

**PLEASE NOTE A PUBLIC WORKSHOP/PUBLIC HEARING
WILL BE HELD ON
WEDNESDAY, JULY 13, 2016 @ 6 P.M.**

**ANACORTES PLANNING COMMISSION
MEETING NOTICE**



Municipal Building Council Chambers

6th Street and "Q" Avenue

NOTICE IS HEREBY GIVEN that the Anacortes Planning Commission will conduct a Public Workshop followed by a Public Hearing in the Municipal Building Council Chambers (City Hall, 904 – 6th Street, PO Box 547, Anacortes, WA 98221) as follows:

Wednesday, July 13, 2016 @ 6 p.m.

Public Workshop, beginning at 6 p.m. for the 2016 Municipal Code Update to implement new Low Impact Development requirements.

Public Hearing, beginning approximately 7 p.m., for the implementation of Low Impact Development code requirements.

Published: June 29, 2016

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: 7/13/2016 **Agenda Item:** Municipal Code Update

Subject: Public Hearing and Workshop inviting comment on proposed changes to the municipal code to comply with Stormwater NPDES permit.

Staff Contact: John Franz

Approved for Submittal to Commission by	
	Don Measamer, Director

Action Type	
X	Public Hearing
X	Discussion
	Action

Summary Statement: The stormwater permit issued to the City of Anacortes by the Department of Ecology requires that LID (Low Impact Development) practices shall be the preferred and commonly used approach for stormwater management in all new and re-development projects, beginning in January 2016. The municipal code must be updated to comply with this requirement. The updated code sections are currently 70 to 90% complete. Planning Commission and public comment are invited.

Background: A Stormwater Municipal Code committee was established to update the code. The committee members include Councilperson Ryan Walters; Darcy Swetnam, Don Measmer, Fred Buckenmeyer, Matt Reynolds and John Franz. The City has contracted with Kulshan Services to provide technical assistance with the code update and required changes to the engineering standards. Kulshan Services Principal David Roberts and Todd Eastman also serve on the code review committee.

Previous Council/Committee Action: N/A

Competing Viewpoints Considered: The Samish Nation; the Swinomish Nation, the Port of Anacortes, engineering firms, developers, builders and contractors, the Fidalgo Bay Aquatic Reserve Citizens Advisory Committee and the public have been invited to comment on the proposed changes.

Recommended Motion: N/A

Alternative Actions: N/A

Attachments (listed in order presented): [Click here to enter text.](#)

2016 Draft Municipal Code update version 4 (b) clean

2016 Draft Municipal Code update version 4 (b) with remarks/comments

Code Review Letter from Kulshan Services dated July 6, 2016

Stormwater Infiltration Assessment Executive Briefing dated July 5, 2016

Ordinance No. _____

**An Ordinance [adopting/repealing/amending AMC ____] and
Adopting New Standards for Stormwater Management**

Whereas _____;

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

- Section 1. The Anacortes Municipal Code is amended as described in Attachment A.
- Section 2. Consistent with RCW 35A.12.130, this ordinance takes effect five days after passage and publication, or on January 1, 2017, whichever is later.

PASSED and APPROVED this ____ day of _____, 2016.

CITY OF ANACORTES:

Laurie Gere, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy James Swetnam, City Attorney

Attachment A

AMC Chapter 13.36, Drainage Requirements and Regulations, is repealed.

AMC 17.54.050, Stormwater Management/Quality and Quantity, is repealed.

[AMC 17.54.060, Land Clearing, is repealed.](#)

AMC 17.54.070, Regulated Slopes, is repealed.

AMC 17.54.080, Geologically Hazardous Areas, is repealed.

AMC 17.54.090, Site Grading, is repealed.

AMC Chapter 18.12, Land Clearing and Grading, is repealed.

Temporary TOC to show outline

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<i>Revised 17.04.050 - Conformity with this title required.</i>	
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TITLE 16 Zoning

16.04.020 - Policy.

- A. It is declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the comprehensive plan of the city.
- B. Land to be subdivided shall be of a character that can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided until proper provision has been made for: drainage, water, sewage, and capital improvements such as schools, parks, recreational facilities, and transportation facilities and improvements.
- C. The existing and proposed public improvements shall conform to and be properly related to the proposal shown in the comprehensive plan and the city capital facility plan. It is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the state Building Code, the city zoning ordinance, the city comprehensive plan, and the city capital facility plan.
- D. Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of the regulation(s) as identified in [Section 16.04.030](#).
- E. It is the policy of the city to fully implement the requirements of the Western Washington Phase II Municipal Stormwater Permit (the permit) and all of the technical requirements, site planning and design considerations contained in the Stormwater Management Manual for Western Washington (SWMMWW). Low Impact Development (LID) practices contained in the permit and the SWMMWW shall be the preferred and commonly used approach to new and redevelopment. The Director may authorize exceptions from any provision of this Title that is a barrier to LID or is in conflict with AMC Title 19, the permit, or the SWMMWW.

TITLE 17 Subdivisions

17.04.010 - Introduction.

No change

17.04.020 - Title and purpose.

No change

17.04.030 - Enacting clause.

No change

17.04.040 - Provisions of code declared to be minimum requirements and interpretation.

No change

17.04.050 - Conformity with this title required.

- A. No use or structure shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title.
- B. Creation of or changes to lot lines shall conform with to the use provisions, dimensional and other standards, and procedures of this title and [Title 16](#), Subdivisions.
- C. All land uses and development authorized by this title shall comply with all other regulations and or requirements of this title as well as any other applicable local, state or federal law. Where a difference exists between the title and other applicable regulations, the more restrictive requirements shall apply.
- D. Where more than one part of this title applies to the same aspect of a proposed use or development, the more restrictive requirement shall apply.
- E. It is the policy of the city to fully implement the requirements of the Western Washington Phase II Municipal Stormwater Permit (the permit) and all of the technical requirements, site planning and design considerations contained in the Stormwater Management Manual for Western Washington (SWMMWW). Low Impact Development (LID) practices contained in the permit and the SWMMWW shall be the preferred and commonly used approach to new and redevelopment. The Director may authorize exceptions from any provision of this Title that is a barrier to LID or is in conflict with AMC Title 19, the permit, or the SWMMWW.

Title 18 Environmental Protection

18.04 State Environmental Policy Act

No change.

18.08 Air Pollution Control District

No change.

18.12 Land Clearing and Grading

Repealed.

18.14 Nuisances

No change.

18.16 Shoreline Master Plan

No change.

18.20 Historic Properties

No change.

New Chapter 18.30 Illicit Discharges and Connections to the Stormwater System

18.30.010 Purpose.

The purpose of this Chapter is to protect surface and groundwater quality by controlling the discharge of pollutants and to ensure ongoing compliance with the City's NPDES permit.

18.30.020 Definitions.

The definitions in AMC 19.05.100 apply to this Chapter and are incorporated by reference.

18.30.030 Illicit discharges.

A. Illicit Discharges Prohibited.

1. No person may throw, drain, or otherwise discharge, or cause or allow others under its control to throw, drain, or otherwise discharge into the stormwater system any materials other than stormwater.
2. Illicit discharges include, but are not limited to solid waste; human and animal waste; antifreeze, oil, gasoline, grease, and all other automotive and petroleum products; flammable or explosive materials, metals in excess of naturally occurring amounts, whether in liquid or solid form; chemicals not normally found in uncontaminated water; solvents and

degreasers; paint products; drain cleaners; commercial and household cleaning materials; pesticides; herbicides; fertilizers; acids; alkalis; ink; steam-cleaning waste; laundry waste; soap; detergent; ammonia; chlorine; chlorinated swimming pool or hot tub water; domestic or sanitary sewage; animal carcasses; food and food waste; yard waste; dirt; sand; cement; plaster; dry-wall compound; and gravel.

B. Allowable Discharges. The following types of discharges are not illicit discharges for the purpose of this Chapter unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Diverted stream flows.
2. Rising groundwater.
3. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20).
4. Uncontaminated pumped groundwater.
5. Foundation drains.
6. Air conditioning condensation.
7. Irrigation water from agricultural sources that is commingled with urban stormwater.
8. Springs.
9. Water from crawl space pumps.
10. Footing drains.
11. Flows from riparian habitats and wetlands.
12. Discharges from emergency firefighting activities.

C. Conditionally Allowed Discharges. The following types of discharges are not illicit discharges for the purposes of this Chapter if they meet the stated conditions, unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Potable water, including water from water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.
2. Lawn watering and other irrigation runoff are permitted but must be minimized.
3. Dechlorinated swimming pool discharges. These discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities

controlled to prevent resuspension of sediments in the stormwater system. Discharges must be thermally controlled to prevent an increase in temperature of the receiving water.

4. Street and sidewalk wash water, water to control dust and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water is minimized. At active construction sites, street sweeping must be performed prior to washing the street.
5. Other non-stormwater discharges that are in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City which addresses control of such discharges by applying AKART to prevent pollutants from entering surface or groundwater.

D. Exemptions.

1. The following discharges are exempt from the provisions of this section:
 - a. the regulated effluent from any commercial or municipal facility holding a valid State or Federal wastewater discharge permit or NPDES stormwater permit;
 - b. acts of God or nature not compounded by human negligence;
 - c. properly operating on-site domestic sewage systems.
2. A person does not commit an illicit discharge if:
 - a. that person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART, even if pollutants continue to enter surface and stormwater or groundwater; or
 - b. that person can demonstrate that there are no additional pollutants being discharged from the site above the background conditions of the water entering the site.

E. Best Management Practices (BMPs).

1. Compliance with this Chapter must be achieved through the use of best management practices described in the Stormwater Management Manual or as described below.
2. BMPs must be applied to any business or residential activity that might result in illicit discharges. In applying the Stormwater Management Manual, the Director must first require the implementation of source control BMPs. If these are not sufficient to prevent pollutants from entering stormwater, the Director may require implementation of treatment BMPs as set forth in AKART.

18.30.040 Illicit connections and uses.

- A. No person may make, allow, use, or allow the continued existence of any connection to the stormwater system that could result in an illicit discharge.

- B. Connections to the stormwater system from the interiors of structures are prohibited.
- C. Connections to the stormwater system for any purpose other than to convey stormwater or groundwater are prohibited and must be eliminated.

18.30.050 Violations

- A. A violation of this Chapter is a class 1 civil infraction for each day it continues.
- B. The Director may impose a civil penalty of up to \$1,000 per day per violation.
- C. To abate a violation, the Director may:
 - 1. require implementation of stormwater BMPs described in the Stormwater Management Manual or AKART BMPs described in RCW 90.48.010 and 90.48.520.
 - 2. require the violator to sample and analyze any discharge, surface and stormwater, groundwater, or sediment, in accordance with the sampling and analytical procedures and requirements determined by the Director, and provide that analysis to the Director.
 - 3. make inspections as required to determine compliance, including observation of BMPs or sampling surface and stormwater or groundwater as often as may be necessary.
- D. The City Attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this Chapter.

New Chapter 18.40 Operations and Maintenance of Private and Municipal Stormwater Facilities.

18. 40 .010 Purpose.

The purpose of this Chapter is to protect surface and groundwater quality by controlling the discharge of pollutants, protect other properties from uncontrolled stormwater discharges, to ensure ongoing maintenance of stormwater BMPs, and compliance with the City's NPDES permit.

18. 40 .020 Definitions.

The definitions in AMC 19.05.100 apply to this Chapter and are incorporated by reference.

18.40.040 Maintenance Required.

- A. Owners and operators of stormwater facilities, including raingardens, must operate and maintain those facilities to ensure the performance achieves their intended purposes.
- B. Owners of property for which a stormwater BMP has been required by the City must continually maintain that BMP.

- C. Maintenance must be performed consistent with the conditions of approval and the approved maintenance plan. Unless a more restrictive provision applies, when an inspection identifies an exceedance of the maintenance standard, the owner must perform maintenance:
 - 1. Within 12 months for typical maintenance of facilities, except catch basins;
 - 2. Within six months for catch basins;
 - 3. Within 24 months for maintenance that requires capital construction of less than \$25,000.

18.40.050 Protection.

- A. Owners and operators of stormwater facilities must protect their stormwater facilities from harm or degradation.
- B. For LID facilities, the facility must be protected from all of the following:
 - a. Cover by structures or impervious material;
 - b. Soil compaction, for example by vehicular traffic or livestock;
 - c. Damage by soil removal and grade alteration;
 - d. Loss or degradation of amended soils;
 - e. Damage or removal of approved vegetation;
 - f. Conversion to another use.

18.40.060 Inspections of Stormwater Facilities.

- A. The City must inspect stormwater facilities at least annually, or less frequently if allowed by the City's NPDES permit.
- B. Whenever there is cause to believe that a violation of this Chapter has been or is being committed, the City may inspect per AMC Title 20, Civil Enforcement and Penalties.

18.40.070 Enforcement.

- A. A violation of this Chapter is a public nuisance.
- B. The Director may impose a civil penalty of up to \$100 per day per violation.
- C. The City Attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this Chapter.

18.40.080 Liability (From 13.36.310)

- A. Nothing contained in this chapter is intended to be nor shall be constructed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for

any injury or damage resulting from the failure of an owner of property or land to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents.

- B. Any city employee charged with the enforcement of this chapter, acting in good faith and without malice on behalf of the city in the discharge of his/her duties, shall not be personally liable for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his/her duties. Any suit brought against an employee because of such act or omission performed by him/her in the enforcement of any provision of this chapter shall be defended by the city.

New Title 19, Unified Development Code

New Chapter 19.05 General Provisions

19.05.060 Supremacy.

In the event of a conflict between provisions of this title and AMC Title 13, 15, 16, 17, or 18, the provisions of this title control.

(See 19.55.040)

19.05.100 Definitions.

- “AKART” means all known, available, and reasonable methods of prevention, control, and treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520.
- “Adverse Impact” means an unwanted and unanticipated result of taking a particular action or a negative effect that goes against desired conditions. (dictionary)
- Read more: <http://www.businessdictionary.com/definition/adverse-impact.html#ixzz4D6q0hV5R>
- “BMP/Best Management Practices” means practices or structures designed to reduce the quantities of pollutants such as sediment, nitrogen, phosphorus, and animal wastes washed by rain and snow melt from farms into nearby surface waters such as lakes, creeks, streams, rivers, and estuaries. Agricultural BMPs can include fairly simple changes in practices such as fencing cows from streams to keep animal waste out, planting grass in gullies where water flows off a planted field to reduce the amount of sediment that runoff picks up as it flows to rivers and lakes, reducing the amount of plowing in fields where row crops are planted to reduce soil erosion and nitrogen and phosphorus loss from fertilizers applied to the crop land. BMPs can also involve building structures, such as large animal waste storage tanks that allow farmers to choose when to spread manure on their fields as opposed to spreading it based on accumulated volume. (Skagit County Code)
- “Catch Basins” means A chamber or well, usually built at the curb line of a street, for the admission of surface water to a sewer or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow. (ECY)
- “City’s NPDES Permit” means the Phase II Western Washington Municipal Stormwater Permit (modified January 16, 2015) issued by the Department of Ecology pursuant to the National Pollutant Discharge Elimination System.
- “Clearing” means the surface removal of vegetation, except those regulated under WAC Title 222 or Chapter 46.04 RCW. (Skagit County Code)
- “Constructed wetlands” means those wetlands intentionally created on sites that are not wetlands for the primary purpose of wastewater or stormwater treatment and managed as such. Constructed wetlands are normally considered as part of the stormwater collection and treatment system. (ECY)

- “Conveyance” means a mechanism for transporting water from one point to another, including pipes, ditches, and channels. (ECY)
- “Critical Area” means include any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands, as defined in Chapter 36.70A RCW and this Title. (Skagit County Code)
- “Culverts” means pipe or concrete box structures that drain open channels, swales or ditches under a roadway or embankment. Typically with no catch basins or manholes along its length. (ECY)
- “Detention Basins” [facilities] means: stormwater and drainage facilities designed to store runoff while gradually releasing it at a pre-determined controlled rate. Detention facilities shall include all appurtenances associated with their designed function, maintenance, and security. (Skagit County Code)
- “Director” means the Director of the Planning, Community, and Economic Development Department.
- “Ditch” means a long narrow excavation dug in the earth for drainage with its top width less than 10 feet at design flow. (ECY)
- “Downspouts” means a pipe that carries rainwater from the roof of a building to the ground. (dictionary)
- “Drain” means a buried pipe or other conduit (closed drain). A ditch (open drain) for carrying off surplus surface water or ground water.
- “Drainage Maintenance Plan” means a recorded agreement that identifies a designated group or individual responsible for the proper operation, maintenance, and inspection of a specific stormwater drainage system. The agreement shall include the schedule and scope of maintenance operations for any detention ponds, control structures, catch basins, conveyance systems, and access roads or easements necessary for performance that are included with the as-built drawings as provided by a professional engineer. Such schedule and scope of operations shall include an inspection schedule, maintenance components, defects, conditions when maintenance is needed and the expected results of the performed maintenance. (similar to Skagit County Code)
- “Erosion Control” means (SCC 14.32.060.) Erosion and sediment control. All development must control erosion and sedimentation during construction to permanently stabilize soil exposed during construction and to comply with the requirements of this Section. In addition to the requirements of the Stormwater Management Manual, development. (Skagit County Code) Any temporary or permanent measures taken to reduce erosion; control siltation and sedimentation; and ensure that sediment-laden water does not leave the site. (ECY)
- “Erosion” means The wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Also, detachment and movement of soil or rock fragments by water, wind, ice, or gravity. The following terms are used to describe different types of water erosion. [descriptions for types of erosion not included]. (ECY)

- “Existing Significant Trees” means
- “Feasible” in the context of low impact development (LID) shall be determined by evaluation against:
 1. Design criteria, limitations, and infeasibility criteria identified for each LID facility in the Washington Department of Ecology Stormwater Management Manual for Western Washington (SWMMWW); and
 2. Competing needs criteria listed in Chapter 5 of Volume V of the SWMMWW.
- “Full Dispersion” means [Dispersed discharge] Release of surface and storm water runoff from a drainage facility system such that the flow spreads over a wide area and is located so as not to allow flow to concentrate anywhere upstream of a drainage channel with erodible underlying granular soils or the potential to flood downstream properties. (King Co)
- “Geologically hazardous areas” means areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards. (Skagit County Code)
- “Grading” means any excavating or filling or combination thereof. (Skagit County Code)
- “Groundcover” means small plants such as salal, ivy, ferns, mosses, grasses, or other types of vegetation that normally cover the ground.
- “Groundwater” means water in a saturated zone or stratum beneath the surface of land or a surface water body. (Skagit County Code)
- “Grubbing” means to dig in the ground especially for something that is difficult to find or extract (dictionary)
- “Hard Surfaces” means an impervious surface, a permeable pavement, or a vegetated roof. (Skagit County Code)
- “Impervious Surfaces” means a non-vegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area, which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces, which similarly impede the natural flow of stormwater. (Skagit County Code)
- “Infeasible” means not likely to work or be useful in attaining the end desired. (dictionary)
- “Infiltration devices [facility or system]” means a drainage facility designed to use the hydrologic process of surface and stormwater runoff soaking into the ground, commonly referred to as a percolation, to dispose of surface and stormwater runoff. (ECY)
- “Infiltration” means the downward movement of water from the surface to the subsoil. (ECY)
- “Land clearing” means the act of removing or destroying trees or groundcover.

- “Land Disturbing Activity” means any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land disturbing activity. Stormwater facility maintenance is not considered land-disturbing activity if conducted according to established standards and procedures. (SVC and ECY)
- “Low Impact Development (LID)” means a stormwater and land use management strategy that strives to mimic natural hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design. (ECY)
- “LID facilities” or “low impact development facilities” are distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to: bioretention, rain gardens, permeable materials, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.
- “Drainage Maintenance Plan” means: a recorded agreement that identifies a designated group or individual responsible for the proper operation, maintenance, and inspection of a specific stormwater drainage system. The agreement shall include the schedule and scope of maintenance operations for any detention ponds, control structures, catch basins, conveyance systems, and access roads or easements necessary for performance that are included with the as-built drawings as provided by a professional engineer. Such schedule and scope of operations shall include an inspection schedule, maintenance components, defects, conditions when maintenance is needed and the expected results of the performed maintenance. (Skagit County Code)
- “Maintenance” [drainage] means any activity that is necessary to keep a stormwater and drainage facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater and drainage facility if reconstruction is needed in order to return the facility to good working order. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater and drainage facilities. (Skagit County Code)
- “Minimum Requirement” means a technical Minimum Requirement described in Volume 1 of the Stormwater Management Manual for Western Washington (SWMMWW) and Appendix 1 of the City’s NPDES permit.
- “Native Vegetation” means pursuant to the NPDES permit, vegetation composed of plant species other than noxious weeds that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to occur naturally on the site. Examples include trees such as Douglas fir, western hemlock, western red cedar, alder, big-leaf

maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed. (Skagit County Code)

- “NPDES” stands for National Pollution Discharge and Elimination System.
- “NPDES Permit” means a permit issued to the City of Anacortes by the Washington Department of Ecology per their delegated authority from the US Environmental Protection Agency. The City’s NPDES permit is required to ensure stormwater runoff and discharges are managed in a manner that is consistent with requirements of the Federal Clean Water Act.
- “Partially developed lot” means a lot or parcel of land of one-quarter of an acre on which a single-family dwelling is located and which is of sufficient area so as to be capable of subdivision in accordance with the city land division code.
- “Person” means any person, corporation, or other legal entity.
- “Pipe” means a long, hollow tube for carrying water, steam, gas, etc. (dictionary)
- “Predevelopment Hydrologic Conditions” means [hydrologic cycle] The circuit of water movement from the atmosphere to the earth and return to the atmosphere through various stages or processes such as precipitation, interception, runoff, infiltration, percolation, storage, evaporation, and transpiration. (King Co)
- “Qualified Professional” means a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and two years of related work experience. (Skagit County Code)
- “Rain Gardens” means non-engineered shallow, landscaped depression, with compost-amended native soils and adapted plants. The depression is designed to pond and temporarily store stormwater runoff from adjacent areas, and to allow stormwater to pass through the amended soil profile. (ECY)
- “Retaining Wall” means a wall built to keep the land behind it from sliding. (dictionary)
- “Retention Basin” [/detention facility] means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold surface and stormwater runoff for a short period of time and then release it to the surface and stormwater management system.
- “Runoff” means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water. As applied in this manual, it also means the portion of rainfall or other precipitation that becomes surface flow and interflow. (ECY)
- “Sediment Basins” means fragmented material that originates from weathering and erosion of rocks or unconsolidated deposits, and is transported by, suspended in, or deposited by water.
- “Stormwater” means runoff during and following precipitation and snowmelt events, including surface runoff, drainage, or interflow.
- “Stormwater BMP” means [BMP] the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices, that when used singly or

in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State. (ECY)

- “Stormwater Discharge” means runoff leaving a new development or redevelopment via overland flow, built conveyance systems, or infiltration facilities. A hydraulic rate of flow, specifically fluid flow; a volume of fluid passing a point per unit of time, commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, gallons per day, or millions of gallons per day. (ECY)
- “Stormwater facility” means a component of a manmade drainage feature or features designed or constructed to perform a particular function or multiple functions. These include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, wetponds, constructed wetlands, infiltration devices, catch basins, sediment basins, and low-impact development facilities. “Stormwater facility” does not include building gutters, downspouts, and drains serving only one single-family residence.
- “Stormwater Management Manual” means the City’s manual for design of stormwater facilities, as adopted in AMC 19.50.040.
- “Stormwater Management Manual for Western Washington” means the most current version of the manual developed by the Washington Department of Ecology to provide guidance on the measures necessary to control the quantity and quality of stormwater produced by new development and redevelopment, such that they comply with water quality standards and contribute to the protection of receiving waters. The current version is the manual as amended in December, 2014. See SWMMWW.
- “Stormwater system” means all natural and manmade systems that function together or independently to collect, store, purify, discharge, and convey stormwater. Included are all stormwater and drainage facilities as well as natural systems such as streams and creeks and all natural systems which convey, store, infiltrate, or divert stormwater.
- “Street Gutter” means a low area at the side of a road used to catch water and carry it away from the road. (dictionary)
- “Surface Water” means waters that flow over the land surface and frequently interact with groundwater. (Skagit County Code)
- “Swale” means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot. (ECY)
- “SWMMWW” means Stormwater Management Manual for Western Washington.
- “Tree” means any living wood plant characterized by one main stem or trunk and many branches, and having a diameter of eight inches or more measured at 24 inches above ground level.
- “Western Washington Hydrologic Model (WWHM)” means a uniform methodology for the 19 counties of Western Washington in which the user can model almost any hydrologic condition related to stormwater control and design. (ECY)
- “Wetpond” means drainage facilities for water quality treatment that contain a permanent pool of water. They are designed to optimize water quality by providing long retention times (on the

order of a week or more) to settle out particles of fine sediment to which pollutants such as heavy metals adsorb, and to allow biologic activity to occur that metabolizes nutrients and organic pollutants. For wetvaults, the permanent pool of water is covered by a lid, which blocks sunlight from entering the facility, limiting light-dependent biologic activity. (King Co)

New Chapter 19.50 Stormwater Management

19.50.010 Policy.

- A. Purpose. Washington State law mandates that stormwater discharge resulting from development activities and pollution-generating activities be controlled and treated to provide available and reasonable methods of erosion control, flood control, habitat protection, and water quality treatment. The City of Anacortes has adopted the requirements of this Chapter for both temporary and long-term stormwater management. The purpose of this Chapter is to set out the authority, regulatory requirements, submittal requirements, and procedures for stormwater drainage design, review, approval, construction, maintenance, and management.
- B. Goals of Low Impact Development (LID). LID is the preferred and commonly used approach to site development. LID is intended to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. (From NPDES Permit S5.C4.f.i) This Chapter accomplishes the following goals:
 - 1. Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to mimic predevelopment hydrologic conditions;
 - 2. Encourage creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate technologies and techniques, and the efficient layout of streets, utility networks and other public improvements;
 - 3. Reduce hard surfaces and impervious surfaces; and
 - 4. Preserve or restore native vegetation.

19.50.020 Applicability.

- A. This Chapter applies to any land disturbing activity that requires a permit under this Title.
- B. Exemptions. The following activities are exempt from the requirements of this chapter:
 - 1. Landscape maintenance activities and gardening not related to stormwater facilities or raingardens.
 - 2. The activities described in Appendix 1, Section 1 of the City's NPDES permit, including qualifying pavement maintenance and underground utility projects.

19.50.030 Application Requirements.

- A. All activity to which this Chapter applies requires review consistent with this Chapter.
- B. All applications requiring review under this Chapter must:
 - 1. meet the requirements in Appendix 1, Section 3 (Applicability of the Minimum Requirements) and Section 4 (Minimum Requirements) in the City's NPDES permit; and
 - 2. meet the requirements for site plan review as outlined in the City's NPDES permit found in S5.C.4.b.

19.50.040 Stormwater Management Manual.

- A. The City of Anacortes adopts Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in December 2014, as the City's Stormwater Management Manual.
- B. The City of Anacortes adopts the Thresholds, Definitions, Minimum Requirements, and Exceptions, Adjustment, and Variance Criteria found in Appendix 1 of the City's NPDES Permit (Modified January 16,2015).
- C. The City of Anacortes refers to the 2012 Low Impact Development Technical Guidance Manual, Puget Sound Partnership for information related to best management practices.
- D. The Director is the administrator authorized to determine feasibility and make decisions on adjustments and exceptions under the Stormwater Management Manual.

E. Feasibility.

1. The Director may determine infiltration is infeasible without the infiltration testing required by the Stormwater Management Manual Stormwater BMPs when infiltration is known to the City to be infeasible due to any of the following:
 - a. soil conditions;
 - b. presence of significant naturally occurring groundwater;
 - c. significant tidal influence on groundwater;
 - d. presence of geologically hazardous areas that would be made unstable by infiltration.

F. Adjustments and Exceptions.

1. The Director may grant an adjustment to the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction consistent with the criteria in the City's NPDES Permit Appendix 1 Section 5. Adjustments .
2. The Director may grant an exception from this Chapter or the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction when consistent with the criteria in the City's NPDES Permit Appendix 1 Section 6 Exceptions and Variances.
3. The Director must retain records, including the written findings of fact, of all exceptions from the minimum requirements.
4. A request for an adjustment or exception must adequately describe the justification for relief.

19.50.050 Low-Impact Development Techniques and Facilities.

- A. Applicants must locate and design all buildings, streets and pathways, parking areas, and utility easements to promote public safety, ensure compatibility of uses, minimize effective impervious surface, preserve native vegetation, and complement predevelopment site characteristics such as topography, soils, hydrology, and other natural features.
- B. General Design Techniques.

1. Applicants must limit clearing and grading to the minimum necessary for construction of permitted uses and associated utilities.
 2. Applicants must limit lawn areas, driveways, and roads and locate them in a manner that results in the least disruption to the topography and native vegetation on the site.
 3. Applicants must consider clustering lots, dwelling units, or building structures during the conceptual planning stage to preserve open space, reduce total impervious surface area, and minimize development impacts on adjacent or nearby critical areas and associated buffers.
- C. Projects subject to any of the Minimum Requirements found in Appendix 1 of the City's NPDES permit must comply with the following:
1. After the project is complete, there may not be a net increase in impervious surface above the limit on the permit, plat, or site plan without approval from the Director.
 2. For subdivisions, the maximum impervious surfaces allowed for each lot must be added to the face of the plat.
 3. For all other development, the maximum impervious surface allowed for the development must be added to the face of the final, approved site plan.
- D. Where native vegetation is used to achieve Stormwater Management Manual Minimum Requirements 6 (Runoff Treatment) or 7 (Flow Control), the applicant must establish one or more of the following permanent protective mechanisms to ensure that native vegetation is retained:
1. a protective easement dedicated to the City;
 2. a separate nonbuilding tract owned in common by all lots within the subdivision;
 3. restrictions on the future use of the area recorded on the face of the final plat;
 4. an alternative permanent protective mechanism approved by the Director.
- E. Where an LID stormwater facility is required, the applicant may use that facility to satisfy landscaping requirements so long as the purpose and intent of required landscaping is satisfied and the landscaping does not disrupt the function of LID stormwater facilities.

19.50.060 Stormwater Facilities.

- A. Location.
1. A stormwater facility necessary for compliance with this Chapter must be located abutting a right of way. When the site is constrained by topography, soils, hydrology, or other factors, the Director may approve an alternative location that facilitates access by the City for inspection and maintenance.

2. A stormwater facility may be located within a right of way at the discretion of the Director.
- B. Dedication. For a stormwater facility necessary for compliance with this Chapter, the Director may require any combination of the following as a condition of development:
 1. that the applicant dedicate an easement to the City for access and inspection of the stormwater facility. The Director may waive this requirement for small facilities that do not require inspection or can be effectively inspected without an access easement.
 2. that the stormwater facility be dedicated to the City, which the City may accept if:
 - a. the facility as designed and constructed conforms to the provisions of this Chapter;
 - b. all easements and tracts required under this Chapter necessary for the City to operate and maintain the facility have been conveyed to the City and have been recorded with the County Auditor;
 - c. a maintenance plan has been accepted per subsection C.
- C. Inspection - Construction (from 13.36.160)
 1. All activities regulated by this chapter shall be inspected by the city, unless otherwise approved by the city. Projects will be inspected at various stages of the work to determine that adequate control is being exercised.
 2. Stages of work requiring inspection include, but are not limited to: preconstruction; installation of BMPs; land-disturbing activities; installation of utilities, landscaping, retaining walls; and completion of project.
 3. At the time of approval of the drainage plan for the subject property, a schedule for inspection to ensure proper review of construction and facilities will be established by the official. (Ord. 2441 § 15, 1997)
- D. Modification of facilities during construction (from 13.36.170) The city may require that the construction of drainage facilities and associated project designs be modified or redesigned if conditions occur or are discovered which were not considered or known at the time the permit or approval was issued, such as uncovering unexpected soil and/or water conditions, weather-generated problems, or undue materials shortages. Any such modifications made during the construction of drainage control facilities shall be recorded on the final approved drainage plan, a revised copy of which shall be provided to the city. (Ord. 2441 § 16, 1997)
- E. Maintenance Plan Required.
 1. Prior to the use of a stormwater facility required by this Chapter, the owner must:
 - a. ensure a complete initial evaluation of the stormwater facility system components and property by a qualified professional to determine functionality, maintenance needs, and

compliance with this Chapter and any permits. The property owner must submit the signed and stamped engineer's evaluation to the Director for approval;

- b. provide a complete and accurate set of reproducible as-built record drawings stamped and certified as accurate by a qualified professional;
- c. obtain approval from the Director for a maintenance plan;
- d. record the approved maintenance plan with the County Auditor against the title of all properties using the stormwater facility.

2. The maintenance plan must:

- e. address how all of the elements of the stormwater facility will be maintained;
- f. include the schedule for ongoing maintenance;
- g. identify the responsible party for ongoing maintenance;
- h. be consistent with Stormwater Management Manual, especially Volume V, Chapter 4.

3. The maintenance plan remains in force for the life of the development or until the City approves a new or amended maintenance plan for the development's stormwater facilities.

F. Plat notes. For land divisions, the Director may require a plat note indicating that the property owner(s) must maintain the stormwater facility consistent with the recorded maintenance plan and that if the stormwater facility is not so maintained the City may perform the maintenance and charge the costs of such maintenance to the property owners.

G. Establishment of regional facilities (from 13.36.240)

- 1. In the event that public benefits would accrue due to modification of the stormwater plan for the subject property to better implement the recommendations of the city's surface water quality management plan, the authorized city official may recommend that the city should assume some responsibility for the further design, construction, operation and maintenance of drainage facilities receiving runoff from the subject property. Such decision shall be made concurrently with review and approval of the stormwater plan as specified in this chapter.
- 2. In the event the city decides to assume some responsibility for design, construction, operation and maintenance of the facilities, the developer will be required to contribute a pro rata share to the construction cost of the facilities. The developer may be required to supply additional information at the request of the official to aid in the determination by the city. Guidelines for implementing this section will be defined by the official.

19.50.070 Conveyance

A. Generally.

1. All proposed development requiring stormwater conveyance must provide conveyance with sufficient capacity to convey without flooding or otherwise damaging existing or proposed structures, consistent with the Stormwater Management Manual.
2. Estimation of peak stormwater runoff rates used in the design of stormwater conveyance facilities must use methods or models identified in the SWMMWW for estimating a hydrograph using a mathematical simulation.
3. Runoff may not discharge directly onto the surface of a public street or road.
4. Runoff and infiltration must be directed away from septic drain fields.
5. Runoff from impervious surfaces, roof drains, and yard drains must be directed so as not to adversely affect adjacent properties.
6. Runoff from development may not cause a significant adverse impact to down-gradient properties.

B. Easements, Tracts, and Covenants.

1. All proposed development must provide easements for all stormwater conveyance systems that are not located in public rights-of-way or tracts and must be granted to the parties responsible for providing ongoing maintenance of the systems. Drainage easements through non-drainage structures are prohibited.
2. Wording to this effect must appear on the face of all final plats, and must be contained in any covenants required for a development.

New Chapter 19.55 Clearing, Grubbing, and Grading

19.55.010 Policy.

These regulations are adopted for the following purposes:

- A. To promote the public health, safety, and general welfare of the citizens of the city;
- B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of native vegetation including trees and ground cover on undeveloped and partially developed property;
- C. To promote building and site planning practices that are consistent with the city's natural topographical and vegetation features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and

the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;

- D. To minimize surface water and groundwater runoff and diversion, to reduce siltation of lakes and streams and to deter erosion due to removal of trees and ground cover and reduce the risk of slides;
- E. To minimize the need for additional storm drainage facilities;
- F. To retain clusters of trees for the abatement of noise and wind protection;
- G. To ensure prompt development, restoration, and replanting, and effective erosion control of property after land clearing;
- H. To implement the goals and objectives of the State Environmental Policy Act.

19.55.020 Applicability.

- A. This Chapter applies to all clearing, grubbing, and grading.
- B. Exemptions. This Chapter does not apply to:
 - 1. the installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;
 - 2. removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;
 - 3. removal of dead or diseased trees or ground cover;
 - 4. removal of 6,000 square feet or less of trees and/or groundcover on a lot that contains an existing permitted building and is capable of being divided into two or more lots, for purposes of general property and utility maintenance or landscaping except that:
 - a. any land clearing that includes the use of a bulldozer or similar mechanical earthmoving equipment is not exempt; and
 - b. land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities or buildings is not exempt.

19.55.030 Application Requirements.

- A. All activity to which this chapter applies requires an application and permit consistent with this chapter. A separate permit is not required if an application has been approved for a building permit, preliminary plat, or a final planned unit development.
- B. Applications must be on forms provided by the Department and must include:

1. a site plan sufficient for identification, location, type, and size of existing significant trees; designation of clearing limits; and other requirements identified by the Director;
2. if excavated material is to be wasted off-site, a description of the location and the route to the disposal site;
3. demonstration of compliance with AMC Chapter 19.50, Stormwater Management.

19.55.040 Development Standards

- A. All activity to which this chapter applies must comply, and the Director may condition a permit issued per this Chapter to ensure compliance, with all of the following:
 1. AMC Chapter 17.70, Critical Areas Regulations;
 2. AMC Chapter 18.04, State Environmental Policy Act;
 3. AMC Chapter 19.50, Stormwater Management;
 4. the Anacortes Shoreline Master Program;
 5. the International Building Code provisions for “Excavation and Grading.”
 6. the international Fire Code
- B. When grading a site, whether a single lot or a larger tract, the owner of the site being graded must protect adjacent property from the effects of the grading. If a cut or excavation is made near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the adjacent property from sliding toward the cut. If fill such as soil, gravel, rock, or other material is placed near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the fill material from sliding onto the adjacent property.
- C. The Director may require cuts, fill, and retaining walls to be designed by a licensed structural engineer, due to slope steepness, soil types, geological stability, or other factors.
- D. If there are structures on the adjacent property at the time a cut is made, or if a building permit has been issued to build such structures, the effect of the weight of these structures must be taken into account when determining the support required for the cut, in order to avoid undermining or damaging the structures. If a structure is built after a permit for cut or fill has been issued, the structure must be designed so that it does not create additional stresses on a properly designed cut or fill or retaining wall which would be likely to cause it to fail, based on standard structural engineering principles.

19.55.050 Subdivision Prohibited After Clearing

No land division for a property may be approved within five years after clearing.

19.55.060 Bonds and Liability (from 13.36.250)

- A. **Performance Bond.** The Director may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of the permit. The bond may be in an amount equal to two hundred percent of the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the Director.
- B. The city is authorized to require all persons constructing retention/detention or other drainage treatment/abatement facilities to post surety and cash bonds.
- C. Where such persons have previously posted or are required to post other such bonds on the facility itself or on other construction related to the facility, such persons may, with the permission of the authorized city official and to the extent allowable by law, combine all such bonds into a single bond; provided, that at no time shall the amount thus bonded be less than the total amount which would have been required in the form of separate bonds; and provided, further, that such a bond shall on its face clearly delineate those separate bonds which it is intended to replace.
 - 1. **Construction Bond.** Prior to commencing construction, the person constructing the facility shall post a construction bond in an amount sufficient to cover the cost of conforming the construction with the approved drainage plans. The amount of the bond shall be increased at one-year intervals in a proportion equivalent to the prevailing rate of inflation in construction costs as specified in the procedures manual. After determination by the official that all facilities are constructed in compliance with the approved plans, the construction bond shall be released. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.
 - 2. **Maintenance Bond.** After determination by the official that all facilities are constructed in compliance with the approved plans, the construction bond shall be released. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.
 - 3. **Performance Bond.** A surety bond or cash bond to cover the cost of design defects or failures in workmanship of the facilities shall also be posted and maintained throughout the two-year maintenance period. The amount of the bonds shall be increased at one-year intervals in a proportion equivalent to the prevailing rate of inflation. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.
 - 4. **Liability Bond.** The person constructing the facility shall maintain a liability policy in an amount established by the director which shall name the city as an additional insured and which shall protect the city from any liability up to those amounts for any accident, negligence, failure of

the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. The liability policy shall be maintained for the duration of the facility by the owner of the facility; provided, that in case of facilities assumed by the city for maintenance pursuant to Section 13.36.230 of this chapter, the liability policy shall be terminated when and if the city maintenance responsibility commences. (Ord. 2441 § 24, 1997)

DRAFT – version muni code 2016 v4 (b) with all remarks and comments

Ordinance No. _____

**An Ordinance [adopting/repealing/amending AMC ____] and
Adopting New Standards for Stormwater Management**

Whereas _____;

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

- Section 1. The Anacortes Municipal Code is amended as described in Attachment A.
- Section 2. Consistent with RCW 35A.12.130, this ordinance takes effect five days after passage and publication, or on January 1, 2017, whichever is later.

PASSED and APPROVED this ____ day of _____, 2016.

CITY OF ANACORTES:

Laurie Gere, Mayor

Attest:

Steve Hoglund, City Clerk-Treasurer

Approved as to Form:

Darcy James Swetnam, City Attorney

Attachment A

AMC Chapter 13.36, Drainage Requirements and Regulations, is repealed.

Commented [RW1]: Includes 13.36.070 - Illicit discharges.

AMC 17.54.050, Stormwater Management/Quality and Quantity, is repealed.

AMC 17.54.060, Land Clearing, is repealed.

AMC 17.54.070, Regulated Slopes, is repealed.

AMC 17.54.080, Geologically Hazardous Areas, is repealed.

AMC 17.54.090, Site Grading, is repealed.

AMC Chapter 18.12, Land Clearing and Grading, is repealed.

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<i>Revised 16.04.020 - Policy.</i>		
<i>Revised 17.04.050 - Conformity with this title required.</i>		
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18.08 Air Pollution Control District		6
18.12 Land Clearing and Grading		6
18.14 Nuisances		6
18.16 Shoreline Master Plan		6
18.20 Historic Properties		6
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18.30.020 Definitions.		6
18.30.030 Illicit discharges.		6
18.30.040 Illicit connections and uses.		8
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<i>New Chapter 18.40 Operations and Maintenance of Stormwater Facilities.</i>		9
18.40.010 Maintenance Required		9
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19.55.050 Permit expiration and amendment.	Error! Bookmark not defined.

TITLE 16 Zoning

16.04.020 - Policy.

- A. It is declared to be the policy of the city to consider the subdivision of land and the subsequent development of the subdivided plat as subject to the control of the city pursuant to the comprehensive plan of the city.
- B. Land to be subdivided shall be of a character that can be used safely for building purposes without danger to health or peril from fire, flood, or other menace. Land shall not be subdivided until proper provision has been made for: drainage, water, sewage, and capital improvements such as schools, parks, recreational facilities, and transportation facilities and improvements.
- C. The existing and proposed public improvements shall conform to and be properly related to the proposal shown in the comprehensive plan and the city capital facility plan. It is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in the state Building Code, the city zoning ordinance, the city comprehensive plan, and the city capital facility plan.
- D. Land that has been subdivided prior to the effective date of these regulations should, whenever possible, be brought within the scope of these regulations to further the purposes of the regulation(s) as identified in [Section 16.04.030](#).
- E. It is the policy of the city to fully implement the requirements of the Western Washington Phase II Municipal Stormwater Permit (the permit) and all of the technical requirements, site planning and design considerations contained in the Stormwater Management Manual for Western Washington (SWMMWW). Low Impact Development (LID) practices contained in the permit and the SWMMWW shall be the preferred and commonly used approach to new and redevelopment. The Director may authorize exceptions from any provision of this Title that is a barrier to LID or is in conflict with AMC Title 19, the permit, or the SWMMWW.

TITLE 17 Subdivisions

17.04.010 - Introduction.

No change

17.04.020 - Title and purpose.

No change

17.04.030 - Enacting clause.

No change

17.04.040 - Provisions of code declared to be minimum requirements and interpretation.

No change

17.04.050 - Conformity with this title required.

- A. No use or structure shall be established, substituted, expanded, constructed, altered, moved, maintained, or otherwise changed except in conformance with this title.
- B. Creation of or changes to lot lines shall conform with to the use provisions, dimensional and other standards, and procedures of this title and [Title 16](#), Subdivisions.
- C. All land uses and development authorized by this title shall comply with all other regulations and or requirements of this title as well as any other applicable local, state or federal law. Where a difference exists between the title and other applicable regulations, the more restrictive requirements shall apply.
- D. Where more than one part of this title applies to the same aspect of a proposed use or development, the more restrictive requirement shall apply.
- E. It is the policy of the city to fully implement the requirements of the Western Washington Phase II Municipal Stormwater Permit (the permit) and all of the technical requirements, site planning and design considerations contained in the Stormwater Management Manual for Western Washington (SWMMWW). Low Impact Development (LID) practices contained in the permit and the SWMMWW shall be the preferred and commonly used approach to new and redevelopment. The Director may authorize exceptions from any provision of this Title that is a barrier to LID or is in conflict with AMC Title 19, the permit, or the SWMMWW.

Title 18 Environmental Protection

18.04 State Environmental Policy Act

No change.

18.08 Air Pollution Control District

No change.

18.12 Land Clearing and Grading

Repealed.

18.14 Nuisances

No change.

18.16 Shoreline Master Plan

No change.

18.20 Historic Properties

No change.

New Chapter 18.30 Illicit Discharges and Connections to the Stormwater System

Commented [RW2]: This is in Title 18 instead of 19 because it is not a development regulation.

18.30.010 Purpose.

The purpose of this Chapter is to protect surface and groundwater quality by controlling the discharge of pollutants and to ensure **ongoing** compliance with the City's NPDES permit.

18.30.020 Definitions.

The definitions in AMC 19.05.100 apply to this Chapter and are incorporated by reference.

18.30.030 Illicit discharges.

A. Illicit Discharges Prohibited.

1. No person may throw, drain, or otherwise discharge, or cause or allow others under its control to throw, drain, or otherwise discharge into the stormwater system any materials other than stormwater.
2. Illicit discharges include, but are not limited to solid waste; human and animal waste; antifreeze, oil, gasoline, grease, and all other automotive and petroleum products; flammable or explosive materials, metals in excess of naturally occurring amounts, whether in liquid or solid form; chemicals not normally found in uncontaminated water; solvents and

Commented [RW3]: Need to define to avoid muddy water

Commented [FJ4R3]: The word "uncontaminated" should be inserted to address water that is polluted with mud or any other substance, if more than "uncontaminated stormwater" is necessary I suggest adding "as defined and regulated in the Western Washington Phase II Municipal Stormwater Permit"

Commented [RW5]: List from AMC 13.36.070

degreasers; paint products; drain cleaners; commercial and household cleaning materials; pesticides; herbicides; fertilizers; acids; alkalis; ink; steam-cleaning waste; laundry waste; soap; detergent; ammonia; chlorine; chlorinated swimming pool or hot tub water; domestic or sanitary sewage; animal carcasses; food and food waste; yard waste; dirt; sand; cement; plaster; dry-wall compound; and gravel.

B. Allowable Discharges. The following types of discharges are not illicit discharges for the purpose of this Chapter unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Diverted stream flows.
2. Rising groundwater.
3. Uncontaminated groundwater infiltration as defined in 40 CFR 35.2005(20).
4. Uncontaminated pumped groundwater.
5. Foundation drains.
6. Air conditioning condensation.
7. Irrigation water from agricultural sources that is commingled with urban stormwater.
8. Springs.
9. Water from crawl space pumps.
10. Footing drains.
11. Flows from riparian habitats and wetlands.
12. Discharges from emergency firefighting activities.

C. Conditionally Allowed Discharges. The following types of discharges are not illicit discharges for the purposes of this Chapter if they meet the stated conditions, unless the Director determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Potable water, including water from water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system.
2. Lawn watering and other irrigation runoff are permitted but must be minimized.
3. Dechlorinated swimming pool discharges. These discharges must be dechlorinated to a concentration of 0.1 ppm or less, pH-adjusted, if necessary and in volumes and velocities

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controlled to prevent resuspension of sediments in the stormwater system. Discharges must be thermally controlled to prevent an increase in temperature of the receiving water.

4. Street and sidewalk wash water, water to control dust and routine external building wash down that does not use detergents are permitted if the amount of street wash and dust control water is minimized. At active construction sites, street sweeping must be performed prior to washing the street.
5. Other non-stormwater discharges that are in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the City which addresses control of such discharges by applying AKART to prevent pollutants from entering surface or groundwater.

D. Exemptions.

1. The following discharges are exempt from the provisions of this section:
 - a. the regulated effluent from any commercial or municipal facility holding a valid State or Federal wastewater discharge permit or NPDES stormwater permit;
 - b. acts of God or nature not compounded by human negligence;
 - c. properly operating on-site domestic sewage systems.
2. A person does not commit an illicit discharge if:
 - a. that person has properly designed, constructed, implemented and is maintaining BMPs and is carrying out AKART, even if pollutants continue to enter surface and stormwater or groundwater; or
 - b. that person can demonstrate that there are no additional pollutants being discharged from the site above the background conditions of the water entering the site.

E. Best Management Practices (BMPs).

1. Compliance with this Chapter must be achieved through the use of best management practices described in the Stormwater Management Manual or as described below.
2. BMPs must be applied to any business or residential activity that might result in illicit discharges. In applying the Stormwater Management Manual, the Director must first require the implementation of source control BMPs. If these are not sufficient to prevent pollutants from entering stormwater, the Director may require implementation of treatment BMPs as set forth in AKART.

18.30.040 Illicit connections and uses.

- A. No person may make, allow, use, or allow the continued existence of any connection to the stormwater system that could result in an illicit discharge.

- B. Connections to the stormwater system from the interiors of structures are prohibited.
- C. Connections to the stormwater system for any purpose other than to convey stormwater or groundwater are prohibited and must be eliminated.

18.30.050 Violations

- A. A violation of this Chapter is a class 1 civil infraction for each day it continues.
- B. The Director may impose a civil penalty of up to \$1,000 per day per violation.
- C. To abate a violation, the Director may:
 - 1. require implementation of stormwater BMPs described in the Stormwater Management Manual or AKART BMPs described in RCW 90.48.010 and 90.48.520.
 - 2. require the violator to sample and analyze any discharge, surface and stormwater, groundwater, or sediment, in accordance with the sampling and analytical procedures and requirements determined by the Director, and provide that analysis to the Director.
 - 3. make inspections as required to determine compliance, including observation of BMPs or sampling surface and stormwater or groundwater as often as may be necessary.
- D. The City Attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this Chapter.

Commented [RW6]: Permit requires escalating enforcement measures. See S5.C.3.b.v on pg 22

Commented [F37R6]: The procedure contained in the City Illicit Discharge Detection and Elimination program directs the following steps:
1) Upon identification of the source of an illicit discharge, alert the responsible party to the problem; encourage voluntary compliance, provide technical assistance send summary letter of findings and the assistance provided and follow up to verify compliance.
2) If the problem persists send a written notice of violation and establish a compliance date. Ensure compliance and follow up with site visit and confirmation of resolution to the problem.
3) Problem persists send second written notice of violation. If the second warning letter does not achieve compliance the City shall correct structural deficiencies at the property owners cost and determine and assess civil penalties.

If the above actions do not achieve compliance a further step may be necessary, a referral to the prosecutor for criminal prosecution. Language may be necessary to successfully accomplish this step.

New Chapter 18.40 Operations and Maintenance of Private and Municipal Stormwater Facilities.

18.40.010 Purpose.

The purpose of this Chapter is to protect surface and groundwater quality by controlling the discharge of pollutants, protect other properties from uncontrolled stormwater discharges, to ensure ongoing maintenance of stormwater BMPs, and compliance with the City's NPDES permit.

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18.40.020 Definitions.

The definitions in AMC 19.05.100 apply to this Chapter and are incorporated by reference.

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18.40.040 Maintenance Required.

- A. Owners and operators of stormwater facilities, including rain gardens, must operate and maintain those facilities to ensure the performance achieves their intended purposes.
- B. Owners of property for which a stormwater BMP has been required by the City must continually maintain that BMP.

- C. Maintenance must be performed consistent with the conditions of approval and the approved maintenance plan. Unless a more restrictive provision applies, when an inspection identifies an exceedance of the maintenance standard, the owner must perform maintenance:

1. Within 12 months for typical maintenance of facilities, except catch basins;
2. Within six months for catch basins;
3. Within 24 months for maintenance that requires capital construction of less than \$25,000.

Commented [RW8]: This schedule is required by the NPDES Permit.

18.40.050 Protection.

- A. Owners and operators of stormwater facilities must protect their stormwater facilities from harm or degradation.
- B. For LID facilities, the facility must be protected from all of the following:
- a. Cover by structures or impervious material;
 - b. Soil compaction, for example by vehicular traffic or livestock;
 - c. Damage by soil removal and grade alteration;
 - d. Loss or degradation of amended soils;
 - e. Damage or removal of approved vegetation;
 - f. Conversion to another use.

18.40.060 Inspections of Stormwater Facilities.

- A. The City must inspect stormwater facilities at least annually, or less frequently if allowed by the City's NPDES permit.
- B. Whenever there is cause to believe that a violation of this Chapter has been or is being committed, the City may inspect per AMC Title 20, Civil Enforcement and Penalties.

18.40.070 Enforcement.

- A. A violation of this Chapter is a public nuisance.
- B. The Director may impose a civil penalty of up to \$100 per day per violation.
- C. The City Attorney is authorized to take other actions, including actions for injunctive or other relief, to enforce the provisions of this Chapter.

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18.40.080 Liability (From 13.36.310)

- A. Nothing contained in this chapter is intended to be nor shall be constructed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for

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any injury or damage resulting from the failure of an owner of property or land to comply with the provisions of this chapter, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this chapter, or by reason of any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees or agents.

- B. Any city employee charged with the enforcement of this chapter, acting in good faith and without malice on behalf of the city in the discharge of his/her duties, shall not be personally liable for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his/her duties. Any suit brought against an employee because of such act or omission performed by him/her in the enforcement of any provision of this chapter shall be defended by the city.

New Title 19, Unified Development Code

New Chapter 19.05 General Provisions

19.05.060 Supremacy.

In the event of a conflict between provisions of this title and AMC Title 13, 15, 16, 17, or 18, the provisions of this title control.

(See 19.55.040)

Commented [D9]: Does it make sense to have Development Standards apply to the whole Title? We suggest moving 19.55.040 here. We also suggest including the International Fire Code.

19.05.100 Definitions.

Commented [RW10]: I'll work on definitions for these.

- “AKART” means all known, available, and reasonable methods of prevention, control, and treatment. See also the State Water Pollution Control Act, RCW 90.48.010 and 90.48.520.
- “Adverse Impact” means an unwanted and unanticipated result of taking a particular action or a negative effect that goes against desired conditions. (dictionary)
- Read more: <http://www.businessdictionary.com/definition/adverse-impact.html#ixzz4D6q0hV5R>
- “BMP/Best Management Practices” means practices or structures designed to reduce the quantities of pollutants such as sediment, nitrogen, phosphorus, and animal wastes washed by rain and snow melt from farms into nearby surface waters such as lakes, creeks, streams, rivers, and estuaries. Agricultural BMPs can include fairly simple changes in practices such as fencing cows from streams to keep animal waste out, planting grass in gullies where water flows off a planted field to reduce the amount of sediment that runoff picks up as it flows to rivers and lakes, reducing the amount of plowing in fields where row crops are planted to reduce soil erosion and nitrogen and phosphorus loss from fertilizers applied to the crop land. BMPs can also involve building structures, such as large animal waste storage tanks that allow farmers to choose when to spread manure on their fields as opposed to spreading it based on accumulated volume. (Skagit County Code)
- “Catch Basins” means A chamber or well, usually built at the curb line of a street, for the admission of surface water to a sewer or subdrain, having at its base a sediment sump designed to retain grit and detritus below the point of overflow. (ECY)
- “City’s NPDES Permit” means the Phase II Western Washington Municipal Stormwater Permit (modified January 16, 2015) issued by the Department of Ecology pursuant to the National Pollutant Discharge Elimination System.
- “Clearing” means the surface removal of vegetation, except those regulated under WAC Title 222 or Chapter 46.04 RCW. (Skagit County Code)
- “Constructed wetlands” means those wetlands intentionally created on sites that are not wetlands for the primary purpose of wastewater or stormwater treatment and managed as such. Constructed wetlands are normally considered as part of the stormwater collection and treatment system. (ECY)

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- “Conveyance” means a mechanism for transporting water from one point to another, including pipes, ditches, and channels. (ECY)
- “Critical Area” means include any of the following areas or ecosystems: aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, geologically hazardous areas, and wetlands, as defined in Chapter 36.70A RCW and this Title. (Skagit County Code)
- “Culverts” means pipe or concrete box structures that drain open channels, swales or ditches under a roadway or embankment. Typically with no catch basins or manholes along its length. (ECY)
- “Detention Basins” [facilities] means: stormwater and drainage facilities designed to store runoff while gradually releasing it at a pre-determined controlled rate. Detention facilities shall include all appurtenances associated with their designed function, maintenance, and security. (Skagit County Code)
- “Director” means the Director of the Planning, Community, and Economic Development Department.
- “Ditch” means a long narrow excavation dug in the earth for drainage with its top width less than 10 feet at design flow. (ECY)
- “Downspouts” means a pipe that carries rainwater from the roof of a building to the ground. (dictionary)
- “Drain” means a buried pipe or other conduit (closed drain). A ditch (open drain) for carrying off surplus surface water or ground water.
- “Drainage Maintenance Plan” means a recorded agreement that identifies a designated group or individual responsible for the proper operation, maintenance, and inspection of a specific stormwater drainage system. The agreement shall include the schedule and scope of maintenance operations for any detention ponds, control structures, catch basins, conveyance systems, and access roads or easements necessary for performance that are included with the as-built drawings as provided by a professional engineer. Such schedule and scope of operations shall include an inspection schedule, maintenance components, defects, conditions when maintenance is needed and the expected results of the performed maintenance. (similar to Skagit County Code)
- “Erosion Control” means (SCC 14.32.060.) Erosion and sediment control. All development must control erosion and sedimentation during construction to permanently stabilize soil exposed during construction and to comply with the requirements of this Section. In addition to the requirements of the Stormwater Management Manual, development. (Skagit County Code) Any temporary or permanent measures taken to reduce erosion; control siltation and sedimentation; and ensure that sediment-laden water does not leave the site. (ECY)
- “Erosion” means The wearing away of the land surface by running water, wind, ice, or other geological agents, including such processes as gravitational creep. Also, detachment and movement of soil or rock fragments by water, wind, ice, or gravity. The following terms are used to describe different types of water erosion. [descriptions for types of erosion not included]. (ECY)

- “Existing Significant Trees” means
- “Feasible” in the context of low impact development (LID) shall be determined by evaluation against:
 1. Design criteria, limitations, and infeasibility criteria identified for each LID facility in the Washington Department of Ecology Stormwater Management Manual for Western Washington (SWMMWW); and
 2. Competing needs criteria listed in Chapter 5 of Volume V of the SWMMWW.
- “Full Dispersion” means [Dispersed discharge] Release of surface and storm water runoff from a drainage facility system such that the flow spreads over a wide area and is located so as not to allow flow to concentrate anywhere upstream of a drainage channel with erodible underlying granular soils or the potential to flood downstream properties. (King Co)
- “Geologically hazardous areas” means areas that may not be suited to development consistent with public health, safety, or environmental standards, because of their susceptibility to erosion, sliding, earthquake, or other geological events as designated by WAC 365-190-080(4). Types of geologically hazardous areas include: erosion, landslide, seismic, mine, and volcanic hazards. (Skagit County Code)
- “Grading” means any excavating or filling or combination thereof. (Skagit County Code)
- “Groundcover” means small plants such as salal, ivy, ferns, mosses, grasses, or other types of vegetation that normally cover the ground.
- “Groundwater” means water in a saturated zone or stratum beneath the surface of land or a surface water body. (Skagit County Code)
- “Grubbing” means to dig in the ground especially for something that is difficult to find or extract (dictionary)
- “Hard Surfaces” means an impervious surface, a permeable pavement, or a vegetated roof. (Skagit County Code)
- “Impervious Surfaces” means a non-vegetated surface area that either prevents or retards the entry of water into the soil mantle as under natural conditions prior to development. A non-vegetated surface area, which causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Common impervious surfaces include, but are not limited to rooftops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces, which similarly impede the natural flow of stormwater. (Skagit County Code)
- “Infeasible” means not likely to work or be useful in attaining the end desired. (dictionary)
- “Infiltration devices [facility or system]” means a drainage facility designed to use the hydrologic process of surface and stormwater runoff soaking into the ground, commonly referred to as a percolation, to dispose of surface and stormwater runoff. (ECY)
- “Infiltration” means the downward movement of water from the surface to the subsoil. (ECY)
- “Land clearing” means the act of removing or destroying trees or groundcover.

- “Land Disturbing Activity” means any activity that results in a change in the existing soil cover (both vegetative and non-vegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered land disturbing activity. Vegetation maintenance practices, including landscape maintenance and gardening, are not considered land disturbing activity. Stormwater facility maintenance is not considered land-disturbing activity if conducted according to established standards and procedures. (SVC and ECY)
- “Low Impact Development (LID)” means a stormwater and land use management strategy that strives to mimic natural hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design. (ECY)
- “LID facilities” or “low impact development facilities” are distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to: bioretention, rain gardens, permeable materials, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.
- “Drainage Maintenance Plan” means: a recorded agreement that identifies a designated group or individual responsible for the proper operation, maintenance, and inspection of a specific stormwater drainage system. The agreement shall include the schedule and scope of maintenance operations for any detention ponds, control structures, catch basins, conveyance systems, and access roads or easements necessary for performance that are included with the as-built drawings as provided by a professional engineer. Such schedule and scope of operations shall include an inspection schedule, maintenance components, defects, conditions when maintenance is needed and the expected results of the performed maintenance. (Skagit County Code)
- “Maintenance” [drainage] means any activity that is necessary to keep a stormwater and drainage facility in good working order so as to function as designed. Maintenance shall include complete reconstruction of a stormwater and drainage facility if reconstruction is needed in order to return the facility to good working order. Maintenance shall also include the correction of any problem on the site property that may directly impair the functions of the stormwater and drainage facilities. (Skagit County Code)
- “Minimum Requirement” means a technical Minimum Requirement described in Volume 1 of the Stormwater Management Manual [for Western Washington \(SWMMWW\)](#) and [Appendix 1 of the City’s NPDES permit](#).
- “Native Vegetation” means pursuant to the NPDES permit, vegetation composed of plant species other than noxious weeds that are indigenous to the coastal region of the Pacific Northwest and which reasonably could have been expected to occur naturally on the site. Examples include trees such as Douglas fir, western hemlock, western red cedar, alder, big-leaf

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maple, and vine maple; shrubs such as willow, elderberry, salmonberry, and salal; and herbaceous plants such as sword fern, foam flower, and fireweed. (Skagit County Code)

- “NPDES” stands for National Pollution Discharge and Elimination System.
- “NPDES Permit” means a permit issued to the City of Anacortes by the Washington Department of Ecology per their delegated authority from the US Environmental Protection Agency. The City’s NPDES permit is required to ensure stormwater runoff and discharges are managed in a manner that is consistent with requirements of the Federal Clean Water Act.
- “Partially developed lot” means a lot or parcel of land of one-quarter of an acre on which a single-family dwelling is located and which is of sufficient area so as to be capable of subdivision in accordance with the city land division code.
- “Person” means any person, corporation, or other legal entity.
- “Pipe” means a long, hollow tube for carrying water, steam, gas, etc. (dictionary)
- “Predevelopment Hydrologic Conditions” means [hydrologic cycle] The circuit of water movement from the atmosphere to the earth and return to the atmosphere through various stages or processes such as precipitation, interception, runoff, infiltration, percolation, storage, evaporation, and transpiration. (King Co)
- “Qualified Professional” means a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and two years of related work experience. (Skagit County Code)
- “Rain Gardens” means non-engineered shallow, landscaped depression, with compost-amended native soils and adapted plants. The depression is designed to pond and temporarily store stormwater runoff from adjacent areas, and to allow stormwater to pass through the amended soil profile. (ECY)
- “Retaining Wall” means a wall built to keep the land behind it from sliding. (dictionary)
- “Retention Basin” [/detention facility] means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration, and/or infiltration into the ground; or to hold surface and stormwater runoff for a short period of time and then release it to the surface and stormwater management system.
- “Runoff” means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow ground water. As applied in this manual, it also means the portion of rainfall or other precipitation that becomes surface flow and interflow. (ECY)
- “Sediment Basins” means fragmented material that originates from weathering and erosion of rocks or unconsolidated deposits, and is transported by, suspended in, or deposited by water.
- “Stormwater” means runoff during and following precipitation and snowmelt events, including surface runoff, drainage, or interflow.
- “Stormwater BMP” means [BMP] the schedules of activities, prohibitions of practices, maintenance procedures, and structural and/or managerial practices, that when used singly or

Commented [GL11]: Is it important to keep this definition? It does not appear to be used elsewhere in new regs (except for the purpose statement – “partially developed property”) and is not consistent with the exemption described in 19.55.020(B)(4) below.

In current AMC the term is used in the definition of land clearing, but that is no longer the case in this version.

Commented [RW12]: Make clear this doesn’t include muddy water, or in Title 18.

Commented [FJ13R12]: The word “uncontaminated” should be inserted to address water that is polluted with mud or any other substance, if more than “uncontaminated stormwater” is necessary I suggest adding “as defined and regulated in the Western Washington Phase II Municipal Stormwater Permit”

in combination, prevent or reduce the release of pollutants and other adverse impacts to waters of Washington State. (ECY)

- “Stormwater Discharge” means runoff leaving a new development or redevelopment via overland flow, built conveyance systems, or infiltration facilities. A hydraulic rate of flow, specifically fluid flow; a volume of fluid passing a point per unit of time, commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, gallons per day, or millions of gallons per day. (ECY)
- “Stormwater facility” means a component of a manmade drainage feature or features designed or constructed to perform a particular function or multiple functions. These include, but are not limited to, pipes, swales, ditches, culverts, street gutters, detention basins, retention basins, wetponds, constructed wetlands, infiltration devices, catch basins, sediment basins, and low-impact development facilities. “Stormwater facility” does not include building gutters, downspouts, and drains serving only one single-family residence.
- “Stormwater Management Manual” means the City’s manual for design of stormwater facilities, as adopted in AMC 19.50.040.
- “Stormwater Management Manual for Western Washington” means the most current version of the manual developed by the Washington Department of Ecology to provide guidance on the measures necessary to control the quantity and quality of stormwater produced by new development and redevelopment, such that they comply with water quality standards and contribute to the protection of receiving waters. The current version is the manual as amended in December, 2014. See SWMMWW.
- “Stormwater system” means all natural and manmade systems that function together or independently to collect, store, purify, discharge, and convey stormwater. Included are all stormwater and drainage facilities as well as natural systems such as streams and creeks and all natural systems which convey, store, infiltrate, or divert stormwater.
- “Street Gutter” means a low area at the side of a road used to catch water and carry it away from the road. (dictionary)
- “Surface Water” means waters that flow over the land surface and frequently interact with groundwater. (Skagit County Code)
- “Swale” means a shallow drainage conveyance with relatively gentle side slopes, generally with flow depths less than one foot. (ECY)
- “SWMMWW” means Stormwater Management Manual for Western Washington.
- “Tree” means any living wood plant characterized by one main stem or trunk and many branches, and having a diameter of eight inches or more measured at 24 inches above ground level.
- “Western Washington Hydrologic Model (WWHM)” means a uniform methodology for the 19 counties of Western Washington in which the user can model almost any hydrologic condition related to stormwater control and design. (ECY)
- “Wetpond” means drainage facilities for water quality treatment that contain a permanent pool of water. They are designed to optimize water quality by providing long retention times (on the

Commented [D14]: Rain gardens are considered stormwater facilities and LID solutions, but do not need to be designed by an engineer.

Deleted: rain gardens,

Commented [RW15]: Is there a required maintenance manual for rain gardens? Should they be considered stormwater facilities?

Commented [FJ16R15]: Yes, maintenance is required and the guidelines in SWMMWW BMP T5.14A should be followed.

order of a week or more) to settle out particles of fine sediment to which pollutants such as heavy metals adsorb, and to allow biologic activity to occur that metabolizes nutrients and organic pollutants. For wetvaults, the permanent pool of water is covered by a lid, which blocks sunlight from entering the facility, limiting light-dependent biologic activity. (King Co)

Deleted: <#>"Undeveloped lot" means a lot or parcel of land upon which no dwelling exists.¶

New Chapter 19.50 Stormwater Management

19.50.010 Policy.

- A. Purpose. Washington State law mandates that stormwater discharge resulting from development activities and pollution-generating activities be controlled and treated to provide available and reasonable methods of erosion control, flood control, **habitat protection**, and water quality treatment. **The City of Anacortes has adopted the requirements of this Chapter for both temporary and long-term stormwater management. The purpose of this Chapter is to set out the authority, regulatory requirements, submittal requirements, and procedures for stormwater drainage design, review, approval, construction, maintenance, and management.**
- B. Goals of **Low Impact Development (LID)**. **LID is the preferred and commonly used approach to site development. LID is intended to minimize impervious surfaces, native vegetation loss, and stormwater runoff in all types of development situations. (From NPDES Permit S5.C4.f.i)** This Chapter accomplishes the following goals:
1. Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to mimic predevelopment hydrologic conditions;
 2. Encourage creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate technologies and techniques, and the efficient layout of streets, utility networks and other public improvements;
 3. Reduce hard surfaces and impervious surfaces; and
 4. Preserve or restore native vegetation.

Deleted: To help protect adjacent landowners from downstream flooding, erosion, and pollution, the

Commented [D18]: We cleaned up this section to remove duplication and include habitat.

Commented [D19]: We pulled this definition from the permit.

Deleted: The goals of low-impact development (LID) are to conserve and use existing natural site features, to integrate distributed, small-scale stormwater controls, and to help prevent measurable harm to streams, lakes, wetlands, and other natural aquatic systems from development by maintaining a more hydrologically functional landscape.

19.50.020 Applicability.

- A. This Chapter applies to any land disturbing activity that requires a permit under this Title.
- B. Exemptions. The following activities are exempt from the requirements of this chapter:
1. Landscape maintenance activities and gardening **not related to stormwater facilities or raingardens.**
 2. The activities described in Appendix 1, Section 1 of the City's NPDES permit, including qualifying pavement maintenance and underground utility projects.

Commented [D20]: Some "landscaping" is associated with stormwater facilities and raingardens.

19.50.030 Application Requirements.

A. All activity to which this Chapter applies requires review consistent with this Chapter.

B. All applications requiring review under this Chapter must:

1. meet the requirements in Appendix 1, Section 3 (Applicability of the Minimum Requirements) and Section 4 (Minimum Requirements) in the City's NPDES permit; and
2. meet the requirements for site plan review as outlined in the City's NPDES permit found in S5.C.4.b.

Commented [RW21]: Because so many BMPs require soil typing, we may need to require a soil test here.

Deleted: require all of the following

Deleted: A site plan consistent with requirements prescribed by the Director to identify stormwater management features, or a stormwater site plan consistent with Stormwater Management Manual Minimum Requirement 1. For a lot under 7,000 sq ft not part of a common plan of development, a Stormwater Management Manual Minimum Requirement 1 stormwater site plan need not be prepared by a registered land surveyor or engineer and need not include a soil survey

Commented [D22]: We suggest that the City reference the permit requirements without reference to specific Minimum Requirements or lot sizes. Item number 2 requiring construction SWPPP is included under the decision process found in Section 3.

Note this addresses Libby's concerns.

Deleted: A Construction Stormwater Pollution Prevention Plan consistent with Stormwater Management Manual Minimum Requirement 2.

Commented [D23]: We found no direction in the code to complete site plan review as required by the permit and outlined in stormwater manual.

19.50.040 Stormwater Management Manual.

A. The City of Anacortes adopts Ecology's 2012 Stormwater Management Manual for Western Washington, as amended in December 2014, as the City's Stormwater Management Manual.

B. The City of Anacortes adopts the Thresholds, Definitions, Minimum Requirements, and Exceptions, Adjustment, and Variance Criteria found in Appendix 1 of the City's NPDES Permit (Modified January 16, 2015).

C. The City of Anacortes refers to the 2012 Low Impact Development Technical Guidance Manual, Puget Sound Partnership for information related to best management practices.

D. The Director is the administrator authorized to determine feasibility and make decisions on adjustments and exceptions under the Stormwater Management Manual.

Commented [D24]: Question: Should this section defining the Stormwater Manual and its relationship to the SWMMWW and the NPDES permit be moved to between 19.50.020 and 19.50.030? It seems important to the flow of information and the thought process.

Note this addresses Libby's concerns.

Commented [D25]: We need to include this citation for the LID BMPs

E. Feasibility.

1. The Director may determine infiltration is infeasible without the infiltration testing required by the Stormwater Management Manual Stormwater BMPs when infiltration is known to the City to be infeasible due to any of the following:
 - a. soil conditions;
 - b. presence of significant naturally occurring groundwater;
 - c. significant tidal influence on groundwater;
 - d. presence of geologically hazardous areas that would be made unstable by infiltration.

F. Adjustments and Exceptions.

1. The Director may grant an adjustment to the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction consistent with the criteria in the City's NPDES Permit Appendix 1 Section 5. Adjustments.
2. The Director may grant an exception from this Chapter or the application of the Stormwater Management Manual and its minimum requirements prior to permit approval and construction when consistent with the criteria in the City's NPDES Permit Appendix 1 Section 6 Exceptions and Variances.
3. The Director must retain records, including the written findings of fact, of all exceptions from the minimum requirements.
4. A request for an adjustment or exception must adequately describe the justification for relief.

Deleted: <#>Lots smaller than 7,500 square feet that are not part of a common plan or development may be presumed infeasible for Full Dispersion.¶
Lots smaller than 3,000 square feet that are not part of a common plan or development may be presumed infeasible for Downspout Full Infiltration.¶

Deleted: the Stormwater Management Manual Volume I, Section 2.7 (Adjustments)

Deleted: the Stormwater Management Manual Volume I, Section 2.8 (Exceptions/Variances)

Commented [GL29]: Should actual criteria per the manual be listed?

Commented [FJ30R29]: We have been avoiding duplicating permit language in the code.

Commented [GL31]: ...and be provided on forms required by the Director...? Submittal requirements?

Commented [FJ32R31]: As the permit requirement stands now the request for adjustment or variance would be part of a project Stormwater Site Plan. We certainly have latitude to require these requests to be submitted on a separate application. I think that this should be a planning department policy decision.

19.50.050 Low-Impact Development Techniques and Facilities.

- A. Applicants must locate and design all buildings, streets and pathways, parking areas, and utility easements to promote public safety, ensure compatibility of uses, minimize effective impervious surface, preserve native vegetation, and complement predevelopment site characteristics such as topography, soils, hydrology, and other natural features.

B. General Design Techniques.

Commented [D33]: Should this section be placed after 19.50.060 Stormwater Facilities?

1. Applicants must ~~limit~~ clearing and grading to the minimum necessary for construction of permitted uses and associated utilities.

Deleted: consider

Deleted: ing

2. Applicants must ~~limit~~ lawn areas, driveways, and roads and locate them in a manner that results in the least disruption to the topography and native vegetation on the site.

Deleted: consider

Deleted: ing

3. Applicants must consider clustering lots, dwelling units, or building structures during the conceptual planning stage to preserve open space, reduce total impervious surface area, and minimize development impacts on adjacent or nearby critical areas and associated buffers.

C. Projects subject to any of the Minimum Requirements found in Appendix 1 of the City's NPDES permit, must comply with the following:

Deleted: NPDES Appendix 1

Deleted: Stormwater Management Manual

Deleted: 1 to 9

1. After the project is complete, there may not be a net increase in impervious surface above the limit on the permit, plat, or site plan without approval from the Director.

2. For subdivisions, the maximum impervious surfaces allowed for each lot must be added to the face of the plat.

3. For all other development, the maximum impervious surface allowed for the development must be added to the face of the final, approved site plan.

D. Where native vegetation is used to achieve Stormwater Management Manual Minimum Requirements 6 (Runoff Treatment) or 7 (Flow Control), the applicant must establish one or more of the following permanent protective mechanisms to ensure that native vegetation is retained:

1. a ~~protective easement~~ dedicated to the City;

Commented [GL35]: We need a standard form/language for this...

2. a separate nonbuilding tract owned in common by all lots within the subdivision;

3. restrictions on the future use of the area recorded on the face of the final plat;

4. an alternative permanent protective mechanism approved by the Director.

E. Where an LID stormwater facility is required, the applicant may use that facility to satisfy landscaping requirements so long as the purpose and intent of required landscaping is satisfied and the landscaping does not disrupt the function of LID stormwater facilities.

19.50.060 Stormwater Facilities.

Commented [RW36]: Note that based on the def of "stormwater facility," this section does not apply to raingardens.

Commented [FJ37R36]: Definition updated to include raingardens.

A. Location.

1. A stormwater facility necessary for compliance with this Chapter must be located abutting a right of way. When the site is constrained by topography, soils, hydrology, or other factors, the Director may approve an alternative location that facilitates access by the City for inspection and maintenance.

DRAFT – version muni code 2016 v4 (b) with all remarks and comments

2. A stormwater facility may be located within a right of way at the discretion of the Director.
- B. Dedication. For a stormwater facility necessary for compliance with this Chapter, the Director may require any combination of the following as a condition of development:
 1. that the applicant dedicate an easement to the City for access and inspection of the stormwater facility. The Director may waive this requirement for small facilities that do not require inspection or can be effectively inspected without an access easement.
 2. that the stormwater facility be dedicated to the City, which the City may accept if:
 - a. the facility as designed and constructed conforms to the provisions of this Chapter;
 - b. all easements and tracts required under this Chapter necessary for the City to operate and maintain the facility have been conveyed to the City and have been recorded with the County Auditor;
 - c. a maintenance plan has been accepted per subsection C.

C. Inspection - Construction (from 13.36.160)

1. All activities regulated by this chapter shall be inspected by the city, unless otherwise approved by the city. Projects will be inspected at various stages of the work to determine that adequate control is being exercised.
2. Stages of work requiring inspection include, but are not limited to: preconstruction; installation of BMPs; land-disturbing activities; installation of utilities, landscaping, retaining walls; and completion of project.
3. At the time of approval of the drainage plan for the subject property, a schedule for inspection to ensure proper review of construction and facilities will be established by the official. (Ord. 2441 § 15, 1997)

- D. Modification of facilities during construction (from 13.36.170) The city may require that the construction of drainage facilities and associated project designs be modified or redesigned if conditions occur or are discovered which were not considered or known at the time the permit or approval was issued, such as uncovering unexpected soil and/or water conditions, weather-generated problems, or undue materials shortages. Any such modifications made during the construction of drainage control facilities shall be recorded on the final approved drainage plan, a revised copy of which shall be provided to the city. (Ord. 2441 § 16, 1997)

Deleted: ¶

E. Maintenance Plan Required.

1. Prior to the use of a stormwater facility required by this Chapter, the owner must:
 - a. ensure a complete initial evaluation of the stormwater facility system components and property by a qualified professional to determine functionality, maintenance needs, and

Commented [RW38]: All stormwater facilities? Rain gardens?

Commented [RW39]: We say anything designed by an engineer

compliance with this Chapter and any permits. The property owner must submit the signed and stamped engineer's evaluation to the Director for approval;

- b. provide a complete and accurate set of reproducible as-built record drawings stamped and certified as accurate by a qualified professional;
- c. obtain approval from the Director for a maintenance plan;
- d. record the approved maintenance plan with the County Auditor against the title of all properties using the stormwater facility.

2. The maintenance plan must:

- e. address how all of the elements of the stormwater facility will be maintained;
- f. include the schedule for ongoing maintenance;
- g. identify the responsible party for ongoing maintenance;
- h. be consistent with Stormwater Management Manual, especially Volume V, Chapter 4.

3. The maintenance plan remains in force for the life of the development or until the City approves a new or amended maintenance plan for the development's stormwater facilities.

F. Plat notes. For land divisions, the Director may require a plat note indicating that the property owner(s) must maintain the stormwater facility consistent with the recorded maintenance plan and that if the stormwater facility is not so maintained the City may perform the maintenance and charge the costs of such maintenance to the property owners.

G. Establishment of regional facilities (from 13.36.240)

1. In the event that public benefits would accrue due to modification of the stormwater plan for the subject property to better implement the recommendations of the city's surface water quality management plan, the authorized city official may recommend that the city should assume some responsibility for the further design, construction, operation and maintenance of drainage facilities receiving runoff from the subject property. Such decision shall be made concurrently with review and approval of the stormwater plan as specified in this chapter.

2. In the event the city decides to assume some responsibility for design, construction, operation and maintenance of the facilities, the developer will be required to contribute a pro rata share to the construction cost of the facilities. The developer may be required to supply additional information at the request of the official to aid in the determination by the city. Guidelines for implementing this section will be defined by the official.

19.50.070 Conveyance

A. Generally.

1. All proposed development requiring stormwater conveyance must provide conveyance with sufficient capacity to convey without flooding or otherwise damaging existing or proposed structures, consistent with the Stormwater Management Manual.
2. Estimation of peak stormwater runoff rates used in the design of stormwater conveyance facilities must use methods or models identified in the SWMMWW for estimating a hydrograph using a mathematical simulation.
3. Runoff may not discharge directly onto the surface of a public street or road.
4. Runoff and infiltration must be directed away from septic drain fields.
5. Runoff from impervious surfaces, roof drains, and yard drains must be directed so as not to adversely affect adjacent properties.
6. Runoff from development may not cause a significant adverse impact to down-gradient properties.

Deleted: the Rational Method, Santa Barbara Urban Hydrograph Method, Western Washington Hydrology Model, or another method, accepted by the Director, of

Commented [D40]: Provides a consistent reference to the SW manual without the specifics. The Santa Barbara method is no longer recommended.

B. Easements, Tracts, and Covenants.

1. All proposed development must provide easements for all stormwater conveyance systems that are not located in public rights-of-way or tracts and must be granted to the parties responsible for providing ongoing maintenance of the systems. Drainage easements through non-drainage structures are prohibited.
2. Wording to this effect must appear on the face of all final plats, and must be contained in any covenants required for a development.

Commented [GL41]: Can this be clarified please? Not sure what this means.

New Chapter 19.55 Clearing, Grubbing, and Grading

Commented [RW42]: Based on AMC 17.54.060, Land Clearing and AMC Chapter 18.12, Land Clearing and Grading.

19.55.010 Policy.

These regulations are adopted for the following purposes:

- A. To promote the public health, safety, and general welfare of the citizens of the city;
- B. To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of native vegetation including trees and ground cover on undeveloped and partially developed property;
- C. To promote building and site planning practices that are consistent with the city's natural topographical and vegetation features while at the same time recognizing that certain factors such as condition (e.g., disease, danger of falling, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and

the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;

- D. To minimize surface water and groundwater runoff and diversion, to reduce siltation of lakes and streams and to deter erosion due to removal of trees and ground cover and reduce the risk of slides;
- E. To minimize the need for additional storm drainage facilities;
- F. To retain clusters of trees for the abatement of noise and wind protection;
- G. To ensure prompt development, restoration, and replanting, and effective erosion control of property after land clearing;
- H. To implement the goals and objectives of the State Environmental Policy Act.

19.55.020 Applicability.

- A. This Chapter applies to all clearing, grubbing, and grading.
- B. Exemptions. This Chapter does not apply to:
 - 1. the installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or its contractors;
 - 2. removal of trees and ground cover in emergency situations involving immediate danger to life or property or substantial fire hazards;
 - 3. removal of dead or diseased trees or ground cover;
 - 4. removal of 6,000 square feet or less of trees and/or groundcover on a lot that contains an existing permitted building and is capable of being divided into two or more lots, for purposes of general property and utility maintenance or landscaping except that:
 - a. any land clearing that includes the use of a bulldozer or similar mechanical earthmoving equipment is not exempt; and
 - b. land clearing for the purpose of developing the property with substantial permanent improvements such as roads, driveways, utilities or buildings is not exempt.

Commented [RW43]: Additionally, 17.54.060 has the following, which I've excluded because I think it's covered below. Also a "tree conservation permit" is not defined so far as I could find.

a. A land clearing permit is required to cut down trees prior to development.

b. A tree conservation permit is required to substantially thin forest area prior to development; this includes a tree conservation plan.

c. For projects requiring a building permit, PUD, etc., a tree conservation plan is required as part of the submittal for the applicable permits (but not a separate tree clearing permit).

Commented [RW44]: Should consider lowering our grading exemption when we update the building code.

Carefully review this applicability statement to ensure it matches existing thresholds.

Commented [D45]: Note: This exceeds the NPDES permit requirement of 7000 sf for land disturbing activities associated with development or redevelopment.

19.55.030 Application Requirements.

- A. All activity to which this chapter applies requires an application and permit consistent with this chapter. A separate permit is not required if an application has been approved for a building permit, preliminary plat, or a final planned unit development.
- B. Applications must be on forms provided by the Department and must include:

1. a site plan sufficient for identification, location, type, and size of existing significant trees; designation of clearing limits; and other requirements identified by the Director;
2. if excavated material is to be wasted off-site, a description of the location and the route to the disposal site;
3. demonstration of compliance with AMC Chapter 19.50, Stormwater Management.

Commented [D46]: Definition needed

19.55.040 Development Standards

- A. All activity to which this chapter applies must comply, and the Director may condition a permit issued per this Chapter to ensure compliance, with all of the following:

1. AMC Chapter 17.70, Critical Areas Regulations;
2. AMC Chapter 18.04, State Environmental Policy Act;
3. AMC Chapter 19.50, Stormwater Management;
4. the Anacortes Shoreline Master Program;
5. the International Building Code provisions for "Excavation and Grading."
6. the international Fire Code

Commented [D47]: These provisions seem to broadly apply to this whole Title. There are no Development Standards in 19.50. We suggest moving this section with additions as noted to 19.05.060.

- B. _____
- C. When grading a site, whether a single lot or a larger tract, the owner of the site being graded must protect adjacent property from the effects of the grading. If a cut or excavation is made near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the adjacent property from sliding toward the cut. If fill such as soil, gravel, rock, or other material is placed near a property line, it must be supported by a retaining wall, or sloped or terraced away from the property line sufficiently to prevent the fill material from sliding onto the adjacent property.
- D. The Director may require cuts, fill, and retaining walls to be designed by a licensed structural engineer, due to slope steepness, soil types, geological stability, or other factors.
- E. If there are structures on the adjacent property at the time a cut is made, or if a building permit has been issued to build such structures, the effect of the weight of these structures must be taken into account when determining the support required for the cut, in order to avoid undermining or damaging the structures. If a structure is built after a permit for cut or fill has been issued, the structure must be designed so that it does not create additional stresses on a properly designed cut or fill or retaining wall which would be likely to cause it to fail, based on standard structural engineering principles.

Moved down [1]: Performance Bond. The Director may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of the permit. The bond may be in an amount equal to two hundred percent of the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the Director. ¶

Commented [RW48]: From AMC 17.54.090

19.55.050 Subdivision Prohibited After Clearing

Commented [RW49]: Existing 17.54.060.8

No land division for a property may be approved within five years after clearing.

Commented [RW50]: Assumedly this moratorium doesn't apply to grubbing.

19.55.060 Bonds and Liability (from 13.36.250)

A. Performance Bond. The Director may require, as a condition to the granting of a permit, that the applicant furnish a performance bond to the city to secure the applicant's obligation, after the approved land clearing has been accomplished, to complete the restoration and replanting of the property in accordance with the terms of the permit. The bond may be in an amount equal to two hundred percent of the estimated cost of such restoration and replanting and with surety and conditions satisfactory to the Director.

Moved (insertion) [1]

B. The city is authorized to require all persons constructing retention/detention or other drainage treatment/abatement facilities to post surety and cash bonds.

Commented [D51]: Moved from 19.55.040 to consolidate discussion of Bonds.

Deleted: A

C. Where such persons have previously posted or are required to post other such bonds on the facility itself or on other construction related to the facility, such persons may, with the permission of the authorized city official and to the extent allowable by law, combine all such bonds into a single bond; provided, that at no time shall the amount thus bonded be less than the total amount which would have been required in the form of separate bonds; and provided, further, that such a bond shall on its face clearly delineate those separate bonds which it is intended to replace.

Deleted: B

1. Construction Bond. Prior to commencing construction, the person constructing the facility shall post a construction bond in an amount sufficient to cover the cost of conforming the construction with the approved drainage plans. The amount of the bond shall be increased at one-year intervals in a proportion equivalent to the prevailing rate of inflation in construction costs as specified in the procedures manual. After determination by the official that all facilities are constructed in compliance with the approved plans, the construction bond shall be released. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.

Deleted: .

2. Maintenance Bond. After determination by the official that all facilities are constructed in compliance with the approved plans, the construction bond shall be released. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.

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3. Performance Bond. A surety bond or cash bond to cover the cost of design defects or failures in workmanship of the facilities shall also be posted and maintained throughout the two-year maintenance period. The amount of the bonds shall be increased at one-year intervals in a proportion equivalent to the prevailing rate of inflation. Alternatively, an equivalent cash deposit to an escrow account administered by a local bank designated by the city could be required at city option.

Deleted: .

4. Liability Bond. The person constructing the facility shall maintain a liability policy in an amount established by the director which shall name the city as an additional insured and which shall protect the city from any liability up to those amounts for any accident, negligence, failure of the facility, or any other liability whatsoever, relating to the construction or maintenance of the facility. The liability policy shall be maintained for the duration of the facility by the owner of the facility; provided, that in case of facilities assumed by the city for maintenance pursuant to Section 13.36.230 of this chapter, the liability policy shall be terminated when and if the city maintenance responsibility commences. (Ord. 2441 § 24, 1997)

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July 6, 2016

John Franz
Stormwater & Capital Projects Coordinator
City of Anacortes
904 6th Street
Anacortes, WA 98221

Dear John,

Please find the latest mark-up of the code changes related to the City's management of stormwater and low impact design. This version is built on the latest draft produced by Councilman Ryan Walters. We have included the following additions to that draft:

- Selected sections from Title 13 as directed at our last code team meeting. We have included notes showing the original section of the Title for your convenience;
- Added supremacy language to Title 16 and 17 to address the longer term work the City is doing on these two parts of the code; and
- Edits and suggestions that bring the code more closely in alignment with the City's NPDES permit.

Please see our comments and suggestions which are in light orange. Comments in pink noted as "GL##" were submitted by Libby and are items that still need to be addressed. Councilman Walters' comments are in pale blue and have been left so you can follow his train of thought.

We have over-arching several questions for your immediate consideration:

1) Should there be blanket language to ensure compliance with other appropriate codes included in 19.05.060- Supremacy? We found only one place in Title 19 that included these requirements. (Clearing, Grubbing and Grading – Development Standards 19.55.040.A). This list should also include the International Fire Code.

2) Please pay close attention to the way we edited 19.50.030.B. We recommend that the application requirements tie directly to the Appendix 1 flow charts and minimum requirements found in the NPDES permit (see our suggested language in 19.50.030.B.1). We also included language related to site plan review that is linked to a permit requirement (see our suggested language in 19.50.030.B.2). We could find no other reference to site plan review, so we added it here.

3) We have some ideas about structure in 19.55 for you to consider. At this time the flow looks like this:

- A. 19.50.010 Policy.
- B. 19.50.020 Applicability.
- C. 19.50.030 Application Requirements.
- D. 19.50.040 Stormwater Management Manual.
- E. 19.50.050 Low-Impact Development Techniques and Facilities.
- F. 19.50.060 Stormwater Facilities.
- G. 19.50.070 Conveyance

We suggest the following order to facilitate understanding and expectations associated with stormwater management and low impact development:

- A. 19.50.010 Policy.
- B. 19.50.020 Applicability.
- C. 19.50.040 Stormwater Management Manual.
- D. 19.50.030 Application Requirements.
- E. 19.50.060 Stormwater Facilities.
- F. 19.50.050 Low-Impact Development Techniques and Facilities.
- G. 19.50.070 Conveyance

We believe there is language in the Stormwater Management Manual section (currently 19.50.040) that makes sense to discuss before the Application Requirements. We also believe that the general language found in the Stormwater Facilities chapter (currently 19.50.060) should come before discussion of Low Impact Development.

Overall, our suggested revisions continued the theme of keeping the code simple and referring back to the SWMMWW and the NPDES permit wherever possible in lieu of including specific permit requirements. There are a number of places throughout the document where the language was revised to accomplish this goal. These will all need your review. Several policy questions were proposed by Libby that still need review by your code team. I have noted these in the text where we have not already addressed her concerns.

Finally, we added extensively to the list of definitions. Please advise if the list is too extensive or if anything was missed. We included the source for each of the new definitions added to this draft and will clean up the text in the next version.

Please review this version of the code update as soon as possible and advise on how we should move forward.

Sincerely,

A handwritten signature in blue ink, reading "David Roberts", with a stylized flourish at the end.

David Roberts
Kulshan Services LLC

Attachment: muni code 2016 v4

CITY-WIDE STORMWATER INFILTRATION ASSESSMENT - EXECUTIVE BRIEFING

Prepared for: **City of Anacortes**

By: Kindred Hydro, Inc.

Project No. ANA-16-1 • July 5, 2016

The City of Anacortes (City) has contracted with Kindred Hydro, Inc. (Kindred Hydro) to conduct a city-wide desktop infiltration feasibility assessment. The purpose of this work is to provide maps of stormwater infiltration feasibility that the City of Anacortes (City) can use to inform property owners and city staff regarding infiltration feasibility and implications for LID feasibility. The maps will also delineate areas that meet the LID infeasibility criteria specified in the Washington State Department of Ecology Stormwater Manual for Western Washington (Ecology 2014).

It is anticipated that the maps can be used by property owners and city staff to determine if low impact development (LID) practices that utilize infiltration are feasible for their site and determine if site-specific infiltration assessments (generally including explorations and infiltration testing) are warranted. The ultimate goal is to minimize unnecessary expense and project delays for infiltration-related site characterization.

This desktop infiltration feasibility assessment will rely on readily available information, including publically available information and information provided by the City. No new explorations or testing will be conducted for this assessment, thus the use of the term "desktop".

Both shallow and deep infiltration feasibility will be evaluated in this assessment. Shallow infiltration occurs at depths less than 10 feet and relies on vertical infiltration directly from the LID facility (typically a bioretention swale, tree-box, or pervious pavement). Shallow infiltration is considered suitable in areas with permeable surface soils and at least 5 feet of depth from the ground surface to the seasonal high groundwater table or perching layer.

Deep infiltration may be accomplished using dug drains (typically less than 20 feet deep) or drilled drains (typically between 20 and 150 feet deep). At this stage of the assessment, it is not known if there are any areas within the City that are suitable for deep infiltration. If deep infiltration is feasible in portions of the City, a separate deep infiltration feasibility map will be prepared in addition to the shallow infiltration feasibility map.

This infiltration feasibility assessment relies on evaluation of five infiltration feasibility factors, listed below:

- Infiltration rate (based on soils mapping);
- Surface slope gradient;
- Proximity to landslide and landfill hazard areas;

July 5, 2016

- Potential for shallow groundwater mounding; and
- Thickness of permeable unsaturated zone.

Each unique combination of the infiltration feasibility factors defines a Hydrogeomorphic unit. The infiltration feasibility for each hydrogeomorphic unit will be evaluated and then categorized based on a combination of infiltration potential, cost effectiveness, and potential hazard.

The end product from this work will include the following:

- A report summarizing the approach and results of the infiltration feasibility assessment,
- GIS maps showing the factors used in the assessment, including:
 - A base layer of streets and other boundaries of interest,
 - A colorized topographic map,
 - An aerial photograph,
 - Geology and/or soils,
 - Infiltration rate categories (based on surficial geology and/or soils);
 - Surface slope gradient categories,
 - Critical areas, including landslide hazards, erosion hazards (if available), landfills, and wetlands,
 - Potential for shallow groundwater mounding; and
 - Thickness of permeable unsaturated zone.
- GIS maps of shallow and deep infiltration (if feasible) for the entire city. These maps will divide the city into areas considered good, moderate, poor, and infeasible for stormwater infiltration.
- The GIS maps will be geo-referenced and Kindred Hydro will work with the City's information technology staff to make the layers available on the City's website.

It is anticipated that the City can continue to evaluate new information (e.g., geotechnical reports, well logs, etc.) that may become available in the future and update the LID feasibility maps as necessary.



Planning Commission Agenda Bill

Meeting Date: 7/13/2016 Agenda Item:

Subject: Haddon Road Plat & PUD

Staff Contact: Kevin Cricchio, AICP, Associate Planner

Approved for Submittal to Commission by	
X	Don Measamer, Director

Action Type	
X	Public Hearing
X	Discussion
X	Possible Action

Summary & Background: The June 8, 2016, open-record public hearing which was continued to June 22, 2016, has been continued again to 6:00 PM on July 13, 2016, concerning the Haddon Road 13 Lot Preliminary Plat and Preliminary Planned Unit Development (PUD) Zoned R1. Additionally, several code modification(s) are also proposed as part of the Preliminary Plat & PUD. Please bring your June 8th and June 22, 2016, packets with you to the July 13, 2016, hearing. If you need another packet or additional material, please let me know.

Recommendation: The Department of Planning, Community, and Economic Development recommends that the Planning Commission make a recommendation of approval to City Council regarding the subject preliminary plat, preliminary PUD, and proposed code modifications subject to the staff's suggested conditions of approval.

Attachments: Exhibits 31-45 Follow.

[Click here for the June 8, 2016, Draft Findings of Fact, Conclusions of Law, Recommendation & Exhibits.](#)

[Click here for the June 22, 2016, Draft Findings of Fact, Conclusions of Law, Recommendation and Exhibits.](#)

EXHIBIT #31, **ROSS BARNES' LETTER (RECEIVED 6-7-16 & 6-22-16)**

EXHIBIT #32, LEA ANN EASTON OF DORSAY & EASTON, LLP LETTER (RECEIVED 6-22-16)

EXHIBIT #33, RYAN FOX LETTER (RECEIVED AT 6-22-16 HEARING)

EXHIBIT #34, ALLEN RHODES 6-22-16 PRESENTATION

EXHIBIT #35, GENE DERIG (READ ROSS BARNES LETTER AT 6-22-16 HEARING)

EXHIBIT #36, JEANEEN BROGAN LETTER (RECEIVED AT 6-22-16 HEARING)

EXHIBIT #37, VERNON LAURIDSEN LETTER (RECEIVED AT 6-22-16 HEARING)

EXHIBIT #38, REBECCA BEAN LETTER & HANDOUT (RECEIVED AT 6-22-16 HEARING)

EXHIBIT #39, PATRICIA YOUNG LETTER (RECEIVED AT 6-22-16 HEARING)

EXHIBIT #40, **CAROL O'HEARN LETTER (RECEIVED AT 6-22-16 HEARING)**

EXHIBIT #41, **PATRICK O'HEARN'S LETTER (RECEIVED AT 6-22-16 HEARING)** & PRESENTATION

EXHIBIT #42, **BRIAN ALLEN'S 6-22-16 PRESENTATION**

EXHIBIT #43, **JOHN RAVNIK'S 6-22-16 PRESENTATION**

EXHIBIT #44, **PAM ALLEN'S HANDOUT (RECEIVED AT 6-22-16 HEARING)**

EXHIBIT #45, **STEVE NICOL'S 6-22-16 PRESENTATION**

EXHIBIT #46, CYNTHIA RICHARDSON & CURT OPPEL EMAIL

EXHIBIT #47, ROSS BARNES LETTER (RECEIVED 7-6-16)

EXHIBIT #48, EMAILS RECEIVED 7-9-16

EXHIBIT #31:

ROSS BARNES' LETTER (RECEIVED 6-7-16 & 6-22-16)

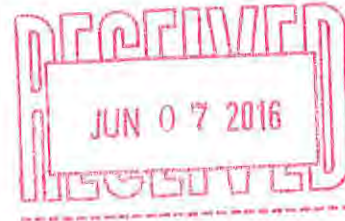
June 7, 2016

From:

Ross O. Barnes, Ph.D.
1004 7th. St., #202
Anacortes, WA 98221
(360) 293-7023

To:

Anacortes Planning Commission,
Anacortes City Council,
Mayor Gere,
Kevin Cricchio,
Don Measamer
City of Anacortes
PO Box 547
Anacortes, WA 98221



RE: Allen/Haddon Road PUD (PUD-2016-1001)

This PUD proposes to create 13 lots and associated dwelling units on 5.28 gross acres located at the east end of Haddon Road. However, the maximum DU density allowed in the R1 zone, in or out of a PUD, is clearly limited to 2 DU per gross acre or 10 DU maximum for the Allen/Haddon Road PUD. Thus, this PUD proposal clearly exceeds the density maximums for the R1 zone and must be denied under the fundamental consistency and equivalency test of AMC 16.040.010 and the R1 PUD density specifications of AMC 17.38.070.

What is the permitted density in an R1 PUD?

The code language in question is AMC 17.38.070.

17.38.070 - Maximum density. (R1)

Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994) If a planned unit development is applied for which requests a higher density in a portion of the R1 zone, the density of that portion shall not exceed four units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements. (Ord. 2794, § 1(Att. A), 12-15-2008)

Grammatical interpretation

This is a single paragraph with a unified meaning, not separate independent sentences that conflict with each other. The first sentence specifying 2 DU per gross acre is the topic sentence for the paragraph and expresses the general meaning of the whole

paragraph. This paragraph nowhere specifies that the overall density of a planned unit development (PUD) in the R1 zone is increased to more than 2 DU per gross acre under any circumstances. PUDs typically have significant non-developed areas--open space, parks, NGPEs, buffers, critical areas, etc.--which is why they are proposed as PUDs. The second sentence specifies that the "density of that portion" of R1 that is proposed to be developed "in a portion of" an R1 PUD can be increased to R2 density with R2 development standards, but it does not repeal the 2 DU per acre for the overall PUD project site which includes the non-developed open spaces. And it does not contradict the topic sentence of the paragraph. I note that part of the R2 development standards is a 7,500 square foot minimum lot size.

The grammatical interpretation is supported by three other lines of argument.

- (1) The fundamental consistency and equivalency test for PUDs in AMC 16.040.010.
- (2) Consistency with the stated goals and policies for the R1 zone in the Anacortes Comprehensive Plan.
- (3) The history of changes to the language of AMC 17.38.070 and how they were interpreted.

The Planning Department's erroneous ungrammatical interpretation of AMC 17.38.070 that says an R1 PUD is allowed to have the overall density of the R2 zone--4 dwelling units per gross acre--is supported by no line of argument, logic or evidence whatsoever. If the City Council wanted to specify an R1 PUD overall density of 4 DU per gross acre, why would they not choose clear, simple, and unambiguous language to state that intention? Why would the Council choose strange non-direct elliptical language--with an intended interpretation that would fail a high school grammar test--to obfuscate their intention? Why does the Planning Department insist on insulting the Council's intelligence and sense of responsibility with this nonsense interpretation?

(1) Consistency and equivalency in a PUD

When a PUD proposes exceptions to zoning and subdivision standards, AMC 16.40.010 requires that the PUD maintain consistency with the "standards for the health, safety, and welfare of all citizens throughout the city" and provide equivalency to those standards.

16.40.010 - Introduction.

*The purpose of the planning unit development (PUD) regulations is to maintain **consistent standards for the health, safety, and welfare of all citizens throughout the city**, while allowing flexibility in how those standards are met. While all citizens deserve equal access to services and public amenities, there are a variety of ways to provide that **equivalency**.*

*Where a PUD proponent requests exceptions to zoning and subdivision standards, the plan submittal shall show clearly what standards are proposed to be changed, and what alternate means are proposed to **achieve equivalency**. For example, a submittal might propose to eliminate the sidewalk on one side of the street, while providing a trail through nearby public open space as an alternative for pedestrian circulation. The proposed alternatives would be considered when evaluating the proposal as a whole.*

The consistency and equivalency “test” is the first statement found in the Chapter 16 specifications for PUDs and its primacy in position and in logic leaves no doubt that it is intended to be the most fundamental test for evaluating the adequacy of PUD proposals.

This test is obvious and easy. Is an overall four units per gross acre within an R1 PUD consistent and equivalent to two dwelling units per gross acre outside of a PUD? **Of course not!** Would the landscape that is so important in R1 (see below) have the same functions and values at 4 DU per acre as at 2 DU per acre? **Of course not.** To insist that it does, is an absurd corruption of the meaning and intent of the AMC development codes!

(2) Anacortes Comprehensive Plan - relevant goals and policies for R1 zone
Policy language for the R1 zone is found under Goal 2 of the Housing/Residential section of the 2012 Anacortes Comprehensive Plan (CP).

Goal 2: Maintain and allow for open space corridors in
Anacortes.

Policy:

(a) In areas of Anacortes where terrain and lack of streets and utilities make a large lot size appropriate, a R1 land use designation is to be provided, with 15,000 square feet minimum lot size and with the opportunity for cluster development.

(b) R1 identification shall be directed at identification of open space corridors within and between Urban Growth Areas, including land useful for wildlife and connection to critical areas.

I have traced this same R1 language as far back as my published book copy of the 1995 CP. I don't have records prior to 1995.

These policies specify the large lot size that is also contained in the R1 zoning code and further designate the opportunity for cluster development. Cluster development reduces the area used for residential development so other portions of the site can be preserved in open space. It is clear that the cluster development policy has been implemented in the R1 PUD provisions of AMC 17.38.070. If an applicant proposes to “cluster” development to protect critical areas or preserve contiguous open space, 17.38.070 allows the clustered area to increase density to R2 standards. However, there is no suggestion in Policy (a) that cluster development is intended to double the overall density established for the R1 zone.

If overall R2 densities could preserve the landscape intended for R1, then why have a separate R1 zone that halves a property owner's development rights?

The grammatical interpretation of AMC 17.38.070 is completely consistent with the

relevant goal and policies of the CP. However, the Planning Department's erroneous ungrammatical interpretation conflicts with the CP and thus conflicts with the obligation that development regulations reflect and implement the intentions of the CP.

(3) History of language and application of AMC 17.38.070

The revision notes of AMC 17.38.070 list 4 different versions or revisions of this code language adopted since 1994 (1994, 2000, 2002, 2008) with the last revision in 2008 adding the last sentence about density in a PUD. I have researched these four versions as found in my own files of the old "newspaper" editions of the code that used to be published, and the current online version which was adopted in 2008. The 3 earlier versions of 17.38.070 (R1 Maximum density) are as follows. The newspaper copies of the older codes are attached as the listed Exhibits.

AMC 17.38.070 versions since 1994

(1994) - Exhibit A

"No maximum."

(2000) - Exhibit B

"Density for the project applied for shall not exceed two dwelling units per gross acre, except where the provisions of the PUD (Chapter 17.44) section of this ordinance are applied."

(2002) - Exhibit C

"Density for the project applied for shall not exceed two dwelling units per gross acre."

(2008 to current)

"Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002: Ord. 2528 Att. A § 10, 2000: Ord. 2316 (part), 1994) If a planned unit development is applied for which requests a higher density in a portion of the R1 zone, the density of that portion shall not exceed four units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements. (Ord. 2794, § 1(Att. A), 12-15-2008)"

R1 PUDs since 2000

I have also researched R1 PUDs that were proposed or approved under the different versions of the code language since 2000.

(prior to 2000) "No maximum."

Anything from the last century is not germane to interpreting the current code language since no maximum density was stated. PUDs were apparently approved and built under the vague "PUD flexibility" provisions of the zoning code.

(2000) "Density for the project applied for shall not exceed two dwelling units per gross acre, except where the provisions of the PUD (Chapter 17.44) section of this ordinance are applied."

In 2001, the 64 unit Fir Crest PUD was proposed on 27.68 acres, with a density of 2.31 units per gross acre. It went to public hearing amid great controversy and opposition related to the density and environmental impact. During the hearings the density was reduced first to 58 units and finally to 40 lots/units with 39 lots

in a dense cluster development, one large 2.57 acre remainder Lot 40, and about 14 acres of open space/wetlands donated to the Anacortes Community Forest Lands--for a density of 1.45 units per gross acre. Minimum lot size was 5,789 sq. ft. (**Exhibit D**)

(2002) *"Density for the project applied for shall not exceed two dwelling units per gross acre."*

In 2004, the 60 unit The Orchards PUD was proposed and eventually approved on almost 30 acres for a specified density of 2 DU per gross acre in conformity with the new density language adopted in 2002. Minimum lot size was 9,600 sq.ft. The City was now clearly specifying 2 DU per gross acre for PUDs. (**Exhibit E**)

In 2005, the 20 unit "Lemac Estates" PUD was proposed on 10.1 acres for a density of 1.98 DU per gross acre. Minimum lot size was 8,798 sq. ft. (**Exhibit F**)

Lemac Estates was withdrawn and replaced in 2006 with the proposed Quail Run PUD which added additional land to the project to solve an access problem that developed with the previous PUD proposal. Quail Run was approved for 28 lots on 14.14 acres for a density of 1.98 DU per gross acre. Minimum lot size was 6,307 sq. ft. with only 8 lots less than 7,500 sq. ft. Quail Run has not yet been developed. (**Exhibit G**)

Average minimum lot size for the three PUDs is 8,235 sq. ft.

(2008 to current)

Apparently the Allen/Haddon Road PUD is the first R1 PUD proposed under the new code language adopted in 2008.

Lessons learned were applied to the 2008 to current R1 PUD density specification

There is a unidirectional pattern evident from 2000 to 2008 as the City searched for the appropriate code language to foster PUD development proposals consistent with the intended R1 landscape. The first try in 2000 that was vague about PUD density produced a controversial proposal that was ill suited to the environmental sensitivities of the site. Fir Crest was finally reduced to a dense cluster development with more than half of the property--sensitive wetlands and steep rocky forested ridge, both shared with the ACFL-- donated to the ACFL. This was a special site not typical of the rest of the R1 zone.

The second try at code language in 2002 eliminated the "PUD density flexibility" and stuck with the 2 DU per gross acre inside and outside of PUDs. This code was more successful in matching the R1 landscape. Three PUDs were proposed on lands typical of the R1 zone in which wetlands and streams were protected while providing densities of 2 DU per gross acre. Only 8 of 108 lots in the 3 PUDs were less than 7,500 square feet.

It is evident in the new 2008 code language that the City learned from the prior experiences and could be more specific in defining appropriate standards for R1 PUDs. The 2 DU per acre was retained because it produced the desired results, and R2 development standards were applied to the actual area developed because R2 densities and lot sizes accommodated the vast majority of the R1 PUD lots that had been proposed in the previous 6 years. A 7,500 sq. ft. minimum lot size would have eliminated only 2 of the previous 108 lots, since the eight "sub 7,500" lots in Quail Run could have been reconfigured to six "over 7,500" lots.

Planning Department's erroneous interpretation implies the 2008 City Council was incompetent and confused

The Planning Department's insistence that the City Council adopted the 2008 R1 PUD density language to change the R1 PUD density to 4 DU per gross overall acre within the whole PUD

- (1) implies that the Council irresponsibly decided to ignore and reject the experience of the last 8 years about what worked and did not work for the R1 landscape, and
- (2) further implies that the Council would choose to obfuscate their intention with strange non-direct elliptical language whose interpretation would fail a high school grammar test.

Applicant was warned

Three times the applicant was warned not to float their Haddon Road PUD on a fatally flawed erroneous interpretation of AMC 17.38.070:

- (1) in my letter of 4/2/15 on the prior Haddon Road Short Plat record,
- (2) in my letter of 9/8/15 on the prior Short Plat appeal record, and
- (3) again at the 12/17/15 community meeting on their PUD proposal.

Ross O Barnes, Ph.D.

EXHIBIT 1 - CHRISTIANSEN EMAIL 6-7-16

Attachments: Exhibits A to G

Ex 1

Subject: Fw: Allen/Haddon Road PUD - final comments on density

From: "Ross O. Barnes" <georbarnes@hotmail.com>

Date: 6/7/2016 9:16 AM

To: Bayshore Office Products - printshop <printshop@bayshoreoffice.com>

From: Terry Christiansen <terry.chrisclan@gmail.com>

Sent: Tuesday, June 7, 2016 8:18 AM

To: Ross O. Barnes

Cc: PATRICK O'HEARN; Vernon Lauridsen; Gene Derig; Marilyn Derig; Hal Rooks; Susan Rooks; Friends of Skagit County Ellen Bynum; Tom Glade; Brenda Lavender

Subject: Re: Allen/Haddon Road PUD - final comments on density

Ross, you are entirely correct. I seem to recall being the author of the change that you refer to. Regardless, we did it because people were trying to use "clustering" as a means to circumvent the overall density for the R1 zoning and "density bonuses" were being proposed. Our intent was that "clustering" would be okay provided the density in the cluster area did not go higher than that in the R2 and that regardless of any clustering, the overall density of a PUD in R1 zoning would not exceed the underlying density limit for that zone. You are welcome to use this communication in any way you choose.

Terry Christiansen

Ex. A-1

1996

17.38.070 MAXIMUM DENSITY *

No maximum.

17.38.080 MAXIMUM LAND COVERAGE

Maximum land coverage by buildings shall be 35%.

17.38.090 MAXIMUM BUILDING HEIGHT

Maximum height of buildings is to be 35 feet.

17.38.100 OFF-STREET PARKING REQUIREMENTS

There shall be at least two off-street parking spaces per dwelling unit.

17.38.110 STREET IMPROVEMENTS

Thirty feet of frontage is required on an improved public street. If a private street is used, a conditional use permit is required. Where City ordinance permits development fronting on an unpaved City street, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements.

CHAPTER 17.40 - SIGNS

SECTIONS

17.40.010 INTENT

17.40.020 DEFINITION, GOVERNMENTAL SIGNS EXCLUDED

17.40.030 GENERAL REQUIREMENTS

17.40.040 MEASUREMENT OF SIGN AREA

17.40.050 PERMIT PROCEDURE

17.40.060 SIGNS PERMITTED IN ALL DISTRICTS BUT NOT REQUIRING A PERMIT AND SHALL NOT EXCEED TWELVE FEET IN HEIGHT

17.40.070 SIGNS PERMITTED IN ALL RESIDENTIAL DISTRICTS BUT REQUIRING A PERMIT AND SHALL NOT EXCEED TWELVE FEET IN HEIGHT

17.40.080 SIGNS PERMITTED IN COMMERCIAL AND MANUFACTURING DISTRICTS AND REQUIRING A PERMIT

17.40.090 WALL SIGNS PERTAINING TO NONCONFORMING USES

17.40.100 POLITICAL SIGNS

17.40.110 SIGN SETBACK REQUIREMENTS

17.40.120 SETBACKS AT THE INTERSECTION OF HIGHWAYS

17.40.130 SETBACKS FOR PUBLIC AND QUASI-PUBLIC SIGNS

17.40.140 SPECIAL YARD PROVISIONS

1
1
1
1

1998 A-2

MENTS

A. Home occupations, kennels and veterinary clinics, and landmark building with any approved use, generally not permitted within the area's land use classification, which occurs or will occur in a landmark building recognized as such by the City Council.

B. Bed-and-Breakfast establishments.

C. Commercial parking.

EMENTS

17.38.050 MINIMUM LOT SIZE

The minimum area for each use shall not be less than 15,000 square feet.

nd create an environment
velopment, by restricting
e and maximum density.

17.38.060 MINIMUM SETBACK REQUIREMENTS

A. Front — 20 feet from property line. If the street is officially designated arterial, 30 feet. Structures housing livestock shall be set back a minimum of 50 feet from nearest property line.

B. Rear — 20 feet.

C. Interior sides — 10 feet.

erily incidental to the per-

D. Side yard on a flanking street — 20 feet from property line. If street is officially designated arterial, 30 feet.

17.38.070 MAXIMUM DENSITY



No maximum.

is, nurseries and gardens,
of limited scale, not to
0 square feet total build-
ser than one-quarter mile

17.38.080 MAXIMUM LAND COVERAGE

Maximum land coverage by buildings shall be 35%.

17.38.090 MAXIMUM BUILDING HEIGHT

not permitted within the
a landmark building rec-

Maximum height of buildings is to be 35 feet.

17.38.100 OFF-STREET PARKING REQUIREMENTS

There shall be at least two off-street parking spaces per dwelling unit.

17.38.110 STREET IMPROVEMENTS

tuations where no more
square foot lots were in
lots in the same owner-
0,000 square foot parcels
re foot parcels.

Thirty feet of frontage is required on an improved public street. If a private street is used, a conditional use permit is required. Where City ordinance permits development fronting on an unpaved City street, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements.

ities with the following
ggregate care facility is
l setting with individual

CHAPTER 17.40 SIGNS

SECTIONS

- 17.40.010 INTENT
- 17.40.020 DEFINITION, GOVERNMENTAL SIGNS EXCLUDED
- 17.40.030 GENERAL REQUIREMENTS
- 17.40.040 MEASUREMENT OF SIGN AREA
- 17.40.050 PERMIT PROCEDURE

stores or limited feet of retail sales otal building floor be allowed closer existing grocery any approved use, tea's land use clas- cur in a landmark ity Council. ments

6,000 square foot l no less than four 00 square foot lots ot of continuous ownership, and of o make two 6,000 ily residence built els. es and congregate efinition utilized: a congregate care nts who need care l living units."

SIZE ict shall be as fol- owed on any lot of 0.020. Lot size of t which are subdi- no less than 7,500 ll be 9,000 square

BACK S in an R2 district epth 20 feet from one side, 5 feet on et — 10 feet from l arterial, 20 feet. m. not abut a platted

Garage, swimming pool, tool house, barns and other uses customarily incidental to the permitted uses.

17.38.040 CONDITIONAL USES **EX B**

Conditional uses in an R1 district shall be as follows:

- A. — Home occupations, kennels and veterinary clinics, and landmark building with any approved use, generally not permitted within the area's land use classification, which occurs or will occur in a landmark building recognized as such by the City Council.
- B. — Bed-and-Breakfast establishments.
- C. — Commercial parking.
- D. — Public parking.
- E.— Private parking.

2000

17.38.050 MINIMUM LOT SIZE

The minimum area for each use shall not be less than 15,000 square feet.

17.38.060 MINIMUM SETBACK REQUIREMENTS

- A. — Front — 20 feet from property line. If the street is officially designated arterial, 30 feet. Structures housing livestock shall be set back a minimum of 50 feet from nearest property line.
- B. — Rear — 20 feet.
- C. — Interior sides — 10 feet.
- D. — Side yard on a flanking street — 20 feet from property line. If street is officially designated arterial, 30 feet.

17.38.070 MAXIMUM DENSITY *

Density for the project applied for shall not exceed two dwelling units per gross acre, except where the provisions of the PUD (Chapter 17.44) section of this Ordinance are applied.

17.38.080 MAXIMUM LAND COVERAGE

Maximum land coverage by buildings shall be 35%.

17.38.090 MAXIMUM BUILDING HEIGHT

Maximum height of buildings is to be 35 feet.

17.38.100 OFF-STREET PARKING

employ only light emitting a lig and no sign shall be illuminated intermittent, rotating, or moving for time and temperature sign illuminated sign or lighting dev ed so as to permit the beams : from to be directed or beamed highway, sidewalk, or adjacent glare or reflection that may co or nuisance.

B. — All wiring, fittings, an construction, connection, and c illuminated signs shall be in acc sions of the National Electric C code in effect. All such signs re mit and inspection by State of V of Labor and Industry, Electric lent inspection.

C. — No projecting sign sh tained from the front or any fa tance of more than four (4) fe mounting. No wall or project more than one (1) foot above line, or parapet of the building t

D. — No sign shall be plac building.

E.— No portable or tempora on the front or face of a buildi except as authorized in Paragr (E).

F.— Except as allowed in s sign or part thereof shall contai pennants, ribbons, streamers, s moving devices. Such devices lights shall not be used for the or attracting attention when not

G.— No signs erected or ma of a building, visible from any or highway, shall occupy more the window surface.

H.— No sign of any classific erected, or attached in any forn fire escape or any door or wind fire escape.

I.— All signs hung and er marked with the name of the po tion hanging or erecting the sign

J.— Should any sign be or t danger of falling, the owner maintaining the same, shall u notice from the building inspec put such sign in a safe secure c sign.

the area's land use classification, which occurs or will occur in a landmark building recognized as such by the City Council.

B. Bed-and-Breakfast establishments.

C. Commercial parking.

D. Public parking.

E. Private parking.

EX.C-1

17.38.050 MINIMUM LOT SIZE

The minimum area for each use shall not be less than 15,000 square feet.

17.38.060 MINIMUM SETBACK REQUIREMENTS

A. Front -- 20 feet from property line. If the street is officially designated arterial, 30 feet. Structures housing livestock shall be set back a minimum of 50 feet from nearest property line.

B. Rear -- 20 feet.

2003

C. Interior sides -- 10 feet.

D. Side yard on a flanking street -- 20 feet from property line. If street is officially designated arterial, 30 feet.

17.38.070 MAXIMUM DENSITY *

Density for the project applied for shall not exceed two dwelling units per gross acre.

17.38.080 MAXIMUM LAND COVERAGE

Maximum land coverage by buildings shall be 35%.

17.38.090 MAXIMUM BUILDING HEIGHT

Maximum height of buildings is to be 35 feet.

17.38.100 OFF-STREET PARKING REQUIREMENTS

There shall be at least two off-street parking spaces per dwelling unit.

17.38.110 STREET IMPROVEMENTS

Thirty feet of frontage is required on an improved public street. If a private street is used, a conditional use permit is required. Where City ordinance permits development

The regulations contain apply to all signs and all

A. Any illuminated sign shall employ only light of constant intensity, and no sign shall be or contain flashing, or moving light or sound and temperature signs. No illuminated sign or light shall be directed so as to be a nuisance or a hazard to navigation therefrom to be upon a public street, highway or adjacent premises so as to cause reflection that may constitute a nuisance.

B. All wiring, fittings, and the construction, connection, and electrically illuminated signs shall conform with the provisions of the Electric Code or the latest edition thereof in effect. All such signs require inspection by the Department of Labor and Industries or equivalent in the city.

C. No projecting sign shall be maintained from the front of a building a distance of more than four (4) feet plus a four (4) inch mounting bracket. No projecting sign shall project more than four (4) feet above or over the roof of the building to which it is attached.

D. No sign shall be placed on the front of a building.

E. No portable or temporary sign shall be placed on the front or facade of any premises except as provided in paragraphs 17.40.080(B) and (C).

F. Except as allowed in 17.38.090, no sign or part thereof shall be a banner, pennant, ribbon, or other similar moving device, as well as strings of lights used for the purpose of attracting attention when not part of a permanent sign.

G. No signs erected or mounted on the side or rear of a building, visible from a private street or highway, shall be more than twenty percent of the area of the building facade.

H. No sign of any class shall be installed, erected, or attached to a building in a shape or manner to a fire escape or window giving access to the building.

10WS:

A. Home occupations, kennels and veterinary clinics, and landmark building with any approved use, generally not permitted within the area's land use classification, which occurs or will occur in a landmark building recognized as such by the city council;

B. Bed-and-breakfast establishments;

C. Commercial parking;

D. Public parking;

E. Private parking. (Ord. 2482 Att. A § 5 (part), 1999; Ord. 2316 (part), 1994)

17.38.050 MINIMUM LOT SIZE.

The minimum area for each use shall not be less than fifteen thousand square feet. (Ord. 2316 (part), 1994)

17.38.060 MINIMUM SETBACK REQUIREMENTS.

A. Front, twenty feet from property line. If the street is officially designated arterial, thirty feet. Structures housing livestock shall be set back a minimum of fifty feet from nearest property line;

B. Rear, twenty feet;

C. Interior sides, ten feet;

D. Side yard on a flanking street, twenty feet from property line. If street is officially designated arterial, thirty feet. (Ord. 2316 (part), 1994)

17.38.070 MAXIMUM DENSITY.

Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994)

17.38.080 MAXIMUM LAND COVERAGE.

Maximum land coverage by buildings shall be thirty-five percent. (Ord. 2316 (part), 1994)

employ only light emitting sity, and no sign shall be flashing, intermittent, rot lights, except for time and event shall an illuminated placed or directed so as t illumination there from t upon a public street, high premises so as to cause gl constitute a traffic hazard

B. All wiring, fittings, a construction, connection, cally illuminated signs sh the provisions of the Natic local electric code in effect an electrical permit and Washington Department Electrical Division or equi

C. No projecting sign st tained from the front or an tance of more than fou mounting. No wall or pro more than one foot abov line, or parapet of the attached.

D. No sign shall be pla building.

E. No portable or tempo on the front or face of a bu es except as authorized in (E).

F. Except as allowed in sign or part thereof shall c ners, pennants, ribbons, other similar moving devic as strings of lights shall not of advertising or attracting of a sign.

G. No signs erected or m of a building, visible fron street or highway, shall oc percent of the window surf

H. No sign of any classifi erected, or attached in any

C-2

2005



FORESTLANDS

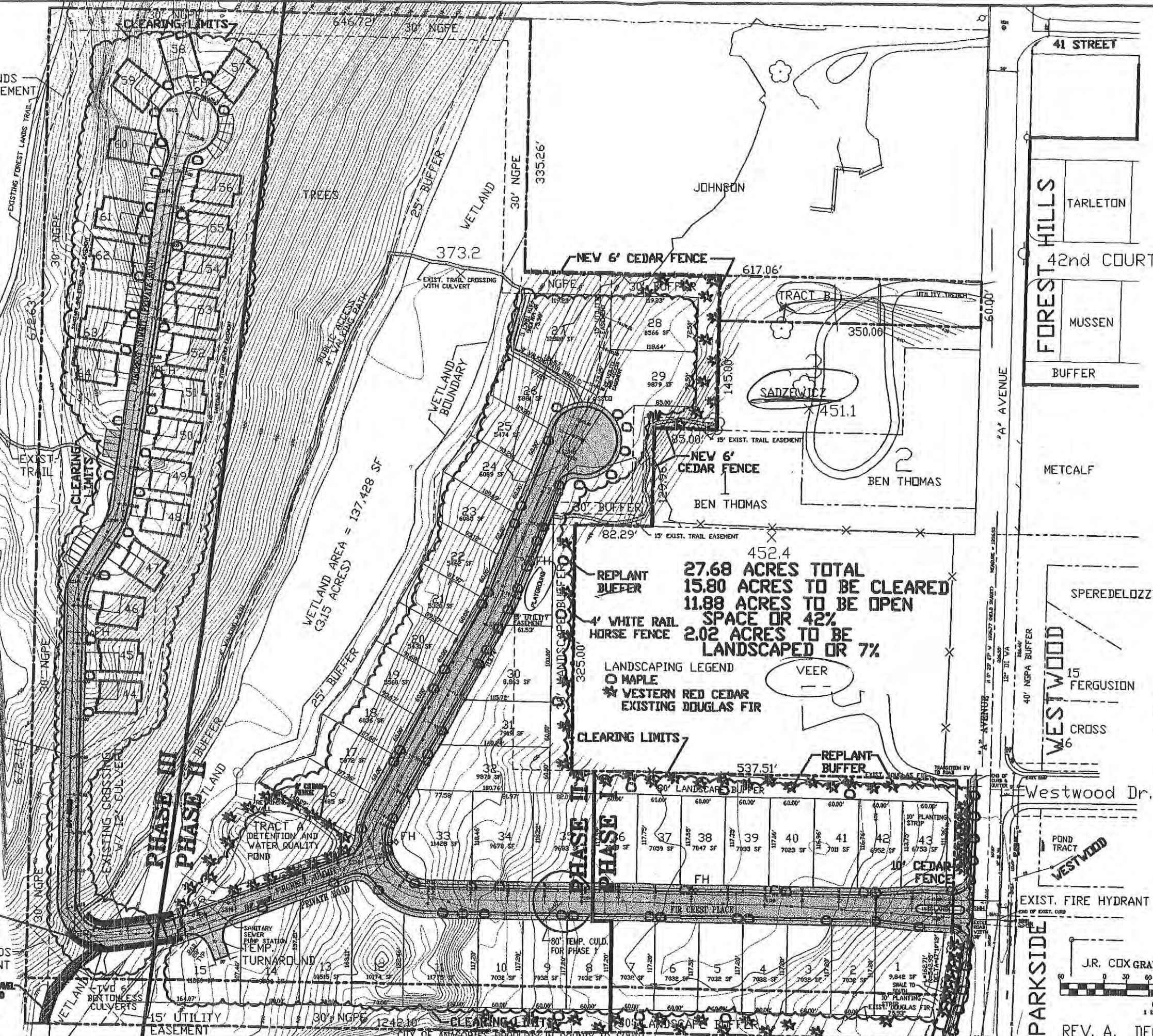
FORESTLANDS
TRAIL EASEMENT

FIRCREST SUMMIT
(PRIVATE ROAD)
W/ PUBLIC PEDESTRIAN
ACCESS

1,461 SF OF WETLAND
ENCROACHMENT BY NEW
ROAD IMPROVEMENTS

FORESTLANDS
TRAIL EASEMENT

1,800 SF OF EXISTING GRAVEL
ROAD TO BE REMOVED AND
REPLACED WITH WETLAND



EX.D-1

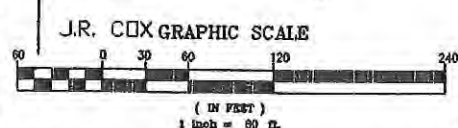
HERRIGSTAD
ENGINEERING
DALE K. HERRIGSTAD, P.E. 2108
3001 R AVENUE, W.A. 98001 (360) 299-8804

Fir Crest Development NW LLC
PO Box 818
Anacortes, WA 98221, 293-0848

Proposed Site Plan "A" Avenue
64 UNITS

PROPOSED PUD

VERTICAL DATUM
TO CITY OF ANACORTES
DATUM



REV. A, DECEMBER 10, 2001

Sheet No. C1
REV. -
Job No. 211
DATE: Sept. 27, 2001
SCALE: 1"=60'
DRAWN: D. HERRIGSTAD
CHECK: D. HERRIGSTAD
SHEET 1 OF 2

GENERAL INFORMATION

1. Assessor's Account No.s 3781-001-018-0007 (P57070), 3781-002-018-0005 (P57071), 3781-003-009-0004 (P57072), 3781-004-010-0009 (P57073), 3781-005-020-0004 (P57074), 3781-006-020-0002 (P57075), 350125-4-005-0104 (P32349), 350126-4-003-0007 (P32346), 350126-4-002-0008 (P32345) and 350126-4-005-0005 (P32348).
2. Description and exception information is from Chicago Title Company - Island Division of Skagit County, Amended Subdivision Guarantee, Order No. IC31130, dated August 16, 2004.
3. 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 above. Said report lists documents recorded under Auditors File Number 9501120049 (10' PSE easement to be abandoned), 20040301010128 (10' PSE easement to be abandoned), and 200304240060 (Boundary Adjustment survey), 9312150128 (PSE easement lying within Short Plat ANA 93-003), 20021140225 (easement lying within Short Plat ANA 93-003), 200406010217 (Encroachment Agreement with City of Anacortes), Deeds of trust are recorded under Auditors File Number 200302210171, 200302210173 and 200302210172.
4. Zoning: (R1) Residential Low Density District
5. Water Supply: City of Anacortes.
6. Sewer Disposal: City of Anacortes

FIR CREST PLANNED UNIT DEVELOPMENT

IN THE S.E. 1/4, SEC. 26, TWP 35 N., RNG 1 E., W.M.

CITY OF ANACORTES, WASHINGTON

AUGUST 2004

200408310219
Skagit County Auditor
8/31/2004 Page 1 of 4 3:55PM

Ex.D-2

50' WETLAND BOUNDARY TABLE

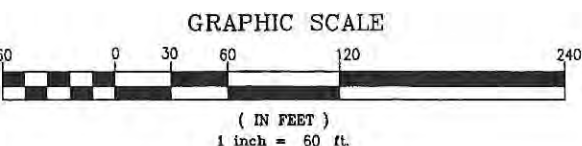
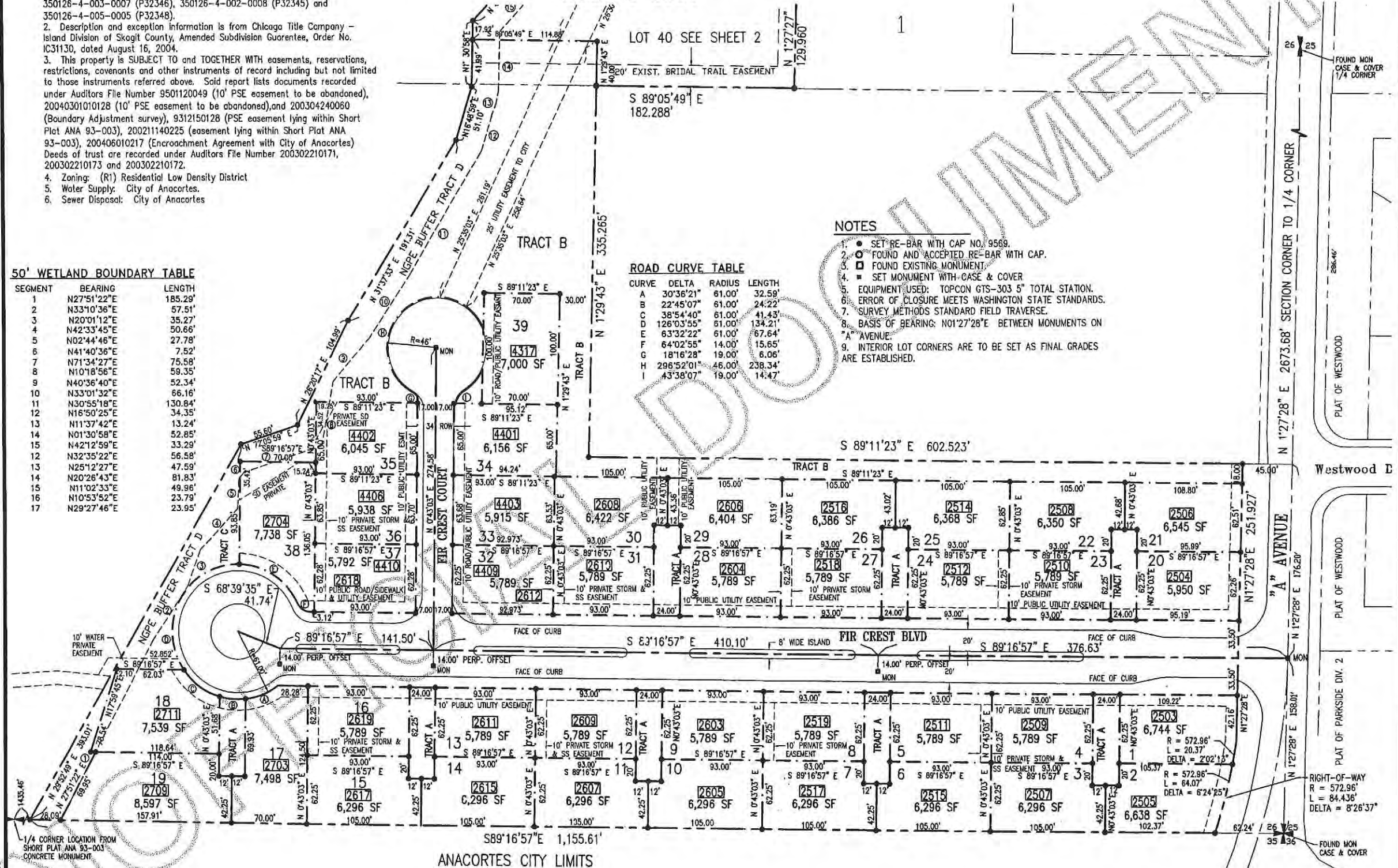
SEGMENT	BEARING	LENGTH
1	N27°51'22"E	185.29'
2	N33°10'36"E	57.51'
3	N20°01'12"E	35.27'
4	N42°33'45"E	50.66'
5	N02°44'46"E	27.78'
6	N41°40'36"E	7.52'
7	N71°34'27"E	75.58'
8	N10°18'56"E	59.35'
9	N40°36'40"E	52.34'
10	N33°01'32"E	66.16'
11	N30°55'18"E	130.84'
12	N16°50'25"E	34.35'
13	N11°37'42"E	13.24'
14	N01°30'58"E	52.85'
15	N42°12'59"E	33.29'
16	N32°35'22"E	56.58'
17	N25°12'27"E	47.59'
18	N20°28'43"E	81.83'
19	N11°02'33"E	49.96'
20	N10°53'52"E	23.79'
21	N29°27'46"E	23.95'

ROAD CURVE TABLE

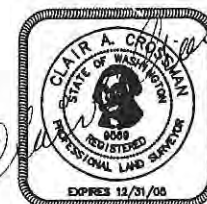
CURVE	DELTA	RADIUS	LENGTH
A	30°36'21"	61.00'	32.59'
B	22°45'07"	61.00'	24.22'
C	38°54'40"	61.00'	41.43'
D	126°03'55"	61.00'	134.21'
E	63°32'22"	61.00'	67.64'
F	64°02'55"	14.00'	15.65'
G	18°16'28"	19.00'	6.06'
H	296°52'01"	46.00'	238.34'
I	43°38'07"	19.00'	14.47'

NOTES

1. SET RE-BAR WITH CAP NO. 9569.
2. FOUND AND ACCEPTED RE-BAR WITH CAP.
3. FOUND EXISTING MONUMENT.
4. SET MONUMENT WITH CASE & COVER
5. EQUIPMENT USED: TOPCON GTS-303 5" TOTAL STATION.
6. ERROR OF CLOSURE MEETS WASHINGTON STATE STANDARDS.
7. SURVEY METHODS STANDARD FIELD TRAVERSE.
8. BASIS OF BEARING: N01°27'28"E BETWEEN MONUMENTS ON "A" AVENUE.
9. INTERIOR LOT CORNERS ARE TO BE SET AS FINAL GRADES ARE ESTABLISHED.



SURVEYOR
Crossman & Associates
16146 McLean Road
Mt. Vernon, WA 98273
(360) 424-7359



PROPERTY OWNER/SUBDIVIDER
Fir Crest Development NW L.L.C.
P.O. Box 319
Anacortes, WA 98221
(360) 293-7431

SHEET 1 OF 4

APPROVED ROD

FIR CREST PLANNED UNIT DEVELOPMENT

IN THE S.E. 1/4, SEC. 26, TWP 35 N., RNG 1 E., W.M.
CITY OF ANACORTES, WASHINGTON
AUGUST 2004

200408310219
Skagit County Auditor
8/31/2004 Page 2 of 4 3:55PM

EX.D-3

AUDITORS CERTIFICATE

Filed for record this 31 day of August
2004 at 3:55 P M.
in Volume 412 of Plats on pages 1-2
at the request of Clair A. Crossman, P.L.S.
Auditors File No. 200408310219
Brunn Chavis
Skagit County Auditor Deputy

APPROVALS

The Planning Commission of the City of Anacortes, meeting in regular session on July 28, 2004 did find that the Plat of Fir Crest PUD serves the public use and interest and has authorized its secretary to execute its written approval hereon.

Sam A. Wynn
Signature of Planning Director
Approved by the Council of the City of Anacortes, Washington, this 16 day of AUGUST, 2004.

ATTEST: City Clerk Jennifer Israel
Examined and approved this 30th day of AUGUST, 2004.
[Signature]
City Engineer

CITY TREASURERS CERTIFICATE

I hereby certify that there are no delinquent special assessments and all special assessments on any of the property herein contained dedicated as streets, alleys, or for other public use, are paid in full.

This 30th day of August, 2004.
Jennifer Israel
Treasurer, City of Anacortes

COUNTY TREASURERS CERTIFICATE

This is to 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 2003.

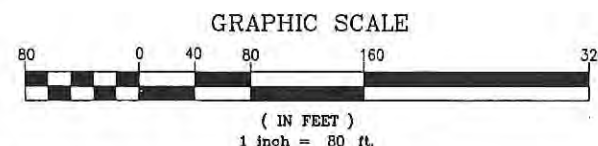
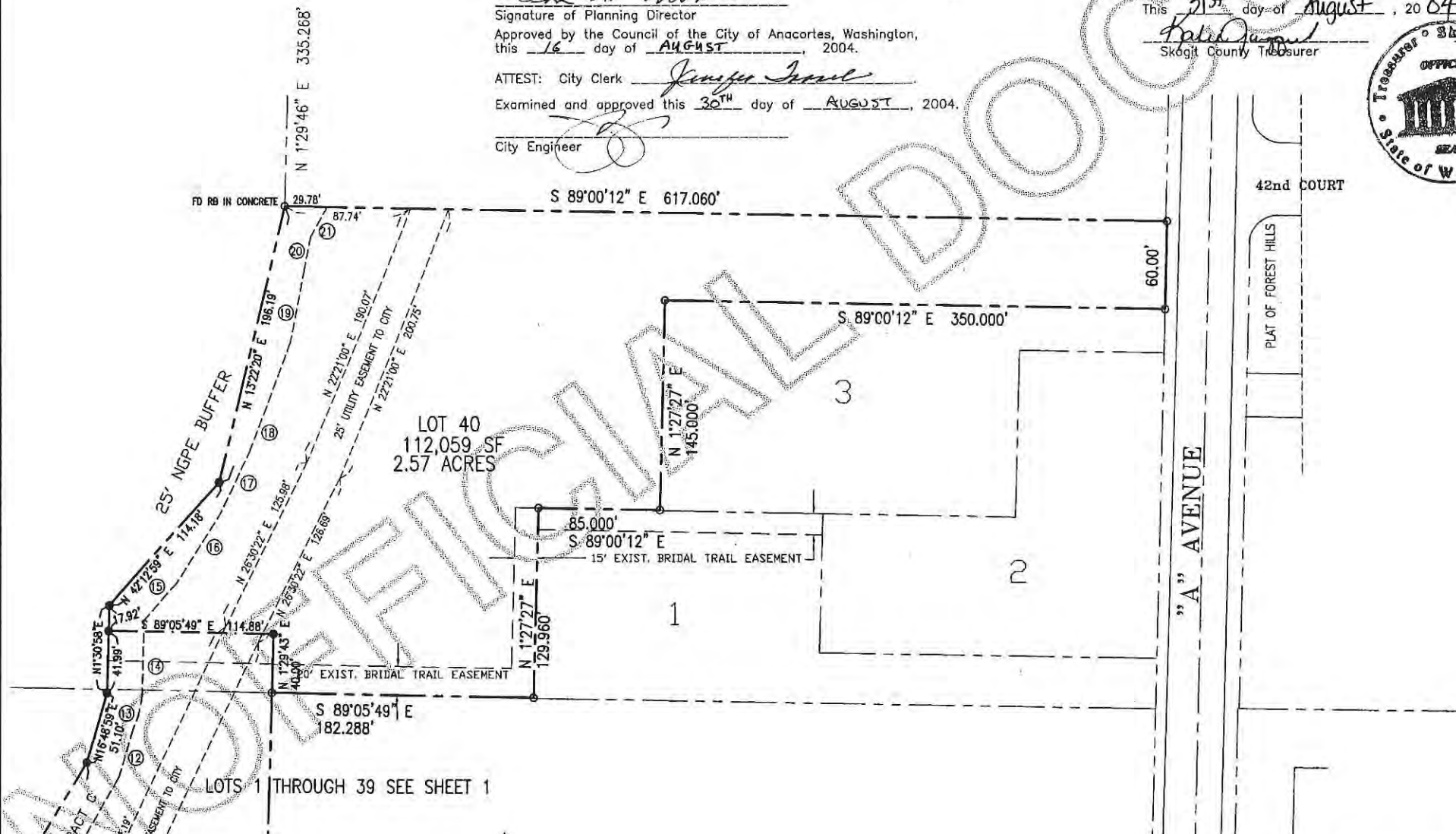
I, Katie Jungquist, Treasurer of Skagit County, Washington, hereby certify that a deposit has been paid to cover anticipated taxes up to and including the year 2003.

This 31st day of August, 2004.
Katie Jungquist
Skagit County Treasurer
Deputy



NOTES

1. SET RE-BAR WITH CAP NO. 9569.
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3. FOUND EXISTING MONUMENT.
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SURVEYOR

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PROPERTY OWNER/SUBDIVIDER
Fir Crest Development NW L.L.C.
P.O. Box 319
Anacortes, WA 98221
(360) 293-7431

SHEET 2 OF 4

APPROVED PUD

Fir Crest PUD

Proposed Changes from the last plan
Date 1/22/02



1. No more than 58 home sites. We have reduced our density given public comment and our own desire to create an attractive neighborhood. That is a reduction of 6 home sites.
2. We have increased the width and the size of most lots. The smallest being 7980 sq.ft and the largest 15900sq.ft.
3. We feel this density is fitting given other neighborhoods in the area.
 - a. Forest Hills is built on 8.06 acres and has 21 lots that is 2.6 homes per acre.
 - b. Westwood is 7.37 acres and has 16 lots that is 2.17 homes per acre
 - c. Fir Crest is 27.68 acres and will have 58 lots that is 2.09 homes per acre.
 - d. As you can see we are proposing no more density then our neighbors in the same zone classification.
4. It is important to note we have included the perimeter buffer in our new square footage calcs, Although the perimeter buffer will still be landscaped and maintained as previously proposed.
5. To add to our original wetland buffer we would propose an intermediate buffer along the East portion of main wetland. Property owners would maintain ownership of this buffer but CCR's would be written requiring that grass and or native species be planted or maintained in this area. Keep in mind, that grass is one of the best ways to bio filtrate. **This would create a 50 ft buffer.**
6. **We would create a 100ft + buffer on the West side of wetland.** This large buffer has always been there we were just calling it Open space, call it what you will, but it is a buffer and will remain protected. This buffer at its smallest would be 100ft and at its largest would be 250ft. If you are buffer averaging this is an average buffer of 175 ft.
7. Full wetland monitoring before construction and during the entire construction process by a qualified Hydrologist or Wetland Specialist. This will insure that the water table stays consistent before and after construction and water quality can be monitored.
8. No chemical landscape maintenance phase I and II (make it a condition right on the Plat and we will add it to our CCR's.

Thank you



Nels Strandberg



D-5

**Withdrawal of
Mitigated Determination of Nonsignificance
and
Request for Comments on Scope of EIS
Fir Crest Planned Unit Development**

Description of Proposal:

The MDNS for Fir Crest PUD is hereby withdrawn. An EIS is to be prepared on the following proposal:

Fir Crest, a 3-phase Planned Unit Development implementing a 64-building site residential community on 27.68 acres with both public and private streets, utilities, trails and trail easements. The proposal includes encroachment into a wetland buffer for road improvements.

Proponent

Fir Crest Development, LLC

Location of Proposal, including street address, if any:

Generally located west of "A" Avenue between 41st Street and Lake Park Drive. Project access will be from "A" Avenue adjacent to the City limits, Anacortes, Skagit County, Washington.

Lead Agency:

City of Anacortes

Pursuant to WAC 197-11-340(2)(f) [The Responsible Official shall reconsider the DNS based on timely comments and may retain or modify...or withdraw the DNS...] and WAC 197-11-340(3)(a)(ii) ["There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts"] I am hereby withdrawing my December 14, 2001 Mitigated Determination of Nonsignificance for the Fir Crest Planned Unit Development based on written and oral testimony submitted to the Planning Commission on January 9, 2002 and January 23, 2002.

EIS Required. The lead agency has determined this proposal is likely to have a significant adverse impact on the environment. An environmental impact statement (EIS) is required under RCW 43.21C and will be prepared. An environmental checklist or other materials indicating likely environmental impacts can be reviewed at our offices.

The lead agency has identified the following areas for discussion in the EIS: **Wetland and water quality impacts and mitigations and density relative to City codes and the natural characteristics of the site.**

Scoping. Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS. You may comment on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required. The method and deadline for giving us your comments is: **Written comments due by February 23, 2002**

Responsible Official:

Ian S. Munce, Director of Planning
P.O. Box 547
Anacortes, WA 98221
(360) 299-1942

D-6

☒ There is no agency appeal.

Signature: _____

Ian S. Munce

Date: _____

1/23/02

Publish: January 30, 2002

FAXED
1-24-02

To: Anacortes America
Nancy W.
Nels Strandberg

D-7



Evergreen Islands

PO Box 223

Anacortes, WA 98221

January 23, 2002

Mr. Ian Munce
Planning Director, City of Anacortes
P.O. Box 547
Anacortes, WA 98221

Subject: Request for DNS Withdrawal for the Fir Crest Development

Dear Mr. Munce:

On the behalf of Evergreen Islands, we request that you take immediate action to withdraw the Determination of Non-Significance (DNS) for Fir Crest Development so that the significance of the proposal may be reconsidered. The State Environmental Policy Act Handbook, Washington State Department of Ecology Publication # 98-114 (p. 34), states,

"It is also advisable to withdraw a DNS if the lead agency determines that it needs time to reconsider the significance of the proposal, reassess mitigation needs, or to do additional investigation. A new threshold determination and comment period will be required, but this will prevent the "locking in" of the original DNS by another agency issuing a non-exempt permit."

We formally request that this action be taken based on the compliance issues that were raised during the public comment period and those issues that we address in our January 23, 2002 letter to the Anacortes Planning Commission (see attached letter).

Sincerely yours,

Steve Clark
President

Tom Glade
Vice President

D-8



Evergreen Islands

PO Box 223
Anacortes, WA 98221

January 23, 2002

Anacortes Planning Commission
P.O. Box 547
Anacortes, WA 98221

Subject: Fir Crest Environmental Compliance Issues

Dear Commissioners:

As we have stated previously, Evergreen Islands is alarmed by the high potential for adverse environmental impacts that the Fir Crest development engenders. The potential impacts range from harm to both Mitten Pond and the large, onsite wetland to the destruction of the Mitten Pond viewscape. As a result, we request that the Planning Commission guarantee that Fir Crest comply with all of the environmental protections afforded by city, state, and national regulations.

To get a handle on the City requirements, Evergreen Islands asked Dr. Ross Barnes of Rosario Geoscience Consultants to compile a list of compliance issues related to the City's regulations. Dr. Barnes submitted the list to Evergreen Islands at our January 17 board meeting, and the List of Compliance Issues is included as Attachment 1. Based on the large number of compliance issues, Evergreen Islands has submitted a formal request to Mr. Ian Munce, Anacortes Planning Director, to withdraw Fir Crest's Determination of Non-Significance (DNS). Withdrawing the DNS will allow the City the time needed "to reconsider the significance of the proposal, reassess mitigation needs, or to do additional investigation."

Additionally, Evergreen Islands urges the Planning Commission to take advantage of the environmental protections afforded by the State Environmental Policy Act (SEPA) to protect Anacortes's Natural Parks. An Environmental Impact Statements (EIS) should be a routine requirement for any development of property adjacent to our Natural Parks. The State Environmental Policy Act Handbook, Washington State Department of Ecology Publication # 98-114 (p. 16), states,

"The (lead) agency decision-maker must consider the environmental information, along with technical and economic information, when deciding whether to approve a proposal. Decision-makers may use SEPA substantive authority to condition or deny a proposal based on information in the SEPA document and the agency's adopted SEPA policies."

Furthermore, the SEPA Handbook (p. 91) also states

"Environmental review under SEPA at the plan and regulation level should address system-wide, cumulative impacts and some site-specific impacts. However, some site-specific impacts can still only be addressed through SEPA at the project level. SEPA is the safety net for those impacts that cannot be easily anticipated in plans and regulations. SEPA also provides the flexibility to address those site-specific impacts that are better dealt with on a project-by-project basis."

Both City and State regulations give Anacortes the authority to protect its natural environment, and we urge you take advantage of them.

In conclusion, we again ask the City of Anacortes and its Planning Commission to protect our Natural Parks, which are unique and irreplaceable community assets.

Sincerely yours,

Steve Clark
President

Tom Glade
Vice President



D-10

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

January 22, 2002

Mr. Ian Munce, Planning Director
City of Anacortes
P.O. Box 547
Anacortes, WA 98221

Dear Mr. Munce:

Thank you for providing The Department of Ecology (Ecology) with the information necessary to provide comments on the Mitigated Determination of Nonsignificance for the Fir Crest PUD. I have several comments on the Environmental Checklist. Comments are based on review of the Checklist, the wetland delineation report prepared by ATSI on May 3, 2001, a site plan dated December 10, 2001, and conversations with two concerned nearby property owners.

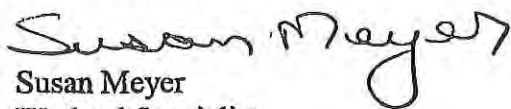
- A General Stormwater Permit (NPDES) will need to be obtained from Ecology's Water Quality program prior to the beginning construction of this project. Also, a Corps of Engineers Nationwide Permit 14 may be necessary for the wetland crossing. The Corps of Engineers should be contacted by the project applicant to find out whether a permit will be required.
- The proposed 25-foot buffers are completely inadequate to protect the functions of the wetland that lies within the boundaries of this development. A 25-foot buffer around a Category II wetland does not represent Best Available Science, which has shown that buffers less than 50 feet cannot protect most wetland resources. The wetland delineation report identifies this wetland as a wildlife corridor, which is connected to other wetlands and habitats. A buffer of 25 feet will reduce the ability of wildlife species to use this corridor since food and cover along it will be diminished. Some species of wildlife may be cut off from migrating from one habitat area to another. Also, amphibians, which are reported to use the wetland, will not have the necessary upland area to complete their lifecycle. In addition, the wetland will likely not receive the natural stormwater runoff from the adjacent upland forest to sustain its current hydrologic regime with only 25 feet of adjacent forestland. Ecology recommends 200-foot buffers around Category II wetlands with a high intensity adjacent land use. Buffer reduction can be considered when certain buffer functions can be enhanced to produce the same or similar effect. However, there are not sufficient buffer enhancement opportunities available on this site to make a 25-foot buffer around this wetland as effective as it needs to be to protect the wetland functions.

D-11

- The site plan showed that lots adjacent to the wetland in Phase II would be mostly comprised of relatively steep slopes. There is no mention of whether this area will be filled or cut, and if so, how will the slopes be stabilized after construction so that there will be no erosion into the wetland?
- The road that is proposed to cross the wetland should be designed so that the hydrologic regime in the wetland will not be altered. A change in the wetland hydroperiod (how much water is present and for how long) can influence the plant community diversity, cause mortality of amphibian egg masses, and reduce the number and abundance of invertebrate species. Hydrologic monitoring of the wetland should be conducted before and after the project is constructed to ensure that the development, as a whole, does not have an effect on the hydroperiod of the wetland.
- As per phone conversations with property owners within the vicinity of the proposed development, I understand that blasting the rock substrate is proposed as part of Phase III. Blasting was not mentioned in the Environmental Checklist and could have significant adverse environmental impacts. Blasting of the rock bluff above the wetland could introduce foreign debris into the wetland, cause mortality to vegetation on the steep rock cliff above the wetland, and cause other seismic impacts to the wetland as well as neighboring properties. It seems as though Phase III should be evaluated separately from the other two phases of the development since impacts from blasting have not been fully disclosed or analyzed

Once again, I appreciate the opportunity to comment on this proposed development. Please phone me at 425-649-7168 if you have any questions.

Sincerely,



Susan Meyer
Wetland Specialist
Shorelands and Environmental Assistance Program

SM:SA

cc: Jeannie Summerhays
Olivia Romano, Corps of Engineers
SEPA file

1004 7th. St., Ste. 202
Anacortes, WA 98221
(360) 293-7023
January 23, 2002

①
D-12

TO: Anacortes Planning Commission,
Ian Munce, Planning Director

FROM: Ross O. Barnes

Ross Barnes

RE: FIR CREST PUD

There are numerous decisions and conditions the the Anacortes City code allow you and require you to make to reduce the impacts from this overly ambitious, but poorly documented development scheme.

You can and should reduce the unit density to no more than the two units per acre R1 zoning standard. This site has too many environmental impact issues and development problems to justify a density bonus.

You can and should require strict adherence to the provisions of the Storm Drainage Ordinance regarding preservation of natural drainage patterns within each drainage basin/watershed individually--no significant diversion of flows across natural drainage divides.

You can and should require a drainage easement, approved by ACFL management, for the required discharges into the ACFL as specified by AMC 13.36.070 K.

You can and should require "all reasonable best management practices for water quality protection" (AMC 13.36.110 D.6.a.) for both the Mitten Pond watershed and the large on-site wetland.

You can and should formally declare the Mitten Pond watershed and the large on-site wetland as Water Quality Sensitive Areas under LPSPR #7, and direct the Public Works Dept. to determine what measures beyond the minimum development code requirements are needed to protect water quality in these areas.

You can and should require that a permanent no chemicals landscape maintenance clause be added to the Covenants for all areas that drain into the ACFL or the large wetland.

You can and should require the minimum R1 subdivision lot size of 15,000 square feet for lots adjacent to the wetland buffer, as a minimal measure to help protect this high quality wetland.

You can and should specify a reasonable minimum lot size throughout the PUD that is consistent with R1 zoning standards and the environmental sensitivities of the site--for instance 12,000

square feet.

②

D-13

Before you approve any wetland conditional use permit, you can and should require a detailed and accurate wetland encroachment and mitigation site plan and impact analysis as specified by City ordinance.

You can and should specify that existing natural and native growth areas within the buffers and open spaces shall remain undisturbed during and after development, except for approved trail maintenance and approved native growth protection programs.

Even if all of the above is done, the City can and should make a Determination of Significance for this project because of the unmitigatable significant adverse environmental impacts of this project, including potential impacts to the on-site and associated off-site aquifer recharge areas. An EIS is required to carefully analyze these impacts and evaluate the most appropriate type of development for this site--such a plan will probably have few similarities to the current proposal.

ATTACHMENTS: Exhibit A - Code Compliance Issues,
Exhibit B - Water table elevations in the aquifer,
Fir Crest PUD and adjacent area.

January 16, 2002

D-14

FIR CREST PUD -- CODE COMPLIANCE ISSUES WITH RESPECT TO ENVIRONMENTAL PROTECTIONA. STORM DRAINAGE

1. AMC 13.36.070 (A) and LPSPR #2 - Preservation of Natural Drainage Systems, Patterns and Basins.

Storm water flows from the Mitten Pond watershed should continue to be directed toward Mitten Pond with appropriate volume detention, and full biofiltration swale either before or after the detention facility. Downslope flows into the ACFL shall be dispersed to control erosion, or conveyed to a natural channel of adequate capacity.

Ditto for watershed basin of large on-site wetland.

2. LPSPR #3 - Pollution Source Control.

Impervious surface catch basins that drain into the ACFL or large on-site wetland should include "oil" traps that are regularly maintained.

Phase II and Phase III should include no chemicals landscape maintenance policy as permanent clause of protective covenants (suggest see Portalis for condition wording).

3. Please note LPSPR #4 (b) and LPSPR #6 - Wetlands, should be applied to discharges to large on-site wetland.
4. LPSPR #7 - Water Quality Sensitive Areas (WQSA).

Mitten Pond watershed and large on-site wetland and buffers should be formally declared as WQSA's.

5. AMC 13.36.070 (K) - Drainage Easement.

Discharge to ACFL should have easement negotiated with ACFL management.

B. PROTECTION OF LARGE ON-SITE WETLAND AND ACFL

1. Lots adjacent to wetland buffer should meet minimum 15,000 square foot size and lot width requirements for an R1 zone sub-division.
2. This site is not suitable for density "bonuses". Unit density of whole PUD and of Phase III alone should not exceed 2 units per acre.

A-2

D-15

3. Maintain intact 30' NGPE buffer adjacent to ACFL and minimum 25' NGPE buffer adjacent to wetlands.
4. All natural undeveloped open spaces in Phases II and III should be protected with permanent NGP easement.
5. Provide correct Phase III road profile and correct natural topography on road profile for review at next hearing.
6. Consider alternative clustered development schemes for this site, such as assisted living/retirement center. It may be ideal for such a facility because it is significantly isolated from adjacent residential developments.

C. WETLAND MITIGATION PLAN -- TO BE PROVIDED FOR PUBLIC REVIEW BEFORE PLAN AND WETLAND CONDITIONAL USE IS APPROVED

1. Provide correct wetland boundary survey in area of proposed road expansion and proposed mitigation area so that accurate areas for wetland fill and mitigation can be calculated. Determine actual area of wetland that was filled for existing road and associated landfill--where was the road not built in wetland? Determine water levels on each side of existing road fill in proposed excavation area and method for maintaining existing water levels upslope of existing road fill. Where is the appropriate location for the trail crossing the wetland in this area? Provide at least a 1.5 to 1 wetland replacement ratio for road expansion. Provide a wetland/buffer planting plan to restore indigenous natural vegetation, and a monitoring/correction plan. Propose wetland creation only in disturbed areas, not in the natural landscape. Wetland buffers in restored areas should be consistent with slopes in adjacent natural areas.
2. Submit a detailed site plan and specifications for the proposed road expansion and wetland mitigation/restoration area prepared by a qualified wetland restoration consultant, for public review.
3. In addition to the proposed wetland mitigation area discussed above, also consider wetland and buffer restoration in the landfill area west of the proposed detention pond.

D. SEPA

The obvious probable and unmitigated significant adverse impacts to the ACFL natural area and the large wetland require a Determination of Significance (DS) and an EIS under Washington State law (see WAC 197-11-330, ff.).

A-3

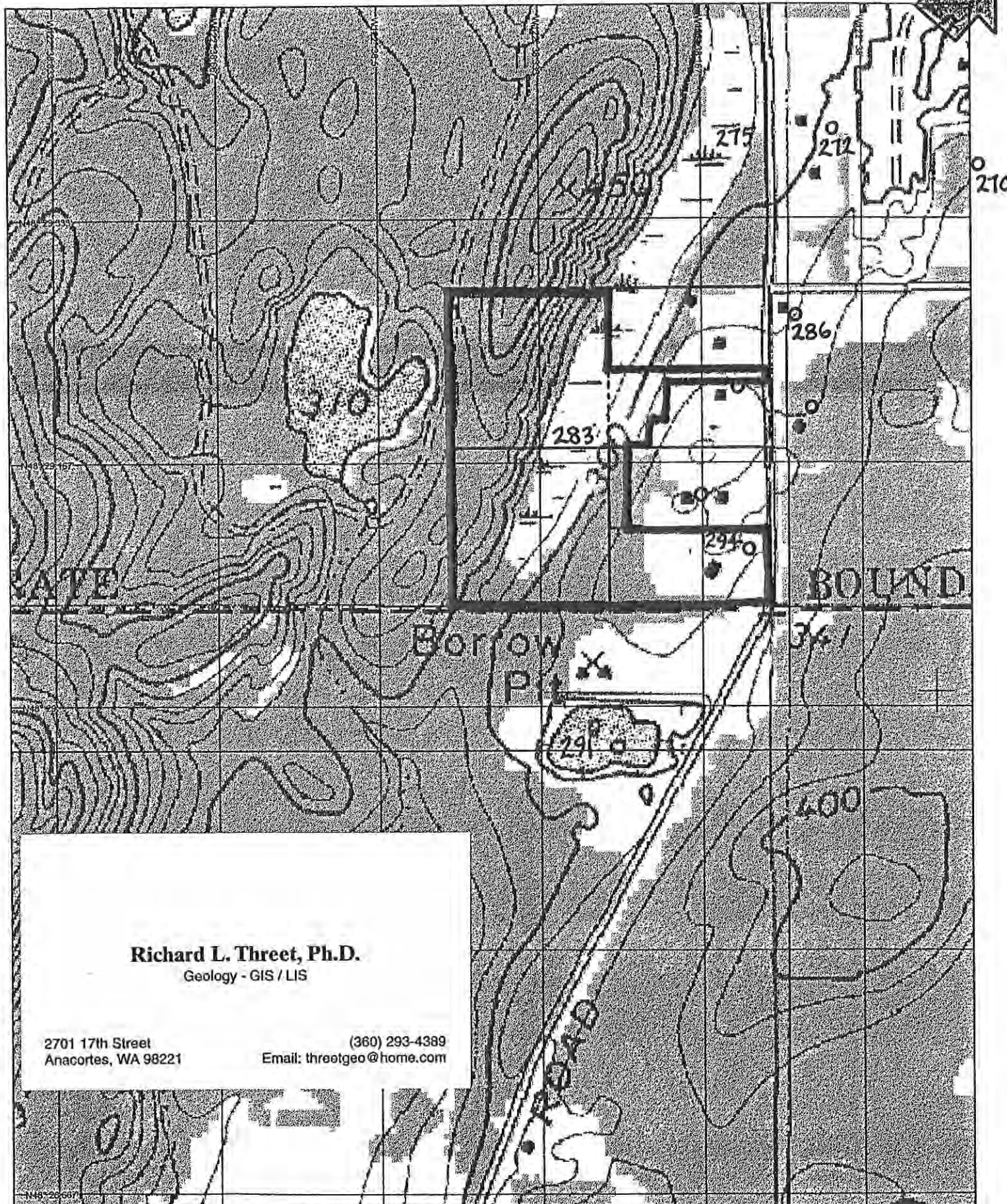
D-16

The DS is principally related to

- (1) the development and accompanying denudation and destruction of the natural topography of the ridge in Phase III,
- (2) the lack of any specific impact analysis and mitigation plan for the road crossing the wetland, including an accurate and specific wetland conditional use site plan as required by AMC 17.65.100,
- (3) the proposed development of lots much smaller than 15,000 square feet adjacent to the large high quality on-site forested wetland, and
- (4) wetland buffers much smaller than those uniformly recognized as necessary for wetland protection adjacent to a high quality wetland that is also an important recharge source for the underlying sand/gravel aquifer that serves a number of wells to the east and feeds "Ace of Hearts Creek" via perennial springs and artesian wells.

Ross O. Barnes

D-17 EXHIBIT 'B'



Richard L. Threet, Ph.D.

Geology - GIS / LIS

2701 17th Street
Anacortes, WA 98221

(360) 293-4389
Email: threetgeo@home.com

Rosario Geoscience Associates

D-18

13695

~~104~~ Harbor Lane • Anacortes, WA 98221 • (360) 293-7023

293-0572 FAX

February 23, 2002

TO: Ian Munce, Director of Planning

FROM: Ross O. Barnes

R.B.

RE: FIR CREST PUD - SEPA EIS SCOPING

I agree with the issues set out in BOLD type in the scoping notice.

In addition, I would add the following more specific items and issues.

- (1) Alternatives examined should include the (1) no action alternative, (2) lots or lot equivalents not less than 15,000 square feet not counting the areas of wetland district and slopes too steep to develop, (3) cluster or alternative development, such as assisted living center, (4) drastically reduced density in Phase III, such as a few upscale largely natural lots.
- (2) Providing wetland protection buffers in line with current scientific recommendations for a significant Category II wetland that is adjacent to quality upland habitat, such as DOE guidelines or Skagit County CAO--effect on habitat protection and wetland and aquifer water quality.
- (3) Potential effects of rock blasting close to residential areas.
- (4) Impacts of Phase III on the adjacent downslope ACFL natural preserve--including tree blowdown, habitat quality of Mitten Pond watershed, invasion of noxious species and "edge effect" intrusion into mature forest habitat preserve, water quality, potential erosion, proposed drainage diversion out of ACFL watershed, effect on the ACFL Trail 10 recreational corridor. Can impacts be mitigated or not? How?
- (5) Impacts to off-site drainage system and adjacent riparian zone (both developed and natural) downstream from the large Phase II wetland.
- (6) Requiring basin by basin storm water detention and discharge, compared to the proposed one detention pond system and diversion and discharge (?) of storm water from three basins into one.
- (7) Compare impacts of proposed smaller lot PUD with development buffers, to non-buffered sub-division with 15,000 square

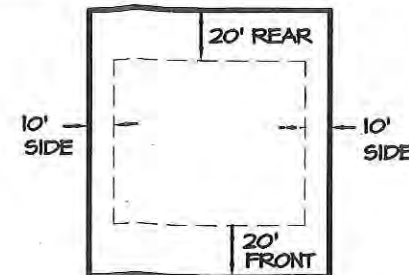
RGA on Fir Crest EIS
2/23/02
page 2

foot minimum lot size--compatibility with the developed and natural neighborhood.

- (8) "Viewshed" impacts from destroying the natural character of the regionally visible Phase III ridge.
- (9) Lack of specific plans and analyses for mitigation of wetland road crossing.
- (10) Potential for restoring disturbed wetland buffers and filled wetlands on site. Is proposed detention pond too close to wetland?
- (11) Potential impacts on aquifer serving wells to east and northeast of site--all the way to artesian zone surrounding Ace of Hearts Creek. Intensive development has already impacted some wells in this area.

Ross O. Barnes.

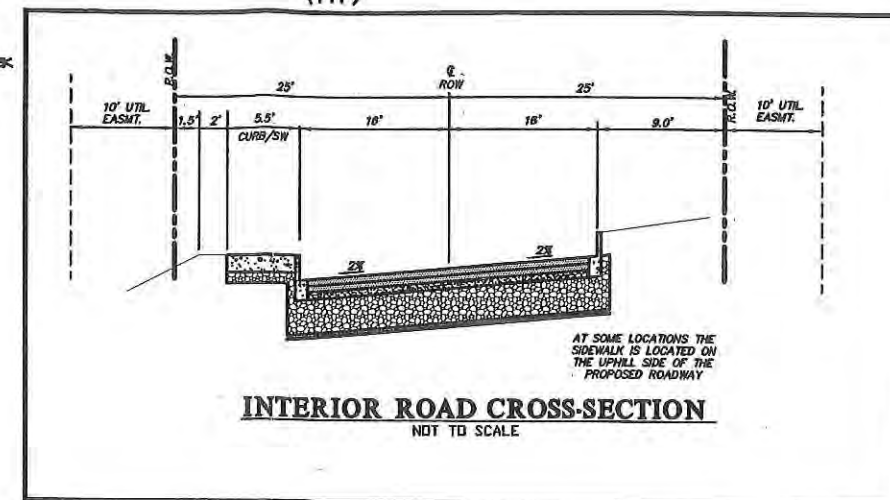
PROPOSED 5' WIDE WALK TO BE INSTALLED WESTERLY FROM PROJECT TO EAST END OF EX. CONCRETE WALK. NORTH EDGE OF WALK TO BE CONSTRUCTED BETWEEN 20' AND 25' SOUTH OF EX. RIGHT OF WAY CENTERLINE UNLESS EASEMENTS ARE GRANTED BY PROPERTY OWNERS SOUTH



CALL TWO BUSINESS DAYS BEFORE YOU DIG
1-800-424-5555

SCALE: 1" = 80'
0 40 80 160

PROPOSED BUILDING SETBACKS (TYP)



INTERIOR ROAD CROSS-SECTION
NOT TO SCALE

NOTES

- OWNERSHIP: PARCELS A AND C: DALE W. HUOT, SLENN E. HUOT AND CAROL L. ABEL
PARCELS D AND E: CONRAD LEVESEN AND DIANE LEVESEN
- DEVELOPER: JOE AND KIMBERLY WOODMANSEE
1146 BRITT ROAD
MOUNT VERNON WA 98213
PHONE: (360) 424-4886
- LAND SURVEYOR/LAND-USE CONSULTANT: LISSER & ASSOCIATES, PLLC
BRUCE S. LISSER, P.L.S.
PO BOX 1104
MOUNT VERNON WA 98213
PHONE: (360) 419-1442
- CIVIL ENGINEER: RAVNIK & ASSOCIATES, INC.
JOHN RAVNIK, P.E.
PO BOX 561
BURLINGTON WA 98293
PHONE: (360) 707-2048
- UTILITIES:
SANITARY SEWER: CITY OF ANACORTES
STORM SEWER: CITY OF ANACORTES
WATER: CITY OF ANACORTES
POWER: FUBET SOUND ENERGY
TELEPHONE: VERIZON
GAS: CASCADE NATURAL GAS
T.V.: COMCAST
- ALL UTILITIES WILL BE EXTENDED AS NECESSARY TO SERVICE THE SITE AND WILL BE ENGINEERED AS NECESSARY TO CONFORM TO CITY OF ANACORTES DEVELOPMENT STANDARDS. ALL UTILITIES ARE PROPOSED TO BE UNDERGROUND.
- SURVEY DATUM: BASED UPON CITY OF ANACORTES DATUM, BENCHMARK PROVIDED BY LYLE DAVIS, CITY OF ANACORTES, NORTH RIM SANITARY SEWER MANHOLE AT 34TH AND H AVENUE.
ELEVATION = 245.6
- SURVEY MERIDIAN: ASSUMED
- SURVEY PROCEDURE: STANDARD FIELD TRAVERSE
- CONTOUR INTERVAL: 2-FOOT
- SPOT ELEVATIONS ARE SHOWN AT THE +
- ALL MEASUREMENTS ARE SHOWN IN FEET AND DECIMAL FEET.
- FOR ADDITIONAL SURVEY INFORMATION SEE THE PLAT OF PARKSIDE DIVISION NO. 2, RECORDED IN VOLUME 16 OF PLATS, PAGES 20-22, CITY OF ANACORTES SHORT PLAT NO. AH-02-003, RECORDED IN VOLUME 6 OF SHORT PLATS, PAGE 26 AND RECORD OF SURVEY MAPS RECORDED UNDER AUDITOR'S FILE NUMBERS 200004190067 AND 9404280078, ALL IN RECORDS OF SKAGIT COUNTY, WASHINGTON.
- PROPERTY ZONING: R-1, RESIDENTIAL LOW DENSITY (15,000)
- ADJACENT ZONING: WEST R-1, EAST R-1, NORTH R-2, SOUTH PUBLIC
- GROSS AREA (INCLUSIVE OF ROAD RIGHT-OF-WAY): 29.66 ACRES
CITY OF ANACORTES IS ALLOWING DENSITY OF 2 UNITS PER ACRE TO BE BASED UPON 30 ACRES FOR A TOTAL OF 60 UNITS.
- OPEN SPACE AREAS ARE TO BE OWNED AND MAINTAINED BY THE ORCHARDS HOMEOWNERS ASSOCIATION. THE MAINTENANCE WILL INCLUDE LANDSCAPING, TRAILS, STORM POND AND ANY FENCES ALONG TRAILS.
- BUILDING SETBACKS WILL BE CONSISTENT WITH THE R-1 ZONE. (SEE INSERT)

EX. E-1



LISSER & ASSOCIATES, PLLC
SURVEYING & LAND USE CONSULTATION
320 MILWAUKEE STREET
MOUNT VERNON, WA 98213
360-419-1442

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
108 E. GILKEY RD./P.O. BOX 361
BURLINGTON, WA 98233
PH: (360) 707-2048 FAX: (360) 707-2216

SHEET DESCRIPTION:

PRELIMINARY PLAT MAP

PLAN STATUS:

SCALE: 1" = 80'

DRAWN BY: H. NELSON

CHECKED BY: J. RAVNIK

DATE: 3-10-06

SHEET TITLE:

**"THE ORCHARDS"
FOR
JOE WOODMANSEE**

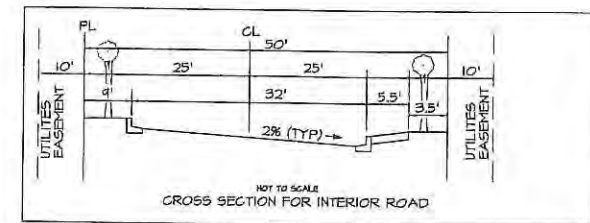
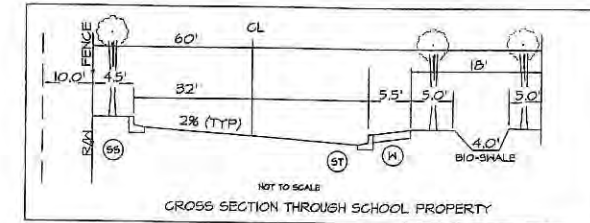
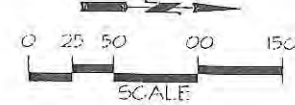
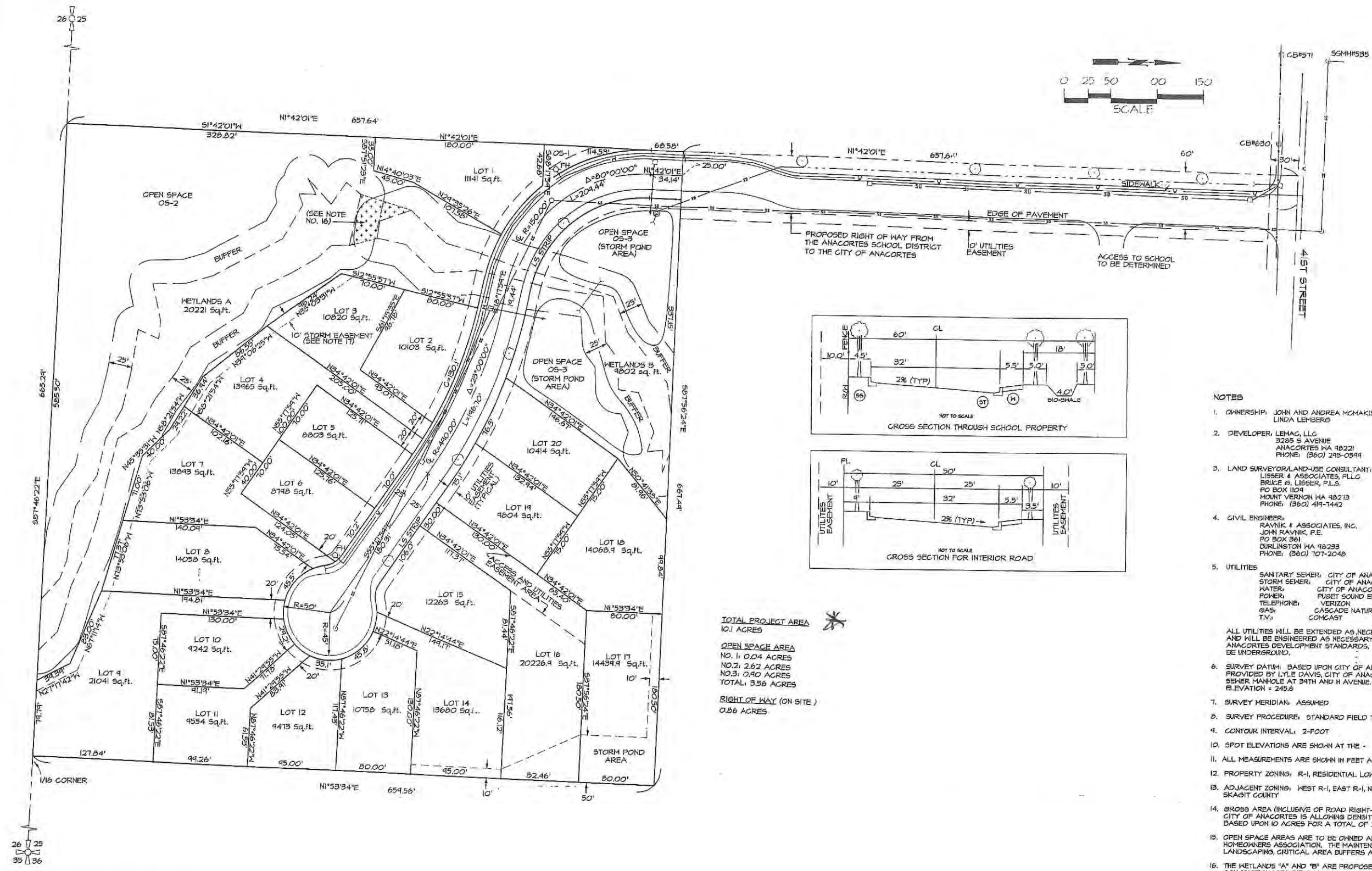
**CITY OF ANACORTES PUBLIC WORKS PROJECT #04-038
SE 1/4 OF SW 1/4 OF SECTION 25, T. 35 N., R. 01 E., W.M.**

DRAWING NO.
PrePlatUtref.dwg

JOB NO.
04021

SHEET NO.
2 OF 4

Ex. F-1



TOTAL PROJECT AREA
10.1 ACRES

OPEN SPACE AREA
NO. 1: 0.04 ACRES
NO. 2: 2.62 ACRES
NO. 3: 0.90 ACRES
TOTAL: 3.56 ACRES

RIGHT OF WAY (ON SITE)
0.88 ACRES

- NOTES
- OWNERSHIP: JOHN AND ANDREA MCHAKIN
LINDA LEMBERS
 - DEVELOPER: LEMAC, LLC
3285 S AVENUE
ANACORTES WA 98021
PHONE: (360) 293-0544
 - LAND SURVEYOR/LAND-USE CONSULTANT:
LISSER & ASSOCIATES, PLLC
BRUCE G. LISSER, P.L.S.
PO BOX 1104
MOUNT VERNON WA 98213
PHONE: (360) 419-1442
 - CIVIL ENGINEER:
RAYNIK & ASSOCIATES, INC.
JOHN RAYNIK, P.E.
PO BOX 561
BURLINGTON WA 98233
PHONE: (360) 707-2048
 - UTILITIES
SANITARY SEWER: CITY OF ANACORTES
STORM SEWER: CITY OF ANACORTES
WATER: CITY OF ANACORTES
POWER: PUGET SOUND ENERGY
TELEPHONE: VERIZON
GAS: CASCADE NATURAL GAS
TV: COMCAST
 - ALL UTILITIES WILL BE EXTENDED AS NECESSARY TO SERVICE THE SITE AND WILL BE ENGINEERED AS NECESSARY TO CONFORM TO CITY OF ANACORTES DEVELOPMENT STANDARDS. ALL UTILITIES ARE PROPOSED TO BE UNDERGROUND.
 - SURVEY DATUM: BASED UPON CITY OF ANACORTES DATUM, BENCHMARK PROVIDED BY LYLE DAVIS, CITY OF ANACORTES, NORTH RIM SANITARY SEWER MANHOLE AT 39TH AND H AVENUE. ELEVATION = 245.6
 - SURVEY MERIDIAN: ASSUMED
 - SURVEY PROCEDURE: STANDARD FIELD TRAVERSE
 - CONTOUR INTERVAL: 2-FOOT
 - SPOT ELEVATIONS ARE SHOWN AT THE +
 - ALL MEASUREMENTS ARE SHOWN IN FEET AND DECIMAL FEET.
 - PROPERTY ZONING: R-1, RESIDENTIAL LOW DENSITY (15,000)
 - ADJACENT ZONING: WEST R-1, EAST R-1, NORTH PUBLIC, SOUTH SKAGIT COUNTY
 - GROSS AREA (INCLUSIVE OF ROAD RIGHT-OF-WAY): 10.1 ACRES
CITY OF ANACORTES IS ALLOWING DENSITY OF 2 UNITS PER ACRE TO BE BASED UPON 10 ACRES FOR A TOTAL OF 20 UNITS.
 - OPEN SPACE AREAS ARE TO BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION. THE MAINTENANCE WILL INCLUDE LANDSCAPING, CRITICAL AREA BUFFERS AND STORM POND.
 - THE WETLANDS "A" AND "B" ARE PROPOSED TO BE RECONNECTED IN CONJUNCTION WITH THE ROAD CROSSING DESIGN WHICH WILL ALLOW A NET GAIN IN WETLANDS ON SITE.
 - A 10' PRIVATE DRAINAGE EASEMENT SHALL BE PROVIDED ALONG THE REAR PROPERTY LINES FOR THE INSTALLATION OF A DRAINAGE SHALE FOR ROOF AND FOOTING DRAINS. THE SHALE WILL ACT AS A RECHARGE AREA TO MAINTAIN HYDRATION TO THE WETLANDS.

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
108 E. OLKEY RD., P.O. BOX 361
BURLINGTON, WA 98233
(360) 707-2048 FAX: (360) 707-2216



COPYRIGHT 2004
LISSER & ASSOCIATES, PLLC
SURVEYING & LAND USE CONSULTATION
320 MILWAUKEE STREET
MOUNT VERNON, WA 98213
360-419-1442

NO.	DATE	REVISION	BY	REV.

PROPOSED
DEVELOPED CONDITIONS

SCALES
HORIZONTAL: 1"=50'
VERTICAL: N/A
DESIGNED:
DRAWN: DLG
CHECKED: BGL

SURVEY IN A PORTION OF
SECTION 25, T.35 N., R.1 E., WM
ANACORTES, WASHINGTON
FOR: LEMBERG-MCHAKIN

FB. 25B PG. 4
DATE: 3/29/05
DRAWING: 04-050TP
JOB NO.: 04-050
SHEET: 2 OF 2



E-2

NOTICE OF LAND USE PERMIT APPLICATION

THE ORCHARDS PRELIMINARY DEVELOPMENT PLAN (PUD)

This Project and Public Notice Involves:

1. Preliminary Development Plan Application (PUD) – 60 unit single family residential development
2. Notice of Public Hearings
3. Mitigated Determination of Non-Significance
4. Determination of Completeness

NOTICE IS HEREBY GIVEN that the Anacortes Planning Commission will hold Open Record Public Hearings on the evenings of **Wednesday September 22, 2004 and Wednesday, October 27, 2004** at 7:30 p.m. in the Municipal Building Council Chambers, 6th Street and "Q" Avenue.

The purpose of the Public Hearing will be to review and to make a recommendation on a Land Use Permit application for development of 60 single family homes on approximately 30 acres generally bounded on the north by 41st Street and on the east by Heart Lake Road (access will be off of 41st Street via two new roads, Orchard Avenue and cherry Lane). All in the SE ¼ of the SW ¼ of Section 25, Township 35 North, Range 1 East, Anacortes, Skagit County, Washington. The applicants are Joe and Kimberly Woodmansee. The project will include, in part, an on-site drainage system, open space, and utilities, and two new streets. Fifty-foot buffers are established on each side of Ace of Hearts Creek. The property is zoned R 1.

The Planning Director has determined that this application is complete.

Further, the lead agency for this proposal, the City of Anacortes, has determined that it 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. This information is available to the public on request. This may be the only opportunity to comment on the environmental impacts of the proposal.

1. **Prior to clearing or fill and grade beginning, both a large parcel storm water plan and a water quality control plan, as required by the City of Anacortes Storm Drainage Ordinance No. 2441, shall be prepared by the applicant, approved by the City Department of Public Works, and implemented. The water quality control plan shall address permanent and temporary best management practices to be incorporated in the project to control pollution of storm water runoff after/during construction and/or land clearing activities are completed. All required off-site storm water improvements shall be completed prior to site vegetation removal.**
2. **Native vegetation shall be used for landscaping of the detention pond.**

This MDNS is issued under 197-11-350(1); the lead agency will not act on this proposal for 15 days from the date of publication. *Comments on the MDNS* must be submitted by **September 16, 2004** to Mr. Ian S. Munce, Director of Planning, P.O. Box 547, Anacortes, WA 98221, (360) 299-1942.

Additionally, anyone wishing to comment on these applications may do so at the above referenced date, place and time. Written comments on the *Land Use Permit* applications must be submitted by **Noon, Friday, September 17, 2004** to Mr. Ian S. Munce, Director of Planning, P.O. Box 547, Anacortes, WA



E-3



TO Planning Commission
FROM Land Use Permits
SUBJECT Final Development Plan – The Orchards
DATE March 16, 2005

Please find attached:

- * Conditions
 - * Applicant response to conditions
 - * March 16, 2004 Memorandum from the DRG
 - * Subdivision Guarantee
 - * Site plan
 - * Landscaping Plan
-



E-4

**DECISION TO ISSUE A PRELIMINARY DEVELOPMENT PLAN PERMIT
FOR THE Orchards
PLANNED UNIT DEVELOPMENT**

Based on the foregoing Findings of Fact and Conclusions of Law, the Anacortes Planning Director is hereby directed to issue a preliminary development plan permit for the Orchards PUD subject to the following conditions:



1. No more than 60 single family residences shall be built on the 30-acre project site as shown on Preliminary Site Plan Attachment F.
2. The project shall comply with the City of Anacortes construction standards as required by the City Director of Public Works for water, sewer, street access, and storm drainage.
3. 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 acceptance of a complete building permit application and may differ from those fee levels currently in effect; sewer and water latecomer charges may be payable.
4. Prior to clearing or fill and grade beginning, both a large parcel stormwater plan and a water quality control plan, as spelled out in the City's Storm Drainage Ordinance # 2441, shall be prepared by the applicant, approved by the City Department of Public Works, and implemented. The water quality control plan shall address permanent best management practices to be incorporated in the project to control pollution of stormwater runoff after construction and/or land clearing activities are completed. All off-site stormwater improvements shall be made before construction or vegetation removal begins.
5. A temporary erosion and sedimentation control plan shall be approved by the City of Anacortes Public Works Department, constructed, and maintained throughout construction.
6. Dust control techniques will be employed as required by the City Engineer; such measures would include watering haul roads and/or restricting the amount of excavation until conditions are more favorable and shall be detailed in the final development plan along with a construction access plan.
7. The final development plan design shall be based on actual field surveys and not on existing topographical maps.
8. Within a maximum of three years following the approval of the preliminary development plan, the applicant shall file with the Planning Commission a final development plan containing in a final detailed form the information required in part e. (1) of Section 16.40 of the City of Anacortes Municipal Code. At its discretion and for good cause, the Planning Commission may extend for one year the period for filing of the final development plan. Draft project covenants shall be submitted with the final

Ravnik & Associates, Inc.

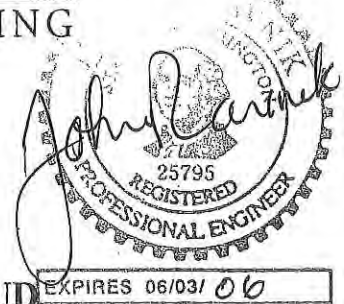
CIVIL ENGINEERING & LAND-USE PLANNING

F-2

10.1 ACRES

PRELIMINARY DEVELOPMENT SUMMARY for

LEMBERG-McMAKIN 20-LOT RESIDENTIAL PUD



4-2-05 *

LEMAC ESTATES

INTRODUCTION:

The information provided herein accompanies the preliminary PUD application submitted for residential development of the subject property, and conceptually identifies the level of improvement for the various roads and utilities required. Accompanying this preliminary development summary is a map titled Developed Conditions Summary, which identifies the property's existing conditions as surveyed and a preliminary layout of the proposed single-family residential lots, roadways, and utilities therein. Listed below is a summary description of the property's existing conditions and the extent of improvements that are conceptually proposed.

EXISTING PROPERTY CONDITIONS

Property Size & Location:

The subject property contains 10.1 acres; with its north property line located approximately 658 feet south of 41st Street and its west property line approximately 670 feet east from Heart Lake Road. The property is square in shape, measuring approximately 669 feet east-west by 667 feet north south. Proposed access to this property will be provided within a 60-foot wide public right-of-way to be dedicated to the City of Anacortes from the Anacortes School District. This proposed, offsite, right of way area encompasses 0.9 acres, extending approximately 658 feet south from the south side of 41st Street. Residential development of the subject property herein will include roadway and utility improvements within this proposed, offsite, right-of-way.

Property Terrain, Elevation, & Coverage:

Within the area being residentially developed, the highest ground elevation is approximately 306, located within the southwesterly quarter of the subject property. From this knoll, there are gradual to moderate slopes downhill to the south, west, north, and east. All of the subject property is higher than 41st Street, at approximate elevation 258. The northwesterly portion of the subject property extends up to elevation 316, and consists of a proposed open space area not being developed. As further described, there is a depressed swale having a circular path through most of this property. This swale, which contains delineated wetlands, receives nearly all runoff waters from the property, and conveys them to the lowest point of the property, at elevation 272 in the southeast corner. As illustrated on the aerial photograph accompanying the PUD application, the property is moderately wooded comprising mostly alder and some fir trees.



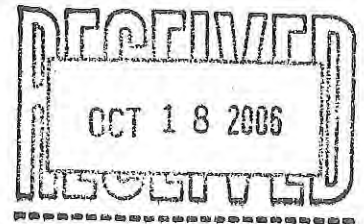
SCHEMMER ENGINEERING INC.

G-2

QUAIL RUN

10/17/2006

Don Measamer
Assistant Director of Planning & Community Development
City of Anacortes
904 6th Street
P.O. Box 547
Anacortes, WA 98221-0547



RE: Response to Initial Planning Commission Hearing 10.11.06.

Don:

The area of the project encompasses the entire out boundary inclusive of the east half of the abutting Right-of-Way of Heart Lake Road. When that area is calculated it yields a value of 615873.4ft² or 14.14 acres. In accordance with the City of Anacortes City code the any property zoned R-1 Residential Low Density is allowed tow (2) single family residences per gross acre:

17.38.070 Maximum density.

Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994)

The result yields a volume of 28 potential home sites within the property.

The property will essentially be divided into eight (8) specific categories:

	Approximate Area	
	ACRES	SQ.FT.
1. Right of Way		
Heart Lake Road-RW1	0.13	5791.10
Heart Lake Road-RW2	0.013	600.05
Quail Run Drive-Proposed RW3	2.54	110696.10
Sub Total	2.68	117087.25
2. Individual Lots		
Division I		
Lots 1-6	1.32	57481.1
Lots 7-8, 11-13	1.31	57234.8
Lots 9-10	0.53	22887.6
Lots 14-15	0.62	26991.4
Lots 16-24	1.35	58614.4
Division II		

June 22, 2016

From:

Ross O. Barnes, Ph.D.
1004 7th. St., #202
Anacortes, WA 98221
(360) 293-7023

To:

Anacortes Planning Commission,
Anacortes City Council,
Mayor Gere,
Kevin Cricchio,
Don Measamer
City of Anacortes
PO Box 547
Anacortes, WA 98221

RE: Allen/Haddon Road PUD (PUD-2016-1001), Part 3 -- geotechnical and hydrologic issues and problems

This PUD proposes to create 13 lots and associated dwelling units on 5.28 gross acres located at the east end of Haddon Road. This 3rd letter from me examines the conclusions of the many MTC reports concerning subsurface hydrology and infiltration at the PUD site.

Rapid soil infiltration???

MTC was asked to conduct an original geotechnical investigation to evaluate slope stability and water infiltration rates of the site soils. Typically the onsite investigation is informed by relevant geotechnical conditions in the surrounding area. However MTC, in spite of repeated requests from the City and GeoEngineers, (1) refused to properly evaluate the relevant ground water hydrology of the area and (2) misinterpreted the clear hydrology indicators in their 41' below ground surface (BGS) deep bore hole.

MTC noted static ground water elevations as shallow as 14' BGS in the area, but refused GeoEngineers' request to confront the implications of shallow ground waters in the Haddon/Spradley/Whistle Lake Roads "plateau". MTC also ignored other well known indicators of shallow ground water in the plateau. There are extensive wetlands in the southwest section of the plateau indicating seasonal ground water levels at or above ground surface. These wetlands feed Happy Valley Stream--a small seasonal stream that crosses Haddon Road just west of Whistle Lake Road and flows north through the middle of the Herrigstad property. Both the wetlands and the stream are above the 280' elevation (see topographic map in the Drayton Archaeology Report, Figure 1, on the record).

This stream flows across the same "rapid infiltration" Keystone soils that underlie the PUD site (see **Exhibit H** - soil survey map, soil #78 & 79). The small stream would

rapidly sink into its bed and disappear into the highly permeable soils if it was not supported above ground level by a water table at the elevation of the stream above 280'. Happy Valley Stream is recognized mapped and protected under the Anacortes critical areas ordinance--MTC obviously did not do their hydrological homework in spite of GeoEngineers request to do so and the City Planning Department ignored this failure.

MTC also misinterpreted the clear hydrology indicators in their 41' deep bore hole located on the northeast side of the current Haddon Road cul-de-sac at a ground elevation of about 281'. Orange mottles started appearing at 11.3' BGS at about 270' elevation and were extensively present from there down to the hole bottom at about 240' elevation. Orange mottling indicates periodic oxygenated/low oxygen fluctuations which would be impossible to produce from the rapid vertical infiltration rates over 10 to 40 feet as presumed by MTC. The orange mottling requires periodic soil saturation with oxygen depleted ground waters flowing generally horizontally through the bore hole site from sources to the west.

MTC also ignored the extensive delineated wetlands (with field flagging), seasonally saturated soils, seeps and seep ponds feeding perennial surface streams flowing through deep ditches dug to try to "dry out" the hillside on the property bordering the PUD on the south. This is the "headwaters" of Weaverling Rill, a designated and protected stream in Anacortes. It is on the southern extension of the same steep hillside found on the PUD site. These water saturation features start at about the same elevation as the bottom of the MTC bore hole, about 240' elevation, and would be fed from horizontally flowing ground waters at even higher elevation. These features could not be missed if MTC had done any significant reconnaissance beyond the PUD property lines.

These ground water hydrology indicators just south of the PUD property fully support the evidence cited above for seasonal ground saturation and horizontal ground water flow just below the elevation of the top of the steep slope on the PUD site (about 270' elevation).

MTC's many reports are (1) shockingly inadequate, (2) non-responsive to the requests from GeoEngineers, and (3) erroneous with respect to presumptions about ground water conditions at the site that are directly contradicted by the sum total of hydrological evidence from the site and the surrounding area, most of which was ignored or misinterpreted by MTC.

Large mounds of crystalline bedrock outcrop just south of the PUD and west along Haddon Road. Perhaps the engineers don't actually know what underground structures are controlling ground water flow and seepage points in this area and their flow and infiltration models are just a second layer of erroneous speculation piled onto erroneous presumptions about the unknown underground that ignore the hydrological evidence.

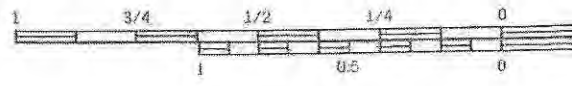
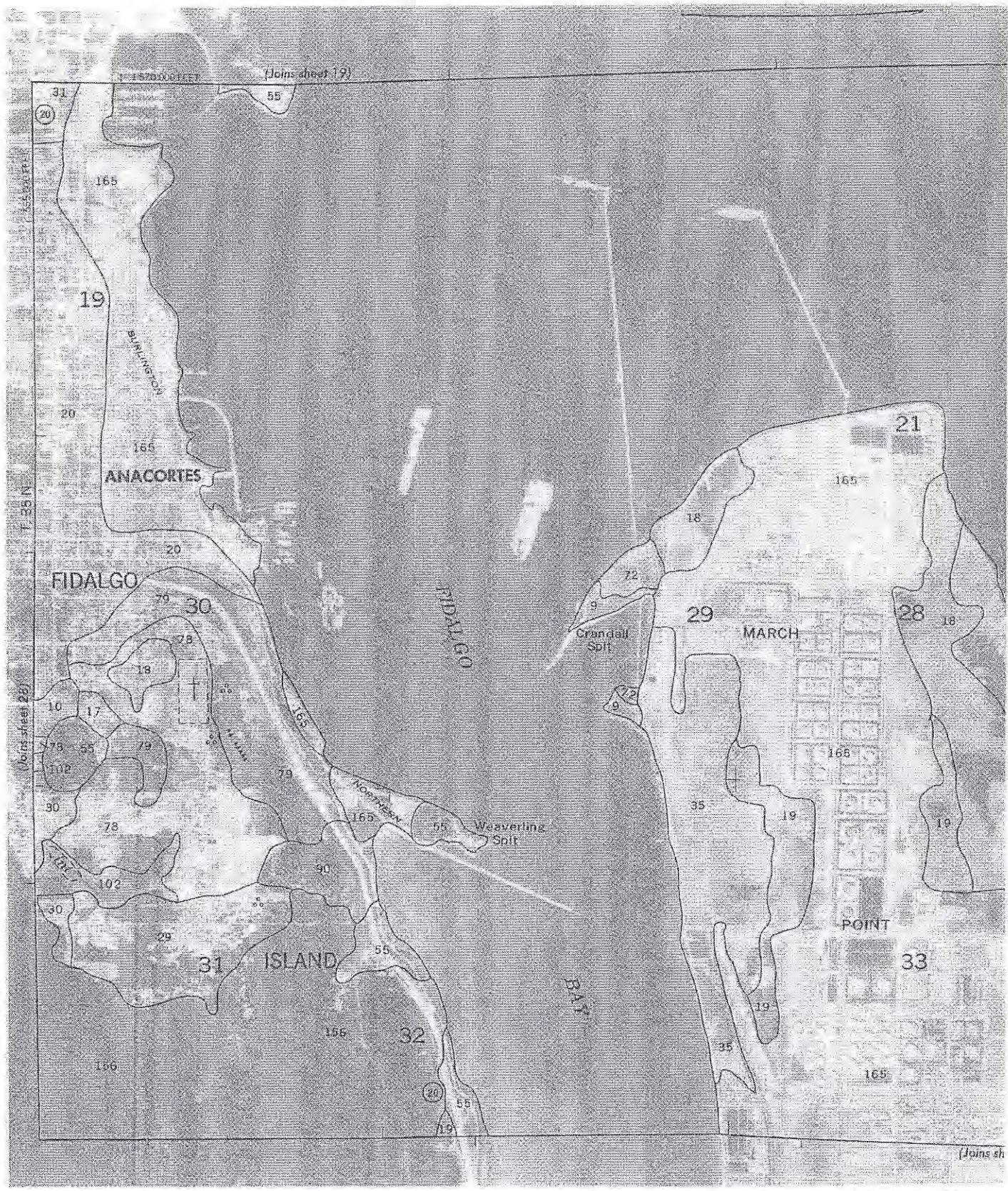
Ross O. Barnes
PHD, Earth Science



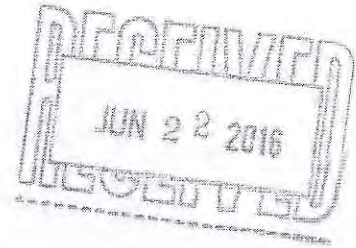
Attachment: **Exhibit H**

EXHIBIT 'H'

Date maps and photographs provided by the State of Washington, Department of Natural Resources from 1974 series photographs. Coordinate grid ticks and land division corners, if shown, are approximately positioned.



June 22, 2016



From:

Ross O. Barnes, Ph.D.
1004 7th. St., #202
Anacortes, WA 98221
(360) 293-7023

To:

Anacortes Planning Commission,
Anacortes City Council,
Mayor Gere,
Kevin Cricchio,
Don Measamer
City of Anacortes
PO Box 547
Anacortes, WA 98221

RE: Allen/Haddon Road PUD (PUD-2016-1001), Part 2 -- Consistency and Equivalency Requirements, Flag Lots and Road Standards

This PUD proposes to create 13 lots and associated dwelling units on 5.28 gross acres located at the east end of Haddon Road. I have previously documented the legal deficiencies of this PUD with respect to permitted PUD densities in the R1 zone (letter of June 7, 2016, on the record). However, this proposed PUD has other variations from the fundamental consistency and equivalency requirements for PUDs that are not justified under PUD "flexibility" provisions of the PUD code. This letter will document some of these other violations which require that this PUD as proposed be denied.

Consistency and equivalency in a PUD

When a PUD proposes exceptions to zoning and subdivision standards, AMC 16.40.010 requires that the PUD maintain consistency with the "standards for the health, safety, and welfare of all citizens throughout the city" and provide equivalency to those standards.

16.40.010 - Introduction.

The purpose of the planning unit development (PUD) regulations is to maintain consistent standards for the health, safety, and welfare of all citizens throughout the city, while allowing flexibility in how those standards are met. While all citizens deserve equal access to services and public amenities, there are a variety of ways to provide that equivalency.

Where a PUD proponent requests exceptions to zoning and subdivision standards, the plan submittal shall show clearly what standards are proposed to be changed, and what alternate means are proposed to achieve equivalency. For example, a submittal might propose to eliminate the

sidewalk on one side of the street, while providing a trail through nearby public open space as an alternative for pedestrian circulation. The proposed alternatives would be considered when evaluating the proposal as a whole.

The consistency and equivalency "test" is the first statement found in the Chapter 16 specifications for PUDs and its primacy in position and in logic leaves no doubt that it is intended to be the most fundamental test for evaluating the adequacy of PUD proposals.

I. Lot flag is required to be 30' wide over full length, not 12'.

It is claimed there is code conflict and confusion between 30' and 20' specifications for lot frontage and 'flag' width of flag lots. In fact, there is no conflict or confusion when normal methods of grammatical interpretation and textual analysis are applied to the Anacortes codes. Applicable provisions of AMC Titles 16 and 17 are listed below.

AMC Title 17: Zoning.

17.06.490 - Lot types.

The diagram set-out in Section 17.67.020 illustrates terminology used in this title with reference to corner lots, interior lots, reversed frontage lot and through lots.

*E. "Flag lot" means a parcel of land, the body of which is separated from a public street by one or more lots, **connected to a public street by a narrow portion (flag) of the parcel with a width not less than the required street frontage.** Where a minimum street frontage is not required by this Code, the minimum width of the "flag" shall be not less than that required by the fire chief and or designee for fire apparatus access. (Ord. 2316 (part), 1994)*

17.06.475 - Lot frontage.

The frontage of a lot shall be construed to be the portion of the property line which abuts a street right-of-way. For the purposes of determining yard requirements on corner lots and through lots, all property lines of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in Sections 17.06.900 through 17.06.915. (Ord. 2316 (part), 1994)

17.06.480 - Lot measurements, width.

Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot. The measurement shall be along a line at equal angles to the side lot lines. On irregularly shaped lots, the zoning administrator shall determine how to measure the width. (Ord. 2482 Att. A § 3 (part), 1999; Ord. 2316 (part), 1994)

17.38.110 - Street improvements. (R1)

Twenty feet of frontage or an easement to twenty feet of street frontage is required on an improved public street with a continuous access route not less than twenty feet wide from the street to the primary portion of the lot. If a private street is proposed, or the twenty feet

minimum access to the street frontage is by means of an easement, a conditional use permit is required. Where the zoning administrator approves development fronting on a street which is not improved to current city standards, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements in the future.

17.36.110 - Street improvements. (R2)

Twenty feet of frontage or an easement to twenty feet of street frontage is required on an improved public street with a continuous access route not less than twenty feet wide from the street to the primary portion of the lot. If a private street is proposed, or the twenty feet minimum access to the street frontage is by means of an easement, a conditional use permit is required. Where the zoning administrator approves development fronting on a street which is not improved to current city standards, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements in the future.

17.04.040 - Provisions of code declared to be minimum requirements and interpretation.

A. In their interpretation and application, the provisions of this title of the City of Anacortes Municipal Code shall be held to be **minimum requirements** adopted for the promotion of the public health, safety, or general welfare.

B. **Wherever the requirements of this title are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restriction or covenants, that imposing the higher standards, shall govern.** Regulations, conditions or procedural requirements that are specific to an individual land use shall supersede regulations, conditions or procedural requirements of general application.

C. A land use includes the necessary structures and infrastructure to support the use unless specifically prohibited or the context clearly indicates otherwise.

D. In case of any ambiguity, difference of meaning, or implication between the text and any heading, caption, or illustration, the text and the permitted use tables shall control. **All applicable requirements shall govern a use whether or not they are cross-referenced in a text section or land use table.** (Ord. 2316 (part), 1994)

AMC Title 16: Subdivisions.

16.20.040 - Lots.

Each lot shall contain a building site **which conforms to zoning regulations and regulations contained herein:**

A. No single lot shall be divided by a city or county boundary line;

B. No single lot shall be divided by a public or private road right-of-way;

C. **Each lot shall abut a public or private road. Lot frontage on said roads shall not be less than thirty feet;**

- D. Corner lots shall be of sufficient area to provide acceptable visibility for traffic safety;
- E. No lot shall have an average depth greater than five times its average width;
- F. 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.

16.04.090 - Interpretation, conflict and separability.

A. Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

1. Public Provisions. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in these regulations. **Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.**

Normal grammatical interpretation and objective application of all of these code sections creates no ambiguity or irresolvable conflict whatsoever. Anacortes development code requires a minimum 30' lot frontage and a 30' minimum flag width for the full length of the flag (the most restrictive specification from AMC 16.20.040). And the code separately requires a minimum 20' width within a lot or easement for a fire code compliant access route to the primary portion of the lot. It is clear that the 20' and 30' specifications are addressing two different and separate issues because the 20' specification applies to lot access which may or may not have anything to do with the flag portion of a lot--the 20' access may be provided by easement across some other lot.

When the unambiguous interpretation of the code is applied to the Allen/Haddon Road PUD, it is clear that the 20' access width requirement is met thru appropriate easements (if the designated procedure is followed), but only Lot 9 of the flag lots meets the required 30' flag width. The flags on Lots 2,3,6,7 are only 12' wide and the flags on Lots 10,11,12 are also less than the 30' because the lot frontage is curved while the flag width requires a straight line measurement (AMC 17.06.480, see above).

The correct interpretation and application of the 30' & 20' codes is demonstrated nearby in a 4 lot short plat just south of the cemetery and just around the corner from the Haddon Road PUD. It contains 2 rear flag lots each with 30' flags adjacent to each other, and one access driveway through the double flag area that serves all four lots--the identical configuration to what should be in the Haddon Road PUD.

PUD "flexibility" does not apply here because there are no site specific limitations that prevent 30' flags on all flag lots. If the 3 illegal lots over the 10 lot maximum are removed (see my June 7 letter on the record), there is more than enough room to expand all remaining flags to the required 30' width.

II. Full City road standards are required on Haddon Road.

The questions and evidence about infiltration and the movement of ground waters in the area, as documented in my Part 3 letter of 6/22/16, require re-evaluation of the proposed road and storm drainage design along Haddon Road.

Also, AMC 16.40.010 says:

The purpose of the planning unit development (PUD) regulations is to maintain consistent standards for the health, safety, and welfare of all citizens throughout the city, while allowing flexibility in how those standards are met. While all citizens deserve equal access to services and public amenities, there are a variety of ways to provide that equivalency.

Nowhere in the Anacortes code does it say that Anacortes residents who live too close to the City boundary are to be denied equal access to the amenities and safety provided by the normal road design standards of the Anacortes development codes. Nowhere in the Skagit County codes does it say that roads or portions of roads cannot be built to standards greater than minimum county standards when justified. So the fact that the road ROW is part in the City and part in the County provides not excuse or restriction whatsoever to deny PUD residents the full benefit of normal City road standards.

To quote Mr. Allen, full city streets are built within 50' ROWs "all over the City of Anacortes". Haddon Road is a 60' ROW without topographic restrictions. Mr. Allen himself documented that development and access traffic from both sides of Haddon Road will be at urban density. There is no site restriction or justifiable reason a full City standard 32' wide street with sidewalk on the north side cannot be built entirely within the ROW, providing for parking on one side of the street and without encroaching the sidewalk onto the lot frontage--as required by AMC 17.38.070.

An example of the widespread and escalating 'slippage' of development standards in Anacortes--a tour of recent developments in Anacortes shows that there is total inconsistency in 1 or 2 sidewalks, with sidewalk on one side apparently becoming the "new standard" for subdivision in spite of the clear code regulations and no apparent obstructions or site restrictions to 2 sidewalks. So the applicant can claim some "precedent" here.

Under a previous City administration, Council, Commission and planning department, 5 blocks of offsite substandard streets on 17th St.--the principle offsite access to The Highlands subdivision from 'D' Ave.--were improved to City standards. This included 3 blocks with full 32' width, curbs, gutters and sidewalks on both sides from 'A' to 'D' Ave. West of 'A', topographic and long standing prior development restricted the road to 28' with one sidewalk--similar to the internal roads in the difficult terrain of The Highlands itself. There was some cost sharing with the City on the 'A' to 'D' blocks, but the moral here is the whole route was required to be upgraded to the maximum City standards feasible for the site.

Contrary to Mr. Lange's testimony, to my knowledge it has been many years since new subdivisions were permitted to build on local residential access "half streets" in

Anacortes. Recent testimony from Mr. Lange at several hearings indicates that City public works department has problems with implementing City road standards in a consistent and straightforward manner as required by the code. The department has had many years to suggest changes to the standards if they don't like them, but has never suggested such changes. Perhaps that is because they have gotten away with playing loose with the interpretation and application of those standards for many years so why bother changing them?

Due to issues about when and to whom my previous June 7 letter was made available for public inspection--with obsolete and inaccurate links still on the City website on June 22 after extensive complaints, and misleading exhibit numbers and titles--I am placing a second copy on the record on June 22.

Ross O. Barnes, PhD

A handwritten signature in cursive script that reads "Ross O. Barnes". The signature is written in dark ink and is positioned below the typed name.

EXHIBIT #32:

LEA ANN EASTON OF DORSAY &
EASTON, LLP LETTER (RECEIVED 6-22-16)

DORSAY & EASTON, LLP

Licensed in:

Oregon (*)
Washington (**)
New Mexico (§)

ATTORNEYS AT LAW
1 S.W. COLUMBIA STREET
SUITE 440
PORTLAND, OREGON 97258-2005

Craig J. Dorsay, *, **, §
Lea Ann Easton *, **
Brett V. Kenney *

Susan K. Driver *, §
Of Counsel

June 21, 2016

Kevin Cricchio
Associate Planner
Planning Department
City of Anacortes
904 6th Street
Anacortes WA 98221



Re: Proposed Development at Haddon Road
File No. PUD 2016-1001

Dear Mr. Cricchio:

We own property at 4310 Blue Heron Circle, #203, Anacortes, WA 98221 and are writing to express our opposition to the Allen Family Investments LLC' (Application) application to create 13 lots and build 13 houses on Parcel #P33048, Skagit County, Washington. We are submitting these comments for the record of decision on the proposal and ask that we continue to be provided with notices and the ability to comment on the proposal.

While we certainly understand the Applicant's desire to maximize the return on its investment, in this instance, Applicant's request should be denied by the City for reasons outlined below.

- 1) Applicant's property abuts property on which our unit is located. Currently there is a large buffer of large mature trees between the two parcels. The Applicant's plan will clear cut a substantial portion of the property as well as cut a majority of the trees on the east slope to create a view property. It will remove the natural barrier between the two parcels which approved. The removal of the buffer will remove any noise buffer between the properties and interfere with the peace and quiet of our property. We also think it will negatively affect our property value.
- 2) Related to the removal of the trees on the property is the failure of the Applicant's plan to address the run off created by the development. It appears from the plan that if the development is allowed to move forward, there will be additional run off onto for the Blue Heron Circle homeowners and the properties below. Additionally, the run off created will end up in Fidalgo Bay further compromising the water quality of the Bay.
- 3) The proposal will negatively impact the traffic on Haddon Road and Whistle Lake Road. The total number of trips generated by 13 houses is estimated at 124 average daily trips. As you know, neither Whistle Road or Haddon Road have sidewalks. Despite the lack of

Page 2

Comments on File No. PUD 2016-1001

Dorsay & Easton LLP

4310 Blue Heron Circle #203

sidewalks, both Roads are heavily used by walkers, joggers, runners, bicycle riders and others. Additionally, during the school year, the Anacortes School District buses make up to 11 stops in the morning and 12 in the afternoon. And throughout the year but particularly in the summer, residents going to Whistle Lake Park create additional traffic on Whistle Lake Road. The additional traffic generated by 13 additional houses is excessive for the current design of the traffic on Whistle Road.

- 4) Finally, approving the application to create 13 lots and houses on this small parcel is contrary to the existing density and nature of the area. The lot sizes on Haddon Road and south to the boundaries of Whistle Lake are large parcels with single dwellings, the applicant seeks to fundamentally change the existing nature of neighborhood in a manner which far exceeds the currently approved limits in the area.

For these reasons, we request that the Department deny the application.

Thank you.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Lea Ann Easton', with a long horizontal flourish extending to the right.

Lea Ann Easton

Craig Dorsay

Owners of 4310 Blue Heron Circle #203, Anacortes

EXHIBIT #33:

RYAN FOX LETTER
(RECEIVED AT 6-22-16 HEARING)

Ryan Fox
500 Haddon Road
Anacortes, WA 98221

6-22-16 Received
At Planning Commission

June 13, 2016

Mr. Kevin Cricchio
Associate Planner
City of Anacortes

Dear Mr. Cricchio,

My name is Ryan Fox and I live at 500 Haddon Road. I am writing this letter in opposition to the proposed Haddon Road PUD. My home is within the Anacortes City Limits on Haddon Road and is only a short distance from the proposed Allen Family PUD.

When my wife and I began looking for a home we were immediately drawn to the Haddon Road area. What we wanted, and found, was a rural home on a large lot with mature trees and a quiet neighborhood. We have room to garden, and room to just sit and enjoy the woods. When I attended the hearing on June 8th I heard the comment that people in the city have to understand that there is more density in a city. I would point out that the city has zoned the R1 area for lower density and as a transition zone between the city and the county. Also, R1 was created for those areas removed from downtown where providing city services is difficult or expensive. My house is on a septic system and I do not believe there are any plans to provide sewer any time soon. Haddon Road and Whistle Lake Road are narrow, with no shoulders and no sidewalks. I walk this area daily with my infant daughter and we both enjoy seeing the wildlife and hearing the country sounds. There are a large number of people that walk along the roads, ride bicycles, and horses. I am concerned that traffic studies show that the Haddon PUD would add over 100 additional vehicle trips per day to my neighborhood and that places my neighbors and my family at increased risk while walking.

But, even beyond that, if the PUD rules are weakened to allow 4 houses per acre, I am concerned that I will begin to see these larger city lots sold and broken up into smaller and more closely packed houses which will greatly diminish the neighborhood and the purpose of the R1 zone. Selective removal of trees is often necessary for one reason or another but the clearcutting of an entire two acres changes the character of the neighborhood. All our lots have mature trees and are large enough to give us a bit of privacy. I also appreciate that many of my neighbors have lived here for years and that it is a true neighborhood.

I am not against development and would have no problem with a subdivision that was in character with the neighborhood and was not merely dumping a downtown city block style group of houses into this established neighborhood.

Sincerely,

Ryan Fox

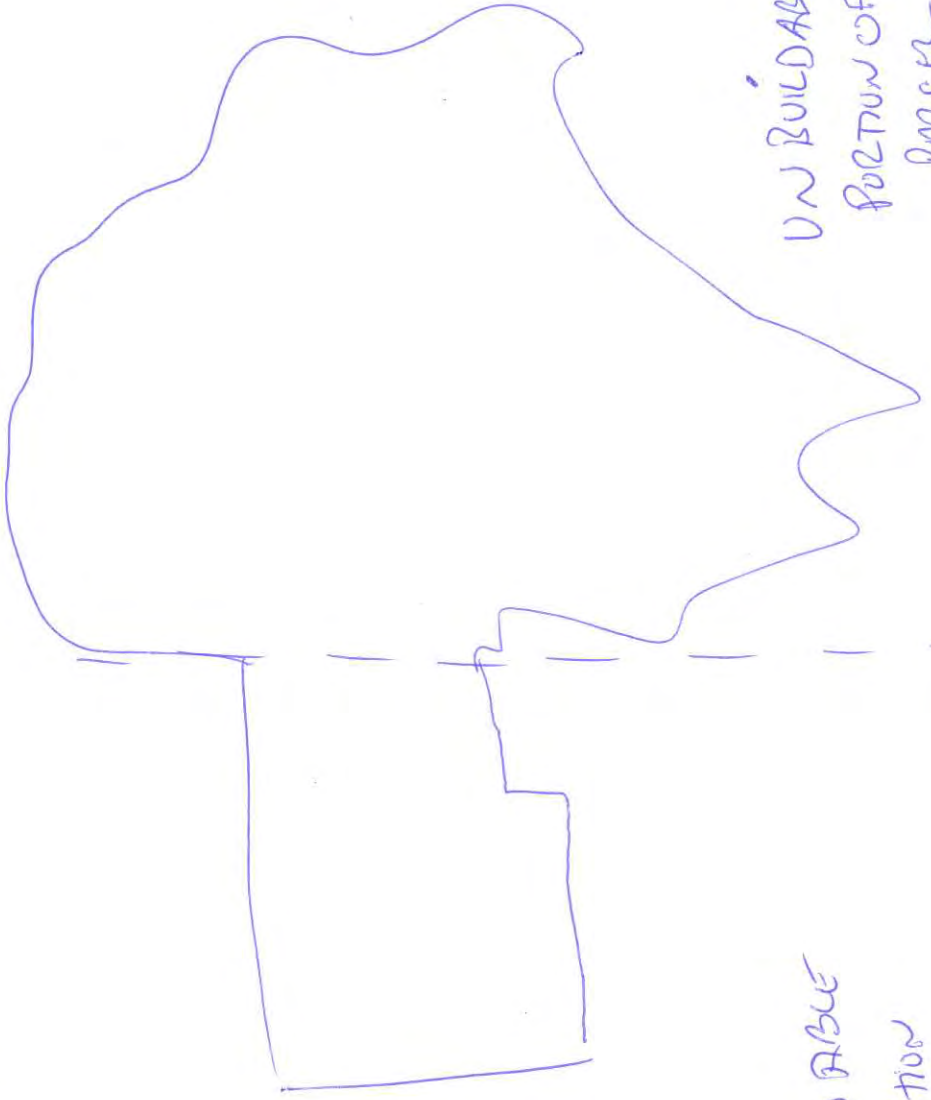
Ryan Fox

EXHIBIT #34:

ALLEN RHODES 6-22-16 PRESENTATION

-6-22-16 Received
At PC HEARINGS

ALLEN RHODES
4105 MITCHELL DR



BUILDABLE
PORTION
OF
A PARCEL

UNBUILDABLE
PORTION OF A
PARCEL

EXHIBIT #35:

GENE DERIG (READ ROSS BARNES
LETTER AT 6-22-16 HEARING)

June 22, 2016

*Received June 22
@PCC Public Hearing*

I hope all of you have had time to read Dr. Ross Barnes's letter, in that it goes into the history and interpretation of the R1 PUD code in clear detail. The summary comments below are mine and will be read and submitted tonight at this Planning Commission meeting on behalf of Dr. Barnes.

[Signature] (Gen Deny)

June 7, 2016

Ross O. Barnes, Ph.D.
1004 7th St., # 202
Anacortes, WA 98221
360-293-7023

To:

Anacortes Planning Commission
Anacortes City Council
Mayor Gere
Kevin Cricchio
Don Measamer
City of Anacortes
PO Box 547
Anacortes, WA 98221

RE: Allen/Haddon Road PUD (PUD-2016-1001)

This PUD proposes to create 13 lots and associated dwelling units on 5.28 gross acres located at the east end of Haddon Road. However, the maximum DU density allowed in the R1 zone, in or out of a PUD, is clearly limited to 2 DU per gross acre or 10 DU maximum for the Allen/Haddon Road PUD. Thus, this PUD proposal clearly exceeds the density maximums for the R1 zone and must be denied under the fundamental consistency and equivalency test of AMC 16.040.010 and the R1 PUD density specifications of AMC 17.38.070.

What is the permitted density in an R1 PUD?

The code language in question is AMC 17.38.070.17.38.070 - **Maximum density.** (R1)Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002: Ord. 2528 Att. A § 10, 2000: Ord. 2316 (part), 1994) If a planned unit development is applied for which requests a higher density in a portion of the R1 zone, the density of that portion shall not exceed four units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements.(Ord. 2794, § 1(Att. A), 12-15-2008)

Grammatical interpretation

This is a single paragraph with a unified meaning, not separate independent sentences that conflict with each other. The first sentence specifying 2 DU per gross acre is the topic sentence for the paragraph and expresses the general meaning of the whole

paragraph. This paragraph nowhere specifies that the overall density of a planned unit development (PUD) in the R1 zone is increased to more than 2 DU per gross acre under any circumstances. PUDs typically have significant non-developed areas--open space, parks, NGPEs, buffers, critical areas, etc.--which is why they are proposed as PUDs. The second sentence specifies that the “density of that portion” of R1 that is proposed to

be developed “in a portion of” an R1 PUD can be increased to R2 density with R2 development standards, but it does not repeal the 2 DU per acre for the overall PUD project site which includes the non-developed open spaces. And it does not contradict the topic sentence of the paragraph. I note that part of the R2 development standards is a 7,500 square foot minimum lot size.

The grammatical interpretation is supported by three other lines of argument.

(1) The fundamental consistency and equivalency test for PUDs in AMC 16.040.010.

(2) Consistency with the stated goals and policies for the R1 zone in the Anacortes Comprehensive Plan.

(3) The history of changes to the language of AMC 17.38.070 and how they were interpreted.

It is evident in the new 2008 code language that the City learned from the prior experiences and could be more specific in defining appropriate standards for R-1 PUDs. The 2 DU per acre was retained because it produced the desired results, and R2 development standards were applied to the actual area developed, still maintaining R-1 density for the whole, entire area.

The Planning Department’s insistence that the City Council adopted the 2008 R1 PUD density language to change the R1 PUD density to 4 DU per gross overall acre within the whole PUD implies that the Council irresponsibly decided to ignore and reject the experience of the previous 8 years about what worked and did not work for the R1 landscape.

Three times the applicant was warned not to float their Haddon Road PUD on a fatally flawed erroneous interpretation of AMC 17.38.070:

- (1) in my letter of 4/2/15 on the prior Haddon Road Short Plat record,
- (2) in my letter of 9/8/15 on the prior Short Plat appeal record, and
- (3) again at the 12/17/15 community meeting on their PUD proposal.

Ross O. Barnes, Ph.D.

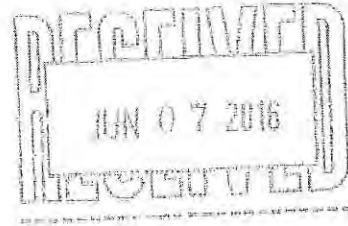
June 7, 2016

From:

Ross O. Barnes, Ph.D.
1004 7th. St., #202
Anacortes, WA 98221
(360) 293-7023

To:

Anacortes Planning Commission,
Anacortes City Council,
Mayor Gere,
Kevin Cricchio,
Don Measamer
City of Anacortes
PO Box 547
Anacortes, WA 98221



RE: Allen/Haddon Road PUD (PUD-2016-1001)

This PUD proposes to create 13 lots and associated dwelling units on 5.28 gross acres located at the east end of Haddon Road. However, the maximum DU density allowed in the R1 zone, in or out of a PUD, is clearly limited to 2 DU per gross acre or 10 DU maximum for the Allen/Haddon Road PUD. Thus, this PUD proposal clearly exceeds the density maximums for the R1 zone and must be denied under the fundamental consistency and equivalency test of AMC 16.040.010 and the R1 PUD density specifications of AMC 17.38.070.

What is the permitted density in an R1 PUD?

The code language in question is AMC 17.38.070.

17.38.070 - Maximum density. (R1)

Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994) If a planned unit development is applied for which requests a higher density in a portion of the R1 zone, the density of that portion shall not exceed four units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements. (Ord. 2794, § 1(Att. A), 12-15-2008)

Grammatical interpretation

This is a single paragraph with a unified meaning, not separate independent sentences that conflict with each other. The first sentence specifying 2 DU per gross acre is the topic sentence for the paragraph and expresses the general meaning of the whole

paragraph. This paragraph nowhere specifies that the overall density of a planned unit development (PUD) in the R1 zone is increased to more than 2 DU per gross acre under any circumstances. PUDs typically have significant non-developed areas--open space, parks, NGPEs, buffers, critical areas, etc.--which is why they are proposed as PUDs. The second sentence specifies that the "density of that portion" of R1 that is proposed to be developed "in a portion of" an R1 PUD can be increased to R2 density with R2 development standards, but it does not repeal the 2 DU per acre for the overall PUD project site which includes the non-developed open spaces. And it does not contradict the topic sentence of the paragraph. I note that part of the R2 development standards is a 7,500 square foot minimum lot size.

The grammatical interpretation is supported by three other lines of argument.

- (1) The fundamental consistency and equivalency test for PUDs in AMC 16.040.010.
- (2) Consistency with the stated goals and policies for the R1 zone in the Anacortes Comprehensive Plan.
- (3) The history of changes to the language of AMC 17.38.070 and how they were interpreted.

The Planning Department's erroneous ungrammatical interpretation of AMC 17.38.070 that says an R1 PUD is allowed to have the overall density of the R2 zone--4 dwelling units per gross acre--is supported by no line of argument, logic or evidence whatsoever. If the City Council wanted to specify an R1 PUD overall density of 4 DU per gross acre, why would they not choose clear, simple, and unambiguous language to state that intention? Why would the Council choose strange non-direct elliptical language--with an intended interpretation that would fail a high school grammar test--to obfuscate their intention? Why does the Planning Department insist on insulting the Council's intelligence and sense of responsibility with this nonsense interpretation?

(1) Consistency and equivalency in a PUD

When a PUD proposes exceptions to zoning and subdivision standards, AMC 16.40.010 requires that the PUD maintain consistency with the "standards for the health, safety, and welfare of all citizens throughout the city" and provide equivalency to those standards.

16.40.010 - Introduction.

*The purpose of the planning unit development (PUD) regulations is to maintain **consistent standards for the health, safety, and welfare of all citizens throughout the city**, while allowing flexibility in how those standards are met. While all citizens deserve equal access to services and public amenities, there are a variety of ways to provide that **equivalency**.*

*Where a PUD proponent requests exceptions to zoning and subdivision standards, the plan submittal shall show clearly what standards are proposed to be changed, and what alternate means are proposed to **achieve equivalency**. For example, a submittal might propose to eliminate the sidewalk on one side of the street, while providing a trail through nearby public open space as an alternative for pedestrian circulation. The proposed alternatives would be considered when evaluating the proposal as a whole.*

The consistency and equivalency “test” is the first statement found in the Chapter 16 specifications for PUDs and its primacy in position and in logic leaves no doubt that it is intended to be the most fundamental test for evaluating the adequacy of PUD proposals.

This test is obvious and easy. Is an overall four units per gross acre within an R1 PUD consistent and equivalent to two dwelling units per gross acre outside of a PUD? **Of course not!** Would the landscape that is so important in R1 (see below) have the same functions and values at 4 DU per acre as at 2 DU per acre? **Of course not.** To insist that it does, is an absurd corruption of the meaning and intent of the AMC development codes!

(2) Anacortes Comprehensive Plan - relevant goals and policies for R1 zone
Policy language for the R1 zone is found under Goal 2 of the Housing/Residential section of the 2012 Anacortes Comprehensive Plan (CP).

Goal 2: Maintain and allow for open space corridors in
Anacortes.

Policy:

(a) In areas of Anacortes where terrain and lack of streets and utilities make a large lot size appropriate, a R1 land use designation is to be provided, with 15,000 square feet minimum lot size and with the opportunity for cluster development.

(b) R1 identification shall be directed at identification of open space corridors within and between Urban Growth Areas, including land useful for wildlife and connection to critical areas.

I have traced this same R1 language as far back as my published book copy of the 1995 CP. I don't have records prior to 1995.

These policies specify the large lot size that is also contained in the R1 zoning code and further designate the opportunity for cluster development. Cluster development reduces the area used for residential development so other portions of the site can be preserved in open space. It is clear that the cluster development policy has been implemented in the R1 PUD provisions of AMC 17.38.070. If an applicant proposes to “cluster” development to protect critical areas or preserve contiguous open space, 17.38.070 allows the clustered area to increase density to R2 standards. However, there is no suggestion in Policy (a) that cluster development is intended to double the overall density established for the R1 zone.

If overall R2 densities could preserve the landscape intended for R1, then why have a separate R1 zone that halves a property owner's development rights?

The grammatical interpretation of AMC 17.38.070 is completely consistent with the

relevant goal and policies of the CP. However, the Planning Department's erroneous ungrammatical interpretation conflicts with the CP and thus conflicts with the obligation that development regulations reflect and implement the intentions of the CP.

(3) History of language and application of AMC 17.38.070

The revision notes of AMC 17.38.070 list 4 different versions or revisions of this code language adopted since 1994 (1994, 2000, 2002, 2008) with the last revision in 2008 adding the last sentence about density in a PUD. I have researched these four versions as found in my own files of the old "newspaper" editions of the code that used to be published, and the current online version which was adopted in 2008. The 3 earlier versions of 17.38.070 (R1 Maximum density) are as follows. The newspaper copies of the older codes are attached as the listed Exhibits.

AMC 17.38.070 versions since 1994

(1994) - **Exhibit A**

"No maximum."

(2000) - **Exhibit B**

"Density for the project applied for shall not exceed two dwelling units per gross acre, except where the provisions of the PUD (Chapter 17.44) section of this ordinance are applied."

(2002) - **Exhibit C**

"Density for the project applied for shall not exceed two dwelling units per gross acre."

(2008 to current)

"Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994) If a planned unit development is applied for which requests a higher density in a portion of the R1 zone, the density of that portion shall not exceed four units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements. (Ord. 2794, § 1(Att. A), 12-15-2008)"

R1 PUDs since 2000

I have also researched R1 PUDs that were proposed or approved under the different versions of the code language since 2000.

(prior to 2000) *"No maximum."*

Anything from the last century is not germane to interpreting the current code language since no maximum density was stated. PUDs were apparently approved and built under the vague "PUD flexibility" provisions of the zoning code.

(2000) *"Density for the project applied for shall not exceed two dwelling units per gross acre, except where the provisions of the PUD (Chapter 17.44) section of this ordinance are applied."*

In 2001, the 64 unit Fir Crest PUD was proposed on 27.68 acres, with a density of 2.31 units per gross acre. It went to public hearing amid great controversy and opposition related to the density and environmental impact. During the hearings the density was reduced first to 58 units and finally to 40 lots/units with 39 lots

in a dense cluster development, one large 2.57 acre remainder Lot 40, and about 14 acres of open space/wetlands donated to the Anacortes Community Forest Lands--for a density of 1.45 units per gross acre. Minimum lot size was 5,789 sq. ft. (**Exhibit D**)

(2002) *"Density for the project applied for shall not exceed two dwelling units per gross acre."*

In 2004, the 60 unit The Orchards PUD was proposed and eventually approved on almost 30 acres for a specified density of 2 DU per gross acre in conformity with the new density language adopted in 2002. Minimum lot size was 9,600 sq.ft. The City was now clearly specifying 2 DU per gross acre for PUDs. (**Exhibit E**)

In 2005, the 20 unit "Lemac Estates" PUD was proposed on 10.1 acres for a density of 1.98 DU per gross acre. Minimum lot size was 8,798 sq. ft. (**Exhibit F**)

Lemac Estates was withdrawn and replaced in 2006 with the proposed Quail Run PUD which added additional land to the project to solve an access problem that developed with the previous PUD proposal. Quail Run was approved for 28 lots on 14.14 acres for a density of 1.98 DU per gross acre. Minimum lot size was 6,307 sq. ft. with only 8 lots less than 7,500 sq. ft. Quail Run has not yet been developed. (**Exhibit G**)

Average minimum lot size for the three PUDs is 8,235 sq. ft.

(2008 to current)

Apparently the Allen/Haddon Road PUD is the first R1 PUD proposed under the new code language adopted in 2008.

Lessons learned were applied to the 2008 to current R1 PUD density specification

There is a unidirectional pattern evident from 2000 to 2008 as the City searched for the appropriate code language to foster PUD development proposals consistent with the intended R1 landscape. The first try in 2000 that was vague about PUD density produced a controversial proposal that was ill suited to the environmental sensitivities of the site. Fir Crest was finally reduced to a dense cluster development with more than half of the property--sensitive wetlands and steep rocky forested ridge, both shared with the ACFL-- donated to the ACFL. This was a special site not typical of the rest of the R1 zone.

The second try at code language in 2002 eliminated the "PUD density flexibility" and stuck with the 2 DU per gross acre inside and outside of PUDs. This code was more successful in matching the R1 landscape. Three PUDs were proposed on lands typical of the R1 zone in which wetlands and streams were protected while providing densities of 2 DU per gross acre. Only 8 of 108 lots in the 3 PUDs were less than 7,500 square feet.

It is evident in the new 2008 code language that the City learned from the prior experiences and could be more specific in defining appropriate standards for R1 PUDs. The 2 DU per acre was retained because it produced the desired results, and R2 development standards were applied to the actual area developed because R2 densities and lot sizes accommodated the vast majority of the R1 PUD lots that had been proposed in the previous 6 years. A 7,500 sq. ft. minimum lot size would have eliminated only 2 of the previous 108 lots, since the eight "sub'7,500" lots in Quail Run could have been reconfigured to six "over 7,500" lots.

Planning Department's erroneous interpretation implies the 2008 City Council was incompetent and confused

The Planning Department's insistence that the City Council adopted the 2008 R1 PUD density language to change the R1 PUD density to 4 DU per gross overall acre within the whole PUD

- (1) implies that the Council irresponsibly decided to ignore and reject the experience of the last 8 years about what worked and did not work for the R1 landscape, and
- (2) further implies that the Council would choose to obfuscate their intention with strange non-direct elliptical language whose interpretation would fail a high school grammar test.

Applicant was warned

Three times the applicant was warned not to float their Haddon Road PUD on a fatally flawed erroneous interpretation of AMC 17.38.070:

- (1) in my letter of 4/2/15 on the prior Haddon Road Short Plat record,
- (2) in my letter of 9/8/15 on the prior Short Plat appeal record, and
- (3) again at the 12/17/15 community meeting on their PUD proposal.

Ross O Barnes, Ph.D.

EXHIBIT 1 - CHRISTIANSEN EMAIL 6-7-16

Attachments: **Exhibits A to G**

Ex 1

Subject: Fw: Allen/Haddon Road PUD - final comments on density

From: "Ross O. Barnes" <georbarnes@hotmail.com>

Date: 6/7/2016 9:16 AM

To: Bayshore Office Products - printshop <printshop@bayshoreoffice.com>

From: Terry Christiansen <terry.chrisclan@gmail.com>

Sent: Tuesday, June 7, 2016 8:18 AM

To: Ross O. Barnes

Cc: PATRICK O'HEARN; Vernon Lauridsen; Gene Derig; Marilyn Derig; Hal Rooks; Susan Rooks; Friends of Skagit County Ellen Bynum; Tom Glade; Brenda Lavender

Subject: Re: Allen/Haddon Road PUD - final comments on density

Ross, you are entirely correct. I seem to recall being the author of the change that you refer to. Regardless, we did it because people were trying to use "clustering" as a means to circumvent the overall density for the R1 zoning and "density bonuses" were being proposed. Our intent was that "clustering" would be okay provided the density in the cluster area did not go higher than that in the R2 and that regardless of any clustering, the overall density of a PUD in R1 zoning would not exceed the underlying density limit for that zone. You are welcome to use this communication in any way you choose.

Terry Christiansen

Ex. A-1

1996

17.38.070 MAXIMUM DENSITY *

No maximum.

17.38.080 MAXIMUM LAND COVERAGE

Maximum land coverage by buildings shall be 35%.

17.38.090 MAXIMUM BUILDING HEIGHT

Maximum height of buildings is to be 35 feet.

17.38.100 OFF-STREET PARKING REQUIREMENTS

There shall be at least two off-street parking spaces per dwelling unit.

17.38.110 STREET IMPROVEMENTS

Thirty feet of frontage is required on an improved public street. If a private street is used, a conditional use permit is required. Where City ordinance permits development fronting on an unpaved City street, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements.

CHAPTER 17.40 - SIGNS

SECTIONS

- 17.40.010 INTENT
- 17.40.020 DEFINITION, GOVERNMENTAL SIGNS EXCLUDED
- 17.40.030 GENERAL REQUIREMENTS
- 17.40.040 MEASUREMENT OF SIGN AREA
- 17.40.050 PERMIT PROCEDURE
- 17.40.060 SIGNS PERMITTED IN ALL DISTRICTS BUT NOT REQUIRING A PERMIT AND SHALL NOT EXCEED TWELVE FEET IN HEIGHT
- 17.40.070 SIGNS PERMITTED IN ALL RESIDENTIAL DISTRICTS BUT REQUIRING A PERMIT AND SHALL NOT EXCEED TWELVE FEET IN HEIGHT
- 17.40.080 SIGNS PERMITTED IN COMMERCIAL AND MANUFACTURING DISTRICTS AND REQUIRING A PERMIT
- 17.40.090 WALL SIGNS PERTAINING TO NONCONFORMING USES
- 17.40.100 POLITICAL SIGNS
- 17.40.110 SIGN SETBACK REQUIREMENTS
- 17.40.120 SETBACKS AT THE INTERSECTION OF HIGHWAYS
- 17.40.130 SETBACKS FOR PUBLIC AND QUASI-PUBLIC SIGNS

ENTS

EMENTS

d create an environment
velopment, by restricting
and maximum density.

tily incidental to the per-

s, nurseries and gardens,
of limited scale, not to
square feet total build-
er than one-quarter mile

ot permitted within the
landmark building rec-

uations where no more
square foot lots were in
lots in the same owner-
.000 square foot parcels
e foot parcels.

ties with the following
gregate care facility is
setting with individual

A. Home occupations, kennels and veterinary clinics, and landmark building with any approved use, generally not permitted within the area's land use classification, which occurs or will occur in a landmark building recognized as such by the City Council.

B. Bed-and-Breakfast establishments.

C. Commercial parking.

17.38.050 MINIMUM LOT SIZE

The minimum area for each use shall not be less than 15,000 square feet.

17.38.060 MINIMUM SETBACK REQUIREMENTS

A. Front — 20 feet from property line. If the street is officially designated arterial, 30 feet. Structures housing livestock shall be set back a minimum of 50 feet from nearest property line.

B. Rear — 20 feet.

C. Interior sides — 10 feet.

D. Side yard on a flanking street — 20 feet from property line. If street is officially designated arterial, 30 feet.

17.38.070 MAXIMUM DENSITY

No maximum.

17.38.080 MAXIMUM LAND COVERAGE

Maximum land coverage by buildings shall be 35%.

17.38.090 MAXIMUM BUILDING HEIGHT

Maximum height of buildings is to be 35 feet.

17.38.100 OFF-STREET PARKING REQUIREMENTS

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CHAPTER 17.40 SIGNS

SECTIONS

17.40.010

INTENT

17.40.020

DEFINITION, GOVERNMENTAL SIGNS EXCLUDED

17.40.030

GENERAL REQUIREMENTS

17.40.040

MEASUREMENT OF SIGN AREA

1998 A-2

stores or limited
feet of retail sales
total building floor
be allowed closer
existing grocery

ny approved use,
ea's land use clas-
ur in a landmark
ity Council.
nents

6,000 square foot
no less than four
00 square foot lots
ot of continuous
ownership, and of
o make two 6,000
ily residence built
els.

ns and congregate
efinition utilized:
a congregate care
nts who need care
l living units."

SIZE

ct shall be as fol-

owed on any lot of
.020. Lot size of
t which are subdi-
no less than 7,500
l be 9,000 square

ACK 3

in an R2 district

epth 20 feet from

ne side, 5 feet on

at — 10 feet from
arterial, 20 feet.
m.

not about a platted

Garage, swimming pool, tool house, barns and other
uses customarily incidental to the permitted uses.

17.38.040

CONDITIONAL USES

EX B

Conditional uses in an R1 district shall be as fol-
lows:

A. — Home occupations, kennels and veterinary
clinics, and landmark building with any approved use,
generally not permitted within the area's land use clas-
sification, which occurs or will occur in a landmark
building recognized as such by the City Council.

B. — Bed-and-Breakfast establishments.

C. — Commercial parking.

D. — Public parking.

E. — Private parking.

2000

17.38.050

MINIMUM LOT SIZE

The minimum area for each use shall not be less
than 15,000 square feet.

17.38.060

MINIMUM SETBACK REQUIREMENTS

A. — Front — 20 feet from property line. If the street
is officially designated arterial, 30 feet. Structures
housing livestock shall be set back a minimum of 50
feet from nearest property line.

B. — Rear — 20 feet.

C. — Interior sides — 10 feet.

D. — Side yard on a flanking street — 20 feet from
property line. If street is officially designated arterial,
30 feet.

17.38.070

MAXIMUM DENSITY



Density for the project applied for shall not exceed
two dwelling units per gross acre, except where the
provisions of the PUD (Chapter 17.44) section of this
Ordinance are applied.

17.38.080

MAXIMUM LAND COVERAGE

Maximum land coverage by buildings shall be 35%.

17.38.090

MAXIMUM BUILDING HEIGHT

Maximum height of buildings is to be 35 feet.

17.38.100

OFF-STREET PARKING

employ only light emitting a lig
and no sign shall be illuminated
intermittent, rotating, or moving
for time and temperature sign
illuminated sign or lighting dev
ed so as to permit the beams
from to be directed or beamed
highway, sidewalk, or adjacent
glare or reflection that may co
or nuisance.

B. — All wiring, fittings, an
construction, connection, and c
illuminated signs shall be in acc
sions of the National Electric C
code in effect. All such signs re
mit and inspection by State of V
of Labor and Industry, Electric
lent inspection.

C. — No projecting sign sh
tained from the front or any fa
tance of more than four (4) fe
mounting. No wall or project
more than one (1) foot above
line, or parapet of the building t

D. — No sign shall be plac
building.

E. — No portable or tempora
on the front or face of a buildi
except as authorized in Paragr
(E).

F. — Except as allowed in §
sign or part thereof shall contai
pennants, ribbons, streamers, sp
moving devices. Such devices
lights shall not be used for the
or attracting attention when not

G. — No signs erected or ma
of a building, visible from any
or highway, shall occupy more
the window surface.

H. — No sign of any classific
erected, or attached in any form
fire escape or any door or wind
fire escape.

I. — All signs hung and er
marked with the name of the p
tion hanging or erecting the sign

J. — Should any sign be or l
danger of falling, the owner
maintaining the same, shall u
notice from the building inspec
put such sign in a safe secure c
sign.

any area shall use classification, which occurs or will occur in a landmark building recognized as such by the City Council.

B. Bed-and-Breakfast establishments.

C. Commercial parking.

D. Public parking.

E. Private parking.

Ex. C-1

17.38.050 MINIMUM LOT SIZE

The minimum area for each use shall not be less than 15,000 square feet.

17.38.060 MINIMUM SETBACK REQUIREMENTS

A. Front -- 20 feet from property line. If the street is officially designated arterial, 30 feet. Structures housing livestock shall be set back a minimum of 50 feet from nearest property line.

B. Rear -- 20 feet.

2003

C. Interior sides -- 10 feet.

D. Side yard on a flanking street -- 20 feet from property line. If street is officially designated arterial, 30 feet.

17.38.070 MAXIMUM DENSITY *

Density for the project applied for shall not exceed two dwelling units per gross acre.

17.38.080 MAXIMUM LAND COVERAGE

Maximum land coverage by buildings shall be 35%.

17.38.090 MAXIMUM BUILDING HEIGHT

Maximum height of buildings is to be 35 feet.

17.38.100 OFF-STREET PARKING REQUIREMENTS

There shall be at least two off-street parking spaces per dwelling unit.

17.38.110 STREET IMPROVEMENTS

Thirty feet of frontage is required on an improved public street. If a private street is used, a conditional use permit is required. Where City ordinance permits development

The regulations contain apply to all signs and all

A. Any illuminated sign shall employ only light of constant intensity, and no sign shall be or contain flashing, or moving light or sound, and temperature signs. No illuminated sign or light shall be directed so as to permit reflection therefrom to be upon a public street, highway, or adjacent premises so as to cause reflection that may constitute a nuisance.

B. All wiring, fittings, and the construction, connection, and maintenance of electrically illuminated signs shall conform with the provisions of the Electric Code or the latest edition thereof. All such signs require inspection by the Department of Labor and Industries or equivalent in the city.

C. No projecting sign shall be maintained from the front of a building a distance of more than four (4) inches. No projecting sign shall project more than four (4) feet above or over the top of the building to which it is attached.

D. No sign shall be placed on a building.

E. No portable or temporary sign shall be placed on the front or facade of any premises except as provided in graphs 17.40.080(B) and (C).

F. Except as allowed in 17.38.090, no sign or part thereof shall be a banner, pennant, ribbon, or other similar movable device, as well as strings of lights used for the purpose of attracting attention when not part of a building.

G. No signs erected or mounted on a building, visible from a private street or highway, shall be more than twenty percent of the area of the building.

H. No sign of any class shall be installed, erected, or attached to a building in a shape or manner to a fire escape or window giving access to

10WS:

A. Home occupations, kennels and veterinary clinics, and landmark building with any approved use, generally not permitted within the area's land use classification, which occurs or will occur in a landmark building recognized as such by the city council;

B. Bed-and-breakfast establishments;

C. Commercial parking;

D. Public parking;

E. Private parking. (Ord. 2482 Att. A § 5 (part), 1999; Ord. 2316 (part), 1994)

17.38.050 MINIMUM LOT SIZE.

The minimum area for each use shall not be less than fifteen thousand square feet. (Ord. 2316 (part), 1994)

17.38.060 MINIMUM SETBACK REQUIREMENTS.

A. Front, twenty feet from property line. If the street is officially designated arterial, thirty feet. Structures housing livestock shall be set back a minimum of fifty feet from nearest property line;

B. Rear, twenty feet;

C. Interior sides, ten feet;

D. Side yard on a flanking street, twenty feet from property line. If street is officially designated arterial, thirty feet. (Ord. 2316 (part), 1994)

17.38.070 MAXIMUM DENSITY.

Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994)

17.38.080 MAXIMUM LAND COVERAGE.

Maximum land coverage by buildings shall be thirty-five percent. (Ord. 2316 (part), 1994)

employ only light emitting diode, and no sign shall be flashing, intermittent, rotating, or flashing, except for time and event shall an illuminated sign be placed or directed so as to cause illumination therefrom to be visible upon a public street, highway, or premises so as to cause glare or constitute a traffic hazard.

B. All wiring, fittings, and construction, connection, and electrically illuminated signs shall conform with the provisions of the National Electrical Code in effect at the time of installation, and an electrical permit and inspection from the Washington Department of Electrical Division or equivalent shall be required.

C. No projecting sign shall be attached to the front or rear of a building or structure of more than four feet in height. No wall or projection shall be more than one foot above the roofline, or parapet of the building to which attached.

D. No sign shall be placed on a building.

E. No portable or temporary sign shall be placed on the front or face of a building except as authorized in (E).

F. Except as allowed in (E), no sign or part thereof shall be attached to a building by means of banners, pennants, ribbons, or other similar moving devices. Strings of lights shall not be used for advertising or attracting attention to a sign.

G. No signs erected on or attached to a building, visible from a street or highway, shall occupy more than ten percent of the window surface.

H. No sign of any classification shall be erected, or attached in any

C-2

2005



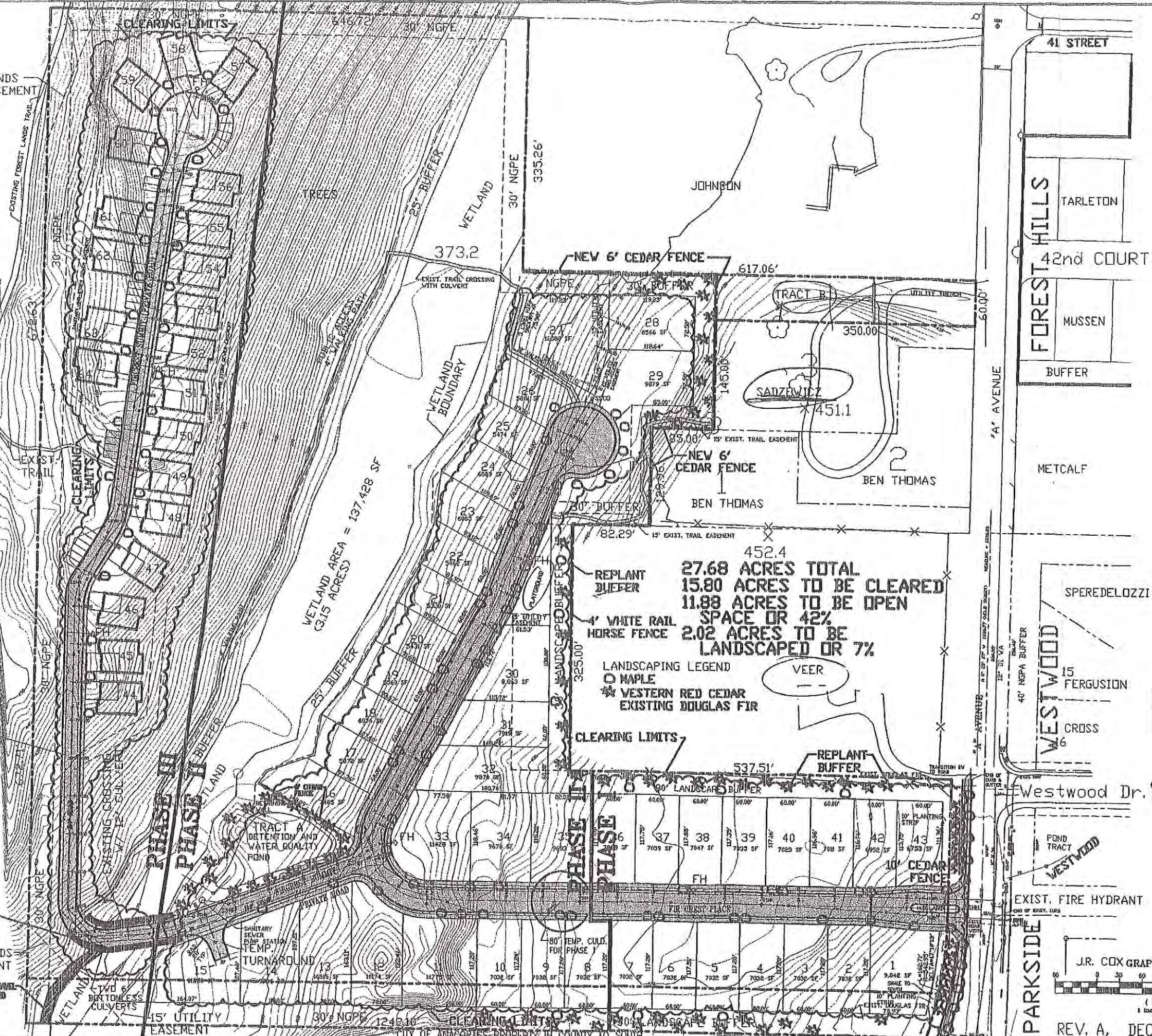
FORESTLANDS

FORESTLANDS
TRAIL EASEMENT

FOREST SUMMIT
(PRIVATE ROAD)
W/ PUBLIC PEDESTRIAN
ACCESS

1,481 SF OF WETLAND
ENCROACHMENT BY NEW
ROAD IMPROVEMENTS

1,000 SF OF EXISTING GROUND
ROAD TO BE REMOVED AND
REPLACED WITH WETLAND



EX.D-1

HERRIGSTAD
ENGINEERING

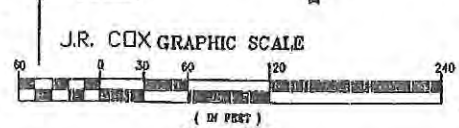
DALE K. HERRIGSTAD, P.E.
210B
3000 W. 12th St.
ANACORTES, WA 98021 (360) 299-6804

Owner: Fir Crest Development NW LLC
PO Box 818
Anacortes, WA 98221, 293-9848

Proposed Site Plan
Fir Crest PUD
"A" Avenue
64 UNITS

PROPOSED PUD

VERTICAL DATUM
TO CITY OF ANACORTES
DATUM:



REV. A, DECEMBER 10, 2001

FIR CREST PLANNED UNIT DEVELOPMENT
IN THE S.E. 1/4, SEC. 26, TWP 35 N., RNG 1 E., W.M.
CITY OF ANACORTES, WASHINGTON
AUGUST 2004

200408310219
Shagit County Auditor
8/31/2004 Page 2 of 4 3:55PM

Ex. D-3

AUDITORS CERTIFICATE

Filed for record this 31 day of August
2004 at 3:55 P.M.
in Volume 612 of Maps on pages
at the request of Clair A. Crossman, P.L.S.
Auditors File No. 200408310219
Brunner Skagit County Auditor
O'Brien Deputy

CITY TREASURERS CERTIFICATE

I hereby certify that there are no delinquent special assessments and all special assessments on any of the property herein contained dedicated as streets, alleys, or for other public use, are paid in full.
This 30th day of August 2004
Mayor Israel
Treasurer, City of Anacortes

COUNTY TREASURERS CERTIFICATE

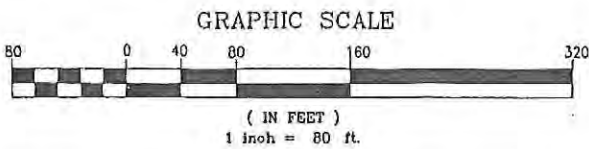
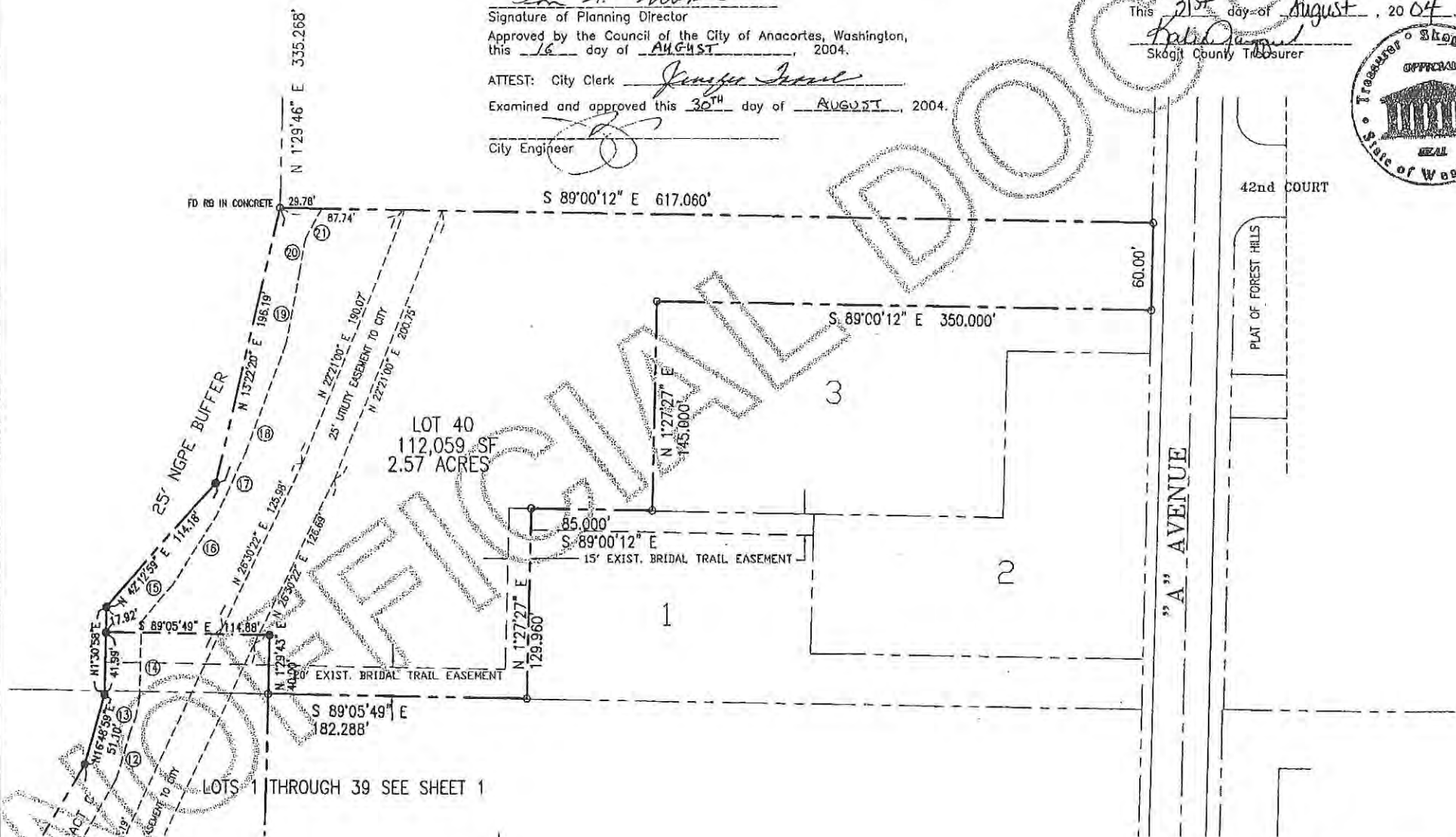
This is to certify that all taxes heretofore levied and which have become a lien upon the lands herein described have been fully paid and discharged according to the records of my office, up to and including the year of 2003.
Katie Jungquist
Treasurer of Skagit County, Washington, hereby certify that a deposit has been paid to cover anticipated taxes up to and including the year 2004.
This 31st day of August, 2004
Katie Jungquist
Skagit County Treasurer
Deputy

APPROVALS

The Planning Commission of the City of Anacortes, meeting in regular session on JULY 28, 2004 did find that the Plat of Fir Crest PUD serves the public use and interest and has authorized its secretary to execute its written approval hereon.
Signature of Planning Director
Approved by the Council of the City of Anacortes, Washington, this 16 day of AUGUST, 2004.
ATTEST: City Clerk
Examined and approved this 30th day of AUGUST, 2004.
City Engineer

NOTES

1. SET RE-BAR WITH CAP NO. 9569.
2. FOUND AND ACCEPTED RE-BAR WITH CAP.
3. FOUND EXISTING MONUMENT.
4. SET MONUMENT WITH CASE & COVER.
5. EQUIPMENT USED: TOPCON GTS-303 5" TOTAL STATION.
6. ERROR OF CLOSURE MEETS WASHINGTON STATE STANDARDS.
7. SURVEY METHODS STANDARD FIELD TRAVERSE.
8. BASIS OF BEARING: N01°27'28"E BETWEEN MONUMENTS ON "A" AVENUE.
9. INTERIOR LOT CORNERS ARE TO BE SET AS FINAL GRADES ARE ESTABLISHED.



SURVEYOR

Crossman & Associates
16146 McLean Road
Mt. Vernon, WA 98273
(360) 424-7359



PROPERTY OWNER/SUBDIVIDER
Fir Crest Development NW L.L.C.
P.O. Box 319
Anacortes, WA 98221
(360) 293-7431

APPROVED PUD

Fir Crest PUD

Proposed Changes from the last plan

Date 1/22/02



1. No more than 58 home sites. We have reduced our density given public comment and our own desire to create an attractive neighborhood. That is a reduction of 6 home sites.
2. We have increased the width and the size of most lots. The smallest being 7980 sq.ft and the largest 15900sq.ft.
3. We feel this density is fitting given other neighborhoods in the area.
 - a. Forest Hills is built on 8.06 acres and has 21 lots that is 2.6 homes per acre.
 - b. Westwood is 7.37 acres and has 16 lots that is 2.17 homes per acre
 - c. Fir Crest is 27.68 acres and will have 58 lots that is 2.09 homes per acre.
 - d. As you can see we are proposing no more density then our neighbors in the same zone classification.
4. It is important to note we have included the perimeter buffer in our new square footage calcs, Although the perimeter buffer will still be landscaped and maintained as previously proposed.
5. To add to our original wetland buffer we would propose an intermediate buffer along the East portion of main wetland. Property owners would maintain ownership of this buffer but CCR's would be written requiring that grass and or native species be planted or maintained in this area. Keep in mind, that grass is one of the best ways to bio filtrate. This would create a 50 ft buffer.
6. We would create a 100ft + buffer on the West side of wetland. This large buffer has always been there we were just calling it Open space, call it what you will, but it is a buffer and will remain protected. This buffer at its smallest would be 100ft and at its largest would be 250ft. If you are buffer averaging this is an average buffer of 175 ft.
7. Full wetland monitoring before construction and during the entire construction process by a qualified Hydrologist or Wetland Specialist. This will insure that the water table stays consistent before and after construction and water quality can be monitored.
8. No chemical landscape maintenance phase I and II (make it a condition right on the Plat and we will add it to our CCR's.

Thank you



Nels Strandberg



D-5

**Withdrawal of
Mitigated Determination of Nonsignificance
and
Request for Comments on Scope of EIS
Fir Crest Planned Unit Development**

Description of Proposal:

The MDNS for Fir Crest PUD is hereby withdrawn. An EIS is to be prepared on the following proposal:

Fir Crest, a 3-phase Planned Unit Development implementing a 64-building site residential community on 27.68 acres with both public and private streets, utilities, trails and trail easements. The proposal includes encroachment into a wetland buffer for road improvements.

Proponent

Fir Crest Development, LLC

Location of Proposal, including street address, if any:

Generally located west of "A" Avenue between 41st Street and Lake Park Drive. Project access will be from "A" Avenue adjacent to the City limits, Anacortes, Skagit County, Washington.

Lead Agency:

City of Anacortes

Pursuant to WAC 197-11-340(2)(f) [The Responsible Official shall reconsider the DNS based on timely comments and may retain or modify...or withdraw the DNS...] and WAC 197-11-340(3)(a)(ii) ["There is significant new information indicating, or on, a proposal's probable significant adverse environmental impacts"] I am hereby withdrawing my December 14, 2001 Mitigated Determination of Nonsignificance for the Fir Crest Planned Unit Development based on written and oral testimony submitted to the Planning Commission on January 9, 2002 and January 23, 2002.

EIS Required. The lead agency has determined this proposal is likely to have a significant adverse impact on the environment. An environmental impact statement (EIS) is required under RCW 43.21C and will be prepared. An environmental checklist or other materials indicating likely environmental impacts can be reviewed at our offices.

The lead agency has identified the following areas for discussion in the EIS: **Wetland and water quality impacts and mitigations and density relative to City codes and the natural characteristics of the site.**

Scoping. Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS. You may comment on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required. The method and deadline for giving us your comments is: **Written comments due by February 23, 2002**

Responsible Official:

Ian S. Munce, Director of Planning
P.O. Box 547
Anacortes, WA 98221
(360) 299-1942

D-6

☒ There is no agency appeal.

Signature: Ian S. Munce Date: 1/23/02

Publish: January 30, 2002

FAXED
1-24-02

To: Anacortes America
Nancy W.
Nels Strandberg

D-7



Evergreen Islands

PO Box 223

Anacortes, WA 98221

January 23, 2002

Mr. Ian Munce

Planning Director, City of Anacortes

P.O. Box 547

Anacortes, WA 98221

Subject: Request for DNS Withdrawal for the Fir Crest Development

Dear Mr. Munce:

On the behalf of Evergreen Islands, we request that you take immediate action to withdraw the Determination of Non-Significance (DNS) for Fir Crest Development so that the significance of the proposal may be reconsidered. The State Environmental Policy Act Handbook, Washington State Department of Ecology Publication # 98-114 (p. 34), states,

"It is also advisable to withdraw a DNS if the lead agency determines that it needs time to reconsider the significance of the proposal, reassess mitigation needs, or to do additional investigation. A new threshold determination and comment period will be required, but this will prevent the "locking in" of the original DNS by another agency issuing a non-exempt permit."

We formally request that this action be taken based on the compliance issues that were raised during the public comment period and those issues that we address in our January 23, 2002 letter to the Anacortes Planning Commission (see attached letter).

Sincerely yours,

Steve Clark
President

Tom Glade
Vice President



Evergreen Islands

PO Box 223

Anacortes, WA 98221

D-8

January 23, 2002

Anacortes Planning Commission

P.O. Box 547

Anacortes, WA 98221

Subject: Fir Crest Environmental Compliance Issues

Dear Commissioners:

As we have stated previously, Evergreen Islands is alarmed by the high potential for adverse environmental impacts that the Fir Crest development engenders. The potential impacts range from harm to both Mitten Pond and the large, onsite wetland to the destruction of the Mitten Pond viewscape. As a result, we request that the Planning Commission guarantee that Fir Crest comply with all of the environmental protections afforded by city, state, and national regulations.

To get a handle on the City requirements, Evergreen Islands asked Dr. Ross Barnes of Rosario Geoscience Consultants to compile a list of compliance issues related to the City's regulations. Dr. Barnes submitted the list to Evergreen Islands at our January 17 board meeting, and the List of Compliance Issues is included as Attachment 1. Based on the large number of compliance issues, Evergreen Islands has submitted a formal request to Mr. Ian Munce, Anacortes Planning Director, to withdraw Fir Crest's Determination of Non-Significance (DNS). Withdrawing the DNS will allow the City the time needed "to reconsider the significance of the proposal, reassess mitigation needs, or to do additional investigation."

Additionally, Evergreen Islands urges the Planning Commission to take advantage of the environmental protections afforded by the State Environmental Policy Act (SEPA) to protect Anacortes's Natural Parks. An Environmental Impact Statements (EIS) should be a routine requirement for any development of property adjacent to our Natural Parks. The State Environmental Policy Act Handbook, Washington State Department of Ecology Publication # 98-114 (p. 16), states,

"The (lead) agency decision-maker must consider the environmental information, along with technical and economic information, when deciding whether to approve a proposal. Decision-makers may use SEPA substantive authority to condition or deny a proposal based on information in the SEPA document and the agency's adopted SEPA policies."

Furthermore, the SEPA Handbook (p. 91) also states

"Environmental review under SEPA at the plan and regulation level should address system-wide, cumulative impacts and some site-specific impacts. However, some site-specific impacts can still only be addressed through SEPA at the project level. SEPA is the safety net for those impacts that cannot be easily anticipated in plans and regulations. SEPA also provides the flexibility to address those site-specific impacts that are better dealt with on a project-by-project basis."

Both City and State regulations give Anacortes the authority to protect its natural environment, and we urge you take advantage of them.

In conclusion, we again ask the City of Anacortes and its Planning Commission to protect our Natural Parks, which are unique and irreplaceable community assets.

Sincerely yours,

Steve Clark
President

Tom Glade
Vice President



D-10

STATE OF WASHINGTON

DEPARTMENT OF ECOLOGY

Northwest Regional Office • 3190 160th Avenue SE • Bellevue, Washington 98008-5452 • (425) 649-7000

January 22, 2002

Mr. Ian Munce, Planning Director
City of Anacortes
P.O. Box 547
Anacortes, WA 98221

Dear Mr. Munce:

Thank you for providing The Department of Ecology (Ecology) with the information necessary to provide comments on the Mitigated Determination of Nonsignificance for the Fir Crest PUD. I have several comments on the Environmental Checklist. Comments are based on review of the Checklist, the wetland delineation report prepared by ATSI on May 3, 2001, a site plan dated December 10, 2001, and conversations with two concerned nearby property owners.

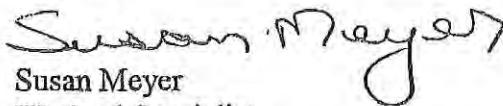
- A General Stormwater Permit (NPDES) will need to be obtained from Ecology's Water Quality program prior to the beginning construction of this project. Also, a Corps of Engineers Nationwide Permit 14 may be necessary for the wetland crossing. The Corps of Engineers should be contacted by the project applicant to find out whether a permit will be required.
- The proposed 25-foot buffers are completely inadequate to protect the functions of the wetland that lies within the boundaries of this development. A 25-foot buffer around a Category II wetland does not represent Best Available Science, which has shown that buffers less than 50 feet cannot protect most wetland resources. The wetland delineation report identifies this wetland as a wildlife corridor, which is connected to other wetlands and habitats. A buffer of 25 feet will reduce the ability of wildlife species to use this corridor since food and cover along it will be diminished. Some species of wildlife may be cut off from migrating from one habitat area to another. Also, amphibians, which are reported to use the wetland, will not have the necessary upland area to complete their lifecycle. In addition, the wetland will likely not receive the natural stormwater runoff from the adjacent upland forest to sustain its current hydrologic regime with only 25 feet of adjacent forestland. Ecology recommends 200-foot buffers around Category II wetlands with a high intensity adjacent land use. Buffer reduction can be considered when certain buffer functions can be enhanced to produce the same or similar effect. However, there are not sufficient buffer enhancement opportunities available on this site to make a 25-foot buffer around this wetland as effective as it needs to be to protect the wetland functions.

D-11

- The site plan showed that lots adjacent to the wetland in Phase II would be mostly comprised of relatively steep slopes. There is no mention of whether this area will be filled or cut, and if so, how will the slopes be stabilized after construction so that there will be no erosion into the wetland?
- The road that is proposed to cross the wetland should be designed so that the hydrologic regime in the wetland will not be altered. A change in the wetland hydroperiod (how much water is present and for how long) can influence the plant community diversity, cause mortality of amphibian egg masses, and reduce the number and abundance of invertebrate species. Hydrologic monitoring of the wetland should be conducted before and after the project is constructed to ensure that the development, as a whole, does not have an effect on the hydroperiod of the wetland.
- As per phone conversations with property owners within the vicinity of the proposed development, I understand that blasting the rock substrate is proposed as part of Phase III. Blasting was not mentioned in the Environmental Checklist and could have significant adverse environmental impacts. Blasting of the rock bluff above the wetland could introduce foreign debris into the wetland, cause mortality to vegetation on the steep rock cliff above the wetland, and cause other seismic impacts to the wetland as well as neighboring properties. It seems as though Phase III should be evaluated separately from the other two phases of the development since impacts from blasting have not been fully disclosed or analyzed

Once again, I appreciate the opportunity to comment on this proposed development. Please phone me at 425-649-7168 if you have any questions.

Sincerely,



Susan Meyer
Wetland Specialist
Shorelands and Environmental Assistance Program

SM:SA

cc: Jeannie Summerhays
Olivia Romano, Corps of Engineers
SEPA file

1004 7th. St., Ste. 202
Anacortes, WA 98221
(360) 293-7023
January 23, 2002

①

D-12

TO: Anacortes Planning Commission,
Ian Munce, Planning Director

FROM: Ross O. Barnes

Ross Barnes

RE: FIR CREST PUD

There are numerous decisions and conditions the the Anacortes City code allow you and require you to make to reduce the impacts from this overly ambitious, but poorly documented development scheme.

You can and should reduce the unit density to no more than the two units per acre R1 zoning standard. This site has too many environmental impact issues and development problems to justify a density bonus.

You can and should require strict adherence to the provisions of the Storm Drainage Ordinance regarding preservation of natural drainage patterns within each drainage basin/watershed individually--no significant diversion of flows across natural drainage divides.

You can and should require a drainage easement, approved by ACFL management, for the required discharges into the ACFL as specified by AMC 13.36.070 K.

You can and should require "all reasonable best management practices for water quality protection" (AMC 13.36.110 D.6.a.) for both the Mitten Pond watershed and the large on-site wetland.

You can and should formally declare the Mitten Pond watershed and the large on-site wetland as Water Quality Sensitive Areas under LPSPR #7, and direct the Public Works Dept. to determine what measures beyond the minimum development code requirements are needed to protect water quality in these areas.

You can and should require that a permanent no chemicals landscape maintenance clause be added to the Covenants for all areas that drain into the ACFL or the large wetland.

You can and should require the minimum R1 subdivision lot size of 15,000 square feet for lots adjacent to the wetland buffer, as a minimal measure to help protect this high quality wetland.

You can and should specify a reasonable minimum lot size throughout the PUD that is consistent with R1 zoning standards and the environmental sensitivities of the site--for instance 12,000

square feet.

②

D-13

Before you approve any wetland conditional use permit, you can and should require a detailed and accurate wetland encroachment and mitigation site plan and impact analysis as specified by City ordinance.

You can and should specify that existing natural and native growth areas within the buffers and open spaces shall remain undisturbed during and after development, except for approved trail maintenance and approved native growth protection programs.

Even if all of the above is done, the City can and should make a Determination of Significance for this project because of the unmitigatable significant adverse environmental impacts of this project, including potential impacts to the on-site and associated off-site aquifer recharge areas. An EIS is required to carefully analyze these impacts and evaluate the most appropriate type of development for this site--such a plan will probably have few similarities to the current proposal.

ATTACHMENTS: Exhibit A - Code Compliance Issues,
Exhibit B - Water table elevations in the aquifer,
Fir Crest PUD and adjacent area.

January 16, 2002

D-14

FIR CREST PUD -- CODE COMPLIANCE ISSUES WITH RESPECT TO ENVIRONMENTAL PROTECTIONA. STORM DRAINAGE

1. AMC 13.36.070 (A) and LPSPR #2 - Preservation of Natural Drainage Systems, Patterns and Basins.

Storm water flows from the Mitten Pond watershed should continue to be directed toward Mitten Pond with appropriate volume detention, and full biofiltration swale either before or after the detention facility. Downslope flows into the ACFL shall be dispersed to control erosion, or conveyed to a natural channel of adequate capacity.

Ditto for watershed basin of large on-site wetland.

2. LPSPR #3 - Pollution Source Control.

Impervious surface catch basins that drain into the ACFL or large on-site wetland should include "oil" traps that are regularly maintained.

Phase II and Phase III should include no chemicals landscape maintenance policy as permanent clause of protective covenants (suggest see Portalis for condition wording).

3. Please note LPSPR #4 (b) and LPSPR #6 - Wetlands, should be applied to discharges to large on-site wetland.
4. LPSPR #7 - Water Quality Sensitive Areas (WQSA).

Mitten Pond watershed and large on-site wetland and buffers should be formally declared as WQSA's.

5. AMC 13.36.070 (K) - Drainage Easement.

Discharge to ACFL should have easement negotiated with ACFL management.

B. PROTECTION OF LARGE ON-SITE WETLAND AND ACFL

1. Lots adjacent to wetland buffer should meet minimum 15,000 square foot size and lot width requirements for an R1 zone sub-division.
2. This site is not suitable for density "bonuses". Unit density of whole PUD and of Phase III alone should not exceed 2 units per acre.

A-2

D-15

3. Maintain intact 30' NGPE buffer adjacent to ACFL and minimum 25' NGPE buffer adjacent to wetlands.
4. All natural undeveloped open spaces in Phases II and III should be protected with permanent NGP easement.
5. Provide correct Phase III road profile and correct natural topography on road profile for review at next hearing.
6. Consider alternative clustered development schemes for this site, such as assisted living/retirement center. It may be ideal for such a facility because it is significantly isolated from adjacent residential developments.

C. WETLAND MITIGATION PLAN -- TO BE PROVIDED FOR PUBLIC REVIEW BEFORE PLAN AND WETLAND CONDITIONAL USE IS APPROVED

1. Provide correct wetland boundary survey in area of proposed road expansion and proposed mitigation area so that accurate areas for wetland fill and mitigation can be calculated. Determine actual area of wetland that was filled for existing road and associated landfill--where was the road not built in wetland? Determine water levels on each side of existing road fill in proposed excavation area and method for maintaining existing water levels upslope of existing road fill. Where is the appropriate location for the trail crossing the wetland in this area? Provide at least a 1.5 to 1 wetland replacement ratio for road expansion. Provide a wetland/buffer planting plan to restore indigenous natural vegetation, and a monitoring/correction plan. Propose wetland creation only in disturbed areas, not in the natural landscape. Wetland buffers in restored areas should be consistent with slopes in adjacent natural areas.
2. Submit a detailed site plan and specifications for the proposed road expansion and wetland mitigation/restoration area prepared by a qualified wetland restoration consultant, for public review.
3. In addition to the proposed wetland mitigation area discussed above, also consider wetland and buffer restoration in the landfill area west of the proposed detention pond.

D. SEPA

The obvious probable and unmitigated significant adverse impacts to the ACFL natural area and the large wetland require a Determination of Significance (DS) and an EIS under Washington State law (see WAC 197-11-330, ff.).

A-3

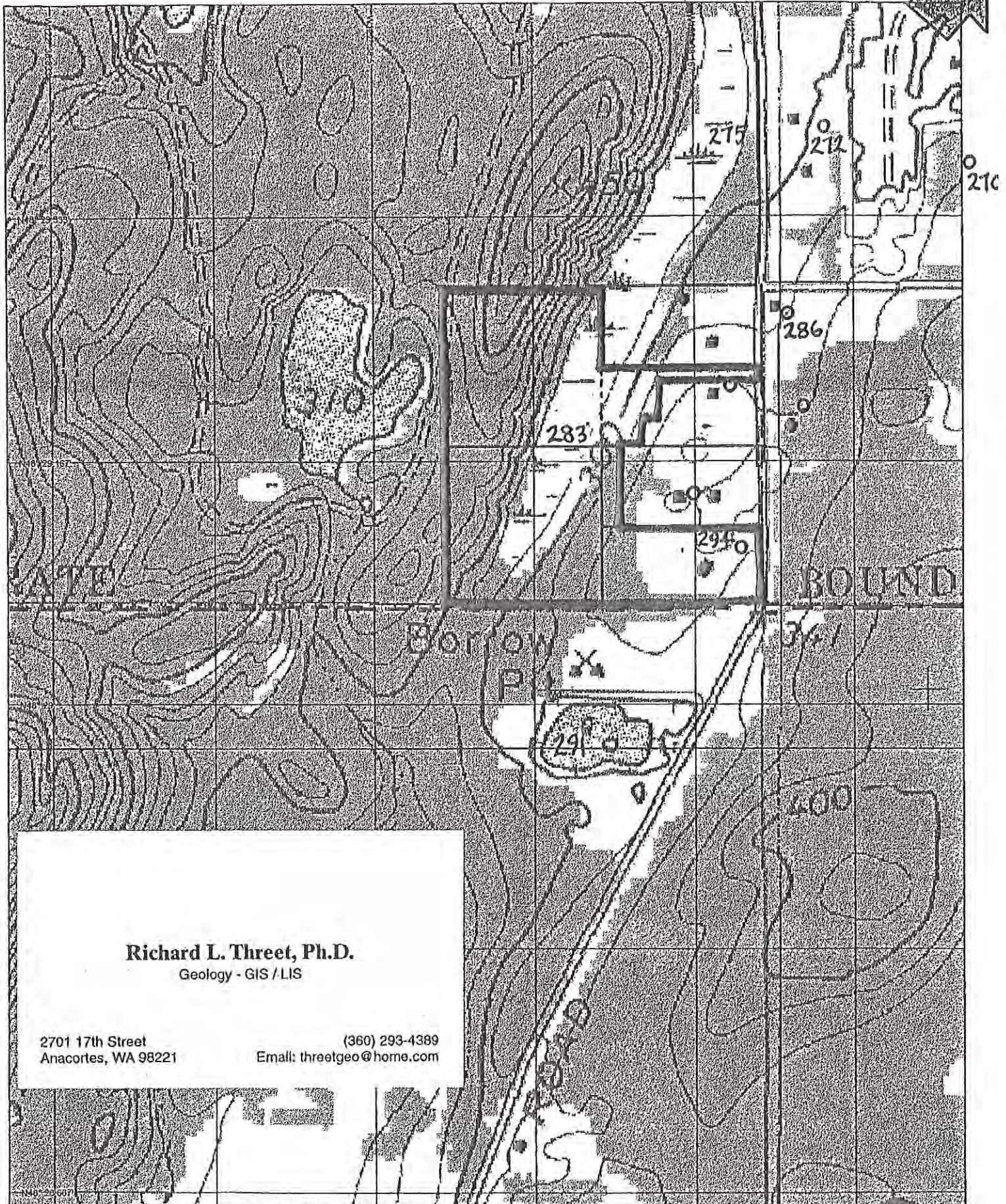
D-16

The DS is principally related to

- (1) the development and accompanying denudation and destruction of the natural topography of the ridge in Phase III,
- (2) the lack of any specific impact analysis and mitigation plan for the road crossing the wetland, including an accurate and specific wetland conditional use site plan as required by AMC 17.65.100,
- (3) the proposed development of lots much smaller than 15,000 square feet adjacent to the large high quality on-site forested wetland, and
- (4) wetland buffers much smaller than those uniformly recognized as necessary for wetland protection adjacent to a high quality wetland that is also an important recharge source for the underlying sand/gravel aquifer that serves a number of wells to the east and feeds "Ace of Hearts Creek" via perennial springs and artesian wells.

Ross O. Barnes

D-17 EXHIBIT B'



Rosario Geoscience Associates

D-18

13695

~~404~~ Harbor Lane • Anacortes, WA 98221 • (360) 293-7023

293-0572 FAX

February 23, 2002

TO: Ian Munce, Director of Planning

FROM: Ross O. Barnes

R.O.B.

RE: FIR CREST PUD - SEPA EIS SCOPING

I agree with the issues set out in BOLD type in the scoping notice.

In addition, I would add the following more specific items and issues.

- (1) Alternatives examined should include the (1) no action alternative, (2) lots or lot equivalents not less than 15,000 square feet not counting the areas of wetland district and slopes too steep to develop, (3) cluster or alternative development, such as assisted living center, (4) drastically reduced density in Phase III, such as a few upscale largely natural lots.
- (2) Providing wetland protection buffers in line with current scientific recommendations for a significant Category II wetland that is adjacent to quality upland habitat, such as DOE guidelines or Skagit County CAO--effect on habitat protection and wetland and aquifer water quality.
- (3) Potential effects of rock blasting close to residential areas.
- (4) Impacts of Phase III on the adjacent downslope ACFL natural preserve--including tree blowdown, habitat quality of Mitten Pond watershed, invasion of noxious species and "edge effect" intrusion into mature forest habitat preserve, water quality, potential erosion, proposed drainage diversion out of ACFL watershed, effect on the ACFL Trail 10 recreational corridor. Can impacts be mitigated or not? How?
- (5) Impacts to off-site drainage system and adjacent riparian zone (both developed and natural) downstream from the large Phase II wetland.
- (6) Requiring basin by basin storm water detention and discharge, compared to the proposed one detention pond system and diversion and discharge (?) of storm water from three basins into one.
- (7) Compare impacts of proposed smaller lot PUD with development buffers, to non-buffered sub-division with 15,000 square

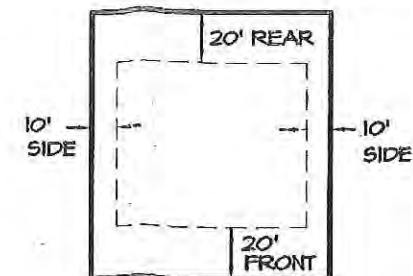
RGA on Fir Crest EIS
2/23/02
page 2

foot minimum lot size--compatibility with the developed and natural neighborhood.

- (8) "Viewshed" impacts from destroying the natural character of the regionally visible Phase III ridge.
- (9) Lack of specific plans and analyses for mitigation of wetland road crossing.
- (10) Potential for restoring disturbed wetland buffers and filled wetlands on site. Is proposed detention pond too close to wetland?
- (11) Potential impacts on aquifer serving wells to east and northeast of site--all the way to artesian zone surrounding Ace of Hearts Creek. Intensive development has already impacted some wells in this area.

Ross O. Barnes

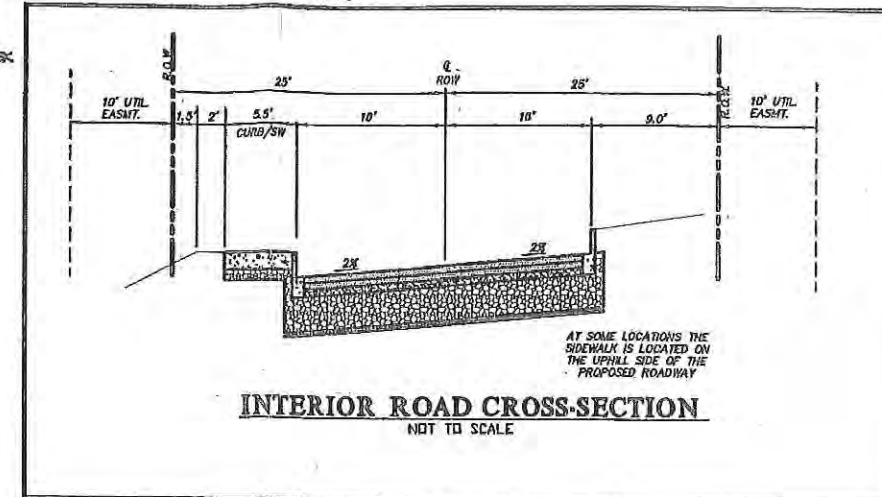
PROPOSED 5' WIDE WALK TO BE INSTALLED WESTERLY FROM PROJECT TO EAST END OF EX. CONCRETE WALK. NORTH EDGE OF WALK TO BE CONSTRUCTED BETWEEN 20' AND 25' SOUTH OF EX. RIGHT OF WAY CENTERLINE UNLESS EASEMENTS ARE GRANTED BY PROPERTY OWNERS SOUTH.



CALL TWO BUSINESS DAYS BEFORE YOU DIG
1-800-424-5555

SCALE: 1" = 80'

PROPOSED BUILDING SETBACKS (TYP)



INTERIOR ROAD CROSS-SECTION
NOT TO SCALE

NOTES

- OWNERSHIP:
PARCELS A AND C: DALE H. HJORT, EILEEN E. HJORT AND CAROL L. ABEL
PARCEL B: RICHARD BALLOH AND GAIL BALLOH
PARCELS D AND E: CONRAD LEVESEN AND DIANE LEVESEN
 - DEVELOPER: JOE AND KIMBERLY WOODMANSEE
1146 BRITT ROAD
MOUNT VERNON WA 98273
PHONE: (360) 424-4866
 - LAND SURVEYOR/LAND-USE CONSULTANT:
LISSER & ASSOCIATES, PLLC
BRUCE B. LISSER, P.L.S.
PO BOX 1104
MOUNT VERNON WA 98273
PHONE: (360) 419-1442
 - CIVIL ENGINEER:
RAVNICK & ASSOCIATES, INC.
JOHN RAVNIK, P.E.
PO BOX 361
BURLINGTON WA 98203
PHONE: (360) 707-2048
 - UTILITIES:
SANITARY SEWER: CITY OF ANACORTES
STORM SEWER: CITY OF ANACORTES
WATER: CITY OF ANACORTES
POWER: PUGET SOUND ENERGY
TELEPHONE: VERIZON
GAS: CASCADE NATURAL GAS
CABLE: COMCAST
- ALL UTILITIES WILL BE EXTENDED AS NECESSARY TO SERVICE THE SITE AND WILL BE ENGINEERED AS NECESSARY TO CONFORM TO CITY OF ANACORTES DEVELOPMENT STANDARDS. ALL UTILITIES ARE PROPOSED TO BE UNDERGROUND.
- SURVEY DATUM: BASED UPON CITY OF ANACORTES DATUM, BENCHMARK PROVIDED BY LYLE DAVIS, CITY OF ANACORTES, NORTH RIM SANITARY SEWER MANHOLE AT 8TH AND H AVENUE. ELEVATION = 245.6
 - SURVEY MERIDIAN: ASSUMED
 - SURVEY PROCEDURE: STANDARD FIELD TRAVERSE
 - CONTOUR INTERVAL: 2-FOOT
 - SPOT ELEVATIONS ARE SHOWN AT THE +
 - ALL MEASUREMENTS ARE SHOWN IN FEET AND DECIMAL FEET.
 - FOR ADDITIONAL SURVEY INFORMATION SEE THE PLAT OF PARKSIDE DIVISION NO. 2, RECORDED IN VOLUME 16 OF PLATS, PAGES 20-22, CITY OF ANACORTES SHORT PLAT NO. AH-82-008, RECORDED IN VOLUME 8 OF SHORT PLATS, PAGE 26 AND RECORD OF SURVEY MAPS RECORDED UNDER AUDITOR'S FILE NUMBERS 20000410067 AND 9401220070, ALL IN RECORDS OF SKAGIT COUNTY, WASHINGTON.
 - PROPERTY ZONING: R-1, RESIDENTIAL LOW DENSITY (15,000)
 - ADJACENT ZONING: WEST R-1, EAST R-1, NORTH R-2, SOUTH PUBLIC
 - GROSS AREA (INCLUSIVE OF ROAD RIGHT-OF-WAY): 29.66 ACRES. CITY OF ANACORTES IS ALLOWING DENSITY OF 2 UNITS PER ACRE TO BE BASED UPON 80 ACRES FOR A TOTAL OF 60 UNITS.
 - OPEN SPACE AREAS ARE TO BE OWNED AND MAINTAINED BY THE ORCHARDS HOMEOWNERS ASSOCIATION. THE MAINTENANCE WILL INCLUDE LANDSCAPING, TRAILS, STORM POND AND ANY FENCES ALONG TRAILS.
 - BUILDING SETBACKS WILL BE CONSISTENT WITH THE R-1 ZONE. (SEE INSERT)

Ex. E-1



LISSER & ASSOCIATES, PLLC
SURVEYING & LAND USE CONSULTATION
320 MILWAUKEE STREET
MOUNT VERNON, WA 98273
360-419-1442

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
108 E GILKEY RD/PO BOX 361
BURLINGTON, WA 98233
PH: (360) 707-2048 FAX: (360) 707-2216

SHEET DESCRIPTION:

PRELIMINARY PLAT MAP

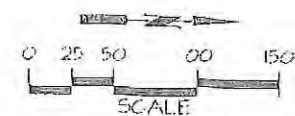
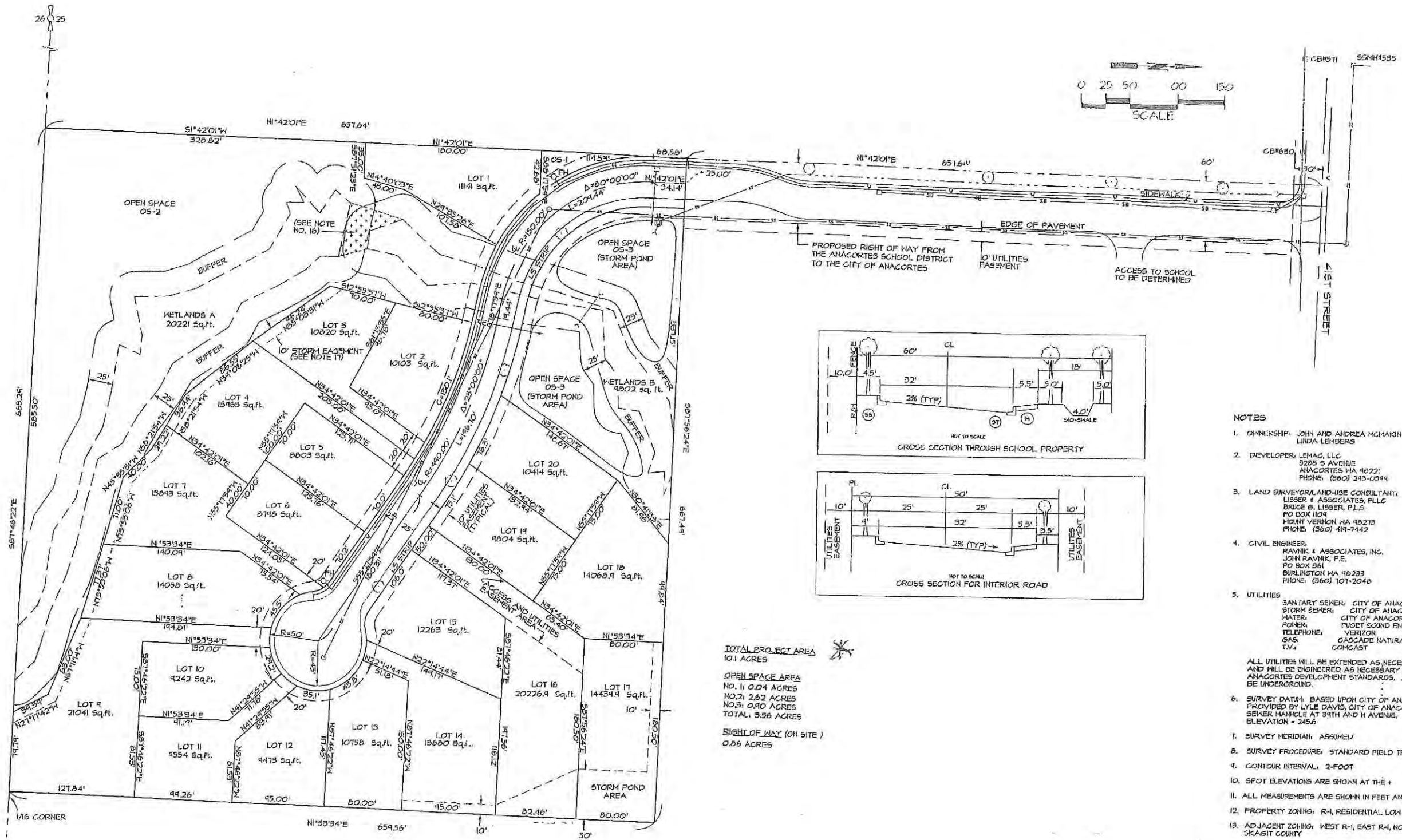
PLAN STATUS:

SCALE: 1" = 80'
DRAWN BY: H. NELSON
CHECKED BY: J. RAVNIK

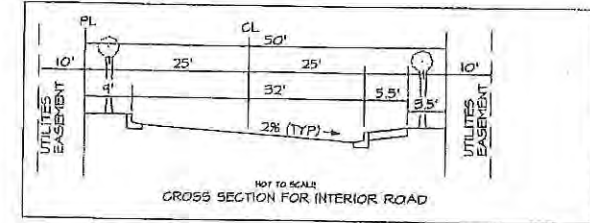
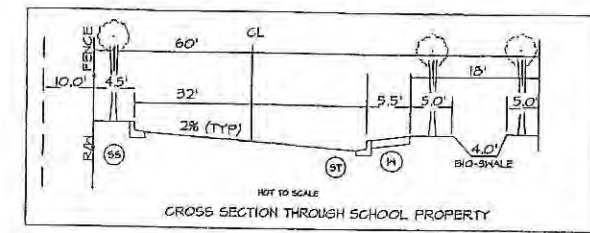
SHEET TITLE:

"THE ORCHARDS"
FOR
JOE WOODMANSEE
CITY OF ANACORTES PUBLIC WORKS PROJECT #04-038

DRAWING NO.
P:\P\04\038.dwg
JOB NO.
04021
SHEET NO.



EX. F-1



- NOTES
1. OWNERSHIP: JOHN AND ANDREA MCMAKIN
LINDA LEMBERG
 2. DEVELOPER: LEMAC, LLC
3203 S AVENUE
ANACORTES WA 98021
PHONE: (360) 243-0399
 3. LAND SURVEYOR/LAND-USE CONSULTANT:
LISSER & ASSOCIATES, PLLC
BRUCE G. LISSER, P.L.S.
PO BOX 1104
MOUNT VERNON WA 98273
PHONE: (360) 419-7442
 4. CIVIL ENGINEER:
RAVNIK & ASSOCIATES, INC.
JOHN RAVNIK, P.E.
PO BOX 364
BURLINGTON WA 98233
PHONE: (360) 707-2048
 5. UTILITIES
SANITARY SEWER: CITY OF ANACORTES
STORM SEWER: CITY OF ANACORTES
WATER: CITY OF ANACORTES
POWER: FUGET SOUND ENERGY
TELEPHONE: VERIZON
GAS: CASCADE NATURAL GAS
CABLE: COMCAST
- ALL UTILITIES WILL BE EXTENDED AS NECESSARY TO SERVICE THE SITE AND WILL BE ENGINEERED AS NECESSARY TO CONFORM TO CITY OF ANACORTES DEVELOPMENT STANDARDS. ALL UTILITIES ARE PROPOSED TO BE UNDERGROUND.
6. SURVEY DATUM: BASED UPON CITY OF ANACORTES DATUM, BENCHMARK PROVIDED BY LYLE DAVIS, CITY OF ANACORTES, NORTH RIM SANITARY SEWER MANHOLE AT 39TH AND H AVENUE.
ELEVATION = 245.6
 7. SURVEY MERIDIAN: ASSUMED
 8. SURVEY PROCEDURE: STANDARD FIELD TRAVERSE
 9. CONTOUR INTERVAL: 2-FOOT
 10. SPOT ELEVATIONS ARE SHOWN AT THE +
 11. ALL MEASUREMENTS ARE SHOWN IN FEET AND DECIMAL FEET.
 12. PROPERTY ZONING: R-1, RESIDENTIAL LOW DENSITY (15,000)
 13. ADJACENT ZONING: WEST R-1, EAST R-1, NORTH PUBLIC, SOUTH SKAGIT COUNTY
 14. GROSS AREA (INCLUDING OF ROAD RIGHT-OF-WAY): 10.1 ACRES
CITY OF ANACORTES IS ALLOWING DENSITY OF 2 UNITS PER ACRE TO BE BASED UPON 10 ACRES FOR A TOTAL OF 20 UNITS.
 15. OPEN SPACE AREAS ARE TO BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION. THE MAINTENANCE WILL INCLUDE LANDSCAPING, CRITICAL AREA BUFFERS AND STORM POND.
 16. THE WETLANDS "A" AND "B" ARE PROPOSED TO BE RECONNECTED IN CONJUNCTION WITH THE ROAD CROSSING DESIGN WHICH WILL ALLOW A NET GAIN IN WETLANDS ON SITE.
 17. A 10' PRIVATE DRAINAGE EASEMENT SHALL BE PROVIDED ALONG THE REAR PROPERTY LINES FOR THE INSTALLATION OF A DRAINAGE SHALE FOR ROOF AND FOOTING DRAINS. THE SHALE WILL ACT AS A RECHARGE AREA TO MAINTAIN HYDRATION TO THE WETLANDS.

TOTAL PROJECT AREA
10.1 ACRES

OPEN SPACE AREA
NO. 1: 0.04 ACRES
NO. 2: 2.62 ACRES
NO. 3: 0.90 ACRES
TOTAL: 3.56 ACRES

RIGHT OF WAY (ON SITE)
0.86 ACRES

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
108 E. GILKEY RD./P.O. BOX 361
BURLINGTON, WA 98233
(360) 707-2048 FAX: (360) 707-2216

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LISSER & ASSOCIATES, PLLC
SURVEYING & LAND USE CONSULTATION
320 MILWAUKEE STREET
MOUNT VERNON, WA 98273
360-419-7442



NO.	DATE	REVISION	BY	REV.

PROPOSED
DEVELOPED CONDITIONS

SCALES
HORIZONTAL: 1"=50'
VERTICAL: N/A

DESIGNED:
DRAWN: DLG
CHECKED: BGL

SURVEY IN A PORTION OF
SECTION 25, T.35 N., R.1 E., WM
ANACORTES, WASHINGTON
FOR: LEMBERG-MCMAKIN

PB. 258 PG. 4
DATE: 3/29/05
DRAWING: 04-050TP
JOB NO.: 04-050
SHEET: 2 OF 2



E-2

NOTICE OF LAND USE PERMIT APPLICATION

THE ORCHARDS PRELIMINARY DEVELOPMENT PLAN (PUD)

This Project and Public Notice Involves:

1. Preliminary Development Plan Application (PUD) – 60 unit single family residential development
2. Notice of Public Hearings
3. Mitigated Determination of Non-Significance
4. Determination of Completeness

NOTICE IS HEREBY GIVEN that the Anacortes Planning Commission will hold Open Record Public Hearings on the evenings of **Wednesday September 22, 2004 and Wednesday, October 27, 2004** at 7:30 p.m. in the Municipal Building Council Chambers, 6th Street and "Q" Avenue.

The purpose of the Public Hearing will be to review and to make a recommendation on a Land Use Permit application for development of 60 single family homes on approximately 30 acres generally bounded on the north by 41st Street and on the east by Heart Lake Road (access will be off of 41st Street via two new roads, Orchard Avenue and cherry Lane). All in the SE ¼ of the SW ¼ of Section 25, Township 35 North, Range 1 East, Anacortes, Skagit County, Washington. The applicants are Joe and Kimberly Woodmansee. The project will include, in part, an on-site drainage system, open space, and utilities, and two new streets. Fifty-foot buffers are established on each side of Ace of Hearts Creek. The property is zoned R 1.

The Planning Director has determined that this application is complete.

Further, the lead agency for this proposal, the City of Anacortes, has determined that it 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. This information is available to the public on request. This may be the only opportunity to comment on the environmental impacts of the proposal.

1. Prior to clearing or fill and grade beginning, both a large parcel storm water plan and a water quality control plan, as required by the City of Anacortes Storm Drainage Ordinance No. 2441, shall be prepared by the applicant, approved by the City Department of Public Works, and implemented. The water quality control plan shall address permanent and temporary best management practices to be incorporated in the project to control pollution of storm water runoff after/during construction and/or land clearing activities are completed. All required off-site storm water improvements shall be completed prior to site vegetation removal.
2. Native vegetation shall be used for landscaping of the detention pond.

This MDNS is issued under 197-11-350(1); the lead agency will not act on this proposal for 15 days from the date of publication. *Comments on the MDNS* must be submitted by **September 16, 2004** to Mr. Ian S. Munce, Director of Planning, P.O. Box 547, Anacortes, WA 98221, (360) 299-1942.

Additionally, anyone wishing to comment on these applications may do so at the above referenced date, place and time. Written comments on the *Land Use Permit* applications must be submitted by **Noon, Friday, September 17, 2004** to Mr. Ian S. Munce, Director of Planning, P.O. Box 547, Anacortes, WA



E-3



TO Planning Commission
FROM Land Use Permits
SUBJECT Final Development Plan – The Orchards
DATE March 16, 2005

Please find attached:

- * Conditions
 - * Applicant response to conditions
 - * March 16, 2004 Memorandum from the DRG
 - * Subdivision Guarantee
 - * Site plan
 - * Landscaping Plan
-



E-4

**DECISION TO ISSUE A PRELIMINARY DEVELOPMENT PLAN PERMIT
FOR THE Orchards
PLANNED UNIT DEVELOPMENT**

Based on the foregoing Findings of Fact and Conclusions of Law, the Anacortes Planning Director is hereby directed to issue a preliminary development plan permit for the Orchards PUD subject to the following conditions:



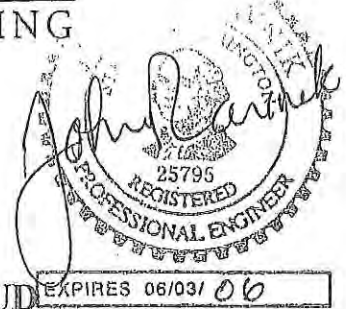
1. No more than 60 single family residences shall be built on the 30-acre project site as shown on Preliminary Site Plan Attachment F.
2. The project shall comply with the City of Anacortes construction standards as required by the City Director of Public Works for water, sewer, street access, and storm drainage.
3. 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 acceptance of a complete building permit application and may differ from those fee levels currently in effect; sewer and water latecomer charges may be payable.
4. Prior to clearing or fill and grade beginning, both a large parcel stormwater plan and a water quality control plan, as spelled out in the City's Storm Drainage Ordinance # 2441, shall be prepared by the applicant, approved by the City Department of Public Works, and implemented. The water quality control plan shall address permanent best management practices to be incorporated in the project to control pollution of stormwater runoff after construction and/or land clearing activities are completed. All off-site stormwater improvements shall be made before construction or vegetation removal begins.
5. A temporary erosion and sedimentation control plan shall be approved by the City of Anacortes Public Works Department, constructed, and maintained throughout construction.
6. Dust control techniques will be employed as required by the City Engineer; such measures would include watering haul roads and/or restricting the amount of excavation until conditions are more favorable and shall be detailed in the final development plan along with a construction access plan.
7. The final development plan design shall be based on actual field surveys and not on existing topographical maps.
8. Within a maximum of three years following the approval of the preliminary development plan, the applicant shall file with the Planning Commission a final development plan containing in a final detailed form the information required in part e. (1) of Section 16.40 of the City of Anacortes Municipal Code. At its discretion and for good cause, the Planning Commission may extend for one year the period for filing of the final development plan. Draft project covenants shall be submitted with the final

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING

F-2

10.1 ACRES

PRELIMINARY DEVELOPMENT SUMMARY
for
LEMBERG-McMAKIN 20-LOT RESIDENTIAL PUD



4-2-05 *

LEMAC ESTATES

INTRODUCTION:

The information provided herein accompanies the preliminary PUD application submitted for residential development of the subject property, and conceptually identifies the level of improvement for the various roads and utilities required. Accompanying this preliminary development summary is a map titled Developed Conditions Summary, which identifies the property's existing conditions as surveyed and a preliminary layout of the proposed single-family residential lots, roadways, and utilities therein. Listed below is a summary description of the property's existing conditions and the extent of improvements that are conceptually proposed.

EXISTING PROPERTY CONDITIONS

Property Size & Location:

The subject property contains 10.1 acres; with its north property line located approximately 658 feet south of 41st Street and its west property line approximately 670 feet east from Heart Lake Road. The property is square in shape, measuring approximately 669 feet east-west by 667 feet north south. Proposed access to this property will be provided within a 60-foot wide public right-of-way to be dedicated to the City of Anacortes from the Anacortes School District. This proposed, offsite, right of way area encompasses 0.9 acres, extending approximately 658 feet south from the south side of 41st Street. Residential development of the subject property herein will include roadway and utility improvements within this proposed, offsite, right-of-way.

Property Terrain, Elevation, & Coverage:

Within the area being residentially developed, the highest ground elevation is approximately 306, located within the southwesterly quarter of the subject property. From this knoll, there are gradual to moderate slopes downhill to the south, west, north, and east. All of the subject property is higher than 41st Street, at approximate elevation 258. The northwesterly portion of the subject property extends up to elevation 316, and consists of a proposed open space area not being developed. As further described, there is a depressed swale having a circular path through most of this property. This swale, which contains delineated wetlands, receives nearly all runoff waters from the property, and conveys them to the lowest point of the property, at elevation 272 in the southeast corner. As illustrated on the aerial photograph accompanying the PUD application, the property is moderately wooded comprising mostly alder and some fir trees.



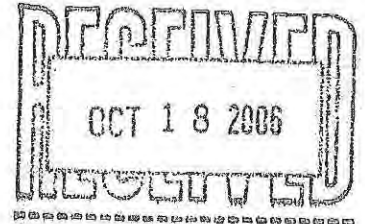
SCHEMMER ENGINEERING INC.

G-2

QUAIL RUN

10/17/2006

Don Measamer
Assistant Director of Planning & Community Development
City of Anacortes
904 6th Street
P.O. Box 547
Anacortes, WA 98221-0547



RE: Response to Initial Planning Commission Hearing 10.11.06.

Don:

The area of the project encompasses the entire out boundary inclusive of the east half of the abutting Right-of-Way of Heart Lake Road. When that area is calculated it yields a value of 615873.4ft² or 14.14 acres. In accordance with the City of Anacortes City code the any property zoned R-1 Residential Low Density is allowed tow (2) single family residences per gross acre:

17.38.070 Maximum density.

Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994)

The result yields a volume of 28 potential home sites within the property.

The property will essentially be divided into eight (8) specific categories:

	Approximate Area	
	ACRES	SQ.FT.
1. Right of Way		
Heart Lake Road-RW1	0.13	5791.10
Heart Lake Road-RW2	0.013	600.05
Quail Run Drive-Proposed RW3	2.54	110696.10
Sub Total	2.68	117087.25
2. Individual Lots		
Division I		
Lots 1-6	1.32	57481.1
Lots 7-8, 11-13	1.31	57234.8
Lots 9-10	0.53	22887.6
Lots 14-15	0.62	26991.4
Lots 16-24	1.35	58614.4
Division II		

June 22, 2016

From:

Ross O. Barnes, Ph.D.
1004 7th. St., #202
Anacortes, WA 98221
(360) 293-7023

To:

Anacortes Planning Commission,
Anacortes City Council,
Mayor Gere,
Kevin Cricchio,
Don Measamer
City of Anacortes
PO Box 547
Anacortes, WA 98221

RE: Allen/Haddon Road PUD (PUD-2016-1001), Part 2 -- Consistency and Equivalency Requirements, Flag Lots and Road Standards

This PUD proposes to create 13 lots and associated dwelling units on 5.28 gross acres located at the east end of Haddon Road. I have previously documented the legal deficiencies of this PUD with respect to permitted PUD densities in the R1 zone (letter of June 7, 2016, on the record). However, this proposed PUD has other variations from the fundamental consistency and equivalency requirements for PUDs that are not justified under PUD "flexibility" provisions of the PUD code. This letter will document some of these other violations which require that this PUD as proposed be denied.

Consistency and equivalency in a PUD

When a PUD proposes exceptions to zoning and subdivision standards, AMC 16.40.010 requires that the PUD maintain consistency with the "standards for the health, safety, and welfare of all citizens throughout the city" and provide equivalency to those standards.

16.40.010 - Introduction.

The purpose of the planning unit development (PUD) regulations is to maintain consistent standards for the health, safety, and welfare of all citizens throughout the city, while allowing flexibility in how those standards are met. While all citizens deserve equal access to services and public amenities, there are a variety of ways to provide that equivalency.

Where a PUD proponent requests exceptions to zoning and subdivision standards, the plan submittal shall show clearly what standards are proposed to be changed, and what alternate means are proposed to achieve equivalency. For example, a submittal might propose to eliminate the

sidewalk on one side of the street, while providing a trail through nearby public open space as an alternative for pedestrian circulation. The proposed alternatives would be considered when evaluating the proposal as a whole.

The consistency and equivalency "test" is the first statement found in the Chapter 16 specifications for PUDs and its primacy in position and in logic leaves no doubt that it is intended to be the most fundamental test for evaluating the adequacy of PUD proposals.

I. Lot flag is required to be 30' wide over full length, not 12'.

It is claimed there is code conflict and confusion between 30' and 20' specifications for lot frontage and 'flag' width of flag lots. In fact, there is no conflict or confusion when normal methods of grammatical interpretation and textual analysis are applied to the Anacortes codes. Applicable provisions of AMC Titles 16 and 17 are listed below.

AMC Title 17: Zoning.

17.06.490 - Lot types.

The diagram set-out in Section 17.67.020 illustrates terminology used in this title with reference to corner lots, interior lots, reversed frontage lot and through lots.

*E. "Flag lot" means a parcel of land, the body of which is separated from a public street by one or more lots, **connected to a public street by a narrow portion (flag) of the parcel with a width not less than the required street frontage.** Where a minimum street frontage is not required by this Code, the minimum width of the "flag" shall be not less than that required by the fire chief and or designee for fire apparatus access. (Ord. 2316 (part), 1994)*

17.06.475 - Lot frontage.

*The frontage of a lot shall be construed to be the portion of the **property line which abuts a street right-of-way.** For the purposes of determining yard requirements on corner lots and through lots, all property lines of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "Yards" in Sections 17.06.900 through 17.06.915. (Ord. 2316 (part), 1994)*

17.06.480 - Lot measurements, width.

Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot. The measurement shall be along a line at equal angles to the side lot lines. On irregularly shaped lots, the zoning administrator shall determine how to measure the width. (Ord. 2482 Att. A § 3 (part), 1999; Ord. 2316 (part), 1994)

17.38.110 - Street improvements. (R1)

Twenty feet of frontage or an easement to twenty feet of street frontage is required on an improved public street with a continuous access route not less than twenty feet wide from the street to the primary portion of the lot. If a private street is proposed, or the twenty feet

minimum access to the street frontage is by means of an easement, a conditional use permit is required. Where the zoning administrator approves development fronting on a street which is not improved to current city standards, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements in the future.

17.36.110 - Street improvements. (R2)

Twenty feet of frontage or an easement to twenty feet of street frontage is required on an improved public street with a continuous access route not less than twenty feet wide from the street to the primary portion of the lot. If a private street is proposed, or the twenty feet minimum access to the street frontage is by means of an easement, a conditional use permit is required. Where the zoning administrator approves development fronting on a street which is not improved to current city standards, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements in the future.

17.04.040 - Provisions of code declared to be minimum requirements and interpretation.

A. In their interpretation and application, the provisions of this title of the City of Anacortes Municipal Code shall be held to be **minimum requirements** adopted for the promotion of the public health, safety, or general welfare.

B. **Wherever the requirements of this title are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restriction or covenants, that imposing the higher standards, shall govern.** Regulations, conditions or procedural requirements that are specific to an individual land use shall supersede regulations, conditions or procedural requirements of general application.

C. A land use includes the necessary structures and infrastructure to support the use unless specifically prohibited or the context clearly indicates otherwise.

D. In case of any ambiguity, difference of meaning, or implication between the text and any heading, caption, or illustration, the text and the permitted use tables shall control. **All applicable requirements shall govern a use whether or not they are cross-referenced in a text section or land use table.** (Ord. 2316 (part), 1994)

AMC Title 16: Subdivisions.

16.20.040 - Lots.

Each lot shall contain a building site **which conforms to zoning regulations and regulations contained herein:**

A. No single lot shall be divided by a city or county boundary line;

B. No single lot shall be divided by a public or private road right-of-way;

C. **Each lot shall abut a public or private road. Lot frontage on said roads shall not be less than thirty feet;**

- D. Corner lots shall be of sufficient area to provide acceptable visibility for traffic safety;
- E. No lot shall have an average depth greater than five times its average width;
- F. 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.

16.04.090 - Interpretation, conflict and separability.

A. Interpretation. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

1. Public Provisions. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law except as provided in these regulations. **Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, the provision which is more restrictive or imposes higher standards shall control.**

Normal grammatical interpretation and objective application of all of these code sections creates no ambiguity or irresolvable conflict whatsoever. Anacortes development code requires a minimum 30' lot frontage and a 30' minimum flag width for the full length of the flag (the most restrictive specification from AMC 16.20.040). And the code separately requires a minimum 20' width within a lot or easement for a fire code compliant access route to the primary portion of the lot. It is clear that the 20' and 30' specifications are addressing two different and separate issues because the 20' specification applies to lot access which may or may not have anything to do with the flag portion of a lot--the 20' access may be provided by easement across some other lot.

When the unambiguous interpretation of the code is applied to the Allen/Haddon Road PUD, it is clear that the 20' access width requirement is met thru appropriate easements (if the designated procedure is followed), but only Lot 9 of the flag lots meets the required 30' flag width. The flags on Lots 2,3,6,7 are only 12' wide and the flags on Lots 10,11,12 are also less than the 30' because the lot frontage is curved while the flag width requires a straight line measurement (AMC 17.06.480, see above).

The correct interpretation and application of the 30' & 20' codes is demonstrated nearby in a 4 lot short plat just south of the cemetery and just around the corner from the Haddon Road PUD. It contains 2 rear flag lots each with 30' flags adjacent to each other, and one access driveway through the double flag area that serves all four lots--the identical configuration to what should be in the Haddon Road PUD.

PUD "flexibility" does not apply here because there are no site specific limitations that prevent 30' flags on all flag lots. If the 3 illegal lots over the 10 lot maximum are removed (see my June 7 letter on the record), there is more than enough room to expand all remaining flags to the required 30' width.

II. Full City road standards are required on Haddon Road.

The questions and evidence about infiltration and the movement of ground waters in the area, as documented in my Part 3 letter of 6/22/16, require re-evaluation of the proposed road and storm drainage design along Haddon Road.

Also, AMC 16.40.010 says:

*The purpose of the planning unit development (PUD) regulations is to maintain **consistent standards for the health, safety, and welfare of all citizens throughout the city**, while **allowing flexibility** in how those standards are met. While **all citizens deserve equal access to services and public amenities**, there are a variety of ways to provide that **equivalency**.*

Nowhere in the Anacortes code does it say that Anacortes residents who live too close to the City boundary are to be denied equal access to the amenities and safety provided by the normal road design standards of the Anacortes development codes. Nowhere in the Skagit County codes does it say that roads or portions of roads cannot be built to standards greater than minimum county standards when justified. So the fact that the road ROW is part in the City and part in the County provides not excuse or restriction whatsoever to deny PUD residents the full benefit of normal City road standards.

To quote Mr. Allen, full city streets are built within 50' ROWs "all over the City of Anacortes". Haddon Road is a 60' ROW without topographic restrictions. Mr. Allen himself documented that development and access traffic from both sides of Haddon Road will be at urban density. There is no site restriction or justifiable reason a full City standard 32' wide street with sidewalk on the north side cannot be built entirely within the ROW, providing for parking on one side of the street and without encroaching the sidewalk onto the lot frontage--as required by AMC 17.38.070.

An example of the widespread and escalating 'slippage' of development standards in Anacortes--a tour of recent developments in Anacortes shows that there is total inconsistency in 1 or 2 sidewalks, with sidewalk on one side apparently becoming the "new standard" for subdivision in spite of the clear code regulations and no apparent obstructions or site restrictions to 2 sidewalks. So the applicant can claim some "precedent" here.

Under a previous City administration, Council, Commission and planning department, 5 blocks of offsite substandard streets on 17th St.--the principle offsite access to The Highlands subdivision from 'D' Ave.--were improved to City standards. This included 3 blocks with full 32' width, curbs, gutters and sidewalks on both sides from 'A' to 'D' Ave. West of 'A', topographic and long standing prior development restricted the road to 28' with one sidewalk--similar to the internal roads in the difficult terrain of The Highlands itself. There was some cost sharing with the City on the 'A' to 'D' blocks, but the moral here is the whole route was required to be upgraded to the maximum City standards feasible for the site.

Contrary to Mr. Lange's testimony, to my knowledge it has been many years since new subdivisions were permitted to build on local residential access "half streets" in

Anacortes. Recent testimony from Mr. Lange at several hearings indicates that City public works department has problems with implementing City road standards in a consistent and straightforward manner as required by the code. The department has had many years to suggest changes to the standards if they don't like them, but has never suggested such changes. Perhaps that is because they have gotten away with playing loose with the interpretation and application of those standards for many years so why bother changing them?

Due to issues about when and to whom my previous June 7 letter was made available for public inspection--with obsolete and inaccurate links still on the City website on June 22 after extensive complaints, and misleading exhibit numbers and titles--I am placing a second copy on the record on June 22.

Ross O. Barnes, PhD

A handwritten signature in cursive script that reads "Ross O. Barnes". The signature is written in dark ink and is positioned below the typed name.

June 22, 2016

From:

Ross O. Barnes, Ph.D.
1004 7th. St., #202
Anacortes, WA 98221
(360) 293-7023

To:

Anacortes Planning Commission,
Anacortes City Council,
Mayor Gere,
Kevin Cricchio,
Don Measamer
City of Anacortes
PO Box 547
Anacortes, WA 98221

RE: Allen/Haddon Road PUD (PUD-2016-1001), Part 3 -- geotechnical and hydrologic issues and problems

This PUD proposes to create 13 lots and associated dwelling units on 5.28 gross acres located at the east end of Haddon Road. This 3rd letter from me examines the conclusions of the many MTC reports concerning subsurface hydrology and infiltration at the PUD site.

Rapid soil infiltration???

MTC was asked to conduct an original geotechnical investigation to evaluate slope stability and water infiltration rates of the site soils. Typically the onsite investigation is informed by relevant geotechnical conditions in the surrounding area. However MTC, in spite of repeated requests from the City and GeoEngineers, (1) refused to properly evaluate the relevant ground water hydrology of the area and (2) misinterpreted the clear hydrology indicators in their 41' below ground surface (BGS) deep bore hole.

MTC noted static ground water elevations as shallow as 14' BGS in the area, but refused GeoEngineers' request to confront the implications of shallow ground waters in the Haddon/Spradley/Whistle Lake Roads "plateau". MTC also ignored other well known indicators of shallow ground water in the plateau. There are extensive wetlands in the southwest section of the plateau indicating seasonal ground water levels at or above ground surface. These wetlands feed Happy Valley Stream--a small seasonal stream that crosses Haddon Road just west of Whistle Lake Road and flows north through the middle of the Herrigstad property. Both the wetlands and the stream are above the 280' elevation (see topographic map in the Drayton Archaeology Report, Figure 1, on the record).

This stream flows across the same "rapid infiltration" Keystone soils that underlie the PUD site (see **Exhibit H** - soil survey map, soil #78 & 79). The small stream would

rapidly sink into its bed and disappear into the highly permeable soils if it was not supported above ground level by a water table at the elevation of the stream above 280'. Happy Valley Stream is recognized mapped and protected under the Anacortes critical areas ordinance--MTC obviously did not do their hydrological homework in spite of GeoEngineers request to do so and the City Planning Department ignored this failure.

MTC also misinterpreted the clear hydrology indicators in their 41' deep bore hole located on the northeast side of the current Haddon Road cul-de-sac at a ground elevation of about 281'. Orange mottles started appearing at 11.3' BGS at about 270' elevation and were extensively present from there down to the hole bottom at about 240' elevation. Orange mottling indicates periodic oxygenated/low oxygen fluctuations which would be impossible to produce from the rapid vertical infiltration rates over 10 to 40 feet as presumed by MTC. The orange mottling requires periodic soil saturation with oxygen depleted ground waters flowing generally horizontally through the bore hole site from sources to the west.

MTC also ignored the extensive delineated wetlands (with field flagging), seasonally saturated soils, seeps and seep ponds feeding perennial surface streams flowing through deep ditches dug to try to "dry out" the hillside on the property bordering the PUD on the south. This is the "headwaters" of Weaverling Rill, a designated and protected stream in Anacortes. It is on the southern extension of the same steep hillside found on the PUD site. These water saturation features start at about the same elevation as the bottom of the MTC bore hole, about 240' elevation, and would be fed from horizontally flowing ground waters at even higher elevation. These features could not be missed if MTC had done any significant reconnaissance beyond the PUD property lines.

These ground water hydrology indicators just south of the PUD property fully support the evidence cited above for seasonal ground saturation and horizontal ground water flow just below the elevation of the top of the steep slope on the PUD site (about 270' elevation).

MTC's many reports are (1) shockingly inadequate, (2) non-responsive to the requests from GeoEngineers, and (3) erroneous with respect to presumptions about ground water conditions at the site that are directly contradicted by the sum total of hydrological evidence from the site and the surrounding area, most of which was ignored or misinterpreted by MTC.

Large mounds of crystalline bedrock outcrop just south of the PUD and west along Haddon Road. Perhaps the engineers don't actually know what underground structures are controlling ground water flow and seepage points in this area and their flow and infiltration models are just a second layer of erroneous speculation piled onto erroneous presumptions about the unknown underground that ignore the hydrological evidence.

Ross O. Barnes
PHD, Earth Science



Attachment: **Exhibit H**



Base maps are orthophotographs prepared by the State of Washington, Department of Natural Resources from 1974 aerial photography. Coordinate end ticks and land division corners, if shown, are approximately positioned.

EXHIBIT #36:

JEANEEN BROGAN LETTER (RECEIVED
AT 6-22-16 HEARING)

304 Haddon Road
Anacortes, Wa. 98221
June 22, 2016

*Received June 22
@ PC Public Hearing*

Planning Commission,

My name is Jeaneen Brogan I live and own a home at 304 Haddon Road. My home was built in the early 1900's when Haddon Road was just a driveway. I am concerned because my property borders the Allen property. The west line of Mr. Allen's property is shared by the east line of my property. Mr. Allen said that "my house was placed to close to the road" but my house was built before the Road was here. So Haddon Road was built to close to my house. When I moved to Anacortes in 1975 I lived in the developed area of Island View. I moved to my house on Haddon road 1983 because it had some space for my children to play and area that we as a family could enjoy. Now it is zoned R1 and I want to continue to have space to enjoy around my house and in the neighborhood. I am apposed to this PUD and here are some of my concerns:

1. With the road and side walk planned for the north side of the road this brings some questions about my property that still are unanswered.
 - A. How will the rain drainage be diverted from my garage and basement, to prevent flooding. I see no plan for this in the Allen request.

- B. I want to still be able to park in front of my house and I do not want a swale or speed bump there to drive over each time I come home.
 - C. I will need to drive over the sidewalk to get into my garage and also have access to my Backyard. I have two driveway entrances.
 - D. Do we need to have a side walk at all? Most of the walking people are on Whistle Lake road and not this section Haddon Road.
 - E. If we need to have a side walk could we have the two foot area between the road and the side walk deleted. That would use a little less of my front yard . Could the sidewalk be 4 feet wide instead of 5 feet?
 - F. The plans I saw called the sidewalk a paved path. Could we have a side walk that would not crumble with time and driving over it.
2. Who would maintain the swale and walk way?
- 3 I would like the City to require that Mr. Allen leave a 20-30 foot buffer on the west side of his property for privacy of my property. Leaving the trees and other things.
4. I would also like to have a 5 foot solid wood fence built on the west side of his property again for my privacy.

5. With all of the changes to my front yard, the increased width of the road and side walk, the Increase of traffic the value of my house will decrease for resale.

I would recommend that only 4 or 5 houses be permitted to be build on this property, then they would fit into the rest of the neighborhood.

Jeaneen Brogan

Jeaneen Brogan
6/22/16

EXHIBIT #37:

VERNON LAURIDSEN LETTER
(RECEIVED AT 6-22-16 HEARING)

FURTHER PUBLIC COMMENT ON
REQUEST FOR PRELIMINARY PLAT
PLANNED UNIT DEVELOPMENT
AND CODE MODIFICATIONS
HADDON ROAD, PARCEL NO. P33048

*Received
June 22nd
@ PL Public
hearing*

PUD-2016-0001

I. SUMMARY

- The staff/applicant analysis violates the density provisions governing PUD development in the R1 zone.
- The staff/applicant analysis violates mandatory R2 Road Standards applicable to PUD development in the R1 zone.
- The staff/applicant analysis violates the 30' minimum frontage requirements for flag lots.
- The staff/applicant analysis violates mandatory conditional use permit requirements for the proposed "access easements."
- The staff/application analysis violates setback requirements that cannot be cured without violating other provisions of the AMC.
- The staff/application analysis violates average lot width to average lot length standards that cannot be cured without violating other provisions of the AMC.
- The staff/applicant analysis, to the extent it relies upon the exercise of the administrator's discretion in determining average lot length vs. average lot length, represents an abuse of that discretion.
- The staff/applicant analysis violates common open space requirements for Planned Unit Development.
- Use of Modifications and Exception to cure the violations would represent an illegal rezone of this property.

II. THE APPLICATION VIOLATES SPECIFIC CODE PROVISIONS REGARDING PUD DEVELOPMENT IN THE R1 ZONE.

A. THE APPLICATION VIOLATES THE DENSITY LIMITS FOR R1 ZONE AMC 17.38.070

The undersigned incorporates by reference the comments filed by Ross Barnes to include the communication from former councilman, Terry Christensen regarding the interpretation of AMC 17.38.070 and the legislative history as reflected in Ordinance 2794 and the City Council Minutes and Packet from 2008 presented by Patrick O'Hearn (see attached).

The City Council as the legislative body of the City, does not pass legislative provisions that are pointless, meaningless and without legal consequence. None of the provisions governing residential development in the various R4 zones, R3 zone, or R2 zone make any reference to Planned Unit Development. Chapter 17.44 and 16.40 are drafted to apply to all the residential zones. If we are to accept the staff/applicant analysis then there would be no reason to mention Planned Unit Developments in the provisions that govern R1 zone development. But in fact the legislature did include language governing Planned Unit Developments in the R1 zone. That language must be construed to be more restrictive. Otherwise it would be pointless and meaningless. Moreover, absent a more restrictive interpretation of 17.38.070, high density multifamily development would be allowed pursuant to AMC 17.44.030. The legislature did not intend to allow multifamily development given the history in the neighborhood, the legislative history and the public's view on appropriate development in the R1 zone.

Ordinance 2316 at section 17.38.070 provided for no maximum density in the R1 zone but 17.38.050 set minimum lot size at 15,000 sq. ft. In 2008 the City Council adopted Ordinance 2794 providing for a maximum density of 2 dwelling units per gross acre and added the following language:

"If a Planned Unit Development is applied for which requests a higher density in a portion of the R1 zone, the density of that portion shall not exceed four (4) units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements."

See the attached statement from Patrick O'Hearn regarding his review of the legislative record to Ordinance 2794 and Exhibit 43 (attached) which in pertinent part includes:

“If a Planned Unit development is applied for which requests a higher density in the-a portion the R1 zone the density of that portion shall not exceed 4 units per gross acre and all development standards of the R2 zone shall apply, including street and utility standards.”

Ross Barnes' comments are well taken. The standard density in the R1 zone- a zone designated “for those undeveloped or partially developed areas of the city which are somewhat removed from higher intensity uses and are lacking in public utilities”- is two units per gross acre. It is unfathomable, that the City Council would intend that, double the number of dwelling units could be placed in this rural area with no infrastructure. By limiting the higher density to the gross acreage of the portion of the land that is being developed, the Council brought PUD development in the R1 zone within reasonable limits.

The application violates AMC 17.30.070.

B. THE APPLICATION VIOLATES R2 ROAD STANDARDS AMC 16.32.010

AMC 17.38.070 specifically provides for the application of R2 development standards when considering a PUD application in the R1 zone. The applicant ignores the plain meaning of the Code.

“If a planned unit development is applied for which requests a higher density in a portion of the R1 zone, the density of that portion shall not exceed four units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements.”

The language of 17.38.070 is mandatory. That is, the code uses the word “shall.” The more specific language of governing the placement of a PUD in the R1 zone takes precedence over the general language governing PUDs. The goals of “flexibility, creativity and imaginative design” (see 17.44.010) simply do not apply in the R1 zone.

The AMC “mandates” by the use of the word “shall” R2 street standards. This provision was added by the 2008 legislation that allowed a PUD in the R1 zone. Plainly, given the history of development, and public comment, the legislature intended that PUDs in the R1 zone must satisfy minimum standards of the R2 zone *even if the development was a PUD*. There is no room for creativity or flexibility in the R1 zone with respect to street standards.

The legislature mandates a right of way at least 50’ wide, pavement width must be 32’ with curbs and gutters and sidewalks. Access to the development and access to the residents within the development must meet this standard. It is not for staff to create some accommodation in the face of the word “shall.” Planning staff, public works staff, or engineering staff should not be permitted to unilaterally make up something contrary to the plain meaning of the law adopted by the public legislative representatives.

The application violates the provision of AMC 17.38.070 and 16.32.010

C. THE APPLICATION VIOLATES R2 FRONTAGE REQUIREMENTS AMC 17.36.110 AND ACCESS BY AN EASEMENT REQUIRES A CONDITIONAL USE PERMIT

AMC Chapter 17.36 governs R2 development generally and PUD development in the R1 zone. See AMC 17.36.070. AMC 17.06.330 defines “lot frontage” as the “length of the property line(s) of a lot adjacent to the street right-of-way.” AMC 17.36.110 requires 20 feet of frontage or an easement to 20 feet of frontage on an improved public street. AMC 16.20.040C requires that lot frontage “shall not be less than thirty feet.” Internal conflicts within the AMC are governed by 16.04.090 which provides that “the provision which is more restrictive or imposes higher standards shall control.” Thus 30’ of frontage is required.

If access is by way of an easement then a CUP is required. The “flag lots” the applicant proposes do not each have 30 feet of frontage and to the extent frontage is provided by an easement, no CUP has been requested or obtained.

Flag lots are defined at 17.06.490E:

"Flag lot" means a parcel of land, the body of which is separated from a public street by one or more lots, connected to a public street by a narrow

portion (flag) of the parcel with a width not less than the required street frontage.....”

On the face of the proposed plat map lots 2,3,6 and 7 each have 12’ frontage on Haddon Road. The staff/applicant seek to create mutual easements on the “flags” of adjacent flag lots to provide 24’ of frontage, Then in an effort to satisfy the 30’ frontage (while ignoring the requirement that each lot must meet the minimum frontage requirement) the staff/applicant creates “Allen flags” (wedges) at the edge of the flags. This plainly does not constitute a “flag lot” with the necessary frontage. This is significant because if the “flags” of the flag lots were the necessary 30’ in width, lots 1,4,5 and 8 would not meet the necessary minimum lot size of 7500 sq. ft.

The above discussion renders the issue of access by easement moot. But for the sake of discussion, the applicant has failed to seek and receive a CUP for the proposed “access easements.”

“Any permitted and/or conditional uses allowed in the underlying zone may be incorporated into a planned unit development but any conditional use must receive its own conditional use permit.” AMC 17.44.040.

The staff/applicant proposal to just ignore the CUP provision and treat it as a modification is direct violation of the Code.

AMC 17.10.100 governing conditional use permits, requires a finding that the proposed 12’ wide flag lots with a combined easement for access is “not detrimental to the surrounding neighborhood” and eight (8) more specific requirements:

- “a. The conditional use is designed in a manner which is compatible with the character and appearance of the existing, or proposed, development in the vicinity of the subject property and is consistent with the purpose of the zone in which the subject property is located;
- b. The location, size and height of buildings, structures, walls and fences, and screening vegetation for the conditional use shall not hinder neighborhood circulation or discourage the permitted development or use of neighboring properties;
- c. The conditional use is designed in a manner that is compatible with the physical characteristics of the subject property;

- d. Requested modifications to standards are limited to those which will mitigate impacts in a manner equal to or greater than the standards of this title or will not be detrimental to the surrounding neighborhood;
- e. The conditional use is not in conflict with the health and safety of the community;
- f. The conditional use is such that pedestrian and vehicular traffic associated with the use will not be hazardous or conflict with existing and anticipated traffic in the neighborhood, and adequate pedestrian and vehicular connections to the arterials and adjacent areas as well as appropriate circulation within the project are provided consistent with city policies and standards for circulation patterns in the area;
- g. The conditional use will be supported by adequate public facilities or services and will not adversely affect public services to the surrounding area or conditions can be established to mitigate adverse impacts on such facilities; and
- h. The conditional use is in compliance with the comprehensive plan.”

The use of these substandard flag lots and easement is necessitated by the applicants wish to shoehorn 13 lots in this substandard development which is opposed by the neighbors precisely because the development is so detrimental to and incompatible with the rural R1 designation of this parcel.

D. THE APPLICATION VIOLATES THE SET BACK REQUIREMENTS AND WIDTH BY DEPTH LOT DEMINSION REQUIREMENTS

No lot shall have an average depth greater than five times its average width
AMC16.20.040.E

“Required front yard means an open space extending across the full width of the lot...AMC17.06.915

Required rear yard means an open space extending across the full width of the lot...AMC17.06.920

Width of a lot shall be considered the distance between straight lines connecting front and rear lot lines at **each side of the lot**. On irregularly shaped lots, the zoning administrator shall determine how to measure the width.
AMC17.06.480

The staff/applicant analysis does not consistently apply the code, Front and back are defined one way when apply average lot width vs. average lot depth restrictions and another way when applying the setback provisions. This a code violation.

On the flag lots, if the “front” is deemed to be the end of the “flag” for setback purposes then the lot has no “front” yard. And on the irregular lots to the east, the staff/applicant violates AMC16.20.040.E. It is the “average” width vs. the “average” depth that is being regulated not the overall width vs. depth. “Width of a lot shall be considered the distance between straight lines **connecting** the front and rear lot lines **at each side of the lot.**” AMC 17.06.480. On lot 9,10, and 11, if the back setback is measured at the east end of the lot as the staff/applicant contend, measuring the average width between property lines on each side of the lot as a ratio of the average distance from the front lot line to the back lot line, the ratio far exceeds the 5 to 1. And we cannot simply ignore this issue and substitute a condition on the application that setbacks be met sometime in the future. The proposal is like a puzzle. To satisfy the setbacks would undo the entire 13 lot proposal.

The administrator’s duty is to “enforce this title” AMC 17.08.010. The administrator does not have the authority to ignore the Code nor interpret the Code in irrational, illogical and inconsistent terms.

E. THE APPLICATION DOES NOT PROVIDE FOR REQUIRED PUD COMMON OPEN SPACES

The applicant seeks to satisfy the “common open space” requirement for a PUD by offering up the critical area slopes and residential yard for all 13 lots. This is unacceptable. Common open space is defined at AMC 16.40.102 as land not covered by buildings, parking structures and does not include land “totally unsuitable for building because of topographical features” which, of course, is precisely what the applicant proposes to dedicate. Further AMC 16.40.102D provides that a PUD must address the requirement for park land set forth in AMC 16.20.100B which mandates that a property owners association be created and common open space be deeded to the association for public use. The applicant does not explain how it has complied with these provisions. Suggesting that the

resident's yards and driveways represent park land available to all residents is absurd.

III. THE STAFF/APPLICANT HAVE NOT MET THE REQUIREMENTS FOR ONE LET ALONE EIGHT MODIFICATIONS

"Chapter 16.24 - MODIFICATIONS AND EXCEPTIONS

16.24.010 - Conditions for granting.

Modifications and exceptions to the requirements of the subdivision ordinance are to be granted by the city council only when the following conditions are met:

- A. 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.
- B. The modification or exception is necessary because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property.
- C. 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.

(Ord. 2315 § 1 (part), 1994)

The staff/applicant has been forced to recognize the unprecedented liberties being sought to secure approval of the proposed project and accordingly now asks the Planning Commission and City Council and City residents to ignore the Anacortes Municipal Code and grant a "Modification and Exception." But the staff/applicant fails to satisfy the requirements for such "Modification" both procedurally and substantively.

The staff/applicant seek an outright vacation of the Code and substitution of their own terms. This is the worst kind of spot zoning and flies in the face of rational development standards and should never be approved without strict adherence to applicable code provisions. The legislature recognized this eventuality at 16.40.040 governing "modifications and exceptions."

The staff/applicant must 1. Describe the location of the proposed modification or exception, and show on maps or diagrams the location and details of the application; 2. Describe the reasons for the modification, or exception and the subdivision ordinance provision for which the modification or exception is requested. The reasons for the modifications must address each of the terms of 16.24.010: 1) not a grant of special privilege, based upon special circumstances of the site; 2) not detrimental to the public welfare and 3) not adversely impact the properties or facilities in the vicinity of the proposed project. The staff/applicant fails to meet this burden.

Respectfully submitted

6/22/2016



Vernon Lauridsen

2219 32nd Street, Anacortes

Attachments:

Statement by Patrick O'Hearn

Record for City Council Packet with mark up of 2008 amendments sec. 17.38.070

DRG correspondence from February 2014.

On June 20, 2016 I, Patrick O'Hearn reviewed the City Council and Planning Commission records leading up to adoption of Ordinance 2794. I reviewed and extracted the following from Exhibit 43 which tracked changes in the proposed changes to AMC 17.38.030. Mr. Measamer gave permission for staff to copy the record. The attached is the copy I was given. The original language (the one without "the portion of" language) was from Richardson Zoning Code suggested changes for 2007. The handwritten portion adding the language " a portion of" , "of that portion" amended the original language- --As an aside, there is a yellow sticky on the cover page with no indication of who wrote it that says "This document is Cynthia's original submittal- it contains only Cynthia's comments (+ Ian's hand written input which has been copied in the #43 book". So, I assume the hand written is Ian Munce but cannot be sure. The handwritten insertions came from a doc called Zone Comparison Doc. The final redline and colored addition came from the Zone Comparison Doc Recommend 20080423.doc. The zoning ordinance was discussed in minutes beginning in May 2008 and was submitted to the State for review and public comment in the summer. It was passed with 17.38.070 in the redline form in December 2008.

17.38.040 Conditional uses.

Conditional uses in an R1 district shall be as follows:

A. Home occupations, kennels and veterinary clinics, and landmark building with any approved use, generally not permitted within the area's land use classification, which occurs or will occur in a landmark building recognized as such by the City Council;

B. Bed-and-breakfast establishments;

C. Commercial parking;

D. Public parking;

E. Private parking.

(Ord. 2482 Att. A § 5 (part), 1999; Ord. 2316 (part), 1994)

17.38.050 Minimum lot size.

The minimum area for each use shall not be less than fifteen thousand square feet. (Ord. 2316 (part), 1994)

17.38.060 Minimum setback requirements.

A. Front, twenty feet from property line. If the street is officially designated arterial, thirty feet. Structures housing livestock shall be set back a minimum of fifty feet from nearest property line;

B. Rear, twenty feet;

C. Interior sides, ten feet;

D. Side yard on a flanking street, twenty feet from property line. If street is officially designated arterial, thirty feet. (Ord. 2316 (part), 1994)

17.38.070 Maximum density.

Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994) If a Planned Unit Development is applied for which requests a higher density in the a portion of the R1 zone, the density of that portion shall not exceed 4 units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements.

17.38.080 Maximum land coverage.

Maximum land coverage by buildings shall be thirty-five percent. (Ord. 2316 (part), 1994)

17.38.090 Maximum building height.

Maximum height of buildings is to be thirty-five feet. (Ord. 2316 (part), 1994)

17.38.100 Off-street parking requirements.

There shall be at least two off-street parking spaces per dwelling unit. (Ord. 2316 (part), 1994)

17.38.110 Street improvements.

Twenty feet of frontage or an easement to twenty feet of street frontage is required on an improved public street with a continuous access route not less than 20 ft. wide from the street to the primary portion of the lot. If a private street is proposed, or the 20 ft. minimum access to the street frontage is by means of an easement, a conditional use permit is required. Where the zoning administrator approves development fronting on a street which is not improved to current City standards, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements in the future. —Thirty feet of frontage is required on an improved public street. If a private street is used, a conditional use permit is required. Where City ordinance permits development fronting on an unpaved City street, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements.

Zone Comparison Doc PC Recommend 20080423.doc



City of Anacortes Building Department
Development Review Group (DRG)
Application and Transmittal Form

Type of DRG meeting requested (check one):

☐ General information meeting

☐ Pre-application conference

Name: DAVID LEIVIK Phone: 360.588.1592

Address: 3711 W. 11th STREET ANACORTES Email: DAVE @
LEIVIK ENGINEERING.COM

Project: HADDON ROAD

Location of Project: HADDON ROAD

Brief Description of Project (size, scope, etc.): EXPLORING 20-UNIT P.U.D.

Submittal Requirements: 10 copies each of: ☒ Written narrative describing the proposal ☒ Site plan

When all of the required information has been received, City staff will schedule your DRG meeting date. Meetings are held every Tuesday at 1:30 p.m. located at our operations facility at 2201 37th Street. Applications must be turned in two (2) weeks prior to the meeting date. Due to the number of DRG meeting requests, discussion will generally be limited to 30 minutes per project. However, if you feel you may require additional time, please inform our office so we may adjust the schedule accordingly. Any further questions you can call 293-1901.

*****FOR OFFICE USE ONLY*****

THE MEETING HAS BEEN SCHEDULED FOR (DATE/TIME): 2/18/14 1:30

APPLICANT NOTIFIED BY (INITIALS/DATE): RL

Distribute with Attachments to:

Don Measamer, Building

Ryan Larsen, Planning

Eric Shjarbeck, Engineering

Steve Lange, Engineering

Jack Kennedy, Fire

Sandi Andersen, Operations

Gary Robinson, Parks

Capt. John Small, Police

Chair, Historic Preservation Board

Steve Oakley, Anacortes Museum

RETURN COPY TO THE BUILDING DEPARTMENT AFTER COMPLETED

904 6th Street, Anacortes, Washington 98221

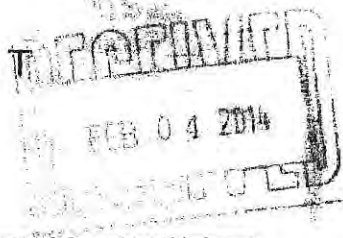
Phone: 360-293-1901

LERVIK ENGINEERING

CIVIL DESIGN AND DEVELOPMENT CONSULTING
PO Box 884 ANACORTES, WA 98221 P. 360.588.1592 F. 588.1593

HADDON ROAD DEVELOPMENT

PROJECT NARRATIVE



This application to the DRG is for the exploration of options and alternatives to develop a 5-acre tract of land at the eastern end of Haddon Road.

The current zoning is R-1 Low Density and would allow either 10 single family units (as a permitted use) or 20 units as a PUD. We are exploring the latter option.

The attached plan shows a preliminary layout with frontage improvements on Haddon Road and 2 private drives accessing the property. Because of the steep slopes, we propose constructing all buildings on the western half of the property. On the attached plan, two duplex units are shown on the slope to demonstrate the easternmost development location that, if possible, we would like to avoid. By avoiding construction on the lower reaches of the site, the remaining portion of the land could be placed into open-space reserves.

Sanitary sewer would connect to the adjacent View Ridge condos immediately north of the site, while storm drainage would be managed using Low-Impact Development techniques. All other utilities are available on Haddon Road.

N.T.S.



Anacortes Planning, Community & Economic Development Dept.

Permit Center

P.O. Box 547, Anacortes, WA 98221-0547

Ryan Larsen, *Planning, Community and Economic Development Director*

Don Measamer, *Assistant Director, Building Official*

PH (360) 293-1901

FAX (360) 293-1938

February 27, 2014

David Lervik
3711 W. 11th St.
Anacortes, WA 98221

Re: Haddon Road PUD
PRE-2014-06

Dear Mr. Lervik,

A DRG meeting was held regarding the above-referenced preliminary proposal on February 25, 2014. The following comments are provided:

1. The property currently has a Comprehensive Plan and zoning designation R1 (Residential Low Density).
2. Based on the information that was provided, it appears that the project would require the following City land use development permit reviews/approvals: Planned Unit Development (PUD); possible preliminary plat (if division of land is proposed); SEPA review. Submittal checklists, application forms and fees can be found on the Planning Dept. website: www.cityofanacortes.org/Planning/forms.
3. Prior to formal application, an informal neighborhood meeting should be sponsored and held by the applicant to introduce the project to neighbors. City staff can assist in scheduling of a location and distribution of notifications, and can attend the meeting to answer permit processing questions.
4. It appears that the following supporting environmental information will be needed with the application: Traffic study consistent with Engineering Standards (check with Engineering Dept. on level.); Critical areas report(s) consistent with AMC 17.70 (wellands/FWHCA/geologic hazard areas); Preliminary drainage report; Preliminary grading plan; Tree preservation and landscape plan. Additional reports and/or plans may be determined to be needed upon provision of more detailed information. Possible archaeological resources survey if requested by DAHP.
5. Per 17.44.020, a PUD is permitted on any size parcel of land, whether or not it is part of a plat. Permitted uses within a PUD are listed in 17.44.030. Building considerations, including criteria for reduced standards, are outlined in Section 16.40.101. It is recommended that once proposed site and building layout are known, an additional preapplication conference be held per 16.40.040.

6. When reduced standards (building, street, etc.) are requested, it is the applicant's responsibility to clearly show in the application what standards are proposed to be changed, and what alternate means are proposed to achieve equivalency.
7. The formal application will need to include a project narrative that includes but is not limited to a description of the proposal and discussion of the items in 16.40.060(A)(1)(a-c), availability of public services (16.40.020), building considerations (16.40.101), common open space (16.40.102), proposed streets/access, provisions for resident and guest parking, responsibility and maintenance provisions for common areas, and the project's relationship to and compatibility with adjacent uses, including proposed treatment of the perimeter.
8. In the R1 zone, the maximum density of 4 dwelling units per gross acre can be achieved through implementation of the R2 development standards, including street and utility improvements. Per 16.40.101(E), common walls are permitted only for condominium projects that have no more units in a single structure than are permitted through the conditional use process applicable in the underlying zone or for multifamily units that are permitted uses in the underlying zone.
9. Traffic, parks, fire impact fees and general facilities charges will be due prior to building permit issuance.
10. Solid waste/recycle pick up needs will be determined based on review of a more detailed project site layout.
11. All utilities shall be located underground.
12. Please see attached comments from Don Measamer, Assistant PCED Director / Building Official and Steven Lange, Public Works Project Manager.

Please note that these comments are preliminary in nature and are based on the zoning provisions outlined in the Anacortes Municipal Code (AMC) and other city standards as of the date of this letter. The applicant does not vest to existing codes as a result of the pre-application process and will be subject to the current AMC and other provisions in effect at the time at complete formal application.

If you have any questions please contact Libby Grage at (360) 299-1986 or by e-mail at libbyb@cityofanacortes.org.

Sincerely,


Libby Grage
Senior Planner

cc: Don Measamer, Assistant Director/Building Official
Steven Lange, PW
Eric Shjarback, PW
Jack Kennedy, Fire
Sandi Andersen, Operations



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: February 26, 2014

To: Libby Grage

From: Steven Lange

Subject: Proposed P.U.D on Parcel P33048 on Haddon Road, east of Whistle Lake Road

cc: Don Measamer, Eric Shjarback, Fred Buckenmeyer, Ryan Larsen

The Engineering Department has reviewed the submitted documents for the proposed Planned Unit Development for the February 25, 2014 Development Review Committee and makes the following comments and or recommendations:

It is understood that this meeting was general in nature and may required a pre-application meeting before moving the proposed project forward when more information is available.

Proposed Subdivision:

- Contact the City of Anacortes Planning Department regarding the submittal requirements and procedures for the Planned Unit Development (AMC Chapter 16.40).

Critical Areas:

- Contact the Planning Department regarding Critical Areas requirements.

Permits:

- Department of Natural Resources for any potential logging activities that may leave the site.
- Construction Storm Water Discharge Permit (DOE) for any land disturbing activities of 1-acre or more.
- Right-of-Way Permit for work being performed Inside and Outside the Traveled Way.
- Contact the City of Anacortes Planning Department for additional permitting requirements.
- Contact Shane Whitney of the Skagit County Public Works Department for potential County permits for any work performed across the City/County line. His contact information is 360.336.9400.



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• Transportation • Equipment • Capital Projects • Development Services



Anacortes Planning & Community Development Dept.

Permit Center

P.O. Box 547, Anacortes, WA 98221-0547

PH (360) 293-1901

Ryan Larsen, Planning, Community and Economic Development Director FAX (360) 293-1938

Don Measamer, Assistant Director, Building Official

Memo

To: Libby Grage, Senior Planner, CED
From: Don Measamer, Assistant Director, CED
Date: February 10, 2014
Subject: Lervik Proposed 20 Unit PUD Haddon Rd.

The following comments are a result of a review for the proposed 20 unit PUD located on Haddon Road.

1. The access roadway would need to meet minimum fire apparatus access requirements.
2. Development requirements for the abutting streets and all utilities will need to meet the requirements of the R2 Use Zone. AMC Section 17.38.070
3. Sidewalks should be extended from the existing Cul de sac to Whistle Lake Road with an accessible curb ramp at Whistle Lake Rd.
4. The Use Zone is R1, AMC Section 17.38.070 allows for a density of four units per gross acre when the R2 development standards are met. Gross acreage will need to be verified and shown on the drawings.
5. A critical areas report will need to be provided discussing the site characteristics, such as possible wetlands, bald eagle habitat, slopes and drainage concerns.
6. The project should be designed to employ LID standards where possible.
7. The Cul de sac at the end of Haddon Road needs to be improved to city standards to meet adequate turnaround provisions.
8. Three quarter street improvements and utility extensions will need to be completed per Public Works dept approval.

Thank you

City of Anacortes Development Standards:

- The Development Standards can be found on-line at www.cityofanacortes.org. If the Engineer of Record needs any COA Standard Details in AutoCAD format, they can email me at stevel@cityofanacortes.org and request a CD. This CD will be mailed to a provided address.
- It is requested that the Designated Representative for the project schedule a meeting with the Public Works Engineering Department to go over the Required Submittal Checklist. See *attached*. This checklist will be modified for the project.

Sewer:

- For additional Sewer information and design criteria, see the 2011 EDS Standards, Chapter 5 – Sanitary Sewer.
- The proposed subdivision can be serviced via an existing 8-inch conveyance system to the north in the Stittwood Phase III subdivision. Access is via a Non-Exclusive Easement (AF#851033). *A copy of the easement was emailed to the Engineer of Record on Wednesday, February 26, 2014.*
- The Waste Water Treatment Supervisor has already determined that the Stittwood Pump Station has the capacity to include this subdivision. For more information regarding this, please contact John Franz at 360.299.0953.

Storm:

- For additional Storm information and design criteria, see the 2011 EDS Standards, Chapter 4 – Storm Drainage.
- It is understood that this project is proposing to use Low Impact Development as a method of conveying storm runoff. No methods have been identified. More to follow.
- The proposed subdivision can be serviced via an existing 10-inch conveyance system to the north in the Stittwood Phase III subdivision. Access is via a Non-Exclusive Easement (AF#851033). *A copy of the easement was emailed to the Engineer of Record on Wednesday, February 26, 2014.*
- There are no existing storm facilities in Haddon Road or Whistle Lake Road. Any storm water runoff will need to use Low Impact Development methods to convey the water. Perk testing will be required to determine infiltration rates of the soils.
- The proposed project is required to provide Water Quality (Water Quality Report).
- The proposed project will need to perform downstream analysis to determine if the existing system has the capacity for this proposed subdivision.
- The proposed project is required to provide a Large Parcel Storm Water Plan (AMC 13.36). See *attached*.
- The proposed project will need to provide an Erosion Control Plan.

Water:

- For additional Water information and design criteria, see the 2011 EDS Standards, Chapter 6 – Water.
- Project is currently serviced from a low pressure 8-inch Ductile Iron pipe.



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- Contact the City of Anacortes Water Crew Supervisor, Terry Temeth at 360.293.1921 regarding the upgrade to the water system in order to feed this proposed subdivision.
- The location of the 8-inch waterline that extends to the RV Park is unknown. Previous owners to this parcel claim that it was installed on this piece of property. It was been discussed at this meeting that this proposed project should dedicate a minimum of 10-foot easement for the waterline.
- The project will be required to provide a Fire Flow Analysis at a hydrant within the proposed subdivision, as well as an existing hydrant at the Fidalgo Bay RV Resort.

Fire Coverage:

- Fire Hydrants shall be installed and placed in areas so as to provide Fire coverage for all properties/residential homes within the subdivision.
- The final number of hydrants and their locations shall be approved by the City of Anacortes Fire Marshall and Fire Chief.

Street: (External – Haddon Road)

- Per AMC 16.32, the Residential Access Right-of-Way Width is 50-feet.
- The proposed project will need to dedicate approximately 5-feet for Right-of-Way.
- The proposed project will need to construct a full sized Cul-de-Sac, to City of Anacortes Standards, at the end of Haddon Road.
- Option 1: Improvements (Per Anacortes Municipal Code)

- Section 16.32, Residential Access requires a 32-foot road, curb, gutter and sidewalk with parking on both sides. The improvements would be required on the north side of Haddon Road only.
- The improvements would extend to Whistle Lake Road and Haddon Road. Including ADA accessibility.

- Option 2: Improvements

This option will need the approval of the City Council. There is a consensus among staff to keep this area Rural in feel and provide for a Low Impact Design. The following was discussed at the meeting:

- Utilize the existing road way.
- Provide a 6-foot wide paved asphalt or cement concrete Pedestrian Facility to the Southeast corner of Whistle Lake Road and Haddon Road. Including ADA accessibility.
- Provide a grass lined swale to direct the storm runoff from the roadway.



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Street: (Internal – Proposed Subdivision)

- Per AMC 16.32, the Residential Access Right-of-Way Width is 50-feet.
- Shall be considered Public Streets and designed accordingly.
- Option 1: Improvements (Per Anacortes Municipal Code)
 - Section 16.32, Residential Access requires a 32-foot road, curb, gutter and sidewalk with parking on both sides.
- Option 2: Improvements

This option will need the approval of the City Council. There is a consensus among staff to keep this area Rural in feel and provide for a Low Impact Design. The following was discussed at the meeting:

 - 24-foot wide paved asphalt road with rolled curb and 5-foot sidewalk on one side.
 - 2-way traffic will be necessary.

Garbage:

- The City of Anacortes is moving towards Automated Garbage Pickup.
- Contact Matt Koegel at 360.293.1921 regarding pickup locations or for any proposed Dumpster locations and requirements.

Traffic:

- The proposed project will be required to provide a Level II Traffic Impact Analysis. The requirements can be found in the 2011 EDS Standards, Chapter 3 – Streets, Section STR- 30 – Traffic Impact Analysis Guidelines.
- Pedestrian facilities are required.
- Street Lighting will be required, both internal and external of the project.
- Signage to meet the MUTCD Standard.
 - ST-4 Installation, per WSDOT Standard Plans.
 - Street Name signage requirements see Chapter 3 – Streets, Section STR - 24 Signs.

Utility Companies:

- *Attached are direct contacts for each Utility Company for the Applicants use.*

Fees:

- Engineering and Development Service Fees can be found in Chapter 15.24.010 – Engineering and Development Service Fees of the Anacortes Municipal Code. Or also in the 2011 EDS Standards, Chapter 1 – Generals, Section GEN – 16. *See attached.*
- Contact the Planning Department regarding additional fees that are applicable to the proposed project.

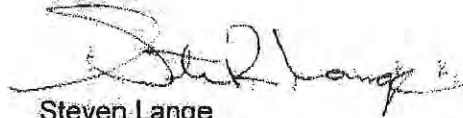


- Water • Wastewater • Streets • Storm Drainage • Engineering • Solid Waste
- Transportation • Equipment • Capital Projects • Development Services

Staff Present:

- Libby Grage -- Planning Department
- Don Measamer -- Planning/Building Department
- Jack Kennedy -- Fire Department
- Bill Larsen -- Street Department
- Terry Nemeth -- Water Department
- Sandi Andersen -- Operations
- Jim Baldwin -- Public Works Engineering
- Steven Lange -- Public Works Engineering.

Thanks,

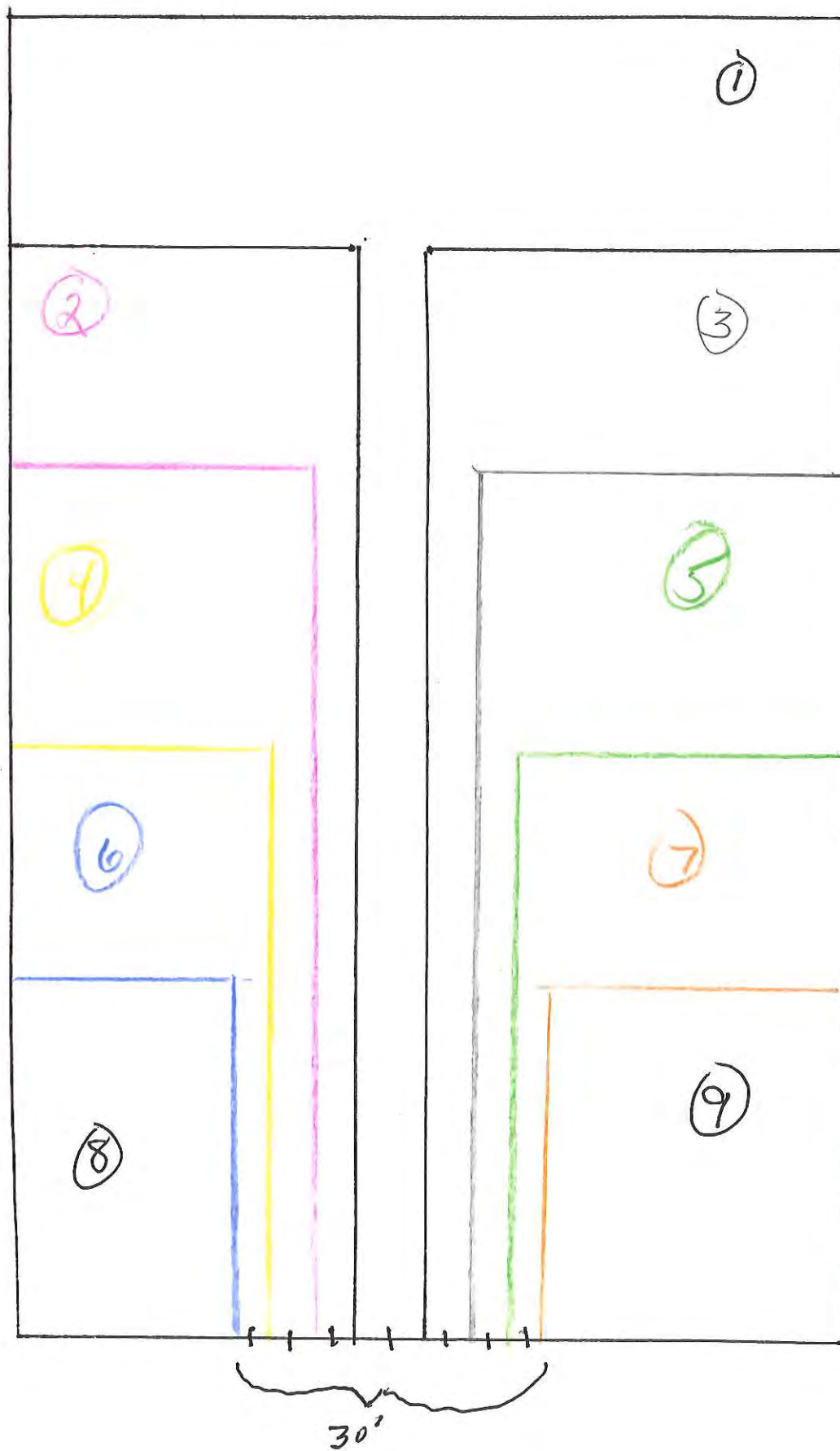


Steven Lange
Project Manager



• Water • Wastewater • Streets • Storm Drainage • Engineering • Solid Waste
• Transportation • Equipment • Capital Projects • Development Services

Vernon
Lauridsen
Received June 22
@PC Public Hearing



Vernon
Lauridsen
Reviewed June 22
@ PC Public Hearing

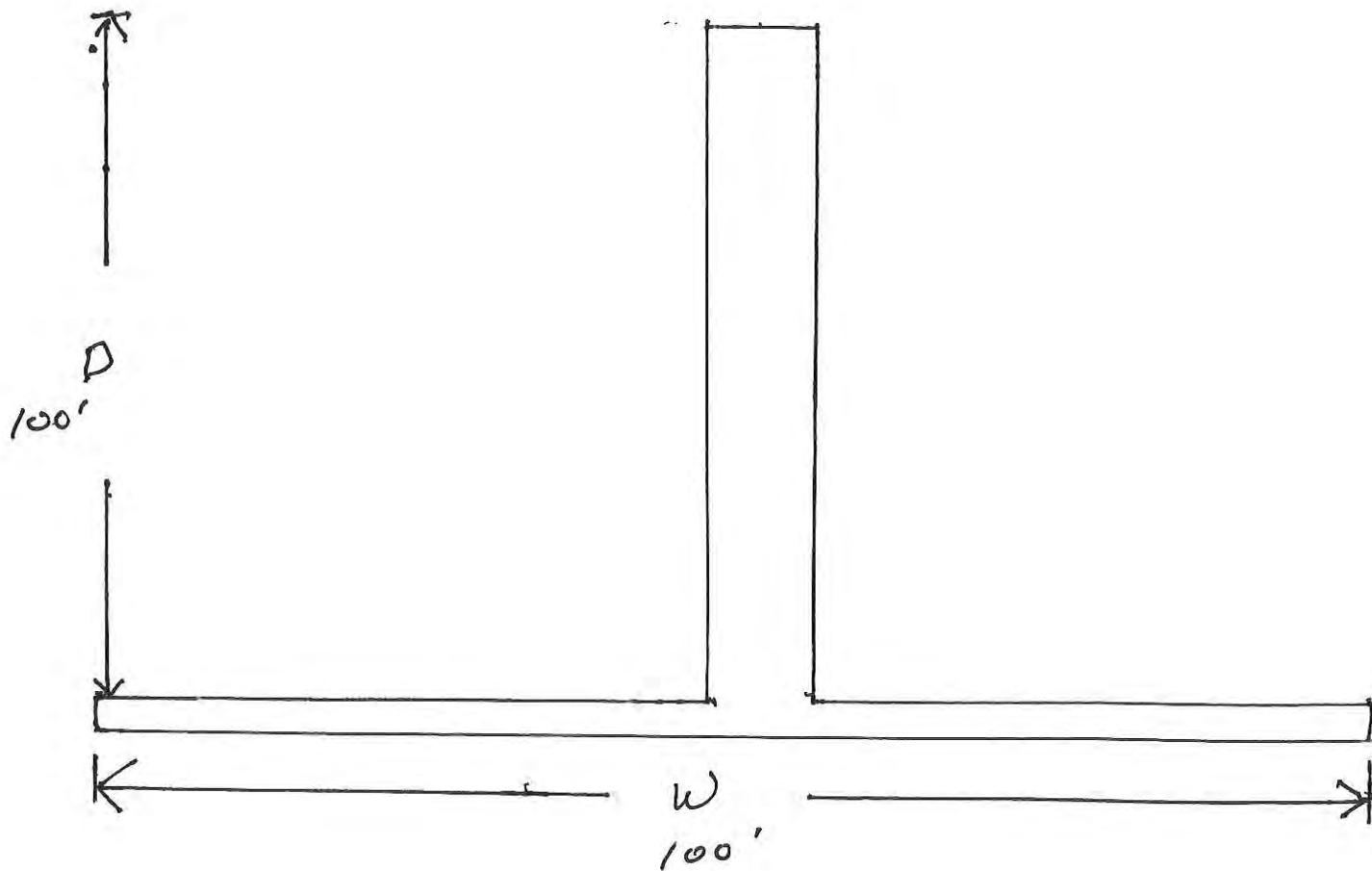


EXHIBIT #38:

REBECCA BEAN LETTER & HANDOUT
(RECEIVED AT 6-22-16 HEARING)

*Received June
22 @ PC public hearing*

June 22, 2016

From: Rebecca Bean
4315 Whistle Lake Road
Anacortes, WA 98221

To: Anacortes Planning Commission
City of Anacortes
P.O. Box 547
Anacortes, WA 98221

RE: Haddon Road P.U.D. Application (P.U.D.-2016-0001)

My name is Rebecca Bean. My husband and I have lived at 4315 Whistle Lk. Rd. for 33 years. The subject property borders ours along the east side for 36.5 feet, a distance Mr. Allan has suggested is insignificant. That is a view we do not share.

When we bought our property in 1983 the area was very rural with few houses in the neighborhood. The zoning at that time was "RM", residential medium density. Then in the late 80's we learned about the apartment complex that was set to be built on the property adjoining ours to the east. (It is now condominiums.) To our dismay, it was a done deal. Then in 1991 we were notified of the "Whistle Creek" P.U.D. proposal, 15 duplexes on 3.6 acres. The property is situated directly across from the city water reservoir and adjacent to the cemetery. The neighborhood saw this as an outrageous proposal, coalesced and worked to get the plan modified to better fit the area. There are now four homes on that 3.6 acre piece. Also in 1991 the city received two annexation requests for properties along Haddon Rd. Again the neighborhood was right there urging the city council to deny these requests, which they did. Clearly the residents of this area wanted to preserve the low density, semi-rural nature found here. The city council agreed and shortly thereafter changed the zoning to R1. To quote then council member, Helen Smith, "I favor preserving the character of this area. It should be excluded from the growth management boundary."

Over the last months I have spent hours walking the neighborhood talking to people, distributing information and maps, and yes, those pesky yard signs. And on the subject of those yard signs, Mr. Allen would have you believe those signs represent an attempt to stop any development and also ignores his rights. Nothing could be farther from the truth. The "NO HADDON RD PUD" signs communicate people's opposition to what they believe is a bad plan and symbolize their willingness to take a stand and

speak out against something they believe is wrong. At the neighborhood meeting with the Allens we made it clear that a sub division with a density consistent with R1 zoning would be acceptable to us but that was flatly rejected. So I am proud of those signs. I think it is a perfect example of exercising our right as American citizens to have a voice and it is to be admired. And I am also proud of the unity that has developed in our extended neighborhood. People have developed a solidarity in their opposition. They support one another and are taking the time to attend these meetings and finding the courage to get up and speak. It is absolutely clear to me, as I am sure it is to you, that no one who lives in this area or uses this area to recreate wants to see this P.U.D. allowed. It is just plain wrong.

As to Mr. Allen's veiled insinuation that the neighborhood is old and derelict and in need of renewal, or to use his wording, "re-development".....well I am not the only one who found that insulting.

Starting at the meeting June 8th and continuing tonight you are hearing a great deal of intelligent, impassioned, thoughtful and, I believe, convincing testimony in opposition to this development proposal. There are so many serious concerns about this plan; density, traffic, changes to Haddon Rd., ground water management, down slope and wetlands impacts, and tree removal, just to name a few. I am not going to reiterate further. I am going to focus the remainder of my comments on what I believe this P.U.D. proposal is and is not about.

I do not believe it is about meeting a housing shortage need and it is certainly not about providing affordable housing. It is not about preserving open space nor is it about protecting wetland or wildlife corridors. And when you look at the site plan you can see it is clearly not about saving trees.

I believe that what this proposed development is about is money. It is about profit. It is about the developers squeezing every possible nickle of profit out of this piece of property without any serious regard for the negative impact on the quality of life of people who live in the neighborhood. It is about greed.

I have read most of the Anacortes Municipal Codes, the zoning ordinances, the Comprehensive plan and more municipal documents that I ever imagined existed. (I know you have too.) In all those documents there is no mandate requiring us to guarantee maximum profits to developers.

So I am urging you to recommend to the City Council that they disapprove this P.U.D. application. Development of the subject property should be limited to the 4 or 5 houses that could be built on the usable portion of this property and are allowable in the R1 Zone. Anything more would be wrong.



EXHIBIT #39:

PATRICIA YOUNG LETTER
(RECEIVED AT 6-22-16 HEARING)

Received June 22
@ PC public hearing

Re: **PUD-2016-0001** (Haddon Road)

In the November 2015 edition of **Fidalgo Living** Councilman Matt Miller's family was featured. They live on Haddon Road. His wife, Heather Miller, is quoted as saying:

When we went house hunting we wanted to feel like we lived in the Northwest. We were so lucky to find the perfect place on an acre, surrounded by other houses on an acre and bordering a ten-acre piece of a wooded mountain. We feel like we are in the country with horses in pastures across the street and the woods in front of us but we are a mile from the center of town – a perfect combination.

Miller has succinctly expressed the pleasure the inhabitants of this R1 zone find in their pastoral setting. Haddon Road is not the dead end road that Allen Family Investments would have you believe. Although only 20 feet wide and lacking curbs and sidewalks, Haddon has significant numbers of pedestrians, joggers, runners, bicyclists, dog walkers and horseback riders. They enjoy the safety of this quiet rural road. Whistle Lake Road, which intersects Haddon, is roughly 20 to 22 feet wide and also lacks curbs and sidewalks. Off road bikers frequently use this road to access the Forest Lands. Residents and visitors alike cherish the Haddon Road neighborhood for what it does **not** have: traffic problems, accidents and noise associated with higher density areas.

Currently Haddon Road is under siege by the Allen Family Investment's proposed Planned Unit Development or PUD. Despite the many sub- dividable lots ready for infill and listed acreage available in R2 and R3 zones, they would have us believe that it is a good thing to cram 13 houses on **2.2 buildable acres**. Why? You have to ask: How much profit is enough profit for these people? They paid \$420,000 in 2014. An eight house development would work out to \$52,500 per lot, significantly below the \$100,000 per lot in town and would be appropriate for the constraints of this acreage. More to the point, respecting and building to the code would not require all of the modification, flags, and sleight of hand they are using to try to intimidate the residents, staff, and the commission.

Will traffic significantly increase? Gibson Traffic Consultants performed a Traffic Impact Analysis for the subject 13 lot PUD. According to this report the subject

development is anticipated to generate **124** new daily trips with 9 new AM Peak hour trips and 13 new PM peak-hour trips. This extra traffic will be impacted by existing school bus traffic and vice versa. According to the bus officials at Anacortes School District, buses currently travel to the Whistle Lake /Haddon Road/O Avenue 6 times a day. The buses do 11 pickups in the morning and 12 drop offs in the afternoon. Children stand in the dark in December and January waiting for their buses. According to the Institute of Transportation Engineers (ITE) Trip Generation, 9th Edition (2012): "50 percent of the traffic will travel to and from the north on Whistle Lake Road and 50 percent to and from the west on Haddon." I do not think the little trail proposed as a solution to pedestrian traffic will remedy this terribly unsafe situation!

No matter how hard you try there is no coherent argument in favor of corrupting established zoning regulations in a rural area. Diverse residential areas should be supported and maintained in Anacortes.

The "purpose" of land use regulation is to: protect the general public health, safety, and welfare; encourage the most appropriate and compatible uses of land; provide efficient and safe traffic flow and sufficient parking spaces for all users; provide adequate light, air, access and privacy; provide for safety from fire and other dangers; allocation of sufficient land for all uses within the community; conserve the city's natural resources and attractions.

https://www.municode.com/library/wa/anacortes/codes/code_of_ordinances?nodeId=TIT17ZO_CH17.04GEPR_17.04.020TIPU

Zoning Regulations should be upheld as they are a home owner's **only** defense against builders who do not care about the irreversible, negative impact of their power quest. After all, the Allens will not be the ones living in their Haddon Road PUD. They stand to profit at the expense of others - in this case, the residents of Haddon Road, an R1 Zone.

Please reject the application by Allen Family Investments: PUD -2016-0001.

Respectfully,

Patricia Young 2219 32nd Street Anacortes

Received
June 22
@ PC public hearing

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https://www.municode.com/library/wa/anacortes/codes/code_of_ordinances?nodelId=TIT17ZO_CH17.04GEPR_17.04.020TIPU

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Please reject the application by Allen Family Investments: PUD -2016-0001.

Respectfully,

Patricia Young

2219 32nd Street Anacortes

EXHIBIT #40:

CAROL O'HEARN LETTER
(RECEIVED AT 6-22-16 HEARING)

Received June 22
@PC ~~File~~ Public Hearing

I'm Carol O'Hearn. I live at 11039 Post Dr. Anacortes

The buzzwords now for these 13 houses set cheek to jowl are to maintain the "rural flair" of the neighborhood according to the engineer Revnik. Before that the buzzwords were to maintain the rural character or the rural aspect or the rural nature of the neighborhood. Each time heavy on the "rural."

Yet the developer would come in and destroy the very ruralness and the neighborhood along with it.

Pave paradise to put in a parking lot attitude.

Totally clear cut the top two acres. No tree buffers for surrounding homes and neighbors. 60 per cent of this development---60 per cent---is impervious surface. Pretty much like a parking lot. You don't know what you've got until it's gone.

The Developer does not create the lots. The city creates the lots. If the lots are substandard or potentially hazardous...remember the city created them.

It takes an event of life-altering consequences to change procedures and strengthen precautions.

Oso landslide was one of those events. The city should take a cue from that event in relation to areas being developed here. Such as this one just above an hazardous slope.

The developer does not create the lots, the city creates the lots.

So far several slides have occurred onto the Guemes Trail since the land above it was cleared for a PUD. That land above the Guemes Trail is like the land of this subdivision. Both are geologically the same. This subdivision also includes wetlands and a hazardous slope.

At a city council meeting which approved the subdivision above the Guemes Trail, Mr. Measamer was asked about those slides. He confirmed there were slides and called them quote "minor." Unquote. How is minor defined? There are pictures in the Anacortes American of the trail being blocked by the minor slides. Will there be minor slides onto Stittwood or Highway 20? How is minor defined? No loss of life? No one walking along the trail was swept off onto the beach? No car was swept off and buried in Fidalgo Bay in April 1994.

Would the city call the large rock slide one and a half miles east of Anacortes along Highway 20 a minor one? That one is less than a quarter mile from the toe of this subdivision. The slide dropped 2000 cubic yards of huge boulders and debris on the highway. No one was injured and no cars were swept off the road because luckily no cars were on the road at 4:45 that morning. The Department of Transportation closed the highway for weeks. DOT classified it as a major slide. DOT scaled back the rockface with the chain link netting you see as you drive in or out of town.

Also as you drive along Highway 20 and look to the south side in the draw downhill from this subdivision, you see pistol-butted trees on the slope adjacent to the highway. Pistol butting, according to the Developer's arborist, is caused by ground movement down slope. Pistol butting extends up the hazardous slope. But all trees, even pistol butted trees, soak up moisture and water. The trees work together as a unit to prevent slides.

Mr. Revniks statement is false. The developer's geotech study on the wetlands and water on the hazardous slope has never been done during the wet season. It was done in September 2014 during the brown down and before the rainy season. A second drilling was done in May 2015, again out of the wet season. They did nothing in the wet season ever. Mr. Revnik contention that exploration was done during the wettest season on record is not borne out by the MTC's own logs.

Two rainy seasons later, this past one the wettest on record, and no rainy season study was asked for by the city. We've been waiting for someone in the city to step up and say a study during a wet season is necessary for this subdivision. So far no one has done that.

The developer does not create the lots. The city creates the lots.

According to the Skagit County Natural Hazards Mitigation Plan, quote "Areas that have experienced landslides in the past, tend to be most susceptible to future landslides, especially during periods of wet weather. As with other hazards, people need to become familiar with their surroundings. Slopes where debris flows have occurred in the past are likely to experience them in the future." Unquote.

At the May 23rd council Meeting Councilman Miller spoke of Anacortes Emergency Preparedness Operations for quote "the big earthquake. It's not if, it's when it comes," he said, adding that it would leave Fidaglo Island isolated for a time. The city should look now to protect its citizens and look at areas of landslides and rock slides. When the earthquakes, generally the rocks slide.

Lucky owner of lot 13 will own, pay taxes on and be responsible for all the wetlands east of the houses down to the edge of the property. That is 2.44 acres and includes a portion of the critical slope area and wet lands just above highway 20 and abutting Stittwood. That is almost 50 percent---50 percent---half of the entire development. But wait...there's more...lot 13 owner can use only 15 percent of his property, but pays taxes on all of it.

The developer tried to give the hazardous slope and wetlands to the city. The city would not take it. Is it because of hazardous slope liability? The planning department says this hazardous slope has been adequately addressed. However on page 28 of the draft findings of fact, conclusions of law and recommendations, item K requires quote : A legally enforceable agreement, which shall be recorded as a covenant noted on the face of the plat and deed, and executed in a form satisfactory to the City of Anacortes acknowledging that the site is located in a geologically hazard area; the risks associated with development of such site; and a waiver and release of any and all claims of the owner(s), their directors, employees, successors or assigns against the City of Anacortes for any loss, damage or injury, whether direct or indirect, arising out of issuance of development permits for this proposal (MDNS Condition #11) unquote.

If there is no problem, why is the planning department trying to indemnify the city for allowing this development? If there is no problem, should not the city be willing to take responsibility for its actions?

Speaking of lots, why did developer go from 9 lots, which were turned down by the city because the plan illegally subdivided the wetlands, to 13 lots? At the December 2015 neighborhood meeting at the library in front of nearly 30 people, including Mr. Measamer and Mr. Lange, developer Brian Allen explained: quote "The number of lots finances the fight. We've got to blow and go. We've got to make decisions and go." Unquote.

Developers "fight" as he put it, is with the city, because developer illegally subdivided the wetlands. We simply required the city to comply with its codes.

At the same meeting Mr. Measamer also addressed a question about work done on the civil side. He said that we, meaning the citizens, quote "would see 99 percent of everything." Unquote. So that supposedly leaves 1 percent of this project that would be adjusted on the civil side between city staff and developer and developer's engineer out of the public view.

Yet reviewing the Draft Findings of Fact, Conclusions of Law and Recommendation shows how much is yet to be completed and decided on the civil side. How far does that one percent grow? It also shows how really incomplete this application is. We are looking at many major and important questions that have been pushed down the road, so to speak, after all public input is over. One example: all of the drainage infrastructure for the vastly increased cul de sac.

A question repeatedly asked by the neighbors is: Did the developer inherit this property and now is trying to do something with it? No, Developers bought this land. This was a bad business decision with its hazardous slope and wetlands. Yet developer wants everyone else, citizens and taxpayers to pay for it. There is nothing in the city codes that ensures a developer makes a profit.

The developer does not create the lots. The city creates the lots.

I hope the commission is sure this subdivision is not creating problems, because if problems are created, it was the city that created them, regardless of the fact the city wants to disavow any responsibility through item K, which I mentioned. If the city is so sure this is a safe subdivision, then remove the waiver that takes away any responsibility for future damages caused by this subdivision. Remember the city created these lots.

Remember: what the city decides tonight creates these lots.

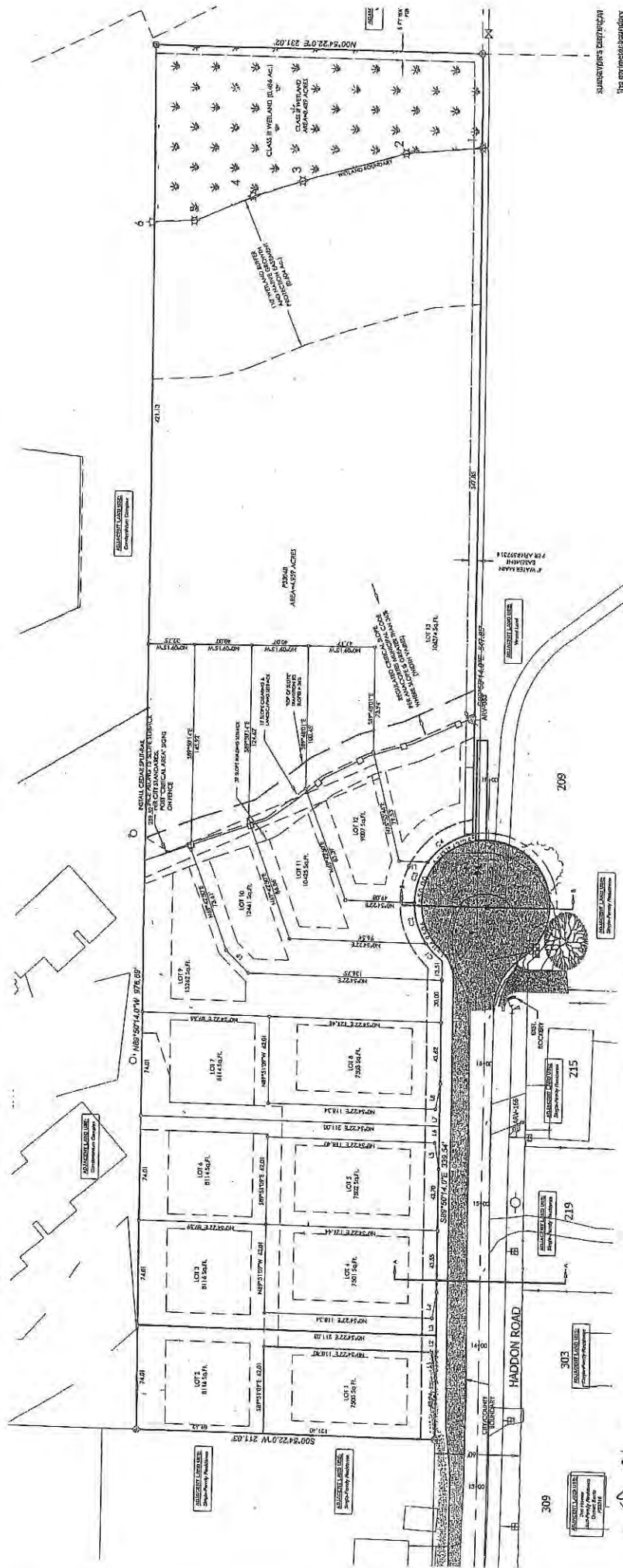
Here is a copy of my comments and exhibits. Please enter them as part of the record.

Carol O'Hearn
Received June 22
@PC Publr Hearing

Planning Department (MDNS Condition #9).

- J. Prior to final plat & PUD submittal or approval, public road improvements shall be in place as required by the Public Works Department for both the City of Anacortes and Skagit County (MDNS Condition #10).
 - K. A legally enforceable agreement, which shall be recorded as a covenant and noted on the face of the plat and deed, and executed in a form satisfactory to the City of Anacortes' acknowledging that the site is located in a geologically hazard area; the risks associated with development of such site; and a waiver and release of any and all claims of the owner(s), their directors, employees, successors, or assigns against the City of Anacortes for any loss, damage or injury, whether direct or indirect, arising out of issuance of development permits for this proposal (MDNS Condition #11).
23. Development shall comply with the Public Works Department including but not limited to:
- A. A Large Parcel Storm Water Plan and Water Quality Control Plan consistent with City requirements shall be submitted by the applicant for review and approval by the Planning\Building and Public Works Departments prior to any construction activities taking place on or off-site.
 - B. Clearing activities may require a logging permit issued by the Department of Natural Resources prior to construction activities taking place on or off-site.
 - C. All Public Easements shall be not less than 20-feet in width as identified in the Anacortes Municipal Code Section 16.20.090 – Easements. Any future encroachments into the easements by the adjacent properties shall be required to apply for an encroachment agreement (AMC 12.30) from the City of Anacortes Public Works Department.
 - D. All public utility easements shall have vehicular access, including but not limited to: 1) A 12-foot minimum width access road (STR-12) with an approved all-weather surface asphalt road, or other approved Low Impact Development Best Management Practice design, 2) Meeting the minimum structural requirements (STR-15.2) for Access Road approved by the City of Anacortes.
 - E. Prior to any clearing\fill\grade work beginning, construction civil plans consistent with the City of Anacortes Engineering Development Standards, including but not limited to, Clearing and Grading Plan, Erosion Control Plan, Site utility\Infrastructure improvements Plan, Roadway Improvements Plan, Signage Plan, Street Lighting Plan and other plans and\or information required by the City Planning\Building and Public Works Departments shall be submitted for review and approval.
 - F. Street lighting is be required (AMC 16.20.060). Street lighting shall be LED and shall limit glare and\or emission of light downward to the street and front yard areas. Street lighting will be installed per PSE Schedule 53, Option "B". Lighting fixtures and design shall be approved by the Public Works Director. Shields may be necessary to reduce impacts to adjacent properties.

A PORTION OF THE SW 1/4 OF THE SE 1/4 OF SECTION 30, TOWNSHIP 35 NORTH, RANGE 2 EAST, W.M.



These plat boundaries
have been copied from the
original plat, 2007, and are
not to be used for any other
purpose.

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Local O'Hara
Public Hearing
@ 2:00 PM
Public Hearing

Thursday, April 14, 1994 - Page updated at 12:00 AM

E-mail article Print

Pacific Northwest

Highway 20 Rock-Slide Cleanup To Take Longer Than Expected

Seattle Times Staff: Seattle Times News Services

The highway near Anacortes that was closed by a huge rock slide Friday is going to stay closed longer than expected.

The state Department of Transportation says the section of Highway 20, 1 1/2 miles east of Anacortes, will not reopen until April 22, a week later than planned.

The delay was announced after engineers determined the instability of the rocky hillside above the highway could not be cleared using explosives, according to a DOT spokesman. The job has to be done with bulldozers and heavy equipment, which takes longer, he said.

The DOT advised motorists to expect delays on the detour routes. The slide dropped 2,000 cubic yards of debris on the

highway.

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Before and After Work Doctor Appointments

FIND AN APPOINTMENT TO FIT YOUR SCHEDULE

pacific medical centers

Saturday, April 9, 1994 - Page updated at 12:00 AM

[E-mail article](#) [Print](#)

Rock Slide Closes Highway 20 Near Anacortes

A ROCK SLIDE THREE MILES EAST OF ANACORTES CLOSED BOTH LANES OF HIGHWAY 20 EARLY YESTERDAY. BECAUSE SMALLER SLIDES EARLIER IN THE NIGHT PROMPTED THE DEPARTMENT OF TRANSPORTATION TO CLOSE THE HIGHWAY, NO CARS WERE ON THE ROAD WHEN THE MAJOR SLIDE HAPPENED AT 4:45 A.M. THE ROADWAY WILL BE CLOSED FOR TWO OR THREE DAYS WHILE CREWS REMOVE THE ROCKS AND A GEOLOGICAL SURVEY IS TAKEN TO DETERMINE THE STABILITY OF THE HILLSIDE.

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LAND MOVEMENT

DEFINITIONS:

Landslide – ground movement that may include rock falls, deep failure of slopes, and shallow debris flows.

Debris Flow/Mudflow – fast-moving landslides composed of a slurry mixture of water, mud, and rock that may accumulate trees, cars, and even houses as they travel downhill and are particularly dangerous to life and property because they move quickly and often strike without warning. Very large debris flows or mudflows are associated with volcanic eruptions.

BACKGROUND INFORMATION:

Landslides occur in every state and U.S. territory. The Appalachian Mountains, the Rocky Mountains and the Pacific Coastal Ranges and some parts of Alaska and Hawaii have severe landslide problems. Any area composed of very weak or fractured materials resting on a steep slope can and will likely experience landslides.



Although the physical cause of many landslides cannot be removed, geologic investigations, good engineering practices, and effective enforcement of land-use management regulations can reduce landslide hazards.

USGS scientists continue to produce landslide susceptibility maps for many areas in the United States. In every state, USGS scientists monitor stream flow, noting changes in sediment load carried by rivers and streams that may result from landslides. Hydrologists with expertise in debris flows and mudflows are studying these hazards in volcanic regions.

The force of gravity acting on a steep slope is the primary reason for a landslide. However, there are other contributing factors that may include but are not limited to:

- Erosion by rivers, glaciers, or ocean waves that undercut steep slopes.
- Weakening of rock and soil slopes through saturation by heavy rains or snowmelt.
- Ground movement due to earthquakes.
- Ground failure due to excessive weight from the accumulation of rain or snow; stockpiling of rock, ore, or waste piles; or large man-made structures.



Deep-seated landslides are found along the slopes of the shoreline, often referred to as ancient landslides, which may become active in particularly wet conditions. These large landslides range in size from less than an acre to several acres and may extend over a mile of shoreline.



Shallow landslides with debris avalanches are the most common type, typically occurring during prolonged periods of heavy rainfall and involve a relatively thin layer of extremely dangerous wet soil and vegetation that can travel quickly with destructive force.



Mid-slope benches can be hazardous slide areas. These relatively level benches on an otherwise steep slope may indicate past slope movement.



Shoreline or steep inland areas are periodically struck with very large, rapid landslides. These large slumps or slides can cut 50 or more feet into the upland and involve tens of thousands of tons of earth.

Slope material that becomes super-saturated with water may develop into a debris flow or mud flow as it moves downhill. These flows generally occur during periods of intense rainfall or rapid snowmelt. Debris flows usually start on steep hillsides as shallow landslides that liquefy and accelerate to speeds that are typically about 10 miles per hour but can exceed 35 miles per hour. The consistency of debris flows ranges from watery mud to thick, rocky mud that can carry large items such as boulders, trees, and cars.

These flows continue flowing down hills and through channels, growing in volume with the addition of water, sand, mud, boulders, trees, and other materials. When these flows reach canyon mouths or flatter ground, the debris spreads over a broad area, sometimes accumulating in thick deposits that can damage developed areas.



Among the most destructive types of debris flows are those that accompany volcanic eruptions. The picture at left is of a house located along the North Fork of the Toutle River that was damaged from an extremely large debris flow (called a lahar) resulting from the 1980 eruption of Mount Saint Helens. This debris flow traveled about 14 miles down the valley destroying roads, bridges, and approximately 200 homes. The depth of the debris flow can be noted by the light gray coloration on the trees.

HISTORY:

Skagit County's somewhat steep terrain, high precipitation, and its abundance of unconsolidated glacial sediments, and the possibility of earthquakes all combine to make the county susceptible to land movement.

While small slides and debris flows occur on a somewhat regular basis, there have been several slides and/or debris flows that have resulted in loss of life and/or property damage.

Recent Land Movement Events in Skagit County (Information obtained from Skagit County Department of Emergency Management files)		
Date	Location	Description of Event
May 18, 1965	Lower Baker Dam Powerhouse – near Town of Concrete	A large landslide that occurred just east of the Town of Concrete that partially buried the Lower Baker Powerhouse owned and operated by Puget Sound Energy. This slide was so large that the powerhouse was abandoned and a new powerhouse was constructed approximately 200 feet east of the original powerhouse.
January 24, 1982	Various locations throughout Skagit County	Excessive rainfall caused six (6) mudslides in various areas of Skagit County including: Del Mar Drive on Fidalgo Island; along the South Skagit Highway; Burpee Hill near Concrete; Cascade River Road; Concrete-Sauk Valley Road; State Route 530 south of Rockport.
January 10, 1983	Near Cruse Road north of Sedro-Woolley	A very large debris flow occurred killing one person and 300 veal calves; a large barn and a mobile home were completely destroyed.
November 2, 1985	Cascade River Park	A large debris flow occurred on the North side of the Cascade River within the Cascade River Park development killing two persons and destroying two mobile homes.
November, 1990	Biz Point area – Fidalgo Island	Heavy rains caused excessive runoff from storm water drainage systems and bank erosion in the Biz Point area
November 10, 1990	Grandy Creek	Heavy rains caused severe flooding throughout Skagit County and numerous mudslides occurred in the Grandy Creek area causing the Grandy Creek Campground to be evacuated.
November 25, 1990	Burpee Hill – north of Concrete	Numerous mudslides occurred in various areas on Burpee Hill causing property damage and damage to two homes; damage to a portion of Burpee Hill Road; and damage to Puget Sound Energy's facility.
January 18, 1990	Burpee Hill – north of Concrete	Additional mudslides occurred in various areas on Burpee Hill.
February 10, 1990	Mill Addition – Town of Concrete	A mudslide occurred on a steep slope above the Mill Addition Plat within the Town of Concrete that potentially threatened seven families.
December 28, 1990	Salmon Beach – Gibraltar Road	A slump of a mid-slope bench area near the shoreline of Similk Bay cause damage to several homes and resulted in the temporary evacuation of a total of 28 homes; two homes were severely damaged and officially posted as uninhabitable by the Skagit County Building Official.

(this table is continued on the following page)

Recent Land Movement Events in Skagit County - continued (Information obtained from Skagit County Department of Emergency Management files)		
Date	Location	Description of Event
July 10, 1991	Big Lake	A debris flow caused by a beaver dam break damaged a portion of West Big Lake Boulevard and a Washington State Fishing Access and boat launch and blocking access to two homes.
May 5, 1994	Highway 20 east of Anacortes	A large rock slide occurred just east of the City of Anacortes blocking traffic for several days.
May 3, 1995	Big Lake	A debris flow caused by a beaver dam break damaged a portion of West Big Lake Boulevard and a Washington State Fishing Access and boat launch and blocking access to two homes.
February 8, 1996	Turner Ranch – 5502 East Sauk Prairie Road	A debris flow damaged a barn and adjacent feed shed and killed 1 bull, 20 cows, and 30 calves.
January 10, 1997	Lonestar Property - East Concrete	Area residents are concerned that the hill above their homes will slide – occupants of 15 homes in the immediate area were advised to leave. Several residents claim that a slide occurred at this same location in the late 1950's or early 1960's and destroyed three or four homes.
February 8, 1997	Lonestar Property - East Concrete (same as above)	A small slide occurred knocking a garage from its foundation.
October 16, 1997	Jura Way – Similk Bay	A small slide occurred affecting one home.
December 13 -14, 2001	Frank's Place – Town of Concrete	A slide occurred affecting three homes.
February 22, 2002	Cascade River Park	A mud slide occurred along East Cascade Drive washing out a portion of road and requiring the evacuation of six cabins.
March 20, 2002	North Beach Area Samish Island	A slide occurred blocking access to three homes.
January 14, 2003	Hill Ditch and Johnson Road area	A debris flow caused by a beaver dam break damaged a portion of the Hill Ditch Levee and blocked access to three homes
February 22, 2003	Colony Creek	A large debris flow caused by a beaver dam break damaged a portion of Wood Road and also damaged the access an utilities serving two residences, and a footbridge. This same debris flow also damaged a private well, pond, and fish ladder along Deer Trails Lane further upstream on Colony Creek.

In addition to the above-referenced land movement events, one additional land movement event of significant size occurred in Skagit County during the past that we were unable to obtain specific information on. This event involved a large landslide that occurred east of Marblemount on the south side of the Cascade River in the isolated recreational community of Cascade River Park. This slide occurred in the late 1960's and destroyed several recreational cabins and covered a large number of vacant lots with debris; we were unable to determine if persons were injured or killed as a result of this slide. The slide was serious enough that a large portion of the development was permanently abandoned.

A few areas within Skagit County are known for occurrence of almost regular small-scale land movement events during the rainy winter months. One of these areas is located on the north slope of Day Creek Hill along the South Skagit Highway. In almost all cases, these slides are triggered by heavy rain events.

HAZARD IDENTIFICATION:

Some landslides move slowly and cause damage gradually, whereas others move so rapidly that they can destroy property and take lives suddenly and unexpectedly. Debris flows, sometimes referred to as mudslides, mudflows, lahars, or debris avalanches, are common types of fast-moving landslides. These flows generally occur during periods of intense rainfall or rapid snowmelt. They usually start on steep hillsides as shallow landslides that liquefy and accelerate to speeds that are typically about 10 mph, but can exceed 35 mph. The consistency of debris flows ranges from watery mud to thick, rocky mud that can carry large items such as boulders, trees, and cars. Debris flows from many different sources can combine in channels where their destructive power may be greatly increased. They continue flowing down hills and through channels, growing in volume with the addition of water, sand, mud, boulders, trees, and other materials. When the flows reach canyon mouths or flatter ground, the debris spreads over a broad area, sometimes accumulating in thick deposits that can wreak havoc in developed areas.

Areas that have experienced landslides in the past tend to be most susceptible to future landslides, especially during periods of wet weather. Because these areas consist of broken materials and frequently involve disruption of ground water flow, these dormant sites can be more vulnerable to slides caused by construction activities than adjacent, undisturbed soil.

As houses and roads are built on steeper slopes and mountainsides, landslide hazards become an increasingly serious threat to life and property. Increasing residential development along slopes such as Chuckanut Mountain and other similar hillsides throughout the county are at a greater risk to land movement than older developments located on hillsides with less slope. In addition, forest fires, clear-cutting of trees, and land clearing for housing developments may cause soils to become less stable thereby increasing the threat of slides and debris flows.

One or a combination of factors may precipitate a landslide. Undercutting of a slope by stream erosion or wave action, timber harvest or forest fire, or road building may cause landslides. Intense or prolonged rainfall, rapid snowmelt, freezing and thawing of soil, or sharp fluctuations in groundwater levels are all normal for Skagit County and may be the cause of a sudden landslide which may be combined with flooding. Shocks or vibrations caused by earthquakes, large explosion, or construction activity can also lead to landslides.

Land stability cannot be predicted with current technology. Due to population density and desire of people to have a home with a view, an increasing number of structures are built on top of or below slopes subject to land sliding. Landslides in these areas can take lives, destroy homes and businesses, undermine bridges, derail railroad cars, cover fish habitat and oyster beds, interrupt transportation infrastructure, and damage utilities.

The following list is a compilation of comments and suggestions made by various stakeholders and the public regarding possible problems that could result from a land movement event.

In addition to damaging homes, businesses, property, and the environment, a land movement event in Skagit County could potentially result in the following:

- Disrupted and/or damaged transportation routes and systems.
- Damage to underground as well as above-ground utilities.
- Secondary damage may occur due erosion caused by broken water transmission lines.
- Streams may be partially or completely blocked and/or diverted from their normal channels. A very large land movement event could possibly block river channels resulting in the formation of a lake upstream of the blockage and the threat of a sudden release of this trapped water upon failure of the material.

VULNERABILITY ASSESSMENT:

Homes, businesses, schools, hospitals, roads, bridges, and other infrastructure located on or near previous slide areas, steep slopes, or alluvial fans are most vulnerable to the impacts of landslides, debris flows, or mudflows. Property and lives may be lost and transportation routes as well as utility infrastructure may be damaged. A large landslide that affects creeks, rivers, or lakes may cause flooding.

Canyon bottoms, stream channels, and areas near the outlets of canyons or channels are particularly hazardous. Multiple debris flows that start high in canyons commonly funnel into channels; there, they merge, gain volume, and can travel long distances from their sources.

Debris flows commonly begin in swales on steep slopes making areas down-slope from swales particularly hazardous.

Road cuts and other altered or excavated areas of slopes are particularly susceptible to debris flows. Debris flows and other landslides onto roadways are common during heavy rain events and can occur during milder rain events than those needed for debris flows on natural slopes.

Areas where surface runoff is channeled (such as along roadways and below culverts) are common sites of debris flows and landslides to occur.

Due to its location at the base of steep slopes, certain portions of the Town of Concrete are especially vulnerable to landslides as is a portion of State Route 20, located just east of the town limits.

PROBABILITY and RISK:

Based on historical evidence, there is a **moderate probability** of a large, destructive landslide occurring in Skagit County. Because of the infrequency of landslide events occurring in

populated areas of Skagit County, there is a **low to moderate risk** associated with this hazard during the majority of the year **with the risk increasing to moderate during the rainy fall and winter months.**

CONCLUSION:

Washington is one of seven states listed by the Federal Emergency Management Agency as being especially vulnerable to severe land stability problems. Earthquakes combined with heavy precipitation may increase risk for those previously thought to be on stable ground.

With an increasing population desiring "view" property and tree removal to be able to "see the view" there is increasing risk of landslides in residential areas. Those buildings on or near steep slopes and bluffs could be at risk in seasons of heavy rains or a prolonged wet spell. The property located below these steep slopes and bluffs is particularly vulnerable.

The Shannon and Wilson study in Seattle found that 88% of the slides that occurred within the City of Seattle occurred within a potential slide area or along steep slopes. Furthermore, this study also found that only about 1% of the land area of the region is actually vulnerable to slides, 84% of the slides recorded had human-related causes; thus indicating the willingness of people to ignore signs of potential danger in order to possess the most desirable view property.

Landslide, mudflow and debris flow problems are often complicated by land mismanagement. By studying the effects of landslides in slide-prone regions, plans for the future can be made and the public may be educated to prevent development in vulnerable areas. Applying established ordinances where geological hazards have been identified will prevent some landslide losses. Careful maintenance of vegetation on slopes, prevention of erosion, and engineered drainage of slopes and mitigation using qualified expertise is necessary to protect these areas.

As with all other hazards, people need to become familiar with their surroundings. Slopes where debris flows have occurred in the past are likely to experience them in the future.

Buildings should be built away from steep slopes, streams, rivers, intermittent stream channels, and the mouths of mountain channels. Those persons who live in slide-prone areas need to be aware of storm-water drainage patterns on slopes near their homes and note places where runoff water converges. Residents of slide-prone areas should be aware of hillsides and watch for any signs of land movement such as very small landslides or debris flows or progressively tilting trees.

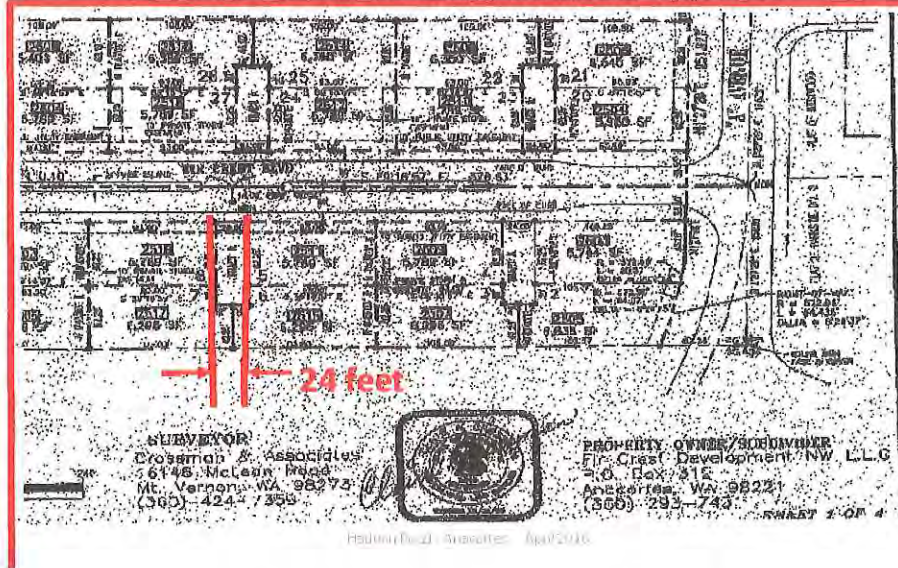
It is well known that many of the land movement problems that occur are related to storm water runoff and the effects this runoff has on adjacent and/or adjoining areas. Local government needs to better assess the possible water runoff and associated land movement problems associated with the creation of new residential and business developments. At some point, proper regulations will need to be put into place that will assure that storm water runoff created by new developments does not adversely impact areas downhill and/or downstream.

EXHIBIT #41:

**PATRICK O'HEARN'S LETTER (RECEIVED AT
6-22-16 HEARING) & PRESENTATION**

Patrick O'Hearn
Received June 22
@ PC public hearing

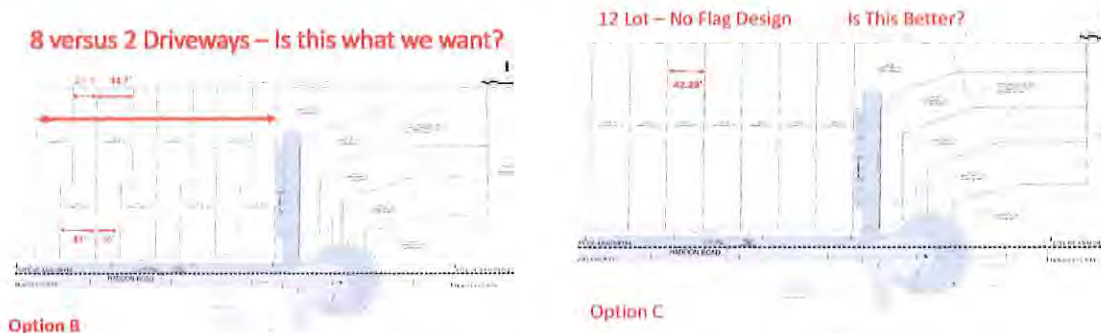
Fircrest PUD 2004 24 foot wide flag access typical



The above is a slide presented by Brian Allen at the Planning and Zoning Commission meeting on June 8. It purports to show that 24 foot wide **FLAG** access is typical. This slide draws a false conclusion. It is Fir Crest PUD, an R1 PUD created before 2008, hence the smaller than now legal lots. The important fact is there are NO flag lots in Fir Crest PUD. The above lots are not "flag" lots but rather standard rectangular lots, accessed from a common 24 ft wide driveway that is owned and maintained by the Fir Crest Property Owners Association. The individual lots do not own these driveways and they are not "flag" lots. This does not pertain to, and does not show Mr. Allen's contention that "shared flag" access is "typical". If Mr. Allen would like to follow the Fir Crest example, the Haddon PUD would need to create a homeowners association and deed these driveways to the homeowners association to be held and maintained in common. The problem with this approach is that Lots 2, 3, 6, and 7 depend on the flag square footage to achieve the required lot size of 7500 square feet. Without the substandard flags, the lots could not meet the R2 minimum lot size.

Mr. Allen continually represented that the developers are "flexible" and willing to proceed without the code modification to create substandard flag lots. The developers maintain that the subdivision could be created without said code modification. The Planning Commission should take them up on that representation and recommend denial of the code modification. The Planning Commission should also require all flag lots to have standard, legal width flags. It was represented that three driveways were designed so as not to create eight driveways onto Haddon Road. The Haddon Road neighbors can see no difference between eight driveways and three driveways. It does not have any effect on the number of vehicle trips generated by this proposed subdivision and, since Haddon Road is not a through street and terminates just east of where there would be eight driveways, there are no safety issues with the additional driveways. So, again, please take the applicants at their word and deny recommending the substandard flag lots. Mr. Allen went on to present two additional "could be" lot configurations.

Disregarding the fact that the only configuration under consideration is the 12 foot wide substandard flag plat, and that none of this addresses the excess density, lack of common open space, or other code violations, the below two presented configurations are not legal as well.



Both options B and C show alternatives without the substandard flags. Option B presents the required 30 foot flags, Option C is lots with no flag. Again, neither of these configurations are under consideration by the Planning Commission but, we would again urge the Planning Commission to recommend to deny the code modification. Disregarding that either of the above alternatives still do not have common open space and do not meet the requirements of the Anacortes municipal code, neither is legal under the requirement that R1 PUD's shall meet all R2 street requirements. City engineering standards require a 20 foot driveway and 30 feet between driveways as a standard. It is mathematically impossible to meet these standards. Eight driveways cannot be put onto Haddon Road without violating City R2 Standards. These options are a red herring designed to obscure the fact that, without the code modification to create substandard flag lots, this PUD cannot exist.

Mr. Allen cites Fir Crest and the Orchards as justification for the Haddon Road PUD. We wholeheartedly agree that they are CORRECT examples of allowable R1 PUD.

1. Both Fir Crest and the Orchards meet the 2 house per gross acre limitation
2. Both Fir Crest and the Orchards have Common Open space as required
3. Both Fir Crest and the Orchards have a Homeowners Association to be responsible for all common areas, NGPE's, and common driveways
4. Fir Crest lot sizes were created before the 2008 requirement that lots be 7500 sq ft, The Orchards has lots of 7500 sq ft or better
5. Fir Crest has **no** "flag" lots. The Orchards has 3 "flag" lots (out of 60 lots) which have standard width flags.
6. Fir Crest and the Orchards have City standard streets including curbs, gutters, storm drainage, and sidewalks.

The Haddon Road PUD, as submitted, would be a unprecedented change from required standards and would be a grant of special privilege that would weaken the zoning codes not only for Haddon Road, but for the rest of Anacortes. The Planning Commission should recommend that the Applicant be required to submit an application that meets the minimum requirements as shown in other R1 PUD's.

In December 2008 the code section pertaining to R1 PUD density was changed. Since then, there have been no R1 PUD's approved. The developer and city staff have chosen to interpret the density requirements of AMC 17.38.070 as allowing up to 4 houses per gross acre across the entire subdivision. There is no precedent or basis for that interpretation. Since this is the first application of 17.38.070 it is instructive to look at the legislative history and development of this section. While the wording of 17.38.070 is perhaps not the most artful, it is instructive to look at the legislative intent to determine the proper interpretation of the code. This portion of the code was modified in December 2008 and was the result of many meetings of the Planning Commission and the Anacortes City Council between 2006 and 2008. The changes to Title 17 Zoning were tracked in documents that were collectively known as Exhibit 43. These are contained in files that I, Patrick O'Hearn reviewed on 6/20/2016 at City Hall. City staff copied the following exhibits from various "Exhibit 43" documents. Exhibit 43 was the holding file for changes in Chapter 17 and presents a history of the changes in zoning code over the several years leading up to passage in final form in December 2008. In the version titled Richardson Zoning Code suggested changes for 2007 the language for 17.38.070 Maximum Density was suggested as follows *"If a Planned Unit Development is applied for which requests a higher density in the R1 zone, the density shall not exceed 4 units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements."* (Exhibit 1). Subsequent to that, in a version titled Zone Comparison Doc this language is altered in handwriting to read *"If a Planned Unit Development is applied for which requests a higher density in [a portion of] the R1 zone, the density [of that portion] shall not exceed 4 units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements.* (Exhibit 2). In a version titled Zone Comparison Doc PC Recommend 20080423.doc the language as recommended by the planning committee tracked the proposed changes to read *"17.38.080 Maximum Density. Density of the project applied for shall not exceed two dwelling units per gross acre If a Planned Unit Development is applied for which requests a higher density in the-a portion of the R1 zone, the density of that portion shall not exceed 4 units per gross acre and all development standards of the R2 zone shall apply, including street and utility improvements."* (Exhibit 3). This is the language that was passed and is the current code as of 2016.

Clearly, the Richardson draft, which is what the developer and the planning department hold to be the proper interpretation, was not acceptable to a majority of either the Planning Commission or the City Council. The modification language was added to the Richardson draft and passed into law with the modification. Were it the intent of the City Council to allow 4 units per gross acre with no overriding R1 restriction, simply passing the Richardson draft would have accomplished that and no further clarification would have been necessary. By adding and passing more restrictive language which restricts the 4 house per gross acre to the portion of the zone for which the higher density is requested Council clearly did not intend for a wholesale conversion of R1 into R2. Additionally, in the 2008 Summary Chapter 17 Proposed Regulation Amendments (Exhibit 4) in the 12/01/2008 City Council Packet and discussed in the minutes as Ryan Larsen's explanation of changes "Chapter 17.38 Residential District (R1) Clarified density requirement for PUD's under 070." It does not say changed density requirements for PUD's which would have been the effect of the Richardson draft, it says "clarified" density requirements. The language as passed should be read to preserve the overall density of 2 units per gross acre and allow no more than 4 units per acre in the denser portions of the R1 PUD.

Depth vs Width- The Developer wants to apply setbacks where they fit without regard to geometry, the Anacortes Municipal Code, or the English language. In their presentation they used the following graphic to try to justify setbacks and why the irregular lots to the east meet AMC code.

No lot shall have an average depth greater than five times its average width AMC16.20.040.E

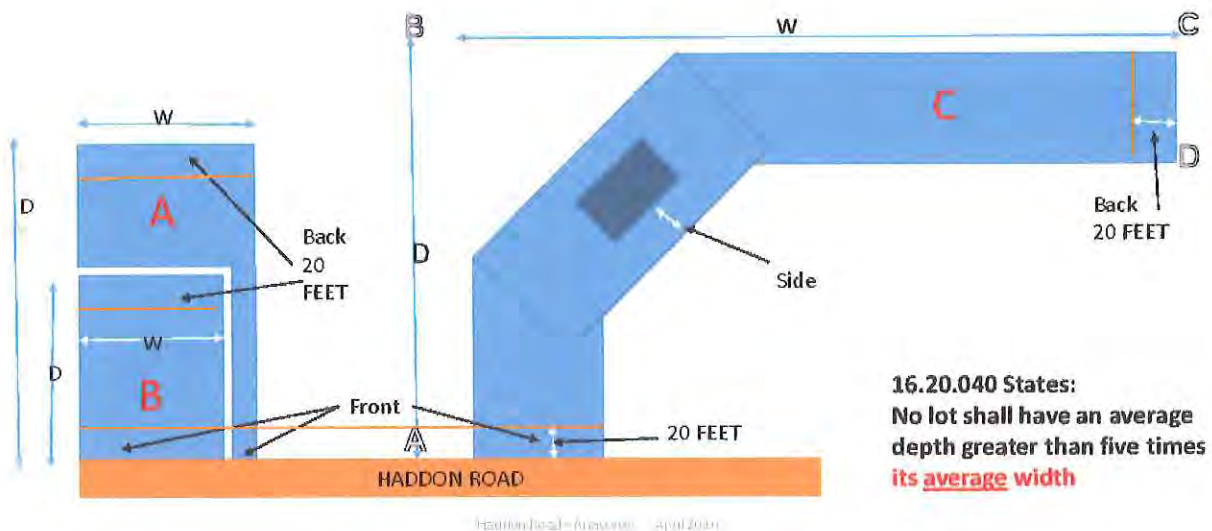
"Required front yard means an open space extending across the full width of the lot...AMC17.06.915

Required rear yard means an open space extending across the full width of the lot...AMC17.06.920

Width of a lot shall be considered the distance between straight lines connecting front and rear lot lines at **each side of the lot**. On irregularly shaped lots, the zoning administrator shall determine how to measure the width. AMC17.06.480

Attached is the graphic presented by Brian Allen showing how he and zoning administrator Measamer interpret the dimensions of one of the eastern lots. I have added letters A, B, C, and D for clarity.

Anacortes Setbacks Met



Per Mr. Allen, the depth of the lot is the distance between A and B, and the width of the lot the distance between B and C. Note that this definition does not account for the jog in the actual lot but claims that the width is the distance between the parallel lines A-B and C-D. If that is how the Administrator chooses to determine depth and width then line C-D can only be the east SIDE line of the lot. That then makes B-C the rear lot line, not C-D. Per AMC 17.06.920 "Required rear yard" means an open space extending across the **full width** of the lot, the required depth of which shall be measured horizontally and at right angles from the rear property line to a line parallel thereto on the lot. The required rear lot

setback in the R2 zone is 20 feet. Lot 9 does conform to the requirement but, it is impossible for lots 10, 11, and 12 to have the required setback therefore, under the interpretation by the planning director, these lots violate the setback rules.

While the zoning administrator is given discretion to determine the lot width on irregularly shaped lots, that discretion is not carte blanche to place setbacks wherever they fit regardless of the code requirements. Lot #9 has the same general shape as lots 10, 11, and 12. The rear 20 foot setback on lot 9 is correctly to the north of the building site. To then claim that the easternmost lot lines of 10, 11, and 12 are really the rear lot line is inconsistent and shows a willingness to ignore the codes to shoehorn in additional lots for the developers behalf.

Conversely, if line C-D is the rear lot line as affirmed by the zoning administrator in the Planning Commission open hearing, line B-C cannot be the lot width. AMC 17.06.480 "Width of a lot shall be considered the distance between straight lines **connecting** the front and rear lot lines **at each side of the lot.**" If C-D is the rear lot line, then the depth of the lot is the distance between the rear of the lot (C-D) and the intersection with Haddon Road following the actual sides of the lot. Lots 9, 10, and 11 then violate the requirement that no lot shall have an average depth greater than five times it average width.

Either the lot is in violation of AMC16.20.040.E or it is in violation of AMC 17.06.920. It cannot conform to both at the same time.

City Limits- From my first meeting with City staff and in numerous conversations with city personnel, I have been told that the Anacortes city limits is the section line and that almost all of Haddon Road is in Skagit county. However, according to documents filed at the Skagit County Auditors office *Auditors file number 9901040105*, Haddon Road from O Avenue east .63 miles to the End of Road was annexed by the City of Anacortes per Ordinance 2475 on October 19, 1998. "City line is on centerline of Haddon Road (north-city, south-county)" (Exhibit A pages A1-A4) attached. This places the bulk of the current paved portion of Haddon Road within the city. Half the right of way (30 feet) of Haddon Road is within the city limits. The developer argues that the paved portion of Haddon Road is mostly in Skagit County and city staff uses the same position to argue against developing Haddon Road to the required city roadway standards. The bulk of the current paved surface and all but 2 feet of the required 32 foot road width could be located within the City of Anacortes and the entire roadway from Whistle Lake to the cul-de-sac should be brought up to city road standards including curbs, gutters, sidewalks and storm drainage.

Surrounding Density- The developer presents much information concerning the density on the county side of Haddon Road which is irrelevant. The county properties are subject to entirely different zoning rules. He cites Stittwood as an adjacent R2 development that would be comparable. Stittwood is in the R2 zone however, Stittwood has a homeowners association and large common open space areas. Stittwood also has city standard paved streets, curb, gutter, storm drainage. Stittwood has only one flag lot with a flag width of 20 feet. All of the lots in Stittwood are much larger than the proposed Haddon PUD lots, the smallest lot in Stittwood is 10,000 sq. ft. The Haddon Road PUD would not seem to be a

transition from Stittwoods R2 zone to County Rural Intermediate but is more like a transition from R2 to R3. The developer makes much of the fact that the Haddon Road PUD is in the City and that "Cities have higher density." This project not only far exceeds the density of the surrounding City R1 zone, it exceeds the density of the adjacent R2 zone. While "Cities have higher density" this project has much higher density than its City neighbors. It is not a transitional subdivision but rather an intrusion of radically higher density into the portion of the City that is designated as low density.

ZONING

Chapters:

- 17.04 General Provisions
- 17.05 Concurrency
- 17.06 Definitions
- 17.08 Administration
- 17.10 Board of Adjustment, Planning Commission, and Conditional Uses
- 17.12 Zones, Maps, and Boundaries
- 17.14 Amendments and Rezones
- 17.15 Heavy Manufacturing District (HM)
- 17.16 Industrial District
- 17.17 Manufacturing and Shipping District (MS)
- 17.18 Light Manufacturing Use District (LM)
- 17.19 Light Manufacturing Use District (LM1)
- 17.20 Central Business Use District (CBD)
- 17.21 Commercial Marine District (CM)
- 17.22 Commercial Marine 1 District (CM1)
- 17.23 Commercial Marine 2 District (CM2)
- 17.24 Commercial District (C)
- 17.26 Public Use District (P)
- 17.28 Residential High Density District (R4)
- 17.30 Residential High Density A District (R4A)
- 17.32 Residential High Density B District (R4B)
- 17.34 Residential Medium Density District (R3)
- 17.36 Residential Low Density District - 7,500 (R2)
- 17.38 Residential Low Density District - 15,000 (R1)
- 17.39 Aeronautical Zone District (AZ)
- 17.40 Signs
- 17.41 Landscaping
- 17.42 Subdivisions and Replats
- 17.44 Planned Unit Development and Cottage Housing
- 17.46 Parking
- 17.48 Accessory Buildings, Storage, and Docks
- 17.49 Hazardous Waste Treatment and Storage Facilities
- 17.50 Excavations
- 17.52 Fences, Walls, and Hedges
- 17.54 Standards--Generally
- 17.56 Annexation
- 17.58 Unzoned Land
- 17.60 Nonconforming Uses
- 17.62 Public Hearings
- 17.63 Wireless Communications Towers and Antennas
- 17.64 Special Uses
- 17.66 Penalties for Violation
- 17.67 Appendices
- 17.68 Development Plans
- 17.70 Critical Areas Regulations

This document is Cynthia's original submittal - it contains only Cynthia's comments (+ some hand written input which has been copied in # 43 in book)

17.38.010 Purpose.

The R1 residential district designation is for those undeveloped or partially developed areas of the city which are somewhat removed from higher intensity uses and are lacking in public utilities. (Ord. 2316 (part), 1994)

17.38.020 Permitted uses.

Single-family dwellings, necessary public uses, parks and playground, golf courses, gardens and nurseries and/or green houses. Agriculture uses provided that pasture space for livestock be provided at a minimum of eighteen thousand square feet per animal. (Ord. 2316 (part), 1994)

17.38.030 Permitted accessory uses.

Garage, swimming pool, tool house, barns and other uses customarily incidental to the permitted uses. (Ord. 2316 (part), 1994)

17.38.040 Conditional uses.

Conditional uses in an R1 district shall be as follows:

A. Home occupations, kennels and veterinary clinics, and landmark building with any approved use, generally not permitted within the area's land use classification, which occurs or will occur in a landmark building recognized as such by the city council;

B. Bed-and-breakfast establishments;

C. Commercial parking;

D. Public parking;

E. Private parking.

(Ord. 2482 Att. A § 5 (part), 1999; Ord. 2316 (part), 1994)

17.38.050 Minimum lot size.

The minimum area for each use shall not be less than fifteen thousand square feet. (Ord. 2316 (part), 1994)

17.38.060 Minimum setback requirements.

A. Front, twenty feet from property line. If the street is officially designated arterial, thirty feet. Structures housing livestock shall be set back a minimum of fifty feet from nearest property line;

B. Rear, twenty feet;

C. Interior sides, ten feet;

D. Side yard on a flanking street, twenty feet from property line. If street is officially designated arterial, thirty feet. (Ord. 2316 (part), 1994)

17.38.070 Maximum density.

Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994) If a Planned Unit Development is applied for which requests a higher density in the R1 zone, the density shall not exceed 4 units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements.

17.38.080 Maximum land coverage.

Maximum land coverage by buildings shall be thirty-five percent. (Ord. 2316 (part), 1994)

17.38.090 Maximum building height.

Maximum height of buildings is to be thirty-five feet. (Ord. 2316 (part), 1994)

The minimum area for each use shall not be less than fifteen thousand square feet. (Ord. 2316 (part), 1994)

17.38.060 Minimum setback requirements.

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17.38.070 Maximum density.

Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994) *A PORTION OF THAT PORTION* If a Planned Unit Development is applied for which requests a higher density in the R1 zone, the density shall not exceed 4 units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements.

17.38.080 Maximum land coverage.

Maximum land coverage by buildings shall be thirty-five percent. (Ord. 2316 (part), 1994)

17.38.090 Maximum building height.

Maximum height of buildings is to be thirty-five feet. (Ord. 2316 (part), 1994)

17.38.100 Off-street parking requirements.

There shall be at least two off-street parking spaces per dwelling unit. (Ord. 2316 (part), 1994)

17.38.110 Street improvements.

Twenty feet of frontage or an easement to twenty feet of street frontage is required on an improved public street with a continuous access route not less than 20 ft. wide from the street to the primary portion of the lot. If a private street is proposed, or the 20 ft. minimum access to the street frontage is by means of an easement, a conditional use permit is required. Where the zoning administrator approves development fronting on a street which is not improved to current City standards, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements in the future. *THIRTY FEET OF FRONTAGE IS REQUIRED ON AN IMPROVED PUBLIC STREET. IF A PRIVATE STREET IS USED, A CONDITIONAL USE PERMIT IS REQUIRED. WHERE CITY ORDINANCE PERMITS DEVELOPMENT FRONTING ON AN UNPAVED CITY STREET, NO BUILDING PERMIT SHALL BE ISSUED WITHOUT A DEED RESTRICTION BEING RECORDED THAT STIPULATES THAT THE PROPERTY OWNER WILL NOT OPPOSE AN L.I.D. FOR STREET AND UTILITY IMPROVEMENTS.*

Chapter 17.39

AERONAUTICAL ZONE DISTRICT (AZ)

Sections:

- 17.39.010 Purpose.
- 17.39.020 Permitted uses.
- 17.39.030 Permitted accessory uses.
- 17.39.040 Conditional uses.
- 17.39.050 Minimum lot size.
- 17.39.060 Minimum setback requirements.

Zone Comparison Doc

Page 99

from PC 4/23/08

Title 17

ZONING

Chapters:

- 17.04 General Provisions
- 17.05 Concurrency
- 17.06 Definitions
- 17.08 Administration
- 17.10 Board of Adjustment, Planning Commission, and Conditional Uses
- 17.12 Zones, Maps, and Boundaries
- 17.14 Amendments and Rezones
- 17.15 Heavy Manufacturing District (HM)
- 17.16 Industrial District
- 17.17 Manufacturing and Shipping District (MS)
- 17.18 Light Manufacturing Use District (LM)
- 17.19 Light Manufacturing Use District (LM1)
- 17.20 Central Business Use District (CBD)
- 17.21 Commercial Marine District (CM)
- 17.22 Commercial Marine 1 District (CM1)
- 17.23 Commercial Marine 2 District (CM2)
- 17.24 Commercial District (C)
- 17.26 Public Use District (P)
- 17.28 Residential High Density District (R4)
- 17.30 Residential High Density A District (R4A)
- 17.32 Residential High Density B District (R4B)
- 17.34 Residential Medium Density District (R3)
- 17.36 Residential Low Density District - 7,500 (R2)
- 17.38 Residential Low Density District - 15,000 (R1)
- 17.39 Aeronautical Zone District (AZ)
- 17.40 Signs
- 17.41 Landscaping
- 17.42 Subdivisions and Replats
- 17.44 Planned Unit Development and Cottage Housing
- 17.46 Parking
- 17.48 Accessory Buildings, Storage, and Docks
- 17.49 Hazardous Waste Treatment and Storage Facilities
- 17.50 Excavations
- 17.52 Fences, Walls, and Hedges
- 17.54 Standards--Generally
- 17.56 Annexation
- 17.58 Unzoned Land
- 17.60 Nonconforming Uses
- 17.62 Public Hearings
- 17.63 Wireless Communications Towers and Antennas
- 17.64 Special Uses
- 17.66 Penalties for Violation
- 17.67 Appendices
- 17.68 Development Plans
- 17.70 Critical Areas Regulations
- 17.74 Development Agreement for Port-Owned Property

17.38.040 Conditional uses.

Conditional uses in an R1 district shall be as follows:

A. Home occupations, kennels and veterinary clinics, and landmark building with any approved use, generally not permitted within the area's land use classification, which occurs or will occur in a landmark building recognized as such by the City Council;

B. Bed-and-breakfast establishments;

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Maximum land coverage by buildings shall be thirty-five percent. (Ord. 2316 (part), 1994)

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17.38.110 Street improvements.

Twenty feet of frontage or an easement to twenty feet of street frontage is required on an improved public street with a continuous access route not less than 20 ft. wide from the street to the primary portion of the lot. If a private street is proposed, or the 20 ft. minimum access to the street frontage is by means of an easement, a conditional use permit is required. Where the zoning administrator approves development fronting on a street which is not improved to current City standards, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements in the future. Thirty feet of frontage is required on an improved public street. If a private street is used, a conditional use permit is required. Where City ordinance permits development fronting on an unpaved City street, no building permit shall be issued without a deed restriction being recorded that stipulates that the property owner will not oppose an L.I.D. for street and utility improvements.

**2008 SUMMARY
TITLE 17 PROPOSED DEVELOPMENT REGULATION AMENDMENTS**

Chapter 17.04 GENERAL PROVISIONS:

Made grammatical changes and changes to clarify the intent to portions of the Chapter. Added a section under 070(I) to allow City Council to remand the application back to Planning Commission for further consideration.

Chapter 17.05 CONCURRENCY

Made grammatical changes.

Chapter 17.06 DEFINITIONS

Added definitions for Cafeteria, Essential public facility, Event Center, Hazardous waste off-site treatment and storage facilities, Hazardous waster on-site treatment and storage facility, Local Improvement District (LID), Secure community transition facility (SCTF), Substandard Lot and Zoning Administrator. Deleted definitions for Administrator, Basement, Congregate care facility/assisted living center, Planning and zoning administrator, Rural development, Secondary use (incidental or accessory), and Story. Revised several definitions grammatically and rewrote several definitions for clarification.

Chapter 17.08 ADMINISTRATION

Made grammatical changes. Add new language to section 020(D) for lot frontage and (E) for no protest for an LID.

Chapter 17.10 BOARD OF ADJUSTMENT, PLANNING COMMISSION, AND CONDITIONAL USES

Made grammatical changes and added language to clarify intents of sections. Added new language to section 040(B)(6) to clarify when construction must commence for approved variances. Added new language to 070 clarifying the Planning Commission membership. Added new language to 100(E)(8) to state City Councils need to issue a written decision on final actions. Added new language to 100(G) allowing City Council to remand project back to Planning Commission for further consideration. Added new language to 140(C)(6) to clarify use of sidewalks for restaurants. Added an entire new section under 170 Accessory Dwelling Units.

Chapter 17.12 ZONES, MAPS, AND BOUNDARIES

Made grammatical changes.

Chapter 17.28 RESIDENTIAL HIGH DENSITY DISTRICT (R4)

Made grammatical changes. Deleted permitted uses under 020. Added permitted accessory uses under 030(A). Deleted conditional uses under 040(A). Deleted definition under 040(F) and added a conditional use. Added a new conditional use under 040(H). Revised minimum lots size and rewrote section under 050. Correct zoning designation under 060. Under 060(C)(3) clarified size of detached accessory structure and lot cover. Increased building height under 090.

Chapter 17.34 RESIDENTIAL MEDIUM DENSITY DISTRICT (R3)

Made grammatical changes. Under 010 clarified conditional use permit issue for multi-family units. Under 030 added a permit use. Under 040(A) deleted a conditional use. Deleted definition under 040(J) and added a conditional use. Added additional language to section 050. Under 060(D)(3) clarified size of detached accessory structure and lot cover. Clarified frontage requirement for lots under 110.

Chapter 17.36 RESIDENTIAL DISTRICT (R2)

Clarified zone under 010. Under 060(D)(3) clarified size of detached accessory structure and lot cover. Under 060(4) added a new setback definition for Skyline #6. Clarified frontage requirement for lots under 110.

Chapter 17.38 RESIDENTIAL DISTRICT (R1)

Clarified density requirement for PUD's under 070. Clarified frontage requirement for lots under 110.

Chapter 17.40 SIGNS

Made grammatical changes. Added traffic signs under 020 to clarify purpose section. Added language to 030(F) to clarify string of flashing lights as part of signs. Revised section title under 060. Revised language under 060(A) to clarify placement of signs. Added new language under 060(E) regarding signs at construction sites. Revised section title under 070. Revised language under 070 to clarify size of commercial enterprise signs. Revised section title under 080. Revised language under 080(2)(B) regarding temporary signs. Revised language under 080(2)(E) regarding incidental signs. Increase banner size under 085(3). Revised language under 085(3)(C) regarding temporary signs. Added language under 100 regarding size of political signs. Revised 150 to clarify zoning district for special setback provisions.

**WASHINGTON STATE BOUNDARY REVIEW BOARD
FOR
SKAGIT COUNTY**

302 South First Street, Mount Vernon, WA 98273-3805
(360) 336-9384 FAX (360) 336-9469

January 19, 1999

MEMORANDUM

TO: PATTI CHAMBERS, ADMINISTRATIVE COORDINATOR
SKAGIT COUNTY COMMISSIONERS' OFFICE

FROM; Carole Korelin
Planner for the Board

RE: FILE NO. 98-9 CITY OF ANACORTES
Annexation (So. March Point 2 - Phase I)

Enclosed you will find the final Ordinance passed by the City of Anacortes to finalize the above referenced annexation. The legal description is the same as that verified by the Skagit County Assessor's Office for the proposed action.

This ordinance has been recorded in the Auditor's office, and has been distributed to all interested County departments. The annexation is now complete.

cc:

Tom Karsh, Director, Planning
Dave Sheridan, Public Works
Wes Hagen, Deputy Director, Assessor's
Krista Johnson, Supervisor, Records & Elections
Kathy Hill, Auditor
Kim Berry, Mapping

City of Anacortes – Annexed Roads
Ord #2475 10/19/98

Haddon Road #17900	0.0 – 0.63 O Avenue – End of Road City line is on centerline of Haddon Rd (north - city, south - county)
Fidalgo Bay Road #14710	0.0 – 1.07 SR 20 Spur – City Limit All city
March's Point Road #16610	0.0 – 0.983 SR 20/Christianson Rd – 15' north of RR From 0.983 to east end of road belongs to county
South Fidalgo Rd #16020	0.0 – 0.40 SR 20 Spur/Fidalgo Bay Rd – SR 20 All city
Old Brook Lane #16000	0.0 – 0.12 SR 20 – End of Road All city
South March's Point Road #14660	0.0 – 0.472 City limit – March's Point Rd (west end) -City From 0.0 (east end) SR 20 – 0.472 county
Summit Park Road #15100	0.0 – -0.52 Thompson Road – Christianson Road All city
Thompson Road #15710	0.0 – 0.248 So. March's Point Rd/Bartholomew Rd – south of Stevenson Rd South of Stevenson Rd - south – county
Stevenson Road #15400	0.0 – 0.75 Thompson Road – Reservation Road All city
Reservation Road #40210	0.0 – 0.428 South March's Point – Stevenson Road - city Stevenson Rd south – county
Padilla Heights Road #49900	0.0 – 0.474 Reservation Road to just north of 2 nd 90 degree turn City Limit to So March's Point Rd - county

EXHIBIT A3 ADDITIONAL RECORDING TO HADDON ROAD POB FILED
BY PATRICK O'NEAL 6-22-2016

COVER SHEET

KATHY HILL
SKAGIT COUNTY CLERK

RETURN TO:

'99 JAN -4 P3:32

City of Anacortes Planning Dept.

PO Box 547

Anacortes, WA 98221

9901040105

ISLAND TITLE COMPANY

ACCOMMODATION RECORDING

DOCUMENT TITLE(S) (or transactions contained herein):

QA 3225 ✓

Ordinance -- Annexation -- South March Point/SR 20

REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:

Island Title Company has placed
this document for recording as a
customer courtesy and accepts no

[] ADDITIONAL REFERENCE NUMBERS ON PAGE ____
OF DOCUMENT.

GRANTOR(S) (Last name, first name and initials):

1. City of Anacortes

2.

3.

4.

[] ADDITIONAL NAMES ON PAGE ____ OF DOCUMENT.

GRANTEE(S) (Last name, first name and initials):

1. Public

2.

3.

4.

[] ADDITIONAL NAMES ON PAGE ____ OF DOCUMENT.

LEGAL DESCRIPTION (Abbreviated: L.L., lot, block, plat or quarter, quarter, section, township and range):

[] ADDITIONAL LEGAL(S) ON PAGE ____ OF DOCUMENT.

ASSESSOR'S PARCEL/TAX I.D. NUMBER: see attached pages

[] TAX PARCEL NUMBER(S) FOR ADDITIONAL LEGAL(S) ON PAGE ____ OF DOCUMENT.

9901040105

BK 1524 PG 0293

EXHIBIT A4
 ADDITIONAL OBJECTS TO HADDOPUD
 PATRICK O'NEAR AND JUNE 22, 2016

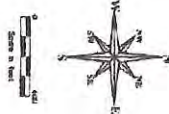


SKAGIT
COUNTY

6	3	4	3	2	1
7	6	5	4	3	2
8	7	6	5	4	3
9	8	7	6	5	4
10	9	8	7	6	5
11	10	9	8	7	6
12	11	10	9	8	7
13	12	11	10	9	8
14	13	12	11	10	9
15	14	13	12	11	10
16	15	14	13	12	11
17	16	15	14	13	12
18	17	16	15	14	13
19	18	17	16	15	14
20	19	18	17	16	15
21	20	19	18	17	16
22	21	20	19	18	17
23	22	21	20	19	18
24	23	22	21	20	19
25	24	23	22	21	20
26	25	24	23	22	21
27	26	25	24	23	22
28	27	26	25	24	23
29	28	27	26	25	24
30	29	28	27	26	25
31	30	29	28	27	26

T 35 N R 02 E

ATTENTION
 THIS MAP CONTAINS A PUBLIC NOTICE
 OF THE ADJUTANT GENERAL'S OFFICE
 OF THE ARMY
 OF THE UNITED STATES OF AMERICA



THESE MAPS ARE THE PROPERTY OF THE ADJUTANT GENERAL'S OFFICE OF THE ARMY OF THE UNITED STATES OF AMERICA. THEY ARE NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT PERMISSION IN WRITING FROM THE ADJUTANT GENERAL'S OFFICE OF THE ARMY OF THE UNITED STATES OF AMERICA.

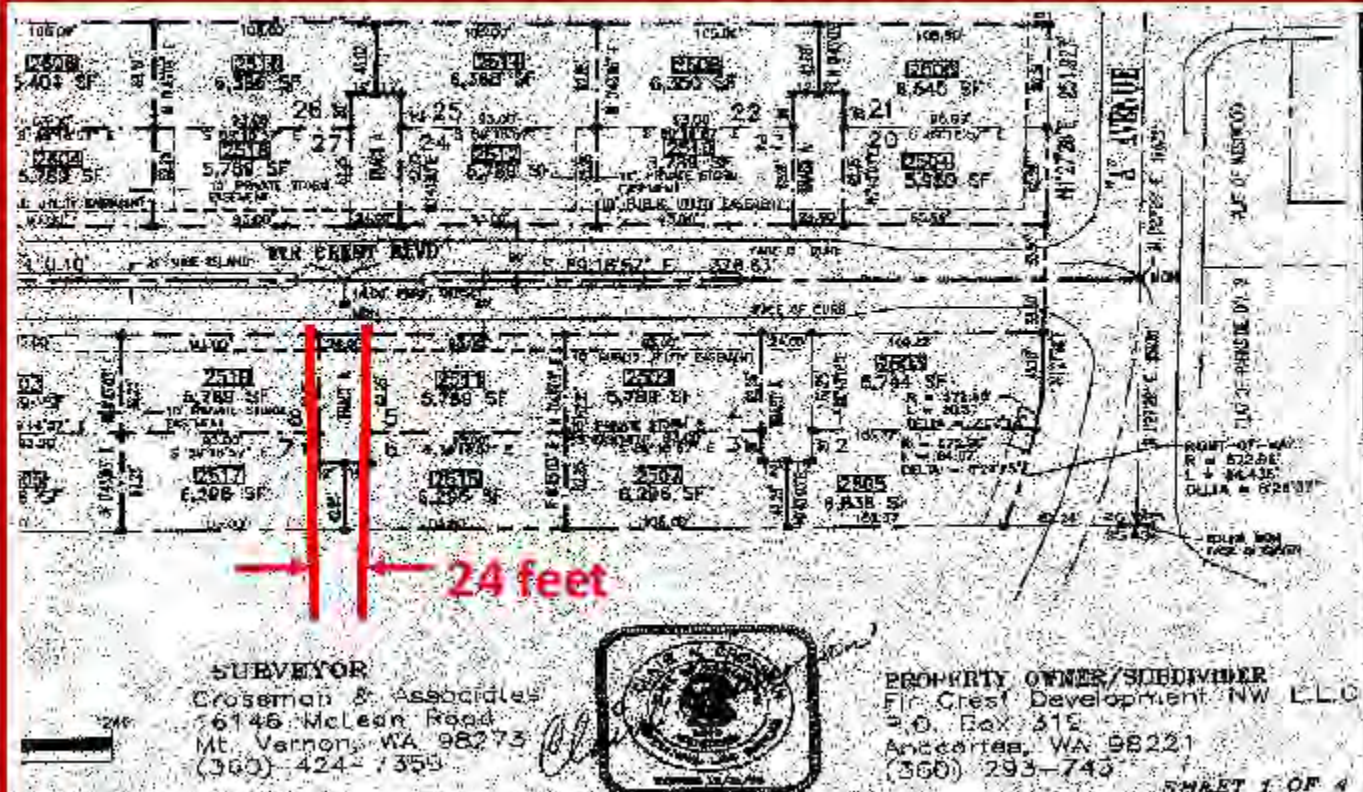
DATE	INIT.
DESIGNED BY	2/27/88
REVISED	10/12/88
PLOTTED	10/12/88
CHECKED BY	10/12/88

Section 31
 T 35 N R 02 E

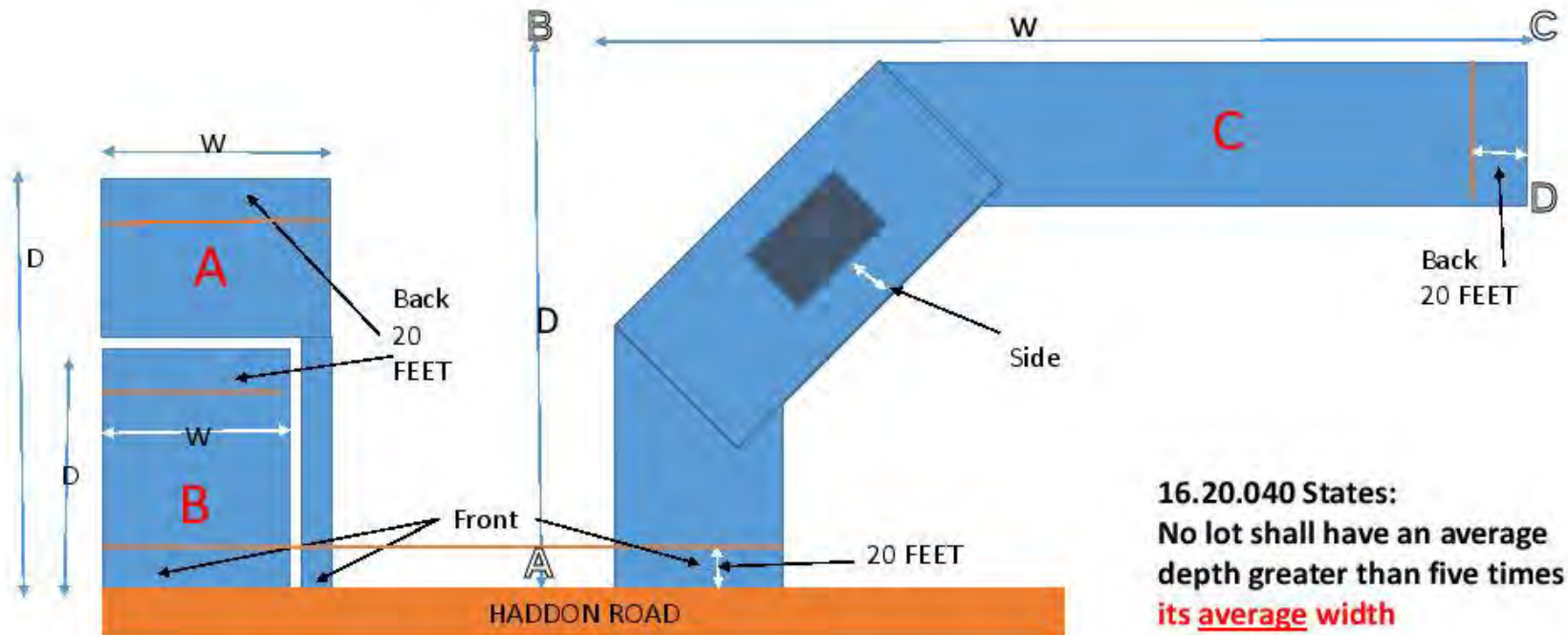
NOTE: ZONE CHANGED IS OUTLINED IN YELLOW MARKER
 HADDOPUD ROAD IS MARKED W/ YELLOW MARKER.
 NOTE ADDED BY PATRICK O'NEAR IN CASE THIS
 EXHIBIT IS COPIED IN BLACK & WHITE
 POB 6-22-2016

Fircrest PUD 2004

24 foot wide flag access typical

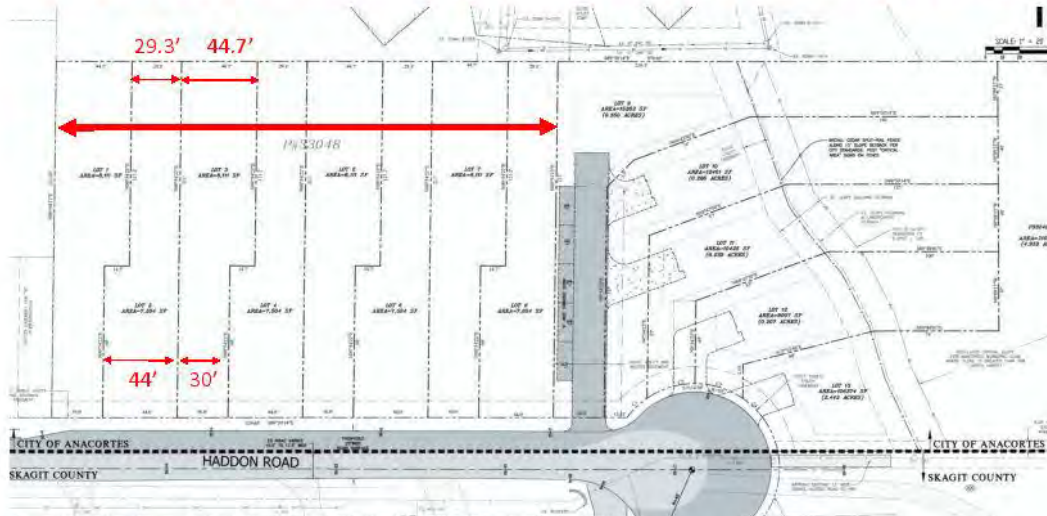


Anacortes Setbacks Met

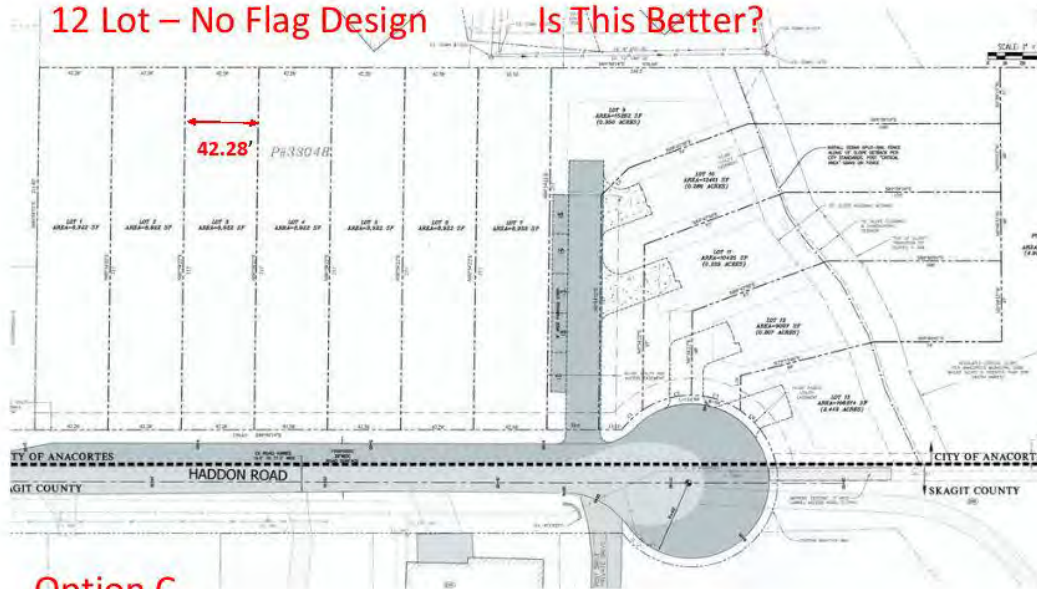


16.20.040 States:
No lot shall have an average
depth greater than five times
its average width

8 versus 2 Driveways – Is this what we want?



12 Lot – No Flag Design Is This Better?



Option C

EXHIBIT #42:

BRIAN ALLEN'S 6-22-16 PRESENTATION

Haddon Road PUD

4 Categories of Objections

1. Trees, Geo-Tech, Sewers, Storm Water, Roads, Etc
 - All addressed by consultants and meet City requirements
2. Lot Definitions
 - Met all City standards and precedent
 - Mr Ohearn mixed up Front/Back with Width/Depth
3. Code Modifications
4. Density & Open Space

3. Code Modifications

1. Road

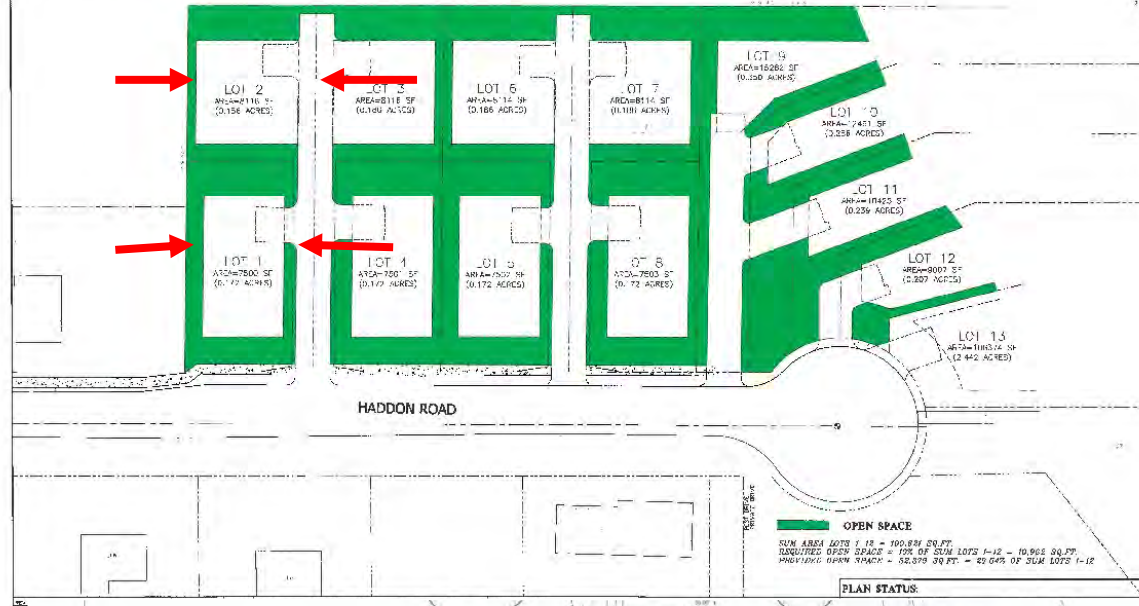
- AFI not asking for modifications
- Agreed to modifications benefit Ms Brogan and the community with a pedestrian/bike path + road that serves the location

2. Flag Lot Access, Driveways at 24' width – (3 Options)

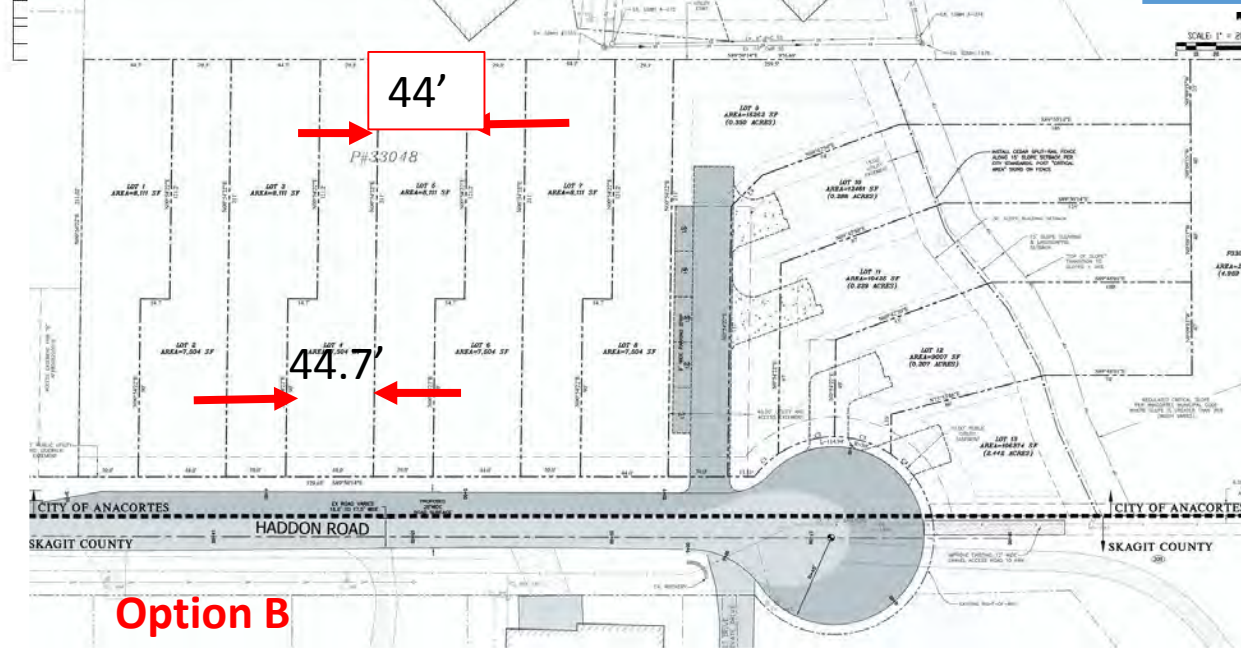
- Allows for 6 less driveways on Haddon Road
- Allows for better home design, wider building sites
- PUD Code Anticipates our creativity *16.40.101

“A minimum lot width is intended to prevent the construction of long-narrow buildings”

Proposed PUD



	Proposed	Option B	Option C
Flag Lot	Yes	Yes	No
Driveways	5	11	10
Lot Width	74 & 62'	44 & 44.7'	42.28'
Building Lot Width	59 & 47'	29 & 29.7'	27.28

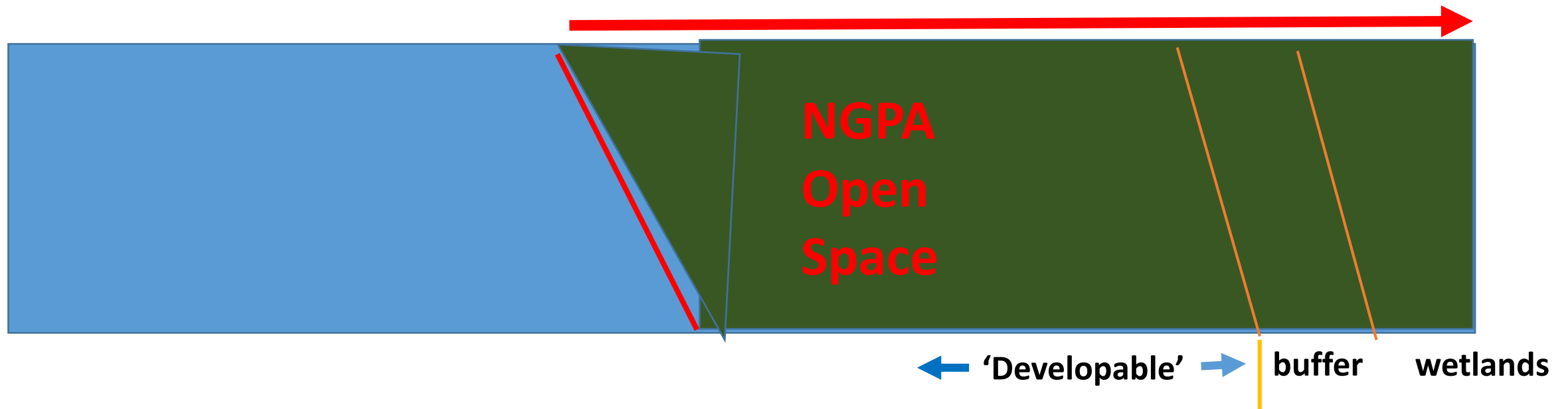


Option B

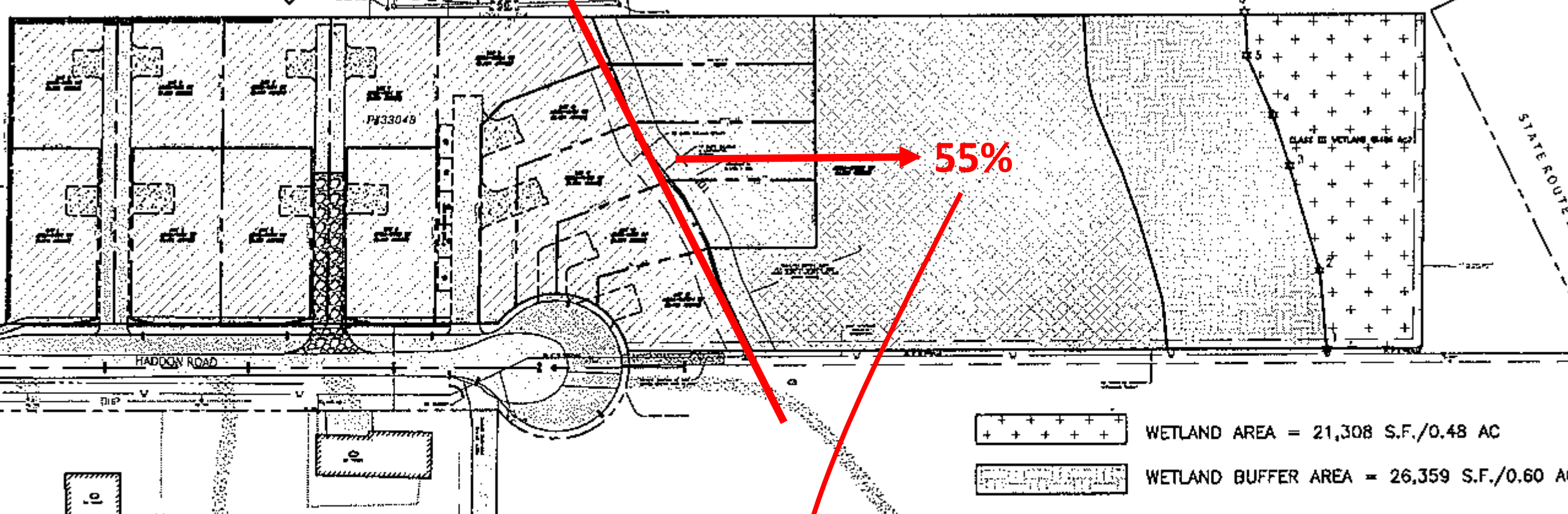
Option C

Issue #4 Density & Open Space

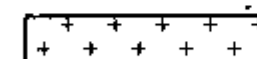
City Requested to Maximize Preserved Area



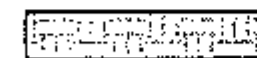
NGPA Preserves 55% of site by Deed Restrictions



Approx 10,000 sq ft minimum required
by code for park
Versus 118,000 sq ft protected under
NGPA



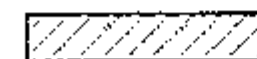
WETLAND AREA = 21,308 S.F./0.48 AC



WETLAND BUFFER AREA = 26,359 S.F./0.60 AC



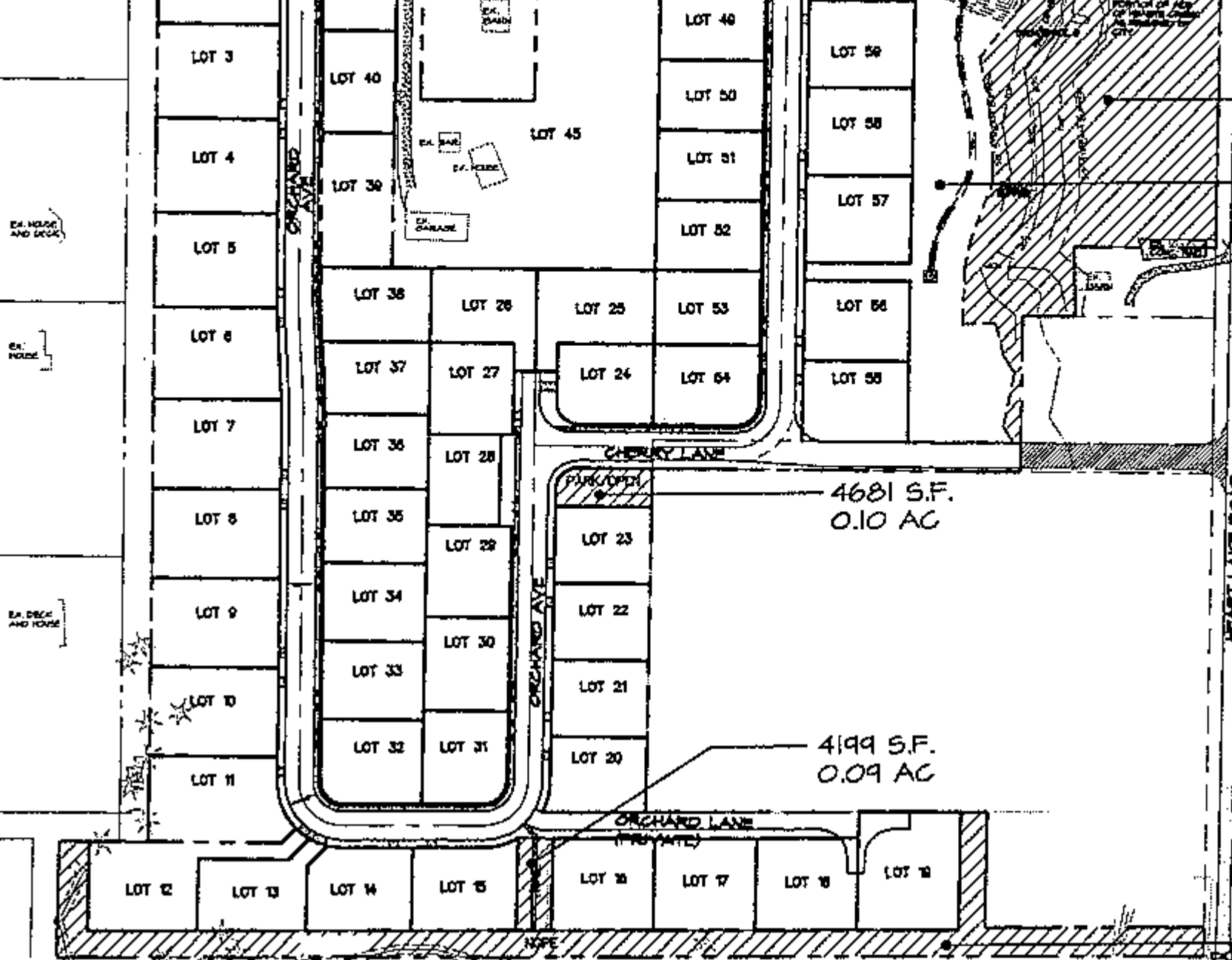
NGPA AREA = 72,276 S.F./1.65 AC



WEST OF NGPA TO WEST PROPERTY LINE =
97,138 S.F./2.23 AC

TOTAL PROPERTY AREA = 215,995 S.F. = 4.9

SUM OF WETLAND, BUFFER, NGPA =
2.73 AC = 55.04% OF TOTAL SITE



TOTAL PROPERTY AREA =
1,238,217 S.F. = 28.42 AC

SUM AREA OF LOTS =
808,613 S.F. = 18.56 AC

SUM AREA OF R.O.W. =
163,275 S.F. = 3.75 AC

SUM OF OPEN SPACES =
6.11 AC = 21.49% OF TOTAL
SITE

Same Engineer John Ravnik:

	Orchard	Haddon
Open Space	21.49%	55%

Density – the Big Picture

Title 16 – Subdivisions (Includes PUD's)

Title 17 – Zoning

16.40.040 – “...a PUD generally involves modifications to zoning and subdivision standards, and may propose complex and innovative planning concepts...”

17.08.080 - Duties of administrator, building official, board of adjustment, and city council on matters of appeal.

A. All questions of interpretation and enforcement shall be decided by the administrator.

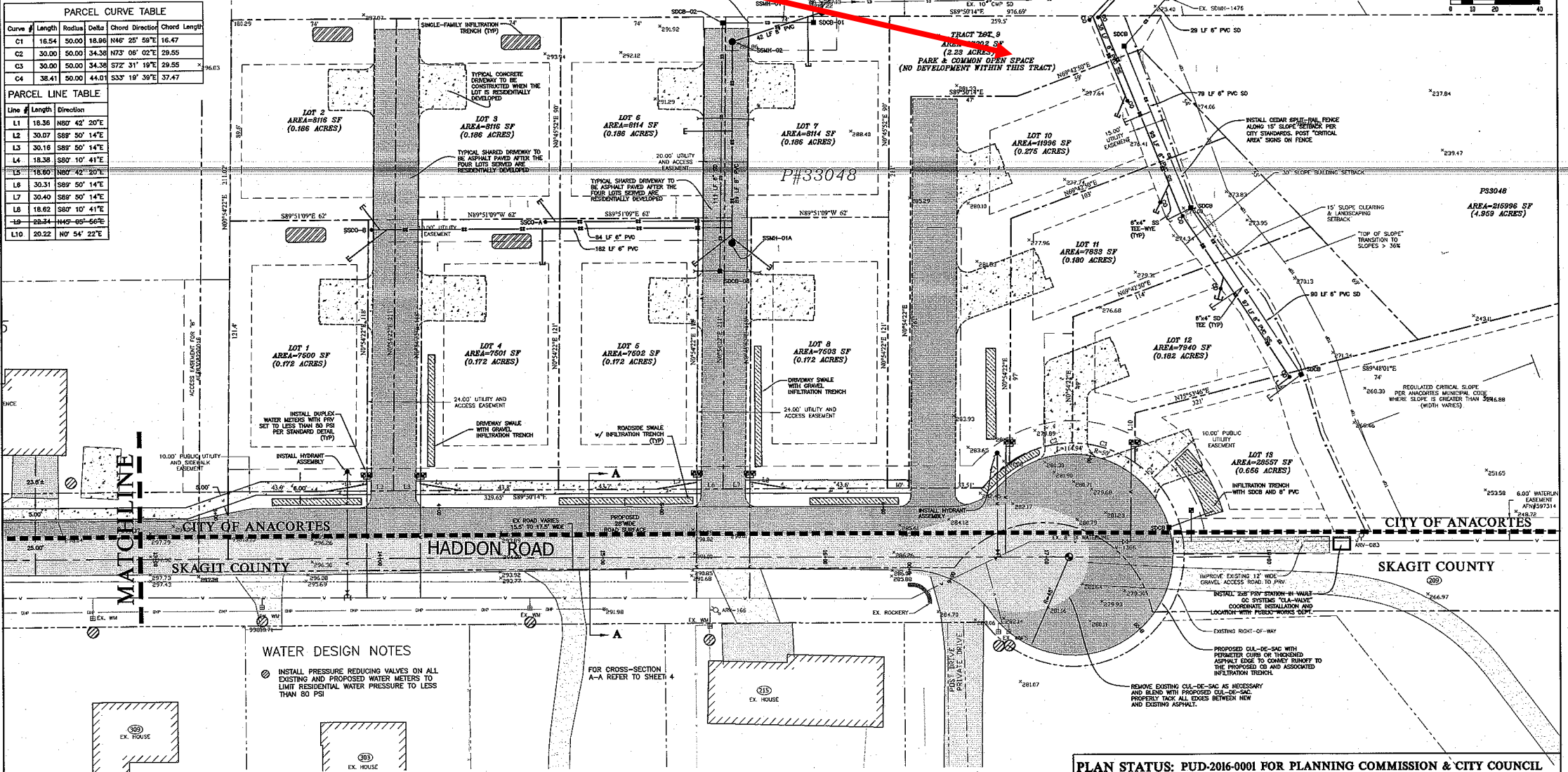
Option D, with Park

CALL TWO
BUSINESS DAYS
BEFORE YOU DIG
"811"

SCALE: 1" = 20'

PARCEL CURVE TABLE					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	16.54	50.00	18.96	N46° 25' 58"E	16.47
C2	30.00	50.00	34.38	N73° 06' 02"E	29.55
C3	30.00	50.00	34.38	S72° 31' 19"E	29.55
C4	38.41	50.00	44.01	S33° 10' 39"E	37.47

PARCEL LINE TABLE		
Line #	Length	Direction
L1	18.36	N80° 42' 20"E
L2	30.07	S89° 50' 14"E
L3	30.18	S89° 50' 14"E
L4	18.38	S80° 10' 41"E
L5	18.60	N80° 42' 20"E
L6	30.31	S89° 50' 14"E
L7	30.40	S89° 50' 14"E
L8	18.62	S80° 10' 41"E
L9	29.34	N45° 05' 56"E
L10	20.22	N0° 54' 22"E



WATER DESIGN NOTES

- INSTALL PRESSURE REDUCING VALVES ON ALL EXISTING AND PROPOSED WATER METERS TO LIMIT RESIDENTIAL WATER PRESSURE TO LESS THAN 80 PSI

REV. NO.	REVISION	DATE	BY	APPROVED

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
1633 LINDAMOOD LANE/P.O. BOX 361
BURLINGTON, WA 98233
PH: (360) 707-2048 FAX: (360) 707-2216

SHEET DESCRIPTION:

UTILITY PLAN

PLAN STATUS: PUD-2016-0001 FOR PLANNING COMMISSION & CITY COUNCIL

SCALE: 1" = 20'	SHEET TITLE: HADDON ROAD PLANNED UNIT DEVELOPMENT FOR ALLEN FAMILY INVESTMENTS, LLC SECTION 30, T. 35 N., R. 2 E., W.M.	DRAWING NO. 16009.OPTIOND.dwg
DRAWN BY: D. REMSEN		JOB NO. 16009
CHECKED BY: J. RAVNIK		SHEET NO. X OF X
DATE: 06.22.16		

Another Option?

13 lots / 4 per acre = 3.25 acres

Remaining portion
“Common”
is 1.75+ acres

buffer wetlands

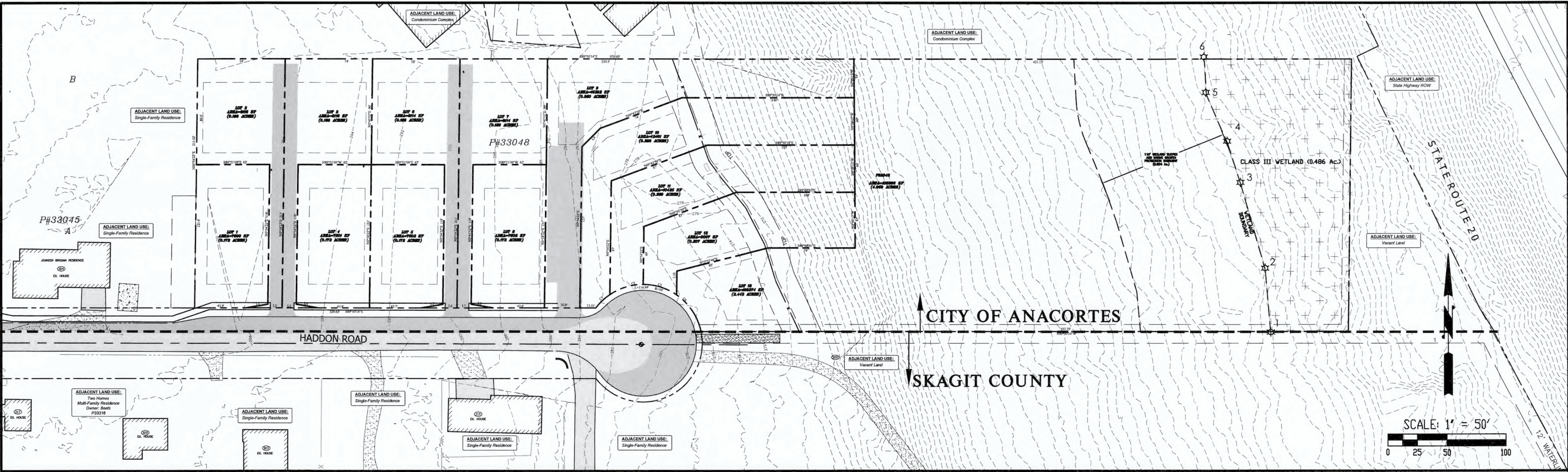
- *Common Open Space 35%+ of site**
- *AFI has no objection to a Homeowners Association**

EXHIBIT #43:

JOHN RAVNIK'S 6-22-16 PRESENTATION

LEGEND

- EXISTING RIGHT OF WAY LINE CENTERLINE
EXISTING RIGHT OF WAY LINE
EXISTING ROAD CENTERLINE
EXISTING PROPERTY LINE
EXISTING PROPERTY CORNER
EXISTING STORM DRAIN
EXISTING STORM MANHOLE
EXISTING STORM CATCH BASIN
EXISTING SANITARY SEWER
EXISTING SANITARY MANHOLE
EXISTING WATERLINE
EXISTING WATER VALVE
EXISTING FIRE HYDRANT
EXISTING POWER, CABLE, TELEPHONE, GAS LINE
EXISTING POWER, CABLE
EXISTING TELEPHONE
EXISTING GAS LINE
EXISTING GROUND CONTOUR LINE
EXISTING EDGE OF ASPHALT
EXISTING FENCELINE
EXISTING WATER METER
EXISTING ASPHALT
EXISTING CONCRETE
EXISTING GRAVEL
EXISTING SWALE
- FOUND MONUMENT
PROPOSED MONUMENT
WETLAND FLAGGING
WETLAND
PARCEL CORNER (REBAR SET)
PROPOSED LOT CORNER
PROPOSED ASPH. SURFACE ELEV.
PROPOSED TOP OF CONC. ELEV.
PROPOSED ASPH. SURFACE ELEV.
PROPOSED CLEANOUT ASSEMBLY FOR STORM OR SANITARY SEWER
PROPOSED STORM DRAIN
PROPOSED STORM CATCH BASIN
PROPOSED SANITARY SEWER
PROPOSED WATERLINE
PROPOSED WATER VALVE
PROPOSED FIRE HYDRANT
PROPOSED WATER METER
PROPOSED FENCELINE
PROPOSED STORM DRAINAGE CONTOUR LINES
PROPOSED CONCRETE
PROPOSED ASPHALT
PROPOSED CRUSHED ROCK



PROJECT CONTACTS:

OWNER

ALLEN FAMILY INVESTMENTS, LLC
P.O. BOX 817
ANACORTES, WA 98221
(360)293-7754

CIVIL ENGINEER

RAVNIK & ASSOCIATES, INC.
CONTACT: JOHN RAVNIK
1633 LINDAMOOD LANE
P.O. BOX 361
BURLINGTON, WA 98233
PHONE: (360)707-2048
FAX: (360)707-2216

SURVEYOR

PARISH LAND SURVEYING
CONTACT: BOB PARISH
P.O. BOX 314
LOPEZ, WA 98261
PHONE: (360)588-1467

UTILITY LOCATE

811

ALL TESTING SHALL BE
PERFORMED PER THE
CITY OF ANACORTES
STANDARDS

BIOLOGIST

GRAHAM-BUNTING ASSOCIATES
3643 LEGG ROAD
BOW, WA 98232
PHONE: (360)766-4441
FAX: (360)766-4443
CONTACT: OSCAR GRAHAM
PAT BUNTING

TRAFFIC

GIBSON TRAFFIC CONSULTANTS
2802 WETMORE AVENUE, SUITE 220
EVERETT, WA 98201
PHONE: (425)339-8266
CONTACT: BRADLY LINCOLN

GEOTECHNICAL

MATERIALS TESTING & CONSULTING
777 CHRYSLER DRIVE SUITE A
BURLINGTON, WA 98233
PHONE: (360)647-9295
CONTACT: DAVE RAUCH

ARCHAEOLOGIST

DRAYTON ARCHAEOLOGY
P.O. BOX 5424
BELLINGHAM, WA 98227
CONTACT: GARTH BALDWIN, M.A., RPA
MARSHA HANSON, B.A.

SITE INFORMATION

SITE ADDRESS: HADDON ROAD, ANACORTES, WA
TAX ID NUMBERS: P33048

CURRENT PROPERTY ZONING: R1
APPLIED ZONING: R2 (PER PUD REQUIREMENTS & AMC)
REQ'D MIN. LOT SIZE: 7,500 SQ.FT. (PER AMC 17.38.070)
MINIMUM LOT SIZE: 7,500 SF (0.172 Ac)
MAXIMUM LOT SIZE: 106,374 SF (2.442 Ac)

HOUSING DENSITY: 4 DWELLING UNIT PER GROSS ACRE
GROSS PARCEL SIZE: 229,953 SF (5.279 Ac)
NET PARCEL AREA: 215,995 SF (4.959 Ac)
DENSITY CALCULATION:

LOTS PERMITTED: 5.279 Ac x 4 Lots/Gross Ac = 21.1 Lots
LOTS PROPOSED: 21

SCHOOL DISTRICT: Anacortes School District No. 103
WATER PROVIDER: City of Anacortes
SANITARY SEWER: City of Anacortes
STORMWATER UTILITY: City of Anacortes
POST OFFICE: Anacortes (98221)
FIRE DISTRICT: City of Anacortes

CALL TWO
BUSINESS DAYS
BEFORE YOU DIG
"811"

SLOPE SETBACK BARRIER:

Lots 9-13 contain Critical Slopes, as defined by the Anacortes Municipal Code, where the slope transitions to greater than 36%.
The 15-foot Slope Disturbance Setback from the top of this slope is marked by a split-rail cedar fence installed by the Developer. No clearing, grading, etc. may take place within this zone (or on the Critical Slope) without permission of the City Planning Director. Each lot owner is responsible for maintaining, repairing and/or replacing this fence.

LEGAL DESCRIPTION

The south 231 feet of the east 990 feet of Government Lot 6, Section 30, Township 35 North, Range 2 East, W.M. EXCEPT that portion conveyed to the State of Washington for highway purposes by deed recorded January 30, 1957 under Auditor's File Number 547018, and EXCEPT that portion, if any, lying within the west 330 feet of said Government Lot 6. Situate in the City of Anacortes, County of Skagit, State of Washington.

BASIS OF BEARINGS:

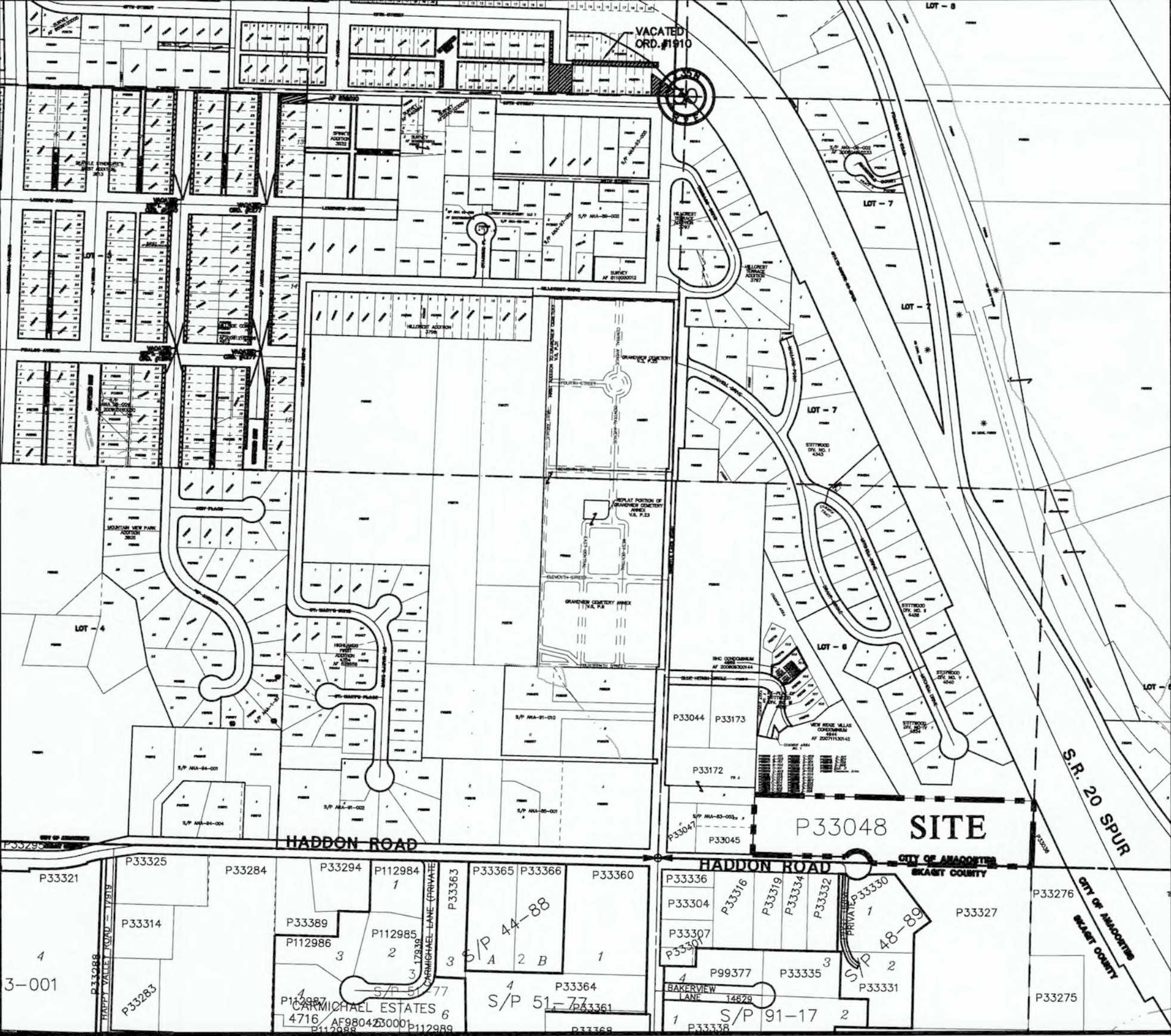
Plat of Stittwood Vol 11, Plats Pg. 47

EASEMENTS

Easements are provided for ingress/egress and utilities, generally, as shown on this project's Preliminary Plat Map. Final easement locations and legal descriptions will be provided at Final Plat Approval.

SHEET SCHEDULE

SHEET 1 OF 4 COVER
SHEET 2 OF 4 OVERALL EXISTING CONDITIONS, TEMPORARY EROSION AND SEDIMENT CONTROL PLAN
SHEET 3 OF 4 UTILITY PLAN
SHEET 4 OF 4 WHISTLE LAKE ROAD PATHWAY AND OFFSITE WATERLINE IMPROVEMENTS



VICINITY MAP

SCALE: 1" = 400'

SURVEY INFORMATION

NOTE: EXISTING STRUCTURES, UTILITIES, AND SURFACE CONDITIONS SHOWN ON THESE PLANS REPRESENT SURVEY INFORMATION LOCATED IN FEBRUARY 2015, FROM A TOPOGRAPHIC SURVEY PERFORMED BY PARISH LAND SURVEYING, AND FROM UTILITY INFORMATION PROVIDED BY UTILITY COMPANIES. A UTILITY LOCATE SERVICE WAS NOT CALLED PRIOR TO SURVEYING OF THE PROPERTY, BUT MUST BE CALLED PRIOR TO CONSTRUCTION.

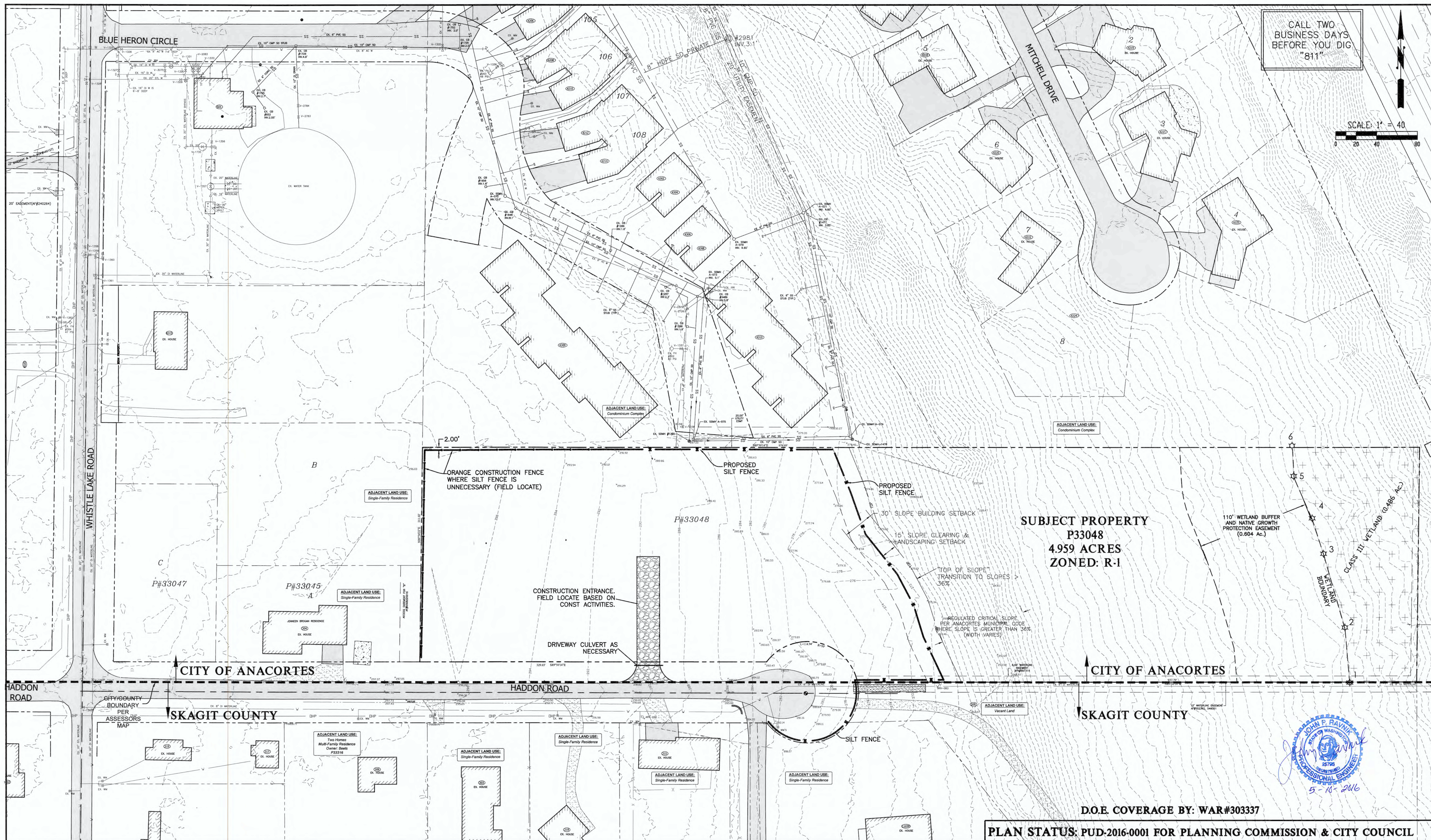
REV. NO.	REVISION	DATE	BY	APPROVED

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
1633 LINDAMOOD LANE/P.O. BOX 361
BURLINGTON, WA 98233
PH: (360) 707-2048 FAX: (360) 707-2216

SHEET DESCRIPTION:

COVER

PLAN STATUS: PUD-2016-0001 FOR PLANNING COMMISSION & CITY COUNCIL		
SCALE: AS NOTED	SHEET TITLE: HADDON ROAD PLANNED UNIT DEVELOPMENT FOR ALLEN FAMILY INVESTMENTS, LLC SECTION 30, T. 35 N., R. 2 E., W.M.	DRAWING NO. 16009.SITE.dwg
DRAWN BY: D. REMSEN		JOB NO. 16009
CHECKED BY: J. RAVNIK		SHEET NO. 1 OF 4
DATE: 05.10.16		

[illegible]

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
1633 LINDAMOOD LANE/P.O. BOX 361
BURLINGTON, WA 98233
PH: (360) 707-2048 FAX: (360) 707-2216

SHEET DESCRIPTION:

**OVERALL EXISTING CONDITIONS,
TEMPORARY EROSION AND
SEDIMENT CONTROL PLAN**

PLAN STATUS: PUD-2016-0001 FOR PLANNING COMMISSION & CITY COUNCIL

SCALE: 1" = 40'

DRAWN BY: D. REMSEN

CHECKED BY: J. RAVNIK

DATE: 05.10.16

SHEET TITLE:

**HADDON ROAD
PLANNED UNIT DEVELOPMENT
FOR
ALLEN FAMILY INVESTMENTS, LLC
SECTION 30, T. 35 N., R. 2 E., W.M.**

DRAWING NO.
009.SITE.dwg

JOB NO.
16009

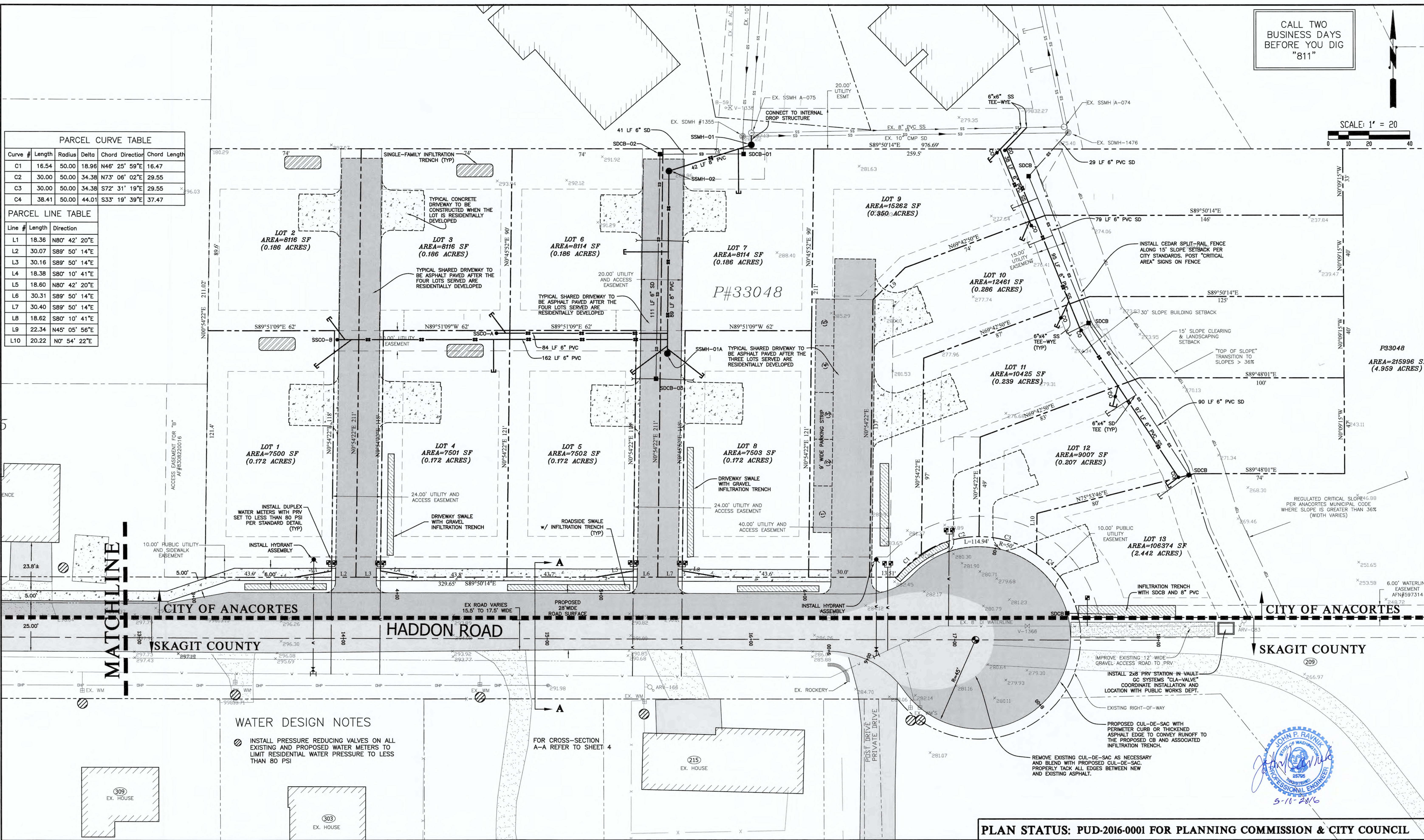
SHEET NO.
2 OF 4

CALL TWO
BUSINESS DAYS
BEFORE YOU DIG
"811"

SCALE: 1" = 20'

PARCEL CURVE TABLE					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	16.54	50.00	18.96	N46° 25' 59"E	16.47
C2	30.00	50.00	34.38	N73° 06' 02"E	29.55
C3	30.00	50.00	34.38	S72° 31' 19"E	29.55
C4	38.41	50.00	44.01	S33° 19' 39"E	37.47

PARCEL LINE TABLE		
Line #	Length	Direction
L1	18.36	N80° 42' 20"E
L2	30.07	S89° 50' 14"E
L3	30.16	S89° 50' 14"E
L4	18.38	S80° 10' 41"E
L5	18.60	N80° 42' 20"E
L6	30.31	S89° 50' 14"E
L7	30.40	S89° 50' 14"E
L8	18.62	S80° 10' 41"E
L9	22.34	N45° 05' 56"E
L10	20.22	N0° 54' 22"E



WATER DESIGN NOTES

- INSTALL PRESSURE REDUCING VALVES ON ALL EXISTING AND PROPOSED WATER MAINS TO LIMIT RESIDENTIAL WATER PRESSURE TO LESS THAN 80 PSI

FOR CROSS-SECTION A-A REFER TO SHEET 4



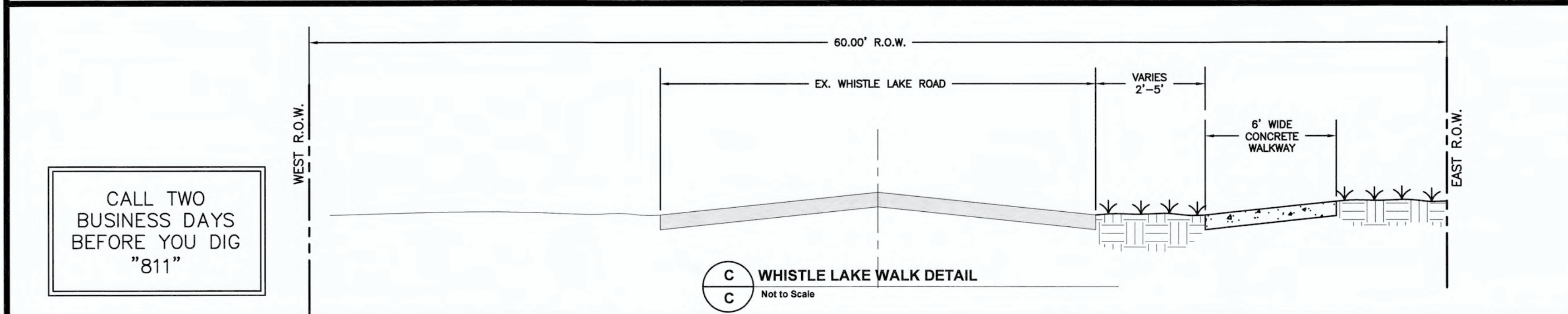
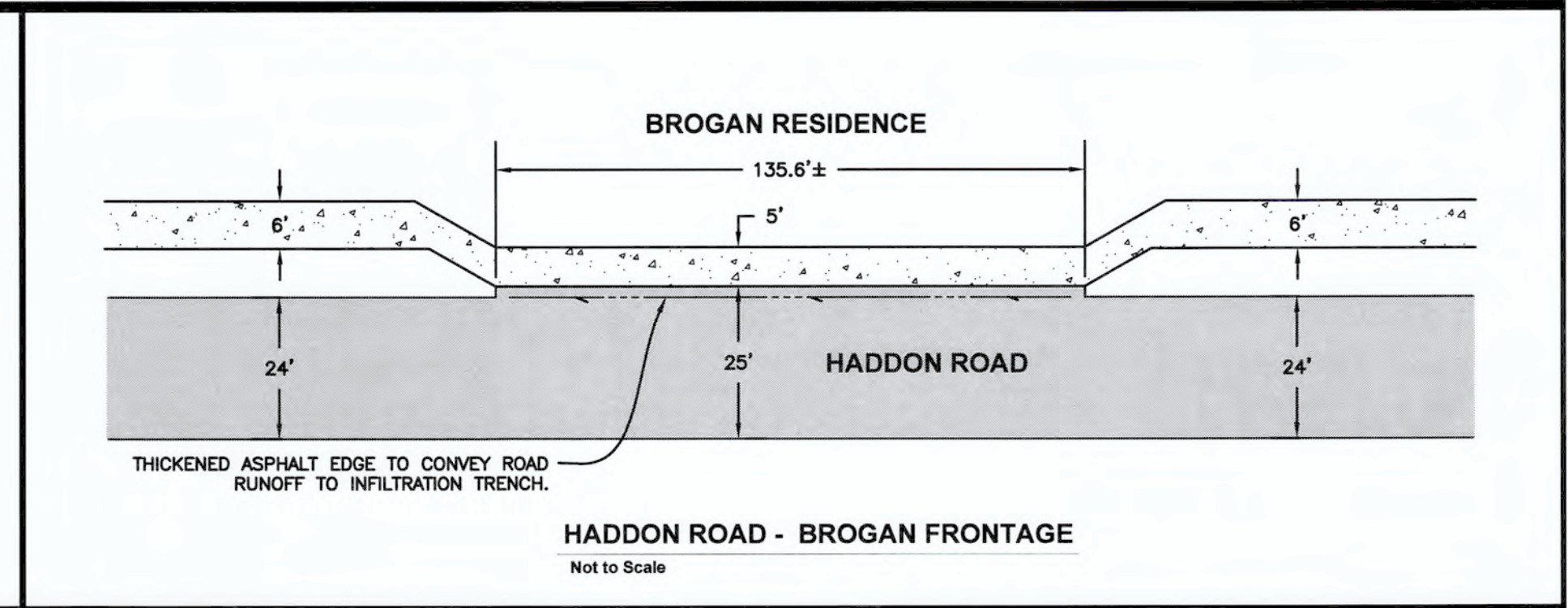
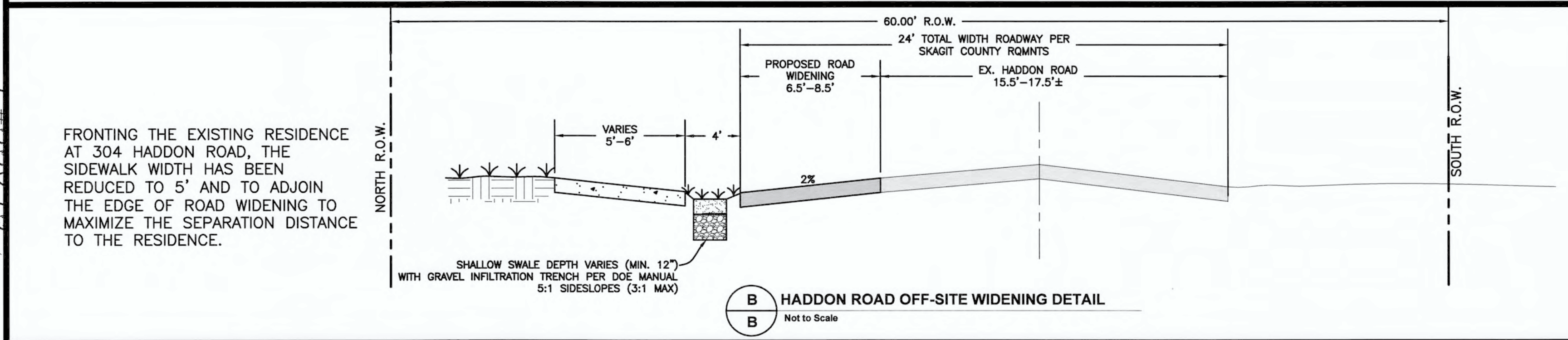
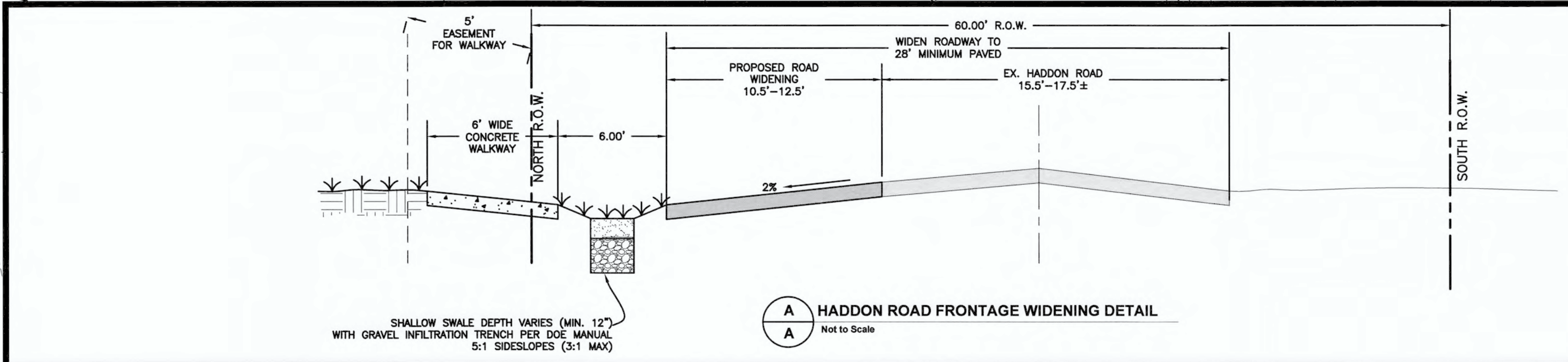
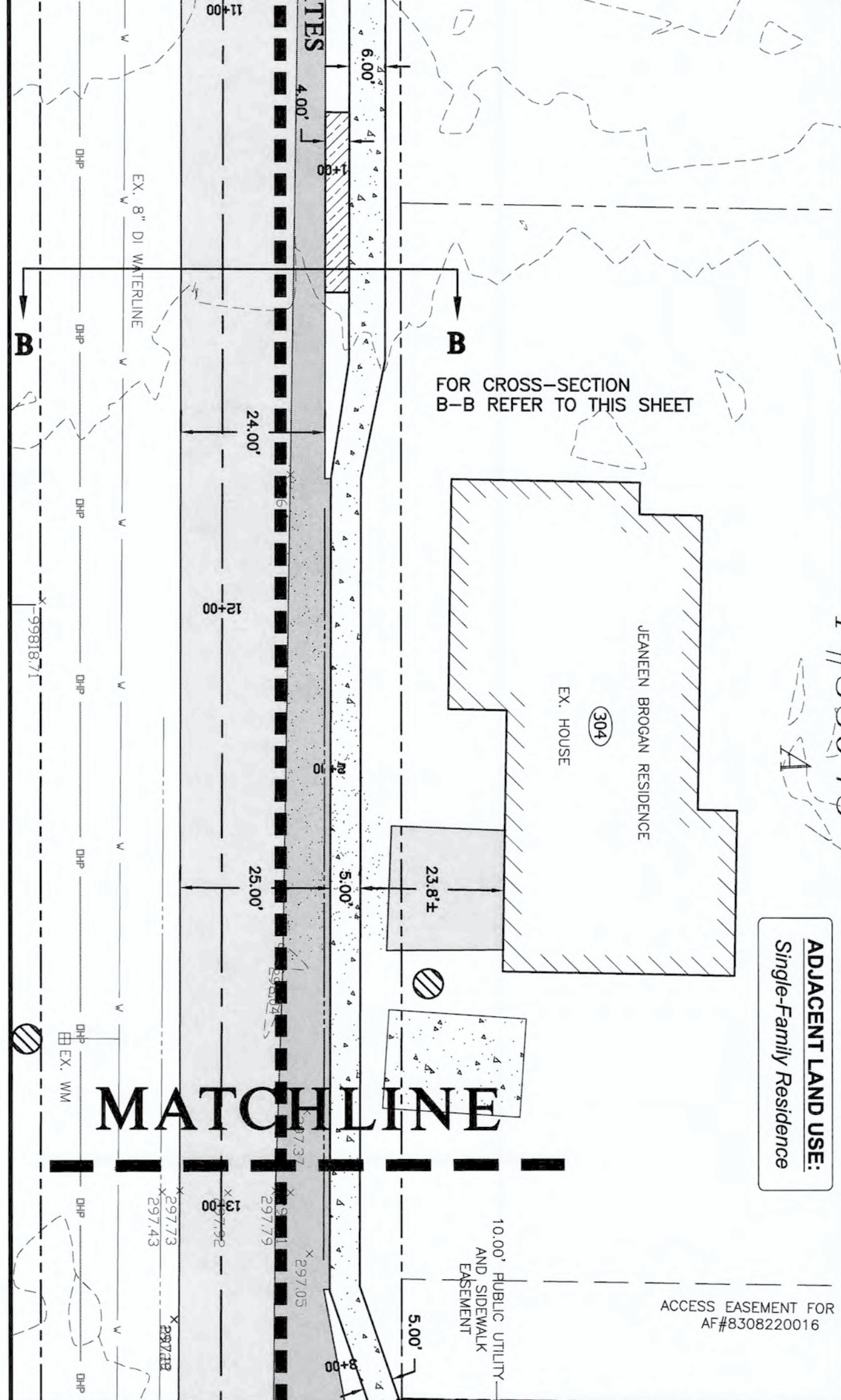
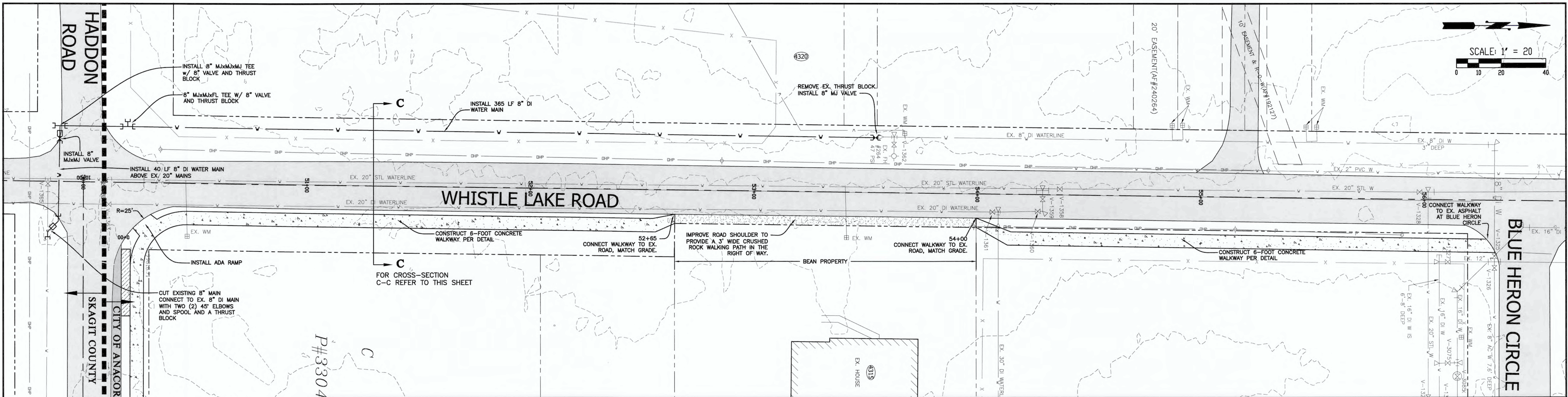
REV. NO.	REVISION	DATE	BY	APPROVED

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
1633 LINDAMOOD LANE/P.O. BOX 361
BURLINGTON, WA 98233
PH: (360) 707-2048 FAX: (360) 707-2216

SHEET DESCRIPTION:

UTILITY PLAN

PLAN STATUS: PUD-2016-0001 FOR PLANNING COMMISSION & CITY COUNCIL		
SCALE: 1" = 20'	SHEET TITLE: HADDON ROAD PLANNED UNIT DEVELOPMENT FOR ALLEN FAMILY INVESTMENTS, LLC SECTION 30, T. 35 N., R. 2 E., W.M.	DRAWING NO. 16009.SITE.dwg JOB NO. 16009 SHEET NO. 3 OF 4
DRAWN BY: D. REMSEN		
CHECKED BY: J. RAVNIK		
DATE: 05.10.16		



REV. NO.	REVISION	DATE	BY	APPROVED

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
1633 LINDAMOOD LANE/P.O. BOX 361
BURLINGTON, WA 98233
PH: (360) 707-2048 FAX: (360) 707-2216

**WHISTLE LAKE ROAD
PATHWAY AND OFFSITE WATERLINE
IMPROVEMENTS**

SCALE: AS NOTED

DRAWN BY: D. REMSEN

CHECKED BY: J. RAVNIK

DATE: 05.10.16

SHEET TITLE:

**HADDON ROAD
PLANNED UNIT DEVELOPMENT
FOR
ALLEN FAMILY INVESTMENTS, LLC
SECTION 30, T. 35 N., R. 2 E., W.M.**

DRAWING NO.
16009.SITE.dwg

JOB NO.
16009

SHEET NO.
4 OF 4

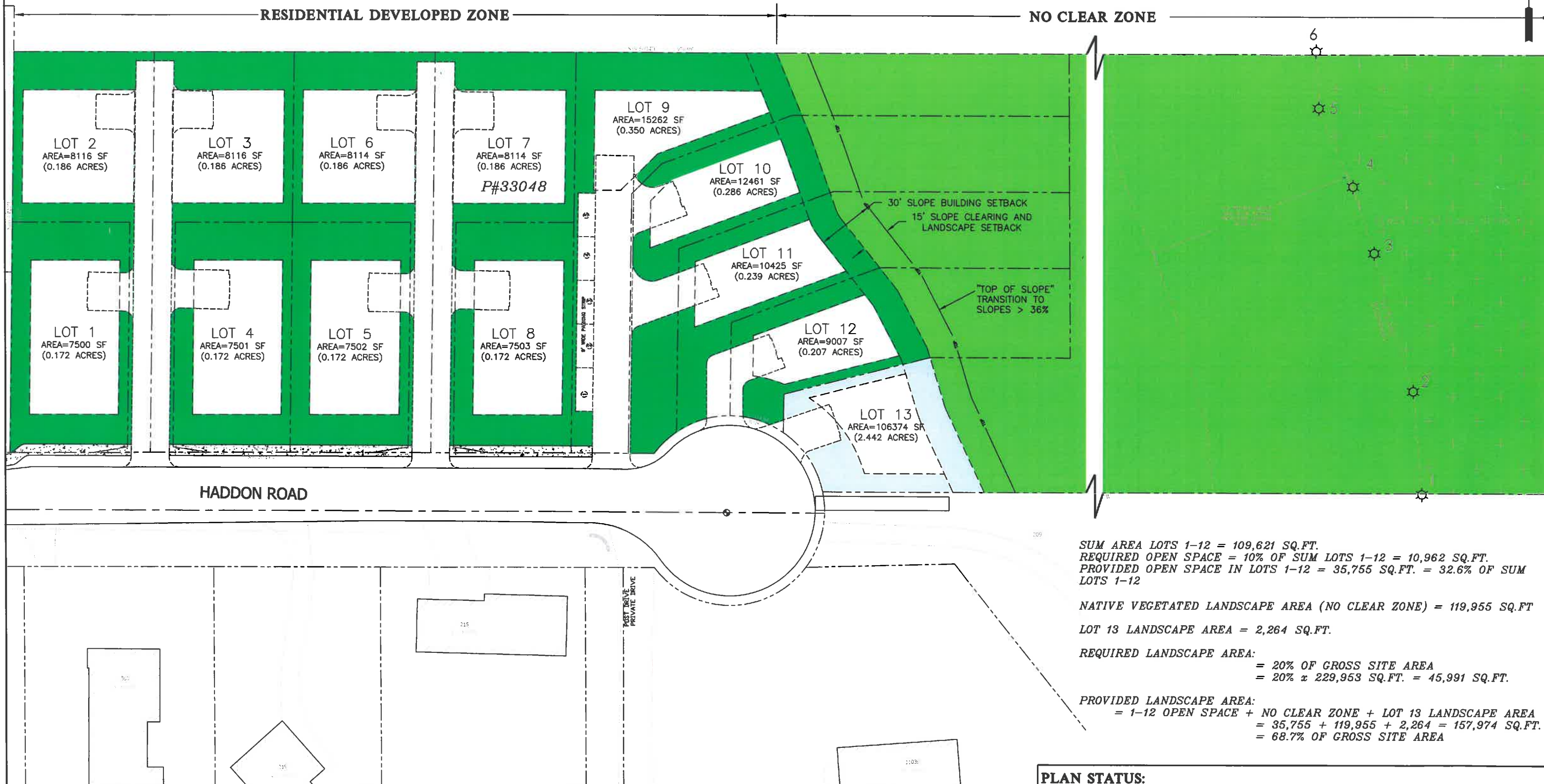
RESIDENTIALLY DEVELOPED LANDSCAPE AREA
(OPEN SPACE) LOTS 1-12

LOT 13

NATIVE VEGETATED LANDSCAPE AREA
(NO CLEAR ZONE)

RESIDENTIAL DEVELOPED ZONE

NO CLEAR ZONE



SUM AREA LOTS 1-12 = 109,621 SQ.FT.
REQUIRED OPEN SPACE = 10% OF SUM LOTS 1-12 = 10,962 SQ.FT.
PROVIDED OPEN SPACE IN LOTS 1-12 = 35,755 SQ.FT. = 32.6% OF SUM
LOTS 1-12

NATIVE VEGETATED LANDSCAPE AREA (NO CLEAR ZONE) = 119,955 SQ.FT
LOT 13 LANDSCAPE AREA = 2,264 SQ.FT.

REQUIRED LANDSCAPE AREA:
= 20% OF GROSS SITE AREA
= 20% x 229,953 SQ.FT. = 45,991 SQ.FT.

PROVIDED LANDSCAPE AREA:
= 1-12 OPEN SPACE + NO CLEAR ZONE + LOT 13 LANDSCAPE AREA
= 35,755 + 119,955 + 2,264 = 157,974 SQ.FT.
= 68.7% OF GROSS SITE AREA

PLAN STATUS:

SCALE: 1" = 50'
DRAWN BY: D. REMSEN
CHECKED BY: J. RAVNIK
DATE: 05.09.16

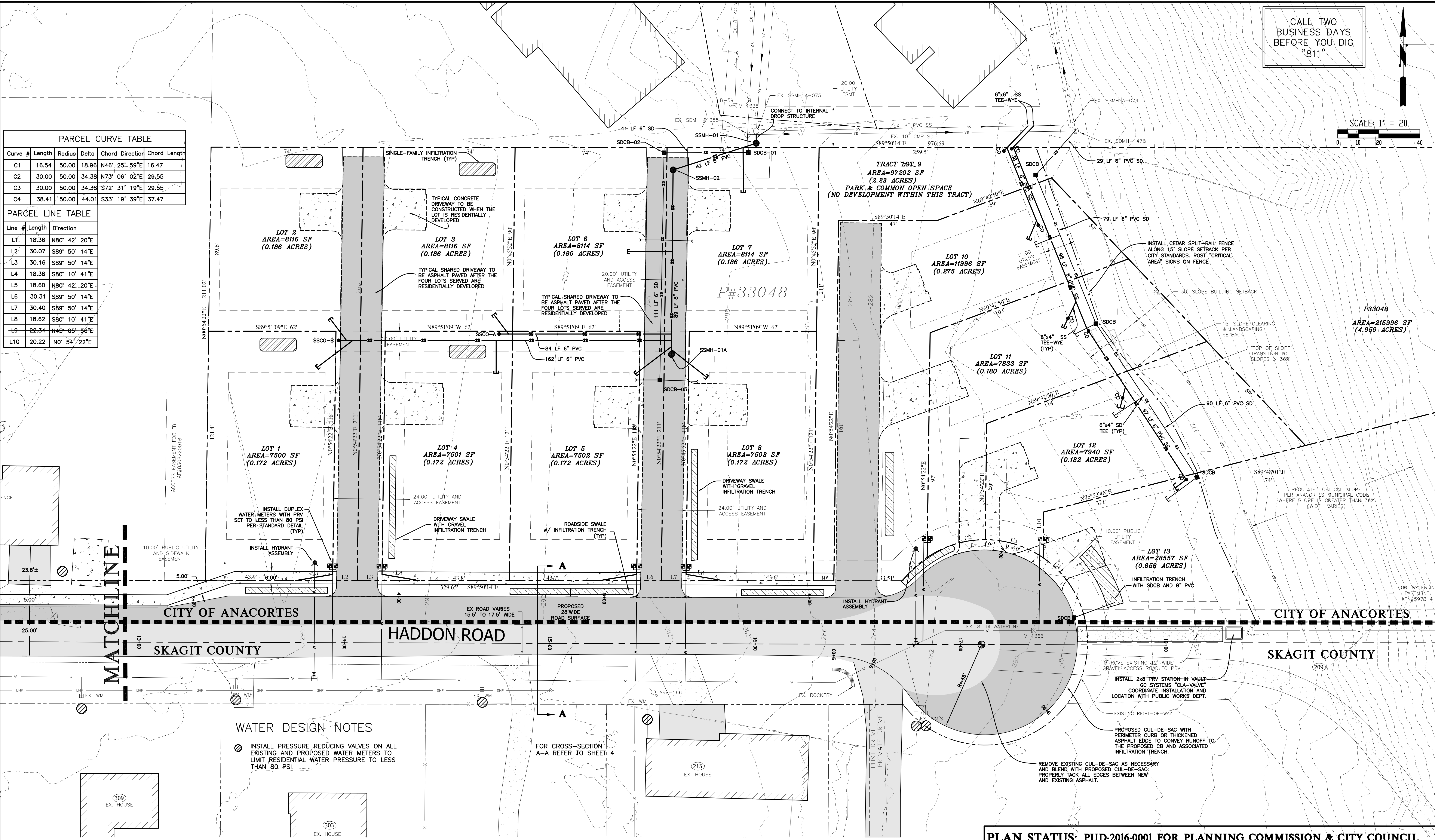
SHEET TITLE:
**HADDON ROAD
PLANNED UNIT DEVELOPMENT
FOR
ALLEN FAMILY INVESTMENTS, LLC
SECTION 30, T. 35 N., R. 2 E., W.M.**

DRAWING NO.
16009.OPEN.SPACE.dwg
JOB NO.
16009
SHEET NO.
1 OF 1

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
1633 LINDAMOOD LANE/P.O. BOX 361
BURLINGTON, WA 98233
PH: (360) 707-2048 FAX: (360) 707-2216

SHEET DESCRIPTION:

**OPEN SPACE AND
LANDSCAPE AREAS
EXHIBIT**



PARCEL CURVE TABLE					
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	16.54	50.00	18.96	N46° 25' 59"E	16.47
C2	30.00	50.00	34.38	N73° 06' 02"E	29.55
C3	30.00	50.00	34.38	S72° 31' 19"E	29.55
C4	38.41	50.00	44.01	S33° 19' 39"E	37.47

PARCEL LINE TABLE		
Line #	Length	Direction
L1	18.36	N80° 42' 20"E
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L3	30.16	S89° 50' 14"E
L4	18.38	S80° 10' 41"E
L5	18.60	N80° 42' 20"E
L6	30.31	S89° 50' 14"E
L7	30.40	S89° 50' 14"E
L8	18.62	S80° 10' 41"E
L9	22.34	N45° 05' 56"E
L10	20.22	N0° 54' 22"E

WATER DESIGN NOTES

⊗ INSTALL PRESSURE REDUCING VALVES ON ALL EXISTING AND PROPOSED WATER METERS TO LIMIT RESIDENTIAL WATER PRESSURE TO LESS THAN 80 PSI

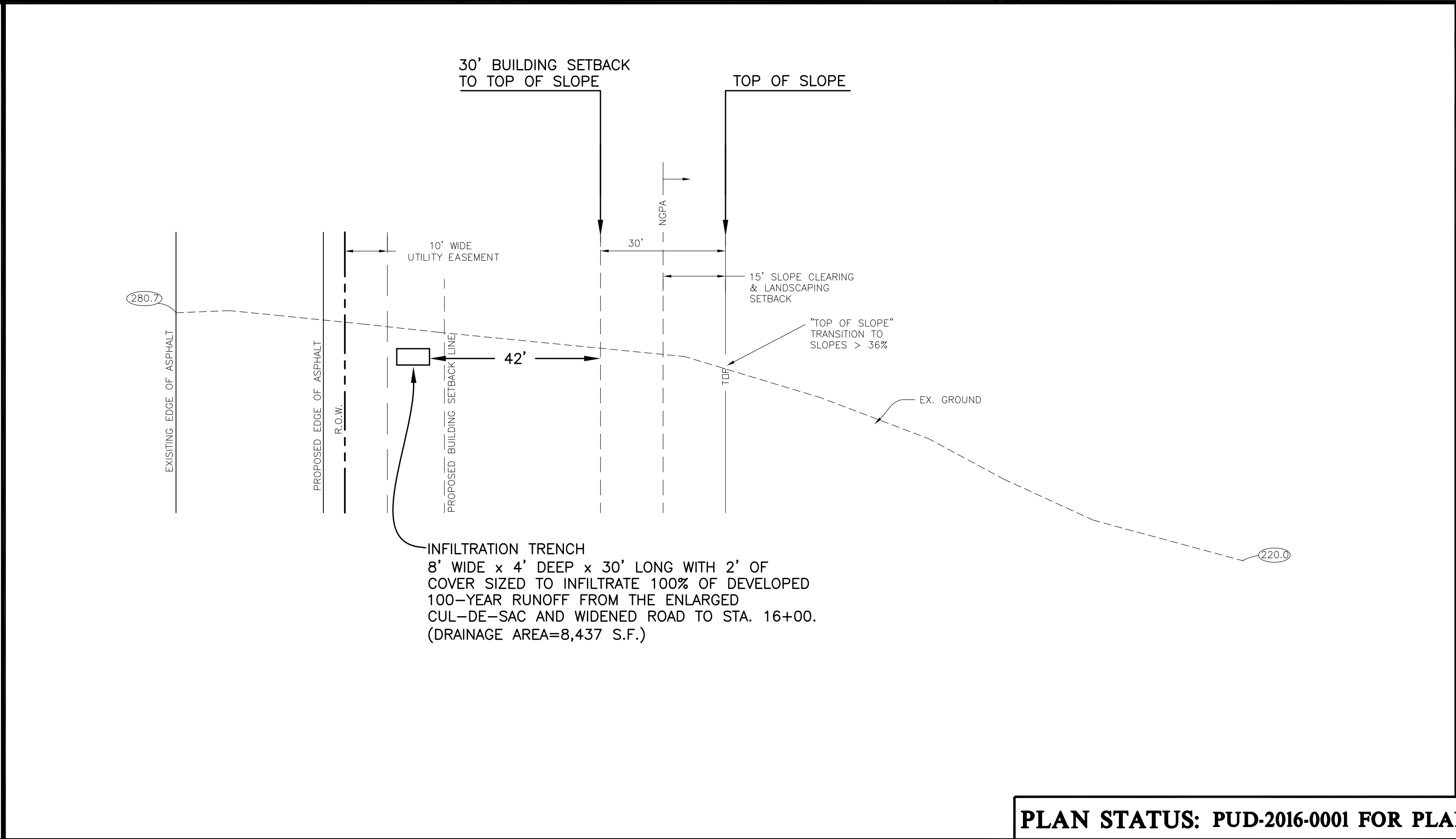
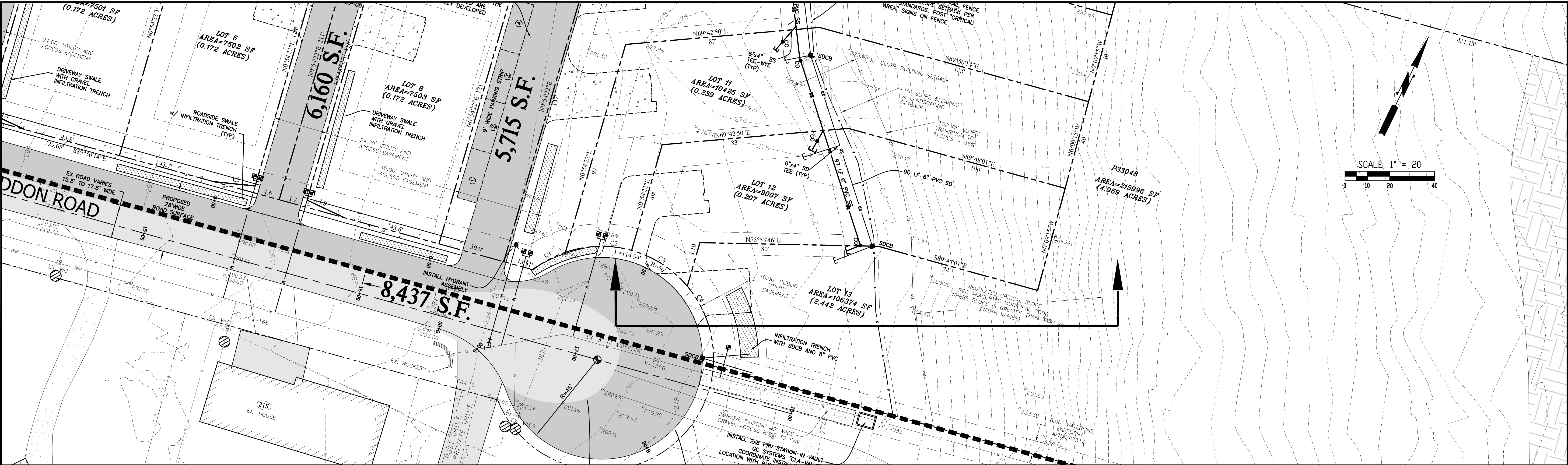
REV. NO.	REVISION	DATE	BY	APPROVED

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
1633 LINDAMOOD LANE/PO. BOX 361
BURLINGTON, WA 98233
PH: (360) 707-2048 FAX: (360) 707-2216

SHEET DESCRIPTION:

UTILITY PLAN

PLAN STATUS: PUD-2016-0001 FOR PLANNING COMMISSION & CITY COUNCIL			
SCALE: 1" = 20'	SHEET TITLE:	DRAWING NO.	
DRAWN BY: D. REMSEN	HADDON ROAD PLANNED UNIT DEVELOPMENT FOR ALLEN FAMILY INVESTMENTS, LLC SECTION 30, T. 35 N., R. 2 E., W.M.	16009.OPTIOND.dwg	
CHECKED BY: J. RAVNIK		JOB NO.	
DATE: 06.22.16		16009	
		SHEET NO.	
		X OF X	



CALL TWO
BUSINESS DAYS
BEFORE YOU DIG
"811"

REV. NO.	REVISION	DATE	BY	APPROVED

Ravnik & Associates, Inc.
CIVIL ENGINEERING & LAND-USE PLANNING
1633 LINDAMOOD LANE/PO. BOX 361
BURLINGTON, WA 98233
PH: (360) 707-2048 FAX: (360) 707-2216

SHEET DESCRIPTION:
**EAST INFILTRATION TRENCH
PLAN & PROFILE**

PLAN STATUS: PUD-2016-0001 FOR PLANNING COMMISSION & CITY COUNCIL				
SCALE: 1" = 20'	SHEET TITLE: HADDON ROAD PLANNED UNIT DEVELOPMENT FOR ALLEN FAMILY INVESTMENTS, LLC SECTION 30, T. 35 N., R. 2 E., W.M.		DRAWING NO. 16009.SITE.dwg	
DRAWN BY: D. REMSEN			JOB NO. 16009	
CHECKED BY: J. RAVNIK			SHEET NO. 1 OF 1	
DATE: 06.22.16				

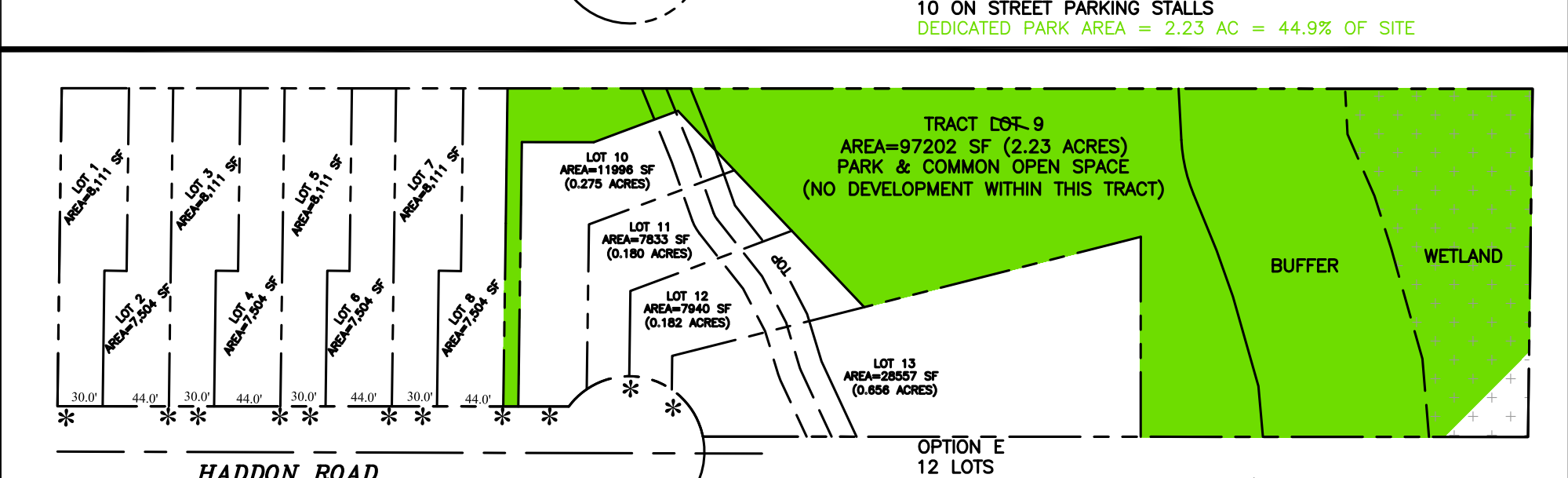
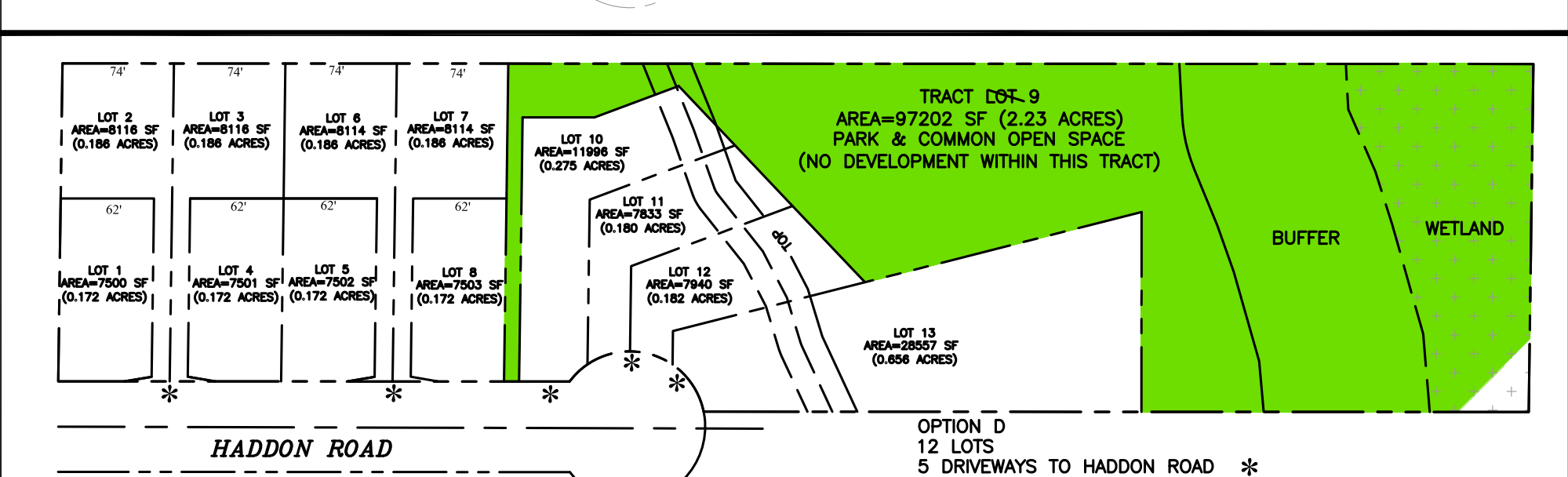
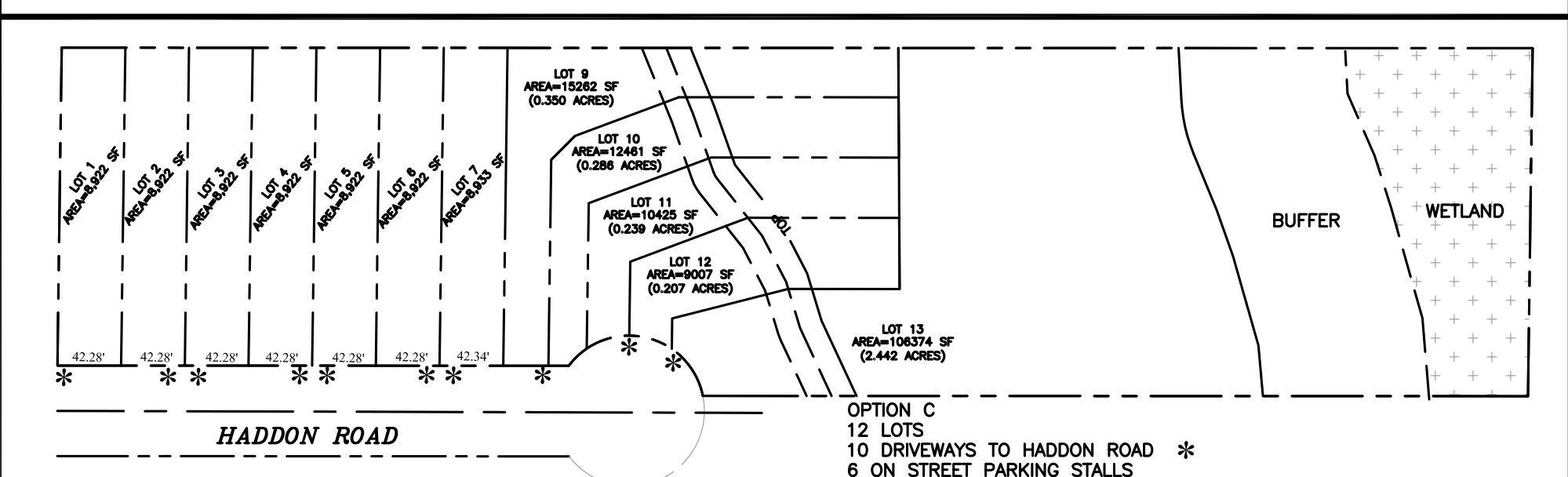
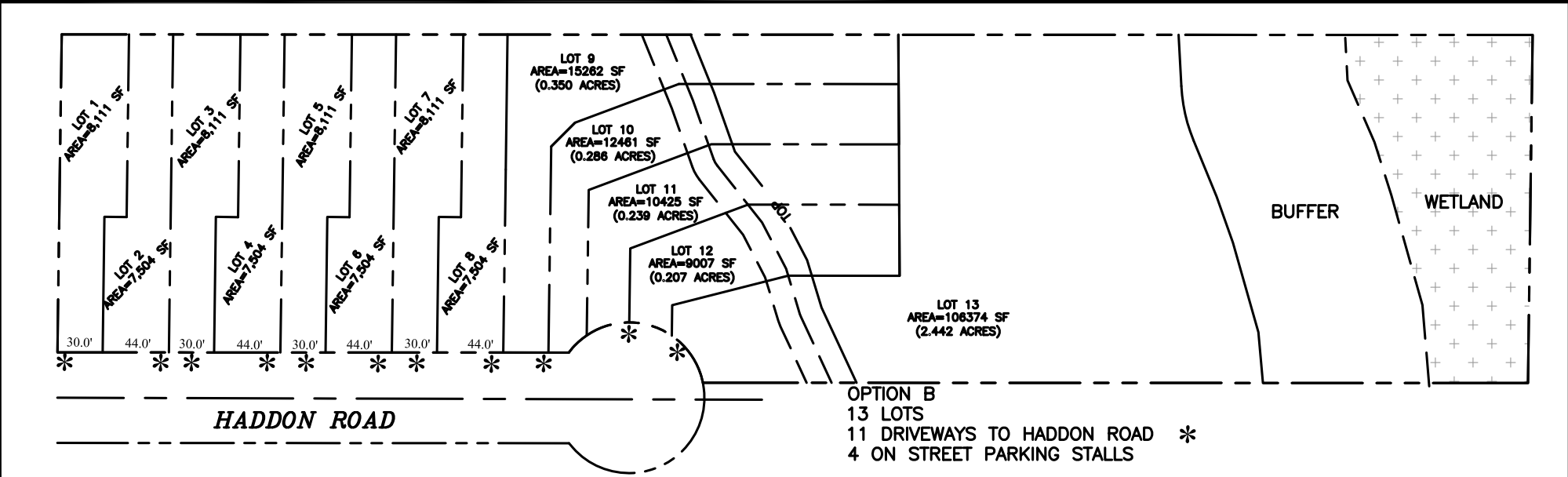
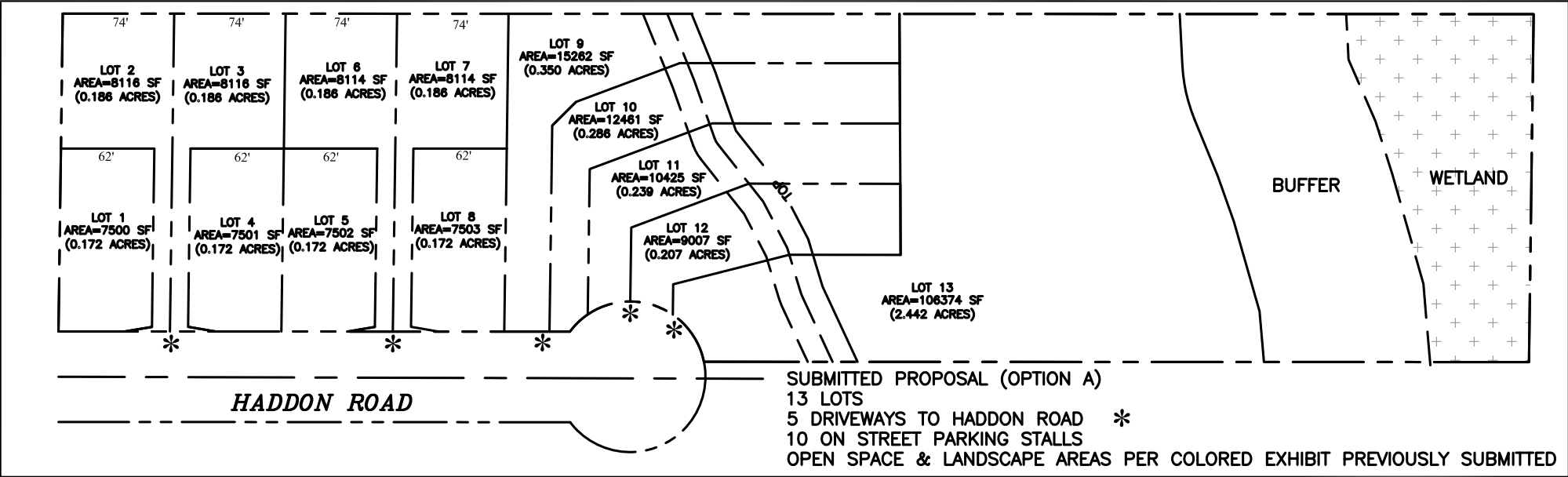


EXHIBIT #44:

PAM ALLEN'S HANDOUT
(RECEIVED AT 6-22-16 HEARING)

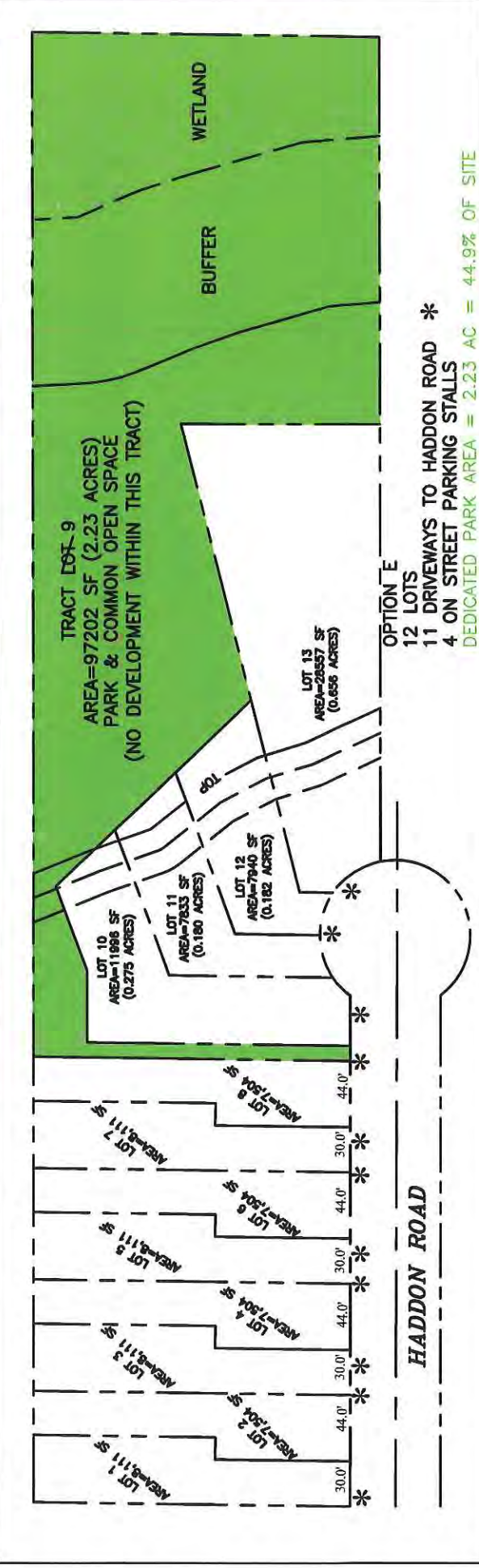
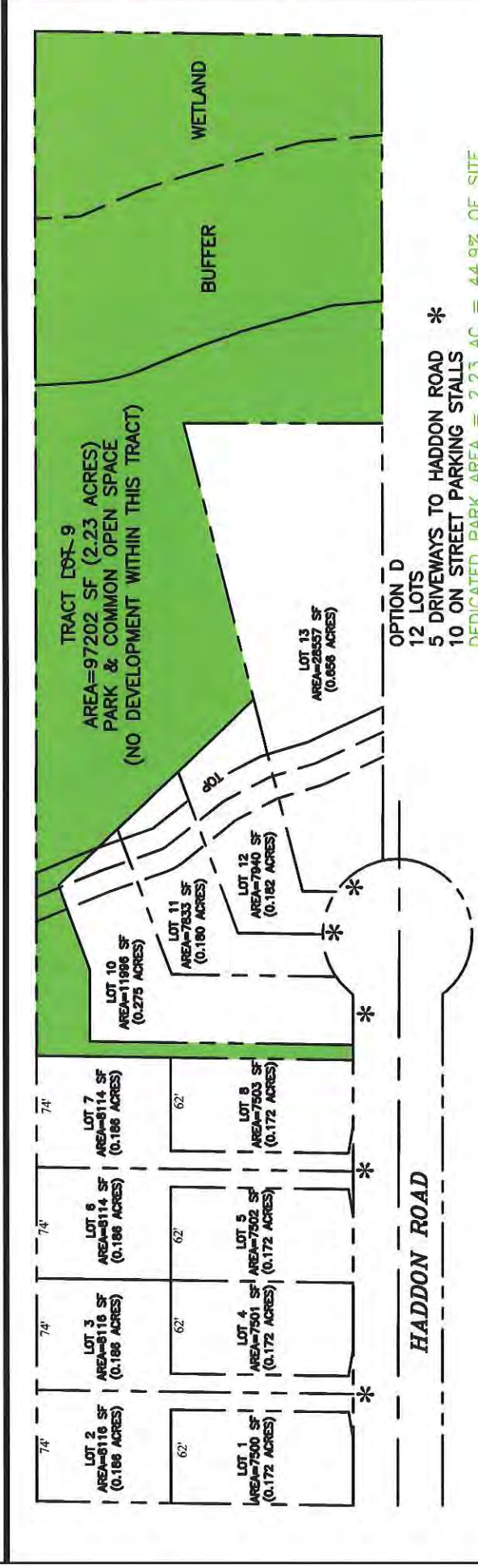
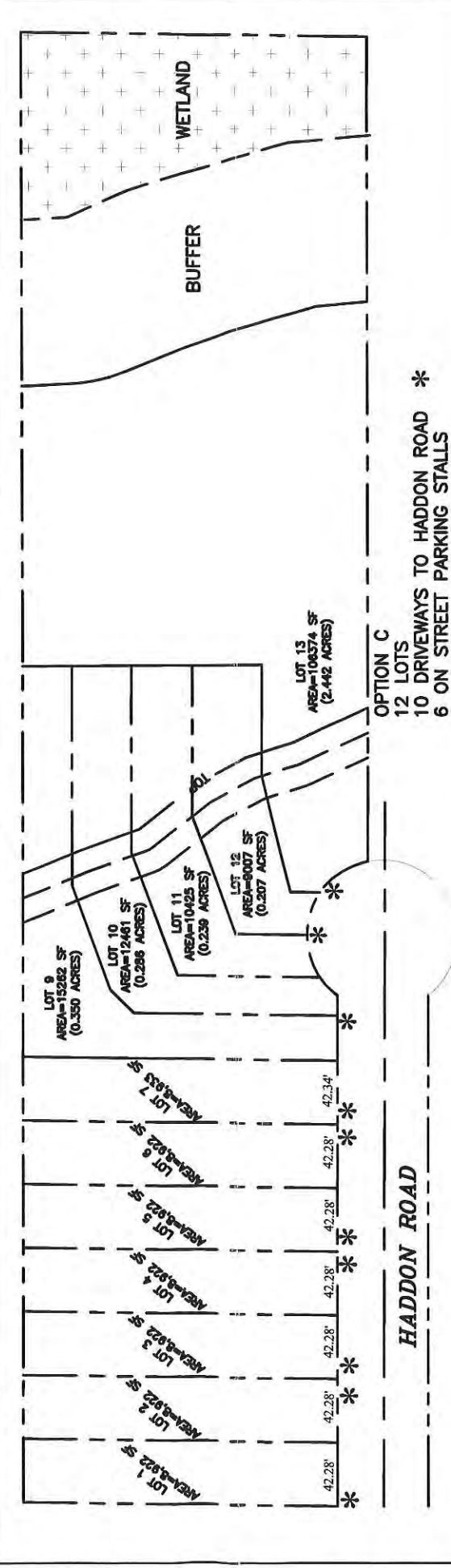
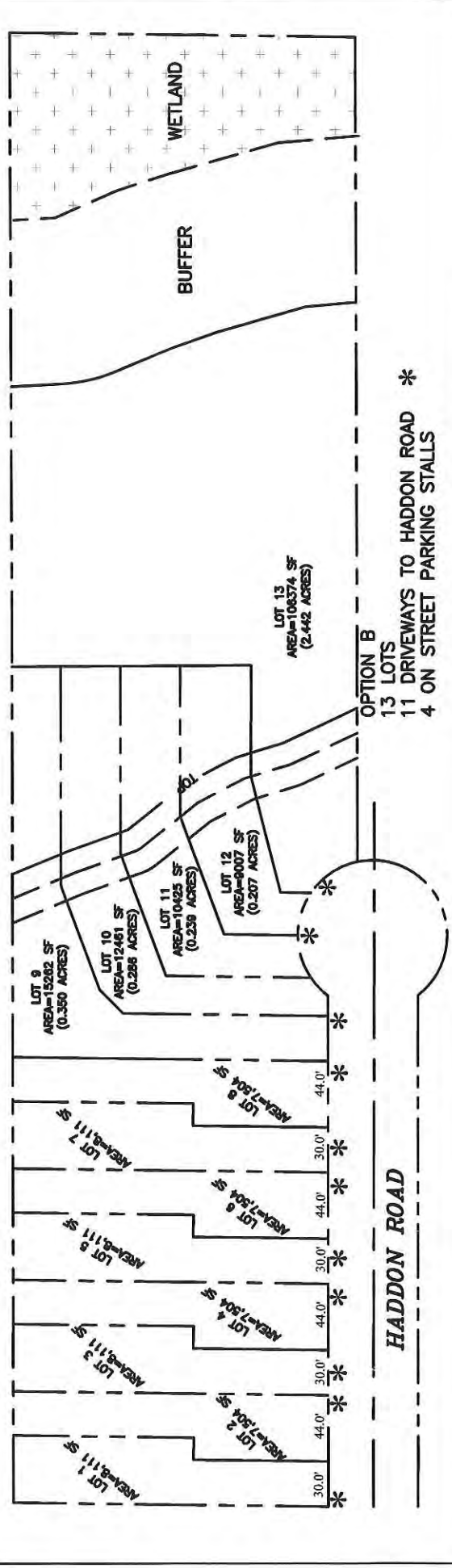
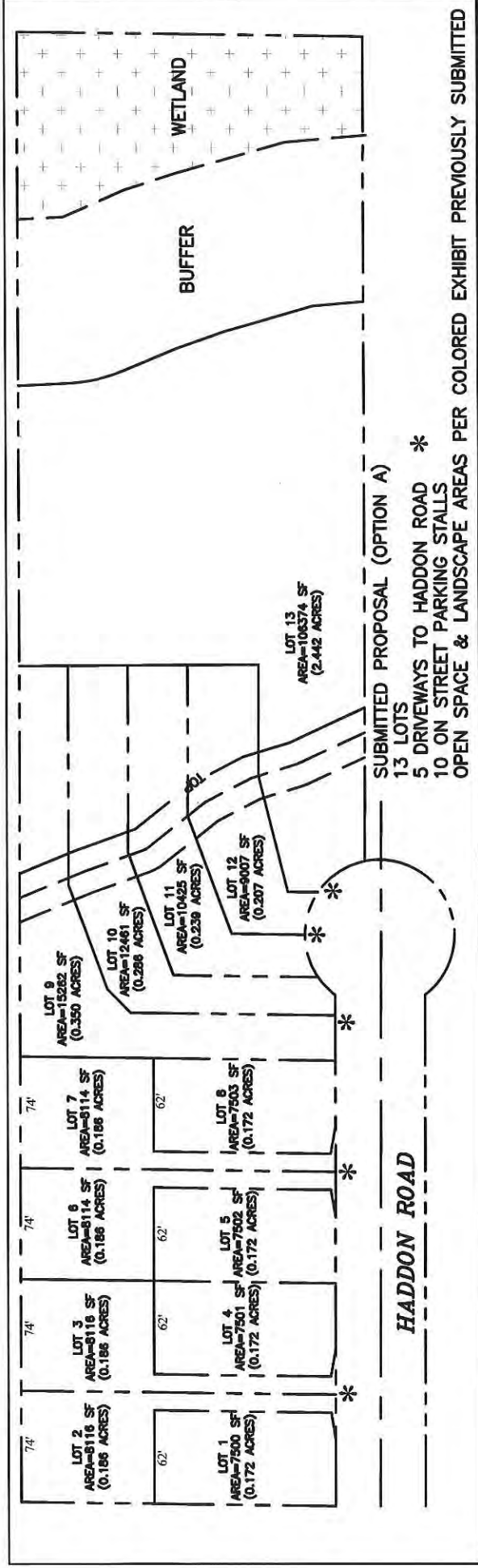


EXHIBIT #45:

STEVE NICOL'S 6-22-16 PRESENTATION

HADDON ROAD PUD

Allen Family Properties



CITY OF ANACORTES

COMPREHENSIVE PLAN

ZONING / PLATS / SHORT PLATS



GUENES CHANNEL

FIDALGO

PADILLA

BURROWS

BURROWS ISLAND

YOUNG ISLAND

ALLAN ISLAND

BAY

BAY

BAY

BAY

LEGEND:

- AZ = AIRPORT ZONE
- C = COMMERCIAL
- CBD = CENTRAL BUSINESS
- CM = COMMERCIAL MARINE
- CM1 = COMMERCIAL MARINE (1)
- CM2 = COMMERCIAL MARINE (2)
- HM = HEAVY MANUFACTURING
- I = INDUSTRIAL
- LM = LIGHT MANUFACTURING
- LM1 = LIGHT MANUFACTURING (1)
- MS = MANUFACTURING / SHIPPING
- P = PUBLIC USE
- R4 = RESIDENTIAL HIGH DENSITY
- R4A = RESIDENTIAL HIGH DENSITY TWO (A)
- R4B = RESIDENTIAL HIGH DENSITY TWO (B)
- R3 = RESIDENTIAL MEDIUM DENSITY
- R3 = OLD TOWN OVERLAY DISTRICT
- R2 = RESIDENTIAL LOW DENSITY
- R1 = RESIDENTIAL LOW DENSITY

SUPREME COURT OF WASHINGTON

News-Newschwander v. Board of Trustees, 94 Wn.2d 701, 711, 620, P.2d 88 (1980)

- ***“In interpreting a statute, great weight must be accorded to the contemporaneous construction placed upon it by officials charged with its enforcement, particularly where that construction has been accompanied by silent acquiescence of the legislative body over a long period of time.”***

17.44.010 - PURPOSE

- The zone map adopted as part of this title establishes zone boundaries, and this title establishes the permitted use of land in the various zones. The conditions and requirements set forth in this title are general and designed to apply to individual lots and minimum area of parcels. A planned unit development (PUD), as the term is used in this title, has the following purposes:
 - A. To permit greater flexibility and consequently more creative and imaginative design for the development of residential and business uses than generally is possible under conventional zoning regulations;
 - B. To promote more economical and efficient use of the land while providing a harmonious variety of housing choices, a higher level of city attractiveness and quality, and preservation of scenic open space;
 - C. To correlate the intentions of this title and other ordinances of the city to encourage developments which will provide a desirable and stable environment in harmony with that of the surrounding area.
(Ord. 2316 (part), 1994)

OBJECTIONS by OPPONENTS

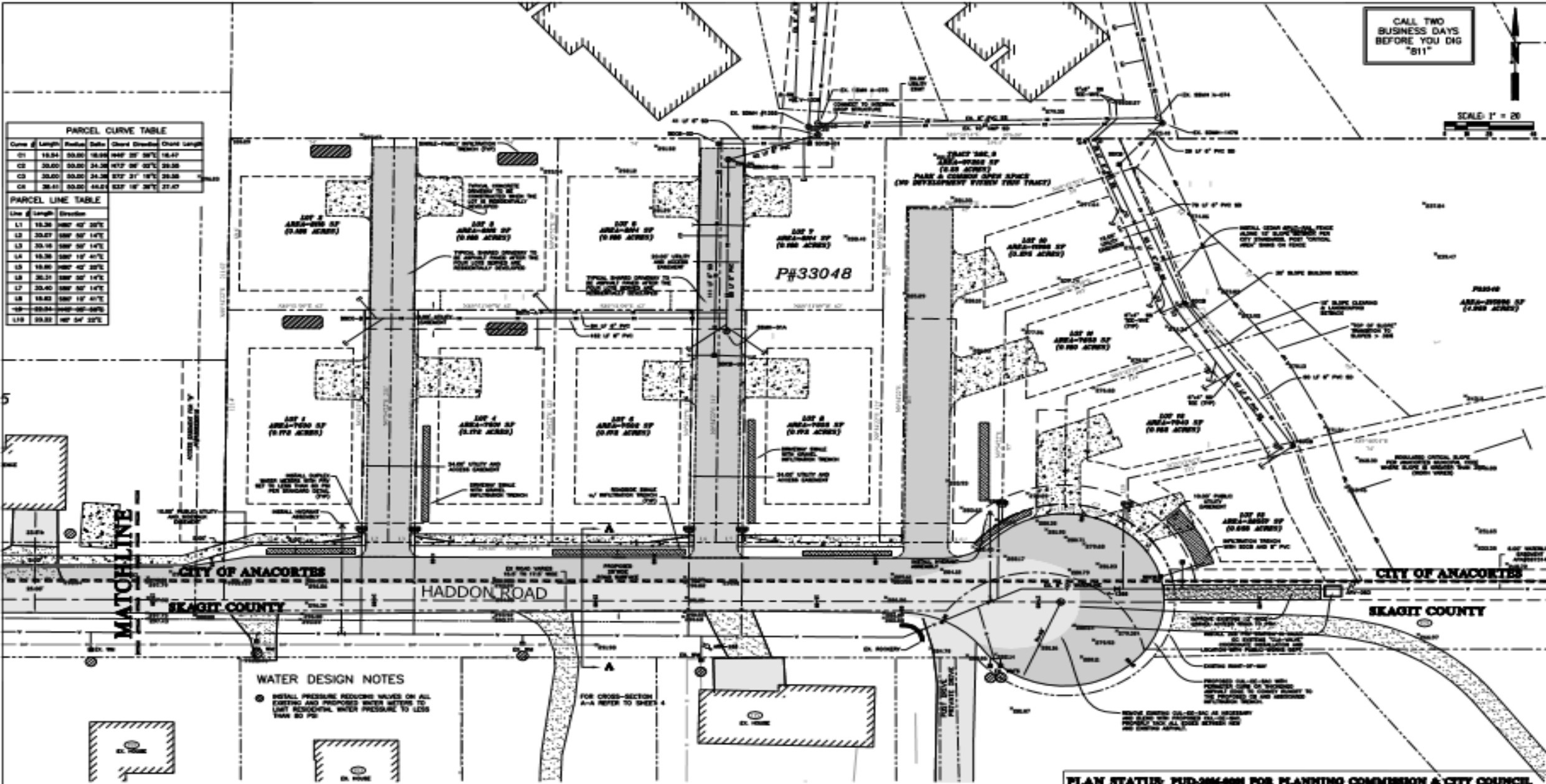
1. Density in PUD (R1 vs R2)
2. Yard definitions with related Setback issues
3. Depth and Width of Lots
4. Open Space and Common Open space
5. Park Lands

CALL TWO BUSINESS DAYS BEFORE YOU DIG "811"

SCALE: 1" = 20'

Curve #	Length	Radius	Delta	Chord Distance	Chord Length
C1	15.84	50.00	18.00	17.72	18.47
C2	20.00	50.00	24.00	17.72	20.58
C3	20.00	50.00	24.00	17.72	20.58
C4	20.41	50.00	18.00	17.72	21.47

Line #	Length	Direction
L1	15.36	S89° 42' 30"E
L2	20.07	S89° 50' 14"E
L3	20.16	S89° 50' 14"E
L4	15.36	S89° 12' 41"E
L5	15.80	S89° 42' 30"E
L6	20.21	S89° 50' 14"E
L7	20.40	S89° 50' 14"E
L8	15.80	S89° 12' 41"E
L9	20.04	S89° 50' 14"E
L10	20.00	S89° 42' 30"E



WATER DESIGN NOTES

- INSTALL PRESSURE REDUCING VALVES ON ALL EXISTING AND PROPOSED WATER METERS TO LIMIT RESIDENTIAL WATER PRESSURE TO LESS THAN 80 PSI

REV. NO.	REVISION	DATE	BY	APPROVED

Ravnik & Associates, Inc.
 CIVIL ENGINEERING & LAND-USE PLANNING
 3800 1ST AVENUE, SUITE 100
 ANACORTES, WA 98008

UTILITY PLAN

PLAN STATUS: PUD-2004-0001 FOR PLANNING COMMISSION & CITY COUNCIL	
SCALE: 1" = 20'	SHEET TITLE: HADDON ROAD PLANNED UNIT DEVELOPMENT FOR ALLEN FAMILY INVESTMENTS, LLC SECTION 30, T. 35 N., R. 2 E., W.M.
DRAWN BY: D. RAVNIK	JOB NO. 10009
CHECKED BY: A. RAVNIK	SHEET NO. 1 OF 1
DATE: 06.22.16	

17.38.070 - Maximum density

- Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002: Ord. 2528 Att. A [§ 10](#), 2000: Ord. 2316 (part), 1994)
- If a planned unit development [PUD] is applied for which requests a higher density in a **portion of the R1 zone**, the **density of that portion [of the R1 zone (*my addition*)]** shall not exceed four units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements.

OPPOSITION ARGUMENT

- In the opposition's presentation arguing that the R2 Zoning that applies to a PUD only applies to the *developable portion of a particular PUD Lot*, the opposition is clearly wrong in their reading of the statute. The code states that the R2 zoning designation applies to the entire *portion of the R1 zone* that is being developed; not a portion of the development itself. In this case, the R2 zoning applies to the entire 5 acres of the Allen Family land—not just the approximately 3 acre portion being developed. If the code was intended to be read as the opposition argues, it would say in plain language that the R2 zoning only applies to that “*portion of the land being developed*” and not that “*portion of the R1 Zone.*”

DEPTH AND WIDTH OF LOTS

AMC 16.20.040 - Lots

- Each lot shall contain a building site which conforms to zoning regulations and regulations contained herein:
 - A. No single lot shall be divided by a city or county boundary line;
 - B. No single lot shall be divided by a public or private road right-of-way;
 - C. Each lot shall abut a public or private road. Lot frontage on said roads shall not be less than thirty feet;
 - D. Corner lots shall be of sufficient area to provide acceptable visibility for traffic safety;
 - ***E. No lot shall have an average depth greater than five times its average width;***
 - F. 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.

WHAT IS A YARD?

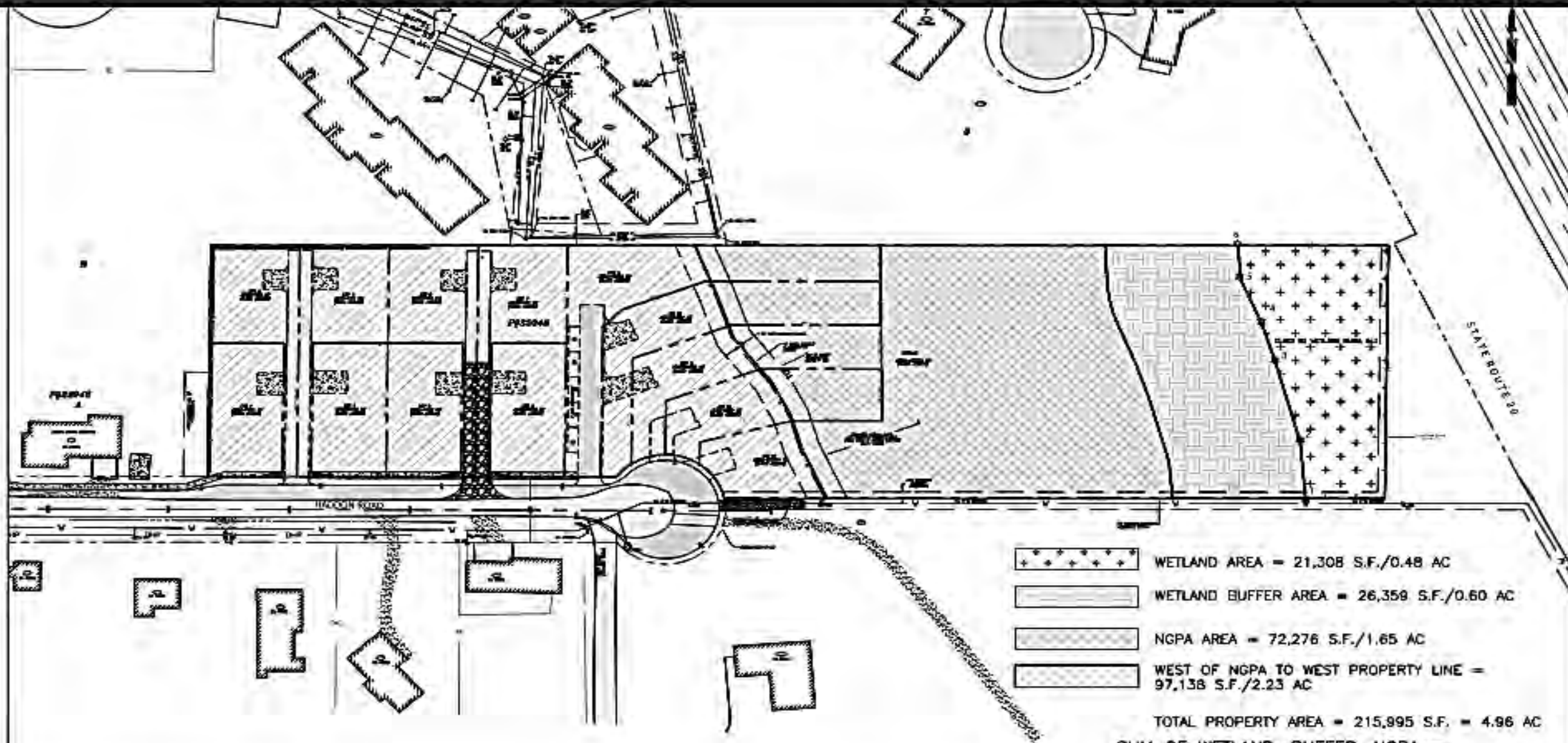
AMC 17.06.915, 920, 925

- In the first sentence of each definition of a “Yard,” the term “front,” “rear” and “side” yard is defined. The second sentence of the same definition defines “required” “front,” “rear” and “side” yard. This begs the question: **“Why are there two different definitions, and to what does each apply?”** The answer is found through a search of the AMC.

WHAT IS A YARD?

Other than the definition of “Required” attached to each yard definition, there are 4 places where the term “required” “front,” “rear” and “side” yard is used, and they all address either sign, wall, hedge or fence placement. The only way you could have a “Required” “front,” “rear” and “side” yard as defined is to have nothing but square lots in the city. This clearly isn’t the case!

- The only reasonable reading of AMC 17.06.915, 920, 925 is to read “front,” “side” and “rear” yards” in general development decisions as:
- “Front Yard” means the open space between the building(s) and the front property line.
- “Rear Yard” means the open space between the building(s) and the rear property line.
- “Side Yard” means the open space between the principle building(s) and the side property lines extending from the front yard to the rear yard.



AMC 16.40.102 COMMON OPEN SPACE

A. Land area of the site not covered by buildings, parking structures, or accessory structures except recreational structures (decks may be counted as specified further in these standards).

B. Land which is accessible and available to all occupants of dwelling units for whose use the space is intended.

C. Open space does not include:

- 1. Proposed street rights-of-way;
- 2. Open parking areas and driveways for dwellings;
- 3. School sites;
- 4. Commercial areas and the buildings, accessory buildings, parking and loading facilities for these commercial areas;
- 5. Land totally unsuitable for building because of topographic features.

D. The open space requirement shall be equivalent to that set out in Section 16.20.100(B) of this code.

16.20.100 - PARK LAND REQUIREMENT

As applied to Common Open Space

- A. One-tenth of the combined area of lots one acre or less in size, exclusive of all other dedications, shall be forever dedicated to the public for parks, open space, or playgrounds . . .
- B. **The area of land to be deeded . . . shall equal the amount that would otherwise have been dedicated to public use.**

16.20.100 - Park land requirement

- The city council, at its sole discretion, shall select one of the following:
 - A. One-tenth of the combined area of lots one acre or less in size, exclusive of all other dedications, shall be forever dedicated to the public for parks, open space, or playgrounds. No dedication shall be required for subdivisions of four lots or fewer or for the combined area of those lots in a subdivision which are larger than one acre exclusive of all easements and other dedications. The city council, in consultation with the park board, shall determine suitable locations for such parks and playgrounds.
 - B. The subdivider creates a property owners' association for the proposed subdivision and deeds to the association land to be held in perpetuity for use as parks, open space, or playgrounds. The area of land to be deeded to the association shall equal the amount that would otherwise have been dedicated to public use.
 - C. The city may make an order to be endorsed and certified on the plat accepting a cash contribution in lieu of dedication of land that would have been dedicated. The cash contribution shall be the value of the unsubdivided, unimproved land and shall be paid into the park fund or forest land endowment fund. If the value is not agreed upon between the subdivider and the administrator, the developer may, at his/her expense, have the value established by a qualified real estate appraiser acceptable to the administrator.

CONCLUSION

- The proposed PUD would be an attractive addition to the community of Anacortes. The development attempts to provide housing in a rural setting consistent with the wishes of the city and neighbors while staying within the boundaries of the law. Allen has met or exceeded all of the requirements of the AMC for the placement and development of a PUD consisting of 11 to 13 houses at the proposed location. While the opposition has a right to object, the objections themselves cannot be the basis for the city to refuse the application. If there are questions or concerns that the city has surrounding the proposed development, Allen will continue to meet or exceed all the statutory requirements for this development and will alter or amend the plan and proposals to meet the code requirements of the City.

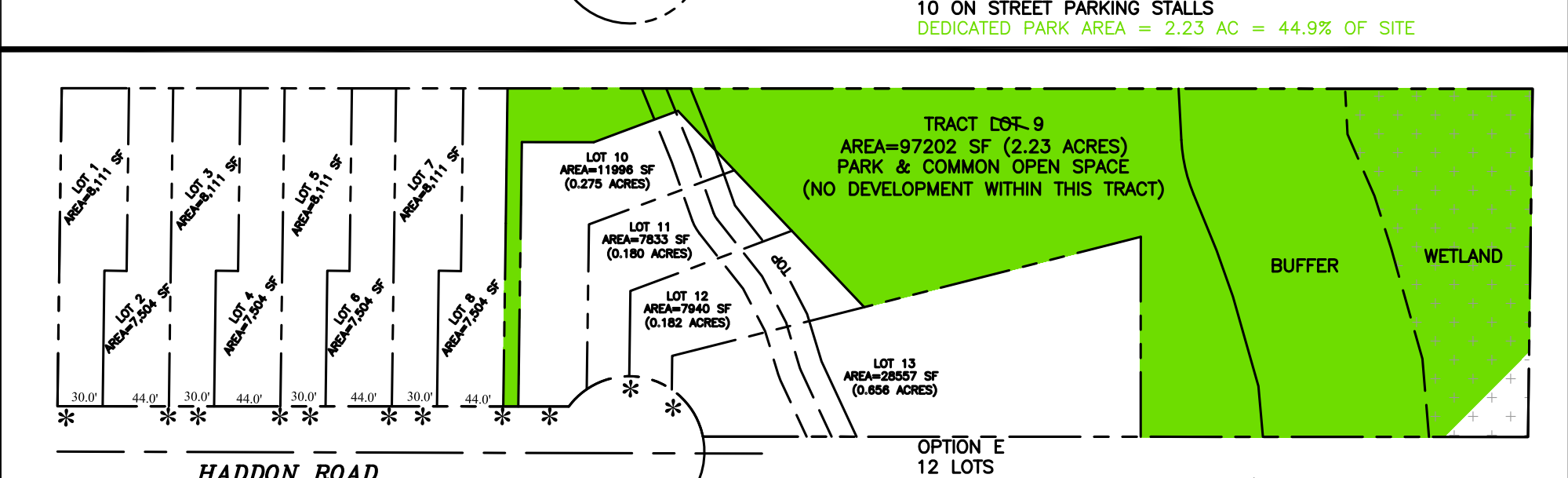
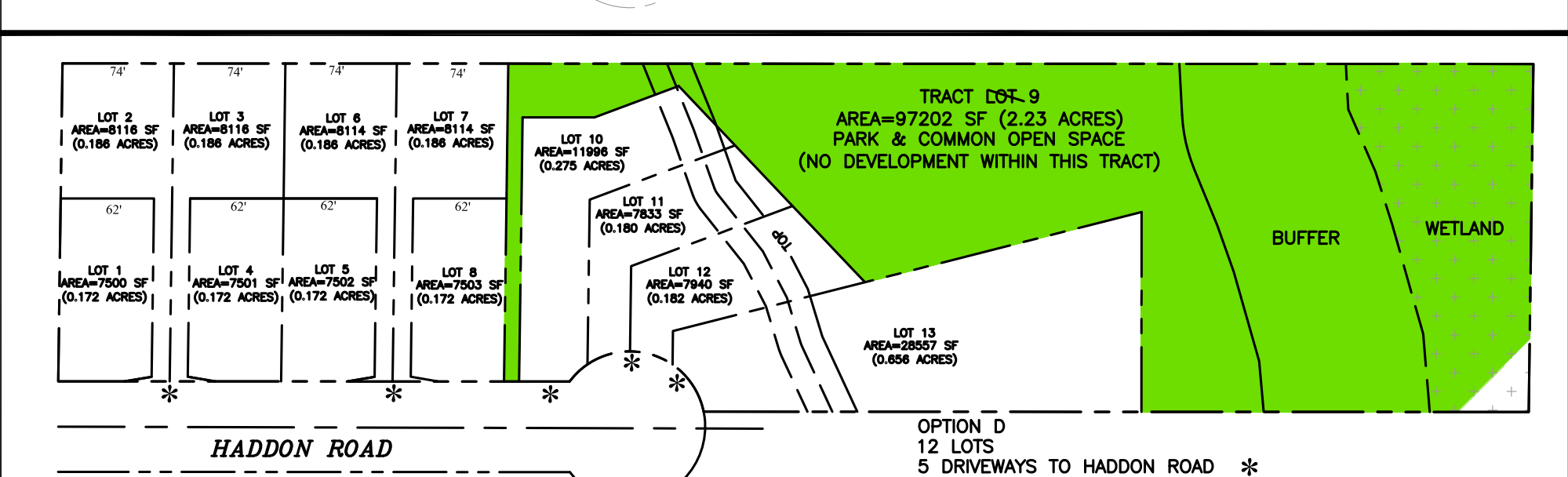
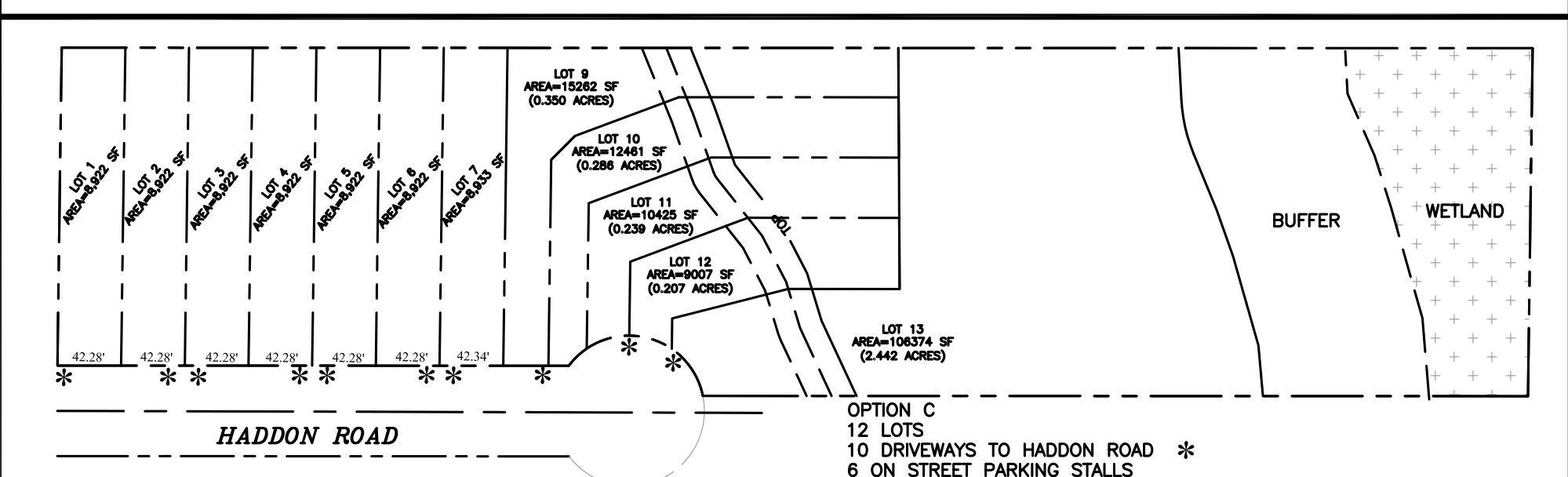
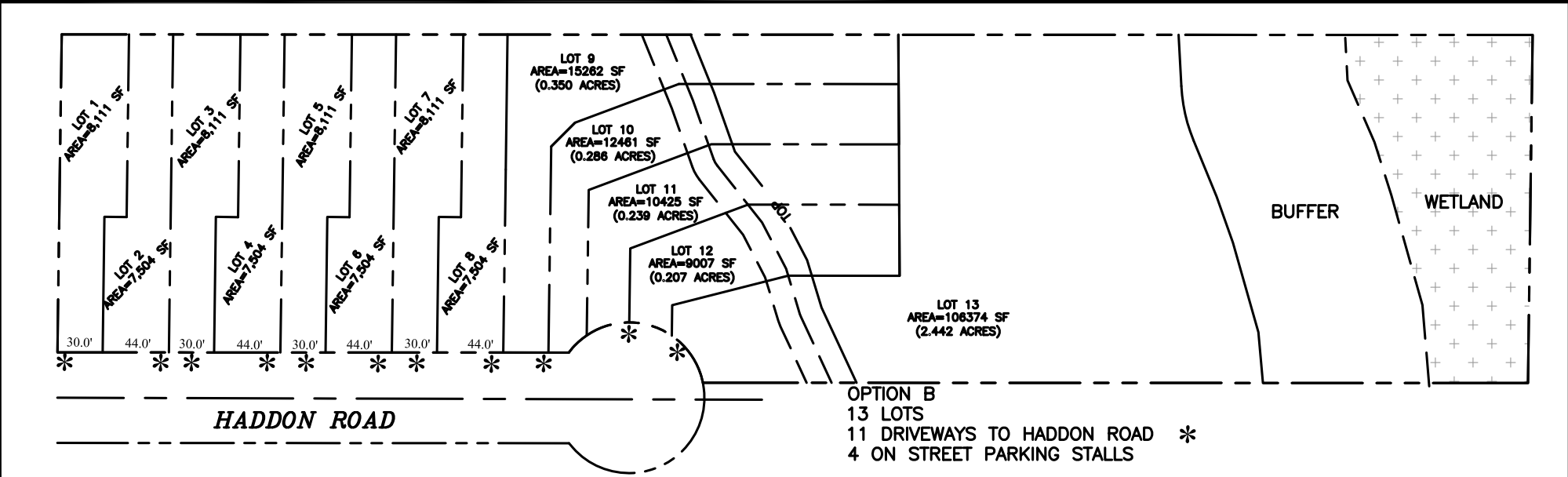
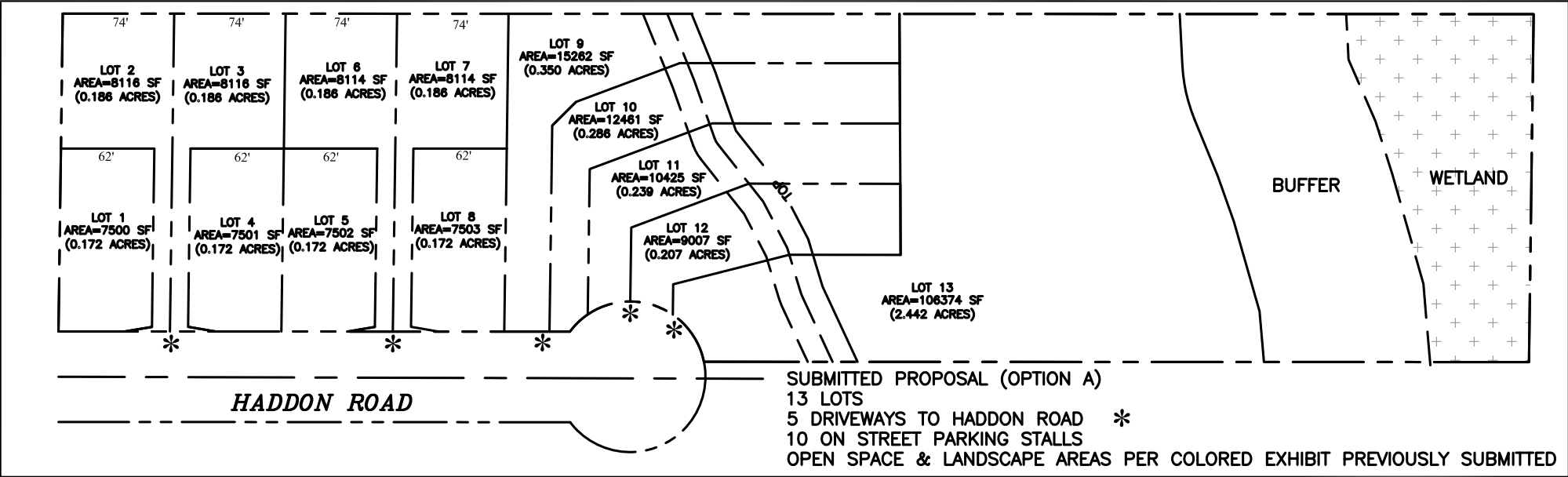


EXHIBIT #46:

CYNTHIA RICHARDSON & CURT OPPEL EMAIL

Cricchio, Kevin

From: Measamer, Don
Sent: Tuesday, July 05, 2016 7:22 AM
To: Grage, Libby; Cricchio, Kevin
Subject: FW: Historic Zoning interpretation?

FYI, This will need to be added to the record

Don Measamer
City of Anacortes
Department of Planning, Community & Economic Development
P.O. Box 547
Anacortes, WA 98221

Ph. 360.299.1942
Fax. 360.293.1938
don@cityofanacortes.org

2016 Comprehensive Plan Update Info



Get involved.... It's your city!

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Please consider the environment before deciding to print this e-mail.

From: Curt Oppel [mailto:curt@curtoppel.com]
Sent: Sunday, July 03, 2016 3:33 PM
To: Cynthia Richardson ; Oppel, Curt ; Curt Oppel
Cc: Measamer, Don ; Swetnam, Darcy
Subject: Re: Historic Zoning interpretation?

Thank you.
Curt Oppel
Sent via BlackBerry by AT&T

From: "Cynthia Richardson" <richrson@cnw.com>
Date: Sun, 3 Jul 2016 15:05:23 -0700
To: 'Oppel, Curt' <curto@cityofanacortes.org>; <curt@curtoppel.com>
Cc: 'Measamer, Don' <don@cityofanacortes.org>; 'Swetnam, Darcy' <darcys@cityofanacortes.org>
Subject: RE: Historic Zoning interpretation?

Curt,

Since I think the record is still open on the Haddon Road project, I will answer your question and request that this be part of the public record for that project so that it will not be perceived as an ex parte communication.

The intent, as I understand it, is this:

- An applicant applies for a PUD for a specific area of property (which may include more than one underlying "parcel" or "lot").
- That property is a portion of the R1 zone.
- In the portion of the R-1 zone for which the PUD application is submitted, the R2 standards would apply.
- The intent is that the overall density of the entire area of the PUD applied for (which is a portion of the R1 zone) should not exceed 4 units per acre.

It seems clear that the "portion of the R1 zone" means the entire area of the land encompassed by the PUD application.

Typically, as was done at The Orchards and Fircrest, the homes are clustered in one area of the property in order to preserve wetlands and open space, or avoid hazardous areas such as a steep slope. However, neither clustering nor open space are required by the actual code language.

There is no indication that those standards would apply only to part of the area covered by the application. It does not say anything about "except for" certain parts of the area covered by the application (such as open space, roads, etc.). Applying the R2 standards to only part of the PUD area is NOT what was intended - that would be a portion of the portion of the R1 zone and that's not what the code says.

Nor does it say anything about "buildable area". Buildable area is defined in the code as: "Buildable area" means the portion of a lot within prescribed setbacks., and I'm not sure how that would apply to your question.

There is also no requirement to make all lots a uniform size, so just as in any plat, some can be larger and some smaller. In the current proposal, all of the area is divided into lots, so even though one lot is larger, all of the property encompassed by the PUD application would become platted lots, and the total number of lots does not exceed 4 per acre.

I hope this is helpful.

Cynthia Richardson
315 V Avenue
Anacortes, WA 98221
360-299-9081

From: Oppel, Curt [<mailto:curto@cityofanacortes.org>]
Sent: Sunday, July 03, 2016 1:23 PM
To: richrson@cnw.com; curt@curtoppel.com
Subject: Historic Zoning interpretation?

Cynthia

I understand you were on the council when this restriction having to do with PUDs in R-1 zone was created? Don Measmer seemed to think you were perhaps it's author? Can you share with me your opinion as to how it should be interpreted?

17.38.070, the word "portion" is used in the following sentence:

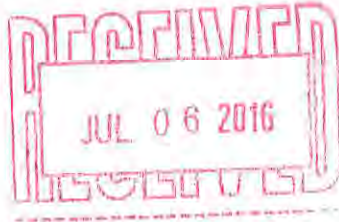
"If a planned unit development is applied for which requests a higher density in a portion of the R1 zone, the density of that portion shall not exceed four units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements."

My question: is the definition of the word "portion": dose the word "portion" refer to the "entire acreage of the property" inc open space, un-build-able area and build-able area? Or dose it refer to the acreage the consists of the "portion" of the larger parcel, that will be developed with residencies? What was the intent?

Curt Oppel
(360) 202-0121
curt@curtoppel.com

EXHIBIT #47:

ROSS BARNES LETTER (RECEIVED 7-6-16)



July 5, 2016

From:

Ross O. Barnes, PhD
1004 7th. St., #202
Anacortes, WA 98221
(360) 293-7023

To:

Anacortes Planning Commission,
Anacortes City Council,
Mayor Gere,
Kevin Cricchio,
Don Measamer
City of Anacortes
PO Box 547
Anacortes, WA 98221

RE: Allen/Haddon Road PUD (PUD-2016-1001), Part 4 -- Applicant's erroneous and misleading statements on June 22

This PUD proposes to create 13 lots and associated dwelling units on 5.28 gross acres located at the east end of Haddon Road. This 4th letter from me addresses some of the erroneous and misleading statements and claims made by the applicant AFI and their various spokespersons and consultants. Unless otherwise identified, all representatives of the applicant are referred to as applicant.

PUD "flexibility" versus consistency and equivalency requirements

When a PUD proposes exceptions to zoning and subdivision standards, AMC 16.40.010 requires that the PUD maintain consistency with the "standards for the health, safety, and welfare of all citizens throughout the city" and provide equivalency to those standards (**C & E test**).

16.40.010 - Introduction.

The purpose of the planning unit development (PUD) regulations is to maintain consistent standards for the health, safety, and welfare of all citizens throughout the city, while allowing flexibility in how those standards are met. While all citizens deserve equal access to services and public amenities, there are a variety of ways to provide that equivalency.

*Where a PUD proponent requests exceptions to zoning and subdivision standards, the plan submittal shall show clearly what standards are proposed to be changed, and what alternate means are proposed to **achieve equivalency**. For example, a submittal might propose to eliminate the sidewalk on one side of the street, while providing a trail through nearby public open space as an alternative for pedestrian circulation. The proposed alternatives would be considered when evaluating the proposal as a whole.*

The consistency and equivalency “test” is the first statement found in the Chapter 16 specifications for PUDs and its primacy in position and in logic leaves no doubt that it is intended to be the most fundamental test for evaluating the adequacy of PUD proposals.

The applicant erroneously asserts PUD “flexibility and creativity” as an excuse for an “anything goes” approach to PUD design (Cole Porter did not write the Anacortes development codes). However, the applicant consistently refuses to reference the PUD requirements for consistency and equivalency because their code modification requests fail the required C & E test.

R2 development standards shall apply

AMC 17.38.070.

17.38.070 - Maximum density. (R1)

Density for the project applied for shall not exceed two dwelling units per gross acre. (Ord. 2592 Att. A § 3 (part), 2002; Ord. 2528 Att. A § 10, 2000; Ord. 2316 (part), 1994) If a planned unit development is applied for which requests a higher density in a portion of the R1 zone, the density of that portion shall not exceed four units per gross acre, and all development standards of the R2 zone shall apply, including street and utility improvements.

(Ord. 2794, § 1(Att. A), 12-15-2008)

When the Anacortes PUD codes specify a **shall** requirement, the rational and legal interpretation is that the shall is mandatory and not subject to “PUD flexibility”-- otherwise why would it be there?

(see AMC 16.04.080 and 17.06.005--...“shall” is always mandatory....)

Even if one ignores the Title 16 and 17 definitions of **shall** and argues that “*all development standards of the R2 zone shall apply, including street and utility improvements*” is to be interpreted under the PUD consistency and equivalency requirements of AMC 16.40.010 (see above), the applicant has ignored AMC 16.40.010 and made no demonstration that the requested code modifications are equivalent or consistent with R2 standards.

There are no lesser precedents for interpretation of second sentence of AMC 17.38.070

The applicant erroneously attempts to use design standards approved for previous R1 PUDs as a legally enforceable precedent for the Haddon Road PUD. However, all prior R1 PUDs were approved under the “flexibility” provisions for PUDs, but not under the second sentence of AMC 17.38.070 which did not exist prior to 2008 (see my letter of June 7, 2016--part of City Exhibits #20, #31 or #35).

Thus, there is no precedent applicable to the interpretation of

*“If a planned unit development is applied for which requests a higher density in a portion of the R1 zone, the density of that portion shall not exceed four units per gross acre, and **all development standards of the R2 zone shall apply, including street and utility improvements.***

(Ord. 2794, § 1(Att. A), 12-15-2008)

that can suggest "flexibility" with respect to enforcement of R2 development standards as written in the code.

Developable versus development

The applicant has repeatedly raised the "developable" word as a red herring (kippers anyone?) to confuse the issue of what is proposed to be developed. "Developable" means "able to be developed" or "suitable for development". "Developed" or "development" refers to that which is actually developed. AMC 17.38.070--the R1 density clause--uses the word "development" not developable.

The applicant proposes that all of the site east of the 15' development setback to the steep slope will be protected with a Native Growth Protection Easement (NGPE) allowing only limited and approved native vegetation management (testimony and graphics on June 22). By definition and by function, this NGPE area is not proposed for "development" which is 119,955 sq. ft. or 2.75 acres from Mr. Ravnik's testimony on June 8 (City Exhibit #16).

The applicant testified that the NGPE area is 55% of the 4.96 acre site, leaving 45% in the "developed" area, which is 2.23 acres. Adding 1/2 of the adjacent developed ROW (0.32 acres per site plan) gives 2.55 acres of "development" for R2 density per AMC 17.38.070. 4 DU per acre (R2 density) gives 10 DU which is the same as the correct overall R1 density of 2 DU per acre over 5.28 gross acres--no difference.

Lot area versus developed area

The applicant also confuses "lot area" with "developed area" in a erroneous attempt to justify 12 or 13 building lots based on area of lots rather than developed area. Lots in Anacortes can include non-developable areas (wetlands and buffers, cliffs, shoreline buffers, etc.) and non-developed areas such as the NGPEs. On June 22 the applicant proposed two new PUD configurations with 12 building lots which include portions of the aforementioned NGPE area in Lots 10 to 13 to expand the gross lot area to at least 3 acres to justify 12 building lots at 4 DU per acre. However, NGPE areas are by definition and function not developed. Thus, regardless of the number and area of proposed lots, the developed area is limited to the 2.55 acres stated above which allows 10 DUs at 4 DU per acre R2 standard.

All five PUD configurations proposed by applicant are illegal under AMC 17.38.070

On June 22 the applicant proposed 5 different PUD configurations in a desperate and vain attempt to justify approval of something. However, none of these 13 or 12 lot proposals meet the code requirements of AMC 17.38.070. All violate the 10 DU maximum R1 overall density (see my letter of June 7--part of City Exhibit #20, #31 or

#35) and all violate the 10 DU maximum based on the 2.55 gross developed acres and 4DU per acre R2 standard (see sections above).

Required open space in a PUD cannot include private lots

Relevant AMC code sections are:

16.40.102 - Common open space. (PUDs)

- A. *Land area of the site not covered by buildings, parking structures, or accessory structures except recreational structures (decks may be counted as specified further in these standards).*
- B. *Land which is accessible and available to all occupants of dwelling units for whose use the space is intended.*
- C. *Open space does not include:*
 - 1. *Proposed street rights-of-way;*
 - 2. *Open parking areas and driveways for dwellings;*
 - 3. *School sites;*
 - 4. *Commercial areas and the buildings, accessory buildings, parking and loading facilities for these commercial areas;*
 - 5. *Land totally unsuitable for building because of topographic features.*
- D. **The open space requirement shall be equivalent to that set out in Section 16.20.100(B) of this code.**
(Amended during 6-07 supplement)

And

16.20.100 - Park land requirement. (general)

The city council, at its sole discretion, shall select one of the following:

A. One-tenth of the combined area of lots one acre or less in size, exclusive of all other dedications, shall be forever dedicated to the public for parks, open space, or playgrounds. *No dedication shall be required for subdivisions of four lots or fewer or for the combined area of those lots in a subdivision which are larger than one acre exclusive of all easements and other dedications. The city council, in consultation with the park board, shall determine suitable locations for such parks and playgrounds.*

B. The subdivider creates a property owners' association for the proposed subdivision and deeds to the association land to be held in perpetuity for use as parks, open space, or playgrounds. The area of land to be deeded to the association shall equal the amount that would otherwise have been dedicated to public use.

C. (section C. not relevant to PUD)

All sections of 16.40.102 apply as well as the specifically referenced 16.20.100(B). Clearly, the **shall** in 16.40.102 D. is mandatory and not subject to "PUD flexibility"--otherwise why would it be there?

(see AMC 16.04.080 and 17.06.005--..."shall" is always mandatory....)

Attorney Nicol misrepresented and misinterpreted 16.20.100(B) by presenting an abridged version of 100(B) which leaves out the language inconvenient to the applicant's purposes as follows:

"... The area of land to be deeded...shall equal the amount that would otherwise have been dedicated to public use."

All mention of the required deeding to the property owners' association is removed from the supposed quote thus destroying and corrupting the clear meaning of the code. Nothing could illustrate better the applicant's endless attempts to corrupt Anacortes codes.

16.100(B) requires PUD open space to be deeded to the property owners association. Thus, portions of private yards in separate lots in a PUD, as proposed by the applicant, cannot, by definition or fact, fulfill the PUD requirements for common open space spelled out in 16.40.102.

No conflict between 20' and 30' lot frontage requirements

Attorney Nicol erroneously postulated conflict between the 20' and 30' code specifications for lot frontage. As I demonstrated in my Part 2 letter of June 22 on the record (part of City Exhibit #31 or #35), there is no conflict because 20' clearly refers to lot access which can be over an easement outside of the lot, and the 30' clearly refers to required lot frontage and width of lot flag if present--two different things.

Applicant's attorney misinterpreted AMC 16.04.090 A. 1. & 2.

Answering a question from Mr. Farnsworth on June 22, Attorney Nicol was caught unprepared and misinterpreted the meaning of "public provisions" in AMC 16.04.090 A.1. and the meaning of "private provisions" in A.2. Public provisions clearly refers to the laws and regulations of public entities such as the City of Anacortes which can apply to public or private property such as the Allen PUD. Private provisions clearly refers to non-governmentally imposed restrictions such as easements or covenants that are not enforced by the City.

Yards have no dimension??

Are the Allens determined to find everyone in Skagit County that wishes to wage war on the English paragraph?--first themselves, then the Anacortes Planning Department, and now Mr Nicol. At war first with AMC 17.38.070 (see my June 7 letter) and now with lot yards. This section addresses Mr. Nicol's oral testimony which differs somewhat from his submitted written materials (City Exhibit #45).

17.06.910 - Yard.

"Yard" means an unoccupied space open to the sky, on the same lot with a building or structure. See [Section] 17.67.030, "Lot terms." (Ord. 2316 (part), 1994) (Ord. 2794, § 1(Att. A), 12-15-2008)

17.06.915 - Yard, front.

"Front yard" means the open space between the building(s) and the front property line. "Required front yard" means an open space extending across the full width of the lot, the required depth of which shall be measured horizontally and at right angles from the front lot line to a line parallel thereto on the lot. (Ord. 2316 (part), 1994) (Ord. 2794, § 1(Att. A) 12-15-2008)

17.06.920 - Yard, rear.

"Rear yard" means the open space between the building(s) and the rear property line. "Required rear yard" means an open space extending across the full width of the lot, the required depth of which shall be measured horizontally and at right angles from the rear property line to a line parallel thereto on the lot. (Ord. 2316 (part), 1994) (Ord. 2794, § 1(Att. A), 12-15-2008)

17.06.925 - Yard, side.

"Side yard" means an open space between the principal building(s) and side property lines extending from the front yard to the rear yard. "Required side yard" means an open space extending along each side of the lot, the required depth of which shall be measured horizontally and at right angles from the side property line to a line parallel thereto on the lot. (Ord. 2316 (part), 1994) (Ord. 2794, § 1(Att. A), 12-15-2008)

According to Mr Nicol, every sentence in the above codes is an independent statement that can bear no relationship to any other statement, no matter how obvious the relationship might be. So every Anacortes lot has 2 front yards, 2 rear yards and 2 sets of side yards, one set with no dimensions and another set with minimum specified dimensions. And according to Mr. Nicol, if a yard does not contain a sign, fence, retaining wall or hedge it has no minimum dimensions--it can be smaller than a dog's flea--AMC specifies no dimension! Such a foolish nonsensical notion must be in the top 10 foolish nonsensical notions ever stated by a supposedly educated person in this council chamber.

Another Nicol corker--a yard is "a line that runs from the front to the back" and "a line drawn from the front to the back". Nowhere above is a yard defined as a line. It is an open space between buildings or structures and various lot boundary lines. But since Mr. Nicol has also reduced the area of a yard space to basically nothing (see above), maybe he has no choice but to attempt to call a yard a line which also has zero area.

Mr. Nicol does get one thing right. A lot has a front (or fronts--see 17.06.475), a rear (or 2 fronts--see 17.06.490 C.), and the rest sides. And Mr. Nicol is right that a side yard and setback line can bend around the angles and arcs of sides of irregularly shaped lots. However, once the lot front(s), rear and sides are rationally identified from code specifications they are fixed and thereafter define the location of front, rear and side yards and associated required building setbacks. There is no use or definition of "merry-go-round lots" in the Anacortes code.

Measamer statement on R1 density

At the end of the June 22 hearing session, Mr. Oppel asked Don Measamer if staff had

an interpretation of AMC 17.38.070 on R1 density or if it was up to the Commission to decide. Perhaps for the first time, Mr. Measamer carefully avoided providing a “staff interpretation”, referring instead to “you have several different readings on that density”. But instead of stopping there, he went on to notice one sole example—a short non-staff email from Cynthia Richardson (my attached **Exhibit I** or City Exhibit #30). Ms. Richardson’s brief statement references the R2 zone and “overall density of City development” and repeats the Planning Department’s prior erroneous interpretation of R1 PUD density, but makes no attempt to objectively analyze the specific language of AMC 17.38.070. Ms. Richardson is presenting a personal opinion (of value as such) but in no way an official position of the City. With regard to the difference between Ms. Richardson’s personal ideas and official City code language, see Pat O’Hearn’s June 22 testimony (City Exhibit #41).

Mr. Measamer inexplicably failed to mention a similar email from Terry Christiansen, also on the record, who asserts authorship of the last sentence of 17.38.070 and presents the specific background, intent and meaning of this sentence (my attached **Exhibit 1** or City Exhibit #27). In addition, Mr. Christiansen’s email is backed up by almost 50 pages on the record of closely reasoned and documented analysis from myself, Patrick O’Hearn and Vernon Lauridsen (part of City Exhibits #31 or #35, #37 and #41).

Mr. Measamer appears to have no justification for his prior interpretation apart from biased selection of non-City personal opinion on the record. An informed and objective person would consider Mr. Measamer’s response as some combination of erroneous, irrelevant, forgetful, and irretrievably biased.

Anacortes codes call 911 for rescue from AFI hijacking

It is essential that the Planning Commission and City Council rescue Anacortes’ development codes from the self-serving ungrammatical irrational inconsistent nonsensical chopped-up hash the applicant attempts to make of them since the planning department appears to have abrogated their principal responsibility in this area.



Ross O. Barnes, PhD

Attachments: **Exhibit 1, Exhibit I**

Ex 1

Subject: Fw: Allen/Haddon Road PUD - final comments on density
From: "Ross O. Barnes" <georbarnes@hotmail.com>
Date: 6/7/2016 9:16 AM
To: Bayshore Office Products - printshop <printshop@bayshoreoffice.com>

From: Terry Christiansen <terry.chrisclan@gmail.com>
Sent: Tuesday, June 7, 2016 8:18 AM
To: Ross O. Barnes
Cc: PATRICK O'HEARN; Vernon Lauridsen; Gene Derig; Marilyn Derig; Hal Rooks; Susan Rooks; Friends of Skagit County Ellen Bynum; Tom Glade; Brenda Lavender
Subject: Re: Allen/Haddon Road PUD - final comments on density

Ross, you are entirely correct. I seem to recall being the author of the change that you refer to. Regardless, we did it because people were trying to use "clustering" as a means to circumvent the overall density for the R1 zoning and "density bonuses" were being proposed. Our intent was that "clustering" would be okay provided the density in the cluster area did not go higher than that in the R2 and that regardless of any clustering, the overall density of a PUD in R1 zoning would not exceed the underlying density limit for that zone. You are welcome to use this communication in any way you choose.

Terry Christiansen

EX. I-1

Measamer, Don

From: Cynthia Richardson <richrson@cnw.com>
Sent: Monday, June 20, 2016 11:28 PM
To: Cricchio, Kevin
Cc: Measamer, Don
Subject: Haddon Road 13 Lot Plat and PUD

CITY EX. 30

Please include the following comments in the public record for the Haddon Road 13 Lot Plat and PUD:

I am very pleased to see that the current proposal for subdividing this parcel has been substantially revised, correcting many of the deficiencies and removing most of the objections to the previous proposal. The revisions have resulted in significantly more reasonable lot configurations, and the resulting small neighborhood should appeal to many new residents. It is admirable that the developers plan to build moderate-priced homes that can be afforded by middle-income families.

It is understandable that the nearby residents would prefer less density. While more dense than the underlying R1 zone, 4 houses per gross acre is the same as the R2 zone, which includes most of the residential subdivisions in Anacortes. Thus, it is consistent with the overall density of City development. 13 homes on aprx. 5 acres is only slightly over the R1 density (2.46 vs. 2 per acre) and well below the 4 lots per gross acre maximum permitted in a PUD proposal in this zone. All of the lots exceed 7,500 s.f., which is the minimum lot size in the R2 zone. Thus, in terms of density the development meets code requirements.

Although it is a bit unusual, I have no objection to the shared easements that result in shared driveways to lots 2, 3, 6, and 7, provided that the easements clearly spell out responsibilities for maintenance. And I agree with the applicant's request that a Conditional Use Permit not be required as a separate process - it should be combined with the PUD application in a single process.

There are two important issues on which I urge the Planning Commission to require the applicant to modify the plan:

1. I disagree with the contention that the requirement for a 20 ft. front yard setback can be met within the "flag" portions of lots 2, 3, 6, and 7, which is only 12 ft. wide. A "front yard" is required to extend the full width of the lot, from side lot line to side lot line. Thus, there should be a 20 ft. setback on the south as well as the north side of lots 2, 3, 6, and 7, extending the full width of the lot, not just on the flag portion. Because the portions of lots 9 through 13 which abut the street are 30 ft. wide or more, it is more reasonable to consider this portion of these odd-shaped lots as the "front yard".

2. There is no access route to the significant portion of lot 13 consisting of steep slopes and wetlands. This will be a private lot, and no general public access is required. However, in the event of a slide, or brush fire, or wetland maintenance issue, it is important that emergency personnel have a way to get to this part of the property. I suggest requiring that all structures on lot 13 be held back a minimum of 15 ft. from the property line and an unobstructed (except by gates) route to access the steep slope be maintained for emergencies. The route does not have to be paved, but it must remain unobstructed. This should be in the form of an easement.

I appreciate the work the applicants have done to make this a better project, and with these two changes as added Conditions, I hope that the Planning Commission will recommend approval.

Cynthia Richardson
315 V Avenue
Anacortes, WA 98221
360-299-9081

EXHIBIT #48:

EMAILS RECEIVED 7-9-16

EXHIBIT #48

Cricchio, Kevin

From: Jessica Bowling <jessica186375@yahoo.com>
Sent: Saturday, July 09, 2016 6:29 PM
To: Cricchio, Kevin
Subject: HADDON ROAD P.U.D./HOUSING DEVELOPMENT

Kevin Cricchio

My fiancé and I just moved to the Haddon Road area in Anacortes, WA mainly for the quiet atmosphere and spaced out neighborhood. It was brought to our attention shortly after we moved into our new home that there was a large building plan development that would greatly affect the amount of traffic we would be exposed to. Not only would there be more vehicles commuting but the amount of homes closer together takes away from the entire neighborhood appeal.

I am against to the new Haddon Road P.U.D. housing development.

Thank you,

Jessica Bowling

Cricchio, Kevin

From: Travis Suter <6corvette@gmail.com>
Sent: Saturday, July 09, 2016 6:32 PM
To: Cricchio, Kevin
Subject: Against Haddon Road P.U.D./Housing Development

Kevin Cricchio,

I moved to the Haddon Road neighborhood because of the quite community with large spaced land lots. I love how nature is found all around the homes in the area. Building a large amount of homes in a space takes away from the desirable neighborhood we live in. Not only would the new housing development be unappealing to the eye, it would drastically affect the amount of traffic in a condensed area. Road noise and traffic would increase, meaning our quite peaceful home will be no more. The amount of homes planned to be built does not flow with the current neighborhood layout or serenity.

Thank you,
Travis Suter