivision of land in wetlands and associated buffers are subject to the following:
 1. Land that is located wholly within a wetland and/or its buffer may not be subdivided; and
 2. Land that is located partially within a wetland and/or its buffer may be subdivided; provided, that an accessible and contiguous portion of each new lot that meets the minimum size requirements for the zone is located outside of the wetland and its buffer.

Commented [GL57]: "Activities" is an intentionally broad description; an alternative would be to list out regulated activities – removal, excavation, grading, or dredging of material, draining, flooding disturbing the wetland, water level, or water table, the construction, reconstruction, demolition, or expansion of any structure, etc. (similar to the existing code – 17.70.310; 17.06.735)

19.70.240 Wetlands – Specific Wetland Category Development Standards.

- A. **Category I Wetlands.** Development activities and uses that result in alteration of Category I wetlands and their associated buffers are prohibited, except if allowed under the Critical Area Variance, Critical Area Reasonable Use or Public Agency Exception process.
- B. **Category II, III and IV Wetlands.** Development activities that result in alteration of Category II, III or IV wetlands or buffers may be permitted upon demonstration, through a critical areas report meeting the requirements of this Chapter, that:
1. Mitigation sequencing has been applied per _____;
 2. The proposed alteration will not degrade the quantitative and qualitative functioning of the wetland, or that any degradation can be adequately mitigated to protect or compensate for the wetland functions that are lost.
 3. For proposed Stormwater Management Facilities, ALL of the criteria identified below are met:
 - a. The wetland is classified as a Category III or a Category IV wetland with a habitat score of 3-4 points or less, and
 - b. There will be “no net loss” of functions and values of the wetlands, and
 - c. The wetland does not contain a breeding population of any native amphibian species, and
 - d. The hydrologic functions of the wetland can be improved as outlined in questions 3, 4, 5 of Chart 4 and questions 2, 3, 4 of Chart 5 in the “Guide for Selecting Mitigation Sites Using a Watershed Approach,” (available here: <http://www.ecy.wa.gov/biblio/0906032.html>); or the wetland is part of a priority restoration plan that achieves restoration goals identified in a Shoreline Master Program or other local or regional watershed plan;
 - e. The wetland lies in the natural routing of the runoff, and the discharge follows the natural routing, and
 - f. All regulations regarding stormwater and wetland management are followed, including but not limited to local and state wetland and stormwater codes, manuals, and permits, and
 - g. Modifications that alter the structure of a wetland or its soils will require permits. Existing functions and values that are lost would have to be compensated/replaced.
 4. **Small, Hydrologically Isolated Category IV Wetlands (less than 4,000 sq. ft.).** The Director may allow small, hydrologically isolated Category IV wetlands to be exempt from the requirement to avoid impacts (AMC 19.70.080(A)(1) Mitigation requirements) and allow alteration of such wetlands if all of the following conditions are met:

Commented [LBG58]: NEED TO REVIEW PROCEDURE & APPROVAL AUTHORITY. Impacts to non-exempt Cat. IV wetlands currently only allowed with CUP, subject to standards in 17.70.430.

Commented [GL59]: New guidance from DOE – to tie in with new LID stormwater requirements.

Commented [LBG60]: These criteria are from the 2014 SWMMWW Appendix I-D- Guidelines for Wetlands when Managing Stormwater

Commented [GL61]: Isolated means that the wetland has no surface hydrologic connection to waters of the United States. This is from DOE guidance.

Commented [LBG62]: DOE/WDFW guidance recommends dealing with small wetlands by exempting projects from the need to avoid them, while still requiring that the loss of wetlands be compensated directly or through an in-lieu fee program or mitigation bank.

- a. The remaining mitigation sequencing actions of AMC 19.70.080(A)(2)-(6) are followed;
 - b. The wetland is less than 4,000 square feet in area;
 - c. The wetland is a low quality Category IV wetland with a habitat score of less than 5 points in the adopted rating system;
 - d. The wetland does not contain habitat identified as essential for local populations of priority species identified by the Washington Department of Fish and Wildlife or species of local importance which are regulated as fish and wildlife habitat conservation areas in Chapter 19.70.300 (FWHCA section);
 - e. The wetland is not associated with shorelines of the state or their associated buffers;
 - f. The wetland is not associated with riparian areas or buffers;
 - g. The wetland is not part of a wetland mosaic; and
 - h. A mitigation plan to replace lost wetland functions and values is developed, approved, and implemented consistent with AMC 19.70.270.
5. **Small, Hydrologically Isolated Category IV Wetlands (less than 1,000 sq. ft.).** Wetlands less than 1,000 square feet that meet the criteria in subsection (B)(4) of this section (above) and that do not contain federally listed species or their critical habitat are exempt from the buffer provisions contained in this Chapter.

Commented [GL63]: DOE Guidance

Commented [C64]: I agree that small isolated wetlands of low functional value should be exempted especially where they significantly reduce the use of a small city lot. Protecting little leftover bits of degraded habitat can be at odds with other City goals for providing affordable housing.

19.70.250 Wetlands – Required buffer areas.

- A. **Buffer Requirements.** The standard buffer widths in Table 19.70.250-1 have been established in accordance with the best available science. The buffer widths must be determined based on the category of wetland and the habitat score as assigned by a qualified wetland professional using the Washington State Wetland Rating System for Western Washington.
- 1. The use of the standard buffer widths requires the implementation of the mitigation measures in Table 19.70.250-2, where applicable to the development type, to minimize the impacts of the adjacent land uses.
 - 2. If an applicant chooses not to apply the appropriate mitigation measures in Table 19.70.250-2, then a 33 percent increase in the width of all buffers is required. For example, a 75-foot buffer with the mitigation measures would be a 100-foot buffer without them.
 - 3. The standard buffer widths assume that the buffer is a relatively intact native plant community in the buffer zone adequate to protect the wetland functions and values at the time of the proposed activity. If the existing buffer is bare ground, sparsely vegetated, or vegetated with nonnative or invasive species that do not perform needed functions, then the applicant must either develop and implement a wetland buffer restoration or enhancement plan to maintain the standard width to create the appropriate plant

community or the buffer must be widened to ensure that adequate functions of the buffer are provided.

4. Table 19.70.250-1. Buffer Widths by Wetland Category and Characteristics

Wetland Category	Buffer Width (feet)
Category I	
High level of function for habitat (score for habitat 8-9 points)	225
Moderate level of function for habitat (score for habitat 5-7 points)	110
High level of function for water quality improvement (8-9 points) and low for habitat (less than 5 points)	75
Not meeting above characteristic	75
Category II	
High level of function for habitat (score for habitat 8-9 points)	225
Moderate level of function for habitat (score for habitat 5-7 points)	110
High level of function for water quality improvement and low for habitat (score for water quality 8-9 points; habitat less than 5 points)	75
Not meeting above characteristic	75
Category III	
Moderate level of function for habitat (score for habitat 5-7 points)	110
Not meeting above characteristic	60
Category IV	
Score for all 3 basic functions is less than 16 points	40

5. Table 19.70.250-2. Required Measures to Minimize Impacts to Wetlands

Examples of Disturbance	Activities and Uses that Cause Disturbances	Required Measures to Minimize Impacts
Lights	Parking lots Warehouses Manufacturing Residential	Direct lights away from wetland
Noise	Manufacturing Residential	Locate activity that generates noise away from wetland to the maximum extent practicable
Toxic runoff	Parking lots Roads Manufacturing Residential Application of agricultural pesticides Landscaping	- Route all new, untreated runoff away from wetland while ensuring wetland is not dewatered - Establish covenants limiting use of pesticides within 150 ft. of a wetland - Apply integrated pest management

Commented [C65]: I realize that setting standard buffers is easier to enforce, but especially for smaller odd shaped wetlands, these arbitrary distances can have a significant impact on the total buffer area (and thus limit the developable area).

The shape of the protected area can make a big difference in what is required, and the difference almost could be considered a "taking", given the amount of land the owner must give up for buffers for the same square footage of wetland depending on its shape.

For example, if you have a 10,000 sf wetland (less than 1/4 acre) that is square 100'x100', with a 110 ft buffer applied to its perimeter, the buffer would be aprx. 2 acres - 8x the size of the wetland. But if it's long and skinny (like a stream) and that 10,000 sf is 10'x1000' it would have a 2,020 lin ft. perimeter, and require an aprx. 6 acre buffer - 24x the size of the wetland.

If you have a large site with, say, a 1000 ft. square wetland (23 acres) a 110 ft buffer results in a 11.2 acre buffer which is less than 1/2% of the size of the wetland.

So, while I understand the need for buffers, it seems as though the owner of a large wetland loses a much smaller proportion of developable property to buffers compared to a small wetland.

And in cat. III just a few more points on the evaluation gets you from a 60 ft. buffer to 110 ft. which nearly doubles the setback - there is no sliding scale allowing for a slightly wider buffer for a slightly higher rating. The jumps are so big there's an incentive to fudge the numbers to stay in the lower category. It would be useful to have some in-between steps.

Commented [GL66]: The CAO requires the use of Ecology's [revised wetland rating system](#) to rate wetlands. This system represents best available science for wetland protection.

Anacortes's buffer structure was initially adopted in 2005 and then updated by Ord. 2743 in 2006. It is based on Section 8C.2.3, Buffer Alternative 3 of Appendix 8-C of DOE's Wetlands in Washington State, Volume 2 - Protecting and Managing Wetlands.

This alternative provides flexibility by basing the widths of buffers on three factors: the wetland category, the intensity of the impacts, and the functions or special characteristics of the wetland that need to be protected as determined thru the rating system.

In 2014, Ecology [updated](#) the Washington State Wetland Rating System for Western Washington that were published in 2004. The effective date for the new rating system was January 1, 2015. Ecology changed the scale of rating scores from 1 - 100 to 9 - 27 to better reflect the scientific accuracy of the tools. Ecology provided a [score conversation table](#) that has been used in the scoring in this updated table.

These wetland buffers are the same as current CAO, but the point values have been modified per the updated rating system scale.

Stormwater runoff	Parking lots Roads Manufacturing Residential areas Commercial Landscaping	• Retrofit stormwater detention and treatment for roads and existing adjacent development • Prevent channelized flow from lawns that directly enters the buffer
Change in water regime	Impermeable surfaces Lawns Tilling	• Infiltrate or treat, detain, and disperse into buffer new runoff from impervious surfaces and new lawns
Pets and human disturbance	Residential areas	• Use privacy fencing • Plant dense vegetation to delineate buffer edge and to discourage disturbance using vegetation appropriate for the ecoregion • Place wetland and its buffer in a separate tract or protect with a conservation easement
Dust	Tilled fields	• Use best management practices to control dust

6. **Increasing buffer widths.** Buffer widths may be increased, on a case-by-case basis, as determined by the Director. This determination must be supported by appropriate documentation showing that it is necessary to protect wetland functions and values. Documentation must include, but is not limited to, any of the following:
- The wetland is used by a plant or animal species listed by the Federal government or the State as endangered, threatened, candidate, sensitive, monitored, or documented priority species or habitats, or the wetland is essential or outstanding habitat for those species or has unusual nesting or resting sites such as heron rookeries or raptor nesting trees; or
 - The adjacent land has slopes greater than 15 percent and is susceptible to severe erosion, and erosion-control measures will not effectively prevent adverse wetland impacts; or
 - The adjacent land has minimal vegetative cover on slopes greater than 30%. In lieu of increasing the buffer width where exiting buffer vegetation is inadequate to protect the wetland functions and values, development and implementation of a wetland buffer restoration/enhancement plan in accordance with AMC 19.70.270 may be substituted.
7. **Averaging buffer widths.** The Director may allow averaging of wetland buffer widths on a case-by-case basis when the critical areas report demonstrates that the following criteria are met:
- There is not a feasible alternative to the site design that could be accomplished without buffer averaging;

Commented [C67]: Say "reasonably feasible". Many things might be technically feasible given enough money or by significantly changing the scope of the project, but aren't reasonable or affordable.

Commented [GL68]: DOE guidance... not specified in current CAO

- b. The buffer averaging does not reduce the functions or values of the wetland;
 - c. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer, and all increases in buffer dimension for averaging must be parallel to the wetland boundary;
 - d. The wetland contains variation in sensitivity due to existing physical characteristics or the character of the buffer varies in slope, soils, or vegetation, and the wetland would benefit from a wider buffer in places and would not be adversely impacted by a narrow buffer in other places;
 - e. The buffer width at its narrowest point is not reduced to less than seventy-five percent of the standard width, or 75 feet for Category I and II, 50 feet for Category III, and 25 feet for Category IV, whichever is greater.
- B. **Measurement of Wetland Buffers.** All buffers must be measured perpendicular from the wetland boundary as surveyed in the field. The buffer for a wetland created, restored, or enhanced as compensation for approved wetland alterations must be the same as the buffer required for the category of the created, restored, or enhanced wetland.
- C. **Buffers on mitigation sites.** Buffer widths must be applied to mitigation sites consistent with the wetland ratings and buffer requirements of this chapter for subsequent development proposals based on expected category of the wetland once the mitigation actions are taken. Only fully vegetated buffers with predominantly native plants will be considered. Lawns, walkways, driveways, and other mowed or paved areas will not be considered as buffers.
- D. **Buffer Maintenance.** Except as otherwise specified or allowed in accordance with this Chapter, wetland buffers must be retained in an undisturbed or enhanced condition. In the case of compensatory mitigation sites, removal of invasive nonnative weeds is required for the duration of the mitigation bond.
- E. **Buffer impacts.** When buffer impacts occur, compensatory mitigation must be provided at a minimum ratio of 1:1 for the area impacted. The mitigation must occur on the same site when feasible or within the same wetland system preferably. The mitigation must ensure that the wetland functions and values are not diminished due to the buffer impacts.
- F. **Allowed Wetland Buffer Uses.** In addition to the general exemptions and allowed activities outlined in AMC 19.70.020, the following uses may be allowed within a wetland buffer by the Director, if the use is not prohibited by any other applicable law and it is conducted in a manner so as to minimize impacts to the buffer and adjacent wetland:
1. **Conservation and restoration activities.** Conservation or restoration activities aimed at protecting or enhancing the soil, water, vegetation, or wildlife.
 2. **Passive recreation.** Low impact uses and activities which are consistent with the purpose and function of the wetland buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the wetland. Uses may include:

Commented [GL69]: Ecology guidance, not currently in CAO.

Commented [GL70]: Check if this is duplicative of language in general provisions.

- a. Pedestrian walkways and trails meeting the following standards:
 - i. The trail is generally parallel to the perimeter of the wetland;
 - ii. The trail is located in the outer 25% of the buffer area and is designed to avoid removal of significant vegetation;
 - iii. The trail does not exceed 6 feet in width, and is constructed with a surface that does not interfere with substrate permeability. Raised boardwalks utilizing non-treated pilings may be acceptable;
 - iv. The trail does not fully enclose a habitat area or buffer; and
 - v. The trail may be subject to closure during critical spawning, migration or breeding time periods of sensitive species that are present.
 - b. Wildlife viewing structures; and
 - c. Fishing access areas down to the water's edge no larger than 6 feet in width.
3. **Stormwater management facilities.** Stormwater management facilities that meet the criteria and standards outlined in AMC 19.70.240(C)(4) (Allowed activities in Cat. III and IV wetlands) may be allowed in Category III and IV wetland buffers.
- G. **Setbacks from buffers.** Buildings, structures, paving, and other hard surfacing shall 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, unless otherwise determined by the Director that a smaller distance would meet the intent of this subsection. 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. The following 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:
1. Landscaping;
 2. Uncovered decks, roof eaves and overhangs, unroofed stairways and steps;
 3. Pervious ground surfaces, such as driveways, patios, and parking may be allowed; provided that it is engineered as a pervious system as defined in AMC _____. Such improvements may be subject to the requirements in AMC _____, Stormwater Management.
- H. **Previously established buffers.** Where a buffer has been previously established after ____ (date) _____ through a City development review and approval process, and is permanently recorded on title or placed within a separate tract or easement, the buffer shall be as previously established. Additional review may be requested by the applicant or required by the Director to determine whether conditions on site have changed resulting in the previously established buffer no longer being applicable.

Commented [C71]: How does this apply at Heart Lake?

Commented [GL72]: This has come up in cases where a separate tract (and hence, a new property line) is not created for the CA/buffer. Technically a building could be built up to the buffer.

The building setback distance is intended to provide adequate room for construction, maintenance, use and access without infringing upon the critical area or buffer, where no separate tract is created.

Commented [LBG73]: Or 5'?

Commented [C74]: If 5' is considered adequate side yard setback from a neighbor's property for access and maintenance, it should be OK here especially if there is a fence on the boundary to prevent encroachment.

Commented [GL75]: This is from Skagit County: <http://www.codepublishing.com/WA/SkagitCounty/#1/SkagitCounty14/SkagitCounty1424.html#14.24.230>.

Also incorporate this into the FWHCA section.

- I. **Isolated buffers.** Where a portion of a required buffer is effectively isolated from the remainder of the buffer or its associated wetland by existing development such as a road, building, paving, etc., in such a way that it cannot perform the usual functions of a buffer, it will not be identified as a buffer.

19.70.260 Wetlands - Critical areas report additional requirements

- A. **Report Required.** If the Director determines that the site of a proposed development includes, is likely to include, or is adjacent to, a wetland, a wetland critical area report will be required. In addition to the general critical area report requirements of AMC 19.70.125, critical area reports for wetlands must meet the requirements of this section.
- B. **Preparation by a Qualified Professional.** Critical area reports for wetlands must be prepared and signed by a qualified professional who is a Professional Wetland Scientist with experience preparing wetland delineation, impact assessments, and mitigation plans.
- C. **Third Party Review Required.** Critical areas studies and reports on wetland areas shall be subject to third party review consistent with AMC 19.70.125, and in any of the additional following circumstances:
 1. Compensatory mitigation is required for impacts to Category I, II, or III wetlands and or buffers; or
 2. Compensatory mitigation is required for impacts to Category IV wetlands.
- D. **Minimum Report Contents for Wetlands.** The written critical area report(s) and accompanying plan sheet(s) shall contain the following information, at a minimum:
 1. The minimum report contents required per AMC 19.70.125;
 2. Documentation of any fieldwork performed on the site, including field data sheets for delineations, rating system forms, baseline hydrologic data, site photos, etc.;
 3. A description of the methodologies used to conduct the wetland delineations, ratings, or impact analyses including references;
 4. **Site Plans.** A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:
 - a. Maps (to scale) depicting delineated and surveyed wetland(s) and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; clearing and grading limits; areas of proposed impacts to wetlands and/or buffers (include square footage estimates); and
 - b. A depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas.

Commented [GL76]: Most of these requirements are straight from the [Wetlands Guidance for CAO updates](#) provided by DOE.

Commented [GL77]: Do all projects require a survey?

5. For each wetland identified on site and off site within 300 feet of the project site provide: the wetland rating, including a description of and score for each function, per wetland ratings (AMC 19.70.210) required buffers (AMC 19.70.250); hydrogeomorphic classification; wetland acreage based on a professional survey from the field delineation (acreages for on-site portion and entire wetland area including off-site portions); Cowardin classification of vegetation communities; habitat elements; soil conditions based on site assessment and/or soil survey information; and to the extent possible, hydrologic information such as location and condition of inlet/outlets (if they can be legally accessed), estimated water depths within the wetland, and estimated hydroperiod patterns based on visual cues (e.g., algal mats, drift lines, flood debris, etc.). Provide acreage estimates, classifications, and ratings based on entire wetland complexes, not only the portion present on the proposed project site;
 6. A discussion of the potential impacts to the wetland(s) associated with anticipated hydroperiod alterations from the project;
 7. A description of the proposed actions, including an estimation of acreages of impacts to wetlands and buffers based on the field delineation and survey and an analysis of site development alternatives, including a no-development alternative;
 8. An assessment of the probable cumulative impacts to the wetlands and buffers resulting from the proposed development;
 9. A description of reasonable efforts made to apply mitigation sequencing pursuant to AMC 19.70.130 to avoid, minimize, and mitigate impacts to critical areas and a discussion of measures, including avoidance, minimization, and compensation, proposed to preserve existing wetlands and restore any wetlands that were degraded prior to the current proposed land-use activity;
 10. A conservation strategy for habitat and native vegetation that addresses methods to protect and enhance on-site habitat and wetland functions; and
 11. An evaluation of the functions of the wetland and adjacent buffer. Include reference for the method used and data sheets.
- E. **Additional Information.** When appropriate due to the proposed impacts or the project area conditions, the Director may also require the critical area report to include:
1. Where impacts are proposed, mitigation plans consistent with the requirements of AMC 19.70.135 and the wetland mitigation performance standards and requirements of AMC 19.70.270;
 2. A request for consultation with the Washington State Department of Fish and Wildlife (DFW), Washington State Department of Ecology (Ecology), local Native American Indian tribes, and/or other appropriate agency;

Commented [C78]: If access to nearby off-site wetland is denied, report should estimate these characteristics insofar as they can be observed.

3. Copies of the joint aquatic resource permit application (JARPA) and related approvals, such as a hydraulic project approval (HPA) from the DFW, when applicable to the project; and
4. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

19.70.270 Wetlands – Compensatory mitigation performance standards and requirements.

A. Requirements for Compensatory Mitigation.

1. Compensatory mitigation for alterations to wetlands may be used only for impacts that cannot be avoided or minimized and shall achieve equivalent or greater biologic functions. Compensatory mitigation plans shall be consistent with Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1), (Ecology Publication No. 06-06-011b, March 2006, or as revised).
2. Mitigation ratios shall be consistent with subsection H of this section.
3. Mitigation requirements may also be determined using the credit/debit tool described in “Calculating Credits and Debits for Compensatory Mitigation in Wetlands of Western Washington: Operational Draft” (Ecology Publication No. 10-06-011, February 2011, or as revised) consistent with subsection H of this section.

B. Compensating for Lost or Impacted Functions. Compensatory mitigation must address the functions and values affected by the proposed project, with an intention to achieve functional equivalency or improvement of functions and values. The goal for the compensatory mitigation must be to provide similar wetland functions and values as those lost, except when either:

1. The lost wetland provides minimal functions and values, and the proposed compensatory mitigation action(s) will provide equal or greater functions and values or will provide functions and values shown to be limiting within a watershed through a formal Washington State watershed assessment plan or protocol; or
2. Out-of-kind replacement of wetland type or functions and values will best meet watershed goals formally identified by the City, such as replacement of historically diminished wetland types.

C. Preference of Mitigation Actions. Methods to achieve compensation for wetland functions and values must be approached in the following order of preference:

1. **Restoration.** The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. Restoration of wetlands includes re-establishment and rehabilitation.
2. **Creation.** Creation (establishment) of wetlands on disturbed upland sites, such as those with vegetative cover consisting primarily of nonnative species. This should be attempted only when there is an adequate source of water and it can be shown that the surface and subsurface hydrologic regime is conducive to the wetland community that is anticipated in the design.

Commented [GL79]: Most of these requirements are straight from the Wetlands Guidance for CAO updates provided by DOE.

Commented [LBG80]: <https://fortress.wa.gov/ecy/publications/summarypages/0606011b.html>

Commented [GL81]: Most of these requirements are straight from the Wetlands Guidance for CAO updates provided by DOE.

Commented [LBG82]: If we don't want to describe each of these terms here, their definitions in Wetland Mitigation in Washington State Part 2: Developing Mitigation Plans, could be referenced instead.

3. **Enhancement.** Enhancement of significantly degraded wetlands in combination with restoration or creation. Enhancement alone will result in a loss of wetland acreage and is less effective at replacing the functions and values lost. Enhancement should be part of a mitigation package that includes replacing the impacted area and meeting appropriate ratio requirements.
 4. **Preservation.** Preservation of high-quality, at-risk wetlands as compensation is generally acceptable when done in combination with restoration, creation, or enhancement; provided, that a minimum of 1:1 acreage replacement is provided by reestablishment or creation. Preservation of high-quality, at-risk wetlands and habitat may be considered as the sole means of compensation for wetland impacts when the following criteria are met:
 - a. Proposed wetland impacts will not have a significant adverse impact on habitat for listed fish, or other ESA-listed species;
 - b. There is no net loss of habitat functions within the watershed or basin;
 - c. Mitigation ratios for preservation as the sole means of mitigation shall generally start at 20:1. Specific ratios should depend upon the significance of the preservation project and the quality of the wetland resources lost;
 - d. The impact area is small (generally less than one-half acre) and/or impacts are occurring to a low-functioning system (Category III or IV wetland); and
 - e. All preservation sites shall include buffer areas adequate to protect the habitat and its functions from encroachment and degradation.
- D. **Type and Location of Compensatory Mitigation.** Unless it is demonstrated that a higher level of ecological functioning would result from an alternative approach, compensatory mitigation for ecological functions must be either in kind and on site, or in kind and within the same stream reach, sub-basin, or drift cell (if estuarine wetlands are impacted). Compensatory mitigation actions must be conducted within the same sub-drainage basin and on the site of the alteration, except when the following apply:
1. There are no reasonable opportunities on site or within the sub-drainage basin (e.g., on-site options would require elimination of high-functioning upland habitat), or opportunities on site or within the sub-drainage basin do not have a high likelihood of success based on a determination of the capacity of the site to compensate for the impacts. Considerations should include:
 - a. Anticipated replacement ratios for wetland mitigation;
 - b. Buffer conditions and proposed widths;
 - c. Available water to maintain anticipated hydrogeomorphic classes of wetlands when restored; and

Commented [LBG83]: Preservation is sometimes perceived as trading one wetland for another one that is already protected, resulting in a net loss of wetland area. The reality is that some wetland types are not adequately protected under existing laws and can benefit from being placed in public ownership or protected by a conservation easement. (DOE/WDFW)

Commented [GL84]: Most of these requirements are straight from the [Wetlands Guidance for CAO updates](#) provided by DOE.

Commented [LBG85]: Historically, mitigation activities were required to be performed on-site because it was believed that the closer the mitigation was to the impact site, the better chance it would have of replacing the functions that were lost. However, more recent studies have concluded that this requirement too often has forced applicants to try to fit a mitigation project onto an area that makes little ecological sense and is not sustainable.

Commented [C86]: Agree that there should be flexibility in location. Could the City develop a list of wetlands that could benefit from enhancement so that if off-site mitigation is necessary it could be applied where most beneficial?

- d. Proposed flood storage capacity, and potential to mitigate riparian fish and wildlife impacts (such as connectivity);
 2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland;
 3. Off-site locations shall be in the same sub-drainage basin, unless watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site; and
 4. Off-site locations shall be in the same sub-drainage basin, unless watershed goals for water quality, flood storage or conveyance, habitat, or other wetland functions have been established by the City and strongly justify location of mitigation at another site; and
 5. The design for the compensatory mitigation project needs to be appropriate for its location (i.e., position in the landscape). Therefore, compensatory mitigation should not result in the creation, restoration, or enhancement of an atypical wetland. An atypical wetland refers to a compensation wetland (e.g., created or enhanced) that does not match the type of existing wetland that would be found in the geomorphic setting of the site (i.e., the water source(s) and hydroperiod proposed for the mitigation site are not typical for the geomorphic setting). Likewise, it should not provide exaggerated morphology or require a berm or other engineered structures to hold back water. For example, excavating a permanently inundated pond in an existing, seasonally saturated or inundated wetland is one example of an enhancement project that could result in an atypical wetland. Another example would be excavating depressions in an existing wetland on a slope, which would require the construction of berms to hold the water.
- E. **Wetland mitigation Banks.** Credits from a wetland mitigation bank certified under [WAC 173-700](#) may be used to compensate for impacts located within the service area specified in the mitigation bank instrument, if:
1. The proposal would provide appropriate compensation for the proposed impacts; and
 2. The impact site is located in the service area of the bank.
 3. The proposed use of credits is consistent with the terms and conditions of the certified mitigation bank instrument.
 4. Replacement ratios using bank credits is consistent with replacement ratios specified in the certified mitigation bank instrument.
- F. **In-Lieu Fee Mitigation.** Credits from an approved in-lieu fee (ILF) program may be used when all of the following apply:
1. The Director determines that it would provide environmentally appropriate compensation for the proposed impacts.

Commented [GL87]: From Ecology wetland guidance.

A mitigation bank is a site where wetlands, streams, and/or other aquatic resource areas have been restored, established, enhanced, or (in certain circumstances) preserved for the purpose of providing compensation for unavoidable impacts to aquatic resources.

Ecology adopted the final Wetland Mitigation Banks Rule (WAC 173-700) in 2009.

<http://www.ecy.wa.gov/programs/sea/wetlands/mitigation/banking/index.html>.

Commented [GL88]: From ecology wetland guidance.

In this approach to mitigation, a permittee pays a fee to a third party in lieu of conducting project-specific mitigation or buying credits from a mitigation bank. ILF mitigation is used mainly to compensate for impacts to wetlands when better approaches to compensation are not available or practicable, or when the use of an ILF is in the best interest of the environment.

An ILF represents the expected costs to a third party of replacing the wetland functions lost or degraded as a result of the permittee's project. Fees are typically held in trust until sufficient funds have been collected to finance a mitigation project. Only a nonprofit organization such as a local land trust, private conservation group, or government agency with demonstrated competence in natural resource management may operate an ILF program.

2. The proposed use of credits is consistent with the terms and conditions of the approved ILF program instrument.
 3. Projects using ILF credits shall have debits associated with the proposed impacts calculated by the applicant's qualified wetland professional using the credit assessment method specified in the approved instrument for the ILF program.
 4. The impacts are located within the service area specified in the approved ILF instrument.
- G. **Alternative Mitigation Plans.** The Director may approve alternative wetland mitigation plans that are based on best available science. Alternative mitigation proposals must provide an equivalent or better level of protection of wetland functions and values than would be provided by the strict application of this chapter.

Commented [GL89]: Most of these requirements are straight from the [Wetlands Guidance for CAO updates](#) provided by DOE.

1. The following will be considered in the approval of an alternative mitigation proposal:
 - a. The proposal uses a watershed approach consistent with [Selecting Wetland Mitigation Sites Using a Watershed Approach \(Western Washington\)](#) (Ecology Publication #09-06-032, Olympia, WA, December 2009).
 - b. Creation or enhancement of a larger system of natural areas and open space is preferable to the preservation of many individual small habitat areas.
 - c. Mitigation according to Section D is not feasible due to site constraints such as parcel size, stream type, wetland category, or geologically hazardous areas.
 - d. There is a clear potential for success of the proposed compensation at the identified site.
 - e. The Plan must contain clear and measurable standard for achieving compliance with the specific provisions of the plan, consistent with 19.70.135.
 - f. The plan must be reviewed and approved as part of the overall approval of the proposed use.
 - g. A wetland of a different type may be justified based on regional needs or functions and values; the replacement ratios may not be reduced or eliminated unless the reduction results in a preferred environmental alternative.
 - h. Mitigation guarantees must meet the minimum requirements as outlined in _____.
 - i. Qualified professionals in each of the critical areas addressed must prepare the plan.
 - j. The City may consult with agencies with expertise and jurisdiction over the critical areas during the review to assist with analysis and identification of appropriate performance measures that adequately safeguard critical areas.

H. **Wetland Mitigation Ratios:**

Commented [GL90]: This chart is from the 2010 SMP, which was updated as part of the SMP update process.

Category and Type of Wetland	Creation or Reestablishment	Rehabilitation Only	Re-Est or Creation (R/C) and Re-Hab (RH)	Re-Est or Creation (R/C) and Enhancement (E)	Enhancement Only
Category I Forested	6:1	12:1	1:1 R/C & 10:1 RH	1:1 R/C & 20:1 E	24:1
Category I – based on score for functions	4:1	8:1	1:1 R/C & 6:1 RH	1:1 R/C & 12:1 E	16:1
Category I Natural Heritage Site	Not allowed	6:1 Rehabilitation of a Natural Heritage Site	Not allowed	Not allowed	Case-by-case
Category I Bog	Not allowed	6:1 Rehabilitation of a bog	Not allowed	Not allowed	Case-by-case
Category II	3:1	6:1	1:1 R/C & 4:1 RH	1:1 R/C & 8:1 E	12:1
Category III	2:1	4:1	1:1 R/C & 2:1 RH	1:1 R/C & 4:1 E	8:1
Category IV	1.5:1	3:1	1:1 R/C & 1:1 RH	1:1 R/C & 2:1 E	6:1

- I. The ratios above are based on the assumption that the rehabilitation or enhancement actions implemented represent the average degree of improvement possible for the site. Proposals to implement more effective rehabilitation or enhancement actions may result in a lower ratio, while less effective actions may result in a higher ratio. The distinction between rehabilitation and enhancement is not clear-cut. Instead, rehabilitation and enhancement actions span a continuum. Proposals that fall within the gray area between rehabilitation and enhancement will result in a ratio that lies between the ratios for rehabilitation and the ratios for enhancement.
- J. **Buffer Mitigation Ratios.** Impacts to buffers must be mitigated at a 1:1 ratio. Compensatory buffer mitigation shall replace those buffer functions lost from development.
- K. **Mitigation Performance Standards.** Wetland mitigation plans must be consistent with AMC 19.70.130 Mitigation requirements and 19.70.135 Mitigation plan requirements and Wetland

Commented [GL91]: From the 2010 SMP.

Commented [LBG92]: DOE/WDFW – recommend that impacts to buffers be handled similarly as impacts to wetlands. Applicant should be required to use all available means of modifying their development proposal, as well as using existing provisions for buffer averaging, before they are allowed to build in buffers. Where buffer impacts are unavoidable, compensation should be required in the form of wetland and/or upland restoration or enhancement.

Mitigation in Washington State, Part 1: Agency Policies and Guidance (Version 1, Ecology Publication #06-06-011a), or as amended, and best available science.

- L. The performance standards in this section must be incorporated into mitigation plans submitted to the City for impacts to wetlands. The following performance standards apply to any mitigations proposed within Category I, II, III and IV wetlands and their buffers. Modifications to these performance standards consistent with the guidance in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised) may be considered for approval by the Director as alternatives to the following standards:
1. Plants indigenous to the region (not introduced or foreign species) must be used.
 2. Plant selection must be consistent with the existing or projected hydrologic regime, including base water levels and stormwater event fluctuations.
 3. Plants should be commercially available or available from local sources.
 4. Plant species high in food and cover value for fish and wildlife must be used.
 5. Mostly perennial species should be planted.
 6. Committing significant areas of the site to species that have questionable potential for successful establishment must be avoided.
 7. Plant selection must be approved by a qualified professional.
 8. The following standards apply to wetland design and construction:
 - a. Water depth must not exceed six and one-half feet (two meters).
 - b. The grade or slope that water flows through the wetland must not exceed 6 percent.
 - c. Slopes within the wetland basin and the buffer zone must not be steeper than 3:1 (horizontal to vertical).
 - d. The wetland (excluding the buffer area) should not contain more than 60 percent open water as measured at the seasonal high water mark.
 9. Substrate should consist of a minimum of one foot, in depth, of clean (uncontaminated with chemicals or solid/hazardous wastes) inorganic/organic materials.
 10. Planting densities and placement of plants should be determined by a qualified professional and shown on the design plans.
 11. The planting plan must be approved by the City.
 12. Stockpiling soil and construction materials should be confined to upland areas and contract specifications should limit stockpiling of earthen materials to durations in accordance with City clearing and grading standards, unless otherwise approved by the City.

13. Planting instructions must be submitted which describe placement, diversity, and spacing of seeds, tubers, bulbs, rhizomes, sprigs, plugs, and transplanted stock.
14. Controlled release fertilizer must be applied (if required) at the time of planting and afterward only as plant conditions warrant as determined during the monitoring process.
15. An irrigation system must be installed, if necessary, for the initial establishment period.
16. All construction specifications and methods shall be approved by a qualified professional and the City.
17. Construction management provided must be provided by a qualified professional. Ongoing work on site must be inspected by the City.

M. Compensatory Mitigation Plan. When a project involves wetland and/or buffer impacts, a compensatory mitigation plan must be included as part of the required critical area report. Compensatory wetland mitigation plans must meet the minimum requirements AMC 19.70.082 and demonstrate compliance with ACM 19.70.080. Full guidance can be found in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised). The mitigation plan must meet the following additional standards:

1. Description of the existing wetland and buffer areas proposed to be impacted. Include acreage (or square footage), water regime, vegetation, soils, landscape position, surrounding land uses, and functions. Also describe impacts in terms of acreage by Cowardin classification, hydrogeomorphic classification, and wetland rating, based on wetland ratings (AMC 19.70.210(B));
2. Description of the compensatory mitigation site, including location and rationale for selection. Include an assessment of existing conditions: acreage (or square footage) of wetlands and uplands, water regime, sources of water, vegetation, soils, landscape position, surrounding land uses, and functions. Estimate future conditions in this location if the compensation actions are not undertaken (i.e., how would this site progress through natural succession);
3. A description of the proposed actions for compensation of wetland and upland areas affected by the project. Include overall goals of the proposed mitigation, including a description of the targeted functions, hydrogeomorphic classification, and categories of wetlands;
4. A description of the proposed mitigation construction activities, construction/installation notes, and timing of activities;
5. A discussion of ongoing management practices that will protect wetlands after the project site has been developed, including proposed monitoring and maintenance programs (for remaining wetlands and compensatory mitigation wetlands);

6. Proof of establishment of notice on title for the wetlands and buffers on the project site, including the compensatory mitigation areas; and
7. The scaled plan sheets for the compensatory mitigation must contain, at a minimum
 - a. Surveyed edges of the existing wetland and buffers, proposed areas of wetland and/or buffer impacts, location of proposed wetland and/or buffer compensation actions;
 - b. Existing topography, ground-proofed, at two-foot contour intervals in the zone of the proposed compensation actions if any grading activity is proposed to create the compensation area(s). Also existing cross-sections of on-site wetland areas that are proposed to be impacted and cross-section(s) (estimated one-foot intervals) for the proposed areas of wetland or buffer compensation;
 - c. Surface and subsurface hydrologic conditions, including an analysis of existing and proposed hydrologic regimes for enhanced, created, or restored compensatory mitigation areas. Also, illustrations of how data for existing hydrologic conditions were used to determine the estimates of future hydrologic conditions;
 - d. Conditions expected from the proposed actions on site, including future hydrogeomorphic types, vegetation community types by dominant species (wetland and upland), and future water regimes;
 - e. Required wetland buffers for existing wetlands and proposed compensation areas. Also, identify any zones where buffers are proposed to be reduced or enlarged outside of the standards identified in this chapter;
 - f. A plant schedule for the compensation area, including all species by proposed community type and water regime, size and type of plant material to be installed, spacing of plants, typical clustering patterns, typical plant installation details and notes, total number of each species by community type, timing of installation; and
 - g. Performance standards (measurable standards reflective of years post-installation) for upland and wetland communities, monitoring plan, contingency plan, and maintenance schedule, and actions. Standards for success shall be established based on the performance standards identified and the functions and values being mitigated based on the guidance in Wetland Mitigation in Washington State – Part 2: Developing Mitigation Plans (Version 1) (Ecology Publication No. 06-06-011b, March 2006, or as revised).

FISH AND WILDLIFE HABITAT CONSERVATION AREAS

19.70.300. Fish and wildlife habitat – Description and Purpose

- A. Fish and wildlife habitat conservation areas are lands managed for maintaining populations of species in suitable habitats within their natural geographic distribution so that the habitat

available is sufficient to support viable populations over the long term and isolated subpopulations are not created. In addition to their intrinsic value, certain species of fish and wildlife represent important historic, cultural, recreational and economic resources.

- B. It is the purpose of this Chapter to protect fish and wildlife populations and their associated habitats and provide special consideration to conservation or protection measures necessary to preserve or enhance anadromous species.

19.70.310 Fish and wildlife habitat – Designation.

- A. Fish and Wildlife Habitat Conservation Areas (FWHCAs) are designated as follows:
1. Areas with which endangered, threatened, and sensitive species listed by the federal government or the State of Washington have a primary association;
 2. Commercial and recreational shellfish areas, including public and private tidelands suitable for shellfish harvest and shellfish protection districts established pursuant to [RCW 90.72](#);
 3. Kelp and eelgrass beds and herring and smelt spawning areas;
 4. Naturally occurring ponds under 20 acres with submerged aquatic beds that provide fish or wildlife habitat as further defined in [WAC 365-190-130\(4\)\(e\)](#);
 5. Waters of the State, including streams as classified in [WAC 222-16-030](#);
 6. Lakes, ponds, streams, and rivers planted with game fish by a governmental or tribal entity;
 7. Areas with which anadromous fish species have a primary association;
 8. State natural area preserves, natural resource conservation areas, and state wildlife areas as established by WA DNR;
 9. Areas of rare plant species and high quality ecosystems as identified by the Washington State Department of Natural Resources through the Natural Heritage Program in Chapter [79.70 RCW](#).
 10. State priority habitats and areas associated with State priority species identified by the State Department of Fish and Wildlife in the Priority Habitats and Species List. Priority habitats and species known to be identified and mapped by WDFW in Anacortes include, but may not be limited to, the following:
 - a. Biodiversity areas near _____
 - b. Bald eagle habitat protected pursuant to the Federal Bald and Golden Eagle Protection Act;
 - c. Chinook/fall chinook salmon;
 - d. Coho salmon;
 - e. Great blue heron nest sites and breeding areas;

Commented [LBG93]: In Anacortes, this would include:
Federal: Chinook, Southern resident orca or killer whales, Marbled Murrelet.
State: Purple Martin, Peregrine falcon, Bald eagle

Commented [LBG94]: Existing CAO does not designate "waters of the state" as FWHCA. Instead, 17.70.540(7)(a) specifically designates 15 streams (for those stretches that are not in culverts or artificially created ditches as of December 31, 2003). "Artificially created ditch" is not defined in existing CAO. See additional comments on this topic below. Also, see proposed "ditch" definition.

Designating waters of the state would provide protection for streams that are annexed into City limits in the future, and unnamed streams that may currently exist in city limits but have not been identified to date.

Commented [LBG95]: Listing specific species as proposed below is intended to help create more awareness (staff and public, property owners).

There are additional PHS mapped in the Anacortes that would only occur within the marine shoreline environment, which would be covered under the SMP specific critical reas regs:
Smelt, Pacific sand lance, and herring spawning areas
Dungeness crab
Estuarine intertidal aquatic habitat

Commented [GL96]: See <http://apps.wdfw.wa.gov/phsonthefweb/>
Washington Park (used by eagles when foraging), Cap Sante (Bald Eagle winter concentrations, hunting) are listed as Biodiversity Areas.

- f. Osprey nest sites;
 - g. Peregrine falcon nest sites and breeding areas;
 - h. Purple martin breeding areas;
 - i. Resident coastal cutthroat trout;
 - j. Winter steelhead trout;
 - k.
11. The following Habitats and Species of Local Importance have been designated by the City:
- a. The Anacortes Community Forestlands.
 - b. The March Point Heronry.
 - c. The one and one-half acre "Park Reserve" at Cap Sante, bounded by 3rd Street, East Park Drive, and Curtis Drive.
- B. In addition to the FWHCAs identified in Subsection (A)(11) of this section, additional habitats and species of local importance may be designated by the City using the following process:
1. Designation process. The city may consider nominations for habitat areas and species to be designated as locally important on an annual basis as part of the annual comprehensive plan and development regulation update process, based on the following criteria:
 - a. Local populations of native species that are in danger of extirpation based on existing trends, likely to become endangered, or are vulnerable or declining;
 - b. The habitat represents either a high quality native habitat, or the habitat has a high potential to recover to a suitable condition and which is of limited availability, is highly vulnerable to alteration, or provides landscape connectivity which contributes to the integrity of the surrounding landscape;
 - c. The species or habitat has recreation, commercial, game, tribal, or other special value;
 - d. Long-term persistence of a species is dependent on protection, maintenance, and/or restoration of the nominated habitat;
 - e. Protection by other county, state, or federal policies, laws, regulations, or non-regulatory tools is not adequate to prevent degradation of the species or habitat; and
 - f. Without protection, there is a likelihood that the species or habitat will be diminished over the long-term.
 2. The nomination must indicate whether specific habitat features are to be protected (for example, nest sites, breeding areas, and nurseries) or whether the habitat or ecosystem is being nominated in its entirety.

Commented [LBG97]: Skagit County lists (SCC 14.24.500(4):
 Great blue heron nest sites;
 Vaux's swifts communal roosts;
 Pileated woodpecker nest sites;
 Osprey nest sites;
 Townsend big-eared bat communal roosts;
 Cavity nesting duck breeding areas;
 Trumpeter swan concentrations;
 Harlequin duck breeding areas;
 Waterfowl concentrations.

Commented [C98]: Thank you for continuing to protect this area. Although the wetland is pretty dry during summer droughts, it is still an important area for wildlife, and in rainy seasons the wetland will return to being wet.

3. The nomination may include management strategies for the species or habitats, which must be supported by best available science. Where restoration of habitat is proposed, a specific plan for restoration must be provided.
- C. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

19.70.320 Fish and wildlife habitat – Mapping.

- A. **Mapping.** The approximate location and extent of some fish and wildlife habitat areas are shown in the data layers maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and inventories are hereby adopted by reference, as amended:
 1. [Washington Department of Fish and Wildlife Priority Habitat and Species maps](#);
 2. Washington Department of Natural Resources, [Official Water Type Reference maps](#);
 3. Washington Department of Natural Resources [Puget Sound Intertidal Habitat Inventory maps](#);
 4. Washington Department of Natural Resources [Shore Zone inventory](#);
 5. Washington Department of Natural Resources [Natural Heritage Program mapping data](#);
 6. Washington Department of Health Annual [Inventory of Shellfish Harvest Areas](#);
 7. Anadromous and resident fish distribution maps contained in the habitat limiting factors reports published by the Washington Conservation Commission and others;
 8. Washington Department of Natural Resources State Natural Area Preserves and Natural Resource Conservation Area maps; and
 9. NOAA Northwest Region Critical Habitat Mapper or equivalent source:
<http://www.nmfs.noaa.gov/pr/species/criticalhabitat.htm>
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.330 Fish and wildlife habitat – General Development Standards for all FWHCAs.

- A. Fish and wildlife habitat conservation areas or their buffers may be altered only if the proposed alteration of the habitat or the mitigation proposed does not degrade the functions and values of the habitat. All new structures and land alterations are prohibited from habitat conservation areas and their buffers except in accordance with this Chapter.

Commented [LBG99]: Either spell out or abbreviate every time, for consistency

B. **Exemptions and Activities Allowed without Critical Areas Review.** The following activities are allowed in or adjacent to fish and wildlife habitat conservation areas without submission of a critical area report, and are exempt from monitoring and financial guarantee requirements, except where such activities result in a loss of the functions and values of a fish and wildlife habitat conservation area.

1. Exemptions that are listed in (AMC 19.70.020 Exemptions) and additional activities allowed without critical areas review listed in AMC 19.70.035(C).
2. Clearing, grading, and the construction of fences and arbors are allowed within the required 10-foot stream buffers for a piped stream segment if no other critical area or buffer is present.
3. Regular maintenance of stormwater facilities that are within a segment of a regulated stream, such as conveyance ditches/swales within the right of way or within public drainage easements.

C. **Approvals and the Best Available Science.** Any approval of alterations or impacts to a fish and wildlife habitat conservation area must be supported by the best available science.

D. **Approvals of Activities may be conditioned.** The Director may condition approvals of activities allowed within or adjacent to a fish and wildlife habitat conservation area as necessary to minimize or mitigate any potential adverse impacts. Conditions will be based on the best available science and may include, but are not limited to, the following:

1. Establishment of buffers;
2. Preservation of important vegetation and/or habitat features such as snags and downed wood specific to the priority wildlife species in the fish and wildlife habitat conservation area;
3. Limitation of access to the habitat area, including fencing to deter unauthorized access;
4. Seasonal restriction of construction activities;
5. Establishment of a duration and timetable for periodic review of mitigation activities; and
6. Requirement of a performance bond, when necessary, to ensure completion and success of proposed mitigation.

E. **Buffers.**

1. **Establishment of Buffers.** Buffers from fish and wildlife habitat conservation areas must be established to protect the functions and values of the critical area from the impacts of proposed adjacent activities. Buffers must:
 - a. Consist of an undisturbed area of native vegetation, or areas identified for restoration, sufficient to protect the integrity, functions, and values of the affected habitat;

Commented [GL100]: The referenced section applies to all critical area types and lists things like emergencies, hazard tree removal, some utility projects, etc. that are applicable to all critical areas.

Commented [LBG101]: Should this be a specific type of fence?

Commented [LBG102]: See definition.

- b. Reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby;
 - c. Be consistent with the applicable species-specific management recommendations issued by the Washington Department of Fish and Wildlife.
- 2. **Seasonal Restrictions.** When a species is more susceptible to adverse impacts during specific periods of the year, seasonal restrictions may apply. Larger buffers may be required and activities may be further restricted during the specified season.
- 3. **Habitat Buffer Averaging.** The Director may allow the recommended fish and wildlife habitat area buffer width to be reduced in accordance with a critical area report, the best available science, and the applicable management recommendations issued by the Washington Department of Fish and Wildlife, only if:
 - a. It will not reduce stream or habitat functions;
 - b. It will not adversely affect fish and wildlife habitat;
 - c. It will provide additional natural resource protection, such as buffer enhancement;
 - d. The total area contained in the buffer area after averaging is no less than that which would be contained within the standard buffer; and
 - e. The buffer width is not reduced by more than 25 percent in any location.
- F. **Subdivisions.** The subdivision and short subdivision of land in fish and wildlife habitat conservation areas and associated buffers is subject to the following:
 - 1. Land that is located wholly within a FWHCA or its buffer may not be subdivided;
 - 2. Land that is located partially within a FWHCA may be subdivided only if an accessible and contiguous portion of each new lot that meets the minimum lot size requirements for the zone is located outside of the FWHCA and its buffer.
 - 3. Access roads and utilities serving a proposed subdivision may be permitted within the FWHCA and associated buffers only if the applicant's qualified professional(s) demonstrate, and the Director determines, that no other feasible alternative exists, all unavoidable impacts are fully mitigated, and the use is consistent with this chapter.
- G. **Non-indigenous species.** No plant, wildlife, or fish species not indigenous to Fidalgo Island may be introduced to a FWHCA unless authorized by a state or federal permit approval.

19.70.340 Fish and wildlife habitat – Specific Standards for Streams

- A. **Typing.** Streams must be classified according to WAC 222-16-030.
- B. **Buffers**
 - 1. **Standard Stream Buffer Widths.** Buffer widths must reflect the sensitivity of the stream type, the risks associated with development and, in those circumstances permitted by these

Commented [LBG103]: WDFW recommends not allowing habitat buffers to be reduced by more than 25%.

Commented [LBG104]: Existing CAO allows for reduction in lot size through a subdivision or BIA process to transfer the density onto the non-critical portion of the site. Staff recommends considering similar provisions either within the CAO or the subdivision standards and other development regulations that are currently being updated.

Commented [C105]: Agree, but there should be some limits on size reduction - perhaps not less than 60% of the normally required minimum, or not less than 3,000 sf., which is still a buildable size.

Commented [LBG106]: This is consistent with how the majority of other jurisdictions type streams (based on presence of fish habitat, perennial or seasonal flow) to determine buffer widths. Staff is currently reviewing the potential impacts of this proposal, including identification of streams that might contain fish habitat.

regulations, the type and intensity of human activity and site design proposed to be conducted on or near the stream area. The following standard buffers are established for streams:

Table 19.70.xxx-1

DNR Water Type (WAC 222-16-030)	Standard Buffer Width
Type S Shorelines of the State	See Shoreline Master Program
Type F Streams that are known to be used by fish, or meet the physical criteria to be potentially used by fish.	100 feet
Type Np Streams that have year round flow and do not meet the physical criteria of a Type F. This also includes streams that have been proven not to contain fish using methods described in Forest Practices Board Manual Section 13.	50 feet
Type Ns Streams that do not have surface flow during at least some portion of the year, and do not meet the physical criteria of a Type F stream.	50 feet
Piped Stream Segments Those segments of streams, regardless of their type, that are fully enclosed in an underground pipe or culvert.	10 feet

Commented [LBG107]: Proposed buffers listed below are generally consistent with other urban areas in the region.

Commented [LBG108]: It is possible some Anacortes streams may be a Type F under the DNR typing system. Various guidance says that Type F streams should typically have a larger buffer than non-fish streams.

Staff is currently reviewing the potential impacts of this proposal, including identification of streams that might contain fish habitat, what the impacts of a larger buffer might be on existing development, and how to deal with nonconformities, etc. Additional information will be provided at a later date.

Commented [LBG109]: Do roadside ditches that are part of a regulated water of the state, but that need regular maintenance, need to be specified here?

2. **Stream Buffer Measurement.** Stream buffers are measured from the ordinary high water mark (OHWM), or the top of the bank if the OHWM cannot be determined. Buffers must be measured with rounded ends where streams enter or exit piped segments.
3. **Increased Stream Buffer Widths.** The stream buffer widths may be increased by the Director as follows:
 - a. When the qualified professional determines that the minimum width is insufficient to prevent habitat degradation and to protect the structure and functions of the habitat area as a result of a habitat assessment required pursuant to AMC 19.70.360;
 - b. When the frequently flooded area exceeds the minimum stream buffer width, the stream buffer must extend to the outer edge of the frequently flooded area;

- c. When a channel migration zone is present, the stream buffer must extend to the outer edge of the channel migration zone;
- d. When the habitat area is in an area of high blowdown potential, the stream buffer width must be expanded an additional 50 feet on the windward side;
- e. When the habitat area is within an erosion or landslide hazard area, or buffer, the stream buffer width shall be the recommended distance, or the erosion or landslide hazard area or buffer, whichever is greater.

4. **Stream Buffer Width Averaging and Enhancement.**

- a. **Approval Criteria.** The Director may allow the averaging of stream buffer widths when the critical areas report demonstrates the following:
 - i. Buffer enhancement will be provided consistent with AMC 19.70.350(D)(2) below.
 - ii. The stream or habitat functions, including those of non-fish habitat and riparian wildlife, will be increased or maintained where buffer vegetation is generally intact native vegetation, or increased where the existing buffer vegetation is inadequate to protect functions and values of the stream;
 - iii. The total area contained in the buffer on the development proposal site is not decreased after averaging;
 - iv. The buffer width is not reduced by more than 25% in any one location;
 - v. The buffer width reduction will not be located within another critical area or associated buffer;
 - vi. Only those portions of the stream buffer within the project area or subject parcel may be considered in the total buffer area for buffer averaging.
- b. **Stream Buffer Enhancement Measures.** The measures deemed most applicable and/or appropriate will be considered in buffer averaging requirements. These include, but are not limited to:

Commented [LBG110]: Needs wordsmithing, see GMA CAO sample code provisions

Commented [GL111]: There is currently no minimum in code. Also, the averaging section is titled habitat area width averaging, but includes the common criteria for reduction.

- i. Removal of fish barriers to restore accessibility to fish.
 - ii. Enhancement of fish habitat using log structures incorporated as part of a fish habitat enhancement plan.
 - iii. Enhancement of fish and wildlife habitat structures that are likely to be used by wildlife, including wood duck houses, bat boxes, nesting platforms, snags, rootwads/stumps, birdhouses, and heron nesting areas.
 - c. Additional enhancement measures may include:
 - i. Planting native vegetation within the buffer area, especially vegetation that would increase value for fish and wildlife, increase stream bank or slope stability, improve water quality, or provide aesthetic/recreational value; or
 - ii. Creation of a surface channel where a stream was previously underground, in a culvert or pipe. Surface channels which area “daylighted” must be located within a buffer area and shall be designed with energy dissipating functions or channel roughness features such as meanders and rootwads to reduce future bank failures or nearby flooding;
 - iii. Removal or modification of existing stream culverts (such as road crossings) to improve fish passage, stream habitat, and flow capacities; or
 - iv. Upgrading of retention/detention facilities or other drainage facilities beyond required levels.
5. **Stream Buffer Allowed Uses and Alteration.** Activities and uses are prohibited in stream buffers, except as provided in this chapter. Stream buffers must be maintained as undisturbed or restored natural vegetation. No clearing or grading activities are allowed except within the provisions of this subchapter. No structures or improvements are permitted within the stream buffer area, including buildings, decks, or docks, except as otherwise permitted under one of the following circumstances:
- a. **Approved mitigation.** When the improvements are part of an approved rehabilitation/restoration or mitigation plan;
 - b. **No feasible alternative.** Construction of new roads, utilities, and accessory structures, when no feasible alternative location exists;
 - c. **Trails.** Construction of trails over and in the buffer of piped stream segments, and the construction of trails near other open stream segments, consistent with the following criteria:

- i. Trails should be constructed of pervious surface, with preference for natural materials. Raised boardwalks utilizing non-treated pilings may be acceptable;
- ii. Trails must be designed in a manner that minimizes impact on the stream system;
- iii. Trails must have a maximum trail corridor width of five feet; and
- iv. Trails should be located within the outer 25% of the buffer, i.e. that portion of the buffer that is farther away from the stream and located to avoid removal of significant trees; or _____

- d. **Footbridges.** Construction of footbridges that minimize impacts to the stream system;
- e. **Informational signs.** Construction and placement of informational signs or educational demonstration facilities no more than 9 square feet surface area and 4 feet high, as long as there is no permanent infringement on stream flow;

- f. **Stormwater Management Facilities.** Establishment of low-impact stormwater management facilities, such as stormwater dispersion outfalls and bioswales, may be allowed within stream buffers consistent with the adopted stormwater manual; provided, that:

- i. No other location is feasible;
- ii. Pipes and conveyance facilities are only allowed in the outer 25% of the standard buffer area as set forth in Table _____;
- iii. Stormwater dispersion outfalls, bioswales, bioretention facilities, and other low-impact facilities consistent with the adopted stormwater manual may be allowed anywhere within stream buffers when determined by a qualified professional that the location of the facilities will enhance the buffer area and protect the stream; and
- iv. Such facilities are designed consistent with the requirements of AMC 19.76.

- 6. **Development Proposals within Physically Separated and Functionally Isolated Stream Buffers.** Consistent with the definition of "buffers" (AMC _____), areas that are functionally isolated and physically separated from a stream due to existing, legally established roadways, railroads or other legally established structures or paved areas eight feet or more in width that occur between the area in question and the stream shall be considered physically isolated and functionally separated stream buffers. Once determined by the Director, based on a submitted critical area report, to be a physically separated and functionally isolated stream buffer, development proposals are allowed in these areas.

Commented [LBG112]: Gravel is not considered a pervious surface according to stormwater regs.

Commented [C113]: Maybe just say, "Gravel is not a pervious surface." since that may not be obvious to a layperson.

Commented [C114]: If the trail is intended to be wheelchair accessible, it is desirable for the trail surface itself to be 5 ft. wide (to allow someone to pass or walk beside the wheelchair). Thus the trail corridor might have to be 8 ft. wide to allow for shoulders on each side if the area passes through a cut or fill.

Commented [GL115]: Buffer = "A designated area contiguous to and for the protection of a critical area, which is required for the continued maintenance, functioning, and/or structural stability of a critical area".

7. **Building setbacks from stream buffers.** Buildings, structures, paving, and other hard surfacing shall be setback a minimum distance of 10 feet from the edge of the stream buffer unless determined by the Director that a smaller distance would meet the intent of this subsection. 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. The following 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;
 - Uncovered decks, roof eaves and overhangs, unroofed stairways and steps;
 - Pervious ground surfaces, such as driveways, patios, and parking may be allowed; provided that they are engineered as a pervious system as defined in AMC _____. Such improvements may be subject to the requirements in AMC _____, Stormwater Management.
- C. **Allowed Activities in streams.** Activities, uses and alterations of streams are prohibited, subject to the reasonable use exception provisions (AMC 19.70.xxx), critical areas variance (AMC 19.70.xxx) or public agency exception provisions (AMC 19.70.xxx), unless otherwise exempt or allowed according to the provisions of this subsection. No alteration to a stream buffer may be permitted unless consistent with the provisions of this section and the specific standards for development outlined below.
1. **Type S, Type F and Type Np Streams.** Activities and uses that result in alteration of Type S, Type F or Type Np streams and their associated buffers are prohibited subject to the reasonable use exception provisions (AMC 19.70.55) or public agency exception provisions (AMC 19.70.050) of this Chapter.
 - a. Relocation of Type S, F or Np streams may be permitted only when the proposed relocation is **part of an approved mitigation or rehabilitation/restoration plan**, and will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream.
 2. **Type Ns Streams.** Development activities and uses that result in unavoidable impacts may be permitted in Type Ns streams and associated buffers in accordance with an approved critical area(s) report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the loss of acreage and functions of streams and buffers must be provided in compliance with the mitigation performance standards and requirements of these regulations.
 - a. **Relocation of Type Np streams may be permitted only when the proposed relocation will result in equal or better habitat and water quality, and will not diminish the flow capacity of the stream.**

Commented [GL116]: This would be a change from the current code. No specific building setback from a critical area buffer is currently required (unless the buffer is also the property line, like in the case of a NGPE tract). So technically a building could be built up to the buffer.

The building setback distance is intended to provide adequate room for construction, maintenance, use and access without infringing upon the critical area or buffer.

Commented [C117]: 5 ft. may be adequate. See earlier comment.

Commented [LBG118]: Need to reconcile this with allowed uses in buffers, above

3. **Stream Crossing.** Crossing of streams may be permitted, subject to the limitations in subsections (D)(1) and (2) of this section and consistent with the following:
- a. **Bridges.** Bridges must be used to cross Type S and Type F-anadromous streams. Culverted crossings and other obstructive means of crossing Type S and Type F-anadromous streams shall be prohibited; and
 - b. **Culverts.** Culverts are allowed for crossing of Type F-nonanadromous, Np, and Ns streams when fish passage will not be impaired and when the following design criteria and conditions are met:
 - i. Oversized culverts, that allow for fish passage and floodplain or wetland connectivity, will be installed;
 - ii. Culverts for Type F streams must be designed for fish passage that will allow natural stream functions and processes to occur (i.e., sediment, wood, and debris transport) where appropriate;
 - iii. Gravel substrate will be placed in the bottom of the culvert to a minimum depth of one foot for Type F streams;
 - iv. A maintenance covenant shall be recorded on title with Skagit County that requires the property owner to, at all times, keep any culvert free of debris and sediment to allow free passage of water and, if applicable, fish; and
 - v. The City may require that a culvert be removed from a stream as a condition of approval, unless it is demonstrated conclusively that the culvert is not detrimental to fish habitat or water quality, or removal would be detrimental to fish or wildlife habitat or water quality.

- D. **Restoring Piped Watercourses.** The voluntary opening and restoration or rehabilitation of previously channelized, culverted, or piped streams may be approved by the Director, when the following is demonstrated within a critical areas report:
- a. The restoration will result in a net gain in FWHCA functions, including an improvement in water quality and ecological functioning;
 - b. Opened channels must be designed to support fish and wildlife habitat and uninhibited fish access, unless demonstrated to be infeasible;
 - c. A protective buffer will be provided from the top of bank which includes habitat improvements and measures to prevent erosion, landslide and water quality impacts;
 - d. The proposal will not significantly increase the threat of erosion, flooding, slope stability or other hazards on the site or on adjacent properties.

Commented [LBG119]: Existing CAO allows reduction of individual lot sizes to any buildable configuration through the subdivision or BLA (if applicable) process provided the total square footage of the new lots plus the stream and buffer square footage equals or exceeds the total square footage for an equal number of minimum size lots in the zone prior to removing the stream from the culvert. (Subdivision in FWHCA required a CUP in existing CAO).

Staff recommends maintaining similar flexibility either within the updated CAO or within the updated subdivision standards that are currently being drafted through the development regulation update.

Commented [LBG120]: What should this be? Currently it is 10', but maybe it should be a **minimum of 10'**, with a recommendation provided by the qualified professional?

E. Anadromous Fish.

1. All activities, uses, and alterations proposed to be located in water bodies used by anadromous fish or in areas that affect such water bodies must give special consideration to the preservation and enhancement of anadromous fish habitat, including, but not limited to, adhering to the following standards:
 - a. Subsection A of this section applies to anadromous fish where those populations are identified as endangered, threatened or sensitive species;
 - b. Activities shall be timed to occur only during the allowable work window as designated by the Washington Department of Fish and Wildlife for the applicable species;
 - c. An alternative alignment or location for the activity is not feasible;
 - d. The activity is designed so that it will not degrade the functions or values of the fish habitat or other critical areas;
 - e. Shoreline erosion control measures must be designed to use bioengineering methods or soft armoring techniques, according to an approved critical area report; and
 - f. Any impacts to the functions or values of the fish and wildlife habitat conservation area are mitigated in accordance with an approved critical area report.
2. Structures that prevent migration are not allowed in the portion of water bodies currently or historically used by anadromous fish. Fish bypass facilities must be provided, consistent with RCW [77.57.030](#), that allow the upstream migration of adult fish and prevent fry and juveniles migrating downstream from being trapped or harmed.
3. Fills, when authorized by the City and all applicable joint aquatic resource permit application approvals, must not adversely impact anadromous fish or their habitat or shall mitigate any unavoidable impacts and shall only be allowed for a water-dependent use.

19.70.350 Fish and wildlife habitat – Specific Standards for Other FWHCAs

A. Endangered, Threatened, and Sensitive Species.

1. No development is allowed within a fish and wildlife habitat conservation area or buffer with which State or Federally endangered, threatened, or sensitive species have a primary association, except that which is provided for by a management plan established by the Washington Department of Fish and Wildlife or applicable State or Federal agency.
2. Whenever activities are proposed adjacent to a fish and wildlife habitat conservation area with which State or Federally endangered, threatened, or sensitive species have a primary association, such area shall be protected through the application of protection measures in accordance with a critical area report prepared by a qualified professional and approved by the City. Approval for alteration of the fish and wildlife habitat conservation area or its buffer may not occur prior to consultation with the Washington Department of Fish and

Commented [GL121]: Per WDFW data:

Clyde Creek has modeled presence of fall chinook, pink salmon, coho, and steelhead trout.

Cranberry Creek has documented presence of Resident Coastal Cutthroat trout.

Stream (unnamed and not currently mapped on CAO maps) east of Reservation Road flowing into Similk Bay has documented presence of Resident Coastal Cutthroat Trout & Coho Salmon. Modeled presence of Winter Steelhead Trout, Fall Chinook, Fall Chum, and Pink Salmon.

Wildlife for animal species, the Washington State Department of Natural Resources for plant species, and other appropriate Federal or State agencies.

B. Other Priority Habitats and Species. Fish and wildlife habitat conservation areas or buffers with which species that are not State or Federally listed as endangered, threatened, or sensitive species, and are not anadromous fish species are subject to the following:

1. Development activities and uses that result in unavoidable impacts may be permitted in priority species habitat areas and associated buffers in accordance with an approved critical area(s) report and habitat assessment/management plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant's objectives. Full compensation for the loss of acreage and functions of habitat and buffer areas must be provided in compliance with the mitigation performance standards and requirements of these regulations.

C. City-Designated Habitats and Species of Local Importance

1. Anacortes Community Forest Lands.

- a. Proposed alterations must be consistent with the adopted Anacortes Community Forest Lands Comprehensive Plan, as amended.
- b. Shared Wetland. In any circumstance where a jurisdictional wetland is shared by a private property owner and the ACFL, said wetland shall not be impacted adversely by private property owners unless the impacts are appropriately mitigated per Article V of this chapter.
- c. Noxious and Invasive Plants. The Skagit County noxious weed ordinance and the ACFL invasive plant control program shall be carefully considered in any adjacent development decision. Nonnative plants known to be invasive into the ACFL shall be prohibited in landscaping plans of adjacent developments. Where such developments have CC&Rs, reference to this requirement shall be included therein.
- d. Vacations. In the case of street or alley vacations contiguous with an ACFL boundary, the half of the area vacated which is adjacent to the ACFL shall be incorporated into the ACFL and subject to all ACFL related requirements.
- e. Private Access to ACFL. No new accesses will be established to the ACFL without prior request for such access to the parks and recreation department and the forest advisory board and approval by the city council.
- f. Burning. No burn piles or outdoor fires shall ever be left unattended while ignited and in the event sparks or flames come within three hundred feet of the ACFL, the fire shall immediately be brought under control or extinguished.
- g. Boundary Identification. City staff will work closely with property owners and developers to ensure that survey lines adjacent to the ACFL boundary are clearly and

Commented [LBG122]: Except (C)(1)(a), this language is from the existing CAO– carried over from 17.70. Staff recommends additional review to eliminate duplicative language and remove language that is not a development regulation.

Commented [LBG123]: The entire ACFL is designated as a habitat of local importance, but not all parts are impacted by shoreline, wetlands, streams, geohazards, state priority species /habitat, etc. The other specific critical area type standards would apply where those features are present. The existing CAO doesn't specifically say what standards apply to those areas. [The ACFL Comp Plan](#) identifies different management areas within the ACFL that provides certain restrictions, projected uses, and recommendations that are intended guide future alterations.

Commented [LBG124]: Impacts to any wetland are already required to be mitigated regardless of where they are located. This might be duplicative.

Commented [LBG125]: See 19.70.330(G) re: no introduction on species not indigenous to the region. Duplicative.

Commented [LBG126]: [RCW 17.10.140](#) requires owners to eradicate all class A noxious weeds and control and prevent the spread of all class B weeds within and from the owners property. Are there other nonnative plants that should be specified here?

Commented [LBG127]: This isn't really a development regulation.

correctly marked before any timber and/or vegetation is removed from adjacent property. The forest manager will be involved in the final inspection of boundary lines.

- h. ACFL Buffers. City staff will work closely with builders to secure thirty-foot ACFL buffers using all available incentives.

2. March Point Heronry

- a. Proposed development activities within 1,000 feet, or that are likely to impact the colony, must provide a critical areas report.....
- b. Colony protection for minimum 10-years after abandonment.

D. Required Buffer for non-stream areas

- 1. Buffer widths for fish and wildlife habitat areas must be based on consideration of the following factors: species-specific recommendations of the Washington State Department of Fish and Wildlife; recommendations contained in a habitat management plan submitted by a qualified professional; and the nature and intensity of land uses and activities occurring on the land adjacent to the site.
- 2. Low-impact uses and activities which are consistent with the purpose and function of the habitat buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the habitat area. Examples of uses and activities which may be permitted in appropriate cases include trails that are pervious, viewing platforms, low-impact stormwater management facilities such as bioswales and other similar uses and activities; provided, that any impacts to the buffer resulting from such permitted facilities shall be fully mitigated.

19.70.360 Fish and wildlife habitat – Critical area report additional requirements.

- A. **Report Required.** If the Director determines that the site of a proposed development includes, is likely to include, or is adjacent to a fish and wildlife habitat conservation area, a critical area report shall be required. Critical area report requirements for fish and wildlife habitat conservation areas are generally met through submission to the Director of one or more fish and wildlife habitat critical area reports. In addition to the general critical area report requirements of AMC 19.70.125, critical area reports for fish and wildlife habitat conservation areas must meet the requirements of this section.
- B. **Preparation by a Qualified Professional.** Critical areas reports for a FWHCA must be prepared by a qualified professional.
- C. **Third Party Review Required.** Critical areas studies and reports on fish and wildlife habitat conservation areas shall be, at the applicant's sole expense, subject to third party review, consistent with AMC 19.70.125(B) and in any of the additional following circumstances:
 - 1. Mitigation is required for impacts to Type S, Type F, or Type Np streams and/or buffers; or

Commented [LBG128]: It would be good to define what these are.

Commented [LBG129]: This section still under development....

Commented [LBG130]: Recommended in WDFW species-specific management recommendations. Placeholder for further consideration.

Commented [LBG131]: This section may be able to be reworked to avoid repeating things that are already stated in other sections.

2. Mitigation is required for impacts to Type Ns streams.
- D. **Minimum report requirements for Fish and Wildlife Habitat Conservation Areas.** The critical area report(s) and accompanying plan sheet(s) shall contain the following information at a minimum:
1. The report contents required per AMC 19.70.125;
 2. Documentation of any fieldwork performed on the site, including field data sheets for delineations, water typing and other habitat conservation area classification, baseline hydrologic data, site photos, etc.;
 3. A description of the methodologies used to conduct the delineations, classifications, or impact analyses, including reference;
 4. **Site Plans.** A copy of the site plan sheet(s) for the project must be included with the written report and must include, at a minimum:
 - a. Maps (to scale) depicting delineated and surveyed fish and wildlife habitat conservation areas and required buffers on site, including buffers for off-site critical areas that extend onto the project site; the development proposal; other critical areas; clearing and grading limits; areas of proposed impacts to fish and wildlife habitat conservation areas and/or buffers (include square footage estimates); and
 - b. Depiction of the proposed stormwater management facilities and outlets (to scale) for the development, including estimated areas of intrusion into the buffers of any critical areas. The written report shall contain a discussion of the potential impacts to the fish and wildlife habitat conservation areas associated with anticipated hydroperiod alterations from the project.
 5. **Habitat Assessment /Management Plan.** A habitat assessment /management plan is an investigation of the project area to evaluate the potential presence or absence of designated critical fish or wildlife species or habitat. A critical area report for a fish and wildlife habitat conservation area must contain an assessment of habitats including the following site- and proposal-related information at a minimum:
 - a. Detailed description of vegetation on and adjacent to the project area and its associated buffer;
 - b. Identification of any species of local importance, priority species, or endangered, threatened, sensitive, or candidate species that have a primary association with habitat on or adjacent to the project area, and assessment of potential project impacts to the use of the site by the species;
 - c. A discussion of any Federal, State, or local special management recommendations, including Washington Department of Fish and Wildlife habitat management

recommendations, that have been developed for species or habitats located on or adjacent to the project area;

- d. A detailed discussion of the direct and indirect potential impacts on habitat by the project, including potential impacts to water quality;
 - e. A discussion of measures, including avoidance, minimization, and mitigation, proposed to preserve existing habitats and restore any habitat that was degraded prior to the current proposed land use activity and to be conducted in accordance with AMC 19.70.130, Mitigation Requirements;
 - f. A discussion of ongoing management practices that will protect habitat after the project site has been developed, including proposed monitoring and maintenance programs.
6. **Additional Technical Information Requirements for Streams.** If no project impacts are anticipated and standard stream buffer widths are retained, a stream delineation report, general critical areas report or other reports, alone or in combination, may be submitted as consistent with the specific requirements of this section. In addition to the general critical area report requirements for fish and wildlife habitat conservation areas provided in subsections A through D of this section, technical information on streams must include the following information at a minimum:
- a. A written assessment and accompanying maps of the stream and associated hydrologic features on and off site within 300 feet of the project area, including the following information at a minimum:
 - i. Stream survey showing the field delineated ordinary high water mark(s);
 - ii. Standard stream buffer boundary;
 - iii. Boundary for proposed stream buffers averaging, if applicable;
 - iv. Vegetative, faunal, and hydrologic characteristics;
 - v. Soil and substrate conditions; and
 - vi. Topographic elevations, at two-foot contours;
 - b. A detailed description and functional assessment of the stream buffer under existing conditions pertaining to the protection of stream functions, fish habitat and, in particular, potential anadromous fisheries;
 - c. A habitat and native vegetation conservation strategy that addresses methods to protect and enhance on-site habitat and stream functions;

- d. Proposed buffer enhancement, if needed, including a written assessment and accompanying maps and planting plans for buffer areas to be enhanced, including the following information at a minimum:
 - i. A description of existing buffer conditions;
 - ii. A description of proposed buffer conditions and how proposed conditions will increase buffer functions in terms of stream and fish habitat protection;
 - iii. Performance standards for measuring enhancement success through a monitoring period of at least five years; and
 - iv. Provisions for monitoring and submission of monitoring reports documenting buffer conditions, as compared to performance standards, for enhancement success;
 - e. A discussion of ongoing management practices that will protect stream functions and habitat value through maintenance of vegetation density within the stream buffer.
- E. **Additional information.** When appropriate due to the type of habitat or species present, or the project area conditions, the Director may also require the critical area report to include:
- 1. A request for consultation with the Washington State Department of Fish and Wildlife (DFW), Washington Department of Ecology (Ecology), local Native American Indian tribes or other appropriate agency;
 - 2. Copies of the joint aquatic resource permit application (JARPA) and related approvals, such as a hydraulic project approval (HPA) from the DFW, when applicable to the project; and
 - 3. Detailed surface and subsurface hydrologic features both on and adjacent to the site.

19.70.370 Fish and wildlife habitat – Mitigation performance standards and requirements.

A. Requirements for Compensatory Mitigation.

- 1. Mitigation for alterations to FWHCAs or buffers may only be used for impacts that cannot be avoided or minimized, using the mitigation sequencing in _____.
- 2. The mitigation proposed must achieve equivalent or greater biologic and hydrologic functions and must include mitigation for adverse impacts upstream from or downstream from the project site.
- 3. Each function affected by the alteration must be addressed to achieve functional equivalency or improvement on a per function basis.
- 4. Mitigation must be located on site except when demonstrated that a higher level of ecological functioning would result from an off-site location.

Commented [LBG132]: This section still being developed – may just need to refer to 19.70.135, Mitigation plan requirements, which includes goals and objectives, performance standards, construction plan requirements, monitoring program and contingency plan, etc.

GEOLOGICALLY HAZARDOUS AREAS

19.70.400 Geologically Hazardous Areas– Description and Purpose.

- A. Geologically hazardous areas include areas susceptible to the effects of erosion, sliding, earthquake, or other geologic events. They pose a threat to health and safety of citizens when incompatible development is sited in areas of significant hazard.
- B. The primary purpose of these regulations is to avoid and minimize potential impacts to life and property from geologic hazards, conserve soil resources, and minimize structural damage relating to seismic hazards. The purpose is accomplished through appropriate levels of study and analysis, application of sound engineering principles, and regulation or limitation of land uses, including maintenance of existing vegetation, regulation of clearing and grading activities, and control of stormwater.

19.70.410 Geologically Hazardous Areas - Designation.

- A. Areas susceptible to one or more of the following types of hazards are designated as a geologically hazardous area:
 - 1. **Erosion Hazard Areas.** Erosion hazard areas include areas likely to become unstable, such as bluffs, steep slopes, and areas with unconsolidated soils. The following are considered known or suspected erosion hazards:
 - a. Areas located within the following soil map units: Nos. 46 and 47 Dystric Xerochrepts; No. 90 Lithic Haploxerolls-Rock outcrop complex (LH), or mapped severe erosion hazard, as identified in the U.S. Department of Agriculture Natural Resources Conservation Service Soil Survey of Skagit County Area, WA (1989).
 - b. Coastal, erosion-prone areas such as beaches or bluffs.
 - c. Areas designated in the Washington State Department of Ecology Coastal Zone Atlas, Washington, Volume Two Skagit County (1978) as U (Unstable), UB (Unstable Bluff), URS (Unstable Recent Slide), or UOS (Unstable Old Slide).
 - d. Areas susceptible to rapid stream incision and stream bank erosion.
 - 2. **Landslide Hazard Areas.** Landslide hazard areas are those areas subject to landslide activity based on a combination of geologic, topographic and hydrologic factors. They include areas susceptible because of any combination of bedrock, soil, slope (gradient), slope aspect, structure, hydrology, or other factors. The following are known or suspected landslide hazards:
 - a. Areas delineated by the U.S. Department of Agriculture Natural Resources Conservation Service Soil Survey of Skagit County Area, WA as having a “severe” limitation for building site development.

- b. Areas designated in the Washington State Department of Ecology Coastal Zone Atlas, Washington, Volume Two Skagit County (1978) as U (Unstable), UB, (Unstable Bluff), URS (Unstable Recent Slide), or UOS (Unstable Old Slide).
 - c. Areas of previous failure such as earth slumps, earthflows, mudflows, lahars, debris flows, rock slides, landslides or other failures as observed in the field or as indicated on maps or in technical reports published by the U.S. Geological Survey, the Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies.
 - d. Slopes having gradients of 15% or greater:
 - i. That intersect geologic contacts with permeable sediments overlying low-permeability sediment or bedrock and springs or groundwater seepage are present; or
 - ii. That are parallel or subparallel to planes of weakness (such as bedding planes, joint systems, and fault planes) in subsurface materials.
 - e. Areas that have shown movement during the Holocene epoch (from ten thousand years ago to the present) or that are underlain or covered by mass wastage debris of that epoch.
 - f. Slopes having gradients steeper than 80% subject to rock fall during seismic shaking.
 - g. Potentially unstable areas resulting from rapid stream incision, stream bank erosion, and undercutting by wave action.
 - h. Areas that are at risk from snow avalanches.
 - i. Areas located in a canyon or on an active alluvial fan, presently or potentially subject to inundation by debris flows or catastrophic flooding.
 - j. Slopes with a gradient of 40% or more with a vertical relief of 10 feet or more, except areas composed of consolidated rock. A slope is delineated by establishing its toe and top and is measured by averaging the inclination over at least ten feet of vertical relief.
3. **Seismic Hazard Areas.** Seismic hazard areas are lands that, due to a combination of soil and ground water conditions, are subject to risk of damage as a result of earthquake induced ground shaking, slope failure, settlement or subsidence, soil liquefaction, surface faulting, or tsunamis. These are typically underlain by cohesionless soils of low density typically in association with a shallow ground water table. The following are known or suspected seismic hazards:
- a. Areas having "high" and "moderate to high" risk of liquefaction as mapped on the Liquefaction Susceptibility and Site Class Maps of Western Washington State by County by the Washington State Department of Natural Resources.

Commented [C133]: How on earth are we supposed to know whether it moved ten thousand years ago?

Commented [GL134]: None in Anacortes

Commented [GL135]: None in Anacortes

- b. Areas located within ¼ mile of an active fault as indicated on investigative maps or described in studies by the United States Geologic Survey, Geology and Earth Resources Division of the Washington Department of Natural Resources, or other documents authorized by government agencies, or identified during site inspection.
 - c. Those known or suspected erosion and landslide hazards referenced in Subsections (1) and (2) of this Section.
4. **Mine Hazard Areas.** Mine hazard areas are those areas underlain by or affected by mine workings such as adits, gangways, tunnels, drifts, or airshafts, and those areas of probable sink holes, gas releases, or subsidence due to mine workings. Factors that should be considered include: proximity to development, depth from ground surface to mine working, and geologic material.
 5. **Volcanic Hazard Areas.** Volcanic hazard areas are areas subject to pyroclastic flows, lava flows, debris avalanche, and inundation by debris flows, lahars, mudflows, or related flooding resulting from volcanic activity.
 6. **Tsunami hazard areas.** Tsunami hazard areas include coastal areas and lake shoreline areas susceptible to flooding, inundation, debris impact, and/or mass wasting as the result of coastal wave action generated by seismic events or other geologic events. Suspected tsunami hazard areas are indicated on the Tsunami Hazard Map of the Anacortes-Whidbey Island Area, Washington: Modeled Tsunami Inundation from a Cascadia Subduction Zone Earthquake.
 7. **Other Hazard Areas.** Geologically hazardous areas may also include areas determined by the Director to be susceptible to other geological events including mass wasting, debris flows, rock falls, and differential settlement.
- B. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

19.70.420 Geologically Hazardous Areas – Mapping.

- A. The approximate location and extent of geologically hazardous areas are shown on the City of Anacortes geologically hazardous data layers maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and resources providing information on the location and extent of geologically hazardous areas are hereby adopted by reference as amended:
 1. Skagit County, Skagit County Potential Landslide and Erosion Areas, 2016;
 2. Washington Department of Ecology Coastal Zone Atlas (for marine bluffs);
 3. U.S. Geological Survey geologic maps, landslide hazard maps, and seismic hazard maps;

Commented [GL136]: There are two known mines in Anacortes: from mindat.org.

The Stephens Mine (Fidalgo Mine) near Cranberry Lake included a weakly mineralized and serpentinized zone 10' wide and exposed for 600' in granodiorite. It produced 1 shipment of ore that was sent to the Asarco smelter in Tacoma. Developments include 5 shallow shafts and an open cut.

Anacopper Mine, 3 ½ miles southwest of the center of Anacortes but within city limits. 8 small shafts. (no specific location)

GeoEngineers – No historic coal mines identified in published references. If a concern exists from a life safety or property standpoint, the mines listed above could be identified with an appropriate risk statement. Further research would be necessary to evaluate these historical mines and any associated risk related to future development.

Many jurisdictions do not include development language related to coal mines or mines if these hazards are not identified in the area. In the absence of published information regarding mines in the City and immediate area, we conclude mines may be designated/defined in accordance with the WAC, but classified as "no risk" in the City code unless new info is obtained in the future. Therefore, development regulations related to addressing mines could be removed from the updated GHA section of the CAO.

Commented [GL137]: There are no significant risks identified for the City and immediate surrounding area, other than airborne particulate impacts from an eruptions (which is the case for most Washington jurisdiction). – GeoEngineers. May be classified as "No risk" and requirements related to them could be removed.

Commented [GL138]: GeoEngineers - LIDAR mapping represents the current BAS with respect to mapping recent and historic landslides and should be incorporated into the current hazard maps. Also, publicly available historic satellite imagery should be used to evaluate potential current or historic landslide areas identified LIDAR. New Lidar could help identify potential geologic hazard areas more accurately and identify areas of prior landslide activity (would require professional interpretation). Staff is looking into acquisition of this data.

4. Washington State Department of Natural Resources seismic hazard maps for Western Washington, including, but not limited to, the Liquefaction Susceptibility and Site Class Maps of Western Washington State by County;
 5. Washington State Department of Natural Resources slope stability maps;
 6. Soils maps produced by the U.S. Department of Agriculture, National Resources Conservation Service;
 7. National Oceanic and Atmospheric Administration tsunami hazard maps;
 8. Washington Department of Natural Resources 2005 Tsunami Hazard Map of the Anacortes-Whidbey Island Area, Washington: Modeled Tsunami Inundation from a Cascadia Subduction Zone Earthquake.
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.430 Geologically Hazardous Areas – General Development Standards.

- A. Activities and uses are prohibited in geologically hazardous areas and associated buffers, except as provided for in this chapter.
- B. **Exemptions and Allowed Activities.** Exemptions are listed in the provisions established in AMC 19.70.20 Exemptions.
- C. **Alterations.** Alterations of geologically hazardous areas or associated buffers may only occur pursuant to 19.70.4xx (below) for activities that:
 1. Will not increase the threat of the geological hazard to adjacent properties beyond pre-development conditions;
 2. Will not adversely impact other critical areas;
 3. Are designed so that the hazard to the project is eliminated or mitigated to a level equal to or less than pre—development conditions; and
 4. Are determined to be safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the state of Washington.
- D. **Mitigation.** Proposed mitigation techniques are considered to provide long-term hazard reduction only if they do not require regular maintenance or other actions to maintain their function. Mitigation may be required to avoid any increase in risk above the preexisting conditions, including following abandonment of the activity.
- E. **Critical Facilities Prohibited.** Critical facilities may not be sited within geologically hazardous areas unless there is no other practical alternative.

Commented [GL139]: Per GeoEngineers - Check to ensure none of these exemptions involve "occupied" buildings – (residential, work, parks). Recommends City require a report (or if appropriate, a simple letter saying the applicant's proposal is not subject to related concerns).

Commented [GL140]: As determined by a qualified professional and concurrence by a 3rd party review.

- F. **International Building Code.** All development must conform to the provisions of the currently adopted International Building Code as amended by the City of Anacortes, including submittal of a critical areas report.

19.70.440 Geologically Hazardous Areas – Specific Development Standards

- A. **Erosion or Landslide Hazard Areas.** Except as otherwise provided in this Chapter, only those activities approved and permitted consistent with an approved critical area report in accordance with this Chapter are allowed in erosion or landslide hazard areas. Activities must meet the standards of AMC 19.70.430, General development standards, in addition to the specific requirements contained in this subsection.
1. **Standard Buffer.** A standard buffer of 50 feet is required from all edges of a landslide or erosion hazard area. The buffer must be maintained as undisturbed native vegetation, except when alteration of vegetation is allowed per _____.
 2. **Buffer reduction.** The Director may reduce the standard buffer to a minimum of 15 feet when the critical area report demonstrates that all of the following criteria are met:
 - a. No reasonable alternative to the buffer reduction exists;
 - b. Modified or reduced buffers, through design and engineering solutions, will provide protection to the proposed development and adjacent properties equal to that of the standard buffer;
 - c. The development will not significantly increase surface water discharge or sedimentation to adjacent properties beyond pre-development conditions;
 - d. The development will not decrease slope stability on adjacent properties;
 - e. The proposed reduction will not adversely impact other critical areas.
 - f. The report makes recommendations regarding planting of vegetation or other measures to minimize impacts and resist erosion.
 3. **Increased buffer.** The standard buffer may be increased by the Director based on a critical areas report prepared by a qualified professional that indicates a greater buffer is necessary to protect the proposed development and/or adjacent properties.
 4. **Alterations.**
 - a. Alterations of an erosion or landslide hazard area and/or buffers may only occur for activities for which a critical areas report that contains a hazards analysis is submitted which determines that:

Commented [GL141]: GeoEngineers: Development standards for landslide areas, including buffer and/or setback requirements, depend largely on the type of proposed development, the size of the landslide hazard area, the potential landslide type, frequency of potential landslide activity, underlying soil and groundwater conditions, and, in particular, the likely consequences of landslide activity. It is our opinion that it is not realistic to incorporate all of these criteria within a CAO, but is appropriate to require that all relevant factors specific to a site be addressed in critical area reports to be completed by a licensed engineer with geotechnical background, or a licensed geologist or engineering geologist.

CAOs typically include minimum buffers and/or setbacks and allow disturbance to landslide hazard areas only if a site-specific investigation is completed, analysis indicates that the proposed development will not affect or be affected by the landslide hazard, and specific development or performance standards / recommendations are followed.

Commented [GL142]: 15 feet is consistent with the minimum setbacks of other codes. It may also be appropriate to include language that the director can include vegetation or other measures to minimize impacts and resist erosion.

Commented [LBG143]: This is intended to apply to further reduction of the standard buffer beyond the (proposed) 15' minimum allowed per 19.70.440(A)(2); or a proposal to develop within the geohazard area itself.

Current code appears to allow administratively. Appropriate process needs to be identified. Should a critical areas variance process or reasonable use process be required here?

Staff will review procedures used by other jurisdictions.

- i. The activity will not increase surface water discharge or sedimentation to adjacent properties beyond predevelopment conditions;
 - ii. The activity will not decrease slope stability on adjacent properties;
 - iii. Such alteration will not adversely impact other critical areas.
- b. Alterations must be designed to meet the following basic requirements:
 - i. The proposed alteration must not decrease the factor of safety for landslide occurrences below the limits of 1.5 for static conditions and 1.2 for dynamic conditions. Analysis of dynamic conditions must be based on a minimum horizontal acceleration as established by the current version of the Uniform Building Code.
 - ii. Structures and improvements must be clustered to avoid geologically hazardous areas and other critical areas,
 - iii. Structures and improvements must minimize alterations to the natural contour of the slope, and foundations shall be tiered where possible to conform to existing topography,
 - iv. Structures and improvements must be located to preserve the most critical portion of the site and its natural landforms and vegetation,
 - v. The proposed development must not result in greater risk or a need for increased buffers on neighboring properties;
 - vi. Development must be designed to minimize impervious lot coverage;
 - vii. The use of retaining walls that allow the maintenance of existing natural slope area is preferred over graded artificial slopes, and
 - viii. The director may accept an alternative design that deviates from one or more of these standards if a report by a qualified professional demonstrates that greater long-term slope stability can be achieved while meeting all other provisions of this title. The requirement for long-term slope stability shall exclude designs that require regular and periodic maintenance to maintain their level of function.
- c. **Additional Requirements for Alteration of Landslide hazard areas and buffers.** Prior to permit issuance, the property owner must sign and record a notice on title, at the owner's sole expense, a covenant in a form acceptable to the City, which:

- i. Acknowledges and accepts the risks of development in the landslide hazard area;
 - ii. Waives any rights to claims against the City;
 - iii. Indemnifies and holds harmless the City against claims, losses, and damages;
 - iv. Informs subsequent owners of the property of the risks and the covenant; and
 - v. Advisability of obtaining added insurance.
- 5. **Vegetation Retention and Maintenance.** Removal of vegetation from an erosion or landslide hazard area or related buffer is prohibited, except when allowed as follows:
 - a. As part of an approved alteration, that follows the criteria and process outlined in AMC 19.70.440(A)(4).
 - b. Normal nondestructive pruning and trimming of vegetation for maintenance purposes or thinning of limbs of individual trees to provide a view corridor when a plan prepared by an ISA-certified arborist is provided and approved and there are no other critical areas present.
- 6. **Seasonal Restriction.** Clearing within an erosion or landslide hazard area or buffer may be allowed only from May 1st to October 1st of each year provided that the Director may extend or shorten the dry season on a case-by-case basis depending on actual weather conditions and other factors deemed relevant.
- 7. **Utility Lines and Pipes.** Utility lines and pipes may be permitted in erosion and landslide hazard areas and buffers only when the applicant demonstrates that no other practical alternative is available. The line or pipe must be located aboveground and properly anchored and/or designed so that it will continue to function in the event of an underlying slide.
- 8. **Stormwater management.** Prior to any development activity, a plan for the collection, transport, treatment, and discharge of stormwater in accordance with the requirements of AMC Chapter 19.76, as amended, and the adopted Stormwater Management Manual for Western Washington, meeting the following requirements must be submitted:
 - a. All infiltration systems, such as stormwater detention and retention facilities, and curtain drains utilizing buried pipe or French drains, are prohibited in erosion and landslide hazard areas and their buffers unless the critical areas report determines such facilities or systems will not adversely affect slope stability.
 - b. Stormwater may not be directed across the face of a landslide hazard (including marine bluffs or ravines) except as follows:

- i. Stormwater may be discharged at flow durations matching predeveloped conditions, with adequate energy dissipation, into existing channels that previously conveyed stormwater runoff in the predeveloped state;
- ii. Stormwater may be dispersed upslope of the steep slope onto a low-gradient undisturbed buffer demonstrated to be adequate to infiltrate all surface and stormwater runoff, and where it can be demonstrated that such discharge will not increase the saturation of the slope;
- iii. If demonstrated that no other practical alternative is available, stormwater may be discharged from the hazard area into adjacent waters, provided it is collected above the hazard and directed to the water by a tight line drain (constructed of high-density polyethylene pipe with fuse-welded joints, or similar product that is technically equal or superior) and provided with an energy dissipating device at the point of discharge.

9. **Prohibited development.** On-site sewage disposal systems, including drain fields, are prohibited within erosion and landslide hazard areas and related buffers.

10. **Subdivisions.**

- a. The division of land in landslide hazard areas and associated buffers is subject to the following:
 - i. Land that is located wholly within a landslide hazard area or its buffer may not be subdivided. Land that is located partially within a landslide hazard area or its buffer may be divided provided that each resulting lot has sufficient buildable area outside of, and will not affect, the landslide hazard or its buffer;
 - ii. Access roads and utilities may be permitted within the landslide hazard area and associated buffers if the city determines that no other feasible alternative exists.
- b. Division of land within erosion hazard areas must comply with the following additional requirements:

Commented [GL144]: Something to consider,....

- i. Except as otherwise provided in this section, existing vegetation must be retained on all lots and no clearing shall be done on an individual lot until a building permits ~~are~~ is approved for development on that individual-specific lots;
- ii. If any vegetation on the lots is damaged or removed during construction of the subdivision infrastructure or general site grading per iii below, the applicant must implement a revegetation plan in those areas that have been impacted prior to final inspection of the site development permit or the issuance of any building permit for the subject property;
- iii. Clearing of vegetation on individual lots may be allowed prior to building permit approval if the Director determines that:
 1. Such clearing is a necessary part of a large-scale grading plan,
 2. It is not feasible to perform such grading on an individual lot basis, and
 3. Drainage from the graded area will meet established water quality standards.

Commented [C145]: Draft wording was confusing.

B. Seismic Hazard Areas.

1. Except as otherwise provided in this Chapter, only those activities approved and permitted consistent with an approved critical area report in accordance with this Chapter are allowed in seismic hazard areas. Activities proposed to be located in seismic hazard areas must meet the standards of AMC 19.70.4xx, General development standards in addition to the following specific standards:
 - a. The Director may allow alterations of seismic hazard areas and/or buffer are allowed, as follows:
 - i. If it is determined that the site is subject to liquefaction, mitigation measures may be imposed pursuant to _____, in addition to other applicable codes or regulations pertaining to development in areas subject to liquefaction.
 - ii. Soils engineering studies may be required for development in areas subject to liquefaction to determine the physical properties of the surficial soils, especially the thickness of unconsolidated deposits, and their liquefaction potential as set out in the adopted International Building Code.

Commented [C146]: Isn't the entire Puget Sound region a seismic hazard area?

Commented [LBG147]: Building Department to review this.

C. Mine Hazard Areas.

1. Activities proposed to be located in mine hazard area must meet the standards of 19.70.4xx General development standards and the specific following requirements:

- a. **Alterations.** Alterations of a mine hazard area and/or buffer are allowed, as follows:
 - i. All alterations are permitted within a mine hazard area with a low potential for subsidence,
 - ii. Within a mine hazard area with a moderate potential for subsidence and at coal mine by-product stockpiles, all alterations are permitted subject to a mitigation plan to minimize risk of structural damage using appropriate criteria to evaluate the proposed use, as recommended in the hazard analysis, and
 - iii. Within a mine hazard area with a severe potential for subsidence only those activities allowed in AMC 19.70.4xx **Exemptions and allowed activities** of this chapter will be allowed.
 - b. **Subdivisions.** The division of land in mine hazard areas and associated buffers is subject to the following:
 - i. Land that is located within two hundred feet of a mine hazard area with a severe potential for subsidence may not be subdivided. Land that is located partially within a mine hazard area may be divided provided that each resulting lot has sufficient buildable area that is two hundred feet away from the mine hazard area with a severe potential for subsidence. Land that is located within a mine hazard area with a low or moderate potential for subsidence may be subdivided;
 - ii. Access roads and utilities may be permitted within two hundred feet of a mine hazard area with a moderate or severe potential for subsidence if the city determines that no other feasible alternative exists;
 - c. **Reclamation Activities.** Reclamation activities must conform to the provisions in Chapter 332-18 WAC and AMC 17.50, Excavations For all reclamation activities, including grading, filling, and stockpile removal, as-built drawings shall be submitted to the city in a format specified by the Director.
- D. Tsunami Hazard Areas.**
- 1. Activities on sites containing areas susceptible to inundation due to tsunami hazards must provide an evacuation and emergency management plan.
 - 2. The construction of structures designated Risk Categories III and IV as specified under IBC Table 1604.5 are prohibited within a tsunami hazard area, except that:
 - a. A vertical evacuation tsunami refuge may be permitted to be located in a tsunami hazard zone provided it is constructed in accordance with FEMA P646;

Commented [GL148]: Should nonresidential occupancies have their own plan...and exempt SFRs from this requirement? To increase awareness, maybe notice to title could be recorded?

See the [City's Tsunami Evacuation Plan](#).

Commented [LBG149]: This is from IBC Appendix M, Tsunami-Generated Flood Hazard, Section M101.

- b. Community critical facilities may be permitted to be located within a tsunami hazard zone when such a location is necessary to fulfill their function, providing suitable structure and emergency evacuation measures have been incorporated.

19.70.450 Geologically Hazardous Areas - Critical Area Report Additional Requirements

- A. **Report Required.** If the Director determines that that geologic, hydrologic, or site conditions may present significant risk to life or property related to geologically hazardous areas, they may require the applicant to submit a critical areas report. The Director or their designee may waive all or some of the elements of the report requirements.
- B. **Preparation by a Qualified Professional.** The critical areas report must be prepared by a qualified professional, as defined in AMC _____.
- C. **Third Party Review Required.** Critical areas reports on geologically hazardous areas are subject to third party review at the owner's sole expense as provided in AMC 19.70.125 and in any of the following circumstances:
 - 1. A buffer reduction or alteration of an erosion or landslide hazard area proposed.
- D. **Minimum Report Contents for Geologically Hazardous Areas.** The written critical area report(s) must contain the following information, at minimum:
 - 1. The minimum report contents required per AMC 19.70.125;
 - 2. A detailed overview of the field investigations, including field data sheets for soils, exploration locations, baseline hydrologic data, site photos, published data and references; data and conclusions from past assessments of the site; investigations or studies that support the identification of geologically hazardous areas;
 - 3. A description of the methodologies used to conduct the geologically hazardous areas evaluations, classification, hazards assessments and/or analyses of the proposal impacts including references.
 - 4. **Assessment of Geological Characteristics.** The assessment must include the following:
 - a. Classification of the type of geologic hazard(s) present in accordance with 19.70.410.
 - b. An assessment of the geologic characteristics of the soils, sediments, and/or rock of the project area and potentially affected adjacent properties, and a review of the site history regarding landslides, erosion, and prior grading. Soils analysis must be accomplished in accordance with accepted classification systems in use in the region.
 - c. A description of load intensity, surface and groundwater conditions, public and private sewage disposal systems, fills, excavations, and all structural development; and
 - d. A description of the extent and type of vegetative cover;

Commented [GL150]: See AMC 19.70.075(B) for definitions, or those could be relocated to each specific critical area type.

- e. An analysis of proposed surface and subsurface drainage, and the vulnerability of the site to erosion;
- 5. **Analysis of Proposal.** The report must include a detailed description of the project, its relationship to the geologic hazard(s), and its potential impact upon the hazard area, the subject property, and affected adjacent properties.
- 6. **Minimum Buffer and Building Setback.** The report must make a recommendation for the minimum no-disturbance buffer and minimum building setback from any geologic hazard based upon the geotechnical analysis.
- 7. **Additional Technical Information Requirements for Specific Hazards:**
 - a. **Erosion and Landslide Hazard Areas.** The technical information required in a critical area report for a project within an erosion or landslide hazard area must also include the following:

- i. An estimate of the present stability of the subject property, the stability of the subject property during construction, the stability of the subject property after all development activities are completed, and a discussion of the relative risks and slide potential relating to adjacent properties during each stage of development, including the effect construction and placement of structures, clearing, grading, and removal of vegetation will have on the slope over the estimated life of the structures. Quantitative analysis of static and seismic slope stability, modeling, and/or seismic displacement analysis may be required by the Director.
 - ii. An estimate of the bluff retreat rate that recognizes and reflects potential catastrophic events such as seismic activity or a 100-year storm event;
 - iii. Consideration of the run-out hazard of landslide debris and/or the impacts of landslide run-out on downslope properties;
 - iv. Recommendations for drainage and subdrainage improvements, locations and methods of erosion control, a vegetation management and/or replanting plan, and/or other means for maintaining long-term soil stability;
 - v. Parameters for design of site improvements including appropriate foundations and retaining structures. These should include allowable load and resistance capacities for bearing and lateral loads, installation considerations, and estimates of settlement performance;
 - vi. Earthwork recommendations including clearing and site preparation criteria, fill placement and compaction criteria, temporary and permanent slope inclinations and protection, and temporary excavation support, if necessary; and
 - vii. Recommendations for mitigation measures to be implemented in order to minimize the risk to the site and adjacent properties, including slope stabilization measures, if appropriate.
- b. **Seismic Hazard Areas.** The technical information required in a critical area report for a project within a seismic hazard area must also include the following:

- i. A complete discussion of the potential impacts of seismic activity on the site (for example, liquefaction, lateral spreading, fault rupture);
 - ii. An evaluation of the subsurface soil and groundwater profile, physical properties of the subsurface profiles, and the liquefaction potential of the site;
 - iii. Recommendations for mitigation measures to be implemented in order to minimize the risk to the project and adjacent properties.
- c. **Tsunami Hazard Areas.** The technical information required in a critical area report for a project within a tsunami hazard area must also include:
 - i. A discussion of the potential impacts of the tsunami hazard on the site; and
 - ii. An emergency management plan including plans for emergency building exits routes, site evacuation routes, emergency training, notification of local emergency management officials, and an emergency warning system.
- 8. **Site and Construction Plans.** The critical area report for geologically hazardous areas must include a copy of the site plans for the proposal, drawn at an engineering scale, showing:
 - a. The type and extent of geological hazard areas, and any other critical areas, and recommended and required buffers on, adjacent to, off site within 200 feet of, or that are likely to impact or be affected by the proposal;
 - b. Proposed development, including the location of existing and proposed structures, fill, clearing limits, significant trees to be removed, vegetation to be removed, storage of materials, and drainage facilities;
 - c. The topography, in two-foot contours, of the project area and all hazard areas addressed in the report;
 - d. Height of slope, slope gradient, and cross-section of the project area indicating the stratigraphy of the site;
 - e. The location of springs, seeps, or other surface expressions of ground water on or off site within 200 feet of the project area or that have the potential to affect or be affected by the proposal;
 - f. The location and description of surface water on or off site within 200 feet of the project area or that has the potential to be affected by the proposal.

Commented [L8G151]: Should SFRs be exempted; maybe provided acknowledgement of the City's Tsunami evacuation plan?

CRITICAL AQUIFER RECHARGE AREAS

19.70.500 Critical Aquifer Recharge Areas – Description and Purpose.

- A. Critical aquifer recharge areas provide the public with clean, safe, and available drinking water and contribute base flows to protect aquatic resources. Once groundwater is contaminated or depleted, it is difficult, costly, and sometimes impossible to clean up or to recharge.
- B. The purpose of this section is to protect critical aquifer recharge areas from degradation or depletion resulting from new and redeveloping land use activities. Due to the potential vulnerability of groundwater underlying certain aquifer recharge areas to contamination and the importance of such groundwater as sources of public water supply, it is the intent of this section to safeguard groundwater resources by mitigating or precluding future discharges of contaminants from new development activities and redevelopment activities.

19.70.510 Critical aquifer recharge areas - Applicability and hazardous materials questionnaire.

- A. **Applicability.** The provisions of this section apply to regulated facilities that are within or adjacent to those portions of the City of Anacortes designated as critical aquifer recharge areas on the City of Anacortes Critical Areas Map. Regulated activities/facilities are defined as those commercial, industrial and home occupation uses that:
 - 1. Process or handle hazardous materials in regulated quantities; and
 - 2. Treat or store regulated quantities of hazardous materials.
- B. **Hazardous materials questionnaire required.** Applications for development or redevelopment of regulated facilities within the boundaries of critical aquifer recharge areas must be accompanied by a completed hazardous materials questionnaire to determine the regulatory status of the applicant facility. The Director must review the questionnaire to determine whether the facility is regulated under this chapter. If it is determined that the proposal includes a regulated facility that processes, handles, treats, and/or stores hazardous substances as defined by this chapter, the applicant must submit a critical areas report pursuant to this Chapter.

19.70.520 Critical Aquifer recharge areas – Designation.

- A. Critical aquifer recharge areas include:
 - a. Areas served by groundwater which have been designated as a “Sole Source Aquifer Area” under the Federal Safe Drinking Water Act;
 - b. Areas within a “closed” or “low-flow” stream watershed designated by the Department of Ecology pursuant to RCW 90.22;
 - c. Areas designated as “Wellhead Protection Areas” pursuant to [WAC 246-290](#) and the groundwater contribution area pursuant to [WAC 246-291-125\(3\)\(d\)\(iii\)](#) or otherwise

Commented [GL152]: Because most of Anacortes doesn't use groundwater for potable water, and new development is required to connect to city water system, a simplified approach is proposed here. Similar to Burien. Staff believes it will be easier to understand and more straightforward to administer that current code. This approach would be coupled with new CARA mapping.

Commented [C153]: Even though we don't rely on wells for drinking water, underground aquifers feed wetlands, lakes and streams, and supply forest vegetation with water. The City sewer system reduces natural recharge.

Commented [GL154]: Not applicable in Anacortes

Commented [GL155]: Not applicable in Anacortes

Commented [GL156]: GeoEngineers recommendation,

recognized by the Director as needing wellhead protection. Wellhead protection areas include, for the purpose of this regulation, the identified recharge areas associated with:

- i. The 10-year groundwater time-of-travel for all Group A public water supply wells; or
 - ii. The 1-year groundwater time-of-travel for all Group B public water supply wells with a wellhead protection plan filed with the Skagit County Health Department; or
 - iii. Plats serviced by five or more individual wells where the average lot size is equal to or less than two acres for which a wellhead protection plan has been completed and filed with the Skagit County Health Department; or
 - iv. The 1,000-foot radius for individual private drinking water supply wells.
- B. All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to the provisions of this chapter.

19.70.530 Critical Aquifer Recharge Areas – Mapping.

- A. The approximate location and extent of critical aquifer recharge areas are shown on the City of Anacortes critical aquifer recharge area data layers maintained in the City of Anacortes geographic information system (GIS). In addition, the following maps and resources providing information on the location and extent of critical aquifer recharge areas are hereby adopted by reference as amended:
1. Areas with soils that have moderate to rapid permeability (>2 inches per hour) as listed in Table 14 of the Soil Survey of Skagit County.
 2. Source for identifying drinking water supply wells
- B. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.540 Critical Aquifer Recharge Areas – General Development Standards

- A. 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.

Commented [L8G157]: Skagit Co. Health Dept?

- B. The proposed regulated activity must comply with the water source protection requirements and recommendations of the federal Environmental Protection Agency, State Department of Health, and the Skagit County Health Department.
- C. **Storage tank permits.** The City of Anacortes specifically regulates and authorizes permits for underground storage tanks pursuant to the International Fire Code and this chapter. The Washington Department of Ecology also regulates and authorizes permits for underground storage tanks (WAC 173-360). The Anacortes Fire Department regulates and authorizes permits for the removal of underground storage tanks.
- D. Owners and operators of facilities with existing underground storage tanks that are located within a critical aquifer recharge area must comply with all release detection requirements as specified in WAC 173-360.
- E. **Spreading or injection of reclaimed water.** Water reuse projects for reclaimed water must be in accordance with the adopted water or sewer comprehensive plans that have been approved by the departments of Ecology and Health.
 - 1. Surface spreading must meet the groundwater recharge criteria given in RCW 90.46.080 and 90.46.010(10).
 - 2. Direct injection must be in accordance with the standards developed by authority of RCW 90.46.042.
- F. **Prohibited activities and land uses.** The following land uses and activities for new development or redevelopment are prohibited within or adjacent to critical aquifer recharge areas:
 - 1. Landfill activities as defined in WAC 173-304 and WAC 173-351;
 - 2. All underground injection wells as defined in Chapter 173-218 WAC;
 - 3. Disposal of hazardous or dangerous wastes;
 - 4. Mining, including:
 - a. Metals and hard rock mining;
 - b. Sand and gravel mining are prohibited in critical aquifer recharge areas determined to be highly susceptible or vulnerable unless a stormwater quality management plan is approved by the City Council;
 - 5. Wood Treatment Facilities. Wood treatment facilities that allow any portion of the treatment process to occur over permeable surfaces (both natural and manmade);
 - 6. Storage, processing, or disposal of radioactive substances;
 - 7. Dry cleaning establishments using the solvent perchlorethylene; and
 - 8. Other:

Commented [LBG158]: Carried over from existing code - need to reconcile with new procedures in Title 19.

- a. Activities that would significantly reduce the recharge to aquifers currently or potentially used as a potable water source;
- b. Activities that would significantly reduce the recharge to aquifers that are a source of significant baseflow to a regulated stream;
- c. Activities that are not connected to an available sanitary sewer system are prohibited from critical aquifer recharge areas associated with sole source aquifers.

19.70.550 Critical Aquifer Recharge Areas – Specific Development Standards for Regulated Facilities

- A. The following mitigation measures, as applicable, are required for development of regulated facilities within a critical aquifer recharge area:
 - 1. Floor drains must not be allowed to drain to the stormwater system and must be designed and installed to meet the Uniform Plumbing Code (UPC) Section 303.
 - 2. If any roof venting carries contaminants, then the portion of the roof draining this area must go through pretreatment pursuant to UPC Section 304(b).
 - 3. All nonresidential vehicle washing must be self contained or be discharged to a sanitary sewer system, if approved by the sewer utility, and is subject to UPC Sections 708 and 711.
 - 4. Utilize Integrated Pest Management (IPM) practices for pest control and Best Management Practices (BMPs) for the use of fertilizers as described by the Skagit County Local Hazardous Waste Management Program.
 - 5. Facilities installing new underground tanks. All new underground storage facilities used or to be used for the underground storage of hazardous substances or hazardous wastes must meet the requirements of WAC 173-360 and be designed and constructed so as to:
 - a. Prevent releases due to corrosion or structural failure for the operational life of the tank;
 - b. Be protected against corrosion, constructed of non-corrosive material, steel clad with a non-corrosive material, or designed to include a secondary containment system to prevent the release or threatened release of any stored substance; and
 - c. Use material in the construction or lining of the tank which is compatible with the substance to be stored.
 - 6. Aboveground tanks. All new aboveground storage facilities/tanks containing hazardous substances within a critical aquifer recharge area must be constructed, installed, used and maintained to:
 - a. Prevent the release of a hazardous substance to the ground, or groundwater;
 - b. Include an impervious containment area enclosing or underlying the tank or part thereof;

Commented [LBG159]: ...and/or DOE

- c. Include a secondary containment system either built into the tank structure or a dike system built outside the tank. The secondary containment system or dike system must have a capacity of at least 110 percent of the primary tank and conform to the requirements of UFC Chapter 7902.2.
7. Vehicle repair and servicing.
- a. Commercial vehicle repair and servicing must be conducted over impermeable pads and within a covered structure capable of withstanding normally expected weather conditions. Chemicals used in the process of vehicle repair and servicing must be stored in a manner that protects them from weather and provides containment should leaks occur.
 - b. Dry wells are not allowed on sites used for vehicle repair and servicing. Dry wells existing on the site prior to facility establishment must be abandoned using techniques approved by the state Department of Ecology prior to commencement of the proposed activity.
8. Additional protective measures may be required if deemed necessary by the City of Anacortes.
9. State and federal regulations – The uses listed below will be conditioned as necessary to protect critical aquifer recharge areas in accordance with the applicable state and federal regulations.

Statutes, Regulations and Guidance Pertaining to Groundwater Impacting Activities

Activity	Statute – Regulation – Guidance
Above Ground Storage Tanks	Chapter 173-303-640 WAC
Animal Feedlots	Chapter 173-216 WAC , Chapter 173-220 WAC
Automobile Washers	Chapter 173-216 WAC, Best Management Practices for Vehicle and Equipment Discharges (WDOE WQ-R-95-56)
Below Ground Storage Tanks	Chapter 173-360 WAC
Chemical Treatment Storage and Disposal Facilities	Chapter 173-303 WAC
Hazardous Waste Generator (Boat Repair Shops, Biological Research Facility, Dry Cleaners, Furniture Stripping, Motor Vehicle Service Garages, Photographic Processing, Printing and Publishing Shops, etc.)	Chapter 173-303 WAC

Injection wells	Federal 40 CFR Parts 144 and 146, Chapter 173-218 WAC
Junk Yards and Salvage Yards	Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Vehicle Recycler Facilities (WDOE 94—146)
Oil and Gas Drilling	WAC 332-12-450, Chapter 173-218 WAC
Wastewater Facilities	Chapter 173-240 WAC
On-Site Sewage Systems (<3,500 gal/day)	Chapter 246-272A WAC, Local Health Ordinances
Large On-Site Sewage Systems (3,500 to 1000,000 gal/day)	Chapter 246-272B WAC, State Health Ordinances
Pesticide Storage and Use	Chapter 17.21 RCW
Sawmills	Chapter 173-303 WAC, Chapter 173-304 WAC, Best Management Practices to Prevent Stormwater Pollution at Log Yards (WDOE 95-53)
Solid Waste Handling and Recycling Facilities	Chapter 173-304 WAC
Surface Mining	Chapter 332-18 WAC
Wastewater Application to Land Surface	Chapter 173-216 WAC, Chapter 173-200 WAC, WDOE Land Application Guidelines, Best Management Practices for Irrigated Agriculture

19.70.560 Critical Aquifer Recharge Areas – Critical area report additional requirements.

- A. **Report required.** _____
- B. **Preparation by a Qualified Professional.** Critical areas reports for a FWHCA must be prepared by a qualified professional.
- C. **Third Party Review Required.** Critical areas studies and reports on critical aquifer recharge areas shall be subject to third party review at the owner's sole expense as provided in AMC 19.70.125.
- D. **Minimum Report Contents.** A critical areas report must include a hydrogeologic assessment including, but not limited to, the following:
 - 1. Information sources;
 - 2. Geologic setting – include well logs or borings used to characterize the area;
 - 3. Background water quality;
 - 4. Groundwater elevations;

5. Location/depth to perched water tables;
 6. Recharge potential of the proposed development site (permeability/transmissivity);
 7. Groundwater flow direction and gradient;
 8. Currently available data on wells located within 1,000 feet of the site;
 9. Currently available data on any spring within 1,000 feet of the site;
 10. Surface water location and recharge potential;
 11. Water source supply to the site;
 12. Any sampling schedules necessary;
 13. Discussion of the effects of the proposed project on the groundwater resources;
 14. Description of potential mitigation measures, should it be determined that the proposed project may have an adverse impact on groundwater resources; and
 15. Other information as required by the City.
- E. If the hydrogeologic assessment determines that the facility will have no effect on groundwater resources, the facility is exempt from the development standards requirements in section 19.70.540 of this Chapter.
 - F. If the hydrogeologic assessment determines that the facility could have an effect on groundwater resources, the Director will require implementation of applicable development standards in sections 19.70.540.

FREQUENTLY FLOODED AREAS

19.70.600 Frequently Flooded Areas – Description and Purpose.

- A. Frequently flooded areas perform important hydrologic functions and may present a risk to persons and property.
- B. It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas caused by flooding, while protecting the functions and values of floodplains, including special consideration for anadromous fish habitat in combination with the provisions for Fish and Wildlife Habitat Conservation Areas in this chapter.

19.70.610 Frequently Flooded Areas – Designation.

- A. Frequently flooded areas include:
 1. Those areas established as special flood hazard areas under (AMC 19.xx – new AMC Chapter for Floodplain Management) including those areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled “The Flood

Commented [GL160]: This approach is similar to Bremerton's and would recodify the current FFA section within Title 19 and retitle it to “Floodplain Management”. This section would provide supplemental reference and include a requirement for a habitat assessment to address the NFMS BiOp for development within the 100-year floodplain.

Commented [LBG161]: 100-year flood plain is designated (which is minimum). As part of SMP update, it is recommended that additional areas be considered for inclusion in FFA designation – areas potentially effected by high tides with strong winds, sea level rise, and extreme weather events, including resulting from global climate change.

Special design provisions should be incorporated into structures in those certain ideas.

Insurance Study for the City of Anacortes" dated March 17, 2003, and any revisions thereto, with accompanying flood insurance rate maps (FIRM), and any revisions thereto. The best available information for flood hazard area identification as outlined in (AMC 19.xx Use of Other Base Flood Data in A and V zones) is the basis for regulation until a new FIRM is issued that incorporates the data utilities under (AMC 19.xx Use of Other Base Flood Data in A and V zones).

2. Other flood hazard areas identified by the City of Anacortes Public Works Department based on review of historical data or other defensible evidence of past flooding.
- B. Tsunami hazard areas are designated as geologically hazardous areas per AMC 19.70.xxx and are subject to applicable development regulations outlined in _____.
- C. Climate change and sea level rise are affecting many coastal communities and some within Puget Sound. Applicants are urged to become familiar with potential impacts of climate change and sea level rise if development is proposed near the marine shoreline or associated low-lying areas.

19.70.615 Frequently Flooded Areas – Mapping.

- A. **Reference Only.** The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Economic Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

19.70.620 Frequently flooded areas – General Development Standards

- A. All development proposals must comply with (AMC 19.xx - new AMC Chapter for Floodplain Management) for general and specific flood hazard protection.
- B. Development may not reduce the base flood water storage ability. Construction, grading or other regulated activities that would reduce the flood water storage ability must be mitigated by creating compensatory storage on or off site.
- C. Alteration of Watercourses.
 1. Projects that will relocate a watercourse must also submit a request for Conditional Letter of Map Revision, where required by FEMA. The project may not be approved unless FEMA issues the CLOMR (which requires ESA consultation) and the provisions of the letter are made part of the permit requirements.
 2. The Director must notify adjacent communities (if applicable) and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
 3. Maintenance must be provided within the altered or relocated portion of said watercourse so that flood carrying capacity is not diminished. If the maintenance program does not call

Commented [GL162]: DOE recommends updating the designation and mapping of FFAs including:

Final updated Flood Insurance Rate Maps (FIRM) from FEMA
Preliminary updated FIRM maps from FEMA
Identification of other flooding areas outside the FEMA mapped 100-year floodplain, which may be threatened by flooding under future conditions. For example: "flood of record", areas subject to groundwater flooding, or stream systems where the path of flood waters can be unpredictable.

Commented [LBG163]: This language is from FEMA's NFIP-ESA Model Ordinance, Floodplain Management and the ESA, Region 10, November 2013

https://www.fema.gov/media-library-data/1383597893424-47471702310a2bbc7e04ea83d66f73f5/NFIP_ESA_Model_Ordinance.pdf

Check to see if this would better be covered in FWHCA section, under streams.

for cutting of native vegetation, the system must be oversized at the time of construction to compensate for said vegetation growth or any other natural factor that may need future maintenance.

- D. Base flood data and flood hazard notes must be shown on the face of any recorded plat or binding site plan, including, but not limited to, base flood elevations, flood protection elevation, boundary of floodplain, and zero rise floodway.
- E. All development must conform to the provisions of the currently adopted International Building Code, including submittal of a critical areas report.

19.70.625 Frequently Flooded Areas – Critical Areas Report Additional Requirements

- A. Report required – unless an activity is specifically exempted or allowed under 19.70.035 or .040, a critical areas report is required.
- B. Preparation by a qualified professional.
- C. Third party review required.
- D. Minimum Report Contents. A critical areas report must include a habitat assessment prepared in accordance with [Regional Guidance for Floodplain Habitat Assessment and Mitigation](#) (FEMA Region X, 2013), or as hereafter amended. The assessment must determine if the project would adversely affect:
 - 1. The primary constituent elements identified when a species is listed as threatened or endangered;
 - 2. Essential fish habitat designated by the National Marine Fisheries Service;
 - 3. Fish and wildlife habitat conservation areas;
 - 4. Vegetation communities and habitat structures;
 - 5. Water quality;
 - 6. Water quantity, including flood and low flow depths, volumes and velocities;
 - 7. The channel's natural planform pattern and migration processes;
 - 8. Spawning substrate, if applicable; and/or
 - 9. Floodplain refugia, if applicable.
- E. If the assessment concludes that the activity is expected to have an adverse effect on water quality and/or aquatic or riparian habitat or habitat functions, the applicant must provide a plan to mitigate those impacts, in accordance with Regional Guidance for Floodplain Habitat Assessment and Mitigation, FEMA Region X, 2013.
- F. The following activities do not require completion of a habitat assessment:

Commented [LBG164]: These are all covered in the general provisions exemptions. Need to review and clean up.

1. Repair of existing building in its existing footprint, including damage by fire or other casualties;
2. Removal of noxious weeds;
3. Replacement of nonnative vegetation with native vegetation;
4. Ongoing activities such as lawn and garden maintenance;
5. Removal of hazard trees;
6. Normal maintenance of public utilities and facilities;
7. Restoration or enhancement of floodplains, riparian areas and streams that meets federal and state standards.

DEFINITIONS

"Alteration" means any human activity that results or is likely to result in an impact upon the existing condition of a critical area or its buffer. Alterations include, but are not limited to, grading, filling, dredging, draining, channelizing, applying herbicides or pesticides or any hazardous substance, discharging pollutants, grazing domestic animals, paving, constructing, applying gravel, modifying for surface water management purposes, cutting, pruning, topping, trimming, relocating or removing vegetation or any other human activity which results or is likely to result in an impact to existent vegetation, hydrology, wildlife or wildlife habitat. Alterations do not include walking, fishing or any other passive recreation or similar activities.

"Aquifer" means a body of soil or rock that contains sufficient saturated material to conduct groundwater and yield usable quantities of groundwater to wells or springs.

"Base flood" means a flood having a one percent chance of being equaled or exceeded in any given year, often referred to as the "100-year flood".

"Base flood elevation" means the water surface elevation of the base flood in relation to the North American Vertical Datum of 1988.

"Best available science" means current scientific information used in the process to designate, protect, or restore critical areas that is derived from a valid scientific process as defined by WAC 365-195-900 through 925. Sources of best available science are included in "Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas" published by the Washington State Department of Commerce.

"Best management practices (BMPs), critical areas" means physical or structural tools and/or management practices which, when used singularly or in combination, prevent or reduce adverse impacts to critical areas or their buffers.

"Buffer" is an area contiguous to a critical area that is required to protect the critical area and provide for the continued maintenance, functioning, and/or structural stability of a critical area.

"Critical aquifer recharge areas" are areas with a critical recharging effect on aquifers used for potable water, including areas where an aquifer that is a source of drinking water is vulnerable to contamination that would affect the potability of the water, or is susceptible to reduced recharge.

"Critical areas" means critical aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, streams, and wetlands.

"Ditches" are artificial drainage features created in uplands through purposeful human action, such as irrigation and drainage ditches, grass-lined swales, and canals. Purposeful creation must be demonstrated through documentation, photographs, statements, and/or other evidence.

"Enhancement" means an action which increases the functions and values of a stream, wetland, or other critical area or buffer.

Commented [LBG165]: This section is still being developed.

Commented [LBG166]: Coastal Geologic Services recommends referencing all elevations to the North American Vertical Datum of 1988 for consistency with tide gauges and professional surveyors. This is currently the codified datum for the City of Anacortes in Ch. 1.16.

Commented [LBG167]: From DOE Wetlands Guidance for CAO Updates

Commented [GL168]: [WAC 365-190-030](#)

Commented [GL169]: For consideration...

“Erosion” means the process by which soil particles are mobilized and transported by natural agents such as wind, rain-splash, frost action or surface water flow.

“Erosion hazard areas” are those areas containing soils which, according to the United States Department of Agriculture Natural Resources Conservation Service Soil Survey Program, may experience significant erosion. Erosion hazard areas also include coastal erosion-prone areas and channel migration zones.

“Federal Emergency Management Agency (FEMA) floodway” means the channel of the stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow without increasing the base flood elevation more than one foot.

“Fish and wildlife habitat conservation areas” are areas that serve a 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 season ranges, breeding habitat, winter range, and movement corridors; and areas with high relative population density or species richness. These areas do not include such artificial features or constructs as irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of, and are maintained by, a port district or an irrigation district or company.

“Floodway, zero rise” means the channel of a stream and that portion of the adjoining floodplain which is necessary to contain and discharge the base flood flow without any measurable increase in flood height. A measurable increase in base flood height means a calculated upward rise in the base flood elevation, equal to or greater than .01 foot, resulting from a comparison of existing conditions and changed conditions directly attributable to development in the floodplain. This definition is broader than that of the FEMA floodway, but always includes the FEMA floodway. The boundaries of the 100-year floodplain, as shown on the Flood Insurance Study for _____, are considered the boundaries of the zero-rise floodway unless otherwise delineated by a critical area study.

“Floodplain” means the total area subject to inundation by the base flood.

“Frequently flooded areas” are lands in the floodplain subject to at least a one percent or greater chance of flooding in any given year, or within areas subject to flooding due to high groundwater. These areas include, but are not limited to streams, rivers, lakes, coastal areas, wetlands, and areas where high groundwater forms ponds on the ground surface.

“Functions and values” means the beneficial services provided by critical areas to society, including, but not limited to, improving and maintaining water quality, providing fish and wildlife habitat, supporting terrestrial and aquatic food chains, reducing flooding and erosive flows, wave attenuation, historical or archaeological importance, educational opportunities, and recreation. These beneficial roles are not listed in order of priority.

Commented [GL170]: [WAC 365-190-030\(5\)](#)

Commented [GL171]: [WAC 365-190-030\(6a & c\)](#)

Commented [GL172]: [WAC 365-190-030\(8\)](#)

Commented [GL173]: As part of SMP updated, consider expanding this definition to include areas that are subject to potential effects of high tides with strong winds, sea level rise, and extreme weather events resulting from global climate change.

Commented [LBG174]: DOE Wetlands Guidance for CAO Updates

"Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

"Groundwater" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.

"Habitats of local importance" designated as fish and wildlife habitat conservation areas include those areas found to be locally important by the City of Anacortes.

"Hazard tree" means.....

"In-lieu-fee program" means an agreement between a regulatory agency (state, federal or local) and a single sponsor, generally a public natural resource agency or non-profit organization. Under an in-lieu-fee agreement, the mitigation sponsor collects funds from an individual or a number of individuals who are required to conduct compensatory mitigation required under a wetland regulatory program. The sponsor may use the funds pooled from multiple permittees to create one or a number of sites under the authority of the agreement to satisfy the permittees' required mitigation.

"Landslide" means an episodic downslope movement of a mass including, but not limited to, soil, rock or snow.

"Landslide hazard areas" are areas at risk of mass movement due to a combination of geologic, topographic, and hydrologic factors.

"Mine hazard areas" are those areas directly underlain by, adjacent to, or affected by mine workings such as adits, tunnels, drifts, or shafts.

"Mitigation" means the use of any or all of the following actions listed in descending order of preference:

1. Avoiding the impact by not taking a certain action;
2. Minimizing the impact by limiting the degree or magnitude of the action by using appropriate technology or by taking affirmative steps to avoid or reduce the impact;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected critical area or buffer;
4. Reducing or eliminating the impact over time by preserving or maintenance operations during the life of the development proposal;
5. Compensating for the impact by replacing, enhancing or providing substitute critical areas and environments;
6. Monitoring the impact and taking appropriate corrective measures.

"Mitigation" means avoiding, minimizing, or compensating for adverse critical areas impacts, using the sequential order of preference listed in 19.70.130, Mitigation requirements.

Commented [GL175]: Definition from RCW 36.70a.030(9). Updated 2010.

Commented [GL176]: WAC 365-190-030(6)(b)

Commented [LBG177]: 19.70.130 Mitigation requirements

Commented [GL178]: WAC 365-190-030(10)

Commented [GL179]: WAC 365-190-030(12)

"Monitoring" means evaluating the impacts of development proposals on biologic, hydrologic and geologic systems and assessing the performance of required mitigation through the collection and analysis of data for the purpose of understanding and documenting changes in natural ecosystems, functions and features including, but not limited to, gathering baseline data.

"Native Growth Protection Area/ Easement" (NGPA/E) means.....

"Native vegetation" means plant species that occur naturally in a particular region or environment and were present before European colonization.

"Noxious weed" means any plant which is highly destructive, competitive, or difficult to control by cultural or chemical practices, limited to those plants on the state noxious weed list contained in Chapter [16-750 WAC](#) and those regulated by Skagit County.

"Primary association" means the fundamental link between a species and land or aquatic area where anadromous fish, endangered, threatened or sensitive species breed or feed.

"Qualified Professional" means the following means an individual or entity with experience and training in the scientific discipline appropriate for the relevant critical area in accordance with [WAC 365-195-905\(4\)](#). A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geomorphology or related field that is relevant to the applicable critical area type, and two years of related work experience. For particular critical area types:

A qualified professional for wetlands must be a Professional Wetland Scientist that is certified through the Society of Wetland Scientists Professional Certification Program.

A qualified professional for fish and wildlife habitat conservation areas or frequently flooded areas must be a biologist with experience preparing reports for the relevant type of habitat.

A qualified professional for geologically hazardous areas must be an engineer or geologist, licensed in the State of Washington, with experience analyzing geologic, hydrologic, and groundwater flow systems, and who has experience preparing reports for the relevant type of hazard.

A qualified professional for critical aquifer recharge areas must be a professional engineer, licensed in the State of Washington, trained and qualified to analyze geologic, hydrologic, and groundwater flow systems; or by a licensed hydrogeologist or a licensed geologist who has relevant training and experience analyzing geologic, hydrologic and groundwater flow systems.

"Repair or maintenance" means an activity that restores the character, scope, size, and design of a serviceable area, structure, or land use to its previously authorized and undamaged condition. Activities that change the character, size, or scope of a project beyond the original design and drain, dredge, fill, flood, or otherwise alter critical areas are not included in this definition.

"Replacement" means.....

"Restoration" means measures taken to restore an altered or damaged natural feature, including: (a) Active steps taken to restore damaged wetlands, streams, protected habitat, or their buffers to the

Commented [LBG180]: DOE Wetlands Guidance for CAO Updates

Commented [LBG181]: DOE Wetlands Guidance for CAO Updates

Commented [LBG182]: From Skagit County.

Commented [GL183]: Not currently specified in AMC.

Commented [GL184]: [AMC 17.70.030](#)

Commented [GL185]: [AMC 17.70.550\(A\)](#); Except FFAs added to this definition

Commented [GL186]: [AMC 17.70.230\(A\)](#)

Commented [GL187]: [17.70.120\(B\)](#) plus modifications recommended by GeoEngineers

Commented [LBG188]: DOE Wetlands Guidance for CAO Updates

Commented [LBG189]: DOE Wetlands Guidance for CAO Updates

functioning condition that existed prior to an unauthorized alteration; and (b) Actions performed to re-establish structural and functional characteristics of a critical area that have been lost by alteration, past management activities, or catastrophic events.

"Seismic hazard areas" are areas subject to severe risk of damage as a result of earthquake induced ground shaking, slope failure, settlement, soil liquefaction, debris flows, lahars, or tsunamis.

"Shoreline jurisdiction" means.....

"Slope" means an inclined ground surface, the inclination of which is expressed as a ratio or percentage of vertical distance to horizontal distance by the following formula: $((\text{vertical distance} / \text{horizontal distance}) \times 100) = \% \text{ Slope}$

"Special Flood Hazard Area" means the land in the floodplain that is subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

"Species of local importance" are those species that are of local concern designated by the City due to their population status or their sensitivity to habitat manipulation.

"Stream" means an area where open surface water produces a defined channel or bed, not including irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or are used to convey a watercourse naturally occurring prior to construction. A channel or bed need not contain water year-round, provided there is evidence of at least intermittent flow during years of normal rainfall.

"Unavoidable impacts" means adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

"Volcanic hazard areas" include areas subject to pyroclastic flows, lava flows, and inundation by debris flows, lahars, mudflows, or related flooding from volcanic activity.

"Wetland" or "wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. Wetlands may include those artificial wetlands intentionally created from non-wetland areas created to mitigate conversion of wetlands.

"Wetland Mitigation Bank" means a site where wetlands are restored, created, enhanced, or in exceptional circumstances, preserved, expressly for the purpose of providing compensatory mitigation in advance of unavoidable impacts to wetlands or other aquatic resources that typically are unknown at the time of certification to compensate for future, permitted impacts to similar resources.

Commented [GL190]: WAC 365-190-030(18)

Commented [LBG191]: From AMC 17.70.030.

Commented [GL192]: WAC 365-190-030(19)
DOE Wetlands Guidance for CAO Updates

Commented [GL193]: DOE Wetlands Guidance for CAO Updates

Commented [LBG194]: DOE Wetlands Guidance for CAO Updates

Commented [GL195]: WAC 365-190-030(21)

Commented [GL196]: RCW 36.70A.030(21)
WAC 365-190-030(22)

Commented [LBG197]: DOE Wetlands Guidance for CAO Updates

"Wetland mosaic" means an area with a concentration of multiple small wetlands, in which each patch of wetland is less than one acre; on average, patches are less than 100 feet from each other; and areas delineated as vegetated wetland are more than 50% of the total area of the entire mosaic, including uplands and open water.

Commented [LBG198]: DOE Wetlands Guidance for CAO
Updates

August 28, 2017

Libby Grage, Planning Manager

City of Anacortes

Via Email

Comments on the first draft of the Critical Areas Ordinance

General Points-

The new CAO is better organized. By placing all Critical Areas Review Procedures in one section rather than listing and relisting them by specific type of critical area it is much easier to understand the process for dealing with critical areas. Also, this approach helps prevent internal inconsistencies.

Mitigation sequencing is a very good approach. It clearly sets out actions that impact critical areas and requires the applicant to justify proposed action only after showing why a less impactful approach cannot achieve the desired goals.

Third Party review- Concerns have been expressed about the cost of third party review and suggestions made to provide exceptions from third party review. Third party review is necessary to insure the quality of the critical areas report. The initial review is done at the applicant's direction and cannot be a neutral review of the critical area. No matter how well written the code is, there will always be areas open to interpretation and one must assume that interpretations will be made in the applicant's favor. For that reason, the City must require an independent review of the initial report. If the applicant wishes to reduce the cost of the review there should be a provision allowing the City to choose an independent professional to do the review as directed by the City, thus mitigating the need for a third party review.

Throughout the Code, the phrase "no feasible alternative" is used. This needs to be defined otherwise the argument will be made that any restriction on a development plan is "not feasible". Reduction in development density may be necessary to protect a critical area and an applicant should not be able to argue that reductions or changes from their "desired" plan are not "feasible".

Specific comments

19.70.020 Exceptions-A.1 correctly affirms that an exemption does not give permission to degrade a critical area and that reasonable methods must be used to avoid impacts. A.2. covers mitigation of unnecessary damage by an exempted activity. Both these measures help emphasize the importance of critical areas.

19.70.020.6.b calls for a tree risk assessment prepared by a qualified professional. "Qualified arborist" would be more precise.

19.70.030.D- Requires the applicant to first demonstrate an inability to avoid or reduce impacts. This correctly puts the burden on the applicant to follow "mitigation sequencing".

19.70.035.B "Any incidental damage to, or alteration of, a critical area and/or buffer shall be restored, rehabilitated, or replaced at the responsible party's expense". Should there be language defining who sets the standard for restoration and who can sign off that a proper level of RRR has been achieved?

Also it should be clear that the responsible party's expense includes reimbursement for the City's cost of enforcing the RRR.

19.70.040 Variances A. "Surrounding properties that have been developed under regulations in effect prior to the effective date of this Chapter may not be the basis for granting a variance." This is very important. Time and again prior activity has been cited as a reason for additional variances. This language should help put a stop to the "well, my neighbor got to do that" loophole.

19.70.045 A. typo "subdivision or property" should be "subdivision of property"

19.70.125.D.6.b- Requires a survey. Comment GL33 asks if there should be a waiver to the survey requirement for certain activities including "projects that the City wants to encourage". This creates a large loophole and the survey language should be retained. It also puts the City in the position of picking winners and losers. This section is within the Critical Areas Review Procedures which allow the Director to determine via a step by step process if a Critical Areas report is necessary. If a critical area is present, and would be impacted by the proposed project then a survey should be required. This brings in an independent professional to determine the location of a critical area and associated boundaries. The proposed term "accurately depicted" just creates the ability to argue what an accurate depiction is, and whose definition of accuracy is to be followed. The actual physical location of the critical area and its required buffers often has a real impact on the scope of the project and needs to be correctly identified.

19.70.130 Mitigation requirements- As noted above, mitigation sequencing is a proper approach and this section really is at the heart of the entire CAO. As critical areas are impacted, mitigation must occur. Requiring the applicants to demonstrate an inability to avoid or reduce impacts is the essential first step. The subsequent requirements follow a logical sequence and are generally good. Ongoing monitoring after the mitigation is addressed and the bonding requirements provide the necessary assurance that the mitigation steps will not be orphaned after the project is complete.

19.70.150 Title Notice- Section C. requires separate critical areas tracts as permanent protective measures and requires development restrictions to be noted on the plat or plan. Title notice puts subsequent owners on notice that a critical area exists on the property. This works for areas on a particular lot; however, section C. also sets up separate tracts. Section C. does not address the ownership or long-term responsibility for the separate critical areas, including "any additional lands included voluntarily by the applicant". This section needs clarification to ensure that future homeowners in the subdivision know of the critical area and are responsible for maintenance of the critical area. As a practical matter, this provision would seem to require a homeowners association to deal with what is essentially a "commons" and prevent the inevitable "tragedy of the commons" from occurring. This is addressed in Section D. for NGPA's, and similar language assigning responsibility should be added to Section C.

19.70.155.C Field marking maintenance and replacement- If the ownership of common areas is addressed in 19.70.150.C then this section needs no further language. Otherwise, the same concerns as expressed in the earlier paragraph apply: who will be responsible for maintenance marking and replacement?

19.70.170 Unauthorized critical areas alterations- Again, ownership of 19.70.150 C. areas must be clearly stated for this section to have meaning.

19.70.170.D- Consider changing the sentence to “The Director [or director’s authorized representative] shall present proper credentials...” otherwise only the Director may perform a site investigation on private property.

19.70.170.E. LBG47 comment properly notes that adverse impact should be added to the tree penalty. This would address topping for view purposes or activities that would result in the eventual death of the tree.

Wetlands-

19.70.250.A.7 Buffer averaging- a. “There is not a feasible alternative to the site design that could be accomplished without buffer averaging”. This language is nebulous. Who determines that there is no alternative? Does no feasible alternative mean that the applicant can determine the number of houses they want and, if a buffer is in the way, it should be averaged?

c. “all increases in buffer dimension for averaging must be parallel to the wetland boundary”. This is essential. This would prevent a meaningless strip of land perpendicular to a wetlands to be used to numerically “average” the buffer.

d. “width at its narrowest point” not less than 75 percent. Again, this helps preserve the overall functioning of the buffer.

19.70.250.G. Setbacks- The addition of setbacks from buffers is important. It is a given that many developments will be designed to take up the maximum space allowable and many past and current projects have development immediately on the setback line. This makes a mockery of the buffer as, in order to construct a foundation atop the buffer line, encroachment into the buffer becomes necessary. Also, as noted, native vegetation within the buffer can have root damage which effectively reduces the buffer width and function. Furthermore, the presence of a foundation or grading on the buffer line can be used as an excuse to take out trees in the buffer area (root damage, windthrow, etc) purely for view purposes. Lack of a setback outside the buffer effectively reduces the buffer width should a structure be placed on the buffer line.

Fish and Wildlife Habitat Conservation Areas (FWHCA)

19.70.310.A.5 Waters of the state- This properly allows for classification of all streams including but not limited to the 15 names in the current version of the CAO.

Table 19.70.xxx-1 Piped Stream Segments-“...fully enclosed in an underground pipe or culvert.” This is a good clarification and a major improvement over the current artificial ditch language. This limits the reduced setback to its proper use of encouraging “daylighting” of totally enclosed streams and removes the argument about whether or not a stream channel was artificially created prior to some arbitrary date.

19.70.340.4.c.ii typo “Surface channels which area “daylighted” must” should be “which are “daylighted”

19.70.340.5.b No feasible alternative- another appearance of this phrase, and another opportunity to create problems in interpretation.

19.70.340.E.1.e. For consistency, should all references to shoreline management practices be in the Shoreline plan rather than the CAO?

FWHCA's other than streams

ACFL- If vacation of adjacent right of way is not really a development regulation (per LBG113) where else in the AMC should this language reside? It is important to keep this requirement somewhere. It would apply in very few cases but would insure future consistency with past practices.

Geologically Hazardous Areas-

Snow avalanche areas are not a factor and this should be omitted from the code

Mine Hazard areas are also not relevant and could be omitted.

Volcanic Hazard areas should be omitted

Frequently Flooded Areas-

19.70.610.C If future sea level rise can potentially affect a development the Applicant should be required to address that potential in the Critical Areas Report. The sentence "Applicants are urged to become familiar with potential impacts of climate change and sea level rise..." is meaningless. Anyway, the applicant is not the person that ultimately needs to be aware of potential impacts, it is the purchaser of property in the development and the City of Anacortes who will be saddled with dealing with future problems. This language needs to be strengthened to require the applicant and the City to factor future conditions into the development decision. There also needs to be adequate notice to purchasers of the property in the future.

Definitions

Hazard Tree needs to be defined. Currently hazard tree seems to mean any tree in the way of development including view blocking trees.

Piped stream- This definition is missing and should be added to clearly show that a piped stream is totally enclosed, not just in an artificial channel.

Ditch, artificial channel- Definition is missing. While they are addressed in the stream portion of the FWHCA, that definition should be in this section as well. Reinforce the need for proof of manmade construction.

Volcanic Hazard Areas definition could be removed.

Sincerely,

Patrick M. O'Hearn

11039 Post Drive

Anacortes, Washington

TO: Anacortes Planning Commission,
and Libby Grage, Anacortes Planning Department

FROM: Martha Hall (pondfrog.mh@gmail.com)

TOPIC: My comments for the update of the Critical Area Ordinance that address issues regarding requirements for mitigation in the Airport Agreement between the city and port.

DATE: Submitted on August 18, 2017

The 2005 Airport Agreement Between the City and Port

I believe the Airport Development Agreement between the City of Anacortes and the Port of Anacortes should include the safeguards for mitigation to ensure that mitigation projects are completed as expected or promised - safeguards that are required in the first draft of the CAO. As it stands, it appears that all mitigation in the Airport Agreement does not require performance standards, monitoring and monitoring reports, and contingency plans. I believe state standards and the best available science require these. We also need these safeguards if we are really serious about making sure mitigation projects are successful.

I don't know what the best way might be to accomplish this. Perhaps the Airport agreement could be amended. Seems like the Port would have the same goals as we have, good mitigation projects that are successful. There may be a way to add these additional safeguards to the mitigation in the Airport Agreement through the CAO.

I will explain some of the problems I've witnessed as I watched a mitigation project that was recently completed using requirements in the Airport Agreement.

I understand at least some of the history behind this agreement. I lived in Anacortes during the years when our city and our port went to war with each other over development of the airport. Hopefully these two government entities now have a better relationship and could negotiate an updated version that would bring this agreement into compliance with the updated CAO if the problems are best addressed by doing it this way.

I also understand that the federal government, through the FAA, plays a major role in the management of the airport. The port must follow FAA regulations. This is spelled out in the first two pages of the agreement. The agreement gives the port the right to negatively impact the wetlands and wetland buffers at the airport to meet FAA airport standards.

11A. I believe changes are needed to meet one of the stated fundamental purposes of this agreement which is: (Copied from page 2)

WHERE AS, the Parties agree that a fundamental purpose of this Agreement is to assure among other things, the following:

e. That the environmental impacts are reasonably and appropriately mitigated as provided herein.

To accomplish this goal, and to meet new state standards for our Critical Area Ordinances, I believe changes are needed in the mitigation part of this agreement.

11B. Both on-site and off-site mitigation are allowed in this agreement. I've seen problems with the way the section addressing off-site mitigation has been handled by the city and port. This is what the agreement says about off-site mitigation:

Agreement, Page 9:

10. Off Site Mitigation. In developing a plan for the Anacopper Future Process Area or other wetland mitigation as required, the Port and the City may work cooperatively to utilize the Proposed Off Site Mitigation Area as described in Exhibit "D" and depicted in Exhibit "D": Figure 4". Other approved offsite mitigation locations, as mutually agreed upon, could also be considered in replacement of the one shown in Exhibit "D: Figure 4".

Exhibit D, attached to this agreement, includes some very specific directions on how mitigation will be done on and off site. For off-site mitigation, replacement trees were to be planted in the buffer of the Ship Harbor wetland. A map shows the areas as: 1. along the edge of the parking area for the ferry terminal, and 2. are along the north end of Ship Harbor wetland near the beach. Exact quantities and replacement types for offsite mitigation

Perhaps wording could be added to the CAO to tighten up this part of the agreement rather than making changes to the airport agreement.

11C. I'll explain some of the problems I've seen in way the port and city has used this agreement when mitigating a recent project at the airport. These are the problems I believe need to be resolved either in the CAO or with an update to the airport agreement.

This 2015 project, "*Airport Fencing Improvements and Obstruction Removal*" was necessary for the airport to meet FAA standards. Trees in the wetland and/or wetland buffer were topped and removed resulting in a loss of vertical structure in the wetlands.

Thus, mitigation for this project should be for loss of vertical structure in a wetland. Off-site mitigation was suppose to be planting new trees somewhere else to make up for this loss.

The first problem is that I believe the agreement does not require any of the safeguards that are in the first draft of the updated CAO for mitigation that make it more likely that the mitigation will actually be successfully completely as described. We all probably can tell about mitigation projects that weren't completed.

These safeguards are required in first draft of the new CAO in section 19.70.130, which I strongly support. They include performance standards (page 24), monitoring program and contingency plan (page 24-25), and monitoring reports (page 26). These should also be part of the Airport Agreement.

Very recently I talked with Brenda Treadwell and Sara Chang at the Port of Anacortes about some of these issues as they pertained to the last port project that was done at the airport which used the Airport Agreement between the COA and the POA to dictate how the off-site mitigation was be handled, not the CAO. Brenda told me that the mitigation for the project (mitigation for loss of vertical structure at the airport due to tree removal) was handled this way:

Site A by the ferry terminal: the port was required to clear the area of invasive species and plant 62 trees at the site and after that it was up to the city to keep them alive. The port was not responsible for anything after the planting of the trees.

Site B on the Guemes Channel Trail: the port was required to plant the trees along the trail. She did not know if the city prepared a planting plan giving the exact location but the port's contractor planted the 25 shore pines. The port was not responsible for anything more, like keeping the trees alive. She said to ask the city to find out exactly where they were planted.

She said the port made sure the city knew it was responsible for the trees once they were planted. When I asked if that was in writing, she thought this was in e-mails between the port and city which I could request through a public records request to the city or port. She suggested I ask the city exactly where the trees were planted along the Guemes Channel Tree.

From what Brenda Treadwell said, it sound like the safeguards for making sure mitigation will be successfully completed, safeguards that are in the first draft of the CAO, are NOT in the Airport Agreement. I believe they should be and perhaps new state guidelines and the best available science require these safeguards. I do not believe we should just trust that the city will keep those trees alive and replant them if they die, etc. until there are 25 shore pines growing along the Guemes Channel Trail.

The map of Site B shows the Guemes Channel Trail, from Edwards Way eastward towards Lovric's Marina. I walked this piece of trail on 8/18/17 looking for the 25 shore pines. I focused on the water-side of the trail assuming I'd find them there since is where trees are most needed on this trail and this is the sunniest area where shore pines might grow best. I found 2 live shore pines, each about 5 feet tall, which seemed too large to have planted for this project, which called for 2 gallon trees, and 1 live shore pine about the size I'd expect from this project on the water-side of the trail. I looked on the bank-side of the trail too but it has quite a few trees and shrubs so I could have missed them. I doubt shore pine would grow well in that shaded habitat though. Next, I will ask the city where the 25 shore pines from this project were planted.

The second problem is in the location of one of mitigation sites, the one along the Guemes Channel Trail. This is not one of the two areas named for mitigation projects in Exhibit D of the Airport Agreement. I see this location as a major problem for two reasons. First, the city was already required to plant and/or maintain trees along the Guemes Channel Trail as mitigation for this trail that the city built. Trees planted on this trail were being used to meet the city's obligation for mitigation which means each tree is being used to meet two obligations for mitigation. The city has failed to meet its requirements for mitigation along the Guemes Channel Trail which further complicates this issue. Second, there is no wetland along the Guemes Channel Trail so trees planted here were not replacing vertical structure in wetlands. I believe something here is or should be illegal. A good CAO would address these kinds of issues.

The city's failure to meet its requirements to mitigate loss of shoreline trees due to its building of the Guemes Channel Trail complicates this issue. But that is another story that needs to be told in a different section of my comments.

I raised these issues with the port's contact person many times. I also raised them with the contact person I was given for the City, Gary Robinson.

The third problem was the fact that the port refused to tell the public the details of the mitigation plan until it was approved by both parties, the city and the port. The port said the final decision were entirely up to the city so it was unsure what the final plan would be in the end. The port was waiting to hear what the city decided. I was told to ask the city. I believe the public should be able to see and comment on mitigation plans before they are completed because the public might have some suggestions on how to improve these. This is especially true if the directives in Exhibit D are not followed.

I asked for the details during the time when the port was holding a number of public meetings to explain the project. I wanted to know exactly where the trees were going to be planted, what kind of trees would be planted, and who was responsible for planting and caring for the trees. I objected to using the location along the Guemes Channel Trail. After quite a few phone calls I was finally told I should ask the city, which I did.

The fourth problem was the fact that when I talked to the city, the city's contact person for this mitigation was Gary Robinson and he couldn't/wouldn't tell me what the city was going to tell the port to do. I believe mitigation is important. The city should take it seriously and make sure the mitigation really does mitigate losses.

When I asked Gary what the city would be requiring, he was very vague. He said he was asking different people for their ideas. He didn't seem to know and he didn't want to tell me what he decided. It seems like the city has an obligation to have some well-thought plans for how to best use mitigation from airport projects since it was given a lot of authority to make decisions on the mitigation. The choice of a site that was not considered in the agreement as part of Exhibit D should allow for input from the public and perhaps agencies.

The fifth problem is that the public was not allowed to see details of the mitigation plan until the final decision was made and signed - details like the number of trees, species of trees, and where they were to be planted. So we could comment on these. Through a public records request, after all decisions were made, I obtained a copy of the mitigation plan which included this information. The map shows 25 trees being planted along the Guemes Channel Trail from Edwards Way east to about Illinois Ave. This was not approved in Exhibit D and this resulted in the port doing mitigation the city was suppose to be doing and has not done. This should be illegal. The plan says 25 of the 87 trees would be planned along the Guemes Channel Trail. The other 62 would be planted beside the ferry terminal which is actually within the wetland buffer of the SHIP wetland.

Of the 25 trees to be planted along the trail, 19 were to be shore pines. Shore pine is not a species listed in Exhibit D, it is not a species that was lost during the airport project. It is a short species and will not provide much of the vertical structure needed along the shoreline to shade the beach. Shore pine is also not a species the city removed when building the Guemes Channel Trail. The other 6 are Pacific willow that probably will not survive along the Guemes Channel Trail unless they are planted in naturally wet areas that the trail has not dewatered due to its construction.

Of the 62 trees planted in the wetland buffer beside the ferry terminal, 15 are Pacific willow. Unless these were planted where there is natural moisture their survival rate may be low. The bank is dry and hot in the summer. Another 16 are shore pine. Neither shore pine or willow are large species so neither will provide a lot of vertical height in the buffer. Again, shore pine were not listed in Exhibit D as a tree that was lost at the airport and should be replaced. Both of these species, along with the 16 madrone that are also to be planted, could die if the 16 sitka spruce that were planted eventually shade them out.

The fifth problem was that there was no way for the public to object to this mitigation project and have my objections heard. I believe the CAO must include a way for the

public to comment on all mitigation before a project is approved. This must require that enough information be made available on the mitigation so the public knows enough to comment on the project. I also believe the CAO must include a process that allows some recourse for anyone who presents substantive reasons for opposing something in a mitigation project. If substantive reasons are presented after approval, these reasons should be heard by an impartial and knowledgeable person.

After I was unable to have the contact person from the port or city address these issues, I wrote a letter to Mayor Gere. It explained the problems. I asked her to intervene. I never received a reply to this letter. (This letter, sent to Mayor Gere on August 8, 2016, is attached at the end of these comments.)

The sixth problem is with who is responsible for the success of this mitigation project and the apparent lack of any monitoring plan, bond, or other way to ensure that 87 trees will survive. I don't see required standards, any requirement to replant if trees die, or any requirement to keep the mitigation area along the ferry terminal free of invasive species until the trees do grow large enough to survive, etc. I wonder, how many of the 87 trees will be there in 5 or 10 years? We should expect 100 years in a good mitigation project. The first draft of the CAO provides many safeguards to ensure that mitigation projects succeed. The airport agreement seems to require none. A change is needed here, either by either addressing these issues in the new CAO or in the Airport Agreement.

The general notes on the map for the off-site mitigation plan state the port is responsible only for clearing the invasive species by the ferry terminal and planting the 87 two gallon trees. A map showing exactly where these would be planted was not included in my public records request so I don't know if that is part of the plan.

Keeping two-gallon trees alive is a challenge, especially in the adverse conditions found beside the ferry terminal and along the Guemes Channel Trail. This will requires watering for several years and removal of invasive species until the trees are well established. Why was all of this left up to the city when this was a port project?

There should be some requirement for the % of success and a monitoring plan to keep a record of how many trees survive . If trees die, there should be a requirement that new ones be planted until some stated requirement is met.

Already there are problems with tree survival at these mitigation sites. During the second week of August, 2017, when I checked the mitigation site beside the ferry terminal trees, some trees looked stressed and/or dead. They looked like they needed more water. A hose was laying on the ground at the site and a source of water is nearby. Someone else had the same concern and said she'd ask the city. The city's reply was that it missed watering when it had planned to earlier but would water now and replant any dead trees.

The following four photos show the mitigation site adjacent to the ferry terminal

The first is of the sign, the second is of a stressed shore pine, and the last two show dead trees - all were taken at this site on August 11, 2017.









A copy of the letter I wrote to Mayor Gere about these problems is on the following pages.

Date: August 8, 2016

To: Laurie Gere, Mayor of Anacortes

From: Martha Hall

Regarding: Concerns about current off-site mitigation plan for loss of wetland trees at the current Port of Anacortes Airport Project.

I hope the city will take another look at the current off-site mitigation plan for loss of vertical structure in wetlands in the Port of Anacortes' current airport project. The plan includes planting trees along the Guemes Channel Trail. I believe there are several major problems with this site specifically and the plan generally.

Port staff told me the City of Anacortes alone chose the sites for off-site mitigation as well as the species of plants to be planted as required under a 2005 agreement between the city and port regarding airport expansion.

The 2005 agreement between the port and city doesn't exactly read this way. It says that if the SHIP site is not used, *"another approved offsite mitigation location, as mutually agreed upon, could also be considered in replacement of the Ship Harbor wetland."* (2005 Port-City Agreement, P.4, Attachment A)

In the Port's 2016 final Mitigation Plan for its airport project, the text reads:
"The identified areas are not the Port's first choice; rather, it is the preferred choice of the City as it will fit in with their overall vision for the Ship Harbor wetland site and the Guemes Channel Trail. (2016 Mitigation Plan, page 16 & map, Attachment B.)

I've talked with the Port's airport project planner about my concerns several times last spring. Each time I was told it was entirely up to the city where the trees would be planted due to the agreement between the city and port. I was told to talk to ask Gary Robinson. I also express my concerns to Gary last spring, and later to Don Measamer. They didn't tell me what sites they would be selecting for the mitigation. Mr. Measamer did tell me that trees they had planted along some of the trail had been destroyed.

There are two major problems with the part of this plan that involves planting mitigation trees from the airport along the Guemes Channel Trail:

I. It fails to achieve the intent of the mitigation for loss of vertical structure in wetlands for two reasons:

A. It appears that the city will be using these trees to meet city mitigation requirements for the Guemes Channel Trail which it has not yet done. This means these trees will be used to meet two mitigation obligations (port's for the airport project and city's for the trail project). The same trees cannot be used to fulfill two mitigation requirements.

B. The intended purpose of the mitigation for the airport project is to off-set loss of vertical structure in wetlands. The Guemes Channel Trail site is not a wetland.

Shoreline Master Program, Page 261, discussion of when off-site mitigation is acceptable for in-kind: (Page 261) (Attachment C)
"2. Off-site mitigation has a greater likelihood of providing equal or improved wetland functions than the impacted wetland provides....."

II. The city has not met its own requirements for trees along the water-side of the trail on the two Guemes Channel Trail projects between Edwards Way and Lovric's. Why? This is a concern because shoreline trees are important to a healthy beach ecology below the trail. Before more trees are planted along this trail from whatever source, shouldn't we ask what has changed to make it possible for the city to now successful grow trees along the trail when it hasn't been able to up to now?

A. There seem to be a number of reasons why the city has not yet met its own requirements for trees on the water-side of this trail for both sections. What has been done to address these factors preventing adequate trees? These include:

1. destruction of "leave trees" (trees that were suppose to be left) during construction as requested by agencies, perhaps because trail wasn't narrowed to avoid impacts as agreed upon before construction,
2. continuing loss of "left trees" since construction due to creation of poor conditions for their survival during construction such as lack of sufficient area to grow and gravel dumped on top of the area,
3. loss of trees during the winter due to high tides washing over the trail,
4. loss of trees due to failure to care for trees once they were planted,
5. failure during construction to create functional "native shoreline vegetation pockets " for future plantings as agreed on before construction,
6. loss of trees due to destruction of old and new trees, probably by people living above the trail to protect their water views.

Has the city corrected the problems in the planting areas so the airport trees will survive? Is there a watering plan? Has the city educated people living above the trail on the importance of trees and the laws protecting these trees? Does the city have adequate ordinances and fines for destruction of trees? Has the city considered signs along the trail explaining the importance of shoreline trees?

Did the city plan for these kinds of expenses when budgeting money received to build the two sections of trails? It seems like these would be part of the trail projects. Using mitigation required for the airport loss doesn't seem appropriate.

- B. Will the species of trees to be planted along the trail for airport mitigation meet or prevent future meeting of the requirement for trees along the Guemes Channel Trail, which is to shade the beach and improve beach conditions as requested by agencies?

I'm told that the species of trees to be planted is decided by the city. The plan calls for 6 Pacific willow and 19 shore pine. Neither species will probably reach the height required to provide much shade, etc.. Pacific willow grows best in a wet environment which the water-side of the trail is not. Might better choices might be Doug fir or big leaf maple?

III. Are there better sites to mitigate for losses in wetlands and wetland buffers?

- A. There are many issues on the bank above SHIP which is a wetland buffer. These include: multiple trails down the bank from the ferry terminal and a much larger area that needs trees than what is addressed in this mitigation plan.
(The mitigation plan does include some planting of trees in this area but it seems like more might be better.)

- B. Would the wetlands in Smiley's Bottom belonging to the Anacortes School District be an appropriate site for wetland mitigation?

As I told Gary Robinson last spring, many people worked hard to obtain requirements for mitigation in projects that resulted in environmental losses like those at the airport and along Guemes Channel due to development. Our critical area ordinances and SEPA are part of this effort. I believe this mitigation plans should be reviewed to see if it meets the intended purpose and complies with our Shoreline Master Program. I think this plan does not.

I have two other questions as are the result of my interest in this mitigation plan.

1. Why is the City shouldering most of the cost of this mitigation?

I am surprised that in this plan, which mitigates wetland losses due to a Port project, the City of Anacortes is actually shouldering most of the responsibility for the trees: care of the trees after they are planted. The purchase and planting of the trees, which is to be done by the port, is the easy part. Why isn't the Port of Anacortes responsible for monitoring, caring for, and replanting trees that fail to survive? Won't keeping newly planted trees alive along the trail and on the bank by the ferry terminal require regular

monitoring and care such as watering for the first several years? Has money been budgeted to pay staff to do this?

2. Why isn't public involvement a part of the planning process for mitigation in our Critical Areas Ordinance?

Perhaps problems with this mitigation plan could have been avoided if the public had been able to participate in its development. While there were many opportunities for the public to review the project, this doesn't seem to be the case for the mitigation. Transparency and public involvement has the potential to improve projects and government. I'm amazed at the number of people in Anacortes who have a lot of interest and expertise in this. Could public participation in mitigation plans be added to our critical area ordinances?

I'd be glad to meet with you about these concerns,

Thank you,
Martha Hall

Attachments: A, B, C

Comments
Anacortes Planning Commission's Update of our CAO
for Sections on General Items, Wetlands, and FWHCA
from Martha Hall (8/30/17)

These comments are based on my last 19 years of living in Anacortes. During this time I've walked almost daily in many of our city's critical areas. I've learned a lot by noticing impacts from my use and other uses. I've seen examples of both good and bad planning and management of these critical areas.

I've added comments about my experiences in these comments to the draft CAO. I hope these examples will make my comments easier to understand. I've also included photographs and attachments for the same reason. Thanks for reading these comments.

An Overview of My Comments

I've grouped some of my comments into several broad categories. The following is an overview of each category.

Part One: Passive Recreation. I believe the exemptions for passive recreation result in a CAO that fails to adequately protect critical areas. Passive recreation can result in significant impacts which I explain in some detail in Part One to show why these exemptions create a CAO that fails to protect critical areas. These impacts need to be addressed through some kind of process. Exempting passive recreation means careful planning, management and mitigation as well as public participation will not occur. These are all tools for reducing and/or eliminating negative impacts. Thus, these exemptions will result in a CAO that does not meet its stated purpose and goals of protecting critical areas.

Part Two: Public Exemptions. I believe the public exemptions also result in a CAO that fails to adequately protect critical areas, thus including these means this CAO fails to meet its stated purpose and goals of protecting critical areas. It's ironic that public facilities are exempted since these probably have far more impact than private ones due to the fact that many more people will use them. These public exemptions come with this message: the City of Anacortes wants a CAO for private citizens so we will protect critical areas on our private land, but the City doesn't want to have to protect critical areas so it writes exemptions for itself. I think this is the wrong message.

Part Three: Other Exemptions for Maintenance, etc.

Part Four: Cumulative Impacts and Existing Impacts

Part Five: Another Way to Address Passive Recreation. I suggest there is another way to deal with the negative impacts of passive recreation. I propose addressing it in the CAO by requiring plans for designated critical areas. These plans would be required to have a "Preserve" land classification for critical areas that would be a tool to provide more protection. Once the plans were approved there would not be a need for Critical Area Review for many of the projects approved in the plan.

Part Six: Mitigation.

Part Seven: Public Participation.

Part Eight: Monitoring, Enforcement, Fines for Compliance and Violations.

Part Nine: The Extensive Authority Given the Director and the Need for Oversight

Part Ten: Habitats and Species of Special Importance

Part Eleven: Additional Miscellaneous Concerns. This list of items includes:

1.) The need to apply the new COA to work done in critical areas that involves the contract between the City of Anacortes and the Port of Anacortes,

2.)

Part One: Passive Recreation

Summary: Because passive recreation can have many serious negative impacts on some of the values of critical habitat, esp. in wetlands and the FWHCA, I oppose the use of exemptions as written in the first draft. I appreciate the problems associated with requiring a Review for every trail in the ACFL. So instead, I propose a different way of handling passive recreation in Part Four.

1. I oppose the exemptions in the draft for passive rec in wetlands and FWHCA because of the many negative impacts passive rec can have if it is not carefully planned, managed, and/or mitigated. The proposed exemptions fail to provide an avenue to do these things.

I oppose the exemption for passive recreation in the general part of the Draft, page 9, AMC 19.70.020. This applies to all parts of the CAO including wetlands and FWHCA. This might also be applied to the Shoreline Master Plan when it is updated. Note these references to passive recreation being: 1.) an allowed use in wetland buffers in the draft, page 38m if five standards are met, and 2,) being exempted and allowed without a Critical Areas Review in FWHCAs on page 53 of the draft if three standards are met.

1A. Negative impacts to wetlands and wetland buffers and to FWHCA include many kinds of degradation, including harm to the soil, water and plant resources in these areas, direct harm to both the animals and plants which are to be protected, and disturbances that decreases or eliminates wildlife's ability to use the habitat.

Wetland values that should be protected include the hydrological values such as holding, cleaning and slowly releasing water which also benefits the Salish Sea, and flood control. Wetlands and their buffers are also valued for the wildlife habitat they provide, a habitat type that is fragile often threatened, and unique. They also provide many kinds of recreation for humans. This includes the wetland buffers. For many animals, the buffer adjacent to the water is an important component of its use of the water. Without an intact buffer, their use of the wetland itself will be harmed. Example: the tree overhanging the wetland provides a perch for the osprey, eagle or kingfisher foraging in the wetland. Too narrow or sparsely vegetated buffer may entirely eliminate most or all use of the wetland for many species because of threats and disturbance from humans and/or their pets. This is why the 10 or 15 foot setback from the buffer is important. The wetland buffer is far more than just another set-back.

**(Source: [Wetland Buffers - Access Washington](https://fortress.wa.gov/ecy/publications/publications/92010.pdf)
<https://fortress.wa.gov/ecy/publications/publications/92010.pdf>)**

1B. Passive recreation can negatively impact critical areas in many, significant ways. These increase with increases in use which means they are usually greatest in areas used by the public.

Passive recreation, even the most benign forms such as walking on trails, has many negative impacts on wetlands and fish and wildlife and plant habitats at the individual and ecosystem level. When hikers bring dogs, there are more impacts. Bikes increase impacts because they cause more damage to trails. Fishing and boating add more impacts.

Examples of Specific Kinds of Impacts Caused by Passive Recreation

1C. Poorly designed trail systems and their use can negatively impact the soil and trees. Damage to tree roots from soil compaction and exposed roots leading to eventual loss of the trees. In buffers for critical areas such as the edges of lakes, wetlands and streams, loss of trees has a major impact.

The photo below shows damaged roots caused by the trail along the shoreline of Little Cranberry Lake. Trees in shoreline buffers perform many ecological functions.



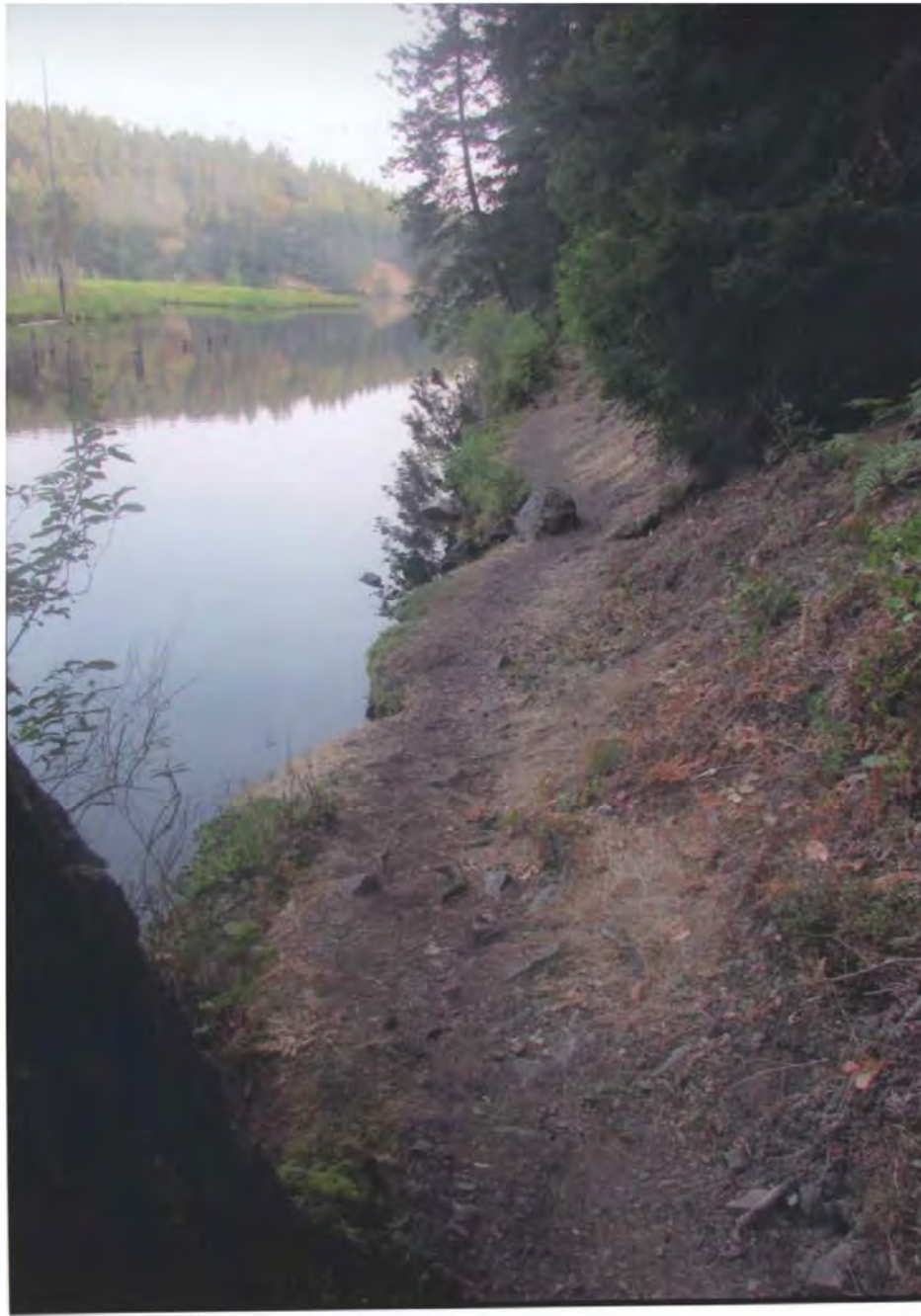
1D. Poorly designed trail systems and their use can negatively impact smaller plants adjacent to trails.

Exempting trails from any kind of Critical Area Review results in poorly designed trails and trails being located in the wrong place. The photo below shows such a trail which runs along Little Cranberry Lake in the ACFL. This trail is too close to the lake. Use is damaging and killing the few remaining small plants, salal, along the shoreline.



1E. Poorly designed trail systems and their use may negatively impact lakes, streams and wetlands by increasing soil erosion and run-off.

The photo below shows a section of trail along the southeast edge of Little Cranberry Lake in the ACFL.



1F. Formally established trails result in the creation of user-made trails as people try to access the water, to take short-cuts, etc. User-made trails, if not closed quickly as they appear, become unplanned trails which cause more negative impacts.

"Doing nothing about user-made trails" causes additional impacts, this issue needs to be addressed during the planning process which doesn't happen if trails are exempted. Approval should depend on the responsible party having a plan on how to address these impacts. Watching for and closing user-made trails requires additional time and money. If user-made trails become established, closing them can be unpopular. Monitoring for compliance is necessary so the "do nothing" approach isn't used.

The photo below shows user-created trails running from the WA State Ferry Terminal down to the beach at SHIP. For years there were many hard-to-see, primitive user-made trails on this hillside. Very few people tried to get to the beach. A few years ago the Anacortes Parks Department started improving these trails to increase use of the beach and SHIP. Now there are several "improved" trails, some user-made trails, and some attempts to close user-made trails.



1G. Trails lead to significant impacts caused by off-leash dogs. Should dogs even be allowed on trails through wetlands and FWHCAs? Some impacts of dogs can be reduced with good management and mitigation but these cost money. The CAO is the document that is suppose to protect critical areas. Requiring good management and mitigation shuld be a part of it. Exempted passive recreation including trails, and trails used by the public, is not the way to obtain good management and mitigation.

Impacts of dogs can be mitigated through mitigation measures. Anacortes has codes requiring dogs to be on leashes and owners to pick up dog waste, along with fines for violations. This isn't enough. Mitigation for trails could/should require signs at every trailhead noting these codes and fines. Education is needed. Enforcement is essential. All of kinds of mitigation cost money. How will these be paid for?

Currently, our Anacortes Parks Department does not even always install signs noting the city codes about leashing dogs and/or picking up at trailheads. When the City improved access from the WA State ferry terminal to the beach and wetland preserve at SHIP it did not add signs about leashing dogs. There are signs asking people to pick up after their dogs and a dispenser that occassionally has dog bags for this purpose.



Improving the primitive and hard to find existing user-made trails greatly increased the number of people (and dogs) who visit SHIP while waiting for the ferry. Sign asking people to clean up after dogs are at the trailhead. These and dog bags were probably put there by WA State Ferries.

Unleashed dogs are having a major impact on the many species of wildlife that use SHIP.

The "P" in SHIP means "Preserve", suggesting one of the main goal of the area might be protecting its valuable wildlife habitats including a beach with mudflats and extensive wetlands. This goal cannot be met at SHIP unless dogs are either eliminated or managed to reduce their impacts. (The impacts of dogs on wildlife is one of the primary reasons most Calif. State Parks simply prohibit dogs on beachers. Prohibiting them can be easier than trying to manage them.)

Many great blue herons depend on SHIP for food, both the wetlands and mudflats. The mudflats are only exposed for a short periods when tides are lower. This is esp. important while they are feeding young. A few great blue herons nest in the Skyline area.



I help with a citizen science project that involves observing and documenting heron activity at various sites around Anacortes. I observe at SHIP. I took the photo during one of my observations at SHIP.

Loose dogs are having a major impact on the herons who try to forage at SHIP. One loose dog that chases birds will clear the beach of most herons at SHIP. It is happening too often so I have started documenting it in my observations.



The dog in these photos chased the herons feeding at SHIP until all of the herons left. Then the dog ran back into the wetlands behind the beach looking for more animals to chase.

During the winter and migration large numbers of waterfowl use SHIP as a place to rest and to feed. The following photos show a flock of American wigeons feeding at SHIP.



The wigeons feed on the seaweed that has washed up on and next to the shore. They too are chased by loose dogs.



I've tried for over 6 months to get signs about leashing dogs at the trailheads at the ferry terminal. The port owns the area but says it isn't responsible. The port tells it leases the land to WA State Ferries and the City of Anacortes built the trail. WA State Ferries doesn't return phone calls. Anacortes Parks Department hasn't given me a clear response yet. My last check of the trailhead by the ferry landing was on 8/12/17. There still was no sign about having dogs on a leash.

There are two signs that ask people to clean up after their dogs. However the dispenser with dog bags as empty as usual and there is no trash cans in the vicinity. People had left a pile of full dog bags at the base of the sign.



My guess is that WA State Ferries put up and manages this dog waste area since people waiting for ferries take their dogs out on this bank while waiting. Loose dogs are also brought to SHIP and this beach from the other side of SHIP where there is a sign that says dogs are to be on leashes. Often these dogs are also not on leashes.



Another of the many loose dogs I see on the beach at SHIP.

We all know that signs are not enough. Education and adequate enforcement is also needed. I have never seen any enforcement of codes applying to dogs in either SHIP or the ACFL.

If passive recreation is given an exemption, these kinds of impacts from trails may not be addressed and mitigation is unlikely. The "do nothing" approach is cheaper and easier but comes with great cost to the value of wetlands and FWHCAs. The stated purposes and goals of the CAO is to protect these areas.

1H. Trails increase the amount of dog waste in critical areas.

What is needed to get people to pick up after their dogs? More education on why it is important? Enforcement? More trash cans and plastic bags at trailheads?

This photo shows the popular trailhead for Trail 10, in the ACFL near the old city dump. It is one of the few trailheads in the ACFL that has a trash can. It has one small sign that encourages people to clean up after their dogs. Two prominent signs ask people to leash dogs.



When using this trailhead on 8/10/17, I noticed a lot of dog waste on the ground as soon as I set out for my walk - with my dog. I decided to document the quantity. Within the first 100 feet of this trailhead - which does have a trash can - there were 15 piles of dog waste along the left side of the trail and 5 along the right side of the trail.

1 I. Trails increase human garbage and waste. Providing restrooms and garbage cans to reduce these impacts however these cost money.

1 J. Trails increase the risk of human-caused fires.

IK. Wildlife use of FWHCAs and wetlands is negatively impacted by trails. More use causes more impacts so public trails can have the most impact. Exempting trails is not the way to meet the goal of the CAO.

Studies show a direct relationship between trail density and wildlife's use of habitats. Trails fragment habitat. The location of trails also directly impacts how wildlife will use habitats. Many wild animals, such as great blue herons and even kingfishers, will stop feeding and leave if disturbed by humans and/or dogs.

(Source: [Planning Trails with Wildlife in Mind - American Trails](https://atfiles.org/files/pdf/Trails-for-Wildlife-Handbk.pdf)
atfiles.org/files/pdf/Trails-for-Wildlife-Handbk.pdf)

Many species of wildlife are afraid of humans and dogs. Many leave the area when disturbed. Some simply won't use areas with a lot of human and dog traffic. In FWHCAs and wetlands, human traffic should be managed by having a well designed trail system that limits human disturbance in these key habitat areas.

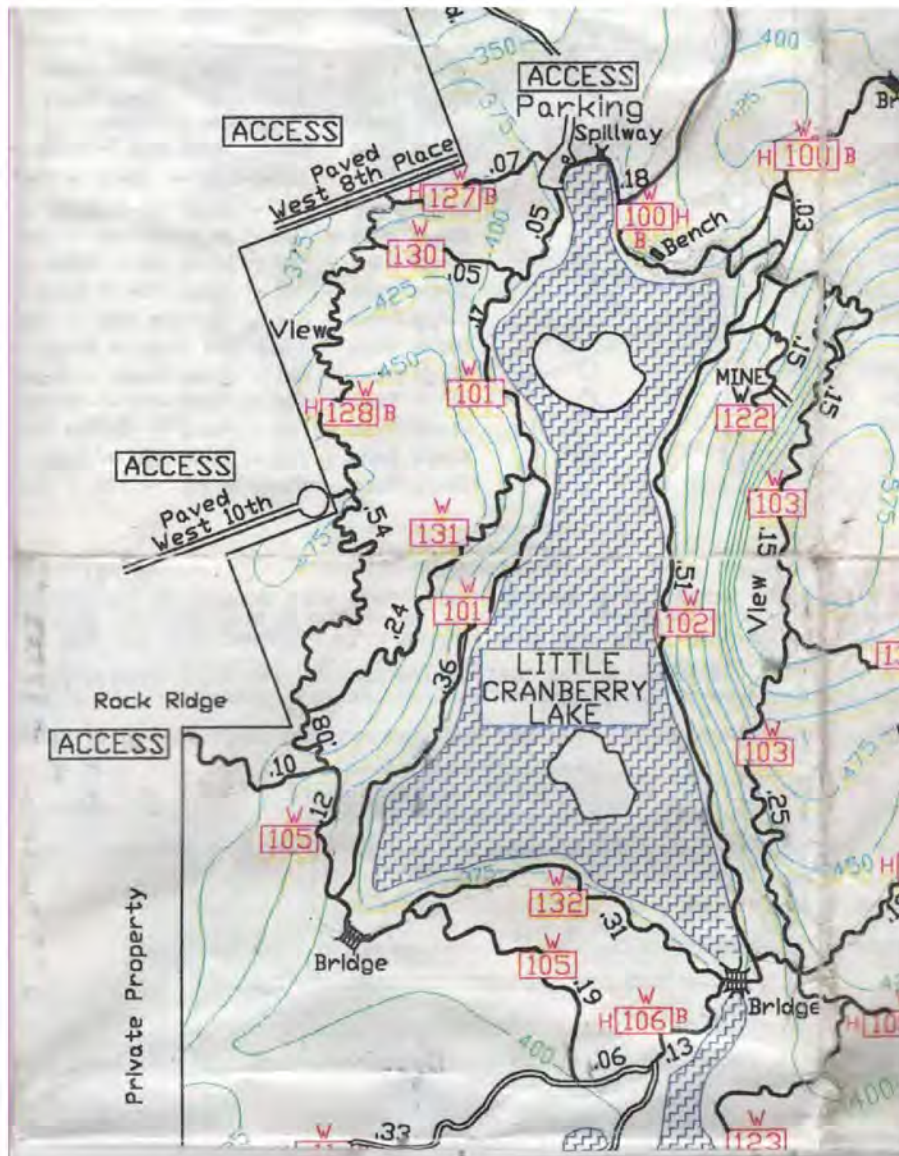


This photo shows one of the best wildlife habitats in the ACFL - the south end of Little Cranberry Lake. This end of the lake should be protected as a "preserve" with trails carefully designed to minimize disturbance from human and their dogs.

Instead of minimizing disturbance, there are trails along the very edge of almost all of the south end of Little Cranberry Lake. The first jogger of the day scares off any great blue herons trying to feed, the beaver hide, many of the ducks fly away, and even the kingfishers react by flying to the other side of the lake.



The dirt area on the right side of the photo is part of the trail that runs along the edge of lake. A well-designed trail system that protects FWHCAs does not run trails all around a FWHCA. Yet the ACFL in its entirety is a designated FWHCA of local importance.



Map of trails around Little Cranberry Lake.

Notice the trail that goes along almost all of the very edge of the lake.

There are also other trails that are not along the edge of the lake.

Shouldn't the ACFL, a "City Designated Habitats and Species of Local Importance, be managed to protect wildlife and wildlife habitat? Shouldn't the Comprehensive Plan for the ACFL be updated to bring the ACFL in compliance with the new CAO?

The ACFL is addressed in the first draft of the new CAO on Page 62-63. However these issues are not discussed. There are several comments in the right-hand margin on page 62. One notes that not all parts of the ACFL are actually "critical areas" as defined in the CAO. This comment mentions the comp. plan for the ACFL but fails to say whether this comp. plan meets standards in the CAO or whether its restrictions are adequate to protect wildlife and wildlife habitat. I believe these issues need to be addressed during this

update of our CAO. Is the ACFL adequately managed to protect FWHCAs? Does the ACFL Comprehensive Plan comply with the CAO? Does it adequately protect FWHCAs? This question should be answered and if there are problems, these should be resolved.

1L. Bike riders not only frighten wildlife, they actually hit wild animals. They might also hit humans and dogs. They pose more risk because of their speed and silent approach. Should trails through wetlands and wetland buffers and FWHCAs allow bicycles?

A newly fledged great horned owl was killed by a bike on an ACFL trail I use. Snakes sunning themselves on trails are run-over by bike riders. Birds that feed on the ground such as towhees are hit by bike riders.

Off-leash dogs are sometimes attacked by wildlife defending themselves or young creating conflicts that some humans want to address by trapping and killing the wildlife. In the past year I know a doe who defended her fawn in WA Park from an off-leash dog that was chasing the fawn (the owner of the dog was very angry about the aggressive deer) AND a coyote nipped a large dog in the ACFL when the dog ran a long distance from the trail to chase its pups (the owner of the dog sympathized with the coyote.)

1C. Diligent management, including education and enforcement, can reduce these impacts, but does the City of Anacortes have the staff and money to do this? If these impacts are not well managed, impacts of loose dogs, user-made trails, etc. can be significant.

1D. The term "trails" can mean some very different kinds of trails that have very different impacts. I think this term needs more refinement. The different kinds of trails need to be handled separately in the COA since they are very different.

One kind of trail, sometimes called "the urban trail", is very different than the trail that might be appropriate in a nature preserve or the ACFL. The urban trail often must be paved. It must be wide enough to accommodate two lanes of traffic. Some have a marked center divide. The grade must be kept to a minimum. Funding sources often dictate the exact specifications. These specifications often result in far more physical impacts to the critical area. Urban trails often continue for longer distances and are intended to get

people from point A to point B as a non-motorized transportation route. They are often popular with many serious bike riders out to commute or bike longer distances. Bike riders often want to go far faster than the people using the trail as a place to walk to enjoy nature and/or friends, or to exercise the kids. These uses sometimes conflict with each other and may cause different and/or greater impacts to wildlife that uses the area.

Trails through natural areas vary a lot. Some are very improved and quite wide, with a hardened surface that is permeable rather than paved, like the trail through SHIP. In wetlands the trail is often built on a boardwalk to decrease impacts, such as the one at SHIP. Or these trails may use the natural surface without improvements to make it flat or to remove rocks or roots. Grade may not matter at all and they be narrow. In fact, many people prefer trails with uneven, natural surfaces and/or trails that climb steep hills. These more primitive trails have far fewer physical impacts and impacts from their use are very different.

Lumping all of these kinds of trails together does not work because their impacts and use are very different. I think the COA needs to address these differences.

1E. Other kinds of recreation sometimes considered to be "passive recreation" may also have significant negative impacts on wetlands and FWHCA, including fishing, swimming and boating.

Fishing often invites user-made trails to the water and user-made areas next to the water where vegetation is damaged and sometimes completely destroyed creating erosion, water quality issues and loss of shoreline habitat. Other impacts include disturbance of wildlife use by humans and their pets and fishline left on the shoreline which can be lethal to wildlife. These can be mitigated and managed but this requires time and money. Building one fishing dock does not necessarily eliminate people from creating and using other areas. Trying to restore an area that has been eroded and compacted area is difficult. Mitigation of impacts and restoration is more likely to occur if the use must go through the Critical Area Review.

(Attachment #5: Photos of Little Cranberry Lake showing user-made trails and areas made for fishing and swimming and the nearby dock that can also be used for fishing.)

(Attachment #6: Photos of attempts to restore vegetation in a user-made fishing/swimming area at Little Cranberry Lake.

1E. A solid argument can be made that a structure, which is not exempted from the CAO, could actually have far less impact on wetlands and FWHCA and wildlife use of these than passive recreation that is not well managed, yet passive recreation is exempted.

1F. The stated safeguards in the draft CAO for the exemption of passive recreation fail to adequately ensure that passive recreation will not significantly degrade

critical areas when exempted. Does this exemption meet the stated purpose of the CAO, "to establish standards for the protection of critical area functions and values"?

Draft, page 9: This safeguard is vague and lacks any require to documentation and show the activity will cause no "undue adverse effect". The exemption would also mean the public would not be notified or allowed to comment on these.

Exemption, Draft page 9- Exempt Activities that do not require prior notification:
"Passive Outdoor Activities: When it can be demonstrated that there will be no undue adverse effect, the following activities are allowed within critical areas and their buffers; educational activities, scientific research, and outdoor recreational activities, including but not limited to interpretive field trips, bird watching, public beach access including water-related activities, bicycling, and hiking."

Draft, page 38: This exception lacks a much needed definition for "low impact uses and activities which are consistent with the purpose and function of the wetland buffer". The language "may" is vague. Does it mean only these three uses are allowed? The criteria for the three uses do not adequately cover all things that should be considered before these are allowed. Thus, these do not adequately replace having these go through the Critical Area Review where impacts would be looked at in more depth and public participation would be possible.

Exemption, Draft, page 38 - Allowed Wetland Buffer Uses. Passive recreation.
"Low impact uses and activities which are consistent with the purpose and function of the wetland buffer and do not detract from its integrity may be permitted within the buffer depending on the sensitivity of the wetland. Uses may include:
a.) Pedestrian walkways and trails meeting the following standards (parallel to wetland, in outer 25%, not over 6 ft wide, doesn't fully encloses habitat area or buffer, subject to closures)
b.) Wildlife viewing structures; and
c.) Fishing access areas down to the water's edge no larger than 6 feet in width."

1G. Some of the impacts of trails could be reduced, avoided or mitigated IF they were not exempt. The Critical Area Report is the tool for doing this. Exempting them means the opportunity to reduce, avoid or mitigate impacts is lost. Mitigation of impacts is less likely to occur if there is no Critical Area Review. Why would the CAO want to avoid opportunities for mitigation by having these exemptions?

If a trail went through the Critical Area Review, impacts could be specifically addressed and avoided, reduced or mitigated. Examples: trail density could be reduced by closing other trails when adding a new one, the trail could be re-routed to avoid a sensitive wildlife area, trails through sensitive areas could prohibit use by dogs and/or bikes, more use could be moved to another nearby trail that goes through a less sensitive area, more signs and enforcement might occur for enforcing leash laws, and seasonal closures for flooding or nesting season.

1H. What is "passive recreation"? The CAO exempts something it has not defined. I have found no commonly agreed on definition. People have some strong disagreements about what kinds of activities are appropriate and where. With an exemption for passive recreation, the public would not have a chance to comment.

My experience with this comes from Smiley's Bottom. The wetland specialist hired by the Anacortes Parks Department to write the 2012 Management Plan Smiiley's Bottom, interpreted the current AMC 17.70.380,B. to mean Frisbee golf should be an allowed use and installation of the course can occur. The specialist said this was an appropriate use on the cross-country trail - a trail that runs through a wetland that has significant wildlife - use even though he noted players will be accessing the wetland and/or its buffer to retrieve frisbees. He said this activity had limited environmental impact that could be mitigated in another area. The public has never had a chance to comment on the 2012 Management Plan and its statement on Frisbee golf. Lack of any chance for the public to comment on this plan is an on-going debate I am having with the City of Anacortes. Will a course be built in the wetlands? I don't know.

(Attachment #7: The 2012 Management Plan for Volunteer Park, prepared by Aqua-Terr Systems, Inc., page 12.)

However, the story was quite different when Frisbee golf was proposed for the ACFL. There was a public review and hearing. People said loudly and clearly that Frisbee golf is not an appropriate use in ACFL. A Frisbee golf course was not installed in the ACFL. Some areas in the ACFL are far less fragile and provide less critical habitat than the wetlands in Smiley's Bottom.

I used this example of Frisbee golf to show that there is a lack of agreement on just what uses are appropriate in different places. Whether dogs, and/or off-leash dogs should be allowed in the ACFL or on beaches, etc. is another very controversial subject. Bikes and motorcycles are too. Exempting "passive rec" from the CAO would mean no Critical Area Review. The public would then have no chance to comment on the uses the Director might decide are "passive recreation" and thus allowed. If he asked the city's wetland specialist, he would be told Frisbee golf is appropriate in a wetland. Shouldn't the public have a chance to comment on contentious issues like these?

Part Two: Public Exemptions

1. I believe the Public Agency Exception, 19.70.050 (Draft, page 17)

needs to have a definition for "services" in D1 (The application of the critical areas regulation would unreasonably restrict the ability of the public agency to provide services to the public).

The definition should restricts "services" in this exemption to only "essential services such as water, sewer, fire and police, and electricity" and excludes non-essential services such as recreational facilities, trails, etc.

1A. While I am a strong supporter and user of recreational facilities such as trails, these are not basic "essential" services almost everyone needs and uses such access to power, water and police protection.

1B. The City of Anacortes has sufficient areas of publicly owned open space (ACFL, WA Park, etc.) to accommodate all of our recreational needs without locating these in a critical area where other exemptions do not apply.

1C. There is a significant difference between "wanting" a recreational facility in a specific critical area and "needing" to have a facility in that specific critical area. If more trails are needed, there are other places to put them.

2. For some of the same reasons, I believe allowing the special exception for public projects that are for passive enjoyment such as walking trails, draft page 12, fails to fulfill the purpose of the CAO as stated on page 6 of the draft: protection of the functions and values of critical areas. When the public will use the trail or whatever, use is likely to be much greater and cause far more negative impacts and a similar project that is only for private use. Thus, I strongly oppose an exemption for public projects for these reasons.

2A. In the Draft this exemption added in the right margin, labeled as" Commented (LBG15) :

"Should there be a specific exemption for public projects where the purpose for activities within a critical area or buffer are for the benefit of the public's passive enjoyment of the environmentally critical area, like walking trails under certain circumstances?"

2B. As I said in #1, there are many negative impacts associated with passive enjoyment of the environment including the construction and use of walking trails.

2C. As I said in #1, a definition is needed for exempted activities. What is "passive enjoyment"? Exemptions are serious. Definitions should be clear and exact.

2D. What is the rationale for this exemption? Why should public projects be favored with a special exemption over private projects in critical areas or buffers? It looks like the City of Anacortes is writing a special exemption for itself so it can avoid having to comply with its own CAO. This doesn't look good to me.

2E. This exemption is even more egregious because public recreational facilities have far greater impact than private ones because the number of people using them will probably be far greater.

2F. An exemption here, on page 12, means there will be no Critical Area Review and no public notification or participation. I believe both the Review process and public involvement will often lead to a better project in the end.

2G. This exemption might mean a missed opportunity for mitigation.

Part Three: Exemptions for Maintenance, etc.

3. Draft page 10, Exempt Activities that require prior notification, Recreation Areas Operation, Maintenance, Repair or Replacement.

"Maintenance, operation, repair, modification, or replacement of existing facilities within publicly improved recreation areas, such as "

My concerns about this exemption stems from a project that happened in Smiley's Bottom. The Anacortes Parks Department put several feet of large and crushed rock and gravel on the high school's cross-country trail. Many parts of the trail run through the wetland while other parts are in the buffer. No permit was obtained so there was no acknowledgement of possible impacts to the wetland or buffer. The Anacortes Parks Department said this project was just "maintenance", which is allowed without obtaining a permit. I disagree and I believe the park department's wetland specialist also disagrees. The amount of rock and gravel that was added, several feet or more in places, is "fill" where it is actually in the wetland. It also blocks and channels the flow of a stream that runs through the wetland, dewatering a section of wetland. Is "fill" of a wetland allowed in this exemption? Fill changes the hydrology of a wetland, preventing it from holding as much water when the wetland has a controlled water level at its outlet.

Could putting this much rock and gravel on top of the cross-country trail be called "maintenance" or "modification", in the new CAO making it exempt?
(Attachment # 8: Photos of the new work on the cross-country trail in Smiley's Bottom.)



1.

Draft, page 10: *Maintenance, operation, repair, modification, or replacement of publicly improved roadways or City-authorized private roadways, and associated stormwater drainage systems....."*

My concerns on this come from my experience in Smiley's Bottom. The dirt access road was paved (along with hills and landscaping) without first obtaining a permit and with no public notification or process. Is paving a dirt road "modification" or "maintenance"?

This dirt road provides access from D Ave. It also was part of a cross-country trail. This road is adjacent to an already impacted wetland buffer. Now there are problems with the location of the road and the fact that it is paved. The school does not want pavement on its cross-country trail. Where will the cross-country go since little space is left between the wetland buffer and ballfields? For now, the trail was moved into the wetland buffer causing further degradation of a buffer that was already too narrow. How will this be resolved? Moving the road would help and would have been easy before it was paved. Moving paved road is not easy. I attribute these problems to the lack of sufficient public input and planning which could have been part of a permit process or Critical Area Report.

This project was paid for with private money from the Anacortes Parks Foundation which perhaps contributed to the lack of public notification, review and a permit.

Is there a better way to get a sufficient planning and public input while maintaining this exemption in this CAO? Perhaps, but how?

(Attachment # 9: Photos of the access road from D. Ave into Smiley's Bottom.)

Part Four: Cumulative Impacts

On page 6 of the first draft, the list of goals includes this one: "*Prevent cumulative adverse environmental impacts to water quality, wetlands, and fish and wildlife habitat, and the overall net loss of wetlands, frequently flooded areas, and habitat conservation areas.*" I believe the CAO needs to do more to address cumulative impacts which includes more consideration of past impacts when making decisions on approving new projects that will cause additional impacts.

Where does the CAO really address cumulative impacts? Where does it address the need to correct some of the negative impacts that remain from past uses and old projects that were approved before a good CAO was in place? Where does it address the need for renewed efforts to do the mitigation on projects where mitigation was required but failed for whatever reason?

Addressing cumulative impacts requires determining what the ideal condition of the critical area would be. The USFS sometimes refers to this as the "future desired condition". The best available science is used to determine what this condition would be.

This also requires looking at impacts from past uses and projects including old mitigation measures that failed for various reasons. How to all of these, individually and collectively now impact the critical area, whether it is a wetland, stream, frequently flooded area, shoreline, or FWHCA?

I don't know if the CAO should have standards for the amount of cumulative impacts that can be allowed. I don't know how this would be done. Would it be a % of the total area and/or a % of the total function? I believe this issue needs to be addressed in the CAO, but how? If this isn't addressed, the number of negative impacts may continue to grow as new projects and uses are approved if negative impacts from old projects are not addressed. This has to be addressed in a more meaningful way than is sometimes done now in Anacortes - approving projects by using as mitigation the "enhancement" or "restoration" of areas negatively impacted by past projects and uses. That ends up being

a pattern of approving more negative impacts by requiring an effort to correct negative impacts from the past and the net gain is often minimal at best.

Example: Mitigation for the Guemes Channel Trail

The Guemes Channel Trail to Tommy Thompson Trail can be used to demonstrate the failure to address cumulative impacts. What % of the Anacortes shoreline on the Salish Sea is impacted in one way or another by roads, the refineries, marinas, houses, industries, and trails? What % of this shoreline is in what DOE might describe as "good condition" for fish and wildlife? What % has large, native trees along the shoreline providing shade, structure and nutrients to the beach and water? How much of the shoreline is in some way "hardened" with rip rap or other structures? Has this been considered as the City of Anacortes continues to build more trail along the shoreline? How can this be mitigated?

The last section of the Guemes Channel Trail that was approved required mitigation that failed to address many of the impacts for various reasons. One of the biggest impacts, rip-rap along the shoreline, was actually increased and made a more permanent reality than it was before the trail was made. Mitigation to "feed the beach" with what would have naturally eroded from the adjacent hillside was required for only something like 5 years when actually this is needed forever, not just for 5 years. The "planting pockets" where trees were suppose to be planted to provide shoreline trees didn't work out as promised. Many of the trees that were growing along the shoreline that were suppose to be "left" were actually knocked over during construction of the trail and others have died and/or fallen over since construction because the trail failed to provide enough room, water, and/or soil to keep them alive. A king tide washed over the trail and destroyed some of the promised plantings. Did planners consider king tides and sea level rise? Something went wrong with the assessment of bank stability along the trail because it keeps sliding causing more loss of trees.

This year 1 gallon trees were planted along the Guemes Channel Trail as part of the mitigation for the Port's most recent airport project which impacted the wetlands. These trees did not mitigate the losses at the airport, which was loss of trees in wetlands. Because of an agreement between the city and port, the City of Anacortes decided what the mitigation would be and where the trees would be planted. I was told the park department would decide and the public could not be involved or even find out what the mitigation would be until the city decided and signed off on it. Some of the trees planted for this port project were planted along the Guemes Channel Trail where the City of Anacortes was suppose to be planting trees as its mitigation for the trail. Thus, these trees were used twice, to meet two requirements for mitigation, which I objected to by raising this issue with the city and port. I wrote a detailed letter to the mayor about this misuse of mitigation but never received a response.

So I ask, what mitigation on this newest section of the Guemes Channel Trail really resulted in any real improvement in our shoreline? We do have a wonderful trail that many of us enjoy, but what about our shoreline? Did the Shoreline Master Plan protect the shoreline as it is suppose to? We now have rip-rap forever along that stretch. All

chances to get rid of this and restore the beach are gone. Before the trail was built, even with the old rip-rap left from the days of the railroad, a natural area had developed along this shoreline, an area with large trees that was used by wildlife. The trail will need constant work to address the sliding hillside. Trees will continue to fall down. During the wettest seasons the trail is probably unsafe to walk because of the chance of slides.

Part Five: Another Way to Protect our Larger Critical Areas

I suggest an additional way to protect some of our larger areas that contain areas of both high value critical habitat for fish and wildlife and passive recreation. This concept is used by other government agencies such as the USFS and many state parks. I think it might provide more protection than exempting passive recreation (which I oppose since exemptions remove almost all protections). It avoids subjecting every passive recreation use to a CAO Review. It also addresses cumulative impacts, including impacts from the past that might be reduced.

This method would create a special designation for larger areas that have both FWHCAs and provide opportunities for passive recreation for the public, such as the ACFL, WA Park, Smiley's Bottom, etc.

An area managed this way would be listed as a Special Use Area. It would contain designated FWHCAs and have opportunities for recreation, perhaps passive and other types of recreation. A plan developed through a public process would be required for each area. (a master plan or comprehensive plan) Guidelines for these plans would require identification and protection of the FWHCAs according to the CAO. Plans already in place for some areas like the Comprehensive Plan for the ACFL would be revised to comply with the guidelines and standards for plans for Special Use Areas as required and stated in the CAO.

Plans for these Special Use Areas would be required to have a designation called "Preserve" or "Nature Preserve". This designation would be used for all FWHCAs within the Special Use Area. Only "passive recreation" would be allowed within these "Preserves". All uses within these "Preserves" would be required to meet the standards in the CAO, including trail width, location in the outer 25% of buffers, permeable surfaces, protections to minimize disruption of wildlife use of the FWHCAs, etc. Management would emphasize protecting the FWHCA.

Master Plans/Comprehensive Plans would be required to have a section on cumulative impacts. This is where the cumulative impacts of all uses within and adjacent to the FWHCA would be identified.

Master Plans/Comprehensive Plans would also be required to have a section on the "desired future condition" for each FWHCA which states, using the best available science,

what the condition of the FWHCA should be like to protect the wildlife habitat as it provides some passive recreation. The Master Plans/Comprehensive Plans would also be required to have a section outlining how conditions on the ground will be moved towards this "desired future condition" over time through restoration efforts and changes to existing conditions that are less than ideal. Timelines would be required for taking these actions.

The Master Plan/Comprehensive Plan would go through a full CAO Review as part of the approval process. Once the Plan has been completed and approved, projects and uses involving "passive recreation" that are part of the plan would not have to go through a full CAO Review if they conform to what was approved in the plan. Instead, they could be approved with a simpler process. Perhaps something like public notification and a short period for comments would be required to encourage public involvement. Any mitigation would have been dealt with in the plan, perhaps with actions that would move the critical area towards the "desired future condition".

Part Seven: Habitats and Species of Local Importance.

Comments on the city's designation of areas as "Habitats and Species of Local Importance", 19.70.310. (Draft, 50-53).

1. I support much of this part of the draft. I support naming some of the specific areas in Anacortes that qualify if an effort is made to include more qualifying areas in the list of named areas, especially those of significant size and importance. My suggestion of a different way to manage larger areas (Part One) could apply to some of these areas designated as having local importance. These areas could be protected through the development of master/comprehensive plans which would address the CAO.

1A. On page 51, it is noted that three areas have received this designation by the city, the ACFL, the March Point Heronry, and the 1 1/2 acre "Park Preserve" at Cap Sante? Has the city designated any others such as SHIP, Shannon Point, Smiley's Bottom, and WA Park?

1B. What is the point of this designation? Do areas on the list receive more protection? Have the three that are listed been managed differently due to being listed?

1C. Does and/or should the ACFL's Comprehensive Plan comply with the new CAO when it is adopted?

1D. The list of reasons why areas might be listed as FWHCA looks good, though it needs a little more work to make sure the list is complete, clearly stated and easily understood. See the draft, page 50. This list is very important so I hope time is spent getting this exactly right. I hope the final CAO includes an easy way for people to access the most up-to-date versions of all lists it uses.

Many items in the list look very good. Using lists as it does should work well since the specific species and habitats may change over time. Using these lists removes the need for Anacortes to keep updating the list when changes occur. (The WA State's list of endangered, threatened, and sensitive species, the WA State's list of priority habitats and species, and DNR's lists of places needing protection including preserves and areas of rare plants and high quality ecosystems in DNR's Natural Heritage Program.)

1E. Likewise, I like the use of the list of available maps for Fish and Wildlife habitat areas. First draft, page 52. Again, I hope the final CAO includes these maps and/or provides an easy way for people to view these maps in some other way.

1F. I support having these statements in the Draft as a way to make sure all important habitat areas are protected, including those that may not have been identified yet:

"All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to provisions of this chapter." (Draft, page 52, C.)

"Reference Only. The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

I would add "and the public" to the list of users in the above statement.

Part Seven: Public Participation

I believe the public should have a number of opportunities to see and comment on projects, including mitigation plans if these are required.

I ask that the public be notified and allowed to comment before plans are finalized and before they are approved. I also believe the public should be able to easily access the required monitoring reports for mitigation plans. Public participation may improve the project by bringing in more knowledge and ideas.

1. Some members of the public may have information about the area that the professionals writing the plans lack.

The professionals sometimes only visit the mitigation site once or twice before writing the mitigation plan. They may not know what animals use the site throughout the year. Few professionals are paid to take the time to really find out exactly what animals use an area year around. Many don't do a very complete study of what plants live on the site.

When writing the 2012 Management Plan for Volunteer Park (Smiley's Bottom), the wetland specialists said this, which was stated in this plan:

2.3.1 Reconnaissance (Page 3)

.....On-site reconnaissances were conducted on 2 September and 1 November 2012 by ATSI staff for this specific project (report). Mr. Wiggins has been on the park site numerous times over the past 10 years for other projects associated with the park and is therefore familiar with the natural conditions.

3.6.1 Field Observations (Page 8)

During our reconnaissance ATSI observed a few species of wildlife such as deer, garter snake, hare or rabbit from the family Leporidae, and evidence of woodpecker (bore holes in trees". The wildlife that may utilize the habitat located within the park include fish, aquatic and/or terrestrial insects, amphibians, birds, and/or small and large mammals, i.e. fauna that are typical for the area. The production of a thorough species list was not part of this assessment."

This is typical of the level of knowledge and time spent by the professionals who are writing the plans, including mitigation plans, for many projects. Many local citizens who visit our critical areas often, sometimes almost daily, and throughout the year, know a lot about the areas. This knowledge should be used.

So many more plants and animals live in the area covered by this report than are noted here. I was really surprised that this report on wildlife was so limited. Field observations were based on two visits. It didn't say the time of day of the visits which is important. Neither visit was during breeding or nesting season. The area is a stop-over for some migrating birds including killdeer and waterfowl including hooded merganser which could nest there and bufflehead. Great-horned owls and barred owls hunt the many rabbits as do coyotes. Great blue herons feed in the wetlands daily. One was killed by an eagle this summer. Red-tails, Cooper's hawks, and sharp-shinned hawks use the area. A wide variety of song birds live and nest in the area. The list is long.

This summer, ATSI's lack of knowledge of the area became a serious problem when it wanted to disturb the area where it was doing mitigation required by the second Rice Field. ATSI planned to disturb the site in early July just when birds were nesting in the wetlands where the work was to take place. ATSI did not know Virginia rails had been nesting in these wetlands for at least the last few years and probably longer. I saw and heard parent V rails and chicks in this July and at the same time I happened to learn that ATSI was about to disturb the area by mowing areas all around the wetland. ATSI stopped the planned work and it didn't occur until August. Were the birds gone in August when the work was done? I don't know. ATSI says they think so.

Last summer I found a dead Virginia chick, quite a young fledgling, that may have been killed by a mower since I found it in the area that had just been mowed. Its body had wounds where it had been hit by something that wasn't a cat.

2. I'm not clear on where the CAO allows public notification and participation during the Critical Area Review.

The draft, on page 19, refers to AMC 19.20.030 and types of public review. Could this be briefly explained as part of the CAO along with this reference? Where is AMC 19.20.030?

3. I believe the CAO should require public notification if the Director decides a critical area will not be negatively impacted and if an exemption will be granted. I also believe there should be a way for the public to question and maybe appeal such a determination if the public believes the Director made a mistake.

This draft of the CAO gives the Director a lot of responsibility - maybe too much. For an example, is the Director qualified enough, or have enough information, to make these determinations on his own with no oversight from anyone? This is asking a lot of the Director. Expecting him to know the location of every osprey nests, all heron nests, all plants listed as sensitive or threatened, etc. is asking too much. Adding the oversight of giving the public an opportunity to comment on determinations would add some oversight. Many people know a lot about the critical areas in Anacortes and they might have information the Director does not have. Oversight from someone else would also be helpful. I believe more oversight is needed when making this determination.

4. I'd like the CAO to allow the public to comment on mitigation plans before they are finalized and before they are approved. I believe this could result in better plans and more support for the plans as well as more and better monitoring of the mitigation.

8A. Will the public be allowed to see and comment on mitigation plans before they are approved.

8B. Will the mitigation plan be contain enough details so the intent and impacts of the plan can be understood before the public comments on the plan? This means the plan must describe what negative impacts each part of the plan will mitigate and how the actions in the plan provides this mitigation. If the plan includes plantings, these should be at least described as types of plants if the specific species have not been chosen yet.

8C. Will the public be allowed to see, upon request, the completed monitoring as the plan is executed, through to completion and sign off?

WHERE DOES THIS GO - PLANS FOR DESIGNATED AREAS???

E. I suggest another classification of park for this - A Designated Preserve or Natural Area.

The wildlife habitat values would be the primary considered, recreation second. State Parks sometimes have these. ACFL - kind of like along Big Beaver Pond Trails are primitive and have restrictions: maybe no dogs, or no bikes, etc.

6. Restricting us of pesticides and herbicides in some habitats,
Draft, page 12 - Yes.

9. Wetlands. Draft page 33, comment GL55 - a list would be helpful.
Include "filling".

10. Table, page 36-37, for 19.70.250- 2. Add to this table the following:
For lights and noise and pets and human distrubance:
- add sports facilities, recreation, campgrounds.

11. Allowed uses in wetland buffer, page 38-39: 19.70.250

Some excellent restrictions, outer 25%, not over 6 ft wide, surface permeable, not enclose habitat area

Questions: Is a Critical Area Report required for these trails in the buffer????
Is the public involved at any point? In the permit and the mitigation?

Add as things to consider:

Amount of existing vegetation in the rest of the buffer - is it enough?

Noise and speed of the activity on the trail. Bikes, etc.

Closure for high water versus building for high water?

12. Mitigation, page 44, type and location of compensatory mitigation.
Questions about impacts on local wildlife when mitigation occurs
with these options, off site, mitigation bank, in-Lieu Fee.

Example: Shell Oil proposal - to use mitigation bank - off site, when the impacted area was near the March Point heronry where the herons feed. They can't go up-river. The wild animals on Fidalgo Is. may not be able to go where the mitigation ends up.

13. FWHCA - Page 51 - list of species seemed incomplete.
State designated Habitats and species

Questions about the purpose of the list. Is it needed?

Question: Do these designations offer additional protections?

Shoreline versus these sections - overlap with FWHCA - does FWHCA address shoreline?

Other species that were not mentioned include:
oyster catcher, forage fish like surf smelt, etc.

13. Habitats and Species of Local Importance designated by the city,
Page 51 - criteria - these look good.

Question: Do these receive in special protections by being so designated?
What is the point of the designation?

What does the section on P. 52 mean, (D): "All areas meeting at least one or more criteria are hereby designated critical areas and are subject to this chapter."

The list includes: all of the ACFL, March Point Herony, 1/12 acres on Cap Sante.
What about: Washington Park - esp. the bluffs with special habitats for rare plants?
What about Smiley's Bottom? All of Shannon Point?

Is including all of ACFL effective since not all of it is maybe equal in its importance as important habitat or its uniqueness or rarity, or how fragile it is.

Would highlighting some of the areas maybe result in more protection for those areas, in the ACFL Comprehensive Plan - such as the shoreline of lakes, bogs, beaver ponds with nesting wood ducks and mergansers, etc.

Example: state parks and national parks have different areas with different levels of protections and uses.

Could being on this list be made more meaningful by requiring a comprehensive plan IF an area is added to this list? A plan that would look at current and future desired condition, etc.?

14. FWHCA - Exemption allowed without Critical Area Review - page 53 AMC 19.70.020. Same exemptions for passive recreation and recreation facilities: maintenance, modify, Etc. - I already covered this.

15. FWHCA - page 53-54 - Questions about how much protection? Question: width of the buffers? Standards? Who decides this and how? Level of expertise of that person?

Osprey nests? Eagle nests? Wood duck nesting areas? Plants: bald bluffs

Requiring timing of activities such as work in mitigation areas, general maintenance, etc. to miss most critical time of year - such as nesting season.

Closures during nesting season for waterfowl - to boating and/or fishing, or trails, etc.

March Point herony - really support the protection for 10 years after abandonment. -P.63. Question on the herony- is 1000 feet enough? Had total abandonment at Samish this year.

16. Who determines if a project is in a critical area or adjacent to one so this needs to be considered when deciding whether to require a Critical Areas report???? This requires a lot of knowledge of wildlife.

17. ACFL Comp Plan - mentioned on P. 62 that it has management areas. Does this Comp Plan have to be consistent with this CAO, or is the opposite true?

Statement on P. 62: *Proposed alterations must be consistent with adopted ACFL Comp Plan as amended.*

There are a number of trails that might not meet the standards in this CAO - such as

the trails that line the shoreline of Little Cranberry have resulted in many areas of limited vegetation along the shoreline, exposed tree roots which may kill the trees along the shoreline, numerous user-made trails created by people who fish or swim, etc.

18. Many of our critical areas have been used and abused for many years. They contain user-made trails, trails that would violate many of the restrictions in this draft, etc. Could this somehow be addressed? Is there something that could be added to the CAO that would be an attempt to address these problems? Could it be required in a plan?

The Forest Service has something called "future desired conditions". It is required to keep trying to improve conditions so they meet current requirements. As when trails are worked on. When new projects are approved. Etc. This must be monitored regularly to see if conditions are improving.

19. Is there a way to look at cumulative impacts in this CAO? When approving a project, could it be looked at with a consideration to how much of the FWHCW or wetland has already been degraded?

Could this be required in a plan for the critical area during the permitting process?

To: Libby Grage, Anacortes City Planner
and Members of the Anacortes Planning Commission,

I am submitting more comments for the update of our Critical Area Ordinance (CAO)

I'll be submitting a number of comments at different times, as I complete them. I didn't make the August 25th deadline. Many people, me included, are on vacation or busy with summer house guests, etc. Just finding people home is difficult. Groups that are interested don't meet in the summer. I'm sorry the deadline was not extended.

I want to point out that several issues come up in most of my comments. In some of my comments I've spent considerable time providing details and photographs about specific issues in Anacortes that I've been aware of regarding critical areas. I know they are long and tedious to read but I think these examples are needed to explain and show that some of the issues are real. They are happening in Anacortes. As an interested resident of Anacortes, I take to heart this statement at the end of Don Measamer's e-mails,

Get involved..... It's your city!

And I believe the update of our CAO is the time and place to address many of these issues. I'll sometimes refer back to some of these examples such as things that happened with the airport mitigation, things that happened with dog signs at SHIP, things that happened with mitigation on the Guemes Channel Trail, things that happened in Smiley's Bottom. These are experiences I've had while living in Anacortes and interacting with city staff and other residents.

To really understand my comments, there is a need to look at all of them, altogether, since many issues reappear over and over. Some of these issues are:

1. the exemption for passive recreation,
2. the exemption for public services/agencies,
3. the exemption for maintenance,
4. the need to include cumulative impacts,
5. the need for more public participation at many different places in the process because the public may have useful info, may be interested, and can provide a form of oversight if it is informed and involved,
6. the need to have more authority given to someone besides the Director in some instances for more oversight of the planning department and additional expertise,
7. the need to have laws with penalties supporting the CAO that involve the court system, including laws to address illegal activities in critical areas and failures to follow requirements in permits
8. the need to make sure mitigation actually does reduce or eliminate negative impacts, that it prevents a downward trend in the condition of our critical areas.
9. the need to state everything in a concise, clear way, including definitions of terms, to avoid confusion, misunderstandings and lawsuits

I am no expert on how some of my issues can be addressed in the CAO. I suggest ideas when I have them. I'm depending on our planning department to provide the expertise on how my concerns might be addressed in the update of our CAO. I know we all want to protect our critical areas. Finding a way to do this is the challenge. However I also know that our planning department staff has a huge work load. We expect a lot from this small staff. I appreciate their efforts

Cumulative Impacts

Received by PCED
8/31/17

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The last section of the Guemes Channel Trail that was approved required mitigation that failed to address many of the impacts for various reasons. One of the biggest impacts, rip-rap along the shoreline, was actually increased and made a more permanent reality than it was before the trail was made. Mitigation to "feed the beach" with what would have naturally eroded from the adjacent hillside was required for only something like 5 years when actually this is needed forever, not just for 5 years. The "planting pockets" where trees were suppose to be planted to provide shoreline trees didn't work out as promised. Many of the trees that were growing along the shoreline that were suppose to be "left" were actually knocked over during construction of the trail and others have died and/or fallen over since construction because the trail failed to provide enough room, water, and/or soil to keep them alive. A king tide washed over the trail and destroyed some of the promised plantings. Did planners consider king tides and sea level rise? Something went wrong with the assessment of bank stability along the trail because it keeps sliding causing more loss of trees.

This year 1 gallon trees were planted along the Guemes Channel Trail as part of the mitigation for the Port's most recent airport project which impacted the wetlands. These trees did not mitigate the losses at the airport, which was loss of trees in wetlands. Because of an agreement between the city and port, the City of Anacortes decided what the mitigation would be and where the trees would be planted. I was told the park department would decide and the public could not be involved or even find out what the mitigation would be until the city decided and signed off on it. Some of the trees planted for this port project were planted along the Guemes Channel Trail where the City of Anacortes was suppose to be planting trees as its mitigation for the trail. Thus, these trees were used twice, to meet two requirements for mitigation, which I objected to by raising this issue with the city and port. I wrote a detailed letter to the mayor about this misuse of mitigation but never received a response.

So I ask, what mitigation on this newest section of the Guemes Channel Trail really resulted in any real improvement in our shoreline? We do have a wonderful trail that many of us enjoy, but what about our shoreline?

Did the Shoreline Master Plan protect the shoreline as it is suppose to?

Now it's likely that rip-rap will be along this stretch of shoreline forever.



All chances of getting rid of this armoring and restoring the natural beach are gone.



**Before the Guemes Channel Trail was built, there was rip-rap,
but time was reclaiming some of the natural features.**

Before the trail was built, even with the old rip-rap left from the days of the railroad, a natural area was developing along this shoreline. The bank had large trees that shaded the beach, added nutrients, and provided habitat for many species of wildlife.



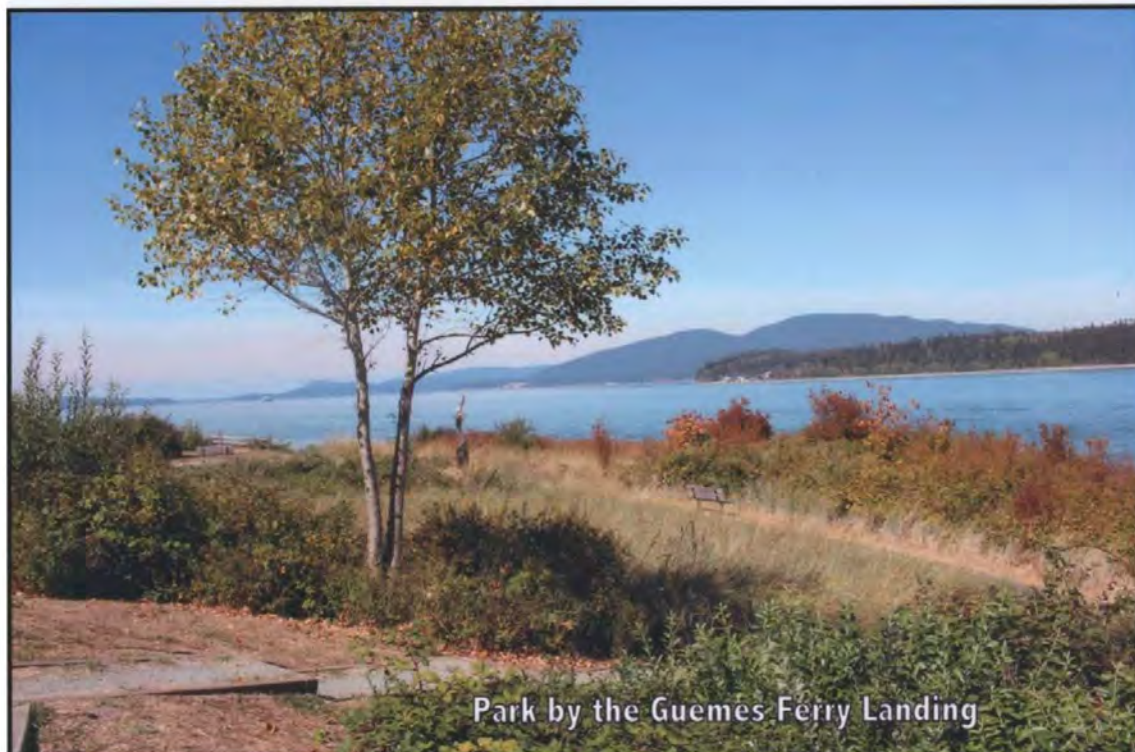
When people wanted to remove the rip-rap from the beach at Shannon Point, and even secured the funding to do this, why did Anacortes decide against doing this?

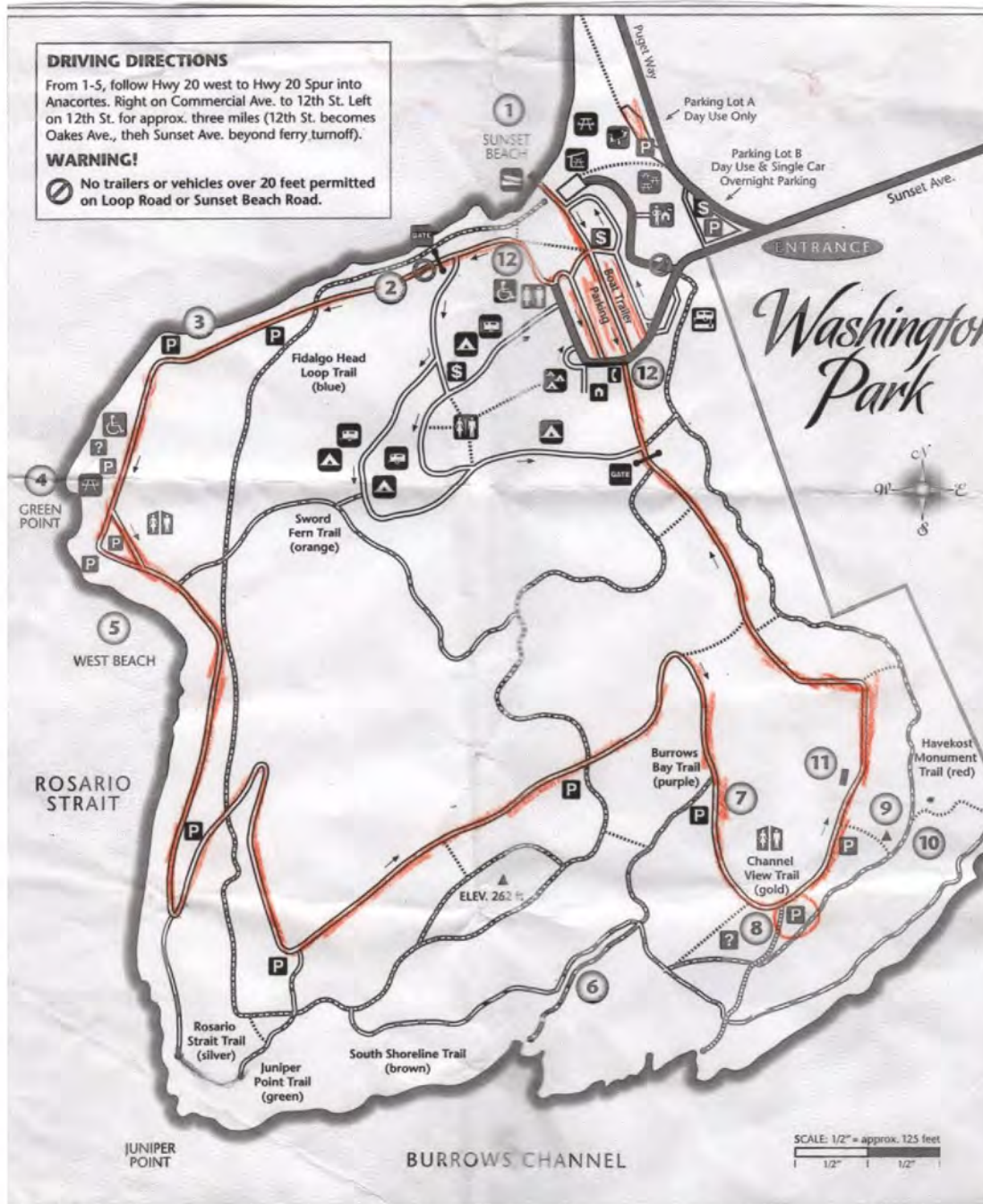
If we look at all of our shoreline along the Salish Sea, how well is our city, Anacortes, protecting its natural features?



How much of our shoreline is really natural, meaning it does not have an armored edge such as rip-rap and trees grow along the edge of the beach providing shade and nutrients, wildlife habitat, etc.?

Why doesn't the beach at the park by the Guemes Island Ferry have more trees?
Because the few people living behind the park didn't want to lose their views
and they won the debate.





Why are there numerous trails running through all of the fragile bluffs in Washington Park?

These bluffs are where special soils and rock have come together to provide a unique habitat where unusual species of flowers grow.

Is the Critical Area Ordinance adequately protecting this habitat?

I don't think we are paying enough attention to cumulative impacts.

When we look at the impacts of projects, one project at a time,
the impacts may not seem to be that great,

but when all of the impacts from all of the projects are added together,
they suddenly become very important.



And the other residents of our island are noticing them.

How can we address cumulative impacts in our CAO?

Comments on the FWHCA Section of the first draft
of the proposed new CAO, Pages 49-66

Received by PCED
8/31/17

Submitted to: Members of the Planning and Libby Grage

From: Martha Hall

Submitted on Monday, August 28, 2017

which is after the August 25th deadline for the first draft.

1. I support having the special designations in the current CAO for Habitats and Species of Local Importance. I support having stated criteria and mapping as proposed. I do not support the exemptions for many reasons that I've stated in other comments. This section needs more work. I believe the city is rushing this CAO update and the end result may not be as good as it should be. I again ask for more time before the second draft is written.

See pages 49 to 66 of the first draft of the updated CAO, "Habitats and Species of Local Importance", 19.70.300.

1A. I support the attempt to list species of concern on page 50-51 of the first draft but I believe more time should be spent to make sure this list is complete and presented in a way that is easy to understand. Clear references are needed for each lists so people can easily find these. More work is needed on this important section.

Lists mentioned include: a). lists of sensitive, threatened, endangered species, lists public and private tidelands, water that is stocked with fish by WDFW, etc.

As stated on page 50, DNR has listed state natural area preserves, natural resource conservation areas and state wildlife areas. It has identified areas of rare plant species and high quality ecosystems through its Natural Heritage Program in Chapter 79.70 RCW. It's important to incorporate these into our CAO. A number of these DNR listings are in Anacortes. There are unlisted areas in Anacortes that probably qualify. These need to be recognized and included in a meaningful way in the CAO in its text, and some kind of special attention should be given these wherever they exist such as making sure trails, established or user-made, do not cross the areas. This could be part of comprehensive plans for critical areas. It will take time to get this right. Why are we rushing through this update process? (See Appendix Item #2)

As stated on page 50, WDFW also has lists of priority habitats and areas associated with State priority species identified by WDFW. These need to be recognized and included in a meaningful way in the CAO in its text and mapping. This too will take time.

On page 50-51, , #10, a partial listing of some "State Priority Habitats and Species with State Priority" are listed. The comment in the margin on page 50, GL87, says **bald eagles** use WA Park and Cap Sante in the winter. They also use Ship in the winter when the osprey are not there and scare them away, and Smiley's Bottom, and many areas of our shoreline, and all of the lakes in the ACFL. **Great blue herons** also feed in all of the places I just listed in summer and winter, and some additional places. **Oyster catchers**, a species of concern, also uses SHIP, often an area of SHIP with no buffer, and WA Park, and probably other areas such as Shannon Point. Yes, some of the species use the shoreline which part of the Shoreline Master Plan rather than this CAO update.

Two other ideas to consider for P. 50-51, and/or for new designations are:

Habitat is needed for migratory birds. Migratory birds not related to our saltwater shoreline also use many of the areas listed above, including migratory waterfowl and songbirds. The populations of some of the migratory songbirds like the **varied thrush** are on a sharp downward spiral which concerns many conservation biologists. It is suspected that one cause may be the huge loss of habitat along the migration routes of some of these birds. Anacortes could provide a safe place for birds to stop and rest and refuel as they fly thousands of miles if we manage our open spaces better. **Purple martin** are a species of concern. Audubon has nesting boxes at SHIP. More efforts are needed. A lot more work is needed on this list to make it useful and meaningful or else it suggests that only the few species that are listed need protecting.

The Audubon Society's extensive research project on birds and climate change resulted in an extensive list of birds that may be at risk due to climate change. Many of the birds on this list are seen in Anacortes in other than along our shoreline, including: **wood ducks, both swans, red-breasted nuthatch, mountain bluebird, merlin, hooded merganser, hairy woodpecker, golden-crowned kinglet, common merganser, black-headed grosbeak, barn owl**, etc. (See Appendix Item #3)

1B. On page 51, it is noted that three areas have received this designation by the city in the past, the ACFL, the March Point Heronry, and the 1 1/2 acre "Park Preserve" at Cap Sante? Has the city designated any others? If so, which areas? What criteria were used when these were chosen? By being so designated, have these areas received more protection? Do they all have comp plans?

It seems like other areas would qualify too such as SHIP, Shannon Point, Smiley's Bottom, and WA Park. There might even be more reasons to include some of these than the "Park Preserve on Cap Sante".

1C. I support use of criteria for new designations found on page 51 under B.

This explains the process and criteria for designating new FWHSAs. I support having these designations and allowing consideration of new designations as part of the annual comprehensive plan update process. Because this is so important, I hope more time will

be taken to make sure these are adequate. Below are some species and another list that could be used when considering more designations.

QUESTION: How many of these criteria must an area meet to qualify? This needs to be clarified.

NOTE: Six criteria are listed on page 51. I support having criteria and I support all of these. Some are rather vague and I hope the exact language can be firmed up in the next draft.

1D. I understand the concept behind nominations "in its entirety". I cover how I'd handle these areas by requiring a comprehensive plan for larger areas that include both critical areas and other areas IF these areas received at least as much protection as they do today.

When areas are designated "in its entirety" such as the ACFL was, I'm sure this provides adequate protection. As I've pointed out, some critical areas in the ACFL have not been adequately protected. This may be because management and use is similar in critical and non-critical habitats. That's why I suggest use of a new classification for the sake of management and use called "Preserves". Managers and users might then give these more protection. Some passive recreation would be excluded from these while being allowed nearby in a non-critical area.

1E. Good map and are easy to access and read need to be available. I'm glad to read on page 52 of the first draft that the city has a data base layers of these in its geographic information system (GIS) Other maps and inventories are also mentioned. The CAO should give an easy way for interested people to access these. This might be in an appendix. The clause at the end is needed since the maps are updated regularly and should not be used as a final critical area designation. What is used as a final designation? This needs to be explained. Is it the Director again?

1F. I don't understand the section on pages 52-54., 19.70.330 - Fish and wildlife habitat - General Development Standards for all FWHCAs. I thought the general guidelines at the beginning of the CAO were going to be used throughout the CAO to simplify things rather than having different guidelines for each type of critical area.

I oppose much that is written on Pages 52-53 because they are weaker than the standards for other areas such as wetlands, a Critical Areas Review is not required and instead just about everything is left up to the discretion of the Director.

Unfortunately the exemptions for passive recreation and public services would mean all of the protections on these pages would not apply to many uses that negatively impact a FWHCA or most FWHCAs in Anacortes since they are under public ownership. (I've pointed this out elsewhere in my comments.)

See exemption on page 53, AMC 19.70.020 and AMC 19.70.035(C).

See the exemption for maintenance which I oppose unless "maintenance" is defined more carefully.

I also the exemptions for piped streams. I believe the issues surrounding Ace of Hearts Stream which still runs through a pipe in some areas. Many people have wanted to change this and have this stream running above ground. If clearing, grading and construction are allowed, the chances of ever having this stream above the ground will be diminished.

This stream runs through the corner of the dog park at H Ave. and is above ground through a housing development above the dog park. Where it runs above ground it provides valuable wildlife habitat. I don't believe we should reduce the chances of improving more sections of piped streams by allowing them to flow above ground.

1G. The way the requirement about having to use the best available science on P 53 is meaningless the way it is written. I also oppose having the Director decide and I ask that the public be given an opportunity to comment.

Page 53, Section C) says:

"Approvals and the Best Available Science. Any approval of alternations or impacts to a fish and wildlife habitat conservation area must be supported by the best available science."

There needs to be a definition or some guidelines for what **"best available science"** means. I oppose leaving it up to the Director to figure this out each time something is proposed. This requires a lot of knowledge and background in fish and wildlife and its habitat, impacts to these, etc. . I also oppose it if the public is not given a way to comment on this since many people know quite a bit about some of the FWHCAs in Anacortes.

1H. I totally oppose the concept on page 53, Section D, for the same reasons. Section D states:

" Approvals of Activities may be conditioned. the Director may condition approvals of activities allowed within or adjacent to a fish and wildlife habitat conservation area as necessary to minimize or mitigate any potential adverse impacts. Conditions will be based on the best available science and may include, but are not limited to the following:..... "

Again, this gives far too much authority to the Director who may not be qualified to decide this. He/she may not know even know what the potential adverse impacts are. He/she may not know what mitigation might be most successful. This is too much to expect of one person.

The public and someone with expert knowledge of fish and wildlife should make this decision. My experiences with critical areas in Anacortes have shown me that the Planning and Park Department Directors do not always have sufficient knowledge of: a) the habitat, b) the area, c) the area's use by humans, dogs or wildlife, or of the wildlife including what species live there, d) the needs of individual species that the FWHCA is suppose to protect.

Without sufficient knowledge of these, how will the Director be able to do the things required on page 53, such as establish sufficient buffers and impose seasonal restrictions.

Does the fifth and sixth items in the list on page 53 replace the good requirements that are in the first draft for mitigation, monitoring, and bond, as stated in the Critical Areas Review Procedures, on pages 18 - 29? Does this mean FWHCA's are not subjected to these Review Procedures? If so, why?????

1 I. I oppose section E on page 53 for the same reasons. Section E is about establishing buffers for FWCHAs, which I won't repeat. I will say though that the list of criteria for the buffers on page 53 is not complete enough to cover all issues that should be addressed. The criteria are also too vague in the way they are written. The person who makes the decisions should be well trained in wildlife and its habitat and how these can be impacted by whatever is being proposed. I don't think the Director of the planning department or parks would be qualified to do this.

Two examples of the value language:

".....sufficient to protect the integrity, functions, and values of the affecte4d habitat."

".....reflect the sensitivity of the habitat and the type and intensity of human activity proposed to be conducted nearby."

It requires a lot of knowledge to know things like what seasonal restrictions would be appropriate. First the person would need to know what kinds of species use the habitat or might use the habitat. Biological surveys may be needed at various times of the year, and over years to know if the habitat was used by migratory birds during winter, or during migration in the spring and fall, or for nesting in the spring and summer. I knowledge of the timelines for these uses would be necessary.

1K. The discussion on pages 62-62 about city designated habitats and species of local importance needs a lot more work to be adequate and complete.

Question: Where is Article V of this chapter?

Question: Was the noxious and invasive plant section on page 62, (b), in the previous CAO?

If so, adjacent land owners are not following this. Note Stranberg's Highlands Development on 17th St. Many invasive and noxious weeds grow in the Highlands, both on lots that have been purchased and built on and on lots that haven't been sold. Many may not be in written "landscaping plans", but they are growing there.

Questions: Does (b) on page 62 also include invasive and noxious weeds that grow when not planned? Who monitors for compliance and how often?

1 L. In the section on page 62 pertaining to the ACFL, so many more things could be added here to strengthen protections for the FWHCAs within the ACFL. As I've said, I think these could be required in a comprehensive plan that was required to go through a Critical Area Review rather than listing them all here. They would be the same things as are required in other critical areas by the CAO that aren't in the ACFL.

1 M. What are "all available incentives" on page 63, under (h)?

1N. I support #2 on page 63, which protects the heronry. I support requiring a Critical Areas Report. I haven't had time to check with biologists on whether 1000 feet is adequate though. I don't understand the exact meaning of the next clause, "or that are likely to impact the colony". Could these be written so it is clearer? Who will decide if it is "likely to impact the colony"? That should be stated too. The comment in the margin (LBG115) says this is still "under development".

Again, I don't see why we are rushing to get a second draft and rushing to get the 60 day review started with the agencies. Many things in this first draft are not finished yet.

1 O. Shouldn't more exact standards be given for other kinds of nests too, including osprey and eagle nests, etc.?

1P. Comments on 19.70.360, page 63-66, Fish and wildlife habitat - Critical area report additional requirements.

Why isn't public notification in 19.70.120 also included? Along with 19.70.125?

Under #5, page 64-65, Habitat Assessment/Mitigation Plan, I'm not sure which species must be considered in these reports. The list includes several including "any species of local importance, priority species, and of course listed species. Could this be clarified as to where the lists of species can be found that must be considered?

I don't support #4 under mitigation at the bottom of page 66 as it is written since this makes it too easy to buy off-site mitigation. It might be easy to make a case that many mitigation projects could have been located where "a higher level of ecological function would result from an off-site location". This needs more restrictions.

Please remember that many developers would like to buy mitigation somewhere else rather than deal with it. Also remember that if the mitigation occurs some distance away, it may not help the wildlife that lives in Anacortes. For instance mitigation for lost heron foraging areas for the last Shell Project (which was dropped) was a mitigation bank up the Skagit River which herons using the March Point heronry could not use when feeding young on nests and sitting on nests. More emphasis needs to be put on protecting our FWHCAs in Anacortes or as close as possible.

1 Q. I'd like to see the many safeguards for mitigation that are in the general guidelines for mitigation at the beginning of the CAO on pages 22-31 used for FWHCAs. (under 19.70.130 Mitigation Requirements, which includes these parts, 19.70.135; 19.70.145; 19.70.150; 19.70.155; 19.70.160; 19.70.165; 19.70.170; and 19.70.175.) There are excellent and so much better and more thorough than the few guidelines written for the FWHCA on page 66. The ones for the FWHCA are not adequate in any way.

Question: Why can't these sections be used for FWHCAs too?

1 R. I suggest that the CAO should state that feral cat colonies should not be allowed in critical areas including wetlands, the shoreline, and/or FWHCAs. This includes both formal ones supported by Cat's Meow and/or other humane organizations and informal ones people support on their own.

People have had, and I believe some people still do have, feral cat colonies that they support in some of our critical areas including along the Tommy Thompson Trail and Cap Sante. A lot of good science shows that feral cat colonies as well as loose cats generally pose a major threat to our wild birds.

People "support" feral colonies by trapping feral cats and after neutering/spaying them, they release the cats in places where the cats live and roam on both private and public property. The people usually feed these cats regularly and provide water. Their hope is that the colony will eventually grow old and die. Unfortunately the loose cats pose risks to wildlife, humans, and our pets during this time. Too often other people who see the cared for colony will leave cats they don't want in the colony rather than taking them to a shelter that might ask for a donation or fee.

This is an issue the Anacortes City Council chose to not address in 2016 when it updated its animal codes. A small number of people from Cat's Meow opposed all restrictions on loose cats so cats still may run loose anywhere in our city and the impacts of Trap-Neuter-Release programs have not been addressed.

The American Bird Conservancy is the leader in promoting city codes to address these issues. It's website provides a lot of information on: a) the threat cats pose for wild birds and many other animals including amphibians, reptiles and mammals, b.) numerous studies that has been done by groups like the Smithsonian that show how serious this threat is, and c) how cities can change their codes to protect our wildlife by requiring

cat owners to restrict their unleashed cats to their own property as is required of dog owners.

Studies are showing that loose cats have transmitted a dangerous disease to sea otter in Monterey Bay and to monk seals in Hawaii through their feces. Could this happen to perhaps the harbor seals in Fidalgo and Padilla Bay? The same disease is highly contagious and can be transmitted to humans and dogs through cat feces left in our gardens as well as in sand boxes and play areas, in our yards, in school playgrounds, and in parks.

Like all non-native animals, homeless cats should not be released into the wild even if they are first spayed or neutered. Cat's Meow showed us what a model program would look like when it and our city caught the all of the feral cat colony at Dakota Creek a number of years ago and moved it into an enclosure at its downtown shelter. Unfortunately Cat's Meow and some of its members also maintain uncaged feral cat colonies in Anacortes.

I've copied a few websites below which contain information on the threat cats pose to birds and other native species of wildlife.

Cats and Birds | American Bird Conservancy

<https://abcbirds.org/program/cats-indoors/cats-and-birds/>

1.

Cats and birds: The combination can be disastrous. Although domestic **cats** (*Felis catus*) can make wonderful pets, they **threaten birds and other wildlife** and ...

[\[PDF\] Domestic Cat Predation on Birds and Other Wildlife - American Bird ...](#)

abcbirds.org/wp-content/uploads/2015/05/CatPredation2011.pdf

After loss of **wildlife** habitat and fragmentation due to human development, scientists now list invasive species, including **cats**, as the second most serious **threat to bird** populations world- wide.⁶ It is estimated the annual economic loss from feral **cat** predation on **birds** in the United States amounts to \$17 billion.⁷ ...

The impact of free-ranging domestic cats on wildlife of the United ...

<https://www.nature.com/articles/ncomms2380>

Jan 29, 2013 - We estimate that free-ranging domestic **cats** kill 1.3–4.0 billion **birds** and ... argued to be negligible compared with **other** anthropogenic **threats**, ...

[Introduction](#) · [Discussion](#) · [Methods](#) · [References](#)

[Feral Cats Kill Billions of Small Critters Each Year | Science ...](#)

www.smithsonianmag.com/.../feral-cats-kill-billions-of-small-critters-each-year-78145...

1.

Jan 29, 2013 - All said, **cats** claim 14 percent of modern **bird**, amphibian and mammal ... The magnitude of **wildlife** mortality caused by **cats** that we report here ... Feral **cats**, after all, are the "offspring of lost or abandoned pet **cats** or **other** feral **cats** who focus on the man made **threats** to song **birds** - population, pollution, ...

[Cats Pose an Even Bigger Threat to Birds than Previously Thought ...](#)

www.audubon.org/news/cats-pose-even-bigger-threat-birds-previously-thought

1.

Jan 30, 2013 - "Our findings suggest that free-ranging **cats** cause substantially greater **wildlife** mortality than previously thought and are likely the single ...

[Cats and Birds | Are Cats Causing Bird Declines? - The RSPB](#)

<https://www.rspb.org.uk/get-involved/community-and.../cats/birddeclines.aspx>

1.

It is likely that most of the **birds** killed by **cats** would have died anyway from **other** causes before the next breeding season, so **cats** are unlikely to have a major ...

What is the current status of the ACFL's Comp Plan? When was the last Comp Plan adopted? Does it have to comply with the existing CAO or is it somehow exempted? If the ACFL is exempt from the CAO, what exemption is used? Passive recreation? Public services? Or which?

1E. As the first draft of the CAO update says, not all of the ACFL actually qualifies as "critical habitat". However, the ACFL is important in its entirety. Having such a large area of natural forest lands has made the ACFL far more valuable and important to protect than having small pieces of forest scattered about Anacortes, here and there. I believe it's important that we protect the whole area, but perhaps this could be done in another way as I suggested.

I strongly support many of the way the ACFL has been protected from negative impacts in the past and I would not want to propose any changes that might weaken anything. For instance, I supported the decision to not locate the off-leash dog park at the old city dump because it would have increased dog use in that area which would have resulted in more off-leash dogs running loose through the adjacent critical areas at the beaver ponds and Cranberry Lake. Our city has failed to provide the education and enforcement that is necessary to keep dogs leashed and to have people pick up dog poop.

I also supported not having frisbee golf in the ACFL. I do not believe Frisbee golf is a form of "passive recreation". It is a competitive sport which requires infrastructure. People playing this game often go off the trail to retrieve frisbees which can really be destructive to vegetation and wildlife. People have always been encouraged to stay on the trails in the ACFL. It is not nature-based. I believe it is not appropriate anywhere near any critical habitat or natural areas.

Please see my note at the end of Part 11, above, about management of the ACFL, which is highlighted in red.

1F. Do the other two areas with special designation have comp plans? March Point Heronry and the Preserve on Cap Sante?

1G. list

1H. Likewise, I like the use of the list of available maps for Fish and Wildlife habitat areas. First draft, page 52. Again, I hope the final CAO includes these maps and/or provides an easy way for people to view these maps in some other way.

1F. I support having these statements in the Draft as a way to make sure all important habitat areas are protected, including those that may not have been identified yet:

"All areas within the city meeting one or more of these criteria, regardless of any formal identification, are hereby designated critical areas and are subject to provisions of this chapter." (Draft, page 52, C.)

"Reference Only. The maps and resources cited above are to be used as a guide for the City of Anacortes Planning, Community & Development Department, project applicants, and/or property owners and may be continuously updated as new critical areas are identified. They are a reference and do not provide a final critical area designation.

I would add "and the public" to the list of users in the above statement.

Appendix Items

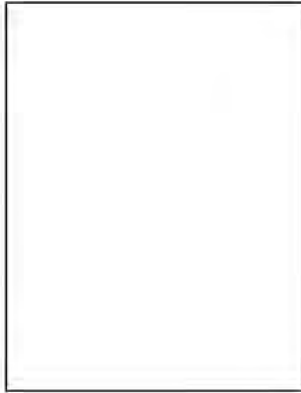
Appendix Item #1: WA State Priority Habitats and Species List

Appendix Item #2: WA DNR Natural Heritage Program,

Appendix Item #3: Audubon Report on Birds and Climate Change

Appendix Item #4: American Bird Conservation's Watch List for species that are already listed or may soon be listed if more isn't done to protect them and their habitat.

Appendix Item #1: WA State Priority Habitats and Species List



[Download Document](#)

APPENDICES:

[Appendix 1: Glossary of
Nearshore Priority Habitat
Terminology](#)

[Appendix 2: 2017 PHS
Statewide List and Distribution by
County \[MS Excel\]](#)

[Get Adobe® Reader](#)

Priority Habitats and Species List

Category: [Priority Habitats and Species - PHS Lists](#)

Date Published: August 2008

Revised Date: August 2017

Number of Pages: 180

DESCRIPTION:

What is the PHS List?

The PHS List is a catalog of habitats and species considered to be priorities for conservation and management. *Priority species* require protective measures for their survival due to their population status, sensitivity to habitat alteration, and/or recreational, commercial, or tribal importance. *Priority species* include State Endangered, Threatened, Sensitive, and Candidate species; animal aggregations (e.g., heron colonies, bat colonies) considered vulnerable; and species of recreational, commercial, or tribal importance that are vulnerable. *Priority habitats* are habitat types or elements with unique or significant value to a diverse assemblage of species. A *priority habitat* may consist of a unique vegetation type (e.g., shrub-steppe) or dominant plant species (e.g., juniper savannah), a described successional stage (e.g., old-growth forest), or a specific habitat feature (e.g., cliffs).

In general, areas of priority habitats of greater importance to fish or wildlife tend to have one or more of these characteristics:

- Habitat areas that are larger are generally better than areas that are smaller,
- Habitat areas that are more structurally complex (e.g., multiple canopy layers, snags, geologically diverse) are generally better than areas that are simple.
- Habitat areas that contain native habitat types adjacent to one another are better than isolated habitats (especially aquatic associated with terrestrial habitat),
- Habitat areas that are connected are generally better than areas that are isolated.
- Habitat areas that have maintained their historical processes (e.g., historical fire regimens) are generally better than areas lacking such processes.

There are 20 habitat types, 152 vertebrate species, 41 invertebrate species, and 10 species groups currently in the PHS List. These constitute about 17% of Washington's approximately 1000 vertebrate species and a fraction of the state's invertebrate fauna.

Numerous individuals and groups use the PHS List as well as associated PHS products (e.g., PHS Data) to inform conservation-related activities. Typical users include cities and counties that use PHS to fulfill planning requirements under the Growth Management Act and Shoreline Management Act, non-profit organizations such as land trusts that use PHS information to prioritize habitat protection, community groups working on local biodiversity planning initiatives (e.g., Pierce County Biodiversity Alliance), as well as other state and federal government agencies. Although some apply PHS to regulatory matters, PHS has also been used to inform incentive-based conservation initiatives (e.g., local conservation futures programs).

Questions regarding Priority Habitat and Species data and products can be directed to the appropriate regional contact. An up-to-date list of contacts can be found in WDFW's Fish and Wildlife Planner newsletter. To obtain PHS data, call (360) 902-2543, or visit the PHS Website.

Suggested Citation:

Washington Department of Fish and Wildlife. 2008. Priority Habitat and Species List. Olympia, Washington. 174 pp.

APPENDICES:

- [Appendix 1: Glossary of Nearshore Priority Habitat Terminology](#)
- [Appendix 2: 2017 PHS Statewide List and Distribution by County \[MS Excel\]](#)

RELATED DOCUMENT(s):

- [1999 PHS List](#)
- [2004 Addendum to the 1999 PHS List](#)

Appendix Item #2: WA DNR Natural Heritage Program,

Natural Heritage Program

Read ContentStop

The Washington Natural Heritage Program (WNHP) has been connecting conservation science with conservation action since its establishment in 1977. Using methods shared by [NatureServe](#) and a network of natural heritage programs, we catalog the plants, animals, and ecosystems of Washington and prioritize their conservation needs, helping guide conservation funding in the state and providing the framework for the statewide system of [natural areas](#).

- More information: [Natural Heritage Methods](#).

Information on priority species and ecosystems comes from a wide variety of sources, including government agencies, conservation organizations, consultants, and extensive fieldwork and research by WNHP staff. Site-specific and species/ecosystem-specific information is maintained in the Natural Heritage Information System, an integrated database that currently contains more than 7,000 records of rare species and rare/high quality ecological communities. These data are essential to planners and landowners, helping them make land use decisions that balance economic growth and development with conservation of our state's natural heritage.

- More information: [Rare Species](#), [Ecosystems](#), [Data Products and Requests](#).

Washingtonians identify with the natural beauty and biodiversity of our state; recreating and connecting with nature from our coastline and mountains to sagebrush desert and

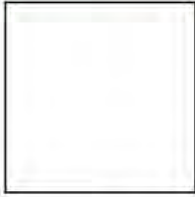
grasslands. By conserving our native species and ecosystems, we can ensure that future generations inherit the Washington that we know today.

- More information: [Conservation Planning](#).

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Appendix Item #3: Audubon Report on Birds and Climate Change

FAQ

The Audubon Report at a Glance

Everything you need to know about our findings, their implications, and how to interpret the data for the birds you care about.

Frequently Asked Questions

1. [What is the Audubon Birds and Climate Report?](#)

2. What are the primary findings?
3. Where can I read the full report?
4. Where can I find peer-reviewed scientific papers on the study?
5. What geographical range does the study cover?
6. How are birds where I live projected to respond to global warming?
7. Are birds with ranges that are shown to expand or shift “safe” from climate change?
8. How do I interpret the projected range maps?
9. How do I interpret the Venn diagrams?
10. Why can’t I find maps for a specific bird?
11. Are the projected range maps different from the range maps in field guides?
12. Will Audubon continue to conduct research into how global warming affects birds?
13. What can I do to help?
14. Got even more questions? CEO and President David Yarnold and chief scientist Gary Langham have answers.

What is the Audubon Birds and Climate Report?

It is a comprehensive, first-of-its kind study that predicts how climate change could affect the ranges of 588 North American birds.

Audubon scientists used three decades of citizen-scientist observations from the Audubon Christmas Bird Count and the North American Breeding Bird Survey to define the “climatic suitability” for each bird species—the range of temperatures, precipitation, and seasonal changes each species needs to survive. Then, using internationally recognized greenhouse gas emissions scenarios, they mapped where each bird’s ideal climatic range may be found in the future as the climate changes. These maps serve as a guide to how each bird’s current range could expand, contract, or shift across three future time periods (2020, 2050, and 2080). [Back to top](#)

What are the primary findings?

Of the 588 North American bird species Audubon studied, more than half are likely to be in trouble. Our models indicate that 314 species will lose more than 50 percent of their current climatic range by 2080.

Of the 314 species at risk from global warming, 126 of them are classified as climate endangered. These birds are projected to lose more than 50 percent of their current range by 2050. The other 188 species are classified as climate threatened and expected to lose more than 50 percent of their current range by 2080 if global warming continues at its current pace. [Back to top](#)

Where can I read the full report?

You can download a summary overview of the Audubon Climate Report [in PDF form here](#), as well as the full Landscape Conservation Cooperatives report PDF [here](#). The LCC report was the foundation of work for the Audubon Climate Report and provides detailed methods. [Back to top](#)

Where can I find peer-reviewed scientific papers on the study?

- Langham GM, Schuetz JG, Distler T, Soykan CU, Wilsey C (2015) Conservation Status of North American Birds in the Face of Future Climate Change. PLoS ONE 10(9): e0135350. doi:10.1371/journal.pone.0135350 [journals.plos.org]
- Schuetz et al., Making Spatial Prioritizations Robust to Climate Change Uncertainties: A Case Study with North American Birds, Ecological Applications, 2015: [esajournals.org]
- Distler et al., Stacked Species Distribution Models and Macroecological Models Provide Congruent Projections of Avian Species Richness Under Climate Change, Journal of Biogeography, 2015: [onlinelibrary.wiley.com] [Back to top](#)

What geographical range does the study cover?

The study covers Alaska, Canada, and the lower 48 states. Dozens of North American birds winter in Latin America, but because we lacked sufficient data to study the effects of global warming on those birds' winter ranges, it is likely that even more birds are threatened by global warming than we have been able to identify so far. [Back to top](#)

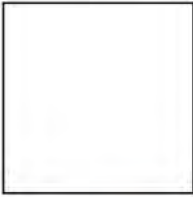
How are birds where I live projected to respond to global warming?

Visit our [search page](#) to find birds by state/province or species name. [Back to top](#)

Are birds with ranges that are shown to expand or shift “safe” from climate change?

Not necessarily. Our models look at the most fundamental climate needs each species requires for survival; they do not take specifics of habitat into account. A place in a grassland bird's new projected range might have the right mix of temperature and seasonality, but if that place is a major city instead of a grassland, the bird is not going to thrive there. [Back to top](#)

Common Loon animated range map



Appendix Item #4: American Bird Conservation's Watch List for species that are already listed or may soon be listed if more isn't done to protect them and their habitat.

What U.S. birds are most in danger of extinction?

That's the question the Watch List, published every few years, is designed to answer. The [latest edition](#) was published in 2016 and identifies 432 species most in need of conservation action.

Most of the Watch List species are protected by the Migratory Bird Treaty Act, and more than one-third of them already receive extra protections under the U.S. Endangered Species Act (ESA). The species that are not yet ESA species need urgent conservation attention to keep them from becoming threatened or endangered.

Urgent Need in Hawai'i

Comments
Anacortes Planning Commission's Update of our CAO
for Sections on General Items, Wetlands, and FWHCA
from Martha Hall (8/30/17)

These comments are based on my last 19 years of living in Anacortes. During this time I've walked almost daily in many of our city's critical areas. I've learned a lot by noticing impacts from my use and other uses. I've seen examples of both good and bad planning and management of these critical areas.

I've added comments about my experiences in these comments to the draft CAO. I hope these examples will make my comments easier to understand. I've also included photographs and attachments for the same reason. Thanks for reading these comments.

An Overview of My Comments

I've grouped some of my comments into several broad categories. The following is an overview of each category.

Part One: Passive Recreation. I believe the exemptions for passive recreation result in a CAO that fails to adequately protect critical areas. Passive recreation can result in significant impacts which I explain in some detail in Part One to show why these exemptions create a CAO that fails to protect critical areas. These impacts need to be addressed through some kind of process. Exempting passive recreation means careful planning, management and mitigation as well as public participation will not occur. These are all tools for reducing and/or eliminating negative impacts. Thus, these exemptions will result in a CAO that does not meet its stated purpose and goals of protecting critical areas.

Part Two: Public Exemptions. I believe the public exemptions also result in a CAO that fails to adequately protect critical areas, thus including these means this CAO fails to meet its stated purpose and goals of protecting critical areas. It's ironic that public facilities are exempted since these probably have far more impact than private ones due to the fact that many more people will use them. These public exemptions come with this message: the City of Anacortes wants a CAO for private citizens so we will protect critical areas on our private land, but the City doesn't want to have to protect critical areas so it writes exemptions for itself. I think this is the wrong message.

Part Three: Other Exemptions for Maintenance, etc.

Part Four: Cumulative Impacts and Existing Impacts

Part Five: Another Way to Address Passive Recreation. I suggest there is another way to deal with the negative impacts of passive recreation. I propose addressing it in the CAO by requiring plans for designated critical areas. These plans would be required to have a "Preserve" land classification for critical areas that would be a tool to provide more protection. Once the plans were approved there would not be a need for Critical Area Review for many of the projects approved in the plan.

Part Six: Mitigation.

Part Seven: Public Participation.

Part Eight: Monitoring, Enforcement, Fines for Compliance and Violations.

Part Nine: The Extensive Authority Given the Director and the Need for Oversight

Part Ten: Habitats and Species of Special Importance

Part Eleven: Additional Miscellaneous Concerns. This list of items includes:

1.) The need to apply the new COA to work done in critical areas that involves the contract between the City of Anacortes and the Port of Anacortes,

2.)

Two Additional Sets of Comments on the CAO Update
from Martha Hall

1. Hydrology of our Wetlands/Flood Plains/Groundwater

2. Mitigation

1.

**Maintaining adequate water levels for healthy wetlands,
lakes, wildlife and people.**

As I visit our wetlands, I notice that many seem to have outlets that are controlled by us, the humans, artificially. I can understand some of this is necessary to prevent flooding of public and/or private property. Before people understood the value of wetlands, they were not protected. People were allowed to develop land that would flood and was in wetlands by ditching and draining the water. I hope Anacortes has reduced the need to ditch and drain water off our wetlands as much as is possible given the past development we inherited.

I believe the CAO needs to firmly address this issue with language that requires the city to prepare a report of some kind how it manages the outfalls from our many wetland and lakes. This could be updated and re-evaluated as the CAO is updated or as needed. This report would identify each point where the city artificially drains restricts and/or artificially maintains a specific water level in any of our wetlands, private and public. The report should also give the reasoning behind why the water levels are maintained as they are. Is it to protect something, like lower private or public property from flooding? Is it to protect recreation areas like Smiley's and ACFL trails? (I suspect this might be so and if so, I'd question this. I'd say the trails are in the wrong spot.)

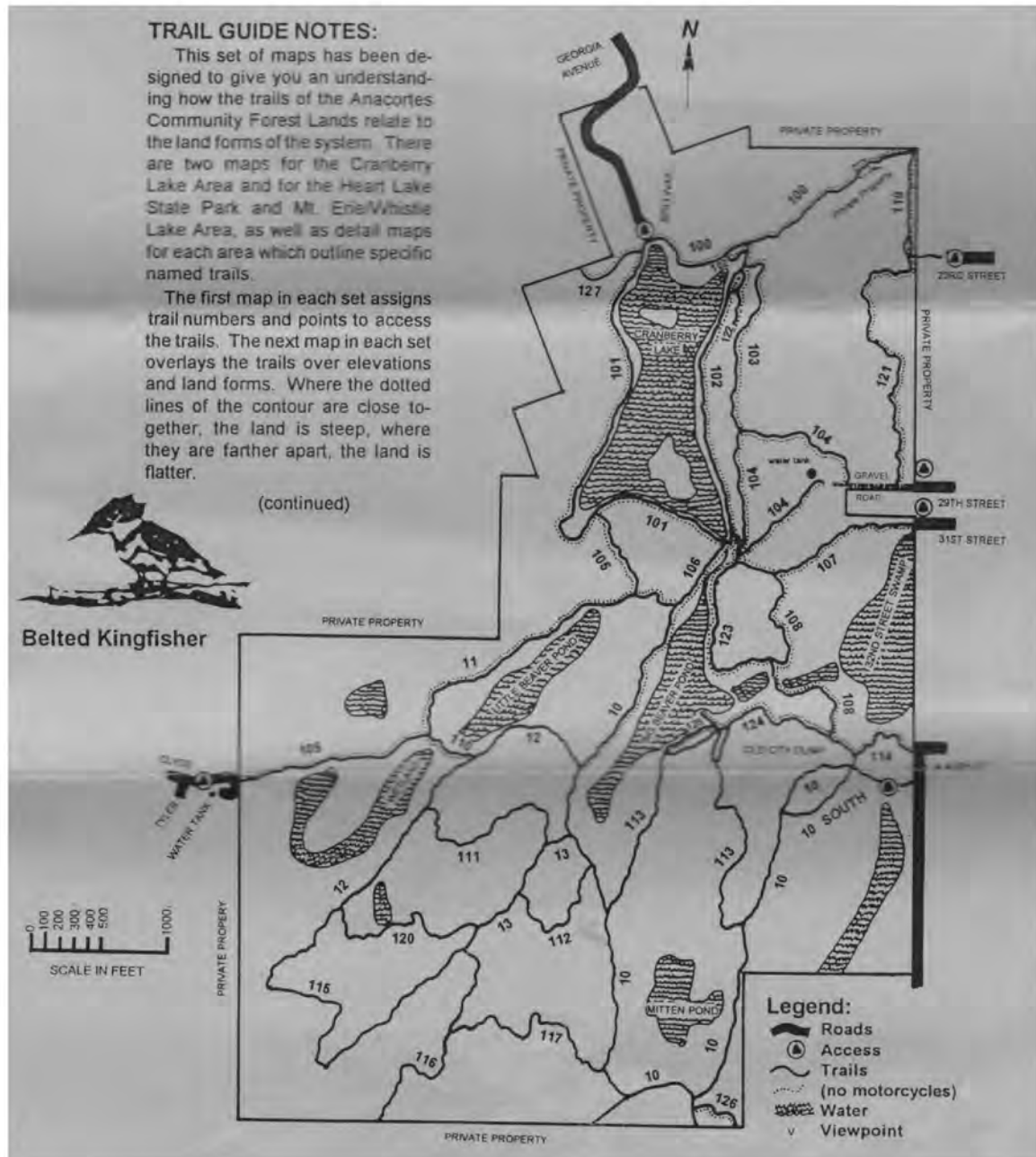
When this report is completed, the city would then be required to hold hearings so the public can weigh in on what the water levels should be held at in our critical areas.

The city has also removed beavers from Smiley because they tried to raise the water level. The city also removes beaver dams in the ACFL so the water level doesn't go higher. One place this is done often is around the south end of Little Cranberry Lake. The beavers really want to raise the level of Big Beaver Pond. This pond is huge and provides excellent wetland habitat for many species. Many birds nest around it including wood ducks, hooded mergansers, kingfishers, etc. because it is excellent habitat for raising young. Same with barred owls - they are eating a lot of wetland species like frogs. Many animals forage there - great blue herons, osprey, eagles, raccoons, etc. Also some kind of weasel I've seen, otter and the beaver. And then the pond has the newts, dragonflies, etc. etc. etc. Even with its non-native waterlilies, it is a priceless ecosystem.

The next page has a copy of the trail map that shows the large, interconnected web of

wetlands just south of Little Cranberry and running down to the old city dump and 32nd St. They are marvelous - and important for their size and complexity. They, along with the lake form a wonderful system. The lake itself is also unique with its moss-based islands that grow shore pines and some very unusual species.

This is a big issue in Anacortes because we fortunately have several areas with large and complicated systems of wetlands. I'm especially thinking of those near Little Cranberry Lake. The wetlands cover a much larger area than Cranberry Lake.



As you can see on this trail map, This is a very large system of wetlands, streams, and then Cranberry Lake. This system drains downhill in a number of directions. The city controls the level of this system in several different places though manipulating the height of outfalls.

Water level dictates what species live in this area - what plants - and thus what animals. Some of the ponds go dry in the summer. That helps select which plant species do and do not grow in these areas. We might get some different plants with a higher level. It might improve the habitat.

This selection of plants using water level is critical in Smiley's Bottom because the reed Canary grass has taken over much of the area. It would be so great to get rid of this plant. It's probably a non-native, and one that forms a mono-culture lacking in a lot of biodiversity as we see at Smiley's Bottom and elsewhere. It can be removed easily by too much water. Cattails and some great natives then replace it. The city's lowering of the water years ago to prevent flooding of the agriculture, neighborhood, etc. may be the reason these wetlands changed to reed Canary grass. Beaver use to live there. They worked hard to raise the water level at the outfall. The city trapped and removed the last beaver a few years ago. The area would be in much better condition if it had beaver. It would be good to know if restoration of beaver activity could be allowed without negatively impacting the houses adjacent to the wetlands that might flood.

Question: Are the adjacent houses located in an identified "flood plain"? I think some should be. These would be the ones who would complain.

Question: Does the city have a legal responsibility to protect the ballfields owned by the high school? I suspect the water level is kept lower to drain the school's lower soccer field. The water level is kept lower than is natural by an outfall near the powerline. The lower water level means the wetlands around that soccer field do dry in the summer, sometimes early in dry years. If more water was allowed to accumulate, they's stay wetter longer and we might see a change in plant species. Maybe less reed Canary grass. But the school's lower ballfield would be usable of a shorter period of time.

There are a lot of other ballfield in Smiley's Bottom but most are work only for baseball which is too bad. Because of the way we have seasons for sports, the baseball fields sit empty and are used by no one most of the year. While they are sitting empty, soccer is crowded onto the little soccer on the west end of the baseball fields and on the school field. Sometimes football is stuck somewhere. Meanwhile a new baseball field at the H Ave Park is not used a lot. And the school has a new Rice Field, a football field, which might be usable for some other sport like soccer.

Higher water levels at the lake and wetland outfalls would keep the ground water under our city higher, which would benefit many of our plants and streams. This would be true for the areas near our lakes and wetlands AND for private property surrounding these areas. I live near 16th and Alaska, which is kind of below the Little Cranberry Lake system. All of my neighbor receives a lot of drainage of water from above. Many of us have natural seeps in our yards. These keep the ground wetter and

some plants are happier. I imagine water drains from the wetlands and lake into most of the land on the north end of our island in the form of seeps. Some would feed streams if more water was available. There are several streams.

In the before we understood urban run-off, cities did not try to manage this run-off very well so it would be cleaned by growing through natural wetlands and/o man-made rain gardens or retention ponds before it runs into the Salish Sea. Seeps in my neighborhood have nowhere to go but into the street where they run down to the outlet into Guemes Channel, which is not good.

Question: Now cities are required to have better requirements for development. We suppose to be trying to capture storm water. Do the new requirements still allow people to change the city's right away section of our city streets and turn them into parking lots? My neighbors continue to change the portion of our city's right away in our streets, making them into parking lots, often paved, which increases run-off. Another neighbor down my street, 16th, is doing this right now. He has a major seep in his yard. The house we own has landscaping in this right-away - and part of our driveway. I've talked to the city about how I might catch the water. Down my street most people have, over the past 10 years and sometimes longer, changed this city right-away from front yards to parking areas. Some are paved. Most at last put down something impervious. This right-away could be made into a swale that would capture and naturally clean the run-off from our hillside. Having more moisture in the ground might help the plants and it might flood some houses. Filtering the water before it runs into Guemes Channel would help the Salish Sea.

Question: Could the CAO also address beaver activity and how it can be used to everyone's benefit including the public's benefit. Should there be some kind of code addressing when beavers and their work can and cannot be removed?

Question: I'd like to know if there is something in the old or new CAO that strongly addresses the need to not allow development that may require ditching or draining of our wetlands at a later date to protect it from flooding.

Question: I'd like to know if the city is responsible for flood control, keeping lower water levels in our critical areas to protect public and/or private land. Is this something for the CAO?

Question: What are the black pipes for that are on the beach along the Guemes Channel Trail at about the spot below the Leeward Deveopment - I think that's where they are? Are these for stormwater? If so, do these pipes drain water from the new developments or from older homes back from the water including from the south side of 12th?

Issues with Mitigation for Projects in Critical Areas

First a note on short amount of time given the public to comment on the first draft of the CAO update: I'm really rushing to complete my comments. I leave tomorrow to take a vacation and will be gone for 2 1/2 weeks. I just finished having summer house guests and taking another vacation. It seems like Anacortes would learn that August is not a good time to ask for public comments. It almost seems like this is done on purpose, to limit the public's ability to study the issues, talk with each other and staff, and then make substantive comments. The same thing was done with the animal ordinance update. I'm not pleased with the quality of the comments I have written - they are rushed and hardly even in draft form. When I've tried to network with other groups who are working on OR have worked on various CAOs, they are on vacation, not having meetings, etc. Why can't the city just hold off awhile and let us discuss the issues and learn more before we must comment on the first draft?

I have had a lot of experiences with mitigation in Anacortes. I've mentioned some of this in my other comments, such as with the failed mitigation for the Guemes Channel Trail, issues with the Airport Agreement, and problems with lack of mitigation at Smiley's Bottom. I've learned a lot about how mitigation works in Anacortes; how mitigation is done, or not done; how it is effective or not effective; how the public has little opportunity to know and/or comment on the details, etc.

Our city needs to do many things to improve mitigation IF it is going to allow people to negatively impact our critical areas by saying mitigation will mean no net loss, or that mitigation will somehow address the issues. As one member of the planning commission suggested at their Aug. 9th meeting, mitigation is not always what we'd like it to be.

Mitigation for the New Rice Field at the High School

I have time to describe one recent experience I've had with mitigation - that for the new Rice Field by the high school. The high school went through all of the right process, hired a specialist to do the mitigation plan, required standards, monitoring, a bond, etc. I commend the school for all of this. HOWEVER:

I believe there have been several real flaws in this process.

1. The public was not allowed to participate in the details. The plan said the mitigation project would enhance the existing wetland adjacent to the new Rice Field to mitigate impacts in the buffer of this wetland. That sounds good. But when I asked to see what plants would be planted and where, I was told I had to wait until the planting list and plan was completed. That's too late. I asked their wetland specialist who prepared the plan, a person I respect and have known for awhile.

When I finally received the final planting plan, and then saw what had actually been planted, I saw that this specialist was going to try to "improve" this wetland by shading

out the reed canary grass. That is one way to get rid of it, but it takes very dense shade to work. The wetland specialist's plan called for the planting of a lot Sitka spruce and cedar, two species of conifers that grow very large. These two species have been planted all along the east and west sides of this wetland. They may shade out the reed canary grass. But is that an improvement?

This area has always been very sunny. Where the water is deeper, native bulrush and cattails grow, not the reed Canary grass. These species do not live in shaded areas so they will also be killed by this mitigation. This cattail habitat is special. Virginia rail have been nesting in these areas of cattails and bulrush. That's their favorite habitat. Migrating killdeer also use this area. Also some waterfowl. They eat the seeds from the natives and use the water. When the Sitka spruce and cedar shade out the sun-loving species, we'll end up with shade-loving species which are already plentiful in Smiley's Bottom. These new plants will not support Virginia rail and other species now using the area. The ACFL also has countless areas of shaded wetlands with shade-loving species. We don't need more of this habitat. It was the sunny wetlands that were unique at Smiley' Bottom.

2. The wetland specialist told me he'd plant species like salmonberry along the trail near this wetland to keep people and dogs on the trail and out of the sensitive wetlands. He didn't do this. Cedar and Sitka spruce line the trail.

3. The wetland specialist didn't know Virginia rail nest in this wetland. He doesn't know very much about what animals use the area even though he is the specialist the city and school district has hired to do many analysis. He knows the hydrology but he's never been asked to do a thorough biological analysis.

Some of us who live nearby and walk the area often know quite a bit about what animals live in these wetlands and buffers. I love the area because of the interesting animals I see. I actually see far more wildlife than I do in the ACFL. Buffleheads, hooded mergansers, killdeer, great blue herons, eagles, kingfishers, numerous songbirds, etc.

4. The wetland specialist's mitigation plan called for "treating the area" this July right when the Virginia rail had young chicks. Their chicks run around the ground like baby quail and do not fly as they gather their own food. Treating including cutting back all of the reed canary grass that grows around the V. rail habitat and protects it from predators like crows and coyotes and neighborhood cats, dogs, and humans.

I just happened to hear about this treatment plan just before it happened. With a lot of phone calls that did not make everyone happy I stopped the "treatment" for about a month. It has now happened and the V. rail habitat is now completely exposed to everything. If the birds are still there, their survival chances are small. The trail running near their habitat has also been moved and is being used so open mowed "grass" leads up to the V. rail habitat from the trail. I had tried to stop the mowing of that trail permanently. It is too wet to use in the rainy season and the school has another one that misses this critical area. That is the trail they improved with rock and gravel.

5. The new Rice Field is impacting not only the buffer, but also the wetland, even though it is only physically being constructed in the buffer.

I cannot believe the noise generated from the football field. It is nothing like soccer or baseball. The spectators seem to try to bang and yell as loud as they can to make as much noise as possible. I live near 16th and Alaska. I hear the spectators and new loud speakers in my yard during football games. There is not likely to be many animals living down there during football season. The school district greatly underestimated this impact in its permit which was a huge mistake for the critical area. Will it be mitigated now? If so how? Now days people think they must see how loud they can be at football games. This is not compatible with the adjacent wetlands and FWHCA.

I have a lot more to say about mitigation but I don't have time.

I have many photos that illustrate these concerns.

However I must pack and get ready to go on my vacation which begins tomorrow.

Additional Comments for the CAO Update
Submitted by Martha Hall

These Comments address Exemptions for Public Agencies
and Routine Maintenance.

1. The Public Agency Exception, 19.70.050

I believe the Public Agency Exception, 19.70.050 (Draft, page 17)
needs to be narrower, clearer, and have more restrictions. In the draft
it says this exception is needed:

"to not unreasonably restrict the ability of the public agency the ability to
provide services to the public".

The term "services" could be used to justify almost anything a public agency might
want to do. Our public agencies do not always act in our best interest. Before this
exemption is ever used, I believe the public should have a chance to comment on
whether we feel the service is in our best interest, and whether the costs in damage
to critical areas might outweigh the public benefits. It is too easy for a small group
of vocal citizens to convince a government agency that a service it wants is in the
best interest of the public. This is especially true if the group is capable of finding
funding sources.

Basic Services

Traditionally, people might have defined "public services" to just those "essential services" like providing water, sewer, fire and police, streets, electricity" and basic education. But now this exemption is being used in a much broader way for things that are not exactly "basic services".

What kinds of things are being considered "services for the public"
when this public exception is used by our city?

Urban Trails for Human Recreation

At one of the August planning commission meetings, Don said this exemption would be used for to approve the next section of the urban trail as it is extended along Guemes Channel towards WA Park, implying it won't matter how much it degrades a critical area. The city has this exemption.

I really do not believe this urban trail to WA Park provides a basic service that very many people in Anacortes will use and need. Yes, I am a big supporter of public trails. I use them on almost a daily basis - in Anacortes. But urban trails are funded as non-motorized transportation which is very different than a recreational trail. They cause far more negative impacts because the grade and width must meet strict standards. Urban trails are roads. They need to be located outside of critical areas. Bike riders often want to go faster. Most bike riders using this trail will be riding for recreation, not to commute to the ferry or Skyline. If this trail is extended on to WA Park, many more serious bike riders will use it for recreation and they will want to go much faster than most of the current users. There will be many conflicts between the different user groups.

The plan is to run it through Shannon Point, an area WWU has designated as a "Preserve" that is to be protected. Money has been spent on the plans. The requirements for urban trails that limit grade and maximize width will result in major negative impacts just from its construction. Introducing fast bike riders will mean more impacts. Why can't it go through Skyline and stop at the coffee shop instead of through one of the best preserved natural areas in Anacortes?

I think the most important question to ask regarding this dream of this trail extending to WA Park is this: how many people really need and will use this urban trail with all of its additional impacts for basic non-motorized transportation rather than for recreation?

Most supporters I know want it for recreation, another place to ride bicycles. This trail then becomes another situation where recreation is given an exemption, though this time it isn't exactly for "passive recreation". Our "wanting" more recreational opportunities comes first, even in critical areas providing critical habitat for other species. The basic needs of other species to survive are again trumped by a one group of human who want more recreational opportunities for their group. I don't believe this really reflects the values of most of us.

This is difficult to write since I am a strong supporter and user of recreational facilities such as trails. But I believe sometimes, in some places, the basic needs of fish and wildlife should come first. If this isn't in FWHCAs and wetlands, where will it be?

The city already has more trails than just about anywhere I've ever been; in the ACFL, around the road in WA Park, the Tommy Thompson Trail to March Point.

What is really in the best interest of most of our residents:

The two existing sections of the Guemes Channel Urban Trail caused major negative impacts on a long section of our shoreline. What really is in the best interest of the public, a healthy Salish Sea with a natural shoreline or an urban trail for people to ride their street bikes? An urban trail, a road for non-motorized recreation, through a Preserve or protecting the integrity of the wetlands and wildlife habitat in the Preserve?

What really provides more public service, for more people, in the long run?
A healthy shoreline where fish and wildlife thrive because the habitat is rich in diversity OR another recreational trail along our shoreline?

As we've seen on the comments I wrote using the Guemes Channel Trail as an example, mitigation did not address the negative impacts adequately. Mitigation at its best seldom makes up for what is lost.

Who is Really Deciding What is in the Public's Best Interest?

Too often one narrow special interest group is able to control the agenda of our public agencies. This is even more likely if the group is able to raise a lot of money or has the support of a generous donor. Sometimes these are the people who are appointed to the advisory committees and foundations. Many of these people do not understand the values and contributions made by our critical areas. They may be far more focused on their pet projects.

A strong Critical Area Ordinance is needed to protect our critical areas. City politics can quickly erode protections for wetlands, fish and wildlife habitat, and shorelines. The public exemption prevents the CAO from protecting our critical areas. This exemption shifts the power to the political arena. This does not always result in decisions that are really in the best interest of most of the public.

I can think of several boards and committees in Anacortes that seem to be dominated by, or greatly influenced by, citizens who may not know very much about why critical areas are valuable and worth protecting. One is the Anacortes Parks Foundation. It has played a big role in managing the money and getting some big projects done. Many of these projects are enjoyed by many people such as Ship Harbor Interpretative Preserve. But maybe we sometimes have take a careful look at what different groups are proposing to decide if they really are in the public's best interest, especially in the long run. It's a good idea to see if foundations and advisory committees include a wide variety of people who have many different kinds of backgrounds and who have different kinds of expertise to share.

The Anacortes Parks Foundation has been the major player in deciding what happens in Volunteer Park, which is located in Smiley's Bottom, near the corner of D Ave. and 12th. Many of the active members of the Foundation have given countless hours of service to our city. They have helped to improve our city parks by helping with a variety of projects and obtaining the funding.



The large complex of facilities mostly for baseball is a beautiful addition to our city. Private donations, managed by the Foundation, paid for many of the improvements. A lot of public money is also used for the baseball fields, for construction and for maintenance. City staff maintains the fields, lawns, restrooms, etc.

The Foundation has also built a small playground, and added one soccer field at Volunteer Park. During soccer season the field is covered with kids of all ages running around having fun. It seems like a lot more kids like to play soccer than baseball, and soccer fields sure are simple compared to the facilities needed for the kids who play baseball.

I live near Smiley's Bottom. Our neighborhood kids and adults need a local park. Most of us don't play baseball. We walk our dogs, jog, throw frisbees for our dogs, watch wildlife, enjoy the snow when it falls on the fields even though signs say we aren't suppose to use the baseball fields.

Adjacent to the baseball complex there is a collection of wetlands and ponds.



These wetlands include ponds that were dug as mitigation for the first Rice Field in 1992.

They were to make up for the loss of wetland and pond wildlife habitat.

Mitigation also required a 50 foot buffer of native plants around the ponds and wetlands.

The Foundation and Anacortes Parks Department have not shown a lot of interest in protecting these extensive wetlands while developing the adjacent baseball complex.

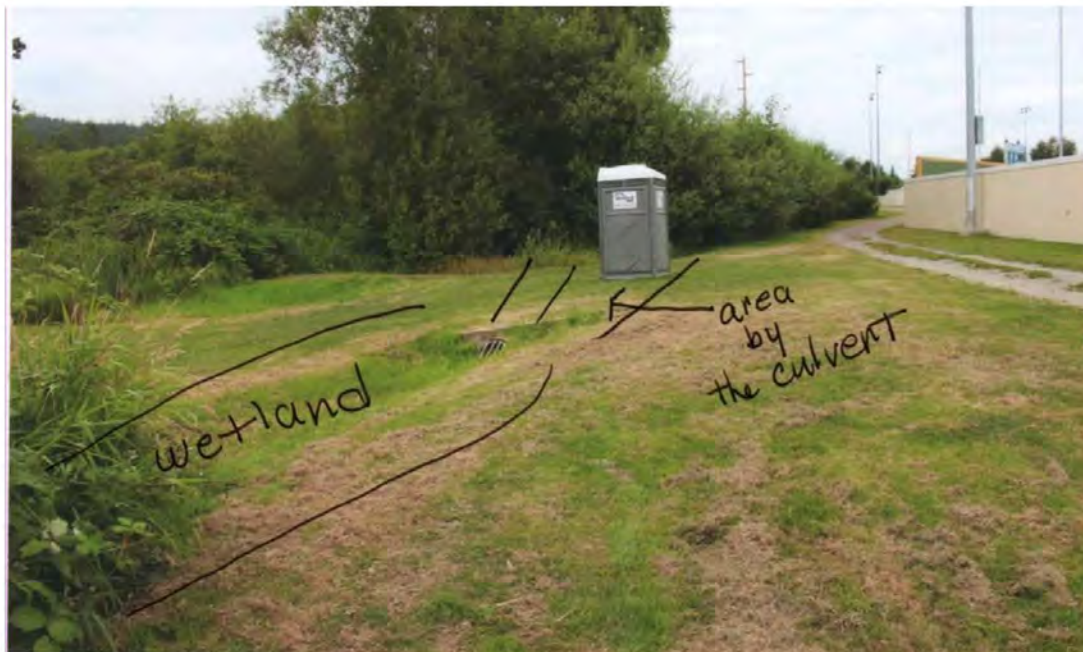


Compared to the beautiful ballfield facilities, this is the path and bridge just behind the ballfields. This is one of three ways to cross these regulated wetlands. This one is often unusable and it fails to meet standards for crossings. I've asked if it could be removed and the wetland restored. The Park Department hasn't been interested.





A sports program brings in this container, trash cans, and porta-potty when they use the nearby high school field. They put these in the wetland buffer which I doubt is a legal use. The baseball complex on the other side of the container has nice restrooms and trash cans.



Part of the regulated wetland was placed into a culvert then covered with fill and lawn. Legally, this requires a permit and mitigation. The wetland specialist suggested some mitigation. No permit was obtained and no mitigation was done. I understand the Parks Foundation paid for this project. Was it exempted?



The Foundation also added fill behind one of the baseball fields and then built this batting/pitching facility on top of the fill. The fill is probably within the wetland buffer. I do not believe site specific wetland delineated has been done yet for this area.

I don't know if the Anacortes Parks Department knew the Foundation was going to do this. The public was never notified. Permits were not obtained. Several were probably required, or did this qualify as a public exemption? There was no mitigation.

The public benefit was another pitching/batting facility. I believe the inside of the field house is also set up so it can be used for pitching and batting practice too.



The wetlands and ponds are required to have buffers that were planted with native species of trees and shrubs to provide shoreline habitat and protection. Some of the Foundation members have always preferred to have mowed grass along the edge of the ponds. Buffers were originally required to be 50 feet. Over the years that's been increased. I don't know what would now be required.

The Foundation had the opportunity to increase and improve this buffer when it made major improvements to the access road to the maintenance building in the baseball complex.

The Foundation chose not to. Instead, the Foundation chose to keep the road near the wetland side so non-native, ornamental trees and lawn could be planted along the other side of the access road.

All of this work was done without permits too. The public was not notified ahead of time. It was probably called "maintenance". So impacts to the critical area, the wetlands, were probably not considered. There was no mitigation.

The photo below shows the new "improved" access road to the maintenance building. Did the Foundation consider the need for a wider wetland buffer which is on the right side of the road?

Do all of these improvements to the road and the new landscaping qualify as just routine "maintenance", which is exempted from the Critical Area Review? This was such a missed opportunity to improve the buffer with some mitigation.





The paved road in the previous photo looked like this road before it was improved.
Like this one, it had no landscaping.

The Foundation also "improved" the center field at the baseball complex.

This including enlarging the field which resulted in the end being pushing back into the wetland buffer which was probably already narrower than what was required.

A permit was obtained but it did not note that the field would be extended into the wetland buffer. The adjacent critical area wasn't mentioned. The permit failed to give many details about the project. It read like it included other improvements too, but few or no details were given on some of the work.

Improvements to the lighting might have been another part of this project.

Lights can have significant negative impacts on critical areas, especially ones that provide wildlife habitat as is true of these wetlands and ponds.

Impacts of lighting on critical areas is usually considered during the permitting process. Was the public exemption used, making this unnecessary?

The baseball complex now has many large lights on very tall posts.

These are really bright lights.

They light up our bedroom at our house and we live quite a distance away from this baseball complex.



The Anacortes Parks Foundation hopes to build a controversial project in one of our most unique and valuable critical areas.

**This project is the building of a large and tall pavilion next to the beach at Ship Harbor Interpretative Preserve (SHIP), next to the WA State Ferry Terminal, near Skyline.
The Foundation is waiting for funding.**

The Foundation already has placed a large sign at the location where they plan to build this pavilion. The sign states that the pavilion will be used for education. I don't know of any group that provides education at SHIP regularly, or wants to provide education at SHIP using this pavilion. Our forest education program has been successful for many years without having a building and there is a lot more space in the ACFL for buildings than there is at SHIP.



**The pavilion is meant to honor a person who contributed much to Anacortes.
Many of us support honoring this person.
He was a leading force in seeing that SHIP was protected as a Preserve.
The controversy is over whether this is the right way to honor him.**

**The shoreline along the beach at SHIP is really not very wide.
The ferry terminal dominates one end.**



**The sign showing where the Foundation wants to build the pavilion.
The pavilion will dominate this area because of its size and height.**

Many people are asking:

**Why did the public want to preserve this beach and shoreline?
Was it because we wanted a place for another building?
Or did the people want a natural preserve?**



Will the "public exemption" be used for this pavilion?

What public service will it provide?

Who needs this building in order to provide education?

2. The Note in the Margin about the Public Exemption

In the Draft this exemption added in the right margin, labeled as" Commented (LBG15) :

"Should there be a specific exemption for public projects where the purpose for activities within a critical area or buffer are for the benefit of the public's passive enjoyment of the environmentally critical area, like walking trails under certain circumstances?"

2A. Are urban trails considered part of "passive recreation" or transportation?

2B. As I said in #1, there are many negative impacts associated with passive enjoyment of the environment including the construction and use of walking trails.

2C. As I said in #1, a definition is needed for exempted activities. What is "passive enjoyment"? Exemptions are serious. Definitions should be clear and exact.

2D. What is the rationale for this exemption? Why should public projects be favored with a special exemption over private projects in critical areas or buffers? It looks like the City of Anacortes is writing a special exemption for itself so it can avoid having to comply with its own CAO. This doesn't look good to me.

2E. Does an exemption on page 12, mean there will be no Critical Area Review and no public notification or participation. I believe both the Review process and public involvement will often lead to a better project in the end.

2F. Would this exemption might mean a missed opportunity for mitigation.

3. I find this exemption even more egregious because public recreational facilities have far greater impact than private ones. More people use public facilities. More may not take care of them. For these reasons, it seems like these need to be looked at with more care than private trails.

4. I also find this exemption disingenuous. The city is saying that the high standards are good for people who want to do something on their private land, but public agencies should not be held to these same high standards. The bar is lower. Why when the impacts are greater and what is really in the best interest for the public may be questionable?

3. The Exemption for Recreation Area Maintenance, etc.

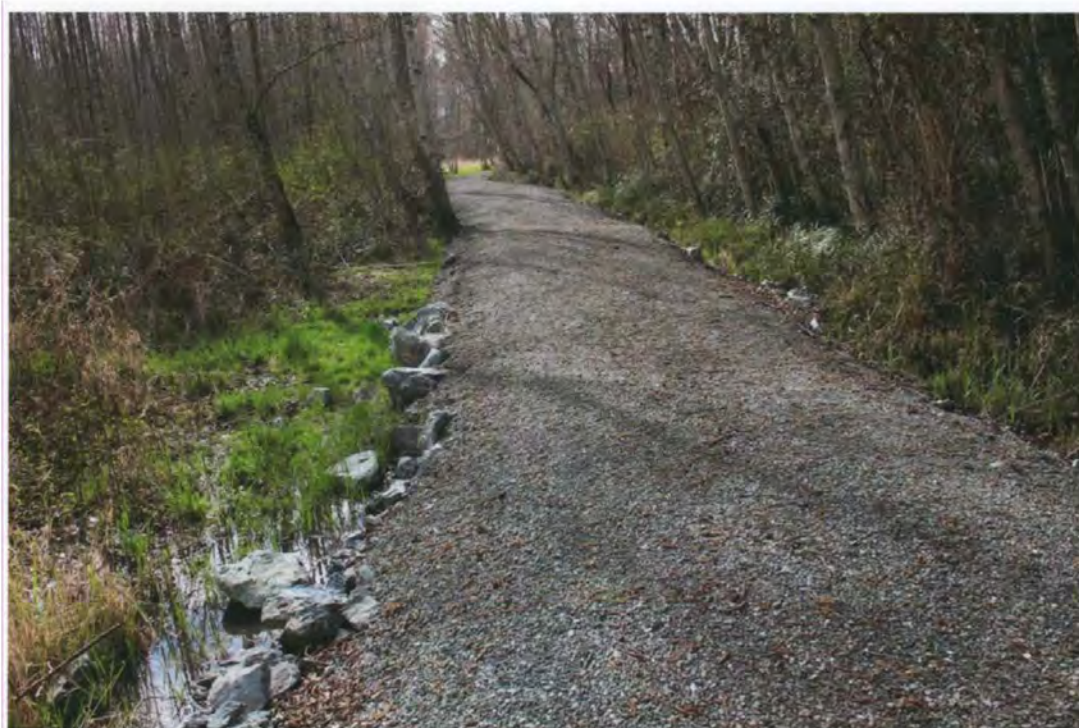
The Draft, on page 10, exempts several activities, with prior notification of the department. These include #3: Recreation Areas Operation, Maintenance, Repair or Replacement.

"Maintenance, operation, repair, modification, or replacement of existing facilities within publicly improved recreation areas, such as "

I am concerned about this exemption for several reasons.

3A. My first concern is in the definitions. What exactly is "maintenance", "operation", "modification", and "replacement? I kind of thought I knew until I saw the Anacortes Park Department put several feet of large rocks and crushed gravel on a previously natural road/trail that runs through the middle of the wetlands at Smiley's Bottom. This fill was added to the top of the trail/road where water would cover the trail during the rainy seasons making it unusable. Yes, these are the areas where it runs through a wetland so it does flood.





**Fill was placed on long stretches of trail. Filling a wetland requires a permit.
During the permitting process, mitigation would have been required.
The trail could have been re-routed to avoid the wetland.**

The trail actually follows the route of an old road that looked like this before the improvements were made. It's too soggy to use during the rainy season. This section has not been "improved".



The trail/road that received "maintenance".





Our Anacortes Park Department says this was "maintenance".

Did the Director receive prior notice that this was going to be done?

Did the Director approve this under the "maintenance" exemption?

I don't know.

The first draft of the CAO update has five conditions for this exemption.

There is not a condition that specifically says the activity cannot result in "fill" being put in wetlands. That is a Corps of Engineer ruling and it needs to be stated clearly in this section.

The third condition in the draft, page 10, is important but it needs a lot of clarification. It says the flow and circulation patterns and biological characteristics cannot be impaired and adverse impacts must be minimized. Not impairing flow and circulation is important.

However, what does this part of the third condition actually mean?

"adverse impacts are minimized?"

Deciding whether impacts were "minimized" could lead to a lot of arguments and maybe a lawsuit. As stated, this is too subjective.

The fill on the trail I'm using as my example did block the normal flow of a stream and the circulation across the wetland. The fill is forcing the stream to run along one side of the trail for some distance, which de-waters the wetland on the other side of the trail.

4. Draft page 9-10, Exempt Activities that Require Prior Notification, Roadway Operation, Maintenance, Repair, or Replacement.

Draft, page 10: Maintenance, operation, repair, modification, or replacement of publicly improved roadways or City-authorized private roadways, and associated stormwater drainage systems....."

My concerns on this come from my experience with the baseball complex in Volunteer Park. (Smiley's Bottom)

A. Question: The dirt access road was paved without first obtaining a permit and with no public notification or process. Is paving a dirt road "modification" or "maintenance"? If so, I question this and think it perhaps should not. My reasons:

- 1) It is easy to change the location of a road when it is dirt. Once it is paved, the road will probably stay where it is.
2. Maybe a different location might be better. Maybe there is another way to route the road that will cause fewer negative impacts to the critical area or its buffer. Historically, many roads were made in the wrong place. Requiring a permit and public notification would force the applicant to spend some time thinking through the impacts of the current location and considering if another route might be better.

I can again use the paving of the access road running from D Avenue to the maintenance building at baseball complex in Volunteer Park as my example.

This dirt road was also part of the cross-country trail - the one that runs through the wetlands and was covered with "fill". This road is also very close if not inside the wetland buffer in several places. There was space to move the road over a bit so it would be farther from the wetland. There was a need for a wider buffer and native species of plants were required in the buffer.

While it was still a dirt road, it would have been easy to change its location. Now that it is paved, changing it is unlikely. The Anacortes Parks Foundation paved the road without getting a permit and without any formal public notification. Perhaps it was considered "maintenance" or Modification".



Extensive landscaping was also done at the same time which makes it even less likely that the location of the road will ever be changed. Little mounds or hills were created and ornamental trees were planted along one side of the road.



The wetland and its buffer is on the right side of the road in this photo.

But what if another location for this road would have been better? Was everything considered? Were all of the impacts considered? How many people were involved in the planning of this project?

After the cross-country coach found out the road had been paved, he said he didn't want the kids running on pavement, so the Park Department decided to turn part of the wetland buffer into mowed grass so the kids could run there instead.



This added another negative impact to the wetland buffer which was already narrow and needed more native shrubs and trees to meet mitigation requirements for the first Rice Field in 1992.

Maybe if a permit and public notification had been required, and if the cross-country coach had been contacted, and if people who were interested in meeting the mitigation requirements and protecting the wetlands had been involved, this road would have ended up having fewer negative impacts.

I don't believe exemptions always adequately protect our critical areas or always are in the public's best interest.

Sometimes requiring more planning and involving more people produces a better project that has fewer negative impacts.

Part Seven: Public Participation

I believe the public should have a number of opportunities to see and comment on projects, including mitigation plans if these are required. I ask that the public be notified and allowed to comment before plans are finalized and before they are approved. I also believe the public should be able to easily access the required monitoring reports for mitigation plans. Public participation may improve the project by bringing in more knowledge and ideas.

1. Some members of the public may have information about a critical area that the professionals writing the plans lack.

The professionals sometimes only visit the mitigation site once or twice before writing the mitigation plan. They may not know what animals use the site throughout the year. Few professionals are paid to take the time to really find out exactly what animals use an area year around. Many don't do a very complete study of what plants live on the site.

When writing the 2012 Management Plan for Volunteer Park (Smiley's Bottom), the wetland specialists said this, which was stated in this plan:

2.3.1 Reconnaissance (Page 3)

.....On-site reconnaissances were conducted on 2 September and 1 November 2012 by ATSI staff for this specific project (report). Mr. Wiggins has been on the park site numerous times over the past 10 years for other projects associated with the park and is therefore familiar with the natural conditions.

3.6.1 Field Observations (Page 8)

During our reconnaissance ATSI observed a few species of wildlife such as deer, garter snake, hare or rabbit from the family Leporidae, and evidence of woodpecker (bore holes in trees". The wildlife that may utilize the habitat located within the park include fish, aquatic and/or terrestrial insects, amphibians, birds, and/or small and large mammals, i.e. fauna that are typical for the area. The production of a thorough species list was not part of this assessment."

This is typical of the level of knowledge and time spent by the professionals who are writing the plans, including mitigation plans, for many projects. Many local citizens who visit our critical areas often, sometimes almost daily, and throughout the year, know a lot about the areas. This knowledge should be used.

So many more plants and animals live in the area covered by this report than are noted here. I was really surprised that this report on wildlife was so limited. Field observations were based on two visits. It didn't say the time of day of the visits which is important. Neither visit was during breeding or nesting season. The area is a stop-over for some

migrating birds including killdeer and waterfowl including hooded merganser which could nest there and bufflehead. Great-horned owls and barred owls hunt the many rabbits as do coyotes. Great blue herons feed in the wetlands daily. One was killed by an eagle this summer. Red-tails, Cooper's hawks, and sharp-shinned hawks use the area. A wide variety of song birds live and nest in the area. The list is long.

This summer, ATSI's lack of knowledge of the area became a serious problem when it wanted to disturb the area where it was doing mitigation required by the second Rice Field. ATSI planned to disturb the site in early July just when birds were nesting in the wetlands where the work was to take place. ATSI did not know Virginia rails had been nesting in these wetlands for at least the last few years and probably longer. I saw and heard parent V rails and chicks in this July and at the same time I happened to learn that ATSI was about to disturb the area by mowing areas all around the wetland. ATSI stopped the planned work and it didn't occur until August. Were the birds gone in August when the work was done? I don't know. ATSI says they think so.

Last summer I found a dead Virginia chick, quite a young fledgling, that may have been killed by a mower since I found it in the area that had just been mowed. Its body had wounds where it had been hit by something that wasn't a cat.

2. I'm not clear on where the CAO allows public notification and participation during the Critical Area Review.

The draft, on page 19, refers to AMC 19.20.030 and types of public review. Could this be briefly explained as part of the CAO along with this reference? Where is AMC 19.20.030?

3. I believe the CAO should require public notification if the Director decides a critical area will not be negatively impacted and if an exemption will be granted. I also believe there should be a way for the public to question and maybe appeal such a determination if the public believes the Director made a mistake.

This draft of the CAO gives the Director a lot of responsibility - maybe too much. For an example, is the Director qualified enough, or have enough information, to make these determinations on his own with no oversight from anyone? This is asking a lot of the Director. Expecting him to know the location of every osprey nests, all heron nests, all plants listed as sensitive or threatened, etc. is asking too much. Adding the oversight of giving the public an opportunity to comment on determinations would add some oversight. Many people know a lot about the critical areas in Anacortes and they might have information the Director does not have. Oversight from someone else would also be helpful. I believe more oversight is needed when making this determination.

4. I'd like the CAO to allow the public to comment on mitigation plans before they are finalized and before they are approved. I believe this could result in better plans and more support for the plans as well as

more and better monitoring of the mitigation.

8A. Will the public be allowed to see and comment on mitigation plans before they are approved.

8B. Will the mitigation plan be contain enough details so the intent and impacts of the plan can be understood before the public comments on the plan? This means the plan must describe what negative impacts each part of the plan will mitigate and how the actions in the plan provides this mitigation. If the plan includes plantings, these should be at least described as types of plants if the specific species have not been chosen yet.

8C. Will the public be allowed to see, upon request, the completed monitoring as the plan is executed, through to completion and sign off?

WHERE DOES THIS GO - PLANS FOR DESIGNATED AREAS???

E. I suggest another classification of park for this - A Designated Preserve or Natural Area.

The wildlife habitat values would be the primary considered, recreation second. State Parks sometimes have these. ACFL - kind of like along Big Beaver Pond Trails are primitive and have restrictions: maybe no dogs, or no bikes, etc.

6. Restricting us of pesticides and herbicides in some habitats,
Draft, page 12 - Yes.

9. Wetlands. Draft page 33, comment GL55 - a list would be helpful.
Include "filling".

10. Table, page 36-37, for 19.70.250- 2. Add to this table the following:
For lights and noise and pets and human distrubance:
- add sports facilities, recreation, campgrounds.

11. Allowed uses in wetland buffer, page 38-39: 19.70.250

Some excellent restrictions, outer 25%, not over 6 ft wide, surface permeable, not enclose habitat area

Questions: Is a Critical Area Report required for these trails in the buffer????
Is the public involved at any point? In the permit and the mitigation?

Add as things to consider:

Amount of existing vegetation in the rest of the buffer - is it enough?
Noise and speed of the activity on the trail. Bikes, etc.
Closure for high water versus building for high water?

12. Mitigation, page 44, type and location of compensatory mitigation.
Questions about impacts on local wildlife when mitigation occurs
with these options, off site, mitigation bank, in-LieuFee.

Example: Shell Oil proposal - to use mitigation bank - off site, when the impacted area was near the March Point heronry where the herons feed. They can't go up-river. The wild animals on Fidalgo Is. may not be able to go where the mitigation ends up.

13. FWHCA - Page 51 - list of species seemed incomplete.
State designated Habitats and species

Questions about the purpose of the list. Is it needed?

Question: Do these designations offer additional protections?

Shoreline versus these sections - overlap with FWHCA - does FWHCA address shoreline?

Other species that were not mentioned include:
oyster catcher, forage fish like surf smelt, etc.

13. Habitats and Species of Local Importance designated by the city,
Page 51 - criteria - these look good.

Question: Do these receive in special protections by being so designated?
What is the point of the designation?

What does the section on P. 52 mean, (D): "All areas meeting at least one or more criteria are hereby designated critical areas and are subject to this chapter."

The list includes: all of the ACFL, March Point Herony, 1/12 acres on Cap Sante.
What about: Washington Park - esp. the bluffs with special habitats for rare plants?
What about Smiley's Bottom? All of Shannon Point?

Is including all of ACFL effective since not all of it is maybe equal in its importance as important habitat or its uniqueness or rarity, or how fragile it is.
Would highlighting some of the areas maybe result in more protection for those areas, in the ACFL Comprehensive Plan - such as the shoreline of lakes, bogs, beaver ponds with nesting wood ducks and mergansers, etc.
Example: state parks and national parks have different areas with different levels of protections and uses.

Could being on this list be made more meaningful by requiring a comprehensive plan IF an area is added to this list? A plan that would look at current and future desired condition, etc.?

14. FWHCA - Exemption allowed without Critical Area Review - page 53 AMC 19.70.020. Same exemptions for passive recreation and recreation facilities: maintenance, modify, Etc. - I already covered this.

15. FWHCA - page 53-54 - Questions about how much protection? Question: width of the buffers? Standards? Who decides this and how? Level of expertise of that person?

Osprey nests? Eagle nests? Wood duck nesting areas? Plants: bald bluffs

Requiring timing of activities such as work in mitigation areas, general maintenance, etc. to miss most critical time of year - such as nesting season.

Closures during nesting season for waterfowl - to boating and/or fishing, or trails, etc.

March Point herony - really support the protection for 10 years after abandonment. -P.63.
Question on the herony- is 1000 feet enough? Had total abandonment at Samish this year.

16. Who determines if a project is in a critical area or adjacent to one so this needs to be considered when deciding whether to require a Critical Areas report???? This requires a lot of knowledge of wildlife.

17. ACFL Comp Plan - mentioned on P. 62 that it has management areas. Does this Comp Plan have to be consistent with this CAO, or is the opposite true?

Statement on P. 62: *Proposed alterations must be consistent with adopted ACFL Comp Plan as amended.*

There are a number of trails that might not meet the standards in this CAO - such as the trails that line the shoreline of Little Cranberry have resulted in many areas of limited vegetation along the shoreline, exposed tree roots which may kill the trees along the shoreline, numerous user-made trails created by people who fish or swim, etc.

18. Many of our critical areas have been used and abused for many years. They contain user-made trails, trails that would violate many of the restrictions in this draft, etc. Could this somehow be addressed? Is there something that could be added to the CAO that would be an attempt to address these problems? Could it be required in a plan?

The Forest Service has something called "future desired conditions". It is required to keep trying to improve conditions so they meet current requirements. As when trails are worked on. When new projects are approved. Etc. This must be monitored regularly to see if conditions are improving.

19. Is there a way to look at cumulative impacts in this CAO? When approving a project, could it be looked at with a consideration to how much of the FWHCW or wetland has already been degraded?

Could this be required in a plan for the critical area during the permitting process?

Comments on Violations and Penalties
in the CAO Update
Submitted to the Anacortes Planning Directors and Planning Department

Submitted by Martha Hall
August 28, 2017

These comments are about the brief sections in the first draft of
the updated CAO, page 31,
"Site Investigations and Penalties"

I have first summarize my main comments for this section. Then I have provided an extensive and detailed report on two examples, each with numerous photos, which show the importance of these comments. My concerns are based on some very real things that happened in Anacortes. My examples for these comments eare: developers illegally cutting trees and clearing critical buffers and mitigation for construction of the Geumes Channel Trail by the city.

1. As in comments I've made on other sections of the first draft of the CAO, I believe this section depends too much on the Director who has limited time and expertise. Too much authority rests on one person with few chances for oversight. When citizens see problems and the Director does not seem interested, who do we go to? I will give examples of problems I have seen and told the city about. So far I haven't found anyone who is interested in addressing them.

2. This much authority in one city person is especially worrisome since many projects in critical areas are city projects because the city manages many of our critical areas, SHIP, the shoreline trails, ACFL, WA Park. Thus, the Director may not be exactly impartial when looking at city projects. I can give some examples where I believe the city was violating some of the CAO and nothing much has been done.

3. The CAO must be written in very precise language so everything is well understood. The first draft needs many improvements to make things clearer. More definitions. More examples.

4. The exemptions that allow an activity in a critical area without any public notification should be few because it is difficult to define and explain everything clearly. Again, my disagreement with the city is due to vague language.

5. Questions: Do the penalties on p. 31 apply where exemptions are granted for passive recreation, routine maintenance and public agencies, AND there are violations?" Do they apply to public agencies including the city? If so, who in public agencies would be held responsible?

6. Question: Are penalties applied for illegal "fill" of wetlands? If not, shouldn't this be added to 19.70.170?

7. Violations must somehow be codified into law so they become punishable in our court system. The laws must be written so the laws are respected and taken seriously. Moving some of this responsibility to our court system would relieve the Director of some of his authority. The Director may not be impartial if the project was being done by a public agency such as the city. The court system is the place to sort out legal issues. Our planning department should not have to do this.

8. Penalties must be large enough to deter violations. Fines need to be significant when damage to critical areas is major. The fines on page 31 are totally inadequate to deter violations and no court process and legal action is included.

9. The public needs to be included throughout the permitting process since we may provide useful information, we're interested, and we can provide much needed oversight which is really missing right now. This includes involving the public in mitigation, before, during and afterward it is completed as monitors.

I'll use Two Examples of Violations that Have Happened in Anacortes in these comments on Violations and Penalties:

1. Developer's illegal destruction of vegetation in critical area buffers

2. City's failure to complete required mitigation on the Guemes Channel Trail

These violations happened on our shoreline but they can and do happen in other critical areas too. Both involve hazardous geological features, steep slopes, and FWHCAs and buffers. Both involve loss of trees along our shoreline. Cumulative impacts to our shoreline were not considered though they are significant. Both also occurred about the same time, 2014-2016. I heard about both from other Anacortes residents who were upset about the damage both caused to our shoreline. Some of us really value having a healthy shoreline for fish and wildlife. Agencies addressed both issues at the same time and I will be doing the same in this section.

I talked with several people to find out if what I heard was correct. The city made this difficult. I felt like my questions were not wanted. I understand why most people who talk about these issues with each other, do not want to get involved with the city. It's not easy or pleasant.

I learned that more oversight is definitely needed over the Director for both kinds of violations. More public involvement is needed, including for mitigation. The public could provide some of the oversight. I don't think citizens should have to file requests for public information to receive information, which I've had to do several times. I'd like to see a more congenial way for residents to discuss issues with department staff. Our city

government should be willing to tell us what it is doing. Transparency is so important to having trust in government.

1. Developer's illegal destruction of vegetation in critical area buffers

In 2014-2015, developers who were clearing land above the path of the Guemes Channel Trail cut down many trees, cleared shrubs and severely limbed trees in our shoreline buffer which is also a buffer for a geological hazard, the steep bank. I believe three developers were involved. A hillside once supported a healthy forest that shaded the shoreline and provided fish and wildlife habitat. Much of that was destroyed. Slides are common on the trail below.

The following series of photos show some of these violations.

I'm using a lot of photos to point out how extensive the destruction was to these buffers. It involved not only cutting down trees, but also cutting down of shrubs and severe "limbing" trees that I believe went far beyond what was allowed.

Some photos show the areas from a distance after the cutting, pruning, and clearing, while others show close-ups of the damage.















The following photos were taken from on the bank below these developments.
This is all within the protected "critical area buffer".
Some work was done from the trail without authorization.







This was once a healthy forest growing on the bank above the shoreline.







Numerous stumps of large trees were found.

How did the Director assess the damage and apply penalties?
Were all the stumps counted? The shrubs that were removed?

This was the removal of a forest that was providing many functions for the shoreline, fish and wildlife, and the geological hazard.

How should the CAO address degradation of critical area buffers?
What should the penalty be?

This was done by some of the biggest developers in Anacortes.
Shouldn't they be expected to know what the codes allow?

Also of concern is the amount of "limbing of trees".
Were these developers really allowed to remove as many limbs as they did
from these trees in the critical area buffer?







This severe "limbing" impacts the health of the trees.
Their ability to use photosynthesis and to grow is greatly compromised.

The limbs of trees and the shrubs provide many functions.

On steep cliffs they hold the bank and soil, reducing slope failure. They catch and hold rain water as it falls. They then slowly release this moisture into the air and into the soil. This helps prevent slides. They provide wildlife habitat and shade the beach and hillside, reducing evaporation and retaining moisture. These functions are all reduced when trees are severely limbed and shrubs are cleared from the bank.

What are the losses of these functions worth as far as penalties?





If the penalty is to plant some number of new trees to replace each tree that was cut,
how large should the replacement trees be?

A bunch of 1 or 2 gallon trees will not provide the functions that were lost
for maybe 50 years.

The developer and/or home owner who wanted the view was the big winner.

The public and its natural resources are the losers,
the shoreline, the fish and wildlife and their habitat.

The trees and their functions are lost for a very long time.

There have been many slides on the steep bank above the Guemes Channel Trail.



During the winter/spring if the soil is saturated it may be dangerous to use this trail.

How much of the bank failure is caused by the removal of trees and shrubs on the bank above the trail and how much is just natural and should have been expected?

"Maintenance" of the trail involves removing slide debris from the trail and trimming back bushes and trees on the bank-side.

Slides have also created a need to build more bulkheads to hold back the bank.

Is building more bulkheads considered "routine maintenance" which is an exempted activity in the CAO?

Bulkheads add additional negative impacts to our shorelines.



Before deciding what the penalties should be for violations such as cutting trees and clearing brush in critical areas such as on steep banks and/or along shorelines of lakes and the Salish Sea, it is important to also consider some of the other functions provided by trees and shrubs, and even the dirt that falls from the failing geological hazard, the bank.

Large shoreline trees growing near the shoreline shade the beach increasing the chance that surf smelt eggs will survive. They also drop organic matter and insects onto the beach providing nutrients and making it a better habitat for many animals including young salmon and the forage fish they eat. Woody debris is good for beach ecosystems.

Shoreline trees and shrubs also provide various kinds of habitat for wildlife, including perches hanging over the water that eagles and kingfishers use when looking for fish. They provide places to nest for osprey and eagles. Kingfishers nest in deep burrows in banks. Otter make dens in the bank.

Unstable, failing banks actually provide a benefit to our shoreline. Material from unstable shoreline slopes is needed for our beaches. This is their source of sand and dirt for mudflats where numerous fish and birds and mammals live and/or feed. This is why these unstable slopes are sometimes called "feeder bluffs".

Sources of Information on Protecting the Shoreline :

[Guide For Shoreline Living - Shore Stewards - Washington State ...](http://shorestewards.cw.wsu.edu/wp-content/.../GuideforShorelineLiving-Final-2-27-15.pdf)
shorestewards.cw.wsu.edu/wp-content/.../GuideforShorelineLiving-Final-2-27-15.pdf

1. British Columbia and Washington State, the **Salish Sea** includes the Strait ... Learning the **importance** of streamside plants and **trees** **Puget Sound shoreline.**

[\[PDF\]Shoreline - Friends of the San Juans](http://sanjuans.org/wp-content/uploads/2017/02/Living-with-the-Shoreline-2017.pdf)

sanjuans.org/wp-content/uploads/2017/02/Living-with-the-Shoreline-2017.pdf

1. A NOAA Fisheries study in northern **Puget Sound** found that surf smelt egg survival was reduced by 50% in ... of the presence of hard armored bulkheads and the absence of **trees** and shrubs. ... ocean. The San Juans are **important** rearing.

A Second Set of Possible Violations **for Failure to do the Promised Mitigation on the Guemes Channel Trail**

Some of the mitigation promised during the permitting process for this trail may not have been done as required. Many agencies approved the building of this trail based on these mitigation measures being done as promised to off-set the negative impacts of the trail, which were numerous.

The trail was the responsibility of the Anacortes Parks Department.

I walked the Guemes Channel Trail this summer to see if the mitigation had been completed as promised in the *Tree Preservation Plan* (by Herrigstad Engineering and Surveying) and as stated by the Director to various agencies.

(copy of this plan is at the end of these comments)

The following photos show what I found.

The city's *The Tree Preservation Plan* said sensitive area signs shall be placed along trail at 1000 foot spacing. The signs will be provided by the City of Anacortes and read: "The Shoreline along the Guemes Channel Trail is a sensitive Area. Help protect and care for it by calling the city of Anacortes at 360 293 1942, if you notice any unusual activity".

I did not see signs spaced at 1000 foot intervals. I did not see any signs that said anything like what the city promised in the plan.

I saw several of these signs like the one in the photo below. They were at the west end of the trail near the parking lot, which was the section of trail that was built first.



I found one interpretative sign at the west end of the old trail near the parking lot. It told about the old canneries that use to be at SHIP. That was the only interpretative sign.

Along the new section of trail, on the water-side of the trail, 23 existing trees were to be saved. Seven "planting pockets" were to be created along the water-side of the trail. These were to be planted with alder and big-leaf maples within 6 months. The trail was to wander closer to the bank in five places leaving room on the water-side to save existing trees. Along the water-side, 5,250 square feet of planting areas were to be established.

Many stretches of the newest section looked like this on the water-side of the trail.



This east end of this new section of trail is still closed to the public near Lovric's.



The photo below shows what this closed part looks like, from the gate to Lovric's.



This stretch is walking west of the gate.
On the water-side, I saw weeds, grasses, and a stressed maple in the distance.

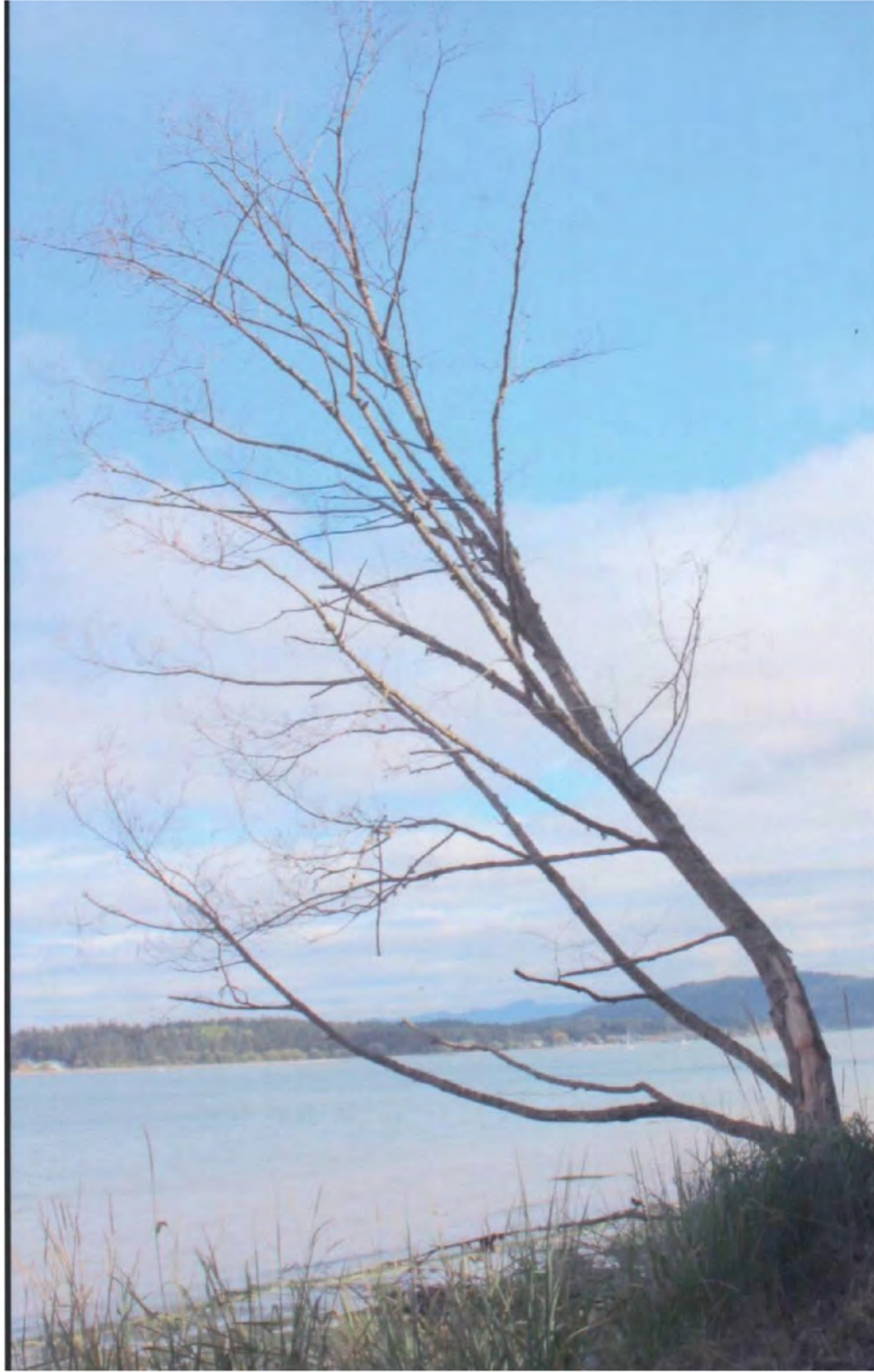


This is a close-up of the big-leaf maple in the distance in the photo above.



I noticed that many of the "leave" trees were not doing very well.

The photo below shows another "leave" tree that appeared to be dead.



Gravel and dirt covered the base of trunks of many of the "leave" trees which probably is stressing them.



I found one small shore pine that looked like it was planted more recently.
It was several feet tall and growing towards the gate from the public stairway.



Is this shore pine maybe from the Port's airport tree removal project.
That project required the Port to plant some shore pines off-site,
and somewhere along this trail.

The mitigation plan for the Guemes Channel did not include any shore pines.
Big-leaf maples and alder were suppose to be planted
along the water-side of the trail in "planting pockets".

I'm not sure if I saw anything I'd really call a "planting pocket".
I certainly didn't see any with new alder or big-leap maples planted in them.

I heard a high tide came up over the trail soon after it was constructed
and this washed out some of the new plantings.

A saw a couple of places where the area on the water-side was a little wider.

Was this one of the "planting pockets"?

This photo shows one of these.

I didn't see alder or big-leaf maples planted in any of them.



I found a few places where a little more space was left on the water-side.
Perhaps this is where the plan said the trail would "wander"
and provide space for the "leave trees" to survive.



Many if not most of the "leave trees did not look healthy and some were dead.
This clump of "leave trees" were doing a little better.



This "leave tree" was healthier though its roots were compromised.



I found areas where trees on the bank side were hanging over the trail.



**When I looked up on the bank at the trees hanging over the trail
sometimes I saw that the soil is eroding away from their roots**

and/or they were a thin group of trees that were likely to fall over before long.





How many of these trees on the bank will still be there in 25 years?



I saw dirt piled up along the water-side of the trail in a number of places.
This would be the area where the plan said: "5250 feet of planting area would be established. This implied plants would be planted here.

I wonder if this dirt was waiting to "feed the beach"?
The mitigation required the city to "feed of the beach" for, I think, 5 years.

I don't know why someone thinks this is important for only 5 years.
Healthy beaches need new material added regularly.
Feeder bluffs do this naturally.
The rip-rap holding the trail up and the trail prevents this from happening.



A doe with two fawns were on the beach during one of my walks on the trail.



They had trouble with the rip-rap and had to go down the beach a long way to find a way they could get back up onto the bank.



Before the trail was built this section of beach and hillside was fairly natural except for the rip-rap left from the old railroad that ran along the shoreline.

Some people hoped the rip-rap could someday be removed, restoring a natural slope, as was proposed at Shannon Point. Adjacent homeowners opposed the Shannon Point project so the city dropped it even though it has been funded.

The following set of photos show what this shoreline looked like just before construction started on the trail.











Before and After at the east end near Lovric's.



**What should the penalties be
for cutting trees in a critical area buffer?
For not doing the mitigation that was promised to get a permit?**

This trail project was approved based on the mitigation being done as promised. This mitigation was suppose to off-set some of the negative impacts caused by construction and presence of this trail along our shoreline. Because of the trail, there will be fewer trees and they are not close to the shoreline. The rip-rap is now a permanent feature. The trail separates the beach from the bank and brings dogs and humans.

The mission of the agencies is to protect the shoreline and the fish and wildlife it supports. Healthy shorelines provide better habitat for fish and wildlife, including salmon. Isn't this in the public's best interest?

**The Director made the decisions on these issues,
developer's cutting of trees and the park department's trail.**

How did the Director address these violations. What did he do about the clearing of shrubs and of trees on the bank? Did he impose penalties? If so, were they done? If the developers planted replacement trees was this done and are they being monitored for success? Was the excessive "limbing" noticed? Has he noticed that some of the mitigation the city promised has never been done? What has he done about that?

I do know some agencies did discuss these problems with the Director

Some of the agencies who were involved were ECY, NOAA, WDFW, the Corps of Engineers, and the Tribes. They told the Director that trees had been cut in the buffer to create views. One said a contractor had used the Guemes Channel Trail to limb and cut trees above the trail. Some agencies asked the city to put up signs along the trail telling people that the buffers and their trees are protected and why. The mayor wrote a letter to one agency saying the city would do this. An agency asked if the city had fines for cutting trees in buffers? an agency asked if Ecology has the authority to pursue the tree-cutters more directly? At one point one agency recommended canceling the permit if all questions are not answered.

From what I know it appears like it was the agencies who first reported the cutting down and trimming of trees in the buffer to the Director. I haven't seen anything yet that indicates the city noticed and was doing anything about these violations on its own.

One agency letter said this:

"This tree trimming is concerning because it continues to happen, despite the land having been set aside for protection. If the Guemes Trail takes out the trees right at the waterline, and the neighbors continue to take the trees that block their views, there won't be any shade left on the inter-tidal areas.

Now that the clearing limits have been delineated for the trail (halfway at least), it is apparent that pretty much all the trees that are adjacent to the shoreline will be cleared for the trail. I was previously under the impression that a few trees would be spared, but that no longer looks to be the case. Apparently all that will be left between the trail and the shoreline is a narrow strip of grass and shrubs. There will be no overhanging vegetation at all, and the only shade will be from trees higher on the bluff (which at several parcels have already been cleared. The narrow strip between the trail and the revetment can be planted, but that won't fully make up for the lost riparian function."

An agency also said this. I thought the applicant was installing plantings within 6 months in narrow planting pockets between the trail and top of the embankment where the trail can be pushed back farther into the bank, within the right-of-way, and that there were areas where the trail can be pushed back to preserve vegetation or provide plantings.

Another agency letter expressed these concerns:

After looking at the construction of the Guemes Channel, many trees that were suppose to be left to provide shade for the beach had been removed. Many that were marked to be saved were lying in the water or cut in pieces on the bank. The promised "pocket planting strips" were all filled with crushed rock.

Another agency wrote:

The applicant proposes to install plantings along both the new and existing trail on top of the embankment where the trail can be moved towards the bank far enough to leave space. This was to happen within 6 months. The planting pockets on the water-side were mentioned.

An agency reported to the director that he saw the trees trimmed and cut by someone on was on the trail. The person told him he was a contractor working for the development above the trail.

I know a few of the Director responses to some of the agencies' concerns

The Director's first response to an agency's e-mail about developers cutting trees in the buffer was:

"we've arranged with two owners planting of 45 trees 5 ft minimum along the waterfront side of the trail. Maple and alder."

A few days later the Director wrote this response to a number of the agencies:

...."there does appear to be unauthorized use of the trail for limbing and possibly cutting by the upland developer.....The developer will be required to plant trees along the shoreline in areas agreed upon by the city, WDFW and SRSC, 10 per tree cut 8 foot in height. The city also anticipates the installation of signage along the trail length to inform users of shoreline functions and with a phone number to call if unusual activities occur, such as tree cutting or clearing. No additional cutting is permitted....."

"Regarding the trail the city anticipates planting additional trees and shrubs in planting mounds, spacing to be determined at the site visit, beach nourishment directed by WDFW, and interpretative signage along the trail length."

Was this penalty significant enough to deter future violations by the developer?

By cutting the trees in the buffer the developer greatly increased the value of the lots on his development. This increased the value of each lot by many thousands of dollars.

What does this mean: "10 per tree cut 8 foot in height". Does the 8 foot in height mean the developer was to plant 10 trees that are 8 feet tall for each tree he illegally cut, or does the 8 feet pertain to the size of the cut trees that count? Whatever this means, how much did this penalty actually cost the developer? Was it worth it to him?

It seems like the Director handled the issues regarding the city's mitigation by saying the city was doing everything that was promised, the permit was being followed.

The director replied to questions about the number of trees to be saved by saying the city was swapping some of the trees that they thought could be saved for other ones not previously identified in initial surveys.

He said the city did not change the total number that were to be saved (23). We made site visits a couple months ago where we identified the tree saving/removal distribution and found there were at least 23 (probably more) that we would save. This is in accordance with the permit.

He said we just visited the site this morning and saw that there were at least 23 trees left within the ROW. The trees lying in the water are part of the agreement to install LWD in the wall.

**The city needs laws prohibiting illegal cutting of trees in buffers,
laws large enough penalties to prevent this.
This should be a matter that is handled legally in our courts,
not by the Director.**

What does the first draft of the updated CAO suggest on page 31?

In the text it suggests: A square footage cost of \$3.00 per square foot of impacted critical area buffer, and a square footage cost of \$15 .00 per square foot of impacted critical area. A per tree penalty in the amount of \$3000 per non-significant tree and \$9000 per significant tree, for trees removed from a critical area or critical area buffer in violation of the provision.

In the margin, a comment by LBG43 says this implements the Comprehensive Plan Policy EC-7-2, Develop regulations which encourage tree retention and provide regulatory penalties for unauthorized tree removal.

In the margin, a comment by GL44 says perhaps consider a program and fund for restoration with possible use off-site.

In the margin, a comment by GL45 says these are the costs for restoration. It also says that whether the penalty should be applied is discretionary and can take specific circumstances into consideration.

In the margin, a comment by GL46 says we need to define if this penalty concept is retained.

I support having the penalties set at the cost of actually replacing what was lost - at the time the penalty is applied. Prices change. The penalties proposed may not cover the cost in 5 years or in Anacortes.

As for the actual prices, I doubt a new, healthy tree of any size can be planted for \$3,000. I don't know how a hillside of forest can be replaced except over time. Time without the benefits the healthy forest would have supplied should be considered when deciding the penalty.

I believe fines should be mandatory when the damage was intentional and done by someone who understood the code. It is the responsibility of the city to inform developers and the public about the codes and possible penalties which I haven't seen done very often. The city does for some dog ordinances through signage at trailheads.

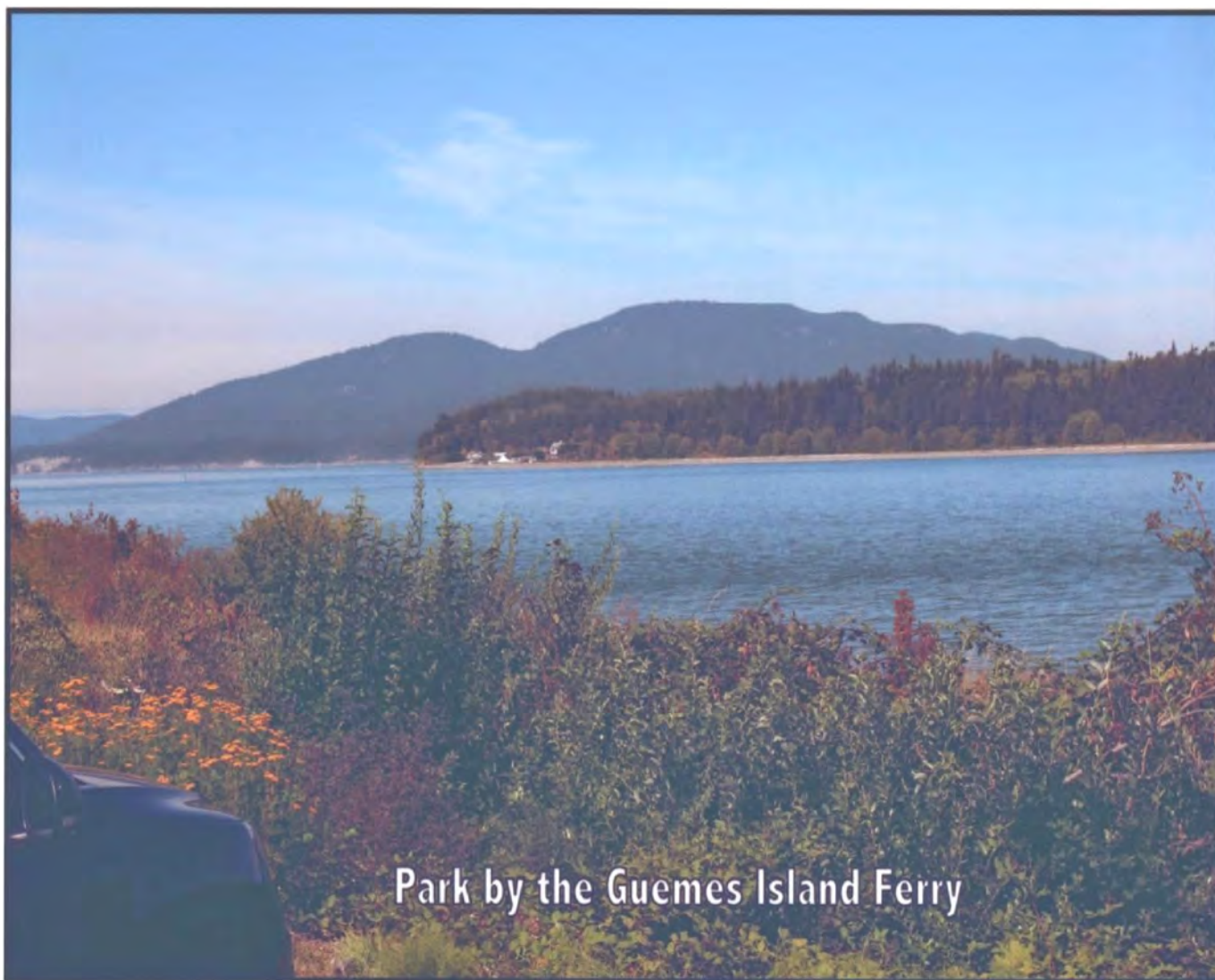
I believe violations and penalties should be a legal matter handled by our court system, not by the Director.

The agencies were correct in saying there is a serious problem in Anacortes with people cutting down trees along the shoreline to make or protect views. During my 19 years in Anacortes I've noticed this problem in a number of places. The city seems to accept this. I can't see that our city has done very much to prevent it.

The city could do a much better job of educating the public, developers, and land owners about the laws and the reason for the laws. More education is needed. Signs in public places. Flyers in the water bill. Letters to people who live along the shoreline. Education for developers. The city could adopt strict laws with stiff penalties for cutting down trees in critical area buffers. The city could try harder to find out who is cutting down the trees.

Neighbors living above the little city park by the Guemes Ferry Terminal have opposed having trees planted along its beach. Trees that were growing have been cut off.





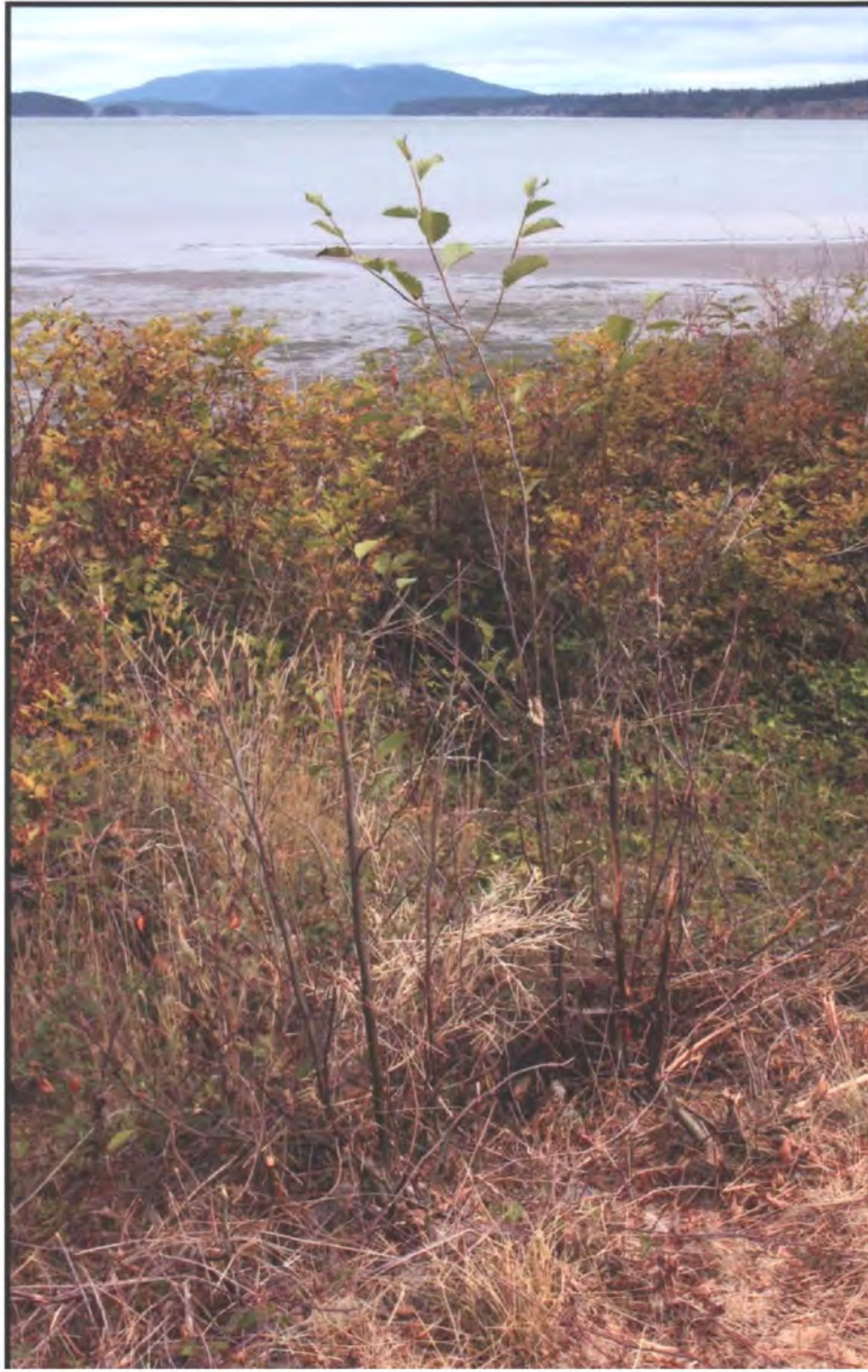
This is the view from the parking area of this little park.

There is one real tree in the park that has any height at all.
It isn't in this photo.

The first section of the Guemes Channel Trail was constructed quite awhile ago.
Trees have been planted on the water-side but few remain.
People have repeatedly cut them off and/or broken them off.



Several weeks ago I noticed that most of these young alder were hacked off.
(This could have been done by the workers
who had recently removed and trimmed the vegetation along the side of the trail.



The city has told the agencies it would address this problem. It has not.

Cumulative Impacts

The Guemes Channel Trail is a perfect example of a project in which cumulative impacts should have been part of the permitting process. This should have been done at several different levels.

For cumulative negative impacts to this one section of trail at the closest, immediate level, impacts these negative impacts should have been assessed along with the negative impacts the trail would cause to the bank and shoreline and fish and wildlife habitat:

1. Negative impacts from the existing developments and houses above the trail,
2. Negative impacts from new, proposed, and expected developments above the trail,
3. Negative impacts from the first section of trail built to the west, near SHIP,
4. Negative impacts from the rip-rap (The rip rap could have been removed),

For cumulative negative impacts at the level of Guemes Channel, these should be considered:

1. The WA State Ferry Terminal and the Guemes Island Ferry Terminal,
2. The marinas, including Lovric's Marina and others,
3. Homes and development along Guemes Channel
4. The port's facilities along the Channel
5. The rip-rap along Shannon Point which was not removed when we had funding,
6. The fish packing plant
7. The city park by the ferry terminal that lacks trees

For cumulative negative impacts at the level of the entire shoreline within the city limits of Anacortes, these negative impacts should have been considered:

1. March Point and the refineries,
2. The Tommy Thompson Trail which is short on trees and has rip-rap,
3. The commercial uses from the Tommy Thompson trail to Cap Sante Marina,
4. Cap Sante Marina,
5. The old fill around Cap Sante from a long time ago
6. Port property, and etc. etc. etc.

When all of the negative impacts are considered, at each level,
is it really "wise: to add yet more impacts to another section of our shoreline?

What really best serves the most people, the public, in the long run,
another place for more non-motorized recreation
or
a shoreline that provides a healthy habitat for fish and wildlife,
for salmon, for forage fish, or orcas, for birds?

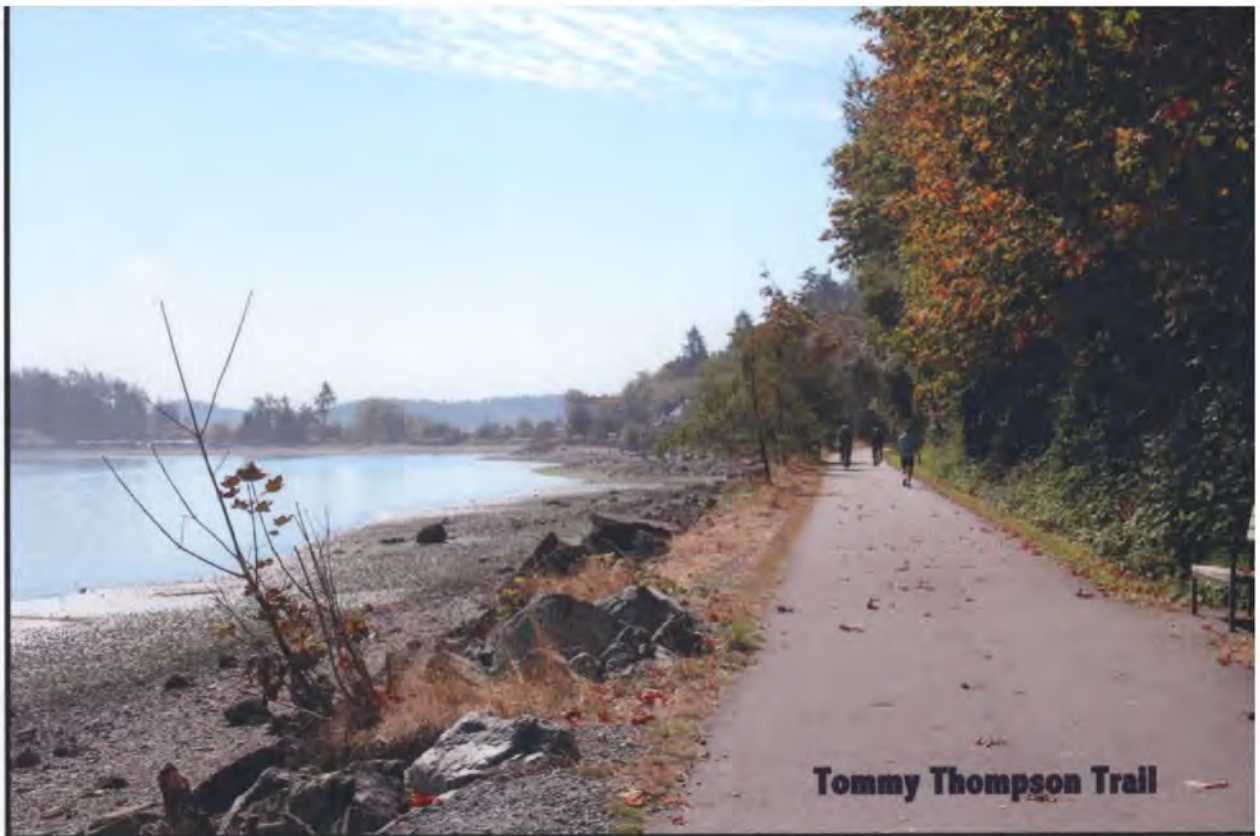
Do people realize the negative impacts of these shoreline trails?

These photos were taken about a year ago.

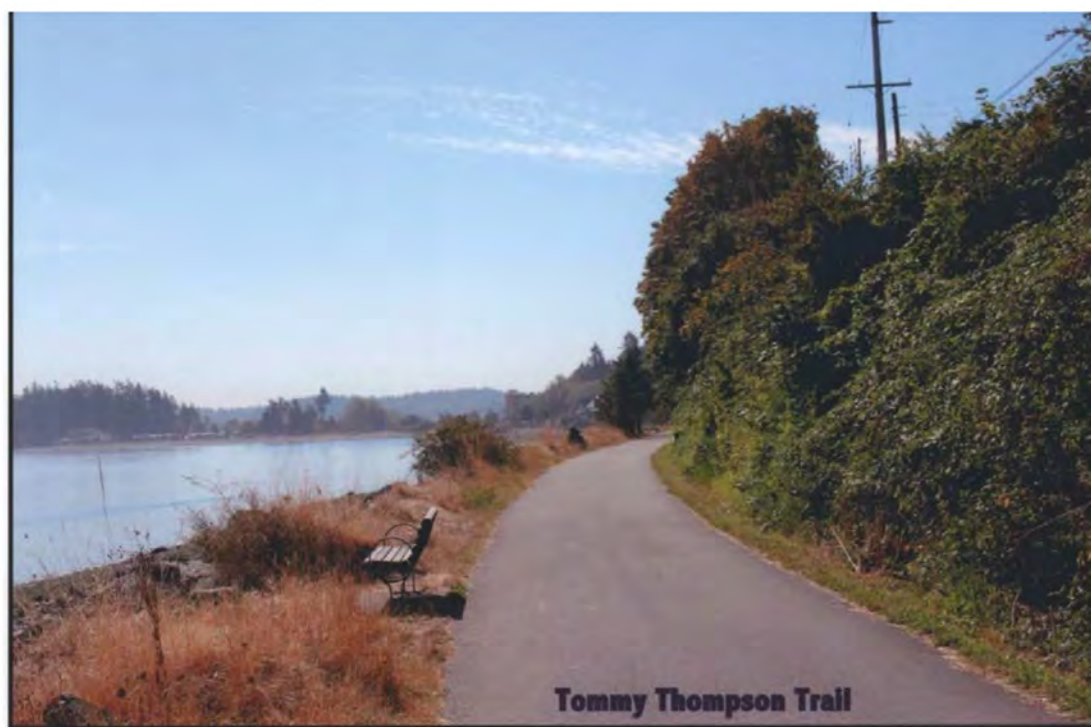
People tore out and cut off trees that were planted along this trail too.

The trail means the rip-rap is there to stay.
It could have been removed and a natural beach could have been restored.

This is along Fidalgo Bay. Think how much more productive it could be
without rip-rap.
Forage fish and their eggs, which are key to healthy populations of salmon
survive best where beaches are shaded.



Yes, the city has tried to plant trees along the Tommy Thompson Trail.
Some are still alive.
But they are struggling in this hot and dry environment along the edge of the trail.





More of the Tommy Thompson Trail, with a restoration site at the north end which seems to lack any major trees too.

Our city really needs to look at cumulative impacts a whole lot more.

The wetland at the airport is no longer rated as high as it once was.
Why the loss when we've had mitigation projects?

I've watched public agencies degrade the wetlands at Smiley's Bottom
over the 16 years I've lived nearby and enjoyed the area.
What category is it now?

Now the city is planning to run a wide urban trail through Shannon Point,
an area with wonderful critical areas. WWU classifies it as a "Natural Preserve".
I doubt Friends of the Forest would allow an urban trail through the ACFL.

Who is speaking up for critical areas in our city?

Who cares about fish and wildlife habitat, wetlands, our shoreline?

Who serves on the board of the Anacortes Parks Foundation, the group that raises a
lot of the money for these trails and other uses that degrade critical areas?

Who is appointed to the Anacortes Park Department's advisory committees?

Doesn't Anacortes have a strong history and connection to salmon?

Are we thinking about our part in why we don't have more Chinook salmon?

Are we thinking about why the resident orcas have left the Salish Sea this summer for the first time?

Old-time Anacortes residents tell of how, on Sunday afternoons, they use to sit on the beach along Guemes Channel and watch the orcas.

What are we thinking as we approve yet another new project at one of our refineries.

This one is for manufacturing another toxic substance.

It will increase the number of tankers and other ships to Anacortes, using Guemes Channel and anchoring off Guemes Island

I believe this is what the Critical Area Ordinances are all about.

**Let's make sure Anacortes has a good one,
one that really supports our values,
one that protects what is most important for most of our people.**

Two Appendix Items

1. Information on feeder bluffs, rip-rap, etc. I included this because I think it shows how complicated some natural processes are and the amount of expertise that is needed to protect our natural resources. Impacting critical areas for things like recreation is not always in the public's best interest. If the public understood natural resources more, we might do more to protect them.

2. Copy of the Tree Preservation Plan. I based most of my comments on what the city promised for mitigation for the Geumes Channel Trail on this plan.

Importance of Feeder Bluffs: Information from the Dept. of Ecology

	Puget Sound Feeder Bluffs
<u>Puget Sound Feeder Bluffs</u> Importance of Feeder Bluffs Shoreline Geology Coastal Landforms Beaches and Drift Cells Sediment Sources and Budgets Feeder Bluff Mapping Coastal Management and Protection <u>Shoreline Master Programs</u> Ecological Functions and No Net Loss and Characterization Inventory Environment Designations Setbacks Shoreline Stabilization Restoration Plans Building on Feeder Bluffs	<u>Ecological Functions and No Net Loss</u>  Feeder bluffs on Fox Island, Pierce County. Ongoing erosion will eventually threaten homes, but is also important for maintaining beaches over a much longer reach of shoreline. A fundamental objective of the Shoreline Master Program Guidelines (Chapter 173-26 WAC, Part III) is to achieve no net loss of ecological functions. The Guidelines discuss the need to assess ecosystem-wide processes and requires local Shoreline Master Programs (SMPs) to assure "no net loss of ecological functions necessary to sustain natural resources and to plan for restoration of ecological functions where they have been impaired." [WAC 173-26-201(2)(c)]. For more information, see SMP Handbook Chapter 4: No Net Loss. The Bluffs and Coastal Erosion web page notes that sediment delivery is a key geologic process that supports important ecological

Acquisition Conservation and Restoration of Feeder Bluffs Additional Resources Acknowledgements Glossary	functions. SMPs should identify the location of feeder bluffs and establish policies that assure ongoing erosion and that encourage the restoration of sediment delivery where feasible. This is challenging, as it requires protection of a process (coastal erosion) that upland property owners are highly motivated to prevent. The primary impairment to feeder bluff function is the construction of seawalls and related erosion control structures, setting up a conflict between the desire to prevent erosion of upland property and the long-term need to maintain shoreline functions (see Importance of Feeder Bluffs).
Photos Coastal Atlas Site Map RELATED ECOLOGY PROGRAMS Shorelands and Environmental Assistance	The ideal solution is to avoid development in sites where future erosion is likely and thereby reduce pressure to armor the shoreline, but this is often difficult due to existing development, site constraints, or economic pressure. Interest is growing in using softer methods of preventing erosion. While armoring designs can be made ecologically friendlier through the addition of natural elements like large wood and vegetation, this does not address the resulting loss of sediment to the beach. Mitigation  Unusual attempt to mitigate the impact of a seawall on Maury Island using a design that allows for periodic feeding of the beach with gravel. Mitigation of impacts is required by SMPs [WAC 173-26-201(2)(e)]. Offsetting sediment losses at specific sites is difficult. Artificial delivery of sediment to the beach has its own impacts, can be complicated to implement, and may be impractical on many sites. Off-site mitigation is difficult because it might require the removal of an existing erosion control structure and opportunities to do this are limited. And because the location where sediment delivery occurs is important, off-site mitigation, even within the same drift cell, may be inadequate.

	Monitoring No Net Loss The Guidelines leave communities with considerable latitude in how they monitor ecological functions, but a logical approach would be to implement a mechanism for tracking the location, length, and character of projects that impact existing feeder bluffs. This should include both new stabilization works and restoration actions. This might complement efforts of the Puget Sound Partnership to evaluate trends in the length of armoring, and, in particular, the length of armoring on feeder bluffs throughout Puget Sound.
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 Puget Sound Feeder Bluffs	
<u>Puget Sound Feeder Bluffs</u> Importance of Feeder Bluffs Nearshore Ecosystems Shoreline Armoring Sea Level Rise Shoreline Geology Coastal Landforms Beaches and Drift Cells Sediment Sources and Budgets Feeder Bluff Mapping Coastal Management and Protection Additional Resources Acknowledgements Glossary	Feeder Bluffs and Shoreline Armoring Seawalls and bulkheads are common along much of Puget Sound's shoreline. Most were built to reduce erosion and to improve access to the water. At the same time, such structures can adversely impact shorelines in a number of different ways, depending on how and where they are built. Shoreline armoring in Puget Sound poses a particularly serious threat to the function of feeder bluffs, since the ongoing erosion of these bluffs is so important to maintaining the supply of sediment to nearby beaches. Preventing erosion through shoreline armoring diminishes the delivery of sediment and can have long-term impacts on beach condition. For more on this, see related web pages on Shoreline Stabilization and Restoration of Feeder Bluffs.
Photos Coastal Atlas	

[Site Map](#)

RELATED ECOLOGY PROGRAMS

[Shorelands and Environmental Assistance](#)



A timber pile bulkhead on a feeder bluff. Initially, some sediment may overtop the structure, but ultimately this source of beach material is prevented from reaching the littoral system.

Shoreline armoring is a classic example of an environmental problem involving cumulative impacts. Individual structures may have a relatively small effect on the sediment budget of an entire drift cell and their effects may take years to materialize. But on many shorelines, the aggregate impact of many small structures can become significant, particularly over longer time frames.

More on Shoreline Armoring

Impacts of hardening the shoreline with erosion control structures have been discussed at length in other publications:

- [Ecology's Puget Sound Shorelines web page](#)
- [Frequently Asked Questions: Marine Shoreline Armoring and Puget Sound](#)
- [Beaches and Bluffs report \(PSNERP\) \(PDF\)](#)
- [Shoreline Armoring Workshop Proceedings \(USGS\)](#)
- [Ecology's Green Shorelines web page](#)



Puget Sound Feeder Bluffs

[Puget Sound Feeder Bluffs](#)

[Importance of Feeder Bluffs](#)

[Nearshore Ecosystems](#)

[Shoreline Armoring](#)

[Sea Level Rise](#)

[Shoreline Geology](#)

[Coastal Landforms](#)

[Beaches and Drift Cells](#)

[Sediment Sources and Budgets](#)

[Feeder Bluff Mapping](#)

[Coastal Management and Protection](#)

[Additional Resources](#)

[Acknowledgements](#)

[Glossary](#)

[Photos](#)

[Coastal Atlas](#)

[Site Map](#)

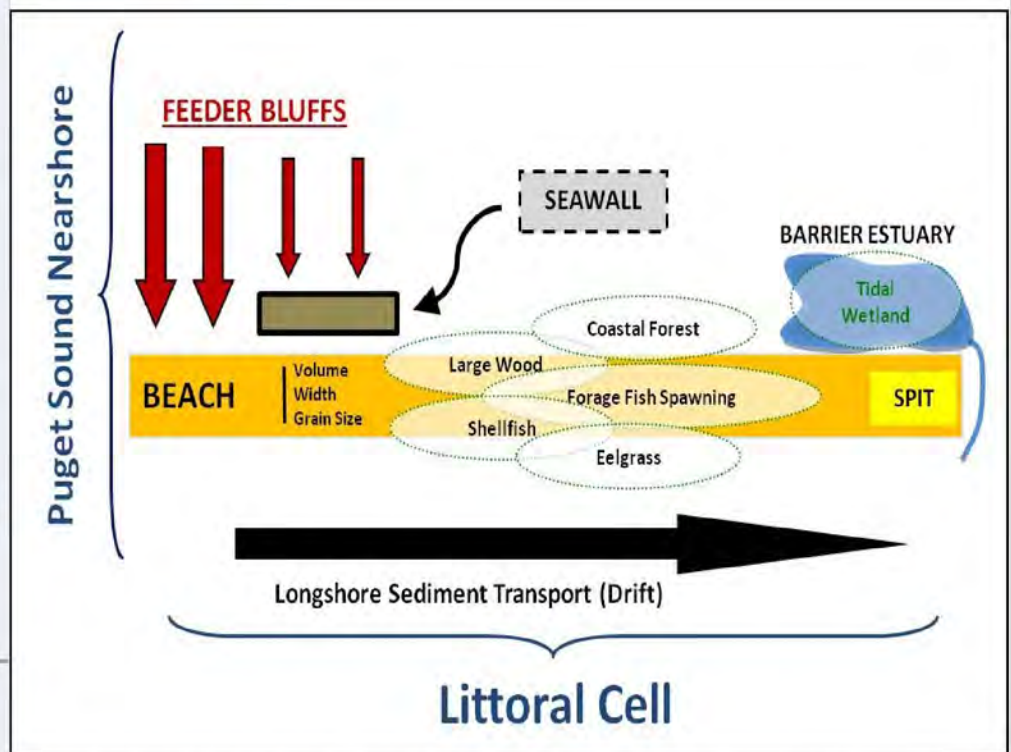
RELATED ECOLOGY PROGRAMS

[Shorelands and Environmental](#)

Feeder Bluffs and Nearshore Ecosystems

Feeder bluffs are an important part of the larger Puget Sound nearshore environment. The erosion of these bluffs delivers sediment to the beach, which in turn is transported along the shoreline influencing the entire drift cell. This sediment supply is a critical geologic process that supports a wide range of ecological functions.

Ecosystem processes — geological and biological — are crucial in maintaining ecological functions. In the case of beaches, geological processes include bluff erosion, sediment transport, the formation of spits, and the regular cycles of beach erosion and accretion. These processes influence the formation of spawning habitat, the accumulation of large wood and organic detritus, and maintenance of riparian forest and other coastal habitats.



Conceptual model of a Puget Sound littoral cell (drift cell). Sediment is delivered to the beach by feeder bluffs and is then transported by waves along the shoreline. The beach itself supports a variety of habitats, ranging from substrate for forage fish spawning to tidal wetlands behind spits. Seawalls reduce sediment supply and can lead to long-term changes on downdrift beaches.

More on Nearshore Processes and Ecosystem Functions

Assistance

- [PSNERP – Processes and Functions](#)
- [PSNERP Reports](#)
 - [Forage Fish](#) (PDF)
 - [Beaches and Bluffs](#) (PDF)
 - [Riparian Forest](#) (PDF)

The *Tree Preservation Plan* is on the next page.

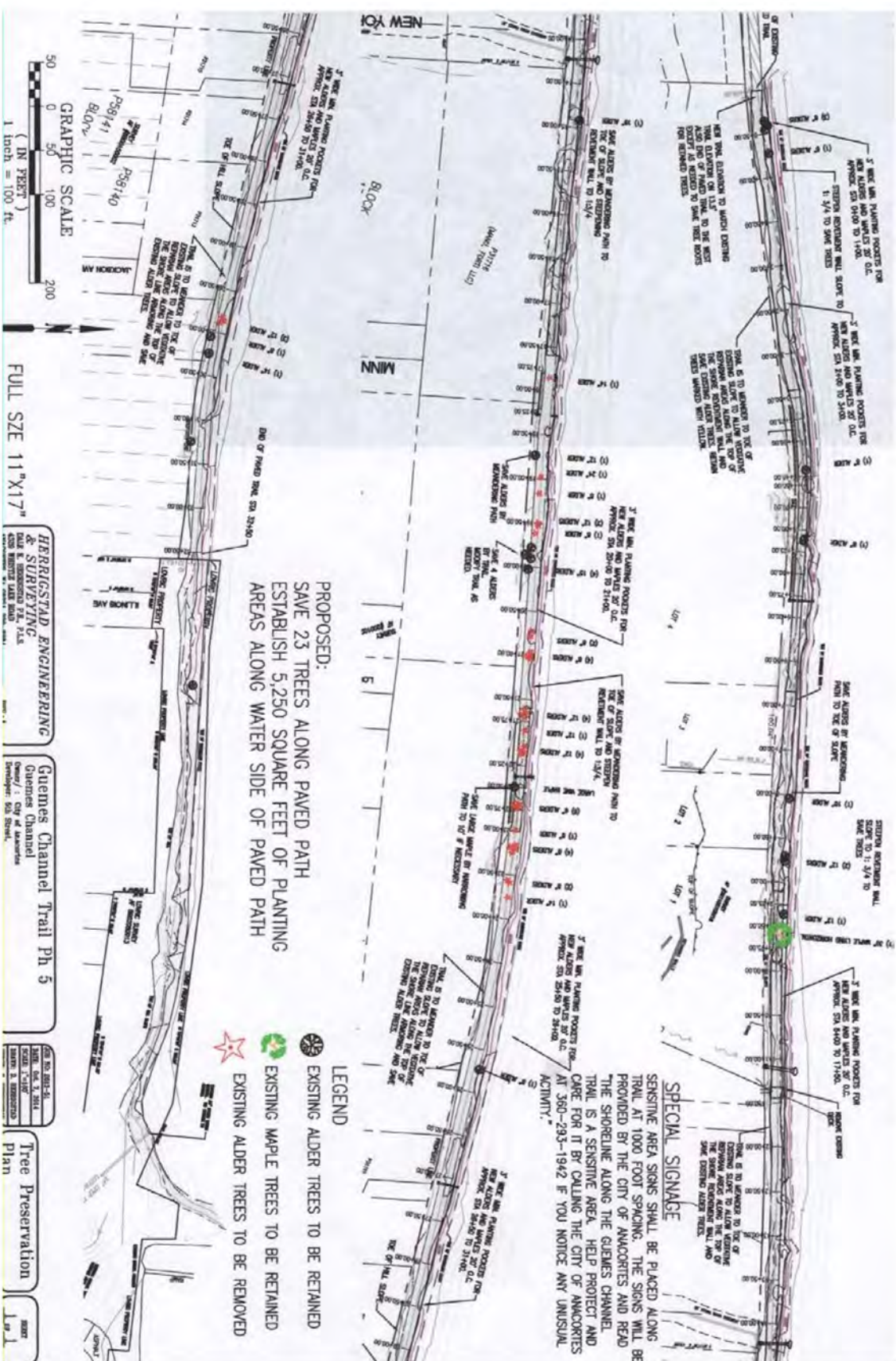
It was prepared by:
Herrigstad Engineering and Surveying
for the
Guemes Channel Trail, Ph 5

October, 2014

My comments about the city failing to do the mitigation as promised
are based on what this plan.

It seemed like the agencies expected the city to do what was in this plan.

When I walked the trail, I looked for the mitigation that was in this plan.
I did not see some of this mitigation.



PROPOSED:
 SAVE 23 TREES ALONG PAVED PATH
 ESTABLISH 5,250 SQUARE FEET OF PLANTING
 AREAS ALONG WATER SIDE OF PAVED PATH

- LEGEND**
- EXISTING ALDER TREES TO BE RETAINED
 - EXISTING MAPLE TREES TO BE RETAINED
 - EXISTING ALDER TREES TO BE REMOVED

HERRIGSTAD ENGINEERING
& SURVEYING
DALE E. HERRIGSTAD, P.E.
CITY ENGINEER, CITY OF ANACORTES
CITY ENGINEER, CITY OF ANACORTES

Guemes Channel Trail Ph 5
City of Anacortes
City Engineer, Dale E. Herrigstad

DATE: MAY 3, 2011
SCALE: 1"=100'
SHEET NO. 001-21
SHEET TOTAL: 21

Tree Preservation Plan

Received by PCED
9/6/17

Tom Allen
Allen Construction
P.O. Box 817
Anacortes, WA 98221
Phone: 360-293-7754

September 6th, 2017

To: City of Anacortes
Planning Commission, City Council and Planning, Community & Economic Development Staff
904 6th St.
Anacortes, WA 98221

Re: Critical Areas Regulation Update Review of Proposed Amendments
Presentation of Staff Recommendations by COA Staff on August 23, 2017

Dear Planning Commissioners, City Council Members and COA Staff,

The City is charged with a balancing act of providing safe and cost effective housing opportunities for its citizens, while protecting the unique environment that Anacortes offers.

Reviewing the proposed updates and changes to Critical Area codes, there are numerous references to additional professional reviews on projects along with supporting information from Geo Engineers. We believe the City should be careful in reviewing such feedback, as a significant beneficiary to code requirements adding professional reviews would be firms such as Geo Engineers that provide these services.

We understand the City Planning Commission and City Council is charged with reviewing wetlands, critical areas, etc. periodically. This doesn't necessarily mandate making changes if the current system balances the needs of the environment along with property owner's rights and safety.

As you increase restrictions and additional studies on land permit applicants, the less affordable housing becomes. It simply makes investing in housing less appealing to those willing to invest in our community.

Specific Section Review Comments Follow:

Page 2, Section 3 Exemptions & Allowed Activities

Geo Engineers proposed eliminating exceptions, I am assuming because it appears on the 'Summary of Proposed Changes' that the City Planning Staff agrees with these changes.

We believe that universally eliminating the exemption on smaller single-family residences and additions puts additional financial burden(s) on land permit applicants where there are no critical issues. What is

gained by elimination of the current exception rule? Are there examples of challenges faced by the City in the past by use of this rule?

Regarding Critical Area's and these proposed changes:

Don Measamer said: The new codes are "more strict", "require much more thorough review", "going to require 3rd party review on all critical area reviews".

We believe the City should list specific consultants they approve and allow property owners to use them in a single step process. If there are unique issues involved or a consultant's conclusions are in question, then a 3rd party review might be appropriate. What is the purpose of having property owners hire professional consultants to do Critical Area reports, then the City routinely mandating additional 3rd party reviews? Which review takes precedence in a conflict? Will we be adding 4th party reviews then averaging the results? Similar to the wetland buffer's that have been discussed recently - more is not necessarily better. By definition, this mandate will add significant cost to what could be otherwise simple projects.

The singular clear winner in a mandated 3rd party review process will be the consulting community, not Anacortes citizens or property owners.

Page 2, Section 4: Specific Development Standards

One of the proposed changes by Geo Engineers is to increase the buffer width to Critical Areas. What problem is being addressed here, have there been challenges with the existing system?

Thank you Curt Oppel for questioning the need for 3rd Party reviews at the Planning Commission meeting. They are not necessary for simple, small projects.

Page 3, Section 5 Specific Development Standards: Seismic Hazard Areas:

Again, it appears Geo Engineers is steering these proposed changes by adding more reports and eliminating exemptions.

The International Residential Code (IRC) identifies Anacortes within seismic area D2. As such, the house designs within this area already require a stricter structural design standards. There is "seismic" protection built into the IRC.

We encourage you to read the current Critical Areas Codes 17.70.250 & 17.70.260. They are very comprehensive and very strict. Please pay special attention to 17.70.250 A.4. This specifically requires a site to "certified as safe as designed and under anticipated conditions by a qualified engineer or geologist, licensed in the State of Washington".

We believe the requirement of 3rd party reviews is redundant and burdens land use applicants with additional unnecessary costs which obviously runs up the price of housing.

Page 4, Section 7: Tsunami Hazard Areas

Under proposed, please exempt S.F.R., ADU's and additions.

Page 4, Section 8: Critical Area Report – Additional Requirements:

We believe the proposed change to automatically requiring a 3rd party review should not be adopted for the reasons stated above. Critical Area Reports are already written by qualified & licensed professional engineers or geologists. It is redundant and expensive to land use applicants in both cost of time and money. Third party reviews should be required in extreme hazard situations only. We believe that if this code is adopted it will be challenged in court, at significant potential cost to the City.

Our response to public comment from Patrick O'Hearn.

"Truly independent 3rd Party Review":

Rather than the City implementing the proposed 3rd Party Reviews across the board, as an alternative we agree with the public comment from Patrick O'Hearn about his idea that the City develop an approved list of qualified geologists and engineers. The City could then choose those specialists to hire for the project rather than the Land Use Applicant, or select them at random. This would allow the Applicant to avoid redundant, expensive and time consuming additional reviews and reports. The burden would be on the Applicant to challenge the resulting consultants reports with additional consultants only if they chose to.

Please implement only those changes to the Critical Area AMC Code if there is a large gap in the current code to protect public safety. Our hope is that you analyze the comments from consultants and adopt only what is really needed. Adding burdensome regulation without a clear consideration of the balance needed in providing safe cost effective housing opportunities for our citizens, while protecting our environment will be counterproductive.

Thank you for considering my comments.

Sincerely,

Tom Allen

Allen Family Investments, LLC



Friends of the Forest

*Dedicated to the preservation of the Anacortes Community
Forest Lands through education, outreach & stewardship*

September 1, 2017
Public Comment CAO revision

Planning Commission and City Council Members,

After careful review and consultation, we would like to affirm and support the work of the Anacortes Planning Department staff on the Critical Areas Ordinance revision draft proposal.

The areas of the CAO pertaining to the designation of the Anacortes Community Forest Lands as a Fish and Wildlife Habitat Conservation Area (FWHCA's) are well considered, and the adaptations that allow for specific kinds of recreational and stewardship activities within the ACFL to continue in harmony with the ACFL Comprehensive Management Plan both make sense and provide for a process of ongoing community engagement.

Our thirty-year history in service to the woods has held to a primary focus on the forest itself. The main exception to this has been our vested interest in maintaining the traditional wildlife corridors that connect our forest with other natural areas and the sea that surrounds our island. Many of our native animal species require safe passage between different kinds of habitats, and most of these traditional pathways are aligned with the flow of water from our forest to the sea. River Otter, Beaver, Porcupine, Deer and Raccoon are just some of the animals that require diverse habitat connectivity at the ground level to survive.

We gave special attention to the suggested change from creek designation by name and local significance, to alignment with state agency designation criteria and "waters of the state" status. Given the special nature of our island, and the very specific kinds of local significance that our many creeks and wetlands hold, we were concerned that the new system might not grant as much protection as the current system. After in depth discussion with staff and other community members, we are assured that the proposed change will provide staff with a consistent system for the fullest protection of our waterways. This protection and enhancement of natural wildlife corridors is essential to the future sustainability of key wildlife populations within our woods.

Thank you to City staff and everyone who has contributed to shaping this document. We look forward to being part of the conversation as the final details of the CAO are refined,

J. Andrew Stewart, Friends of the Forest Board President



Planning Commission Agenda Bill

Meeting Date: 9/13/2017 **Agenda Item:**

Subject: Final Plat Approval, Phase IV, Rock Ridge South Subdivision

Staff Contact: Kevin Cricchio, AICP, Associate Planner

Approved for Submittal to Commission by	
X	Don Measamer, Director

Action Type	
	Public Hearing
X	Discussion
X	Possible Action
X	Public Meeting

Summary & Background: The City of Anacortes' Planning, Community, & Economic Development Department recently received a request for final plat approval concerning Phase IV of the Rock Ridge South subdivision. Rock Ridge South is a 5 phase, 88-lot subdivision located on 31.18 acres. The subject subdivision is generally located at West 12th Street and "K" Avenue, Anacortes, Washington and lies within a portion of Section 26; Township 35 North; Range 1 East; Willamette Meridian. The preliminary plat was approved by City Council on July 19, 2004, however the decision was appealed through a LUPA action to Skagit County Superior Court. The LUPA appeal process finished on May 23, 2005. Therefore, the preliminary plat approval date is considered May 23, 2005. To date, three of the five phases of the Rock Ridge South subdivision have been final platted with phases four and five remaining.

According to RCW 58.17.140(3)(b), since the preliminary plat was approved on or before December 31, 2007, a final plat must be submitted meeting all applicable City and State requirements within ten (10) years of the date that preliminary plat approval was given. After reviewing our files, City Council also granted a one-time three (3) year extension to the Rock Ridge South preliminary plat. Therefore, according to AMC 16.12.030(B), a final plat for the remaining phases (4 & 5) of the subject preliminary plat shall be submitted to City Council for approval before **May 23, 2018**.

AMC 16.16.020 includes requirements for final plat applications, including a recommendation for approval or disapproval from the Planning Commission as to the substantial compliance with all terms and conditions of preliminary plat approval. Therefore, the Planning Commission will conduct a public meeting at **6:00 PM on September 13, 2017**, in order to make a recommendation of approval or disapproval to City Council concerning the final plat request of Phase IV of Rock Ridge South subdivision.

Recommended Motion:

I move that the Planning Commission make a motion to recommend approval to the City Council concerning the subject final plat request for Phase IV of the Rock Ridge South subdivision.

Attachments:

- Exhibit #01, City Council's Signed Findings of Fact, Conclusions of Law, & Decision
- Exhibit #02, Assessors Info & GIS Map
- Exhibit #03, Master Permit Application, Compliance with Findings of Fact, Engineer of Record, Avigation Easement, Closure Report, Landscape Plan, Latecomers Application, Streetlight Receipt, Mailboxes Receipt, Root Barrier Receipt, & Spill Prevention Control Countermeasures
- Exhibit #04, Approved Landscape Plan
- Exhibit #05, Public Works Department Deficiency List /Bonding Items Letter
- Exhibit #06, Public Works Department, One-Year Performance Bond Letter
- Exhibit #07, Public Works Department, Two-Year Maintenance Bond Letter
- Exhibit #08, Applicant's Performance & Maintenance Bonds
- Exhibit #09, Public Works Department Recommendation of Approval to City Council
- Exhibit #10, Other Comments Received from Agencies & Departments of Jurisdiction
- Exhibit #11, Rock Ridge South, Approved Preliminary Plat Map
- Exhibit #12, Phase IV, Rock Ridge South Plat Map

EXHIBIT #01:

CITY COUNCIL'S SIGNED FINDINGS OF FACT, CONCLUSIONS OF LAW, & DECISION

FINDINGS OF FACT AND CONCLUSIONS OF LAW AND DECISION THEREON
ON ROCK RIDGE LLC'S PROPOSAL FOR
THE PRELIMINARY PLAT OF ROCK RIDGE SOUTH
(Replat of a Portion of Tuttle & Buckley's Plat of Anacortes)



FINDINGS OF FACT

1.0 General Background

- 1.1 Pursuant to Chapter 16.12 of the City of Anacortes Subdivision Ordinance the City of Planning Director reviewed plans and basic site information on the proposed Preliminary Plat of Rock Ridge South, a residential subdivision.

1.1.1 Rock Ridge South is a five-phase, 88 lot subdivision located on 31.18 acres, generally located at West 12th Street and West "K" Avenue, a portion of Section 26, Township 35 North, Range 1 East, Anacortes, Skagit County. The project site is located in the existing Tuttle & Buckley's Plat of Anacortes.

- 1.2 The applicant was informally advised as to changes sought by City staff in order to bring the proposal closer to general development objectives and City policies in the area.

1.2.1 The City staff's Planning Coordinating Committee reviewed the preliminary application and on November 12, 2003 and February 10, 2004 and recommended approval subject to the conditions set-out below.

- 1.3 The formal preliminary application submitted to the City Planning Department was accompanied by the following written documents:

- (a) Chicago Title Guarantee: **Exhibit 1**
- (b) List of property owners within 300' (on file) **Exhibit 2**
- (c) Assessor's Map (on file) **Exhibit 3**
- (d) Map showing water meter locations (on file) **Exhibit 4**
- (e) Geologic Hazards, Preliminary Geotechnical Engineering and Initial Hydrogeology Report – Associated Earth Sciences, October 15, 1996 (February 2003 letter update) **Exhibit 5**
- (f) Preliminary Drainage Report 9/30/03 Ostergaard (some drawings on file) **Exhibit 6**
- (g) February 25, 2003 wetland delineation – The Watershed Company **Exhibit 7**
- (h) January 12, 2004 Beaver Habitat Evaluation – Cantrell & Associates **Exhibit 8**
- (i) January 12, 2004 Wetland Rating Analysis – Cantrell & Associates **Exhibit 9**
- (j) January 28, 2004 Wetland buffer averaging detail **Exhibit 10**

- (k) February 17, 2004 letter from ATSI – wetland, wetland buffers, and encroachment issues from 23rd through 30th streets along “A” and “B” Avenues and wetland and detention pond on West 8th St. Exhibit 11
- (l) February 17, 2004 letter from Lang Associates, Inc. re: Rock Ridge South – Traffic Issues Exhibit 12
- (m) Map – elevations (on file) Exhibit 13
- (n) Drawing – February 12, 2004 letter from Summit Engineers – plat modifications – sketch attached Exhibit 14
- (o) February 5, 2004 letter from Rock Ridge – request for phasing Exhibit 15
- (p) Drawing Exhibit 16

1.3.1 Applicant:	<u>Contact Person</u>
Rock Ridge LLC	Nelsen Development Group
3307 H Avenue	14205 SE 36 th St. # 100
Anacortes, WA 98221	Bellevue, WA 98006
Anthony Malo, Jr. 369-299-0408	Wayne Nelsen 425-519-3656

1.4 The City Planning Director has determined that the preliminary development plan plat application included the following:

-The preliminary plat application fee required by the City Fee Ordinance.

-A plat map prepared by a registered land surveyor showing the following:

- (A) The name of the proposed plat
- (B) True north point
- (C) Horizontal scale acceptable to the City Engineer for street and sewer profiles
- (D) Names of subdivider(s) and drafter
- (E) Legal description and accurate lines to scale showing the parcel to be subdivided, the block lines, and the lot lines.
- (F) Numbers assigned to each block and lot and dimensions of each lot and dimensions and square footage of each lot.
- (G) Existing monuments of record and monuments as required.
- (H) Location, width, and names of all existing and proposed streets or other public ways within or adjacent to the proposed development and other important features, such as permanent buildings, water courses, power lines, telephone lines, railroad lines, municipal boundaries, township lines, and section lines.
- (I) Location and pipe sizes, of all existing sewers, water mains, culverts, electrical conduits, telephone conduits and other underground installations within the tract and immediately adjacent thereto.
- (J) Contours with intervals of 5 feet or less referenced to either the United States Coast and Geodetic Survey datum, the City of Anacortes Datum or such other datum acceptable to the City Engineer. Note on plat which one is used.

General information shall be provided relative to:

- (K) Location, names and tentative grades of streets.
- (L) Areas proposed to be dedicated or reserved for school, park, playground, open space or aesthetic uses.
- (M) Locations and tentative sizes of proposed water distribution system, proposed sanitary sewer system and proposed storm drain system.
- (N) A general tree clearing plan indicating site vegetation to be removed.
- (O) Plantings required for buffering, screening, or soil erosion protection.

-The preliminary plat sheet that includes:

- (A) Vicinity sketch at the scale of 50 feet or less to the inch which shall show all adjacent subdivisions, streets, tract lines of acreage parcels, with the names of owners or record of such parcels. It shall show how the streets and alleys in the proposed subdivisions may connect with existing and proposed streets and alleys in neighboring subdivisions or unplatted property to produce the most advantageous development of the entire neighborhood.
- (B) County Assessor's or County Engineer's map showing the parcel numbers and current assessed owners of the land included in the preliminary plat and of all parcels of land within 300 feet thereof.
- (C) Names and addresses of the fee simple owners of all land within 300 feet of the perimeter of the preliminary plat.
- (D) Names, addresses and telephone numbers of the contact persons for the preliminary plat and their interest in the land included in the preliminary plat.
- (E) Title report showing all persons having an interest in the land included in the plat and in the land over which any easements are proposed to serve the plat.
- (F) A copy of the proposed private restrictions and covenants to be included in the deeds to the lots.
- (G) A copy of the Environmental Checklist, Impact Statement or other documents prepared pursuant to the City SEPA Ordinance. If an EIS is required the Draft EIS shall be distributed at least fifteen (15) days prior to any hearing on the proposal.
- (H) Such other information as the Administrator deems necessary for an adequate review of the public use and interest to be served by the plat."

Anacortes Subdivision Ord. Section 16.12.010

- 1.5 After reviewing the preliminary plat, the Planning Director determined that the proposed development (as conditioned below) meets the requirements of Subdivision Ordinance Section 16.12.010.

1.5.1 Written staff comments were received and incorporated into these Findings as follows: An application for Preliminary Plat approval for a 90-lot residential development was submitted on September 28, 2000; the application lapsed and a revised application was submitted on October 8, 2003 and distributed to City staff requesting that the Planning Department be notified of any additional information needed to evaluate the application. In a

November 14, 2003 memorandum the Design Review Group sought additional information regarding, in part: a proposal for the City-owned property located within the plat; habitat evaluation of wetlands D and E with regard to existing beaver population; a landscape plan; hydro-geologic study; trail access; down stream sanitary sewer analysis; and water pump station information (**Exhibit 17**). The applicant submitted a January 12, 2004 letter (**Exhibit 18**) in response. The applicant also addressed a proposal for property exchange and acquisition with a December 8, 2003 document (**Exhibit 19**). City staff submitted suggested NGPE language and proposed conditions in a February 11, 2004 memorandum (**Exhibit 20**). With the receipt of the additional information the application was determined to be complete and an Open Record Public Hearing was scheduled for March 10, 2004 and March 24, 2004. The applicant was so notified. Additionally, a site visit was held on the afternoon of March 24, 2004. The Open Record Public Hearings were held and testimony taken. The matter was continued to March 31, 2004 for deliberation and action.

Proposed conditions 1-39 are basically standard conditions tailored to this project. It is noted that additional issues will be addressed in City staff's review of the Building Permit Application that will follow on from approval, if granted, of this application.

1.6 As the application was determined to be complete, it was processed and an Open Record Public Hearing was scheduled for the Planning Commission on March 10, 2004 and March 24, 2004. Notice of such hearing was in accordance with Section 16.12.020 of the City Subdivision Ordinance, and as detailed in Section 5.0 below.

1.7 The proposed Preliminary Plat is to be constructed in an area designated in the City of Anacortes Comprehensive Land Use Plan as R 2.

1.8 The proposed Preliminary Plat is to be constructed in an area designated in the City of Anacortes Zoning Ordinance as R 2. Single family homes are permitted in this zone.

2.0 Description of the Project

2.1 The applicant is proposing a 90-unit single-family residential development on 31.18 acres utilizing Chapter 16.12 of the City of Anacortes Subdivision Ordinance, entitled "Preliminary Plats for Standard Subdivision".

2.2 The smallest lot is 7,503 square feet and the largest is 18,767 square feet. The minimum lot size in the R 2 zone is 7,500 square feet. The property is surrounded on three sides by R 2 zoning with Public zoning to the south.

3.0 Consideration of Alternatives

3.1 The applicant considered and rejected alternative layouts.

3.2 On April 19, 2004 the City Council held a Closed Record Meeting to review the Planning Commission recommendation to approve the Rock Ridge South preliminary plat subject to 39 conditions. Two appeals were filed. The applicant submitted a revised Phase V site plan as an appeal attachment. With this new information the City Council remanded the following Phase V issues to the Planning Commission for a May 26, 2004 Public Hearing: (1) Rock Ridge LLC buffer proposal; (2) Bowman right-of-way access; and (3) pathway locations.

4.0 **State Environmental Policy Act**

4.1 A Mitigated Declaration of Nonsignificance (hereinafter MDNS") was issued for this project on February 5, 2004 by the City of Anacortes, the SEPA lead agency. **(Exhibit 21 – includes SEPA Checklist)**

4.2 This lead agency determined that the Rock Ridge South proposal does not have a probable significant adverse impact on the environment **provided** that the conditions set-out below are satisfied. Accordingly, 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.

1. **A 30-foot Native Growth Protection Easement shall be established adjacent to the City Forest Lands.**
2. **The pre-development flow to wetlands "D" and "E" shall be maintained post development.**
3. **The minimum wetland buffer for wetlands "D" and "E" of 25' is to be supplemented by an average buffer width that shall total 58' and by a 30' Native Growth Protection Easement on Lots 8-17 (Phase V) as shown on the preliminary landscaping plan.**
4. **Whether or not an agreement can be reached between the applicant and the City for fee simple property exchange (with additional consideration to the City), the four acres of wetland habitat adjacent to the ACFL (Tract B) shall be subject to a conservation easement administered by an established local based land trust.**
5. **The applicant memorializes its agreement that the City's traffic impact fee schedule shall apply in lieu of a site-specific traffic study and required off-site road improvements.**

4.3 The MDNS was made available for public comment on February 2, 2004, and mailed to the following agency with a deadline for public comment of February 27, 2004: State Department of Ecology and State Department of Fish and Wildlife.

4.3.1 Three letters of comment were received in response to this MDNS.

Exhibit 22: February 27, 2004 letter from Ross O. Barnes

Exhibit 23: February 26, 2004 letter from Friends of the Forest

Exhibit 24: February 27, 2004 letter from Evergreen Islands

4.4 The MDNS was published in the Anacortes American on February 11, 2004 again with a deadline for public comment of February 27, 2004.

4.5 The MDNS was posted on the project site.

5.0 **Notice**

5.1 The Anacortes Subdivision Ordinance contains public notice requirements for Preliminary Plat applications:

- (1) When a preliminary plat meeting the requirements has been submitted, the Administrator shall establish the date and time for an Open Record Public Hearing before the Planning Commission on the preliminary plat which shall not be more than sixty days from the date of submission thereof and which shall coincide with a regular meeting of the Planning Commission.
- (2) Following Planning Commission action, the Administrator shall schedule the preliminary plat for the City Council agenda for its next available meeting date in accordance with its rules and regulations.
- (3) The City shall cause notice of the time, date, place and purpose of the Planning Commission Open Record Hearing and City Council Meeting at which the Council will decide the matter based on the Planning Commission's record. These notices shall include both a legal description and either a vicinity location sketch or a location description in non-legal language of the preliminary plat and shall be
 - (A) Published at least once in a newspaper of general circulation in the Anacortes area not less than 15 days prior to the hearing; and
 - (B) Posted in the lobby of Anacortes City Hall, and in a conspicuous manner upon the property included in the preliminary plat on or before the date of the newspaper publication required by this Subsection; and
 - (C) Mailed by "Registered return receipt requested" mail on or before the date of the newspaper publication required by this Subsection to:
 - (a) The Washington State Department of Transportation if the preliminary plat is located adjacent to the right-of-way of a state highway;
 - (b) The Board of County Commissioners of Skagit County if the preliminary plat is located adjacent to a boundary of the County.
 - (D) Mailed to property owners located within 300 feet of the boundaries of the preliminary plat.
- (4) The Administrator shall transmit one copy of the preliminary plat and other related material to the City Engineer for consideration and submission of a written or oral report and recommendation for approval or disapproval.

Anacortes Subdivision Ordinance Section 16.12.020

- 5.2 On February 11, 2004, a Notice of Application, Notice of Open Record Public Hearing for March 10, 2004 and March 24, 2004, Notice of Completeness, and Mitigated Determination of Nonsignificance for the Preliminary Plat Permit Application were posted at the Anacortes City Hall and the Anacortes Post Office. The property was posted with both notices on February 12, 2004. All of the posting was done at least fifteen days in advance of the Open Record Public Hearing date.
- 5.3 On February 11, 2004 the Anacortes American published a copy of the notices. This publication took place more than fifteen days in advance of the hearing.
- 5.4 Because the public hearing involved a Preliminary Plat, copies of all notices were mailed to property owners within 300 feet of the exterior boundaries of the subject property on February 11, 2004.

5.5 An Open Record Public Hearing was held before the Anacortes Planning Commission on March 10, 2004 and March 24, 2004 and continued to March 31, 2004 for deliberation and action. A site visit was held on the afternoon of March 24, 2004. The Planning Commission made recommendation on the application to the City Council as follows: to recommend approval of Phases I-IV based on the Findings and Conclusions as set-out in this Report and subject to the conditions set-out on Pages 18-23, and denial of Phase V. A record of this action was sent to the City Council in the form of Minutes of the Planning Commission Meetings of March 10, 2004, March 24, 2004, and March 31, 2004 (**Exhibits 42-44**) together with transcripts of these meetings (**Exhibits 45-47**). Two appeals were filed. (**Exhibits 48 includes revised site plan and 49.**)

5.5.1 The following exhibits were submitted to the Planning Commission prior to or at the March 10, 2004 Planning Commission meeting:

- Exhibit 25:** February 20, 2004 letter from Nelsen Development – park improvements
- Exhibit 26:** February 25, 2004 memorandum from Gary Robinson/Parks Department
- Exhibit 27:** February 27, 2004 letter from Nelsen Development Group – proposed park improvements
- Exhibit 28:** March 3, 2003 letter from Evergreen Islands
- Exhibit 29:** March 10, 2004 letter from Erik and Dulcie Bowman
- Exhibit 30:** March 10, 2004 letter from Laura Kilkelly
- Exhibit 31:** March 10, 2004 letter from Ross O. Barnes

5.5.2 The following exhibits were submitted to the Planning Commission prior to or at the March 24, 2004 Planning Commission meeting:

- Exhibit 32:** March 8, 2004 memorandum from Jim Irving, Engineering to Ian Munce, Planning re: Rock Ridge Pump Station
- Exhibit 33:** March 16, 2004 Memorandum from Gary Robinson re: water tank site
- Exhibit 34:** March 17, 2004 letter from Lang Associates in response to written and verbal comments during the March 10, 2004 public hearing
- Exhibit 35:** March 17, 2004 letter from Ross O. Barnes: re standards for evaluating and mitigating impacts to critical areas – Part II
- Exhibit 36:** March 18, 2004 letter from Evergreen Islands
- Exhibit 37:** March 24, 2004 letter from Rudy Gahler MD
- Exhibit 38:** March 24, 2004 letter from Julie White
- Exhibit 38:** March 24, 2004 letter from J. Robert Gordon, GeoEngineers
- Exhibit 40:** March 24, 2004 letter from Ross O. Barnes and overheads
- Exhibit 41:** March 24, 2004 letter from Rosemary A. Larson, Inslee, Best, Doezie & Ryder

5.6 The City Council held a public meeting for the Preliminary Plat application on April 19, 2004 pursuant to the Notices. At the conclusion of the meeting, the Anacortes City Council voted to remand Phase V of the Preliminary Plat application to the Planning Commission for a further Public Hearing and to stay the appeals subject to the Planning Commission recommendation on a revised Phase V.

5.6.1 No exhibits were submitted at the April 19, 2004 City Council Closed Record Meeting. Minutes for the April 19th meeting are **Exhibit 50.**

5.6.2 On May 26, 2004 the Planning Commission held a Public Hearing on the following Phase V issues: Rock Ridge LLC buffer proposal; Bowman right-of-way access; and pathway locations. The minutes and transcript of the May 26, 2004 Public Hearing are Exhibits 51 and 52.

5.6.3 The following exhibits were submitted at the May 26th meeting:

Exhibit 53: April 14, 2004 letter from Rudy Gahler
Exhibit 54: May 12, 2004 submittals from Rock Ridge LLV
Exhibit 55: May 19, 2004 memorandum from the Development Review Group
Exhibit 56: May 24, 2004 e-mail from Gary Robinson re: Rock Ridge South wetland buffer.
Exhibit 57: May 25, 2004 letter from Evergreen Islands re: remanded site plan
Exhibit 58: May 26, 2004 from Ross O. Barnes re: standards for evaluating and mitigating impacts to critical areas

5.6.4 At the conclusion of the Public Hearing the Planning Commission voted to recommend approval of Rock Ridge Phase V with the following additions: No clearing shall be done before a detailed phased clearing plan has been approved by the commission; detailed language covering the Bowman access be included as described, pathway locations are to be generally as shown, and the fencing language shall be included as requested by the Parks and Recreation Director. One appeal was filed (Exhibit 59).

5.7 On June 14, 2004 the City Council reconvened the Closed Record Meeting for the Rock Ridge South Preliminary Plat to consider: Planning Commission recommendation on Phases 1-4; three appeals; Planning Commission recommendation on Phase V issues and one associated appeal. At the conclusion of the meeting the Council voted to approve the Rock Ridge South preliminary plat subject to the conditions outlined on pages 19-23, and to grant the appeals to the extent that the changes made to the conditions address the Evergreen Islands appeals, and to deny the appeals to the extent that the changes made to the conditions do not address the Evergreen Islands appeals.

5.7.2 The following exhibits were submitted at the June 14th meeting:

Exhibit 60: June 14, 2004 letter from Ross O. Barnes
Exhibit 61: June 14, 2004 letter from Margaret Studer, EI
Exhibit 62: June 14, 2004 letter from Tom Glade, EI

6.0 Zoning Ordinance

6.1 The City Zoning Map establishes zone boundaries and the City Zoning Ordinance establishes (1) the permitted use of land in the various zones and (2) development standards.

6.2 Rock Ridge South is proposed for a location within the R 2 (Residential Low Density) Zone.

6.2.1 Only single family homes are permitted in the R2 Zone.

6.2.2 Minimum lot size in the R2 Zone is 7,500 square feet. Zoning Ordinance Section 17.36.050.

6.2.3 Minimum set-back requirements in the R2 District are 20 feet from the front and rear property line and 5-foot minimum with a 15-foot total from the interior sides. Zoning Ordinance Section 17.36.060.

6.2.4 Maximum land coverage by buildings is 35% in the R2 District. Zoning Ordinance Section 17.36.080.

6.2.5 In the R2 District there shall be at least two off-street parking spaces per dwelling unit. Zoning Ordinance Section 17.36.100.

6.3 Rock Ridge South conforms in all respects to the Zoning Ordinance requirements of the R2 District. Specifically, only single family homes are proposed.

7.0 Subdivision Ordinance- Municipal Code Title 16

7.1 The City of Anacortes Subdivision Ordinance applies to this Preliminary Plat Application. The relevant sections of the Subdivision Ordinance as regards procedure are set-out in Sections 1 through 5 above. Other relevant sections of the Subdivision Ordinance are set forth below.

7.2 The City Subdivision Ordinance declares that its purpose is "to protect and provide for the public health, safety, and general welfare of the City, to guide the future growth and development of the City in accordance with the Comprehensive Plan, to provide for adequate light, air, and privacy, and to secure safety from fire, flood, and other danger, and to prevent overcrowding of the land and undue congestion of population, to protect the character and the social and economic stability of all parts of the City and to encourage the orderly and beneficial development of the community through appropriate growth management techniques, to protect and conserve the value of land throughout the City and the value of buildings and improvements upon the land to minimize the conflicts among the uses of land and buildings, to guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation, and other public requirements and facilities, to provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the City, to establish reasonable standards of design and procedures for subdivisions and resubdivision, in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land, to ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision, to prevent the pollution of air, streams, and ponds, to preserve the natural beauty and topography, to provide for open spaces through the most efficient design and layout of the land, and to implement the regulatory reform act (1995)."

Anacortes Municipal Code Section 16.04.030

7.2.1 Rock Ridge South is consistent with this purpose.

7.3 (i) "The Planning Commission shall at their Open Record Public Hearing consider the preliminary plat, the environmental information developed pursuant to the SEPA Ordinance, the oral or written reports and recommendations submitted, and the other information and exhibits presented by interested persons and shall make advisory findings to report to the City Council relative to whether the preliminary plat:

(A) Conforms to the general purposes of the City Comprehensive Plan;

(B) Conforms to the City's planning standards and specifications of the Zoning Ordinance, this title and such other ordinance or resolutions as may be urged by interested parties to be applicable to the preliminary plat;

(C) Makes appropriate provisions for:

- a. open spaces and landscaping;
 - b. stormwater retention, detention, and control
 - c. streets, alleys, sidewalks and other public ways;
 - d. water supplies;
 - e. sewage disposal;
 - f. parks and playgrounds;
 - g. sites for schools and school grounds; and
 - h. other utilities.
- (D) Serves the public interest, health, safety and general welfare.
- (ii) The Planning Commission shall forward to the City Council a list of all changes and recommendations which should be incorporated in the preliminary plat. Any aggrieved party shall have five working days from date of the decision to appeal the decision of the Planning Commission to the Council.
- (iii) The minutes of the Planning Commission meeting on the preliminary plat, together with a tape of oral information presented at the meeting, shall be transmitted to the City Council. The minutes shall be accompanied by the Planning Commission's findings and any recommendations for approval, disapproval or approval on specified conditions together with the written reports, exhibits and recommendations of interested persons considered by it. Taken together, this material shall constitute the Planning Commission's advisory report to be considered at the public meeting of the City Council.
- (iv) At their public meeting, the City Council shall:
- (1) a. Hear a closed record appeal(s), if any.
 - b. Determine if the preliminary plat as conditioned will serve the public interest, health, safety, and general welfare
 - (2) Consider the preliminary plat, the environmental information developed pursuant to the SEPA Ordinance, the Planning Commission report, the oral or written reports and recommendations submitted, and the other information and exhibits presented by interested persons to the Planning Commission.
 - (3) Determine from the information presented whether to approve, disapprove, or return the preliminary plat to the Planning Commission for further review.
 - (a) The Council may delete or add additional public dedications or conditions not shown on the preliminary plat, or require notations as to payment of fees toward City development of public uses in the area.
 - (b) If requirements of this subsection are met so as to justify approval, a time period for construction and acceptance by the City of required improvements must be established, and one of the following methods of providing for construction of the improvements within said time period must be provided by the applicant prior to submission of the final plat for approval:

- (1) Actual installation of required improvements; or
- (2) Posting of cash, or a bond in an amount and with surety and conditions prescribed by the City Council, sufficient to insure construction of the required improvements.
- (4) A copy of the findings and determinations of the City Council, together with a statement of any special conditions not contained in the preliminary plat application imposed as a condition of preliminary plat approval by the City Council, shall be kept on file and open to public inspection at City Hall during regular business hours.

Anacortes Municipal Code Section 16.12.020.

7.3.1 The Preliminary Plat conforms to the general purposes of the City's Comprehensive Plan; specific findings in this regard are set-out in Section 8.0 below.

7.3.2 The Preliminary Plat conforms to the City's planning standards. Specific findings with regard to the Preliminary Plat conforming to the planning standards of the Comprehensive Plan and Zoning Ordinance are set-out in Section 8.0 and Section 6.0.

7.3.3 The general planning standards covering subdivisions are as follows:

The design and development of subdivisions shall preserve the natural terrain, vegetation, drainage patterns, and existing topsoil to the greatest extent possible.

(ii) Land which is found to be unsuitable for subdivision because of potential hazards such as land slides, regulated slopes as defined in the City Zoning Ordinance, polluted conditions, air traffic or other features which may be detrimental to the health and safety of existing or future residents shall not be subdivided for residential purposes unless the hazards are eliminated or will be overcome by approved design construction plans.

(iii) Engineering plans, specifications and reports required in connection with public improvements and other elements of the subdivision required by the City shall be prepared by a registered engineer, land surveyor, or architect.

(iv) Each lot shall contain a building site which conforms to zoning regulations and regulations contained herein:

- (1) No single lot shall be divided by a City or County boundary line.
- (2) No single lot shall be divided by a public or private road right-of-way.
- (3) Each lot shall abut a public or private road. Lot frontage on said roads shall be not less than thirty (30) feet.
- (4) Corner lots shall be of sufficient area to provide acceptable visibility for traffic safety.
- (5) No lot shall have an average depth greater than five (5) times its average width.
- (6) Through lots are prohibited except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.

(v) Blocks shall be designed to assure traffic safety and ease of traffic control and circulation. Blocks shall be wide enough to allow for two tiers of lots unless topography or other factors dictate the use of one tier or through lots or unless the City approves the design of irregularly shaped blocks indented by cul-de-sacs. Blocks shall not be less than three-hundred (300) feet in length and shall not exceed twelve-hundred (1,200) feet in length.

(vi) Where required by the governing body, easements shall be provided for utilities, drainage and vehicular or pedestrian access. Easements shall be centered along rear and side lot lines where practical and shall not be less than twenty (20) feet in width.

7.3.3.1 These general planning standards have been addressed as conditioned in Section 8.0.

7.3.4 The appropriate provisions for open space and landscaping will be met with the payment of the Park Impact Fee and approval of the Landscaping Plan as conditioned below.

7.3.4.1 A voluntary 4-acre dedication of adjacent wetlands and wetland buffers is proposed in this plat.

7.3.5 The appropriate provisions for grading and drainage are as follows:

- (1) The subdivider shall provide a complete grading and drainage plan with accurate dimensions, courses and elevations, showing the proposed grades of streets and drainage improvements. Calculations of pre-development and post-development runoff volumes shall be provided.
- (2) The subdivider shall provide suitable drainage facilities for any surface run-off affecting the subdivision; these facilities shall be located in street rights-of-way or in perpetual easements of appropriate widths and are subject to approval by the governing body. Where necessary, storm water retention or downstream improvements shall be required to avoid problems related to increases in runoff volumes generated by the development.
- (3) Each culvert or other drainage facility shall be large enough to accommodate potential runoff from upstream drainage areas. Open ditches are permitted in the R1 Zone.
- (4) Drainage systems shall not discharge into any sanitary sewer facility.
- (5) Those improvement plans which are not covered under standard specifications of the City may require certification by a registered engineer.

Anacortes Municipal Code Section 16.20.070

7.3.5.1 The project, as conditioned below, makes adequate provision for grading and drainage, except as to Phase V (where the Planning Commission needs to review and approve the detailed stormwater management plan, together with a 5-year applicant funded and City directed monitoring program).

7.3.6 The applicable provisions for streets, alleys, sidewalks and other public ways are generally as follows:

"Low density...0 to 4 units per acre...cement concrete barrier curb and gutter are required in all new subdivisions and on all proposed streets except alleys...

Sidewalks in low...density areas shall be a minimum of five (5) feet wide...Sidewalks shall be separated from curb and gutters by a planted median at least six (6) feet in width unless otherwise approved by the City Engineer...

Residential access [roads]: 50' right of way width with pavement width of 32' (two driving lanes, curb and gutter required with parking both sides)...Maximum grade is 12%...Maximum cul-de-sac length is 1,000'."

Anacortes Municipal Code Section 16.20.060 & 16.32

7.3.6.1 These public facility standards have been met as conditioned below.

7.3.7 The provisions for streets, alleys, sidewalks and other public ways are, more specifically, as follows:

"(A) Intersections. The following items apply to intersections:

- (a) Streets shall intersect at right angles, except when topography dictates, and in no case shall the angle of intersection be less than sixty (60) degrees.
- (b) Two streets meeting a third street from opposite sides shall meet at the same point, or their centerlines shall be offset at least one hundred twenty-five (125) feet.
- (c) Intersection design shall provide acceptable visibility for traffic safety as dictated by the designed operating speeds on the individual roadways.
- (d) Intersections of local streets with major arterials or highways shall be kept to a minimum.
- (e) Street curbs at intersections shall be rounded by radii of at least 20 feet.

(B) Curbs and gutters shall be required as determined by the governing body according to the character of the area, density of development, and nature of adjoining properties. Curbs and gutters shall be designed as part of an overall subdivision grading and drainage plan and shall contain concrete barrier curbs. (See Grading and Drainage). In the R1 Zone curbs and gutters may be installed with catchbasins such that they drain into open ditches, PROVIDED that roads shall be no less than 28 feet wide.

(C) Sidewalks or walkways shall be provided on both sides, except in the R1 Zone where sidewalks are not required. Exception to sidewalk requirements shall require application to City Council.

(D) Dead-end streets without a turn-around are prohibited. Where future street extension is proposed, a temporary cul-de-sac shall be provided.

(E) Whenever a subdivision abuts or contains an existing or proposed arterial highway or major thoroughfare, the City may require frontage roads, with a reservation prohibiting access along the rear property line, deep lots, or other treatment as may be necessary for adequate protection of residential properties and to separate arterial and local traffic.

(F) New half streets are prohibited. Whenever an existing half street is adjacent to a tract to be subdivided, the other half street shall be platted and developed within such tract.

- (G) Names of new streets aligned with existing streets shall be the same as those of the existing streets. Street names for non-continuing streets shall not be duplicated nor be confused with existing street names. Street name signs and all other traffic and regulatory signs and their installation locations shall be as specified by the Director of Engineering and Development Services. The City shall have the option to procure such signs to assure standardization. If signs are procured by the City on behalf of the developer, the actual costs plus shipping charges shall be billed to the developer. Installation of signs shall be the responsibility of the developer.
- (H) Horizontal alignment of streets shall ensure adequate sight distances.
- (I) Street lights shall be installed as required by the City Engineer.
- (J) The rights-of-way of all platted private roads shall be consistent with requirements for similar public roads, and grades shall not exceed maximums set for dedicated roadways. Platted private roads shall be maintained by a property owners' association.
- (K) Roadway subgrades shall be free of sod, vegetative or organic matter, soft clay, or other objectionable materials, properly rolled, shaped and compacted and subject to approval by the City Engineer.
- (L) Roadway surface shall be constructed on a suitable base, using materials approved by the City Engineer.

Anacortes Municipal Code Section 16.20.060

7.3.7.1 The project, as conditioned below, makes adequate provision for roads and related facilities.

7.3.8 After considering the requirements of Section 7.3.5 above as modified by Section 7.3.6, it is stipulated that:

- (1) "All roadway improvements including pavement, curbs, sidewalks, and drainage shall be constructed in accordance with these regulations and such other standard construction specifications as may be adopted by the City.
- (2) The arrangement, type, extent, width, grade, and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, and to public convenience and safety, and in their relation to the proposed uses of the land to be served by them."

Anacortes Municipal Code Section 16.20.060

7.3.8.1 The applicant has agreed that the City's traffic impact fee schedule shall apply in lieu of a site-specific traffic study and required off-site road improvements.

7.3.9 However, the applicant can apply for a "Modification and Exception to the requirements of the Subdivision Ordinance" as follows:

"Conditions for Granting. Modifications and exceptions to the requirements of the Subdivision Ordinance are to be granted by the City Council only when all the following conditions are met:

- (1) The modification or exception would not constitute a grant of special privilege inconsistent with other subdivisions in the City and would not establish a

precedent which could, in successive application, diminish the purpose of the Subdivision Ordinance.

- (2) The modification or exception is necessary because of special circumstances relating to the size, shape, topography, location or surroundings of the subject property.
- (3) The modification or exception will not be detrimental to the public welfare or adversely impact properties or facilities in the vicinity of the proposed subdivision.

Procedure.

- (1) Application for modification or exception to the requirements of the Subdivision Ordinance shall be submitted to the Administrator. The application shall:
 - (A) Describe the location of the proposed modification or exception, and show on maps or diagrams the location and details of the application.
 - (B) Describe the reasons for the modification, or exception and the Subdivision Ordinance provision for which the modification or exception is requested.
- (2) Upon receipt of a properly prepared application, the Administrator shall set a hearing date on the application at the next available City Council meeting. The hearing shall be duly advertised and the Administrator shall prepare a staff report and recommendation for Council review prior to the hearing date. Copies of the recommendation shall be forwarded to all interested parties requesting same.
- (3) Upon conclusion of the public hearing the Council shall deny, approve, or approve with modifications the application for modification or exception. A vote of a majority plus one of the total council membership shall be required to approve a modification or exception.
- (4) If approved, the specific modification or exception, along with Council comments, shall be placed on file for reference. "

7.3.9.1 The project, as conditioned below, will not require modification or exception to the requirements of the Subdivision ordinance.

Anacortes Municipal Code Section 16.24

7.3.10 The appropriate provision for water supplies are as follows:

"Design plan, profile and construction specifications indicating location, pipe size, appurtenances, grades, and materials shall be submitted, reviewed and approved. The design shall provide an adequate accessible water supply system for domestic and fire protection purposes. The water supply system shall meet or exceed the minimum standards of the Washington State Department of Social and Health Services", and standards published by the Insurance Services Office: Guide for Determining Required Fire-Flow."

Anacortes Municipal Code Section 16.20.080

7.3.10.1 There is adequate provision for water supply.

7.3.11 The appropriate provision for sanitary wastes/sewer are as follows:

"Design plan, profile and construction specifications including location, pipe size, appurtenances, grades, and materials shall be submitted, reviewed, and approved. All sewer disposal systems shall meet or exceed the minimum standards of the Washington State Department of Social and Health Services, the Washington State Department of Ecology, and the County Health Department."

Anacortes Municipal Code Section 16.20.080

7.3.11.1 There is adequate provision for sewer service provided additional downstream capacity is installed as required by the City Public Works Director.

7.3.12 The appropriate provision for other utilities is as follows:

"Utilities shall be placed underground...Such underground facilities shall be installed after the street has been brought to grade and before it is surfaced, to eliminate so far as practical the necessity for disturbing such surfacing for the connection of individual services. Utility facilities shall be designed by utility firms in cooperation with the subdivider, subject, however, to all applicable laws and all rules and regulations of any appropriate regulatory authority having jurisdiction over such facilities. Such utilities shall include power, telephone, television cable, and natural gas."

Anacortes Municipal Code Section 16.20.080

7.3.12.1 All utilities are proposed to be placed underground.

8.0 **Anacortes Comprehensive Plan**

8.1 The applicable goals and policies of the Comprehensive Plan have been met by this application as decided and conditioned below.

8.2 **General Goals**

Goal 1: Create and maintain a healthy, aesthetically pleasing high quality environment that maximizes the opportunity for all citizens to share the social, psychological, physical and economic benefits of Anacortes/Fidalgo Island.

Goal 3: Promote compatible land use and improve visual appearance in each and every zoning district.

8.2.1 Given that the housing to the west and north is residential the lots have been configured to protect the use and appearance of this site. As conditioned below, the ACFL will be protected by a 30' NGPE.

8.3 **Housing Goal #3.** "Single family residential shall be the major residential form in the community."

8.3.1 90 single family residential units are proposed in this project with a density of 2.9 dwelling units per acre.

8.4 **Transportation Goal #3/Policy (b):** "In future subdivision development, plat rights of way so they tie in with existing rights of way where reasonable and practical."

8.4.1 Such a tie-in is practical and reasonable and has been provided.

8.5 Conservation Goal #7: "Maintain or improve the functional integrity of water-courses, wetlands, bodies of water and their shores by keeping them in a natural condition where possible."

8.5.1 Erosion/sedimentation control structures shall be in place during all phases of plat construction and shall be maintained to the standards set by the City Engineer.

8.5.2 Building set-backs shall be in accordance with the City of Anacortes Zoning Code requirements for Low Density Residential areas.

8.5.3 There are regulated wetlands on the site and, as these have been adequately protected by the current lot layout and wetland buffers.

9.0 State Subdivision Law

9.1 State Subdivision Law requires that the city, town, or county legislative body shall inquire into the public use and interest proposed to be served by the establishment of the subdivision and dedication. It shall determine: (a) if appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and (b) whether the public interest will be served by the subdivision and dedication.

Section 51 (1) Growth Management Act

9.1.1 As detailed in the previous sections, appropriate provision has been made for the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools, school grounds, and sidewalks.

9.1.2 For the reasons detailed in the previous sections, the public interest will be served by this action on subdivision and dedication.

9.2 State Subdivision further requires that "a proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that: a) appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and b) the public use and interest will be served by the platting of such subdivision and dedication. If it finds that the proposed subdivision and dedication make such appropriate provisions and that the public use and interest will be served, then the legislative body shall approve the subdivision and dedication. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or impact fees imposed under section 43 through 48 of this act may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat. No dedication, provision of public improvements, or impact fees imposed under sections 43 through 48 of this act shall be allowed that constitutes an unconstitutional taking of private property. The legislative body shall not as a condition to the approval of any subdivision require a release from damages to be procured from other property owners."

Sect. 52(2) Growth Management Act

9.2.1 As detailed this "Findings of Fact and Conclusions of Law" written findings have been made in accordance with Section 52(2) of the Growth Management Act.

CONCLUSIONS OF LAW

- 1.1 The requirements of SEPA have been complied with through the SEPA Checklist consideration of the environmental impacts associated with the Preliminary Plat of Rock Ridge South and of the feasible, reasonable alternatives thereto and through the issuance of a mitigated declaration of nonsignificance.
- 2.1 The notice requirements of Subdivision Ordinance Section 16.12.020 have been satisfied.
- 3.1 The conditions set forth in Subdivision Ordinance Sections 16.12.020, 16.20, 16.24, and 16.32 have all been satisfied by this application as conditioned below.
- 4.1 The applicable goals and policies of the Comprehensive Plan have been met by this application as conditioned below.
- 5.1 To the extent that the changes made to the conditions address the appeals by Evergreen Islands the appeals are granted.
- 5.2 To the extent that the changes made to the conditions do not address the appeals by Evergreen Islands the appeals are denied.
- 6.1 RCW36.70C (Judicial Review of Land use Decisions) states that an appeal of the City Council decision to Superior Court "is timely if it is filed and served on all parties...within twenty-one days of the **issuance** of the land-use decision." RCW36.70C.040. The City mails a written decision to the applicant, and appellant (if any), after the City Council has adopted its Findings of Fact; this typically occurs two weeks after the City Council's oral decision by motion. In this situation **issuance** is defined as three days after mailing the written decision. The date of mailing will be inserted by the City Planning Department on the final page of this document.



**DECISION TO ISSUE A PRELIMINARY PLAT PERMIT FOR
Rock Ridge South**

Based on the foregoing Findings of Fact and Conclusions of Law, the Anacortes Planning Director is hereby authorized to issue a Preliminary Plat approval for Rock Ridge South subject to the following conditions:

- (1) Preliminary plat approval authorizes the applicant to proceed with application for necessary permits to construct required improvements and to prepare a final plat in accordance with the determinations made and conditions imposed by the City Council. The scope of this plat is not to exceed that as set-out in the preliminary plat application and the accompanying SEPA checklist; approval of this application does not waive or alter any requirements of City code unless specifically addressed herein. In the case of any conflict between these conditions and the application these conditions control.
- (2) A final plat meeting all requirements of this Chapter shall be submitted to the City Council for approval within five years of the date of Preliminary Plat approval. An applicant who files a written request with the City Council at least thirty (30) days before the expiration of this five (5) year period may be granted for one additional year only.
- (3) If a final plat meeting the requirements of Section 16.020 of the City Subdivision Ordinance is not submitted to the Planning Director within five years, and the period of any extension granted, preliminary approval shall be null and void and any new application therefore must be in accordance with all requirements in effect at the time of reapplication.
- (4) All work done pursuant to the preliminary plat shall be consistent with these findings and conditions with any conflicts between these being resolved in favor of the conditions. The preliminary plat may be modified by the Planning Director if it is determined that such modification does not substantially change the density or usage or increase the bulk proposed, or otherwise increase the impact of the development. If the proposed changes are not within the scope and intent of the preliminary plat, the applicant shall apply for a new preliminary plat in the manner provided herein.
- (5) The project shall comply with the City of Anacortes construction standards as required by the Director of Public Works for water, sewer, and street access, and storm drainage. All work performed within public rights-of-way shall comply with City construction standards and all utilities shall be constructed to City standards.
- (6) Engineering and Inspection fees in the amount of \$500 plus 2% of the total construction cost shall be due at or before the mandatory pre-construction meeting. No construction activity is allowed until construction plans are approved, fees have been paid, and the pre-construction meeting completed.

- (7) This project is subject to applicable water, sewer, and stormwater general facility and hookup fees and transportation, fire, school, and park impact fees. These fees are payable at levels in effect at the time of building permit issuance and may differ from those fee levels currently in effect; sewer and water latecomer charges may be payable.
- (8) A temporary erosion and sedimentation control plan shall be approved by the City of Anacortes Public Works Department, constructed, and maintained throughout construction.
- (9) Prior to clearing or fill and grade beginning, both a large parcel stormwater plan and a water quality control plan, as required by City of Anacortes Storm Drainage Ordinance # 2441, shall be prepared by the applicant, approved by the City Department of Public Works, and implemented; these plans must ensure that the pre-development hydrology to wetlands "D" and "E" is maintained. The water quality control plan shall address permanent best management practices to be incorporated in the project to control pollution of stormwater runoff after/during construction and/or land clearing activities are completed. All off-site stormwater improvements shall be completed prior to site vegetation removal.
- (10) Fire hydrants are to be located as approved by the City Fire Chief. Fire flow shall be addressed in a manner acceptable to the Fire Chief and to the Public Works Department.
- (11) Fencing, as required by the Parks Director, shall be constructed on the perimeter of Tract B adjacent to Phase V, Lots 8-15 and the cul-de-sac. This fence shall continue north along the western and northern edge of the 30' NGPE wetland buffer located in Lots 10-12 of Phase IV. Fencing shall be non-sight obscuring. The intent of the fencing is to minimize disturbances to the wetlands and adjacent buffer. The access corridor between Lots 10 and 11 of Phase IV shall be eliminated and added to the adjacent lot(s). Prior to any adjacent site disturbance, the permanent fence line as described, together with the 30' NGPE buffer adjacent to the ACFL, shall be delineated with construction fencing. Tract B and the 30' ACFL buffer shall be left untouched with the following exceptions:
 - a. Hand removal of non-native or adventitious plants as approved by the Park Department.
 - b. Hazard trees will be identified with the concurrence of the Parks Department. Hazard trees removed or blown down shall be replanted by the Homeowners Association, subject to approval of the Parks Department, with a 3-foot minimum appropriate native stock which shall be maintained by the Homeowners Association until able to survive without care.
 - c. Fallen trees in the NGPE shall only be removed from the site with the approval of the Parks Department.
 - d. If the buffer is disturbed, a landscaping plan using appropriate native stock shall be submitted to the Forest Advisory Board for approval and once approved, shall be implemented by the Homeowners Association.
 - e. Trails through the NGPE shall not be permitted without the approval of the Parks Department.

- (12) In keeping with the City's street grid street name system, the Building Department shall approve street names.
- (13) The City of Anacortes Public Works Department and the Postmaster shall approve mailbox locations.
- (14) Street lighting shall be energy efficient and provided as required by the City Engineer.
- (15) A detailed, final landscaping plan shall be approved by the Planning Commission prior to construction beginning on each and every phase, together with an overall conceptual Landscaping Plan submitted with the first phase; Lot 7 of Phase V shall have a separate, detailed, and approved Landscaping Plan that minimizes impacts to the hillside.
- (16) The developer shall purchase and install all street signs.
- (17) The project shall comply with the City of Anacortes design construction standards as required by the Director of Public Works for water, sewer, street access, and storm drainage.
- (18) A minimum of two off-street parking spaces shall be provided for each dwelling unit, as required by City Ordinances. Required off-street parking locations shall not interrupt or block in any way the required cul-de-sac diameter or sidewalks.
- (19) The Developer will construct the downstream sewer capacity as required by the City Public Works Director.
- (20) A potable water system with necessary pump stations(s), pressure reducing stations, and storage will be designed to meet City of Anacortes, DOH, AWWA, NEC, and other applicable requirements to provide a minimum of 40 psi to each home building pad and necessary fireflows.
- (21) All infrastructure improvements for each phase shall be constructed and approved prior to the issuance of building permits for that phase.
- (22) A pedestrian pathway shall be established generally as shown on the revised site plan dated May 12, 2004.
- (23) The existing detention pond, when converted to a wetpond facility, shall:
 - a. Have a gravity drain system to the new pond bottom.
 - b. Be vegetated on the perimeter and interior for sight screening, low maintenance (i.e., no grasses requiring mowing), habitat value and access management.
 - c. Shall have safety benches or other safety features.
- (24) A secondary access (through driveway easements as needed) shall provide a vehicle outlet to W. 12th St.

- (25) Each phase, as constructed and recorded, shall have all necessary improvements (roads, utilities, fire protection, etc.) in place and accepted prior to that phase recording.
- (26) A heavy maintenance truck access road (15 foot width) shall be provided to all utility structures not located in the right-of-way.
- (27) Pedestrian access tracts shall be public, surfaced, and fenced (per Parks Director approved design) prior to that phase recording.
- (28) Tract A shall be privately maintained by a Homeowners Association.
- (29) The 4 acres of wetland habitat adjacent to the ACFL (Tract B) shall be subject to a conservation easement administered by an established locally based land trust.
- (30) Tracts A and C shall be dedicated as open space and managed by the Homeowners Association.
- (31) The City right-of-way east of Lot 8, Phase III, shall be retained by the City.
- (32) Maximum slope in any direction in cul-de-sacs shall be 6%.
- (33) Legal and practical access by public road shall be provided to the Kilkenny property.
- (34) Condition No. 2 of the Declaration of Access Easement from the applicant to the Bowmans under Auditor's File # 200203220149 shall be deleted in its entirety; the legal access to the Bowman property from Antone Way extends to ingress, egress, and utilities but may not actually provide any practical use (depending on final engineering grades).
- (35) The expansion of the West 8th detention pond shall be done in such a way that: the ponded area remain a "wet pond" (with the capability of periodic maintenance/draining); 8 inches of topsoil be placed on the newly disturbed soil and around the entire pond; and, submit a wetland landscaping plan for approval by the Planning Director.
- (36) Blasting can only occur weekdays between 8:00 a.m. to 6:00 p.m.
- (37) Geo-technical engineering reports shall be provided for all lots where any structure may be located on or within 15' of a slope of 40% grade or steeper.
- (38) An avigation easement in a form acceptable to the Planning Director shall be placed on each Phase prior to its recording.
- (39) No clearing shall occur on the site prior to a detailed, phased clearing plan being approved by the Planning Commission.

- (40) No construction shall begin without a 10-year water quality management plan and implementation program being approved by the City Council. This plan and program shall be undertaken by an independent consultant retained by the City and paid by the applicant. It shall detail the current water quality in the Cranberry Lake Watershed and then describe a process for periodic monitoring and review by the City Council and specific remedial actions that will be taken if any significant water quality degradation is documented to have occurred as a result of the Rock Ridge South plat; public comment will be solicited on all phases of the water quality program.
- (41) Only organic, as opposed to chemical agents, may be used to combat weeds, underbrush, and the like.
- (42) A five-year maintenance bond shall be established after completion of the final phase of the project; this maintenance bond is to assure that any remedial water-quality actions that need to be taken are taken.
- (43) Items 11 through 42 of these Findings of Fact and Conclusions of Law shall be recorded with the Final Plat drawing.

The Anacortes City Council adopted these Findings of Fact and Conclusions of Law on

July 19, 2004.

CITY OF ANACORTES

By H. Dean Maxwell
H. Dean Maxwell, Mayor

ATTEST:

Ian S. Munce
Ian S. Munce, City Attorney

George Khtaian
George Khtaian, City Clerk

This written decision was mailed to the applicant and appellants (if any) on

July 26, 2004
Date

Kathy Janke
Kathy Janke

EXHIBIT #02:

ASSESSOR'S INFO & GIS MAP

Details for Parcel: P125867



Jurisdiction: ANACORTES
Please contact the city of ANACORTES for ANACORTES zoning information.

Zoning Designation:

[Recorded Documents](#)

[Excise Affidavits](#)

*Documents scanned and recorded by the Auditor's office
Document scans of excise affidavits*

Parcel Number

P125867

XrefID

4918-002-999-0600

Quarter Section Township Range

NW 26 35 01

Owner Information

RR SUMMITT NW LLC

PO BOX 319

ANACORTES, WA 98221

Site Address(es)

Map Links

[Open in iMap](#)

Assessor's Parcel Map:

[PDF](#) | [DWF](#)

Current Legal Description Abbreviation Definitions

TRACT G OF ROCK RIDGE SOUTH, PHASES 1 AND 2, ACCORDING TO THE DULY RECORDED PLAT THEREOF, RECORDED JANUARY 24, 2007, UNDER AUDITOR'S FILE NO. 200701240094, AND AMENDED BY AUDITOR'S FILE NO. 200701250133, RECORDS OF SKAGIT COUNTY, WASHINGTON. EXCEPT THOSE PORTIONS OF SAID TRACT G REPLATED AS THE PLAT OF ROCK RIDGE SOUTH PHASE 3, AS PER PLAT RECORDED JUNE 30, 2008 UNDER AUDITOR'S FILE NO. 200806300185, RECORDS OF SKAGIT COUNTY, WASHINGTON.

2017 Values for 2018 Taxes*

Building Market Value \$0.00
Land Market Value +\$589,600.00
Total Market Value \$589,600.00
Assessed Value \$589,600.00
Taxable Value \$589,600.00

Sale Information

Deed Type BARGAIN SALE & DEED
Sale Date 2016-11-04
Sale Price \$2,800,000.00

2018 Property Tax Summary

2018 Taxes will be available after 2/15/2018

Use the Taxes link above for 2017 taxes

* Effective date of value is January 1 of the assessment year (2017)

Legal Description at time of Assessment

*Land Use					WAC 458-53-030
Neighborhood	(26ANADEVA) ANACORTES RESIDENTIAL DEVELOPMENT LAND				
Levy Code	0900	Fire District			
School District	SD103	Exemptions			
Utilities		Acres	8.93		
Improvement 1 Attributes Summary					
Building Style	SINGLE FAMILY RESIDENCE				
Year Built		Foundation			
Above Grade Living Area		Exterior Walls			
Finished Basement		Roof Covering			
*Total Living Area		Heat/Air Conditioning			
Unfinished Basement		Fireplace			
*Total Garage Area		Bedrooms			
Bathrooms					
For additional information on individual segments see Improvements tab					

* Land Use codes are for assessment administration purposes and do not represent jurisdictional zoning. Please contact the appropriate planning department in your jurisdiction for land use questions.

* Total living area includes above grade living area and finished basement area.

* Garage square footage includes all garage areas; basement garages, attached garages, detached garages, etc.

Assessment data for improvements is based on exterior inspections. Please contact the Assessor's office if the information does not accurately reflect the interior characteristics.

AZ

AIRPORT ROAD

LM

JASPER WAY

COPPER POOL

MEADOWS LANE

W 11TH STREET

W 12TH STREET

PENNSYLVANIA AVENUE

R2

P

Phase IV

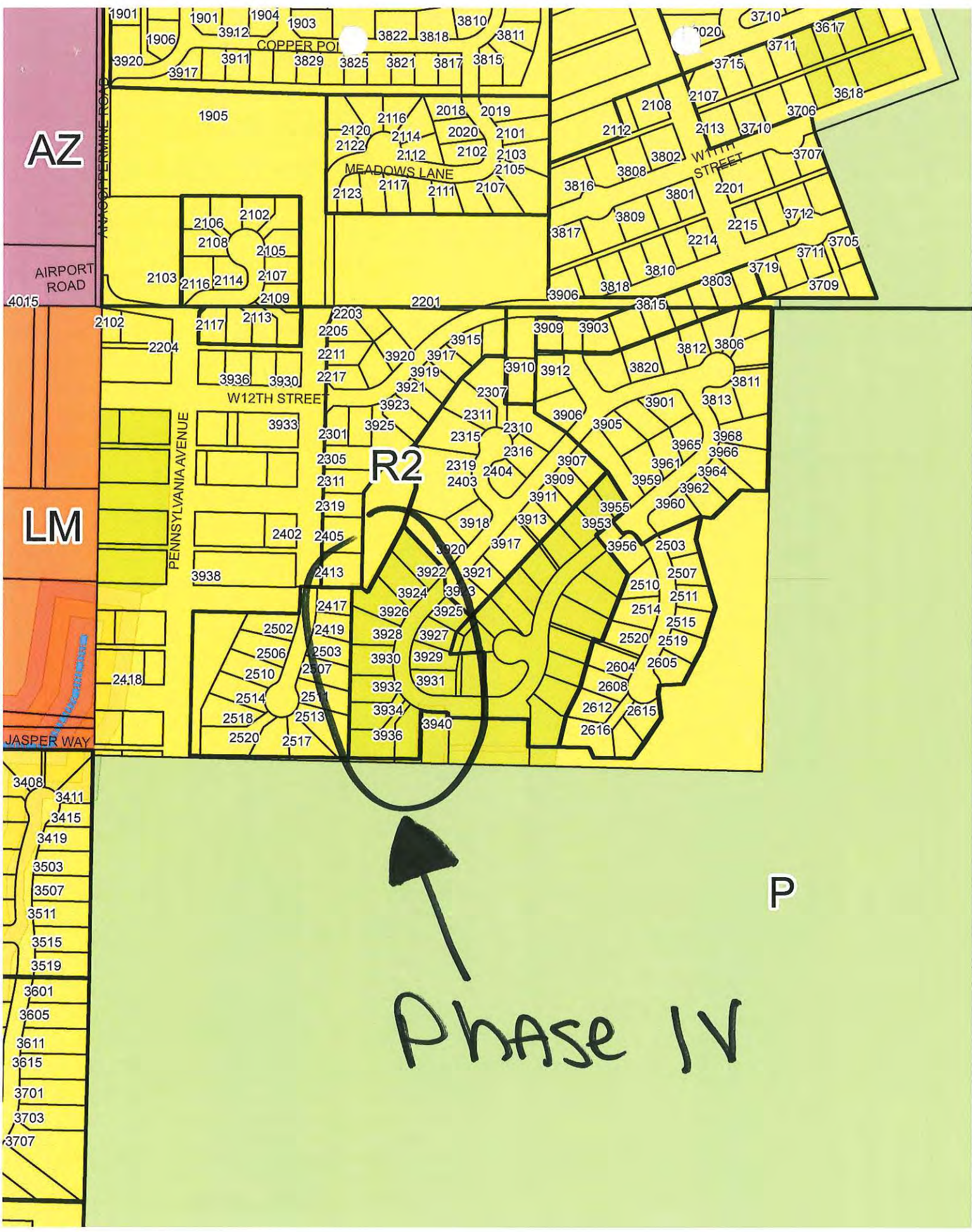


EXHIBIT #03:

**MASTER PERMIT APPLICATION, COMPLIANCE WITH
FINDINGS OF FACT, ENGINEER OF RECORD,
AVIGATION EASEMENT, CLOSURE REPORT,
LANDSCAPE PLAN, LATECOMER'S APPLICATION,
STREETLIGHT RECEIPT, MAILBOXES RECEIPT,
ROOT BARRIER RECEIPT, & SPILL PREVENTION
CONTROL COUNTERMEASURES**



PLANNING, COMMUNITY, & ECONOMIC DEVELOPMENT DEPARTMENT

MASTER PERMIT APPLICATION

Mailing Address: P.O. Box 547, Anacortes, WA 98221

Office Location: 904 6th Street, Anacortes WA 98221

Phone: (360) 299-1984, Fax: (360) 293-1938

PERMITS REQUESTED FROM THE CITY OF ANACORTES:		
☐ Accessory Dwelling Unit (ADU)	☐ Annexation Request	☐ Administrative Interpretation
☐ Administrative Conditional Use Permit	☐ Binding Site Plan (Preliminary)	☐ Binding Site Plan (Final)
☐ Boundary Line Adjustment (BLA)	☐ Clearing Permit	☐ Code (AMC) Amendment
☐ Comprehensive Plan Amendment	☐ Conditional Use Permit (CUP)	☐ Cottage Housing
☐ Essential Public Facility	☐ Extension of Time for Approval	☐ Floodplain Development Permit
☐ Grade and Fill Permit	☐ Home Occupation Permit	☐ Lot Certification
☐ Manufactured Home Subdivision	☐ Minor Permit Revision	☐ Plat (Preliminary)
☒ Plat (Final)	☐ Plat Amendment /Modification	☐ Reasonable Use Exception
☐ Rezone Request	☐ SEPA Environmental Review	☐ Shoreline Exemption
☐ Shoreline Substantial Development Permit	☐ Shoreline Conditional Use Permit	☐ Shoreline Variance
☐ Short Plat /Subdivision (Preliminary)	☐ Short Plat /Subdivision (Final)	☐ Special Use Permit
☐ Stormwater Management Manual Adjustments & Exceptions	☐ Variance (Level 1)	☐ Variance (Level 2)
PROJECT & SITE INFORMATION:		
SITE ADDRESS: <u>NHN Rock Ridge So Ph IV + V</u>		PROJECT NAME: <u>Rock Ridge IV + V</u>
PARCEL NUMBER(S): <u>125867</u>		SECTION, TOWNSHIP, & RANGE: <u>NW26 35 01</u>
LOT SQUARE FOOTAGE & ACREAGE: <u>8.93</u>		PROJECT VALUATION:
LEGAL DESCRIPTION: <u>Attached</u>		PRESENT ZONING: <u>R-2</u>
PRESENT USE OF PROPERTY: <u>Vacant land</u>		CUT & FILL (CY) PROPOSED:
PRE-APPLICATION CONFERENCE REQUIRED: ☐ Yes ☒ No		WATER SOURCE: ☒ City of Anacortes ☐ Private Well ☐ Community Well
SEWAGE DISPOSAL: ☒ City of Anacortes ☐ Septic Tank		ROAD ACCESS: ☒ City Road ☐ State Highway ☐ Private Road
CRITICAL AREAS WITHIN 300 FEET: ☒ Yes ☐ No <u>NGPE Lots 9+10</u>		WATER BODIES WITHIN 200 FEET: ☐ Yes ☒ No
FLOODPLAIN: Flood Zone: <u>N/A</u> FIRM Panel # <u>—</u> Date of Panel: <u>—</u>		
LOT COVERAGE AREA CALCULATIONS: Existing Square Footage: _____ Proposed Square Footage: _____		
IMPERVIOUS SURFACE AREA CALCULATIONS: Existing Impervious Square Footage: _____ New Impervious Surface: _____		

PROPERTY OWNER INFORMATION: ☐ Multiple owners attached	
NAME: <u>RR Summit NW LLC</u>	MAILING ADDRESS: <u>PO Box 319</u>
CITY, STATE, ZIP: <u>Anacortes, WA 98221</u>	PHONE #: <u>360-293-7431</u>
FAX #: <u>360-299-8660</u>	EMAIL ADDRESS: <u>Nels@strandbergconstruction.com</u>
APPLICANT INFORMATION: ☒ Same as property owner	
NAME: <u>Nels Strandberg</u>	MAILING ADDRESS: <u>PO Box 319</u>
CITY, STATE, ZIP: <u>Anacortes, WA 98221</u>	PHONE #: <u>360-293-7431</u>
FAX #: <u>360-299-8660</u>	EMAIL ADDRESS:
CONTACT PERSON: ☐ Same as property owner ☐ Same as applicant	
NAME: <u>Debbie Headrick</u>	MAILING ADDRESS: <u>PO Box 319</u>
CITY, STATE, ZIP: <u>Anacortes WA 98221</u>	PHONE #: <u>360-293-7431</u>
FAX #: <u>360-299-8660</u>	EMAIL ADDRESS: <u>Debbie@strandbergconstruction.com</u>
DESCRIPTION OF SUBJECT PROPOSAL	
PROPOSED WORK: <u>Develop 13 single family residential building lots, Utilities, Storm, Sewer, Roads, Curb, gutter, sidewalks, Street Lights Phase II</u>	

NOTES:

- ☒ I am the property owner and I grant permission to city staff to enter the project site to verify presence or absence of critical areas and to perform inspections of the work proposed by this application; or
- ☐ Attached is a letter of authorization stating that I have the consent of the property owner to submit the subject application on their behalf. Additionally, the property owner has granted permission to city staff to enter the project site in order to verify the presence or absence of critical areas and to perform inspections of work proposed by this application.
- ☐ A notarized affidavit (see below) is required to be completed by all persons having an ownership interest in the subject property and the applicant, if different from the property owner(s). If the signatory is not listed as the owner in the title report, or if the signatory is signing on behalf of an entity, documentation authorizing the signatory to sign the affidavit on behalf of the individual or entity shall provided.

SIGNATURE REQUIRED:

I certify that the information, statements, & answers above regarding the subject application(s) are true and correct to the best of my knowledge and belief.

Signature: _____

Title: Owner

Print Name: Nels Strandberg

Company: RR Summit NW LLC

Date: 7/7/2017

STATE OF WASHINGTON)
) ss
CITY OF ANACORTES

I (we) Nels Strandberg, being duly sworn, depose and say that I am (we are) the **OWNER(s)** of the property involved in this application, and that I (we) have familiarized myself (ourselves) with the rules and regulations with respect to preparing and filing this application and that the statements and information submitted herewith are in all respects true and correct to the best of my (out) knowledge and belief.

Signed: _____
Owner

Subscribed and sworn to before me this 2nd day of August, 2017.



Erin D. Welliver
Notary Public in and for the State of Washington
residing at Anacortes WA

STATE OF WASHINGTON)
) ss
CITY OF ANACORTES

I (we) _____, being duly sworn, depose and say that I am (we are) the **APPLICANT(s)** for this application, and that I (we) have familiarized myself (ourselves) with the rules and regulations with respect to preparing and filing this application and that the statements and information submitted herewith are in all respects true and correct to the best of my (out) knowledge and belief.

Signed: _____
Applicant

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public in and for the State of Washington
residing at _____



DECISION TO ISSUE A PRELIMINARY PLAT PERMIT FOR

Rock Ridge South

Based on the foregoing Findings of Fact and Conclusions of Law, the Anacortes Planning Director is hereby authorized to issue a preliminary Plat approval for Rock Ridge South subject to the following conditions:

- (1) Preliminary plat approval authorizes the applicant to proceed with application for necessary permits to construct required improvements and to prepare a final plat in accordance with the determinations made and conditions imposed by the City Council. The scope of this plat is not to exceed that as set-out in the preliminary plat application and the accompanying SEPA checklist; approval of this application does not waive or alter any requirements of City code unless specifically addressed herein. In the case of any conflict between these conditions and the application these conditions control.

Noted

- (2) At final plat meeting all requirements of this Chapter shall be submitted to the City Council for approval within five years of the date of Preliminary Plat approval. An applicant who files a written request with the City Council at least thirty (30) days before the expiration of this five (5) year period may be granted for one additional year only.

Preliminary Plat has been extended to May 23, 2018, per letter from Don Measamer dated June 12th, 2014. (attached)

- (3) If at final plat meeting the requirements of Section 16.020 of the city Subdivision Ordinance is not submitted to the Planning Director within five years, and the period of any extension granted, preliminary approval shall be null and void and any new application therefore must be in accordance with all requirements in effect at the time of reapplication.

Noted

- (4) All work done pursuant to the preliminary plat shall be consistent with these findings and conditions with any conflicts between these being resolved in favor of the conditions. The preliminary plat may be modified by the Planning Director if it is determined that such modification does not substantially change the density of usage or increase the bulk proposed, or otherwise increase the impact of the development. If the proposed changes are not within the scope and intent of the preliminary plat, the applicant shall apply for a new preliminary plat in the manner provided herein.

Noted

- (5) The project shall comply with the City of Anacortes construction standards as required by the Director of Public Works for water, sewer, and street access, and storm drainage. All work performed within public rights-of-way shall comply with City construction standards and all utilities shall be constructed to City standards.

Final Plat is consistent with all COA construction standards.

- (6) Engineering and inspection fees in the amount of \$500 plus 2% of the total construction cost shall be due at or before the mandatory pre-construction meeting. No construction activity is allowed until construction plans are approved, fees have been paid, and the pre-construction meeting completed.

All fees are paid.

- (7) This project is subject to applicable water, sewer, and stormwater general facility and hookup fees and transportation, fire, school, and park impact fees. These fees are payable at levels in effect at the time of building permit issuance and may differ from those fee levels currently in effect; sewer and water latecomer charges may be payable.

Noted

- (8) A temporary erosion and sedimentation control plan shall be approved by the City of Anacortes Public Works Department, constructed, and maintained throughout construction.

TESC Plan has been approved and implemented throughout the project.

- (9) Prior to clearing or fill and grade beginning, both a large parcel stormwater plan and a water quality control plan, as required by City of Anacortes Storm Drainage ordinance # 2441, shall be prepared by the applicant, approved by the City Department of Public Works, and implemented; these plans must ensure that the pre-development hydrology to wetlands "D" and "E" is maintained. The water quality control plan shall address permanent best management practices to be incorporated in the project to control pollution of stormwater runoff after/during construction and/or land clearing activities are completed. All off-site stormwater improvements shall be completed prior to site vegetation removal.

A Water Quality Control plan was drafted, approved, and implemented during the development of all phases of RockRidge. This Water Quality Control plan included monitoring for 10 years. No adverse conditions were found that could or have affected wetlands "D" and "E". Storm water from Phase 4 does not flow into said wetlands.

- (10) Fire hydrants are to be located as approved by the City Fire Chief. Fire flow shall be addressed in a manner acceptable to the Fire chief and to the Public Works Department.

Fire Hydrant locations approved by COA Fire Chief.

- (11) Fencing, as required by the Parks Director, shall be constructed on the perimeter of Tract B adjacent to Phase V, Lots 8-15 and the cul-de-sac. This fence shall continue north along the western and northern edge of the 30' NGPE wetland buffer located in Lots 10-12 of Phase IV. Fencing shall be non-sight obscuring. The intent of the fencing is to minimize disturbances to the wetlands and adjacent buffer. The access corridor between Lots 10 and 11 of Phase IV shall be eliminated and added to the adjacent lot(s). Prior to any adjacent site disturbance, the permanent fence line as described, together with the 30' NGPE buffer adjacent to the ACFL, shall be delineated with construction fencing. Tract B and the 30' ACFL buffer shall be left untouched with the following exceptions:
- a. Hand removal of non-native or adventitious plants as approved by the Park Department.
 - b. Hazard trees will be identified with the concurrence of the Parks Department. Hazard trees removed or blown down shall be replanted by the Homeowners Association, subject to approval of the Parks Department, with a 3-foot minimum appropriate native stock which shall be maintained by the Homeowners Association until able to survive without care.
 - c. Fallen trees in the NGPE shall only be removed from the site with the approval of the Parks Department.
 - d. If the buffer is disturbed, a landscaping plan using appropriate native stock shall be submitted to the Forest Advisory Board for approval and once approved, shall be implemented by the Homeowners Association.
 - e. Trails through the NGPE shall not be permitted without the approval of the Parks Department.

The conditions related to NGPE will be added to the face of the plat and are applicable to lots 9 and 10 of phase IV. Fencing requirements have been completed and are applicable to other phases in RockRidge. Please note the phase sequence of the original findings is inconsistent with the approved drawings. I frankly, have no idea why this is, but if you follow the logic and intent you can see that fencing has been installed around and along the intended area's in previous phases.

- (12) In keeping with the City's street grid street name system, the Building Department shall approve street names.

Noted

- (13) The city of Anacortes Public Works Department and the Postmaster shall approve mailbox locations.

Mail box locations will be approved by COA public works and Postmaster.

- (14) Street lighting shall be energy efficient and provided as required by the City Engineer.

Street light locations approved by City Engineer.

- (15) A detailed, final landscaping plan shall be approved by the Planning Commission prior to construction beginning on each and every phase, together with an overall conceptual Landscaping Plan submitted with the first phase; Lot 7 of Phase V shall have a separate, detailed, and approved Landscaping Plan that minimizes Impacts to the hillside.

During my feasibility period related to my recent purchase of RR, it was understood that all construction documents including landscape were approved and ready for construction. We understood that a landscape plan exists or did exist for the entire of RR. I do not believe either the City or myself can locate a copy. With that said, phase IV RR, has no common areas, landscape opportunities only exist on individual lots that are not constructed yet. Typically, landscape plans are submitted at time of building permits, which is our intent with Phase IV homes.

- (16) The developer shall purchase and install all street signs.

Noted

- (17) The project shall comply with the City of Anacortes design construction standards as required by the Director of Public Works for water, sewer, street access, and storm drainage.

Noted

- (18) A minimum of two off-street parking spaces shall be provided for each dwelling unit, as required by City Ordinances. Required off-street parking location shall not interrupt or block in any way the required cul-de-sac diameter or sidewalks.

Noted

- (19) The Developer will construct the downstream sewer capacity as required by the City Public Works Director.

All downstream sewer improvements have been upgraded and installed in previous phases.

- (20) A potable water system with necessary pump stations(s), pressure reducing stations, and storage will be designed to meet City of Anacortes, DOH, AWWA, NEC, and other applicable requirements to provide a minimum of 40 psi to each home building pad and necessary fireflows.

The pump station at Anacopper road which services and provides flow and pressure to RR, is in need of an upgrade to comply with this "Finding". This Developer has proposed a detailed plan to both increase Fire Flow and pressure, acceptable to the COA. The cost related to this work will be "Performance Bonded" as the work will be on going at the time of Final Plat approval.

- (21) All infrastructure improvements for each phase shall be constructed and approved prior to the issuance of building permits for that phase.

Noted.

- (22) A pedestrian pathway shall be established generally as shown on the revised site plan dated May 12, 2004.

There are no proposed pedestrian paths required on phase IV of RR, so this Finding is not applicable to this phase. In previous phases and Phase V, tracts of land were set aside for pedestrian paths. Unfortunately, the topography in many areas are vertical, making a path impractical, or most would say impossible. I understand it was negotiated before my time, that tract "C" would become a park and that a trail would be constructed through that park. That park and trail are now complete, and have been built in lieu of the trail purposed in near vertical conditions on Tracts H, I, and F located on the not yet constructed phase V.

- (23) The existing detention pond, when converted to a wetpond facility, shall:
- a. Have a gravity drain system to the new pond bottom.
 - b. Be vegetated on the perimeter and interior for sight screening, low maintenance (i.e., no grasses requiring mowing), habitat value and access management.
 - c. Shall have safety benches or other safety features.

All work completed in prior phases.

- (24) A secondary access (through driveway easements as needed) shall provide a vehicle outlet to W. 12th St.

Not applicable to this phase.

- (25) Each phase, as constructed and recorded, shall have all necessary improvements (roads, utilities, fire protection, etc.) in place and accepted prior to that phase recording.

Noted

- (26) A heavy maintenance truck access road (15 foot width) shall be provided to all utility structures not located in the right-of-way.

Noted, no utility structures exist outside the ROW in phase IV.

- (27) Pedestrian access tracts shall be public, surfaced, and fenced (per Parks Director approved design) prior to that phase recording.

See notes from condition #22. Trails are impossible.

- (28) Tract A shall be privately maintained by a Homeowners Association.

Tract A is owned by RockRidge HOA currently.

- (29) The 4 acres of wetland habitat adjacent to the ACFL (Tract B) shall be subject to a conservation easement administered by an established locally based land trust.

Prior phases deeded those 4 acres to the ACFL.

- (30) Tracts A and C shall be dedicated as open space and managed by the Homeowners Association.

Tracts A and C are both owned and managed by the HOA, established before this phase.

- (31) The City right-of-way east of Lot 8, Phase III, shall be retained by the City.

Not applicable in this phase.

- (32) Maximum slope in any direction in cul-de-sacs shall be 6%.

No cul-de-sacs are constructed in phase V.

- (33) Legal and practical access by public road shall be provided to the Kilkenny property.

The completion of phase V, will provide legal access to KilKelly property.

- (34) Condition No. 2 of the Declaration of Access Easement from the applicant to the Bowmans under Auditor's File # 200203220149 shall be deleted in its entirety; the legal access to the Bowman property from Antone Way extends to ingress, egress, and utilities but many not actually provide any practical use (depending on final engineering grades).

Not applicable to this phase, as Antone Way is part of phase III.

- (35) The expansion of the West 8th detention pond shall be done in such a way that: the ponded area remains a "wet pond" (with the capability of periodic maintenance/draining); 8 inches of topsoil be placed on the newly disturbed soil and around the entire pond; and, submit a wetland landscaping plan for approval by the Planning director.

All work completed in prior phases.

- (36) Blasting can only occur weekdays between 8:00 a.m. to 6 p.m.

Noted.

- (37) Geo-technical engineering reports shall be provided for all lots where any structure may be located on or within 15' of a slope of 40% grade or steeper.

Noted.

- (38) An avigation easement in a form acceptable to the Planning Director shall be placed on each Phase prior to its recording.

Avigation Easement already in place and recorded.

- (39) No clearing shall occur on the site prior to a detailed, phased clearing plan being approved by the Planning Commission.

Clearing Plan approved before Construction began.

- (40) No construction shall begin without a 10-year water quality management plan and implementation program being approved by the City Council. This plan and program shall be undertaken by an independent consultant retained by the City and paid by the applicant. It shall detail the current water quality in the Cranberry Lake Watershed and then describe a process for periodic monitoring and review by the City Council and specific remedial actions that will be taken if any significant water quality degradation is documented to have occurred as a result of the Rock Ridge South plat; public comment will be solicited on all phases of the water quality program.

In prior phases, a water quality control plan was implemented and monitored for 10 years by WaterTech NW. Final Report Attached.

- (41) Only organic, as opposed to chemical agents, may be used to combat weeds, underbrush, and the like.

Noted.

- (42) A five-year maintenance bond shall be established after completion of the final phase of the project; this maintenance bond is to assure that any remedial water-quality actions that need to be taken are taken.

All Water Quality Issues have been addressed and monitoring requirements have been fulfilled. No remedial water quality actions were necessary.

- (43) Items 11 through 42 of the Findings of Fact and Conclusions of Law shall be recorded with the Final Plat drawing.

11-42 have been added to Final Plat drawings.

The Anacortes City Council adopted these Findings of Fact and Conclusions of Law on

_____.

CITY OF ANACORTES

By _____
H. Dean Maxwell, Mayor

ATTEST:

Ian S. Munce, City Attorney

George Khtaian, City Clerk

This written decision was mailed to the applicant and appellants (if any) on

Date

Kathy Jenke

HERRIGSTAD ENGINEERING & SURVEYING

Civil Engineering & Surveying

**4320 Whistle Lake Road
Anacortes, WA 98221**

**Dale Herrigstad, P.E., P.L.S.
(360) 299-8804**

January 27, 2017

Don Measemer
Planning Director
City of Anacortes
PO Box 547
Anacortes, WA 98221

Subject: Civil Design for the Plat of Rock Ridge South engineer of record.

This letter is to convey to the City of Anacortes that I will be assuming the role of engineer of record for Phase IV and V for the construction plans originally completed by Summit Engineering and Surveying, Inc and signed by Young-Soo Kim. Young-Soo Kim is now deceased and Summit Engineering and Surveying has closed their business.

I have review the construction plans for the Phase IV and V and they are complete for the work proposed. The current owner/developer has requested some minor modification in the plans including the elimination of "E" Street which is a short cul-de-sac as well as some minor lot line locations. Neither modification will alter the designed sewer, storm, water or main road locations. We will need to reconsider a fire hydrant location. I do not believe this small modification should warrant a redraw on the complete plan set that would take a great deal of work because the plans would have to be redrawn from scratch. I suggest a new plan drawing in just the area proposed for change. The engineered profiles for road and utilities will not change.

I will also be completing the construction surveying.

If you have any questions or need more information please let me know.

Sincerely,

Dale Herrigstad P.E., P.L.S.
dale@herrigstad.com



200610200103
Skagit County Auditor

10/20/2006 Page

1 of

9 10:27AM

AVIGATION EASEMENT

THIS AVIGATION EASEMENT is entered into as of this 19TH day of OCTOBER, 2006, by Rock Ridge, LLC and Rock Ridge South, LLC, Washington limited liability company ("Grantor"), and the Port of Anacortes, a Washington municipal corporation ("Grantee").

P60444 PHN BL9
Tuttle & Buckleys Ana et al

RECITAL

A. Grantor is the owner of certain real property situated in Skagit County, Washington and legally described in Exhibit A attached hereto and by this reference incorporated herein (the "Property") and as outlined on the map attached hereto as Exhibit B and by this reference incorporated herein.

B. Grantor desires to grant an Avigation Easement over the Property for the benefit of Grantee to protect the continued operation of the Anacortes Airport.

AGREEMENT

NOW THEREFORE, in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Grantor agrees as follows:

1. Grant of Easement. Grantor does hereby grant, bargain, sell, transfer, convey, warrant and establish a perpetual, exclusive easement for the free and unobstructed use and passage of all types of Aircraft (as defined in Article G hereof) over, across and through the airspace in excess of 35 feet above the Property and in the vicinity of the Property, with such use and passage being unlimited as to noise, time of day or frequency (the "Avigation Easement"). The Avigation Easement shall be for the benefit of Grantee, its commissioners, agents, contractors, successors and assigns and all employees, invitees, guests and passengers now or hereafter utilizing the Airport (as hereinafter defined), including any and all persons or entities operating Aircraft to or from the Airport and for the benefit of all property now owned or hereafter acquired by the Port of Anacortes, its successors and assigns and operated as an airport (the "Airport"), including, but not limited to, certain real property situated in Skagit County, Washington and commonly known as the Anacortes Airport and legally described in Exhibit C attached hereto and by this reference incorporated herein.

2. Terms and Conditions of Easement. The Avigation Easement granted herein is subject to the following terms, reservations, and conditions:

A. Scope of Easement. This Avigation Easement includes the right to invade or otherwise interfere with the Property from time to time with noise, vibration, dust, fumes, deposits of particulate matter or fuel particles, and other disturbances to the Property arising from Grantee's use of the Avigation Easement, including any resulting fear, interference with sleep, interference with conversation, interference with radio, telephone or television transmission or reception to Grantor, its officers, members, employees, and lessees and their respective heirs, successors, assigns or invitees and/or any and all other things which may be alleged to, or be incident to, or to result from, flights of Aircraft over or in the vicinity of the Property or from Aircraft landing at, taking off from, or operating at or near the Airport. The Grantor, on behalf of itself, its successors and assigns, further acknowledges that this Avigation Easement contemplates and includes all existing and future operations at the Airport, acknowledging that future Aircraft numbers and types will most likely increase and noise patterns may also change or increase, and that the rights, obligations and covenants herein set forth shall not terminate or vary in the event of changes in Aircraft volumes or changes in noise, traffic patterns, runway lengths or locations or characteristics, types of categories of Aircraft using the Airport.

B. Waiver. Grantor does hereby fully waive, remise and/or release any and all damages, rights, claims or causes of action for damages which it may now have or which it may in the future acquire against Grantee, its successors and assigns, and caused or alleged to have been caused by or incidental to the operation of Aircraft over or in the vicinity of the Property or in Aircraft landing at, taking off from, or operating at or near the Airport.

C. Exclusive. Grantor shall not grant any person any easement or other right in the Property which would in any way interfere with the Grantee's exercise of its rights under this Avigation Easement.

D. Reservation. Grantor reserves the right to use the Property for any purpose; provided, however, that Grantor (1) shall not hereafter erect, permit the erection of, or the growth of, or permit or suffer to remain upon the Property any building, structure, tree or other object extending more than 35 feet into the airspace above the surface of the Property and (2) agrees not to use or permit to suffer the use of the Property in such a manner as to create electrical interference with radio communication between any installation aboard said Aircraft and Airport or as to make it difficult for pilots to distinguish between airport lights and other lights or as to impair visibility in the vicinity of the Airport or otherwise as to endanger the landing, taking off or maneuvering of Aircraft in the vicinity of the Airport, it being understood that the aforesaid covenants and agreements shall run with the Property.

E. Liens and Encumbrances. The Avigation Easement granted herein shall be perpetual and shall have priority over any and all liens, encumbrances or other interests in the Property, and shall survive transfer of the fee ownership or any leasehold estate in the Property. Grantor shall at its sole cost and expense, obtain any and all consents and/or subordination of other interests in the Property as may be necessary to insure that the Avigation Easement constitutes a valid easement encumbering the Property, free and clear of all liens, encumbrances or other interest in the Property except such liens, encumbrances or



other interests in the Property as shall have been approved by Grantee in writing and subordinated to Grantee's rights under this Avigation Easement.

F. Maintenance. Grantee shall have the right to enter upon the Property (following such prior notice to Grantor as is practicable under the circumstances, due deference being given to Grantee's exercise of its discretion to protect the public now or hereafter utilizing the Airport), and remove any building, structure, tree or other object extending more than 35 feet into the airspace above the surface of the Property or which, in Grantee's sole discretion, poses a threat to Aircraft landing at, taking off from or operating at or near the Airport, together with the right of ingress to, egress from and passage over the Property for the above purpose, all at Grantor's sole cost and expense. Grantor hereby grants Grantee the right to enter upon the Property and mark and light as obstructions to Aircraft any and all buildings, structures, trees or other objects which now or hereafter may be located upon the Property, together with the right of ingress to, egress from and passage over the Property for the above purpose. In addition to any other remedies provided for herein or provided by law, Grantee shall have the right to bring an action for specific performance to enforce the provisions of this Avigation Easement, including the right to enjoin construction of buildings or other structures upon the Property.

G. "Aircraft". As used herein, the term "Aircraft" shall mean any and all types of aircraft, whether now in existence or hereafter manufactured and developed and shall include, but not be limited to, jet aircraft, propeller-driven aircraft, civil aircraft, military aircraft, commercial aircraft, crop dusters, helicopters and any and all other types of aircraft or vehicles now in existence or hereafter developed for the purpose of transporting persons or property through the air, by whomsoever owned or operated.

3. Severability. In case any one or more of the provisions contained in this Avigation Easement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Avigation Easement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

4. Eminent Domain. Nothing in this Avigation Easement shall constitute, or be construed as constituting any limitation upon Grantee or any waiver by Grantee with respect to its exercise of the power of eminent domain in connection with any property.

5. No Modification; Integration. This Avigation Easement shall not be modified or amended except by a subsequent agreement in writing signed by Grantor and Grantee. This Avigation Easement, including the exhibits attached hereto, constitutes the entire agreement and understanding between the parties hereto and supersedes all prior and contemporaneous agreements and undertakings of the parties in connection therewith. No statements, agreements, understandings, representations, warranties or conditions not expressed in this Avigation Easement shall be binding upon the parties hereto or shall be effective to interpret, change or restrict the provisions of this Avigation Easement unless such is in writing signed by both parties hereto and by reference made a part hereof.



200610200103

Skagit County Auditor

6. Notice. Any notice permitted or required to be given by either party to this Avigation Easement shall be given in writing and may be effected by certified United States mail, with return receipt requested, properly addressed, postage prepaid, by reputable overnight delivery service, or by personal delivery, as follows:

To Grantor:

Rock Ridge South, LLC
P.O. Box 1356
Anacortes, Washington 98221
Attn: Anthony Malo, Jr.

Rock Ridge, LLC
PO Box 1356
Anacortes, Washington 98221
Attn: Anthony Malo, Jr.

To Grantee:

Port of Anacortes
P.O. Box 297
First & Commercial Avenue
Anacortes, Washington 98221
Attn: Robert Hyde, Executive Director

7. Successors and Assigns. This Avigation Easement shall run with the land and the benefits and burdens hereof shall be binding upon the Grantor, and its successors and assigns, as owner of the Property, and the benefits hereof shall inure to the benefit of Grantee, its commissioners, agents, contractors, successors and assigns, as owner of the Airport, and all employees, invitees, guest and passengers now or hereafter utilizing the Airport, including any and all persons or entities operating Aircraft to or from the Airport.

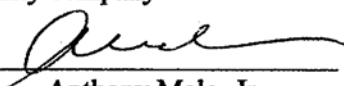
8. Governing Law. This Avigation Easement shall be construed, interpreted and enforced in accordance with the laws of the State of Washington.

9. Attorneys' Fees. In the event of any dispute arising from or relating to this Avigation Easement, the prevailing party in any such proceeding shall be entitled to recover its reasonable attorneys' fees and costs.

IN WITNESS WHEREOF, the parties have executed this Avigation Easement as of the date and year first above written.

GRANTOR

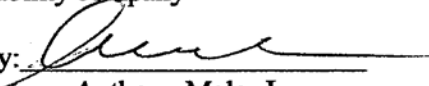
Rock Ridge South, LLC,
a Washington limited
liability company

By: 
Anthony Malo, Jr.

Its: Member

GRANTOR

Rock Ridge, LLC,
a Washington limited
liability company

By: 
Anthony Malo, Jr.

Its: Member



GRANTEE

Port of Anacortes,
municipal corporation

By: [Signature]
Robert Hyde

Its: Executive Director

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

OCT 20 2006

Amount Paid \$ 0
Skagit Co. Treasurer
By [Signature] Deputy

STATE OF WASHINGTON)

) ss.

COUNTY OF SKAGIT

On this 19th day of OCTOBER, 2006, personally appeared before me Anthony Malo, Jr., to me known to be the member of Rock Ridge, LLC, the Washington limited liability company named in the within and foregoing instrument, and acknowledged to me that he signed the same on his free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Julie M. Lindsey
Print Name: Julienne M. Lindsey
NOTARY PUBLIC in and for the State of Washington,
Residing at Anacortes, WA 98221
My commission expires: 07-24-08

STATE OF WASHINGTON)

) ss.

COUNTY OF SKAGIT

On this 19th day of OCTOBER, 2006, personally appeared before me Anthony Malo, Jr., to me known to be the member of Rock Ridge South, LLC, the Washington limited liability company named in the within and foregoing instrument, and acknowledged to me that he signed the same on his free and voluntary act and deed, for the uses and purposes therein mentioned.



200610200103
Skagit County Auditor

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Julienne M. Lindsey
Print Name: Julienne M. Lindsey
NOTARY PUBLIC in and for the State of Washington,
Residing at Anacortes, WA 98221
My commission expires: 07-24-08

STATE OF WASHINGTON)

) ss.

COUNTY OF SKAGIT

On this 19th day of OCTOBER, 2006, personally appeared before me Robert Hyde, to me known to be the Executive Director of the Port of Anacortes, the municipal corporation named in the within and foregoing instrument, and acknowledged to me that he signed the same on his behalf, as he is so authorized to do, as his free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.



Julienne M. Lindsey
Print Name: Julienne M. Lindsey
NOTARY PUBLIC in and for the State of Washington,
Residing at Anacortes, WA 98221
My commission expires: 07-24-08



200610200103
Skagit County Auditor

EXHIBIT 'A'

That portion of Blocks 9, 10, 11, 17, 18, 19, 20, 37, 38, 39, 40, 45, 46, 47, 48, 65, 66, 67 and 68 in the PLAT OF TUTTLE AND BUCKLEY'S PLAT OF ANACORTES, according to the plat thereof, recorded in Volume 2 of Plats, page 23, records of Skagit County, Washington and the Northwest Quarter of Section 26, Township 35 North, Range 1 East of the Willamette Meridian, described as follows:

Commencing at the Northwest corner of the Northwest Quarter of Section 26, Township 35 North, Range 1 East of the Willamette Meridian;

Thence South $89^{\circ}56'12''$ East along the North line of said subdivision 1,984.37 feet to the Northeast corner of the West Half of the Northeast Quarter of said Northwest Quarter, and the true point of beginning;

Thence South $1^{\circ}27'18''$ West along the East line of said West Half 1,344.42 feet to the Southeast corner of said West Half;

Thence North $89^{\circ}14'46''$ West along the South line of said subdivision 689.80 feet to the Southwest corner of Lot 12 said Block 67;

Thence North $1^{\circ}17'12''$ East 120.79 feet to the Northwest corner of Lot 9, said Block 67;

Thence North $88^{\circ}42'48''$ West, along the North line of said Block, 240.00 feet to the Northwest corner of Lot 1, said Block 67;

Thence North $1^{\circ}17'12''$ East 15.00 feet;

Thence North $88^{\circ}42'48''$ West 43.89 feet, to a point on a tangent curve, concave Northerly, having a radius of 125.00 feet;

Thence Westerly, along said curve, through a central of $21^{\circ}38'50''$, an arc length of 47.23 feet, to the intersection of the Northerly prolongation of the East line of said Block 68;

Thence South $1^{\circ}17'12''$ West along said North prolongation and said East line of Block 68, 144.09 feet, to the Southeast corner of said Block 68;

Thence North $89^{\circ}14'46''$ West 210.01 feet, to the Southeast corner of the Plat of Rock Ridge West II, recorded under Auditor's File No. 200412020087, records of Skagit County, Washington;

Thence North $1^{\circ}17'12''$ East along the East line of said Plat of Rock Ridge West II, 501.72 feet to the Northeast corner of said Plat;

Thence South $88^{\circ}42'48''$ East 30.00 feet to the Southwest corner of Lot 16, said Block 40;

Thence North $1^{\circ}17'12''$ East 216.00 feet to the Northwest corner of Lot 5, said Block 40 and the Southwest corner of Tract B, Plat of Rock Ridge West, under Auditor's File No. 200203250231, records of Skagit County, Washington;

Thence continuing North $1^{\circ}17'12''$ East 64.00 feet to the Southeast corner of Lot 11, of said Plat of Rock Ridge West;

Thence North $36^{\circ}49'28''$ East 86.02 feet, to the Northeast corner of Lot 11 of said Plat of Rock Ridge West;

Thence North $53^{\circ}34'34''$ East 119.08 feet, to an angle point in the Southeast line of Lot 7, of said Plat of Rock Ridge West;

Thence North $35^{\circ}40'45''$ East 239.89 feet to an angle point in the Southeast line of Lot 3, of said Plat of Rock Ridge West;

continued.....



0103

Skagit County Auditor

EXHIBIT 'A' continued:

Thence North 45°54'57" East 100.05 feet to an angle point in the South line of Lot 1 of said Plat of Rock Ridge West, and the Northwest corner of Lot 17, said Block 11;
Thence South 88°42'48" East 60.00 feet to the Northeast corner of Lot 16, said Block 11;
Thence South 1°17'12" West, along the East line of said Lot 16, Block 11 and the Southerly prolongation thereof, 140.00 feet to the centerline of 30th Street of said Plat of Tuttle and Buckley's Plat of Anacortes;
Thence South 88°42'48" East, along said centerline, 90.00 feet to the Southerly prolongation of the West line of Lot 12, said Block 11;
Thence North 1°17'12" East, along said West line and Southerly prolongation to the Northwest corner of said Lot 12, Block 11;
Thence continuing North 1°17'12" East 16.00 feet to the Southwest corner of Lot 1, Rock Ridge Short Plat No. 98-004, recorded in Volume 14 of Short Plats, pages 30 and 31, under Auditor's File No. 9905240012, records of Skagit County, Washington;
Thence along the South line of said Short Plat, South 88°42'48" East 105.00 feet to the centerline of Michigan Avenue;
Thence continuing South 88°42'48" East, a distance of 30 feet more or less to the Southwest corner of Lot 2, Rock Ridge Short Plat No. 98-004;
Thence continuing along the South line of said Short Plat, South 88°42'48" East 87.23 feet, to an angle point in said South line;
Thence North 69°41'51" East along the Southeasterly line of said short plat, 390.61 feet to the North line of the Northwest Quarter of said Section 26;
Thence South 89°56'12" East 108.31 feet to the true point of beginning.

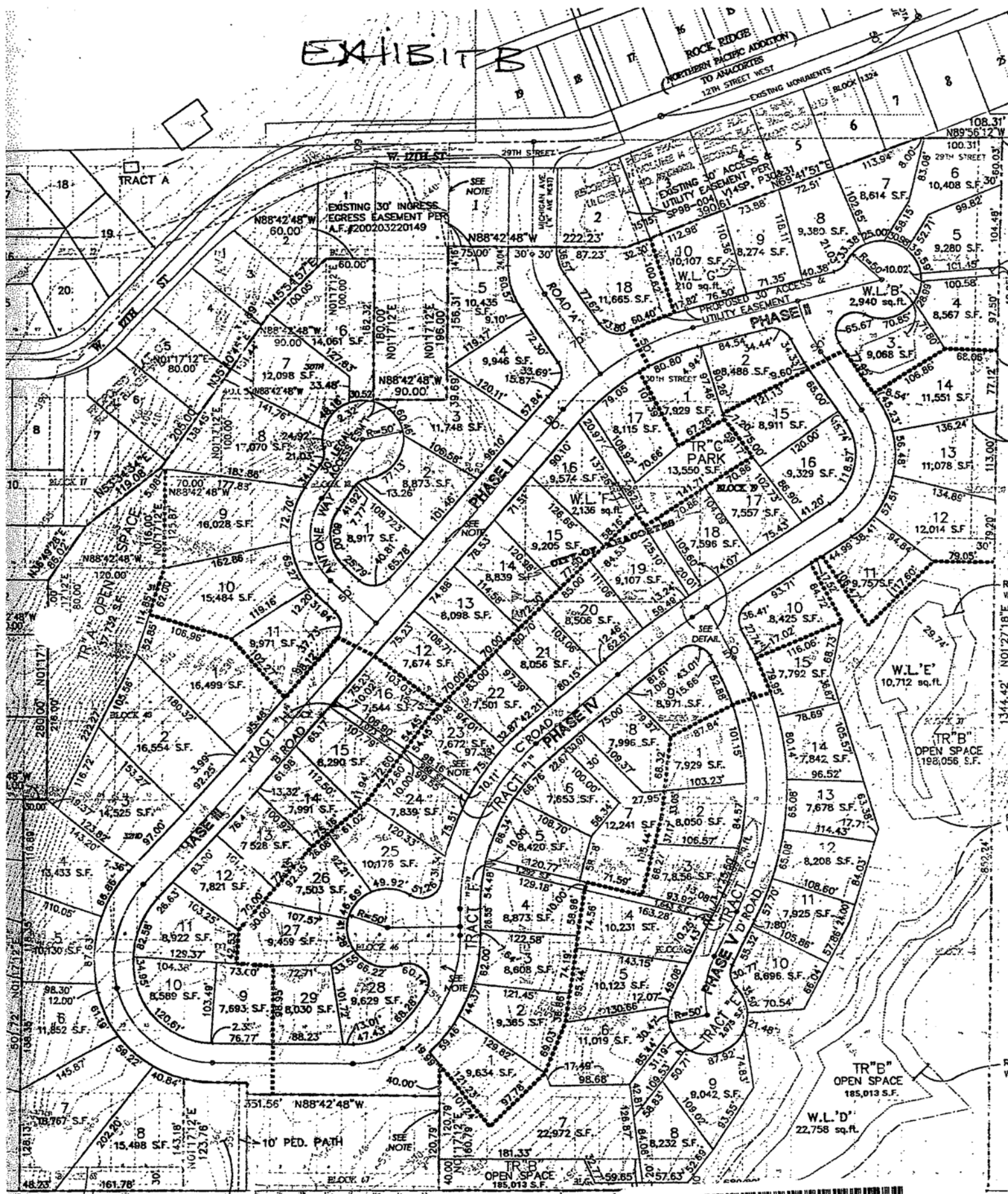
Situated in Skagit County, Washington

- END OF EXHIBIT 'A'



200610200103
Skagit County Auditor

EXHIBIT B



200610200103
Skagit County Auditor

HERRIGSTAD ENGINEERING & SURVEYING

Civil Engineering and Surveying

4320 Whistle Lake Road
Anacortes, WA 98221

Dale Herrigstad, P.E., P.L.S.
(360) 299-8804 Phone

July 19, 2017

PLAT OF ROCK RIDGE PHASE 4 CLOSURE REPORT

LOT 1

Polyline Report

Tue Jul 18 10:09:07 2017

Bearing Distance

S 43°28'25" E 158.829

N 42°55'23" E 76.154

N 41°11'56" E 4.002

N 43°30'11" W 180.054

S 28°15'08" W 84.139

Closure Error Distance > 0.00000

Total Distance > 503.177

Polyline Area: 13550.7 sq ft, 0.3 acres

LOT 2

Polyline Report

Tue Jul 18 10:09:16 2017

Bearing Distance

N 43°28'25" W 158.829

S 28°15'08" W 84.157

S 43°30'11" E 138.496

Radius: 250.000 Chord: 22.651 Degree: 22°55'06" Dir: Right

Length: 22.659 Delta: 05°11'35" Tangent: 11.337

Chord BRG: N 40°19'36" E Rad-In: S 52°16'11" E Rad-Out: S 47°04'37" E

Radius Point: 47401.737, 50553.807

N 42°55'23" E 57.437

Closure Error Distance > 0.00000

Total Distance > 461.576

Polyline Area: 11841.9 sq ft, 0.3 acres

LOT 3

Polyline Report

Wed Jul 19 14:04:45 2017

Bearing Distance

S 51°01'21" E 19.373

N 28°15'08" E 53.979

S 43°30'11" E 138.496

Radius: 250.000 Chord: 58.366 Degree: 22°55'06" Dir: Left

Length: 58.499 Delta: 13°24'25" Tangent: 29.384

Chord BRG: S 31°01'36" W Rad-In: S 52°16'11" E Rad-Out: S 65°40'37" E
Radius Point: 47401.737,50553.807
N 67°10'00" W 148.826
N 01°17'12" E 58.045
S 88°42'48" E 30.000

Closure Error Distance> 0.00000
Total Distance> 507.219
Polyline Area: 13232.3 sq ft, 0.3 acres

LOT 4

Polyline Report Wed Jul 19 14:04:55 2017

Bearing Distance
S 67°10'00" E 148.826
Radius: 250.000 Chord: 58.367 Degree: 22°55'06" Dir: Left
Length: 58.500 Delta: 13°24'26" Tangent: 29.384
Chord BRG: S 17°37'10" W Rad-In: S 65°40'37" E Rad-Out: S 79°05'03" E
Radius Point: 47401.737,50553.807
N 88°42'48" W 122.012
N 01°17'12" E 110.669

Closure Error Distance> 0.00000
Total Distance> 440.007
Polyline Area: 11010.2 sq ft, 0.3 acres

LOT 5

Polyline Report Wed Jul 19 14:05:05 2017

Bearing Distance
S 88°42'48" E 122.012
Radius: 250.000 Chord: 88.003 Degree: 22°55'06" Dir: Left
Length: 88.464 Delta: 20°16'28" Tangent: 44.700
Chord BRG: S 00°46'43" W Rad-In: S 79°05'03" E Rad-Out: N 80°38'29" E
Radius Point: 47401.737,50553.807
N 88°42'48" W 122.793
N 01°17'12" E 88.000

Closure Error Distance> 0.00000
Total Distance> 421.270
Polyline Area: 10542.1 sq ft, 0.2 acres

LOT 6

Polyline Report Tue Jul 18 10:09:52 2017

Bearing Distance
Radius: 250.000 Chord: 4.847 Degree: 22°55'06" Dir: Right
Length: 4.847 Delta: 01°06'39" Tangent: 2.424
Chord BRG: N 09°54'51" W Rad-In: N 79°31'49" E Rad-Out: N 80°38'29" E

Radius Point: 47401.737,50553.807
N 88°42'48" W 122.793
S 01°17'12" W 80.000
S 88°42'48" E 117.452
N 30°00'18" E 43.038
Radius: 125.000 Chord: 40.170 Degree: 45°50'12" Dir: Right
Length: 40.345 Delta: 18°29'34" Tangent: 20.350
Chord BRG: N 19°42'58" W Rad-In: N 61°02'15" E Rad-Out: N 79°31'49" E
Radius Point: 47379.023,50430.888

Closure Error Distance> 0.00000 Error Bearing> N 90°00'00" E
Closure Precision> 1 in 2510675618702.1 Total Distance> 408.475
Polyline Area: 10276.0 sq ft, 0.2 acres

LOT 7

Polyline Report Tue Jul 18 11:23:11 2017
Bearing Distance
N 88°42'48" W 88.521
N 01°17'12" E 80.000
S 88°42'48" E 117.452
N 30°00'18" E 43.038
Radius: 125.000 Chord: 33.619 Degree: 45°50'12" Dir: Left
Length: 33.721 Delta: 15°27'24" Tangent: 16.964
Chord BRG: S 36°41'27" E Rad-In: N 61°02'15" E Rad-Out: N 45°34'51" E
Radius Point: 47379.023,50430.888
47291.535 50341.608
S 38°53'57" W 115.183
47201.893 50269.279

Closure Error Distance> 0.00000
Total Distance> 477.916
Polyline Area: 10370.0 sq ft, 0.2 acres

LOT 8

Polyline Report Tue Jul 18 11:23:21 2017
Bearing Distance
N 01°17'12" E 85.004
S 88°42'48" E 88.521
N 38°53'57" E 115.183
Radius: 125.000 Chord: 29.928 Degree: 45°50'12" Dir: Left
Length: 30.000 Delta: 13°45'04" Tangent: 15.072
Chord BRG: S 51°17'41" E Rad-In: N 45°34'51" E Rad-Out: N 31°49'47" E
Radius Point: 47379.023,50430.888
S 82°28'52" W 14.401
S 38°53'57" W 62.849
S 01°17'12" W 104.862

N 89°14'46" W 130.006

Closure Error Distance> 0.00000

Total Distance> 630.826

Polyline Area: 13326.8 sq ft, 0.3 acres

LOT 9

Polyline Report

Tue Jul 18 11:23:29 2017

Bearing Distance

N 89°14'46" W 80.003

N 01°17'12" E 104.862

N 38°53'57" E 62.849

N 82°28'52" E 14.401

Radius: 125.000 Chord: 29.928 Degree: 45°50'12" Dir: Left

Length: 30.000 Delta: 13°45'04" Tangent: 15.072

Chord BRG: S 65°02'44" E Rad-In: N 31°49'47" E Rad-Out: N 18°04'44" E

Radius Point: 47379.023,50430.888

S 01°17'12" W 144.095

Closure Error Distance> 0.00000

Total Distance> 436.210

Polyline Area: 11280.8 sq ft, 0.3 acres

LOT 10

Polyline Report

Tue Jul 18 10:11:17 2017

Bearing Distance

S 48°23'33" E 98.513

S 45°29'04" E 20.041

S 40°52'15" W 58.428

N 61°26'04" W 124.501

N 42°55'23" E 87.559

Closure Error Distance> 0.00000

Total Distance> 389.042

Polyline Area: 8792.5 sq ft, 0.2 acres

LOT 11

Polyline Report

Tue Jul 18 10:11:09 2017

Bearing Distance

N 16°21'18" E 57.225

N 61°26'04" W 124.501

Radius: 200.000 Chord: 81.713 Degree: 28°38'52" Dir: Left

Length: 82.292 Delta: 23°34'30" Tangent: 41.737

Chord BRG: S 31°08'08" W Rad-In: S 47°04'37" E Rad-Out: S 70°39'07" E

Radius Point: 47401.737,50553.807

S 71°49'02" E 142.603

Closure Error Distance> 0.00000
Total Distance> 406.622
Polyline Area: 9390.0 sq ft, 0.2 acres

LOT 12

Polyline Report Tue Jul 18 10:29:14 2017
Bearing Distance
S 71°49'02" E 142.603
S 10°01'52" W 46.571
N 88°42'48" W 137.594
Radius: 200.000 Chord: 87.862 Degree: 28°38'52" Dir: Right
Length: 88.584 Delta: 25°22'39" Tangent: 45.031
Chord BRG: N 06°39'34" E Rad-In: N 83°58'14" E Rad-Out: S 70°39'07" E
Radius Point: 47401.737,50553.807

Closure Error Distance> 0.00000
Total Distance> 415.353
Polyline Area: 9591.9 sq ft, 0.2 acres

LOT 13

Polyline Report Tue Jul 18 10:11:28 2017
Bearing Distance
Radius: 75.000 Chord: 94.646 Degree: 76°23'40" Dir: Left
Length: 102.421 Delta: 78°14'37" Tangent: 60.998
Chord BRG: S 49°35'29" E Rad-In: N 79°31'49" E Rad-Out: N 01°17'12" E
Radius Point: 47379.023,50430.888
S 88°42'48" E 61.600
N 01°17'12" E 75.000
N 88°42'48" W 137.594
Radius: 200.000 Chord: 15.495 Degree: 28°38'52" Dir: Left
Length: 15.499 Delta: 04°26'25" Tangent: 7.754
Chord BRG: S 08°14'58" E Rad-In: N 83°58'14" E Rad-Out: N 79°31'49" E
Radius Point: 47401.737,50553.807
47365.394 50357.137

Closure Error Distance> 0.00000
Total Distance> 392.115
Polyline Area: 9043.0 sq ft, 0.2 acres

PHASE 4

Polyline Report Tue Jul 18 10:08:36 2017
Bearing Distance
N 02°07'40" W 70.818
N 43°30'11" W 180.054
S 28°15'08" W 222.274

N 51°01'21" W 19.373
N 88°42'48" W 30.000
S 01°17'12" W 501.718
S 89°14'46" E 210.009
N 01°17'12" E 144.095
S 75°16'34" E 14.631
S 81°09'56" E 11.055
S 86°12'24" E 10.934
S 88°42'48" E 43.888
N 01°17'12" E 50.000
S 88°42'48" E 17.713
N 01°17'12" E 75.000
N 10°01'52" E 46.571
N 16°20'54" E 57.211
N 40°52'15" E 58.445
N 47°54'04" W 118.532

Closure Error Distance > 0.00000

Total Distance > 1882.319

Polyline Area: 167326.0 sq ft, 3.8 acres

TRACT G

Polyline Report

Tue Jul 18 10:08:24 2017

Bearing Distance

N 13°01'47" E 93.120
N 26°33'09" E 94.951
N 15°39'30" E 70.221
N 15°39'30" E 70.221
N 20°12'01" E 10.000
S 69°47'59" E 24.970
N 21°46'18" E 211.820
N 38°38'00" W 100.034
N 40°08'07" W 50.000
N 49°51'53" E 130.491
N 32°43'20" W 123.451
S 43°26'45" W 587.847
S 45°29'04" E 20.041
S 40°52'15" W 58.428
S 16°21'18" W 57.225
S 10°01'52" W 46.571
S 01°17'12" W 75.000
N 88°42'48" W 17.713
S 01°17'12" W 50.000
S 01°17'12" W 15.000
S 88°42'48" E 240.000
S 01°17'12" W 80.787

S 89°14'46" E 90.004

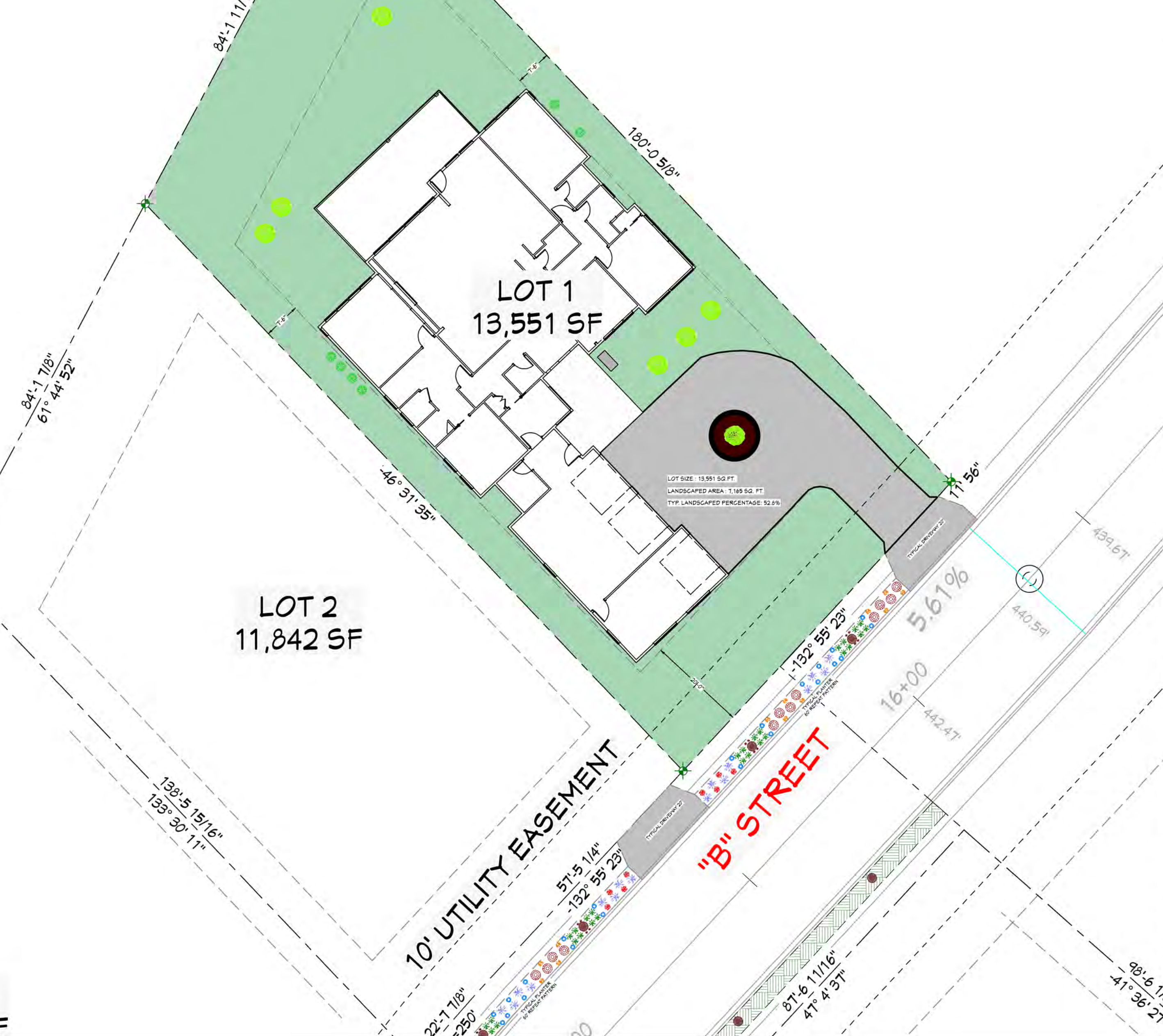
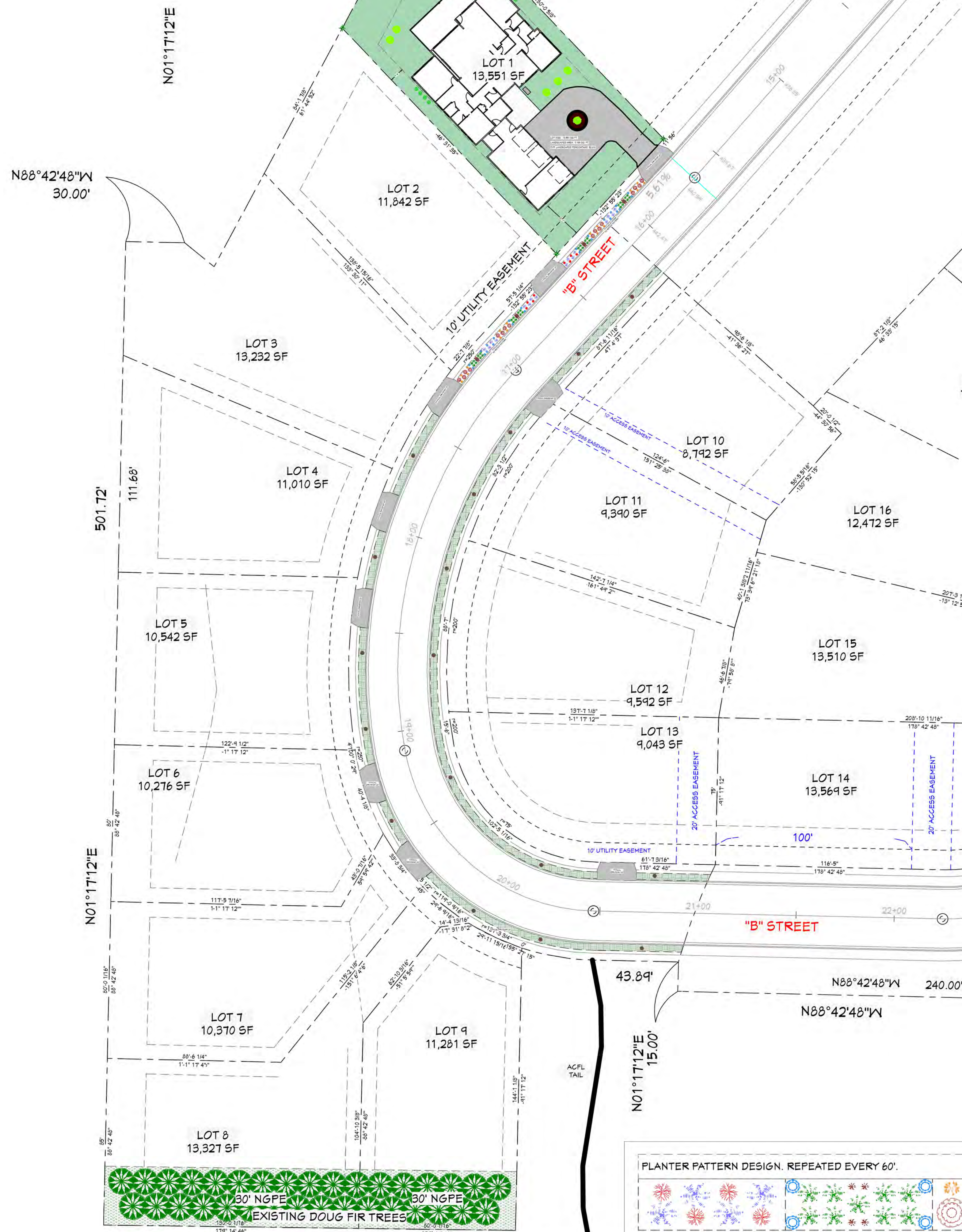
Closure Error Distance> 0.00000

Total Distance> 2317.894

Polyline Area: 221412.0 sq ft, 5.1 acres

SCALE
1" = 40'

SCALE
1/16" = 1'

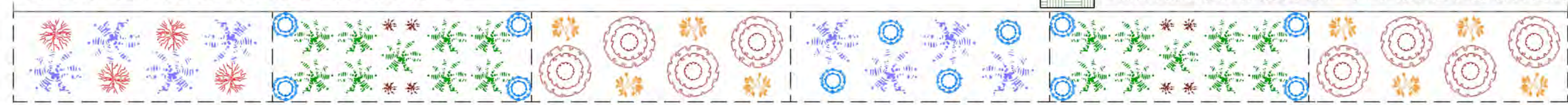


LANDSCAPE LEGEND			
SYMBOL	COMMON NAME	SCIENTIFIC NAME	QTY.
	PETER SPARKES	CALLUNA VULGARIS	91
	RUSSIAN SAGE	PEROVSKIA ATRIFLIGIFOLIA	73
	DUTCH WHITE LAVENDER	LAVANDULA X INTERMEDIA 'ALBA'	73
	ANGELINA	SEDUM RUPESTRE	91
	BLUE STAR CREEPER	FRATIA ANGULATA	73
	MOONSHINE	ACHILLIA YARROW	19
	ROSE GLOWS JAPANESE BARBERRY	BERBERIS THUNBERGII	73
	PAPER BARK MAPLE 2" CALIPER W/ ROOT PROTECTION		21
	LAWN AREA		
	DECIDUOUS STREET TREE (MIN. 1 1/2" CALIPER)	TO BE PLANTED W/ HOME	
	CONIFER TREE (MIN. 1 1/2" CALIPER)	TO PLANT W/ HOME	

TOTAL SITE AREA	166,503 SF
PROPOSED LANDSCAPE	
LANDSCAPE PLANTER AREA	3,075 SF
TOTAL PLANTER LANDSCAPING	3,075 SF
TYPICAL HOME LANDSCAPE AVG. (11,984 SF X 53%)	82,570 SF
TOTAL LANDSCAPE AREA	85,645 SF
TOTAL PERCENTAGE OF LANDSCAPE AREA	51%
MINIMUM LANDSCAPE REQUIRED BY CODE	20%

PLANTER PATTERN DESIGN. REPEATED EVERY 60'

 = CONTINUATION OF TYPICAL PLANTER



CHIEF ARCHITECT X7
DRAWN BY:
J. STERLING
SCALE
1" = 40'
DATE
8-2-17

Strandberg
DESIGN

BUILDER INFO:
MAILING ADDRESS:
P.O. BOX 314
ANACORTES WA 98221
PHONE: 360-293-7431
WEB: www.strandbergconstruction.com

PROJECT / CLIENT INFO

ROCK RIDGE
PHASE 4

INFORMATION, PLANS, DESIGNS, NOTES AND ARRANGEMENTS SHOWN ON THE DRAWINGS ARE CONFIDENTIAL AND MAY NOT BE REPRODUCED OR TRANSMITTED IN ANY FORM WITHOUT THE EXPRESS WRITTEN PERMISSION OF THE DESIGNER. ANY REUSE OF ANY PART OF THE DRAWINGS WITHOUT THE WRITTEN PERMISSION OF THE DESIGNER IS PROHIBITED. THE DESIGNER ASSUMES NO LIABILITY FOR ANY DAMAGE OR LOSS OF INFORMATION THAT IS CONCEPTUAL AND SUBJECT TO CHANGE. THE DESIGNER MAKES NO CLAIM FOR ACCURACY OF CONCEPTUAL INFORMATION OR USE OF INFORMATION SUPPLIED BY OTHERS.

OWNER APPROVAL	
INITIAL:	
PAGE:	
OF:	

FILE: 91074979 ComparesCANC DESIGN JOB 0000 Rock RidgeGummt Ridge
Development/Residence Development 24 X 96 1 in and 1/2 in
PRINTED: Wednesday, August 2, 2017

Confirmation

Date	Confirmation #
7/17/2017	6031



Urban Forest NURSERY

INC.

Wholesale Tree Nursery

Ship To
Strandberg Construction, Inc. Attn: Nels Strandberg PO Box 319 Anacortes, WA 98221
Bill To
Strandberg Construction, Inc. Attn: Nels Strandberg PO Box 319 Anacortes, WA 98221

15119 McLean Road
Mount Vernon, WA 98273

Phone: (360) 428-5810

Fax: (360) 428-1822

Website: www.urbanforestnursery.com

E-mail: jimb-ufsinc@wavecable.com

P.O. NUMBER	TERMS	DUE DATE	SHIP	VIA	PROJECT	
Rockridge	Net 30	8/16/2017	8/14/2017	Pick Up	Rockridge	
QUANTITY	ITEM CODE	DESCRIPTION			PRICE EACH	AMOUNT
20	AcGr-C	2" cal. Acer griseum (Paperbark Maple)			165.00	3,300.00T
20	Summer Dig Treatment	Summer Dig Preparation			5.00	100.00T
40	Tree Stakes	2" x 6' Lodgepole Pine Tree Stakes			4.00	160.00T
3	Tree Tie	Chainlock Tree Tie, 100' 1"			40.00	120.00T
		A 25% deposit is required to hold this order 30 days or longer. Thank you.				
		Sales Tax			8.50%	312.80
Thank you for your business. Invoices past 30 days will be subject to 1.5% interest.					Total	\$3,992.80

Due to frequent changes in the tax code, you are responsible for current tax rate at time of payment.





Engineering and Development Services
PO Box 547, Anacortes, WA 98221
Telephone 360.293.1920
Fax 360.293.1938
E-mail engineering@cityofanacortes.org

Latecomer Agreement Application

Municipal Codes 12.20, 13.12.130, 12.32.007

Applicant Information

Date: 4/5/2017

Name: RR Summit NW LLC

Telephone 360-293-7431

Address: PO Box 319 c/o Nels Strandberg

Contact Information (if different)

Name: Debbie Headrick

Telephone 360-293-7431

Address: PO Box 319 Anacortes WA 98221

Summary of Facilities

Facility	Total Project Qty *	Benefiting Property Qty.	Qty. Unit	Unit Cost	Total Project Cost	Total Benefiting Properties Cost
**Street			SF			
***Water			LF			
***Storm			LF			
***Sewer			LF			
Other						
Other						

*Total number of lots served 29 Number of latecomer lots 3

* Total project includes all improvements in addition to the benefiting property improvements.

** Street improvements must include curb, gutter, and sidewalk in the benefiting side of the street.

*** Water, sewer, storm connections must be provided and usable on the benefiting property.

Application Fee Worksheet

	Base Fee	\$950
Number of Facilities	X \$300 =	
Total Application Fee		

Attachments:

- ☐ Name/address of owners of record for each property within proposed assessment area.
- ☐ Plans prepared and stamped by a professional engineer registered in the State of Washington detailing improvements, legal descriptions of all the properties proposed for latecomer agreement, and detailed cost estimate of the entire project.

Rock Ridge Phase 4 & 5

em 4/13/17

	recommended T and M
Attorney fees	\$ 5,000.00
city permits	\$ 15,000.00
geotech	\$ 22,000.00
staking	\$ 15,000.00
maintenance bond	\$ 4,000.00
final plat and survey	\$ 25,000.00

Clearing	\$ 40,000.00
Grinding	\$ 35,000.00

Erosion Control	
Land E	\$ 2,000.00
materials	\$ 25,000.00

Cut and fill ROW / Lots	
Blasting	\$ 85,000.00
EX 330	\$ 64,000.00
D6	\$ 35,000.00
Rock truck	\$ 60,000.00
84" roller	\$ 25,000.00
rent crusher	\$ 17,800.00
excavator to load	\$ 9,600.00

ROW stripping	
Land E	

Sewer Install	
Land E	\$ 65,000.00
Manholes	\$ 8,116.00
lids and risers	\$ 3,639.52
Pipe	\$ 8,376.00
import pipe bedding	\$ 7,500.00
Manhole channel	\$ 2,000.00

Storm Install	
Land E	\$ 65,000.00
Catch basins	\$ 5,626.20
Frame and Grate	\$ 5,106.68
Structures pipe and bedding sand	\$ 15,600.00
Import bedding	\$ 7,500.00

Water Install	
Land E	\$ 75,000.00
Materials	\$ 40,296.00
import bedding	\$ 7,500.00

Curb and Gutter / Sidewalk	
Land E	\$ 25,000.00
Crushed rock	\$ 2,000.00
Backstorm phase V	\$ 37,474.00
Backstorm phase IV	\$ 52,567.00
planter strip	\$ 5,000.00

Sub Grade prep	
Land E	\$ 15,000.00
D 4 rent	\$ 8,500.00

Asphalt and CSTC	\$ 128,000.00
------------------	---------------

Final Grade and Clean up	\$ 40,000.00
--------------------------	--------------

Dry Utility Trench	\$ 25,000.00
Trench Backfill	\$ 6,000.00

PSE	\$ 105,000.00
CNG	

landscape	\$ 30,000.00
-----------	--------------

Plus applicable taxes	\$ 40,000.00
Seci profit and overhead 10%	\$ 132,020.14

Total	\$ 1,452,221.54
-------	-----------------

per lot	\$ 50,076.60
---------	--------------

Tricka Lots (3)

29 lots

Add 50k for pump station estimate

em 4/13/17



ANACORTES PUBLIC WORKS DEPARTMENT

STEVEN LANGE, Project Manager
P.O. BOX 547, ANACORTES, WA 98221
Cell: (360) 661.3468
E-MAIL: stevel@cityofanacortes.org

To:

Date:

Subject:

PW#:

STREWORK:
STREET CURB/GUTTER/SW
ASPHALT - C.S.T.C.

SEWER: SUBGRADE-TRENCH BOTTOM
WATER: UPGRADE/PUMP.
STORM: //

FRANCHISE UTILITIES:

- GAS - FIBER.
- POWER
- CABLE
- LIGHTING

4" CONDUIT - J.U.T. FIBER OPTIC.

Rock Ridge Phase 4 & 5

		recommended T and M
Attorney fees	\$	5,000.00
city permits	\$	15,000.00
geotech	\$	22,000.00
staking	\$	15,000.00
maintenance bond	\$	4,000.00
final plat and survey	\$	25,000.00
Clearing	\$	40,000.00
Grinding	\$	35,000.00
Erosion Control		
	L and E \$	2,000.00
	materials \$	25,000.00
Cut and fill ROW / Lots		
Blasting	\$	85,000.00
	EX 330 \$	64,000.00
	D6 \$	35,000.00
	Rock truck \$	60,000.00
	84" roller \$	25,000.00
	rent crusher \$	17,800.00
	excavator to load \$	9,600.00
ROW stripping		
	L and E	
Sewer Install		
	L and E \$	65,000.00
	Manholes \$	8,116.00
	lids and risers \$	3,639.52
	Pipe \$	8,376.00
	import pipe bedding \$	7,500.00
	Manhole chanel \$	2,000.00
Storm Install		
	L and E \$	65,000.00
	Catch basins \$	5,626.20
	Frame and Grate \$	5,106.68
	Strutures pipe and bedding sand \$	15,600.00
	import bedding \$	7,500.00
Water Install		
	L and E \$	75,000.00
	Materials \$	40,296.00
	import bedding \$	7,500.00

Curb and Gutter / Sidewalk

L and E	\$	25,000.00
Crushed rock	\$	2,000.00
Backstorm phase V	\$	37,474.00
Backstorm phase IV	\$	52,567.00
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Trench Backfill	\$	6,000.00

PSE \$ 105,000.00
CNG

landscape \$ 30,000.00

Plus applicable taxes \$ 40,000.00

Secci profit and overhead 10% \$ 132,020.14

Total \$ 1,452,221.54

per lot \$ 50,076.60



Important Information pse.com | f t+ ● ● in s v You Tube

RR SUMMIT NW, LLC

Account Name: Rock Ridge PH 4 & 5

How to reach us

Email: customercare@pse.com

Customer Service: 1-888-225-5773 | TTY: 1-800-962-9498
 Hours: 7:30 a.m. – 6:30 p.m. M – F | TRS: 1-866-831-5161
 Puget Sound Energy: P.O. Box 91269, Bellevue, WA 98009
24 Hour Emergency and Outage line: 1-888-225-5773

Issued: April 18, 2017

Account Number: 400001556770

DUE DATE May 8, 2017

TOTAL DUE \$0.00

Your Account Summary

Previous Charges:

Amount of Your Last Bill	\$ 0.00
Payment(s) received – Thank You!	-17,867.02

Total Previous Charges	\$ - 17,867.02
-------------------------------	-----------------------

Current Charges:

Products & Services	\$ 17,867.02
---------------------	--------------

Total Current Charges	\$ 17,867.02
------------------------------	---------------------

Total includes current and past due charges

Total \$ 0.00

Late Payments | A late payment fee of 1% per month will apply to past due charge, if any, and amounts unpaid more than 10 business days after the statement due date. Amounts will be considered delinquent if payment is not received on or before the due date.



I want to donate \$_____ to the Warm Home Fund

pse.com to pay online or to find pay station locations

Mail this coupon and make check payable to Puget Sound Energy

Account Number: 400001556770

DUE DATE May 8, 2017

TOTAL DUE \$0.00

000012 1 MB 0.435



B050



RR SUMMIT NW, LLC

PO BOX 319

ANACORTES WA 98221-0319

Puget Sound Energy

P.O. BOX 91269

Bellevue, WA 98009-9269

 Products and Services

Description of Charges	Amount
Service Address: Antone Way @ Rock Ridge Parkway, Anacortes	
Project Name: Rock Ridge PH 4 & 5	
PSE Contact: Matt Maynard	
Reference #: 90554317	
Electric Lighting	
Charge for Street Light Circuitry.	749.63
Charge for Street Light Standards, including (Luminaires, Poles & Arm).	17,117.39
Job Order #105080620	
Subtotal Electric Lighting	\$ 17,867.02
Total Reference #90554317	\$ 17,867.02
Total Charges	\$ 17,867.02

*** THIS IS NOT A BILL ***

DO NOT PAY

PAID IN FULL CHECK# 1015, CHECK AMT: \$17,867.02

DATED: 3/23/2017

FROM: RR SUMMIT NW, LLC

ADDRESS: PO BOX 319, ANACORTES WA 98221

THANK YOU!

Emergency or Power Outage Dial 1-888-225-5773

To report a natural gas or electric emergency or a power outage, 24 hours a day, call **1-888-225-5773**

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Чтобы сообщить об аварии, связанной с природным газом или электроэнергией, или о перерыве в подаче электроэнергии, звоните в любое время суток по номеру **1-888-225-5773**

We can translate for other languages. Call **1-888-225-5773**.

Keeping our word.

You will receive a \$50 credit on your PSE bill if we do not keep a set appointment to install new or reconnect existing service or inspect natural gas equipment. Exceptions apply during major storms or significant events beyond our control.

You deserve excellent service.

Every day we aim to give you clear, understandable answers to your questions about bills, credits, deposits and your energy service. If you have a complaint or dispute with your bill or service, please call us at **1-888-225-5773**. If you are not satisfied with the response, ask to speak with a supervisor. If you are still not satisfied, you may contact the Consumer Affairs section of the Utilities and Transportation Commission at **1-888-333-WUTC (9882)** or complete an online complaint form at **www.utc.wa.gov**.





The Industry Leader in Quality Mailboxes

Checkout - Order Confirmation

Your order has been successfully processed.

Order Number: 424931

You will receive a confirmation email shortly from us regarding your order.

[Print Page](#)

Billing Information

Nels Strandberg
Strandberg Construction
PO Box 319
Anacortes, WA 98221

Phone: 360-293-7431

Email:

Debbie@Strandbergconstruction.com

Shipping Information

Nels Strandberg
Strandberg Construction
2018 R Avenue
Anacortes , WA 98221

Phone: 360-293-7431

Shipping Method: Standard
Special Handling:
Special Instructions: Deliver
available Monday thru Friday
8am 4pm

Payment Information

Payment: Visa

Credit Card #: *****6319

Expiration Date: 10/19

Cardholder Name: Nels

Strandberg

PO #:

Order Total

Product Subtotal: \$2,730.00

Shipping: \$219.50

Taxes: \$0.00

Total: \$2,949.50

Description	Price	Qty	Total
 Cluster Box Unit (Includes Pedestal) - 16 A Size Doors - Type III - Sandstone - USPS Access Model #: 3316SAN-U	\$1,365.00	2	\$2,730.00



Call 1-800-624-5269

[Sign In](#) | [Register](#)[Cart](#) 2 Items \$2,730.00**Factory Direct from Salsbury Industries!**Mailboxes for: [Select Category](#)[Search](#)[Home](#) > [checkout](#)

Checkout

Already a Member? Sign-in [Email](#) Debbie@Strandbergconstruct **Password**[Sign In](#) [Forgot Password?](#)[View Saved Carts](#) [Save Your Cart](#) [Need help with your order?](#)[Clear Cart](#)

Step 1: Billing Information

[Edit](#)

Step 2: Shipping Information

[Edit](#)

Step 3: Payment Information

[Edit](#)

Step 4: Summary

Shopping Cart

[Edit](#)**Cluster Box Unit (Includes Pedestal) - 16 A Size Doors - Type III - Sandstone - USPS Access**

\$1,365.00

Model #3316SAN-U**Qty: 2 Total: \$2,730.00**

Product Subtotal	\$2,730.00
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PO Box 319
Anacortes, WA 98221

Phone: 360-293-7431

Fax:

Email: Debbie@Strandbergconstruction.com**Payment Information**

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available Monday thru Friday
8am 4pm**Order Summary**

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Taxes: \$0.00

Total: \$2,949.50

Please review all of the information in your order before submitting.

[Submit Order](#)

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RR SUMMIT NW, LLC

Account Name: Rock Ridge PH 4 & 5

How to reach us

Email: customercare@pse.com

Customer Service: 1-888-225-5773 | TTY: 1-800-962-9498
 Hours: 7:30 a.m. – 6:30 p.m. M – F | TRS: 1-866-831-5161
 Puget Sound Energy: P.O. Box 91269, Bellevue, WA 98009
24 Hour Emergency and Outage line: 1-888-225-5773

Issued: April 18, 2017

Account Number: 400001556770

DUE DATE May 8, 2017

TOTAL DUE \$0.00

Your Account Summary

Previous Charges:

Amount of Your Last Bill	\$ 0.00
Payment(s) received – Thank You!	-17,867.02

Total Previous Charges \$ - 17,867.02

Current Charges:

Products & Services	\$ 17,867.02
---------------------	--------------

Total Current Charges \$ 17,867.02

Total includes current and past due charges

Total \$ 0.00

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I want to donate \$_____ to the Warm Home Fund

pse.com to pay online or to find pay station locations

Mail this coupon and make check payable to Puget Sound Energy

Account Number: 400001556770

DUE DATE May 8, 2017

TOTAL DUE \$0.00

000012 1 MB 0.435



B050



RR SUMMIT NW, LLC

PO BOX 319

ANACORTES WA 98221-0319

Puget Sound Energy

P.O. BOX 91269

Bellevue, WA 98009-9269

 Products and Services

Description of Charges	Amount
Service Address: Antone Way @ Rock Ridge Parkway, Anacortes	
Project Name: Rock Ridge PH 4 & 5	
PSE Contact: Matt Maynard	
Reference #: 90554317	
Electric Lighting	
Charge for Street Light Circuitry.	749.63
Charge for Street Light Standards, including (Luminaires, Poles & Arm).	17,117.39
Job Order #105080620	
Subtotal Electric Lighting	\$ 17,867.02
Total Reference #90554317	\$ 17,867.02
Total Charges	\$ 17,867.02

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DO NOT PAY

PAID IN FULL CHECK# 1015, CHECK AMT: \$17,867.02

DATED: 3/23/2017

FROM: RR SUMMIT NW, LLC

ADDRESS: PO BOX 319, ANACORTES WA 98221

THANK YOU!

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(360) 568-8960

Printed: 7/13/2017 9:11:18 AM
Page 1 of 1
2843581
Michael
Cash Sale
PO:
Terms:
Invoiced Date: 7/13/2017

Sold To:
Strandberg Construction
2018 R Ave
Anacortes WA 98221

Ship To:

Part Number	Description	Shipped	Price	Total Tax
	360-293-7431			
1304-0018C	Deep Root 18"x2' (26/Ctn)	6	157.50	945.00
9000-0000-FREIGHT	Shipping - Via Steuber - FREIGHT	1	0.00	0.00

PAID

Customer responsible for verification of correct quantities and merchandise when they take possession of products. There will be no returns or exchanges without your receipt. There is a 20% restocking fee on returned items.

Visa \$945.00

Sub Total	\$945.00
Tax1 9.1%	\$0.00
0%	\$0.00
0%	\$0.00
Total	\$945.00

Signed:



Important Information

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RR SUMMIT NW, LLC

Account Name: Rock Ridge PH 4 & 5

How to reach us

Email: customercare@pse.com

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pse.com to pay online or to find pay station locations

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Account Number: 400001556770

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TOTAL DUE \$0.00

000012 1 MB 0.435



B050



RR SUMMIT NW, LLC

PO BOX 319

ANACORTES WA 98221-0319

Puget Sound Energy

P.O. BOX 91269

Bellevue, WA 98009-9269

 Products and Services

Description of Charges	Amount
Service Address: Antone Way @ Rock Ridge Parkway, Anacortes	
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PSE Contact: Matt Maynard	
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DO NOT PAY

PAID IN FULL CHECK# 1015, CHECK AMT: \$17,867.02

DATED: 3/23/2017

FROM: RR SUMMIT NW, LLC

ADDRESS: PO BOX 319, ANACORTES WA 98221

THANK YOU!

Emergency or Power Outage Dial 1-888-225-5773

To report a natural gas or electric emergency or a power outage, 24 hours a day, call **1-888-225-5773**

Para informar sobre emergencias eléctricas, de gas o apagones 24 horas al día, llame al **1-888-225-5773**

若欲報告天然氣或電氣突發事件，或停電事故，每天 24 小時均可致電 **1-888-225-5773**

Чтобы сообщить об аварии, связанной с природным газом или электроэнергией, или о перерыве в подаче электроэнергии, звоните в любое время суток по номеру **1-888-225-5773**

We can translate for other languages. Call **1-888-225-5773**.

Keeping our word.

You will receive a \$50 credit on your PSE bill if we do not keep a set appointment to install new or reconnect existing service or inspect natural gas equipment. Exceptions apply during major storms or significant events beyond our control.

You deserve excellent service.

Every day we aim to give you clear, understandable answers to your questions about bills, credits, deposits and your energy service. If you have a complaint or dispute with your bill or service, please call us at **1-888-225-5773**. If you are not satisfied with the response, ask to speak with a supervisor. If you are still not satisfied, you may contact the Consumer Affairs section of the Utilities and Transportation Commission at **1-888-333-WUTC (9882)** or complete an online complaint form at **www.utc.wa.gov**.





JAN 10 2017

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000
711 for Washington Relay Service • Persons with a speech disability can call 877-833-6341

January 3, 2017

Nels Strandberg
RR Summit NW LLC
PO Box 319
Anacortes, WA 98221-0319

RE: Coverage under the Construction Stormwater General Permit

Permit number: WAR304799
Site Name: Rock Ridge Sough Phase IV & V
Location: P# 125867, Tract G Michigan Ave to Rock Ridge Parkway
Anacortes County: Skagit
Disturbed Acres: 5

Dear Mr. Strandberg:

The Washington State Department of Ecology (Ecology) received your Notice of Intent for coverage under Ecology's Construction Stormwater General Permit (permit). This is your permit coverage letter. Your permit coverage is effective on January 3, 2017. **Please retain this permit coverage letter with your permit (enclosed), stormwater pollution prevention plan (SWPPP), and site log book. These materials are the official record of permit coverage for your site.**

Please take time to read the entire permit and contact Ecology if you have any questions.

Appeal Process

You have a right to appeal coverage under the general permit to the Pollution Control Hearing Board (PCHB) within 30 days of the date of receipt of this letter. This appeal is limited to the general permit's applicability or non-applicability to a specific discharger. The appeal process is governed by chapter 43.21B RCW and chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal, you must do the following within 30 days of the date of receipt of this letter:

- File your appeal and a copy of the permit cover page with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and the permit cover page on Ecology in paper form - by mail or in person (see addresses below). E-mail is not accepted.

You must also comply with other applicable requirements in chapter 43.21B RCW and chapter 371-08 WAC.



Address and Location Information:

Street Addresses:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

Pollution Control Hearings Board (PCHB)
1111 Israel Road SW, Suite 301
Tumwater, WA 98501

Mailing Addresses:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Electronic Discharge Monitoring Reports (WQWebDMR)

This permit requires that Permittees submit monthly discharge monitoring reports (DMRs) electronically using Ecology's secure online system, WQWebDMR. To sign up for WQWebDMR go to: www.ecy.wa.gov/programs/wq/permits/paris/webdmr.html. If you have questions, contact the portal staff at (360) 407-7097 (Olympia area), or (800) 633-6193/option 3, or email WQWebPortal@ecy.wa.gov.

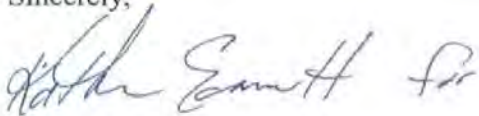
Ecology Field Inspector Assistance

If you have questions regarding stormwater management at your construction site, please contact Stephanie Barney of Ecology's Bellingham Field Office at stephanie.barney@ecy.wa.gov or (360) 715-5233.

Questions or Additional Information

Ecology is committed to providing assistance. Please review our web page at: www.ecy.wa.gov/programs/wq/stormwater/construction. If you have questions about the construction stormwater general permit, please contact Shawn Hopkins at shawn.hopkins@ecy.wa.gov or (360) 407-6442.

Sincerely,



Bill Moore, P.E., Manager
Program Development Services Section
Water Quality Program

Enclosure

Borden

Spill Prevention, Control and Countermeasures Plan

Rock Ridge Phases IV & V PW#03-037-DEV

AN UPDATED COPY OF THIS PLAN AND ITS ATTACHMENTS MUST BE
ACCESSIBLE AT THE SITE DURING ALL FIELD ACTIVITIES

Prepared for
City of Anacortes

Prepared by
Strandberg Excavation & Commercial Construction Inc
P O Box 319
Anacortes, WA 98221
360-293-7431

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Introduction

Spill Prevention, Control and Countermeasures (SPCC) Plan for Rock Ridge IV & V project described in this SPCC Plan. The daily operations at the project are the primary responsibility of Strandberg Excavation & Commercial Construction Inc (SECCI). SECCI has developed this SPCC Plan to protect human health and the environment from spills and releases of "hazardous materials", to include dangerous waste, problem waste, petroleum products, and hazardous substances.

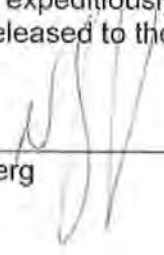
Additional guidance for the development of this SPCC Plan was gathered from federal regulations administered by the United States Environmental Protection Agency for facilities that store, handle, or use oil products as described in Title 40, Code of Federal Regulations, Part 112. Washington State regulations were also considered for the development and implementation of this SPCC Plan. These regulations include the Washington State Department of Ecology Spill Prevention, Preparedness and Response Program requirements for oil facilities as described in the Washington Administrative Code (WAC) 173-181 and the Occupational Safety and Health requirements contained in but not limited to WAC 296-824 and WAC 296-843.

The strongest emphasis will be placed on hazardous material spill prevention. All known and reasonable best management practices and safety procedures must be used at all times on all projects when dealing with hazardous materials. An updated copy of this SPCC Plan must be maintained at the project site at all times. The plan must be updated when project changes in design or operation cause the content of the SPCC Plan to be inconsistent or conflicting with actual site conditions and practices.

All project employees (including sub-contractors) shall be trained in spill prevention and containment. Employees will know where the SPCC Plan and spill response kits are located and will have immediate access to them.

Management Approval

This Spill Prevention Control and Countermeasures (SPCC) Plan is supported by management with the authority to commit the necessary resources including manpower, equipment, and materials to expeditiously control and remove any harmful quantity of oil or hazardous substances released to the water or land of the State of Washington.



Nels Strandberg
President

3/1/17
Dated

SPCC Plan Elements

1. Responsible Personnel

Tyler McKee, is the primary person in charge of the SPCC Plan and coordinating spill prevention and response on the site. All responsible personnel and their corresponding contact information are presented in Table 1 below.

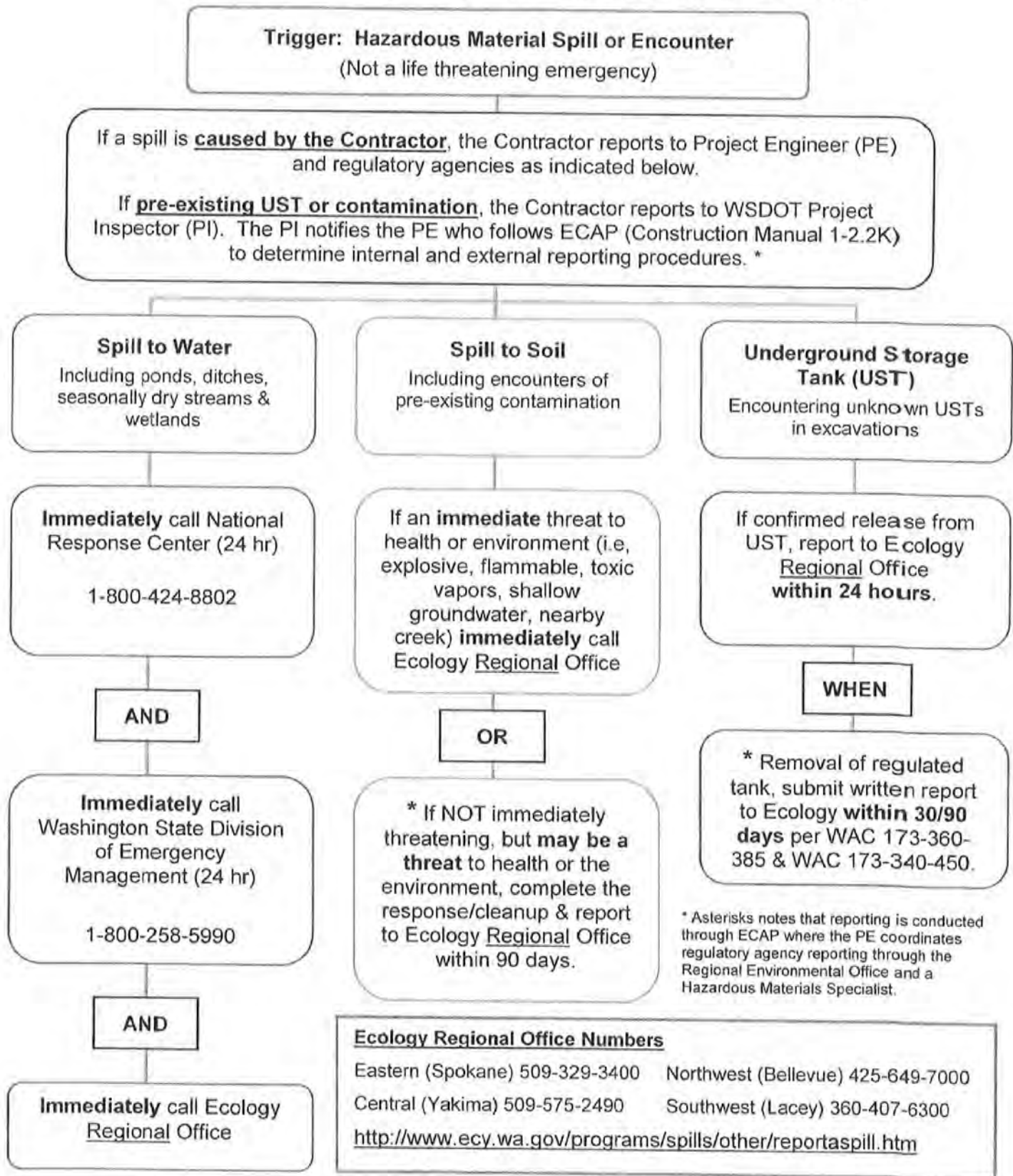
Table 1. SPCC Plan Contacts

Responsibility	Name and Title	Phone Number
Primary SPCC Contact	Nels Strandberg President	Office:360-293-7431 Cell:360-661-0404
Secondary SPCC Contact	Tyler McKee Superintendent	Office: 360-293-7431 Cell:360-661-0305
On-Site Spill Responder		Office: Cell:
On-Site Spill Responder		Office: Cell:
Spill Response Subcontractor		Office: Cell:

2. Spill Reporting

All spills or encounters of hazardous materials are reported to Tyler McKee, the primary person in charge of spill prevention and response for SECCI. Once the spill has been reported internally, external agency notifications must be made by the designated person, as outlined in Figure 1.

Figure 1. External Regulatory Reporting Requirements Flowchart



3. Project and Site Information

- A. The project work: Fill and grade, drainage improvements, paving
- B. The site location and boundaries: Rock Ridge Parkway, East of Antone Way, Anacortes
- C. The drainage pathways from the site:
- D. Nearby waterways and sensitive areas and the distances from the site (describe in Table 2).
Wetlands adjacent to the north and south.

Table 2. Nearby Waterways and Sensitive Areas

Waterway or Sensitive Area	Distance from Project/Site	Direction of Flow from the Project/Site	Runoff Drainage Pathway

4. Potential Spill Sources

A description of each potentially hazardous material brought or generated on-site (including materials used for equipment operation, refueling, maintenance, or cleaning) is found in Table 3.

Heavy equipment hydraulic lines
Engine fluids
Transfer fuel tanks in vehicles

Table 3. Hazardous Materials Brought or Generated On-Site

Material	Intended Use	Maximum Amount On-site	Staging/Storage Location	Distance and Gradient from Staging/Storage Locations to Sensitive Areas	Secondary Containment Method
Diesel	fuel	200 gallons	Fuel tanks, transfer tanks	n/a	
Hydraulic oil	lubricant	100 gallons	Tanks on equipment	n/a	
Motor oil	lubricant	10 gallons	n/a	n/a	

5. Pre-Existing Contamination

None.

6. Spill Prevention and Response Training

All persons/employees and subcontractors will be trained and informed of the necessity to prevent spills of oil, hydraulic oil, and fuel onto the ground or into the waters of Guemes channel. Each person on site will be aware of the procedures with this Spill Prevention Plan, and be trained to use the Vehicle response kits.

7. Spill Prevention

A. Spill response kit contents and location(s).

Table 4. Spill Response Kit Contents and Locations

Type of Spill Kit	Contents	Location(s)
Vehicle kit	Spill pads, absorbents, booms	In work vehicle

B. Security measures for potential spill sources. n/a

C. Secondary containment practices and structures for hazardous materials. n/a

D. Methods used to prevent stormwater from contacting hazardous materials. n/a

E. Site inspection procedures and frequency. Weekly site inspections will be done by field personnel.

F. Equipment and structure maintenance practices. All equipment will be inspected for leaks at the beginning and end of each shift.

G. Daily inspection and cleanup procedures that ensure all equipment used below the ordinary high water line is free of all external petroleum based products. n/a

H. Refueling procedures for equipment that cannot be moved from below the ordinary high water line. n/a

8. Spill Response

- A. A spill of each type of hazardous material at each location identified in Section 4 – Potential Spill Sources. Immediate notification to chain of command as well as stopping the source of the leak and containing the material spilled. Use of the correct material in the spill kit to clean up the hazard and dispose of properly.
- B. Stormwater that has come into contact with hazardous materials. Follow above and deploy boom and/or absorbent pads to contain spill. Notify proper authorities as outlined in figure 1.
- C. A release or spill of any KNOWN pre-existing contamination and contaminant source described in Section 5 – Pre-Existing Contamination. n/a
- D. A release or spill of any UNKNOWN pre-existing contamination and contaminant sources (such as buried pipes or tanks) that may be unexpectedly encountered during project work. n/a
- E. A spill occurring during work with equipment used below the ordinary high water line. n/a

9. Project Site Map

- A. Site location and boundaries; Plat of Rock Ridge Phases IV & V Anacortes
- B. Site access roads; Michigan to Rock Ridge Parkway, East of Antone Way
- C. Drainage pathways from the site;
- D. Nearby waterways and sensitive areas;
- E. Hazardous materials, equipment, and decontamination areas identified in Section 4 – Potential Spill Sources.
- F. Pre-existing contamination or contaminant sources describe in Section 5 – Pre-existing Contamination.
- G. Spill prevention and response equipment described in Section 7 – Spill Prevention and Section 8 – Spill Response.

10. Spill Report Form(s)

SPILL OR INCIDENT REPORT FORM

Instructions: Complete for any type of petroleum product or hazardous materials/waste spill or incident. Provide a copy of this report to management.

1. Personnel Involved in Spill Reporting:

Project Office: Name, Title, and Phone Number: _____

2. Contractor

Name and Title of Person Responsible for Spill Response: _____

Phone Number: _____

3. General Spill Information:

Common Name of Spilled Substance: _____

Quantity Spilled (Estimate): _____

Describe Concentration of Material (Estimate): _____

Date of Spill: ____/____/____

Time Spill Started: ____ AM ____ PM

Time Spill Ended: ____ AM ____ PM

4. Spill Location and Conditions:

Project Title: _____

Street Address and/or Milepost, City: _____

Weather Conditions: _____

If Spill to Water,

Name of Water Body (if ditch or culvert, identify the water body that the structure discharges to): _____

Identify the Discharge Point: _____

Estimate the Depth and Width of the Water Body: _____

Estimate Flow Rate (i.e. slow, moderate, or fast): _____

Describe Environmental Damage (i.e., fish kill?): _____

5. Actions taken:

To Contain Spill or Impact of Incident: _____

To Cleanup Spill or Recover from Incident: _____

To Remove Cleanup Material: _____

To Document Disposal: _____

To Prevent Reoccurrence: _____

6. Reporting the Spill:

Spills to water: Immediately call the National Response Center (1-800-424-8802), Emergency Management (1-800-258-5990), and the appropriate Ecology Regional Office.

Spills to soil that may be an immediate threat to health or the environment (i.e., explosive, flammable, toxic vapors, shallow groundwater, nearby creek, etc.): Call the appropriate Ecology Regional Office immediately. If not immediately threatening, but may be a threat to human health or the environment, report to Ecology within 90 days.

Note: Project specific permits may have additional reporting requirements.

List all agencies contacted; include names, dates, and phone numbers for people you spoke with:

Record ERTS #, if issued by Ecology: _____

7. Person Responsible for Managing Termination/Closure of Incident or Spill:

Name and Phone: _____

Address and Fax: _____

8. Additional Notes/Information (if necessary):

RR
Latecomers



Finance Department

017418-0009 Carla B. 08/16/2017 01:38PM

MISC RECEIPTS

Payment Tran Code:
Deposits Trust (0631)
Description: RR Summit NW
LLC Latecomer

Deposits Trust 2,450.00

631-237-00-00-00 2,450.00C

Payment Id: 169204

2,450.00

Subtotal 2,450.00

Total 2,450.00

CHECK 2,450.00

Check Number 001097

Change due 0.00

Paid by: RR SUMMIT NW, LLC



Thank you for your payment

CUSTOMER COPY



Engineering and Development Services
PO Box 547, Anacortes, WA 98221
Telephone 360.293.1920
Fax 360.293.1938
E-mail engineering@cityofanacortes.org

Latecomer Agreement Application

Municipal Codes 12.20, 13.12.130, 12.32.007

Applicant Information

Date: 4/5/2017

Name: RR Summit NW LLC

Telephone 360-293-7431

Address: PO Box 319 c/o Nels Strandberg

Contact Information (if different)

Name: Debbie Headrick

Telephone 360-293-7431

Address: PO Box 319 Anacortes WA 98221

Summary of Facilities

Facility	Total Project Qty *	Benefiting Property Qty.	Qty. Unit	Unit Cost	Total Project Cost	Total Benefiting Properties Cost
**Street			SF			
***Water			LF			
***Storm			LF			
***Sewer			LF			
Other						
Other						

*Total number of lots served 29 Number of latecomer lots 3

* Total project includes all improvements in addition to the benefiting property improvements.

** Street improvements must include curb, gutter, and sidewalk in the benefiting side of the street.

*** Water, sewer, storm connections must be provided and usable on the benefiting property.

Application Fee Worksheet

	Base Fee	\$950
Number of Facilities	X \$300 =	
Total Application Fee		

Attachments:

- ☐ Name/address of owners of record for each property within proposed assessment area.
- ☐ Plans prepared and stamped by a professional engineer registered in the State of Washington detailing improvements, legal descriptions of all the properties proposed for latecomer agreement, and detailed cost estimate of the entire project.

Rock Ridge Phase 4 & 5

em 4/13/17

	recommended T and M	
Attorney fees	\$	5,000.00
city permits	\$	15,000.00
geotech	\$	22,000.00
staking	\$	15,000.00
maintenance bond	\$	4,000.00
final plat and survey	\$	25,000.00
Clearing	\$	40,000.00
Grinding	\$	35,000.00
Erosion Control		
Land E	\$	2,000.00
materials	\$	25,000.00
Cut and fill ROW / Lots		
Blasting	\$	85,000.00
EX 330	\$	64,000.00
D6	\$	35,000.00
Rock truck	\$	60,000.00
84" roller	\$	25,000.00
rent crusher	\$	17,800.00
excavator to load	\$	9,600.00
ROW stripping		
Land E		
Sewer Install		
Land E	\$	65,000.00
Manholes	\$	8,116.00
lids and risers	\$	3,639.52
Pipe	\$	8,376.00
import pipe bedding	\$	7,500.00
Manhole channel	\$	2,000.00
Storm Install		
Land E	\$	65,000.00
Catch basins	\$	5,626.20
Frame and Grate	\$	5,106.68
Structures pipe and bedding sand	\$	15,600.00
import bedding	\$	7,500.00
Water Install		
Land E	\$	75,000.00
Materials	\$	40,296.00
import bedding	\$	7,500.00
Curb and Gutter / Sidewalk		
Land E	\$	25,000.00
Crushed rock	\$	2,000.00
Backstorm phase V	\$	37,474.00
Backstorm phase IV	\$	52,567.00
planter strip	\$	5,000.00
Sub Grade prep		
Land E	\$	15,000.00
D 4 rent	\$	8,500.00
Asphalt and CSTC	\$	128,000.00
Final Grade and Clean up	\$	40,000.00
Dry Utility Trench	\$	25,000.00
Trench Backfill	\$	6,000.00
PSE	\$	105,000.00
CNG		
landscape	\$	30,000.00
Plus applicable taxes	\$	40,000.00
Seccl profit and overhead 10%	\$	132,020.14
Total	\$	1,452,221.54
Net	\$	50,076.60

Tranka lots (3)

29 lots

Add 50k for pump station estimate

Enr 4/13/17



ANACORTES PUBLIC WORKS DEPARTMENT

STEVEN LANGE, Project Manager
P.O. BOX 547, ANACORTES, WA 98221
Cell: (360) 661.3468
E-MAIL: stevel@cityofanacortes.org

To:

Date:

Subject:

PW#:

STREWORK:
STREET CURB/GUTTER/SW
ASPHALT - C.S.T.C.

SEWER: SUBGRADE-TREATMENT BOTTOM
WATER: UPGRADE/PUMP.
STORM: "

FRANCHISE UTILITIES:

- GAS - FIBER.
- POWER
- CABLE
- LIGHTING

4" CONDUIT - J.U.T. FIBER OPTIC.

- Water • Wastewater • Streets • Storm Drainage • Engineering • Solid Waste
- Transportation and Equipment • Capital Projects • Development Services

EXHIBIT #04:

APPROVED LANDSCAPE PLAN



Planning Commission Minutes – October 12, 2005

Rock Ridge South – Landscaping/Clear & Grade Permit

The Vice-Chair Mr. Clay Leming introduced the proposed Rock Ridge South landscape and clearing/grading permit generally located at West 12th and “K” Avenue West. Mr. Don Measamer, Assistant Director of Planning explained that with this landscape plan the applicant proposes to transfer approximately 5 acres of significant wetland to the Anacortes Forestlands.

In answering a question from Commissioner Kuehn, Mr. Steve Bond, Summit Engineers and Surveyors, 17253 Dunbar Road, Mt. Vernon WA., explained that there will be no clearing done near the sensitive areas November through February. He went on to explain that temporary erosion control will be put in place during construction. Wayne Nelson, Nelson Design Group, explained that applicant will condition sensitive lots in the CCRS, which would regulate uses of organic material for lawn care. Mr. Tony Malo, Applicant, clarified that Condition No. 41 of the findings and fact requires use of organic materials.

After discussion, the Commission approved the landscape plan as submitted with the following added condition that: “No clearing shall be done on Lots 1-14 Phase 2, and 6-7 of Phase I from November through February.” This action was taken on a motion by Commissioner Laumbattus, seconded by Commissioner Gere, and passed unanimously.



TO Planning Commission
FROM Land Use Permits
SUBJECT Rock Ridge South Landscape Plan and Grading Plan
DATE October 5, 2005

Please find attached:

-
- * September 8, 2005 Narrative
 - * Excerpt from Section 7.1 of the CC&R's
 - * Drawing indicating Native Growth area, home owner association space, wetland area
 - * October 3, 2005 Memorandum from the DRG
 - * Excerpt from Findings of Fact and Conclusions of Law – Rock Ridge South
 - * Drawings
-



September 8, 2005

City of Anacortes Planning Commission
City of Anacortes
Anacortes, WA 98221

Re: Rock Ridge South Landscaping and Clearing and Grading Plans

Dear Commissioners,

On July 26, 2005 the Anacortes City Council approved the Preliminary Plat of Rock Ridge South. The Approval was conditioned upon compliance with forty-three conditions. Conditions 15 and 39 require approval by the Planning Commission before work can commence. Please find attached the Landscaping and Clearing and Grading Plans as required by Conditions 15 and 39.

To satisfy Condition 15 we have contracted with a landscape architect to design a plan for any areas that may require landscaping. We are including a plan indicating the areas that are to be left as open space. The 4.25 acre area of Tract "B" by itself with the 200% bonus more than satisfies the landscaping requirement as defined in the City's Landscaping Ordinance. In addition, the landscaping of each individual lot will also be regulated by the Rock Ridge Community Association CC&R's and the Association's Covenant Committee. Please find enclosed Section 7.1, the landscaping portion of the CC&R's, which will be recorded with the each new phase of the plat. The language in Section 7.1 is the same as has been recorded with all the other portions of Rock Ridge built to date. Rock Ridge South, LLC (RRS) feels that the landscaping requirement as defined by the Landscaping Ordinance and Condition 15 has been satisfied with this submittal.

We propose that the Clearing and Grading be a two part process. First for safety reasons RRS proposes to clear all the ROW's and adjoining utility easements in the entire Rock Ridge South plat leaving all the lots covered with the existing vegetation. Once this has occurred the drilling and blasting of the cleared areas will commence. It is our intention to complete all the blasting that can be foreseen at this time i.e. before the construction of homes begins. To date, we have had **zero** safety issues and we maintain that this is the best way to ensure that we continue our safety record. By doing the blasting at the beginning of construction, the clearing of the rest of the plat, on a phase by phase basis, becomes substantially less problematic. Only after the ROW blasting has been completed in Phases I and II will the clearing of the lots in Phases I and/or II begin. If blasting on

the lots of Phase I and II is required it will be done at that time. Phases III-V will be left in their natural state until after the infrastructure has been installed in the previous phases. As we mentioned during our public hearings the phase lines are approximate. Even though we have had a field topographical survey map drawn of this entire site it has been our experience that it is rarely 100% accurate and the conditions we encounter in the field will in effect define each phase and dictate how quickly or slowly we are able to proceed with the installation of the infrastructure in each phase.

We respectfully request your approval of both the Landscaping Plan and the Clearing and Grading Plan as submitted.

Respectfully,

A handwritten signature in dark ink, appearing to read 'Anthony Malo, Jr.', with a long horizontal flourish extending to the right.

Anthony Malo, Jr.
Rock Ridge South, LLC

maintain the concept of an open common area landscaping theme for Rock Ridge Subdivision, and no fences (natural or artificial) shall be constructed or planted on Lots within the Subdivision without the prior written approval of the Declarant or the Architectural Control Committee.

Any and all fences consistent with this paragraph and approved by the Declarant or the Architectural Control Committee shall be of wood, brick or other modern building materials to ensure compatibility with the high-quality, individual residential dwelling units located within the Subdivision. No chain link (slatted or unslatted) or barbed wire fences shall be allowed on any Lot within the Subdivision. Fences shall be constructed consistent with all applicable height restrictions of this Declaration and of local zoning authorities; provided, however, that any fences located in what is commonly referred to as the "front yard" of any residential Lot within the Subdivision shall not exceed *three (3)* feet in height. For purposes of this limitation, the "front yard" shall refer to the area from the platted street in the Subdivision providing access to the Lot to the nearest side of the residence constructed on the Lot. All natural or "living" fences or hedges shall be neatly trimmed and groomed, and also shall be subject to the height limitations set forth in this Declaration and in any applicable zoning code or regulation. It is the hope of the Declarant that living fences will be given preference, especially in side yards.

7. LANDSCAPING AND GENERAL PROPERTY MAINTENANCE:

7.1 **Approval of Landscaping Plan.** All landscaping within the Subdivision shall be subject to the approval of Declarant or the Architectural Control Committee. The term "landscaping" shall include an inground sprinkler system which conforms with the design standards promulgated from time to time by Declarant or the Architectural Control Committee. Landscaping of each residential Lot shall be completed within a reasonable time, not to exceed *six (6) months* from the date a residence is completed.

7.2 **Appearance of Lot.** No weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon subject real property and no refuse pile, garbage, unused motor vehicles or unsightly objects shall be allowed to be placed or to remain anywhere within the Subdivision. In the event that any owner of property within the Subdivision shall fail or refuse to keep the premises free from weeds, underbrush, refuse piles, garbage, unused motor vehicles or other unsightly growth or objects, then Declarant or authorized agents of the Association may enter upon the lands to remove the same at the expense of the owner, such entry shall not be deemed a trespass and, for purposes of such entry, the Lot owner hereby grants to Declarant or the Association an irrevocable license to enter upon their respective property. This subsection, shall be interpreted as encouraging organic, as opposed to chemical, agents to combat weeds, underbrush and the like.



PLAT OF
 ROCK RIDGE SOUTH
 NW1/4, SEC 26,
 TWP 35N, R1GE 1E, W.M.

AREA BREAKDOWN FROM PRELIMINARY PLAT

LANDSCAPE AREA DESCRIPTION	SQ.-FT.	ACRES	% OF TOTAL AREA (ACTUAL)	% OF TOTAL AREA (WITH 200% BONUS)
TRACT "A" **	37,732	0.87	2.78%	2.78%
TRACT "B" *	185,013	4.25	13.63%	27.27%
TRACT "C" **	13,550	0.31	1.00%	1.00%
TRACT "D" **	1,009	0.02	0.07%	0.07%
TRACT "E" **	1,292	0.03	0.10%	0.10%
TRACT "G" **	1,643	0.04	0.12%	0.12%
TRACT "H" **	1,073	0.02	0.08%	0.08%
TRACT "I" **	988	0.02	0.07%	0.07%
N.G.P.E.	31,872	0.73	2.35%	2.35%
TOTAL PROVIDED	274,172	6.29	20.20%	33.84%

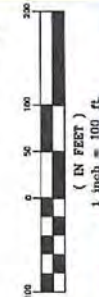
AREA BREAKDOWN FROM PLAT

LANDSCAPE AREA DESCRIPTION	SQ.-FT.	ACRES	% OF TOTAL AREA (ACTUAL)	% OF TOTAL AREA (WITH 200% BONUS)
TRACT "A" **	37,732	0.87	2.78%	2.78%
TRACT "B" *	182,934	4.20	13.48%	26.96%
TRACT "C" **	14,672	0.34	1.08%	1.08%
TRACT "D" **	1,108	0.03	0.09%	0.07%
TRACT "E" **	1,425	0.03	0.11%	0.10%
TRACT "G" **	1,425	0.03	0.11%	0.12%
TRACT "H" **	1,092	0.03	0.08%	0.08%
TRACT "I" **	907	0.02	0.07%	0.07%
N.G.P.E.	32,303	0.74	2.38%	2.35%
TOTAL PROVIDED	273,588	6.28	20.16%	33.64%

- * AREA INCLUDES WETLANDS 'D' & 'E' AND BUFFER WITHIN TRACT
- ** OWNERSHIP TO BE RETAINED BY THE HOMEOWNER'S ASSOCIATION
- *** 200% BONUS FOR RETENTION PER CITY OF ANACORTES CODE 17.41.050 - EXISTING SITE VEGETATION.

LEGEND:

- INDICATES NATIVE GROWTH AREA
- INDICATES SPACE FOR HOME OWNER ASSOCIATION
- INDICATES WETLAND AREA

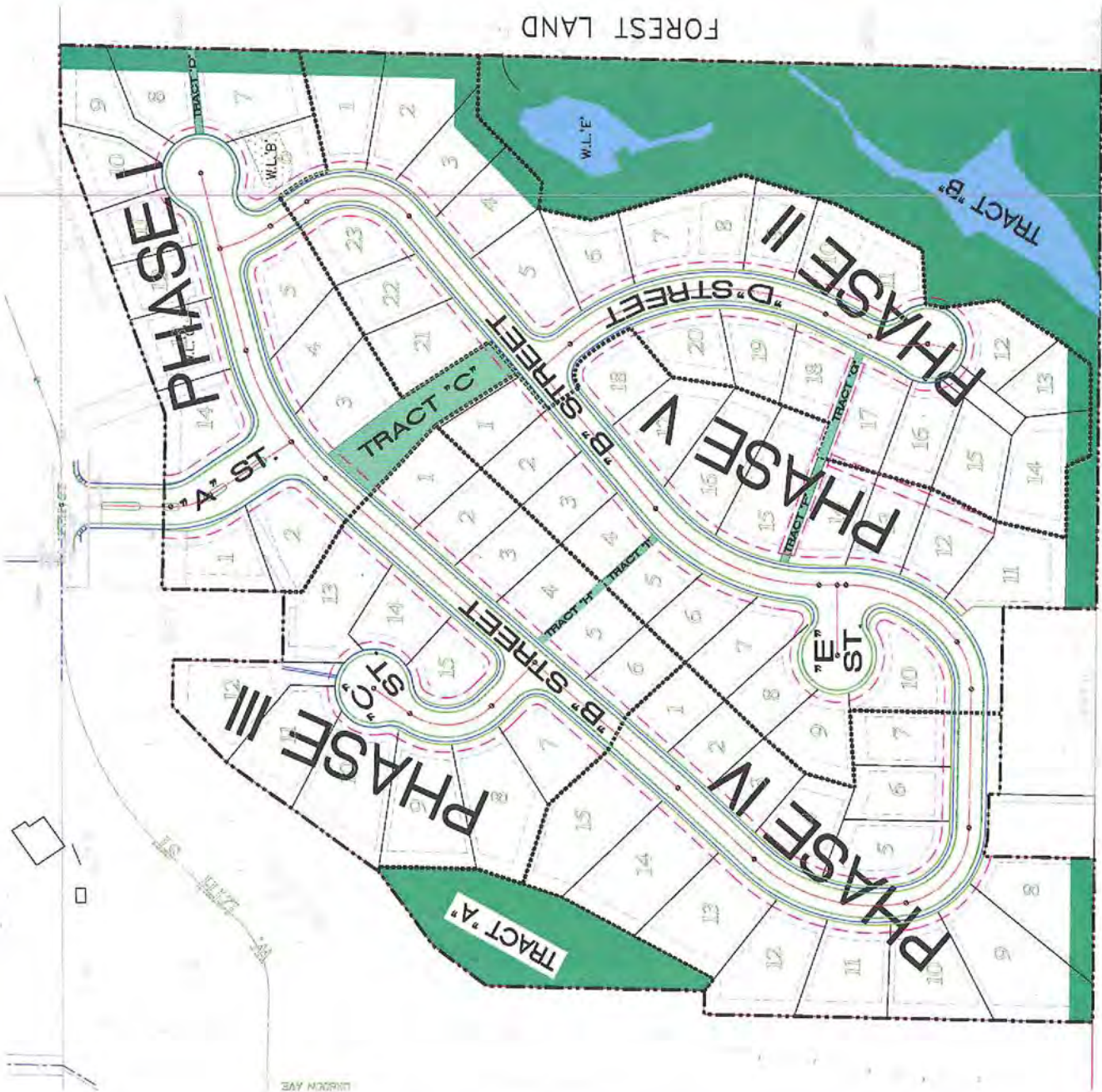


SUMMIT ENGINEERS & SURVEYORS, INC.
 2218 OLD HIGHWAY 99 SOUTH ROAD, MOUNT VERNON, WA 98273
 PHONE: (360) 416-4998 FAX: (360) 416-4949
 E-MAIL: YSK@SUMMITES.COM

PW#03-037-DEV

FOREST LAND

FOREST LAND



Memo

To: Kathy Janke, Land Use Permit Manager

From: Don Measamer, DRG 

CC: Steve Lange, Project Manager

Date: 10/3/2005

Re: Rock Ridge South Landscape Plan and Grading Plan

The Development Review Group discussed the proposed Landscape Plan and Grading plan for the Rock Ridge South project at the September 27th, 2005 meeting and find that the proposal is consistent with the proposed infrastructure improvements presented by the engineer of record.

- (15) A detailed, final landscaping plan shall be approved by the Planning Commission prior to construction beginning on each and every phase, together with an overall conceptual Landscaping Plan submitted with the first phase; Lot 7 of Phase V shall have a separate, detailed, and approved Landscaping Plan that minimizes impacts to the hillside.
 - (39) No clearing shall occur on the site prior to a detailed, phased clearing plan being approved by the Planning Commission.
-



ANACORTES PLANNING & COMMUNITY DEVELOPMENT DEPT.

(INCLUDING BUILDING DEPARTMENT)
P.O. BOX 547, ANACORTES, WA 98221
IAN MUNCE, DIRECTOR

(360) 299-1943
(360) 293-1938 FAX

September 15, 2005

Tony Malo
Rock Ridge South LLC
3307 "H" Avenue
Anacortes, WA 98221

RE: Rock Ridge South Detention Pond Landscaping Plan

Dear Mr. Malo:

Thank you for your September 8, 2005 letter on the above referenced subject.

This letter is to confirm that the existing detention pond landscaping satisfies your requirements under Condition #35. In the event that some disturbance is required in this landscaping, the alternative landscaping plan that you have submitted is acceptable to the Planning Department.

Thank you for your detailed submission.

Sincerely,

CITY OF ANACORTES

Ian S. Munce (LS)

Ian S. Munce, AICP
Director of Planning & Community Development

ISM:ll

cc: Don Measamer, Assistant Planning Director



TO Ed Frank, Don Measamer (DRG), Fred Buckenmeyer, Gary Robinson, Rick Harvey,
Dan Harju, Mike King

FROM Kathy Janke/Land Use Permits

RE Rock Ridge South Landscaping and Clearing and Grading Plans

DATE September 16, 2005

Please find attached:

- ☐ September 8, 2005 narrative
- ☐ Landscaping and Clearing and Grading Plans
- ☐ 3-D clear and grade drawing (on file)

Please refer comments to the DRG. Thank you.



September 8, 2005

City of Anacortes Planning Commission
City of Anacortes
Anacortes, WA 98221

Re: Rock Ridge South Landscaping and Clearing and Grading Plans

Dear Commissioners,

On July 26, 2005 the Anacortes City Council approved the Preliminary Plat of Rock Ridge South. The Approval was conditioned upon compliance with forty-three conditions. Conditions 15 and 39 require approval by the Planning Commission before work can commence. Please find attached the Landscaping and Clearing and Grading Plans as required by Conditions 15 and 39.

To satisfy Condition 15 we have contracted with a landscape architect to design a plan for any areas that may require landscaping. Rock Ridge South, LLC (RRS) feels that the landscaping requirement as defined by the Landscaping Ordinance and Condition 15 has been satisfied with this submittal.

We propose that the Clearing and Grading be a two part process. First for safety reasons RRS proposes to clear all the ROW's and adjoining utility easements in the entire Rock Ridge South plat leaving all the lots covered with the existing vegetation. Once this has occurred the drilling and blasting of the cleared areas will commence. It is our intention to complete all the blasting that can be foreseen at this time i.e. before the construction of homes begins. To date, we have had **zero** safety issues and we maintain that this is the best way to ensure that we continue our safety record. By doing the blasting at the beginning of construction, the clearing of the rest of the plat, on a phase by phase basis, becomes substantially less problematic. Only after the ROW blasting has been completed in Phases I and II will the clearing of the lots in Phases I and/or II begin. If blasting on the lots of Phase I and II is required it will be done at that time. Phases III-V will be left in their natural state until after the infrastructure has been installed in the previous phases. As we mentioned during our public hearings the phase lines are approximate. Even though we have had a field topographical survey map drawn of this entire site it has been our experience that it is rarely 100% accurate and the conditions we encounter in the field will in effect define each phase and dictate how quickly or slowly we are able to proceed with the installation of the infrastructure in each phase.

We respectfully request your approval of both the Landscaping Plan and the Clearing and Grading Plan as submitted.

Respectfully,

Anthony Malo, Jr.
Rock Ridge South, LLC

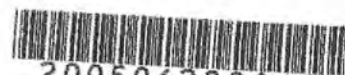
maintain the concept of an open common area landscaping theme for Rock Ridge Subdivision, and no fences (natural or artificial) shall be constructed or planted on Lots within the Subdivision without the prior written approval of the Declarant or the Architectural Control Committee.

Any and all fences consistent with this paragraph and approved by the Declarant or the Architectural Control Committee shall be of wood, brick or other modern building materials to ensure compatibility with the high-quality, individual residential dwelling units located within the Subdivision. No chain link (slatted or unslatted) or barbed wire fences shall be allowed on any Lot within the Subdivision. Fences shall be constructed consistent with all applicable height restrictions of this Declaration and of local zoning authorities; provided, however, that any fences located in what is commonly referred to as the "front yard" of any residential Lot within the Subdivision shall not exceed *three (3)* feet in height. For purposes of this limitation, the "front yard" shall refer to the area from the platted street in the Subdivision providing access to the Lot to the nearest side of the residence constructed on the Lot. All natural or "living" fences or hedges shall be neatly trimmed and groomed, and also shall be subject to the height limitations set forth in this Declaration and in any applicable zoning code or regulation. It is the hope of the Declarant that living fences will be given preference, especially in side yards.

7. LANDSCAPING AND GENERAL PROPERTY MAINTENANCE:

7.1 *Approval of Landscaping Plan.* All landscaping within the Subdivision shall be subject to the approval of Declarant or the Architectural Control Committee. The term "landscaping" shall include an inground sprinkler system which conforms with the design standards promulgated from time to time by Declarant or the Architectural Control Committee. Landscaping of each residential Lot shall be completed within a reasonable time, not to exceed *six (6) months* from the date a residence is completed.

7.2 *Appearance of Lot.* No weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon subject real property and no refuse pile, garbage, unused motor vehicles or unsightly objects shall be allowed to be placed or to remain anywhere within the Subdivision. In the event that any owner of property within the Subdivision shall fail or refuse to keep the premises free from weeds, underbrush, refuse piles, garbage, unused motor vehicles or other unsightly growth or objects, then Declarant or authorized agents of the Association may enter upon the lands to remove the same at the expense of the owner, such entry shall not be deemed a trespass and, for purposes of such entry, the Lot owner hereby grants to Declarant or the Association an irrevocable license to enter upon their respective property. This subsection, shall be interpreted as encouraging organic, as opposed to chemical, agents to combat weeds, underbrush and the like.





TO Ed Frank, Don Measamer (DRG), Fred Buckenmeyer, Gary Robinson, Rick Harvey,
Dan Harju, Mike King

FROM Kathy Janke/Land Use Permits

RE Rock Ridge South Landscaping and Clearing and Grading Plans

DATE September 16, 2005

Please find attached:

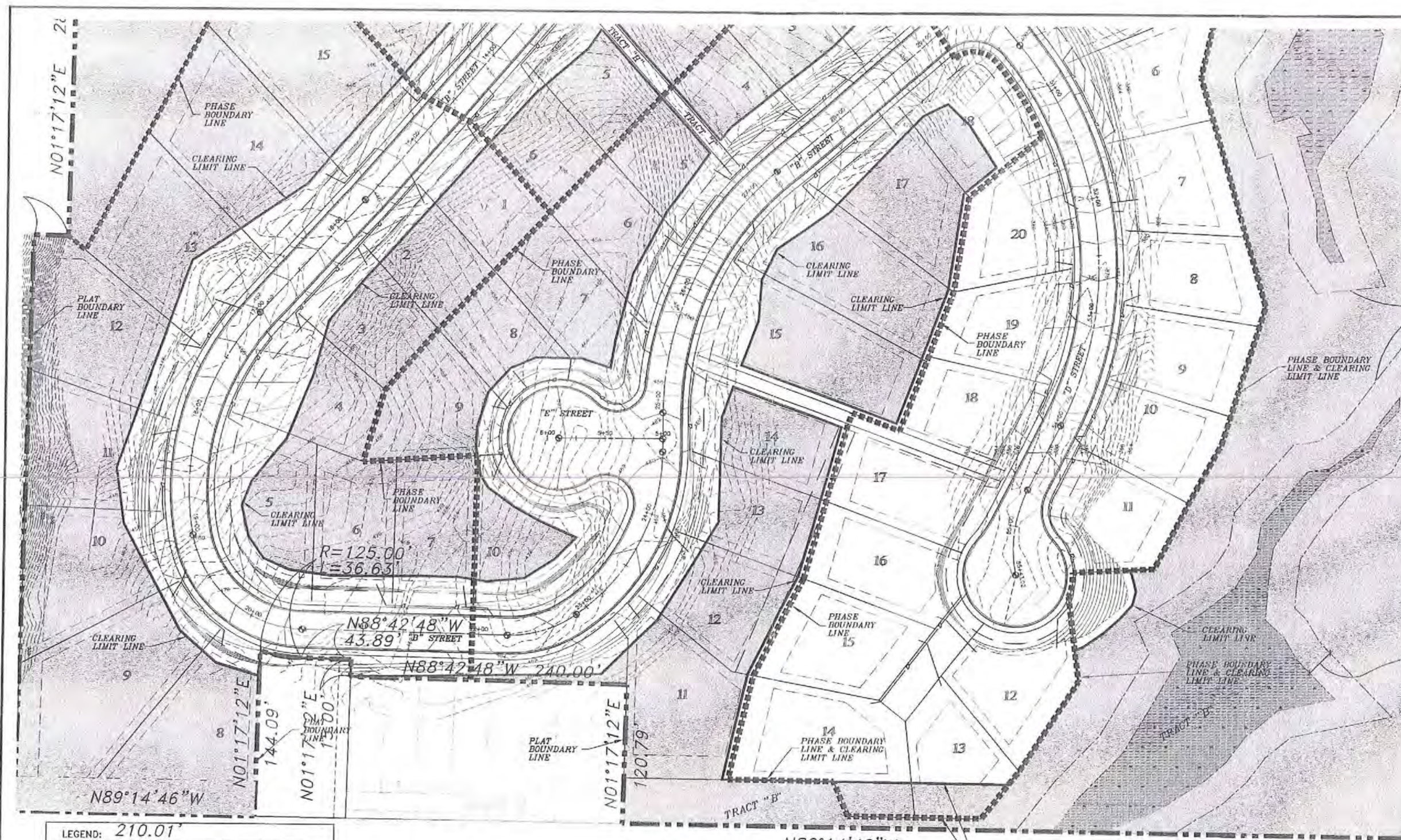
- ☐ September 8, 2005 narrative
- ☐ Landscaping and Clearing and Grading Plans
- ☐ 3-D clear and grade drawing (on file)

Please refer comments to the DRG. Thank you.

9-19-05 No Comment / Mr. King - Police

- (15) A detailed, final landscaping plan shall be approved by the Planning Commission prior to construction beginning on each and every phase, together with an overall conceptual Landscaping Plan submitted with the first phase; Lot 7 of Phase V shall have a separate, detailed, and approved Landscaping Plan that minimizes impacts to the hillside.
- (39) No clearing shall occur on the site prior to a detailed, phased clearing plan being approved by the Planning Commission.

PLAT OF
ROCK RIDGE SOUTH
NW1/4, SEC 26,
TWP 36N, RGE 1E, W.M.

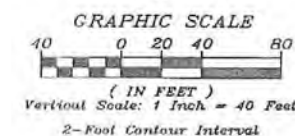


- LEGEND: 210.01'
- INDICATES EXISTING MINOR 2-FOOT CONTOUR
 - INDICATES EXISTING MAJOR 10-FOOT CONTOUR
 - INDICATES PROPOSED DAYLIGHT LINE
 - INDICATES PROPOSED MINOR 2-FOOT CONTOUR
 - INDICATES PROPOSED MAJOR 10-FOOT CONTOUR
 - INDICATES PROPOSED CLEARING LIMIT LINE
 - INDICATES PROPOSED PLAT BOUNDARY LINE
 - INDICATES PROPOSED PHASE BOUNDARY LINE
 - INDICATES EXISTING WETLAND TO BE PROTECTED
 - INDICATES VEGETATED AREAS TO REMAIN UNDISTURBED WITH PHASES 1 & 2

This plan is approved for construction in accordance with the City of Anacortes ordinances and policies. Actual construction of the design with applicable laws is the sole responsibility of the professional engineer, whose name and stamp appear on this sheet. Acquiring, complying with, and providing mitigation for all Federal, State County, and Local laws, permits, and easements, including but not limited to the Endangered Species Act, Federal Wetland Permit, State Department of Fisheries Hydraulic Permit, Federal Flood Plain Permit, National Pollutant Discharge Elimination System Permit is the responsibility of the developer, landowner, and their Engineer. The issuance of this permit shall not be construed as proof of compliance with applicable laws and permit requirements.

Date: _____

This approval will expire in one year from the date noted above.



PW#03-037-DEV

TITLE NAME: 05203-05145/95
PLOT SCALE: 1:1 PAPER SPACE
LAST EDIT DATE: 11/21/2003

DESIGNED BY: _____
DRAWN BY: _____
CHECKED BY: _____

REVISIONS: _____
DATE: _____



SUMMIT Engineers & Surveyors, Inc.
2218 Old Highway 99, Sno. Mount, Vernon, WA, 98273 Phone: (360) 416-4999 Fax: (360) 416-4949

SHEET DESCRIPTION

CLEARING AND GRADING PLAN SOUTH

PROJECT

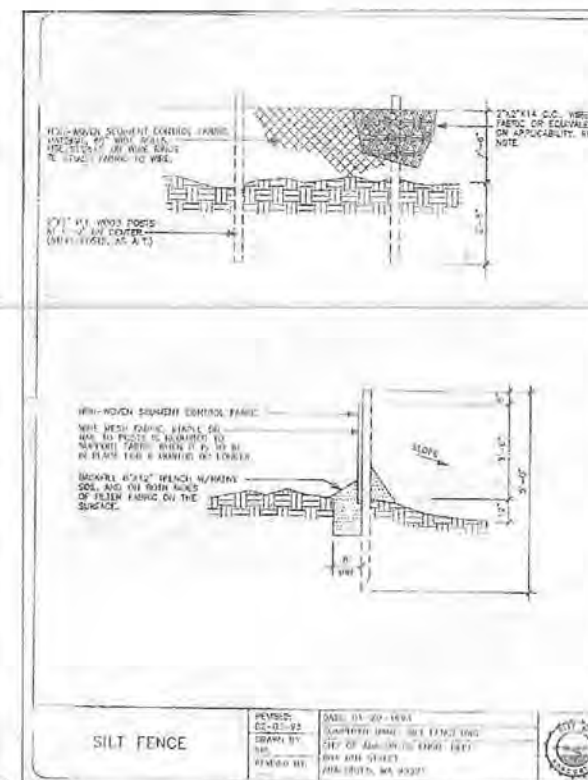
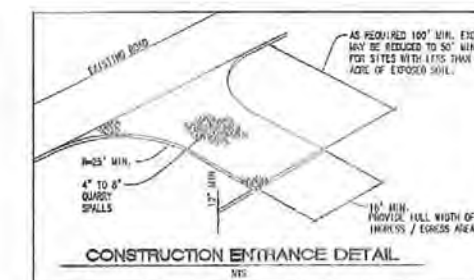
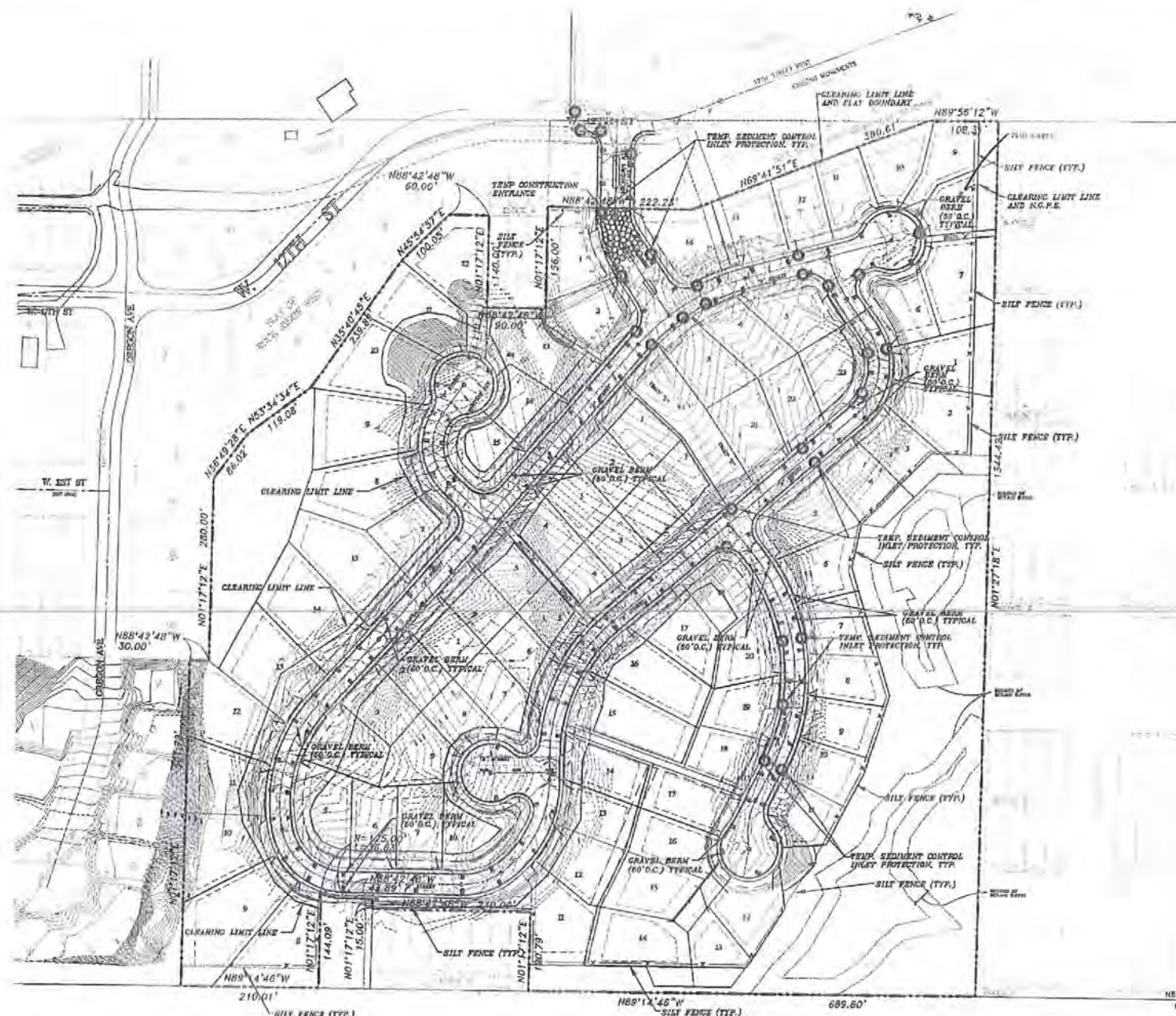
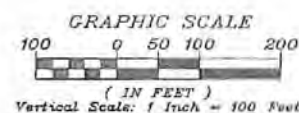
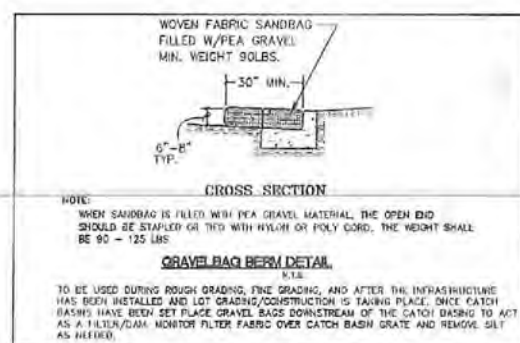
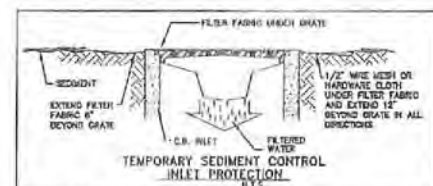
Clearing, Grading, & Erosion Control for
ROCK RIDGE SOUTH, PHASES 1 & 2

DEVELOPER

ROCK RIDGE LLC, 3307 "H" AVENUE, ANACORTES, WA 98221 PHONE: (360) 299-0406

Planning
C-2p

PLAT OF
ROCK RIDGE SOUTH
NW1/4, SEC 26, TWP 36N, RGE 1E, W.M.



This plan sheet is approved for construction in accordance with the City of Anacortes ordinances and policies. Actual performance of the design with applicable laws is the sole responsibility of the professional engineer, whose name and stamp appear on this sheet. Acquiring, complying with, and providing mitigation for all Federal, State County, and Local laws, permits, and mandates, including but not limited to the Endangered Species Act, Federal Wetland Permit, State Department of Fisheries Hydraulic Permit, Federal Flood Plain Permit, National Pollution Discharge Elimination System Permit, is the responsibility of the Developer, Landowner, and their Engineer. The issuance of this permit shall not be construed as proof of compliance with applicable laws and permit requirements.

Date: _____

This approval will expire in one year from the date noted above.



1-800-424-5555

FILE NAME:	03203-95145PPS
DESIGNED BY:	
DRAWN BY:	
CHECKED BY:	
DATE:	11/21/2003

SUMMIT Engineers & Surveyors, Inc.

2218 180 Highway 99 So. Mount Vernon WA 98273 Phone: (360) 416-4999 Fax: (360) 416-4849

TEMPORARY EROSION & SEDIMENTATION CONTROL PLAN

PROJECT: Clearing, Grading, & Erosion Control for ROCK RIDGE SOUTH, PHASES 1 & 2

DEVELOPER: ROCK RIDGE LLC, 3307 71st AVENUE, ANACORTES, WA 98221 PHONE: (360) 299-0100

Planning C-3p

EXHIBIT #05:

PUBLIC WORKS DEPARTMENT DEFICIENCY LIST /BONDING ITEMS LETTER



ANACORTES PUBLIC WORKS DEPARTMENT

Steven Lange, Project Manager
P.O. BOX 547, ANACORTES, WA 98221
E-MAIL: stevel@cityofanacortes.org

PH(360) 661.3468
FAX(360) 293-1938

Memo

Date: August 15, 2017

To: Nels Strandberg, Owner/Developer

From: Steven Lange

Subject: Deficiency List – Site Visit – Phase IV of Rock Ridge (PW#03-037-DEV)

cc: Fred Buckenmeyer, Eric Shjarback, Don Measamer, Sandi Andersen, Justin Symonds, Kevin Cricchio

A site visit was performed on August 2, 2017, at the request of the Developer, to develop a list of deficiencies and construction items that need to be completed. This list does not include any other items that may be needed or required by other City Departments.

Also, a review of the project file was done. Enclosed, within this list, are items needed to complete "Rock Ridge – Phase IV" project to construction closeout. Items reviewed in the project file are:

1. The Approved Construction Drawings and Revised Plans as noted.
2. The Facts and Finding for the Development.
3. The Public Works Engineering Construction Administration File.

Below is a list of items that have been identified by all parties present as needing to be completed. This list is minor in detail and is subject to any additional items not shown or referenced and to include all items as shown on the approved and revised Construction Drawings and referenced documents.

WATER:

- ◇ Upgrades to the Rock Ridge Pump Station.

GENERAL DEVELOPMENT:

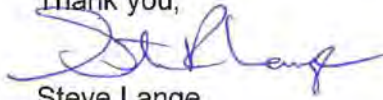
- ◇ Provide a paid receipt for the street lighting.
 - ◇ Provide a Drawing of Record for review and acceptance by Engineering.
 - ◇ Install Landscaping.
 - ◇ Install street lighting.
-

Final Plat Approval Phase:

- ◇ Provide a 2-year Maintenance Bond.

For all site inspections, please contact Justin Symonds at 360.661-3547.

Thank you,

A handwritten signature in blue ink, appearing to read "Steve Lange", written over the printed name.

Steve Lange

EXHIBIT #06:

**PUBLIC WORKS DEPARTMENT,
ONE-YEAR PERFORMANCE BOND LETTER**



ANACORTES PUBLIC WORKS DEPARTMENT

Fred Buckenmeyer, Public Works Director

P.O. BOX 547, ANACORTES, WA 98221 PH(360) 293-1919

Email: fredb@cityofanacortes.org

August 15, 2017

Nels Strandberg
Strandberg Custom Home and Design
P.O. Box 319
Anacortes, WA 98221

SUBJECT: Performance Bond Rock Ridge, Phase IV (PW#03-037-DEV)

Dear Nels,

This letter is to confirm the required improvements for your project at Rock Ridge, Phase IV (PW#03-037-DEV) for a One Year Performance Bond.

The value of the work to be completed is based on cost estimates provided by your Company. Please see the attached documents. The calculations were performed to determine the Project Value for the purpose of fee calculations. The project value for the required improvements is \$125,000.00.

Per the Anacortes Municipal Code, the Performance Bond value is the construction cost \$125,000.00 x 150%. The amount of Performance Bond for your project is \$187,500.00.

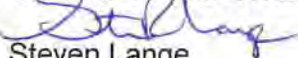
All work remaining to be completed will be per the approved construction plans, Summit Engineering and Surveying, dated November 18, 2005. Per the City of Anacortes Municipal Code, the Performance Bond is good for 1-year from the date of issuance.

Please be advised that the work remaining will need to be inspected and accepted by the City of Anacortes Public Works Department before the expiration date. Otherwise, the City of Anacortes Public Works Department will be forced to act on the Performance Bond. Please provide a Performance Bond in the amount of \$187,500.00.

If you have any questions, please contact me at 360.299.1983.

Sincerely,

CITY OF ANACORTES


Steven Lange
Project Manager

CC: Fred Buckenmeyer, Eric Shjarback, Don Measamer, Sandi Andersen, Justin Symonds, Kevin Cricchio



• Water • Wastewater • Streets • Storm Drainage • Engineering • Solid Waste
• Transportation • Equipment • Capital Projects • Development Services

EXHIBIT #07:

**PUBLIC WORKS DEPARTMENT,
TWO-YEAR MAINTENANCE BOND LETTER**



ANACORTES PUBLIC WORKS DEPARTMENT

Fred Buckenmeyer, Public Works Director

P.O. BOX 547, ANACORTES, WA 98221 PH(360) 293-1919

Email: fredb@cityofanacortes.org

August 15, 2017

Strandberg Custom Homes and Design

Attention: Nels Strandberg

P.O. Box 319

Anacortes, WA 98221

Subject: 2-Year Maintenance Bond for the Phase IV of Rock Ridge Plat
(PW#03-037-DEV)

Dear Nels),

Thank you for working with us to move forward to Final Plat approval. The work performed to install the infrastructure improvements have been inspected, approved and accepted by the City of Anacortes Public Works Engineering Department on August 2, 2017. Per the City of Anacortes Municipal Code to you are required to provide a 2-year Maintenance Bond. The bond is based on 10% of the construction cost of the development.

The construction cost that was presented for the infrastructure improvements for the Phase IV of Rock Ridge Plat is \$355,554.45. At 10% of the construction cost, your bond amount is \$35,555.45.

Your project requires the two-year bond to satisfy the maintenance of the infrastructure improvements. This bond will be used at the discretion of the official to correct deficiencies in the maintenance affecting public health, safety and welfare and will be posted and maintained throughout the two-year maintenance period.

Thank you for your attention to this. If you have any questions, please do not hesitate to call me at 360-661.3468.

Sincerely,

CITY OF ANACORTES

Steven Lange
Project Manager

cc: Fred Buckenmeyer, Eric Shjarback, Sandi Anderseon, Don Measamer, Kevin



- Water • Wastewater • Streets • Storm Drainage • Engineering • Solid Waste
- Transportation • Equipment • Capital Projects • Development Services

Rock Ridge Phase 4
Sewer Install

L and E	\$ 38,400.00
Manholes	\$ 8,116.00
lids and risers	\$ 3,639.52
Pipe	\$ 8,376.00
import pipe bedding	\$ 7,500.00
Manhole chanel	\$ 2,000.00

Storm Install

L and E	\$ 26,874.00
Catch basins	\$ 5,826.20
Frame and Grate	\$ 5,108.68
Strutures pipe and bedding sand	\$ 15,687.00
import bedding	\$ 8,432.00

Water Install

L and E	\$ 25,600.00
Materials	\$ 40,296.00
import bedding	\$ 7,500.00

Curb and Gutter / Sidewalk

L and E	\$ 1,687.00
Crushed rock	\$ 2,145.00
Backstorm phase IV	\$ 48,486.05
planter strip	\$ 5,421.00

Sub Grade prep

L and E	\$ 6,400.00
D 4 rent	\$ 3,000.00

Asphalt

\$ 42,862.00

Final Grade and Clean up

\$ 20,000.00

Dry Utility Trench	\$ 6,400.00
Trench Backfill	\$ 6,000.00
landscape	\$ 10,000.00

total costs \$ 355,554.45

MAINTENANCE BOND

08.14.17

SRL

EXHIBIT #08:

APPLICANT'S PERFORMANCE & MAINTENANCE BONDS /LETTER OF CREDIT

MAINTENANCE BOND

BOND NO.: 1001080979

KNOW ALL MEN BY THESE PRESENTS:

THAT we, Strandberg Excavation & Commercial Construction Inc, as Principal,
and American Contractors Indemnity Company, a corporation organized and doing business under
and by virtue of the laws of the State of California and duly licensed to conduct surety
business in the State of Washington, as Surety, are held and firmly bound unto
City of Anacortes Washington

as Obligee, in the sum of Thirty-Five Thousand, Five Hundred Fifty-Five and 45/100

(\$ 35,555.45) Dollars, for which payment, well and truly to be made, we bind ourselves, our heirs, executors
and successors, jointly and severally firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS, the above named Principal entered into an agreement or agreements with said Obligee to:
maintain installed infrastructure improvements for the Phase IV of Rock Ridge Plat (PW#03-037-DEV)

WHEREAS, the effective date of this obligation shall be August 2, 2017

WHEREAS, said agreement provided that Principal shall guarantee replacement and repair of improvements as described
therein for a period of 2 years following final acceptance of said improvements:

NOW, THEREFORE, if the above Principal shall indemnify the Obligee for all loss that Obligee may sustain by reason
of any defective materials or workmanship which become apparent during the period of 2 years from and after acceptance
of the said improvements by Obligee, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name
of the said Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact

this 24th day of August, 2017
YEAR

Strandberg Excavation & Commercial Construction Inc
Principal

BY:
Nels Strandberg, President

American Contractors Indemnity Company

BY: Cameron Huntsucker
Attorney-in-Fact

c/o Integrity Surety LLC, 17544 Midvale Ave N #300, Seattle WA 98133

(206)546-1397

POWER OF ATTORNEY

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

KNOW ALL MEN BY THESE PRESENTS: That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Cameron Huntsucker, Kara Skinner, Mercedes Trokey-Moudy or Jessica Yuhas of Seattle, Washington

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond penalty does not exceed *****Three Million***** Dollars (\$ **3,000,000.00**). This Power of Attorney shall expire without further action on December 20, 2017. This Power of Attorney is granted under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached.

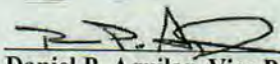
IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 1st day of December, 2014.

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY
UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

Corporate Seals



By:

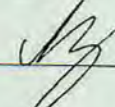

Daniel P. Aguilar, Vice President

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles SS:

On this 1st day of December, 2014, before me, Maria G. Rodriguez-Wong, a notary public, personally appeared Dan P. Aguilar, Vice President of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

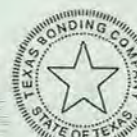
Signature  (Seal)



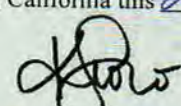
I, Kio Lo, Assistant Secretary of American Contractors Indemnity Company, Texas Bonding Company, United States Surety Company and U.S. Specialty Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney, executed by said Companies, which is still in full force and effect; furthermore, the resolutions of the Boards of Directors, set out in the Power of Attorney are in full force and effect.

In Witness Whereof, I have hereunto set my hand and affixed the seals of said Companies at Los Angeles, California this 2nd day of August, 2017

Corporate Seals



Bond No. 1001080979
Agency No. 13143


Kio Lo, Assistant Secretary



ANACORTES PUBLIC WORKS

Fred Buckenmeyer, Public Works Director

P.O. BOX 547, ANACORTES, WA 98221

Email: fredb@cityofanacortes.org

1 year performance
bond is pending
with Shaght State
Mike Fiedlund -
I should receive
9/6/17
Debbie

August 15, 2017

Nels Strandberg
Strandberg Custom Home and Design
P.O. Box 319
Anacortes, WA 98221

SUBJECT: Performance Bond Rock Ridge, Phase IV (PW#03-037-DEV)

Dear Nels,

This letter is to confirm the required improvements for your project at Rock Ridge, Phase IV (PW#03-037-DEV) for a **One Year Performance Bond**.

The value of the work to be completed is based on cost estimates provided by your Company. Please see the attached documents. The calculations were performed to determine the Project Value for the purpose of fee calculations. The project value for the required improvements is \$125,000.00.

Per the Anacortes Municipal Code, the Performance Bond value is the construction cost **\$125,000.00 x 150%**. The amount of Performance Bond for your project is **\$187,500.00**.

All work remaining to be completed will be per the approved construction plans, Summit Engineering and Surveying, dated November 18, 2005. Per the City of Anacortes Municipal Code, the Performance Bond is good for 1-year from the date of issuance.

Please be advised that the work remaining will need to be inspected and accepted by the City of Anacortes Public Works Department before the expiration date. Otherwise, the City of Anacortes Public Works Department will be forced to act on the Performance Bond. Please provide a Performance Bond in the amount of \$187,500.00.

If you have any questions, please contact me at 360.299.1983.

Sincerely,

CITY OF ANACORTES


Steven Lange
Project Manager

360-460-3468

CC: Fred Buckenmeyer, Eric Shjarback, Don Measamer, Sandi Andersen, Justin Symonds, Kevin Cricchio



• Water • Wastewater • Streets • Storm Drainage • Engineering • Solid Waste
• Transportation • Equipment • Capital Projects • Development Services



LETTEROF CR%0371802764%009200000840%09-05-2017

IRREVOCABLE LETTER OF CREDIT

Borrower: RR SUMMIT NW LLC (TIN: 37-1802764)
PO BOX 319
ANACORTES, WA 98221-0319

Lender: Skagit Bank
Main Office
301 E. Fairhaven Ave
P O Box 285
Burlington, WA 98233
(360) 755-0411

Beneficiary: CITY OF ANACORTES
PO BOX 410
ANACORTES, WA 98221

NO.: 9200000840

EXPIRATION DATE. This letter of credit shall expire upon the earlier of the close of business on 09-05-2018 and all drafts and accompanying statements or documents must be presented to Lender on or before that time, or the day that Lender honors a draw under which the full amount of this Letter of Credit has been drawn (the "Expiration Date").

AMOUNT OF CREDIT. Lender hereby establishes at the request and for the account of Borrower, an Irrevocable Letter of Credit in favor of Beneficiary for a sum of One Hundred Eighty-seven Thousand Five Hundred & 00/100 Dollars (\$187,500.00) (the "Letter of Credit"). These funds shall be made available to Beneficiary upon Lender's receipt from Beneficiary of sight drafts drawn on Lender at Lender's address indicated above (or other such address that Lender may provide Beneficiary in writing) during regular business hours and accompanied by the signed written statements or documents indicated below.

WARNING TO BENEFICIARY: PLEASE EXAMINE THIS LETTER OF CREDIT AT ONCE. IF YOU FEEL UNABLE TO MEET ANY OF ITS REQUIREMENTS, EITHER SINGLY OR TOGETHER, YOU SHOULD CONTACT BORROWER IMMEDIATELY TO SEE IF THE LETTER OF CREDIT CAN BE AMENDED. OTHERWISE, YOU WILL RISK LOSING PAYMENT UNDER THIS LETTER OF CREDIT FOR FAILURE TO COMPLY STRICTLY WITH ITS TERMS AS WRITTEN.

DRAFT TERMS AND CONDITIONS. Lender shall honor drafts submitted by Beneficiary under the following terms and conditions:

We, Skagit Bank, open our irrevocable letter of credit in favor of the City of Anacortes in the amount of One Hundred Eighty Seven Thousand Five Hundred Dollars and 00/100 (\$187,500.00) U.S. Dollars on behalf of RR SUMMIT NW LLC, 2018 R Ave., Anacortes, WA 98221, for the performance bond relating to the Rock Ridge Phase IV project.

We agree to honor your draft(s) drawn on sight up to the amount stated above which reference the permit number and are marked "Drawn under Irrevocable Letter of Credit, Number 9200000840, Dated 09-05-2017, issued by RR SUMMIT NW LLC."

The amount of this credit shall be automatically reduced by the amount of any draft(s) presented and honored hereunder.

Drafts drawn in conformity with conditions of this credit shall be honored by us if presented at our office at Skagit Bank, 301 E. Fairhaven, Burlington, WA 98233 on or before September 5, 2018 provided that, at our option, this credit can be renewed by written amendment

Upon Lender's honor of such drafts, Lender shall be fully discharged of Lender's obligations under this Letter of Credit and shall not be obligated to make any further payments under this Letter of Credit once the full amount of credit available under this Letter of Credit has been drawn.

Beneficiary shall have no recourse against Lender for any amount paid under this Letter of Credit once Lender has honored any draft or other document which complies strictly with this Letter of Credit, and which on its face appears otherwise in order but which is signed, issued, or presented by a party or under the name of a party purporting to act for Beneficiary, purporting to claim through Beneficiary, or posing as Beneficiary without Beneficiary's authorization. By paying an amount demanded in accordance with this Letter of Credit, Lender makes no representation as to the correctness of the amount demanded and Lender shall not be liable to Beneficiary, or any other person, for any amount paid or disbursed for any reason whatsoever, including, without limitation, any nonapplication or misapplication by Beneficiary of the proceeds of such payment. By presenting upon Lender or a confirming bank, Beneficiary certifies that Beneficiary has not and will not present upon the other, unless and until Beneficiary meets with dishonor. Beneficiary promises to return to Lender any funds received by Beneficiary in excess of the Letter of Credit's maximum drawing amount.

USE RESTRICTIONS. All drafts must be marked "DRAWN UNDER Skagit Bank IRREVOCABLE LETTER OF CREDIT NO. 9200000840 DATED 09-05-2017," and the amount of each draft shall be marked on the draft. Only Beneficiary may complete a draft and accompanying statements or documents required by this Letter of Credit and make a draw under this Letter of Credit. This original Letter of Credit must accompany any draft drawn hereunder.

Partial draws are permitted under this Letter of Credit. Lender's honor of a partial draw shall correspondingly reduce the amount of credit available under this Letter of Credit. Following a partial draw, Lender shall return this original Letter of Credit to Beneficiary with the partial draw noted hereon; in the alternative, and in its sole discretion, Lender may issue a substitute Letter of Credit to Beneficiary in the amount shown above, less any partial draw(s).

PERMITTED TRANSFEREES. The right to draw under this Letter of Credit shall be nontransferable, except for:

- A. A transfer (in its entirety, but not in part) by direct operation of law to the administrator, executor, bankruptcy trustee, receiver, liquidator, successor, or other representative at law of the original Beneficiary; and
- B. The first immediate transfer (in its entirety, but not in part) by such legal representative to a third party after express approval of a governmental body (judicial, administrative, or executive).

TRANSFEREES REQUIRED DOCUMENTS. When the presenter is a permitted transferee (i) by operation of law or (ii) a third party receiving transfer from a legal representative, as described above, the documents required for a draw shall include a certified copy of the one or more documents which show the presenter's authority to claim through or to act with authority for the original Beneficiary.

COMPLIANCE BURDEN. Lender is not responsible for any impossibility or other difficulty in achieving strict compliance with the requirements of this Letter of Credit precisely as written. Beneficiary understands and acknowledges: (i) that unless and until the present wording of this Letter of Credit is amended with Lender's prior written consent, the burden of complying strictly with such wording remains solely upon Beneficiary, and (ii) that Lender is relying upon the lack of such amendment as constituting Beneficiary's initial and continued approval of such wording.

NON-SEVERABILITY. If any aspect of this Letter of Credit is ever declared unenforceable for any reason by any court or governmental body having jurisdiction, Lender's entire engagement under this Letter of Credit shall be deemed null and void ab initio, and both Lender and Beneficiary shall be restored to the position each would have occupied with all rights available as though this Letter of Credit had never occurred. This non-severability provision shall override all other provisions in this Letter of Credit, no matter where such provision appears within this Letter of Credit.

GOVERNING LAW. This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Washington without regard to its conflicts of law provisions, and except to the extent such laws are inconsistent with the 2007 Revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, ICC Publication No. 600. This Agreement has been accepted by Lender in the State of Washington.

EXPIRATION. Lender hereby agrees with Beneficiary that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to Lender on or before the Expiration Date unless otherwise provided for above.

EXHIBIT #09

PUBLIC WORKS DEPARTMENT RECOMMENDATION OF APPROVAL TO CITY COUNCIL



ANACORTES PUBLIC WORKS DEPARTMENT

Steven Lange, Project Manager

P.O. BOX 547, ANACORTES, WA 98221

E-MAIL: stevel@cityofanacortes.org

PH(360) 293-1920

FAX(360) 293-1938

Memo

Date: August 15, 2017

To: Don Measamer, Planning Director

From: Steven Lange

Subject: Acceptance of the Final Plat for "Rock Ridge, Phase IV"

cc: Fred Buckenmeyer, Eric Shjarback, Kevin Cricchio

The Public Works Department coordinated the final plat review with other City Departments and determined that the construction of Rock Ridge, Phase IV project is substantially complete. The items shown on the attached sheet, are not yet finished, but can be bonded to insure completion

We recommend approval of the final plat of Rock Ridge, Phase IV, subject to:

1. The receipt of an acceptable Performance Bond in the amount of \$187,500.00 (150% of estimated completion costs), for the remaining items to be completed and;
2. Receiving a 2-year Maintenance Bond that is 10% of the actual construction costs.
3. Receiving a final Drawing of Record.
4. Final review and approval of the plat drawing assuring conformance to the project requirements.

Thank you,

A handwritten signature in blue ink, appearing to read "Steven Lange".

Steven Lange
Project Manager



• Water • Wastewater • Streets • Storm Drainage • Engineering • Solid Waste
• Transportation • Equipment • Capital Projects • Development Services

EXHIBIT #10

OTHER COMMENTS RECEIVED FROM AGENCIES & DEPARTMENTS OF JURISDICTION

From: [Kennedy, Jack](#)
To: [Cricchio, Kevin](#)
Subject: Rock Ridge
Date: Tuesday, August 29, 2017 4:12:54 PM

Kevin,

After speaking with Terry, we are good with the fire flow reports on the new improvement at Rock Ridge. We were able to get 1005 gpm to meet the minimum requirements for residential construction. We will evaluate each new residence at time of building permit submittal. Based on access issues and the size of homes the contractor has preliminarily planned for the area, residential sprinklers per NFPA 13D will likely be required.

Thank you,

Jack Kennedy
Assistant Chief/Fire Marshal
Anacortes Fire Department
360-293-1932 Office
360-661-3137 Cell



Development Review Group (DRG)

Name of Applicant: RR Summit NW, LLC

Brief Description: Phase 4 of Rock Ridge South, Final Plat Submittal

Please initial if approved and/or include your comments:

Street Department: B.L.

Comments:

O/S

Water Department: TSN

Comments:

OK

Solid Waste: M.F.

Comments:

OK

Sandi Andersen: SA

Comments:

Cricchio, Kevin

From: Cricchio, Kevin
Sent: Tuesday, August 8, 2017 4:50 PM
To: Development Review Group
Subject: Final Plat, Phase 4 of Rock Ridge South Plat Submittal
Attachments: Final Plat, Phase 4 Rock Ridge South Plat.pdf

8-8-17

RE: Final Plat, Phase 4 of Rock Ridge South Plat Submittal

Greetings. We recently received a final plat submittal concerning Phase 4 of the Rock Ridge South Plat that gained preliminary approval on July 26, 2004. The plans and associated file for the final plat have been placed at the back counter in the Planning Department. Please review the submittal for conformance with the preliminary plat's findings of fact's conditions of approval and let me know if you are good to go with this or need revisions thereto. Please provide any comments to me by **5:00 PM on Friday, August 18, 2017**. Thank you.

Kevin Cricchio, AICP, WPIT | Associate Planner | Planning, Community & Economic Development Dept.
City of Anacortes | P.O. Box 547 | 904 6th Street | Anacortes, WA 98221
360.293.1937 (work) | kevinc@cityofanacortes.org | www.cityofanacortes.org

My incoming and outgoing email messages are subject to public disclosure requirements per RCW 42.56.

08.15.17:

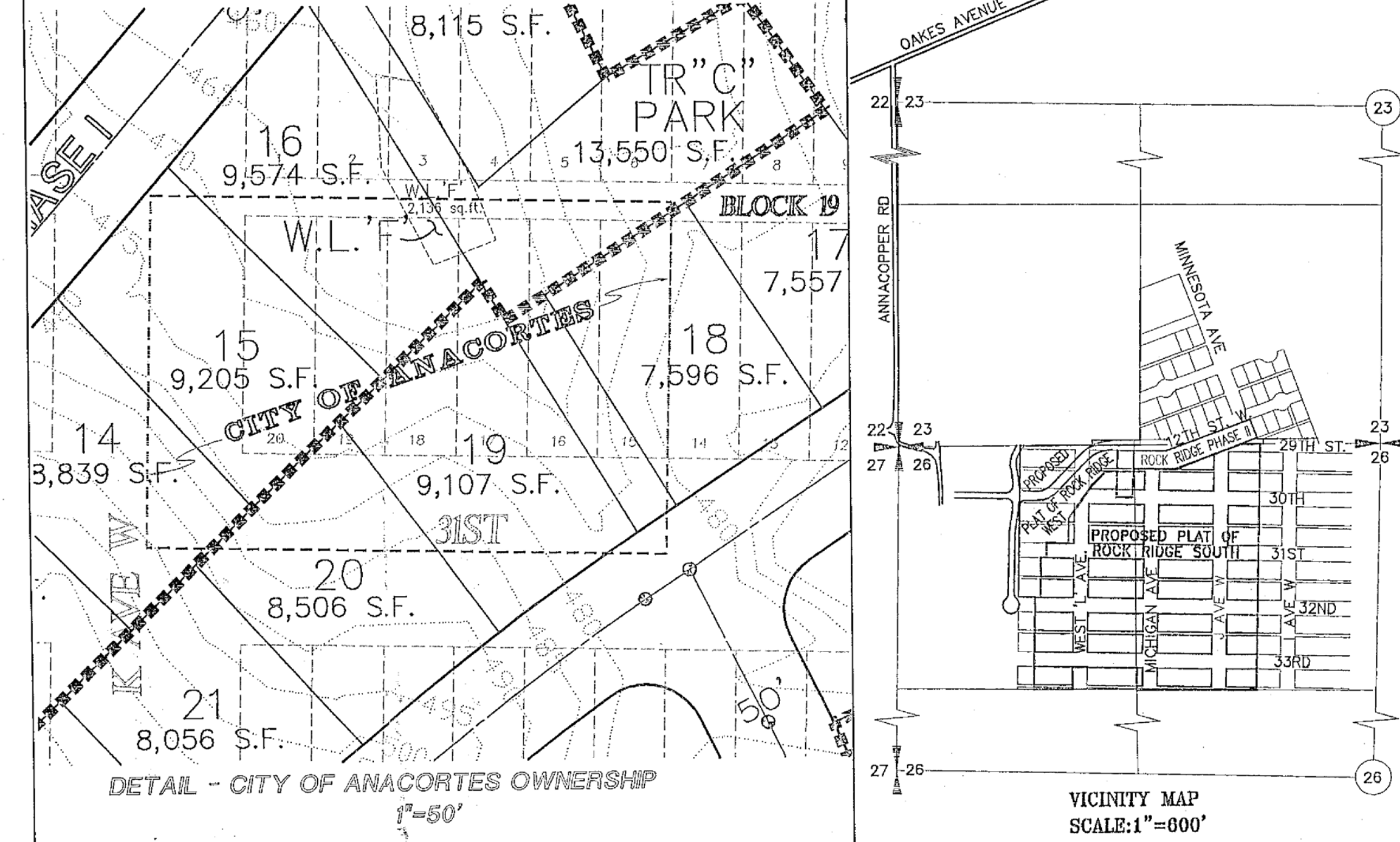
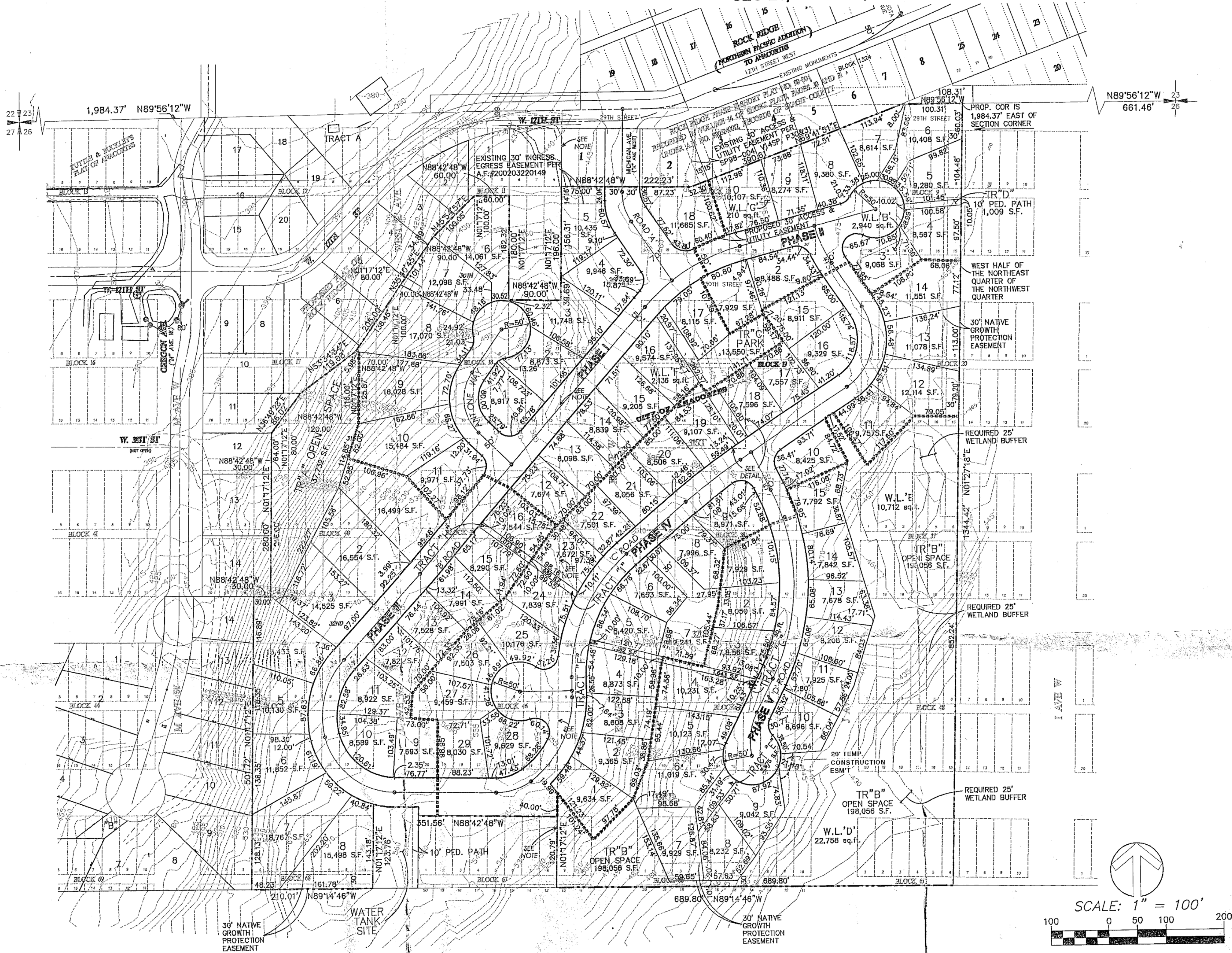
ALL LETTERS AND MEMO'S FROM RW'S PROVIDED ON 08.15.17.
PLEASE SCHEDULE FOR PLANNING & COUNCIL.

THANKS
JRL

EXHIBIT #11

ROCK RIDGE SOUTH, APPROVED PRELIMINARY PLAT MAP

SEC 26, TWP 35N, RGE 1E, W.M.



LEGAL DESCRIPTION FOR ROCK RIDGE SOUTH:

THAT PORTION OF BLOCKS 9, 10, 11, 17, 18, 19, 20, 37, 38, 39, 40, 45, 46, 47, 48, 65, 66, 67 AND 68 IN THE PLAT OF TUTTLE AND BUCKLEY'S PLAT OF ANACORTES, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 23, RECORDS OF SKAGIT COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 35 NORTH, RANGE 1 EAST, W.M. SAID COUNTY; THENCE S89°56'12"E ALONG THE NORTH LINE OF SAID SUBDIVISION 1984.37 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID NORTHWEST QUARTER, AND THE TRUE POINT OF BEGINNING; THENCE S12°17'18"W ALONG THE EAST LINE OF SAID WEST HALF 1344.42 FEET TO THE SOUTHEAST CORNER OF SAID WEST HALF; THENCE N89°14'46"W ALONG THE SOUTH LINE OF SAID SUBDIVISION 689.80 FEET TO THE SOUTHWEST CORNER OF LOT 12 SAID BLOCK 6; THENCE N17°12'E 120.79 FEET TO THE NORTHWEST CORNER OF LOT 9, SAID BLOCK 6; THENCE N88°42'48"W ALONG THE NORTH LINE OF SAID BLOCK AND THE WESTERLY PROLONGATION THEREOF 320.00 FEET TO THE NORTHEAST CORNER OF LOT 10, SAID BLOCK 6; THENCE S17°12'W 123.76 FEET TO THE SOUTH LINE OF SAID NORTHWEST QUARTER, BEING THE SOUTHEAST CORNER OF LOT 11, SAID BLOCK 6; THENCE N89°14'46"W ALONG THE SOUTH LINE OF SAID NORTHWEST QUARTER 210.01 FEET TO THE SOUTHWEST CORNER OF LOT 17, SAID BLOCK 6; THENCE N17°12'E 501.72 FEET TO THE SOUTHWEST CORNER OF LOT 17, SAID BLOCK 11; THENCE S88°42'48"E 30.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 17; THENCE N17°12'E 116.00 FEET TO THE SOUTHWEST CORNER OF LOT 10, SAID BLOCK 11; THENCE S88°42'48"E 40.00 FEET TO THE NORTHWEST CORNER OF LOT 1, SAID BLOCK 18; THENCE N17°12'E 80.00 FEET TO THE SOUTHWEST CORNER OF LOT 20, SAID BLOCK 11; THENCE S35°40'45"W 205.00 FEET; THENCE S53°34'34"W 119.08 FEET; THENCE S36°49'28"W 86.02 FEET; THENCE S17°12'E 64.00 FEET TO THE POINT OF BEGINNING;

TOGETHER WITH THAT PORTION OF TRACT 'B' IN THE PROPOSED PLAT OF ROCK RIDGE WEST DESIGNATED FOR 'FUTURE DEVELOPMENT' DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 5, SAID BLOCK 40; THENCE S88°42'48"E 30.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 5; THENCE N17°12'E 80.00 FEET TO THE SOUTHWEST CORNER OF LOT 15, SAID BLOCK 17; THENCE S88°42'48"E 120.00 FEET TO THE SOUTHWEST CORNER OF LOT 12, SAID BLOCK 17; THENCE N17°12'E 116.00 FEET TO THE SOUTHWEST CORNER OF LOT 10, SAID BLOCK 17; THENCE S88°42'48"E 100.00 FEET; THENCE N17°12'E 100.00 FEET; THENCE S88°42'48"E 40.00 FEET TO THE NORTHWEST CORNER OF LOT 1, SAID BLOCK 18; THENCE N17°12'E 80.00 FEET TO THE SOUTHWEST CORNER OF LOT 20, SAID BLOCK 11; THENCE S35°40'45"W 205.00 FEET; THENCE S53°34'34"W 119.08 FEET; THENCE S36°49'28"W 86.02 FEET; THENCE S17°12'E 64.00 FEET TO THE POINT OF BEGINNING;

TOGETHER WITH ALL OF TRACT 'C' IN THE PROPOSED PLAT OF ROCK RIDGE WEST DESIGNATED FOR 'FUTURE DEVELOPMENT' DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 17, SAID BLOCK 11; THENCE N17°12'E 100.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 17, SAID BLOCK 11; THENCE S45°45'57"W 100.05 FEET; THENCE S35°40'45"W 34.89 FEET TO THE SOUTHWEST CORNER OF LOT 20, SAID BLOCK 11; THENCE S88°42'48"E 90.00 FEET TO THE POINT OF BEGINNING;

NOTE:

THE ABOVE DESCRIPTION INCLUDES A TRACT OF LAND OWNED BY THE CITY OF ANACORTES DESCRIBED AS FOLLOWS:

LOTS 15 THROUGH 20, BLOCK 19 IN THE PLAT OF TUTTLE & BUCKLEY'S PLAT OF ANACORTES, ACCORDING TO THE PLAT THEREOF, RECORDED IN VOLUME 2 OF PLATS, PAGE 23, RECORDS OF SKAGIT COUNTY, WASHINGTON; TOGETHER WITH THOSE VACATED PORTIONS OF K AVE 'W', 31ST, AND THE ALLEY ABUTTING SAID LOTS HAVING BEEN VACATED UNDER ORDINANCE NO. 296 AS WOULD ATTACH BY OPERATION OF LAW.

PLAT NAME: ROCK RIDGE SOUTH (PHASE V, ALTERNATIVE PLAN)
 APPLICANT/OWNER: ROCK RIDGE LLC
 3307 "H" AVENUE
 ANACORTES, WA 98221
 (360) 299-0408
 PROJECT PLANNER: LANG ASSOCIATES, INC.
 10658 RIVIERA PLACE N.E.
 SEATTLE, WA 98125
 (206) 306-8880
 PROJECT MANAGER: NELSEN DEVELOPMENT GROUP
 14205 S.E. 36TH STREET, #100
 BELLEVUE, WASHINGTON 98006
 (425) 519-3656
 LAND SURVEYOR/ENGINEER & FIELD TOPOGRAPHY: SUMMIT ENGINEERS & SURVEYORS, INC.
 2218 OLD HIGHWAY 99 SOUTH
 MOUNT VERNON, WA 98273
 (360) 416-4999

NOTE: ROADS AND ALLEYS VACATED EAST OF LINE PER ORDINANCE NO. 296 AS WOULD ATTACH BY OPERATION OF LAW.

EXISTING ZONING: RESIDENTIAL LOW DENSITY - (R2)
 ACREAGE: 31.16
 NO. OF LOTS PROPOSED: 88 (2.82/AC.)
 PHASING:
 I 18
 II 10
 III 16
 IV 29
 V 15
 PROPOSED USE: DETACHED SINGLE FAMILY
 MINIMUM LOT SIZE: 7,500 SQUARE FEET
 DATUM: CITY OF ANACORTES

AREA BREAKDOWN DESCRIPTION	SQ.-FT.	ACRES	PERCENTAGE OF TOTAL AREA
LOTS (ALL PHASES)	865,038	19.86	63.74%
STREETS (ALL PHASES)	233,720	5.37	17.22%
ACCESS TRACT "E"	2,975	4.55	0.22%
PROPERTY EXCHANGE *	198,056	4.06	14.59%
OPEN-SPACE/PARK **	57,287	1.32	4.22%
TOTAL	1,357,076	31.16	100.00%

* TRACT "B" INCLUDING WETLANDS 'D' & 'E' AND 25' BUFFER
 ** TRACTS "A" & "C" & "D" & "F" & "G" & "H" & "I" (OWNERSHIP TO BE RETAINED BY THE HOMEOWNER'S ASSOCIATION)
 *** 200% BONUS FOR RETENTION PER CITY OF ANACORTES CODE 17.41.050 - EXISTING SITE VEGETATION.

PROPERTY EXCHANGE DESCRIPTION	SQ.-FT.	ACRES	PERCENTAGE OF TOTAL AREA
CITY OWNERSHIP	(32,560)	(0.75)	(2.40%)
USABLE	118,056	2.71	8.70%
WETLAND 'D' & 'E'	33,470	0.77	2.47%
REQUIRED 25' BUFFER	46,530	1.07	3.43%
NET GAIN TO CITY	165,496	3.80	12.20%

LANDSCAPE AREA DESCRIPTION	SQ.-FT.	ACRES	% OF TOTAL AREA (ACTUAL)	% OF TOTAL AREA (WITH 200% BONUS)
TRACT "A"	37,732	0.87	2.78%	2.78%
TRACT "B"	198,056	4.55	14.59%	29.18% ***
TRACT "C"	13,550	0.31	1.00%	1.00%
TRACT "D"	1,009	0.02	0.07%	0.07%
TRACT "E"	1,292	0.03	0.10%	0.10%
TRACT "F"	1,643	0.04	0.12%	0.12%
TRACT "G"	1,073	0.02	0.08%	0.08%
TRACT "H"	988	0.02	0.07%	0.07%
N.G.P.E.	31,872	0.73	2.35%	2.35%
TOTAL PROVIDED	287,215	6.59	21.16%	35.75%

WATER: CITY OF ANACORTES
 SEWAGE DISPOSAL: CITY OF ANACORTES
 FIRE: CITY OF ANACORTES FIRE DEPARTMENT
 SCHOOL: ANACORTES SCHOOL DISTRICT
 TELEPHONE: VERIZON
 GAS: CASCADE NATURAL GAS



Lang Associates, Inc.
 Land Use and Development Consultants
 10658 Riviera Place N.E.
 Seattle, WA 98125
 TEL: (206) 306-8880
 Fax: (206) 362-6848
 Email: deenlang@yahoo.com

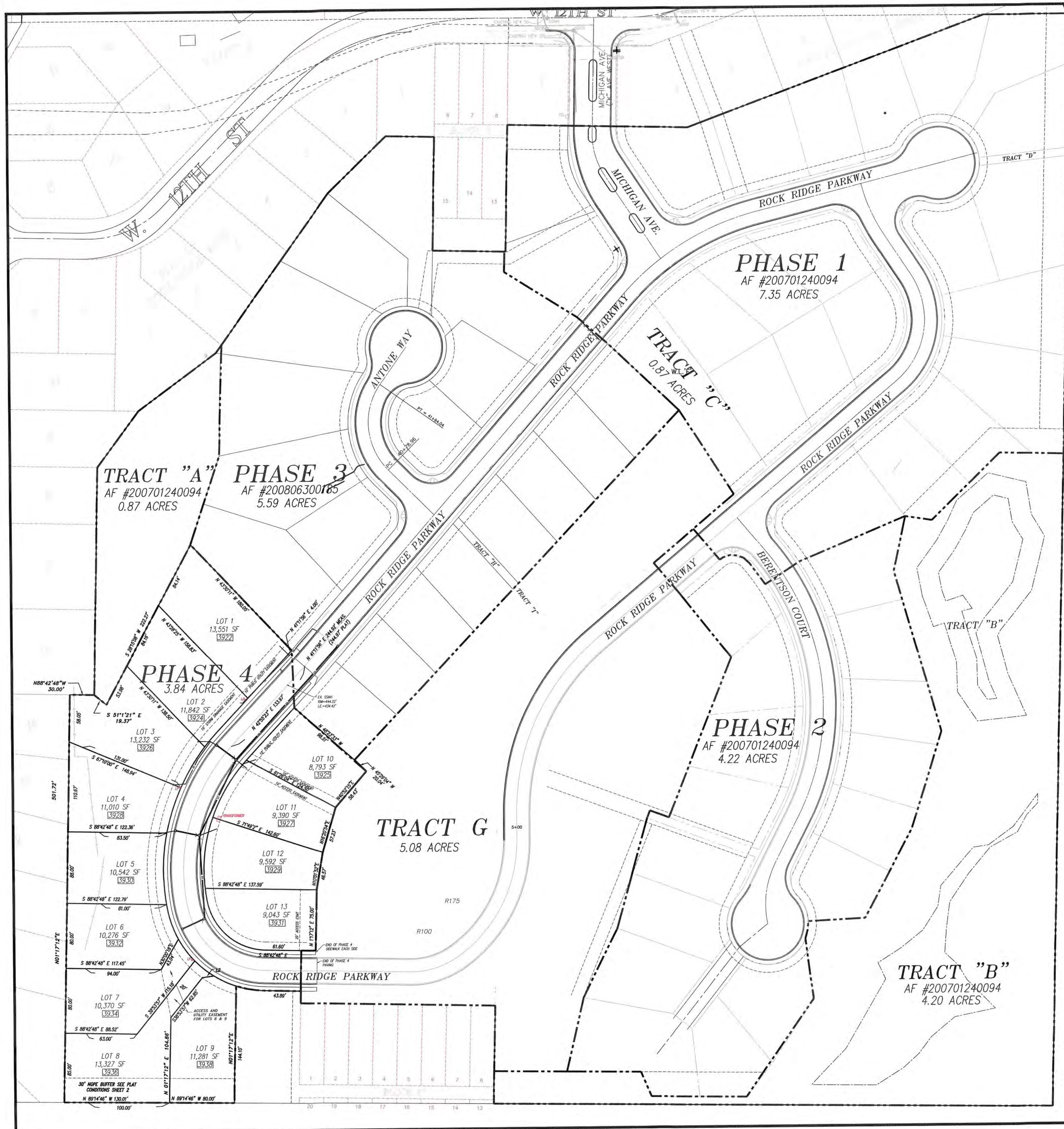
FILE NAME: 03203-96145PP5
 PLOT SCALE: 1:1 PAPER SPACE
 LAST EDIT DATE: 11/21/2003
 DESIGNED BY: _____
 DRAWN BY: _____
 CHECKED BY: _____
 REVISIONS: _____
 DATE: _____

SUMMIT Engineers & Surveyors, Inc.
 2218 Old Highway 99 So. Mount Vernon WA. 98273
 Phone: (360) 416-4999 Fax: (360) 416-4949

SHEET DESCRIPTION: PRELIMINARY PLAT MAP
 PROJECT: ROCK RIDGE SOUTH, PHASE V, ALTERNATIVE PLAN
 DEVELOPER: ROCK RIDGE LLC, 3307 "H" AVENUE, ANACORTES, WA 98221 PHONE: (360) 299-0408
 1 of 7

EXHIBIT #12

PHASE IV, ROCK RIDGE SOUTH PLAT MAP



29TH STREET

FOREST LANDS

GRAPHIC SCALE
(IN FEET)
1 inch = 60 ft.

RECORD DRAWING 8-1-2017

REVISIONS	BY	DATE

Overall Site Plan
Rock Ridge South

Rock Ridge PH 4
Rock Ridge South
Owner:
RR Summit NW LLC
PO Box 319
Anacortes, WA 98221

DATE: August 2017
SCALE: 1"=60'
DRAWN: D. HERRIGSTAD
CHECK: D. HERRIGSTAD
SHEET 1 OF 3

HERRIGSTAD
ENGINEERING & SURVEYING
DALE K. HERRIGSTAD P.E., P.L.S.
4920 WHISTLE LAKE ROAD
ANACORTES, WA 98221 (360) 299-8804

REVISIONS

BY

DATE

PLAT OF ROCK RIDGE SOUTH PHASE 4
NW 1/4, SEC. 26, TWP 35N, RNG. 1 E, W.M.

AUDITORS CERTIFICATE
RECORD OF SURVEY AT THE REQUEST OF DALE K. HERRIGSTAD

GENERAL INFORMATION

- Assessor's Account No.s 4918-002-999-0600, P125867.
- Description and exception information is from the Subdivision Guarantee, Certificate No: 620031711, dated July 5, 2017.
- This property is SUBJECT TO and TOGETHER WITH easements, reservations, restrictions, covenants and other instruments of record including but not limited to those instruments referred to in the Subdivision Guarantee referenced under Note 2 above. Said report lists documents recorded under Auditors File Number 200203250231 (CC&Rs), AF #200203140025 (CC&Rs), AF #200204260193 (CC&Rs), AF #200202280226 (Easement over portion of Phase 1 of the Plat of Rock Ridge South), AF #200203220149 (Easement over portion of Phase 1 of the Plat of Rock Ridge South), AF #200607110101 (10' wide PSE easement superseded by Rock Ridge Plat Map), AF #200610200103 (Avigation Easement), AF #200701240094 (Plat of Rock Ridge South Phases 1 & 2, 200701250001 (CC&Rs), 201004210064 (Access & Utility easement to be released at the recording of this Plat Phase 4), AF #201702060113 (10' wide PSE easement superseded by the recording of this Plat) and Deed of Trust under AF #201611100086 (Skagit Bank).
- Residential Low Density (R2).
- Water Supply: City of Anacortes.
- Sewer Disposal: City of Anacortes
- Storm Sewer: City of Anacortes

LEGAL DESCRIPTION

Lot G, PLAT OF ROCK RIDGE SOUTH, PHASES 1 and 2, according to the duly recorded plat thereof, recorded in January 24, 2007, under Auditor's File No. 200701240094, and amended by Auditor's File No. 200701250133, records of Skagit County, Washington.

EXCEPT those portions of said Tract G replated as the "PLAT OF ROCK RIDGE SOUTH PHASE 3", as per plat recorded June 30, 2008 under Auditor's File No. 200806300185, record of Skagit County, Washington.

Situated in Skagit County, Washington.

NOTES

- Subject to Declaration of Covenants, Conditions, Restrictions, (CC&R's), recorded under;

AFN _____

State of Washington
County of Skagit
I certify that I know of have satisfactory evidence that signed this instrument, on oath stated that (he/she/) (was/are) authorized to execute the instrument and acknowledged it as the _____ of SKAGIT STATE BANK to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.
Given under my hand and official seal this _____ day of _____, 20____.
Notary Public in and for the State of Washington
Name printed _____
Residing at _____
My commissions expires _____

SURVEYORS CERTIFICATE

I hereby certify that the Plat of Rock Ridge South Phase 4 is based upon an actual survey and subdivision performed by me or under my supervision of Section 26, Township 35 North, Range 1 East, W.M.; the plat is a true and correct representation of the land actually surveyed; that the courses and distances are shown correctly on the ground; and that I have complied with the provisions of the statutes and plating regulations and that permanent control monuments have been established at each and every controlling corner of the parcel of land being subdivided.

DALE K. HERRIGSTAD, P.L.S. Certificate No. 27807

Date _____

SKAGIT COUNTY TREASURERS CERTIFICATE

I certify that all taxes heretofore levied and which have become a lien upon the lands herein described have been fully paid and discharged according to the records of my office, up to and including the year of 20____.

Certified this _____ day of _____, 20____.

Skagit County Treasurer

CITY OF ANACORTES APPROVALS

Examined and approved this _____ day of _____, 20____.

City Engineer

Examined and approved this _____ day of _____, 20____.

Signature of Planning Director

DEDICATION

KNOW ALL PEOPLE BY THESE PRESENTS that we, the undersigned owners of interest in the land hereby short subdivided, hereby declare this plat to be the graphic representation of the short subdivision made hereby, and do hereby dedicate to the use of the public forever all streets and avenues not shown as private hereon and dedicate the use thereof for all public purposes not inconsistent with the use thereof for public highway purposes, and also the right to make all necessary slopes for cuts and fills upon the lots shown thereon in the original reasonable grading of said streets, and avenues, and further dedicate to the use of the public all the easements and tracts shown on this plat for all public purposes as indicated thereon, including but not limited to parks, open space, utilities and drainage unless such easements or tracts are specifically identified on this plat as being dedicated or conveyed to a person or entity other than the public in which case we do hereby dedicate such streets, easements, or tracts to the person or entity identified and for the purpose stated.

Further the undersigned owners of the land hereby subdivided waive for themselves, their heirs and assigns and any person or entity deriving title for the undersigned, any and all claims for damages against the City of Anacortes, its successors and assigns to which may be occasioned by the establishment, construction, or maintenance of roads and/or drainage systems within this subdivision other than claims resulting from inadequate maintenance by the City of Anacortes.

Further the undersigned owners of the land hereby subdivided agree for themselves, their heirs and assigns to indemnify and hold the City of Anacortes, its successors and assigns, harmless from any damage, including any costs of defense, claimed by persons within or without this subdivision to have been caused by alterations of the ground surface, vegetation, drainage, or surface or subsurface water flows within this subdivision or by establishment, construction or maintenance of the roads within this subdivision. This subdivision, dedication, waiver of claims and agreement to hold harmless is made with the free consent and in accordance with the desires of said owners.

RR SUMMIT NW LLC

SKAGIT STATE BANK

State of Washington
County of Skagit

I certify that I know of have satisfactory evidence that signed this instrument, on oath stated that (he/she/) (was/are) authorized to execute the instrument and acknowledged it as the _____ of RR SUMMIT NW LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.
Given under my hand and official seal this _____ day of _____, 20____.
Notary Public in and for the State of Washington

Name printed _____
Residing at _____
My commissions expires _____



OWNER/DEVELOPER
RR Summit NW LLC
PO BOX 319
ANACORTES, WA 98221
360-293-7431

LAND SURVEYOR
DALE HERRIGSTAD PLS
4320 WHISTLE LAKE ROAD
ANACORTES, WA 98221
360-299-8804

PW #03-037-DEV SHEET 1 OF 4

DWN BY: DKH
DATE: JULY 2017

HERRIGSTAD ENGINEERING & SURVEYING

4320 Whistle Lake Road, Anacortes, WA 98221 (360) 299-8804

SCALE: NOTED
JOB 2015-146

PLAT OF ROCK RIDGE SOUTH PHASE 4

NW 1/4, SEC. 26, TWP 35N, RNG. 1 E, W.M.

PLAT CONDITIONS

All parcels within the subdivision are subject to the "Findings of Fact and Conclusion of Law" as adopted by the Anacortes City Council on the July 19, 2004. The following Conditions were required to be identified on the face of the Plat.

(FF #7) The lots in this subdivision are subject to applicable water, sewer, and stormwater general facility and hookup fees and transportation, fire, and park impact fees. These fees are payable at levels in effect at the time of building permit issuance and may differ from those fee levels currently in effect; sewer and water latecomer charges may be payable.

THE FOLLOWING CONDITIONS ARE TO BE RECORDED WITH THE FINAL PLAT DRAWING.

(11) Fencing, as required by the Parks Director, shall be constructed on the perimeter of Tract B adjacent to Phase V, Lots 8-15 and the cul-de-sac. This fence shall continue north along the western and northern edge of the 30' NGPE wetland buffer located in Lots 8 and 9 of Phase IV. Fencing shall be non-sight obscuring. The intent of the fencing is to minimize disturbances to the wetlands and adjacent buffer.

The access corridor between Lots 10 and 11 of Phase IV shall be eliminated and added to the adjacent lot(s). Prior to any adjacent site disturbance, the permanent fence line as described, together with the 30' NGPE buffer adjacent to the ACFL, shall be delineated with construction fencing. Tract B and the 30' ACFL buffer shall be left untouched with the following exceptions:

- Hand removal of non-native or adventitious plants as approved by the Park Department.
- Hazard trees will be identified with the concurrence of the Parks Department. Hazard trees removed or blown down shall be replanted by the Homeowners Association, subject to approval of the Parks Department, with a 3-foot minimum appropriate native stock which shall be maintained by the Homeowners Association until able to survive without care.
- Fallen trees in the NGPE shall only be removed from the site with the approval of the Parks Department.
- If the buffer is disturbed, a landscaping plan using appropriate native stock shall be submitted to the Forest Advisory Board for approval and once approved, shall be implemented by the Homeowners Association.
- Trails through the NGPE shall not be permitted without the approval of the Parks Department.

(12) In keeping with the City's street grid street name system, the Building Department shall approve street names.

(13) The city of Anacortes Public Works Department and the Postmaster shall approve mailbox locations.

(14) Street lighting shall be energy efficient and provided as required by the City Engineer.

(15) A detailed, final landscaping plan shall be approved by the Planning Commission prior to construction beginning on each and every phase, together with an overall conceptual Landscaping Plan submitted with the first phase; Lot 7 of Phase V shall have a separate, detailed, and approved Landscaping Plan that minimizes impacts to the hillside.

(16) The developer shall purchase and install all street signs.

(17) The project shall comply with the City of Anacortes design construction standards as required by the Director of Public Works for water, sewer, street access, and storm drainage.

(18) A minimum of two off-street parking spaces shall be provided for each dwelling unit, as required by City Ordinances. Required off-street parking location shall not interrupt or block in any way the required cul-de-sac diameter or sidewalks.

(19) The Developer will construct the downstream sewer capacity as required by the City Public Works Director.

(20) A potable water system with necessary pump stations(s), pressure reducing stations, and storage will be designed to meet City of Anacortes, DOH, AWWA, NEC, and other applicable requirements to provide a minimum of 40 psi to each home building pad and necessary fireflows.

(21) All infrastructure improvements for each phase shall be constructed and approved prior to the issuance of building permits for that phase.

(22) A pedestrian pathway shall be established generally as shown on the revised site plan dated May 12, 2004.

(23) The existing detention pond, when converted to a wetpond facility, shall:

- Have a gravity drain system to the new pond bottom.
- Be vegetated on the perimeter and interior for sight screening, low maintenance (i.e., no grasses requiring mowing), habitat value and access management.
- Shall have safety benches or other safety features.

(24) A secondary access (through driveway easements as needed) shall provide a vehicle outlet to W. 12th St.

UTILITY and ACCESS EASEMENTS

1. An easement is hereby reserved for and conveyed to the CITY OF ANACORTES, PUGET SOUND ENERGY INC.(A.F. NO. 201702060113), FRONTIER COMMUNICATIONS, TELEPHONE COMPANY, CASCADE NATURAL GAS COMPANY, AND COMCAST CABLE TELEVISION COMPANY and their respective successors and assigns under and upon the front ten (10) feet, or as shown on the plat, of front boundary lines all lots, tracts and spaces within the plot lying parallel with and adjoining all public street(s), as shown on the plat, in which to construct, operate, maintain, repair, replace and enlarge underground pipes, conduits, cables and wires all necessary or convenient underground or ground mounted appurtenances thereto for the purpose of serving this subdivision and other property with electric, gas, telephone and other utility service, together with the right to enter upon the streets, lots, tracts and spaces at all times for the purposes herein stated.

2. An access easement is hereby granted on and across lots 10 and 11 as shown on the face of the Plat sheet 4 as a shared access for both lots 10 and 11 and the maintenance of the private drive will be shared between the owners of lots 10 and 11.

3. An access easement is hereby granted on and across lot 13 as shown on the face of the Plat sheet 4 as a shared access for both lots 12 and 13 and the maintenance of the private drive will be shared between the owners of lots 12 and 13.

4. An access and utility easement is hereby granted on and across lot 7 and 8 as shown on the face of the Plat sheet 4 as a shared access and utility for lots 7, 8 and 9 and the maintenance of the private drive will be shared between the owners of lots 7, 8 and 9. Utility maintenance is the responsibility of the lot for which it serves.

5. A 20 foot wide storm drainage easement on and across lots 1 through 6 lying parallel with and adjoining Rock Ridge Parkway as shown on the face of the plat is for the purposes of storm drainage pipes, in which to construct, operate, maintain, repair, replace and enlarge underground pipes, for the purpose of serving lots 1 through 7.

OWNER/DEVELOPER

RR Summitt NW LLC

PO BOX 319

ANACORTES, WA 98221

360-293-7431

LAND SURVEYOR

DALE HERRIGSTAD PLS

4320 WHISTLE LAKE ROAD

ANACORTES, WA 98221

360-299-8804



PW #03-037-DEV

SHEET 2 OF 4

DWN BY: DKH

DATE: JULY 2017

SCALE: NOTED

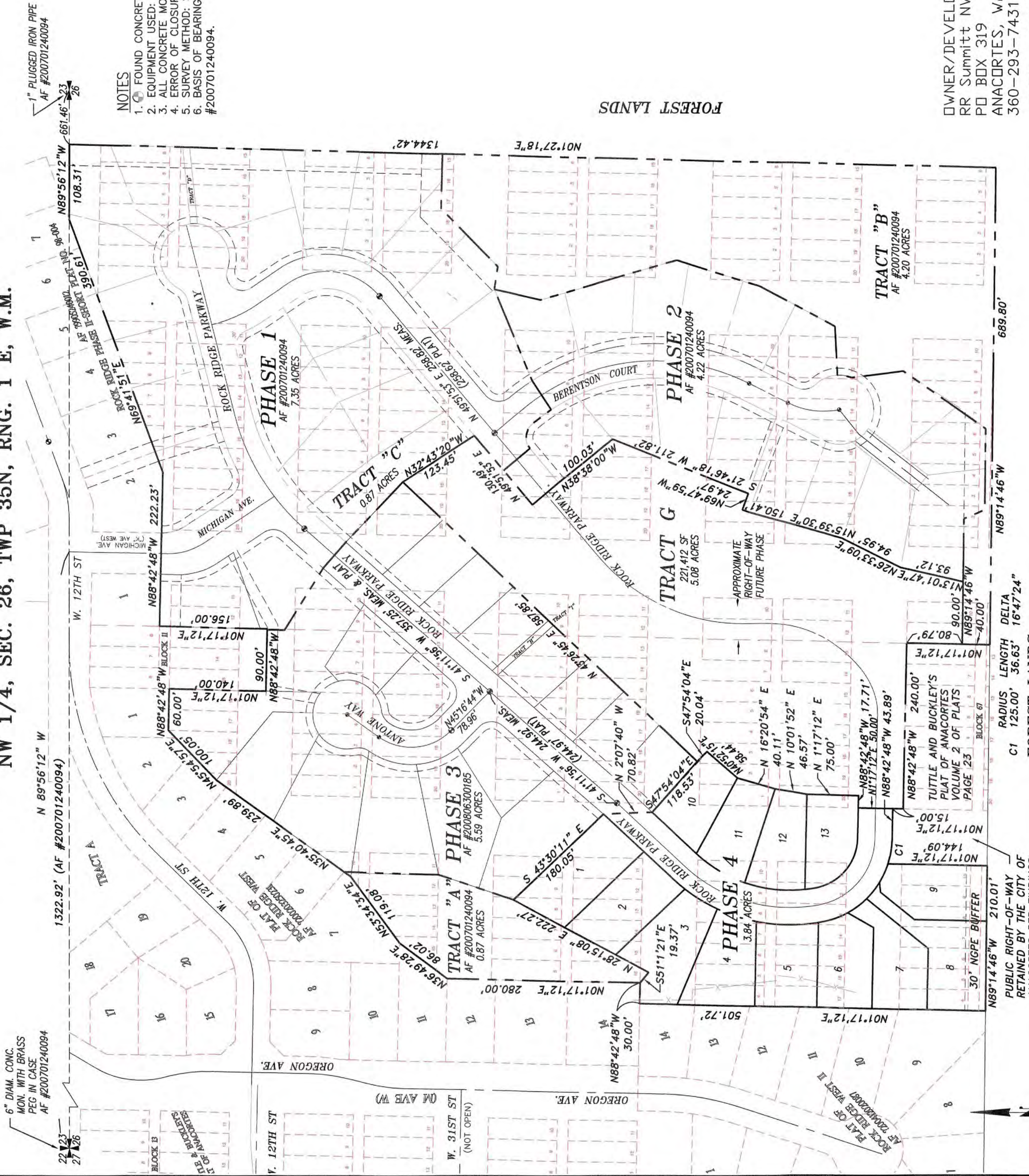
JOB 2015-146

HERRIGSTAD ENGINEERING & SURVEYING

4320 Whistle Lake Road, Anacortes, WA 98221 (360) 299-8804

PLAT OF ROCK RIDGE SOUTH PHASE 4

NW 1/4, SEC. 26, TWP 35N, RNG. 1 E, W.M.



1" PLUGGED IRON PIPE
AF #200701240094

NOTES

1. FOUND CONCRETE MON WITH BRASS CAP IN CASE WITH COVER.
2. EQUIPMENT USED: CARLSON CR2 2" TOTAL STATION.
3. ALL CONCRETE MONUMENTS WERE VISITED ON 3-22-2017.
4. ERROR OF CLOSURE MEETS WASHINGTON STATE SURVEY STANDARDS.
5. SURVEY METHOD: STANDARD FIELD TRAVERSE.
6. BASIS OF BEARINGS: PLAT OF ROCK RIDGE SOUTH PHASE 1 & 2 AF #200701240094.



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PW #03-037-DEV SHEET 3 OF 4

NW 1/4, SEC. 26, TWP 35N, RNG. 1 E, W.M.

[illegible]

NUMBER	RADIUS	ARC LENGTH	DELTA ANGLE
C1	225.00'	209.67'	53°23'31"
C2	100.00'	136.56'	78°14'35"
C3	250.00'	22.66'	5°11'35"
C4	250.00'	58.50'	13°24'25"
C5	250.00'	58.50'	13°24'26"
C6	250.00'	88.46'	20°16'28"
C7	250.00'	4.85'	01°06'39"
C8	125.00'	40.35'	18°29'34"
C9	125.00'	33.72'	15°27'24"
C10	125.00'	30.00'	13°45'04"
C11	125.00'	30.00'	13°45'04"
C12	125.00'	62.00'	88°48'41"
C13	200.00'	82.29'	23°34'30"
C14	200.00'	88.58'	25°22'39"
C15	200.00'	15.50'	4°26'25"
C16	75.00'	102.42'	78°14'37"

NUMBER	BEARING	DISTANCE
L1	N 88°42'48" E	43.89'
L2	N 82°28'52" E	14.40'

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SHEET 4 OF 4

DWN BY: DKH
DATE: JULY 2017
HERRIGSTAD ENGINEERING & SURVEYING
4390-Whistler Lake Road, Anacortes, WA 98221
(360) 799-8804
SCALE: NOTED
JOB 2015-146

SCALE: NOTED